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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

SENATE—*Thursday, May 4, 1995*

(Legislative day of Monday, May 1, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Almighty God, on this National Day of Prayer, we join with millions across our land in intercession and supplication to You, the Sovereign Lord of the United States of America. As we sound that sacred word Sovereign, we echo Washington, Jefferson, Madison, and Lincoln along with other leaders through the years, in declaring that You are our ultimate ruler. We make a new commitment to be one Nation under You, God, and we place our trust in You.

You have promised that if Your people will humble themselves, seek Your face and pray, You will answer and heal our land. Lord, as believers in You, we are Your people. You have called us to be salt in any bland neglect of our spiritual heritage and light in the darkness of what contradicts Your vision for our Nation. Give us courage to be accountable to You and Your Commandments. We repent for the pride, selfishness, and prejudice that often contradict Your justice and righteousness in our society.

Lord of new beginnings, our Nation needs a great spiritual awakening. May this day of prayer be the beginning of that awakening with each of us in this Senate. We urgently ask that our honesty about the needs of our Nation and our humble confession of our spiritual hunger for You may sweep across this Nation. Hear the prayers of Your people and continue to bless America. In Your holy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. THOMAS. Mr. President, this morning the leader time has been reserved and there will be a period for morning business until the hour of 11:30, with Senators permitted to speak up to 5 minutes each; at 11:30 today, the Senate will resume consideration of H.R. 956, the product liability bill.

Under the provisions of the agreement reached last night, there will be a series of four consecutive rollcall votes beginning at 12:15 today. The fourth vote in the series will be on invoking cloture on the Gorton substitute amendment; therefore, Senators should be aware that second-degree amendments to the Gorton substitute must be filed 1 hour prior to that vote; further rollcall votes can be expected throughout today's session of the Senate.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a transaction of morning business for not to extend beyond the hour of 11:30 a.m, with Senators permitted to speak therein for not to exceed 5 minutes each; under the previous order, the Senator from Wyoming, [Mr. THOMAS], is recognized to speak for up to 30 minutes.

The Senator from Wyoming is recognized.

FRESHMAN AGENDA

Mr. THOMAS. Members will be relieved to know that there will be others joining me during this 30 minutes, other Members from our freshman group, to continue our discussion about the agenda for the Senate, the agenda for the Republicans, and of course the agenda for this country.

We feel very strongly, of course, that this is a great opportunity to move forward on the issues that were the issues talked about and voted on by Americans in the 1994 November election.

This is the greatest opportunity that we have had for a number of years to evaluate programs that have been in place, rather than continuing to simply put more money into programs when the results have not been what we expected. Now is an opportunity to take a look at the programs and see, in fact, if there can be changes made, to see if in fact, there are programs that do not need to be continued, that could better be done in the private sector, if there are consolidations that can be made so that we can do away with repetition and redundancy in programs. There is no question but that those exist.

Mr. President, we are excited by the opportunity. There are 11 Members who are in our first year in the U.S. Senate and are very proud and pleased to be there. More than that, I think we are excited at the chance to participate in change that has been needed for some time, participate in the change that voters sent Members here to accomplish this year, with the message clearly that there is too much Government and that it costs too much.

They sent Members here with a message that there are better ways of delivering services. We are not inclined to do away with programs and leave people without the assistance that properly comes from Government, but rather to find ways to help people help themselves back into a productive society. That is what it is all about.

I am very pleased, Mr. President, to be joined by the president of our freshman class, the Senator from Oklahoma.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

NOVEMBER REVOLUTION

Mr. INHOFE. I thank the Senator from Wyoming. I think he said it very well. I think it is very important, and the 11 freshman Members are probably in a better position than anyone else to remind the people that what happened on November 8, 1994 in an appropriate way at the ballot box, was, in fact, a revolution.

It is the first time in about 40 years that we have been able to look at Government and redefine its role and answer the question, has Government become involved in more things in a heavyhanded way, than it was intended to be involved in?

I know it is the liberal agenda of giving away, having programs for all needs, taking care of everyone from the cradle to the grave, is something that is easy to demagog, but to stand here and know that there are limited resources, I think it is irresponsible to continue that.

I think the people in November voted for changes, not so much Republican versus Democrat. Sure, the Republicans took over the House, and they took over the Senate. That is the first time that has happened. The main thing is that we campaigned for things that we have consistently voted for that contradict the behavior of Congress for the past 40 years.

When we look at Government's role, we have to ask the question, is Government's responsibility to take care of all the social needs? It is a difficult thing to talk about because it is easy to demagog.

I was distressed probably as much as anyone was when the President and others went out and said, well, the Republicans are trying to take the milk away from babies during the nutrition program debate when, in fact, the Republicans were suggesting a 4½ percent increase.

This is very disturbing. The people have awakened in America and they do not buy that kind of talk anymore. They are going to demand changes.

I have heard, and there is a perception that the U.S. Senate is operating so slowly, that we are not getting anything done. Now, I suggest, Mr. President, that we operate differently in the Senate, and as one who used to serve in the House of Representatives the same as the Senator from Wyoming, maybe we like the way that operates a little bit better because it is faster. And, the occupant of the chair was also there and knows what I am talking about.

On the other hand, there was not a day that went by in the U.S. House of Representatives when I was over there when this conversation did not occur. One would say, "Are we really quite ready to vote on this? Should we refine it more?" The answer is always "Do not worry, the Senate will take care of that."

For the first time in my life, when I was elected this last time to the U.S. Senate, I realized what our Founding Fathers had in mind when they said they wanted a bicameral system. In fact, we have to slow that train down.

How slow has the train been? The agenda, the Contract With America, had 10 items in it. In the House of Representatives, they were able to pass 9 of the 10. The only area that they did not pass was term limitations. In the Senate, in just the first 3 months, we passed congressional accountability, that is forcing Government to live under the same laws we pass.

We passed an unfunded mandates bill. As a former mayor of a major city, I can say that the major problem that exists in cities in America today is the fact that the Federal Government tells them what to do but does not send the money down. They are called unfunded mandates. We have passed that major reform here in the U.S. Senate, along with congressional accountability. A line-item veto—we have talked about line-item veto now for a long period of time. Now we have passed it here. We passed a moratorium on endangered species.

So we have actually handled about three or four of the major contract items and we are on schedule to handle the rest of them. But I honestly believe it is a responsibility, as the Senator from Wyoming said, of the freshman class, those of us who heard the mandate on November 8, 1994, to keep this train on track and to keep focused. We still have to finish up the rest of the items.

Right now, as soon as I leave the floor, I will be going over to the Environment and Public Works Committee hearing. Over there we are handling another one of the contract items; that is, doing something about the heavyhandedness of Government through its EPA regulations: what is happening in this country with the Superfund; what is happening with wetlands; what is happening with endangered species.

Oklahoma is somewhat of an agricultural State. As I traveled through, campaigning, I do not remember, of the hundreds of farmers I talked to during the campaign, any of them coming up to me and saying, "I want to know what the farm bill is going to do. I want to know about price supports." What the farmers in Oklahoma and throughout America are concerned about is property rights. That is one of the things we talked about in the Contract With America, that we have the fifth amendment to the Constitution and the 14th amendment to the Constitution that guarantee our property rights, not to lose our property without due process. We all know when farmers have property that is declared to be wetlands, they lose the value of that, and I have every expectation we are going to be able to pass the Private Property Protection Act that is going to guarantee the protection of private property and the value of that property to all Americans. Again, this is one of the contracts.

In this same committee meeting we are going to be hearing about the Superfund problems that exist. We know, and it is a fact today, that there are people who have received phone calls and letters from the EPA that have put them out of business for something over which they had no control. One such case was a lumber store owner in Tulsa, OK, by the name of Jim Dunn. He got a letter from the EPA that would have put him out of business, invoking $25,000 a day fines. Checking to see what he was guilty of, we found that for 10 years he used the same person to sell his crankcase oil to. This contractor was licensed by the Federal Government, by the State of Oklahoma, even by the county and City of Tulsa, yet they came back and traced some of that oil to a Superfund site and came to the conclusion that he was liable. In the absence of joint and several reform, he could be liable for the whole amount. And for that he was threatened to be charged a fine of $25,000 a day and possible criminal sanctions. That is the very thing that we are not going to allow to happen. It is the overregulation, the heavyhandedness of Government.

The Endangered Species Act—I am very proud the Senator from Texas, Senator HUTCHISON, was able to get an amendment through on the floor to put some sanity on that, to slow that train down so that, before we add any new critters to the Endangered Species Act, we are able to sit back and look at the cost/benefit of all these things. It was not long ago they decided to put the Arkansas shiner under the Endangered Species Act. Here is a little minnow that I guess they have decided is more important than people are. It would cost the average farmer in Oklahoma who has runoff into the Canadian system about $2,000 to protect this critter.

This is the type of foolishness we are going to stop. We are all sensitive to the environment and we are sensitive to the need for some controls. But we are not going to allow Government to continue its heavyhanded treatment of its citizens, the people who are out there who are paying for all this fun we are having in Washington.

So we have an agenda. Those of us who are the freshmen, the 11 freshmen—I am very pleased we are going to be driving this train, keeping it on track, keeping the focus, and not forgetting. Let me give assurances to everyone out there: We are not going to forget what the mandate was of November 8.

I yield the floor now to my very close friend from the House, where I served with him and was elected with him, and now he is a leader in the U.S. Senate, the Senator from Arizona, Senator KYL.

TAXATION, REGULATION, LITIGATION

Mr. KYL. Mr. President, during the campaign that the Senator from Oklahoma was just talking about that we just went through, I heard a phrase over and over again, "taxation, regulation, litigation," the three problems in this country that we have to do something about. The Senator from Oklahoma has just spoken eloquently about the matter of regulation. This Congress is going to do a lot to reform the regulatory climate in this country, to bring some common sense back into it.

The Judiciary Committee, on which I serve, just passed out a regulatory reform bill sponsored by the majority leader that is really going to get to the heart of some of the regulatory problems in our society today, bringing cost/benefit analysis and economic impact studies and risk assessments and peer review into the regulatory process, so you do not have the kind of noncommonsensical imposition of regulations such as those the Senator from Oklahoma was just talking about.

Let me turn to the third item in that trilogy, the matter of litigation. We are debating today, and have been for almost 2 weeks now, legal liability reform. It is part of what the House of Representatives did, and it is part of what this Senate is committed to do as well, to reform our broken tort system. Some call it the litigation lottery. It produces a tort tax on all of America because we end up paying higher premiums for insurance, higher costs for products, and, frankly, we do not get the benefit of a lot of improvements that could be made in pharmaceuticals and in products and so on because the manufacturers are afraid to experiment with anything new because they may get sued, they may have to pay big damages, and their costs would go up.

So what we are trying to do is reform that system so that all of America will benefit from improved technology, reduced insurance rates, reduced product costs, and, by the way, particularly for small businesses, not constantly suffering under the threat of being sued; also, of course, the physicians and the hospitals and other health care providers whose medical malpractice premiums have skyrocketed in recent years because of the possibility that somebody is going to sue them. They end up practicing defensive medicine, offering all kinds of services and tests that probably are not necessary but which they prescribe in order to make sure that nobody can say they did not do the absolute maximum that was necessary for the patient's good.

So these are parts of the problem we are addressing in litigation reform. I would like to just isolate one specific one that I will be talking about in about an hour and a half in the context of the bill we are debating today. I have laid down an amendment to correct a small, but I think important, part of the bill that is before us today. Many States—most States, I suspect—have what are called alternative dispute resolution mechanisms, ways of resolving disputes short of going to trial. Trials are expensive. In the end, the people who win are the lawyers. So what we are trying to do is to get people not to always go to court but to try to resolve their differences short of going to court, and most States have those procedures.

There is an error in the bill that is before us, section 103. It deals with alternative dispute resolution. It says when a State has alternative dispute resolution, the parties should use that. And that is fine. But then it says, if a defendant refuses to go forward when a plaintiff has made an offer in good faith and that defendant has refused the offer in good faith to go forward with the alternative dispute resolution, then you can assess attorney's fees and costs against the defendant. But there is no such provision with regard to the plaintiff refusing to go forward in good faith.

Mr. President, either we should not have a penalty for either party refusing to go forward or there should be the same penalty on both parties, whichever one of them refuses to go forward in good faith. But you cannot have a situation where one of the parties has the dagger hanging over his head and the other party with no downside for refusing to go forward in good faith. One way or the other that has to be fixed.

First, I said, "Why don't we have a penalty for both parties?" One objection was we should not be dictating at the Federal level what the States should do. Whatever people advertise there in the State, let that be. Then I say fine. My amendment simply strikes the penalty that is in the bill at the Federal level so that whatever the State law is the State law is. In effect, my amendment would return this alternative dispute resolution mechanism to the States to be enforced however the State law enforces it. Of course, in every State, if there is a penalty, the penalty applies equally to the defendant or the plaintiff, whichever one is refusing to go forward unreasonably.

So, Mr. President, I think this is something I will be talking about a little bit later but something my colleagues will want to fix. Our whole justice system is about fairness. The reason we are willing to put our lives and our fortunes into the hands of one person, a judge or 12 people on a jury, is because we have faith that the system is fair. One of the reasons we are talking about litigation reform today is because a lot of people do not think it is fair. It would be the height of unfairness to have a penalty apply to one side, the defendant, but not have that same penalty apply to the plaintiff for doing the same thing—for refusing to go forward to resolve the dispute alternative to a trial.

So my amendment will simply make it the same for both plaintiffs and defendants and reinstate State law as the guiding principle.

I will be talking about this a little bit later. I think it goes back to the whole notion we have to reform. We have to do things fairly, and, if we do things fairly in our society today, if people think they are getting a fair break regarding regulation, as the Senator from Oklahoma talked about, regarding taxation and regarding litigation, then people gladly shoulder the burdens inherent in supporting the Government and society at large. But when they do not think they are getting a fair shake—that is, when they begin to say this whole thing has to be changed—it has to be reformed.

Fortunately, at least the Senate Republicans who were just elected in the last election are here speaking every week about these kind of reforms. I think we are making a difference, Mr. President.

I know my colleague from Minnesota is here and wishes to continue the debate.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. GRAMS] is recognized.

ONE HUNDRED DAYS OF REFORM FOR A NEW CENTURY OF RESPONSIBLE GOVERNMENT

Mr. GRAMS. Mr. President, I am glad to have the opportunity to join with my fellow freshmen today to speak on the topic this week, "100 Days of Reform for a New Century of Responsible Government."

Having just returned from a series of townhall meetings in my home State of Minnesota, however, it would be more appropriate to refer to it as moving forward with the people's agenda.

Over the Easter recess, I held town meetings in five cities, traveling over 1,000 miles, talking with hundreds of people across the State of Minnesota.

And the mandate they delivered last November is more focused than ever—fix things in Washington.

From Austin, MN to Brainerd, their message focused on our $4.8 trillion debt.

The folks I talked with agree something needs to be done now. They have waited long enough.

They are not content to have a Government running deficits of hundreds of billions of dollars each year for as far as the eye can see. They are understandably frustrated by decades of Washington doublespeak when it comes to making the tough choices necessary to balance the budget.

And most importantly, they are concerned for their children and grandchildren who will be forced to finance the Government's spending spree.

Because of that massive $4.8 trillion debt, by the time every child born after 1992 enters the work force, they will face a Federal, State, and local tax rate between 84 and 94 percent.

Think about it. If Washington keeps doing what it is doing, spending dollars it does not have and passing along the bills, every child born after 1992 will spend their whole life working just to pay off a Federal spending spree that they never even asked for.

Fortunately, my constituents had an opportunity to voice their concerns during my townhall meetings in Minnesota, and today, I want to share what they had to say.

I brought with me some of the charts that I took around the State with me in these town meetings to try to point out some of the problems that I think we are facing. This first chart we were talking about is Federal taxes as a share of the median family income.

FEDERAL TAXES AS A SHARE OF MEDIAN FAMILY INCOME

The percentage of income paid to the Federal Government in direct taxes went from 3 percent in 1948 to 24.5 percent in 1992.

In the 5 years between 1948 and 1953, Federal taxes rose from 3 to 9 percent of gross income.

You have to remember this is coming out of World War II where we had to go into debt to help finance. Only 3 percent at that time was going to the Federal taxes.

In the 8 years between 1972 and 1980, the average family saw their tax bill rise from 16 percent of their annual income to 23.5 percent of their income.

The rise of the Social Security payroll tax and the erosion of the personal exemption have been the largest contributors to the reduction of posttax income for families.

It is no wonder middle class families are finding it difficult to buy a house, put their kids through college, or put money aside for their retirement.

AVERAGE INCOME FAMILIES WOULD BE TAXED $10,060 LESS PER YEAR

Let us look at chart No. 2, the average income families would be taxed $10,060 less per year.

According to the U.S. Bureau of the Census, the total pretax income for a family of four in 1992 was $47,787. After taxes, this same family's income fell to $36,915.

Under the 1948 tax rates, the median income family of four would pay only $812 in taxes to the Federal Government, leaving the family with an after tax income of $46,975 when adjusted to 1992 dollar amounts.

In 1992, a family of four, with the median income of $47,787, paid $10,060 more in direct taxes to the Federal Government than the same family would have if tax rates had remained at 1948 levels.

To put that into everyday terms, the median price of a single-family home purchased in 1992 was $103,700. The average annual mortgage payment was $7,380.

The annual family income lost to increasing Federal tax burdens exceeds the average annual mortgage payments for an average home by 36 percent.

What could you do if you could keep another $10,060 in your pockets? You could provide for the things your family needs without turning to the Federal Government and asking for more subsidies and more help. The dollars would remain in your pocket.

TWO-EARNER MEDIAN INCOME—1994

The next chart that I was able to talk with Minnesotans about is the 1994 two-earner median income chart.

A median household with two breadwinners spends about $2 out of every $5 it earns on taxes; 40 percent of everything you bring in goes to State, Federal, and local taxes. The average family spends more money on Federal, State, and local taxes than it spends on food, clothing, housing, and medical care combined. This does not include sales tax or your Social Security, the FICA tax. That brings it up to nearly 49.6 percent of everything an average family makes in this country which goes to pay for government.

Why are Federal taxes so high today? After all, did Ronald Reagan not pass a massive income tax cut in 1981? Yes, Reagan did sign a 25-percent income tax rate cut for all Americans in 1981. However, there have been six major tax increases since—1982, 1983, 1987, 1988, 1990, and 1993. These have nullified the Reagan tax cuts.

In the early 19th century, Chief Justice John Marshall wrote in the Supreme Court case, McCulloch versus Maryland: "The power to tax involves the power to destroy."

Today, this statement still rings true. Taxes are destroying the income of American families, leaving only 60 percent of what it earns to spend on life's necessities and joys.

In 1966 the median income family of four will work until May 30 to pay their share of Federal, State, and local taxes—98 days.

In 1948, the average family of four worked only 8 days to pay their share of Federal taxes.

Had Congress adopted the Republican alternative budget for fiscal year 1995, roughly 35 million families could have deducted $500 per year from their tax bill per child next April 15. For the average family of four, that extra $1,000 would be handy.

SOURCES OF GOVERNMENT SPENDING FISCAL YEAR 1995

The budget is composed of two principal fund groups, Federal funds and trust funds. This is how the bills are paid in Washington.

Federal funds carry out the general purposes of government, whereas trust funds, such as Social Security and Medicare, are designated by law and financed by specially allocated collections.

In 1994, trust fund surpluses totaled $95 billion. Under current law, the sum of the trust fund surplus and Federal fund deficit equals the unified deficit, which is commonly referred to as simply the deficit.

Merging these trust funds—this is what we collect in tax receipts from your income tax, the 1040 business taxes, and others—the trust funds bring in $511 billion and pay for Social Security payments, and others. But last year there was a $107 billion surplus in that trust fund which the Government also borrowed along with the green part of this chart, $192.5 billion.

What I would like to say about this green and what came out of the trust fund is money that we are borrowing from our children. We are taking this out of their future accounts to supply the dollars we need today in order to deficit spend, and the trust fund receipts in general revenues will total over $1.2 trillion or 81.5 percent of the Federal spending.

Unfortunately, this sum does not even begin to cover the Government's expenditures. The Government again will borrow from our children this $192 billion.

On the next chart, in real terms, a family of five making about $45,000 would have 10 percent of its Federal tax burden reduced through the $500 per child tax credit. This chart shows where many argue this is a tax credit for the rich. They talk about the $200,000 a year income. In real terms, families making under $75,000 a year would get 86 percent of the tax credit on $500 per child.

If you make under $100,000, about 95 percent of the families making under $100,000 would receive a tax credit.

In the next chart, the White House and congressional Democrats argue that a $500 per child tax credit is unnecessary because they expanded the earned income tax credit in the 1993 bill. But this claim ignores the difference between a wage subsidy and a tax cut.

The EITC is a wage supplement for working families with children with incomes up to $26,000 per year. It is intended to offset the Social Security tax burden on these families and to increase their wages through a cash subsidy.

A family of four earning $14,000 a year—slightly below the official poverty level—will pay no income taxes but will bear a Social Security tax burden of roughly $2,140. Now, this family is then eligible to receive some $2,400 from the earned income tax credit, nearly $260 more than its entire tax burden.

A family earning $28,000 a year—and not eligible for the earned income tax credit—would have 57 percent of its income tax bill and 17 percent of its total Federal tax bill erased by the $500 per child tax credit.

This is an important part of tax relief to these families that do not qualify but still make under $35,000 a year.

Family tax relief, I believe, should not be means tested. Every working family in this country is overtaxed, thus every working family, regardless of income, should be eligible for a $500 per child tax credit. The Tax Code should not penalize children simply because of their parents' income.

Now, along with family tax relief, the Minnesotans with whom I met during the past recess are demanding a balanced Federal budget with or without a balanced budget amendment. And if that means putting the Federal Government on a strict low-fat diet, then so be it.

One thing I heard over and over again during my town meetings, from Minnesotans who pay their own bills and balance their own budget, is that if they can do it, then the Federal Government can do it as well.

One thing is very clear: The budget can be balanced, and we can do it without gutting the vital programs on which millions of Americans depend. We will do it by containing the growth of Government while continuing to meet the needs of America's families, children, and senior citizens.

By streamlining Federal bureaucracy and sending the money back to the State governments in the form of block grants, Minnesotans know that they will have more power, not less power, more resources, not fewer, and new and better opportunities.

I have every confidence that the people of Minnesota can direct those resources and provide for those in need better than Washington bureaucrats could ever hope to do.

That is my motivation as we move forward during these next 100 days, and it is my hope that every Senator remembers the messages that they have heard over the recess and join in the effort to enact what we call the people's agenda.

We need to restrict or restrain the growth of spending in the Federal Government, but we also need tax relief for Minnesota families and for the Nation's families. We cannot have one without the other. I hope very strongly that as we move forward in these next 100 days we will be able to provide some of this long sought tax relief for middle-class American families.

I thank the Chair. I would now like to turn the floor over to my colleague, the Senator from Missouri [Mr. ASHCROFT].

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Senator from Missouri.

The first half hour of time which was reserved has expired, so the Senator has up to 5 minutes.

Mr. ASHCROFT. Mr. President, I would ask unanimous consent that I can speak as if in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DAY OF PRAYER

Mr. ASHCROFT. Mr. President, I would like to take this opportunity to extend my appreciation to citizens all across America who are recognizing the observation of the National Day of Prayer. It is a time during which the people of America pray for this country and pray for those of us who have the responsibility to lead, not just at the national level, but at the local level as well. So in city halls across America, in State capitals, and here in the Nation's Capital, individuals are seeking to invoke the presence of God upon the deliberations of the Government, and upon the Nation as a whole.

I am especially grateful for this fitting activity and for the fact that as a nation we occasionally stop to remember the Almighty. In particular, I am pleased to express appreciation on behalf of myself and many others to Shirley Dobson who is leading the National Day of Prayer this year.

As our Nation heals from the wounds inflicted upon us by the Oklahoma City tragedy, and as we continue to confront daily the tragedies of death and violence that seem to plague our land, it is fitting we would call upon God to give thanks for the blessings we have enjoyed.

The Old Testament book of Chronicles provides a worthwhile guide to our times. It says: "If my people, which are called by my name, shall humble themselves and pray and seek my face and turn from their wicked ways, then will I hear from Heaven and will forgive their sin and will heal their land." Mr. President, I do not think there is a more noble aspiration than the desire of America to be a land of healing.

Our Nation has embodied this attitude of humility and reverence before God from the very earliest days of its existence. During the Constitutional Convention, Benjamin Franklin rose to say: "If a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid?"

There is little question but that we owe a debt of gratitude to Almighty God for the blessings he has continued to bestow upon us. As George Washington prayed: "Almighty God; we make our earnest prayer that Thou wilt * * * most graciously be pleased to dispose us all to do justice, to love mercy, and to demean ourselves with * * * charity, humility and a pacific temper of mind."

I believe those are the kinds of sentiments we all ought to be expressing today. I pray God's blessing upon this land, and I thank those who are assembling across the country to remember our need for guidance.

A BALANCED BUDGET

Mr. ASHCROFT. Mr. President, I want to address the issue of a balanced budget, but I want to start by talking about the shifting balance of Federal-State power. Last week, in United States versus Lopez, the Supreme Court held that a 1990 Federal statute did not "substantially affect" interstate commerce. While the decision did not overturn any precedents, it marked a sharp departure from the modern Court's expansive view of congressional power to regulate commerce. By limiting Congress' ability to use the commerce clause to legislate social policy, the Court highlighted the benefits of the Federal system envisioned by the Framers, and outlined in the Constitution. Moreover, they acknowledged what the American people have recognized for quite some time: That a Congress with the power to do everything for you, also has the power to take everything from you.

In the Senate, we have just begun to discuss spending priorities for the coming fiscal year. When the budget resolution comes before this Chamber, our actions will help shape the ongoing debate over State power within the Federal system.

The question we must ask is not what power the Federal Government ought to have, but what powers have been extended by the people. We must be ever mindful of the fact that the powers conferred upon the Federal Government by the Constitution have proscribed limits. Clearly, a National Government that has a debt of $4.9 trillion—that is over $18,000 for every man, woman, and child—has forgotten this fact.

Mr. President, if efforts are not made to limit spending, the Federal Government will no longer be able to fulfill its most basic constitutional obligations. In just 17 years, spending on entitlement and the national debt will consume all tax revenues; Medicare will be bankrupt in just 6 years; and in FY 1997, we will pay more in interest payments on the national debt than we will spend on national defense.

Last November, the American people spoke with a clarity and an intensity seldom heard in American government. What was their message? Return to us the ability to control our own lives, our own future, our own destinies. This was not some radical, foreign concept, it was the message of the founding—the message embodied in the capstone of the Bill of Rights, the 10th amendment, which reads: "The powers not delegated to the United States by the

Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." I would posit, Mr. President, that this fundamental idea should animate all that we do here in the coming weeks.

The task of defining the constitutional line between Federal and State power has given rise to many of the Court's most challenging and celebrated cases. In United States versus Lopez, the Court reaffirmed the belief that the powers of the Federal Government have proscribed limits. Now, it is the opportunity of this Congress to recreate the dual sovereignty that the Framers envisioned. For "in the tension between Federal and State power lies the promise of liberty."

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask my colleague from California if she has come to the floor to speak on budget and Medicare. She was here first. I will be pleased to follow her.

Mrs. BOXER. Mr. President, I thank my friend, but I will be delighted to follow my friend. So if he would like his time now, that is just fine.

Mr. WELLSTONE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I yield myself such time as I might need from the majority leader's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE

Mr. WELLSTONE. I thank the Chair.

Mr. President, we are, in a very short period of time, going to have a historic debate about the budget and about priorities in our Nation, the United States of America. Part of that debate—and I know my colleague from California will be speaking to this as well—will focus on Medicare.

As I have followed over the last couple of days some of the press conferences and some of the discussions taking place about Medicare, I think it is really important to come to the floor and speak about Medicare, not so much in political terms but in substantive terms.

We are faced with a real irony. It may very well be that a good many of my colleagues will now discover that health care reform—not just a focus on Medicare or Medicaid but real health care reform—is a pressing, compelling issue in this country.

First of all, Medicare is a benefit program. It is not just an actuarial program. It is important for me to make this point, Mr. President. My mother and father are no longer alive. Both actually had Parkinson's disease, but I can tell you, for my parents in their older age, Medicare, imperfections and all, was extremely important and it continues to be extremely important to senior citizens in this country.

It is not by any means perfect. It does not cover catastrophic expenses, it does not cover prescription drug costs, and elderly people over 65 years of age pay four times as much out of pocket as citizens under 65 years of age. But I think this focus on the budget is going to get us to the point where all of us understand some realities about health care and health care policy in the United States.

Eighty-five percent of Medicare expenditures pay for care for seniors with household incomes of less than $25,000 a year. So let us also understand that these benefits help hard-pressed people, not people who have plenty of income on their own.

Second point, Mr. President. I was on the floor the other day in a debate with one of my colleagues—I think it was the Senator from Texas, Senator GRAMM—and he was talking about his efforts to block health care reform in the last Congress and he was proud of that. In another point in time, we will have a debate, and I do not have a practice of debating colleagues when they are not on the floor, but I will say, as a matter of fact, one of the reasons that we are now dealing with the whole question of Medicare and how to finance Medicare is because we did not pass any comprehensive health care reform last Congress.

Mr. President, 89 percent of the growth in Medicare spending since 1980 has been due to medical inflation, general inflation, and changes in enrollment. Let me go over those.

Medicare is a benefit program that, of course, we have to finance. It is part of what we are about as a country. It is, indeed, a contract with senior citizens, and as we move into the next century, a larger percentage of our population are older Americans, and a larger percentage of those older Americans are older. That means that the cost of the program goes up.

Then there is the issue of general inflation. There is not much we can do about the first issue that I mentioned. And there is not that much we can do about general inflation, but we can look at medical inflation.

The interesting thing is that the Congressional Budget Office made it clear last Congress—I did not say Democrat, Republican, but CBO—that there are two ways you can contain medical costs. One is through global spending caps, as in the single payer proposal, or, if you do not prefer that, by placing some limits on insurance premiums. Some limit on insurance premiums is a very effective way of containing costs.

But, Mr. President, if you just focus on one segment of the population and you cut $250 to $350 billion between now and the year 2002, you will have a severe impact on that population. Let me say to my colleagues, when you were talking about rationing last Congress when we were talking about comprehensive health care reform, when you were yelling and screaming about rationing last Congress, I did not think that you had a case to make. But if you are just going to target Medicare, if you are going to cut expenditures for just one segment of the population, then you will ration by age, you will ration by disability, and if you throw Medicaid into the equation, you will ration by income. But now I do not hear my colleagues talking about rationing at all.

Second of all, if you make these cuts in Medicare, you are going to throw this whole health care system into—and I do not want to exaggerate—I would say a fair amount of chaos, if not utter chaos.

I ask unanimous consent to have printed in the RECORD a statement from the National Leadership Coalition for Health Care Reform, which includes many businesses in this case.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NATIONAL LEADERSHIP
COALITION FOR HEALTH CARE REFORM,
Washington, DC, April 3, 1995.

Senator PAUL DAVID WELLSTONE,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR WELLSTONE: We are writing to express our serious concerns about the proposed cuts in the Medicare and Medicaid programs. Our Coalition is the nation's largest nonpartisan alliance of business, labor, consumers, and providers dedicated to improving the health care system—in order to enhance the availability, affordability, and quality of care. (Our membership list is attached.)

We have long been on record as strong supporters of cost containment for both public and private payers. Until we contain costs, our citizens cannot be secure in coverage for themselves and their families. However, we believe that further drastic cuts in Medicare and Medicaid, coming on top of deep cuts legislated in 1993, would pose program difficulties and force the provider community to increase the shifting of costs to the private sector. Such cost-shifting would result in even more limited access, especially for low and middle-income Americans, and an increase in the number of uninsured.

We are troubled by approaches that focus primarily on cutting the price of services. One of our central concerns—as patients, payers, and providers—is that the quality of care be enhanced by changes in the health care system. If draconian cuts are made in prices, quality could further suffer. We urge a balanced approach, one that would control total system cost while improving quality, stopping cost-shifting, and expanding universal coverage.

We believe that if our nation were to concentrate on better outcomes and quality initiatives in addition to measures targeted on costs, there would be significant gains both in the appropriateness and efficiency of services, and in the reduction of costs. Strong quality assurance mechanisms are also essential as we shift more to better systems of managed care.

We urge Congress to take an integrated approach to addressing our three serious and interrelated problems of cost, quality and access. We fear a one-dimensional approach, or one dealing only with federal programs, will only make matters worse. We stand ready to work with you on a balanced solution that will create a better system for all our citizens.

Sincerely,

PAUL G. ROGERS,
Co-Chair.
ROBERT D. RAY,
Co-Chair.

Members of the National Leadership Coalition for Health Care Reform

Acme Steel Company.
Almalgamated Clothing & Textile Workers Union, AFL–CIO.
American Academy of Family Physicians.
American Academy of Pediatrics.
American Association of Retired Persons.
American Automobile Manufacturers' Association.
American College of Physicians.
American Federation of Teachers, AFL–CIO.
American Iron & Steel Institute.
American Nurses Association, Inc.
American Physical Therapy Association.
American Psychological Association.
American Subacute Care Association.
Association of Academic Health Centers.
Association of Minority Health Professional Schools.
B. C. Enterprises.
Bannon Research.
Bethlehem Steel Corporation.
Blue Cross Blue Shield of Iowa.
Blue Diamond Growers.
Brown & Cole Stores.
Burlington Coat Factory.
Ceridian Corporation.
Christian Children's Fund.
Chrysler Corporation.
Cold Finished Steel Bar Institute.
Communications Workers of America.
CoreStates Financial Corp.
Del Monte Foods.
Designworks Inc.
Drummond Company Inc.
Families USA Foundation.
Filter Materials.
Ford Motor Company.
GEC-Marconi Electronic Systems Corporation.
General Motors Corporation.
Giant Food Inc.
The Great Atlantic & Pacific Tea Company, Inc.
Gross Electric Inc.
The Heights Group.
H. J. Heinz Co.
Inland Steel Company.
INSIGHT Treatment Services.
International Brotherhood of Electrical Workers.
International Multifoods.
Internatinal Union of Bricklayers and Allied Craftsmen.
Johnstown Corporation.
Keller Glass Company.
Lincoln Telephone & Telegraph Co.
LTV Steel Company.
Lukens Inc.
Mankoff, Inc.
Maternity Center Association.
Maytag Corporation.
MEDNET.
National Association of Childbearing Centers.
National Association of State Boards of Education.
National Council of Churches of Christ in the U.S.A.
National Education Association.
Natinal Steel Corporation.
Navistar International Transportation Corporation, Inc.
Norwest Corporation.
Olympia West Plaza, Inc.
PAR Associates.
Pella Corporation.
Preferred Benefits.
R. R. Donnelley & Sons Co.
Ralphs Grocery Company.
Regis Corporation.
Rohm & Haas Company.
Safeway Inc.
Sara Lee Corporation.
Scott Paper Co.
Service Employees International Union, AFL–CIO.
Sokolov Strategic Alliance.
Southern California Edison Company.
Strategic Marketing Information, Inc.
Texas Heart Institute.
Time Warner Inc.
United Air Lines,Inc.
United Food and Commercial Workers International Union, AFL–CIO.
United Paperworkers International Union, AFL–CIO.
United States Catholic Conference.
United Steelworkers of America, AFL–CIO.
U.S. Bancorp.
The Vons Companies, Inc.
Westinghouse Electric Corporation.
Wheat, First Securities, Inc.
Wheeling-Pittsburgh Steel Corp.
The Whitman Group.
Wisconsin Public Service Corporation.
Xerox Corporation.

Mr. WELLSTONE. That is why the business community is opposed to these cuts in Medicare, because they know it will be a shell game. Mr. President, this will result in utterly irrational charge shifting. What will happen is that the providers already not receiving reimbursement they need will just shift the cost to the private sector, to those of us who have private health insurance plans. The business community knows that.

Some of my friends who were talking about Medicare just as a way of reducing the deficit, or even when they talk about reforming health care but just focusing on Medicare, I think really overlooked problems.

Third of all, Mr. President, I could tell you right now, I would fight this tooth and nail if for no other reason than in rural Minnesota, greater Minnesota, many hospitals and clinics will go under. In some cases, 75 percent of their revenues comes from Medicare. If you are going to take a meat-ax approach, a slash-and-burn approach, if you are not going to contain costs in the health care field but you are going to have these cuts in Medicare alone, then I could just tell you right now, many of our hospitals will go under and clinics will go under in our rural communities.

Fourth of all, Mr. President, this idea of vouchers—this is unbelievable. People are going to have to get real with the people that we represent. To say we will just give you a voucher, that we will set some kind of limited per capita payment, and then you go out, senior citizens, and sort of negotiate whatever plan works well for you. Mr. President, with preexisting condition exclusions, with no risk adjustment between plans, with no community rating, how do you think that is going to work? How do you think that is going to work? If you have a preexisting condition, you may be flat out of luck. If there is no risk adjustment, under a capitated system there will be a tremendous incentive for health plans not to accept people who are older and sicker. You have to make an allowance for that and that involves serious insurance market reforms.

Mr. President, my colleagues and I were able, a couple weeks ago, to restore the funding for an insurance counseling and assistance program—unwanted by Republicans, unfortunately. They wanted to even eliminate a small program providing counselors for elderly people to make sure people do not get ripped off by some of these private Medicare supplementary plans. It is as if they are just going to give people a voucher and say, good-bye, you are on your own.

Finally, Mr. President, let me make a point that the Medicare payment system is the way in which we finance some of the most important things we do in medical education. If we take away that funding, we are going to lose one of the most important things we do in this country. Training residents is a public good—the competitive private insurance market will not pay for it. You would have to ask everyone to pay into a fund in order to eliminate Medicare funding. But I have not heard such a proposal this year.

Mr. President, in Minnesota we have efficient markets. We have done an excellent job of holding down the costs. But there has been very little equity in terms of the kind of per capita payment. Parts of New York get $646 per month per enrollee, and Hennepin County in Minnesota, urban Minneapolis, gets $363 per month per enrollee. This is in terms of our reimbursement now for Medicare managed care plans. My State does not have any fat. If you are going to talk about across-the-board cuts, I will just tell you right now the impact on a State like Minnesota will be severe. We are in a very precarious position.

So, Mr. President, let me conclude this way. No. 1, the idea of cutting $300, $350, $250 or $400 billion in Medicare, so that we can have across-the-board tax cuts flowing to the wealthiest segment of the population, is simply outrageous. It is simply outrageous.

A family making under $30,000 would be getting, roughly speaking, $100; and families with incomes of over $200,000 would be getting, roughly speaking, $11,000. And for that, we are going to have these kinds of draconian cuts in Medicare? It is outrageous.

No. 2, if we do not have that tradeoff—and I think some of our more responsible colleagues understand we cannot do that—I say to my colleagues that you cannot move forward with cuts in Medicare unless you do overall health care reform, and you cannot do it unless you contain overall costs.

I say to the Senators on both sides of the aisle, welcome to health care reform. Welcome to the health care issue. It is back. How ironic it is that when historians write about the 104th Congress, they are going to say that the 104th Congress had to address health care reform, how to finance it, how to deliver health care to people out in the communities in an affordable, dignified way. The reason the 104th Congress finally moved on this question is that some Senators realized, finally, that the only way we are really going to have deficit reduction based on a standard of fairness and the only way we are going to make sure we are able to provide decent health care coverage for all of our citizens, regardless of age or where they live or income, is with significant, meaningful health care reform.

I am ready to work with colleagues on both sides of the aisle, because I think that will now have to be one of our major priorities.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I want to thank my colleague for really putting out in very clear and simple terms the kind of crisis that we knew about. Indeed, President Clinton was so clear in his very first and second State of the Union Address when he said, "If we want to have meaningful deficit reduction, we better address the issue of health care reform."

Here we have a situation—and I serve on the Budget Committee. I am waiting for the Republican budget, by the way. It is way late. Since I came here, I have been on the Budget Committee, and the Budget Committee has been on time. Not this year. Do you know why? Because the Republicans have promised certain things they just cannot keep: huge deficit reduction, increases in the military, big tax breaks for some of the wealthiest again. Guess what? They said they would not touch Social Security. Thank goodness. Frankly, I think a lot of my colleagues made that point clear in the balanced budget debate. So the only cash cow they can look at is Medicare. And at this point, they want to cut hundreds of billions of dollars out of Medicare, and they realize, how can we sell that to the seniors? So they are creating this big crisis.

We talked about the need for health care reform. My friend, Senator WELLSTONE, was one of the leaders in this fight. So I say to my friend, thank you for your remarks this morning. It is almost poignant that we are at this point. Does he not agree?

Mr. WELLSTONE. Mr. President, I thank my colleague from California for her gracious remarks. It is ironic that indeed we have now come full circle back to the last Congress.

The very people who were so proud of having blocked health care reform are now talking about a crisis in Medicare, talking about how we will finance it, and are now making a proposal, I say to my colleague, for rather draconian cuts in Medicare. But they do not want to talk about rationing. Now they really are making proposals that will ration.

I think there are certain realities now that we all hope we will face up to and move forward on health care reform. It is the only way to do it. Otherwise, it will be disastrous.

The kind of proposals I hear people making now to cut Medicare will not only hurt senior citizens, but as I said, will create absolute utter chaos in this health care system. They do not deal with preexisting conditions, they do not deal with any of the bias of not having community rating, they do not deal with how to make it affordable. If anything, it will just have a severe impact.

Mrs. BOXER. I just want to thank my friend again. He is, of course, correct. The kinds of cuts that my colleagues on the Republican side are talking about out of Medicare simply will ruin Medicare. We cannot possibly, in the name of deficit reduction, destroy the Medicare system or the Medicaid system, for that matter.

SENATE AGENDA

Mrs. BOXER. Mr. President, I am very pleased that the leader has reserved some time to discuss general matters. I want to tie a few pieces together.

Before Senator WELLSTONE took to the floor, the Senator from Missouri was praising a Supreme Court decision that gave more power to the States. Rather than get into that decision, I want to point out that in vote after vote, the vast majority of my Republican friends here in the Senate have voted in these last few days to replace State product liability laws, State medical malpractice—indeed, all other civil laws—with Federal laws, with Federal caps.

We certainly know—at least I certainly feel confident in stating to the American people—that these changes are going to hurt them. They are going to hurt consumers in our Nation by substituting politicians' judgments for local judges and juries.

Here we have spent many, many days and many, many hours on a power grab—essentially, a Federal Government power grab—brought by this Republican Congress in the Contract With America, a power grab to say that we in the almighty Senate know better than a judge or jury what someone who has been burned beyond recognition ought to be able to get from those at fault; what someone who perhaps was paralyzed should get; what someone would be able to get if a physician, perhaps in a stupor, makes a dreadful mistake. We have heard of some of those situations occurring.

I think it is very ironic that Senators would come to the floor on the Republican side and talk about how they think more power ought to be invested in the States and then support this kind of a bill.

I hope today, when we vote cloture, that we will be able to stop this horrific bill from becoming a law of the land.

Mr. President, while I feel we should not be doing that, there are many other things I feel we should be doing here in the Senate, that we should be working on.

One of those, certainly, to my mind, is the confirmation of a new Surgeon General for this country, Dr. Henry Foster. I want to say that, in between my going to committees and my work on the floor, I have watched Dr. Foster. I am very proud of the way he handled himself.

I see, today, he has gained the support of one Republican on the committee, assuring that there will be at least a tie vote. I want to reiterate to the majority leader, Senator DOLE, what I have written to him twice about. I see that the Democrat leader is on the floor and I want to thank him for being so clear on this point.

Americans are fair, Mr. President. Americans are just. The fact is, this man deserves to be heard on this Senate floor.

We have an AIDS epidemic, we have a breast cancer epidemic, we have a lung cancer epidemic, we have an epidemic of teen pregnancies, we have too many cases of Alzheimer's, cancer, and heart disease in this country.

We have too much smoking going on in this country, too many young kids taking up smoking. We need a Surgeon General. I do not know why it has to take 3 more weeks for the committee to vote out Dr. Foster, but so be it.

I want to say today on the floor what I have written to Senator DOLE, that if Senator DOLE refuses to bring this nomination to the floor, even if it is a tie vote or, Mr. President, even if it is a losing vote, if Senator DOLE refuses to bring this nomination to the floor, I reserve my right as a Senator to object to Senate business until we can have this nomination on the floor. Senator DODD yesterday said he thought it would be childish for Members to avoid this discussion on the floor and I want to, again, say that I agree with that.

Now, Mr. President, I would like to speak to one question in my remaining 5 minutes. Where is the Republican budget? Where is the Republican budget? By law, the Budget Committee was required to complete work on that budget by April 1. It is May 3, 33 days after that date, and we still have no budget. By law, the entire Congress is required to complete work on the budget by April 15. It is May 3—18 days after that date—and still no budget.

For years, my Republican colleagues have said we could easily eliminate the deficit, and we know how. Not one of my Republicans friends voted for the budget last year, which cut $500 billion from the deficit—not one. They said, "We can do it better; we can do it quicker; we can do it." Where is the budget?

My Republican friends have overpromised: More military spending; balancing the budget by 2002; tax cuts, going up to over $200,000, people will get tax cuts. Yes, they have a problem. They looked at that budget and they saw only one place to go—Medicare. When it got out that they were looking at cuts of $250 billion out of a program that 75 percent of Americans treasure, they started to get a little weak in the knees. They said: What are we going to do? Tell the people that Medicare is in crisis. This is the new turn of events. Medicare is in crisis, they say.

Well, I have looked, looked at all the reports that have come from the Medicare trustees over the years. There has not been a year when Medicare trustees did not say, at some point in the future, Medicare will be in trouble. This year is no exception, because when this Congress was Democratic, we voted to shore up the Medicare fund by making some tax law changes.

The Republicans in the House repealed that. If their law continues, Medicare will be in trouble in 1999. If we can stave them off, we have the fund solvent until 2002.

Yes, we have to fix Medicare. Yes, we have to reform Medicare. Yes, we have to do it right. But not slash and burn. And not outside of the context of comprehensive reform.

I will say that if the Republicans succeed in this, our seniors will be thrown into managed care; they will lose the doctor of their choice; they will have to pay more out-of-pocket expenses, and many hospitals in California are going to close.

Let Members stand tall as Democrats in this U.S. Senate. Let Members demand to see this budget. Let Members say to our seniors that we will stand for seniors and we will not allow the seniors of this country to have the budget balanced on their backs. They deserve more respect than that; they deserve much more than that.

Thank you, Mr. President. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the minority leader from South Dakota.

WHERE IS THE BUDGET?

Mr. DASCHLE. I rise to commend my colleagues for their eloquent presentation this morning. The Senator from California could not have said it better.

The Senator from California knows, as my other colleagues have also indicated they know, the ramifications of this budget resolution and the extraordinary problems we face as we consider some of the implications of the huge cuts in Medicare that are now being proposed, as well as the extraordinary link between those cuts and the tax cut for the wealthy that some of our Republican colleagues have proposed over the course of the last several months, and, as we have already indicated, the House of Representatives has already passed.

The concern I want to address just briefly this morning has to do with what happens when nothing happens. What happens when the budget resolution does not come to the floor in the manner the law requires? What happens to the debt? What happens to the cost of running the Federal Government each and every day that we delay?

It may come as a surprise to some who may be listening that each day we delay action on the budget, the Federal debt increases by $820 million. The budget resolution, of course, was due on the 1st of April. The budget resolution was due almost 35 days ago. At that time, if you use the day before as the baseline, we increased the debt on that particular day by $820 million. On April 2, only 2 days after the budget resolution was supposed to have been reported, the debt increase was up to $1.6 billion.

As you can see, in just the first 9 days since April 1, the debt increased by $8.2 billion simply because there has been no budget resolution and no opportunity for Congress to address the concern that so many of our Republican colleagues say ought to have the highest priority in the Congress today. Indeed, it should have that priority.

The situation is beginning to look very serious as you go from this chart to the next one. The next chart indicates that 10 days after the budget resolution was due the debt had increased by $9 billion; 20 days after the budget resolution was due the debt had increased $16 billion. So, in just 20 days, because of inaction, because we have not had a budget resolution, because we have not been given an opportunity to address the extraordinary consequences of failure in leadership here, in just 20 days we have seen an increase of $16 billion in the total debt, directly attributable to the fact that we have not had a budget resolution.

It gets worse, Mr. President. This chart begins to depict how much worse. On April 21 that debt increased to $17.2 billion. As you can see, slowly we are going off the chart now. The chart is not even big enough to show the debt that has accumulated by the last day of the month in which the budget resolution was due.

As we all said, we knew the implications would be serious, but this chart shows just how serious. On April 30 we now see the debt, as a result of not having a budget resolution, go off the charts to $24.4 billion. That is $24 billion more than it would have been had we been able to stop this growth, this excessive increase in debt, on April 1 when the resolution was due.

The real story then comes on the final chart. At least we hope it will be the final chart. The final chart shows that on May 1 the increased debt was $25.2 billion; on May 2 it was $26 billion; on May 3, another $820 million more than the day before—$26.8 billion more than on April 1.

Today I will add yet the newest bar, for May 4, $27.6 billion in additional debt as a result of the lack of action, as a result of the inaction of the Senate Budget Committee and our colleagues on the Republican side in failing to address this issue.

This is what we are facing. We are going to need charts that I will not be able to reach here by the end of this week, simply because we have not been given the budget resolution that the law requires. We all understand. When the American taxpayer is told that he has to produce his check to pay his taxes by April 15, people join long lines at the post office in order to ensure that they get their return in the mail and comply with the law. American taxpayers go down to the post office at midnight sometimes, on the eve of April 15, to ensure that they comply with the law. The law says everybody has to pay their taxes by April 15, and, indeed, the vast majority of American people, as law-abiding citizens, comply with the law.

The law also says that the budget resolution has to be passed out of the Budget Committee by April 1, and out of the Senate, the Congress, by April 15. But we have now seen the cost of inaction. We have now seen what happens if nothing is done. We have now seen how it is compounded, day after day, with increases in cost, increases in debt, increases in the complexity of the problem we are going to have to address in the coming days.

I must say, I think the biggest concern that many of my colleagues on the other side have as they consider all of the ramifications of a budget resolution is a promise that was made last November. We heard it time and time again. We heard that we can cut taxes, we can increase or at least maintain defense spending levels, we can balance the budget, and we can do all of that without touching Social Security.

Now, given the circumstances, it is becoming increasingly apparent that that is not possible, that there is no way to do all of that, as was promised last November. So, as we look at ways with which to begin to address it, they are coming to the conclusion that one of the biggest pools of resources from which to draw to pay for the tax cut they promised is Medicare. In the name of reform, some of our colleagues on the other side are suggesting that is really what we must do. Let us reform Medicare. And in reforming Medicare we just happen to see this new pool of resources so that we can pay for a tax cut for the wealthy.

Cutting Medicare benefits for the elderly in this way has nothing to do with reform. That is not reform. Certainly there has to be some appreciation of the difficulties we are facing in Medicare with the trust fund. Everyone is willing to concede that. But, to say in the name of reform we are going to cut benefits, in the name of reform we are going to do it in the context of a budget resolution, in the name of reform somehow we are going to reduce Medicare but then increase the tax cuts for the wealthy, all with the same stroke of the pen, I think defies credibility. I think most Americans understand the fallacy of that kind of logic and that kind of budgeting.

So I do not think there is much support for that proposal. I think people are beginning to understand that the promises made last November are coming home to roost. The promises made about cutting taxes and cutting the budget and maintaining defense spending and not touching Social Security—all in a very short period of time, without any pain. The American people are coming to realize that it just cannot be done.

So we hope to have a good debate about the budget. We hope we can talk about our priorities. We can talk about the need for reforming Medicare. But, as we said over and over on this floor over the last 2 years, you are not going to resolve the Medicare problems until you deal with the health care problems in this country. We all understand that, to a large extent, the increase in Medicare costs is being driven by the same forces driving across-the-board health care costs. Medicare's increases in costs this year are no greater than the increases in cost in the private sector. So we all understand that, indeed, if we are going to get a handle on Medicare, if we really are going to reform Medicare, then we have to reform the overall health care system. Otherwise, there will be no real reform—only cost shifting.

So I am hopeful we can stop this steady rise in the debt. I hope we can begin to see these bars go back down as we deal with the budget resolution. But it is now the 4th of May. We have seen from past charts just what has happened with each day, the daily incremental increase of $820 million leading in less than 45 days after the date set for the Budget Committee to produce a budget resolution to a proliferation in debt of $27.6 billion.

We will bring this chart out again. We will continue to show, as we have already been able to show, that we cannot afford delay. We cannot afford the lack in leadership that we have seen on the Senate Budget Committee with regard to a budget resolution. We need to get on with it. We want to work in a bipartisan way. But we certainly appreciate the extraordinary complexity the Republican Party and our Republican colleagues have created for themselves as we try to grapple with the promises made last November.

You cannot cut taxes, you cannot increase defense, you cannot balance the budget and not touch Social Security, all at the same time. Thus, we are left with what we see on these charts. We want meaningful budget management. We want an opportunity to see a resolution that will turn this chart around, that will bring this debt down, that will do what the American people want us to do, and that will protect Medicare, that will protect those investments in people that we believe in so strongly.

So, Mr. President, again let me commend my colleagues for their participation this morning, for the work that they have done in laying out the facts as we see them relating to the budget, Medicare and the implications of doing nothing. We need leadership. We are very hopeful that, in the not too distant future, we will see a lot more of it coming from the Republican side.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I enjoyed listening to the minority leader and others ask the question this morning, "Where is the budget?" I indicated yesterday that I thought the majority party in the Senate had ridden into a box canyon. All of us have watched the old spaghetti westerns, old-time cowboy movies in America and understand what riding into a box canyon is. In fact, they usually show them as riding into the box canyon whistling and happy-go-lucky. And they ride into that box canyon, look around, and understand they are in very big trouble.

What has happened here with respect to box canyons? The majority party promised the American people that they were going to increase defense spending. In fact, they are going to rebuild now a new star wars program, increase defense spending, cut taxes and balance the Federal budget. But, of course, that does not add up. Most people know it does not add up. So they had an urgency about this program. Was the urgency to cut spending to balance the budget? No. The urgency was to cut taxes in what they called a middle-class tax cut.

The middle-class tax cut turns out to be not so middle class after all. The middle-class tax cut does the following. If you are a family below $30,000 in income, you get a big old tax cut from those folks over there of $124 a year. If you are a family with over $200,000 in income, those folks say, "Guess what? We have a check for you for $11,200, if you are such good Americans."

I think everybody is a good American. So I am not saying we ought to discriminate. But it seems to me, when you are up to your neck in Federal debt and the first job is to cut spending to balance the budget, and if with the first jump out of the chute you run over with a tax cut, the bulk of which goes to the wealthiest Americans, then come to the floor of the Senate and claim it is a middle-class tax cut, you need an award for fiction. Get your tux on. We will give you a prize for fiction. The truth is that this tax cut is not a middle-class tax cut. This gives the cake to wealthy and the crumbs to the rest.

Once they decided they were going to do this and started adding up numbers, they discovered the laws of arithmetic—which most of us learned early in life—do not allow them to balance the budget after all. So then they said to us. Now that we have done this, we want you to join us in cutting spending for Medicare and Medicaid. I guess our response is we certainly ought to join together to reform Medicare and Medicaid to make that solvent, whole, for the long term. But my response to the majority is, the first thing you ought to do is find a place to deep-six nonsense. Get rid of tax cuts for wealthy. Then let us talk about reforming the rest.

All of us have a responsibility. The urgency of cutting spending and the urgency of balancing the budget is not in question. Why were those who were most urgent here on the floor of the Senate to change the Constitution now walking around scratching their heads wondering, "When will we get a budget?" The question ought not be much cause for wonder. The date was April 1. It is in the law. We can read the law books to understand when the requirement to bring the budget to the floor of the Senate was—April 1 and April 15. Those are the two statutory dates. Now it is May.

Those folks who said it was urgent to do something about the Federal budget deficit have only had time to pass a tax cut, a big tax cut, over in the House. And then this morning we see people standing on the floor of the Senate justifying it as a middle-class tax cut. That is no middle class in any town I am familiar with—middle class, $200,000 or more, $11,200 in tax cuts, and $120 for $30,000 or less, for families that earn that amount of money. No. I think the lessen here is clear.

I do not think we have a budget on the floor of the Senate because the folks who must produce the budget in the Budget Committee understand that the dilemma they have is they want to give tax cuts for the wealthiest Americans and then ask us to help them cut spending on health care for the elderly and the poor people. That does not add up. It is not going to happen.

What we ought to do is back away from this ideological nonsense and decide to start over completely. We ought to join hands and say, let us stop this agenda stuff that we have, the Contract With America agenda that says let us make the rich richer and let us cut the health care to the poor and let us decide to do this together, in a sober, serious, thoughtful way. All of us understand. Yes. Federal spending must be cut. Let us cut it in real ways. Let us do it together and let us do it first. When we have done that job, we have cut spending and reduced the Federal budget deficit and have a plan to balance the budget, then let us talk about tax cuts. And, when we do, let us talk about tax cuts for real American families. Let us do it in the real way. That is the way to approach this budget dilemma.

I end as I began. The question is, "Where is the budget?" Let us find that answer, bring it to the floor, pass it in a reasonsible way, and put this debate on the course it should be on.

I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I understand we are in morning business. Unless specified, the time permitted for debate is 5 minutes.

The PRESIDING OFFICER. That is correct.

Mr. LAUTENBERG. I believe we have requested 10 minutes of time for the introduction.

The PRESIDING OFFICER. That is correct.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that be extended for 5 minutes so that my colleague from California, Senator FEINSTEIN, can also make her remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Thank you, Mr. President.

(The remarks of Mr. LAUTENBERG and Mrs. FEINSTEIN pertaining to the introduction of S. 757 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. FEINSTEIN. I thank you, Mr. President, and I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

EXPOSING THE FRAUD

Mr. HOLLINGS. Mr. President, before I have to leave to attend a budget meeting, I would like to try and expose the fraud in statements from Members on the other side of the aisle claiming that the President is unwilling to lead and that, much to their surprise, they just discovered that the Medicare trust fund is going broke.

The truth of the matter is that they have been telling us for a while now that action by the President was not even necessary. I wish I could take us back to December 18 after the glorious Republican victory in November when Mr. KASICH and others were on the TV saying,

> We're not going to wait on any budgets. We have three budgets. In fact, we are going to take one of them and have them first and we're going to have the budget cuts before we get to tax cuts.

I want the people to go back. For months they totally ignored the President and saying that his proposals were irrelevant, that they had their own plan, their own revolution, and were going to present their own budget. Having been a former chairman of the Budget Committee, that excited me. In January, I submitted a plan for the RECORD that showed how to put our Government back in the black by 2002.

But then having gone back on their promise to give us a budget in January, they said, "We're going to put the spending cuts in the bank before giving any tax cuts." Then, we had the circus out on the lawn, as the House passed the tax cuts. We are back to the days of Rome under KASICH, GINGRICH, and that crowd. They went back home, had celebrations, waved flags, and everything else of that sort.

But then, they came back to Washington and said, "Whoops, we just found out that Medicare's going broke." As a result, we have Medicare hearings coming out of our ears.

The Budget Committee has not given us the budget. They will not mark one up even though by law they are required to report out a budget by April 1. While we wait for the markup, they are having Medicare hearings all over the Hill. Mr. President, let me get right to the point and refer to the report of the board of trustees of the Federal Hospital Insurance Trust Fund last year, dated April 11, 1994, and addressed to Speaker Foley and Vice President GORE:

> GENTLEMEN: We have the honor of transmitting to you the 1994 annual report of the Federal Hospital Insurance Trust Fund.

On page 2, it says:

> The trust fund ratio defined as a ratio of assets at the beginning of the year to disbursements during the year was 131 percent in 1993, and then under the intermediate assumptions is projected to decline steadily until the fund is completely exhausted in 2001. Under the low-cost assumptions, the trust fund ratio is projected to decline until the fund is completely exhausted in 2004. Under the high-cost assumptions, the trust fund ratio is projected to decrease rapidly until the fund is exhausted in the year 2000. These projections clearly demonstrate that the hospital insurance program is severely out of financial balance, using a range of plausible economic and demographic assumptions.

Now, that makes it pretty clear. Why didn't the Contract With America face up to that point? They knew about it, but did not want to face up to it. Moreover, they rebuffed the President's attempts to address the problem. Let us remember that the President of the United States did not cause any kind of deficit in Medicare. He was down in Little Rock; if it was caused, it was caused by me and other Members of Congress, but certainly you cannot attribute it to him. Still, when he offered his proposal, we could not get any cooperation whatsoever from Republicans. I can say that categorically because when we finally got a $56 billion Medicare cut adopted, it was without a single Republican vote in the House of Representatives or in the U.S. Senate. In addition, we took $25 billion from the wealthiest Social Security recipients, and put the money into the HI trust fund. What does the Contract With America call for? It says repeal the Social Security tax increase of last year and thus hasten the insolvency of the HI trust fund.

We ought to cut out this nonsense and tell them to give us a budget. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE AMENDMENT ON JOINT AND SEVERAL LIABILITY

Mr. ABRAHAM. Mr. President, I want to take a couple of minutes today to speak once again in support of the amendment that I have introduced along with the distinguished Senator from Kentucky.

The purpose of our amendment which we will soon be voting on is to try to expand the portion of the underlying bill on product liability that pertains to joint and several liability beyond the realm of product liability to other aspects of civil actions.

As I spoke yesterday on several occasions, and as I have argued in quite a variety of settings over the last few weeks during this debate, what we are talking about here is what I believe is an underlying principle of the American legal process, the principle of fairness and the principle of justice. These principles, it seems to me, tend to be out of sync in the area of joint and several liability.

As I have demonstrated in the floor statements I have made, we have countless incidents where persons who are only minimally responsible for the damages involved in a court action, or other legal action, find themselves shouldering all or most of the responsibility for paying damages because of the fact that they are the deep pocket.

Unfortunately, this is not just something that afflicts defendants who are big businesses. As I demonstrated, it is also a problem for municipal governments, for county governments, for State governments. It is a problem that all too often afflicts nonprofit organizations, charitable organizations, and the like.

We heard talk during the debate yesterday that somehow the amendment we are speaking of would be adverse to women. But the fact is that women do not just find themselves as plaintiffs in legal actions; they often find themselves as defendants. They, too, could be victimized by the joint and several liability process that we have today. Indeed, 30 percent of the small businessowners in this country today are women. It is the small businesses who are most at risk, in my judgment, unless we repair this defect in the legal system at this time.

For those reasons, Mr. President, I just wanted to conclude the debate on this topic—at least from my perspective—by reiterating the arguments I made yesterday and by calling on those people who have been supportive of reform of the joint liability process in the context of product liability, to support this effort to expand this notion beyond product liability.

Every argument that makes sense in the product liability context, where the people who are likely to be beneficiaries are the producers and manufacturers of products, also makes sense when the people who are likely to be aided are average American families, small businesses, charitable organizations and municipal governments. If this reform makes sense for product manufacturers, I think it equally makes sense for the small businesses, the charitable and nonprofit organizations, and for the local governments of this country.

For that reason, I sincerely hope that those individuals who will support the product liability legislation will support the expansion of this particular provision of that legislation to help the small businesses, the cities and towns of America, the average American families and, I think most importantly, the communities of our country.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, it is my understanding that we are in the closing minutes of morning business.

The PRESIDING OFFICER. That is correct.

JOINT AND SEVERAL LIABILITY

Mr. COVERDELL. Mr. President, I rise to speak on behalf of the Abraham amendment. I am not a lawyer, and I am glad that I can take a chance here, as a small businessman, to bring perspective on the question a little bit out of a legal arena. This whole question of joint and several liability, which means to an everyday person that if there is a wrongdoing that occurs and a legal dispute emerges about it, that if several parties are involved, and let us say party A is responsible for 90 percent of the wrongdoing and party B is responsible for 10 percent of the wrongdoing, and a suit is filed against the two of them, if it is determined by the legal process that party A, who was responsible for 90 percent of the wrongdoing, does not have any money, then the person to go after is party B who, while only sharing 10 percent of the responsibility, for one reason or another, has access to large sums of money. Therefore, he is the target.

Mr. President, I think in the American way that is just considered not fair. That is making two victims out of the crisis: The person to whom the wrongdoing occurred, and then this other party who happens to be in the arena, who does not share much of the responsibility, but just has resources. Therefore, that entity becomes the target.

In American A-B-C logic all across the country, it is not right for somebody who does not bear the responsibility, or much of it, to be the target of paying up just because they have money.

We have read several of these ludicrous stories of a person coming out of the McDonald's, spilling their milk shake, getting into an accident with somebody, suing the person they got into the accident with but that person is uninsured, so they sue McDonald's.

Mr. President, in light of the time, I will not dwell on this much more. I did take an interest in this Newsweek article—I am sure it has been talked about before—with the legal tax on the everyday consumer. Because of the kinds of things I have just been talking about, everybody is scared to death. So they build in all kinds of defensive tests and costs to protect themselves. An 8-foot ladder that costs $119.33, $23 of the cost is now a product of our legal system.

A tonsillectomy which costs $578 has $191 built into it because of our legal system. That is why 80 percent of the American public support the broadening of legal reform that we have been battling here for the last 2 weeks.

I will just close by saying once again that it is fundamentally wrong to make people who have a very small responsibility, if any, be the subject of having to pay damages simply because they were in the area or arena, or we had a situation where, as I said a moment ago, 90 percent of the responsibility belongs to person A and 10 percent to person B, but person B has resources, so they will ruin that person's life, ruin that victim's personal business, simply because they had resources and were responsible.

That is fundamentally unfair. That is why so many Americans support this amendment on joint and several liability, which means a person is responsible, financially, for their proportional share of what went wrong.

Mr. President, I yield the floor.

NOTICE

Financial disclosure reports required by the Ethics in Government Act of 1978, as amended and Senate rule 34 must be filed no later than close of business on Monday, May 15, 1995. The reports must be filed with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510. The Public Records Office will be open from 8 a.m. until 6 p.m. to accept these filings, and will provide written receipts for Senators' reports. Staff members may obtain written receipts upon request. Any written request for an extension should be directed to the Select Committee on Ethics, 220 Hart Building, Washington, DC 20510.

All Senators' reports will be made available simultaneously on Wednesday, June 14. Any questions regarding the availability of reports should be directed to the Public Records Office (224-0322). Questions regarding interpretation of the Ethics in Government Act of 1978 should be directed to the Select Committee on Ethics (224-2981).

GOVERNMENT REORGANIZATION HEARINGS

Mr. ROTH. Mr. President, in early January I announced my intention to have the Governmental Affairs Committee develop this year a blueprint for the reorganization of executive branch departments and agencies. I would like to take this opportunity to indicate that this effort will begin with hearings on May 17 and 18. That first day will be devoted to an overview of the general principles relating to the structuring of the Government. The second day will focus on specific proposals that have been made regarding the elimination and consolidation of executive departments and agencies.

A number of such proposals have been made recently. In March, for example, our majority leader suggested the elimination of four departments—Commerce, Education, Energy, and HUD. Similar proposals have been made by other Members, both in the House and the Senate. In early January, I said that we might be able to reduce the number of departments by up to one-half of the present 14.

But more is involved in such an effort than simply outright elimination of departments and agencies. We may need to retain certain existing programmatic responsibilities of an agency that is itself to be terminated. We need to think about where to put these programs. And to really do this right—to begin to move us toward a Federal Government that is appropriate for the 21st century—we ought to be thinking in terms of a fundamental reorganization of the executive branch.

In other words, rather than trying to restructure the Federal Government piecemeal—eliminating a couple of departments this year, consolidating a couple of more next year, and leaving everything else untouched—we need to take a more comprehensive approach.

And this is what I intend to have Government Affairs Committee do. As the committee with the jurisdiction over the reorganization of the executive branch, including the creation and elimination of Cabinet departments, the Governmental Affairs Committee is ideally suited to look at the big picture, and to ensure that all the pieces of a reorganization fit together. Doing this may require a fundamental rethinking of what the executive branch ought to look like in the future.

To illustrate what this might mean, I would point to a proposal made by the Ash Commission during the Nixon administration. It was then proposed that four existing departments be retained—State, Treasury, Defense, and Justice—and that all the others be folded into four new departments with very broad jurisdiction—Natural Resources, Human Resources, Economic Development, and Community Development. In 1991, then-Congressman Leon Panetta proposed that the executive branch be reorganized into just six departments—State, Defense, Justice, Human Services, Natural Resources, and Economic Policy. And just last month the Heritage Foundation proposed that there be only five cabinet departments—State, Defense, Justice, Treasury, and Health and Human Services.

But before launching into a full-scale examination of Federal departments, agencies, and programs—to see what should be eliminated, consolidated, or reorganized—I think we need a better understanding of how to approach this task.

This is why I intend first to begin with an overview hearing. The purpose will be to get a better understanding of the principles and criteria that Congress should apply as it looks to specific aspects of governmental organization and operation. For example, is it best to centralize responsibility into fewer departments, so as to focus accountability and enhance policy coordination? Or is it best to decentralize responsibility, in order to eliminate layers of bureaucracy and improve responsiveness? Are there innovative ways to achieve the advantages to both approaches—such as through semi-independent agencies located within larger departments?

If the Federal Government is going to retain a certain programmatic responsibility—even after reorganization and streamlining—are there better ways of doing so? When, for example, should a program be part of an independent agency? When should it be part of a cabinet department? And when is it best to use some sort of autonomous government corporation?

We will also ask about privatization. What does it mean, when should it be used, and how should it be implemented? Are there alternative forms that might be appropriate, sometimes referred to as commercialization or marketization. And what about contracting out?

As I have stated, I intend that the hearing on the following day, May 18, will address specific proposals for agency consolidation and elimination, and program privatization. I would invite Members of Congress who have offered such proposals to contact the committee if they would like to testify on their ideas.

I should add that I also intend to have the Governmental Affairs Committee begin an examination of governmental operational issues. We need to improve the performance of government, as we reduce its size and complexity. This means a serious effort at civil service reform, as well as looking at budget system reform, program performance measurement, and financial accountability. We also need to ask which responsibilities might most appropriately be devolved to the State and local governments.

I strongly agree with the demands for cutting the size and costs of the Federal Government by eliminating obsolete and ineffective programs and agencies. I think the right way to do this is to approach the task thoughtfully and carefully—but with a clear intention to develop a plan that is both bold and comprehensive.

Of course, another way to do this would be to appoint a commission—modeled on the Military Base Closing Commission—to develop the plan, and require Congress to approve or disapprove the plan. I have in past congresses introduced legislation that would create just such a commission, and I am still willing to consider it as an alternative approach.

But regardless of what mechanism we use to develop it, we need a blueprint for the organization of the Federal Government that reflects today's priorities and fiscal realities, and that prepares us for the 21st century. The Governmental Affairs Committee will soon begin work on this task.

IN MEMORY OF SENATOR JOHN C. STENNIS

Mr. JOHNSTON. Mr. President, I would like to take a few minutes to comment on the life and career of our departed colleague and my good friend, Senator John C. Stennis, whose long and full life ended on Sunday, April 23, at the age of 93.

When Senator Stennis retired in January 1989, he had been in the Senate 41 years, 1 month, and 29 days. This made his service in the Senate longer than all but one other person in history.

When I came to the U.S. Senate in November 1972, Senator Stennis had been a Member of this body for nearly 25 years, and I had the great honor and privilege of serving with Senator Stennis for 16 years—until he retired at the close of the 100th Congress in 1989. So it is with sadness that I pay tribute to the memory of this departed colleague today.

John Stennis was a man who anyone coming to know him well would love and admire. I came to know him early on my arrival in the Senate. He was from my neighboring State, and I learned to follow his advice and leadership in certain areas of our service together.

It was also my privilege to serve with John Stennis on the Appropriations Committee beginning in 1975. We had nearly identical subcommittee assignments on the committee. He was chairman of the then Public Works Subcommittee, now the Energy and Water Subcommittee, when I came aboard and I succeeded him as chairman of that subcommittee when he became chairman of the Defense Appropriations Subcommittee in 1978. We worked together on many matters of mutual interest, especially the Mississippi River and tributaries flood control works, and other infrastructure improvements throughout the country. He requested my assistance on the Tennessee-Tombigbee Waterway project and I was pleased to help floor manage the successful completion of that massive project which opened in 1985. The New York Times called the Tenn-Tom Senator Stennis' "pyramid," and I am pleased to have had a role with Senator Stennis on this impressive project.

Mr. President, in our committee assignments and work together, I was blessed as much as a fellow Senator could be blessed by association, counsel, and advice from our departed friend.

As I mentioned earlier, it has been my honor and privilege to be closely associated with Senator Stennis for over 16 years of service together. As chairman and ranking member of the Appropriations Committee, Senator Stennis designated and commissioned me to floor manage and handle various appropriations measures including supplemental bills and continuing resolutions. He was my chairman, and I was always happy and enthusiastic to carry out his wishes on these matters.

Mr. President, John Stennis was unqualifiedly and unreservedly a gentleman in the finest American tradition. He was a man whose word was as good as his bond. He had an almost reverent sense of discretion and personal taste in his relations to the greatest affairs of the Nation as in his relations to individuals. He was indeed a giant in the Senate.

John Stennis was a Senator's Senator. He was gentle and courteous in conduct, but tough and strong in conviction and character. He personified the highest ideals of honor and integrity within the Senate.

John Stennis also possessed an extraordinary, and indomitable, fortitude, spirit, and fearless courage. I think of the several personal adversities he confronted with such wonderful dignity and demeanor. In 1973, he was shot by robbers in front of his house and left for dead. In 1983, his beloved wife of 52 years, he called her Miss Coy, passed away. In 1984, he lost a leg to cancer and was confined thereafter to a wheelchair but, Senator Stennis bore these adversities with such great strength and courage that he served as a great inspiration to us all.

We are thankful for his character, for his modesty and selflessness, for his devotion to the Senate and his family, for his outgoing good will to his friends, for his high honor as a man.

Mr. President, I traveled with a number of my colleagues to the burial services for Senator Stennis on Wednesday, April 26, at the Pinecrest Cemetery in DeKalb, MS. He was born in DeKalb County in the red clay hills of eastern Mississippi and his mortal remains were buried there in the family plot next to his beloved "Miss Coy" and near his parents. Many of the Stennises buried there were known as professional people—doctors, lawyers, teacher, and legislators. I was deeply impressed with the tribute given Senator Stennis by his son, John Hampton Stennis. He stated Senator Stennis' campaign pledge and creed when Senator Stennis ran for the Senate in 1947, after having served as a circuit court judge for 10 years. That political creed was "I want to plow a straight furrow right down until the end of my row." Obviously, Senator Stennis succeeded with that campaign pledge. And that philosophy seems to have guided his entire political career and his life. With those words John Hampton captured the spirit and philosophy of John C. Stennis.

Senator Stennis taught through example. He has left both a challenge and a pattern of conduct for citizenship, as well as public life.

What can our citizens today find in John C. Stennis to emulate? A course of conduct that inspires confidence; absolute personal dedication; noble purposes always foremost as a motive and objective; standards in public and private life unexcelled; a willingness to serve; a willingness to lead and endlessly carry the penalty of leadership, and above all else, the attainment of being an honorable man.

I believe we find here a man and a record that fully live up to the everlasting call of the poet, Gilbert Holland, who said:

> God, give us men! A time like this demands
> Strong minds, great hearts, true faith and ready hands;
> Men whom the lust of office does not kill;
> Men whom the spoils of office cannot buy;
> Men who possess opinions and a will;
> Men who have honor; men who will not lie;
> Strong men, who live above the fog
> In public duty and in private thinking.

Mary and I extend our heartfelt sympathy to the family of Senator Stennis—his daughter, Mrs. Margaret Jane Womble, and son, John Hampton Stennis, and to his grandchildren of whom he was so proud.

CENTENNIAL CELEBRATION OF THE McKIM BUILDING OF THE BOSTON PUBLIC LIBRARY

Mr. KERRY. Mr. President, this year marks the 100th anniversary of one of the most beautiful buildings in America, the McKim Building of the Boston Public Library.

Founded by an act of the Massachusetts Legislature on April 3, 1848, the Boston Public Library was the first free and publicly supported municipal library in the world. By 1880, its original 10,000 volumes had grown to 357,440, and the legislature empowered the city of Boston to take as much land within its limits as it needed to build a new library. The trustees envisioned the new library to be a "palace for the people, and as such * * * a monumental building, worthy of the city of Boston." They hired architect Charles Follen McKim, a senior partner in the New York firm of McKim, Mead & White, to design this new edifice.

McKim wanted to create a building which would fit with its architecturally distinguished neighbors—H.H. Richardson's Romanesque Trinity Church and the Italian Gothic of the New Old South Church. He modeled the building on Henri Labrouste's Bibliotheque Ste. Genevieve and recruited such outstanding artists as American sculptors Louis and Augustus Saint-Gaudens, French muralist Puvis de Chavannes, and American painters John Singer Sargent and Edwin Austin Abbey.

Since its opening in 1895, the collection has become one of the most outstanding research libraries in the nation, including papers of many Colonia Americans and New England Abolitionists such as William Lloyd Garrison; the Sacco and Vanzetti papers, and the manuscripts and personal libraries of such figures as the famous conductor of the Boston Symphony Orchestra Serge Koussevitszky and American composer Walter Piston.

It is also a wonderfully user-friendly library, providing many services for the community. It was the first to have a formal system of branch libraries throughout the city. In addition, there are programs for seniors, for children, and for young adults and a structured lecture series which provides college-level humanities courses free to library patrons. The new Johnson addition to the McKim Building is also where I vote.

The McKim Building has recently undergone an extensive restoration. I invite by colleagues to visit its marble lions, view the mural depicting Sir Gawain's quest for the Holy Grail, and enjoy the courtyard. The statute of "The Baccahante," originally designed to be the centerpiece of the fountain in the courtyard, was deemed too scantily clad to display in public. She was hidden away in a dark, unlit recess on the third floor, unseen and unadmired, but now she is being installed in her intended home.

Joshua Bates, for whom the Great Reading Hall is named, wrote to the mayor of Boston,

> While I am sure that, in a liberal and wealthy community like that of Boston, there will be no want of funds to carry out the recommendation of the Trustees, it may accelerate its accomplishment and establish the library at once, on a scale to do credit to the City, if I am allowed to pay for the books required, which I am quite willing to do. The only condition that I ask is, that the building shall be such as to be an ornament to the City.

Mr. Bates, your wish has been amply fulfilled.

ADMINISTRATION'S PLAN TO SELL STRATEGIC PETROLEUM RESERVE

Mr. MURKOWSKI. Mr. President, for the information of the Senate, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD a letter from the Secretary of Energy to the President of the Senate that transmits administration-proposed legislation. The primary purpose of this legislation is to sell strategic petroleum reserve

[SPR] oil to fund the decommissioning of the Weeks Island SPR storage facility. I am having the proposed legislation printed in the RECORD instead of introducing it because I disagree with the policy of selling SPR oil to raise money. Let me explain.

The administration's legislation proposes three things. First, it authorizes the sale of up to 7 million barrels of crude oil from the SPR. Second, it earmarks the moneys from that sale for the decommissioning of the Weeks Island storage facility, and for other unspecified activities related to the SPR. Third, the administration's legislation allows the sale of the SPR oil to not count adversely under the budget rules. I will not speak to the asset sale issue because it is not central to my concerns.

The key policy issue raised by this legislation isn't whether the Weeks Island SPR storage facility should be drained of oil and decommissioned; that must occur. Instead, the question facing the Senate is whether we should authorize the sale of SPR oil to fund this activity and a host of other unspecified SPR activities simply because the administration is unwilling to ask for the necessary money as a part of DOE's regular budget. In a nutshell the issue is: Should SPR oil be sold to make up for a budget shortfall, or should SPR oil be kept on hand in case of an energy emergency? Before I explain my concerns about the administration's proposal to sell SPR oil, let me first describe why the Weeks Island SPR storage facility must be emptied and decommissioned.

Weeks Island is one of the five SPR crude oil storage facilities. Located in Louisiana, it holds 73 million of the total 592 million barrels of oil stored in the SPR. Weeks Island is unique among the SPR oil storage facilities. It was a commercial salt mine before being purchased by the Department of Energy and converted to an oil storage facility. The other four SPR facilities were created specifically to store oil.

In May 1992, a sinkhole was discovered on the ground directly above Weeks Island. The cause of the sinkhole was determined to be a fracture in the salt formation. Over time, the fracture has enlarged as a result of water leaking through it and into the Weeks Island storage cavern. In February 1995, a second sinkhole was discovered over Weeks Island, but it has not yet been determined if this indicates a second leak.

The water leaking into Weeks Island is accumulating at the bottom of the oil storage chamber and it is pushing the oil up. Although the leak is slow, water intrusion creates a risk of path enlargement and increased water inflow. This could ultimately result in a catastrophic water inflow, which would completely displace the oil stored in the facility. Although a remote possibility, if that occurred the 73 million barrels of oil stored in Weeks Island could enter the underground water aquifer. That would be a major ecological disaster.

After extensive engineering studies, DOE has concluded that the long-term integrity of Weeks Island cannot be assured. Thus, the most prudent option is to remove the oil while the leak is manageable. Once emptied of oil, Weeks Island will then be decommissioned by filling the facility with salt brine. Plans are being made by DOE to move the oil to other SPR storage sites beginning in the fall of 1995. As part of this activity, DOE will put a freeze wall around the facility to prevent oil leakage. Full decommissioning of Weeks Island will take 2 to 3 years.

I agree with the Department of Energy that Weeks Island must be emptied of oil and decommissioned as soon as possible. I also agree that the life extension activities should take place. As I stated before, the issue facing the Senate is not whether these should occur, but rather how they are to be paid for. More specifically, should we authorize the sale of SPR oil to fund these activities, or should the money come from DOE's budget? In deciding whether or not SPR oil should be sold, it is worth reviewing why we have an SPR in the first place.

The SPR was created by Congress in the aftermath of the 1973 Arab oil embargo. Recall that the oil embargo caused energy shortages, sharp price increases, long gasoline lines, double-digit interest rates, and economic stagflation. The SPR protects the Nation by having on hand a significant amount of immediately available crude oil.

The function of the SPR is twofold. First, it discourages foreign oil exporting nations from using the oil weapon against the United States, as they did back in 1973. Second, it protects the United States from shortages and price spikes if a supply interruption does occur. In addition, the SPR is needed to satisfy the requirements of the International Energy Program, which requires member nations to maintain oil stocks sufficient to sustain consumption for at least 90 days with no net oil imports.

Congress intended SPR oil to be used only if there is an energy emergency. The 1975 Energy Policy and Conservation Act specifies that SPR oil can be sold only if the President finds that "it is required by a severe energy supply interruption or by obligations of the United States under the international energy program."

The SPR has been tapped only once—other than for test purposes—but when used it was important that the oil be on hand. In January 1991, because of the Desert Storm war with Iraq, President Bush declared an energy emergency and sold 17 million barrels of SPR oil. Had he not done so, oil prices would have spiked, consumers would have suffered, and our economy would have been harmed.

Given declining U.S. oil production and the corresponding increase in foreign dependence, if anything we need more oil stored in the SPR—not less. Since the Arab oil embargo in 1973, U.S. crude oil production has declined by 28 percent and U.S. dependence on foreign oil has grown to more than 50 percent. Notwithstanding additions of oil to the SPR, because of our growing foreign dependence, the SPR is increasingly less capable of offsetting a supply interruption. In 1985, the SPR contained 493 million barrels of crude oil—then the equivalent of 115 days of net U.S. oil imports. Today, the SPR contains 592 million barrels of crude oil—the current equivalent of 74 days of net oil imports. Although we have added nearly 100 million barrels of crude oil to the SPR, due to our growing foreign dependence it is 41 days less capable of handling a supply interruption. Thus, I am very concerned that selling SPR oil—even as little as 7 million barrels as proposed by the administration—reduces the protection the SPR will provide in case of an energy emergency.

Let me again say that I am convinced that the Weeks Island facility must be emptied and the oil moved to other SPR storage sites. We cannot afford an ecological disaster of the magnitude posed by a catastrophic rupture of Weeks Island. But I want to point out that those actions do not require the amount of money that would be generated by the sale of 7 million barrels of SPR oil, as is proposed by the administration's legislation.

At current market rates of $20 per barrel, the sale of 7 million barrels of SPR crude oil will generate about $140 million. Yet the Department of Energy needs only $89 million to move the Weeks Island oil to other SPR storage sites and to decommission the facility. Possibly much less if lower cost transportation options were used. Moreover, only about $38 of the $89 million is actually required in fiscal year 1996 because decommissioning will take several years to complete. Even if the entire $89 million were required in fiscal year 1996, that still leaves $51 million from the $140 million sale. What does DOE plan on doing with that money? They plan on spending a large share on SPR life extension activities that need to occur, but more properly should be part of the regular DOE budget.

DOE could have proposed to use part of its budget for Weeks Island, but it elected not to. For fiscal year 1996, DOE asked for $17.833 billion, a $337 million increase over fiscal year 1995. $89 million is only .005 of the DOE's total budget, and only one-quarter of just the proposed budget increase. Surely, the administration could have found the necessary moneys within its existing budget if it really wanted to.

A fair question is where will DOE get the money it needs if we do not authorize the sale of SPR oil as requested? I say again, DOE should have asked for the money as a part of their fiscal year 1996 budget request; I believe that we would have approved it. So I turn the question around and ask the administration: If it really is so important to undertake these activities, what are the lower priority DOE programs that you are willing to forgo? You tell us which programs you want to cut.

I am also very concerned that selling SPR oil simply to raise money sets a very dangerous precedent. I greatly fear that there will be no end once we start doing this. Every time DOE's budget is put in a squeeze, there will be pressure to sell a few barrels of SPR oil to protect this or that cherished program. How will we be able to say no to other raids on the SPR piggy bank, if we allow it here?

Mr. President, the strategic petroleum reserve is this Nation's energy emergency insurance policy. I do not believe that we should cash part of it in just because DOE is unwilling to use even the tiniest fraction of its $18 billion budget to address the SPR's problems. We may need the SPR some day if another supply disruption occurs. After all, Saddam Hussein is still with us. It is for these reasons that I oppose the sale of SPR oil as proposed by the administration and I will not introduce their legislation.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) Notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary of Energy may draw down and sell up to seven million barrels of oil from the Strategic Petroleum Reserve to the extent that appropriations acts make the proceeds from such a sale available for the purposes specified in subsection (b).

(b) The proceeds from the sale described in subsection (a) shall be deposited into a special account in the Treasury, to be established and known as the "SPR Decommissioning Fund," and shall be available to the extent and in the amounts provided in advance in appropriations acts for the purpose of removal of oil from and decommissioning of the Weeks Island site, and for other purposes related to the Strategic Petroleum Reserve.

(c) The proceeds from the sale described in subsection (a) shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to discretionary budget authority and outlays for the purposes of section 251(a)(7) of that Act, if the President designates that the proceeds should be so counted, notwithstanding section 257(e) of that Act.

(d) The authority to contract for sale of oil under this section expires September 30, 1996.

THE SECRETARY OF ENERGY,
Washington, DC, March 27, 1995.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a legislative proposal to "provide for the sale of oil from the Strategic Petroleum Reserve and the transfer of oil from Weeks Island, and for other purposes." This legislation, which is proposed in the President's Fiscal Year 1996 Budget, is part of the Administration's ongoing effort to reinvent the Federal Government.

The Department of Energy recently announced the planned decommissioning of the Strategic Petroleum Reserve's Weeks Island site. Water seeping into underground storage chambers is compromising the structural integrity of the facility, which holds nearly 73 million barrels of oil. As a result the Department will transfer the oil to other sites in Louisiana and Texas, and sell up to seven million barrels of oil to finance the transfer and decommissioning, and other SPR activities. Currently, the Department has legislative authority to draw down and sell Strategic Petroleum Reserve oil only under emergency authorities vested in the President or as part of a test sale of up to five million barrels of oil. New authority is required for this proposed sale.

The proposed legislation would authorize to the extent provided in appropriations Acts the sale and drawdown of up to seven million barrels of oil from the Reserve for purposes of removing the oil and decommissioning the site. Seven million barrels is equivalent to less than one day of oil imports, and would not appreciably affect the mission of the Reserve. Proceeds from the sale would be deposited in a special account known as the "SPR Decommissioning Fund" and would offset the cost of decommissioning and other SPR activities. This bill would also allow the sale proceeds to be counted as offsets to spending. Authority to contract for sale of oil under this section would expire on September 30, 1996.

We look forward to working with the Congress toward enactment of this legislation.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President.

Sincerely,

HAZEL R. O'LEARY.

MARJORIE S. ARUNDEL

Mr. WARNER. Mr. President, I rise today to recognize a most distinguished Virginian, Mrs. Marjorie S. Arundel, of The Plains, VA, who has devoted her life to the conservation of our natural resources.

As a member of the Garden Club of America, Marjorie Arundel has been recognized for her conservation efforts in the Commonwealth of Virginia and across our Nation. Her tireless work has throughout more than 30 years contributed much to preserve and enhance the natural beauty.

I have had the pleasure of knowing both Mrs. Arundel and her late husband, Russell M. Arundel, for a number of years in Fauquier County. The contributions which they have made to that community are immeasurable.

In the 1960's, the Arundel family donated over 600 acres of their own land to the Nature Conservancy, which created the first Nature Conservancy preserve in Virginia. It is now known as Wildcat Mountain Natural Area. Due to her endeavors in conservation, Mrs. Arundel was awarded the Governor's Certificate of Recognition from former Governor, CHARLES ROBB, my junior colleague in the Senate.

There are several projects that are trademark Marjorie Arundel with her typical ingenuity and spirit. I recall fondly meeting with Mrs. Arundel in the 1980's regarding a highway widening north of Warrenton. Mrs. Arundel promptly brought to my attention a 200-year-old oak tree which stood directly in the proposed roadway. In an effort to spare the tree, Mrs. Arundel then met with officials from the Virginia Department of Transportation, who agreed to bypass the removal of the tree. Today, that "Loretta Oak" stands proudly and continues to live and be enjoyed by all.

As a gardener with a special interest in wild plants, Mrs. Arundel became aware that several species were being dug out of the wild and sold to commercial interests. These actions created serious wildflower depletions in the Virginia mountainside and our neighboring States. Her crusade to protect the wild populations from both trade domestic and abroad was truly a labor of love. Using her trademark ingenuity, Mrs. Arundel drafted the support of World Wildlife Fund, the Natural Resources Defense Council, and the Garden Club of America.

And with similar success, Mrs. Arundel has taken on other tough environmentally conscious issues, like pesticide and pollution abuses in the environment.

Mrs. Arundel's achievements include the Award of Honor presented by the World Wildlife Fund; an American Achievement Medal from the Garden Club of America; a Stewardship of the Land Award from the Virginia Chapter of the America Society of Landscape Architects; Communicator of the Year Award from the American Horticultural Society; and the Delacy Gray Memorial Medal for Conservation as "a conservation leader who demonstrates a love for the nature environment and a responsibility for its preservation."

There are many accolades bestowed upon this great lady, but "The Land Ethic" well speaks to Marjorie Arundel's testimony to natural integrity as, "Conservation is a state of harmony between men and land."

NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES WEEK

Mr. THOMPSON. Mr. President, it gives me great pleasure at this time to request the unanimous consent of my colleagues to have printed in the

RECORD a proclamation by the Governor of my State of Tennessee; Don Sundquist.

On March 21 of this year, the Honorable Governor Don Sundquist signed the proclamation that the week of April 17–22, 1995, shall be known in Tennessee as National Association of Retired Federal Employees Week.

Our State's chapter of this national organization is very spirited and active. Many members of this association have volunteered their time and energy to help organize relief and recovery efforts in Oklahoma City.

It is this spirit of contribution that continues to distinguish all civil servants, retired and employed.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

Whereas the United States Civil Service Act of 1883 was signed into law by then President Chester A. Arthur, thereby creating the United States Civil Service System; and

Whereas the United States Civil Service Retirement System was created in 1920 and signed into law by then President Woodrow Wilson; and

Whereas virtually every State, county, and municipal civil service system have developed from the Civil Service Act; and

Whereas untold thousands of United States Civil Service employees have worked diligently, patriotically, silently, and with little notice to uphold the highest traditions and ideas of our country; and

Whereas thousands of Federal employees are retired in Tennessee and continue to devote inestimable time and effort toward the betterment of our communities and State.

Now therefore, I, Don Sundquist, Governor of the State of Tennessee, do hereby proclaim the week of April 17–22, 1995, as "National Association of Retired Federal Employees Week" in Tennessee, and do urge all our citizens to join in this worthy observance.

SOUTH DAKOTA SMALL BUSINESSMAN OF THE YEAR

Mr. DASCHLE. Mr. President, I may be a little biased, but I have always believed if you give South Dakotans an even break, they can make a living even under the toughest circumstances.

Yesterday I met with a man who proves my point. His name is Randy Boyd, and he was just named South Dakota's 1995 Small Business Owner of the Year by the Small Business Administration.

Randy lives in a town of 300 people called Geddes in southeast South Dakota with his wife, Sheila, and their two young children, Cassidy and Vincent.

He moved back to Geddes in 1982, after his dad had a heart attack and helped move his father's gunsmithing business from his garage into a 400-square-foot shop, where they worked together repairing guns. Later that year, Randy and his father bought a two-spindle carving machine that could make up to eight gunstocks a day.

Today, Boyd's Gunstocks Industries is one of the largest original-equipment manufactuers of gunstocks in the country. It has grown from 3 employees in 1986 to 22 full-time and 10 part-time workers, plus 10 who do contract work at home. Company sales have skyrocketed from $29,000 in 1986 to more than $1 million last year.

In 1992, with help from the Small Business Administration, Randy was able to obtain a new warehouse for raw materials, as well as new computerized equipment to improve efficiency. The business now occupies 13,500 square feet.

One of Randy's biggest challenges is finding enough skilled workers in a town of only 300 people. He is exploring the possibility of opening a second facility soon in another town in order to hire new workers and take advantage of new international trade opportunities.

In addition to creating jobs and opportunities for South Dakota families, Randy has served on the Geddes City Council. He is a volunteer firefighter and emergency medical technician. He is also a black belt karate instructor.

In South Dakota, small business has always been big business. This week, as we celebrate Small Business Week in our State, I commend the Small Business Administration for the partnerships it is forging with South Dakota business owners. And I offer my congratulations to Randy Boyd for his hard work and his outstanding contributions to his community.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, it doesn't require one to be a rocket scientist to realize that the U.S. Constitution forbids any President's spending even a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that the Founding Fathers, two centuries before the Reagan and Bush Presidencies, made it very clear that it is the constitutional duty of Congress to control Federal spending—which they have not for the past 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,855,154,897,104.21 as of the close of business Wednesday, May 3. This outrageous debt—which will become the debt of our children and grandchildren—averages out to $18,430.25 on a per capita basis.

TRIBUTE TO TRACY CROWLEY

Mr. BUMPERS. Mr. President, I rise today to pay tribute to a member of my staff who is leaving Washington to return to her home State of Connecticut, Tracy Crowley. Tracy came to Washington 12 years ago to work for the Small Business Committee, which at the time was chaired by Senator Lowell Weicker. I was fortunate that Tracy remained with the committee when I became chairman in 1987. In 1991 she joined my personal staff and has been a valuable member of the office for the last 4 years.

Mr. President, those of us fortunate to serve in the Senate are often blessed with loyal and dedicated staff that make us look good. However, very rarely do we show the gratitude that these staffers deserve. The hours are long, the pay, in comparison to the private sector, is not very good and the working conditions can be difficult.

There is no one on my staff that has been more dedicated or worked longer and harder than Tracy Crowley. Although she is not a native of Arkansas, she treated each and every appropriations project with great tenacity, fighting to make sure that the interests of Arkansans were preserved. There is not a fish farmer, park superintendent, forest ranger or environmentalist in the State of Arkansas that does not owe Tracy Crowley a great debt for her work on the annual Interior appropriations bills.

Twelve years is a long time for anybody to work in one place. For a congressional staff person, 12 years of service is above and beyond the call of duty. Mr. President, while I am sorry Tracy is leaving the office, I know that she will have great success in her future endeavors and I wish her the best. All of those who have worked with Tracy, and those she has so ably served in Arkansas and throughout the Nation, will miss Tracy greatly.

Mr. President, I know that you and the entire body wishes Tracy well.

OBSERVATIONS ON AGRICULTURE

Mrs. MURRAY. Mr. President, I have just returned from a trip through the agricultural region of my State and the farmers I represent are very worried about their own future and the future of their industry. By any measure, American farmers are one of this country's success stories. They have provided their fellow citizens with a stable food supply that is both safe and affordable. In fact, Americans pay less for food than any other industrialized nation in the world. They have also produced enough food to feed the world's hungry and are one of the few sectors of our economy that has consistently registered a positive balance of trade. Their success, however, seems to get lost in the discussions here in Congress and the political rhetoric of the Nation.

I visited with farmers in Pullman, Colfax, Walla Walla, and Moses Lake and they do not feel that the rest of the country or the U.S. Congress appreciates their efforts. After reviewing the spate of proposals advanced this Congress, I am forced to agree with them. There seems to be a misconception around here that farmers are the only beneficiaries of the commodity programs. Nothing could be further from the truth. In exchange for income protection, the farmers that sign up for the program agree to accept production controls and numerous other guidelines and regulations on the operation of their farms. While these conditions were often put in place to achieve a specific public policy goal, it is important to remember that it is an additional cost to farmers and it is a cost they will not be able to recoup from the sale of their commodity.

Because wheat farmers face many difficulties in providing the rest of us with our food, it is easy to understand why almost 90 percent of them in Washington State sign up for the program. In addition to a regulatory environment that they often consider unfavorable, they face unfair trading practices by our competitors, nontariff trade barriers, escalation costs, and a price that is too low to cover their costs of production. On top of all this, weather conditions often wreak havoc on all the producers' hard work. Every economic analysis I have seen paints a very bleak picture of the future of rural America. I believe the conditions of American agriculture justify our continued support of the commodity programs, the export promotion programs, and the conservation programs.

The gloomy conditions in farm country are not the only reason to support these programs, however, and I am here talking on the floor of the Senate because I believe all Americans are well served by these programs, not just farmers. In my State, many of the jobs in urban areas depend on the exports provided by agriculture. If we, as a nation, wish to continue to guarantee that we have a stable food supply and continued economic growth in our cities, it is in our interest to continue to adequately fund this Nation's agricultural program. I know that I will have to continue to make that point in the urban areas of my State as well as here in Congress so that there will be a greater understanding of just how critical our agricultural industries are to all of us. We need to keep these things in mind as we consider the budget, the farm bill, and other legislation that impacts farmers.

ISRAELI INDEPENDENCE DAY

Mr. PRESSLER. Mr. President, I am pleased to join my colleagues and millions around the world in celebrating Israel's 47th year of independence. Israel's rapid economic progress and strength are testimony to the vigilance and determination of the Jewish people.

As we celebrate nearly five decades of Israeli autonomy, we call to mind the many of today, yesterday, and centuries past who share a common bond: The dedication of their lives to establish and maintain a country that every Jewish person can call home. As Israeli President Ezer Weizman recently stated, "The State of Israel achieved its position due to the fact that its people aimed for peace and fought for it, despite all difficulties." For the Jewish people, adversity has served as an incentive rather than a deterrent. According to Prime Minister Shimon Perez, "Israel will continue her quest for peace. At the same time, she will fight those who fight peace." As friends, the people of the United States salute the conviction and perseverance the Jewish people as we, on this occasion of independence, reaffirm our shared belief in Israel's sovereignty.

The tiny democracy of Israel thrives in a region historically barraged with anti-Western sentiment. Since its inception, Israel has experienced regional opposition from dictators such as Egypt's Gamal Abdel Nasser and Iraq's Saddam Hussein. Yet Israel has flourished amidst such hostility. Through open, democratic elections, majority rule representation, and the support of her allies, Israel has proven that a democracy can succeed in a region of otherwise undemocratic nations. Today we applaud the tenacity and the vision of the Israeli people and their success in making democracy work for nearly half a century.

Israel's charter reads that the new state "will rest upon the foundation of liberty, justice, and peace as envisioned by the prophets of Israel, and that it will be loyal to the principles of the United Nations Charter." Almost immediately, President Truman recognized the similarity between the United States Constitution and the Israeli proclamation and became the first foreign leader to endorse the newly formed state. With the help of allies like the United States and the pathbreaking leadership of individuals such as Menachim Begin and Former Egyptian President Anwar Sadat, Israel has been able to maintain and even expand its strategic alliances throughout the world.

Mr. President, the State of Israel has made tremendous progress over the past 47 years. Israel has emerged as a scientific and technological leader. Last year, the Israeli economy grew more than 7 percent—a growth rate higher than the more advanced economies. This is clear evidence of Israel's commitment to progress, and the willingness of countries all over the globe to recognize Israel as a viable trade partner. The Israeli people have repeatedly looked beyond the events of the day and maintained a focus on the need building a strong scientific and technological base. Neither terrorism nor war has diminished their desire to maintain a strong, independent nation.

Without a doubt, the people of Israel could not have flourished so quickly without the support of friends and family living abroad. By conveying their support for Israel, Jewish people living in the diaspora have demonstrated their commitment to a Jewish homeland. Israeli Foreign Minister Shimon Peres recently stated that, "No nation has been helped as much by its brothers and sisters." Americans of all religions and creeds are brothers and sisters of the people of Israel. Our nations share a bond of similar values. Our experiences are their lessons. Israel and the United States of America have demonstrated that a democratic society can withstand the forces of hate, oppression, and terror. That is why we have embraced Jews living within this Nation and have pledged our support to their homeland.

In spite of a housing shortage, Israel maintains an open door to Jewish immigrants. The Israeli Government has made it clear that it will not refuse the admission of Jewish immigrants due to external political pressures. To do so would contradict a major principle of the Jewish faith—that "all Jews are responsible for one another." President Weizman recently reaffirmed this belief by insisting that, "The significance of sons and daughters coming to Israel in large numbers to feel and breathe the atmosphere cannot be overemphasized. Israelis, on their part, will take them to their hearts." This long-standing policy has been a beacon of hope for the 600,000 Soviet and 50,000 Ethiopian Jews who fled their besieged countries and settled in their new homeland.

Today's celebration of Israeli independence should bring to mind the determined spirit of the Jewish people. After centuries of struggle and persecution, the Jewish people finally have a cultural, political, and religious sanctuary. To our friends in Israel, we Americans share in your continuing efforts to achieve regional peace and the further economic progress of your homeland. The celebration of Israeli independence is a celebration of the permanence of democracy. We recognize that no force can defeat your spirit of self-determination. In the words of Foreign Minister Shimon Peres, "neither war no holocaust nor threats nor animosity could cut the energy of your people."

Mr. President, today is a great day for all Jewish people and all people in democratic societies. The nation of Israel stands as a great tribute to the fortitude of the human spirit. I am pleased to join with my colleagues in wishing the Jewish people, especially those in my home State of South Dakota, a happy and peaceful 47th Yom Ha'atzmaut.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 956, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Gorton amendment No. 596, in the nature of a substitute.

(2) Abraham amendment No. 600 (to amendment No. 596), to provide for proportionate liability for noneconomic damages in all civil actions whose subject matter affects commerce.

(3) Kyl amendment No. 681 (to amendment No. 596), to make improvements concerning alternative dispute resolution.

(4) Hollings amendment No. 682 (to Amendment No. 596), to provide for product liability insurance reporting.

Mr. GORTON. Mr. President, I yield 10 minutes to the Senator from Arizona.

Mr. KYL. Mr. President, I thank the Senator from Washington for yielding. First, I want to begin by saying that the comments of the Senator from Georgia just now are right on the mark in terms of the amendment that we will be voting on. I certainly subscribe both to what he said and what the Senator from Washington has previously said about this.

My conversation, Mr. President, this morning, has to do with a very specific amendment which we will be voting on, the Kyl-McCain amendment, which will have the effect of striking section 103 of H.R. 956.

This amendment preserves State law on alternative dispute resolution procedures and ensures the plaintiffs and defendants are treated equally through the ADR, or alternative dispute resolution process.

The amendment strikes section 103, which says when alternative dispute resolution procedures are employed, these procedures are enforceable only against the defendant, not against the plaintiff. Currently, of course, under the State laws under which this would be applied, ADR provisions are equally applicable to the plaintiffs and to the defendants. Of course, it should remain that way.

Mr. President, a fundamental tenet of American jurisprudence is that all parties go into court with equal rights. As a matter of fact, Americans, I submit, would not submit their disputes, their lives, and their fortunes to a decision by the judge or a jury if they knew that the deck was stacked against them when they began.

That is precisely what this section 103 of the bill does today. That is why we are striking this section.

What this section says is that when a State has an alternative dispute resolution procedure, the parties may use it. Well, that adds nothing to current law. That is the law of the States. Parties can take advantage of those alternative dispute procedures, and they should.

As a matter of fact, we are trying to encourage more alternatives to proceeding through the actual trial of the case. The second part of section 103 provides for the notice by one party or the other that that party wants to invoke those procedures. Again, this amendment or this bill changes nothing in that regard.

The part that changes the law and that we wish to strike is titled "Defendant's Penalty for Unreasonable Refusal," meaning unreasonable refusal to go through the alternative dispute resolution process. Defendant's penalty; there is no concomitant plaintiff's penalty.

In other words, the authors of this section have provided that, although the defendant would suffer the consequences of refusing to go through alternative dispute resolution, if the defendant wishes to go through that process—and we all encourage them to do so—and the plaintiff unreasonably refuses to do so, there is no penalty on the plaintiff.

Mr. President, that is fundamentally unfair. It is exactly the kind of thing the American people wish Members to reform in this litigation process that we engage in in our country.

The whole idea of reform here, the whole notion of what we are debating, is fairness. This provision would inject a fundamental element of unfairness where one party is penalized for not going forward with alternative dispute resolution, and the other party suffers no adverse consequences at all. It is fundamentally unfair.

Now, what the provision states is that the court shall assess reasonable attorney's fees and costs against a defendant who refuses to proceed; final judgment is entered against that defendant that that refusal was unreasonable or not made in good faith.

That is typical of the State alternative dispute procedures here, that where either parties says, "Let's go to alternative dispute rather than going all the way through trial", and the other party says, "No, I do not want to do that," and it turns out the other party loses and the court finds that that party's refusal to go through the alternative dispute resolution procedure was unreasonable or not made in good faith, then costs and attorney's fees can be assessed against that losing party. That is the law in many States today. We should preserve that law.

This section of the bill changes that procedure in State law. It says, "No, even though you say that the losing party who refuses to go through the alternative dispute resolution in good faith should have a penalty, we are going to strike that in the case of only one-half of the parties, the plaintiff." The plaintiff gets a free ride. The plaintiff can refuse alternative dispute resolution in bad faith and still not be penalized. A defendant who refuses alternative dispute resolution and who loses, and the court determines he has done that in bad faith, has a penalty rendered against him.

Mr. President, I could argue either way that there should or should not be a penalty. I do not want to change the State law in that regard. That is why, instead of saying that the penalty would lie to both the defendant and the plaintiff, which we could have done with this amendment, we have simply said "Let's strike the section and leave State law the way it is. State law treats both parties fairly. That is the way it should be."

So I urge all my colleagues who for the last several days have been arguing that this is not something that the Federal Government should be involved in, that we should let the States experiment, that we should let them decide their own procedures here—I urge them to support this resolution, my amendment, because my amendment allows the State law to be preserved as it is today with no change on alternative dispute resolution. I think we want to encourage alternative dispute resolution. We will certainly not be encouraging it if we say we believe in it but only if it is a stacked deck, only if it can be used against the defendant but not against the plaintiff.

It is fundamentally unfair, and we should never be a party to changing the law of the States in a way that will result in unfairness to one side or the other in litigation. So I urge my colleagues when we vote in about an hour on these various amendments to the bill to support the Kyl-McCain amendment to strike section 103 and thus preserve State ADR proceedings and preserve the balance between plaintiffs and defendants proceeding under those procedures.

I yield the floor, Mr. President.

Mr. HEFLIN. I wonder if the Senator can respond to a question or two?

Mr. KYL. I will be happy to reply.

Mr. HEFLIN. I have come to somewhat agree with the Senator in regards to this. I have always been sort of puzzled as why that was put in there.

Of course, in original ideas on alternate dispute resolution methods, some of the States have had what they call court-annexed arbitration, and they put a penalty relative to the failure to bind on the claimant, plaintiff, when this occurs, which raises an issue that it could be a violation of the seventh amendment, of the right to a trial by jury, by saying anything is mandatory under the concept of court-annexed provisions. Previous bills, as I recall, said if the judgment that occurred was less than what the award had been in an arbitration proceeding which is a part of the alternate dispute resolution, that then plaintiff would have to pay the reasonable attorney's fees and court costs and so on. And that raised the question of whether that was causing a claimant to be deprived of the right of trial by jury.

This language here has, in section 103(a)(1), that they can have an offer to proceed to voluntary, nonbinding alternate dispute resolution. If it is voluntary and nonbinding, I do not understand why you would, in effect—unless it is sort of an effort to have an encouragement for defendants, realizing that claimants would be the ones who would probably want a nonbinding, voluntary alternate dispute procedure to start in order to more rapidly dispose of their claims. In particular, in the States that have had procedure, they usually have a dollar amount limitation.

Actually, this is already authorized under existing law which we voted on several years ago, the Biden Civil Justice Act. I do not remember the specific title and name of it, but it authorized nonbinding alternate dispute resolutions in the Federal courts. You could have such a proceeding under this existing statute.

So, I have been puzzled why proponents attempted to have the provision for a possible defendants' penalty. The only reason I see is I thought they were probably doing it for window dressing, purely for the purpose of trying to say we are giving something to the claimant; while we are taking away 100 different things, we are going to give you 1 with the alternative dispute resolution provision.

Of course they use the word "unreasonable" in this section which allows for some leeway on behalf of a defendant.

But overall, in fairness, I sort of tend to support the Senator's amendment here to strike the provision from the underlying Gorton substitute. I do not know what the others will do but as it is right now, unless I am convinced otherwise, I may well vote with you.

Mr. KYL. I appreciate the comments of the Senator from Alabama. That helps to give us more background on this as well. I think he is absolutely correct, that as a matter of States rights many States have these procedures today. If they have them, we leave them in place. But to the extent that we change them by saying in effect they only apply to one party, we, at the Federal Government level, will have injected an element of unfairness and I just do not think we want to be a party to doing that.

I know the Senator from Washington wishes to proceed so that is all I will say about that, but I appreciate the comments of the Senator from Alabama. I certainly agree with him on that.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, we are at this last half-hour or 45 minutes before a series of votes, speaking to several amendments: The underlying broad amendment by the Senator from Michigan to extend the joint liability provisions of this bill to all litigation; the amendment proposed by the Senator from Arizona and discussed during the course of the last few minutes; and an amendment by the Senator from South Carolina on insurance data collection and reporting requirements.

While he spoke briefly to that last night, I think it important to outline for the benefit of my colleagues who will soon be voting on it what that amendment actually does. The amendment is not so much an insurance reporting act, though it does add inevitably to the huge amount of paperwork with which our society and economy is already burdened, as it is another skillful attempt for all practical purposes to kill this bill, this whole idea.

What the amendment would do would be to sunset all of the substantive provisions of the proposal which is now before us. I want to repeat that. It would sunset all of them.

I am sorry. Mr. President, I apologize. The notes I have here—the Senator from South Carolina has crossed those provisions out of this provision. Now, it simply requires costly and unnecessary reporting requirements and institutes a brandnew Government bureaucracy.

It stems from the proposition from the opponents to this bill that the only goal of the bill is to lower insurance costs. Yet, I do not believe that either the Senator from West Virginia or I have ever included lower interest costs as one of the rationales for the passage of this bill. We hope that it might well be an incidental impact of the passage of the bill. But it is not central to our arguments.

To go back to the beginning, each of us has said that it is designed to improve the competitiveness of American businesses, large and small, to increase economic growth and to create more jobs, to make the present system more fair by making it more open to small claims through an alternative dispute resolution mechanism and by creating a uniform and in many cases in many States a more generous statute of limitation on claims and to reduce overall liability costs. But whatever the situation may have been 25 or 30 years ago, overall liability costs are a large universe, of which insurance premium costs are only one and one increasingly less important element. Why? For three reasons:

First, in many States, punitive damage awards cannot be insured against. It is not true in all cases but it is true in many States. It is the arbitrary nature of punitive damage verdicts, which is a major goal of the reforms contained in this bill.

Second, several years ago through a solution developed in the Commerce Committee, of which both the Senator from South Carolina and I are members, a market solution was created for the nonresponsiveness of insurance premiums to market changes by a Federal Risk Retention Act which allows small businesses to pool themselves together to self-insure in the area of product liability, an act which has been utilized by thousands of small businesses across the country. So they are outside of the insurance field entirely.

Finally, of course, most very large businesses, many of the business enterprises which have abandoned product lines or decided not to continue to develop new product lines, are self-insurers. They do not go to insurance companies to insure themselves against product liability costs. They make their own business judgments about what they will develop and what they will market.

My friend and colleague from West Virginia is constantly brought up as being originally a sponsor of a bill like this a number of years ago. It is true that he was. But as I trust is the case with all of us, changing circumstances and greater thoughtfulness change our minds on particular courses of action. It has changed my mind on the substance of this bill. There was at least one previous product liability bill in the Commerce Committee which I opposed in the committee, one quite different from this. But when Senator ROCKEFELLER, several Congresses ago, offered an amendment like this, the product liability bill that we were dealing with included strict limits on liability, caps on pain and suffering damages, which this one does not. We did not have the Risk Retention Act in existence at that time. It was a much better argument at that point that this proposal would have a clear cost-cutting effect on insurance.

Mr. HEFLIN. Mr. President, will the Senator yield for a question?

Mr. GORTON. Yes; I am happy to yield for a question.

Mr. HEFLIN. I was interested in what the Senator had to say about whether the Senator really does anticipate that the passage of this bill would reduce insurance costs. The Senator has given a couple of reasons why certain things are outside. But as I understand it, one of the main ideas has been that this would cut transaction costs, which I question, because it bifurcates a trial requiring additional hearings. But basically, will the Senator agree that where companies have liability insurance that there is in practically all policies no limit on transactional costs? The defense that occurs to the company as a result of liability insurance is borne by the insurance companies. Therefore, I raise the issue.

One of the arguments is the cost. I have heard the Senator talk about it—defense fees, the deposition fees, and those things from the defense side which really would be borne by the insurance companies. Therefore, it would have some relationship to the overall cost of insurance, would it not?

Mr. GORTON. I am not entirely certain what the question from the Senator from Alabama consists of. But I think I understand it. I will do the best that I can to answer it.

Yes; one of the goals of this bill is to reduce transaction costs. It is to see to it that more of the money that goes into the legal system goes to actual victims, whether product liability as the bill is now more inclusive, medical malpractice. We find it an absolute scandal that for every dollar that goes into the product liability system only 40 cents or so gets to victims. And 60 cents goes to transaction costs, most of which goes to lawyers.

We have not separated out how much of those lawyer fees are defendants' fees. That is a matter I suspect of indifference to the victim. It is 60 percent. Of course, for most insurance policies there is no limit on the amount that the insurance company will spend in defending the defendant in such a case. There hardly could be. Under those circumstances the claimant's attorney would simply drive the engine until that level had been reached and then no longer would have any opposition.

What we are attempting to do in this bill is, one, create more situations in which there was a prompt settlement through something less than full litigation through the ADR provisions in the bill; second, by limiting to in some respects consistent with the Constitution—in fact, a response to the invitation from the Supreme Court of the United States under the Constitution to do so—somehow limiting the possibility of huge punitive damage verdicts causing cases to settle earlier, and at a more reasonable price and at a lower transaction cost; third, of course, simply doing more justice in the system. We hope that it will modestly cut back on the number of lawsuits that are brought in the first place, especially frivolous ones, and cause the meritorious lawsuits to be settled more quickly and even when they go to trial to be settled less frequently with lengthy appeals to appellate courts.

This Senator did not say, I report, Mr. President, to my friend, that we did not believe that there would be any reduction in liability insurance costs. The Senator said that we were not utilizing that, we were not making that prediction as an argument in favor of the bill. The argument in favor of the bill is greater justice, especially for smaller claims, the increase in economic growth and the creation of jobs, and the encouragement of the development of new and improved products on the part of the American business community.

If you ask this Senator does he think that liability insurance costs will go down, he does. He certainly hopes so. But the point is that if they do not, unlike the situation 8 or 10 years ago, those who have to purchase the insurance or who face product liability claims will have an alternative, an alternative that we created for them in risk retention pools. If the competitive market among big insurance companies does not lower the costs, those risk retention pools certainly will, and they are not a subject of this amendment.

Mr. HEFLIN. I might inquire of the Senator if there was testimony—I do not know whether it was this year or last year—from the American Insurance Association, one of their officers, which basically said that passage of the bill would not, I repeat, not, bring about any reduction in liability insurance premiums? Some words are that there would be insurance cost savings. I do not remember right offhand the person who said it, but I remember seeing that in a previous report of the Commerce Committee.

Does the Senator remember that testimony?

Mr. GORTON. I do not remember that testimony this year. I believe the Senator from Alabama is probably correct about some such testimony for years past. But to exactly the extent that that is true, the amendment which we are discussing is irrelevant and has no impact other than probably to drive up costs because it drives up the paperwork involved in the entire system.

Mr. HEFLIN. In regard to the alternate dispute resolution, if I recall right—I do not have it before me right now—there was a GAO study which indicated that they thought the bill would increase the transaction costs and that one of the reasons for it was the way the alternate dispute resolution provision was contained in the bill. Does the Senator recall that testimony?

Mr. GORTON. I am sorry; I was distracted.

Mr. HEFLIN. I was speaking of the GAO report. I do not have it before me. But as I recall the GAO report indicated that the provisions of the bill—maybe it was a predecessor of it—in their judgment would not reduce transactions costs, and that one of the reasons was they felt it could possibly increase it was because of the alternate dispute resolution methods that were there—increasing it another hearing as well as the provisions dealing with bifurcation, separate hearings that you would have to go through—thereby bringing about additional lawyer's fees in regards to those proceedings, particularly on the defendant's side where there is an hour billable approach.

Does the Senator recall that?

Mr. GORTON. I have to say to my friend from Alabama I do not recall that. As the alternative dispute resolution provisions in these bills have changed from year to year, certainly no such report has been filed in connection with the alternative dispute resolution proceedings, or, rather, sections in this bill.

I see, Mr. President, it is now 5 minutes after 12. I know my colleague from West Virginia wishes to speak, and I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, as one of the managers of what was once solely a bill to reform our product liability system, I wish to speak to my colleagues, those who share in a general sense the purpose of what we are trying to do here, about at least my views on the business before us.

At 12:15, in 10 minutes, the Senate will vote on three pending amendments to this bill, and then vote on the first of two cloture motions. The second cloture motion vote is expected at 2 o'clock, maybe 2:15. I am not sure.

I am going to make a motion to table both the Abraham amendment on joint and several liability and the Kyl amendment that tries to delete the alternative dispute resolution section of this bill, alter it in ways which I find distasteful, but the message I wish to get across most strongly is that I will vote against both cloture motions. I will vote against the one at—whenever the first one comes, and I will vote against the second one. I will not vote for one and against the other, against one and for the other. I will vote against both. I want both to fail because there are those of us who believe that this bill needs to be kept to product liability—and I think there are many of us—so that we can at least get some tort reform accomplished, which we will not in any other event. Those folks need to vote in their conscience, if that is where their conscience dictates, against both cloture motions, to vote no on both cloture motions. And I hope anybody interested in achieving actual results on product liability reform will do the same and vote no on both cloture motions today.

This past week, frankly, has been rather astonishing to me, Mr. President. One would think, when a majority of Senators get the chance finally, without a filibuster on the motion to proceed, when we finally get to work on a bipartisan, balanced, focused piece of legislation to deal with this very serious problem, that is precisely how they would spend their time here.

But, no, instead, we have watched Senator after Senator come eagerly to the floor to add one more ornament to the tree. As I have said before, anyone who has ever decorated a Christmas tree knows that if at some point you put too many ornaments on, too many bows on one side of the tree, that tree is going to fall over and crash down and you lose the ornaments, the tree, the Christmas spirit, and it is a terrible vacation. That is the situation I see before us right now. And the amendments from Senators ABRAHAM and KYL are going to assist in sending this tree to the ground.

The Senate has had absolutely no opportunity that I know of to consider whether the joint and several provisions in the product liability bill make sense for the rest of civil actions. I do not know of any hearing on the topic. I do not see a bill from the Judiciary Committee on the topic, or a report laying out the arguments on an idea as significant as this one. Yes, the House of Representatives made a sudden decision to throw the idea into their stew of legislation on tort reform that passed a couple weeks ago. But this body is supposed to keep a standard of actually thinking about what it is on which we vote. We pride ourselves on that. And the idea of deleting the section in this bill that promotes alternative dispute resolution is appalling to me.

Maybe I need to restate the obvious. Legislation becomes law when interests are balanced, when legislators work out difficult problems together, when problems are addressed with practical remedies.

The alternative dispute resolution provision in our product liability bill is there for these reasons. Here is one of the parts of this bill designed solely and specifically to deal with one of the most maddening problems in product liability. Victims have to wait too long for compensation. The system is too slow and too inefficient. If I am a small farmer from West Virginia or some other place and I do not have any money, and I do not have any money to hire lawyers or any money to pay for time for 3 years to go by, I can avail myself of the alternative dispute resolution.

We want to encourage that small farmer who does not have the resources, the small business person, the person of very modest means. And this is the way we do it, by allowing him this particular advantage. That is why we want to promote alternative dispute resolutions in a way that will speed things up so that that small farmer will, in fact, come in and probably just speak for himself and the case will be simply handled right there on the spot, no lawyer, no problem, no time, no expenditure of money.

I really do not think we have to apologize for devising an approach that is slanted toward the victim when we are talking about encouraging them to resolve their cases earlier. Remember, they have wait to 3 years now. We are trying to encourage people to get that amount of time down.

So in the strongest possible terms, I urge my colleagues to defeat both of these amendments. And I urge my colleagues, again, to vote against cloture, not just the first cloture vote but also the second one that will take place this afternoon at about 2 o'clock.

We now have a bill that has become deformed, disfigured. A small group of Senators has refused to follow the discipline of working out with the rest of us who are interested in enacting product liability reform what we will do to accomplish that. Until they do, we should bring this bill to a halt.

A majority of Senators are clearly interested in a balanced, moderate product liability reform bill—I am convinced of that; I deeply believe that—that serves consumers, victims of defective products, and business in a balanced way. We still have that opportunity. The pending cloture votes will demonstrate what it takes to succeed.

Mr. President, I thank the Chair and yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Alabama.

Mr. HEFLIN. Mr. President, I am delighted to hear Senator ROCKEFELLER state that the way the bill stands now, it is deformed and disfigured. That reminds me that this bill, as it stands right now, is pretty much similar to what the House passed. I do not think whatever we pass here in the Senate, when it goes to conference, is going to come out much different from the House bill. I think we know that the Speaker over there has great influence.

I just feel that, basically, whatever we do here which passes the Senate and goes to conference will reflect the Speaker's position on this overall issue. I think the key battle is the battle here in the Senate and the Senate's role to be deliberate and to prevent unwise, unfair legislation.

Now, if there is a disfigurement and a deformity by extending the language pertaining to punitive damages, by extending the language eliminating joint and several liability to cover all civil actions, then that is a recognition that there is a fault with that extension, there is a fault with the overall underlying principle that is being brought forth here in regard to punitive damages and also to eliminating joint and several liability.

The PRESIDING OFFICER. Under the order, a vote is to occur at 12:15.

Mr. HEFLIN. Mr. President, I ask unanimous consent that I be allowed to proceed for 3 more minutes.

Mr. GORTON. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. I send to the desk and will ask to have printed in the RECORD a letter, dated May 25, 1990, to the Honorable RICHARD H. BRYAN, then chairman of the Subcommittee on Consumer Affairs, Committee on Commerce, Science, and Transportation, pertaining to the GAO study.

One of the questions that he asked was:

> In your research of the current product liability system, have you found any evidence that would support the argument that the current tort system has led to an increase in transaction costs?

And they ended up saying: "We believe that S. 1400"—which was a predecessor bill—"is unlikely to reduce transaction costs in product liability suits."

I send that letter to the desk and ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GENERAL ACCOUNTING OFFICE,
Washington, DC, May 25, 1990.

Hon. RICHARD H. BRYAN,
Chairman, Subcommittee on Consumer, Committee on Commerce, Science, and Transportation, U.S. Senate.

DEAR MR. CHAIRMAN: Enclosed are my responses to your questions regarding my February 28, 1990, testimony on product liability. If you have additional questions or if I can be of further assistance, please call me, or Cynthia Bascetta.

Sincerely yours,
JOSEPH F. DELFICO,
Director, Income Security Issues.

Enclosure.

1. In your research of the current product liability system, have you found any evidence that would support the argument that the current tort system has led to an increase in transaction costs? What are the major factors that contribute to the level of transaction costs? Do you believe that S. 1400 would reduce transaction costs in product liability suits?

In our review, we did not collect data over time to assess whether the current tort system has led to an increase in transaction costs. We reviewed a 1987 study by the Rand Corporation, however, that reported that between 1980 and 1985, the annual growth rate for the amount of tort litigation was about 3 or 4 percent. Expenditures for this litigation grew at about 6 percent for automobile-related litigation and about 15 percent for other tort claims, including product liability.[1] Although the literature is replete with general concerns about the costs of litigation, we did not find any other research documenting trends in transaction costs associated with the current tort system.

The major factor affecting the level of transaction costs is the length of litigation. As we reported, cases we reviewed took years to process—almost 2-½ years to move from filing of a complaint to the beginning of the trial. On average, appealed cases took 10 more months. In our review, we noted two possible reasons for lengthy litigation in product liability cases. First, the law has been evolving in many states, which may increase the complexity of the legal decision-making process. Breaking new ground and establishing new precedents, for instance, take more time than cases where the law is clearer and requires little deliberation or interpretation. Second, both plaintiffs and defendants have little incentive to cut corners. Although plaintiffs have incentives to expedite the process so that they can receive compensation, their attorneys may want to invest substantial resources in developing cases to deter manufacturers from making harmful products. Defendants may prefer not to settle cases to deter further suits over the same product. Pretrial discovery—a time-consuming and expensive feature of litigation—therefore becomes an important part of product liability suits for both parties.

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[1] Hensler, Deborah R. et al. "Trends in Tort Litigation: The Story Behind the Statistics," Rand Corporation, Institute for Civil Justice, Santa Monica, CA, 1987, p. 25.

We believe that S. 1400 is unlikely to reduce transactions costs in product liability suits. For oases that are litigated, the procedural features of the tort system would not be changed by the bill. It is also not clear that the bill provides strong incentives for alternative dispute resolution, which could cut litigation costs. Moreover, the alternative dispute resolution mechanisms that may be used are left to the discretion of the states. If these mechanisms are not binding, then they may add to rather than substitute for litigation. If this happened, costs could actually increase.

2. Your study found that product liability cases were quite time consuming:

A. Could you please identify the specific factors that make these cases time consuming?

B. Are there any benefits to the judicial process for having prolonged cases? For example, is lengthy litigation ever justified in order to insure an accurate record in a complicated case?

C. What are the disadvantages for having lengthy litigation?

D. Do you believe S. 1400 would reduce litigation time in product liability cases?

A. Specific factors that make these cases time-consuming are the steps required in the legal process. In the vast majority of cases we reviewed, we noted that defendants often used the maximum amount of time legally required. Delays caused by defendants were also common. In most cases, manufacturers have little incentive to settle cases, as we said in response to the first question, although some may be concerned about adverse publicity regarding their products.

In the typical case in our review, the defense was first granted 30 days to respond to a petition. The defense typically argued, at the end of the 30 day period, that the plaintiff did not use the product or that negligence was the cause, at least in part, of the harm. This began the legal process known as discovery, in which the burden was on the plaintiff to build a record by collecting data on product design, specifications, and other (often proprietary) information from defendants. The preparation of interrogatories—testimonial evidence from eyewitnesses, expert witnesses, and others—was another lengthy process needed for the record. We also found frequent motions to extend and delay court dates.

B. In any case, a complete and accurate record would be necessary to ensure a fair legal outcome. In this sense, lengthy litigation and its attendant costs might be justified. Generally, however, we believe litigation should be shorter, and as a result, we would expect lower overhead costs and higher net compensation for injured parties. In our report, we concluded that we cannot determine the degree to which the benefits of the judicial process balance substantial administrative costs. We also noted that benefits thought to accrue from the judicial process include providing incentives for product safety. The Rand Corporation noted in its 1987 study that "there is no ready measure of the inherent reasonableness of the system's transaction costs. Especially when we focus on the tort system's goal of deterrence, we might encounter circumstances in which we find very high transactions costs acceptable."[2]

C. There are two primary disadvantages of lengthy litigation. First, as we have already discussed, time greatly increases costs. Second, protracted litigation means that injured parties wait longer for compensation.

D. S. 1400 will probably not reduce litigation time in product liability cases because discovery and other legal processes would not be affected by the bill. And, because the effect of S. 1400 on alternative dispute resolutions is unclear, we cannot predict the extent to which lengthy litigation could be avoided if product liability reform were enacted.

3. Your study indicated that the data needed to give a complete evaluation of the effects of tort reforms is not readily available. Do you have any recommendations on how the relevant and necessary data might be collected? If so, what is your projection of the length of time it would take to collect such data?

When we began our review, we found that with the exception of ongoing work at the Rand Corporation, very little data had been gathered in any systematic way about the outcomes of tort reforms. According to researchers at Rand, neither critics nor defenders of the civil justice system have much solid evidence to support their views. In fact, the legal system is notorious for its fragmentation and dearth of records on finances and workloads. Our review confirmed serious inadequacies in available databases, methodological difficulties in designing rigorous studies, and an overall lack of empirical evidence that impede efforts to evaluate the effects of tort reforms.

For a comprehensive assessment of research prospects in this area, we refer you to the following Rand Corporation publications: (1) Hensler, Deborah R., "Researching Civil Justice: Problems and Pitfalls," Summer 1988; (2) Reuter, Peter, "The Economic Consequences of Expanded Corporate Liability: An Exploratory Study," November 1988; and (3) Carroll, Stephen J., "Assessing the Effects of Tort Reforms," 1987.

Mr. HEFLIN. Senator HOLLINGS is unable to be here. He was called down to the White House on a budget matter.

In regard to his amendment, he has asked that I point out that his same amendment was accepted by unanimous consent last year. The proponents of the bill, Senator GORTON and Senator ROCKEFELLER, accepted the amendment by unanimous consent in the last Congress. So I am just repeating that at the request of Senator HOLLINGS relative to this matter.

But overall, this bill is a very unfair bill. It has added to it to make it much more encompassing, to make this matter of punitive damages now extend to other suits far into what it does.

There are other provisions, such as the Abraham amendment, that, in effect, extends the elimination joint and several liability to all sorts of suits. Now, in our courts, you either have criminal cases or you have civil cases. Under this, it extends it to all civil suits brought under any theory whatsoever. So it is very broad and comprehensive, and very much covering almost every conceivable type of civil lawsuit that you might have, including such things as State antitrust laws.

Sexual harassment in State laws would be covered; disability protections in State laws; Americans with disabilities would be covered, as it would apply, by State laws relative to this; automobile accident cases, all sorts of things in regard to it.

It is an extremely broad and encompassing bill. I think it ought to be defeated.

ABRAHAM AMENDMENT NO. 600 ON JOINT AND SEVERAL LIABILITY

Mr. LEVIN. Mr. President, I intend to vote against the Abraham amendment to extend limitations on joint and several liability for noneconomic damages to all civil actions.

The sponsors of this bill, and this amendment, have pointed out that there are problems with joint and several liability. In some cases, a defendant who has only a marginal role in the case ends up holding the bag for all of the damages. That doesn't seem fair.

On the other hand, there are good reasons for the doctrine of joint and several liability. We all know that cause and effect cannot accurately be assigned on a percentage basis. There may be many causes of an event, the absence of any one of which would have prevented the event from occurring. Because the injury would not have occurred without each of these so-called but for causes, each is, in a very real sense, 100 percent responsible for the resulting injury.

This bill and this amendment, however, do not recognize that in the real world, multiple wrongdoers may each cause the same injury. They insist that responsibility be portioned out, with damages divided up into pieces. Under this approach, the more causes the event can be attributed to, the less each defendant will have to pay.

Unless the person who has been injured can successfully sue all guilty parties, he or she will not be compensated for his or her entire loss. The real world result is that most plaintiffs will not be made whole, even if they manage to overcome the burdens or our legal system and prevail in court. Wouldn't it be more fair to say that any wrongdoers who caused the injury should bear the risk that one of them might not be able to pay its share? Put another way, isn't it more fair for all of the wrongdoers who cause an injury to bear this risk than for the victim to carry the burden of uncompensated loss?

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[2] Ibid., p. 25.

More than 30 States either maintain the doctrine of joint and several liability or have come up with creative approaches to address the potential unfairness of imposing joint and several liability in some cases without unfairly hurting the injured party. Because these State laws are more favorable to the injured party than the approach adopted in this amendment, so they would all be preempted.

As far as I am aware, no hearings have been held on this broad proposal to abolish joint and several liability for noneconomic damages in all civil cases. There has been no discussion of the range of State laws that would be overridden by this amendment and the effect that overriding them would have. This amendment is unfair and unbalanced, and I cannot support it.

PUNITIVE DAMAGE CAPS FOR SMALL BUSINESSES

Mr. BRADLEY. Mr. President, I rise today to express my support for the amendment offered by my colleague from Ohio, Senator DEWINE, and accepted by the Senate yesterday. The amendment provides for a $250,000 cap on punitive damages for individuals whose net worth does not exceed $500,000 and corporations, partnerships, associations, and units of local governments with fewer than 25 employees.

Mr. President, small businesses are the engine that drives the American economy and provide for at least half of this country's new employment opportunities. As such, Mr. President, as we debate the issue of imposing a punitive damages cap, we need to ensure that small businesses are not punished disproportionately when they take actions which call for the imposition of such damages.

Mr. President, punitive damages are designed to punish the offender and protect the public by deterring conduct that is harmful. I am, therefore, a strong proponent of the right of courts to police egregious conduct through the award of punitive damages. Thus, while a cap on punitive damage awards should be sufficient to punish and deter future action, it should also reflect the fact that a cap that may be sufficient to punish a large corporation may in fact push a small business into the abyss of bankruptcy.

Mr. President, I have spoken to small business owners in New Jersey on this issue. What I have heard over and over again is that if they commit offenses that merit an award of punitive damages, they should be punished; however, the punishment and deterrent effect should reflect the economic situation of the small business offender. Mr. President, a $250,000 punitive damage award against a small business with assets of $400,000 may drive the owner out of business, while a $5 million punitive award against a large corporation with assets in excess of $500 million will have less of a deterrent effect. I cannot support such a disproportionate impact on small businesses struggling to meet their bottom line.

Therefore, Mr. President, I am pleased to support the amendment offered by my colleague from Ohio which serves to balance our national interest in punishing and deterring harmful conduct and protecting the viability of small businesses.

Mr. DODD. Mr. President, I have been working on product liability reform for more than a decade. During that time, a wide range of my constituents—consumers, manufacturers, small businesses, and workers—have told me about the serious problems with the present system.

Injured people are upset about both the length of time it takes to receive fair compensation and the high cost of legal fees. Manufacturers are reluctant to introduce new products because of the inconsistent product liability laws in the 50 States. Small businesses are hurt by the costs of defending themselves against unjustified lawsuits. Workers fear that the costs in the present system will drag the economy down. Consumers question whether they are getting high quality products at a fair price.

We need reform that will improve the system for everyone. To do that, we must strike a balance between many competing interests. We must not adopt reform that tips the balance too far in any direction. In the past, I have opposed measures that unfairly limited the rights of consumers, and I will continue to do so.

Because 70 percent of all products move in interstate commerce, this is an appropriate area for Federal standards. A national, more uniform system would lower costs and speed the resolution of disputes. At the same time, we need to be careful about making other changes in the legal system that have not been as carefully thought out.

The original bill, crafted by Senators ROCKEFELLER and GORTON, offered the kind of carefully focused, balanced reform that would improve the system for everyone. I am a cosponsor of that bill. I am concerned, however, about a number of changes that were made to the legislation during the past week.

For example, the bill now contains a separate title on medical malpractice reform. I agree that there are significant problems with medical malpractice litigation and that Congress should enact carefully considered reforms. The proposal that was added to the product liability bill, however, is flawed.

It contains, for example, a provision that would make it harder to bring lawsuits against obstetricians who are seeing the patient for the first time. This provision might not have much of an effect on wealthier patients who would have a primary doctor supervising the obstetric services. But what about those poor women who only see the doctor during the actual delivery of the baby? If they were injured, they would have a difficult time receiving compensation.

The Gorton-Rockefeller bill was expanded in other ways. For example, there is now a cap on punitive damages in all civil cases—not just product liability cases. There have been a number of studies and commentaries about the problems with punitive damages in product liability cases. Those analyses suggest that some reform is needed for those cases. However, it is not clear that we need to reform punitive damage awards in all civil cases. In my view, we ought to engage in more extensive debate before taking such drastic steps.

Additionally, I have concerns about putting arbitrary limits on damages. Because caps limit flexibility, they can lead to unjust results in some cases. I have filed an amendment that would address this problem. Under my amendment, the jury would determine whether punitive damages are appropriate, but the judge would set the amount. Hopefully, we will resume debate on the bill and consider this amendment.

Because of these and other concerns, I will vote against cloture. There is still much work that needs to be done on this bill, and this is not the time to cut off debate. I still support product liability reform and will work with my colleagues to enact careful, balanced reforms. But I will not support efforts to ram through other changes in the legal system that go far beyond the balanced product liability bill I cosponsored.

We have a real chance to actually pass meaningful and fair product liability reform this year, and I will not support anything that endangers those chances. In my view, there is a bipartisan majority of Senators that would support that approach, and I look forward to working with them to pass a good bill.

VOTE ON MOTION TO TABLE AMENDMENT NO. 600

The PRESIDING OFFICER. Under the previous order, the question now occurs on amendment No. 600.

Mr. GORTON. Has a rollcall been ordered?

The PRESIDING OFFICER. It has not.

Mr. GORTON. I ask for the yeas and nays.

Mr. ROCKEFELLER. If the Senator will yield for a moment, I move to table the Abraham amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the order, the question now occurs on the motion of the Senator from West Virginia [Mr. ROCKEFELLER] to table amendment No. 600, offered by the Senator from Michigan [Mr. ABRAHAM].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 148 Leg.]

YEAS—51

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Gorton
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pryor
Reid
Robb
Rockefeller
Sarbanes
Shelby
Simon
Specter
Stevens
Thompson
Wellstone

NAYS—48

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dole
Domenici
Faircloth
Frist
Glenn
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Simpson
Smith
Snowe
Thomas
Thurmond
Warner

NOT VOTING—1

Pell

So the motion to lay on the table the amendment (No. 600) was agreed to.

Mr. ROCKEFELLER. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 681

The PRESIDING OFFICER. The question now occurs on amendment No. 681, offered by the Senator from Arizona.

Mr. GORTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The clerk will call the roll.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL], would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—60

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—39

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Pryor
Robb
Rockefeller
Sarbanes
Simon

NOT VOTING—1

Pell

So the amendment (No. 681) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 682

The PRESIDING OFFICER. Under the order the question occurs on amendment 682 offered by the Senator from South Carolina [Mr. HOLLINGS].

Mr. GORTON. Mr. President, I move to table the Hollings amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington to lay on the table the amendment of the Senator from South Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "nay."

The PRESIDING OFFICER (Mr. KYL). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—56

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Heflin
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Pressler
Pryor
Robb
Rockefeller
Roth
Santorum
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Warner

NAYS—43

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatch
Hatfield
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moynihan
Murray
Nunn
Packwood
Reid
Sarbanes
Shelby
Simon
Simpson
Thurmond
Wellstone

NOT VOTING—1

Pell

So, the motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. KYL). Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the Gorton Amendment No. 596 to H.R. 956, the Product Liability bill.

Bob Dole, Slade Gorton, Rick Santorum, Jim Inhofe, Conrad Burns, Pete V. Domenici, Hank Brown, Spencer Abraham, Paul D. Coverdell, Larry E. Craig, Dirk Kempthorne, Bob Smith, Trent Lott, Chuck Grassley, Judd Gregg, Mitch McConnell.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the call of the roll has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Gorton amendment numbered 596 to H.R. 956, the product liability bill, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 46, nays 53, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—46

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Coverdell
Craig
DeWine
Dole
Domenici
Exon
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Smith
Snowe
Stevens
Thomas
Warner

NAYS—53

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cochran
Cohen
Conrad
D'Amato
Daschle
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simon
Simpson
Specter
Thompson
Thurmond
Wellstone

NOT VOTING—1

Pell

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 53. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, assuming that this is free time, I ask unanimous consent that the Senator from California, Senator FEINSTEIN, be allowed to speak for 10 minutes.

The PRESIDING OFFICER. Time is controlled and equally divided. Without objection, the Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair and I thank the Senator from West Virginia.

Mr. President, I have listened carefully over the past weeks of this debate—pro and con—on product liability. I am not an attorney, so I have tried hard to work through what is fair and what is not. While I would like to have an opportunity to vote for cloture on a more narrowly crafted bill, I cannot vote for this bill with the Dole amendment included. To do so, I believe, would extend the impact of the bill far beyond the limited field of product liability, and impose major limitations to redress of grievances across the board in all civil actions, without the opportunity of Committee hearings in the Senate and consideration of how the bill would impact other specific areas of the law.

Anyone who has read "The Rainmaker," the newest best seller, can see what impact the Dole amendment would have, for example, in insurance cases. Insurance companies would be able to do exactly what was done in that book, act in bad faith. And I simply cannot support this.

I believe that Senators GORTON and ROCKEFELLER have worked hard to craft a bill with reasonable reforms that could pass this body. I was particularly pleased with the compromise reached with the Snowe amendment to limit punitive damages to two times compensatory, which is now part of this bill. This replaces the original fixed cap of $250,000, or three times economic damages, whichever is greater. I believe this would be a fair model which takes into consideration both women and children whose earnings may be limited or nonexistent.

I find myself in strong support of other major provisions of this bill, as well. Specifically, I support the imposition of a 2-year statute of limitations from the time the injury and its cause are discovered for a plaintiff to bring a lawsuit. This provision is actually more permissive than that in many States, and California. This provision is actually victim and plaintiff friendly.

Two, the imposition of a 20-year statute of repose, an outer time limit on litigation involving workplace durable and capital goods. This is a fair standard of repose.

The bill would eliminate product seller's liability—including that against wholesalers, distributors, and retailers—for a manufacturer's errors. Sellers would remain liable in cases of their own negligence. For example, if a seller removed the manufacturer's label from a toy that said it is not appropriate for children under 6 years of age, and a child was subsequently injured, the seller would be liable.

The bill would preserve a plaintiff's power to sue one defendant, theoretically the deep pocket, for the full amount of economic damages, but eliminate such joint and several liability for noneconomic damages, such as pain and suffering.

It would allow either party to offer to participate in alternative dispute resolution—something that I very much thought and hoped would be part of this bill, and which I believe is an important part, especially for the plaintiffs who have small claims.

The bill would bar recovery of a plaintiff who is more than 50 percent responsible for causing their accident due to intoxication from alcohol or any drug. This puts a fair measure of the degree of culpability on a plaintiff in an action.

It would reduce the amount of the judgment against the defendant if the product user is found to have misused or altered the product. I believe this is a just and fair provision. It would eliminate liability of raw material suppliers for medical devices, such as the supplier of teflon/dacron, products often used to coat a medical device.

Finally, the bill would deny an employer at fault in causing a workplace injury the right of reimbursement for workers compensation benefits from an employee who wins in a suit against a manufacturer.

The tort liability system has been a particular source of concern to many, and that includes everyone: consumers, professional service providers, manufacturers, and public agencies, all of whom, in recent years, have faced increasing liability insurance costs. Over the last 40 years, general liability insurance costs have increased at over four times the rate of growth of the national economy. American manufacturers and products sellers generally pay product liability insurance rates that are 20 to 50 times higher than those of their foreign competitors. In a global marketplace, that becomes a real barrier to competition.

Many believe that the tort liability system of delivering compensation is seriously flawed, requiring high transaction costs to deliver compensation that some see as inadequate and others as too generous, but which most agree is uncertain and unpredictable.

Putting aside the size of the judgment for a moment, the transaction costs associated with the current product liability system—including plaintiff's attorney's fees, defense legal fees, court proceedings and other public expenditures, the time of the litigants—are enormous. The Rand Institute found that overall transaction costs of the tort system actually exceed compensation to plaintiffs.

Critics of product liability reform, on the other hand, argue that however well or poorly the system performs its compensation function, it must be preserved and indeed strengthened because of its importance as a means of deterring unlawful, careless, negligent conduct in the manufacturing of a product.

I believe the basic bill provides a fair and reasonable balance. Many of its provisions are either consistent with or based on California law.

The two key features of the bill that have raised the most concern are the cap on punitive damages and the joint and several liability provisions.

I was pleased to work with and support Senator SNOWE's amendment on a modified punitive damages formula that is responsive to the concern raised about the impact on women and children of the punitive damages cap in the original bill.

Instead of linking the punitive damages cap to a formula that is lopsided in favor of those with high amounts of lost wages, the modified formula links punitive damages to what I consider a fairer measure—the full compensation received by the plaintiff.

This formula is substantially that recommended by both the American College of Trial Lawyers and the American Law Institute, and both bodies have given a great deal of study and attention to the issue of punitive damages.

Although I would support a bill without a punitive damages cap, I have concluded that some reform of this area is needed.

The American College of Trial Lawyers, for example, commented that punitive damages awards "* * * often bear no relation to deterrence and merely reflect a jury's dissatisfaction with a defendant and a desire to punish, often without regard to the true harm threatened by a defendant's conduct." They further note that "* * * punitive damages should be more difficult to obtain and that the amounts of such awards should be subject to more control."

The Supreme Court, as well, has expressed concern about punitive damages that "run wild," and have clarified that it is the job of judges to review awards for their reasonableness.

In a recent law review article, it was noted that in recent years, the scope of punitive damages law has broadened considerably as the courts have applied them in new fields of law—such as product liability, mass tort litigation where punitive damages can be awarded repeatedly, and contract law—all areas of the law where punitive damages did not traditionally apply.

As a result, the number of awards has increased significantly. In my own State of California, between January 1, 1990, and December 31, 1994, there were 86 punitive damage jury verdicts in State courts that were equal to or greater than $1 million, out of several hundred cases, resulting totally in judgments of $1.7 billion. California has one of the largest number of punitive damages awards and size of awards in the Nation.

The Gorton substitute amendment, as modified by the Snowe amendment, I believe is the right approach. It retains punitive damages, which are a powerful tool for deterring conduct which society finds offensive and flagrant and, at the same time, ensures that more reasonable awards will be set.

Another area that has been of great concern are the provisions on joint and several liability. This provision in the bill is actually based on reforms enacted in California in 1986 by ballot initiative.

It neither appears reasonable nor fair to hold a defendant liable for more than their share of the fault just because they are the deep pocket or the only available party to be sued. The public policy has been that in selecting among parties to bear the burden, pick the deep pocket. I do not agree with that.

Again, I think the approach of the bill, as in California, is the fairest compromise, allowing for full economic compensation, but an apportioning of noneconomic losses among responsible parties in proportion to their level of fault.

I want to speak for a minute on biomaterials, which impacts the growing medical technology sector in my State. In April of last year, the New York Times reported that big chemical companies and other manufacturers of raw materials, used to make heart valves, artificial blood vessels, and other implants, began warning medical equipment companies that they intended to cut off deliveries because of fears of being joined in lawsuits.

In essence, many biomaterials suppliers simply will not provide their product to medical device manufacturers because such transactions involve low returns and a high risk of substantial losses.

Ms. Peggy Phillips, an attorney with a life-sustaining medical device, testified before a Commerce subcommittee and told me personally, of her own story. She suffers from sudden cardiac death syndrome—a disease where the patient's heart will unexpectedly stop beating for no apparent reason. As a result, Ms. Phillips had a life-saving device implanted in her body called an implantable defribillator. Essentially, it functions to shock her heart back to life and to maintain a constant heart beat.

This device and others like it, however, are in jeopardy, because, as Ms. Phillips noted, it does not make sense for biomaterial suppliers to continue providing those materials for device manufacturers.

She related a story of one supplier who spent $8 million annually defending itself in cases involving an implantable device even though that supplier had no role in the design, manufacture or sale of the device.

She noted that sales by all suppliers to the device "totaled $418,000 while sales of this same raw material to all other markets totaled $282 million."

The provisions of this bill, both preserve access to essential supplies and shorten the liability chain so that those who are truly responsible for the design, manufacture or sale of a product will be the party hauled into court to be held accountable.

The current State-by-State system of product liability is ever changing and filled with conflicting rules it presents, today, I believe, an unfair barrier to competition, and creates an unpredictability which is neither fair to business nor consumers because it translates into less development of new products and higher product costs for the consumer.

It is my hope that I will have an opportunity to vote on a narrow bill which includes the provisions of this bill on which I have stated my support, but which does not include the Dole amendment crippling punitive damages in all civil actions.

The PRESIDING OFFICER. The additional 2 minutes has expired.

Mrs. FEINSTEIN. Mr. President, I thank the Chair. I thank the leader for his courtesy, and I want to thank the two authors of the bill. I know they have labored long and hard.

Mr. DOLE. Mr. President, I will take 2 or 3 minutes, and I think the Senator from Utah wishes to speak, and maybe others. There will be one more cloture vote on the substitute amendment.

Mr. HOLLINGS. Will the Senator yield? We will have our time? I know the majority leader is talking on leader's time.

Mr. DOLE. We each have 11 minutes.

The PRESIDING OFFICER. The minority time of 11 minutes has expired; the majority leader has time remaining.

Mr. HOLLINGS. Are we talking about those for and against the bill? Are we deemed the minority side? I think by the recent vote we would be the majority side.

I'll be glad to yield to the majority leader. I just wanted to have time.

The PRESIDING OFFICER. The Senator from West Virginia yielded time to the Senator from California, and the time of the minority has expired.

Mr. DOLE. We will work it out. We will just have to delay the vote. We have 10 minutes on this side.

Mr. HOLLINGS. Ten minutes.

Mr. DOLE. Maybe it will not take quite 10 minutes. We had somebody that wanted to leave at 2 o'clock. We will work it out.

Mr. HOLLINGS. We will work it out. We have regular order at 2 o'clock—another vote.

Mr. DOLE. We will delay it a few minutes so that the Senator will have time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. I wanted to remind people before the next cloture vote that 83 percent of the American people want to reform our legal system. They want to eliminate abusive, large damage awards that benefit only lawyers and not the public, and they want commonsense, not dollars and cents, legal reform.

Who would have thought that 2 weeks ago a majority of the Senate would vote to extend punitive damages to all civil cases? It would have been hard to believe 2 weeks ago that a majority of the Senate would vote to add medical malpractice to the bill. It would have been hard to believe 2 weeks ago when we started on this bill that a majority in the Senate had proved by its vote that it wants to improve the legal system so that it benefits a majority of the Americans and not a majority of the trial lawyers.

Do not forget, with the votes we have been able to pretty much meet what the House did in a bipartisan way in the Contract With America. The vote in the House was 265 to 161. We had a lot of Democrats and a lot of Republicans come together and respond to the voices of the American people.

For the first time in 10 years, we have broken the stranglehold of the tort lawyers. We have heard the voices of the American people and passed amendments that protect entities as varied as small businesses, Girl Scouts, churches, Little Leagues, firefighters, and policemen.

For all this endorsement of change, the forces of status quo remain as strong as ever. They continue to object and delay, and our constituents pay more in the cost of this gridlock. The cost is steep.

Let me remind the Senate and the American people of the outrageous cost of our legal system: It adds about $8 to $11.50 to a dose of DPT childhood vaccine; it adds $20 to the cost of a $100 stepladder; it adds $100 to the price of a $200 high school football helmet; and $500 to the price of a new car.

Experts have estimated that without reform of our legal system, it costs every American $1,200, or $4,800 for a family of four. That is a cost of $300 billion per year, a tax on the American people. Any wonder why the American people want change and want Members to make as many changes as we can?

I do not have any anticipation that there will be a sudden switch and we will get cloture on the second vote. I think there were 46 voted for cloture—44 Republicans, 2 Democrats—and the balance who voted were opposed to cloture. There will be another cloture vote in the next 15 minutes. There is an opportunity for those who may have not fully understood the import or the impact of the vote "yes" on this cloture vote.

It seems to me if we are going to reform our legal system we have a pretty good package here. Not everything people wanted is in it, but it is a pretty strong package. We owe it to the American people, in my view, to invoke cloture on this bill and then proceed to pass the substitute as amended.

If that fails, there will be a substitute offered by the Senator from Washington and the Senator from West Virginia. But I think we have one last opportunity here to say that we are not doing business as usual. I hope that my colleagues will grab that opportunity. I yield the remainder of my time to the Senator from Utah.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, what is the parliamentary situation now? How much time is on either side?

The PRESIDING OFFICER. The majority side has 6 minutes 52 seconds; the minority time is expired. The time for voting was earlier extended to 2 minutes after 2 o'clock.

Mr. HOLLINGS. Is the Senator from South Carolina the majority or the minority? We have not clarified that. The time was supposed to be equally divided, and we have not said a word on this side.

Mr. DOLE. Five minutes?

Mr. HOLLINGS. I don't know if I need 5 minutes: I am being persuaded by my colleagues they have heard enough from me.

Mr. DOLE. I am happy to yield 5 minutes of our time. That would leave 2 minutes to the Senator from Utah.

Mr. HOLLINGS. I will take 2 minutes.

Mr. President, right to the point. We assume that the contention of the sponsors of this bill is that we need tort reform. This contention, however, has been totally contradicted by the data that have been collected on the product liability system. I will go right to the heart of the matter. Of all civil claims filed in the United States of America, 9 percent represent tort claims; and of all the tort claims filed, 4 percent of that 9 percent represent product liability, the subject matter at hand.

If they really want to talk reform, they would obviously go to automobile accidents and many other tort cases, which represent the overwhelming majority of tort cases filed, not product liability. That refutes that particular contention.

They contend, "Well, wait a minute, there is a litigation explosion." That was refuted at all the hearings, and studies by the Rand Corp., the General Accounting Office, and Prof. Marc Galanter of the University of Wisconsin. What these studies have shown is that the fact of the matter is that product liability claims now are in a diminishing scale. That is why they say at the State's level, "Look, we do not have a problem. We oppose this measure." Both the Association of State Legislatures, and the Association of State Supreme Court Justices are on record as opposing this bill.

The American Bar Association, the Association of State Supreme Court Justices, the State attorneys general, everybody connected with the law on this particular score comes, testifies, and opposes this measure for the simple reason, No. 1, they do not really find a crisis, or cause for Federal action.

And in the context of eliminating duplicity and confusion, the proponents of this bill will actually add to the confusion, add to the complexity, by enunciating rules of guidelines at the Federal level, to be interpreted and administered by the 50 States in accordance with their own law. However, their refusal to establish a Federal cause of action is evidence that they do not believe in their own bill.

This bill, in fact, is a manufacturers bill—but they exempt themselves. I see the Chair now is limiting my time. It just goes against any kind of sound procedure.

If everybody is in step, Senator, with the contract, this is exactly opposed to the contract. The contract says that the best government is that closest to the people.

They keep quoting Jefferson around here, and instead of block grants like they have for crime and block grants for welfare back to the States, block grants for housing back to the States, here they want to take the authority, the 200-some-year authority from the States and relegate it to the Federal bureaucrats.

I am finally getting in step with the contract. I thank the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise today to urge my colleagues to vote in support of cloture on the Gorton substitute for the product liability bill as amended.

The American people support these commonsense changes to this bill. A majority of the Senate has supported these commonsense changes to the bill. But defenders of the status quo are now filibustering the bill and filibustering the changes Americans want.

Who benefits if they win? Some—just some—of our Nation's trial lawyers benefit: those who want to keep the status quo.

Who benefits the most in the status quo? Who has the largest stake in maintaining this out-of-control civil justice system and its runaway punitive damages? I think most of my colleagues know who. Some of our Nation's trial lawyers. And I believe most Americans understand that, as well.

The opponents of change may want to shroud this issue under a smokescreen of high-blown rhetoric, but when the smoke clears we will see some of the Nation's trial lawyers laughing all the way to the bank. Who else could defend a system where an undisclosed $601 paint refinishing of an automobile results in a $2 million punitive damage award? Who else could defend a system where an insurance agent's misrepresentation about a $25,000 policy could result in a jury award of $25 million in punitive damages?

We could go on and on. Now, the fact of the matter is, I am not talking about all trial lawyers, just some who literally have milked this system dry.

Everybody knows we have to make these changes. There are excesses in the system, and these excesses are ones that only trial lawyers, some trial lawyers, could love. Runaway punitive damages is one of those excesses.

I urge our colleagues to vote for cloture on this next vote and help us to bring about the change that all America wants and only a few trial lawyers want to avoid.

Mr. President, I rise today to urge my colleagues to support cloture on the Gorton substitute to the product liability bill, as amended. The American people support commonsense change in our legal system. But the stubborn defenders of the status quo are now filibustering the change Americans want. Who benefits? Some of our Nation's trial lawyers, that's who.

As I have mentioned earlier, this bill represents the culmination of a longstanding, bipartisan effort to correct some of the more egregious faults of our product liability and civil justice systems. The defects in our product liability system have been long recognized.

We also passed a provision to apply punitive damage reform to all civil cases whose subject matter affects commerce. As I noted during that debate, punitive damage awards have grown out of control in this country. They have been out of control in all civil litigation—not just product liability cases. Even opponents of this legislation have pointed out time and again that excessive punitive damage awards in this country are most heavily evident in nonproduct liability cases. I agree. That is why I cosponsored the Dole punitive damages amendment, and why I was so pleased that a majority of my colleagues supported it.

That amendment improves the underlying bill by addressing more completely the crippling litigation costs that have been imposed not only on our product manufacturers but on cities and counties, volunteer organizations, service providers, small businesses, and others.

We have also added medical malpractice reform to the Gorton substitute.

Mr. President, I have listened as the champions of the status quo have mislabeled this bill as a manufacturer's bill. It is a pro-consumer bill. I have listened as these opponents of change in our civil justice system talk about the bill as narrowly drawn, covering only some participants in our national economy, even as they, ironically, resist efforts to have some provisions of the bill extended to cover all civil actions. These comments are, with all due respect, diversionary in their effect.

Who benefits the most from the status quo? Who has the largest stake in maintaining, in place, this out of control civil justice system and a runaway punitive damages system? I think most of my colleagues know who—some of our Nation's trial lawyers. I believe most Americans understand that, as well.

The opponents of change may wish to shroud this issue under a smokescreen of high blown rhetoric. But when the smoke clears, there are some of the Nation's trial lawyers, laughing all the way to the bank. Who else could defend a system where an undisclosed $601 paint refinishing of an automobile results in a $2 million punitive damage verdict? Who else could defend a system where an insurance agent's misrepresentation about a $25,000 policy could result in a jury award of $25 million in punitive damages? Who else could defend a $38 million punitive damage verdict over the handling of a car loan? Who else could defend a system where liability concerns impede volunteer organizations and are so costly to them?

Now, I am not talking about all trial lawyers, and I understand the vital role lawyers play in vindicating individual rights. But lets face it: there are excesses in the system only some trial lawyers could love.

Runaway punitive damages are one of those excesses. The pending measure fixes this problem, and others. I urge a vote for cloture and allow us to give the American people the commonsense legal reform they want.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 2:02 having arrived, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the Gorton Amendment No. 596 to H.R. 956, the Product Liability bill.

Bob Dole, Slade Gorton, Orrin G. Hatch, Dirk Kempthorne, Pete V. Domenici, Conrad Burns, John Ashcroft, Dan Coats, Bill Frist, Olympia J. Snowe, Spencer Abraham, Nancy Landon Kassebaum, James J. Jeffords, Ted Stevens, Mark O. Hatfield, Frank H. Murkowski.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Gorton amendment No. 596 to H.R. 956, the product liability bill, shall be brought to a close? The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "aye."

The PRESIDING OFFICER (Ms. SNOWE). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—47

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Coverdell
Craig
DeWine
Dole
Domenici
Exon
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Smith
Snowe
Stevens
Thomas
Thurmond
Warner

NAYS—52

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cochran
Cohen
Conrad
D'Amato
Daschle
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simon
Simpson
Specter
Thompson
Wellstone

NOT VOTING—1

Pell

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Madam President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. I thank the Chair.

(The remarks of Mr. BRADLEY pertaining to the introduction of S. 759 are located in today's RECORD under

"Statements on Introduced Bills and Joint Resolutions.")

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. I ask unanimous consent that I be allowed to continue for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE'S IMPENDING BANKRUPTCY

Mr. BENNETT. Madam President, last evening, as I sat in the chair, the distinguished minority leader came on the floor and made a statement about, among other things, Medicare. There were many of the things he said on that occasion with which I disagree and so I take this opportunity, while my memory is still fresh on the minority leader's comments, to register my disagreement.

The reason I am doing it this quickly, and I hope this completely, is because I believe that the issue of Medicare's impending bankruptcy is so important that we should not allow statements that are incorrect to stay on the RECORD uncorrected. We should make sure this debate is as careful and as correct as it can possibly be. The stakes are much too high for this debate to take place in an atmosphere that some might consider demagogic.

I will take several of the minority leader's statements now and respond to them specifically. The first one: He said—and I am quoting from this morning's CONGRESSIONAL RECORD, page 6128:

> Republicans have discovered that the Medicare Program faces challenges in the years ahead. Democrats told them and the Nation that 2 years ago when we shored up the Medicare Program and cut the deficit, all without Republican votes.

Madam President, I apologize for not having this particular chart made up in a chart big enough to show the world. Perhaps the television can pick it up for those that are watching. But I am sure those in the Chamber can at least see the direction of the curve, which is the hospital insurance trust fund balance, in billions, starting in 1994; it goes up slightly in 1995 and then begins a precipitous plunge to zero in the year 2002.

The reason I hold this chart up is because the minority leader has said, "Democrats told the Nation that 2 years ago." This chart, Madam President, became available on April 5, 1995, not necessarily 2 years ago.

I sat in the Chamber in the other body when the President of the United States addressed the House of Representatives in September 1993, roughly 2 years ago, and gave a masterful discourse on health care. He did not mention anything relating to the facts contained in this chart.

If, in fact, Democrats told Members this 2 years ago, the President of the United States neglected to mention it when he made his statement to the joint session of Congress.

I will not claim to have participated in all portions of the health care debate last year. I do not think any Member can make that claim. I watched the health care debate very closely. I cannot recall a single instance where a single Democratic spokesman told Members in last year's debate that the Medicare trust fund was in any kind of trouble.

The minority leader talked about the budget. I participated in the budget debate when the new administration came in. The adoption of the budget of which the minority leader is so proud, and I cannot recall—and I would like to have him point out to me if I am wrong—a single instance during that budget debate where the Democrats told Members that this trust fund was headed for disaster, indeed, extinct, in the year 2002.

I think the minority leader is incorrect when he says the Republicans are just discovering something that the world has known and that the Democrats openly told Members about 2 years ago.

Second, he says:

> House Republicans are considering reductions in Medicare growth on the order of $300 billion. Senate Republicans have said they will need to reduce normal Medicare growth by $200 to $250 billion.

Then he goes on to say this is normal growth; the Republicans are cutting this growth in a way that is irresponsible.

What he does not tell Members is that during the health care debate last Congress, the President himself projected that we needed to reduce Medicare by $118 billion. I am not going to quibble with him—yes, the $200 billion figure that is talked about in the Senate now is obviously much higher than the $118 billion figure that the President talked about.

The point is that the President, in last year's debate, and Democrats on this floor in last year's debate said, "We must reduce Medicare," and the figure the President came up with was $118 billion.

I do not think it is appropriate to say the Republicans have suddenly discovered the idea of reducing Medicare in the hundreds of billions of dollars, and is that not terrible, when the President himself was saying we have to reduce Medicare from the projected rates by in excess of $100 billion. That was OK, then. Now, Republicans are being bashed.

The one I feel the most strongly about, Madam President, is this statement where the minority leader said:

> Medicare Program costs are increasing because all health insurance costs are increasing. In fact, on a per capita basis, Medicare and Medicaid costs are increasing at the same rate as privately insured costs.

On this one, Madam President, I did go to the chart makers and I have produced a chart. I will put it here and share it with the Members of the Senate and ask unanimous consent that the figures contained in this table be printed in the RECORD following my Statement.

(See exhibit No. 1.)

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Here are medical expenditures. The dark figure—no metaphor intended—the dark figure is for public expenditures for health care; the light figure is for private expenditures.

The expenditures are calculated in terms of percentage growth. That is, if we look at 1985, in that year, public expenditures for health care went up at a rate of 8.8 percent per year, while private expenditures went up 10.3 percent. We can see in these years there is a disparity.

Some years public ones go up faster than private; other years private expenditures go up substantially faster than public expenditures. We can see that, in general terms, it is around 8 or 9 percent in public expenditures and slightly more than that in private expenditures.

Then in 1989, something happened. In 1989, the rate of increase for public expenditures went to its highest level—11.9 percent; private levels going up at 10.3 percent. Then, in 1990, public expenditures went up 13.2 percent; for the second year in a row, public expenditures went up faster than private, a trend that has continued to this day unabated.

In 1991, public expenditures are still up in the double digits—12.6 percent, but market forces are beginning to assert themselves in the private marketplace, and the private expenditures only increased 5.6 percent. It did not stay down that low the next year. They came up to 6.9; but public expenditures stayed in double digits at 10.8 percent.

Now they have been getting better. In 1993, public expenditures 8.5, but private is 7.2. In 1994, public expenditures come down to 7.8; but private drops to 5.3 percent.

For the minority leader to say that the reason we cannot do something about the expanding growth of Medicare is because Medicare expenditures are going up at the same rate as private expenditures, is to ignore the facts of the case.

Private expenditures are coming down in terms of the percentage growth at a faster rate than public expenditures are coming down. Indeed, Madam President, if we were to take the minority leader's statement at face value, where he says:

> Medicare Program costs are increasing because all health care insurance costs are increasing on a per capita basis. Medicare and

Medicare costs are increasing at the same rate as privately insured costs.

If that statement were true, that would mean that Medicare and Medicaid costs would be increasing at 5.3 percent per year, which figure, Madam President, is within the band the Budget Committee is considering for increases for Medicare and Medicaid.

I have sat in on the budget briefing and I have heard the budgeteers say, "If only we could get the rate of increase down to 5 percent, we could solve all of our problems." The rate of increase is down to 5 percent in private expenditures.

The minority leader thinks the two are the same. Perhaps he has them confused and thinks that the private people have not done a good enough job and the private expenditures are up in this kind of level for public expenditures. In fact, they are not. They have, ever since 1989, come down at a faster rate than the public expenditures come down and they are leading the way.

This is the point we need to keep in mind, then, Madam President, with respect to Medicare and the reforms that are necessary. We cannot demagog this issue. We must stick with the facts. Our goal is to make the system that takes care of our elderly as stable, as secure, and as certain for the future as the system that takes care of the rest of the population.

If we can do it as responsible public servants at the same rate of increase that exists in the rest of the population, we can solve all of our budgetary problems and the disastrous circumstance indicated in this table will go away.

Madam President, I have nothing but respect for our distinguished minority leader. I consider him a friend and one of the more reasonable and certainly most thoughtful Members of this body. I feel that the information that he shared with the Senate last night is inaccurate, and it becomes Members in this debate to make sure that the record is set straight as quickly as possible, because the stakes in this debate are so high.

I thank the Chair. I yield the floor.

EXHIBIT NO. 1.

CBO estimates for total medical and health care spending in the public and private sector from 1985 until 1994. The figures include spending for administrative costs, construction, and research and development as well as personal health care costs associated with doctors and hospitals. The figures shown represent a percentage increase over the previous year's spending level.

MEDICAL EXPENDITURES

Year	Public (percent)	Private (percent)
1985	8.8	10.3
1986	8.9	6.1
1987	8.9	8.5
1988	9.0	12.6
1989	11.9	10.3
1990	13.2	10.6
1991	12.6	5.6
1992	10.8	6.9
1993	8.5	7.2
1994	7.8	5.3

Source: CRS.

Mr. GORTON. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANTORUM.) Without objection, it is so ordered.

The Senator from Utah is recognized.

Mr. HATCH. I thank the Chair.

(The remarks of Mr. HATCH and Mr. PRYOR, pertaining to the introduction of S. 758 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRYOR. Mr. President, I see no other Senator seeking recognition at this time. Therefore, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGARDING A PRIVATE VISIT BY PRESIDENT LEE TENG-HUI, OF THE REPUBLIC OF CHINA ON TAIWAN, TO THE UNITED STATES

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 53, expressing the sense of Congress regarding a private visit by the President of the Republic of China on Taiwan to the United States.

Mr. PRYOR. Mr. President, I am sorry I have to do this, but in behalf of another Senator who could not be here at this time, I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. I thank the Chair.

THE SENATE CHAMBER DESKS—A BRIEF HISTORY

Mr. PRYOR. Mr. President, recently I announced that I was not going to be seeking another term in the Senate. It has been a wonderful opportunity these last 16½ years to serve in this great body, to be serving with all of my great colleagues and friends from all the 50 States, and all the wonderful staff people that make this place run. I just want to thank all of them so much for their many kindnesses shown to me.

Mr. President, I was cleaning out my desk a while ago and just looking through something I have had in my desk for some time that was prepared by some of the individuals, I think, in the Historian's office. That is not the proper name for those who prepared this. But I thought while there were interested parties involved, I might read a few pages of some of the history of the desks in this Chamber. This is a brief history.

When British troops burned the U.S. Capitol in 1814 during the War of 1812, they severely damaged the Senate Chamber and destroyed the original furnishings. The rebuilt Chamber was completed in 1819 and the Senate ordered 48 new desks at a cost of $34 each from Thomas Constantine. A New York cabinetmaker, he also constructed desks for the House of Representatives. Many of these early desks remain in use in the Senate Chamber today. As new states have entered the Union over the years, additional desks of identical design have been built and placed in use.

Throughout most of the 19th century a senator's only office was his desk on the Senate floor,

We did not have, I might say, the Senate office buildings. This was our office, the desk that was on the Senate floor.

but gradually separate rooms were assigned. The earliest offices were Committee rooms occupied by their chairmen; additional space later became available under the Olmsted Terraces on the West Front of the Capitol. Finally, with the completion of the first Senate office building [the Russell Building] in 1909, all senators were able to occupy suitable offices on Capitol Hill.

Over the years, modifications have been made to the Chamber desks to provide more room for books and papers. Beginning in the 1830s, three- to four-inch high mahogany writing boxes were added to each desk. The writing boxes were not installed all at one time, but periodically over the next 40 years, usually at the request of a desk's occupant. Senate vouchers record payments to carpenter R. B. Griffin for altering nine mahogany desks in 1860, shortly after the Senate moved to its present Chamber.

Not every senator preferred the modification, but today only one desk—"the Webster—lacks a writing box. Senator Daniel Webster reputedly refused to have his desk added to on the grounds that if his predecessor had managed without the extra space, so could he. No succeeding occupant of Webster's desk has seen fit to abandon that opinion. In order to bring the height of the Webster desk into visual line with others in the Chamber, a raised base has been added. Although he was born in New Hampshire, Webster represented Massachusetts in the Senate, and the desk has continued to be associated with Webster's birth state. New Hampshire Senators Styles Bridges and Norris Cotton, for example, occupied the desk for long periods. In 1974, just before Cotton retired from the Senate, he secured the adoption of Senate Resolution 467 (93rd Cong., 2nd sess.), specifying that the Webster desk would henceforth always be assigned to the senior senator from New Hampshire.

Other early Senate desks bear design characteristics that allow their differentiation.

The oldest desks incorporate wooden inlays of circular and rectangular banding at the sides, crotch veneer mahogany across the fronts, and narrow reeding on the feet. These features were incorporated in desks newly-made throughout the third quarter of the last century and may today be found in more than seventy of the present number.

The difference in shape and dimension among the desks is due to the original semicircular arrangement in the Old Senate Chamber.

Not this Senate Chamber, but the Old Senate Chamber.

A desk's shape conformed to its position in the room: if on the aisle it was narrow and angled, if near the center it tended to be wider and more square. If the oldest desks could be rearranged to the original configuration, it is believed they would form a perfect semicircle.

During the mid-19th century, mahogany shelves were added near the bases of the desks. At the turn of the 20th century, the feet were enclosed with a metal grille and connected to a plenum chamber below the floor which provided ventilation.

That, Mr. President, was the air-conditioning system. We have a much better air-conditioning system now than they had then.

Inkwells and sanders atop the desks have also undergone change. Original inkwells were composed of clear cut glass, covered with square, flat tops that moved horizontally. In 1933, the remaining original inkwells were replaced by containers having hinged covers, because the earlier design was no longer manufactured.

Over the years the desks have been periodically rearranged, as new states sent senators and as party representation increased and diminished. When additional desks were required, these were generally made by private cabinetmakers, although the four newest desks—those constructed for Alaska (1959) and Hawaii (1960)—were built in the Senate's own cabinet shop.

Seven distinct numbering systems have been employed over the years to track the expanding group of desks and their locations. These numbers—both Roman and Arabic—are still visible below and inside the desks in various places. The current system, instituted in 1957, consists of Roman numerals burned into the right-hand corner of the principal crosspiece beneath the desks. The desks are not arranged on the Senate floor in numerical order. The easiest method of tracing the heritage of each desk is to read the names carved inside desk drawers.

Now, in earlier years, the Members of the Senate carved their names in the desk drawers. I hate to say that in modern times I have looked in my desk drawer and some of the occupants of this desk even wrote their name, it appears, with a ball point pen. That is not quite as classy as carving.

It appears that such inscriptions are a 20th-century tradition, for the earliest recorded names date back only to the first decade of this century. Possibly some 19th-century senators inscribed their names in the desks, but these names have been lost when drawers were refinished. Not all names in drawers were personally inscribed by the senators. Many reveal an identical hand, suggesting either that older drawer bottoms were replaced and the names recopied, or that staff members, rather than senators, took responsibility for chronicling certain holders. In recent decades, senators have adhered more closely to a tradition of personally inscribing desks.

One difficulty in verifying the desks' 19th-century assignees is the fact that for many years Senate doorkeepers closely guarded such privileged information. Isaac Bassett, Senate page and doorkeeper from 1831 through 1895, feared that souvenir hunters might damage the historic furniture if it was widely known which pieces were used by the famous Senators Clay, Calhoun, or Senator Webster. Bassett the page and the doorkeeper had reasonable cause for alarm. In April 1861, when the Sixth Massachusetts Regiment was bivouacked temporarily in the Senate Chamber, literally living in the Senate Chamber, Bassett entered the room just in time to hear the sound of splitting wood on the Democratic side. Rushing to investigate, he found a Union soldier bayonetting the desk recently vacated by Jefferson Davis, then president of the Confederacy. "Stop! Stop! What are you doing?," Bassett shouted. "That is not Jeff Davis' desk—it belongs to the government of the United States. You were sent here to protect government property, not to destroy it." Today, a small block of wood inlay on the left side of the desk marks the spot where the bayonet once struck the desk of Jefferson Davis.

Traditions associated with Senate desks continue to evolve. A recent example is the so-called 'Candy Desk''. Each member of the Senate knows which desk is the candy desk. Senator George Murphy (R-CA) originated the practice of keeping a supply of candy in his desk for the enjoyment of fellow senators. This desk was subsequently passed on to other members for use, but the tradition of keeping candy in the desk that occupies that particular place in the back row of the Chamber continues today.

The custom of dividing the arrangement of Senate desks by party is almost as old as the parties themselves. Democrats traditionally sit on the presiding officer's right; Republicans on his left. But the division has not always been definitive as it is today.

In the Old Senate Chamber, an equal number of desks was placed on each side of the aisle, without regard to party size. When one party elected more than half the senators, some majority party members had to find space on the minority side. When the Senate moved to the modern Chamber in 1859, the practice of dividing the desks equally continued for several years. But during the Civil War many Southern Democrats withdrew from the Senate and Republicans took their places on the Democratic side, even though empty desks were available on "their own" side.

The new Chamber was large enough to permit a somewhat flexible seating arrangement and in 1877 the practice began of moving desks back and forth across the center aisle to permit all majority members to sit together on the appropriate side of the aisle. From time to time since then, one party has elected such an overwhelming majority that it has become necessary to again have majority members sit on the minority side. For instance, during the 60th Congress (1907–1909) ten Republicans sat on the Democratic side, while during the 75th Congress (1937–1939) thirteen Democrats sat on the Republican side. Such seating became known as the "Cherokee Strip," meaning that the overflow of majority party senators were "off their reservation" [the Cherokee Strip in Oklahoma was land belonging neither to the Indian Territory nor to the United States]. By then it had become the practice for senior senators to take front row, center aisle seats; junior majority party members who filled the "Cherokee Strip" were assigned either rear row or end seats on the minority side of the chamber.

Senators independent of either party have traditionally chosen on which side of the aisle they preferred to sit. Once, during the 1950s, when Senator Wayne Morse of Oregon had left the Republican party but not yet joined the Democrats, he placed his chair temporarily in the middle of the center aisle in order to demonstrate his independence.

The seating of the majority and minority leaders at the front row desks on either side of the center aisle is a relatively recent Senate tradition, dating back only to 1927 for the Democrats and 1937 for the Republicans. In the 19th century, party leadership was not yet institutionalized. Certain senators were recognized as leaders for reasons of personal popularity and political skill, not elected to an official post by their parties. For example, Henry Clay always occupied a rear seat near the Chamber entrance. From that position he was able to signal party members as they came in before a vote, while vigorously denying the role of party floor leader.

Not until the 1890s did party caucus chairmen emerge as floor leaders and for the most part such leaders retain regular seats. Front row desks went to senior senators in the party. For many years, the front seat on the Republican side was held by Senator Robert La Follotte, Sr., an insurgent who was frequently at odds with his party's majority. Two earlier Democratic leaders, John T. Morgan, in 1902, and Oscar W. Underwood, in 1921, took front row desks, each retaining that position after his service as leader had end. Not until Underwood left the Senate did Democratic minority leader Joseph Robinson move to the front row desk, which he continued to hold as majority leader. Following Robinson's death, the desk went to his successor majority leader, Alben Barkley. The desk has been used by Democratic leaders ever since. On the Republican side, the front row desk was held by senior senators until 1937, when minority leader Charles McNary moved there, setting a precedent that continues today.

Mr. President, the actual office that prepared this report, and it was done in February 1995, was the Office of Senate Curator. I want to thank the Senate Curator for preparing this report.

Also, in the back of this report, it gives a history of desk No. 39. This is desk No. 39, Mr. President, and it lists all of the Senators who have occupied this particular desk.

I just want to name a few of these. Some of these names may stand out. John Bankhead from Alabama occupied this particular desk. John Bankhead lived over on 19th Street, right off of Dupont Circle. John Bankhead was the father of Tallulah Bankhead. Tallulah Bankhead was one of the grand actresses during that period of time, and they lived on 19th Street, where I used to live.

Now, also, Patrick McCarran of Nevada occupied this particular desk, No. 39. He was the author, I assume, of the McCarran-Ferguson Act, which many people will recognize.

Theodore Francis Green, of Rhode Island, occupied desk No. 39. Theodore

Francis Green may have been—I do not know, that record may have been broken—but at one time he was the oldest Member to ever serve in the Senate. That may have been surpassed. I need to check and correct it. But he was the chairman of the Foreign Relations Committee immediately preceding the chairmanship of Senator J. William Fulbright of the State of Arkansas.

Another very illustrious individual who has occupied desk 39 is Estes Kefauver, from Tennessee, known for his coonskin cap and all his grand campaigning as he ran for President and as he ran for Vice President. He really was a major force in the 1950's in the Democratic Party and in American politics.

Another great Senator who has occupied desk No. 39 is Henry M. "Scoop" Jackson, of course from Washington State, who passed away just a few years ago. He truly was one of the giants of the Senate. He occupied desk 39.

Frank J. Lausche, from the State of Ohio, occupied this desk, desk No. 39. For some of you who may not know, Frank J. Lausche, to the best of my recollection, served more terms as Governor than any other Governor elected in the history of America. I think he was Governor of his State for—it seems like well over a decade and perhaps even close to 2 decades, in the State of Ohio.

Mr. President, some of this may not seem too important to a lot of people, but there may be some students around who someday would want to know more about the Senate Chamber and about the desks in the Chamber.

As Senator ROCKEFELLER and Senator COATS and myself take our constituents through the Capitol and sometimes sit with them in the galleries, sometimes people ask us about the aisle, where do the Republicans sit and where do the Democrats sit? And so we thought it might be a good time to put a little statement in the RECORD giving a little, brief history about this Chamber and some of the desks that make up this wonderful U.S. Senate Chamber.

Mr. President, I see no other Senator seeking recognition.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE INSOLVENCY

Mr. DASCHLE. Mr. President, I was not in the Chamber an hour ago when the distinguished Senator from Utah, my colleague, Senator BENNETT, commented on remarks that I made earlier this morning. He is a person for whom I have immense respect and who I believe is a great student of many of the issues we address on the floor. But he and I have a very fundamental difference of opinion with regard to Medicare, and I wish to respond briefly to comments that he made today on that issue. I invite his reaction if he is within the sound of my voice.

He said in his remarks the Medicare trustees' report predicting insolvency only became available in April 1995; that it was not available 2 years ago when the President's deficit reduction package was debated.

The fact is that the Medicare trustees' report is available every year for all Members of Congress to see, and every year the report has been predicting insolvency of the Medicare trust fund, sometime between 1999 and the year 2003. So there should be no surprise with regard to the predictions of this year's trustees' report. I think the question is, how we will generate Medicare savings over the course of the next year, and how will we use those savings.

There are some who have advocated providing a significant tax cut for the wealthy. I think it is fair to say that when you cut Medicare to the extent that some have proposed it be cut, and then you propose a similar decrease in taxes for the very wealthiest among us, one would have to conclude that the cuts in Medicare will be used to pay for the tax cut for the wealthy. That was the main point I was making.

Regardless of whether people are willing to make that association, as valid as I believe it is, I think it is very clear everyone recognizes that, indeed, the Medicare trust fund is in serious trouble. In fact, the President's 1993 deficit reduction package addressed this issue through proposals designed to delay insolvency for several more years. Before the President's deficit reduction package was enacted, the trustees' report indicated the trust fund would be insolvent by 1999. As a result of the enactment of the 1993 reconciliation package, which all Democrats supported and every Republican opposed, we have been able to extend the viability of the trust fund for 3 more years, from the year 1999 to the year 2002. So we have made progress.

What many of us are saying now is, if we are going to continue to make progress, then clearly we have to go beyond what the reconciliation package did with respect to strengthening Medicare.

What we said last year is that we have to pass meaningful health care reform if we are to reduce further the rate of Medicare growth, without hurting beneficiaries and shifting costs onto families and businesses.

That is what we attempted to do last year. The Senator from Utah indicated that the President last year argued we needed $118 billion in additional Medicare cuts. Well, the President proposed these reductions in the rate of growth of Medicare in the context of a health reform proposal that assured costs would not be shifted onto the private sector. Clearly we get cost shifting to the private sector when we cut Medicare without addressing private sector health care cost problems. That is why so many of us argued for so long—and, unfortunately, with so little success—last year that if we are ever going to solve Medicare's problems, we have to address our entire health care system's problems. Unfortunately, Republicans opposed that effort last year.

So, Mr. President, my point in addressing this issue is to clarify again what I believe to be the real issue. The real issue is that we have to make meaningful reforms to Medicare without adversely affecting the beneficiaries and without passing whatever savings we generate on to the wealthiest among us in the form of another tax cut. Real reform is not cutting benefits to the elderly or simply shifting more costs onto them. Real reform must ensure more efficient functioning and administration of the program.

The last issue that I wish to raise with regard to Medicare has to do with the chart the distinguished Senator from Utah used. My chart is not nearly as fancy because we didn't have time to make such an elegant chart, but I think it illustrates my point.

The Senator from Utah indicated that Medicare costs were going up faster than costs in the private sector.

Well, this is only true if you look at overall costs. But if you look at a more meaningful statistic, per capita health care costs, as this chart indicates—on a per enrollee basis, from 1976 to 1984, Medicare costs rose only slightly faster than private sector costs, 14.2 percent, versus 14 percent for the private sector.

But look what has happened from the year 1984 to 1993. In that timeframe, 1984 to 1993, about 10 years, the actual increase in private sector per enrollee costs was 9.8 percent. The increase in Medicare per enrollee costs was 7.7 percent.

These are numbers given to us from HCFA, and I think they make the point I was trying to make again this morning. On a per enrollee basis, there is no doubt that Medicare costs over the last 10 years have not grown as quickly as they have in the private sector. But that, in part, is because we are continuing to do what I just said we do not want to do any more. We do not want to pass Medicare costs on to the private sector. We do not want to say, in the name of reform, all we are going to do is let the private sector take on greater responsibility for health costs.

We have to solve the problem of skyrocketing costs in the private sector, as well as those costs in Government.

And that is exactly what I said this morning and what I hope we can continue to focus on as we consider the Medicare debate.

DAVID PRYOR: A TRUE PUBLIC SERVANT

Mr. DASCHLE. Mr. President, I could not help but listen to the distinguished Senator from Arkansas just a moment ago. All of us will greatly regret his absence beginning in the next Congress.

As we all know, last week, the distinguished Senator from Arkansas, Senator PRYOR, announced his plans to retire.

As the Senate Democratic leader, I feel like pleading with him not to go; to change his mind.

What we heard just this afternoon was another illustration of the value that he is to all of us, the unique individual that he truly is.

While he has been known around town as one of the President's closest friends on Capitol Hill, he is one of my most indispensable allies in the Senate and one of the closest friends that most of us have here in the Senate.

I have constantly drawn on his experience and wisdom for advice and guidance. And I have constantly found his calming influence amidst many a Senate tempest to be essential for my own personal well being as well as that of the U.S. Senate.

But while I recognize that he is a kind, southern gentleman of the first order, I also warn, do not let that calm demeanor fool you. In the Senate, there is not a more tenacious or aggressive fighter for the causes in which he believes than DAVID PRYOR.

Shortly after his election to the House of Representatives, Congressman PRYOR went undercover as an orderly to investigate conditions in nursing homes. When the House refused to conduct hearings on the plight of America's elderly, he rounded up volunteers from local colleges, rented a trailer, and conducted his own hearings in an abandoned gas station a few blocks away from the House Office Building. When the Speaker of the House refused to establish a Committee on Aging, then-Congressman PRYOR turned his trailer into the ad hoc House Trailer Committee on the Aging and continued its investigation.

The House finally established—to no surprise of anyone who watched all of this—a Select Committee on Aging.

When OPM claimed to have cleaned up its act and made Government jobs accessible to all applicants, Senator PRYOR sent his office interns down to that agency to apply for jobs.

He then called them to testify before his Subcommittee on Federal Services, where they informed the Senate about the continuing abuses in that most important Federal job recruiting agency.

The list does not end.

He has taken on the IRS and authored and steered to passage the taxpayers' bill of rights to make our tax system fair and equitable to every citizen and every business.

He has taken on the Beltway Bandits, as he has conducted hearings and demanded more than 40 GAO reports on Government use of what he calls America's shadow government—private consultants.

He has taken on the pharmaceutical companies for the high prices they charge for prescription drugs.

He has stopped production of unsafe and unworkable chemical weapons, even though it meant jobs in his State of Arkansas.

He has conducted a longstanding crusade against what he considers time-consuming and time-wasting Senate procedures like filibusters, dilatory floor tactics, quorum calls, and extended rollcall votes.

But throughout his fights, Senator PRYOR hss remained the gentleman that he is. His fights have always been constructive, not destructive, to the national interest. We need more, not less, positive-minded, cooperative, dedicated Senators like DAVID PRYOR.

While I am tempted to ask him to stay, as his friend, I fully understand and support his reason for leaving.

He has given a lifetime of public service. As a teenager, he worked in Washington, first as a page for Representative Oren Harris, and then in the post office in the House of Representatives.

He had successful careers as an editor-publisher and as an attorney, but he always came back to public service. In 1960, he was elected to the first of three terms in the Arkansas State Legislature.

In 1966, he was elected to the first of four terms in the U.S. House of Representatives. He served two terms as Governor of Arkansas.

Since 1979, he has served in the U.S. Senate. His work in this Chamber has consumed so much of his time and attention. In addition to his most important work as chairman of the Special Committee on Aging, he has been active on the Finance Committee, the Committee on Agriculture, the Joint Committee on the Organization of Congress, the Governmental Affairs Committee. And, yes, even the Ethics Committee.

In addition to all that, he has also served as Democratic Conference secretary.

Senator PRYOR now wants to enjoy life after politics—and there is much to say for that kind of life. Senator Mitchell told me so just the other day.

Senator PRYOR's love for the Senate is exceeded only by his love for his family and his love for the beautiful State of Arkansas—both of which he will now be able to enjoy even more. I wish Senator PRYOR, Barbara, and his family the best in the years ahead and can only say that their gain is our loss.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 956, and the Gorton amendment is the pending amendment.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for morning business until 5:30 p.m., with Senators allowed to speak for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE

Mr. DOLE. Mr. President, last month, the Medicare Board of Trustees issued its annual report. Four members of this committee are appointees of President Clinton—three of them currently serve in his Cabinet.

The trustees concluded that Medicare will begin to go broke next year, and will be completely bankrupt by the year 2002.

If this were to occur, no payments, by law, can be made by Medicare to pay for hospital care or for any other services paid for by the trust fund.

Thirty-three million seniors and four million disabled individuals depend on the Medicare Program every year.

It is for them, and for those who will follow, that we must commit to preserving, improving, and protecting the Medicare Program.

Tuesday, the Speaker of the House and I extended a verbal invitation to President Clinton to sit down with us and to begin working on a bipartisan plan to preserve, improve, and protect Medicare.

Judging from the President's actions in the past weeks, and from remarks he delivered earlier yesterday at the White House Conference on Aging, it appears that the President has once again chosen partisanship over leadership.

Instead of heeding the advice from his trustees, the President heeded the advice of his political pollsters, using yesterday's speech as an opportunity to engage in scare tactics and to mislead America's seniors.

Nevertheless, Speaker GINGRICH and I are willing to give the President the benefit of the doubt. Perhaps he did not watch the news Tuesday evening or read the paper yesterday morning. Perhaps no one at the White House told him of our invitation.

So, yesterday afternoon, a letter from the Speaker and myself was delivered to the White House, and I ask unanimous consent that the text of that letter be placed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. In this letter, we once again extend our invitation to the President, asking him to join us in a bipartisan effort to preserve, improve, and protect Medicare. It was precisely this type of bipartisan effort which saved Social Security in 1983, and it is what is needed today.

And I know a little about the 1983 Social Security effort, because I was a member of that Commission, along with Democrats and members from the private sector, appointed by the then majority leader Howard Baker in the Senate, appointed by then Speaker O'Neill in the House, and President Reagan. And it worked. A lot of people felt at that time Social Security was in deep trouble, and it was in deep trouble. It was about to go broke. The trustees had warned us it was about to go broke. It warned us years ahead it was about to go broke. As often happens around this place, nobody really thought it was going to happen.

When it finally became critical, we moved and we acted, and thanks to the efforts of our colleagues on both sides of the aisle, both sides of the Capitol and President Reagan's effort, we were able to put together a compromise which, since 1983, has secured the solvency of the Social Security trust funds. In fact, Social Security is going to be in good shape for a fairly long time. Some day we will have to address it, but right now the 1983 Social Security fix has worked.

It also appears to me that Treasury Secretary Rubin, Labor Secretary Reich, and Health and Human Services Secretary Shalala, all trustees, all of whom signed the report calling for action now have a great deal riding on the President's response.

The President's inaction to this date suggests one of two things: Either he believes his trustees are incompetent and have reached an erroneous conclusion, or he accepts their conclusion and just does not believe it is the duty of his administration to solve the problem, in which case his trustees are irrelevant. Relevancy has been a matter of some debate around this town.

If, however, he treats the recommendation of his trustees seriously, then he has only one choice: To stop searching for campaign issues and to join Congress in searching for solutions.

I hope that the President, in the same spirit we have been working with the President on welfare reform, on antiterrorism legislation, on NAFTA, GATT, and other examples I can point out where Republicans provided the majority of the votes, working with a Democratic President, I hope the President of the United States will take a look at the trustees' report.

I know there is a conference on aging, and I know the temptation frightens people, scares people and they may pick up a few seniors' votes for the President, but if we do not fix Medicare, as I have indicated, we are not going to be able to make the payments.

The year 2002 seems like a long way off. Why worry about it in 1995? Let me just suggest, by the time you get it put together and by the time you start to implement it, the time will roll by more quickly than we think.

I cannot speak for everyone on this side of the aisle, but I think most of my colleagues are ready and willing to make hard choices. We are not talking about cuts—the President says, "Oh, we can't cut services, we can't do this, we can't do this." We are suggesting every dollar saved in our efforts to protect, preserve and improve Medicare go back into Medicare; not to cut taxes for the rich—as we hear from time to time from our colleagues on the other side of the aisle—or not for budget purposes, except so far as Medicare is part of the unified budget.

So I hope that the President has received our letter and that he will seriously consider it and that he will come to the Capitol, or we can go to the White House—it makes no difference—or we can meet halfway, whatever, and talk about what we may do in a bipartisan way to begin working on what is a serious problem with Medicare.

They are the President's trustees. They are people of integrity, as far as I know; people of competence, as far as I know; people of good judgment, as far as I know. I assume this trustees' report was based on the best information available and they said we should act now. Now means precisely what now means—now, 1995.

So we are prepared to work with the President and members of this administration, we are prepared to work with our colleagues on both sides of the aisle, we are prepared to work with House Members, Democrats and Republicans, and my view is, if we are serious about this, we can do it in a very brief period of time.

So I hope that we can have some response from the President.

The other day I suggested we maybe have a bipartisan commission. That is how we made recommendations on Social Security in 1983. The President called that a gimmick. Well, it was not a gimmick. It was an idea that Speaker O'Neill had at the time and Majority Leader Baker and President Reagan had at the time, and it worked. It was not a gimmick. They made solid recommendations to Congress, and the Congress adopted the recommendations of the commission. I was proud to be a member of that commission, along with Claude Pepper, I might add, who was probably the seniors' greatest representative and voice in Congress, a Democrat from the State of Florida.

So, Mr. President, I certainly hope the President will follow up.

SENATE SCHEDULE

Mr. DOLE. Mr. President, let me say with reference to the schedule, right now there are discussions going on so we can have a substitute offered by Senators ROCKEFELLER and GORTON, and then it would be my intent to file cloture so we can bring the debate on product liability to a close. We have been on this now last week and most of this week. I am not quite certain when they will have the product complete.

I do not believe there will be any further votes today because, frankly, we wanted to move to another matter but it was objected to by my colleagues on the other side. So we will just have to wait and see what agreement can be reached, and then the substitute will be filed and then the cloture motion will be filed.

It is my intent to have the first cloture vote on Monday and if cloture is not obtained, to have a second cloture vote on Tuesday. So I say to my colleagues, we are going to have a cloture vote on Monday. It is very important we be here. We have been on this bill for 2 weeks. I do not want to frighten anybody or discourage anybody, but I can see the August recess going out the window. As much time as we take on every piece of legislation in the Senate, it does not leave the leader any alternative than to say, well, August would have been a great month to be off; a lot of us would like to have done a lot of things.

But the first thing we must do is complete our work, and as slowly as we are proceeding, I do not see how it can be done. Maybe there can be some agreements in the next few weeks, but we are behind schedule now and, I must say, unless we can catch up, I do not believe the American people expect us to be off for 30 days when a lot of the work is not done.

So we will be right here catching up unless we can do so in the next—we have time if we work together, let me put it that way.

I suggest the absence of a quorum. I withhold that request.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, what is the order of the Senate, morning business?

The PRESIDING OFFICER. The Senate is in morning business. Senators have up to 5 minutes each to speak.

A SERIOUS PROBLEM AND A SERIOUS SOLUTION

Mr. DOMENICI. Thank you, Mr. President. First, I just happened onto the floor while our leader was speaking. I compliment him for the subject matter and for what he said. It is obvious we have a very serious American problem, and that is Medicare, and a very serious solution recommended by trustees, four of whom were the President's, two of whom are private citizens. I think our Republican leader has outlined an approach which might resolve this issue.

On the other hand, I came for another purpose. Obviously, most of my time and attention these days is devoted to how we get a balanced budget by the year 2002. But I do not choose to speak about that today.

UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION ACT

Mr. DOMENICI. Mr. President, I want to speak about a bill I introduced yesterday and I did not get a chance to speak on it. It has been introduced and has been referred. It is now known as S. 755. It has a very uninteresting caption and name: United States Enrichment Corporation Privatization Act.

Actually, while that does not sound like much, we hear a lot these days about Russia, Iran, and Russian scientists having to find some way to earn a living. We hear a lot about the fact that Russia has a very significant amount of enriched uranium and that we have agreed, in a sense, to buy it.

Now we find ourselves kind of in a quagmire. Our own trade laws do not let us buy and resell the material because that is dumping. So we have a $4 billion commercial transaction going and the Russians are saying, "Fine, we made a deal, let's do it." And so we have an entity here, the U.S. Enrichment Corporation, currently in existence. It is Government owned, and thus it is corporate only in the sense that we call it a corporation. The U.S. Enrichment Corporation, when we sell it—and what we propose here has been cleared by and looked at by a lot of marketplace people—we believe it will generate $1.5 billion for the Treasury of the United States, when we take the existing Government corporation and put it on the market, make it a corporation.

One of the most difficult issues facing this enrichment corporation and the uranium industry as a whole is how uranium from the Soviet Union is allowed to enter the United States market. Currently, the Department of Commerce enforces a suspension agreement that limits the amount of uranium we can import from the Soviet Union. The suspension agreement enforces U.S. trade laws. Obviously, a straight purchase and resale into the U.S. market would result in dumping. So it will not work.

In 1993, Russia and the United States signed an agreement under which the United States would purchase up to $4 billion worth of natural uranium derived from highly enriched uranium from Soviet nuclear weapons. However, as I indicated, the U.S. trade law prevents that natural uranium from being sold in the United States. The enrichment corporation is responsible, nonetheless, for implementing the Russian agreement. As a result, the $4 billion obligation falls squarely on the enrichment corporation, the one we now have, the Government corporation, because the enrichment corporation is prevented from selling the natural uranium into the U.S. market, which would be illegal since the material is below market price. As a result, the United States Enrichment Corporation cannot pay the Russians. In turn, the Russians argue that they are being shortchanged $4 billion. I do not think one can blame them for that. We have an agreement. But our enrichment corporation cannot buy it, because if they buy it, they cannot use it.

So this legislation solves that problem by enabling the creation of a futures market for natural uranium derived from the Russian agreement. The material could only enter the U.S. market in a controlled manner starting in 2002. Thus, it is not inconsistent with our trade laws.

So this proposal preserves the United States trade commitment, protects the United States uranium industry from unfair dumping, and encourages Russia's important work of dismantling nuclear weapons to continue. This proposal enables the Russians to be able to pay the people that are doing the dismantlement work that with some of the fruits of the disarmament, namely the revenue from the natural uranium. The money would provide the cash flow necessary to keep the Russian minatom employees working to dismantle the Russian nuclear capability and, in turn, the Russians might not be so adamant about selling reactors to Iran for a billion dollars.

So in a very real way, the notion of privatization, which is given sort of a rebirth because of the last election, finds itself settling in on this situation. I happen to have the privilege of chairing the Subcommittee on Energy Research and Development that has this as one of its responsibilities. So the idea of privatizing it fell on our subcommittee, and with the work of some experts and some really exciting ideas encapsulated in this bill, we may indeed retain the enrichment corporation, that is privately owned, privately run, that can indeed make money, and we will succesfully implement the Russian agreement using the futures approach. I do not think we have seen a nicer fit and match than this. In the meantime, we pick up $1.5 billion for the U.S. Treasury.

Now, obviously, there will be a lot of questions about this, and we are understanding of that. We hope that within a month, as soon as we get the budget behind us a little bit here, we can have some hearings on this and get it to the floor this year. We think it is an exciting idea of privatization which accomplishes so many good things at one time that we want to move full speed ahead and see if we cannot get it done. I have good cosponsors. I invite other Senators to take a look. Mr. FORD is a cosponsor. He is ranking member of the subcommittee. We have Senators JOHNSTON, CAMPBELL, THOMAS, and SIMPSON.

I am sure we will have others as soon as they understand it. I look for some of those who work in foreign relations and are worried about Iran and the growing relationships of a monetary nature between Iran and Russia, I look to them to analyze this, and perhaps they can see fit to join us.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I come to the floor—and I listened with great interest earlier to the majority leader, the distinguished Senator from Kansas, talking about a letter that he and the Speaker of the House have written to the President asking for some bipartisan cooperation having to do with Medicare.

Mr. President, for 12 years when we had a Republican President, any time anyone would say, gee, how come Ronald Reagan does not submit a balanced budget, or George Bush does not, the standard response that would come is—mostly, I must say, from Republicans in defense of their Republican President—they would say, "Gee, the President does not spend any money, Congress spends the money." I must say, the Republican defense is accurate. Congress does spend the money. For us to say, gee, the President has the responsibility for spending the money is inaccurate. It is the Congress of the United States of America that passes laws that determine how much money we are going to collect and in what manner we are going to collect it from the American people and how we are going to allocate that money across a whole range of programs.

In fact, the Budget Enforcement Act requires the Congress to produce a budget resolution by the 15th of April, which is several weeks past.

Mr. President, if the majority leader wants to get a bipartisan movement to do something about deficit reduction, there are a number of us on this side of the aisle who are all too willing to do exactly that. It seems to me that is what we need. If we are going to get movement, it ought to be movement inside of the U.S. Congress. There is a ferocious debate. There are ideological differences. The biggest task that faces us is that deficit reduction is tough. The problem with Medicare is not caused by mean and nasty Republicans or mean and liberal Democrats; it is caused by demographics and technology.

The good news is that we are living longer. The bad news is that it is getting more and more expensive for us to pay for the health care for those where we have made a commitment. If you think it is bad over the next 4, 5 years, you ought to see what the entitlement commission says this looks like when my generation begins to retire. This thing goes clear off the charts after the year 2008. So the insolvency of the year 2002 forecast by the trustees is only the tip of the iceberg, Mr. President.

Deficit reduction is difficult precisely because it forces us to make tough choices. This Congress needs to get about the business of doing that. I was disappointed when the President's budget did not address the issue of entitlements. Our Presidential commission worked for an entire year. We made recommendations to the President to try to do something. But I think the President made a calculated judgment. He has to say, I have a Republican Congress and I had a 1993 deficit reduction act and did not get a single Republican to vote for it. In fact, part of the Contract With America promises to take the increase in taxes on a small number of Social Security beneficiaries, about 15 percent, reduce that tax which reduces the flow in Medicare and makes the problem worse. For that and other reasons, perhaps the President decided not to address the issue of entitlements. We know what we need to do in this Congress.

I am very much concerned that this thing is going to degenerate into merely an attempt by Republicans to say, "No, we are right and the Democrats are wrong," or the Democrats saying, "No, we are right and the Republicans are wrong."

For Members to do that for very much longer, Mr. President, maybe we can survive for a week or two or three with partisan blasts back and forth across the bow, but at some point we have a lot of educating, a lot of explaining, and a lot of leading to do.

I spoke last week to the National Press Club and unfortunately the answers that I gave to some questions afterwards got most of the attention. But at the heart of my message is that in deficit reduction, there is not a free lunch. Deficit reduction is not something that we are doing just to seek political advantage or curry favor with the voters, because the voters want deficit reduction. Deficit reduction has a positive effect upon our economy because it increases savings.

The majority leader indicated we do not need to do anything with Social Security. With great respect, I disagree. I believe Social Security also needs to be reformed, because unlike the common perception of Social Security, Social Security itself is not a savings program.

I inform anyone who might be listening to this right now that Social Security is a commitment on the part of those generations that are in the work force to allow themselves to be taxed at a fixed percentage of their wages, the money going to those generations that are out of the work force, who are retired.

The program started off as a 1-percent tax on wages. The retirement age was 6 years after normal life expectancy when the program started. Today, it is 12 percent of our wages. And 12 percent of our wages, promised to pay beginning in the year 65, which is 11 years this side of normal life expectancy.

It is a demographic problem, Mr. President. I appreciate the majority leader saying we do not need to address it because we have enough money coming in, but do not tell that to a 20-year-old, a 30-year-old, or a 40-year-old.

We had Director Rivlin before the Treasury Postal Subcommittee on Appropriations this afternoon, and I asked her about the deletion of intergenerational accounting in last year's budget. She expects the report to come out.

My effective tax rate over the course of my lifetime is about 34 percent—my generation. But the generation right behind, if we do not take action with Social Security and with Medicare relatively quickly, they are looking at an effective tax rates in excess of 80 percent—in excess of 80 percent—in an economic environment where their lives are apt to be more difficult to begin with.

I believe what is needed is for Members of Congress to come and say, OK, we will fire a few shots across the bow here at Democrats, pointing out that Republicans, for 12 years when a Republican President was in the White House, said it was Congress' responsibility. Now that we have a Democrat in the White House they are not looking across the aisle and saying, as Congress we should fix it. They sent a letter to the President and said, "How come you are not doing something about this?"

I believe it is our responsibility under the Budget Enforcement Act to deal with this budget problem, and it is going to be tough. I note with great alarm a poll—in fact it has been distributed not just to Democrats but to Republicans as well, and may, in fact, have contributed not just to the President's address to his Conference on Aging, but to a remarkable address on the part of the Speaker of the House, going to the seniors coalition. He got several standing ovations, I might point out.

Why would he not? He made it sound like the Medicare solution is easy. "We will give seniors choices. We will let you keep the savings of 10 percent. If you find waste, fraud and abuse, it will be easy. We do not have it get Medicare all tied up in that nasty old budget deficit debate, we will move it aside, and it is all going to get real easy."

It is not easy. We either ask Americans to pay more or we give them less, or some combination of the two. Or we turn and honestly say to our kids that their effective tax rates will be higher. It will not be 15 percent of wages. That is what it is today. But if we do not take action in the next couple of years, that tax rate will be 20 percent. Or they will have to look to their parents and cut their benefits enormously. Time is on our side right now, Mr. President, but it is not going to be on our side for very much longer.

I genuinely hope that after we fired our few little political rounds here that the Democrats and the Republicans can, in fact, get together. We are the ones that by law have the responsibility for passing not only authorizing legislation but appropriation legislation and we have to change our laws.

I was very alarmed to read in the newspaper this polling data that shows that 45 percent of the American people would not vote for any representative who voted to reduce the increases in Medicare. Fifteen percent would vote for them, if they did.

I note again in Gerald Seib's piece in the Wall Street Journal, I believe yesterday, saying that a full 48 percent of the American people think that we are not spending enough on seniors, 48 percent.

If we think that is greedy seniors, it is not. Only 34 percent of the people over 65 say we are not spending enough. It is people 18 to 34, by over 50 percent. Less than 5 percent say we spend too much.

That is not what our budget shows, Mr. President, whether it is at the State or Federal level. No one who seriously examines our budget believes that the problem is we are not spending enough on people over the age of 65. That is not the problem we face.

I sincerely hope—I must say it may require me to do more than hope. I may have to raise my voice and do a lot of praying before we can bridge the rhetorical gap that divides the Republicans and Democrats on the Senate floor. I think there is a bipartisan group that is willing to come to the American people and begin by simply saying "This is the truth," not hyperventilate and say things that sound like we are on the side of the angels and the other side is on the side of devil, but just say, "This is the truth."

Look at the numbers. We do not fix this thing by getting rid of waste, fraud, and abuse. We will not fix this thing by sort of tinkering at the edge and say, "I will give you choice. We will put it off into managed care." That is not going to work.

We either accept responsibilities that we have as citizens to say that if we ask for something we will pay for it. And we are not going to ask for any subsidy that we neither need or deserve. That is part of the problem now.

We have an awful lot of people in America, whether corporations or individuals, that do not need subsidies and we are giving them subsidies. They make a good case for it for social or economic reasons, and we shovel the money out and find ourselves when it comes time to taking care of people who need it, we are woefully short of either the resources of trying to do anything.

I am down here right now to offer a constructive engagement to the majority leader saying that this is not the President's problem. This is not his fault. The President of the United States submits his budget. I was critical of it for leaving entitlements out and not doing the intergenerational accounting, but by law it is the Congress of the United States of America that must make these decisions.

We are now almost 4 weeks late, according to the Budget Enforcement Act, of coming up with a budget resolution. I trust that when the distinguished chairman of the Budget Committee, the Senator from New Mexico comes up with a budget, that he will need Democrats on this Senate floor to come with him and say, "We will join to make an effort to go out and explain it to the American people."

I will say what my price is, Mr. President, so it can be clear. I do not want anybody saying, "I wonder what KERREY wants?" We will not do a $300 billion, 7-year tax cut. That is for openers. That is my price. Want to negotiate a bipartisan fashion? Have to give the $300 billion tax cut? That is nonsense. What kind of nonsense is that? Give up $300 billion?

Only yourself to blame when people get up and say, "Gee, $300 billion tax cut and $300 billion Medicare cut. Aren't you paying with Medicare for the tax breaks to individuals?" It looks that way. We do not have to do much in the way of pumping hot air into that argument. It looks like that is what is going on.

Republicans have to take that $300 billion tax cut and forget it. Democrats on the other hand, will have to say we will give on entitlements. We will tell the truth on entitlements. We will inform the American people.

I believe Republicans as well will have to say, OK, maybe we scored some great political point in last year's election by alleging that when Democrats voted for the 1993 Deficit Reduction Act without a single Republican voting for it in the House or the Senate, we took a little political advantage by saying that every Social Security beneficiary had a tax increase.

Do not tell me that Republicans were not saying that. I have heard it. I have seen it in advertisements. It worked. If I was a Republican and I had not voted for that, I would have done the same thing. It is an effective way to score political points.

For gosh sakes, we cannot take that tax, I think, fairly applied at 85 percent of income, reduce it to 50 percent, that takes money out of the Medicare part A fund. That makes the problem worse, not better. That is my two opening steps.

I also think, by the way, that those of us who worked in the mainstream group last year, Republicans and Democrats, led by the distinguished Senator from Rhode Island—who worked so very hard to hold that mainstream group together—were pretty close to being on target when it came to health care. We did ask people to pay the full bill. We did ask people to share the cost of health care. We did not say there is a free lunch here.

We had a reasonable plan, it seems to me, that was in the middle. Today, of course, health care reform is not very fashionable. But we had a bipartisan group of Republicans and Democrats who worked long and hard and got very close to a piece of legislation that I think, frankly, had we had a little more time, we might have been able to pass and we might not be in this fix we are in right now, trying to figure out what we are going to do about Medicare.

If we treat Medicare only as a budget issue and not as a health care issue, we are going to find ourselves doing what none of us wants to do, in my judgment, and that is taking that couple out there who is working really hard, that American couple out there, where you have both the husband and wife—and we all know who we are talking about here—working for $5 and $6 and $7 an hour each and by the time they pay their payroll taxes and income taxes they have precious little money left; those individuals are, right now, if we treat Medicare only as a budget issue, going to find themselves paying a lot more money than they already are for health insurance. We are going to make their lives more miserable. Those Americans who say: I do not want to be on welfare; who say I do not want the Government of the United States of America to give me food stamps; I do not want to be on AFDC; I am willing to work at McDonald's; I am willing to work at Radio Shack; I am willing to work wherever I have to, but I am going to earn my own way—those are the individuals in the United States of America today that are in the greatest amount of trouble, the ones who are not asking us for anything. Those individuals are going to suffer, in my judgment, if we treat Medicare only as a budget issue.

So I say, here is one Democrat who is willing to work with Republicans. I have worked with the Senator from New Mexico on budget issues before and was pleased to be able to join with him on his U.S.A. Tax, an item that I believe in fact will generate more money for the U.S. Treasury by allowing people not to pay taxes on their savings and businesses expense off their investments that they made.

We have to look not just at how much money we are generating, we have to look at ways to generate tax money that encourage economic growth, because in the end that is going to determine whether or not we are able to pay for anything, whether it is defense, or Medicare, or Social Security, or whatever it is.

So I hope in the end of perhaps the next 3 weeks, after we have all had a little political fun here and scored our political points, that Democrats come and say: Here are our values. I am a Democrat and I believe the laws of the United States of America ought to say every single American has an opportunity to move up the economic ladder. I am willing to say you have to make an effort. There is no free lunch here. You have to work hard to do it.

But I understand, if you are making $5, $6, $7 an hour, you have a tough time paying for health insurance; that retirement does not mean much for you; you are having a difficult time with child care because it is $500 or $600 a month for a couple of kids. I understand you are frustrated because you read in the newspaper and see there is an 80-percent differential between what you can earn with a college degree and what you can earn with a high school degree, and yet you are not setting enough money aside for your kids. Then, when it comes time for you to get a college loan, you are told you are maybe making too much money; you are no longer eligible.

So I am prepared to come and say: Here are my Democratic values. Here is what I believe in as a Democrat. I will bring those arguments to the table. But when it comes to deficit reduction, we are going to have to act like Americans. At some point, I am going to have to be willing to give. I am willing to give on entitlements. I am willing to go out on Medicare, Medicaid, Social Security, and say to the American people: Here is the truth.

This is not the time, it seems to me, for us merely to hope we can score political points over the other party. This is the time for us to surprise the marketplace—and it would be a surprise if the Congress of the United States of America, in spite of the fact that we have a budget recommendation that calls for $200 billion deficits and no action on entitlements, can somehow manage to get together, Republicans and Democrats who care about deficit reduction, and surprise the marketplace and enact this year a 5- or 6- or 7-year deficit reduction plan that would get us to a balanced budget.

I think the American people would not only be pleased—they may not like some of the cuts we put in place—but I think they would be pleased because the economy of the United States of America would grow, long-term interest rates would go down, the dollar would strengthen, and we would be creating more jobs again.

I hope and pray in fact that this Congress does what the laws and the Constitution say we are supposed to do, and that is do the hard work of budgeting; make the hard choices that are required in budgeting. Then, once we have produced a budget resolution with both Republicans and Democrats on board, then it is time for us to challenge the executive branch, the President, to pony up and share some responsibility by going to the American people and saying he believes Congress has finally got it right.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–833. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–834. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–835. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–836. A communication from the Acting Executive Director of the National Mediation Board, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–837. A communication from the Secretary of Housing and Urban Development's Designee to the Federal Housing Finance Board, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–838. A communication from the President of the Inter-American Foundation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–839. A communication from the Director of Selective Service, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–840. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–841. A communication from the Senior Counsel and Negotiator of the Office of the U.S. Trade Representative, Executive Office of the President, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–842. A communication from the Secretary of the Judicial Conference of the United States, transmitting, a draft of proposed legislation entitled "The Federal Courts Improvement Act of 1995"; to the Committee on the Judiciary.

EC–843. A communication from the Chief Justice of the Supreme Court, transmitting, pursuant to law, the report of amendments to the Federal Rules of Appellate Procedure; to the Committee on the Judiciary.

EC–844. A communication from the Attorney General, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on the Judiciary.

EC–845. A communication from the President of the Foundation of the Federal Bar Association, transmitting, pursuant to law, the report of the audit for fiscal year 1994; to the Committee on the Judiciary.

EC–846. A communication from the President of the American Academy of Arts and Letter, transmitting, pursuant to law, the report of activities for calendar year 1994; to the Committee on the Judiciary.

EC–847. A communication from the Secretary of Labor, transmitting, pursuant to law, the report and recommendations of the Reporting and Disclosure Work Group for fiscal year 1994; to the Committee on Labor and Human Resources.

EC–848. A communication from the Secretary of Education, transmitting, a draft of proposed legislation entitled "The Career Preparation Education Reform Act of 1995"; to the Committee on Labor and Human Resources.

EC–849. A communication from the Secretary of Education, transmitting, pursuant to law, the report entitled "Summary of Chapter 2 Annual Reports 1992–93"; to the Committee on Labor and Human Resources.

EC–850. A communication from the Secretary of Labor and the Executive Director of the Pension Benefit Guaranty Corporation, transmitting jointly, pursuant to law, the report of financial statements for fiscal year 1994; to the Committee on Labor and Human Resources.

EC–851. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the financial statements of the Pension Benefit Guaranty Corporation's Single-Employer Fund for fiscal years 1993 and 1994; to the Committee on Labor and Human Resources.

EC–852. A communication from the Assistant Secretary of Education (Civil Rights), transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Labor and Human Resources.

EC–853. A communication from the Board Members of the Railroad Retirement Board, transmitting, a draft of proposed legislation entitled "The Railroad Retirement and Railroad Unemployment Insurance Amendments Act of 1995"; to the Committee on Labor and Human Resources.

EC–854. A communication from the Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Labor and Human Resources.

EC–855. A communication from the President of the U.S. Institute of Peace, transmitting, pursuant to law, the report of financial statements for fiscal years 1993 and 1994; to the Committee on Labor and Human Resources.

EC–856. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report on cases granted equitable relief in calendar year 1994; to the Committee on Veterans' Affairs.

EC–857. A communication from the Deputy Assistant Secretary of the Air Force (Communications, Computers and Support Systems), transmitting, pursuant to law, the report of a cost comparison study to reduce the cost of operating the Mess Attendant function; to the Committee on Armed Services.

EC–858. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report on the Panama Canal Treaties for fiscal year 1994; to the Committee on Armed Services.

EC–859. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice of the intention to offer a grant transfer; to the Committee on Armed Services.

EC–860. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report of plans for the depot-level maintenance; to the Committee on Armed Services.

EC–861. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to the Trident II (D-5) missile program; to the Committee on Armed Services.

EC–862. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "The Military Construction Authorization Act for Fiscal Year 1996"; to the Committee on Armed Services.

EC–863. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "The National Defense Authorization Act for Fiscal Year 1996"; to the Committee on Armed Services.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, without amendment:

S. 184. A bill to establish an Office for Rare Disease Research in the National Institutes of Health, and for other purposes (Rept. No. 104–79).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself, Mrs. FEINSTEIN, Mr. SIMON, and Mr. LEVIN):

S. 757. A bill to amend title 10, United States Code, to terminate the Civilian Marksmanship Program; to rescind funding for the National Board for the Promotion of Rifle Practice; and for other purposes; to the Committee on Armed Services.

By Mr. HATCH (for himself, Mr. PRYOR, Mr. SIMPSON, Mr. BREAUX, Mr. LUGAR, Mr. LEAHY, Mrs. HUTCHISON, Mrs. MURRAY, Mr. BOND, Mr. KEMPTHORNE, Mr. JOHNSTON, Mr. FORD, Mr. ROBB, Mr. DORGAN, Mr. KERREY, Mr. KYL, Mr. BAUCUS, Mr. CRAIG, Mr. COCHRAN, Mr. COHEN, Mr. GRASSLEY, Mr. D'AMATO, Mr. BENNETT, and Mr. BINGAMAN):

S. 758. A bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes; to the Committee on Finance.

By Mr. BRADLEY (for himself and Mr. HOLLINGS):

S. 759. A bill to amend the Immigration and Nationality Act to limit the adjustment of status of aliens who are unlawfully residing in the United States; to the Committee on the Judiciary.

By Mr. ROCKEFELLER:

S. 760. A bill to establish the National Commission on the Long-Term Solvency of the Medicare Program; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. MURRAY:

S. Con. Res. 12. A concurrent resolution expressing the sense of the Congress concerning the trafficking of Burmese women and girls into Thailand for the purposes of forced prostitution; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself, Mrs. FEINSTEIN, Mr. SIMON and Mr. LEVIN):

S. 757. A bill to amend title 10, United States Code, to terminate the Civilian Marksmanship Program; to rescind funding for the National Board for the Promotion of Rifle Practice; and for other purposes; to the Committee on Armed Services.

THE CIVILIAN MARKSMANSHIP PROGRAM TERMINATION ACT OF 1995

Mr. LAUTENBERG. Mr. President, this morning I rise to introduce a bill to terminate a program that I think has long outlived its usefulness. It is called the Army Civilian Marksmanship Program.

It is no secret that I do not like this program. In fact, I offered an amendment to terminate it in the last Congress. It got 30 votes. The arguments then may not have been persuasive. But perhaps recent events will change that.

Like everyone else, I read the reports that come out about the terrorist bombing in Oklahoma City. And they are shocked by the scope of that tragedy. Every day we hear more and more news about confirmed dead and the fact that the search may in fact have to be abandoned. It is a tragedy that will live on forever in the minds of our democratic society and throughout the world.

But in one of these stories, Mr. President, I found information that members of extremist militia groups in this country may have received weapons, ammunition, and training at Army facilities under the auspices of the Civilian Marksmanship Program.

Indeed, Mark Koerneke, the leader of the Michigan-based militia group, told ABC's "Prime Time Live" that he had access to U.S. military bases in Michigan for the purpose of training through this program.

We all know that one of the individuals accused of masterminding the Oklahoma City bombing, Timothy McVeigh, was associated with the Michigan-based militia group. I do not know, Mr. President, whether Timothy McVeigh received training and ammunition under the Civilian Marksmanship Program. But I know it is possible that he did.

A few days ago, Mr. President, I wrote to Secretary Perry and urged him to conduct an investigation to determine the veracity of the reports linking members of extremist militia groups to the Civilian Marksmanship Program. I also called on the Pentagon to immediately suspend the Civilian Marksmanship Program and propose terminating it in the long run.

I ask unanimous consent that a copy of the letter I sent to Secretary Perry, along with a press report related to Mark Koerneke's comments, be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXHIBIT 1

U.S. SENATE,
Washington, DC, May 2, 1995.

Hon. WILLIAM J. PERRY,
Secretary of Defense,
The Pentagon,
Washington, DC.

DEAR SECRETARY PERRY: Recent press reports indicate that members of extremist militia groups in this country may have received weapons, ammunition, and training at Army facilities under the auspices of the Civilian Marksmanship Program (CMP). I am writing to urge you to conduct an investigation to determine the veracity of these reports and to ask that you provide me with a list of all the clubs that participate in the CMP program. In the interim, I urge you to immediately suspend the CMP and propose terminating it in the long run.

As you know, I have long believed the CMP is a low priority program and is an egregious example of waste in government. The program promotes rifle training for civilians through a system of affiliated clubs and other organizations, and sponsors shooting competitions. As part of these activities, the program donates, loans, and sells weapons, ammunition and other shooting supplies.

The program was first established in 1903, at a time when civilian marksmanship training was believed to be important for military preparedness. Yet, according to a report by the General Accounting Office, the program now has limited military value. As Army officials told the GAO, no Army requirements exist for civilians trained in marksmanship, and no system is in place to track program-trained personnel. In a March 15, 1994 hearing in the Senate Defense Appropriations Subcommittee, Army Secretary West stated that national security objectives will be met with or without the CMP.

In essence, the CMP provides a taxpayer subsidy for recreational shooting. In light of budget deficit we face and the military needs we ought to address, this simply is not a justifiable use of scarce resources. After all, defense dollars are not used to subsidize other sports. They ought not to be used to subsidize a shooting program which has no relationship to military needs and requirements.

At a minimum we ought to ensure the CMP is not being used to train and arm members of extremist militia groups. The American people have a right to know that their tax dollars are not being used to train people who pose a threat to law abiding citizens and to peace and order in this country.

I appreciate your prompt attention to this request.

Sincerely,

FRANK P. LAUTENBERG.

U.S. RIFLERY PROGRAM MAY AID MILITIAS

(By Colum Lynch)

NEW YORK.—Even as the Clinton administration moves to monitor extremist groups that hate federal agencies, the government continues to fund a $2.5 million program that may have provided elements of such groups with low-cost surplus weapons, free bullets and access to Army training facilities.

Mark Koernke, the shortwave radio broadcaster and leader of the Michigan Militia group that disdains the federal government, suggested the embarrassing prospect that the government was aiding some of its domestic adversaries when he told ABC's "Prime Time Live" Tuesday that he had gained access to US military bases in Michigan to train through the 92-year-old Civilian Marksmanship Program.

Critics of the federal program, which provides about 1,150 civilian gun clubs around the country with access to military firing ranges and more than 40 million rounds of free ammunition, are demanding that the Pentagon immediately suspend the financing and launch an investigation into whether the program has provided training facilities and equipment to Koernke and to antigovernment militia groups.

Investigators also want to probe for possible links to Oklahoma City bombing suspect Timothy McVeigh, and brothers James and Terry Nichols, who allegedly helped McVeigh produce explosives in recent years.

"Our government may be inadvertently arming and training individuals and groups whose goal is to harm law enforcement officials and other innocent people," said Rep. Carolyn Maloney, a New York Democrat who has led an unsuccessful two-year battle in Congress to halt the program.

To be sure, many thousands of law-abiding gun enthusiasts have used the program over the years to hone their skills with no other goal than to operate their weapons safely, effectively and peacefully. In Michigan alone, there are 51 clubs with more than 6,400 members in the riflery program.

Army officials yesterday defended the program as a valuable public service, particularly useful in training youths to handle weapons. Still, the Pentagon last year suggested the program might have outlived its usefulness.

The program was started in 1903. Military officials during the Spanish-American War were appalled at the ineptitude of American marksmanship and sought to remedy that by providing rifle training to civilians in peacetime.

"It was discovered that the majority of Americans who were recruited to fight in that war couldn't hit the side of a barn," said Martha Rudd, an Army spokeswoman in Virginia. "The program has been continued ever since. And the only way that it can be made to go away is if Congress makes it go away."

In addition to providing civilian marksmen with access to military facilities, the Army also sells up to 6,000 surplus M-1 rifles annually to club participants at a bargain cost of $250 apiece. Each year, the program funds what one Army official called "the World Series of marksmanship," a shooting tournament at Camp Perry, Ohio, hosted by the Army and the National Rifle Association.

Army officials said yesterday that the riflery program is an innocent recreational affair that promotes civic virtue and in particular aids the safe training of youths ages 10 to 18. In the 1980s, Rudd said, the military worked to discourage more extreme militia organizations from participating by insisting that each club chapter include at least 10 youths.

But she said that adults are welcome to participate and that it is impossible to say whether Koernke or other groups hostile to the government received ammunition or purchased weapons through the program.

In a letter to Defense Secretary William J. Perry, Maloney requested a list of the gun clubs and military bases participating, as well as information on "links between this program and militia groups or individual extremists." Rudd said no investigation into the program had been initiated.

Maloney also circulated a bill calling on Congress to end the program.

"Long before this bombing, the Civilian Marksmanship Program stood out as one of the most ridiculous items in the federal government budget," she said. "We're slashing funding for abused children, foster care and child nutrition, yet we're subsidizing recreational marksmanship."

Indeed, the Pentagon issued a report to Congress last year that said the program no longer served a military purpose. Even conservative commentator George Will has referred to it as "petrified pork." However, largely because of lobbying by the NRA and resistance from some Democratic and Republican supporters, the program has survived.

"The NRA has been the official agent for the Civilian Marksmanship Program," contended Bob Walker, the legislative director for Handgun Control Inc., a Washington-based group advocating gun control. "In order to qualify for surplus rifles and free ammunition, one of the requirements is that you belong to the NRA. This program is a subsidy for the NRA and its members."

The NRA press office did not respond yesterday to several requests for an interview.

Mr. LAUTENBERG. Mr. President, I have long believed the Civilian Marksmanship Program is a low-priority program and an egregious example of waste in government. The program promotes rifle training for civilians through a system of affiliated clubs and other organizations, and sponsors shooting competitions. As part of these activities, the program donates, loans, and sells weapons, ammunition, and other shooting supplies.

The program was first established in 1903, soon after the Spanish-American War, at a time when civilian marksmanship training was believed to be important for military preparedness. Back then, some Federal officials were concerned that recruits often were unable to shoot straight. The officials believed that a trained corps of civilians with marksmanship skills would be useful to prepare for future military conflicts.

Mr. President, that may have made sense in 1903. But this is 1995. The Spanish-American War ended more than 90 years ago, and things have changed.

According to a report by the General Accounting Office, the program now has limited military value. As Army officials told the GAO, no Army requirements exist for civilians trained in marksmanship. In a March 15, 1994, hearing in the Senate Defense Appropriations Subcommittee, Army Secretary West stated that national security objectives will be met with or without the Civilian Marksmanship Program.

Unlike the situation in 1903 and the Spanish-American War, today we have well-trained Reserves and National Guard Forces, and we have advanced, high-technology weapons systems. The military does not need a ready supply of ordinary civilians who know how to shoot a rifle.

Even if we did need such a corps, the program does not give us one. No system is in place that tracks the program-trained personnel, and the program is not part of the Army plan for mobilizing forces in an emergency.

In essence, the Civilian Marksmanship Program provides a taxpayer subsidy for recreational shooting. In light of the budget deficit we face and the military needs we ought to address, this simply is not a justifiable use of scarce resources.

After all, defense dollars are not used to subsidize other sports. They ought not be used to subsidize a shooting program which has no relationship to military needs and requirements. Training young people to play baseball is a nice thing to do, but the Government does not subsidize Little League. We do not give children free baseballs? Why should we give them bullets?

Mr. President, Americans are deeply cynical about the Congress. They think we are controlled by narrow special interests and that we are wasting taxpayers' money on useless boondoggles. A program like bucks for bullets only reinforces that image.

It also makes people wonder about our priorities. After all, how can we close military bases and lay off thousands of defense workers while spending money on recreational gun clubs? How can we fail to fully fund Head Start if we can pass out free bullets to school kids? How can we omit funds for people unable to afford a college education if we can find millions to teach kids how to shoot?

Where is our sense of priorities? Where is our common sense?

Mr. President, I hope my colleagues will agree that it is time to end this program. At a minimum, Mr. President, we ought to ensure the Civilian Marksmanship Program is not being used to train and arm members of extremist militia groups. The American people have a right to know that their tax dollars are not being used to train people who pose a threat to law-abiding citizens and to peace and order in this country.

I urge my colleagues to cosponsor this bill, and I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF THE CIVILIAN MARKSMANSHIP PROGRAM.

Chapter 410 of title 10, United States Code, is amended—

(1) by striking out sections 4307, 4308, 4310, 4311, 4312, and 4313;

(2) in section 4309—

(A) in subsection (a), by striking out "and by persons capable of bearing arms" and inserting in lieu thereof "law enforcement agencies"; and

(B) in subsection (b), by striking out "civilians" each place it appears in paragraphs (1) and (3) and inserting in lieu thereof "law enforcement agencies"; and

(3) in the table of sections at the beginning of chapter 410 of such title, by striking out the items relating to sections 4307, 4308, 4310, 4311, 4312, and 4313.

SEC. 2. RESCISSION OF FUNDS FOR NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE.

The unobligated balance of the funds appropriated by title II of Public Law 103–335 under the heading "NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY" is rescinded.

SEC. 3. FISCAL YEAR 1996 FUNDING NOT AUTHORIZED FOR THE NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE.

Funds are not authorized to be appropriated for the National Board for the Promotion of Rifle Practice.

Mrs. FEINSTEIN. Mr. President, I rise in support of the Senator from New Jersey in this legislation to rescind the appropriation for the Civilian Marksmanship Program. I do so for a number of reasons, and I want to briefly cite them.

At a time when our Government and this body is cutting virtually every program that benefits people all across the board, I think the Civilian Marksmanship Program is one program that is truly expendable and can be rescinded. As was pointed out, the military has said this program is not necessary. The General Accounting Office in 1990 found the program unnecessary and not related to the military mission.

In March 1994, the Department of Defense testified before the Defense Subcommittee on Appropriations that the Civilian Marksmanship Program was not related to our Nation's military readiness and had no effect on our national security objectives.

About a week ago, Mr. President, I had a group gathered of major law enforcement organizations to talk about the intended repeal of the assault weapons legislation, and the head of a Federal law enforcement organization handed me a copy of the National Rifle Association's letter, a 6-page direct-mail piece that went out, and said to me this was received by one of our law enforcement people who was, frankly, amazed that this kind of rhetoric could appear on an NRA direct-mail piece.

I took a look at it, and I was astonished by what I saw. Since that time, a number of Members of the Senate have commented in the Chamber on their concern about this piece. It was thought that the National Rifle Association might agree that it was hyper hyperbole and that it seemed to have a purpose to incite people to take action against the Federal Government, and it made statements which were in effect libelous; they were untrue; they were slanderous; statements like it did not matter to those of us who support the assault weapons ban that it gave "jack-booted Government thugs more power to take away our constitutional rights, break in our doors, seize our guns, destroy our property, and even injure or kill us."

Mr. President, I have had a lot of things said about me but never that. That is untrue. It is a lie. It is patently false and it is said for one reason and one reason only, and that is to incite people.

Then it goes on to say, "President Clinton's army of antigun Government agents continue to intimidate and harass law-abiding citizens. In Clinton's administration, if you have a badge, you have the Government's go ahead to harass, to intimidate, and to even murder law-abiding citizens."

On its face, that is slanderous and in writing it is libelous. It is factually untrue. It is said but for one reason and one reason only. And that is to incite and develop hatred against the Federal Government and the very people who carry out the intent of the laws that we in this body and the other body pass and are signed by the President and become the law of the land. I do not think this body can condone this kind of rhetoric.

Now, is this connected with the Civilian Marksmanship Program? Not directly. Not directly. But indirectly it is, because the NRA effectively participates in this program—it is estimated by some to the extent of $1 million out of the $2.5 million appropriation.

Moreover, given the association's refusal to recant this letter, a letter which is blatantly political and inciting, certainly not one of a nonpolitical organization, should Federal funds benefit a political organization of this type? I would come down and say no, Federal moneys should not go to benefit an organization that openly admits it plays a major political role in the election and in the unelection of Members of Congress and members of other local bodies.

I believe letters of this kind really defeat its purpose as a so-called nonpolitical organization.

In addition, I am disturbed about recent reports, such as the ABC "PrimeTime Live" episode and a Boston Globe article, that describe how militia members brag that they have received ammunition, surplus weaponry, and training on Army bases through the Civilian Marksmanship Program.

I do not know whether this is true or not. I have no way on my own of verifying it, but the fact is they did brag that this was the case.

In fact, my staff was recently told by the Department of Defense about a recent incident where a military security patrol monitoring an Army rifle range saw that club members were using the range and wearing Michigan militia patches. These club members were asked to leave the range, which is located at Camp Grayling, MI, on April 27.

As DOD staff admit, there is nothing in the regulations of this program to prevent militia members from joining civilian marksmanship clubs and receiving ammunition, weaponry, and access to military training facilities, because—and I stress this—the program does not check members for their membership in other organizations or limit the number of adults that can join.

So in light of these reports, which suggest this possibility to train, supply, or subsidize anti-Government extremist militias, and the letter which seems to indicate to me, and I think to other reasonable readers of the letter, that the National Rifle Association is willing to go a step further to raise the level of the rhetoric, to increase the hostility, one can certainly question the wisdom of Federal dollars going to provide weapons and bullets and training to groups who may—and I say may and I say might—use these weapons and use that training against the very people that this body empowers to carry out our laws.

So I believe the time has come to take definitive, direct action and, by that action, to send a message that we will not, in fact, tolerate this. That is why I am cosponsoring this legislation, and I hope this body will be receptive to its passage.

By Mr. HATCH (for himself, Mr. PRYOR, Mr. SIMPSON, Mr. BREAUX, Mr. LUGAR, Mr. LEAHY, Mrs. HUTCHISON, Mrs. MURRAY, Mr. BOND, Mr. KEMPTHORNE, Mr. JOHNSTON, Mr. FORD, Mr. ROBB, Mr. DORGAN, Mr. KERREY, Mr. KYL, Mr. BAUCUS, Mr. CRAIG, Mr. COCHRAN, Mr. COHEN, Mr. GRASSLEY, Mr. D'AMATO, Mr. BENNETT, and Mr. BINGAMAN):

S. 758. A bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes; to the Committee on Finance.

THE S CORPORATION REFORM ACT OF 1995

Mr. HATCH. Mr. President, on behalf of myself and Senator PRYOR, I rise today to introduce the S Corporation Reform Act of 1995. We are pleased to be joined by Senators SIMPSON, BREAUX, LUGAR, LEAHY, HUTCHISON, MURRAY, BOND, KEMPTHORNE, JOHNSTON, FORD, ROBB, DORGAN, KERREY of Nebraska, KYL, BAUCUS, CRAIG, COCHRAN, GRASSLEY, D'AMATO, COHEN, BENNETT, and BINGAMAN.

Mr. President, today almost 1.7 million businesses pay taxes as S corporations and the vast majority of these are small enterprises. As we all know, small business is the engine that drives American job creation. It is important to note that while in ordinary times, small businesses create half of the new jobs in this country, in times of recovery, this number jumps to 75 percent. It is obvious that the tax and economic policies of this Nation should support and sustain the creation and growth of small businesses. Our economic future depends on the health and strength of our small business sector.

This is why we are introducing a bill today to strengthen small businesses.

Mr. President, this bill will help to fine-tune the Nation's job-creating engine of small business in three ways: by improving access to capital, by making it easier to pass on family-owned businesses from one generation to the next, and by simplifying many of the outdated, unnecessary and complex tax rules that apply to S corporations.

One of the biggest problems facing small business is that of attracting adequate capital. This bill helps to expand access to capital by S corporations by increasing the number of permitted shareholders from 35 to 50, by permitting tax-exempt organizations to be shareholders, and by allowing non-citizens to own S corporation stock. It will also modernize S corporation financing by allowing them to issue preferred stock and convertible bonds.

Further, this legislation will make it easier for one S corporation to own another corporation. Our outmoded rules already permit this, but not without a sizeable diversion of capital away from productive investment and into the pockets of lawyers and accountants. This bill's provisions will streamline small business structure and return common sense to the realm of business ownership.

Additionally, the bill will help preserve family-owned businesses by making it easier for families to establish trusts funded by S corporation shares, and by counting all members of a family who hold S corporation stock as a single shareholder. These are important provisions, Mr. President, because so many successful small businesses fail to survive beyond the first generation.

Finally, the bill will repair a number of outmoded, inefficient provisions of S corporation tax law. Among the revised rules are a provision giving fringe benefits in S corporations the same tax treatment provided to ordinary corporations, and another which will stop corporate elections from being invalidated by mere technicalities. Most importantly, all of the bill's provisions have been carefully designed to avoid creating future difficulties for America's small businesses.

In my home state of Utah, there are thousands of current and future entrepreneurs for whom this bill will provide much-needed financial and legal flexibility in the increasingly competitive marketplace. Throughout the country, small businessmen and women have been clamoring for relief from our Nation's outdated and inflexible policies regarding S corporation.

I encourage my colleagues to support this badly needed legislation, which will give small businesses the strength and flexibility they will need to thrive into the next century.

Mr. President, there is much talk these days about tax simplification and about throwing out the old tax system and starting over again with a better one that makes more sense. This debate is a very positive thing for this country and I believe it will eventually lead to some vast improvements in the way our economy operates. In the meantime, however, let us not overlook some of the relatively simple and noncontroversial changes that will make our tax system work better. This bill represents such changes. These are improvements that we can make right now that will help small and growing businesses.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "S Corporation Reform Act of 1995".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—ELIGIBLE SHAREHOLDERS OF S CORPORATION

Subtitle A—Number of Shareholders

Sec. 101. S corporations permitted to have 50 shareholders.

Sec. 102. Members of family treated as 1 shareholder.

Subtitle B—Persons Allowed As Shareholders

Sec. 111. Certain exempt organizations.

Sec. 112. Financial institutions.

Sec. 113. Nonresident aliens.

Sec. 114. Electing small business trusts.

Subtitle C—Other Provisions

Sec. 121. Expansion of post-death qualification for certain trusts.

TITLE II—QUALIFICATION AND ELIGIBILITY REQUIREMENTS FOR S CORPORATIONS

Subtitle A—One Class of Stock

Sec. 201. Issuance of preferred stock permitted.

Sec. 202. Financial institutions permitted to hold safe harbor debt.

Subtitle B—Elections and Terminations

Sec. 211. Rules relating to inadvertent terminations and invalid elections.

Sec. 212. Agreement to terminate year.

Sec. 213. Expansion of post-termination transition period.

Sec. 214. Repeal of excessive passive investment income as a termination event.

Subtitle C—Other Provisions

Sec. 221. S corporations permitted to hold subsidiaries.

Sec. 222. Treatment of distributions during loss years.

Sec. 223. Consent dividend for AAA bypass election.

Sec. 224. Treatment of S corporations under subchapter C.

Sec. 225. Elimination of pre-1983 earnings and profits.

Sec. 226. Allowance of charitable contributions of inventory and scientific property.

Sec. 227. C corporation rules to apply for fringe benefit purposes.

TITLE III—TAXATION OF S CORPORATION SHAREHOLDERS

Sec. 301. Uniform treatment of owner-employees under prohibited transaction rules.

Sec. 302. Treatment of losses to shareholders.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

TITLE I—ELIGIBLE SHAREHOLDERS OF S CORPORATION

Subtitle A—Number of Shareholders

SEC. 101. S CORPORATIONS PERMITTED TO HAVE 50 SHAREHOLDERS.

Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking "35 shareholders" and inserting "50 shareholders".

SEC. 102. MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.

Paragraph (1) of section 1361(c) (relating to special rules for applying subsection (b)) is amended to read as follows:

"(1) MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.—

"(A) IN GENERAL.—For purposes of subsection (b)(1)(A)—

"(i) except as provided in clause (ii), a husband and wife (and their estates) shall be treated as 1 shareholder, and

"(ii) in the case of a family with respect to which an election is in effect under subparagraph (E), all members of the family shall be treated as 1 shareholder.

"(B) MEMBERS OF THE FAMILY.—For purposes of subparagraph (A)(ii), the term 'members of the family' means the lineal descendants of the common ancestor and the spouses (or former spouses) of such lineal descendants or common ancestor.

"(C) COMMON ANCESTOR.—For purposes of this paragraph, an individual shall not be considered a common ancestor if, as of the later of the effective date of this paragraph or the time the election under section 1362(a) is made, the individual is more than 6 generations removed from the youngest generation of shareholders.

"(D) EFFECT OF ADOPTION, ETC.—In determining whether any relationship specified in subparagraph (B) or (C) exists, the rules of section 152(b)(2) shall apply.

"(E) ELECTION.—An election under subparagraph (A)(ii)—

"(i) must be made with the consent of all shareholders,

"(ii) shall remain in effect until terminated, and

"(iii) shall apply only with respect to 1 family in any corporation.".

Subtitle B—Persons Allowed as Shareholders

SEC. 111. CERTAIN EXEMPT ORGANIZATIONS.

(a) CERTAIN EXEMPT ORGANIZATIONS ALLOWED TO BE SHAREHOLDERS.—

(1) IN GENERAL.—Subparagraph (B) of section 1361(b)(1) (defining small business corporation) is amended to read as follows:

"(B) have as a shareholder a person (other than an estate, a trust described in subsection (c)(2), or an organization described in subsection (c)(7)) who is not an individual,".

(2) ELIGIBLE EXEMPT ORGANIZATIONS.—Section 1361(c) (relating to special rules for applying subsection (b)) is amended by adding at the end the following new paragraph:

"(7) CERTAIN EXEMPT ORGANIZATIONS PERMITTED AS SHAREHOLDERS.—For purposes of subsection (b)(1)(B), an organization described in section 401(a) or 501(c)(3) may be a shareholder in an S corporation."

(b) CONTRIBUTIONS OF S CORPORATION STOCK.—Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following sentence: "For purposes of applying this paragraph in the case of a charitable contribution of stock in an S corporation, rules similar to the rules of section 751 shall apply in determining whether gain on such stock would have been long-term capital gain if such stock were sold by the taxpayer."

(c) SPECIAL RULES APPLICABLE TO PARTNERSHIPS AND S CORPORATIONS.—

(1) IN GENERAL.—Subsection (c) of section 512 (relating to unrelated business tax income) is amended—

(A) by inserting "or S corporation" after "partnership" each place it appears in paragraphs (1) and (3),

(B) by inserting "or shareholder" after "member" in paragraph (1), and

(C) by inserting "AND S CORPORATIONS" after "PARTNERSHIPS" in the heading.

(2) REPORTING REQUIREMENT.—Section 6037 (relating to return of S corporation) is amended by adding at the end the following new subsection:

"(c) SEPARATE STATEMENT OF ITEMS OF UNRELATED BUSINESS TAXABLE INCOME.—In the case of any S corporation regularly carrying on a trade or business (within the meaning of section 512(c)(1)), the information required under subsection (b) to be furnished to any shareholder described in section 1361(c)(7) shall include such information as is necessary to enable the shareholder to compute its pro rata share of the corporation's income or loss from the trade or business in accordance with section 512(a)(1), but without regard to the modifications described in paragraphs (8) through (15) of section 512(b)."

SEC. 112. FINANCIAL INSTITUTIONS.

Subparagraph (B) of section 1361(b)(2) (defining ineligible corporation) is amended to read as follows:

"(B) a financial institution which uses the reserve method of accounting for bad debts described in section 585 or 593,".

SEC. 113. NONRESIDENT ALIENS.

(a) NONRESIDENT ALIENS ALLOWED TO BE SHAREHOLDERS.—

(1) IN GENERAL.—Paragraph (1) of section 1361(b) (defining small business corporation) is amended—

(A) by adding "and" at the end of subparagraph (B),

(B) by striking subparagraph (C), and

(C) by redesignating subparagraph (D) as subparagraph (C).

(2) CONFORMING AMENDMENTS.—Paragraphs (4) and (5)(A) of section 1361(c) (relating to special rules for applying subsection (b)) are each amended by striking "subsection (b)(1)(D)" and inserting "subsection (b)(1)(C)".

(b) NONRESIDENT ALIEN SHAREHOLDER TREATED AS ENGAGED IN TRADE OR BUSINESS WITHIN UNITED STATES.—

(1) IN GENERAL.—Section 875 is amended—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting ", and", and

(C) by adding at the end the following new paragraph:

"(3) a nonresident alien individual shall be considered as being engaged in a trade or business within the United States if the S corporation of which such individual is a shareholder is so engaged."

(2) APPLICATION OF WITHHOLDING TAX ON NONRESIDENT ALIEN SHAREHOLDERS.—Section 1446 (relating to withholding tax on foreign partners' share of effectively connected income) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) S CORPORATION TREATED AS PARTNERSHIP, ETC.—For purposes of this section—

"(1) an S corporation shall be treated as a partnership,

"(2) the shareholders of such corporation shall be treated as partners of such partnership, and

"(3) any reference to section 704 shall be treated as a reference to section 1366."

(3) CONFORMING AMENDMENTS.—

(A) The heading of section 875 is amended to read as follows:

"SEC. 875. PARTNERSHIPS; BENEFICIARIES OF ESTATES AND TRUSTS; S CORPORATIONS."

(B) The heading of section 1446 is amended to read as follows:

"SEC. 1446. WITHHOLDING TAX ON FOREIGN PARTNERS' AND S CORPORATE SHAREHOLDERS' SHARE OF EFFECTIVELY CONNECTED INCOME."

(4) CLERICAL AMENDMENTS.—

(A) The item relating to section 875 in the table of sections for subpart A of part II of subchapter N of chapter 1 is amended to read as follows:

"Sec. 875. Partnerships; beneficiaries of estates and trusts; S corporations."

(B) The item relating to section 1446 in the table of sections for subchapter A of chapter 3 is amended to read as follows:

"Sec. 1446. Withholding tax on foreign partners' and S corporate shareholders' share of effectively connected income."

(c) PERMANENT ESTABLISHMENT OF PARTNERS AND S CORPORATION SHAREHOLDERS.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

"(c) PERMANENT ESTABLISHMENT OF PARTNERS AND S CORPORATION SHAREHOLDERS.—If a partnership or S corporation has a permanent establishment in the United States (within the meaning of a treaty to which the United States is a party) at any time during a taxable year of such entity, a nonresident alien individual or foreign corporation which is a partner in such partnership, or a nonresident alien individual who is a shareholder in such S corporation, shall be treated as having a permanent establishment in the United States for purposes of such treaty."

SEC. 113. ELECTING SMALL BUSINESS TRUSTS.

(a) GENERAL RULE.—Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (iv) the following new clause:

"(v) An electing small business trust."

(b) CURRENT BENEFICIARIES TREATED AS SHAREHOLDERS.—Subparagraph (B) of section 1361(c)(2) is amended by adding at the end the following new clause:

"(v) In the case of a trust described in clause (v) of subparagraph (A), each potential current beneficiary of such trust shall be treated as a shareholder; except that, if for any period there is no potential current beneficiary of such trust, such trust shall be treated as the shareholder during such period."

(c) ELECTING SMALL BUSINESS TRUST DEFINED.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

"(e) ELECTING SMALL BUSINESS TRUST DEFINED.—

"(1) ELECTING SMALL BUSINESS TRUST.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'electing small business trust' means any trust if—

"(i) such trust does not have as a beneficiary any person other than an individual, an estate, or an organization described in section 401(a) or 501(c)(3),

"(ii) no interest in such trust was acquired by purchase, and

"(iii) an election under this subsection applies to such trust.

"(B) CERTAIN TRUSTS NOT ELIGIBLE.—The term 'electing small business trust' shall not include—

"(i) any qualified subchapter S trust (as defined in subsection (d)(3)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and

"(ii) any trust exempt from tax under this subtitle.

"(C) PURCHASE.—For purposes of subparagraph (A), the term 'purchase' means any acquisition if the basis of the property acquired is determined under section 1012.

"(2) POTENTIAL CURRENT BENEFICIARY.—For purposes of this section, the term 'potential current beneficiary' means, with respect to any period, any person who at any time during such period is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. If a trust disposes of all of the stock which it holds in an S corporation, then, with respect to such corporation, the term 'potential current beneficiary' does not include any person who first met the requirements of the preceding sentence during the 60-day period ending on the date of such disposition.

"(3) ELECTION.—An election under this subsection shall be made by the trustee in such manner and form, and at such time, as the Secretary may prescribe. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.

"(4) CROSS REFERENCE.—

"For special treatment of electing small business trusts, see section 641(d)."

(d) TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—Section 641 (relating to imposition of tax on trusts) is amended by adding at the end the following new subsection:

"(d) SPECIAL RULES FOR TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—

"(1) IN GENERAL.—For purposes of this chapter—

"(A) the portion of any electing small business trust which consists of stock in 1 or more S corporations shall be treated as a separate trust, and

"(B) the amount of the tax imposed by this chapter on such separate trust shall be determined with the modifications of paragraph (2).

"(2) MODIFICATIONS.—For purposes of paragraph (1), the modifications of this paragraph are the following:

"(A) Except as provided in section 1(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).

"(B) The exemption amount under section 55(d) shall be zero.

"(C) The only items of income, loss, deduction, or credit to be taken into account are the following:

"(i) The items required to be taken into account under section 1366.

"(ii) Any gain or loss from the disposition of stock in an S corporation.

"(iii) To the extent provided in regulations, State or local income taxes or administrative expenses to the extent allocable to items described in clauses (i) and (ii).

No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be apportioned to any beneficiary.

"(D) No amount shall be allowed under paragraph (1) or (2) of section 1211(b).

"(3) TREATMENT OF REMAINDER OF TRUST AND DISTRIBUTIONS.—For purposes of determining—

"(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and

"(B) the distributable net income of the entire trust,

the items referred to in paragraph (2)(C) shall be excluded. Except as provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.

"(4) TREATMENT OF UNUSED DEDUCTIONS WHERE TERMINATION OF SEPARATE TRUST.—If a portion of an electing small business trust ceases to be treated as a separate trust under paragraph (1), any carryover or excess deduction of the separate trust which is referred to in section 642(h) shall be taken into account by the entire trust.

"(5) ELECTING SMALL BUSINESS TRUST.—For purposes of this subsection, the term 'electing small business trust' has the meaning given such term by section 1361(e)(1)."

Subtitle C—Other Provisions

SEC. 121. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS.

Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended—

(1) by striking "60-day period" each place it appears in clauses (ii) and (iii) and inserting "2-year period", and

(2) by striking the last sentence in clause (ii).

TITLE II—QUALIFICATION AND ELIGIBILITY REQUIREMENTS FOR S CORPORATIONS

Subtitle A—One Class of Stock

SEC. 201. ISSUANCE OF PREFERRED STOCK PERMITTED.

(a) IN GENERAL.—Section 1361(c), as amended by section 111(a)(2), is amended by adding at the end the following new paragraph:

"(8) TREATMENT OF QUALIFIED PREFERRED STOCK.—

"(A) IN GENERAL.—Notwithstanding subsection (b)(1)(D), an S corporation may issue qualified preferred stock.

"(B) QUALIFIED PREFERRED STOCK DEFINED.—For purposes of this paragraph, the term 'qualified preferred stock' means stock described in section 1504(a)(4) which is issued to a person eligible to hold common stock of an S corporation.

"(C) DISTRIBUTIONS.—A distribution (not in part or full payment in exchange for stock) made by the corporation with respect to qualified preferred stock shall be includible as interest income of the holder and deductible to the corporation as interest expense in computing taxable income under section 1363(b) in the year such distribution is received."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 1361(b)(1), as redesignated by section 113(a)(1)(C), is amended by inserting "except as provided in paragraph (8)," before "have".

(2) Subsection (a) of section 1366 is amended by adding at the end the following new paragraph:

"(3) ALLOCATION WITH RESPECT TO QUALIFIED PREFERRED STOCK.—The holders of qualified preferred stock shall not, with respect to such stock, be allocated any of the items described in paragraph (1)."

SEC. 202. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT.

Subparagraph (B) of section 1361(c)(5) (defining straight debt) is amended by adding "and" at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following:

"(ii) in any case in which the terms of such promise include a provision under which the obligation to pay may be converted (directly or indirectly) into stock of the corporation, such terms, taken as a whole, are substantially the same as the terms which could have been obtained on the effective date of the promise from a person which is not a related person (within the meaning of section 465(b)(3)(C)) to the S corporation or its shareholders, and

"(iii) the creditor is—

"(I) an individual,

"(II) an estate,

"(III) a trust described in paragraph (2), or

"(IV) a person which is actively and regularly engaged in the business of lending money."

Subtitle B—Elections and Terminations

SEC. 211. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end thereof the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) AUTOMATIC WAIVERS.—The Secretary of the Treasury shall provide for an automatic waiver procedure under section 1362(f) of the Internal Revenue Code of 1986 in cases in which the Secretary determines appropriate.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 212. AGREEMENT TO TERMINATE YEAR.

Paragraph (2) of section 1377(a) (relating to pro rata share) is amended to read as follows:

"(2) ELECTION TO TERMINATE YEAR.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, if any shareholder terminates the shareholder's interest in the corporation during the taxable year and all affected shareholders agree to the application of this paragraph, paragraph (1) shall be applied to the affected shareholders as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.

"(B) AFFECTED SHAREHOLDERS.—For purposes of subparagraph (A), the term 'affected shareholders' means the shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the taxable year. If such shareholder has transferred shares to the corporation, the term 'affected shareholders' shall include all persons who are shareholders during the taxable year."

SEC. 213. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.

(a) IN GENERAL.—Paragraph (1) of section 1377(b) (relating to post-termination transition period) is amended by striking "and" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer which follows the termination of the corporation's election and which adjusts a subchapter S item of income, loss, or deduction of the corporation arising during the S period (as defined in section 1368(e)(2)), and".

(b) DETERMINATION DEFINED.—Paragraph (2) of section 1377(b) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) a determination as defined in section 1313(a), or".

(c) REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.—

(1) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(2) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation), as amended by section 111(c)(2), is amended by adding at the end the following new subsection:

"(d) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(3) CONFORMING AMENDMENTS.—

(A) Section 1366 is amended by striking subsection (g).

(B) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(C) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

SEC. 214. REPEAL OF EXCESSIVE PASSIVE INVESTMENT INCOME AS A TERMINATION EVENT.

(a) IN GENERAL.—Section 1362(d) (relating to termination) is amended by striking paragraph (3).

(b) MODIFICATION OF TAX IMPOSED ON EXCESSIVE PASSIVE INVESTMENT INCOME.—

(1) INCREASE IN THRESHOLD.—Subsections (a)(2) and (b)(1)(A)(i) of section 1375 (relating to tax imposed when passive investment income of corporation having subchapter C earnings and profits exceeds 25 percent of gross receipts) are each amended by striking "25 percent" and inserting "50 percent".

(2) TAX RATE INCREASE AFTER THIRD CONSECUTIVE YEAR.—Section 1375 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) TAX RATE INCREASE AFTER THIRD CONSECUTIVE YEAR.—

"(1) IN GENERAL.—If an S corporation is described in subsection (a) for more than 3 consecutive taxable years, then the rate of tax imposed under subsection (a) with respect to each succeeding consecutive taxable year (if any) shall be determined under the following table:

"In the case of the—	The rate of tax imposed under subsection (a) shall be equal to such rate of tax for the 3rd taxable year, plus the following percentage points:
4th taxable year	10
5th taxable year	20
6th taxable year	30
7th taxable year	40
8th taxable year and thereafter	50.

"(2) YEARS TAKEN INTO ACCOUNT.—No tax shall be increased under paragraph (1) for any taxable year beginning before January 1, 1996."

(c) CONFORMING AMENDMENTS.—

(1) Section 1362(f)(1) is amended by striking "or (3)".

(2) Subsection (b) of section 1375 is amended by striking paragraphs (3) and (4) and inserting the following new paragraphs:

"(3) SUBCHAPTER C EARNINGS AND PROFITS.—The term 'subchapter C earnings and profits' means earnings and profits of any corporation for any taxable year with respect to which an election under section 1362(a) (or under section 1372 of prior law) was not in effect.

"(4) GROSS RECEIPTS FROM SALES OF CAPITAL ASSETS (OTHER THAN STOCK AND SECURITIES).—In the case of dispositions of capital assets (other than stock and securities), gross receipts from such dispositions shall be taken into account only to the extent of the capital gain net income therefrom.

"(5) PASSIVE INVESTMENT INCOME DEFINED.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

"(B) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(1).

"(C) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

"(D) SPECIAL RULE FOR OPTIONS AND COMMODITY DEALINGS.—

"(i) IN GENERAL.—In the case of any options dealer or commodities dealer, passive investment income shall be determined by not taking into account any gain or loss (in the normal course of the taxpayer' activity of dealing in or trading section 1256 contracts) from any section 1256 contract or property related to such a contract.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) OPTIONS DEALER.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

"(II) COMMODITIES DEALER.—The term 'commodities dealer' means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

"(III) SECTION 1256 CONTRACT.—The term 'section 1256 contract' has the meaning given to such term by section 1256(b).

"(E) COORDINATION WITH SECTION 1374.—The amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meaning as when used in section 1374."

(3) The heading for section 1375 is amended by striking "**25**" and inserting "**50**".

(4) The table of sections for part III of subchapter S of chapter 1 is amended by striking "25" in the item relating to section 1375 and inserting "50".

(5) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1375(b)(5)".

Subtitle C—Other Provisions

SEC. 221. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.

(a) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation), as amended by section 112, is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(b) TREATMENT OF CERTAIN WHOLLY OWNED S CORPORATION SUBSIDIARIES.—Section 1361(b) (defining small business corporation) is amended by adding at the end thereof the following new subsection:

"(3) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—

"(A) IN GENERAL.—For purposes of this title—

"(i) a corporation which is a qualified subchapter S subsidiary shall not be treated as a separate corporation, and

"(ii) all assets, liabilities, and items of income, deduction, and credit of a qualified subchapter S subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

"(B) QUALIFIED SUBCHAPTER S SUBSIDIARY.—For purposes of this subsection, the term 'qualified subchapter S subsidiary' means any corporation 100 percent of the stock of which is held by an S corporation as of the later of the effective date of the S election of the S corporation or the acquisition of the subsidiary, and at all times thereafter.

"(C) TREATMENT OF TERMINATIONS OF QUALIFIED SUBCHAPTER S SUBSIDIARY STATUS.—For purposes of this subtitle, if any corporation which was a qualified subchapter S subsidiary ceases to meet the requirements of subparagraph (B), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the S corporation in exchange for its stock.".

(c) CERTAIN DIVIDENDS NOT TREATED AS PASSIVE INVESTMENT INCOME.—Section 1375(b)(5) (defining passive investment income), as added by section 214(c)(2), is amended by adding at the end the following new subparagraph:

"(F) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section

1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business."

(d) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1361, as amended by sections 111(a)(2) and 201(a), is amended by striking paragraph (6) and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(2) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end the following new paragraph:

"(8) An S corporation."

SEC. 222. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) (relating to losses and deductions cannot exceed shareholder's basis in stock and debt) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 (relating to certain adjustments taken into account) is amended by adding at the end the following new sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

SEC. 223. CONSENT DIVIDEND FOR AAA BYPASS ELECTION.

Section 1368(e)(3) (relating to election to distribute earnings first) is amended by adding at the end the following new subparagraph:

"(C) CONSENT DIVIDEND.—Under regulations prescribed by the Secretary, an S corporation may, subject to the election under this paragraph, consent to treat as a distribution the amount specified in such consent, to the extent such amount does not exceed the accumulated earnings and profits of such corporation. The amount so specified shall be considered—

"(i) as distributed in money by the corporation to its shareholders on the last day of the taxable year of the corporation and as contributed to the capital of the corporation by the shareholders on such day, and

"(ii) if any such shareholder is an organization described in section 511(a)(2), as unrelated business taxable income (as defined in section 512) to such shareholder."

SEC. 224. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.

Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders."

SEC. 225. ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.

(a) IN GENERAL.—If—

(1) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(2) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1995,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(B) Subsection (b) of section 1375, as amended by section 214(c)(2), is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(C) The section heading for section 1375 is amended by striking "**subchapter c**" and inserting "**accumulated**".

(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(2) Clause (i) of section 1042(c)(4)(A), as amended by section 214(c)(5), is amended by striking "section 1375(b)(5)" and inserting "section 1375(b)(4)".

SEC. 226. ALLOWANCE OF CHARITABLE CONTRIBUTIONS OF INVENTORY AND SCIENTIFIC PROPERTY.

(a) IN GENERAL.—Section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended—

(1) by striking "(other than a corporation which is an S corporation)" in paragraph (3)(A), and

(2) by striking clause (i) of paragraph (4)(D) and by redesignating clauses (ii) and (iii) of such paragraph as clauses (i) and (ii), respectively.

(b) STOCK BASIS ADJUSTMENT.—Paragraph (1) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) the excess of the deductions for charitable contributions over the basis of the property contributed."

SEC. 227. C CORPORATION RULES TO APPLY FOR FRINGE BENEFIT PURPOSES.

(a) IN GENERAL.—Section 1372 (relating to partnership rules to apply for fringe benefit purposes) is repealed.

(b) PARTNERSHIP RULES TO APPLY FOR HEALTH INSURANCE COSTS OF CERTAIN S CORPORATION SHAREHOLDERS.—Paragraph (5) of section 162(*l*) is amended to read as follows:

"(5) TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS.—

"(A) IN GENERAL.—This subsection shall apply in the case of any 2-percent shareholder of an S corporation, except that—

"(i) for purposes of this subsection, such shareholder's wages (as defined in section 3121) from the S corporation shall be treated as such shareholder's earned income (within the meaning of section 401(c)(1)), and

"(ii) there shall be such adjustments in the application of this subsection as the Secretary may by regulations prescribe.

"(B) 2-PERCENT SHAREHOLDER DEFINED.—For purposes of this paragraph, the term '2-percent shareholder' means any person who owns (or is considered as owning within the meaning of section 318) on any day during the taxable year of the S corporation more than 2 percent of the outstanding stock of such corporation or stock possessing more than 2 percent of the total combined voting power of all stock of such corporation."

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter S of chapter 1 is amended by striking the item relating to section 1372.

TITLE III—TAXATION OF S CORPORATION SHAREHOLDERS

SEC. 301. UNIFORM TREATMENT OF OWNER-EMPLOYEES UNDER PROHIBITED TRANSACTION RULES.

The last sentence of section 4975(d) (relating to exemptions from prohibited transactions) is amended by striking "a shareholder-employee (as defined in section 1379, as in effect on the day before the date of the enactment of the Subchapter S Revision Act of 1982),".

SEC. 302. TREATMENT OF LOSSES TO SHAREHOLDERS.

(a) TREATMENT OF LOSSES IN LIQUIDATIONS.—Section 331 (relating to gain or loss to shareholders in corporate liquidations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) LOSSES ON LIQUIDATIONS OF S CORPORATION.—

"(1) IN GENERAL.—The portion of any loss recognized by a shareholder of an S corporation (as defined in section 1361(a)(1)) on amounts received by such shareholder in a distribution in complete liquidation of such S corporation which does not exceed the ordinary income basis of stock of such S corporation in the hands of such shareholder shall not be treated as a loss from the sale or exchange of a capital asset but shall be treated as an ordinary loss.

"(2) ORDINARY INCOME BASIS.—For purposes of this subsection, the ordinary income basis of stock of an S corporation in the hands of a shareholder of such S corporation shall be an amount equal to the portion of such shareholder's basis in such stock which is equal to the aggregate increases in such basis under section 1367(a)(1) resulting from such shareholder's pro rata share of ordinary income of such S corporation attributable to the complete liquidation."

(b) CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER AT-RISK RULES ALLOWED.—Paragraph (3) of section 1366(d) (relating to carryover of disallowed losses and deductions to post-termination transition period) is amended by adding at the end the following new subparagraph:

"(D) AT-RISK LIMITATIONS.—To the extent that any increase in adjusted basis described in subparagraph (B) would have increased the shareholder's amount at risk under section 465 if such increase had occurred on the day preceding the commencement of the post-termination transition period, rules similar to the rules described in subparagraphs (A) through (C) shall apply to any losses disallowed by reason of section 465(a)."

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—For purposes of section 1362(g) of the Internal Revenue Code of 1986 (relating to election after termination), any termination under section 1362(d) of such Code (as in effect on the day before the date of the enactment of this Act) shall not be taken into account.

Mr. HATCH. Mr. President, I also want to pay specific tribute to our distinguished colleague from Arkansas, Senator PRYOR. Not only has he been a great Senator here but he has been the leader on this particular issue for years and he deserves the credit for these changes in the S corporation law. I have agreed to assistance this year in trying to get this done and we intend to get it done this year. It is something that is long overdue, and thanks to his leadership and his intellectual prowess I think we will be able to get it done. So I want to personally compliment him.

Mr. PRYOR. Mr. President, first I would like to thank my very good friend, my long-time friend and distinguished colleague from Utah, Senator HATCH.

Senator HATCH and I have worked on this proposal for a long time and we are very proud today to be able to introduce it as a bill and to also announce our 23 cosponsors from each side of the aisle in support of the S Corporation Reform Act of 1995.

Senator HATCH has been, certainly, a teacher for me in this whole process. I thank him. He has been a great ally. Truly, serving on the Finance Committee together, working with this legislation and working with a number of colleagues that we have in support, and also the number of organizations that I will list in a moment, we think truly in 1995 we can make this reform of S corporation law become a reality.

This legislation is truly the culmination of the efforts of many, many individuals and groups. It is a bipartisan effort, and certainly represents, I think, a step that Congress can and should take in order to capitalize on one of our country's most valuable resources, small business, as Senator HATCH has just so eloquently stated.

I want to thank all of the businessmen and women, attorneys, accountants, and small business organizations who have worked with me and my staff to help us to understand the unique problems of subchapter S corporations. They have helped us arrive at solutions that we think are easily administered and targeted to encourage economic growth.

The interest and enthusiasm for this effort is of special mention. At this date, the bill is endorsed by the :

Members of the S Corp Subcommittee of the American Bar Association's tax section; the U.S. Chamber of Commerce; National Federation of Independent Businesses Small Business Legislative Council; American Institute of Certified Public Accountants; American Vintners Association; American Consulting Engineers Council; American Electronics Association; Associated Builders and Contractors; Associated Equipment Distributors; National Association of Life Underwriters; National Association of Realtors; National Association of Wholesale-Distributors; National Business Owners Association; National Society of Public Accountants; and the S Corp Reform Project.

Mr. President, these fine organizations we think represent hundreds of thousands of businesses across this country that will be impacted in a good way across our country. It is quite a team, and a team that I think is very rarely put together. It is quite a team that has worked thoughtfully and diligently, and I must say, patiently, through this system to help produce a bill that Congress can pass and we should pass overwhelmingly.

Mr. President, I would like to point out to my colleagues that I introduced similar legislation in the last session of Congress. On November 19, 1993, S. 1690 was introduced with our former colleague, Senator John Danforth, who retired from the U.S. Senate. Working together, we were joined by a strongly bipartisan group of 40 of our colleagues who cosponsored that bill at that time.

Today, once again, I am so proud to be able to join my friend and colleague, Senator HATCH, with whom I very much look forward to working in order that we might take the next step and move this bill into law.

The S Corporation Reform Act of 1995 contains 27 provisions designed to usher sub-S corporations into the financial environment of the 1990's.

Subchapter S was first enacted in 1958. In fact, I think it might have been about the year that the distinguished occupant of our chair was born. On that particular date that subchapter S was passed into law, it was enacted to remove tax considerations from small business owners' decisions to incorporate. This tax treatment has proved helpful to small business over the years, especially to startup businesses, to new businesses. But subchapter S, as originally enacted in 1958, was very limiting and contained a large number of pitfalls. Today, hundreds of thousands of U.S. businesses are S corporations. These businesses are still subject to many of the oppressive restraints which date back to its original enactment in 1958.

Mr. President, it goes without saying that times have changed a great deal since that year. The financial environment is far more complex than the 1950's. Sub S limitations restrict growth opportunities, and frankly sub S needs an overhaul, and it needs an overhaul now.

This legislation we think is the overhaul we need. It is an overhaul that is doable. It is an overhaul that can give a boost to our economic recovery by creating more opportunities for capital growth and jobs throughout every segment of American economic activity.

Mr. President, these objectives are met by this legislation in ways that have been carefully thought through. There may well be other ways to encourage these goals that Senator HATCH and I share this afternoon. But I hope and expect my colleagues respectfully will come forward with their ideas should they see areas where we might improve upon this proposal. I look forward to this dialog. I urge my colleagues to examine this bill closely and to join with Senator HATCH and myself in this effort.

Mr. President, I ask unanimous consent that a copy of a summary description of the major provisions of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S CORPORATION REFORM ACT OF 1995

ACCELERATING CAPITAL FORMATION

Shareholder limitations

Increase the number of permitted shareholders from 35 to 50. Currently a corporation is not eligible to be an S corporation if it has more than 35 shareholders. Increasing the number of permitted shareholders to 50 will make S corporation status available to additional closely-held businesses, allowing them the benefits of limited liability. Further, increasing the number of permitted shareholders will enable S corporations to raise more capital.

Permit tax-exempt organizations to be shareholders. This would permit charities and pension plans to be eligible shareholders of an S corporation, thereby increasing an S corporation's access to certain capital markets. Specifically, an S corporation would be able to establish an employee stock ownership plan and would have access to additional capital from charitable organizations and pension funds. The bill further provides that the flow-through income of an S corporation would be treated as unrelated business taxable income to a tax-exempt shareholder as if the S corporation's activities were conducted directly by the tax-exempt shareholder.

Allow nonresident alien shareholders to own S corporation stock. By permitting nonresident aliens to be eligible shareholders of an S corporation, the bill expands an S corporation's access to capital. In addition, it enhances an S corporation's ability to expand into international markets because it provides them the ability to offer an equity interest to individuals they are trying to recruit to grow their business overseas. To ensure collection of tax on nonresident aliens, the bill subjects these shareholders to U.S. withholding tax on S corporation income.

Preferred Stock and Convertible Debt

Permit S corporations to issue preferred stock. Currently, S corporations may not issue more than one class of stock. By permitting S corporations to issue preferred stock, the bill increases access to capital from investors who insist on having a preferential return. The provision also facilitates family succession by permitting the older generation of shareholders to relinquish control of the corporation but maintain an equity interest. The bill also provides that a distribution made with respect to qualified preferred stock will be considered interest income to the shareholder and deductible interest expense to the S corp.

Expand Safe Harbor Debt to permit convertible debt. This provision permits S corporations to issue debt that may be converted into stock of the corporation provided that the terms of the debt are substantially the same as the terms that could have been obtained from an unrelated party. The provision will also permit the debt to be held not only by qualified shareholders, but also by a person who is actively and regularly engaged in the business of lending money. The current law provision, which prohibits conversion of the debt into stock, unnecessarily impairs the ability of an S corporation to raise investment capital.

Subsidiaries

Permit an S corporation to own greater that 80% of another corporation. Currently, S corporations may not own more than 79% of a C corporation. This provision removes this limitation to allow S corporations to hold more than 80% of the stock of a subsidiary C corporations, which will greatly enhance an S corporation's ability to achieve significant non-tax objectives in structuring their operations. In reality, taxpayers get around current rules through complex arrangements used by expensive tax planners. So, this provision allows S corporation to do directly, what they now do indirectly.

Permit S Corporations to own wholly-owned S Corporation Subsidiaries. The provision would permit an S corporation to serve as a holding company for the various operating S corporations, which would simplify management of the group. The holding company could enter into contracts on behalf of the group, serve as a common paymaster, perform other centralized management services, and facilitate obtaining financing for the group.

PRESERVING FAMILY-OWNED BUSINESSES

Expand the types of trusts that can own S corporation stock to include certain complex trusts that qualify as "electing small business trusts." This provision would enable S corporation shareholders to accomplish many estate planning goals not currently available because of current law limitations on the types of trusts that can be S corporation shareholders. Specifically, this provision would enable S corporation shareholders to establish complex trusts with multiple beneficiaries and permit the trustee to have discretion as to which beneficiary to make distributions. Providing this type of flexibility is consistent with a major underlying purpose of the S corporation—to provide a vehicle for family-owned corporations.

Count all members of a single family that own an S corporation's stock as a single shareholder. An election could be made with the consent of all shareholders to count family members that are not more than six generations removed from a common ancestor as one shareholder for purposes of the number of shareholder limitation.

REMOVING TRAPS FOR THE UNWARY

Elections

Permit the Secretary of the Treasury to treat invalid elections as effective and permit late elections. This provision permits the IRS to retroactively validate an invalid S corporation election in cases where the corporation inadvertently failed to meet the definition of a small business corporation or to obtain the required shareholder consents. The bill sets forth the criteria under which the IRS should validate such elections. The bill also provides for an automatic waiver procedure for certain inadvertent terminations. In addition, the bill provides that if a corporation fails to make a timely S election (i.e., by the 15th day of the third month of the first S corporation year) and the Secretary determines that there was reasonable cause for the failure to make such election, the Secretary may treat the election as timely made.

Passive Investment Income

Repeal excessive passive income as a termination event. Under current law, if more than 25 percent of the gross receipts of an S corporation are passive investment income, a corporate level tax will be imposed on the excess passive income. In addition, en election of S corporation status will be terminated if at the close of three consecutive years a corporation has subchapter C earnings and profits and more than 25 percent of gross receipts are from passive investment income. The provision would increase the threshold for taxing excess passive income from 25 percent to 50 percent. Importantly, the provision would also provide that an S corporation would not lose its S corporation status if it has excess passive income for three consecutive years. Instead, the corporate level tax rate applied to the excess passive income would increase by 10 percent for each successive year. The provision also makes it clear that items of income connected with an S corp's trade or business will not be considered passive income.

FRINGE BENEFITS

Place S corporation shareholders in the same position as regular corporations with respect to fringe benefits such as life insurance premiums.

Repeal restrictions on qualified plan loans made to S corporation shareholders.

TECHNICAL PROPOSALS

Treat losses on liquidation of S corporations as ordinary to the extent the loss created by ordinary income passthrough triggered the liquidation. In the case of a liquidation of an S corporation, current law can result in double taxation because of a mismatch of ordinary income (realized at the corporate level and passed through to the shareholder) and a capital loss (recognized at the shareholder level on the liquidating distribution). Although careful tax planning can avoid this result, many S corporations do not have the benefit of sophisticated tax counsel. The provision in the bill would eliminate this potential trap.

Allow interim closing of the books in termination of shareholder interest with consent of corporation and affected shareholder. Current law requires that if a shareholder terminates his interest in an S corporation during the taxable year, the corporation and all persons who are shareholders during the taxable year must agree to close the books on the date of termination. The bill would eliminate the requirement that all shareholders consent to the closing and instead requires only that the "affected shareholders" (the shareholder whose interest is terminated and all shareholders to whom such shareholder transferred shares during the year) consent to the closing. This change will ease procedural problems in preparing and filing timely corporate tax returns.

Allow charitable contributions of inventory and scientific property to be the same for S corporations as for regular corporations. S corporations would be permitted an increased charitable contribution, equivalent to the deduction amount allowed to regular corporations.

By Mr. BRADLEY (for himself and Mr. HOLLINGS):

S. 759. A bill to amend the Immigration and Nationality Act to limit the adjustment of status of aliens who are unlawfully residing in the United States; to the Committee on the Judiciary.

THE ILLEGAL IMMIGRATION ENFORCEMENT ACT OF 1995

Mr. BRADLEY. Madam President, I am pleased to introduce, for myself and Senator HOLLINGS, the Illegal Immigration Enforcement Act of 1995. This is a bill to improve the Federal Government's ability to deter illegal immigration by enhancing enforcement of existing laws that prohibit employment of illegal aliens and bar overstays by legally admitted visitors.

Madam President, I have been watching the unfolding immigration debate with real concern. As I followed California's proposition 187 campaign, I realized the arguments over illegal immigration are occurring in a vacuum. We are trying to address the impact of immigration without understanding how it relates to the deeper transformations that are shaping our society. We find ourselves susceptible to the demagogic quick fix, and risk undermining the diversity that underlies our strength as an American people.

Peter Drucker once said:

> Every few hundred years throughout Western history, a sharp transformation has occurred. In a matter of decades, society rearranges itself—its world view, its basic values; its social and political structures; its art; its key institutions. Fifty years later, there is a new world. And the people born into that world cannot even imagine the world in which their grandparents lived and into which their own parents were born.

Madam President, we are currently living through such a period of transformation. Not since the age of democratic revolution coincided with the industrial revolution has our world undergone such sweeping change as we are having today. The forces at work in our lives today are as dramatic and powerful as the Declaration of Independence and the steam engine were two centuries ago.

We face today a rapidly transforming world full of new opportunities. But those opportunities are accompanied by profound uncertainties and painful adaptations. Progress creates losers as well as winners. For example, the death of the Soviet Union has ended our fear of nuclear annihilation. At the same time, the resulting military downsizing has cost over 1.1 million jobs in the defense sector alone since 1987. As a result, and not for the first time in our history, politicians and voters have seized upon immigration, especially illegal immigration, as a scapegoat for the deeper uncertainties we feel.

Illegal immigration has also become a lightning rod for worries about the budget crises we face at all levels of Government. There is no doubt that illegal immigrants impose a cost on taxpayers. According to the estimates by the Urban Institute, the seven most affected States pay approximately $3.1 billion yearly on education, $471 million on incarceration, and $313 million on providing medical treatment for undocumented aliens. The Urban Institute's fiscal year 1993 estimates for my own State of New Jersey, which has the sixth largest population of illegal aliens, are $146 million for education, $6.6 million for incarceration, and $0.5–3.9 million for Medicaid, for a total of $153.1–156.5 million.

Anger over illegal immigration inevitably creates a backlash against legal immigrants and even citizens of different ethnic backgrounds. However, this is a self-defeating response. Our country is increasingly a mixture of races, languages, and religions, as new immigrants arrive in search of economic promise and political freedom. By the year 2000, only 57 percent of the people who enter the work force in America will be native-born white Americans. That means that the economic future of all Americans will depend increasingly on the talents of nonwhite Americans. We will all either advance together or each of us will be diminished.

We most need to appreciate the remarkable opportunity that our racial and ethnic diversity represents for the future of our country. Our immigrants and new citizens can be our guide to the cultural rhythms in the fastest growing areas of the world economy. Given high-quality and price-competitive goods, the cultural knowledge they have can American the advantage. Our diversity can mean more jobs, more prosperity for all Americans, if we can seize the moment and not run away from it.

To do so, we must reinvigorate the institutions and organizations which integrate new arrivals into American society. I have spoken elsewhere of the crisis afflicting civil society in this country. One of the effects of the decline of the institutions of civil society is the weakening of the lodges, clubs, churches, Scout troops, and other organizations which used to give immigrants entree into American society. As a result, we all too often see groups of teenage immigrants operating on the fringes of society instead of productive new members integrating into the heart of American society.

We cannot realize the opportunity presented by our diversity if we let frustration over the Federal Government's inability to control its borders spill over into action against those who are here legally. We must control illegal immigration in order to make our country safe for legal immigration. We must control illegal immigration if we are to make our country safe for diversity.

There is no shortage of laws on the books to control illegal immigration. There are laws to punish employers and smugglers of illegal aliens, to deny illegal aliens most Government benefits and even to compensate the States for some of the costs associated with illegal immigration.

The primary problem, however, is enforcement. The Immigration and Naturalization Service is underfunded and hindered by a history of incompetence that the current management is hard put to reverse. The INS cannot keep illegal aliens out of the country, track them once they enter, or remove them once they are identified. Its various databases are, frankly, a shambles.

At the same time, certain economic interests benefit from the labor of illegal aliens. They profit from the general climate of neglect in which they can demand long hours of labor for low wages and few benefits.

Madam President, sweatshops manned by illegal men, women, and children are a disgrace to America and a drag on the fortunes of legal immigrant and American workers. These are the very inhumane labor conditions and practices we try to improve in countries abroad, but they are here, in America, today. American workers and honest American employers should not have to compete against this exploited labor force.

That brings me, Madam President, to my bill, the Illegal Immigration Enforcement Act of 1995. This legislation contains three major provisions which can help end this gentleman's agreement and will enforce the laws that are on the books. The gentleman's agreement is: pass tough legislation, but do not enforce it. Talk about being tough on illegal immigrants, but allow certain economic interests to benefit from illegal immigrant labor.

The first provision goes to, I think, the root problem, which is employment. Most illegal aliens do not come to the United States for health care or welfare or even education. They come to work. That means that the way to discourage them is not to punish their children by denying them medical care or education, as proposition 187 tries to do, but instead remove the employment magnet and remove the incentive that attracts them to the United States.

Existing law, starting with the Immigration Reform and Control Act of 1986, contains provisions which would reduce employment opportunities for illegal immigrants if they were simply enforced. Before enacting fundamental changes in this bedrock piece of legislation, we should try enforcing the laws already on the books. Empty legislating is no substitute for enforcement.

The place to start is employer sanctions. The 1986 act, better known as the Simpson-Mazzoli Act, imposes civil penalties on employers of illegal aliens of up to $10,000 per alien for repeat offenders. There is also a criminal penalty of up to 6 months imprisonment and a $3,000 fine for pattern or practice violations.

Madam President, enforcement of employer sanctions is a low priority at INS. In part, this is because the labor regulatory function is different from the policing function usually done by the investigative branch of the Immigration and Naturalization Service. As in any bureaucracy, "different" means "low priority."

In addition, this branch has a mandate to focus on antismuggling and removal of criminal aliens. By implication, everything else has low priority.

This low priority shows up in the figures. The 1986 act authorized $100 million per year to enforce employer sanctions, and even that was probably too little, but by fiscal year 1994, the appropriation had shrunk to $23 million. Funding has recovered somewhat since 1994, but remains well under the amount necessary to implement the law properly.

As a result, the number of cases investigated has declined by nearly 50 percent from 1989 to 1994. In particular, the number of investigations resulting from leads, the most productive investigations, declined from 5,118 in 1989 to 2,240 in 1994.

It is clear that as long as the same INS branch tries to perform investigative and employer sanctions functions, the latter will have to take a back seat. The way it is currently structured, employer sanctions will always take a back seat.

My bill fixes this problem by creating a separate Office for the Enforcement of Employer Sanctions and authorizing it for $100 million, the figure that was contained in the 1986 Act.

This first provision of my bill also addresses the potential for employment discrimination that exists in any employment eligibility legislation. For example, in 1990, a GAO study found that the 1986 act's employer sanctions provisions resulted in employment discrimination. The study suggested three causes for this:

First, the employers do not understand the law's requirements; second, employers do not understand how to determine employment eligibility; and third, the prevalence of counterfeit documents increases employer confusion.

As the GAO study implies, the problem is not with the law but with the INS's failure to educate employers about what the law requires them to do. Most employers, for example, still do not know that they must fill out an I-9 employment eligibility form for every employee, whether that employee is white, African-American, Hispanic, Asian, or otherwise. This is the key to combating discrimination, educating employers that this form applies to all.

Note that the GAO study reports that an estimated 346,000 employers said that they applied the 1986 act's verification system only to persons who had a foreign appearance or accent, and recommends, among other steps, increasing employer understanding through effective education efforts.

Madam President, my bill takes this problem head on by mandating that the INS Office for the Enforcement of Employer Sanctions be charged with "educating employers on the requirements of the law, and in other ways as is necessary to prevent employment discrimination."

The bottom line, then, is that my bill does not add to employers' burdens; it does not add one single form to the mountain of paperwork they must already fill out when they hire a new legal worker. Instead, it requires the Federal Government to explain the existing law to them. In this way, it will reduce the burden of uncertainty employers now bear.

Let me point out as well that the bill complements other efforts by the administration, Senator FEINSTEIN, Senator SIMPSON—the coauthor of the 1986 act—and others, to reduce the number of documents that can be used to confirm employment eligibility, make it more difficult to counterfeit the documents and develop a more reliable national employment eligibility data base.

So, Madam President, the first initiative in the bill is to tighten up employer sanctions.

Second, the bill prevents illegal aliens from reaping the rewards of their illegal entry into the United States. It prohibits adjustment of status within the United States for those seeking employment-based legal immigrant status. Further, it disqualifies those who have worked illegally in the United States from becoming legal immigrants. Currently, those in the United States illegally can try to adjust to a legal status, based upon family relationship or employment in a hard-to-fill job.

While I do not advocate separating families, we can and should go after those who come to the United States illegally and expect to find an employer who will sponsor them for adjustment to legal status.

My bill does this by forcing those who want to adjust for work-related reasons to do so outside the United States. So that, if they are denied, they cannot simply melt back into the population. In addition, by making previous illegal employment a disqualification for adjustment of status for work-related reasons, this bill denies illegal workers the benefit of their lawbreaking.

Finally, Madam President, the bill addresses the problem of overstays by visitors admitted to this country legally. The debate on illegal immigration is focused on the United States-Mexican border. This is understandable, given the flow of illegal aliens across the border and the impact of this flow on border States. However, even sealing off the United States-Mexican border would not solve the problem of illegal immigration.

Indeed, Madam President, the United States-Mexican border is less than half of the problem. The Immigration and Naturalization Service estimates that 52 percent of all illegal aliens residing in the United States do not sneak across the U.S. border. Instead, they enter legally on visitor's visas and then overstay their visas. The percentage in my State of New Jersey is even higher, given its distance from Mexico and the sources of our illegal alien population. The INS estimates that 60 percent of New Jersey's illegal aliens enter the country legally on a visitor's visa and then just overstay, convinced that the INS will never find them. And most times they are right.

The administration and Congress, fixated on the Mexican border, are ignoring this very substantial problem. My bill addresses it by requiring the INS to develop an entry and exit data base that will alert it to overstays by legally admitted nonimmigrants. It is pretty simple. We cannot hope to control our borders unless we know who is inside them. Once we know who is overstaying his or her visa and where that person is staying, we can easily take steps to remove that person from our country. It is a very simple step. It is not taken today, so you have 52 percent of the people who come on legitimate visas disappearing into the society as a whole.

Madam President, the terrorist atrocity in Oklahoma City reminded us that we live in a dangerous world. Of course, non-Americans have no monopoly on terrorism. That is what Oklahoma City said as well. The evidence indicates that the Oklahoma City bombing was not perpetrated by an illegal alien. However, illegal aliens overstaying tourism visas have been implicated in terrorism in this country. For example, take Mohammad Salameh, who is accused of having rented the van used in the World Trade Center bombing. He was living in the United States illegally at the time of that crime. He entered this country legally, on a 6-month tourist visa, on February 17, 1988. And he still had not departed at the time of the World Trade Center bombing on February 26, 1993—5 years later.

Under current procedures, the INS had no idea of Salameh's failure to depart or his whereabouts in the United States. Under this bill, the INS would have been alerted to Salameh's overstay and illegal residence in the United States nearly 4½ years before the crime.

So, Madam President, there you have it. Enforcement of employer sanctions, restrictions on rewarding aliens for illegal work, and measures to discourage overstays by legally admitted visitors. With these steps toward enforcing existing law, we can help to build common ground here at home, to parlay our diversity into strength, to protect legal immigration, and to lead the world by the power of our example.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Illegal Immigration Enforcement Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Government of the United States has failed to curb the influx of undocumented aliens into the United States.

(2) The social and economic costs of illegal immigration create a backlash against legal immigrants and citizens of different ethnic backgrounds.

(3) The primary magnet for illegal aliens is work.

(4) Existing law contains provisions to prevent the employment of undocumented aliens.

(5) Properly enforced, these provisions could reduce employment opportunities for illegal immigrants and thereby reduce the incentive for illegal immigration.

(6) With proper enforcement and employer education, the employer sanctions laws should not result in employment discrimination.

(7) However, these laws are not now adequately enforced.

(8) This is in part because Immigration and Naturalization Service inspectors have other, legislatively mandated, priorities that have first call on their limited resources.

(9) Many illegal immigrants adjust their status to become legal residents.

(10) This prospect is another encouragement to illegal immigration.

(11) Statistics show that approximately one-half of all illegal aliens living in the United States arrived legally on nonimmigrant visas, then failed to depart.

(12) The Immigration and Naturalization Service (INS) is currently unable to identify or locate such visa overstayers in a systematic fashion.

SEC. 3. ENFORCEMENT OF EMPLOYER SANCTIONS.

(a) ESTABLISHMENT OF NEW OFFICE.—There shall be in the Immigration and Naturalization Service of the Department of Justice an Office for the Enforcement of Employer Sanctions (in this section referred to as the "Office").

(b) FUNCTIONS.—The functions of the Office established under subsection (a) shall be—

(1) to investigate and prosecute violations of section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)); and

(2) to educate employers on the requirements of the law and in other ways as necessary to prevent employment discrimination.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $100,000,000 to carry out the functions of the Office established under subsection (a).

SEC. 4. LIMITATION ON ADJUSTMENT OF STATUS.

Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended—

(1) by striking "or (4)" and inserting "(4)"; and

(2) by inserting before the period at the end the following: "(5) any alien who seeks adjustment of status as an employment-based immigrant; or (6) any alien who was employed while the alien was an unauthorized alien, as defined in section 274(h)(3)".

SEC. 5. MONITORING OF OVERSTAYS.

The Attorney General shall develop an entry and exit data base that will permit the Attorney General to identify lawfully admitted nonimmigrants who overstay their visas.

By Mr. ROCKEFELLER:

S. 760. A bill to establish the National Commission on the Long-Term Solvency of the Medicare Program; to the Committee on Finance.

THE MEDICARE COMMISSION ACT OF 1995

• Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Commission Act of 1995".

SEC. 2. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Commission on the Long-Term Solvency of the Medicare Program (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall be composed of 15 members appointed as follows:

(1) Five members shall be appointed by the President from among officers or employees of the executive branch, private citizens of the United States, or both. Not more than 3 members selected by the President shall be members of the same political party.

(2) Five members shall be appointed by the Majority Leader of the Senate from among members of the Senate, private citizens of the United States, or both. Not more than 3 of the members selected by the Majority Leader shall be members of the same political party.

(3) Five members shall be appointed by the Speaker of the House of Representatives from among members of the House of Representatives, private citizens of the United States, or both. Not more than 3 of the members selected by the Speaker shall be members of the same political party.

(4) DATE.—The appointments of the members of the Commission shall be made no later than November 30, 1995.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN.—The Commission shall select a Chairman from among its members.

SEC. 3. DUTIES OF THE COMMISSION.

(a) ANALYSES AND RECOMMENDATIONS.—

(1) IN GENERAL.—The Commission shall—

(A) review relevant analyses of the current and long-term financial condition of the medicare trust funds;

(B) identify problems that may threaten the long-term solvency of such trust funds;

(C) analyze potential solutions to such problems that will both assure the financial integrity of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the provision of appropriate health benefits; and

(D) provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress.

(2) DEFINITION OF MEDICARE TRUST FUNDS.—For purposes of this subsection, the term "medicare trust funds" means the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t).

(b) REPORT.—The Commission shall submit its report to the President and the Congress not later than December 31, 1996.

SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT.—All members of the Commission who are officers or employees of the Federal Government shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) PRIVATE CITIZENS OF THE UNITED STATES.—

(A) IN GENERAL.—Subject to subparagraph (B), all members of the Commission who are not officers or employees of the Federal Government shall serve without compensation for their work on the Commission.

(B) TRAVEL EXPENSES.—The members of the Commission who are not officers or employees of the Federal Government shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission, to the extent funds are available therefor.

(b) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. At the request of the Chairman, the Secretary of Health and Human Services shall provide the Commission with any necessary administrative and support services. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 6. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 2(b).

SEC. 7. FUNDING FOR THE COMMISSION.

Any expenses of the Commission shall be paid from such funds as may be otherwise available to the Secretary of Health and Human Services.•

ADDITIONAL COSPONSORS

S. 216

At the request of Mr. HATCH, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 216, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 230

At the request of Mr. DOLE, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of

S. 230, a bill to prohibit U.S. assistance to countries that prohibit or restrict the transport of delivery of U.S. humanitarian assistance.

S. 327

At the request of Mr. HATCH, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 237, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 457

At the request of Mr. SIMON, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of U.S. immigration laws.

S. 471

At the request of Mr. BIDEN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 471, a bill to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States.

S. 506

At the request of Mr. CRAIG, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 506, a bill to amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hard rock mining sites on Federal lands, and for other purposes.

S. 515

At the request of Mr. BRADLEY, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 515, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through the reduction of harmful substances in meat and poultry that present a threat to public health, and for other purposes.

S. 548

At the request of Mr. ROCKEFELLER, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 548, a bill to provide quality standards for mammograms performed by the Department of Veterans Affairs.

S. 553

At the request of Mr. MOSELEY-BRAUN, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 553, a bill to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers, and for other purposes.

S. 580

At the request of Mrs. FEINSTEIN, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 580, a bill to amend the Immigration and Nationality Act to control illegal immigration to the United States, reduce incentives for illegal immigration, reform asylum procedures, strengthen criminal penalties for the smuggling of aliens, and reform other procedures.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 650

At the request of Mr. SHELBY, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

S. 733

At the request of Mr. ROTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 733, a bill to amend title 23, United States Code, to permit States to use Federal highway funds for capital improvements to, and operating support for, intercity passenger rail service, and for other purposes.

S. 751

At the request of Mr. EXON, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 751, a bill to provide that certain games of chance conducted by a nonprofit organization not be treated as an unrelated business of such organization.

SENATE CONCURRENT RESOLUTION 12—HUMAN RIGHTS ABUSES OF BURMESE WOMEN AND GIRLS

Mrs. MURRAY submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 12

Whereas credible reports indicate that thousands of Burmese women and girls are being trafficked into Thailand with false promises of good paying jobs in restaurants or factories, and then forced to work in brothels under slavery-like conditions that include sexual and physical violence, debt bondage, exposure to HIV, passport deprivation, and illegal confinement;

Whereas credible reports also indicate that members of the Thai police force are often actively involved in, and profit from, the trafficking of Burmese women and girls for the purposes of forced prostitution;

Whereas the United States Government conducts training programs for the Thai police and United States arms and equipment are sold to the Thai police;

Whereas the Convention on the Elimination of All Forms of Discrimination Against Women requires all States Parties "to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women";

Whereas Article 1 of the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery calls for the complete abolition or abandonment of debt bondage;

Whereas forced labor, defined under the 1930 Forced Labor Convention as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily," is internationally prohibited;

Whereas the 1949 Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others finds the traffic in persons for the purposes of prostitution "incompatible with the dignity and worth of the human person," and calls on States Parties to punish any person who procures for the purposes of prostitution, keeps, manages or knowingly finances a brothel, or rents premises for the prostitution of others;

Whereas Assistant Secretary of State for Human Rights and Humanitarian Affairs John Shattuck has testified that the United States "urgently needs to encourage countries in which trafficking of women and children goes on with impunity to enact new laws, and to enforce existing laws. A particular target of this stepped-up law enforcement should be government officials who participate in or condone trafficking, as well as brothel owners and traffickers"; and

Whereas Secretary of State Warren Christopher stated before the 1993 World Conference on Human Rights that "(g)uaranteeing human rights is a moral imperative with respect to both women and men": Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) trafficking in persons violates the fundamental principle of human dignity, and forced prostitution involving physical coercion or debt bondage constitutes a form of forced labor and a slavery-like practice;

(2) the United States State Department should continue to press the Thai Government to strictly enforce all laws that can lead to the prosecution of those involved in trafficking and forced prostitution, including procurers, traffickers, pimps, brothel owners, and members of the Thai police who may be complicit;

(3) the State Department should ensure that Thai police participants in the United States Government-sponsored police training programs are systematically vetted to exclude those who are implicated in trafficking and forced prostitution;

(4) the executive branch should take steps to assure that weapons and equipment provided or sold to the Thai police do not become available to members of those forces who might be involved in trafficking, forced prostitution, or abuse of women and girls who are apprehended;

(5) the State Department should urge the Thai Government to protect the rights and safety of Burmese women and girls in Thailand who are freed from brothels or who are arrested as illegal immigrants because their status as trafficking victims is unclear;

(6) the United States Agency for International Development should target a portion of its assistance to Thailand for AIDS prevention and control to the foreign population in Thailand, particularly Burmese

women and girls in the Thai sex industry; and

(7) the State Department should report to Congress, within 6 months of the date of this resolution, on actions that it has taken to advocate that the Thai Government implement the above steps.

• Mrs. **MURRAY**. Mr. President, today I submit a resolution expressing the sense of Congress concerning the trafficking of Burmese women and girls into Thailand for the purpose of forced prostitution. This is identical to a resolution submitted in the House by Congresswoman LOUISE SLAUGHTER.

I have long supported steps to help improve the gross human rights violations inflicted on women around the world. I am outraged at reports from Human Rights Watch and others citing the egregious abuse of Burmese women and girls who are lured into Thailand with false promises to work at good paying jobs, and then confined in illegal brothels. These women and girls live in brutal conditions, often forced to work 18 hours a day with several different clients. They are subjected to physical and sexual abuse that makes escape practically impossible. In addition, there is virtually no health care or birth control available, and the HIV virus is rampant among these women and girls.

Reportedly, these abuses take place with the knowledge of the Thai Government and the likely involvement of the Thai police. I am deeply concerned by reports that these officials not only fail to protect these women and girls, but actually provide support to the brothels and brothel owners.

Mr. President, this resolution seeks to call attention to these abuses. In addition to stating that sex trafficking is a violation of the fundamental principle of human dignity, it encourages the State Department to press the Thai Government to enforce the laws that can lead to the prosecution of these traffickers. It also encourages the Thai Government to ensure the rights and safety of Burmese women and girls in Thailand. In addition, any weapons and equipment sold to the Thai police by the United States should be kept out of the hands of those individuals who may be involved in trafficking these women and girls. And, finally, the United States Agency for International Development should target a portion of its assistance to Thailand for AIDS prevention and control.

We in Congress must act now to help stop these brutal practices. The savage treatment of Burmese women and girls in Thailand, and the abuses they are subjected to, must cease. I urge my colleagues to support this resolution and help send a message that the trafficking and forced prostitution of women and girls around the world is simply unacceptable.•

AMENDMENTS SUBMITTED

THE COMMON SENSE LEGAL STANDARDS REFORM ACT OF 1995; COMMON SENSE PRODUCT LIABILITY REFORM ACT OF 1995

ROCKEFELLER AMENDMENT NO. 686

(Ordered to lie on the table.)

Mr. **ROCKEFELLER** submitted an amendment intended to be proposed by him to amendment No. 645 proposed by him to amendment No. 596 proposed by Mr. GORTON to the bill (H.R. 956) to establish legal standards and procedures for product litigation, and for other purposes; as follows:

Strike all after "Notwithstanding" and insert the following: "section 197(b)(1), the amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this title shall be the greater of—

"(1) the amount determined under section 107(b)(1); or

"(2) $250,000.".

ROCKEFELLER AMENDMENT NO. 687

(Ordered to lie on the table.)

Mr. **ROCKEFELLER** submitted an amendment intended to be proposed by him to amendment No. 646 proposed by him to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

Strike all after "Notwithstanding" and insert the following: "section 107(b), the amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this title shall not exceed $500,000.".

ROCKEFELLER AMENDMENT NO. 688

(Ordered to lie on the table.)

Mr. **ROCKEFELLER** submitted an amendment intended to be proposed by him to amendment No. 647 proposed by him to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

Strike all after "Notwithstanding" and insert the following: "section 107(b)(1), the amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this title shall not exceed 3 times the sum of the amounts described in subparagraphs (A) and (B) of such section.".

BYRD AMENDMENT NO. 689

(Ordered to lie on the table.)

Mr. **BYRD** submitted an amendment intended to be proposed by him to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra, as follows:

At the appropriate place, insert

Since, the United States and Japan have a long and important relationship which serves as an anchor of peace and stability in the Pacific region;

Since, the overall balance in the U.S.-Japan relationship has been eroded as a result of persistent and large trade deficits which are the result of practices and regulations which have substantially blocked legitimate access of American products to the Japanese market;

Since, the current account trade deficit with Japan in 1994 reached an historic high level of $66 billion, of which $37 billion, or 56 percent, is attributed to imbalances in the automobile sector, and of which $12.8 billion is attributable to auto parts flows;

Since, in July, 1993, the Administration reached a broad accord with the Government of Japan, called the "United States-Japan Framework for a New Economic Partnership", which established automotive trade regulations as one of 5 priority areas for negotiations, to seek market-opening arrangements based on objective criteria and which would result in objective progress;

Since, a healthy American automobile industry is of central importance to the American economy, and to the capability of the United States to fulfill its commitments to remain as an engaged, deployed, Pacific power;

Since, after 18 months of negotiations with the Japanese, beginning in September 1993, the U.S. Trade Representative concluded that no progress had been achieved, leaving the auto parts market in Japan "virtually closed";

Since, in October, 1994, the United States initiated an investigation under Section 301 of the Trade Act of 1974 into the Japanese auto parts market, which could result in the imposition of trade sanctions on a variety of Japanese imports into the United States unless measurable progress is made in penetrating the Japanese auto parts market;

Since, negotiations are continuing between the United States and Japan to achieve lasting market-opening arrangements into the Japanese automobile and parts sector;

Now, therefore, be it

Declared, That it is the Sense of the Senate that—

(1) the Senate supports the efforts of the President to continue to strongly press the Government of Japan, through bilateral negotiations under the agreed "Framework for a New Economic Partnership," for sharp reductions in the trade imbalances in automotive sales and parts through the elimination of unfair and restrictive Japanese market-closing practices and regulations; and

(2) If such results-oriented negotiations are not concluded satisfactorily, appropriate and reasonable measures, up to and including trade sanctions, should be imposed in accordance with Section 301 of the Trade Act of 1974; and

(3) The Senate is prepared to fully support any such measures that might be taken against Japanese products, including appropriate legislation.

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

Mr. **COHEN**. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Thursday, May 11, 1995, at 9:30 a.m., in room 562 of the Dirksen Senate Office Building. The subject of the hearing is long-term care financing.

NOTICES OF HEARING CHANGE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the nomination of Charles William Burton to be a member of the Board of Directors of the U.S. Enrichment Corporation will not be considered on Wednesday, May 10, 1995, as previously announced.

For further information, please call Camille Heninger at (202) 224-5070.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, May 4, 1995, at 2 p.m. in closed/open session to receive testimony on the Ballistic Missile Defense Organization's fiscal year 1996 budget request and the future years defense program; and on the future of the ABM Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Thursday, May 4, 1995, at 9:30 a.m. in room SD–215, to conduct a hearing on the Vaccines for Children Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 4, 1995, at 10 a.m. to hear testimony on China: Illegal Trade in Human Body Parts.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, May 4, 1995, at 2 p.m. to hold a hearing on judicial nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on primary Health Care Programs, during the session of the Senate on Thursday, May 4, 1995, at 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, May 4, 1995 to hold hearings on the Navy T–AO–187 *Kaiser* class oiler contract.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING OPPORTUNITY AND COMMUNITY DEVELOPMENT

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Subcommittee on Housing Opportunity and Community Development of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, May 4, 1995, to conduct a hearing on Federal Housing Administration Reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space of the Senate Committee on Commerce, Science, and Technology be authorized to meet on May 4, 1995, on High Performance Computing and Communications and the World Wide Web at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, WASTE CONTROL, AND RISK ASSESSMENT

Mr. ABRAHAM. Mr. President I ask unanimous consent that the Subcommittee on Superfund, Waste Control, and Risk Assessment be granted permission to conduct an oversight hearing Thursday, May 4, at 9 a.m., regarding the Comprehensive Environmental Response, Compensation, and Liability Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND GOVERNMENT INFORMATION

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Technology, and Government Information of the Committee on the Judiciary, be authorized to hold a hearing during the session of the Senate on Thursday, May 4, 1995, to consider "Counter-Terrorism Legislation."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

OKLAHOMA CITY BOMBING

• Mr. ABRAHAM. Mr. President, I rise today to express my sincere condolences to the families and friends who lost their loved ones in the horrible terrorist act which took place in Oklahoma City, OK, on April 19, 1995. My prayers are with the victims, with those who lost loved ones, and with those who simply had to suffer through the agony of uncertainty. And, like every Member of this Senate, I am determined to ensure that those terrorists who committed this crime will be prosecuted to the fullest extent of the law.

Our top priority today and always ought to be the protection and safety of all the citizens of our country. Though we in the Senate will, as we already have, differ about the role of the Federal Government and the scope of Congress' authority, I think we can all agree that the first obligation of the Government is to protect its citizens from harm. We must do everything we rightfully can to prevent future tragedies of this sort and to see to it that the perpetrators of this terrible act are brought to justice.

One hope I have is that, in the process of focusing on the tragic incident in Oklahoma City involving one type of crime, we don't lost sight of the rising tide of all violent crime in this country. It did not take the massive destruction of this bombing to make violence a major problem in America. The rate of violent crime is increasing and will continue to do so if we do not put a stop to it now. Thus, it is even more urgent that government at all levels—Federal, State, and local—act accordingly to make sure that all types of criminal violence are prevented, or, that when these acts occur, to see to it that the responsible parties are severely punished for their actions.

In my view, there is a continuum in our society, with the rights of criminals on one end, and the rights of both victims of crime and the law-abiding on the other. More rights for criminals ineluctably translates to fewer rights for victims. I believe the pendulum has swung too far, and for too long, toward the right of criminals. It is time for us to shift things in the direction of law-abiding citizens and the victims of crime.

Despite our best efforts, we must recognize that, no matter what we do, we will never to able to eradicate crime, nor, though we would like to, eliminate the possibility of a violent fanatic detonating a fertilizer-based bomb. So long as human nature remains imperfect there are going to be murderers, there are going to be rapists, there are going to be violent fanatics. Prevention is critical, and all appropriate tools should be provided to law enforcement officials to aid their preemptory efforts. But what is also important is the response which our criminal justice system is able to muster after the fact.

In short, we must ensure that the perpetrators of all criminal acts in this country are—as the President promised in this case—brought to swift and certain justice. Legal reforms that would permit the rapid apprehension, trial, and punishment of the perpetrators of crime—all crimes—would go a long way toward preventing future such crimes and assuring the victims that justice will be done.

I believe, with regard to Oklahoma City that what most affects us all is seeing the families of the victims. Like most Americans, I want to see justice for those families prevail. I would like to be able to assure those families that they will not have to suffer through a 9-month trial on TV—including, for example, several weeks devoted to selecting the perfect, dispassionate and adequately uninformed jury. And I would like to be able to tell those families that they will not then have to endure years upon years of repetitive trials and appeals, forcing them to relive over and over the nightmare of the past weeks. But I cannot.

Regrettably, our current system is all too often exploited by the guilty—at the expense of the innocent. That is why, as we move ahead with any proposed antiterrorist legislation as well as with the Senate Republican crime bill, S. 3, the Violent Crime Control and Law Enforcement Improvement Act of 1995, I hope we will seek to pass legislation which does put the rights of victims and law-abiding citizens first—where they belong.

Mr. President, on another note, I would like to also shed light on an unfortunate incident which took place during the aftermath of the bombing in Oklahoma City. Immediately after the bombing, many so-called experts and news media outlets rushed to the judgment that this attack was most probably the result of, "Islamic radical fundamentalist terrorists from the Middle East." This inaccurate and prematurely reached conclusion did great damage to the millions of loyal Arab- and Moslem-Americans in the United States, producing a wave of anti-Moslem, anti-Arab hysteria in the days after the bombing. The windows of a mosque in Oklahoma City were shattered by bullets in the days after the bombing, and death threats were called in to many mosques across the United States—including several in my home State of Michigan. In addition, many Arab- and Moslem-American students were harassed at their schools and universities. All of these unfortunate incidents could have been avoided had some in the media and their so-called terrorism experts refrained from jumping to such unsubstantiated conclusions.

The news media has a clear duty to the American people to report allegations of this type responsibly. The media has received many compliments about its coverage of Oklahoma City, much of it deserved. However, those outlets which failed to show proper restraint or which countenanced wildly speculative finger-pointing should, I believe, extend an apology to the Arab- and Moslem-American communities for the damage done to the hardworking individuals and families that comprise them. The American-Moslem community has donated $22,500 to assist the families of the victims of the bombing in Oklahoma City—a story which I hope the media will also be reporting.

That said, I want to reemphasize my comments regarding this horrible tragedy in Oklahoma. Our criminal law enforcement community needs to have the appropriate tools for prevention and punishment. If we, in the Senate, are able to pass the appropriate legislation which will assist the law enforcement officials to effectively combat crime, then perhaps criminals will be deterred from committing another tragic Oklahoma City incident anywhere in the United States. Amidst all the pain, we may have learned a very valuable lesson from this incident—the worst terrorist crime in our Nation's history. The painful lesson learned may be that Oklahoma City is a wake-up call to all Americans that we desperately need to reform our criminal laws.●

OPEN MARKETS AND FAIR TRADE ACT OF 1995

● Mr. ROCKEFELLER. Mr. President, I seek to have placed in the CONGRESSIONAL RECORD a copy of the "Open Markets and Fair Trade Act of 1995," S. 756, that was formally submitted for the RECORD yesterday, May 3, 1995, but which was not printed in full.

The "Open Markets and Fair Trade Act of 1995," will evaluate the current conditions of markets around the world for American products and instigate a process of negotiating access to those markets. It also gives the President and Congress a new tool to use in those negotiations—the threat of reciprocal trade action. Basically the bill tells our trading partners that if they refuse to give our products reasonable market access, we may impose the same kind of restrictions on their products.

Mr. President, this bill was written in response to a problem that persists year after year. I am speaking, of course, of our trade deficit, which is out of control. Certainly, we are making progress on some micro-economic levels, and the Clinton Administration has hammered out more than 70 different trade agreements over the last two-plus years—14 with Japan alone. These are helping some industries, some workers, and some parts of our economy. But they have done nothing to shrink the trade deficit. Clearly, more must be done.

Mr. President, this bill does not single out any one country. It is designed to pry open markets wherever they're closed, wherever in the world American products are denied access. This bill follows up on the Uruguay Round and looks beyond tariffs—it is designed to deal with market barriers; the internal rules in various countries that are practical impediments to American businesses. I am seeking to open more markets across the globe in order to bring about the increased exports and jobs that the GATT promised.

And I think it's high-time we question the wisdom that blames almost all of America's trade deficit problems solely on ourselves. For years, we've heard the same assertions: "Americans spend too much and save too little * * * the budget deficit is too high * * * we are growing faster than other countries so we have more money to spend." Yes, these economic realities contribute to the problem, but under President Clinton's leadership, we have reduced the Federal fiscal deficit by over $700 billion, yet the trade deficit goes up and up.

I think it's time we reverse the premise and look at how the trade deficit fuels our savings and debt problems. The inability of American companies to sell in places like Japan, China, Germany and elsewhere costs our corporations profits, our workers job opportunities, and our nation revenues—all of which weigh down our own economic growth and add to our fiscal deficit.

Whether it is a requirement for American firms to hire local agents to conduct business; cumbersome inspection and customs procedures; bans on the sale of products for dubious claims of national sovereignty or some other sort of prerogative, the simple fact is that protected sanctuary markets abroad are a major contributor to America's economic problems.

To explain this simply, I will use as an example the well known case of how Japanese manufacturers sell things like electronics in the United States at such cheap prices, even when the Yen is at a record height. I am citing Japan here, but it could be any other country that has a sanctuary market. It is well known that many Japanese-made products are cheaper in the United States than in Japan. That is because Japan's closed market is a sanctuary that effectively insulates producers from competition, and allows them to overcharge Japanese consumers, giving them enough of a profit margin at home to sell below cost here. That means American companies lose on both ends. We can't export into these markets, and their subsidized exports harm our domestic industries and costs us jobs.

My trade policy is quite simple, in addition to preserving the effectiveness of America's trade laws, I support measures that will increase American exports, and West Virginia exports specifically. Every $1 billion in exports supports about 17,000 jobs. So it follows that if we increase American exports, we will create more jobs here in the United States. And export related jobs are, on average, better, higher paying jobs. That is why I have worked so hard to introduce West Virginia businesses to foreign market opportunities.

The "Open Markets and Fair Trade Act of 1995" is about market opportunities for American firms and especially markets for American industries with the most export potential and which promote critical technologies. Most importantly, it instructs the Commerce Department to look at markets which, if we can export there, offer the greatest employment opportunities for American workers.

America cannot afford to be a market for everyone else's products when we don't get the same kind of access in return. Our economy, and the global economy, cannot sustain that kind of imbalance. The American people will only continue to support free trade if it means we are able to sell American products abroad as easily as Asian and European and Latin American manufacturers have access to our shelves and showrooms. While past negotiations should have made these points perfectly clear, the "Open Markets and Fair Trade Act of 1995" will erase any doubts that may have lingered with our trading partners.

Mr. President, I ask that following my statement the full text of the "Open Markets and Fair Trade Act of 1995" appear, followed by a summary of S. 756.

The material follows:

S. 756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Open Markets and Fair Trade Act of 1995".

SEC. 2. REPORTS ON MARKET ACCESS.

(a) ANNUAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Congress a report with respect to those countries selected by the Secretary in which goods or services produced or originating in the United States, that would otherwise be competitive in those countries, do not have market access. Each report shall contain the following with respect to each such country:

(1) ASSESSMENT OF POTENTIAL MARKET ACCESS.—An assessment of the opportunities that would, but for the lack of market access, be available in the market in that country, for goods and services produced or originating in the United States in those sectors selected by the Secretary. In making such assessment, the Secretary shall consider the competitive position of such goods and services in similarly developed markets in other countries. Such assessment shall specify the time periods within which such market access opportunities should reasonably be expected to be obtained.

(2) CRITERIA FOR MEASURING MARKET ACCESS.—Objective criteria for measuring the extent to which those market access opportunities described in paragraph (1) have been obtained. The development of such objective criteria may include the use of interim objective criteria to measure results on a periodic basis, as appropriate.

(3) COMPLIANCE WITH TRADE AGREEMENTS.—An assessment of whether, and to what extent, the country concerned has materially complied with—

(A) agreements and understandings reached between the United States and that country pursuant to section 3, and

(B) existing trade agreements between the United States and that country.

Such assessment shall include specific information on the extent to which United States suppliers have achieved additional access to the market in the country concerned and the extent to which that country has complied with other commitments under such agreements and understandings.

(b) SELECTION OF COUNTRIES AND SECTORS.—

(1) IN GENERAL.—In selecting countries and sectors that are to be the subject of a report under subsection (a), the Secretary shall give priority to—

(A) any country with which the United States has a trade deficit if access to the markets in that country is likely to have significant potential to increase exports of United States goods and services; and

(B) any country, and sectors therein, in which access to the markets will result in significant employment benefits for producers of United States goods and services.

The Secretary shall also give priority to sectors which represent critical technologies, including those identified by the National Critical Technologies Panel under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683).

(2) FIRST REPORT.—The first report submitted under subsection (a) shall include those countries with which the United States has a substantial portion of its trade deficit.

(3) TRADE SURPLUS COUNTRIES.—The Secretary may include in reports after the first report such countries as the Secretary considers appropriate with which the United States has a trade surplus but which are otherwise described in subsection (a) and paragraph (1) of this subsection.

(c) OTHER SECTORS.—The Secretary shall include an assessment under subsection (a) of any country or sector for which the Trade Representative requests such assessment be made. In preparing any such request, the Trade Representative shall give priority to those barriers identified in the reports required by section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)).

(d) INFORMATION ON ACCESS BY FOREIGN SUPPLIERS.—The Secretary shall consult with the governments of foreign countries concerning access to the markets of any other country of goods and services produced or originating in those countries. At the request of the government of any such country so consulted, the Secretary may include in the reports required by subsection (a) information, with respect to that country, on such access.

SEC. 3. NEGOTIATIONS TO ACHIEVE MARKET ACCESS.

(a) NEGOTIATING AUTHORITY.—The President is authorized to enter into agreements or other understandings with the government of any country for the purpose of obtaining the market access opportunities described in the reports of the Secretary under section 2.

(b) DETERMINATION OF PRIORITY OF NEGOTIATIONS.—Upon the submission by the Secretary of each report under section 2, the Trade Representative shall determine—

(1) for which countries and sectors identified in the report the Trade Representative will pursue negotiations, during the 6-month period following submission of the report, for the purpose of concluding agreements or other understandings described in subsection (a), and the timeframe for pursuing negotiations on any other country or sector identified in the report; and

(2) for which countries and sectors identified in any previous report of the Secretary under section 2 the Trade Representative will pursue negotiations, during the 6-month period described in paragraph (1), in cases in which—

(A) negotiations were not previously pursued by the Trade Representative, or

(B) negotiations that were pursued by the Trade Representative did not result in the conclusion of an agreement or understanding described in subsection (a) during the preceding 6-month period, but are expected to result in such an agreement or understanding during the 6-month period described in paragraph (1).

For purposes of this Act, negotiations by the Trade Representative with respect to a particular sector shall be for a period of not more than 12 months.

(c) SEMIANNUAL REPORTS.—At the end of the 6-month period beginning on the date on which the Secretary's first report is submitted under section 2(a), and every 6 months thereafter, the Trade Representative shall submit to the Congress a report containing the following:

(1) REPORT WHERE NEGOTIATIONS PURSUED IN PREVIOUS 6-MONTH PERIOD.—With respect to each country and sector on which negotiations described in subsection (b) were pursued during that 6-month period—

(A) a determination of whether such negotiations have resulted in the conclusion of an agreement or understanding intended to obtain the market access opportunities described in the most recent applicable report of the Secretary, and if not—

(i) whether such negotiations are continuing because they are expected to result in such an agreement or understanding during the succeeding 6-month period; or

(ii) whether such negotiations have terminated;

(B) in the case of a positive determination made under subparagraph (A)(i) in the preceding report submitted under this subsection, a determination of whether the continuing negotiations have resulted in the conclusion of an agreement or understanding described in subparagraph (A) during that 6-month period.

(2) REPORT WHERE NEGOTIATIONS NOT PURSUED.—With respect to each country and sector on which negotiations described in subsection (b) were not pursued during that 6-month period, a determination of when such negotiations will be pursued.

SEC. 4. MONITORING OF AGREEMENTS AND UNDERSTANDINGS.

(a) IN GENERAL.—For the purpose of making the assessments required by section 2(a)(3), the Secretary shall monitor the compliance with each agreement or understanding reached between the United States and any country pursuant to section 3, and with each existing trade agreement between the United States and any country that is the subject of a report under section 2(a). In making each such assessment, the Secretary shall describe—

(1) the extent to which market access for the country and sectors covered by the agreement or understanding has been achieved; and

(2) the bilateral trade relationship with that country in that sector.

In the case of agreements or understandings reached pursuant to section 3, the description under paragraph (1) shall be done on the basis of the objective criteria set forth in the applicable report under section 2(a)(2).

(b) TREATMENT OF AGREEMENTS AND UNDERSTANDINGS.—Any agreement or understanding reached pursuant to negotiations conducted under this Act, and each existing trade agreement between the United States and a country that is the subject of a report under section 2(a), shall be considered to be a trade agreement for purposes of section 301 of the Trade Act of 1974.

SEC. 5. TRIGGERING OF SECTION 301 ACTIONS.

(a) FAILURE TO CONCLUDE AGREEMENTS.—In any case in which the Trade Representative determines under section 3(c)(1) (A)(ii) or (B) that negotiations have not resulted in the conclusion of an agreement or understanding described in section 3(a), each restriction on, or barrier or impediment to, access to the markets of the country concerned that was the subject of such negotiations shall, for purposes of title III of the Trade Act of 1974, be considered to be an act, policy, or practice determined under section 304 of that Act to be an act, policy, or practice that is unreasonable and discriminatory and burdens or restricts United States commerce. The Trade Representative shall determine what action to take under section 301(b) of that Act in response to such act, policy, or practice.

(b) NONCOMPLIANCE WITH AGREEMENTS OR UNDERSTANDINGS.—In any case in which the Secretary determines, in a report submitted under section 2(a), that a foreign country is not in material compliance with—

(1) any agreement or understanding concluded pursuant to negotiations conducted under section 3, or

(2) any existing trade agreement between the United States and that country,

the Trade Representative shall determine what action to take under section 301(a) of the Trade Act of 1974. For purposes of section 301 of that Act, a determination of noncompliance described in the preceding sentence shall be treated as a determination made under section 304 of that Act.

SEC. 6. EXPEDITED PROCEDURES FOR CERTAIN PRESIDENTIAL ACTIONS.

(a) AUTHORITY FOR RECIPROCAL ACTIONS.—In any case in which—

(1) section 5 applies,

(2) the President determines that reciprocal action should be taken by the United States in response to—

(A) a restriction, barrier, or impediment referred to in section 5(a) with respect to access to the market of a country, or

(B) noncompliance with an agreement, understanding, or trade agreement referred to in section 5(b),

as the case may be,

(3) changes in existing law or new statutory authority is necessary for such reciprocal action to be taken, and

(4) the President, within 30 days (excluding any day described in section 154(b) of the Trade Act of 1974) after—

(A) the determination of the Trade Representative under section 3(c)(1)(A)(ii) or (B), or

(B) the determination of the Secretary in the applicable report under section 2(a),

as the case may be, submits to the Congress a draft of implementing legislation with respect to the changes or authority described in paragraph (3),

then subsection (c) applies.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "reciprocal action" means action that is taken in direct response to a restriction on, or barrier or impediment to, access to the market in another country and is comparable or of equivalent effect to such restriction, barrier, or impediment; and

(2) the term "implementing legislation" means a bill of either House of Congress which is introduced as provided in subsection (c) and which contains provisions necessary to make the changes or provide the authority described in subsection (a)(3).

(c) PROCEDURES FOR IMPLEMENTING LEGISLATION.—On the day on which implementing legislation is submitted to the House of Representatives and the Senate under subsection (a), the implementing legislation shall be introduced and referred as provided in section 151(c)(1) of the Trade Act of 1974 for implementing bills under such section. The provisions of subsections (d), (e), (f), and (g) of section 151 of such Act shall apply to implementing legislation to the same extent as such subsections apply to implementing bills.

(d) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 7. URUGUAY ROUND AGREEMENTS NOT AFFECTED.

Nothing in this Act shall be construed to violate any provision of the agreements approved by the Congress in section 101(a)(1) of the Uruguay Round Agreements Act (19 U.S.C. 3511(a)(1)).

SEC. 8. DEFINITIONS.

As used in this Act:

(1) EXISTING TRADE AGREEMENT BETWEEN THE UNITED STATES AND A COUNTRY.—An "existing trade agreement" between the United States and another country means any trade agreement or understanding that was entered into between the United States and that country before the date of the enactment of this Act and is in effect on such date. Such term includes, but is not limited to—

(A) with respect to Japan—

(i) the Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Semiconductor Products, signed in 1986;

(ii) the Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Semiconductor Products, signed in 1991;

(iii) the United States-Japan Wood Products Agreement, signed on June 5, 1990;

(iv) Measures Related to Japanese Public Sector Procurements of Computer Products and Services, signed on January 10, 1992;

(v) the Tokyo Declaration on the U.S.-Japan Global Partnership, signed on January 9, 1992; and

(vi) the Cellular Telephone and Third-Party Radio Agreement, signed in 1989;

(B) with respect to the European Union—

(i) the Agreement Concerning the Application of the GATT Agreement on Trade in Civil Aircraft Between the European Economic Community and the Government of the United States of America on trade in large civil aircraft, with annexes, entered into force on July 17, 1992;

(ii) the Agreement Concerning Procurement Between the United States and the European Union, signed April 15, 1994; and

(iii) the Memorandum of Understanding (MOU) on Procurement Between the United States and the European Union, signed May 25, 1993; and

(C) with respect to the People's Republic of China—

(i) the Memorandum of Understanding (MOU) on the Protection of Intellectual Property Rights Between the United States and the People's Republic of China, signed January 17, 1992;

(ii) the Memorandum of Understanding (MOU) on Market Access Between the United States and the People's Republic of China, signed October 10, 1992;

(iii) the Bilateral Textile Agreement Between the United States and the People's Republic of China, signed January 17, 1994; and

(iv) an exchange of letters with an attached action plan between the United States and the People's Republic of China, signed February 26, 1995, relating to intellectual property rights.

(2) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(3) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

THE OPEN MARKETS AND FAIR TRADE ACT OF 1995—SUMMARY

GOAL

The legislation will help the United States develop a systematic, long-term trade policy that will pry open foreign markets for American exporters. This bill supports the Clinton Administration's results-oriented trade policy.

The U.S. has accumulated more than $1 trillion in merchandise trade deficits since 1980. Countries like Japan—which accounted for more than 43% of last years deficit and China, which accounted for almost 20% of last years trade deficit, continue to exclude U.S. products from their markets.

This legislation will create a process for defining what our goals and objectives should be in trade negotiations. It will help ensure that our trade negotiations achieve measurable results, not just empty promises. Additionally, the legislation will grant the President the authority to have Congress grant him reciprocal trade authority on an expedited basis.

SPECIFICS

The legislation instructs the Commerce Department to choose a range of important American goods and services, and study how well those products do in foreign markets. Then we'll understand how well we should be doing if trade were free and fair. Commerce will outline clear, objective criteria for gaining market access and the USTR will be given authority to negotiate to achieve these or similar goals.

The bill requires that in developing objective criteria the Department of Commerce should give priority to industries which will result in the greatest employment benefits for the United States, industries which have the most export potential and industries that promote critical technologies.

The legislation doesn't specify what objective criteria should be used. It simply endorses a results-oriented trade policy. The effect will not be "managed trade". Rather, it will provide the basis for our negotiators and our trading partners to know what "success" is. It seeks to create a basis for open, honest negotiations where others understand what our expectations are.

The legislation also gives the President the ability to come to Congress to authorize reciprocal trade actions if he deems it appropriate. This reciprocal trade authority would be considered on an expedited basis.

The President has full discretion under this legislation. But it sends a clear message to our trading partners: follow the Golden Rule in trade. If another country believes that its market access impediments are appropriate and should be continued, then they shouldn't object to others following their lead.

Nothing in this legislation violates our commitment to the GATT. The process that the bill begins simply requires that we define what our national interests and what fair play would achieve. It does not specify how we will respond to the market barriers our farmers, workers and businesses face, although, through the expedited procedures provided for in the bill, it shows a clear preference for reciprocity. Reciprocity to respond to anticompetitive practices. Actions that aren't covered by the GATT.

Those with a vested interest in the status quo have engaged in an intensive public relations campaign to discredit the President's trade policy. We must not retreat from our desire to enforce the rights of our farmers, workers and businesses.•

U.S. COMMISSION ON CIVIL RIGHTS' REPORT ON HATE CRIME IN OHIO

• Mr. SIMON. Mr. President, the Ohio Advisory Committee to the U.S. Commission on Civil Rights has released a report documenting hate activity in that State. The Ohio Advisory Committee compiled hate crime statistics from the five largest cities in the State, and found continuing reports of prejudice and hate ranging from racism, anti-Semitism, and homophobia. Unfortunately, Ohio's continued problem with hate crimes mirrors the national struggle against crimes based on prejudice.

The Ohio report serves as a reminder that there is still much work to be done to reduce the incidence of hate crimes. The Hate Crimes Statistics Act, which I authored in 1990, has been an important first step in this process. The reporting system established by this law sends a message to both the victims and the perpetrators of hate crimes that law enforcement officials are committed to solving the problem of hate crimes.

Unfortunately, since States are not required to provide statistics on hate crimes to the FBI, many States have not yet fully complied with this important effort. In this, Ohio again mirrors the problems in many States. The Ohio Advisory Committee found that the reporting of hate crime by local law enforcement agencies is still insufficient to gauge with confidence the extent of hate crime activity in Ohio. Ohio has seen significant progress since 1991 when only 30 of 401—7 percent—law enforcement agencies who participate in the program submitted hate crime reports to the FBI. That number increased to 125 of 401—31 percent—law enforcement agencies reporting in 1993. This progress is encouraging, but a greater commitment is needed.

In addition to the problems with insufficient reporting, the report found that Ohio's reporting was plagued by wide discrepancies in interpretation of the hate crime statute. This has been a problem in many States, and highlights the importance of the FBI hate crime training programs. The FBI offers outreach and training programs for local law enforcement officials to ensure that hate crime reporting is consistent and in keeping with the statute. I encourage Ohio law enforcement officials to take advantage of this useful training.

The Ohio report made several recommendations to improve Ohio's hate crime reporting, from encouraging local law enforcement officials to avail themselves of the hate crime training offered by the FBI to the creation of a central depository of hate crime information in Ohio. These changes would not only boost efforts to monitor hate crimes, but facilitate more effective remedies and prosecutions of hate crimes in the State. I encourage Ohio officials to review these recommendations.

The foundation laid by the 1990 Hate Crimes Statistics Act is an important step in solving the problem of hate crimes. But clearly this problem is not going away. The problems in Ohio are not unique. Government officials, from local to Federal, need to look for ways to assist States and cities interested in training their law enforcement officials to report hate crimes, and to encourage all States to participate.•

IMMIGRATION ENFORCEMENT IMPROVEMENTS ACT OF 1995

• Mr. SIMON. Mr. President, I am proud to be an original cosponsor of the Immigration Enforcement Improvements Act of 1995. The approach to immigration policy reflected in the administration's proposal is thoughtful and comprehensive, and I applaud it.

The Clinton administration's bill recognizes, as do the people of this Nation, the need to formulate an effective response to the problem of illegal immigration, and proposes increased resources not only for border enforcement, but also increased resources to eliminate the job magnet that will continue to draw undocumented aliens into the Nation regardless of the success of our border policy. The proposal also strives to improve our ability to deport those aliens that have been identified as deportable.

To achieve each of these objectives the administration has proposed stern measures, and, in its fiscal year 1996 budget request, the commitment of substantial resources; yet, at the same time, the administration's proposal contains little that feeds the rampant anti-immigrant sentiment that has pervaded the immigration policy debate in recent years. Rather, the administration's proposal takes a measured yet aggressive approach to the problems we must face. In short, while it has taken an undeniably firm stance against illegal immigration, the administration has not succumbed to the belief that immigration in all its shapes and forms is a bad thing. Quite the contrary: this legislation reflects the fact that, as the President has said, an effective immigration policy must combine deterrence of illegal immigration with an encouragement and celebration of legal immigration.

I look forward to working with the administration and my colleagues in the Senate to effect this delicate balance, and to implement an immigration policy that is both tough and fair. The administration's proposal is a great step in this direction.•

TRIBUTE TO DR. RAY STOWERS

• Mr. NICKLES. Mr. President, I rise today to congratulate a fellow Oklahoman, Ray Stowers, D.O. on his recent appointment to the Physicians Payment Review Commission [PPRC].

Dr. Stowers is an osteopathic, family practice physician from Medford, OK. Since his first year in practice, Dr. Stowers has remained dedicated to the advancement of rural family medical practice, evidenced by his service as a faculty member of the Oklahoma State University College of Osteopathic Medicine. During this time, Dr. Stowers maintained his office at the rural site for the Enid Memorial Hospital providing exceptional health care for the individuals in that community.

One of Dr. Stowers' many successes occurred when he was appointed by the Governor of Oklahoma to serve on the board of the Task Force on Rural Health Care issues which was responsible for advising the Governor on the State's health care manpower needs, and for convening a statewide conference to discuss rural health care delivery issues.

Dr. Stowers is also an expert in physician payment issues. Since 1992, he has served on the American Medical Association's Relative Value Update Committee [RUC]. As the first osteopathic physician appointed to serve on this committee, Ray has facilitated greater understanding, collaboration, and teamwork between the osteopathic medical profession and the allopathic physician community, and has lent his considerable expertise on physician practices to the RUC proceedings. Since 1994, he has also served as the osteopathic profession's liaison to the American Academy of Physicians regarding reimbursement, certification, legislation, and managed care options.

Since PPRC was established by Congress in 1986, an osteopathic physician has never served on the Commission. Dr. Stowers' appointment makes him the first osteopathic physician to serve on the Commission and the medical profession could not have put forth a finer candidate. Dr. Stowers represents what is best about medicine and physicians in America today. During the time when the trend to become a specialized physician is so strong and promises such great rewards, he has remained dedicated to the path of providing solo, rural family medicine for over 21 years.

Dr. Stowers has served his family, his profession, his community, and his State of Oklahoma well. The entire country will now benefit from the same service of compassion and integrity. Dr. Stowers, the State of Oklahoma is proud of your accomplishments. I am honored to join your family, friends, and colleagues in wishing you every success as you embark on your next challenge of serving on the Physician Payment Review Commission.•

ARSON AWARENESS WEEK

• Mr. ROTH. Mr. President, this is Arson Awareness Week. In the time it will take me to finish my first sentence, arson fires will destroy at least $600 worth of property in this country. That is an annual cost of more than $2 billion. And while in recent years arson has accounted for just over 15 percent of building fires, it has accounted for more than 30 percent of the dollar loss.

This, Mr. President, is a problem we all pay for. We pay for it in higher property insurance premiums and in higher taxes.

Analysis of 1987 to 1991 fires by the National Fire Protection Association found that residential arson averaged a cost of $14,000 per fire. Fires set in stores, offices, and restaurants averaged a cost of $30,000 per fire. And arson fires in manufacturing sites averaged more than $65,000.

Beyond the obvious economic costs associated with homes and businesses lost to arson, there is a severe social consequence. In many cases the remnants from acts of arson end up as hangouts and havens for drug dealers, prostitutes, and other criminal elements. Put simply, arson breeds crime in more ways than one, contributing to fear and frustration, especially in our Nation's cities.

Finally—and more importantly—we pay for the heinous crime of arson in a way that cannot be measured—a loss that is beyond monetary considerations. This, of course, is the loss of life. Every year, Mr. President, more than 700 people—men, women, and children—die in arson fires. Beyond the deaths, there are the tortured survivors, people who often end up physically or emotionally scarred.

National Arson Awareness Week sponsored by the International Association of Arson Investigators begins the week of May 1. It serves to remind us of one of the more notorious and unfortunate chapters in recent American history, the series of devastating fires set over 3 days in Los Angeles in 1992. May 1 is the anniversary of the day those fires ended. It is my sincere hope that by focusing on the tragedy that is always, in one way, associated with arson, we can minimize, and even bring an end to this horrible crime.

As we focus attention on arson, we will better understand who sets fires and under what circumstances. Based on arson arrests, juveniles set approximately half of arson fires, usually as a way to commit vandalism. However, my definition of juveniles is broader than just teenagers. Of those arrested, 6 percent are under 10 years old.

However, it is the adult arsonists who are the most sophisticated and who cause the greater amount of destruction. Revenge often serves as a motive for their arson. In 1990, in New York City, a man who was angry with his girlfriend, set fire to the restaurant where she worked. The end result was the death of 87 people turning his hateful act into the second-deadliest fire of the past 30 years.

What is being done to reduce the threat of arson? Many things.

Insurance companies report information on suspicious fires to the Property Insurance Loss Register, a national database, which police and fire officials use to investigate fires and prosecute arsonists. While this is not a recent development, increased use will pay bigger dividends as the amount of information in the database grows.

Also, firefighters have long received training in arson detection. Some even specialize in the field. They are highly trained and skilled in determining a fire's origin.

Recently, dogs have also assumed a new role, the role of a fire investigator's best friend. These specially trained dogs are sometimes able to sniff out what started a fire, such as gasoline, when human investigators cannot.

I am encouraged by the progress and the dedicated men and women who dedicate themselves to our safety. Arson Awareness Week is one way we can demonstrate our gratitude and encourage the rest of America to join us in fighting this destructive and pointless crime.•

DEMOCRACY IN TANZANIA

• Mr. SIMON. Mr. President, I speak to you today about an African country that could, this year, take another major step on the path toward democracy.

The Republic of Tanzania was formed in 1964 through the merger of two independent States: the East African State, Tanganyika, and the independent island, Zanzibar. From 1965 until his retirement in 1985, President Julius Nyere, one of the greatest of African statesman, headed the Tanzanian Government.

For most of its history, the Republic of Tanzania has had a single party political system. In 1985, President Nyere was succeeded by their current leader, President Ali Hassan Mwinyi in a single party election. President Mwinyi won that election with no opposition and 96 percent of the vote. In 1990, President Mwinyi was again the sole candidate in the Presidential elections. Again, he won with 95.5 percent of the votes.

In 1992, Tanzania formally adopted constitutional amendments providing for a multiparty system. This constitutional change was not forced on the Government by a popular uprising. Instead, it was recommended by a Presidential commission and adopted by the ruling party, the Chama Cha Mapinduzi [CCM] party. I commend President Mwinyi for his leadership in moving Tanzania a step forward on the road to greater democracy and freedom.

Since mid-1992, numerous opposition parties have been registered in Tanzania and multiparty elections have been held at local and the parliamentary by election levels. Yet, as of the results available at the end of 1994, new political parties won only 7 percent of the seats in contested elections. Half of the elections were uncontested. While the Constitution recognizes a multi-party system, the electoral policies and practices of Tanzania continue to support a single-party government.

Clearly, a decision to hold multiparty elections does not mean that democracy, political rights and civil liberties have been fully embraced. Freedom House, a highly respected nonprofit organization that monitors political rights and civil liberties worldwide, rates Tanzania as not free. Likewise the Carter Center describes Tanzania as being moderately democratic, reflecting that while the Government of Tanzania makes formal commitments to a democratic transition, their deeds are not yet commensurate with their pledges.

In October 1995, Tanzania will hold its first national multiparty election. This could be, given transparent and unbiased election practices, a major achievement in the political life of Tanzania. But now is the time for the Government of Tanzania to match the rhetoric of democracy with the tangible actions needed for real democracy to blossom and flourish.

Constitutional adoption of multiparty elections has provided an opportunity for greater democracy. Freedom of the press, equal access to the public media—particularly the national radio—for all political parties, and a politically independent election commission will move democracy closer to a reality. Tanzania has made some progress in recent months. It can make significantly more in the months ahead. I encourage Tanzania's leaders to move forward to provide a level playing field for all political parties for their upcoming national elections.●

ORDERS FOR FRIDAY, MAY 5, 1995

Mr. DOLE. Mr. President, my understanding is that this request has been cleared with the Democratic leader, Senator DASCHLE.

I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. on Friday, May 5; that, following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in day; and, that there then be a period for the transaction of morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for up to 5 minutes each, except for the following: Senator DORGAN for 20 minutes.

I further ask unanimous consent that at the hour of 11 a.m. the Senate resume consideration of H.R. 956, the product liability bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. For the information of all Senators, shortly after the Senate resumes consideration of the product liability bill on Friday, I hope to be able to lay down a new substitute amendment for discussion for the remainder of Friday's session. A cloture motion will be filed on the substitute, and I hope we can reach an agreement for that cloture vote to occur at approximately 1:30 on Monday.

ORDER FOR RECESS UNTIL TOMORROW

Mr. DOLE. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order following the remarks of Senator SPECTER, who I understand is on the way to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE VOTE TO OCCUR AT 4 P.M. ON MONDAY, MAY 8, 1995

Mr. LOTT. Mr. President, at the direction of the majority leader, in consultation with the minority, I would like to make one change in the leader's earlier announcement.

A cloture motion will be filed on the substitute, and the cloture vote will occur at approximately 4 p.m. on Monday, instead of 11:30. This is to accommodate the maximum number of Members for that vote.

Under the prior arrangement, I believe Senator SPECTER will be recognized at this point for his remarks.

I yield the floor, Mr. President.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRODUCT LIABILITY BILL

Mr. SPECTER. Mr. President, I have sought recognition to make a few comments on the pending product liability bill and the cloture votes which were taken today; that is, the vote to close off debate so that there could be a vote on the bill ultimately on final passage, with the rules of our body having unlimited debate and the rules of our Senate requiring there be 60 Senators join on what is called cloture to close off debate, and we had two such votes today. One was 46 in favor, 53 against. The second was 47 in favor and 52 against. So it is obvious on the current State of the record, the Senate is long away from having 60 votes to close off debate and move to a final decision on product liability.

I think that when there are significant, really major, really fundamental changes to a system as profoundly important as the legal system in the United States, that it is a matter that requires very, very careful deliberation, and it is appropriate for the cloture route to be followed and for 60 votes to be required to pass legislation of this importance, of this far-reaching nature.

Mr. President, I have stated on the floor of the Senate on a number of occasions that I believe that reforms are warranted on product liability, but I think they have to be very, very carefully crafted. I believe that after experience representing both plaintiffs and defendants in litigation and having had substantial experience in products liability litigation.

The matter came up in the last Congress, and I voted for cloture at that time in the hopes that we could get a carefully crafted bill. I think that it is appropriate to have a bill which would provide for alternative dispute resolution, as is provided in the current legislation, to adopt the collateral source rule which is contested. But it provides that if an individual has bought insurance and has collected on his or her own insurance policy, then that individual cannot collect again in a lawsuit. The plaintiffs and the individuals and the consumers objected to collateral source rule on the ground that the individual has paid for it so that whatever benefit is received from the insurance policy ought not to be discounted for the defendant. But I think that on balance, given all the factors, that it is appropriate to limit that aspect of a plaintiff's recovery.

I believe that it is worthwhile to have a tightening of the rules on frivolous lawsuits, and perhaps the frivolous lawsuit is really at the core of the litigation problem in America today, lawsuits which are brought without any real merit or without any real foundation.

I think that if we could set the rules to discourage, to eliminate frivolous lawsuits, we would have really solved most of the problem that is present in the litigation system today, to stop lawsuits which are being brought where they do not have a real basis in fact and in law, where they are brought really to coerce settlements but not because the plaintiff has a real case.

The distinguished Senator from Colorado, Senator BROWN, offered an amendment to tighten up the rules on frivolous lawsuits, and I supported that amendment.

I think that there are things that can be done within the course of the pending legislation which would strengthen the hand of the defendants, such as the amendment offered by the distinguished Senator from Arizona, Senator KYL, who wanted to have the same limitations on defendants as on plaintiffs on the alternative dispute resolution issue. He wanted to leave it up to the States, many of which have provisions on alternative dispute resolution—that is a fancy name for arbitration—where if a plaintiff failed to be reasonable, there could be sanctions on the plaintiff just as under the pending legislation. If the defendant is not reasonable, there can be sanctions on the defendant.

I think that the distinguished Senator from Tennessee, Senator THOMPSON, offered a very important amendment to limit product liability to Federal cases. That is in accordance with the principle that we ought to allow States to make determinations and to have government closest to the people, a matter related to an issue which has been handled by, promoted by the distinguished Senator from Idaho, who now presides in the chair, Senator KEMPTHORNE. He has been here only 2 years and 4 months, if my mathematics are correct, and championed legislation to eliminate Federal mandates, having been the mayor of Boise, ID, and having seen the imposition of mandates coming from the Federal Government—may the RECORD show the distinguished Presiding Officer is nodding in the affirmative—really wanting to have government closest to the people, letting the mayors and State governments decide these issues so that when Senator THOMPSON offered the amendment, that it really ought to be a matter of federalism, and that is something which is very heavily emphasized in the Contract With America. I think that made good sense.

When it comes to a few of the fundamental issues, Mr. President, I have grave reluctance to make very fundamental changes in the present system. One of those areas is on the matter of punitive damages. I do not think that we have really come to grips with the question of punitive damages in our debate.

Punitive damages are set up as a form of punishment as the word "punitive" says, when there is some egregious, willful, wanton misconduct on the part of the defendant which really has to be controlled in a civil contest. And a number of the cases that I brought to the floor to illustrate what this really means, where you have a matter like the notorious Pinto case, where the gas tank was in the rear of the car and exploded. As I recollect the figures, it would cost $11 apiece to modify that dangerous gas tank. Ford Motor Co. made a calculated decision, figuring out how many personal injury cases there would be, how many death cases and injury cases there would be, where the motorists and the passengers would burn up, and figured it out that it made dollars and cents, economic value to them, to pay the cost of litigation as opposed to correcting the car.

On the Cutter blood case where it was shown that the defendant had knowledge that blood was being transmitted which contained AIDS, they made a calculation as to what it would cost to cure it and decided not to issue the warning and to have the blood circulated. That came to light, as in the Pinto case, by going into the records of the defendant and finding that out. Or the IUD case, where women were subjected to the IUD which caused infections, sterilization, and tremendous damages, although well known to the defendant company that that was a problem. Or the flammable pajama case. Because there had not been any standard set by the Federal Government, the manufacturer put out pajamas that they knew would become flammable, that is burn up, with very little provocation. Some of the cases put into the RECORD—one specifically that I recollect involved a case where the conduct of the defendant corporation was so aggravated that criminal charges were brought—really, where you have a willful and malicious disregard for human life that constitutes malice and is sufficient to have a criminal prosecution for murder in the second degree.

Some of the cases by big corporations, by big companies, on the cost benefit analysis as to what it would cost to leave the damaged product go on, those are present in many cases. They have been put into the RECORD. That is why it seems to me, Mr. President, that we really ought not to be making fundamental changes which would give a green light and a license to disregard the interests of the consumer. What we are really talking about is the interest of the consumer here, the interest of the general public in trying to weigh what is fair in terms of handling the issues of defendant companies.

I am very concerned about American productivity and especially about the ability of small business to function. I am concerned about some who say, well, the claim is so large and the damages are so enormous, potentially, even though there is no merit, that we would be betting the business if we went to trial and therefore really intimidated and intimidated into a settlement.

I filed an amendment which would limit recovery on punitive damages to 10 percent of the value of the company. I filed that amendment and I offered that as an alternative possibility, with some trepidation, frankly, because of a concern I have that if you limit punitive damages, it may be an incentive for somebody to be wantonly disregarding of the safety of others. It may be that the punitive damage issue could be further contained by analogy to the libel cases where, after a libel verdict is entered under a very tough standard of malice—New York Times versus Sullivan, Supreme Court of the United States. On appellate review, there is a de novo review, the Latin word which means a full review. It is not a matter limited to a decision on whether there is sufficient evidence to support the verdict of the jury.

Customarily, in litigation, when the jury enters a verdict and there is an appeal taken, the appellate court, the reviewing court, will look to see if there is sufficient evidence to support the verdict of the jury. But in libel cases because of the interest in freedom of speech and the interest of limiting the liability of the media—newspapers, radio, television—there is a different standard. The standard is applied that the reviewing court will look at it fresh to decide if there is sufficient evidence so that we will have a check on the jury system if they are capricious or arbitrary or really out of line.

Mr. President, I have expressed the same concern on changing the law on joint liability. And bear in mind that as the cases are built up on punitive damages or joint liability, they are built up by courts which have a very deliberate process, much more thoughtful process than the legislative process. When we have hearings, it is well known, frequently only one or two Senators are present. When we mark up the bill—that is, write it up—it is not really the essence of understanding of all of the provisions. On the issue of punitive damages, there are learned opinions by Justice Scalia, a known conservative writing on punitive damages, from the constitutional perspective, saying there is a constitutional basis for punitive damages and rejecting the claim that punitive damages ought to be overturned. That is in the context of whether there is a constitutional basis for it as opposed to a public policy determination, which would be up to the Congress.

But those kinds of issues are considered and considered very carefully by the courts. I think, fairly stated, having been a party to the judicial process and legislative process, I say unequivocally the analysis given in the court is much more intricate and more thorough than we are able to do in the legislative process. But there are points where we ought to legislate. When the issue of joint liability comes up, I have been reluctant to disturb that.

One of the cases which comes to my mind is the case involving the fatality of our distinguished and learned colleague, the late John Heinz, who was killed in April 1991 in a plane crash when he was riding in a charter plane and there was a noted problem with the landing gear, and they went by the airport and came away, and a helicopter owned by the Sun Oil Co. came by trying to observe, and there was a crash. The planes fell into a crowded school yard in suburban Philadelphia. There were terrible injuries. If we had made changes in joint liability in that case, the children, some of whom were killed, and some of whom were badly burned, would not be able to recover fully.

So when you have a case where there is joint liability and the issue is raised, why should a party who is only 50 percent liable pay the whole thing when the other party is insolvent, or under the current law has the full responsibility? The law has been established in that effect because joint liability is composed when there is substantial negligent conduct by the party which causes the injuries. If you have to balance the injustice of having one party only partially liable pay the full damages, where others are insolvent, it turns on who is going to bear the loss, the injured plaintiff, who is not at fault, as the children were not at fault in the air collision which took the life of Senator Heinz and others on the ground, and very serious burn injuries.

I filed an amendment at the desk which would seek to limit, to an extent, joint liability. You hear about the cases where somebody is liable only for 1 or 2 percent and the parties liable for 98 or 99 percent are insolvent and the party who is only peripherally involved has to pay the full verdict. It seems to me that perhaps something in the nature of 15 percent might be an appropriate cutoff. That joint liability would not attach if somebody were not liable beyond the extent of 15 percent.

Mr. President, I offer these observations about ways that product liability could be crafted so that we could get legislation out of the Senate, where we might have a different standard on punitive damages to accommodate different review by the appellate courts to eliminate the really outlandish, runaway, or arbitrary jury verdicts, or limit it to the percentage of the net worth of the company—10 percent as I have suggested—so that a company, especially a small company, is not, in effect, intimidated or blackmailed into a settlement, because they cannot get the whole company. Or ways where we might have a limitation on joint liability.

Mr. President, I have been in Congress, the Senate, since the 97th Congress, when we reported out a product liability bill from the Commerce Committee, Senator Kasten. It was a long time before the bill came to the floor after that.

Last year, as I say, I voted for cloture, thinking we might get a bill. I believe that we could get a bill which would take significant steps, most emphatically, on the issues of frivolous lawsuits. So that in opposing cloture—on a vote, we have only 46 Senators who voted for cloture, 53 against; on the second vote, 47 voted for cloture as against 52 against, a long way from the 60 votes.

I make these comments because I think that when we deal with the judicial system, it is not the plaintiff's trial bar which establishes these rules. These rules were established by the courts of the United States. As I say, I have been on both sides of the fence representing plaintiffs and defendants in personal injury cases.

I think where we have so many, many cases of outlandish conduct where big companies put products on the market on a calculation that they would rather pay for the deaths and the damages than to make the correction, if we take punitive damages away, it is not a wise thing for the Congress to do.

I do not think many of our colleagues understand that. After I talked about some of the cases, talked about the blood case with AIDS virus in it, being circulated by one of the big companies, and one of my colleagues said, "That is awful," and I made the comment about it. They had not heard. I do not think they really have reached all of our Members.

Usually, there is not more than one Senator present or two, one presiding, but the rule of this body is that these speeches are made and these presentations are made with not more than two or three or four Senators on the floor. Some are listening in their offices, but relatively few.

These are matters, I think, which yet have to be considered. It is my hope that we can craft legislation which will be curative on some of the issues, especially that of frivolous lawsuits, which I think is at the core of the problem in our courts today. I thank the Chair for staying late. I yield the floor.

RECESS UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 10 a.m. Friday, May 5, 1995.

Thereupon, the Senate, at 6:13 p.m., recessed until Friday, May 5, 1995, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate May 4, 1995:

THE JUDICIARY

ANDRE M. DAVIS, OF MARYLAND, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND, VICE WALTER E. BLACK, JR., RETIRED.

CATHERINE C. BLAKE, OF MARYLAND, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND, VICE JOHN M. HARGROVE, RETIRED.

RESOLUTION TRUST CORPORATION

HERBERT F. COLLINS, OF MASSACHUSETTS, TO BE A MEMBER OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD FOR A TERM OF 3 YEARS, VICE PHILIP C. JACKSON, JR., TERM EXPIRED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A) AND 3034:

VICE CHIEF OF STAFF OF THE ARMY

To be general

LT. GEN. RONALD H. GRIFFITH [redacted]

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

GEN. JOHN H. TILELLI, JR [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. GEORGE A. FISHER, JR [redacted]

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICERS FOR PROMOTION TO THE GRADES INDICATED IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF SECTIONS 3385, 3392, AND 12203(A), TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. WOODROW D. BOYCE [redacted]
BRIG. GEN. ROBERT J. BRANDT [redacted]
BRIG. GEN. JOSEPH H. LANGLEY [redacted]
BRIG. GEN. JOHN B. RAMEY [redacted]

To be brigadier general

COL. JOHN D. LARSON [redacted]
COL. ROSETTA Y. BURKE [redacted]
COL. BURNEY H. ENZOR [redacted]
COL. FRANK P. BARAN [redacted]
COL. ROBERT M. BENSON [redacted]
COL. EDWARD L. CORREA, JR [redacted]
COL. WILLIAM R. LABRIE [redacted]
COL. NAMEN X. BARNES [redacted]
COL. RANDAL M. ROBINSON [redacted]
COL. PAUL D. MONROE, JR. [redacted]
COL. LLOYD D. MCDANIEL, JR [redacted]
COL. STANLEY R. THOMPSON [redacted]
COL. HOLSEY A. MOORMAN [redacted]
COL. BRADLEY D. GAMBILL [redacted]
COL. HARVEY M. HAAKENSON [redacted]
COL. DAVID T. HARTLEY [redacted]
COL. DONALD F. HAWKINS [redacted]
COL. EARL L. DOYLE [redacted]
COL. DAVID M. WILSON [redacted]
COL. JAMES T. CARPER [redacted]
COL. WILLIAM T. THIELEMANN [redacted]
COL. FREDERIC J. RAYMOND [redacted]

THE FOLLOWING U.S. ARMY RESERVE OFFICERS FOR PROMOTION TO THE GRADES INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF SECTIONS 3371, 3384, AND 12203(A), TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. WILLIAM J. COLLINS, JR [redacted]
BRIG. GEN. JOE M. ERNST [redacted]
BRIG. GEN. STEVE L. REPICHOWSK [redacted]
BRIG. GEN. JOSEPH A. SCHEINKOENIG [redacted]
BRIG. GEN. JAMES W. WARR [redacted]

To be brigadier general

COL. STEPHEN D. LIVINGSTON [redacted]
COL. JOSEPH L. THOMPSON II [redacted]
COL. ROGER L. BRAUTIGAN [redacted]
COL. JOHN G. TOWNSEND [redacted]
COL. MICHAEL L. BOZEMAN [redacted]
COL. WILLIAM B. RAINES, JR [redacted]
COL. JAMIE S. BARKIN [redacted]
COL. JOHN L. ANDERSON [redacted]

THE FOLLOWING U.S. ARMY RESERVE OFFICER FOR PROMOTION TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY, UNDER TITLE 10, U.S.C., SECTIONS 3384 AND 12203(A):

To be brigadier general

COL. JAMES R. HELMLY [redacted]

SENATE—*Friday, May 5, 1995*

(Legislative day of Monday, May 1, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. The opening prayer will be made this morning by Father Thomas Kuhn of Ohio. We are pleased to have him with us.

PRAYER

The guest Chaplain, Father Thomas A. Kuhn, Church of the Incarnation, Centreville, OH, offered the following prayer:

Lord God, we have consistently believed in Your great love for us and for our Nation. We know that we are Your children, and in that faith have not called ourselves simply a nation, but "one nation under God."

The tragedy of recent weeks in Oklahoma City points out the need we have to foster Your love in our land. Help us to reflect the love You have for us in our lives and in our dealing with others. We know that You have a plan for us. We know that You love us. Help us to keep faith that You will always be there to guide and direct our great Nation.

You have blessed all of Your children with the same rights that come from calling You our Father. Help us as a nation to work to protect the rights of all, for we know when the rights of one of us is in danger, the rights of all are in danger.

You have blessed us with a beautiful land. Help us to preserve it so the generations after us may enjoy it as we have.

We know that some of Your children, particularly the aged, the sick, the poor, and the very young, are in need of help and protection. Give us the insight as a people to always protect those who cannot care for themselves.

Father, we pray in a special way for our Senators. Give each of them a parochial, a national, and a world vision, so they may lead us safely in Your kingdom.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leader time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business until the hour of 11 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, the Senator from North Dakota [Mr. DORGAN] is recognized to speak for up to 20 minutes.

The Senator from North Dakota is recognized.

TRADE, ECONOMIC STRATEGY, JOBS, AND INCOME

Mr. DORGAN. Mr. President, I indicated the other day that I intended to come to the floor of the Senate over a period of some weeks and offer some comments and observations and discuss a series of issues relating to trade, economic strategy, jobs, and income in our country. I would like to introduce that topic today. I will finish it in other presentations in the coming couple of weeks.

I was a speaker at a college commencement exercise last Sunday at Concordia College in Moorhead, MN, where nearly 600 young men and women were getting their 4-year baccalaureate degrees and were getting ready to go out and find a job and make their way in the world. Yet, about half of the students that I had an opportunity to visit with indicated to me that they really did not yet have a job lined up. They were looking and had prospects here and there, but did not yet have a job lined up and did not yet know what they would do. That is not an unusual situation. It is a chronic problem in our country, even for college graduates, to find a good job, to find the right job that has a good income.

No matter where you are on the economic ladder in this country, it is becoming more and more difficult to get a good job that pays good wages and has benefits. It certainly is true for those on the lowest rungs of the economic ladder, but it is also true increasingly for those who are among the most educated in our country.

I want to give a series of addresses in the Senate exploring the reasons that in the United States we see fewer and fewer good jobs and we see less opportunity. I want to talk a little about what we can do about that. I want to explore the relationship of the global economy, international trade, and the role of international finance in pushing our country into an economic corner with slower growth, fewer jobs, and lower wages.

I think, frankly, the root of much of the disaffection in this country relates to these issues. There is a great deal of anxiety, a great deal of political disaffection, a great deal of concern among the American people. And, I think it is because they see an economy that provides less opportunity than they are accustomed to seeing. Most people know that despite all of the rosy talk about new jobs and economic growth that they are now working harder for less money. Their children who graduate from college have a tough time finding a good job.

Those are the realities that face families in America. It causes them to be anxious about the future. It causes them to be angry about lost opportunity. I think it causes the kind of political, social, and economic turmoil we have in our country today.

I indicated on Sunday at the graduation speech just one symptom of this. Of course, there are a lot of reasons for what is happening in our economy. But I described in our country the inclination for us to buy and wear Chinese shirts, Mexican shorts, Malaysian shoes, watch television sets made in Taiwan, buy cars made in Japan, and then wonder where all the jobs went. Well, it is not hard to figure out where the good jobs went and where the good income is.

I am going to begin by citing some data that was released about an hour ago by U.S. Department of Labor on wages and jobs. Today the Bureau of Labor Statistics reported that 28,000 more manufacturing jobs were lost in April in the United States. That means that generally good jobs, higher wage jobs—because the manufacturing jobs are normally the better jobs—have been lost. They have been replaced by jobs with lower productivity and generally lower wages often in the service industries. It is not that those jobs are not worthwhile in the service industry. They are. But the problem is that we are losing so many good jobs and replacing them with lower paying jobs, largely in the service sector.

In fact, this morning's report is not surprising. I figured yesterday, when I

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

knew the report was coming out this morning, that that is what the report would show. We would see that we would lose more manufacturing jobs in our country again last month because it has been going on and on and on for many, many years.

We are now in the 50th month of an economic recovery cycle. Everyone who knows about the business cycle knows there is contraction and expansion, an expansion phase and an economic recovery phase. We are now in the 50th month of a recovery that began in March 1991. Unfortunately, after 50 months of economic recovery we have lost more good jobs than we have gained. What's more, wages are not rising but they are falling.

I want to show this chart to compare what has happened in periods of American economic recovery following recessions. In nearly every circumstance in the last 35 years, we have seen a net increase in manufacturing jobs during the first 4 years of a recovery. There is just one exception, and that is now. In this, the 50th month, of this economic recovery, contrary to what happened to every other period in the last 35 years, we see over 400,000 lost manufacturing jobs. In other words, during an economic recovery, a period when you ought to have economic expansion, we are seeing a contraction in the good jobs in this country. We lose. And that is a symptom of the root of what is wrong in this country.

In fact, since 1985, just in the past 10 years, we have lost a million jobs in traded industries, which is manufacturing and agriculture and mining and all the sectors in which we produce things for sale.

People say, well, you may have lost those, but there were a lot of other jobs created. That is true. There were a lot of other jobs created in nontraded industries, that is, industries that are not subject to the competitive cycles of international trade.

It is interesting to me; if you take a look at what has happened with manufacturing employment in this country and the decrease in manufacturing employment and the generally diminished wage opportunity, you understand the consequences for the American people.

A chart was presented using Department of Labor information—presented, incidentally, by MBG Information Services—that shows what happened to growth in workers' compensation in this country from 1948 to 1973, a 25-year period, and then the growth in compensation during the next 22 years, up to the present, and that is the red line.

You will see that in the first 25 years of this 50-year post-Second World War period we had generally robust increased wages in this country. And then you will see that after the first 25 years, we have seen generally stagnant wages since the early 1970's.

It is not a myth. It is reality. This is what the American families have faced, and this is why they are so concerned about what is happening to their economic fortunes and opportunities for their families.

We have accumulated since 1980 a $1.4 trillion trade deficit, which I am going to relate to these issues at some point later—over a $1 trillion trade deficit in manufactured goods alone. Last year, this country suffered the single largest trade deficit in the history of the world.

This chart shows you the merchandise trade deficits of our country. This shows that last year we had the single largest merchandise trade deficit in the history of the world. Now, this must be repaid with a lower standard of living in the United States in the future. This is serious. This is a crisis. And no one but no one talks about it.

I am going to bring charts to the floor and describe how we have gotten to this point and why we have gotten to this point and what we can do about it. But it is safe to say that anyone who understands economics and understands what drives the American economy and what produces good jobs with good income understands this is a crisis. This is not President Clinton's fault. I am not suggesting this administration is at fault for these red bars or these red lines. In fact, this administration has been more aggressive than past administrations in dealing with some of these international economic problems, especially trade.

Unfortunately, this administration and every other past administration for 30 years has embraced the exact same trade policy. Our economic policy, and especially our trade policy, is rooted in a post-Second World War notion that much of what we do internationally relates to foreign policy, but not sound economic policy for this country's interests.

The chart on American worker compensation suggests that this Nation's economic policies were, fortunately, serving its citizens' interests during the first 25 years after World War II. But we now see evidence across America that our policies are contrary to America's economic interests, and yet we embrace the same failed international economic and trade strategy in which our country loses and others win.

We must find a way to put together a much better strategy. In order to do that we need to begin discussing a range of issues that deal with jobs, with income, with international trade and international finance. And we must especially strip away the myths and deal with the realities.

If we talk to people in this town today about trade, about economics, about our country's economy, you would find those whose job it is to sell a positive story say, "Gee, I don't know what you are talking about. We are in the 50th month of an economic expansion. Our economic growth is robust and good. In fact, the Federal Reserve Board is worried about economic growth being so high that it has increased interest rates seven times to bring economic growth rates down."

They would give a scenario that suggests to you: What are we thinking of? America is in great shape. But, of course, the real test of whether our country's economy is in good shape is whether our citizens are able to find work at decent wages. You can have a bull market on Wall Street, you can have economic growth at 5 or 6 percent, and you can have unemployment at 2 percent, but if you have falling wages and lost opportunity, people in this country are not going to be convinced this economic strategy works for them or their families or for the future of this country.

We have a great deal of which to be proud and to celebrate about our economy in this country, about where we have been, about what we have done over 50 years, all over this world. We have helped; we have invested; we have nurtured; we have protected; we have been a part of what has built an enormously important private sector opportunity internationally that has expanded opportunity for many years.

What has happened in the last 25 of these 50 years is that we have become victims of a system that helps others and hurts us. That is what is at the root of the political disaffection in our country, I am convinced.

I noticed yesterday in the Wall Street Journal something that relates to what we are talking about today. Economic expansion, great opportunity, good times, bull market on Wall Street, and here is what the Wall Street Journal of Thursday, May 4, says in its feature story:

> Amid record profits companies continue to lay off employees.

This is the reality for the American families.

> Last week, Mobil Corporation posted soaring first quarter earnings. This week it announced plans to eliminate 4,700 jobs. While corporate profits were surging to record levels last year, the number of job cuts approached those seen at the height of the recession.

Corporate profits rose 11 percent in 1994, after a 13-percent rise in 1993, according to DRI/McGraw-Hill, a Lexington, MA, economic consultant. Meanwhile, corporate America cut 516,069 jobs in 1994, according to an outplacement firm, Challenger, Gray & Christmas in Chicago. That is far more than in the recession year of 1990 when 316,047 jobs were cut.

Let me restate that because I think it is important. In 1990, when we were in a recession, corporate America eliminated 316,000 jobs. Last year, when corporate profits were at a record level, we saw 516,000 jobs cut, eliminated, lost. Those are lost opportunities for America's workers.

Again, quoting from the same story:

> For employees, the latest layoffs, coming amid good times and fat profits, seem mean and arbitrary. It's the seemingly relentlessness of the job losses that aggravates most. Workers see this as a long-term trend that has little relationship to how their company is performing. Nobody feels very secure.

The article is a long article, and I commend people to read it. But it describes at its roots what is happening in our country today—record profits, fat opportunities for corporations. But, of course, corporations, the large corporations, are internationalists now. They are not American citizens who get up and say the Pledge of Allegiance and sing the "Star Spangled Banner." It does not mean they are un-American. It just means they are searching for international profits. That is their interest; that is their responsibility to their stockholders. And if they can produce in Indonesia and sell in Pittsburgh and move the jobs from Pittsburgh to Indonesia, that is precisely what they will do, and it is precisely what they have done.

If their actions mean they will substantially increase America's trade deficit, then that is what they will do, because their interest is not in our trade deficit. Their interest is in their profit for their stockholders.

We must, Mr. President, begin to discuss these issues, these economic issues, international and national economic issues, in the context of what works for our country, what is best for America, what produces jobs and good income and opportunity for our country.

We must start thinking in those terms. We must change our thinking. Virtually every discussion you have about our economic policies in this town is a debate filled with myths. I hope in the next couple of weeks, in further presentations on these issues, to strip away some of those myths and try to talk about the economic realities. The economic reality is most American families sitting down to have their evening meal understand they are working harder, longer hours, but making less money.

Why? Because of a whole range of reasons dealing with national and international economic strategy and issues that we largely do not debate on the floor of the Senate. Without a new debate, one viewpoint persists: Our current economic strategy is good for America, and this globalization of trade is just fine; works just great. We have economic growth and that is all that really matters.

Well, all of the positive Government reports and news stories mean nothing to American families if they do not mean opportunity and do not mean decent jobs and do not mean decent incomes. And that is the dilemma.

We are, and this year have been, talking about the budget deficit in our Federal budget. It is a real dilemma and we must deal with it because it, too, is dangerous for this country. It injures our economic future.

But it is no more dangerous than this—the largest trade deficit in history. Or than this—in the 50th month of an economic expansion, to find that the numbers for last month show that we lost 28,000 additional manufacturing jobs. That is serious. When you lose the kind of manufacturing jobs we have lost in this country, you lose real opportunity. You lose the kind of economic propellant that moves families up the economic ladder, that moves families into the middle class. It was manufacturing jobs that did that, not minimum-wage service jobs. This is the dilemma we face today.

Now, I am going to bring some charts to the floor that talk about specifics, talk about international finance, talk about trade policy, talk about our trade with Japan, our trade policy with China, our trade policy with Mexico, and how that relates to what I am discussing here.

But, most importantly, when I do that, I want to see if we cannot finally begin, all of us, to strip away the myth and talk about what kind of strategy in the end will boost this country's fortune. Not necessarily what will boost all the aggregate numbers about economic growth, but, in fact, boost this country's fortune in the number of good jobs with good incomes that it creates for American families who want to work.

Mr. President, I yield the floor.

A CLEAR VIOLATION OF BASIC PRINCIPLES OF HUMAN DECENCY

Mr. DOLE. Mr. President, on Wednesday, the Capital of Croatia, was subjected to a vicious attack by militant Serb separatists. This was the second day in a row that Zagreb was attacked by rockets armed with cluster bombs. The attack occurred at noon, when civilians were out having lunch. The principal targets were the children's hospital and the national theater where a ballet company was rehearsing. Several people were killed and dozens were wounded, bringing the total number of casualties to about 200 people.

There are those who say that the Croatian Government provoked the attack, by conducting a military operation that returned a 200-square-mile area back to Croatian control. That argument misses the point. Nothing, I repeat, nothing, justifies an attack on innocent civilians—on children in this case. The U.S. Ambassador was right when he condemned these attacks at a clear violation of basic principles of human decency.

I am aware that it is U.N. practice to shift the blame and muddy the waters in their pursuit of neutrality between aggressors and victims. But, to do so—whether in this case, or in the case of attacks on civilians in Bosnia—is reprehensible.

Furthermore, if the United Nations were doing its job in Croatia—if the United Nations had implemented its mandate to demilitarize the sectors of Croatia under their control thereby clearing the way for reintegration of these occupied territories—the Croatian Government may not have taken the action it did on Monday. Let us not forget, the occupied areas are part of the territory of Croatia. So while the international community should urge the Croatian Government and its forces to fully respect the human and civil rights of the population in the areas they have retaken, it should not urge Croatia to give up control of reclaimed territory.

NATIONAL SMALL BUSINESS WEEK—1995

Mr. PRESSLER. Mr. President, I rise today to recognize some very special businesses in my home State of South Dakota during National Small Business Week. Through work on the Senate Committee on Small Business for 17 of my 21 years in Congress, I know small businesses have not always enjoyed the recognition and attention they deserve. For too long, America's entrepreneurs have been taken for granted. These dynamic men and women play a critical role in this Nation's economy. During the last major recession, small businesses created 4.1 million jobs, while large firms reduced employment by 500,000 jobs. Without the spirit, drive, and determination of small businesses, our economy would not have been able to break out of the economic stagnancy of the early 1990's. Clearly, this sector of our economy is finally getting the respect it is due.

Wile credit availability has improved significantly and now appears stable, we must continue to monitor this situation. Without adequate financing, entrepreneurs will not be able to get out of the gate. Likewise, I am encouraged by recent efforts in Congress to decrease the burdens of Federal regulations and paperwork. And while the Senate still is deliberating S. 565, the Product Liability Fairness Act of 1995, I hope we will be able to protect small manufacturers from frivolous lawsuits by enacting sensible tort reforms.

Though we have worked to level the playing field for small businesses, small firms now face unique problems. America and the world are in the throws of an information technology revolution. The ability of an enterprise to use high-technology tools very well may dictate whether the business survives. We must ensure established and fledgling small businesses are able to be players in the technological arena. We must ensure small firms wishing to provide high-technology goods and services have access to credit and capital. Because the very nature of capital assets tends to be less tangible, small firms may have difficulty securing the traditional forms of collateral lenders often seek. Is it possible to put a value on the time, effort, and knowledge of a software developer? I do not know. However, from my position as chairman of the Senate Committee on Commerce, Science, and Transportation, I hope to identify solutions to these potential roadblocks.

Mr. President, I would be remiss if I also did not raise some of the unique challenges rural small businesses face. South Dakota's 1995 Small Business Person of the Year has defied conventional wisdom that says a successful manufacturing business must be located in an urban area. In 1982, Randy Boyd returned to his native Geddes, SD, where he joined his father in a gunsmith and gun repair business. By 1986, their operation hired three employees to assist in the manufacturing of gunstocks for shotguns and big game rifles. Since then, their venture has expanded to 25 full time, 10 part-time, and 10 contract employees. Boyd's Gunstock Industries, Inc., currently is one of the country's leading gunstock manufacturers.

I commend Randy Boyd for the well deserved honor of being named South Dakota Small Business Person of the Year. He is an inspiration to other entrepreneurs with a dream and a willingness to work hard to see that dreams take shape.

During my visit with Randy this week, I learned he would like to expand Boyds' Gunstock even further. Unfortunately, he has encountered a limitation many burgeoning small businesses face in rural States like South Dakota. Randy wants very badly to keep his operation in the small city of Geddes. In order to overcome the community's limited work force, Randy has aggressively pursued workers from surrounding communities. Though such efforts have been successful for Randy in the past, he is discovering that the city of Geddes lacks affordable housing for these new employees. Indeed, it would be a tremendous loss for the community if this opportunity is lost.

I will be working with Randy and the community of Geddes to try to resolve a problem that has become all too common for communities across my State. Private investments in real estate must be both appealing and lucrative. As I said during my visit with Randy, I will promote tax incentives that, in turn, will promote economic growth. It is important that we continue to cultivate a climate that will stimulate small business growth. We must reward and encourage entrepreneurs such as Randy Boyd to continue their efforts.

I again congratulate Randy for his success and the success of Boyds' Gunstock. I also would like to recognize some of my State's other businesses leaders. I congratulate: Arlin W. Anderson of the South Dakota American Legion, Veteran Small Business Advocate of the Year; William F. Carlson of Tower Systems, Inc., Small Business Exporter; John E. Brewer of Rushmore State Bank, Financial Services Advocate; Eileen Lunderman of the Sincangu Enterprise Center, Minority Small Business Advocate; Brenda Wade Schmidt of the Sioux Falls Argus Leader, Media Advocate, and Jan Steensland of Eyes on You magazine, Women in Business Advocate.

Each of these individuals has played a very important role in making small businesses the driving force behind South Dakota's vibrant economy. I am proud of their generous efforts. They have contributed tremendously to their neighbors and friends. It is the duty of Congress and the Federal Government to allow them to continue making such important contributions. Often this can best be achieved staying out of their way.

Again, Mr. President, I salute South Dakota's 1995 National Small Business Week Award winners and thank them for their efforts.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, May 4, the Federal debt stood at $4,854,832,235,127.63. On a per capita basis, every man, woman, and child in America owes $18,429.03 as his or her share of that debt.

Mr. DORGAN. I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JEFFORDS). Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I rise to speak for a short period of time about several key pieces of reform legislation. I ask unanimous consent I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

POLITICAL REFORM LEGISLATION LONG PAST DUE

Mr. WELLSTONE. Mr. President, I rise to express my deep concern—and even some indignation—that several key pieces of reform legislation continue to be bottled up in the Congress, including the gift ban, the lobbying reform bill, and tough, sweeping campaign finance reforms. I am more convinced than ever that one of the key issues, maybe the root issue of American politics, is the way in which we now have to finance campaigns. And the sooner we move toward a system where we are able to get a lot of the bigger money out of politics and have a level playing field for incumbents and challengers and figure out how to do this in a sane way, the sooner we will have a much better political system.

The lobbying disclosure bill, a key piece of legislation that Senator LEVIN has taken important leadership on, is really simple and straightforward. But just to summarize, what this legislation says is that those who are actually paid to lobby, hired to lobby, ought to be officially registered. This is in the spirit of accountability. Nobody is pointing the finger at those who lobby, or suggesting that somehow constitutional rights for citizens to petition our Government should be curtailed. We are simply saying that we ought to have openness and accountability in this political process by requiring all those who engage in lobbying activities to register.

But in addition to lobbying registration and campaign finance reform, what I want to focus on more specifically, at least for a short time, is the gift ban. It is very simple and very straightforward. Americans are watching closely to see if the new majority in the Congress delivers on its promise of reform. While some of the new Members ran for office on reform platforms, so far they have not produced much of anything. This should not come as a surprise, because many of those same people who talked about reform were the ones who blocked major reform last year in each of these areas. I think, toward the end of the last Congress—and I will just editorialize on this question—toward the end of the last Congress I think the effort to block the gift ban reform was more an effort to make sure that Democrats did not get any credit for it. It really had nothing to do with the high ground of good public policy. I believe the reform promises have rung hollow all along and they ring even more hollow today.

Mr. President, I have an editorial from the Washington Post, I believe it was yesterday. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 5, 1995]

WOULD-BE REFORMERS

"Three times as many lobbyists are in the streets and corridors of Washington as were here 20 years ago," President Clinton declared in his State of the Union address last January. "The American people look at their capital, and they see a city where the well-connected and the well-protected can work the system, but the interests of ordinary citizens are often left out."

"The first duty of our generation is to reestablish integrity and a bond of honesty in the political process," said Newt Gingrich in 1990. "We must punish wrongdoers in politics and government and pass reform laws to clean up the election and lobbying systems. We must ensure that citizen politics defeats money politics."

Gosh—if they agree, why has so little happened in this Congress on behalf of political reform? In the grand days of January, Congress took a step forward with a bill requiring the House and Senate to live under many of the same labor and safety laws that are applied to the rest of the country. But the major items that might change the system, such as lobbying reform and new laws regulating campaign fund-raising and spending, have been, well, less than top priorities for either the new Congress or the president. Congress put on a big show over that crowd-pleasing issue, term limits. But a Congress intent on taking steps to restore public confidence does not have to resort to changing the Constitution. Simpler measures are available.

Simplest of all would be a ban on the various sorts of gifts lobbyists and others can now give, perfectly legally, to members of Congress. The rules covering members of Congress, who write the laws, are much looser than those in the executive branch, which enforces them. It would not take great legislative creativity to write a good bill. A fine proposal nearly passed Congress last year. It would ban all personal gifts from lobbyists and most gifts from non-lobbyists, including those famous "charity" golf and tennis tournaments through which interest groups can essentially give members of Congress and their families free vacations. A variant of the bill was introduced as an amendment in the Senate, but was voted down with the Republican leadership saying the timing was inopportune. Senate Majority Leader Robert Dole said he'd bring the issue back this month. We'll see.

A gift ban would not change everything in Washington. It's no substitute for reforming the campaign spending laws. But the ban is right on the merits and would be a potent way for members of Congress to back up their repeated professions that they want to get rid of business as usual in Washington, shake up the system etc. etc. etc.

In the last Congress, controlled by Democrats, Mr. Clinton failed to speak out forcefully for political reform until it was too late. He had pledged—beginning with that State of the Union speech—to fight hard for reform this time around. We're waiting. With the administration making such an issue of how lobbyists are involved in writing legislation in the new Congress, you'd think the reform issue would be a natural for the president. As for Mr. Gingrich, Mr. Dole and all those Republican freshmen who say they want to change things, they have the majority. Will they make good on their words?

Mr. WELLSTONE. This editorial in the Washington Post yesterday challenged the new congressional majority to enact a number of tough, sweeping political reform measures that have been proposed by a number of us in Congress but that have been bogged down for a number of years.

The Post observed in this editorial that the simplest and most straightforward of these reforms is legislation to impose a tough, sweeping ban on gifts, meals, vacation travel, and other perks—the same provisions that were killed at the end of the last Congress.

This is legislation that I have worked on with Senators LEVIN, FEINGOLD, LAUTENBERG, and others. Again, the simplest and most straightforward of the major items on the real reform agenda, if we are serious about not separating the lives we live from the words we speak, is legislation that would impose a tough sweeping ban on gifts, meals, vacation, travel, and other perks—the same provisions that were killed by a Republican-led filibuster in the waning days of the last Congress.

Mr. President, the President called for lobbying reform and a gift ban in his State of the Union Message. But nothing has been put forward by my colleagues in the majority. Frozen like deer in the headlights, with the exception of the Chair, they refused to move forward on the gift ban. Enthusiastic about slashing free or reduced-price school lunches, and the Chair is an exception, and I know there are some other colleagues that are an exception, but I will hold true that statement I am about to make—enthusiastic about slashing free or reduced-price lunches for children, reform opponents wither when it comes to eliminating free lunches for Members of the Congress. I mean some of the same colleagues who do not hesitate to vote to scale back school lunch programs are also the ones who voted to continue to allow free lunches for themselves.

I do not think this bitter irony will be lost on the American people. I intend to make sure, along with other colleagues, that in a very short period of time, as soon as appropriate, we will have this amendment out on the floor and we will have full-scale debate and every Senator will again be asked to vote on the simple proposition that there should be a ban on gifts, meals, vacation travel, and other perks from special interests to Members of Congress.

Mr. President, it is long past time for enactment of the gift ban. This bill would significantly change the Washington culture. It is larger than just the piece of legislation. People want to believe in this political process, and when people read about or find out that Senators or Representatives have this interest or that interest pay for vacations trips to resorts for a weekend to play golf or tennis or do whatever, people find that to be inappropriate. And they are right.

Mr. President, there is not a one of us that likes across-the-board indiscriminate bashing of public service. We would not be here if we did not believe in public service. But if you want people to have more confidence in the Congress, if you want people to have more confidence in this institution, and you want people to have more confidence in each individual Member, as a Senator representing our constituents back home, then we need to enact this tough gift ban legislation. We have delayed for far too long.

Mr. President, let me go back to this Congress. This legislation was killed at the end of the last Congress in the very last days. We then brought back the same provisions at the beginning of this session in January when we had the Congressional Accountability Act before us and we had a vote on the gift ban legislation. At that time, the majority leader essentially said that he intended to take up a gift ban bill in the next few months, and to have it on the Senate floor in May.

Mr. President, I remember this because, first of all, Senator LEVIN, myself, Senator FEINGOLD, Senator LAUTENBERG, all came out to the floor and we argued that the congressional accountability bill provided a great opportunity for us to impose a comprehensive ban on these special interest gifts. That was, we believed, in keeping with the general theme of accountability to the citizenry, and not to special interests. That was voted down, on a virtually party-line vote.

At that time, the majority leader indicated that he intended to take up this legislation by the end of May, or sometime in May.

Then I came back with a sense-of-the-Senate resolution which would have simply put the Senate on record saying that we will take this up by the end of May. That too was voted down. I said, wait a minute. The majority leader just said that he intended to do this, so let's put the whole Senate on record that by May we will have this legislation back on the floor for full consideration. Let us have a vote to affirm what the majority leader had just said was his intention, because I just had this sort of feeling that people were going to continue to delay and delay, as had been done in the past.

Mr. President, let me just be clear. Now it is May and nothing has happened; zero, zippo, nada, nothing has happened. No hearings have been held. No bills have been introduced. Nothing to my knowledge on the gift ban legislation is scheduled for floor consideration any time soon.

So the question is: Where is the majority party on this issue, where are the Republicans with their version of gift reform? Since 37 Republicans, including the majority leader, already cosponsored at the end of last year the same provisions that we offered in January and will offer again, as I said, as soon as we have an appropriate vehicle on the floor, what changes do they intend to make in this bill? Do they intend again, as some did last year—to try to gut the provisions of the charitable vacation travel to golf and tennis hot spots like Vail, Aspen, Florida, or the Bahamas where Members are wined and dined as guests of lobbyists and other special interests? Because, if they intend to try to gut those provisions, we intend for there to be a major debate. We cannot pass something saying we are not going to take gifts with these huge gaping holes and loopholes.

Do they intend again to try to hollow out gift ban reforms by just slightly lowering the thresholds for expensive meals, sports tickets, and other gifts paid for by special interests here in Washington so that they can say they are for reform? That would be symbolic politics at its worst.

Let me just simply say to you, Mr. President, this is an idea whose time has come, and come, and come again. I have been working on this for just over 2 years now, and the real standard for gift ban reform is a tightened-up bill that Senator LEVIN and I, Senator FEINGOLD and Senator LAUTENBERG, put forth in January. We will come to the floor and we will offer tough gift ban legislation. I believe the overwhelming majority of Senators, Democrats and Republicans alike, should support it. We really have had extensive bipartisan support in some overwhelming votes for this legislation. But each time along the way somebody or some group of Senators figures out a way of sidetracking it.

The time is long past due for this reform. I think people in this country really are in a reform mood. And any Senator or Representative who believes that campaign finance reform or lobby disclosure or gift ban is just something that so-called good government groups are interested in, they are wrong. People want us to represent them well. They want this political process to be open and accountable. And many people, too many people, believe, and unfortunately I think they are right, that too few people have too much access to Senators and Representatives, and too many people, the vast majority of people, are left out of the decisionmaking loop, left out of the equation.

It is really time to get back to this reform agenda and finish up our work in this area. There are three critical parts, all of which I intend to one way or another help bring to the floor of the Senate for debate. One is campaign finance reform. That is fundamental. Another is the lobby disclosure, on which Senator LEVIN has taken a key leadership role. The other is the gift ban, where I will continue to work with Senators LEVIN, LAUTENBERG, FEINGOLD, and others.

I look forward to that debate. We will have that amendment out here on the floor soon and I think people in the country, whether they are Democrats, Republicans, or Independents, will hold us accountable.

I look forward to this debate. I look forward to this vote. I urge my colleagues to support our tough, sweeping gift ban legislation. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Vermont, asks unanimous consent that the order for the quorum call be rescinded. And without objection, it is so ordered.

RECESS UNTIL 12:30 P.M.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Vermont, asks unanimous consent that the Senate stand in recess until the hour of 12:30 p.m. today.

There being no objection, the Senate, at 11:36 p.m., recessed until 12:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAMS).

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate resumed consideration of the bill.

Pending:

Gorton Amendment No. 596, in the nature of a substitute.

The PRESIDING OFFICER. The pending question is the Gorton amendment numbered 596 to the bill H.R. 956.

In my capacity as a Senator from Minnesota, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. SIMPSON. Mr. President, I ask unanimous consent that I might proceed for 15 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I thank the Chair.

TWO U.S. SENATORS

Mr. SIMPSON. Mr. President, I just want to say a few words about two U.S. Senators, one recently deceased and one recently embarked on a spirited new part of life, both of them dear friends of mine—Senator John Stennis of Mississippi and Senator DAVID PRYOR of Arkansas.

SENATOR JOHN C. STENNIS

Mr. SIMPSON. Mr. President, Senator Stennis served with my father in the U.S. Senate. My father, Milward L. Simpson of Wyoming, served here from 1962 until 1966. He was a former Governor of Wyoming from 1954 until 1958, then came to the U.S. Senate, elected to fulfill a 4-year term, or remaining 4-year term, of a young man who had been elected to the Senate and died before he was sworn in. John Stennis and Mrs. Stennis immediately greeted my father when he came here in the most cordial way. They were very dear friends of my parents.

I must say that the philosophy of the western Senator, my father, and the southern gentleman, the Senator from Mississippi, were much the same with regard to national defense, fiscal matters, issues of substance in the social area, of the fabric of the country, and they became fast friends. I recall very distinctly my father called John Stennis "Mr. Integrity."

My father invited John Stennis, Senator Willis Robertson, and two other persons to Wyoming. I recall very distinctly. I was a young man practicing law in Cody, WY, and they asked me to join them. Dad took his two Senate friends fishing. You might imagine that John had not ever seen too much of Rocky Mountain trout fishing nor the attire that accompanies such activities. I will never forget him coming from his cabin, very nattily dressed, and he said, "Milward, is this what we wear when we fish for these trout?" My father said, "No, I think we need something more than that, something a little different." Off they went to enjoy a remarkable 2 days together.

My father loved John Stennis, and when my father was the recipient of the Milward L. Simpson Chair of Political Science at the University of Wyoming, John Stennis served as his honorary chairman, and said, "If there is anything I can do for my friend, Milward Simpson, I will do it." So it was a great affection and relationship, a true friendship. Then when I, of course, came to the Senate, John Stennis was the first to greet me. He said, "If there is anything I can do to help you or smooth your path here, let me do it." And he did.

He was more than charitable, kind, and attentive to me except, of course, when I tried to kill off the Tennessee Tombigbee Waterway. Then there was a definite strain in our relationship—momentary, fleeting. But he said, "ALAN, I cannot believe that you would do that." And he was right. I did not believe I could, and did not. That great waterway is a great tribute to personally the perseverance of John Stennis.

But what he told me—and I shall never forget—he said "ALAN, I have been watching you." I had been here maybe 4 years at the time. "I have seen you work. I know how hard you work." He really buoyed me up. He said, "You want to remember something in the Senate." He said, "People come here, and some grow and some swell." I shall never forget the phrase. "Some grow and some swell." Indeed, we know both categories. I think I have done a little of both. But when I did swell, I was put down a peg or two, to get back to growing instead of swelling.

So I want to just pay tribute to John Stennis, and I know my dear parents, both gone, too, would have wanted me to pay tribute to a very dear and lovely friend, and to his memory, which will certainly be present in this Chamber for the remainder of time. He was deeply loved, a man of great stature, and truly a wonderful gentleman, truly a gentleman.

So God bless his son and his daughter who survive him. They have a wonderful heritage.

SENATOR DAVID PRYOR

Mr. SIMPSON. Mr. President, let me just say a word about my friend, DAVID PRYOR.

DAVID PRYOR has determined that he will now retire from the Senate, and we came here together. We came here in the class of 1978. There was a class of 20, the largest class ever to come into the U.S. Senate at one time, 11 Republicans and 9 Democrats. We were very close. Those of us who are still here are still very close. In fact, in January of this year, the remaining group of us met together and had dinner together with our spouses, and shared the attitude of how can we make the place work a little better instead of just chopping ourselves to pieces, as we sometimes do. But that goes with the territory. That is politics. It was always a little rough and tumble, and it still will be, and ever shall be, world without end.

But DAVID PRYOR and Barbara—and there is a remarkable woman. She has chosen to take a little of a secondary role in the life of this wonderful man. Let me tell you, she is in every sense as much a part of DAVID's success in life and fiber as my own wife, Ann, is of mine.

So DAVID and I came here, and I was placed in the basement of the Russell Building because it was thought that I was No. 100. Well, the senior Senator from Wyoming had resigned an hour before the deadline of midnight of the New Year. So I was not 100; I was No. 88, which was a significant leapfrog. We have since changed that. We do not do that anymore. But nevertheless, thinking I was No. 100, they placed me in the basement of the Russell Building, with bars on the windows, which were not unfamiliar to me from some of my activities in youth. But, nevertheless, it looked like the sewers of Paris down in there.

But I was glad to have any kind of opportunity to be here, thrilled as we all are, and hope always will be, or we shall get out. DAVID PRYOR, who I had come to know in those early days, came to visit me in my dungeon surroundings, the durance vile. He said, "This is quite an office you have here." I said, "It is. But at least I am here." He said, "You need something to brighten it up." I said, "Well, that would be lovely. I think you are right." So later in the afternoon he mailed to me, hand carried by courier, a dead plant with the leaves dangling in grotesque, yellowish brown fashion. He said he thought that the plant matched the surroundings of what I had there. And then he later showed up personally to assure himself that I had received this beautiful plant to grace my new surroundings.

Well, that is part of DAVID. He is a wonderful friend, and he is a very serious man. He comes to this floor, and he defends his friend, his principal friend, who is a man named Bill Clinton, President of the United States. I used to come to this floor and defend my friend, a man I had known for 35 years named George Bush, President of the United States. And DAVID and I have often laughed at how it is when you are a close friend of a President, because when somebody is here tearing them up, your staff says, "Get over there; they are doing something bad," and you end up dropping what you do and you come over to defend your friend. I have done that with George Bush, and I have seen DAVE do it with great loyalty for his friend Bill Clinton.

I have always admired him. I have worked with him. There is not a finer, more principled man, a man of remarkable honesty and directness, and a man to whom I once said, "DAVID, did you run for president of the first grade? Because I don't think you have missed any part of politics. I think you have been in this since your birth." When you look at the public record that he leaves behind as a legislator, as a member of the Arkansas Assembly, a Congressman, a Governor, a Senator, the people of Arkansas love this man, and he could have been here as long as he wished. He has decided, however, to do something many, many of us think about more and more often, and that is stepping away, not with irritation or hostility or angst or anguish, just knowing that there are other things to do in life, stepping away just as a person such as Jack Danforth of Missouri—no regret, no recrimination, just stepping away.

That is what DAVID has chosen to do, and I just want to say that I wish him well. And he will do well. He looks spirited and relieved and released, had a snappy tan to his face, lilt to his step the other day—he had gone golfing, a shocking revelation.

And so to DAVID and to Barbara, special people of special depth, special substance and sensitivity, and their children, David, Jr., Mark, and Scott, who are great friends of our daughter Susan—they grew up together here in Washington—to DAVID and Barbara Pryor, with whom we have shared much, spent time together, talked of things much deeper than legislation, I say Godspeed. I join in wishing them well in a new chapter of their lives which will be very, very fulfilling to them, I am sure, knowing the type of people they are.

I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

RECESS UNTIL 1:50 P.M.

Mr. DOLE. Mr. President, and my colleagues who are not on the floor but are probably in their offices, we are waiting for an amendment to be drafted. It may be another 15 to 30 minutes. Rather than have the Senate in session, I will move in a second that we recess for 30 minutes.

It is our hope to have an amendment prepared on which we will vote Monday, followed by a cloture vote on Tuesday. We are trying to reach that agreement, and right now they are in the process of drafting the amendment.

I move that we stand in recess until 1:50.

The motion was agreed to.

Thereupon, the Senate, at 1:16 p.m., recessed until 1:51 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COVERDELL).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Georgia, suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

MOVED BY TRIBUTE TO SENATOR JOHN C. STENNIS

Mr. BYRD. Mr. President, recently I received a letter from a Dr. Wayne M. Miller of Killeen, Texas. The letter was in reference to my recent eulogy for the late and beloved Senator John Cornelius Stennis.

Dr. Miller wrote that he was deeply moved by the tribute, so much so that he sat down and composed a poem after hearing it. I call attention to the letter and to the poem enclosed with it because it demonstrates not only the sensitivity and talent of the writer, but also the power and the passion which words can evoke.

In these days of often destructive, rude, and even dangerous rhetoric, let us stop and reflect on the tremendous power of our words.

Such reflection may help those of us in public life and in the media to strive to use our voices to inspire rather than to enflame.

Mr. President, I ask unanimous consent that Dr. Wayne M. Miller's letter and poem be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KILLEEN, TX,
April 27, 1995.

U.S. Senator ROBERT C. BYRD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BYRD, when I tuned in to a C-Span telecast last night, I caught the latter part of your eloquent tribute to the late Senator Stennis. It was truly one of the greatest speeches I have ever heard. To be sure, it had the two basic ingredients of a great speech: substantive thinking, and rhetorical skills to effectively express it.

Although I am not a West Virginian, I have admired your accomplishments and the stature of your leadership. I was reared just eighty miles north of Wheeling, in a small town of Harmony, Pennsylvania. After serving as chaplain in the Air Force, I became a field director for American Red Cross—and am now retired with that organization. For the past sixteen years I have been teaching composition and rhetoric at Central Texas College.

Would it be possible to have a copy of your outstanding speech? I would be ever so grateful!

I am so happy that we still have statesmen of your caliber in our nation's capital. I am enclosing a poem which I wrote after listening to you on television. It reflects, in some small measure, my responsiveness to your deeply, moving words.

Respectfully,

WAYNE M. MILLER.

Enclosure.

To the Honorable Mr. Byrd, Distinguished U.S. Senator from the State of West Virginia, after hearing the stirring tribute delivered on the floor of Congress for the late Senator John Stennis of Mississippi (1901–1995):

Your well selected words, like highly polished marble
(Uniquely Mr. Byrd's!)
Were fitted in a pyramid of architectural marvel—
Arousing such a sentiment in the shaping of your thoughts
Keen emotions were unharnessed from what common birth allots
And, untouted, undergirds
The daily warp and woof of our fabric of existence.

You talked about our too brief pilgrimage,
And you pricked our unsuspecting Achilles Heel
When you sharpened our awareness of fragility
That stamps the mold of our mortality—
And your sobering reflection of the little bird
That fluttered through the crack from the raging storm
Into the blinding light of the banquet hall,
And then, so very soon, fluttered out again—
Demonstrated our fitful wandering,
Our groping sightlessness, our straining stammering,
Our hurried exit from the ever-blinding light
Of the babbling banquet hall and "much ado about nothing."

You addressed so poignantly the human predicament
In the never ending journey "east of Eden"—
Never ending, that is,
Until that special day of reckoning
When all our shattered dreams, our broken vows . . .
Will have their consummation
In all-glorious transformation
From the ugly to the beautiful
And the painful to the joyful
Where there will be no night,
No parting and no sorrow.

You led us like thirsting sheep
To the oasis of our being—
The wells of spiritual refreshment
Where first we saw the mirroring of our impoverished selves
And then experienced the waters that revive us
And show us the way of day.

You showed us what we are—
And what we can become
In the "long journey into night"
While we suffer in our little rooms,
Waiting for the fateful end—
To be transposed by the Great Composer
From our dischords into harmonies,
Rejoicing with the Children of the Light.

WAYNE MEREDITH MILLER,
1995 Nominee for Poet of the Year.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO NAOMI NOVER

Mr. DOLE. Mr. President, on April 22, the Washington journalism community lost one of its most enduring figures. For decades, Naomi Nover was a distinctive presence on Capitol Hill and at the White House, often claiming a front-row seat at Presidential news conferences. Known for her perseverance and her determination to continue her passion for journalism, Naomi fell ill last month while renewing her Senate press credentials. It was the first day for gallery members to renew their press cards, and as usual, Naomi was one of the first in line.

A native of Buffalo, NY, she and her husband Barney moved to Washington in 1936. After receiving a masters degree from George Washington University, she worked with her husband for the Denver Post, wrote a column called "Washington Dateline," produced a radio program called "Views and Interviews," and when Barney Nover retired from the Denver Post in 1971, Naomi cofounded the Nover News Bureau. After her husband passed away in 1973, Naomi established a journalism prize in his memory, the Barnet Nover Memorial Award, given for journalistic excellence at the annual White House Correspondents Association dinner.

Naomi's perseverance was legendary. Sam Donaldson tells an admiring story about the time Naomi was hit by a truck while crossing Pennsylvania Avenue. "The vehicle was almost totalled," Donaldson says. "She walked away without a scratch." President Clinton called her "years of dedication to her craft and her efforts to cover events * * * a lesson to us all in hard work and the persistence of the human spirit."

Mr. President, I know all my colleagues join me in sending our warmest condolences to Naomi's friends and family.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I say for the benefit of my colleagues and others who would probably like to get out of here, we are waiting for an amendment to be drafted. It is almost complete. Upon completion, it will be sent to the desk. Then there will be a cloture petition filed, and we will be able to leave for the day.

It should not be long. I am told 15 or 20 minutes.

THE STAKES IN LEGAL REFORM

Mr. DOLE. Mr. President, as we continue the legal reform debate, I think it is important to take a few minutes and focus on what is and is not at stake here.

What is at stake is whether we are going to continue with a legal system that is too costly, too long, and too unfair. What is at stake is whether the powerful trial lawyers lobby will continue to protect their privileges through irresponsible scare tactics.

Because, let Members be clear, the last week has demonstrated not only that the American people—over 83 percent—want reform; a majority of the Senate wants reform too.

Only President Clinton and his trial lawyer allies defend the status quo.

What they will not do, however, is engage in a debate on the merits. I was disappointed to see President Clinton parrot the standard trial lawyer line that legal reform protected "drunk drivers, murderers, rapists, and abusers of women and children."

Mr. President, I have been here awhile, but I must say that I rarely have seen such an offensive twisting of the truth. President Clinton knows better and he should be ashamed of engaging in such tactics.

The truth is that we have State and Federal criminal codes to deal with these people. The real irony that is apparently lost on President Clinton is that those same criminal codes generally contain—in addition to prison terms—fines and penalties that are typically $5,000 or $10,000 for serious felonies.

Those criminal fines are only a very small fraction of the multimillion-dollar punitive damage award. So why is President Clinton not attacking the criminal code for protecting criminals? Why have his crime proposals not ever addressed this issue?

Because this is about politics, not policy. Our legal reforms focus on the civil code, not the criminal code. President Clinton knows that.

But President Clinton also knows who raised millions of dollars for him in 1992—the trial lawyers. And he knows who raised $25 million for Democrat House and Senate candidates between 1989 and 1994—the trial lawyers.

Think about it. There is a lot talk of special interests in this town, but no single-issue group comes anywhere close to bringing this much money to bear on Federal campaigns. And no other group is so generous and so exclusively for the party of President Clinton.

So, despite the evidence that there is bipartisan support for these reports—and expanding them so that every American can benefit—when the chips were down, the trial lawyers and President Clinton started trying to scare the American people.

And yesterday, that tactic worked. Only two Democrats voted for reform. But this tactic will fail in the end. I am proud that we are trying to pass legal reform that benefits as many Americans as possible. I will continue to work for reforms that help small businesses, and volunteer and charitable organizations.

I believe the American people see past the irresponsible rhetoric. They know we are continuing to fight for their interests.

But the reality, Mr. President, is that we cannot bring this debate to a close without bipartisan support. Forty-five Republicans did their part. Reform will not happen unless the Democrats put the interests of the American people ahead of the interests of the trial lawyers and their huge financial stake in the Democrat Party.

I plan to bring this bill to a vote again on Monday or Tuesday. The American people need and deserve these reforms, and I for one do not intend to allow scare tactics to deter us from our responsibility to pass a legal reform package.

We hope to bring this bill to a vote. We think the American people want Members to vote. We believe there is still a possibility because there is some bipartisan support. We will have to have 60 votes. That is what happens in this place. We need 60 votes to shut off debate, so we can pass even a narrowed product liability bill.

We believe it is a big step in the right direction and I hope we will have the bipartisan support that Senator ROCKEFELLER from West Virginia and Senator GORTON from Washington have been working for, for the past 2 weeks.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Governmental Affairs.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 761. A bill to improve the ability of the United States to respond to the international terrorist threat.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–864. A communication from the Secretary of Housing and Urban Development's Designee to the Federal Housing Finance Board, transmitting, pursuant to law, a report under the Inspector General Act; to the Committee on Banking, Housing, and Urban Affairs.

EC–865. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–866. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to transaction involving exports to Chile; to the Committee on Banking, Housing, and Urban Affairs.

EC–867. A communication from Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of the study on the impact of the payment of interest on reserves; to the Committee on Banking, Housing, and Urban Affairs.

EC–868. A communication from the Secretary of Transportation, transmitting, pursuant to law, the interim report on the Commercial Vehicle Information System feasibility study; to the Committee on Commerce, Science, and Transportation.

EC–869. A communication from the Secretary of Energy, transmitting, pursuant to law, the report for the Strategic Petroleum Reserve for the period October 1 through December 31, 1994; to the Committee on Energy and Natural Resources.

EC–870. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, notice relative to the Stafford Act; to the Committee on Environment and Public Works.

EC–871. A communication from the Chairman of the U.S. International Trade Commission, transmitting, a draft of proposed legislation to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1997; to the Committee on Finance.

EC–872. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "The U.S. Air Traffic Service Corporation Act"; to the Committee on Finance.

EC–873. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of a revised deferral and two revised rescission proposals; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Finance, to the Committee on Labor and Human Resources, and to the Committee on Environment and Public Works.

EC–874. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the activities relating to the Deepwater Port Act for fiscal year 1994; referred jointly, pursuant to 33 U.S.C. 1519, to the Committee on Commerce, Science, and Transportation, to the Committee on Energy and Natural Resources, and to the Committee on Environment and Public Works.

EC–875. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals for fiscal year 1995; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Banking, Housing, and Urban Affairs, to the Committee on Commerce, Science, and Transportation, to the Committee on Environment and Public Works, to the Committee on Labor and Human Resources, and to the Committee on Small Business.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Doc. 102-15 Treaty With Panama on Mutual Assistance in Criminal Matters (Exec. Rept. 104-3)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and the Republic of Panama On Mutual Assistance in Criminal Matters. With Annexes and Appendices, signed at Panama on April 11, 1991. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in this Treaty requires or authorizes legislation, or other action,by the United States of America prohibited by the Constitution of the United States as interpreted by the United States.

Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in or facilitates the production or distribution of illegal drugs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for himself, Mr. BIDEN, Mr. KOHL, Mrs. FEINSTEIN, and Mr. DODD):

S. 761. A bill to improve the ability of the United States to respond to the international terrorist threat; read the first time.

By Mr. HARKIN:

S. 762. A bill to implement General Accounting Office recommendations regarding the use of commercial software to detect billing code abuse in Medicare claims processing, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself, Mr. BIDEN, Mr. KOHL, Mrs. FEINSTEIN, and Mr. DODD):

S. 761. A bill to improve the ability of the United States to respond to the international terrorist threat; read the first time.

THE OMNIBUS COUNTERTERRORISM ACT OF 1995

Mr. DASCHLE. Mr. President, since the terrible bombing in Oklahoma City more than 2 weeks ago, we have been forced to consider what the society should do in self-defense against potentially deadly maniacs who think that killing defenseless people is a way to send a political message or effect political change.

This is an enduring challenge for a democracy. We have faced it before. There is no easy answer.

We cannot afford to give the terrorists what they want to achieve—the subversion of our free institutions—in the effort to prevent their terrorist acts. But we cannot remain complacent in the face of determined threats either.

The President has sent to Congress his proposal to give Federal law enforcement additional resources and tools to use in combating domestic and international terrorism on American soil. It includes commonsense expansion of FBI investigative authorities in counterterrorism cases, such as access to credit reports and travel and hotel records, which are routinely available to State and local law enforcement authorities in criminal investigations.

It will speed the process of adding chemical taggants to explosives, as well as moving more aggressively into taggant and related explosives research.

It will expand the FBI's ability to use trace-and-track devices and pen registers to capture the phone numbers dialed from or coming in to a particular telephone. It does not abandon the requirement of American law that no phone may be tapped without an explicit warrant, issued only when there is probable cause to suspect criminal activity.

The package of proposals includes added penalties and some broader Federal felony offenses, whose purpose is to conform the law with respect to explosives to the existing law that covers firearms.

Coupled with the President's earlier antiterrorism bill directed at international terrorism, this is a sound step to respond to a national threat without throwing overboard the civil rights of law-abiding citizens.

The consensus of those who work in this field is that, although the cold war is over, the war against terrorism is just beginning. Experts make some chilling—and compelling—arguments.

In the century preceding the Oklahoma City bombing, although terrorist groups were numerous, and although horrible murders, kidnapings, and other crimes by them were frequent, there were fewer than a dozen terrorist attacks that cost more than 100 lives.

There is reason to fear, according to experts, that this trend is shifting. Where once terrorists would take hostages and threaten the lives of 1 or 2 or 20 people if their demands were not met, they no longer issue specific demands. They take fewer and fewer hostages.

Instead, they attack more soft targets, where civilian casualties are bound to be higher. They are aiming less at a particular demand and more at terrorizing the entire society.

They build more car bombs and undertake more suicide attacks; they attack civilians in crowds—airplanes, subways, and office buildings. They make fewer explicit demands, but their broader demands are more apocalyptic.

If this trend continues, instead of a cold war atmosphere of threat and counterthreat, of massive nuclear stockpiles poised to strike each other's targets, we face the prospect of random violence—impossible to predict, impossible to counter, impossible to explain.

A civilized society can live with many fears. We lived with the fear of nuclear holocaust for almost 50 years, yet our society became freer throughout that time. The great advances in civil rights and protections against Government were postwar.

But no civilized society will survive the threat of random terror. It cannot. We must be able to feel secure as we travel to our workplaces each day, as we sit at our desks or man our service counters—that we will end the day predictably, by going home, making dinner, performing the normal pattern of tasks and duties we face.

If we ever reach the point where randomized terror can paralyze us, can make Americans distrust each other—distrust the safety of the next few hours—the terrorists will have won, because we will be what they want us to be: an atomized nation, without community, without security, without anything except fear for immediate individual survival.

That is where these people want to take us. We have to combat this, without becoming savages, without losing our perspective, without succumbing to paralyzing fear.

It is not going to be easy. If the experts are right, and apocalyptic terrorism is what the future holds, we will face challenges our system has never before been forced to face. We will have to ask ourselves questions that we have never before raised.

A growing number of terrorist groups believe they are fighting a holy war. That change has changed the nature of what they are prepared to do, the risks they themselves are prepared to run, and the damage they are prepared to inflict.

This change presents us, as a society, with a challenge as well. Americans are of diverse faiths, but we are among the most religious people in the industrialized world today. We respect the faith of others, and we respect the demands of their religion. Our respect for religious belief is not enshrined only in our first amendment. It is an instinctive American habit not to second-guess the faith of your neighbor.

And yet, if terrorism comes claiming religious sanction, we have to face it. And this bill will help us.

Since 1990, 40 percent of all terrorist acts worldwide have been committed explicitly against American targets. That is, in large part, because the success of our society is a standing refutation of the beliefs of many of these groups. Unless our system can be destroyed, their vision cannot be vindicated.

This is believed by domestic groups as well as groups overseas.

Reports that some Americans think they have to shoot down military helicopters on routine training missions are surfacing. A Member of Congress has even proposed requiring Federal law enforcement agents to be formally deputized by local authorities before they can carry out their responsibilities. Reports of threats against local officials have discouraged involvement in local government meetings in some regions.

I do not believe that words alone cause terrorist acts. I do not think anyone seriously believes so. But I do believe that a culture is comprised of many factors, feeding into its hopes and fears, and I do believe that a culture changes as the factors feeding its hopes and playing on its fears change.

When people in the mainstream become careless with words, they breach barriers that create a new set of assumptions. Barriers, once breached, are permeable in both directions. The lunacy of the fringe enters the mainstream even as the careless or calculated words of the mainstream create a new defining normalcy. Senator MOYNIHAN has spoken about a society that redefines deviancy. Those aggressively seeking to make their mark on our society should examine how they are defining normalcy.

We are warned by the Tokyo subway bombing earlier this year that weapons of mass destruction need not be explosives. Easily manufactured chemical and biological weapons can be as deadly and effective when the goal is to terrorize a community.

Before it collapsed, the Soviet Union operated the largest biological warfare production facility in the world, employing 15,000 scientists. These people had developed a form of bubonic plague that was resistant to 26 antibiotics, a form of fast-spreading meningitis, agents that could be introduced into water systems or into the air in climate-controlled buildings.

Today, these people face the economic collapse of the system that supported them as highly paid and privileged specialists. All they need to recreate their deadly work is carried in their own brains. The temptation to sell that knowledge outside of Russian borders cannot be ignored at a time when the value of their monthly wages has fallen to less than $70.

Again, this threat is not limited to international terrorists. In August 1994, our own FBI arrested two members of a group calling itself the Patriots' Council in Minneapolis. This group was concocting ricin, a neurotoxin that can be produced from the common castor bean plant.

An equally deadly potential is the contamination of a conventional bomb with radioactivity. Since May 1994, there have been 39 separate incidents of nuclear materials diversion in Eastern and Southern Europe. It is not necessary for radioactive material to be made into an explosive device like a bomb. The contamination of a conventional bomb with radioactive materials is simpler; its terrifying effect would be as great.

These threats are not speculative. Unfortunately, they are all too real.

We cannot and must not succumb to the temptation of regarding everyone with oddball notions as a potential threat. But, unfortunately, neither can we write off all oddballs as harmless.

It is the goal of the President's counterterrorism approach that we be able to make the distinctions between the harmless and the potentially dangerous before the dangerous are able to strike again, not afterward.

I believe it is a balanced package of proposals that does not go too far. We should pass this legislation promptly, without detouring into the partisan political minefields some have suggested.

Curtailing the appellate rights of prisoners on death row is not going to change the murderous intentions of terrorist groups. The extraneous politically motivated inclusion of these kinds of provisions does a disservice to the cause of counterterrorism. It does not move us forward; it is intentionally and purposefully divisive.

I very much regret that this is on the agenda of some in the wake of a national tragedy. I would hope that these issues could be abandoned for the time being, out of respect for the families of the victims of the Oklahoma bombing and so that we may enact the necessary counterterrorism legislation expeditiously. We have plenty of time for politics later. This is a time that demands unity.

Mr. President, I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1.

Section 1 states that the short title for the Act is "The Omnibus Counterterrorism Act of 1995."

Section 2.

Section 2 provides a Table of Contents for the Act.

Section 3.

Section 3 sets forth the congressional findings and purposes for the Act.

Section 101.

The purpose of section 101 is to provide a more certain and comprehensive basis for the Federal Government to respond to future acts of international terrorism carried out within the United States. The section creates an overarching statute (proposed 18 U.S.C. 2332b) which would allow the Government to incorporate for purposes of a Federal prosecution any applicable Federal or State criminal statute violated by the terrorist act, so long as the Government can establish any one of a variety of jurisdictional bases delineated in proposed subsection 2332b(c).

Subsection 101(a) creates a new offense, 18 U.S.C. 2332b, entitled "Acts of Terrorism Transcending National Boundaries." This statute is aimed at those terrorist acts that take place within the United States but which are in some fashion or degree instigated, commanded, or facilitated from outside the United States. It does not encompass acts of street crime or domestic terrorism which are in no way connected to overseas sources.

Subsection 2332b(a) sets forth the particular findings and purposes for the provision.

Subsection 2332b(b) sets forth the prohibited acts which relate to the killing, kidnapping, maiming, assault causing serious bodily injury, or assault with a dangerous weapon of any individual (U.S. national or alien) within the United States. It also covers destruction or damage to any structure, conveyance or other real or personal property within the United States. These are the types of violent actions that terrorists most often undertake. The provision encompasses any such activity which is in violation of the laws of the United States or any State, provided a Federal jurisdictional nexus is present.

Subsection 2332b(c) sets forth the jurisdictional bases. Except for subsections (c) (6) and (7), these bases are a compilation of jurisdictional elements which are presently utilized in federal statutes and which have been approved by the courts.

Paragraph (1) covers the situation where the offender travels in commerce. Cf. 18 U.S.C. 1952.

Paragraph (2) covers the situation where the mails or a facility utilized in any manner in commerce is used to further the commission of the offense or to effectuate an escape therefrom. Cf. 18 U.S.C. 1951.

Paragraph (3) covers the situation where the results of illegal conduct affect commerce. Cf. 18 U.S.C. 1365(c).

Paragraph (4) covers the situation where the victim is a federal official. Cf. 18 U.S.C. 115, 1114, 351, 1751. The language includes both civilians and military personnel. Moreover, it also covers any "agent" of a federal agency. Cf. 18 U.S.C. 1114 (*i.e.*, assisting agent of customs or internal revenue) and 1121. It covers all branches of government, including members of the military services, as well as all independent agencies of the United States.

Paragraph (5) covers property used in commerce (cf. 18 U.S.C. 844(i)), owned by the United States (cf. 18 U.S.C. 1361), owned by an institution receiving federal financial assistance (cf. 18 U.S.C. 844(f)) or insured by the federal government (cf. 18 U.S.C. 2113).

Paragraph (6) provides a jurisdictional base which has not been tested. It should, however, fall with the federal government's commerce power. It is included to avoid the construction, given to many federal interstate commerce statutes, that a "commercial" aspect is required. Paragraph (6) would cover both business and personal travel.

Paragraph (7) covers situations where the victim or perpetrator is not a national of the United States. The victimization of an alien in a terrorist attack has the potential of affecting the relations of the United States with the country of which the alien is a citizen. Moreover, some other statutes base criminal jurisdiction on the involvement of an alien as the perpetrator or victim. *E.g.*, see 18 U.S.C. 1203 and 1116. In addition, aliens are a special responsibility of the federal government, as it is involved in admitting aliens, establishing the conditions for their presence, adjusting them to resident alien status, deporting aliens for violating the immigration laws, and eventually naturalizing aliens as citizens.

Paragraphs (8) and (9) cover the territorial seas of the United States and other places within the special maritime and territorial jurisdiction of the United States that are located within the United States (cf. 18 U.S.C. 7).

Jurisdiction exists over the prohibited activity if at least one of the jurisdictional elements is applicable to one perpetrator. When jurisdiction exists for one perpetrator, it exists over all perpetrators even those who were never within the United States.

Subsection (d) sets forth stringent penalties. These penalties are mandatorily consecutive to any other term of imprisonment which the defendant might receive. Consecutive sentences for "identical" offenses brought in the same prosecution are constitutionally permissible. See *Missouri* v. *Hunter*, 459 U.S. 359, 367 (1983). However, there is no statutory mandatory minimum. The court is given the discretion to decide the penalty for this offense under the sentencing guidelines.

Subsection (e) limits the prosecutorial discretion of the Attorney General. Before an indictment is sought under section 2332b, the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, must certify that in his or her judgment the violation of section 2332b, or the activity preparatory to its commission, transcended national boundaries. This means that the Attorney General must conclude that some connection exists between the activities and some person or entity outside the United States.

Moreover, the certification must find that the offense appears to have been intended to coerce, intimidate, or retaliate against a government or civilian population. This is similar to the certification requirement for "terrorism" found in 18 U.S.C. 2332(d). The term "civilian population" includes any segment thereof and, accordingly, is consistent with the Congressionally intended scope of section 2332(d). The certification requirement ensures that the statute will only be used against terrorists with overseas connections. Section 2332b is not aimed at purely domestic terrorism or against normal street crime as current law, both federal and state, appears to adequately address these areas. The certification of the Attorney General is not an element of the offense and, except for verification that the determination was made by an authorized official, is not subject to judicial review.

Subsection (f) states that the Attorney General shall investigate this offense and may request assistance from any other federal, state, or local agency including the military services. This latter provision, also found in several other statutes, see *e.g.*, 18 U.S.C. 351(g) and 1751(i), is intended to overcome the restrictions of the posse comitatus statute, 18 U.S.C. 1385. It is not intended to give intelligence agencies, such as the Central Intelligence Agency, any mission that is prohibited by their charters.

Pursuant to 28 C.F.R. 0.85(a), the Attorney General automatically delegates investigative responsibility over this offense to the Director of the Federal Bureau of Investigation (FBI). Moreover, under 28 C.F.R. 0.85(l) the FBI has been designated as the lead federal law enforcement agency responsible for criminal investigation of terrorism within the United States. While local and state authorities retain their investigative authority under their respective laws, it is expected that in the authority under their respective laws, it is expected that in the event of major terrorist crimes such agencies will cooperate, consult, coordinate and work closely with the FBI, as occurred in the investigation of the World Trade Center bombing in New York City.

Subsection (g) makes express two points which are normally inferred by courts under similar statutes, namely, that no defendant has to have knowledge of any jurisdictional base and that only the elements of the state offense and not any of its provisions pertaining to procedures or evidence are adopted. Federal rules of evidence and procedure control any case brought under section 2332b.

Subsection (h) makes it clear that there is extraterritorial jurisdiction to reach defendants who were involved in crimes but who never entered the United States.

Subsection (i) sets forth definitions, many of which specifically incorporate definitions from elsewhere in the federal code, *e.g.*, the definition of "territorial sea" in 18 U.S.C. 2280(e).

Subsection 101(b) makes a technical amendment to the chapter analysis for Chapter 113B of title 18, United States Code.

Subsection 101(c) amends 18 U.S.C. 3286, which was created by section 120001 of Pub. Law 103–322. Section 3286 is designed to extend the period of limitation for a series of enumerated terrorism offenses from five to eight years. The wording of the section, however, gives rise to a potential interpretation that, with respect to violations of the enumerated offenses that are capital crimes, the same eight-year period applies rather than the unlimited period that previously applied and continues to apply to capital offenses under 18 U.S.C. 3281. Section 3286's introductory language is as follows:

"Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for *any* offense involving a violation of" the enumerated provisions of law (emphasis supplied).

It seems clear that Congress did not intend to reduce the limitations period for offenses under the enumerated statutes that are capital due to the killing of one or more victims. Rather, the intent was (as the title of the section 120001 provision indicates to enlarge the applicable limitation period for non-capital violations of the listed offenses. Accordingly, the proposed amendment would insert "non-capital" after "any" in the above-quoted phrase. Notably, the drafters were careful to include the word "non-capital" when affecting a similar period of limitations extension applicable to arson offenses under 18 U.S.C. 844(i) in section 320917 of the Pub. L. 103–322.

Subsection 101(c) also corrects certain erroneous statutory references in section 3286 (*i.e.*, changes "36" to "37", "2331" to "2332" and "2339" to "2332a"). Finally, the subsection adds to section 3286 the new 18 U.S.C. 2332b.

Subsection 101(d) amends section 3142(e) of title 18, United States Code, to insure that a defendant arrested for a violation of the new 18 U.S.C. 2332b is presumed to be unreleasable pending trial. The factors, most likely to be present, *i.e.*, an alien perpetrator who is likely to flee and who is working on behalf of or in concert with a foreign organization, makes such an individual unsuitable for release pending trial. This presumption, which is subject to rebuttal, will limit the degree of sensitive evidence that the Government must disclose to sustain its burden to deny release.

Section 102.

Section 102 is designed to complement section 101 of this bill concerning terrorist acts within the United States transcending national boundaries. Just as a better basis for addressing crimes carried out within the United States by international terrorists is needed, it also is appropriate that there should be an effective federal basis to reach conspiracies undertaken in part within the United States for the purpose of carrying out terrorist acts in foreign countries.

Section 102 covers two areas of activity involving international terrorists. The first is conspiracy in the United States to murder, kidnap, or maim a person outside of the United States. The second is conspiracy in the United States to destroy certain critical types of property, such as public buildings and conveyances, in foreign countries. The term conveyance would include cars, buses, trucks, airplanes, trains, and vessels.

Subsection 102(a) amends current 18 U.S.C. 956 in several ways. It creates a new subsection 956(a) which proscribes a conspiracy in the United States to murder, maim, or kidnap a person outside of the United States. The new section fills a void in the law that exists. Currently, subsection 956(a) only prohibits a conspiracy in the United States to commit certain types of property crimes in a foreign country with which the United States is at peace. It does not cover conspiracy to commit crimes against the person.

Subsection 102(a) thus expands on the current section 956 so that new subsection 956(a) covers conspiracy to commit one of the three listed serious crimes against any person in a foreign country or in any place outside of the jurisdiction of the United States, such as on the high seas. This type of offense is committed by terrorists and the new subsection 956(a) is intended to ensure that the government is able to punish those persons who use the United States as a base in which to plot such a crime to be carried out outside the jurisdiction of the United States.

New subsection 956(a) would apply to conspiracies to commit one of the enumerated offenses where at least one of the conspirators is inside the United States. The other member or members of the conspiracy would not have to be in the United States but at least one overt act in furtherance of the conspiracy would have to be committed in the United States. The subsection would apply, for example, to two individuals who consummated an agreement to kill a person in a foreign country where only one of the conspirators was in the United States and the agreement was reached by telephone conversations or letters, provided at least one of the overt acts was undertaken by one co-conspirator while in the United States. In such a case, the agreement would be reached at least in part in the United States. The overt act may be that of only one of the conspirators and need not itself be a crime.

Subsection 102(a) also re-enacts current section 956(a) of title 18 (dealing with a conspiracy in the United States to destroy property in a foreign country) as subsection 956(b), and expands its coverage to other forms of property. The revision adds the terms "airport" and "airfield" to the list of "public utilities" presently set out in section 956(a), since they are particularly attractive targets for terrorists. New subsection 956(b) also adds public conveyances (*e.g.*, buses), public structures, and any religious, educational or cultural property to the list of targets. This makes it clear that the statute covers a conspiracy to destroy any conveyance on which people travel and any structure where people assemble, such as a store, factory or office building. It also covers property used for purposes of tourism, education, religion or entertainment. Accordingly, the words "public utility" do not limit the statute's application to a conspiracy to destroy only such public utility property as transportation lines or power generating facilities.

Consequently, as amended, 18 U.S.C. 956 reaches those individuals who have conspired within the United States to commit the violent offenses overseas and who solicit money in the United States to facilitate their commission. Moreover, monetary contributors who have knowledge of the conspiracy's purpose are coconspirators subject to prosecution.

Subsection 102(a) also increases the penalties in current 18 U.S.C. 956(a). The new penalties are comparable to those proposed in section 101 of the bill for the new 18 U.S.C. 2332b. Finally, subsection 102(a) eliminates the requirement that is currently found in 18 U.S.C. 956(b) of naming in the indictment the "specific property" which is being targeted, as this requirement may be difficult to establish in the context of a terrorism conspiracy which does not result in a completed offense. Additionally, even in a completed conspiracy, the parties may, after agreeing that a category of property or person will be targeted, leave the actual selection of the particular target of their conspirators on the ground overseas. Hence, while an indictment must always describe its purposes with specificity, it need not allege all specific facts, especially those that were formulated at a subsequent time or which may not be completely known to some of the participants.

Section 956 is contained in chapter 45 of title 18, United States Code, relating to interference with the foreign relations of the United States. It is not intended to apply to duly authorized actions undertaken on behalf of the United States Government. Chapter 45 covers those individuals who, without appropriate governmental authorization, engage in prohibited conduct that is harmful to the foreign relations of the United States.

Section 103.

This section would correct a failure to execute fully our treaty obligations and would, in addition, clarify and expand federal jurisdiction over certain overseas acts of terrorism affecting United States interests.

Subsection 103(a) would amend 49 U.S.C. 46502(b) (former section 902(n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(n)). Section 46502(b) currently covers those aircraft piracies that occur outside the "special aircraft jurisdiction of the United States," as defined in 49 U.S.C. 46501(2). It, therefore, applies to hijackings of foreign civil aircraft which never enter United States airspace. As a State Party to the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft, the United States has a treaty obligation to prosecute or extradite such offenders when they are found in the United States. This measure is based on the universal jurisdiction theory. See *United States* v. *Yunis*, 924 F.2d 1086 (D.C. Cir. 1991). However, the present statute fails to make clear when federal criminal jurisdiction commences with respect to such air piracies, absent the actual presence within the United States of one of the perpetrators.

Paragraph (a)(1) would establish clear federal criminal jurisdiction over those foreign aircraft hijackings where United States nationals are victims or perpetrators. While the Hague Convention does not mandate that State Parties criminalize those situations involving their nationals as victims or perpetrators, it does allow State Parties to assert extraterritorial jurisdiction on the basis of the passive personality principle. *See* Paragraph 3 of Article 4. In addition, other recent international conventions dealing with terrorism, such as the United Nations Convention Against the Taking of Hostages and the International Maritime Organization Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, mandate criminal jurisdiction by a State Party when its national is a perpetrator and permit the assertion of jurisdiction when its national is a victim of an offense prohibited by those conventions. Further, experience has shown that it is often the country whose nationals were victims of the hijacking which is willing to commit the necessary resources to locate, prosecute, and incarcerate the perpetrators for a period of time commensurate with their criminal acts. For those foreign civil aircraft hijackings involving no United States nationals as victims or perpetrators, section 46502 would continue to carry out the U.S. obligation under the Convention to prosecute or extradite an airline perpetrator who was subsequently found in the United States.

Under the clarified statute, subject matter jurisdiction over the offense would vest whenever a United States national was on a hijacked flight or was the perpetrator of the hijacking. Where a United States national is the perpetrator, all perpetrators, including non-U.S. nationals, would be subject to indictment for the offense, since these non-national defendants would be either principals or aides and abettors within the meaning of 18 U.S.C. 2.

Paragraph (a)(2) amends 49 U.S.C. 46502(b)(2) to set forth the three different subject matter jurisdictional bases. It has the effect of repealing the current provision which failed to fully execute our treaty obligation. Presently, paragraph 46502(b)(2) reads: "This subsection applies only if the place of takeoff or landing of the aircraft on which the individual commits the offense is located outside the territory of the country of registration of the aircraft." Paragraph (b)(2) was intended to reflect paragraph 3 of Article 3 of the Hague Convention, which states that the convention normally applies "only if the place of take-off or the place of actual landing of the aircraft on which the offense is committed is situated outside the territory of the State or registration of that aircraft." However, the authors of the original legislation apparently overlooked the obligation imposed by paragraph 5 of Article 3 of the Convention which applies when the alleged aircraft hijacker is found in the territory of a State Party other than the State of registration of the hijacked aircraft. Paragraph 5 states: "Notwithstanding paragraphs 3 and 4 of this Article, Article 6, 7, 8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft."

For example, under the Hague Convention, the hijacking of an Air India flight that never left India is not initially covered by the Convention. (Article 3, paragraph 3.) However, the subsequent travel of the offender from India to the jurisdiction of another State Party triggers treaty obligations. Paragraph 5 makes the obligation of Article 7, to either prosecute or extradite an alleged offender found in a party's territory, applicable to a hijacker of a purely domestic air flight who flees to another State.

Paragraph (a)(3) creates a new section 46502(b)(3) which provides a definition of "national of the United States" that has been used in other terrorism provisions, *see, e.g.*, 18 U.S.C. 2331(2) and 3077(2)(A).

Subsection 103(b) amends section 32(b) of title 18, United States Code. Presently, section 32(b) carries out the treaty obligation of the United States, as a State Party to the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, to prosecute or extradite offenders found in the United States who have engaged in certain acts of violence directed against foreign civil aircraft located outside the United States. The proposed amendment would fully retain current jurisdiction and would establish additional jurisdiction where a United States national was the perpetrator or a United States national was on board such aircraft when the offense was committed. Because subsection 32(b)(3) of title 18, United States Code, covers the placement of destructive devices upon such aircraft and a "victim" does not necessarily have to be on board the aircraft at the time of such placement, the phrase "or would have been on board" has been used. In such instances, the prosecution would have to establish that a United States national would have been on board a flight that such aircraft would have undertaken if the destructive device had not been placed thereon.

Subsection 103(b) is drafted in the same manner as paragraph (a)(2), above, so that once subject matter jurisdiction over the offense vests, all the perpetrators of the offense are subject to indictment for the offense.

Subsections 103 (c), (d), (e) and (f) would amend 18 U.S.C. 1116 (murder), 112 (assault), 878 (threats), and 1201 (kidnapping), respectively. The primary purpose of these proposed amendments is to extend federal jurisdiction to reach United States nationals, or those acting in concert with such a national, who commit one of the specified offenses against an internationally protected person located outside of the United States. The invocation of such jurisdiction under U.S. law is required by the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including diplomatic agents. It was apparently omitted as an oversight when the implementing federal legislation was enacted in 1976 (P.L. 94-467).

Additionally, the provisions would also clarify existing jurisdiction. The language used in the first sentence of sections 1116(e), 112(e), 878(d), and 1201(e) is ambiguous as pertains to instances in which the victim is a United States diplomat. The first sentence in each of these provisions now reads: "If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender."

This sentence could be read to require the presence of the offender in the United States even when the internationally protected person injured overseas was a United States diplomat. This would be anomalous and was likely not intended. Accordingly, subsections (c)-(f) rewrite the first sentence to read as follows:

"If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officers, employee, or agent of the United

States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."

The provision is drafted, in the same manner as the aircraft piracy and aircraft destruction measures, so that once subject matter jurisdiction over the offense is vested, all the perpetrators of the offense would be subject to indictment for the offense.

Subsections 103(c)–(f) also would incorporate in an appropriate manner the definition of "national of the United States" in sections 1116, 112, 878, and 1201 of title 18.

Subsection 103(g) contains an amendment similar in nature to those in the preceding subsections. It expands federal jurisdiction over extraterritorial offenses involving violence at international airports under 18 U.S.C. 37. That provision, enacted as section 60021 of Public Law 103–322, presently reaches such crimes committed outside the United States only when the offender is later found in the United States. There is, however, good reason to provide for federal jurisdiction over such terrorist crimes when an offender or a victim is a United States national. In such circumstances the interests of the United States are equal to, if not greater than, the circumstance where neither the victim nor the offender is necessarily a United States national but the offender is subsequently found in this country.

Subsection 103(h) adds the standard definition of the term "national of the United States" to 18 U.S.C. 178. This term is used earlier in the chapter (in 18 U.S.C. 175(a), which provides for extraterritorial jurisdiction over crimes involving biological weapons "committed by or against a national of the United States") but no definition is provided.

Section 201

In recent years, the Department of Justice has obtained considerable evidence of involvement in terrorism by aliens in the United States. Both legal aliens, such as lawful permanent residents and aliens here on student visas, and illegal aliens are known to have aided and to have received instructions regarding terrorist acts from various international terrorist groups. While many of these aliens would be subject to deportation proceedings under the Immigration and Nationality Act (INA), these proceedings present serious difficulties in cases involving classified information. Specifically, these procedures do not prevent disclosure of classified information where such disclosure would pose a risk to national security. Consequently, section 201 sets out a new title in the INA devoted exclusively to the removal of aliens involved in terrorist activity where classified information is used to sustain the grounds for deportation.

The new title would create a special court, patterned after the special court created under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 et seq.). When the Department of Justice believes that it has identified an alien in the United States who has engaged in terrorist activity, and that to afford such an alien a deportation hearing would reveal classified national security information, it could seek an *ex parte* order from the court. The order would authorize a formal hearing, called a special removal hearing, before the same court, at which the Department of Justice would seek to prove by clear and convincing evidence that the alien had in fact engaged in terrorist activity. At the hearing, classified evidence could be presented in camera and not revealed to the alien or the public, although its general nature would normally be summarized.

Enactment of section 201 would provide a valuable new tool with which to combat aliens who use the United States as a base from which to launch or fund terrorist attacks either on U.S. citizens or on persons in other countries. It is a carefully measured response to the menace posed by alien terrorists and fully comports with and exceeds all constitutional requirements applicable to aliens.

Subsection 201(a) sets out findings that aliens are committing terrorist acts in the United States and against United States citizens and interests and that the existing provisions of the INA providing for the deportation of criminal aliens are inadequate to deal with this threat. These findings are in addition to the general findings contained in section 3 of the bill. The findings explain that these inadequacies arise primarily because the INA, particularly in its requirements pertaining to deportation hearings, may require disclosure of classified information.

The findings are important in explaining Congressional intent and purpose. As noted above, section 201 creates an entirely new type of hearing to determine whether aliens believed to be terrorists should be removed from the United States. At such a "special removal hearing," the government would be permitted to introduce in camera and ex parte classified evidence that the alien has engaged in terrorist activity. Such hearings would be held before Article III judges. The in camera and ex parte portion of the hearing would relate to classified information which, if provided to the alien or otherwise made public, would pose a risk to national security. Such an extraordinary type of hearing would be invoked only in a very small percentage of deportation cases, and would be applicable only in those cases in which an Article III judge has found probable cause to believe that the aliens in question are involved in terrorist activity. Although the bill provides the alien many rights equal to—and in some respects greater than—those enjoyed by aliens in ordinary deportation proceedings, the rights specified for aliens subject to a special removal hearing are deemed exclusive of any rights otherwise afforded under the INA.

It is within the power of Congress to provide for a special adjudicatory proceeding and to specify the procedural rights of aliens involved in terrorist acts. The Supreme Court has noted that "control over matters of immigration is a sovereign prerogative, largely within the control of the Executive and the Legislature . . . . The role of the judiciary is limited to determining whether the procedures meet the essential standard of fairness under the Due Process Clause and does not extend to imposing procedures that merely displace congressional choices of policy." *Landon v. Plasencia*, 459 U.S. 21, 34–35 (1982). Moreover, Congress can specify what type of process is due different classes of aliens. "[A] host of constitutional and statutory provisions rest on the premise that a legitimate distinction between citizens and aliens may justify attributes and benefits for one class not accorded to the other; and the class of aliens itself is a heterogeneous multitude of persons with a wide-ranging variety of ties to this country." *Mathews v. Diaz*, 426 U.S. 67, 78–79 (1976). Because the Due Process Clause does not require "that all aliens must be placed in a single homogeneous legal classification," *id.*, Congress can provide separate processes and procedures for determining whether to remove resident and nonresident alien terrorists.

Subsection 201(b) adds a new title V to the INA to provide a special process for removing alien terrorists when compliance with normal deportation procedures might adversely affect national security interests of the United States. However, the new title V is not the only way of expelling alien terrorists from the United States. In addition to proceedings under the new special removal provisions, aliens falling within 8 U.S.C. 1251(a)(4)(B) alternatively could be deported following a regular deportation hearing. Moreover, like all other aliens, alien terrorists remain subject to possible expulsion for any of the remaining deportation grounds specified in section 241 of the Act (8 U.S.C. 1251). For example, alien terrorists who violate the criminal laws of the United States remain subject to "ordinary" deportation proceedings on charges under INA section 241(a)(2). The special removal provisions augment, without in any way narrowing, the prosecutorial options in cases of alien terrorists.

The new title V consists of four new sections of the INA, sections 501–504 (8 U.S.C. 1601–1604). Briefly, the title provides for creation of a special court comprised of Article III judges, patterned after the special court created under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 *et seq.*). When the Department of Justice believes it has identified an alien terrorist, that is, an alien who falls within 8 U.S.C. 1251(a)(4)(B), and determines that to disclose the evidence of that fact to the alien or the public would compromise national security, the Department may seek an order from the special court. The order would authorize the Department to present the classified portion of its evidence that the alien is a terrorist in camera and ex parte at a special removal hearing. The classified portion of the evidence would be received in chambers with only the court reporter, the counsel for the government, and the witness or document present. The general nature of such evidence, without identifying classified or sensitive particulars, would than normally be revealed to the alien, his counsel, and the public in summarized form. The summary would have to be found by the court to be sufficient to permit the alien to prepare a defense.

Where an adequate summary, as determined by the court, would pose a risk to national security, and, hence, unavailable to the alien, the special hearing would be terminated unless the court found that (1) the continued presence of the alien in the United States or (2) the preparation of the adequate summary would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person. If such a situation exists, the special removal hearing would continue, the alien would not receive a summary, and the relevant classified information could be introduced against the alien pursuant to subsection (j).

If, at the conclusion of the hearing, the judge finds that the government has established by clear and convincing evidence that the alien has engaged in terrorist activity, the judge would order the alien removed from the United States. The alien could appeal the decision to the United States Court of Appeals for the District of Columbia Circuit, and ultimately could petition for a writ of certiorari to the Supreme Court.

Use of information that is not made available to the alien for reasons of national security is a well-established concept in the existing provisions of the INA and immigration regulations. For example, section 235(c) provides for an expedited exclusion process for aliens excludable under 8 U.S.C. 1182(a)(3) (providing for the exclusion, *inter alia*, of alien spies, saboteurs, and terrorists), and states in relevant part:

If the Attorney General is satisfied that the alien is excludable under [paragraph 212(a)(3)] on the basis of information of a confidential nature, the disclosure of which the Attorney General, in his discretion, and after consultation with the appropriate security agencies of the Government, concludes would be prejudicial to the public interest, safety, or security, he may in his discretion order such alien to be excluded and deported without any inquiry or further inquiry by [an immigration judge]."

Thus, where it is necessary to protect sensitive information, existing law authorizes the Attorney General to conduct exclusion proceedings outside the ordinary immigration court procedures and to rely on classified information in ordering the exclusion of alien terrorists.

In the deportation context, 8 C.F.R. 242.17 (1990) provides that in determining whether to grant discretionary relief to an otherwise deportable alien, the immigration judge "may consider and base his decision on information not contained in the record and not made available for inspection by the [alien], provided the Commissioner has determined that such information is relevant and is classified under Executive Order No. 12356 (47 FR 14874, April 6, 1982) as requiring protection from unauthorized disclosure in the interest of national security."

The constitutionality of this provision has been upheld. *Suciu v. INS*, 755 F.2d 127 (8th Cir. 1985). The alien in that case had been in the United States for 16 years and had become deportable for overstaying his student visa, a deportation ground ordinarily susceptible to discretionary relief. Nevertheless, the court held that it was proper to deny the alien discretionary relief without disclosing to him the reasons for the denial. *Sucia* followed the Supreme Court's holding sustaining the constitutionality of a similar predecessor regulation in *Jay v. Boyd*, 351 U.S. 345 (1956).

Section 501 (Applicability).

Section 501 sets forth the applicability of the new title. Section 501(a) states that the title may, but need not, be employed by the Department of Justice whenever it has information that an alien is subject to deportation because he is an alien described in 8 U.S.C. 1251(a)(4)(B), that is, because he has engaged in terrorist activity.

Section 501(b) provides that whenever an official of the Department of Justice determines to seek the expulsion of an alien terrorist under the special removal provisions, only the provisions of the new title need be followed. This ensures that such an alien will not be deemed to have any additional rights under the other provisions of the INA. Except when specifically referenced in the special removal provisions, the remainder of the INA would be inapplicable. For example, under the special removal provisions an alien who has entered the United States (and thus is not susceptible to exclusion proceedings) need not be given a deportation hearing under section 242 of the Act, 8 U.S.C. 1252, and will not have available the rights generally afforded aliens in deportation proceedings (*e.g.*, the opportunity for an alien out of status to correct his status).

Section 501(c) states that Congress has enacted the title upon finding that alien terrorists represent a unique threat to the security interests of the United States. Consequently, the subsection states Congress' specific intent that the Attorney General be authorized to remove such aliens without resort to a traditional deportation hearing, following an ex parte judicial determination of probable cause to believe they have engaged in terrorist activity and a further judicial determination, following a modified adversarial hearing, that the Department of Justice has established by clear and convincing evidence that the aliens in fact have engaged in terrorist activity.

Section 501(c) is designed to make clear that singling out alien terrorists for a special type of hearing rather than according them ordinary deportation hearings is a careful and deliberate policy choice by a political branch of government. This policy choice is grounded upon the legislative determination that alien terrorists seriously threaten the security interests of the United States and that the existing process for adjudicating and effecting alien removal is inadequate to meet this threat. In accordance with settled Supreme Court precedent, such a choice is well within the authority of the political branches of government to control our relationship with and response to aliens.

For example, in *Mathews v. Diaz*, *supra*, the Court held that Congress could constitutionally provide that only some aliens were entitled to Medicare benefits. The Court held that it was "unquestionably reasonable for Congress to make an alien's eligibility depend on both the character and duration of his residence," and noted that the Court was "especially reluctant to question the exercise of congressional judgment" in matters of alien regulation. 426 U.S. at 83, 84; *see Fiallo v. Bell*, 430 U.S. 787, 792 (1977) (describing the regulation of aliens as a political matter "largely immune from judicial control"). The specific findings and reference to the intent in adopting the new provisions of title V make clear the policy judgment that alien terrorists should be treated as a separate class of aliens and that this choice should not be disturbed by the courts.

Section 502 (Special Removal Hearing).

Section 502 sets out the procedure for the special removal hearing. Section 502(a) provides that whenever the Department of Justice determines to use the special removal process it must submit a written application to the special court (established pursuant to section 503) for an order authorizing such procedure. Each application must indicate that the Attorney General or Deputy Attorney General has approved its submission and must include the identity of the Department attorney making the application, the identity of the alien against whom removal proceedings are sought, and a statement of the facts and circumstances relied upon by the Department of Justice as justifying the belief that the subject is an alien terrorist and that following normal deportation procedures would pose a risk to the national security of the United States.

Section 502(b) provides that applications for special removal proceedings shall be filed under seal with the special court established pursuant to section 503. At or after the time the application is filed, the Attorney General may take the subject alien into custody. The Attorney General's authority to retain the alien in custody is governed by the provisions of new title V which, as explained below, provide in certain circumstances for the release of the alien.

Although title V does not require the Attorney General to take the alien subject to a special removal applications into custody, it is expected that most such aliens will be apprehended and confined. The Attorney General's decision whether to take a non-resident alien into custody will not be subject to judicial review. However, a resident alien is entitled to a release hearing before the judge assigned by the special court. The resident alien may be released upon such terms and conditions prescribed by the court (including the posting of any monetary amount), if the alien demonstrates to the court that the alien, if released, is not likely to flee and that the alien's release will not endanger national security or the safety of any person or the community. Subsequent provisions (section 504(a)) authorize the Attorney General to retain custody of alien terrorists who have been ordered removed until such aliens can be physically delivered outside our borders.

Section 502(c) provides that special removal applications shall be considered by a single Article III judge in accordance with section 503. In each case, the judge shall hold an ex parte hearing to receive and consider the written information provided with the application and such other evidence, whether documentary or testimonial in form, as the Department of Justice may proffer. The judge shall grant an ex parte order authorizing the special removal hearing as provided under title V if the judge finds that, on the basis of the information and evidence presented, there is probable cause to believe that the subject of the application is an alien who falls within the definition of alien terrorist and that adherence to the ordinary deportation procedures would pose a risk to national security.

Section 502(d)(1) provides that in any case in which a special removal application is denied, the Department of Justice within 20 days may appeal the denial to the United States Court of Appeals for the District of Columbia Circuit. In the event of a timely appeal, a confined alien may be retained in custody. When the Department of Justice appeals from the denial of a special removal application, the record of proceedings will be transmitted to the Court of Appeals under seal and the court will hear the appeal ex parte. Subsequent provisions (section 502(p)) authorize the Department of Justice to petition the Supreme Court for a writ of certiorari from an adverse appellate judgment.

Section 502(d)(2) provides that if the Department of Justice does not seek appellate review of the denial of a special removal application, the subject alien must be released from custody unless, as a deportable alien, the alien may be arrested and taken into custody pursuant to title II of the INA. Thus, for example, when the judge finds that the special procedures of title V are unwarranted but the alien is subject to deportation as an overstay or for violation of status, the alien might be retained in custody but such detention would be pursuant to and governed by the provisions of title II.

Subsection 502(d)(3) provides that if a special removal application is denied because the judge finds no probable cause that the alien has engaged in terrorist activities, the alien must be released from custody during the pendency of an appeal by the government. However, section 502(d)(3) is similar to section 502(d)(2) in that it provides for the possibility of continued detention in the case of aliens who otherwise are subject to deportation under title II of the Act.

Section 502(d)(4) applies to cases in which the judge finds probable cause that the subject of a special removal application has been correctly identified as an alien terrorist, but fails to find probable cause that use of the special procedures are necessary for reasons of national security, and the Department of Justice determines to appeal. A finding that the alien has engaged in terrorist activity—a ground for deportation that would support confinement under title II of the Act—justifies retaining the alien in custody. Nevertheless, section 502(d)(4) provides that the judge must determine the question of custody based upon an assessment of the risk of flight and the danger to the community or individuals should the alien be released. The judge shall release the alien subject to the least restrictive condition(s) that will reasonably assure the alien's appearance at future proceedings, should the government prevail on its appeal, and will not endanger the community or individual members thereof. The possible release conditions are those authorized under the Bail Reform Act of 1984, 18 U.S.C. 3142 (b) and (c), and range from release on personal recognizance to release on execution of a bail bond or release limited to certain places or periods of time. As with the referenced provisions of the Bail Reform Act, the judge may deny release altogether upon determining that no condition(s) of release would assure the aliens future appearance and community safety.

Section 502(e)(1) provides that in cases in which the special removal application is approved, the judge must then consider each piece of classified evidence that the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing. The judge shall authorize the in camera and ex parte introduction of any item of classified evidence if such evidence is relevant to the deportation charge.

Section 502(e)(1) also provides that with respect to any evidence authorized to be introduced in camera and ex parte, the judge must consider how the alien subject to the proceedings is to be advised regarding such evidence. The Department of Justice must prepare a summary of the classified information. The court must find the summary to be sufficient to inform the alien of the general nature of the evidence that he has engaged in terrorist activity, and to permit the alien to prepare a defense. A summary, however, "shall not pose a risk to the national security." In considering the summary to be provided to the alien of the government's proffered evidence, it is intended that the judge balance the alien's interest in having an opportunity to hear and respond to the case against him against the government's extraordinarily strong interest in protecting the national security. The Department of Justice shall provide the alien a copy of the court approved summary.

In situations where the court does not approve the proposed summary, the Department of Justice can amend the summary to meet specific concerns raised by the court. Subsection (e)(2) provides that if such submission is still found unacceptable, the special removal proceeding is to be terminated unless the court finds that the continued presence of the alien in the United States or the preparation of an adequate summary would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person. If such a situation exists, the special removal hearing would continue, the alien would be notified that no summary is possible, and relevant classified information could be introduced against the alien pursuant to subsection (j).

Section 502(e)(3) provides that, in certain situations, the Department of Justice may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit from the judge's rulings regarding the in camera and ex parte admission and summarization of particular items of evidence. Interlocutory appeal is authorized if the judge rules that a piece of classified information may not be introduced in camera and ex parte because it is not relevant; or if the Department disagrees with the judge regarding the wording of a summary (that is, if the Department believes that the scope of summary required by the court will compromise national security). Interlocutory appeal is also authorized when the court refuses to make the finding permitted by subsection (e)(2). Because the alien is to remain in custody during such an appeal, the Court of Appeals must hear the matter as expeditiously as possible. When the Department appeals, the entire record must be transmitted to the Court of Appeals under seal and the court shall hear the matter ex parte.

Section 502(f) provides that in any case in which the Department's application is approved, the court shall order a special removal hearing for the purpose of determining whether the alien in question has engaged in terrorist activity. Subsection (f) provides that "[i]n accordance with subsection (e), the alien shall be given reasonable notice of the nature of the charges against him and a general account of the basis for the charges." This cross-reference is intended to make clear that subsection (f) is not to be construed as requiring that information be given to the alien about the nature of the charges if such information would reveal the matters that are to be introduced in camera. The special removal hearing must be held as expeditiously as possible.

Section 502(g) provides that the special removal hearing shall be held before the same judge who approved the Department of Justice's application unless the judge becomes unavailable due to illness or disability.

Section 502(h) sets out the rights to be afforded to the alien at the special removal hearing. The hearing shall be open to the public, the alien shall have the right to be represented by counsel (at government expense if he cannot afford representation), and to introduce evidence in his own behalf. Except as provided in section 502(j) regarding presentation of evidence in camera and ex parte, the alien also shall have a reasonable opportunity to examine the evidence against him and to cross-examine adverse witnesses. As in the case of administrative proceedings under the INA and civil proceedings generally, the alien may be called as a witness by the Department of Justice. A verbatim record of the proceedings and of all evidence and testimony shall be kept.

Section 502(i) provides that either the alien or the government may request the issuance of a subpoena for witnesses and documents. A subpoena request may be made ex parte, except that the judge must inform the Department of Justice where the subpoena sought by the alien threatens disclosure of evidence or the source of evidence which the Department of Justice has introduced or proffered for introduction in camera and ex parte. In such cases, the Department of Justice shall be given a reasonable opportunity to oppose the issuance of a subpoena and, if necessary to protect the confidentiality of the evidence or its source, the judge may, in his discretion, hear such opposition in camera. A subpoena under section 502(i) may be served anywhere in the United States. Where the alien shows an inability to pay for the appearance of a necessary witness, the court may order the costs of the subpoena and witness fee to be paid by the government from funds appropriated for the enforcement of title II of the INA. Section 502(i) states that it is not intended to allow the alien access to classified information.

Section 502(j) provides that any evidence which has been summarized pursuant to section 502(e)(1) may be introduced into the record, in documentary or testimonial form, in camera and ex parte. The section also permits the introduction of relevant classified information if the court has made the finding permitted by subsection (e)(2). While the alien and members of the public would be aware that evidence was being submitted in camera and ex parte, neither the alien nor the public would be informed of the nature of the evidence except as set out in section 502(e)(1). For example, if the Department of Justice sought to present in camera and ex parte evidence through live testimony, the courtroom could be cleared of the alien, his counsel, and the public while the testimony is presented. Alternatively, the court might hear the testimony in chambers attended by only the reporter, the government's counsel, and the witness. In the case of documentary evidence, sealed documents could be presented to the court without examination by the alien or his counsel (or access by the public).

While the Department of Justice does not have to present evidence in camera and ex parte, even if it previously has received authorization to do so, it is contemplated that ordinarily much of the government's evidence (or at least the crucial portions thereof) will be presented in this fashion rather than in open court. The right to present evidence in camera and ex parte will have been determined in the ex parte proceedings before the court pursuant to subsections (a) through (c) of section 502.

Section 502(k) provides that evidence introduced in open session or in camera and ex parte may include all or part of the information that was presented at the earlier ex parte proceedings. If the evidence is to be introduced in camera and ex parte, the attorney for the Department of Justice could refer the judge to such evidence in the transcript of the ex parte hearing and ask that it be considered as evidence at the removal hearing itself. The Department might present evidence in open court rather than in camera and ex parte as a result of changed circumstances, for example, where the source whose life was at risk had died before the hearing or if the Department believes that a public presentation of the evidence might have a deterrent effect on other terrorists. In any event, once the Department of Justice has received authorization to present evidence in camera and ex parte, its decision whether to do so is purely discretionary and is not subject to review at the time of the special removal hearing. Of course, the disclosure of any classified information requires appropriate consultation with the originating agency.

Section 502(l) provides that following the introduction of evidence, the attorney for the Department of Justice and the attorney for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the alien's removal. At the judge's discretion, in camera and ex parte argument by the Department of Justice attorney may be heard regarding evidence received in camera and ex parte.

Section 502(m) provides that the Department of Justice has the burden of showing that the evidence is sufficient. This burden is not satisfied unless the Department establishes by clear and convincing evidence—the standard of proof applicable in a deportation hearing—that the alien has engaged in terrorist activity. If the judge finds that the

Department has met that burden, the judge must order the alien removed. In cases in which the alien has been shown to have engaged in terrorist activity, the judge has no authority to decide that removal would be unwarranted. If the alien was a resident alien granted release, the court is to order the Attorney General to take the alien into custody.

Section 502(n)(1) provides that the judge must render his decision as to the alien's removal in the form of a written order. The order must state the facts found and the conclusions of law reached, but shall not reveal the substance of any evidence received in camera or ex parte.

Section 502(n)(2) provides that either the alien or the Department of Justice may appeal the judge's decision to the United States Court of Appeals for the District of Columbia Circuit. Any such appeal must be filed within 20 days, and during this period the order shall not be executed. Information received in camera and ex parte at the special removal hearing shall be transmitted to the Court of Appeals under seal. The Court of Appeals must hear the appeal as expeditiously as possible.

Section 502(n)(3) sets out the standard of review for proceedings in the Court of Appeals. Questions of law are to be reviewed de novo, but findings of fact may not be overturned unless clearly erroneous. This is the usual standard in civil cases.

Section 502(o) provides that in cases in which the judge decides that the alien should not be removed, the alien must be released from custody. There is an exception for aliens who may be arrested and taken into custody pursuant to title II of the INA as aliens subject to deportation. For such aliens, the issues of release and/or circumstances of continued detention would be governed by the pertinent provisions of the INA.

Section 502(p) provides that following a decision by the Court of Appeals, either the alien or the government may seek a writ of certiorari in the Supreme Court. In such cases, information submitted to the Court of Appeals under seal shall, if transmitted to the Supreme Court, remain under seal.

Section 502(q) sets forth the normal right the Government has to dismiss a removal action at any stage of the proceeding.

Section 502(r) acknowledges that the United States retains its common law privileges.

Section 503 (Designation of Judges)

Section 503 establishes the special court to consider terrorist removal cases under section 502, patterned on the special court created under the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801 et seq. Section 503(a) provides that the court will consist of five federal district judges chosen by the Chief Justice of the United States from five different judicial circuits. One of these judges shall be designated as the chief or presiding judge. Should the Chief Justice determine it appropriate, he could designate as judges under this section some of those that he has designated pursuant to section 1803(a) of title 50, United States Code for the Foreign Intelligence Surveillance Court. The presiding judge shall promulgate rules for the functioning of the special court. The presiding judge also shall be responsible for assigning cases to the various judges. Section 503(c) provides that judges shall be appointed to the special court for terms of five years, except for the initial appointments the terms of which shall vary from one to five years so that one new judge will be appointed each year. Judges may be reappointed to the special court.

Section 503(b) provides that all proceedings under section 502 are to be held as expeditiously as possible. Section 503(b) also provides that the Chief Justice, in consultation with the Attorney General, the Director of Central Intelligence and other appropriate officials, shall provide for the maintenance of appropriate security measures to protect the ex parte special removal applications, the orders entered in response to such applications, and the evidence received in camera and ex parte sufficient to prevent disclosures which could compromise national security.

Section 504 (Miscellaneous Provisions)

Section 504 contains the title's miscellaneous provisions. Section 504(a) provides that following a final determination that the alien terrorist should be removed (that is, after the special removal hearing and completion of any appellate review), the Attorney General may retain the alien in custody (or if the alien was released, apprehend and place the alien in custody) until he can be removed from the United States. The alien is provided the right to choose the country to which he will be removed, subject to the Attorney General's authority, in consultation with the Secretary of State, to designate another country if the alien's choice would impair a United States treaty obligation (such as an obligation under an extradition treaty) or would adversely affect the foreign policy of the United States. If the alien does not choose a country or if he choose a country deemed unacceptable, the Attorney General, in coordination with the Secretary of State, must make efforts to find a country that will take the alien. The alien may, at the Attorney General's discretion, be kept in custody until an appropriate country can be found, and the Attorney General shall provide the alien with a written report regarding such efforts at least once every six months. The Attorney General's determinations and actions regarding execution of the removal order are not subject to direct or collateral judicial review, except for a claim that continued detention violates the alien's constitutional rights. The alien terrorist shall be photographed and fingerprinted and advised of the special penalty provisions for unlawful return before he is removed from the United States.

Section 504(b) provides that, notwithstanding section 504(a), the Attorney General may defer the actual removal of the alien terrorist to allow the alien to face trial on any State or federal criminal charge (whether or not related to his terrorist activity) and, if convicted, to serve a sentence of confinement. Section 504(b)(2) provides that pending the service of a State or federal sentence of confinement, the alien terrorist is to remain in the Attorney General's custody unless the Attorney General determines that the alien can be released to the custody of State authorities for pretrial confinement in a State facility without endangering national security or public safety. It is intended that where the alien terrorist could possibly secure pretrial release, the Attorney General shall not release the alien to a State for pretrial confinement. Section 503(b)(3) provides that if an alien terrorist released to State authorities is subsequently to be released from state custody because of an acquittal in the collateral trial, completion of the alien's sentence of confinement, or otherwise, the alien shall immediately be returned to the custody of the Attorney General who shall then proceed to effect the alien's removal from the United States.

Section 504(c) provides that for purposes of sections 751 and 752 of title 18 (punishing escape from confinement and aiding such an escape), an alien in the Attorney General's custody pursuant to this new title—whether awaiting or after completion of a special removal hearing—shall be treated as if in custody by virtue of a felony arrest. Accordingly, escape by a or aiding the escape of an alien terrorist will be punishable by imprisonment for up to five years.

Section 504(d) provides that an alien in the Attorney General's custody pursuant to this new title—whether awaiting or after completion of a special removal hearing—shall be given reasonable opportunity to receive visits from relatives and friends and to consult with his attorney. Determination of what is "reasonable" usually will follow the ordinary rules of the facility in which the alien is confined.

Section 504(d) also provides that when an alien is confined pursuant to this new title, he shall have the right to contact appropriate dipomatic or consular officers of his country of citizenship or nationality. Moreover, even if the alien makes no such request, subsection (d) directs the Attorney General to notify the appropriate embassy of the alien's detention.

Subsection 201(c) sets out three conforming amendments to the INA. First, section 106 of the INA, 8 U.S.C. §1105a, is amended to provide that appeals from orders entered pursuant to section 235(c) of the Act (pertaining to summary exclusion proceedings for alien spies, saboteurs, and terrorists) shall be to the United States Court of Appeals for the District of Columbia Circuit. Thus, in cases involving alien terrorists, the same court of appeals shall hear both exclusion and deportation appeals and will develop unique expertise concerning such cases.

Second, section 276 of the INA, 8 U.S.C. §1326, is amended to add increased penalties for an alien entering or attempting to enter the United States without permission after removal under the new title or exclusion under section 235(c) for terrorist activity. For aliens unlawfully re-entering or attempting to reenter the United States, the section presently provides for a fine pursuant to title 18 and/or imprisonment for up to two years (five years when the alien has been convicted of a felony in the United States, or 15 years when convicted of an "aggravated felony"); the bill increases to a mandatory ten years the term of imprisonment for reentering alien terrorists.

Finally, section 106 of the INA, 8 U.S.C. §1105a, is amended to strike subsection (a)(1) regarding habeas corpus review of deportation orders. Originally enacted in 1961 to make clear that the exclusive provision for review of final deportation orders through petition to the courts of appeals was not intended to extinguish traditional writs of habeas corpus in cases of wrongful detention, the subsection has been the source of confusion and duplicative litigation in the courts. Congress never intended that habeas corpus proceedings be an alternative to the process of petitioning the courts of appeals for review of deportation orders. Elimination of subsection (a)(10) will make clear that any review of the merits of a deportation order or the denial of relief from deportation is available only through petition for review in the courts of appeals, while leaving unchanged the traditional writ of habeas corpus to examine challenges to detention arising from asserted errors of constitutional proportions.

Subsection 201(d) provides that the new provisions are effective upon enactment and "apply to all aliens without regard to the date of entry or attempted entry into the United States." Aliens may not avoid the special removal process on the grounds that either their involvement in terrorist activity or their entry into the United States occurred before enactment of the new title. Upon enactment, the new title will be available to the Attorney General for removal of any and all alien terrorists when classified information is involved.

Section 202.

This section makes additional changes to the Immigration and Naturalization Act (INA) besides those contained in section 201. It improves the government's ability to deny visas to alien terrorist leaders and to deport non-resident alien terrorists under the INA.

Subsection 202(a) amends the excludability provisions of the INA relating to terrorism activities (section 212(a)(3)(B) of the INA (8 U.S.C. 1182(a)(3)(B)). Most of the changes are clarifying in nature, but a few are substantive. The changes are:

(1) "Terrorist" is changed to "terrorism" in most instances in order to direct focus on the nature of the activity itself and not the character of the particular individual perpetrator.

(2) Definitions of "terrorist organization" and "terrorism" are added. The definition of "terrorist organization" includes subgroups. Although a terrorist organization may perform certain charitable activities, *e.g.*, run a hospital, this does not remove its characterization or being a terrorist organization if it, or any of its subgroups, engages in terrorist organization if it, or any of its subgroups, engages in terrorism activity. The definition of "terrorism" describes terrorism as the "premeditated politically motivated violence perpetrated against noncombat targets." This is consistent with existing law found elsewhere in the federal code. See, *e.g.*, 22 U.S.C. 2656f(d).

(3) In order to make "representatives" of certain specified terrorist organizations excludable, the term has been expanded to cover any person who directs, counsels, commands or induces the organization or its members to engage in terrorism activity. The terms "counsels, commands, or induces" are used in 18 U.S.C. 2. Presently, only the officers, officials, representatives and spokesman are deemed to be excludable. This change expands coverage to encompass those leaders of the group who may not hold formal titles and those who are closely associated with the group and exert leadership over the group but may not technically be a member. This is not a mere membership provision.

(4) In order to make the "leaders" of more terrorist organizations excludable without having to establish that they personally have engaged in terrorist activity, the revision gives the President authority to designate terrorist organizations based on a finding that they are detrimental to the interests of the United States. (Presently, only the PLO is expressly cited in the existing statute.) Implicit with the right to designate is the authority to remove an organization that the President has previously designated. By giving the President this authority, which is similar to subsection (f) of section 212 (8 U.S.C. 212(f)), the President can impose stricter travel limitations on the leaders of terrorist organizations who desire to visit the United States. For a leader of a designated terrorist organization to obtain a visa, he would have to solicit a waiver from the Attorney General under subsection 212(d)(3) (8 U.S.C. 1182(d)(3)) to obtain temporary admission. In deciding whether or not to grant the waiver, the Attorney General could, should he/she decide to grant a waiver, impose whatever restrictions are warranted on the alien's presence in the United States.

(5) The words "it had been" are inserted in the first sentence of the definition of "terrorism activity" in order to make clear that it is United States law (federal or state) which is used to determine whether overseas violent activity is considered criminal.

(6) The term "weapon" is added to clause (V)(b) in the definition of "terrorist activity" in order to cover those murders carried out by deadly and dangerous devices other than firearms or explosives (*e.g.*, a knife).

(7) The knowledge requirement in clause (III) of the definition of "engage in terrorism activity" was deleted as unnecessary, as similar language has been added in the beginning of the definition.

(8) The term "documentation or" has been add to "false identification" in clause (III) of the definition of "engage in terrorism activity" to encompass other forms of false documentation that might be provided to facilitate terrorism activity. The term "false identification" would include stolen, counterfeit, forged and falsely made identification documents.

Subsection 202(b) amends section 241(a)(4)(B) of the INA (8 U.S.C. 1251(a)(4)(B)) to reflect the change in section 212(a)(3)(B) (8 U.S.C. 1182(a)(3)(B)) from "terrorist" to "terrorism."

Subsection 202(c) adds a sentence to section 291 of the INA (8 U.S.C. 1361) to clarify that discovery by the alien in a deportation proceeding is limited only to those documents in the INS file relating to the alien's entry. Section 291 was never intended to authorized discovery beyond this limited category of documents.

Subsection 202(d) makes an important change to section 242(b)(3) of the INA (8 U.S.C. 1252(b)(3)). First, in the case of nonresident aliens it precludes the alien's access to any classified information that is being used to deport them. Secondly, it denies nonresident aliens any rights under 18 U.S.C. 3504 (relating to access concerning sources of evidence) and 50 U.S.C. 1801 et seq. (relating to the Foreign Intelligence Surveillance Act) during their deportation.

Section 203.

Section 203 amends the confidentiality provisions contained in the Immigration and Nationality Act (INA) for an alien's application relating to legalization (section 245A(c)(5) of the INA (8 U.S.C. 1255(a)(c)(5)) or special agricultural worker status (section 210(b) (5) and (6) of the INA (8 U.S.C. 1160(b) (5) and (6)). At present, it is very difficult to obtain crucial information contained in these files, such as fingerprints, photographs, addresses, etc., when the alien becomes a subject of a criminal investigation. In both the World Trade Center bombing and the killing of CIA personnel on their way to work at CIA Headquarters, the existing confidentiality provisions hindered law enforcement efforts.

Subsection 203(a) amends the confidential provisions for legalization files. It permits access to the file if a federal court finds that the file relates to an alien who has been killed or severely incapacitated or is the suspect of an aggravated felony. Subsection 203(b) makes comparable amendments to the confidentiality requirements relating to special agricultural worker status.

Section 301.

Section 301 authorizes the government to regulate of prohibit any person or organization within the United States and any person subject to the jurisdiction of the United States anywhere from raising or providing funds for use by any foreign organization which the President has designated to be engaged in terrorism activities. Such designation would be based on a Presidential finding that the organization (1) engages in terrorism activity as defined in the Immigration and Nationality Act and (2) its terrorism activities threaten the national security, foreign policy, or economy of the United States.

The fund-raising provision provides a licensing mechanism under which funds may be provided to a designated organization based on a showing that the money will be used exclusively for religious, charitable, literary, or educational purposes. It includes both administrative and judicial enforcement procedures, as well as a special classified information procedures applicable to certain types of civil litigation. The term "person" is defined to include individuals, partnerships, associations, groups, corporations or other organizations.

Subsection 301(a) creates a new section 2339B in title 18, United States Code, entitled "Fund-raising for terrorist organizations."

Subsection 2339B(a) sets forth the congressional findings and purposes for the fund-raising statute.

Subsection 2339B(b) gives the President the authority to issue regulations to regulate or prohibit any person within the United States or any person subject to the jurisdiction of the United States anywhere from raising or providing funds for use by, or from engaging in financial transactions with, any foreign organization which the President, pursuant to subsection 2339B(c), has designated to be engaged in terrorism activities.

Subsection 2339B(c)(1) grants the President the authority to designate any foreign organization, if he finds that (1) the organization engages in terrorism activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) and (2) the organization's terrorism activities threaten the national security, foreign policy or economy of the United States. Subsection 2339B(c)(2) grants the President the authority to designate persons who are raising funds for or are acting for or on behalf of a foreign organization designated pursuant to subsection (c)(1).

Such designations must be published in the Federal Register. The President is authorized to revoke any designation. A designation under subsection (c)(1) is conclusive and is not reviewable by a court in a criminal prosecution.

Subsection 2339B(d) sets forth the prohibited activities. Paragraph (1) makes it unlawful for any person within the United States, or any person subject to the jurisdiction of the United States anywhere in the world, to raise, receive, or collect funds on behalf of or to furnish, give, transmit, transfer, or provide funds to or for a organization designated by the President unless such activity is done in accordance with a license granted under subsection 2339B(e). Paragraph (2) makes it unlawful for any person within the United States or any person subject to the jurisdiction of the United States anywhere in the world, acting for or on behalf of a designated organization, (1) to transmit, transfer, or receive any funds raised in violation of subsection 2339B(d)(1); (2) to transmit, transfer or dispose of any funds in which any designated organization has an interest; or (3) to attempt to do any of the foregoing. The latter provision serves to make it a crime for any person within the

States, or any person subject to the jurisdiction of the United States anywhere, to transmit, transfer or dispose of on behalf of a designated organization any funds in which such organization has an interest until after a license has been issued.

Subsection 2339B(e) requires that any person who desires to solicit funds or transfer funds to any designated organization must obtain a license from the Secretary of the Treasury. Any license issued by the Secretary shall be granted only when the Secretary is satisfied that the funds are intended exclusively for religious, charitable, literacy, or educational purposes and that any recipient in any fund-raising chain has effective procedures in place to insure that the funds will be used exclusively for religious, charitable, literacy, or educational purposes and will not be used to affect a transfer of funds to be used in terrorism activity. The burden is on the license applicant to convince the Secetary that such procedures do in fact exist. A licensee is required to keep books and records and make such books available for inspection upon the Secretary's request. A licensee is also required to have an agreement with any recipient which permits the Secretary to inspect the recipient's records.

Subsection 2339B(f) requires that a financial institution which becomes aware that it is in possession of or that it has control over funds in which a designated organization has an interest must "freeze" such funds and notify the Secretary of the Treasury. A civil penalty is provided for failure to freeze such funds or report the required information to the Secretary. The term "financial institution" has the meaning prescribed in 31 U.S.C. 5312(a)(2) and regulations promulgated thereunder. It is the same definition as utilized in the money laundering statute, see 18 U.S.C. 1956(c)(6).

Subsection 2339B(g) divides investigative responsibility for the section between the Secretary of the Treasury and the Attorney General. This provision thus permits the combination of the administrative and financial expertise of Treasury's Office of Foreign Assets Control (OFAC) and the intelligence capabilities and criminal investigative techniques of the Federal Bureau of Investigation (FBI) to be combined together in a highly coordinated manner in order to effectively enforce the requirements of this section while protecting the equities of the nation's national security intelligence gathering community. The provision reflects, as does section 407 of the bill, the FBI's role as the lead federal agency for the investigation and prosecution of terrorist activity as well as the prime federal intelligence agency for gathering national security information within the United States.

Section 2339B(h) gives authority to the Secretary of the Treasury and the Attorney General to require recordkeeping, hold hearings, issue subpoenas, administer oaths and receive evidence.

Subsection 2339B(i) sets forth the penalties for section 2339B. Any person who knowingly violates subsection 2339B(d) can be fined under title 18, United States Code, or imprisoned for up to ten years, or both. A person who fails to keep records or make records available to the Secretary of the Treasury upon his/her request is subject to a civil penalty of the greater of $50,000 or twice the amount of money which would have been documented had the books and records been properly maintained. A financial institution which fails to take the actions required pursuant to subsection (f)(1) is subject to civil penalty of the greater of $50,000 or twice the amount of money of which the financial institution was required to retain possession or control. Any person who violates any license, order, direction, or regulation issued pursuant to the section is subject to a civil penalty of the greater of $50,000 per violation or twice the value of the violation. A person who intentionally fails to maintain or make available the required books or records also commits a crime subject to a fine under title 18, United States Code, or imprisonment for up to five years, or both. Any organization convicted of an offense under subsections 2339B(i)(1) or (3) shall forfeit any charitable designation it might have received under the Internal Revenue Code.

Subsection 2339B(j)(1) gives the Attorney General the right to seek an injunction to block any violation of section 2339B. An injunctive proceeding is normally governed by the Federal Rules of Civil Procedure, but if the respondent is under indictment, discovery is to be governed by the Federal Rules of Criminal Procedure.

Subsection 2339B(k) states that there is extraterritorial jurisdiction over activity prohibited by section 2339B which is conducted outside the United States. This insures that foreign persons outside the United States are covered by this statute if they aid, assist, counsel, command, induce or procure, or conspire with, persons within the United States or persons subject to the jurisdiction of the United States anywhere in the world to violate the fund-raising prohibition (18 U.S.C. 2339B, 2, and 371).

Subsection 2339B(l) sets forth a special process to protect classified information when the government is the plaintiff in civil proceedings to enforce section 2339B.

Subsection 2339B(m) sets forth the definition of "classified information," "financial institution," "funds," "national security," "person," and "United States." Funds are defined to include all currency, coin, and any negotiable or registered security that can be used as a method of transferring money.

Subsection 301(c) further amends section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) to include leaders of any terrorist organization designated under the fund-raising statute (18 U.S.C. 2339B) as an aliens deemed to be excludable under the immigration laws.

Subsection 301(d) makes the special classified information provisions of 18 U.S.C. 2339B(k) applicable to similar civil proceedings under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

Section 401.

This section states that title IV may be cited as the "Marking of Plastic Explosives for Detection Act."

Section 402.

This section sets forth the congressional findings concerning the criminal use of plastic explosives and the prevention of such use through the marking of plastic explosives for the purpose of detection. This section also states that the purpose of the legislation is to implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991 (the Convention).

Section 403.

This section sets forth three new definitions for 18 U.S.C. 841. It amends 18 U.S.C. 841 by adding a new subsection (o) which defines the term "Convention on the Marking of Plastic Explosives." The definition provides the full title of the Convention, "Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991." The definition eliminates the need to repeat the full title of the Convention each time it is used in the bill.

Section 403 also amends section 841 by adding a new subsection (p) which defines the term "detection agent." The term has been defined to include four specified chemical substances and any other substance specified by the Secretary of the Treasury by regulation. The four specified chemical substances, ethylene glycol dinitrate (EGDN), 2,3-dimethyl-2-3-dinitrobutane (DMNB), para-mononitrotoluene (p-MNT), and ortho-mononitrotoluene (o-MNT), are in Part 2 of the Technical Annex to the Convention. The required minimum concentration of the four substances in the finished plastic explosives was also taken from the Technical Annex. The definition of "detection agent" has been drafted to require that the particular substance be introduced into a plastic explosive in such a manner as to achieve homogeneous distribution in the finished explosive. The purpose of homogeneous distribution is to assure that the detection agent can be detected by vapor detection equipment.

New section 841(p)(5) would permit the Secretary of the Treasury to add other substances to the list of approved detection agents by regulation, in consultation with the Secretaries of State and Defense. Permitting the Secretary to designate detection agents other than the four listed in the statute would facilitate the use of other substances without the need for legislation. Only those substances which have been added to the table in Part 2 of the Technical Annex, pursuant to Articles VI and VII of the Convention, may be designated as approved detection agents under section 841(p)(5). Since the Department of Defense (DOD) is the largest domestic consumer of plastic explosives (over 95 percent of domestic production), it is appropriate that DOD provide guidance to the Treasury Department in approving substances as detection agents.

Finally, section 403 adds a new subsection (q) to section 841 which defines the term "plastic explosive." The definition is based on the definition of "explosives" in Article I of the Convention and Part I of the Technical Annex.

Section 404.

This section adds subsections (l)–(o) to 18 U.S.C. 842 proscribing certain conduct relating to unmarked plastic explosives.

Section 842(l) would make it unlawful for any person to manufacture within the United States any plastic explosive which does not contain a detection agent.

Section 842(m) would make it unlawful for any person to import into the United States or export from the United States any plastic explosive which does not contain a detection agent. However, importations and exportations of plastic explosives imported into or manufactured in the United States prior to the effective date of the Act by Federal law enforcement agencies or the National Guard of any State, or by any person acting on behalf of such entities, would be exempted from this prohibition for a period of 15 years after the Convention is entered into force with respect to the United States. This provision implements Article IV, paragraph 3, of the Convention. Section 842(m) is drafted to specifically include the National Guard of any State and military reserve units within the 15-year exemption.

The purpose of the 15-year exemption is to give the military and Federal law enforcement agencies a period of 15 years to use up the considerable stock of unmarked plastic explosives they now have on hand. This exception would also permit DOD to export its unmarked plastic explosives to United States forces in other countries during the 15-year period.

Section 842(n)(1) would make it unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent. Section 842(n)(2)(A) would provide an exception to the prohibition of section 842(n)(1) for any plastic explosive which was imported, brought into, or manufactured in the United States prior to the effective date of the Act by any person during a period not exceeding three years after the effective date of the Act. This provision implements Article IV, paragraph 2, of the Convention, and provides an exemption from the prohibitions of section 842(n)(1) for any person, including State and local governmental entities and other Federal agencies, for a period of three years after the effective date of the Act.

Section 842(n)(2)(B) would provide an exception to the prohibition of section 842(n)(1) for any plastic explosive which was imported, brought into, or manufactured in the United States prior to the effective date of the Act by any Federal law enforcement agency or the United States military or by any person acting on behalf of such entities for a period of 15 years after the date of entry into force of the Convention with respect to the United States. This provision implements Article IV, paragraph 3, of the Convention. The provision was drafted to specifically include the National Guard of any State and military reserve units within the 15-year exemption.

Section 842(o) would make it unlawful for any person, other than a Federal agency possessing any plastic explosive on the effective date of the Act, to fail to report to the Secretary of the Treasury within 120 days from the effective date of the Act the quantity of plastic explosive possessed, the manufacturer or importer of the explosive, any identifying markings on the explosive, and any other information as required by regulation. This provision implements Article IV, paragraph 1, of the Convention, which requires each State Party to take all necessary measures to exercise control over the possession and transfer of possession of unmarked explosives which have been manufactured in or imported into its territory prior to the entry into force of the Convention with respect to that State. This provision was drafted to specifically include the National Guard of any State and military reserve units as agencies which are exempt from the reporting requirement.

Section 405.

This section amends 18 U.S.C. 844(a), which provides penalties for violating certain provisions of 18 U.S.C. 842. The amended section would add sections 842(l)–(o) to the list of offenses punishable by a fine under 18 U.S.C. 3571 of not more than $250,000 in the case of an individual, and $500,000 in the case of an organization, or by imprisonment for not more than 10 years, or both.

Section 406.

This section amends 18 U.S.C. 845(a)(1), which excepts from the provisions of 18 U.S.C. Chapter 40 any aspect of the transportation of explosive materials regulated by the United States Department of Transportation. The purpose of the amendment is to make it clear that the exception in section 845(a)(1) applies only to those aspects of such transportation relating to safety. This amendment would overcome the effect of the adverse decisions in *United States* v. *Petrykievicz*, 809 F. Supp. 794 (W.D. Wash. 1992), and *United States* v. *Illingworth*, 489 F.2d 264 (10th Cir. 1973). In those cases, the court held that the language of section 845(a)(1) resulted in the defendant's exemption from all the provisions of the chapter, including the requirement of a license or permit to ship, transport, or receive explosives in interstate or foreign commerce.

The list of offenses which are not subject to the exceptions of section 845(a) has also been amended to include the new plastic explosives offenses in sections 842(l)–(m).

Section 406 also adds a new subsection (c) to 18 U.S.C. 845 to provide certain affirmative defenses to the new plastic explosives offenses in sections 842(l)–(o). This provision implements Part 1, paragraph II, of the Technical Annex to the Convention, which relates to exceptions for limited quantities of explosives. The affirmative defenses of 18 U.S.C. 845(c) could be asserted by defendants in criminal prosecutions, persons having an interest in explosive materials seized and forfeited pursuant to 18 U.S.C. 844(c), and persons challenging the revocation or denial of their explosives licenses or permits pursuant to 18 U.S.C. 845(c).

The three affirmative defenses specified in section 845(c)(1) all relate to research, training, and testing, and require that the proponent provide evidence that there was a "small amount" of plastic explosive intended for and utilized solely in the specified activities. The representatives to the Conference which resulted in the Convention agreed that the amount of unmarked explosive permitted to be used for these purposes should be "limited," but were unable to agree on a specific quantity. The Secretary of the Treasury may issue regulations defining what quantity of plastic explosives is a "small amount" or may leave it up to the proponent of the affirmative defense to prove that a "small amount" of explosives was imported, manufactured, possessed, etc. The statute is drafted to require that the proponent establish the affirmative defense by a preponderance of the evidence.

Section 845(c)(2) would create another affirmative defense to the plastic explosives offenses, which implements Article IV of the Convention, and Part I, Paragraph II(d), of the Technical Annex. This provision would require that proponent to prove, by a preponderance of the evidence, that the plastic explosive was, within three years after the date of entry into force of the Convention with respect to the United States, incorporated in a military device that is intended to become or has become the property of any Federal military or law enforcement agency. Furthermore, the proponent must prove that the plastic explosive has remained an integral part of the military device for the exemption to apply. This requirement would discourage the removal of unmarked plastic explosives from bombs, mines, and other military devices manufactured for the United States military during the three-year period. The provision was drafted to specifically include the National Guard of any State and military reserve units within the exemption. The term "military device" has been defined in accordance with the definition of that term in Article I of the Convention.

Requiring that the exceptions of section 845(c) be established as an affirmative defense would facilitate the prosecution of violations of the new plastic explosives provisions by terrorists and other dangerous criminals in that the Government would not have to bear the difficult, if not impossible, burden of proving that the explosives were not used in one of the research, training, testing, or military device exceptions specified in the statute. The proponent to establish the existence of one of the exceptions.

The approach taken in section 845(c) is patterned after the affirmative defense provision in 18 U.S.C. 176 and 177, relating to the use of biological weapons.

Section 407.

This section provides the Attorney General investigative authority over new subsections (m) and (n) of section 842, relating to the importation, exportation, shipping, transferring, receipt or possession of unmarked plastic explosives, when such provisions are violated by terrorist/revolutionary groups or individuals. This authority is consistent with the existing March 1, 1973, memorandum of understanding on the investigation of explosives violations between the Departments of Justice and the Treasury and the United States Postal Service. The section also makes it clear that, consistent with current national policy, the Federal Bureau of Investigation (FBI) is the lead Federal agency for investigating all violations of Federal law involving terrorism when the FBI has been given by statute or regulation investigative authority over the relevant offense. See 28 U.S.C. 523 and 28 C.F.R. 0.85(1).

Section 408.

This section provides that the amendments made by title IV shall take effect one year after the date of enactment. The one year delay should be adequate for manufacturers to obtain sources of one of the specified detection agents and to reformulate the plastic explosives they manufacture to include a detection agent.

Section 501.

Section 501 expands the scope and jurisdictional bases under 18 U.S.C. 831 (prohibited transactions involving nuclear materials). It is an effort to modify current law to deal with the increased risk stemming from the destruction of certain nuclear weapons that were once in the arsenal of the former Soviet Union and the lessening of security controls over peaceful nuclear materials in the former Soviet Union. Among other things, the bill expands the definition of nuclear materials to include those materials which are less than weapons grade but are dangerous to human life and/or the environment. It also expands the jurisdictional bases to reach all situations where a U.S. national or corporation is the victim or perpetrator of an offense. The bill expressly covers those situations where a treat to do some form of prohibited activity is directed at the United States Government.

Subsection 501(a)(1) sets forth a series of findings. Subsection 501(a)(2) sets forth the purpose.

Subsection 501(b) makes many technical changes to section 831 of title 18, United States Code. The ones of substance are:

(1) Paragraph (1) adds "nuclear byproduct material" to the scope of subsection 831(a).

(2) Paragraph (2) ensures coverage of situations under subsection 831(a)(1)(A) where there is substantial damage to the environment.

(3) Paragraph (3) rewrites subsection 831(a)(1)(B) in the following ways:

(A) drops the requirement that the defendant "know" that circumstances exist which the dangerous to life or property. If such circumstances are created through the intentional actions of the defendant, criminal sanctions are appropriate due to the inherently dangerous nature of nuclear material and the extraordinary risk of harm created.

(B) adds substantial damage to the environment; and

(C) adds language (*i.e.*, "such circumstances are represented to the defendant to exist") to cover the situation of sales by undercover law enforcement to prospective buyers of materials purported to be nuclear materials. This is comparable to the new 18 U.S.C. 21 created by section 320910 of Pub. L. 103-322 for undercover operations.

(4) Paragraph (4) expands the threat provision of subsection 831(a)(6) to cover threats to do substantial damage to the environment.

(5) Paragraph (5) expands the jurisdiction in subsection 831(c)(2) beyond those situations where the offender is a United States national. As revised, it includes all situations, anywhere in the world where a United States national is the victim of an offense or where the perpetrator or victim of the offense is a "United States corporation or other legal entity."

(6) Paragraph (6) drops the requirement in subsection 831(c)(3) that the nuclear material be for "peaceful purposes", *i.e.*, non-military, and that it be in use, storage, or transport. Hence, the provision now reaches any alien who commits an offense under subsection 831(a) overseas and is subsequently found in the United States. Of course, if the target of the offense was a U.S. national or corporation or the U.S. Government there would be jurisdiction of the offense under another provision of subsection 831(c), even when the perpetrator is still overseas. The activities prohibited by subsection 831(a) are so serious that all civilized nations have recognized their obligations to confront this growing problem because of its inherent dangerousness.

(7) Paragraph (8) deletes the requirement for subsection 831(c)(4) that the nuclear materials being shipped to or from the United States be for peaceful purposes. Hence, military nuclear materials are now encompassed under subsection 831(c)(4). It also adds nuclear byproduct material to the provision.

(8) Paragraph (10) adds a new paragraph (5) to subsection 831(c) to ensure that there is federal jurisdiction when the governmental entity being threatened under subsection 831(a)(5) is the United States and when the threat under subsection 831(a)(6) is directed at the United States.

(9) Paragraph (11) deletes an outmoded requirement, so that all plutonium is now covered.

(10) Paragraph (14) adds "nuclear byproduct material" to the definitions as a new subsection 831(f)(2). Nuclear byproduct material means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator. This will extend the prohibitions of this statute to materials that are not capable of creating a nuclear explosion, but which, nevertheless, could be used to create a radioactive dispersal device capable of spreading highly dangerous radioactive material throughout an area.

(11) Paragraph (17) adds to subsection 831(f) the definitions for the terms "national of the United States" and "United States corporation or other legal entity."

Section 601.

This section deletes subsection (c) of the material support statute (18 U.S.C. 2339A(c)) enacted as part of the 1994 crime bill (Pub. L. 103-322). It would also correct erroneous statutory references and typographical errors (i.e., changes "36" to "37," "2331" to "2332," "2339" to "2332a," and "of an escape" to "or an escape").

Subsection 2339A(c) of title 18, United States Code, imposes an unprecedented and impractical burden on law enforcement concerning the initiation and continuation of criminal investigations under 18 U.S.C. 2339A. Specifically, subsection (c) provides that the government may not initiate or continue an investigation under this statute unless the existing facts reasonably indicate that the target knowingly and intentionally has engaged, is engaged, or will engage in a violation of federal criminal law. In other words, the government must have facts that reasonably indicate each element of the offense before it even initiates (or continues) an investigation. The normal investigative practice is that the government obtains evidence which indicates that a violation may exist if certain other elements of the offense, particularly the knowledge or intent elements, are also present. The government then seeks to obtain evidence which establishes or negates the existence of the other elements. If such evidence is found to exist, the investigation continues to obtain the necessary evidence to prove its case beyond a reasonable doubt on every element.

As drafted, however, subsection (c) reverses the natural flow of a criminal investigation. It is an impediment to the effective use of section 2339A. Moreover, the provision would generate unproductive litigation which would only serve to delay the prosecution of any offender, drain limited investigative and prosecutive resources, and hinder efforts to thwart terrorism. It is the position of the Department of Justice that the investigative guidelines issued by the Attorney General adequately protect individual rights while providing for effective law enforcement.

Section 601 deletes subsection (c) retroactive to September 13, 1994, the date that the 1994 crime bill was signed into law. Since subsection (c) is procedural in nature, the retroactive nature of the proposed deletion does not pose a constitutional problem. It should suffice, however, to preclude a defendant from availing himself of subsection (c) in the event that the conduct charged in a subsequent indictment arose between September 13, 1994, and the enactment of section 601.

Section 102(c) of this Act also proposes to broaden the scope of the material support statute by incorporating, as one of the predicate offenses, the proposed statute relating to conspiracies within the United States to commit terrorist acts abroad.

Section 602.

This section would add coverage for threats to the weapons of mass destruction statute (18 U.S.C. 2332a). The offense of using a weapon of mass destruction (or attempting or conspiring to use such a weapon) was created by section 60023 of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322). However, no threat offense was included. A threat to use such a weapon is a foreseeable tactic to be employed by a terrorist group. Further, it could necessitate a serious and costly government response, e.g. efforts to eliminate the threat, evacuation of a city or facility, etc. Accordingly, it seems clearly appropriate to make threatening to use a weapon of mass destruction a federal offense.

This section amends subsection (a) to include threats among the proscribed offenders. Further, it redesignates subsection (b) of section 2332a as subsection (c) and provides a new subsection (b). The new subsection (b) ensures jurisdiction when a national of the United States outside the United States is the perpetrator of the threat offense.

Section 603.

Section 603 adds to the Racketeer Influenced and Corrupt Organizations (RICO) statute certain federal violent crimes relating to murder and destruction of property. These are the offenses most often committed by terrorists. Many violent crimes committed within the United States are encompassed as predicate acts for the RICO statute. However, RICO does not presently reach most terrorist acts directed against United States interests overseas. Hence, this section adds to RICO extraterritorial terrorism violations. When an organization commits a series of terrorist acts, a RICO theory of prosecution may be the optimal means of proceeding.

The offenses being added to as predicate acts to RICO are: 18 U.S.C. (relating to the destruction of aircraft), 37 (relating to violence at international airports), 115 (relating to influencing, impeding or retaliating against a federal official by threatening or injuring a family member), 351 (relating to Congressional or Cabinet officer assassination), 831 (relating to prohibited transactions involving nuclear materials as amended by section 501 of this bill), 844 (f) or (i) (relating to destruction by explosives or fire of government property or property affecting interstate or foreign commerce), 956 (relating to conspiracy to kill, kidnap, maim or injure property certain property in a foreign country as amended by section 102 of this bill), 1111 (relating to murder), 1114 (relating to murder of United States law enforcement officials,), 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to willful injury of government property), 1363 (relating to destruction of property within the special maritime and territorial jurisdiction), 1751 (relating to Presidential assassination), 2280 (relating to violence against maritime navigation as amended by section 606 of this bill), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to terrorist acts abroad against United States nationals), 2332a (relating to use of weapons of mass destruction as amended by section 602 of this bill), 2332b (relating to acts of terrorism transcending national boundaries created by section 101 of this bill), and 2339A (relating to providing material support to terrorists as amended by sections 102(c) and 601 of this bill), and 49 U.S.C. 46502 (relating to aircraft piracy.)

Section 604.

18 U.S.C. 1956(a)(2)(A) makes it a felony to transfer funds from the United States to a place outside the United States if the transfer is done with the intent to promote the carrying on of "specified unlawful activity." The term "specified unlawful activity" is defined in section 1956(c)(7)(B) to include an offense against a foreign nation involving kidnapping, robbery, or extortion as well as certain offenses involving controlled substances and fraud by or against a foreign bank. It does not, however, include murder or the destruction of property by means of explosive or fire.

In recent investigations of international terrorist organizations, it has been discovered that certain of these organizations collect money in the United States and then transfer the money outside the United States for use in connection with acts of terrorism which may involve murder or destruction of property in foreign nations.

In order to prevent terrorist organizations from collecting money inside the United States which is used to finance murders and destruction of property, subsection (a) would add "murder and destruction of property by explosive or fire" to the list of specified unlawful activity in section 1956(c)(7)(B)(ii).

This amendment would also apply to cases where the proceeds of any such murder or property destruction would be laundered in the United States.

Subsection (b) would add to the definitions of "specified unlawful activity" in section 1956(c)(7)(D) of title 18, United States Code, those violent federal offenses most likely to be violated by terrorists overseas. Hence, if during the course of perpetrating these violent offenses the terrorists transferred funds in interstate or foreign commerce to promote the carrying on of any of these offenses, they would also violate the money laundering statute. The offenses added are the same as those added to the RICO statute by section 603 of this bill, except for 18 U.S.C. 1203 (relating to hostage taking) which is already contained as a money laundering predicate. It should be noted that if section 603 of this bill is enacted, subsection 604(b) need not be enacted because any offense which is included as a RICO predicate is automatically a predicate also under the money laundering statute.

Section 605.

This section would add a number of terrorism-related offenses to 18 U.S.C. 2516, thereby permitting court-authorized interception of wire, oral, and electronic communications when the rigorous requirements of chapter 119 (including section 2516) are met. Presently, section 2516 contains a long list of felony offenses for which electronic surveillance is authorized. The list has grown periodically since the initial enactment of the section in 1968. As a result, coverage of terrorism-related offenses is not comprehensive. Section 2516 already includes such offenses as hostage taking under 18 U.S.C. 1203, train wrecking under 18 U.S.C. 1992, and sabotage of nuclear facilities or fuel under 42 U.S.C. 2284.

The instant proposal would add 18 U.S.C. 956, as amended by section 103 of this bill, and 960 (proscribing conspiracies to harm people or damage certain property of a foreign nation with which the United States is not at war and organizing or participating in from within the United States an expedition against a friendly nation), 49 U.S.C. 46502 (relating to aircraft piracy), and 18 U.S.C. 2332 (relating to killing United States nationals abroad with intent to coerce the government or a civilian population). It would also add 18 U.S.C. 2332a (relating to offenses involving weapons of mass destruction), 18 U.S.C. 2332b (relating to acts of terrorism transcending national boundaries, which offense is created by section 101 of this bill), 18 U.S.C. 2339A (relating to providing material support to terrorists), and 18 U.S.C. 37 (relating to violence at airports).

Terrorism offenses frequently require the use of court-authorized electronic surveillance techniques because of the clandestine and violent nature of the groups that commit such crimes. Adding the proposed predicate offenses to 18 U.S.C. 2516 would therefore facilitate the ability of law enforcement successfully to investigate, and sometimes prevent, such offenses in the future.

Section 606.

In considering legislative proposals which were incorporated into the 1994 crime bill (Pub. L. 103–322), Congress altered the Department's proposed formulation of the jurisdictional provisions of the Maritime Violence legislation, the Violence Against Maritime Fixed Platforms legislation, and Violence at International Airports legislation, because of a concern over possible federal coverage of violence stemming from labor disputes. The altered language created uncertainties which were brought to the attention of Congress. Subsequently, the labor violence concern was addressed by adoption of the bar to prosecution contained in 18 U.S.C. 37(c), 2280(c) and 2281(c). With the adoption of this bar, the sections were to revert to their original wording, as submitted by the Department of Justice. While sections 37 and 2281 were properly corrected, the disturbing altered language was inadvertently left in section 2280.

Consequently, as clauses (ii) and (iii) of subsection 2280(b)(1)(A) of title 18, United States Code, are presently written, there would be no federal jurisdiction over a prohibited act within the United States by anyone (alien or citizen) if there was a state crime, regardless of whether the state crime is a felony. Moreover, the Maritime Convention mandated that the United States assert jurisdiction when a United States national does a prohibited act anywhere against any covered ship. Limiting jurisdiction over prohibited acts committed by United States nationals to those directed against only foreign ships and ships outside the United States does not fulfill our treaty responsibilities to guard against all wrongful conduct by our own nationals.

Moreover, as presently drafted, there is no federal jurisdiction over alien attacks against foreign vessels within the United States, except in the unlikely situation that no state crime is involved. This is a potentially serious gap. Finally, until the federal criminal jurisdiction over the expanded portion of the territorial sea of the United States is clarified, there remains some doubt about federal criminal jurisdiction over aliens committing prohibited acts against foreign vessels in the expanded portion of the territorial sea of the United States (*i.e.*, from 3 to 12 nautical miles out). Consequently, striking the limiting phrases in clauses (ii) and (iii) ensures federal jurisdiction, unless the bar to prosecution under subsection 2280(c) relating to labor disputes is applicable, in all situations that are required by the Maritime Convention.

Section 607.

This section expands federal jurisdiction over certain bomb threats or hoaxes. Presently, 18 U.S.C. 844(e), covers threats to damage by fire or explosive property protected by 18 U.S.C. 844 (f) or (i), if the United States mails, the telephone or some other instrument of commerce is used to convey the threat or the false information. Section 607 removes any jurisdictional nexus for the means used to convey the threat or false information. A sufficient jurisdictional nexus is contained in the targeted property itself, *i.e.*, the property (1) belongs to the United States Government, (2) is owned by an organization receiving federal funds, or (3) is used in or affects interstate or foreign commerce. The threat provision has also been drafted to cover a threat to commit an arson in violation of 18 U.S.C. 81 against property located in the special maritime and territorial jurisdiction of the United States.

Section 608.

This section would amend the explosives chapter of title 18 to provide generally that a conspiracy to commit an offense under that chapter is punishable by the same maximum term as that applicable to the substantive offense that was the object of the conspiracy. In contrast, the general conspiracy statute, 18 U.S.C. 371, provides for a maximum of five years' imprisonment. This provision accords with several recent Congressional enactments, including 21 U.S.C. 846 (applicable to drug conspiracies) and 18 U.S.C. 1956(h) (applicable to money laundering conspiracies). See also section 320105 of Pub. Law 103–322, which raised the penalty for the offense of conspiracy to travel interstate with intent to commit murder for hire (18 U.S.C. 1958). This trend in federal law, which is emulated in the penal codes of many States, recognizes that, as the Supreme Court has observed, "collective criminal agreement—partnership in crime—presents a greater potential threat to the public than individual delicts." *Callanan* v. *United States*, 364 U.S. 587, 593 (1961); accord *United States* v. *Feola*, 420 U.S. 671, 693–4 (1975).

Section 608 includes the introductory phrase "[e]xcept as provided in this section" in order to take account of one area where a different maximum penalty will apply. Section 110518(b) of Pub. Law 103–322 enacted a special twenty-year maximum prison penalty (18 U.S.C. 844(m)) for conspiracies to violate 18 U.S.C. 844(h), which prohibits using an explosive to commit certain crimes and which carries a mandatory five-year prison term for the completed crime. Like section 844(m), the proposed amendment exempts the penalty of death for a conspiracy offense.

Section 609.

Section 609 would cure an anomaly in 18 U.S.C. 115. The statute presently punishes violent crimes against the immediate families of certain former federal officials and law enforcement officers (including prosecutors) in retaliation for acts undertaken while the former official was in office. However, the former official is not protected against such crimes. Federal investigators, prosecutors, and judges who are involved in terrorism cases are often the subject of death threats. The danger posed to the safety of such officers does not necessarily abate when they leave government service. Former United States officials should be protected by federal law against retaliation directed at the past performance of their official duties. Section 609 would provide such protection.

Section 610.

The changes made by this section are similar to that made by section 608 for explosives conspiracies.

This section adds "conspiracy" to several offenses likely to be committed by terrorists. Conspiracy is added to the offense itself to ensure that coconspirators are subject to the same penalty applicable to those perpetrators who attempt or complete the offense. Presently, the maximum possible imprisonment provided under the general conspiracy statute, 18 U.S.C. 371, is only five years. The offenses for which conspiracy is being added are: 18 U.S.C. 32 (destruction of aircraft), 37 (violence at airports serving international civil aviation), 115 (certain violent crimes against former federal officials, added by section 609, and family members of current or former federal officials), 175 (prohibitions with respect to biological weapons), 1203 (hostage taking), 2280 (violence against maritime navigation), and 2281 (violence against maritime fixed platforms), and 49 U.S.C. 46502 (relating to aircraft piracy).

Section 701.

This section sets forth the congressional findings for title VII.

Section 702.

Amending subsection 573(d) of chapter 8 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa2) would allow more flexibility and efficiency in the Department of State's Antiterrorism Training Assistance (ATA) program by permitting more courses to be taught overseas and allowing for instructors to teach overseas for up to 180 days. Current law allows training overseas for only certain specified types of courses and only for up to 30 days. Deleting subsection (f) of section 573 would allow for some personnel expenses for administering the ATA program to be met through the foreign aid appropriation. Currently, all such costs are paid from the Department of State's Salaries and Expenses account.

TITLE VIII—SUBSTANTIVE INVESTIGATIVE ENHANCEMENTS

Sec. 801. Pen registers and trap and trace devices in foreign counterintelligence and counterterrorism investigations.

Section 801 permits the FBI to use pen register and trap and trace device statutes—already available in routine criminal cases—in foreign counterintelligence investigations. Pen registers are devices which record signals pulsed or toned—simply put, the number dialed, while trap and trade devices record the number from which a call originates, simply put, Caller ID. Neither device permits the monitoring of the actual conversation taking place.

Sec. 802. Disclosure of information and consumer reports to FBI for foreign counterintelligence purposes.

Section 802 permits the FBI to obtain access to consumer credit reports in foreign counterintelligence matters. These are the same reports available on request to car salesmen and real estate agents and to the FBI, by grand jury subpoena, in routine criminal cases. Without the information in these reports, the FBI cannot determine where terrorists hold their assets and accordingly a major part of the investigations is lost. The grand jury subpoena process is not available in foreign counterintelligence matters because these are not necessarily criminal in nature.

Sec. 803. Study and requirements for tagging of explosive materials, and study and recommendations for rendering explosive components inert and imposing controls on precursors of explosives

Section 803 requires the Department of the Treasury to study the action of taggants—microscopic particles which will survive combustion and which are unique by manufacture and date and which therefore will serve to identify the source of an explosive—as well as whether it is possible to render certain chemicals inert and whether certain explosives precursors can be controlled. The study must be completed within one year of enactment.

The provision also requires Treasury to promulgate regulations regarding the addition of these taggants by private manufacturers and criminalizes possession, transfer and other conduct respecting explosives not containing taggants. The criminal provision does not become effective until 90 days after the promulgation of the regulation requiring the taggant addition.

Sec. 804. Access to records of common carriers, public accommodation facilities, physical storage facilities and vehicle rental facilities in foreign counterintelligence and counterterrorism cases.

Section 804 permits the FBI access to the same records already available to the DEA by administrative subpoena in routine narcotics investigations and which are available to the FBI and all other law enforcement agencies in criminal cases where a grand jury subpoena may properly be obtained.

Hotels and motels, storage facilities, airlines, trains and vehicle rental companies all provide services and maintain records which are often of extraordinary value to law enforcement—no less in foreign counterintelligence and counterterrorism cases.

Records would be produced pursuant to a special written request which would be signed by a person with a title no lower than Assistant Special Agent In Charge. Such an individual is generally a senior person considered middle-management within the FBI structure.

Sec. 805. Limitation of statutory exclusionary rule.

Section 805 would simply extend to warrants issued to conduct electronic surveillance, the same "good faith" standard which already exists by Supreme Court decision as to routine search warrants. There is no policy basis to apply a different standard to electronic surveillance warrants than is applied to other warrants.

Sec. 806. Authority for wiretaps in any terrorism-related or explosives felony.

Section 806 would expand the circumstances under which electronic surveillance orders for oral and/or wire intercepts could be issued by a court, to include any felony when an appropriate high-ranking Department of Justice official certifies that the "felony involves or may involve domestic or international terrorism." While most such felonies are already covered in the Electronic Communications Privacy Act of 1986 (ECPA), 18 U.S.C. §2510, *et seq.*, there are occasions when those engaged in terrorism may have violated statutes which are not enumerated. In such instances, although the statute may not ordinarily merit status as a predicate under ECPA, the specific actions of the target(s) may raise the seriousness of the statute to a level where an ECPA order is appropriate.

Section 106 would also expand the list of predicate crimes to include felony explosives violations. Such violations are key to terrorism and violent crime prosecutions and accordingly a key predicate to ECPA orders which may be required in such cases.

Sec. 807. Temporary emergency wiretap authority involving terroristic crimes.

Section 807 would simply permit the issuance of emergency wiretap orders—already available in organized crime cases—to situations involving domestic or international terrorism. Such orders are only valid for 48 hours but are essential because this period of time is sufficient to permit the FBI to obtain a court-ordered warrant, a process which may take as long as the 48 hours permitted.

Sec. 808. Expanded authority for roving wiretaps.

Section 808 removes a needless impediment to the issuance of roving wiretaps—wiretaps which protect individual rights because the "tap" follows the target from phone to phone rather than remaining on one phone which others may use—by deleting the requirement that the government, which must show that the target is using multiple phones lines, is doing so in order to avoid routine surveillance.

This is a hard standard to meet and bears no direct relevance to whether the roving wiretap ought to be authorized by a court. Although roving wiretaps have been authorized since at least 1986, the additional requirement of proof of motive has foiled several major investigations.

Sec. 809. Enhanced access to telephone billing records.

Section 809 would allow the FBI to obtain telephone billing information already available in routine cases by way of grand jury subpoena. Although toll records are already available, information such as address, length of service and local calling information is essential in many investigations and the very same information is used by many telephone companies for routine marketing and sales promotion programs.

Sec. 810. Requirement to preserve evidence.

Section 810 would require telephone companies to preserve their records on demand, for at least 90 days, possibly more, until a court order to preserve records can be obtained. Although most mainstream phone companies already preserve their records for more than this period of time, the growth of small companies in the industry has resulted in services which discard records after very short periods of time. Such information is of critical importance in a wide variety of investigations.

Sec. 811. Permission to request military assistance with respect to offenses involving chemical and biological weapons.

Section 811 would permit the Attorney General to request military assistance in cases involving chemical and biological weapons. New subsections enacted by section 811 and codified at §§175(c) and 2332b(c) would provide a limited exception to the Posse Comitatus Act to permit the military to provide technical assistance to federal law enforcement officials in enforcing these subsections. Technical assistance could include assistance in investigations, in conducting searches, in evidence collection, and in disarming and disabling individuals but would not include authority to arrest. Further, these subsections do not authorize any intelligence agency to engage in any activity that is not otherwise authorized by law or executive order.

Section 811 would also amend current law concerning chemical weapons to include all chemical weapons, whether in gaseous form or not. Under existing law, chemical weapons are covered, only if in gaseous form. Accordingly, an individual who poisoned a city's water supply with a pellet of dioxin would not be chargeable under current law because the pellet was not in gaseous form until it was dropped into the water

Sec. 812. General reward authority of the Attorney General.

Section 812 would remove the existing $500,000 cap on the Attorney General's reward authority and would also permit the Attorney General to receive funds from other agencies so as to permit "pooled" awards when multiple agencies are involved. The Administration intends to submit complementary appropriations language on this subject.

TITLE IX—SUBSTANTIVE PROSECUTIVE ENHANCEMENTS

Sec. 901. Possession of stolen explosives.

Section 901 would expand federal statutes which already criminalize the knowing possession of stolen firearms to include stolen explosive materials.

Sec. 902. Protection of Federal employees on account of the performance of their official duties.

Section 902 would expand federal criminal murder and assault jurisdiction to include all federal employees and their immediate families. The provision would also include the uniformed services of the military. Under existing federal law, only certain enumerated federal employees are protected under federal law and as federal employees become targets—not only as the result of their specific job titles, but merely because they are federal employees—the need for federal protection grows.

TITLE X—CRIMINAL PENALTIES

Sec. 1001. Mandatory penalty for transferring a firearm knowing that it will be used to commit a crime of violence.

Section 1001 would increase from a maximum to a minimum of 10 years, the sentence of imprisonment which must be imposed when an individual transfers a firearm knowing that the firearm material will be used to commit a crime of violence or a drug trafficking crime. Because such knowledge makes the crime more serious, there is a greater need for punishment.

Sec. 1002. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.

Section 1002 would create a parallel offense to that involving firearms when an individual transfers explosives material knowing that the material will be used to commit a crime of violence or a drug trafficking crime.

Sec. 1003. Increased period of limitations for National Firearms Act.

Section 1003 would extend the current three-year statute of limitations which applies to certain serious weapons offenses, to five years, the same statute of limitations as applies to virtually all other felony offenses under federal criminal law. Some of the offenses covered include the possession of machineguns, sawed-off shotguns, silencers and explosive devices.

TITLE XI—FUNDING

Sec. 1101. Civil monetary penalty surcharge and telecommunications carrier compliance payments.

Section 1101 creates a mechanism to pay for the costs of implementing digital telephony programs. Subject to appropriations action, a surcharge of 40 percent is added to each civil monetary penalty at the time it is assessed by the United States or an agency thereof. The Administration intends to submit complementary appropriations language on this subject.

Mr. BIDEN. Mr. President, 2 weeks ago, terrorists destroyed the Federal building in Oklahoma City, took hundreds of lives, and destroyed the lives of thousands of others. Federal, State, and local investigators continue the search for those responsible for that heinous act.

In the weeks since the attack, there has been renewed focus on S. 390, the President's comprehensive counterterrorism bill I introducing in February with Senators SPECTER and KOHL.

Today, I am pleased to join with Senator DASCHLE and others in introducing expanded counterterrorism legislation, which contains additional proposals to assist law enforcement in the fight against terrorism.

As I said in February, I believe we must take strong action to counteract terrorism. Now, in the wake of the Oklahoma City bombing, it is clear that we must focus our attention not just on foreign terrorists, but on domestic American terrorists as well.

There are steps we can take, and this bill combines them. We should ensure that law enforcement has the tools and resources it needs to effectively investigate and prevent terrorist acts, whatever their origin.

At the same time, we should not, in the heat of the moment, pass legislation that we—and the American public—will later regret. Our freedoms and our Constitution are simply too valuable to be put at risk in a hurried rush to respond to this terrible tragedy.

Several important provisions in this bill come from S. 390, introduced earlier this year. For instance, the bill expands the circumstances in which we can prosecute crimes committed overseas which affect our interests.

It also prohibits persons from raising funds for foreign terrorist organizations, implements treaties on plastic explosives, and takes a number of other important actions.

New provisions in this bill add to that effort by providing enhanced authority to obtain records in foreign counterintelligence investigations through letter requests from the FBI. This allows access to records such as consumer credit reports and hotel/motel records.

Because foreign counter-intelligence investigations may not involve a criminal prosecution, a grand jury subpoena may not be an option in these cases.

This bill now also revises current wiretap laws to provide authorization for wiretaps in connection with any felony if the Department of Justice certifies that it is connected to foreign or domestic terrorism, and it allows for emergency wiretaps in terrorism investigations.

The bill also alters the standards to obtain a so-called roving wiretap—targeted at a person moving from phone to phone or using pay phones.

In addition, the bill allows use of the military to investigate offenses involving chemical and biological weapons.

And it allows the Department of the Treasury to promulgate regulations requiring explosives manufacturers to use methods making the explosives traceable, known as taggants.

While I believe many of the provisions now under consideration in this bill are useful and desirable, I do share some of the concerns about the bill.

Specifically, I want to examine closely the need for and the full scope of the additional authority sought for law enforcement in wiretapping and in collecting records, particularly where domestic groups are targeted.

As I said in February, I am also concerned about the alien terrorist removal provisions, which would allow secret evidence to be used to deport a person.

Our judicial system generally requires that a defendant be given the evidence to be used against him—so that he can prepare a defense. Unseen, unheard evidence simply cannot be defended against, and raises the possibility of erroneous decisions.

I also believe we should look closely at proposals which would ban fundraising for organizations which the President designates as terrorist.

The first amendment rights of association and free speech are at the heart of our system of government. While we should not allow people to knowingly support terrorism, we also must ensure that legitimate political activities are not curtailed.

We must examine these and other issues closely before acting on terrorism legislation.

But I do believe we should act. Americans enjoy freedoms unlike those in any other country on the planet. But freedoms bring responsibilities.

Incidents like the Oklahoma City bombing have no place in our free and democratic society, which allows full expression of all types of political views through legitimate means. There is simply no excuse for turning to violence in a society with open airwaves, uncensored newspapers, and regular and free elections of the peoples' representatives.

By Mr. HARKIN:

S. 762. A bill to implement General Accounting Office recommendations regarding the use of commercial software to detect billing code abuse in Medicare claims processing, and for other purposes; to the Committee on Finance.

THE MEDICARE BILLING ABUSE PREVENTON ACT OF 1995

• Mr. HARKIN. Mr. President, I am introducing the Medicare Billing Abuse Prevention Act to implement recommendations of the General Accounting Office concerning abusive and improper billing practices that are costing the American taxpayer and individual Medicare beneficiaries billions of dollars. There is controversy over what should be done concerning Medicare. But, I am hopeful that we will all agree that medical providers should receive what they are entitled to and should not receive payments based on improper billings.

Last year, I along with the chairman and ranking member of the Budget Committee asked the GAO to look at how much Medicare loses because of its inability to prevent and detect abusive and inappropriate billings by health care providers. We specifically asked them what savings the taxpayers and Medicare beneficiaries might realize if Medicare was to use the commercially available state of the art computer programs to detect and stop abusive payments.

GAO has done their usual excellent work. The results of their review are dramatic. Medicare's system for detecting abuse is failing and it's costing American taxpayers and senior citizens millions every day. Taxpayers and those on Medicare could save roughly $4 billion over the next 5 years if Medicare harnessed the power of the private sector and used state of the art anti-abuse equipment.

Although I believed we had a problem, the GAO has uncovered losses from improper billings that are far larger than I expected. They also suggested a straightforward solution that will conservatively save the Medicare trust fund about $640 million per year and Medicare beneficiaries over $140 million a year in their out of pocket costs. Those estimates are based on four separate samples of 200,000 actual filed claims each that were processed with commercially available software developed by four separate computer companies that now provide the software to commercial users, primarily insurance companies.

I was pleased to hear that the great majority of medical care providers billed the Government correctly. The losses were the results of billings submitted by 8 percent of providers. I do want to point out that all errors are not purposeful. But, whatever the reason, the Medicare trust fund should have the best protections against improper payments.

In a hearing held by the Subcommittee on Labor, Health and Human Services, Education and Related Agencies today, I believe that a solid case was made for immediate action. Losses are mounting by about $2 million for every day we wait.

Many in Congress are proposing dramatic cuts in Medicare and Medicaid to pay for tax cuts and reduce the deficit. They are suggesting that senior citizens and the disabled, most of whom live on limited, fixed incomes, pay more for Medicare. And they are suggesting dramatic cuts in payments to doctors, hospitals, and other health care providers—cuts that will either reduce health care access and quality of care for older Americans, or simply be shifted on to the millions of working Americans who have private health insurance.

While Medicare for years led the health care field in technology, today it has been left in the dust. While most of the Nation's leading private health insurers and managed care plans are saving billions by using this state of the art equipment, Medicare lags behind. In fact, many of the same private health insurers that Medicare contracts with to process its claims use this new technology on their private sector business but can't use the same to bring American taxpayers and seniors Medicare savings. This is part of the reason why Medicare's costs are rising faster than private sector health care costs.

The GAO had four private companies that have developed sophisticated computer technology to detect and stop billing abuse run a representative sample of doctors bills Medicare had already checked and paid through their systems. The private sector systems found instance after instance where Medicare, with its outdated computer technology, paid abusive or inappropriate bills that should have been denied. The most common form of billing abuse identified was unbundling, where a doctor performs a procedure and bills Medicare not only for the full procedure, but also for components of the procedure. For example, a doctor bills Medicare $5,000 for gall bladder surgery, but also bills Medicare $1,000 for the incision and closing the wound. Medicare is paying twice for the same service. Other examples of unbundling abuses identified include: billing for multiple visits to the same patient on the same day; billing separately for injections and chemotherapy administration when those injections are simply a component of the chemotherapy administration; and, billing for excessive numbers of Pap smears for the same woman on the same day.

Billing abuses that the commercial computer systems would identify include mutually exclusive procedures, the use of an inappropriate assistant at surgery, duplicate billings, and global fee period violations where one charge might cover a physician's services for 30 days after surgery and the doctor separately charges for services provided during that time period.

The GAO indicates that it would cost around $20 million or less to install the private sector technology in Medicare. And they have clearly demonstrated that such an investment would save Medicare taxpayers and beneficiaries over $3.9 billion in 5 years. So, for every dollar we invest, taxpayers will get a $200 return. I call that a bargain. I want to reiterate: for every day we fail to invest, taxpayers will lose about $2 million. And more will be lost by individual Medicare patients, sometimes thousands of dollars by a single individual. I call that a scandal.

The Billing Abuse Prevention Act will do three things.

First, it will provide a definite time when commercially available computer systems shall be in actual use to catch billing code abuses by all of the 32 Medicare contractors who examine Medicare billings so errors and abusive billing practices can be caught. HCFA has been given 90 days from the date of enactment to set out the exact requirements under which the 32 Medicare contractors shall have a computer checking system in place. And, it requires that the contractors actually have the system in use within 180 days after enactment.

It is my hope and expectation that this can be done more quickly than that. HCFA should now begin the process to develop the criteria without waiting for the legislation to pass. With the full cooperation of the agency, I am hopeful that the HCFA implementing requirements could be ready by the time the President signs the bill. That will allow the contractors to move more quickly as well.

Many of the 32 contractors are already using the commercially available systems to review private insurance claims. But, some modifications of the systems will be needed to modify the program to match HCFA billing practices. And, the contractors will want to review all of the systems that are available that meet HCFA's criteria and go through the appropriate procurement practices.

Second, the legislation provides that the Secretary of Health and Human Services may keep information about the system confidential. If that is not done, detailed information about the system could be used, to some degree, to get around the system's safeguards. The legislation also provides that the proprietary information about the systems are not to be released. If it became available, the companies that created it might lose a significant part of their investment since other companies could acquire the technical details of the systems. The Secretary is expected to release appropriate information about the system which is in the public interest.

It is important to use commercially available systems because we already know they work and we can put them into place relatively quickly with minor modifications. We save time which results in real savings and we avoid what might be a large development cost if HCFA tried to create their own system. Another advantage of commercial systems is that they will be continually improved as the private development companies work to further improve their systems to acquire a larger share of the private marketplace.

Third, the Secretary shall order a review of all of the existing regulations and guidelines governing Medicare payment policies and billing code abuse to see what modifications might be appropriate to maximize the benefits of the computer checking systems and avoiding improper payments.

I urge that this legislation be rapidly considered and passed.●

ADDITIONAL COSPONSORS

S. 326

At the request of Mr. HATFIELD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 326, a bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

S. 440

At the request of Mr. WARNER, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 440, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 483

At the request of Mr. HATCH, the name of the Senator from Wyoming

[Mr. SIMPSON] was added as a cosponsor of S. 483, a bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for the other purposes.

S. 607

At the request of Mr. WARNER, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 692

At the request of Mr. GREGG, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 692, a bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes.

AMENDMENTS SUBMITTED

COMMON SENSE PRODUCT LIABILITY REFORM ACT

COVERDELL (AND DOLE) AMENDMENT NO. 690

Mr. COVERDELL (for himself and Mr. DOLE) proposed an amendment to the amendment No. 596, proposed by Mr. GORTON, to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act of 1995".

TITLE I—PRODUCT LIABILITY

SEC. 101. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) CLAIMANT.—The term "claimant" means any person who brings a product liability action and any person on whose behalf such an action is brought. If an action is brought through or on behalf of—

(A) an estate, the term includes the decedent; or

(B) a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means the amount paid to an employee as workers' compensation benefits.

(3) CLEAR AND CONVINCING EVIDENCE.—

(A) IN GENERAL.—Subject to subparagraph (A), the term "clear and convincing evidence" is that measure of degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.

(B) DEGREE OF PROOF.—The degree of proof required to satisfy the standard of clear and convincing evidence shall be—

(i) greater than the degree of proof required to meet the standard of preponderance of the evidence; and

(ii) less than the degree of proof required to meet the standard of proof beyond a reasonable doubt.

(4) COMMERCIAL LOSS.—The term "commercial loss" means any loss or damage to a product itself, loss relating to a dispute over its value or consequential economic loss the recovery of which is governed by the Uniform Commercial Code or analogous State commercial law, not including harm.

(5) DURABLE GOOD.—The term "durable good" means any product, or any component of any such product, which has a normal life expectancy of 3 or more years or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(6) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including any medical expense loss, work loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent that recovery for the loss is permitted under applicable State law.

(7) HARM.—The term "harm" means any physical injury, illness, disease, or death, or damage to property, caused by a product. The term does not include commercial loss or loss or damage to a product itself.

(8) INSURER.—The term "insurer" means the employer of a claimant, if the employer is self-insured, or the workers' compensation insurer of an employer.

(9) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product), and who designs or formulates the product (or component part of the product), or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, constructs, designs, or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another person; or

(C) any product seller that is not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(10) NONECONOMIC LOSS.—The term "noneconomic loss"—

(A) means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; and

(B) does not include economic loss.

(11) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(12) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term "product" does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; and

(ii) electricity, water delivered by a utility, natural gas, or steam.

(13) PRODUCT LIABILITY ACTION.—The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(14) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who—

(i) in the course of a business conducted for that purpose, sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(15) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, or any political subdivision thereof.

(16) TIME OF DELIVERY.—The term "time of delivery" means the time when a product is delivered to the first purchaser or lessee of the product that was not involved in manufacturing or selling the product, or using the product as a component part of another product to be sold.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) APPLICABILITY.—

(1) ACTIONS COVERED.—Subject to paragraph (2), this title applies to any product liability action commenced on or after the date of enactment of this Act, without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

(2) ACTIONS EXCLUDED.—

(A) ACTIONS FOR DAMAGE TO PRODUCT OR COMMERCIAL LOSS.—A civil action brought for loss or damage to a product itself or for commercial loss, shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable commercial or contract law.

(B) ACTIONS FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable State law.

(b) Scope of Preemption.—

(1) In general.—This Act supersedes a State law only to the extent that State law applies to an issue covered under this title.

(2) Issues not covered under this act.—Any issue that is not covered under this title, including any standard of liability applicable to a manufacturer, shall not be subject to this title, but shall be subject to applicable Federal or State law.

(c) Statutory Construction.—Nothing in this title may be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601(8)) or the threat of such remediation.

(d) Construction.—To promote uniformity of law in the various jurisdictions, this title shall be construed and applied after consideration of its legislative history.

(e) Effect of Court of Appeals Decisions.—Notwithstanding any other provision of law, any decision of a circuit court of appeals interpreting a provision of this title (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 103. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS.

(a) General Rule.—

(1) In general.—In any product liability action that is subject to this title filed by a claimant for harm caused by a product, a product seller other than a manufacturer shall be liable to a claimant, only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant; or

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing was a proximate cause of the harm that is the subject of the complaint.

(2) Reasonable opportunity for inspection.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect a product if the product seller had no reasonable opportunity to inspect the product that allegedly caused harm to the claimant.

(b) Special Rule.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) Rented or Leased Products.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101 (14)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 104. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) General Rule.—Notwithstanding any other provision of law, a defendant in a product liability action that is subject to this title shall have a complete defense in the action if the defendant proves that—

(1) the claimant was under the influence of intoxicating alcohol or any drug that may not lawfully be sold over-the-counter without a prescription, and was not prescribed by a physician for use by the claimant; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for the accident or event which resulted in the harm to the claimant.

(b) Construction.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

SEC. 105. REDUCTION FOR MISUSE OR ALTERATION OF PRODUCT.

(a) General Rule.—

(1) In general.—Except as provided in subsection (c), in a product liability action that is subject to this title, the damages for which a defendant is otherwise liable under applicable State law shall be reduced by the percentage of responsibility for the harm to the claimant attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, the express warnings or instructions of the defendant if the warnings or instructions are determined to be adequate pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) Use intended by a manufacturer is not misuse or alteration.—For the purposes of this title, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) State Law.—Notwithstanding section 3(b), subsection (a) of this section shall supersede State law concerning misuse or alteration of a product only to the extent that State law is inconsistent with such subsection.

(c) Workplace Injury.—Notwithstanding subsection (a), the amount of damages for which a defendant is otherwise liable under State law shall not be reduced by the application of this section with respect to the conduct of any employer or coemployee of the plaintiff who is, under applicable State law concerning workplace injuries, immune from being subject to an action by the claimant.

SEC. 106. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) General Rule.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in a product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) Limitation on Amount.—

(1) In general.—The amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this title shall not exceed 2 times the sum of—

(A) the amount awarded to the claimant for economic loss; and

(B) the amount awarded to the claimant for noneconomic loss.

(2) Special Rule.—

(A) The amount of punitive damages that may be awarded in any civil action against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization which has fewer than 25 full-time employees, shall not exceed:

(1) Two times the sum of—

(a) the amount awarded to the claimant for economic loss; and

(b) the amount awarded to the claimant for non-economic loss; or

(2) $250,000,

whichever amount is lesser.

(B) Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in any civil action whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership corporation, association, unit of local government, or organization which has fewer than 25 full-time employees, if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(3) APPLICATION BY COURT.—This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

(c) BIFURCATION AT REQUEST OF EITHER PARTY.—

(1) IN GENERAL.—At the request of any party, the trier of fact in a product liability action that is subject to this title shall consider in a separate proceeding whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If any party requests a separate proceeding under paragraph (1), in any proceeding to determine whether the claimant may be awarded compensatory damages, any evidence that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

SEC. 107. UNIFORM THE LIMITATIONS ON LIABILITY.

(a) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (b), a product liability action that is subject to this title may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered, the harm that is the subject of the action and the cause of the harm.

(2) EXCEPTIONS.—

(A) PERSON WITH A LEGAL DISABILITY.—A person with a legal disability (as determined under applicable law) may file a product liability action that is subject to this title not later than 2 years after the date on which the person ceases to have the legal disability.

(B) EFFECT OF STAY OR INJUNCTION.—If the commencement of a civil action that is subject to this title is stayed or enjoined, the running of the statute of limitations under this section shall be suspended until the end of the period that the stay or injunction is in effect.

(b) STATUTE OF REPOSE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), no product liability action that is subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed after the 20-year period beginning at the time of delivery of the product.

(2) STATE LAW.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 20-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) EXCEPTIONS.—

(A) A motor vehicle, vessel, aircraft, or train that is used primarily to transport passengers for hire shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety of the specific product involved which was longer than 20 years, but it will apply at the expiration of that warranty.

(C) Paragraph (1) does not affect the limitations period established by the General Aviation Revitalization Act of 1994 (49 U.S.C. 40101 note).

(c) TRANSITIONAL PROVISION RELATING TO EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of subsection (a) or (b) shortens the period during which a product liability action that could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action pursuant to this title not later than 1 year after the date of enactment of this Act.

SEC. 108. SEVERAL LIABILITY FOR NON-ECONOMIC LOSS.

(a) GENERAL RULE.—In a product liability action that is subject to this title, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 109. WORKERS' COMPENSATION SUBROGATION STANDARDS.

(a) GENERAL RULE.—

(1) RIGHT OF SUBROGATION.—

(A) IN GENERAL.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this title.

(B) WRITTEN NOTIFICATION.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) INSURER NOT REQUIRED TO BE A PARTY.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) SETTLEMENTS AND OTHER LEGAL PROCEEDINGS.—

(A) IN GENERAL.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this title, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) WRITTEN NOTIFICATION.—Except as provided in subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the employer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER OR COEMPLOYEE.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this title, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the employer.

(b) RIGHTS OF EMPLOYER.—

(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an employer shall, in the same manner as any party in the action (even if the employer is not a named party in the action), have the right to—

(I) appear;

(II) be represented;

(III) introduce evidence;

(IV) cross-examine adverse witnesses; and

(V) present arguments to the trier of fact.

(ii) LAST ISSUE.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is presented to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS OF SUBROGATION NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

SEC. 110. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction under section 1331 or 1337 of title 28, United States Code, over any product liability action covered under this title.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1995".

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life enhancing medical devices,

many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered hard as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR.—With respect to an action brought on behalf or through a minor, such term includes the parent or guardian of the minor.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(8) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for ham allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller or biomaterials supplier for

loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) Scope of Preemption.—

(1) In general.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) Applicability of other laws.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) Statutory Construction.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) In General.—

(1) Exclusion from liability.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant cause by an implant.

(2) Liability.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) Liability as Manufacturer.—

(1) In general.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) Grounds for liability.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterial supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterial supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) Administrative procedures.—

(A) In general.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) Docketing and final decision.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) Applicability of statute of limitations.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) Liability as Seller.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related manufacturer meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) Liability for Violating Contractual Requirements or Specifications.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii)(I) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j); and

(II) have received clearance from the Secretary,

if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) Motion To Dismiss.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) Manufacturer of Implant Shall Be Named a Party.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) Proceeding on Motion To Dismiss.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) Affidavits relating to listing and declarations.—

(A) In general.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) Response to motion to dismiss.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (21) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSE TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) Basis of ruling on motion to dismiss.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists.

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 205(b) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

SEC. 207. APPLICABILITY.

This title shall apply to all civil actions covered under this title that are commenced on or after the date of enactment of this Act, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this Act.

NOTICE OF HEARING

SUBCOMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. ROTH. Mr. President, I would like to announce that the Subcommittee on Post Office and Civil Service, of the Committee on Governmental Affairs, will hold hearings on May 15 and May 22, 1995, on Federal pension reform.

The hearings are scheduled for 2 p.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Dale Cabaniss, chief counsel, or John Roots at 224–2254.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to receive testimony on administration of timber contracts in the Tongass National Forest, and administration of the Tongass Timber Reform Act of 1990.

The hearing will take place Thursday, May 18, at 9:30 a.m. in room SD 366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Mark Rey at (202) 224–2878.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Acquisition and Technology of the Committee on Armed Services be authorized to meet at 9 a.m. on Friday, May 5, 1995, in open session, to receive testimony on the implications of the revolution in military affairs in review of S. 727, the National Defense Authorization Act for fiscal year 1996, and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TERRORISM IN AMERICA

• Mr. KOHL. Mr. President, in light of the recent bombing in Oklahoma City, I rise today to speak about a related, but equally serious problem confronting both the world community and the United States. This problem is international terrorism.

As a world superpower, the United States has an obligation to help maintain peace and stability and to promote democracy throughout the globe. By doing this we create and strengthen many international friendships. At the same time, however, we encounter those who disagree with our goals and actions. Most of this criticism comes peacefully; some of it, unfortunately, comes violently.

The culmination of this violence results in such incidents as the bombing of Pan Am flight 109—where 189 Americans died over Locherbie, Scotland—or the bombing of the World Trade Center, where 6 Americans were killed and more than 1,000 were injured by a terrorist act on our own soil. Fortunately, these large scale anti-American incidents are more the exception than the rule.

However, American citizens are often the victims of many smaller international terrorist incidents. Of course, this does not mean that the average American citizen should fear a terrorist attack while walking to the local grocery store. In fact, between 1988 and 1994 there were only 10 terrorist attacks throughout all of North America, compared with the 973 attacks in Latin America, 906 in Western Europe, and 628 in the Middle East. Relatively speaking, Americans are still quite safe in their own country.

The problem occurs when U.S. citizens are working, living, and traveling abroad. In fact, in 1994 approximately 21 percent of all terrorist attacks were directed at American targets. This, Mr. President, is a relatively large percentage. Since Americans can be found in every corner of the Earth, it would be near impossible for the U.S. Government to ensure the safety of all of its nationals. What, then, can be done to help protect American nationals and their property from the threat of terrorism?

The answer: We must strike at the roots of international terrorist organizations. This, Mr. President, is the goal of the Omnibus Counter-Terrorism Act of 1995, which I introduced along with Senators BIDEN, SPECTER, and others. This legislation will make it a crime to raise funds within the United States for terrorist organizations while simultaneously enhancing the Government's ability to expel those aliens who are, or have been, engaged in terrorist activities.

Mr. President, the sad truth is that fundraising for international terrorism now has its roots in America—and has even reached the Midwest. In fact, in 1993 a group of Palestinian immigrants, linked to the infamous Abu Nidal terrorist organization, actively raised money here for terrorism abroad. Surprisingly, this terrorist cell extended from St. Louis to Dayton to Racine, WI. After their arrest, three of the men were accused of plotting to kill American Jews and to blow up the Israeli Embassy in Washington on behalf of the Abu Nidal. They admitted to smuggling money and information, buying weapons, and planning terrorist activities. In July 1994, they pleaded guilty to Federal racketeering charges.

How can we work as hard to fight terrorism abroad, but allow foreign terrorism to flourish within our own borders? The Omnibus Counter-Terrorism Act will put an end to this ironic situation.

Mr. President, our legislation is simple, effective and straightforward. This bill will create a comprehensive Federal criminal statue to be used against international terrorists, while expanding current U.S. antiterrorism laws to apply to any terrorist attack on a U.S. citizen, regardless of location. By clarifying and elaborating on our current laws, this bill takes a firm stand against terrorism both in the United States and abroad.

Mr. President, our Nation has the responsibility to promote stability and to protect our citizens throughout the world. International terrorists, however, undermine these goals and sabotage American interests. The Omnibus Counter-Terrorism Act of 1995 is not a perfect piece of legislation—we do need to make changes so that we do not circumscribe civil liberties. Nevertheless, this bill does take a step toward combating international terrorism. By preventing terrorist fundraising and enhancing antiterrorist laws, this act will strike at the roots of terrorism. Not only will it help to make the world safe for Americans, it will help to make the world safe for all.●

MONTANA MEAN TIME

● Mr. SIMON. Mr. President, Senator MAX BAUCUS and I were elected to the House of Representatives the same year, 1974, and through the years, I have been impressed by MAX BAUCUS' consistent and thoughtful leadership.

His stand and statement in behalf of the balanced budget amendment this year, in my opinion, was one of the high points of our debate.

But no action he has taken has shown more courage and more common sense than his op-ed piece in the New York Times titled, "Montana Mean Time."

It is a candid discussion of what is happening in his State.

It is easy for those of us in public life to duck these things. To MAX BAUCUS' credit, he has not ducked.

I am proud to have him as a colleague, and I ask that his statement be printed in the RECORD.

The statement follows:

[From the New York Times, May 1, 1995]

MONTANA MEAN TIME

(By Max Baucus)

Since the Oklahoma City bombing, public attention has focused on private militias. I claim no great expertise on the movement as a whole, but I have watched it grow in my state. And as an example of the national phenomenon, the Montana militias deserve a close look.

We Montanans take pride in our low crime rate, and believe honest people can disagree without being disagreeable. Maybe extremist groups believe they can find a home in Montana because of our easygoing ways. The so-called Militia of Montana is one such group. At least one of its founders is associated with the neo-Nazi Aryan Nations. It says it exists so that "if the Government uses its force against the citizens, the people can respond with a superior amount of arms."

The Militia of Montana frequently uses anti-Semitic code words like "shadow government" and "banking elites." Its director, Bob Fletcher, defends this rhetoric this way: "If the bulk of the banking elite are Jewish, is that anti-Semitic? The people who are doing this are the international banking elite, and if they are all Jews, so be it, but that's not the case. I don't care if they're Arabs or monkeys."

Associated with the Militia of Montana is the more extreme Freemen movement. The Militia warns of tyranny to come; the Freemen say it exists today. A Freeman leader offers the following "proof": "A Social Security card/number, marriage licenses, driver's licenses, insurance, vehicle registration, welfare from the corporations, electrical inspections, permits to build your private home, income taxes, property taxes."

Look at the Freemen's racial theories. The same fellow who says marriage licenses are tyranny believes people who are not white are "beasts." Only whites go to heaven; Jews are children of Satan.

The rhetoric of these groups embraces a range of enemies, from the Federal Government to "the New World Order." Their real target, however, is local law enforcement. Nick Murnion, the Garfield County Attorney, recalls threats the Freemen made against him last year. "They told me they weren't going to bother building a gallows. They were just going to let me swing from the bridge," he says.

A month ago, armed members of yet a third group, the North American Volunteer Militia, threatened the marshal in the town of Darby. He had pulled over a car whose license plates expired in 1992, and later describes what followed: "They had weapons and they were shaking them at us and yelling that they were going to kill us. We backed off a little bit and then left because we could see that it could turn into a bloodbath."

The good news is that ringleaders of the hate groups are few. Nick Murnion believes there are no more than 30 around Montana. Most refuse to pay taxes and obey the laws. They should be arrested, tried and jailed. Otherwise, the situation may worsen. As one prosecutor, County Attorney John Bohlman, says: "The more the Federal and local law enforcement agencies behave with a hands-off attitude, the more bold and daring these groups become."

But law enforcement is only part of it. Casual adherents of militias statewide are not criminals. And a united community can deal with them by taking a stand against hate.

Americans have the right to say what they believe. But with that right comes the responsibility to respect our neighbors, respect law enforcement and obey the laws.

In November 1993, a group of skinheads threw a bottle through the glass door of a Jewish family's in Billings. A few days later, they put a brick through a window of another Jewish household; a 5-year-old boy was in the room at the time.

In response, Billings rallied behind the Jewish community. The Billings Gazette printed a full-page drawing of a menorah, and people all over town pasted them in their windows. We held our biggest Martin Luther King Day march ever in February. And the skinheads fled.

The same treatment will work this time. Americans everywhere must speak out. We all must make hatemongers unwelcome in our towns and communities. And we must stand by the heroes in this struggle, the police and county prosecutors who stand up to the extremists.

It is that simple. And after Oklahoma City, it is about time.●

CONFERENCE ON AGING

Mr. DASCHLE. Mr. President, I want to congratulate the White House Conference on Aging which, as I understand it, just this afternoon passed a resolution that I ask unanimous consent be made part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROTECTING MEDICARE AND MEDICAID

Whereas Congress is beginning an historic debate on Medicare and Medicaid as the 1995 White House Conference on Aging deliberates on its recommendations to the Nation;

Whereas U.S. health care cost and coverage shortcomings continue to go unaddressed;

Whereas health care reform and the solvency of the Medicare Trust Fund are inextricably intertwined;

Whereas the opening session of the Conference heard statements of support for Medicare and Medicaid from both Democratic and Republican members of Congress; and

Whereas the President in his address challenged the delegates to come together on a multigenerational, bipartisan basis to address the problems facing the nation. Therefore, be it,

Resolved by the 1995 White House Conference on Aging to support policies that:

Address problems facing the Medicare and Medicaid programs in the context of broad-based health care reform, as the President has proposed;

Oppose massive cuts soon to be considered in Congress;

Protect Medicare and Medicaid from any steps backwards by way of reduced health care or long term care coverage;

Apply any savings that may come from changes in Medicare and Medicaid as a result of health care reform to strengthen the programs and expand coverage, including long term care, rather than to meet arbitrary deficit reduction targets;

Prohibit additional costs being put on beneficiaries that would make health care unaffordable;

Maintain quality, preserve choice of provider and oppose proposals that have the effect of financially coercing beneficiaries into plans that do not guarantee access to their own physicians;

Prohibit the use of savings in Medicare and Medicaid for tax cuts for well off citizens.

Mr. DASCHLE. Mr. President, the resolution is entitled "Protecting Medicare and Medicaid."

The important part of the resolution simply says:

> Therefore, be it *Resolved* by the 1995 White House Conference on Aging to support policies that:
>
> Address problems facing the Medicare and Medicaid programs in the context of broad-based health care reform, as the President has proposed;
>
> Oppose massive cuts soon to be considered in Congress;
>
> Prohibit the use of savings in Medicare and Medicaid for tax cuts for well-off citizens.

I think it is very important that everyone understand the ramifications of the proposals to cut Medicare in the budget resolution. It would simply be the largest insurance rate hike in Medicare history. The plan would cost $900 per person in additional out-of-pocket expenses for Medicare recipients by the year 2002, a total of about $3,500 over the next 7 years. We cannot accept that. I do not believe that the vast majority of the American people will accept it. Certainly, if this resolution is any indication, senior citizens across the country, represented by the White House Conference on Aging, will not accept it as part of our budget, as part of any plan relating to Medicare reform this year.

So I am very pleased with the action taken by the White House conference. I hope we can talk more about that in the coming days.

REMEMBERING VIETNAM 20 YEARS AFTER THE END OF THE WAR

Mr. DASCHLE. Mr. President, on April 24, 1964, Sergeant First Class Raymond Adams, a 10-year Army veteran, was killed by a hand grenade in South Vietnam. Sergeant Adams was 30 years old and married. More than 8 years later, on July 21, 1972, Specialist Fifth Class Steven Allen Trant died in South Vietnam. He was 21 years old, and had been in the Army less than a year.

They were the first, and the last South Dakotans to die in Vietnam. In between their too early deaths, our country was changed utterly.

More than 3 million Americans served in Vietnam. Hundreds of thousands were injured, some permanently, and more than 58,000 young Americans died in the war.

Today, 20 years after the last helicopter lifted off the roof of the American embassy in Saigon we pause to say thank you to all of the men and women who served in that long, sad war and to remember those who did not return.

One of the most important ways we can show our thanks, of course, is by making sure Vietnam veterans get the medical care and compensation they need for injuries they suffered in that war.

Every man or woman who puts on a uniform is at risk of harm. They accept that risk as part of their service. In return, we, as a nation, must accept responsibility to care for men and women if they are harmed during their military service.

Congress took a big step toward fulfilling that responsibility to Vietnam veterans in 1991 when we agreed to allow Vietnam veterans to receive compensation for nine different illnesses and disabilities caused by their exposure to agent orange.

The National Academy of Sciences is now investigating possible links between agent orange exposure and other illnesses. I suspect that additional illnesses will be added to the list of ailments for which Vietnam veterans may be compensated in the future, and I support the Academy in its continuing research.

It doesn't matter whether a wound is inflicted with a bullet or a piece of shrapnel or a toxic defoliant. In each case, the wound is real, and so is our obligation to help the veteran who suffers it.

We also need more research into our health concerns of Vietnam vets.

In all, more than 682,000 Vietnam and Vietnam-era veterans are now disabled as a result of their military service.

And a respected study by the independent Research Triangle institute estimates that more than 960,000 men who fought in Vietnam and 1,900 women—nearly one in three Vietnam veterans—suffer from post-traumatic stress disorder. For some, the effects are few and fleeting. For others, they are chronic and debilitating.

So as we mark this 20th anniversary of the end of our Nation's most painful period this century, let us remember the words of Abraham Lincoln as he spoke them in his second inaugural to the Nation still grieving from another terrible war that divided our Nation. He said:

> Let us strive to finish the work that we are in, to bind up the Nation's wounds, to care for him who shall have borne the battle and for his widow and orphan, to do all which may achieve and cherish a just and lasting peace.

Let us show our thanks to Vietnam veterans this week, next week, and at all times in the future by pledging to give the Department of Veterans Affairs the resources it needs to keep the promises we made to all Vietnam veterans.

Let us show our thanks by strengthening community-based veterans health care centers, by making a commitment to keep veterans centers vital and independent. These centers do not duplicate the work of VA hospitals. They serve different people with different needs, and we ought to maintain them.

Finally, Mr. President, it is time for this Nation to move toward normalizing relations with Vietnam. I know the arguments against normalization, and I sympathize with them. I understand that the prospect of restoring diplomatic ties with Vietnam is painful to many Americans, especially those who have friends and family members among those who remain unaccounted for in Vietnam.

Experience has shown that it is precisely by expanding our ties with Vietnam that we are most likely to learn what happened to soldiers who never returned.

In the years when we had no contact with Vietnam, we made no progress on the question of those missing in action.

So I stand with my colleagues, Senator MCCAIN, Senator BOND, Senator KERRY of Massachusetts, and others on both sides of the aisle in urging that we move cautiously toward a fuller dialog with Vietnam in order to secure answers for the families and healing for our Nation.

We can never repay Sgt. Raymond Adams and Specialist Steven Trant or any of the other 58,000 Americans who lost their lives in Vietnam, but we can show our respect and our gratitude, and we can continue the effort to bind up the Nation's wounds from a war that, in some ways, still divides us.

MEASURE READ FOR THE FIRST TIME—S. 761

Mr. DASCHLE. Mr. President, I understand that S. 761, introduced earlier today by myself and Senator BIDEN, is at the desk.

The PRESIDING OFFICER. That is correct.

Mr. DASCHLE. Mr. President, I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The bill clerk read as follows:

A bill (S. 761) to improve the ability of the United States to respond to the international terrorist threat.

Mr. DASCHLE. Mr. President, I ask for the second reading.

The PRESIDING OFFICER. Is there objection?

Mr. COVERDELL. Mr. President, I object.

The PRESIDING OFFICER. There is an objection. This bill will be read for the second time on the next legislative day.

Is the Democratic leader finished?

Mr. DASCHLE. Yes.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the following Senators as Members of the Senate Delegation to the Canada-United States Interparliamentary Group during the first session of the 104th Congress, to be held in Huntsville, ON, Canada, May 18–22, 1995:

The Senator from Iowa [Mr. GRASSLEY], and the Senator from Texas [Mrs. HUTCHISON].

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER. Without objection, the Senate will resume the pending business, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. In my capacity as a Senator from Alaska, I suggest the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 690 TO AMENDMENT NO. 596

(Purpose: To provide for a uniform product liability law and to provide assurance of access to certain biomaterials)

Mr. COVERDELL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL], for himself and Mr. DOLE, proposes an amendment numbered 690 to amendment No. 596.

Mr. COVERDELL. Mr. President, I ask unanimous consent further reading be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

CLOTURE MOTION

Mr. COVERDELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the pending substitute amendment to H.R. 956, the product liability bill:

Slade Gorton, Dan Coats, Richard G. Lugar, John Ashcroft, Rod Grams, Kay Bailey Hutchison, Judd Gregg, Strom Thurmond, Jay Rockefeller, Trent Lott, Rick Santorum, Larry E. Craig, Bob Smith, Don Nickles, R.F. Bennett, John McCain, Connie Mack.

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. COVERDELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the pending substitute amendment to H.R. 956, the product liability bill:

Slade Gorton, Dan Coats, Richard G. Lugar, John Ashcroft, Rod Grams, Kay Bailey Hutchison, Judd Gregg, Strom Thurmond, Jay Rockefeller, Trent Lott, Rick Santorum, Larry E. Craig, Bob Smith, Don Nickles, R.F. Bennett, John McCain, Connie Mack.

UNANIMOUS-CONSENT AGREEMENT

Mr. COVERDELL. Mr. President, I ask unanimous consent that when the Senate resumes the pending bill, H.R. 956, on Monday, May 8, at 12 noon, that it be in order for first-degree amendments to be filed at the desk until 1 p.m., and second-degree amendments to be filed by 3 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I further ask that at the hour of 4 p.m., the Senate proceed to a cloture vote on the Coverdell-Dole amendment, and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I ask that Saturday count as the intervening day, under the provisions of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I ask unanimous consent that Senator ROCKEFELLER's name be stricken from both cloture motions just filed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COVERDELL. Mr. President, for the information of all Senators, cloture was filed on the new substitute amendment and, therefore, unless an agreement can be reached regarding substantial second-degree amendments to the substitute, there will be a cloture vote at 4 p.m. Monday.

If an agreement is reached on the second-degree amendments, cloture would be postponed until Tuesday, and the votes, 4 p.m. on Monday, would be on or in relation to those second-degree amendments.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, MAY 8, 1995

Mr. COVERDELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. on Monday, May 8, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business not to extend beyond the hour of 12 noon with Senators permitted to speak for up to 5 minutes each, with the exception of the following: Senator FEINSTEIN, 15 minutes; Senator BYRD, for up to 30 minutes.

I further ask consent that at the hour of 12 noon the Senate resume consideration of H.R. 956, the product liability bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M., MONDAY, MAY 8, 1995

Mr. COVERDELL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 3:53 p.m., recessed until Monday, May 8, 1995, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate May 5, 1995:

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

JOHN W. CARLIN, OF KANSAS, TO BE ARCHIVIST OF THE UNITED STATES, VICE DON W. WILSON, RESIGNED.

U.S. POSTAL SERVICE

ROBERT F. RIDER, OF DELAWARE, TO BE A GOVERNOR OF THE U.S. POSTAL SERVICE FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 8, 1995, VICE JOHN N. GRIESEMER.

ROBERT F. RIDER, OF DELAWARE, TO BE A GOVERNOR OF THE U.S. POSTAL SERVICE FOR THE TERM EXPIRING DECEMBER 8, 2004. (REAPPOINTMENT)

SENATE—*Monday, May 8, 1995*

(Legislative day of Monday, May 1, 1995)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable CRAIG THOMAS, a Senator from the State of Wyoming.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

O God, our help in ages past, our hope for years to come, our refuge, and our strength, we join our hearts and voices with people across our Nation and throughout the world in grateful praise to You. Today, as we remember that triumphant Victory in Europe Day a half a century ago, we thank You for being an ever-present help in trouble. Thank You for the gift of memory, not only to remember the depths of degradation and depravity to which humankind fell under the dictatorship of Adolf Hitler and the Third Reich, but most of all, help us never to forget Your divine intervention that made possible the Allied victory. We remember the supreme sacrifice of so many men and women in that war to liberate humankind from the grip of a brutal enemy.

Lord of history, we go about the work of this Senate today with a renewed assurance that You do have the final word. When the enemies of righteousness and justice have done their worst, You help Your people to fight for freedom and You do bring an end to suffering. You have intervened to help us in just wars against the despots and dictators of history. As we remember the victory of 50 years ago that broke the back of Nazi tyranny, so too You call us to live expectantly with our hope in Your power as we confront the forces of hate and terrorism, injustice and inequality in our time. In Your name Jehovah-Shalom, Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 8, 1995.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CRAIG THOMAS, a Senator from the State of Wyoming, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. THOMAS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE CHAPLAIN'S PRAYER

Mr. DOLE. Mr. President, first let me thank the Chaplain for his prayer today. This is a very important day for millions of Americans. It seems to me that it is time for reflection, to think about America, and to think about 55-plus million people who lost their lives in World War II. That includes civilians, innocent women and children, combatants on all sides, plus about 6 million Jews who suffered death in the Holocaust.

This is a very important day. And later today I hope to submit a resolution about V–E Day, which I am certain the Senate will adopt. I will be looking for sponsors on both sides of the aisle.

SCHEDULE

Mr. DOLE. Mr. President, following leader time, there will be morning business until the hour of 12 noon with Senators permitted to speak for up to 5 minutes each.

At 12 o'clock we will resume consideration of H.R. 956, the product liability bill.

At 4 o'clock there will be a cloture vote on the pending substitute unless second-degree amendments are offered and can be voted upon. That may slip just a little bit. I understand there are one or two Senators who cannot be here right at 4 o'clock. The first three amendments should be filed by 1 o'clock today. Second-degree amendments should be filed by 3 o'clock today.

A second cloture vote will occur tomorrow if cloture is not invoked today.

It is also my hope that we might at least debate this evening the CIA nomination, Mr. Deutch. I think the administration would like to have that done. I think it is a 2-hour time agreement. We can debate that this evening, and have the rollcall vote tomorrow morning.

I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 12 noon with Senators permitted to speak therein for not to exceed 5 minutes each.

RECOGNITION OF SENATOR BYRD

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia is recognized to speak for up to 30 minutes.

Mr. BYRD. I thank the Chair.

THE BUDGET

Mr. BYRD. Mr. President, section 301 of the Congressional Budget and Impoundment Control Act of 1974 requires that on or before April 15 of each year the Congress shall complete action on a concurrent resolution on the budget for the fiscal year beginning on October 1 of such year. The failure to meet this deadline, however, has no effect on points of order under the Congressional Budget Act. In fact, Congress has met the deadline only three times since enactment of the 1974 Budget Act; namely, for fiscal years 1976, 1977, and 1994. So, it is not unusual that Congress, at the April 15 deadline, has yet to complete action on the 1996 budget resolution.

It does seem a little unusual that this year's budget resolution has not been reported by the Budget Committee of either House. Perhaps our friends on the Budget Committees are finding it somewhat more difficult to come forward with a budget resolution which will force Congress to make the difficult choices that will be necessary to achieve a balanced budget, than it was to sign the mostly empty pledges that were contained in the vacuous rhetoric of the so-called "Contract With America."

For a while, everything seemed to be going along swimmingly for the new Republican majority in Congress. We have been told over and over again by the House Republican leadership that they would balance the budget by the year 2002, while at the same time they would increase military spending, cut taxes by some $630 billion over the next ten years, and take Social Security off the budget-cutting table.

Thus ornament is but the guiled shore
To a most dangerous sea; the beauteous scarf
Veiling an Indian beauty; in a word,

The seeming truth which cunning times put on
To entrap the wisest.

It was obvious to all who examined this visionary proposal that it amounts to a return to the failed policies of supply-side economics undertaken during the Reagan-Bush years. The problem with the Reagan plan was that we did the easy part—we massively increased military spending and we drastically cut taxes. But when it came to the hard part—cutting entitlement spending—everybody balked. We all know what resulted from those actions—a string of unprecedented budget deficits which were the largest the country has ever seen and which ceased to grow only after the election of President Clinton.

In other words, we went on a national spending spree on credit—not paying our bills, but charging them to future generations. As a result, the national debt rose from $932 billion on January 20, 1981, when President Reagan was sworn in, to $4.1 trillion on January 20, 1993, the day that Bill Clinton was sworn in as President.

Immediately following his election, President Clinton submitted a budget that cut the projected Bush deficits drastically and, in fact, in 1993 Congress enacted a massive deficit reduction bill, which President Clinton signed into law. That package of budget cuts reduced the projected deficits over 5 years by roughly $500 billion, and it was passed by both Houses of Congress without a single Republican vote.

The economy has responded well to the deficit reduction that has taken place thus far under the leadership of President Clinton. I believe that the economy will continue to perform well so long as we continue our efforts to whittle away at the massive deficits built up over the dozen Reagan-Bush years.

Tough decisions will be required to balance the Federal budget. I know that it will require drastic action. I believe that the American people, as a whole, are prepared to face the tough choices that will have to be faced in order to balance the Federal budget, so long as they are certain that their elected representatives are administering the budget cuts fairly across every sector of the country. The budget axe should not be wielded indiscriminately. This round of budget cutting, to be effective, should involve priority setting; it should involve separating out the truly effective and necessary Federal Government programs from those that are merely nice to have but not truly necessary for the Federal Government to be involved.

Furthermore, if we are to achieve fairness in our deficit-elimination efforts, we cannot ignore the huge tax subsidies that are written into the Tax Code from time to time and are never looked at again. These kinds of tax expenditures, many of which may well serve a worthwhile national purpose, should no longer be allowed to escape scrutiny along with every other area of Federal activity.

We are told by the Congressional Research Service that there are over 120 separate tax expenditures in current law which will cost the U.S. Treasury $453 billion this fiscal year. That figure will rise to $568.5 billion in fiscal year 1999—unless Congress and the President enact changes to eliminate and otherwise cut back the growth in some of these tax subsidies. If we fail to do so, then how can we possibly expect the American people to believe that we have administered budget cuts fairly?

Incredibly, Mr. President, we have not seen any indication by the Republican leadership that they are prepared to even examine these 120 Federal tax subsidies to see if they are necessary or if they can be afforded any longer.

Instead, we have seen the House pass a massive tax cut bill, which will cost $630 billion over the next 10 years. And, who will get the benefit of those tax cuts? According to the Treasury Department:

Nearly half the tax benefits—47 percent—would go to the wealthiest 10 percent of households. These households all have incomes at least somewhat above $100,000, according to the Treasury measure.

The richest 1 percent of households—1.1 million households—would receive 20 percent of the benefits from the tax package, while the bottom three-fifths of households—65 million households—would receive only 15.6 percent of the total tax benefits, according to the Treasury data.

The average tax reduction for the wealthiest 10 percent of all households would be nearly nine times greater than the average tax reduction for the middle fifth of households—$4,821 and $555, respectively.

Mr. President, I am totally opposed to tax cuts at this time. I will not vote for President Clinton's tax cuts, I will not vote for the House-passed tax cuts, or any other tax cuts that may be proposed at this time. We need to keep an eye on the target of reducing the Federal budget deficit until it is eliminated. From press accounts, I understand that Senator DOMENICI, the very able and experienced chairman of the Budget Committee, is planning to recommend to the Budget Committee a budget resolution which, if carried out, would result in a balanced budget for fiscal year 2002. It is my further understanding that Senator DOMENICI's proposal will not include a tax cut. Instead, a tax cut would have to wait until Congress has enacted the necessary legislation to achieve budget balance, under CBO scoring, by 2002.

If this is the position of the chairman of the Budget Committee, I commend him for his courage and foresight, and for his integrity in placing the emphasis in this year's budget resolution where it clearly should be—on eliminating the deficit rather than on cutting taxes. I have long admired and respected the intelligence and wisdom of Senator DOMENICI. He is a Senator who takes his responsibilities very seriously and who works tirelessly to carry out these responsibilities.

In addition to containing no tax cut, Mr. President, it is also important that cuts in spending in this year's budget resolution be administered fairly and equitably to both entitlement and discretionary spending. As all Senators are aware, the discretionary portion of the budget is under the control of the Appropriations Committees and amounts to just over one-third, or $549 billion, of the President's 1996 budget. Of the remainder, net interest on the debt will be $257 billion, or 15.9 percent of the 1996 budget. The other one-half of the budget consists of Social Security—which will equal $351.4 billion, or 21.8 percent of the 1996 budget—Medicare, Medicaid, and other mandatory and entitlement programs.

If Social Security is taken off the table, and if we pay the interest on the debt, which we must, then we have removed almost 38 percent of the budget from budget cuts. We are told that the budget resolution will also not cut military spending, and, in fact, will propose an increase in military spending over the next 7 years. If this is done, then we will have shielded 54 percent of the budget from cuts, leaving only 46 percent, including other entitlements, to undergo budget-cutting surgery over the next 7 years.

I ask the American people: Is that a fair way to proceed? Is it fair to cut $500 billion over the next 7 years from domestic discretionary programs, while increasing military spending?

The military consumes $262.2 billion in outlays in the President's 1996 budget. That amount is almost equal to the $265.8 billion that is in the budget for all domestic discretionary programs. This includes law enforcement, education, infrastructure spending on highways and transit, environmental cleanup, clean air and water, research and development, medical research, NASA, national parks, the Justice Department, the judiciary, the FBI, and the operations of virtually all agencies and departments in the Federal Government.

If we follow the Republican plan, we will cut all of these domestic discretionary programs by approximately 35 percent by the year 2002, at the same time we increase military spending. Is that fair? It is not only unfair, it is pure folly.

Furthermore, under the Republican budget plan, the elderly will be asked to pay dearly. Medicare will be cut anywhere from $259-$333 billion over the next 7 years. We hear that these cuts are not being proposed for deficit reduction but only because Medicare will be broke if we do not fix it soon.

Well, Mr. President, I see no proposal from the Republicans on how they intend to fix the Medicare program. All I see is a cut in Medicare spending totaling $259 to $333 billion over the next 7 years. Is it fair to ask for this level of sacrifice from Medicare beneficiaries at the same time military spending will be rising from a starting point of $262.2 billion over the same 7-year period?

Or, is it fair to cut $500 billion from domestic spending on education, law enforcement, highways, research, job training, and from student loans, and veteran's medical care while, at the same time, ignoring the subsidies in the Tax Code that total $453 billion in 1995 and which, as I say, will grow by a total of $283.9 billion over the next 5 years, 1995 to 1999. In 1999 alone, these tax breaks will total $568.5 billion, an increase of $115.5 billion over their 1995 cost.

It is incredible—even beyond belief—that Congress would enact a 7-year, deficit-elimination package that cuts $500 billion from domestic investments and cuts between $259 and $333 billion from Medicare, while it cuts nothing from military spending and while we allow permanent tax breaks to grow by $283.9 billion! How can we expect the American people to accept this approach to budget balancing? It is not only unfair, it is irrational.

What this amounts to is protecting the special interest groups and the wealthy. They will get to keep their existing tax breaks, and, to make matters worse, they will also get the overwhelming share of the tax cuts already passed by the House, which amount to a $630 billion drain from the Treasury over the next 10 years.

On a related matter, there has been speculation that the Republican welfare reform package will be included as part of this year's reconciliation measure. If these reports are accurate, this should be a cause of great concern to all Senators and to the American people. I say this not from any partisan perspective. As I stated to the distinguished majority leader in a letter dated March 31, 1995, I agree that welfare reform is certainly necessary. But I have strong reservations about taking up such far-reaching and important legislation as part of a reconciliation measure, upon which very limited debate is allowed.

In my view, the reconciliation process was not intended to allow the adoption of major legislative proposals, such as welfare reform, under conditions where debate is limited. This is not a new position for me. I opposed such a tactic on health care reform last year, when both the then-majority leader and President Clinton urged my support for including health care in last year's reconciliation measure. Major proposals of this kind should be thoroughly and thoughtfully examined by the Members of both parties on this Senate floor in a free and full debate, not under the extremely limited debate that is allowed for reconciliation measures.

I implore the Senate Budget Committee, under the able leadership of its chairman, Senator DOMENICI, and its equally able ranking member, Senator EXON, to carefully consider these very important matters as the committee marks up the 1996 budget resolution.

As I have already stated, I do not believe that the American people deserve, nor will they support, a deficit-elimination package unless its effects are distributed fairly across all segments of the population. I do not believe they will support a continuation of existing tax breaks along with new massive tax cuts for the wealthy, while Medicare beneficiaries are being asked to pony up hundreds of billions of dollars over the next 7 years.

I urge Senators not to attempt to balance the budget on the backs of millions of Americans by savaging their health care benefits, while at the same time enacting hundreds of billions of dollars in new tax breaks which primarily benefit the wealthiest in our society. No amount of hollow rhetoric in a so-called Contract With America can hide the perverted policies being proposed by those who signed this so-called contract which was, after all, fashioned by pollsters for the purpose of gaining political advantage.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

NOMINATION OF DR. HENRY FOSTER

Mr. SPECTER. Mr. President, I have sought recognition to announce my intention to vote to confirm Dr. Henry Foster to be Surgeon General of the United States. I hope that I will have the opportunity to cast that vote, that the nomination will come to the floor of the U.S. Senate, and that preliminary proceedings will be cleared so that there will a vote up or down on whether Dr. Henry Foster should become the next Surgeon General of the United States.

When Dr. Foster's name was forwarded to the Senate by the President in early February, I was a little dismayed to hear the cry arise that he should be disqualified because he had performed abortions. I was surprised to hear that cry arise because abortions are a legal medical procedure under the Constitution of the United States. This is not a matter of Roe v. Wade, the decision handed down in 1973. This is reaffirmed by the Supreme Court of the United States in Casey v. Planned Parenthood in 1992, an opinion written by three Justices—Justice Souter, Justice O'Connor, and Justice Anthony Kennedy, all nominated by Republican Presidents.

So it seemed to me curious, to say the least, that there should be a call for his defeat because he had performed abortions, a medical procedure authorized by the Constitution of the United States.

Then issues were cited about character, about what representations Dr. Foster had made as to how many abortions he had performed. It then came to light that there had been an indication from the White House about some misinformation. Then other issues arose in a variety of contexts.

I believe that the hearings last week have laid all of those issues to rest. Dr. Foster was a compelling witness, a forceful witness on his own behalf and he answered all of the outstanding questions, so that there is no doubt about his good character or about his excellent service as a physician, or about his care for the poor and downtrodden, and about his excellent work as a doctor over many years.

I had occasion to meet personally with Dr. Foster and discuss at some length his own background and the issues which had been raised about him. It seemed to me at that time at that meeting, which was in early February, that his nomination certainly ought to go forward. I did not state at that time support for his nomination because it seemed appropriate to me that we await the hearings by the committee to see what would occur at that time. After reviewing the hearings and what occurred at the hearings, today I am confident that Dr. Foster ought to be confirmed as Surgeon General of the United States and, therefore, announce my intention to vote for him.

I was encouraged to see the media reports that our distinguished majority leader will meet with Dr. Foster, and I am hopeful that that meeting will produce a result that Dr. Foster's nomination will come to the floor.

I note the comments of the distinguished chairman of the committee, Senator KASSEBAUM, that Dr. Foster's nomination ought to come to the floor and ought to be voted upon, although I do not believe at this stage that Senator KASSEBAUM has stated whether her intention is to vote "aye" or "nay" on the nomination itself.

I am hopeful that there will not be a filibuster, as has been mentioned, on

Dr. Foster. Any Senator has the right to handle that in any way that any Senator pleases, and any Senator has a right, as I now express my right to say that I hope that we will not be confronted by a filibuster.

But if we are, Mr. President, it is my sense of the Senate—and this is only one Senator speaking—that a filibuster will be defeated and that even Senators who think that Dr. Foster ought not to be confirmed as Surgeon General of the United States will not support a filibuster; that as a matter of fairness to Dr. Foster, he ought to get his day in court, his day in the Senate for a "yes" or "no" vote; and that he ought not to have been railroaded out of town, as some have suggested, even without a hearing before the committee; and that he ought not to be railroaded out of town without the matter coming to the floor of the U.S. Senate; and that he ought not to be railroaded, or have his fate decided, without having the Senators vote "yes" or "no" on his confirmation.

So I am pleased to be in a position today, Mr. President, to say what I sensed when I met with Dr. Foster in early February, that he is truly a man who merits being confirmed as Surgeon General of the United States.

I think that it is time that we put to rest the issue of what is the law of the land of the United States of America with respect to a woman's right to choose. I personally am very much opposed to abortion, but I do not believe that it is a matter that can be controlled by the Government. I believe it is a matter for the woman's choice, it is a matter for the family, it is a matter for priests, rabbis, and ministers, and it is not to be determined by the Government of the United States. When we have decisions of the Supreme Court separated from 1992 back to 1973 and the law of the land stated in Casey v. Planned Parenthood, a decision written by three Justices for a majority of the Court, Justices appointed by Presidents Reagan and Bush, that that is the law of the land, we ought not to reject a nominee because he is performing medical procedures which are authorized by the Constitution.

I think it is time that the Senate of the United States faced up to that proposition squarely. I hope it will be done by having the nomination reported to the Senate floor and by having an up-or-down vote. I intend to vote "aye," and it is my prediction that Dr. Foster will be confirmed.

I thank the Chair and yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from California is recognized to speak up to 15 minutes.

A LOOK BACK AND A LOOK FORWARD

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, today, May 8, is V-E Day, which stands for Victory in Europe, and it marks the end of one front of the most disastrous event in modern human history.

The war in Europe was one in which 50 million civilians and military personnel alike died. It was not only a war, but a major crime against humanity.

Two out of three Jews in Europe were scientifically exterminated—a total of 6 million—along with 5 million other victims. In the Soviet Union, 27 million people lost their lives. I visited Leningrad where you see 25,000 people in one mass grave, and these are plot after plot after plot. No country lost as much as did the people of the former Soviet Union.

The war spread death across six of the seven continents and all over the world's oceans. In the end, much of the heart of Western civilization lay in ruins.

Sixteen million one hundred twelve thousand Americans served in the U.S. Armed Forces during World War II, and they knew the ravages of war. Of these, more than 1 million were Californians; 408,000 Americans never came home. To these Californians and these Americans, I want to say you have my deepest respect, and I know I join with all of my Senate colleagues in saying thank you.

For me, I was one of the lucky ones: I was 11 years old, a girl, living in a flat in the Marina District of San Francisco. I remember the blackout shades, the submarine nets under the Golden Gate Bridge, troops shipping out from Fort Mason 6 blocks from my home and the Nike gun emplacements on the marina headlands and in the Presidio. As a lucky one in the land of the free and the home of the brave, for me there was no Auschwitz or Bergen-Belsen.

V-E Day represents a victory over fascism, paranoia and the most devastating war in history, all sparked and guided by one man. Probably the most infamous demagog the world has ever seen, Hitler was described by one of his early associates, Otto Stresser, as a speaker "who touches each private wound on the raw, liberating the unconscious, exposing its innermost aspirations, telling it most what it wants to hear."

Jews and Slavs were referred to as "untermenschen," subhumans. Moscow, Leningrad, and Warsaw were hard hit, their industries left in ruins.

In "Mein Kampf," Hitler described what history has shown to be correct. He said:

> The masses more readily fall victim to the big lie than the small lie, since they themselves often tell small lies * * * it would never come into their heads to fabricate colossal untruths, and they would not believe that others have the impudence to distort the truth so infamously.

Millions, indeed, did fall victim to the big lie. Fanatical in his quest for personal power, Hitler withdrew Germany from the League of Nations, aproclaiming that the European powers will "never act * * * they'll just protest * * * and they will always be too late."

In fact, the West's hesitance in the face of this evil has sullied the word "appeasement" for all time.

By 1943, Hitler held the power of life and death over 80 million Germans and more than twice that number of vanquished people.

After Hitler took his own life on April 30, 1945, and the end of the war was in sight, devoted followers professed their determination to continue.

A Nazi-controlled newspaper said at the time:

> The heart which beat only for us, the will which blazed only for us, the creative genius which thought and acted only for us, the voice which so often galvanized us—all this no longer exists! However low fate has brought events, Hitler's achievements will illuminate, far into the distant future, the epoch which began with him.

Now, 50 years later, these words offer an ominous warning. Modern-day paranoia, built upon elaborate conspiracy theories and fears, I am sorry to say, is still very much alive today.

For several years, we have seen an escalation in fundamentalist-inspired killings in Egypt and Algeria, the rise of neo-Nazism in Germany, nationalistic fervor in former Communist States, severe anti-immigrant backlash in France, and poison gas attacks in Japan.

The rise of fanaticism and the terrorism it spawns is ever increasing right here in the United States as well.

I think no event embodies this more than the Oklahoma City bombing.

Whatever the final outcome of the investigation into the bombing, a new—and, I believe eye-opening—look at the growing trend of extremism is taking place across the world.

In this country, so-called militias are growing in numbers, stockpiling vast arsenals, preaching hate and violence against this Government.

Here are some examples:

The Federal Emergency Management Agency has orders for Hispanics and African-Americans to be "rounded up and detained" in the event of a State of domestic national emergency.

That is false.

They say tax protesters, demonstrators against Government military intervention outside United States borders, and people who maintain weapons in their homes are the next targets.

That is false.

They say that FEMA advocates "the rounding up and transfer to 'assembly centers or relocation camps' of at least 21 million American Negroes."

That is false.

They say there are black helicopters with no markings spying on citizens. They say police officers were met by "armed men in black uniforms," reportedly from the Federal Government.

That is false.

They say U.N. troops are training to suppress America's people.

That is false.

They say Somalia was simply a practice run for occupying the United States.

That is false.

They point out that Russian trucks and personnel carriers are being imported as well as "100-car trains filled with United Nations equipment."

That is false.

They even say that Crips and Bloods—gangs that dominate some urban areas—are being trained to serve as something called "shock troops" and "cannon fodder" for house-to-house searches conducted by "New World Order officers."

That is false.

So theories about black helicopters, modern day concentration camps, and mass raids abound, we find, throughout this land of the free and home of the brave. Even on Internet, this system is used to spread conspiracy theories across our land. Even a terrorist handbook is run on the Internet on how to build a bomb. I read this handbook, and they tell you how to break into university chemical labs, how to find the chemicals you need, and how to steal those chemicals.

Finally, we see neo-Nazism, even signs popping up here and there saying "whites only," and on and on and on.

One must ask the question on this very special day: Will the threats, the fear mongering, and the paranoia eventually fuel major bloodshed? Was it responsible for encouraging the terrible Oklahoma City bombing?

Two years ago, militia members warned about U.N. troops poised along the United States-Canadian border, ready for invasion. Thirty years ago, the John Birch Society warned of Chinese troops in box cars along the Mexican border. Fifty years ago, the most deadly of all wars ended.

History can teach us lessons if we want to learn. Or we can be doomed to repeat history time and time again.

We all pray that the Oklahoma City bombing is a one-time-only event.

Yet, as a country, this is a time for us to come together, to heal, to begin anew, to straighten with truth vicious lies, to look for what unites us and strengthens us as a people, an American people, to strengthen these bonds, rather than to seek what divides us.

The wounds of the past can guide us in the future. We simply need the determination and the political will to fight the fear and the paranoia that is still so strong in our society.

V-E Day is a chance to celebrate the conclusion of one of the darkest eras in our history. It is a chance to say thank you to those who gave their lives so that we might remain a free people.

Let us use this day to also look deeply at America as it exists today. There is a great deal of work to do to sort it out, to pull this country together before fear and intolerance rips us apart.

It is with the loving memory of the millions and millions of victims of World War II—and the hundreds of victims of the Oklahoma bombing—that I make these remarks today. And I give thanks to those who fought and died in Europe so that we may know freedom.

I thank the Chair and yield the floor.

Mr. GRAMS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota [Mr. GRAMS] is recognized.

PRODUCT LIABILITY

Mr. GRAMS. Mr. President, for the last 2 weeks we have had a serious debate over our Nation's broken liability system.

We have heard stores from supporters of the plaintiff's bar who claim that manufacturers are putting products on the market with little regard for consumer safety.

And we have also heard from supporters of manufacturers who have anecdotes of honest individuals who were sued for multimillion-dollar awards and settled out of court to avoid more costly legal fees, even when they were innocent.

Later today or tomorrow, there will be an effort by supporters of product liability reform to end debate, but before we do that, I wanted to make sure this body heard comments from a few of my constituents

An all-too-familiar story from America's small businesses is exemplified in a letter from Trade Mart Furniture's Jerry Johnson, a constituent from Rochester, MN.

Jerry writes:

> I've experienced firsthand the effects of a frivolous lawsuit. After two years of court appearances, legal fees and countless hours, I won. It cost almost $10,000 to defend myself. I thought the legal system was created to protect the citizen, not the profiteer.

Ann Hartman of Hartman Tree Farms in Victoria, MN, states, "I am tired of seeing lawyers make so much money off the tragedies of others."

And a couple from Menahga, MN, who own Burkel Turkey Farms writes:

> The system now is a free-for-all for the money-hungry and the lawyers. There are far too many people out there that feel the system owes them something.
>
> We are at the mercy of dishonest people who are only out for a buck. It's different if a person has a legitimate claim, but something must be done to maintain a fair legal system for the honest people of this world.

Mr. President, these are just a few of the comments I have received throughout my tenure as a representative from Minnesota, and as a small businessman myself, I understand the effects of the threat of a potential lawsuit.

The fact is that almost 90 percent of all U.S. companies can expect to be named in a product liability lawsuit. The present liability system costs Americans $300 billion a year and like most Americans, my Minnesota constituents are concerned about the devastating effects the liability system has on them.

Recent polls continue to show strong support for liability reform: 83 percent believe the present liability system has problems and should be improved, while 89 percent believe that "too many lawsuits are being filed in America today."

Our current system benefits the lawyers and the dishonest. It treats both plaintiffs and defendants unfairly. Inconsistent laws force both sides to sacrifice time and money on unpredictable litigation. Both consumers and manufacturers end up losers. Consumers lose because they receive inadequate compensation. Some estimates have shown that our tort system consumes 57 cents of every $1 awarded in lawsuits.

In addition, consumers wait unreasonable amounts of time before they receive compensation, and often pay outrageous fees to their attorneys.

Manufacturers lose because liability concerns stifle research and development.

A recent survey showed that because of fear of litigation, 47 percent of companies had withdrawn products from the market; 25 percent had discontinued some kind of research; and 8 percent actually had laid off workers.

In fact in 1 year alone, Texas lost 79,000 jobs due to the cost of the liability system.

Each year there are more than 70,000 product liability lawsuits filed in the United States—yet Great Britain only has an average of 200.

Now, this is only one of the reasons liability insurance costs are 20 times higher in the United States than in Europe.

As a result of this well-known liability gold-rush, the United States as a nation loses as well.

According to the Product Liability Coordinating Committee, the cost of product liability ranges from $80 to $120 billion per year.

These costs are passed directly on to you and me as consumers. Appropriately, this is known as the tort tax.

For example, manufacturers of football helmets add $100 to the cost of a $200 helmet. Auto manufacturers add $500 to the price of a new car, and the makers of a $100 stepladder will add another $20 to its cost, just to cover potential liability.

I know many of my colleagues have mentioned this, but I want to reiterate the fact that right here in Washington, DC, the Girl Scout Council must sell 87,000 boxes of Girl Scout cookies each year just to cover the cost of their liability insurance.

In my own State of Minnesota, Attorney General Hubert Humphrey III, the son of Minnesota's great U.S. Senator, recently testified before the State legislature that his office spent $340,000 in 1994 defending Minnesota against frivolous lawsuits. Attorney General Humphrey offered a top-10 list of lawsuits from Minnesota inmates. These are just a few of the ridiculous claims that prisoners have filed:

One prisoner claimed he had a constitutional right to a computer in his jail cell. One claimed that the President gave him a fungus.

Another prisoner claimed underwear was not provided, and when it was provided, it was so tight that it constituted cruel and unusual punishment.

If you think these lawsuits are laughable, try Mr. Humphrey's No. 1 frivolous lawsuit: One prisoner claimed that his primary reason for filing a lawsuit was "pure delight in spending taxpayers' money." I understand that suits like these may be rare. However, they typify the problems with our current system.

The Gorton-Rockefeller Product Liability Fairness Act will address many of the problems faced by well-intentioned, honest manufacturers.

This legislation will establish alternative dispute resolution, extend protection to product sellers, provide an absolute defense for injuries received when the plaintiff was under the influence of drugs or alcohol, and prevent automobile rental companies from being held liable for damages caused by the renters of its cars when the company is not at fault.

In addition, the Gorton-Rockefeller bill will provide much-needed relief to suppliers of biomaterials. Currently, raw material suppliers who have no direct role in the raw material's ultimate use as a biomaterial share extraordinary and irrational liability risk with device manufacturers.

Companies such as DuPont, Dow Chemical, and Dow Corning have decided to stop supplying manufacturers of medical devices with raw materials for fear of lawsuits. This legislation is progress, and is the first step in the right direction.

While I am encouraged by the hard work of the Senators from Washington State and West Virginia, I am concerned that we may be opening up a new can of worms, when this legislation is signed into law.

While it will offer protection for product manufacturers, my fear is that it will leave the service industry as the only remaining deep pocket.

I believe the Senate should continue moving forward to reform our liability system, making sure that individuals who deserve compensation are made whole and that individuals who are not at fault are not held liable for someone else's actions.

Mr. President, we should take this historic opportunity today to approve the Product Liability Fairness Act, and in doing so ensure that our liability system is fair to all parties involved, not just those who are looking for their golden nugget in the liability gold-rush.

EXTENSION OF MORNING BUSINESS

Mr. BRYAN. Mr. President, I ask unanimous consent that morning business be extended until the hour of 12:10.

The ACTING PRESIDENT pro tempore. Hearing no objection, so ordered.

NEI ADVERTISING CAMPAIGN

Mr. BRYAN. Mr. President, I would like to bring to the attention of my colleagues an advertisement currently getting wide circulation by the nuclear power industry.

This advertisement touts the virtues of legislation introduced for the nuclear power industry to address the industry's nuclear waste problem.

As many of my colleagues are aware, the industry's solution to its waste problem has, for a number of years, been very simple: ship the waste to Nevada.

Since 1982, Nevada has been the target of the nuclear powder industry's efforts to move its toxic high-level waste away from reactor sites.

Under current law, Yucca Mountain, 90 miles north of Las Vegas, is being studied, supposedly to determine its suitability as a site for a permanent geologic repository.

The repository program has had immense problems.

With $4.5 billion spent to date on the program, Yucca Mountain is no closer to accepting the nuclear power industry's waste than it was 13 years ago, when Congress passed the first Nuclear Waste Policy Act.

I am not alone in my opinion that a repository will never be built at Yucca Mountain.

The nuclear power industry is also frustrated.

In a curious juxtaposition from the Nevada perspective, the industry thinks the DOE is being too careful, paying too much attention to environmental concerns, and simply not moving fast enough.

While the nuclear power industry still maintains that Nevada is perfectly suitable to host their repository, it has come to the conclusion that Yucca Mountain will never solve its high-level waste problem.

The nuclear power industry has a new solution, and of course, Nevada is once again the victim.

The nuclear power industry's new strategy is to designate Nevada as the site for its interim storage, beginning in 1998.

While the "interim" designation is supposed to imply a temporary facility, the nuclear power industry defines "interim" as 100 years, subject to renewal.

The motive is patently transparent: ship high level nuclear waste to Nevada as soon as possible, without any regard for the health and safety of Nevadans, and then forget about it.

The type of public relations campaign being mounted here is nothing new.

While we in Nevada have long experience with such campaigns by the nuclear power industry and its hired flacks, I have to admit that this latest advertisement is a masterpiece of deception and misinformation.

The headline alone reveals the deceptiveness of the advertisement.

"There are 109 good reasons to store nuclear waste in 1 place" proclaims the nuclear industry's advertisement.

The headline appeals to the logic of the reader—of course, the reader thinks, 1 site is better than 109.

The problem is, of course, that the advertisement does not tell the true story.

Unless the nuclear power industry has some well kept secret plan to shut down and decommission every reactor at each of these 109 reactor sites, by my count creation of a new, central site for waste storage makes 110 sites, not 1.

How the nuclear power industry gets down to one site, when its reactors are still running, and waste is still stored in pools on site, is beyond me.

The advertisement also ignores one of the key problems with a central high-level waste facility—the transportation of the toxic waste from the 109 reactor sites to the central facility.

The nuclear power industry, in its obsession to dispose of its waste as quickly as possible, is proposing to create thousands of rolling interim storage facilities, on trucks, and rail cars, in 43 States across the Nation.

The nuclear power industry's map shows the location of the 109 reactor sites, but not the proposed location for the central storage facility.

There is a good reason for this oversight—the industry's target for a central storage facility is not central at all.

Not even close.

Looking at the map, it could not be clearer—only 15 of the 109 sites identified are west of the Missouri River.

This second chart shows the map that the nuclear power industry, if it was being honest, should have run in their advertisement.

This map shows the location of the current reactor sites, the proposed location for their central storage facility, and the likely routes through 43 States for the thousands of shipments necessary to move the high-level waste from around the Nation to Nevada.

It is obvious to even the casual observer that the nuclear power industry's interim storage proposal could result in an unprecedented level of shipments of extremely toxic, highly dangerous radioactive materials.

Every Member of the Senate should take a careful look at this map.

Nothing could make clearer the true scope of what the nuclear power industry is proposing.

Over the years, as I have fought the industry and the DOE in their efforts to open a repository in Nevada, I have often found my colleagues, both here in the Senate and among the Nation's Governors in my previous position, sympathetic to Nevada's cause.

Many in the Senate sympathize with the outrageous abrogation of States rights.

Others understand the potential environmental risks associated with opening a high-level nuclear waste dump 90 miles from the fastest growing metropolitan area in the United States—a metropolitan area with nearly 1 million residents.

Still others have understood the potentially grave economic damages that could result from the transport and storage of high-level nuclear waste so close to the premier tourist destination in the United States.

Unfortunately, however, these expressions of sympathy have not often translated into action.

For too long, the commercial nuclear waste problem has been identified as a solely Nevada issue.

The general attitude has been we feel badly for Nevada—but if it is not Nevada, who would be the nuclear power industry's next target?

This map should make clear that the nuclear power industry's refusal to accept responsibility for the storage of its own waste will affect every citizen of every State along the routes the industry will use to move the waste.

Even those from the few States that are not targets of the nuclear power industry should be concerned. I do not know how many of anyone's constituents are anxious to share the road with a truck moving high-level nuclear waste.

Once the word is out to these affected communities, no one will be able to continue to dismiss the issue as simply a Nevada problem.

In the absence of a permanent solution to the nuclear waste problem, there is simply no reason to move nuclear waste away from the reactor sites.

The only crisis facing the nuclear power industry is a public relations crisis, not a scientific one.

The NRC has licensed technology to store waste in dry casks, on site, for the next several decades.

Some utilities, of necessity, have taken advantage of this technology.

Most refuse to do so.

Why are utilities so adverse to accepting the responsibility for their own waste? The answer could not be simpler.

Recognizing the political and public relations nightmare of seeking permission to increase storage for high-level waste on site, utilities are seeking an outside solution.

Nevada, a State with no reactors and about as far as you can get from a geographically central location, has been chosen as the target.

Let me return for a moment to the advertisement.

I have not even touched on the misinformation provided by the text.

The ad generally relies on the tried and true tactic of the nuclear power industry to create the impression of impending doom if its demands for relief are not met immediately.

Congress, then, is pressured to act quickly, irrespective of the wishes, or the health and safety, of Nevadans, or anyone else.

This was true in 1980, when the industry claimed that reactors across the Nation would soon shut down if they could not get what was then called away-from-reactor storage by 1983.

No away-from-reactor storage was ever built, and no reactor has ever shut down from lack of storage.

There simply was no crisis in 1980—and there is no crisis now.

It is all an expensive, dangerous ruse.

I urge my colleagues to think carefully before falling for this, and other, deceptive misinformation campaigns by the nuclear power industry and its advocates.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER (Mr. Shelby). The Senator from New Mexico.

The Chair informs the Senator from New Mexico that at 12:10 morning business is set to expire unless it is extended.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that morning business be extended for up to 15 minutes, until I conclude my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

CUBA

Mr. BINGAMAN. Mr. President, I first want to say a few words about our policy toward a neighboring country, Cuba.

The United States objectives in Cuba are not in dispute. Our primary objective is to move Cuba to a more democratic form of government and to a government with a greater respect for human rights. Also, of course, we want to see the lives of the Cuban people improve economically, and we want to see our historically close ties with this island neighbor restored.

First, let us review some of the facts that led us to the present circumstances we find ourselves in. Fidel Castro came to power in Cuba some 34 years ago, when I was still in high school and before several Members of this Congress were even born. He quickly established an authoritarian and anti-United States regime. He declared himself a Marxist-Leninist in December 1961. Early in 1961, the United States broke diplomatic relations with Cuba.

A year later, in February 1962, we imposed a comprehensive trade embargo. The reasons cited for that were three.

First, Castro's expropriation without compensation, much property owned by U.S. citizens, in excess of $1 billion.

Second, the Castro regime's obvious efforts to export revolution to other parts of the world.

And, third, the increasingly close ties that existed then between Castro's Government and the Soviet Union.

That was 33 years ago. During the past 33 years, we have maintained the trade embargo in place. In April 1961, we tried unsuccessfully in the Bay of Pigs to have Castro overthrown militarily. We began in 1985 to use Radio Martí to undermine Cuban support for Fidel Castro, and in the Bush administration just a few years ago we added TV Martí to the mix, as well.

In 1992, we passed the Cuban Democracy Act in an effort to tighten our trade sanctions. This year, we are being urged by some in this body to pass a new and tough measure entitled "The Cuban Liberty and Democratic Solidarity Act" in order to give Castro what the supporters of that legislation refer to as the "final push."

With all due respect to President Clinton and to many here in Congress, our policy toward Cuba today is still captive of the cold war mentality that created it in the first place. Simply put, the world has changed, and we continue to pretend otherwise.

Mr. President, this is 1995. Our 34-year-old policy of trying to remove or alter the behavior of Fidel Castro by isolating him diplomatically, politically, and economically has failed. History has passed that policy by. And the cold war, which provided much of the rationale for our policy, is now over.

We have normalized relations with China—Communist China, I point out. We have normalized relations with the countries of Eastern Europe and Russia, and with all the former States of the Soviet Union.

This morning, President Clinton goes to Moscow to meet with Boris Yeltsin, not to find ways to isolate Moscow or to impose sanctions on Moscow for their human rights abuses in Chechnya or elsewhere; our President travels to Moscow to strengthen our relations with that important country.

Mr. President, U.S. policy toward Cuba needs to adjust to this new reality, just as our policy toward those other nations has adjusted. For over three decades, we have tried to exclude

Cuba from acceptance by other nations. But our policy of trying to isolate Cuba diplomatically has made the United States the odd man out in the world community rather than Cuba. Of the 35-member nations of the Organization of American States, all but 5 recognize the Cuban Government and have normal diplomatic relations with it.

The Senator from North Carolina, who chairs the Senate Foreign Relations Committee, argues that the way out of this absurd situation is to turn up the pressure on Castro. As he says, "It is time to give Castro the final push."

Mr. President, the sanctions and the embargoes and the pressure that we put on Castro in the past 34 years have not undermined the support of the Cuban people for his Government as we have wished. In fact, a strong case can be made that the constant menacing by Uncle Sam has been used very effectively by Castro to divert the attention of the Cuban people from the shortcomings of his own Government and his own policies.

Mr. President, this administration has been slow to face the need to change in our policy toward Cuba. But last week, we hopefully saw the beginning of a more rational policy toward that nation. Last week, the administration announced that in the future, illegal immigrants from Cuba will be treated as other illegal immigrants into this country, and I for one hope that more steps will follow.

For example, as I stated here in the Senate several weeks ago, I believe the President should act to end the travel ban on Americans who wish to travel to Cuba. The President should also restore the right of Cuban-Americans to make small remittances to their families and to their relatives in Cuba. In my view, the time has also come when we should begin to normalize trade relations with that country.

Mr. President, I realize that it is politically difficult to change a long-established policy. It is especially difficult given the political posturing that is preceding our upcoming Presidential election. But the time has come to acknowledge that our current policy toward Cuba has failed miserably. NEWT GINGRICH referred yesterday to Cuba as "a relic of an age that is gone." I agree that Castro's Government is an anachronism. But it is no more so than our own misguided policy for dealing with that country.

Most agree that President Nixon's greatest achievement was his decision to change United States foreign policy and move toward normal relations with Communist China. That was many years ago, when the cold war was still very much with us. Now the cold war is over, and a new and a reasonable policy for our relations with Cuba is long overdue.

I for one believe that the responsible course for us to proceed with is to establish a new policy now.

V–E DAY

Mr. BINGAMAN. Mr. President, I would like to make a few statements about the occasion of May 8, 1995, V–E Day.

It is rather difficult to think of any event in the life of a nation more worthy of commemoration than the end of a world war. Remembrance and reflection are crucial if we are to maintain our sense of purpose as a nation, and our appreciation of what we value most.

The service and sacrifice of those who bore the battle at home and overseas in the Second World War can never be overstated. It was that willingness to give unstintingly not only of effort but also, in many cases, their lives, that makes the war years such an extraordinary period in our Nation's history.

Americans who fought the war came from every State in the country, and my home State of New Mexico certainly did its part. Our own friends and neighbors were heroic in their actions, in their service, and in their struggle. If not for their efforts, what would the world be like today?

Franklin Roosevelt, whose death 50 years ago we commemorated on the 12th of last month, left a monumental legacy for this country. Words from a speech that he wrote for delivery on April 13, 1945, had he lived to give that speech, still sound out a challenge, one rooted in the experience of the war and pinned to his knowledge of his countrymen. He wrote for that speech:

> The only limit to our realization of tomorrow will be our doubts of today. Let us move forward with strong and active faith.

We did that in the Second World War. So we must, every day, move forward now from the conflict that threatened to consume the world half a century ago. Without the service and the sacrifice that we honor today, we would have had no future as a nation. It is our obligation to those who secured that future for us to build on it as we approach the new century.

Thank you, Mr. President. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, are we still in morning business?

The PRESIDING OFFICER. We are still in morning business.

THE 50TH ANNIVERSARY OF V–E DAY

Mr. DASCHLE. Mr. President, today marks the 50th anniversary of V–E Day, the day that saw the end of the Second World War in Europe.

From its European beginning on September 1, 1939, with Hitler's invasion of Poland, to the surrender of the German armies in Italy, on April 29, 1945, the war that was supposed to usher in the 1,000-Year Reich ended after 6 years of death, genocide, and destruction on a scale never seen before or since.

The outcome of the war changed our world profoundly, with effects that still resonate today. It left the United States the sole undamaged world power. With that status came responsibilities that most Americans had not imagined at the outset. In the 50 postwar years, those responsibilities have demanded more in American treasure and lives than from any other participant.

European and Japanese cities suffered the destruction of repeated artillery fire and massive carpet bombing. European civilians found themselves uprooted, fleeing desperately from their historic hometowns as massive armies moved back and forth across frontiers. But Americans paid a price, too.

By 1990, it is estimated that the total cost of the Second World War to the United States had reached $4.6 trillion—including the postwar cost of veterans care and benefits. The cost of caring for our veterans is a cost of war, and should be recognized as such, lest we forget, decades later, the price of war in the form of our greatest treasure—our young men and women who served.

In total, more than 16 million American men and women served their Nation in World War II. More than 291,000 paid the ultimate price on the field of combat; 113,000 others died of wounds, accidents, illness—all the risks and dangers that attend service in wartime. All told, more than 405,000 American lives were cut short by the war.

Another 670,000 Americans were casualties in that war—men and women who returned with their health damaged, their bodies scarred, their lives changed.

Tens of thousands from every State in the Nation served in the Second World War. South Dakota, one of the Nation's least populous States, sent an estimated 60,000 men and women to fight. A postwar review in 1950 estimated that more than 10 percent of the South Dakotans who served earned citations for personal bravery, military valor, and, in three case, the highest military honor our Nation grants, the award for service "above and beyond the call of duty," the Congressional Medal of Honor.

The Medal of Honor is the decoration of which Harry Truman said he would rather have earned than be President.

Two of the three South Dakotans who won the Medal of Honor served in the Pacific War and returned home after the war. One, Joe Foss, became Governor of South Dakota. The third South Dakotan awarded the Medal of Honor served in the European theater. He died there, having established a record that is outstanding, even compared with his peers.

Capt. Arlo L. Olson, of Toronto, South Dakota, served in the Italian campaign in 1943. For 26 grueling days in the mountainous terrain northeast of Naples, he led his company by foot across the Volturno River into enemy-held territory, directly into enemy machine gun emplacement in some of the roughest fighting experienced by any American units in the war. He was shot on October 27, 1943, but refused medical treatment until his men had been taken care of. He died as he was being carried down Monte San Nicola.

The citations honoring South Dakotans are stirring. Harold G. Howey, in July 1943 in Sicily, faced a cliff fortified by the enemy and fought his way to the top under intense enemy fire despite his wounds. He won the Distinguished Service Cross and the Bronze Star Medal for his actions.

David Colombe of Winner leapt into a German foxhole, armed only with a knife, seized an enemy rifle and worked his way behind enemy lines, demoralizing the withdrawing soldiers with heavy fire and leading to the collapse of their defense. His Distinguished Service Cross was well earned.

Like other Americans, South Dakotans were captured. Melvin McNickle, one of the famous McNickle brothers of Doland, both of whom earned the Legion of Merit, maintained morale and discipline and preserved the lives of his fellow internees for 2 years in Stalag Luft III in Germany.

The hometowns of the men and women from South Dakota who fought in the war span the length and breadth of the State. They came from Sioux Falls and Rapid City, Aberdeen and Buffalo, Belle Fourche and Doland, Milbank and Spearfish.

They bore names that reflect the history of our State—Jorgenson, Novotny, Lauer, Kilbride, Rossow, Thompson, Fischer, Haag, Labesky, McGregor, Adams, Bianchi, Soissons, Zweifel—the people who settled South Dakota and became proud Americans from every corner of the Earth. Many of them fought on ground their fathers had called home.

South Dakotans take special pride in the heroism and courage of those like David Colombe of Winner, Vincent Hunts Horse of Wounded Knee—who won the Silver Star for the part he played in helping the United States Army capture Gondorf in Germany—and Sampson One Skunk, who took part in the raid on Dieppe in 1942 and the first attack on Anzio, and won the Silver Star for his exploits.

They are part of a proud and honorable tradition of native Americans who have served courageously and honorably in every U.S. conflict, from the Revolutionary War onward.

Last year Congress finally approved legislation to establish a national memorial acknowledging and honoring the heroism and service of native Americans in combat. The Native American Veterans' Memorial will pay an overdue tribute to those who served their Nation, even when their Nation did not serve them—to those who fought under the U.S. flag before they were even granted citizenship themselves in 1924.

Our Lakota-speaking people played an additional role in the Second World War, one that is now as well known as it deserves to be. They, like Navajo and Choctaw speaking native Americans, were the famous code talkers of the war—the people who manned the radio communications in native languages that no code-breaker or cipher specialist could decode, because language has no breakable code.

There is a monument in Phoenix, AZ, to the code talkers of the Navajo Nation. But there were others besides them. The Lakota speakers of the Sioux Nations of South Dakota and neighboring States were responsible for the safety and lives of thousands of their fellow Americans in combat.

Philip LaBlanc, of Rapid City, served with the 1st Cavalry Division from 1942 to 1945. Others—Baptiste Pumpkinseed, Oglala or Redbud Sioux, Eddie Eagle Boy of the Cheyenne River Sioux, Guy Rondell of the Sisseton-Wahpeton Dakota Nation, John Bear King of Standing Rock—all of them and their comrades manned radio communications networks, using Lakota, to advise of enemy troop movements, numbers of enemy guns, information crucial to saving the lives of other Americans.

These men worked 24 hours around the clock in headphones when the action was heaviest, without rest or sleep. Most famously, they served in the Pacific theater, but there were code talkers in the Italian and German theaters in Europe as well. Their work saved the lives of countless other Americans. Along with the Navajo and Choctaw code talkers, the Lakota code talkers deserve their own page in our national memory of the world war.

Philip LaBlanc himself served for 3 years without a single furlough. He left theater operations only after being hit and wounded by enemy gunfire.

As well as the men who manned the combat fronts in the war, the Second World War was the first one in which American women played a significant role. They did so both at home and abroad.

Although the myth is that the enemy declared total war, it was America who, in fact, declared total war. While Hitler imported slave laborers from Eastern Europe to work for the German housewife, American women ran the factories that were the arsenal of democracy. American women enlisted in support battalions of all kinds on active duty as well.

South Dakotan women were no exception. Edith Bolan of Rapid City raised three children, and worked as a welder during the war. It was her task to crawl into the small spaces that men could not reach to put the finishing touches on Navy ships. She made casings for bombs. She led the life that so many other American women, from coast to coast, experienced in the war.

Those who served on the homefront did not get the medals and citations of those serving in combat. But their work and dedication were every bit as important to the final victory. So was the work of the women closer to the frontlines.

Loretta Hartrich, a native of Sioux Falls, served with the Red Cross in the so-called clubmobiles that traveled with the frontline troops, serving coffee, doughnuts, and morale to the men at the front. The clubmobiles were often in harm's way, and the women who ran them risked death and entrapment when a fast-moving front shifted. Loretta remembers being asked to sing the "Indian Love Call" and having every repetition of "when I'm calling you" punctuated by German artillery.

American women served as nurses in rear units and on the front, landing on Normandy 4 days after the first Allied troops. They served in communications, administrative, and intelligence work throughout the duration of the war, and they, too, have earned the proud title of veteran.

Today, those once-young men and women are the proud veterans of service in what many have called the last good war. I understand what those words are meant to convey, but for those who saw active duty, who saw friends die, who felt the sheer brutality of heavy artillery attack or the random terror of combat on unknown, rough terrain against a well-trained and ruthless opponent, there was no good war.

Our cause was good, and it triumphed. But we triumphed at terrible personal cost to those Americans who served.

Some of our Senate colleagues served, and some bear the outward scars. Senator INOUYE, of Hawaii, served with the most decorated unit in the military in Italy campaign, and paid a high price for his valor. Senator DOLE served in Italy with great honor at enormous personal price. The veterans of the war who still serve in Congress were honored last week at a ceremony at the National Archives.

I am proud to serve in the Senate with all of them, and I express my sense of respect for their service, my gratitude as a citizen for their sacrifices, and my great pride, as an

American, for the spirit they and their colleagues in arms showed the world more than 50 years ago.

Great celebrations have occurred in the old Allied capitals in Europe to celebrate V–E Day. Another great celebration will be held in Moscow, to celebrate the end of what the Russians call the Great Patriotic War.

In America, there are no huge celebrations. We were the arsenal of democracy in that war, the productive force without which it might not have been won by the Allies. Our people suffered death and injury far from home, for causes and quarrels in which they had no direct stake.

The distance of 50 years does not erase the genuine hardship, difficulties, and pain they suffered or the price many of them paid. It was not a good war because there are no good wars for those in the line of fire. Like every war, it was vicious, uncaring of life, random in its accidents and mistakes, brutal for its participants.

And yet Americans served, and did so with distinction. We ought to take pause to take great pride in the kind of people we are, and to honor the memories of those who paid the ultimate price. Those who served have done more for their fellow citizens and for the future than any words can describe. They are American heroes, one and all, and we salute them.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, are we still in morning business?

The PRESIDING OFFICER. Morning business has not been closed.

THE 50TH ANNIVERSARY OF V–E DAY

Mr. DOLE. Mr. President, 50 years ago today, the guns were silenced in Europe, and that continent was at last freed from the tyrants who had plunged it into war.

And across the world on May 8, 1954, there were moments that are remembered today, and will be remembered for generations yet to come.

Here in Washington, at the White House, President Truman spoke to the American people by radio, with these dramatic words:

> This is a solemn and glorious hour. I only wish that Franklin Roosevelt had lived to witness this day. General Eisenhower informs me that the forces of Germany have surrendered to the United Nations. The flags of freedom fly all over Europe.

In New York City, a half a million people crowded into Times Square, and in main streets and town squares across America, smaller crowds gathered to celebrate.

In Paris, the boulevards that Hitler and his armies had once controlled were free again, and the French people rallied under the Arc de Triomphe.

And in London, Winston Churchill spoke before a large crowd, telling the people of Britain, "This is your victory." And many in the crowd shouted back that the victory was his. Later that night, the floodlights illuminated Buckingham Palace, Big Ben, and St. Paul's Cathedral for the first time in 6 years.

Anniversary celebrations are a time for remembering the past, but they are also a time for looking to the future. And as we celebrate this 50th anniversary of the Allied victory, let us remember the lessons that World War II taught us—lessons that hold for us still.

We learned that we cannot turn our backs on what happens in the rest of the world.

We learned that we can never again allow our military to reach low levels of readiness and supplies.

We learned that we cannot appease tyrants and despots, and perhaps above all, we learned the critical importance of American leadership.

Yes, before our involvement, Britain courageously fought on against the odds. And, yes, Russia, after initially siding with the Axis Powers, helped to turn the tide when the Nazis turned against them.

But, the war could not have been won and would not have been won without the commitment, the manpower, and the leadership of the United States. It is that simple.

It was American leadership that built the arsenal of democracy which made victory possible.

It was American leadership that held the Allies together through the darkest days of the war.

And it was American leadership which conquered the forces of tyranny and restored liberty and democracy to Europe.

And when I talk about leadership, I do not mean just the famous names of Roosevelt, Truman, Eisenhower, Marshall, Churchill, and de Gaulle. And I do not just mean the soldiers who fought their way across Europe and the Pacific. For we must also thank those who served at home—the Gold Star moms, the factory workers, and the farmers. Without their contribution and their sacrifice, the war effort could not have been successful.

So, today is a day for all of us to celebrate the triumph of democracy, and to honor those who served and those who paid the ultimate price on behalf of their country.

And the best way we can do that is to rededicate ourselves to the promise that President Reagan made on behalf of America on the beaches of Normandy 11 years ago:

> We will always remember. We will always be proud. We will always be prepared, so we may always be free.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I indicated earlier, I will have a resolution concerning V–E Day, which I hope we will be able to submit to the Democratic leader in the next few moments and have a discussion on that and, hopefully, have a vote on that about 4 o'clock. We still, as I understand it, have a cloture vote at 4 o'clock, plus votes on any amendments that may occur prior to 4 o'clock. Following that, it is our intention to take up the Deutch nomination to be CIA Director, and have that debate this evening and then have the vote tomorrow morning on the nomination.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRODUCT LIABILITY BILL

Mr. SPECTER. I thank the Chair.

Mr. President, I have sought recognition to comment about the pending legislation on products liability on which there is a cloture vote scheduled for 4 o'clock this afternoon, that is, a vote to cut off debate.

As I have expressed in the prior debate, it is my view that it would be appropriate to have reform on product liability, providing the reform is very, very carefully crafted.

As I have noted in previous speeches, I have represented both plaintiffs and defendants in personal injury cases. I had one large product liability case, which I litigated many years ago. Actually, it was ultimately settled. But the issue in the case concerning privity and coverage for a passenger in an automobile was widely noted in the law reviews. I have therefore had occasion to do very extensive research in the area, although that was some substantial time ago.

I believe that a very key provision for limiting frivolous lawsuits would be to tighten up the current mechanism to give greater authority under rule 11 to the judges who sit on those cases to try to influence or discourage frivolous lawsuits.

My reading of the substitute amendment shows that the amendment offered by the distinguished Senator from Colorado, Senator BROWN, an amendment which I supported and which I think would be of substantial help in discouraging frivolous litigation, and therefore a provision which I think ought to be in the bill, has been deleted.

With respect to the issue of punitive damages, I am very reluctant to see the provisions of the current bill enacted into law, because there are so many cases which have been disclosed in product liability litigation where companies, major companies, have made a calculated determination that it is in their financial interest not to make repairs or changes, because the damages awarded in litigation will be lesser than the costs of making the modifications.

Perhaps the most celebrated case—but there are many others like it—is the Pinto case, where the gas tank was left in a very dangerous position in the rear of the car and resulted in explosions when there was impact, a very common kind of accident in automobile driving, rear-end collisions.

As a result of product liability litigation, it was disclosed that there was a memorandum in the files of the defendant company, Ford Motor Co., actually a letter to the National Highway Transportation Safety Administration, in which there was a computation as to what it would cost to pay damages for people injured or killed as a result of the placement of the gas tank, as to what it would cost to make the repairs. The calculated decision was not to make the repairs.

And then you have the famous cases of IUD's made by A.H. Robins, in which it was known for a long period of time they would cause problems for women, such as infections and sterilization.

There were blood cases with AIDS being transmitted, and a failure to take appropriate action. And there were the flammable pajamas. There have been many cases, some even resulting in criminal prosecutions. I discussed many of these cases last week.

So on the current state of the record, my own sense is that there needs to be further refinement of the provision on punitive damages.

The revised bill does contain an amendment offered by the distinguished Senator from Ohio, Senator DEWINE, which would limit punitive damages to small businesses, and small businesses are defined as those having fewer than 25 employees or a net worth of under $500,000. It may be that this provision would go far beyond product liability cases and would affect all ranges of tort litigation, including medical malpractice cases. I do not know if that is the intent.

It also may be that this amendment to protect small businesses does not bear a sufficient nexus to interstate commerce in affecting all tort cases, so that we may be legislating beyond our authority, as interpreted by the Supreme Court of the United States recently in the Lopez case. I think that is another matter which requires some amplification.

I do believe that there is some limitation appropriate on punitive damages where small businesses are involved. I have heard the complaint that a defendant small business is often compelled to make a settlement that it would not make if it was not betting the business on it. I have filed a proposed amendment, and will refile it so it would survive postcloture, if cloture is invoked, so that the amendment will be on record to be considered, which would limit punitive damages to 10 percent of the net worth of a business, so that there would not be a problem of betting the business in litigation.

The substitute also deletes alternative dispute resolution, which I regret to see, because I think that is a way of eliminating many cases from the litigation process, by having alternative dispute resolution, which is a fancy name for arbitration or mediation. That is not present in the current bill.

I express again the concern about totally eliminating joint liability for noneconomic damages as a Federal standard, where some States have elected to do that as a matter of States rights and others have not. I note again my support for the amendment offered by the distinguished Senator from Tennessee, Senator THOMPSON, which would have limited this bill to litigation in Federal courts, which would have been more in accordance with the mood of the Congress and the country now to let the States decide these matters for themselves.

On the issue of joint liability, I am very sympathetic to the claim that some people or some defendants are in it, people or individuals or companies, to a very slight extent—maybe 1 percent—and they have the full responsibility for the verdict. I have filed another possible amendment which would limit joint liability for noneconomic damages if the defendant was not responsible for in excess of 15 percent of the injury, which I think would provide a better balance there.

Again, I will comment about the case involving the death of our late colleague, Senator John Heinz, where there was a collision between a helicopter and the plane in which Senator Heinz was a passenger. The planes fell into a schoolyard where there were children on the ground, and some were killed and some were injured. Those victims could not have been compensated fully if joint liability had been eliminated.

While it is always a difficult choice as to who will bear the loss, and difficult for some defendants who are involved to a lesser extent where other defendants are insolvent, but as between injured plaintiffs who are not responsible at all for what has happened and those who have been held liable and are subject to payment for joint liability, my own sense is that there ought not to be the total elimination of joint liability for noneconomic damages, which is the thrust of the present legislation.

I am hopeful, Mr. President, that we can craft legislation which will make an improvement in product liability litigation. But on the current state of the record, I think the substitute still does not address the real needs of consumers and does not strike an appropriate balance between those who are sued and those who are bringing claims.

I thank the Chair and I yield the floor.

COMMEMORATING THE 50TH ANNIVERSARY OF THE FORCED MARCH OF AMERICAN PRISONERS OF WAR FROM STALAG LUFT IV

Mr. WARNER. Mr. President, today we commemorate the 50th anniversary of the end of World War II in Europe. Victory in Europe Day is one of the milestone dates of this century. I rise today to honor a group of Americans who made a large contribution to the Allied victory in Europe while also enduring more than their fair share of personal suffering and sacrifice: The brave men who were prisoners of war.

I believe it is appropriate to commemorate our World War II POW's by describing one incident from the war that is emblematic of the unique service rendered by those special people. This is the story of an 86-day, 488-mile forced march that commenced at a POW camp known as Stalag Luft IV, near Gross Tychon, Poland, on February 6, 1945, and ended in Halle, Germany on April 26, 1945. The ordeal of the 9,500 men, most of whom were U.S. Army Air Force Bomber Command noncommissioned officers, who suffered through incredible hardships on the march yet survived, stands as an everlasting testimonial to the triumph of the American spirit over immeasurable adversity and of the indomitable ability of camaraderie, teamwork, and fortitude to overcome brutality, horrible conditions, and human suffering.

Bomber crews shot down over Axis countries often went through terrifying experiences even before being confined in concentration camps. Flying through withering flak, while also having to fight off enemy fighters, the bomber crews routinely saw other aircraft in their formations blown to bits or turned into fiery coffins. Those who were taken POW had to endure their own planes being shot down or otherwise damaged sufficiently to cause the crews to bail out. Often crewmates—close friends—did not make it out of the burning aircraft. Those lucky enough to see their parachutes open, had to then go through a perilous descent amid flak and gunfire from the ground.

Many crews were then captured by incensed civilians who had seen their property destroyed or had loved ones killed or maimed by Allied bombs. Those civilians at times would beat, spit upon, or even try to lynch the captured crews. And in the case of Stalag Luft IV, once the POW's had arrived at the railroad station near the camp, though exhausted, unfed, and often wounded, many were forced to run the 2 miles to the camp at the points of bayonets. Those who dropped behind were either bayonetted or bitten on the legs by police dogs. And all that was just the prelude to their incarceration where they were underfed, overcrowded, and often maltreated.

In February 1945, the Soviet offensive was rapidly pushing toward Stalag Luft IV. The German High Command determined that it was necessary that the POW's be evacuated and moved into Germany. But by that stage of the war, German materiel was at a premium, and neither sufficient railcars nor trucks were available to move prisoners. Therefore the decision was made to move the Allied prisoners by foot in a forced road march.

The 86-day march was, by all accounts, savage. Men who for months, and in some cases years, had been denied proper nutrition, personal hygiene, and medical care, were forced to do something that would be difficult for well-nourished, healthy, and appropriately trained infantry soldiers to accomplish. The late Doctor [Major] Leslie Caplan, an American flight surgeon who was the chief medical officer for the 2,500-man section C from Stalag Luft IV, summed up the march up this year:

> It was a march of great hardship * * * (W)e marched long distances in bitter weather and on starvation rations. We lived in filth and slept in open fields or barns. Cothing, medical facilities and sanitary facilities were utterly inadequate. Hundreds of men suffered from malnutrition, exposure, trench foot, exhaustion, dysentery, tuberculosis, and other diseases.

A number of American POW's on the march did not survive. Others suffered amputations of limbs or appendages while many more endured maladies that remained or will remain with them for the remainder of their lives. For nearly 500 miles and over 86 days, enduring unbelievably inhumane conditions, the men from Stalag Luft IV walked, limped and, in some cases, crawled onward until they reached the end of their march, with their liberation by the American 104th Infantry Division on April 26, 1945.

Unfortunately, the story of the men of Stalag Luft IV, replete with tales of the selfless and often heroic deeds of prisoners looking after other prisoners and helping each other to survive under deplorable conditions, is not well known. I therefore rise today to bring their saga of victory over incredible adversity to the attention of my colleagues. I trust that these comments will serve as a springboard for a wider awareness among the American people of what the prisoners from Stalag Luft IV—and all prisoner of war camps—endured in the pursuit of freedom.

I especially want to honor three Stalag Luft IV veterans who endured and survived the march. Cpl. Bob McVicker, a fellow Virginian from Alexandria, S. Sgt. Ralph Pippens of Alexandria, LA, and Sgt. Arthur Duchesneau of Daytona Beach, FL, brought this important piece of history to my attention and provided me with in-depth information, to include testimony by Dr. Caplan, articles, personal diaries and photographs.

Mr. McVicker, Mr. Pippens, and Mr. Duchesneau, at different points along the march, were each too impaired to walk under their own power. Mr. McVicker suffered frostbite to the extent that Dr. Caplan told him, along the way, that he would likely lose his hands and feet—miraculously, he did not; Mr. Pippens was too weak from malnutrition to walk on his own during the initial stages of the march; and Mr. Duchesneau almost became completely incapacitated from dysentery. By the end of the march, all three men had lost so much weight that their bodies were mere shells of what they had been prior to their capture—Mr. McVicker, for example, at 5 foot, 8 inches, weighed but 80 pounds. Yet they each survived, mostly because of the efforts of the other two—American crewmates compassionately and selflessly helping buddies in need.

Mr. President, I am sure that my colleagues join me in saluting Mr. McVicker, Mr. Pippens, Mr. Duchesneau, the late Dr. Caplan, the other survivors of the Stalag Luft IV march, and all the brave Americans who were prisoners of war in World War II. Their service was twofold: first as fighting men putting their lives on the line, each day, in the cause of freedom and then as prisoners of war, stoically enduring incredible hardships and showing their captors that the American spirit cannot be broken, no matter how terrible the conditions. We owe them a great debt of gratitude and the memory of their service our undying respect.

FRANKLIN, NH, MARKS ITS CENTENNIAL

Mr. GREGG. Mr. President, I ask my Senate colleagues to join me in recognizing the city of Franklin, NH, on the occasion of its centennial and in appreciation of the contributions its citizens have made to our Nation.

Founded at a gathering spot of the Penacook Tribe, where the Pemigewasset and Winnipesaukee Rivers meet to form the Merrimack River, Franklin proudly traces its roots deep into the history of our State and our Nation. It is here, at the original settlement of Lower Falls, where Franklin's most famous native son, Daniel Webster, would commence a career as lawyer and statesman and, eventually, go on to establish both an honored place in this Senate and a prominent role in the shaping of America.

From this settlement, Capt. Ebenezer Webster, Daniel's father, would lead a company of local men to earn distinction in the Revolutionary War and help win the independence of a new nation. Their heroics during the campaign at Saratoga begins an unbroken line of Franklin's sons and daughters serving our Nation and the cause of liberty with honor, loyalty, and valor.

Successful in commerce, Franklin was incorporated as a town in 1828 and as the city of Franklin in 1895. The historic mill town would give rise to the engineering ingenuity of Boston John Clark and the technological innovations of Walter Aiken and make significant economic contributions to our society. Spurring inventions from the deceptively simple hacksaw and the latch needle to the complexity of the circular knitting machine, Franklin would again play a pivotal role in the second industrial revolution, which propelled us forward as a modern nation.

Today, the city of Franklin continues to exhibit the character and enterprise of its distinguished past. Hardworking, first in citizenship, and steadfast in its sense of community, Franklin continues to show the can-do spirit that marked its beginnings and first 100 years as a city. Recently, named one of the 100 best small communities in America, a base for advanced industry, rich in heritage, and energetic in shaping its future, Franklin is truly a "Small City on the Move."

Join me to proudly salute Franklin, NH, the birthplace of Daniel Webster, and the enterprising spirit that has enriched a community, the State of New Hampshire, and our Nation.

V-E DAY 1995

Mr. CRAIG. Mr. President, 50 years ago, U.S. forces, along with those of our valiant and embattled allies, formally ended the victorious struggle to contain a horrific evil that had spread across the European continent. For those Americans who attended the ceremonies that marked the Nazi surrender, it was a solemn moment, for the struggle had been long and bloody, and the price to defend freedom had come at a very high cost. For the world there was joy, renewed hope of lasting peace, and resolve to protect the freedom for which so many had offered up their lives. Today many of those hopes which are held deeply in the hearts of the veterans who served, their families, and a generation of Americans who lived through the war, have become a reality.

For Americans too young to remember the war and those born into this world in its aftermath, we have a special obligation this day to our parents, our grandparents, and to our children and future generations of Americans; 50 years from today most of those who remember the war will no longer be with us. It is, therefore, our responsibility to learn about what happened, and why it happened. We must ask those who fought in World War II what it was all about. We must remember the sufferings and the sacrifice, lest we become complacent with our freedom and suffer the consequences. We must all, every one of us, learn from our own history. Now, 50 years later, we must redouble our efforts to understand by talking to those who were there, those who remember it.

Americans who lived through this time and made the sacrifices, have one last talk. It is now your duty to pass on to those of us who weren't on the battlefields of Europe, or fighting on the "homefront" what happened during the war, so that we can learn from your experiences and pass along to future generations from the lesson's of the power of hatred and the price of protecting freedom for all.

This day I encourage parents and grandparents to take some time to talk to your children and grandchildren about World War II. You heroic veterans, tell them about the terrifying face of battle. Do not try to protect them from the brutal images that you have carried with you for all these years. Those of you who fought on the homefront, tell them about the hardships of home, the fears, the rationing; the friends, loved ones, and neighbors who never came home. Tell them why it all happened. Tell them about the price of acquiescence, isolation, and complacency.

You children and grandchildren, the future of the world, go to your grandparents and parents, call them on the phone, and ask them what it was like. And, take the time to read about it, and understand that they bought you the freedom that we now enjoy. Ask them how they felt when its future was uncertain. They remember, they will be glad to tell you. Listen hard, as if your life depends on it, because it does. And thank them for what they have done for you. Your job is never to forget the stories they have to tell you. Your job is to learn those lessons now so that your children will never again be called upon to smite such evil from the Earth.

This is also a day when all of us should turn, particularly to those veterans who live among us, and offer to them our humble and loving thanks. The great State of Idaho sent thousands of men off to war in Europe. Many, many of them never again laid their eyes on the mountains, deserts, the forest, of Idaho, and lay buried in foreign graves. The veterans who still walk among us, might have suffered the same fate, if God had not chosen for them a different path. They risked their young lives for us, and suffered unimaginable horrors, so that we might not have to. The people of Idaho, the Nation, and the world, owe them everything.

Once in a while, as we live our busy lives with all of the challenges and trials that accompany them, we get the chance to stop and think about why we are able to live in this, the greatest Nation on Earth, in such freedom. Today is such a day. When envisioning the drama and pain of that conflict become difficult to imagine, draw upon those who lived through it, and learn from them.

And as we pay solemn tribute to the memories of the victims, and the survivors, the brave, and the victorious, let us be mindful of what led to this terrible war and thankful to those who fought it. Let us not forget the cost of freedom. And let us pray that God give us peace.

IN SUPPORT OF OUR NEIGHBORS, FRIENDS, THE FEDERAL EMPLOYEES

Mr. LEAHY. Mr. President, for the last two decades, our Federal employees seem to be handy scapegoats for anything that goes wrong with Government. Whenever anyone on this floor mentions "those Federal bureaucrats," the syntax is generally pejorative and the reference, unflattering. The collective term "bureaucracy" is uttered in the same tone of revulsion reserved for former leaders of the "evil empire."

So it was refreshing to read an editorial in last Saturday's Times-Argus, which serves our State capital of Montpelier, VT.

The editorial simply reminds us that many victims of the Oklahoma City bomb explosion were "our friends, neighbors, brothers, and sisters who work for the Federal Government."

It seems to needful reminder in these times to be a little more respectful of the effort we get every day from millions of these men and women who work for us in every capacity, from guarding our national security to protecting our rights as citizens, from fighting crime to enforcing public health and safety standards, from exploring space to cleaning up our air and water here on Earth.

I ask that this editorial be reprinted in the CONGRESSIONAL RECORD. I am not suggesting that criticism of Government operations is off limits. I am only asking that it be fair. The hundreds of Federal workers in my State of Vermont, are among the most dedicated and hard working men and women, in public or private life, in our country. Let us stop careless impugning of their professional integrity.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Times Argus, May 6, 1995]

NEIGHBORS, FRIENDS

One of the results of the bombing attack on the federal building in Oklahoma City has been to put a human face on the entity known as the "federal government."

The people whose job it was to hand out Social Security checks, to enforce the laws about drugs and firearms, or to recruit people for the military were the neighbors, friends, brothers, sisters of the people of Oklahoma City.

In Vermont the federal government consists of Forest Service rangers and office workers, agriculture specialists, the Marine recruiter, the Social Security workers, the court personnel and others who live every day among us. These are our neighbors, friends, brothers, sisters.

And yet to hear the more virulent strains of attack emanating from anti-government extremists, these people are an exotic combination of Nazi, Communist and Genghis Khan.

A Colorado talk show host, responding to a caller who thought it was a good idea to shoot members of Congress, advocated "armed revolution."

A talk show host in Arizona suggested that Sarah Brady, the gun control advocate and wife of President Reagan's former press secretary, ought to be "put down" the way a veterinarian puts down a lame horse.

And, of course, the advice of Watergate burglar G. Gordon Liddy to shoot for the head when confronted by federal agents has become a famous example of the antigovernment rhetoric that has become so common.

Imagine for a moment that it was the Rev. Jesse Jackson or Ralph Nader or Patricia Ireland who was advising people to shoot government workers. Would conservatives hesitate for a moment in pointing out that such violent language may be less than conducive to the good of the public weal? Yet when President Clinton made the rather tentative suggestion that this language was really not so helpful, media incidiarists whined that they were being unfairly attacked.

Back in the 1960s anti-war dissenters, black power advocates, and other dissatisfied souls said a lot of stupid things that embarrassed even those who opposed the war or supported the civil rights struggle. Talk then of armed revolution was a naive delusion that was taken all too seriously by a few people, who sometimes ended up getting innocent people killed.

A lot of stupid things are being said again about our friends, neighbors, brothers, sisters who work for the federal government. In the West, there are soreheads with a grievance about the way the federal government manages public lands who are preventing federal workers from doing their jobs.

Everybody ought to remember that federal lands in the West do not belong only to the people who live there. They belong to all of us. We have people working for us to manage our lands. And people who don't like the way they are being managed have a democratic process to avail themselves of to change things.

It wasn't true in the 1960s, and it isn't true now: Our government is not a dictatorship, and armed revolution is not justifiable. The government in Oklahoma, in Boise or in Montpelier consists of our friends, neighbors, brothers and sisters, who, like the rest of us, are not always right about everything they do. But that's the great thing about democracy: We have peaceful methods for making changes. We also have the duty to hold accountable those who break the law in an effort to attack our system.

VICTORY IN EUROPE DAY

Ms. MIKULSKI. Mr. President, today we are commemorating one of the proudest days in our history—Victory in Europe Day. World War II was no less than a triumph of good over evil. As President Harry Truman said, it was "a solemn and glorious hour." Today we celebrate our victory over the Nazis—and we honor those who gave their lives in the most deadly conflict we have ever seen.

But most of all, we honor the Americans whose personal sacrifices gave us our greatest victory. In Maryland, thousands left factories, shops, and farms to fight on the front lines. People like my uncles Pete, Fred, Richard, and Florene. We also honor those on the homefront who kept the steel mills and shipyards going 24 hours a day to serve the war effort. That includes the women—the Rosie the Riveters who kept America going while our boys fought on the battlefields.

Eleanor Roosevelt said that those days were no ordinary time and that no ordinary solutions would be sufficient to defeat the enemies of America and Western civilization. Not only was this no ordinary time, this was no ordinary generation.

I was a child during the War. I grew up seeing the heroism and patriotism of our soldiers—and seeing America united behind a common goal. I saw the sacrifices that individuals were willing to make for our country. That was the only America I knew.

Our veterans of World War II are each a symbol of the principles that have kept this country strong and free. When we think of our veterans, we think of everything that is good about this country—patriotism, courage, loyalty, duty and honor. Our responsibility is to live up to the standards they have set—to foster a new sense of citizenship and a new sense of duty.

That is why it troubles me that too often, young Americans do not learn enough about this special generation. It is our responsibility to honor our Nation's veterans—not just on V–E Day—but every day. Let us honor them in our homes, our schools, our churches, and our synagogues. And here in the U.S. Senate—when we set funding for veterans health care and pensions.

Every day that we live in freedom, we should remember that their triumph was democracy's greatest victory.

THE 50TH ANNIVERSARY OF VICTORY IN EUROPE

Mr. DODD. Mr. President, today marks the anniversary of one of the most important moments in modern Western history. Fifty years ago today, the Allied Powers accepted the unconditional surrender of Nazi Germany, ending the most devastating war in world history. It was a great victory for freedom and for civilization.

The Allied victory was one of courage, valor and enormous sacrifice. Of the hundreds of major battles fought during the war, 15 resulted in casualties numbering no less than 5,000. From the beaches at Omaha to the great campaigns in Europe, American lives were sacrificed in the name of freedom.

The victory in Europe marked the end of unparalleled human horror and of catastrophic human loss on that continent. It signified the end of one of civilization's darkest moments. In essence, V–E Day marked the very rebirth of life in Europe's scarred, and war-torn landscape. But that rebirth did not come without a price.

We must never forget the sacrifices made to ensure our final victory. Of the 400,000 American soldiers who died in this horrible war, most lost their lives on the ground, in the trenches—literally clawing for victory inch by inch. The magnitude of the human price of this effort should command our deepest personal respect. We can never adequately thank our veterans for their supreme sacrifice.

Yet, through the images of fire and the remnants of ashes rises the hope that never again will we face such darkness. Never again will we face the prospect of such global sacrifice. Never again will the forces of freedom be asked to lay down their lives en masse in the name of peace and order.

Today marks the seminal moment in the American chapter of the War in Europe. It reminds us of our absolute resolve to maintain and preserve what is right and just. I join my colleagues in what is perhaps one of our most solemn moments in recognition of those who sacrificed so much for our freedom.

Mr. President, in honor of our fallen veterans, I rise in humble tribute.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, more than 3 years ago I began these daily reports to the Senate making a matter of record the exact Federal debt as of close of business the previous day.

As of the close of business Friday, April 28, the exact Federal debt stood at $4,857,682,676,296.70, meaning that on a per capita basis, every man, woman, and child in America owes $18,439.85 as his or her share of the Federal debt.

It's important to note, Mr. President, that the United States had an opportunity to begin controlling the Federal debt by implementing a balanced budget amendment to the Constitution. Unfortunately, the Senate did not seize its first opportunity to control this debt—but there will be another chance during the 104th Congress.

A PERSONAL REMEMBRANCE OF V–E DAY

Mr. LEVIN. Mr. President, this morning Samuel Pisar, a distinguished survivor of the Nazi death camps at Auschwitz, Sachsenhausen, Leonberg, and Dachau delivered the keynote address at the U.S. Holocaust Memorial Museum's commemoration of the 50th anniversary of V–E Day.

I was very moved by Mr. Pisar's expression of gratitude to his liberators, the U.S. Army. He recounted his first words to the GI in the American tank which rescued him, "I . . . summoned the few English words my mother used to sigh while dreaming of our deliverance, and yelled: 'God Bless America!' "

That gratitude, in Mr. Pisar's words, "as intense as it was 50 years ago," serves to remind us all of the role which America has and continues today to play in the world as a beacon of hope for oppressed people.

I ask unanimous consent that the excerpt of Samuel Pisar's address printed Sunday in the Washington Post be printed in the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 7, 1995]

ESCAPE FROM DACHAU: MY OWN, PRIVATE V–E DAY—FOR PRISONER B–1317, SALVATION WAS A U.S. ARMY TANK

(By Samuel Pisar)

World War II was coming to an end, yet we in the death camps knew nothing. What is happening in the world outside? Does anyone out there know what is happening here to us? Do they care? I was 15 years old, and I wanted to live.

The day the Allies landed on the beaches of Normandy had been for us a day like any other. The toll in the gas chambers that day was higher than the losses suffered by the combined armies under Gen. Eisenhower's command on this, their longest day.

Judging by the brutality of our guards, we had every reason to believe that all of Europe was irrevocably lost, the Red Army smashed, England fighting alone, its back to the wall, against the seemingly invincible forces of darkness. And America? America was so unprepared, so divided, so far away. How could she be expected to reverse the collapse of civilization at this penultimate stage?

It took weeks for news of the U.S.-led invasion, beamed by the BBC from London, across occupied Europe, to slip into Auschwitz. There was also an amazing rumor that the Russians had mounted a powerful offensive on the Eastern front.

Incredible! So God had not turned His face from the world after all. Could a miracle still prevent the millenium of the Third Reich? Oh to hang on, to hang on a little longer!

We could guess from the Nazis' mounting nervousness that the weight of battle was changing decisively. With the ground shrinking under their feet, they began herding us deeper and deeper into Germany. I was shunted to Sachsenhausen near Berlin, then Leonberg near Stuttgart, then Dachau near Munich—camps normally reserved for political prisoners, common criminals and homosexuals.

It was a slave-labor enclave 50 miles away that I heard the silence of night torn by powerful explosions. Fellow inmates with military experience thought it sounded like artillery. Within hours, we were lined up to be evacuated, ahead of the "enemy advance." These forbidden words, never before heard, and even names of "enemy" commanders—Zhukov, Montgomery, Patton—were now openly murmured.

I was beside myself with excitement. Who are these merciful saviors—Russians? British? American? Salvation seemed so near, and yet so far away.

Just as the hope of pulling through became more real, the danger increased. We were headed back to Dachau, which meant that at the last moment our torturers would destroy us. The final solution must be completed, the witnesses of the crime wiped out.

The death march, through winding back roads, continued day and night, halting only for meager rations of bread and water. At dawn, on the third day, of squadron of Allied fighter planes, mistaking our column for Wehrmacht troops, swooped down low to strafe us.

As the SS-men hit the dirt, their machine gun blazing in all directions, someone near me shouted "run for it!" A group of us kicked off our wooden clogs and made a clumsy, uncoordinated sprint for the trees. The fire caught most of us. Only I and five others made it into the forest alive.

We ran and ran, gasping for breath, until we were sure there was no pursuit. After nightfall we began to move toward the Western front. When we came close we decided to lie low, until the German retreat had passed us by.

One bucolic afternoon, holed up in the hayloft of an abandoned Bavarian barn, I became aware of a hum, like a swarm of bees, only louder, metallic, unearthly. I peeped through a crack in the wooded slats. Straight ahead, across the field, a huge tank leading a long, armored convoy lumbered my way.

From somewhere to one side I could hear the sound of exploding mortars. The tank's long cannon lifted its round head, turned slowly and let loose a deafening blast. The firing stopped. The tank resumed its cautious advance.

Automatically, I looked for the hateful swastika, but there was none. Instead I saw an unfamiliar emblem—a five-pointed white star.

In an instant the unimaginable flooded my mind and my soul. After four years in the pit of the inferno, I, convict No. B-1713, also known as Samuel Pisar, son of a loving family that has been wiped off the earth, have actually survived to behold the glorious insignia of the United States Army.

My skull seemed to burst. With a wild roar I stormed outside and darted toward the wondrous vision. I was still running, waving my arms, when suddenly the hatch of an armored vehicle opened, and black face, shielded by helmet and goggles, emerged, swearing at me unintelligibly.

Having dodged death daily for so long, at the awesome moment I felt immortal, though to the G.I. my condition, at the heart of a battlefield, must have seemed desperate. Pistol in hand, he jumped to the ground to examine me more closely, as if to make sure the kid was not booby-trapped.

To signal that I was a friend, and in need of help, I fell at his feet, summoned the few English words my mother used to sigh while dreaming of our deliverance, and yelled: "God Bless America!"

With an unmistakable gesture, the tall American motioned me to get up, and lifted me through the hatch—into the womb of freedom.

On V-E Day 1995, my gratitude to this blessed land, never trampled by tyrants or invaders, is a intense as it was 50 years ago, on that German battlefield. So is my conviction that the five-pointed star, which brought me life and freedom, must remain a symbol of hope to all victims of ethnic hatred, religious intolerance and terrorist violence.

V-E DAY—A VICTORY FOR AMERICAN VALUES

Mr. PRESSLER. Mr. President, today I join my fellow Americans and millions of freedom-loving people around the world in celebrating the 50th anniversary of Victory in Europe Day.

I am enormously proud of the South Dakotans who answered their Nation's call to free Europe from Nazi terror. The 34th Infantry Division—the first American division to serve in the European theater—included three South Dakota National Guard units: the 109th Engineer Battalion, the 109th Quartermaster Regiment, and the 132d Engineer Regiment. South Dakotans were with Eisenhower, Patton, and Bradley when they invaded North Africa in 1942 and Italy in 1943.

More than 2,200 South Dakota National Guardsmen served on active duty. More than 41,000 South Dakotans between the ages of 21 and 36 were called into military service through the draft and 23,192 South Dakotans enlisted. Hundreds more served as State guardsmen to respond to civil and military emergencies at home.

South Dakota was a temporary home to many of our brave soldiers in training. The Sioux Falls Training Base provided technical instruction to 45,000 servicemen. Pierre and Rapid City were sites for airbases. The latter would ultimately become Ellsworth Air Force Base. Watertown and Mitchell served as subbases for the Army. Provo was the site of the Black Hills or Igloo Ordnance Depot. And an area in the Badlands, known as the Gunnery Range, was used for bombing practice by the military.

I join with all Americans in saluting the enormous contributions of our native Americans from South Dakota in the war effort. Congressman Ben Reifel—born on the Rosebud Reservation—was in the Army Reserve when called to active duty in 1942. He served in Europe. Reifel reached the rank of lieutenant colonel by the time of his discharge after the war.

The Lakota and Dakota code talkers' contributions deserve special recognition. Their service back then was invaluable. Their story is still legendary and a source of pride to all Americans.

My former colleague and dear friend Senator George McGovern was a World War II veteran and hero. As an Army Air Corps pilot, Senator McGovern flew 35 bombing missions over Europe in a 6-month period. He also received the Distinguished Flying Cross for safely crash-landing his B-24 bomber—the *Dakota Queen*—on an island in the Adriatic Sea.

South Dakotans know well the heroism of Msgr. Francis Sampson, known as the Jumping Padre. Monsignor Sampson was a paratrooper—one of the first American liberators in the 82d and 101st Airbornes to set foot on European soil on D-Day. He was captured by the Nazi Army, escaped and was captured again, spending the rest of the war in a German prison camp.

Mr. President, the greatest share of gratitude and tribute we owe to our American and Allied veterans—living and dead. For it is they who put their lives on the line so that their children and grandchildren could live in a world free of Nazi terror. From the shores of Normandy to the forests of the Ardennes, American veterans pryed open Hitler's tyrannical stranglehold over Europe. But we must not forget Americans at home. It was just as much a Victory in America as it was a Victory in Europe.

South Dakotans will never forget the tremendous service of Governors Harlan J. Bushfield and M.Q. Sharpe, who met the enormous challenges of raising the State's National Guard and organizing civil defense drills and bond drives throughout the war years.

South Dakotans volunteered and raised funds for eight United Service Organization [USO] clubs in South Dakota. These USO clubs were much needed to boost morale among the troops stationed in our State.

South Dakotans young and old dug deep into their pockets and piggy banks to keep American troops armed, fed, and clothed. During eight national fund-raising campaigns, South Dakota exceeded its quotas. South Dakota consistently ranked first or second in the per capita sale of the Series "E" war bonds, known as people's bonds. In total, South Dakotans raised $111.5 million from the sale of people's bonds—that's $173 for every South Dakotan adult and child. Some South Dakotans even sacrificed their homes and property for the war effort.

South Dakotans worked overtime in the fields and factories of our State growing the food and building the supplies for our troops. Workers in the K.O. Lee Co. of Aberdeen made grinders and keyless drill chucks. The Dakota Sash and Door Company, also of Aberdeen, constructed wooden shell boxes. The Nichols Co., located in Spencer, manufactured leather carbine scabbards for jeeps.

Mr. President, I could go on and on to note the tremendous accomplishments of my State to the war effort. It is a story that each one of my colleagues could echo. Each State, each American had a hand in the victory. Our hearts and minds were with our courageous American forces overseas. They answered the call. They stood face to face with Hitler's machine of hate and oppression. They turned the tide of Nazi aggression.

But we could not have won on the European front without a victory on the home front. Our American forces in Europe were the best trained, best fed, and best supplied liberating force ever constructed on the planet. They were the best ever abroad because we were the best ever at home.

Let there be no mistake. The twisted power and oppression of Nazi terror, hatred, and Holocaust were no match for the collective powers of freedom, of democracy, of individual initiative—the very essence of America. Today, we honor the 50th anniversary of that victory. We honor that victory every day so long as we continue to stand for these values at home and abroad.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Nevada.

Mr. REID. Mr. President, what is the issue now before the body?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 956, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gorton Amendment No. 596, in the nature of a substitute.

Coverdell/Dole amendment No. 690 (to Amendment No. 596), in the nature of a substitute.

Mr. REID. Mr. President, in the State of Nevada, and particularly in Las Vegas, we have some great illusionists. The most famous are two men by the name of Siegfried and Roy. Every night, twice a night, they are sold out. Presently, they are at the Mirage Hotel and have been there for the last 4 or 5 years.

These illusionists, as great as they are, should be taking lessons from what is going on in the Congress today and during the past several weeks. We are talking about things that are really illusionary. For example, there has been a hue and cry that everything should be turned back to the States, that the States should make the decisions on their own destiny. All we hear is that we should leave them alone and let the States decide what is best for them.

In the so-called Contract With America, that is what they talk about—returning as much back to the States as they could. But here we are, Mr. President, now talking about tort reform and standing that issue on its head. Instead of returning everything back to the States, we are saying in this area that we do not want the States to prevail, we want to have a national standard, which is really unusual to me to find out how people could reason that way.

For example, Mr. President, the State of Washington does not allow punitive damages. I think the State of Washington is wrong. But that is a decision they made with their State legislature and the Governor.

Would it not be wrong, Mr. President, if all States had to follow the same law as it relates to innkeepers, that we have in the State of Nevada. In the State of Nevada we have over—in Las Vegas alone—over 100,000 rooms, more rooms in Las Vegas than any other city in the world.

The State of Nevada basically is a resort State. Would it not be wrong for the laws of the State of Alabama as it relates to innkeepers to be the same as the State of Nevada? Of course, it would. We have special problems with tort law as it relates to innkeepers. Therefore, the State of Nevada should be left alone. We should be able to decide on our own what the law, as it relates to innkeepers, should be for the residents of the State of Nevada.

The legislation that is before this body is a bill that usurps and destabilizes well-established State law and principles as it relates to seller liability.

The legislature of the State of Nevada is meeting as we speak. They are talking about tort reform in Nevada as this debate is taking place.

I would much rather rely on what the State legislature does regarding tort reform for Nevada than what we decide back here should be the standard in Nevada.

The State of Nevada has carefully established rules as it relates to product liability. We have a strict liability standard for most products that are sold defectively. We are not unusual in that regard. There are 45 other States that have, through their courts or legislatures, adopted some form of strict liability as it relates to products.

Only a handful of States have chosen to remove product liability from this general rule. Should not that handful of States be left alone?

This bill would undo the law in at least two-thirds of the States. Contrary to nearly 200 years of State tort law, this bill would virtually immunize people who sold defective products.

Another troubling matter, Mr. President, is that this bill overreaches in its efforts to protect small businesses by placing a restrictive cap on punitive damages, or any "entity or organization with fewer than 25 full-time employees." This overlybroad language extends the protections of this bill well beyond the so-called small businesses. This cap, for example, would completely take away the right that we have in most States to allow punitive damages against drunk drivers, against child molesters, perpetrators of hate crimes, and even by those who sell drugs to children.

I have, for more than a week, listened to this debate. Prior to coming here, I was a trial lawyer. I have tried scores of cases before juries—almost 100 jury trials. I believe that the jury system, Mr. President, is one of the things that we should be very proud of as a country.

We ought to reflect on the value of the Magna Carta. It was signed in a meadow of England, in a place called Runnymede. King John could not write his name. He had to put a mark for his name. The Magna Carta was the beginning of the English common law that we adopted when we became a country. One of the things that we brought over the water and now have and have had for over 200 years is a jury system, where wrongs that are perpetrated can be brought before a group of people and they can adjudge the wrong, if in fact, there were any.

My experience in the jury system, Mr. President, is that most of the time the juries arrive at the right decision. I would say that about 90 percent of the time, they arrive at the right decision. Not always for the right reason, but the right decision. I think it is something that other countries have looked on with awe and respect—our jury system.

Again, this bill would take away and undermine the jury system and places arbitrary caps on damages. The substitute arbitrarily caps punitive damages at two times other damages for all punitive damages cases. In order to have any deterrent impact, punitive damages should be based on conduct that is willful and wanton.

We have heard so much about the McDonald's case. But what was the McDonald's case? Let me explain, Mr. President, what the McDonald's case was. A grandmother took her grandchild to baseball practice. She wanted a cup of coffee. She drove to McDonald's. She got a cup of coffee. She put the cup of coffee between her legs, and as she removed the lid from the cup of coffee, it spilled. She had third-degree burns over her body. Her genitals were burned. She had to undergo numerous painful skin grafts.

A person might say, why should she be awarded for putting a cup of coffee between her legs? The fact of the matter is the reason the jury reacted in the way they did in this case is the fact that McDonald's had had 700 other burn cases where people had been burned with coffee. They had been warned and warned and warned that they served their coffee too hot —190 degrees is the temperature they served their coffee.

Mr. President, if a person buys a coffeemaker and plugs it in at home, and makes his or her own coffee, it comes out at about 135 degrees—something like that. McDonald's served their coffee at 180 to 190 degrees that if accidentally spilled could result in third-degree burns in a matter of 2 or 3 seconds.

The jury felt that McDonald's had been warned enough that they should not serve their coffee as hot as they did. Why did they serve it so hot? There were a lot of reasons, perhaps, but one reason they served coffee so hot is McDonald's felt they got more product by serving their coffee hot. That is, they got more juice of the beans, so to speak.

The jury award, the punitive damages award in this case, Mr. President, was the amount of coffee sold by McDonald's for two days. That is why they came up with the $2.3 million verdict. The jury felt that McDonald's should get the message that 700 burnings or warnings were enough.

The fact of the matter is that the court reduced this amount to $480,000 and the parties reached an out-of-court settlement for probably even less.

She had skin grafts, and as I indicated, the jury came to realize this was not an isolated incident. This was a wrong that had to be corrected, a willful wrong in the mind of the jury.

If a State, however, feels the McDonald's case sets such a bad precedent that they do not want to allow punitive damages, States have that right today. The State of Nevada, the State of Minnesota, the State of Mississippi, the State of Arizona—they can eliminate punitive damages if they want. But why should it not be done by the States? Why do we have to go and set a standard nationwide for how they handle their punitive damages?

The substitute amendment does not allow punitive damages, even if a defendant's conduct was reckless or wanton. Punitive damages can be assessed only if an injured citizen can prove the super-heightened standard of, "conscious, flagrant indifference to safety," a standard I never came across in all the time I practiced law. I never heard of that. That is a new standard. It is one that is set up to eliminate punitive damages. Even though punitive damages is the amount that could be awarded, even if you could prove conscious, flagrant indifference to safety, it is cut down significantly; almost eliminated. This would take any thought about having punitive damages completely out of the law. Nationally, there would be no punitive damages.

Take companies like McDonald's or General Motors, and let us say we have a $250,000 punitive damage limit. Does that bother General Motors? Of course it does not.

What about the *Exxon Valdez* oil spill? Keep in mind the facts of that case. A man who had previously been told not to drink on the job is drunk, controlling the ship and causes all this damage to the environment. Should *Exxon Valdez* not be required to respond in punitive damages? I think it should.

Over the past few years we have seen an unfortunate entrance into the market of too many dangerous products that are marketed toward women: The Dalkon shield, the Copper-7 IUD, DES, silicon breast implants, are just a few of the alarming examples of dangerous products placed into the market that affect women. Why should there be some arbitrary standard now established that affects those cases? There should not be. It is wrong. To come up with a standard called "conscious, flagrant indifference to safety" is almost unconscionable. So a vote for the substitute is to vote to eliminate the existing legal incentives for companies to produce the safest possible products.

The substitute eliminates joint and several liability for the people who truly rely on noneconomic damages the most: women, children and the elderly. These victims will now be required to bear the risk caused by potentially bankrupt defendants. The joint and several liability standard came about as a result of there being a number of defendants, some of whom who could not respond. I ask the question rhetorically, is it fair to limit companies' liability to the most vulnerable when only joint and several liability will ensure full compensation?

This legislation creates a huge exemption for big business. The substitute excludes commercial loss from its scope. Is that not interesting? One of the reasons the products liability legislation was defeated last year is because it directed its attention to individuals suing each other, it directed its attention to the individual suing a company, but it did not focus on companies suing each other, and that is where most of the litigation takes place in products liability litigation. Again, this year the same problem exists because this provision, the commercial loss exclusion, essentially exempts big businesses from the restrictions in the bill that those same businesses seek to impose on consumers and workers injured by the products.

Take an example. If a product used on the factory floor blows up because of a defect, the injured worker's right to seek compensation from the third-party manufacturer of the product is limited. But the owner of the factory can sue to his heart's content, for as much lost profits as he deems appropriate; or if he had some property that was damaged there as a result of the explosion he can sue all he wants. So as a result of an injury to a human being, no recovery; but injury to property, you can sue just as you always did. So big business is protected.

There is a lack of uniformity. Proponents of this measure claim it will establish uniformity in product liability law. In reality, it creates prodefendant disuniformity. It is a one-way preemption at its worst. The amendment only preempts those State laws which favor consumers. How? It imposes an arbitrary cap on punitive damages in those States which allow it but it does not create punitive damages in those States which do not allow it. So in my earlier statement when I talked about the State of Washington having to now have an award given for punitive damages, some of those who are looking at this legislation say, "That is absolutely wrong. In fact, if your standards are less than what is in the bill you can keep those." How unfair. It also establishes an arbitrary statute of repose for 20 years but allows States to impose shorter limitations if they so desire.

So we are rushing hastily to pass a piece of legislation that dramatically favors big business. It dramatically will change centuries of State-developed law. It is ironic that those who argue most vigorously for a stronger 10th amendment are the proponents of this amendment. This is the Siegfried and Roy illusion I talked about in the beginning of my statement. The State of Nevada knows best as to how their litigation should be handled. Unfortunately, the proponents of this legislation think they know what is best for Nevada.

We are saying to the American people that we no longer trust the judgments of State legislatures. We are saying we no longer trust people sitting as juries. And as I said earlier, the American system of justice and the jury system—while there are some decisions that I disagree with and we can all point to some of the criminal verdicts that have come about—the jury system is a uniquely American concept with its roots in the Magna Carta, grounded in democracy, and rooted in the ideal that ordinary Americans applying their inherent common sense can often best fashion a judgment or a decision that results in justice to the injured party.

Who knows the number of lives saved and the catastrophes prevented because of our laws relating to punitive damages? In the area of products liability, I pause to think what would happen if manufacturers, especially big business, did not have to worry about their products being safe.

So, let us not throw this standard out of the window and invite corporate wrongdoers to engage in a cost-benefit analysis of whether it makes sense to place defective products into the market. I think we would not be well served by adopting this legislation.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, let me first inquire if we are in a period of general debate on the product liability legislation?

The PRESIDING OFFICER. The Senator is correct.

Mr. LOTT. Mr. President, I would like to extend my congratulations to the distinguished Senator from Washington, Senator GORTON, for his outstanding leadership both in the Commerce, Science, and Transportation Committee and here on the floor, in an effort to get a very responsible piece of legislation through, the Product Liability Fairness Act. He has worked very closely with the Senator from West Virginia, Senator ROCKEFELLER, and they really have done yeomen's work in producing this legislation.

The bill that was reported from the Commerce, Science, and Transportation Committee has been expanded. A number of amendments have been adopted. And in my opinion, all of those amendments are improving amendments. We are talking about legal reform, not just product liability reform.

Having said that, it is obvious from votes late last week we are not going to be able to get through the broader bill, as much as I would like for that to happen. So there will be votes shortly, either later on this afternoon or, I assume, tomorrow morning—maybe this afternoon and tomorrow morning—on exactly what will be the final bill. I presume we will have a narrower bill than now exists before the Senate, one that is directed primarily at product liability but with some additional provisions, but not many, that have been approved overwhelmingly by the Senate.

I urge my colleagues in the Senate to vote to invoke cloture to stop the filibuster and allow the Senate to vote on this very, very important issue. It has been suggested that this would be a rush to judgment. Rush to judgment? We have been debating this issue—product liability—for 10 years in the Senate. This will be the third time we have voted to try to end the filibuster so we can even get to a vote since I have been in the Senate. This is my seventh year. We know the issue. We know the details. This is not a rush to judgment.

Plus, let it be noted once again that the Senate talks and the Senate stalls. The Senate is now in its third week on product liability and the effort to try to broaden it to have genuine legal reform. There have been legitimate negotiations going on led by Senator GORTON and Senator ROCKEFELLER to bring this to a conclusion. We should be ready to do that. The leaders have listened to the Senate. We have looked at the amendments and how close they were. What can we do to get an end to the filibuster so we can get to a vote?

This legislation will be narrow. It will be targeted primarily at product liability. It will not include medical malpractice reform even though we clearly need that and the Senate voted for it. But, if it is included, we probably cannot get the 60 votes that are necessary, once again, to end the filibuster.

This bill does not include criminal matters. The President suggested that it does. I have heard suggestions here on the floor of the Senate that it does. It does not apply to criminal matters like hate crimes. It is just not applicable here. That is a scare tactic.

Let me clarify this joint and several issues. It is amazing how things can be turned around in the debate here in the Senate. Joint and several—what does that mean? That means when you file a lawsuit, you file a lawsuit against everybody remotely connected or even in the area when you are wanting to sue and recover damages. But even though you were only remotely involved, like say maybe 5 or 10 percent of the damages attributable to you, if the other defendants are broke, you can be forced to pay the entire judgment. It is called deep pockets. If you happen to be in the area and you happen to be a successful company or an individual, you are the one who will get hit even though you were just involved to a very small degree. We are saying there ought to be some sensible limit there. You ought to pay for the damage you caused but not pay for everybody. It makes such good common sense.

Let me remind my colleagues here today that the American people overwhelmingly support the idea of legal reform—overwhelmingly. We have a few interest groups that do not want that to happen. But the people understand who pays. I mean it is easy to stand here on the floor of the Senate and say let us make you, EXXON, pay. Let us make General Motors pay. You know who pays? The consumer pays. It does not just come out of the sky. Somebody pays the bill.

When you have frivolous lawsuits against people acting in good faith, when you have doctors, ob-gyn's that are afraid to stay in their profession because they are liable to be sued paying thousands upon thousands of dollars for medical malpractice insurance, who loses? The patients lose. They pay more. Or you have doctors getting out of the business because they cannot afford to stay in it anymore.

However, we will have to reserve most of this legal reform for another day. Here we are only talking about product liability. We are trying to get some uniformity in an area that clearly involves interstate commerce. We are trying to get some commonsense answer in this area to stop forum shopping where a small company in my State that produces heavy equipment can be sued in all kinds of forums all over the country, and you shop around until you find the best forum. Then you sue them there. Some uniformity is all we are seeking here.

When scholars write the legislative history of Congress in the last quarter of the century, I think they will be puzzled by the debate the Senate has been engaged in now for 2 whole weeks and entering the third week. They will wonder why so much time, so much passion, so much pressure was expended on a bill that should have brought us together in unanimous agreement. It passed overwhelmingly out of the Commerce Committee. Yet when it gets to the floor the talk begins.

The scholars will note that the substance of this legislation enjoyed overwhelming approval of the public, that it was a moderate proposal with bipartisan sponsorship, and that a much more expansive measure had already passed the House of Representatives by a whopping margin of 265 to 161.

Why could the House get such a broad bill providing for legal reform passed by an overwhelming margin but the Senate cannot do it? Answer: Because it takes 60 votes to stop the debate in the Senate. Just keep talking, keep talking, keep talking and never take action. This time we should take action. I believe we will.

People will wonder in the future what could have been so controversial about the provisions in this bill. National uniformity in product liability law and putting American manufacturers on equal footing with foreign competitors should not be controversial. Encouraging alternative dispute resolution in place of lengthy and expensive court proceedings should not be controversial. That just simply says use a process to try to resolve a dispute instead of going through lengthy trials. It makes good common sense to me.

It should not be controversial to require that the person who creates harm must take responsibility for it. If someone who is drunk or under the influence of illegal drugs is more than 50 percent responsible for his own injury, he should not be able to extort money from others by blaming them for what happened. People who rent or lease cars and equipment should not be legally liable for the acts of those who rent those items from them. If you rent a car and go out and get drunk, cause an accident, injure people, why should the rental company be responsible for your misconduct?

It should not be controversial to stop the practice of holding defendants jointly liable for noneconomic damages usually referred to as "pain and suffering." That has become a way for plaintiffs to get into the deep pockets of one defendant that I talked about earlier, even though some other defendant, with less resources, was at fault.

Jury awards of punitive damages in the millions of dollars have become commonplace. One example just cited was the McDonald's case. That is just one example. I would recommend to people that when they buy a hot cup of coffee, they not set it between their legs and try to drive an automobile. It seems to me that is contributory negligence.

It certainly should not be controversial to set a 20-year limit—a statute of repose—for a manufacturer's liability for a product used in the workplace. If a product is more than two decades old it should not be subject to a product liability suit unless it came with the written safety warranty longer than 20 years.

None of these provisions should be terribly divisive. Indeed to most of us here, as to most of the public, they are just common sense. I have referred to that several times. We are trying to curb excesses in the civil—civil—justice system, not the criminal justice system, although clearly after watching television the last few weeks we have a little work we need to do in the criminal justice area, too.

Yet somehow, H.R. 956, the vehicle for product liability reform, has become a battleground. We have allowed ourselves to get into heated debate. I have been guilty of that. I have said some things about the Trial Lawyers Association, the plaintiffs bar, that I should not have. I have had things attributed to me that I do not recall saying. It has been quoted that I said "they cheat people all over America." That would be inappropriate. I reject that kind of language. Even having it attributed to me, I apologize for that. We do not need that kind of rhetoric. I should not contribute to it. None of us should contribute to it. What we should do instead is reason together. That is what is happening now. We are trying to find a solution so we can stop the debate, pass the legislation, get into conference with the House of Representatives, and do what is the right thing.

In some measures, you understand, with the intensity of the debate, that ideologically divisive—left, right—divisions come into play. If something is good in the South but not good in North, we get pretty hot about it because you are talking about our constituency and our regions of the country. But that is not what is happening here. This is something that involves economic interests of all the people. It involves trying to get some legitimate litigation reform. I think we will be able to do that today.

But what we have now has eroded—the public's respect for, and confidence in, the administration of civil justice.

The worst of it—and the most important reason why this bill be so needed—is that litigation involving product liability is harming consumers, taxpayers, businesses, and investors. It limits job creation, stifles creativity, thwarts medical and scientific advances, and lessens our country's international competitiveness.

And it benefits almost no one. Certainly not the hapless defendants, who often spend enormous amounts of money either defending themselves against frivolous lawsuits or settling out of court just to cut their losses. Nor does it help the plaintiffs all that much when a large share of their court winnings goes for attorney's fees, payments for expert witnesses, and court costs. One recent settlement against the Nation's major airlines gave consumers coupons for future flights, which they could redeem only a few dollars at a time. But the plaintiff's lawyers walked off with $16,012,500 in cold cash.

I do not mean to suggest that anyone who finds fault with some provision of H.R. 956 does so from an unworthy motive. Reform of product liability laws is a complicated matter, and there are legitimate questions as to how far one or another reform should be taken. I will candidly admit that this bill does not go as far as I would like it to. But I understand that some of its supporters do not wish to broaden its provisions. Despite our disagreement in that regard, we agree on the need for reform and are forthrightly working together toward common ground.

I am disappointed, however, that more Members of the Senate have not endorsed at least the principle of product liability reform, even if they might disagree with some provisions of H.R. 956. I wish they were trying to modify the bill to meet their objections, much as I might oppose their modifications, rather than trying to kill it. As it is, they have allowed themselves to become champions of the status quo, and that, I submit, is not an enviable position in the eyes of the American people.

And that is why the Senate has been spending all this time on what should have been a rather brief and unifying exercise in legal reform. It is why we still have the threat of filibuster hanging over our heads. It is why we spent so many hours over the last 2 weeks on amendments—one that was later tabled by a vote of 94 to 3.

We have dealt with several critical amendments, which have been accepted. One dealing with punitive damage awards against small businesses and charitable and volunteer organizations, many of which are being crippled by a justified fear of liability suits. Another would limit the use of joint and severable damage awards. A third will offer badly needed reforms in medical malpractice law. But what we have before us is a good start. It will bring about significant improvements in the way our courts operate, in the way our economy operates. It will make our civil justice system fairer, less costly, and more efficient. So I urge my colleagues here this afternoon to vote cloture. We still have some more amendments that can be offered. We could still discuss the final result. But it is time we vote and get this legislation moving forward.

Mr. President, I yield the floor at this time and, observing no other Senator who wishes to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, a substitute has been offered and I want to go into some of the aspects of the substitute, and I will later.

First, I think I stated in the beginning of the debate that I considered this to be an extremely unfair bill. While it was titled the "Product Liability Fairness" bill, there were numerous provisions that were one-sided and which attempted to take away rather basic rights of a claimant in a lawsuit, and I thought it was extremely unfair. Also this bill was unfair because of the fact that it exempted all commercial loss and made commercial loss come under the category of commercial or contract law, primarily the Uniform Commercial Code.

Commercial loss is a business loss, not a personal injury loss. Some of the most egregious punitive damage suits—practically all of the large ones—have been against business. Penzoil versus Texaco, $11 billion, is the one that stands out primarily in the minds of most people. But commercial loss would be in most all instances restricted to corporate America suing corporate America.

Manufacturers do not want to come under the provisions of this bill because they do not want to be put under the same laws as the people who receive personal injuries.

For example, under the statute of limitations on implied warranties in contract law, it is substantially longer. My State of Alabama has a contract statute of limitations of 6 years. Under the Uniform Commercial Code, under warranties, it is 4 years. Yet, under this bill, it would come to apply to personal injury which is 2 years.

There are several types of implied warranties under the Uniform Commercial Code. For example, there is an implied warranty that the product is suited for the purpose for which it is sold. However, under this bill implied warranties are not recognized.

Therefore, if a person remains silent, there is no implied warranty. The rules with respect to implied warranties have been developed over the years and have been recognized as being an essential element in sales that a product ought to be fit for the purposes for which it is sold.

There are other aspects of this that have emerged relating to its unfair provisions, and I will touch on some of these provisions at this time.

First, I want to address my remarks initially to the Snowe amendment. The Snowe amendment has been touted as eliminating the unfairness of the original cap on punitive damages in this product liability case. Under the original bill, it was set at being three times the economic loss, or $250,000.

There were those that said that noneconomic loss, such as scarring or disfigurement, the infertility or loss of childbearing ability of a woman, or other noneconomic factors such as loss of consortium, was discriminatory because of the fact that they would be limited to $250,000, whereas a person's economic loss could be up into the millions.

In a speech I made last week, I cited a 55-year-old CEO of a corporation who is making $5 million annually who has an anticipated work expectancy of 10 years. We would have a situation where his loss of earnings, his economic loss, would be $5 million a year times 10 years, or $50 million, and then multiply it by three. He would have a cap of $150 million, as opposed to the housewife who has no economic loss, or the elderly who have no economic loss. Their cap would be $250,000—$150 million versus $250,000. That is quite a disparity in regard to caps, and I believe my point caused some Senators to reflect on the unfairness of the original punitive damage provision in the Gorton-Rockefeller substitute.

As a result, there have been some changes made. The Snowe amendment now has a formula with regard to punitive damages which provides for twice the amount of total economic loss and the noneconomic loss—or twice times compensatory damages.

Yet, there are still examples in which this would cause an even worse situation. In the case where death occurs instantaneously, there is no noneconomic—that is "pain and suffering"—loss under the laws of most States. We would have a situation defined as meaning noneconomic loss means subjective nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation—all of this is in the definition of noneconomic loss that is in the substitute that we have now before the Senate.

Now, on that scenario where a person died as a result of injury, what would be the situation? That same 55-year-old CEO who was making $5 million a year, his economic loss would be $50 million on a work expectancy of 10 years times two under the Snowe amendment—or $100 million.

Well, that is less of a cap than the $150 million we have. But what do we have on the housewife? She also dies immediately. She did not suffer any pain and suffering, emotional distress, loss of society and companionship, and so forth, so she would really be in a situation where her noneconomic loss would be zero.

Then we revert back to what the situation was under the original bill. She had no economic loss because she did not work outside the home, and therefore her total economic loss and her total noneconomic loss would be zero. We double zero, and we still have zero.

Now, some might say, well, she would at least have an economic loss in funeral expenses. Well, there are some States—and I do not know whether this is the majority or not—that say that death is inevitable, like taxes. Therefore, we have a situation in which we are going to have to be buried, and that cannot be counted as an economic loss.

Let's say, for purposes of discussion and debate, that all of the States were to allow it. Instead of the death case with the elderly or the housewife, it would be an economic loss of maybe $5,000 for funeral expenses, and we double that under the Snowe amendment and we have $10,000.

So we still have the difference between the 55-year-old CEO who is killed, at $100 million; and we have, for the elderly or the housewife, maybe zero, and maybe $10,000 for funeral expenses.

That shows, to me, the disparity of the Snowe amendment, and a situation in which it would not operate fairly. At least, under the original bill, we would have had a cap of $250,000. Now the cap, under the death case that I recited, would either be zero for the elderly and zero for the housewife, or perhaps maybe $10,000, or possibly $15,000, at the most, in regard to burial expenses.

So this Snowe fix supposedly did come up under a situation in which death occurs, and as a result, if there were personal injuries, the personal injuries would have a different cap. But, therefore, it would be for the benefit of the wrongdoer who is going to be sued. A tortfeasor would much rather see the person dead than that he would be alive and incurring some pain and suffering and giving the jury some leeway in the determination of noneconomic loss, particularly if it is a person like a housewife, and elderly person, or a child or student, who has yet to begin making a living for herself.

Under the Snowe amendment, a high-income victim will continue to be able to receive a high punitive award, whereas a homemaker, retiree, low-income victim will be limited to a very low punitive damage award in regards to these instances. Punitive damages are designed to punish and deter egregious conduct. They are not necessarily designed to have caps. You have to deal with it on an individual basis.

As to the McDonald's hot coffee case, the situation was that the jury determined that punitive damages were in order to send a message to McDonald's, after 700 instances of burn cases. The jury in that situation decided on a punitive damage award of 2 days of the gross sales of coffee by the McDonald's Corp. which amounted to approximately $2.5 million, and then the judge reduced that down to $460,000. Later it was settled for an undisclosed sum that was protected by a secrecy order. There were third-degree burns in this case and McDonald's had repeated warnings that its coffee was being served way too hot. This bill takes away from the ability of juries to determine just what type of egregious conduct warrants an appropriate amount of punishment as to damages.

Other language that appears in the Dole-Coverdell substitute has been changed. There was put into the substitute an amendment by Senator DEWINE which appeared as a special rule. It says,

> The amount of punitive damages that may be awarded in any products liability action against an individual whose net worth does not exceed $500,000 or against an owner of an incorporated business or any partnership, corporation, association, unit of local government or organization that has fewer than 25 employees, shall not exceed $250,000.

Now it appears in the substitute that the Dewine exemption applies in all civil cases—not just product liability cases—against an individual whose net worth does not exceed $500,000 or a partnership, corporation, so on—but it has as its cap, two times the sum of the economic damages and the noneconomic damages—still Snowe—or $250,000, but then it has the language which says, "which amount is lesser."

So a suit against a small corporation, partnership or an individual where the net worth does not exceed $500,000—and of course a small business has fewer than 25 employees—that has as its caps Snowe, which is double the compensatory damages or $250,000, but which amount is lesser.

This exemption applies to all civil cases. I believe the President called a similar provision the drunk drivers' protection act.

It is still a drunk drivers' protection act against a limited number of people. It just says that if you are drinking while driving you better not be worth more than $500,000 or you must not be an owner of an unincorporated business or be involved in a partnership or corporation. But it still is a drunk drivers' protection act, as it would apply to the limits that are placed in the bill, because it applies to any civil action, not just product liability.

But let us also look at these caps and see how they apply. That 55-year-old CEO who is, we will say, killed, he has a situation in which he had a work expectancy of 10 years; with a $5 million annual salary he would have had a $50 million loss as his economic loss; multiply that times two and that would be $100 million. But under this, he would be limited to $250,000. Because that is the lesser of his $250,000 or two times his compensatory damages. So if he gets killed by a drunk driver, then the drunk driver is limited under the now substituted proposal to $250,000.

Let us take the housewife, the elderly person, or the child in some instances. You would think they would still be under the $250,000, but that amount is greater. It is not lesser. And the language here says "is the lesser." So the housewife who has no economic loss, and no noneconomic loss, it is still zero. For the elderly person who has no economic loss, the cap is zero because it is the lesser. Because the compensatory damages that they would suffer, in a death case, would be less than the $250,000, therefore the lesser amount, zero, would apply.

This amendment also, as it is written now affects automobile accidents almost every type of conceivable accident, not just products liability incidents. It fails to take into account how much insurance an individual carries on his automobile or how much liability insurance he carries in his business. An individual may have $1 million or $5 million in liability insurance. But he still could have a net worth of less than $500,000. So he is protected under this special rule. He is protected by this small business exemption and the individual net worth figure, and his insurance goes home free. Certainly, if he had $1 million worth of insurance, as a lot of people carry on their various businesses or automobiles—many individuals carry umbrella policies to try to protect them against that sort of thing—then that cap applies to him. But as to the housewife, the cap is zero or to the elderly the cap is zero.

So I just point these out to show how these caps would apply and what inequities would come about and would occur. These also would apply to any civil action. I wonder in regard to the Oklahoma City explosion if there were attempts to bring suits against those that are eventually determined to be responsible for that bombing.

So I just want to point out that there are many problems with the way this amendment is written. Certainly, if somebody carries insurance, the amount of the insurance ought to be counted in calculating whether or not a cap goes into effect. The idea is to protect the small business or the individual not worth more than $500,000. He might have a total net worth of $50,000 or $100,000 or $150,000 and carry $100,000 worth of insurance or carry $1 million worth of insurance. But these do not take into account his insurance that he carries on his car in the way it is written.

I mentioned one time in a previous speech about the situation of the homeowner policy. Homeowner policies have for years and years now carried comprehensive liability coverage. Comprehensive liability coverage is very comprehensive, and basically it is written in a manner in which it has to exclude those things that are not covered. But practically all homeowners carry some type of comprehensive liability insurance. Again, that insurance does not come into effect as the way this substitute—the change of the language—took place from the DeWine amendment. To me, that is another example of how this is being written for the advantage of insurance companies. Therefore, I think that ought to be given very careful consideration.

There are numerous aspects of this bill that are unfair as they apply to real life situations. I think it is very unfair to local government. There are some units of local government that are included under the DeWine amendment, if they have fewer than 25 full-time employees. But the way the bill is written, a claimant is defined to include a governmental entity. This affects most local governments, anywhere from a city that has about 25 employees. They usually define that as a city of anywhere from 10,000 and up with various types of departments: street department, fire department, police department and so on. I do not know the exact number. But it includes in the claimant.

So, therefore, a city or county, State government or Federal Government which has a claim arising out of this, or property damage, may have some claim in regard to subrogation rights under certain circumstances and would also include the Federal Government. Therefore, they come within the purview of this relative to all of the provisions that are in this substitute, including the misuse and alteration of a product by any person, not the claimant himself. He might not have anything to do with it. But they are entitled to a reduction in regard to the percentage of fault in regard to misuse or alteration.

With regard to the statute of repose, many, many products are bought by these governmental entities. Then the bill, or substitute, includes the Federal Government, the Army, the services. Most of our armed services utilize, helicopter, trucks, automobiles, Jeeps, and other vehicles all of which are built for the test of time. Many of them today are far in excess in age of over 20 years. For example, many of the types of helicopters that were used in the Vietnam war are still in use today. But the statute of repose in effect applies to them.

The purpose of this bill is obviously to save money for business, corporate America, and insurance companies. In this instance, who are they going to save money from in regard to their defective product—governmental entities?

There are provisions relating to several liability which concern me. You do not even have to be a party. You can prove it against a nondefendant in a suit. You prove several liability on that, and that includes coemployees, which in most States you cannot sue the employer. It has a provision that, if there is any fault to be allocated against the coemployee and the employer, then that is the last item that you are to bring up in the priority of how you present your case before a jury.

There are many other aspects of this that continue to be of concern, and I may mention some of these later as I go along. But there are numerous provisions in this bill that are written in such a manner which are directed toward taking away rights of the injured party and benefiting the wrongdoer.

The provision that says you cannot introduce gross negligence or any punitive damage elements in your main trial relative to compensation if you have demanded punitive damages and there is a call for a bifurcated or separated trial is further evidence of the bill's basic unfairness. To me that is a real serious situation. A claimant, for example, could not show if a person was guilty of drunkenness. That would be a punitive damage element, and you could not show that in the trial in chief.

Mr. President, for the time being, I am going to yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 709 TO AMENDMENT NO. 690

(Purpose: To provide for a uniform product liability law and to provide assurance of access to certain biomaterials)

Mr. GORTON. Mr. President, on my behalf and on behalf of the Senator from West Virginia [Mr. ROCKEFELLER], I have just filed with the clerk a second-degree amendment, and I ask that that second-degree amendment be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself and Mr. ROCKEFELLER, proposes an amendment numbered 709.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. GORTON. Mr. President, I address these remarks to the President, and through him to my distinguished colleague from Alabama, who is opposed to this bill, and I hope to all Senators or to their staffs, because I hope and trust that this will be the final amendment with which we will deal on this bill, as we are to vote cloture on the Coverdell substitute at 4 o'clock. But as the proponents of product liability hope that Coverdell will be amended as per this proposal by Senator ROCKEFELLER and myself, I believe I should outline the key changes between the Coverdell proposal of last Friday and this one, because either before or after cloture it will be this amendment which becomes the final product liability vehicle for the Senate to vote on.

We can discuss a bit later all of the details of the proposal. But as the Senate will remember, last week what had started out to be a product liability bill was very considerably expanded, first by an amendment by Senator ABRAHAM from Michigan on relationships between lawyers and clients with respect to their fees and, second, by a proposal with respect to civil procedure 11 on frivolous lawsuits.

But more significantly, there was added an entirely new set of provisions on medical malpractice—a new medical malpractice code—to override, in many respects, the codes of the States. And, secondly, a broadening amendment by the majority leader, Senator DOLE, which extended the punitive damage rules contained in the product liability bill at that point to all civil litigation; and, of course, some change in the rules relating to punitive damages by the adoption of the Snowe amendment which limited punitive damages in product liability cases and then, by extension of the Dole amendment, to all cases to an amount not to exceed twice the total of both noneconomic and economic damages.

When on two occasions last Thursday cloture was rejected on that broadened legal reform proposal, Senator COVERDELL, with the help of the majority leader, Senator DOLE, put the Coverdell substitute on the desk on Friday and filed a cloture motion on it. It returned the bill pretty much to the status of a product liability bill, with one exception that I will speak to in a moment. It restored for all practical purposes the original Rockefeller-Gorton bill with the Snowe and DeWine changes to punitive damages.

The Snowe amendment, as I have already said, said that punitive damages would be limited to an amount twice the amount of the total of all compensatory damages, economic, and noneconomic. The DeWine amendment limited the amount of punitive damages to $250,000 in the case of small businesses, those with fewer than 25 employees, and individual defendants of modest means with a net worth of less than $500,000.

There was no Abraham amendment in the Coverdell substitute. There was no change in rule 11 in the Coverdell substitute. There were also no alternative dispute resolution provisions at all, as they had been stricken before the cloture vote by a Kyl amendment.

However, the Coverdell substitute did extend the punitive damage rules related to small businesses only—that is to say, the DeWine amendment limiting punitive damages against small businesses or modest individuals to $250,000—to all litigation. It retained that part of the original Dole amendment.

After extensive negotiations Friday and over the weekend with my partner in this, Senator ROCKEFELLER, and his negotiations with as many as 15 members of the Democratic Party who want some product liability reform but who have been, to a greater or lesser extent, opposed to any theoretical limitations on the potential for punitive damages, we have arrived at this Rockefeller-Gorton second-degree amendment.

How does this change the Coverdell proposal? Mr. President, it changes it in about four ways.

First, we do return to a set of alternative dispute reasons or sections in the bill, but they are not the alternative dispute resolution provisions that were stricken by the Kyl amendment.

Senator KYL opposed those for two reasons: First, because they overrode the alternative dispute rules of the various States; and, second, because they provided sanctions against defendants but no comparable sanctions against plaintiffs when the proposed ADR solution was more favorable to the winning party.

The new Rockefeller-Gorton proposal on alternative dispute resolutions simply set up a set of rules under which States will conduct their own alternative dispute resolution proceedings. We do not override State rules on ADR, alternative dispute resolutions, except with respect to the time with which they must be commenced. So the only places in which these rules would be more or less mandatory are in that tiny handful of States that have no ADR provisions whatsoever.

The second and most important change in this bill relates to the formula for the maximum level of punitive damages.

The long and short of it is, Mr. President, that there is no longer any theoretical maximum limit on punitive damages, which I think will secure the support of many Senators of both parties who have wanted some kind of reform in the product liability field but have not wanted even the limitations that were contained in the Snowe amendment. So let me describe what they are now.

In cases that go before juries, the Snowe amendment will continue to be the case with the modifications proposed by Senator DEWINE; that is to say, the jury will have an upward limit in its award of punitive damages of twice the total of both economic and noneconomic damages.

Economic damages, Mr. President, are those for lost wages, for medical expenses and the like, the full out of pocket losses of the claimant. Noneconomic damages are those for pain and suffering which, almost by definition, are more subjective in nature.

You will total up the sum of noneconomic and economic damages and punitive damages can be awarded or, of course, not awarded, but cannot be awarded by the jury in an amount greater than twice the total of those economic and noneconomic damages, except that if that total is less than $250,000, the jury can award up to $250,000. So the maximum jury award will be $250,000 or twice the total of all compensatory damages, whichever is higher.

The big change, Mr. President, however, is the fact that the judge in the case may add to that award of punitive damages if the judge feels that it is inadequate because of the egregious nature of the tort which led to the punitive damages in the first place. The judge may add to that number and may do so in an unlimited fashion, there is no cap in this Rockefeller-Gorton amendment, except that if a judge does do so—in other words, what we consider a requirement by the seventh amendment—the defendant would have the right to a new trial to go back and start all over again.

There is one other major difference and that other major difference is a criticism which the Senator from Alabama made just a few moments ago against the Coverdell amendment; that is, there is no attempt in this bill to extend these punitive damage rules or limitations to cases other than product liability. In other words, that portion of the Dole amendment of last week which was left in the Coverdell substitute is now gone. This bill now applies to punitive damage cases only, as it did when it was reported by the Commerce Committee.

The profound difference between the form in which it finds itself here and the way in which it was reported from the Commerce Committee with debate beginning 2 weeks ago today, if my memory serves me correctly, the profound difference is in respect to punitive damages. You will remember that the original bill from the Commerce Committee had a cap of $250,000 or three times economic damages only, whichever was higher. The Snowe amendment effectively lifted that cap, to a certain degree. This removes the cap entirely, but only when a judge determines that that limitation would be unreasonable and finds the actions of the defendant sufficiently egregious to warrant it.

Excuse me, there is one other matter, the DeWine amendment, which does set a separate rule for small business defendants and for individual defendants whose assets do not exceed half a million dollars, designed to see a single case does not bankrupt.

So, Mr. President, I recognize that this is, oh, if not a complicated set of changes, still a complicated bill because the Senator from West Virginia and this Senator have collaborated on drafting this amendment because it reflects, I believe—and he can speak to it himself when he gets to the floor—because it reflects the views of the more than a dozen additional members of the Democratic Party who have been working with Senator ROCKEFELLER, and because it represents the considered views of the majority leader at this point. I hope that we will be permitted to adopt this second-degree amendment before 4 o'clock, so that it is absolutely clear exactly what the cloture vote is on.

I can say, Mr. President, that if that does not happen, if we have not adopted the second-degree amendment by 4 o'clock, I can assure Members that this amendment will be adopted postcloture before we reach a vote on final passage on the bill. I speak in this case for myself, for Senator ROCKEFELLER and for the majority leader; in other words, I believe that among us, we can guarantee enough votes so that Members can be assured that what they are bringing to a close is a debate on this modified proposal, a proposal which does not have the caps on punitive damages which caused, I think, the great bulk of the debate on this issue during the course of the last 2 weeks.

I can say rather bluntly, Mr. President, that I do not regard this as a totally satisfactory response. I believe that the desire for predictability and for economic progress and opportunity in this country calls for limitations on punitive damages which this proposal lacks.

So I have given up ideas which I think are quite important in connection with this aspect of legal reform, but I have done so for the greater good for accomplishing something, for doing something to bring a greater degree of balance and fairness into this whole field than exists at the present time.

I expect during the course of the next hour that my friend, the Senator from West Virginia, will be here. I believe that the majority leader will ratify what I have said. I see the Senator from Alabama on his feet, and I will let him either speak to it——

Mr. HEFLIN. I just wanted to ask if the Senator will yield and respond to a couple questions.

Mr. GORTON. I will be delighted to do so.

Mr. HEFLIN. Let me ask the Senator this. Is the Shelby amendment included?

Mr. GORTON. The single printed copy of the amendment that I had was submitted to the desk about 15 minutes ago, and it is in the process of being copied. I hope within the next 5 minutes we will have copies for every Member.

Mr. HEFLIN. To answer my question, is the Shelby amendment included or not?

Mr. GORTON. The Shelby amendment is not included in it, I say to the Senator from Alabama. On consideration and on speaking to a wide number of other Members, we believe that the peculiar rules in Alabama with respect to wrongful death decisions, that we were going to do one of two things: Either create a hole in this bill big enough to drive a truck through or, alternatively, encourage the Alabama Legislature to change its law to conform with those of other States.

Mr. HEFLIN. Let me ask the Senator this. In regard to the DeWine amendment, is it still the lesser of $250,000 or two times compensatory plus noncompensatory? Is it still the lesser?

Mr. GORTON. No, it is the greater of.

Mr. HEFLIN. What I have written out to me is the lesser of it. This was handed out as some sort of brief statement.

Mr. GORTON. That is a very good question, I say to the Senator from Alabama. It is my intention to have it the greater. I know this says the lesser. I will check and see and we will change it.

Mr. HEFLIN. I think the distinguished Senator from Washington wishes to speak. I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Washington.

Mr. GORTON. Excuse me, Mr. President, the Senator from Washington has the floor.

Mr. President, can I have the attention of the Senator from Alabama?

Mr. HEFLIN. Yes.

Mr. GORTON. I need to say to the Senator from Alabama, I believe I misspoke myself because there are two separate uses of the $250,000 figure.

Mrs. BOXER. Parliamentary inquiry. What is the status of the floor debate at this time?

The PRESIDING OFFICER. The senior Senator from Washington has the floor. The Gorton substitute, amendment No. 709, a second-degree amendment is the pending business. He yielded the floor to the Senator from Alabama for a question and he is responding to that.

Mr. GORTON. There are two separate uses of the figure $250,000 in this Gorton-Rockefeller second-degree amendment. The first is that in most cases, in normal cases, the $250,000—rather the Snowe amendment says that the maximum punitive damage award is twice the total of economic and noneconomic damages. This adds to that, or $250,000, whichever is greater.

Let us say in a case the total economic and noneconomic damages were $15,000. Twice that is $30,000. Under this amendment, nonetheless, the jury could award $250,000 as being greater than $30,000.

In the case of the small business, however, the business with fewer than 25 employees or the individual defendant with less than $500,000 in assets, $250,000 or twice economic and noneconomic damages, whichever is the lesser is the ceiling.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington

Mr. GORTON. I yield the floor.

Mrs. MURRAY. Mr. President, I rise today in opposition to S. 565. The bill before the Senate claims to promote fairness, but I believe it is actually far from fair to consumers in my home State of Washington and throughout this Nation.

I will leave it to the lawyers here to discuss the legal intricacies of the bill. However, I want to raise some very serious, commonsense problems I have with this legislation.

First, I am deeply concerned about the bill's potential to disproportionately harm women.

I am amazed that the bill before us treats a corporate executive's loss of salary as more important and deserving of compensation than the loss of such priceless assets as the ability to bear children, the senses of sight and touch, the love of a parent or husband, and the ability to move freely—unhindered by disability, disfigurement, or lifelong pain.

Certainly, this body must believe that raising a family, and having children should not be seen as unimportant in our legal system.

S. 565 would eliminate joint and several liability for noneconomic losses. And, by making noneconomic damages more difficult to recover, it would impair a woman's ability to recover her full damage award.

It is unfair to require only the victims of noneconomic losses—such as a woman who has lost the ability to bear children, or a child disabled in his youth—to bear the burden of pulling all the defendants who caused them harm into court.

Joint and several liability allows injured victims to receive full compensation, and leaves it to the guilty defendants to divide the damages appropriately among themselves. It seems to me much fairer to place this burden with the guilty parties, than with those who are injured.

The singling out of noneconomic losses for adverse treatment will prevent women from being fully and fairly compensated. This is especially objectionable because women have been the victims of many of our Nation's most severe drug and medical device disasters—DES, Dalkon shield and Copper-7 IUD's, and silicon breast implants are just three examples.

I have met with many women from my home State of Washington whose lives have been devastated by these products. Their stories are tragic. Their lives have been changed dramatically. They deserve a system of laws that treats them fairly.

Mr. President, mandating a nationwide cap on punitive damages also seems ill-conceived in light of the number of dangerous products that have been marketed primarily to women in this country.

S. 565 establishes a cap on punitive damages of three times a person's economic injury or $250,000, whichever is greater.

We should not forget in our rush to make changes in this Congress that the purpose of punitive damages is to deter bad behavior by making it impossible to calculate the risk of engaging in such behavior. Under S. 565's cap, I fear wrongdoers will find it more cost effective to continue marketing their dangerous products rather than removing them from the marketplace.

Even Senator SNOWE's amendment to change the cap on punitive damages to two times compensatory damages does not remedy the unfairness of this cap. Although, Senator SNOWE's amendment includes noneconomic damages within the formula for punitive damages, it does not acknowledge the important role of punitive damages in deterring and punishing outrageous misconduct.

Last year, Senator KOHL introduced an amendment to the product liability bill that, unfortunately, was not adopted. He sought to incorporate more fairness in this legislation by restricting the ability of Federal courts to sanction secrecy in cases affecting public health and safety. I was proud to join him as a cosponsor of his antisecrecy amendment last year, and look forward to joining him again when he raises the issue in this Congress.

The settlement of the Stern case in 1985 by Dow Corning is a great example of why such a change is necessary. As a result of a secret settlement agreement, Dow Corning was able to hide its decade-old knowledge of the serious health problems its silicon breast implants could cause for 6 additional years.

The damaging information did not become public until the FDA launched a breast cancer implant investigation in 1992. In the meantime, nearly 10,000 women received breast implants every month, and countless women were harmed.

Mr. President, this bill would not only disproportionately harm women, it would also deprive injured consumers in my home State of Washington of rights they currently have.

This is significant because Washington has one of the most conservative tort law schemes in the Nation. This bill would reduce the statute of limitations in my home State of Washington from 3 years to 2 years. Injured consumers would have less time in which to file lawsuits when they are harmed by dangerous products. The bill also would reduce the number of situations in which product sellers can be held liable in Washington State. And the bill would abolish joint and several liability for noneconomic damages currently available in Washington when the injured person has not contributed to her injury.

As the Seattle Times editorialized just last week:

> Recent polls show that the great majority of Americans oppose restricting the right of individuals to hold manufacturers and medical workers accountable for their injurious act.
>
> The National Conference of State Legislatures opposes having Congress federalize an area of law that has been the exclusive domain of state lawmakers for 200 years. And state judges are coming out against federal statutes that would tamper with century-old jurisprudence developed in state courts.
>
> The rush to impose federal rules on tort claims runs counter to the Republican philosophy of giving more power to the states. Surely, this is one area where state judges and legislators are better suited to determine what's needed in their communities.
>
> The Washington Legislature, for example, passed a comprehensive tort-reform law in 1986. Many other states have done so in the past decade, Yet, voters in some places, such as Arizona and Michigan, have turned down tort reform initiatives. Why should Congress now force those voters to live with legal changes they rejected at the polls. * * *

I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> [From the Seattle Times, Apr. 30, 1995]
>
> FEDERAL TORT REFORM USURPS STATES RIGHTS
>
> The only parties pushing for tort reform seems to be big businesses, doctors intent on curbing medical malpractice lawsuits, and lawmakers who receive financial contributions from those lobbies.
>
> Recent polls show that the great majority of Americans oppose restricting the right of individuals to hold manufacturers and medical workers accountable for their injurious acts.
>
> The National Conference of State Legislatures oppose having Congress federalize an area of law that has been the exclusive domain of state lawmakers for 200 years. And state judges are coming out against federal statutes that would tamper with century-old jurisprudence developed in state courts.
>
> The rush to impose federal rules on tort claims runs counter to the Republican philosophy of giving more power to the states. Surely, this is one area where state judges and legislators are better suited to determine what's needed in their communities.
>
> The Washington Legislature, for example, passed a comprehensive tort-reform law in 1986. Many other states have done so in the past decade. Yet, voters in some places, such as Arizona and Michigan, have turned down tort reform initiatives. Why should Congress now force those voters to live with legal changes they rejected at the polls?
>
> The Senate product-liability bill, sponsored by Sen. Slade Gorton, though more limited than the House legislation, is still an unnecessary federal intrusion into state law.
>
> The Senate bill does not include the House's onerous "loser pays" rule that would prevent individuals and small businesses from filing legitimate lawsuits for fear of having to pay legal fees for the opposing side. But like the House bill, it would cap punitive damages in dangerous-product cases to $250,000 or three times the economic loss, whichever is greater.
>
> The change might make sense if it created a uniform rule across all 50 states. But it won't. Washington law does not allow punitive damage awards at all, so the proposed federal standard won't apply here.
>
> Other provisions of the Senate bill, however, will affect Washington residents. One provision would make it harder for people injured by defective products to collect for "pain and suffering." The bill places limits on lawsuits by individuals, yet places no such limits on businesses.
>
> Tort reform will not unclog the court systems. Though businesses routinely complain about the litigation explosion, tort claims account for only 9 percent of all civil suits, and product-liability cases make up only 4 percent of tort claims. The real problem is with companies suing each other—a phenomenon completely unaddressed by the proposed legislation.
>
> But this isn't about clearing up court dockets or improving the way judges and juries handle tort claims. It is about reducing the financial exposure of manufacturers even when there are serious proven injuries. If states believe protection is needed for businesses, they are free to enact tort reform without congressional interference.

Mrs. MURRAY. Mr. President, I have serious concerns about S. 565 and cannot support passage of this legislation. I urge my colleagues to think long and hard about consumer health and safety, their individual State's autonomy in determining its own tort laws, as well as the potential impact of this bill on women.

I believe this bill tilts the scales of justice far too dramatically in favor of corporate profits. It is our job to do all we can to assure the families we represent that the products they use are safe, and that they will have recourse if they are harmed.

Mr. President, this bill hurts the little guy. Is it not time we all stepped back, and remembered the adage—there but for the grace of God go I.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California [Mrs. BOXER] is recognized.

Mrs. BOXER. Mr. President, I want to associate myself with my colleague from Washington, Senator MURRAY, because I think that she, as she usually does, puts her finger on real people.

Who are the real people that are going to be impacted by this change in this law that is before us? I hope that we do not vote for cloture. The bill that would be before us, if cloture is voted, is a bill that I think is very, very harmful to the American people. It is bad for consumers; it is bad for a system that has produced the safest products in the world.

With all our problems, we still have the safest products because we have a legal system out there that acts as a deterrent to those sitting around in the boardrooms deciding if they can write off a certain number of injuries and still make a profit.

I said the last time I debated this that this so-called reform is not so much about what will go on in the courtroom as what goes on in the boardroom, because it is in the boardroom—and we see it through discovery in other products cases—where the dollars and cents take hold. We have heard about automobile manufacturers who knowingly did not spend enough time on safety and said, "we can afford to have so many explosions and we will still make money." We want to make sure that that kind of callous attitude does not increase in America today. We want the safest products.

My friend from Washington, Senator MURRAY—I have to be clear because we have the two Senators from Washington on different sides of this—was very clear on who could be hurt from this so-called reform. Again, I want to make the point here that it is the Republican Congress that keeps on saying, "We want the people of the States to handle everything. They are better at it." Yet, when it comes to product liability, for whatever reason, they want big brother and big sister and the U.S. Senate to dictate to every judge and jury in this country as to what damages ought to be. I find it almost amusing, if it were not such a serious matter.

When it is convenient, you are for the local people, and when it is not, do not let philosophy get in the way. I think Senator THOMPSON from Tennessee made that point very clearly, as a Republican Senator who does not like this bill, asking if this goes against the grain of what he said Republicans are trying to do. I applaud him for that directness.

Now, we know that there are going to be some changes to the bill as it is before us in order to get enough votes to move forward. I was very pleased to see that not even a majority of this Senate would stand up for that Dole amendment which would put a punitive damages cap on all civil cases. It was so far-reaching and so hurtful that Senator DOLE could not even get 50, 51 votes. I think he got 47. That is very far from shutting off debate.

I have to say that I believe the substitute bill will have some terrible consequences. Yes, it stripped out the other areas of law, and they are just sticking to products.

I think there will be three consequences. By the way, I am not suggesting that the people who support this bill want these consequences. But I believe these are the consequences of the bill.

First, it will make our products less safe—less safe—for consumers.

Second, the formula for punitive damages is blatantly unfair. It favors the wealthiest. Let me repeat that: The formula for punitive damages is blatantly unfair and favors the wealthy. I will show a particular case where we have a wealthy corporate executive suffer the same injury from the same product as a homemaker and wait until we see the difference in the award that they get. It will make your hair stand on end, it is so unfair.

Third, there is another issue that has not yet been raised that deals with the biomaterials section, which I believe will unduly restrict liability for suppliers of component parts. In other words, if a person gets hurt by a product that has a number of parts, what this would do is put some of the manufacturers of those parts off limits. They would have no liability. It sets up a real problem, which I will go into.

Moving to consumer safety, one study done on tort law and its effect on improved safety, reported that the State system of product liability saves lives. The study estimates that 6,000 to 7,000 accidental deaths are prevented and as many as 3 million fewer injuries occur every year because of State product liability laws. We are talking here about changing laws that studies have shown saves lives.

Why do we want to do that? Some 6,000 to 7,000 deaths are prevented every year. Three million fewer injuries. Why do we want to change a system that helps this country? I do not believe the proponents of this legislation want to see more deaths and injuries, but I believe that is an unintended consequence of this bill. The best products in the world, and we are messing with it over here, and I think it is wrong.

Now, I want to talk about fairness. The Dole bill, as it is before the Senate, and I know that Senator GORTON plans to amend it so I will address both, would do the following, and I will prove it by giving a case and walking through a case.

There is a CEO who earns $400,000 a year. His auto engine explodes and he is unable to work for a year. Then, there is a 45-year-old female homemaker. She earns no wages. Same thing happens to her. Her auto engine explodes and she is unable to work for a year. The automaker is found 100 percent liable by the jury.

For the CEO, the jury awards economic damages of $425,000—the $400,000 he makes plus $25,000 in medical bills; pain and suffering damages of $25,000; he gets a compensatory damage award of $450,000. When we add that in with the punitive damages, which is two times compensatory damages, he gets $1.35 million.

Identical injury, different results. Now we will look at the homemaker, 45 years old—same age as the CEO. She earns no wages. Her auto engine explodes and she cannot work for a year. She is not working anyway. She has no wages. The automaker is found 100 percent liable. She gets economic damages of $25,000. She has no lost wages. She has $25,000 in medical bills, pain and suffering of $25,000. Her total compensatory damage award is $50,000.

Here is what happens to her: She gets compensatory damages of $50,000; punitive damages of $100,000, for a total award of $150,000. Same injury, different result.

This is the bill that is before the Senate. Senator GORTON wants to make it better. I am glad he does. He is putting back the $250,000, so she could get $250,000 in punitive damages if his amendment holds.

Now, giving them the benefit of the doubt, that they change it to $250,000, it is $1.35 million versus $300,000—same injury, different result. This is what we are voting on.

I hate to say it, but it hurts women the most. Women still earn only 71 cents for every $1 earned by a man. And women and minorities make up only 5 percent of top management jobs. The consequences of that disparity here will play out.

Who will get hurt? Middle-income people, women, the elderly, children. Who gets the highest award? A high-paid executive. Oh good. Just what we needed. Robin Hood in reverse. A court system that pays this man $1.35 million and pays this woman $300,000 or $150,000, depending on what we wind up with.

I have to say that anyone who votes for this is voting for something that is blatantly unfair, blatantly unfair. We in the almighty Senate are putting our imprimatur on this kind of a plan.

Not this Senator. I hope we have enough Senators who stand up and be counted for the little guy, as my colleague Senator MURRAY says, the little guy, the little gal. They do not have pinstripe suiters around here. They do not get on the plane and come and knock on our door. But the big guys can. And that is what this bill is for. Unfair, blatantly unfair.

The bottom line is that juries, who see these cases firsthand, can make these decisions. That is the bottom line.

Now, I want to talk about medical devices. This is something that hits home again to a large number, particularly of women, although I might say men who have pacemakers or other kinds of devices implanted should be very concerned about the biomaterials section in this bill. Senator HEFLIN and I have discussed this, and we both agree that this title of the bill has not gotten enough attention.

As biomaterial suppliers, component parts manufacturers would be shielded from liability under this bill.

I am concerned that these provisions go too far. We know about silicone gel implants. Would the people who make that silicone be immunized under the bill? Will they be protected from lawsuits?

We know Dow Chemical set up a corporation just to make breast implants, and they called it Dow Corning. They tried to protect Dow Chemical from liability that way even though Dow Chemical made the chlorinated organic compounds, the solvents and the catalyst that went into these implants.

The product of silicone breast implants, we know, is the subject of ongoing litigation, but will this title in the bill that is still in the bill mean that Dow Chemical could be dismissed from the case? What would we be telling the women, infants, and children whose lives have been devastated by these leaking silicone implants? What would we be telling them now that they are finally ending their battle with the chemical giants? Are they going to be told, "Sorry, Congress just gave extraordinary protection to Dow, and you are left with no way to be made whole?" I hope we will not vote cloture on this bill.

We are not sure if Dow would be shielded, but it is clear that manufacturers will try for this absolute defense.

Mind you, in that section they will be shielded from liability for component parts. And will these provisions encourage device manufacturers to set up their own separate entities to manufacture all the component parts and supply all the raw materials? Would these provisions protect these shell corporations from reckless conduct or even deliberate harm?

I know small businesses are concerned about this, if they supply a small part. I am not talking about that situation. I am talking about a situation that could occur in this bill with this title where a corporation that makes, say, the silicone breast implant, sets up another corporation at an arm's distance, legally, and that second corporation supplies all of the component parts. If the product is unsafe and the company that makes the product goes out of business, no one can go after the company that makes component parts because—guess why—they are shielded under this bill.

Let us not mess with the product liability laws in this land.

In the beginning we heard a lot of talk: Oh, there is a crisis, so many cases. There have been about 350 cases in 25 years where there have been punitive damage awards. I think we have proven that on this floor over and over again. The leadership on this, from my side of the aisle, has been magnificent. Senator HOLLINGS and Senator HEFLIN have been on their feet, hour after hour after hour, peeling away the talk and looking at the facts of what this bill will do.

I think the American people are starting to get scared, because just because somebody says "legal reform" does not mean necessarily that is what it is. This is not reform, this is basically the Federal Government taking over and tying the hands of judges and juries, tying their hands, so if someone is disfigured or has brain damage or cannot have a child and suffers mightily and his or her family suffers mightily, that judge and that jury cannot decide the dollar number to put on that case.

We know there are enough checks and balances in the system today. We do not need to take over this area of the law. I hope we will stand strong today, again, against cloture. Just keep in mind in this accident: Identical injuries, different results—a homemaker getting a maximum of $150,000; with the Gorton amendment getting a maximum of $300,000; and the same identical injury, a CEO making $400,000 comes away with $1.35 million.

To me that is a denial of equal protection under the law. But, yet, that is the kind of law we are looking at.

Let us beat back this other attempt at cloture. Let us protect the American people from this bill. It is not necessary and it will be very hurtful.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, this bill ought to be determined kill them, not injure them. Certainly in regard to the DeWine small business amendment, where it is the lesser of $250,000 or two times noneconomic and economic damages, you can have instances in death cases where the limit would be zero because there are no economic damages and because death occurs immediately, without pain and suffering, or with a minimum amount of time in which one goes through that.

But the whole issue comes down to the role of the Senate. To me, the role of the Senate in regards to this is extremely important. Some of my colleagues, I am afraid, do not realize there will be a conference and the House of Representatives bill, which was passed, which has a 15-year statute of repose, which does not even have the Snowe amendment, which I consider not to be—an improvement—does not have it in it. And when you go to conference what is going to happen? I do not see the Speaker of the House of Representatives is going to be outdone by my good friend, Senator ROCKEFELLER. I think he will come out with a House version of the bill.

So, regardless of what substitute to a substitute might be offered here, if cloture were to be agreed to then what do you do? You go to conference and what do you come out with? You come out with the Gingrich bill.

The role of the Senate is to be a deliberative body. We are not a body that votes aye and nay, and the majority rules in the event a person desires to take advantage of the rules. You have the cloture situation. So what is really at stake here is an issue in regards to the role of the Senate and the rules of the Senate.

Do not be under any illusion to the effect that what you might adopt as a substitute to a substitute is going to be the final bill that goes to the President. It goes to conference. I think we ought to realize very clearly what the situation will be.

There are just so many bugs in this. One of the lawyers on Senator HOLLINGS staff mentioned to me you can organize subsidiary corporations or you can keep down the major corporations to fewer than 25 employees. There are so many maneuvers and various activities that can occur relative to that, that opens the market wide open pertaining to this.

So I have already spoken. Senator HOLLINGS is here, and others that will probably want to speak. I am not going to speak long on this, but this is basically saying that life in the United States, if a wrongdoer kills you, it is worth no more than $250,000, particularly in the event that you fall under the small business protection. I say this is flawed with great unfairness throughout. I have outlined it before.

But the main issue to be considered in this cloture vote that is upcoming is the role of the Senate. Do not forget there is going to be a conference. Do not forget who is going to control the conference. I hope my colleagues bear that in mind as they consider their cloture vote.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the Senator from Alabama is right on target. I remember my children years ago used to listen to a little Saturday morning radio show, "Big John and Sparky," and they had little squeaky Sparky with the voice:

All the way through your life,
Make this your goal,
Keep your eye on the doughnut,
And not on the hole.

Keeping our eyes on the doughnut and trying to avoid falling into holes that these folks have on course, all we need do is go to the contract, the contract and what is really intended.

The theme of the contract is that Government is not the solution; Government is the problem. The Government is the enemy. Abolish the Department of Education; abolish the Department of Commerce; abolish the Department of Housing and Urban Development; abolish the Department of Energy; get rid of public TV; get rid of private TV; abolish the Federal Communications Commission; abolish the Endowment for the Arts on the one hand, the Environmental Protection Agency on the other hand. And then, as concerns fundamental rights, we come to trial by jury. This is none other than an assault on the seventh amendment, the fundamental right given under our Government for a jury of your peers.

I could quote Patrick Henry, James Madison, Thomas Jefferson. We could go right on down the line, up to Chief Justice Rehnquist —and we will have time to do that—very, very interesting observations, right up to date. But you can see it in that contract, the English rule.

Now, you have to watch them closely to get the eye on the doughnut. It is not in there—tort reform—but it is over in H.R. 988, a separate bill. In that separate bill, yes, they have the English rule on the one hand, and interestingly, Mr. President, they sneaked in what the Senator from West Virginia said. Now we do not have that in our bill this year; that is, the settlement process whereby if you are offered a settlement and decline, and you get a verdict of less than that settlement, you have to pay the attorney's fees on the other side. That is the English rule of intimidation, and they have it in this separate bill. You can bet your boots they will get it in the conference.

Yes, they constantly are reminding us that we lost. You are right. Tom Foley is not over there; NEWT GINGRICH is over there. I have seen him whip these young Congressmen from my own State into line. It was said conscientiously we did not have the money for a tax cut. We did not have it; no. They are opposed to a tax cut because we just did not have it. What we needed to do was pay the bill—on and on. But we are now in the bottom nine game. You either come out for practice or you do not play on the team.

Speaker GINGRICH is a hard taskmaster. You can bet your boots when this bill or any bill gets there, it needs little fixes at the end before cloture votes. Essentially, they are that; just momentary fixes to get just a title or anything that would relate to it over to the House side, for they know what they can get by an overwhelming Gingrich vote over there, and bring it back where the poor majority leader has to mimic because he is all wound up in a Presidential race.

I know the distinguished Senator from Kansas does not want to do away with punitive damages in all civil cases. But anything you can do, I can do better. So you do one. So I up the ante and go to all civil cases. We will find out who is for who, and who ought to be the Republican nominee, and we will just out-Republican each other. And you have all kinds of mischief afoot if you do not keep your eye on the doughnut and watch it very, very closely.

They never would apply this to the manufacturers. I just allude here to one case because they keep talking about punitive damages. It is the case of TXO Production Corp. verses Reliance Resources, decided just 2 years ago by whom? The U.S. Supreme Court, on punitive damages. What were the actual damages? They were $19,000. What were the punitive damages? They were $10 million. You get all of this anecdotal nonsense. They come out in individual injury cases like it is so outrageous, that the poor lady who was burned with the McDonald's coffee was just outrageous, not this kind of percentage. They go to 1,000 percent. This is way more than that $19,000 actual, $10 million punitive, the most recent case on punitive damages before the U.S. Supreme Court in a civil action.

So there it is. They do not believe in it because they will not apply that to themselves. They have the unmitigated gall to come around saying they represent the consumers, but they will not let it apply to the manufacturers. Come on. Come on. Do not give me that this bill is for consumers, and the consumer and the injured party are not getting enough money. Do not come with respect to the trial lawyers that bought the crowd. Come on. Everybody is in the contribution business. I would like to get some more from the trial lawyers. I would like to get more from the chamber of commerce. You do not think that the chamber of commerce, the National Association of Manufacturers, the Conference Board, the Business Round Table, and the National Federation of Independent Businesses, yes, they have PAC's. And they give away more money. But you cannot find it quoted in the newspaper.

They not only give more in contributions but they have a better currency. They have organized PAC's and organized focus. I see them in my elections. They come to you, and they say, "How about it, now? We want you to help us on this bill." I am getting the letters. I am getting the calls now. The people in a position of objecting to this heinous measure here, the Consumer Federation of America, the leading one, they do not have a PAC. They do not give you a nickel.

Do you think you get calls at election time? The NFIB and the small business people out there are calling, the chamber of commerce is calling, big boys from the Business Round Table and the National Association of Manufacturers in my State are calling. The Consumer Federation of America does not have a PAC. Public Citizen does not have a PAC. The Association of State Legislatures does not have a PAC. The Association of State Supreme Court Justices does not have a PAC. The Attorneys General of the United States does not have a PAC. The American Bar Association does not have a PAC. Let us clear the air here and find out who is who, and who is supporting who.

This insulting reference that this bill ought to just whip right on through, they do not believe in it themselves, or their own manufacturers that they represent. They do not believe it by way of contractors, because the contractors are sending everything back to the people. This bill is to take it away, take it away from the people; bring it to the Washington bureaucrats on the one hand, and take away the rights of trial by jury on the other. You do not just outright abolish the seventh amendment. You nibble at it. You nibble at it. You just erode it like a rat just gnawing at it gradually. Yes, get rid of punitive damages. Get rid of joint and several liability. Limit the evidence that goes in. Get a bifurcated—a divided—proof of actual and proof of punitive. Go right on down the list. Give them the English rule.

Well, that is not 170 years ago. I had this quote from none other than the British National Council for Civil Liberties, what they had to say about the systematic erosion of the English jury system between 1967 and 1978:

> The jury system has been badly undermined in recent years. The prosecution in criminal cases, otherwise than civil cases, need no longer convince 12 jurors. They can convict on the views of only 10.

They state that to come in now, to allow a check on the jurors' backgrounds, while the defense is not even allowed to know his occupation, the prosecution can secretly bet your all for their political loyalty, yet the defense is not even allowed to ask jurors questions in open court. The principle of randomness has been used to cut down defense challenges but leave prosecution challenges unlimited. A large percentage of the criminal work has been removed from the jury to the magistrates court. And on the civil side, we find that less than 2 percent of the civil cases are tried before a jury.

I had a lawyer friend that went to the American Bar Association seminars and interviewed the prospective jurors at random. He kept going through, trying to find any that would serve. He could not find anybody in London. He went on up to Scotland. They just did not serve on juries. You have to be a member of the elite. So do not come and give me the English rule.

I know about the unstudied mind of the ideas of the Magna Carta, King John at Runnymede. I remember, I say to the Senator, when we went over on one of these tourist trips to London. They got on the bus one afternoon and stopped at Runnymede, and my friend is as talkative as I am. He said, "Now, what happened here?" The bus driver called back and said, "King John, the signing of the Magna Carta." And he said, "Well, when was that?" The driver shouted back, "1215." He looked at his watch. He said, "Florence, damn it, you are 2 hours late again. We are behind time."

That is about how much this crowd knows about Runnymede and the Magna Carta. They do not know about the English system. They do not know it is totally eroded. The fundamental right of trial by jury here is being assaulted.

Let us look at that so-called English rule that they have on another bill that they hope to put in in conference. I will never forget one case I had before I got elected to the Senate. In fact, it was settled after I got out of the law practice and in the Senate. My law partner and I were the only two who tried the case. There was a firm of 12 lawyers in Charleston. There was a firm of 17 lawyers in Columbia. There were some from New York that came in. They had 20-some lawyers. They had to get three tables. And just he and I had an injured party and we were trying the case.

I think back to the fact that particular case never even received an offer of any kind of settlement until it went out to the jury, never a red cent of offer. It was one of the most injurious cases—injuries, clear-cut proof—that I had ever been engaged in. I never could understand why they would not make us an offer.

But you have these insurance company lawyers who will say, "We don't settle cases." They think that is macho and everything else. Translated, we factor it in the cost of litigation. So we have no idea of settling. So what happens? You intimidate the injured party.

Look at a case we had last year in the district court under Judge Ross Anderson with General Motors. General Motors was represented by four of the biggest law firms. They had a grand total from those firms of 1,000 lawyers. Present in the courtroom representing General Motors was the former Attorney General Griffin Bell, the former Attorney General William Barr, the former Solicitor General, Kenneth Starr—you can go down the list—some of the most well known attorneys that you will ever find. They have to be paid $400 to $500 an hour.

You would think that the plaintiff in that case would not bring the case when they have General Motors and all of those lawyers and everything else and have to run the risk of not prevailing and getting all 12 jurors. They talk about consumers and everything else. They are trying inch by inch, yard by yard to get rid of the trial by jury. It has happened in England and they would like to have it happen right now in the United States of America.

That cannot be emphasized too much as it now concerns what we have before us because we have to look at the doughnut and not the hole. We look at all these little ramifications. They will put in any and every kind of amendment that you can possibly think of just to fix this vote or fix that vote or change the vote we had last week, knowing all along that they have kept their word and the amendment is clear.

Then when they get on the other side, they will be telling the truth again when they say, "Well, you know, Speaker GINGRICH took over and this is his bill, and that is all we could get the House Members to vote for and that is what we got in the conference report." And then you really have all of this thing piled on you. That is why some of us in this Chamber struggle so because we can see exactly what is occurring. Everything that was reprehensible in these previous bills by the distinguished Senator from West Virginia, in the House bills, and considered in separate bills over there and everything else of that kind, is being and is going to be reinserted. And so when they get to conference, just like this bill started as a product liability measure; it soon became a malpractice, a medical malpractice measure. And just as soon as it became a medical malpractice measure, the next thing you look around it was all civil cases that it would apply to. And that is exactly how the conference would go if we did exactly as they wish, and that is let us get this little change here and that little change there, and we will all be happy.

We all have been working hard. We have been on this for several years. And the plea is to what you committed. Laws are really passed at campaign time. Too often it is that these eminent organizations come—the National Federation of Independent Businesses—for one thing only, your vote on their bill. Necessarily you want their support. In fact, they give you a little award, a little statue, and that is the NFIB award. And it is the treasure board award that you get from that small business group.

They have thousands of mailouts. I can tell you, trial lawyers do not have any thousands of mailouts. The others, as well, including consumer organizations, do not mail out anything. They just do not have any PAC's at the supreme courts of the 50 States. The American Bar Association, which opposes this measure, does not have any PAC. They do not have political mailouts. But the NFIB mails out; the chamber of commerce has its meetings as well as the mailouts. The National Association of Manufacturers is strong in my State. They come around, and they have not only mailouts but special manufacturers come around and meet with you and everything else of that kind.

So if you are not studied as to the individual rights of injured parties, you may not realize how horrendous this legislation is, and the detrimental impact it will have on our Nation's civil justice system. What's worse is that it is based on a total distorted record. They lament and lament about punitive damages. However, according to the hearing record, the amount of all of product liability punitive damage awards in the last 30 years adds up to only a fraction of the $3 billion Pennzoil versus Texaco verdict, or the $3 billion verdict in the Exxon Valdez case.

Are they really concerned about consumers? Are they really concerned about the injured parties?

Mr. President, of all civil filings, torts represent 9 percent, and of those tort filings only 4 percent of the 9 percent, are product liability cases—.38—thirty-eight one-hundredths—percent. And this thing has taken 2 weeks now. To do what? To take it away from the States that have had jurisdiction for 230 years, the English law and everything else of that kind, or the regular statutes, the regular burdens of proof, the greater weight of the preponderance of evidence, all 12 jurors have to find it and on appeal and everything, injured party on a contingent basis. It has worked. The States themselves over the past 15 years have reformed their laws, and there is no question in my mind that they are handling it and handling it well. My judges tell me so, particularly my Republican judges that we have confirmed that I am proud of because I voted for their confirmation.

But I wanted to make absolutely sure that we did not have that problem. I am assured of it. But they are trying now to get their foot in the door, and the ultimate goal is to restrict, if not totally eliminate, as they have in England, trial by jury.

I yield the floor.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAIG). The absence of a quorum has been noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY PRIME MINISTER OF ISRAEL YITZHAK RABIN

Mr. HELMS. Mr. President, I have the honor of presenting to the Senate—and I shall do that in a minute—the distinguished Prime Minister of Israel, Mr. Rabin.

RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes so that Senators may greet our distinguished guest.

There being no objection, the Senate, at 4:02 p.m., recessed until 4:07 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CRAIG).

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate resumed consideration of the bill.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER FOR CLOTURE VOTE TO BEGIN AT 4:20 P.M.

Mr. DOLE. Mr. President, it is my understanding that a couple of our colleagues, one on each side of the aisle, may not be available until 4:15 or 4:20. I ask unanimous consent that the cloture vote scheduled for 4 p.m. today be postponed to occur at 4:20 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, I would also ask unanimous consent that the pending Gorton substitute be modified to reflect to "Strike all after the first word, and insert," and on page 20, line 6, strike "or (2)" and on line 14, strike "or (2)".

Mr. HOLLINGS. Mr. President, I have discussed this with the leadership. I would have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, let me indicate we were trying to clear up a procedural problem. The Senator certainly has every right to object. It may mean that this will be corrected tomorrow, if cloture is not invoked today. I hope cloture will be invoked today.

EXPRESSING THE SENSE OF THE SENATE ON 50TH ANNIVERSARY OF V-E DAY

Mr. DOLE. Mr. President, today is a very important day for a number of people on this Senate floor. It is V-E Day. May 8, 1945, was a very important day. We have a V-E Day resolution that I think deserves a rollcall. I hope my colleagues would agree that, immediately after the cloture vote, we would have a vote on the V-E Day resolution.

I send that resolution to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 115) expressing the sense of the Senate that America's World War II veterans and their families are deserving of this nation's respect and appreciation on the 50th anniversary of V-E Day.

The resolution is as follows:

Whereas on May 7, 1945 in Reims, France, the German High Command signed the document of surrender, surrendering all air, land and sea forces unconditionally to the Allies;

Whereas President Harry S Truman proclaimed May 8, 1945 to be V-E Day:

Whereas May 8, 1995 is the 50th Anniversary of that proclamation:

Whereas, the courage and sacrifice of the American fighting men and women who served with distinction to save the world from tyranny and aggression should always be remembered; Now, therefore, be it

Resolved, That the United States Senate joins with a grateful nation in expressing our respect and appreciation to the men and women who served in World War II, and their families. Further, we remember and pay tribute to those Americans who made the ultimate sacrifice and gave their life for their country.

The Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, it is a very brief resolution. I have taken the liberty of adding World War II veterans as cosponsors. If some do not want to—I have Senator EXON, Senator HOLLINGS, Senator GLENN, Senator INOUYE, Senator STEVENS, Senator HELMS—I think there are a couple of others—Senator HEFLIN.

Mr. HOLLINGS. Senator THURMOND.

Mr. DOLE. Senator THURMOND. I will furnish those names at the desk.

So I hope, unless there is some objection on the other side, that that vote could follow immediately the vote on cloture.

Mr. HOLLINGS. We have no objection.

Mr. DOLE. So, Mr. President, the yeas and nays are automatic on the cloture vote. Let me ask for the yeas and nays on the V-E Day resolution.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF JOHN M. DEUTCH, TO BE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. DOLE. Finally, Mr. President, as in executive session, I ask unanimous consent that immediately following the cloture vote and the vote on the V-E Day resolution, notwithstanding rule XXII, the Senate go into executive session to consider the nomination of John Deutch, to be Director of the CIA, and that it be considered under the following time agreement: 2 hours equally divided between the chairman and vice chairman of the Intelligence Committee, or their designees; that following the conclusion, or yielding back of time, the nomination be set aside; and that the Senate then return to legislative session, with the vote to occur on the nomination at 10:30 a.m. on Tuesday, May 9, 1995.

I believe this has been cleared on both sides. We will have debate this afternoon and vote tomorrow morning. I know the President very much wants to have this nomination addressed. We are prepared to do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me suggest the absence of a quorum unless someone would like to speak. There are 8 minutes before the cloture vote occurs. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. HEFLIN. Mr. President, again, I want to emphasize what this vote is about. It is, of course, about product liability, but it is also the role of the Senate in the legislative process.

The House has passed a bill that contains vast differences from what is proposed in the substitute and what is proposed in the substitute to the substitute.

If we do not take advantage of our rules and do not exercise the role that is intended for the Senate to be a deliberative body, and if we vote cloture, there is no question what will happen is it will go back to the House and I do not think there is much question as to what will happen.

The Speaker of the House will control the conference, and this is going to be a bill regardless of what fixes may have been attempted in the Senate, the version that is going to come out of the conference is going to be the version of the Speaker of the House of Representatives. It comes back here and people say, "Well, you can exercise your rules and you can have extended debate at that time." But we all know what happens on conferences. Their reports come back, people are anxious to get away, and they are arranged at a time to come up where you are in a situation, and we end up, with very rare exceptions, approving conference reports.

So I say to my colleagues, this is a vote not only on product liability but is a vote on the role of the Senate on this bill and other bills that may be coming down in the future.

So I urge my colleagues to vote against cloture. It is very important that they bear in mind the fact that whatever is being proposed here does not mean that that is going to be the final version. The final version, I think, in the judgment of anybody who can see beyond the immediate scene and can see around the corner will be that it will be in conference and it will come out as a Gingrich version of this bill.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I simply want to announce to the friends and supporters of this bill that this will not be a meaningful cloture vote. In the haste to draft the Gorton-Rockefeller amendment, a couple of drafting errors were made that can only be removed at this point by unanimous consent. Unanimous consent, as the body knows, was not granted.

Second, because the Gorton-Rockefeller amendment is in the nature of a substitute, had cloture been granted and had the Gorton-Rockefeller amendment been adopted, which it would have been, it would have cut off all other postcloture amendments from the opponents to the bill and that, too, could only have been waived by unanimous consent.

So I say to Members who have worked on this compromise, they can vote for or against cloture at will. I do not expect cloture to be invoked. I cannot under these circumstances vote for cloture myself. The bill by tomorrow morning will be in proper form, both for its own passage and to allow postcloture amendments. Tomorrow morning's cloture vote will be the significant one on this bill and not the vote that is being taken this evening.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 4:20 p.m. having arrived, under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on a substitute amendment to H.R. 956, the product liability bill:

Slade Gorton, Dan Coats, Richard G. Lugar, John Ashcroft, Rod Grams, Kay Bailey Hutchison, Judd Gregg, Strom Thurmond, Jay Rockefeller, Trent Lott, Rick Santorum, Larry E. Craig, Bob Smith, Don Nickles, R.F. Bennett, John McCain, Connie Mack.

VOTE ON MOTION TO INVOKE CLOTURE

The PRESIDING OFFICER. By unanimous consent the quorum call has been waived.

The question is: Is it the sense of the Senate that debate on amendment No. 690 to H.R. 956, the product liability bill, shall be brought to a close?

The yeas and nays have been required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA], the Senator from Iowa [Mr. HARKIN], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I further announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

I further announce that, if present and voting, the Senator from Hawaii [Mr. AKAKA] would vote "nay."

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Colorado [Mr. CAMPBELL], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 49, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—43

Abraham
Ashcroft
Bond
Brown
Burns
Chafee
Coats
Coverdell
Craig
DeWine
Dole
Domenici
Exon
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Smith
Snowe
Stevens
Thomas
Thurmond

NAYS—49

Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cochran
Cohen
Conrad
D'Amato
Daschle
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Heflin
Hollings
Inouye
Johnston
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simon
Simpson
Specter
Thompson
Wellstone

NOT VOTING—8

Akaka
Bennett
Campbell
Harkin
Kennedy
Kerrey
Pell
Warner

So the motion was rejected.

The PRESIDING OFFICER. On this vote, the yeas are 43, and the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I said just before this vote, for technical reasons, given the nature of the amendment, with our 3 o'clock deadline and the haste to file the Rockefeller-Gorton substitute, certain drafting errors were made which could not be cured without unanimous consent. Unanimous consent was not granted. Therefore, Senator ROCKEFELLER and I both voted no on cloture this time around and regard this last vote as essentially meaningless.

Between now and the adjournment of the Senate today, we will introduce a revised second-degree amendment with the majority leader that will reflect our precise views and the agreement that has been made with the consent of, I think, a very substantial majority of the Members, as to the final form of this bill.

Tomorrow we will vote on cloture once again. If we have not been allowed by unanimous consent to adopt that second-degree amendment, the sponsors are confident in making a guarantee it will pass immediately after cloture is invoked.

Mr. President, inquiry: Do we have an order to go on to another subject at this point?

EXPRESSING THE SENSE OF THE SENATE ON THE 50TH ANNIVERSARY OF V-E DAY

The PRESIDING OFFICER. The clerk will report Senate Resolution 115.

The legislative clerk read as follows:

A resolution (S. Res. 115) expressing the sense of the Senate that America's World War II veterans and their families are deserving of this Nation's respect and appreciation on the 50th anniversary of V-E Day.

The Senate resumed consideration of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Colorado [Mr. CAMPBELL], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA] and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

I further announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL], the Senator from Hawaii [Mr. AKAKA], and the Senator from Massachusetts [Mr. KENNEDY] would each vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—94

Abraham
Ashcroft
Baucus
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Wellstone

NOT VOTING—6

Akaka
Bennett
Campbell
Kennedy
Pell
Warner

So, the resolution (S. Res. 115), with its preamble, was agreed to; as follows:

S. RES. 115

Whereas on May 7, 1945, in Reims, France, the German High command signed the document of surrender, surrendering all air, land and sea forces unconditionally to the Allies;

Whereas President Harry S Truman proclaimed May 8, 1945, to be V-E Day;

Whereas May 8, 1995, is the fiftieth Anniversary of that proclamation;

Whereas, the courage and sacrifice of the American fighting men and women who served with distinction to save the world from tyranny and aggression should always be remembered: Now, therefore, be it

Resolved, That the United States Senate joins with a grateful Nation in expressing our respect and appreciation to the the men and women who served in World War II, and their families. Further, we remember and pay tribute to those Americans who made the ultimate sacrifice and gave their life for their country.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 709, AS MODIFIED

Mr. GORTON. Mr. President, I send a modification of my earlier amendment to the desk on behalf of myself, Senator ROCKEFELLER, and Senator DOLE.

The PRESIDING OFFICER. The Senator has a right to modify the amendment, and the amendment is so modified.

The amendment, as modified, is as follows:

Strike out all after the first word and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act of 1995".

TITLE I—PRODUCT LIABILITY

SEC. 101. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ACTUAL MALICE.—The term "actual malice" means specific intent to cause serious physical injury, illness, disease, or damage to property, or death.

(2) CLAIMANT.—The term "claimant" means any person who brings a product liability action and any person on whose behalf such an action is brought. If an action is brought through or on behalf of—

(A) an estate, the term includes the decedent; or

(B) a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(3) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means the amount paid to an employee as workers' compensation benefits.

(4) CLEAR AND CONVINCING EVIDENCE.—

(A) IN GENERAL.—Subject to subparagraph (A), the term "clear and convincing evidence" is that measure of degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.

(B) DEGREE OF PROOF.—The degree of proof required to satisfy the standard of clear and convincing evidence shall be—

(i) greater than the degree of proof required to meet the standard of preponderance of the evidence; and

(ii) less than the degree of proof required to meet the standard of proof beyond a reasonable doubt.

(5) COMMERCIAL LOSS.—The term "commercial loss" means any loss or damage to a product itself, loss relating to a dispute over its value, or consequential economic loss the recovery of which is governed by the Uniform Commercial Code or analogous State commercial law, not including harm.

(6) DURABLE GOOD.—The term "durable good" means any product, or any component of any such product, which has a normal life expectancy of 3 or more years or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(7) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including any medical expense loss, work loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent that recovery for the loss is permitted under applicable State law.

(8) HARM.—The term "harm" means any physical injury, illness, disease, or death, or damage to property, caused by a product. The term does not include commercial loss or loss or damage to a product itself.

(9) INSURER.—The term "insurer" means the employer of a claimant, if the employer is self-insured, or the workers' compensation insurer of an employer.

(10) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product), and who designs or formulates the product (or component part of the product), or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, constructs, designs, or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another person; or

(C) any product seller that is not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(11) NONECONOMIC LOSS.—The term "noneconomic loss"—

(A) means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; and

(B) does not include economic loss.

(12) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(13) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term "product" does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; and

(ii) electricity, water delivered by a utility, natural gas, or steam.

(14) PRODUCT LIABILITY ACTION.—The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(15) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who—

(i) in the course of a business conducted for that purpose, sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(16) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, or any political subdivision thereof.

(17) TIME OF DELIVERY.—The term "time of delivery" means the time when a product is delivered to the first purchaser or lessee of the product that was not involved in manufacturing or selling the product, or using the product as a component part of another product to be sold.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) APPLICABILITY.—

(1) ACTIONS COVERED.—Subject to paragraph (2), this title applies to any product liability action commenced on or after the date of enactment of this Act, without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

(2) ACTIONS EXCLUDED.—

(A) ACTIONS FOR DAMAGE TO PRODUCT OR COMMERCIAL LOSS.—A civil action brought for loss or damage to a product itself or for commercial loss, shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable commercial or contract law.

(B) ACTIONS FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable State law.

(b) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes a State law only to the extent that State law applies to an issue covered under this title.

(2) ISSUES NOT COVERED UNDER THIS ACT.—Any issue that is not covered under this title, including any standard of liability applicable to a manufacturer, shall not be subject to this title, but shall be subject to applicable Federal or State law.

(c) STATUTORY CONSTRUCTION.—Nothing in this title may be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601(8)) or the threat of such remediation.

(d) CONSTRUCTION.—To promote uniformity of law in the various jurisdictions, this title shall be construed and applied after consideration of its legislative history.

(e) EFFECT OF COURT OF APPEALS DECISIONS.—Notwithstanding any other provision of law, any decision of a circuit court of appeals interpreting a provision of this title (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 103. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) SERVICE OF OFFER.—A claimant or a defendant in a product liability action that is subject to this title may, not later than 60 days after the service of the initial complaint of the claimant or the applicable deadline for a responsive pleading (whichever is later), serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(b) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—Except as provided in subsection (c), not later than 10 days after the service of an offer to proceed under subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(c) EXTENSION.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in subsection (b), extend the period for filing a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b). Discovery may be permitted during such period.

SEC. 104. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action that is subject to this title filed by a claimant for harm caused by a product, a product seller other than a manufacturer shall be liable to a claimant, only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant; or

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing was a proximate cause of the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect a product if the product seller had no reasonable opportunity to inspect the product that allegedly caused harm to the claimant.

(b) SPECIAL RULE.—

(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(2) STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101 (14)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 105. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) GENERAL RULE.—Notwithstanding any other provision of law, a defendant in a product liability action that is subject to this title shall have a complete defense in the action if the defendant proves that—

(1) the claimant was under the influence of intoxicating alcohol or any drug that may not lawfully be sold over-the-counter without a prescription, and was not prescribed by a physician for use by the claimant; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for the accident or event which resulted in the harm to the claimant.

(b) CONSTRUCTION.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

SEC. 106. REDUCTION FOR MISUSE OR ALTERATION OF PRODUCT.

(a) GENERAL RULE.—

(1) IN GENERAL.—Except as provided in subsection (c), in a product liability action that

is subject to this title, the damages for which a defendant is otherwise liable under applicable State law shall be reduced by the percentage of responsibility for the harm to the claimant attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, the express warnings or instructions of the defendant if the warnings or instructions are determined to be adequate pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) Use intended by a manufacturer is not misuse or alteration.—For the purposes of this title, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) State Law.—Notwithstanding section 3(b), subsection (a) of this section shall supersede State law concerning misuse or alteration of a product only to the extent that State law is inconsistent with such subsection.

(c) Workplace Injury.—Notwithstanding subsection (a), the amount of damages for which a defendant is otherwise liable under State law shall not be reduced by the application of this section with respect to the conduct of any employer or coemployee of the plaintiff who is, under applicable State law concerning workplace injuries, immune from being subject to an action by the claimant.

SEC. 107. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) General Rule.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in a product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) Limitation on Amount.—

(1) In general.—Except as provided in paragraphs (2) and (3), the amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this title shall not exceed the greater of—

(A) 2 times the sum of—

(i) the amount awarded to the claimant for economic loss; and

(ii) the amount awarded to the claimant for noneconomic loss; or

(B) $250,000.

(2) Special rule.—The amount of punitive damages that may be awarded in a product liability action that is subject to this title against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization which has fewer than 25 full-time employees, shall not exceed the lesser of—

(A) 2 times the sum of—

(i) the amount awarded to the claimant for economic loss; and

(ii) the amount awarded to the claimant for noneconomic loss; or

(B) $250,000.

(3) Exception.—

(A) Determination by court.—Notwithstanding subsection (C), in a product liability action that is subject to this title, if the court makes a determination, after considering each of the factors in subparagraph (B), that the application of paragraph (1) would result in an award of punitive damages that is insufficient to punish the egregious conduct of the defendant against whom the punitive damages are to be awarded or to deter such conduct in the future, the court shall determine the additional amount of punitive damages in excess of the amount determined in accordance with paragraph (1) to be awarded to the claimant (referred to in this paragraph as the "additur") in a separate proceeding in accordance with this paragraph.

(B) Factors for consideration.—In any proceeding under subparagraph (A), the court shall consider—

(i) the extent to which the defendant acted with actual malice;

(ii) the likelihood that serious harm would arise from the misconduct of the defendant;

(iii) the degree of the awareness of the defendant of that likelihood;

(iv) the profitability of the misconduct to the defendant;

(v) the duration of the misconduct and any concurrent or subsequent concealment of the conduct by the defendant;

(vi) the attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated;

(vii) the financial condition of the defendant; and

(viii) the cumulative deterrent effect of other losses, damages, and punishment suffered by the defendant as a result of the misconduct, reducing the amount of punitive damages on the basis of the economic impact and severity of all measures to which the defendant has been or may be subjected, including—

(I) compensatory and punitive damage awards to similarly situated claimants;

(II) the adverse economic effect of stigma or loss of reputation;

(III) civil fines and criminal and administrative penalties; and

(IV) stop sale, cease and desist, and other remedial or enforcement orders.

(C) Requirements for awarding additurs.—If the court awards an additur under this paragraph, the court shall state its reasons for setting the amount of the additur in findings of fact and conclusions of law. If the additur is—

(i) accepted by the defendant, it shall be entered by the court as a final judgment;

(ii) accepted by the defendant under protest, the order may be reviewed on appeal; or

(iii) not accepted by the defense, the court shall set aside the punitive damages award and order a new trial on the issue of punitive damages only, and judgment shall enter upon the verdict of liability and damages after the issue of punitive damages is decided.

(4) Application by court.—This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

(5) Nothing in this subsection shall modify or reduce the ability of courts to order remittiturs.

(c) Bifurcation at Request of Any Party.—

(1) In general.—At the request of any party, the trier of fact in a product liability action that is subject to this title shall consider in a separate proceeding whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) Inadmissibility of evidence relative only to a claim of punitive damages in a proceeding concerning compensatory damages.—If any party requests a separate proceeding under paragraph (1), in any proceeding to determine whether the claimant may be awarded compensatory damages, any evidence that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

SEC. 108. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Statute of Limitations.—

(1) In general.—Except as provided in paragraph (2) and subsection (b), a product liability action that is subject to this title may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered, the harm that is the subject of the action and the cause of the harm.

(2) Exceptions.—

(A) Person with a legal disability.—A person with a legal disability (as determined under applicable law) may file a product liability action that is subject to this title not later than 2 years after the date on which the person ceases to have the legal disability.

(B) Effect of stay or injunction.—If the commencement of a civil action that is subject to this title is stayed or enjoined, the running of the statute of limitations under this section shall be suspended until the end of the period that the stay or injunction is in effect.

(b) Statute of Repose.—

(1) In general.—Subject to paragraphs (2) and (3), no product liability action that is subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed after the 20-year period beginning at the time of delivery of the product.

(2) State law.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 20-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) Exceptions.—

(A) A motor vehicle, vessel, aircraft, or train that is used primarily to transport passengers for hire shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety of the specific product involved which was longer than 20 years, but it will apply at the expiration of that warranty.

(C) Paragraph (1) does not affect the limitations period established by the General Aviation Revitalization Act of 1994 (49 U.S.C. 40101 note).

(c) Transitional Provision Relating to Extension of Period for Bringing Certain Actions.—If any provision of subsection (a) or (b) shortens the period during which a product liability action that could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action pursuant to this title not later than 1 year after the date of enactment of this Act.

SEC. 109. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) General Rule.—In a product liability action that is subject to this title, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 110. WORKERS' COMPENSATION SUBROGATION STANDARDS.

(a) GENERAL RULE.—

(1) RIGHT OF SUBROGATION.—

(A) IN GENERAL.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this title.

(B) WRITTEN NOTIFICATION.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) INSURER NOT REQUIRED TO BE A PARTY.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) SETTLEMENTS AND OTHER LEGAL PROCEEDINGS.—

(A) IN GENERAL.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this title, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) WRITTEN NOTIFICATION.—Except as provided in subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the employer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER OR COEMPLOYEE.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this title, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the employer.

(B) RIGHTS OF EMPLOYER.—

(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an employer shall, in the same manner as any party in the action (even if the employer is not a named party in the action), have the right to—

(I) appear;

(II) be represented;

(III) introduce evidence;

(IV) cross-examine adverse witnesses; and

(V) present arguments to the trier of fact.

(ii) LAST ISSUE.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is presented to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS OF SUBROGATION NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

SEC. 111. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction under section 1331 or 1337 of title 28, United States Code, over any product liability action covered under this title.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1995".

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR.—With respect to an action brought on behalf or through a minor, such term includes the parent or guardian of the minor.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(8) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The bio- materials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related manufacturer meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the bio- materials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the bio- materials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii)(I) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j); and

(II) have received clearance from the Secretary,

if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists.

(3) DISCOVERY WITH RESPECT TO A BIO- MATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary

judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) Stay Pending Petition for Declaration.—If a claimant has filed a petition for a declaration pursuant to section 205(b) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) Manufacturer Conduct of Proceeding.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) Attorney Fees.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

SEC. 207. APPLICABILITY.

This title shall apply to all civil actions covered under this title that are commenced on or after the date of enactment of this Act, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this Act.

Mr. GORTON. I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I ask unanimous consent to speak on the amendment.

The PRESIDING OFFICER (Mr. Abraham). Without objection, it is so ordered.

Mr. ROCKEFELLER. I thank the Chair.

Mr. President, there was, to put it mildly, a certain amount of confusion as to what just happened in the last hour or so. I found myself on the telephone advising distinguished Senators with years of experience to vote for what we just voted on and then 5 minutes later to vote against it.

That is not my normal custom in trying to be wise on these matters. But the fact is that, as the Senator from Washington indicated, there were procedural and technical writing problems, and the technical writing problems in the bill in fact were not addressed properly and were not done properly, and they have to be done properly. But make no mistake about it; the news of the day is not that we just had a vote on which some people thought they were going to vote no and they turned out voting yes or vice versa. The news of the day is that the Senator from Washington and the Senator from West Virginia have reached a very good agreement on a final version of the product liability reform that we think reflects the will and the objectives of Senators on both sides of the aisle.

That is where the activity and the time today has, in fact, been spent. It was not spent on, unfortunately, wrapping up the last-moment details. The 4:20 cloture vote really caught me by surprise. But the time today has been spent between the Senator from Washington and the Senator from West Virginia, the Senator from West Virginia consulting with many Senators on my side of the aisle, and the staff of the Senator from Washington and the staff of the Senator from West Virginia working together.

We have reached agreement. That is the news. We have a product liability reform bill which we are now convinced will pass. After 13 years of attempting to do this on the part of some, only 9 years on my part, this is remarkable, remarkable news. I believe that we are in a position now to win product liability reform.

Again, I want to apologize to my colleagues on both sides of the aisle that it has taken us so long to get here, and then, when we got here, at the very last moment, we had this technical writing problem which we, in fact, had to get right and we had not gotten it right, because things were rushed. We are now in the process of doing that. It is very easy. It will be done before the end of the day and we will have the cloture motion tomorrow, which is already ordered, and on we go.

Then, presumably, those who oppose the bill will try to amend it. But the Senator from Washington and the majority leader, Senator Dole, and I are convinced that we can put aside those amendments, spend the 20 hours or whatever it is that we have remaining in debate, and then go ahead and pass the bill.

This is the story of the legislative process. It is not always beautiful and today was an example of it.

We have on the other hand, I have to say, listened and debated and analyzed and argued every aspect of product liability and the best ways to do reform. It is very controversial. It is something that people have strong feelings on and it is hard to come to an agreement on, which makes even more formidable, it seems to me, the agreement which has been reached that affects the majority leader, the Senator from the State of Washington, the junior Senator from West Virginia, and Senators that the junior Senator from West Virginia has been working with on our side who favor product liability reform.

I think the bill that has been put together, which is now agreed on, deserves support, and I think it will get support. I think, in fact, it will win rather broad support.

So I want the Presiding Officer to be of good cheer and look forward to tomorrow and maybe a day or two after that.

We have made real changes to the section that deals with punitive damages in a way which I think will ease concerns, particularly on my side of the aisle. We have made changes that directly address the concerns of a number of Senators.

I know that this substitute remains balanced, represents real reform, and will solve some problems that have been crying out for solution for all of these years. I hope the process will untangle itself. I am now confident it will—there was a moment there when we were not sure, but I think it will and I think it has—and we will then be able to give Senators on both sides a chance to vote for good product liability reform.

This is not a product of the Contract With America. It is not a product of the Democratic Party. It is a product of people who want reform on both sides of the aisle, working within the Senate, within our ways, within our beliefs to achieve compromise. That is the way the Senate works.

After all, the President of the United States will have to sign the bill and put it into law. This is what has always struck me when people say that the conference process will ruin everything. I have never felt that. I know the Senator from Washington agrees with me on that, and I suspect the majority leader does. I know I do. Because the President, if he does not want to sign the bill, if it does not meet his criteria, which he has laid out to us, will simply veto it and that will be that. So there is a discipline that works there in conference process, which is good.

I remind my colleagues and the leadership in the other body of what I have just said. We have tended to push aside expansionism here and focus on product liability reform. We do that in the agreement between the Senator from Washington and the Senator from West Virginia. So, let the leadership on the other side understand that we are firm in our resolution, and that the President is, too. He will not sign anything other than what stands within his parameters of acceptability.

So I conclude simply by saying that the sidebar of the day was that there was a certain amount of confusion during the process at the end. But the story is that the two sides have reached agreement—Democrats who favor reform and Republicans who favor reform. I have been through this reform with most of my colleagues on my side and have met with a very good reaction, and I assume the same is true on the Republican side.

So, Mr. President, I simply wanted to say that, because there was a certain amount of confusion, but that pales in comparison to the good news of the agreement.

I thank the Chair and yield the floor.

EXECUTIVE SESSION

NOMINATION OF JOHN M. DEUTCH, OF MASSACHUSETTS, TO BE DIRECTOR OF CENTRAL INTELLIGENCE

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider Calendar Order No. 114, which the clerk will report.

The legislative clerk read the nomination of John M. Deutch, of Massachusetts, to be Director of Central Intelligence.

The Senate proceeded to consider the nomination.

The PRESIDING OFFICER. The debate on the nomination is limited to 2 hours, equally divided and controlled by the Senator from Pennsylvania and the Senator from Nebraska.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, there have been requests only from Senator MOYNIHAN, who was on the floor, for 15 minutes and from Senator HUTCHISON for 10 minutes, in addition to statements which will be made by the distinguished Senator from Nebraska, the vice chairman, Senator KERREY, and a brief opening statement which I will make. So, in the event that there are any other Senators who wish to be heard on the subject, they ought to come to the floor now or at least let the managers know of their interest in speaking.

Mr. President, the nomination of John M. Deutch to be Director of Central Intelligence was reported to the Senate last week, pursuant to a unanimous vote in the Senate Select Committee on Intelligence with a recommendation that he be confirmed. It was a unanimous vote, 17 to 0.

The committee held hearings on April 26 and then proceeded to that vote last week on May 3. There is a need to move expeditiously, as I see it, to have a strong Director of the Central Intelligence Agency.

In consideration of Mr. John Deutch to be Director, we took up a wide variety of issues. We examined Mr. Deutch's background and qualifications. He has an extraordinary academic record. He has an extraordinary professional record. He has been a distinguished professor at MIT. He has been the head of the department there. He has been the provost there. He has worked in the Energy Department. He has worked in the Department of Defense. He currently serves as the Deputy Secretary of the Department of Defense.

It is my thought, and I believe with the concurrence of the committee members, that he has the kind of strength to take over the management as Director of the Central Intelligence Agency.

He comes to this position at a time of substantial difficulty. He comes to this position at a time when the agency is with substantial problems of morale, in the wake of the Aldrich Ames case, where the agency had a spy within the Central Intelligence Agency which they could not ferret out and eliminate themselves; hardly a recommendation for an agency which is charged with worldwide responsibility to gather intelligence.

There is, in my opinion, Mr. President, the need for intelligence gathering worldwide for the security of the United States.

During the course of the hearings, we explored with Mr. Deutch whether there ought to be a reorganization. His confirmation hearings came in the wake of extraordinary success by the Federal Bureau of Investigation on the Oklahoma City bombing case. We explored with Mr. Deutch whether perhaps the Federal Bureau of Investigation ought to take over on worldwide intelligence gathering. That has been suggested by some.

It would be an extraordinary change for the United States to do that. It would vest enormous authority in the FBI, perhaps more than is wise, in a country where we prize limitations on authority, where we prize separation of power.

The FBI, though, is right now engaged in very extensive operations overseas in work on terrorism as it relates at least to prosecution, work on drug trafficking, work on organized crime, many of those activities being undertaken by the CIA as well. But those were some of the subjects discussed.

I expressed at the hearings considerable concern about the Director of CIA being a member of the President's Cabinet. We have had the experience with Cabinet officers before of the CIA, specifically William Casey, where we had problems on Iran-Contra, and there has been a concern that the policymakers ought to be separated from the intelligence gatherers to the extent there not be the motivation to shade intelligence gathering to support policy, to sort of cook the evidence.

The Iran-Contra Joint Committee made a strong recommendation against that kind of a concern and that kind of activity. But in the final analysis, there is a need to move ahead with the confirmation of the CIA Director, so that it is my judgment, and I think the judgment of others on the committee who were concerned about having the Director in the Cabinet, that we should not hold up his confirmation in that respect.

Mr. Deutch has addressed that question very forcefully and directly, saying that he will be very mindful of those policy considerations and will comport himself so that intelligence gathering is separate from any matters of policy.

Mr. Deutch has made a very forceful statement on taking strong action. If there are those in the CIA, as there were in the Aldrich Ames case, who failed to act when there were lots of indications that Aldrich Ames was in fact not doing his job—when he was intoxicated on the job, when there were unexplained visits to foreign embassies, where he lost his files—Mr. Deutch was emphatic that if anybody was in a position of supervision over another Aldrich Ames and did not take forceful action, that person would be fired peremptorily.

Then the question was raised with Mr. Deutch about somebody who was in a supervisory capacity who did not know but should have known, and Mr. Deutch answered very forcefully that that person would be fired.

Mr. President, there are many people in the CIA who have long, distinguished careers, and there are many able men and women in the Agency who can carry on. It is my hope, I think the hope of the committee, that the morale can be restored by a very firm and forceful Director of the Central Intelligence Agency.

We have recently had hearings on Guatemala which, again, were disturbing, with the Deputy Director of the CIA conceding flatly that the CIA failed in its duty to notify both the House Intelligence Committee and the Senate Intelligence Committee of what was going on in Guatemala.

In sum and substance, Mr. President, it is my view, and I think the view of the committee, that John Deutch is well qualified to take on a very, very tough job at this time.

Mr. President, the nomination of John M. Deutch to be Director of Central Intelligence was reported to the Senate last week pursuant to a unanimous vote of the Senate Select Committee on Intelligence, with a recommendation that he be confirmed. On behalf of myself and Senator KERREY, in our respective capacities as chairman and vice chairman of the committee, we urge the Senate to act favorably on this nomination.

The committee made a complete and thorough inquiry of the nominee's qualifications as well as his views on issues of mutual concern, and concluded that he is qualified by both experience and temperament to hold this sensitive and critical position.

The Senate has moved expeditiously in this important nomination. Nevertheless, the intelligence community has been without a confirmed director since last December—a delay that is particularly costly when the community so urgently needs a strong sense of direction, of mission, and of management. It is a critical time for the intelligence community. If Mr. Deutch is confirmed as DCI, he will come to the job at a time of exceptional promise and peril.

The peril is clear. It is now conventional wisdom that the euphoria which erupted after the fall of the Berlin Wall and the dissolution of the Soviet Empire was premature. While nostalgia for the balance of terror between the United States and the Soviet Union is not in order, it is apparent that the post-cold-war world is not any less dangerous or unstable—as the bombing in Oklahoma City, the World Trade Center bombing, and the gas attack in the Tokyo subway have made shattering clear. Global threats from international terrorism and narcotics smuggling, the proliferation of weapons of mass destruction, and expanding organized crime networks present the intelligence community with targets far more dispersed and complicated than the traditional focus on Soviet military power. The role and the priorities of the intelligence community in the Government's efforts against these and other threats—efforts which now have significant diplomatic, economic, and law enforcement implications—is very much in need of redefinition and reordering.

Moreover, a series of revelations have illuminated problems in the intelligence community that have severely damaged morale among the rank and file and have eroded the public confidence and trust that is essential for an intelligence apparatus operating in a democracy. From the abuses of power evident in Iran-Contra to the incompetence and lack of accountability that characterized the Aldrich Ames debacle, to charges of widespread sex discrimination, to the latest questions about policies and practices that resulted in, at the very least, an impression of culpability in murders in Central America, there is the sense of an intelligence bureaucracy that is not only incapable of meeting our national security needs but, instead, presents a recurring threat to our Nation's credibility and legitimacy overseas through its frequent missteps, miscalculation, and mismanagement.

The American people are looking for a Director of Central Intelligence who will provide strong leadership, accountability, and a clearly defined mission. And therein lies the promise. There is growing support within the intelligence community, the Congress, and the public for significant change in the way we conduct intelligence. The end of the bipolar superpower conflict that dominated the cold war provides new opportunities to build coalitions and achieve consensus on international threats. And thoughtful application of continuing advances in technology can greatly enhance our efficiency and effectiveness.

This committee, along with the House Permanent Select Committee on Intelligence and a congressionally mandated commission chaired by Les Aspin and Warren Rudman, will be taking a hard look at the intelligence community—what it's mission should be in the post-cold-war world and how it should be organized to accomplish that mission—with an eye to legislation early next year. This is an opportunity to look forward; to begin a new era and establish a new American model for foreign intelligence.

A key issue for that future involves the nature of the office that Mr. Deutch seeks to assume. The DCI must have the ear and the trust of the President. Yet he cannot allow his role as confidante in any way to corrupt the intelligence process or his role as intelligence advisor. This is the concern that underlies questions about the wisdom of giving the DCI Cabinet status.

We have examined the nominee's views on a number of critical issues facing the intelligence community, sought and obtained assurances that his position as a member of the Cabinet would not politicize intelligence, and examined the potential impact of his earlier involvement with issues like the Persian Gulf syndrome on his new appointment. Our objective has been to determine whether he can assert the strong and independent leadership that is so desperately needed. I have concluded that he can and I urge his prompt confirmation by the Senate.

In the remainder of my remarks, I will summarize for my colleagues the nature of the committee's inquiry, and highlight the key features of Mr. Deutch's testimony to the committee.

SUMMARY OF COMMITTEE INQUIRY

As you know, the former DCI, James Woolsey, resigned last December. In February, the administration announced that it planned to nominate retired Air Force General Michael C.P. Carns to replace Woolsey as DCI. One month later, General Carns withdrew his name, citing immigration issues. The administration then turned to Deputy Secretary of Defense Deutch. In announcing on March 11, 1995, the decision to nominate Mr. Deutch as DCI, the White House also announced that the post would be elevated to Cabinet-level status. Mr. Deutch's name was formally submitted to the committee on March 29, 1995.

The committee required Mr. Deutch to submit sworn answers to its standard questionnaire for Presidential appointees, setting forth his background and financial situations. These were submitted to the committee on March 30, 1995.

On April 5, 1995, the committee received a letter from the Director of the Office of Government Ethics transmitting a copy of the financial disclosure statement submitted by Mr. Deutch. The Director advised the committee that it disclosed no real or potential conflict of interest.

The chairman and vice chairman also reviewed the FBI investigation done for the White House on Mr. Deutch.

The committee held a confirmation hearing on Mr. Deutch on April 26, 1995, at which time the nominee was questioned on a variety of topics. Subsequently, written questions were submitted to the nominee for additional responses.

Based upon this examination, the committee reported the nomination to the Senate on May 3, 1995, by a unanimous vote, with a recommendation that Mr. Deutch be confirmed.

HIGHLIGHTS OF TESTIMONY

VIEWS ON THE ROLE OF THE DCI—CABINET STATUS

In his opening remarks to the committee, Mr. Deutch described as the primary duty of the DCI "to provide objective, unvarnished assessments about issues involving foreign events to the President and other senior policymakers." He emphasized that "with the exception of policy that bears on the Intelligence Community, the Director of Central Intelligence should have no foreign policy making role." Speaking directly to the issue of making the DCI a member of the Cabinet, the nominee explained his belief that the President intended this to signal the importance he places on intelligence and the confidence the President has in Mr. Deutch. The nominee went on to present his view that this status is important to ensure that the DCI will be present when policy issues are deliberated so that he can present objective assessments of alternative courses of action and take away from those meetings a better understanding of policymaker needs.

I questioned Mr. Deutch on this issue in meetings prior to the confirmation hearing and again, for the record, in open session. I noted my own view that if you are in the Cabinet, you are much more likely to get involved in making policy than if you are not in the Cabinet. I referred to the congressional report on Iran-Contra and Secretary Shultz's assertion, as reported therein, that the President was getting faulty intelligence about terrorism because there was a problem in keeping intelligence separated from policy. The committee concluded in that report that "the gathering, analysis, and recording of intelligence should be done in a way that there can be no question that the conclusions are driven by the actual facts rather than by what a policy advocate hopes these facts will be."

This need to separate policymaking from intelligence gathering and analysis is reflected in the statute defining the National Security Council. The National Security Act of 1947 sets forth the members of the NSC and then designates others, including the DCI and the Chairman of the Joint Chiefs of

Staff, as officials who are not members but may attend and participate as the President directs. It is my strong sense that this is the appropriate status for the DCI with respect to the Cabinet as well.

Mr. Deutch has assured the committee that he will hold to the proper standard of conduct and that he would "not allow policy to influence intelligence judgements and, not allow intelligence to interfere in the policy process."

I believe that Mr. Deutch has the best of intentions in this regard and that he is certainly capable of recognizing the line between intelligence and policy. The committee will be sensitive to any indication that this standard is not being met. Ultimately, however, the makeup of the Cabinet is a Presidential prerogative and is not statutorily defined.

Given the delay already experienced in naming Mr. Deutch, and given his strong qualifications in every other regard, I do not think this issue should stand in the way of his confirmation by the Senate.

With respect to DCI authorities, the nominee noted in response to questions at the hearing and those submitted later for the record, that in his view, the DCI could more effectively manage the intelligence community if he or she had budget execution authority over key segments of the community.

In further response to questions, Mr. Deutch agreed that this was a propitious time to consider establishing a Director of National Intelligence—who would serve at the pleasure of the President and manage the entire intelligence community—and a separate head of the CIA who would have a 10-year tenure.

VIEWS ON THE MISSION OF THE INTELLIGENCE COMMUNITY

Mr. Deutch's prepared statement outlined some of the significant dangers to our national security today: Regional conflicts; the spread of weapons of mass destruction; international terrorism, international crime, international drug trafficking, and their interconnection; instability in the former Soviet Union; and China—as a threat to its neighbors and supplier of missiles.

He then described four principal purposes to which the intelligence community [IC] should direct its efforts: First, assuring that the President and other policymakers have the best information available before making decision; second, support to military operations; third, addressing international terrorism, crime, and drugs, particularly improving interagency coordination and support to law enforcement; and fourth, counterintelligence [CI] that rigorously adheres to high security standards, accords priority to defensive CI and counterespionage, and includes full and early cooperation within the CI community.

He emphasized that the national priorities for intelligence collection established by the recent Presidential Decision Directive need to be implemented.

VIEWS ON MANAGEMENT

I applaud Mr. Deutch for his unusually candid and forthright opening statement. In it, he outlined for the committee the significant actions he would take immediately upon confirmation to begin the process of change that is so long overdue in the intelligence community, or "IC." First, he indicated he would bring in several new people to fill upper management positions. In doing so, he will emphasize joint operations of the IC agencies because "we can no longer afford redundant capabilities in several different agencies." Second, he plans to review and encourage changes in the culture and operation of the Directorate of Operations. Third, he will move to consolidate the management of all imagery collection, analysis, and distribution in a manner similar to the NSA's for signals intelligence. Fourth, he wants to manage military and intelligence satellite acquisition in a more integrated way. Fifth, he will put in place a planning process for meeting the priorities and goals established by the Presidential Decision Directive. Sixth, what he described as his most important challenge is to "improve the management—and thereby the morale—of the dedicated men and women who make up the IC."

RESPONSE TO AMES

The issue of management is particularly critical in the wake of Ames. I questioned Mr. Deutch on how he would ensure that he knew what was going on within the CIA so that he could exert the proper management. I cited former Director Gates' admission that by 1987, he had only been advised of about 4 or 5 compromises of U.S. agents, at a time when there were in fact 40 or more compromised operations. Director Gates complained that "nobody bothered to share that information with Judge Webster, my predecessor, or with me," when Gates was his Deputy.

I wanted to know what action Mr. Deutch would take if he identified a person that had a pretty good idea that Aldrich Ames was a mole but failed to pass that information on up the chain of command to the Director. Mr. Deutch said he would terminate that individual. Moreover, when asked about reports that the supervisor of Ames, who knew that Ames had an alcohol dependency and had observed the negative consequences of this dependency, had not only failed to fire Ames, but had, instead, written a highly complimentary review of his performance, Mr. Deutch indicated that supervisor should be fired. When questioned further, he conceded that if the supervisor's supervisor should have known about this improper conduct, that supervisor should also be fired.

The key in this exchange, as emphasized by the nominee, is the notion of accountability. It is a sense of accountability that was absent under the last DCI and that is an essential ingredient of any plan to revitalize our foreign intelligence apparatus.

Mr. Deutch has told the committee that if confirmed, he will review the Ames case and will consider the committee's report on Ames in connection with any personnel action affecting the individuals involved.

VIEWS ON CONGRESSIONAL OVERSIGHT

On the issue of congressional oversight, Mr. Deutch emphasized in his opening statement that he could not accomplish the significant change that is needed in the intelligence community without the strong support of Congress. "I consider you my board of directors", he said. "I realize this means I must keep you fully and currently informed about the activities for which I would be responsible—both the good news and the bad news. I understand that I am accountable to you, and I expect you to hold me to a high standard of performance."

Mr. Deutch conceded, when questioned, that, while he could not imagine it happening, if the President ever told him not to inform the committee he, Mr. Deutch, would "go happily back to Massachusetts."

Moreover, the nominee assured the committee that he interprets the requirement for timely notification of a covert action finding, in the absence of prior notification, to mean within 48 hours. Specifically, Mr. Deutch said, "I think that in all situations there should be prior notification. There may be remote instances where that is not possible, in a very, very tiny percentages of the cases. Then 48 hours is what I see as the measure of timely notification."

COMMITMENTS FOR PROMPT ACTION

At the conclusion of the hearing, I asked for, and received, a commitment from Mr. Deutch to report back to the committee as promptly as possible if confirmed—preferably within 30 days of confirmation—regarding several issues of particular importance;

First, report on any needed changes to DCI authorities;

Second, improving the intelligence community's fulfillment of its obligation to keep Congress fully and currently informed;

Third, the need for reorganization within the intelligence community;

Fourth, changes in personnel;

Fifth, proposal for how to achieve downsizing in a way which creates headroom, weeds out poor performers, and leaves the intelligence community with the mix of skills required to accomplish its mission;

Sixth, intelligence reassessment of the possibility that U.S. forces were exposed to chemical or biological agents during Desert Storm;

Seventh, actions taken in response to events in Guatemala; and

Eighth, improving coordination with law enforcement.

CONCLUSION

The foregoing summarizes only the highlights of the record before the committee, which is, of course, available to all Members in its entirety at the Intelligence Committee.

Based upon the nominee's statements to the committee, however, his record of distinguished service and the absence of any disqualifying information concerning him, the Senate Select Committee on Intelligence voted to report his nomination to the Senate with a recommendation that he be confirmed by the full Senate as Director of Central Intelligence.

Mr. President, before yielding the floor, I want to commend my distinguished vice chairman, Senator KERREY, for his outstanding work generally with the committee and on this nomination.

The only other speaker who is to come to the floor on our side is Senator HUTCHISON, who has an allotment of 10 minutes, but I think there will be more time within the unanimous-consent agreement if Senator HUTCHISON wants more time. Or if any other Republican Senators wish to partake in the discussion, they can take time on our side.

I thank the Chair and yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I rise in enthusiastic support of the nomination of John M. Deutch to be Director of Central Intelligence. While I cannot predict a length in time that he will be in service to his country in this capacity, I can predict with confidence, should he be confirmed, he will turn out to be one of the most effective and influential DCI's in the history of this Agency.

The President of the United States, with John Deutch, is making a statement that he intends to send a man to take charge of Langley during what is obviously one of the most tumultuous periods ever experienced by Central Intelligence. The Aldrich Ames case and recent Guatemala revelations portray a troubled corporate culture at CIA.

In addition, many question whether the intelligence community has come to grips with the post-cold-war world and whether new collection methods and technologies are required to target the new threats that have emerged.

The twin threats of international and domestic terrorism lead many to question the intelligence community's proper role in supporting law enforcement. The very structure of the community is in question, as a joint Presidential-congressional commission and several private study groups ask whether intelligence is necessary at all.

Mr. President, we have been watching, once again, another 50-year celebration in the last couple of days. This time the celebration is the 50th anniversary of the day that victory in Europe was declared over Nazi forces. That victory is being celebrated in part because we are also celebrating the fact that over the last 47 or so years, we have avoided, with significant efforts, a third world war. For a 75-year period, roughly from 1914, when the guns of August started World War I, until the fall of 1989 when the Berlin Wall itself collapsed and Eastern Europe began to liberate itself, during that 75-year period, it is, I believe, accurate to say we experienced the bloodiest 75 years in the history of mankind.

During that 75-year period, Mr. President, many things occurred, including the institution of a policy that had the United States of America leading an effort against a clearly identified enemy, and the celebration that takes place this year is not just a celebration of a victory over that enemy, but a sense that we have survived, as a human people, the forecast that we may annihilate ourselves through the use of nuclear weapons. It is a remarkable victory, and I dare not on this floor take a great deal of time describing it, but it is a profound change that the new Director of Central Intelligence must factor in as that individual, hopefully John Deutch, begins to shape the agencies under his control to meet the new challenges that this country faces.

You might expect that only somebody who was a glutton for punishment would willingly volunteer and walk into the set of problems that John Deutch will face. But I can assure my colleagues, as the distinguished chairman of the committee has already said, that John Deutch knows better than this. He knows, as many of us on the Intelligence Committee know, we have a superb intelligence instrument in this country staffed by brave and intelligent people who take risks every single day and make sacrifices for their country. They provide the President, the military, the Cabinet, our diplomats and intelligence analysts a capability no other country can rival: the capability to know most about threats to our country's freedom and independence, and threats to the lives and livelihoods of Americans.

Unlike the domestic agencies, our intelligence professionals cannot brag about their competence. To brag would lose the all-important source of information. So they are generally silent, but they are of immense value. They need guidance, they need leadership, they need a visionary who can help focus their talent on the Nation's pressing needs, and John Deutch is the person to do it. Adm. Bill Studeman has rendered a vital service as Acting Director. He has kept a complex enterprise on track during a difficult period, and the Nation owes him its thanks. He would be the first to agree that the intelligence community needs a Presidentially appointed, senatorially confirmed director.

Even if John Deutch's service in the Defense Department were his own accomplishment, he would be a strong candidate to be DCI. Most intelligence funding is in defense, the military continues to be the leading customer for intelligence, and his knowledge of defense intelligence is matched by few in and out of our Government.

But another part of John Deutch's résumé appeals to me. John Deutch is a scientist of national renown and a distinguished science professor. Technical intelligence collection is mainly a science problem. The scientific decision of which system to buy or develop to best collect against a certain threat is typically made by lawyers advised by scientists. In this administration, however, the scientists have come to the fore. I, for one, feel very comfortable knowing that the scientific judgment of Bill Perry is making the ultimate acquisition decisions in defense, and I will feel equal comfort with John Deutch's scientific judgment on intelligence acquisitions. The fact that he is a teacher and can explain these complex systems to those of us nonscientists, who are charged with intelligence oversight, is that much better for the American people.

We will get the benefit of Dr. Deutch's scientific expertise not a moment too soon. New threats, new collection priorities, and a rapidly changing collection environment mean that we cannot stand pat on our collection technologies. Just to maintain the edge we have now, we must fund research and development on new technologies and make hard decisions about which road we will go down.

We also have to maintain the health of our intelligence industrial base, the private companies that produce these remarkable systems. There are uniquely talented people working for these companies, engineers and technicians who turn the requirements statement into reality. If we do not keep these people at work in profitable undertakings, the Government will never be able to afford new systems. That is why Senator WARNER and I, last year, urged the administration to permit U.S. companies to sell 1-meter space imagery and imaging equipment. We did not want to see remote sensing, a technology in which we lead the world, go the way of the space launch. We also wanted America to dominate this growing industry. The administration saw it the same way, and John Deutch is a firm supporter of the administration policy. He knows that our industrial base is our true national treasure, and he will continue to watch over its health.

Intelligence technology routinely saves American lives, but we should be alert to opportunities to make it useful to Americans in other ways. For example, the National Information Display Laboratory in Princeton, NJ, noticed that the technology that helped imagery analysts understand images better could also be helpful to radiologists scanning a mammogram for early signs of breast cancer. NIDL teamed with Massachusetts General Hospital to adapt the technology, and the outcome could be as many as 15,000 American lives saved each year.

Other opportunities abound for the dual-use intelligence technology. We have just begun to make public use of space images and other intelligence collected during the cold war. The declassification process has begun and we must push the process until we can fairly say that intelligence technology serves not just a handful of decisionmakers in Washington but the 250 million decisionmakers across our country.

Mr. President, when I was a young man operating in the U.S. Navy Seal team, we had a piece of advice we tried to follow all of the time, which was that unless you had a need to know something, you did not press the bet and try to acquire it. We did not disseminate intelligence to people who did not have a need to know. Mr. President, there are 250 million citizens of the United States of America who need to know increasingly a set of complex facts in order to make decisions about our foreign policy, in order to make decisions about our domestic policy, in order to make decisions about all sorts of things that are increasingly confusing our citizens.

Democracy cannot function unless citizens make the effort to understand those complexities and come to the table at election time and come to the table when it is time to influence their Senator or Representative or President with all of the facts and information.

The Director of Central Intelligence is the President's national intelligence officer. John Deutch's Government background is in defense, and his testimony before the Committee made clear that he understands the priority of intelligence support to the military. But he also understands the role of national intelligence, and he understands that not every problem facing the country is a military problem. He is aware, for example, of the intelligence community's contributions against international terrorism, against drug trafficking, against illegal trade practices. He knows how important intelligence is to this administration's international economic decisionmaking, and he knows that warning the President about the economic crisis in Mexico last year was at least as important as warning about a military crisis in some less important region of the world. It is ironic that, with the end of the cold war, the Director of Central Intelligence has a broader national charter than ever. It is an irony which John Deutch understands.

The intelligence community includes much more than the CIA. The National Security Agency, the Defense Intelligence Agency, FBI, and the State Department's Bureau of Intelligence and Research all play their largely unique roles. But no question, CIA, unfortunately, lately has been at the center of controversy and likely will continue to be. At least initially, the heart of John Deutch's task will be to make the CIA more efficient and accountable to the American people. I am greatly encouraged, as the chairman indicated earlier, by his testimony on the sense of accountability and responsibility that he intends to bring to CIA's Directorate of Operations. I have visited CIA officers in the field, and I know the high quality of the people John Deutch will lead. These are clear-headed, positive, enthusiastic Americans. The current senior managers should get credit for recruiting and training and motivating a fine crop of younger officers. Now it is time, as Mr. Deutch put it in his own testimony, for the seniors to let the younger officers take the reins.

As they take over, they must recruit and retain more women and minorities, and they must be alert to gender discrimination in assignments and promotions. The Directorate of Operations has never been an easy place for women to get a fair opportunity to make their mark. Not only is gender discrimination illegal, it is also stupid because it denies the American people the brain power of more than 50 percent of our people. It also creates resentments which can dangerously weaken the agency. I have heard all the excuses for discrimination, and none of them wash. I am confident that John Deutch will not permit it.

CIA's human intelligence activities, which consist mainly in getting foreigners to secretly provide information, will always take place in the shadows. Human sources will have to be protected, so the activities will not be able to be publicly discussed. But CIA, no less than any other agency of Government, must operate in accordance with American law and American values. One purpose of congressional oversight of intelligence is to ensure that this is so. Oversight cannot work if CIA does not inform Congress, or answer Congress' questions. Failure to promptly inform is one of the most troubling aspects of both the Ames case and the Guatemala case. Bad news does not improve with age. The withholding of bad news—withholding information on an intelligence failure—jeopardizes the oversight system without which the United States cannot conduct foreign intelligence operations. John Deutch clearly understands his reporting responsibilities, and I believe Directors Gates and Woolsey and Studeman also understood. The challenge for John Deutch is to know what is happening inside his organization, so the bad news gets to him first.

That is the mark of a tight, confident, organization. John Deutch has some great material to work with, but it is up to him to forge that kind of organization.

If anybody in this great country of ours is up to that job, John Deutch is the person to get the job done.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN] is recognized.

Mr. MOYNIHAN. I thank my gallant friend from Nebraska. I rise very much in support of the position he has taken and that of the distinguished chairman of the committee, the Senator from Pennsylvania.

I would say by way of introduction that in the 103d Congress and then on the first day of the 104th Congress, I offered legislation that would basically break up the existing Central Intelligence Agency and return its component parts to the Department of Defense and the Department of State in the manner that the OSS, the Office of Strategic Services, was divided and parceled out with the onset of peace in 1945 and 1946, to be followed, of course, by a cold war which has persisted almost until this moment.

I had hoped to encourage a debate on the role of intelligence and of secrecy in the American society. That debate has taken place. Some of the results, I think, can be seen in the nomination of this distinguished scientist and public servant to this position.

It could not have been more clear than in his testimony in which he made a point, self-evident we would suppose, but not frequently to be encountered in the pronouncements of potential DCI's. He said:

> Espionage does not rest comfortably in a democracy. Secrecy, which is essential to protect sources and methods, is not welcome in an open society. If our democracy is to support intelligence activities, the people must be confident that our law and rules will be respected.

It may have come as a surprise—although it ought not to have—in recent months and weeks, to find how many persons there are in this country who do not have confidence that our laws and rules will be respected; who see the government in conspiratorial modes, directed against the people in ways that could be of huge consequence to Americans.

I am not talking about what Richard Hofstadter referred to when he spoke of "the paranoid style in American politics." I am talking about the widespread belief that the CIA was somehow involved in the assassination of

President Kennedy, if we can imagine. But there it is.

It is important to understand how deep this is in our society. In 1956, even before Hofstadter spoke of it; Edward A. Shils of the University of Chicago—who just passed away—that great, great, social scientist, published his book, "The Torment of Secrecy," in which he wrote "The exfoliation and intertwinement of the various patterns of belief that the world is dominated by unseen circles of conspirators, operating behind our backs, is one of the characteristic features of modern society."

Such a belief was very much a feature of the Bolshevik society that took shape in 1917 and 1918. The conspiratorial decision to help found and fund in the United States, a Communist party, half of which would be class destiny, the discovery from the archives in Moscow that John Reed received a payment of $1.5 million in 1920. Even as soft money, that would be a very considerable sum today.

In the pattern that societies go through, it is said that organizations become like one other. To an extraordinary degree we emulate the Soviet model in our own intelligence service.

Unintentionally, naturally, it happens that way, but a very powerful analyses of this has just been written by Jefferson Morley in the Washington Post under the headline "Understanding Oklahoma" in an article entitled "Department of Secrecy: The Invisible Bureaucracy That Unites Alienated America in Suspicion."

Or by Douglas Turner, in an article this weekend in the Buffalo News. I spoke of these concerns in an earlier statement on the Senate floor entitled "The Paranoid Style in American Politics," which I ask unanimous consent be printed in the RECORD along with the articles by Douglas Turner and Jefferson Morley.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. Mr. President, what we have is so much at variance with what was thought we would get.

Allen Dulles was very much part of the foundation of postwar intelligence, having been in the OSS, served with great distinction in Switzerland during World War II.

Peter Grose, in his new biography, "Gentleman Spy: The Life of Allen Dulles," recounts the testimony Dulles gave before the Senate Armed Services Committee on April 25, 1947, as we are about to establish, passed the National Security Act of 1947 and created this small coordinating body, the Central Intelligence Agency.

Personnel for a central intelligence agency, he argued, "need not be very numerous * * *. The operation of the service must be neither flamboyant nor overshrouded with the mystery and abracadabra which the amateur detective likes to assume." In a lecturing tone, he tried to tell the Senators how intelligence is actually assembled.

> Because of its glamour and mystery, overemphasis is generally placed on what is called secret intelligence, namely the intelligence that is obtained by secret means and by secret agents. . . . In time of peace the bulk of intelligence can be obtained through overt channels, through our diplomatic and consular missions, and our military, naval and air attachés in the normal and proper course of their work. It can also be obtained through the world press, the radio, and through the many thousands of Americans, business and professional men and American residents of foreign countries, who are naturally and normally brought in touch with what is going on in those countries.
>
> A proper analysis of the intelligence obtainable by these overt, normal, and aboveboard means would supply us with over 80 percent, I should estimate, of the information required for the guidance of our national policy.

Mr. President, that could not happen, did not happen. We entered upon a five-decade mode of secret analysis, analysis withheld from the scrutiny, which is the only way we can verify the truth of a hypothesis in natural science or the social sciences.

The result was massive miscalculation, Nicholas Eberstadt in his wonderful new book, "The Tyranny of Numbers," writes "It is probably safe to say that the U.S. Government's attempt to describe the Soviet economy has been the largest single project in social science research ever undertaken." He said that, sir, in 1990, in testimony before the Committee on Foreign Relations. "The largest single project in social science research ever undertaken," and it was a calamity.

No one has been more forthright than Adm. Stansfield Turner in an article in Foreign Affairs about this time. He said when it came to predicting the collapse of the Soviet Union, the corporate view of the intelligence community was totally wrong.

I can remember the first years of the Kennedy administration. I remember having a meeting with Walt Rostow, Chairman of the Policy Planning Council in the Department of State, in which he said of the Soviet Union, I am not one of those 6 percent forever people, but there it was, locked into the analyses. That is what the President knew.

Mr. President, in Richard Reeves remarkable biography of John F. Kennedy, he records that the agency told the President that by the year 2000 the GNP of the Soviet Union would be three times that of the United States. And that is what the President knew. A person might come to him with the most reasonable arguments, as did any number of economists. The great theorists, Friedman, Hayek, Stigler, said it could not happen, it would be theoretically impossible. Important work done by Frank Holzman, at Tufts, and the Russian Research Center at Harvard said, "No, no. That is all very well what you say professor. What I know is different."

The consequences have been an extraordinary failure to foresee the central event of our time. A vast overdependence on military and similar outlays, that leave us perilously close to economic difficulty ourselves.

I would like to close with a letter written me in 1991 by Dale W. Jorgenson, professor of economics at the Kennedy School of Government, in which he said:

> I believe that the importance of economic intelligence is increasing greatly with the much-discussed globalization of the U.S. economy. However the cloak-and-dagger model is even more inappropriate to our new economic situation than it was to the successful prosecution of the Cold War that has just concluded. The lessons for the future seem to me to be rather transparent. The U.S. government needs to invest a lot more in international economic assessments. * * * (I)t should reject the CIA monopoly model and try to create the kind of intellectual competition that now prevails between CBO and OMB on domestic policy, aided by Brookings, AEI [American Enterprise Institute], the Urban Institute, the Kennedy School, and many others.

I ask unanimous consent the entire letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MOYNIHAN. Those are the remarks I would like to make, sir. I have the confidence that John Deutch, as a scientist, will follow them. I have the concern that the administration will not.

We do know some things in social science. Mancur Olson, in his great book, "The Rise and Decline of Nations," on this day, V-E Day—I was a sailor on V-E Day, so I can remember that—I can remember the Boston Common, actually— Mancur Olson asked:

> Why has it come about that the two nations whose institutions were destroyed in World War II, Germany and Japan, have had the most economic success since? Whereas Britain—not really much success at all; the United States—yes, but." And he came up with a simple answer. The defeat wiped out all those choke points, all those rents, all those sharing agreements, all those veto structures that enable institutions to prevent things from happening. And we are seeing it in this Government today, 5 years after the wall came down.

Remember, 2 years before the wall came down the CIA stated that per capita GDP was higher in East Germany than in West Germany. I hope I take no liberty that I mentioned this once to Dr. Deutch and added "Any taxi driver in Berlin could have told you that was not so." And Dr. Deutch replied, "Any taxi driver in Washington." But if we cannot summon the capacity to change our institutions in our changed circumstances, there will be consequences and let nobody say they were not predictable.

Mr. President, I thank the Senator from Texas for her graciousness for allowing me to speak when in fact in alternation it would have been her turn.

Exhibit 1

[From the Congressional Record, Apr. 25, 1995]

The Paranoid Style in American Politics

Mr. MOYNIHAN. Mr. President, As we think and, indeed, pray our way through the aftermath of the Oklahoma City bombing, asking how such a horror might have come about, and how others might be prevented, Senators could do well to step outside the chamber and look down the mall at the Washington Monument. It honors the Revolutionary general who once victorious, turned his army over to the Continental Congress and retired to his estates. Later, recalled to the highest office in the land, he served dutifully one term, then a second but then on principle not a day longer. Thus was founded the first republic, the first democracy since the age of Greece and Rome.

There is not a more serene, confident, untroubled symbol of the nation in all the capital. Yet a brief glance will show that the color of the marble blocks of which the monument is constructed changes about a quarter of the way up. Thereby hangs a tale of another troubled time; not our first, just as, surely, this will not be our last,

As befitted a republic, the monument was started by a private charitable group, as we would now say, the Washington National Monument Society. Contributions came in cash, but also in blocks of marble, many with interior inscriptions which visitors willing to climb the steps can see to this day. A quarter of the way up, that is. For in 1852, Pope Plus IX donated a block of marble from the temple of Concord in Rome. Instantly, the American Party, or the Know-Nothings ("I know nothing," was their standard reply to queries about their platform) divined a Papist Plot. An installation of the Pope's block of marble would signal the Catholic Uprising. A fevered agitation began. As recorded by Ray Allen Billington in The Protest Crusade, 1800–1860:

"One pamphlet, The Pope's Strategem: "Rome to America!" An Address to the Protestants of the United States, against placing the Pope's block of Marble in the Washington Monument (1852), urged Protestants to hold indignation meetings and contribute another block to be placed next to the Pope's 'bearing an inscription by which all men may see that we are awake to the hypocrisy and schemes of that designing, crafty, subtle, far seeing and far reaching Power, which is ever grasping after the whole World, to sway its iron scepter, with bloodstained hands, over the millions of its inhabitants.'"

One night early in March, 1854, a group of Know-Nothings broke into the storage sheds on the monument grounds and dragged the Pope's marble off towards the Potomac. Save for the occasional "sighting", as we have come to call such phenomena, it has never to be located since.

Work on the monument stopped. Years later, in 1876, Congress appropriated funds to complete the job, which the Corps of Engineers, under the leadership of Lieutenant Colonel Thomas I. Casey did with great flourish in time for the centennial observances of 1888.

Dread of Catholicism ran its course, if slowly. (Edward M. Stanton, then Secretary of War was convinced the assassination of President Lincoln was the result of a Catholic plot.) Other manias followed, all brilliantly described in Richard Hofstadter's revelatory lecture "the Paranoid Style in American Politics" which he delivered as the Herbert Spencer Lecture at Oxford University within days of the assassination of John F. Kennedy. Which to this day remains a fertile source of conspiracy mongering. George Will cited Hofstadter's essay this past weekend on the television program "This Week with David Brinkley." He deals with the same subject matter in a superb column in this morning's Washington Post which has this bracing conclusion.

"It is reassuring to remember that paranoiacs have always been with us, but have never defined us."

I hope, Mr. President, as we proceed to consider legislation, if that is necessary, in response to the bombing, we would be mindful of a history in which we have often overreached, to our cost, and try to avoid such an overreaction.

We have seen superb performance of the FBI. What more any nation could ask of an internal security group I cannot conceive. We have seen the effectiveness of our State troopers, of our local police forces, fire departments, instant nationwide cooperation which should reassure us rather than frighten us.

I would note in closing, Mr. President, that Pope John Paul II will be visiting the United States this coming October. I ask unanimous consent that Mr. Will's column be printed in the Record.

[From the Buffalo News, May 8, 1995]

Government Spooks, Beware—Moynihan Aims To Reveal Secrets

(By Douglas Turner)

WASHINGTON.—For generations, artists like Jules Verne, Graham Greene, Steven Spielberg, and Peter Benchley in his novel "White Shark," have harnessed the public's flirtation with fear for innocent profit, fame and fun.

There is something lurking out there, or down there created by a force beyond our knowing.

Far down the creative scale are conspiracy freaks Oliver Stone, Ian Fleming and the publishers of checkout-counter tabloids.

In dank corners of our society is a separate category: Those who subsist utterly in paranoia: Oliver North, Gordon Liddy, David Duke, Tim McVeigh and those who put on war paint and military fatigues, play with assault weapons, and preach war against a popularly-elected constitutional government.

Like Sen. Joseph R. McCarthy, they nurse on paranoia and propagate it.

Sen. Daniel Patrick Moynihan, D-N.Y., suggests this last category either exploits, or is partly driven by the web of government secrets that has grown like spores since World War II.

He speaks of official Washinton's "enormous secrecy system . . . which just expands, if anything, which we're in on and everyone out there is not, is out of, and easily it's a culture that breeds paranoia."

For years, Sen. Moynihan has been sounding a warning about what he calls our culture of paranoia. In an article he penned four years ago, Moynihan said Stone's film, "JFK," could "spoil a generation of American politics just when sanity is returning."

Realizing he couldn't do much about popular culture, Moynihan set about stripping down government's role in creating fear by going after the mountain of official secrets generated annually.

To that end, on Jan. 22, 1993, Moynihan introduced a bill creating a bipartisan commission on reducing and protecting government secrecy. A Democratic Congress passed it and President Clinton made it law.

The commission had its first meeting in January and elected Moynihan chairman. Other members include Sen. Jesse Helms, R-N.C., who was appointed by Sen. Majority Leader Bob Dole, R-Kansas; Ellen Hume of Annenberg Washington Program, who was named by the president; a Harvard professor, and Clinton's nominee to head the CIA, John Deutch.

It has an office in an old Navy Building with view of the Potomac, and a staff director, Eric Biel, formerly a senior Senate staffer. It has had a couple of organizational meetings, all public. And its first real working session will be on May 17.

Moynihan in a television interview joked "we've managed to conceal our activities so far by holding public hearings. Nobody goes to public hearings."

On the 17th, the commission will hear about official secrets from officials of the National Security Council, who are cooperating as a result of an executive order issued by President Clinton three weeks ago.

Government files harbor nearly a billion official secrets.

It generates about 7 million of them a year. But the secret, Moynihan wrote, is that the government "only counts (secrets) up to the level of Top Secret.

"All the real secrets are higher than that with code names I am not at liberty to reveal, having taken a kind of vow of secrecy when I became vice chairman of the Senate Select Committee on Intelligence," he said.

Three million government employees have security clearances up to top secret. This is fairly common stuff as most field grade military officers, beginning with lieutenants, are entitled to top secret access.

The plethora of secrets, security levels and "cleared" employees has made a joke of the security system itself—with "secret" material spilled into defense and intelligence trade publications every day.

"They" can see it, but you can't.

Then there are the active classified files of the FBI, the Bureau of Alcohol Tobacco and Firearms, the Secret Service, the Customs, Immigration and Naturalization Service, the Border Patrol, the Department of Energy, and even the Department of Agriculture.

Official secrecy, endemic to big government, dies hard. As in corporate life, and in the highest aeries of journalism, secrets are not just the key to power. They are power.

Official infatuation with secrecy is reflected in the forbearance in President Clinton's executive order. Existing secrets must be declassified after 25 years, he said. Future ones after 10 years.

This would matter in an age when breechload rifles were on the cutting edge of military science. The standard is ridiculous in the light of today's expanding technology.

Thanks to the reports the CIA issued—based on "evidence" you and I could never see or evaluate—on Soviet weaponry and the economy, this country went on a military spending binge beginning with the Vietnam war and ending only three years ago.

But these CIA fabrications served to justify quantum leaps in spending on the American defense establishment, and of course covert CIA. We will be paying for that buildup for the rest of our lives.

[From the Washington Post, Apr. 30, 1995]

DEPARTMENT OF SECRECY

THE INVISIBLE BUREAUCRACY THAT UNITES ALIENATED AMERICA IN SUSPICION

(By Jefferson Morley)

Scapegoating is a time-honored spring sport in Washington. Professionals of the pastime are already in fine mid-summer form on Topic A: Who is responsible for the Oklahoma City bombing? Skillful soundbites indict various culprits: Right-wing talk radio, the NRA, lone nuts and (the ever-reliable) '60s counterculture.

But while the theories fly, the All-Stars of the Washington blame game somehow overlook one of the leading suspects in the minds of the American people: the Department of Secrecy.

There is no official department of secrecy, complete with Cabinet officer and official seal. But there is the functional equivalent: the federal bureaucracy that keeps the government's secrets. It consists of the offices and archives in the Pentagon, the intelligence agencies, the FBI, the Bureau of Alcohol Tobacco and Firearms and other federal agencies that classify and guard all sorts of information considered too sensitive to be shared with the American public. The connection between this empire of information and the Oklahoma City bombing is not obvious but it is real.

First, the Department of Secrecy is a significant presence in American society and politics. Viewed on an organizational chart, the federal secrecy system is bigger than many Cabinet agencies. According to a Washington Post report last year, the secrecy system keeps an estimated 32,400 people employed full-time—more than the Environmental Protection Agency and the Department of Education combined. According to the Office of Management and Budget, the bureaucracy of secrets may cost as much as $16 billion a year to run.

Second, mistrust of the government and its many secrets is now raging out of control. The assumption that the government is not accountable for its actions is now the norm.

It is an article of faith among many on the religious and paramilitary right (including, apparently, one of the bombing suspects in custody) that the federal government has not been held accountable for the 1993 raid in Waco which left 85 people dead.

Liberals and the left were angered but not surprised by the recent revelations about the CIA in Guatemala. In the name of protecting its "sources and methods," the agency shielded from justice the Guatemalan colonel who is the leading suspect in the murder of an American innkeeper and the husband of an American lawyer.

Robert McNamara's memoirs are an infuriating reminder to moderates that the veil of secrecy allowed utterly respectable mainstream Washington officials to send thousands of American boys to slaughter in a disastrous and still-divisive war.

In the movie theaters of America, the most treacherous, evil Hollywood villains often work inside the Department of Secrecy. Popular movies like "Outbreak" and "Clear and Present Danger" routinely depict senior officials in Washington as smooth-talking criminals who think nothing of betraying the public trust and sending innocent Americans to their death.

"The pathology of public attitudes toward government are due in large part to excessive and unnecessary secrecy," says Steven Aftergood of the American Federation of Scientists, a leading advocate of government openness in Washington.

The State Department, for example, retains the right to withhold information that would "seriously and demonstrably undermine ongoing diplomatic activities of the United States." Under this standard the CIA-in-Guatemala story would almost certainly still be secret and two American women would still be wondering who murdered their husbands.

For now, the effect of Clinton's order is expected to be modest.

"I don't think it's going to make much difference," said retired Lt. Gen. William Odom, the former director of the National Security Agency and a skeptic of openness efforts. Odom recalled that a similar directive from President Carter in 1978 had little effect on how he, Odom, actually classified information for the government at the time.

Aftergood praised Clinton's directive as a distinct improvement over the old secrecy rules but added "I just hope we are at the beginning of a reform process, not the end."

That will depend, in part, on what the public, the president and Congress learn from Oklahoma City.

Is the bombing the work of isolated madmen with no connection to the larger political culture? Or is it a warning of the pathological possibilities opened up when the federal government loses the faith of its people?

These questions are especially pertinent for people working within the secrecy system. Most of them do not hide wrongdoing from the American people. The information they guard is often legitimately secret: military codes, the names of law enforcement informants, the U.S. position in international trade talks and the like.

But they shrug off the widespread mistrust of their work at their own peril. With the government generating so many secrets each year—an estimated 6.3 million in 1993—and continuing revelations about governmental abuses of power, the line between the paranoia of a few and legitimate fears of the many gets harder to draw.

A few years ago, the notion that the U.S. government had, over the course of several decades, routinely conducted dangerous radiation experiments on thousands of unwitting Americans would have been regarded by most reasonable people as unfounded, if not ridiculous. Today, thanks to the aggressive release of long-secret documents by Secretary of Energy Hazel O'Leary, the radiation experiments are cold, disturbing historical fact.

O'Leary's leadership shows that full disclosure of embarrassing material is not political or institutional suicide. In fact, the Department of Energy, by all accounts, enjoys more credibility on Capitol Hill and with the public for coming clean.

We don't know what other abuses of governmental power, if any, the secrecy system is hiding. But we do know that a citizenry without access to its own history has no guarantee of democratic accountability. And as long as democratic accountability is in doubt, the citizenry, not just government office buildings, will remain vulnerable.

EXHIBIT 2

HARVARD UNIVERSITY, JOHN F. KENNEDY SCHOOL OF GOVERNMENT,
Cambridge, MA, March 18, 1991.
Senator DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR PAT: This is just a personal note of thanks for your eloquent and stimulating contribution to the lunch discussion with the new National Research Council Board on Science, Technology, and Economic Policy last Friday. Needless to say, I think you are absolutely right about the significance of the long-standing intelligence failure in assessing the Soviet economy and the Soviet military effort. While I do not concur with your Galbraithian view of economics as a failed profession, this has to be one of the great failures of economics—right up there with the inability of economists (along with everyone else) to find a remedy for the Great Depression of the 1930's.

On your specific arguments: In 1985 Paul Samuelson was relying on the CIA estimates, so that this is not an independent piece of evidence. For every quotation you can give from people like Lawrence Klein, you can find a counter-argument in the writings of Friedman, Hayek, Stigler and many others. All three have been amply rewarded for their efforts with the Nobel Prize, the National Medal of Science, and the esteem of their colleagues (with the conspicuous exception of your former neighbor on Francis Avenue). They deserve a lot of credit for the positions they took in the 1930's all the way up to the 1980's and they are getting it.

It seems to me that it is better to address the issue of international economic assessments within your framework of post-Cold War recoversion that Galbaith's entertaining but wrong-headed view of economics as a failed profession. Given the importance of economic assessments of the Soviet Union, it is almost incredible that the U.S. government established an in-house monopoly on these assessments. The principal academic centers for research in this area at Columbia and Harvard were allowed to wither away. Over the past decade, Frank Holzman of Tufts and the Russian Research Center at Harvard has been a lonely voice in opposition to the CIA view.

I believe that the importance of economic intelligence is increasing greatly with the much-discussed globalization of the U.S. economy. However, the cloak-and-dagger model is even more inappropriate to our new economic situation than it was to the successful prosecution of the Cold War that has just concluded. The lessons for the future seem to me to be rather transparent. The U.S. government needs to invest a lot more in international economic assessments. Second, it should reject the CIA monopoly model and try to create the kind of intellectual competition that now prevails between CBO and OMB on domestic policy, aided by Brookings, AEI, the Urban Institute, the Kennedy School, and many others.

An important subsidiary lesson we can learn from the failure of the CIA Soviet assessments is the importance of "sunshine". Although economic intelligence is always going to be sensitive to somebody, it should be carried out in full sight of the public, including the professional peers of the intelligence analysts. I hope that the new National Research Council Board can contribute to the post-Cold War re-conversion of our economic intelligence establishment in a positive way. As I see it, this is a daunting task. To use a medical analogy, this will require something more like a "life style" change than a simple remedy for a chronic disease.

I hope that you can find the time to present your perspective on this issue to the policy community, say in the form of an article for Public Interest. This would be an interesting opportunity to bring your ideas about post-Cold War conversion to a specific problem of great importance to the national interest.

With best regards,

Yours sincerely,

Dale W. Jorgenson.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I am always happy to yield to the senior Senator from New York, because I always enjoy hearing what he has to say.

Mr. President, the importance of intelligence gathering for our Nation is at a critical juncture. Never has it been as important as it is today that we have foreign intelligence gathering capabilities, particularly because we are now facing a time when weapons of mass destruction, nuclear, chemical and biological, are being made in different parts of the world. Even worse, the weapons that transport those weapons are also being developed in different parts of the world. There is an urgent need for us to know where those weapons are and where the capabilities are to transport those weapons, either within their own theater or over to our country.

So, there is no question in my mind that we must have a strong foreign intelligence gathering capability. We also have a problem. That is we need a leader and we need a focus and we need a mission for the people who are in our intelligence gathering operations right now. We have had several mishaps. The Aldrich Ames case is one that has been talked about on this floor and it is one that is very troubling to us, even today. Many people feel this traitor was not dealt with in a way that will show there is an accountability when a drastic mistake happens.

The lack of management accountability did demonstrate, by recent events in Guatemala, the lack of information that the oversight committees had about the situation in Guatemala. The escalation of terrorism all over the world is causing an ongoing need for us to have intelligence-gathering capabilities.

So, we do need a person who can take control of our central intelligence-gathering operation, lift the morale of the wonderful people who work there, and put an accountability into the system. We also need someone who can make it more efficient. As we are downsizing our budget we need to make sure that we have a mission, that we are using our assets in the most efficient way.

So we need someone to come in and show that leadership. I believe John Deutch is that person. I think the President has made a good decision.

There are some issues that must be dealt with. First, I must say I disagree with the President giving Cabinet rank to the Director of Central Intelligence. The National Security Act of 1947 sets forth the members of the National Security Council and then designates others, including the Director of Central Intelligence and the Chairman of the Joint Chiefs of Staff, as officials who are not members but may attend and participate as the President directs. I believe that is also the appropriate role for the DCI with respect to the Cabinet.

Mr. Deutch was asked these questions in our Intelligence Committee hearing on his nomination regarding the Cabinet status of the Director of Central Intelligence. He assured the committee that he would hold to the proper standard of conduct and that he would not allow policy to influence intelligence judgments and not allow intelligence to interfere in the policy process.

That is a very important distinction that the new Director has adopted and which I think is very important for us to keep—the separation between intelligence gathering and policymaking. The committee is going to be sensitive to any indication that this standard is not being met, but I believe the makeup of the Cabinet is the responsibility of the President. That is not within our mission in confirmation. And, therefore, I hope the standards that we have discussed will be adhered to, both by the President and by the new Director of Central Intelligence.

I brought up two major issues in committee that I thought were important. First, a closer working relationship with the oversight committees in Congress, the Intelligence Committee in the Senate, and the one in the House. I think it is most important when you have a covert operation which, of course, intelligence gathering is, to have an even more strong relationship and communications network with the oversight committees that can assess the judgments that are being made in these covert operations.

It is good for Congress and it is good for the intelligence gathering, as well. It is very important that we have an oversight and we have the ability to make judgments by the duly elected officials in the U.S. Congress when we are dealing with such sensitive intelligence matters.

So I talked to the new Director-designate about that. And he agreed totally that we needed to have that line of communication, and I think it has been reiterated by every person who has spoken on the floor today, and most certainly every member of the committee.

The second issue that was very important to me was complete financial disclosure of every person who works at the CIA and every contractor who is working on CIA projects. I felt this was important because one of the obvious things that was missed in the Aldrich Ames case was a high-living lifestyle by Aldrich Ames and his family, clearly one that could not be shown to have been supported by a person on the salary of Aldrich Ames.

If we had the vehicle in place to have total financial disclosure, the CIA could immediately have begun to check on this lifestyle to see if there was something that was not right. Clearly, it was not right the way Aldrich Ames was living. And we found out later it was because he was receiving millions of dollars from the Russian Government for secrets that he was giving to them from our CIA. So we need the basic information.

Mr. Deutch said, and promised, that he would make sure that every person who works for the CIA, who willingly comes to work for the CIA, will give basic financial disclosures. I think that is going to be a very important tool for us to show that there is an accountability in the CIA and that an Aldrich Ames case will not as easily be repeated and, if it is repeated, that we will have the ability to go in immediately and see what the assets are that have been disclosed and if something seems to be amiss.

So these are two areas that I am satisfied that Mr. Deutch is going to address, and he has already given me his word that there is going to be financial disclosure among the CIA employees and people who are working for the CIA under contract.

So in conclusion, Mr. President, I support Secretary Deutch for the role of Director of Central Intelligence. This is one of the most important nominations that we will have before us this year, because this agency needs such direction. I believe Mr. Deutch can provide that direction. I have worked with him as a member of the Armed Services Committee in his capacity as Deputy Secretary of Defense. I find him to be a person of integrity. I respect his judgment, and I think he did a fine job as Deputy Secretary of Defense. I think he is the person to fulfill this mission at this very important time in our intelligence gathering reorganization.

I think we must take our responsibility in confirming him, to do this in a swift and timely manner. We have had five DCI's in the last 10 years. This agency needs leadership. We need some reorganization. We need a mission, and we need to make sure that we are using our assets efficiently and well so that everyone in our country is secure so that we have the information that we need to keep that freedom, independence, and liberty that we have.

So I am supporting Mr. Deutch for this very purpose. I wish him well. It is going to be a very tough job. I hope that he will work with Members of Congress who want him to succeed, and we do. For all of our country, we must succeed with this new Director.

Thank you, Mr. President. I yield the floor.

Mr. KERRY. Mr. President, I am pleased to join my colleagues today to urge confirmation of John Deutch as Director of Central Intelligence. As a permanent resident of Belmont, MA, and having a lifelong involvement in the Massachusetts community, John Deutch is a neighbor and a man who has built a national and international reputation as a leader and as a forceful and effective professional. I described him publicly, not long ago, as "superb and first rate", and I reiterate that description today, without hesitation and with renewed respect and continued confidence in his extraordinary ability.

Let me add a few words about the task he will face and the talent he will bring to the position of Director of Central Intelligence. The world is undoubtedly changing. It will continue to change more quickly, perhaps, than at any other time in our history. We are seeing old threats and new threats emerge in a shifting political and economic atmosphere that will test our resolve and challenge our leadership.

Mr. President, John Deutch is undoubtedly up to the challenge, and he is a leader for his time. There is no question about that. He understands the critical task that he will face, and the importance of facing it with resolve, strength, and a firm hand. He has proven that he knows the need and has the expertise to address what we all acknowledge are operational and administrative problems at the CIA. As Director of Central Intelligence he will face two daunting managerial tasks: First, he must try to restructure the U.S. intelligence community at a time when many believe there is no longer a need—nor the funds—for the level of intelligence activity to which we became accustomed during the cold war. He will have to balance proper and appropriate intelligence activity with increasing congressional and public scrutiny of scarcer and scarcer tax dollars.

Second, in the wake of recent events at the CIA, he will have to look critically at internal operations and move quickly to rebuild morale, public trust, and confidence while maintaining the integrity of America's intelligence capability. As far as restructuring the intelligence community, I believe John Deutch has one very important advantage over many who could have been chosen to serve. He is not an architect of either the current intelligence system or the processes that have been put into place. He is a fresh face, a new voice, a real leader with the talent and the foresight to succeed.

Now, as far as what Secretary Deutch will face at the CIA, operationally and administratively, there is a need to act expeditiously to turn things around even if it means significant personnel changes, and I am confident that John Deutch has the necessary judgment and will to quickly act in the best interest of the Agency and the Nation.

Mr. President, the American intelligence community will be well served by the experience and leadership of John Deutch who rightfully observed in his statement to the Intelligence Committee that "changing intelligence priorities, as well as intelligence failures, dictate that we carefully re-examine the need for, and specific missions of, intelligence." He added that he sees "four significant dangers to our national security and the social and economic well-being of our citizens." He cites major regional conflicts; the spread of weapons of mass destruction; international terrorism, crime, and drug trafficking; and the present nuclear danger that still exists in Russia and the Russian republics as they move toward democracy.

I also see the new Director of Central Intelligence moving, as he said he would, to improve the support that the intelligence community gives to law enforcement agencies in areas of narcotics trafficking, international crime, and terrorism. I agree with his assessments and I am confident he will move expeditiously to address the continuing threat of the proliferation of weapons of mass destruction, and particularly the emerging threat of terrorist attacks with these weapons. I see the new Director re-defining and establishing new standards for the proper role for the intelligence community in the areas of economic intelligence, and addressing the issue of making information, when appropriate, more readily available by lowering classifications or through declassification. And I see the new Director, like every other director of a Federal agency, looking for ways to economize and streamline the operations at CIA to give us more for our tax dollars.

From all we've heard about John Deutch, I believe he has the experience, the expertise, the professionalism, the reputation, the perseverance, the qualifications and the integrity to do the job, and I urge my colleagues to confirm his nomination.

Thank you, Mr. President, and I yield the floor.

THE NOMINATION OF JOHN DEUTCH TO BE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. ROBB. Mr. President, I would like to add my voice in support of the nomination of Dr. John Deutch to be Director of Central Intelligence. This nomination is extremely important, Mr. President, because the Central Intelligence Agency is at a crossroads and I believe John Deutch has what its going to take to redirect the Agency's course during its next few crucial years.

There is no question that strong leadership is critical for the CIA to be able to transform the Agency's mission into one that provides policymakers with timely, useful, and target-specific intelligence. CNN can cover the world; the CIA needs to bring greater attention and resources to bear on countries and issues that represent a threat to our national security interests.

Dr. Deutch was brutally frank in his assessment of CIA successes and failures, and refreshingly candid about what he would like to accomplish as DCI. His candor was unusual, since nominees normally go out of their way to avoid categorical statements about agendas and work plans. Dr. Deutch, in contrast, went out of his way to explain exactly where he is headed and what he would like to do.

During his confirmation hearing, I heard Dr. Deutch speak of bringing in a new generation of leaders at the CIA, streamlining imagery operations, and getting to the root of problems inside the Operations Directorate.

Mr. President, John Deutch brings with him a demonstrated track record of achievement in both government and academia. He is widely respected within the defense community for his performance as Secretary Perry's deputy at the Pentagon and within the scientific community for his tenure at the Massachusetts Institute of Technology. I believe he is more than equal to the task of restoring luster to the CIA.

As a member of the Armed Services Committee, I have worked with John Deutch, and I have seen firsthand the quality of his work and his conscientious commitment to our national defense and to the men and women who serve our country.

Finally, Mr. President, as a Senator from Virginia, I'm pleased that Dr. Deutch understands the distress of talented Agency personnel and alumni who have watched the CIA and other intelligence branches endure a rough patch. He is, in my judgment, the right man at the right time to restore dignity and respect to deserving and hardworking public servants working in the Intelligence Community.

Mr. President, I have high hopes for Dr. Deutch's tenure at the CIA, and I urge my colleagues to support his nomination.

Mr. President, I yield the floor.

NOMINATION OF JOHN M. DEUTCH TO BE THE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. NUNN. Mr. President, I am pleased to support the nomination of John M. Deutch to be the Director of Central Intelligence. The nomination of Dr. Deutch, who presently serves as the Deputy Secretary of Defense, has received the unanimous, bipartisan support of the Senate Select Committee on Intelligence. This strong support reflects Dr. Deutch's outstanding qualifications, including his first-rate performance as Deputy Secretary of Defense and Under Secretary of Defense for Acquisition.

I have had the opportunity to work closely with Secretary Deutch, both in my prior capacity as chairman of the

Armed Services Committee and in my current role as ranking minority member. He has made an outstanding contribution at the Department of Defense, and is well-qualified to serve as the Director of Central Intelligence.

Secretary Deutch came to the Department of Defense following a long and distinguished academic and government career. His positions in academia included service as provost and institute professor at the Massachusetts Institute of Technology. His prior Government experience included service on the staff of the Office of the Secretary of Defense during the early 1960's, and as Under Secretary of Energy during the late 1970's. In addition, he served on the Defense Science Board and on many other advisory boards over the years.

In 1993, he was nominated by President Clinton and confirmed by the Senate to serve as the Under Secretary of Defense for Acquisition. When Bill Perry became the Secretary of Defense in 1994, Dr. Deutch was nominated and confirmed to his current position as Deputy Secretary of Defense.

I have known Secretary Deutch personally for many years, including the periods of his service in the Department of Energy and during his tenure at MIT. His entire career—both in academia and in Government service—has been devoted to developing creative and thoughtful approaches to national defense and intelligence policy issues.

Secretary Deutch has compiled as solid record in the Department of Defense as a strong manager. He has served the Nation well, not only in the management of internal Department of Defense functions, but also as the DOD official with primary responsibility for interface with the intelligence community. He knows how to solve problems, make clear decisions, and address pressing issues. On the Armed Services Committee, we have appreciated his breadth of knowledge, his candor, and his willingness to engage in dialog. He also has a good sense of humor, which he uses to put difficult issues in perspective—a quality that will be most useful in his new position.

The intelligence community faces many difficult challenges in the post-cold war era, particularly in the aftermath of the Ames espionage matter. The Oklahoma City tragedy underscores the dangers of terrorism in the modern world. The tensions in the Persian Gulf and North Asia, as well as the problems faced by the States of the former Soviet Union, are but a few of the difficult challenges facing the intelligence community. John Deutch has the experience and background to take on these challenges. I strongly urge the Senate to confirm his nomination to be Director of Central Intelligence.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Nebraska.

Mr. KERREY. Mr. President, there are, to my knowledge, no other Senators who wish to speak on this nomination. I will offer a couple of closing comments and then yield time, alerting colleagues who are watching of the possibility that we may be yielding back, and they have not told us they wanted to speak. They could rush over here and say a few words.

In my statement, I indicated, and it is correct, that one of the problems we have with our intelligence effort is that as a consequence of needing to protect security, we are unable—the intelligence people are unable—to brag about successes, and thus not only is it difficult for us to give credit, but increasingly citizens are needing and asking for information that will enable them to judge whether or not their tax dollars are being well spent. I would argue that this condition of being unable to disclose sometimes puts us in a position of not being able to give citizens information or having them say, "Now I understand why we are doing this, and I believe we are in fact getting our money's worth."

I would like as a consequence to identify for citizens two recent events that were publicly disclosed. And for the information of citizens, it is the President of the United States who has the controlling authority both to make a classification decision and to make a declassification decision. That decision is spelled out in statute. It is not a decision that can be made by either the Congress, in the absence of changing the law, or an individual Member of Congress. But two recent disclosures, probably, I suspect, disclosed by a decision made by the President to make the disclosure, underscore the importance of this intelligence effort.

The first was that the United States of America presented to the U.N. Security Council clear and present evidence that North Koreans were engaged in a policy, a strategy, an active effort to acquire nuclear capacity. We could say that they were, and people did or did not believe it. They mostly said, "Well, maybe that is just the United States just sort of hung up again." Because we had the intelligence capacity, we presented information—in this case, images—to the Security Council, and the Security Council sees clearly North Korea is building nuclear capability and the Security Council takes actions supportive of the United States' effort to make certain that North Korea does not become a nuclear nation.

Again, with the use of images disclosed to the public, our Ambassador to the United Nations, Madeleine Albright, at the direction of the President of the United States, at the time when the French and the Russians were weakening in their resolve in regard to sanctions on Iraq, buying into the Iraqis' assertions that, "We are impoverished now; we don't have very much money; and, no, we are not building any chemical or biological chemical capability, and we are not really a militaristic nation. You need not worry about us any longer."

Our Ambassador presents, in a week-long trip to I think 10 or 12 nations, again, images that are our intelligence images to these world leaders on the Security Council, information clearly indicating that the Iraqi leader had built a $1.2 billion palace, hardly the sort of action taken by a nation that was impoverished; second, that chemical and biological capability continued to be a problem; and that the acquisition of Kuwaiti military equipment during their occupation of Kuwait was being integrated into the Iraqi forces, giving lie to all three of the statements made by the Iraqi leader and giving the United States the capacity, the President the capacity, through his United Nations, our U.N. Ambassador, the ability to make the argument to keep the sanctions still tightening around the nation of Iraq.

In both cases, the United States of America received benefit. Who knows what the cost to the world would have been had North Korea been permitted to continue building its nuclear capability or had the sanctions been dropped from Iraq, a nation that continues to exhibit dangerous tendencies, indeed dangerous actions.

I cite those two amongst the latest that have been disclosed publicly because citizens deserve to get enough information upon which they can make a decision about whether or not we are either sort of captive to the intelligence community, as is very often suspected by many who are not on this Intelligence Committee, and perhaps other citizens as well, that we in fact are looking at these successes, insisting upon accountability, trying to assess the threats in the world and organize our intelligence efforts to meet those threats, to maintain the capability to keep the United States of America as safe as is humanly possible.

Let me, in addition, Mr. President, point out that there are two things Mr. Deutch is going to be addressing which in some ways are a consequence of both our successes and at times our failures of the past.

The first is, many of the threats that we are now dealing with are threats that are a consequence, sort of a residual, of the cold war. The proliferation threat on the nuclear, biological, and chemical is a threat that came as a consequence of our building capacity and the Soviets' building capacity. This proliferation threat is a very real threat, and we are having to now take the sort of residual problem of the cold war and move it to the top of the list knowing that the bombing in Oklahoma City would be magnified several thousand times over were either chemical, biological, or nuclear weapons to be used in a terrorist effort.

This is a very real and present problem. It requires the United States of America to lead. No other nation is going to do it. We saw recently, when the President put sanctions on Iran, our friends in Europe said, "Well, we think that's a bad idea. We want to continue to engage with a country that's involved with terrorism."

I do not know what they are going to do; I suspect wait until something terrible were to happen. Only the United States of America can lead on that issue, lead trying to get Russia not to sell nuclear technology to Iran. Only the United States of America, I believe, is willing to make the kind of diplomatic and financial effort necessary to make this world safe in the area of nuclear, chemical, and biological weapons and the terrorism that comes from that.

There is a second problem, Mr. President, that our new, hopefully new Director of Central Intelligence is going to have to be dealing with. The distinguished Senator from New York in his comments referenced that, and that is not just a cynicism toward Government but a precise suspicion that the CIA is involved in all sorts of things that are bad. That the CIA is possibly responsible for the assassination of John Kennedy is something that is actually honestly believed by some Americans who see a conspiracy in which the Central Intelligence Agency perhaps played some central role.

We are going to have to face an awful lot of that, Mr. President, and we are going to have to face it very squarely and very honestly. As I said earlier, I am very excited watching the accounts of the celebration of the victory in Europe 50 years ago, watching old men recall the stories of bravery and heroism and sacrifice. I say, with no interest in disparaging that success—I thrilled in that success and am unable to measure truly the sacrifice and heroic behavior that was necessary, but it stands in stark contrast to an event that occurred, oh, I guess about a month or so ago when former Secretary of Defense McNamara published a mea culpa book saying that in 1966 the Secretary of Defense of the United States of America, with all the intelligence effort at its disposal, had actually concluded that the war in Vietnam was unwinable.

Well, I was there in 1969. I do not remember McNamara saying anything about it then. And that kind of a statement is the example of the sort of thing, unfortunately, that feeds this cynicism and this conspiracy theory and causes people to say that the Government really is against rather than trying to be on their side in making their lives not only safe but their lives secure as well. It means that we are going to have to press the envelope a bit on secrecy. By that I mean we are going to have to take great care that a secret is, indeed, necessary to protect the American people rather than protecting those who are operating, either the Director of Operations or other sorts of entities. It cannot be that we keep a secret from the American people because we are afraid of what they will do to us if we tell them the truth. It must be that a secret is being maintained because we are concerned about our inability to carry out an important security mission if full disclosure were to occur.

As I indicated, there is a tremendous capacity in the intelligence community to help citizens in a very difficult time acquire the information needed to become informed. When you are born in the United States of America, you are given enormous freedoms at birth and should have been told at some point during your public education or upbringing by your parents or upbringing by others, you should have been told that freedom is not free; that a contribution has to be made back of some kind. And our citizens are increasingly aware of the contribution of time and effort that they have to make to become informed about what is going on in Chechnya, what is going on in the former Yugoslavia, what is going on in Mexico, what is going on in places where they have a difficult time pronouncing the name let alone making decisions about what our foreign policy ought to be. I believe the technologies that we have at our disposal, if we press the envelope judiciously and not in a reckless fashion, can, indeed, help our citizens make decisions and make it more likely that government of, by, and for the people works both in foreign as well as domestic policy.

Mr. President, no one has traipsed over to the floor to provide additional testimony, and I am prepared to yield back what time is remaining and yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. We will also yield back our time, and I will go forward and close.

REMOVAL OF INJUNCTION OF SECRECY

Mrs. HUTCHISON. I ask unanimous consent that the Injunction of Secrecy be removed from the extradition treaty with Hungary (Treaty Document No. 104-5), transmitted to the Senate by the President today; and the treaty considered as having been read the first time; referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and ordered that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Hungary on Extradition, signed at Budapest on December 1, 1994. Also transmitted for the information of the Senate is the report of the Department of State with respect to this Treaty.

The Treaty is designed to update and standardize the conditions and procedures for extradition between the United States and Hungary. Most significantly, it substitutes a dual-criminality clause for the current list of extraditable offenses, thereby expanding the number of crimes for which extradition can be granted. The Treaty also provides a legal basis for temporarily surrendering prisoners to stand trial for crimes against the laws of the Requesting State.

The Treaty further represents an important step in combating terrorism by excluding from the scope of the political offense exception serious offenses typically committed by terrorists, e.g., crimes against a Head of State or first family member of either Party, aircraft hijacking, aircraft sabotage, crimes against internationally protected persons, including diplomats, hostage-taking, narcotics-trafficking, and other offenses for which the United States and Hungary have an obligation to extradite or submit to prosecution by reason of a multilateral treaty, convention, or other international agreement. The United States and Hungary also agree to exclude from the political offense exception major common crimes, such as murder, kidnapping, and placing or using explosive devices.

The provisions in this Treaty follow generally the form and content or extradition treaties recently concluded by the United States. Upon entry into force, it will supersede the Convention for the Mutual Delivery of Criminals, Fugitives from Justice, in Certain Cases Between the Government of the United States of America and the Austro-Hungarian Empire, signed at Washington, July 3, 1856, with certain exceptions.

This Treaty will make a significant contribution to international cooperation in law enforcement. I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 8, 1995.*

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mrs. HUTCHISON. As in executive session, I ask unanimous consent that the Senate immediately proceed to the consideration of the following nominations on the Executive Calendar en bloc: calendar Nos. 107, 108, 109, 110, 111, and 112; further, that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc; that any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Maxine M. Chesney, of California, to be United States District Judge for the Northern District of California.

Eldon E. Fallon, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Curtis L. Collier, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

Joseph Robert Goodwin, of West Virginia, to be United States District Judge for the Southern District of West Virginia.

DEPARTMENT OF JUSTICE

Joe Bradley Pigott, of Mississippi, to be United States Attorney for the Southern District of Mississippi for the term of four years.

UNITED STATES INSTITUTE OF PEACE

Harriet M. Zimmerman, of Florida, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 1999.

LEGISLATIVE SESSION

Mrs. HUTCHISON. What is the pending business, Mr. President?

The PRESIDING OFFICER. The Senate will now return to legislative session.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending business is H.R. 956.

CLOTURE MOTION

Mrs. HUTCHISON. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Coverdell substitute amendment to H.R. 956, the product liability bill.

Bob Dole, Slade Gorton, Pete Domenici, Frank Murkowski, Spencer Abraham, Trent Lott, Kay Hutchison, Chuck Grassley, Rick Santorum, Jay Rockefeller, Larry Pressler, Larry Craig, Don Nickles, Conrad Burns, Christopher Bond, Bill Frist.

MORNING BUSINESS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska.

RECOGNITION AND COMMENDATION OF THE LAKOTA AND DAKOTA CODE TALKERS

Mr. KERREY. I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 116, a resolution to recognize and commend the Lakota and Dakota code talkers submitted earlier today by Senator DASCHLE and Senator PRESSLER.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 116) recognizing and commending the Lakota and Dakota Code Talkers.

The Senate proceeded to consider the resolution.

Mrs. HUTCHISON. I ask unanimous consent that the resolution and preamble be agreed to en bloc, and the motion to reconsider be laid on the table; that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, today, as we celebrate the 50th anniversary of V–E Day, I am proud to submit a resolution honoring a special group of World War II veterans, the code talkers of the Lakota and Dakota tribes.

In the early days of World War II, American radio codes were continually being broken by Japanese cryptographers, placing American lives at great risk.

That changed with the code talkers, who used their native American Indian languages to communicate and relay critical communications. It was a code the Japanese could not decipher.

The heroic efforts of the Lakota and Dakota code talkers saved many lives. And it was just one of the many ways in which native Americans served their Nation with great honor and distinction and valor during World War II.

On December 1941, there were approximately 5,000 American Indians in the armed service. By the end of the war, more than 44,500 American Indians served in uniform. Indeed, more than 10 percent of all native Americans, alive at the time served in World War II.

In 1982, Congress and a Presidential proclamation recognized the heroic contributions of the Navajo code talkers and their communication efforts during World War II. Today, let us also recognize the patriotic efforts of the Lakota code talkers who served in the same line of duty.

And let us say to them "pilamayapelo," thank you.

I yield the floor.

So the resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 116), with its premable, is as follows:

S. RES. 116

Whereas the Lakota and Dakota Code Talkers, Native Americans who were members of the Sioux Nation, worked in radio communications during World War II and used their Lakota and Dakota languages to relay communications;

Whereas Japanese cryptologists never deciphered the Native American languages that were used as codes during World War II, including the Lakota and Dakota languages; and

Whereas the Lakota an Dakota Code Talkers deserve to be recognized for their contribution to the successful resolution of the war effort in the Pacific: Now, therefore, be it

Resolved, That the Senate recognizes and commends the Lakota and Dakota Code Talkers for their invaluable contribution to the successful resolution of World War II.

A SALUTE TO GLEN LEE FOR HIS 33-YEAR CAREER

Mr. HELMS. Mr. President, B. Glen Lee retired the other day, and just about everybody who ever had dealings with the gentleman will testify that for 33 years he was a worthy public servant—which is just about the best monument to any public servant.

Glen Lee is indeed admired by his fellow citizens. It was Hawthorne who asserted years ago that nobody who needs a monument ever ought to have one.

Glen Lee does not need a monument, but he deserves the one he has.

Mr. President, B. Glen Lee's career was devoted to his diligent work with and for the U.S. Department of Agriculture. He was Deputy Administrator of the USDA's Plant Protection and Quarantine Program—a part of the Department's Health Inspection Service. In that capacity, Mr. Lee served so well that last year he was 1 of 6 winners of the 1994 Executive Excellence Award presented by the Professional Development League.

And, Mr. President, in that connection he was singled out for praise for having persuaded the Peoples' Republic of China to allow the entry of United States apples and other produce.

Glen Lee was graduated from N.C. State University in 1962 and began his career as an inspector in the Plant Pest Control Division of the Ag Research Division in North Carolina. His retirement rolled around while he was serving as the top plant protection official in the United States.

He served the American people well.

THE MOSCOW SUMMIT

Mr. BIDEN. Mr. President, I rise today to praise President Clinton for his determination to push forward our national agenda with the Russians at this week's summit in Moscow.

It is no secret that recently several items of dispute have arisen to cloud the relationship between Russia and the United States. In response, there have been scattered voices calling on the President to cancel his trip.

Mr. President, such a course would have been a profound mistake, and I am gratified that our President had the wisdom and maturity to stay the course. Russia, both in spite of and because of her current difficulties, remains fundamentally important to this country. We must remain engaged with the world's other major nuclear power and continue to strive to bring her into a European security system of democratic countries.

Moreover, British Prime Minister Major, German Chancellor Kohl, and French President Mitterrand all will be attending the ceremonies marking the 50th anniversary of the end of World War II and honoring the heroic sacrifices that the Russian people made in the victorious struggle against nazism. In that context it is unthinkable that the President of the United States would be absent.

But President Clinton's attendance at the Moscow summit in no way signals tacit approval of Russia's brutal behavior in Chechnya. On the contrary, President Clinton will make clear, as he has done in the past, that while we support the territorial integrity of the Russian Federation, we strongly condemn Russian attacks on civilians in Chechnya. The President will, I trust, also call on President Yeltsin to extend the current cease-fire in Chechnya and make it permanent.

Mr. President, another area of profound difference with the Kremlin is the proposed sale of a Russian nuclear powerplant and delivery of nuclear technology and training to Iran. Even though, legally speaking, Moscow is correct that its proposed sale falls within international guidelines, I am convinced that Iran has embarked upon a program to build nuclear weapons and, hence, that the sale would be a reckless and counter productive act.

Although it is highly unlikely at this point that Russia can be made to back down totally, President Clinton—on site, face-to-face with President Yeltsin—will be able to press for important adjustments such as preventing the sale of a gas centrifuge plant, which would significantly increase the danger of Iran's being able to produce weapons-grade enriched uranium. Also, the President may push for an agreement whereby spent nuclear fuel would be returned from Iran to Russia.

I have been dismayed at recent bellicose statements by Senior Russian officials against NATO expansion. In Moscow, President Clinton will make crystal-clear to President Yeltsin that Russia does not have veto power over any actions of NATO, including the alliance's enlargement.

In addition, President Clinton will reiterate that NATO has always been a defensive alliance and that binding qualified Central and East European democracies into the alliance's comprehensive security system will enhance stability in the region and thereby be a gain, not a danger, for Russia. The President might pose the rhetorical question to Yeltsin whether Russia would prefer that there be potential isolated loose cannon countries in the middle of Europe or fully integrated members of a defensive alliance led by the United States. The answer is surely the latter.

In Moscow, President Clinton will be able to urge President Yeltsin to sign Russia up formally as a member of the Partnership for Peace so that it can participate on an ongoing basis in a range of discussions with NATO.

There are other crucially important outstanding issues to discuss with the Russians at the Moscow summit. President Clinton will undoubtedly urge that Russia continue its budget austerity and privatization programs and other economic reforms.

Several arms control issues will certainly be on the agenda, including prospects for ratification of START II, crafting a joint strategy in support of the indefinite extension of the Nuclear Nonproliferation Treaty, demarcation between antiballistic missiles and tactical missile defense, and holding to the terms of the Conventional Forces in Europe Treaty.

President Clinton will, I am certain, explain in Moscow that cooperation on the issues I have enumerated 'would strengthen Russia's case for membership in important international bodies such as the Group of Seven Advanced Industrial Nations.

On the other hand, threatening to curtail economic and technical assistance to Russia because of disagreements with Russian policy, as some in the majority party in Congress have advocated, would be "shooting ourselves in the foot," since such a move could only serve to harm the transitions to a free-market economy and true political democracy in Russia that are very much in the United States national interest.

Mr. President, the way to move forward in our emerging relationship with the new Russia is not to sit pouting on the sidelines. Rather, it is to engage the Russians in open, frank, even contentious dialog.

Americans can be proud that we have a President thoroughly versed in all these highly complex matters and able to bring the full weight of the Presidency to bear in face-to-face negotiations.

I know that all Americans join me in wishing President Clinton every success in his vitally important mission.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–876. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report relative to obligations incurred in FY 1994 by US military obligations in Haiti; to the Committee on Appropriations.

EC–877. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, a report relative to the Foreign Comparative Testing Program for fiscal year 1994; to the Committee on Armed Services.

EC–878. A communication from the Chairwoman of the Strategic Environmental Research and Development Program Council, transmitting, pursuant to law, the Scientific Advisory Board's annual report for fiscal year 1994; to the Committee on Armed Services.

EC–879. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the Department's responses to recommendations of the Defense Nuclear Facilities Safety Board for calendar year 1995; to the Committee on Armed Services.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE:

S. 763. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Evening Star*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GLENN:

S. 764. A bill to amend the Indian Child Welfare Act of 1978 to require that determinations concerning the status of a child as an Indian child be prospective the child's date of birth, and that determinations of membership status in an Indian tribe be based on the minority status of a member or written consent of an initial member over the age of 18, and for other purposes; to the Committee on Indian Affairs.

By Mr. MCCAIN:

S. 765. A bill to amend the Public Buildings Act of 1959 to require the Administrator of General Services to prioritize construction and alteration projects in accordance with merit-based needs criteria, and for other purposes; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. INOUYE, Mr. THURMOND, Mr. HEFLIN, Mr. STEVENS, Mr. GORTON, Mr. WARNER, Mr. BUMPERS, Mr. CHAFEE, Mr. PELL, Mr. HATFIELD, Mr. GLENN, Mr. ROTH, Mr. HELMS, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. EXON, Mr. AKAKA, Mr. FORD, Mr. HOLLINGS, Mr. DASCHLE, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. THOMAS, Mr. THOMPSON, and Mr. WELLSTONE):

S. Res. 115. A resolution expressing the sense of the Senate that America's World War II veterans and their families are deserving of this nation's respect and appreciation on the 50th anniversary of V-E Day; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. PRESSLER):

S. Res. 116. A resolution recognizing and commending the Lakota and Dakota Code Talkers; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 763. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Evening Star*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION FOR THE VESSEL "EVENING STAR"

Mr. INOUYE. Mr. President, this private relief bill that I am introducing would authorize a certificate of documentation and coastwise trade endorsement for the vessel *Evening Star*, a small boat to be used for interisland charters. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding sections 12106 through 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Secretary of Transportation may issue a certificate of documentation and coastwise trade endorsement for the vessel EVENING STAR, hull identification number HA2833700774, and State of Hawaii registration number HA8337D.

By Mr. GLENN:

S. 764. A bill to amend the Indian Child Welfare Act of 1978 to require that determinations concerning the status of a child as an Indian child be prospective the child's date of birth, and that determinations of membership status in an Indian tribe be based on the minority status of a member or written consent of an initial member over the age of 18, and for other purposes; to the Committee on Indian Affairs.

INDIAN CHILD WELFARE IMPROVEMENT ACT

Mr. GLENN. Mr. President, I rise today to introduce the Indian Child Welfare Improvement Act of 1995. Representative DEBORAH PRYCE has introduced companion legislation in the House. The purpose of this bill is to clarify the definition of "Indian child" in the Indian Child Welfare Act of 1978.

Mr. President, this legislation is a direct response to a situation involving a family in Ohio. The Rost family of Columbus, OH received custody of twin baby girls in the State of California in November 1993, following the voluntary relinquishment of parental rights by both birth parents. The biological father did not disclose his native American heritage in response to a specific question on the relinquishment document. In February 1994, the birth father informed his mother of the pending adoption. Two months later in April 1994, the birth father's mother enrolled herself, the birth father and the twin girls with the Pomo Indian Tribe in California. The adoption agency was then notified that the twins may be eligible for tribal membership, and that the adoption could not be finalized without a determination of the applicability of the Indian Child Welfare Act.

The bill I am introducing today clarifies existing law. The definition of Indian child in my bill would limit the applicability of the Indian Child Welfare Act to those living on a reservation and their children, and those who are members of an Indian tribe. In addition, the bill would stipulate that for the purpose of a child custody proceeding involving an Indian child, membership in an Indian tribe is effective from the actual date of admission in the Indian tribe and cannot be applied retroactively.

To do otherwise, Mr. President, is not acting in the best interests of the adopted children, and that is my principal concern—the interests of the children.

Mr. President, I believe that this bill does not in any way weaken or compromise current law or protections extended to Native American children and families. The Indian Child Welfare Act was enacted to provide safeguards or standards with respect to State court proceedings involving Indian child custody matters, in an effort to curb involuntary separation of Indian children from their Indian families, heritage, and culture. These objectives and protections are not threatened by the bill I am introducing.

Mr. President, the Rost family is now facing a very difficult situation. This bill and the one introduced by Representative PRYCE will clarify the Indian Child Welfare Act, and I urge its passage by the Senate.

By Mr. MCCAIN:

S. 765. A bill to amend the Public Buildings Act of 1959 to require the Administrator of General Services to prioritize construction and alteration projects in accordance with merit-based needs criteria, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL BUILDINGS CONSTRUCTION AND ALTERATION FUNDING IMPROVEMENT ACT

Mr. MCCAIN. Mr. President, today I am introducing legislation to help ensure that funding for the construction and repair of Federal buildings is allocated according to need and priority.

First, the bill would require the President to submit the administration's building construction budget request in the form of a prioritized list of projects. Second, and most importantly, the bill would require the General Services Administration to prepare and maintain a ranked priority list of all ongoing and proposed construction projects. The list would be updated and reprioritized with each new project added either through administrative or congressional action.

Last year, the U.S. Government spent nearly $400 million on Federal building construction and repair. That is an enormous sum of money. Clearly, the Federal building construction program can and must share in the sacrifice as we seek to gain control over the deficit.

As we rein in spending, it is more critical now than ever to ensure that scarce financial resources are allocated to our highest priorities.

In order to trim the fat in an informed and efficient manner, Congress, the administration, and the taxpaying public must know what our construction priorities are.

Earlier this year, during debate on the rescission bill, the Senate considered proposals to cut Federal construction funding. The list of projects proposed for defunding was rather arbitrary and capricious. The tenets of good government dictate that when we reduce spending, our lowest priorities should be put on the chopping block first. Yet, Congress can not readily determine what those priorities are. By requiring the General Services Administration, which administers the Federal building fund, to maintain a ranked list of project priorities, we can be sure that funding decisions will be made on the basis of merit rather than politics or congressional caprice.

Mr. President, foremost, this amendment will help us address the pork barrel politics which has played far too great a role in the process of Federal building construction. Currently, when a member decides a new building is needed in his or her State or district, the General Services Administration conducts what is known as an 11b survey to determine the need. In most cases, the GSA determines that a need exists. The study is then used to justify project authorization and appropriation, even though a finding of need is not a finding that such a project is a priority.

As projects that are not in the President's budget request are added by Congress we do not always have a clear idea of where they are ranked among competing priorities. Passage of this legislation will ensure that this vital information is readily available.

I hope that the relevant committees will expeditiously examine this proposal in the hope that we can approve rapidly this relatively minor but I believe important and helpful change in procedure.

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. ROTH, the names of the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Mississippi [Mr. LOTT], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Wyoming [Mr. SIMPSON], the Senator from Maine [Ms. SNOWE], the Senator from Michigan [Mr. ABRAHAM], the Senator from California [Mrs. FEINSTEIN], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 254

At the request of Mr. LOTT, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 254, A bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 343

At the request of Mr. DOLE, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 343, a bill to reform the regulatory process, and for other purposes.

S. 351

At the request of Mr. HATCH, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 351, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities.

S. 426

At the request of Mr. SARBANES, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 426, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 457

At the request of Mr. SIMON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 641, A bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 644

At the request of Mr. CAMPBELL, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 644, a bill to amend title 38, United States Code, to reauthorize the establishment of research corporations in the Veterans Health Administration, and for other purposes.

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. MURKOWSKI, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States.

AMENDMENT NO. 545

At the request of Mr. BUMPERS the names of the Senator from North Dakota [Mr. DORGAN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of amendment No. 545 intended to be proposed to H.R. 1158, a bill making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

SENATE RESOLUTION 115—RELATING TO THE 50TH ANNIVERSARY OF V-E DAY

By Mr. DOLE (for himself, Mr. INOUYE, Mr. THURMOND, MR. HEFLIN, Mr. STEVENS, Mr. GORTON, Mr. WARNER, Mr. BUMPERS, Mr. CHAFEE, Mr. PELL, Mr. HATFIELD, Mr. GLENN, Mr. ROTH, Mr. HELMS, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. EXON, Mr. AKAKA, Mr. FORD, Mr. HOLLINGS, Mr. DASCHLE, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. THOMAS, Mr. THOMPSON, and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S. RES. 115

Whereas on May 7, 1945 in Reims, France, the German High command signed the document of surrender, surrendering all air, land and sea forces unconditionally to the Allies;

Whereas President Harry S Truman proclaimed May 8, 1945 to be V-E Day:

Whereas May 8, 1995 is the 50th Anniversary of that proclamation:

Whereas, the courage and sacrifice of the American fighting men and women who served with distinction to save the world from tyranny and aggression should always be remembered; Now, therefore, be it

Resolved, the United States Senate joins with a grateful nation in expressing our respect and appreciation to the men and women who served in World War II, and their families. Further, we remember and pay tribute to those Americans who made the ultimate sacrifice and gave their life for their country.

SENATE RESOLUTION 116—COMMENDING THE LAKOTA AND DAKOTA CODE TALKERS

Mr. DASCHLE (for himself, Mr. INOUYE, Mr. MCCLAIN, and Mr. PRESSLER) submitted the following resolution; which was agreed to:

S. RES. 116

Whereas the Lakota and Dakota Code Talkers, Native Americans who were members of the Sioux Nation, worked in radio communications during World War II and used their Lakota and Dakota languages to relay communications;

Whereas Japanese cryptologists never deciphered the Native American languages that were used as codes during World War II, including the Lakota and Dakota languages; and

Whereas the Lakota and Dakota Code Talkers deserve to be recognized for their contribution to the successful resolution of the war effort in the Pacific: Now, therefore, be it

Resolved, That the Senate recognizes and commends the Lakota and Dakota Code Talkers for their invaluable contribution to the successful resolution of World War II.

AMENDMENTS SUBMITTED

COMMONSENSE PRODUCT LIABILITY REFORM ACT

MOSELEY-BRAUN AMENDMENT NO. 691

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN submitted an amendment intended to be proposed by her to amendment No. 690, proposed by Mr. COVERDELL, to amendment No. 596, proposed by Mr. GORTON, to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

In the pending amendment, on page 21 strike lines 7 through 12.

FEINGOLD AMENDMENT NO. 692

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

On page 7, line 23, insert in section 101(12)(B)(i) after the word "negligence" the following: "or any product designed or marketed primarily for the use of children".

SHELBY (AND HEFLIN) AMENDMENT NO. 693

(Ordered to lie on the table.)

Mr. SHELBY (for himself and Mr. HEFLIN) submitted an amendment intended to be proposed by them to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

At the appropriate place insert the following:

SEC. . LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to this section, but only during such time as the State law so provides.

DODD AMENDMENTS NOS. 694-695

(Ordered to lie on the table.)

Mr. DODD submitted two amendments intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 694

Strike section 106 of the amendment and insert the following new section:

SEC. 106. UNIFORM STANDARDS FOR AWARDS OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Notwithstanding any other provision of this Act, punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in an action that is subject to this Act if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) BIFURCATION AND JUDICIAL DETERMINATION.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, in an action that is subject to this Act in which punitive damages are sought, the trier of fact shall determine, concurrent with all other issues presented, whether such damages shall be allowed. If such damages are allowed, a separate proceeding shall be conducted by the court to determine the amount of such damages to be awarded.

(2) ADMISSIBLE EVIDENCE.—

(A) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A BIFURCATED PROCEEDING.—Notwithstanding any other provision of this Act, in any proceeding to determine whether the claimant in an action that is subject to this Act may be awarded compensatory damages and punitive damages, evidence of the defendant's financial condition and other evidence bearing on the amount of punitive damages shall not be admissible unless the evidence is admissible for a purpose other than for determining the amount of punitive damages.

(B) PROCEEDING WITH RESPECT TO PUNITIVE DAMAGES.—Evidence that is admissible in a separate proceeding conducted under paragraph (1) shall include evidence that bears on the factors listed in paragraph (3).

(3) FACTORS.—Notwithstanding any other provision of this Act, in determining the amount of punitive damages awarded in an action that is subject to this Act, the court shall consider the following factors:

(A) The likelihood that serious harm would arise from the misconduct of the defendant in question.

(B) The degree of the awareness of the defendant in question of that likelihood.

(C) The profitability of the misconduct to the defendant in question.

(D) The duration of the misconduct and any concealment of the conduct by the defendant in question.

(E) The attitude and conduct of the defendant in question upon the discovery of the misconduct and whether the misconduct has terminated.

(F) The financial condition of the defendant in question.

(G) The total effect of other punishment imposed or likely to be imposed upon the defendant in question as a result of the misconduct, including any awards of punitive or exemplary damages to persons similarly situated to the claimant and the severity of criminal penalties to which the defendant in question has been or is likely to be subjected.

(H) Any other factor that the court determines to be appropriate.

(4) REASONS FOR SETTING AWARD AMOUNT.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, with respect to an award of punitive damages in an action that is subject to this Act, in findings of fact and conclusions of law issued by the court, the court shall clearly state the reasons of the court for setting the amount of the award. The statements referred to in the preceding sentence shall demonstrate the consideration of the factors listed in subparagraphs (A) through (G) of paragraph (3). If the court considers a factor under subparagraph (H) of paragraph (3), the court shall state the effect of the consideration of the factors on setting the amount of the award.

(B) REVIEW OF DETERMINATION OF AWARD AMOUNT.—The determination of the amount of the award shall only be reviewed by a court as a factual finding and shall not be set aside by a court unless the court determines that the amount of the award is clearly erroneous.

AMENDMENT NO. 695

At the appropriate place in the amendment, insert the following new section:

SEC. . ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) IN GENERAL.—

(1) SERVICE OF OFFER.—A claimant or a defendant in a product liability action that is subject to this title may, not later than 60 days after the service of the initial complaint of the claimant or the applicable deadline for a responsive pleading (whichever is later), serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(2) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—Except as provided in paragraph (3), not later than 10 days after the service of an offer to proceed under paragraph (1), an offeree shall file a written notice of acceptance or rejection of the offer.

(3) EXTENSION.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in paragraph (2), extend the period for filing a written notice under such paragraph for a period of not more than 60 days after the date of expiration of the period specified in paragraph (2). Discovery may be permitted during such period.

(b) DEFENDANT'S PENALTY FOR UNREASONABLE REFUSAL.—

(1) IN GENERAL.—The court shall assess reasonable attorney's fees (calculated in accordance with paragraph (2)) and costs against the offeree, incurred by the offeror during trial if—

(A) a defendant as an offeree refuses to proceed pursuant to the alternative dispute resolution procedure referred to subsection (a)(1);

(B) final judgment is entered against the defendant for harm caused by the product that is the subject of the action; and

(C) the refusal by the defendant to proceed pursuant to such alternative dispute resolution was unreasonable or not made in good faith.

(2) REASONABLE ATTORNEY'S FEES.—For purposes of this subsection, a reasonable attorney's fee shall be calculated on the basis of an hourly rate, which shall not exceed the hourly rate that is considered acceptable in the community in which the attorney practices law, taking into consideration the qualifications and experience of the attorney and the complexity of the case.

(c) GOOD FAITH REFUSAL.—In determining whether the refusal of an offeree to proceed pursuant to the alternative dispute procedure referred to in subsection (a)(1) was unreasonable or not made in good faith, the court shall consider—

(1) whether the case involves potentially complicated questions of fact;

(2) whether the case involves potentially dispositive issues of law;

(3) the potential expense faced by the offeree in retaining counsel for both the alternative dispute resolution procedure and to litigate the matter for trial;

(4) the professional capacity of available mediators within the applicable geographic area; and

(5) such other factors as the court considers appropriate.

HEFLIN (BY REQUEST) AMENDMENT NO. 696

(Ordered to lie on the table.)

Mr. HEFLIN (by request) submitted an amendment intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

At the appropriate place in the amendment that is pending insert the following:

INSURABILITY OF PUNITIVE DAMAGES

(1) Insurance companies properly licensed under state law shall be permitted to issue policies covering liability giving rise to punitive or exemplary damages.

(2) Nothing herein shall require insurers to offer such insurance policies for punitive or exemplary damages.

(3) Such policies shall be effective in all states of the United States, notwithstanding state law to the contrary.

BOXER AMENDMENTS NOS. 697–702

(Ordered to lie on the table.)

Mrs. BOXER submitted six amendments intended to be proposed by her to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 697

In section 103, strike subsection (a) and insert the following new subsection:

(a) GENERAL RULE.—Except as otherwise provided under applicable State law, in any product liability action that is subject to this title filed by a claimant for harm caused by a product, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes that the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller.

AMENDMENT NO. 698

At the appropriate place, insert the following: "Notwithstanding Section 106 with regard to Uniform Standards for Award of Punitive Damages, the limitation of amount for punitive damages shall not apply to facial disfigurement."

AMENDMENT NO. 699

At the appropriate place, insert the following: "Notwithstanding Section 106 with regard to Uniform Standards for Award of Punitive Damages, the limitation of amount for punitive damages shall not apply to brain damage."

AMENDMENT NO. 700

At the appropriate place, insert the following: "Notwithstanding Section 106 with regard to Uniform Standards for Award of Punitive Damages, the limitation of amount for punitive damages shall not apply to the loss of human reproductive function."

AMENDMENT NO. 701

At the appropriate place, insert the following: "Notwithstanding Section 106 with regard to Uniform Standards for Award of Punitive Damages, the limitation of amount for punitive damages shall not apply to the loss of a limb."

AMENDMENT NO. 702

Strike all of Title II in the pending amendment.

HEFLIN (BY REQUEST) AMENDMENT NO. 703

(Ordered to lie on the table.)

Mr. HEFLIN (by request) submitted an amendment intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

At the appropriate place in the amendment that is pending insert the following:

INSURABILITY OF PUNITIVE DAMAGES

(1) Insurance companies properly licensed under State law shall be permitted to issue policies covering liability giving rise to punitive or exemplary damages.

(2) Nothing herein shall require insurers to offer such insurance policies for punitive or exemplary damages.

(3) Such policies shall be effective in all States of the United States, notwithstanding State law to the contrary.

HARKIN AMENDMENT NO. 704

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

In section 106(b)(2)(B) of the matter proposed to be inserted, strike "Punitive damages" and all that follows through the end of the subparagraph and insert the following:

"(i) Notwithstanding paragraph (1), the amount of punitive damages that may be awarded in any product liability action that is subject to this title against an owner of an unincorporated business, or any partnership, corporation, unit of local government, or organization that has 25 or more full-time employees shall be the greater of—

(I) an amount determined under paragraph (1); or

(II) 2 times the average value of the annual compensation of the chief executive officer (or the equivalent employee) of such entity during the 3 full fiscal years of the entity immediately preceding the date of which the award of punitive damages is made.

(ii) For the purposes of this subparagraph, the term 'compensation' includes the value of any salary, benefit, bonus, grant, stock option, insurance policy, club membership, or any other matter having pecuniary value.".

SPECTER AMENDMENTS NOS. 705–707

(Ordered to lie on the table.)

Mr. SPECTER submitted three amendments intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 705

On page 23, after line 7, add the following new subsection:

(c) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding subsections (a) and (b), in a product liability action that is subject to this title, the liability of the defendant for noneconomic loss shall be joint and several if the percentage of responsibility of the defendant is determined to be greater than or equal to 15 percent of the harm to the claimant.

(2) DETERMINATION OF PERCENTAGE OF RESPONSIBILITY.—For purposes of paragraph (1), in a product liability action that is subject to this title, the trier of fact shall determine the percentage of responsibility of each defendant for the harm to the claimant.

AMENDMENT NO. 706

On page 27, after line 23, insert the following:

SEC. 111. FOREIGN PRODUCTS.

(a) GENERAL RULE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in any product liability action that is subject to this title for any harm sustained in the United States that relates to the purchase or use of a product manufactured outside the United States by a foreign manufacturer, the Federal district court in which the action is filed shall have personal jurisdiction over such manufacturer if the court determines that the manufacturer knew or reasonably should have known that the product would be imported for sale or use in the United States.

(2) SERVICE OF PROCESS.—Process in any action described in paragraph (1) may be served at any location at which the foreign manufacturer is located, has an agent, or regularly transacts business.

(b) ADMISSION.—In any product liability action that is subject to this title, if a foreign manufacturer of the product fails to furnish any testimony, document, or other thing upon a duly issued discovery order by the court in such action, that failure shall be deemed to be an admission by such manufacturer of any and all facts to which the discovery order relates.

AMENDMENT NO. 707

On page 18, strike lines 18–25 and insert in lieu thereof:

The amount of punitive damages that may be awarded to a claimant in any civil action subject to this section shall not exceed ten (10) percent of the net worth of the defendant against whom they are imposed.

HOLLINGS AMENDMENT NO. 708

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

At the appropriate place, insert the following:

SEC. . NO PREEMPTION OF RECENT TORT REFORM LAWS.

Notwithstanding any other provision of this Act to the contrary, nothing in this Act preempts any provision of State law—

(1) if the legislature of that State considered a legislative proposal dealing with that provision in connection with reforming the tort laws of that State during the period beginning on January 1, 1980, and ending on the date of enactment of this Act, without regard to whether such proposal was adopted, modified and adopted, or rejected; or

(2) adopted after the date of enactment of this Act.

GORTON (AND ROCKEFELLER) AMENDMENT NO. 709

Mr. GORTON (for himself and Mr. ROCKEFELLER) proposed an amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

In lieu of the language proposed to be inserted insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act of 1995".

TITLE I—PRODUCT LIABILITY

SEC. 101. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ACTUAL MALICE.—The term "actual malice" means specific intent to cause serious physical injury, illness, disease, or damage to property, or death.

(2) CLAIMANT.—The term "claimant" means any person who brings a product liability action and any person on whose behalf such an action is brought. If an action is brought through or on behalf of—

(A) an estate, the term includes the decedent; or

(B) a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(3) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means the amount paid to an employee as workers' compensation benefits.

(4) CLEAR AND CONVINCING EVIDENCE.—

(A) IN GENERAL.—Subject to subparagraph (A), the term "clear and convincing evidence" is that measure of degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.

(B) DEGREE OF PROOF.—The degree of proof required to satisfy the standard of clear and convincing evidence shall be—

(i) greater than the degree of proof required to meet the standard of preponderance of the evidence; and

(ii) less than the degree of proof required to meet the standard of proof beyond a reasonable doubt.

(5) COMMERCIAL LOSS.—The term "commercial loss" means any loss or damage to a product itself, loss relating to a dispute over its value, or consequential economic loss the recovery of which is governed by the Uniform Commercial Code or analogous State commercial law, not including harm.

(6) DURABLE GOOD.—The term "durable good" means any product, or any component of any such product, which has a normal life expectancy of 3 or more years or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(7) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including any medical expense loss, work loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent that recovery for the loss is permitted under applicable State law.

(8) HARM.—The term "harm" means any physical injury, illness, disease, or death, or damage to property, caused by a product. The term does not include commercial loss or loss or damage to a product itself.

(9) INSURER.—The term "insurer" means the employer of a claimant, if the employer is self-insured, or the workers' compensation insurer of an employer.

(10) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product), and who designs or formulates the product (or component part of the product), or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, constructs, designs, or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another person; or

(C) any product seller that is not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(11) NONECONOMIC LOSS.—The term "noneconomic loss"—

(A) means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; and

(B) does not include economic loss.

(12) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(13) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term "product" does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; and

(ii) electricity, water delivered by a utility, natural gas, or steam.

(14) PRODUCT LIABILITY ACTION.—The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(15) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who—

(i) in the course of a business conducted for that purpose, sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(16) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, or any political subdivision thereof.

(17) TIME OF DELIVERY.—The term "time of delivery" means the time when a product is delivered to the first purchaser or lessee of the product that was not involved in manufacturing or selling the product, or using the product as a component part of another product to be sold.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) APPLICABILITY.—

(1) ACTIONS COVERED.—Subject to paragraph (2), this title applies to any product liability action commenced on or after the date of enactment of this Act, without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

(2) ACTIONS EXCLUDED.—

(A) ACTIONS FOR DAMAGE TO PRODUCT OR COMMERCIAL LOSS.—A civil action brought for loss or damage to a product itself or for commercial loss, shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable commercial or contract law.

(B) ACTIONS FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable State law.

(b) Scope of Preemption.—

(1) In general.—This Act supersedes a State law only to the extent that State law applies to an issue covered under this title.

(2) Issues not covered under this act.—Any issue that is not covered under this title, including any standard of liability applicable to a manufacturer, shall not be subject to this title, but shall be subject to applicable Federal or State law.

(c) Statutory Construction.—Nothing in this title may be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601(8)) or the threat of such remediation.

(d) Construction.—To promote uniformity of law in the various jurisdictions, this title shall be construed and applied after consideration of its legislative history.

(e) Effect of Court of Appeals Decisions.—Notwithstanding any other provision of law, any decision of a circuit court of appeals interpreting a provision of this title (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 103. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) Service of Offer.—A claimant or a defendant in a product liability action that is subject to this title may, not later than 60 days after the service of the initial complaint of the claimant or the applicable deadline for a responsive pleading (whichever is later), serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(b) Written Notice of Acceptance or Rejection.—Except as provided in subsection (c), not later than 10 days after the service of an offer to proceed under subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(c) Extension.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in subsection (b), extend the period for filing a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b). Discovery may be permitted during such period.

SEC. 104. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS.

(a) General Rule.—

(1) In general.—In any product liability action that is subject to this title filed by a claimant for harm caused by a product, a product seller other than a manufacturer shall be liable to a claimant, only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant; or

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing w±as a proximate cause of the harm that is the subject of the complaint.

(2) Reasonable opportunity for inspection.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect a product if the product seller had no reasonable opportunity to inspect the product that allegedly caused harm to the claimant.

(b) Special Rule.—

(1) In general.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(2) Statute of limitations.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) Rented or Leased Products.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(14)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 105. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) General Rule.—Notwithstanding any other provision of law, a defendant in a product liability action that is subject to this title shall have a complete defense in the action if the defendant proves that—

(1) the claimant was under the influence of intoxicating alcohol or any drug that may not lawfully be sold over-the-counter without a prescription, and was not prescribed by a physician for use by the claimant; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for the accident or event which resulted in the harm to the claimant.

(b) Construction.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

SEC. 106. REDUCTION FOR MISUSE OR ALTERATION OF PRODUCT.

(a) General Rule.—

(1) In general.—Except as provided in subsection (c), in a product liability action that is subject to this title, the damages for which a defendant is otherwise liable under applicable State law shall be reduced by the percentage of responsibility for the harm to the claimant attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, the express warnings or instructions of the defendant if the warnings or instructions are determined to be adequate pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) Use intended by a manufacturer is not misuse or alteration.—For the purposes of this title, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) State Law.—Notwithstanding section 3(b), subsection (a) of this section shall supersede State law concerning misuse or alteration of a product only to the extent that State law is inconsistent with such subsection.

(c) Workplace Injury.—Notwithstanding subsection (a), the amount of damages for which a defendant is otherwise liable under State law shall not be reduced by the application of this section with respect to the conduct of any employer or coemployee of the plaintiff who is, under applicable State law concerning workplace injuries, immune from being subject to an action by the claimant.

SEC. 107. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) General Rule.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in a product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) Limitation on Amount.—

(1) In general.—Except as provided in paragraphs (2) and (3), the amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this title shall not exceed the greater of—

(A) 2 times the sum of—

(i) the amount awarded to the claimant for economic loss; and

(ii) the amount awarded to the claimant for noneconomic loss; or

(B) $250,000.

(2) Special rule.—The amount of punitive damages that may be awarded in a product liability action that is subject to this title against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization which has fewer than 25 full-time employees, shall not exceed the lesser of—

(A) 2 times the sum of—

(i) the amount awarded to the claimant for economic loss; and

(ii) the amount awarded to the claimant for noneconomic loss; or

(B) $250,000.

(3) Exception.—

(A) Determination by court.—Notwithstanding subsection (c), in a product liability action that is subject to this title, if the court makes a determination, after considering each of the factors in subparagraph (B), that the application of paragraph (1) or (2) would result in an award of punitive damages that is insufficient to punish the egregious conduct of the defendant against whom the punitive damages are to be awarded or to deter such conduct in the future, the court shall determine the additional amount of punitive damages in excess of the amount determined in accordance with paragraph (1) or (2) to be awarded to the claimant (referred to in this paragraph as the "additur") in a separate proceeding in accordance with this paragraph.

(B) Factors for consideration.—In any proceeding under subparagraph (A), the court shall consider—

(i) the extent to which the defendant acted with actual malice;

(ii) the likelihood that serious harm would arise from the misconduct of the defendant;

(iii) the degree of the awareness of the defendant of that likelihood;

(iv) the profitability of the misconduct to the defendant;

(v) the duration of the misconduct and any concurrent or subsequent concealment of the conduct by the defendant;

(vi) the attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated;

(vii) the financial condition of the defendant;

(viii) the cumulative deterrent effect of other losses, damages, and punishment suffered by the defendant as a result of the misconduct, reducing the amount of punitive damages on the basis of the economic impact and severity of all measures to which the defendant has been or may be subjected, including—

(I) compensatory and punitive damage awards to similarly situated claimants;

(II) the adverse economic effect of stigma or loss of reputation;

(III) civil fines and criminal and administrative penalties; and

(IV) stop sale, cease and desist, and other remedial or enforcement orders; and

(ix) any other factor that the court determines to be appropriate.

(C) Requirements for awarding additurs.—If the court awards an additur under this paragraph, the court shall state its reasons for setting the amount of the additur in findings of fact and conclusions of law. If the additur is—

(i) accepted by the defendant, it shall be entered by the court as a final judgment;

(ii) accepted by the defendant under protest, the order may be reviewed on appeal; or

(iii) not accepted by the defense, the court shall set aside the punitive damages award and order a new trial on the issue of punitive damages only, and judgment shall enter upon the verdict of liability and damages after the issue of punitive damages is decided.

(4) Application by court.—This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

(c) Bifurcation at Request of Any Party.—

(1) In general.—At the request of any party, the trier of fact in a product liability action that is subject to this title shall consider in a separate proceeding whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) Inadmissibility of evidence relative only to a claim of punitive damages in a proceeding concerning compensatory damages.—If any party requests a separate proceeding under paragraph (1), in any proceeding to determine whether the claimant may be awarded compensatory damages, any evidence that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

SEC. 108. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Statute of Limitations.—

(1) In general.—Except as provided in paragraph (2) and subsection (b), a product liability action that is subject to this title may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered, the harm that is the subject of the action and the cause of the harm.

(2) Exceptions.—

(A) Person with a legal disability.—A person with a legal disability (as determined under applicable law) may file a product liability action that is subject to this title not later than 2 years after the date on which the person ceases to have the legal disability.

(B) Effect of stay or injunction.—If the commencement of a civil action that is subject to this title is stayed or enjoined, the running of the statute of limitations under this section shall be suspended until the end of the period that the stay or injunction is in effect.

(b) Statute of Repose.—

(1) In general.—Subject to paragraphs (2) and (3), no product liability action that is subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed after the 20-year period beginning at the time of delivery of the product.

(2) State law.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 20-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) Exceptions.—

(A) A motor vehicle, vessel, aircraft, or train that is used primarily to transport passengers for hire shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety of the specific product involved which was longer than 20 years, but it will apply at the expiration of that warranty.

(C) Paragraph (1) does not affect the limitations period established by the General Aviation Revitalization Act of 1994 (49 U.S.C. 40101 note).

(c) Transitional Provision Relating to Extension of Period for Bringing Certain Actions.—If any provision of subsection (a) or (b) shortens the period during which a product liability action that could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action pursuant to this title not later than 1 year after the date of enactment of this Act.

SEC. 109. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) General Rule.—In a product liability action that is subject to this title, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) Amount of Liability.—

(1) In general.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) Percentage of responsibility.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 110. WORKERS' COMPENSATION SUBROGATION STANDARDS.

(a) General Rule.—

(1) Right of subrogation.—

(A) In general.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this title.

(B) Written notification.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) Insurer not required to be a party.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) Settlements and other legal proceedings.—

(A) In general.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this title, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) WRITTEN NOTIFICATION.—Except as provided in subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the employer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER OR COEMPLOYEE.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this title, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the employer.

(B) RIGHTS OF EMPLOYER.—

(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an employer shall, in the same manner as any party in the action (even if the employer is not a named party in the action), have the right to—

(I) appear;

(II) be represented;

(III) introduce evidence;

(IV) cross-examine adverse witnesses; and

(V) present arguments to the trier of fact.

(ii) LAST ISSUE.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is presented to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS OF SUBROGATION NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

SEC. 111. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction under section 1331 or 1337 of title 28, United States Code, over any product liability action covered under this title.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1995".

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds thé total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR.—With respect to an action brought on behalf or through a minor, such term includes the parent or guardian of the minor.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) Harm.—

(A) In general.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) Exclusion.—The term does not include any commercial loss or loss of or damage to an implant.

(5) Implant.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) Manufacturer.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) Medical device.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(8) Raw material.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(10) Seller.—

(A) In general.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) Exclusions.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) General Requirements.—

(1) In general.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) Procedures.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) Applicability.—

(1) In general.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) Exclusion.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) Scope of Preemption.—

(1) In general.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) Applicability of other laws.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) Statutory Construction.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) In General.—

(1) Exclusion from liability.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) Liability.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) Liability as Manufacturer.—

(1) In general.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) Grounds for liability.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) Administrative procedures.—

(A) In general.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) Docketing and final decision.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) Applicability of statute of limitations.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) Liability as Seller.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the bio-materials supplier as a seller because the related manufacturer meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) Liability for Violating Contractual Requirements or Specifications.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii)(I) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j); and

(II) have received clearance from the Secretary,

if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists.

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 205(b) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

SEC. 207. APPLICABILITY.

This title shall apply to all civil actions covered under this title that are commenced on or after the date of enactment of this Act, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this Act.

HOLLINGS AMENDMENTS NOS. 710–728

(Ordered to lie on the table.)

Mr. HOLLINGS submitted 19 amendments intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 710

At the appropriate place in title I, insert the following:

SEC. . TRULY UNIFORM STANDARDS FOR ALL STATES.

(a) PUNITIVE DAMAGES.—Notwithstanding any other provision of this Act or any limitation under State law, punitive damages may be awarded to a claimant in a product liability action subject to this title. The amount of punitive damages that may be awarded may not exceed 2 times the sum of—

(1) the amount awarded to the claimant for the economic loss on which the claim is based; and

(2) the amount awarded to the claimant for noneconomic loss.

(b) STATUTE OF REPOSE.—Notwithstanding any other provision of this Act, no product liability action subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed more than 20 years after the time of delivery of the product. This subsection supersedes any State law that requires a product liability action to be filed during a period of time shorter than 20 years after the time of delivery.

AMENDMENT NO. 711

At the appropriate place in title I, insert the following:

SEC. . TRULY UNIFORM STANDARDS FOR ALL STATES.

(a) PUNITIVE DAMAGES.—Notwithstanding any other provision of this Act or any limitation under State law, punitive damages may be awarded to a claimant in a product liability action subject to this title. The amount of punitive damages that may be awarded may not exceed the greater of—

(1) an amount equal to 3 times the amount awarded to the claimant for the economic loss on which the claim is based, or

(2) $250,000.

(b) STATUTE OF REPOSE.—Notwithstanding any other provision of this Act, no product liability action subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed more than 20 years after the time of delivery of the product. This subsection supersedes any State law that requires a product liability action to be filed during a period of time shorter than 20 years after the time of delivery.

AMENDMENT NO. 712

On page 22, beginning with line 11, strike through line 7 on page 23.

AMENDMENT NO. 713

On page 8, strike lines 1 through 4 and insert the following:

(13) PRODUCT LIABILITY ACTION.—The term "product liability action" means a civil action, brought against a manufacturer, seller, or any other person responsible for the distribution of a product in the stream of commerce, involving a defect or design of the product on any theory for harm caused by the product.

AMENDMENT NO. 714

Strike section 106, relating to punitive damages.

AMENDMENT NO. 715

On page 18, beginning with line 7, strike through line 2 on page 20.

AMENDMENT NO. 716

Strike subsection (b) of section 106, relating to limitations on the amount of punitive damages.

AMENDMENT NO. 717

On page 18, beginning with line 17, strike down to line 11 on page 19.

AMENDMENT NO. 718

Strike subsection (c) of section 106.

AMENDMENT NO. 719

On page 19, beginning with line 12, strike through line 2 on page 20.

AMENDMENT NO. 720

Strike lines 19 through 23 on page 27.

AMENDMENT NO. 721

Strike lines 9 through 18 on page 12.

AMENDMENT NO. 722

Strike lines 7 through 12 on page 21.

AMENDMENT NO. 723

On page 5, beginning with "The" on line 10, strike through line 12.

AMENDMENT NO. 724

Strike lines 8 through 14 on page 10.

AMENDMENT NO. 725

At the appropriate place, insert the following:

SEC. . NO PREEMPTION OF RECENT TORT REFORM LAWS.

Notwithstanding any other provision of this Act to the contrary, nothing in this Act preempts any provision of State law inconsistent with this Act if the legislature of that State considered a legislative proposal dealing with that provision in connection with reforming the tort laws of that State during the period beginning on January 1, 1980, and ending on the date of enactment of this Act, without regard to whether such proposal was adopted, modified and adopted, or rejected.

AMENDMENT NO. 726

At the appropriate place, insert the following:

SEC. . NO PREEMPTION OF RECENT TORT REFORM LAWS.

Notwithstanding any other provision of this Act to the contrary, nothing in this Act preempts any provision of State law adopted after the date of enactment of this Act.

AMENDMENT NO. 727

On page 1, after line 3, insert the following:

SEC. 2. STATE IMPLEMENTATION REQUIRED.

Notwithstanding any provision of this Act to the contrary, nothing in this Act shall supersede any provision of State law or rule of civil procedure unless that State has enacted a law providing for the application of this Act in that State.

AMENDMENT NO. 728

On page 27, after line 23, insert the following:

SEC. 111. APPLICATION OF ACT LIMITED TO DOMESTIC PRODUCTS.

Notwithstanding any other provision of this Act, this Act shall not apply to any product, component part, implant, or medical device that is not manufactured in the United States within the meaning of the Buy American Act (41 U.S.C. 10a) and the regulations issued thereunder, or to any raw material derived from sources outside the United States.

BYRD (AND OTHERS) AMENDMENT NO. 729

(Ordered to lie on the table.)

Mr. BYRD (for himself, Mr. BAUCUS, and Mr. REID) submitted an amendment intended to be proposed by them to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

At the appropriate place, insert

Inasmuch as, the United States and Japan have a long and important relationship which serves as an anchor of peace and stability in the Pacific region;

Inasmuch as, tension exists in an otherwise normal and friendly relationship between the United States and Japan because of persistent and large trade deficits which are the result of practices and regulations which have substantially blocked legitimate access of American products to the Japanese market;

Inasmuch as, the current account trade deficit with Japan in 1994 reached an historic high level of $66 billion, of which $37 billion, or 56 percent, is attributed to imbalances in automotive sector, and of which $12.8 billion is attributable to auto parts flows:

Inasmuch as, in July, 1993, the Administration reached a broad accord with the Government of Japan, called the "United States-Japan Framework for a New Economic Partnership", which established automotive trade regulations as one of 5 priority areas for negotiations, to seek market-opening arrangements based on objective criteria and which would result in objective progress;

Inasmuch as, a healthy American automobile industry is of central importance to the American economy, and to the capability of the United States to fulfill its commitments to remain as an engaged, deployed, Pacific power;

Inasmuch as, after 18 months of negotiations with the Japanese, beginning in September 1993, the U.S. Trade Representative concluded that no progress had been achieved, leaving the auto parts market in Japan "virtually closed";

Inasmuch as, in October, 1994, the United States initiated an investigation under Section 301 of the Trade Act of 1974 into the Japanese auto parts market, which could result in the imposition of trade sanctions on a variety of Japanese imports into the United States unless measurable progress is made in penetrating the Japanese auto parts market;

Inasmuch as, the latest round of U.S.-Japan negotiations on automotive trade, in Whistler, Canada, collapsed in failure on May 5, 1995, and the U.S. Trade Representative, Ambassador Kantor, stated the "government of Japan has refused to address our most fundamental concerns in all areas" of automotive trade, and that "discrimination against foreign manufacturers of autos and auto parts continues."

Inasmuch as, President Clinton stated, on May 5, 1995, that the U.S. is "committed to taking strong action" regarding Japanese imports into the U.S. if no agreement is reached.

Now, therefore, be it

Declared, That it is the Sense of the Senate that—

(1) the Senate supports the efforts of the President to continue to strongly press the

Government of Japan, through bilateral negotiations under the agreed "Framework for a New Economic Partnership," for sharp reductions in the trade imbalances in automotive sales and parts through the elimination of unfair and restrictive Japanese market-closing practices and regulations; and

(2) If such results-oriented negotiations are not concluded satisfactorily, appropriate and reasonable measures, up to and including trade sanctions, should be imposed in accordance with Section 301 of the trade Act of 1974.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. NICKLES. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Production and Regulation.

The hearing will take place Thursday, May 18, 1995, at 2 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 283, a bill to provide for the extension of the deadline under the Federal Power Act applicable to two hydroelectric projects in Pennsylvania, and for other purposes, S. 468, a bill to provide for the extension of the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Ohio, and for other purposes, S. 543, a bill to provide for the extension of the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Oregon, and for other purposes, S. 547, a bill to provide for the extension of the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes, S. 549, a bill to provide for the extension of the deadline under the Federal Power Act applicable to the construction of three hydroelectric projects in the State of Arkansas, S. 552, a bill to provide for the refurbishment and continued operation of a small hydroelectric facility in central Montana by adjusting the amount of charges to be paid to the United States under the Federal Power Act and for other purposes, S. 595, a bill to provide for the extension of a hydroelectric project located in the State of West Virginia, and S. 611 a bill to provide for the extension of time limitation for a FERC-issued hydroelectric license.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Howard Useem at 202–224–6567.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. NICKLES. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Production and Regulation.

The hearing will take place Tuesday, June 6, 1995, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 708, a bill to repeal section 210 of the Public Utility Regulatory Policies Act of 1978.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Howard Useem at 202–224–6567.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management.

The hearing will take place Tuesday, May 23, 1995, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony regarding S. 620, Reclamation Facilities Transfer Act.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, attention Betty Nevitt, U.S. Senate, Washington, DC 20510. For further information, please call Jim Beirne at (202) 224–2564 or Betty Nevitt at 202–224–0765.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider S. 638, the Insular Development Act of 1995.

The hearing will take place Thursday, May 25, 1995, at 2 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Jim Beirne at (202) 224–2564 or Betty Nevitt at 202–224–0765.

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through May 5, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 218), show that current level spending is below the budget resolution by $5.6 billion in budget authority and $1.4 billion in outlays. Current level is $0.5 billion over the revenue floor in 1995 and below by $9.5 billion over the 5 years 1995–99. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $238 billion, $3.1 billion below the maximum deficit amount for 1995 of $241 billion.

Since my last report, dated April 24, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 8, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1995 shows the effects of Congressional action on the 1995 budget and is current through May 5, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements of Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated April 24, 1995, there has been no action that affects the current level of budget authority, outlays or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS MAY 5, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 218) [1]	Current level [2]	Current level over/under resolution
ON-BUDGET			
Budget authority	1,238.7	1,233.1	−5.6
Outlays	1,217.6	1,216.2	−1.4
Revenues:			
1995	977.7	978.2	0.5
1995–99	5,415.2	5,405.7	−9.5
Deficit	241.0	238.0	−3.1
Debt subject to limit	4,965.1	4,764.5	−200.6
OFF-BUDGET			
Social Security outlays:			
1995	287.6	287.5	−0.1
1995–99	1,562.6	1,562.6	[3] 0.
Social Security revenues:			
1995	360.5	360.3	−0.2
1995–99	1,998.4	1,998.2	−0.2

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

Note: Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995 AS OF CLOSE OF BUSINESS MAY 5, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			978,466
Permanents and other spending legislation	750,307	706,236	
Appropriation legislation	738,096	757,783	
Offsetting receipts	(250,027)	(250,027)	
Total previously enacted	1,238,376	1,213,992	978,466
ENACTED THIS SESSION			
1995 Emergency Supplementals and Rescissions Act (Public Law 104–6).	(3,386)	(1,008)	
Self-Employed Health Insurance Act (Public Law 104–7)			(248)
Total enacted this session	(3,386)	(1,008)	(248)
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements other mandatory programs not yet enacted	(1,887)	3,189	
Total current level [1]	1,233,103	1,216,173	978,218
Total budget resolution	1,238,744	1,217,605	977,700
Amount remaining:			
Under budget resolution	5,641	1,432	
Over budget resolution			518

[1] In accordance with the Budget Enforcement Act, the total does not include $3,905 million in budget authority and $7,442 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $841 million in budget authority and $917 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

Notes: Numbers in parentheses are negative. Detail may not add due to rounding.•

TIME FOR REAL FARM REFORM

• Mr. **DORGAN**. Mr. President, no other legislation which is likely to come before the Congress this year will have more direct impact on my State, North Dakota, and the people who live there than the 1995 farm bill. For a farm State, for a State with a predominantly rural economy, it is critically important legislation.

When Congress and the President begin to draft that legislation, I believe it is essential that we be about the business of fundamental reform. The time for farm program facelifts has long since passed. It is time for real change, change that returns the farm program to its fundamental and original mission: helping family farmers survive and prosper.

I recently wrote a guest editorial which was published in a number of North Dakota newspapers which outlined my thinking on this important issue in some detail. I would like to share that article, and those thoughts, with my colleagues and ask that it be reprinted at this point in the RECORD.

The editorial follows:

NO MORE FACELIFTS FOR THE FARM PROGRAM—IT'S TIME FOR REAL REFORM

(By U.S. Senator Byron L. Dorgan)

The new U.S. Secretary of Agriculture, Dan Glickman, is coming to North Dakota Friday at my invitation to meet with family farmers. His visit comes at both an opportune and very challenging time.

This year Congress will cut federal spending to reduce the deficit. It will also write a new five year farm program. The two are closely related. Budget pressures will limit the amount of money available for a farm program.

Farm program price supports have already been cut deeply—slashed by 62% since 1986—but still, some leaders in the new Congress are pushing for even deeper cuts. House Majority Leader Dick Armey (R-TX) and Senate Agriculture Committee Chair Richard Lugar (R-IN) are calling outright for the federal farm program to be phased down and, effectively, abolished.

Those of us who believe that a decent farm program is essential to the survival of family farmers face a major challenge. To retain a decent farm program, we are going to have to propose new, and more effective approaches. We must take a fresh look at what works and what doesn't in the farm program.

I hope that will be the focus of the discussion in North Dakota on Friday with the Secretary of Agriculture.

At the outset we have to admit that the current farm program doesn't work very well.

First, price supports are too low to offer real protection to family-sized farms. That's because the nation's largest farms—often big corporate farms—soak up too much of the farm program's funds.

Second, the current farm program is far too complicated.

Third, it is built on a "supply management" approach that no longer works. In the new global market place of the 1990's and beyond, it is virtually impossible for one nation to control supplies. When we cut production of a commodity, other countries eargerly step in and fill the gap.

The bottom line is that the current farm program does not do a good job serving as a safety net for family farmers nor does it do much to boost market prices for farm commodities.

Under the current program, we have ended up with more government employees to run the farm program, and fewer family farmers. That's moving in the wrong direction.

So, this year we need real reform—not another farm program facelift.

A NEW APPROACH

The first thing we must do in re-thinking the federal farm program is to establish a new benchmark for farm legislation, one that focuses on preserving and building a network of family farms which are the backbone of rural America's economy and its communities.

The first sentence in the new 1995 Farm Bill should state, clearly, that the objective of the federal farm program is to help preserve and build a network of family farms. Everything after that must work to make that goal a reality.

If the purpose of the farm program isn't to give family farmers an opportunity to make a living on the farm, then we ought to scrap it. We don't need a farm program that helps giant agri-factories plow the ground.

THE DORGAN PLAN TO STRENGTHEN FAMILY FARMS

I propose a family farm-targeted farm program, which would provide a better price safety net for family farmers.

It would end government interference so that all farmers could make their own production decisions based on the best use of their land resources, the opportunities of the marketplace, and their skills and knowledge as producers.

Here is how it would work:

1. My plan would establish a new Family Farm Target Price at $4.50 per bushel on wheat (compared to the current target price of $4.00 per bushel) up to the first 20,000 bushels of production. Proportional target prices and production levels would be set to cover feed grains or a producer's mix of basic farm program commodities.

2. Farmers would be free to make their own decisions about what they produce based on the market situation. Production beyond the amount of grain eligible for target prices, would be up to the farmer, and would not receive farm program benefits.

If someone wants to farm an entire county, they have every right to do that. But under my plan, they, like family-sized farms would get price protection for 20,000 bushels of wheat produced. What they produce above that, they do without any government interference, and without price supports—they assume all the risks of the market place.

3. On those first 20,000 bushels of wheat, the plan would provide non-recourse market-opportunity loans set at out-of-pocket production costs as determined by the Secretary of Agriculture. Crops produced beyond this benchmark level would not be eligible for this loan.

4. It would extend the Conservation Reserve Program (CRP) and make it more flexible to assist producers in meeting stewardship and environmental goals. Savings achieved by making some changes in the CRP program could be used to restore funding for other conservation programs that assist farmers, and to improve farm program support prices.

5. It would limit participation in the farm price support program to those who are actively engaged in farming, and end program payments to off-farm investors. We could use the savings to improve the safety net of price supports for family farmers.

My plan tightly focuses federal farm programs—and dollars—on family farmers. It would put price supports under family farmers, rather than under farm commodities.

It will provide our farm families the opportunity to make a living at efficient levels of production.

It will provide an abundant supply of efficiently produced food and fiber for our nation, and make the best use of limited federal farm program dollars. It will provide the strongest price support for the first increment of production which will provide the most help for family sized farms.

It will end the practice of providing unnecessary and unlimited price protection to the nation's largest corporate farms, while shortchanging the nation's family farmers.

My farm program proposal would also end the practice of paying price supports to off-farm investors. We would define who is really a farmer and who is farming the system. Under my plan, the farm price safety net would go to actual farm operators (and retired farmers who derive a majority of their income from crop-share arrangements). The safety net would extend only to those who are engaged in the day-to-day running of a farm operation or depend on a farm operation for a majority of their income.

We would repeal and close the loopholes by which some of the biggest landholders and corporations receive multiple farm program entitlements.

We need to get back to the original purpose of agricultural programs: to preserve and protect a network of family farms and help them compete in an unpredictable world in which weather, market conditions, and economic policies constantly undermine their efficiency and their productivity.

My family farm targeted farm program would give family farmers a chance—an opportunity—to preserve a production system and a lifestyle that is important to our country.•

HONORING THE UNIVERSITY OF CALIFORNIA AT LOS ANGELES BASKETBALL COACH JIM HARRICK

• Mr. ABRAHAM. Mr. President, I rise to pay tribute to a great man and a great head coach: Jim Harrick of the UCLA Bruins.

While everyone may be familiar with Jim's most recent accomplishment, winning the 1995 NCAA championship, those that have followed his career see a man that has accepted challenge after challenge and built a reputation for success.

Jim attended the University of Charleston where, in addition to receiving his bachelor's degree in speech, he earned a place in the Hall of Fame and Alumni Gallery of Achievement. He then went on to complete his master's degree in education from the University of Southern California.

Jim began his coaching career at Morningside High in Los Angeles, averaging over 25 victories and winning three Sky League titles in four seasons. After distinguishing himself as an assistant coach at Utah State and later UCLA, Jim accepted the head coach position at Pepperdine University. In his nine seasons at Pepperdine, coach Harrick won five conference titles, four WCAC Coach of the Year Awards, and, of course, the invitation to come back to UCLA as the new head coach.

The UCLA basketball program has flourished under Jim's direction. He is the first UCLA coach to have 7 consecutive 20-win seasons and 7 straight tournament bids in his initial 7 seasons. At 146 wins and 54 losses, he also owns the best UCLA record after his first 200 games. Under coach Harrick's tutelage, the Bruins have advanced to the NCAA tournament's second round five times, the Sweet 16 three times, the Elite Eight twice and, in 1995, earned the crowning achievement as NCAA National Champions.

And it is important to note that Jim Harrick's successes have not all come on the basketball court. He and his wife, Sally, celebrate 34 years of marriage and proudly speak of their three sons, Monte, Jim, and Glenn, and of their granddaughter, Morgan Paige. His integrity and character are well known and have earned him invitations to travel the world as an American goodwill ambassador.

His dedication to the game, his concern with the well-being of the players, his focus and determination, and the integrity of the UCLA program all show his fine qualities as a coach and as an American.•

ORDERS FOR TUESDAY, MAY 9, 1995

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. on Tuesday, May 9, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each, with the exception of the following: Senator THOMAS, 20 minutes; Senator DASCHLE or his designee, 20 minutes; Senator LEVIN, 20 minutes; Senator SANTORUM, 10 minutes; I further ask unanimous consent that at the hour of 10:30 a.m., the Senate proceed to a vote on the confirmation of the nomination of John Deutch to be Director of CIA, to be immediately followed by a vote on the motion to invoke cloture on the Coverdell-Dole amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I now ask unanimous consent that Senators have until 10:15 a.m. Tuesday to file first-degree and second-degree amendments; further, that the Senate stand in recess between the hours of 12:30 and 2:15 Tuesday for the weekly policy luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, for the information of all Senators, there will be two consecutive rollcall votes beginning at 10:30 tomorrow morning. The first vote is on the Deutch nomination, to be followed by a vote on the cloture motion on the Coverdell-Dole amendment.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from New Mexico [Mr. BINGAMAN] as a member of the Senate Delegation to the Mexico-United States Interparliamentary Group during the first session of the 104th Congress, to be held in Tucson, AZ, May 12–14, 1995.

The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators as members of the Senate delegation to the North Atlantic Assembly Spring Meeting during the first session of the 104th Congress, to be held in Budapest, Hungary, May 25–29, 1995:

The Senator from Alaska [Mr. MURKOWSKI]; the Senator from Colorado [Mr. BROWN]; the Senator from New Hampshire [Mr. GREGG]; the Senator from Texas [Mrs. HUTCHISON]; the Senator from Louisiana [Mr. JOHNSTON]; the Senator from Arkansas [Mr. PRYOR]; and the Senator from Hawaii [Mr. AKAKA].

RECESS UNTIL 9:15 A.M. TOMORROW

Mrs. HUTCHISON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:22 p.m., recessed until Tuesday, May 9, 1995, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate May 8, 1995:

CIVIL LIBERTIES PUBLIC EDUCATION FUND

LEO K. GOTO, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CIVIL LIBERTIES PUBLIC EDUCATION FUND FOR A TERM OF 2 YEARS. (NEW POSITION).

DEPARTMENT OF JUSTICE

PATRICK M. RYAN, OF OKLAHOMA, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF OKLAHOMA FOR THE TERM OF 4 YEARS, VICE VICKI MILES-LAGRANGE, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 8, 1995:

U.S. INSTITUTE OF PEACE

HARRIET M. ZIMMERMAN, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1999.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

MAXINE M. CHESNEY, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

ELDON E. FALLON, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

CURTIS L. COLLIER, OF TENNESSEE, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE.

JOSEPH ROBERT GOODWIN, OF WEST VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA.

DEPARTMENT OF JUSTICE

JOE BRADLEY PIGOTT, OF MISSISSIPPI, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF 4 YEARS.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 9, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 10

9:30 a.m.

Energy and Natural Resources

To hold hearings on the nomination of James John Hoecker, of Virginia, to be a Member of the Federal Emergency Regulatory Commission, Department of Energy.

SD–366

Finance

To hold hearings on S. 16, to establish a commission to review the dispute settlement reports of the World Trade Organization.

SD–215

Judiciary

Immigration Subcommittee

To hold hearings on verification of applicant identity for purposes of employment and public assistance.

SD–226

10:00 a.m.

Environment and Public Works

Business meeting, to mark up S. 440, to provide for the designation of the National Highway System.

SD–406

Foreign Relations

To hold hearings on the nominations of Larry C. Napper, of Texas, to be Ambassador to Latvia, Peter Tomsen, of California, to be Ambassador to the Republic of Tajikistan, Lawrence Palmer Taylor, of Pennsylvania, to be Ambassador to the Republic of Estonia, Jenonne R. Walker, of the District of Columbia, to be Ambassador to the Czech Republic, and James Alan Williams, of Virginia, for the rank of Ambassador during his tenure of service as the Special Coordinator for Cyprus.

SD–419

11:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for Food, Nutrition, and Consumer Services, and Food and Consumer Service, each of the Department of Agriculture.

SD–138

1:30 p.m.

Armed Services

To hold hearings with the Committee on the Judiciary to examine the role of the military in combatting terrorism.

SD–106

Judiciary

To hold hearings with the Committee on Armed Services to examine the role of the military in combatting terrorism.

SD–106

2:00 p.m.

Energy and Natural Resources

To hold hearings on the Federal Energy Regulatory Commission's Notice of Proposed Rulemaking and Supplemental Proposed Rulemaking, Promoting Wholesale Competition Through Open-Access Non-Discriminatory Transmission Services by Public Utilities (Docket No. RM95–8–000), and Recovery Stranded Costs by Public Utilities and Transmitting Utilities (Docket No. RM94–7–001).

SD–366

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

3:00 p.m.

Armed Services

Airland Forces Subcommittee

To hold open and closed (SR–222) hearings on S. 727, authorizing funds for fiscal year 1996 for military activities of the Department of Defense and the future years defense program, focusing on tactical intelligence and related activities in the Army and Air Force.

SR–232A

Joint Library

To hold an organizational meeting.

S–4, Capitol

MAY 11

9:30 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Transit Administration, Department of Transportation.

SD–192

Finance

To resume hearings on the fiscal solvency of Medicare and the status of the program's delivery of health care services.

SD–215

Judiciary

Terrorism, Technology, and Government Information Subcommittee

To hold hearings to examine issues relating to the Internet system.

SD–226

Rules and Administration

To hold hearings to examine management guidelines for the future of the Smithsonian Institution.

SD–106

Special on Aging

To hold hearings to examine ways the private sector can assist in making long term care more affordable and accessible.

SD–562

10:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Bureau of Indian Affairs, Department of the Interior.

SD–116

Foreign Relations

Near Eastern and South Asian Affairs Subcommittee

To hold hearings to examine United States assistance programs in the Middle East.

SD–419

Labor and Human Resources

Disability Policy Subcommittee

To hold hearings to examine proposed legislation relating to the education of individuals with disabilities.

SD–430

Veterans' Affairs

To hold hearings on the reorganization of the Veterans Health Administration, and the requirement of 38 U.S.C. 510(b) for the Department of Veterans Affairs to provide 90 days notice to the Congress before an administrative reorganization may take effect.

SR–418

10:30 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs, focusing on the Agency for International Development.

SR–325

1:00 p.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Indian Health Service, Department of Health and Human Services.

SD–116

1:30 p.m.

Environment and Public Works

Superfund, Waste Control, and Risk Assessment Subcommittee

To resume hearings oversight hearings on the implementation of the Comprehensive Environmental Response, Compensation, and Liability Act.

SD–406

2:00 p.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine incidences of violence at women's health clinics.

SD–138

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed legislation authorizing supplemental appropriations for disaster assistance for the Oklahoma City bombing.
SD-608

2:30 p.m.
Armed Services
Readiness Subcommittee
To resume hearings on S. 727, authorizing funds for fiscal year 1996 for military activities of the Department of Defense and the future years defense program, focusing on environmental, military construction and BRAC programs.
SR-222

Judiciary
Immigration Subcommittee
To hold oversight hearings on the Immigration and Naturalization Service, Department of Justice.
SD-226

MAY 12

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Environmental Protection Agency, the Council on Environmental Quality, and the Agency for Toxic Substances and Disease Registry.
SD-192

10:00 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Secretary of the Senate, the Sergeant at Arms and Doorkeeper of the Senate, the Senate Legal Counsel, and the Senate Office of Fair Employment Practices.
SD-116

MAY 15

2:00 p.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Library of Congress, the Congressional Budget Office, and the U.S. Capitol Police.
SD-116

Governmental Affairs
Post Office and Civil Service Subcommittee
To hold hearings on Federal pension reform.
SD-342

MAY 16

9:30 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on rural development and credit.
SR-328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on environmental programs.
SD-192

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine NASA's space shuttle and reusable launch vehicle programs.
SR-253

Finance
To resume hearings on the fiscal solvency of Medicare and the status of the program's delivery of health care services, focusing on methods to preserve and improve the Medicare program.
SD-215

Labor and Human Resources
Disability Policy Subcommittee
To resume hearings to examine proposed legislation relating to the education of individuals with disabilities.
SD-430

MAY 17

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine the National Academy of Public Administration's study on the Environmental Protection Agency.
SD-G50

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Park Service, Department of the Interior.
SD-192

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Finance
To continue hearings on the fiscal solvency of Medicare and the status of the program's delivery of health care services, focusing on methods to preserve and improve the Medicare program.
SD-215

2:00 p.m.
Armed Services
Acquisition and Technology Subcommittee
To resume hearings on S. 727, to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, and to prescribe military personnel strengths for fiscal year 1996, focusing on dual-use technology programs.
SR-232A

MAY 18

9:30 a.m.
Energy and Natural Resources
To hold hearings to examine the administration of timber contracts in the Tongass National Forest and administration of the Tongass Timber Reform Act of 1990.
SD-366

Rules and Administration
To resume hearings to examine management guidelines for the future of the Smithsonian Institution.
SD-106

Small Business
To hold hearings to examine the Small Business Administration's 7(a) business loan program.
SD-628

Indian Affairs
To hold oversight hearings on the recommendations of the Joint Department of the Interior/Bureau of Indian Affairs/Tribal Task Force on Reorganization of the Bureau of Indian Affairs.
SR-485

10:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

10:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs.
SH-216

2:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Institutes of Health, Department of Health and Human Services.
SD-192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Treasury Department, and the Federal Election Commission.
SD-192

Energy and Natural Resources
Energy Production and Regulation Subcommittee
To hold hearings on proposed legislation to extend the deadlines of certain hydroelectric projects, including S. 283, S. 468, S. 543, S. 547, S. 549, S. 552, S. 595, and S. 611.
SD-366

MAY 19

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Housing and Urban Development.
SD-192

10:00 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Architect of the Capitol, and the Government Printing Office.
SD-116

MAY 22

2:00 p.m.
Governmental Affairs
Post Office and Civil Service Subcommittee
To resume hearings on Federal pension reform.
SD-342

MAY 23

9:30 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on Federal nutrition programs.
SR-328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on financial management.
SD-192

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 620, to direct the Secretary of the Interior to convey, upon request, certain property in Federal reclamation projects to beneficiaries of the projects and to set forth a distribution scheme for revenues from reclamation project lands.
SD-366

Indian Affairs
To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.
SR-485

MAY 24

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Fish and Wildlife Service, Department of the Interior.
SD-192

10:00 a.m.
Agriculture, Nutrition, and Forestry
Research, Nutrition, and General Legislation Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on research and the future of U.S. agriculture.
SR-328A

MAY 25

10:00 a.m.
Agriculture, Nutrition, and Forestry
Marketing, Inspection, and Product Promotion Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on Federal farm export programs.
SR-328A

Finance
Social Security and Family Policy Subcommittee
To hold hearings to examine the financial and business practices of the American Association of Retired Persons (AARP).
SD-215

2:00 p.m.
Energy and Natural Resources
To hold hearings on S. 638, to authorize funds for United States insular areas.
SD-366

MAY 26

10:00 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the General Accounting Office, and the Office of Technology Assessment.
SD-116

JUNE 6

9:30 a.m.
Agriculture, Nutrition, and Forestry
Forestry, Conservation, and Rural Revitalization Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on resource conservation.
SR-328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on intelligence programs.
S-407, Capitol

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Interior.
SD-138

Energy and Natural Resources
Energy Production and Regulation Subcommittee
To hold hearings on S. 708, to repeal section 210 of the Public Utility Regulatory Policies Act of 1978.
SD-366

JUNE 7

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Service and the Selective Service System.
SD-192

10:00 a.m.
Judiciary
Youth Violence Subcommittee
To hold hearings to examine the welfare system's effect on youth violence.
SD-226

JUNE 13

9:30 a.m.
Agriculture, Nutrition, and Forestry
Production and Price Competitiveness Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.
SR-328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on health programs.
SD-192

JUNE 15

9:30 a.m.
Agriculture, Nutrition, and Forestry
Production and Price Competitiveness Subcommittee
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.
SR-328A

JUNE 20

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on counternarcotic programs.
SD-192

JUNE 27

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense.
SD-192

POSTPONEMENTS

MAY 9

9:00 a.m.
Armed Services
Personnel Subcommittee
Readiness Subcommittee
To hold joint hearings on S. 727, authorizing funds for fiscal year 1996 for military activities of the Department of Defense, and the future years defense program, focusing on military family housing issues.
SR-232A

SENATE—*Tuesday, May 9, 1995*

(Legislative day of Monday, May 1, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Gracious God, our Father, help us to get inside what is happening in others so that we may see things with their eyes, think things with their minds, and feel things with their hearts. Strengthen us to be as kind to others as we wish them to be to us. Empower us by Your Spirit to be as faithful to others as You have been to us in spite of our shortcomings and failures.

Help us to make the same allowances for others as we would wish them to make for us.

Help us to express the same empathy for others as we would want them to have for us, when we hurt.

Help us to have the same respect and tolerance for the beliefs and ideas of others as we would wish them to have for ours.

Help us to understand others as we would wish to be understood.

So we commit this day to seek to be to others the giving and forgiving love You have been to us. Through Him who taught us the secret of serving others. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. THOMAS. Mr. President, this morning the time for the two leaders has been reserved and there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each.

At the hour of 10:30 a.m., the Senate will begin the first of two stacked rollcall votes. The first vote is on the confirmation of John Deutch, to be Director of the CIA. The second vote is on the motion to invoke cloture on the Coverdell-Dole amendment. Senators should also be aware that they have until 10:15 a.m. to file first- and second-degree amendments to the Coverdell-Dole amendment.

The Senate will recess today between the hours of 12:30 p.m. and 2:15 p.m. for the weekly policy luncheons.

WAIVING MANDATORY LIVE QUORUM

Mr. THOMAS. Mr. President, I now ask unanimous consent that the mandatory live quorum be waived for the purpose of this morning's cloture vote.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to a period of morning business.

The Democratic leader, or his designee, is recognized to speak for up to 20 minutes.

Under the previous order, the Senator from Wyoming [Mr. THOMAS] is recognized to speak for up to 20 minutes.

Under the previous order, the Senator from Michigan [Mr. LEVIN] is recognized to speak for up to 20 minutes.

Under the previous order, the Senator from Pennsylvania [Mr. SANTORUM] is recognized to speak for up to 10 minutes.

FRESHMAN FOCUS

Mr. THOMAS. Mr. President, I would like to use our time this morning as a followup on the freshman focus that we have been carrying on for several weeks and attempt to continue. Some of my colleagues will join later in the morning and then again on Thursday.

As you know, the freshman class has made an effort to talk about the issues that are before the American people, that are before this Congress, and to focus on solving these problems, to focus on the notion that we need to find solutions—solutions that will help us to deliver services more efficiently, will help us to reduce the cost of Government, and will help us to be more effective in dealing with the problems of this country and, at the same time, reduce the size of Government.

So we are interested in exercising the first opportunity that we have had for a number of years to really analyze programs that have been in effect, in many cases, for 30 to 40 years. Frankly, the effort that has been made during that time was simply to add more money to the same program. I think most now would agree that it is time to analyze the effect, the impact, and the product of those programs. And we have, for the first time, a chance to do that.

We have a chance to change some of the efforts that have not succeeded—and there are some—so they are done in a different way. We hope our efforts will help us move forward in the Senate and in the Congress, to solving problems rather than to obstruct or just set down political issues for elections.

Today we want to talk about two issues that are very compelling which are before us and, frankly, issues that we have no alternative other than to solve. One is the budget; the other is Medicare.

Our purpose this week is to talk largely about Medicare. It is clearly related to the budget and, as a result, the two must be talked about together.

Mr. President, Thomas Jefferson said, "The art of government is the art of being honest." I think that is what we are faced with. This matter of Medicare and the budget is not a problem of the Congress, not a problem of those who are trustees; it is a problem for all of us who are citizens of this country, not only for the benefits that it provides, but each of us who must also pay. We need to be honest with one another as to where we are. The idea of covering up problems because it is politically expedient, or the idea that you can shift problems to somebody else because it is an uncomfortable political position simply does not hold. We have to be honest, face the problems, and talk about them. There are clearly some problems in this area of finance.

Let me talk just a minute about the chart. We are into charts around here and it is not a bad idea. It does demonstrate where we are. This particular chart talks about the Medicare hospital insurance trust fund. It talks about the fact that if we do nothing, it will be bankrupt in 7 years. The chart shows the end-of-year trust fund balances up to 1995, and then projects the balances for the years up to 2004. This is not just a chart that is put together for these kinds of purposes. This is a chart that is a result of the Social Security and Medicare Board of Trustees report that was released just a couple of weeks ago—the trustees being at least three or four members from the Cabinet and some public members. They have indicated this fund will be bankrupt in the year 2002 unless we do something. The balance in the health care insurance trust fund was $133 billion in 1994 and will rise to $136 billion in 1995.

In 1996, however, the annual deficits start to erode the balance of $136 billion and will be broke in 2002. So that

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is the problem. It is a solvable problem. But it is not one that we can brush under the door, one that we can ignore, or one to make political issues of. It is one that we must indeed solve.

The next chart shows the impact this spending has on the gross domestic product. The blue being Medicare part A; and the yellow part is Medicare part B. Part A is the hospital portion that is funded by payroll taxes. Part B is that portion that is funded by general funds and beneficiary premiums. You can see how it grows. Here is 1970 and, more currently, in 1995; here we are in the year 2020, as a percentage of gross domestic product. This current period is just below 3 percent, doubling in this period of time.

So we clearly have an issue we have to deal with. The alternative is for the program to go broke. The alternative is not to have the services and that, of course, is not acceptable. Unfortunately, the current administration's position is to ignore the problem. It is to say, gee, it is up to the majority to do something about that. I think that is too bad. I think it is going to have to be something that we do collectively, but we can do something about it.

Why are we where we are? Because this program has grown at a rate of about 10 percent per year, and it continues to do so, as opposed to the private sector health care which has been growing at a more moderate rate of about 5 percent a year. This year, it was 4.4 percent and it is on its way down. Yet the Medicare Program continues to go up. Now, some say—and I go back to the political thing—"You Republicans simply want to cut Medicare so you can give tax cuts." That is not true. That is not where we are. The issue is to fix Medicare so that we can continue to have it over a period of time. There simply is not enough money to leave it as it is and just simply fund it without changing it. That is not an alternative. All the money that we have would be in this program.

So the alternative is to find some ways to reduce this growth. What we are talking about doing—and I think you will see generally in the budget, which is not out yet—you will see an effort to reduce it from the 10.5 percent growth to a growth of maybe 7 percent. We will see in the newspapers that they slashed Medicare, cut Medicare. But what we have done is sought to reduce the growth of Medicare, and then we will find some ways to do it more efficiently. There are ways to do that, to give some options. For example, for those elderly who choose to continue as is, that will be an option. For those who would like to move toward some kind of medical savings account, perhaps that will be an option and that would be a choice, and it will be a reduction in the cost of delivering the same medicine.

The point is that we need to be honest with ourselves in terms of what we are doing. This is not a political kind of football or struggle to see who gets political advantage. The real issue is how do you continue to provide services to people who need services and do it in a way that you can, over time, pay for it. That is the issue. Of course, it is part of the budget, because the budget is how much money we can put out to run Government and what kind of benefits we can have.

As for Medicare part B, I suspect there will be an effort to maintain the contributions that are now there—approximately 31 percent instead of 25 percent of the premium that is required to finance it. We have been moving up at 31 percent. We can go back, but if we hold it at 31 percent, the program will continue to be preserved. So there are alternatives. They are not draconian.

This is where we are on Medicare. I think it is an excellent example of our opportunity in this Congress to find some solutions to share with Americans—all of us—the responsibility of making collective decisions, to meet the responsibility of continuing to have programs where there is need, and to do it in a responsible financial way.

Mr. President, I hope that we can go forward with the bona fide discussion of Medicare and a bona fide discussion of balancing the budget. I do not think anybody will suggest that it is going to be painless. It is not painless in your family when you find you have to cut back on the growth of expenditures. It is not painless in your business when you discover that it is necessary to make some changes in order to make it work. But it is very possible. It is very possible.

It can be done by continuing to provide those essential services, doing them in a more efficient way, and we can collectively do that.

I am pleased that my associates from the freshman class will be on the floor, talking about this issue and other issues, urging Members to take advantage of the opportunity and, indeed, the request, if not demand, from voters for change. There has been a demand for change. There will be change. This is our opportunity to do that.

Mr. President, I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Democratic leader is recognized for 20 minutes.

COMPROMISE NEAR

Mr. DASCHLE. I wish the President a good morning. I want to comment briefly on the series of votes that we will be taking this morning. As the distinguished acting majority leader indicated, there will be a cloture vote this morning.

I think in that regard it is important for people to understand the current circumstances. Senator DOLE has offered an amendment. Senator ROCKEFELLER and Senator GORTON have also offered an amendment, a substitute. We will have the opportunity at some point to vote on those.

I would hope people will vote against cloture again this morning simply to preserve the options that we think are going to be very important, if indeed we reach a compromise here. I think we are getting closer now in the last 48 hours to meaningful compromise.

In that regard, let me specifically single out the distinguished Senator from West Virginia for his remarkable efforts to bring people together, to attempt to find a way to resolve the outstanding differences. He and the distinguished Senator from Washington, Senator GORTON, have done an extraordinary job in the last couple of days in addressing many of the concerns that people have raised. I think we are now beginning to come together in a way that will accommodate some of the concerns that have been raised during the last couple of weeks.

I know that others, as well, have concluded that a compromise is within reach. My distinguished colleague from Louisiana, Senator BREAUX, has also been working on ways to accommodate some of these concerns and bring all sides together.

Senator BREAUX and others have in the last couple of days talked with people on both sides of the aisle in an effort to try to reach a compromise on punitive damages, on joint and several liability, on the statute of repose. I think we are at a point now where we may be able to resolve these outstanding issues in a way that will facilitate a compromise and ultimately bring Members to a resolution on this issue.

In order to allow the Senator time to discuss this particular compromise, I would like to yield the balance of my leader time to Senator BREAUX. Again, I commend Senator BREAUX for his effort in this regard. I believe that he may have found a way with which to bridge the differences and provide Members with an opportunity to resolve the many outstanding issues that still exist. With that, Mr. President, I yield the balance of my time to Senator BREAUX.

The PRESIDING OFFICER. There are 17½ minutes remaining.

STANDARD OF FAIRNESS DESIRED

Mr. BREAUX. I thank the distinguished Democratic leader for his comments and his effort in trying to bring about a compromise that makes sense. A lot of people have been working very diligently on this issue of product liability. The Senate and the Congress has worked on it for a number of years. We have all struggled with it.

I think the standard that we are all trying to reach is a standard of fairness, to give neither people who are injured by faulty products an advantage or people who manufacture those products an unfair advantage. The key I think is a level playing field. The key is fairness to everyone. That is something that has been very difficult.

I want to particularly commend the ranking member of the Commerce Committee, which I serve, Senator HOLLINGS, for the great work that he has done in trying to make sure that fairness is the standard by which we operate.

Also, Senator HEFLIN, I think, has made a great contribution to ensuring that we do not act in haste, but do this very, very carefully.

There have been a number of Members on the Republican side—the distinguished occupant of the chair, the Presiding Officer of the Senate this morning—has also been very involved in trying to create a package that is fair and creates that level playing field that we are all striving for.

There are a number of other Senators I have not mentioned that have been involved in trying to bring all Members together in doing something that makes sense. My own preference is that this is something that the States ought to do. I am a States righter when it comes to personal injury and the tort system, and how the States can handle this can best be decided by the States.

I think, Mr. President, in trying to reach an agreement here today I would urge my colleagues to vote no on the first cloture motion this morning in order to allow Members to present to the Senate what I think is a fair and reasonable compromise, and tries to balance those who think that nothing should be done on the Federal level and those that think that everything should be done by the Federal Government here in Washington.

I think that the pending amendment that is out there that has been talked about, as a proposed compromise, the so-called Gorton-Rockefeller, their second proposal, is defective in a number of ways, and can be improved in order to reach a fair settlement of this issue, and put it to rest once and for all.

I think Gorton-Rockefeller is effective in a couple of ways. My substitute, which I will offer after cloture is not invoked, will be an amendment to the Dole-Coverdell substitute, which will still be pending, tries to address those defects in the Gorton-Rockefeller in the following ways: No. 1, on punitive damages. This has always been something that has been very controversial, but there is a reason for punitive damages. It says to a manufacturer of defective products, "Do not do it again."

The damages that are awarded have to be in relation to the ability of the defendant to pay. Obviously, a multibillion-dollar corporation is not going to really be affected by a small fine of $100,000. They will just say it is the cost of doing business, and continue to manufacture the defective product.

So punitive damages serve a purpose. It says to the manufacturers of products that harm people in this country, "Do not do it anymore." It has been very effective. There are products today that are not on the market because of punitive damages. Companies have said "We can't afford to do this anymore and we are not going to do it anymore." There are a number of products that are no longer manufactured—Dalkon shield, asbestos products, products dealing with breast implants. Some automobile manufacturers are no longer producing types of cars, because they know that if they do they will cause problems and they will be penalized doing it. So they make a very practical decision: "We are not doing it anymore."

The problem with the Gorton-Rockefeller substitute is that, I think, it is fatally flawed. They try and solve this problem by saying that small businesses will not be liable for punitive damages if they have 25 or fewer employees. They make a separate category for small businesses of 25 or fewer employees.

That is an interesting way of approaching it. What would happen is that many companies would just structure their operations with 25 or fewer employees. A trucking company, each truck could be a separate company. A cab company, each cab could be a separate company. A boat company, each one could be a separate company. What do we do in companies that have 23 employees at the time of the injury, or 25 employees later on during a year?

It is very complicated and it really, I think, calls for companies to structure themselves so they can avoid ever having to pay for any punitive damages for products that would cause problems to individual people.

In addition, they say that, well, if the judge thinks that punitive damages should be awarded more than this cap, then the judge can do it; but if the defendant does not like what the judge does, he can ask for another trial. Why do we have to be so complicated? That provision just calls for additional litigation, more cost, more expense, additional trials, by directing a very, very, complicated situation I think is not necessary.

What my amendment will do is to take from the suggestions of other Members who have suggested ideas that address this problem in a fair way. Our colleague, Senator DODD from Connecticut, has suggested something that I think makes sense and is the essence of my amendment. It says that when a jury finds that punitive damages are warranted because of conscious and flagrant violations by the manufacturer of a product, then the decision on how much the punitive damages should be will be decided by the judge. He does it by looking at that particular defendant, determining their ability to pay, determining how successful economically that company is, looking at their intent, how they handle everything, how long the violations continued, and then the judge will make a decision on the amount of the punitive damages that are necessary to prevent this from happening again in the future.

Mr. President, and my colleagues, I think that is a fair way of resolving this problem. A very complicated structure that says 25 or less has one standard, and then the judge can overrule the jury if he wants to, but if the defendant does not like it they can ask for another trial, is too complicated, too time consuming, encourages too many additional trials, and is not the way to do it.

I prefer the suggestion of Senator DODD, which is in my amendment, which simply says if the jury finds the defendant was so negligent in a fashion that deserves punitive damages to be awarded, then the judge will decide what is an effective and correct amount to be awarded.

Second, on the statute of repose, I think the Gorton-Rockefeller amendment is defective again. Remember this uniformity argument we talked about? They kept saying we need to pass this bill because we want to make it uniform throughout the United States. Their bill is defective because it says the statute of repose will be 25 years unless the State wants to make it less. That is not uniform. It says we can have 50 different States with 50 different statutes of repose and 50 different standards for a person who is injured to have to worry about. That is not uniformity at all.

The statute of repose, of course, says that after a product has been in place for a period of time you can no longer bring a cause of action against that product because it is defective. My amendment says let us make it uniform, 25 years across the country, nationwide; it is the same in every State. That brings about uniformity both for the person who manufactured the product and uniformity for the person who may be injured by a defective product. I think that makes sense and is the right way to go.

The third area I think they are defective in, in their suggestion, is on the question of joint and several liability. What they are trying to do is address the problem of a manufacturer or defendant that is just a little bit responsible, just a little bit negligent. Their argument is if someone is only responsible for 3 percent of the injury he or she should not be liable for 100 percent of the damages for noneconomic damages, that is the pain and suffering type of injuries that a person would receive from a defective product. But the way they have tried to handle this problem is say you are not going to have any joint liability for noneconomic damages and that will take care of the problem. Yes, that takes care of the problem. It wipes out the possibility of an injured person, perhaps, from getting any recovery at all.

What I am going to suggest in my amendment is simply this—and this is the language, again, that has been suggested by Senator SPECTER, who has come up with I think a very good idea to solve this problem. I picked some from our Democratic colleagues, Senator DODD, some from our Republican colleagues, Senator SPECTER, and tried to put them together because that is what we have been talking about for the last several days. Senator SPECTER's suggestion, which I have included in my suggestion, is simply to say there is a de minimis standard. If a defendant is responsible for less than 15 percent of the injuries that were caused, they cannot be held jointly liable, they can only be held liable for that percentage of the damages that it has been determined they are at fault for, that they caused. If it is 3 percent they can only be responsible for 3 percent. But after that threshold, if they are 20 to 30 to 40 percent responsible, then they can be held jointly liable. I think that takes care of the so-called de minimis problem, whereby we should not hold someone responsible for the whole amount of damages if they only caused a very small, de minimis, portion of those damages. But after a certain point, joint liability should prevail.

We picked up Senator SPECTER's suggestion, which I think is a very good one, that says if a person is 15 percent or more responsible for these losses, then they can be held jointly liable for noneconomic losses that they caused. That defendant, of course, has a cause of action for anybody else who is liable for the other portion of the damages. That is what normally occurs. The defendant then brings in the other party and they can be held responsible—to the defendant who has paid the entire amount—for their portion. So the system works very well. But my suggestion, I think, takes care of the de minimis concern that has been expressed by many of our colleagues.

I will offer this amendment and will be able to offer it if the cloture motion is voted down. I think it would be a big mistake, when we are so close to coming up with a compromise agreement, to at this time invoke cloture and prevent the opportunity to offer this amendment with a chance of it becoming law. This is really an attempt to try to reach a legitimate compromise. We can debate this for a long time. We could continue to prevent cloture from being invoked.

I think it is time the Senate bring this measure to a close. What I have tried to do is pick some of the best ideas from my colleagues. I continue to emphasize that many of the things I have in my legislation are the product of the suggestions of some of my colleagues—Senator SPECTER in particular with this de minimis standard, my colleague Senator DODD with the concept of punitive damages being set by the judge after a trial has occurred that determines that punitive damages would be justified. I think that makes good sense, to try to incorporate Republican ideas and Democratic ideas, to put together a package which is truly a compromise.

One of the things the advocates of this so-called tort reform legislation have advocated is a national standard when it talks to punitive damages. I have incorporated their ideas on the national standard being in fact that the plaintiff must show a conscious and flagrant indifference to safety concerns, and the plaintiff must do it and show it by clear and convincing evidence. That will be a national standard now for punitive damages in product liability cases. I have incorporated that suggestion. That is the same as in the Gorton-Rockefeller legislation.

In fact, much of what this substitute that I will offer really incorporates is the better features from the Gorton-Rockefeller language. But it also tries to address the three major areas in which I think they were defective, and those are how punitive damages are set, how they deal with joint and several liability, and how they deal with the statute of repose.

So I hope when we come to the floor to vote on cloture this morning, which has already been set, our colleagues will know there is an effort among many of us who have been involved to some extent in this legislation to try to put together a package of amendments that is truly a genuine compromise, that tries to treat people who are injured by defective products on the same level playing field that we are trying to treat defendants who in fact have manufactured defective products.

It is improper for this body to try to give advantage to one group over the other group. If we conclude there should be some national standards, then the national standards should apply both to those who are injured as well as to those who make the product that has caused injury, in the same way. It would be unfair and improper to say one side is going to get more fair treatment than the other. I am concerned the provisions that are pending in the Gorton-Rockefeller substitute in fact are not fair; in fact they do allow for more loopholes to be created with the 25-employee limitation, they do create some other problems with regard to the establishment of punitive damages, they encourage more trials, and they encourage, I think, abuse of how punitive damages would be set.

We have tried to offer something that addresses all these problems in a fashion that truly represents a fair and just compromise. But we do need to ask our colleagues—who may be trying to figure out the situation as to where we are—ask them to vote against the cloture motion and allow us to come in with a compromise that I think for once and for all will settle this very, very difficult, very emotional set of issues that we have struggled with for so many days.

The alternative I will offer, and hope to be joined by a number of our colleagues, will be something that will give everybody an opportunity to say we made some reforms but we did it ultimately and finally in a fashion that is fair to everyone involved. With that, Mr. President, is there any time left on the leader time?

The PRESIDING OFFICER. Thirty seconds.

Mr. BREAUX. I will just reserve that 30 seconds in case the leader needs it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HUTCHISON). Without objection, it is so ordered.

NRA'S FUNDRAISING LETTER

Mr. LEVIN. Madam President, recently, the National Rifle Association issued a widely circulated fundraising letter over the signature of Executive Vice President Wayne LaPierre and that letter is full of questionable overheated language. I wish to focus on one paragraph in particular. The letter states, and I am quoting exactly:

> In Clinton's administration, if you have a badge, you have the Government's go-ahead to harass, intimidate, and even murder law-abiding citizens.

Now, as if the force of the words "even murder" as applied here were not repugnant enough, the letter underlines the words "even murder."

This assertion that the U.S. law enforcement personnel have been authorized by President Clinton "to harass, intimidate, even murder law-abiding citizens" is without foundation, and it is an offensive outrage that should be condemned by members of the NRA and all other decent Americans.

On April 28, I wrote a letter to the president of the NRA, Mr. Tom Washington, asking that the statement be retracted. The statement is inflammatory; it is inappropriate. I do not think there is a single Member of this body who would stand in the Chamber of the Senate and speak such words, asserting that our President has authorized law enforcement personnel to murder law-abiding citizens. I do not believe the overwhelming majority of NRA members would countenance such language.

My letter to Mr. Washington asked, "Can you honestly justify your organization's characterization of law enforcement officials with such language, describing them as on a mission sanctioned by the Government to murder law-abiding citizens?"

Madam President, on May 3, I received a reply from Mr. Washington, and his letter says:

> While I concede that some of the language in the NRA fundraising letter might have been rhetorically impassioned—as is most political direct mail—that in no way disparages the NRA, nor diminishes the seriousness of the alleged federal law enforcement abuses to which the letter refers.

The letter goes on to relate the history of the NRA's interest in the investigation of Federal law enforcement abuse. The letter concludes with the statement that "blaming the rhetoric, whether in a fundraising letter or anywhere else in political discourse, serves only to silence dissent and aggravate that distrust."

Well, Madam President, I have no interest in silencing dissent. I never have. There is nothing more American than the conscientious expression of dissent. There is no more sacred right guaranteed by our Constitution to all Americans than freedom of speech, and I will defend the NRA's right to say what it said. The point is that the reply that I have received from Mr. Washington did not answer the question that I asked. I asked Mr. Washington, "Can you honestly justify your organization's characterization of law enforcement officials with such language, describing them as on a mission sanctioned by the Government to murder law-abiding citizens?" The question was not answered.

I ask unanimous consent, Madam President, that the NRA letter written by Executive Vice President Wayne LaPierre and my letter of April 28 to Mr. Washington and Mr. Washington's letter of May 3 to me be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 28, 1995.

Mr. TOM WASHINGTON,
President, National Rifle Association,
Lansing, MI.

DEAR TOM: Over the years we have agreed on some things, like protecting our Great Lakes, and disagreed on others, like the ban on assault weapons. But no matter what positions we have on assault weapons, I hope you will agree that the language of the NRA's recent fundraising letter over the signature of Executive Vice President Wayne LaPierre is highly inflammatory and totally inappropriate.

In one passage, Mr. LaPierre writes, "In Clinton's administration, if you have a badge, you have the government's go-ahead to harass, intimidate, even murder law-abiding citizens." Can you honestly justify your organization's characterization of law enforcement officials with such language, describing them as on mission sanctioned by the government to "murder law-abiding citizens"?

This is but one example of the inflammatory, hateful rhetoric in this letter. I will defend Mr. LaPierre's right to free speech, but the public also has a right to expect the NRA to retract hateful and inflammatory statements issued in its name. I urge the NRA to retract the LaPierre letter.

Thank you for giving this request your consideration.

Sincerely,

CARL LEVIN,
U.S. Senate.

NATIONAL RIFLE ASSOCIATION.

DEAR FELLOW AMERICAN: I've worn out a lot of shoe leather walking the halls of Congress. I've met key leaders, I've talked with old allies, I've met with the new Congressmen and many staff members.

What I'm hearing and seeing concerns me.

Many of our new Congressmen are ignoring America's 80 million gun owners. Some have forgotten what we did to elect them. Others say our demands to restore our Constitutional freedoms are politically out of line.

Don't get me wrong, not all of them are like this. Senator Phil Gramm, House Speaker Newt Gingrich, and Congressmen Bill McCollum, Bill Brewster and Harold Volkmer are all coming to our aid. But too many others are not.

And without a major show of force by America's 80 million gun owners, America will resume its long march down the road to gun bans, destruction of the Constitution and loss of every sacred freedom.

I want you to know I'm not looking for a fight.

But when you consider the facts of our current situation, you too, will see we have no other choice.

FACT #1: The Congress' leading anti-gunners, Senators Dianne Feinstein, Ted Kennedy and Congressmen Charles Schumer and Major Owens all survived their last elections.

They've pledged to fight to the bitter end for Brady II and its ammo taxes, licensing and registration schemes, gun rationing, bureaucrats with the power to determine if you "need" a gun and yes, the repeal of the Second Amendment.

It doesn't matter to them that the Brady Law is a failure.

It doesn't matter to them that the Brady Law has become one more tool that government agents are using to deny the Constitutional rights of law abiding citizens.

It doesn't matter to them that the semi-auto ban gives jack-booted government thugs more power to take away our Constitutional rights, break in our doors, seize our guns, destroy our property, and even injure or kill us.

Schumer, Feinstein, Kennedy, Owens and the rest of the anti-gunners want more and more gun control.

It can be something small and subtle like a regulation expanding the disqualification criteria for the Brady Law. They're fighting for anything that makes it harder for you to own a gun.

The gun banners simply don't like you. They don't trust you. They don't want you to own a gun. And they'll stop at nothing until they've forced you to turn over your guns to the government.

Fact No. 2: If the anti-gunners fail to achieve their goals in Congress, they have a fall-back position in Bill Clinton, the most anti-gun President in American history.

In two short years, Bill Clinton launched two successful attacks on the Constitution. He signed two gun control bills into law. He has sworn to veto any repeal of the semi-auto ban and any restoration of our Constitutional rights.

His Interior and Agriculture Departments have set their sights on closing hunting lands.

And his Environmental Protection Agency is attempting to take jurisdiction over existing uses of lead. This, of course, includes gun ranges and spent shot.

What's more, gun owners aren't the only ones Clinton's EPA has set its sights on. They're after fishermen, too. They want to BAN the use of small lead fishing sinkers and, of gravest concern, they want to stop the home casting of these sinkers.

If fishing sinkers are on the Clinton bureaucrat's list, you know what's next: lead shot, lead bullets, bullet casting and reloading.

Clinton's State Department is also adding to the attacks on gun owners and our Constitutional freedoms. In December, he signed the Summit of the America's agreements which pledges that the U.S. Government will push for additional gun control.

Over in the Justice Department, Clinton's Attorney General Janet Reno has signaled her intent to "squash" the states' rights movement an deny states their Constitutional power.

And worst of all,

Fact No. 3: President Clinton's army of anti-gun government agents continues to intimidate and harass law-abiding citizens.

In Clinton's administration, if you have a badge, you have the government's go-ahead to harass, intimidate, even murder law-abiding citizens.

Randy Weaver at Ruby Ridge . . . Waco and the Branch Davidians . . . Not too long ago, it was unthinkable for Federal agents wearing Nazi bucket helmets and black storm trooper uniforms to attack law-abiding citizens.

Not today, not with Clinton.

Our calls to investigate these outrageous assaults on our Constitutional freedoms are routinely silenced by the anti-gun media. But that's no surprise.

Fact No. 4: They've launched a new wave of brainwashing propaganda. . .

CBS, ABC, NBC, USA Today, Time, Newsweek and The New York Times have launched another round of phony polls and slanted stories to help the anti-gunners achieve their goals.

Their latest phony poll shows 70% of America support the "semi-auto" assault weapon ban.

That's simply not true. When it's explained that "semi-autos" are used in less than a fraction of one percent of crimes; that the ban only affects the law-abiding; and, that the ban is only one more way to deny Constitutional rights to the law-abiding, support for the ban drops to 30%.

But the media still uses this 70% statistic to trumpet the call for gun control.

What scares me the most about this 70% number is that the media has brainwashed 70% of Americans into believing that the government—and not each individual—is responsible for their personal protection.

Even worse, this 70% number means that there are enough people who can be brainwashed by the media to vote for a repeal of the Second Amendment if it were put to a vote.

The media, Clinton, the anti-gunners in Congress . . . This combination is a powder key that could blow at any moment and it's set squarely underneath the Constitution.

And what this means is:

FACT #5: Congress must be forced to restore the Constitution, repeal the gun bans, investigate abuse by government agents and focus the public debate on criminal control, not gun control . . .

. . . Or what we're seeing now will only be a momentary patch of sunshine on the road to doom for the Second Amendment and our Constitution.

There is hope, though. Despite the current situation, I'm encouraged by you and your fellow NRA members.

Everywhere I go, to every gun show, every NRA–ILA grassroots operation, every Friends of NRA Dinner, even in cabs and airports around the country, I run into NRA members who understand the stakes and stand ready to fight.

The question I hear from almost every one of these NRA members is the same: "What can I do next?"

If you're one of those members, I want to thank you for your courage, your conviction and your spirit. You keep me going. You keep me on the road. You give me strength to lead the battle.

And if you want to join me in taking the next step, I need you to do these two things today.

First, I need you to sign the enclosed Petitions to the United States Congress.

These petitions are addressed to the leaders of the U.S. Congress, Senator Robert Dole and Speaker Newt Gingrich, and your U.S. Senators Daniel Patrick Moynihan, Alfonse M. D'Amato and Congresswoman Sue Kelly.

Please be sure to sign all five petitions, then fold them and place them in the enclosed, postage-paid envelope addressed to me at NRA Headquarters.

These petitions spell out, in black and white, our agenda of repeal, reform, investigate and limit government power.

In the first amendment of the Bill of Rights, we are guaranteed the right to "petition our Government for a redress of grievances."

And that's exactly what we're going to do: redress our grievances in the biggest and most powerful display of political clout and commitment to the Constitution.

I want to personally deliver your five petitions, and the petitions of all 3.5 million of your fellow NRA members—17.5 million petitions in all—to Congress.

And I want to show the leadership in Congress, and your Senators and Congressmen from New York, that the number one priority in their Contract with America must be defending and restoring our Constitutional freedoms.

17.5 million Petitions to Congress is the largest "redress of grievances" since the Constitution and the Bill of Rights were written.

So I KNOW Congress will get the message. And I know they'll act on our agenda of Repeal, Reform and Investigate if only you and I speak out.

Your Petitions to Congress also sends another message—a message not spelled out on the Petitions themselves.

Each Congressman, on the average, will receive 8,000 Petitions from NRA members demanding action. 8,000 messages from angry voters sounds an alarm in every Congressman's head.

You see, most Congressional elections were won or lost by 5,000 votes or less. So, they'll realize that failing to defend the Second Amendment and failing to retake the Constitutional freedoms lost to the anti-gunners, could result in big losses at the next election!

That's why it's critical you take a few minutes to sign your Petitions to Congress and return them to me as soon as possible.

These petitions are our D-Day.

Armed with these petitions and our First Amendment rights, we are going to storm Congress, knock out anti-gunner strongholds and recapture every bit of ground we lost since Bill Clinton took office.

And if we're successful, these petitions will be the turning point in the history of the Constitution . . . A day when our sacred right to keep and bear arms will be secure for the next generation of law-abiding Americans.

Second, when you return your signed Petitions to Congress, I need you to make a special contribution to the NRA of $15, $20, $25, $35, $50 or the most generous amount you can afford.

Most Americans don't realize that our freedoms are slowly slipping away.

They don't understand that politicians and bureaucrats are chipping away at the American way of life.

They're destroying business, destroying our economy, destroying property rights, destroying our moral foundation, destroying our schools, destroying our culture . . . Destroying our Constitution.

And the attack, either through legislation or regulation, on the Second Amendment is only the first in a long campaign to destroy the freedoms at the core of American life.

You can see it in the gun bans, certainly. But you can also see it in closed ranges, closed hunting lands, confiscated collectors' firearms, banned magazines and ammunition taxes.

You can see it when jack-booted government thugs, wearing black, armed to the teeth, break down a door, open fire with an automatic weapon, and kill or maim law-abiding citizens.

America's gun owners will only be the first to lose their freedoms.

If we lose the right to keep and bear arms, then the right to free speech, free practice of religion, and every other freedom in the Bill of Rights are sure to follow.

I am one American who is not going to sit on the sidelines and watch this happen.

And if you want to help me stop this destruction of the Constitution, then I hope you can make that special contribution of $15, $20, $25, $35 or $50 to the NRA today.

With your special contribution, I'll have the financial ammo I need to keep Congress focused on the mission we've assigned them.

First, with your help, I will expand out petition campaign to involve as many of America's 80 million gun owners as possible.

If we can double the number of Petitions flooding Congress, we'll double the speed Congress deals with our demands to repeal, reform and investigate. And with double the show of clout, we'll wipe out anti-gunner opposition.

Second, with your special contribution, I can increase the NRA's public exposure on talk shows, at rallies and shows, in radio and T.V. advertising and through broadcasts like the NRA's Town Meeting that first sounded our alarm in 16 million households, last summer.

Part of our problem is that far too few Americans understand what's at stake in these battles.

My ultimate goal is to educate the American people that this issue is not just about guns, not just about hunting, not just about personal protection; this issue is about freedom—your freedom.

I want to use the power of T.V. and radio to show the American people that, if the NRA fails to restore our Second Amendment freedoms, the attacks will begin on freedom of religion, freedom of speech, freedom from unreasonable search and seizure. . .

And that unless we take action today, the long slide down the slippery slope will only continue until there's no freedom left in America at all.

I know you see it. The elbow room you have to hunt, shoot and live life the way you see fit is slowly disappearing.

And the truth is, NRA members have been hardened by legislative battles. And only NRA members have the courage, the conviction to draw the line in the sand.

That's why I'm hoping you can take a few moments to sign and date the enclosed petitions and return them to me with your special contribution of $15, $20, $25, $35, $50 or more in the enclosed postage-paid envelope today. Or, you can charge by phone by calling 800–547–4NRA today.

You know, besides going shooting, I love to go to football games. And every time I go, I always hear my fellow fans talk about the impact of "the 12th man."

The 11 players calling the plays and doing the hitting get a lot of their motivation from the 12th man in the stands. I'm talking about the crowd who cheers wildly when our team is on offense, and drowns out the signals of the opposing team when they're on the defense.

I need you to be that 12th man.

I need you to sign your petitions to Congress and return them to me today. That simple act will give our allies the political courage to do what's right, to push ahead with our agenda of Repeal, Reform, and Investigate.

Likewise, your signed petitions to Congress will confuse and demoralize the anti-gun team and their agenda of bans, taxes, intimidation, harassment and destruction of the Constitution.

I know I've said what I'm about to say before. But this is a message that resonates with NRA members across the land. It's something I hope you, too, will say whenever you have the occasion to defend our Constitutional freedoms.

This, the battle we're fighting today, is a battle to retake the most precious, most sacred ground on earth. This is a battle for freedom.

Please tell me you're ready to take the next step by returning your signed petitions to Congress and special gift to me in the enclosed postage-paid envelope today.

Thank you, I look forward to hearing from you soon.

Yours in Freedom,

WAYNE LAPIERRE,
Executive Vice President.

P.S. As a special thank you for making a special contribution of $25 or more, I'd like to send you a copy of my national best-selling book, Guns, Crime, and Freedom. Guns, Crime, and Freedom is 263 pages of truth about guns, gun control, gun owners, the anti-gun media and what's happening to our freedoms.

I hope you'll read it and use it in your own personal campaign in New York to defend the Constitution. Use Guns, Crime, and Freedom to help you keep the pressure on Congress, write letters to the editor and teach other Americans about the battle we're fighting today. Thanks again for your support and friendship.

NATIONAL RIFLE
ASSOCIATION OF AMERICA,
Fairfax, VA, May 3, 1995.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: While I concede that some of the language in the NRA fundraising letter you refer to might have been rhetorically impassioned—as is most political direct mail—that in no way disparages the NRA, nor diminishes the seriousness of the alleged federal law enforcement abuses to which the letter refers. And it is certainly in no way related to the terrorist bombing in Oklahoma City.

You asked if we can "honestly justify" rhetoric decrying such abuses of federal power. That's what we want to find out. In January 1994, the American Civil Liberties Union, the National Rifle Association and others wrote to President Clinton, petitioning him to appoint a commission to investigate 25 documented cases of alleged federal law enforcement abuse. Our request was ignored. So again in January 1995, the ACLU, NRA and others petitioned the President. All we ask is a full, fair and open examination the facts—a request that, so far, has been denied.

This isn't just some petty gripe against the enforcement of anti-gun laws by the Bureau of Alcohol, Tobacco and Firearms. On the contrary, the inquiry we requested was to focus on all 53 federal law enforcement agencies, and on charges ranging from the denial of basic civil rights, to the confiscation and destruction of property, to the improper use of deadly force against unarmed civilians.

I agree, senator, that the partisan posturing and political exploitation of the Oklahoma City tragedy is reprehensible and should stop. But before you condemn NRA's criticism of federal law enforcement abuses as "totally inappropriate," I urge you to help us find out if it really is.

Let's get all the facts out on the table regarding these cases. If the accusations against federal law enforcement are baseless, let's expose them as such and vindicate the officers accused. If, on the other hand, particular officers are operating outside the rule of law, let's find them, remove them and prosecute them for the good of the whole. Whatever the case, let's put the grievances to rest once and for all.

Doing so, I believe, could help reverse the public's documented and growing distrust of federal power. Blaming the rhetoric—whether in a fundraising letter or anywhere else in political discourse—serves only to silence dissent and aggravate that distrust.

Sincerely yours,
THOMAS L. WASHINGTON,
President,
National Rifle Association of America.

Mr. LEVIN. Madam President, I will defend LaPierre's, Mr. Washington's, and the NRA's right to free speech, but I continue to hope that the membership of the NRA and the American public will demand that this patently false statement that the President has authorized the murder of law-abiding citizens be retracted. There is a crucial difference between what someone has a right to say and what it is right to say. This statement in the NRA letter is wrong. It deserves to be condemned, and it should be withdrawn.

Madam President, I believe I have an allotted amount of morning business time, and if so I would yield 3 minutes to my friend from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 3 minutes.

Mr. CHAFEE. I thank the Chair. I thank the distinguished senior Senator from Michigan for giving me a few minutes.

Madam President, I believe the tactics used by Mr. LaPierre in his recent fundraising letter for the National Rifle Association are just plain wrong. This letter does not contribute to any informed debate. Instead, it is inaccurate and irrational. It borders on the hysterical. And this kind of hysteria only encourages paranoia, which we certainly do not need at this time in our Nation.

Madam President, I know that the Senator from Michigan has touched on some of the quotes from the letter, but I would just like to mention a few that stand out. Here is one paragraph from the letter:

> It doesn't matter to them that the semi-auto ban gives jack-booted government thugs more power to take away our Constitutional rights, break in our doors, seize our guns, destroy our property, and even injure or kill us.

This is another paragraph:

> In Clinton's administration, if you have a badge, you have the government's go-ahead to harass, intimidate, even murder law-abiding citizens. Not too long ago, it was unthinkable for Federal agents wearing nazi bucket helmets and black storm trooper uniforms to attack law-abiding citizens.

And another:

> They've launched a new wave of brainwashing propaganda aimed at further destroying our Constitutional freedoms.

And on it goes, Madam President.

Now, Madam President, the apocalypse described in this fundraising letter is not familiar to me. The Government described in these pages is not familiar to me. This is not a description of reality. It is a description of terror designed for one purpose: to provoke a visceral reaction against the U.S. Government—and at the end of the day, to raise money.

There are many powerful and ugly words used in this letter. They are insulting to American law enforcement and to American citizens. Why does Mr. LaPierre use them? I suppose in order to tap into the rage that some feel against the U.S. Government, to feed that rage, and to use that rage to gain donations.

In various interviews, Mr. LaPierre has acknowledged the NRA letter went too far. I believe it behooves him and the leadership of the NRA to apologize to the men and women in Federal law enforcement and to the American people for this letter's rhetoric, and to refrain from this kind of inflammatory prose in the future.

I thank the distinguished Senator from Michigan for giving me a few minutes.

Mr. LEVIN. I thank the Senator from Rhode Island for his comments on this letter.

Madam President, on another matter, we have a bill pending before us which I would like to briefly address as part of my time.

THE PRODUCT LIABILITY FAIRNESS ACT

Mr. LEVIN. Madam President, the bill that we will be voting on later this morning is called the Product Liability Fairness Act of 1995. One of the arguments for it is that we need uniformity in a tort system. As a matter of fact, Madam President, the bill is carefully structured to authorize States to diverge from these standards in order to provide more favorable treatment to defendants than the bill provides, but the bill prohibits States from providing more favorable treatment to plaintiffs.

In other words, this bill does not provide us with uniformity. When we look down the provisions in the bill, we will see in a moment that the bill does not assure that there will be a uniform application of these provisions to all plaintiffs and all defendants. The bill prohibits a State law attempting to provide more favorable treatment to those who have been injured, but it allows State laws that are more favorable to those who allegedly cause the injury.

Now there is a reasonable argument for uniformity in product liability law, since many products are sold across State lines. But, this bill does not provide that uniformity. States can be more restrictive than the so-called national standards in the bill. A patchwork of State laws is still permitted, provided that the divergences are in the direction of greater restriction on the injured party.

For instance, the bill contains a so-called statute of repose barring any product liability action against a manufacturer of a product that is more than 20 years old. This provision prohibits States from providing a longer period for those who are injured. But the bill expressly authorizes States to adopt a shorter and more restrictive period in order to benefit defendants.

Similarly, the bill contains standards for the imposition of punitive damages, but the provision by its own terms only applies to the extent that punitive damages are permitted by State law. The committee report states that:

> It is not the committee's intention that this act preempt State legislation or any other rule of State law that provides for defenses or places limitations on the amount of damages that may be recovered.

In other words, if a State has more lenient standards for the award of punitive damages, the bill overrides those standards—States cannot do that—but if a State has more restrictive standards, lower caps, additional limitations, or even bars punitive damages altogether, that is allowed by this bill.

While I am on the topic of punitive damages, I would like to point out that the so-called fix adopted by the Gorton-Rockefeller substitute is, in fact, no fix at all. Punitive damages would be capped under the substitute as they are capped by the underlying bill. The substitute limits the punitive damages that maybe awarded by a jury at two times compensatory damages, or $250,000, whichever is greater. The substitute then purports to authorize judges to increase punitive damages in cases where a jury award is "insufficient to punish the egregious conduct of the defendant."

But, Madam President, the authority under this substitute we will be voting on, which is given to the judge, is an illusion. Because if the defendant objects to the increased damages, he or she is entitled to a new trial on the subject of punitive damages. Judgment is not entered on liability or damages until the completion of the new trial. So the plaintiff cannot get a dime until after the new trial is completed.

Nothing in the substitute indicates that the judge's decision to increase the punitive damages award may be considered at this new trial. Nothing in the substitute indicates that the caps on punitive damages would be waived at the new trial. So it even appears that the same old caps may apply.

Under these circumstances, what defendant would not insist on a new trial on punitive damages? And what plaintiff would be willing to forego all compensatory damages while awaiting a new trial on the subject of punitive damages?

Those of my colleagues who favor punitive damage caps should feel very comfortable indeed voting for cloture on this substitute. But those who oppose caps should be forewarned. The caps in this substitute are every bit as real as the caps in the underlying bill.

Back to the uniformity issue. These are one-way limits.

This chart shows which State laws would be prohibited and which would be allowed. Categories of State laws that would be prohibited are shown in red. Categories of State laws that would be allowed are shown in green. In the left-hand column, we see that every single type of State law that would be more favorable to the injured party is prohibited. Every State law that would vary from the so-called standard in order to benefit a plaintiff in any of the areas covered by this bill is prohibited by the bill; it is preempted. But in the right-hand column, we see that, with one exception, State law provisions that are more favorable to defendants are allowed.

We have heard a lot of talk about the need for national standards for product liability. But what this chart shows is that where the bill provides true national standards, it is only where plaintiffs are prohibited from gaining the benefit of any State law that varies from the so-called standard. But with one exception, State laws are allowed to vary from the so-called standard and to have more restrictive rules that benefit the defendant.

These are not national standards. These are one-way rules that limit only plaintiffs, and if defendants are able to get more restrictive laws passed by the States, they will not restrict defendants.

Let us look at one example of how this one-way preemption provision would work. The bill would override State laws that provide joint and several liability for noneconomic damages. Joint and several liability is the doctrine under which any one defendant may be held responsible for 100 percent of the damages in a case, even if other wrongdoers also contributed to the injury.

The sponsors of this bill, and this amendment, have pointed out that there are problems with joint and several liability. In some cases, a defendant who has only a marginal role in causing the damage ends up holding the bag for all of the damages. That does not seem fair.

On the other hand, there are good reasons for the doctrine of joint and several liability. Cause and effect often cannot be assigned on a percentage basis with accuracy. There may be many causes of an event, the absence of any one of which would have prevented the event from occurring. Because the injury would not have occurred without each of these so-called but-for causes, each is, in a very real sense, 100 percent responsible for the resulting injury.

This bill, however, does not recognize that in the real world, multiple wrongdoers may each be a cause of the same injury. It insists that responsibility be portioned out, with damages divided up into pieces, and the liability of each defendant limited to a single piece. Under this approach, the more causes the event can be attributed to, the less each defendant will have to pay.

Unless the person who has been injured can successfully sue all parties who contributed to the injury, he or she will not be compensated for his entire loss. The real world result is that most plaintiffs will not be made whole, even if they manage to overcome the burdens of our legal system and prevail in court. Would it not be more fair to say that the wrongdoers, each of whom caused the injury, should bear the risk that one or more of them might not be able to pay its share than it is for the injured party to be only partially compensated for his or her loss?

The bill before us completely ignores the complexity of this issue with its one-way approach to Federal preemption. States which are more favorable to defendants are allowed to retain their laws. But State laws that try to reach a balanced approach between plaintiffs and defendants would be preempted.

Roughly half the States choose to protect the injured party through the doctrine of joint and several liability. Another half dozen States have adopted creative approaches to joint and several liability, seeking to balance the rights of plaintiffs and defendants.

Let me give you a few examples.

Louisiana law provides joint and several liability only to the extent necessary for the plaintiff to recover 50 percent of damages; there is no joint and several liability at all in cases where the plaintiff's contributory fault was greater than the defendant's fault.

Mississippi law provides joint and several liability only to the extent necessary for the plaintiff to recover 50 percent of damages, and for any defendant who actively took part in the wrongdoing.

New Jersey law provides joint and several liability in the case of defendants who are 60 percent or more responsible for the harm; joint and several liability for economic loss only in the case of defendants who are 20 to 60 percent responsible; and no joint and several liability at all for defendants who are less than 20 percent responsible.

New York law provides joint and several liability for defendants who are more than 50 percent responsible for the harm; joint and several liability is limited to economic loss in the case of defendants who are less than 50 percent responsible.

South Dakota law provides that a defendant that is less than 50 percent responsible for the harm caused to the claimant may not be liable for more than twice the percentage of fault assigned to it.

Texas law provides joint and several liability only for defendants who are more than 20 percent responsible for the harm caused to the claimant.

All of these State laws are efforts to address a complex problem in a balanced manner, with full recognition of factors unique to the State. Because they are all more favorable to the injured party than the approach adopted in this bill, however, they would all be prohibited.

Perhaps this is one reason why the National Conference of State Legislatures opposes this bill. As the NCSL explains:

> Tort law traditionally has been a state responsibility, and the imposition of federal products standards into the complex context of state tort law would create confusion in state courts. Without imposing one-size-fits-all federal standards, states may act on their own initiative to reform product liability law in ways that are tailored to meet their particular needs and that fit into the context of existing state law.
>
> The proponents of S. 565 want Washington to dictate the legal standards and evidentiary rules that fifty state court systems

> use to adjudicate injury disputes involving allegedly defective products. There is no precedent for such congressional imposition of federal rules by which state courts will be forced to decide civil disputes.
>
> For NCSL, the question is not which tort reforms are appropriate, but who makes that decision. The issue is who has responsibility for state civil justice. This is a federalism issue of major consequence. It should not be ignored.

Madam President, what kind of national standard is it that prohibits State laws only when they are more favorable to plaintiffs than Federal law and not when they vary from Federal law to favor defendants? What kind of fairness bill is it that contains such a blatant double standard?

Madam President, the bill before us is called the Product Liability Fairness Act of 1995. If you read the title, it sounds pretty good. Who could be against bringing greater fairness to our product liability system, or to our legal system in general?

There is a list of problems in our legal system that we could all go through. Going to court takes too much time and it costs too much money. There are many stories of plaintiffs winning what seem like absurdly high verdicts or, on the other hand, being denied a day in court by defendants with deep pockets who engage in such hard-ball tactics as investigations into the private lives of plaintiffs, grueling depositions, unreasonable requests for medical and psychological histories of plaintiffs, and multiple motions to dismiss.

As Senator GORTON, one of the lead authors of the bill before us, explained at the outset of this debate:

> [T]he victims of this system are very often the claimants, the plaintiffs themselves, who suffer by the actual negligence of a product manufacturer, and frequently are unable to afford to undertake the high cost of legal fees over an extended period of time. Frequently, they are forced into settlements that are inadequate because they lack resources to pay for their immediate needs, their medical and rehabilitation expenses, their actual out-of-pocket costs.
>
> In 1989, a General Accounting Office study found that on average, cases take 2½ to 3 years to be resolved, and even longer when there is an appeal. One case studied by the GAO took 9½ years to move through our court system. In one of many hearings held on this issue over the years, University of Virginia law professor Jeffrey O'Connell explained, and I quote him: "If you are badly injured in our society by a product and you go to the highly skilled lawyer, in all honesty the lawyer cannot tell you what you will be paid, when you will be paid or, indeed, if you will be paid."

Senator GORTON concluded his thought as follows:

> Uncertainty in the present system is a reason for change. Plaintiffs, those injured by faulty products, need quicker, more certain recovery—recovery that fully compensates them for their genuine losses. Defendants, those who produced the products, need greater certainty as to the scope of their liability.

I agree with Senator GORTON that there is unfairness in our current legal system. There is unfairness to defendants in some cases, and there is unfairness to plaintiffs. However, this bill does not address the problems faced by plaintiffs at all. There is virtually nothing in this bill to assist those who have been hurt by defective products and face the difficult burdens of trying to recover damages through our legal system.

For instance, this bill does nothing to address the hardball litigation tactics used by some defendants in product liability cases, such as excessive investigations, depositions, and motions practice that often mars such litigation. It does nothing to help bring to public light documents revealing defendants' knowledge of product defects, or to shorten the time required to litigate these cases and obtain relief.

Instead this bill would limit the money that can be recovered by plaintiffs who manage to navigate the hazards of our legal system and provide in court that they were hurt by defective products. The bill contains any number of provisions addressing compensation to plaintiffs which is too high, but not a single provision addressing the cases in which, as the sponsors themselves acknowledge, compensation is too low.

This bill is not balanced, it is not uniform, and I cannot support it.

Madam President, if I have any additional time remaining, I will be happy to yield to the Senator from Alabama.

Mr. HEFLIN. Madam President, I only want to speak briefly right now relative to this matter. I think the Senator from Michigan has covered the issue on additur very adequately.

In the case of Dimick versus Schiedt, a 1935 Supreme Court case, the High Court ruled that the district court lacked the power to deny a plaintiff a new trial, sought on the ground that the jury award of damages was too low, when the trial court judge proposed to increase the damages and the defendant had consented in order to avoid a new trial. The Supreme Court held that the power to increase a damage award, known as an additur, was a violation of the right of trial by jury. According to the Court, the amount of damages must be determined by juries, not judges, in the Federal court, subject to the right of courts to set aside jury awards that are clearly excessive. Some State courts have held that additur violates their State's constitution as well.

That is the major point that I want to make on this issue. Senator LEVIN mentioned this matter pertaining to the lack of uniformity.

I want to also point out that all State courts under the bill and the substitute—any of the substitutes—are to accept as binding precedents in the construing act, the decision of a Federal court of appeals covering this mandate.

This mandate, in my judgment, is clearly unconstitutional and contrary to article III of section 1 of the Constitution, which provides that the judicial power of the United States shall be vested in one Supreme Court, which has always been construed to mean that State courts must follow the decisions of the Supreme Court and not the lower Federal courts.

With the addition of the punitive damage additur provision in the substitute, there is an expansion by Congress of an extraordinary nature to encroach on the power of the State courts. Rules concerning the use of additur and remittitur have always been left to the State courts, as have also every other State rule of civil procedure.

I just wanted to mention that. I think there are others who are desiring to speak. I yield the floor at this time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized to speak up to 10 minutes.

Mr. GLENN. Parliamentary inquiry. Is there a 5-minute limit on speeches this morning?

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania has been allocated 10 minutes to speak, after which there is a 10:30 a.m. vote.

Mr. GLENN. I thank the Chair.

Mr. SANTORUM. Madam President, I yield 5 minutes of my time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

STOP THE DEMAGOGING

Mr. INHOFE. Madam President, I thank the Senator from Pennsylvania for yielding a portion of his time. I do not think I will take the 5 minutes.

After the trauma and the tragedy that we have gone through in Oklahoma, it has diverted our attention from many of the other significant things that are taking place in this body. I think the most significant thing, second only to that tragedy in Oklahoma, is the tragedy, the revelation that was recently discovered of what is going to happen to Medicare in America and the demagoging that is taking place in this and other bodies concerning that trauma.

Specifically, a report was released by the Medicare trustees that has come to the incontrovertible conclusion that our Medicare system, in absence of change, is going to go broke in the year 2002, approximately 6½ years from now.

I think it is important to look and see who was it who looked at the data, who studied the actuarial reports and came to that conclusion.

There are six members of the Board of Trustees of Medicare. They are Robert Rubin, the Secretary of the Treasury, who was appointed by President

Clinton; Robert Reich, Secretary of Labor, appointed by President Clinton; Donna Shalala, Secretary of HHS, appointed by President Clinton; Shirley Carter, Commissioner of Social Security, appointed by President Clinton; and Stanford Ross and David Walker.

Four of the six members are appointments and work in the Clinton administration, and they have come up with the conclusion that Medicare will, in fact, go broke in the year 2002. I think we know the reasons for it, and I will not get into that.

Quoting from the report, it says, Medicare is "severely out of financial balance and the trustees believe that Congress must take timely action to establish long-term financial stability for the program. The trustees believe that prompt, effective and decisive action is necessary."

Madam President, these are the trustees that were appointed by President Clinton, and what has happened since that time? Absolutely nothing. We have not heard one word out of the Clinton administration. We hear a lot of people criticizing Republicans because we want to do something to save a system, and they come up and say, "The Republicans are suggesting that they are going to cut Medicare in order to pass a tax reduction." Nothing could be further from the truth, and that certainly is not true. But for the President to do nothing in facing this crisis is something that cannot be tolerated.

The proposal that has been discussed by the Budget Committee chairman, Senator DOMENICI from New Mexico, has suggested that we put caps on the system, somewhere around 7 to 7.5 percent growth caps. In other words, the Republican budget is suggesting not that we have cuts in Medicare, but that we have increases in Medicare, but those increases will be capped somewhere between 7 and 7.5 percent, at an amount that has been actuarially determined that we will now have Medicare and it will not go bankrupt in the year 2002.

Right now, Madam President, we have some 36 million people on Medicare. It is projected by the time 2002 comes, we will have something like 50 million Americans, 20 percent of all Americans, including myself, will be eligible for Medicare at that time.

So I only say, it is time to stop the demagoging. We have a very serious problem on our hands. I believe the Republicans have a solution to that problem, but we should be getting some leadership from the White House at this time. This is not something with which we should be playing politics.

I yield back to the Senator from Pennsylvania.

A CRISIS IN MEDICARE

Mr. SANTORUM. Madam President, I thank the Senator from Oklahoma for his comments. I wholeheartedly agree with him. I think this is a question of leadership, what kind of leadership we are going to see not only out of the White House but out of the U.S. Senate.

I think the rhetoric to date has not served this institution well. There is, indeed, a crisis in Medicare. I know there are a lot of folks on the other side of the aisle who are saying we knew about this crisis, you folks denied there was a health care crisis. We are not talking about a health care crisis, we are talking about a Medicare crisis. We are talking about a trust fund problem that says there is not enough money in the trust fund to be able to fund Medicare past a 7-year window. That is immediate, that is real, and that is something that we have to deal with, and I believe we will only deal with if we do so in a bipartisan way.

If this becomes a partisan issue where one seeks to take political gain at the expense of doing something that is responsible action, we will not succeed and the trust fund will continue to go further and further to the brink of insolvency, and we will be left with not a lot of options but very dramatic choices that are going to affect a lot of taxpayers and a lot of seniors and the availability of Medicare benefits into the future.

The other comment I keep hearing is, "Well, this crisis has been around a long time and we have known. This is not the first trustees report that has been published that says Medicare is in trouble and will go bankrupt in a few years."

That is true. In fact, over the last 10, 15 years, the average solvency of the Medicare trust fund has been about 12 years. Now it is at 7, which is I think a low. That is the shortest timeframe that we have seen recently where Medicare is in trouble and scheduled to go bankrupt. So it is important, but we are usually running around 12, 14 years as the average.

So why the big hullabaloo now? The reason for that is, once we get through the next 12 years or so, to the year 2010, we can do that pretty well by doing a fix. Senator DOMENICI's budget calls for roughly $250 billion in reductions in the growth rate of Medicare over the next 7 years. That will fix Medicare, again, to make it solvent for about 12 years from now, which will be about average of where the fund has been.

The problem with that is not the 12 years, it is what happens in the 13th, 14th, 15th year and beyond, because after 12 years from now or 13 years from now that is when the baby boomers begin to retire and that is when Medicare really takes off.

Spending in Medicare just goes up astronomically once the baby boomers and that big chunk of the population starts getting into this program. So when we look at Medicare funding now, we have to look at it with a whole new ball game in mind. We have to preserve the long-term funding and solvency of this program through a period where we are going to see a rapid escalation, not in the cost of Medicare and inflation, but in the number of people in the program.

So when we look at Medicare now, and I hope we will have this informed discussion, that we will look at it over the long term recognizing that Medicare costs, just by demographic reasons, are going to escalate beyond what we have ever seen before in the history of the Medicare program.

So I am hoping we can have this kind of constructive dialog and we will not use brinkmanship for political gain, that we will have a good, bipartisan solution to the problem that faces this country.

I yield the floor.

TRIBUTE TO THE NORTH DAKOTA STATE UNIVERSITY WOMEN'S BASKETBALL TEAM

Mr. DORGAN. Madam President, I want to take some time today to belatedly honor the North Dakota State University women's basketball team. Outside of North Dakota, most people probably don't know that this team won the NCAA division II national championship. Not only did they win it this year, but the Bison women have won this honor for 3 straight years. I think they deserve some national recognition.

The NDSU women had the additional honor of being the first ever division II women's team to make it through a season undefeated. This remarkable team ended its season 32–0, and they did it by focusing on one game at a time.

I think we can all learn some important lessons about life by watching these champions—about perseverance, about working together and helping each other, about being a good sport.

I want to congratulate each of these women for the year of hard work that culminated in their ultimate victory: seniors Linda Davis and Lynette Mund who provided experience and leadership, juniors LaShalle Boehm, Jessica DeRemer, Jenni Rademacher, and Lori Roufs; sophomore Kasey Morlock, who was the most valuable player of the tournament, and her fellow sophomores Rhoda Birch and Andrea Kelly; and freshmen Tanya Fischer, Erica Lyseng, Amy Ornell, and Rachael Otto.

These women are even more special because they will not be making millions of dollars playing in the NBA when they graduate. They are playing basketball because they love the game, and in the process they are serving as good role models for many young girls who need active, successful young women to look up to.

A lot of the credit for the success of the NDSU program rests with Head Coach Amy Ruley. She has led the Bison to four championships in the last five seasons. In fact, she is doing such a good job that the University of Illinois and Long Beach State—two division I schools—both wanted her for their programs, but I was glad to hear recently that she has decided to stay with us in North Dakota.

We also can not overlook the assistant coaches, Kelli Layman and Kathy Wall; student assistant Darci Steere; volunteer assistant Robin Kelly; student trainer Nikki Germann; and student manager Mary Schueller. Their work behind the scenes plays an important role in the team's success.

We in North Dakota have a lot to look forward to from the NDSU women's program in the future. All but the two seniors will be returning, and this team knows what it feels like to win. For now, though, we can just savor the feeling of having national champions in our midst.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Madam President, the skyrocketing Federal debt—which long ago soared into the stratosphere—is in a category somewhat like the weather—everybody talks about it but almost nobody had undertaken the responsibility of trying to do anything about it until immediately following the elections last November.

When the 104th Congress convened in January, the U.S. House of Representatives approved a balanced budget amendment. In the Senate only one of the Senate's 54 Republicans opposed the balanced budget amendment; only 13 Democrats supported it. Thus, the balanced budget amendment failed by just one vote. There will be another vote later this year or next year.

As of the close of business yesterday, Monday, May 8, the Federal debt stood—down to the penny—at exactly $4,856,502,980,514.90 or $18,435.37 for every man, woman, and child on a per capita basis.

YOUNG AMERICA

Mr. COHEN. Madam President, I rise today to pay tribute to the captain and crew of *Young America*, which as many of my colleagues know, is the yacht that came very close to winning the Defenders' series of the America's Cup competition on April 26.

Young America, owned by the Maine-based PACT '95 syndicate and originating out of my hometown of Bangor, was very strong in the competition but was beaten in the finals by America's Cup veterans and past victor, Dennis Conner and his boat, *Stars & Stripes*.

While *Young America's* captain, Kevin Mahaney, did not have Dennis Conner's experience, he sailed boldly and impressively and displayed the kind of leadership and perseverance for which Mainers are renowned. Kevin had captured the silver medal in sailing at the 1992 Olympics, but it was his first America's Cup competition. He and his crew sailed with excellence throughout the competition.

Last summer, before Kevin even had a boat to compete in, he started to assemble a crew with John Marshall, head of the PACT '95 syndicate. Marshall was an experienced sailor and former crew mate of Dennis Conner in past America's Cup bids. Even so, many people on the sailing circuit did not assign much credibility to their efforts and saw little threat from their entry. However, Mahaney and Marshall and the crew they assembled soon made yachting enthusiasts begin to take notice of the boat from Bangor.

This is not to say that *Young America* encountered smooth waters during its assent to the top ranks of yachting. Mahaney had to rely heavily on the tenacious crew that he assembled to overcome obstacles and make it as far as they did.

Young America's bid for the cup was threatened last January when a tornado ripped through the compound where it was stored, causing extensive damage to the boat. In March, bad luck struck again when *Young America* suffered significant structural damage while being towed through heavy waves. This damage was particularly ill-timed, and the crew had to rush to make repairs in the final days before the Defender semifinals. John Marshall saw the silver lining in these clouds and commented that the times of hardship were when the crew really came together as a team.

Ironically, the crew that worked so hard to bring *Young America* to the forefront of the yachting world had the bittersweet experience of now seeing their boat compete against New Zealand in the America's Cup finals without them aboard. Shortly after his victory, Dennis Conner, full of admiration for Mahaney's triumphs, asked John Marshall if he and his crew could sail *Young America* in the final competition. Diplomatic to the last, Marshall honored his request. He said that both the crews from *Stars & Stripes* and *Young America* will emerge as victors if the Americans beat New Zealand.

The quiet but determined efforts of Kevin Mahaney and his crew justifiably make Mainers proud. While they are not manning the boat that is competing against the New Zealand vessel this week, everyone's mind will be on the come-from-behind boat known as *Young America*.

RECOGNIZING BILLINGS, MT, POSTAL SERVICE

Mr. BAUCUS. Madam President, today I would like to recognize the outstanding achievement of the Postal Service in Billings, MT. As is the case most of the time, we know how to do it right in Montana.

Billings' delivery of overnight first-class mail is first in the Nation, No. 1. The lucky residents of Billings received their mail 94 percent on time, the country's highest performance level this year. The score also ties for the highest mark achieved by any city since the measurement began. In an era when public and private mail volume continues to increase, I am proud of the ability of the Billings Postal Service to rise above the rest and top the Nation.

I would like to congratulate and thank everyone involved in the mail process in Billings for serving Montana and our Nation with such capability.

PROTECTING MEDICARE

Mr. BAUCUS. Madam President, yesterday before the Senate Finance Committee I spoke about the importance of the Medicare Program to Montanans. I would like to take this opportunity to share those comments with the entire Senate.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

Mr. Chairman, here in Washington, people often lose the forest for the trees. I'm afraid we may be doing just that on Medicare. So I hope we can begin by remembering what life was like for older Americans before Medicare.

The fact is, before we created Medicare, our senior citizens lived in fear.

Everyone over sixty knew that private insurance was shaky and expensive at best, and would cost them more every year.

And a serious illness—or even a common ailment that required treatment but did not threaten life—was not only a health problem, but something that could reduce a whole family to poverty.

Today, Medicare has removed that fear from our lives. Those of us with short memories have forgotten it ever existed. But let me tell you about some people who don't.

Two weeks ago I spent some time at the Seniors Center in Great Falls, Montana. The people at the center know exactly what Medicare and Social Security mean to their lives.

It means a little financial security. Some faith that illnesses will be treated and that families won't be wiped out by the cost. A hundred and twenty-five thousand Montanans are eligible for Medicare, and each one of them knows exactly what Medicare means.

Listen to Margaret and Frank Jackson of Billings, who wrote me last week:

"Social Security and Medicare are not only necessary, they are absolutely essential to our survival in Montana. Higher costs such as higher property tax, increase in school levies, fuel in a cold climate, and medicine take a toll. There is just too much month at the end of our money. Needless to say, additional cuts would put a burden on us."

Or Joyce Hert, also from Billings:

"I am 58 years old and for the past 18 years have had chronic obstructive pulmonary disease, asthma, emphysema, Renaud's Disease, degenerative arthritis and a disease of the connective tissue. . . . My medication costs approximately $677 a month* * *. Please don't turn your back on those of us who need Social Security and Medicare."

The leadership now proposes something like $250 billion in Medicare cuts. It is staggering. It is a reduction of nearly a quarter in Medicare services by the year 2002. And to add insult to injury, the House would do it in part to pay for tax cuts for Americans who are already very wealthy. Some in the Senate want to do the same.

What would it mean if this happens?

Montana Medicare beneficiaries would pay up to $800 more a year out of their own savings. These are people who live on fixed incomes, and eight hundred bucks is an awfully big bite.

We would see thousands of operations and hospital stays put off.

Thousands of people would decide to go without home health care.

And, as the federal government cut reimbursement, more rural hospitals would be pushed to the edge, forced to choose between serving their patients and remaining solvent. Some Montana hospitals get 60% of their revenue from Medicare. This plan would hit them like a wrecking ball.

Now, it may well be that we need to make changes in the Medicare program. We must be realistic.

The answer is not, however, to simply approach Medicare reform as a budget cutting exercise. Because we are talking about preserving essential health services for 125,000 senior citizens in Montana and thirty million seniors across America.

We are talking about good, middle class Americans like the Jacksons.

And above all, we must not use Medicare as a piggy bank. Don't take money that buys health care for senior citizens and use it for a tax break for rich individuals and big corporations. That is disgraceful.

Perhaps some changes lie ahead. But if they do, they should be made for the single purpose of keeping Medicare services for senior citizens and people with disabilities. It is an issue of good faith on the part of the government, and basic, essential health services for Americans.

RETIREMENT OF GEORGE K. ARTHUR

Mr. MOYNIHAN. Madam President, yesterday's Buffalo News reported the forthcoming retirement of Buffalo, NY, Common Council President George K. Arthur, after four decades of public service. Mr. Arthur, who has been Common Council President since 1983, is a distinguished public servant who has given much to the people of Buffalo. I know I speak for the people of Buffalo in offering George Arthur great thanks and congratulations. He will indeed be missed.

Mr. President, I ask unanimous consent that the text of the article from the Buffalo News be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Buffalo News, May 8, 1995]

POLITICAL LEADERS PRAISE ARTHUR'S ENDURING LEGACY

(By Anthony Cardinale)

Geroge K. Arthur will leave a legacy of lasting achievement as Common Council president when he steps down on Dec. 31, several political observers said Sunday.

Never mind the decade of Common Council friction with then-Mayor James D. Griffin, who reserved his most stinging invective for the Council president and took particular delight in defeating Arthur's challenge for the mayor's office 10 years ago.

Arthur's proudest hour as a politician was when he beat the Democratic incumbent for the Democratic Party's endorsement in 1985, these observers agreed. And he would have ousted Griffin from City Hall, they added, if it weren't for the votes siphoned off by Nicholas Costantino as an independent candidate.

Arthur, 62, who announced over the weekend that he won't seek re-election, was first elected to the former Erie County Board of Supervisors in 1963. He was elected Ellicott District Council member in 1969, then Council member at large, and he has been Council president since 1983.

"I believe it's probably the longest political career of anybody in our area," said Vincent J. Sorrentino, Erie County Democratic chairman.

"He was part of the emergence of the black community into the mainstream of the political process in our community—he and (Council President) Delmar Mitchell a little before him," said Joseph F. Crangel, Sorrentino's predecessor at the party helm.

"His leadership was instrumental in helping much of the rebirth of Buffalo," said Arthur O. Eve, deputy Assembly speaker, who pointed to measures to improve Buffalo's housing stock and quality of life.

Accolades for Arthur even came from Council Member Alfred T. Coppola of the Delaware District, who has often clashed with him—and who now wants to succeed him as Council president.

"We've disagreed on various projects, but we've also agreed on some," said Coppola, who has asked Sorrentino for his backing.

"George has always been a unique person," Coppola went on. "He's always been a gentleman. There were times when George pulled us together. He'd say, 'Let's sit around a breakfast table and let it all hang out on a Saturday morning.' Those were terrific meetings."

Arthur's ability to bring together dissenting parties was the common theme Sunday of those who have worked with him over the years.

"George did an excellent job in helping to forge together a very diverse group of men and women into a fairly cohesive body," Eve said. "That takes a lot of talent, patience and compassion,."

Eve said he will work to help Council Majority Leader James W. Pitts become the next Council president.

"We certainly will miss (Arthur) as the Council president," Eve said, "but I'm in hopes that Jim Pitts will emerge as his replacement and the tradition that George Arthur started will continue and hopefully will grow."

Sorrentino, who reportedly supports Pitts, also credited Arthur as a consensus builder.

"He had a great quality of being able to bring consensus into very hostile situations—especially during the Griffin years," he said. "His leadership will be missed at these difficult times."

Sorrentino said he recently had breakfast with Arthur and learned then that he had all but decided to retire after this year.

"And I said, 'if you do, we certainly expect you to play a role in the campaign.' While he'd be retiring as president of the Common Council, he's not retiring from politics."

All four observers rejected the notion that Arthur had slowed down in recent years, no longer the civil rights firebrand who once joined the plaintiffs in the school desegregation suit and supported two other discrimination suits against the city's fire and police force.

"Very often with age comes wisdom—you're more prudent how you express things," said Crangle. "You put things in more perspective and focus than you did when you first started out."

Crangle said he greatly admires Arthur for standing up against Griffin.

"He was one of the towering strengths of the Democratic Party in City Hall," he said. "He did not get intimidated; he didn't in any way yield. And many times it was very lonely."

Coppola said that was when Arthur's "professionalism" shined brightest.

"There were moments when George was the acting mayor in some of the tougher years when Jimmy Griffin was really playing hardball," Coppola said. "And George never took advantage of the situation, especially when the mayor was out of town."

The former mayor was asked Sunday for his comment on Arthur's decision to retire.

"I wish him luck," Griffin said. "I wish him and his family the best."

THE MOSCOW SUMMIT

Mr. PELL. Madam President, today President Clinton is joining President Mitterrand, Prime Minister Major, Chancellor Kohl, and President Yeltsin in Moscow to commemorate the 50th anniversary of the end of World War II. That is as it should be. Together, after all, the United States, France, Britain, and the Soviet Union rid the world of the Nazi menace.

The anniversary of Allied triumph over the Nazis carries great significance for us all. For the Russian people, who lost more than 20 million of their fellow citizens during the war, this commemoration is particularly meaningful.

Now that the cold war is over, the allies have the opportunity to stand together again—this time to build a new Europe—democratic, whole, and free. The gathering of the five leaders in Moscow today should be seen as a commitment to that goal.

We have an enormous stake in Russia. United States engagement with Russia since the breakup of the Soviet Union has yielded significant results—particularly with regard to the reduction of weapons of mass destruction and the withdrawal of Russian troops from Europe. It is in the U.S. national interest to see that this process proceeds. Russian reformers offer the best prospect for continued progress on the issues that really count for the United States. Accordingly, we should be doing what we can to bolster Russia's democrats.

President Clinton has come under fire for going to Moscow at a time when Russia is pursuing some policies to which the United States is opposed. I believe this criticism is short-sighted and for the most part, politically motivated. Some of the same people who are criticizing the President for going to Moscow are also demanding that the administration deliver a tough message to Moscow about its behavior in Chechnya, its proposed sale of a nuclear reactor to Iran, and its views about NATO expansion. What better way to deliver the message than to go to Moscow and do it personally?

By going to Moscow, President Clinton is demonstrating to Russian leaders the benefits of continued engagement with the West. If he had decided to cancel his trip, President Clinton would be missing an opportunity to tell President Yeltsin and other Russian leaders—face to face—where he believes Russian policy is on the wrong track.

That being said, we should not have any illusions about our ability to change Russian policy overnight. We must be realistic. Russian leaders, like their counterparts worldwide are political creatures. With parliamentary elections looming at the end of this year, and Presidential elections scheduled for 1996, few Russian politicians want to be perceived as buckling to Western pressure. Russian nationalists, whose influence is regrettably on the rise, would be quick to brand them traitors.

It is therefore highly unlikely that President Clinton will return to Washington with a long list of Russian concessions. Those who are demanding—or even predicting—that he will do so are setting up the administration for failure. We can and should expect, however, President Clinton to discuss our differences candidly and constructively, and to lay the ground work for United States-Russian accommodation on key issues like arms control, the Iran nuclear deal, Chechnya, and European security.

The hallmark of a successful summit is not to solve all of the world's problems or even to resolve all of the bilateral issues between two countries. President Clinton's trip to Moscow is part of an ongoing process between Russia and the United States. We should be realistic about our expectations.

TRIBUTE TO DR. WAYNE TEAGUE, FORMER ALABAMA SUPERINTENDENT OF EDUCATION

Mr. HEFLIN. Madam President, Dr. Wayne Teague served as Alabama's Superintendent of Education for almost 20 years, from October 1975 through March 31 of this year. During his tenure as Alabama's top educator, public education in Alabama has prospered. His many years of public service are a hallmark of exceptional commitment and dedication to public education and to the children of Alabama.

There has been a great deal of progress in Alabama education since Wayne Teague took over as superintendent in 1975. His many contributions have made tremendous improvements in the State's public school system. His many successes and vast knowledge were once recognized by the British Council of Great Britain, when he was one of only three chief State school officers invited to participate in the American Education Policy-Makers' Study Trip to Northern Ireland in 1990.

Of Dr. Teauge's many wonderful personal attributes, the one that probably served him best while he was superintendent was his unique leadership style. He was able to master the art of cooperation with a myriad of groups for the benefit of the public schools. Government officials, parents, teachers, students, administrators, and business, civic, and educational leaders all gained admiration and respect for him over the course of his career as they observed his many accomplishments for Alabama's school children and for education overall.

Wayne Teague received his bachelor's, master's, and doctoral degrees all from Auburn University. Prior to becoming State superintendent, he was a local superintendent, college professor, principal, and teacher. Since then, he has become widely known throughout the State and country not only as a superb superintendent, but also as an authority on State and Federal legislative relations, a civic and community activist, a public speaker, and author. He has participated in several international activities and received numerous honors and awards for his service in education.

Dr. Wayne Teague certainly emerged as one of the giants of education while he was superintendent. He possesses all the skills, experience, and professional attitudes that make an outstanding leader. As much as he will be missed, I salute and congratulate him for a job well done, and offer my best wishes for his long, healthy, and fulfilling retirement.

AID

Mr. THOMAS. Madam President, I rise this morning as a member of the Senate Foreign Relations Committee to discuss the content of a recent interoffice electronic memo from Sally Shelton, the Assistant Administrator for the Bureau of Global Programs, Bill Support and Research at the Agency for International Development [AID] regarding congressional plans to merge AID into the State Department and to cut the somewhat bloated foreign assistance budget. For the benefit of my colleagues who may not have seen the memo, dated May 3, let me quote it here:

> The Administrator spoke to InterAction yesterday * * *. The Administrator would prefer that InterAction stay out of the merger issue and there is indeed no consensus on their Board as to what position to take. But some want to be involved—the Administrator reminded us of Dean Acheson's comment "Don't just do something, sit there!"
>
> Tony Lake is addressing InterAction tomorrow—he is pushing the phrase "backdoor isolationist" to tar the anti-150 account Congressmen with * * *. Shalikashvili and Wm. Perry had a good mtg with the Speaker on the 150 account * * * though the news from the Senate is not so good * * * Sen. Domenici is pushing for bigger cuts than had been anticipated earlier.
>
> Jill Buckly reports that the Senate For. Rels. Comm. staff was relatively uncooperative in discussions yesterday and somewhat surprisingly the HIRC [House International Relations Committee] staff was cooperative. The strategy is "delay, postpone, obfuscate, derail"—if we derail, we can kill the merger. Larry Byrne met with Sen. Robb and got his support on the merger though Robb is not committed, yet, to defend the 150 account budget levels. Official word is we don't care if there is a State authorization bill this year.
>
> Larry B. announces that we are 62 percent through this fiscal year and we have 38 percent of the dollar volume of procurement actions completed; we need to do $1.9 billion in the next 5 months * * *. There are large pockets of money in the field and about $570 million in Global and ENI each. So let's get moving * * *. Jim Bond called Larry Byrne * * * then yelled at him about our obligation rate, said it imperils our ability to argue we need more money * * *.

Madam President, I am incensed by this memo and by the mind-set it manifests at AID. It seems clear to me that instead of looking for ways to work with Members of Congress to streamline its operations, cut waste and bloating, and accept the same kind of downsizing that the American people expect of every other agency of the Federal Government, AID has taken on as its first priority saving its own skin.

There is nothing back-door isolationist about a desire to down-size AID and get rid of functions it carries out which are duplicative of those carried out by other agencies; it's a move that Secretary of State Christopher himself supported until recently overruled by the Vice President. At a time when we don't have enough money to take care of our own citizens and are consequently forced to rethink the funding levels in our domestic budget, to argue that we can't make similarly difficult cuts in our foreign aid budget is both disingenuous and unrealistic.

While I am certainly not in favor of a full-scale gutting of foreign aid, there is no bureaucracy in this Government that in my estimation couldn't stand a healthy cut in its budget—AID among them. For those who might doubt that assertion, the following information is instructive. AID has requested $16 million in aid to Jordan so that it could "attract more tourists to come to Jordan, enjoy their experience, and recommend Jordan to others." AID wants to pay $528,000 to Vietnamese contractors who were not paid as a result of the Vietnam War, while at the same time hundreds of American contractors remain unpaid. AID has proposed giving the AFL–CIO $5 million to make home improvement loans to Sandanista labor union members in Nicaragua. AID has proposed giving $900,000 to the lobbying firm TransAfrica to develop linkages with South Africa. The grant would enable TransAfrica to buy a TV, VCR, camcorder and computers for its Washington, DC, lobbying office. These proposals are just some of the highly questionable ways in which AID allocates its funds.

While speaking about funding, let me note that I am outraged by the suggestion in the memo that as the fiscal year draws to a close and AID has only "38 percent of the dollar volume of procurement actions completed," that employees would be encouraged to get out there and spend, spend, spend so that their ability to argue we need more money is not imperiled. Statements such as that are a perfect example of bureaucratic thinking run amok, and illustrate to me precisely why their budget is in need of some substantial trimming.

Madam President, policy statements coming from AID which note that they intend to work to delay and derail the legitimate work of this Congress for their own selfish needs strike me—and, I am sure, other Members—as blatantly improper. As a result of this memo, you can be sure that I will view anything AID has to say on reorganization or budget matters in the next few weeks with a very jaundiced eye, to put it very mildly.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF JOHN M. DEUTCH, OF MASSACHUSETTS, TO BE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session to consider the nomination of John Deutch to be Director of the Central Intelligence Agency, which the clerk will report.

The legislative clerk read as follows:

John M. Deutch, of Massachusetts, to be Director of the Central Intelligence Agency.

NOMINATION OF JOHN DEUTCH TO BE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. LEVIN. Madam President, it is with enthusiasm that I will vote today to confirm the President's nomination of John Deutch to one of our country's most important and difficult jobs, Director of Central Intelligence.

As a member of the Senate Armed Services Committee, I have worked closely with John Deutch in both his present position as Deputy Secretary of Defense and in his prior capacity as Under Secretary of Defense for Acquisition and Technology. I have had the opportunity to admire his competence as a manager and his broad knowledge on and accomplishments in national security matters.

Secretary Deutch has firsthand experience in improving our national security institutions. He successfully led the Pentagon's effort to reform its acquisition process, a long overdue and badly needed initiative. He also took the lead on the controversial C–17 aircraft negotiations and produced a good solution. In short, he has taken some of the thorniest problems in our largest national security institution and produced positive and cost-effective results.

The U.S. intelligence community is at a critical crossroads as it responds to a host of new and demanding challenges. With the end of the cold war, the need for reliable intelligence for the President and the Nation's decisionmakers has not vanished, but it has changed. We have seen a dramatic shift in the nature of the threats to U.S. national security. We have seen a sharp rise in the number and intensity of regional conflicts including the Persian Gulf, Bosnia, Somalia, and Haiti. We have also seen the need to broaden the cope of our intelligence efforts to include work on emerging challenges in interdiction of the international drug trade, anti-terrorism, nonproliferation and in support of government decisionmaking in economics and trade.

At the same time, the intelligence community faces a number of internal challenges. The community should not, has not, and will not be spared the budget cuts and downsizing facing all of the Federal Government. And, the intelligence community must work very hard to recover from the shocks of the Ames case and the current controversy over events in Guatemala.

The President could have named no more qualified nominee to grapple with these challenges. John Deutch's vast knowledge and experience, his track record in government, will assure that he will do so with the full confidence of those who work within the intelligence community and those in the Congress responsible for oversight. While I have not agreed with him on every issue, I admire and respect his considerable abilities and the forthright manner in which he engages debate.

I am very pleased today to join in what I hope and expect will be the unanimous confirmation of the nomination of John Deutch to be the next Director of Central Intelligence.

Mr. KEMPTHORNE. Madam President, it is with great pleasure that I support John Deutch's nomination to serve as the Director of Central Intelligence. During Dr. Deutch's service at the Department of Defense, including his service as the Deputy Secretary of Defense, John Deutch has been a thoughtful, decisive, and professional public servant.

Over the last 2 years, I have worked with John Deutch on a number of important, complicated, and diverse issues. In every instance, Dr. Deutch was extremely knowledgeable about the issue, he demonstrated diligent follow-up, and he never deviated from his commitment to serve the national interest. I have appreciated working with John Deutch and he will be missed at the Department of Defense.

John Deutch will be an excellent Director of Central Intelligence. This is a crucial time for the U.S. intelligence community as it tries to adapt to the post-cold-war era. I have every confidence that John Deutch will lead the Central Intelligence Agency forward in the 21st century.

Madam President, I look forward to casting my vote in support of John Deutch's nomination to serve as the next Director of Central Intelligence.

Ms. MOSELEY-BRAUN. Madam President, I am proud to support President Clinton's nominee, John M. Deutch, as Director of Central Intelligence. This is a difficult time for the CIA, but John Deutch brings considerable skills and experience to the position, and I have every confidence that he will make a difference at the CIA.

Mr. Deutch has an impressive academic background. He has been a distinguished professor at the Massachusetts Institute of Technology. He was chair of the department of chemistry there. As a teacher and a scientist, Mr. Deutch understands the technical details of the newest emerging intelligence technology, and he also has the remarkable ability to explain this technology in plain English, so that nonscientists understand.

Mr. Deutch has also served with distinction in Government. He worked at the Department of Energy, as Under Secretary of Energy Technology. In recognition of his contributions in that position, he was honored with the Secretary's Distinguished Service Medal and the Department's Distinguished Service Medal. More recently, he served at the Department of Defense as Under Secretary of Acquisition and Technology. And he leaves DOD as the distinguished Deputy Secretary of Defense.

Mr. Deutch will have to draw from this extraordinary experience to address a number of concerns at the Central Intelligence Agency. His responsibility is great. The CIA has been faced with a number of scandals of its own making. The Aldrich Ames spy case compromised U.S. intelligence gathering overseas. For years, the CIA was unable to detect his treachery, and more recently, the CIA appeared unwilling to appropriately discipline his superiors. This is unacceptable. I am confident that Mr. Deutch will address the flaws in the internal administration of the CIA which allowed Ames to flourish in the system undetected. He has pledged that in the future, anyone in a position of supervision over an agent who is spying on the United States, and does not take forceful action, will be fired.

Mr. Deutch's nomination also comes at a time when very serious questions have been raised about CIA operations in Guatemala. It has become clear through public hearings in recent weeks that a paid CIA informant in the Guatemalan military was involved in horrendous human rights abuses against Guatemalan people, and participated in the torture and death of an American citizen, and a Guatemalan who was married to an American citizen. Further, when this information became known to CIA officials, it was not properly reported to the House or Senate Intelligence Committees. The United States must stand for democracy and the protection of human rights abroad. I am deeply offended, as are many Americans, to learn of a relationship between the CIA and this Guatemalan colonel.

These and other scandals have plagued the CIA. Morale is low. John Deutch is clearly needed at this time to revitalize the CIA. With the end of the cold war, America's intelligence needs have changed. But they have not diminished. Our intelligence community is staffed with brave men and women who take risks every day to assist our policymakers by providing the best intelligence in the world. We must restore the confidence of the American people in these men and women, and in our intelligence gathering capabilities. John Deutch is a man of real quality. He is fully capable of meeting the challenges that lie before him.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

• Mr. WARNER. Madam President, I would like to express my strong support for the nomination of John Deutch to serve as Director of Central Intelligence.

I have had the privilege of working with Secretary Deutch since 1993 in his various capacities in the Department of Defense, first as Under Secretary of Defense for Acquisition and Technology, and most recently as Deputy Secretary of Defense. 3

Secretary Deutch has served his Nation well in these assignments, and I am pleased that he will be bringing his considerable expertise to the Nation's intelligence community.

This is a time of great challenge for the various elements of the intelligence community and, in particular, for the Central Intelligence Agency. As it continues the process of adapting to the intelligence challenges of the post-cold-war world, the CIA has been rocked recently by a number of problems—from the Aldrich Ames spy scandal to the recent revelations of possible problems with CIA activities in Guatemala. I am concerned about the well-being of this agency, and the morale of the fine intelligence professionals who serve our country—at great personal risk—at the CIA. The work of the CIA, and the many other agencies of the intelligence community, remains vital to the security of our great Nation. We should not lose sight of this basic fact as we contemplate reforms.

I am pleased that Secretary Deutch will be taking over stewardship of the intelligence community at this critical time. I was encouraged by Secretary Deutch's testimony at his confirmation hearing regarding the changes that he believes should be made at the CIA. I wish him well as he undertakes a difficult task which is so important to the future well-being of this Nation.●

Mr. KYL. Madam President, I rise to support the nomination of Deputy Secretary of Defense John Deutch to be the Director of Central Intelligence. I have had the opportunity to meet with Secretary Deutch on a number of occasions to discuss defense and intelligence issues and am impressed with his ability in both of these critical areas.

As the President's new senior advisor on intelligence, John Deutch will have the responsibility of placing before the Congress a vision for the intelligence profession that embodies the lessons learned from the cold war and lessons from recent unfortunate mistakes within the agency. He will also be required to steadfastly guard against the politicization of the intelligence mission by government officials who would use intelligence resources for other ends, at the expense of the core programs. My impression of John Deutch is that he is well prepared to meet these challenges.

I believe John Deutch will be someone who is prepared to think seriously about the place and purpose of intelligence in a democracy, both as he fulfills his responsibilities as a senior Government official and as he lays the President's plans and programs before the Congress. In short, Madam President, I believe John Deutch will be a fine Director of Central Intelligence and have every confidence in his ability to lead the intelligence community into the 21st century. I wholeheartedly support his nomination.

Mr. SANTORUM. Madam President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of John M. Deutch, of Massachusetts, to be the Director of the Central Intelligence Agency? On this question, the yeas and nays have been ordered.

The clerk will call the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

I further announce that, if present and voting, the Senator from New York [Mr. MOYNIHAN] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 155 Ex.]

YEAS—98

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Wellstone

NOT VOTING—2

Moynihan
Warner

So the nomination was confirmed.

Mr. DOLE. Madam President, this matter has been cleared with the Democratic leader. I ask unanimous consent that the motion to reconsider the vote by which the Deutch nomination was confirmed be tabled and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session and resume consideration of H.R. 956.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gorton amendment No. 596, in the nature of a substitute.

Coverdell-Dole amendment No. 690 (to amendment No. 596), in the nature of a substitute.

Gorton-Rockefeller modified amendment No. 709 (to amendment No. 690), in the nature of a substitute.

Ms. MOSELEY-BRAUN. Madam President, as I stated at the outset of debate on this bill, I believe it makes sense to have some basic, national product liability standards that apply across the board. In 1995, products manufactured in Illinois are no longer shipped down the street; instead, they are shipped throughout the 50 States, and beyond. The Constitution of the United States, in article 1, section 8, grants Congress the power to regulate interstate commerce. Where our product liability system acts as a disincentive to the manufacture and sale of goods in interstate commerce, Congress has not only a right, but a duty, to reform that system. I believe the Product Liability Fairness Act, while not perfect, is a good step in the reform process, and I am proud to cast my vote in favor of this bill.

I would like to add how pleased I am that, during the past weeks, the Senate very carefully considered and debated each and every amendment that was offered to this bill. I am particularly pleased by the compromise amendment that will soon be offered as a substitute amendment. I believe that the amendment significantly improves the committee reported bill, and I know that it would not have been possible without the vigorous debate that surrounded this legislation.

I strongly support the changes being made to the punitive damages section of the bill Rockefeller-Gorton substitute. While the original bill linked the calculation of punitive awards to economic damages, the amended bill instead links punitives to compensatory damages, a standard that is much fairer to low-income workers, women who don't work outside the home, children and the elderly, who may not have a great deal of economic damages. I have no objection to making punitive damages proportionate to the harm caused by the product, the goal that the punitive damage limitation is intended to accomplish. That harm should not, however, be limited to out of pocket costs or lost wages. Noneconomic damages can often be difficult to calculate, but that does not make them any less real.

Indeed, these compensate individuals for the things that they value most—the ability to have children, the ability to have your spouse or child alive to share in your life, the ability to look in the mirror without seeing a permanently disfigured face. As a notion of fundamental fairness, any congressional attempts to create a punitive damage standard should include both economic and noneconomic damages in its formula, as the Rockefeller-Gorton substitute now does.

In addition, the amended bill contains a provision that will allow a judge to increase the amount of a punitive damage award, if an increased award is necessary to either adequately punish a defendant for its past conduct, or to adequately deter a defendant from engaging in such conduct in the future. I know there have been concerns raised during the course of this debate that, in some cases, punitive damages awarded pursuant to the formula will not be sufficient to either punish or deter. I believe this judge additur provision addresses these concerns, and I want to thank Senators ROCKEFELLER and GORTON for their willingness to add this provision to their legislation. In my opinion, it makes a good bill even better, and it demonstrates their willingness to respond to the concerns of those of us "in the middle."

Madam President, last year I stood on the Senate floor, after the Senate failed to invoke cloture on the Product Liability Fairness Act, and stated my desire not to filibuster this bill again. What I wanted to do was debate what alterations the Federal Government should make in the area of product liability law, and to act on a narrow, moderate product liability bill. I am pleased to have a chance to act on such a bill today.

But reporting a bill out of the Senate is only half of the battle; I also want to see this legislation enacted into law. I believe that can happen, as long as a House-Senate conference committee keeps the bill limited to the subject of product liability, and rejects the draconian, anticonsumer provisions included in legislation which passed the House of Representatives. The votes in the Senate during the past 2 weeks should send a strong signal to the House that the U.S. Senate does not intend to restrict the ability of ordinary citizens to access the courts, under the guise of civil justice reform.

If our colleagues in the House of Representatives truly want a product liability reform bill, I have no doubt that we can obtain one. Our votes in the Senate spell out very clearly what will and will not be acceptable to this body, and I urge my House colleagues to consider those votes very carefully. For despite my desire to enact a product liability reform bill, nothing has changed about my underlying commitment to equal justice under law. I remain just as opposed to loser-pays provisions, caps on noneconomic damages, or changes that would restrict the right of individuals to bring suit for civil rights violations, employment discrimination, and sexual harassment, among other issues, as I have been in the past, and I will be compelled to oppose any legislation that returns from a conference including these provisions.

Madam President, in closing, I would like to commend Senators ROCKEFELLER and GORTON for all of their hard work to enact a product liability reform bill, not only this year, but in past Congresses as well. They are to be commended for championing an issue that needs to be addressed, and for doing so in a way that is balanced and fair. During the past 3 weeks, they have demonstrated a willingness to listen and resolve the concerns raised by myself and other Senators, and have taken steps to improve this legislation. I commend them for their leadership, and I am pleased to vote with them today.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the pending substitute amendment to H.R. 956, the Product Liability bill.

Slade Gorton, Dan Coats, Richard G. Lugar, John Ashcroft, Rod Grams, Kay Bailey Hutchison, Judd Gregg, Strom Thurmond, Trent Lott, Rick Santorum, Larry E. Craig, Bob Smith, Don Nickles, R.F. Bennett, John McCain, Connie Mack.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Coverdell-Dole amendment, No. 690, to H.R. 956, the product liability bill, shall be brought to a close?

The yeas and nays are required.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 60, nays 38, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—60

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats

Cochran
Coverdell
Craig
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Nickles
Nunn
Pell
Pressler
Pryor
Robb
Rockefeller
Santorum
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond

NAYS—38

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Feingold
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Murray
Packwood
Reid
Roth
Sarbanes
Shelby
Simon
Simpson
Specter
Wellstone

NOT VOTING—2

Warner
Moynihan

The PRESIDING OFFICER (Mr. INHOFE). Are there any Senators who wish to change their vote? If there are no other Senators desiring to vote, on this vote, the yeas are 60, the nays are 38. Three-fifths of the Senators duly chosen and sworn, having voted in the affirmative, the motion is agreed to.

REGARDING THE VISIT BY PRESIDENT LEE TENG-HUI OF THE REPUBLIC OF CHINA ON TAIWAN TO THE UNITED STATES

Mr. MURKOWSKI. I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 103, House Concurrent Resolution 53, relative to the visit by the President of China on Taiwan, and that no amendments be in order to the resolution or the preamble.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 53) expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States.

The Senate proceeded to consider the resolution.

Mr. MURKOWSKI. I thank the Chair. Mr. President, I rise to speak in favor of House Concurrent Resolution 53, which is a concurrent resolution expressing the sense of the Congress that the President of the Republic of China on Taiwan, Lee Teng-hui, be allowed to visit the United States. House Concurrent Resolution 53 is almost identical to my concurrent resolution, Senate Concurrent Resolution 9, which has 52 bipartisan cosponsors, including both the majority and minority leaders, for which I am most grateful. I ask unanimous consent the names of the cosponsors of Senate Concurrent Resolution 9 be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COSPONSORS OF SENATE CONCURRENT RESOLUTION 9

Abraham (R–MI)
Akaka (D–HI)
Ashcroft (R–MO)
Bond (R–MO)
Brown (R–CO)
Burns (R–MT)
Campbell (R–CO)
Chafee (R–RI)
Coats (R–IN)
Cochran (R–MS)
Cohen (R–ME)
Conrad (D–ND)
Coverdell (R–GA)
Craig (R–ID)
D'Amato (R–NY)
Daschle (D–SD)
DeWine (R–OH)
Dole (R–KS)
Dorgan (D–ND)
Faircloth (R–NC)
Feingold (D–WI)
Gorton (R–WA)
Grams (R–MN)
Grassley (R–IA)
Gregg (R–NH)
Hatch (R–UT)
Hatfield (R–OR)
Helms (R–NC)
Hutchison (R–TX)
Inouye (D–HI)
Jeffords (R–VT)
Kassebaum (R–KS)
Kempthorne (R–ID)
Kyl (R–AZ)
Lieberman (D–CT)
Lugar (R–IN)
Mack (R–FL)
McCain (R–AZ)
McConnell (R–KY)
Nickles (R–OK)
Pell (R–RI)
Robb (D–VA)
Rockefeller (D–WV)
Roth, William (R–DE)
Simon (D–IL)
Simpson (R–WY)
Smith (R–NH)
Snowe (R–ME)
Specter (R–PA)
Thomas (R–WY)
Thompson (R–TN)
Thurmond (R–SC)
Warner (R–VA)

Mr. MURKOWSKI. Mr. President, Senate Concurrent Resolution 9 was unanimously reported out of the Senate Foreign Relations Committee in March of this year. That resolution specifically calls on President Clinton to allow President Lee Teng-hui to come to the United States on a private visit, and I wish to emphasize private. House Concurrent Resolution 53 was submitted in the House by Congressmen LANTOS, SOLOMON, and TORRICELLI, and adopted by the House by a rollcall vote of 396 to zero last week.

Mr. President, the question is, Should we let the People's Republic of China dictate who can visit the United States? The current State Department policy of claiming that allowing President Lee to visit would upset relations with the People's Republic of China officials personally is offensive to this Senator.

Taiwan is a friend. They have made great strides toward American goals—ending martial law, holding free and fair elections, allowing a vocal press, and steadily improving human rights.

Taiwan is friendly, democratic, and prosperous. Taiwan is the 6th largest trading partner of the United States, and the world's 13th largest. The Taiwanese buy twice as much from the United States as from the People's Republic of China. Taiwan has the largest foreign reserves and contributes substantially to international causes.

Unfortunately, the United States continues to give the cold shoulder to the leader of Taiwan. You will recall last May, we were embarrassed when the State Department refused an overnight visit for President Lee, who was in transit from Taiwan to Central America. His aircraft had to stop for refueling in Hawaii and he would have preferred to stay overnight before continuing on. Unfortunately, the State Department continues to indicate that the administration will not look favorably on a request for a private visit.

Mr. President, Taiwan and the People's Republic of China are making significant progress in relations between the two of them. I call my colleagues' attention to the existence of an organization known as the Association for Relations Across the Taiwan Straits. That organization operates in Beijing. The counter to that is the Mainland Affairs Council in Taiwan. These two groups get together regularly. They talk about everything conceivable except the political differences between the two countries. That conversation includes such things as hijacking; it also includes such things as eliminating the necessity of goods from Taiwan having to go through Hong Kong before they can come into the People's Republic of China. They are addressing now the direct shipment of goods from Taiwan to the mainland of China.

So here we have evidence that there is this dialog based on trade and commerce, but still the United States is afraid to take steps to encourage our trade and commerce with Taiwan because of the objections from the People's Republic of China.

Now, we know that the People's Republic of China will object to a visit by President Lee because the People's Republic of China complains loudly about many United States initiatives such as United States pressure at the United Nations with regard to China's human rights practices, criteria for China's World Trade Organization membership, and anything we do to help Taiwan. But in the end, the People's Republic of

China Government makes a calculation about when to risk its access to the United States and our market. And I think we should make the same calculation.

The precedent does exist, my colleagues, for a visit by President Lee. The administration has welcomed other unofficial leaders to the United States—the Dalai Lama called on Vice President GORE, over the People's Republic of China's objections, I might add. Yasser Arafat came to a White House ceremony. Gerry Adams has been granted numerous visits over Britain's objections.

In these cases, the administration I think has made the correct choice to allow visits to advance American goals, and President Lee's visit would do the same thing. The USA-ROC Economic Council Conference is going to be held in Anchorage, AK, in September. Visiting Alaska would not be a political statement, by any means. We consider ourselves, as my Alaskan colleague Senator STEVENS often remarks, almost another country. President Lee's alma mater, Cornell University in New York, would like him to visit in June to give a speech. It is completely a private matter. It is not a matter of a state visit.

I have heard suggestions that the Special Olympics, which will be held in Connecticut, might extend an invitation to President Lee, as well.

So I would call on my colleagues to vote to send a strong signal to the administration that President Lee should be allowed to make a private—and I emphasize "private"—visit. I call on the administration to change the policy because it is simply the right thing to do and it is the right time to do it.

If the administration does not change the policy based on this resolution, I think they are going to face binding legislation that would force the President to allow the visit. The administration should act before facing such a situation.

Mr. President, it is my intention to ask for the yeas and nays on this resolution.

I also ask unanimous consent that editorials from cities around the country supporting the Lee visit be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Apr. 17, 1995]

A SNUB FOR TAIWAN'S DEMOCRATS

Taiwan's president, an alumnus of Cornell, wants to address his alma mater this June. But a visit to the United States by Lee Teng-hui is something that will not happen, says the assistant secretary of state for East Asian affairs.

This pusillanimous attitude ought to change, both for reasons of courtesy and as a sign the United States applauds Lee's work in moving Taiwan toward full democracy. The United States has a vital interest in the sustenance of democratic governments in Asia.

At issue is the two-China question, one that has vexed US policy makers since Mao Zedong's Communists took over all of China except the island of Taiwan in 1949. For a generation, The United States erred in ignoring the Communist reality; it should not now denigrate the success of Taiwan.

While the mainland was enduring the excesses of the Cultural Revolution, the people of Taiwan were laying the groundwork for an economic boom. As Beijing cracked down on dissidents, the Nationalists on Taiwan were opening up their regime. Last December an opposition leader was elected mayor of Taipei, the capital.

While acknowledging these achievements, Assistant Secretary of State Winston Lord said last year that the United States should do nothing that Beijing would perceive as lending "officiality" to US relations with Taiwan. This fear of offending Beijing explains why Lee was denied permission to visit Cornell last June and why Lord implied he should not bother to apply for a visa this year.

When thousands of Taiwanese regularly come to the United States, it is inconsistent to prohibit a private visit by Lee. Moreover, it compounds the insulting treatment he received last year when he was denied permission to spend the night in Honolulu while en route to Latin America. As an alumnus of an American university, he has ties to the United States that transcend politics.

Cornell wants Lee to give a speech at reunion weekend, Lord says Taiwan "has shown that political openness must accompany political reform and that Asians value freedom as much as other people around the globe." That message ought to be heard by university alumni and a billion Chinese.

[From the Providence Sunday Journal, Mar. 19, 1995]

DISHONORABLE DIPLOMACY

Lee Teng-hui came to the United States as a foreign student and earned his Ph.D. in 1968 from Cornell University, one of the nation's premier institutions. His thesis was cited as the year's best dissertation by the American Association of Agricultural Economics. After returning home, he had an eventful career, topped off in 1990 by being elected president of his native land, one of America's oldest and most loyal Asian allies.

To honor Mr. Lee, Cornell officials have invited him to participate in a three-day alumni reunion at the campus in Ithaca, N.Y., in June, when he is scheduled to deliver the school's prestigious Olin Lecture.

A heartwarming story. But there's one big problem: President Clinton may bar Mr. Lee from visiting Cornell.

Why? Because Mr. Lee is the president of Taiwan, and the Clinton administration fears that the Communist regime of the Chinese mainland will be offended if he is allowed to come to America. It's as simple—and as outrageous—as that.

Now, we can understand why officials in Beijing wouldn't want Mr. Lee to visit this country and receive the honors. They hate and fear him and what he stands for because his regime has put the Communists and all their works to shame. He heads a rival Chinese government that, by following largely market-oriented policies, has spearheaded the relatively small (population: 20 million) island of Taiwan's rise as a major player on the world's economic scene. Meanwhile, the Communists—by following the bizarre schemes of the "Great Helmsman," the late Mao Tse-tung—crippled mainland China's economic development (until, in recent years, they finally started to move away from Marxist follies).

Furthermore, the regime on Taiwan is rapidly democratizing itself, allowing the presence of an active opposition party, which has won a strong minority of seats in the legislature. In this regard, it ought to be emphasized that Mr. Lee is the freely elected president of Taiwan. Whereas the Communists now ruling in Beijing—while admittedly not as bad as the mass murderer, Mao Tse-tung—cling to their dictatorial power: no opposition parties, no freedom of speech or press, no free elections. And, of course, no freely elected presidents.

Which gets us back to Mr. Lee. President Clinton, a Rhodes Scholar, is a clever fellow. And he has available to him some very high-priced legal talent, as well as numerous figures—in and out of the State Department—with considerable experience and skill in the diplomatic arts. President Clinton should be able to figure out an adroit way to allow Mr. Lee to make what is essentially a private visit to Cornell and receive his well-deserved honors.

If the Communists in Beijing want to fuss and fume, let them. They may no longer be our enemies, but they are most assuredly not yet our friends. Mr. Lee, on the other hand, represents a brave people who have been our friends and allies for more than four decades. If Mr. Clinton bars Mr. Lee from coming here, he would dishonor not only himself, which would be his business, but the entire United States as well, and the American people should not stand for that.

[From the Washington Times, Apr. 9, 1995]

UNWELCOME MAT FOR OUR FRIENDS

(By Arnold Beichman)

There is every possibility that President Lee Teng-hui of Taiwan may one day be allowed to enter the United States just like Yasser Arafat and Gerry Adams, onetime terrorists, and other statesmen as distinguished as the head of the Palestine Liberation Organization or the leader of Sinn Fein who have been allowed to do so.

The possibility of a visit by the elected president of Asia's island democracy has arisen because the House of Representatives International Relations Committee has urged President Clinton to allow Mr. Lee to enter the United States. Mr. Lee has been invited to attend graduation exercises at his alma mater, Cornell University.

The House panel didn't ask President Clinton personally to receive President Lee. How could it? After all, the appointments schedule of the president of the United States is controlled by the Politburo of the Chinese Communist Party, which decides what Chinese the president may or may not receive. So all the House panel asked Mr. Clinton to do is to allow President Lee to visit—that's it, nothing more—just visit the United States. If Mr. Clinton turns down that request will that mean the Chinese Politburo controls our Immigration and Naturalization Service, too? Perhaps Mr. Clinton could ask the Chinese Politburo to do something about illegal immigration.

It isn't the first time that the appointments schedule of the president of the United States was under the control of a foreign communist power. In 1975, President Ford declined to receive Alexander Solzhenitsyn since such an act of hospitality and respect for human rights would have offended the Soviet Politburo. Or so Secretary of State Kissinger believed. After his election defeat in 1976, Mr. Ford confessed that he had erred in barring the great Russian dissident from the White House.

The power of the Chinese Communist Politburo extends not only to which Chinese can visit the United States but it also determines who can overnight on our soil. Last year, Mr. Lee was barred from overnighting in Honolulu lest such a simple act enrage the Beijing gerontocrats. However, it's quite all right to enrage the British government and Prime Minister John Major in receiving Gerry Adams and allowing him to engage in dubious fund raising.

What presidents and their advisers do not understand is that the reaction of totalitarians to American policy depends less on a given American action than it does on the party's long-range view. It didn't matter to Josef Stalin that Adolf Hitler inveighed against the Soviet Union or communism. When it suited Stalin's needs, he signed a Nazi-Soviet pact in August 1939. And when it suited Hitler, he attacked the U.S.S.R. despite the Nazi-Soviet Pact. President Nixon ordered the bombing of North Vietnam while he was in Moscow. The Soviet Politburo didn't order Mr. Nixon out of the Soviet Union to show its displeasure. Moscow negotiated with the United States despite the bombing of its military ally, North Vietnam.

Whenever it suits Beijing to violate its agreements with the United States, it will. Whenever it suits Beijing to lose its temper with Mr. Clinton, it will—regardless of protestations of past friendship.

For the United States to continue to treat Taiwan as an outcast nation as it has for a quarter-century because of the Communist Politburo is a sign of weakness that will not be lost on Deng Xiao-ping's successors. After all, Taiwan's democratic credentials are of the highest. Its market economy has propelled Taiwan—remember this is a country with a population of but 21 million—into the 13th largest trading nation in the world. Taiwan enjoys a rule of law. It recognizes property rights. There is a legal opposition and a free press.

If we continue to treat a friendly people, a friendly government and its chosen representatives as nonpersons at a time when we would like to see a world of democracies and when to further that course we have even sent troops overseas, as we did to Haiti, isn't it time—at the very least!—to tell the Beijing totalitarians that the president of Taiwan can overnight on American soil anytime he wants to? And, perhaps, even stay for two nights?

[From the Washington Post, Mar. 31, 1995]

KOWTOW—THE STATE DEPARTMENT'S BOW TO BEIJING

(By Lorna Hahn)

Lee Teng-hui, president of the Republic of China on Taiwan, wishes to accept an honorary degree from Cornell University, where he earned his PhD in agronomy.

Last year, when Cornell made the same offer, Lee was refused entry into the United States because Beijing belligerently reminded the State Department that granting a visa to a Taiwanese leader would violate the principle of "One China" (Cornell subsequently sent an emissary to Taipei for a substitute ceremony.) This year, on Feb. 9, Assistant Secretary of State Winston Lord told a congressional hearing that our government "will not reverse the policies of six administrations of both parties."

It is high time it did. The old policy was adopted at a time when China and Taiwan were enemies, Taiwan's government claimed to represent all of China, and Beijing's leaders would never dream of meeting cordially with their counterparts from Taipei. Today, things are very different.

Upon assuming office in 1988, Lee dropped all pretense of ever reconquering the mainland and granted that the Communists do indeed control it. Since then, he has eased tensions and promoted cooperation with the People's Republic of China through the Lee Doctrine, the pragmatic, flexible approach through which he (1) acts independently without declaring independence, which would provoke Chinese wrath and perhaps an invasion; (2) openly recognizes the PRC government and its achievements and asks that it reciprocate, and (3) seeks to expand Taiwan's role in the world while assuring Beijing that he is doing so as a fellow Chinese who has their interests at heart as well.

Lee claims to share Beijing's dream of eventual reunification—provided it is within a democratic, free-market system. Meanwhile, he wants the PRC—and the world—to accept the obvious fact that China has since 1949 been a divided country, like Korea, and that Beijing has never governed or represented Taiwan's people. Both governments, he believes, should be represented abroad while forging ties that could lead to unity.

To this end he has fostered massive investments in the mainland, promoted extensive and frequent business, cultural, educational and other exchanges, and offered to meet personally with PRC President Jiang Zemin to discuss further cooperation. His policies are so well appreciated in Beijing—which fears the growing strength of Taiwan's pro-independence movement—that Jiang recently delivered a highly conciliatory speech to the Taiwanese people in which he suggested that their leaders exchange visits.

If China's leaders are willing to welcome Taiwan's president to Beijing, why did their foreign ministry on March 9, once again warn that "we are opposed to Lee Teng-hui visiting the United States in any form"? Because Beijing considers the "Taiwan question" to be an "internal affair" in which, it claims, the United States would be meddling if it granted Lee a visa.

But Lee does not wish to come here in order to discuss the "Taiwan question" or other political matters, and he does not seek to meet with any American officials. He simply wishes to accept an honor from a private American institution, and perhaps discuss with fellow Cornell alumni the factors that have contributed to Taiwan's—and China's—outstanding economic success.

President Clinton has yet to make the final decision regarding Lee's visit. As Rep. Sam Gejdenson (D-Conn.) recently stated: "It seems to me illogical not to allow President Lee on a private basis to go back to his alma mater." As his colleague Rep. Gary Ackerman (D-N.Y.) added: "It is embarrassing for many of us to think that, after encouraging the people and government on Taiwan to democratize, which they have, [we forbid President Lee] to return to the United States * * * to receive an honorary degree."

[From the Wall Street Journal, Mar. 15, 1995]

TWO VISITORS

Gerry Adams can tour the United States, but Lee Teng-hui can't. Gerry Adams will be feted and celebrated Friday at the White House, but when Lee Teng-hui's plane landed in Honolulu last year, the U.S. government told him to gas up and get out. The Gerry Adams who is being treated like a head of state by the Clinton Administration is the leader of Sinn Fein, the political arm of the Irish Republican Army. The Lee Teng-hui who has been treated like an international pariah by the Administration is the democratically elected President of the Republic of China, or Taiwan. The disparate treatment of these two men tells an awful lot about the politics and instincts of the Clinton presidency.

Gerry Adams face will be all over the news for his Saint Paddy's Day party with Bill O'Clinton at the White House, so we'll start with the background on the less-publicized President of Taiwan.

Cornell University has invited President Lee to come to the school's Ithaca, N.Y., campus this June to address and attend an alumni reunion. In 1968, Mr. Lee received his doctorate in agricultural economics from Cornell. The following year, the American Association of Agricultural Economics gave Mr. Lee's doctoral dissertation, on the sources of Taiwan's growth, its highest honor. In 1990, Taiwan's voters freely elected Mr. Lee as their President. He has moved forcefully to liberalize Taiwan's political system, arresting corrupt members of his own party. Last year, the Asian Wall Street Journal editorialized: "Out of nothing, Taiwan's people have created an economic superpower relative to its population, as well as Asia's most rambunctious democracy and a model for neighbors who are bent on shedding authoritarian ways."

Asked last month about President Lee's visit to Ithaca, Secretary of State Christopher, who professes to wanting closer links with Taiwan, said that "under the present circumstances" he couldn't see it happening. The Administration doesn't want to rile its relationship with Beijing. The Communist Chinese don't recognize Taiwan and threaten all manner of retaliation against anyone who even thinks about doing so. That includes a speech to agricultural economists in upstate New York. This, Secretary Christopher testified, is a "difficult issue."

Sinn Fein's Gerry Adams, meanwhile, gets the red carpet treatment at 1600 Pennsylvania Avenue. Mr. Adams assures his American audiences that the IRA is out of the business of blowing body parts across the streets of London. He promises the doubters that if people give him money, it won't be used to buy more guns, bullets and bombs for the high-strung lads of the IRA.

Now before the Irish American communities of Queens and Boston get too roiled over our skepticism toward Northern Ireland's most famous altar boy, we suggest they take their grievances to John Bruton, who is Irish enough to be the Prime Minister of Ireland. He, too, will be at Bill Clinton's St. Patrick's Day party for Gerry Adams, and he has a message for the two statesmen: The IRA has to give up its arms. "This is an item on the agenda that must be dealt with," Premier Bruton said Monday in Dublin. "It's a very serious matter. There are genuine fears felt by members of the community that have been at the receiving end of the violence."

We don't at all doubt that somewhere amid the Friday merriment, Mr. Clinton will ask Mr. Adams to give up the guns and that Mr. Adams will tell the President that is surely the IRA's intent, all other matters being equal.

It is hard to know precisely what motivates Mr. Clinton to lionize a Gerry Adams and snub a Lee Teng-hui. The deference to China doesn't fully wash, because when Britain—our former ally in several huge wars this century—expressed its displeasure over the Adams meeting, the White House essentially told the Brits to lump it. Perhaps the end of the Cold War has liberated liberal heads of state into a state of lightheadedness about such matters. We note also this week that France's President Francois Mitterrand has been entertaining Fidel Castro at the Elysees Palace.

But it's still said that Bill Clinton has a great sense of self-preservation. So if he's willing to personally embrace Gerry Adams while stiffing the Prime Minister of England and forbidding the President of Taiwan to spend three days with his classmates in Ithaca, there must be something in it somewhere for him.

[From the Memphis Commercial Appeal, Apr. 22, 1995]

LET LEE VISIT

Eleven months after Communist China's old tyrants loosed the tanks on pro-democracy students in Tiananmen Square, Taiwan's new president, Lee Teng-Hui, released several political prisoners—the first step in his rapid march to democratizing "the other China." Now guess who—the despots or the democrat—is being banned from setting foot in the Land of the Free.

Secretary of State Warren Christopher drones that to grant Lee a visa to address his alma mater, Cornell University, in June would be "inconsistent with the unofficial character of our relationship" with Taiwan.

That relationship dates from 1979, when Jimmy Carter severed diplomatic ties with Taiwan to stroke Beijing, which views the island nation as a rebellious province. Presumably, the red carpet remains out for the massacre artists whose sensibilities Christopher cossets.

Not everyone in Washington abides this outrage against a country making strides toward real political pluralism and free-market economics. The House Committee on International Relations, burying partisanship, recently voted 33-0 in moral support of Lee's visit. (The Senate Foreign Relations Committee backed a similar resolution in March.)

With more bite, Rep. Robert Torricelli (D-N.J.) has introduced legislation that would compel the State Department to issue visas to democratically elected Taiwanese leaders. Meanwhile, Cornell president Frank Rhodes says Lee's return to campus "would offer an extraordinary educational opportunity."

The administration's posture—stubborn pusillanimity—is odd. Lee's visit clearly would not be a state-to-state affair. If Communist China's leaders sulked anyway, so what? How would they retaliate? Give their tank commanders directions to California? Refuse to sell us the $31.5 billion in goods they exported to the United States in 1994?

Congress should reaffirm America's welcome to democracy's friends by quickly passing the Torricelli bill; as for the administration, its Christopher is obviously no patron saint to all travelers.

[From the Durham Herald-Sun, Apr. 20, 1995]

TAIWAN PRESIDENT: SORRY, YOU CAN'T TALK HERE

For a country that beats its chest about freedom of speech, we're setting a very hypocritical example in the case of Lee Teng-Hui, the president of Taiwan. He wants to come back to Cornell University, his alma mater, to give a speech.

No way, says the Clinton administration, which argues that mainland China is the one and only China. Presumably that leaves Taiwan, at least in Washington's eyes, as pretty much what Beijing says it is: a rebellious province.

Rebellious or not, at least Taiwan is moving toward a more open and democratic society than the mainland. Yet Lee is being denied a visa for his Cornell visit because, in the words of Secretary of State Warren Christopher, it would be "inconsistent with the unofficial character" of this country's relationship with Taiwan. The United States recognized Taiwan as the legitimate government of China until 1979, when then President Jimmy Carter decided that ties with the mainland regime were more vital to the interests of the United States.

In the long shadow of history, Carter's decision is likely to win favor as the correct one. But that doesn't mean we ought to slam the door on the elected leader of Taiwan just because the gerontocracy in Beijing might get a case of political heartburn. These fellows are, after all, the very officials who turned the Chinese army loose in Tiananmen Square.

In any case, Lee's visit to Cornell would not be a pomp-and-circumstance state visit, but rather a low-visibility affair. The House Committee on International Relations knew that when it voted 33-0 on a resolution backing Lee's visit. The Senate Foreign Relations Committee also adopted a resolution in favor of Lee. In addition, Frank Rhodes, the president of Cornell, has spoken up for Lee.

Rep. Robert Torricelli, a New Jersey Democrat, is so incensed by the administration's deliberate snub of Lee that he has introduced a bill in the House that would mandate the State Department to issue a visa to Lee or any other freely elected official from Taiwan.

Good. If the State Department won't let Lee into the motherland of the First Amendment, then Congress ought to see to it that he gets a visa. As for the State Department, it could use some sensitivity training in good manners.

[From the Washington Times, May 2, 1995]

A MATTER OF HONORS DUE A STAUNCH FRIEND

(By James Hackett)

After two years of insulting America's friends and allies while accommodating America's enemies, the Clinton Administration finally has hit bottom. The matter involves Lee Teng-hui, president of the Republic of China on Taiwan, who has been invited by Cornell University to receive an honored alumnus award at ceremonies at Ithaca, N.Y., in early June. Mr. Lee received his Ph.D. at Cornell and wants to accept the honor bestowed by his alma mater.

President Lee is a native of Taiwan and the first popularly elected president of a country that long has been a close friend and ally of the United States. But incredibly, the State Department will not allow Mr. Lee to visit the United States, even for such an unofficial purpose, lest it annoy the communist rulers on the mainland.

The State Department's China hands, with the approval of the Clinton White House, are trying hard to accommodate the wishes of the government in Beijing. Last year, Mr. Lee and his minister for economic affairs were denied permission to attend an Asian economic summit in Seattle, despite Taiwan's status as an Asian economic powerhouse that buys more than twice as much from the United States as mainland China.

The worst insult to Taiwan, however, was a disgraceful episode last May when Mr. Lee was denied permission to stay overnight in Honolulu after his plane stopped there to refuel. The State Department is following a policy of no overnight stays on U.S. soil for senior Taiwan officials, treatment more appropriate for criminals than for friends and allies.

In contrast, the administration is eager to please the regime in Beijing, a government that continues to test nuclear weapons while developing a whole new series of ballistic missiles, including some that can carry nuclear weapons anywhere in Asia and even across the Pacific. China also is buying frontline Russian SU-27 combat aircraft, Russian Kilo-class submarines, and other equipment under a major military modernization program. This Chinese development of power projection capabilities is a direct threat to Taiwan and the other democracies of Asia.

China's military buildup is being achieved even as the communist regime continues to suppress human rights, commits systematic genocide in Tibet, confronts its neighbors with claims on oil deposits and islands in the South China Sea, and threatens to invade Taiwan if that democracy declares its independence. Yet the Clinton administration wants close relations with the Chinese military and is eager to sell China high-speed computers and other advanced technologies that have significant military applications. Last October, Mr. Clinton sent Defense Secretary William Perry to Beijing to cement relations with the Chinese army, and Mr. Perry wound up toasting the commanders who crushed the democracy uprising.

Policy toward Taiwan, however, continues to be shaped by the Shanghai Communique that was signed before the Tiananmen Square uprising, which requires the United States gradually to decrease the quality and quantity of military equipment sold to Taiwan. Consequently, even the F-16A/B aircraft that President Bush approved for sale to Taiwan just before the 1992 election are the oldest models of that fighter, inferior even to the model being sold to Saudi Arabia.

As China builds up its offensive military force, the United States must help Taiwan defend itself. Congress should disavow the ill-considered Shanghai Communique and press Mr. Clinton to sell first-line military equipment, including the best available air, sea, and missile defenses, to our friends on Taiwan.

Members of Congress of both parties are increasingly unhappy with Mr. Clinton's China policy and irate at the treatment of Taiwan's President Lee. The House International Relations Committee approved by a vote of 33-0 a resolution calling on Mr. Clinton to welcome President Lee to visit Cornell University, and to allow him to attend a planned meeting of the U.S.-Taiwan Economic Council in Anchorage, Alaska. But the administration has ignored this unanimous bipartisan congressional resolution.

If President Lee is denied permission to receive his honors at Cornell, the Clinton administration's lack of principle will have dragged this country to a new low. The House is expected to bring this issue to a floor vote today to demand prompt approval of a visa for Mr. Lee and the restoration of common decency to our relations with Taiwan. The Senate should quickly follow suit.

[From the Rocky Mountain News, Apr. 19, 1995]

ODD WAY TO REWARD A FRIEND

Eleven months after Communist China's old tyrants loosed the tanks on pro-democracy students in Tiananmen Square, Taiwan's new president, Lee Teng-Hui, released several political prisoners—the first step in his rapid march to democratizing "the other China." Now guess who—the despots or the democrat—is being banned from setting foot in the Land of the Free. Secretary of State

Warren Christopher drones that to grant Lee a visa to address his alma mater, Cornell University, in June would be "inconsistent with the unofficial character of our relationship" with Taiwan. That relationship dates from 1979 when Jimmy Carter severed diplomatic ties with Taiwan to stroke Beijing, which views the island-nation as a rebellious province. Presumably, the red carpet remains out for the architects of the Tiananmen massacre whose sensibilities Christopher cossets.

Not everyone is Washington abides this outrage against a country making strides toward real political pluralism and free-market economics. The House Committee on International Relations, burying partisanship, recently voted 33–0 in moral support of President Lee's visit. (The Senate Foreign Relations Committee backed a similar resolution in March.) With more bite, Rep. Robert Torricelli, D–N.J., has introduced legislation that would compel the State Department to issue visas to democratically elected Taiwanese leaders. Meanwhile, Cornell president Frank Rhodes says Lee's return to campus "would offer an extraordinary educational opportunity."

The administration's posture—stubborn pusillanimity—is odd. Lee's visit clearly would not be a state-to-state affair. If Communist China's leaders sulked anyway, so what? How would they retaliate? Give their tank commanders directions to California? Refuse to sell us the $31.5 billion in goods they exported to the United States in 1994?

Congress should reaffirm America's welcome to democracy's friends by quickly passing the Torricelli bill; as for the administration, its Christopher is obviously no patron saint to all travelers.

[From the Seattle Times, Feb. 11, 1995]

THE WRONG CHINA POLICY

President Lee Teng-hui of Taiwan has again been denied entry into this country and it's time once again to ask the simple question: Why?

Lee is the democratically elected leader of the 22 million Chinese on Taiwan who form an economy that is one of America's most vigorous trading partners. He has a Ph.D. from Cornell University in upstate New York, something one would wish more foreign leaders possessed.

Cornell wants to offer this distinguished graduate an honorary degree. The Clinton administration, following the policy of previous administrations, says Lee can't come back to this country. The reason is that the mainland Chinese would be offended.

That policy is inexplicable. Essentially, the U.S. is allowing mainland China to dictate the terms of our relations with one of our best trading partners. Lee's policies and economy is far more admirable than the mainland's, but we keep him at arm's length. At the minimum, Lee should be allowed to visit his alma mater. An official visit to Washington, D.C. is not a bad idea, either.

[From the Richmond Times-Dispatch, Sept. 26, 1994]

TALE OF TWO NATIONS

The Clinton administration is committing hundreds of millions of dollars, and potentially the lives of many American military personnel, to the "restoration" of democracy in Haiti. If that third-rate nation's brutal politicians and policemen suspend their practice of murdering their critics and oppressing the populace, the United States may reward the country with generous economic aid for years to come. And, of course, its diplomats will continue to receive invitations to White House soirees.

Meanwhile, how does the Clinton administration reward an old American ally that is democratizing by choice, that has established a commendable record on human rights, that has embraced the free enterprise system, and that does enough business with the United States to support more than 300,000 American jobs? By throwing it a few crumbs and telling it to keep its officials away from the White House and the State Department.

That about explains the Clinton administration's new and supposedly improved policy on the Republic of China on Taiwan. The President has condescendingly allowed Taiwan to rename its unofficial mission here from "The Coordination Council for North American Affairs" to "The Taipei Economic and Cultural Representative's Office in the United States," which more clearly described the mission's function.

He also has removed the ban on direct contacts between American economic and technical officials of non-Cabinet rank and Taiwanese government officials in Taipei, but Taiwanese officials stationed in the United States will not be permitted to visit the State Department. And the President may support Taiwan's membership in certain international organizations, such as those concerned with trade, when he can do so without implying diplomatic recognition of that country.

In other words, Taiwan is to remain a diplomatic pariah whose president is not even permitted to land on American soil long enough to play a round of golf.

Taiwan deserves better treatment. It is the United States' sixth-largest trading partner. It stood shoulder to shoulder with the United States during the darkest and most dangerous phases of the Cold War. It has used the United States as a model in building its economic and political structures. Voluntarily and enthusiastically, it is developing exactly the kind of democracy that the United States advocates.

The United States withdrew diplomatic recognition from Taiwan during the Carter administration, and denies it still, in an effort to cultivate the friendship of mainland Communist China, which asserts sovereignty over Taiwan and vows to reclaim that island someday. Taiwan is also committed to eventual reunification. The two countries have developed important commercial ties in recent years, but they are far from agreement on the terms for merging politically into a new united China.

Strong arguments based on both principle and political reality can be made against the United States' eagerness to appease Communist China at the expense of an old American friend. Tomorrow Senator Robb will convene a hearing of his Subcommittee on East Asian and Pacific Affairs to review the administration's China policies. The exchange promises to be vigorous.

Democratic Senator Paul Simon of Illinois considers it wrong as a matter of principle for the United States to disdain a country that has "a multi-party system, free elections, and a free press—the things we profess to champion—while we continue to cuddle up to the mainland government whose dictatorship permits none of those." Heritage Foundation China analyst Brett Lippencott suggests that by developing closer ties to Taiwan the United States could promote the reunification of China. The reason, essentially, is that the failure to enhance Taiwan's "international status could weaken those in Taiwan who favor eventual reunification . . . and strengthen those who seek an independent Taiwan."

Obviously, the actual existence of two Chinas creates a difficult and delicate problem for the United States. But in dealing with it, our leaders should occasionally do what is right instead of always doing what they think will please the tyrannical rulers of the world's last remaining major Communist stronghold.

[From the Dallas Morning News, Sept. 27, 1994]

TAIWAN—SENATE SHOULD URGE GREATER WHITE HOUSE SUPPORT

For the second consecutive year, Taiwan's bid for membership in the United Nations has been thwarted. But however many "no" votes may have been cast against Taiwan at the U.N., the island democracy off the coast of mainland China deserves far better treatment from the Clinton administration.

Last week's anti-Taiwan vote by the 28-member General Assembly steering committee was hardly surprising. Because Communist China considers Taiwan to be a "renegade province," China has waged an ongoing and heavy-handed campaign against Taiwan since 1949.

As relations have warmed between the United States and China, U.S.-Taiwan relations have suffered. U.S. policy continues to be based on the traditional formula that says, "There is only one China, and Taiwan is a part of China." To be sure, President Clinton attempted to boost economic and commercial ties with Taiwan earlier this month by calling for more high-level visits. He is putting special emphasis on those relating to technical and economic issues. But that's insufficient.

Today may be another milestone in the evolution of U.S.-Taiwan relations. The Clinton administration's new Taiwan policy is scheduled to be examined by the East Asian and Pacific affairs subcommittee of the Senate Foreign Relations Committee. As Sen. Paul Simon of Illinois has pointed out, the first thing the Senate should note is that Taiwan features a multi-party system, free elections and a free press. He's right.

Earlier this year, President Clinton said in his State of the Union message that "the best strategy to ensure our security and to build a durable peace is to support the advance of democracy elsewhere." The East Asian and Pacific affairs subcommittee chairman, Charles Robb of Virginia, should recite those words in his hearing room today.

Taiwan is the perfect place for the Clinton administration to translate words into action. The way to do that is by giving Taiwan greater recognition for its democratic advances.

[From the Boston Herald, Mar. 18, 1995]

LET TAIWAN PRESIDENT VISIT

President Clinton's China policy (essentially, give Beijing whatever it wants) is about to be challenged over his snubbing of Taiwan.

Cornell University has invited one of its graduates to address an alumni reunion in June. He is Lee Teng-hui, who received a doctorate in agricultural economics from Cornell in 1968. He is president of the Republic of China on Taiwan.

Since 1979, Washington has taken the position that the Communist government in Beijing, one of the most repressive on earth, is the exclusive representative of the Chinese people. Taiwan is a democracy and one of our largest trading partners.

To placate the People's Republic, the president of Taiwan isn't allowed to visit the United States, even in an unofficial capacity. Last May, when Lee stopped in Honolulu en route to Costa Rica, the State Department generously offered to permit him to enter the airport, provided he remain in quarantine. Lee chose to stay on his plane.

Why the administration must allow Beijing to jerk its strings is a mystery. The regime is not the least cooperative on human rights or trade.

Congressional Republicans are threatening to revolt. Sen. Frank Murkowski (R–Alaska) has 35 co-sponsors on a resolution calling on the administration to allow Lee to visit Cornell. If the resolution is ignored, Murkowski is threatening to reopen the issue of U.S. relations with Taiwan.

This is a fight the president doesn't need. Beijing may bluster but ultimately will do nothing. The world won't come to an end if one of Cornell's more distinguished alumni visits his alma mater.

[From the Tampa Tribune, Mar. 26, 1996]

WHY TREAT TAIWAN LIKE DIRT?

Standing up for what you believe is not always easy in international affairs, and President Clinton probably wishes people wouldn't force him into areas of diplomacy where he is so uncomfortable.

But it's happening again. Pesky Cornell University is inviting one of its graduates, Taiwan's President Lee Teng-Hui, to give a speech there in June. So President Clinton must decide whether to allow the visit, sure to anger mainland China, or to continue the policy of pretending Taiwan's top leaders have the plague.

Helping keep the issue in the public eye is a proposed Senate resolution, sponsored by Frank Murkowski of Alaska and co-sponsored by Sen. Connie Mack of Florida and 34 others.

Each of the many "whereas" paragraphs in the resolution contains a bit of information sure to make the President twitch. Taiwan is the United States' sixth-largest trading partner; it supports democracy and human rights; it has a free press and free elections; its elected leaders deserve to be treated with respect and dignity; and the U.S. Senate has voted several times last year to welcome President Lee to the United States.

Perhaps if President Clinton were more confident in the diplomatic skills of his administration, he would be less cautious about putting a few old Communist tyrants in a temporary huff.

[From the Oregonian, Feb. 24, 1995]

STRENGTHEN U.S.-TAIWAN TIES

Taiwan has made remarkable efforts to do the kinds of things that United States foreign policy has asked of it. The Clinton administration ought to reward that effort by further loosening the shackles on U.S. Taiwanese relations. It made some hopeful changes last September, but badly needs to do more.

Members of both parties in Congress are dismayed—rightly so—at how this country has treated Taiwan's reformist President Lee Tanghui. It forbade him to stay overnight when his plane landed in Hawaii for refueling last May on a trip to Central America, and so far has refused permission for Lee to enter the United States, even as a private citizen acting in a wholly unofficial capacity, to receive an honorary degree from his alma mater, Cornell University.

The reason for that is the "one China" policy adopted in 1979, when the United States finally abandoned hope that the rump Nationalist government on Taiwan would ever regain control of mainland China, the communist People's Republic.

China considers Taiwan a rogue province. By a combination of bluster and threat, it has long persuaded other nations and international organizations to isolate Taiwan.

But that doesn't mean the United States shouldn't do much more to strengthen its unofficial economic, political and cultural ties with Taiwan pending a final resolution of the Taiwan-China dispute.

Taiwan is our fifth-largest trading partner (third-largest for the Columbia-Snake River Customs District) and an economic powerhouse in Asia. We ship twice as many goods to the island of 20 million people as we do to the mainland.

Taiwan has made immense progress along the road from virtual dictatorship under the late Chiang Kai-shek and his son, Chiang Ching-kuo, to representative democracy.

One result has been that Lee's ruling Nationalist Party faces significant opposition not only from the populist Democratic Progressive Party, which favors Taiwanese independence from China, but also from a breakaway Nationalist group calling itself the New Party.

Unlike the People's Republic. Taiwan has a free press and a television system that is only nominally government-controlled. The Taipei government tolerates an illegal cable TV system that broadcast a "democracy channel" and news from the mainland.

Unlike the People's Republic, Taiwan has acknowledged past human-rights abuses, including the Nationalist slaughter of thousands of native Taiwanese in 1947, two years before Chiang's forces finally lost their civil war against the communists, and has made far more human-rights progress than the mainland.

Taiwan has taken more positive steps then the mainland to protect U.S. intellectual property—the current sore point between Washington and Beijing.

These are exactly the combination of reforms and brisk march toward democracy that the United States urges on Russia, China and some Latin American nations, among others. The only difference is that Taiwan is getting it done.

That should be rewarded with closer ties to the United States and U.S. help in getting Taiwan full participation in the World Trade Organization, International Monetary Fund. World Bank and other organizations that should be more concerned with facts as they are than facts as China might like them to be.

And let Lee visit Cornell.

Mr. JOHNSTON. Mr. President, I intend to offer my thoughts on House Concurrent Resolution 53, but before doing so, I would like to know if my colleague from Alaska might engage in a colloquy on a particular point about this resolution on which we would agree: that it is important to maintain a productive relationship with the People's Republic of China.

Mr. MURKOWSKI. I would be happy to enter into a colloquy with my good friend from Louisiana on this point.

Mr. JOHNSTON. I wonder if it is the Senator's intent by this resolution to begin a two China policy, that is to violate the terms of the agreement the United States made with the People's Republic of China in 1979 to recognize the People's Republic of China as the sole legal Government of China? As my colleague knows, since signing that agreement, the United States has maintained only unofficial relations with Taiwan, keeping commercial, cultural, and other relations without official Government representation and without diplomatic relations.

Mr. MURKOWSKI. I believe this resolution is consistent with our agreements with the People's Republic of China and is consistent with the Taiwan Relations Act as well. This resolution does not, in this Senator's opinion, violate our one-China policy. I believe that the United States can allow a private visit by President Lee to his alma mater, Cornell University, and to a business conference in Alaska without compromising United States foreign policy toward the People's Republic of China.

This resolution merely calls on the administration to recognize that President Lee should be admitted to attend private events in the United States to promote our friendly, albeit unofficial, ties with the Republic of China on Taiwan, as envisioned under the Taiwan Relations Act.

Since 1979, circumstances have changed between the People's Republic of China and the Republic of China on Taiwan. I would direct my colleague's attention to the relationship that has developed between the People's of China and the Republic of China on Taiwan through their unofficial entities: the Association for Relations Across the Taiwan Straits in Beijing and the Mainland Affairs Council in Taiwan. The two sides get together and talk about everything but politics. Trade and investment has ballooned. It seems entirely appropriate that the United States should also be able to take actions to increase our trade and economic ties with Taiwan.

Mr. JOHNSTON. I thank the Senator from Alaska for that clarification. As I know my colleague is aware, diplomacy is often a gray area, and I believe there can be honest disagreements over when an action crosses a sometimes arbitrary line. On this particular issue, the Senator from Alaska and I might disagree over where that line is drawn. From this colloquy I think we agree that it is in the interests of the United States to maintain the fundamental United States-People's Republic of China relationship.

Mr. MURKOWSKI. I thank my friend from Louisiana for that colloquy.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I will be very brief.

Mr. President, even with this important clarification, I remain extremely concerned about how actions such as this, no matter how harmless they may appear, could impact the United States relationship with the People's Republic of China. For almost 15 years, the United States has remained committed to a one-China policy that includes only unofficial recognition of Taiwan. This commitment is backed up by several joint communiqués issued by the United States and the People's Republic of China and by the Taiwan Relations Act. I am concerned about the ambiguities and confusion a visit by President Lee to the United States could raise in the eyes of the People's Republic of China. Although this visit would be a private one, Mr. Lee is the President of Taiwan, he would be staying on American soil in an official capacity, and the United States does have a commitment to the People's Republic of China to maintain only unofficial relations with Taiwan. I hesitate to muddy the waters and compromise our carefully crafted, delicate relations with the People's Republic of China by initiating vague policies of recognition of Taiwan's leaders, whether such visits are private or not. The People's Republic of China is entering a period of transition. Deng Xiaoping is over 90, and it is unclear who will succeed him as head of the Chinese Government. Now is not the time to look as if we were altering the United States steadfast commitment to a one-China policy.

Should this resolution pass, as I expect it will, I urge the State Department not to follow this nonbinding resolution and not to issue a visa to Mr. Lee. I have the greatest respect for President Lee and this is in no way meant to be a personal affront to him. I have seen relations between the United States and Taiwan grow and improve and I have seen Taiwan take great strides toward democracy. In fact, this administration completed a comprehensive review of our policy with Taiwan last year and implemented a number of appropriate steps to further improve our relationship with Taiwan. Taiwan has held free and fair elections for some offices, and I hope this trend of expanding free and fair elections will continue in the near future, including for the office of the Presidency. I hope the United States will continue to maintain its ties with Taiwan, but these ties must remain unofficial.

Mr. President, this is a very, very critical time for China, the largest nation in the world upon which the stability of all of Asia and, some would say, the stability of all of the world depends.

Deng Xiaoping, their leader, is transitioning out. New leaders are coming in. Therefore, it is very important that the United States not do anything to upset what is one of the most important pillars of our relationship with them, which is a one-China policy.

Now the question is, Does this violate the one-China policy?

The Secretary of State testified before the Budget Committee in February that the United States has committed itself to the concept of one China and to having an unofficial relationship with Taiwan. He also stated that if the President of Taiwan "is wanting to transit to the United States when he is going someplace else, that would be acceptable under the new arrangements. But it is regarded as being inconsistent with the unofficial character of our relationships with Taiwan for the President to visit here in what would be, in effect, an official capacity." It is my hope that, should this resolution be enacted by the Congress, the administration will continue to hold to this policy and will not issue the travel visa to President Lee. As I said earlier, while I have the greatest respect for the President and people of Taiwan, and commend them on the significant progress they have made toward democracy, the United States Congress should not alter over 15 years of United States foreign policy with a single resolution. Our current foreign policy toward China and Taiwan brings maximum benefit to the United States; we have official diplomatic ties with Beijing while maintaining trade and cultural relations with Taipei. We should not change a policy that continues to serve U.S. interests so well.

Our Secretary of State believes this does violence to the one-China policy. I, therefore, would urge my colleagues to vote against this resolution, and I urge the Secretary of State not to issue the visa called for by this resolution. I stand second to no one in my affection and regard for Taiwan. But the way to show our regard and affection for Taiwan and President Lee is not by departing, however ambiguously, from the one-China policy.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I will take only 1 minute.

I think this is a sound resolution. I want to get along with the People's Republic of China, but they cannot dictate what we do. Taiwan has a freely elected government and a free press, all the things we say that we allow. The President of Taiwan wants to come over here on a private visit and go to his alumni meeting at Cornell University. I think for us to knuckle under to the People's Republic of China under those circumstances just goes contrary to everything we say we profess. I strongly support the resolution.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, this resolution has one fault: It is too late in coming. It has been reported out favorably by the Foreign Relations Committee. It is a mistake that we should have corrected a long time ago.

Senator MURKOWSKI and I, and others, have for a long time been protesting this travesty in the conduct of U.S. foreign relations. How and when did the United States reach the point in United States-Taiwanese relations that United States foreign policy could preclude a visit to the United States of the highest ranking, democratically elected official of Taiwan?

Though I did not often disagree with Ronald Reagan—I did on occasion, and one of those times was when President Reagan's advisers made a regrettable decision which risked jeopardizing our relations with Taiwan by cuddling up to the brutal dictators in Beijing. Since that time, we have been hiding behind a diplomatic screen when demonstrating our commitment and loyalty to the Taiwanese people.

Mr. President, at the time President Reagan's advisers made that grievous error, Congress was promised that the United States would continue to "preserve and promote extensive, close and friendly * * * relations" with the people on Taiwan. But successive administrations have not lived up to that promise. How in the world could any one consider it close and friendly to require the President of Taiwan to sit in his plane on a runway in Honolulu while it was refueled? I find it hard to imagine that United States relations with Red China would have come to a standstill because of a weekend visit to the United States by Taiwan's President Lee.

The President's China policy is in poor shape at this point—even members of his team recognize that. So, how can anyone really believe that allowing President Lee to travel to his alma mater—or to vacation in North Carolina—would send our already precarious relations with Red China plummeting over the edge?

Last time I checked, the Mainland Chinese were obviously enjoying their relations with the United States—a small wonder since they are benefiting $30 billion a year from the American taxpayer as a result of United States trade with Red China.

Time and again, the U.S. Congress has urged the administration to grant President Lee a visa. We have amended our immigration law so that it now specifically mentions the President of Taiwan. Congress has passed resolution after resolution encouraging the President to allow President Lee into the United States for a visit. All to no avail.

But today the delay is over. I hope I will have the privilege of being one of the first to welcome the distinguished President of the Republic of China on Taiwan. He deserves a warm welcome from all of us.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I strongly hope that the concurrent resolution will be agreed to. The President of Taiwan has studied and taught at Cornell, as well as Iowa State. This is a single visit. It fits within the guidelines of the policy review carried out by the White House and the National Security Council. It is a resolution which should get an "aye" vote.

Mr. MURKOWSKI. I ask unanimous consent that Senator NICKLES be added as the 54th bipartisan cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I rise this morning as the chairman of the Senate Subcommittee on East Asian and Pacific Affairs to join in the sentiments expressed by my colleague, Senator MURKOWSKI, on Taiwan, and in particular on the visit of President Lee.

I need not repeat in detail for the Senate Taiwan's many accomplishments, either economic or political; these have often been discussed on the Senate floor. It is sufficient to note that this country is our fifth largest trading partner, and imports over $17 billion worth of U.S. products annually. More importantly, though, Taiwan is a model emerging democracy in a region of the world not particularly noted for its long democratic tradition.

The Taiwanese Government has ended martial law, removed restrictions on freedom of the press, legalized the opposition parties, and instituted electoral reforms which last December resulted in free elections. Taiwan is one of our staunchest friends; I think every Member of this body recognizes that, and accords Taiwan a special place among our allies. Unfortunately, Mr. President, the administration apparently does not share our views. Rather, the administration goes out of its way to shun the Republic of China on Taiwan almost as though it were a pariah state like Libya or Iran. Sadly, the administration's shoddy treatment of Taiwan is based not on that country's faults or misdeeds, but on the dictates of another country: the People's Republic of China.

It is because the People's Republic of China continues to claim that it is the sole legitimate Government of Taiwan, and because of the administration's almost slavish desire to avoid upsetting that view, that the State Department regularly kowtows to Beijing and maltreats the Government of Taiwan.

The administration refuses to allow the President of Taiwan to enter this country, even for a private visit. A private visit, Mr. President. President Lee is a graduate of Cornell University, where he earned his Ph.D. He has expressed an interest in attending a class reunion at his alma mater this June, and a United States-Taiwan Economic Council Conference. Yet the administration has made clear that it will not permit him entry.

Mr. President, the only people that this country systematically excludes from entry to its shores are felons, war criminals, terrorists, and individuals with dangerous communicable diseases. How is it possible that the administration can see fit to add the President of Asia's oldest republic to this list? We have allowed representatives of the PLO and Sinn Fein to enter the country, yet we exclude a visit by an upstanding private citizen?

Mr. President, I think we have made clear to Beijing—I know I have tried to—the great importance to us of our strong relationship with that country. This relationship should, in my opinion, transcend squabbles over diplomatic minutiae. I will always seek to avoid any move that the Government of the People's Republic of China reasonably could find objectionable. I believe that countries like ours should try hard to accommodate each others' needs and concerns, in order to further strengthen our relationship.

However, I believe that the People's Republic of China needs to recognize the reality of this situation. Both Taiwan and the People's Republic of China are strong, economically vibrant entities. Both share a common heritage and common culture, yet have chosen political systems that are mutually exclusive. And despite these differences, the United States has a strong and important relationship with both.

I strongly believe that it is the Chinese who must work out their differences among themselves, without resort to or interference by outside forces. While I am sure that a solution will come eventually, it is liable to take a number of years. In the meantime, it does no good to continually place the United States in the unproductive position of having to walk a tightrope between the two, of continually having to choose sides.

Mr. President, our Taiwanese friends have been very understanding about our relationship with the People's Republic of China. I would hope that our friends in Beijing would be equally respectful of our relationship with Taipei. I fully support the concurrent resolution.

Mr. SIMPSON. Mr. President, I rise today in support of the concurrent resolution offered by Senator MURKOWSKI, which I am pleased to cosponsor.

This, very simply, would state the sense of the Senate that we should remove existing restrictions on the right of President Lee Teng-hui, of the Republic of China on Taiwan, to travel to the United States. As my colleagues have already heard, the President of Taiwan wishes to come here to visit his alma mater, Cornell University. However, he cannot, because existing U.S. policy prevents him from staying here overnight.

It is certainly no secret to my colleagues that a principal reason for this restriction is the particular sensitivity of the Mainland Chinese Government to how the United States deals with and treats the Taiwanese. I would simply say that I speak as someone who has—and will—stoutly defended the United States-China relationship, even when Mainland China was under attack here in the United States for alleged human rights transgressions. I have consistently argued that the best policy toward China is one of mutual exchange and respect, of cooperation in trade, environmental work, population issues, and all else. So I do not believe that I can fairly be accused of being heedless of the very real and delicate sensitivities that the Chinese might display regarding this matter.

However, I believe that it is possible—indeed, imperative—that we be open in our dealings with Mainland China and with Taiwan simultaneously. We must not insult the one in order to please the other. Indeed, even China and Taiwan are coming to increasingly recognize the foolishness of their mutual antagonism of the last several decades. It is still a sensitive and difficult problem for each government, but "behind the scenes," we are seeing more travel across the Taiwan Strait, more investment, more economic and cultural exchange. That relationship is beginning, however slowly, to change.

In any case, there are limits to how much we should rebuff the Taiwanese in order to preserve our relationship with Beijing. We should strive to trade with the Chinese, to cooperate with them on a large number of issues, but not to refuse to participate in relationships that are beneficial and proper for the United States. One of these is with the Republic of China on Taiwan.

Mr. President, I have always been one who has argued that there is a vital stake in old foes coming together to hammer out their ancient differences and eternal conflicts. I believe that backchannel contacts were indispensable to bringing about the possibility for expanded, public talks to bring about peace in the Middle East and in Ireland. So I have not publicly criticized the administration for its dealings with Yasir Arafat, or with Gerry Adams, or any of a number of at times even justifiable blameworthy international figures.

But it does strike me as very odd that we can reach out so much to individuals who have previously engaged in fully criminal conduct, yet we cannot even allow one of our true friends, the President of Taiwan, to come to the United States for a private—I stress, private—visit.

And he is indeed a friend to the United States—his administration has made it far easier for the United States to pursue a desirable economic relationship with Taiwan without sacrificing any of our principles on human rights. Taiwan has recently enjoyed the freest and fairest elections in its history. There is unprecedented political competition, and public debate, and fully indulged criticism of the Government, in that country. It is not an American-style democracy by any stretch. But the progress has been quite remarkable.

What we have here is a policy of punishment for precisely the type of behavior which we would hope to see in our overseas counterparts. President Lee has not only worked to make the United States-Taiwan relationship less troublesome, but even has exerted energy to lessen strains in the Taiwan-China relationship as well. That takes genuine political courage.

So I congratulate my fine friend the Senator from Alaska, FRANK MURKOWSKI, for bringing this matter to the attention of the Senate, and I pledge to him my full support in this and future efforts to repair and resolve this situation.

Mr. BAUCUS. Mr. President, I rise in support of this concurrent resolution.

The concurrent resolution offered by the Senator from Alaska is, in essence, a statement of a basic American principle: free association, or our right to meet and speak with whomever we choose. It is strictly limited to this issue, and raises no fundamental questions of China policy.

This resolution welcomes the visit of President Lee Teng-hui of Taiwan, as a private citizen, to attend the United States-Republic of China Business Council conference in Alaska, and give a speech at Cornell University. These activities would in no way violate any of our commitments to China, and would make sure we give President Lee the respect he has earned as one of Asia's great democrats.

The principal objection to this resolution is the claim that it would violated American commitments to the Chinese Government. Let me review precisely what these commitments are. In 1972, 1979, and 1982, we signed a series of three communiques with the People's Republic of China. In the last of these, to quote the text:

> The two sides agreed that the people of the United States would continue to maintain cultural, commercial, and other unofficial relations with the people of Taiwan.

I believe we should keep our promises. We have made commitments to China to maintain a one-China policy and keep our relationship with Taiwan on an unofficial basis. And as long as China keeps its side of the bargain—to "strive for a peaceful resolution" to its differences with Taiwan—we should keep ours.

But the text of the communique is very clear. It says that our relationship will be unofficial. What it does not say is equally clear. That is, neither the 1982 communique nor the other two make any commitment whatsoever which Chinese citizens shall be eligible for visas. Thus, I am convinced that the proposed visit by President Lee as a private citizen would fall entirely within the framework of "cultural, commercial and other unofficial relations."

Once again, this concurrent resolution, rightly construed, does not bear on China policy at all. It is simply a statement of our right as Americans to meet and speak with whom we choose; and of our respect and friendship for President Lee personally and the people of Taiwan in general. I support it and hope my colleagues will do likewise.

Mr. DOMENICI. Mr. President, could I just make an announcement? The Budget Committee intended to go back to mark up and vote after the two votes. I would like to tell them all we are going to go back to committee and have two votes, one after another. I hope they will all come. No proxy votes allowed.

Mr. MURKOWSKI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution. The yeas and nays have been ordered. The clerk will call the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—97

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Wellstone

NAYS—1

Johnston

NOT VOTING—2

Moynihan
Warner

So the concurrent resolution (H. Con. Res. 53) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until the hour of 12:30 p.m., with Senators permitted to speak therein for 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, that will give everybody interested in the product liability bill an opportunity to discuss what their remaining strategy or plans may be. We would like to complete action on the bill today. And then, if possible, we would like to move to the trash bill sometime this afternoon and try to complete action on that bill this week.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank my colleagues for the evidence of support to extend an invitation to President Lee Teng-hui to visit the United States in an unofficial capacity. I think the support, as evidenced by the vote of 97 to 1 is a clear message of the prevailing attitude in this body toward extending this invitation.

It is my hope that the administration and the State Department will understand the intensity of the feelings with regard to our friends in Taiwan as evidenced in President Lee visiting his alma mater and to a send him to the United States-Republic of China Economic Council Conference in September of this year. I thank my colleagues for their assistance, understanding, and support of this resolution.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 768 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Delaware.

(The remarks of Mr. ROTH and Mr. D'AMATO pertaining to the introduction of S. Res. 117 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRESIDENT CLINTON'S SUMMIT IN MOSCOW

Mr. ROTH. Mr. President, today the President of the United States is participating in Russia's May 9 commemoration of V–E Day. President Clinton accepted Russian President Boris Yeltsin's invitation to this event despite the fact that I and many of my colleagues encouraged him to select another time for a United States-Russian summit. We were concerned that because of the moral ambiguity of this commemoration, United States participation would undermine the relationship we seek to develop with Russia. We must not forget that the Soviet Union contributed to the outbreak of World War II, exploited the war's end, and committed countless atrocities to Russians, Ukrainians, Lithuanians, and other peoples subject to its brutal domination.

President Clinton should not have accepted this invitation, but now that he has, it is for these reasons that during his visit to Moscow he must meet not only with Russia's leaders, but the Russian people and emphasize three key themes. First, he must emphasize human rights. Second, democracy. And, third, rejection of empire. In doing so, the President would encourage all Russians not to look nostalgically back on the Soviet Union, but forward toward the potential of a democratic and postimperial Russia. That should be the principal purpose of President Clinton's visit.

Toward this end, President Clinton must emphasize that his role in this celebration is not to honor the Soviet Union, but the valor and sacrifices of all the peoples who fought in opposition against Nazi aggression.

He must underscore the fact that while the United States, as a whole, celebrates victory in this war, it has not forgotten the victims nor any crimes committed during that era, be it by the Nazis, Stalin and his henchmen, or others.

This will not slight those who fought valiantly against fascism, as indeed did millions of Russians. It will, in fact, honor them even more highly by ensuring that their contributions are distinguished from the war-mongering and atrocities of that brutal time. And, in this way, the President will clearly differentiate the United States from those who seek to reanimate the Soviet past.

In articulating these themes, the President must publicly and forcefully address the ongoing war in Chechnya. Moscow's management of the Chechnyan autonomy movement is depressingly reminiscent of the policies that Stalin, himself, used to terrorize the peoples incorporated into the former Soviet Union. It indicates the fragility of democracy in Russia and, perhaps, even a weakening of its impulse.

President Clinton vowed that he would not visit Russia as long as Moscow continues the war against Chechnya. Indeed, Mr. President, in the weeks preceding this summit meeting, President Yeltsin actually stepped up military operations against the Republic, leveling more towns and killing more innocent civilians, both Russian and Chechnyan.

It is therefore absolutely essential that President Clinton speak forthrightly to the Russian people, not hiding the fact that America condemns the brutal use of military force against Chechnya.

He should state that America's relationship with Russia is contingent upon Moscow's peaceful resolution of its differences with the Chechnyan people. Hesitation on this matter will undermine the legitimacy of Russia's true democrats who have valiantly protested against this war and will strip credibility from our efforts to support Russia's still embryonic democracy.

The bottomline, Mr. President, is that human rights is an international issue. If Russia avows to be a member of the community of democracies founded upon respect for inalienable human rights, it must live up to those standards.

Third, in order for a true strategic partnership to evolve between the United States and Russia, Moscow must respect the sovereignty of the non-Russian nations of the former Soviet Union and former Warsaw Pact.

In this regard, the President's decision to visit Ukraine is crucially important. A Kyiv summit will be an important signal of America's commitment to assist the consolidation of Ukraine's independence. In light of Ukraine's intertwined history with Russia, the success of Ukrainian independence and integration into the Western community of nations will be a critical determinant of Russia's evolution into a postimperial state.

An important underpinning of the constructive role we desire Russian-Ukrainian relations to play in European security has been the Tripartite Agreement between Russia, Ukraine, and the United States. In addition to facilitating the elimination of Ukraine's nuclear arsenal, the agreement committed Russia to respect Ukraine's sovereignty and independence. While in Moscow President Clinton must underscore America's commitment to this agreement and our expectations that Russia do the same.

The President must also emphasize that NATO enlargement will contribute to greater peace and stability in post-cold war Europe. He must communicate that this is a normal process that is driven not only by the need to address the security of Central Europe but also by the Central Europeans who have clearly articulated their desire for membership.

By further ensuring stability in Central and Eastern Europe, NATO expansion will positively and significantly shape the futures of Russia and Germany, two great powers now engaged in a delicate and complex process of national redefinition. It is a critical step toward providing the security essential to enhance the prosperity and stability now beginning to characterize Central and Eastern Europe.

It is a requirement for preserving Germany's progressive role in European affairs and promoting Russia's postimperial evolution. By creating greater stability along Russia's frontiers, NATO enlargement would allow Moscow to spend more of its energy on the internal challenges of political and economic reform.

I hope that, while he is in Moscow, our President will underscore the fact that Russia cannot and will not have any veto over the future membership of NATO.

We all must recognize that NATO enlargement is a process whose outcome Russia will, nonetheless, inevitably influence. If Russia resists the process through intimidation or aggression, NATO enlargement will more likely be directed against Russia. If Russia respects the rights of other nations to determine their own geopolitical orientation, if Russia recognizes the objective benefits of NATO enlargement, and if Russia ultimately works with the alliance, enlargement will contribute to a broader engagement and integration that will bring Europe and Russia closer together.

As it was well put in one of the recent hearings of the Foreign Relations' Committee on this matter, it is not NATO enlargement that will determine the future of Russia's relationship with the alliance, but Moscow's reaction to NATO enlargement.

Finally, during his stay in Moscow President Clinton must emphasize that America is more interested in the future of Russian democracy than in the fate of a single leader. I strongly encourage that the President meet with members of Russia's beleaguered press and those democratically minded legislators—particularly Sergei Kovalyov, the Duma's former Human Rights Commissioner who was recently relieved of his duties because of his courageous criticism of the Russian Government's Chechyn policy. Perhaps, the President should even meet with those Russian generals who oppose this war, such as former Deputy Minister of Defense Boris Gromov who also lost his position for his criticism.

I say this because the future of our relationship with Russia lies not with those who fall back on the brutal mechanisms of a bygone age, but with those who envision Russia as a prospering democracy.

Mr. President, America's role in Moscow's V-E Day celebrations should be to encourage Russian people and their leaders to concentrate not on the former Soviet Union, but on Russia's future. These themes—human rights, democracy, and the rejection of empire—are the keys not only to unlocking Russia's potential but also to a true strategic partnership between Russia and the United States. Should Moscow's leaders respond positively to these themes, it would be a strong demonstration that Russia is shedding the imperialist ambitions and totalitarian proclivities of the Soviet past.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

HEARINGS SCHEDULED BY THE SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND GOVERNMENT INFORMATION

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on a series of hearings scheduled by the Subcommittee on Terrorism, Technology and Government Information of the Judiciary Committee in the wake of Oklahoma City, although one had actually been scheduled in advance.

We have so far had hearings on the statutes proposed by the administration and others. We have had a hearing in response to certain groups concerned with the issue of constitutional rights. A hearing is scheduled for this Thursday, May 11, on the so-called mayhem manuals, where you can find out how to make a bomb, and a hearing is scheduled on May 18 on the incidents involving Waco, TX and Ruby Ridge, ID.

I have received correspondence from the distinguished chairman of the full committee, Senator HATCH, who raises a question about the timeliness of the hearings and about the jurisdiction of my subcommittee. I have responded to Senator HATCH, and intend to put the correspondence in the RECORD so it may be available for the public, by noting that the jurisdiction is clear-cut on the subcommittee, both under the authority on terrorism and on governmental information.

It is my view, Mr. President, that it is important and the hearings are long past due on what happened at Waco, TX and what happened at Ruby Ridge, ID. There can be no misunderstanding or no question that whatever happened at Waco, TX and Ruby Ridge, ID, that there is absolutely, positively no justification for the bombing of the Federal building in Oklahoma City, OK.

But there has been a great deal of concern about whether there has been a candid response by the Government of the United States, and in the congressional oversight responsibility, we should lay all the facts on the table in the interest of full disclosure—let the chips fall where they may. The virtue of strength of a democracy is that we do not cover our mistakes; that if there are errors and if there are problems, we identify them forthrightly.

There had been some concern that a hearing on Ruby Ridge, ID might in some way prejudice the investigation by the prosecuting attorney who may intend to bring some charges, perhaps even against Federal officials. I have had an extended discussion with Randolph Day, Esq., the county attorney for Boundary County, who has advised me that he sees no problem in our going forward with hearings by the subcommittee.

A number of Senators have made public statements about the importance of having such hearings. Others of my colleagues have discussed the matters with me privately. I do think it is important that hearings proceed and that other Senators and the public be aware of the status of this matter.

So I ask unanimous consent that the text of the letter from Senator HATCH to me dated May 8, with my reply to him dated May 9, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 8, 1995.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR ARLEN: I am writing with regard to your public statements concerning the convening of a hearing in the Terrorism, Technology and Government Information subcommittee to review the incidents at Waco, Texas and Ruby Ridge, Idaho. This letter is intended to settle any misunderstanding that may exist as to what the Senate Judiciary Committee's plans are surrounding a review of these matters.

As you know, I share your deep concern over these incidents and believe that a thorough Congressional review of these, and related federal law enforcement issues, is warranted. However, hearings on these matters would not be properly within the jurisdiction of the Subcommittee on Terrorism, Technology and Government Information. Indeed, when your staff raised this issue with Committee staff more than one week ago, my position on this matter was promptly conveyed. Due to the important nature of these issues and their ramifications for federal law enforcement, hearings should be held at the Full Committee. I intend that hearings will be held in the near future following Senate consideration of comprehensive anti-terrorism legislation. Indeed, I believe the House Judiciary Committee has announced hearings as well. It might prove beneficial to hold our hearings after the House completes its hearing.

The hearing you propose is an important one, but I believe that it is unrelated, in any true sense, to the broader issue of the prevention of domestic terrorism. Accordingly, to hold the hearing as you propose at this time will serve only to confuse these important issues. Indeed, by linking the Waco incident to the terrorism issue through hearings at this time, the Committee could inappropriately, albeit unintentionally, convey the wrong message regarding the culpability of those responsible for the atrocity in Oklahoma City. We must not do this.

I appreciate your concern over this matter. I look forward to working with you on this and all other matters before the Judiciary Committee.

Sincerely,

ORRIN G. HATCH,
Chairman.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 9, 1995.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC

DEAR ORRIN: I have your letter of May 8.

I disagree with you on three counts:

1. Hearings on Waco and Ruby Ridge, Idaho, should be held promptly (actually they are long overdue) rather than waiting to some unspecified time in the "near future" or "after the House completes its hearings."

2. My Subcommittee on Terrorism, Technology and Government Information has clear cut jurisdiction both as our authority relates to terrorism and government information.

3. I categorically reject your assertions that the Subcommittee's scheduled hearing will "serve only to confuse these important issues" and "convey the wrong message regarding the culpability of those responsible for that atrocity in Oklahoma City." There can be no conceivable misunderstanding that there is no possible justification for the bombing in Oklahoma City regardless of what happened in Waco or Idaho. The public interest requires full disclosure of those incidents through hearings to promote public confidence in government.

Since I have had and am continuing to have media inquiries on these hearings, for your information I am releasing this exchange of correspondence.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. I thank the Chair and yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

EXTENSION OF MORNING BUSINESS

Mr. DORGAN. Mr. President, I ask unanimous consent that we extend the recess period—my understanding is the Senate was to stand in recess at 12:30—I ask it be extended to allow me to speak for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE AND THE BUDGET

Mr. DORGAN. Mr. President, the Senate Budget Committee is meeting today, and they are involved in, I think, a gripping, wrenching debate about how they will try to find a route toward a balanced budget. It is an effort that I think needs to involve all of us because I do not know of anybody in this Chamber who has stood on the floor and said they do not agree that a balanced budget is necessary and desirable for this country.

There were some presentations on the floor of the Senate earlier this morning talking about the issue of Medicare, and I wanted to stand and respond to a couple of those comments, because part of this issue of balancing the Federal budget involves the question of Medicare.

We are in a circumstance described, interestingly enough, by E.J. Dionne today in the Washington Post. I would like to read a paragraph or two from his column:

> When the House Republicans passed their big tax cut earlier this year, they were not at all interested in what President Clinton or the Democrats had to say about it. They wanted credit for doing what they said they would do in the Contract With America. And they got it.
>
> But now the time has come to pay both for the tax cut and for even a bigger promise, a balanced budget by year 2002. Suddenly, the Republicans are whining that the President has refused to take the lead in cutting Medicare and Medicaid, which is what the GOP needs to do to make any sense of its budget promises.

Mr. Dionne says:

> Let's see: When it comes to passing around the goodies, the House Republicans are prepared to take full responsibility. When it comes to paying for the goodies, they want a Democratic President to take full responsibility. And they act shocked, shocked when he refuses to play along.
>
> You can't blame the Republicans for trying. It's a clever, if transparent, strategy.

The point is, there has been a lot of protest on the floor of the Senate and the House in the last few days about concerns many of us have about the Medicare Program and the tax cut that was passed recently by the House of Representatives.

It seems to me that at least some in Congress dived off the high board and showed wonderful form as they did their double twists and have now discovered there is no water in the pool.

A tax cut first, for the middle class they said. Of course, the chart shows something different. Who benefits from the tax cut bill? If you earn over $200,000 as a family, you get $11,200 a year in tax cuts. If you are a family earning less than $30,000 a year, you get $120 a year in tax cuts. This is not a middle class I have seen anywhere in America. The fact is that it is a tax cut for the wealthy. That was passed, and now they say we should cut Medicare to pay for it.

Well, we are going to have to reduce the rate of growth in Medicare. No one disputes that. But before we engage in a discussion about what you do about Medicare and Medicaid, many of us believe that the first thing you ought to do is get rid of this tax cut for the rich. It is time to deep-six this kind of a proposal, then let us talk about Medicare. Otherwise, what you have is a direct circumstance that cannot be avoided.

The comparison is obvious: $340 billion in tax cuts, for $300 to $400 billion in Medicare and Medicaid health care cuts. Let us back away from the tax cut. As soon as the majority party does that—and I hope they will—then I think this Congress ought to begin, in a joint effort on Medicare and Medicaid and virtually every other area of the Federal budget, to sift through these things to find out where we achieve the means by which we balance the Federal budget.

But you know, some of us have been through all of this before. Talk is cheap. Talking about balancing the budget is very, very easy. Everyone talks about it.

Last week, I proposed a series of budget cuts, real budget cuts in a whole range of areas that totaled some $800 billion, and I am going to propose more. That package does not include Medicare and Medicaid, and I know we have to reduce the rate of growth on both of those. But I also feel very strongly that as we approach this problem, we should not allow the other party to pass a very big tax cut first and then say to others later, "Now help us pay for that by taking it out of the hide of your constituents."

Let us join together and work together, but let us do it in a way that gets rid of the tax cut that was ill-advised, bad public policy, not middle class, but essentially a tax cut that benefits the wealthy. Get rid of it, disavow it and then move on together in every single area of the Federal budget and do what is right for the country.

That is what the American people expect and deserve, and I think that is what will benefit this country's future in a real and meaningful way.

Let me thank the President for allowing me to extend the time. With that, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m., plus the unanimous consent for additional time, having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:37 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. What is the pending business and what is the status of the pending business?

The PRESIDING OFFICER. The pending unfinished business is H.R. 956, and the pending question is amendment No. 709. The Senate is operating under cloture.

Mr. GORTON. Is that the Gorton-Rockefeller-Dole amendment to the Coverdell-Dole amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. GORTON. Mr. President, since we are now under cloture and without the presence of my colleague, Senator ROCKEFELLER, I should like, very tentatively, to announce what I hope the course of action will be this afternoon.

I will, unless there is objection, within a reasonable period of time, ask unanimous consent for a minor but significant amendment to the Gorton-Rockefeller-Dole amendment, a proposition that does require unanimous consent to keep the undertaking that Senator ROCKEFELLER made with respect to the right of a new trial after a judge imposed additur.

After that, I would propose that we go forward by adopting the Gorton-Dole-Rockefeller amendment and the underlying amendment and then having a debate on any further amendments to the bill, some of which will require unanimous consent in order to bring them up, as I understand from the Parliamentarian, because of the position in which we find ourselves.

Senator ROCKEFELLER and I have agreed that amendments from the other side, during the pendency of cloture, that Members opposed to this bill want to bring up ought to be allowed to be brought up, and certainly we will grant unanimous consent for that taking place.

Each of these will require cooperation and essentially unanimous consent. Senator ROCKEFELLER is not back yet. One of the opponents to the bill is here. I am going to suggest the absence of a quorum so that Members can digest this request, so that the leaders can get together if they wish, and so we can proceed for the rest of the day. I hope that we will end up being able to finish the entire bill and having our final vote on final passage before the day is out, as the leader would like to go on to other bills.

Mr. HEFLIN. If the Senator will withhold the quorum call, regarding what the Senator has said about asking unanimous consent, I think Senator HOLLINGS should be on the floor to respond to that. I think he has some feelings on it. However, I do realize this: It is my information that unless that happens, then unanimous consent is going to be necessary for each and every amendment to occur. Now, I have been talking with various people on our side who are very knowledgeable on parliamentary proceedings. I think it is something we will want to look at. If we enter into a quorum call, we ought to investigate and see exactly what the parliamentary status is and what Senator HOLLINGS' feelings are on that. He articulated to me earlier rather strong feelings against it. But he may have reconsidered it since that time.

Mr. GORTON. I think the Senator from Alabama is correct about the parliamentary situation. Certainly, given Senator HOLLINGS' views on the subject, I want his full knowledge and participation before we go ahead. My announcement was just in hopes that we can get interested people here to make those decisions. Awaiting our ability to do so, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, am I correct that we are now on the product liability bill?

The PRESIDING OFFICER. The Senate is now on that matter, H.R. 956, the product liability bill under cloture.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I want to speak about this legislation that is before the body, and I would like to talk about what I think is at stake in the vote that we just cast and what would be at stake in some votes that we will also be casting over the next day or day and a half.

As I see it, we started out with a bill that was unfair, which I think tipped the scale of justice away from consumer protection and in favor of corporate wrongdoers. Then as we went along, there was an overreaching by some of the insurance companies and other big corporate defendants, and yet more amendments were attached onto this bill making it truly awful. Then as a result of several cloture votes—when it was clear that this piece of legislation with all of the additional awful amendments could not pass—it was stripped down to now being just profoundly wrong for people in this country, which is not what I would call much of an improvement.

Mr. President, I am not a lawyer. But as I understand the features of this bill there is a tremendous amount of unfairness. I quite frankly cannot figure out why this body went ahead and invoked cloture. First of all, there is still a cap on punitive damages, as I understand it, of $250,000 or twice compensatory damages. Compensatory means both the economic and the noneconomic damages. So that, for example, if you were not an executive of a large company but a wage earner, if you did not make as much money, if you were a woman—women generally speaking make less than men in the work force—or if you were a senior citizen, and you were hurt by exactly the same behavior and received exactly the same harm from exactly the same defendant as some CEO, there would be differences in terms of what the award would be. The punishment would be greater for hurting the CEO.

This is still an absurd result and still an indefensible one. When I spoke last week I asked my colleagues to consider the faces of people who will be hurt by this provision. LeeAnn Gryc from my State of Minnesota was 4 years old when the pajama she was wearing ignited leaving her with second- and third-degree burns over 20 percent of her body. An official with the company that made the pajamas had written a memo 14 years earlier stating that because the material they used was so flammable the company was "sitting on a powder keg". This latest proposal, the Gorton-Rockefeller substitute, would cap the punishment the defendant receives. How would this affect LeeAnn? It is not clear. All of that would depend upon what kind of compensatory damages the jury awards. Are we really willing to sit here in Washington, DC, and change that and preempt Minnesota law and make that kind of determination?

Mr. President, this proposed improvement has new language which would allow a judge to award higher punitive damages than the caps would otherwise provide if the judge thinks it is necessary to serve the twin purposes of punishment and deterrence. Again, first of all, what we do is set this cap and it is either $250,000 or twice a combination of economic and noneconomic damages which is discriminatory, by the way, toward low income, moderate income, middle income in terms of how that formula works out. Then we go on.

When you think about the case of LeeAnn Gryc, or the case of a whole lot of other people who are hurt in this country, who is prepared to say that the cap ought to be $250,000 or a little above? Who is prepared to say that a defendant should be punished less because he or she hurt a wage earner as opposed to a CEO of some of the largest companies in this country? I do not see the Minnesota standard of fairness.

The new language then, in what is apparently supposed to be an improvement, allows the judge to award more punitive damages than the caps would otherwise provide, if the judge thinks that it is necessary to serve the twin purposes of punishment and deterrence. But what happened to the jury? People on juries elect us to office. We have all the confidence in the world in the people who sit on juries to elect us to office. But all of a sudden we do not trust them to sit in judgment of their peers. They sit in judgment of us, do they not? Are not they usually the finders of fact? I would think that it would be difficult to find some standard of fairness where we essentially remove juries from this important process.

Then I was surprised to find in what is apparently supposed to be an improvement a provision saying that if we are worried about the backlog of cases and paperwork reduction and all of the rest, we tell judges that it is OK to go above the caps whenever they think it is necessary, but we can also count on an additional court proceeding. On the bottom of page 22 in the Gorton-Rockefeller substitute, it says that if a defendant does not like the judge's decision to go above the caps, "the court shall set aside the punitive damages award and order a new trial on the issue of punitive damages only.".

So what we get back to is essentially a meaningless provision where we go to yet another trial if the defendant does not like the decision the judge has made. My colleague, Senator LEVIN from Michigan, I thought came out here with a lucid presentation of this problem.

Joint liability I think is the thorniest issue. Actually in the Labor Committee, when we were talking about this question, I may or may not have said thinking out loud that I struggled with this question. But I do not think the substitute does anything to correct the problem. It eliminates joint liability for noneconomic damages. Some of my colleagues have referred to this as the "deep pocket pays problem." But I think they are wrong. This is really a "victim pays problem."

I will tell you that it is really a difficult question. Suppose a company is responsible for only a portion of what it would take to restore a victim to whole, compensatory damage. Yet with joint liability that company might have to be responsible for more than its fair share. That does not make a lot of sense. It does not seem as if it is fair.

But, Mr. President, now what we have is a provision which essentially says to the consumer, to the citizen that is hurt, to the citizen that is injured, maimed, that they will always have to assume some of those damages, if one of the responsible parties cannot pay. I do not see the standard of fairness. In my State of Minnesota we came up with what I think is a reasonable compromise; that is, we set a threshold. I think it was 15 percent. What we said was that, if you are responsible for less than 15 percent of the overall damage, then you would not have to be responsible for more than your fair share.

But, Mr. President, it does not make any difference what Minnesota has done. We have struggled with the problem. We have come up with a middle ground. But that all is preempted by this piece of legislation.

Mr. President, it just sounds like a clever political argument. But it really is not. So many people have talked about decentralization. So many people have talked about relying more on States and local governments being the decisionmakers. But in this particular case, we are preempting some of the good work that has been done in a good many States in this country, and I would put Minnesota at the very top.

Mr. President, there are huge problems with this piece of legislation. It is a giveaway to corporate wrongdoers. I think it is a profound mistake. We did not really have that much debate on the whole question of the 20-year statute of repose. But, again, let me just simply say, that regardless of how you look at it, I think again this is arbitrary and indefensible. What possible justification is there for it? After all, if a product is defective and does not hurt anybody until it is over 20 years old, is the harm to the victim any less? Is the responsibility of the manufacturer any less?

I talked about Patty Fritz from Minnesota. She is pretty well known in our State, and she is pretty well known in our country for her courage. In her particular case, her daughter, Katie, was crushed to death by a defective garage door opener.

If it had been after 20 years, if the company had produced this product which was defective from the word go but she had only been hurt after 20 years, does that mean the damage to that family is any less? Does that mean the responsibility of the company is any less?

Mr. President, we are closing the courthouse door to people who are hurt by products produced by some of the businesses—thank God, not many of the businesses—within our country. Some of my colleagues came out on the floor of the Senate with a bill last week. Then there were amendments, which, as I said before, made it a truly egregious piece of legislation. We were successful in opposing a good number of cloture motions. Now the bill has been stripped away of some of the worst provisions, but it is still a piece of legislation which is profoundly anticonsumer, profoundly antiordinary citizen, and I think it tips the scales of justice way too far in the direction of corporate wrongdoers and really denies people some of the redress for grievances that they currently have within our court system.

Finally, I think there is a gigantic problem with this Federal preemption. If a State like the State of Minnesota has come up with some reasonable middle-ground proposals to deal with the problems of excessive litigation, to deal with some of the problems of joint liability, to try to have some fairness between the businesses and the consumers and the lawyers, it seems to me States ought to be able to hold on to some of the legislation they passed and not be preempted by this national legislation.

So, Mr. President, I hope we will have further debate on this piece of legislation, and I hope my colleagues will oppose it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I would like to thank my southern neighbor, Senator GORTON from Washington, for agreeing to clarify a few points about S. 565, the Product Liability Fairness Act. I also want to thank Senator GORTON's staff for their willingness to work out some of the finer points of this legislation.

Section 102(c) of S. 565 lists a number of laws that are not superseded or affected by the act. My first question seeks to clarify the language in section 102(c)(2). Section 102(c)(2) provides: "Nothing in this title may be construed to * * * (2) supersede or alter any Federal law;"

The committee report at page 28, footnote 101, gives examples of Federal statutes that are not superseded by S. 565. The examples in the committee report include the Federal Tort Claims Act, the Oil Pollution Act of 1990, and the Trans Alaska Pipeline Authorization Act.

My question to my friend is whether the language "any Federal law" in section 102(c) also includes Federal common law. I assume that it does and, therefore, that S. 565 does not supersede any Federal statutory or common law, such as admiralty law. Would my friend clarify this point for me, please?

Mr GORTON. The assumption of the Senator from Alaska is correct. Section 102(c)(2) provides that S. 565 does not supersede "any Federal law," and that includes both Federal statutory law and Federal common law. The act, therefore, would not affect any causes of action or any remedies, including punitive damages, determined under Federal statutory or common law, including admiralty law.

Mr. STEVENS. I thank the Senator from Washington for that confirmation. My second question seeks to clarify the so-called environmental exclusion—section 102(c)(7)—which I support. Could you elaborate on the statutory exclusion and the statement in the committee report that provides: "The exception for environmental cases in this section makes clear that this act does not apply to actions for damage to the environment."?

Mr. GORTON. I would be happy to elaborate on this section for the Senator from Alaska. Section 102(c)(7) reads:

> Nothing in this title may be construed to * * * (7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a state or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment * * * or the threat of such remediation.

As the Senator notes, the committee report explains that the exception for environmental cases is intended to exclude from S. 565 all causes of action and remedies that are available under Federal or State statutory or common law for damage to the environment. Therefore, this act would not place a cap on any punitive damage award or other remedy under any cause of action related to damage to the environment, including an action under a product liability theory.

Mr. STEVENS. Mr. President, I would like to focus on this point for a moment, if I may. Section 102(c)(7) excludes from coverage under the bill any actions for "remediation of the environment." The section refers to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 for the definition of "environment," which includes the navigable waters, the waters of the contiguous zone, the ocean waters of the United States, and any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States. The section does not define "relief for remediation," which is not a legal term of art.

It is not clear whether "relief for remediation of the environment" includes all other remedies to make injured parties whole, such as relief for damage to private property and lost revenues, or whether the exclusion is limited strictly to damage to the environment. I note that the committee report states with respect to section 102(c)(7) that the bill "does apply to all product liability actions for harm" which is defined as "any physical injury, illness, disease, death, or damage to property caused by a product." I ask the Senator if he could please explain how this exclusion is intended to be applied in the case of an oilspill that causes damage to the environment and damage to private property?

Mr. GORTON. The exclusion in section 102(c)(7) would apply to all causes of action and remedies for damage to the environment. As the Senator from Alaska has correctly noted, the bill would apply to actions under State law for injury to persons or property that are caused by a product. As mentioned earlier, this bill would not apply to any Federal statutory or common law cause of action.

To expand on the Senator's question, in the case of an oilspill caused by the failure of a storage tank in which the plaintiffs seek to recover for both damage to the environment and loss of property, the rules in the bill would establish the standard of proof and the limit of punitive damages with respect to recovery on the basis of damage to property under any applicable State law.

The bill would not apply to any aspect of the recovery for environmental damages, including any recovery for cleanup costs, remedial measures, damages or penalties for loss of wildlife, or punitive damages that are assessed for damage to the environment, whether under State or Federal law and even if the cause of action is based on a product liability theory. As is noted on page 22 of the committee report in the discussion of the definition of "harm" "it is the nature of the loss that triggers the application of the act" with respect to State law, not the cause of action used.

Mr. STEVENS. I thank the Senator for that explanation. My final question is whether the owner or operator of a product, such as a tank which contains oil, who is sued following an environmental accident may sue the manufacturer of the ship or tank under a product liability cause of action without limitation by this bill if it was product failure that caused the damage to the environment? My concern is that the equipment operator will be unable to recover fully from the manufacturer. Ultimately, the original plaintiff may only be able to recover to the extent that the operator is able to recover.

Mr. GORTON. I appreciate the Senator's request for absolute clarity. Further reference to the example of the ruptured oil tank may best illustrate the answer to your question. Suppose the oil tank ruptures as a result of a manufacturing defect. It leaks oil, causing damage to the environment and the neighboring private property, as well as damage to the tank owner and the tank.

The statutory construction of the environmental exemption is clear. This bill will not alter any law under which any injured party could recover for damage to the environment.

To the extent that the owner or manufacturer of the tank is liable for civil damages or civil penalties, cleanup costs, restitution, cost recovery, punitive damages or any other form of relief ordered to restore, correct, or compensate for damage to the environment, the rules in this bill would not apply. The bill would apply to an action by the private property owner to recover under State law for damage to that property based on the failure of the tank or on the basis that the oil, which is also a product, caused the harm.

Similarly, under section 102(c)(7) this bill would not apply to third party actions related to environmental damages. For example, the tank owner could implead or cross-claim against the manufacturer of the tank for damages awarded against the tank owner for remediation of the environment under any theory, including product liability. S. 565 would not apply as a limitation on the causes of action or remedies available to the tank owner in an action against the manufacturer, but only to the extent that the tank owner is seeking to recover against the manufacturer for damages awarded against the tank owner for remediation of the environment. Applicable Federal or State law, other than this bill, would continue to govern the action with respect to environmental damage.

However, this bill would apply with respect to any action under a product liability theory by the tank owner against the manufacturer for harm, as defined by this bill, caused by the product. In the case of a tank owner which has been held liable under a strict liability regime such as that found in section 1002 of the Oil Pollution Act of 1990, any damages assessed against the tank owner, including damages for injury to real or personal property caused by the product, should be considered economic damages to the tank owner for purposes of this bill, and an action to recover those economic damages from the manufacturer under a product liability theory would be without limitation under this bill.

Mr. STEVENS. Mr. President, I thank my good friend from Washington for taking the time to clarify the scope of these two provisions. I want to thank, again, him and his staff for assisting me and Annie McInervey and Earl Comstock of my staff to clarify these issues which are of vital importance to my State.

Mr. GORTON. Mr. President, I do believe there is one other clarification that needs to be made. The questions that have been propounded by the Senator from Alaska refer to S. 565. Technically speaking, S. 565 is not before us. We are dealing with a House bill and a Senate amendment which incorporated all of the provisions of S. 565 in it. And so the questions and answers are applicable equally to that amendment as they would be if the identical S. 565 were before the Senate.

Mr. STEVENS. Will this still be called the Product Liability Fairness Act?

Mr. GORTON. It will be.

Mr. STEVENS. Then our comments should be addressed, for legislative history, to that act. I thank the Senator from Washington for clarifying that.

Mr. COATS. Mr. President, this has truly been a year of reform. Since the outset of this Congress, the pervasive theme has been to fundamentally change a system of government that has gone awry. Thus far, most of these efforts at reform have been targeted at the Congress, and rightfully so. As some have said, we must first stop the bleeding. However, there are many very formidable tasks before us. One of which we discuss today.

Mr. President, I rise today to dedicate my support to the effort to reform the product liability system.

Justice in America is fundamentally rooted in the principles of the equality, expedience, and accessibility. Our current system of product liability is in conflict with all of these principles.

Where product liability cases are concerned, we certainly, cannot say that there is equality in the system. There is a total lack of uniformity in the current product liability system. Due to the broad diversity of legal standards from jurisdiction to jurisdiction, it is absolutely impossible to predict what, when and how you will be compensated for losses resulting from a faulty product. Where businesses are concerned, this unpredictability leads to disproportionately high risk calculations and insurance rates as companies are forced to calculate the worst-case-scenario in assessing liability risk.

These risk costs have, not only an adverse effect on those directly involved in any particular case, but on all Americans. Disproportionately high insurance costs have several negative effects on American business. In each case, that negative impact effect all of us.

Confronted with impossible-to-calculate liability costs, American businesses often choose not to introduce new technologies and innovations into the marketplace. Thus denying consumers the benefits of enhanced products and services.

Nowhere is this more evident than the biomedical industry. In my State of Indiana, there is a large biomedical industry. Among other things, these companies make artificial limbs. This is an industry that provides hope and freedom to so many people who may otherwise find their lives limited by disability. However, due to disproportionate liability costs, the manufacturers of the raw materials utilized in the construction of these prosthetic device are increasingly choosing to forego the market. The sales to the biomedical industry represent such a small percentage of total profits that liability costs outweigh benefits.

Furthermore, American businesses are confronted with insurance costs 20 times greater than their European competitors and 15 times greater than those of Japanese industries. In addition to making American products more expensive at home, this adversely effects competitiveness in a global marketplace. That means damage to job creation.

An excellent example of this is a case in Coatesville, IN. A small community of around 600 people, Coatesville is the home of the Magic Circle Corp.—a company employing around 30 people from Coatesville and Filmore, a small town next door.

Magic Circle is a small business that produces riding lawn mowers. The engine of these mowers is manufactured to automatically shut off when a person gets up from the mower seat. Unfortunately, in a cemetery in a nearby State, someone decided to tape down the seat so that the mower continued to run when that person left it unattended on a hillside. The mower rolled forward and injured their foot.

That person, the one who taped down the seat and left the mower unattended on the side of a hill, sued Magic Circle for $7 million. There was no alteration or misuse defense in the State in which the incident occurred. The amount of damages requested exceeded the total of all Magic Circle profits and assets. In the end, they were forced to pay $10,000 in attorney fees and its insurance company paid out $35,000 to the claimant.

There is an interesting footnote to this case. Officials of a foreign government later contacted the owners of Magic Circle to see if they would be interested in relocating in that country. One of the selling points of their presentation was the country's product liability laws.

There are those who argue that the threat of large punitive damages is what makes America's products safe. This argument is fundamentally flawed. What makes American products the best in the world is not a lottery-style product liability legal system. The American consumer operating in a free market, who demands quality and excellence, is what makes American manufactured products the most high-quality products in the world today. However, the impact of our current product liability system is beginning to take its toll. If we do not take action now, we will be in danger of losing our competitive edge.

Even the most adamant defenders of our current system certainly cannot say that it is expedient. A GAO report shows that product liability cases take an average of 2½ years to move from filing to verdict. One case cited took nearly 10 years to move through the judicial process.

The cynical result of these delays is that both parties are ultimately forced to negotiate compromises because they are overwhelmed with legal costs. These compromises often have little to do with guilt or innocence and much to do with predatory lawyers and a bizarre patchwork of legal standards and procedures.

Mr. President, I am an attorney. Many of my distinguished colleagues are attorneys. I am not here to attack lawyers. However, in the legal industry, as in any industry, there are those who lack scruples. There are those who will pursue personal financial interests above ethical considerations. In civil liability cases, lawyer's fees account for 61 percent of funds expended on product liability claims. These expenses include both defendant and plaintiff costs. The net effect of this incredible statistic is that realistic accessibility to the legal system and legal defense is a mere myth in most situations.

Mr. President, clearly there is a need for fundamental reform to the product liability legal system. We have debated this issue since I came to Washington.

Fundamental product liability reform offers the hope of removing one of America's most destructive obstacles to job growth. When frivolous suits are traded, when weak cases are brought, when litigation explodes, our economy is crippled. New technology never comes to market. Medical costs increase. The doors to factories close. Insurance costs increase. American products are unable to compete around the world. Perhaps most sorrily, a legal system that was once the envy of the world, has been twisted and distorted to a point where the very principles on which it was originally constructed cannot even be recognized. We must turn this tide.

A Rand Corp. study found that most of the money awarded in injury cases is taken by the legal process itself. Less than half actually gets through to victims. According to a GAO study, 50 percent or more of payments made by defendants in a product liability trial goes to lawyers. Victims get less than 50 percent. This same report discovered that when a case is appealed, defense costs can actually double.

Estimates vary, but one professor at the University of Virginia has estimated that when all the costs are finally counted, a mere 15 percent of injury litigation awards go to a victim.

Innocent victims must find relief and the help they deserve—and this bill preserves that obligation. But a runaway legal system must not be allowed to make victims of us all.

The current state of product liability law does not work for victims, it does not work for manufacturers, for consumers, for America.

Like so many of the reforms that we have already passed and stand to take action on, product liability reform is long overdue and at a critical stage. For the sake of our workers, for our economy, and for the victims trapped in a legal morass, I urge my colleagues to support this legislation.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, by consent of all parties, I ask for action on the Gorton-Rockefeller-Dole amendment.

VOTE ON AMENDMENT NO. 709, AS MODIFIED

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment No. 709, as modified.

The amendment (No. 709), as modified, was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KYL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent to proceed as in morning business for the next 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 770 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that it be in order for me to offer the amendment I have in my hand which the Democrats have also seen and it be in order notwithstanding the provisions of rule XXII. This is the so-called additur fix amendment requested by the White House.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, on behalf of Senator HOLLINGS, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, during the course of debate in discussing the breadth of the products liability bill, I mentioned that a nuclear power plant or a component part thereof could be included within the purview of the products liability bill. I also stated that maybe the bill might not cover a nuclear power plant or a component part thereof.

I, in effect, raise two issues: One being the issue of pain and suffering, and the other being the statute of repose. In regard to these issues, I mention the Chernobyl melt-down.

Since that time, my office has been contacted by reliable and informed individuals who feel that I misspoke on this issue.

First, they say the difference between design and operation of the United States and Soviet plants make a Chernobyl-style accident virtually impossible.

Second, they state that the bill would not in any way prohibit compensation for injured parties in the event of a nuclear accident regardless of the time of the manufacture of the plant or components. They particularly point out that Congress has provided a sure and certain recovery system for any member of the public injured as a result of a nuclear power plant accident—the Price-Anderson Act—and, further, that Congress in 1988 increased the amount of funds available for claims to more than $6.8 billion and pledged to review the situation in the case of an accident where more funds were needed to compensate the injured. The nuclear power industry, I am told, has willingly agreed to be assessed up to $63 million against each licensed reactor in order to pay damage claims. The nuclear power industry has met this obligation to provide a clear and reliable source of liability compensation when it is justified.

While I have not researched this issue completely, I do find that following the case of *Klick* v. *Metropolitan Edison Co.* (1986, CA3 Pa) 784 F2d 490, which limited certain damages to an "extraordinary nuclear occurrence," Congress did amend the Price-Anderson Act to include a "nuclear incident."

In the exclusion clause of the products liability bill there is a statement to the effect that the bill does not supersede any Federal law.

I have great confidence in the knowledge and reliability of the individuals who have brought this to my attention, and I would like to put the record straight. I will continue to research this matter; and if there is anything different from what I have been told, I will make it known to the Senate.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEWINE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I ask unanimous consent that I may be allowed to proceed as in morning business for the next 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BURNS pertaining to the introduction of S. 768 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES-JAPAN TRADE RELATIONS

Mr. BYRD. Mr. President, I have a Senate resolution which has been cleared with both leaders, and they are both cosponsors. I have the clearance from them to take up the resolution and proceed with its immediate consideration. I therefore send a Senate resolution to the desk and I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 118) concerning United States-Japan Trade Relations.

The Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, this resolution is being jointly cosponsored by Senators DOLE, DASCHLE, BAUCUS, REID, ASHCROFT, WARNER, LEVIN, HOLLINGS, PRESSLER, DORGAN, BROWN, and SARBANES.

Mr. President, the long and difficult negotiations between the United States and Japan over United States access to the Japanese automotive market collapsed last Friday, May 5, 1995, in Whistler, Canada. Japan simply cannot kick the habit of a closed automotive market, that is the antithesis of free trade. It is not clear as to whether the Japanese will return to the negotiating table with a changed position, or whether Japan's automakers will themselves announce an agreement with specific measures of progress to allow American products to compete fairly there. Let us hope that they do break the impasse, but this disappointing result of strenuous, long-term efforts by the United States to get fair access to this lucrative market brings us to a watershed in our trading relations with Japan. This blow cannot help our overall relationship with a nation that we have worked with for decades to promote our mutual goals of security, stability, and peace in the Pacific.

My distinguished colleague from West Virginia, Senator ROCKEFELLER, stated on this floor this past Wednesday that the nature of the difficult problem in getting fair access to Japan's market. Japan rigs her market against us, despite economic pressures to be more open. Despite the recent increase in the value of the yen, which would make United States products more competitive in Japan, Japan keeps her market closed to cheaper imports and overprices goods offered to the Japanese consumer. Increased savings which should be passed on to Japanese consumers, resulting from the increased strength of the yen vis-a-vis other currencies are never passed on to the Japanese consumer. The increased profits which are accumulated by Japanese producers are used to subsidize exports, keeping prices for those same goods artificially low here in the United States, making Japan artificially more competitive. It is a controlled pricing situation, not based on free market principles. The devastating result of these practices in the automotive industry, for both new cars and parts, has been an unacceptably high and persistent trade deficit with Japan.

The result in 1995 was a ballooning record trade deficit with Japan of $66 billion, up 10 percent over 1994, of which $37 billion, or 56 percent of the total is attributable to cars and auto parts. The automotive trade deficit with Japan constituted some 22 percent of our entire trade deficit with the world. American manufacturers cannot get Japanese distributors to put American cars in their showrooms. Overall, while Japanese automakers hold some 22.5 percent of the American market, the share of the Japanese market held by the Big Three United States automakers is less than 1 percent. As for parts, it is extremely difficult for United States parts, which are highly competitive from both a price and value standpoint, to break into the "Karetsu" system of interrelationships between Japanese car manufacturers, suppliers and dealers. Despite the fact that United States government studies show that Japanese aftermarket repair parts cost, on average, some 340 percent higher than comparable United States parts, the Japanese consumer is essentially denied the ability to buy those American parts. The result is that Japanese vehicle manufacturers control about 80 percent of the parts market, as compared to a wide-open American market in which independent replacement parts producers account for some 80 percent of the United States market. So, our market is open, Japan's is closed.

These important economic realities are well known to both governments and industry on both sides of the Pacific. The impact on our domestic auto industry is crucial. Every $1 billion of U.S. exports means some 17,000 jobs. The health of our aluminum, glass, steel, rubber, electronics, and many other industries is tied to the auto sector. It is our largest manufacturing industry, with some 700,000 people employed directly by the automakers, and another 2.3 million employed in the parts industry supplying the automakers.

There is extensive support across the board from industry and labor organizations for the current negotiations. They have been grinding on for some 18 months before the stinging Japanese rebuff on Friday in Canada. Last October 1994, our Trade Representative opened an investigation under section 301 of the Trade Act of 1974 of the unfair practices in the aftermarket parts market, which constitutes about a third of the automotive deficit with Japan. The unwillingness of Japan to address this unfair automotive trade balance demands a strong administration response and equally strong supportive actions by this body and American industry, both business and labor. President Clinton and our Trade Representative, Ambassador Kantor, have made it clear that the end of long, long American tolerance and give has now been reached on this issue. On Friday, Ambassador Kantor indicated that the "government of Japan has refused to address our most fundamental concerns in all areas" of automotive trade, and that "discrimination against foreign manufacturers of auto and auto parts continues." The President indicated on the same day that the United States is "committed to taking strong action" regarding Japanese imports into the United States in the absence of an agreement.

Pursuant to the 301 case, trade sanctions, meaning tariff retaliation against a variety of Japanese goods imported into the United States, are now in order. Such retaliation has been openly discussed regarding these negotiations for months, and so the Japanese are saying, either "we do not believe you will do it," or "we do not care," or, lately, that "you cannot impose sanctions under the 301 law bilaterally on Japan because it is illegal under the newly created World Trade Organization rules."

Mr. President, the stakes of these automotive negotiations and U.S. actions under 301 are very high. The auto trade is very lucrative, and thus there is a major financial stake. But there is more at stake than money here. At issue is whether nontariff barriers, discriminatory treatment by foreign economic interests, aided by a maze of regulatory, bureaucratic obstacles to open trade, will dominate large sectors of international trade. As opposed to an open United States market, our major Asian trading partners practice wide discriminatory treatment against our goods. China and Korea appear to be taking a cue from Japanese behavior and the apparent success of these unfair practices. Other sectors will continue to follow suit, such as the highly explosive and rich trade in telecommunications, where we are experiencing similar problems.

The inability of our two nations to resolve our differences on trade in a way which demonstrates a real commitment to fairness by Japan will inevitably corrode our overall relationship. It is unrealistic to expect to insulate the costly effects to the U.S. economy, to jobs, and the health of so many of our important industries from the total relationship. Our economic health is critical to our national security and to our staying power as the key deployed military power in the Pacific. It all hangs together. The fabric of our economic health and Japan's national security is a seamless web, and a strong United States auto industry is an important strand in that web. I hope the Japanese will come to understand that this is all interrelated.

The Japanese have threatened to bring a case against United States imposition of sanctions under section 301 before the World Trade Organization, in the hope the WTO would rule against the United States and declare the imposition of sanctions a violation of WTO rules. I am gratified that Ambassador Kantor has said he would welcome such a challenge, because, according to his comments in the New York Times of May 7, 1995, "it would give us an opportunity to make clear to the world the full range of Japan's discriminatory practices" in the automotive market. I hope Japan does bring the case to the WTO. I am fully confident that our Trade Representative would conduct a vigorous defense of United States actions, and turn the tables against the Japanese, whose trade sanctuary regime is anathema to the goal of an open world trading system. We should insist on a complete review of Japan's practices. Either we are heading toward a more open world system or we are not. This would be a litmus test of the actions and posture of the WTO. It would be a key test of the future of the WTO. I cannot conceive of continued U.S. commitment to an organization that would reward blatant discrimination and the perpetuation of sanctuary behavior. Thus, the case would be a welcome, early test of what kind of world organization we have created.

Mr. President, I am offering this resolution as a sense-of-the-Senate resolution that puts the Senate on record as supporting the President's actions. First, it expresses the Senate's regret that negotiations between the United States and Japan for sharp reductions in the trade imbalances in automotive sales and parts, through elimination of restrictive Japanese market-closing practices and regulations have collapsed. Second, it states, if negotiations under section 301 of the Trade Act of 1974 fail to open the Japanese auto parts market, the United States Senate strongly supports the decision by the President to impose sanctions on Japanese products in accordance with section 301.

There is still opportunity for Japan to return to the negotiating table and satisfy the legitimate case of the United States that immediate action to open Japan's market is urgently needed. I hope the Japanese see the light before it is too late. There are press reports that the Japanese think we may shrink from the imposition of sanctions. I hope that we here in the Senate will send a strong message of support for the President on this matter, and help disabuse the Japanese of that view.

Mr. President, I yield the floor.

(Ms. SNOWE assumed the chair.)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. DOLE. Madam President, I am a cosponsor of the resolution. I thank my distinguished colleague from West Virginia for adding me as a cosponsor of the resolution. I think it is very timely and very important. I hope my colleagues will strongly support the efforts of Senator BYRD in this area.

This resolution is not an example of Japan-bashing. The United States has now negotiated in good faith for 2 years in this administration. Previous administrations tried to pry open the Japanese auto market through serious negotiation. The results have been disappointing, at best.

Congress has passed market-opening trade laws because U.S. negotiators have needed effective tools. They are there to be used, if negotiations fail. They are not empty threats.

Section 301 is not a threat, it is an effective tool. I happen to believe Ambassador Kantor has wielded this tool responsibly.

That is why, if a negotiated solution cannot be found, I support the use of section 301 to impose appropriate sanctions.

Madam President, this would be strong medicine. Some people might not like it. Some people might think it disruptive.

But there has always been bipartisan agreement that the United States must pursue more open markets. We have always provided leadership on this issue, and we will continue to do so.

There comes a time in every trade negotiation, when all other means have been exhausted, to take strong, decisive action. That time may have come, Madam President, if a last minute solution cannot be found. I urge my colleagues to support this sense-of-the-Senate and stand up for American commercial interests abroad.

In my view, if nothing else, a strong vote on this resolution will send an urgent message to the negotiators, more particularly the Japanese negotiators, that we are serious, we mean business, we stand behind the administration and their efforts to break the logjam.

So I encourage my colleagues on both sides of the aisle to support the sense-of-the-Senate resolution.

I ask unanimous consent that Senator SPECTER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I thank the distinguished majority leader for his cosponsorship and for his fine statement. I believe we would like to have the yeas and nays.

Mr. DOLE. Madam President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BRADLEY. Madam President, I rise to explain my opposition to this resolution. Although this resolution calls attention to a serious problem, the persistence of Japanese trade barriers, it does not identify a workable solution.

Japanese trade barriers need to come down. They need to come down because they contribute to America's bilateral trade deficit with Japan. Studies cited by the administration have found that removing every single Japanese barrier would reduce the bilateral merchandise trade deficit by around 20 percent.

Note, however, that Japanese trade barriers do not themselves account for America's global trade deficit, only its composition. As the administration itself admits in the President's 1994 annual report on the Trade Agreements Program:

> The United States still suffers from relatively low savings at a time when domestic investment is growing rapidly. The shortfall between domestic saving and investment was larger in 1994 and was filled by a net increase in foreign capital inflows. The United States thus had a large surplus on its international capital account and a large offsetting deficit on its trade or current account.

In plain English, our domestic budget deficit crowds out savings and requires us to import capital. This leads to our global trade deficit.

Japanese trade barriers also need to come down because they reduce the Japanese people's quality of life and impede the process of democratization in Japan. Japan's democratization is also in our interest; it is the only way we will have a stable, democratic, prosperous Japanese partner in our efforts to secure a stable international environment.

So, on this point, we agree, Japan's trade barriers must come down.

However, the administration's strategy, which this resolution supports, is the wrong way to do this. Declaring unilateral trade war on Japan—and, make no mistake, [illegible] is what we are talking about—would once again leave the United States isolated in the world. Europeans, Latin Americans, and Asians, fearing similar treatment from us in the future, would line up with Japan.

Currency markets will react badly. If you think a rate of 80 yen to the dollar is disadvantageous to this country, as I do, imagine a rate of 75 or even 70. I am not alarmist when I say that this could threaten the position of the dollar as the international reserve currency. Indeed, Japan is already talking of switching its reserves out of dollars and into deutschmarks.

This dispute is likely to end in the fledgling World Trade Organization. No matter what happened there, support would be weakened. Either the United States would lose, causing a tidal wave of calls to leave the World Trade Organization, or Japan would lose, leading to reduced Japanese support for the international trading system. Either way, we all lose.

Finally, by strengthening the power of the bureaucrats, who are standing up to the Americans, a trade war would cut across the forces of transparency, democratization, and accountable electoral politics which are the ultimate answer to our trade imbalance.

I have spoken many times of a better way to reduce Japan's trade barriers, one that works with the forces shaping Japan, does not cut across our interests in the new World Trade Organization, and depoliticizes the trade relationship. To repeat, I believe we can best address Japan's trade barriers by establishing a dispute resolution mechanism, similar to the ones in the United States-Japan and United States-Canada free trade agreements, to impartially adjudicate United States-Japan trade disputes.

Madam President, it is ironic that we are voting on this resolution. In many ways, it is like judo. What appears strength is actually revealed as weakness.

I, for one, believe in strength. This is why I believe we must take a strategic, long-term approach to the United States-Japan trade relationship. A strong America will negotiate and adjudicate, as I have described. A weak America will only, impotently, bash.

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Minnesota [Mr. GRAMS], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

The PRESIDING OFFICER (Mr. COATS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 8, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—88

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Jeffords
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Wellstone

NAYS—8

Bradley
Hatfield
Inouye
Johnston
Kassebaum
Kyl
McCain
Packwood

NOT VOTING—4

Grams
Moynihan
Specter
Warner

So the resolution (S. Res. 118) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 118

Whereas, the United States and Japan have a long and important relationship which serves as an anchor of peace and stability in the Pacific region;

Whereas, tension exists in an otherwise normal and friendly relationship between the United States and Japan because of persistent and large trade deficits which are the result of practices and regulations which have substantially blocked legitimate access of American automotive products to the Japanese market;

Whereas, the current account trade deficit with Japan in 1994 reached an historic high level of $66 billion, of which $37 billion, or 56 percent, is attributed to imbalances in the automotive sector, and of which $12.8 billion is attributable to auto parts flows;

Whereas, in July, 1993, the Administration reached a broad accord with the Government of Japan, which established automotive trade as one of 5 priority areas for negotiations, to seek market-opening arrangements based on objective criteria and which would result in objective progress;

Whereas, a healthy American automobile industry is of central importance to the American economy, and to the capability of the United States to fulfill its commitments to remain as an engaged, deployed, Pacific power;

Whereas, after 18 months of negotiations with the Japanese, beginning in September 1993, the U.S. Trade Representative concluded that no progress had been achieved, leaving the auto parts market in Japan "virtually closed";

Whereas, in October, 1994, the United States initiated an investigation under Section 301 of the Trade Act of 1974 into the Japanese auto parts market, which could result in the imposition of trade sanctions on a variety of Japanese imports into the United States unless measurable progress is made in penetrating the Japanese auto parts market;

Whereas, the latest round of U.S.-Japan negotiations on automotive trade, in Whistler, Canada, collapsed in failure on May 5, 1995, and the U.S. Trade Representative, Ambassador Kantor, stated the "government of Japan has refused to address our most fundamental concerns in all areas" of automotive trade, and that "discrimination against foreign manufacturers of autos and auto parts continues."

Whereas, President Clinton stated, on May 5, 1995, that the U.S. is "committed to taking strong action" regarding Japanese imports into the U.S. if no agreement is reached. Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

(1) The Senate regrets that negotiations between the United States and Japan for sharp reductions in the trade imbalances in automotive sales and parts, through elimination of restrictive Japanese market-closing practices and regulations, have collapsed;

(2) If negotiations under Section 301 of the Trade Act of 1974 fail to open the Japanese auto parts market, the United States Senate strongly supports the decision by the President to impose sanctions on Japanese products in accordance with Section 301.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 693 TO AMENDMENT NO. 690

(Purpose: To provide that a defendant may be liable for certain damages if the alleged harm to a claimant is death and certain damages are provided for under State law, and for other purposes)

Mr. SHELBY. Madam President, I have an amendment at the desk—No. 693, I believe it is.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Alabama [Mr. SHELBY], for himself and Mr. HEFLIN, proposes an amendment numbered 693 to amendment No. 690.

Mr. SHELBY. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to this section, but only during such time as the State law so provides.

Mr. SHELBY. Madam President, I offer today on behalf of myself and the senior Senator from Alabama [Mr. HEFLIN] an amendment to ensure that individuals guilty of wrongful deaths are not provided unfair and unwarranted protection by the product liability reform legislation we are considering today.

This amendment we are offering was accepted last week by both sides but was excluded from the Gorton-Rockefeller-Dole amendment today. I believe that all of my colleagues will support this measure once they take time to examine its merits. It is unique to the State of Alabama. My State of Alabama has a wrongful death statute, the damages of which are construed as only punitive in nature—not compensatory but only punitive in nature. Under the product liability bill that we are considering today, along with some of the proposed amendments to this bill, people who have committed or are guilty of a wrongful death in my State of Alabama, the damages available will be severely limited. While the bill here allows for additur, the additur procedures in this legislation are cumbersome at best and possibly unworkable.

Madam President, in 1852, I believe it was, the Alabama Legislature passed what is known as the Alabama Homicide Act. This act permits a personal representative to recover damages for a death caused by a wrongful act, omission, or negligence. For the past 140 years, the Alabama Supreme Court has interpreted this statute as imposing punitive damages for any conduct which causes death.

Alabama believes that all people have equal worth in our society so the financial position of a person is not used as a measure of damages in wrongful death cases in Alabama as it possibly is in other States. The entire focus of Alabama's wrongful death civil action is on the cause of death.

The amendment I am offering today on behalf of myself and Senator HEFLIN will provide that in a civil action where the alleged harm to the claimant is death and the applicable State law only allows for punitive damages, the punitive damages provision of this bill will not apply. In other words, this amendment will only apply to my State of Alabama.

Madam President, I believe there are legitimate reasons to exclude from the coverage of this bill actions such as those brought under Alabama's wrongful death statute. Cases of wrongful death are often some of the most legitimate instances where punitive damages should be awarded.

Everyone in this body knows that I have great reservation about this legislation now before us. However, I do believe the addition of this amendment will help ensure that this bill will not unduly—not unduly, Madam President, penalize the citizens of my State.

I urge my colleagues to support this important amendment.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. I join with the distinguished Senator from Alabama [Mr. SHELBY] in his amendment.

Of all of the 50 States, Alabama has a different method pertaining to the recovery of damages when a death occurs as a result of culpable action, regardless of whether it be simple negligence, gross negligence, willful conduct, intentional conduct, wanton conduct, any type of conduct that allows for the recovery. It allows under the interpretation given for this statute that punitive damages only can be recovered. It is different from other States where most of the other States allow a plaintiff, the executor or the administrator or the parent of the child, if deceased, to be able to introduce, for example, hospital bills.

A person may have died after 6 months in a hospital, and under hospital bills of today they can accumulate to over $150,000. Burial expenses in most States can be introduced into evidence and can be an element of compensatory damages. Loss of earning capacity, noneconomic damages, pain and suffering in some instances in some States can be introduced as an element of damages, and so on down the list of all of the types of damages.

But in Alabama you are not allowed to introduce any of that. You attempt to introduce a hospital bill, and a doctor's bill, and whether they were $150,000 or whether, on the other hand, they amounted to $500 or $25, you cannot introduce that in evidence as an element of damages under the Alabama wrongful death statute as has been interpreted, and the charge to the jury is that it is a matter of punishment for the wrongdoer, and therefore it is limited to that.

Over the years, the companies, corporate America, in Alabama, insurance companies, defense counsel who represent them, have fought to maintain this, and over the years the plaintiffs' lawyers have come to live with it, and therefore it is accepted as being the measure of damages.

However, under the provisions that we have here under this bill in product liability cases the provisions pertaining to this would apply. And under the DeWine amendment, you would be limited in a situation with regard to that to almost zero, where there would be nothing that could be recovered, and it would limit it, restrict it substantially.

So I support the Shelby amendment in this regard. This is a situation that applies only to Alabama. The language of this bill is basically the same language that was considered in the 101st Congress and in the 102d Congress. They came out of the Commerce Committee. We had pointed this defect out, and the drafters of the bill, including people who had been working on product liability, put a provision in those bills that would allow for the Alabama law to prevail. We offered it as an amendment in regard to the Gorton and Rockefeller underlying substitute, and it was accepted after they made some changes in the language. Senator SHELBY and I are agreeable to any changes in the language of the Shelby amendment that they might want to propose provided it allows for recovery—it is limited strictly to the wrongful death cases, and therefore we are amenable to any change that they might make as long as it does not abolish, or greatly minimize the recovery under the Alabama statute.

So we feel that this is something which should be adopted. Otherwise, it is singling out Alabama, and Alabama has a very unique, they argue, uniformity, and the preemption matters ought to be uniform among all of the 50 States. But what it means is that in the preemption which does bring about some uniformity as it would apply to the preempted sections, that it will not apply to Alabama. And it is a very discriminatory act in regard to Alabama. I would think that it has, from a Federal constitutional basis, some imperfections in regard to it.

I urge my colleagues in the Senate to support the Shelby-Heflin amendment.

AMENDMENT NO. 693, AS MODIFIED

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Alabama.

Mr. SHELBY. Mr. President, I ask unanimous consent to amend the amendment that I have filed that is the subject of debate.

I send the modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. HOLLINGS. Reserving the right to object. That is a modification to the Senator's amendment?

Mr. SHELBY. The Senator is correct. It just clarifies this amendment. I mention in the amendment section 107. That is all it does.

Mr. HOLLINGS. The distinguished Senator from Washington and I had a discussion about another amendment. I am sitting around making sure that unanimous consent is not given for that amendment.

Mr. GORTON. This is not that amendment.

Mr. HOLLINGS. I thank the Senator. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 693), as modified, is as follows:

At the appropriate place insert the following:

SEC. . LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to section 107, but only during such time as the State law so provides.

Mr. HEFLIN. I assume section 107, I ask Senator GORTON, is the section dealing with punitive damages.

Mr. GORTON. It is.

Mr. HEFLIN. So it is limited to that. But does that include the DeWine amendment and language in regard to small business, and the individual relative to the $500,000?

Mr. GORTON. It does. That is in section 107, as well.

Mr. HEFLIN. That is all included in section 107, all punitive damages?

Mr. GORTON. It is.

I simply pointed out to the distinguished junior Senator from Alabama that the way the amendment was set up it did not have any reference to any section, but it was about punitive damages. His correction is to see to it that it applies to the punitive damages section. But that is the section that has all the punitive damages in it.

Mr. HEFLIN. I thank the Senator.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I regret that I have to oppose the amendment sponsored by the two Senators from Alabama. In some respects, I am sorry that I have to do so, but I believe that I have good and sufficient reasons for doing so.

First, the senior Senator from Alabama said that this was included in previous product liability bills, which is certainly true. But those previous product liability bills did not have rules like this relating to punitive damages.

Mr. HEFLIN. Did not have what? I did not understand the Senator.

Mr. GORTON. There were no DeWine amendments and there were no Snowe amendments in previous bills.

Second, this is, Mr. President, to be candid, a very peculiar rule in the State of Alabama where negligence is accounted to be the subject of punitive damages. It is not the rule in any other State in the Union.

Nothing in this bill, without this amendment, prevents Alabama from providing any kind of damages for wrongful death that it wishes to, either through its legislature or through its court interpretations. So Alabama is not going to be penalized any more than any other State by this bill unless Alabama wants to be, and willfully refuses to conform its laws to those of other States.

But, more significant than that, Mr. President, are two other features about this amendment. The first, one of the most carefully worked out elements in this entire bill, the most carefully worked out element in this bill, is the triple set of requirements we have with respect to punitive damages, one of which, in the ultimate analysis, allows judges to impose unlimited punitive damages when they find the conduct of the defendant to have been sufficiently egregious. The second is the Snowe amendment which, in most cases, will limit punitive damages to twice the total amount of all compensatory damages. And the third, Mr. President, is the fact that this body, I think, with a wide majority, determined that we were not going to allow punitive damages in a single case simply to destroy small businesses or individuals of relatively modest assets, with total assets of less than $500,000.

Now, if this amendment passes, that will be the rule in 49 States—in 49 States, Mr. President. It will not be the rule in Alabama. In Alabama, there will not be any Snowe limitation in general cases, and there will not be any protection for small businesses or for individuals with net assets of less than half a million dollars.

Mr. President, this is only 1 State out of 50, but Alabama is the single most notorious State in the United States of America related to its size for punitive damage awards. It is a cottage industry in that State to award very, very large, huge punitive damages awards against, generally speaking but not necessarily limited to, out-of-State corporations.

So what we are saying is that the set of rules that we have adopted, in most of these cases by very large majorities in this body, will apply in every State except the State that comes first in the alphabet, Alabama, and none of the limitations will apply in the State of Alabama. Why? Because it has a peculiar law which can be changed by one word by its State legislature or, for that matter, by its supreme court. And we are going to do this, for all practical purposes, permanently.

Finally, Mr. President, a profound change has taken place in this body since the time this amendment was first proposed in this debate. When it was first proposed in this debate, the absolute maximum for punitive damages was the Snowe amendment—twice compensatory damages—which, as the two Senators from Alabama pointed out, under this peculiar Alabama law, would be zero. And, of course, twice zero is zero. So that is no longer the case.

So the bill, the way it exists now, the way it has been amended now, allows the judge in any case on certain findings to impose punitive damages in unlimited amounts. That, in the bill as it exists now, without this amendment, of course, applies in Alabama, and will allow those Alabama judges to impose whatever they wish, if they meet the standards for punitive damages, themselves. So at that level, at least, this proposal is entirely unnecessary in a way that was not the case or not the argument just a few days ago in this bill.

So even if Alabama is perverse enough to keep its law in its present peculiar fashion, this will not mean that there cannot be any recovery in wrongful death cases. But if it is passed, we set one rule for Alabama in which everything is the sky is the limit in a State where the sky is higher already than it is in any other State in the Nation, and a quite different rule for 49 other States.

Mr. President, that is absolutely unfair; that is profoundly unfair that this State, because of one peculiar rule, should be exempted from all of the rules which the great majority of Members here have said are appropriately applied to all of the States.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I will be brief.

I would just like to say again, I believe it was in 1852, the Alabama Supreme Court decreed that there would be, in a wrongful death action, punitive damages only, and that has worked in my State since 1852. That is one reason I oppose all of this legislation.

Every State has different problems. Alabama, my State, is unique as far as measuring the wrongful death damages. They do it by punitive damages. It is not anything new. It goes back way over 100 years. But it has worked. It has worked for my State. This would only deal in wrongful death cases, nothing else. All we are asking the Senate to do is to preserve what we have and what we have had for over 100 years.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I am rather surprised to hear my good friend from Washington, who has long been an advocate of federalism, come forward with language from the screaming Federal Eagle over States saying: "Alabama, you change your law or else you don't get even peanuts."

In other words, this is federalism in reverse, the big Federal Government that we have heard so much about telling the Alabama Legislature and the Alabama courts, "You change your law." Now you have preemption that takes place. This is a mandate as to whether a claimant is going to recover or not.

I am rather surprised that we would hear that language coming from such a strong supporter of the concept of federalism. If the Federal Government is going to tell a State you do this or not, we usually give them a carrot or some type of incentive. But my colleague's position is, to me, an example of brute force—"you change your law or you're not going to be able to protect your people."

Then we have the additur provision pertaining to the judge. Clearly, that is unconstitutional. The Supreme Court of the United States, in the case of Dimick versus Schiedt, has already ruled on that issue. In practice what will occur is where an additur is made by the judge but the defendant does not want to accept the new amount, the defendant or defendants will request a new trial. However, that is what appeals are for—new trials.

So, automatically a defendant will ask for a new trial if he does not like what the judge added to the judgment. If the judge, therefore, feels that the punitive damage award was inadequate, because the defendant's conduct was extremely egregious and the plaintiff's injuries were great, the judge could award additional punitive damages.

In the normal course of events, when the judge adds that to the damage award, a defendant takes an appeal to reverse it where he could get a new trial. But, the punitive damages provisions of this bill give defendants the automatic opportunity to request a new trial.

Well, what defendant is going to not take advantage of it? Every defendant is going to say, "Give me a new trial. I can keep my money, draw interest on my money in the meantime, and delay a new trial for 2 years." Therefore, if the overall award was $300,000, and if the judge added to it above the $250,000 cap that is in this bill, the defendant takes its $300,000 and draws interest or makes investments with it.

Defendants are going to follow that course of action with the idea also that they have to go back to a new trial which means that every issue will have to be litigated all over again. There is not much to lose in following this course of action. So automatically you are going to find that every defendant is going to demand a new trial. What happens? A defendant knows he is not going to get any more than what was originally put in the judgment, the amount he put there. Then it comes back to the judge again and the judge says, "Well, I believe that that conduct was so egregious and find this is a terrible case and that the defendant ought to be punished, and therefore, I will again make an additur."

What does the defendant say? "Well, I have under this bill automatically a right to a new trial, and I demand a new trial." So the defendant delays it 2 more years, draws his interest, and makes his investments in the meantime.

Then he goes back and retries it and gets the same judgment. Then the defendant says, "All right, I'm going to take advantage of my opportunity for a new trial" and receives a new trial. So the case is tried a third time and, finally, the plaintiff says, "It doesn't make any difference what the judge adds, there is no way in the world that I can collect it, and I just have to give in, there is nothing I can do." The judge and the jury felt that defendant's conduct was egregious and met the extremely high standards of this bill. However there is no way under this language that a defendant can ever recover because instead of having the normal event of trying to reverse a case on appeal and have a new trial, the defendant just has an automatic right to a new trial on punitive damages."

When you think about it, the situation is just plain ridiculous. I think Alabama's legislature and its courts have the clear right to determine that its wrongful death statute is to be punitive in nature only, recognizing the sacredness and value of human life. The concept of federalism that every State has its right to choose its laws ought to respect that right of my state. But here we have the American Federal Government imposing, and intruding, and saying: "All right, you can't recover for the death of an Alabamian or the death of a Washingtonian if you are traveling in Alabama or any other individual that might be there."

What we are asking is, let us allow federalism to prevail, and if the State of Alabama wants to, it can continue to recognize the validity of its wrongful death statute which is designed to protect its citizens by making it of a punitive nature only.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, very briefly on the subject. No, I say, Mr. President, nothing in this law limits the State of Alabama from providing unlimited compensatory damages in the case of wrongful death. It is Alabama that has said that it will not grant compensatory damages in the case of wrongful death, and Alabama can change that at any time that it wants. Nothing in this bill puts any limit on compensatory damages awarded by courts in the State of Alabama for wrongful death; absolutely nothing.

What this bill does do is to take a modest step toward bringing under a certain degree of control punitive damages with rules for small business, rules for larger organizations and an exception when a judge wishes to go above any of the latter limitation. That is all. This amendment seeks for a single State to be totally exempt from that rule, therefore, in the view of this Senator is wrong.

Mr. President, I am going to suggest the absence of a quorum because it is my hope that we are about to reach a unanimous consent agreement on all of the rest of the amendments that are to be offered and perhaps a chance to vote on them all and on final passage of this bill the same time tomorrow and serve the convenience of our colleagues. And so I will do that in just a moment, though I do not want to limit anyone else having a right to say something.

I do need to say two other things. First, with respect to this constant new trials for large punitive damage awards, the Senator from West Virginia considered that last night, worked with his friends and supporters on his side of the aisle on that subject last night and worked with staff on this side. We agreed to take that section or subsection out of the bill. Because of cloture rules, we can only do that by unanimous consent. Opponents of the bill—Senator HOLLINGS—have refused that unanimous consent.

I am here publicly to assure all Members that it will not appear in any bill coming out of conference, because Senator ROCKEFELLER and I have made that commitment. We will not bring back a conference report with that proposal in it. We wish that we could have the courtesy of such unanimous-consent agreement. But we cannot, and they are certainly operating under the rules. But it is not going to appear in any final bill. We can assure them of that.

With that, Mr. President, hoping that we will soon be able to reach a unanimous-consent agreement about votes, I will suggest—I withhold that.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, my distinguished colleague from Washington just made a very, very important point, one which he and I have already made in public at a press conference which we held several hours ago, and that is that we are, in spite of the fact that the Senator from South Carolina, my esteemed, cherished ranking member of the Commerce Committee—who is a very good friend and has been, and his wife and my wife for a long, long time—does not wish to give consent for us to be able to do this—I think with the idea being that if he does not give consent, then the chances that this bill would be less attractive to the White House would increase.

Senator GORTON and I are trying to make this more attractive to the Members of the Senate, Members of the House, and the White House. But I have also taken the same blood oath that the Senator from Washington has, and that is that we are so committed in terms of the additur amendment that we will not come back from conference without its being in the proper condition, and that, in fact, if it does not come back from conference in the proper condition, as we said at our press conference, we will vote against a motion for cloture.

I do not know how it is possible for any two floor managers to put anything in stronger terms, or to say anything with greater faith and, therefore, it grieves me very much that we will not be granted unanimous consent to do that here when we are being so direct and honest and forthright with our colleagues.

There were just timing problems in terms of submitting this, or else the amendment would have been filed and could have been brought up as a matter of the order. Nevertheless, that was not done. The Senator from South Carolina does have the power to grant us unanimous consent, but he chooses not to do so.

Mr. President, I also want to simply indulge my colleagues in a couple of thoughts, to make some comments on the discussion here about the section in the compromise now pending. We are there. It deals with punitive damages. No. 1, the whole section is the result of many, many months of negotiation and discussion on, in fact, how a product liability reform bill might best deal with the costs and the problems and the erratic nature which we all recognize is at play—punitive damages.

I have tried to represent the Clinton administration's discomfort—expressed discomfort—with the idea of imposing a flat cap on punitive awards, while accommodating the strong desires of Senators on both sides of the aisle to include some reform in this bill, to pursue the idea that the punishment impleaded in punitive damages should have some sense of connection, in fact, to the crime.

I also have to say that in my own personal experience, I do not like to vote for caps. I am on the Finance Committee, and when medical malpractice was before us last year and there was a vote on a cap on noneconomic damages, I voted against it. I do not like caps. It has been my own personal purpose in which I have negotiated in good faith with Members of my own party and the other party to find a way to make sure that the cap would be uncapped. I think we have done that. The Senator from South Carolina knows that. And I say this with respect because he is within his rights and he is a very skilled legislator and a very good friend. I repeat that. He understands that we are, in fact, trying to improve the bill in a way which would appeal to virtually all Members on my side of the aisle, including, in fact, in truth, I believe the Senator from South Carolina himself, because it would be a better amendment with the judge additur provision refined and nobody could dispute that.

It would be better than simply two times compensatory damages with an alternate ceiling of $250,000 because one can construe that—although one can never guess what noneconomic damages will be—one can construe that, in theory, to be a cap. So I have been trying my best in negotiating with both sides to try and get that out and have succeeded. I have some sense of accomplishment in that, which is now being put aside by the Senator from South Carolina.

Mr. President, I also want to make a correction for the record regarding the discussions of the constitutionality of the judge additur provision in the Gorton-Rockefeller amendment.

The judge additur provision in section 107 (b) of our amendment, as it exists now, creates a right to a new trial for defendants if they do not accept the additional punitive awards set by the judge. This provision was inserted to address a perceived constitutionality concern with the judge additur provision—perceived. Senator GORTON and I are now in agreement that this right to a new trial provision is in fact unnecessary to meet any constitutionality test.

The Associate Attorney General, in several conversations with my staff, has asserted that he believes the judge additur provision in Senator GORTON's and my amendment is constitutional on its own—free standing—without the provision creating a right to a new trial for the defendant should the defendant object to an award which results from the judge additur provision.

Indeed, the Department of Justice prepared a list of precedents and authorities for judicial determinations of the amount of punitive damages which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AUTHORITIES WHICH SUPPORT THE CONSTITUTIONALITY OF REQUIRING JUDGES TO DETERMINE THE AMOUNT OF PUNITIVE DAMAGES

SOME OF THE CASES

Tull versus United States, 481 U.S. 412 (1987), held it did not violate the Seventh Amendment to have a judge determine the amount of a civil penalty under the Clean Water Act. The Supreme Court indicated that "[n]othing in the Amendment's language suggests that the right to jury trial extends to the remedy phase of a civil trial." 481 U.S. 426 n.9. It also reasoned that "highly discretionary calculations that take into account multiple factors are necessary in order to set civil penalties * * * These are the kind of calculations traditionally performed by judges." 481 U.S. at 427.

Smith versus Printup, 866 P.2d 985 (Kan. 1993), upheld the constitutionality of Kansas Stat. §60–3701, which requires courts to determine the amount of punitive damages.

The Kansas Supreme Court reasoned: "Because a plaintiff does not have a right to punitive damages, the legislature could, without infringing upon a plaintiff's basic constitutional rights, abolish punitive damages. If the legislature may abolish punitive damages, then it also may, without impinging upon the right to trial by jury, accomplish anything short of that, such as requiring the court to determine the amount of punitive damages * * *"

Federal statutes. Various existing federal statutes require judicial assessment of punitive damages. See Petroleum Marketing Practices Act (PMPA), 15 U.S.C. §2805(d)(2); Fair Credit Reporting Act, 15 U.S.C. §1681n(2); Patent Act, 35 U.S.C. §284; Equal Credit Opportunity Act, 15 U.S.C. §1691e(b). None of these statutes has ever been held unconstitutional See Swofford versus B & W, Inc., 336 F.2d 406 (5th Cir. 1964) (holding that plaintiffs in patent action were not entitled to jury trial on issues of exemplary damages).

Courts have also upheld judicial determination of punitive damages in a variety of other contexts. See, e.g., Tingely Systems, Inc versus Norse Systems, Inc., 49 F.3d 93 (2d Cir. 1995) (holding that remittitur of jury verict was not reversible error because judge was entiteld to determine punitive damages under the Connecticut Unfair Trade Practices Act).

SOME OF THE COMMENTATORS

Dean Dorsey D. Ellis, Jr., Punitive Damages, Due Process, and the Jury, 40 Ala. L. Rev. 975, 1005 (1989). ("Under a traditional legal analysis, punitive damages are more analogous to fines than to damages. The determination of the appropriate amount of a fine is traditionally treated as a question of law, hence an issue for the judge, and not a question of fact for the jury. By analogy, the judge, not the jury, should decide the amount of a punitive damage award * * *")

Victor E. Schwartz & Mark A. Behrens, The American Law Institute's Reports' Study on Enterprise Responsibility for Personal Injury: A Timely Call for Punitive Damages Reform, 30 San Diego L. Rev. 263 (1993) ("Some critics have challenged judicial assessment of punitive damages as a violation of a defendant's right to jury trial under the Seventh Amendment * * * This criticism is unlikely to hold up if asserted in court. In the past, defendants in criminal cases have challenged judges' activity in sentencing as a violation of their Sixth Amendment right to a jury trial. The Supreme Court, however, has held that no violation exists because sentencing is not a determination of guilt or innocence.* * *[A] criminal defendant's Sixth Amendment right to trial by jury is given a broader scope than a civil defendant or plaintiff's rights under the Seventh Amendment. Thus, we believe that [judicial determination] is constitutional under the Seventh Amendment.")

Robert W. Pritchard, The Due Process Implications of Ohio's Punitive Damages Law A Change Must Be Made, 19 U. Dayton L. Rev. 1207 (1994). ("Because assessing the amount of civil penalties is not a fundamental element of the right to trial by jury and because judges are better able to perform the highly discretionary calculations of punitive damage assessments, the statutory mandate of judicial assessment of punitive damages awards is constitutional."

Colleen P. Murphy, Integrating the Constitutional Authority of Civil and Criminal Juries, 61 Geo. Wash. L. Rev. 723 (1993). ("The Constitution should not be deemed to guarantee jury calculation of punitive damages, just as it does not guarantee jury participation in either civil penalty assessment or in certain aspects of sentencing. Federal courts therefore will not violate the Seventh Amendment if they enforce legislation that * * * authorizes judges to calculate awards.")

Jonathan Kagan, Toward a Uniform Application of Punishment: Using the Federal Sentencing Guidelines as a Model for Punitive Damage Reform, 40 U.C.L.A. 753, 767–68 (1993). ("While it seems clear that there is a right for juries to determine if plaintiffs have met their evidentiary burdens, it seems clear whether this right extends to the calculation of damages. The Supreme Court resolved this issue in Tull. It held that the defendant was entitled to a jury trial on the issue of liability, but not on the issue of civil damages.")

Stanley L. Amberg, Equivalent and Claim Construction: Critical Issues En Banc in the Federal Circuit, P.L. Inst. (1994) ("Consistent with the right under the Seventh Amendment to have a jury determine entitlement to punitive damages, * * * Congress may authorize judges to assess the amount of punitive damages or civil penalties.")

Mr. ROCKEFELLER. This list sets the precedents and authorities supporting the constitutionality of requiring judges to determine the amount of punitive damages. And is therefore valuable information to be considered in this debate.

I rely on the word and the integrity of the Associate Attorney General and his staff at the President's Justice Department. They believe, as I have indicated, that a freestanding judge additur provision as it is written in the Gorton-Rockefeller amendment, and we would like to modify it by striking section 107(b)(3)(C), passes constitutional muster. I have said that several times purposely.

In my view, as an author of this legislation, that is sufficient authority to say that a severability amendment regarding additur is superfluous.

To reiterate, relying on the Justice Department's determination that a judge additur provision is constitutional, I do not believe it is necessary to further amend this provision to sever the judge additur requirements of this bill in an effort to guard against a circumstance where this provision would be deemed unconstitutional. It will not be deemed unconstitutional for the reasons I have articulated.

Mr. President, I just want to take this opportunity to make my colleagues aware that we have, in fact, addressed the concerns raised about constitutionality.

The judge additur provision, coupled with the modification that strikes the defendant's right to a new trial, is a constitutional provision. Again, some of my colleagues on the other side of the aisle would like to add additional language which makes this particular provision severable, to make absolutely certain that the constitutionality of this bill will not be tested as a result of this provision.

I have assured them, based upon my conversations with the Department of Justice and others, that their extra cautious approach is not required.

In concluding, I cannot remember in the 10 years that I have been in the Senate where the two managers of different political persuasions have publicly said that they are so committed to rectifying something which is of concern to the Senator from South Carolina, to some of my colleagues, and to the White House; that the Senator from Washington has said, "We will not come back from the conference with these provisions;" and where the Senator from Washington this morning at a public press conference said that he would vote against the motion to invoke cloture, assuming that the conference report was filibustered. I share exactly that same view.

I think that is pretty strong and dealing in good faith. We would like to hope that we can be dealt with in good faith also.

Mr. President, I thank the presiding officer. I yield the floor.

Mr. MCCONNELL. Will the manager of the bill, Senator GORTON, yield for a question about a particular section of the bill?

Mr. GORTON. Yes, I would be glad to do so.

Mr. MCCONNELL. I thank the Senator. The bill, at section 106, sets out a provision to hold individuals who misuse or alter a product accountable for any injury resulting from the misuse or alteration. This provision would allow for the reduction of damages based on such misuse or alteration.

This section, at 106(b), also provides that this provision only supersedes State laws that do not already impose such apportioning of damages among responsible parties, including the injured party found to have misused or altered the product, is that not correct?

Mr. GORTON. That is correct.

Mr. MCCONNELL. But, this apportioning of damages would only occur if the court has found the defendant liable for at least some portion of the plaintiff's injuries. In other words, if, under State law, the defendant has no liability, for example under the "common knowledge" doctrine, then this provision would not change that result. Am I reading this section correctly?

Mr. GORTON. Indeed. Under the "common knowledge" doctrine the defendant is not held responsible for injuries to the plaintiff caused by the plaintiff's misuse of a product that is commonly known and recognized to be dangerous by ordinary users.

Mr. MCCONNELL. So, the Senator shares my understanding that this bill would not overturn the result in, for example, *Friar* v. *Caterpillar, Inc.*, (539 So. 2d 509, La. App. 5th Cir., 1988) or *Colson* v. *Allied Products Corp.* (640 F.2d 5, 1981)? Those both involved situations in which the plaintiffs were injured using products that the courts found presented a danger of which plaintiffs were aware.

Mr. GORTON. Yes. The Friar case involved a forklift and the Colson case involved the use of a lawnmower. In both of those cases the courts held there was no duty to warn where the dangers are of common knowledge.

Mr. MCCONNELL. This basic principle is part of case law and it is also set forth in the Restatement of Torts, at section 402A, which I would like to include in the RECORD. The relevant part provides that defendants

> Are not required to warn with respect to products, or ingredients in them, which are only dangerous, or potentially so, when consumed in excessive quantity, or over a long period of time, when the danger, or potentiality of danger, is generally known and recognized. Again the dangers of alcoholic beverages, are an example, as are also those foods containing such substances as saturated fats, which may over a period of time have a deleterious effect upon the human heart.

I thank my colleague for responding to my inquiries.

Mr. GORTON. I am glad we clarified the meaning of section 106.

Mr. HOLLINGS. Mr. President, I have been at the Budget Committee all afternoon, and so I have not been able to monitor all the nuances, but we are now hearing that reasoned objections need not be given to this provision because the distinguished Senators say that they are going to take care of this issue in conference.

That could be. I have served on many a conference committee and I have learned that you are never able really to control it. Each Senator is given a vote, along with the House Members.

Be that as it may, I will not give the reasons why I am concerned about this provision at this particular time, other than to say that I am also honestly objecting. I am courteously objecting. I do not know how to say it any better than that.

When the proponents make a request, a unanimous-consent request, and assume that theirs is the only honest request, courteous request, and sincere request, and how they can be more honest, then that constrains me to stand and say that I am just as courteously objecting and honestly objecting as I know how to object. And I object.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS CONSENT AGREEMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that notwithstanding rule XXII, that the following amendments be the only remaining amendments in order to H.R. 956, and not be in order after the hour of 11 o'clock a.m. on Wednesday: Harkin, punitive damages; Boxer, harm to women; Dorgan, punitive cap; Heflin-Shelby, Alabama wrongful death cases; Heflin, punitive damage insurance.

I ask unanimous consent that the vote occur in relation to the Shelby-Heflin amendment number 693 at 9:45 a.m. on Wednesday, to be followed by a vote on or in relation to the Harkin amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask that following the disposition of the above listed votes, if no other Senator on the list is seeking recognition to offer their amendment, the Senate proceed to the adoption of the Coverdell-Dole substitute, as amended, the Gorton substitute, and the bill be advanced to third reading without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask that following third reading, the following Members be recognized for the following allotted times, to be followed immediately by a vote on H.R. 956, as amended:

Senator HEFLIN, followed by Senator ROCKEFELLER, 15 minutes each; followed by Senator GORTON, 15 minutes; followed by Senator HOLLINGS, 15 minutes; and followed by Senator LEVIN, 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO S. 534

Mr. DOLE. Mr. President, I ask unanimous consent, and this has been cleared by the Democratic leader, at 12 noon on Wednesday, May 10, the Senate proceed to calendar 74, S. 534, the Solid Waste Disposal Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, I think Senator HARKIN plans to offer his amendment in about 20 minutes, at 7 o'clock. I am not certain whether the amendments by Senator BOXER or DORGAN will be offered.

We have the agreement, in any event. I want to thank my colleagues on both sides of the aisle. This means no more votes tonight. We can alert our colleagues but there will be debate on the Harkin amendment, and I assume other amendments if they want to be called up. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. I thank the Chair.

Mr. President, I rise this evening in support of the product liability reform bill now under consideration, and I would like to just preface my remarks by offering my compliments to the bill's managers for their tenacity in sticking with this process as we have moved through all the various perspectives to find a point of common agreement between 60 Members of the Senate. I think both Senator ROCKEFELLER and Senator GORTON worked very effectively on this product liability reform effort.

I believe the bill represents an excellent start at reforming our civil justice system, a system that eats up over $300 billion a year in legal and court costs, awards, and litigants' lost time, not to mention the loss to consumers and the economy from higher prices for products, innovations and improvements not on the market, and unnecessarily high insurance costs.

By placing reasonable limitations on punitive damages in product liability suits, this legislation will begin the process of reforming our litigation lottery without harming anyone's right to recover for damages suffered.

I am especially pleased that the bill now includes a special provision limiting punitive damages for individuals with assets of less than $500,000 and for small businesses with fewer than 25 employees. This provision is modeled on a proposal that Senator DEWINE and I cosponsored and provides that the maximum award against such individuals or entities is the lesser of $250,000 or twice compensatory damages.

Mr. President, no one benefits when businesses go bankrupt because of arbitrary punitive damage awards. Small businesses are particularly susceptible to such problems as are the millions of Americans employed by them.

The bill will also eliminate joint liability for noneconomic damages in product liability cases. Thus the bill would end the costly and unjust practice of making a company pay for all damages when it is only responsible for, say, 20 percent just because the other defendants are somehow judgment proof.

The bill would replace the outmoded joint liability doctrine with proportionate fault in which each defendant would have to pay only the amount necessary to cover the damage for which he or she was responsible.

The bill also creates some important limitations on the liability of sellers of products generally as well as on the liability of suppliers of raw materials critical to the production of lifesaving medical devices.

These provisions go a good way toward restoring individual responsibility as the cornerstone of tort law. They also recognize an important fact about our legal system. Ultimately, in its current form, it is profoundly anticonsumer. By raising the prices of many important goods, our legal system makes them unavailable to poor individuals who cannot afford them when an exorbitant tort tax has been added. And in extreme cases our legal system can literally lead to death or misery by driving off the market drugs that, if properly used, can cure terrible but rare diseases or medical devices for which raw materials are unavailable on account of liability risks.

These are important reforms, Mr. President; reforms that will increase product availability, decrease prices and save jobs.

When we allow our tort system to stifle production and innovation the real losers are consumers—who must pay higher prices and choose between fewer and less advanced goods—and workers—whose job opportunities disappear.

By eating up 4.5 percent of our Gross Domestic Product, the tort system costs jobs. Besides causing companies to discontinue or not introduce products, it also hurts American businesses overall by making them less competitive in the world market.

A 1994 Business Roundtable survey of 20 major U.S. corporations reveals that they receive 55 percent of their revenue from inside our country, but incur 88 percent of their total legal costs here. Clearly such discrepancies in legal costs put our companies at a disadvantage in the world marketplace.

It is no secret that I wish we had gone farther with this bill, to protect the nonprofit organizations, the towns and villages and the ordinary Americans who remain victims of our current broken legal system. I hope that Members of this body who support this legislation but at this time do not want to apply its reforms more broadly will on further reflection see their way clear to taking the next step; to enact similar reforms to assist homeowners, accountants, farmers, volunteer groups, charitable organizations, all small businesses, State and local governments, architects, engineers, doctors and patients, employers and employees. But I feel strongly that the legislation under consideration, even limited to its present scope, is an important step toward making our civil justice system fair and efficient and improving the lives of our citizens. I urge its prompt final passage.

I urge its prompt final passage.

Mr. President, as I say, I hope that we will go further in the days ahead, whether in the form of independent legislation or as part of further discussions of legal reform that may come before the Senate in the context of securities litigation or some other issue before us, because I think that we need an overall and comprehensive reform of the system.

I know that I speak for a number of the Senators who are active and working on this bill in saying that we are delighted with the progress we have made so far and, while we may not think we are yet close to our final destination, we have taken a good first step. And, most importantly, I can say that, at least for this Senator, I am dedicated and committed to continuing the fight to keeping this whole issue of reforming our legal system before the Senate and I remain hopeful that we will enact more reforms in the months ahead.

Mr. President, I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that the amendment I am about to send to the desk be made in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 749 TO AMENDMENT NO. 690

(Purpose: To adjust the limitations on punitive damages that may be awarded against certain defendants)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 749 to amendment No. 690.

Mr. HARKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 107(b) of the amendment as amended by amendment No. 709 insert the following:

"(6)(i) Notwithstanding paragraph (1), the amount of punitive damages that may be awarded in any product liability action that is subject to this title against an owner of an unincorporated business, or any partnership, corporation, unit of local government, or organization that has 25 or more full-time employees shall be the greater of—

"(I) an amount determined under paragraph (1); or

"(II) 2 times the average value of the annual compensation of the chief executive officer (or the equivalent employee) of such entity during the 3 full fiscal years of the entity immediately preceding the date on which the award of punitive damages is made.

"(ii) For the purposes of this subparagraph, the term 'compensation' includes the value of any salary, benefit, bonus, grant, stock option, insurance policy, club membership, or any other matter having pecuniary value.".

Mr. HARKIN. Mr. President, this is a very straightforward amendment. It simply provides that the caps on punitive damages that are in the amendment will not apply in cases where a business is sued and the chief executive officer's salary over the previous 3 years is greater than the total compensatory damages in the case for businesses with 25 or more employees.

This is less than 13 percent of all businesses, according to the Census Bureau. In those instances, the cap on punitive damages, in my amendment, would be raised to twice the compensation of the chief executive officer for 1 year averaged over the last 3 years.

Again, let me try to put it in plain English. What my amendment provides is that if a corporation is sued and it has over 25 employees, then the cap on punitive damages that is in the Gorton substitute amendment will not apply. The formula to be used would be that punitive damages would be capped at twice—just twice—the annual compensation of the chief executive officer of that corporation and that annual compensation would be determined by averaging the last 3 years.

Mr. President, we all agree that punitive damages that are paid should not be disproportionate, but proportionate to what? This legislation basically says that a multibillion-dollar corporation can consciously and flagrantly disregard the safety of others and have that conduct proven, not just by a preponderance of the evidence but by clear and convincing evidence. So what this means is that the legislation before us says this multibillion-dollar corporation can consciously, flagrantly disregard the safety of others, be sued and go to court, have it proven that they consciously and flagrantly disregarded the safety of others by clear and convincing evidence, and the maximum punitive damages for this kind of heinous conduct is only twice the compensatory damages of the plaintiff, even if those damages are such a small amount that they are only a tiny proportion of the company's profits and assets.

I believe the more important comparison in punitive damage cases is the proportion of the damages to the size and the financial strength of the business.

The compensation package of the CEO of a company with at least 25 employees, as my amendment provides, is inevitably going to be a reasonably fair proportion of the total cash flow of the company. Now, I have chosen to have it apply to only those businesses that have 25 or more employees so that a small business, a sole proprietor, who retains all of the profits of the company as his or her compensation is not affected.

There is only one purpose for punitive damages, and that is deterrence. That is the only purpose of punitive damages, to deter that flagrant, irresponsible action, that disregard from the safety of others, from happening in the future. Yet, who believes that a punitive damages award of a few hundred thousand dollars is going to have a significant impact on a company the size of, say, a major motor company, a multibillion-dollar corporation?

The CEO's of some companies make $250,000 a week. So how great of a deterrent will it be to a big corporation if their total punitive damages is $250,000? That is what they pay their CEO for 1 week.

So why did I choose the compensation packages of the CEO's of these large companies? Because I believe that unless executive compensation is ruinously disproportionate to the resources of the company—and that is seldom the case—twice that compensation package will not be so large that it will cause the company to close. No one can argue that a multibillion-dollar corporation that pays its CEO, say, $5 million a year is going to close its doors because a punitive damage award comes to $10 million or 2 years' salary.

The other reason I have chosen executive compensation is because it is something that is entirely within the control and discretion of the company's management. And it also takes into account the cash flow of the company. It is, therefore, more fair than a system based on the total assets of the company which may be fixed productive resources.

Mr. President, let me read a few examples of the compensation packages in a few of the major corporations. This is from the recent issue of Forbes Magazine in the May 22 issue. The cover says "Pigging it up: Corporate management who subdues their directors into submission." In this issue it says 800 chief executives are paid $1.3 million per year. That would be one of the lower ones. Some of them are extremely high. I am just going to read a few. These are some of the companies that may be involved in the potential lawsuit we are talking about here.

Here is the compensation of the CEO of General Electric: $8.6 million per year. Let us see now; that would come out to be about $300,000 every 2 weeks, or about $600,000 a month. So you can see, if General Electric were to make a product that they knew consciously, flagrantly disregarded the safety of others—and this was proven in a court of law by clear and convincing evidence—under the bill before us, they get $250,000, or twice the compensatory damages. Well, as I showed you, the CEO makes almost $250,000 a week. So what kind of a deterrent is that going to be?

Here is Trinity Industries. The CEO there makes $6.2 million a year. That is about $250,000 every couple of weeks.

Here is Morton International, where the CEO makes $7.5 million a year.

Here is Chrysler, where the CEO, Mr. Eaton, makes $6.2 million a year.

Here is Premark International. I do not even know what they do. They pay their CEO $12.121 million a year. Well, let us see, that is a million dollars a month. That is $250,000 a week, I guess. So if Premark consciously, flagrantly made a product in disregard of the health and safety of others and were sued and taken to court, and that was proved by clear and convincing evidence, one of the highest standards, they could have their damages capped for a figure as low as what their CEO makes in 1 week.

Do you think that is a deterrent? That is not a deterrent at all. They would laugh that off.

Here is Colgate-Palmolive. Mr. Mark makes $13.460 million a year as the CEO. I think you get the picture.

Here is Mattel Toys. Their CEO makes $7.6 million per year. Yet, we are going to say that some kid who got injured by a toy, permanently disabled for life—and again, let us think again; is it just some kid who got hurt by a toy because they were misusing it? No, they have to go to court and prove that the company flagrantly and consciously disregarded the safety of that child in making that toy. It has to be not by a preponderance of the evidence but by clear and convincing evidence, a higher standard. After all that, we will slap their hands and cap the punitive damages at a small fraction of their company's worth.

So, again, I think, Mr. President, you get the picture. There are 800 companies here. I am not going to run through them all. Again, I am not mentioning these companies because I want to cast aspersion on these companies. I have nothing against them. In fact, they are probably pretty decent, good companies. I have had dealings with some of them before. I am sure they want to be good citizens and want to employ people, and they want to make our country great. I am not saying these companies are bad. I am just using this as an example of the kinds of compensation they pay their CEOs.

Again, my amendment says that if you go through all of these hoops and you get punitive damages, we are going to cap it just at twice the annual compensation of the CEO. Mr. President, here is an article from the Tampa, Florida, Tribune, April 13. I want to read the first couple of paragraphs. It says:

> The Nation's corporate chief executives find their jobs an enriching experience these days. "Greed clearly is back in style," says Robert Mongs, a principal of Lenz, Inc., an activist investment fund in Washington.
>
> There is almost a feeling among CEO's that the money is there to be taken.

If these companies want to pay their CEO's $12 million a year, or $7 million a year, that is their business. I believe it is our business as lawmakers charged with responsibility to provide for the general welfare of our people.

Now, Mr. President, the word "welfare" appears twice in the Constitution of the United States. Most people do not know that. It first appears in the Preamble of the Constitution, which is part of the Constitution, where it lays out the reasons for the Constitution. One of the reasons is to promote the general welfare. It does not say stand back and let the States do it. It charges Congress with promoting the general welfare of our people.

Then in article I, section 8, which lays out the duties and responsibilities of Congress to lay and impose duties and customs, to regulate the Army and Navy—it has a whole list—to regulate commerce, a whole list of things that Congress is specifically charged to do, in article I, section 8.

One of those is to provide for the common welfare of the people. That is our responsibility. We are charged by that when we raise our hand and swear our oath to uphold and defend the Constitution.

The Constitution says clearly that we are to provide for the general welfare. In providing for the general welfare, we want to make sure that people—average citizens of this country—have the assurance that when they buy a product, consume a product, or use a product, when they travel on our highways, that they can be reasonably certain that what they are using, what they are buying, what they are consuming, is not going to harm them. That is our responsibility.

That is why we pass safety and health laws. That is why we put stoplights on our intersections. Now a stoplight, Mr. President, restricts my freedom. I want to go down that street. I do not want to stop at a stoplight but that stoplight restricts my freedom of movement. We have decided for the public safety that we will regulate the flow of traffic and we put up stoplights.

That is why we have food inspection laws. That is why we have all kinds of safety laws. And that is another reason why we have left untouched in our country for these 200-plus years the common law that we inherited from Great Britain that goes back over 600 years, the concept of tort feasor, the concept that someone must take due care and concern that his actions do not harm others. If those actions do harm others, I am held accountable and responsible.

I believe it promotes responsibility. It makes people think twice about their actions and about what we make, how we act, and what we do. That is why I find this bill before the Senate so out of step with what we have been doing for 600 years and so out of line with what we in our offices and in our speeches say we want. We want people to act responsibly. We say if someone is not responsible we want them held accountable.

In the bill as it is, a corporation could make something, hurt somebody. As I pointed out, they could be maimed for life. How are they held accountable in terms of deterrence and punitive damages if we have these low caps?

I believe that is a modest amendment. It is not going to bust any company. There is no company—no company in this magazine, not one company—could say that if they had to give up 2 years of their CEO's compensation, that they will go broke. If they are, their board of directors will fire everybody running that company.

I believe that at least 2 years of compensation of what a CEO makes could be a deterrent to that company in terms of their future actions. Certainly, $250,000 is not a deterrent.

Does any person think that a company with the resources to pay one person $12 million a year would flinch from paying even $1 million in punitive damages? Some of the individuals make as much money as the salaries of all the U.S. Senators combined, and no one thinks we are undercompensated here.

We all agree with the Dole proportionality of punitive damages award. It ought to be apportioned to the damages caused and the pain and suffering and the injury to the person. It also ought to be apportioned to the resources of the person or the company that caused that injury. This goal of proportionality has been served for centuries by the jury system, under the watchful eye of a judge.

Mr. President, I must also say that this bill surprises me. Many of the proponents of the bill keep talking about returning power to the local level. It does not get any more local than putting a decision in the hands of a jury of one's peers. These are not people who ran for office. These are not people who went through years of law school or other special training for their jobs.

The people who the proponents of this bill apparently think can apparently no longer be trusted to come up with fair verdicts are good citizens, the ones who serve on juries, pay their taxes, and go to the polls.

Now we are being told by the proponents of this bill, "We cannot trust you." Well, considering that everyone here was put here by those same citizens who sit on the juries, how can we now doubt their wisdom? Juries, by and large, are fair and come up with reasonable verdicts. And they have been doing it since the dawn of our democracy.

What is it about juries that now makes them constantly make these so-called foolish decisions that the bill's proponents have been reading? Will the proponents of this bill say that the people who serve on juries are ignorant? If so, stand up and say so. Will the proponents of this bill say that the people who serve on juries are easily misled? If so, let them stand up and say so. Do the proponents of this bill say that the people who serve on juries lack common sense or they have no sense of fairness? If so, let them get up and say so. Do the proponents of this bill say that a jury cannot look at a person who has had a serious injury and then go on to decide that the product that was involved was not negligently manufactured? Do the proponents say that? If they believe so, let them get up and say it.

The facts are just the opposite. In fact, juries decide against plaintiffs about half the time. Juries have had a long track record in dispensing wisdom, a record about three or four times as long as the U.S. Senate.

I find it very interesting that the proponents of this legislation, some of them are the strongest voices about returning government to the local level, giving power back to the local level. There is nothing more local than a jury of your peers. Now the proponents of this bill are saying, "We cannot trust you to make these kind of decisions. We will take it out of your hands."

As far as I know, there is nothing more fair, there is nothing that dispenses wisdom and justice more evenly, than juries of our peers. I may not agree with every jury verdict. Sometimes I believe a jury makes a mistake. But I was not sitting there. I did not listen to all the testimony. I was not able to weigh all the pros and cons.

So what I read in the paper may upset me. I can honestly say that there are times when I have heard of jury decisions that make me mad. But then after I dig into it, find out about it, and read more about it, then I find out why the jury reached the decision they did.

So juries are not ignorant. Juries are our neighbors, our relatives, our friends, the people who put Members in this body in the first place.

All I say, Mr. President, is that I have opposed caps on damages, but if we are going to have a cap, and this bill says we are going to have a cap, let it at least be high enough that punitive damages can serve their purpose to deter truly heinous actions by the largest companies in this country.

We should not make it so that they would be so high as to bankrupt a company. We should not make it so that it would put small businesses out. That is why I have exempted those businesses of less than 25 employees.

I believe that the amendment I have offered accomplishes that fine balance and the balance of deterrence, punitive damages high enough to really deter that kind of action in the future. Not high enough to bankrupt the company. And not so low as in this bill as to where companies will just laugh it off. Just laugh it off—$250,000.

Now, I know the proponents of the bill will say, well, the judge can raise the $250,000 if he wants. True. But then the defendant can say, well, I do not like it. I want to go back to another trial and go right back to the process again. And again these multibillion-dollar corporations will get to write off, of course, all the attorney's fees and expenses as an ordinary business expense, and we taxpayers pick that up. They go right back through the process again. Thus, the cycle just keeps going. So really what we really have in this bill is a $250,000 cap. That is not enough to be a deterrence.

I believe this amendment will be a deterrence, I believe it is fair, and I believe it is reasonable.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the Senator from Iowa assumes the question of deterrence, misconstrues the actual impact of punitive damages, and totally misstates the provision that he purports to amend. There is no $250,000 punitive damage cap. In the case of serious injuries, for anything other than the small business, which is exempted both in the bill and in the amendment of the Senator from Iowa, for anything other than a small business, the cap is $250,000 only if the damages to the plaintiff are minimal. In the cases repeatedly cited by the Senator from Iowa, the individual maimed for life—that was the last quotation I remember—it is obvious that the economic damages to that individual together with the award for pain and suffering, unlimited by any feature of this bill, added together and multiplied by two is infinitely greater than $250,000.

Every week in the United States we have compensatory damage awards well up into the millions of dollars, and in each of those cases, except for the very, very small business, the maximum award of punitive damages on the part of the jury under the bill as it exists now is twice whatever those damages are. The $250,000 figure was only put back into this proposal to say that you could go that high in case of a jury award for actual damages that was extremely small. And, Mr. President, if a claimant goes all the way through a trial and proves that his or her damages are only $10,000, why should we allow a $4 million punitive damage award? That is, of course, the essence of what this debate is about.

Moreover, even the figure twice the sum of economic and noneconomic or pain and suffering damages contained in the bill has an exception pursuant to which the judge can increase that award, if the judge finds the conduct of the defendant to be as egregious as the description propounded to us by the Senator from Iowa. The Senator from West Virginia and I have said that this bill in its final form will not contain any automatic new trial right for a defendant in any such cases.

So, Mr. President, the present bill that we are being asked to vote on does not have any ultimate cap at all on punitive damages in that extraordinarily rare case in which a judge felt that a very, very high such award was appropriate. So the Senator from Iowa is wrong that a badly injured, maimed individual is not going to have a $250,000 cap on punitive damages when an injury was caused by the deliberate acts or the outrageous acts of the large corporation. In fact, that individual is not going to be subject to any cap at all if he or she can prove the kind of case which was given us here as this horror story. But what we are doing in this bill is to provide some remote connection between the actual losses an individual suffers and how much can be added to that amount by a jury acting without any rules or instructions whatsoever. It is neither more nor less than that.

We should not have the legal system of the United States of America as a national lottery where, under certain circumstances with a handful of juries in modest cases with almost no damages, the lottery can create a bonanza partly for an individual but basically, this is what the debate is all about—for the lawyer class in this country who find these actions to bring.

More fundamentally, and we have not gotten back to this point recently in this debate, and I speak not just of the remarks of the Senator from Iowa but of all of the opponents of this bill, none has shown that their slogans about deterrence have any true meaning. No single study has ever shown that punitive damages, the lottery of a huge punitive damage award, has any real effect on deterrence or on safety.

I am astounded that a Member of this body who believes so firmly in the presence of government in our life and of its regulatory capacities has so little faith in the ability of all of the statutes of the United States and of all of the statutes of the States dealing with safety in the production of products to cause them actually to be safe. We passed measures on automobile safety, on toy safety, and on all other kinds of product safety, and on the way in which we license drugs and the way in which we build airplanes to see to it that they are safe and effective. Yet, apparently, according to the opponents of this bill, nothing would be safe in America if we did not have unlimited punitive damages. That is the only way we can see to it that corporations behave, that we can have a reasonable society.

Mr. President, retired Justice Powell said—and I paraphrase him but I agree with him—the jury system of litigation taken as a whole is the most irrational method of business regulation imaginable.

It is not a criticism of a particular jury to say so, Mr. President. That jury deals with a single instance. It does not know what other instances there are in many cases. The Congress of the United States, the legislatures of the several States, when they determine on regulation, determine it on the basis of all of the evidence, of all of the weighing of how much we want to encourage certain kinds of production and what kind of cautions we put on them. This is the way in which the job is done.

No study shows that punitive damages do anything other than have an utterly irrational impact of telling many companies it is not worthwhile going into a new line of business—it is not worthwhile, as one of our major companies has said, to try to go into the business of finding a new drug which helps AIDS. We cannot make enough money on it to risk that lottery that some lawyer someplace will persuade some jury to whack us with a $25 million punitive damage award.

So we have had dozens of companies get out of the business of producing the vaccine against whooping cough. Is that a triumph of the American system, that the cost of whooping cough vaccine has gone up 500 percent and only one or two companies are even willing to make it?

Is it a triumph of the American system that 18 of the 20 companies that used to manufacture football helmets are not in the business anymore because it just simply is not worthwhile? Is it a vindication of the American system that a large company which produces plastic piping for heart implants, on which it might possibly make $1 million in a several-year period, has paid close to 40 times that in defending successfully product liability actions, and looks at the bottom line and says, what in the world are we doing this for? Why should we produce this particular product? Those legal fees adhere to defendants who win just as much as they do to those who lose. And when the company says it is just costing us too much, we will abandon this line of research; we will abandon this product; the American people are not benefited. Who is benefited? A tiny handful of lucky players and a larger group of trial lawyers.

So what we do in this bill, much more modestly than I would prefer, is to say at least in the great bulk of cases there ought to be some relationship to how badly the plaintiff or claimant is actually damaged and what the maximum punitive damages are. Let there be a ratio. If in fact the individual is maimed for life, then they are going to be entitled to huge punitive damages. But if in fact they are damaged $10,000 or $500, why should they win the lottery when there is no evidence that this does anything but to constrict our economy?

I say once again, the State immediately adjacent to the State of the Senator from Iowa, Nebraska, like my own State of Washington, just does not have punitive damages in the kind of cases we are talking about here. It does not allow them at all. Why? Because the Constitution of the United States protects anyone accused of a crime. They have fifth amendment rights. The case against them has to be proven beyond a reasonable doubt. There is a maximum sentence. But those who uphold those constitutional protections as fundamental to our system of justice say, oh, no, but a civil jury can punish without any limitation or without any guidelines whatsoever, rationally or totally or temporarily. There just is no connection between those two.

Moreover, there is also no relationship at all between the responsibility of business enterprises, the safety with which they build their products, that is related to whether or not they operate in a State which has punitive damages or one which bans punitive damages. Not a scintilla of evidence, not any instance has been imparted to this body that oh, boy, we better keep punitive damages because look at how irresponsible companies are that operate in Nebraska or Washington or one of the other States. Not a peep, Mr. President, about that.

The bottom line is we are dealing with a system that is a great system for a handful of lawyers in this country. They and their sidekicks get 60 percent of all of the money that goes into this product liability system. Claimants get 40 percent of it. We want to make it a little bit more rational.

The Harkin amendment does not make it more rational. The Harkin amendment does not even recognize the nature of the $250,000 cap, which does not apply to anything he talked about, or the fact that there is no cap at all when the judge finds that the conduct of the defendant has been particularly egregious, and the Harkin amendment should therefore be rejected.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, not only do I agree with everything that my able colleague from the State of Washington has said, the Harkin amendment adds a new section to the bill for setting punitive damages against businesses with 25 or more employees. It has to be greater than the amount recorded or using a formula laid out in the compromise bill which is twice compensatory damages or $250,000, whichever is greater, or twice the value of annual compensation of the business' chief executive officer.

Well, that last one obviously is an eye-catcher, ear-catcher. It sounds innocent enough—and fun. It is kind of fun, cute. But we are on a deadly serious bill. The people who voted today to make sure that we would continue to discuss and amend product liability reform were not trying to have fun with this.

We have been on this bill for several weeks now. I have been doing this for 9 years. I am sure the Senator from the State of Washington has been doing it for longer than that. There is nothing in any of my efforts to sort of do something to amuse myself, enjoy myself. I am trying to make America better. I am trying to help defendants who cannot get their claims in time. I am helping to make things more predictable for businesses so we can strike a balance between consumers and business.

One thing this is not is just kind of fun. When I say it is deadly serious, I mean deadly serious because I truly believe there are products not being developed today which could save lives, and that people are dying because that is not happening.

There are a couple of facts which I think are relevant. There is not a $250,000 cap in the Gorton-Rockefeller compromise on product liability reform, as suggested by the Senator from Iowa. There is not that cap.

I suggest to those who do read the bill, in product liability cases, if the jury agrees that the punitive damages should be awarded, the jury can, and under the bill punitive damages will, set an alternative ceiling of $250,000, or twice the amount of compensatory damages. And then the judge, under the additur provision, decides if that is not enough, to take it up. So there is no floor.

We are not talking about treating people unfairly. In fact, I think we are trying to talk, for the first time in a long time, about treating people fairly.

To highlight some more information about the suggestion of the Senator from Iowa that there is any sort of special protection for businesses which are tempted to make defective or unsafe products, everybody needs to remember that juries under our bill can award compensatory damages in amounts that span from hundreds of dollars to millions and millions of dollars.

I have made this point several times, but I will make it again and I will give you a few more examples this time. I have already talked about the State of the Senator from Washington, not even considering punitive damages at all, and within the last 5 or 6 weeks there was an award of $40 million. I have no idea what the circumstances were. But that was economic plus noneconomic—compensatory damages, $40 million.

You do not need punitive damages to get a big award. I am for the punitive damages, but you do not need them to get major awards.

There was a $70 million compensatory award, again, not even considering punitive, to the family of a woman who died when a defective helicopter crashed—in, as it turns out, Missouri. But that did not stop the jury from awarding $70 million. So we are not kidding here. We are not doing anything fun here.

There was a $15 million compensatory award—again, not even considering punitive damages; but a compensatory award—to a boy in a case involving a defective seat belt. Now, I do not know the circumstances. This was in Los Angeles County, 1993. I do not know the circumstances, but this is just compensatory award.

Almost $20 million, Mr. President, in compensatory damages was awarded to a man injured in some circumstances in which a motorcycle spun around on the ground during a turn. My eloquence cannot exceed that, unfortunately, because I do not know what it was. But the man was injured by a motorcycle and got almost $20 million—I say again, in compensatory damages alone.

So there is no kind of joking around here. We are trying to do the right thing.

I might say, on the other side of it—and I do not want to stretch this out—that there are a lot of things that are not happening in this country because of the fact that our punitive damages situation is scaring people away from new products, new research, new improvements, or whatever.

I have used this case before and I will use it again, because I think it is devastatingly powerful.

I care a lot about health care and I have worked a lot on health care. I have been into kidney dialysis clinics. They are not a lot of fun to go into. The former Governor of Missouri knows what I am talking about, the Presiding Officer. It is kind of dark and people are lying back in chairs, and their blood is being completely changed. It is kind of depressing to be there. I do not think they enjoy it much. Nobody is talking to anybody else. They cannot work. They are tied into these huge machines which rise up beside them and behind them.

This was carried a little step further and they developed a dialysis machine that you could take home with you so that if you worked within 2 or 3 miles, or 4 or 5 miles away, you could come home to that dialysis machine, do it yourself and then go back to work. It was a tremendous improvement, because you could go back to work, if your work was close enough so that you could come back two or three times to do that.

But then Union Carbide comes along and really comes up with the answer. They put the whole thing into a suitcase-sized dialysis machine that you can take to your job with you and do the dialysis on the job.

My 15-year-old son has one of his best friends who, a couple of years ago, we discovered had diabetes. That is not a lot of fun for a young kid to find something like that out. I cannot get over the way that young man, 12 years old at the time, simply adjusted to his new circumstances and was able to give himself insulin; just disappear for a few minutes and do it. His courage—he actually grew, grew in my eyes, and I think he grew in his own realization in the sense of mortality and what he could do and how precious everything was. He is a remarkable boy. In fact, I think his aunt is Madeleine Albright, our Ambassador to the United Nations—a wonderful boy.

But Union Carbide, when they came up with this same kind of you-can-do-it-right-on-the-spot kidney dialysis machine, had to sell their business to a foreign company where uniform product liability laws did not give the same litigation potential because Union Carbide, an enormous company, determined that the potential liability risk made the product uneconomical.

So I have to assume there are hundreds of thousands of people who need these blood changes in this country who are deprived of that now because Union Carbide could not do that.

I have 20 examples. I will not give them. It is late.

So I know that the amendment has sort of a nice, populist ring to it—CEO's salary. But this is dead-serious business that we are involved in.

Product liability reform is something I have fought for as a nonlawyer because I want to see people's lives get better and I want to see products developed and I want to see—just on personal grounds, my mother spent years dying from Alzheimer's disease. There is a cure out there, but somebody has to put the money up to find that cure. It is probably not going to be the Federal Government, because we are cutting back.

So all of this is deadly serious. This is not a bill that should be used to beat up on business. This is a bill that should be used to beat up on a legal system which is failing us and, as the Senator from Washington said, in which the lawyers get 50 to 70 percent of the money. I do not respect that. I do not like that. I want to change that.

And for that, among other reasons, I oppose the amendment of the Senator from Iowa.

I thank the Chair.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

MORNING BUSINESS

Mr. GORTON. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JOHN DEUTCH TO BE DIRECTOR OF CENTRAL INTELLIGENCE [DCI]

Mr. GLENN. Mr. President, I rise in strong support of the nomination of John Deutch to become Director of Central Intelligence [DCI]. As a longtime member of the Senate Armed Services Committee, I have enjoyed working with him in his various roles at the Department of Defense—and I look forward to working with him as DCI. Dr. Deutch has an extremely impressive résumé, and I ask unanimous consent that a copy of his biography be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Mr. President, his background and training clearly indicates that Dr. Deutch brings a broad background to the DCI position. His scientific background makes him particularly prepared to deal with the many, formidable technical issues confronting the Intelligence Community from satellites to signals intelligence [SIGINT]. Dr. Deutch also brings significant administrative and national security expertise to the DCI job from his past and current senior management experiences at the Defense Department. His toughness in making difficult decisions and his knowledge of, and experience in, national security matters will make him a very capable manager of the U.S. Intelligence Community.

I have been especially pleased with the principal purposes Dr. Deutch has articulated for the Intelligence Community: Striving to assure that the President and other national leaders have the best information available before making decisions; providing adequate support to military operations; the need for intelligence to address the growing problems of international terrorism, crime, and drugs; and that our counterintelligence capabilities are able to assure that America's enemies do not penetrate our national security apparatus.

The new CIA Director comes along at an important time for the U.S. intelligence community. For almost half a century, the intelligence community—indeed our Nation's entire national security infrastructure—has been focused primarily on the Soviet threat. And during the cold war period, our Government viewed most national security issues—justifiable or not—through the prism of the United States-Soviet competition.

Obviously, this is no longer the case as America is coming to terms with a rapidly changing world. And having a robust and effective intelligence community is an indispensable means to that end. Timely and accurate intelligence forms the foundation of our foreign policy and defines the threat to U.S. national security that is—or should be—the basis of our defense spending.

Yet with the end of the cold war, some have argued that the CIA is a relic which has outlived its usefulness, and we should do away with it. I strongly disagree with such views. In this unprecedented time of enormous change and uncertainty in the world—as the on-going problem of the proliferation of weapons of mass destruction and recent acts of terrorism at home and around the world clearly demonstrate, our need for the intelligence community and a robust intelligence budget is greater than ever before.

The requirement for an intelligence capability is by no means a cold war aberration. This year, we are celebrating the 50th anniversary of the end of World War II. And history has ultimately revealed to the public the important role of intelligence in that war.

Mr. President, like all veterans of that conflict, the 50th anniversary commemorations of specific events of World War II have special meaning to me. One of the most moving ceremonies I have ever attended was last June's ceremony in France commemorating the D-Day invasion of Normandy.

And unsurprisingly, intelligence made an extraordinary contribution to the success of D-Day's planning and implementation. Intelligence agents acquired an accurate map of the German Atlantic Wall fortifications, and an intelligence deception operation code-named Body Guard used German spies captured in England as double agents who sent false messages to the Nazis regarding the precise location of the planned invasion of Europe. This latter operation also successfully passed along false information regarding the location of Allied invasion forces in England.

Intelligence played a decisive role in Allied victory in World War II in many ways. Signals intelligence [SIGINT], for example, played an instrumental role in winning World War II as Allied intelligence successfully broke German and Japanese codes.

And as we enter one of the most unpredictable and dangerous periods in world history, we must ensure that our SIGINT as well as human intelligence [HUMINT] and other intelligence capabilities will be able to meet the intelligence challenges of tomorrow.

Mr. President, in addition to the other recommendations being made to Dr. Deutch, as DCI, I would like to add one more.

Next March, the Commission on the Roles and Capabilities of the United States Intelligence Community—which was initiated by this committee last year—will issue its report, including recommendations to reorganize the intelligence community in the post-cold-war era. While I look forward to reviewing the Commission's report, I must admit that I have been somewhat skeptical over the years about the utility of Government by "Blue Ribbon Panel"—and have sought to educe the number of such commissions through oversight action of the Senate Governmental Affairs Committee, where I am now the ranking member.

As Dr. Deutch assumes his duties as DCI and he perceives significant problems—organizational and otherwise—that are impending the intelligence community's ability to meet its requirements, I sincerely hope that he will act expeditiously to remedy these problems and not wait for the Commission's report next March.

Mr. President, I urge my colleagues to vote in support of Dr. Deutch as DCI.

EXHIBIT 1

JOHN M. DEUTCH

The Honorable John M. Deutch was sworn in as Deputy Secretary of Defense on 11 March 1994, following a unanimous vote in the Senate. He previously served as the Under Secretary of Defense (Acquisition and Technology) from 15 April 1993 until his confirmation as Deputy Secretary.

Prior to his nomination to these positions, Mr. Deutch served in a number of educational government posts. Mr. Deutch became a member of the faculty of the Massachusetts Institute of Technology in 1970 and since then has been an associate professor and professor of chemistry, chairman of the Department of Chemistry, dean of science, provost, and Institute Professor.

His government assignments include service in the Department of Energy as Director of Energy Research, Acting Assistant Secretary for Energy Technology, and Under Secretary of the Department. In recognition of his contributions, he was honored with the Secretary's Distinguished Service Medal and the Department's Distinguished Service Medal. He has been a member of the White House Science Council, the Defense Science Board, the Army Scientific Advisory Panel, the Chief of Naval Operations Executive Panel, the President's Commission on Strategic Forces, the President's Foreign Intelligence Advisory Board, and the President's Nuclear Safety Oversight Committee. He also served as a consultant to the Bureau of the Budget.

He has been a trustee of the Urban Institute, a member and Chair of the National Science Foundation Advisory Panel for Chemistry, an overseer of the Museum of Fine Arts in Boston, a trustee of Wellesley College, a director of Resources for the Future, a member of the Trilateral Commission, and a member of the Governor of Massachusetts Technology and Economic Development Council.

A graduate of Amherst College with a B.A. in history and economics, he earned both a B.S. in chemical engineering and a Ph.D. in physical chemistry from M.I.T. He holds honorary doctoral degrees from Amherst

College and the University of Lowell. Mr. Deutch has been a Sloan Research Fellow and a Guggenheim Fellow and is a member of Sigma Xi and the American Academy of Arts and Sciences.

Mr. Deutch was born in Brussels, Belgium, and became a U.S. citizen in 1946. He has three sons, and his permanent residence is in Belmont, Massachusetts.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–880. A communication from the Under Secretary of Defense (Acquisiton and Technology), transmitting, pursuant to law, a report relative to the M1A2 Abrams Upgrade; to the Committee on Armed Services.

EC–881. A communication from the Under Secretary of Defense (Acquisiton and Technology), transmitting, pursuant to law, a report relative to the Maneuver Control System; to the Committee on Armed Services.

EC–882. A communication from the Under Secretary of Defense (Acquisiton and Technology), transmitting, pursuant to law, a report relative to the ADDS, C-17, and Javelin programs; to the Committee on Armed Services.

EC–883. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, a report relative to the Affordable Housing Disposition Program for calendar year 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC–884. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to a transaction involving Turkey; to the Committee on Banking, Housing, and Urban Affairs.

EC–885. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, the semi-annual reports of the RTC, FDIC and the TDPOB for the period October 1, 1994 to March 31, 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–886. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the fiscal year 1993 report of the Congregate Housing Services Program; to the Committee on Banking, Housing, and Urban Affairs.

EC–887. A comunication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the 1993 report pursuant to the Cigarette Labeling and Advertising Act; to the Committee on Commerce, Science, and Transportation.

EC–888. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the incidental harvest of sea turtles; to the Committee on Commerce, Science, and Transportation.

EC–889. A communciation from the Under Secretary of Commerce for Oceans and Atmosphere, transmitting, pursuant to law, a report on the National Marine Sanctuary Logo Pilot Project; to the Committee on Commerce, Science, and Transportation.

EC–890. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Department for fiscal year 1994; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committee was submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation:

The following officer, NOAA, for appointment to the grade of Rear Admiral (O–8), while serving in a position of importance and responsibility as Director, Office of NOAA Corps Operations, National Oceanic and Atmospheric Administration, under the provisions of title 33, United States Code, section 853u: Rear Adm (lower half) William L. Stubblefield, NOAA.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON:

S. 766. A bill to protect the constitutional right to travel to foreign countries; to the Committee on Foreign Relations.

By Mr. DOMENICI:

S. 767. A bill to amend the Clean Air Act to extend the deadline for the imposition of sanctions under section 179 of the Act that relate to a State vehicle inspection and maintenance program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GORTON (for himself, Mr. JOHNSTON, Mr. SHELBY, Mr. BREAUX, and Mr. PACKWOOD):

S. 768. A bill to amend the Endangered Species Act of 1973 to reauthorize the Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KOHL:

S. 769. A bill to amend title 11 of the United States Code to limit the value of certain real and personal property that the debtor may elect to exempt under State or local law, and for other purposes; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. KYL, Mr. INOUYE, Mr. D'AMATO, Mr. HELMS, Mr. BROWN, Mr. MACK, Mr. SPECTER, Mr. BOND, Mr. THURMOND, Mr. PRESSLER, Mr. DORGAN, Mr. FAIRCLOTH, and Mr. BRADLEY):

S. 770. A bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes; ordered held at the desk..

By Mr. PRYOR:

S. 771. A bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DORGAN (for himself and Mrs. HUTCHISON):

S. 772. A bill to provide for an assessment of the violence broadcast on television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. KASSEBAUM (for herself, Mr. GREGG, Mr. GORTON, Mr. COATS, Mr. JEFFORDS, Mr. FRIST, Mr. HARKIN, Mr. CRAIG, Mr. LUGAR, Mr. INHOFE, Mr. GRASSLEY, Mr. MCCONNELL, Mr. KYL, Mr. SANTORUM, Mr. HEFLIN, Mr. BOND, Mr. PRYOR, Mr. KERREY, Mr. BENNETT, and Mr. HELMS):

S. 773. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MACK:

S. 774. A bill to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans; to the Committee on Labor and Human Resources.

By Mr. BAUCUS (by request):

S. 775. A bill to amend title 23, United States Code, to provide for the designation of the National Highway System, the establishment of certain financing improvements, and the creation of State infrastructure banks, and for other purposes; to the Committee on Environment and Public Works..

By Mr. CHAFEE (for himself and Mr. KERRY):

S. 776. A bill to reauthorize the Atlantic Striped Bass Conservation Act and the Aradromous Fish Conservation Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 777. A bill to amend the National Labor Relations Act to provide equal time to labor organizations to present information relating to labor organizations, and for other purposes; to the Committee on Labor and Human Resources.

S. 778. A bill to amend the National Labor Relations Act to permit the selection of an employee labor organization through the signing of a labor organization membership card by a majority of employees and subsequent election, and for other purposes; to the Committee on Labor and Human Resources.

S. 779. A bill to amend the National Labor Relations Act to require the arbitration of initial contract negotiation disputes, and for other purposes; to the Committee on Labor and Human Resources.

S. 780. A bill to amend the National Labor Relations Act to require Federal contracts debarment for persons who violate labor relations provisions, and for other purposes; to the Committee on Labor and Human Resources.

S. 781. A bill to amend the Occupational Safety and Health Act to require Federal contracts debarment for persons who violate the Act's provisions, and for other purposes; to the Committee on Labor and Human Resources.

S. 782. A bill to amend the National Labor Relations Act and the Labor-Management Relations Act, 1947, to permit additional remedies in certain unfair labor practice cases, and for other purposes; to the Committee on Labor and Human Resources.

S. 783. A bill to amend the National Labor Relations Act to set a time limit for labor rulings on discharge complaints, and for other purposes; to the Committee on Labor and Human Resources.

S. 784. A bill to amend the National Labor Relations Act to impose a penalty for encouraging others to violate the provisions of the National Labor Relations Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PACKWOOD:

S. 785. A bill to require the trustees of the Medicare trust funds to report recommendations on resolving projected financial imbalance in Medicare trust funds; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROTH (for himself, Mr. BAUCUS, Mr. D'AMATO, Mr. ABRAHAM, and Mr. KEMPTHORNE):

S. Res. 117. Resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted; to the Committee on Finance.

By Mr. BYRD (for himself, Mr. DOLE, Mr. DASCHLE, Mr. BAUCUS, Mr. REID, Mr. ASHCROFT, Mr. WARNER, Mr. LEVIN, Mr. HOLLINGS, Mr. DORGAN, Mr. SARBANES, Mr. SPECTER, Mr. BROWN, and Mr. D'AMATO):

S. Res. 118. Resolution concerning United States-Japan trade relations; considered and agreed to.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 119. Resolution to authorize testimony by Senate employees and representation by Senate legal counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON:

S. 766. A bill to protest the constitutional right to travel to foreign countries; to the Committee on Foreign Relations.

FREEDOM TO TRAVEL ACT

Mr. SIMON. Mr. President, today I introduce legislation dealing with the constitutional right of American citizens and legal permanent residents to travel to foreign countries.

Last October 5, I held a hearing in my capacity as chairman of the Constitution Subcommittee of the Judiciary Committee on the constitutional right to international travel. The hearing focused on the derivation of this well-established constitutional right, on the circumstances under which the right can be restricted, and on the wisdom as a policy matter of restricting the ability of Americans to visit nations with whom we may have political differences.

In the course of this hearing, it became clear to me that there are limited instances in which the right of Americans to travel abroad should be restricted—namely, instances where international travel endangers the safety of the traveler or implicates national security concerns. Otherwise, as a matter of both constitutional law, the first and fifth amendments as well as other constitutional provisions, and policy, the right to a free trade in ideas and to investigations into other nations and cultures should be not only left untrammelled, but encouraged.

When such restrictions on foreign travel are in place, they do great damage to a number of interests that we hold dear. When Americans are denied the right to travel to a foreign country:

Businessmen are prevented from exploring opportunities in that country that might confer economic benefits on this country;

American scholars are denied the opportunity to engage in a dialog with their foreign colleagues;

Americans with families abroad are prevented from visiting their loved ones;

Human rights organizations concerned about abuses abroad are prevented from seeing those abuses firsthand, and from giving corrupt foreign governments the kind of close scrutiny that forces reform of repressive systems;

Average Americans with an interest in world affairs are denied the opportunity to become better informed citizens by virtue of their direct exposure to nations that play an important role in our own foreign policy;

Finally, our own Government loses the ability to influence foreign governments through the transmission of American ideals of democracy and justice. It is no coincidence that in those nations to which American travel was not restricted—such as the nations of the former Soviet bloc—the infusion of American ideas contributed mightily to the downfall of repressive regimes.

The fact that travel abroad should in most cases be encouraged, and not restricted, however, has not prevented administrations both past and present from limiting the right of Americans to travel abroad. In response to these efforts, Congress has often stepped in to limit the President's right to restrict foreign travel. Most recently, last year's Foreign Relations Authorization Act limited the President's authority to impose travel related restrictions on Americans seeking to visit foreign countries that are not currently the subject of such restrictions. The Foreign Relations Authorization Act, however, permitted the President to continue to impose travel, restrictions to those countries now subject to such restrictions—even though none of these countries pose any threat to the health or safety of prospective visitors, or to America's national security. These countries include Libya, Iraq, North Korea, and, most controversially, Cuba.

The bill I now introduce—the Freedom to Travel Act of 1995—would extend the Foreign Relations Authorizations Act's limitations on the President's power to restrict travel to those countries that are currently the subject of travel restrictions. The bill would also make clear that the President may only restrict travel to countries with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of U.S. travelers. This is the standard that currently governs the Government's right to deny a passport to a U.S. citizen. I believe that this standard should apply to any Government effort to restrict foreign travel.

I believe this legislation to be necessary both as a matter of policy and as a matter of international and constitutional law. Protecting the right of Americans to travel abroad is constitutionally required, is internationally recognized as part of the Universal Declaration of Human Rights, and is an important way of safeguarding and furthering our intellectual, economic, and political interests. I hope my colleagues will join our efforts to work for this protection.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Freedom to Travel Act of 1995".

SEC. 2. TRAVEL TO FOREIGN COUNTRIES.

(a) FREEDOM OF TRAVEL FOR UNITED STATES CITIZENS AND LEGAL RESIDENTS.—The President shall not restrict travel abroad by United States citizens or legal residents, except to countries with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travelers.

(b) INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)) is amended—

(1) by striking "or" at the end of paragraphs (2) and (3); and

(2) by amending paragraph (4) to read as follows:

"(4) any of the following transactions incident to travel by individuals who are citizens or residents of the United States:

"(A) any transactions ordinarily incident to travel to or from any country, including the importation into a country or the United States of accompanied baggage for personal use only;

"(B) any transactions ordinarily incident to travel or maintenance within any country, including the payment of living expenses and the acquisition of goods or services for personal use;

"(C) any transactions ordinarily incident to the arrangement, promotion, or facilitation of travel to, from, or within a country;

"(D) any transactions incident to nonscheduled air, sea, or land voyages, except that this subparagraph does not authorize the carriage of articles into a country except accompanied baggage; and

"(E) normal banking transactions incident to the activities described in the preceding provisions of this paragraph, including the issuance, clearing, processing, or payment of checks, drafts, travelers checks, credit or debit card instruments, or similar instruments;

except that this paragraph does not authorize the importation into the United States of any goods for personal consumption acquired in another country other than those items described in paragraphs (1) and (3); or".

(c) AMENDMENTS TO TRADING WITH THE ENEMY ACT.—Section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraph:

"(5) The authority granted by the President in this section does not include the authority to regulate or prohibit, directly or indirectly, any of the following transactions incident to travel by individuals who are citizens or residents of the United States:

"(A) Any transactions ordinarily incident to travel to or from any country, including importation into a country or the United States of accompanied baggage for personal use only.

"(B) Any transactions ordinarily incident to travel or maintenance within any country, including the payment of living expenses and the acquisition of goods or services for personal use.

"(C) Any transactions ordinarily incident to the arrangement, promotion, or facilitation of travel to, from, or within a country.

"(D) Any transactions incident to nonscheduled air, sea, or land voyages, except that this subparagraph does not authorize the carriage of articles into a country except accompanied baggage.

"(E) Normal banking transactions incident to the activities described in the preceding provisions of this paragraph, including the issuance, clearing, processing, or payment of checks, drafts, travelers checks, credit or debit card instruments, negotiable instruments, or similar instruments.

This paragraph does not authorize the importation into the United States of any goods for personal consumption acquired in another country other than those items described in paragraph (4).".

SEC. 3. EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES AND EXCHANGES.

(a) INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)) is amended by adding after paragraph (4) the following new paragraph:

"(5) financial or other transactions, or travel, incident to—

"(A) activities of scholars;

"(B) other educational or academic activities;

"(C) exchanges in furtherance of any such activities;

"(D) cultural activities and exchanges; or

"(E) public exhibitions or performances by the nationals of one country in another country,

to the extent that any such activities, exchanges, exhibitions, or performances are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 and to the extent that, with respect to such activities, exchanges, exhibitions, or performances, no acts are prohibited by chapter 37 of title 18, United States Code.".

(b) TRADING WITH THE ENEMY ACT.—Section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraph:

"(6) The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, financial or other transactions, or travel, incident to—

"(A) activities of scholars;

"(B) other educational or academic activities;

"(C) exchanges in furtherance of any such activities;

"(D) cultural activities and exchanges; or

"(E) public exhibitions or performances by the nationals of one country in another country,

to the extent that any such activities, exchanges, exhibitions, or performances are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 and to the extent that, with respect to such activities, exchanges, exhibitions, or performances, no acts are prohibited by chapter 37 of title 18, United States Code.".

SEC. 4. FOREIGN ASSISTANCE ACT OF 1961.

Section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is amended by adding at the end thereof the following:

"(3) Notwithstanding paragraph (1), the authority granted to the President in such paragraph does not include the authority to regulate or prohibit, directly or indirectly, any activities or transactions which may not be regulated or prohibited under paragraph (5) or (6) of section 5(b) of the Trading With the Enemy Act.".

SEC. 5. APPLICABILITY.

(a) INTERNATIONAL ECONOMIC EMERGENCY POWERS ACT.—The amendments made by sections 2(a) and 3(a) apply to actions taken by the President under section 203 of the International Emergency Economic Powers Act before the date of the enactment of this Act which are in effect on such date of enactment, and to actions taken under such section on or after such date.

(b) TRADING WITH THE ENEMY ACT.—The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which under section 5(b)(5) or (6) of the Trading With the Enemy Act (as added by this Act) may not be regulated or prohibited.

By Mr. DOMENICI:

S. 767. A bill to amend the Clean Air Act to extend the deadline for the imposition of sanctions under section 179 of the act that relate to a State vehicle inspection and maintenance program, and for other purposes; to the Committee on Environment and Public Works.

CLEAN AIR ACT AMENDMENT LEGISLATION

Mr. DOMENICI. Mr. President, I am introducing a bill that I believe will help States and municipalities in their efforts to comply with the requirements of the Clean Air Act. Specifically, this bill will extend the deadline for sanctions under section 179 of the act that relate to State vehicle and inspection programs. Congressman SCHIFF has introduced similar legislation in the House of Representatives.

As you know, Mr. President, the 1990 amendments to the Clean Air Act set forth requirements for areas that are not in attainment for certain air pollutants. These requirements include submission and implementation by those nonattainment areas of extensive and detailed remediation plans. Since enactment of the 1990 amendments, many States and municipalities have made great strides in fulfilling these requirements.

Under section 179 of the act, however, the Environmental Protection Agency can levy sanctions on those areas that fail to meet the requirements, sanctions which include the cutting off of highway funding. Unfortunately, implementation of some of the requirements has proven to be much more time-consuming than originally thought. Prime examples of this problem are the provisions for vehicle inspection and maintenance programs, also known as I/M programs. The EPA has promulgated very complex—and often controversial—rules for I/M programs. Although States and municipalities are trying very hard to implement the I/M rules, and although many are getting very close to compliance, it has become clear that in some cases they will simply need more time.

This bill addresses this situation by delaying sanctions for failure to implement I/M programs by 12 months, thus allowing States and municipalities to finish coming into compliance with these Federal mandates without losing critically needed highway funds. I urge my colleagues to join me in this effort.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF SANCTIONS DEADLINE.

(a) EXTENSION.—Section 179(a) of the Clean Air Act (42 U.S.C. 7509(a)) is amended in the matter following paragraph (4) by inserting "(or, in the case of a requirement relating to a State vehicle inspection and maintenance program, 30 months)" after "18 months".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to any finding, disapproval, or determination made under section 179(a) of the Clean Air Act after the date that is 18 months prior to the date of enactment of this Act.

By Mr. GORTON (for himself, Mr. JOHNSTON, Mr. BREAUX, Mr. SHELBY, and Mr. PACKWOOD):

S. 768. A bill to amend the Endangered Species Act of 1973 to reauthorize the act, and for other purposes; to the Committee on Environment and Public Works.

ENDANGERED SPECIES ACT REFORM ACT

Mr. GORTON. Mr. President, today is an important day for working people and their families across America whose lives have been impacted by the implementation of the Endangered Species Act. Today I am proud to introduce legislation, together with Senator JOHNSTON, Senator SHELBY, Senator BREAUX, and Senator PACKWOOD to amend the Endangered Species Act to require that the act consider people.

For 6 years, this Senator has fought to bring legislation before the Senate to amend the Endangered Species Act. For much of these 6 years, I have been unsuccessful in forcing the Senate to debate reauthorization of the act.

This year, however, is different. I believe that this year proponents of reform have a unique opportunity to bring legislation to reform the act before the Senate for debate. I intend to work very hard to see that this does, in fact, happen. I am committed to working with Senator CHAFEE, as the chairman of the Environment and Public Works Committee, and with Senator KEMPTHORNE, as chairman of the Drinking Water, Fisheries and Wildlife Subcommittee, to see that legislation to reauthorize the act is passed by the Senate this year.

The debate over the ESA is all about choices. Difficult, yet fundamental choices that as people who live in a free and productive society have to make. How important to society is this species?

What is the biological significance of the species? Is it the last of its kind? Will it provide a cure for a deadly disease? How many people will lose their jobs as a result of protecting this species? How will species protection impact the lives of people, their families, and their communities? In short, the debate will be about people, and choices we must make.

Earlier this year, a wonderful book entitled "Noah's Choice" focused on these choices. The title is designed to remind us of the story in the book of Genesis, where God commands Noah to build an ark to house his family and a male and female pair of every species. As the story goes, it then rained for 40 days and nights, and when the rain stopped, and the water dried, Noah had saved every living substance. The authors write:

> Noah had it easy. The materials he needed to build his Ark were at hand and the design, provided by the Supreme Deity, was guaranteed to be sufficient for the task. Two by two, the creatures walked aboard, filling the vessel just to capacity. When the parade finished, Noah had fulfilled his obligations. He had saved "every living substance." There had been no need to exercise judgement or agonize over tough choices. He and his sons just stood on the gangplank and let everything in. When no creature was waiting outside, he shut the door and waited for rain.

Unfortunately our choices are not so simple. The act must be reformed to include choices, Mr. President, because currently it does not. The current act is all about uncompromising, intrusive, and unrelenting Federal mandates, and little about choices. To prove this point, you only have to take a look at the Pacific Northwest.

PACIFIC NORTHWEST AS A TEST CASE FOR THE ESA

Consider this: less than a decade ago, rural timber communities across my State were thriving. Families were strong and together. Fathers had a steady job at the mill, that paid a good family wage. Mothers could afford to stay home and take care of the children, to be there when they got home from school. Parents could save for their kids' education. Kids could be kids.

These were good places to live and work. Rural areas, surrounded by our national parks and forest lands. Communities built up around the timberlands. Families who had worked for generations in the woods, continued to pass the trade down to the next generation. These were communities where you didn't have to lock the front door. Places where strangers get a wave, or a nod of acknowledgement as they drive through town. That was 10 years ago.

Today it's different. Unemployment is up. Families that were once strong, and together, are falling apart. Divorce and incidents of domestic violence have dramatically increased. People can't find work. Mills have shut down. Food bank use has skyrocketed. Homes are for sale. Once proud, and productive members of our society, have, reluctantly, become society's burden.

All of this, Mr. President, in the period of 6 short years.

It began when the northern spotted owl was listed under the Endangered Species Act in 1989. And in the time since that listing, the destruction of rural timber communities has followed. But I want to make clear, it was not the listing of the owl that caused this devastation. It was the implementation of the act that caused it—the implementation of an act that does not consider the impacts on people, and their communities.

Last month, I held a timber family hearing in Olympia, WA. The purpose of my hearing was to hear from the people whose lives have been impacted by the Endangered Species Act, to hear from them, once again, as to why this act must be changed. Over the course of 6 years, I have heard the personal stories of people who live—or once lived—in my State's timber communities. Their stories are hard to listen to, because their stories could have been different—if only their Federal Government had listened to their plight. Here are a few of the stories I heard.

One man, probably close to 40 years old, told me that before the listing of the spotted owl, he went to work each day and came home to his wife and children. In other words, he lived a normal life. But today he's got to go across the State in order to find work. He's away from home for weeks at a time. He told me that he can't afford to buy a video camera or VCR to record his children as they grow up. He told me that he misses his children, that he misses his wife. He asked me if I could fix this law so that he could go home to stay, so that he could live with his family again.

Another story. Barbara Mossman and her husband used to own a logging truck company. Today they live day to day, and, if they are lucky enough to find work, paycheck to paycheck. Before the owl crisis, Barbara and her husband were hardworking small business owners.

Barbara told me about the first time she and her husband had to go to a food bank. They didn't want to do it, that's not the way they were raised. They were brought up to believe that if you are a hard worker, you will always find a job, that you should take care of yourself, your family, and help your neighbor. They were proud. But, as Barbara told me, they had to set aside their pride and go to the food bank, because they did not have anything to eat.

But if anything captured the spirit of my timber family hearing it was a plea from Bill Pickell, of the Washington Contract Loggers Association. The people in this room, he said, do not want a handout. They do not want a government program. They want to take care of their neighbors, help their community spring back to life. They want to work.

Mr. President, the stories are real. They are not made up. There are hundreds of stories like this from across my State. The message is the same—the act does not consider people.

Of course, if you read the newspapers, or listen to the nightly news you would never realize that people are suffering across my State, and the Nation, because of misguided Federal policies. The media spins a different tale. In 1990, in the media frenzy to pit people against nature, there was a rush to judgment. A judgment was made that people who live and work in natural resource-based industries cannot coexist with their environment. That the two are mutually exclusive. That the timber worker was an evil raper of the land. That the environment would perish because of his life's work.

In this rush to judgment, Time magazine put a spotted owl on its cover with the heading "Who Gives a Hoot? The timber industry says that saving this spotted owl will cost 30,000 jobs. It isn't that simple."

Time got one thing right—it is not that simple. But I wonder, in 1995, would Time put a picture of the unemployed timber worker and his community on the cover of its magazine, under the heading "Can it be saved?" The answer? Probably not.

It's a tactic often used by the media to oversimplify. To make it, us versus them. Jobs versus the environment. People versus owls. This Senator believes that the media does the public a great disservice in its efforts to provide trite, oversimplifications of complex issues. This Senator gives the American public more credit.

The legislation that I have introduced today, with that of my primary sponsors, recognizes that in order to find the appropriate balance between people and their desire to protect the environment difficult choices must be made. My legislation recognizes that these decisions are not simple, and that the people and the communities most directly affected by these decisions must have a say in the process. My legislation attempts to achieve the delicate balance that has long been absent from the current act.

THE ESA REFORM ACT OF 1995

Mr. President, 22 years ago Congress passed, and President Nixon signed, legislation creating the Endangered Species Act. The legislation was written in broad brush stokes—leaving the details to Federal bureaucrats to plug in. Not having been a Member of the U.S. Senate at the time the original law was enacted, one can only guess that most Members of Congress were enthusiastic about passing such legislation. This was legislation, after all, that would protect our Nation's symbol of freedom, the bald eagle, and the other precious and unique creatures that we identified with as Americans. Simply put, the legislation was as American as baseball and apple pie.

In writing the original legislation, Congress, in all its wisdom, decided that it could, in fact, become Noah. The Endangered Species Act was developed, as most laws are, to address a seemingly one-dimensional situation—to stop species from extinction. But 22 years later, the details of the legislation have been filled in, and slowly people have begun to realize that the original act was written without an eye to the consequences.

Mr. President, from the start of this debate in 1989, I have advocated for a balance—a delicate balance between the needs of people and that of their environment. The two are not mutually exclusive. In 1989, my call for balance was viewed as radical and extreme. In 1995, newspaper editorials in my State consistently use the word to describe how the act should be reformed. The administration has even put forward 10 principles for ESA reform that advocate for a more balanced decisionmaking process.

Under my legislation, sound, peer reviewed science would drive the listing process. Economic considerations are not included in the listing process. Upon a final decision to list a species, an interim management period would begin, in which the listed species would be provided with the protection against a direct killing or injury to the species. This is a dramatic departure from current law. Under current law, with the final listing decision comes a whole host of regulations restricting the use of property and ongoing activities. Under my legislation, the Secretary is required to make a well informed decision before designating critical habitat or other regulations.

Once a final listing decision is made, the Secretary convenes a planning and assessment team to review the biological, economic, and intergovernmental impacts of the listing decision. The team would consist of representatives of affected local communities, as nominated by the communities, representatives from the State, as nominated by the Governor, and the appropriate biologists, economists, and land use specialists.

The cornerstone of the legislation is the development of the Secretary's conservation objective for the listed species. The team provides the Secretary with the information from which he will develop his conservation objective for the listed species. The team provides the Secretary with the answers to questions like this: What's the biological significance of the species? What is the critical habitat of the species? How many jobs would be lost if the species were afforded the full protections of the act? What would be the impact on the local economy? On social, and community values? In other words, the team provides the Secretary with the information to select the conservation objective for the species.

Under current law, the Secretary must provide for the full recovery of a species once it is listed. No flexibility. No questions asked. My bill changes this by providing the Secretary with a range of options.

In developing a conservation objective for the species, the Secretary selects an objective from a range consisting of, but not limited to: Full recovery of the species, conservation of the existing population of the species, or a prohibition against direct injury or killing of the species. The Secretary must always provide protection for the listed species from direct injury or killing. The selection of this objective is solely at the Secretary's discretion. This is a revolutionary concept. No longer will the Secretary's hands be tied to an inflexible standard.

In selecting a conservation objective, and, if necessary, developing a conservation plan for the listed species, the Secretary is provided the broadest discretionary authority. The only challenge to the Secretary's decision in the courts would be if it could be proven that the Secretary grossly abused his authority, traditionally a very hard challenge to meet. What does this mean? In real life terms it means that the Secretary cannot hide behind the law he is charged with implementing in making a decision to conserve a species. The administration could no longer say that a plan it put together to protect a species, although it might be bad for people, was the best plan it could put forward under the law. Under my legislation, there would be no more excuses. The Secretary would be held politically accountable for his or her decision.

After the Secretary develops a conservation objective for the species, the Secretary is directed to look toward voluntary, non-Federal conservation proposals that meet the objective. My legislation recognizes that the Federal Government is not the solution to every problem—that individuals, and State and local governments, if given the incentive and opportunity, can effectively provide for the conservation of a listed species.

There is, however, a degree of risk to my legislation. The Secretary has the discretion to totally disregard all of the information—all of the social and economic consequences of draconian recovery measures—and mandate full recovery, for every single species, every time. And, if the Secretary makes this decision, under the full sunshine of public review, then so be it. But the people affected by his decision will know that it was his decision—and his alone—to make. If the people affected by the decision don't like it, they have a recourse. Their recourse comes every other November in the voting booth. Under my legislation, the Secretary and his boss, the President of the United States, will be held politically accountable for their decision.

Throughout my legislation everyday citizens are included in the process. Contrary to old ways of thinking, I believe that people, their families, and local communities know best. They know how to run things better than Washington, DC bureaucrats. To some people—especially for the opponents of change—this is a revolutionary way of thinking. For me, and for the people I have been fighting alongside for 7 years, these are not revolutionary ideas. It is just the way it should be.

ADMINISTRATION'S 10 ESA REFORM PRINCIPLES

Two short months ago, after years of insisting that the ESA did not need to be reformed, the administration put forward 10 principles for ESA reforms. When I read the reforms, I found myself nodding in agreement with each one. "Minimize Social and Economic Impacts of the Act" reads one. This Senator certainly agrees with that principle. "Base ESA Decisions on Sound and Objective Science" reads another. I agree with this principle too. In fact, Senator JOHNSTON, Senator SHELBY, and I, agreed with each and every principle put forward by the administration and included them in our legislation. I applaud the administration for recognizing that the act must be reformed.

PEOPLE MUST BE CONSIDERED

The fundamental flaw of the current act is that it does not consider people. In the case of the spotted owl in the Pacific Northwest, people, their jobs, and their communities were not considered at all in the decisionmaking process. Their life's work was denigrated. Their views were not considered. Their Federal Government did not care about their plight.

The decisions we must make to protect endangered or threatened species will involve choices. Sometimes these choices will be easy, and most often they will not. But we must give the people whose lives are directly affected by these decisions an opportunity to have their voices heard. To know that they have a say in the decisions that will forever change their lives.

Six years ago, I wish that the people in timber communities in my State had the opportunity to have a say in the decisionmaking process. To tell the Secretary on how their lives would forever be changed by his decision. Maybe the Secretary would have ignored their views, but at least they could say that they had given it a shot. That they had participated in the process. That they went down swinging. But they were not given that opportunity.

We must change the act to give people the opportunity to be heard.

I recall again, Bill Pickell's request of me last month at my timber family hearing:

> The people in this room do not want a handout. They don't want a government program. They want to take care of their neighbors, help their community spring back to life. They want to work.

A simple, heartfelt plea that speaks more eloquently than I can about the need for us to bring balance to this act. To give communities across our Nation the ability to work, to provide for their families, and be productive members of our society.

The debate that we will have this year will be about choices. Choices that will impact people's lives, their families, their communities. This Senator believes that the people who are directly affected by these decisions should have the opportunity to be heard. That is what my legislation seeks to accomplish, and I hope that my colleagues will join me in this effort.

Mr. SHELBY. Mr. President, the defenders of the current wording of the Endangered Species Act have engaged in a desperate attempt over the past few years to claim that the act is flexible, that it takes account of human economic and social needs and that it actually works at recovering species. They are dead wrong on each of these points. The ESA currently takes almost no account of human economic concerns, provides less flexibility for private land owners than for Federal agencies, and is an open-ended statute with no focus on the recovery of endangered species.

Less than 20 species have ever been delisted and most of these actions were the result of listing errors. The effort to reform this law is about bringing flexibility, common sense and effectiveness to the statute. Something that is sorely lacking under the current law. With 4,000 listed and candidate species and virtually the entire country covered by the range of one or more endangered species, the imperative to act to change the law has never been stronger.

As currently constructed, the bill makes many needed changes to what is, in its design and application, a misguided and overly broad statute. The current law provides no mandatory requirement for the independent review of the science supporting listing decisions. This legislation would make such a peer review mandatory, upon request of an affected party. In addition, the bill would create a binding conservation and recovery plan for each listed species.

Currently, recovery plans are not required for each listed species and have no binding effect on the Secretary of Interior even when they are promulgated. As a result, a species listing becomes an open ended commitment with no focus on recovering and ultimately delisting a species.

The bill also provides important flexibility and discretion to the Secretary of the Interior in carrying out the requirements of the act.

Under this legislation, the Secretary will be given broad discretion as to how to proceed with a species' recovery or to decide whether recovery is at all feasible for some species. In addition, the Secretary will be given the authority to issue regional exemptions from the take provisions of the act for particular activities that may or may not affect the habitat of a given species. Such an exemption process could have dramatic effects in preventing future regional train wrecks where entire categories of commercial activities are halted by a species listing.

The bill also narrows the definition of harm to a species back to its congressionally intended scope of meaning actual injury to a member of species. The current broad interpretation of "take" under the act is the single most egregious provision in the law with respect to assaulting the property rights of individuals caught in the path of the ESA.

Finally, I would be remiss if I did not mention that I do not regard this bill as perfect legislation, but instead as an excellent starting point for reform.

Indeed, I would have liked for this legislation to include more substantive protections under the act for private property owners. Comprehensive private property rights legislation becoming law is far from guaranteed in this Congress and I believe that this legislation should have included a provision to compensate property owners for lost land value as a result of the act. Eighty-five percent of the land in Alabama is privately owned and the State is fourth in the Nation in candidate and listed species.

These two statistics speak volumes for the concerns I have about protecting private property rights.

In addition, I would have preferred that the legislation eliminate the ability of the Interior Department to list population segments of larger, healthy species. In Alabama, and across the country, a substantial percentage of new listings and proposed listings deal with arcane population segments like snuffbox mussels and shoal sprite snails.

Preserving these population segments is less often about concerns for the larger species and more likely to be a convenient way to slow or impede commercial activity. Not surprisingly, the Fish and Wildlife Service was prepared last year to list the Alabama Sturgeon as a population segment after failing for years to establish it as a distinct species.

However, we have a long way to go in this process and as part of the team effort to reform the ESA, I will work to further strengthen this legislation in concert with my colleagues here today.

Mr. JOHNSTON. Mr. President, I am pleased today to join my colleagues, Senator GORTON and Senator SHELBY, in introducing the Endangered Species Act Reform Amendments of 1995. This is the first step in reforming and reauthorizing a law that, although well-intentioned, has proven to be unworkable and unnecessarily burdensome. Our purpose is to address the very real shortcomings of the law while maintaining our Nation's commitment to the vitality of our living natural resources.

Mr. President, Louisiana has plenty of experience with the Endangered Species Act. Its provisions have been applied with respect to the Louisiana black bear, the red cockaded woodpecker, and several species of sea turtles. My experience is that the act sometimes requires private parties to take extraordinary and unreasonable actions, such as the overly burdensome measures that are imposed on the shrimping industry with respect to the sea turtle. The result is that the act has become enormously unpopular with large groups of our citizens, particularly in the West and Southeast, which the Act has been applied most frequently.

Since I entered the Senate in 1972, I have witnessed the evolution of the Endangered Species Act from a noncontroversial bill that passed the Senate by voice vote in 1973 to our most restrictive and controversial environmental law. I particularly remember the prolonged controversy that arose when a creature known as a snail darter was discovered late in the construction of the Tellico Dam in Tennessee. As some of my colleagues may recall, that led to the Supreme Court's decision in TVA versus Hill, which held that the Endangered Species Act is supreme to all other Federal, State, and local law. Congress then created the so-called God Committee to resolve conflicts between the act and other national goals, but this mechanism has proved to be almost entirely unworkable. Ironically, the only good news is that the snail darter has been found in many others rivers since the battle over the Tellico Dam.

The time has come to thoroughly reexamine the act and its implementation. The act has been due for reauthorization since 1993, and we should delay no further. I intend to do everything I can to enact legislation in 1995, and I believe that it is vitally important that the debate be conducted on a solidly bipartisan basis. Although I have no doubt that there is room for improvement in the bill, I think it is a sound starting point for that debate.

As we begin the process of reforming this enormously complex law, we should be guided by certain principles that I believe we all share. Secretary Babbitt did an admirable job of articulating a set of principles in his March 6 publication, "Protecting America's Living Heritage: a Fair, Cooperative, and Scientifically Sound Approach to Improving the Endangered Species Act."

Those 10 principles are:

First, Base ESA decisions on sound and objective science; second, minimize social and economic impacts; third, provide quick, responsive answers and certainty to landowners; fourth, treat landowners fairly and with consideration; fifth, create incentives for landowners to conserve species; sixth, make effective use of limited public and private resources by focusing on groups of species dependent on the same habitat; seventh, prevent species from beginning endangered or threatened; eighth, promptly recover the delist threatened and endangered species; ninth, promote efficiency and consistency; and last, provide State, tribal, and local governments with opportunities to play a greater role in carrying out the ESA.

I believe that our bill reflects these principles. However, I understand that the devil is in the details, and am quite open to suggested modifications that will better achieve these principles.

Although I will not attempt to summarize the entire bill, there are several provisions that should be emphasized. First, the bill requires that the decision to list a species be based solely on sound science, and that the science be independently peer-reviewed. Specifically, the Secretary of the Interior or the Secretary of Commerce, as the case may be, appoints a three-person peer review panel from among qualified persons recommended by the National Academy of Sciences. As my colleagues know, the promotion of sound science is a high priority of mine, and there is no place where science is more important than in implementing the Endangered Species Act.

Second, the bill instills political accountability by requiring the Secretary to establish a specific conservation objective for each listed species. Before we expend tens of millions of public and private dollars on efforts to restore a particular species, we need a high-ranking member of the Federal Government to stand up and take responsibility for that decision. We need the official to explain to us why the species is important. And if the species is important, we need that official to set forth a conservation plan, based on the best reasonably obtainable science, that will actually achieve that conservation goal. And if the species is important, and there is a conservation plan that will actually work, we need to know that the Secretary has formulated that plan after considering the economic and social impacts of the plan.

Third, the bill encourages and facilitates cooperative actions between the Federal Government and States, local governments, and the private sector to conserve species without the need to trigger the more restrictive provisions of the act. The most effective and efficient way to protect species is to take cooperative measures as early as possible, before a species declines to the point that more restrictive and expensive steps are needed.

Finally, I want to mention a matter that we are not addressing in the bill. At least one of the outside groups urging reform of the ESA asked Senator GORTON and me to include a provision that would have compensated private landowners whose property values are lowered by the restrictions of the act. I concluded, and Senator GORTON concurred, that this legislation is not the place to try to resolve the incredibly complex issue of when to compensate landowners for reductions in property value due to governmental regulations. That issue cuts across all of our environmental laws, not just the ESA, and it should be addressed in that larger context. Furthermore, I believe that the reforms of the act that we are proposing in this bill, along with the requirement that the bill be administered so as to minimize impacts on private property, will greatly reduce the frequency and severity of the impacts of the act on the value of private property.

I look forward to working with Senator GORTON and Senator SHELBY, the members of the Environment and Public Works Committee, and other interested Senators to revise the ESA in a way that allows us to effectively protect our natural heritage without imposing unnecessary burdens on our citizens. The present act is not working, and failure to address its problems can only lead to further crisis and confrontation, followed by calls to scrap the act altogether. The bill we are introducing today marks the opening of the debate on how to reform the ESA so as to save it. This bill is a work in progress, and I invite all interested parties to contribute their efforts toward improving it as we move through the legislative process.

Mr. BURNS. Mr. President, this morning, the Senator from Washington State, Senator GORTON, introduced his reauthorization of the Endangered Species Act. I would just like to make a few comments about that act and also the amendments that will be offered in its reauthorization.

Congress was scheduled to reauthorize it this year and, of course, last year, and it has been a while since it has been done. I think it is about time that this Congress take a look at the Endangered Species Act and try to make it more workable.

Currently, there are about 60 listed or candidate species in Montana on the Endangered Species Act. There always seems to be new species from some group that wants it put on the list just about every week. In a recent effort by a group based in Colorado, they want the black-tailed prairie dog placed on the candidate list. This petition is related to the black-footed ferret.

If you want to hear some stories about one act and how it impacts a State or community, we can probably write an entire book about this. But our largest industry in the State of Montana is agriculture. If you ask Montana farmers and ranchers what law they want Congress to fix, most will say this act, the Endangered Species Act. If you are in the western part of the State, near the wood products industry and those folks that work in the woods, and you ask them what law needs fixing, they would also reply the Endangered Species Act, because half of the economy of western Montana is based on wood products. They will tell you a lot of stories about infringing on their ability to make a living for their families, about the grizzly bears, the road closures, and once again, coming back to the old Endangered Species Act.

There is no doubt that we must reform the law. It is the single most restrictive law that Montanans and other Americans who rely on the land to make a living must deal with. The communities in Montana lack the economic stability and the predictability that they deserve.

When we have 38 percent total land mass in one State that belongs to the Federal Government, it is hard to find that stability and predictability about the policies carried out on those public lands. The current law has many communities in Montana and throughout our Nation living on pins and needles. Jobs have been lost because of this act. The bottom line, of course, is the economic well-being of communities, and our communities are suffering.

We need to change the act, that it really does protect the species and recover species, that it does not cost millions of dollars per species and it will protect the private property rights and also perhaps bring some economic viability and predictability to our communities.

This act should be amended so we can recognize species in trouble and emphasize restoring the populations to healthy levels. Emphasis must be placed on recovery, however.

The current law emphasizes the listing of species instead of protecting and recovering species. In order to do this, the new act should contain the following principles. The new act needs to be amended so it is based on better science. We know that our science has not been too good in the past. Peer review procedures need to be added to improve the overall data collected so that the right decision can be made, or at least to arrive at some decision based on proper science. We must have these decisions made outside of politics, and instead done by objective individuals who have a background in that science.

As I stated earlier, above all, we must concentrate our efforts on recovery plans. I think if we want a simplified solution to it, we have to decouple the listing process from the recovery process. If we do that, we would focus on the least costly alternative and we would have access to impacting the decisions made under the act, and of course take into consideration local economics.

In addition, this would force priorities to be set and would generate recovery plans which are reasonable. And yes, they are attainable. I think that is very, very important. The decoupling process may be the toughest part of this entire debate.

The best decisions are those that are made at the local level. I believe we need increased private participation in our conservation efforts. The fact is that local individuals are the best people to support any kind of a conservation plan. We are finding that out now, with the farm bill, in the 1985 farm bill, which required conservation plans on farms and ranches in order to participate in the farm program.

We need people who live and work in the areas that are affected, because they have a stake in what happens in their own backyard. Washington should not forget that these people want to maintain the quality of life that they have for their families now.

The act should encourage cooperative management agreements for non-Federal efforts. We just talked this morning about several activities going on in Montana that have the cooperation not only of private landowners, but also several environmental groups and Federal land management agencies that are cooperating now in order to provide the best use of a natural resource on public lands, but also to protect the environment and hang onto the economic viability of the area. Just to mention a couple, there are Willow Creek and Fleecer up in Montana and, of course, the Blackfoot challenge that we talked about this morning in our office.

However, we cannot solely rely on these cooperative management agreements. Some landowners and communities will not have the resources to pay for some of these agreements.

It is in these instances that the Federal Government will have to play a larger role. Local involvement is still essential to carry out the objectives of recovering species. Any proposal should require local public hearings in the affected communities.

Local communities must be given the opportunity to express their support, comments and, yes, their areas of concern. Also, the conservation and recovery process must recognize State and local laws. Federal agencies should not be allowed to run roughshod over State management agencies, State laws, or their agreements.

Without a doubt, compensation must be given individuals who lose the use of their private property under a Federal Government conservation plan. Our Constitution and property rights need protection on every front. Anything short of that is selling our constitutional rights down the river.

It is also, if one has to wonder why we take property rights so seriously, because when we pass that property on to our children and our offspring, it is our only thing that we can pass along to them that ensures their freedom for generations to come.

The Endangered Species Act has a good goal. It does make everyone aware of the world. However, since it has become law, it has been twisted and misused for other purposes.

We need some common sense to put back in not only recovering the species but also taking into account the human factor. After all, part of the system, the ecosystem, is man himself. Starting from a new viewpoint in crafting the act, which would truly reflect what we want to do is to conserve and recover the species, has to be the focus.

It cannot let the existing law and regulations run multiple use off of our lands. Most of our lands are under multiple use, use for the highest economic benefit. Of course, most of the time, that is either logging, mining, running of livestock, or grazing, but sometimes it is also recreation. Even recreation can be in conflict with the recovery of the Endangered Species Act.

The bill, introduced by Senators GORTON, JOHNSTON, and SHELBY, is a good starting point. I have added my name as a cosponsor because I am very supportive of this process moving forward. I am supportive of the basic concepts of this reform bill.

The bill makes sure that better science is used. It provides peer review. It also allows for more local participation incentives and non-Federal efforts, and encourages cooperative agreements and habitat conservation plans.

This bill places the emphasis on recognizing the species that are in trouble, coming up with a plan to protect them, and most importantly, recovering the species.

We have a great job ahead of Members. It takes a great deal of cooperation between private landowners, Government agencies, and State and local communities in order to get it done. However, I am a supporter of the bill.

I have some reservations about it. The current act is complicated. I would like to see it reformed, simplified, and made easier for landowners and people who use the public lands to be in compliance with the law.

Basically, the law needs to be streamlined. I also strongly believe in private property compensation if the need arises. The bill ensures that people are not denied reasonable use of their property. However, there is no compensation provision. The consultation provision needs to be strengthened. There are just too many instances where other Federal agencies cannot use plain old common sense because the Interior or Commerce Departments will not let them, based on this and other areas of the law which I think we need to take a closer look at.

I am glad that we have finally started moving the process forward. I am thankful for the work that has been done by the sponsors of this legislation.

In addition, I have made a request to Senator KEMPTHORNE that a hearing on this issue be held in the State of Montana. I do not know whether there is a State in the Union that is impacted more by this action than the State of

Montana. After all, we have been dealing with the grizzly bear a long, long time.

By the way, the recovery has been very successful. In fact, biologically, the animal now can be delisted and taken off the list of those endangered.

I hope this summer Senator KEMPTHORNE's Subcommittee on Clean Water, Fisheries and Wildlife will be able to come to my home State of Montana and hear the testimony from us folks who live in Montana.

Reforming the Endangered Species Act is essential. It is essential to our economy. Our four largest industries, agriculture, timber, mining, and oil and gas, rely on the use of those lands. It is these industries which supply the jobs and the tax base for the State of Montana.

Changing the laws on conserving and recovering endangered species is important for jobs for Montana. It is important for sound land management activities. It is time we took a look at this area. I want to reiterate on how, possibly, we can make the act work. There has to be a different process of listing a species and then the process of how to recover the species.

Right now the law is pretty hard and tough. Once a species is listed as threatened or endangered, the law kicks in and kicks out all conversation or any flexibility, in order to recover the species without large impacts where the species is to be recovered.

I applaud my colleagues for their work on this bill. I am a cosponsor of it. It is a bill that needs reforming and the time has come.

I urge all my colleagues in the Senate to get involved in this debate and let us reform the Endangered Species Act so it will work for this country and the species we are trying to recover.

By Mr. KOHL:

S. 769. A bill to amend title 11 of the United States Code to limit the value of certain real and personal property that the debtor may elect to exempt under State or local law, and for other purposes.

BANKRUPTCY ABUSE REFORM ACT

Mr. KOHL. Mr. President, I rise today to introduce legislation—the Bankruptcy Abuse Reform Act of 1995—to address a problem that threatens Americans' confidence in our Bankruptcy Code. The measure would cap at $100,000 the State homestead exemption that an individual filing for personal bankruptcy can claim. Let me tell you why this legislation is critically needed.

In chapter 7 Federal personal bankruptcy proceedings, the debtor is allowed to exempt certain possessions and interests from being used to satisfy his outstanding debts. One of the chief things that a debtor seeks to protect is his home, and I agree with that in principle. Few question that debtors should be able to keep roofs over their heads. But in practice this homestead exemption has become a source of abuse.

Under section 522 of the code, a debtor may opt to exempt his home according to local, State or Federal bankruptcy provisions. The Federal exemption allows the debtor to shield up to $15,000 of value in his house. The State exemptions vary tremendously: some States do not allow the debtor to exempt any of his home's value, while a few States allow an unlimited exemption. The vast majority of States have exemptions of under $40,000.

My amendment to section 522 would cap State exemptions so that no debtor could ever exempt more than $100,000 of the value of his home.

Mr. President, in the last few years, the ability of debtors to use State homestead exemptions has led to flagrant abuses of the Bankruptcy Code. Multimillionaire debtors have moved to one of the 8 States that have unlimited exemptions—most often Florida or Texas—bought multimillion-dollar houses, and continued to live like kings even after declaring bankruptcy. This shameless manipulation of the Bankruptcy Code cheats creditors out of compensation and rewards only those whose lawyers can game the system. Oftentimes, the creditor who is robbed is the American taxpayer. In recent years, S&L swindlers, insider trading convicts, and other shady characters have managed to protect their ill-gotten gains through this loophole.

One infamous S&L banker with more than $4 billion in claims against him bought a multimillion-dollar horse ranch in Florida. Another man who pled guilty to insider trading abuses lives in a 7,000-square-foot beachfront home worth $3.25 million, all tucked away from the $2.75 billion in suits against him. These deadbeats get wealthier while legitimate creditors—including the U.S. Government—get the short end of the stick.

Simply put, the current practice is grossly unfair and contravenes the intent of our laws: People are supposed to get a fresh start, not a head start, under the Bankruptcy Code.

In addition, these unlimited homestead exemptions have made it increasingly difficult for the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to go after S&L crooks. With the S&L crisis costing us billions of dollars and with a deficit that remains out of control, we owe it to the taxpayers to make it as hard as possible for those responsible to profit from their wrongs.

Mr. President, the legislation I have introduced today is simple, effective, and straightforward. It caps the homestead exemption at $100,000, which is close to the average price of an American house. And it will protect middle class Americans while preventing the abuses that are making the American middle class question the integrity of our laws.

Indeed, it is even generous to debtors. Other than the eight States that have no limit to the homestead exemption, no State has a homestead exemption exceeding $100,000. In fact, 38 States have exemptions of $40,000 or less. My own home State of Wisconsin has a $40,000 exemption and that, in my opinion, is more than sufficient.

Mr. President, this proposal is an effort to make our bankruptcy laws more equitable. We owe it to the average American to ensure that the Bankruptcy Code is more than just a beachball for millionaires who want to protect their assets. I urge my colleagues to support this important measure, and I ask that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bankruptcy Abuse Reform Act of 1995".

SEC. 2. AMENDMENTS.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A) by inserting "subject to subsection (n)," after "(2)(A)", and

(2) by adding at the end the following:

"(n) As a result of electing under subsection (b)(2)(A) to exempt property under State or local law, the debtor may not exempt an aggregate interest of more than $100,000 in value in real or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor.".

By Mr. DOLE (for himself, Mr. KYL, Mr. INOUYE, Mr. D'AMATO, Mr. HELMS, Mr. BROWN, Mr. MACK, Mr. SPECTER, Mr. BOND, Mr. THURMOND, Mr. PRESSLER, Mr. DORGAN, Mr. FAIRCLOTH, and Mr. BRADLEY):

S. 770. A bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes; ordered held at the desk.

JERUSALEM EMBASSY RELOCATION IMPLEMENTATION ACT

Mr. DOLE. Mr. President, today I am introducing legislation, along with the Senator from Arizona, Senator KYL, the Senator from Hawaii, Senator INOUYE, the Senator from New York, Senator D'AMATO, and others, to move the United States Embassy in Israel to the capital of Jerusalem. I am pleased to be joined by a number of my colleagues, and I ask unanimous consent at this time that when I send the bill to the desk, it be held at the desk until noon tomorrow for additional cosponsors.

Mr. President, I know the interest in this legislation is considerable, and that is why I have asked it be held at the desk.

The issue of Jerusalem has many elements—emotional, religious, cultural, spiritual, historical, and political. Jerusalem may be the most remarkable city in the world. Three of the world's great religions have roots in Jerusalem. No other city has been the capital of the same country, inhabited by the same people speaking the same language worshipping the same God today as it was 3,000 years ago. And yet the United States does not maintain its Embassy in Jerusalem.

This issue of where to place the American Embassy in Israel has a long history in the United States Congress. Successive Congresses and successive administrations have been on opposite sides.

At the outset, I want to commend the leadership of some of my colleagues on this issue, in particular Senator MOYNIHAN and Senator D'AMATO. They have led congressional efforts to relocate the U.S. Embassy for many years.

Years ago, I was one of those who expressed concerns about the timing of proposals to move the American Embassy from Tel Aviv to Jerusalem. I felt that doing so could have undermined our efforts and ability to act as a peacemaker. However, much has changed since those earlier efforts. The Soviet Union is gone. We successfully waged war—with Arab allies—to liberate Kuwait. Jordan and the PLO have joined Egypt in beginning a formal peace process with Israel. The peace process has made great strides and our commitment to that process is unchallengeable. Delaying the process of moving the Embassy now only sends a signal of false hopes.

I was proud to join with 92 of my colleagues—Republican and Democratic—in signing the D'Amato-Moynihan letter last March urging the administration to move our Embassy no later than May 1999. As the letter pointed out to Secretary Christopher, the United States enjoys diplomatic relations with 184 countries—but Israel is the only country in which our Embassy is not located in the functioning capital.

Yesterday, I met with Prime Minister Rabin, and we discussed this legislation. As Prime Minister Rabin said after our meeting, the people of Israel "would welcome recognition of the fact that Jerusalem is the capital" of Israel, and "we will welcome embassies that will come."

The time has come to move beyond letters, expressions of support and sense of the Congress resolutions. The time has come to enact legislation that will get the job done—to move the United States Embassy in Israel to Jerusalem by May 1999. The Jerusalem Embassy Relocation Act of 1995 is that legislation.

This is not a partisan effort, and this is not an effort to undermine the peace process. Democrats have historically supported efforts to move the Embassy. In fact, as the Democratic leader TOM DASCHLE pointed out in a speech last night, support for moving the Embassy to Jerusalem has been in the Democratic Party's platform since 1968. It has been in the Republican platform for many years as well.

Placing the American Embassy in Jerusalem is an idea whose time has come. Construction will take time, but we should begin soon. The fact is that Jerusalem has been and should remain the undivided capital of Israel. Let me close by quoting from a speech I gave 18 years ago in Jerusalem:

> In the search for a solution to the dilemma which Israel's first President called "a conflict of right with right," whatever else may be negotiable, the capital of Israel clearly is not.

Let me also thank my colleague from Arizona, Senator KYL, who has actually been in the forefront of this legislation, who had the initial idea. We have been working with him and now put together, I believe, legislation that can be sponsored or cosponsored by nearly all of my colleagues on both sides of the aisle. We certainly welcome cosponsors. The legislation will be held at the desk under the previous consent agreement until noon tomorrow. So anybody wishing to cosponsor the legislation just notify the clerk.

Mr. President, I ask unanimous consent that a summary of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 770, THE JERUSALEM EMBASSY RELOCATION IMPLEMENTATION ACT OF 1995

Provides that construction begin on a new United States Embassy in Jerusalem in 1996, and the new Embassy open by May 31, 1999.

Section 1 states the short title of the legislation is the Jerusalem Embassy Relocation Implementation Act of 1995.

Section 2 states Congressional findings on the history and status of Jerusalem as the capital of Israel.

Section 3 establishes a timetable for the relocation of the United States Embassy including groundbreaking by December 31, 1996, and official opening no later than May 31, 1999. Section 3(b) withholds 50% (approximately $200-250 million) of fiscal year 1997 State Department foreign construction funds until the Secretary of State determines and reports to Congress that construction has begun. Section 3(c) withholds 50% of fiscal year 1999 foreign construction funds until the Secretary of State determines and reports to Congress that the embassy has opened.

Section 4 earmarks $5 million of already appropriated fiscal year 1995 funds for immediate costs associated with relocating the Embassy.

Section 5 authorizes $25 million for fiscal year 1996 and $75 million for fiscal year 1997. Estimates are based on new embassy construction in a high-threat area.

Section 6 requires a report within 30 days by the Secretary of State detailing the Department's plan to implement the Act, including estimated dates of completion and costs.

Section 7 requires semiannual reports to Congress on implementation of the Act.

Section 8 defines "United States Embassy" to include both the offices of the diplomatic mission and the residence of the chief of mission.

MOVING THE U.S. EMBASSY TO JERUSALEM

Mr. KYL. Mr. President, as a member of the committee to commemorate—in 1996—the 3,000th anniversary of Jerusalem as the capital of the Jewish people, I am pleased to join Senator DOLE and introduce the Jerusalem Embassy Relocation Implementation Act of 1995, to begin immediate construction on a United States Embassy in Jerusalem.

It is historic and important that the majority leader and the Speaker of the House are the primary sponsors of this legislation in the Senate and House.

For three millennia—since King David established Jerusalem as the capital of the Jewish people—Jerusalem has been the center of Jewish liturgy. Twice a year, for the last 2,000 years, Jews from around the world have offered a simple prayer: "Next Year in Jerusalem."

And throughout the Jewish people's long exile from the land of Israel, through the Holocaust, pogroms, and countless expulsions the "City Upon a Hill" served as the focal point of their aspiration to rebuild Israel.

In addition to Israel's undisputable historical and biblical claim to Jerusalem, upon regaining control over East Jerusalem in 1967, Israel has restored the holy city as a place open to all for worship.

Memories may be short, but it is important to remember that while Jordan occupied East Jerusalem—1948-1967—Jews were expelled and many Christians, feeling persecuted, emigrated. During this period, proper respect was not given to the spiritual importance of the city. A highway was even built on ancient burial grounds and religious sites desecrated.

Yet, successive United States administrations since 1948—for fear of interfering with the ability of the United States to serve as an honest broker for Arab and Israeli claims—have refused to recognize Israeli sovereignty over Jerusalem, and have refused to locate the United States Embassy in the capital of Israel. While there is superficial logic to that concern, I believe it bases United States policy on a disingenuous position—that if Arab leaders hold out long enough, the United States might abandon our ally and force it to do the one thing Israel has made clear it will never do—abandon its claim to Jerusalem as its eternal and undivided capital.

The fact is, the United States will not do that. Better that all parties understand that at the outset, rather than learning it at the unsuccessful conclusions of negotiations.

United States Middle East diplomacy should be based on honesty and on the power and loyalty to our friends and our principles. Moving the Embassy to Jerusalem should aid in any peace between Israel and her neighbors by sending a clear, unambiguous message that the status of Jerusalem is not and never will be negotiable.

Israel cannot under any circumstances negotiate this issue any more than Americans would negotiate over Washington being our Capital.

Moving the United States Embassy to Jerusalem does no injustice to the Arab people, nor is it intended, in any way, to be disrespectful to them. During the hundreds of years in which Jerusalem was under Arab or Moslem rule, Jerusalem never served as a capital city for the rulers. And while East Jerusalem was under Jordanian control, Jordan's capital remained in Amman and was never moved to Jerusalem. Islam's holiest text, the Koran, does not mention Jerusalem a single time.

Even Moslems who pray at the Al-Aksa Mosque in Jerusalem face Mecca when they pray. No one can dispute, however, the historical and spiritual vitality of Jerusalem to Israel.

It is time for the United States to locate its embassy in the capital city of Israel, as is the case for every other country that the United States recognizes, whether it be ally or enemy.

Those who have expressed support for United States recognition of Jerusalem as the capital of Israel now have a way to convert words to action, by supporting the Dole-Kyl-Inouye resolution, so that construction of the United States Embassy in Jerusalem will commence in time for the city's 3,000 year anniversary as the capital of the people of Israel. "Next Year in Jerusalem."

Mr. D'AMATO. Mr. President, I rise today to join the distinguished majority leader, Senator DOLE, as an original cosponsor of the Jerusalem Embassy Relocation Implementation Act of 1995.

It is outrageous that the United States has diplomatic relations with 184 countries throughout the world and in every one, but Israel, our Embassy is in the functioning capital. In Israel, our Embassy is in Tel Aviv. I see no reason why this should be the case. It is wrong and it must end now. Jerusalem should not be thrown around like a bone to Yasir Arafat.

Israel has endured much throughout her history and for her to have to suffer the indignity of her main ally refusing to place its Embassy in her functioning capital is an insult. With the exception of the Sinai given back under the treaty with Egypt, she has had to fight again and again for the same pieces of land. Jerusalem, however, is a different case. Jerusalem, the holy city and ancient capital of Israel, must never again become divided.

It was for this reason that Senator MOYNIHAN, myself, and 91 other Members of the Senate sent a joint letter to the Secretary of State urging him to begin planning now for the relocation of the Embassy to Jerusalem by no later than May 1999. This letter was sent in March of this year. To date, there has been no reply. This is unfortunate.

The matter is simple. Jerusalem is and will remain the permanent and undivided capital of a sovereign Israel. I'm not going to let the State Department bureaucrats forget that.

I call on the President to recognize this and to begin the process toward moving the U.S. Embassy to Jerusalem. It is shameful that the United States continues to bend to pressure to place the American Embassy in Tel Aviv and not in Jerusalem.

Mr. President, while I understand that the present negotiations are delicate, I do not want this administration to be under the impression that Jerusalem is some prize to be claimed by the Palestinians or anyone else. Let the message be clear: A united Jerusalem is off limits for negotiation. Jerusalem belongs to Israel and our Embassy belongs in Jerusalem.

I urge my colleagues to support this important bill and I urge its swift passage so that our Embassy in Israel can finally be rightfully located in Jerusalem.

Mr. President, I ask unanimous consent that my remarks appear in the RECORD along with those of Senator DOLE and the other cosponsors of this legislation.

Mr. HELMS. Mr. President, the distinguished majority leader, Mr. DOLE, is right on target with his legislation to move the United States Embassy from Tel Aviv to Jerusalem. Action by Congress is long overdue, and I'm delighted to be a principal cosponsor of Senator DOLE'S legislation.

There has been some murmuring during the past few days by those who oppose moving the United States Embassy from Tel Aviv to Jerusalem. Their contention is that this is a sensitive time in the peace process. Fair enough, but I need to be informed as to when no sensitive time in the peace process exists.

I remember well a time in 1988 when I offered legislation to move the United States Embassy to Jerusalem. After extensive negotiations with the Department of State—that also was a sensitive time in the peace process—we ended with what I understood to be an agreement to acquire land for an Embassy in Jerusalem. I am sorry to hear that my efforts of 1988 are being used today as an argument against passage of the legislation before us today.

Mr. President, the mere acquisition of land in Jerusalem is not enough. My purpose then, as now, was to get the United States Embassy to Jerusalem, not to begin real estate negotiations.

The point, Mr. President, is this: There is only one nation in this world where the United States mission is not in the capital city, and that is Israel.

Jerusalem, the Holy City, was divided by barbed wire for almost two decades. Worshippers were denied access to the Holy places under Jordanian rule in East Jerusalem. In the 28 years during which Israel has presided over a united city of Jerusalem, the rights of Christians, Jews, and Moslems have been fully respected.

Time and again, the Senate has voted overwhelmingly in favor of recognizing United Jerusalem as the Capital of Israel.

I commend Senator DOLE for his leadership in this and other matters.

By Mr. PRYOR:

S. 771. A bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes; to the Committee on Governmental Affairs.

SURPLUS PROPERTY LEGISLATION

Mr. PRYOR. Mr. President, I rise today to discuss a matter that receives far too little attention here in Washington, but is of vital importance to all of our States. I am speaking about the surplus property donated by the Federal Government to various entities.

As my colleagues know, once a Federal agency has decided that a desk or a computer or some other item of personal property has been declared "excess" to that agency, that piece of property is then offered to other Federal agencies for their use. If no other Federal agency has a need for that property, then the surplus property can be donated to the States or other entities for their use. In 1992, 603 million dollars worth of surplus property was sent to the States.

Mr. President, the surplus property that goes to our States is very important to local jurisdictions throughout the country. For example, the State of Arkansas has received high-quality equipment that enables local jurisdictions to fight forest fires, carry out rescue operations, and repair State and county highways. In each and every State, this surplus property, from trucks to air compressors, provides critical equipment to help jurisdictions to carry out their programs. Furthermore, the local jurisdictions receive this equipment at a vastly reduced rate which provides some much-needed financial relief to their budgets.

However, as a result of years of legislation amending the property disposal program, States are being denied some useful and desirable surplus property. While these legislative initiatives were well-intended, they changed the priorities and placed other entities at the front of the line, limiting the property available to States.

For example, in 1986, the Defense authorization bill contained a provision that permitted the Pentagon to make some of its excess supplies available for humanitarian relief. Originally, this program was designed to assist the refugee and resistance groups in Afghanistan. While this program had a very modest beginning, and involved only 4 million dollars worth of property the first year, which was mainly clothing, this program has grown rapidly. Some 25,802 items, worth $227 million, were shipped in 1993. Today, our States are concerned that they are losing opportunities to bid on Federal surplus property. While none of our States object to shipping surplus blankets and food items to needy people, this program has expanded and now includes heavy construction equipment as well. These road graders, front loaders, and pick-up trucks were bought and paid for by U.S. taxpayers, but our States did not even get to look at them. This is the type of surplus property that the States would very much like to receive.

Mr. President, I share the concern of our States about this program. While I am glad that our Nation can assist refugees around the world with blankets and surplus food, I think the time has come to examine this donation program. A program that began by shipping clothes to one or two countries now involves hundreds of millions of dollars worth of items going to 117 countries. We already have a number of foreign-aid programs and I do not think we should operate yet another one out of the Pentagon.

Furthermore, Mr. President, I have heard of sketchy reports that quite often this excess equipment is not being used by the recipient country. There are basically two ways that this well-intended program may be abused. First of all, this equipment can be sold immediately by the recipient nation. Instead of being put to good use, this valuable equipment can be sold and the money spent on anything the recipient nation wants. Second, there have been reports that some of this heavy construction equipment is sitting idle due to the lack of skilled mechanics and the resources to repair it. I have been disappointed to discover that despite these reports, there has been no comprehensive review of the final end-use of this equipment. Today I am writing to the inspector general at the Pentagon to ask her to fully investigate this program to determine if these reports are factual.

Another provision of my legislation addresses another program that has caused concern in many of our States. In 1990, the Congress passed a provision that permitted DOD to make available to certain African countries property for use in the preservation of wildlife. While everyone wants to help preserve elephants, the States have a legitimate question as to why does this program receive a higher priority than the interests of U.S. taxpayers? The simple solution is to put the States first. My legislation would allow the States to take a first look at this surplus property to see if they can use any of it. Then, and only then, it could be shipped to help preserve African wildlife.

Mr. President, the legislation I am introducing today returns to the basic principle of the fair and equitable distribution of surplus Government personal property. While there are many worthy entities interested in this property, I think it is time to again put our States first in line.

My bill puts States at the head of the list before the Humanitarian Assistance Program at the Department of Defense and the Foreign Environmental Protection Program; ensures the State agencies for surplus property are part of the process in the Small Business Donation Program; repeals the authority for the Department of Energy to dispose of personal property outside of the regular process involving the State agencies; allows DOD to continue to donate surplus small arms and ammunition to local law enforcement agencies while excluding surplus motor vehicles from the program; and requires the General Services Administration to review the entire range of surplus personal property programs to determine how effective these programs are, the amount of property donated through these programs, and to suggest any legislative recommendations to improve the process and ensure the States participation in this process. GSA, in the course of its review, will not be able to limit the access of local communities impacted by the closure of a military base.

Mr. President, I think it is time to put our States first in line when it comes to receiving surplus property. My bill does just that and I urge my colleagues to support it. I ask unanimous consent that the bill and a summary be printed in the RECORD. I also have a letter from Mr. Gerald Marlin, manager of Federal surplus property in Arkansas that I ask unanimous consent be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 771

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRIORITY TO STATES FOR THE TRANSFER OF NONLETHAL EXCESS SUPPLIES OF THE DEPARTMENT OF DEFENSE.

Section 2547 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "The Secretary of Defense" and inserting in lieu thereof "Subject to subsection (d), the Secretary of Defense";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following new subsection (d):

"(d) Nonlethal excess supplies of the Department of Defense shall be made available to a State, a local government of a State, a Territory, or a possession, upon the request of the State, local government, Territory, or possession pursuant to authority provided in another provision of law, before such supplies are made available for humanitarian relief purposes under this section. The President may make such supplies available for humanitarian purposes before such supplies are made available to a State, local government, Territory, or possession under this subsection in order to respond to an emergency for which such supplies are especially suited.".

SEC. 2. AUTHORITIES OF SECRETARY OF DEFENSE REGARDING DISPOSAL OF EXCESS AND SURPLUS PROPERTY.

(a) SUPPORT OF COUNTER DRUG ACTIVITIES.—Section 1208(a)(1) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 372 note) is amended by inserting "and excluding motor vehicles" after "small arms and ammunition".

(b) SUPPORT FOR REGIONAL EQUIPMENT CENTERS.—

(1) NEWPORT TOWNSHIP CENTER.—Section 210 of Public Law 101–302 (104 Stat. 220) is repealed.

(2) CAMBRIA COUNTY CENTER.—Section 9148 of Public Law 102–396 (106 Stat. 1941) is repealed.

SEC. 3. TRANSFERS OF PROPERTY FOR ENVIRONMENTAL PROTECTION IN FOREIGN COUNTRIES.

Section 608(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2357(d)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by striking "(d) The" and inserting "(d)(1) Except as provided in paragraph (2), the"; and

(3) by adding at the end the following:

"(2) No property may be transferred under paragraph (1) unless the Administrator of General Services determines that there is no Federal or State use requirements for the property under any other provision of law.".

SEC. 4. AMENDMENT TO SMALL BUSINESS ACT.

Section 7(j)(13)(F) of the Small Business Act (15 U.S.C. 636(j)(13)(F)) is amended by adding at the end the following: "This subparagraph shall be carried out under the supervision of the Administrator of General Services in consultation with State agencies responsible for the distribution of surplus property.".

SEC. 5. DEPARTMENT OF ENERGY SCIENCE EDUCATION ENHANCEMENT ACT AMENDMENT.

Section 3166(b) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381e(b)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

SEC. 6. STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980 AMENDMENT.

(a) REPEAL.—Section 11(i) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(i)) is repealed.

(b) DELEGATION OF AUTHORITY TO DIRECTORS OF FEDERAL LABORATORIES.—Section 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)) is amended by adding at the end the following new paragraph:

"(6) Under such regulations as the Administrator may prescribe, the Administrator may delegate to the director of any Federal laboratory (as defined in section 12(d)(2) of the Stevension-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)) the authority of the Administrator under this subsection with respect to the transfer and disposal of scientific and technical surplus property under the management or control of that Federal laboratory, if the director of the Federal laboratory certifies that the equipment is needed by an educational institution or nonprofit organization for the conduct of scientific and technical education and research.".

SEC. 7. REPORT ON DISPOSAL AND DONATION OF SURPLUS PERSONAL PROPERTY.

No later than 180 days after the date of the enactment of this Act, the Administrator of General Services shall review all statutes relating to the disposal and donation of surplus personal property and submit to the Congress a report on such statutes including—

(1) the effectiveness of programs administered under such statutes (except for any program that grants access to personal property by local communities impacted by the closure of a military base), and the amount and type of property administered under each such program during fiscal years 1993 and 1994; and

(2) legislative recommendations to integrate and consolidate all such programs to be administered by a single Federal authority working with State agencies while accomplishing the purposes of such programs.

BILL SUMMARY

Purpose: To ensure that certain surplus Federal personal property is available to States for their use before being made available to other organizations.

Background: In 1977 Congress approved legislation permitting Federal personal property no longer needed by an agency to be offered to other Federal agencies and afterward to State and local governments through designated state agencies for surplus property within each state (Public Law 94-519). The regulations require that the General Services Administration administer the disposition of this personal property to ensure its fair and equitable distribution.

This program was a good example of Federal-State cooperation. However, beginning in 1986 Congress has enacted legislation that placed a variety of interests higher on the priority list to receive surplus property. The National Association of State Agencies for Surplus Property (NASASP) has compiled a partial listing of these legislative provisions:

1986—Humanitarian Assistance Program. (Section 2547), 10 USC) Program gives foreign countries excess DOD property before it is available to the States.

1987—Southern Regional Amendment. Congress authorized DOD to make equipment available to base rights countries prior to its being available to other Federal agencies or states.

1989—Small Business Administration. Congress authorized SBA to make Federal surplus property available to 8A contractors before the states.

1990—Wildlife Preservation in Africa. Congress authorized DOD to make available to certain African countries excess property for use in the preservation of wildlife, prior to its becoming available to other Federal agencies or states.

1990—Law Enforcement Assistance. Authorized DOD to make property available directly to state law enforcement agencies to combat drugs prior to its becoming available to other Federal agencies or states.

The total effect of these, and other provisions, has been to erode the idea that one agency within each state would work with the Federal government and with localities to ensure "fair and equitable distribution," While these programs are worthwhile, taken as a whole, they fragment our surplus property disposal system.

Summary of bill: The bill has seven sections:

Section 1—Places States before foreign countries. The humanitarian assistance program (HAP) began as an effort to get food and blankets to the Afghanistan refugees. It has grown to include the shipping of construction equipment and motor vehicles. The dollar value of the property shipped in 1994 was $136 million. Of particular interest to the States is construction equipment that is being sent overseas. The bill would leave HAP intact, but would allow states to review the DOD inventory and bid on any item for which they have a need. The truly humanitarian portion of the property (i.e. food rations, blankets) would continue without disruption.

Section 2—Excludes motor vehicles from the DOD program to aid law enforcement. The states are concerned that the larger local jurisdictions are receiving trucks and other vehicles before other jurisdictions have a chance to bid for them. DOD would still be able to provide surplus ammunition and firearms directly to local police departments, however, motor vehicles would be distributed through the state property agencies. This section also repeals the provisions creating the special equipment depots that receive the surplus before the States bid on it.

Section 3—Amends the Wildlife preservation program so that property may not be transferred unless there is a determination that there is no Federal or State use for the property. The Administrator of the General Services Administration shall make this determination.

Section 4—Amends the Small Business program to ensure distribution of property through the State agencies. The property would still be designated for and allocated to small businesses, but it would be coordinated through the existing state agency for surplus property. This has been an underutilized program and this section should increase the amount of property going to small businesses.

Section 5—Eliminates the Department of Energy's Science education program. The program is designed to give DOE the authority to give its excess property directly to schools. However, this allows certain jurisdictions to benefit to the detriment of others. By eliminating this special program this property will be distributed through the state agencies and give each and every school system an opportunity to receive this equipment.

Section 6—Modifies the Stevenson-Wydler Technology program. Instead of equipment going directly from the Federal laboratories to educational institutions without any direction from the General Services Administration, this provision requires that the laboratory certify to GSA that the particular equipment is needed for scientific and educational research. This will bring this program into the overall surplus property program and alleviate concern that some of the scientific equipment has been sold when an institution receives it.

Section 7—Requires a report on disposal and donation of surplus personal property. While the other sections of this bill will begin the process of returning our property disposal system to its original focus of fair and equitable distribution nationwide, there are still other issues and special exemptions to review. The GSA is able to study this matter and report to Congress on the volume of property going out under other authorities and whether legislative changes should be considered to alleviate any concern of unfair treatment of various entities.

The bill will not allow GSA to recommend any change to the base closure authority. Congress has only recently begun this program which gives local jurisdictions access to the personal property on the military base that is being closed. This exemption is widely supported and can be justified due to the adverse economic impact on the local jurisdiction of the closing of the base.

ARKANSAS DEPARTMENT OF EDUCATION,
North Little Rock, AR, March 14, 1995.

Hon. DAVID PRYOR,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRYOR: I want to thank you for the support of Federal Surplus Property Donation Program. This program has been a great help to the state for the many years it has been operating.

I am sure that our Donees that serve all segments of our state are pleased with your support. Many of our small school districts, counties, cities, and rural fire departments tell us they would not be able to provide needed services without help from this donation program.

I received, from our National Association of State Agencies for Surplus Property, a draft of your Bill to provide that Federal Surplus Property be made available to states before being made available to other entities. The Chairman of our Legislative Committee tells me our association is working with your staff on this and is thankful for the opportunity.

In fiscal year 1994, there were 17,184 line items valued at $136,752,392.00 transferred to the Humanitarian Assistance Program. The State of Arkansas receives approximately $7,500,000.00 per year, and this is property that the Humanitarian Assistance Program has rejected.

We really appreciate your work as our Senator!

Sincerely,

GERALD D. MARLIN,
Manager, Federal Surplus Property.

By Mr. DORGAN (for himself and Mrs. HUTCHISON):

S. 772. A bill to provide for an assessment of the violence broadcast on television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELEVISION VIOLENCE REPORT CARD ACT

Mr. DORGAN. Mr. President, today my colleague Senator HUTCHISON and I are introducing legislation that will help empower parents and all consumers to take the responsibility to address the problem of television violence. Our legislation, the Television Violence Report Card Act of 1995 would authorize grants to private, not-for-profit entities to conduct quarterly assessments of violence on television.

This legislation is similar to a bill I introduced in the last Congress, but it has some significant differences. The primary difference is that this bill would not involve any direct governmental assessment of the content of

television. Under this legislation, the governmental role would be limited to identifying credible and qualified research entities which will be awarded a nominal amount of funding to ensure that regular assessments of the violent content of television programming is conducted and that the public has access to this information.

Ninety-eight percent of all American households have a least one television set. More Americans have televisions than have telephones or indoor plumbing. The average American watches over 4 hours of TV each day and the average household watches over 7 hours a day. Children between the ages of 2 and 11 watch television an average of 28 hours per week.

Television is, beyond a doubt, the most influential cultural and social teacher of American children. Consider the fact that the average American teenager spends less than 2 hours per week reading, only 5½ hours doing homework and 21 hours per week watching television.

The problem is that children and adults are getting a steady diet of violence through television. According to a 1992 University of Pennsylvania study, a record 32 violent acts per hour were recorded during children's shows and several other studies have found that television violence increased during the 1980's during prime time and children's television hours. The American Academy of Pediatrics estimates that violence on television tripled in the 1980's and the National Coalition on Television Violence found that 25 percent of prime-time television shows contain "very violent" material. The average child watches 8,000 murders and 100,000 acts of violence on television before finishing elementary school.

Television enables the television industry to bypass parents, slip past the front door of the home, and enter the family living room where they can speak directly to children. For better or worse, TV is one of the most powerful instruments of social and behavioral instruction in the life of a child.

Television, unfortunately, uses its potency and influence to portray violence as sexy and glamorous, not to mention Hollywood's obsession with the more violence, the better. To the networks, violence is a quick tool to better ratings. To our children, violence becomes the way of life that is taught over the airways and into the fabric of our culture.

The fact is, that television is more than just entertainment, it is a potent force that shapes everyday life in American culture and society. The question is: What kind of a force is it? Newton Minow, former FCC Chairman under the Kennedy administration, referred to television as a "vast wasteland * * * of blood and thunder, mayhem, violence, sadism, murder." He also said: "In 1961, I worried that my children would not benefit much from television, but in 1991 I worry that my children will actually be harmed by it." And according to a March 3, 1993, poll by Times Mirror, three-fourths of the public find TV too violent and even a higher percentage of TV station managers agree (Electronic Media poll, Aug. 2, 1993). Even children believe television is a bad influence. According to a "Children Now" survey released in February, most children say what they see on television encourages them to engage in aggressive behavior, to take part in sexual activity too soon, to lie, and to show disrespect for their parents.

Children that are continually exposed to television violence do not perceive their own aggressive behavior as deviant or unusual, they see it as the way life is and that's how one goes about solving problems. Aggressive behavior is learned.

THE PROBLEM OF TV VIOLENCE

Public concern about TV violence is not a new issue, Congress has been down this road before. Congressional hearings were held 40 years ago, at the beginning of the television age, on the impact that television and radio was having on children and youth. In the sixties and seventies, Congress held more hearings.

Each time, the pattern has been the same. The public expresses outrage and concern over the bloodshed that a handful of media magnates pour into the Nation's living rooms. The industry either denies the problem, or offers earnest promises of reform, but no results. The Nation's attention shifts to other problems, as it always does.

Television is a habit. One student of the industry called it a plug-in drug, especially where children are concerned. Violence on TV is an addiction too—children become addicted to watching. Television violence viewing leads to heightened aggressiveness, which in turn leads to more television violence viewing. As with any addiction, it takes constantly bigger doses to achieve the same effect.

According to "Prime Time: How TV Portrays American Culture," by Lichter et al., a review of 1 month of prime-time fictional series episodes found over 1,000 scenes involving violence. One out of five violent scenes involved gunplay, and nearly half included some kind of serious personal assault. The review also showed that weekly fictional series averaged between three and four scenes of violence per episode.

In addition, Lichter's study found that violent crime is far more pervasive on television than in real life. A comparison between real life crime statistics (FBI's "Uniform Crime Reports: Crime in the United States") and television's crime levels shows that:

Since 1955 television characters have been murdered at a rate 1,000 times higher than real world victims. In the 1950's, there were 7 murders for every 100 characters seen on TV—this was over 1,400 times higher than the actual murder rate for the United States during the same period.

Violent crimes not involving murder accounted for 1 crime in 8 on TV during the decade 1955 to 1964, which occurred at a rate of 40 for every 1,000 characters. At that same time, the real world rate for crimes involving murder was only 2 in every 1,000 inhabitants.

During the decade covering 1965 to 1975 crime rose both on TV and the real world, but TV crime rate remained more than five times that of the real world, at 140 crimes per 1,000 characters.

While the FBI-calculated rate for violent crime also doubled to 3 incidents per 1,000 inhabitants, the TV rate for violent crimes was over 30 times greater than reality at a rate of 114 incidents per 1,000 characters.

Although television crime and real life crime have moved closer together in the past 20 years, FBI statistics showed that serious crime was about half the rate in real life than on television. Violent crime rates were only one-eighth the rate seen on television.

TV crime not only presents a higher rate of violent crime than the real world, it portrays a different type of crime. On TV, violent crime is more often calculated and felony in nature, whereas in real life, most—40 percent—of the murders committed are committed out of passion or the result of an argument.

Guns are more pervasive on TV. In the real world, about one-fourth of all violent crimes, and a majority of murders, involve guns. Almost all of television's violent crimes involve some type of gun.

Television is not only more crime-ridden than real life, it also highlights the most violent serious crimes. A majority of crimes portrayed on TV involve violence and 23 percent are murders.

There is no disputing the link between television content and human behavior. Twenty-six people died from self-inflicted gunshot wounds to the head after watching the Russian roulette scene in the movie "The Deer Hunter" when it was shown on national TV. It has been alleged that the cartoon Beavis and Butt-head's depiction of setting objects on fire recently led a 5-year-old in Ohio to set his family's mobile on fire, causing the death of his 2-year-old sister.

The American Psychological Association has found that "since 1955, about 1,000 studies, reports, and commentaries concerning the impact of television violence have been published * * * the accumulated research clearly demonstrates a correlation between viewing violence and aggressive behavior." Here are just a few of those research studies and reports. These studies, lead to one conclusion: violence on television is a threat to our Nation's children and our society at large:

First, report to the Surgeon General, "Television and Growing up: The Impact of Televised Violence," 1972. The Surgeon General concluded that there is indeed a causal effect of viewing violent television programs and subsequent aggressive behavior in children.

Second, a technical report to the Surgeon General, volume III: Lefkowitz, Eron, Walder, and Huesman, "Television Violence and Child Aggression: A Follow-up Study." (Television and Social Behavior, 1972.) "A violent television diet is related to violent behavior." This study shows a direct positive correlation between the amount of television viewed by third-grade boys and aggressiveness 10 years later. Early aggression in boys is a predictor of and a basis for later aggression.

Third, National Institute of Mental Health [NIMH], "Television and Behavior," 1982. After 10 more years of research, in 1982, the NIMH did a follow-up report to the 1972 Surgeon General's report and concluded that violence on television does lead to aggressive behavior by children and teenagers who watch the programs. It also concluded that television violence is as strongly correlated with aggressive behavior as any other behavioral variable that has been measured.

Fourth, "U.S. Attorney General's Task Force on Family Violence," 1984. This report says that "the evidence is overwhelming—TV violence contributes to the acting out of real violence. Just as witnessing violence in the home may contribute to normal adults and children learning and acting out behavior, violence on TV and in the movies may contribute to the same result."

Fifth, Huesmann, Eron, Lefkowitz and Walder, "The Stability of Aggression Over Time and Generations," 1984. (Developmental Psychology.) After studying the viewing habits and behavior of 875 children in a rural New York county at ages 8, 19, and 30, this study concludes that the more a subject watched television at 8, the more serious the crime he was convicted for at age 30.

Sixth, Singer, Singer and Rapaczynski, "Family Patterns and Television Viewing as Predictors of Children's Beliefs and Aggression," 1984. This study concluded that children who watch more than 4 hours of television violence per day during preschool years, exhibit later aggressive behavior. Children who view violent adult programs were suspicious or fearful of their neighborhood and world. And they tended to be restless when required to wait.

Seventh, American Psychological Association [APA], "Violence on Television: APA Board of Social and Ethical Responsibility for Psychology," 1985. In the early 1980's, the APA did a complete review of reports and literature on television violence. As a result, the APA adopted the position that television violence has a causal effect on aggressive behavior.

Eighth, David Phillips, "Natural Experiments on the Effects of Mass Media Violence on Fatal Aggression," 1986. This study provides evidence that some types of mass media violence tend to elicit fatal aggression—suicide, homicide, and accidents—among adults in the United States.

Ninth, L. Rowell Husemann and Laurie S. Miller, "Long-Term Effects of Repeated Exposure to Media Violence in Childhood," 1994. The violent scenes that a child observes on television can serve to teach a child to be aggressive through several learning processes, as the child not only observes aggressive patterns of behaviors but also witnesses their acceptance and reinforcement. This study finds that there is a severe negative outcome for children who display antisocial behavior, and that televised violence is regarded as one contributor to the learning environment of children who eventually go on to develop aggressive and antisocial behavior.

Tenth, George Comstock and Haejung Paik, "The Effects of Television Violence on Antisocial Behavior: A Meta-Analysis," 1994. This study suggests that the influence of violent television portrayals is not confined to childhood or early adolescence and concludes that the findings obtained in the last 15 years strengthen the evidence that television violence increases aggressive and antisocial behavior.

THE SOLUTION—PUBLIC INFORMATION AND FREE MARKET REGULATION

In my judgment, this legislation is as critically important as ever. We have to make the television industry accountable, and the way to do this is through public information. It is not the role of Government in this country to tell people what they can watch. Nor should we try to tell broadcasters and sponsors what they can put on the air. But it is the role of Government to help make the free marketplace work, by providing information to the public—information on which they can make their own free choices. That's what I'm proposing regarding violence on TV.

Under this approach, the Government wouldn't regulate; parents would. Government would do for them no more than it does for business of all kinds: gather information that would help parents express their own free choices.

Why shouldn't the Government start helping parents, the way it helps corporations? The Federal Government spends millions and probably billions of dollars a year, gathering data for use by business. The Census Bureau alone provides a treasure drove of demographic research for ad agencies and corporate marketing departments. Corporations use this Government data to target consumers. Now it's time to give parents data by which they can target advertisers who are abusing their children.

If Americans don't really care about this violence, then it would continue. If they do care about it, and send their market message accordingly, then it would change. That's the way a democracy and a market economy are supposed to work.

INDUSTRY ACTIONS

As I mentioned earlier, public concern over television violence is not new. Several hearings were held in the 103d Congress on this issue. In addition, the industry, in response to public concern, has adopted some measures to address this problem.

In 1990, the Congress passed legislation, the Television Violence Act of 1990, which provided the television industry a 3-year antitrust exemption to allow it to develop standards on television violence. In December 1992, the three major networks adopted "Standards for the Depiction of Violence in Television Programs" which included commitments by the industry to:

Only include depictions of violence when such depictions are relevant and necessary to the plot;

Reject gratuitous or excessive depictions of violence as "unacceptable"; and

Not use depictions of violence to shock or stimulate the audience.

The National Cable Television Association adopted an industry policy in January 1993 to address the problems of television violence. The program includes voluntary industry standards and encourages cable program networks to adopt their own standards and practices.

In July 1993, the networks adopted an additional plan to impose warning labels on programming that contained violence, "The Advance Parental Advisory Plan" which will use the following warning label preceding violent shows: "Due to some violent content, parental discretion advised." A similar advisory program was adopted by the Independent Television Association.

And late last year, both the broadcast networks and the cable industry agreed to finance independent studies that are currently monitoring and analyzing violence on television. These actions are good and I applaud the industry's efforts. In particular, I believe their monitoring studies will provide a positive contribution to the debate over television violence.

In addition to television industry actions, the Electronic Industries Association [EIA], representing television

manufacturers, has been working diligently over the past year and a half toward establishing a voluntary standard which will allow for the implementation of technology to block violent programming. EIA's efforts reflect the fact that television manufacturers recognize consumers' desires and are attempting to provide adequate choice in the marketplace.

EIA's leadership demonstrates that voluntary efforts can be effective. It is my preference that voluntary industry efforts would be the solution, as opposed to a Government mandate. It is my hope that all sectors of the television industry work together with the EIA in their effort toward empowering parents and providing consumers the tools to control what is broadcast into their homes.

CONCLUSION

Although industry actions are commendable, legislation is necessary that will augment the industry-led monitoring programs. The fundamental purpose of this legislation is to ensure that consumers, especially parents, have access to useable information about what violent shows are on television and who sponsors those shows. Despite all the research and the monitoring studies established by the broadcast and cable industries, there is still a void in assuring consumers that regular, usable information in the form of a report card will be available.

It seems to me that the approach of establishing television violence report cards, created by private entities, is a very modest and appropriate response for the Congress. I encourage my colleagues to support this legislation and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Television Violence Report Card Act of 1995".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Three out of every four people in the United States consider television programming too violent, according to a 1993 poll by Electronic Media.

(2) Three Surgeon Generals, the National Institute of Mental Health, the Centers for Disease Control, the American Medical Association, the American Academy of Pediatrics, and the American Psychological Association have concurred for nearly 20 years as to the deleterious effects of televised violence on children.

(3) In conjunction with other societal factors such as poverty, drug and alcohol abuse, and poor education, the depiction of violence in all forms of media contribute to violence in United States society.

(4) The entertainment industry is becoming increasingly sensitive to public sentiment against excessive violence in television programming. A recent survey of 867 entertainment executives by U.S. News and World Report and the University of California in Los Angeles reveals the following:

(A) 59 percent of such executives consider violence on television and in movies a problem.

(B) Nearly 9 out of 10 such executives say that violence in the media contributes to the level of violence in the United States.

(C) 63 percent of such executives believe that the entertainment media glorify violence.

(D) 83 percent of such executives believe that the debate on excessive violence in television programming has affected the programming decisions made by the broadcast television industry.

(5) The broadcast television and cable programming industries have undertaken efforts to decrease violence on television through joint standards on violence, implementation of an advance parental advisory plan, and the establishment of independent efforts to monitor the incidence of violence in television programming, analyze the portrayal of violence in network television programming and in other forms of video programming, and analyze the trends and changes in the treatment of violent themes by the media.

(6) The American Psychosocial Association finds that approximately 1,000 studies and reports on the effects of violence on television have been published since 1955. The accumulated research clearly demonstrates a correlation between the viewing of violence on television and aggressive behavior.

(7) To the fullest extent possible, parents and consumers should be empowered to choose which television programs they consider appropriate for their children and which programs they consider too violent.

SEC. 3. TELEVISION VIOLENCE REPORT CARDS.

(a) IN GENERAL.—The Secretary of Commerce shall, during fiscal years 1996 and 1997, make grants directly to one or more not-for-profit entities for purposes of permitting such entities to carry out in such fiscal years an assessment of the violence in television programming. The amount of the grants shall be sufficient to permit such entities to carry out the assessment.

(b) ASSESSMENT.—(1) In carrying out an assessment under this section, an entity shall——

(A) review current television programs (including programs on broadcast television, on independent television stations, and on cable television) in order to determine the nature and extent of the violence depicted in each program;

(B) prepare an assessment of the violence depicted in each program that describes and categorizes the nature and extent of the violence in the program; and

(C) take appropriate actions to make the assessment available to the public.

(2) An entity shall carry out a review under paragraph (1)(A) not less often than once every 90 days.

(3) In making an assessment public under paragraph (1)(C), an entity shall identify the sponsor or sponsors of each television program covered under the assessment.

(c) GRANT PROCEDURES.—The Secretary shall determine the entities to which the Secretary shall make grants under this section using competitive procedures. Applications for such grants shall contain such information as the Secretary may require to carry out the requirements of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to make the grants required under this section.

By Mrs. KASSEBAUM (for herself, Mr. GREGG, Mr. GORTON, Mr. COATS, Mr. JEFFORDS, Mr. FRIST, Mr. HARKIN, Mr. CRAIG, Mr. LUGAR, Mr. INHOFE, Mr. GRASSLEY, Mr. MCCONNELL, Mr. KYL, Mr. SANTORUM, Mr. HEFLIN, Mr. BOND, Mr. PRYOR, Mr. KERREY, Mr. BENNETT, and Mr. HELMS):

S. 773. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes; to the Committee on Labor and Human Resources.

ANIMAL DRUG AVAILABILITY ACT

Mrs. KASSEBAUM. Mr. President, today, together with a bipartisan group of colleagues, I am introducing the Animal Drug Availability Act of 1995. This legislation will reform the Food and Drug Administration's animal drug approval and export processes and policies.

There is a serious lack of drugs for treating animals, in part because the drug review process at the Food and Drug Administration's Center for Veterinary Medicine is cumbersome and unpredictable. This discourages the development of new drugs. The FDA has approved only four new chemical entities (new drugs) for food-producing animals in the last 5 years. Further, an internal study by the Center for Veterinary Medicine found that the agency was taking an average of 58 months to approve drug applications. By law, the process should take no more than 6 months.

The extra-label drug bill that was signed into law last year is a short-term response to this problem. It assures that veterinarians can legally prescribe drugs approved for one use or species for other uses or species. But all involved in the extra-label bill last year agreed that the real answer to the problem was reforming the animal drug approval process.

Second, because our approval process is so slow, unpredictable, and cumbersome and our export policies very restrictive, many animal drug manufacturers are moving research and manufacturing facilities—and jobs—abroad to take advantage of more efficient and predictable review and approval processes and lucrative, growing world markets.

This legislation has the broad support of the animal producer groups, the Animal Health Institute, and the American Veterinary Medical Association.

I would welcome additional cosponsors of the Animal Drug Availability Act of 1995.

Mr. HARKIN. Mr. President, I am pleased to cosponsor this legislation, which is intended to streamline and expedite the Food and Drug Administration's approval process for animal

drugs without diminishing the human health protections contained in current law. This bill represents a commendable effort to address serious impediments to the effective treatment of animal health problems, and is thus particularly important to veterinary practitioners and livestock and poultry producers.

For some time there has been an insufficient number of suitable, fully approved and labelled drugs for the treatment of animals. In significant part, this lack of approved drugs is attributable to delays in the approval process used by FDA's Center for Veterinary Medicine. Last year legislation was enacted to sanction the extra-label use of FDA-approved drugs by or at the direction of veterinarians. Even at the time that legislation was passed, however, there was general agreement that the best solution to the lack of fully-approved and labelled animal drugs is to remedy the unnecessary delays and other problems in FDA's animal drug approval process.

The legislation introduced today is a strong and substantial step toward improving FDA's animal drug approval process by reducing the potential for delays, making the process more predictable and rational, and lessening burdensome aspects of the current procedures. Again, this bill is not designed or intended to lessen human health protections in any way. Its primary focus, from a substantive perspective, is on the proof of efficacy required to gain approval.

As we continue to work on this legislation, we will need to give additional consideration to its various possible ramifications in actual practice. I will be closely following the analysis of these issues in order to ensure that the bill is appropriately modified to address concerns that may arise. In particular, we must carefully consider whether the bill might have the unintended consequence of diminishing human health protections in some way that is not now evident or anticipated. I also want to obtain additional information on the operation of the export provisions of the bill, including assurance that FDA will continue to have sufficient authority to limit exports of animal drugs on the basis of unacceptable risk to human health, either in this country or in foreign countries.

In conclusion, this legislation addresses a pressing need in the field of animal health. A good deal of work and thought has gone into the bill thus far, and I look forward to working with Chairman KASSEBAUM and other senators in further shaping the measure and gaining its enactment.

By Mr. MACK:

S. 774. A bill to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans; to the Committee on Labor and Human Resources.

PENSION PROTECTION ACT

Mr. MACK. Mr. President, today I am introducing legislation which will help protect the pensions of our Nation's seniors. The Pension Protection Act will stop the administration's ongoing efforts to raid our Nation's pension funds.

In an effort to find capital for its social projects, the Clinton administration has effectively been chipping away at the strict fiduciary standards set up by the Employee Retirement Income Security Act [ERISA]. The Department of Labor has issued new interpretations of ERISA fiduciary standards which challenge the requirement that pension funds be invested for the sole purpose of increasing the economic benefit of the pension's beneficiaries. This relaxing of ERISA standards combined with a well-defined strategy to encourage pension plan managers to invest in social projects puts at risk the hard-earned pension benefits of current and future retirees. It is no surprise that this administration wants to finance its social projects and pet political programs with private pension funds. Currently, these funds hold over $3.5 trillion in assets. Many see this pot of money as a lucrative and untapped source of funding to finance their own political agenda.

Mr. President, the Clinton administration has always viewed pension funds as a convenient source of public funding. In fact, in his book "Putting People First," President Clinton proposed a $20 billion investment program paid for with pension funds. These economically targeted investments [ETI's] would use pension funds to pay for Government programs. This nice-sounding term is merely a disguise for the systematic raiding of our pension funds.

My legislation would put the brakes on a dangerous course of action which is being orchestrated by the Department of Labor. Specifically, this legislation would abolish the ETI Clearinghouse recently established by the Department of Labor. This Clearinghouse is designed to identify investments that the administration deems socially beneficial. The legislation would also nullify Secretary Reich's 1994 Interpretive Bulletin that encourages ETI's and would in effect ensure that pension managers do not select investments which have a purpose other than serving the "sole interest of the plan participant." In addition, this legislation would instruct the Labor Department to cease acting as a promoter of ETI's and instead act as the enforcer of ERISA's fiduciary standards. Finally, this bill would deny funding to any Government agency for the purpose of operating an ETI database or list.

Last year, the American people sent a loud and clear mandate for less spending, less taxes, and less government. But this administration has decided to ignore that mandate by trying to increase spending on Government programs. First they raised taxes to pay for their programs and now they seek to spend our retirees' hard-earned pension funds. This is wrong.

Mr. President, directing private pension funds to replace public funding of Government programs is yet another example in a long line of "spend now, pay later" policies that the Federal Government has adopted over the years. Encouraging pension funds to participate in risky investments deserves our strongest opposition. We should not be compromising fiduciary standards and the financial security of our Nation's retirees in order to meet partisan, political goals.

I urge my colleagues to support this important legislation.

By Mr. CHAFEE (for himself and Mr. KERRY):

S. 776. A bill to reauthorize the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STRIPED BASS ACT

Mr. CHAFEE. Mr. President, the legislation that I introduce today reauthorizes a law that has been a great success: The Atlantic Striped Bass Conservation Act. This legislation will allow the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to continue their important research and oversight role in support of state efforts to conserve the Atlantic striped bass fishery.

From Maine to North Carolina, the striped bass has been an important species for Atlantic coast fishermen for centuries. And, the presence of the striped bass fishery has provided significant economic and cultural benefits to the Atlantic Coastal States, and to the Nation.

Striped bass—often called rockfish in the Chesapeake Bay area—are anadromous fish. They spawn in freshwater streams and migrate to estuarine or marine waters. During their relatively long lives—up to 29 years—stripers are on the move. They migrate north during the summer and south during the winter. Consequently, striped bass pass through the jurisdictions of several States, and conservation efforts must be well coordinated.

In 1979, I offered an amendment to the Anadromous Fish Conservation Act that directed the Fish and Wildlife Service and the National Marine Fisheries Service to conduct an emergency study of striped bass. Why was this study necessary? Fishermen had sounded the alarm that striped bass landings had declined precipitously. The commercial striped bass harvests dropped from 15 million pounds in 1973 to 3.5

million pounds in 1983. The Federal study found that, although habitat degradation played a role, overfishing was the primary cause of the population decline.

In order to prevent overfishing, restrictions on the striped bass harvest were necessary in 14 jurisdictions. The Atlantic Striped Bass Conservation Act helped promote a coordinated approach to management by requiring that the States fully implement a striped bass fishery management plan developed by the Atlantic States Marine Fisheries Commission. If a State is found to be out of compliance with the Commission's management plan, a Federal moratorium on striped bass fishing is to be imposed jointly by the Secretary of the Interior and the Secretary of Commerce. It is a testament to the efficacy of the Atlantic Striped Bass Conservation Act and the cooperative efforts of countless Federal and State biologists and managers, and commercial and recreational fishermen, that the Federal sanction has only been applied once in the past 10 years.

What else has happened over the past decade? The Atlantic striped bass populations have made a dramatic recovery. All Atlantic striped bass populations are recovering or improving. In the Chesapeake Bay, the spawning ground for 90 percent of the Atlantic striped bass, the population has been declared recovered. The Delaware stock is recovering. The Albemarle Sound/Roanoke River stock is improving. According to the U.S. Fish and Wildlife Service, without the State-imposed moratoria and restrictions on harvest, fishing mortality rates on the Chesapeake Bay striped bass stock would have exceeded the level where the population could be maintained. In other words, without the State-Federal partnership promoted through the Atlantic Striped Bass Conservation Act, the striper might have been fished to oblivion.

The striped bass have proven once again that, given half a chance, nature will rebound and overcome tremendous setbacks. But, we must give it that half a chance. Reauthorization of the Atlantic Striped Bass Conservation Act will allow the U.S. Fish and Wildlife Service to continue its coastwise tagging program, populations monitoring, and other data collection efforts to provide information that informs the management decisions essential to maintaining healthy populations of striped bass. The oversight authority shared by the Interior and Commerce Departments regarding the management of the striped bass fishery will ensure that States move cautiously as they reopen the harvest. I believe that a continued Federal involvement is important at this crucial time—a time to celebrate, and to monitor closely, the recovery of the Atlantic striped bass.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Striped Bass Act of 1995".

SEC. 2. ATLANTIC STRIPED BASS CONSERVATION ACT.

Section 7(a) of the Atlantic Striped Bass Conservation Act (Public Law 98-613; 16 U.S.C. 1851 note) is amended by striking "1986" and all that follows through "1994" and inserting "1995 through 1998".

SEC. 3. ANADROMOUS FISH CONSERVATION ACT.

Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking "1991, 1992, 1993, and 1994" and inserting "1995 through 1998".

Mr. KERRY. Mr. President, today I am pleased to join my friend from Rhode Island, Senator CHAFEE, in introducing the Atlantic Striped Bass Act of 1995. This legislation reauthorizes the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act. Atlantic striped bass is an important commercial and game fish that ranges from Maine to North Carolina. Its comeback from overfishing and habitat destruction in the late 1980's is one of the great success stories of fisheries management. One of the most critical contributors to that recovery was the enactment of the Atlantic Striped Bass Conservation Act in 1984.

The Striped Bass Act has provided the incentive for implementing coordinated and comprehensive management of a wide-ranging species that migrates throughout Atlantic coastal waters. The affected States came together, made the hard decisions, and enacted the restrictions on fishing that were necessary for the stocks to recover. Although great sacrifices were required during the rebuilding period, now sport anglers and commercial fishermen are seeing the benefits of effective management. In Massachusetts, the commercial quota has been increased substantially, and bag limits for the recreational fisherman have doubled. These harvest increases are even more heartening since the management program for striped bass is still very conservative—only 25 percent of the available adult population may be taken this year. This success proves that conservative fishery management can work and provides a blueprint for other fisheries that face difficult management problems. I complement the Senator from Rhode Island for his leadership on this legislation and I encourage my colleagues to join with us in supporting the extension of the Striped Bass Act and the Anadromous Fish Conservation Act.

By Mr. SIMON:

S. 777. A bill to amend the National Labor Relations Act to provide equal time to labor organizations to present information relating to labor organizations, and for other purposes; to the Committee on Labor and Human Resources.

S. 778. A bill to amend the National Labor Relations Act to permit the selection of an employee labor organization through the signing of a labor organization membership card by a majority of employees and subsequent election, and for other purposes; to the Committee on Labor and Human Resources.

S. 779 A bill to amend the National Labor Relations Act to require the arbitration of initial contract negotiation disputes, and for other purposes; to the Committee on Labor and Human Resources.

S. 780. A bill to amend the National Labor Relations Act to require Federal contracts debarment for persons who violate labor relations provisions, and for other purposes; to the Committee on Labor and Human Resources.

S. 781. A bill to amend the Occupational Safety and Health Act to require Federal Contracts debarment for persons who violate the act's provisions, and for other purposes; to the Committee on Labor and Human Resources.

S. 782. A bill to amend the National Labor Relations Act and the Labor Management Relations Act, 1947, to permit additional remedies in certain unfair labor practice cases, and for other purposes; to the Committee on Labor and Human Resources.

S. 783. A bill to amend the National Labor Relations Act to set a time limit for labor rulings on discharge complaints, and for other purposes; to the Committee on Labor and Human Resources.

S. 784. A bill to amend the National Labor Relations Act to impose a penalty for encouraging others to violate the provisions of the National Labor Relations Act, and for other purposes; to the Committee on Labor and Human Resources.

LABOR RELATIONS LEGISLATION

Mr. SIMON. Mr. President, today I am introducing legislation that will promote a more even playing field for workers and employers. Conditions have worsened for workers and their families in recent years. It is time to reexamine our labor laws and see if we can't make them fairer for the average working man and woman.

To improve working conditions and enhance workplace productivity, we must reject both the adversarial approach to worker-management relations and the oppressive, let's-hold-them-down attitude held by some in management and government. Both of these extreme approaches reduce productivity by destroying workplace comity. What we need to enhance our productivity is a strong spirit of cooperation in the workplace. And in order to bring this about, we need strong, vital labor unions.

While unions have remained strong in other industrialized nations over the past two decades, they have been steadily declining here in the United States. Union membership has now fallen to about 15 percent of the American workforce, and to 10.9 percent of private nonagricultural workers. In Canada, by contrast, about 37 percent of the workers belong to a union; in Germany, about 39 percent; in Great Britain, 41 percent; and in Japan, about 24 percent. Of all the industrialized democracies, only South Korea ranks below the United States in union membership.

Not coincidentally, as union membership has declined, so has the average manufacturing wage. As late as 1986, the average hourly manufacturing wage in the United States was higher than that of any other nation. Today, 10 nations have average manufacturing wages higher than ours.

This decline in American workers' wages relative to those of workers in other industrialized countries has been accompanied by increased income disparities within our country. A recent study of worldwide wealth and income trends by Prof. Edward Wolff of New York University concludes that the United States now has the widest wealth and income disparities of any advanced industrialized nation. The wealthiest 1 percent of Americans now own 40 percent of all the Nation's wealth. By contrast, in England, a nation which we tend to think of as much more class-based than our own, the top 1 percent own only 18 percent of the wealth—less than half the share of the wealthiest 1 percent of Americans.

The distribution of income in the United States is similarly skewed. While the top 20 percent of households—those making $55,000 per year or more—take home 55 percent of all after-tax income paid to individuals, the lowest-earning 20 percent of Americans receive only 5.7 percent of all after-tax individual income. Since 1979, the 20 percent of families in the lowest income brackets have seen their average real wages decline by 15 percent. Those in the second 20 percent have suffered a 7-percent decrease. In contrast, those in the top 20-percent income bracket have enjoyed an 18-percent increase.

To reverse these unfortunate trends, we need to take steps to facilitate the revival of organized American labor.

In addition to their importance in fighting for a fair wage for American workers, American labor unions have played a vital role in enhancing workplace safety and in supporting progressive social legislation such as child labor laws, minimum wage laws, and Social Security. And there is no question in my mind but that we would have a much better health care delivery system in the United States if we had as high a percentage of our workers organized as do Canada, Germany, and many other nations.

The causes of the decline of unions in America are numerous and complex. Our large and persistent trade deficits have certainly played a role in this decline, as have our Federal budget deficits. Part of the decline has also been caused by past failures on the part of a few unions to include women and minorities in their membership.

But the principal cause of this decline, in my view, has been a public policy that has permitted and even encouraged some employers to actively resist union organizing activities.

The legislation I am introducing today seeks to reverse this trend by facilitating workers' efforts to organize and bargain collectively for better wages and working conditions, to receive prompt adjudication of their grievances when problems arise, and to enjoy better working conditions.

I am well aware that we face firm opposition to these reforms. Steps taken in recent months by the majority party would drive down the wages of working families, threaten workplace health and safety, and further weaken labor unions. Among the changes that have been proposed in recent months are: repeal of the Davis-Bacon Act, which would lower the wages of workers in the construction industry; the weakening of workplace safety and health laws; and a watering down of the time-and-a-half provisions of the Fair Labor Standards Act. Even proposals to help those at the lowest rung of the income ladder by raising the minimum wage, after fifteen years of decline in its real purchasing power, have been greeted with scorn or indifference by many of those in power.

Still, I believe that once we take a serious look at the conditions of the hardest working and most vulnerable members of our society, the conclusion will be unavoidable that we must do more to ensure that their interests are represented fairly and equitably.

Following are brief descriptions of the eight bills I am introducing today; and I ask unanimous consent that a copy of each bill be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Labor Organizations Equal Presentation Time Act of 1995".

SEC. 2. EMPLOYER AND LABOR ORGANIZATIONS PRESENTATIONS.

Section 8(c) of the National Labor Relations Act (29 U.S.C. 158) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraphs:

"(2) If an employer or employer representative addresses the employees on the employer's premises or during work hours on issues relating to representation by a labor organization, the employees shall be assured, without loss of time or pay, an equal opportunity to obtain, in an equivalent manner, information concerning such issues from such labor organization.

"(3) Subject to reasonable regulation by the Board, labor organizations shall have—

"(A) access to areas in which employees work;

"(B) the right to use the employer's bulletin boards, mailboxes, and other communication media; and

"(C) the right to use the employer's facilities for the purpose of meetings with respect to the exercise of the rights guaranteed by this Act.".

S. 778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Labor Relations Representative Amendment Act of 1995".

SEC. 2. RECOGNITION OF SELECTED LABOR REPRESENTATIVE.

Section 9 of the National Labor Relations Act (29 U.S.C. 159) is amended by adding at the end the following new subsection:

"(f)(1) Not later than 30 days after the receipt of signed union recognition cards, which designate an entity as the employee's labor organization, from 60 percent of the employees of the employer, the Board shall direct an expedited election with respect to the selection of the entity as the exclusive collective bargaining representative of such employees.

"(2) The expedited election, as directed by the Board, may not be delayed for any reason or purpose.

"(3) The Board shall promulgate regulations that implement rules and procedures to address any challenges with respect to the designation or selection of an exclusive collective bargaining representative under this subsection.

"(4) The challenges described in paragraph (3) may be brought only after the expedited election described in paragraph (1).".

S. 779

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Labor Relations First Contract Negotiations Act of 1995".

SEC. 2. INITIAL CONTRACT DISPUTES.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following new subsection:

"(h)(1) If, not later than 60 days after the certification of a new representative of employees for the purpose of collective bargaining, the employer of the employees and the representative have not reached a collective bargaining agreement with respect to the terms and conditions of employment, the employer and the representative shall jointly select a mediator to mediate those issues on which the employer and the representative cannot agree.

"(2) If the employer and the representative are unable to agree upon a mediator, either party may request the Federal Mediation and Conciliation Service to select a mediator and the Federal Mediation and Conciliation Service shall upon the request select a person to serve as mediator.

"(3) If, not later than 30 days after the date of the selection of a mediator under paragraph (1) or (2), the employer and the representative have not reached an agreement, the employer or the representative may transfer the matters remaining in controversy to the Federal Mediation and Conciliation Service for binding arbitration.".

S. 780

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Contractor Labor Relations Enforcement Act of 1995".

SEC. 2. DEBARMENT.

The National Labor Relations Act (29 U.S.C. 151 et seq.) is amended by adding at the end the following new section:

"FEDERAL CONTRACTS DEBARMENT

"SEC. 20. (a) Any person or entity that, with a clear pattern and practice, violates the provisions of this Act shall be ineligible for all Federal contracts for a period of 3 years.

"(b) The Secretary of Labor shall promulgate regulations regarding debarment provisions and procedures. The regulations shall require that Federal contracting agencies shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any person or entity described in subsection (A) during the 3-year period immediately following a determination by the Secretary of Labor that the person or entity is in violation (as described in subsection (a)) of this Act.

"(c) A debarment may be removed, or the period of debarment may be reduced, by the Secretary of Labor upon the submission of an application to the Secretary of Labor that is supported by documentary evidence and that sets forth appropriate reasons for the granting of the debarment removal or reduction, including reasons such as compliance with the final orders that are found to have been willfully violated, a bona fide change of ownership or management, or a fraud or misrepresentation of the charging party.".

S. 781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Contractor Safety and Health Enforcement Act of 1995".

SEC. 2. DEBARMENT.

The Occupational Safety and Health Act (29 U.S.C. 651 et seq.) is amended—

(1) by redesignating sections 33 and 34, as sections 34 and 35, respectively;

(2) by inserting after section 32 the following new section:

"FEDERAL CONTRACTS DEBARMENT

"SEC. 33. (a) Any person or entity that, with a clear pattern and practice, violates the provisions of this Act shall be ineligible for all Federal contracts for a period of 3 years.

"(b) The Secretary shall promulgate regulations regarding debarment provisions and procedures. The regulations shall require that Federal contracting agencies shall refrain from entering into further contracts, or extensions or modifications of existing contracts, with any person or entity described in subsection (a) during the 3-year period immediately following a determination by the Secretary that the person or entity is in violation (as described in subsection (a)) of this Act.

"(c) A debarment may be removed, or the period of debarment may be reduced, by the Secretary upon the submission of an application to the Secretary that is supported by documentary evidence and that sets forth appropriate reasons for the granting of the debarment removal or reduction, including reasons such as compliance with the final orders that are found to have been willfully violated, a bona fide change of ownership or management, or a fraud or misrepresentation of the charging party.".

S. 782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Labor Relations Remedies Act of 1995".

SEC. 2. BOARD REMEDIES.

Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by inserting after the fourth sentence the following new sentence: "If the Board finds that an employee was discharged as a result of an unfair labor practice, the Board in such order shall (1) award back pay in an amount equal to three times the employee's wage rate at the time of the unfair labor practice and (2) notify such employee of such employee's right to sue for punitive damages and damages with respect to a wrongful discharge under section 303 of the Labor Management Relations Act, 1947 (29 U.S.C. 187), as amended by the Labor Relations Remedies Act of 1995.".

SEC. 3. COURT REMEDIES.

Section 303 of the Labor Management Relations Act, 1947 (29 U.S.C. 187), is amended by adding at the end the following new subsections:

"(c) It shall be unlawful, for purposes of this section, for any employer to discharge an employee for exercising rights protected under the National Labor Relations Act (29 U.S.C. 158).

"(d) An employee whose discharge is determined by the National Labor Relations Board under section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) to be as a result of an unfair labor practice under section 8 of such Act may file a civil action in any district court of the United States, without respect to the amount in controversy, to recover punitive damages or if actionable, in any State court to recover damages based on a wrongful discharge.".

S. 783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Labor Relations Board Ruling Time Limit Act of 1995".

SEC. 2. BOARD RULING.

Section 10(b) of the National Labor Relations Act (29 U.S.C. 160(b)) is amended by inserting after the second sentence the following new sentence: "In the case of an unfair labor charge filed with the Board that involves the discharge of an employee, the Board shall rule on such charge within 30 days of the receipt of such charge by the Board.".

S. 784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Labor Relations Penalty Act of 1995".

SEC. 2. PENALTIES.

The National Labor Relations Act (29 U.S.C. 151 et seq.) is amended by adding at the end the following new section:

"PENALTY

"SEC. 20. (a) It shall be unlawful for any person including a consulting firm or legal firm to encourage an employer or labor organization to violate the provisions of this Act.

"(b) If a person described in subsection (a) violates the provisions of such subsection, the person shall be fined by the Secretary not more than $10,000.".

BILL SUMMARIES

The "Labor Organizations Equal Presentation Time Act of 1995" will counteract the unfair advantage employers enjoy in using company time and resources to discourage union organizing by giving labor organizations equal time to present their side of the story.

This Act provides that if an employer addresses employees on issues relating to representation by a labor organization, the employees shall then have an equal opportunity to obtain, without loss of time or pay, information concerning such issues from the labor organization. The Act also promotes fair access to company work areas, bulletin boards, mailboxes, and other facilities, to facilitate the free flow of information to employees.

The "Labor Relations Representative Amendment Act of 1995" is designed to streamline the union election and certification process by eliminating undue administrative delays at the Federal level.

At present, the union election and certification process can be very time-consuming. In many instances, employees have had to wait for years for this process to be completed. My bill provides that once the NLRB receives union recognition cards from 60 percent of the employees of a given firm, the Board shall have 30 days to determine whether the labor organization shall be recognized as the bargaining representative of employees.

In the United States, approximately one-third of unions never get a first collective bargaining agreement once they have been certificated. To address this problem, I am introducing the "Labor Relations First Contract Negotiations Act of 1995," a bill which will require the arbitration of initial contract negotiation disputes.

Under this Act, if an employer and a newly elected representative have not reached a collective bargaining agreement within 60 days of the representative's certification, the employer and the representative shall jointly select a mediator to help them reach an agreement. If they cannot agree on a mediator, one will be appointed for them by the Federal Medication and Conciliation Service. In the even that the parties do not reach an agreement in 30 days, the remaining issues may be transferred to the Federal Medication and Conciliation Service for binding arbitration.

The Federal government can do more to sanction firms that demonstrate a pattern and practice of National Labor Relations Act violations. By debarring such firms from Federal contracts, the "Federal Contractor

Labor Relations Enforcement Act of 1995" will encourage higher levels of compliance with the law.

Under the Act, firms that are determined by the Secretary of Labor to have shown a clear pattern the practice of NLRA violations will be debarred from receiving contracts, extensions of contracts, or modifications of existing contracts with agencies of the Federal government for a period of three years.

Similarly, the "Federal Contractor Safety and Health Enforcement Act of 1995" directs the Secretary of Labor to withhold Federal contracts in cases where firms show a clear pattern and practice of Occupational Safety and Health Act violations. This Act will help to ensure that employees who repeatedly disregard the safety and health of their workers will face consequences for their failure to abide by the law.

The "Labor Relations Remedies Act of 1995" protects workers by making it unlawful for an employer to discharge an employee for exercising rights protected under the National Labor Relations Act. The Act also directs the National Labor Relations Board to award additional damages in the event that it finds that an employee has of his right to sue for punitive damages and damages under any other state or Federal law.

The "National Labor Relations Board ruling Time Limit Act of 1995" will require that employees receive a prompt ruling on claims of wrongful discharge. The Act provides that the National Labor Relations Board shall rule on wrongful discharge complaints within thirty days of receiving them.

I am also introducing legislation today that will address the problem of law firms and consulting firms that stray over the line into counseling their clients to implement illegal policies or practices. Under the "National Labor Relations Penalty Act" persons or firms who encourage an employer or a labor organization to violate the National Labor Relations Act will be subject to a fine of up to $10,000.

By Mr. PACKWOOD:

S. 785. A bill to require the trustees of the Medicare trust funds to report recommendations on resolving projected financial imbalance in Medicare trust funds; to the Committee on Finance.

MEDICARE LEGISLATION

Mr. PACKWOOD. Mr. President, the 1995 annual reports of the trustees on the status of the two Medicare trust funds, released on April 3, 1995, raise serious concerns about future financial viability of the Medicare Program.

The trustees conclude that the Federal hospital insurance trust fund—called Medicare part A:

First, has taken in less in Medicare payroll taxes than it has paid out in Medicare benefits every year since 1992;

Second, starts having to liquidate assets next year, 1996; and

Third, will run out of money by the year 2002.

The status of the supplemental medical insurance trust fund—called Medicare part B—is not much better. The trustees "note with great concern the past and projected rapid growth in the cost of the program."

Four Cabinet members of this administration are trustees of the Medicare trust funds—the Secretary of the Treasury, the Secretary of Labor, the Secretary of Health and Human Services, and the Commissioner of the Social Security Administration. These Cabinet members all signed the 1995 trustee report, agreeing with the conclusions that the Medicare trust fund is in serious financial trouble.

But this administration refuses to become engaged in proposing any solutions. Repeatedly, the President and his Cabinet members have said they are waiting for the Republicans' budget resolution before they offer any suggestions to save Medicare.

In my memory, this is the first time an administration has so completely refused to be a part of the budget process. The administration claims to have done its part because it submitted its 1996 budget to the Congress. However, the President's 1996 budget leaves Medicare virtually untouched. Medicare proposals in that budget do not even do enough to delay Medicare insolvency for 1 year.

The financial problems of the Medicare Program are real. They exist regardless of whether or not there is a budget resolution, or the content of a budget resolution. We simply cannot avoid addressing this issue, and the sooner the better.

Today, I am introducing a bill requiring the trustees of the Medicare trust funds to report back to Congress by June 30, 1995, with their recommendations for the specific program legislation to deal with Medicare's financial condition that they call for in their 1995 annual reports on the Medicare trust funds. This is an urgent responsibility of this administration and they must come forward with initiatives so that we can preserve the Medicare Program, not only for future generations, but for our current senior population.

I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRUSTEES' CONCLUSIONS REGARDING FINANCIAL STATUS OF MEDICARE TRUST FUNDS.

(A) HI TRUST FUND.—The 1995 annual report of the Board of Trustees of the Federal Hospital Insurance Trust Fund, submitted on April 3, 1995, contains the following conclusions respecting the financial status of such Trust Fund:

(1) Under the Trustees' intermediate assumptions, the present financing schedule for the hospital insurance program is sufficient to ensure the payment of benefits only over the next 7 years.

(2) Under present law, hospital insurance program costs are expected to far exceed revenues over the 75-year long-range period under any reasonable set of assumptions.

(3) As a result, the hospital insurance program is severely out of financial balance and the Trustees believe that the Congress must take timely action to establish long-term financial stability for the program.

(b) SMI TRUST FUND.—The 1995 annual report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund, submitted on April 3, 1995, contains the following conclusions respecting the financial status of such Trust Fund:

(1) Although the supplementary medical insurance program is currently actuarially sound, the Trustees note with great concern the past and projected rapid growth in the cost of the program.

(2) In spite of the evidence of somewhat slower growth rates in the recent past, overall, the past growth rates have been rapid, and the future growth rates are projected to increase above those of the recent past.

(3) Growth rates have been so rapid that outlays of the program have increased 53 percent in aggregate and 40 percent per enrollee in the last 5 years.

(4) For the same time period, the program grew 19 percent faster than the economy despite recent efforts to control the costs of the program.

SEC. 2. RECOMMENDATIONS ON RESOLVING PROJECTED FINANCIAL IMBALANCE IN MEDICARE TRUST FUNDS.

(a) REPORT.—Not later than June 30, 1995, the Board of Trustees of the Federal Hospital Insurance Trust Fund and the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund shall submit to the Congress recommendations for specific program legislation designed solely—

(1) to control medicare hospital insurance program costs and to address the projected financial imbalance in the Federal Hospital Insurance Trust Fund in both the short-range and long-range; and

(2) to more effectively control medicare supplementary medical insurance costs.

(b) USE OF INTERMEDIATE ASSUMPTIONS.—The Boards of Trustees shall use the intermediate assumptions described in the 1995 annual reports of such Boards in making recommendations under subsection (a).

ADDITIONAL COSPONSORS

S. 16

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. 16, a bill to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes.

S. 256

At the request of Mr. DOLE, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 354

At the request of Mr. BREAUX, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 354, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing.

S. 469

At the request of Mr. GREGG, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 469, a bill to eliminate the

National Education Standards and Improvement Council and opportunity-to-learn standards.

S. 471

At the request of Mr. BIDEN, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 471, a bill to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States.

S. 495

At the request of Mrs. KASSEBAUM, the names of the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 495, a bill to amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes.

S. 508

At the request of Mr. MURKOWSKI, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 508, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 615

At the request of Mr. AKAKA, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 615, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 641

At the request of Mr. KENNEDY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 674

At the request of Mr. EXON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 674, a bill entitled the "Rail Investment Act of 1995".

S. 738

At the request of Mr. THOMAS, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 738, a bill to amend the Helium Act to prohibit the Bureau of Mines from refining helium and selling refined helium, to dispose of the United States helium reserve, and for other purposes.

S. 749

At the request of Mr. AKAKA, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 749, a bill to amend title 38, United States Code, to revise the authority relating to the Center for Women Veterans of the Department of Veterans Affairs, and for other purposes.

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. MURKOWSKI, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States.

SENATE RESOLUTION 83

At the request of Mr. FEINGOLD, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of Senate Resolution 83, a resolution expressing the sense of the Senate regarding tax cuts during the 104th Congress.

SENATE RESOLUTION 97

At the request of Mr. THOMAS, the names of the Senator from Delaware [Mr. ROTH] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 97, a resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

AMENDMENT NO. 709

At the request of Mr. GORTON the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of amendment No. 709 proposed to H.R. 956, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

SENATE RESOLUTION 117—RELATING TO DEDUCTIONS FOR HOME MORTGAGES

Mr. ROTH (for himself, Mr. D'AMATO, and Mr. KEMPTHORNE) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 117

Whereas homeownership is an important factor in promoting economic security and stability for American families;

Whereas homeownership is a fundamental American ideal, which promotes social and economic benefits beyond the benefits that accrue to the occupant of the home;

Whereas homeownership promotes and stabilizes neighborhoods and communities;

Whereas it is proper that the policy of the Federal Government is and should continue to be to encourage homeownership;

Whereas the increase in the cost of housing over the last 10 years has been greater than the increase in family income;

Whereas for the first time in 50 years, the percentage of people in the United States owning their own homes has declined;

Whereas the percentage of people in the United States between the ages of 25 and 29 who own their own homes has declined from 43 percent in 1976 to 38 percent today;

Whereas the current Federal income tax deduction for interest paid on debt secured by first homes located in the United States has been a valuable cornerstone of this Nation's housing policy for most this century and may well be the most important component of housing-related tax policy in America today;

Whereas the current Federal income tax deduction for interest paid on debt secured by second homes located in the United States is of crucial importance to the economies of many communities; and

Whereas the Federal income tax deduction for interest paid on debt secured by a first or second home has been limited twice in the last 6 years, and was further eroded as a result of the Omnibus Budget Reconciliation Act of 1990: Now, therefore, be it

Resolved, That it is the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted.

Mr. ROTH. Mr. President, of the challenges confronting America today—challenges that must be addressed by this Congress—the security of the American family is paramount. Much has been written and spoken about the welfare of family life, about the need to keep the family unit strong in our effort to secure a bright and productive American future.

One of the significant resources our families have is home ownership. Indeed, this resource is of such value that home ownership is considered the icon of the American dream. It lends to economic, physical, and emotional security. It keeps our neighborhoods strong and contributes to a necessary sense of community. It gives families not only a stake in the future, but a means to improve the future. Home equity and ownership often become the means by which we send our children to college, finance small businesses, or prepare for retirement.

It's clear that the benefits of home ownership go far beyond the family; they contribute to society as a whole. For example, the property tax base is often the foundation for public education. And as a Nation we have been richly rewarded by the Government policies that have encouraged people to realize the American dream.

What concerns me today, Mr. President, is that a full 60 percent of Americans can no longer afford a median-priced home. It concerns me that the increase in the cost of housing over the last 10 years has been greater than the increase in family income. And it concerns me that for the first time in 50 years, the percentage of people in the United States owning their own homes has declined.

When trends like these threaten the American Dream, and these trends are being felt, Mr. President, I was troubled by a Gallup-CBS polls taken recently that showed that 8 out of every 10 Americans believe it will be harder for the next generation to achieve the American Dream—8 out of every 10. When these trends threaten the American Dream of home ownership, we must be clear in our policies here in Washington, that we will continue to work to promote an environment of security and opportunity.

Mr. D'AMATO. Mr. President, I am pleased to join my distinguished colleague from Delaware, Senator ROTH, in submitting a resolution to prevent further restriction of the Federal income tax deduction for home mortgage interest. To further limit or eliminate the deductibility of mortgage interest for homeowners—the majority of which are middle-income Americans—would be to restrict their ability to buy into the American dream.

It is no secret that homeownership is a fundamental American ideal. Cutting or wiping out this deduction, which has been available to Americans since 1913, will simply put the possibility of homeownership out of reach for many Americans. The mortgage interest deduction is one of a number of tax benefits that serves a good social purpose. It is not an unintended loophole but, rather, a provision created to foster investment by the private sector. The home mortgage interest deduction has served as one of the cornerstones of our national housing policy, making us one of the best housed countries in the world and creating safe and secure neighborhoods.

Further restrictions could also have a disastrous effect on the American housing industry, especially if interest rates continue to rise. People simply will not be able to buy homes, which would have a devastating impact on the economy, particularly the banking, lending and construction industries. Higher unemployment rates would result and local governments would suffer, as shrinking homeownership would, in turn, mean a dwindling tax base.

Mr. President, the National Association of Home Builders estimates that eliminating the home mortgage interest deduction would reduce the value of an average American home by about 20 percent. For all intents and purposes this would have the effect of a heavy tax increase. For the sake of the economy and middle-income Americans we cannot erode the American dream: homeownership.

SENATE RESOLUTION 118—CONCERNING UNITED STATES-JAPAN TRADE RELATIONS

Mr. BYRD (for himself, Mr. DOLE, Mr. DASCHLE, Mr. BAUCUS, Mr. REID, Mr. ASHCROFT, Mr. WARNER, Mr. LEVIN, Mr. HOLLINGS, Mr. PRESSLER, Mr. DORGAN, Mr. SARBANES, Mr. SPECTER, Mr. BROWN, and Mr. D'AMATO) submitted the following resolution; which was considered and agreed to:

S. RES. 118

Whereas, the United States and Japan have a long and important relationship which serves as an anchor of peace and stability in the Pacific region;

Whereas, tension exists in an otherwise normal and friendly relationship between the United States and Japan because of persistent and large trade deficits which are the result of practices and regulations which have substantially blocked legitimate access of American automotive products to the Japanese market;

Whereas, the current account trade deficit with Japan in 1994 reached an historic high level of $66 billion, of which $37 billion, or 56 percent, is attributed to imbalances in automotive sector, and of which $12.8 billion is attributable to auto parts flows;

Whereas, in July, 1993, the Administration reached a broad accord with the Government of Japan, which established automotive trade as one of 5 priority areas for negotiations, to seek market-opening arrangements based on objective criteria and which would result in objective progress;

Whereas, a healthy American automobile industry is of central importance to the American economy, and to the capability of the United States to fulfill its commitments to remain as an engaged, deployed, Pacific power;

Whereas, after 18 months of negotiations with the Japanese, beginning in September 1993, the U.S. Trade Representative concluded that no progress had been achieved, leaving the auto parts market in Japan "virtually closed";

Whereas, in October, 1994, the United States initiated an investigation under Section 301 of the Trade Act of 1974 into the Japanese auto parts market, which could result in the imposition of trade sanctions on a variety of Japanese imports into the United States unless measurable progress is made in penetrating the Japanese auto parts market;

Whereas, the latest round of U.S.-Japan negotiations on automotive trade, in Whistler, Canada, collapsed in failure on May 5, 1995, and the U.S. Trade Representative, Ambassador Kantor, stated the "government of Japan has refused to address our most fundamental concerns in all areas" of automotive trade, and that "discrimination against foreign manufacturers of autos and auto parts continues."

Whereas, President Clinton stated, on May 5, 1995, that the U.S. is "committed to taking strong action" regarding Japanese imports into the U.S. if no agreement is reached.

Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

(1) The Senate regrets that negotiations between the United States and Japan for sharp reductions in the trade imbalances in automotive sales and parts, through elimination of restrictive Japanese market-closing practices and regulations, have collapsed;

(2) If negotiations under Section 301 of the Trade Act of 1974 fail to open the Japanese auto parts market, the United States Senate strongly supports the decision by the President to impose sanctions on Japanese products in accordance with Section 301.

SENATE RESOLUTION 119—AUTHORIZING REPRESENTATION BY LEGAL COUNSEL

Mr. GORTON (for Mr. DOLE, for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 119

Whereas, in the case of *United States* v. *George C. Matthews*, Case No. 95-CR-11, pending in the United States District Court for the Eastern District of Wisconsin, a subpoena for testimony has been issued to Darin Schroeder, an employee of the Senate on the staff of Senator Feingold;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1994), the Senate may direct its counsel to represent committees, Members, officers and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved, That Darin Schroeder and any other employees in Senator Feingold's office from whom testimony may be necessary are authorized to testify and to produce records in the case of *United States* v. *George C. Matthews*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent Darin Schroeder and any other employee in connection with the testimony authorized under section 1.

AMENDMENTS SUBMITTED

COMMONSENSE PRODUCT LIABILITY REFORM ACT

BYRD (AND OTHERS) AMENDMENT NO. 730

(Ordered to lie on the table.)

Mr. BYRD (for himself, Mr. DOLE, Mr. BAUCUS, Mr. REID, Mr. LEVIN, Mr. ASHCROFT, and Mr. WARNER) submitted an amendment intended to be proposed by them to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

At the appropriate place, insert

Inasmuch as, the United States and Japan have a long and important relationship which serves as an anchor of peace and stability in the Pacific region;

Inasmuch as, tension exists in an otherwise normal and friendly relationship between the United States and Japan because of persistent and large trade deficits which are the result of practices and regulations which have substantially blocked legitimate access of American products to the Japanese market;

Inasmuch as, the current account trade deficit with Japan in 1994 reached an historic high level of $66 billion, of which $37 billion, or 56 percent, is attributed to imbalances in automotive sector, and of which $12.8 billion is attributable to auto parts flows;

Inasmuch as, in July 1993, the Administration reached a broad accord with the Government of Japan, which established automotive trade regulations as one of 5 priority areas of negotiations, to seek market-opening arrangements based on objective criteria and which would result in objective progress;

Inasmuch as, a healthy American automobile industry is of central importance to the American economy, and to the capability of the United States to fulfill is commitments to remain as an engaged, deployed, Pacific power;

Inasmuch as, after 18 months of negotiations with the Japanese, beginning in September, 1993, the U.S. Trade Representatives concluded that no progress has been achieved, leaving the auto parts market in Japan "virtually closed;"

Inasmuch as, in October, 1994, the United States initiated an investigation under Section 301 of the Trade Act of 1974 into the Japanese auto parts market, which could result in the imposition of trade sanctions on a variety of Japanese imports into the United States unless measurable progress is made in penetrating the Japanese auto parts market;

Inasmuch as, the latest round of U.S.-Japan negotiations on automotive trade, in Whistler, Canada, collapsed in failure on May 5, 1995, and the U.S. Trade Representative, Ambassador Kantor stated the "government of Japan has refused to address our most fundamental concerns in all areas" of automotive trade, and that "discrimination against foreign manufacturers of autos and auto parts continues;"

Inasmuch as, President Clinton stated, on May 5, 1995, that the U.S. is "committed to taking strong action" regarding Japanese imports into the U.S. if no agreement is reached: Now, therefore, be it

Declared, That it is the Sense of the Senate that—

(1) The Senate regrets that negotiations between the United States and Japan for sharp reductions in the trade imbalances in automotive sales and parts, through elimination of restrictive Japanese market-closing practices and regulations, have collapsed;

(2) The Senate therefore strongly supports the decision by the President to impose trade sanctions on Japanese products in accordance with Section 301 of the Trade Act of 1974 unless an acceptable accord with Japan is reached in the interim that renders such action unnecessary.

HOLLINGS AMENDMENTS NOS. 731–745

(Ordered to lie on the table.)

Mr. HOLLINGS submitted 15 amendments intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON, to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 731

At the appropriate place, insert the following:

SEC. . TRULY UNIFORM STANDARDS FOR ALL STATES.

(a) PUNITIVE DAMAGES.—Notwithstanding any other provision of this Act or any limitation under State law, punitive damages may be awarded to a claimant in a product liability action subject to this title. The amount of punitive damages that may be awarded may not exceed 2 times the sum of—

(1) the amount awarded to the claimant for the economic loss on which the claim is based; and

(2) the amount awarded to the claimant for noneconomic loss.

(b) STATUTE OF REPOSE.—Notwithstanding any other provision of this Act, no product liability action subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed more than 20 years after the time of delivery of the product. This subsection supersedes any State law that requires a product liability action to be filed during a period of time shorter than 20 years after the time of delivery.

AMENDMENT NO. 732

At the appropriate place, insert the following:

SEC. . NO PREEMPTION OF RECENT TORT REFORM LAWS.

Notwithstanding any other provision of this Act to the contrary, nothing in this Act preempts any provision of State law—

(1) if the legislature of that State considered a legislative proposal dealing with that provision in connection with reforming the tort laws of that State during the period beginning on January 1, 1980, and ending on the date of enactment of this Act, without regard to whether such proposal was adopted, modified and adopted, or rejected; or

(2) adopted after the date of enactment of this Act.

AMENDMENT NO. 733

At the appropriate place, insert the following:

SEC. . TRULY UNIFORM STANDARDS FOR ALL STATES.

(a) PUNITIVE DAMAGES.—Notwithstanding any other provision of this Act or any limitation under State law, punitive damages may be awarded to a claimant in a product liability action subject to this title. The amount of punitive damages that may be awarded may not exceed the greater of—

(1) an amount equal to 3 times the amount awarded to the claimant for the economic loss on which the claim is based, or

(2) $250,000.

(b) STATUTE OF REPOSE.—Notwithstanding any other provision of this Act, no product liability action subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed more than 20 years after the time of delivery of the product. This subsection supersedes any State law that requires a product liability action to be filed during a period of time shorter than 20 years after the time of delivery.

AMENDMENT NO. 734

At the appropriate place, insert the following:

SEC. . APPLICATION OF ACT LIMITED TO DOMESTIC PRODUCTS.

Notwithstanding any other provision of this Act, this Act shall not apply to any product, component part, implant, or medical device that is not manufactured in the United States within the meaning of the Buy American Act (41 U.S.C. 10a) and the regulations issued thereunder, or to any raw material derived from sources outside the United States.

AMENDMENT NO. 735

At the appropriate place, insert the following:

SEC. . STATE IMPLEMENTATION REQUIRED.

Notwithstanding any provision of this Act to the contrary, nothing in this Act shall supersede any provision of State law or rule of civil procedure unless that State has enacted a law providing for the application of this Act in that State.

AMENDMENT NO. 736

At the appropriate place, insert the following:

SEC. . NO PREEMPTION OF RECENT TORT REFORM LAWS.

Notwithstanding any other provision of this Act to the contrary, nothing in this Act preempts any provision of State law adopted after the date of enactment of this Act.

AMENDMENT NO. 737

At the appropriate place, insert the following:

SEC. . NO PREEMPTION OF RECENT TORT REFORM LAWS.

Notwithstanding any other provision of this Act to the contrary, nothing in this Act preempts any provision of State law inconsistent with this Act if the legislature of that State considered a legislative proposal dealing with that provision in connection with reforming the tort laws of that State during the period beginning on January 1, 1980, and ending on the date of enactment of this Act, without regard to whether such proposal was adopted, modified and adopted, or rejected.

AMENDMENT NO. 738

At the appropriate place, insert the following:

SEC. . Notwithstanding section 101(7) of this Act, the term "harm" includes commercial loss or loss of damage to a product itself; and notwithstanding section 102(a) of this Act, the provisions of title I apply to any product liability action brought for loss or damage to a product itself or for commercial loss.

AMENDMENT NO. 739

At the appropriate place, insert the following:

SEC. . Notwithstanding section 102(e) of this Act, nothing in this Act shall require that any decision of a circuit court of appeals interpreting a provision of this Act be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court.

AMENDMENT NO. 740

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, nothing in this Act shall preclude the district courts of the United States from having jurisdiction under section 1331 or 1337 of title 28, United States Code, over any product liability action covered by this Act.

AMENDMENT NO. 741

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, nothing in this Act requires the trier of fact in a product liability action, at the request of any party, to consider in a separate proceeding whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

AMENDMENT NO. 742

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, nothing in this Act limits the amount of punitive damages that may be awarded in a product liability action or any other civil action.

AMENDMENT NO. 743

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, this Act shall not apply to the award of punitive damages in any product liability action or any other civil action.

AMENDMENT NO. 744

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, the term "product liability action" means a civil action brought on any theory for harm caused by a product, against a manufacturer, seller, or any other person responsible for the distribution of the product in the stream of commerce, that involves a defect or design of the product.

AMENDMENT NO. 745

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, nothing in this Act requires that, in a product liability action, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

BREAUX AMENDMENTS NOS. 746–747

(Ordered to lie on the table.)

Mr. BREAUX submitted two amendments intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON, to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 746

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Applicability; preemption.
Sec. 5. Jurisdiction of Federal courts.
Sec. 6. Effective date.

TITLE I—EXPEDITED JUDGMENTS AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

Sec. 102. Alternative dispute resolution procedures.

TITLE II—STANDARDS FOR CIVIL ACTIONS

Sec. 201. Civil actions.
Sec. 202. Uniform standards of product seller liability.
Sec. 203. Uniform standards for award of punitive damages.
Sec. 204. Uniform time limitations on liability.
Sec. 205. Workers' compensation subrogation standards.
Sec. 207. Defenses involving intoxicating alcohol or drugs.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "claimant" means any person who brings a civil action pursuant to this Act, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(4) "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside of that State; or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A);

(5) "commercial loss" means any loss incurred in the course of an ongoing business enterprise consisting of providing goods or services for compensation;

(6) "economic loss" means any pecuniary loss resulting from harm (including but not limited to medical expense loss, work loss, replacement services loss, loss due to death, burial costs, loss of business or employment opportunities and the fair market value of any property loss or property damage), to the extent recovery for such loss is allowed under applicable State law;

(7) "exercise of reasonable care" means conduct of a person of ordinary prudence and intelligence using the attention, precaution, and judgment that society expects of its members for the protection of their own interests and the interests of others;

(8) "harm" means any bodily injury to an individual sustained in an accident and any illness, disease, or death of that individual resulting from that injury; the term does not include commercial loss or loss or damage to a product itself;

(9) "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs, formulates or constructs the product (or component part of the product) or has engaged another person to design, formulate or construct the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design, formulate or construct, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of a product;

(10) "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including but not limited to pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; the term does not include economic loss;

(11) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(12) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(13) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(14) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, or otherwise is involved in placing a product in the stream of commerce; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(15) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 4. APPLICABILITY; PREEMPTION.

(a) APPLICABILITY TO PRODUCT LIABILITY ACTIONS.—This Act applies to any civil action brought against a manufacturer or product seller, on any theory, for harm caused by a product. A civil action brought against a manufacturer or product seller for loss or damage to a product itself or for commercial loss is not subject to this Act and shall be governed by applicable commercial or contract law. A civil action for negligent entrustment is similarly not subject to this Act and shall be subject to applicable State law.

(b) SCOPE OF PREEMPTION.—(1) Except as provided in paragraph (2), this Act supersedes any State law regarding recovery for harm caused by a product only to the extent that this Act establishes a rule of law applicable to any such recovery. Any issue arising under this Act that is not governed by any such rule of law shall be governed by applicable State or Federal law.

(2) The provisions of title I shall not supersede or otherwise preempt any provision of applicable State or Federal law.

(c) EFFECT ON OTHER LAW.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) supersede any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules including those with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of forum non conveniens; or

(7) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; 42 U.S.C. 9601(8)), or the threat of such contamination or pollution.

(d) Construction.—This Act shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

(e) Effect of Court of Appeals Decisions.—Any decision of a United States court of appeals interpreting the provisions of this Act shall be considered a controlling precedent and followed by each Federal and State court within the geographical boundaries of the circuit in which such court of appeals sits, except to the extent that the decision is overruled or otherwise modified by the United States Supreme Court.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on the date of its enactment and shall apply to all civil actions pursuant to this Act commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred before the effective date of this Act, but shall not apply to claims existing prior to the effective date of this Act.

TITLE I—ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

SEC. 102. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) In General.—A claimant or defendant in a civil action subject to this Act may, within the time permitted for making an offer of judgment under section 101, serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the civil action is brought or under the rules of the court in which such action is maintained. An offeree shall, within ten days of such service, file a written notice of acceptance or rejection of the offer; except that the court may, upon motion by the offeree make prior to the expiration of such ten-day period, extend the period for response for up to sixty days, during which discovery may be permitted.

(b) Defendant's Penalty for Unreasonable Refusal.—The court shall assess reasonable attorney's fees (calculated in the manner described in section 101(f)) and costs against the offeree, if—

(1) a defendant as offeree refuses to proceed pursuant to such alternative dispute resolution procedure;

(2) final judgment is entered against the defendant for harm caused by a product; and

(3) the defendant's refusal to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith.

(c) Good Faith Refusal.—In determining whether an offeree's refusal to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith, the court shall consider such factors as the court deems appropriate.

TITLE II—STANDARDS FOR CIVIL ACTIONS

SEC. 202. UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY.

(a) Standards of Liability.—In any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant; (B) the product seller failed to exercise reasonable care with respect to the product; and (C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product; (B) the product failed to conform to the product seller's warranty; and (C) the failure of the product to conform to the product seller's warranty caused the claimant's harm; or

(3)(i) the product seller engaged in conduct representing a conscious or flagrant indifference to safety or in conduct representing intentional wrongdoing; and

(ii) such conduct was approximate cause of the harm that is the subject of the complaint.

(b) Conduct of Product Seller.—(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider the effect of the conduct of the product seller with respect to the construction, inspection, or condition of the product, and any failure of the product seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to this Act based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with the warnings and instructions with it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to this Act except for breach of express warranty where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) Treatment as Manufacturer.—A product seller shall be deemed to be the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(d) Rented or Leased Products.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 314(a)(b)(c) shall be subject to liability in a product liability action under subsection (a), but shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 203. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) In General.—Punitive damages may be awarded in any civil action subject to this Act to any claimant who establishes by clear and convincing evidence that the harm suffered by the claimant was the result of conduct manifesting a manufacturer's or product seller's conscious or flagrant indifference to the safety of those persons who might be harmed by the product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Punitive damages may not be awarded in the absence of an award of compensatory damages.

(b) Judicial Determination.

SEC. 204. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Statute of Limitations.—Any civil action subject to this Act shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be filed within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

(b) Statute of Repose for Capital Goods.—(1) Any civil action subject to this Act shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years after the time of delivery of the product. This subsection shall apply only if the court determines that the claimant has received or would be eligible to receive compensation under any State or Federal workers' compensation law for harm caused by the product.

(2) A motor vehicle, vessel, aircraft, or train, used primarily to transport passengers for hire, shall not be subject to this subsection.

(3) As used in this subsection, the term—

(A) "capital good" means any product, or any component of any such product, which is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which was—

(i) used in a trade or business;

(ii) held for the production of income; or

(iii) sold or donated to a governmental or private entity for the production of goods, for training, for demonstration, or for other similar purposes; and

(B) "time of delivery" means the time when a product is delivered to its first purchaser or lessee who was not involved in the business of manufacturing or selling such product or using it as a component part of another product to be sold.

(c) Extension of Period for Bringing Certain Actions.—If any provision of this section would shorten the period during which a civil action could be brought under otherwise applicable law, the claimant may, notwithstanding such provision of this section, bring the civil action pursuant to this

Act within one year after the effective date of this Act.

(d) EFFECT ON RIGHT TO CONTRIBUTION OR INDEMNITY.—Nothing in this section shall affect the right of any person who is subject to liability for harm under this Act to seek and obtain contribution or indemnity from any other person who is responsible for such harm.

(e) Paragraph (b)(1) does not bar a product liability action against a defendant who made a warranty in writing as to the safety of the specific product involved which was longer than 25 years, but it will apply at the expiration of that warranty.

SEC. 205. WORKERS' COMPENSATION SUBROGATION STANDARDS.

(a) IN GENERAL.—(1) An employer or workers' compensation insurer of an employer shall have a right of subrogation against a manufacturer or product seller to recover the sum of the amount paid as workers' compensation benefits for harm caused to an employee by a product if the harm is one for which a civil action has been brought pursuant to this Act. To assert a right of subrogation an employer or workers' compensation insurer of an employer shall provide written notice that it is asserting a right of subrogation to the court in which the claimant has filed a complaint. The employer or workers' compensation insurer of the employer shall not be required to be a necessary and proper party to the proceeding instituted by the employee.

(2) In any proceeding against or settlement with the manufacturer or product seller, the employer or the workers' compensation insurer of the employer shall have an opportunity to assert a right of subrogation upon any payment and to assert a right of subrogation upon any payment made by the manufacturer or product seller by reason of such harm, whether paid in settlement, in satisfaction of judgment, as consideration for covenant not to sue, or otherwise. The employee shall not make any settlement with or accept any payment from the manufacturer or product seller without notifying the employer in writing prior to settlement. However, the preceding sentence shall not apply if the employer or workers' compensation insurer of the employer is made whole for all benefits paid in workers' compensation benefits or has not asserted a right of subrogation pursuant to this section.

(3) If the manufacturer or product seller attempts to persuade the trier of fact that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the issue whether the claimant's harm was caused by the claimant's employer or coemployees shall be submitted to the trier of fact. If the manufacturer or product seller so attempts to persuade the trier of fact, it shall provide written notice to the employer. The employer shall have the right to appear, to be represented, to introduce evidence, to cross-examine adverse witnesses, and to argue to the trier of fact as to this issue as fully as though the employer were a party although not named or joined as a party to the proceeding. Such issue shall be the last issue submitted to the trier of fact. If the trier of fact finds by clear and convincing evidence that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the court shall proportionally reduce the damages awarded by the trier of fact against the manufacturer or product seller (and correspondingly the subrogation lien of the employer) by deducting from such damages a sum equal to the percentage at fault found attributable to the employer or coemployee multiplied by the sum of the amount paid as workers' compensation benefits. The manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer for such sums. However, the employer shall not lose its right of subrogation because of an intentional tort committed against the claimant by the claimant's coemployees or for acts committed by coemployees outside the scope of normal work practices.

(4) If the verdict shall be that the claimant's harm was not caused by the fault of the claimant's employer or coemployees, then the manufacturer or product seller shall reimburse the employer or workers' compensation insurer of the employer for reasonable attorney's fees and court costs incurred in the resolution of the subrogation claim, as determined by the court.

(b) EFFECT ON CERTAIN CIVIL ACTIONS.—(1) In any civil action subject to this Act in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this Act shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm caused by a product in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured.

(3) Nothing in this Act shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

SEC. 206. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) IN GENERAL.—Except as provided in subsection (b), in any civil action subject to this Act, the liability of each defendant for noneconomic loss shall be joint and several.

(b) DE MINIMIS EXCEPTION.—Notwithstanding subsection (a), in any civil action subject to this Act, the liability for noneconomic loss of each defendant found to be less than 15% at fault shall be several only and shall not be joint. Each such defendant shall be liable only for the amount of noneconomic loss allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under subsection (c). A separate judgment shall be rendered against such defendant for that amount.

(c) PROPORTION OF RESPONSIBILITY.—For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

(b) OTHER CIVIL ACTIONS.—In any civil action subject to this Act in which not all defendants are manufacturers or product sellers and the trier of fact determines that no liability exists against those defendants who are not manufacturers or product sellers, the court shall enter a judgment notwithstanding the verdict in favor of any defendant which is a manufacturer or product seller if it is proved that the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug and that as a proximate cause of such intoxication or the influence of the alcohol or drug the claimant was more than 50 percent responsible for the accident or event which resulted in such claimant's harm.

(c) INTOXICATION DETERMINATION TO BE MADE UNDER STATE LAW.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

(d) DEFINITION.—As used in this section, the term "drug" means any non-over-the-counter drug which has not been prescribed by a physician for use by the claimant.

In lieu of the language proposed to be inserted, insert the following:

AMENDMENT NO. 747

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

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Sec. 6. Effective date.

TITLE I—EXPEDITED JUDGMENTS AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

Sec. 102. Alternative dispute resolution procedures.

TITLE II—STANDARDS FOR CIVIL ACTIONS

Sec. 201. Civil actions.
Sec. 202. Uniform standards of product seller liability.
Sec. 203. Uniform standards for award of punitive damages.
Sec. 204. Uniform time limitations on liability.
Sec. 205. Workers' compensation subrogation standards.
Sec. 207. Defenses involving intoxicating alcohol or drugs.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "claimant" means any person who brings a civil action pursuant to this Act, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(4) "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside of that State; or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A);

(5) "commercial loss" means any loss incurred in the course of an ongoing business enterprise consisting of providing goods or services for compensation;

(6) "economic loss" means any pecuniary loss resulting from harm (including but not limited to medical expense loss, work loss, replacement services loss, loss due to death, burial costs, loss of business or employment opportunities and the fair market value of any property loss or property damage), to the extent recovery for such loss is allowed under applicable State law;

(7) "exercise of reasonable care" means conduct of a person of ordinary prudence and intelligence using the attention, precaution, and judgment that society expects of its members for the protection of their own interests and the interests of others;

(8) "harm" means any bodily injury to an individual sustained in an accident and any illness, disease, or death of that individual resulting from that injury; the term does not include commercial loss or loss or damage to a product itself;

(9) "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs, formulates or constructs the product (or component part of the product) or has engaged another person to design, formulate or construct the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design, formulate or construct an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of a product;

(10) "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including but not limited to pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; the term does not include economic loss;

(11) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(12) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(13) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(14) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, or otherwise is involved in placing a product in the stream of commerce; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(15) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 4. APPLICABILITY; PREEMPTION.

(a) Applicability to Product Liability Actions.—This Act applies to any civil action brought against a manufacturer or product seller, on any theory, for harm caused by a product. A civil action brought against a manufacturer or product seller for loss or damage to a product itself or for commercial loss is not subject to this Act and shall be governed by applicable commercial or contract law. A civil action for negligent entrustment is similarly not subject to this Act and shall be subject to applicable State law.

(b) Scope of Preemption.—(1) Except as provided in paragraph (2), this Act supersedes any State law regarding recovery for harm caused by a product only to the extent that this Act establishes a rule of law applicable to any such recovery. Any issue arising under this Act that is not governed by any such rule of law shall be governed by applicable State or Federal law.

(2) The provisions of title I shall not supersede or otherwise preempt any provision of applicable State or Federal law.

(c) Effect on Other Law.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) supersede any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules including those with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of forum non conveniens; or

(7) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; 42 U.S.C. 9601(8)), or the threat of such contamination or pollution.

(d) Construction.—This Act shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

(e) Effect of Court of Appeals Decisions.—Any decision of a United States court of appeals interpreting the provisions of this Act shall be considered a controlling precedent and followed by each Federal and State court within the geographical boundaries of the circuit in which such court of appeals sits, except to the extent that the decision is overruled or otherwise modified by the United States Supreme Court.

SEC. 5. JURISDICTION OF FEDERAL COURTS.

The district courts of the United States shall not have jurisdiction over any civil action pursuant to this Act, based on section 1331 or 1337 of title 28, United States Code.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on the date of its enactment and shall apply to all civil actions pursuant to this Act commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred before the effective date of this Act, but shall not apply to claims existing prior to the effective date of this Act.

TITLE I—ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

SEC. 102. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) In General.—A claimant or defendant in a civil action subject to this Act may, within the time permitted for making an offer of judgment under section 101, serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the civil action is brought or under the rules of the court in which such action is maintained. An offeree shall, within ten days of such service, file a written notice of acceptance or rejection of the offer; except that the court may, upon motion by the offeree make prior to the expiration of such ten-day period, extend the period for response for up to sixty days, during which discovery may be permitted.

(b) Defendant's Penalty for Unreasonable Refusal.—The court shall assess reasonable attorney's fees (calculated in the manner described in section 101(f)) and costs against the offeree, if—

(1) a defendant as offeree refuses to proceed pursuant to such alternative dispute resolution procedure;

(2) final judgment is entered against the defendant for harm caused by a product; and

(3) the defendant's refusal to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith.

(c) Good Faith Refusal.—In determining whether an offeree's refusal to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith, the court shall consider such factors as the court deems appropriate.

TITLE II—STANDARDS FOR CIVIL ACTIONS

SEC. 201. CIVIL ACTIONS.

A person seeking to recover for harm caused by a product may bring a civil action against the product's manufacturer or product seller pursuant to applicable State or Federal law, except to the extent such law is inconsistent with any provision of this Act.

SEC. 202. UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY.

(a) Standards of Liability.—In any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant; (B) the product seller failed to exercise reasonable care with respect to the product; and (C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product; (B) the product failed to conform to the product seller's warranty; and (C) the failure of the product to conform to the product seller's warranty caused the claimant's harm; or

(3)(i) the product seller engaged in conduct representing a conscious or flagrant indifference to safety or in conduct representing intentional wrongdoing; and

(ii) such conduct was approximate cause of the harm that is the subject of the complaint.

(b) CONDUCT OF PRODUCT SELLER.—(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider the effect of the conduct of the product seller with respect to the construction, inspection, or condition of the product, and any failure of the product seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to this Act based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with the warnings and instructions with it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to this Act except for breach of express warranty where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) TREATMENT AS MANUFACTURER.—A product seller shall be deemed to be the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(d) RENTED OR LEASED PRODUCTS.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 314(a)(b)(c) shall be subject to liability in a product liability action under subsection (a), but shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 203. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may be awarded in any civil action subject to this Act to any claimant who establishes by clear and convincing evidence that the harm suffered by the claimant was the result of conduct manifesting a manufacturer's or product seller's conscious or flagrant indifference to the safety of those persons who might be harmed by the product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Punitive damages may not be awarded in the absence of an award of compensatory damages.

(b) JUDICIAL DETERMINATION—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, in an action that is subject to this Act in which punitive damages are sought, the trier of fact shall determine, concurrent with all other issues presented, whether such damages shall be allowed. If such damages are allowed, a separate proceeding shall be conducted by the court to determine the amount of such damages to be awarded.

(2) FACTORS.—Notwithstanding any other provision of this Act, in determining the amount of punitive damages awarded in action that is subject to this Act, the court shall consider the following factors:

(A) The likelihood that serious harm would arise from the misconduct of the defendant in question.

(B) The degree of the awareness of the defendant in question of that likelihood.

(C) The profitability of the misconduct to the defendant in question.

(D) The duration of the misconduct and any concealment of the conduct by the defendant in question.

(E) The attitude and conduct of the defendant in question upon the discovery of the misconduct and whether the misconduct has terminated.

(F) The financial condition of the defendant in question.

(G) The total effect of other punishment imposed or likely to be imposed upon the defendant in question as a result of the misconduct including any awards of punitive or exemplary damages to persons similarly situated to the claimant and the severity of criminal penalties to which the defendant in question has been or is likely to be subjected.

(H) Any other factor that the court determines to be appropriate.

SEC. 204. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) STATUTE OF LIMITATIONS.—Any civil action subject to this Act shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be filed within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

(b) STATUTE OF REPOSE FOR CAPITAL GOODS.—(1) Any civil action subject to this Act shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years after the time of delivery of the product. This subsection shall apply only if the court determines that the claimant has received or would be eligible to receive compensation under any State or Federal workers' compensation law for harm caused by the product.

(2) A motor vehicle, vessel, aircraft, or train, used primarily to transport passengers for hire, shall not be subject to this subsection.

(3) As used in this subsection, the term—

(A) "capital good" means any product, or any component of any such product, which is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which was—

(i) used in a trade or business;

(ii) held for the production of income; or

(iii) sold or donated to a governmental or private entity for the production of goods, for training, for demonstration, or for other similar purposes; and

(B) "time of delivery" means the time when a product is delivered to its first purchaser or lessee who was not involved in the business of manufacturing or selling such product or using it as a component part of another product to be sold.

(c) EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of this section would shorten the period during which a civil action could be brought under otherwise applicable law, the claimant may, notwithstanding such provision of this section, bring the civil action pursuant to this Act within one year after the effective date of this Act.

(d) EFFECT ON RIGHT TO CONTRIBUTION OR INDEMNITY.—Nothing in this section shall affect the right of any person who is subject to liability for harm under this Act to seek and obtain contribution or indemnity from any other person who is responsible for such harm.

(e) Paragraph (b)(1) does not bar a product liability action against a defendant who made a warranty in writing as to the safety of the specific product involved which was longer than 25 years, but it will apply at the expiration of that warranty.

SEC. 205. WORKERS' COMPENSATION SUBROGATION STANDARDS.

(a) IN GENERAL.—(1) An employer or workers' compensation insurer of an employer shall have a right of subrogation against a manufacturer or product seller to recover the sum of the amount paid as workers' compensation benefits for harm caused to an employee by a product if the harm is one for which a civil action has been brought pursuant to this Act. To assert a right of subrogation an employer or workers' compensation insurer of an employer shall provide written notice that it is asserting a right of subrogation to the court in which the claimant has filed a complaint. The employer or workers' compensation insurer of the employer shall not be required to be a necessary and proper party to the proceeding instituted by the employee.

(2) In any proceeding against or settlement with the manufacturer or product seller, the employer or the workers' compensation insurer of the employer shall have an opportunity to assert a right of subrogation upon any payment and to assert a right of subrogation upon any payment made by the manufacturer or product seller by reason of such harm, whether paid in settlement, in satisfaction of judgment, as consideration for covenant not to sue, or otherwise. The employee shall not make any settlement

with or accept any payment from the manufacturer or product seller without notifying the employer in writing prior to settlement. However, the preceding sentence shall not apply if the employer or workers' compensation insurer of the employer is made whole for all benefits paid in workers' compensation benefits or has not asserted a right of subrogation pursuant to this section.

(3) If the manufacturer or product seller attempts to persuade the trier of fact that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the issue whether the claimant's harm was caused by the claimant's employer or coemployees shall be submitted to the trier of fact. If the manufacturer or product seller so attempts to persuade the trier of fact, it shall provide written notice to the employer. The employer shall have the right to appear, to be represented, to introduce evidence, to cross-examine adverse witnesses, and to argue to the trier of fact as to this issue as fully as though the employer were a party although not named or joined as a party to the proceeding. Such issue shall be the last issue submitted to the trier of fact. If the trier of fact finds by clear and convincing evidence that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the court shall proportionally reduce the damages awarded by the trier of fact against the manufacturer or product seller (and correspondingly the subrogation lien of the employer) by deducting from such damages a sum equal to the percentage at fault found attributable to the employer or coemployee multiplied by the sum of the amount paid as workers' compensation benefits. The manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer for such sums. However, the employer shall not lose its right of subrogation because of an intentional tort committee against the claimant by the claimant's coemployees or for acts committed by coemployees outside the scope of normal work practices.

(4) If the verdict shall be that the claimant's harm was not caused by the fault of the claimant's employer or coemployees, then the manufacturer or product seller shall reimburse the employer or workers' compensation insurer of the employer for reasonable attorney's fees and court costs incurred in the resolution of the subrogation claim, as determined by the court.

(b) EFFECT ON CERTAIN CIVIL ACTIONS.—(1) In any civil action subject to this Act in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this Act shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm caused by a product in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured.

(3) Nothing in this Act shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

SEC. 206. SEVERAL LIABILITY FOR NON-ECONOMIC LOSS.

(a) IN GENERAL.—Except as provided in subsection (b), in any civil action subject to this Act, the liability of each defendant for noneconomic loss shall be joint and several.

(b) DE MINIMIS EXCEPTION.—Notwithstanding subsection (a), in any civil action subject to this Act, the liability for noneconomic loss of each defendant found to be less than 15% at fault shall be several only and shall not be joint. Each defendant shall be liable only for the amount of noneconomic loss allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under subsection (c). A separate judgment shall be rendered against such defendant for that amount.

(c) PROPORTION OF RESPONSIBILITY.—For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

(b) OTHER CIVIL ACTIONS.—In any civil action subject to this Act in which not all defendants are manufacturers or product sellers and the trier of fact determines that no liability exists against those defendants who are not manufacturers or product sellers, the court shall enter a judgment notwithstanding the verdict in favor of any defendant which is a manufacturer or product seller if it is proved that the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug and that as a proximate cause of such intoxication or the influence of the alcohol or drug the claimant was more than 50 percent responsible for the accident or event which resulted in such claimant's harm.

(c) INTOXICATION DETERMINATION TO BE MADE UNDER STATE LAW.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

(d) DEFINITION.—As used in this section, the term "drug" means any non-over-the-counter drug which has not been prescribed by a physician for use by the claimant.

MCCONNELL AMENDMENT NO. 748

(Ordered to lie on the table.)

Mr. BREAUX submitted an amendment intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON, to the bill, H.R. 956, supra; as follows:

In amendment No. 655, add the following new subsection (c):

(c) This Section shall not apply to foreign manufacturers located in a country:

(i) with which the United States has an Agreement of Friendship, Commerce and Navigation, or the equivalent, which provides for nationals of that country to receive national treatment with respect to access to the courts of justice within the territory of the United States;

(ii) with that is a signatory to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters;

(iii) with that is a signatory to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters; or

(iv) with which the United States has a Consular Agreement, or the equivalent, permitting consular service of process within that country;

at the time a relevant product liability action is initiated.

HARKIN AMENDMENT NO. 749

Mr. HARKIN proposed an amendment to amendment No. 690 proposed by Mr. COVERDELL to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

In section 107(b) of the amendment as amended by amendment No. 709, insert the following:

(6)(i) Notwithstanding paragraph (1), the amount of punitive damages that may be awarded in any product liability action that is subject to this title against an owner of an unincorporated business, or any partnership, corporation, unit of local government, or organization that has 25 or more full-time employees shall be the greater of—

(I) an amount determined under paragraph (1); or

(II) 2 times the average value of the annual compensation of the chief executive officer (or the equivalent employee) of such entity during the 3 full fiscal years of the entity immediately preceding the date on which the award of punitive damages is made.

(ii) For the purposes of this subparagraph, the term 'compensation' includes the value of any salary, benefit, bonus, grant, stock option, insurance policy, club membership, or any other matter having pecuniary value.".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. STEVENS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SD-106, Dirksen Senate Office Building, on Thursday, May 11, 1995, at 9:30 a.m., to receive testimony on the Smithsonian Institution: Management Guidelines for the Future.

For further information concerning this hearing, please contact Christine Ciccone of the committee staff on 224-5647.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to review Nuclear Regulatory Commission licensing activities with regard to the Department of Energy's civilian nuclear waste disposal program and other matters within the jurisdiction of the Nuclear Regulatory Commission.

The hearing will take place Tuesday, May 16, 1995, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Witnesses may testify by invitation only. For further information, please call Karen Hunsicker at (202) 224-4971.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Subcommittee on Parks, Historic Preservation and Recreation.

The hearing will take place Tuesday, May 23, 1995, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this oversight hearing is to review the Department of the Interior's programs, policies, and budget implications on the reintroduction of wolves in and around Yellowstone National Park.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224-5161.

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Forests and Public Lands to receive testimony on the property line disputes within the Nez Perce Indian Reservation in Idaho.

The hearing will take place on May 25, 1995, at 9:30 a.m. in room SD 366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who which to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Andrew Lundquist at (202) 224-6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. ROTH. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Tuesday, May 9, 1995, beginning at 9:30 a.m. in room SD-215, to conduct a hearing on Medicare solvency.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DISABILITY POLICY

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Disability Policy, Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Tuesday, May 9, at 9 a.m., to conduct a hearing on "Part B of the Individuals with Disabilities Education Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. ROTH. Mr. President, I ask unanimous consent that the subcommittee on personnel and the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 9 a.m. on Tuesday, May 9, 1995, in open session, to receive testimony regarding military family housing issues in review of S. 727, the national defense authorization bill for fiscal year 1996, and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Tuesday, May 9, 1995, in open session, to receive testimony on the Department of the Navy's implementation of its strategy for littoral warfare in review of S. 727, the Defense Authorization Act for fiscal year 1996 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, WASTE CONTROL, AND RISK ASSESSMENT

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Waste Control, and Risk Assessment be granted permission to conduct an oversight hearing Tuesday, May 9, at 9 a.m., regarding the Comprehensive Environmental Response, Compensation, and Liability Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

REGARDING IRAN

• Mr. D'AMATO. Mr. President, I rise today to discuss the ongoing situation in Iran.

Clearly, the situation in Iran today is one of desperation. The Iranian people, suffering the depredations of 16 years of rule by a corrupt, terrorist, regime, deserve better. They deserve to have a government that respects the rich and dignified history of the Iranian people. Unfortunately, what they have gotten is a government that violates their human rights and has brought a formerly rich and varied economy down upon the shoulders of the people, suffocating them.

While we know that the regime in Teheran practices terrorism with great frequency throughout the world, most people forget that they also inflict terror against their own people. If they will torture and execute their own people, what respect will they have for those of other nations?

Mr. President, today we must understand one simple fact: the terrorist regime in Iran does not represent the Iranian people. It represents murder, terror, and destruction, nothing more and nothing less. The Iranian people deserve better, and they deserve freedom from the corrupt rule of the terrorist regime that calls itself the Government of Iran.•

GOVERNOR EDWARDS ON THE CONTRACT WITH AMERICA

• Mr. BREAUX. Mr. President, I ask unanimous consent that a speech by Louisiana Gov. Edwin Edwards be printed in the CONGRESSIONAL RECORD. Governor Edwards recently made remarks concerning the House-passed Contract With America and its effect on Louisiana. I found Governor Edward's remarks very informative, and I wanted to share them with my colleagues.

The speech follows:

SPEECH BY GOVERNOR EDWARDS

I have said repeatedly that I do not believe the actions of American voters last fall were an endorsement of the so-called Republican "Contract with America" so much as a general dissatisfaction with the status quo and a desire for new faces.

National surveys indicate that few voters knew anything about the contents of the so-called contract when they went to the polls, and still fewer based their votes on support for its provisions.

As the Republican Congressional leaders continue to act upon what they claim is a mandate for their so-called contract, however, it has been necessary for me as a responsible Governor of a small state (1.7 percent of U.S. population) with a large percentage of poor people to take a closer look at just what the provisions mean to the people of Louisiana.

I don't like what I see. I am convinced that Louisianians, at least, would not have voted for the contract. I am alarmed because it appears that the end result effectively will be a contract "on" the children of Louisiana and, ultimately, on the well-being of the entire state.

Neither Louisiana nor our nation can afford to balance the federal budget on the backs of its most vulnerable and its most precious resources—its children. But what makes these particular efforts even more onerous is that the cuts will not be applied to reduce the federal deficit and, thus, reduce the price these same children will be paying on behalf of the nation in the future. Rather, the cuts will be used to compensate for tax breaks to wealthy individuals and corporations.

This "contract on Louisiana children" means that while families with incomes of $200,000 a year get tax breaks that will put cash in their pockets, many of our poor children will have food taken out of their mouths. Literally, 59,000 of Louisiana's poor children will lose school lunches; 28,500 poor children will lose meals and snacks in childcare and Head Start programs, and about 410,000 children will lose 10 percent of their food stamp benefits.

Under the welfare block grant proposal of House Speaker Newt Gingrich, Louisiana will lose about $1.68 billion over the next five years that otherwise would be used for our children—especially those who are poor, hungry, disabled, abused or neglected, or sick.

Even setting aside the devastating human effect, the state would suffer economically. The $1.68 billion potentially lost to the state's economy represents almost twice as much as Louisiana's annual, net income-tax revenues. The ripple effect throughout our business community—whether it be "Mom and Pop" service stations, shoe shops or grocery chains would be a disaster that would have a ruinous "trickle down" effect on our parishes and towns.

Louisiana already is struggling to meet its obligations to serve the health-care needs of our poor people under new federal Medicaid requirements that have reduced federal aid to the state and threaten to wipe out new economic gains the state is making. We cannot afford this contract on our state's economy.

And that would only be the start. Louisiana would get a smaller share of federal dollars that it does today, despite having a larger proportion of poor people than most other states and an average per-capita income that is only 80 percent of the U.S. average. History shows that block grants tend to shrink over years as the spotlight fades away from them. Further, if the national economy fell into a decline, there would be no strengthening of the assistance safety net.

And there is more. The contract threatens the 433,958 children under age 21 who received Medicaid-covered services in 1993 in Louisiana at a cost of about $1,928 per child.

In 1991, 31,420 births were financed by Medicaid, and payments for maternity and newborn care were 4.5 percent of total Medicaid expenditures in the state. Meanwhile the infant mortality rate decreased by 22 percent between 1984 and 1992—from 12.1 to 9.4 per 1,000 live births—obviously a result of better access to health care, among other factors.

What will happen to the birth rate, to the pregnant mothers, the infants, and to our children if that access is reduced because of budget cuts? That is a campaign "contract" victory I for one would not care to claim.

I am the very embodiment of the difference a good education can make in the future of a poor child. However, if Republicans succeed with their stated intentions: 101,621 Louisiana college students—who already pay more than the Southern states' average in tuition—will pay more for student loans; 670 of Louisiana's young people will not participate in national service jobs that allow them to earn college tuition; 62 of our state's 66 school districts will lose money now available to help them make their schools safe and drug-free; 2,400 Louisiana students with special needs will lose extra help they need to learn and to succeed, and 27,000 teenagers in Louisiana will lose summer jobs.

Our young people cannot afford this "contract on their future."

And there is more: 7,460 Louisiana children are at risk of losing access to safe, affordable child care—a move which not only threatens the well-being of the children but also the psychological well-being of the parents while they are at work; another 1,700 abused and neglected children will lose foster care; 28,500 blind and disabled children lose SSI cash assistance immediately, and 114,000 low-income children lose cash assistance.

The contract falls also on 41,531 senior citizens and families with children in our state who will lose assistance they depend upon to provide heat during the winter, and 17,747 Louisiana families who otherwise could count on an FHA loan, their only access to an affordable home loan, to help them buy their first houses.

These are only some of the disastrous effects of the contract on Louisiana that threaten the young, the weak and the poor—in short, the very people who need our help the most. I do not believe that was the intent of the American voters nor is the wish of Louisiana voters. And I do not believe it is in the best interests of either the American people or their elected representatives.

I am reminded of the words of Jesus who described in the Gospel of St. Matthew (Chapter 25, verses 44–45) how on Judgement Day those on the left hand of God would ask: 'Lord, when saw we Thee an hungred, or athirst, or a stranger, or naked, or sick, or in prison, and did not minister unto Thee? Then shall He answer them, saying, Verily I say unto you, Inasmuch as ye did it not to one of the least of these, ye did it not to Me.'

May I respectfully suggest as we open our ears to listen to the popular political rhetoric of tax cuts and budget balancing that we pause for a moment and open our eyes to the consequences on those who can least afford to bear the burdens which will be heaped upon them in the attempt to achieve these goals.●

TRIBUTE TO CATONS CHAPEL-RICHARDSON COVE VOLUNTEER FIRE DEPARTMENT

● Mr. FRIST. Mr. President, I rise today to commend the Catons Chapel-Richardson Cove Volunteer Fire Department in Sevierville, TN, for their dedication and service to their community. In east Tennessee's Sevier County, the county-operated fire department is often unable to reach the remote areas of Catons Chapel and Richardson Cove in time to save a burning house or building—the distance is just too great. As a result, residents in those areas of the county obtained a State charter in 1992 to create a volunteer fire department that could better serve those communities.

The fire department began with a handful of volunteers, who met in the basement of a local store to plant the development and cost of a fully operational fire department. With about $18,000 from the county to get started, the volunteers held small fundraisers and obtained a bank loan to raise the additional money they needed to construct a firehouse and purchase fire trucks and other equipment. A local resident donated land, and in November 1993, the community broke ground for the firehouse.

Mr. President, not only did the Catons Chapel-Richardson Cove volunteers do much of the construction on the fire station themselves, they have built this entire department from the ground up. These volunteer firefighters are the true definition of public servants—they recognized a need in their community and have worked hard to satisfy it.

Now, all of that work is beginning to pay off. The fire department has 22 volunteer firefighters, most whom have been trained by the Sevier Firefighters School. The department also has three fire trucks, including one that can pump more than 1,000 gallons of water per minute, protective clothing, air packs, and experience—volunteers from the Catons Chapel-Richardson Cove department have responded to and assisted on many calls in the area.

Mr. President, the most important thing about these firefighters is that they are all volunteers. Every time the department receives a call to respond, these citizens leave their families and risk their lives to help save a neighbor's life and home or to prevent a local business from losing everything that it has. Mr. President, this country is full of dedicated public servants like the volunteers in Sevier County, but all too often, their work goes unnoticed. Today, I would like to recognize the firefighters in the Catons Chapel-Richardson Cove Volunteer Fire Department and the nine members of the department's volunteer advisory board and thank them for their efforts and dedicated service to their community.●

THE 75TH ANNIVERSARY OF OUR LADY OF REDEMPTION CHURCH

● Mr. LEVIN. Mr. President, I would like to recognize an impressive milestone which will soon be achieved by a church in Warren, MI. On May 13, 1995, Our Lady of Redemption Church will celebrate its 75th anniversary. The church serves over 4,000 parishioners in the Detroit area. In fact, it is the largest Melkite-Catholic Eastern Rite Parish in the United States.

The Detroit community benefits from a number of community service activities performed by members of this historic church. Our Lady of Redemption regularly holds food drives and their contributions reach far and wide to Detroit area food banks. Parishioners provide volunteer help to area hospitals, they support the Hunger Action Coalition, and they participate in the Metro Detroit Youth Day. The parish annually donates its facilities for use by the city of Warren's Parks and Recreation Department. Not only is Our Lady of Redemption the spiritual center for its members, but the church regularly organizes activities with parishes of other denominations to interchange fellowship in the spirit of ecumenism.

Please join me in saying congratulations to an integral member of the Detroit community—Our Lady of Redemption Church. I thank the clergy and members of this church for their dedicated service and wish them many more years of fellowship.●

SUBMISSION OF MOTION ADOPTED IN THE COMMITTEE ON THE BUDGET

● Mr. DOMENICI. Mr. President, pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, I submit for printing in the CONGRESSIONAL RECORD a motion adopted in the Committee on the Budget on May 6, 1995, governing consideration of amendments during deliberations on the fiscal year 1996 budget resolution.

The motion follows:

PAY-AS-YOU-GO MOTION MAKING OUT OF ORDER AMENDMENTS THAT ARE NOT DEFICIT NEUTRAL

Motion that, during deliberations on the fiscal year 1996 budget resolution, it not be in order for the committee to consider any perfecting amendment to the Chairman's Mark that is not deficit neutral in each year as measured against that Mark or any complete substitute amendment that fails to achieve and sustain balance by fiscal year 2002 under a Unified budget; provided that the President Clinton's fiscal year 1996 budget shall be in order as a complete substitute.●

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from California [Mrs. FEINSTEIN] as a member of the Senate delegation to the Mexico-United States Interparliamentary Group during the first session of the 104th Congress, to be held in Tucson, AZ, May 12–14, 1995.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the Senator from Hawaii [Mr. AKAKA] as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the first session of the 104th Congress, to be held in Huntsville, ON, Canada, May 18–22, 1995.

ADDITIONAL COSPONSORS—S. 768

Mr. GORTON. Mr. President, I ask unanimous consent that the Senator from Louisiana [Mr. BREAUX], and the Senator from Oregon [Mr. PACKWOOD], be added as original cosponsors to S. 768, the Endangered Species Act Reform Amendments of 1995, which I introduced earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEQUENTIAL REFERRALS—S. 776 AND H.R. 1139

Mr. GORTON. Mr. President, I ask unanimous consent that if and when the Senate's Commerce Committee reports S. 776, a bill to authorize the Atlantic Striped Bass Conservation Act, introduced by Senators CHAFEE and KERRY, it be sequentially referred to the Senate Committee on Environment and Public Works for a period not to exceed 20 session days of the Senate; and that if the bill has not been reported by that time, it be automatically discharged and placed on the Senate Calendar; provided further, that if and when the Senate Commerce Committee reports H.R. 1139, it be sequentially referred to the Senate Committee on Environment and Public Works for a period not to exceed 20 session days of the Senate; and that if the bill is not reported by that time, it be automatically discharged and placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING TESTIMONY BY SENATE EMPLOYEE AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 119, submitted earlier today by Senators DOLE and DASCHLE, authorizing representation by Senate legal counsel.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk read as follows:

A resolution (S. Res. 119) to authorize testimony by Senate employee and representation by Senate legal counsel.

Mr. GORTON. Mr. President, I ask unanimous consent that the resolution be considered and agreed to, the preamble be agreed to and the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 119) was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas, in the case of *United States* v. *George C. Matthews*, Case No. 95–CR–11, pending in the United States District Court for the Eastern District of Wisconsin, a subpoena for testimony has been issued to Darin Schroeder, an employee of the Senate on the staff of Senator Feingold;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1994), the Senate may direct its counsel to represent committees, Members, officers and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved, That Darin Schroeder and any other employees in Senator Feingold's office from whom testimony may be necessary are authorized to testify and to produce records in the case of *United States* v. *George C. Matthews*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent Darin Schroeder and any other employee in connection with the testimony authorized under section 1.

Mr. DOLE. Mr. President, the United States has issued a subpoena for Darin Schroeder, an employee on the staff of Senator FEINGOLD, to testify at the trial of a defendant who was indicted last January for threatening to bring a bomb to a post office building in Milwaukee to kill or injure individuals and to damage or destroy the building. The defendant is alleged to have made the threat in a telephone conversation with Mr. Schroeder, who handles postal service constituent casework for Senator FEINGOLD.

This resolution would authorize Mr. Schroeder, as well as any other employees on Senator FEINGOLD's staff from whom testimony may be required, to testify and to produce records at trial, and to be represented by the Senate Legal Counsel.

ORDERS FOR WEDNESDAY, MAY 10, 1995

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m., Wednesday, May 10, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day and the Senate then immediately resume consideration of H.R. 956, the product liability bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GORTON. Mr. President, for the information of all Senators, the Senate will resume consideration of the product liability bill at 9:30 a.m. At 9:45 a.m., there will be at least two stacked rollcall votes on, or in relation to, amendments to the substitute amendment.

ORDER FOR LENGTH OF TIME OF VOTES

Mr. GORTON. Mr. President, I ask unanimous consent that the first vote of the 9:45 a.m. voting sequence be 15 minutes in length, with the remaining votes in the sequence limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. GORTON. Mr. President, a final passage vote is expected on the product liability bill at approximately 11:30 a.m. Also, at 12 noon, the Senate will begin consideration of calendar No. 74, the solid waste disposal bill. Therefore, votes can be expected to occur throughout the day on Wednesday.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:13 p.m., recessed until Wednesday, May 10, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 9, 1995:

DEPARTMENT OF DEFENSE

JOHN P. WHITE, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY OF DEFENSE, VICE JOHN M. DEUTCH.

CONFIRMATION

Executive nomination confirmed by the Senate May 9, 1995:

CENTRAL INTELLIGENCE

JOHN M. DEUTCH, OF MASSACHUSETTS, TO BE DIRECTOR OF CENTRAL INTELLIGENCE.

HOUSE OF REPRESENTATIVES—*Tuesday, May 9, 1995*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. DICKEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 8, 1995.

I hereby designate the Honorable JAY DICKEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 5 minutes.

CLEARING OUT GUANTANAMO

Mr. GOSS. Mr. Speaker, I have said it before and I will say it again: The problem in Cuba is Fidel Castro and until Castro is gone the United States cannot and should not normalize relations with the closest of our Caribbean neighbors. Indeed, we should tighten the embargo, not relax it. Last week, many of my colleagues were surprised to learn that I consider the administration's new Cuban immigration policy a positive step in the right direction.

As a Representative from Florida who does not support normalizing relations with Castro's Cuba, I believe that we must take steps to regularize Cuban immigration, to bring order to what has been a chaotic situation for far too long. Last year, the President and his foreign policy team created a problem—this year we are trying to deal with the mess left over from some sloppy efforts at a Caribbean policy.

Now there are no good choices, only necessary choices. Why? Because sitting in Guantanamo are more than 21,000 Cuban refugees and several hundred Haitians. Even after the current paroling process is completed, the White House expects there will still be more than 15,000 refugees, mostly young men, left in primitive, stressful, living conditions. Add to that an infinite boredom, a hopeless future, and a long hot summer and you have ignition for launching a disaster.

My last trip to Guantanamo was in March with Senator BOB GRAHAM. We came back deeply concerned about the situation, about the cost of running the camp, and about the clear security risk for our troops in Guantanamo if something was not done soon. The administration's new approach should at least diffuse this potentially explosive situation. Those 15,000 young men, who have fled from Castro's Cuba now have a realistic hope they will not waste away in a Guantanamo containment camp. Under the agreement, the administration plans to use 15,000 of the existing 60,000 Cuban visa slots for the next 3 years for an orderly exodus of the refugees from Guantanamo—a camp that American taxpayers are paying $1 million a day to run. In addition, the agreement seeks to head off future inundations of refugees by providing a safer, fully organized Cuban Immigration Program for those yet to come from Castro's Cuba. The continuing visa allowances will enable significant numbers of Cubans to take refuge in our country through orderly channels and without risking their lives on the high seas. Obviously, good screening processes will be necessary by the Coast Guard to ensure no political refugees picked up on the high seas will be repatriated in hot pursuit or life-threatening situations. This will require constant and effective human rights monitoring.

Handled properly, the administration's new approach could disarm one of Castro's most effective gambits—the deliberate victimization of his people by releasing them as waves of refugees to pressure the United States on foreign policy matters. If this agreement works, it should have the net effect of drastically reducing the danger of another Mariel overwhelming Florida's shores and resources. It should also have the added bonus of allowing the Federal Government—rather than the State of Florida—to cope with the impacts of Cuban migration. That means that all Americans, not just Floridians, will provide locations and will share the financial cost of resettling refugees in an orderly, organized way.

Of course, there remain plenty of issues to be dealt with. Impacted States will have to work with the Federal Government to ensure that costs are reimbursed. And the Clinton administration has to perform the difficult task of providing monitoring for those repatriated to Castro's Cuba—the new Clinton policy will all fall apart quickly and completely if we find we are in any way aiding Castro's regime to commit human rights violations on political opponents or on those just simply seeking more freedom.

Finally, it demands emphasis that we have an obligation to the Cuban people as well as ourselves not to let up the pressure on the brutal, oppressive, regime of Fidel Castro, even while we work on ways to put more safety and order in the way we accommodate present and future refugees. That means a stepped-up embargo and working for a commitment from our allies to cut off Castro's economic lifeblood.

The ultimate solution to the refugee problem and the key to a free and democratic life for Cubans is not to bring them all to America. The solution is to bring Cuba out of the cold war by ending the regime of Fidel Castro. And that, Mr. Speaker, is the bottom line. Fidel Castro is still what is wrong. We cannot escape that fact, but we can help change it.

CONGRESS MUST SAVE STUDENT LOANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 5 minutes.

Ms. DELAURO. Mr. Speaker, today, House Republicans will release their long-awaited and overdue budget proposal. While much of the public attention has focused on the Republican plan to cut Medicare, there is another aspect of the plan that is equally troublesome. The GOP budget plan cuts $12.4 billion over the next 5 years from the Stafford Student Loan Program. These cuts translate into the largest increase in college tuition costs in history.

In Connecticut, the Republican cuts in student aid would mean that 39,000 students would pay $127 million more for college over 5 years. By eliminating interest-deferred Stafford loans, Republicans will add $4,547 to the cost of an education for the average college student in Connecticut. Now, $4,500 may not be much money to NEWT GINGRICH or DICK ARMEY, but I assure you that $4,500 is plenty to working families in my district. It is plenty of

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

money to Gail Baxter of West Haven, CT.

Just recently, I met Gail at a student loan forum I sponsored. Gail told me that she was worried about what cuts in student loan programs would mean for her family. And, it is no wonder she is worried. You see, Gail is a single mother who, in the fall of 1995, will have four children in college. That means four college tuitions. And, under the Republican plan, it means four increases of $4,500. All totaled the Republican plan to cut student loans, could cost this working family nearly $20,000.

But, any single mother who can get four children to college, is not someone who throws up her hands when faced with an obstacle. And, Gail Baxter wasn't about to take these student loan cuts sitting down. So, she got to work and started a petition drive. I told her if she collected the signatures that I would deliver them to the chairman of the House Budget Committee. In just a few weeks time, Gail collected the signatures of 630 parents, like herself.

The petition simply reads: We the undersigned oppose any attempts to cut Federal student assistance that assist hard-working American families.

Like the parents who signed Gail Baxter's petition, students in my district are also concerned about cuts in student aid. They do not think it is right that government cut student loans in order to pay for another tax cut for the wealthy. And, they are right.

Students from Quinnipiac College in Hamden, CT, organized a letter writing campaign to bring their message to Congress. The wrote hundreds of letters to various leaders in Congress. Here is one sample from Laurel Drumm of Quinnipiac College. She writes:

> Recent reports suggest you are considering the biggest cuts in the history of student aid. While we applaud congressional efforts for responsible deficit reduction, cuts in student aid just don't make sense. Student aid actually saves taxpayers money by stimulating economic growth, expanding the tax base and increasing productivity. That's why every major opinion poll shows strong support for student aid programs.
>
> The cuts under consideration would increase the student loan indebtedness by up to 50 percent and reduce grants and work-study funding. The bottom line is these cuts will make a college education unobtainable for many of us.
>
> The opportunity to go to college is a privilege that should be everyone's right. Please don't cut our future short. Don't cut student aid.

Mr. Speaker, student loans are the ladder to the American dream. Many of us in this body relied on student loans to pay for our educations. Let us not pull up the ladder of opportunity behind us. The Gail Baxters and the Laurel Drumms of the world are counting on us to do what is right and save student loans.

JOB SKILLS DEVELOPMENT ACT OF 1995

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Michigan [Mr. KNOLLENBERG] is recognized during morning business for 5 minutes.

Mr. KNOLLENBERG. Mr. Speaker, today I am introducing the Job Skills Development Act of 1995. This bill amends the Fair Labor Standards Act of 1938 to ease the restrictions on volunteers.

The FLSA requires covered employers to compensate individuals defined as "employees" according to mandatory minimum wage and overtime requirements. While there are exceptions to the employer-employee relationship for volunteers, the restrictions on permissable volunteer activities are excessively rigid.

As a result, individuals seeking to gain valuable work experience and exposure in a competitive profession by volunteering their services to an employer are often prohibited from doing so, even if the individual has no expectation of receiving compensation and adamantly denies that they are an employee.

When determining whether or not an individual is a volunteer and exempt from the minimum wage and overtime requirements of the FLSA, the Department of Labor and the Federal courts take into consideration the type of services provided by an individual, who benefits from the rendering of the services, and how long it takes to provide the services.

Because business-related services are not considered to be typical volunteer activities, individuals are often prohibited from volunteering their services to businesses in exchange for work experience.

The Department of Labor has carved out exceptions for student learners and trainees. However, if an employer gains an immediate advantage from the services provided by a volunteer, the Department of Labor will consider the volunteer to be an employee and require that the individual be paid the minimum wage.

The restrictions on volunteer activities are intended to safeguard against employer coercion. Protecting workers from unscrupulous employers is an important goal and must be preserved in our labor laws. However, the current immediate advantage test is too restrictive and should be altered.

The Job Skills Development Act eases the restrictions on volunteer activities without jeapordizing the important safeguards against employer coercion and worker displacement. These changes will help recent college graduates and individuals who have been out of the work force develop professional skills and gain experience.

Today, individuals face many obstacles in landing good jobs. Unfortunately, the FLSA imposes unnecessary burdens on ambitious individuals. Allowing businesses to provide opportunities for volunteers will benefit both employers and individuals attempting to break into a crowded job field.

Capitol Hill provides an excellent example of the benefits of allowing individuals to volunteer their services to employers. Young individuals participating in unpaid congressional internships gain a better understanding of the legislative process, develop office skills and make contacts that are invaluable in securing employment.

In my Washington office, six of my eight employees were unpaid interns before landing jobs on Capitol Hill. Two of my staffers volunteered in my office for several months before they were hired on as full-time paid employees. Both of these individuals have been promoted twice during the last year.

Because these two staffers were recent college graduates and produced work that benefited my office during their internships, they would have been prohibited from volunteering their services if I would have been forced to comply with the Fair Labor Standards Act.

On the opening day of the 104th Congress, we passed legislation that brings us under the Nation's labor laws. The Congressional Accountability Act exempts interns from the employer-employee relationship covered by the Fair Labor Standards Act.

Mr. Speaker, Congress should give individuals attempting to gain competitive private sector jobs the same opportunities that individuals wishing to work on Capitol Hill have enjoyed for years. I urge my colleagues to support the Job Skills Development Act of 1995.

PRESERVE MEDICARE AND PROVIDE COVERAGE TO UNINSURED AMERICANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. STARK] is recognized during morning business for 4 minutes.

Mr. STARK. Mr. Speaker, Republicans talking about saving Medicare remind me of the man who murdered his parents and begged for mercy as an orphan.

They are making a blatant attempt to distract the public from a tax bill that takes $87 billion out of the Medicare Part A Trust Fund over the next 10 years and gives it to the rich. And Republicans are crying crocodile tears about the trust fund being in danger?

"Hello, Earth to Republicans: Your hypocrisy is showing."

I urge Republicans to reread their views on last year's health reform bill. In that bill, Democrats saved the Medicare Trust Fund by getting all health spending under control. The billions we saved in Medicare helped the uninsured, expanded Medicare benefits and provided a prescription drug benefit for everyone. Democrats used Medicare savings to improve the entire health care system.

Where were the Republicans? They voted against any and all Medicare savings. In their dissent 10 months ago, they said "reimbursement levels * * * have reached potentially disastrous levels" and "additional massive cuts in reimbursement to providers * * * will reduce the quality of care for the Nation's elderly."

Now the militant radical right wants to cut three or four times more than we did. How can they now say it will not hurt quality?

NEWT can't reform the system with more managed care and vouchers. I rather resent Republicans suggesting that my mother and the Nation's seniors are either senile or so stupid that they will not see through his double-talk.

My mother knows that managed care costs more and means less choice of doctors and hospitals. My mother knows that Republican vouchers to buy private insurance will never be worth enough to pay for her health care. NEWT's plan to push America's seniors into plans with less choice—all the while saying he gives them more choice—is a dog that just will not hunt.

Republicans intend to disrupt people's health plans, force them into managed care, and they know it will save little or nothing. Last week, CBO said that Medicare spends more for HOMO enrollees than had they remained in the fee-for-service sector—about 5.7 percent more. Until you Republicans know more about how to pay for seniors in managed care, you are just whistling in the dark, and playing fast and loose with a sacred trust.

We Democrats have always worked with responsible Republicans on ways to improve Medicare and reform the entire health care system. But $300 billion in Medicare cuts for the sake of tax cuts for the rich will destroy not only Medicare, but the entire U.S. health care system.

We must not only preserve Medicare, but we must provide coverage to 47 million Americans who are today without coverage. You Republicans proved your political dominance over the House in the past 4 months. Now, why not show us you stand for something besides insurance company profits and tax cuts for the very rich. You are in complete control of this Congress and must be judged by your ability to legislate in the best interests of all Americans—not just white, rich, suburban radicals.

So let us get together and fix the "break" the way it ought to be fixed, with universal coverage and reform for all Americans.

THE PENSION PROTECTION ACT OF 1995

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from New Jersey [Mr. SAXTON] is recognized during morning business for 5 minutes.

Mr. SAXTON. Mr. Speaker, I am introducing a bill today which is known as the Pension Protection Act of 1995. I must say that usually I am pleased to introduce a bill. Today I say that I regret that it is necessary to introduce this bill. But it is, because when American workers get their check at the end of the pay period and they look at the check stub, they look to see, how much has been deducted for their contribution to their pension plan. And those pension plans have become very, very important, because those are essentially savings that the American worker is putting aside for his or her retirement.

The Clinton administration has been up to some mischief, I believe, that is destructive to that process. So the Pension Plan Act of 1995, which is cosponsored by our leadership on the Republican side, and I certainly invite our Democrat friends to join with us as well, is an attempt to protect the American worker from the mischief of the Clinton administration.

It is interesting to note that something over $3.5 trillion are in private pension funds today. This is the magnitude of the risk that has been brought about by the Clinton administration. Why? Because the administration has targeted private pension funds as a new way to finance their liberal social agenda.

Faced with an angry revolt of voters last November against too much Federal spending, President Clinton and his Department of Labor are trying to use private pensions to do what they used to do through old fashioned taxing-and-spending. These social investments include: Public housing, infrastructure, and pork-barrel projects.

The administration has dubbed these social projects "Economically Targeted Investments" or ETI's, but I prefer to call them PTI's or "Politically Targeted Investments."

Let me emphasize that targeting private pension fund investments is a radical and dangerous idea. ETI's violate the clear mandate of the Federal law that Congress passed to protect private pensions—the Employee Retirement Income Security Act or ERISA—which requires that a pension fund manger must give complete and undivided loyalty to the pension beneficiaries.

Let me quote directly from ERISA: A pension fund manager must "discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and for the exclusive purpose of (I) providing benefits to participants and their beneficiaries; and (II) defraying reasonable expenses of administering the plan."

Besides ETI's obvious conflict with ERISA, the best economic research indicates that pension funds that target social investments produce below market returns.

The Clinton administration's ultimate objective is to establish an ETI quota for every private pension fund.

What Secretary Reich would make permissible today, will become compulsory tomorrow.

Today, I am introducing a bill that will protect the 36 million private pension participants from President Clinton's pension fund grab. My bill, the Pension Protection Act of 1995, will not alter the fiduciary duties laid out in ERISA. Instead, my bill will simply reiterate that the act means what it says, no more, no less.

ERISA could not be clearer. Trustees may not invest in ETI's because by definition ETI's seek to benefit someone other that solely the participants and beneficiaries of the pension plan; and ETI's pursue an objective other than exclusively the interest of the plan's participants and beneficiaries.

The security of our pension funds is no small issue. Every American who plans on retiring someday should be very concerned about that the Clinton administration is up to. I believe that if we act quickly, we can ensure that everyone working today can rest easier if my bill to protect their pensions is passed.

TAKING THE COWBOY HAT OFF THE MILITIA PROBLEM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I rise at this time to take the cowboy hat off the militia problem that the Speaker tried to put on it this weekend on national television.

For any of you who were watching the Speaker this weekend on national television, he said, "We have to understand there is in rural America, particularly in the West, a genuine fear of the Federal Government." He added that this genuine fear seemed to be driving otherwise average Westerners into the Rocky Mountains to create some kind of a Rocky Mountain guerrilla group or some such thing.

Well, I rise to say that is not true, that that is an extremist position in the West, and that we in the West are not encouraging that type of thing. I also find all of this very interesting, because I would be terribly surprised if the Speaker or any other Member of this body rose to talk about the genuine fear of the Crips and the Bloods or the genuine fear of the Members of the Aryan Nation, or the genuine fear of the Ku Klux Klan, or on and on and on.

We would tell them all to grow up and get a life.

Now, what about these militias and what about the paranoid style of politics that has been practiced by some of these overgrown, overaged, GI Joes that appear to be rather on a lost patrol? Well, first of all, unfortunately, it is not a regional phenomenon. They are not all hunkered into the Rocky Mountains. The militia pup tents have raised their heads all over the country. They are in Georgia, they are in New York, they are in Michigan, they are in Montana, and, yes, unfortunately, they are in my State too. So let us not try and just put a cowboy hat on it. Let us deal with the fact that they are everywhere. Let us not romanticize this. Let us realize that this is not a genuine fear, this is ridiculous, and this is paranoid politics at its absolute worse.

The second part that comes into all of this is an attempt to try and draw some kind of a urban-rural, and therefore Western-Eastern, polarization on this. What I want to point out is the Rocky Mountain States are 71 percent urban. That may come as a surprise to people that Arizona is more urban that Ohio, and Nevada as urban as Pennsylvania. That even a hot topic of banning assault weapons that people often want to say is impossible to do in the West, when you poll, you find people in the Rocky Mountain States poll the same as any other State. So those kind of regional differences do not pan out.

Finally, the paranoid fear of government is an extremist position, and every one of us ought to say that. People who have a fear of government should go to the ballot box and not their bullets. Ballots, not bullets, is the way to approach this government. I am very troubled when I hear people saying that we should accept this, pat people on the head, and not take it on.

I am especially surprised the Speaker has not done more to abuse the notion of this paranoia. I really hope that all of us in this body look at what we might be contributing to this kind of paranoia and ask if we are. As Pogo once said to us, we ought to look in the mirror and meet the enemy and find out if it is us.

I hope all of this regionalistic romanticism and everything else stops, and we start saying there is no reason to be paranoid about a democratic form of government.

Mr. WILLIAMS. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Montana.

Mr. WILLIAMS. As the gentlewoman knows, I represent Montana, all of it, the little bit of urban we have out there and the lot of rural we have. Like the gentlewoman, I, too, was watching television and heard Speaker GINGRICH make his latest in a series of wedge statements, in which he seemed to try to divide the West out as a place that was somewhat paranoid about the Federal Government. I do not know what part of the West our good Speaker was talking about, but he was not talking about Montana.

Montanans are frightened by the militia, not the Federal Government. Montanans are frightened by outlaws, not by those who would enforce the law at local, county, State and Federal levels. My Montanans, as with your constituents in Colorado and our colleagues and constituents throughout the West, recognize full well that the West, for the most part, has been a wonderful partner in having settled and developed the West. The Federal Government plumbed the West. We are, after all, a hydraulic society that insists on making the deserts flourish. It is the Federal Government that set out the Interstate Highway Systems and has done so much to help the economy of the West, and we appreciate the involvement of the Federal Government. We do not fear it.

Mrs. SCHROEDER. Nor do we in Colorado.

SUDDENLY A CRISIS IN MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, suddenly the Republican leadership has discovered a crisis in the funding of Medicare, and they want to fix it. Well, they are not sure they want to fix it. They want the President to make a proposal to cut Medicare spending over the next decade. They want the Democrats in Congress to make a proposal to cut Medicare spending over the next decade. Maybe they want a bipartisan commission to make proposals to cut Medicare spending over the next decade.

The bottom line is they want someone to come out and get ahead of them and propose cuts in Medicare spending over the next decade, under the guise of saving Medicare from bankruptcy, a new crisis that no one could have anticipated a year ago during the health care debate. A year ago during the health care debate, we heard from Republican leaders on both sides of the Hill that there is no crisis in health care in America, none at all. We need no congressional action regarding health care. That was only 12 months ago.

More recently, we had the much vaunted Contract on America, which laid out the 10 most important issues confronting the United States of America, the 10 must-do pieces of legislation to bring our country into the next century. And you know what? Medicare was not on the list. I guess there was not a crisis in Medicare, or at least they did not know about it, when they were writing the contract.

Then we brought the contract to the floor again. Still, no mention of Medicare. We brought a dire emergency supplemental spending bill to the floor of the House; $2.3 billion additional for the Pentagon, because you cannot ask the Pentagon to do anything without giving them more money. We add a few billions of dollars for the crisis in California, for the earthquakes and the floods and various and assorted sundry other things that Congress always throws in when we do a dire emergency supplemental spending bill, but not a penny for Medicare. I guess 2 months ago there was not a crisis in Medicare.

What has happened since is the Republican leadership in this House pushed through a bill cutting revenues, cutting taxes, by $340 billion over the next 5 years. And guess what? Now they think we need to cut Medicare somewhere in the vicinity of $300 billion. But there is no linkage. There is no linkage between the massive tax cuts which they shoved through this Chamber for the largest, most profitable corporations, for foreign and multinational corporations, for people earning $200,000 a year, under the guise of some scant relief for middle income families and people with children. No, there was no crisis in Medicare then. But now there is.

Suddenly there is a crisis in Medicare that just happens to come close to the amount of money that is proposed in the massive tax cuts. The crisis has come now because they have sat down and tried to write their budget, and they found out you cannot hold the Pentagon harmless and in fact increase their spending, you cannot hold all of that massive part of the Federal budget harmless. You cannot deal with the existing debt and the interest payments, and you cannot cut taxes and balance the budget. It just simply is not there.

So suddenly we have a crisis in Medicare that cries out for immediate action, for immediate cuts totaling 80 percent of the money they need to fund their tax cuts. No, the crisis is not so much in Medicare, and it is not a new crisis. In fact, Medicare, according to the trustees, is in better condition today than it was a year ago. They have put off its potential insolvency for 12 months into the next century.

No, the crisis is in the corporate board rooms. The crisis is in the country club cocktail lounges. The crisis is that the Republicans in their contract promised the most powerful and the most wealthy and the most well off Americans a nice, big, fat, juicy tax cut, and they promised everybody else in America they would balance the budget. And now they want to balance the budget on the backs of the seniors by cutting Medicare to fund their tax cuts.

Congress is going to say no to this outrage, this new abomination worse than the worst aspects of the first 100 days of this Congress.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 2 p.m.

Accordingly (at 1 o'clock and 5 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. EWING] at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are reminded during these days of the momentous occasion of the ending of conflict in Europe 50 years ago. As our thoughts go out in thanksgiving for the blessings of peace, we remember specially those members of our Armed Forces whose dedication and sacrifice brought new hope to so many people who had known destitution and suffering and death. We laud all those who labored for freedom and recall with praise their commitment and their allegiance to liberty. O gracious God, whose power created the Heavens and the Earth and whose grace is all about, may Your blessing be upon those who gave of themselves that others might live. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. JONES. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JONES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this vote will be postponed and the vote will be taken later today.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. CHABOT] come forward and lead the House in the Pledge of Allegiance.

Mr. CHABOT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

> H. Con. Res. 53. Concurrent resolution expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

> S. 103. An act entitled the "Lost Creek Land Exchange Act of 1995".

The message also announced that pursuant to sections 1928a–1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. MURKOWSKI, Mr. BROWN, Mr. GREGG, Mrs. HUTCHISON, Mr. JOHNSTON, Mr. PRYOR, and Mr. AKAKA as members of the Senate delegation to the North Atlantic Assembly Spring Meeting during the First Session of the One Hundred Fourth Congress, to be held in Budapest, Hungary, May 25–29, 1995.

The message also announced that pursuant to sections 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. BINGAMAN as a member of the Senate delegation to the Mexico-United States Interparliamentary Group during the First Session of the One Hundred Fourth Congress, to be held in Tucson, AZ, May 12–14, 1995.

The message also announced that pursuant to sections 276d–276g of title 22, United States Code, as amended, the Chair on behalf of the Vice President, appoints Mr. GRASSLEY and Mrs. HUTCHISON to the Senate delegation to the Canada-United States Interparliamentary Group during the First Session of the One Hundred Fourth Congress, to be held in Huntsville, ON, Canada, May 18–22, 1995.

The message also announced that pursuant to sections 276d–276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mrs. MURRAY as vice chairman of the Senate delegation to the Canada-United States Interparliamentary Group during the One Hundred Fourth Congress.

AWOL

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, as President Clinton goes to Moscow, he once again has dodged his responsibility.

This time, he has failed to exhibit any leadership when it comes to saving Medicare.

According to the Medicare Board of Trustees, a group which includes three members of the President's Cabinet, Medicare will go bankrupt by the year 2002.

Republicans are developing a plan which will protect, improve and preserve the Medicare system. We will do this by eliminating fraud and abuse, while slowing the explosive growth in costs.

Instead of joining with us in our reform efforts or offering solutions of his own, the President has gone AWOL. Yes, he is absent without leadership.

Mr. Speaker, the American people want real leadership from their President.

They want us to take steps to save Medicare, not allow its costs to continue to skyrocket to the point of bankruptcy.

I urge the President to live up to his responsibilities and work with Congress to save Medicare.

REFORMING MEDICARE

(Mr. KENNEDY of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Rhode Island. Mr. Speaker, anyone reading the paper or watching the news last week knows that Medicare is on the front line in the battles that lie ahead. Seniors are watching and what they see is troubling. Yes, we do need to reform Medicare—but there is a right way and a wrong way. Last year we had the chance to strengthen Medicare the right way—in the context of health care reform. Now we have to make up for a lost opportunity. And now seniors will bear the burden and pay the price for gridlock. Let us agree that the first rule of reform will be the same as it is in medicine: First, do no harm.

Let us agree to put partisan interests aside and put seniors first.

Let us agree that while good health care requires choice, managed care, when it is just managed profit, is wrong.

That prevention, home care, prescription medicine is quality health care for high quality lives.

Finally, let us pledge that we will not destroy Medicare in our effort to reform Medicare.

REPUBLICANS TACKLE FINANCIAL PROBLEMS, SEEK A BALANCED BUDGET

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, over the last 4 months the liberal Democrats in Congress have been feeding the public a steady diet of class warfare rhetoric. Somehow they think that the budget problems we face will magically disappear if the phrase tax cut for the rich is repeated over and over.

This strategy exposes the fact that liberal Democrats have a lack of conviction in solving the Nation's problems. They offer no leadership and they seek to divide America along class lines.

Since the start of the 104th Congress, Republicans have offered a vision of America that can solve its problems and we proved that we can keep our promises.

Republicans here in the House are convinced that we must balance the budget. But balancing the budget is not just about money it is about our children's future. For too long now, the Federal Government has operated in the red. The resulting debt is a threat to America's future generations that must be dealt with.

So while Democrats offer class division and dance around the tough issues, Republicans offer a return to a balanced budget.

REPUBLICANS CONSIDERING CUTTING MEDICARE

(Mr. HILLIARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, today the Republicans in Congress are considering proposals which will cut Medicare funding by billions of dollars, causing large reductions in Medicare services which will have a devastating effect on our senior citizens. We cannot allow this to occur. Our seniors are already on fixed incomes, with many of them having a tough time making ends meet from month to month. How can the Republicans in the light of day even contemplate slashing our senior citizens at a time like this, when they deserve more and more health care?

Mr. President and Mr. Speaker, one of the speakers mentioned a minute ago that the President did not participate, that he is AWOL in the Medicare debate. I would like to say that the President is not AWOL, there is no need today to deal with the Medicare crisis. The Medicare crisis is only the political crisis that the Republicans have started this date.

USING COMMON SENSE TO FIX THE BUDGET

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, if an average American were to pile up huge debts and engage in reckless financial behavior, that person would eventually be held accountable, either by the law or by his creditors.

But here in Washington, somehow, the reverse is true. The Federal Government has become immune to accountability. They have racked-up trillions in debt and yet continue their irresponsible spending. Unfortunately there is a price for all this irresponsibility. That price will be shouldered by average Americans who are not responsible for the failed policies of the past.

If we do nothing to remedy the out-of-control spending here in Washington, our children will suffer a very dim future. It does not take a rocket scientist to figure out that spending more than you earn is not the wisest thing—especially in the long run. And, it does not take a wizard to fix the budget. All it takes is commonsense, determination, honesty, and a realization that we simply cannot continue with the old Washington way of doing things.

REPUBLICAN DOUBLESPEAK ON MEDICARE CUTS

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, I rise today to warn my colleagues to beware of Republican doublespeak on Medicare cuts.

The greatest doublespeak is that Republicans will reform Medicare to give seniors more choices by giving them vouchers to buy private insurance.

What they do not say is that the vouchers will not be worth enough to enable them to buy an insurance policy that gives them the choices they have today.

They do not say that the value of the vouchers will force seniors into the lowest cost and most restrictive HMO's.

They do not say that the value of the voucher is going to be ratcheted down every year to become worth less and less until seniors are saddled with virtually all the costs of their health care.

They do not say that the vouchers will toss seniors to swim alone in the perilous and confusing currents of the private insurance market—the same market that has reduced their children's choices.

Vouchers are not more choice. They spell the end of Medicare coverage that seniors—and their families—rely on.

FIXING MEDICARE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, it takes guts to do what is right instead of just doing what is popular. President Clinton's own Medicare Board of Trustees, which includes Cabinet Secretaries Donna Shalala, Robert Rubin, and Robert Reich, believe that under current law, Medicare will be bankrupt by the year 2002, or possibly even earlier. These are the President's people telling us. Doing nothing is disaster; doing nothing is a formula for bankruptcy. But what solutions have the Clinton Democrats proposed to correct this problem? None. I hear rhetoric today, but I do not hear solutions.

Mr. Speaker, the Clinton Democrats are showing a willingness to let the system collapse by maintaining the status quo. On the other hand, the Republican majority will rise to the challenge of trying to show some guts and offer some real solutions to preserve, to protect and to improve Medicare. The Republican majority is committed to honor our contract with older Americans. I know I am one, and I represent a lot of others.

Mr. Speaker, it is real simple. The program is going broke, and we are going to fix it because we care about senior citizens. We want them to have good quality, affordable health care options, and we know doing nothing is disaster, so we are going to do something.

HOW NOT TO CUT THE BUDGET

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, first there was school lunches. Republicans voted to cut school lunches to pay for tax cuts for American's wealthiest citizens. Then Republicans proposed cuts in student loans to pay for tax cuts for the wealthiest special interests. Now Republicans want to cut Medicare services. They want to increase premiums, and copayments and deductibles.

Mr. Speaker, I am a deficit hawk. I want to balance the budget. But we cannot balance the budget, we should not balance the budget, by cutting taxes for the rich, by building star wars, and increasing military spending, and by cuts in Medicare, in school lunches, and in student loans.

INTRODUCTION OF HOUSE RESOLUTION OPPOSING REPEAL OF GUN CONTROL LAWS

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, the Oklahoma City bombing has left Americans looking for ways to prevent other terrorist assaults on innocent victims. One thing Congress can do is refuse to let the gun lobby blow away the landmark gun control laws passed during the 103d Congress.

Today I am introducing a resolution expressing the sense of Congress that the Brady bill, the assault weapons ban, and the juvenile handgun ban should not be repealed. These laws are balanced efforts to control crime that are proving effective in keeping guns out of the wrong hands, while respecting the rights of law-abiding Americans to own firearms. To let these laws be tossed aside as a political favor to a special interest would be a national tragedy.

At the beginning of this Congress, the gun lobby announced its plan to get these laws taken off the books. They have paused in their effort in the wake of the Oklahoma tragedy. But rest assured, it is only a tactical pause, and it will not last long.

Oklahoma City is chilling evidence that a few individuals with extremist views can use weapons of enormous power to kill and maim. Tragically, the toll inflicted each day with handguns and military-style assault weapons is almost as great.

Our commitment to fighting domestic terrorism should start with keeping the Brady bill, the assault weapons ban, and the juvenile handgun ban in effect. I urge my colleagues to support this resolution.

□ 1415

HAPPY TALK ON MEDICARE

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, don't be fooled by all the Republican happy talk on Medicare.

They're not cutting Medicare in order to fix the system.

The Republicans are cutting Medicare for one reason and one reason only: to pay for their tax cuts for the wealthy.

You see, the Republicans made an amazing discovery.

To pay for their tax cuts, they cannot just cut student loans and child nutrition programs and cops on the beat.

Even though they are cutting each and every one of those things it still leaves them about $300 billion short.

So, now they're targeting Medicare.

And what is this going to mean to the average senior citizen?

It is going to mean higher copayments, higher premiums, less choice of doctors and it is going to cut into Social Security COLA's.

And this isn't just going to affect senior citizens.

Where is the average working family going to come up with the extra money to care for their parents and grandparents?

Mr. Speaker, Medicare is not a cash cow for tax cuts.

It is a sacred trust between the Government and the people.

It is time we keep that promise.

REPUBLICANS AND MEDICARE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the Republicans are having a hard time explaining to 35 million Americans who rely on Medicare that their benefits will be cut to pay for a $350 billion tax break for the wealthy.

Now, Republican leaders are attacking the President because he refuses to join them in slashing Medicare to pay for their unjust tax break. Republicans also fail to mention that the President has in fact extended the life of the Medicare fund in legislation that Republicans voted against last year.

The truth is that Republican cuts to Medicare would make the average Medicare recipient cough up $900 more each year out of their own pockets.

In my State of New Mexico alone, 200,000 Americans will be forced to reduce their food budget or their heating costs to pay for this unfair tax cut.

Mr. Speaker, the President is right. We should favor Medicare reform that protects benefits for Americans, but cuts in Medicare should not pay for a tax break for the wealthy. The American people will not be fooled.

MEDICARE AND VETERANS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, as we all celebrate V-E Day and the wonderful generation that saved Europe from Nazi Germany and Fascist Italy, what are we doing to them? Well, the Republicans are trying to take their Medicare and slash it away. What a way to salute them. This is the generation that saved the world. This is the generation that paid for the Marshall plan to rebuild the world, and now we are telling them they have also got to pay for the deficit so that the fat cats can have more tax cuts.

That is not fair. That is not the America they fought for. I hope that all this Medicare scare goes away.

MORE ON MEDICARE

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, Medicare should not become a political football because millions of our seniors in America depend so heavily on it for their health care.

In today's edition of the Houston Chronicle that I picked up before I left home this morning, it talks about the Republicans laying plans to slash billions from the budget. The Republican majority should come up with a plan to reform the Medicare system but not cut $250 billion, $300 billion, $400 billion out of it.

I spoke and met with many seniors yesterday in my district, and they want the fraud and abuse out of Medicare. But they do not want less health care than they have today.

The Medicare system was made solvent for 3 more years in 1993 without one Republican vote. Now the Republican majority is planning to cut it in the name of reform. The savings should be used to increase the benefits for seniors and increase the reimbursement rates and not just to pay for tax cuts. I cannot support billions in Medicare cuts when they would not help the system become more solvent in 7 years.

Medicare should be reformed but not to save $380 billion and help pay for tax cuts for the rich U.S. citizens.

SLASHING MEDICARE

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I rise today in opposition to the Republican proposal to slash Medicare spending over the next 5 years. I am reminded of the riddle, the riddle is, what is the difference between the Contract With America and a contract with the devil? The riddle is, what is the difference between the Contract With America and the contract with the devil?

The devil's contract still provides for our seniors and our children.

The fact that such cuts will devastate our hospitals across the country forcing many rural hospitals who rely on Medicare benefits to close sums up the problem.

This is not the way to provide the money that is needed to make the tax cuts that have been promised in this contract.

REPUBLICANS WANT TO REFORM MEDICARE

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, here we go, once again, down the path of spreading fear, fear that we are going to slash this and slash that.

The American people know instinctively that a government cannot continue to spend money that it does not have. Only one time in the last 50 years has Congress actually balanced the budget.

We, as Republicans, believe that balancing the budget is our contract with our children, because we cannot continue to spend money that we do not have, giving our children and theirs the bill.

When it comes to Medicare, we are going to protect, preserve, and improve Medicare. We are going to spend hundreds of billions of dollars more over the next 7 years as we balance the budget. Medicare spending is going to increase from $4,700 per enrollee to $6,400 at the end of 7 years.

So when you hear people talking about cutting Medicare, they are wrong. We are going to increase spending for Medicare and protect this program that is so vital to our seniors.

THE HEALTH CARE DEBATE

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, nobody was home on the other side of the aisle last year when the President pressed health care reform as the only way to contain runaway costs. Suddenly Republicans have discovered the cost side of his equation, but it will not balance without health care reform.

Tax cuts for the rich just passed by the House make this a mass problem with no possible solution. In the Senate some Republicans are trying to dodge the bullet by disowning the tax cuts, while other Republicans over there would rather die than give them up.

This is no way to celebrate May, which is Older Americans Month. Their equation is already out of balance with 20 percent of their income going for out-of-pocket health care expenses.

The only way to relieve them and cut costs at the same time is to mop up all the inefficiency in health care with across-the-board reform.

Medicare is not out of control. The health care system is. Tax cuts for the rich make a bad situation worse.

MORE ON REPUBLICANS AND MEDICARE

(Mr. WISE asked and was given permission to address the House for 1 minute.)

Mr. WISE. Mr. Speaker, I could not let the last Republican speaker pass unchallenged who says we are really going to increase Medicare. Well, I guess it is sort of like Medicare, you are going to get the same level of services, but we are going to cut you back a significant percent.

If it is going to then be increased, why is it so many senior citizens understand that they are going to lose on the average $900 a year? The real concern I have is, why is this being done?

Is it being done to help Medicare? It is not being done to help Medicare. It is being done to pay for the tax cut. That is right, the tax cut for the wealthiest individuals in this country where 51 percent of the benefits of that tax cut go to those earning over $100,000. The only problem is, if you are going to balance the budget, you have to make up for the over $300 billion of lost revenue that is going to come because of that tax cut.

Where does it come from? Out of the hide of Medicare, out of the hide of senior citizens and out of the hide of health care.

DON'T MAKE SENIORS PAY FOR TAX CUTS FOR THE RICH

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to say to my colleagues on the other side of the aisle: Do not cut Medicare to pay for tax cuts for the rich.

Under some Republican plans, seniors—37 million seniors—will pay an additional $900 each year for health care. These cuts will be used to pay for tax cuts for the rich. For people who earn more than $230,000.

That is not right. That is not fair.

Medicare is the lifeline for many of our seniors.

It is time to be frank and honest with the American people. Tell them what you are doing and why. Lay all your cards on the table, face up.

Do not take health care from our senior citizens to pay for tax cuts for the rich. That is not Medicare reform. And our senior citizens will not be fooled.

CUTTING MEDICARE NO WAY TO HONOR WORLD WAR II VETERANS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, as we celebrate the 50th anniversary of the end of World War II, we honor the brave American soldiers who put their lives on the line to secure our freedom.

But, we owe World War II veterans more than parades down Main Street, medal ceremonies, and memorials. We owe them the security of a decent and dignified retirement. Medicare is central to that promise. By cutting Medicare for seniors, Republicans break that promise.

Under the Republican budget proposal, 37 million seniors will lose $900 a year, while 1.1 million wealthy Americans get a $20,000 windfall. A side-by-side comparison reveals the painful tradeoff: $305 billion in Medicare cuts will pay for a $345 billion tax cut for the wealthy.

This budget debate is all about priorities. All of us agree that we need to cut spending, but the question is where do you start. The wrong place to start is by cutting health care for seniors. If we truly want to honor the men and women who secured our future 50 years ago, let us secure their futures today, let's protect Medicare.

BANKRUPTCY IN AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, while everybody is celebrating V–E Day, victory in Europe, I would like to talk about B–A Day, Bankruptcy in America Day. Think about it. For 50 years America has given trillions, trillions of dollars to Europe and Japan. And in return Japan keeps ripping us off with illegal trade. And as we speak, Russia is now concluding a deal to build nuclear reactors in Iran.

Beam me up. With friends like this, my colleagues, why does America have to worry about any enemies? I say let us stop this cash giveaway to Europe and Japan, start investing that money in America. Then we would not have to tinker with Medicare.

Wake up, Congress. Our policies are so misdirected, if you threw at the ground they would probably miss.

TRADE WITH JAPAN

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, in this box is a part. It is a universal joint. I bought it on Main Street America yesterday, Main Street, Royal Oak, MI. It costs $11.47. In Japan, this part would cost over $100.

What does it mean, this differential? It means fewer jobs here in the United States because our products are locked out in Japan. It means fewer jobs and smaller profits for our industry which could be invested.

It also means the Japanese consumers are overcharged, and it also means that Japanese companies use profits from their sheltered markets to gain market share here to invest in the rest of Asia and elsewhere with an unfair advantage.

It is long overdue that Japan open up their automotive sector to parts and to cars. Talk has not worked. Action is necessary. We support the administration's efforts.

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REPUBLICANS WILL SAVE, PROTECT, PRESERVE, AND IMPROVE THE MEDICARE SYSTEM

(Mr. TATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TATE. Mr. Speaker, it is an exciting day in America, because the Republicans on the House side are making real change, just as we promised, with the Contract With America.

Now we are going to take on the balancing of our national budget. Let me tell the Members, Mr. Speaker, a child born today, if we do nothing, will be saddled with $187,150 in their lifetime just in taxes, just to pay the service on our national debt. That is unacceptable. The Republicans are willing to take that on. We are also willing to save our Medicare system.

If we do nothing, if we just sit back on our hands, like some are saying we should do, it is going to go bankrupt. Republicans are committed to save it, to protect it, to preserve it, to improve it. We are not going to bury our heads in the sand, Mr. Speaker. We are going to take on the issues that are important to working people, saving our future and saving our children's future.

REPUBLICANS TRY TO REFORM A HUGE MAGICAL ILLUSION IN ATTEMPTING TO CUT MEDICARE

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, when it comes to attempts to cut Medicare for our Nation's seniors, our Republican colleagues are trying to perform one huge magical illusion. I like magic tricks just about as much as the next person, but I prefer to see them in the circus, not here on the floor of Congress.

Let us take a look at what is up the sleeves of the Gingrichites. They want to cut Medicare to 37 million seniors by about $900 each year. This painful cut is for the very men and women who we have been celebrating on this 50th anniversary of our victory in Europe, people that we here applauded, who fought for this country abroad, or who worked for it here at home.

Yet, at this very time we find in the Committee on the Budget scheduled for tomorrow here in the House the Gingrichites' proposal to cut the Medicare benefits that are so critical to these senior citizens.

I would say that David Copperfield should beware, because with the kind of magic being performed here and the kind of illusion here, this is an act that is ready for the Las Vegas strip.

PERMISSION FOR CERTAIN COMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee on the Whole House under the 5-minute rule:

The Committee on Agriculture; the Committee on Banking and Financial Services; the Committee on Economic and Educational Opportunities; the Committee on Government Reform and Oversight; the Committee on House Oversight; the Committee on International Relations; the Committee on the Judiciary; the Committee on Resources; and the Select Committee on Intelligence.

Mr. Speaker, it is my understanding that the minority has been consulted, and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. WISE. Mr. Speaker, reserving the right to object, the gentleman is correct. The Democrat side has been consulted, and we have no objections.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 8, 1995.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Wednesday, May 3, 1995 at 7:05 p.m. and said to contain a message from the President whereby he transmits proposed legislation entitled "Antiterrorism Amendments Act of 1995."

With great respect, I am
Sincerely yours,
ROBIN H. CARLE,
Clerk.

THE ANTITERRORISM AMENDMENTS ACT OF 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–71)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary, the Committee on Banking and Financial Services, and the Committee on Commerce, and ordered to be printed:

To the Congress of the United States:

Today I am transmitting for your immediate consideration and enactment the "Antiterrorism Amendments Act of 1995." This comprehensive Act, together with the "Omnibus Counterterrorism Act of 1995," which I transmitted to the Congress on February 9, 1995, are critically important components of my Administration's effort to combat domestic and international terrorism.

The tragic bombing of the Murrah Federal Building in Oklahoma City on April 19th stands as a challenge to all Americans to preserve a safe society. In the wake of this cowardly attack on innocent men, women, and children, following other terrorist incidents at home and abroad over the past several years, we must ensure that law enforcement authorities have the legal tools and resources they need to fight terrorism. The Antiterrorism Amendments Act of 1995 will help us to prevent terrorism through vigorous and effective investigation and prosecution. Major provisions of this Act would:

—Permit law enforcement agencies to gain access to financial and credit reports in antiterrorism cases, as is currently permitted with bank records. This would allow such agencies to track the source and use of funds by suspected terrorists.

—Apply the same legal standard in national security cases that is currently used in other criminal cases for obtaining permission to track telephone traffic with "pen registers" and "trap and trace" devices.

—Enable law enforcement agencies to utilize the national security letter process to obtain records critical to terrorism investigations from hotels, motels, common carriers, storage facilities, and vehicle rental facilities.

—Expand the authority of law enforcement agencies to conduct electronic surveillance, within constitutional safeguards. Examples of this increased authority include additions to the list of felonies that can be used as the basis for a surveillance order, and enhancement of law enforcement's ability to keep pace with telecommunications technology by obtaining multiple point wiretaps where it is impractical to specify the number of the phone to be tapped (such as the use of a series of cellular phones).

- Require the Department of the Treasury's Bureau of Alcohol, Tobacco, and Firearms to study the inclusion of taggants (microscopic particles) in standard explosive device raw materials to permit tracing the source of those materials after an explosion; whether common chemicals used to manufacture explosives can be rendered inert; and whether controls can be imposed on certain basic chemicals used to manufacture other explosives.
- Require the inclusion of taggants in standard explosive device raw materials after the publication of implementing regulations by the Secretary of the Treasury.
- Enable law enforcement agencies to call on the special expertise of the Department of Defense in addressing offenses involving chemical and biological weapons.
- Make mandatory at least a 10-year penalty for transferring firearms or explosives with knowledge that they will be used to commit a crime of violence and criminalize the possession of stolen explosives.
- Impose enhanced penalties for terrorist attacks against current and former Federal employees, and their families, when the crime is committed because of the employee's official duties.
- Provide a source of funds for the digital telephony bill, which I signed into law last year, ensuring court-authorized law enforcement access to electronic surveillance of digitized communications.

These proposals are described in more detail in the enclosed section-by-section analysis.

The Administration is prepared to work immediately with the Congress to enact antiterrorism legislation. My legislation will provide an effective and comprehensive response to the threat of terrorism, while also protecting our precious civil liberties. I urge the prompt and favorable consideration of the Administration's legislative proposals by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 3, 1995.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken at the end of legislative business today.

STRIPED BASS CONSERVATION ACT AMENDMENTS OF 1995

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1139) to amend the Atlantic Striped Bass Conservation Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Striped Bass Conservation Act Amendments of 1995".

SEC. 2. REAUTHORIZATION.

Section 7(a) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by striking "For each of fiscal years 1986," and all that follows through "1994," and inserting "For each of fiscal years 1995 and 1996,".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) COMMISSION MONITORING OF IMPLEMENTATION OF INTERSTATE PLAN.—Section 4(a)(1) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended in the material preceding subparagraph (A) by striking "of fiscal year 1987, and of each fiscal year thereafter," and inserting "of each fiscal year,".

(b) REPEAL OF INOPERATIVE PROVISIONS.—Sections 8 and 10 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) are repealed.

SEC. 4. PUBLIC PARTICIPATION IN PREPARATION OF PLANS AND AMENDMENTS TO PLANS FOR ATLANTIC STRIPED BASS.

(a) IN GENERAL.—The Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note), as amended by section 3(b) of this Act, is further amended by adding after section 7 the following new section:

"SEC. 8. PUBLIC PARTICIPATION IN PREPARATION OF PLANS AND AMENDMENTS TO PLANS FOR ATLANTIC STRIPED BASS.

"The Commission shall establish standards and procedures to ensure that the Commission provides an adequate opportunity for public participation in the preparation of any plan for the management of Atlantic Striped Bass and any amendment to such a plan (including any amendment to the Interstate Fisheries Management Plan for Striped Bass, dated October 1, 1981), including public hearings and procedures for the submission of written comments to the Commission.".

(b) DEADLINE.—Within 6 months after the date of the enactment of this Act, the Atlantic States Marine Fisheries Commission shall issue standards and procedures under section 8 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note), as amended by subsection (a), of this section.

SEC. 5. TRANSFER OF EXISTING PROVISION TO ATLANTIC STRIPED BASS CONSERVATION ACT.

So much of section 6 of the Act entitled "An Act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes" (approved November 3, 1988; Public Law 100–589; 102 Stat. 2986) as precedes subsection (g) of that section—

(1) is transferred from that Act to the Atlantic Striped Bass Conservation Act (16 U.S.C. 185 note);

(2) shall appear immediately after section 8 of the Atlantic Striped Bass Conservation Act, as amended by section 4 of this Act; and

(3) is redesignated as section 9 of the Atlantic Striped Bass Conservation Act.

SEC. 6. AMENDMENT AND EXTENSION OF AUTHORIZATION FOR ANADROMOUS FISH CONSERVATION ACT.

(a) SCOPE OF STUDIES.—Section 7(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(a)) is amended by striking "and" after the semicolon at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end the following new paragraph:

"(4) the effects of water quality and other habitat changes on the recruitment, spawning potential, mortality rates, and population abundance of the Delaware River striped bass population.".

(b) EXTENSION OF AUTHORIZATION.—Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking "each of the fiscal years 1991, 1992, 1993, and 1994" and inserting "each of the fiscal years 1995, 1996, 1997, and 1998".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes, and the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 1139, the Striped Bass Conservation Act Amendments of 1995.

Mr. Speaker, before I proceed to explain the bill, I would like to make note that this bill is a product of a high degree of bipartisan work and a high degree of bipartisan support.

While H.R. 1139 carries my name as the primary sponsor this year, in past years very similar legislation carried the names of others, including, as prime sponsor, the gentleman from Massachusetts [Mr. STUDDS]. And, as a member of the minority, I was pleased to have had a great deal of input from the then chairman of the Committee on Fish and Wildlife, so to the extent that I can extend to past Congresses and to the gentleman from Massachusetts [Mr. STUDDS], congratulations for bringing us to this point, it is my pleasure to explain the bill.

Mr. Speaker, as the result of a significant population decline that began in the 1970's, the Atlantic States Marine Fisheries Commission developed an interstate fishery management plan for striped bass. Congress also responded to the decline of striped bass populations by authorizing the Emergency Striped Bass Study in 1979.

In 1984, Congress enacted the Atlantic Striped Bass Conservation Act. The act was originally introduced by my good friend, GERRY STUDDS, the ranking minority member of the Fisheries, Wildlife and Oceans Subcommittee. This act requires a Federal moratorium on striped bass fishing in States that do not implement management measures consistent with the Commission's striped bass plan. Implementation of this plan has led to a resurgence in Atlantic Coast striped bass which are now considered fully recovered.

Mr. Speaker, I think this is one of the times when we can collectively say that this House did something right which culminated in the fully desired result.

H.R. 1139 extends the authorization for the Striped Bass Conservation Act through fiscal year 1996, and extends the striped bass study through fiscal year 1998.

I urge my colleagues to support the continuation of this vital and highly successful conservation effort by voting "aye" on this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New Jersey [Mr. SAXTON] for his graciousness. This is, indeed, an utterly nonpartisan success. It is bipartisan. In fact, I never expected it to be completely bipartisan in my life. It has always had majority and minority support, and I never expected it to be on both sides, but here we are.

Mr. Speaker, let me just say a word and supplement what the gentleman says. This is really a success story, a decade after the passage of the original act, an inspiration to fishermen and to managers that conservation can, in fact, work.

Ten years ago striped bass stocks along the Atlantic coast had declined to dangerously low levels as a result both of overfishing and pollution. Fishermen and managers alike were concerned that this fishery would soon become endangered. In an unprecedented move, Congress passed the Striped Bass Conservation Act, designed to support State efforts to reverse this trend. The management program established under the act was at the time of its inception in 1984 unique.

It relies upon the States to develop regulations for their waters that are consistent with the Atlantic States Marine Fisheries Commission's management plan for striped bass. If a State fails in its efforts, a Federal moratorium is imposed.

This partnership was so successful that in January of this year, the commission declared the striper to be fully recovered. The implementation of the Federal-State partnership embodied in the act has restored the striper to its former glory as one of the most important sport and commercial fisheries on the East Coast. Fishermen in my State from Martha's Vineyard to Mattapoisett are celebrating the return of the striper, but are mindful of the need to continue the conservation and management programs that have brought this fishery back from the crash of the preceding decade. This bill will ensure this is the case, and I enthusiastically urge Members to support it today.

Mr. Speaker, I yield 2 minutes to another gentleman from New Jersey, Mr. PALLONE.

Mr. PALLONE. Mr. Speaker, I just wanted to thank the two gentlemen, my colleague, the gentleman from New Jersey [Mr. SAXTON], and my colleague, the gentleman from Massachusetts [Mr. STUDDS], for putting together this legislation. In particular, both of them have been supportive of language which was placed in the bill that would ensure public participation on all striped bass management plans.

Many people who are involved with striped bass management know that there is a large and vociferous group of recreational fishermen out there who become very concerned about any changes that are made in the management plan. One of the things that they continually tell us is that they want to be involved at every stage in whatever management plan changes are put forward.

This bill and the language that is in the bill guarantee that public participation will do what is necessary to make sure that they have their opportunity to be heard.

I certainly want to thank the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Massachusetts [Mr. STUDDS] for their cooperation in putting that language in the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to rise in support of the Striped Bass Conservation Act amendments and I compliment the author of the bill, JIM SAXTON, for his leadership in moving this important measure.

The Atlantic coast stock of striped bass are found in waters from North Carolina to Maine. They are highly migratory but move primarily along the coast within the 3-mile zone, which is subject to State fishery management.

While striped bass populations have fluctuated dramatically in the past, the population suffered a drastic decline in the 1970s. In fact, striped bass harvests dropped from 15 million pounds in 1973 to 3.5 million pounds in 1983.

In response to this serious problem, Congress approved an emergency striped bass study and the Atlantic Striped Bass conservation Act of 1984. This law requires all affected coastal States to implement management measures to conserve and protect the remaining stocks of Atlantic striped bass.

While the resurgence of striped bass is a major fishery management success, H.R. 1139 will ensure that this remarkable recovery is not compromised in the days ahead.

As reported from my committee, this legislation will reauthorize both the Striped Bass Conservation Act and section 7 of the Anadromous Fish Conservation Act, which funds ongoing striped bass population studies. In addition, the bill focuses attention on stripers in the Delaware River and encourages greater public participation in the writing of management plans.

Mr. Speaker, I urge an "aye" vote on H.R. 1139 and again compliment JIM SAXTON and GERRY STUDDS for their outstanding leadership in this major conservation effort. I would hope more of our fishery management efforts prove to be this successful in the future.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON], that the House suspend the rules and pass the bill, H.R. 1139, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1361, COAST GUARD AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 139 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 139

Resolved, That at any time after the adoption of this resolution the speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1361) to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f), section 308(a), or section 401(b) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. The first two sections and each title of the committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 5(a) of rule XXI or section 302(f) or section 401(b) of the Congressional Budget Act of 1974 are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, I yield the customary 30 minutes to the distinguished gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, I am very pleased to present this wide open rule for the fiscal year 1996 authorization of our smallest—but hugely important—national armed services, the Coast Guard. I am delighted that our Rules Committee, by unanimous voice vote, agreed to bring this important bill to the House floor under an open rule, allowing all Members the chance to offer amendments under the standing rules of this House. I wish to commend Chairman SHUSTER, Chairman COBLE, and ranking members MINETA and TRAFICANT of the Transportation and Infrastructure Committee for their efforts in bringing us H.R. 1361.

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Mr. Speaker, as Members know, this year marks the first time the Coast Guard authorization has been moved through the Transportation Committee and, by all accounts, the transition has gone smoothly. This rule provides for 1 hour of general debate, to be equally divided between the chairman and ranking member of the Transportation and Infrastructure Committee. It makes in order the committee's amendment in the nature of a substitute as the original bill for the purpose of amendment and provides that the substitute shall be considered as read by title. Members should be aware that this rule does provide four specific waivers, including three technical budget act waivers related to section 205 of the bill, and a waiver of the rule that prohibits appropriations within legislative bills, related to section 201 of the bill. This waiver should not cause Members any heartache, since it is necessary to allow the shifting of funds from pre-existing accounts in order to pay for damages to homes of Coast Guard personnel caused by hurricane Andrew. I think that is eminently fair and makes great good common sense and I do not think it is particularly precedent-setting. Let us hope not.

The budget act waivers are necessary because of a provision in the bill that allows Coast Guard officers who were twice passed over for promotion, and have 18 years of service, to continue in active duty until they have served 20 years and are eligible for retirement.

Technically this provides new entitlement authority, although subcommittee Chairman COBLE assured the Rules Committee that this is not in any way a budget buster. In fact, the total cost of this provision has been estimated to at less than $500,000 a year.

Mr. Speaker, I commend Rules Chairman SOLOMON and the committee of jurisdiction for ensuring that Members have a detailed explanation of the waivers needed for this bill. I think it is most important that all committees take seriously the standing rules of the House and come to the Rules Committee well prepared to discuss any specific rules violations in their bills—whether technical or substantive. This to me is great progress in the 104th Congress. I think it makes pretty clear what the issues are and what is being protected and what is not and what the justifications may be.

Finally, this rule provides the minority with its traditional right to a motion to recommit with or without instructions.

Mr. Speaker, the U.S. Coast Guard may be small in size but it is mighty in missions. It is something of a jack of all trades—its responsibilities cover a broad expanse of activity, from drug interdiction and border control to search and rescue. At any given time the Coast Guard might be called upon to support military deployments—as in the Persian Gulf—or respond to disasters—as in the midwestern floods of 1993. Especially in coastal areas—but also across this land—Americans depend on the reliability and efficiency of the Coast Guard. Because of its reputation for excellence and its unfailing willingness to tackle new missions, the Coast Guard has repeatedly been asked to shoulder more duties. In response to the Haiti crisis in the past 2 years, the Coast Guard was asked to become a floating picket line to deter desperate Haitians from taking to the seas in unsafe boats. Coast Guard personnel became directly involved in rescue operations and the very difficult process of repatriation in that Haitian affair as we know. While the exodus from Haiti has ebbed momentarily, just last week, the administration announced a change in its policy toward Cuban refugees that once again places the Coast Guard on the front lines of enforcement upon the high seas, to turn back Cuban rafters and enforce a more orderly process of immigration. That is no small order for them to undertake that. But despite its ever expanding list of missions, the Coast Guard has not been given corresponding resources to ensure that its traditional responsibilities do not suffer. In the last Congress, this House adopted language reaffirming our commitment to providing additional resources to the Coast Guard if new missions are added to its plate. That is just common sense. If we ask them to do more, we are going to give them the money to pay for it.

Today, I am pleased that the committee has agreed to include that language in its amendment, so we will have that again this year. On a more parochial note, Mr. Speaker, under this open rule all of our colleagues will have the opportunity to assist our local communities and private citizens who are involved in seeking to navigate the confusing bureaucracy of the Jones Act. In my district, we have one city and four private citizens who find themselves wound up in redtape as they seek to use vessels for legitimate municipal or commercial purposes. H.R. 1361 already includes a provision that covers one of the southwest Florida victims of the Jones Act redtape in my case, and I am pleased that the committee amendment will include waivers to address the other three cases I know about, and perhaps the bulk of my colleagues' concerns as well will be included in that amendment. If not, if there is still more to be done in this area, this open rule allows Members the chance to bring their amendments forward. I hope all Members will support this open rule, and this legislation.

Mr. Speaker, I include the following for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of May 5, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	23	74
Modified Closed[3]	49	47	8	26
Closed[4]	9	9	0	0

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS—Continued

[As of May 5, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Totals:	104	100	31	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of May 5, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/2/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			
H. Res. 108 (3/6/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/16/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend my Republican colleagues for the rule they are recommending today. So far this year, the rules they have recommended have been 70 percent closed. This is in spite of their promises to open the process in the House.

However, since the rule before us today is an open rule, I must commend the Republican majority.

As my colleague described, this rule provides for the consideration of a relatively noncontroversial Coast Guard authorization.

It authorizes $3.7 billion for the Coast Guard—exactly the amount requested by the administration and only slightly more than last year's authorization.

The 37,000 members of the Coast Guard provide this Nation with invaluable maritime service for everything from search and rescue to drug interdiction and this $3.7 billion will support their good work.

I would like to commend Chairman SHUSTER and ranking member MINETA for putting together a truly bipartisan bill which should pass the House with little opposition.

I urge my colleagues to support this rare open rule.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, it gives me great pleasure to yield 4 minutes to my colleague, the distinguished gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to denounce the Clinton administration's decision to use this great American institution, the U.S. Coast Guard, to serve the purposes of a tyrant.

We in south Florida are very knowledgeable about the Coast Guard because of the wonderful work they perform during periods of natural disasters such as during Hurricane Andrew where they played a crucial role in the rescue operations.

Those of us who are residents of south Florida also know the Coast Guard as a humanitarian institution because, for years, the Coast Guard has rescued freedom-seeking Cubans from the waters of the Florida Straits while on their journey to freedom.

This humanitarian aspect of the Coast Guard, for which all of America should be proud, was surprisingly reversed last week when the Clinton administration announced the United Stated will now repatriate freedom-seeking Cubans back to the island prison they risked their lives to escape.

The President has now made the Coast Guard an extension of the Cuban authorities, in order to keep the Cuban people under the Castro repression.

Just this afternoon, the first victims of the President's latest flipflop were turned over to the bloody henchmen of Castro.

Mr. Speaker, this change of policy is an embarrassment to the longstanding record of the United States as the beacon of hope and freedom for the oppressed of the world.

With one swift and misguided decision, the Clinton administration has successfully allied itself with the bloodiest tyrant the Americas has ever known, and has crushed the aspirations of freedom for millions of Cubans.

The administration has once again proven that it does not comprehend how to deal with Cuba.

Instead of attacking the root of the problem, Fidel Castro, the President continues to treat Cuba as an immigration problem, not as legitimate foreign policy matter.

Most disturbing is that the President is using the Coast Guard to help maintain Cubans under the oppressive hand of Castro.

This accord, Mr. Speaker, was reached in secret negotiations led by Assistant Secretary of State, Peter Tarnoff.

Not even the head of the Cuban Affairs desk of the U.S. Department of State knew about these dealings, nor the Assistant Secretary for Interamerican Affairs at State.

Moreover, Congress was never consulted on the matter and the administration has been stalling on details about the talks.

Many questions still remain unanswered such as what concessions were given to Castro, and whether it is just a simple coincidence that, just few days before the new policy announcement, the administration publicly declared its opposition to the Helms-Burton bill.

The administration must come forth with answers to these and other questions which are critical to untangling the purpose of this new policy.

Mr. Speaker, the Coast Guard has been an exemplary institution of this country for decades.

We should not allow the administration to use it as a tool to aid a totalitarian tyrant.

I urge my colleagues to raise their voices against this distortion of the Coast Guard's mission.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I rise in support of this rule, and I rise in support of this bill and in support of the new chairman of this subcommittee, the gentleman from North Carolina [Mr. COBLE]. I do not believe there is anybody better prepared in the Congress to head the mission of this Congress in deliberating these matters, save for maybe the gentleman from Massachusetts [Mr. STUDDS], his vast knowledge of working with the committee over the years.

However, I have one concern with the bill. I am going to vote for this bill regardless if the amendment I propose passes or not, but the Coast Guard, Congress, has been known for safety. There is a provision in this bill that allows for the closing of 23 small boat stations.

The bill gives an opportunity for the Coast Guard to work out all kinds of safety parameters here, to ensure that there will be adequate safety, et cetera, et cetera, but the truth of the matter is, "Scarlett, quite frankly, I don't buy it."

We have had testimony offered to us that the last time some of these small boat stations were closed, there was an accompanying loss of life. The Coast Guard has one mission. That is safety.

What the Traficant amendment is dealing with financially, Congress, is $3 million; $3 million could be taken out of transportation, taken out of some expense account. Under the Traficant amendment, it says they could transfer everything out of these small boat stations but they must leave one pair of eyes of a Coast Guard full-time official, one pair of hands, one pair of eyes.

Let me caution Congress: With all of these beautiful ideas of these weekend warriors, be careful, Congress. There are an awful lot of other good amendments, after the Traficant amendment is considered, that will put some extenuating circumstances and criteria that speak to safety.

The truth of the matter is there is only one amendment today that will stop these closings. Every one of those other amendments will get a quick-over, fancy report and they will close those small boat stations.

The Traficant amendment says those small boat stations will not be closed. They could transfer everything they want out of there, but they must leave one full-time personnel to coordinate those local efforts.

Congress, that is good sense. We are here to set policy. We have given the executive branch so much authority in so many areas, we are now not even getting votes on major issues, including bailouts of Mexico.

I am recommending to the Congress that the policy of the Congress be the Coast Guard is an excellent, excellent American service. Its No. 1 mission is safety. We will retain it and keep its mission as safety. When you get a chance, consider that in any regard.

I will support this bill under any circumstances. It is a good bill. I commend the chairman, the gentleman from North Carolina [Mr. COBLE] for his outstanding effort.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I also wanted to commend the Committee on Rules, as well as the chairman of the Subcommittee on Coast Guard and Maritime Transportation, for supporting an open rule on this Coast Guard authorization bill.

I did want to say, though, that I totally, 100 percent agree with the gentleman from Ohio [Mr. TRAFICANT], the ranking member, that his amendment, the Traficant amendment, if you will, is the only amendment that will assure that the 23 small boat unit stations are not closed.

I remember because when I was first elected to Congress back in 1988, they had recently, the Coast Guard had recently proposed closing a number of stations, Coast Guard stations around the country, including the one that I represent at the Shark River Inlet. The effects of those closures at the time were widespread.

I think many Members know that over the years, the Coast Guard committee and this Congress have added more and more responsibilities to the Coast Guard, whether it be to enforce against drug trafficking, to enforce our environmental laws, to enforce our fishing laws. More and more work every year goes to the Coast Guard, and at the same time we have been providing some additional funds for the Coast Guard.

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But to suggest, as this small boat unit closure plan does, that all of a sudden now there are this minute 23 stations around the country that are no longer needed at a time when the amount of incidents, search and rescue incidents as well as all of the other jurisdiction the Coast Guard now has, and that traffic increases every year, to suggest this is the time to make these kinds of closures I think makes no sense.

In addition, although I understand there are amendments out there and the rule provides for an open rule where all of these amendments can be heard, all of the other amendments, as the gentleman from Ohio [Mr. TRAFICANT] said, will basically allow the Coast Guard to close these 23 stations and others and look for some sort of alternative, either the State or locality or auxiliary, to step in and perform those functions also, let me assure my colleagues in the State of New Jersey it is not possible through our State of New Jersey through our marine police or Coast Guard auxiliary or local fire departments or whatever to step in and take over the responsibilities that the Coast Guard has at these various stations. That is why it is very important we pass the Traficant amendment today.

I appreciate the fact we have an open rule, and I also appreciate the fact that the chairman, Mr. COBLE, has tried very hard to do what he can to cooperate with those of us who are concerned about these closures. But I sincerely believe the only way we can make sure that the closures do not occur is by passing the Traficant amendment.

Mr. FROST. Mr. Speaker, I have no other Members in the Chamber requesting time at this point, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, we have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 961, CLEAN WATER AMENDMENTS OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report

(Rept. No. 104–114) on the resolution (H. Res. 140) providing for consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING 1995 SPECIAL OLYMPICS TORCH RELAY TO BE RUN THROUGH CAPITAL GROUNDS

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 64) authorizing the 1995 Special Olympics Torch Relay to be run through the Capitol Grounds.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. WISE. Reserving the right to object, Mr. Speaker, I do not plan to object, and I yield to the gentleman from Maryland for an explanation of his request.

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the concurrent resolution before us would authorize the 1995 Special Olympics Torch Relay to be run through the Capitol Grounds on May 19, 1995, as part of the journey of the special olympics torch to the Special Olympics Summer Games at Gallaudet University here in the District.

Under the resolution, the Capitol Police Board will oversee the run and the Architect of the Capitol is responsible for establishing the conditions and making preparations necessary for the event.

This is an annual event and one which Congress has approved several times before. This year approximately 60 local and Federal law enforcement agencies throughout the region will participate in this 26-mile relay run through the city in support of the Special Olympics. As we all know, this program gives handicapped children and adults the opportunity to participate in athletic events.

Because of laws prohibiting open flames on Capitol Grounds, and because of safety concerns about activities taking place thereon, this resolution is necessary to permit the relay to occur. The resolution authorizes the Capitol Police Board to take necessary action to insure the safety of the Capitol, and the Architect of the Capitol may set forth conditions on participation in this event.

Activities will begin on Capitol Hill where the U.S. Capitol Police will host opening ceremonies and thereafter over 1,000 law enforcement officials will relay the torch through the city to Gallaudet University where the D.C. Special Olympics Summer Games will be held.

Mr. Speaker, this is a very worthwhile endeavor and I strongly encourage my colleagues to support the resolution which authorizes the event.

Mr. WISE. Mr. Speaker, I join my colleague in supporting use of the Capitol Grounds for the Special Olympics Torch Relay Run. As has been the custom, law enforcement officials from over 65 Federal and local agencies will relay the special olympics torch through the District to Gallaudet University to signal the beginning of the Special Olympics.

The event is scheduled this year for May 19. Since this date is a week from this Friday, we need to act on this legislation expeditiously.

This is a very worthwhile event which benefits not only the families and participants but also the volunteers and sponsors who contribute their time and efforts for handicapped children and adults.

I ask my colleagues to join in supporting this resolution.

Mr. MINETA. Mr. Speaker, the Special Olympics is a program which gives handicapped children and adults the opportunity to compete in sporting events and thereby enhance their self-esteem and self-image.

The Torch Relay Run through the Capitol Grounds is an annual event which this committee has traditionally supported and I am very pleased once again to support the resolution authorizing use of the grounds for this very worthwhile endeavor.

I commend both the gentleman from Maryland [Mr. GILCHREST], chairman of the Subcommittee on Public Buildings and Economic Development, and the gentleman from West Virginia [Mr. WISE], the subcommittee's ranking Democrat for moving this resolution in a timely fashion. The event is scheduled for May 19.

I join my colleagues in urging passage of this resolution.

Mr. WISE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 64

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF RUNNING OF SPECIAL OLYMPICS TORCH RELAY THROUGH CAPITOL GROUNDS.

On May 19, 1995, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate, the 1995 Special Olympics Torch Relay may be run through the Capitol Grounds, as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics summer games at Gallaudet University in the District of Columbia.

SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.

The Capitol Police Board shall take such action as may be necessary to carry out section 1.

SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.

The Architect of the Capitol may prescribe conditions for physical preparations for the event authorized by section 1.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Concurrent Resolution 64.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Maryland?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 743

Mr. FATTAH. Mr. Speaker, I rise to ask unanimous consent to remove my name as cosponsor of H.R. 743, the Teamwork for Employees and Management Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter on H.R. 1361.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

COAST GUARD AUTHORIZATION ACT FOR FISCAL YEAR 1996

The SPEAKER pro tempore. Pursuant to House Resolution 139 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1361.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1361) to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes, with Mr. DICKEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina [Mr. COBLE] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, many Americans, and for that matter many Members of this body, do not really know the Coast Guard. I want to introduce the Coast Guard that I know to those uninformed about America's oldest continuous seagoing service.

The Coast Guard is the butt of many jokes, some submitted good-naturedly, some submitted maliciously. Many refer to the Coast Guard as the shallow water Navy, hooligan Navy, as shallow-water sailors or hooligan sailors.

Even Hollywood gets into the act. A recently released movie depicted a military force about to depart on a combat mission. The commander of the force said to his group, "Be careful, men." One of his troops replied, "If I wanted to be careful, I would have joined the Coast Guard."

This comment, of course, drew wild laughter from the moviegoers and was yet another example of a joke at the expense of the Coast Guard. Permit me to identify those who do not consider the Coast Guard a joke.

The wife whose husband was adrift in a treacherous sea was rescued by the Coast Guard. The husband whose wife was stranded at sea in a disabled vessel rescued by the Coast Guard. Property owners whose property could have been destroyed by oil spills, property protected and saved by the Coast Guard. Seamen who rely upon accurately marked aids to navigation maintained by the Coast Guard. The mama and daddy whose child is hauled from the grasp of an angry sea by a Coast Guard helicopter crew.

In the poem, Mr. Chairman, entitled "The Coast Guard Cutter," the poet vividly and emotionally portrays these lifesavers as legitimate heroes:

But the men that sail the ocean
In a wormy, rotten craft,
When the sea ahead is mountains
With a hell-blown gale abaft;
When the mainmast cracks and topples
And she's lurchin' in the trough—
Them's the guys that greets the Cutter
With the smiles that won't come off.
When the old storm signal's flyin'
Every vessel seeks a lee,
'Cept the Cutter, which ups anchor
And goes ploughin' out to sea.
When the hurricane's a-blowin'
From the Banks to old Cape Cod,
Oh, the Cutter, with her searchlight,
Seems the messenger of God.

* * * * *

She goes thumpin' and a bumpin'
When the waters are a hell,
Savin' ships. Here's to you, Cutter,
For we like you mighty well!

This is the Coast Guard, Mr. Chairman, I want to introduce to my colleagues today who may not know her, as we debate and discuss the 1996 authorization bill for the Coast Guard.

Mr. Chairman, I rise in strong support of H.R. 1361. Before I discuss this bill, I would like to thank the distinguished chairman of the full committee, Mr. SHUSTER, our ranking minority member, Mr. MINETA, and the ranking minority member of the Coast Guard and Maritime Transportation Subcommittee, Mr. TRAFICANT, and their staff for their help and cooperation on this legislation. H.R. 1361 was developed in a bipartisan manner, and deserves the support of all the Members.

The primary purpose of H.R. 1361 is to authorize funds for the U.S. Coast Guard for fiscal year 1996. H.R. 1361 authorizes the portion of the Coast Guard budget that requires an annual authorization at the level requested by the President, approximately $3.7 billion. This is compared to the fiscal year 1995 appropriated level for these programs of $3.6 billion.

Specifically, this legislation includes approximately $2.6 billion for operating expenses, $428 million for acquisition of vessels, aircraft, and shore facilities, and $582 million for retired pay. The bill also authorizes reductions in Coast Guard operations, including personnel reductions and the closure of 23 search and rescue stations.

Also included in the bill is a provision to allow us to more closely monitor the Coast Guard drug interdiction mission. In 1989, the Coast Guard spent 24 percent of its operating budget on drug interdiction. Since fiscal year 1994, Coast Guard drug interdiction funding has been reduced by $21 million. Last year, less than 9 percent of the Coast Guard's operating funds were devoted to drug interdiction because the Coast Guard was forced to divert a large amount of its resources to respond to the crises in Haiti and Cuba. I fear that a continuation of this low level of funding will increase the amount of illegal narcotics being smuggled into our country. Admiral Kramek testified before our Coast Guard and Maritime Transportation Subcommittee that the Coast Guard plans to spend about 12 percent of its operating budget on drug interdiction during the next fiscal year. Because this is such an important Coast Guard mission, section 103 of H.R. 1361 requires the Secretary of Transportation to submit to our committee quarterly reports on Coast Guard drug interdiction expenditures. This will give us timely information on this important topic, and allow us to act to prevent a diversion of resources to any other Coast Guard activity.

Title II of H.R. 1361 deals with several internal Coast Guard personnel management matters.

Title III of the bill addresses issues related to navigation safety and waterway services management. This title renews several important navigation safety advisory committees which advise the Coast Guard on matters relating to marine safety issues.

Title IV of this legislation includes several miscellaneous provisions. One of these sections exempts dedicated oilspill response vessels from certain requirements that apply to oil tank vessels. It is not appropriate to regulate oilspill cleanup vessels in the same manner as commercial oil tank vessels. This section in the bill gives the Coast Guard the authority to prescribe appropriate manning requirements for oilspill response vessels by regulation.

Title IV also contains several commonsense amendments to the Oil Pollution Act of 1990, including a provision which requires the Coast Guard to regulate edible vegetable oils differently than toxic petroleum oils. I strongly support this change which will end an unnecessary and damaging burden on our Nation's farmers.

Title V of H.R. 1361, Coast Guard Regulatory Reform, is important in establishing U.S. ship construction and operational standards that are comparable to international standards. These provisions will allow the U.S. maritime industry to be more competitive with foreign ocean carriers.

Title VI of the bill contains several provisions related to U.S. vessel documentation, including several limited Jones Act waivers.

Title VII of the bill contains many technical and conforming amendments suggested by the Coast Guard, including provisions to implement the new International Tonnage Convention for the measurement of vessels.

Finally, title VIII of H.R. 1361 contains amendments to allow the U.S. Coast Guard Auxiliary, a 36,000 member voluntary organization, to provide assistance to the Coast Guard and the boating public that the Commandant finds appropriate.

At the appropriate time, I will offer an en bloc amendment which makes several technical corrections and includes several noncontroversial amendments to the bill.

I urge the Members to support this legislation.

□ 1515

Mr. Chairman, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as an original cosponsor of this bill, I rise in strong support. It represents a commonsense approach to a wide range of issues that face our Coast Guard.

The bill was drafted in a bipartisan fashion, and I commend the distinguished Chair of the subcommittee, the gentleman from North Carolina [Mr. COBLE], for his efforts. Nobody in the Congress is better prepared to lead this subcommittee than the gentleman from North Carolina [Mr. COBLE] who is in fact a veteran of Coast Guard affairs. I am sure the other person in here, the gentleman from Massachusetts [Mr. STUDDS], who is not present, after the wealth of knowledge he gained on that committee for years, also I think is a valuable resource. I commend the chairman. I am proud to work with him.

I want to also commend the chairman of the new Transportation Infrastructure Committee, the gentleman from Pennsylvania [Mr. SHUSTER]. He has done a tremendous job. I am proud to support him, and our ranking member, the gentleman from California [Mr. MINETA]. I want to commend the Coast Guard and also the administration for their assistance.

Many of the provisions before us were proposed by the Coast Guard. They had merit and were, in fact, thus incorporated into this bill.

I want to specifically commend the Commandant of the Coast Guard, Admiral Kramek, for the strong commitment he has to fighting drugs and the extraordinary efforts the Coast Guard has made in the area of drug interdiction.

I am confident that under the leadership of the good admiral, the Coast Guard will continue to play a vital role in the war on drugs as well as the other missions.

This bill includes a provision that requires the Coast Guard to report quarterly to Congress on the amount of money that the Coast Guard is devoting, in fact, to drug interdiction. This provision will allow the committee to monitor and get an accurate account, a snapshot, if you will, of how well the Coast Guard is perhaps performing its duties in the areas of drug interdiction.

I look forward to working with the chairman, the gentleman from North Carolina [Mr. COBLE], and Admiral Kramek to ensure that the Coast Guard has the resources necessary to get that job done.

I would like to note the bill includes a Buy American provision I inserted in the bill. It is a modest provision. It puts the Coast Guard on notice that Congress expects the Coast Guard, whenever practicable, to purchase American-made equipment and products.

But for the time being, I would like to talk about an amendment I intend to offer that I believe makes the bill a great bill. As well as other Members of this Congress, I have concerns of the closing of 23 multimission small boat stations that are on track here to be in fact closed.

Now, I know there are a number of amendments that speak to some criteria and procedures about this safety concern and this closing apparatus, but the truth of the matter is, any and all of these amendments, if passed, will amount to one official action here today: These 23 stations will be closed. They will have some nice language. There will be some little exercises people will go through, but they will be closed.

And here is my concern: Passage of the Traficant amendment, or failure to pass it, will have no bearing on my final vote. I support this bill. But let me get right to the point. We have had testimony before the Congress that is clear and explicit.

The last time Congress allowed for the closing of small boat stations, lives were lost. The Coast Guard has a major mission: safety.

The Traficant amendment deals with $3 million in finances. Now, my staff tells me maybe $2 million; $2 million in savings from the closing of the stations to jeopardize possible lives could be garnered by making some administrative adjustments in travel or expense. So let us not talk about money.

When the Coast Guard starts to be driven by financial concerns, then the major issue of the Coast Guard, safety, has been in fact, compromised.

The Traficant amendment would bar the Coast Guard from closing any of these stations, but it would still give the Coast Guard the flexibility in transferring resources as long as some active-duty personnel remain. For example, here is what the Traficant amendment will do: They could transfer out nearly every part of that station, but the Traficant amendment says one full-time Coast Guard personnel officer shall remain to coordinate and stabilize programs that are in fact operated with cooperation of the auxiliary.

I use the words "weekend warriors"; that is not a fair explanation of our auxiliary. The auxiliary is a great force we have for the Coast Guard. I do not want my words to seem demeaning.

As a former sheriff, let me tell you something, ladies and gentlemen, when you take away full-time personnel, you do not have the same focus that you once had.

Now, if we are going to have a voluntary Coast Guard in 23 stations, that will be the decision that you will make and you will vote for, JIM TRAFICANT cannot accept that, and I am saying for this $3 million, Congress, do not close these stations.

Now, I have heard all of that business about the Congress cannot micromanage. My God, let us forget micromanaging. We set policy. The policy the Congress would be setting through the Traficant amendment is, "Coast Guard, save lives. The Congress of the United States charges you with saving lives." If there is a problem on money, we will talk about it. But the Congress of the United States saying our policy is find that $3 million somewhere else.

Now, I do not know how else we can save that. The Coast Guard's own analysis indicated that for each small boat station closure, there would be at least one additional life lost every 12 years. I find any Government prospectus that, in fact, delineates the future loss of life from an action taken by this Congress is totally unacceptable, without merit, and should not be tolerated by the Congress itself.

But in any regard, there has been a substitute passed in the committee. That substitute gives flexibility to the Coast Guard to deal with safety issues, but I do not believe the Congress of the United States should delegate lives when there is documented evidence of the loss of life on record.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I had a question to the gentleman and the chairman, if he might.

Is it your understanding that the amendment offered by the chairman, and adopted in committee, which amends section 1016(c) of the Oil Pollution Act of 1990 provides an exemption for marinas from the requirement to demonstrate $150 million in financial responsibility under that section?

Mr. TRAFICANT. The answer I would have would be yes. I would defer to the gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, I concur with the gentleman from Ohio. I say to the gentleman from Connecticut that is, indeed, correct.

Mr. GEJDENSON. I thank both gentlemen, for this is an issue critically important. It would have devastated most of the small boatyards along the shore. I commend them for their action.

Mr. GEJDENSON. Mr. Chairman, I rise in support of H.R. 1361, the Coast Guard Authorization Act for Fiscal Year 1996. I want to thank Chairman SHUSTER and Ranking Member MINETA for bringing this bill to the floor today.

This bill authorizes the important activities of the U.S. Coast Guard for fiscal year 1996. My district is home to the Coast Guard Academy and the Coast Guard Research and Development Center. I am pleased that the bill authorizes $22.5 million for R&D. The R&D Center serves the entire Coast Guard and is involved in wideranging research to improve maritime safety, aids to navigation, and oil spill detection. As everyone knows, the Academy is responsible for training the next generation of Coast Guard officers.

I also support this bill because it includes language similar to legislation I have introduced, H.R. 1002, to provide relief to marinas from onerous financial responsibility requirements of the Oil Pollution Act of 1990 [OPA 90]. Under section 1016 of OPA, offshore facilities handling petroleum products are required to demonstrate $150 million in financial responsibility to cover the costs of cleaning up oil spills. While I believe this is entirely appropriate for entities handling large volumes of heavy oil, the Minerals Management Service [MMS], which is writing the regulations governing this section, has interpreted it to apply to marinas. This interpretation would be devastating to marinas and detrimental to millions of boaters coast to coast.

As my colleagues know, marinas are overwhelmingly small businesses which handle relatively small amounts of gasoline and diesel fuel. They do not pose a major threat to the environment. In fact, according to the Coast Guard, in fiscal year 1993 fuel spills from marinas totaled a little more than 9,000 gallons nationwide. Under the MMS proposal, marinas would be required to have insurance policies providing $150 million in liability coverage. According to the Marina Operators Association of America [MOAA], such policies would carry premiums between $150,000 and $450,000 per year. The vast majority of marinas could not afford this expense and would be forced to close their fuel docks. This would have adverse effects on their businesses as well as millions of Americans who fuel their boats safely and conveniently at marinas. I am also concerned that if fuel docks are closed, many boaters would begin carrying fuel in their cars and transferring it to boats with funnels. This practice would substantially increase the likelihood of spills and accidents.

Under an amendment offered by Mr. COBLE and adopted by the Transportation Committee, marinas would be exempt from the financial responsibility requirements. While this amendment goes beyond the scope of my bill, I am pleased that marinas will be protected. I want to take this opportunity to thank Mr. COBLE and Mr. TRAFICANT and their staffs for working with me on this issue. This amendment will protect small businesses as well as ensure that boaters continue to have access to fuel in a safe, convenient, and environmentally sound manner.

Mr. Chairman, I urge my colleagues to support H.R. 1361.

Mr. TRAFICANT. Let me say to the gentleman from Connecticut I believe the language that goes beyond Congress' stopping these closures will ultimately bring us into concerns that you ultimately have. I would recommend, if your concern lies in those areas, to give us consideration.

Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the full committee.

Mr. SHUSTER. Mr. Chairman, I thank the distinguished gentleman for yielding.

Mr. Chairman, I rise in strong support of this legislation.

Sometimes here in Washington we confuse what is controversial with what is important, and even though this legislation is not controversial, it is extremely important.

Let me share with you what the Coast Guard does for America on the average day, 365 days out of the year. Every day, on average, our Coast Guard boards 90 large vessels for port security checks, processes 120 seamen's documents, seizes 209 pounds of marijuana and 170 pounds of cocaine, worth $9.2 million, conducts, and get this, conducts 191 search and rescue missions, responds to 34 oil or hazardous chemical spills, conducts 120 law enforcement boardings, identifies 65 violations, investigates 17 marine accidents, inspects 64 commercial vessels, saves 14 lives, assists 328 people, saves $2.5 million in property, services 150 aids to navigation, and interdicts 176 illegal immigrants.

So, while this legislation is not controversial, has strong bipartisan support, it is extremely important legislation. In fact, it provides $3.7 billion a year to perform these missions.

Our Coast Guard today is represented by 37,000 active duty personnel, 8,000 reservists, 6,000 civilians, and over 35,000 volunteers. I know of few agencies in Government where the number of volunteers, over 35,000, virtually equals the number on active duty as in the Coast Guard.

So we have a Coast Guard that is deeply involved every day in making life better for the American people.

Our Defense Department and the people in the military certainly do a fine job, but they spend most of their time training. In fact, we hope that they never have to go into actual action.

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The Coast Guard, however, quite to the contrary, every day is involved in performing vital services for the American people 365 days a year. So I urge strong support for this legislation. Our Coast Guard deserves nothing less.

Mr. COBLE. Mr. Chairman I yield back the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO], a fine member of the Committee on Transportation and Infrastructure.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman from Ohio [Mr. TRAFICANT] for yielding this time to me.

Mr. Chairman, I am going to speak particularly to the Traficant amendment which will be before this body soon. The question that must be decided by this Congress:

Is one-tenth of 1 percent of the Coast Guard budget too much to prevent loss of life?

We heard already the actuarial statistics from the Coast Guard, cold numbers; that is, once in 12 years each of these 23 stations will experience a loss of life because of the closures. That means two lives per year. We are saving $2.6 million for two lives per year if we believe the Coast Guard estimate. The last time the Coast Guard closed these two life saving stations in my district five people drowned within a 2-month period, so maybe they are off by factor of two, or three, or five.

I say to my colleagues, however you look at it, if you use the most conservative estimates, we're going to say that there is not one-tenth of 1 percent of waste in the entire $2.7 billion operating budget of the U.S. Coast Guard? If that agency is run so well that there is not a penny of waste, then we should put them in charge of the Pentagon, we should put them in charge of HUD, we should put them in charge of all of the Federal Government of the United States of America. Is there anybody on this side of the aisle who believes there is any Federal operation, any Federal agency, that doesn't have one-tenth of 1 percent of savings they can't find if they look hard? That's what we are debating here, lives. We're going to lose lives; people are going to die. I can put names to the people who died in my district the last time we did this. Five people in 2 months, but they tell us, "No, it will only be two people a year." Well, even if it's one person a year, I believe that this body will be making a mistake if it doesn't tell the Coast Guard to go back to the drawing boards, find that one-tenth of 1 percent of savings and fully fund these life saving stations.

Mr. TRAFICANT. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, again, as part of the general debate, I wanted to indicate very strongly that this is a good bill other than the fact that the Coast Guard has proposed closing these 23 stations around the country. The problem that I see, and again the gentleman from Oregon [Mr. DEFAZIO] already pointed it out, is that, when these closures occurred back in 1988, for a period of time there were deaths, and there were serious incidents that occurred without the Coast Guard presence, and we do not want that to occur again. We have had documentation of the problems that occurred when many of these stations that are now proposed for closure were, in fact, closed going back 6 or 7 years ago.

I always try to look at these things from what I would call a cost-benefit analysis, if my colleagues will. Think about what we are talking about here. The Coast Guard has estimated that closing these stations will save about $6 million. Various estimates that have been composed today go lower than that, to $3 million, or perhaps $2 million, but all of those things assume that a certain number of lives will be lost because of these stations being closed. Again I find that unacceptable.

One of the biggest problems that I have also with the proposed streamlining and closure of the stations is the fact that it assumes that State, or local or nonprofit agencies will take up the slack, that somehow, if we close these stations, that the State; for example, in New Jersey the State Marine Police, or the local municipal fire department, or the Coast Guard Auxiliary, are going to step in and pursue those search-and-rescue functions. It is not the case. That assumption is a false one.

I say to my colleagues, if you look at my own State of New Jersey, our own

State Marine Police has been downsized considerably during the last few years. The local fire departments in some cases may have a boat or some person who has some knowledge of boat safety, but not enough to step in, and even when we talk about the Coast Guard Auxiliary and suggest somehow they're going to take over this responsibility, let me assure you that, if the station closes and there is no regular Coast Guard personnel at that station, the Coast Guard Auxiliary won't be able to perform these function either. One of the beauties of the Auxiliary is that they work with the Coast Guard, so what we're saying over and over again is this is not an acceptable solution.

We need support for the Traficant amendment.

Mr. TRAFICANT. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I thank the gentleman from Ohio [Mr. TRAFICANT] for yielding me the time.

Mr. Chairman, I rise in support of the Coast Guard bill and, in particular, the Traficant amendment to H.R. 1361.

In my district in northern Michigan, it has more coast line than any other congressional district except Alaska, but yet the Coast Guard is proposing to close Station Marquette located in the middle of the Upper Peninsula of Michigan, and they plan there to operate a search and rescue on this vast Northern Michigan Peninsula from the extreme ends of the peninsula in Portage and Ste. St. Marie. Now the shore line of Lake Superior up there is about 500 miles long, and our search-and-rescue missions will be on the extreme ends instead of in the middle where Marquette is, and at Marquette they have a 44-foot life boat capable of operating in the hazardous waters of Lake Superior. Now, if we are going to have to rely upon Ste. St. Marie and Portage to come over with a 44-foot boat for search and rescue from Ste. St. Marie, it takes 14 hours in a 44-foot boat, and, from Portage, 6½ hours.

I know that the distinguished chairman may argue, and has argued in a Dear Colleague letter, that the Coast Guard has a nationwide system of air stations with helicopters for search and rescue which is much faster than these 40-foot boats. I would agree that the problem is in northern Michigan there are no helicopters in the Upper Peninsula. They must come from the Lower Peninsula, and then, when they finally get from the Lower Peninsula to the Upper Peninsula of Michigan, they have to stop and refuel. So it costs not only precious lives, but also many valuable seconds in search and rescues and having to wait for helicopters coming from another part of the State to try to patrol the areas of northern Michigan. In Marquette County alone there are over 8,000 recreational boaters, and we should not put these people at risk by closing down their station. Marquette is a major shipping destination.

Marquette is also a major shipping destination in the Great Lakes, and more than 7½ million tons of iron ore flows from Marquette, but the Coast Guard, besides search and rescue, must also enforce our environmental laws, our law enforcement laws, fishing regulations, so it does not seem practical, at least from this point of view, that we close down Marquette, not just for search and rescue, but also for enforcement of environmental laws, pollution laws, and fishing laws.

So we, in the past few years, have asked the Coast Guard to continue to expand their services. They have. It has put great strain on their budget. We understand that, but I do not think at this time we can stand here and in a straight face say we can jeopardize lives, environmental laws, law enforcement of our Nation's waters, to save a mere $3 million in a multibillion dollar budget. So I strongly urge my colleagues to support this bill and, more importantly, to support the Traficant amendment.

Mr. TRAFICANT. Before yielding back my time, let me say this:

With 60-mile-per-hour winds and no visibility these real high-technology helicopters are about as useful—I better not say it. My colleagues know what I am talking about from razorback country.

This is an excellent bill. None of the debate that has come from this side of the aisle is to any way take away from this bill and the first effort of this fine chairman.

I was hoping that maybe we would come to some understanding on the limited amount of money and the Congress of the United States would say: "Fine, we're willing to negotiate and give you a free rein. You've done a good job, Coast Guard, but one thing we can be sure of. When we have information that says lives can be placed at risk, the decision is easy. The Congress will not allow the dice to be rolled."

I am hoping the Congress will be able to look at that, pass that one amendment. It could make this a great bill. But in any regard I am going to vote for this bill. I support the efforts of this fine chairman. I commend him for his efforts here today.

Mr. Chairman, having talked so long, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Chairman, I would like to engage in a colloquy between myself and the gentleman from North Carolina [Mr. COBLE].

I rise today to engage in a colloquy to confirm my understanding of the impact of the Coast Guard reauthorization bill on Santa Cruz, CA.

Am I correct in my understanding of the bill that the substation will not be closed if public safety is endangered by departure of the Coast Guard presence?

Mr. COBLE. Mr. Chairman, will the gentleman yield?

Mr. FARR. I yield to the gentleman from North Carolina.

Mr. COBLE. That is correct, sir.

Mr. FARR. Mr. Chairman, am I correct in assuming that a substation could remain open according to this bill if a community could come together to create a reasonable solution to maintaining limited Coast Guard presence without incurring costs associated with maintaining a Coast Guard substation facility?

Mr. COBLE. Is there a situation such as that in the Santa Cruz Port District?

Mr. FARR. Yes, Mr. Chairman. The Santa Cruz Port District has offered to retain crew quarters in the current building. It has also offered to provide patrol boat berthing adjacent to the current Coast Guard building, and provide a communications network. The Port District would also maintain the premises and provide administrative support to meet any needs that the Coast Guard has in deploying resources to the Santa Cruz Harbor District. Personnel cost would be minimal as Coast Guard reservists would man the facility and a Coast Guard presence would be required only on weekends during summer months. Essentially, the community would provide for all costs associated with maintaining the substation. Does this sound like a reasonable solution?

Mr. COBLE. If the gentleman would yield, it does indeed sound reasonable, and it is my belief that this bill would not prohibit such an approach from occurring.

Mr. FARR. I thank the gentleman very much for that understanding, Mr. Chairman, and I say to the gentleman, I look forward to working with you.

Mr. TRAFICANT. Mr. Chairman, I urge the Congress to support the Traficant amendment and the bill, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Chairman, I rise today in support of H.R. 1361, the Coast Guard Authorization Act. When the House considered similar legislation in the previous Congress, I offered an amendment directing the Secretary of Transportation to submit an annual report to the relevant House committee and the Senate Committee on Commerce, Science, and Transportation no later than April 1.

This report was to have described in detail the status of implementation of the vessel traffic service [VTS] in all ports ranked in the port needs study issued by the Coast Guard in 1991. However, the Coast Guard authorization was not enacted in the 103d Congress.

While the VTS system has yet to be implemented in Tampa, after a number of meetings with Coast Guard officials, I am satisfied that the Coast Guard is committed to implementation of this important service as soon as is practicable. For this reason, I am not offering my amendment today.

My interest in the VTS began when on August 10, 1993, a collision occurred in a navigation channel outside the entrance to Tampa Bay in Florida, between two tug/barges and a 357-foot freighter. This accident resulted in a thunderous explosion that shot a fireball hundreds of feet into the air. In addition, approximately 380,000 gallons of oil spilled into the Gulf of Mexico. The cost of the cleanup of this spill was enormous—several million dollars at least.

Mr. Chairman, this was not the first accident to occur at the mouth of Tampa Bay. Many of us remember the disaster that occurred in May 1980, when a freighter ran into the Sunshine Skyway Bridge causing one of its spans to collapse. Some 40 people were killed.

In fact, the Tampa Bay area has been prominently listed by the Coast Guard as a danger area for cargo ships carrying hazardous materials. As I mentioned earlier, in 1991, the Coast Guard conducted a port needs study on 23 ports across the United States. The goal of this study was to recognize the ports that are most prone to accidents. The study ranked Tampa Bay as one of the top 10 most dangerous ports.

The Coast Guard VTS is designed to prevent these types of accidents, and the VTS has been successfully implemented by the Coast Guard in several major port areas.

The VTS functions like an air traffic control system. It tracks vessels by radar and assists them in navigating through hazardous areas.

Unfortunately, however, under the fiscal year 1995 transportation appropriation bill, further implementation of the VTS was pushed back yet another year because, and I quote from that bill's report language: "Subsequent to the transmittal of the budget, the committee was advised by the Coast Guard that the schedule for the VTS 2000 program had slipped."

The report goes on further to say: "Review of the program's operational requirements and associated cost estimates took the Coast Guard much longer than anticipated."

Mr. Chairman, the VTS is a vital program that can potentially save lives and save money. Therefore, we cannot afford vague promises and further delays due to undetermined slippage—and I believe we have moved beyond this state of affairs. However, I will be working closely with the Coast Guard and the Department of Transportation to ensure that the VTS is implemented as soon as possible.

This was the purpose of my amendment in the last Congress and I was pleased that it was adopted by this Chamber without dissent. VTS is a cost-effective answer to environmental disasters, such as the one that took place in Tampa Bay in 1993. Nationally, the cost to clean up these types of accidents far exceeds the funding requested by the Department of Transportation to operate the VTS program.

Mr. Chairman, I want to be clear that I believe the Coast Guard must speed up its implementation of the VTS in all the ports listed in the port needs study. Likewise, I believe it is imperative that this Congress work with the Coast Guard in making sure that this fiscally responsible program is put into place.

I express this desire, not only in memory of the lives that have been lost in accidents such as those that I have described, but for the sake of the lives we will save through the VTS Program.

Mr. REED. Mr. Chairman, I rise in support of H.R. 1361, the fiscal year 1996 Coast Guard authorization bill.

In particular, I want to thank the chairman and ranking Democrat of the Coast Guard and Maritime Transportation Subcommittee for including a number of Rhode Island specific amendments in the bipartisan en bloc amendment.

Mr. Chairman, the Coast Guard is vital to the safety of our Nation's commercial fishermen, pleasure boaters, and merchant mariners. Each year, Coast Guard men and women save thousands of Americans from death at sea. In addition, these brave men and women help prevent many more tragedies through education and prevention programs, including efforts to curb boating under the influence. H.R. 1361 aims to continue this tradition of vigilance, and it has my full support.

This legislation will also provide specific relief to several vessel owners in Rhode Island, who currently cannot engage in the coast-wise trade because of the Jones Act. By providing Jones Act waivers for the *Isabelle* and three Harbor Marine barges and a fisheries waiver for the *Aboriginal*, the House will ensure that the owners of these vessels will be able to use their boats as intended. The *Isabelle*, an historic ketch built in Scotland in 1924, will be used as a charter boat. Harbor Marine Corporation's barges will have clear titles. Last, the *Aboriginal's* owner, a disabled firefighter and Vietnam veteran, will finally be able to start his charter fishing business.

In addition, the chairman's en bloc amendment will permit the transfer of un-used Coast Guard property on Block Island, RI, to the town of New Shoreham. The people of Block Island have leased this property for a number of years for education, police activities, harbor safety efforts, and environmental protection. In addition, the town has made over $60,000 in repairs and alterations to the buildings on the property, including new wiring, heating, windows, and a roof. It is my understanding that the Coast Guard supports this transfer, and I thank the chairman and Mr. TRAFICANT for including this provision in the en bloc amendment.

While I believe this legislation contains many important initiatives, I am concerned that H.R. 1361 would allow the Coast Guard to close a number of important small boat stations. These stations, many of which have been in existence for decades, are usually located in areas where a high visibility Coast Guard presence sends a signal of reassurance and deterrence. Such is the case with the Point Judith Station in Narragansett, RI. Point Judith is the home to my State's fishing fleet. It is also a focal point for the State's pleasure boaters and fishing charter boats. The same can be said of the summer station on Block Island. Although I have met with the Coast Guard to discuss their proposals, I must agree with the town of Narragansett and others in Rhode Island that these stations should not be closed. Therefore, I will support the Traficant amendment which prohibits the closure of small boat stations and ensures rapid, local response to emergency calls, unless the Secretary of Transportation finds that maritime safety will not be diminished.

Mr. Chairman, I urge my colleagues to support H.R. 1361, and I thank the subcommittee for the concern it has shown for Rhode Island's needs.

Mr. VISCLOSKY. Mr. Chairman, I rise today in support of the Transportation and Infrastructure Committee's en bloc amendment to H.R. 1361. This amendment contains an important provision to ensure that the so-called Johnson Act does not interfere with riverboat gambling in Indiana. This noncontroversial measure, which has the bipartisan support of Transportation Committee members, is based upon legislation I introduced in April, H.R. 1419.

I would like to clarify for my colleagues that this provision would not affect any other State, or State laws regarding gambling, since the Johnson Act exemption would apply only to Indiana riverboats operating within the territorial jurisdiction of the State of Indiana. Indeed, my goal is to ensure that an outdated Federal statute does not prevent the State of Indiana from implementing its riverboat gambling legislation.

In 1993, the Indiana General Assembly approved riverboat gambling legislation to allow gambling on Lake Michigan. However, as cities in northwest Indiana prepare to implement the Indiana Riverboat Gambling Act, concerns have been raised that the Johnson Act, passed in 1951 to prohibit the transportation of gambling devices on U.S.-flag ships in special maritime and territorial waters of the United States, may prohibit the use of casino gambling boats on Lake Michigan.

The U.S. Department of Justice has not yet decided if the Johnson Act would actually prohibit the operation of riverboat casinos. This legislation would ensure smooth sailing regardless of the Justice Department's decision.

It's better to be safe than sorry. The people of Indiana have spoken and I want to ensure that a section of an archaic law doesn't stand in the way of the people's will and continued efforts to create jobs and improve the economy in northwest Indiana.

I would like to thank Transportation and Infrastructure Committee Chairman SHUSTER, ranking member MINETA, Coast Guard and Maritime Transportation Subcommittee Chairman COBLE, ranking member TRAFICANT, and the Republican and Democratic committee and subcommittee staff for their cooperation and assistance.

Mr. GILCHREST. Mr. Chairman, I rise to voice opposition to the Coast Guard's current fee schedule that took effect on May 1, 1995. This user fee schedule is overly burdensome to small operators.

The final rule states that as of May 1, 1995, all inspected commercial vessels, including vessels carrying as few as seven passengers, will be required to pay the Coast Guard a user fee for the inspection of their vessels. The fees for inspected operators with vessels less than 54 feet would be $670 per year, escalating up to $1,200 for larger vessels. For small seasonal marine businesses, this fee represents a large percentage of their net revenue.

I believe these fees would have a disproportionate impact on small business. In my district, thousands of small operators would be hurt by this rule.

The Coast Guard should adjust its proposed fees for small operators to ensure that they are not regressive. This can be done by basing user fees on the actual time it takes to inspect a small vessel, usually 2 to 4 hours, which would translate into a fee much lower than announced.

The Coast Guard states that its fee is $87 per hour for inspections. The one topside inspection done each year and the one drydock inspection done every 18 months, takes approximately 3 hours per year per vessel. Therefore, the inspection fee should be no higher than $261 per year. In addition, a number of vessels could be inspected at one time, thus increasing the efficiency of the travel time spent by the Coast Guard, and possibly lowering the fees further.

I support the efforts of the gentleman from Louisiana [Mr. TAUZIN] to eliminate the regressive nature of these fees. I urge my colleague from North Carolina, Mr. COBLE to work with us toward this end.

Ms. FURSE. Mr. Chairman, I rise to express my strong support for the Coast Guard and the critical work that it performs.

The First District of Oregon, which I represent, is extremely grateful for the prominent presence of the Coast Guard in several locations along our shoreline. This agency saves lives, helps prevent accidents from occurring, and responds quickly to clean up oil spills. This agency is also responsible for drug interdiction and the enforcement of numerous laws and treaties governing the high seas. The Coast Guard in northern Oregon is also closely involved with our local communities in improving response to oilspills and training civilian oilspill cleanup volunteers.

In particular, I can't overemphasize how heavily dependent we in coastal States are upon the marine safety assistance services the Coast Guard provides. During the last year and a half, the Coast Guard in Astoria participated in more than 1,200 search and rescue operations, saving more than 70 lives and protecting more than 150 million dollars' worth of property.

I am concerned that we do not take for granted the role of this extremely valuable agency. Plans to close or consolidate Coast Guard stations must be carefully scrutinized to ensure that they will result in no decrease in public safety. Yes, we need to do all we can to downsize and streamline our Government—but not at the expense of human life. In the past, Coast Guard station closures have led to the loss of lives because the agency was stretched too thin to respond adequately to marine emergencies.

I am pleased to add my voice to the support expressed by my colleagues for the fiscal year 1996 authorization for the Coast Guard. The amount authorized under H.R. 1361 provides an increase from 1995 levels and I am pleased to see this rise in funding. In past years, this agency has consistently been underfunded. It's time to give the Coast Guard the resources they need to do their job. The work they do is essential to our coastal communities and our entire Nation. I urge my colleagues to support H.R. 1361.

Mr. BENTSEN. Mr. Chairman, I rise in support of H.R. 1361, which authorized appropriations for fiscal year 1996 for the U.S. Coast Guard. The bill funds vital areas for the U.S. Coast Guard so that it can perform its mission. Those areas include operations and maintenance; acquisition, construction and improvements; research and development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard; retired pay; alterations or removal of bridges over navigable waters; and environmental compliance and restoration functions.

I also strongly support provisions in the bill to extend advisory committees until the year 2000. These statutory committees were established to advise, consult with and make recommendations to the secretary of the department in which the Coast Guard is operating on matters relating to the transit of vessels and products to and from ports. These committees are very effective. The Port of Houston, which is in my district has 2 members on the 18-member committee.

I do, however, have some concerns over a provision in the bill to consolidate the Coast Guard marine safety office in Houston and Galveston into a single site. I believe it is imperative that the Coast Guard remains on the industrialized portion of the channel, and I wholeheartily support Congressman GREEN's amendment to prohibit this move. The proposed consolidation of the Galveston and Houston facilities from Galena Park to Clear Lake would seriously threaten the response time in cases of accidents or spills in the upper reaches of the Houston ship channel.

Additionally, I have some concerns as to why the provisions of the wreck removal bill were not incorporated in this bill. I understand that an attempt was made by Congressman LAUGHLIN to have a wreck removal amendment added, he was informed that it was not germane to this bill. This is an important issue for the Port of Houston, and I suspect that it is equally important for other ports across the country. Our Nation's ports and waterways are vital to the economy, trade, and national security. The closure of ports and waterways for any length of time due to obstruction by sunken or grounded vessels blocks the flow of commerce and results in significant financial loss. I believe this should be addressed, and I commend Congressman LAUGHLIN for his effort in trying to get such an amendment added to this bill.

Ms. HARMAN. Mr. Chairman, I am pleased to join my colleagues in supporting H.R. 1361, the Coast Guard Authorization bill for fiscal year 1996.

Among the bill's provisions is one which I and other members of our delegation reintroduced as a bill earlier this session to help California's tourism industry. That provision closes an existing loophole through which California loses an estimated $82 million annually.

Currently, under the Johnson Act, a cruise ship which makes an intrastate stop is subject to State law even if that ship travels in international waters and is destined for another State or foreign country. Using this loophole and its authority to regulate gambling, States like California prohibit gambling aboard these ships.

Section 408 of H.R. 1361, like our original bill, would allow gambling on internationally bound cruises. The provision would not cause mainland gambling to expand beyond current State controls. Instead, the provision simply amends the Johnson Act to allow Federal control over voyages that begin and end in the same State so long as any stopovers are part of a voyage to another State or foreign country which is reached within 3 days of the start of the voyage. Cruises within the boundaries of the State of Hawaii are expressly excluded from the effect of this provision.

This issue is one of great interest to the citizens of San Pedro and Catalina Island whom I represent. According to Catalina's Chamber of Commerce, the city of Avalon itself loses $1.5 million annually in canceled port visits because of existing law.

Similarly, the city of San Diego, from which many cruises originate, is affected. In the last Congress, San Diego's representative, Lynn Schenk, introduced the original legislation on behalf of her constituents and the cruise industry. That measure passed the House, only to die in the Senate. Today's action is a tribute to her dedicated efforts.

I urge support for this provision, and for the bill.

Mr. HILLEARY. Mr. Chairman, I want to thank the chairman of the Coast Guard and Maritime Transportation Subcommittee for including the language of my bill, H.R. 1550, in his en bloc amendment to H.R. 1361, the Coast Guard Authorization Act.

My language is noncontroversial. It concerns the vessel *Carolyn* which has been operating safely in Hardin County in my district for several decades. This vessel has passed numerous inspections but does not have documentation as to where it was built.

This is a violation of the Jones Act which requires documented proof that a vessel was built in the United States in order to be certified.

The vessel *Carolyn* is owned and operated by the Hardin County Highway Department. It is used to push a barge holding automobiles across the Tennessee River in Saltillo, TN.

There is no bridge in Saltillo. Many families and incomes depend on the Saltillo Ferry to give access to both shores of the Tennessee River. Ending this ferry service would severely impact the entire community.

The language of my bill provides for a waiver of the Jones Act for the *Carolyn* so that Coast Guard can certify the ferry for operation. This would simply allow the *Carolyn* to continue its important service to my constituents in Hardin County as it has dependably served for many years.

Again, I appreciate the chairman for including my bill in this en bloc amendment to H.R. 1361 and encourage all of my colleagues to support this amendment.

Mr. BARCIA. Mr. Chairman, the Coast Guard's mission in helping to provide for public boating safety is most important. As a Member whose district contains more shoreline than most other States, I sincerely appreciate the need for the Coast Guard.

It is also why I am upset about proposals to close small Coast Guard facilities. We face a situation in my district where the facility at Harbor Beach may be closed, and the nearest coverage will come from 60 miles away. No realistic individual believes that adequate assistance can be provided to boaters facing emergencies from such a distance. Certainly Mike Gage, the sheriff of Huron County, disagrees with the Coast Guard's assessment that his department can provide adequate coverage for the area.

Public safety is also broader than the presence of a Coast Guard station. It is also affected by the provision of other Coast Guard services. Now we are hearing of several cases in which the Coast Guard will not place marker buoys in waterways this year because these waterways have not been dredged. The Coast Guard doesn't want the liability for placing the buoys, because the Corps of Engineers will not dredge these riverways as they have done in the past.

Mr. Chairman, when people wonder what is wrong with Washington and agency bureaucrats, they need look no further than their own personal needs for day-to-day routine services.

The Coast Guard is about public safety. Small stations should stay open, and I will support the Traficant amendment for this reason. Marker buoys need to be placed for the safety of the boating public, and if the Corps of Engineers has to reestablish its ability to provide the dredging that recreational boaters need before the Coast Guard can replace the buoys, then I will do all that I can to help restore that ability.

Our citizens want their Government to recognize their needs. They deserve better treatment than they have been getting. Not every ship wreck will be as dramatic as that of the *Edmund Fitzgerald,* but every life lost and every injury sustained is just as important. We must find ways to make room for recreational boating activities.

Mr. MINETA. Mr. Chairman, I am in strong support of H.R. 1361, the Coast Guard authorization for fiscal year 1996 and urge our colleagues to support it as well.

This is the first time the Transportation and Infrastructure Committee has brought a Coast Guard authorization bill to the House floor as it is new to our jurisdiction. When the House reorganized the committee structure at the beginning of this session, our committee was assigned the transportation jurisdiction of the old Merchant Marine and Fisheries Committee. I believe that that was an excellent step in the interest of good public policymaking, since there are many areas in which our transportation policies need to be considered together. I had long supported this area being placed under the Transportation Committee's jurisdiction. It is clear that this new arrangement is working very well.

This bill authorized the Coast Guard at the level requested by the administration, approximately $3.8 billion. While this is a slight increase over the current year level, this amount assumes a major streamlining in Coast Guard personnel and budget already underway that will reduce the Coast Guard's size by 12 percent by 1999. The Coast Guard is an agency in the lead of finding ways to do more with less.

The Coast Guard's responsibilities are enormous. They must conduct drug interdiction for the entire coastline of the United States; perform search and rescue along the entire coastline; ensure maritime safety in all navigable waters; be the frontline agency in all oil-spills; protect our fisheries within the U.S. economic zone; respond to human migration crises; and enforce all U.S. laws on the high seas. Beyond these broad responsibilities, Congress has enacted a score of specific laws over the past 20 years which have given them specific new duties, particularly in the environmental and safety areas. The Coast Guard is doing all of this with a staff that is smaller than the size of the New York City Police Department.

Beyond authorizing the necessary funds to carry out its responsibilities, this bill makes a number of important policy changes which are being described in detail by the distinguished subcommittee leaders, Chairman COBLE and the ranking Democrat, Mr. TRAFICANT. But I would like to call attention to some of them.

The bill takes very significant steps to reform Coast Guard safety laws so that the Coast Guard and vessel operators can ensure safety in a better, but also more cost-effective way. The bill brings a number of our navigation codes into conformance with international standards. It makes a number of narrow, but commonsense changes, in the Oil Pollution Act of 1990, as that law pertains to the carriage of vegetable oil, marinas and certain other offshore facilities. The bill also provides some direct safety benefits such as requiring emergency locator beacons on vessels in the Great Lakes and raising the penalties for not reporting accidents or operating a vessel without a licensed operator. The bill also makes important clarifications in the legal status of the Coast Guard auxiliary.

Finally, I want to commend Chairman COBLE and Congressman TRAFICANT for their good work on this bill. It has been a cooperative, bipartisan effort, and the fine bill before us today reflects the manner in which they have approached their responsibilities.

Mr. Chairman, this is a bill that deserves all of our support. I urge that it be passed.

Ms. PELOSI. Mr. Chairman, I rise today to offer my support for H.R. 1361, the Coast Guard Authorization Act of 1996.

Since 1915, the Coast Guard has played a critical role in the protection of life and property on the high seas and in the enforcement of all applicable federal laws on, over, and under our oceans. The Coast Guard has maintained coastal navigation aids, engaged in icebreaking activities and has protected our fragile environment. The Coast Guard is also responsible for the safety and security of vessels, ports, waterways, and their related facilities.

Mr. Speaker, in addition to these maritime safety responsibilities, the Coast Guard also performs drug interdiction for the entire U.S. coastline, responds to all coastal oil spills, protects U.S. fisheries, and responds to human migration crises.

H.R. 1361, which reflects a slight increase over this year's funding level, recognizes the enormous responsibilities performed by the men and women of the Coast Guard every day and it deserves our bipartisan support. I urge all of my colleagues to support this legislation.

Mr. YOUNG of Florida. Mr. Chairman, I rise in strong support of H.R. 1361, the Coast Guard Authorization Act.

The men and women of the Coast Guard are life savers, they protect our national security, they fight crime, and they protect our environment.

The people of Florida have a special appreciation for the work of the Coast Guard. As the chairman of the Florida congressional delegation, I in particular pay tribute to the 7th District which serves Florida, the busiest Coast Guard district in our Nation.

It is a privilege for me to represent Pinellas County, FL, which is home to three Coast Guard stations including Group St. Petersburg, which is responsible for protecting Florida's west coast down through the Carribbean, the Clearwater Air Station, the largest Coast Guard Air Station in the United States, and the Sand Key Station, which responds regularly to emergencies at sea and in our inland waters.

Because the Coast Guard has consistently responded to untraditional challenges to our Nation with determination, creativity, and effectiveness, the Congress has seen fit year after year to add to its long list of multifaceted responsibilities. In the early 1980's, when the flow of illegal narcotics through the Carribbean threatened the nationality security of the United States, the U.S. Coast Guard was charged with slamming the door on this drug trade. The vigilance with which the Coast Guard undertook this mission forced drug smugglers to abandon Florida as a primary point of entry into the United States. Those who persist in trying to bring drugs into our Nation through Florida have been met with the firm response, such as last year when the St. Petersburg based Coast Guard Cutter *Point Countess* intercepted the freighter *Inge Frank* near the Sunshine Skyway bridge at the entrance to Tampa Bay, escorted it to its mooring, and joined the DEA and Customs Service in a raid that seized more than 6,000 pounds of cocaine, preventing $272 million in illegal drugs from reaching our streets.

Most recently, when our Nation was faced with an exodus of tens of thousands of Cuban and Haitian refugees, the Coast Guard responded. The 7th District rescued more than 23,000 Haitians at sea in unsafe vessels last Spring, and expanded its operations last Summer, pulling more than 35,000 Cubans from the waters of the Florida Straits. Aircraft from the Clearwater Air Station flew 3,200 flying hours 1n support of these missions, and delivered over 600 tons of cargo to the U.S. forces implementing our immigration policies on shore.

It is the Coast Guard which is responsible for enforcing all United States laws at sea, whether they be immigration, narcotics, environmental, fishery, or safety-related.

It is the Coast Guard which is responsible for its well known search and rescue missions at sea. This mission not only saves lives just about every day of the year, but also saves significant amount of public and private property. Recently the Florida pilot of a small plane learned this lesson the hard way, when, far from land, he radioed a mayday, saying he had only 15 minutes of fuel left. His plane hit the water 70 miles west of Tampa Bay, and sank within 60 seconds. A nearby Coast Guard Falcon Fanjet used direction-finding equipment to locate the plane, witnessed it hit the water, and dropped a life-raft and emergency locating transmitter which enabled the pilot to be rescued later. Similar air rescues have saved 188 lives off the coasts of Florida alone since last April, and will continue to provide Americans with a level of safety at sea.

It is also the Coast Guard which is responsible for the less glamorous, but vitally important responsibility of maintaining vital aids to navigation that keep ships and boats out of jeopardy. Though some take channel markers, ocean buoys, loran stations, and other necessary navigational aids for granted, they are the critical signposts that allow for the safe passage of boaters on our waterways.

The Coast Guard receives invaluable help in fulfilling many of these diverse responsibilities from the volunteers of the Coast Guard Auxiliary. The 572 active members of Auxiliary Division 8, who provide support to Group St. Petersburg, make up the largest auxiliary unit in the Nation. Auxiliary members are very active in educating the public about boating safety issues, providing free boating safety classes and dockside courtesy marine examinations. Last year alone, in addition to training 1,330 students and conducting 8,104 courtesy marine examinations, Division 8 also conducted 1,364 support missions, logged over 14,607 underway hours, saved five lives, assisted 393 boaters, and saved more than $2.6 million in property.

Mr. Speaker, perhaps the least known and understood of the Coast Guard's mission is one for which I have funding and oversight responsibility: defense readiness. When activated by the President, the Coast Guard assists the U.S. Navy in time of conflict, guarding the foreign and domestic ports we use to deliver troops and vital supplies in support of operations such as Desert Shield/Desert Storm, Grenada, and most recently in Haiti. In recognition of these readiness and port security missions, the Appropriations Subcommittee on National Security, which I chair, has consistently provided funding support for the Coast Guard. In addition, I have worked to ensure that we better link our military intelligence assets with the Coast Guard to provide greater assistance in its drug-interdiction and security-related efforts. Such intelligence and detection capabilities dramatically improve the Coast Guard's ability to do its job, and I look forward to promoting more effective cooperation between the services in the future.

While the duties and expectations of the Coast Guard continue to grow, the funding necessary to fully meet them has not. Over the years, the Coast Guard has worked to find cost-effective ways to meet the demands placed upon it within an extremely tight budget, and I commend them. It is difficult to find another part of Government that does so much, so well, with so little. The last 2 years serve as the greatest example of this conflict between goals and resources. This administration has recommended sharp reductions in funding for drug interdiction, and as a result reports now indicate Caribbean trafficking may again be rising.

Changing administration policies with regard to Haiti and Cuba have encouraged greater and greater numbers of refugees to take to the water, forcing the Coast Guard to shift assets from other important areas to tackle this overwhelming burden. In each of these instances, the Coast Guard has become our Nation's last line of defense, and the line is being stretched thinner and thinner.

If past performance is any guide, the men and women of the Coast Guard will continue to meet the new threats to America's national and economic security with creativity, perseverance, and professionalism. Mr. Speaker, I salute them and their important mission and rise in support of this legislation to give them the tools to continue to undertake their important work which saves lives and protects our coastline.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill shall be considered by titles as an original bill for purposes of amendment. The first two sections and each title are considered as read.

The Clerk will designate section 1.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act For Fiscal Year 1996".

Mr. COBLE. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute made in order as original text by the rule be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATIONS

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.
Sec. 103. Quarterly reports on drug interdiction.
Sec. 104. Safety determination for small boat closures.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

Sec. 201. Hurricane Andrew relief.
Sec. 202. Exclude certain reserves from end-of-year strength.
Sec. 203. Provision of child development services.
Sec. 204. Access to national driver register information on certain Coast Guard personnel.
Sec. 205. Officer retention until retirement eligible.

TITLE III—NAVIGATION SAFETY AND WATERWAY SERVICES MANAGEMENT

Sec. 301. Foreign passenger vessel user fees.
Sec. 302. Florida Avenue Bridge.
Sec. 303. Renewal of Houston-Galveston Navigation Safety Advisory Committee and Lower Mississippi River Waterway Advisory Committee.
Sec. 304. Renewal of the Navigation Safety Advisory Council.
Sec. 305. Renewal of Commercial Fishing Industry Vessel Advisory Committee.
Sec. 306. Nondisclosure of port security plans.
Sec. 307. Maritime drug and alcohol testing program civil penalty.
Sec. 308. Withholding vessel clearance for violation of certain Acts.
Sec. 309. Increased civil penalties.
Sec. 310. Amendment to require emergency position indicating radio beacons on the Great Lakes.

TITLE IV—MISCELLANEOUS

Sec. 401. Transfer of Coast Guard property in Traverse City, Michigan.
Sec. 402. Transfer of Coast Guard property in Ketchikan, Alaska.
Sec. 403. Electronic filing of commercial instruments.
Sec. 404. Board for correction of military records deadline.
Sec. 405. Judicial sale of certain documented vessels to aliens.
Sec. 406. Improved authority to sell recyclable material.
Sec. 407. Recruitment of women and minorities.
Sec. 408. Limitation of certain State authority over vessels.
Sec. 409. Vessel financing.
Sec. 410. Sense of Congress; requirement regarding notice.
Sec. 411. Special selection boards.
Sec. 412. Availability of extrajudicial remedies for default on preferred mortgage liens on vessels.
Sec. 413. Implementation of water pollution laws with respect to vegetable oil.
Sec. 414. Certain information from marine casualty investigations barred in legal proceedings.
Sec. 415. Report on LORAN–C requirements.
Sec. 416. Limited double hull exemptions.
Sec. 417. Oil spill response vessels.
Sec. 418. Offshore facility financial responsibility requirements.
Sec. 419. Manning and watch requirements on towing vessels on the Great Lakes.
Sec. 420. Limitation on application of certain laws to Lake Texoma.

TITLE V—COAST GUARD REGULATORY REFORM

Sec. 501. Short title.
Sec. 502. Safety management.
Sec. 503. Use of reports, documents, records, and examinations of other persons.
Sec. 504. Equipment approval.
Sec. 505. Frequency of inspection.
Sec. 506. Certificate of inspection.
Sec. 507. Delegation of authority of Secretary to classification societies.

TITLE VI—DOCUMENTATION OF VESSELS

Sec. 601. Authority to issue coastwise endorsements.
Sec. 602. Vessel documentation for charity cruises.
Sec. 603. Extension of deadline for conversion of vessel M/V TWIN DRILL.
Sec. 604. Documentation of vessel RAINBOW'S END.
Sec. 605. Documentation of vessel GLEAM.
Sec. 606. Documentation of various vessels.
Sec. 607. Documentation of 4 barges.

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

Sec. 701. Amendment of inland navigation rules.
Sec. 702. Measurement of vessels.
Sec. 703. Longshore and harbor workers compensation.
Sec. 704. Radiotelephone requirements.
Sec. 705. Vessel operating requirements.
Sec. 706. Merchant Marine Act, 1920.
Sec. 707. Merchant Marine Act, 1956.
Sec. 708. Maritime education and training.
Sec. 709. General definitions.
Sec. 710. Authority to exempt certain vessels.
Sec. 711. Inspection of vessels.
Sec. 712. Regulations.

Sec. 713. Penalties—inspection of vessels.
Sec. 714. Application—tank vessels.
Sec. 715. Tank vessel construction standards.
Sec. 716. Tanker minimum standards.
Sec. 717. Self-propelled tank vessel minimum standards.
Sec. 718. Definition—abandonment of barges.
Sec. 719. Application—load lines.
Sec. 720. Licensing of individuals.
Sec. 721. Able seamen—limited.
Sec. 722. Able seamen—offshore supply vessels.
Sec. 723. Scale of employment—able seamen.
Sec. 724. General requirements—engine department.
Sec. 725. Complement of inspected vessels.
Sec. 726. Watchmen.
Sec. 727. Citizenship and naval reserve requirements.
Sec. 728. Watches.
Sec. 729. Minimum number of licensed individuals.
Sec. 730. Officers' competency certificates convention.
Sec. 731. Merchant mariners' documents required.
Sec. 732. Certain crew requirements.
Sec. 733. Freight vessels.
Sec. 734. Exemptions.
Sec. 735. United States registered pilot service.
Sec. 736. Definitions—merchant seamen protection.
Sec. 737. Application—foreign and intercoastal voyages.
Sec. 738. Application—coastwise voyages.
Sec. 739. Fishing agreements.
Sec. 740. Accommodations for seamen.
Sec. 741. Medicine chests.
Sec. 742. Logbook and entry requirements.
Sec. 743. Coastwise endorsements.
Sec. 744. Fishery endorsements.
Sec. 745. Clerical amendment.
Sec. 746. Repeal of Great Lakes endorsements.
Sec. 747. Convention tonnage for licenses, certificates, and documents.

TITLE VIII—COAST GUARD AUXILIARY AMENDMENTS

Sec. 801. Administration of the Coast Guard Auxiliary.
Sec. 802. Purpose of the Coast Guard Auxiliary.
Sec. 803. Members of the Auxiliary; status.
Sec. 804. Assignment and performance of duties.
Sec. 805. Cooperation with other agencies, States, territories, and political subdivisions.
Sec. 806. Vessel deemed public vessel.
Sec. 807. Aircraft deemed public aircraft.
Sec. 808. Disposal of certain material.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1996, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,618,316,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $428,200,000, to remain available until expended, of which $32,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,500,000, to remain available until expended, of which $3,150,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $582,022,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $16,200,000, to remain available until expended.

(6) For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions, other than parts and equipment associated with operations and maintenance, under chapter 19 of title 14, United States Code, at Coast Guard facilities, $25,000,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 38,400 as of September 30, 1996.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1996, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,604 student years.

(2) For flight training, 85 student years.

(3) For professional training in military and civilian institutions, 330 student years.

(4) For officer acquisition, 874 student years.

SEC. 103. QUARTERLY REPORTS ON DRUG INTERDICTION.

Not later than 30 days after the end of each fiscal year quarter, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on all expenditures related to drug interdiction activities of the Coast Guard during that quarter.

SEC. 104. SAFETY DETERMINATION FOR SMALL BOAT CLOSURES.

None of the funds authorized to be appropriated under this Act may be used to close Coast Guard multimission small boat stations unless the Secretary of Transportation determines that maritime safety will not be diminished by the closures.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. HURRICANE ANDREW RELIEF.

Section 2856 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) applies to the military personnel of the Coast Guard who were assigned to, or employed at or in connection with, any Federal facility or installation in the vicinity of Homestead Air Force Base, Florida, including the areas of Broward, Collier, Dade, and Monroe Counties, on or before August 24, 1992, except that—

(1) funds available to the Coast Guard, not to exceed a total of $25,000, shall be used; and

(2) the Secretary of Transportation shall administer that section with respect to Coast Guard personnel.

SEC. 202. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH.

Section 712 of title 14, United States Code, is amended by adding at the end the following:

"(d) Reserve members ordered to active duty under this section shall not be counted in computing authorized strength of members on active duty or members in grade under this title or under any other law.".

SEC. 203. PROVISION OF CHILD DEVELOPMENT SERVICES.

Section 93 of title 14, United States Code, is amended by striking "and" after the semicolon at the end of paragraph (t)(2), by striking the period at the end of paragraph (u) and inserting "; and", and by adding at the end the following new paragraph:

"(v) make child development services available to members of the armed forces and Federal civilian employees under terms and conditions comparable to those under the Military Child Care Act of 1989 (10 U.S.C. 113 note).".

SEC. 204. ACCESS TO NATIONAL DRIVER REGISTER INFORMATION ON CERTAIN COAST GUARD PERSONNEL.

(a) AMENDMENT TO TITLE 14.—Section 93 of title 14, United States Code, as amended by section 203, is further amended—

(1) by striking "and" after the semicolon at the end of paragraph (u);

(2) by striking the period at the end of paragraph (v) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(w) require that any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to the Commandant under section 30305(a) of title 49, may receive that information, and upon receipt, shall make the information available to the individual.".

(b) AMENDMENT TO TITLE 49.—Section 30305(b) of title 49, United States Code, is amended by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following new paragraph:

"(7) An individual who is an officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive the information and shall make the information available to the individual. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.".

SEC. 205. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE.

Section 283(b) of title 14, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking the last sentence; and

(3) by adding at the end the following:

"(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

"(A) except as provided in subparagraph (B), be honorably discharged with severance pay computed under section 286 of this title;

"(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

"(C) if, on the date specified for the officer's discharge in this section, the officer has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date.".

TITLE III—NAVIGATION SAFETY AND WATERWAY SERVICES MANAGEMENT

SEC. 301. FOREIGN PASSENGER VESSEL USER FEES.

Section 3303 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "(a) Except as" and inserting "Except as"; and

(2) by striking subsection (b).

SEC. 302. FLORIDA AVENUE BRIDGE.

For purposes of the alteration of the Florida Avenue Bridge (located approximately 1.63 miles east of the Mississippi River on the Gulf Intracoastal Waterway in Orleans Parish, Louisiana) ordered by the Secretary of Transportation under the Act of June 21, 1940 (33 U.S.C. 511 et seq.; popularly known as the Truman-Hobbs Act), the Secretary of Transportation shall treat the drainage siphon that is adjacent to the bridge as an appurtenance of the bridge, including with respect to apportionment and payment of costs for the removal of the drainage siphon in accordance with that Act.

SEC. 303. RENEWAL OF HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE AND LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

The Coast Guard Authorization Act of 1991 (Public Law 102-241, 105 Stat. 2208-2235) is amended—

(1) in section 18 by adding at the end the following:

"(h) The Committee shall terminate on October 1, 2000."; and

(2) in section 19 by adding at the end the following:

"(g) The Committee shall terminate on October 1, 2000.".

SEC. 304. RENEWAL OF THE NAVIGATION SAFETY ADVISORY COUNCIL.

(a) RENEWAL.—Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

(b) CLERICAL AMENDMENT.—The section heading for section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "Rules of the Road Advisory Council" and inserting "Navigation Safety Advisory Council".

SEC. 305. RENEWAL OF COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

Subsection (e)(1) of section 4508 of title 46, United States Code, is amended by striking "September 30, 1994" and inserting "October 1, 2000".

SEC. 306. NONDISCLOSURE OF PORT SECURITY PLANS.

Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226), is amended by adding at the end the following new subsection (c):

"(c) NONDISCLOSURE OF PORT SECURITY PLANS.—Notwithstanding any other provision of law, information related to security plans, procedures, or programs for passenger vessels or passenger terminals authorized under this Act is not required to be disclosed to the public.".

SEC. 307. MARITIME DRUG AND ALCOHOL TESTING PROGRAM CIVIL PENALTY.

(a) PENALTY IMPOSED.—Chapter 21 of title 46, United States Code, is amended by adding at the end the following new section:

"§2115. Civil penalty to enforce alcohol and dangerous drug testing

"Any person who fails to comply with or otherwise violates the requirements prescribed by the Secretary under this subtitle for chemical testing for dangerous drugs or for evidence of alcohol use is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each day of a continuing violation shall constitute a separate violation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 21 of title 46, United States Code, is amended by inserting after the item relating to section 2114 the following new item:

"2115. Civil penalty to enforce alcohol and dangerous drug testing.".

SEC. 308. WITHHOLDING VESSEL CLEARANCE FOR VIOLATION OF CERTAIN ACTS.

(a) TITLE 49, UNITED STATES CODE.—Section 5122 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(c) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a civil penalty under section 5123 of this title or for a fine under section 5124 of this title, or if reasonable cause exists to believe that such owner, operator, or person in charge may be subject to such a civil penalty or fine, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon the filing of a bond or other surety satisfactory to the Secretary.".

(b) PORT AND WATERWAYS SAFETY ACT.—Section 13(f) of the Ports and Waterways Safety Act (33 U.S.C. 1232(f)) is amended to read as follows:

"(f) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

(c) INLAND NAVIGATION RULES ACT OF 1980.—Section 4(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2072(d)) is amended to read as follows:

"(d) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a penalty under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

"(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

(d) TITLE 46, UNITED STATES CODE.—Section 3718(e) of title 46, United States Code, is amended to read as follows:

"(e)(1) If any owner, operator, or person in charge of a vessel is liable for any penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to any penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

SEC. 309. INCREASED CIVIL PENALTIES.

(a) PENALTY FOR FAILURE TO REPORT A CASUALTY.—Section 6103(a) of title 46, United States Code, is amended by striking "$1,000" and inserting "not more than $25,000".

(b) OPERATION OF UNINSPECTED VESSEL IN VIOLATION OF MANNING REQUIREMENTS.—Section 8906 of title 46, United States Code, is amended by striking "$1,000" and inserting "not more than $25,000".

SEC. 310. AMENDMENT TO REQUIRE EMERGENCY POSITION INDICATING RADIO BEACONS ON THE GREAT LAKES.

Paragraph (7) of section 4502(a) of title 46, United States Code, is amended by inserting "or beyond three nautical miles from the coastline of the Great Lakes" after "high seas".

TITLE IV—MISCELLANEOUS

SEC. 401. TRANSFER OF COAST GUARD PROPERTY IN TRAVERSE CITY, MICHIGAN.

(a) REQUIREMENT.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) shall expeditiously convey to the Traverse City Area Public School District in Traverse City, Michigan, without consideration, all right, title, and interest of the United States in and to the property described in subsection (b), subject to all easements and other interests in the property held by any other person.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in the city of Traverse City, Grand Traverse County, Michigan, and consisting of that part of the southeast ¼ of Section 12, Township 27 North, Range 11 West, described as: Commencing at the southeast ¼ corner of said Section 12, thence north 03 degrees 05 minutes 25 seconds east along the East line of said Section, 1074.04 feet, thence north 86 degrees 36 minutes 50 seconds west 207.66 feet, thence north 03 degrees 06 minutes 00 seconds east 572.83 feet to the point of beginning, thence north 86 degrees 54 minutes 00 seconds west 1,751.04 feet, thence north 03 degrees 02 minutes 38 seconds east 330.09 feet, thence north 24 degrees 04 minutes 40 seconds east 439.86 feet, thence south 86 degrees 56 minutes 15 seconds east 116.62 feet, thence north 03 degrees 08 minutes 45 seconds east 200.00 feet, thence south 87 degrees 08 minutes 20 seconds east 68.52 feet, to the southerly right-of-way of the C & O Railroad, thence south 65 degrees 54 minutes 20 seconds east along said right-of-way 1508.75 feet, thence south 03 degrees 06 minutes 00 seconds west 400.61 to the point of beginning, consisting of 27.10 acres of land, and all improvements located on that property including buildings, structures, and equipment.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Traverse City School District.

SEC. 402. TRANSFER OF COAST GUARD PROPERTY IN KETCHIKAN, ALASKA.

(a) CONVEYANCE REQUIREMENT.—The Secretary of Transportation shall convey to the Ketchikan Indian Corporation in Ketchikan, Alaska, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the

"Former Marine Safety Detachment" as identified in Report of Excess Number CG–689 (GSA Control Number 9–U–AK–0747) and described in subsection (b), for use by the Ketchikan Indian Corporation as a health or social services facility.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in the city of Ketchikan, Township 75 south, range 90 east, Copper River Meridian, First Judicial District, State of Alaska, and commencing at corner numbered 10, United States Survey numbered 1079, the true point of beginning for this description: Thence north 24 degrees 04 minutes east, along the 10–11 line of said survey a distance of 89.76 feet to corner numbered 1 of lot 5B; thence south 65 degrees 56 minutes east a distance of 345.18 feet to corner numbered 2 of lot 5B; thence south 24 degrees 04 minutes west a distance of 101.64 feet to corner numbered 3 of lot 5B; thence north 64 degrees 01 minute west a distance of 346.47 feet to corner numbered 10 of said survey, to the true point of beginning, consisting of 0.76 acres (more or less), and all improvements located on that property, including buildings, structures, and equipment.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Ketchikan Indian Corporation as a health or social services facility.

SEC. 403. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS.

Section 31321(a) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

"(B) A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.".

SEC. 404. BOARD FOR CORRECTION OF MILITARY RECORDS DEADLINE.

(a) REMEDIES DEEMED EXHAUSTED.—Ten months after a complete application for correction of military records is received by the Board for Correction of Military Records of the Coast Guard, administrative remedies are deemed to have been exhausted, and—

(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the Department of Transportation; or

(2) if the Board has not rendered a recommended decision, agency action is deemed to have been unreasonably delayed or withheld and the applicant is entitled to—

(A) an order under section 706(1) of title 5, United States Code, directing final action be taken within 30 days from the date the order is entered; and

(B) from amounts appropriated to the Department of Transportation, the costs of obtaining the order, including a reasonable attorney's fee.

(b) EXISTING DEADLINE MANDATORY.—The 10-month deadline established in section 212 of the Coast Guard Authorization Act of 1989 (Public Law 101–225, 103 Stat. 1914) is mandatory.

(c) APPLICATION.—This section applies to all applications filed with or pending before the Board or the Secretary of Transportation on or after June 12, 1990. For applications that were pending on June 12, 1990, the 10-month deadline referred to in subsection (b) shall be calculated from June 12, 1990.

SEC. 405. JUDICIAL SALE OF CERTAIN DOCUMENTED VESSELS TO ALIENS.

Section 31329 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(f) This section does not apply to a documented vessel that has been operated only—

"(1) as a fishing vessel, fish processing vessel, or fish tender vessel; or

"(2) for pleasure.".

SEC. 406. IMPROVED AUTHORITY TO SELL RECYCLABLE MATERIAL.

Section 641(c)(2) of title 14, United States Code, is amended by inserting before the period the following: ", except that the Commandant may conduct sales of materials for which the proceeds of sale will not exceed $5,000 under regulations prescribed by the Commandant".

SEC. 407. RECRUITMENT OF WOMEN AND MINORITIES.

Not later than January 31, 1996, the Commandant of the Coast Guard shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the status of and the problems in recruitment of women and minorities into the Coast Guard. The report shall contain specific plans to increase the recruitment of women and minorities and legislative recommendations needed to increase the recruitment of women and minorities.

SEC. 408. LIMITATION OF CERTAIN STATE AUTHORITY OVER VESSELS.

(a) SHORT TITLE.—This section may be cited as the "California Cruise Industry Revitalization Act".

(b) LIMITATION.—Section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(2)), commonly referred to as the "Johnson Act", is amended by adding at the end the following:

"(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if it includes or consists of a segment—

"(i) that begins and ends in the same State;

"(ii) that is part of a voyage to another State or to a foreign country; and

"(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which it begins.".

SEC. 409. VESSEL FINANCING.

(a) ELIMINATION OF MORTGAGEE RESTRICTIONS.—Section 31322(a) of title 46, United States Code, is amended to read as follows:

"(a) A preferred mortgage is a mortgage, whenever made, that—

"(1) includes the whole of the vessel;

"(2) is filed in substantial compliance with section 31321 of this title; and

"(3)(A) covers a documented vessel; or

"(B) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter.".

(b) ELIMINATION OF TRUSTEE RESTRICTIONS.—

(1) REPEAL.—Section 31328 of title 46, United States Code, is repealed.

(2) CONFORMING AMENDMENTS.—Section 31330(b) of title 46, United States Code, is amended in paragraphs (1), (2), and (3) by striking "31328 or" each place it appears.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 313 of title 46, United States Code, is amended by striking the item relating to section 31328.

(c) REMOVAL OF MORTGAGE RESTRICTIONS.—Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808) is amended—

(1) in subsection (c)—

(A) by striking "31328" and inserting "12106(e)"; and

(B) in paragraph (1) by striking "mortgage," each place it appears; and

(2) in subsection (d)—

(A) in paragraph (1) by striking "transfer, or mortgage" and inserting "or transfer";

(B) in paragraph (2) by striking "transfers, or mortgages" and inserting "or transfers";

(C) in paragraph (3)(B) by striking "transfers, or mortgages" and inserting "or transfers"; and

(D) in paragraph (4) by striking "transfers, or mortgages" and inserting "or transfers".

(d) LEASE FINANCING.—Section 12106 of title 46, United States Code, is amended by adding at the end the following new subsections:

"(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

"(A) the vessel is eligible for documentation under section 12102;

"(B) the vessel is otherwise qualified under this section to be employed in the coastwise trade;

"(C) the person that owns the vessel, a parent entity of that person, or a subsidiary of a parent entity of that person, is engaged in leasing;

"(D) the vessel is under a demise charter to a person qualifying as a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916; and

"(E) the demise charter is for—

"(i) a period of at least 3 years; or

"(ii) such shorter period as may be prescribed by the Secretary.

"(2) On termination of a demise charter required under paragraph (1)(D), the coastwise endorsement may be continued for a period not to exceed 6 months on any terms and conditions that the Secretary of Transportation may prescribe.

"(f) For purposes of the first proviso of section 27 of the Merchant Marine Act, 1920, section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of subsection (d) or (e) is deemed to be owned exclusively by citizens of the United States.".

SEC. 410. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the official responsible for providing the assistance, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 411. SPECIAL SELECTION BOARDS.

(a) REQUIREMENT.—Chapter 21 of title 14, United States Code, is amended by adding at the end the following new section:

"§747. Special selection boards

"(a) The Secretary shall provide for special selection boards to consider the case of any officer who is eligible for promotion who—

"(1) was not considered for selection for promotion by a selection board because of administrative error; or

"(2) was considered for selection for promotion by a selection board but not selected because—

"(A) the action of the board that considered the officer was contrary to law or involved a material error of fact or material administrative error; or

"(B) the board that considered the officer did not have before it for its consideration material information.

"(b) Not later than 6 months after the date of the enactment of the Coast Guard Authorization Act For Fiscal Year 1996, the Secretary shall

issue regulations to implement this section. The regulations shall conform, as appropriate, to the regulations and procedures issued by the Secretary of Defense for special selection boards under section 628 of title 10, United States Code.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 21 of title 14, United States Code, is amended by adding after the item for section 746 the following:

"747. Special selection boards.".

SEC. 412. AVAILABILITY OF EXTRAJUDICIAL REMEDIES FOR DEFAULT ON PREFERRED MORTGAGE LIENS ON VESSELS.

(a) AVAILABILITY OF EXTRAJUDICIAL REMEDIES.—Section 31325(b) of title 46, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking "mortgage may" and inserting "mortgagee may";

(2) in paragraph (1) by—

(A) striking "perferred" and inserting "preferred"; and

(B) striking "; and" and inserting a semicolon; and

(3) by adding at the end the following:

"(3) enforce the preferred mortgage lien or a claim for the outstanding indebtedness secured by the mortgaged vessel, or both, by exercising any other remedy (including an extrajudicial remedy) against a documented vessel, a vessel for which an application for documentation is filed under chapter 121 of this title, a foreign vessel, or a mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness, if—

"(A) the remedy is allowed under applicable law; and

"(B) the exercise of the remedy will not result in a violation of section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835).".

(b) NOTICE.—Section 31325 of title 46, United States Code, is further amended by adding at the end the following:

"(f)(1) Before title to the documented vessel or vessel for which an application for documentation is filed under chapter 121 is transferred by an extrajudicial remedy, the person exercising the remedy shall give notice of the proposed transfer to the Secretary, to the mortgagee of any mortgage on the vessel filed in substantial compliance with section 31321 of this title before notice of the proposed transfer is given to the Secretary, and to any person that recorded a notice of a claim of an undischarged lien on the vessel under section 31343 (a) or (d) of this title before notice of the proposed transfer is given to the Secretary.

"(2) Failure to give notice as required by this subsection shall not affect the transfer of title to a vessel. However, the rights of any holder of a maritime lien or a preferred mortgage on the vessel shall not be affected by a transfer of title by an extrajudicial remedy exercised under this section, regardless of whether notice is required by this subsection or given.

"(3) The Secretary shall prescribe regulations establishing the time and manner for providing notice under this subsection.".

(c) RULE OF CONSTRUCTION.—The amendments made by subsections (a) and (b) may not be construed to imply that remedies other than judicial remedies were not available before the date of enactment of this section to enforce claims for outstanding indebtedness secured by mortgaged vessels.

SEC. 413. IMPLEMENTATION OF WATER POLLUTION LAWS WITH RESPECT TO VEGETABLE OIL.

(a) DIFFERENTIATION AMONG FATS, OILS, AND GREASES.—

(1) IN GENERAL.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law related to water pollution control, the head of a Federal agency shall—

(A) differentiate between and establish separate classes for—

(i)(I) animal fats; and

(II) vegetable oils; and

(ii) other oils, including petroleum oil; and

(B) apply different standards to different classes of fat and oil as provided in paragraph (2).

(2) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii), the head of a Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

(b) FINANCIAL RESPONSIBILITY.—

(1) LIMITS ON LIABILITY.—Section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) is amended by striking "for a tank vessel," and inserting "for a tank vessel carrying oil in bulk as cargo (unless the only oil carried is an animal fat or vegetable oil, as those terms are defined in section 413(c) of the Coast Guard Authorization Act For Fiscal Year 1996),".

(2) FINANCIAL RESPONSIBILITY.—The first sentence of section 1016(a) of the Act (33 U.S.C. 2716(a)) is amended by striking "in the case of a tank vessel," and inserting "in the case of a tank vessel carrying oil in bulk as cargo (unless the only oil carried is an animal fat or vegetable oil, as those terms are defined in section 413(c) of the Coast Guard Authorization Act for Fiscal Year 1996),".

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) ANIMAL FAT.—The term "animal fat" means each type of animal fat, oil, or grease, including fat, oil, or grease from fish or a marine mammal and any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.

(2) VEGETABLE OIL.—The term "vegetable oil" means each type of vegetable oil, including vegetable oil from a seed, nut, or kernel and any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

SEC. 414. CERTAIN INFORMATION FROM MARINE CASUALTY INVESTIGATIONS BARRED IN LEGAL PROCEEDINGS.

(a) IN GENERAL.—Title 46, United States Code, is amended by inserting after section 6307 the following new section:

"§6308. Information barred in legal proceedings

"(a) Notwithstanding any other provision of law, any opinion, recommendation, deliberation, or conclusion contained in a report of a marine casualty investigation conducted under section 6301 of this title with respect to the cause of, or factors contributing to, the casualty set forth in the report of the investigation is not admissible as evidence or subject to discovery in any civil, administrative, or State criminal proceeding arising from a marine casualty, other than with the permission and consent of the Secretary of Transportation, in his or her sole discretion. Any employee of the United States or military member of the Coast Guard investigating a marine casualty or assisting in any such investigation conducted pursuant to section 6301 of this title, shall not be subject to deposition or other discovery, or otherwise testify or give information in such proceedings relevant to a marine casualty investigation, without the permission and consent of the Secretary of Transportation in his or her sole discretion. In exercising this discretion in cases where the United States is a party, the Secretary shall not withhold permission for an employee to testify solely on factual matters where the information is not available elsewhere or is not obtainable by other means. Nothing in this section prohibits the United States from calling an employee as an expert witness to testify on its behalf.

"(b) The information referred to in subsection (a) of this section shall not be considered an admission of liability by the United States or by any person referred to in those conclusions or statements.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 46, United States Code, is amended by adding after the item related to section 6307 the following:

"6308. Information barred in legal proceedings.".

SEC. 415. REPORT ON LORAN-C REQUIREMENTS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, prepared in consultation with users of the LORAN-C radionavigation system, defining the future use of and funding for operations, maintenance, and upgrades of the LORAN-C radionavigation system. The report shall address the following:

(1) An appropriate timetable for transition from ground-based radionavigation technology after it is determined that satellite-based technology is available as a sole means of safe and efficient navigation.

(2) The need to ensure that LORAN-C technology purchased by the public before the year 2000 has a useful economic life.

(3) The benefits of fully utilizing the compatibilities of LORAN-C technology and satellite-based technology by all modes of transportation.

(4) The need for all agencies in the Department of Transportation and other relevant Federal agencies to share the Federal Government's costs related to LORAN-C technology.

SEC. 416. LIMITED DOUBLE HULL EXEMPTIONS.

Section 3703a(b) of title 46, United States Code, is amended by—

(1) striking "or" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) adding at the end the following new paragraphs:

"(4) a vessel equipped with a double hull before August 12, 1992; or

"(5) a barge of less than 2,000 gross tons that is primarily used to carry deck cargo and bulk fuel to Native villages (as that term is defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1601)) located on or adjacent to bays or rivers above 58 degrees north latitude.".

SEC. 417. OIL SPILL RESPONSE VESSELS.

(a) DEFINITION.—Section 2101 of title 46, United States Code, is amended—

(1) by redesignating paragraph (20a) as paragraph (20b); and

(2) by inserting after paragraph (20) the following new paragraph:

"(20a) 'oil spill response vessel' means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.".

(b) EXEMPTION FROM LIQUID BULK CARRIAGE REQUIREMENTS.—Section 3702 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(f) This chapter does not apply to an oil spill response vessel if—

"(1) the vessel is used only in response-related activities; or

"(2) the vessel is—

"(A) not more than 500 gross tons;

"(B) designated in its certificate of inspection as an oil spill response vessel; and

"(C) engaged in response-related activities.".

(c) MANNING.—Section 8104(p) of title 46, United States Code, is amended to read as follows:

"(p) The Secretary may prescribe the watchstanding requirements for an oil spill response vessel.".

(d) MINIMUM NUMBER OF LICENSED INDIVIDUALS.—Section 8301(e) of title 46, United States Code, is amended to read as follows:

"(e) The Secretary may prescribe the minimum number of licensed individuals for an oil spill response vessel.".

(e) MERCHANT MARINER DOCUMENT REQUIREMENTS.—Section 8701(a) of title 46, United States Code, is amended by striking "and" after the semicolon at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting "; and", and by adding at the end the following new paragraph:

"(9) the Secretary may prescribe the individuals required to hold a merchant mariner's document serving onboard an oil spill response vessel.".

(f) EXEMPTION FROM TOWING VESSEL REQUIREMENT.—Section 8905 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(c) Section 8904 of this title does not apply to an oil spill response vessel while engaged in oil spill response or training activities.".

(g) INSPECTION REQUIREMENT.—Section 3301 of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(14) oil spill response vessels.".

SEC. 418. OFFSHORE FACILITY FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) DEFINITION OF RESPONSIBLE PARTY.—Section 1001(32)(C) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(32)(C)) is amended by striking "applicable State law or" and inserting "applicable State law relating to exploring for, producing, or transporting oil on submerged lands on the Outer Continental Shelf in accordance with a license or permit issued for such purpose, or under".

(b) AMOUNT OF FINANCIAL RESPONSIBILITY.—Section 1016(c)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2716(c)(1)) is amended to read as follows:

"(1) IN GENERAL.—

"(A) EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED.—Except as provided in paragraph (2), each responsible party with respect to an offshore facility described in section 1001(32)(C) located seaward of the line of mean high tide that is—

"(i) used for drilling for, producing, or processing oil; and

"(ii) has the capacity to transport, store, transfer, or otherwise handle more than 1,000 barrels of oil at any one time,

shall establish and maintain evidence of financial responsibility in the amount required under subparagraph (B) or (C), applicable.

"(B) AMOUNT REQUIRED GENERALLY.—Except as provided in subparagraph (C), for purposes of subparagraph (A) the amount of financial responsibility required is $35,000,000.

"(C) GREATER AMOUNT.—If the President determines that an amount of financial responsibility greater than the amount required by subparagraph (B) is necessary for an offshore facility, based on an assessment of the risk posed by the facility that includes consideration of the relative operational, environmental, human health, and other risks posed by the quantity or quality of oil that is transported, stored, transferred, or otherwise handled by the facility, the amount of financial responsibility required shall not exceed $150,000,000 determined by the President on the basis of clear and convincing evidence that the risks posed justify the greater amount.

"(D) MULTIPLE FACILITIES.—In a case in which a person is responsible for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the amount applicable to the facility having the greatest financial responsibility requirement under this subsection.

"(E) GUARANTEE METHOD.—Except with respect of financial responsibility established by the guarantee method, subsection (f) shall not apply with respect to this subsection.".

SEC. 419. MANNING AND WATCH REQUIREMENTS ON TOWING VESSELS ON THE GREAT LAKES.

(a) Section 8104(c) of title 46, United States Code, is amended—

(1) by striking "or permitted"; and

(2) by inserting after "day" the following: "or permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period".

(b) Section 8104(e) of title 46, United States Code, is amended by striking "subsections (c) and (d)" and inserting "subsection (d)".

(c) Section 8104(g) of title 46, United States Code, is amended by striking "(except a vessel to which subsection (c) of this section applies)".

SEC. 420. LIMITATION ON APPLICATION OF CERTAIN LAWS TO LAKE TEXOMA.

(a) LIMITATION.—The laws administered by the Coast Guard relating to documentation or inspection of vessels or licensing or documentation of vessel operators do not apply to any small passenger vessel operating on Lake Texoma.

(b) DEFINITIONS.—In this section:

(1) The term "Lake Texoma" means the impoundment by that name on the Red River, located on the border between Oklahoma and Texas.

(2) The term "small passenger vessel" has the meaning given that term in section 2101 of title 46, United States Code.

TITLE V—COAST GUARD REGULATORY REFORM

SEC. 501. SHORT TITLE.

This title may be cited as the "Coast Guard Regulatory Reform Act of 1995".

SEC. 502. SAFETY MANAGEMENT.

(a) MANAGEMENT OF VESSELS.—Title 46, United States Code, is amended by adding after chapter 31 the following new chapter:

"CHAPTER 32—MANAGEMENT OF VESSELS

"Sec.

"3201. Definitions.

"3202. Application.

"3203. Safety management system.

"3204. Implementation of safety management system.

"3205. Certification.

"§3201. Definitions

"In this chapter—

"(1) 'International Safety Management Code' has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;

"(2) 'responsible person' means—

"(A) the owner of a vessel to which this chapter applies; or

"(B) any other person that has—

"(i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and

"(ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter;

"(3) 'vessel engaged on a foreign voyage' means a vessel to which this chapter applies—

"(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

"(B) making a voyage between places outside the United States; or

"(C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

"§3202. Application

"(a) MANDATORY APPLICATION.—This chapter applies to the following vessels engaged on a foreign voyage:

"(1) Beginning July 1, 1998—

"(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

"(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

"(2) Beginning July 1, 2002, a freight vessel and a mobile offshore drilling unit of at least 500 gross tons.

"(b) VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

"(c) EXCEPTION.—Except as provided in subsection (b) of this section, this chapter does not apply to—

"(1) a barge;

"(2) a recreational vessel not engaged in commercial service;

"(3) a fishing vessel;

"(4) a vessel operating on the Great Lakes or its tributary and connecting waters; or

"(5) a public vessel.

"§3203. Safety management system

"(a) IN GENERAL.—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

"(1) a safety and environmental protection policy;

"(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

"(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

"(4) procedures for reporting accidents and nonconformities with this chapter;

"(5) procedures for preparing for and responding to emergency situations; and

"(6) procedures for internal audits and management reviews of the system.

"(b) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

"§3204. Implementation of safety management system

"(a) SAFETY MANAGEMENT PLAN.—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

"(b) APPROVAL.—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

"(c) PROHIBITION ON VESSEL OPERATION.—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

"§3205. Certification

"(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a vessel to which this chapter applies *and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.*

"(b) MAINTENANCE OF CERTIFICATE AND DOCUMENT.—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

"(c) VERIFICATION OF COMPLIANCE.—The Secretary shall—

"(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

"(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

"(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 31 the following:

"32. Management of vessels .... 3201".

(c) STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct, in cooperation with the owners, charterers, and managing operators of vessels documented under chapter 121 of title 46, United States Code, and other interested persons, a study of the methods that may be used to implement and enforce the International Management Code for the Safe Operation of Ships and for Pollution Prevention under chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974.

(2) REPORT.—The Secretary shall submit to the Congress a report of the results of the study required under paragraph (1) before the earlier of—

(A) the date that final regulations are prescribed under section 3203 of title 46, United States Code (as enacted by subsection (a)); or

(B) the date that is 1 year after the date of enactment of this Act.

SEC. 503. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS.

(a) REPORTS, DOCUMENTS, AND RECORDS.—Chapter 31 of title 46, United States Code, is amended by adding the following new section:

"§3103. Use of reports, documents, and records

"The Secretary may rely, as evidence of compliance with this subtitle, on—

"(1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and

"(2) other methods the Secretary has determined to be reliable.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 46, United States Code, is amended by adding at the end the following:

"3103. Use of reports, documents, and records.".

(c) EXAMINATIONS.—Section 3308 of title 46, United States Code, is amended by inserting "or have examined" after "examine".

SEC. 504. EQUIPMENT APPROVAL.

(a) IN GENERAL.—Section 3306(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

"(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—

"(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

"(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

"(C) for lifesaving equipment, the foreign government—

"(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

"(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.".

(b) FOREIGN APPROVALS.—The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels.

(c) TECHNICAL AMENDMENT.—Section 3306(a)(4) of title 46, United States Code, is amended by striking "clauses (1)-(3)" and inserting "paragraphs (1), (2), and (3)".

SEC. 505. FREQUENCY OF INSPECTION.

(a) FREQUENCY OF INSPECTION, GENERALLY.—Section 3307 of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "nautical school vessel" and inserting ", nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage"; and

(B) by adding "and" after the semicolon at the end;

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking "2 years" and inserting "5 years".

(b) CONFORMING AMENDMENT.—Section 3710(b) of title 46, United States Code, is amended by striking "24 months" and inserting "5 years".

SEC. 506. CERTIFICATE OF INSPECTION.

Section 3309(c) of title 46, United States Code, is amended by striking "(but not more than 60 days)".

SEC. 507. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES.

(a) AUTHORITY TO DELEGATE.—Section 3316 of title 46, United States Code, is amended—

(1) by striking subsections (a) and (d);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b), as so redesignated, by—

(A) redesignating paragraph (2) as paragraph (3); and

(B) striking so much of the subsection as precedes paragraph (3), as so redesignated, and inserting the following:

"(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

"(A) review and approve plans required for issuing a certificate of inspection required by this part;

"(B) conduct inspections and examinations; and

"(C) issue a certificate of inspection required by this part and other related documents.

"(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

"(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

"(B) if the foreign classification society has offices and maintains records in the United States.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 3316 of title 46, United States Code, is amended to read as follows:

"§3316. Classification societies".

(2) The table of sections for chapter 33 of title 46, United States Code, is amended by striking the item relating to section 3316 and inserting the following:

"3316. Classification societies.".

TITLE VI—DOCUMENTATION OF VESSELS

SEC. 601. AUTHORITY TO ISSUE COASTWISE ENDORSEMENTS.

Section 12106 of title 46, United States Code, is further amended by adding at the end the following new subsection:

"(g) A coastwise endorsement may be issued for a vessel that—

"(1) is less than 200 gross tons;

"(2) is eligible for documentation;

"(3) was built in the United States; and

"(4) was—

"(A) sold foreign in whole or in part; or

"(B) placed under foreign registry.".

SEC. 602. VESSEL DOCUMENTATION FOR CHARITY CRUISES.

(a) AUTHORITY TO DOCUMENT VESSELS.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, and subject to paragraph (2), the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for each of the following vessels:

(A) GALLANT LADY (Feadship hull number 645, approximately 130 feet in length).

(B) GALLANT LADY (Feadship hull number 651, approximately 172 feet in length).

(2) LIMITATION ON OPERATION.—Coastwise trade authorized under a certificate of documentation issued for a vessel under this section shall be limited to carriage of passengers in association with contributions to charitable organizations no portion of which is received, directly or indirectly, by the owner of the vessel.

(3) CONDITION.—The Secretary may not issue any certificate of documentation under paragraph (1) unless the owner of the vessel referred to in paragraph (1)(A) (in this section referred to as the "owner"), within 90 days after the date of the enactment of this Act, submits to the Secretary a letter expressing the intent of the owner to enter into a contract before October 1, 1996, for construction in the United States of a passenger vessel of at least 130 feet in length.

(4) EFFECTIVE DATE OF CERTIFICATES.—A certificate of documentation issued under paragraph (1)—

(A) for the vessel referred to in paragraph (1)(A), shall take effect on the date of issuance of the certificate; and

(B) for the vessel referred to in paragraph (1)(B), shall take effect on the date of delivery of the vessel to the owner.

(b) TERMINATION OF EFFECTIVENESS OF CERTIFICATES.—A certificate of documentation issued for a vessel under section (a)(1) shall expire—

(1) on the date of the sale of the vessel by the owner;

(2) on October 1, 1996, if the owner has not entered into a contract for construction of a vessel in accordance with the letter of intent submitted to the Secretary under subsection (a)(3); and

(3) on any date on which such a contract is breached, rescinded, or terminated (other than for completion of performance of the contract) by the owner.

SEC. 603. EXTENSION OF DEADLINE FOR CONVERSION OF VESSEL M/V TWIN DRILL.

Section 601(d) of Public Law 103–206 (107 Stat. 2445) is amended—

(1) in paragraph (3), by striking "1995" and inserting "1996"; and

(2) in paragraph (4), by striking "12" and inserting "24".

SEC. 604. DOCUMENTATION OF VESSEL RAINBOW'S END.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and sections 12106, 12107, and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsements for employment in the coastwise trade, Great Lakes trade, and the fisheries for the vessel RAINBOW'S END (official number 1026899; hull identification number MY13708C787).

SEC. 605. DOCUMENTATION OF VESSEL GLEAM.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel GLEAM (United States official number 921594).

SEC. 606. DOCUMENTATION OF VARIOUS VESSELS.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), the Act of May 28, 1906 (46 App. U.S.C. 292), and sections 12106, 12107, and 12108 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsements for each of the vessels listed in subsection (b).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) ANNAPOLIS (United States official number 999008).

(2) CHESAPEAKE (United States official number 999010).

(3) CONSORT (United States official number 999005).

(4) CURTIS BAY (United States official number 999007).

(5) HAMPTON ROADS (United States official number 999009).

(6) JAMESTOWN (United States official number 999006).

SEC. 607. DOCUMENTATION OF 4 BARGES.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsements for each of the vessels listed in subsection (b).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are 4 barges owned by McLean Contracting Company (a corporation organized under the laws of the State of Maryland) and numbered by that company as follows:

(1) Barge 76 (official number 1030612).

(2) Barge 77 (official number 1030613).

(3) Barge 78 (official number 1030614).

(4) Barge 100 (official number 1030615).

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 701. AMENDMENT OF INLAND NAVIGATION RULES.

Section 2 of the Inland Navigational Rules Act of 1980 is amended—

(1) by amending Rule 9(e)(i) (33 U.S.C. 2009(e)(i)) to read as follows:

"(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound the same signal and may, if specifically agreed to take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d).";

(2) in Rule 15(b) (33 U.S.C. 2015(b)) by inserting "power-driven" after "Secretary, a";

(3) in Rule 23(a)(i) (33 U.S.C. 2023(a)(i)) after "masthead light forward"; by striking "except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;";

(4) by amending Rule 24(f) (33 U.S.C. 2024(f)) to read as follows:

"(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (iii)—

"(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;

"(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

"(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.";

(5) in Rule 26 (33 U.S.C 2026)—

(A) in each of subsections (b)(i) and (c)(i) by striking "a vessel of less than 20 meters in length may instead of this shape exhibit a basket;"; and

(B) by amending subsection (d) to read as follows:

"(d) The additional signals described in Annex II to these Rules apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing."; and

(6) by amending Rule 34(h) (33 U.S.C. 2034) to read as follows:

"(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.".

SEC. 702. MEASUREMENT OF VESSELS.

Section 14104 of title 46, United States Code, is amended by redesignating the existing text after the section heading as subsection (a) and by adding at the end the following new subsection:

"(b) If a statute allows for an alternate tonnage to be prescribed under this section, the Secretary may prescribe it by regulation. The alternate tonnage shall, to the maximum extent possible, be equivalent to the statutorily established tonnage. Until an alternate tonnage is prescribed, the statutorily established tonnage shall apply to vessels measured under chapter 143 or chapter 145 of this title.".

SEC. 703. LONGSHORE AND HARBOR WORKERS COMPENSATION.

Section 3(d)(3)(B) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3)(B)) is amended by inserting after "1,600 tons gross" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 704. RADIOTELEPHONE REQUIREMENTS.

Section 4(a)(2) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(a)(2)) is amended by inserting after "one hundred gross tons" the following "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 705. VESSEL OPERATING REQUIREMENTS.

Section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3)) is amended by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 706. MERCHANT MARINE ACT, 1920.

Section 27A of the Merchant Marine Act, 1920 (46 U.S.C. App. 883–1), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 707. MERCHANT MARINE ACT, 1956.

Section 2 of the Act of June 14, 1956 (46 U.S.C. App. 883a), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 708. MARITIME EDUCATION AND TRAINING.

Section 1302(4)(A) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295a(4)(a)) is amended by inserting after "1,000 gross tons or more" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 709. GENERAL DEFINITIONS.

Section 2101 of title 46, United States Code, is amended—

(1) in paragraph (13), by inserting after "15 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in paragraph (13a), by inserting after "3,500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in paragraph (19), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in paragraph (22), by inserting after "100 gross tons" the following: "as measured under

section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in paragraph (30)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(6) in paragraph (32), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(7) in paragraph (33), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(8) in paragraph (35), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(9) in paragraph (42), by inserting after "100 gross tons" each place it appears, the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 710. AUTHORITY TO EXEMPT CERTAIN VESSELS.

Section 2113 of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in paragraph (5), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 711. INSPECTION OF VESSELS.

Section 3302 of title 46, United States Code, is amended—

(1) in subsection (c)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (c)(3), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (c)(4)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in subsection (d)(1), by inserting after "150 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(6) in subsection (i)(1)(A), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(7) in subsection (j), by inserting after "15 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 712. REGULATIONS.

Section 3306 of title 46, United States Code, is amended—

(1) in subsection (h), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (i), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 713. PENALTIES—INSPECTION OF VESSELS.

Section 3318 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (j)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 714. APPLICATION—TANK VESSELS.

Section 3702 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(3) in subsection (d), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 715. TANK VESSEL CONSTRUCTION STANDARDS.

Section 3703a of title 46, United States Code, is amended—

(1) in subsection (b)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c)(2), by inserting after "5,000 gross tons" each place it appears the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (c)(3)(A), by inserting after "15,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (c)(3)(B), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(5) in subsection (c)(3)(C), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 716. TANKER MINIMUM STANDARDS.

Section 3707 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (b), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 717. SELF-PROPELLED TANK VESSEL MINIMUM STANDARDS.

Section 3708 of title 46, United States Code, is amended by inserting after "10,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 718. DEFINITION—ABANDONMENT OF BARGES.

Section 4701(1) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 719. APPLICATION—LOAD LINES.

Section 5102(b) of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in paragraph (5), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(3) in paragraph (10), by inserting after "150 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 720. LICENSING OF INDIVIDUALS.

Section 7101(e)(3) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 721. ABLE SEAMEN—LIMITED.

Section 7308 of title 46, United States Code, is amended by inserting after "100 gross tons" the *following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".*

SEC. 722. ABLE SEAMEN—OFFSHORE SUPPLY VESSELS.

Section 7310 of title 46, United States Code, is amended by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 723. SCALE OF EMPLOYMENT—ABLE SEAMEN.

Section 7312 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (d), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (f)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(5) in subsection (f)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 724. GENERAL REQUIREMENTS—ENGINE DEPARTMENT.

Section 7313(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 725. COMPLEMENT OF INSPECTED VESSELS.

Section 8101(h) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 726. WATCHMEN.

Section 8102(b) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 727. CITIZENSHIP AND NAVAL RESERVE REQUIREMENTS.

Section 8103(b)(3)(A) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 728. WATCHES.

Section 8104 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (d), by inserting after "100 gross tons" and after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (l)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (m)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in subsection (o)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(6) in subsection (o)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 729. MINIMUM NUMBER OF LICENSED INDIVIDUALS.

Section 8301 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by inserting after "1,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (a)(3), by inserting after "at least 200 gross tons but less than 1,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (a)(4), by inserting after "at least 100 gross tons but less than 200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (a)(5), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(5) in subsection (b), by inserting after "200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 730. OFFICERS' COMPETENCY CERTIFICATES CONVENTION.

Section 8304(b)(4) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 731. MERCHANT MARINERS' DOCUMENTS REQUIRED.

Section 8701 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 732. CERTAIN CREW REQUIREMENTS.

Section 8702 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 733. FREIGHT VESSELS.

Section 8901 of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 734. EXEMPTIONS.

Section 8905(b) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 735. UNITED STATES REGISTERED PILOT SERVICE.

Section 9303(a)(2) of title 46, United States Code, is amended by inserting after "4,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 736. DEFINITIONS—MERCHANT SEAMEN PROTECTION.

Section 10101(4)(B) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 737. APPLICATION—FOREIGN AND INTERCOASTAL VOYAGES.

Section 10301(a)(2) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 738. APPLICATION—COASTWISE VOYAGES.

Section 10501(a) of title 46, United States Code, is amended by inserting after "50 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 739. FISHING AGREEMENTS.

Section 10601(a)(1) of title 46, United States Code, is amended by inserting after "20 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of *that title as prescribed by the Secretary under section 14104 of that title".*

SEC. 740. ACCOMMODATIONS FOR SEAMEN.

Section 11101(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 741. MEDICINE CHESTS.

Section 11102(a) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 742. LOGBOOK AND ENTRY REQUIREMENTS.

Section 11301(a)(2) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 743. COASTWISE ENDORSEMENTS.

Section 12106(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 744. FISHERY ENDORSEMENTS.

Section 12108(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 745. CLERICAL AMENDMENT.

Chapter 121 of title 46, United States Code, is amended—

(1) by striking the first section 12123; and

(2) in the table of sections at the beginning of the chapter by striking the first item relating to section 12123.

SEC. 746. REPEAL OF GREAT LAKES ENDORSEMENTS.

(a) Repeal.—Section 12107 of title 46, United States Code, is repealed.

(b) Conforming Amendments.—

(1) The analysis at the beginning of chapter 121 of title 46, United States Code, is amended by striking the item relating to section 12107.

(2) Section 12101(b)(3) of title 46, United States Code, is repealed.

(3) Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by striking "or 12107".

(4) Section 2793 of the Revised Statutes of the United States (46 App. U.S.C. 111, 123) is amended—

(A) by striking "coastwise, Great Lakes endorsement" and all that follows through "foreign ports," and inserting "registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada,"; and

(B) by striking ", as if from or to foreign ports".

SEC. 747. CONVENTION TONNAGE FOR LICENSES, CERTIFICATES, AND DOCUMENTS.

(a) Authority To Use Convention Tonnage.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"§7506. Convention tonnage for licenses, certificates, and documents

"Notwithstanding any provision of section 14302(c) or 14305 of this title, the Secretary may—

"(1) evaluate the service of an individual who is applying for a license, a certificate of registry, or a merchant mariner's document by using the tonnage as measured under chapter 143 of this title for the vessels on which that service was acquired, and

"(2) issue the license, certificate, or document based on that service.".

(b) Clerical Amendment.—The analysis to chapter 75 of title 46, United States Code, is amended by adding a new item as follows:

"7506. Convention tonnage for licenses, certificates, and documents.".

TITLE VIII—COAST GUARD AUXILIARY AMENDMENTS

SEC. 801. ADMINISTRATION OF THE COAST GUARD AUXILIARY.

(a) In General.—Section 821 of title 14, United States Code, is amended to read as follows:

"§821. Administration of the Coast Guard Auxiliary

"(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (to be known as the 'Auxiliary headquarters unit'), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

"(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of—

"(1) chapter 26 of title 28 (popularly known as the Federal Tort Claims Act);

"(2) section 2733 of title 10 (popularly known as the Military Claims Act);

"(3) the Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessels Act);

"(4) the Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act);

"(5) the Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act); and

"(6) other matters related to noncontractual civil liability.

"(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Commandant.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 821, and inserting the following:

"821. Administration of the Coast Guard Auxiliary.".

SEC. 802. PURPOSE OF THE COAST GUARD AUXILIARY.

(a) In General.—Section 822 of title 14, United States Code, is amended to read as follows:

"§822. Purpose of the Coast Guard Auxiliary

"The purpose of the Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 822 and inserting the following:

"822. Purpose of the Coast Guard Auxiliary.".

SEC. 803. MEMBERS OF THE AUXILIARY; STATUS.

(a) In General.—Section 823 of title 14, United States Code, is amended—

(1) in the heading by adding **", and status"** *after* **"enrollments"**;

(2) by inserting "(a)" before "The Auxiliary"; and

(3) by adding at the end the following new subsections:

"(b) A member of the Coast Guard Auxiliary is not a Federal employee except for the following purposes:

"(1) Chapter 26 of title 28 (popularly known as the Federal Tort Claims Act).

"(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

"(3) The Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessel Act).

"(4) The Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act).

"(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).

"(6) Other matters related to noncontractual civil liability.

"(7) Compensation for work injuries under chapter 81 of title 5.

"(8) The resolution of claims relating to damage to or loss of personal property of the member incident to service under section 3721 of title 31 (popularly known as the Military Personnel and Civilian Employees' Claims Act of 1964).

"(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 823 and inserting the following:

"823. Eligibility, enrollments, and status.".

SEC. 804. ASSIGNMENT AND PERFORMANCE OF DUTIES.

(a) Travel and Subsistence Expense.—Section 830(a) of title 14, United States Code, is amended by striking "specific".

(b) Assignment of General Duties.—Section 831 of title 14, United States Code, is amended by striking "specific" each place it appears.

(c) Benefits for Injury or Death.—Section 832 of title 14, United States Code, is amended by striking "specific" each place it appears.

SEC. 805. COOPERATION WITH OTHER AGENCIES, STATES, TERRITORIES, AND POLITICAL SUBDIVISIONS.

(a) In General.—Section 141 of title 14, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§141. Cooperation with other agencies, States, territories, and political subdivisions";

(2) in the first sentence of subsection (a), by inserting after "personnel and facilities" the following: "(including members of the Auxiliary and facilities governed under chapter 23)"; and

(3) by adding at the end of subsection (a) the following new sentence: "The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 14, United States Code, is amended by striking the item relating to section 141 and inserting the following:

"141. Cooperation with other agencies, States, territories, and political subdivisions.".

SEC. 806. VESSEL DEEMED PUBLIC VESSEL.

Section 827 of title 14, United States Code, is amended to read as follows:

"§827. Vessel deemed public vessel

"While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.".

SEC. 807. AIRCRAFT DEEMED PUBLIC AIRCRAFT.

Section 828 of title 14, United States Code, is amended to read as follows:

"§828. Aircraft deemed public aircraft

"While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilots shall be deemed to be Coast Guard pilots.".

SEC. 808. DISPOSAL OF CERTAIN MATERIAL.

Section 641(a) of title 14, United States Code, is amended—

(1) by inserting after "with or without charge," the following: "to the Coast Guard Auxiliary, including any incorporated unit thereof,"; and

(2) by striking "to any incorporated unit of the Coast Guard Auxiliary,".

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

AMENDMENT OFFERED BY MR. COBLE

Mr. COBLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COBLE: On page 5, line 20, strike the period and add "to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.".

At the end of title III (page 18, after line 12) add the following new section:

SEC. . EXTENSION OF TOWING SAFETY ADVISORY COMMITTEE.

Subsection (e) of the Act to establish a Towing Safety Advisory Committee in the Department of Transportation (33 U.S.C. 1231a(e)), is amended by striking "September 30, 1995" and inserting "October 1, 2000".

On page 25, strike line 9 through page 28, line 7, and insert the following:

SEC. 409. VESSEL FINANCING.

(a) DOCUMENTATION CITIZEN ELIGIBLE MORTGAGEE.—Section 31322(a)(1)(D) of title 46, United States Code, is amended—

(1) by striking "or" at the end of 31322(a)(1)(D)(v) and inserting "or" at the end of 31322(a)(1)(D)(vi); and

(2) by adding at the end a new subparagraph as follows:

"(vii) a person eligible to own a documented vessel under chapter 121 of this title."

(b) AMENDMENT TO TRUSTEE RESTRICTIONS.—Section 31328(a) of title 46, United States Code, is amended—

(1) by striking "or" at the end of 31328(a)(3) and inserting "or" at the end of 31328(a)(4); and

(2) by adding at the end a new subparagraph as follows:

"(5) is a person eligible to own a documented vessel under chapter 121 of this title."

(c) LEASE FINANCING.—Section 12106 of title 46, United States Code, is amended by adding at the end the following new subsections:

"(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

"(A) the vessel is eligible for documentation under section 12102;

"(B) the person that owns the vessel, a parent entity of that person or a subsidiary of a parent entity of that person, is engaged in lease financing;

"(C) the vessel is under a demise charter to a person qualifying as a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916;

"(D) the demise charter is for—

"(i) a period of at least 3 years; or

"(ii) a shorter period as may be prescribed by the Secretary; and

"(E) the vessel is otherwise qualified under this section to be employed in the coastwise trade.

"(2) Upon default by a bareboat charterer of a demise charter required under paragraph (1)(D), the coastwise endorsement of the vessel may, in the sole discretion of the Secretary, be continued after the termination for default of the demise charter for a period not to exceed 6 months on terms and conditions as the Secretary may prescribe.

"(3) For purposes of section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection is deemed to be owned exclusively by citizens of the United States.".

(d) CONFORMING AMENDMENT.—Section 9(c) of the Shipping Act, 1916, as amended (46 App. U.S.C. 808(c)) is amended by inserting "12106(e)," after the word "sections" and before 31322(a)(1)(D).

On page 33, strike lines 11 through page 34, line 2 and insert the following:

"(b) FINANCING RESPONSIBILITY.—

"(1) LIMITS ON LIABILITY.—Section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) is amended by striking "for a tank vessel," and inserting "for a tank vessel carrying oil in bulk as cargo or cargo residue (except a tank vessel on which the only oil carried is an animal fat or vegetable oil, as those terms are defined in section 413(c) of the Coast Guard Authorization Act for Fiscal Year 1996)".

"(2) FINANCIAL RESPONSIBILITY.—The first sentence of section 1016(a) of the Act (33 U.S.C. 2716(a)) is amended by striking ", in the case of a tank vessel, the responsible party could be subject under section 1004 (a)(1) or (d) of this Act, or to which, in the case of any other vessel, the responsible party could be subjected under section 1004 (a)(2) or (d)" and inserting "the responsible party could be subjected under section 1004 (a) or (d) of this Act"."

On page 37, line 14, strike "or".

On page 37, line 20, strike "latitude."." and insert "latitude;".

On page 37, after line 20, insert the following new paragraph:

"(6) a vessel in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).".

On page 40, line 18, strike "the line of mean" through line 19, and insert "the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters that is—".

On page 40, line 20, strike "drilling for, producing, or" through line 21, and insert "exploring for, producing, or transporting oil' and".

At the end of title IV (page 43, after line 13) add the following new sections:

SEC. . LIMITATIONS ON CONSOLIDATION OR RELOCATION OF HOUSTON AND GALVESTON MARINE SAFETY OFFICES.

The Secretary of Transportation may not consolidate or relocate the Coast Guard Marine Safety Offices in Galveston, Texas, and Houston, Texas.

SEC. . SENSE OF THE CONGRESS REGARDING FUNDING FOR COAST GUARD.

It is the sense of the Congress that in appropriating amounts for the Coast Guard the Congress should appropriate amounts adequate to enable the Coast Guard to carry out all extraordinary functions and duties the Coast Guard is required to undertake in addition to its normal functions established by law.

SEC. . CONVEYANCE OF LIGHT STATION, MONTAUK POINT, NEW YORK.

(a) CONVEYANCE REQUIREMENT.—

(1) REQUIREMENT.—The Secretary of Transportation shall convey to the Montauk Historical Association in Montauk, New York, by an appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising Light Station Montauk Point, located at Montauk, New York.

(2) DETERMINATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to the conditions required by paragraphs (3) and (4) and such other terms and conditions as the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—Any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the Montauk Light Station shall immediately revert to the United States if the Montauk Light Station ceases to be maintained as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard, the maritime history of Montauk, New York, and Native American and colonial history.

(3) MAINTENANCE OF NAVIGATION AND FUNCTIONS.—Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the Montauk Historical Association may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to replace, or add any aids to navigation, or make any changes to the Montauk Lighthouse as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the property conveyed without notice for the purpose of maintaining navigation aids;

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property; and

(F) the Montauk Light Station shall revert to the United States at the end of the 30-day period beginning on any date on which the Secretary of Transportation provides written notice to the Montauk Historical Association that the Montauk Light Station is needed for national security purposes.

(4) MAINTENANCE OF LIGHT STATION.—Any conveyance of property under this section shall be subject to the condition that the Montauk Historical Association shall maintain the Montauk Light Station in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(5) LIMITATION ON OBLIGATIONS OF MONTAUK HISTORICAL ASSOCIATION.—The Montauk Historical Association shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "Montauk Light Station" means the Coast Guard light station known as Light Station Montauk Point, located at Montauk, New York, including the keeper's dwellings, adjacent Coast Guard rights of way, the World War II submarine spotting tower, the lighthouse tower, and the paint locker; and

(2) the term "Montauk Lighthouse" means the Coast Guard lighthouse located at the Montauk Light Station.

SEC. . CONVEYANCE OF CAPE ANN LIGHTHOUSE, THACHERS ISLAND, MASSACHUSETTS.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation shall convey to the town of Rockport, Massachusetts, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the property comprising the Cape Ann Lighthouse, located on Thachers Island, Massachusetts.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this subsection.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (3) and (4) and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the Cape Ann Lighthouse shall immediately revert to the United States if the Cape Ann Lighthouse, or any part of the property—

(A) ceases to be used as a nonprofit center for the interpretation and preservation of maritime history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) MAINTENANCE AND NAVIGATION FUNCTIONS.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the town of Rockport may not interfere or allow interference with any manner with aids to navigation without express written permission from the Secretary of Transportation;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the Cape Ann Lighthouse as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The town of Rockport is not required to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(5) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—The town of Rockport shall maintain the Cape Ann Lighthouse in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

(c) DEFINITIONS.—For purposes of this section, the term "Cape Ann Lighthouse" means the Coast Guard property located on Thachers Island, Massachusetts, except any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance.

SEC. . AMENDMENTS TO JOHNSON ACT.

For purposes of section 5(b)(1)(A) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(1)(A)), commonly known as the Johnson Act, a vessel on a voyage that begins in the territorial jurisdiction of the State of Indiana and that does not leave the territorial jurisdiction of the State of Indiana shall be considered to be a vessel that is not within the boundaries of any State or possession of the United States.

SEC. . TRANSFER OF COAST GUARD PROPERTY IN GOSNOLD, MASSACHUSETTS.

(a) CONVEYANCE REQUIREMENT.—The Secretary of Transportation may convey to the town of Gosnold, Massachusetts, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the "United States Coast Guard Cuttyhunk Boathouse and Wharf", as described in subsection (c).

(b) CONDITIONS.—Any conveyance of property under subsection (a) shall be subject to the condition that the Coast Guard shall retain in perpetuity and at no cost—

(1) the right of access to, over, and through the boathouse, wharf, and land comprising the property at all times for the purpose of berthing vessels, including vessels belonging to members of the Coast Guard Auxiliary; and

(2) the right of ingress to and egress from the property for purposes of access to Coast Guard facilities and performance of Coast Guard functions.

(c) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in the town of Gosnold, Massachusetts (including all buildings, structures, equipment, and other improvements), as determined by the Secretary of Transportation.

SEC. . TRANSFER OF COAST GUARD PROPERTY IN NEW SHOREHAM, RHODE ISLAND.

(a) REQUIREMENT.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) shall expeditiously convey to the town of New Shoreham, Rhode Island, without consideration, all right, title, and interest of the United States in and to the property known as the United States Coast Guard Station Block Island, as described in subsection (b), subject to all easements and other interest in the property held by any other person.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property (including buildings and improvements) located on the west side of Block Island, Rhode Island, at the entrance to the Great Salt Pond and referred to in the books of the Tax Assessor of the town of New Shoreham, Rhode Island, as lots 10 and 12, comprising approximately 10.7 acres.

(c) REVOLUTIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property under subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the town of New Shoreham, Rhode Island.

(d) INDEMNIFICATION FOR PREEXISTING ENVIRONMENTAL LIABILITIES.—Notwithstanding any conveyance of property under this section, after such conveyance the Secretary of Transportation shall indemnify the town of New Shoreham, Rhode Island, for any environmental liability arising from the property, that existed before the date of the conveyance.

SEC. . VESSEL DEEMED TO BE A RECREATIONAL VESSEL.

The vessel, an approximately 96 meter twin screw motor yacht for which construction commenced in October 1993, (to be named the LIMITLESS) is deemed to be a recreational vessel under chapter 43 of title 46, United States Code.

SEC. . REQUIREMENT FOR PROCUREMENT OF BUOY CHAIN.

(a) REQUIREMENT.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

§ 96. Procurement of buoy chain

"(a) The Coast Guard may not procure buoy chain—

"(1) that is not manufactured in the United States; or

"(2) substantially all of the components of which are not produced or manufactured in the United States.

"(b) For purposes of subsection (a)(2), substantially all of the components of a buoy chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components thereof which are produced or manufactured in the United States is greater than the aggregate cost of the components thereof which are produced or manufactured outside the United States.

"(c) In this section—

"(1) the term 'buoy chain' means any chain, cable, or other device that is—

"(A) used to hold in place, by attachment to the bottom of a body of water, a floating aid to navigation; and

"(B) not more than 4 inches in diameter; and

"(2) the term 'manufacture' includes cutting, heat treating, quality control, welding (including the forging and shot blasting process), and testing.".

(b) CLERICAL AMENDMENT.—

The table of sections for chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"96. Procurement of buoy chain".

SEC. . CRUISE VESSEL TORT REFORM.

(a) Section 4283 of the Revised Statutes of the United States (46 App. 183), is amended by adding a new subsection (g) to read as follows:

"(g) In a suit by any person in which a shipowner, operator, or employer of a crew member is claimed to have direct or vicarious liability for medical malpractice or other tortious conduct occurring at a shoreside facility, or in which the damages sought are alleged to result from the referral to or treatment by any shoreside doctor, hospital, medical facility or other facility or other health care provider, the shipowner, operator or employer shall be entitled to rely upon any and all statutory limitations of liability applicable to the doctor, hospital, medical facility or other health care provider in the state in which the shoreside medical care was provided".

(b) Section 4283b of the Revised Statutes of the United States (46 App. 183c) is amended by adding a new subsection to read as follows:

"(b) Subsection (a) shall not prohibit provisions or limitations in contracts, agreements, or ticket conditions of carriage with passengers which relieve a manager, agent, master, owner or operator of a vessel from liability for infliction of emotional distress, mental suffering or psychological injury so long as such provisions or limitations do not limit liability if the emotional distress, mental suffering or psychological injury was—

"(1) the result of substantial physical injury to the claimant caused by the negligence or fault of the manager, agent, master, owner or operator; or

"(2) the result of the claimant having been at actual risk of substantial physical injury, which risk was caused by the negligence or fault of the manager, agent, master, owner or operator; or

"(3) intentionally inflicted by the manager, agent, master, owner or operator".

(c) Section 20 of chapter 153 of the Act of March 4, 1915 (46 App. 688) is amended by adding a new subsection to read as follows:

"(c) Limitation for certain aliens in case of contractual alternative forum.

"(1) No action may be maintained under subsection (a) or under any other maritime law of the United States for maintenance and cure or for damages for the injury or death of a person who was not a citizen or permanent legal resident alien of the United States at the time of the incident giving rise to the action, if the incident giving rise to the action occurred while the person was employed on board a vessel documented other than under the laws of the United States, which vessel was owned by an entity organized other than under the laws of the United States or by a person who is not a citizen or permanent legal resident alien.

"(2) The provisions of paragraph (1) shall only apply if—

"(A) the incident giving rise to the action occurred while the person bringing the action was a party to a contract of employment or was subject to a collective bargaining agreement which, by its terms, provided for an exclusive forum for resolution of all such disputes or actions in a nation other than the United States, a remedy is available to the person under the laws of that nation, and the party seeking to dismiss an action under paragraph (1) is willing to stipulate to jurisdiction under the laws of such nation as to such incident; or

"(B) a remedy is available to the person bringing the action under the laws of the nation in which the person maintained citizenship or permanent residency at the time of the incident giving rise to the action and the party seeking to dismiss an action under paragraph (1) is willing to stipulate to jurisdiction under the laws of such nation as to such incident.

"(3) The provisions of paragraph (1) of this subsection shall not be interpreted to require a court in the United States to accept jurisdiction of any actions".

On page 59, after line 18k add the following new paragraphs:

(7) 2 barges owned by Roen Salvage (a corporation organized under the laws of the State of Wisconsin) and numbered by that company as barge 103 and barge 203.

(8) RATTLESNAKE (Canadian registry official number 802702).

(9) CAROLYN (Tennessee State registration number TN1765C).

(10) SMALLEY (6808 Amphibious Dredge, Florida State registration number FL1855FF).

(11) BEULA LEE (United States official number 928211).

(12) FINESSE (Florida State official number 7148HA).

(13) WESTEJORD (Hull Identification Number X-53-109).

(14) MAGIC CARPET (United States official number 278971).

(15) AURA (United States official number 1027807).

(16) ABORIGINAL (United States official number 942118).

(17) ISABELLE (United States official number 600655).

(18) 3 barges owned by the Harbor Marine Corporation (a corporation organized under the laws of the State of Rhode Island) and referred to by that company as Harbor 221, Harbor 223, and Gene Elizabeth.

(19) SHAMROCK V (United States official number 900936).

(20) ENDEAVOUR (United States official number 947869).

(21) CHRISSY (State of Maine registration number 4778B).

(22) EAGLE MAR (United States official number 575349).

At the end of title VI (page 60, after line 11) add the following new sections:

SEC. . LIMITED WAIVER FOR ENCHANTED ISLE AND ENCHANTED SEAS.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156), and any agreement with the United States Government, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for the vessels ENCHANTED ISLE (Panamanian official number 14087-84B), and ENCHANTED SEAS (Panamanian official number 14064-84D), except that the vessels may not operate between or among islands in the State of Hawaii.

SEC. . LIMITED WAIVER FOR MV PLATTE.

Notwithstanding any other law or any agreement with the United States Government, the vessel MV PLATTE (ex-SPIRIT OF TEXAS) (United States official number 653210) may be sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

Mr. COBLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Mr. Chairman, this amendment contains many noncontroversial, technical and clarifying changes to H.R. 1361. The amendment also extends the termination date of the Towing Safety Advisory Committee until October 1, the year 2000. Expressing the sense of Congress on Coast Guard funding conveys several Coast Guard lighthouses and other Coast Guard property to local communities and provides many waivers of vessel documentation restrictions. This amendment was developed and agreed to on a bipartisan basis, and I urge the Members to support it.

□ 1545

Mr. TRAFICANT. Mr. Chairman, if the gentleman will yield, we have examined this amendment, and we support it. We urge it be passed without controversy.

Mr. COBLE. Mr. Chairman, I include for the RECORD a series of letters between the chairman of the Committee on Transportation and Infrastructure and the chairman of the Committee on Ways and Means:

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES,
Washington, DC, May 9, 1995.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR BILL: I am writing in response to your letter of May 9, 1995 regarding consideration of H.R. 1361, the Coast Guard Authorization Act for FY 1996.

As indicated in your letter, we are agreeing to offer a technical amendment on the floor to clarify that the Coast Guard expenditures authorized in Section 101 of H.R. 1361 that are derived from the Oil Spill Liability Trust Fund are specifically limited to carry out the purposes of Section 1012(a)(5) of the Pollution Act of 1990.

I understand that this addresses the jurisdictional concerns of the Committee on Ways and Means. Thank you for your assistance and cooperation in this matter.

With warm regards, I remain.

Sincerely,

BUD SHUSTER,
Chairman.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 9, 1995.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, Washington, DC.

DEAR CHAIRMAN SHUSTER: I am writing you regarding your Committee's consideration of H.R. 1361, the Coast Guard Authorization Act for Fiscal Year 1996. I want to thank you for your assistance in clarifying certain jurisdictional issues involving this legislation.

Specifically, section 101 of H.R. 1361 would authorize expenditures for the Coast Guard for fiscal year 1996, including funds derived from the Oil Spill Liability Trust Fund for (1) operation and maintenance of the Coast Guard; (2) acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto; and (3) research development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, and enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness.

As you know, the Committee on Ways and Means has jurisdiction over the expenditure purposes of the Oil Spill Liability Trust Fund, as set forth in section 9509 of the Internal Revenue Code of 1986, as amended. Section 9509(c) provides that amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts or section 6002(b) of the Oil Pollution Act of 1990, only for purposes of making certain enumerated expenditures related to oil spills or discharges, including "the payment of removal costs and other cost, expenses, claims, and damages referred to in section 1012 of such Act".

I want to thank you for agreeing to offer a technical amendment on the Floor with language clarifying that the Coast Guard expenditures authorized in section 101 of H.R. 1361 derived from the Oil Spill Liability Trust Fund are specifically limited "to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990", as referred to in Code section 9509. This amendment, if passed, should address the jurisdictional concerns of the Committee on Ways and Means.

I understand that you would inform me if any further legislative changes concerning the Oil Spill Liability Trust Fund are contemplated during subsequent consideration of H.R. 1361. I also understand that you will insert copies of our exchange of correspondence in the Record during Floor consideration of H.R. 1361. Based on this understanding, I do not believe any action by the Committee on Ways and Means is required at this time.

Thank you again for your assistance and cooperation in this matter. With best personal regards,

Sincerely,

BILL ARCHER,
Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. COBLE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Strike Sec. 104 and insert in lieu thereof:

SEC. 104. PROHIBITION ON SMALL BOAT STATION CLOSURES.

(a) The Secretary may not use amounts appropriated under the authority of this Act to close any multimission small boat station.

(b) The Secretary may implement management efficiencies within the small boat unit system, such as modifying the operational posture of the units or reallocating resources as necessary to ensure the safety of the maritime public, provided that there are adequate active duty and reserve Coast Guard personnel to perform search and rescue missions at existing small boat units.

Mr. TRAFICANT. Mr. Chairman, the bill has a provision in it which in effect terminates and closes 23 multi-mission small boat stations. No one has greater respect for the chairman of this committee, the gentleman from Pennsylvania [Mr. SHUSTER], than myself and the gentleman from North Carolina [Mr. COBLE]. I think this is the one element of the bill that we should change on the floor.

You have a number of amendments that are going to follow this and try and put some gingerbread and criteria on this closing. But in essence the Coast Guard has already determined they shall be closed, and all we are doing here is political window dressing.

The decision today is do we close 23 stations and save $3 million, roll the dice, or do we in fact say as a policy our mission is safety, not dollars, and the last time the Congress of the United States allowed bases to be closed, five people lost their lives off the shore of Oregon.

Now, you hear all about these big high class helicopters and all these radar evading planes. Quite frankly, I do not buy it. When there are winds of 65 miles per hour and someone is out at sea, they are not going to be seeing no big chopper come in for them. You know it and I know it.

The bill says, and this is what would become the law, none of the funds authorized to be appropriated under this act may be used to close Coast Guard multi-mission small boat stations, unless the Secretary of Transportation determines, the Secretary determines, that maritime safety will not be diminished by these closures.

Mr. Speaker, this is an after the fact bit of language. The Coast Guard has already determined to close them. The Secretary of Transportation is in agreement to close them. These bases are going to be closed.

The Coast Guard admits there will be a loss of life, at least one every 12 years, in these respective stations. They admit to it. The Traficant amendment is very simple and to the point: The Coast Guard is prohibited from closing. The Congress has set a policy; lives at stake are the policies of the Congress. That is the mandate we give to the Coast Guard.

Now, we could cover it with a lot of different words, but, yes, the Traficant amendment does say the Congress tells the Coast Guard you cannot close them, because we are not satisfied that we can adequately stop loss of life. If that is not our mission, what is?

But the Traficant amendment would allow the Coast Guard to implement management efficiencies within that system. There can be the transfer of resources. There can be the development of other strategies. But those small boat stations would be incorporated with active personnel into that strategy to ensure that along with these fancy helicopters, there is going to be good old Coast Guard personnel, trained to interact with local volunteers.

If these stations are closed, no matter who speaks to the contrary, even by the Coast Guard's own admission, lives will be lost. What is a life worth, Congress? I do not know anymore.

For each small boat station the Coast Guard's own analysis states there will be an additional life lost every 12 years at each small boat station. Whose constituent is it going to be this year? What if we have a real bad weather year? How many do we lose, folks?

Hey, I am willing to cut the budget, but this is not cutting the budget. This is a commonsense approach that I cannot believe that we are here debating.

The gentleman from Oregon [Mr. DEFAZIO] has noted here to the Congress, and I want to commend him on his leadership, and I can understand his passion, in 1988 the Coast Guard closed some small boat stations off of Oregon, and they lost five lives in 3 months. I am asking that we review this carefully before we in fact close these stations. I ask for your support.

Mr. COBLE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I appreciate the comments from my good friend, the distinguished gentleman from Ohio, and I wish we could go through life and never have to close a Coast Guard station.

Mr. Chairman, I told this story, you all bear with me, in the committee, but I think it is pertinent. Coast Guard stations, where we used to call them lifeboat stations in the old days, the old salts, small boat stations now, but they have a way of becoming very personally involved in the communities where they are located, particularly sparsely settled communities. Coast Guard stations become not unlike churches, schools, the country store, the volunteer fire department, and the communities involved warmly embrace them.

I was having an evening meal in the home of a retired Coast Guardsman and his wife on the Outer Banks of North Carolina, Mr. Chairman, about two decades ago. At that time there was a proposal to decommission or to shut down one of the lifeboat stations along the Outer Banks. This Coast Guard wife said to me, with tears in her eyes, if they shut down that Cost Guard station, things will never be the same along the Carolina cost.

What she was saying, without using the words, she was saying the Coast Guard is not going to be able to respond. If we shut down that station, the Coast Guard is ineffective. That had not been the case at all. In fact, the Coast Guard probably has been more effective through modernization.

Now, if any entity in this country and in our society places a high value upon life, it is the U.S. Coast Guard, and I am confident that no loss of life is going to result from this. But I think, like my friend, the gentleman from Ohio [Mr. TRAFICANT], said $2 million; the Coast Guard indicates $6 million. Let us indicate for the sake of argument $6 million are involved. By Washington standards, $6 million is not a lot of money, the way we blow money on this Hill. To me it is a lot, but by Washington standards, it is not. Let us use the late Everett Dirksen's line, well-known to all of us. I think he was reported to have said a million here and a million there, boys, and then we are talking about real money.

So we must make a start. The Coast Guard is streamlining, and in order to do that effectively, they are going to have to be able to perform some sort of self-assessment. And it is they, better than any, who know what bases and what stations can best be closed.

I am confident, Mr. Chairman, and I say to my friend from Ohio, I am confident that safety is not going to be compromised. We have been told earlier today that at some of these small boat stations, some Coast Guard men and women are working 90 hours a week. I think that may well be another reason to downsize. We are in an era now, Mr. Chairman, of downsizing, not just with Government but in the commercial arena. And oftentimes downsizing does not mean less effectiveness or less efficiency. Conversely, many times it means an enhanced quality of efficiency and response time.

As much respect as I have for my good friend from Ohio, I must oppose him on this amendment and urge it be defeated.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened to what the gentleman from North Carolina [Mr. COBLE] said, and again I know of his distinguished career, both here in Congress as well as having been a member of the Coast Guard, but I, listening to him, believe in some ways he was making the case for the Traficant amendment, even though I know that was not his intention.

He said that the small boat stations tend to get involved with the local community. They are almost like the church. I have to agree. But that is the very reason why the Coast Guard presence is necessary to small boat stations.

Again, I would reiterate that one of the propositions that the Coast Guard is putting forward is that somehow when these stations close, that other State or local or nonprofit organizations are going to take up the slack.

The bottom line is, and I will use my own station at Shark River in New Jersey as an example, the only reason why those other organizations are involved, like the auxiliary, is because of the presence of the Coast Guard. If the station closes and there is no permanent Coast Guard presence there with full-time personnel, then it would be impossible in most situations for the auxiliary, and particularly in these times with downsizing of State government and local government, for the State government to step in. In my own State of New Jersey, that would not happen. The marine police has downsized and has less money today than it did a few years before.

The gentleman also mentioned modernization. It is true of course there have been a lot of changes in their technologies now. But those technologies are not that helpful for those in the immediate scene. Back in 1988, when they closed the Shark River station, sure, between 1988 and now there are more helicopters and new technology, but everyone on the scene will tell you the presence of people, of full-time Coast Guard personnel, at the location, in the inlet, in this case Shark River, and you could use it throughout the country, their immediate response is what is necessary, the fact that you have the people there, the hands on situation.

The chairman mentioned the $6 million in savings that is cited by the Coast Guard. Once again, I know our ranking Member, Mr. TRAFICANT, has noted that the actual cost is closer to $2.5 or $2.6 million. That $6 million is for consolidation and a lot of other things that are part of this plan. It is not specifically for closing the stations. We are talking about probably $2 to $3 million being saved. I know that seems like a lot, but in the overall scheme of things, when you are talking about 23 stations and you are talking about risk of life, it is not a lot of money.

Some stations, it was mentioned by the chairman, have men working 90 hours a week. We are not saying in this Traficant amendment that resources cannot be shifted around. The billets, as they say, or men, can be shifted, so some stations have less personnel and others more. What we are saying is we do not want the stations closed. Some of them maybe can get by with less personnel or can rely through a combination on auxiliary or other volunteer efforts, but they cannot be closed and cannot not have a full-time Coast Guard presence.

I have to stress, you know, one of the issues that is being raised here is that the Coast Guard maintains that at some of the stations the amount of search and rescue has not increased significantly in the last few years. I will point out, in making their analysis for this streamlining plan, they did not take into consideration, and they will tell you they did not, all the other functions that have been added by this body and by the Federal Government to the Coast Guard. They did not include the increase in dealing with environmental laws, fishing laws, in drug trafficking prevention. All of these extra things we have put on the Coast Guard for the last few years are being carried out at a lot of these small boat stations.

□ 1600

They are on the increase. The amount of traffic in a lot of these locations is also on the increase. It is ridiculous for us to assume that with all the extra burdens for us to assume that with all the additional pleasure craft that exist at these various locations around the country that somehow the amount of work has been reduced or somehow we are going to be able to get by without the presence of these stations.

If we talk, and I know many of us have during the break, we went back to our districts. I had a town meeting, and I talked to the people in the vicinity of my station. They were horrified to think that the station would close. The experience in 1988 showed that it does not work. Let us not put our population, our constituents through this again. Support the Traficant amendment as the only way to go to assure that lives are saved and let the Coast Guard presence continue in these various communities.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must reluctantly rise in strong opposition to the amendment offered by my good friend from Ohio. Certainly it is well-intentioned, but I must point out that this amendment, if adopted, represents the ultimate in micromanagement. This amendment says to the U.S. Coast Guard, which is charged with safety, says to them: Congress is telling you you are not allowed to manage your own operations. Congress knows better than you about safety. Congress is telling you you cannot close a single Coast Guard station.

Indeed, many of these stations are over 100 years old, when row boats, yes, row boats were used as the means of getting out to perform search and rescue operations.

But it is not 1896. We are approaching 1996. And, therefore, we should recognize the advances in technology and modern capability and give the Coast Guard the freedom to make these kinds of decisions, particularly when GAO has looked carefully at their proposals and GAO has concluded that not only is the process used by the Coast Guard reasonable but that they reviewed them and they endorse what the Coast Guard is attempting to accomplish.

It is extremely important that we give this flexibility to the Coast Guard. And I would emphasize that in committee, in order to be certain that we were not going to give safety a second place position in these considerations, we included in the bill language that requires the Secretary of Transportation to determine that safety will not be diminished before any search and rescue station can be closed.

So I say, let us recognize the Coast Guard as modernized. The Coast Guard, indeed, cares about safety. That is their mission. And we should not tie the hands of the Coast Guard by telling them that what they were doing in 1896 they still must continue to do in 1996.

For all of those reasons, I urge the defeat of this well-intentioned amendment.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Traficant amendment.

Mr. Chairman, I fail to understand why the Republicans feel absolutely compelled to support the administration's every initiative. Now, I understand, I will remind Members, this is not some evil Republican budget cutting proposal. This is a proposal by the Democratic Administration to cut some $2 or $3 million, in the case of these small stations, out of Coast Guard. While I appreciate the intense loyalty of the new majority around here, I think you should feel free to oppose the administration when you think they are wrong. I certainly do. This is one of those cases.

I am aware that downsizing, God help us all, is in. It is in, in corporations. it is in, in government. Democrats are busy reinventing government, and you folks are busy eliminating government. But everybody is downsizing in one way or another. If there is anything that is not too big today, it is the U.S. Coast Guard. I defy any Member of this Congress to suggest that the Coast Guard has too many resources. I know that the gentleman may speak for himself, but I do not think anybody really believes that.

Year after year, decade after decade we have piled more responsibilities on the Coast Guard, not less: law enforcement, marine environmental protection, boating safety, drug law enforcement and, of course, the most important mission of all, search and rescue. They are one of most grossly underfunded and understaffed agencies in the Government.

To stand up here and suggest that we need to downsize them I think is a bit much.

We are going to have more debates this year, I suspect, of a calculus kind of how much is a human life worth. I do not choose to participate in that debate, because I do not think it can be done. I do not think any of us is able to put a dollar value on a human life. We are talking about $2 or $3 or, if you say $5 or $6, no more than $6 million. God knows how many human lives we are talking about. But if it were only one, is a human life worth $3 million? I guess it depends whose life it is. If it is yours or your spouse's or your child's, I doubt you would hesitate very long in answering the question.

We all have parochial concerns here. In my district, the original idea of Coast Guard was to close two stations and make one of them seasonal, summer only.

The first thing they ought to do is make Provincetown on the tip of Cape Cod summer only. I am pleased to report that we talked them out of that inane idea. I have lost five fishing vessels with all hands since I have been in this office out of that port, every one of them in the winter. Talk about closing such a station in the winter. You can fill in your own adjective.

Now they want to close the station in Scituate just south of Boston and the station in Menemsha on Martha's Vineyard. If we look at the criteria, they are looking at response times. They are saying, well, we need x numbers to respond. Would you believe they use the same response time in Florida as they do in Massachusetts and Maine? I doubt there is any Member of this House who, if told you have to spend 10 minutes in the water in January, would choose Cape Cod rather than southern Florida. The odds, to put it mildly, are very, very different.

But the calculus, as we understand it, used by the Coast Guard to say how many minutes response time there needs to be were uniform across the Nation. That is crazy. That does not make any sense.

In New England, furthermore, as you may have heard we have a fishing crisis. We are about to put into effect dramatic, new, stringent reductions in fishing efforts. This is going to mean dramatically increased law enforcement responsibilities for the Coast Guard. Sadly, it is probably going to mean greater search and rescue demands because people are going to stretch a little bit further and go out in weather they probably should not go out in, fish longer than they should with smaller crews than they should have to try to eke a living out of what they are still allowed to do. That means more search and rescue responsibilities for the Coast Guard.

Let me finally say, if I may, having conceded that this is not an evil Republican budget cutting amendment and sadly conceding that it is coming from my own administration, I hear that there is going to be released to the public a Republican budget this week sometime. I do not know, and I am certainly not privy to the consultations going on, but I would not be surprised if we were to see an order of magnitude cut across the board in the Department of Transportation far exceeding what we are talking about here.

This heat, this emotion that is being engendered in this debate is about a cut in the Coast Guard budget of a fraction of 1 percent. What would happen if the new Republican budget, in the spirit of downsizing of our times, asked for a 10- or a 20- or 30-percent cut in all functions of the Department of Transportation? I do not know whether that is going to happen, but I would not be surprised if that happens in all so-called discretionary programs. And if it does, the debate we have just had on this floor will be as nothing compared to the human lives that will be at stake if we are presented with that.

So let us take this opportunity, Republicans and Democrats together, to rally against one of the few instances where this Democratic administration has been wrong.

I urge the support of this amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio. I have grave reservations with regard to the Coast Guard's small boat unit streamlining initiative. In particular, I am concerned with the impact of this proposal on the maritime safety in New England. The Coast Guard has proposed closing three stations in Massachusetts, including two in my district—Station Scituate and Station Menemsha on Martha's Vineyard.

I fully understand the Coast Guard's need to periodically reallocate its personnel and equipment resources and, generally, to do more with less. However, there are several issues which, in my view, require the Coast Guard to maintain a high level of search-and-rescue [SAR] capacity in the region. For the past several months, I have been working closely with area fishermen, lobstermen, and municipal officials to study the merits of the streamlining plan. We have compiled what I believe are compelling reasons why these stations should remain open. However, while we are most familiar with the circumstances in the Northeast, these issues raise fundamental questions with the national impact of the Coast Guard's plan.

In my view, the Coast Guard's recommendations have not adequately taken into account the severe weather conditions, particularly water temperature, prevalent in the region. The difference between life and death can be a matter of minutes in the freezing waters off Northeast shores. Yet in recommending stations for closure the Coast Guard applied the same response time to Massachusetts as it did to Florida.

Additionally, there are serious questions about closing Stations Scituate and Menemsha in the larger context of personnel and asset relocations throughout New England. When taken together they appear to spread SAR resources too thinly. The Coast Guard plans to move three HU–25A Aireye jets from Air Station Cape Cod to Texas and transfer the cutter *Point Jackson* from Woods Hole to Florida. Under the streamlining initiative, the Coast Guard has also recommended the closure of several other stations in Massachusetts, Maine, and Rhode Island. I have seen little evidence that the Coast Guard fully considered the broader ramifications of these recommendations.

In fact, a recent event has demonstrated that the Coast Guard's SAR assets in the region may already be overextended. This past weekend a helicopter from the New York National Guard responded to two separate SAR situations off Rhode Island because Coast Guard units based at Air Station Cape Cod were occupied with SAR operations elsewhere. It should be noted that this incident took place before the busy summer boating season and with all the Massachusetts SAR stations in operation.

Finally, the Coast Guard's closure study did not adequately take into consideration the other missions that these stations perform, including marine environmental protection, boating safety, and maritime law enforcement.

In particular, the collapse of groundfish stocks in New England—which has had severe ramifications on the fishing industry in the region—will require an increase in Coast Guard activities both in terms of a potential rise in SAR operations and administration of fisheries regulations.

While I am working with the Commerce Department to secure Federal assistance for fishermen, the only feasible solution to this crisis is to close the fishing grounds on Georges Bank to allow depleted stocks to recover. Experience suggests, however, that many fishermen will fish longer hours and in more inclement weather, forgo maintenance, and operate with smaller crews to make ends meet.

At the same time, new groundfish regulations currently being promulgated by the National Marine Fisheries Service to help rebuild stocks will require vigorous enforcement by the Coast Guard. Both Stations Scituate and Menemsha are also responsible for enforcement of laws and treaties, which includes the inspection of catches and equipment. Furthermore, Station Menemsha is responsible for New Bedford, one of the busiest fishing ports on the east coast.

In my view, the potential public safety consequences make a review of the Coast Guard's plans imperative and I would urge my colleagues to support the Traficant amendment.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment and, speaking as a member of the House Subcommittee on Transportation of the Committee on Appropriations, which has jurisdiction over the Coast Guard, I would like to bring a couple of points to the body's attention.

First, the Commandant of the Coast Guard knows his budget is being reduced as it is for every other part of the Federal Government. In a response, not necessarily anybody other than the Commandant has analyzed in depth the need for maintaining all of the service's small boat stations.

What the Commandant found is that the service does not need all of the stations they have today. That is because of demographic changes and better operating procedures and the procurement of faster boats and helicopters. New technology enables us today to search a wider territory and get on scene in the required time without having a boat station right around the corner.

I understand that no Member wants to lose a Coast Guard station in their district or in their State. I also understand that some States are harder hit by the Coast Guard plan than others. However, Members should know before voting on this amendment, this is not a budget-driven measure. It is done because it is sufficient.

The General Accounting Office has reviewed the Coast Guard's processes for reviewing its needs for boat stations. They said it provides, and I quote, "a reasonable basis for determining the appropriate number of stations and the appropriate resources of the stations."

In fact, when GAO came up before the committee, we asked them about this, as we also did when we asked the Coast Guard. This was the same GAO, I would remind the Members, who 5 years ago refused to endorse the closure of any stations because the Coast Guard had not done its homework. This time they have.

According to the Coast Guard they can perform the safe level of life saving with fewer stations and with the budget being reduced and then being more efficient.

I also should let Members know that funds are not included in the fiscal year 1996 budget for these stations. They are low-activity stations, and that is why they are on the Coast Guard list. If we prevent these stations from being closed, Mr. Chairman, we will have to cut $6 million from other parts of the Coast Guard's operating budget to pay for them, parts of the Coast Guard's operating budget that they do not want to see cut. This will have a much greater impact on safety, in my opinion.

And in closing, Mr. Chairman, let me say, as the gentleman from Massachusetts said, this amendment is opposed by the Department of Transportation and by the Coast Guard. There are no funds in the fiscal year 1996 budget to implement it without harming other programs.

I urge the body to vote the amendment down.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we just heard that people with the green eyeshades downtown here in Washington, DC, reviewed the Coast Guard process and they found that it was meritorious. People with the green eyeshades in downtown Washington, DC, have never tried to cross a bar entrance in Oregon with an outgoing tide and a strong wind. It is pretty tough. In fact, the Commandant of the Coast Guard, in this bulletin of January of this year said, and I quote, this is the Commandant of the Coast Guard, the same gentleman recommending these cuts referring to the Pacific Northwest:

> This area has always challenged mariners with its isolated, storm-battered coastline, strenuous harbor entrance. From seasoned fishermen to unwary vacationers, thousands of people annually learn hard lessons due to suddenly changing tides and weather.

This is the same Commandant who wants to close two lifesaving stations in my district. The last Commandant closed those two lifesaving stations in my district, and within 2 months five people drowned, five people who could have been saved.

The GAO and the people with the green eyeshades think you can tread water for 40 minutes. Well, you cannot tread water for 40 minutes, as the gentleman from Massachusetts pointed out, when it is cold in the Atlantic, not in the summertime but in other months of the year. You cannot tread water for 40 minutes while you are waiting for the helicopter in the bar entrances in my district either, not at the Coquille River, not at the Rogue River, not at the other areas scheduled for cuts.

We are talking about one-tenth of 1 percent of the operating budget of the U.S. Coast Guard. If this is an agency that does not have one-tenth of 1 percent of cuts that it can make somewhere else except in lifesaving, then this agency should be running the entire Government of the United States of America, because I cannot say that about any other agency of the U.S. Government. And I do not believe that anybody in this House, particularly Members from that side of the aisle, would make that assertion about any other agency of the Federal Government, one-tenth of 1 percent. Is that too much to save lives?

By the Coast Guard's own estimates, two people will drown this year to save one-tenth of 1 percent of their operating budget.

□ 1615

You might say that is a reasonable cost, about $1 million per person. What if it is your father, your mother, your kid, just a friend, a neighbor? Do you think it was worth that cut?

Do you think it was worth abandoning the principal historic mission of the U.S. Coast Guard on 120 miles of the Oregon coast in the Northern Michigan Peninsula, in New Jersey, in Massachusetts, in other areas? Is it worth abandoning to save one-tenth of 1 percent, or so the admiral will not have to find one-tenth of 1 percent somewhere else in his budget to cut?

I do not believe so, and I do not believe it should be the judgment of this body, because if that is the judgment of this body, then the blood of the people who will drown, and they will drown, the Coast Guard says two will drown, I think maybe 10 or 20 will drown, given the experience in my district 7 years ago, people will die because of this vote.

This is a little more serious than a lot of the other votes cast here. The green eyeshades downtown do not know anything when it comes to this. The Commandant of the Coast Guard does. He says these are treacherous entrances, but he is going to abandon them and serve them from 120 miles away with a helicopter.

As the distinguished ranking member of the committee worked out, that is a pretty tough thing to do in high winds and low visibility, let alone talking about the water temperatures and survival times, none of which was factored into this great equation that the GAO said was OK. What the GAO said is they did their math right. They did not say that this makes sense for people on the ground or in the water around the United States of America.

This is an ill-intentioned cut, and this body should not let this cut be made, and we should vote for the Traficant amendment.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank the members of the House Committee on Transportation, especially the chairman, the gentleman from Pennsylvania [Mr. SHUSTER], and the subcommittee chairman, the gentleman from North Carolina [Mr. COBLE], for including my legislation in this year's Coast Guard reauthorization bill.

Because the Coast Guard is not bound by the same procurement policies as is the Department of Defense, U.S. manufacturers of buoy chain are unable to compete with foreign manufacturers. Historically, the Coast Guard has purchased the majority of buoy chain from the People's Republic of China.

My legislation, as included in the en bloc amendment, would subject the Coast Guard to the same procurement policies as the Department of Defense, therefore restricting the purchase of chain not manufactured in the United States. In addition, all of the components of the buoy chain must be produced or manufactured in the United States.

This legislation will help us maintain an even economic playing field in international trade. American laborers are hardworking and our goods are among the best in the world, but we must ensure American businesses are not undercut by cheap foreign labor costs.

It would be unwise to enact protectionist trade measures which ultimately hurt consumers and producers by reducing competition. However, we must be on equal terms with foreign producers. Countries such as China are able to undercut United States production and underbid United States firms for large contracts.

"Buy American" is sound policy for American jobs, a strong economy and national defense. If we put out chain manufacturers out of business, we may find ourselves without a supply should a conflict arise. I urge my colleagues to support this legislation.

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to join the gentleman from Massachusetts [Mr. STUDDS] in congratulating the majority for rising to the support of the Clinton administration, though expressing my regrets that they have chosen this unfortunate moment on such an ill-conceived issue.

To make clear, Mr. Chairman, that I represent no Coast Guard stations, indeed, no beach areas, I seek no stations, and indeed, do not think they should be built in my own district of New Jersey, but I rise to the defense of the capabilities of the Coast Guard, because this issue is more than whether or not there is a Coast Guard station in New Jersey or Massachusetts or Oregon. This goes to the central mission of the Federal Government and its responsibility to our people.

Because there are things that our Government has done, agencies it maintains, expenditures that it makes which are inappropriate, expenditures which should be eliminated and activities which should be curtailed, there are many who would now come to this floor, and indeed, today they have the Clinton administration with them, to end those activities which are central, things which only the Federal Government can do, things upon which the people of our country depend upon the Federal Government to do.

For 200 years people, from mariners to the boating public to fishermen across America, have come to rely for their safety and for rescue at moments of peril upon the Coast Guard. We are now presented with a plan to close 23 of those stations, some of them that have operated for generations, saved hundreds of people at moments of peril, to save one-tenth of 1 percent of the Coast Guard budget.

In an incredible calculation, the Coast Guard can even demonstrate the cities, the oceans, the rivers, the places, and the numbers of lives that will be lost. And for what? Six million dollars, $6 million that we justifiably seek to reduce in areas where the Federal Government's activities are inappropriate and should be curtailed, or should be ended. But instead, we return to a central function of the Federal Government, maintaining safety on the seas and in our waterways, and in doing so, risk enormous danger for our citizens.

Most ironic is that while we reduce these Coast Guard activities in these 23 stations, we ask for greater surveillance to ensure that our fishing stocks are not depleted, we increase responsibility for drug interdiction, to ensure that narcotics are not reaching our coasts, we ask for higher environmental standards to make sure that international shipping does not dump their cargoes or their waste or their oil into our waters. We mount their responsibilities, we increase the standards, we want the American people to believe that they are safe in moments of leisure or work, but we take away their very resources.

Mr. Chairman, I have not been bashful when it came to moments to vote to cut Government spending or end its missions, but there is a time in which Members of this institution must understand those items of safety and security which are central to the functions of the Federal Government, missions that if we do not do, no one else will do, missions if they are not completed will take the lives of our people.

The people of our country do not generally ask a lot of this Federal Government. Usually they ask simply that it do less. This is one instance where for 200 years, as certainly as people have come to expect if their car or their truck breaks down along a highway, a patrolman will come to their rescue, so, too, through these generations people have come to expect that if they are lost at sea, if their boat is in peril, they will see a Coast Guard ship come to their rescue. That expectation need not change, not for $6 million, not for such a small saving, not when there are so many other opportunities.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, rise in support of the amendment of the gentleman from Ohio [Mr. TRAFICANT]. Let me first acknowledge that for the several Congresses we have just come through I have had the extraordinary privilege of chairing the Coast Guard Subcommittee of the former Committee on Merchant Marine and Fisheries, and so I know the awesome task and the difficult job that my good friend, the gentleman from North Carolina, Mr. HOWARD COBLE, has now in shepherding this bill and dealing with these very complex and controversial issues, particularly at a time of deep budget strain and stress.

I take my hat off to no one in voting to make budget cuts around here. I do a lot more of that than many of the Members do, and we have a lot more of that coming, but part of the process by which we make budget cuts, and we reach toward that incredibly difficult goal of a balanced budget by the year 2002, is a process called prioritizing.

It is a process by which in the various budgets and the various moneys that we collect from the American public and spend back for their benefit, we hope, that we list and indeed fund first those things which are most critical to the function of a given agency, to the function of a given department of our Government.

If there is one function that is most central to the operation of the U.S.

Coast Guard, it is the function of search and rescue. If there is one function above all else that I would rank as the No. 1 priority of the U.S. Coast Guard, it is to be the guardians of the sea.

We, as previous speakers have pointed out, lump enormous responsibilities upon the Coast Guard. Every year we seem to find something new for them to do. Every year, as we peel back some responsibility on some other agency, we give it to the U.S. Coast Guard. They have become, as someone pointed out, environmental agents for the Nation now. They are now part of the fisheries enforcement apparatus of America. They are in many cases called upon, as I said, to do things we had not envisioned the Coast Guard doing when we first appointed and placed in service the men and women of this incredible branch of the U.S. Government.

With fewer men and women serving than those who serve in the New York Metropolitan Police Department, we carry out these enormous functions for our country.

However, what are we doing today? What are we doing today in debating seriously a Coast Guard attempt to shut down its most important function first, instead of maybe dealing with all the other things it does that perhaps we ought to be talking about curtaining or somehow cutting down? What are we doing discussing closing the small boat stations of America that provide the ready access to relief and search and rescue in cases where American boaters are put at risk, and sometimes their lives are at stake?

There is no greater honor bestowed upon a Coast Guard man or women than the honor of being a lifesaver. There is nothing that Coast Guard men and women speak more proudly of than the number of lives they save each year, and they save a ton of lives each year. They do a tremendous job for us. Why would we even be considering, in whatever budget cuts or whatever curtailments of expenditures we want to make here, stopping the most important function of the U.S. Coast Guard; in fact, imperiling lives on some kind of an arbitrary formula that does not take into account very dangerous entrances and exits and storm conditions, temperatures of water; getting a formula that closes Coast Guard stations based upon some arithmetic calculation made here in Washington, DC?

I challenge Members, please, let us support this amendment. Let us make sure that in this and every budget we do what we are supposed to do, prioritize. The function, indeed, of saving lives ought to be No. 1 within the Coast Guard. We ought to make it No. 1 in this Chamber.

We ought to tell the American public we are prepared to make tough cuts, but we are also prepared to do the most important thing Government is supposed to do, and that is protect lives, protect liberty, and protect property in America.

Mr. MINETA. Mr. Chairman, I support the amendment offered by the distinguished ranking Democrat on the Coast Guard and Maritime Transportation Subcommittee, Mr. TRAFICANT. Closing 23 small search and rescue stations, as the Coast Guard has proposed, would save only a relatively small amount of money. However, it would remove a vital marine safety presence from the affected coastal communities.

I believe the Coast Guard has done a good job in how it has gone about reorganizing and rationalizing its small boat station staffing. Most of that will be realized under the Traficant amendment. And the Coast Guard may well be able to respond to emergencies adequately with other resources. My concern is that if these stations are closed, there would be a dimunition of safety, simply because the safety professionals from the Coast Guard would no longer be in the community.

The Coast Guard would no longer be there to offer safety advice or take an enforcement action against a boater doing something stupid. People admire and look up to the Coast Guard. That role model for good safety practices would be removed, and I believe that would hurt safety in the long run.

I urge adoption of the Traficant amendment.

Mr. HOEKSTRA. Mr. Chairman, I support Mr. TRAFICANT's amendment because I feel that it is necessary that before the Coast Guard closes a station, they should develop and implement a transition plan in consultation with the affected communities. I have expressed this desire to the Coast Guard and while they are supportive of the idea, they have yet to take the necessary steps to ensure the transition will be a smooth one for the communities. This amendment sets a 1-year moratorium on closings. During this time, I would hope that the Coast Guard would work with the affected communities to develop a plan that will ensure the safety of the boaters and residents of the area.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The vote will be for 17 minutes.

The vote was taken by electronic device, and there were—ayes 146, noes 272, not voting 16, as follows:

[Roll No. 308]

AYES—146

Abercrombie
Ackerman
Andrews
Baker (LA)
Baldacci
Barcia
Beilenson
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Camp
Cardin
Clayton
Clement
Clyburn
Collins (IL)
Conyers
Coyne
de la Garza
DeFazio
DeLauro
Dixon
Doyle
Ehlers
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Hoekstra
Holden
Hoyer
Jackson-Lee
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klink
Lantos
Laughlin
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Murtha
Nadler
Ney
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Petri
Rahall
Rangel
Reed
Reynolds
Rivers
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Sensenbrenner
Serrano
Skaggs
Slaughter
Smith (NJ)
Stark
Stockman
Stokes
Studds
Stupak
Tauzin
Thompson
Thornton
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Walsh
Ward
Waters
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOES—272

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kennedy (RI)
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Longley
Lucas
Luther
Manzullo
Martini
McCarthy

McCollum
McCrery
McDade
McHugh
McInnis
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McKeon
McNulty
Meehan
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Miller (FL)
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Morella
Myers
Myrick
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Nethercutt
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Richardson
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Roberts
Roemer
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Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Seastrand
Shadegg
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Shuster
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Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
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Spence
Spratt
Stearns
Stenholm
Stump
Talent
Tanner
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Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torres
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Wamp
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (FL)
Zeliff

NOT VOTING—16

Berman
Boehlert
Brown (CA)
Collins (MI)
Dingell
Fattah
Ford
Gonzalez
Jefferson
Maloney
Moakley
Peterson (FL)
Rogers
Taylor (MS)
Wilson
Zimmer

☐ 1651

Mr. DEUTSCH, Mrs. THURMAN, and Messrs. MEEHAN, NEAL of Massachusetts, and BARRETT of Wisconsin changed their vote from "aye" to "no."

Messrs. PETRI, WALSH, and SANDERS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DEUTSCH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as we are taking up the Coast Guard authorization bill we are also taking it up on a day that is truly a dark day in the Coast Guard's history and in America's history. This is a day that the U.S. Coast Guard has joined forces with one of the evil regimes in the world and in world history, the Castro government. The U.S. Coast Guard, who has had such a glorious history over hundreds of years, today escorted people for the first time in American history back to a Communist dictatorship. It truly is a dark day not just in the Coast Guard's history but in America's history.

It is a policy which has never been done before and hopefully will never be done again. There are many of us in this Chamber and throughout this country who are urging the President to stop this policy. Coast Guard vessels which have been used to save lives for hundreds and hundreds of years, in fact within the last year have saved hundreds of lives, thousands of lives, were used today to bring 13 people back to what we do not know, what might be death, what might be torture. It is totally naive by this administration to believe that those people will not be suffering for their consequences. It defies the logic of history, it defies what we do know. It defies recent history where this Government has continually pointed to the Castro regime as one of the worst human rights abusers in the world, in fact in the history of the world, and yet that is what our Government's resources and our Coast Guard was involved in today.

Now is not the time to particularly reduce Coast Guard authorization for that action. But our hope and I believe again the majority of the Members in this Chamber and a majority of people throughout this country is that this policy will change and will change in short order.

Mr. COBLE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to respond very briefly to the gentleman from Florida. I am not going to take my 5 minutes, but I feel obliged to at least respond to what he said. I cannot disagree with most of what he said, but since we are now debating the authorization bill for the Coast Guard, I think I need to make it clear to my colleagues that we should not kill the messenger in this case.

The Coast Guard after all is the appropriate agency for implementing the President's policy. Whether or not we agree with the President's policy, that may well be another ball game, but I do not think we can be justified in pointing accusatory fingers to the Coast Guard for taking its part in repatriating those Cubans back to Cuba.

I am advised that those Cubans who were picked up by the Coast Guard from a cruise ship have been aboard a Coast Guard cutter since that day, which I think was last Thursday, and the repatriation process is going on now.

I just want to insert my oars in the water, Mr. Chairman, on behalf of the Coast Guard. I do not disagree with what the gentleman from Florida said, but I think it needs to be made clear that the Coast Guard is merely implementing the President's policy.

AMENDMENT OFFERED BY MR. ROTH

Mr. ROTH. Mr. Chairman, I offer an amendment.

Mr. DEFAZIO. Mr. Chairman, I had risen previously and I am a member of the committee. What is the procedure here. I have an amendment at the desk.

The CHAIRMAN. The Chair has recognized the gentleman from Wisconsin already, and as a committee member, the gentleman from Oregon will be recognized next.

Mr. COBLE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from North Carolina reserves a point of order on the amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROTH: At the end of title IV (page 43, after line 13), add the following new section (and amend the table of contents accordingly):

SEC. . LIMITATION ON FEES AND CHARGES WITH RESPECT WITH RESPECT TO FERRIES.

The Secretary of the department in which the Coast Guard is operating may not assess or collect any fee or charge with respect to a ferry. Not withstanding any other provision of this Act, the Secretary is authorized to reduce expenditures in an amount equal to the fees or charges which are not collected or assessed as a result of this section.

Mr. ROTH. Mr. Chairman, we have too many laws in our country, too many taxes that do not make sense, and that is the purpose of this amendment. Ferry boats provide not only essential transportation but for many purposes they are the only form of public transportation to many places.

☐ 1700

Mr. Chairman, we are debating an issue here today that is affecting the lives of many people in our country, and that is why I think it is important for us to give due deliberation to these amendments.

Ferry boats are really the lifeline to many communities. Now, under U.S. law, the Coast Guard is allowed to exempt a ferry boat from paying taxes if it is determined to be of a public interest.

In my home State of Wisconsin, ferries are considered public, so public that the public service commission regulates them.

The only way to get to Washington Island, for example, in my district, which is off of the coast of the beautiful Door County area in Wisconsin, you have to go by ferry. This island is inhabited by some 650 residents year around, many more in the summer. The only way to get to the island is by ferry boat.

These boats are the lifeline to the community. They take care of the ambulance service, mail service, groceries, fuel and heat.

Now, citizens rely on ferries all over the United States. So this is not only affecting Wisconsin, this is affecting many, many areas in your States also.

During one of the many destructive floods on the Mississippi, for example, many families and towns relied on the ferries to get them to the hospital and to safe shelter. When San Francisco, for example, the Golden Gate Bridge, for example, was damaged by an earthquake, the bay area relied on ferry boats.

If these new destructive taxes go into effect, as scheduled on May 1, one ferry boat operator, for example, on the Washington Island line will be penalized by some $5,175, that is over $5,000.

When this amendment goes into effect, what it will do is return some fairness, and that is all I am asking. I am asking that the Congress consider this as a public service.

Let us not tax these people to death. Let us not choke off this vital lifeline from Door County to Washington Island.

As I say, this is not the only area in the country, but there are many areas like this, and I ask the Members to approve this amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from North Carolina [Mr. COBLE] insist on his point of order?

Mr. COBLE. Mr. Chairman, I do.

The CHAIRMAN. The gentleman will state his point of order.

Mr. COBLE. First of all, Mr. Chairman, I want to say to the distinguished gentleman from Wisconsin, that much of what he said I am not in disagreement with, but I do not think this is the proper forum, for this reason: I think the amendment offered by the gentleman from Wisconsin [Mr. ROTH] violates section 302(f) of the Budget Act by providing negative budget authority for the fiscal year 1995.

Mr. ROTH. Mr. Chairman, may I be heard on that?

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I realize the gentleman from North Carolina [Mr. COBLE] is probably one of the most gifted lawyers in the House.

I wanted to point out that whenever we cut taxes, it is never in order.

Let me say something: When you read this amendment, and the appropriate statute, you find that the ferry is defined as a public service. Then the tax does not apply.

Also, I want to point out that the second argument is that the amendment gives the Secretary the authority to reduce expenditures in the amount equal to the tax not collected.

Therefore, this amendment is in order.

The CHAIRMAN (Mr. DICKEY). The Chair is prepared to rule. Based on the last argument from the gentleman from Wisconsin, that the record new budget authority would be offset, the Chair holds that the amendment is in order.

Mr. ROTH. Well, I thank the Chair very much, and I ask for an affirmative vote.

The CHAIRMAN. That ruling is based on the last sentence of the amendment.

Are there other Members who wish to be heard on the amendment?

If not, the question is on the amendment offered by the gentleman from Wisconsin [Mr. ROTH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DEFAZIO: At the end of title I, add the following new section:

SEC. . LIMITATION OF USE OF AMOUNTS TO CLOSE MULTIMISSION SMALL BOAT STATIONS.

Amounts appropriated under the authority of this Act may not be used to close any multimission small boat station unless the Secretary of Transportation determines that the closing will have less negative impact on maritime safety than the elimination of Coast Guard administrative aircraft.

Mr. DEFAZIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DEFAZIO. Mr. Chairman, during the Traficant amendment, the issue was raised that we should not ask the Coast Guard to go back to the well; they could not find the few million dollars necessary to keep those 23 small boat lifesaving stations open. As I pointed out, it is one-tenth of 1 percent of the budget.

But since we did not want to mandate that the Coast Guard return to their budget and apply a magnifying glass, I decided, if the Traficant amendment failed, to offer one of my own and help them out.

I referred to a report of the Government, of the Department of Transportation and the Office of the Inspector General, and in regard to the transportation activities of the U.S. Coast Guard, in particular, my amendment goes to one part of those transportation activities; that is, the private jet of the Commandant of the Coast Guard of the United States.

For the last year for which they have figures, the private jet utilized by the Commandant of the Coast Guard of the United States and others cost the Coast Guard $3,363,263, more money than is necessary to keep those 23 small boat life-saving stations open.

So the decision before this Congress is: Should we maintain a private jet which has been utilized by the Secretary of the Department of Transportation? He also has private jets in other parts of his budget and can also utilize the private jets at Andrews Air Force Base, and the Commandant of the Coast Guard, who used it about half the time, vice commandant, area commanders, other Coast Guard personnel, and surprise, surprise, Members of the U.S. Congress utilized the private jet of the Commandant, of the Coast Guard for an estimated $323,385 last year.

So is it better that we spend $323,385 ferrying Members of Congress around in the Commandant's private jet, or we save people who are drowning off the coast of Michigan and the Great Lakes and off the coast of Massachusetts and New Jersey?

I think that in these days where we are asking people to cut to the bone, and in these days when Congress is cutting back on its privileges, how can it justify a private jet which is used for Members of Congress, other people, and about half the time for the Commandant of the Coast Guard?

I, as one Member of Congress, would be quite willing to pony up a bunch of my frequent flier miles so the commandant would never have to fly in coach. He could always fly first class. Now, I am sure it is not going to be the same as a private jet. If there was an emergency and he needed a private jet, he could go to Andrews Air Force Base, where they maintain about 40 private jets for bigwigs in the military, and I am certain they would let him use one.

So why do we have private jets in the Coast Guard, private jets in the Highway Department, private jets in other agencies of the Federal Government, and then a whole bunch of private jets in the military? If we are going to keep private jets to ferry around Members of Congress and other bigwigs, let us get more efficient, put them all in one place. Let us operate them all out of Andrews Air Force Base.

This amendment is very simple. It would say the Secretary of Transportation would have to decide what is more important to the lifesaving mission of the Coast Guard: a private jet for the Commandant of the Coast Guard of the United States, others, including Members of Congress, or the 23 small boat lifesaving stations?

I think that many Members would join me in determining that in times where we have to cut back, we should make the cuts in the areas where it hurts least, and I think cutting private jets for Members of Congress and the Commandant of the Coast Guard would be, in this case, by most Americans considered to be a better cut than cutting 23 small boat lifesaving stations.

I do not believe that a person treading cold water off Nantucket Island or in the northern part of the Great Lakes or off the Oregon coast should have to wait 40 minutes to 1 hour for a Coast Guard rescue. I would rather the brass in the Coast Guard and Members of Congress waited 40 minutes for a commercial jet at National Airport.

Again, I would be happy to contribute some of my mileage upgrades so none of those people will have to fly in coach.

Mr. COBLE. Mr. Chairman, I rise in opposition to the amendment.

I am not sure I follow the amendment offered by the gentleman from Oregon. Maybe it is very cleverly drafted, or, in any event, I am not with it.

But I am going to have to oppose this. Much of this is what we discussed on the last amendment regarding the fact, folks, that I think the Coast Guard needs to have some flexibility as it conducts its self-assessment, streamlining program.

Now, some of my Democrat friends earlier were, tongue-in-cheek, and I did not object to this, were admonishing me for signing off on the administration's proposal.

Well, the Secretary of Transportation, whom I do not know well, and perhaps my friends on the other side may well know him better than I, but he had no problem at all with extending to the Commandant of the Coast Guard the flexibility to determine what stations are to be downsized, and as far as the jet, that obviously is a part of the Coast Guard air fleet.

I urge the defeat of the amendment submitted by the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, the amendment does not mandate that the Secretary of Transportation delete the private jet for the Commandant of the Coast Guard and Members of Congress. It merely says that the Secretary of Transportation must determine what is more important to the maritime safety of this Nation, private jet for the Commandant of the Coast Guard, Members of Congress and others, or 23 small boat lifesaving stations.

I think that we are just sending the issue back to Secretary Pena for another look, because I think perhaps, hopefully, his mind was not clouded by his two private jet trips the Commandant provided last year for $55,000, and hopefully he would look at this objectively and determine we do not need that private jet. It is a luxury jet. It is a personal aircraft. It is not a member of the fleet. It is not used for strategic or military purposes.

Mr. PALLONE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to commend my colleague from Oregon for proposing this amendment.

As the gentleman from North Carolina [Mr. COBLE] said, in terms of the background of it, it is very similar to the previous amendment, but I do want to commend the gentleman from Oregon [Mr. DEFAZIO], because he has, in effect, identified a source of funding in the Coast Guard to pay for us keeping open these small boat stations.

As was mentioned by some of the speakers in the debate on the Traficant amendment, this is really a question of priority. We all know we have a limited amount of funds and that we have to prioritize where we spend those funds. But the gentleman from Oregon [Mr. DEFAZIO] is saying the priority should be on saving lives and keeping open those Coast Guard stations which over the years have generated support not only with Coast Guard and Federal money but other auxiliary moneys and volunteer efforts to continue the search and rescue operations and the other things that the Coast Guard is involved with.

It certainly makes sense, in my opinion, to eliminate a private jet, clearly something that is frivolous and not needed. There have to be other ways the Commandant can go about traveling from one place to another and save the money by striking that item from the budget.

Now, I know the amendment does not go so far as to actually mandate that be done. I personally would not have a problem with that, but what he is saying is he is setting forth the Coast Guard has to make a decision and decide which is the higher priority.

I think there are very few of us that think that eliminating the jet and keeping these stations open is not a higher priority. I support the amendment, and I commend the gentleman from Oregon for bringing this option to the floor of the House.

Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my colleague from Oregon knows full well what kind of service the Coast Guard provides to our fishermen on the coast of Oregon. We are in a very dangerous water.

The small boat stations are extraordinarily important to not just fishermen but also to the people who are on their own boats on the coast.

It shocks me, Mr. Chairman, to find out that there is this private jet available, and the cost saving of the amendment offered by the gentleman from Oregon [Mr. DEFAZIO] is extraordinarily sensible.

We have to, in this Congress, be honest when we say we believe in cost cutting. We have to say what we are going to cut and what we are not going to cut. It is no good saying we are going to be fiscally responsible and cut budgets if, in fact, we are cutting things that are so vital to our own citizens.

Mr. Chairman, I cannot tell you how important those Coast Guard stations are to the people of Oregon and the people of Washington, and it is a great favor for me to serve with the gentleman from Oregon [Mr. DEFAZIO], who understands that, too.

Let us cut this jet. Let us make sure the Secretary of Transportation knows what transportation is important to the country and to the people of this great Nation.

I really support and encourage my colleagues to support this amendment.

□ 1715

Mr. TRAFICANT. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I do not have a Coast Guard mini boat station in my district, and I did not really have a dog in the fight as far as losing any jobs, if that is the argument being taken, and I supported the efforts the gentleman from Oregon [Mr. DEFAZIO] and the gentleman from New Jersey [Mr. PALLONE] and others because, quite frankly, I thought they were right. I support this amendment, and I want to commend the gentleman from Oregon [Mr. DEFAZIO].

The last time the Congress of the United States allowed for closings of small boat stations, the gentleman from Oregon [Mr. DEFAZIO] lost five lives of his constituency. Now I do not think the amendment is going to pass. I say to the gentleman, "I am going to support your amendment, but I believe the Congress of the United States today has done something in concert with actions that have been much too often taken in this hall. Congress continues to pass the authority of governance to the White House, and the Congress of the United States in many cases is not being conferred with. Mr. DEFAZIO, I think you have made a valiant effort. You have certainly brought forward the issue, and nobody has done it better than you have, and you and Mr. PALLONE deserve a tremendous amount of credit for it. I'm going to support your amendment; I hope it passes."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. DEFAZIO].

The amendment was rejected.

AMENDMENT OFFERED BY MR. HOEKSTRA

Mr. HOEKSTRA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOEKSTRA: Page 7, strike lines 12 and 13 and insert the following:

SEC. 104. ENSURING MARITIME SAFETY AFTER CLOSURE OF SMALL BOAT STATION OR REDUCTION TO SEASONAL STATUS.

Page 7, line 14, before "None of the funds" insert the following: "(a) MARITIME SAFETY DETERMINATION.—".

Page 7, after line 18, insert the following:

(b) TRANSITION PLAN REQUIRED.—None of the funds appropriated under the authority of this Act may be used to close or reduce to seasonal status a small boat station, unless the Secretary of Transportation, in cooperation with the community affected by the closure or reduction, has developed and implemented a transition plan to ensure that the maritime safety needs of the community will continue to be met.

Mr. HOEKSTRA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HOEKSTRA. Mr. Chairman, representing a district that you are well aware of; I understand you have a summer residence in west Michigan; you appreciate the beauty of the west Michigan shoreline. We are also very aware of the critical role that the Coast Guard plays in ensuring the safety of boaters and residents in my district. I do believe that it is necessary for the Coast Guard to streamline their operations, to be both efficient and cost effective, and also to represent the changing nature of their mission.

However, I do not believe this should come at the cost of safety.

As a Representative of a district that lines the coast of west Michigan, I am well aware of the essential role the Coast Guard plays in ensuring the safety of boaters and residents in my district. While I believe that it is necessary for the Coast Guard to streamline their operations to be both efficient and cost effective, I do not believe that this should come at the cost of safety. H.R. 1361 already states that the Coast Guard cannot close a station until the Secretary of Transportation can certify that the action will not have a detrimental impact on public safety.

My amendment would add to this provision, stating that before the Coast Guard can close a small boat unit, they will have to work in cooperation and consultation with the affected communities in developing a transition plan that ensures that the safety needs of that community are being met.

By pulling in the community, the Coast Guard will hear the inputs and proposals from the people that are affected by their decisions and a healthy dialog can take place about possible alternative solutions. The Coast Guard has already informally agreed to this procedure but has failed to take action on it. My amendment will make communication with the communities a requirement before a closing can occur. Through this dialog, communities can work with the Coast Guard so that both parties will be comfortable with the end result.

Mr. COBLE. Mr. Chairman, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from North Carolina.

Mr. COBLE. I apologize to the gentleman for interrupting, but I think I am correct that the gentleman from Ohio [Mr. TRAFICANT], his staff and my staff have signed off on this amendment of the gentleman from Michigan [Mr. HOEKSTRA], and we will accept the amendment.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from Ohio.

Mr. TRAFICANT. We have no opposition to the amendment, however, the amendment is going to make everybody feel good. However, we have no opposition.

Mr. CASTLE. Mr. Chairman, I rise in support of the Hoekstra-Castle amendment.

The Coast Guard has proposed closing 23 bases and reducing 13 bases to seasonal subunit status.

Many bases are outdated or inefficient. The intent of the amendment is not to oppose base restructuring—but to elevate community participation in the planning process.

In Delaware, the Coast Guard has proposed closing the station at Roosevelt inlet and reducing the station at Indian River to seasonal duty.

As you may know, the Commandant of the Coast Guard recently indicated they intend to prepare transition plans for communities affected by base closure. This amendment supports and expands on this promise.

The Hoekstra-Castle amendment requires the Coast Guard to:

First, work in cooperation with communities affected by base closures or base reduction to seasonal duties.

Local communities should be active participants in the policy making process.

Currently, Coast Guard plans do not necessarily include any further consultation with local communities.

Second, develop a transition plan to ensure safety needs are met.

Currently, transition plans will not be prepared for bases reduced to seasonal duties. The amendment requires transition plans for both base closures and reductions to seasonal subunit status.

A written plan will better identify the roles, responsibilities, and requirements necessary for a safe and smooth transition.

It is important to note that this amendment does not increase costs.

The Congressional Budget Office has indicated that the amendment will not change the scoring of the bill.

The base restructuring initiative will still save $6 million.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. HOEKSTRA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NADLER: At the end of title IV (page 43, after line 13), add the following new section (and amend the table of contents accordingly):

SEC. . TRANSITION FOR CIVILIAN PERSONNEL UNEMPLOYED DUE TO CLOSURE OR REALIGNMENT OF COAST GUARD INSTALLATIONS.

(a) ELIGIBILITY FOR RETIREMENT.—A civilian employee of the Coast Guard assigned to the Coast Guard installation located at Governor's Island, New York, who becomes unemployed as a result of a closure or realignment of that installation and who would have been eligible for retirement within 5 years after becoming unemployed shall be eligible for full retirement benefits.

(b) ELIGIBILITY FOR REEMPLOYMENT.—For purposes of seeking new employment, the authorized geographic area of a civilian employee of the Coast Guard assigned to the Coast Guard installation located at Governor's Island, New York, who becomes unemployed is deemed to be all United States Coast Guard installations located in the United States.

Mr. NADLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. COBLE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from North Carolina [Mr. COBLE] reserves a point of order on the amendment.

The gentleman from New York [Mr. NADLER] is recognized for 5 minutes in support of his amendment.

Mr. NADLER. Mr. Chairman, this amendment does two things with respect to the Coast Guard base on Governors Island. The Coast Guard base on Governors Island has been there since the Revolutionary War and is the largest Coast Guard base anywhere in the United States.

The amendment, as I said, does two things. It permits civilian employees who work at the Governors Island base in my district to compete for available jobs at bases anywhere in the country should their jobs be eliminated because of closure or relocation of the Governors Island base, which closure would eliminate approximately 600 Federal civilian positions. These hardworking people under current law would not be allowed to follow their work if it were relocated elsewhere in the country because their authorized geographical area within which they are entitled to follow the work is limited to New York, and there are no Federal Coast Guard jobs left in New York, and if the Governors Island base is relocated to, for example, Virginia or Florida, under current regulations these civilian employees would not be allowed to pursue those new positions. So the first thing the amendment does is permit them to do so.

The second thing the amendment would do would be to permit civilian employees currently working at the Governors Island base who are within 5 years of retirement to become eligible for full retirement benefits if they are displaced as a result of the base closure. This amendment would affect, this provision, affects, approximately 43 people who are within 5 years of retirement and would not otherwise be eligible for retirement benefits, and I would be pleased to support colleagues in offering the same protections with civil employees who work at other Coast Guard bases that may be closed or realigned. These people have loyally served the Coast Guard and have loyally served our country for over a decade and should not be cast aside when the Government goes on doing its business. If the base closes, they will not have the opportunity to work at all to earn full time retirement benefits because there are no Federal jobs in the area. The civilian men and women at the Governors Island installation have worked hard, they have played by the rules, they should be treated fairly, and that is what this amendment in both its provisions does, and, therefore, I ask for the enactment of this amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from North Carolina [Mr. COBLE] persist in his point of order?

Mr. COBLE. I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr. COBLE. It is my belief, Mr. Chairman, that the amendment from the distinguished gentleman from New York [Mr. NADLER] violates section

401(b)(1) of the Budget Act of 1974. It provides new entitlement authority for the current fiscal year.

The CHAIRMAN. Does the gentleman from New York [Mr. NADLER] wish to be heard?

Mr. NADLER. I await the ruling of the Chair.

The CHAIRMAN (Mr. DICKEY). The Chair is ready to rule.

The gentleman from North Carolina makes a point of order under section 401–B of the Congressional Budget Act that the amendment offered by the gentleman from New York provides new entitlement authority effective during fiscal year 1995 on a bill reported to the House in calendar year 1995.

The Chair finds that amendment offered by the gentleman from New York provides new entitlement authority in the form of public retirement benefits. The Chair also finds that the new entitlement authority would be effective on the date of enactment of the bill. Finally, the Chair is constrained to contemplate immediate enactment of the bill.

Accordingly, the Chair holds that the amendment of the gentleman from New York fails to comply with section 401–B of the Budget Act. Accordingly, the point of order is sustained.

Are there any other amendments?

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment Offered by Mr. NADLER: At the end of title IV (page 43, after line 13), add the following new section (and amend the table of contents accordingly):

SEC. . PROCEDURES AND REQUIREMENTS FOR CLOSURE OR REALIGNMENT OF COAST GUARD INSTALLATIONS.

The Secretary of the department in which the Coast Guard is operating may not close or realign any Coast Guard installation except in accordance with procedures set forth in Public Law 101–510.

Mr. NADLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Mr. Chairman, this amendment provides that the Secretary may not close or realign any Coast Guard installation except in accordance with the procedures set forth in Public Law 101–510, which is to say except in accordance with the procedures utilized by the Base Closure Commission. This amendment would ensure that decisions regarding which installation of the Coast Guard may be closed in the future would be fair and impartial by requiring they be made according to the procedures that we have established for the Defense base closure and realignment by the Defense Base Closure and Realignment Act. We have established an independent commission to determine military base closures. This has achieved its purpose of providing a fair process that preserves the national interests and safety while affording fairness to affected regions. The same procedure is equally relevant and necessary if we are going to embark upon a course of closing Coast Guard installations to ensure a good Federal policy and fairness to different regions.

Mr. Chairman, as we streamline Government, we must maintain maritime safety, and we should use fair and impartial procedures to determine which Coast Guard bases are appropriate to close or realign, and I believe that the existing Base Closure and Realignment Commission could undertake this additional duty without a greater additional cost. So I submit this amendment, and I ask its enactment.

Mr. COBLE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York [Mr. NADLER].

Mr. Chairman, this amendment offered by the gentleman from New York [Mr. NADLER] would not allow the Coast Guard to close or realign any Coast Guard installation except in accordance with the procedure of the Base Closing Act, and I say to the gentleman, "Mr. Nadler, I may be mistaken, but I don't believe the Base Closing Act extends its jurisdiction to Coast Guard facilities, No. 1, and, No. 2, I want to reiterate again, I favor giving the Coast Guard the flexibility to deal with search and rescue station closures, to reallocate resources appropriately, and I think that what the gentleman from New York is doing now is to, perhaps, attempt to do indirectly what has been failed earlier today."

I therefore, Mr. Chairman, oppose the amendment.

Mr. TRAFICANT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I commend the gentleman for his efforts, but I reluctantly, too, have to oppose this amendment.

Let me say this amendment would, in fact, place jurisdiction subject to this committee into a whole other legislative jurisdictional authority and would complicate severely the business at hand by our committee to provide such jurisdiction over the Coast Guard.

I am willing to work with the gentleman on the problems that he has, but I believe with this, and I have to agree with the chairman, it would not be in the best interests of the Congress and this committee, and, with that I reluctantly——

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I appreciate the sentiment expressed by the gentleman from Ohio [Mr. TRAFICANT] in his willingness to work with me in seeking to attain the aim of fairness and adequate consideration of closure of major facilities, and I must say that I did not intend this amendment, Mr. COBLE, to apply to small boat stations. I had in mind major facilities such as the Coast Guard station on Governors Island and other such major facilities which are really analogous to major military bases and, I think, should get analogous treatment, and I certainly would not want to tamper with the committee's jurisdiction, the jurisdiction of the committee on which I sit.

So I would look forward to working with the gentleman from North Carolina [Mr. COBLE] and the gentleman from Ohio [Mr. TRAFICANT] to work out this question to afford a fairer way of determining which major installations should be closed, if any, in a fair and impartial manner and with the assurances that they would be willing to work on this.

Mr. Chairman, I withdraw my amendment.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from New York [Mr. NADLER] is withdrawn.

There was no objection.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: At the end of title IV (page 43, after line 13), add the following new section (and amend the table of contents accordingly):

SEC. . AMOUNT OF FEE FOR INSPECTION OR EXAMINATION OF SMALL PASSENGER VESSELS.

(a) AMOUNT OF FEE.—Section 2110 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(k) The amount of any fee under this title for inspection or examination of a small passenger vessel may not exceed—

"(1) in the case of a vessel under 65 feet in length, $300; or

"(2) in the case of a vessel 65 or more feet in length, $600.".

(b) INCREASE IN FEE.—The Secretary of the Department in which the Coast Guard is operating shall increase the amount of the fee charged by the Coast Guard for inpection or examination of large, luxury foreign-flag cruise ships under title 46, United States Code, in an amount adequate to offset any reduction in the total amount received by the United States in the form of such fee as a result of the amendment made by subsection (a).

Mr. TAUZIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

□ 1730

POINT OF ORDER

Mr. COBLE. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. COBLE. Mr. Chairman, I believe the gentleman from Louisiana has offered an amendment that violates rule XXI, clause 5(b), because the increase of fees to foreign cruise vessels is not related to the cost of providing the service of the Coast Guard. It is not related to the cost of providng the service of Coast Guard inspections, and this, therefore, Mr. Chairman, is no longer a fee but a tax.

The CHAIRMAN. Does the gentleman from Louisiana wish to be heard on the point of order?

Mr. TAUZIN. Mr. Chairman, I wish to be heard on the point of order.

Mr. Chairman, the amendment provides for capping the fees that are assessed for inspecting small vessels at $300 and $600, more closely related to the actual cost of inspecting these small vessels, and requiring the Coast Guard instead to assess, whenever the money is required to cap, these fees on the larger foreign cruise ships.

The problem is, of course, a budget one. We cannot put a cap on the fees on the low end unless we provide for collection of those same amounts on the high end of the scale.

The problem is that there is a tax in this bill. The tax is on the small boat owners. Mr. Chairman, I want to point out two things to you: The first is that under the current fee schedule small boat owners are being ripped apart. In many cases the cost of inspection bears no relationship whatsoever to the time spent by the Coast Guard in inspecting those vessels.

Let me illustrate for you. In Louisiana, Mr. and Mrs. Torres operate a small swamp tour boat, 25 feet in length. It is a small boat. They take passengers out to look at alligators. Twenty-five in length.

The Coast Guard says that they are charging $87 an hour to inspect the vessels. But the Torreses, who went through an inspection that took less than an hour, it should not have taken more than that, were billed for $545 of expenses for that inspection under this fee schedule.

In Galliano, LA, Mr. Jimmy Martin has three boats 85 feet in length. One of those boats was inspected for a total of one hour. He was not charged $87; he was charged $1,135. A similar case with Mr. Earl Griffin of Larose, LA, one of three boats inspected, each one 110 feet in length; the inspection took a little over 2 hours, $1,135.

If there is a tax in this bill, it is a horrible confiscatory tax on small boat owners. But that is not the only problem. The other problem is that recently the Coast Guard initiated a program called streamlined inspections. Now, under that program, if you have a great safety record, if your record in the boat business is so spotless, you are allowed to self-inspect and to self-certify to the Coast Guard that you meet all these criteria. That is a new program initiated to save people money, to save the Coast Guard the trouble and time of inspection, to just inspect the boats that need inspection, in effect.

Guess what? The Coast Guard is charging those boat owners the same price they charge other boat owners who they have to go out and inspect. They are calling it a cost of overseeing the self-inspection program.

This is a mess, Mr. Chairman. The Coast Guard user fee is using people all right. It is using them to death. And I suggest this amendment is vital and needs to get passed.

The gentleman says we are raising a tax by reallocating these user fees. We are not raising a tax. All we are doing is stopping this awful confiscatory tax on the smaller boat owners. What this amendment says is that the inspection fees ought to be capped at something reasonably related to the real cost and the time of inspection: $300 for a boat under 65 feet, $600 for a boat over 65 fee. That makes sense. For the Coast Guard to assess a $1,135 fee for less than an hour's worth of inspection, to assess a fee on those who self-inspected under a good-faith streamlined policy provision we adopted last year, is ridiculous.

Mr. Chairman, we ought to pass this amendment. You ought to rule against this point of order if for no other reason than the amendment makes such good sense.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. TRAFICANT. Mr. Chairman, I understand the position taken by the chairman of the subcommittee, and because of the tax implications I believe there probably exists technical points that speak to sustaining this point of order.

But I would like to make this statement in lieu of that, and I believe that the gentleman from Louisiana [Mr. TAUZIN] is a very valuable Member of this Congress. I believe he struck on a point here that deserves the concerns of our committee. I would like to ask the chairman if in fact this is stricken by a point of order because of those technicalities, the Budget Reconciliation Act of 1990 did allow for an opportunity to exist that does fit into this strategy that is offered by this legislation, perhaps we could visit that issue and see if we can mitigate some of those problems, because I think Mr. TAUZIN makes an awful lot of sense.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. COBLE. Mr. Chairman, I will be very brief. I think the gentleman from Ohio [Mr. TRAFICANT] raises a good point. I think the gentleman and the gentleman from Louisiana [Mr. TAUZIN] and I can visit this and perhaps bring the appropriate Coast Guard officials to the table. If what the gentleman from Louisiana [Mr. TAUZIN] says is accurate, and I have no reason to doubt it, some redress is in order.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. DEFAZIO. Mr. Chairman, I am a bit puzzled as to how we can rule that the Coast Guard, in levying a confiscatory tax—that is, a boat operator in the southern part of my district last year was assessed one fee for five boats, and this year was assessed, because the Coast Guard person had to travel there, he did not think that was unreasonable, this year he was assessed five fees for the five boats as though five separate trips had been made and those were done in one trip. I am a bit puzzled how it can be that we are confronted with a confiscatory tax, which has been unilaterally imposed by the Coast Guard, and yet in this case when we are attempting—but it is being justified as a user fee—when we are attempting to adjust the user fee under the gentleman's amendment, we are determining it is a tax and we are out of order.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. HOYER. Mr. Chairman, I rise in strong support of the amendment offered by the distinguished gentleman from Louisiana [Mr. TAUZIN]. I would hope that my friend from North Carolina would reflect upon his raising of this point of order.

I have for a long time been expressing my own concerns about the proposed user fees for inspection and examination of commercial vessels. The final rule was issued by the Department of Transportation on March 18. Despite the fact that the department spent 3½ years on this rulemaking, I do not believe that it has adequately addressed the concerns of the small businesses. In February 1992 as the department began the rulemaking process, I, and others, expressed concerns to the Subcommittee on Coast Guard and Navigation about user fee proposals that were disproportionately high for small vessel operators.

The gentleman from Louisiana [Mr. TAUZIN], from his own constituency in Louisiana, has mentioned fees that went over $1,000 for the inspection of small vessels. Small business cannot tolerate that.

Over the past few years this has continued to be a priority for me and I know for the committee. It certainly has been a priority, Mr. Chairman, for many of the charter boat operators in my own State of Maryland and my district. My district, as the gentleman knows, is bordered by the Chesapeake Bay and the Potomac River, two of the great waterways of our country, and there are many small vessels in southern Maryland that are owned and operated by small businesses. Some are family operations, as the gentleman from North Carolina [Mr. COBLE] knows, that have passed down through the generations.

Mr. Chairman, it makes sense to limit the amount that these small businesses and family-operated operations would pay for their inspections. We are not against inspections, but we want to have a reasonable fee to effect them.

On May 2, I joined with the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Maryland [Mr. GILCHREST], and the gentleman from New Jersey [Mr. LOBIONDO] in reiterating our concern about this issue. In a letter to the gentleman from North Carolina [Mr. COBLE], we noted the Coast Guard has indicated its fee for inspection is about $87 an hour. Mr. TAUZIN has referenced how quickly that $87 becomes $587 and then $1,087. Yet small vessel operators are being asked to pay hundreds of dollars for inspections that take less than 1 hour.

I regret the committee did not address this issue. The chairman happens to be a very close friend of mine, and I have great respect for him. I know he cares about this issue. I know that he feels constrained under the rules to raise this point of order, but, Mr. Chairman, if you have to press the point of order, and I would hope you might reconsider, but if you cannot reconsider, I certainly would hope very seriously that you would take the recommendation of my friend from Ohio [Mr. TRAFICANT], and that we pursue this vigorously, so that in the very near future, on one bill or another, we can fix this.

We talk about small businesses, we talk about decreasing regulation, we talk about cutting taxes. Here is a specific example of where we are driving small businesses out of business, family-owned sole proprietorships out of business, because they cannot pay it. This is almost confiscatory.

Mr. Chairman, I want to join with Representative TAUZIN in expressing my concern about the proposed user fees for inspection and examination of commercial vessels.

The final rule was issued by the Department of Transportation on March 18. Despite the fact that the department spent 3½ years on this rulemaking, I do not believe that it has adequately addressed the concerns of small businesses.

In February 1992, as the department began the rulemaking process, I expressed concern to the Subcommittee on Coast Guard and Navigation about user fee proposals that were disproportionately high for small vessel operators.

Over the past few years, this has continued to be a priority for me and many of the charter boat operators in my district. Maryland's Fifth Congressional District is bordered by two of our Nation's great waterways—the Chesapeake Bay and the Potomac River.

I regret that the committee did not address this issue in the reauthorization bill. I support the concept of asking those who rely on the Coast Guard to help pay for its services and I remain strongly committed to the Coast Guard's safety inspection program. However, Mr. Chairman, I do not believe that we can ask small vessel operators to pay more than their share.

Mr. TAUZIN's amendment places a cap on fees to ensure that they are not excessive. I commend him for bringing this issue to the floor and I hope that all Members will recognize the importance of protecting charter boat and other small vessel operators.

On May 2, I joined with Representatives TAUZIN, GILCHREST, and LOBIONDO in reiterating our concern about this issue. In a letter to Chairman COBLE, we noted that the Coast Guard has indicated that its fee for inspections is about $87 per hour. Yet small vessel operators are being asked to pay hundreds of dollars for inspections that take less than an hour.

There are many small vessels in southern Maryland that are owned and operated by small businesses. Some are family operations that have passed down through the generations.

Mr. Chairman, it makes sense to limit the amount that these small businesses would pay for their inspections.

The CHAIRMAN. Does the gentleman from North Carolina [Mr. COBLE] wish to be heard further on the point of order?

Mr. COBLE. Mr. Chairman, I may be twisting it procedurally, but let me plow along.

Mr. Chairman, what I would say to my friend, the distinguished gentleman from Maryland [Mr. HOYER] is this: I feel obliged to insist upon my point of order. But I commend my friend, the gentleman from Youngstown, OH [Mr. TRAFICANT], and my friend from the Bayou, the gentleman from Louisiana [Mr. TAUZIN], did not hear me when I said this earlier, but I said in response to what the gentleman from Ohio [Mr. TRAFICANT] said, if what you indicate is true, and I have no reason to doubt it, redress is needed. This needs to be corralled.

I would say to the gentleman from Maryland [Mr. HOYER], assuming I got a favorable ruling from the Chair, we will make that happen as far as getting with the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Ohio [Mr. TRAFICANT], and I, and hopefully pursue a course that will be beneficial.

Mr. HOYER. If the gentleman will yield, I thank him for his consideration. I know all of us would. I thank the chairman for his consideration. I would hope that we did not have the point of order. Again, if we feel we have to do that, I am pleased we will pursue it in another forum.

The CHAIRMAN (Mr. DICKEY). The Chair is prepared to rule.

The gentleman from North Carolina makes a point of order against the amendment offered by the gentleman from Louisiana on the ground that it carries a tax measure in a bill reported by a committee—the Committee on Transportation and Infrastructure—not having jurisdiction to report tax measures, in violation of clause 5(b) of rule XXI.

Current law authorizes the collection of certain user fees to cover the costs to the Coast Guard of various vessel inspections. The amendment offered by the gentleman from Louisiana proposes to limit some of those fees and, as an offset, to increase another such fee. In doing so, the amendment destroys the character of the increased levy as a user fee.

By increasing the fee charged by the Coast Guard for inspecting large, luxury, foreign-flag cruise ships by whatever amount is necessary to offset specified reductions in the fees charged for inspecting other vessels, the amendment attenuates the relationship between the amount of the increased fee and the cost of the particular government activity for which it is assessed.

Under the precedents recorded in section 846b of the House Rules and Manual, a fee that is calculated in an amount that is not merely commensurate with the cost of the governmental activities that the class of assessed parties make necessary, but instead is collected as a proxy for general revenue financing of general governmental activity of broader benefit, may constitute a tax or tariff within the meaning of clause 5(b) of rule XXI.

The Chair finds that the proposed increase in the fee charged for inspecting cruise ships overcollects for the costs of the governmental activities occasioned by the parties on whom it is assessed to such a degree that it is properly characterized as a tax or tariff under the rule.

Accordingly, the point of order is sustained.

□ 1745

Mr. TAUZIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I particularly want to address these comments to my good friend, the gentleman from North Carolina [Mr. COBLE], with whom I have worked many, many years on Coast Guard matters and for whom I have the deepest personal high regards.

I wanted to first of all commend him for recognizing the serious problem and for his commitment to work with me and others to see if we cannot address it in this or some other forum. This bill is not finished. It goes to the Senate. It goes through a conference, and there may be an opportunity somewhere along the way for us to fix this mess. It may be that we have to do it in some other bill.

I want to commend the gentleman for working with me. I would encourage him to hold a hearing so we can hear from people around the country about the real effects of this fee schedule.

Mr. COBLE. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, I say to the gentleman from Louisiana, I thank him for that. I can pretty well assure the gentleman that the gentleman from Ohio [Mr. TRAFICANT] and I and perhaps others on the subcommittee and full committee will meet with the gentleman. And thinking aloud, I say to the gentleman from Louisiana, a hearing might not be a bad course to pursue. In fact, I think it would probably be a good course to pursue.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman. While I brought up the case of my friend in Kraemer, LA who does the swamp tours, I want to remind Members that not all the alligators in America live in the swamps of Louisiana. This is a bad piece of regulation, and I think we have got some alligators to deal with until we wrestle it to the ground.

With the gentleman's help, I think we can do it. I thank him for his commitment today on the floor of the House.

Mr. COBLE. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. Are there further amendments to the bill?

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LATOURETTE) having assumed the chair, Mr. DICKEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1361) to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes, pursuant to House Resolution 139, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COBLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 406, nays 12, not voting 16, as follows:

[Roll No. 309]

YEAS—406

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff

NAYS—12

Christensen
Duncan
Ensign
Foley
Hancock
Johnson, Sam
Klug
Pallone
Ramstad
Royce
Sanford
Sensenbrenner

NOT VOTING—16

Bilbray
Brown (CA)
Chapman
Collins (MI)
DeLauro
Durbin
Gunderson
Jefferson
Miller (CA)
Moakley
Peterson (FL)
Pickett
Rogers
Scarborough
Studds
Zimmer

□ 1809

Mr. HANCOCK changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DURBIN. Mr. Speaker, in relation to the rollcall vote No. 309 on the Coast Guard Reauthorization Act, I was in a meeting in the Capitol here where the lights and bells that notify Members of the vote malfunctioned and we were unaware that the vote was taking place. Had I been here, I would have voted in the affirmative on rollcall vote 309.

PERSONAL EXPLANATION

Ms. DELAURO. Mr. Speaker, on rollcall 309 I was recorded as not voting. I was in a room in the Capitol where the voting notification system malfunctioned and there was no indication that a vote was taking place. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. MILLER of California. Mr. Speaker, I make the same request as my two colleagues. I was in the same meeting with them, and I missed the vote on rollcall 309.

PERSONAL EXPLANATION

Mr. BILBRAY. Mr. Speaker, I was unavoidably detained for rollcall 309, which was the final passage of H.R. 1361, the fiscal year 1996 Coast Guard Authorization Act. Had I been present I would have voted "aye."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1361, THE COAST GUARD AUTHORIZATION ACT OF 1996

Mr. COBLE. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of the bill, H.R. 1361, including corrections in spelling, punctuation, section numbering, and cross referencing.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 87

Mr. SALMON. Mr. Speaker, I request unanimous consent to withdraw my name as a cosponsor of House Joint Resolution 87.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SALMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 17-minute vote.

The vote was taken by electronic device, and there were—yeas 364, nays 40, answered "present" 2, not voting 28, as follows:

[Roll No. 310]

AYES—364

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Cox
Coyne
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fields (LA)
Fields (TX)
Filner
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Mfume
Mica
Miller (CA)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff

NOES—40

Abercrombie
Barcia
Bonior
Clay
Costello
Crane
DeFazio
Dicks
Durbin
Fawell
Fazio
Flake
Foglietta
Furse
Gibbons
Green
Gutknecht
Hastings (FL)
Hefley
Hinchey
Jacobs
LaFalce
Lewis (GA)
McKinney
Meyers
Mineta
Oberstar
Orton
Owens
Pombo
Roemer
Schroeder
Slaughter
Taylor (MS)
Thompson
Velazquez
Vento
Visclosky
Volkmer
Wise

ANSWERED "PRESENT"—2

Graham
Harman

NOT VOTING—28

Ballenger
Brown (CA)
Callahan
Canady
Chapman
Chenoweth
Clinger
Coburn
Collins (MI)
Dreier
Edwards
Gunderson
Jefferson
Kennedy (MA)
Largent
Miller (FL)
Moakley
Nussle
Peterson (FL)
Pomeroy
Rogers
Saxton
Scarborough
Stokes
Studds
Taylor (NC)
Yates
Zimmer

□ 1828

So the Journal was approved.

The result of the vote was announced as above recorded.

□ 1830

WRESTLING WITH FEDERAL BUREAUCRATS

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, as we wrestle with a way to save Medicare, I rise today to urge my colleagues to help me save college wrestling and other sports that have fallen victim to an intrusive Federal bureaucracy.

In my home State of Illinois, four of the major State-funded universities have either dropped or threatened to drop wrestling as a varsity sport.

These schools have been forced to consider these cuts because of a misinterpretation of title IX. The Office of Civil Rights in the Department of Education has demanded that schools drop men sports, such as wrestling, soccer, and swimming, in order to achieve numerical proportionality with women sports.

This is another example of what happens when good intentions turn into unintended consequences.

Mr. Speaker, the purpose of title IX is not to limit opportunity. The purpose is to create even greater opportunity for all of our young athletes.

As a former wrestling coach, I urge my colleagues to consider commonsense changes to title IX. Let us not allow Federal bureaucrats to pin down the hopes and dreams of millions of America's athletes.

COMMUNICATION FROM THE HONORABLE FRANK TEJEDA, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. LATOURETTE) laid before the House the following communication from the Honorable FRANK TEJEDA, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 11, 1995.

Hon. NEWT GINGRICH,
Speaker of the House,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I write to notify you formally pursuant to rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the District Court of the State of Texas. After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

FRANK TEJEDA,
Member of Congress.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House the following Members are recognized for 5 minutes each.

TRIBUTE TO PETER AVILLANOZA—VICTIM OF OKLAHOMA CITY BOMBING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, today I want to remember a native son of Hawaii, Peter Avillanoza, who recently went to Oklahoma City to begin a new mission, as director of equal opportunity for the Department of Housing and Urban Development. He moved to Oklahoma City only a few months ago. He was 56 years old when he died in the senseless bombing of the Oklahoma City Federal Building.

Peter Avillanoza cared passionately about the people he served. He was a pioneer. Peter was assigned by HUD to work in Honolulu to help people comply with fair housing laws. He had been working in HUD's Orange County, CA office. He didn't come in with a big regulatory stick and levy penalties. Instead, he prevented violations from occurring in the first place. For 2 years, he reached out into the community to encourage consumers and industry to buy into the concept of equal housing opportunity for all. He made sure everyone—residents, landlords, realtors, financiers and public officials—knew their rights and their responsibilities, before the law was implemented. Today, as just one measure of his success, real estate industry in Hawaii requires all its professionals to be instructed about fair housing law before granting them certificates to practice.

Peter Avillanoza was born and educated in Hawaii. After graduating from Kaimuki High School in 1956, Peter Avillanoza joined the Army, got married and, after finishing his tour, used the GI bill to get master's degrees in business and criminology. While going to school, he worked as a Honolulu police officer and in the fire department.

Peter Avillanoza loved music, played several instruments and composed songs, Hawaiian music being one of his favorites. Friends and family recall the day he began singing gospel music. That happened just last August, when, at an outdoor religious revival, Peter walked up to the stage and made his peace with God.

Peter Avillanoza leaves behind a great legacy: his wife Darlene Dohi-Avillanoza, 10 children, 14 grandchildren, and 10 brothers and sisters. He raised his children with descipline, fairness, and love. And he stayed connected to them. No matter where he was, he called his children every week, thereby becoming the keeper of family news.

After the bombing, relatives rushed to Oklahoma City, struggling to find out any details they could. After 10 days of heartbreaking uncertainty, rescuers found his body on Saturday, April 29.

Yesterday in Honolulu, hundreds of friends, family and colleagues gathered to lay him to rest. Their memories of Peter Avillanoza, his love and his dedication will give them the strength to endure his loss.

And on behalf of the people of Hawaii, I wish to acknowledge the precious life of Peter Avillanoza and note the deep personal loss suffered by his family.

There will be no consolation for this family. The sadness they feel must be felt by all Americans. Only then, can we take the necessary steps to make sure that his life was not taken in vain. Hate and violence must be expunged from our culture, and replaced with the love and compassion exemplified in the life of Peter Avillanoza.

REPATRIATION OF CUBAN REFUGEES TO CASTRO'S CUBA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. MENENDEZ] is recognized for 5 minutes.

Mr. MENENDEZ. Mr. Speaker, I rise today to express condemnation of the secret meetings that were held between the Department of State and the Castro dictatorship, and specifically between Under Secretary of State for Political Affairs, Peter Tarnoff and Communist Cuban official Ricardo Alarcon, which resulted today, a dark day in American history, in 18 Cuban refugees forcibly being repatriated to the Castro dictatorship.

Mr. Speaker, I want the Committee on International Relations, of which I am a member, to hold hearings and receive a full accounting of who specifically authorized such a process, and all details relevant to that process. During March I was assured by senior administration officials that no other options prior to those that had been publicly debated and discussed had been presented to the administration. And we had the head of the Cuban desk appear in my district talking to people from within the community, and yet, despite all of those statements made in public and private, this type of clandestine action occurred, and it belies private and public assurances made to me and others and therefore betrays trust.

I would like to know what was the specific role of the State Department in this latest process which was concluded in the joint statement of May 2 with the Castro dictatorship. What was the specific role of the National Security Council, and what individuals from the National Security Council were involved? I would also like to know if there are any other actual, understood, or implied agreements with the Castro dictatorship that have been made or are in the process of being made.

No doubt our Government should be keenly aware of the physical and psychiatric abuse and attacks and other forms of harassment and intimidation on dissidents to this day by Castro security forces. The State Department has documented it over the years in the "Country Reports on Human Rights Practices," including the report for 1994, and the United Nations Human Rights Commission in Geneva, Switzerland, has annually condemned Cuba for its gross violations of human rights. We salute such condemnation.

We also are aware of the deliberate sinking of the tugboat *13th of March* which this House of Representatives unanimously condemned which resulted in the deaths of 40 people, including over 20 children. In congressional testimony the Secretary of State has stated that the sinking demonstrated the brutal nature of the Castro regime. How does the U.S. Government intend to ensure the rights of individual dissidents, of human rights activists, of former political prisoners, and other objectors to the Castro dictatorship with legitimate claims to political asylum if they are picked up at sea and returned automatically to Cuban officials? Will there be any form of INS personnel on board, or where will they be taken to process their political asylum cases? Those questions remain unanswered.

Under Secretary Tarnoff suggests the Cuban dictatorship can be trusted. Yet it is my understanding that a group of 20 Cuban nationals who recently were deported by the Government of Belize to Cuba have been detained in Cuba by Castro's security forces. How can you ensure that Cubans whom the United States repatriates will be treated differently and that they will not suffer retribution? Can you be certain they will be able to keep their jobs, ration cards, apartments, and any personal effects that they put at risk upon leaving? What further ability will U.S. staff have to monitor the increasing flow to the U.S. Interest Section? I do not believe we have that capacity. And what is the State Department's position and this administration's position regarding Cuban law which was reinstated after the September 9, 1994 accords which forbids illegal exit from the country? It is my understanding that under that Cuban law, people who flee the country are considered as having created a crime punishable as treason. If the law is in effect, how is it possible to believe that repatriated Cubans will not suffer under said law?

Finally, we stated, this administration has stated and the Secretary of State has stated, that we want to foster change in Cuba. But if change is ever to come to Cuba, the human rights activists, the dissidents, and political prisoners who are willing to risk their lives under a brutal dictatorship must know that political asylum is available to them in the United States, and I do not believe the State Department has the necessary safeguards to ensure that those who fight for democratic change can acquire political asylum if their lives are in danger.

That is the reality of this policy that is forthcoming. The fact of the matter is that we could have sought the family reunification we seek to do with the people in Guantanamo, saved the taxpayers a million dollars a year, and not have negotiated with the Castro dictatorship in violating basic tenets of human rights, one, that we are a signatory to, the Universal Declaration of Human Rights, which is to ensure that people have the right to freely leave their country.

□ 1845

And in our case, in our own immigration law, to ensure that those who truly have a case for political asylum can purport it. The fact of the matter is this policy simply does not create that possibility, and in fact it dooms those who are political dissidents, human rights activists, the people who could make change in Cuba to knowing that the United States has closed their door on them.

It is a sad day in our history.

THE CLEAN WATER ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise to discuss the Clean Water Act and the reauthorization that the House will begin to consider tomorrow and for the remainder of this week.

The Clean Water Act, as we know it, in my opinion, and the resources it protects are in jeopardy pursuant to this reauthorization that we are about to consider tomorrow.

In the committee process, waivers and exemptions have been expanded while bill-strengthening amendments repeatedly met with defeat, and the result of this legislation which we begin with tomorrow, H.R. 961, in my opinion, will be deterioration of over 20 years of clean water efforts, efforts that have successfully moved us in the direction of fishable, swimmable waters.

With H.R. 961, esoteric costs and benefits will rule the day at the expense of human health and safety and protection of invaluable natural resources. If H.R. 961, Mr. Speaker, as it now exists, is passed it will be more difficult, in my opinion, to explain to my constituents and others why they cannot fish in local streams, why they are losing business due to beach closings and other reductions in recreation and tourism, and why their property values have decreased or why their drinking water is not usable.

I would hope over the next few days, as the number of amendments are proposed on the House floor that would seek to strengthen the Clean Water Act and reauthorization and bring back, if not improve, the existing law, that we would see many of our colleagues join in targeting a number of detrimental provisions of H.R. 961, of which I would like to list a few.

One is the existing waivers for combined sewer overflows and industrial pretreatment. Another is ocean discharge in place of full secondary treatment. Another is the loss of wetlands protection, the abolition of the coastal zone nonpoint source program, the erosion of the Great Lakes initiative, the elimination of the EPA from dredged material disposal decisions, insufficient enforcement and lack of citizen rights provisions.

Mr. Speaker, if I could just read some sections of an article that appeared in the New York Times on April 2 which outlines some of the problems with H.R. 961. It says, and I am reading from sections, that the Clean Water Act of 1972, the existing bill, has done much to make America's water fishable and swimmable. Experts in both parties regard it as the most successful of the environmental mandates passed in Congress since Earth Day 1970. However, the new provision we are about to consider tomorrow in H.R. 961 blasts so many holes in this law it is hard to know where to begin. Basically, they would demolish the underlying strategy of the original act. The 1972 law conceded it was impossible to measure the dollar benefits of clean water against the costs of cleaning it up. So, in fact, if industry was instructed to use the best available technology to control pollution, even though that may not be the perfect answer, it has worked.

The new law, by contrast, would postpone any further improvement in water quality unless it could be provided the benefits in health, swimmable, fish stocks are worth the cost. That means monetizing the value of a cleaner environment, a nearly impossible process.

The bill that we are going to consider this week would relax national water quality standards, provide certain industries with further exemptions from whatever laws remain on the books, and make voluntary a program that now requires States and cities to control storm water pollution. Not least, it would reverse a 25-year effort to preserve diminishing wetlands. Scientists now estimate there are 100 million acres of wetlands remaining in the United States, doing what the wetlands do so well, filtering pollutants an nourishing organisms essential to the food chain.

By drastically narrowing the definition of what a wetland is, the bill would make millions of acres available to developers and the oil and gas industry.

In brief, the bill we are about to consider would make it much easier for polluters to pollute.

Mr. Speaker, I have to decry this legislation because I know for the last 7 or 8 years or so, since I have been in Congress, at the Jersey shore we have seen a steady increase in water quality. Beaches that in 1988, when I was first elected, were closed and were not available for tourism and were basically making almost impossible for the Jersey shore to come back economically, those beaches are now open, the water quality is improved, my constituents are looking forward to a great summer beginning the end of this month. But they can not believe that this House or this Congress would seek to gut, if you will, the very legislation that has made that possible.

I hope that many of my colleagues over the next few days will join with me in passing some strengthening amendments so that the Clean Water Act will continue to be viable into the next century.

FIGHTING THE WAR ON TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, on April 19 a tragedy occurred which rocked the Nation. For the second time in recent years, terrorists struck a target in the United States and, at the same time, dealt a blow to our national sense of security. As everyone now knows, a terrorist, or group of terrorists, exploded a car bomb in front of the Federal office building in Oklahoma City, killing hundreds of adults and children and leaving scores injured.

We, as a Nation, now realize that it could happen to any of us, anywhere, and none of us are immune—not even our children.

In the painful days which have followed, citizens began to take stock of the situation and Congress will consider its legislative options to address this. How can we prevent this kind of disaster from ever happening again? The most truthful answer is that we can't completely prevent these kinds of tragedies, but we can take appropriate steps to reduce the number and severity of them.

As the magnitude of the horror in Oklahoma City was fully felt, all Americans began to realize that the terrorist bombing had profoundly changed all our lives, not just those of us who have lost loved ones in the nightmare attack.

We experienced a tragic lesson that day. Terrorism is not just something to be feared from foreign nationalists; it can be a horror from within our country as well. There are obvious and dramatic lessons to be learned by the American people in the wake of this disaster. We need to examine the balance of power between the authority of the state versus the rights of the individual.

In the House, we are considering several measures. The State-Sponsored Terrorism Responsibility Act would hold state sponsors of terrorism responsible for their actions and allow American victims to have a means of redress. This bill will amend the Foreign Sovereign Immunities Act to provide specific jurisdiction for lawsuits against countries that support or condone terrorism, torture or genocide.

International terrorism poses a grave threat to the interests and security of the United States both at home and abroad. Outlaw states continue to serve as sponsors and promoters of this reprehensible activity by providing a safe haven, terrorist training and weapons. This legislation will make those states responsible for their actions and the actions of those they support in their terroristic efforts.

Other bills in the House would place new restrictions on the granting of visas to aliens linked to terrorism activities and would remove restrictions on a database that helps identify aliens with ties to terrorists seeking admission to the United States.

The House measure would also repeal the 1990 law that forbids consular officials from denying visas based solely on an alien's membership in a known terrorist organization and would establish deportation proceedings against aliens living in the United States and engaged in terrorist activities.

It would further restrict the use, purchase, sale and transfer of nuclear materials, plastic explosives and toxic gases and would encourage broader disclosure by consumer reporting agencies to the FBI for counterintelligence and counterterrorism investigations.

Finally, the House is considering legislation which would give the FBI greater access to hotel/motel records for the purpose of identifying subjects of terrorism investigations.

Each bill before Congress deserves careful consideration and I hope we will be able to incorporate the best ideas of each into a bipartisan antiterrorism package with sufficient teeth to help us put an end to the senseless criminal violence we have seen in Oklahoma City, at the World Trade Center, on the Achille Lauro and in the skies over Lockerbie, Scotland.

And for the families of those who were killed in Oklahoma City we offer our prayers and condolences. We will do everything within our power to ensure that those who committed the cowardly acts of violence will be brought to justice and punished. It won't bring back those who lost their lives, but it will send a strong signal that our Government will no longer tolerate such acts against the freedom-loving people of this great Nation.

A DARK DAY IN AMERICAN HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. DEUTSCH] is recognized for 5 minutes.

Mr. DEUTSCH. Mr. Speaker, at about 12 o'clock this afternoon, a United States Coast Guard vessel brought 13 Cubans who had left Cuba in a raft back to a military base inside of Cuba. That Coast Guard vessel was escorted by two Cuban naval warships in this act.

It is a first time. Today is truly, unfortunately, a dark day in American history, a dark day for the Coast Guard, a day which hopefully will be a very short day and short time period in American history.

But if we do not act, it will be a day that in years to come people will look back, I am sure, with remorse and regret, the first time in American history that the U.S Government has repatriated people to a Communist dictatorship.

It is a symptomatic problem of a Cuban policy by this administration that has been schizophrenic, at best. We were told during the Guantanamo exodus that it was impossible to blockade the island. Yet the administration, in fact, has blockaded the island with the help of the Cuban Government and Cuban Navy in a one-way blockade, preventing people from leaving.

The island could have been blockaded several months ago, in fact, even up to a year ago, to prevent a migration which did occur of tens of thousands of people.

Our country has become a partner with Castro in repression of his people at this point in time. The 13 people that have been returned to Cuba were not sent back to Canada, were not sent back to Mexico, were sent back to a country which this Government has continuously called, and by accurate, independent accounts from Amnesty International, press accounts, the most repressive government in this hemisphere, a terrorist government, a government in terms of world history that stands out as one of the worst abusers of human rights in the history of this planet.

The Attorney General, in announcing this change in policy, said that those who returned to Cuba were to be guaranteed no reprisals. I asked the Attorney General this evening why then the secrecy in the return, why then the delay in the actions? These people were picked up in a boat on Friday. Today is Tuesday.

It defies logic, based on the history of the country of terrorist incidents that occur in Cuba almost on a daily basis that we know about, obviously scores that we do not know about, that there will not be reprisals. It defies logic.

You do not have to be the Secretary of State of the United States, you do not have to have gotten a Ph.D. in international relations to understand the nature of the Cuban Government.

And again, I asked the Attorney General why into a military base, why not into Havana Harbor where there would have been at least some foreign press to record the incident, some stringers from local papers in south Florida to record the incident?

There is a real question as well in terms of the process of determining political asylum of those 123 people while they were on the vessel. The administration has given myself as well as other Members of Congress who have inquired totally conflicting reports in terms of the status hearings of those people.

This administration and, in fact, this Congress is faced with a choice. We cannot have it both ways. We all profess that our desire is to bring down the Castro dictatorship, which we must bring down, a relic of decades past, an evil empire 90 miles from our shore. And yet in order to do that, we have the resources at our disposal to do it. Yet we have chosen not to.

□ 1900

HAVE WE LEARNED NOTHING FROM OKLAHOMA CITY?

The SPEAKER pro tempore (Mr. LATOURETTE). Under a previous order of the House, the gentleman from West Virginia [Mr. RAHALL] is recognized for 5 minutes.

Mr. RAHALL. Mr. Speaker, I rise in outrage to take exception to words attributed to a constituent of a Member of this House, as reported in the April 26, 1995 edition of The South Whidbey Record published in 2nd District of the State of Washington, that a revered, senior Member of the U.S. Senate should be killed, and that the person killing him should be given a medal during a Town hall meeting which I assume was called at taxpayers' expense.

I take even greater exception to the fact that a Member of this body did not disavow or dissociate himself from, his constituent for calling for the murder of a sitting Member of the U.S. Senate, Senator ROBERT C. BYRD of West Virginia.

I take great exception to a Member of this House, who not only did not censure or otherwise refute his constituent's call for murder, but allegedly went on to state, and I quote:

"He should be tarred and feathered and run out of the country."

Peter Coogan, staff reporter for the aforementioned newspaper in south Whidbey Island, WA, who opens his article with the words: "To Kill a U.S. Senator or merely to tar and feather him," reports that a Member of this body, whom he claims was elected based on a campaign that attacked the Federal Government, allegedly made the statement at a town meeting in response to his constituent's call for the "killing" of Senator ROBERT BYRD.

Mr. Speaker, these are dangerous times for unguarded, irresponsible speech, and we have every reason and every right to expect a Member of this body to strongly disavow such speech and to advise any constituent that murder is not an option in this country.

Am I in a total state of stunned disbelief that a Member of the House of Representatives let this kind of statement about killing a U.S. Senator go unchallenged when such rhetoric may have led to the killing of more than 160 innocent people in Oklahoma City's Federal building? Yes, I am.

Have we learned nothing from that evil act that shook a nation to its core?

Should I be surprised at such rhetoric being used in just days after Oklahoma City, when the GOP's national committee planned to have as its honored guest a convicted felon-turned-radio-talk-show-host at a gala party fundraiser only days before the last body was brought out of that bombed out Federal building? A talk-show host who advised his listeners to shoot for the head of Federal agents, as the best way of killing them, and who bragged about using profiles of our President for target practice? Why be surprised?

Mr. Speaker, I request that the newspaper article to which I have reference be printed in the RECORD immediately following my remarks.

Mr. Speaker, the newspaper article to which I referred is as follows:

[From the South Whidbey Record, Apr. 26, 1995]

METCALF SAYS BYRD SHOULD BE TARRED, FEATHERED

(By Peter Coogan)

To kill a U.S. Senator, or merely to tar and feather him.

The question sparked some light-hearted banter between U.S. Rep. Jack Metcalf and one of his constituents at a Congressional Town Hall Meeting in Oak Harbor Saturday.

It came up when Metcalf tried to explain why, as a rule, he votes against large, heavily amended "omnibus" spending bills, even if they contain some good ideas.

As an example of past abuse, he said a senator had hidden the cost of a Coast Guard facility for an East Coast state in the emergency relief spending for victims of the California earthquake. He asked the crowd to guess which eastern state.

"West Virginia," said Angelo Kolvas of Oak Harbor.

Yes, Metcalf said. The culprit was former Senate Appropriations Committee Chairman Robert Byrd, D-West Virginia, who "steals money all over America."

Metcalf started to suggest some punishment for Byrd, saying "he should be——"

Kolvas interrupted with "somebody should kill him and give them a medal."

Metcalf said: "He should be actually tar and feathered and run out of the country. I mean, I'm serious. He steals money because he's chairman of the Senate Appropriations Committee, or one of the committees, and he's always the one on the conference committee, in the middle of the night. He's stuffing pork in there for West Virginia, brutally."

Kolvas suggested that other congresspeople are guilty of the same thing.

"This gentleman is right," Metcalf said. "It is the fault of Congress, but Senator Byrd still should be tarred and feathered."

Telephoned later, Kolvas said, "I am not a vindictive person but if that guy would die today, that wouldn't bother me a damn bit."

He added, "I really don't think anybody should kill Byrd. That was a little strong."

RETURNING FISCAL SANITY TO OUR BUDGET PROCESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Maryland [Mr. EHRLICH] is recognized for 60 minutes as the designee of the majority leader.

Mr. EHRLICH. I rise, Mr. Speaker, to engage my colleague from California in the 5th installment of our series of colloquys. The gentleman from California [Mr. RADANOVICH] and I have in the past now 120 days, I believe approximately, talked about the Contract With America, and the themes behind the Contract With America, and the regulatory reform, and legal reform, welfare reform, and a lot of the initiatives that we campaigned on that formed the Contract With America, and, Mr. Speaker, I have been thinking about that a lot these last days as now this great House turns its attention to Medicare, and the Federal budget, and doing what a lot of us were sent here to do, which is to return a sense of fiscal sanity to this country and to the budget process of this House. And, Mr. Speaker, as I thought about all this, and I thought about a lot of the rhetoric being heard around this town these days, I again thought about the common themes that seem to occur or recur every time we discuss an important issue in this House, and the premise, whenever comes to an economic issue, Mr. Speaker, seems to be all tax cuts cost the United States Treasury in direct proportion to the tax cuts. Tax cuts are mutually exclusive of the budget cuts. There is no multiplier effect when tax cuts put more money into the pockets of individuals and business.

Premise number two seems to be that we ignore the accepted economic realities and real life experiences of tax increases on the one hand and tax decreases on the other, and, Mr. Speaker, I thought of all this in the context of Medicare and what this majority is now planning to do with respect to Medicare, because there is certainly a lot of talk these days, a lot of heat, and smoke and mirrors on this floor and around this town, and Mr. Speaker, in order to create a context for this debate I thought to myself what example could I think of in the recent past where good politics and bad economics came together.

And Mr. Speaker before I get to that, I would like just to tell the House an example of what I am talking about. Today's message from the House Democrat leadership:

GOP makes its choice. Seniors cough up $900 a year to pay for the wealthy's tax cut. House Republicans returned from the party conference last week united by a plan to cut Medicare to pay for the $345 billion tax cut for the wealthy. Under the pretense they will be, quote unquote, fixing Medicare. Republicans have identified Medicare cuts as the cash cow for their tax give away to the wealthy.

As I was thinking about this, Mr. Speaker, I thought about the debate we had in this House before the gentleman from California [Mr. RADANOVICH] and I came here. I know I was in the State legislature. That was the great debate concerning the luxury tax, and Mr. RADANOVICH will talk about the luxury tax in its place in the middle of this debate in a minute, but I see the gentleman brought some famous tax quotes with him today, and I ask why you brought those quotes.

Mr. RADANOVICH. I say to the gentleman, "Thank you, Mr. EHRILICH. A couple of past quotes from two different periods, one in 1990, then one in 1995, one representing the majority held by the other party, this 1995 representing the majority that now currently exists, the Republican majority in the House.

It is the same old game. Republicans are out to cut taxes, and strictly for the rich, for their sole benefit, and I think that nothing seems to change.

The gentleman may have a quote here.

Mr. EHRLICH. This bill is fair, it raises more money, again on a progressive basis, from those who can afford to pay and who have paid least during the decade of the 1980s. That is the quote from a Member of this House, the context of the debate during the luxury tax; correct?

Mr. RADANOVICH. Right, and the same quote being is this sacrifice balanced and fair. And indeed it is. Fifty percent of the revenue burden falls on the wealthiest income earners in this country, and that is the way it should be.

Mr. EHRLICH. Now the people of this country will remember the great luxury tax. It placed a 10-percent surcharge on a portion of a purchase price over $100,000 on private boats and yachts. Congress established similar taxes on furs, jewelry, cars and airplanes.

Now, this in my view, Mr. RADANOVICH, is the best example I can think of where good class warfare politics meets economics 101, and you know what? Politics always loses because combined with the recession, Mr. Speaker, the tax nearly killed an entire industry in this country. The tax adversely effected every segment of the industry, manufacturers, retailers, and blue collar workers, and is that not the ultimate irony, Mr. RADANOVICH, that tax warfare ends up hurting blue collar workers because blue collar workers have the jobs that build the items that are now overtaxed that put them out of business?

Mr. RADANOVICH. And history provided that example as a result of the yacht tax in the last 2 years; is that not right?

Mr. EHRLICH. We have seen that every year. In fact it is very interesting for me to go back, check, have my staff to go back and check the revenue projections from the luxury tax, because obviously it is a static score; right? You tax something, you get more of it.

Wrong. The new 10 percent luxury tax on boats, cars, furs, et cetera, was to raise $25 million, Mr. Speaker, in its first year, 1991, and almost $1.5 billion over 5 years, from 1991 to 1996. And you know what it did? Sales of boats under $100,000 purchase price dropped 12.2 percent. Sales of boats over $100,000 dropped 52.7 percent. The sales of volume of boats under $100,000 of value dropped 28 percent, to $129 million. Sales of boats over $100,000 dropped 71 percent, to $73 million. According to the National Marine Manufacturers Association at the time of repeal, big boat sales were down 70 percent from peak levels in 1988.

And here is the ultimate irony as we have discussed. At the time of the repeal, Mr. Speaker, the National Marine Manufacturers Association estimated that the luxury tax created a net loss of 30,000 American jobs and destroyed dozens of companies in the process. Other estimates were higher, up to $45,000. And I would direct a question to my colleague from California: What does this teach us?

Mr. RADANOVICH. The big lesson is that, if you want to raise revenue, you have to got to cut taxes. You cannot raise revenue by raising taxes, and I think that is the big lesson we have learned over the last 4 years, and I think that is what this new majority is trying to implement in their tax cuts.

Now there is two arguments when the Democrats accuse the Republicans of gutting Medicare to benefit the wealthiest Americans. There is two arguments here. One is that the basic argument is that, if you cut taxes, if you regulate people less, and you tax them less, they are going to be more productive, and I think that is one basic question. The other basic question on Medicare is the fact that on its own Medicare will go bankrupt in 5 to 7 years.

Mr. EHRLICH. And who says that? Who makes that statement?

Mr. RADANOVICH. All you have to do is look at the books, and you will know that is what is going to happen with Medicare, so regardless of—balancing the budget is not an issue with Medicare. It is fixing the system and doing what is necessary in order to make that system not only work for the people that are currently drawing benefits, but it also worked for people, you and I, and those that are 18 and 20 years old, when they come into the time of their life when they need that service as well.

So there are two basic issues there that are not commingled, and the fact if we wanted to, if the Republicans wanted to benefit the rich, what they do is cut taxes and cut regulations. Then that would not only benefit the rich, but the middle class and the poor. Because the Democratic assumption that cutting taxes, for example, capital gains, would be a benefit to the rich is an insult to the poor because, not only would it make more capital available for venture capital and expansion to the rich, but also the middle class and the poor, and it is almost an insult to the poor to say they could not take advantage of that.

Mr. EHRLICH. Does anyone doubt that the capital gains tax cut will increase revenue flowing into the Treasury? Tax cuts work. The Reagan tax cuts of the 80's, the greedy 80's we hear about so much, increased revenue into the Federal Treasury. The problem during that decade was, as we know, spending went out of control, and I see the 1995 quote from a Member of this, of this body, and this is my favorite I have to say. It combines a lot of different themes that we have talked about. The hard fact is that voodoo economics, trickle down economics too, which this package happens to be, referring to the tax package and the Contract With America, is nothing more or less than a raid on the poor, a slap to the rich and a benefit to those who have no need of tax expense, sweat it out the hides of those who have the least.

Mr. RADANOVICH. Not so.

Mr. EHRLICH. Why?

Mr. RADANOVICH. It just is not true, and I think, if you pose the argument that if a person is taxed less and regulated less, then they will be more productive, is an argument that both sides of this aisle will buy.

□ 1915

But if you go to the next stage of the argument and say OK, how do they begin to regulate and tax less to the benefit of the American people, this side of the aisle says all right, let's go. Let's work this plan out.

That side of the aisle says no. But there is no logic behind why they are saying no, because that side of the aisle will also agree to the fact that if we are taxed less and regulated less, we will be more productive. But their logic starts there. God knows why.

Mr. EHRLICH. Maybe the answer is in the 1996 elections. I simply do not know. But is it not interesting how these quotes are so similar? A proposal that obviously failed miserably in 1990, they used the same rhetoric against the tax cuts contained in the Contract With America, and now, most disturbing to me and I think to you, is now the offshoot of class warfare. You see class warfare here, and the American people recognize class warfare when they see it. That is all they see.

I know the gentleman wants to discuss it. I know the gentleman wants to comment on my point, which is now that with Medicare in the budget, we not only have class warfare, we have the offshoot, generational warfare. "Let's turn the generations and not just the classes against each other." That is the most unfortunate aspect of this national debate occurring today.

Mr. RADANOVICH. I would say the bottom line motive behind that approach from the other side of the aisle is to retain more control in Washington, because the big debate in Washington is not necessarily balancing the budget, although that is very important; it is who is going to have control. Is it going to remain here in Washington, DC, or is it going to get down to the most local level possible, via the States down to local governments and closest to the American people in their own homes? That is really the threat.

That is why you see baseless arguments like this. You see people on the other side of the aisle class warfare baiting, only for one reason, and that is to keep control in this House, in the other body, in this town, in Washington, DC. It is called centralized government. It is where you have a lot of control over a lot of people.

Some people like that. Those of us newly elected to Washington do not want that. We want the American people to have the control, and that is what we are trying to do here in Washington.

Mr. EHRLICH. Is it not refreshing with our class, the new leadership, the Speaker, we have people here who are willing to challenge assumptions that really have been accepted by many Americans, many well-meaning Americans, for the last 40 years. We are willing to challenge those exceptions. And we have one person in Washington right now, the Speaker of the House and the leadership, willing to go to the American people and say, look, we have got a problem. And the Speaker has gone out of his way to ask the President to help in a nonpartisan way.

We have people who are willing to challenge assumptions and make a political gut check, cast tough votes, because we both know, we just got back from break in our districts, if we do not cast tough votes, if we do not follow through on our promises, honeymoons are short in American politics today. We will not be here for long.

We are both freshman. This is not a bad job. We kind of like it. I like representing the people of the second district of Maryland, I have to tell you.

Mr. RADANOVICH. I will say, us being new Members, we could remain here a long time, if it were not for two things, and not do the business of our district. In the past I think it used to be elected representatives would come to Washington. They would say one thing in their district, they would do the other thing here in Washington. For a long time the tolerant American people gave their elected representatives the benefit of the doubt that they were doing the right thing in Washington.

Well, two things changed that. One is C-SPAN and the other is talk radio. I do not think anybody can afford to come to this body anymore and say one thing in their district and not do the same thing here, because there will be a lot to pay on election day. So that motivation and that way of operating is now unmasked.

If this gentleman and this gentleman want to stay in this House for very long at all and serve the needs of their district, they better do what they say in their district here on the floor of the House. I think C-SPAN and talk radio are the big changes that made that possible.

Mr. EHRLICH. I agree. When we have a tough vote, the phones and faxes go off immediately. The American people are tuned into what is happening on this floor and they know facts.

I think the best news I brought back from our 3-week break in my district was the fact that this kind of stuff no longer goes over with the American people. They see it for what it is. It can work at times. It certainly worked a few years ago in the course of the Presidential race. But dividing people, labor-management, poor-rich-middle class-lower middle class, young and old, is no longer the answer, not politically, and it has never been the answer economically, at least in my district.

I would direct a question to the gentleman. In my district the people said look, BOB, we know we are not going to agree with you on every vote. But we like the fact you had an agenda, you ran on that agenda, you passed that agenda, and now you are willing to do the tough things that we sent you to Washington to do.

Mr. RADANOVICH. I think that people in my district sent me to Washington to make the tough decisions. If I listen and do what I think is right according to the philosophy that they knew what I believed in when they elected me, then I have their support. If I betray any of that, I do not have their support. That is the way this game works. That is just the way it is.

I would like to comment on a couple of things, one being Medicare, and the other one also being the tax cuts. If the Democrats, people on the other side of the aisle, are willing to sit down and have a debate, rather than resorting to what we call class warfare baiting, which it is nothing more than class warfare baiting to keep a strong centralized government in Washington, then let's agree on two things. Let's agree that the Medicare system, number one, is going bankrupt, and let's work together to solve that, be it cuts, additional money, anything else, let's solve that problem.

The second problem that needs to be solved is let's together realize if people are taxed less and regulated less, they are going to be more productive, and let's build a tax cut structure that will allow that to happen in this country. If you really want a cooperative effort in this House, you will agree on those two things and proceed from there.

We do not need this stuff. The American people do not buy it, we do not buy it, it is not true. There is no class warfare baiting here. The Republicans are not here for the rich. I do not know how many Republicans are rich anyway. I am not a rich Republican. But it just does not work.

This was an article, editorial, in the Washington Times today, "Not Rising to Class Warfare Battle." And that is exactly what Republicans are doing. They are not rising to the class warfare battle.

Mr. EHRLICH. I am not going to embarrass the gentleman. We have a famous quiz at the bottom. I will not embarrass the gentleman by asking which year and which bill these quotes were directed toward. The fact is you see the quotes. "Cheesy tax cut promises only make Americans cynical about government."

Can you imagine that, putting more money back in your pocket so you can grow, so you can take a risk, begin a business and hire people? That makes you cynical about government?

I think tax fairness is an idea that all Americans understand and endorse irrespective of income level and party affiliation.

Fairness. That is an interesting concept. Fairness and equity. My idea of fairness and equity and who is rich and who is not may not comport with yours. Is not that correct?

Mr. RADANOVICH. I believe so, yes. I think that this is a smack in the face of every individual American in this country that wants to do good and be prosperous, and be personally responsible for their own actions. I think that first quote is right there. And you know, it does boil down to different viewpoints of how we treat individuals in this country and how this side of the aisle looks at the individual and says you have that responsibility, go for it, and the other side of the aisle looks and says you cannot do these things, we need to do it for you. There is a big difference between those two outlooks.

Mr. EHRLICH. Absolutely. I agree. There is my final observation here. I hope that what we saw in 1990 with respect to the luxury tax, what we saw 2 months ago with respect to welfare and tax reform, are theories and strategies of the past, because one of the more frustrating parts of our job is when we go back home and meet with groups and they repeat rhetoric they hear on C-SPAN and talk radio, and read in the newspapers, and that rhetoric conflicts with facts.

I know in the course of the welfare debate, in the course of school lunches, for instance, in the course of now the Medicare and the budget debate, we all want to debate ideas and numbers. We have legitimate differences with the other side. Reasonable people can disagree about our budget proposal and Medicare. And I know I join with the gentleman asking just one simple thing, that when the debate begins tomorrow, or tonight actually, that the other side uses real numbers, facts. I am glad to debate facts. I do not like debating rhetoric.

Mr. RADANOVICH. And do not use class warfare baiting. It is not fair to say someone is for the poor any more than anyone else is. We are all here to do good for everybody. Nor generational warfare.

Mr. EHRLICH. I thank the gentleman from California. It is good to see him. I am sure we will revisit this issue, and maybe when we come back to this floor in a week or two or three, we will be able to report to the American people that we had a real good debate about the budget and about Medicare, and it never broke out into generational warfare. And the President actually was relevant, became part of the process as well. I would love to report that to the people of the Second District, and I would look forward to joining the gentleman again at that time.

Mr. RADANOVICH. You bet.

KEEP EDUCATION IN THE BUDGET

The SPEAKER pro tempore (Mr. LATOURETTE). Under the Speaker's announced policy of January 4, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we are about to move into the most important phase of the legislative process, and that is the budget. The Committee on the Budget I understand will be deliberating this week and by this time next week we will have on the floor of the House the budget for fiscal year 1996, the proposed budget of the House committee.

The announcement is that one of the proposals in that budget coming to the floor will be a recommendation, a proposal to eliminate the Department of Education.

The attack on education is one of the most baffling elements of the approach by the present majority of the House of Representatives to the Federal Government and its priorities. The attack on education comes at a time when we are in a global competition with other industrialized nations for the markets of the world, and that competition is likely to get worse. Everybody has conceded that education is a vital component of whatever effort this Nation puts forward in order to be economically competitive, now and in the future.

We have had a continuum of concern expressed about education since President Reagan appointed a commission, and that commission came back with a report entitled "A Nation at Risk." "A Nation at Risk" was a report that alarmed many leaders in America. President Reagan never appropriated any money of any kind to follow through on the recommendations of the report, but he did endorse the findings of the report and called to the attention of the American people the fact that it was a very serious problem, we had a very serious problem.

President Bush came along and began to try to take steps to implement some Federal policies with respect to education which would provide greater guidance to the localities and the States. Education is primarily a state function. The Federal Government provides leadership and guidance that is very vital and important, but when it comes to expenditures for education, it is the States and the localities that provide most of the funds for education.

I think about 7 to 8 percent of the total education budget may be federally financed. Out of more than $360 billion spent on education from kindergarten to postgraduate, only about 7 or 8 percent of that was Federal funding. It went down during the Reagan administration to as low as 6 percent, and began to come back up under the Clinton administration, moving toward 8 percent. So although we provide only a small amount of the funding, the Federal guidance, the Federal sense of direction, has been considered very important, since the report "A Nation at Risk" was released.

"A Nation at Risk" showed the industrialized nations have some kind of centralized guidance with respect to their education systems. Many of the industrialized nations, of course, go much further than we would ever want to go in terms of they not only guide education, they administer it and set the policies and dominate education.

In France, Great Britain, you have most of Europe with centralized education policymaking. Traditionally, in this country it has always been education is a state and local matter, and the freedom of local school boards to operate has always been a cherished one. Nobody wants to change that.

□ 1930

But there are extremes. I think the European model of centralized, highly centralized education or the Japanese model of highly centralized ministers of education dictating to all parts of the country what happens in schools is one extreme. The other extreme is for the Federal Government to take no meaningful role at all. At one time our Government had no meaningful role. There was a long, long debate as to how much our Government should become involved in education. We became involved in high education, universities and college education long before the Federal Government ever became involved in public education, elementary and secondary education. There was a long, long debate.

It was during the Great Society years that President Lyndon Johnson moved us into support for elementary and secondary education, and that came in the form of attempting to come to the aid of the poorest school districts in America. The poorest districts needed help. And the original elementary and secondary education legislation was targeted to the poorest districts, and to a great degree that is still the case. Most of our aid is theoretically targeted to the poorest school districts and the poorest children in America.

There was a long debate before the Federal Government took this step. The creation of the Department of Education took a long, long time also, a great deal of discussion and debate. And finally, the Department of Education was created by President Jimmy Carter. After the Department of Education was created by Jimmy Carter, of course, he lost the election and Ronald Reagan became the President. And he was ambivalent about the Department of Education. Some days he wanted to eliminate it; some days he was willing to support it.

There were always these forces at work which because they were schizophrenic did nothing to enhance the work of the Department of Education. The Department fell into some extremist patterns on the one hand and was not very useful during those years when it existed under a cloud.

It survived, however. And it existed for the 4 years of the Bush administration and it still exists. Now we are told that for budgetary reasons, in order to streamline the Government, downsize the Government, save money, meet the requirements of this artificially created emergency, the emergency is the need to have a balanced budget by the year 2002, that emergency is an artificial one created primarily to have an excuse, rationale, rationalization for eliminating social programs.

The safety net programs are going to be eliminated and we are going to do that under the rubric of having to do it in order to balance the budget. And the Department of Education now falls into that category. It is one of those programs that has been labeled expendable. We have labeled the whole Department, the whole function as being expendable. We can eliminate it.

I think this is another example of what I have called before a barbaric act. It is a barbaric act. It is like sacking a segment of our civilization. It is like Attila the Hun with torches going through a civilized city and destroying everything that he does not understand or does not want to exist because he has the power to do it. Because the majority of Republicans have the power to do it, they are going to move through the budget to wipe out a department which exists as a result of a long series of discussions and debates.

In 2 years, we are going to wipe out what took 20 years; it took 20 years to finally get to this point. In a 2-year period, while they are in the majority, the Republicans in the House are proposing to just wipe out this Department of Education in an era and a time when education is recognized as being critical to our competitiveness in the global marketplace. No other nation in the world would dare contemplate eliminating its Department of Education or its governmental, Federal Government function of education.

Japan would never contemplate that. Germany would never contemplate that. Great Britain, France, they would consider us to be quite foolish indeed, and they would consider it quite a serious matter to watch the United States Congress wiping out the Department of Education at a time like this. A Department of Education which is already the weakest, the most feeble Federal department among the industrialized nations. It does not command a great segment of the Federal budget already. It is one of the smallest departments in the Federal Government.

When you take away the large amount of the budget that goes toward higher education loans, then it is a very tiny department in budgetary terms. It is the department that has suffered the greatest number of cuts in personnel over the last 10, 12 years. It has always been kept on a very tight leash and not been able to perform properly. Now we are going to eliminate it, wipe it out altogether.

It is a barbaric act. It is an act committed by people who do not feel that the Federal Government should be involved in providing education guidance and coordination for the whole Nation. There are some people who feel that the primary and maybe only role of the Federal Government is defense and everything else is not the proper role for the Federal Government. That is nonsense. That has nothing to do with the oath that we take when we are sworn in to Congress.

The Constitution of the United States starts with the Preamble. It talks about promoting the general welfare; promoting the general welfare is as important as defense. How do you define defense? It really does not talk so much about defense as security. The security of the country is of great concern and should be a priority concern of the Nation. But how do we define security in 1995?

Does security mean military preparedness only? That all we need is a powerful Army, Navy, Air Force, Marines, et cetera? All we need is fantastic superweapons? Is that going to guarantee the security of the United States in the world to come, the year 2000 and the next century? Is that the definition of what we need for security? Or is it more complicated than that?

In addition to military strength, do we need also to be strong in terms of our brainpower? Is brainpower probably the most important element of security? It is brainpower that produced these fantastic modern weapons. It is brainpower that allowed us to outwit our foes in World War II on every front. Brainpower cracked the Japanese code and brainpower cracked the German code, in addition to the creation of weapons to counteract the tremendous superweapons that were developed by the German military machine.

In the final analysis, we cannot predict the nature of warfare in terms of strictly violent and military terms in the future. Whatever they are, we know they are going to be different, and whatever weapons are going to be required will be developed by people who have a tremendous amount of brainpower. Brainpower does not mean individuals. It means teams of people; it means a whole culture, a culture of people who understand how to apply science and technology where they want to apply it.

It may be that there will not be any hot wars in the future, no violent wars of any significance challenging the security of the United States. It is very likely that we will not have any violent wars which are a threat to the security of the United States in the next 100 years, very likely. What we do know, as a fact, is that the challenge to the security of the United States is there already and will increase in terms of the challenge to our economy, whether we can hold our own in the world in terms of economic competition as an industrialized nation, which depends on exports and high technology in order to keep its high standard of living. Will we be able to compete with our good friends the Germans and the Japanese and the British and the French? We will not be able to compete if we throw overboard any Federal involvement in education.

It is a barbaric act. It is a dangerous act. It is an act contrary to the Constitution that we have sworn to uphold. We are not promoting the general welfare. We are not helping this country at all when we do such reckless and barbaric things as destroy the Department of Education.

I think it is important to talk in some detail about what is in this Department of Education and what we are about to throw overboard. What Attila the Hun, the spirit of Attila the Hun that rides through the budget proposals, what that spirit is ready to burn down, what they are ready to destroy with the scorched earth policy and the blitzkrieg that is sweeping over the Washington scene in terms of what is not considered to be good for the American people and what is considered good.

I hope that, I know that most Republicans and Democrats are responding and aware of the same public opinion polls. I know both Republicans and Democrats are aware of the same focus groups and what the focus groups are showing. The American people, again, in the public opinion polls that we get and in the focus groups, they are again showing that they are collectively far wiser than the people in Washington. They are collectively far wiser than the leadership of both parties. Whereas I am accusing the Republicans of behaving in a barbaric way toward education, the Democrats, on the other hand, have certainly not made a forceful statement in support of education.

We have done some great things with education in the past year. The first year, the first 2 years of the Clinton administration, President Clinton moved in a continuum from the work that had been done by President Bush. It was a good example, although there were disagreements and things that were not supported by the new administration, they took much of the Bush program on education as reflected in America 2000. President Bush had had a conference of Governors, and President Clinton was one of the Governors who was in attendance at that conference that was held in Virginia where they came up with the six goals for American education. All that was endorsed by President Clinton. All of that was taken forward by the Clinton administration from the Bush administration.

So you had a kind of continuum, even though there were disagreements from Reagan to Bush to Clinton. Now all that is going to be thrown aside, all that agreement means nothing.

In the rescissions that the Republicans have made on education already, the rescission bill that was passed in the House which cut $17.4 billion—I am not sure whether it was point 4 or point 5—more than $17 billion was cut out of this year's budget. In those rescissions, education was a primary target.

The first target, of course, the most devastating cuts were aimed at the Department of Housing and Urban Development. Low-income housing, low-income housing, we have not solved the problem of homelessness. We have not solved the problem of providing decent low-income housing for poor people. Nevertheless in that rescission package more than $7 billion of the $17 billion was taken away from low-income housing programs in the Department of Housing and Urban Development.

The second biggest budget hit, the cuts were at the Department of Education. Almost $2 billion was taken out of the Department of Education. So it was a preview of coming attractions. What we are hearing now and seeing now developing in the budget that is going to be prepared for a whole year, the budget year 1996, is reflective of what was started, of course, in the rescission budget.

I wanted to just read from a very well-written letter by Secretary Riley. I will not read the whole letter, but I would like to enter it into the RECORD.

I will enter into the RECORD a letter by Secretary Riley regarding the proposed rescissions to investments in education. On February 23, 1995, Mr. Riley sent this letter out. I just think it summarizes what we are up against here. I would like the American people to follow along carefully.

As I said before, what the polls and the focus groups have shown is that the American people are wiser than the leadership here. They have indicated education is one of their highest priorities. Education, in terms of the American public at this point in history wanting to see Federal support, education is still one of those high priorities. They do not want to see the budget cuts that are being proposed by the Republicans. The Republican majority knows this as well as I do.

The fact that they have gone ahead and they are proceeding to do it means that they have contempt for the wisdom of the American people. They think you can put a spin, you can interpret the will of the people in a way which confuses them and you can get away with it.

□ 1945

I think they are wrong. I think there is a basic, deep-seated fundamental desire of the American people to see that as much opportunity is provided as possible in the area of education for as many people as possible. I think that the middle class, which the majority always pretends to be concerned with, the middle class is hardest hit when you make cuts in education.

We are talking specifically, these days, about the proposed Republican cuts with respect to student loans, the fact that they want to take away the Federal subsidy for the loans so that the interest that the loans accumulate during the time that students are at school is not paid anymore by the Federal Government, but attached onto the bill that the student has to pay when they come out, which means that the education of each student goes up a great deal, because 4 years of interest will be added to that bill. That is being discussed a great deal, and there is a great reaction from the middle class as to having them bear an unnecessary burden that they do not really—should not have to bear.

The public knows that education ought to be a higher priority. My plea is that the public will become more vocal, and that the public, the students, the parents, the middle class out there will talk more and contact their Congressmen or take delegations, and let it be known that you are wiser than the people you have elected, and you do not want the nonsense of the destruction of education as a priority in the coming budget, you will not tolerate it.

Let them know now, before they do a great deal of harm. Before Attila the Hun and the spirit of destruction rides across the Department of Education, let us intervene. Let the public come forward.

Listen to the words of Secretary Reilly, and I quote:

> I am deeply concerned about the severe and shortsighted cuts imposed by the House Appropriations Subcommittee on Labor, HHS, and Education yesterday. The magnitude of these kinds of cuts, at precisely the time that our Nation needs to invest in our future, represents a grave misunderstanding of the direction Americans want for their children and grandchildren. Coming on the heels of the attack on the school lunch program, these actions break faith with America's children.
>
> At a time when every poll shows that crime and school safety are a number one concern of Americans, the committee's actions to eliminate funding for programs for safety and drug prevention programs in schools represent a rejection of what the American public wants. Polls also show that an overwhelming majority of citizens favor increased investment in quality education. The committee's actions to slash bipartisan initiatives to support States and local communities in their work to raise academic standards and improve their local schools is a dismissal of the public interest.

I am continuing to read from the letter of Secretary Reilly on February 23, 1995.

> And the sharp reduction in funding for education technology programs will enable fewer local communities to put state-of-the-art tools of learning in classrooms where they are most needed to prepare our students for the future. This certainly cannot be what the Speaker of the House had in mind when he said "We must bring technology into the classroom, and radically rethink our education system."

Continuing with Secretary Reilly's letter:

> The Republican administration changed the name of the former House Committee on Education and Labor and added the word "opportunity," but the measure of the Congress's commitment to students must be evaluated not by titles, but by actions. Yesterday's actions mean less opportunity for America's students.

The Secretary goes on to list each one of the programs that are being cut by the rescission bill, and those programs, the details become important for the American people. I said before that Goals 2000, Goals 2000 was legislation we passed with the support of Republican Members of the Committee on Education and Labor and of the Congress. It passed overwhelmingly. It got more than 300 votes. Nevertheless, Goals 2000 is now being threatened, not only by the rescission cuts that are being discussed in this letter of Secretary Reilly, but in the new budget they will try to wipe out Goals 2000 completely, and I am told that the committee that I serve on, the Committee on Economic and Educational Opportunities, a bill is being prepared there to repeal Goals 2000.

Remember what I said before: Goals 2000 was a result that flowed from America 2000, which was President Bush's education program, and America 2000 flowed from President Roosevelt's report called "A Nation at Risk," so a continuum of three Presidents, a continuum of 12, 14 years went into the preparation of Goals 2000.

Now Secretary Reilly states that:

> With respect to Goals 2000, a 38 percent reduction in funds for State and local educational improvement would severely curtail the efforts nationwide to develop and implement comprehensive strategies for systematic educational reform. An estimated 4,000 fewer schools would receive the seed money they need to implement reforms based on challenging academic standards. Moreover, the rescission would eliminate all funds for Goals 2000 national programs. This action would end targeted support for educational reform activities in poor communities. Thus it would deprive the Federal Government of the means for evaluating the impact of educational reforms on student achievement, and it would end other national leadership and technical assistance activities.

Let me just talk for a minute about what Goals 2000 does. In simple terms, the heart of Goals 2000 is three sets of standards it establishes. It establishes curriculum standards, a process for developing curriculum standards. Before I go any further, let me just stress that the curriculum standards that are to be established under Goals 2000 are voluntary standards. It is only a model, only examples of how, in each one of the six major areas that are laid out in the six education goals, mathematics, science, history, geography, in all of those areas the standards would be established so that with the collective participation of scholars and teachers and students across the country, you would come up with an idea, a model of some of the things that ought to be taught in that area in order for us to better relate to the world of 1995 and the world of the year 2000.

What is it in this new global economy, what is it in this new global world that we need to know? When I was a kid my mother used to have us reciting the capitals of all the States. That was cute. I learned the capitals of the States. Any knowledge may be useful, but I suspect in this time and age, it will be far better if you teach your kids how to use the encyclopedia and the library and various books to learn the capitals of the States and the capitals of all the countries in the United Nations, and what they do in these various countries for a living, the economics of it, the trade patterns.

If you want to export business in the future, how far is it from South Africa to Washington, or how far is it from China to New York? What is the cost of producing products and then paying for the transportation?

There are a number of things that are known, that need to be known in the year 2000 by our youngsters, or this year, in order for them to survive and understand a world that is far different from the old world that would be covered by a collective set of scholars, teachers, and students trying to prepare those standards. That is one important thing that Goals 2000 is seeking to do, to develop standards so that everybody across the country will get some idea of what is important to be taught in history, what is important to be taught in geography, what things are most important to teach in mathematics.

The world has an exploding amount of information, information that is increasing geometrically. There is twice as much information available this year as was available last year. With all that information about so many different things, what do you single out to teach the children in the schools? Do you put a great stress on learning facts—and those facts are exploding, more and more of them all the time—or do you put a greater stress on learning skills and principles, so they will know how to approach getting the information they want? Computers, the use of libraries, the use of cable television, and a number of new kinds of instruments that can be utilized for education, where do they come into this whole process? So that is one of the achievements of Goals 2000. That is one of the goals of Goals 2000, objectives of Goals 2000, was to establish these standards.

The second objective was to establish a set of assessments, tests and other means of assessing what do the students know, a national set of standards and assessments, voluntary, again, strictly voluntary. If your school board did not want to get involved, would not want to use them, they would not have to do it. Any State did not have to do it if they did not want to, but they would have available to them a set of assessments, tests based on the standards that have been developed, so from one State to another, among those States and school systems that choose to participate, you could compare relatively how are they doing in this curriculum that has been developed to meet the needs of the modern world; all of it, again, voluntary.

Those are two of the simple goals and objectives of Goals 2000 that they are preparing to wipe out now. One is to develop standards for curriculum, the other, to develop assessment standards, standards for tests and assessments that are going to be made of those standard curricula.

The third ingredient was the most controversial one, because there are many of us who felt if you have a set of national standards for curricula, if you have a set of national assessments for curricula, you also should have a requirement that there be some understanding that there are standards in opportunities to learn; that is, what do you do, what should schools be doing, what should they have available in terms of resources, equipment, books, in order to guarantee that the youngsters, the students, have an opportunity to learn the standard curriculum?

When they learn the standard curriculum and they are going to be tested on the standard curriculum, is it fair to have a national test when you do not have some standards as to what is it that you ought to have available in order for youngsters to learn what is necessary to pass these tests? Should there not be standards which say that if you are going to teach science, you have to have a certain amount of scientific equipment: you have to have laboratories and equipment? You cannot have youngsters competing on tests which are national tests, and some have never stepped inside of a science laboratory. If they go to a science laboratory, there is no equipment in the laboratory.

You cannot have youngsters competing on tests if their library books are as old as some of the library books in my district in New York City. Some of the books go back to 1925 and 1930. They are useless. You cannot have encyclopedias which do not have the countries that have become independent in the last 10 years. You cannot teach geography from those kinds of tools.

The third simple ingredient of Goals 2000 was opportunity to learn standards. That upset more people than any other part of it, because Governors complained that this may mean that "Somebody is going to judge us and say we are inadequate because we are not providing laboratories, we are not providing enough books. We do not want to have a situation where we will have to spend some money in order to meet these standards."

We stressed in every way possible, again, that the standards are voluntary. Nobody is required to do anything unless they want to in all three of these sets of standards: curriculum standards, assessment standards, or opportunity to learn standards. With all of that guarantee and reassurance that it is all voluntary, the Goals 2000 has been attacked by certain very vocal Members of the Republican majority as being what it is not, a mandatory set of standards, imposing curriculum standards on school boards across the country. Some people have called it the National Board of Education, which is a deliberate distortion of its purpose and its mission.

All of this, all of this has led to a frenzy which results in an attempt that is being mounted now to repeal Goals 2000. If you do not repeal it by discussing the authorization, it can be wiped out by just taking the money out of the budget. You eliminate the funding in the budget for Goals 2000. That is one thing that the Secretary objected to.

Another item that he objected to was school-to-work opportunities, $25 million cut, $12.5 million each from the Department of Education and the Department of Labor. School-to-work opportunities was divided between the Department of Labor and the Department of Education. $12.5 million went to the Department of Education, and $12.5 million went to the Department of Labor.

What would it do? It would do what numerous educators, community leaders, and Congressmen have been calling for all the time, make school more relevant to youngsters who are not going to go to college, make school more relevant for those who will have to make the transition from high school into work. The industries, the private sector has complained about the fact that the graduates they get have to be trained. The graduates do not fit in. This was an attempt to meet a requirement and a complaint that industry has had for a long time.

□ 2000

It is a small program. A $25 million cut is a cut of a program which to begin with was very small. Of course this is one of those they are proposing now to eliminate directly. The biggest program in the Department of Education which the Secretary also talks about is the Elementary and Secondary Education Title I. Title I has existed for 30 years now.

Title I was the primary thrust of the Lyndon Johnson Great Society entry into education in the public school sector. We moved from assistance to higher education to a program to assist elementary and secondary education under President Johnson, and Title I was the basic thrust, the Elementary and Secondary Education Act, which goes to schools on the basis of the poverty population of the school. The number of poor children in a particular school decides the amount of funds that that school will get.

In the deliberations about Title I of the Elementary and Secondary Education Act last year, both sides, Republicans and Democrats, supported the refunding, the reauthorization of title I. Both sides fought for every penny they could get for their States. We finally had a $7 billion program which flows to every school district almost in the country.

There are some school districts that are wealthy and should not be getting money but they have been getting funding through various loopholes that were established, and we tried to eliminate that in the last legislation. So there will be fewer schools that are not deserving getting the money, but the targeting to its original purpose, to help schools with the largest number of poor students, that targeting is still left for a program of almost $7 billion.

That was cut, also, in the rescission which is a preview of coming attractions. If the rescission bill cut it, we are afraid there will be more cuts in the budget that is being prepared now for the fiscal year 1996.

The Eisenhower Professional Development Grants: Everybody agreed that one of the best things the Federal Government could do was provide training, ways in which teachers could get more training. In the local education budgets and State education budgets, they are hard pressed to keep enough money in there just for operations, to keep things going from day to day. So the training money, the equipment money, a lot of other things that are needed, they felt should come from the Federal Government, and there was great agreement that the emphasis would be placed on training and the Federal Government would support training. Now we have cut the Eisenhower Professional Development Grants.

Safe and drug-free schools: Safe schools, an initiative that we also agreed upon by the Republicans and Democrats, overwhelmingly voted on on the floor, more than 300 people voted for it last year, now that is being wiped out completely.

The original rescission bill of the Republican Majority was to zero out the whole program, about $600 million. Zero it out completely. Then they put back, I think, $10 million on the floor as a result of some sentimental appeal for one little program called DARE. But basically the safe and drug-free schools and communities programs would be wiped out if the rescission bill that was passed by the Majority Republicans here in the House were to become law.

Of course we know on all these matters, the deliberations are now moving into a conference committee between the Senate and the House. The Senate does not take the same approach on many of these items that the House has taken.

But the Secretary of Education was trying to point out some of the serious harm caused by these cuts. Education for homeless children and youth, a special program that was put in there in response to local education departments with a large amount of homeless children, that program was wiped out completely, zero. Bilingual education was cut drastically. Vocational education, adult education, State and post-secondary review program, the State student incentive grants, the TRIO programs were cut.

TRIO is one of the most successful programs ever developed by the Government. $11.2 million was reduced from that program, which provides for college preparation for youngsters in poor communities through its Upward Bound programs and its talent search programs on college campuses. They provide for special counseling.

There are a number of things that they have been doing which have been highly successful, and both Republicans and Democrats in the Congress have come to the point where they support these programs. TRIO has gotten increased funding over the years as a result of the approval of both parties. Now suddenly the barbarians are arriving, and TRIO is under the axe also and they have to be cut. The Secretary calls that to our attention.

International education exchange programs. Telecommunications demonstration for mathematics. Telecommunications used for education is one of the high priority items that ought to be on everybody's agenda. You might be able to greatly bring down the cost of education by using distance learning, by using more educational television, more cable television, and projecting the instruction over the airwaves for students to pick up in their own homes. You could greatly reduce the cost of education at the higher education level, you could greatly reduce the cost certainly at the high school level, and you could probably provide a much better quality of education at the same time.

What we discovered in a survey that was done of junior high schools in New York City 2 years ago was that in the junior high schools of two-thirds of the city, two-thirds which serve primarily Hispanic and African-American students, in those two-thirds of the junior high schools none of the teachers who were teaching math and science had majored in math and science in college. None of the teachers who were teaching math and science had majored in it. They could not get qualified math and science teachers which meant that those youngsters in junior high school were certainly greatly handicapped.

If you had that kind of shortage of teachers and you had a well-developed hookup for distance learning, you could have top-quality teachers teaching via videos and via cable television and broadcast educational television, and they could make up for the deficit that you have in terms of qualified teachers. They could do it better, they could do it cheaper.

So telecommunications and education technology were high priorities. We did not appropriate very much money to begin with because they are new, but we did have them in the budget, and we did emphasize in the reauthorization legislation for education that these are very important frontiers. This is the way American education should be going.

Star schools was one of those programs where we provided money for telecommunications in situations where rural schools were spread out and students not able to get to quality schools. You could provide top-flight instruction and, using various television hookups, beam it into those various schools and into the homes of those students, and the Star schools made up for what you could not have been able to acquire even if you spent millions of dollars on the new transportation system.

So what you have is everything that is going to take us into the next century, the 21st century, everything that moves us in a more progressive way toward the year 2000 in education is being cut. The national diffusion network, ready to learn television, educational television, as I just said before.

Then, finally, library construction, library research and demonstrations, everything related to libraries is cut, even though it is only a tiny amount in the budget to begin with. We only have tiny amounts of money in our budget. We have never supported libraries at the Federal Government level in any significant way.

If you add up all the money that has been appropriated in terms of Federal aid to libraries over the history of the Federal Government's aid to libraries, it would not equal the cost of one-half of one nuclear aircraft carrier. It would not equal the cost of one-half of one nuclear aircraft carrier, which costs about $3 billion. If you added up everything that we have ever done for libraries, it would not equal the cost of one-half of an aircraft carrier.

The library community was here on the Hill today. The American Library Association program is presented. They are begging to just keep what they have, the relative pennies that they receive for libraries.

Every community that considers itself a civilized community in America has a library. A library is probably the cheapest form of education. The best value you get for your money comes through public libraries. You get the most education made possible, you get the best resources made possible to the community for the cheapest amount of money. Not to fund libraries and not to support libraries even in a small way is another barbaric act. It is barbarism to not want to fund libraries.

We have said a lot about going into the 21st century and updating our technology for education. We talk a lot about the information superhighway, and we make statements about wanting to make the information superhighway available to all Americans. We do not make it available to all Americans unless we find ways to let the access it.

Most American homes do not have any computers. Most American homes can never get on the Internet if they have to use their own equipment. One way to guarantee that Americans have access is to have public places where you can make use of the best of modern information technology, and one of those public places should be the public library.

In addition to our schools, which need more equipment and should be funded with the help of the Federal Government to acquire that equipment, our libraries are an access point for everybody. You do not have to be a student enrolled in a school. All you have to be is a member of the public, and if you made the technology available to public libraries, it would guarantee that poverty is not a barrier to being able to enter the information age. Poverty is not a barrier to being able to learn what is necessary to be able to qualify for various employment opportunities that are dependent on some knowledge of how to use modern technology to access information.

So the American Library Association is proposing that we support what they call the Library Services. and Technology Act to supplement the Library Services and Construction Act. When you put all the library programs that they are proposing to fund together, they are talking about spending $1 per person to support these various programs, $1 per person in America. When you have more than 225 million Americans, it would be a very small amount of money to spend for education via libraries, and libraries are available to every citizen.

They are asking that Congress pass the Library Services and Technology Act quickly because it is proposed to consolidate, simplify and update all the other components of the Library Services and Construction Act. It will reduce eight titles to two priorities for libraries. Those two priorities are information access through technology and information empowerment through special services. It would increase the flexibility and accountability in the program. It would emphasize libraries as change agents. Libraries would be enhanced as change agents and self-help institutions through these kinds of Federal-State partnerships.

We have examples in my hometown of Brooklyn of libraries that are being overwhelmed by the number of young people who want to come in. In poor communities where they stayed away from the library in the past, one or two computers established in the library has resulted in long waiting list of youngsters who flood into the place every day and they want to make use of the computers.

It is a whole new ball game in terms of libraries being overwhelmed by students voluntarily coming after school and wanting to be a part of what is going on. It is the computers and the new technology that attracts them. They would never be able to get it anywhere else and, therefore, it is an area where we certainly could guarantee that everybody is a part of the new information age, everybody has access to the information superhighway.

There is one representative of the library community on Vice President GORE's committee to advise on the information superhighway and we hope that they are listened to. We hope that there is more than just rhetoric in terms of including libraries in the process of developing this information superhighway and Federal support for the information superhighway.

What we get from Brooklyn, my own hometown, is a statement from the libraries that none of them are wired sufficiently to really receive updated state of the art technology. They do not have the wiring. In most of the big cities of America, the institutions like schools and libraries do not have the wiring necessary to be hooked up properly. They need a great amount of money to pay for the installation of new wiring, or they need some legislation from the Federal level, because only the Federal Government can do it, which requires telecommunications companies to wire schools, to wire libraries and educational institutions at a discount or maybe for free, as part of their contribution for the benefits they are receiving from the overall participation in the Federal Government's information superhighway activities.

□ 2015

Something has to be done to give priority to the general public and to provide an opportunity for the general public. One of the concrete steps that can be taken is to deal with the problem that most libraries in most schools in the big cities, it is not the same as the suburbs and the rural communities, they have problems too, rural communities and big cities, it is easier to do it, to wire the rural communities, less costly to wire a school. In the big cities to wire the library is very, very costly.

The support began for libraries in the local communities at a time when New York City was undergoing a great budget crisis. The citizens made clear that they did not want their library services cut. In fact, library service was cut drastically, and whereas libraries had been opened 6 days a week, they were down to 4, and the citizens rose up and said, no matter what the costs are, how dire our financial situation is, we do not see great amounts of money being required to keep libraries open. And in the last political campaign for mayor, both candidates made pledges that libraries would remain a priority. That is the same case throughout the Nation. Most citizens feel that they are due decent public libraries. It may be more complicated to get first-class schools and get the funding necessary, but it is a fairly simple matter to provide enough support to help provide decent libraries and have the Federal Government continue to participate in this process.

I hope that the coming budget debate will be conducted with the majority party as well as the minority party having its ears to the public. I hope we listen to the public. I hope we check the polls and we follow the polls in many, many ways, and we follow the focus groups in many, many ways. Let us not try to put a spin on and ignore and distort the information that comes from the public. The American public clearly wants support for education programs. The American public does not want to see the Department of Education eliminated. The American public does not want that kind of barbaric act to be taken in the name of streamlining government.

There is a majority out there that is going to have to be reckoned with, and that majority, whatever questions we may have about it, one thing is clear, they think education is the key to their own individual family's future, and they think education is the key to the future of the Nation. They do not accept the argument that defense is only a military matter, that security is only a military matter. Security they understand is partially a matter of being prepared with the kind of educated population that you need to have and brain power becomes a major part of it. They do not think the Federal Government should only be concerned about security. They think promoting the general welfare as stated in the Constitution is as much a part of the duty and responsibilities of the Federal Government as any other duty and responsibility.

So let us promote the general welfare in 1995 terms. Let us go into the 21st century promoting the general welfare in the most up-to-date, state-of-the-art manner that it can be promoted. That is to provide for a first-class educational effort.

We have spent a tremendous amount of money and resources to update our defenses, our Department of Defense and our military installations. We would never have dreamed 30 years ago or 50 years ago following the end of World War II that we would ever be investing billions and billions of dollars in certain kinds of weapons systems, but we saw it as necessary. Modern technology demanded that we spend more money on very complicated weapons systems. Now the modern challenge is we spend more money on education. Instead of cutting education, we should be doubling the budget for education. Instead of cutting education, we should be looking at new ways to make certain that our whole environment is saturated with funds for learning. Instead of cutting the budget for education, we should be making it the No. 1 priority.

The American people have already stated that they consider it one of our top priorities. Anyone who fails to listen to that will have to reckon with the American people.

I hope that the caring majority out there, the people out there who are the majority and want to see education as a priority, will have their voices heard, and let it be soon. I hope they will become very visible. I hope they will make it clear to every decisionmaker here in Washington, both in the Congress and the executive branch, that education is a priority of the American people. We would like to see our representatives represent the people and not their own agenda, not their own distorted agenda.

CALL FOR AN INVESTIGATION INTO ACTIVITIES OF THE ENVIRONMENTAL PROTECTION AGENCY

The SPEAKER pro tempore (Mr. LATOURETTE). Under the Speaker's announced policy of January 4, 1995, the gentleman from Louisiana [Mr. TAUZIN] is recognized for 60 minutes as the minority leader's designee.

WEATHER TRAGEDY IN LOUISIANA

Mr. TAUZIN. Mr. Speaker, before I begin tonight, I want to call to the Nation's attention the fact that there are quite a few folks in my home State of Louisiana who are indeed suffering tonight. Yesterday and up until about 1 o'clock this morning we were deluged with about 18 inches of rain in the New Orleans area. That is 18 inches in 1 day for those of you who live in States that may only get as much as 4 inches a year. I see my friend from out West in the audience.

The 18 inches of rainfall has inundated communities all over my district and the districts adjacent to mine, that of BILL JEFFERSON and BOB LIVINGSTON and others out West, and we have situations ongoing right now of tragedy, tornadoes and homes destroyed. People have drowned in their cars as they were trying to get to and from their work and residences.

I just spoke to my mother in Chackbay, and God bless her, she is an awfully wonderful and devout woman, and I think her prayers saved her. I understand a tornado just hopped over our house and just missed her, and I wanted to say a word of thanks to the Good Lord for sparing her and others tonight, and a word of comfort and consolation for families who have losses and who are grieved in this awful flood that is unfortunately still unfolding in many communities in south Louisiana. To all of you who are suffering, please know that my office and other offices up here are working in coordination with the Governor's office in Louisiana to see as rapidly as possible that we get every bit of Federal assistance we can to families who are in need, and that we get a disaster declaration as rapidly as we can in place to help you and your families.

In the meantime, we are all in the Good Lord's care tonight, and we hope and pray your grief and losses are kept to a minimum.

Mr. Speaker, I yield to my good friend from California.

Mr. BILBRAY. I appreciate the gentleman yielding. I would like to echo the concerns about the disaster in Louisiana. As my wife, who is from New Orleans, would point out, it is an always ongoing threat for everyone who lives in different parts of the country, one that the people in Louisiana face, and the threat that you do have those rains. She always sort of scoffs at Californians, and what we call rain she calls a drizzle, and sadly those conditions have turned more severe than normal in Louisiana.

I would like to say for those of us in California who understand tragedy from nature, we appreciate that it comes in different forms, and we are sorry you have to confront a different form at this time.

Mr. TAUZIN. I thank the gentleman for his comments and concerns, and indeed those of you who live in California understand tragedy and natural disaster, and I appreciate the gentleman's comments tonight.

Mr. Speaker, I do this special order tonight not out of a great pleasure, but actually with some real degree of regret and sorrow that it has to be done. Today, at a press conference here in Washington, I announced a call for an investigation into activities of the Environmental Protection Agency in region 6, Dallas, activities which clearly violated the rights of a citizen in my district and his family, activities which may have, in fact, violated Federal criminal statutes, certainly violated the civil rights of that citizen, and are going to result almost certainly in a lawsuit by the citizen against his own Government, and in my opinion should result in a dismissal of the Federal employee responsible for what has occurred.

The case involves a case that I cited on this House floor when we debated the property-rights bill that was passed by this House and sent onto the Senate and now awaits action by that body. When we debated that property-rights bill in the context of one of the amendments offered to gut the bill, I told the story, a true story, of two families in my district who were embroiled in a bitter lawsuit, one against the other, and who were also embroiled in an awful conflict with the EPA and the Corps of Engineers in New Orleans in a wetlands dispute. Now there are many allegations flying back and forth in that lawsuit. But the facts as we know them are these:

The facts are that in 1990 one of the families, the Gautreau family, decided to build a pond on their property in Ascension Parish in my district. In desiring to build this farm pond, they contacted the LSU Agricultural extension personnel who came out and examined the site with them. In that initial examination of the site, those LSU officials suggested to the Gautreaus that they should contact the Corps of Engineers to make sure that they did not need a permit for the construction of the pond.

As a matter of fact, one of the Gautreau brothers, Jeff, did call the Corps of Engineers the next day. Approximately on or about September 1990, I think it was around September 10, he contacted the Corps of Engineers, and according to Mr. Jeff Gautreau, the Corps of Engineers representative, the then Dr. Tom Davidson, told them that if he was going to build a livestock pond on his farm that he really did not need a permit, all he needed to do was send a letter describing what he intended to do and including a sketch of the site, and that his activity would be exempt under the wetlands laws as they then understood them in 1990 and as they applied them from the Corps of Engineers office in New Orleans.

According to Jeff Gautreau, in the chronology of events that he supplied to me, Dr. Davidson told him to do whatever he wanted with the dirt, and the Corps had no jurisdiction over than. In fact, the Corps did send, at the request of Mr. Gautreau, who wrote him a letter the next day, a letter indicating that the pond construction was exempt, and that he could proceed without a Corps of Engineers wetlands permit. No mention was made in that letter that he was in any way restricted as to what to do with that dirt.

Mr. Gautreau proceeded to dig that pond. He proceeded to spread the dirt on his property, and later on constructed a home on that same property.

In 1993 all hell broke loose. In 1993 Mr. Gautreau was interested in selling that home and that property. In the context of selling it, he decided to shape the pond a bit more, and also spread a little more dirt to fill in any little holes in the lawn of the property where the house was. So he began that work, only to be met with a cease-and-desist order from the Corps of Engineers. In the context of those days and that event, Mr. Gautreau ended up selling that home. In those same months, the Corps of Engineers, by a written letter to him in the cease-and-desist order, indicate he could make everything right by simply applying for an after-the-fact permit, which if the Corps granted it would make everything right. He, in fact, applied for an after-the-fact permit. In that letter from the Corps, Mr. Gautreau was told that while the Corps could take action against him, they had decided that there was no willful violation, and that he should proceed either to restore the site or apply for an after-the-fact permit. Mr. Gautreau applied for that after-the-fact permit. It was never granted. Today, they are in an awful wetlands dispute.

□ 2030

Today as we meet here in this Chamber tonight, Mr. Gautreau and his purchaser, Mr. Chaconas, are in an awful lawsuit over rescission of that sale. The agents who handled the sale are part of the lawsuit. The insurance companies for the real estate agents are part of the lawsuit. Both parties are currently listed as co-violators of the wetland laws of the United States of America, and the Corps of Engineers and the EPA are still considering an enforcement action that could require the Gautreaus or the Chaconases, whoever owns the land, to take down that home, to destroy it.

In fact, a lane leading to that property and to another property across the street is also built on that property, and while no decision has yet been made, an enforcement option still available to the EPA and the Corps is removal of that lane.

I told the House that day in the debate how in conversations with representatives of the Corps and the EPA, when the parties asked how they might get to their home if the lane were removed, someone said, "Take a helicopter." I pointed out the arrogance of the State agency that would do that sort of thing.

During our break, when we went away to do our hometown meetings, to take a break from the 100-day session, my office began to be contacted by scores of agencies wanting to do a news story on this awful piece of wetlands drama going on in my State. As we began to check into what the news people were interested in, it became clear the focus of the news story was to make a case that we had not told the truth about that story on the House floor in the middle of that debate.

One of the news agencies, NBC, contacted us and asked for an interview. I gave them the interview. I was still in town. In the course of the interview, it became clear what was going on.

There was an attempt to say, "Did you really tell the story the way it really happened? Mr. Chaconas does not believe you told the story right."

I asked the NBC interviewer if he had bothered to talk to the other family, the Gautreaus. He had not at that point. I suggested to him he ought to do that. This was a lawsuit between two parties. They each had different versions of the facts. He ought to at least talk to the other side. He did. He called the attorney for the Gautreaus, and in an hour conversation with the Gautreaus' lawyer, a new fact emerged. NBC was in possession of a document, possession of a document that represented itself to be an enforcement memo from the EPA in Region 6, Dallas, which in fact discussed what they considered to be the willful, criminal violations of the Gautreaus violating the laws of the United States in a criminal way.

NBC was in possession of this confidential memo that was not available to the Gautreau family despite the fact that Mr. Gautreau and his lawyers had filed a Freedom of Information request upon the agency for all documents that should be available to them.

Where did NBC get this document? The Gautreaus' lawyers asked for a copy of it. NBC was kind enough to fax it to the Gautreaus' lawyers. And when it arrived and when it was examined, the little muddy footprint led right back to the scene of the crime. The little muddy footprints in this case are the fax numbers, the fax transmittal numbers that appear on the top of the transmittals.

Next to me is a copy of the NBC facsimile transmission sheet sending this document to the Gautreaus' attorney. The document is next, the transmission fax numbers are right on the header of the document. Those transmission fax numbers tell the story.

This document, pertaining to highly sensitive considerations by the EPA that the work was performed willfully, flagrantly, and justifiably should be treated as a crime, that confidential memo had been faxed by the EPA Region 6, to the Defense Fund of the Sierra Club in New Orleans upon their request. A document denied the Gautreaus had been sent to a lobby organization, a document referring to potential criminal activity on the part of an American family, and the Sierra Club, shame on them, transmitted this confidential data, implying criminal activity on the part of an American to NBC, and heaven knows who else.

This transmittal of this confidential memo by the EPA, denied the parties under the Freedom of Information Act, may constitute a criminal violation of the National Privacy Act. The National Privacy Act, in part, provides that no record contained by an agency that refers to a particular individual and an enforcement action can be shared with anyone without the written consent of the person it talks about, and any agent/employee of the Federal Government who willfully does, in fact, send a document out to individuals other than the person it talks about without their written consent is guilty of a Federal criminal violation and subject to criminal penalties under the statutes.

Certainly, the rights of the Gautreaus have been awfully violated here. They intend to file a lawsuit now against the Federal Government, the EPA, for the damage they have done their reputation, the damage it may have done their lawsuit, the damage it may do to them eventually if, in fact, they are ordered to tear down a house they may be ordered to repurchase from the Chaconases in a lawsuit.

This illegal transmission also contains the following language: "Restoration should include removal of the House and fill. How to handle removal of the house, restoration work, while Chaconas still owns the property is under debate." In short, it tells the story of EPA, Region 6, contemplating enforcement action to order the destruction of that house, but obviously reluctant to do so as long as the Chaconases own it.

The next sentence, at the bottom, says the Chaconas' suit against the Gautreaus is scheduled for April 5, 1995. In fact, that suit has been continued until June.

This little muddy footprint facsimile transmission is, in fact, evidence that officials within the EPA are working hand in glove with environmental lobby groups in Washington, in an obvious attempt to influence the debate on the property rights, the Clean Water bill which comes up just tomorrow in this House, and those environmental organizations are working hand in glove with friends of theirs in the media to attempt to influence this debate, and in this case sharing with them a confidential memo implying criminal guilt on a party in America that should never have been in their hands in the first place, protected under the Privacy Act that we thought protected us all in this country.

This is a transmittal from the EPA on the next day to the Sierra Club, again in New Orleans, "Thought I'd send a copy of the Corps of Engineers' delineation. Let me know if you need anything else." You can see how cooperative they are.

When the parties requested a Freedom of Information from the EPA, a whole list of documents that were not shared with them is contained on the transmittal to the Gautreaus, but you can see how cooperative the EPA is with the Sierra Club in not only answering their request illegally, but in sending more documents the next day just because they thought they ought to have them.

This is part of the chronology of events that was shared with me and my office when both the Chaconases and the Gautreaus appealed to us for assistance in this matter way back last year, early in the year. In this chronology of events, you can see that Mr. Jeff Gautreau pointed out and was questioned further by Dr. Davidson, and the Corps of Engineers stated Roger could do whatever he wanted with the dirt from the pond, as the corps had no authority and could not tell him what to do with the dirt. That is what Mr. Gautreau says he was told by the Corps of Engineers when he applied for the right to build that pond and, in fact, to do what he did on his property.

What followed his written request was the following letter from the Department of the Army Corps of Engineers:

> DEAR MR. GAUTREAU: This is in response to your letter of approximately, September 12, 1990, in which you indicate your intention to dig a farm pond to provide water for your livestock in Ascension Parish, Louisiana. We have reviewed your project as proposed and have determined the farm pond work is exempt from the U.S. Army Corps of Engineers' jurisdiction as authorized in 33 CFF 323.4, 83 of our regulations, dated November 13, 1986.

That is the wetlands regulations, 404 permits.

> I enclose the photocopy of this regulation for your convenience. Should you have further questions regarding the matter, please contact Dr. Tom Davidson,

again at that number and that address. This letter telling the Gautreaus they were exempt and could proceed with the pond contains no restriction on the use of that dirt, and yet in 1993 the Department of the Army Corps of Engineers sends this letter to Mr. Gautreau, this letter saying—

> You are in violation of the Clean Water Act. You are in violation of 404 wetlands laws. You cannot move dirt around that property. That is a wetland, and in fact you have got two choices. You may apply for an after-the-fact permit, or you can, in fact, restore the site to its existing conditions before the unauthorized work.

In the letter the corps says, "Removal of the existing unauthorized work," which later came to be interpreted as not only the construction of fill around the house but also the house itself—

> May be necessary if the permit is denied after we complete a public interest review of the application. You can also see in the letter that this work could have subjected you to judicial proceedings. However, after a careful review of the investigative findings and the nature of the work involved, I have decided against such action at this time.

Things change. Things changed mightily. And as this lawsuit proceeds and as the parties await the determination of the judge as to who should own the house, we continue our debate on the property rights laws of America and the wetlands reform bill that will be before us tomorrow.

Could this have been prevented? Could this have been prevented? I think so. If we only had a law on the books that said parties have a right to contest the finding by the Corps of Engineers that their property is wetlands, that the Corps of Engineers were required to inspect the site before they sent a letter saying. "We have no problems when you are doing something on your property," if the Corps of Engineers would have posted publicly in some public place a notice that they think a violation has occurred so that owners might not sell their property and buyers might not buy without knowing what is going on so they can avoid lawsuits like this, and finally, if the corps does want to take somebody's property and destroy their home because they think it is a wetland, then, by golly, somebody ought to be willing to pay an American the price of his property when the Government takes it from him. That is what this fight tomorrow is going to be all about.

Now, NBC was not the only news agency that was apparently invited to do a story on the Chaconas-Gautreau case. CNN was one of the other agencies, CNN Headline News, to be precise. Unlike NBC, they did their little story while we were away. I did not get a chance to get interviewed on that story. We were away at home.

But in that story, CNN proceeded to show this horrible wetlands case, to interview Mr. Chaconas. They did not contact the lawyers, as the Gautreaus suggested, to clear an interview with the Gautreaus. They only interviewed Mr. Chaconas. Then they proceeded to do a hit piece. Why do I call it a hit piece? Because it was just what we expected.

Before they did this piece on Headline News, hour after hour, every day all day, rather, on the day they ran the story, my office sent them all the documents I have shown you and more documents which indicated that we had responded when the Chaconases and the Gautreaus asked us for help, that we received letters of thanks from the parties thanking us, that we received letters from Mr. Chaconas supporting our efforts on property rights, that we received a copy of the letter Mr. Chaconas sent to the EPA demanding payment for taking property in violation of the fifth amendment of the Constitution.

We also sent them documents that contained information unequivocally that indicated the corps and the EPA had, as an enforcement option, as I demonstrated to you earlier, the removal of the House and the rug. Those were clearly options EPA had on its desk and, by the way, continues to potentially have on its desk.

And yet I wanted to show you this CNN piece tonight. I was not allowed to bring a monitor. I would have loved to have run the piece for you to show you what they did. In the piece, they asked the question, "What about the congressman's claim," speaking of me, "that the Federal regulators might force the Chaconases to tear the House down?" The CNN reporter asked that, and immediately they turned to Ron Ventola, an employee of the Corps of Engineers in New Orleans, LA, who, by the way, signed that letter, who signed the letter indicating that the property, the pond, was exempt under the wetlands laws, Mr. Ron Ventola.

□ 2045

Mr. Ron Ventola appears on CNN in this piece and, he says, "Oh, no, no one from this agency told them they would have to tear down their house or remove the road," leaving the clear impression that we had told a falsehood in the House in the debate on property rights. That was the purpose of the CNN piece apparently. CNN knew this was a lie. CNN had documents that we sent to them indicating that the Corps and the EPA indeed has discussed tearing this man's house down. In fact, in fact, the Corps of Engineers had a copy of Mr. Chaconas' letter to the EPA dated September 22 which reads in part:

> The house is situated in the wetland, and the three alternatives the EPA is considering, a demolition, moving or elevating the structure.

And yet the Corps reported on CNN, no, no one from this agency told them they would have to tear down their house or remove the road. What a lie told on national television hour after hour and repeated hour after hour in an attempt by those in this environmental community working with those liberal friends in the environmental sector of CNN Headline News to make it look like those of us who believe in property rights who are fighting this battle do not tell our stories right. What a shame. What a despicable piece of journalism from an awfully good and credible news agency.

What a credit NBC earned for sharing this scandal to us, for giving us a chance to expose it to the American public.

I wanted to show you also Mr. Chaconas' request to the EPA dated September 22, 1994. Here is his words to the EPA on that date:

> We received the wetlands determination from the Corps. The Federal Government has thus taken control of a majority of our property in the residence. We consider this a taking of our private property for the public good and demand fair and just compensation from the EPA. Consider this as my formal request.

Does that sound like a gentleman who would testify in the Senate against the property rights bill? Does that sound like a gentleman who would go to a House committee and attempt to testify against the property rights bill alleging all the facts that he thought were correct in his lawsuit? A gentleman who made a formal demand on EPA for payment for taking his property? A gentleman who wrote us, in fact, on June 27 that property rights are very important, and my wife and I continue to support your efforts. The point is that buyers and existing land owners are slipping through the cracks because of Federal Government agencies, EPA and the Corps, are really doing a poor job of enforcement. June 27.

Same letter, June 27 again:

> Please commend Mr. Constien who is my district director. His efforts have served to diminish my role as a coviolator. EPA did assure me, as long as I cooperated with them and allowed access to the property for corrective measures, they would not seek damages from me. Well who would they seek damages from?

You get the picture? Cooperate with us or else.

Well, the Chaconases apparently have started to cooperate with the EPA and the Sierra Club. Here again on June 28. I listened to Mike Reagan's show on 11:50 a.m., WJBO, on Monday afternoon, caught the taped show you guest-hosted for Mr. Reagan. I was quite impressed. It was at this time we caught the reference to our case that you had mentioned on the air. You are doing a good job in Washington, my birth place. Everybody down here is talking about it.

Does this sound like a man going to the Senate and attack this Congressman for misrepresenting his case? What happened? Who poisoned Mr. Chaconas' mind? What made him come out against property rights when he was demanding payment for the taking of his property of the September 22 letter? Who suggested to him that his Congressman was no longer on his side?

Well, in that memo, in that first memo, we get a hint, we get a hint. How to handle removal of a house or restoration work while the Chaconases still own the property is still under debate. We get a hint of what happened. Cooperate or else. We will enforce the demolition order against the Gautreaus, but maybe not against the Chaconases. Cooperate with us.

Now I am sure Mr. Chaconas would not ever admit that he was coerced into changing his mind so dramatically, that he came to Washington, just on his own, that he did not have the help of the Sierra Club, that he did not have the cooperative arm of the EPA, whom I have just shown has violated Federal privacy laws in this case, in Dallas Region 6. I am sure he would say that. I do not blame him frankly. He is trying to protect his home, and the gun of regulation is pointed at his head. We could demolish your home. Cooperate with us, and we will not penalize you. Maybe the Gautreaus, but not you.

What a story. What a disgusting story of a person's own government treating him that way. What a rotten mess. What an example for us as we tomorrow take up the wetlands reform bill of the Clean Water Act, as we try once and for all to reign in those Federal agents and agencies who dare to treat people that way, who violate the Gautreau's privacy rights, who inflict these after-the-fact determinations of wetlands on people and threaten them with demolition of their home and who, in my opinion, end up coercing people to change their opinion on an issue and to cooperate with them or else face the disaster of destruction of their property. What a mess. What an awful mess.

Tomorrow we get a chance to change it. Tomorrow we begin the debate on the Clean Water Act which contains those regulations, those 404 wetlands laws that are so often abused, so often are used to coerce people in my State and all over America, so often end up taking property away from people without just compensation. But worse than that, in this case putting one neighbor in a lawsuit against his neighbor, making it almost impossible then for them to live next to one another, putting them now in a lawsuit against their own government, and perhaps, if the Justice Department and Carol Browner do their job, perhaps costing some people their job in Dallas.

And I have called upon Carol Browner to clean up that mess, and, if she cannot clean up that mess in her agency, maybe she ought to think about cleaning out her desk. But we in America ought to say enough is enough, and Federal agencies ought not be our master. The government ought to be our servant again in this country, and then when the government becomes such a master that it can so willingly violate our rights, as they did the Gautreaus' in this case, that it can create such a mess as it has in Ascension Parish, Louisiana, and when it can work so hand and glove with lobbyists here in Washington, DC bent on influencing this issue, who then work hand and glove with their liberal friends and some of the media to distort the facts and propagandize their case again reform, then something needs to change. Tomorrow we get a chance to change that. I hope, I pray we do not miss that chance. We need to pass reforms of the wetlands laws, and we need to make sure that property compensation is a part of that law, and if the President dares to veto it, as he threatened to do without even reading the bill, I hope we have the guts in this Congress to override his veto and to give the Americans the protection they deserve under the Constitution, protection against employees of this Government who would take advantage of them the way these employees have.

I am going to file a new bill, by the way, to make it a Federal crime to do what they have done to the Gautreaus and to do it and make it a Federal crime to do what they have done to the Chaconases. No regulatory agency ought to ever have the power to curse somebody with the threat of enforcement action, and no Federal agent ought to keep his job when he violates the privacy rights of Americans and cooperates with lobby groups with sensitive memos detailing protential criminal activity. That has gone too far, and we ought to end it in this body. Tomorrow we strike a blow for land owners and citizens all over this country, and, if this Congress has the will and the fortitude to override the expected veto whenever it comes, perhaps we can remake a relationship in this country between the Government and its people again, where there is credibility, and trust, and fairness, and where we do not have to be suing our Government, and ordering investigations and criminal charges brought against Government officials who ought to know better, who ought to do better than Ron Ventola did in the New Orleans office and lying on television and who ought to do better than those EPA officials did in Dallas.

I yield to the gentleman from Florida [Mr. MICA].

Mr. MICA. First of all I want to take just a moment to express my appreciation to the gentleman from Louisiana [Mr. TAUZIN] for bringing this matter to the attention of the House. For too long the Agency, EPA, has really reigned out of control, and I come here tonight, I know the hour is late, before the House, but I want to commend you again on bringing this matter to the attention of both the House and the Congress, another example of misdeed, of malfeasance, of misfeasance in office, which has been conducted by the Environmental Protection Agency.

I come here also to commend you in a bipartisan effort. I am on the other side of the aisle and thank you for your leadership in questions relating to wetlands, to revision of some of the laws such as the Clean Water legislation which the House will be taking up tomorrow, and again for bringing before the Congress and the American people the question of how this agency is functioning out of control.

Mr. Speaker and gentleman from Louisiana, I had the opportunity to sit as a member of the subcommittee in the House Committee on Government Operations during the last session of Congress. I came as a new member. I came as someone from business with a business background.

Quite frankly I sat in absolute stunned fashion to listen day after day in hearing after hearing of how an agency which is so well-intended—in fact it is a Republican initiative that created the Environmental Protection Agency. Everyone wants to protect the environment. Everyone wants to look out for the environment. Everyone wants to preserve wetlands and our natural areas for this generation and future generations. But to sit as a member of that committee and consistently hear the abuse, the misuse, the misdirection of billions of taxpayer dollars, I was just stunned and appalled, and that is why I got involved in this issue. That is why during the last Congress, as a new Member of this Congress, I was able to get support from both sides of the aisle when the question of elevating EPA from a department to a Cabinet level position came before the House, and we defeated that measure, not because people do not want to protect the environment, not because people are not concerned about the environment, not because people have any interests in lowering the standards for environmental protection in this country, but because of exactly the reason the gentleman from Louisiana is on the floor tonight, because this agency is out of control, and you have brought to the House again another example that should be investigated, and I, too, demand an investigation and will do everything in my power to see that the majority acts on your request because again this agency is out of control. This agency is so inept, so out of control, again I brought this matter before the attention of the House, and let me cite to you what they did to me.

Here, just several months ago, they sent a fax to my office inviting me to a briefing on wetlands. They sent the fax, and the cover sheet is addressed to two individuals. Both were my opponents in the election. In fact their list predated the qualifying date for election in the State of Florida. So they used a list that was even out of date and then they gave me this lame excuse as a response.

□ 2100

But here they have the time to send me a fax addressed to my opponents with my name on it, to my congressional office, months after the election. If this is not an example of abuse of office, and, if nothing else, ineptness in office.

Now, you bring tonight an example to the floor of what this agency is doing in your instance. Here is a little example of what they are doing in my particular situation. I called for an investigation back in the spring of this year, in February, I believe it was, of this year, and this is the lame excuse that I got.

This is an agency that is out of control. And when they have time to intimidate people, to act in a manner in which the gentleman has brought before the House tonight, they deserve investigation. And I intend as a Member of the majority side of the House to see that in fact this agency investigates the matter you brought before the House.

Let me also point out that I, too, had great hopes. Carol Browner, Administrator Browner, came from my State, the State of Florida. It was my hope she had seen some of the problems with this agency from serving in a capacity at the State level that protected the environment in the State of Florida, and would come here and try to make changes in this agency, make some sense out of it. But it is the situation where the inmates are running the asylum.

Mr. TAUZIN. My friend will love this. This is a letter I just received this last couple of months from attorneys writing to the office of the General Counsel, National Oceanic and Atmospheric Administration, one of the environmental agencies working hand-in-globe with EPA. It is regarding settlement discussions of the turtle/shrimp litigation. You have shared my problems in Florida with this and requiring more and more regulations upon the shrimpers in my State because of the Endangered Species Act. Listen to this paragraph.

> Finally, on a public policy note, my clients are becoming deeply distressed about how the agency appears to be more responsive to, and to some extent acting in collusion with, representatives of the environmental community with respect to the shrimp/turtle controversy. Although Andy Kemmerer and Rollie Schmitten appear anxious to hear industry's concerns, we still sense the agency is responding to what appears to be a "shadow government" formed by certain environmental groups.

The link I talked about tonight, this illegal transmission of confidential data to one of the environmental groups, is part and parcel of what this is all about, an agency out of control, acting on its own, working with lobbyists here to accomplish their agenda.

Mr. MICA. If the gentleman will yield back, again the gentleman cities an example that needs and demands and requires investigation, and I support the gentleman in that, and now this side of the aisle will support you in that.

I brought another matter, it is not a major matter of life and death, but a matter that concerned me. Chairman McINTOSH, DAVID McINTOSH, who heads the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, is in the process now of also investigating the use of taxpayer money to lobby the Congress on issues, which is totally illegal.

So there are a number of these very pressing examples of misuse of this office that need to be investigated by this Congress. Again, I join you tonight and make a commitment to you tonight that we will pursue these matters. And I will tell you, first of all, we have to get the attention in revising this legislation, and we will have that opportunity to look at clean water and some of the other issues that are before the House.

But if we cannot get the agency's attention with these investigations, we will get the agency's attention through the budgetary process and through the appropriations process. Because there are many Members, like the gentleman from Louisiana and other Members of this Congress, who have absolutely had it, right up to here, with this agency. It is out of control, it needs to be brought into control, and we can do a much better job in protecting the environment of this country.

I consider myself an environmentalist. I consider myself as someone who is concerned about the future of the environment that we live in. I want to leave to my children and my grandchildren a better world, a better United States, a better environment. But we cannot do it when an agency is out of control, it is misdirected, and the funds that it is getting are expended in ways in which they were not intended by this Congress.

So we have to rein that in. We have to investigate what is going on there. And we can do a better job and we are demanded to do a better job because we have limited resources. We have literally run out of the taxpayer dollar in the Congress of the United States, and we have to find a better way to do a better job with less money.

So we are demanding that. I join the gentleman in asking my colleagues in the Congress and the House on both sides to look at these matters, to bring this agency into control, and to do a better job in protecting the environment. I am so pleased to join you.

Before I conclude, I just want to again quote, and we have had questions raised about EPA and its being brought out under control. During some of the debate you have an opportunity to sit and read different documents, and I had an opportunity to sit here and read during one of our last debates the Declaration of Independence.

When you look back at the reasons that this country was formed, they are very enlightening. They were very enlightening 200 years ago, and they should be enlightening to all the Members. But I have to repeat this, and I made this comment from the Declaration. This cites one of the reasons for the founding of this country, and it talks about here the King of England, and you can substitute the King with the Federal bureaucracy and EPA.

It says:

> He has erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out their substance.

The same thing that happened 200 years ago is happening today with this agency and other agencies that are out of control.

Again, I commend the gentleman from Louisiana for bringing this matter to the attention of the House in such detail. I commend you on documenting every point here and showing how again this agency has misused the position of trust given to this agency by the Congress and by the American people, and it demands our attention and our investigation.

Mr. TAUZIN. I thank the gentleman from Florida [Mr. MICA] who has been a leader in the fight as I said to rein in this agency. I appreciate your offers of help. We are going to need a lot of help in that regard.

Mr. McINTOSH. If the gentleman will yield, I thank the distinguished gentleman from Louisiana, a leading defender in the rights of private property owners, for yielding to me. I want to add my support to your investigation into this newest allegation of the abuse of power at EPA. Our Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, we often call it the subcommittee to cut red tape, has been investigating EPA activity, and that activity closely mirrors what you have encountered at the agency.

Let me stop to say I also want to commend you for your efforts on behalf of property owners who have encountered regulatory overreach in the wetlands area.

I have got several constituents in my district who have encountered similar problems. One gentleman, Bob Floyd, owns a farm in my hometown of Muncie, and he had been farming this land for 50 years. One day his neighbor accidently destroys the drainage tile which is necessary to irrigate his land, and suddenly a mud puddle developed on one corner of the field. In swooped EPA and said he could no longer farm the land because this might be an endangered wetland.

It is that type of overreach and abuse of the program that have led to many of our problems. But today we are looking at and you have raised a very serious question on the standard of ethics and the propriety of the agency's activities in defending their actions. The activity that we are investigating in the subcommittee appears to violate several Federal statutes, including provisions of the Anti-Lobbying Act and the Federal conspiracy statute.

Our subcommittee has shown that EPA has been using taxpayer funds to create and send out illegal lobbying material to over 100 grassroots lobbying organizations. Most of that material was dishonest propaganda. All of this was designed to incite these outside organizations to attack Members of Congress who supported regulatory reform in the last period of Congress during the 100 days.

Our evidence suggests a high degree of coordination and cooperation between EPA and these outside lobbying groups to convey the agency's somewhat hysterical message against any type of real meaningful regulatory reform. Sometimes I was reminded in the debate of Chicken Little, who cried over and over again the sky is falling, the sky is falling, and we all know what our effort is, is to protect the environment, but to do it in a better way that does not overregulate the American people.

Well, top EPA officials, many of whom came from various environmental advocacy groups engaged in this lobbying, do not seem to understand that their responsibility is now one to the American people. It is a responsibility that comes with their office, and they can no longer act as lobbyists or partisan political operatives. They have a fiduciary duty to the American people to use taxpayer money in accordance with the law. One of the laws requires that agencies not engage in this type of outside lobbying activity, and it is very clear that they have intended to orchestrate that sort of a program with these outside lobbying groups.

You know, when the first contacted EPA about this lobbying activity, we expected the agency to cooperate with our probe. We assumed that it had been something that perhaps had not been reviewed by the highest levels in the government. But instead, the top political appointees have stonewalled the investigation, they have continued to engage in very similar, highly questionable conduct, and Administrator Browner, herself, has shown contempt for our investigation and for the Congress in her public speeches and comments to the press, all the while denying that anyone at EPA could possibly have done anything wrong, because they are at EPA acting in what they see as the interests of the agency. Yet the very act that you have exposed as violating the Privacy Act is part of a troubling pattern of evidence that indicates that these top agency officials may have violated other Federal statutes and Federal appropriations laws.

We have evidence that EPA conduct you have been exposing may be part of a larger plan to use taxpayer dollars to spread disinformation about the Contract with America and the reforms that we were trying to pass. In a way, they politicized the agency and have taken it beyond its legitimate purpose. This does not serve the goal of preserving the environment, but undermines the credibility of the agency in the eyes of the American people. I want to commend you for your personal courage and welcome your call for an investigation into this troubling activity. I very much appreciate the distinguished gentleman from Louisiana for yielding to me on this important matter of Government ethics, and want to commend him in that endeavor.

Mr. TAUZIN. I want to thank the chairman of the committee, not only for his efforts in uncovering more and more of the evidence that leads inescapably to some of the conclusions you and I and others are coming to. The agency is out of control. It is literally engaging in political activities it was never designed to engage in and in violation of citizens' rights, but also for accepting the challenge as other committees have already done, by the way. The INI Subcommittee of the Committee on Energy and Commerce has already started an investigation of this matter. We have enough investigators out there. We might just uncover enough to put a stop to some of this stuff.

I want to thank the gentleman for all of his efforts in regulatory reform and for the courage many Members of the House have shared with him in passing legislation that the Senate I hope will take up soon and pass for us and give it to the President, and hopefully the American people and we soon can end some of those abuses as rapidly as we can.

Mr. MCINTOSH. If the gentleman will yield again, I wanted to commend the gentleman for also showing this is a bipartisan effort, that the standards of high ethical conduct and obeying the law are something that Democrats and Republicans want all public servants to obey in this country, and I appreciate his courage and effort to point that out, that that fiduciary duty and the standards of obeying the law and implementing the laws, is something that we can share as Members of both political parties in endeavoring to make sure that the Government does what is right and what is best for the American people. So I commend the gentleman in that effort, and am pleased to be associated with the gentleman's effort.

Mr. TAUZIN. Mr. Chairman, I also wanted to point out I am not sure that everyone in America understands that it does take some real courage on the part of this House to take on some of these people. The Sierra Club is livid right now. They are livid that we uncovered this.

I wrote a letter to Mr. Peter Dykster of CNN Headline News complaining about the despicable piece of journalism he performed on behalf, I think, of the environmental community. And guess what? The Sierra Club wrote me a letter today distributed all over the Hill. The Sierra Club has received a copy of the letter you sent Mr. Peter Dykster of CNN News dated April 13. They got the letter already.

□ 2115

They are good old buddies. They are working hand and glove. The letter establishes again this connection, this connection that weaves through some of these liberals in the media who are prepared to do anything to propagandize this effort.

These environmental groups are working with taxpayer funds in some cases; in some other cases, in direct collusion with EPA officials that do not mind violating the law to help them out to spread their disinformation. And the fabric, this weave of collusion and interaction is beginning to be exposed.

I am not a conspiracy theorist, but I see what I see, and I read what I read. And when an agency of the Government is willing to violate a citizen's rights to help a lobby group who then runs to the media with something as confidential as that and gets livid when we expose it, I think you understand what is going on.

They will attack. The Sierra Club will attack you, will attack every

Member of this body who dares to take them on. But it is time we take them on. They are wrong. And the agencies of Government are wrong when they work with them in order to take away the rights of Americans.

We are in this fight to win, not for you and I, but for the sake of those landowners and Americans who thought they could depend upon the Constitution who now need a law to protect them as rapidly as we can pass them.

Mr. McINTOSH. The gentleman is exactly on point. The American people expect us to have a higher standard and to have the courage to stand up for these groups. They are tired of seeing Government abuse its power, and they find it a refreshing change that we have now got Members of Congress on both sides of the aisle who are going to make an issue of that and stand up for what is right. And the consequences may be difficult for us in a political way, but we know in our hearts that we are doing what the American people want and what is right.

I am reminded of another farmer in Indiana, Mr. Bart Dye, who came to our subcommittee hearing. We had a field hearing in my hometown, Indianapolis, over the recess about the problems of regulations. And he summed up his testimony by saying, "I fought in World War II to protect the freedoms that we held dear in our hearts. I didn't expect the country to turn on me as I am now entering the twilight days of my life."

So it is for people like Mr. Dye who we have to stand up for those freedoms, and I thank the gentleman being willing to do that.

Mr. TAUZIN. I thank the gentleman so much for his statement.

Let me assure you, it does not just happen to farmers and to little landowners like Mr. Gautreau. They do not care who they pick on.

I just got a fax tonight from the Second Circuit Court of Appeals judge in Shreveport, LA. I was in Shreveport last weekend. He told me about this and promised to send me a fax on it and authorized me to tell the story tonight.

This is a court of appeals judge who bought 460 acres in Tangipahoa Parish across the lake from New Orleans. The tract is about 1¼ miles frontage on Louisiana Highway 22 between Ponchatoula and Madisonville. It has been owned by the family for 80 years, primarily used as timber land. In 1993, he spent $10,000 to map an aerial survey, do soil studies, and to submit all those studies to the Corps of Engineers.

On December 14, 1993, the Corps of Engineers, in a two-page document signed by, guess who, Dr. Thom Davidson of Gautreau-Chaconas fame, Dr. Thom Davidson, which document was identified with a survey that was attached, declared over 90 percent of the 460 acres nonwet. Only 41 acres out of the 460 was determined to be wet, subject to the jurisdiction of the Corps of Engineers under the Clean Water Act. He has that document signed by Thom Davidson.

Well, spring of 1994 comes along.

> I entered into a venture with a partner "to test the real estate market" by beginning a residential development on 58 acres of a larger tract. Not one part of the 58 acres was wetland. Absolutely none.

Here comes the horror part.

He is away in Europe for the 50th anniversary of D-day in June 1994,

> * * * when several of the bearded wonders of the U.S. Army came out and told my partner to get off his bulldozer and stop his work, as he was violating wetlands. Since then, the Army has reevaluated the 58 acres and has declared over half of it to be wetlands. We have been stopped since last June, 11 months ago, while attempting the so-called permitting process. The cost, expenses and damages resulting from this invasion have yet to be determined. If folks in Washington, D.C. do not understand why so many people in this country are angry, then they really do not get it.

This is not a militia man. This is not an angry man with a gun on talk radio. This is a Second Circuit Court of Appeals judge who, 4 years after the corps wrote him a letter saying the land is not wetlands, shows up with a cease and desist order and has now got him all tangled up in a wetlands dispute, much like the Gautreaus and the Chaconases who, 3 years after the home was built, showed up to say, We now think it is a wetland in spite of the fact that we sent you a letter earlier saying this property was exempt. Now you are in trouble.

That is the kind of mess Americans are going through. Farmers, little homeowners, court of appeals judges. Who have they missed?

MORE ON PROPERTY RIGHTS

The SPEAKER pro tempore (Mr. LATOURETTE). Under a previous order of the House, the gentleman from Indiana [Mr. McINTOSH] is recognized for 5 minutes.

Mr. McINTOSH. Mr. Speaker, the gentleman asked a rhetorical question, is there anyone who is perhaps left unaffected by this? I think the answer is no. I am reminded of another group of people that were gravely affected in my district and that is the workers in my district.

There is a town in the second district of Indiana, Anderson, which for years has been a very strong auto manufacturing town. GM has had numerous plants there.

At one point I believe they employed quite a large percent of the population in that town, almost 50 percent. As they have been downsizing some of their operations, the town of Anderson has been seeking to gain new employers. And one of the development projects that they sought to bring into their town was the new plant by the Nestlé Corp. that would diversify some of the jobs in that area, create hundreds of new jobs for people in the town of Anderson.

As they looked at the site, Nestlé was considering Anderson and another town out of the district in Indiana, a couple other sites, and were about ready to locate this new facility there when they discovered that there might be a wetlands problem in the land that they were looking at to build this new plant. The land had been farmland for generations, was not something that you would think of as an environmentally sensitive area. But because of the threat that the government might come in under the wetlands law and deny them the permit to build this plant, the Nestlé Co. says, we are going to look elsewhere and located the facility somewhere else. Thank goodness we were lucky they chose another place in the United States. Sometimes we are not so fortunate and we are sending jobs overseas.

So the working man and woman in this country suffer when these regulations cause jobs to be relocated so that they cannot be built in our communities, another example of people who are affected by this abuse of the regulatory powers.

Again, let me commend the gentleman from Louisiana for his courage and effort in this area. I wholeheartedly support that.

Mr. TAUZIN. I thank the gentleman, if the gentleman will yield. I want to thank him and again particularly express my appreciation for accepting the challenge to help us in this investigation, to get to the bottom of this, put a stop to it, then eventually to change some laws in this country so that the fifth amendment of the Constitution is not just some piece of paper, that it is a real and enforceable right for Americans who are being deprived of their property without just compensation through these regulatory overkills.

I look forward to working with the gentleman, thank him for joining me tonight. And I think we both owe a debt of thanks to the Chair for being so patient with us this evening.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT), for today, on account of illness in the family.

Mr. ROGERS (at the request of Mr. ARMEY), for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. FRANK of Massachusetts, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. MENENDEZ, for 5 minutes, today.

Mr. DEUTSCH, for 5 minutes, today.

Mr. RAHALL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. EHRLICH) to revise and extend their remarks and include extraneous material:)

Mr. GRAHAM, for 5 minutes, on May 9, 10, 11, and 12.

Mr. DORNAN, for 5 minutes, on May 10.

Mr. KINGSTON, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MCINTOSH, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. DELAURO) and to include extraneous matter:)

Mr. OBEY.

Mr. WARD.

Mr. HAMILTON in three instances.

Mr. KILDEE in two instances.

Mr. BECERRA.

Mr. RANGEL.

Ms. PELOSI in two instances.

Mr. ACKERMAN in two instances.

Mr. ENGEL.

Mr. DEFAZIO.

Mr. FOGLIETTA.

Mr. UNDERWOOD.

Mrs. MALONEY in two instances.

Mr. HALL of Ohio.

Mr. STOKES.

Mr. LANTOS.

Mr. JACOBS in two instances.

Mr. KENNEDY of Massachusetts.

Mr. DELLUMS.

Mr. REED.

Mr. FARR.

Mr. STARK.

Mr. JOHNSON of South Dakota.

Mr. CONDIT.

Mr. DINGELL.

Mr. HILLIARD.

Mr. BROWN of Ohio.

Mr. RICHARDSON.

Mr. OBERSTAR.

Mr. BERMAN.

Mr. LAFALCE.

Mr. TORRES.

(The following Members (at the request of Mr. EHRLICH) and to include extraneous matter:)

Mr. BAKER of California.

Mr. ROGERS.

Mr. SMITH of New Jersey.

Mr. WELLER.

Mr. DAVIS.

Mr. MARTINI.

Mr. NEY.

Mr. FORBES.

Mr. CASTLE.

Mr. SAXTON.

Mr. FLANAGAN.

Mr. PACKARD.

Mr. EWING.

Mr. GILMAN.

Mr. STUMP.

Mr. COOLEY.

Mr. TATE.

Mr. LEACH.

Mr. EMERSON.

Mr. BREWSTER.

(The following Members (at the request of Mr. MCINTOSH) and to include extraneous matter:)

Mrs. KENNELLY.

Mr. MONTGOMERY.

Ms. FURSE.

Mr. BACHUS.

Mr. LAUGHLIN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 103. An act entitled the "Lost Creek Land Exchange Act of 1955"; to the Committee on Resources.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

On May 8, 1995:

H.R. 421. An act to amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of Cook Inlet region, and for other purposes.

H.R. 517. An act to amend title V of Public Law 96–550, designating the Charo Culture Archeological Protection Sites, and for other purposes.

H.R. 1380. An act to provide a moratorium on certain class action lawsuits relating to the Truth in Lending Act.

ADJOURNMENT

Mr. MCINTOSH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 24 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 10, 1995, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

824. A letter from the director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of May 1, 1995, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 104–69); to the Committee on Appropriations and ordered to be printed.

825. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to South Korea, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

826. A letter from the Counsel to the President, The White House, transmitting notification that the White House is delivering to the House Committee on Banking and Financial Services classified documents that are responsive to the request for documents contained in House Resolution 80 and described in paragraphs (1) through (28) of that resolution; to the Committee on Banking and Financial Services.

827. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the provision of defense hardware and services to Canada (Transmittal No. DTC–19–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

828. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the provision of defense hardware and services to the People's Republic of China (Transmittal No. DTC–8–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

829. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the provision of defense hardware and services to Greece (Transmittal No. DTC–18–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

830. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the provision of defense hardware and services to Argentina (Transmittal No. DTC–20–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

831. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the Czech Republic (Transmittal No. DTC–21–95), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

832. A communication from the President of the United States, transmitting his declaration of a national emergency with respect to Iran, pursuant to 50 U.S.C. 1703(b) and 50 U.S.C. 1631 (H. Doc. No. 104–70); to the Committee on International Relations and ordered to be printed.

833. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Timothy Michael Carney, of Washington, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of the Sudan, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

834. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of

State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

835. A letter from the Navy Exchange Service Command, Department of the Navy, transmitting the annual pension plan report for the plan year ending December 31, 1992, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

836. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title 49, United States Code (Transportation), to eliminate the requirement for preemployment alcohol testing in the mass transit, railroad, motor carrier, and aviation industries, and for other purposes; to the Committee on Transportation and Infrastructure.

837. A letter from the U.S. Trade Representative, transmitting a report on recent developments regarding implementation of section 301 of the Trade Act of 1974, covering the period January through December 1994 and reflects the effectiveness of this trade remedy in eliminating or reducing foreign unfair trade practices, pursuant to 19 U.S.C. 2419; to the Committee on Ways and Means.

838. A letter from the Chairman, U.S. International Trade Commission, transmitting a draft of proposed legislation to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1977, pursuant to 31 U.S.C. 1110; to the Committee on Ways and Means.

839. A letter from the President, U.S. Institute of Peace, transmitting first, the report of the audit of the Institute's accounts for Fiscal Year 1994; and second, the Institute's report entitled "Building Peace—The First Decade and Beyond," pursuant to 22 U.S.C. 4607(h); jointly, to the Committees on Economic and Educational Opportunities and International Relations.

840. A letter from the Secretary, Department of Energy, transmitting the Department's Annual Report to the Congress on activities of the Department of Energy in response to recommendations and other interactions with the Defense Nuclear Facilities Safety Board, pursuant to 42 U.S.C. 2286e(b); jointly, to the Committees on Commerce and National Security.

841. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title 23, United States Code, to provide for the designation of the National Highway System, the establishment of certain financing improvements, the creation of State infrastructure banks, and for other purposes; jointly, to the Committees on Transportation and Infrastructure and Banking and Financial Services.

842. A letter from the Administrator, Small Business Administration, transmitting the annual report on minority small business and capital ownership development for fiscal year 1994, pursuant to Public Law 100-656, section 408 (102 Stat. 3877); jointly, to the Committees on Small Business and Government Reform and Oversight.

843. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to authorize privatization of the Naval Petroleum Reserves, and for other purposes; jointly, to the Committees on Commerce, National Security, the Budget, and Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 64. Resolution authorizing the 1995 Special Olympics Torch Relay to be run through the Capitol Grounds (Rept. 104-113). Referred to the House Calendar.

Mr. QUILLEN: Committee on Rules. House Resolution 140. Resolution providing for consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act (Rept. 104-114). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1266. A bill to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes; with an amendment (Rept. 104-115). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. TORRES:

H.R. 1578. A bill to amend the Indian Gaming Regulatory Act to provide adequate and certain remedies for sovereign tribal governments; to the Committee on Resources, and in addition to the Committees on the Judiciary, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of Ohio:

H.R. 1579. A bill to require providers of home infusion therapy services to be licensed and to limit physician referrals for home infusion therapy services in which the physician has a financial interest; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. CALVERT, Mr. ORTON, Mrs. VUCANOVICH, Mr. CREMEANS, Mr. HAYWORTH, Mr. STUMP, Mr. SKEEN, Mr. CRAPO, Mr. EMERSON, and Mr. SHADEGG):

H.R. 1580. A bill to amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hard rock mining sites on Federal lands, and for other purposes; to the Committee on Resources.

By Mr. COOLEY:

H.R. 1581. A bill to require the Secretary of Agriculture to convey certain lands under the jurisdiction of the Department of Agriculture to the city of Sumpter, OR; to the Committee on Resources.

By Mr. CUNNINGHAM (for himself, Mr. BILBRAY, Mr. HUNTER, and Mr. PACKARD):

H.R. 1582. A bill to amend the Clean Air Act to provide for the reclassification of downwind nonattainment areas, and for other purposes; to the Committee on Commerce.

By Mr. ENGLISH of Pennsylvania:

H.R. 1583. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage; to the Committee on Economic and Educational Opportunities.

By Mr. FRANK of Massachusetts:

H.R. 1584. A bill to provide that Federal and State courts and agencies may not require that legal citations in which copyright subsists be the only acceptable submission to such courts and agencies where alternatives exist; to the Committee on the Judiciary.

By Mr. HERGER:

H.R. 1585. A bill to expand the boundary of the Modoc National Forest to include lands presently owned by the Bank of California, N.A. Trustee, to facilitate a land exchange with the Forest Service, and for other purposes; to the Committee on Resources.

By Mr. JACOBS:

H.R. 1586. A bill to amend title II of the Social Security Act to establish a continuing disability review account in the Federal disability insurance trust fund which shall be available solely for expenditures necessary to carry out continuing disability reviews; to the Committee on Ways and Means.

By Mr. JACOBS:

H.R. 1587. A bill to amend title 28, United States Code, and the Social Security Act with respect to the establishment and jurisdiction of a U.S. Court of Appeals for the Social Security Circuit; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JOHNSON of South Dakota:

H.R. 1588. A bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather-related conditions; to the Committee on Ways and Means.

By Mr. KNOLLENBERG:

H.R. 1589. A bill to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage and overtime requirements individuals who volunteer their time in order to enhance their occupational opportunities; to the Committee on Economic and Educational Opportunities.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ARCHER (for himself and Mr. THOMAS):

H.R. 1590. A bill to require the Trustees of the Medicare trust funds to report recommendations on resolving projected financial imbalance in Medicare trust funds; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARTINEZ (for himself, Mr. FATTAH, Mr. DELLUMS, Ms. WATERS, Mr. CLAY, Mr. LEWIS of Georgia, Mr. ABERCROMBIE, Mr. OWENS, Mr. SCOTT, Ms. ROYBAL-ALLARD, Ms. VELAZQUEZ, Mrs. COLLINS of Illinois, Mr. TORRES, Mr. SERRANO, Mr. FOGLIETTA, and Mr. McDERMOTT):

H.R. 1591. A bill to establish a national public works program to provide incentives for the creation of jobs and address the restoration of infrastructure in communities across the United States, and for other purposes; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McKEON:

H.R. 1592. A bill to require the Postmaster General to redraw ZIP code boundaries to coincide with community boundaries; to the Committee on Government Reform and Oversight.

By Mr. MONTGOMERY (for himself, Mr. CLYBURN, and Mr. MASCARA):

H.R. 1593. A bill to amend title 38, United States Code, to provide for a Veterans' Employment and Training Bill of Rights, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SAXTON (for himself, Mr. ARMEY, Mr. HASTERT, Mr. ISTOOK, Mrs. KELLY, Mrs. SEASTRAND, Mr. HASTINGS of Washington, Mr. HOKE, Mr. COX, Mr. MANZULLO, Mr. EWING, Mr. SANFORD, Mr. LaHOOD, Mrs. MEYERS of Kansas, Mr. STUMP, Mr. SCARBOROUGH, Mr. UPTON, Mr. HEINEMAN, Mr. LARGENT, Mr. SMITH of Texas, Mr. THORNBERRY, Mr. DOOLITTLE, Mr. EHRLICH, Mr. ROHRABACHER, Mr. CUNNINGHAM, Mr. SALMON, Mr. BARTLETT of Maryland, Mr. BOEHNER, Mr. MILLER of Florida, Mrs. CHENOWETH, Mr. HERGER, Mr. BARTON of Texas, Mr. LATHAM, Mr. LIVINGSTON, Mr. GEKAS, Mr. HILLEARY, Mr. TALENT, Mr. WALSH, and Mr. DeLAY):

H.R. 1594. A bill to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans; to the Committee on Economic and Educational Opportunities.

By Mr. GINGRICH (for himself, Mr. GILMAN, Mr. HORN, Mr. LAZIO of New York, Mr. ZIMMER, Mr. SMITH of New Jersey, Mr. WELLER, Mr. DeLAY, Mr. PAXON, Mr. SOLOMON, Mr. McINTOSH, Ms. MOLINARI, Mr. HASTERT, Mr. ARCHER, Mrs. MYRICK, Mr. NUSSLE, Mrs. VUCANOVICH, Mr. BARR, Mr. TORKILDSEN, and Mr. BURTON of Indiana):

H.R. 1595. A bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes; to the Committee on International Relations.

By Mr. SAXTON (for himself and Mr. SMITH of New Jersey):

H.R. 1596. A bill to require the President to notify the Congress of certain arms sales to Saudi Arabia until certain outstanding commercial disputes between United States nationals and the government of Saudi Arabia are resolved; to the Committee on International Relations.

By Mr. STUMP (for himself, Mr. CALLAHAN, and Mr. EVERETT):

H.R. 1597. A bill to amend the Immigration and Nationality Act with respect to the authority of the Attorney General to parole aliens into the United States; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 1598. A bill to establish a definition of made in America or the equivalent thereof for purposes of Federal law; to the Committee on Government Reform and Oversight.

By Mr. SKAGGS (for himself, Ms. DeLAURO, Mr. ABERCROMBIE, Mr. JOHNSTON of Florida, Mr. YATES, Mr. FATTAH, Mr. GUTIERREZ, Mr. SHAYS, Mr. TORRICELLI, Mr. OWENS, Mrs. CLAYTON, Ms. PELOSI, Mr. SABO, Mr. BERMAN, Mr. BARRETT of Wisconsin, Mr. LEWIS of Georgia, Mr. ENGEL, Mr. TORRES, Mr. WARD, Mr. SERRANO, Mr. ROMERO-BARCELO, Mr. ACKERMAN, Mr. McDERMOTT, Mr. TUCKER, Ms. WATERS, Mr. FRAZER, Mr. COYNE, Mr. UNDERWOOD, Mr. MANTON, Ms. LOWEY, Mrs. COLLINS of Illinois, Mr. STARK, Mr. MARKEY, and Mr. SCHUMER):

H. Con. Res. 65. Concurrent resolution expressing the sense of the Congress that the Brady Handgun Violence Prevention Act, the assault weapons ban, and the restrictions on the transfer of handguns to juveniles are reasonable, important, and effective measures to reduce crimes of violence; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mrs. JOHNSON of Connecticut):

H. Res. 141. Resolution expressing the sense of the House regarding United States-Japan trade; to the Committee on Ways and Means.

By Mr. SCOTT (for himself, Mr. REED, Mr. OWENS, Mr. FATTAH, Mr. FRANK of Massachusetts, and Mr. BERMAN):

H. Res. 142. Resolution amending the Rules of the House of Representatives to allow proxy voting in committee in particular, limited circumstances; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

68. By the SPEAKER: Memorial of the Senate of the State of Hawaii, relative to urging the U.S. Congress to renew the highly successful U.S. Sugar Program in the 1995 farm bill; to the Committee on Agriculture.

69. Also, memorial of the Senate of the State of Hawaii, relative to urging the U.S. Congress to renew the highly successful U.S. Sugar Program in the 1995 farm bill; to the Committee on Agriculture.

70. Also, memorial of the Senate of the State of Washington, relative to requesting the United States to advocate for the admission of Taiwan to the United Nations; to the Committee on International Relations.

71. Also, memorial of the Senate of the State of Washington, relative to water adjudication; to the Committee on Resources.

72. Also, memorial of the House of Representatives of the State of Maine, relative to Federal mandates; to the Committee on the Judiciary.

73. Also, memorial of the House of Representatives of the State of Washington, relative to urging Congress to use transportation funds for transportation purposes; to the Committee on Transportation and Infrastructure.

74. Also, memorial of the House of Representatives of the State of Minnesota, relative to memorializing Congress to fund the Amtrak system to enable it to continue to serve Minnesota; to the Committee on Transportation and Infrastructure.

75. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing the Congress of the United States to enact legislation to allow Federal income tax deductions on medical expenditures and health insurance premiums purchased by the self-employed, and other individuals' to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DAVIS:

H.R. 1599. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Too Much Fun;* to the Committee on Transportation and Infrastructure.

By Mr. WISE:

H.R. 1600. A bill for the relief of Robert and Dorothy Shickle; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Mr. SCHUMER, Mr. MEEHAN, and Ms. LOFGREN.

H.R. 58: Mr. BARTON of Texas and Mr. McCRERY.

H.R. 65: Mr. DeFAZIO and Mr. BRYANT of Texas.

H.R. 67: Mr. MINGE, Mr. PETRI, and Mr. PORTER.

H.R. 70: Mr. BENTSEN and Mr. BARTON of Texas.

H.R. 89: Mr. HOSTETTLER.

H.R. 103: Ms. KAPTUR, Mr. McHUGH, Mr. FOLEY, Mr. EMERSON, and Mr. CRAMER.

H.R. 104: Mr. DeLAY.

H.R. 109: Mr. JOHNSON of South Dakota and Mrs. ROUKEMA.

H.R. 110: Mr. BURTON of Indiana.

H.R. 244: Mr. BLUTE and Mr. NEAL of Massachusetts.

H.R. 248: Mr. SERRANO.

H.R. 303: Mr. DeFAZIO and Mr. BRYANT of Texas.

H.R. 332: Mr. FALEOMAVAEGA.

H.R. 390: Mr. CREMEANS, Mr. BRYANT of Texas, Mr. WHITFIELD, Mr. SALMON, Mr. CRAPO, and Mr. BARRETT of Wisconsin.

H.R. 393: Mr. GEJDENSON.

H.R. 394: Mr. NETHERCUTT, Mr. CALLAHAN, Mr. ROHRABACHER, Mr. HORN, Mr. HASTING of Washington, Mr. JOHNSTON of Florida, Ms. LOFGREN, Mr. MILLER of Florida, Mr. SCHAEFER, Mr. DeFAZIO, Mr. FOLEY, Mr. CRAMER, Mr. BARTON of Texas, and Mr. CANADY.

H.R. 407: Mr. GANSKE.

H.R. 452: Mr. MEEHAN.

H.R. 468: Mr. FROST, Mr. WELLER, Mr. EVANS, Mr. FILNER, Mr. SOLOMON, Mr. SCHIFF, Mr. GEJDENSON, and Mr. GENE GREEN of Texas.

H.R. 470: Mr. BROWN of Ohio, Mr. KENNEDY of Massachusetts, Mr. SCHIFF, Mr. BLUTE, and Mr. MENENDEZ.

H.R. 488: Mr. CASTLE, Mr. DEUTSCH, Mr. FATTAH, Mr. FRISA, Ms. NORTON, Mr. UNDERWOOD, Mr. MANTON, Mr. LEWIS of Georgia, Mr. CHAPMAN, Mr. KLUG, and Mr. MARTINEZ.

H.R. 520: Mr. HOSTETTLER.

H.R. 522: Mrs. JOHNSON of Connecticut.

H.R. 526: Mr. BURR, Mr. BLILEY, and Mr. JOHNSON of South Dakota.

H.R. 530: Mr. CLEMENT, Mr. FILNER, Mr. TANNER, Mr. ORTON, Mr. GALLEGLY, Mr. McNULTY, and Mr. DUNCAN.

H.R. 553: Mrs. MEEK of Florida and Ms. JACKSON-LEE.

H.R. 580: Mr. HAYES, Mr. HALL of Ohio, Mr. KOLBE, Mr. ENSIGN, Mr. RIGGS, Mr. YOUNG of Florida, Mr. GOODLING, Mr. ROSE, Mr.

Spratt, Mrs. Lincoln, Mr. McInnis, Mr. Bunn of Oregon, Mr. Fields of Texas, Mr. Ehlers, Mrs. Chenoweth, Mr. Gutknecht, and Mr. Camp.

H.R. 623: Mr. Hefner.

H.R. 661: Mr. Emerson.

H.R. 704: Mr. Romero-Barcelo, Mr. Hefley, Mr. Frost, and Mr. Fields of Texas.

H.R. 733: Mr. Zimmer and Mr. Rush.

H.R. 734: Mr. Zimmer and Mr. Rush.

H.R. 745: Mr. Frank of Massachusetts.

H.R. 752: Mr. LaTourette.

H.R. 753: Ms. Eshoo, Mr. Serrano, and Mr. Vento.

H.R. 757: Mr. Stark.

H.R. 772: Ms. Danner, Mr. Kleczka, Mr. Pomeroy, Mr. Rose, Mr. Porter, Mr. Jacobs, Ms. Roybal-Allard, Mr. Mineta, Mr. Meehan, Mr. Cardin, Ms. Eshoo, Mr. Andrews, Mr. Moakley, Ms. McCarthy, Mr. Studds, Mr. Yates, and Mr. Kildee.

H.R. 783: Mr. Pete Geren of Texas, Mr. Skeen, Mr. Traficant, Mr. Holden, Mr. Graham, Mr. Brown of Ohio, Mr. Hoekstra, Mr. Brownback, Mr. Thornberry, and Mr. Calvert.

H.R. 784: Mr. Duncan, Mr. McCrery, Mr. Thornberry, Mr. Gallegly, and Mr. Hostettler.

H.R. 788: Mr. Barton of Texas.

H.R. 789: Mr. Norwood, Mr. Herger, Mr. Heineman, Mr. Doyle, Mr. Hobson, Mr. Laughlin, Mr. Gillmor, and Mr. Murtha.

H.R. 820: Mrs. Myrick, Mr. Ballenger, Mr. Klink, Mr. Weldon of Pennsylvania, Ms. Roybal-Allard, Mr. Barr, Mr. Murtha, and Mrs. Fowler.

H.R. 833: Mr. Shays.

H.R. 864: Mr. Hinchey, Mr. Rangel, Mr. Boucher, Mr. Parker, Mr. Cooley, and Mr. Shaw.

H.R. 873: Mr. Bentsen, Mr. Nadler, Mr. Luther, Mr. Farr, Mr. Evans, Mr. Torricelli, Mr. Martinez, Mr. Pallone, Mr. Lewis of Georgia, and Mr. Brownback.

H.R. 911: Mr. Holden and Mr. Sisisky.

H.R. 931: Ms. Lowey and Mr. Gutierrez.

H.R. 940: Ms. Brown of Florida, Mr. Dellums, Mr. Kildee, Mr. Matsui, Ms. Norton, Mr. Payne of New Jersey, Mr. Sawyer, Mr. Scott, Mr. Thompson, Ms. Woolsey, and Ms. Velazquez.

H.R. 945: Mr. Serrano, Ms. Lofgren, Mr. Weldon of Pennsylvania, Mr. Holden, Mr. Gekas, Mr. Saxton, Mr. Bass, Mr. Yates, Mr. Duncan, Mr. Pombo, Mr. Dornan, Mr. Underwood, Mr. Roberts, Mr. Ackerman, Mrs. Meek of Florida, Ms. Pelosi, Mrs. Meyers of Kansas, Mr. Oxley, Ms. Lowey, Mr. Engel, Mr. Hutchinson, Mr. Barrett of Wisconsin, Mr. Tiahrt, Mr. Zimmer, Mr. Riggs, Mr. Whitfield, Mr. Lazio of New York, Mr. Buyer, Mr. Schumer, Mr. Forbes, Mr. Herger, Mr. Torres, Mr. Weller, Mr. Wise, Mr. Frisa, Mr. Kanjorski, and Mr. Emerson.

H.R. 966: Mr. Barrett of Wisconsin, Mr. Conyers, Mr. Fazio of California, Ms. Danner, Mr. Heineman, Mr. McCollum, Ms. Norton, and Mr. Sanders.

H.R. 972: Mr. Hefner.

H.R. 983: Mr. Clay, Mr. Moakley, Mr. Farr, Mr. Lewis of Georgia, Mr. Oberstar, Mr. Sanders, Mr. Yates, Mr. Torres, and Mrs. Collins of Illinois.

H.R. 1021: Mr. Andrews and Mr. Stark.

H.R. 1023: Mr. Lantos, Mr. Andrews, Mr. Doyle, and Mr. Oberstar.

H.R. 1024: Mr. Goodlatte, Mr. Greenwood, Mr. Boehner, and Mr. Duncan.

H.R. 1043: Mrs. Fowler.

H.R. 1045: Mr. Buyer and Mr. Burton of Indiana.

H.R. 1066: Mr. Talent.

H.R. 1073: Ms. Lofgren, Mr. Farr, Mr. Gutierrez, Mr. Ackerman, Mr. LaFalce, and Mr. Durbin.

H.R. 1074: Mr. Farr, Mr. Gutierrez, Mr. Ackerman, and Mr. LaFalce.

H.R. 1079: Mr. Diaz-Balart, Mr. Serrano, Mrs. Seastrand, Mr. Wolf, Ms. Lowey, Mr. Rahall, Mr. Hall of Texas, Mr. Hyde, Mr. Stump, Ms. Brown of Florida, Mr. Dornan, Mr. Blute, Mr. Dicks, Mrs. Johnson of Connecticut, and Mr. Bilirakis.

H.R. 1085: Mr. Bunn of Oregon and Mr. Traficant.

H.R. 1090: Mr. Bishop, Mr. Filner, and Mr. Serrano.

H.R. 1099: Mr. Saxton, Mr. Crapo, Mr. Payne of Virginia, Mr. McCrery, Mr. Herger, Mr. Lewis of Georgia, Mr. Ensign, and Ms. Woolsey.

H.R. 1103: Mr. Foglietta.

H.R. 1114: Mr. Gunderson, Mr. Royce, Mr. DeLay, Mr. Pete Geren of Texas, Ms. Dunn of Washington, Mr. Bilbray, Mr. Ehlers, Mr. Hilliard, Mr. Rohrabacher, and Mr. Livingston.

H.R. 1118: Mr. Hunter and Mr. Norwood.

H.R. 1119: Mr. Abercrombie, Mr. King, Mr. Martinez, and Mr. Johnson of South Dakota.

H.R. 1120: Mr. Cooley and Mrs. Waldholtz.

H.R. 1136: Mr. Andrews, Mr. Becerra, Mr. Bishop, Mr. Borski, Mr. Clyburn, Mr. Engel, Mr. Foglietta, Mr. Gutierrez, Mr. Matsui, Mr. McDermott, Mr. Menendez, Mr. Pallone, Ms. Rivers, Mr. Sanders, Mr. Scott, Mr. Solomon, Mr. Towns, and Mr. Wynn.

H.R. 1143: Mr. Serrano.

H.R. 1144: Mr. Serrano.

H.R. 1145: Mr. Serrano.

H.R. 1152: Mr. Lipinski, Mr. Ackerman, Ms. Norton, Mr. Frank of Massachusetts, Mr. Smith of New Jersey, Ms. Kaptur, Ms. Lowey, and Ms. Furse.

H.R. 1160: Mr. Barrett of Wisconsin.

H.R. 1172: Mr. Towns, Mr. Hastings of Washington, Mr. Pickett, Mr. Schiff, and Mr. Manton.

H.R. 1173: Mr. Tiahrt.

H.R. 1204: Mr. Boehner, Mr. Serrano, Mr. Franks of New Jersey, Mr. Pete Geren of Texas, Mr. Rivers, Mr. Ehlers, Mr. Wyden, and Mr. Payne of Virginia.

H.R. 1229: Mr. Torricelli, Mr. Evans, Mr. Bentsen, Mr. Stupak, Mr. Martinez, and Mr. de la Garza.

H.R. 1243: Mr. Burton of Indiana, Mr. Frank of Massachusetts.

H.R. 1255: Mr. Bartlett of Maryland, Mr. Cooley, and Mr. Manzullo.

H.R. 1259: Mr. Thompson.

H.R. 1264: Mrs. Clayton, Mr. Fattah, and Mr. Serrano.

H.R. 1274: Mr. Velazquez and Mr. Moorhead.

H.R. 1291: Mr. Goss, Mr. Underwood, Mr. Poshard, and Mr. Zimmer.

H.R. 1318: Mr. Norwood.

H.R. 1328: Ms. Molinari and Mr. Fattah.

H.R. 1331: Mrs. Clayton and Mr. Smith of New Jersey.

H.R. 1362: Mr. Knollenberg, Mr. Metcalf, Mr. Taylor of North Carolina, Mr. Lucas, Mr. Minge, Mr. Hayworth, Mr. Barr, Mr. Linder, Mrs. Waldholtz, Mr. Pickett, Mr. Gallegly, Mr. Jones, and Ms. Furse.

H.R. 1385: Mr. Hefner.

H.R. 1422: Mr. Evans, Mr. Stupak, Mr. Hilliard, Ms. Rivers, and Mr. Serrano.

H.R. 1442: Mrs. Kennelly and Mrs. Schroeder.

H.R. 1445: Mr. Bono, Mr. Barr, and Mr. Frank of Massachusetts.

H.R. 1448: Mr. Lewis of California, Mr. Traficant, Mr. Martinez, Mr. Jefferson, Mr. McHale, Mr. Pickett, Mr. Skelton, Mr. Rohrabacher, Mr. Cox, Mr. Livingston, and Mr. Young of Florida.

H.R. 1458: Mr. Hefner.

H.R. 1460: Mr. King, Ms. Brown of Florida, Mr. Hefley, Mr. McCollum, Mr. Minge, Mr. Royce, Mr. Underwood, and Mr. Schumer.

H.R. 1468: Mr. Hefner.

H.R. 1482: Mr. Hefner.

H.R. 1487: Mr. Weller, Mr. Metcalf, Mr. Royce, and Mr. Bono.

H.R. 1496: Mr. Barton of Texas.

H.R. 1499: Mr. Jacobs, Mrs. Seastrand, Ms. Kaptur, Mrs. Morella, Mr. Stupak, Mr. Canady, Mr. Barrett of Wisconsin, Mr. Upton, Ms. Lofgren, and Mr. Ney.

H.R. 1500: Ms. DeLauro, Mr. Dixon, Ms. Eshoo, Mr. Gordon, Mr. Kennedy of Massachusetts, and Mr. Lipinski.

H.R. 1512: Mrs. Chenoweth.

H.R. 1516: Mr. Minge and Mr. Poshard.

H.R. 1522: Mr. Stark and Mr. Lewis of Georgia.

H.R. 1523: Mr. Stark and Mr. Lewis of Georgia.

H.R. 1524: Mr. Stark and Mr. Lewis of Georgia.

H.R. 1525: Mr. Stark and Mr. Lewis of Georgia.

H.R. 1533: Mr. Buyer, Mr. Quillen, Mr. Sensenbrenner, Mr. Gekas, Mr. Goodlatte, Mr. Flanagan, Mr. Foley, Mr. Hancock, Mr. Hilleary, Mrs. Myrick, and Mr. Duncan.

H.R. 1547: Mr. Olver.

H.R. 1555: Mr. Deutsch.

H.R. 1559: Mr. Brown of California, Mr. Frost, Mr. Kleczka, Mr. Lipinski, Mr. Smith of New Jersey, Mrs. Schroeder, Mr. Schumer, Mr. Spratt, and Mr. Stark.

H.R. 1560: Mr. Chapman, Mr. Frost, Mr. Dellums, Mr. Moakley, Mr. Murtha, and Mr. Sabo.

H.J. Res. 48: Mr. Barton of Texas.

H.J. Res. 74: Mr. Royce and Mr. Souder.

H.J. Res. 79: Mr. Hamilton, Mr. Kanjorski, Mr. Lewis of California, Mr. Roemer, and Ms. Ros-Lehtinen.

H. Con. Res. 21: Ms. Lowey and Ms. Lofgren.

H. Con. Res. 25: Mr. Shays.

H. Con. Res. 35: Mr. Manton.

H. Con. Res. 42: Mr. Hamilton, Mr. Traficant, Mr. Hastings of Florida, Mr. Klink, Mr. Sisisky, Mr. Meehan, Mrs. Morella, Mr. Kennedy of Massachusetts, Mr. Torres, and Mr. Brown of Ohio.

H. Con. Res. 45: Mr. Pastor, Mr. Evans, Mr. Romero-Barceló, Mr. Clinger, and Mr. Ackerman.

H. Con. Res. 50: Mr. Sisisky, Mr. Frank of Massachusetts, Mr. Ackerman, Mr. Schumer, and Mr. Meehan.

H. Con. Res. 54: Mr. Klink.

H. Con. Res. 63: Mr. Barton of Texas, Mr. Schumer, Mr. Zimmer, and Mr. Jones.

H. Con. Res. 64: Mr. Traficant.

H. Res. 122: Mr. DeFazio and Mr. Serrano.

H. Res. 124: Mr. Andrews, Ms. McKinney, and Mr. Torres.

H. Res. 138: Mr. Shays, Mr. Herger, Mr. Smith of Texas, and Mr. Largent.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 743: Mr. Fattah.

H.J. Res. 87: Mr. Salmon.

PETITIONS, ETC.

Under clause 1 of rule XXII.

20. The SPEAKER presented a petition of the Alexandria City Council, Alexandria, VA, relative to welfare reform; which was referred to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follow:

H.R. 961

OFFERED BY: MR. BACHUS

AMENDMENT NO. 1: Page 146, line 21, after the period insert the following:

At a minimum, the term 'small business' shall include a corporation, partnership, unincorporated business, and sole proprietorship employing 100 or fewer full time employees.

H.R. 961

OFFERED BY: MR. BACHUS

AMENDMENT NO. 2: Page 213, after line 5, insert the following:

SEC. 507. FEDERAL POWER ACT PART I PROJECTS.

Section 511(a) (33 U.S.C. 1371(a)) is amended by striking ", or (3)" and inserting the following: "; (3) applying to hydropower projects within the jurisdiction of the Federal Energy Regulatory Commission or its successors under the authority of part I of the Federal Power Act (16 U.S.C. 791 et seq.); except that water quality certification, unless waived or denied, shall be issued for such projects under section 401 and the water quality conditions in those certifications shall become conditions on project licenses and except that any water quality certification conditions or denial issued under section 401 shall be limited to consideration of narrative and numeric water quality criteria adopted in water quality standards under section 303 and such conditions shall not regulate, or such denial be based on, water use or water quantities; or (4)".

Renumber subsequent sections of the bill and conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MR. BOEHLERT

AMENDMENT NO. 3: Page 239, strike line 3 and all that follows through line 22 on page 322 and insert the following:

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wetlands and Watershed Management Act of 1995".

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares the following:

(1) Wetlands perform a number of valuable functions needed to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including—

(A) reducing pollutants (including nutrients, sediment, and toxics) from nonpoint and point sources;

(B) storing, conveying, and purifying flood and storm waters;

(C) reducing both bank erosion and wave and storm damage to adjacent lands and trapping sediment from upland sources;

(D) providing habitat and food sources for a broad range of commercial and recreational fish, shellfish, and migratory wildlife species (including waterfowl and endangered species); and

(E) providing a broad range of recreational values for canoeing, boating, birding, and nature study and observation.

(2) Original wetlands in the contiguous United States have been reduced by an estimated 50 percent and continue to disappear at a rate of 200,000 to 300,000 acres a year. Many of these original wetlands have also been altered or partially degraded, reducing their ecological value.

(3) Wetlands are highly sensitive to changes in water regimes and are, therefore, susceptible to degradation by fills, drainage, grading, water extractions, and other activities within their watersheds which affect the quantity, quality, and flow of surface and ground waters. Protection and management of wetlands, therefore, should be integrated with management of water systems on a watershed basis. A watershed protection and management perspective is also needed to understand and reverse the gradual, continued destruction of wetlands that occurs due to cumulative impacts.

(4) Wetlands constitute an estimated 5 percent of the Nation's surface area. Because much of this land is in private ownership wetlands protection and management strategies must take into consideration private property rights and the need for economic development and growth. This can be best accomplished in the context of a cooperative and coordinated Federal, State, and local strategy for data gathering, planning, management, and restoration with an emphasis on advance planning of wetlands in watershed contexts.

(b) PURPOSES.—The purposes of this Act are—

(1) to help create a coordinated national wetland management effort with efficient use of scarce Federal, State, and local financial and manpower resources to protect wetland functions and values and reduce natural hazard losses;

(2) to help reverse the trend of wetland loss in a fair, efficient, and cost-effective manner;

(3) to reduce inconsistencies and duplication in Federal, State, and local wetland management efforts and encourage integrated permitting at the Federal, State, and local levels;

(4) to increase technical assistance, cooperative training, and educational opportunities for States, local governments, and private landowners;

(5) to help integrate wetland protection and management with other water resource management programs on a watershed basis such as flood control, storm water management, allocation of water supply, protection of fish and wildlife, and point and nonpoint source pollution control;

(6) to increase regionalization of wetland delineation and management policies within a framework of national policies through advance planning of wetland areas, programmatic general permits and other approaches and the tailoring of policies to ecosystem and land use needs to reflect significant watershed variance in wetland resources;

(7) to address the cumulative loss of wetland resources;

(8) to increase the certainty and predictability of planning and regulatory policies for private landowners;

(9) to help achieve no overall net loss and net gain of the remaining wetland base of the United States through watershed-based restoration strategies involving all levels of government;

(10) to restore and create wetlands in order to increase the quality and quantity of the wetland resources and by so doing to restore and maintain the quality and quantity of the waters of the United States; and

(11) to provide mechanisms for joint State, Federal, and local development and testing of approaches to better protect wetland resources such as mitigation banking.

SEC. 803. STATE, LOCAL, AND LANDOWNER TECHNICAL ASSISTANCE AND COOPERATIVE TRAINING.

(a) STATE AND LOCAL TECHNICAL ASSISTANCE.—Upon request, the Administrator, or the Secretary of the Army, as appropriate, shall provide technical assistance to State and local governments in the development and implementation of State and local government permitting programs under sections 404(e) and 404(h) of the Federal Water Pollution Control Act, State wetland conservation plans under section 805, and regional or local wetland management plans under section 805.

(b) COOPERATIVE TRAINING.—The Administrator and the Secretary, in cooperation with the Coordinating Committee established pursuant to section 804, shall conduct training courses for States and local governments involving wetland delineation, utilization of wetlands in nonpoint pollution control, wetland and stream restoration, wetland planning, wetland evaluation, mitigation banking, and other subjects deemed appropriate by the Administrator or Secretary.

(c) PRIVATE LANDOWNER TECHNICAL ASSISTANCE.—The Administrator and Secretary shall, in cooperation with the Coordination Committee, and appropriate Federal agencies develop and provide to private landowners guidebooks, pamphlets, or other materials and technical assistance to help them in identifying and evaluating wetlands, developing integrated wetland management plans for their lands consistent with the goals of this Act and the Federal Water Pollution Control Act, and restoring wetlands.

SEC. 804. FEDERAL, STATE, AND LOCAL GOVERNMENT COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a Federal, State, and Local Government Wetlands Coordinating Committee (hereinafter in this section referred to as the "Committee").

(b) FUNCTIONS.—The Committee shall—

(1) help coordinate Federal, State, and local wetland planning, regulatory, and restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower and resources at all levels of government;

(2) provide comments to the Secretary of the Army or Administrator in adopting regulatory, policy, program, or technical guidance affecting wetland systems;

(3) help develop and field test, national policies prior to implementation such as wetland, delineation, classification of wetlands, methods for sequencing wetland mitigation responses, the utilization of mitigation banks;

(4) help develop and carry out joint technical assistance and cooperative training programs as provided in section 803;

(5) help develop criteria and implementation strategies for facilitating State conservation plans and strategies, local and regional wetland planning, wetland restoration and creation, and State and local permitting programs pursuant to section 404(e) or 404(g) of the Federal Water Pollution Control Act; and

(6) help develop a national strategy for the restoration of wetland ecosystems pursuant to section 6 of this Act.

(c) MEMBERSHIP.—The Committee shall be composed of 18 members as follows:

(1) The Administrator or the designee of the Administrator.

(2) The Secretary or the designee of the Secretary.

(3) The Director of the United States Fish and Wildlife Service or the designee of the Director.

(4) The Chief of the Natural Resources Conservation Service or the designee of the Chief.

(5) The Undersecretary for Oceans and Atmosphere or the designee of the Under Secretary.

(6) One individual appointed by the Administrator who will represent the National Governor's Association.

(7) One individual appointed by the Administrator who will represent the National Association of Counties.

(8) One individual appointed by the Administrator who will represent the National League of Cities.

(9) One State wetland expert from each of the 10 regions of the Environmental Protection Agency. Each member to be appointed under this paragraph shall be jointly appointed by the Governors of the States within the Environmental Protection Agency's region. If the Governors from a region cannot agree on such a representative, they will each submit a nomination to the Administrator and the Administrator will select a representative from such region.

(d) TERMS.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

(e) VACANCIES.—A vacancy in the Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

(f) PAY.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) COCHAIRPERSONS.—The Administrator and one member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) (selected by such members) shall serve as cochairpersons of the Committee.

(h) QUORUM.—Two-thirds of the members of the Committee shall constitute a quorum but a lesser number may hold meetings.

(i) MEETINGS.—The Committee shall hold its first meeting not later than 120 days after the date of the enactment of this Act. The Committee shall meet at least twice each year thereafter. Meetings will be opened to the public.

SEC. 805. STATE AND LOCAL WETLAND CONSERVATION PLANS AND STRATEGIES; GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.

(a) STATE WETLAND CONSERVATION PLANS AND STRATEGIES.—Subject to the requirements of this section, the Administrator shall make grants to States and tribes to assist in the development and implementation of wetland conservation plans and strategies. More specific goals for such conservation plans and strategies may include:

(1) Inventorying State wetland resources, identifying individual and cumulative losses, identifying State and local programs applying to wetland resources, determining gaps in such programs, and making recommendations for filling those gaps.

(2) Developing and coordinating existing State, local, and regional programs for wetland management and protection on a watershed basis.

(3) Increasing the consistency of Federal, State, and local wetland definitions, delineation, and permitting approaches.

(4) Mapping and characterizing wetland resources on a watershed basis.

(5) Identifying sites with wetland restoration or creation potential.

(6) Establishing management strategies for reducing causes of wetland degradation and restoring wetlands on a watershed basis.

(7) Assisting regional and local governments prepare watershed plans for areas with a high percentage of lands classified as wetlands or otherwise in need of special management.

(8) Establishing and implementing State or local permitting programs under section 404(e) or 404(h) of the Federal Water Pollution Control Act.

(b) REGIONAL AND LOCAL WETLAND PLANNING, REGULATION, AND MANAGEMENT PROGRAMS.—Subject to the requirements of this section, the Administrator shall make grants to States which will, in turn, use this funding to make grants to regional and local governments to assist them in adopting and implementing wetland and watershed management programs consistent with goals stated in section 101 of the Federal Water Pollution Control Act and section 802 of this Act. Such plans shall be integrated with (where appropriate) or coordinated with planning efforts pursuant to section 319 of the Federal Water Pollution Control Act. Such programs shall, at a minimum, involve the inventory of wetland resources and the adoption of plans and policies to help achieve the goal of no net loss of wetland resources on a watershed basis. Other goals may include, but are not limited to:

(1) Integration of wetland planning and management with broader water resource and land use planning and management, including flood control, water supply, storm water management, and control of point and nonpoint source pollution.

(2) Adoption of measures to increase consistency in Federal, State, and local wetland definitions, delineation, and permitting approaches.

(3) Establishment of management strategies for restoring wetlands on a watershed basis.

(c) GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.—Subject to the requirements of this section, the Administrator may make grants to States which assist the Federal Government in the implementation of the section 404 Federal Water Pollution Control program through State assumption of permitting pursuant to sections 404(g) and 404(h) of such Act through State permitting through a State programmatic general permit pursuant to section 404(e) of such Act or through monitoring and enforcement activities. In order to be eligible to receive a grant under this section a State shall provide assurances satisfactory to the Administrator that amounts received by the State in grants under this section will be used to issue regulatory permits or to enforce regulations consistent with the overall goals of section 802 and the standards and procedures of section 404(g) or 404(e) of this Act.

(d) MAXIMUM AMOUNT.—No State may receive more than $500,000 in total grants under subsections (a), (b), and (c) in any fiscal year and more than $300,000 in grants for subsection (a), (b), or (c), individually.

(e) FEDERAL SHARE.—The Federal share of the cost of activities carried out using amounts made available in grants under this section shall not exceed 75 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 806. NATIONAL COOPERATIVE WETLAND ECOSYSTEM RESTORATION STRATEGY.

(a) DEVELOPMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in cooperation with other Federal agencies, State, and local governments, and representatives of the private sector, shall initiate the development of a National Cooperative Wetland Ecosystem Restoration Strategy.

(b) GOALS.—The goal of the National Cooperative Wetland Ecosystem Restoration Strategy shall be to restore damaged and degraded wetland and riparian ecosystems consistent with the goals of the Water Pollution Control Amendments and the goals of section 802, and the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

(c) FUNCTIONS.—The National Cooperative Wetland Ecosystem Restoration Strategy shall—

(1) be designed to help coordinate and promote restoration efforts by Federal, State, regional, and local governments and the private sector, including efforts authorized by the Coastal Wetlands Planning, Protection, and Restoration Act, the North American Waterfowl Management Plan, the Wetlands Reserve Program, and the wetland restoration efforts on Federal, State, local, and private lands;

(2) involve the Federal, State, and local Wetlands Coordination Committee established pursuant to section 804;

(3) inventory and evaluate existing restoration efforts and make suggestions for the establishment of new watershed specific efforts consistent with existing Federal programs and State, regional, and local wetland protection and management efforts;

(4) evaluate the role presently being played by wetland restoration in both regulatory and nonregulatory contexts and the relative success of wetland restoration in these contexts;

(5) develop criteria for identifying wetland restoration sites on a watershed basis, procedures for wetlands restoration, and ecological criteria for wetlands restoration; and

(6) identify regulatory obstacles to wetlands ecosystem restoration and recommend methods to reduce such obstacles.

SEC. 807. PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

(a) Section 404(a) (33 U.S.C. 1344) is amended by adding at the end thereof the following: "The Secretary shall, in cooperation with the Administrator, establish a permit monitoring and tracking programs on a watershed basis to monitor the cumulative impact of individual and general permits issued under this section. This program shall determine the impact of permitted activities in relationship to the no net loss goal. Results shall be reported biannually to Congress.".

(b) Paragraph (1) of section 404(e) is amended by inserting "local," before "State, regional, or nationwide basis" in the first sentence.

(c) Paragraph (2) of section 404(e) is amended by striking the period at the end and inserting "or a State or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State or local programmatic general permits.".

(d) Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(3) Consistent with the following requirements, the Secretary may, after notice and opportunity for public comment, issue State or local programmatic general permits for the purpose of avoiding unnecessary duplication of regulations by State, regional, and local regulatory programs:

"(A) The Secretary may issue a programmatic general permit based on a State, regional, or local government regulatory program if that general permit includes adequate safeguards to ensure that the State, regional, or local program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the environment, including all waters of the United States, and for Federal interests, as is provided by this section and by the Federal permitting program pursuant to section 404(a). Such safeguards shall include provisions whereby the Corps District Engineer and the Regional Administrators or Directors of the Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Marine Fisheries Service (where appropriate), shall have an opportunity to review permit applications submitted to the State, regional, or local regulatory agency which would have more than minimal individual or cumulative adverse impacts on the environment, attempt to resolve any environmental concern or protect any Federal interest at issue, and, if such concern is not adequately addressed by the State, local, or regional agency, require the processing of an individual Federal permit under this section for the specific proposed activity. The Secretary shall ensure that the District Engineer will utilize this authority to protect all Federal interests including, but not limited to, national security, navigation, flood control, Federal endangered or threatened species, Federal interests under the Wild and Scenic Rivers Act, special aquatic sites of national importance, and other interests of overriding national importance. Any programmatic general permit issued under this subsection shall be consistent with the guidelines promulgated to implement subsection (b)(1).

"(B) In addition to the requirements of subparagraph (A), the Secretary shall not promulgate any local or regional programmatic general permit based on a local or regional government's regulatory program unless the responsible unit of government has also adopted a wetland and watershed management plan and is administering regulations to implement this plan. The watershed management plan shall include—

"(i) the designation of a local or regional regulatory agency which shall be responsible for issuing permits under the plan and for making reports every 2 years on implementation of the plan and on the losses and gains in functions and acres of wetland within the watershed plan area;

"(ii) mapping of—

"(I) the boundary of the plan area;

"(II) all wetlands and waters within the plan area as well as other areas proposed for protection under the plan; and

"(III) proposed wetland restoration or creation sites with a description of their intended functions upon completion and the time required for completion;

"(iii) a description of the regulatory policies and standards applicable to all wetlands and waters within the plan areas and all activities which may affect these wetlands and waters that will assure, at a minimum, no net loss of the functions and acres of wetlands within the plan area; and

"(iv) demonstration that the regulatory agency has the legal authority and scientific monitoring capability to carry out the proposed plan including the issuance, monitoring, and enforcement of permits in compliance with the plan.".

(e) Section 404(f) is amended by adding the following:

"(3)(A) For purposes of this section, the following shall not be considered navigable waters:

"(i) Irrigation ditches excavated in uplands.

"(ii) Artificially irrigated areas which would revert to uplands if the irrigation ceased.

"(iii) Artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and which are used exclusively for stock watering, irrigation, or rice growing.

"(iv) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons.

"(v) Temporary, water filled depressions created in uplands incidental to construction activity.

"(vi) Pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

"(vii) Artificial stormwater detention areas and artificial sewage treatment areas which are not modified natural waters.

"(B) Subparagraph (A) shall not apply to a particular water body unless the person desiring to conduct an activity in that water body is able to demonstrate that the water body qualifies under subparagraph (A) for exemption from regulation under this section.".

SEC. 808. TECHNICAL ASSISTANCE TO PRIVATE LANDOWNERS, CODIFICATION OF REGULATIONS AND POLICIES.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(u)(1) The Secretary and the Administrator shall in cooperation with the United States Fish and Wildlife Service, Natural Resources Conservation Service, and National Marine Fisheries Service provide technical assistance to private landowners in delineation of wetlands and the planning and management of their wetlands. This assistance shall include—

"(A) the delineation of wetland boundaries within 90 days (providing on the ground conditions allow) of a request for such delineation for a project with a proposed individual permit application under this section and a total assessed value of less than $15,000; and

"(B) the provision of technical assistance to owners of wetlands in the preparation of wetland management plans for their lands to protect and restore wetlands and meet other goals of this Act, including control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

"(2) The Secretary shall prepare, update on a biannual basis, and make available to the public for purchase at cost, an indexed publication containing all Federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities in wetland areas pursuant to section 404(a). The Secretary and the Administrator shall also prepare and distribute brochures and pamphlets for the public addressing—

"(A) the delineation of wetlands,

"(B) wetland permitting requirements; and

"(C) wetland restoration and other matters considered relevant.".

SEC. 809. DELINEATION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(v) The United States Army Corps of Engineers, the United States Environmental Protection Agency, and other Federal agencies shall use the 1987 Corps of Engineers Manual for the Delineation of Jurisdictional Wetlands pursuant to this section until a new manual has been prepared and formally adopted by the Corps and the Environmental Protection Agency with input from the United States Fish and Wildlife Service, Natural Resources, Natural Resources Conservation Service, and other relevant agencies and adopted after field testing, hearing, and public comment. Any new manual shall take into account the conclusions of the National Academy of Sciences panel concerning the delineation of wetlands. The Corps in cooperation with the Environmental Protection Agency shall develop materials and conduct training courses for consultants, State, and local governments, and landowners explaining the use of the corps 1987 wetland manual in the delineation of wetland areas. The Corps in cooperation with the Environmental Protection Agency may also, in cooperation with the States, develop supplemental criteria and procedures for identification of regional wetland types. Such criteria and procedures may include supplemental plant and soil lists and supplementary technical criteria pertaining to wetland hydrology, soils, and vegetation.".

SEC. 810. FAST TRACK FOR MINOR PERMITS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(w)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations to explore the review and practice of individual permits for minor activities. Minor activities include activities of 1 acre or less in size which also have minor direct, secondary, or cumulative impacts.

"(2) Permit applications for minor permits shall ordinarily be processed within 60 days of the receipt of completed application.

"(3) The Secretary shall establish fast-track field teams or other procedures in the individual offices sufficient to expedite the processing of the individual permits involving minor activities.".

SEC. 811. COMPENSATORY MITIGATION.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(x) GENERAL REQUIREMENTS.—(1) Each permit issued under this section that results in loss of wetland functions or acreage shall require compensatory mitigation. The preferred sequence of mitigation options is as set forth in subparagraph (A) and (C). However, the Secretary shall have sufficient flexibility to approve practical options that provide the most protection to the resource—

"(A) measures shall first be undertaken by the permittee to avoid any adverse effects on wetlands caused by activities authorized by the permit.

"(B) measures shall be undertaken by the permittee to minimize any such adverse effects that cannot be avoided;

"(C) measures shall then be undertaken by the permittee to compensate for adverse impacts on wetland functions, values, and acreage;

"(D) where compensatory mitigation is used, preference shall be given to in-kind restoration on the same water body and within the same local watershed;

"(E) where on-site and in-kind compensatory mitigation are impossible, impractical, would fail to work in the circumstances, or would not make ecological sense, off-site and/or out-of-kind compensatory mitigation may be permitted within the watershed including participation in cooperative mitigation ventures or mitigation banks as provided in section 404(y).

"(2) The Secretary in consultation with the Administrator shall ensure that compensable mitigation by a permitee—

"(A) is a specific, enforceable condition of the permit for which it is required;

"(B) will meet defined success criteria; and

"(C) is monitored to ensure compliance with the conditions of the permit and to determine the effectiveness of the mitigation in compensating for the adverse effects for which it is required.".

SEC. 812. COOPERATIVE MITIGATION VENTURES AND MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(y)(1) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Administrator shall jointly issue rules for a system of cooperative mitigation ventures and wetland banks. Such rules shall, at the minimum, address the following topics:

"(A) Mitigation banks and cooperative ventures may be used on a watershed basis to compensate for unavoidable wetland losses which cannot be compensated on-site due to inadequate hydrologic conditions, excessive sedimentation, water pollution, or other problems. Mitigation banks and cooperative ventures may also be used to improve the potential success of compensatory mitigation through the use of larger projects, by locating projects in areas in more favorable short-term and long-term hydrology and proximity to other wetlands and waters, and by helping to ensure short-term and long-term project protection, monitoring, and maintenance.

"(B) Parties who may establish mitigation banks and cooperative mitigation ventures for use in specific context and for particular types of wetlands may include government agencies, nonprofits, and private individuals.

"(C) Surveys and inventories on a watershed basis of potential mitigation sites throughout a region or State shall ordinarily be required prior to the establishment of mitigation banks and cooperative ventures pursuant to this section.

"(D) Mitigation banks and cooperative mitigation ventures shall be used in a manner consistent with the sequencing requirements to mitigate unavoidable wetland impacts. Impacts should be mitigated within the watershed and water body if possible with on-site mitigation preferable as set forth in section 404(x).

"(E) The long-term security of ownership interests of wetlands and uplands on which projects are conducted shall be insured to protect the wetlands values associated with those wetlands and uplands;

"(F) Methods shall be specified to determine debits by evaluating wetland functions, values, and acreages at the sites of proposed permits for discharges or alternations pursuant to subsections (a), (c), and (g) and methods to be used to determine credits based upon functions, values, and acreages at the times of mitigation banks and cooperative mitigation ventures.

"(G) Geographic restrictions on the use of banks and cooperative mitigation ventures shall be specified. In general, mitigation banks or cooperative ventures shall be located on the same water body as impacted wetlands. If this is not possible or practical, banks or ventures shall be located as near as possible to impacted projects with preference given to the same watershed where the impact is occurring.

"(H) Compensation ratios for restoration, creation, enhancement, and preservation reflecting and overall goal of no net loss of function and the status of scientific knowledge with regard to compensation for individual wetlands, risks, costs, and other relevant factors shall be specified. A minimum restoration compensation ratio of 1:1 shall be required for restoration of lost acreage with larger compensation ratios for wetland creation, enhancement and preservation.

"(I) Fees to be charged for participation in a bank or cooperative mitigation venture shall be based upon the costs of replacing lost functions and acreage on-site and off-site; the risks of project failure, the costs of long-term maintenance, monitoring, and protection, and other relevant factors.

"(J) Responsibilities for long-term monitoring, maintenance, and protection shall be specified.

"(K) Public review of proposals for mitigation banks and cooperative mitigation ventures through one or more public hearings shall be provided.

"(2) The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for creating and implementing mitigation banks and cooperative ventures and for evaluating alternative approaches for mitigation banks and cooperative mitigation ventures as a means of contributing to the goals established by section 101(a)(8) or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403). The Secretary shall also monitor and evaluate existing banks and cooperative ventures and establish a number of such banks and cooperative ventures to test and demonstrate:

"(A) The technical feasibility of compensation for lost on-site values through off-site cooperative mitigation ventures and mitigation banks.

"(B) Techniques for evaluating lost wetland functions and values at sites for which permits are sought pursuant to section 404(a) and techniques for determining appropriate credits and debits at the sites of cooperative mitigation ventures and mitigation banks.

"(C) The adequacy of alternative institutional arrangements for establishing and administering mitigation banks and cooperative mitigation ventures.

"(D) The appropriate geographical locations of bank or cooperative mitigation ventures in compensation for lost functions and values.

"(E) Mechanisms for ensuring short-term and long-term project monitoring and maintenance.

"(F) Techniques and incentives for involving private individuals in establishing and implementing mitigation banks and cooperative mitigation ventures.

Not later than 3 years after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report evaluating mitigation banks and cooperative ventures. The Secretary shall also, within this time period, prepare educational materials and conduct training programs with regard to the use of mitigation banks and cooperative ventures.".

SEC. 813. WETLANDS MONITORING AND RESEARCH.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(z) The Secretary, in cooperation with the Administrator, the Director of the United States Fish and Wildlife Service, and appropriate State and local government entities, shall initiate, with opportunity for public notice and comment, a research program of wetlands and watershed management. The purposes of the research program shall include, but not be limited—

"(1) to study the functions, values and management needs of altered, artificial, and managed wetland systems including lands that were converted to production of commodity crops prior to December 23, 1985, and report to Congress within 2 years of the date of the enactment of this subsection;

"(2) to study techniques for managing and restoring wetlands within a watershed context;

"(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

"(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.".

SEC. 814. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(28) The term 'wetland' means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

"(29) The term 'discharge of dredged or fill material' means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

"(30) The term 'mitigation bank' shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

"(31) The term 'cooperative mitigation ventures' shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.".

Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MR. BOEHLERT

AMENDMENT NO. 4: Page 115, strike line 5 and all that follows through line 3 on page 117 and insert the following:

(n) COASTAL ZONE MANAGEMENT.—Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "PROGRAM DEVELOPMENT.—"; and

(B) by adding at the end the following:

"(B) A State that has not received Federal approval for the State's core coastal management program pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall have 30 months from the date of approval of such program to submit a Coastal Nonpoint Pollution Program pursuant to this section. Any such State shall also be eligible for any extension of time for submittal of the State's nonpoint program that may be received by a State with a federally approved coastal management program.";

(2) in subsection (b), in the matter preceding paragraph (1), by striking "to protect coastal waters generally" and inserting "to restore and protect coastal waters where the State has determined that coastal waters are threatened or significantly degraded";

(3) in subsection (b)(3)—

(A) by striking "The implementation" and inserting "A schedule for the implementation"; and

(B) by inserting ", and no less often than once every 5 years," after "from time to time";

(4) in subsection (b) by adding at the end the following:

"(7) IDENTIFICATION OF PRIORITY AREAS.—A prioritization of the areas in the State in which management measures will be implemented.";

(5) in subsection (c) by adding at the end the following:

"(5) CONDITIONAL APPROVAL.—The Secretary and Administrator may grant conditional approval to a State's program where the State requests additional time to complete the development of its program. During the period during which the State's program is subject to conditional approval, the penalty provisions of paragraphs (3) and (4) shall not apply.";

(6) in subsection (h)(1) by striking ", 1993, and 1994" and inserting "through 2000"; and

(7) in subsection (h)(2)(B)(iv) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 2000".

H.R. 961

OFFERED BY: MR. BOEHLERT

AMENDMENT NO. 5: Page 133, strike line 15 and all that follows through line 9 on page 170 and insert the following:

SEC. 322. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

(a) DEADLINES.—Section 402(p) (33 U.S.C. 1343(p)) is amended—

(1) in paragraph (1) by striking "1994" and inserting "2005"; and

(2) in paragraph (6) by striking "1993" and inserting "2005".

(b) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Section 402(p)(3) is amended by adding at the end of the following:

"(C) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Permits for municipal separate storm sewers shall not include numeric effluent limitations.".

Conform the table of contents of the bill accordingly.

H.R. 961

(Amendment in the Nature of a Substitute)

OFFERED BY: MR. BOEHLERT

AMENDMENT NO. 6: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clean Water Amendments of 1995".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definition.
Sec. 3. Amendment of Federal Water Pollution Control Act.

TITLE I—RESEARCH AND RELATED PROGRAMS

Sec. 101. Research, investigations, training, and information.
Sec. 102. State management assistance.
Sec. 103. Mine water pollution control.
Sec. 104. Water sanitation in rural and Native Alaska villages.
Sec. 105. Authorization of appropriations for Chesapeake program.
Sec. 106. Great Lakes management.

TITLE II—CONSTRUCTION GRANTS

Sec. 201. Uses of funds.
Sec. 202. Administration of closeout of construction grant program.
Sec. 203. Sewage collection systems.
Sec. 204. Value engineering review.
Sec. 205. Grants for wastewater treatment.

TITLE III—STANDARDS AND ENFORCEMENT

Sec. 301. Arid areas.
Sec. 302. Secondary treatment.
Sec. 303. Federal facilities.
Sec. 304. National estuary program.
Sec. 305. Nonpoint source management programs.
Sec. 306. Coastal zone management.
Sec. 307. Comprehensive watershed management.
Sec. 308. Revision of effluent limitations.

TITLE IV—PERMITS AND LICENSES

Sec. 401. Waste treatment systems for concentrated animal feeding operations.
Sec. 402. Municipal and industrial stormwater discharges.
Sec. 403. Intake credits.
Sec. 404. Combined sewer overflows.
Sec. 405. Abandoned mines.
Sec. 406. Beneficial use of biosolids.

TITLE V—GENERAL PROVISIONS

Sec. 501. Publicly owned treatment works defined.
Sec. 502. Implementation of water pollution laws with respect to vegetable oil.
Sec. 503. Needs estimate.
Sec. 504. Food processing and food safety.
Sec. 505. Audit dispute resolution.

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

Sec. 601. General authority for capitalization grants.
Sec. 602. Capitalization grant agreements.
Sec. 603. Water pollution control revolving loan funds.
Sec. 604. Allotment of funds.
Sec. 605. Authorization of appropriations.
Sec. 606. State nonpoint source water pollution control revolving funds.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Technical amendments.
Sec. 702. John A. Blatnik National Fresh Water Quality Research Laboratory.
Sec. 703. Wastewater service for colonias.
Sec. 704. Savings in municipal drinking water costs.

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

Sec. 801. Short title.
Sec. 802. Findings and purposes.
Sec. 803. State, local, and landowner technical assistance and cooperative training.
Sec. 804. Federal, State, and Local Government Coordinating Committee.
Sec. 805. State and local wetland conservation plans and strategies; grants to facilitate the implementation of section 404.
Sec. 806. National cooperative wetland ecosystem restoration strategy.
Sec. 807. Permits for discharge of dredged or fill material.
Sec. 808. Technical assistance to private landowners, codification of regulations and policies.
Sec. 809. Delineation.
Sec. 810. Fast track for minor permits.
Sec. 811. Compensatory mitigation.
Sec. 812. Cooperative mitigation ventures and mitigation banks.
Sec. 813. Wetlands monitoring and research.
Sec. 814. Administrative appeals.
Sec. 815. Cranberry production.
Sec. 816. State classification systems.
Sec. 817. Definitions.

SEC. 2. DEFINITION.

In this Act, the term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 3. AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Water Pollution Control Act (33 U.S.C. 1251–1387).

TITLE I—RESEARCH AND RELATED PROGRAMS

SEC. 101. RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION.

(a) NATIONAL PROGRAMS.—Section 104(a) (33 U.S.C. 1254(a)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) in cooperation with appropriate Federal, State, and local agencies, conduct, promote, and encourage to the maximum extent feasible, in watersheds that may be significantly affected by nonpoint sources of pollution, monitoring and measurement of water quality by means and methods that will help to identify the relative contributions of particular nonpoint sources.".

(b) GRANTS TO LOCAL GOVERNMENTS.—Section 104(b)(3) (33 U.S.C. 1254(b)(3)) is amended by inserting "local governments," after "interstate agencies,".

(c) TECHNICAL ASSISTANCE FOR RURAL AND SMALL TREATMENT WORKS.—Section 104(b) (33 U.S.C. 1254(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(8) make grants to nonprofit organizations to provide technical assistance and training to rural and small publicly owned treatment works to enable such treatment works to achieve and maintain compliance with the requirements of this Act; and

"(9) disseminate information to rural, small, and disadvantaged communities with respect to the planning, design, construction, and operation of treatment works.".

(d) WASTEWATER TREATMENT IN IMPOVERISHED COMMUNITIES.—Section 104(q) (33 U.S.C. 1254(q)) is amended by adding at the end the following:

"(5) SMALL IMPOVERISHED COMMUNITIES.—

"(A) GRANTS.—The Administrator may make grants to States to provide assistance for planning, design, and construction of publicly owned treatment works to provide wastewater services to rural communities of 3,000 or less that are not currently served by any sewage collection or water treatment system and are severely economically disadvantaged, as determined by the Administrator.

"(B) AUTHORIZATION.—There is authorized to be appropriated to carry out this paragraph $50,000,000 per fiscal year for fiscal years 1996 through 2000.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 104(u) (33 U.S.C. 1254(u)) is amended—

(1) by striking "and" before "(6)"; and

(2) by inserting before the period at the end the following: "; and (7) not to exceed $50,000,000 per fiscal year for each of fiscal years 1996 through 2000 for carrying out the provisions of subsections (b)(3), (b)(8), and (b)(9), except that not less than 20 percent of the sums appropriated pursuant to this clause shall be available for carrying out the provisions of subsections (b)(8) and (b)(9)".

SEC. 102. STATE MANAGEMENT ASSISTANCE.

Section 106(a) (33 U.S.C. 1256(a)) is amended—

(1) by striking "and" before "$75,000,000";

(2) by inserting after "1990" the following: ", such sums as may be necessary for each of fiscal years 1991 through 1995, and $150,000,000 per fiscal year for each of fiscal years 1996 through 2000"; and

(3) by adding at the end the following: "States or interstate agencies receiving grants under this section may use such funds to finance, with other States or interstate agencies, studies and projects on interstate issues relating to such programs.".

SEC. 103. MINE WATER POLLUTION CONTROL.

Section 107 (33 U.S.C. 1257) is amended to read as follows:

"SEC. 107. MINE WATER POLLUTION CONTROL.

"(a) ACIDIC AND OTHER TOXIC MINE DRAINAGE.—The Administrator shall establish a program to demonstrate the efficacy of measures for abatement of the causes and treatment of the effects of acidic and other toxic mine drainage within qualified hydrologic units affected by past coal mining practices for the purpose of restoring the biological integrity of waters within such units.

"(b) GRANTS.—

"(1) IN GENERAL.—Any State or Indian tribe may apply to the Administrator for a grant for any project which provides for abatement of the causes or treatment of the effects of acidic or other toxic mine drainage within a qualified hydrologic unit affected by past coal mining practices.

"(2) APPLICATION REQUIREMENTS.—An application submitted to the Administrator under this section shall include each of the following:

"(A) An identification of the qualified hydrologic unit.

"(B) A description of the extent to which acidic or other toxic mine drainage is affecting the water quality and biological resources within the hydrologic unit.

"(C) An identification of the sources of acidic or other toxic mine drainage within the hydrologic unit.

"(D) An identification of the project and the measures proposed to be undertaken to abate the causes or treat the effects of acidic or other toxic mine drainage within the hydrologic unit.

"(E) The cost of undertaking the proposed abatement or treatment measures.

"(c) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of a project receiving grant assistance under this section shall be 50 percent.

"(2) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—Contributions of lands, easements, and rights-of-way shall be credited toward the non-Federal share of the cost of a project under this section but not in an amount exceeding 25 percent of the total project cost.

"(3) OPERATION AND MAINTENANCE.—The non-Federal interest shall bear 100 percent of the cost of operation and maintenance of a project under this section.

"(d) PROHIBITED PROJECTS.—No acidic or other toxic mine drainage abatement or treatment project may receive assistance under this section if the project would adversely affect the free-flowing characteristics of any river segment within a qualified hydrologic unit.

"(e) APPLICATIONS FROM FEDERAL ENTITIES.—Any Federal entity may apply to the Administrator for a grant under this section for the purposes of an acidic or toxic mine drainage abatement or treatment project within a qualified hydrologic unit located on lands and waters under the administrative jurisdiction of such entity.

"(f) APPROVAL.—The Administrator shall approve an application submitted pursuant to subsection (b) or (e) after determining that the application meets the requirements of this section.

"(g) QUALIFIED HYDROLOGIC UNIT DEFINED.—For purposes of this section, the term 'qualified hydrologic unit' means a hydrologic unit—

"(1) in which the water quality has been significantly affected by acidic or other toxic mine drainage from past coal mining practices in a manner which adversely impacts biological resources; and

"(2) which contains lands and waters eligible for assistance under title IV of the Surface Mining and Reclamation Act of 1977.".

SEC. 104. WATER SANITATION IN RURAL AND NATIVE ALASKA VILLAGES.

(a) IN GENERAL.—Section 113 (33 U.S.C. 1263) is amended by striking the section heading and designation and subsections (a) through (f) and inserting the following:

"SEC. 113. ALASKA VILLAGE PROJECTS AND PROGRAMS.

"(a) GRANTS.—The Administrator is authorized to make grants—

"(1) for the development and construction of facilities which provide sanitation services for rural and Native Alaska villages;

"(2) for training, technical assistance, and educational programs relating to operation and maintenance for sanitation services in rural and Native Alaska villages; and

"(3) for reasonable costs of administering and managing grants made and programs and projects carried out under this section; except that not to exceed 4 percent of the amount of any grant made under this section may be made for such costs.

"(b) FEDERAL SHARE.—A grant under this section shall be 50 percent of the cost of the program or project being carried out with such grant.

"(c) SPECIAL RULE.—The Administrator shall award grants under this section for project construction following the rules specified in subpart H of part 1942 of title 7 of the Code of Federal Regulations.

"(d) GRANTS TO STATE FOR BENEFIT OF VILLAGES.—Grants under this section may be made to the State for the benefit of rural Alaska villages and Alaska Native villages.

"(e) COORDINATION.—In carrying out activities under this subsection, the Administrator is directed to coordinate efforts between the State of Alaska, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of the Interior, the Secretary of Agriculture, and the recipients of grants.

"(f) FUNDING.—There is authorized to be appropriated $25,000,000 for fiscal years beginning after September 30, 1995, to carry out this section.".

(b) CONFORMING AMENDMENT.—Section 113(g) is amended by inserting after "(g)" the following: "DEFINITIONS.—".

SEC. 105. AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE PROGRAM.

Section 117(d) (33 U.S.C. 1267(d)) is amended—

(1) in paragraph (1), by inserting "such sums as may be necessary for fiscal years 1991 through 1995, and $3,000,000 per fiscal year for each of fiscal years 1996 through 2000" after "1990,"; and

(2) in paragraph (2), by inserting "such sums as may be necessary for fiscal years 1991 through 1995, and $18,000,000 per fiscal year for each of fiscal years 1996 through 2000" after "1990,".

SEC. 106. GREAT LAKES MANAGEMENT.

(a) GREAT LAKES RESEARCH COUNCIL.—

(1) IN GENERAL.—Section 118 (33 U.S.C. 1268) is amended—

(A) in subsection (a)(3)—

(i) by striking subparagraph (E) and inserting the following:

"(E) 'Council' means the Great Lakes Research Council established by subsection (d)(1);";

(ii) by striking "and" at the end of subparagraph (I);

(iii) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(iv) by adding at the end the following:

"(K) 'Great Lakes research' means the application of scientific or engineering expertise to explain, understand, and predict a physical, chemical, biological, or socioeconomic process, or the interaction of 1 or more of the processes, in the Great Lakes ecosystem.";

(B) by striking subsection (d) and inserting the following:

"(d) GREAT LAKES RESEARCH COUNCIL.—

"(1) ESTABLISHMENT OF COUNCIL.—There is established a Great Lakes Research Council.

"(2) DUTIES OF COUNCIL.—The Council—

"(A) shall advise and promote the coordination of Federal Great Lakes research activities to avoid unnecessary duplication and ensure greater effectiveness in achieving protection of the Great Lakes ecosystem through the goals of the Great Lakes Water Quality Agreement;

"(B) not later than 1 year after the date of the enactment of this subparagraph and biennially thereafter and after providing opportunity for public review and comment, shall prepare and provide to interested parties a document that includes—

"(i) an assessment of the Great Lakes research activities needed to fulfill the goals of the Great Lakes Water Quality Agreement;

"(ii) an assessment of Federal expertise and capabilities in the activities needed to fulfill the goals of the Great Lakes Water Quality Agreement, including an inventory of Federal Great Lakes research programs, projects, facilities, and personnel; and

"(iii) recommendations for long-term and short-term priorities for Federal Great Lakes research, based on a comparison of the assessments conducted under clauses (i) and (ii);

"(C) shall identify topics for and participate in meetings, workshops, symposia, and conferences on Great Lakes research issues;

"(D) shall make recommendations for the uniform collection of data for enhancing Great Lakes research and management protocols relating to the Great Lakes ecosystem;

"(E) shall advise and cooperate in—

"(i) improving the compatible integration of multimedia data concerning the Great Lakes ecosystem; and

"(ii) any effort to establish a comprehensive multimedia data base for the Great Lakes ecosystem; and

"(F) shall ensure that the results, findings, and information regarding Great Lakes research programs conducted or sponsored by the Federal Government are disseminated in a timely manner, and in useful forms, to interested persons, using to the maximum extent practicable mechanisms in existence on the date of the dissemination, such as the Great Lakes Research Inventory prepared by the International Joint Commission.

"(3) MEMBERSHIP.—

"(A) IN GENERAL.—The Council shall consist of 1 research manager with extensive knowledge of, and scientific expertise and experience in, the Great Lakes ecosystem from each of the following agencies and instrumentalities:

"(i) The Agency.

"(ii) The National Oceanic and Atmospheric Administration.

"(iii) The National Biological Service.

"(iv) The United States Fish and Wildlife Service.

"(v) Any other Federal agency or instrumentality that expends $1,000,000 or more for a fiscal year on Great Lakes research.

"(vi) Any other Federal agency or instrumentality that a majority of the Council membership determines should be represented on the Council.

"(B) NONVOTING MEMBERS.—At the request of a majority of the Council membership, any person who is a representative of a Federal agency or instrumentality not described in subparagraph (A) or any person who is not a Federal employee may serve as a nonvoting member of the Council.

"(4) CHAIRPERSON.—The chairperson of the Council shall be a member of the Council from an agency specified in clause (i), (ii), or (iii) of paragraph (3)(A) who is elected by a majority vote of the members of the Council. The chairperson shall serve as chairperson for a period of 2 years. A member of the Council may not serve as chairperson for more than 2 consecutive terms.

"(5) EXPENSES.—While performing official duties as a member of the Council, a member shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code.

"(6) INTERAGENCY COOPERATION.—The head of each Federal agency or instrumentality that is represented on the Council—

"(A) shall cooperate with the Council in implementing the recommendations developed under paragraph (2);

"(B) on written request of the chairperson of the Council, may make available, on a reimbursable basis or otherwise, such personnel, services, or facilities as may be necessary to assist the Council in carrying out the duties of the Council under this section; and

"(C) on written request of the chairperson, shall furnish data or information necessary to carry out the duties of the Council under this section.

"(7) INTERNATIONAL COOPERATION.—The Council shall cooperate, to the maximum extent practicable, with the research coordination efforts of the Council of Great Lakes Research Managers of the International Joint Commission.

"(8) REIMBURSEMENT FOR REQUESTED ACTIVITIES.—Each Federal agency or instrumentality represented on the Council may reimburse another Federal agency or instrumentality or a non-Federal entity for costs associated with activities authorized under this subsection that are carried out by the other agency, instrumentality, or entity at the request of the Council.

"(9) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

"(10) EFFECT ON OTHER LAW.—Nothing in this subsection affects the authority of any Federal agency or instrumentality, under any law, to undertake Great Lakes research activities.";

(C) in subsection (e)—

(i) in paragraph (1) by striking "the Program Office and the Research Office shall prepare a joint research plan" and inserting "the Program Office, in consultation with the Council, shall prepare a research plan"; and

(ii) in paragraph (3)(A) by striking "the Research Office, the Agency for Toxic Substances and Disease Registry, and Great Lakes States" and inserting "the Council, the Agency for Toxic Substances and Disease Registry, and Great Lakes States,"; and

(D) in subsection (h)—

(i) by adding "and" at the end of paragraph (1);

(ii) by striking "; and" at the end of paragraph (2) and inserting a period; and

(iii) by striking paragraph (3).

(2) CONFORMING AMENDMENT.—The second sentence of section 403(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447b(a)) is amended by striking "Great Lakes Research Office authorized under" and inserting "Great Lakes Research Council established by".

(b) CONSISTENCY OF PROGRAMS WITH FEDERAL GUIDANCE.—Section 118(c)(2)(C) (33 U.S.C. 1268(c)(2)(C)) is amended by adding at the end the following: "For purposes of this section, a State's standards, policies, and procedures shall be considered consistent with such guidance if the standards, policies, and procedures are based on scientifically defensible judgments and policy choices made by the State after consideration of the guidance and provide an overall level of protection comparable to that provided by the guidance, taking into account the specific circumstances of the State's waters.".

(c) REAUTHORIZATION OF ASSESSMENT AND REMEDIATION OF CONTAMINATED SEDIMENTS PROGRAM.—Section 118(c)(7) is amended by adding at the end the following:

"(D) REAUTHORIZATION OF ASSESSMENT AND REMEDIATION OF CONTAMINATED SEDIMENTS PROGRAM.—

"(i) IN GENERAL.—The Administrator, acting through the Program Office, in consultation and cooperation with the Assistant Secretary of the Army having responsibility for civil works, shall conduct at least 3 pilot projects involving promising technologies and practices to remedy contaminated sediments (including at least 1 full-scale demonstration of a remediation technology) at sites in the Great Lakes System, as the Administrator determines appropriate.

"(ii) SELECTION OF SITES.—In selecting sites for the pilot projects, the Administrator shall give priority consideration to—

"(I) the Ashtabula River in Ohio;

"(II) the Buffalo River in New York;

"(III) Duluth and Superior Harbor in Minnesota;

"(IV) the Fox River in Wisconsin;

"(V) the Grand Calumet River in Indiana; and

"(VI) Saginaw Bay in Michigan.

"(iii) DEADLINES.—In carrying out this subparagraph, the Administrator shall—

"(I) not later than 18 months after the date of the enactment of this subparagraph, identify at least 3 sites and the technologies and practices to be demonstrated at the sites (including at least 1 full-scale demonstration of a remediation technology); and

"(II) not later than 5 years after such date of enactment, complete at least 3 pilot projects (including at least 1 full-scale demonstration of a remediation technology).

"(iv) ADDITIONAL PROJECTS.—The Administrator, acting through the Program Office, in consultation and cooperation with the Assistant Secretary of the Army having responsibility for civil works, may conduct additional pilot- and full-scale pilot projects involving promising technologies and practices at sites in the Great Lakes System other than the sites selected under clause (i).

"(v) EXECUTION OF PROJECTS.—The Administrator may cooperate with the Assistant Secretary of the Army having responsibility for civil works to plan, engineer, design, and execute pilot projects under this subparagraph.

"(vi) NON-FEDERAL CONTRIBUTIONS.—The Administrator may accept non-Federal contributions to carry out pilot projects under this subparagraph.

"(vii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $3,500,000 for each of fiscal years 1996 through 2000.

"(E) TECHNICAL INFORMATION AND ASSISTANCE.—

"(i) IN GENERAL.—The Administrator, acting through the Program Office, may provide technical information and assistance involving technologies and practices for remediation of contaminated sediments to persons that request the information or assistance.

"(ii) TECHNICAL ASSISTANCE PRIORITIES.—In providing technical assistance under this subparagraph, the Administrator, acting through the Program Office, shall give special priority to requests for integrated assessments of, and recommendations regarding, remediation technologies and practices for contaminated sediments at Great Lakes areas of concern.

"(iii) COORDINATION WITH OTHER DEMONSTRATIONS.—The Administrator shall—

"(I) coordinate technology demonstrations conducted under this subparagraph with other federally assisted demonstrations of contaminated sediment remediation technologies; and

"(II) share information from the demonstrations conducted under this subparagraph with the other demonstrations.

"(iv) OTHER SEDIMENT REMEDIATION ACTIVITIES—Nothing in this subparagraph limits the authority of the Administrator to carry out sediment remediation activities under other laws.

"(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $1,000,000 for each of fiscal years 1996 through 2000.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) RESEARCH AND MANAGEMENT.—Section 118(e)(3)(B) (33 U.S.C. 1268(e)(3)(B)) is amended by inserting before the period at the end the following: ", such sums as may be necessary for fiscal year 1995, and $4,000,000 per fiscal year for each of fiscal years 1996, 1997, and 1998".

(2) GREAT LAKES PROGRAMS.—Section 118(h) (33 U.S.C. 1268(h)) is amended—

(A) by striking "and" before "$25,000,000"; and

(B) by inserting before the period at the end of the first sentence the following: ", such sums as may be necessary for fiscal years 1992 through 1995, and $17,500,000 per fiscal year for each of fiscal years 1996 through 2000".

TITLE II—CONSTRUCTION GRANTS

SEC. 201. USES OF FUNDS.

(a) NONPOINT SOURCE PROGRAM.—Section 201(g)(1) (33 U.S.C. 1281(g)(1)) is amended by striking the period at the end of the first sentence and all that follows through the period at the end of the last sentence and inserting the following: "and for any purpose for which a grant may be made under sections 319(h) and 319(i) of this Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution).".

(b) RETROACTIVE ELIGIBILITY.—Section 201(g)(1) is further amended by adding at the end the following: "The Administrator, with the concurrence of the States, shall develop procedures to facilitate and expedite the retroactive eligibility and provision of grant funding for facilities already under construction.".

SEC. 202. ADMINISTRATION OF CLOSEOUT OF CONSTRUCTION GRANT PROGRAM.

Section 205(g)(1) (33 U.S.C. 1285(g)(1)) is amended by adding at the end the following: "The Administrator may negotiate an annual budget with a State for the purpose of administering the closeout of the State's construction grants program under this title. Sums made available for administering such closeout shall be subtracted from amounts remaining available for obligation under the State's construction grant program under this title.".

SEC. 203. SEWAGE COLLECTION SYSTEMS.

Section 211(a) (33 U.S.C. 1291(a)) is amended—

(1) in clause (1) by striking "an existing collection system" and inserting "a collection system existing on the date of the enactment of the Clean Water Amendments of 1995"; and

(2) in clause (2)—

(A) by striking "an existing community" and inserting "a community existing on such date of enactment"; and

(B) by striking "sufficient existing" and inserting "sufficient capacity existing on such date of enactment".

SEC. 204. VALUE ENGINEERING REVIEW.

Section 218(c) (33 U.S.C. 1298(c)) is amended by striking "$10,000,000" and inserting "$25,000,000".

SEC. 205. GRANTS FOR WASTEWATER TREATMENT.

(a) COASTAL LOCALITIES.—The Administrator shall make grants under title II of the Federal Water Pollution Control Act to appropriate instrumentalities for the purpose of construction of treatment works (including combined sewer overflow facilities) to serve coastal localities. No less than $10,000,000 of the amount of such grants shall be used for water infrastructure improvements in New Orleans, no less than $3,000,000 of the amount of such grants shall be used for water infrastructure improvements in Bristol County, Massachusetts, and no less than ⅓ of the amount of such grants shall be used to assist localities that meet both of the following criteria:

(1) NEED.—A locality that has over $2,000,000,000 in category I treatment needs documented and accepted in the Environmental Protection Agency's 1992 Needs Survey database as of February 4, 1993.

(2) HARDSHIP.—A locality that has wastewater user charges, for residential use of 7,000 gallons per month based on Ernst & Young National Water and Wastewater 1992 Rate Survey, greater than 0.65 percent of 1989 median household income for the metropolitan statistical area in which such locality is located as measured by the Bureau of the Census.

(b) FEDERAL SHARE.—Notwithstanding section 202(a)(1) of the Federal Water Pollution Control Act, the Federal share of grants under subsection (a) shall be 80 percent of the cost of construction, and the non-Federal share shall be 20 percent of the cost of construction.

(c) SMALL COMMUNITIES.—The Administrator shall make grants to States for the purpose of providing assistance for the construction of treatment works to serve small communities as defined by the State; except that the term "small communities" may not include any locality with a population greater than 75,000. Funds made available to carry out this subsection shall be allotted by the Administrator to the States in accordance with the allotment formula contained in section 604(a) of the Federal Water Pollution Control Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under this section $300,000,000 for fiscal year 1996. Such sums shall remain available until expended and shall be equally divided between subsections (a) and (c) of this section. Such authorization of appropriation shall take effect only if the total amount appropriated for fiscal year 1996 to carry out title VI of the Federal Water Pollution Control Act is at least $3,000,000,000.

TITLE III—STANDARDS AND ENFORCEMENT

SEC. 301. ARID AREAS.

(a) CONSTRUCTED WATER CONVEYANCES.—Section 303(c)(2) (33 U.S.C. 1313(c)(2)) is amended by adding at the end the following:

"(D) STANDARDS FOR CONSTRUCTED WATER CONVEYANCES.—

"(i) RELEVANT FACTORS.—If a State exercises jurisdiction over constructed water conveyances in establishing standards under this section, the State may consider the following:

"(I) The existing and planned uses of water transported in a conveyance system.

"(II) Any water quality impacts resulting from any return flow from a constructed water conveyance to navigable waters and the need to protect downstream users.

"(III) Management practices necessary to maintain the conveyance system.

"(IV) State or regional water resources management and water conservation plans.

"(V) The authorized purpose for the constructed conveyance.

"(ii) RELEVANT USES.—If a State adopts or reviews water quality standards for constructed water conveyances, it shall not be required to establish recreation, aquatic life, or fish consumption uses for such systems if the uses are not existing or reasonably foreseeable or such uses impede the authorized uses of the conveyance system.".

(b) CRITERIA AND GUIDANCE FOR EPHEMERAL AND EFFLUENT-DEPENDENT STREAMS.—Section 304(a) (33 U.S.C. 1314(a)) is amended by adding at the end the following:

"(9) CRITERIA AND GUIDANCE FOR EPHEMERAL AND EFFLUENT-DEPENDENT STREAMS.—

"(A) DEVELOPMENT.—Not later than 2 years after the date of the enactment of this paragraph, and after providing notice and opportunity for public comment, the Administrator shall develop and publish—

"(i) criteria for ephemeral and effluent-dependent streams; and

"(ii) guidance to the States on development and adoption of water quality standards applicable to such streams.

"(B) FACTORS.—The criteria and guidance developed under subparagraph (A) shall take into account the limited ability of ephemeral and effluent-dependent streams to support aquatic life and certain designated uses, shall include consideration of the role the discharge may play in maintaining the flow or level of such waters, and shall promote the beneficial use of reclaimed water pursuant to section 101(a)(10).".

(c) FACTORS REQUIRED TO BE CONSIDERED BY ADMINISTRATOR.—Section 303(c)(4) is amended by adding at the end the following: "In revising or adopting any new standard for ephemeral or effluent-dependent streams under this paragraph, the Administrator shall consider the factors referred to in section 304(a)(9)(B).".

(d) DEFINITIONS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(21) The term 'effluent-dependent stream' means a stream or a segment thereof—

"(A) with respect to which the flow (based on the annual average expected flow, determined by calculating the average mode over a 10-year period) is primarily attributable to the discharge of treated wastewater;

"(B) that, in the absence of a discharge of treated wastewater and other primary anthropogenic surface or subsurface flows, would be an ephemeral stream; or

"(C) that is an effluent-dependent stream under applicable State water quality standards.

"(22) The term 'ephemeral stream' means a stream or segments thereof that flows periodically in response to precipitation, snowmelt, or runoff.

"(23) The term 'constructed water conveyance' means a manmade water transport system constructed for the purpose of transporting water in a waterway that is not and never was a natural perennial waterway.".

SEC. 302. SECONDARY TREATMENT.

(a) COASTAL DISCHARGES.—Section 304(d) (33 U.S.C. 1314(d)) is amended by adding at the end the following:

"(5) COASTAL DISCHARGES.—For purposes of this subsection, any municipal wastewater treatment facility shall be deemed the equivalent of a secondary treatment facility if each of the following requirements is met:

"(A) The facility employs chemically enhanced primary treatment.

"(B) The facility, on the date of the enactment of this paragraph, discharges through an ocean outfall into an open marine environment greater than 4 miles offshore into a depth greater than 300 feet.

"(C) The facility's discharge is in compliance with all local and State water quality standards for the receiving waters.

"(D) The facility's discharge will be subject to an ocean monitoring program acceptable to relevant Federal and State regulatory agencies.".

(b) MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS.—

(1) IN GENERAL.—Section 301 (33 U.S.C. 1311) is amended by adding at the end the following:

"(s) MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS.—

"(1) IN GENERAL.—The Administrator, with the concurrence of the State, shall issue a 10-year permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works into marine waters which are at least 150 feet deep through an ocean outfall which discharges at least 1 mile offshore, if the applicant demonstrates that—

"(A) there is an applicable ocean plan and the facility's discharge is in compliance with all local and State water quality standards for the receiving waters;

"(B) the facility's discharge will be subject to an ocean monitoring program determined to be acceptable by relevant Federal and State regulatory agencies;

"(C) the applicant has an Agency approved pretreatment plan in place; and

"(D) the applicant, at the time such modification becomes effective, will be discharging effluent which has received at least chemically enhanced primary treatment and achieves a monthly average of 75 percent removal of suspended solids.

"(2) DISCHARGE OF ANY POLLUTANT INTO MARINE WATERS DEFINED.—For purposes of this subsection, the term 'discharge of any pollutant into marine waters' means a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement.

"(3) DEADLINE.—On or before the 90th day after the date of submittal of an application for a modification under paragraph (1), the Administrator shall issue to the applicant a modified permit under section 402 or a written determination that the application does not meet the terms and conditions of this subsection.

"(4) EFFECT OF FAILURE TO RESPOND.—If the Administrator does not respond to an application for a modification under paragraph (1) on or before the 90th day referred to in paragraph (3), the application shall be deemed approved and the modification sought by the applicant shall be in effect for the succeeding 10-year period.".

(2) EXTENSION OF APPLICATION DEADLINE.—Section 301(j) (33 U.S.C. 1311(j)) is amended by adding at the end the following:

"(6) EXTENSION OF APPLICATION DEADLINE.—In the 365-day period beginning on the date of the enactment of this paragraph, municipalities may apply for a modification pursuant to subsection (s) of the requirements of subsection (b)(1)(B) of this section.".

(c) MODIFICATIONS FOR SMALL SYSTEM TREATMENT TECHNOLOGIES.—Section 301 (33 U.S.C. 1311) is amended by adding at the end the following:

"(t) MODIFICATIONS FOR SMALL SYSTEM TREATMENT TECHNOLOGIES.—The Administrator, with the concurrence of the State, or a State with an approved program under section 402 may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works serving a community of 20,000 people or fewer if the applicant demonstrates to the satisfaction of the Administrator that—

"(1) the effluent from such facility originates primarily from domestic users; and

"(2) such facility utilizes a properly constructed and operated alternative treatment system (including recirculating sand filter systems, constructed wetlands, and oxidation lagoons) which is equivalent to secondary treatment or will provide in the receiving waters and watershed an adequate level of protection to human health and the environment and contribute to the attainment of water quality standards.".

(d) PUERTO RICO.—Section 301 (33 U.S.C. 1311) is further amended by adding at the end the following:

"(u) PUERTO RICO.—

"(1) STUDY BY GOVERNMENT OF PUERTO RICO.—Not later than 3 months after the date of the enactment of this section, the Government of Puerto Rico may, after consultation with the Administrator, initiate a study of the marine environment of Anasco Bay off the coast of the Mayaguez region of Puerto Rico to determine the feasibility of constructing a deepwater outfall for the publicly owned treatment works located at Mayaguez, Puerto Rico. Such study shall recommend one or more technically feasible locations for the deepwater outfall based on the effects of such outfall on the marine environment.

"(2) APPLICATION FOR MODIFICATION.—Notwithstanding subsection (j)(1)(A), not later than 18 months after the date of the enactment of this section, an application may be submitted for a modification pursuant to subsection (h) of the requirements of subsection (b)(1)(B) of this section by the owner of the publicly owned treatment works at Mayaguez, Puerto Rico, for a deepwater outfall at a location recommended in the study conducted pursuant to paragraph (1).

"(3) INITIAL DETERMINATION.—On or before the 90th day after the date of submittal of an application for modification under paragraph (2), the Administrator shall issue to the applicant a draft initial determination regarding the modification of the existing permit.

"(4) FINAL DETERMINATION.—On or before the 270th day after the date of submittal of an application for modification under paragraph (2), the Administrator shall issue a final determination regarding such modification.

"(5) EFFECTIVENESS.—If a modification is granted pursuant to an application submitted under this subsection, such modification shall be effective only if the new deepwater outfall is operational within 5 years after the date of the enactment of this subsection. In all other aspects, such modification shall be effective for the period applicable to all modifications granted under subsection (h).".

SEC. 303. FEDERAL FACILITIES.

(a) APPLICATION OF CERTAIN PROVISIONS.—Section 313(a) (33 U.S.C. 1323(a)) is amended by striking all preceding subsection (b) and inserting the following:

"SEC. 313. FEDERAL FACILITIES POLLUTION CONTROL.

"(a) APPLICABILITY OF FEDERAL, STATE, INTERSTATE, AND LOCAL LAWS.—

"(1) IN GENERAL.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

"(A) having jurisdiction over any property or facility, or

"(B) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants,

and each officer, agent, or employee thereof in the performance of his official duties, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity, including the payment of reasonable service charges.

"(2) TYPES OF ACTIONS COVERED.—Paragraph (1) shall apply—

"(A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement),

"(B) to the exercise of any Federal, State, or local administrative authority, and

"(C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner.

"(3) PENALTIES AND FINES.—The Federal, State, interstate, and local substantive and procedural requirements, administrative authority, and process and sanctions referred to in paragraph (1) include all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.

"(4) SOVEREIGN IMMUNITY.—

"(A) WAIVER.—The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any requirement, administrative authority, and process and sanctions referred to in paragraph (1) (including any injunctive relief, any administrative order, any civil or administrative penalty or fine referred to in paragraph (3), or any reasonable service charge).

"(B) PROCESSING FEES.—The reasonable service charges referred to in this paragraph include fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local water pollution regulatory program.

"(5) EXEMPTIONS.—

"(A) GENERAL AUTHORITY OF PRESIDENT.—The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any requirement to which paragraph (1) applies if the President determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act.

"(B) LIMITATION.—No exemptions shall be granted under subparagraph (A) due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation.

"(C) TIME PERIOD.—Any exemption under subparagraph (A) shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods of not to exceed 1 year upon the President's making a new determination.

"(D) MILITARY PROPERTY.—In addition to any exemption of a particular effluent source, the President may, if the President determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vessels, vehicles, or other classes or categories of property, and access to such property, which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at 3-year intervals.

"(E) REPORTS.—The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with the President's reason for granting such exemption.

"(6) VENUE.—Nothing in this section shall be construed to prevent any department, agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof in the performance of official duties, from removing to the appropriate Federal district court any proceeding to which the department, agency, or instrumentality or officer, agent, or employee thereof is subject pursuant to this section, and any such proceeding may be removed in accordance with chapter 89 of title 28, United States Code.

"(7) PERSONAL LIABILITY OF FEDERAL EMPLOYEES.—No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local water pollution law with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

"(8) CRIMINAL SANCTIONS.—An agent, employee, or officer of the United States shall be subject to any criminal sanction (including any fine or imprisonment) under any Federal or State water pollution law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction.".

(b) FUNDS COLLECTED BY A STATE.—Section 313 (33 U.S.C. 1323) is further amended by adding at the end the following:

"(c) LIMITATION ON STATE USE OF FUNDS.—Unless a State law in effect on the date of the enactment of this subsection or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government in penalties and fines imposed for the violation of a substantive or procedural requirement referred to in subsection (a) shall be used by a State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

(c) ENFORCEMENT.—Section 313 is further amended by adding at the end the following:

"(d) FEDERAL FACILITY ENFORCEMENT.—

"(1) ADMINISTRATIVE ENFORCEMENT BY EPA.—The Administrator may commence an administrative enforcement action against any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government pursuant to the enforcement authorities contained in this Act.

"(2) PROCEDURE.—The Administrator shall initiate an administrative enforcement action against a department, agency, or instrumentality under this subsection in the same manner and under the same circumstances as an action would be initiated against any other person under this Act. The amount of any administrative penalty imposed under this subsection shall be determined in accordance with section 309(d) of this Act.

"(3) VOLUNTARY SETTLEMENT.—Any voluntary resolution or settlement of an action under this subsection shall be set forth in an administrative consent order.

"(4) CONFERRAL WITH EPA.—No administrative order issued to a department, agency, or instrumentality under this section shall become final until such department, agency, or instrumentality has had the opportunity to confer with the Administrator.".

(d) LIMITATION ON ACTIONS AND RIGHT OF INTERVENTION.—Section 313 is further amended by adding at the end the following:

"(e) LIMITATION ON ACTIONS AND RIGHT OF INTERVENTION.—Any violation with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or for which the Administrator has issued a final order and the violator has either paid a penalty or fine assessed under this subsection or is subject to an enforceable schedule of corrective actions, shall not be the subject of an action under section 505 of this Act. In any action under this subsection, any citizen may intervene as a matter of right.".

(e) DEFINITION OF PERSON.—Section 502(5) (33 U.S.C. 1362(5)) is amended by inserting before the period at the end the following: "and includes any department, agency, or instrumentality of the United States".

(f) DEFINITION OF RADIOACTIVE MATERIALS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(24) The term 'radioactive materials' includes source materials, special nuclear materials, and byproduct materials (as such terms are defined under the Atomic Energy Act of 1954) which are used, produced, or managed at facilities not licensed by the Nuclear Regulatory Commission; except that such term does not include any material which is discharged from a vessel or other facility covered by Executive Order 12344 (42 U.S.C. 7158 note; relating to the Naval Nuclear Propulsion Program).".

(g) CONFORMING AMENDMENTS.—Section 313(b) (33 U.S.C. 1323(b)) is amended—

(1) by striking "(b)(1)" and inserting the following:

"(b) WASTEWATER FACILITIES.—

"(1) COOPERATION FOR USE OF WASTEWATER CONTROL SYSTEMS.—";

(2) in paragraph (2) by inserting "LIMITATION ON CONSTRUCTION.—" before "Construction"; and

(3) by moving paragraphs (1) and (2) 2 ems to the right.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall only apply to violations occurring after such date of enactment.

SEC. 304. NATIONAL ESTUARY PROGRAM.

(a) FINDINGS.—The Congress finds the following:

(1) The Nation's estuaries are a vital natural resource to which many regional economies are closely tied.

(2) Many of the Nation's estuaries are under a severe threat from point source pollution and polluted run-off (nonpoint source pollution) and from habitat alteration and destruction.

(3) Only through expanded investments in waste water treatment and other water and sediment pollution control and prevention efforts can the environmental and economic values of the Nation's estuaries be restored and protected.

(4) The National Estuary Program created under the Federal Water Pollution Control Act has significantly advanced the Nation's understanding of the declining condition of the Nation's estuaries.

(5) The National Estuary Program has also provided precise information about the corrective and preventative measures required to reverse the degradation of water and sediment quality and to halt the alteration and destruction of vital habitat in the Nation's estuaries.

(6) The level of funding available to States, municipalities, and the Environmental Protection Agency for implementation of approved conservation and management plans is inadequate, and additional financial resources must be provided.

(7) Funding for implementation of approved conservation and management plans should be provided under the State revolving loan fund program authorized by title VI of the Federal Water Pollution Control Act.

(8) Authorization levels for State revolving loan fund capitalization grants should be increased by an amount necessary to ensure the achievement of the goals of the Federal Water Pollution Control Act.

(b) TECHNICAL AMENDMENT.—Section 320(a)(2)(B) (33 U.S.C. 1330(a)(2)(B)) is amended to read as follows:

"(B) PRIORITY CONSIDERATION.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor); Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; Santa Monica Bay, California; Galveston Bay, Texas; Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; Charlotte Harbor, Florida; Barnegat Bay, New Jersey; and Peconic Bay, New York.".

(c) GRANTS.—Section 320(g)(2) (33 U.S.C. 1330(g)(2)) is amended by inserting "and implementation monitoring" after "development".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 320(i) (33 U.S.C. 1330(i)) is amended by striking "1987" and all that follows through "1991" and inserting the following: "1987 through 1991, such sums as may be necessary for fiscal years 1992 through 1995, and $19,000,000 per fiscal year for each of fiscal years 1996 through 2000".

SEC. 305. NONPOINT SOURCE MANAGEMENT PROGRAMS.

(a) REVIEW AND REVISION.—Section 319(b) (33 U.S.C. 1329(b)) is amended by adding at the end the following:

"(5) REVIEW AND REVISION.—Not later than 18 months after the date of the enactment of this paragraph, the State shall review and revise the report required by this subsection and submit such revised report to the Administrator for approval.".

(b) APPROVAL OR DISAPPROVAL OF MANAGEMENT PROGRAMS.—Section 319(d)(1) (33 U.S.C. 1329(d)(1)) is amended by inserting "or revised management program" after "management program" each place it appears.

(c) GRANTS FOR PROTECTING GROUND WATER QUALITY.—Section 319(i)(3) (33 U.S.C. 1329(i)(3)) is amended by striking "$150,000" and inserting "$500,000".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 319(j) (33 U.S.C. 1329(j)) is amended—

(1) by striking "and" before "$130,000,000";

(2) by inserting after "1991" the following: ", such sums as may be necessary for fiscal years 1992 through 1995, $100,000,000 for fiscal year 1996, $150,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $250,000,000 for fiscal year 1999, and $300,000,000 for fiscal year 2000"; and

(3) by striking "$7,500,000" and inserting "$25,000,000".

(e) AGRICULTURAL INPUTS.—Section 319 (33 U.S.C. 1329) is amended by adding at the end the following:

"(o) AGRICULTURAL INPUTS.—For the purposes of this Act, any land application of livestock manure shall not be considered a point source and shall be subject to enforcement only under this section.".

SEC. 306. COASTAL ZONE MANAGEMENT.

Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "PROGRAM DEVELOPMENT.—"; and

(B) by adding at the end the following:

"(B) A State that has not received Federal approval for the State's core coastal management program pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall have 30 months from the date of approval of such program to submit a Coastal Nonpoint Pollution Program pursuant to this section. Any such State shall also be eligible for any extension of time for submittal of the State's nonpoint program that may be received by a State with a federally approved coastal management program.";

(2) in subsection (b), in the matter preceding paragraph (1), by striking "to protect coastal waters generally" and inserting "to restore and protect coastal waters where the State has determined that coastal waters are threatened or significantly degraded";

(3) in subsection (b)(3)—

(A) by striking "The implementation" and inserting "A schedule for the implementation"; and

(B) by inserting ", and no less often than once every 5 years," after "from time to time";

(4) in subsection (b) by adding at the end the following:

"(7) IDENTIFICATION OF PRIORITY AREAS.—A prioritization of the areas in the State in which management measures will be implemented.";

(5) in subsection (c) by adding at the end the following:

"(5) CONDITIONAL APPROVAL.—The Secretary and Administrator may grant conditional approval to a State's program where the State requests additional time to complete the development of its program. During the period during which the State's program is subject to conditional approval, the penalty provisions of paragraphs (3) and (4) shall not apply.";

(6) in subsection (h)(1) by striking ", 1993, and 1994" and inserting "through 2000"; and

(7) in subsection (h)(2)(B)(iv) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 2000".

SEC. 307. COMPREHENSIVE WATERSHED MANAGEMENT.

(a) IN GENERAL.—Title III (33 U.S.C. 1300–1330) is amended by adding at the end the following:

"SEC. 321. COMPREHENSIVE WATERSHED MANAGEMENT.

"(a) FINDINGS, PURPOSE, AND DEFINITIONS.—

"(1) FINDINGS.—Congress finds that comprehensive watershed management will further the goals and objectives of this Act by—

"(A) identifying more fully water quality impairments and the pollutants, sources, and activities causing the impairments;

"(B) integrating water protection quality efforts under this Act with other natural resource protection efforts, including Federal efforts to define and protect ecological systems (including the waters and the living resources supported by the waters);

"(C) defining long-term social, economic, and natural resource objectives and the water quality necessary to attain or maintain the objectives;

"(D) increasing, through citizen participation in the watershed management process, public support for improved water quality;

"(E) identifying priority water quality problems that need immediate attention; and

"(F) identifying the most cost-effective measures to achieve the objectives of this Act.

"(2) PURPOSE.—The purpose of this section is to encourage comprehensive watershed management in maintaining and enhancing water quality, in restoring and protecting living resources supported by the waters, and in ensuring waters of a quality sufficient to meet human needs, including water supply and recreation.

"(3) DEFINITIONS.—In this section, the following definitions apply:

"(A) ECOSYSTEM.—The term 'ecosystem' means the community of plants and animals (including humans) and the environment (including surface water, the ground water with which it interacts, and riparian areas) upon which that community depends.

"(B) ENVIRONMENTAL OBJECTIVES.—The term 'environmental objectives' means the goals specified by States or State-designated watershed management entities to protect, restore, and maintain water resources and aquatic ecosystems within a watershed, including applicable water quality standards and wetlands protection goals established under the Act.

"(C) STATE.—The term 'State' includes Indian tribes eligible under section 518(e).

"(b) STATE WATERSHED PROGRAM.—

"(1) SUBMITTAL.—A State, at any time, may submit to the Administrator for approval a watershed management program for the State.

"(2) APPROVAL.—The Administrator shall approve a State watershed program submitted under paragraph (1) if the program, at a minimum, contains the following elements:

"(A) An identification of the State agency generally responsible for overseeing and approving watershed management plans and a designation of watershed management entities and lead responsibilities for such entities. Such entities may include other State agencies and sub-State agencies.

"(B) A description of the scope of the program. In determining the scope of the program, the State may choose to address all watersheds within the State over a period of time or to concentrate efforts on selected watersheds. Within each watershed, the issues to be addressed should be based on a comprehensive analysis of the problems within the watershed. The scope of the program may expand over a period of time both in terms of the number of watersheds and the issues addressed by the program.

"(C) An identification of watershed management units for which watershed management plans will be developed. In selecting such units, the State shall consider those waters in the State that are water quality threatened or impaired or are otherwise in need of special protection. To the extent practicable, the boundaries of each watershed management unit shall be consistent with United States Geological Service hydrological units.

"(D) A description of activities required of watershed management entities (as specified under subsection (f)(1)) and a description of the State's approval process for watershed management plans.

"(E) A specification of an effective public participation process, including procedures to encourage the public to participate in developing and implementing watershed management plans.

"(F) An identification of the statewide environmental objectives that will be pursued in each watershed. Such objectives, at a minimum, shall include State water quality standards and goals under this Act, and, as appropriate, other objectives such as habitat restoration and biological diversity.

"(2) DEADLINE.—The Administrator, after consultation with other Federal agencies, shall approve or disapprove a State watershed program submitted under paragraph (1) on or before the 180th day following the date of the submittal. If a State watershed program is disapproved, the State may modify and resubmit its program under paragraph (1).

"(3) ANNUAL REPORT.—A State with an approved watershed program under this subsection shall provide to the Administrator an annual report summarizing the status of the program, including a description of any modifications to the program. An annual report submitted under this section may be used by the State to satisfy reporting requirements under sections 106, 314, 319, and 320.

"(4) EFFECTIVE PERIOD OF APPROVALS.—An approval of a State watershed program under paragraph (2) shall remain in effect for a 5-year period beginning on the date of the approval and may be renewed by the Administrator.

"(5) WITHDRAWAL OF APPROVAL.—Whenever the Administrator determines after public hearing that a State is not administering a watershed program approved under paragraph (2) in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

"(c) DESIGNATION OF ADDITIONAL WATERSHED MANAGEMENT UNITS AND ENTITIES.—A State with an approved watershed program under this section may modify such program at any time in order to designate additional watershed management units and entities, including lead responsibilities, for the purpose of developing and implementing watershed management plans.

"(d) ELIGIBLE WATERSHED MANAGEMENT AND PLANNING ACTIVITIES.—The following watershed management activities are eligible to receive assistance from the Administrator under sections 205(j), 319(h), and 604(b):

"(1) Characterizing waters and land uses.

"(2) Identifying problems within a watershed.

"(3) Selecting short-term and long-term goals for watershed management.

"(4) Developing and implementing measures and practices to meet identified goals.

"(5) Identifying and coordinating projects and activities necessary to restore and maintain water quality or meet other environmental objectives within the watershed.

"(6) Identifying the appropriate institutional arrangements to carry out an approved watershed management plan.

"(7) Updating an approved watershed management plan.

"(8) Any other activities deemed appropriate by the Administrator.

"(e) SUPPORT FOR WATERSHED MANAGEMENT AND PLANNING.—

"(1) INTERAGENCY COMMITTEE.—There is established an interagency committee to support comprehensive watershed management and planning. The President shall appoint the members of the committee. The members shall include a representative from each Federal agency that carries out programs and activities that may have a significant impact on water quality or other natural resource values that may be appropriately addressed through comprehensive watershed management.

"(2) USE OF OTHER FUNDS UNDER THIS ACT.—The planning and implementation activities carried out by a management entity pursuant to this section may be carried out with funds made available through the State pursuant to sections 205(j), 319(h), and 604(b).

"(f) APPROVED PLANS.—

"(1) MINIMUM REQUIREMENTS.—A State with an approved watershed program may approve a watershed management plan when such plan satisfies the following conditions:

"(A) If the watershed includes waters that are not meeting applicable water quality standards under this Act at the time of submission, the plan—

"(i) identifies the environmental objectives of the plan including, at a minimum, State water quality standards and goals under this Act, and any other environmental objectives the planning entity deems appropriate;

"(ii) identifies the stressors, pollutants, and sources causing the impairment;

"(iii) identifies actions necessary to achieve the environmental objectives of the plan, including source reduction of pollutants to achieve any allocated load reductions consistent with the requirements of section 303(d) and the priority for implementing such actions;

"(iv) contains an implementation plan, with schedules, milestones, projected completion dates, and the identification of those persons responsible for implementing the actions, demonstrating that water quality standards will be attained as expeditiously as practicable, but not later than deadlines in applicable sections of this Act and all other environmental objectives identified in the watershed management plan will be attained as expeditiously as practicable;

"(v) contains an effective public participation process in the development and implementation of the plan;

"(vi) specifies a process to monitor and evaluate progress toward meeting environmental objectives; and

"(vii) specifies a process to revise the plan as needed.

"(B) For those waters in the watershed attaining water quality standards at the time of submission (including threatened waters), the plan identifies those projects and activities necessary to maintain water quality standards and attain or maintain other environmental objectives in the future.

"(2) TERMS OF PLAN AND PLAN APPROVAL.—Each plan submitted and approved under this subsection shall extend for a period of not less than 5 years and include a planning and implementation schedule with milestones and completion dates within that period. The approval by the State of a plan shall apply for a period not exceed 5 years. A revised and updated plan may be submitted prior to the expiration of the period specified in the preceding sentence for approval pursuant to the same conditions and requirements that apply to an initial plan for a watershed that is approved pursuant to this subsection.

"(g) INCENTIVES FOR WATERSHED MANAGEMENT.—

"(1) POINT SOURCE PERMITS.—

"(A) IN GENERAL.—Notwithstanding section 301(b)(1)(C), a permit may be issued under section 402 with a limitation that does not meet water quality standards, if—

"(i) the receiving water is in a watershed with an approved watershed plan;

"(ii) the plan includes enforceable requirements under State or local law for nonpoint source pollutant load reductions that in combination with point source requirements will meet water quality standards prior to the expiration of plan; and

"(iii) the point source does not have a history of significant noncompliance with its permit effluent limitations, as determined by the Administrator or the State (in the case with an approved permit under section 402).

"(B) SYNCHRONIZED PERMIT TERMS.—Notwithstanding section 402(b)(1)(B), the term of a permit issued under section 402 may be extended by 5 years if the discharge is located in a watershed planning area for which a watershed management plan is to be developed.

"(C) 10-YEAR PERMIT TERMS.—Notwithstanding section 402(b)(1)(B), the term of a permit issued under section 402 may be extended to 10 years for any point source located in a watershed management unit for which a watershed management plan has been approved if the plan provides for the attainment and maintenance of water quality standards (including designated uses) in the affected waters and unless receiving waters are not meeting water quality standards due to the point source discharge. Such permits may be revised at any time if necessary to meet water quality standards.

"(2) NONPOINT SOURCE CONTROLS.—Not later than 30 months after the date of the enactment of this section, a State with an approved watershed program under this section may make a showing to the Administrator that nonpoint source management practices different from those established in national guidance issued by the Administrator under section 319 will attain water quality standards as expeditiously as practicable and not later than the deadlines established by this Act. If the Administrator is satisfied with such showing, then the Administrator may approve the State's nonpoint source management program that relies on such practices as meeting the requirements of section 319. Alternative watershed nonpoint source control practices must be identified in the watershed management plan adopted under subsection (f)(2) of this section.

"(3) FUNDING.—The Administrator may provide assistance to a State with an approved watershed management program under this section in the form of a multipurpose grant that would provide for single application, workplan and review, matching, oversight, and end-of-year closeout requirements for grant funding under sections 104(b)(3), 104(g), 106, 314(b), 319, 320, and 604(b). A State with an approved multipurpose grant may focus activities funded under such sections on a priority basis consistent with State-approved watershed management plans.

"(h) GUIDANCE.—Not later than 12 months after the date of the enactment of this section, and after consultation with other appropriate agencies, the Administrator shall issue guidance on recommended provisions to be included in State watershed programs and State-approved watershed management plans.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator for providing grants to States to assist such States in carrying out activities under this section $25,000,000 per fiscal year for each of fiscal years 1996 through 2000.".

(b) CONFORMING AMENDMENT.—Section 401(a)(1) (33 U.S.C. 1341(a)(1)) is amended by inserting "and with the provisions of a management plan approved by a State under section 321 of this Act" before the period at the end of the first sentence.

SEC. 308. REVISION OF EFFLUENT LIMITATIONS.

(a) ELIMINATION OF REQUIREMENT FOR ANNUAL REVISION.—Section 304(b) (33 U.S.C. 1314(b)) is amended in the matter preceding paragraph (1) by striking "and, at least annually thereafter," and inserting "and thereafter shall".

(b) SPECIAL RULE.—Section 304(b) (33 U.S.C. 1314(b)) is amended by striking the period at the end of the first sentence and inserting the following: "; except that guidelines issued under paragraph (1)(A) addressing pollutants identified pursuant to subsection (a)(4) shall not be revised after February 15, 1995, to be more stringent unless such revised guidelines meet the requirements of paragraph (4)(A).".

TITLE IV—PERMITS AND LICENSES

SEC. 401. WASTE TREATMENT SYSTEMS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS.

Section 402(a) is amended by adding at the end the following:

"(6) CONCENTRATED ANIMAL FEEDING OPERATIONS.—For purposes of this section, waste treatment systems, including retention ponds or lagoons, used to meet the requirements of this Act for concentrated animal feeding operations, are not waters of the United States. An existing concentrated animal feeding operation that uses a natural topographic impoundment or structure on the effective date of this Act, which is not hydrologically connected to any other waters of the United States, as a waste treatment system or wastewater retention facility may continue to use that natural topographic feature for waste storage regardless of its size, capacity, or previous use.".

SEC. 402. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

(a) DEADLINES.—Section 402(p) (33 U.S.C. 1343(p)) is amended—

(1) in paragraph (1) by striking "1994" and inserting "2005"; and

(2) in paragraph (6) by striking "1993" and inserting "2005".

(b) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Section 402(p)(3) is amended by adding at the end the following:

"(C) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Permits for municipal separate storm sewers shall not include numeric effluent limitations.".

SEC. 403. INTAKE CREDITS.

Section 402 (33 U.S.C. 1342) is amended by adding at the end the following:

"(q) INTAKE CREDITS.—

"(1) IN GENERAL.—Notwithstanding any provision of this Act, in any effluent limitation or other limitation imposed under the permit program established by the Administrator under this section, any State permit program approved under this section (including any program for implementation under section 118(c)(2)), any standards established under section 307(a), or any program for industrial users established under section 307(b), the Administrator, as applicable, shall or the State, as applicable, may provide credits for pollutants present in or caused by intake water such that an owner or operator of a point source is not required to remove, reduce, or treat the amount of any pollutant in an effluent below the amount of such pollutant that is present in or caused by the intake water for such facility—

"(A)(i) if the source of the intake water and the receiving waters into which the effluent is ultimately discharged are the same;

"(ii) if the source of the intake water meets the maximum contaminant levels or treatment techniques for drinking water contaminants established pursuant to the Safe Drinking Water Act for the pollutant of concern; or "(iii) if, at the time the limitation or standard is established, the level of the pollutant in the intake water is the same as or lower than the amount of the pollutant in the receiving waters, taking into account analytical variability; and

"(B) if, for conventional pollutants, the constituents of the conventional pollutants in the intake water are the same as the constituents of the conventional pollutants in the effluent.

"(2) ALLOWANCE FOR INCIDENTAL AMOUNTS.—In determining whether the condition set forth in paragraph (1)(A)(i) is being met, the Administrator shall or the State may, as appropriate, make allowance for incidental amounts of intake water from sources other than the receiving waters.

"(3) CREDIT FOR NONQUALIFYING POLLUTANTS.—The Administrator shall or a State may provide point sources an appropriate credit for pollutants found in intake water that does not meet the requirement of paragraph (1).

"(4) MONITORING.—Nothing in this section precludes the Administrator or a State from requiring monitoring of intake water, effluent, or receiving waters to assist in the implementation of this section.".

SEC. 404. COMBINED SEWER OVERFLOWS.

Section 402 (33 U.S.C. 1342) is amended by adding at the end the following:

"(r) COMBINED SEWER OVERFLOWS.—

"(1) REQUIREMENT FOR PERMITS.—Each permit issued pursuant to this section for a discharge from a combined storm and sanitary sewer shall conform with the combined sewer overflow control policy signed by the Administrator on April 11, 1994.

"(2) TERM OF PERMIT.—

"(A) COMPLIANCE DEADLINE.—Notwithstanding any compliance schedule under section 301(b), or any permit limitation under section 402(b)(1)(B), the Administrator (or a State with a program approved under subsection (b)) may issue a permit pursuant to this section for a discharge from a combined storm and sanitary sewer, that includes a schedule for compliance with a long-term control plan under the control policy referred to in paragraph (1), for a term not to exceed 15 years.

"(B) EXTENSION.—Notwithstanding the compliance deadline specified in subparagraph (A), the Administrator or a State with a program approved under subsection (b) shall extend, on request of an owner or operator of a combined storm and sanitary sewer and subject to subparagraph (C), the period of compliance beyond the last day of the 15-year period—

"(i) if the Administrator or the State determines that compliance by such last day is not within the economic capability of the owner or operator; and

"(ii) if the owner or operator demonstrates to the satisfaction of the Administrator or the State reasonable further progress towards compliance with a long-term control plan under the control policy referred to in paragraph (1).

"(C) LIMITATIONS ON EXTENSIONS.—

"(i) EXTENSION NOT APPROPRIATE.—Notwithstanding subparagraph (B), the Administrator or the State need not grant an extension of the compliance deadline specified in subparagraph (A) if the Administrator or the State determines that such an extension is not appropriate.

"(ii) NEW YORK-NEW JERSEY.—Prior to granting an extension under subparagraph (B) with respect to a combined sewer overflow discharge originating in the State of New York or New Jersey and affecting the other of such States, the Administrator or the State from which the discharge originates, as the case may be, shall provide written notice of the proposed extension to the other State and shall not grant the extension unless the other State approves the extension or does not disapprove the extension within 90 days of receiving such written notice.

"(3) SAVINGS CLAUSE.—Any consent decree or court order entered by a United States district court, or administrative order issued by the Administrator, before the date of the enactment of this subsection establishing any deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables, for the evaluation, design, or construction of treatment works for control or elimination of any discharge from a municipal combined storm and sanitary sewer system shall be modified upon motion or request by any party to such consent decree or court order, to extend to December 31, 2009, at a minimum, any such deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables as is necessary to conform to the policy referred to in paragraph (1) or otherwise achieve the objectives of this subsection. Notwithstanding the preceding sentence, the period of compliance with respect to a discharge referred to in paragraph (2)(C)(ii) may only be extended in accordance with paragraph (2)(C)(ii).".

SEC. 405. ABANDONED MINES.

Section 402 (33 U.S.C. 1342) is further amended by inserting after subsection (o) the following:

"(p) PERMITS FOR REMEDIATING PARTY ON ABANDONED OR INACTIVE MINED LANDS.—

"(1) APPLICABILITY.—Subject to this subsection, including the requirements of paragraph (3), the Administrator, with the concurrence of the concerned State or Indian tribe, may issue a permit to a remediating party under this section for discharges associated with remediation activity at abandoned or inactive mined lands which modifies any otherwise applicable requirement of sections 301(b), 302, and 403, or any subsection of this section (other than this subsection).

"(2) APPLICATION FOR A PERMIT.—A remediating party who desires to conduct remediation activities on abandoned or inactive mined lands from which there is or may be a discharge of pollutants to waters of the United States or from which there could be a significant addition of pollutants from nonpoint sources may submit an application to the Administrator. The application shall consist of a remediation plan and any other information requested by the Administrator to clarify the plan and activities.

"(3) REMEDIATION PLAN.—The remediation plan shall include (as appropriate and applicable) the following:

"(A) Identification of the remediating party, including any persons cooperating with the concerned State or Indian tribe with respect to the plan, and a certification that the applicant is a remediating party under this section.

"(B) Identification of the abandoned or inactive mined lands addressed by the plan.

"(C) Identification of the waters of the United States impacted by the abandoned or inactive mined lands.

"(D) A description of the physical conditions at the abandoned or inactive mined lands that are causing adverse water quality impacts.

"(E) A description of practices, including system design and construction plans and operation and maintenance plans, proposed to reduce, control, mitigate, or eliminate the adverse water quality impacts and a schedule for implementing such practices and, if it is an existing remediation project, a description of practices proposed to improve the project, if any.

"(F) An analysis demonstrating that the identified practices are expected to result in a water quality improvement for the identified waters.

"(G) A description of monitoring or other assessment to be undertaken to evaluate the success of the practices during and after implementation, including an assessment of baseline conditions.

"(H) A schedule for periodic reporting on progress in implementation of major elements of the plan.

"(I) A budget and identified funding to support the activities described in the plan.

"(J) Remediation goals and objectives.

"(K) Contingency plans.

"(L) A description of the applicant's legal right to enter and conduct activities.

"(M) The signature of the applicant.

"(N) Identification of the pollutant or pollutants to be addressed by the plan.

"(4) PERMITS.—

"(A) CONTENTS.—Permits issued by the Administrator pursuant to this subsection shall—

"(i) provide for compliance with and implementation of a remediation plan which, following issuance of the permit, may be modified by the applicant after providing notification to and opportunity for review by the Administrator;

"(ii) require that any modification of the plan be reflected in a modified permit;

"(iii) require that if, at any time after notice to the remediating party and opportunity for comment by the remediating party, the Administrator determines that the remediating party is not implementing the approved remediation plan in substantial compliance with its terms, the Administrator shall notify the remediating party of the determination together with a list specifying the concerns of the Administrator;

"(iv) provide that, if the identified concerns are not resolved or a compliance plan approved within 180 days of the date of the notification, the Administrator may take action under section 309 of this Act;

"(v) provide that clauses (iii) and (iv) not apply in the case of any action under section 309 to address violations involving gross negligence (including reckless, willful, or wanton misconduct) or intentional misconduct by the remediating party or any other person;

"(vi) not require compliance with any limitation issued under sections 301(b), 302, and 403 or any requirement established by the Administrator under any subsection of this section (other than this subsection); and

"(vii) provide for termination of coverage under the permit without the remediating party being subject to enforcement under sections 309 and 505 of this Act for any remaining discharges—

"(I) after implementation of the remediation plan;

"(II) if a party obtains a permit to mine the site; or

"(III) upon a demonstration by the remediating party that the surface water quality conditions due to remediation activities at the site, taken as a whole, are equal to or superior to the surface water qualities that existed prior to initiation of remediation.

"(B) LIMITATIONS.—The Administrator shall only issue a permit under this section, consistent with the provisions of this subsection, to a remediating party for discharges associated with remediation action at abandoned or inactive mined lands if the remediation plan demonstrates with reasonable certainty that the actions will result in an improvement in water quality.

"(C) PUBLIC PARTICIPATION.—The Administrator may only issue a permit or modify a permit under this section after complying with subsection (b)(3).

"(D) EFFECT OF FAILURE TO COMPLY WITH PERMIT.—Failure to comply with terms of a permit issued pursuant to this subsection shall not be deemed to be a violation of an effluent standard or limitation issued under this Act.

"(E) LIMITATIONS ON STATUTORY CONSTRUCTION.—This subsection shall not be construed—

"(i) to limit or otherwise affect the Administrator's powers under section 504; or

"(ii) to preclude actions pursuant to section 309 or 505 for any violations of sections 301(a), 302, 402, and 403 that may have existed for the abandoned or inactive mined land prior to initiation of remediation covered by a permit issued under this subsection, unless such permit covers remediation activities implemented by the permit holder prior to issuance of the permit.

"(5) DEFINITIONS.—In this subsection the following definitions apply:

"(A) REMEDIATING PARTY.—The term 'remediating party' means—

"(i) the United States (on non-Federal lands), a State or its political subdivisions, or an Indian tribe or officers, employees, or contractors thereof; and

"(ii) any person acting in cooperation with a person described in clause (i), including a government agency that owns abandoned or inactive mined lands for the purpose of conducting remediation of the mined lands or that is engaging in remediation activities incidental to the ownership of the lands.

Such term does not include any person who, before or following issuance of a permit under this section, directly benefited from or participated in any mining operation (including exploration) associated with the abandoned or inactive mined lands.

"(B) ABANDONED OR INACTIVE MINED LANDS.—The term 'abandoned or inactive mined lands' means lands that were formerly mined and are not actively mined or in temporary shutdown at the time of submission of the remediation plan and issuance of a permit under this section.

"(C) MINED LANDS.—The term 'mined lands' means the surface or subsurface of an area where mining operations, including exploration, extraction, processing, and beneficiation, have been conducted. Such term includes private ways and roads appurtenant to such area, land excavations, underground mine portals, adits, and surface expressions associated with underground workings, such as glory holes and subsidence features, mining waste, smelting sites associated with other mined lands, and areas where structures, facilities, equipment, machines, tools, or other material or property which result from or have been used in the mining operation are located.

"(6) REGULATIONS.—The Administrator may issue regulations establishing more specific requirements that the Administrator determines would facilitate implementation of this subsection. Before issuance of such regulations, the Administrator may establish, on a case-by-case basis after notice and opportunity for public comment as provided by subsection (b)(3), more specific requirements that the Administrator determines would facilitate implementation of this subsection in an individual permit issued to the remediating party.".

SEC. 406. BENEFICIAL USE OF BIOSOLIDS.

(a) REFERENCES.—Section 405(a) (33 U.S.C. 1345(a)) is amended by inserting "(also referred to as 'biosolids')" after "sewage sludge" the first place it appears.

(b) APPROVAL OF STATE PROGRAMS.—Section 405(f) (33 U.S.C. 1345(f)) is amended by adding at the end the following:

"(3) APPROVAL OF STATE PROGRAMS.—Notwithstanding any other provision of law, the Administrator shall approve for purposes of this subsection State programs that meet the standards for final use or disposal of sewage sludge established by the Administrator pursuant to subsection (d).".

(c) STUDIES AND PROJECTS.—Section 405(g) (33 U.S.C. 1345(g)) is amended—

(1) in the first sentence of paragraph (1) by inserting "building materials," after "agricultural and horticultural uses,";

(2) in paragraph (1) by adding at the end the following: "Not later than January 1, 1997, and after providing notice and opportunity for public comment, the Administrator shall issue guidance on the beneficial use of sewage sludge."; and

(3) in paragraph (2) by striking "September 30, 1986," and inserting "September 30, 1995,".

TITLE V—GENERAL PROVISIONS

SEC. 501. PUBLICLY OWNED TREATMENT WORKS DEFINED.

Section 502 (33 U.S.C. 1362) is further amended by adding at the end the following:

"(25) The term 'publicly owned treatment works' means a treatment works, as defined in section 212, located at other than an industrial facility, which is designed and constructed principally, as determined by the Administrator, to treat domestic sewage or a mixture of domestic sewage and industrial wastes of a liquid nature. In the case of such a facility that is privately owned, such term includes only those facilities that, with respect to such industrial wastes, are carrying out a pretreatment program meeting all the requirements established under section 307 and paragraphs (8) and (9) of section 402(b) for pretreatment programs (whether or not the treatment works would be required to implement a pretreatment program pursuant to such sections).".

SEC. 502. IMPLEMENTATION OF WATER POLLUTION LAWS WITH RESPECT TO VEGETABLE OIL.

(a) DIFFERENTIATION AMONG FATS, OILS, AND GREASES.—

(1) IN GENERAL.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law related to water pollution control, the head of a Federal agency shall—

(A) differentiate between and establish separate classes for—

(i)(I) animal fats; and

(II) vegetable oils; and

(ii) other oils, including petroleum oil; and

(B) apply different standards and reporting requirements (including reporting requirements based on quantitative amounts) to different classes of fat and oil as provided in paragraph (2).

(2) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii), the head of the Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) ANIMAL FAT.—The term "animal fat" means each type of animal fat, oil, or grease, including fat, oil, or grease from fish or a marine mammal and any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.

(2) VEGETABLE OIL.—The term "vegetable oil" means each type of vegetable oil, including vegetable oil from a seed, nut, or kernel and any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

SEC. 503. NEEDS ESTIMATE.

Section 516(b)(1) (33 U.S.C. 1375(b)(1)) is amended—

(1) in the first sentence by striking "biennially revised" and inserting "quadrennially revised"; and

(2) in the second sentence by striking "February 10 of each odd-numbered year" and inserting "December 31, 1997, and December 31 of every 4th calendar year thereafter".

SEC. 504. FOOD PROCESSING AND FOOD SAFETY.

Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 521 and by inserting after section 518 the following:

"SEC. 519. FOOD PROCESSING AND FOOD SAFETY.

"In developing any effluent guideline under section 304(b), pretreatment standard under section 307(b), or new source performance standard under section 306 that is applicable to the food processing industry, the Administrator shall consult with and consider the recommendations of the Food and Drug Administration, Department of Health and Human Services, Department of Agriculture, and Department of Commerce. The recommendations of such departments and agencies and a description of the Administrator's response to those recommendations shall be made part of the rulemaking record for the development of such guidelines and standards. The Administrator's response shall include an explanation with respect to food safety, including a discussion of relative risks, of any departure from a recommendation by any such department or agency.".

SEC. 505. AUDIT DISPUTE RESOLUTION.

Title V (33 U.S.C. 1361–1377) is further amended by inserting before section 521, as redesignated by this Act, the following:

"SEC. 520. AUDIT DISPUTE RESOLUTION.

"(a) ESTABLISHMENT OF BOARD.—The Administrator shall establish an independent Board of Audit Appeals (hereinafter in this section referred to as the 'Board') in accordance with the requirements of this section.

"(b) DUTIES.—The Board shall have the authority to review and decide contested audit determinations related to grant and contract awards under this Act. In carrying out such duties, the Board shall consider only those regulations, guidance, policies, facts, and circumstances in effect at the time of the grant or contract award.

"(c) PRIOR ELIGIBILITY DECISIONS.—The Board shall not reverse project cost eligibility determinations that are supported by an decision document of the Environmental Protection Agency, including grant or contract approvals, plans and specifications approval forms, grant or contract payments, change order approval forms, or similar documents approving project cost eligibility, except upon a showing that such decision was arbitrary, capricious, or an abuse of law in effect at the time of such decision.

"(d) MEMBERSHIP.—

"(1) APPOINTMENT.—The Board shall be composed of 7 members to be appointed by the Administrator not later than 90 days after the date of the enactment of this section.

"(2) TERMS.—Each member shall be appointed for a term of 3 years.

"(3) QUALIFICATIONS.—The Administrator shall appoint as members of the Board individuals who are specially qualified to serve on the Board by virtue of their expertise in grant and contracting procedures. The Administrator shall make every effort to ensure that individuals appointed as members of the Board are free from conflicts of interest in carrying out the duties of the Board.

"(e) BASIC PAY AND TRAVEL EXPENSES.—

"(1) RATES OF PAY.—Except as provided in paragraph (2), members shall each be paid at a rate of basic pay, to be determined by the Administrator, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board.

"(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Board who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

"(3) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Board, the Administrator shall provide to the Board the administrative support services necessary for the Board to carry out its responsibilities under this section.

"(g) DISPUTES ELIGIBLE FOR REVIEW.—The authority of the Board under this section shall extend to any contested audit determination that on the date of the enactment of this section has yet to be formally concluded and accepted by either the grantee or the Administrator.".

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

SEC. 601. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) (33 U.S.C. 1381(a)) is amended by striking "(1) for construction" and all that follows through the period and inserting "to accomplish the purposes of this Act.".

SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

(a) REQUIREMENTS FOR CONSTRUCTION OF TREATMENT WORKS.—Section 602(b)(6) (33 U.S.C. 1382(b)(6)) is amended—

(1) by striking "before fiscal year 1995"; and

(2) by striking "201(b)" and all that follows through "218" and inserting "211".

(b) COMPLIANCE WITH OTHER FEDERAL LAWS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following:

"(c) OTHER FEDERAL LAWS.—

"(1) COMPLIANCE WITH OTHER FEDERAL LAWS.—If a State provides assistance from its water pollution control revolving fund established in accordance with this title and in accordance with a statute, rule, executive order, or program of the State which addresses the intent of any requirement or any Federal executive order or law other than this Act, as determined by the State, the State in providing such assistance shall be treated as having met the Federal requirements.

"(2) LIMITATION ON APPLICABILITY OF OTHER FEDERAL LAWS.—If a State does not meet a requirement of a Federal executive order or law other than this Act under paragraph (1), such Federal law shall only apply to Federal funds deposited in the water pollution control revolving fund established by the State in accordance with this title the first time such funds are used to provide assistance from the revolving fund.".

(c) GUIDANCE FOR SMALL SYSTEMS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following new subsection:

"(d) GUIDANCE FOR SMALL SYSTEMS.—

"(1) SIMPLIFIED PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall assist the States in establishing simplified procedures for small systems to obtain assistance under this title.

"(2) PUBLICATION OF MANUAL.—Not later than 1 year after the date of the enactment of this subsection, and after providing notice and opportunity for public comment, the Administrator shall publish a manual to assist small systems in obtaining assistance under this title and publish in the Federal Register notice of the availability of the manual.

"(3) SMALL SYSTEM DEFINED.—For purposes of this title, the term 'small system' means a system for which a municipality or intermunicipal, interstate, or State agency seeks assistance under this title and which serves a population of 20,000 or less.".

SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Section 603(c) (33 U.S.C. 1383(c)) is amended to read as follows:

"(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

"(1) IN GENERAL.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance to activities which have as a principal benefit the improvement or protection of water quality to a municipality, intermunicipal agency, interstate agency, State agency, or other person. Such activities may include the following:

"(A) Construction of a publicly owned treatment works if the recipient of such assistance is a municipality.

"(B) Implementation of lake protection programs and projects under section 314.

"(C) Implementation of a management program under section 319.

"(D) Implementation of a conservation and management plan under section 320.

"(E) Implementation of a watershed management plan under section 321.

"(F) Implementation of a stormwater management program under section 322.

"(G) Acquisition of property rights for the restoration or protection of publicly or privately owned riparian areas.

"(H) Implementation of measures to improve the efficiency of public water use.

"(I) Development and implementation of plans by a public recipient to prevent water pollution.

"(J) Acquisition of lands necessary to meet any mitigation requirements related to construction of a publicly owned treatment works.

"(2) FUND AMOUNTS.—The water pollution control revolving fund of a State shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing financial assistance described in paragraph (1). Fees charged by a State to recipients of such assistance may be deposited in the fund for the sole purpose of financing the cost of administration of this title.".

(b) EXTENDED REPAYMENT PERIOD FOR DISADVANTAGED COMMUNITIES.—Section 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A) by inserting after "20 years" the following: "or, in the case of a disadvantaged community, the lesser of 40 years or the expected life of the project to be financed with the proceeds of the loan"; and

(2) in subparagraph (B) by striking "not later than 20 years after project completion" and inserting "upon the expiration of the term of the loan".

(c) LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGY.—Section 603(d)(5) (33 U.S.C. 1383(d)(5)) is amended to read as follows:

"(5) to provide loan guarantees for—

"(A) similar revolving funds established by municipalities or intermunicipal agencies; and

"(B) developing and implementing innovative technologies.".

(d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7) (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: "or $400,000 per year, whichever is greater, plus the amount of any fees collected by the State for such purpose under subsection (c)(2)".

(e) TECHNICAL AND PLANNING ASSISTANCE FOR SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to provide to small systems technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant operations; except that such amounts shall not exceed 2 percent of all grant awards to such fund under this title.".

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) (33 U.S.C. 1383(f)) is amended by striking "and 320" and inserting "320, 321, and 322".

(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—Section 603(g) (33 U.S.C. 1383(g)) is amended to read as follows:

"(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—The State may provide financial assistance from its water pollution control revolving fund with respect to a project for construction of a treatment works only if—

"(1) such project is on the State's priority list under section 216 of this Act; and

"(2) the recipient of such assistance is a municipality in any case in which the treatment works is privately owned.".

(h) INTEREST RATES.—Section 603 is further amended by adding at the end the following:

"(i) INTEREST RATES.—In any case in which a State makes a loan pursuant to subsection (d)(1) to a disadvantaged community, the State may charge a negative interest rate of not to exceed 2 percent to reduce the unpaid principal of the loan. The aggregate amount of all such negative interest rate loans the State makes in a fiscal year shall not exceed 20 percent of the aggregate amount of all loans made by the State from its revolving loan fund in such fiscal year.

"(j) DISADVANTAGED COMMUNITY DEFINED.—As used in this section, the term 'disadvantaged community' means the service area of a publicly owned treatment works with respect to which the average annual residential sewage treatment charges for a user of the treatment works meet affordability criteria established by the State in which the treatment works is located (after providing for public review and comment) in accordance with guidelines to be established by the Administrator, in cooperation with the States.".

(i) SALE OF TREATMENT WORKS.—Section 603 is further amended by adding at the end the following:

"(k) SALE OF TREATMENT WORKS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of this Act, any State, municipality, intermunicipality, or interstate agency may transfer by sale to a qualified private sector entity all or part of a treatment works that is owned by such agency and for which it received Federal financial assistance under this Act if the transfer price will be distributed, as amounts are received, in the following order:

"(A) First reimbursement of the agency of the unadjusted dollar amount of the costs of construction of the treatment works or part thereof plus any transaction and fix-up costs incurred by the agency with respect to the transfer less the amount of such Federal financial assistance provided with respect to such costs.

"(B) If proceeds from the transfer remain after such reimbursement, repayment of the Federal Government of the amount of such Federal financial assistance less the applicable share of accumulated depreciation on such treatment works (calculated using Internal Revenue Service accelerated depreciation schedule applicable to treatment works).

"(C) If any proceeds of such transfer remain after such reimbursement and repayment, retention of the remaining proceeds by such agency.

"(2) Release of condition.—Any requirement imposed by regulation or policy for a showing that the treatment works are no longer needed to serve their original purpose shall not apply.

"(3) Selection of buyer.—A State, municipality, intermunicipality, or interstate agency exercising the authority granted by this subsection shall select a qualified private sector entity on the basis of total net cost and other appropriate criteria and shall utilize such competitive bidding, direct negotiation, or other criteria and procedures as may be required by State law.

"(l) Private Ownership of Treatment Works.—

"(1) Regulatory review.—The Administrator shall review the law and any regulations, policies, and procedures of the Environmental Protection Agency affecting the construction, improvement, replacement, operation, maintenance, and transfer of ownership of current and future treatment works owned by a State, municipality, intermunicipality, or interstate agency. If permitted by law, the Administrator shall modify such regulations, policies, and procedures to eliminate any obstacles to the construction, improvement, replacement, operation, and maintenance of such treatment works by qualified private sector entities.

"(2) Report.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall submit to Congress a report identifying any provisions of law that must be changed in order to eliminate any obstacles referred to in paragraph (1).

"(3) Definition.—For purposes of this section, the term 'qualified private sector entity' means any nongovernmental individual, group, association, business, partnership, organization, or privately or publicly held corporation that—

"(A) has sufficient experience and expertise to discharge successfully the responsibilities associated with construction, operation, and maintenance of a treatment works and to satisfy any guarantees that are agreed to in connection with a transfer of treatment works under subsection (k);

"(B) has the ability to assure protection against insolvency and interruption of services through contractual and financial guarantees; and

"(C) with respect to subsection (k), to the extent consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade—

"(i) is majority-owned and controlled by citizens of the United States; and

"(ii) does not receive subsidies from a foreign government.".

SEC. 604. ALLOTMENT OF FUNDS.

(a) In General.—Section 604(a) (33 U.S.C. 1384(a)) is amended to read as follows:

"(a) Formula for Fiscal Years 1996–2000.—Sums authorized to be appropriated pursuant to section 607 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be allotted for such year by the Administrator not later than the 10th day which begins after the date of the enactment of the Clean Water Amendments of 1995. Sums authorized for each such fiscal year shall be allotted in accordance with the following table:

"States:	*Percentage of sums authorized:*
Alabama	1.0110
Alaska	0.5411
Arizona	0.7464
Arkansas	0.5914
California	7.9031
Colorado	0.7232
	Percentage of sums
Connecticut	1.3537
Delaware	0.4438
District of Columbia	0.4438
Florida	3.4462
Georgia	1.8683
Hawaii	0.7002
Idaho	0.4438
Illinois	4.9976
Indiana	2.6631
Iowa	1.2236
Kansas	0.8690
Kentucky	1.3570
Louisiana	1.0060
Maine	0.6999
Maryland	2.1867
Massachusetts	3.7518
Michigan	3.8875
Minnesota	1.6618
Mississippi	0.8146
Missouri	2.5063
Montana	0.4438
Nebraska	0.4624
Nevada	0.4438
New Hampshire	0.9035
New Jersey	4.5156
New Mexico	0.4438
New York	12.1969
North Carolina	1.9943
North Dakota	0.4438
Ohio	5.0898
Oklahoma	0.7304
Oregon	1.2399
Pennsylvania	4.2145
Rhode Island	0.6071
South Carolina	0.9262
South Dakota	0.4438
Tennessee	1.4668
Texas	4.6458
Utah	0.4764
Vermont	0.4438
Virginia	2.2615
Washington	1.9217
West Virginia	1.4249
Wisconsin	2.4442
Wyoming	0.4438
Puerto Rico	1.1792
Northern Marianas	0.0377
American Samoa	0.0812
Guam	0.0587
Pacific Islands Trust Territory	0.1158
Virgin Islands	0.0576.".

(b) Conforming Amendment.—Section 604(c)(2) is amended by striking "title II of this Act" and inserting "this title".

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

Section 607 (33 U.S.C. 1387(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

"(6) such sums as may be necessary for fiscal year 1995;

"(7) $2,500,000,000 for fiscal year 1996;

"(8) $2,500,000,000 for fiscal year 1997;

"(9) $2,500,000,000 for fiscal year 1998;

"(10) $2,500,000,000 for fiscal year 1999; and

"(11) $2,500,000,000 for fiscal year 2000.".

SEC. 606. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

Title VI (33 U.S.C. 1381–1387) is amended—

(1) in section 607 by inserting after "title" the following: "(other than section 608)"; and

(2) by adding at the end the following:

"SEC. 608. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

"(a) General Authority.—The Administrator shall make capitalization grants to each State for the purpose of establishing a nonpoint source water pollution control revolving fund for providing assistance—

"(1) to persons for carrying out management practices and measures under the State management program approved under section 319; and

"(2) to agricultural producers for the development and implementation of the water quality components of a whole farm or ranch resource management plan and for implementation of management practices and measures under such a plan.

A State nonpoint source water pollution control revolving fund shall be separate from any other State water pollution control revolving fund; except that the chief executive officer of the State may transfer funds from one fund to the other fund.

"(b) Applicability of Other Requirements of This Title.—Except to the extent the Administrator, in consultation with the chief executive officers of the States, determines that a provision of this title is not consistent with a provision of this section, the provisions of sections 601 through 606 of this title shall apply to grants made under this section in the same manner and to the same extent as they apply to grants made under section 601 of this title. Paragraph (5) of section 602(b) shall apply to all funds in a State revolving fund established under this section as a result of capitalization grants made under this section; except that such funds shall first be used to assure reasonable progress toward attainment of the goals of section 319, as determined by the Governor of the State. Paragraph (7) of section 603(d) shall apply to a State revolving fund established under this section, except that the 4-percent limitation contained in such section shall not apply to such revolving fund.

"(c) Apportionment of Funds.—Funds made available to carry out this section for any fiscal year shall be allotted among the States by the Administrator in the same manner as funds are allotted among the States under section 319 in such fiscal year.

"(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $500,000,000 per fiscal year for each of fiscal years 1996 through 2000.".

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. TECHNICAL AMENDMENTS.

(a) Section 118.—Section 118(c)(1)(A) (33 U.S.C. 1268(c)(1)(A)) is amended by striking the last comma.

(b) Section 120.—Section 120(d) (33 U.S.C. 1270(d)) is amended by striking "(1)".

(c) Section 204.—Section 204(a)(3) (33 U.S.C. 1284(a)(3)) is amended by striking the final period and inserting a semicolon.

(d) Section 205.—Section 205 (33 U.S.C. 1285) is amended—

(1) in subsection (c)(2) by striking "and 1985" and inserting "1985, and 1986";

(2) in subsection (c)(2) by striking "through 1985" and inserting "through 1986";

(3) in subsection (g)(1) by striking the period following "4 per centum"; and

(4) in subsection (m)(1)(B) by striking "this" the last place it appears and inserting "such".

(e) Section 208.—Section 208 (33 U.S.C. 1288) is amended—

(1) in subsection (h)(1) by striking "designed" and inserting "designated"; and

(2) in subsection (j)(1) by striking "September 31, 1988" and inserting "September 30, 1988".

(f) Section 301.—Section 301(j)(1)(A) (33 U.S.C. 1311(j)(1)(A)) is amended by striking "that" the first place it appears and inserting "than".

(g) Section 309.—Section 309(d) (33 U.S.C. 1319(d)) is amended by striking the second comma following "Act by a State".

(h) Section 311.—Section 311 (33 U.S.C. 1321) is amended—

(1) in subsection (b) by moving paragraph (12) (including subparagraphs (A), (B) and (C)) 2 ems to the right; and

(2) in subsection (h)(2) by striking "The" and inserting "the".

(i) Section 505.—Section 505(f) (33 U.S.C. 1365(f)) is amended by striking the last comma.

(j) Section 516.—Section 516 (33 U.S.C. 1375) is amended by redesignating subsection (g) as subsection (f).

(k) Section 518.—Section 518(f) (33 U.S.C. 1377(f)) is amended by striking "(d)" and inserting "(e)".

SEC. 702. JOHN A. BLATNIK NATIONAL FRESH WATER QUALITY RESEARCH LABORATORY.

(a) Designation.—The laboratory and research facility established pursuant to section 104(e) of the Federal Water Pollution Control Act (33 U.S.C. 1254(e)) that is located in Duluth, Minnesota, shall be known and designated as the "John A. Blatnik National Fresh Water Quality Research Laboratory".

(b) References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory and research facility referred to in subsection (a) shall be deemed to be a reference to the "John A. Blatnik National Fresh Water Quality Research Laboratory".

SEC. 703. WASTEWATER SERVICE FOR COLONIAS.

(a) Grant Assistance.—The Administrator may make grants to States along the United States-Mexico border to provide assistance for planning, design, and construction of treatment works to provide wastewater service to the communities along such border commonly known as "colonias".

(b) Federal Share.—The Federal share of the cost of a project carried out using funds made available under subsection (a) shall be 50 percent. The non-Federal share of such cost shall be provided by the State receiving the grant.

(c) Treatment Works Defined.—For purposes of this section, the term "treatment works" has the meaning such term has under section 212 of the Federal Water Pollution Control Act.

(d) Authorization of Appropriations.—There is authorized to be appropriated for making grants under subsection (a) $50,000,000 for fiscal year 1996. Such sums shall remain available until expended.

SEC. 704. SAVINGS IN MUNICIPAL DRINKING WATER COSTS.

(a) Study.—The Administrator of the Environmental Protection Agency, in consultation with the Director of the Office of Management and Budget, shall review, analyze, and compile information on the annual savings that municipalities realize in the construction, operation, and maintenance of drinking water facilities as a result of actions taken under the Federal Water Pollution Control Act.

(b) Contents.—The study conducted under subsection (a), at a minimum, shall contain an examination of the following elements:

(1) Savings to municipalities in the construction of drinking water filtration facilities resulting from actions taken under the Federal Water Pollution Control Act.

(2) Savings to municipalities in the operation and maintenance of drinking water facilities resulting from actions taken under such Act.

(3) Savings to municipalities in health expenditures resulting from actions taken under such Act.

(c) Report.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study conducted under subsection (a).

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wetlands and Watershed Management Act of 1995".

SEC. 802. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds and declares the following:

(1) Wetlands perform a number of valuable functions needed to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including—

(A) reducing pollutants (including nutrients, sediment, and toxics) from nonpoint and point sources;

(B) storing, conveying, and purifying flood and storm waters;

(C) reducing both bank erosion and wave and storm damage to adjacent lands and trapping sediment from upland sources;

(D) providing habitat and food sources for a broad range of commercial and recreational fish, shellfish, and migratory wildlife species (including waterfowl and endangered species); and

(E) providing a broad range of recreational values for canoeing, boating, birding, and nature study and observation.

(2) Original wetlands in the contiguous United States have been reduced by an estimated 50 percent and continue to disappear at a rate of 200,000 to 300,000 acres a year. Many of these original wetlands have also been altered or partially degraded, reducing their ecological value.

(3) Wetlands are highly sensitive to changes in water regimes and are, therefore, susceptible to degradation by fills, drainage, grading, water extractions, and other activities within their watersheds which affect the quantity, quality, and flow of surface and ground waters. Protection and management of wetlands, therefore, should be integrated with management of water systems on a watershed basis. A watershed protection and management perspective is also needed to understand and reverse the gradual, continued destruction of wetlands that occurs due to cumulative impacts.

(4) Wetlands constitute an estimated 5 percent of the Nation's surface area. Because much of this land is in private ownership wetlands protection and management strategies must take into consideration private property rights and the need for economic development and growth. This can be best accomplished in the context of a cooperative and coordinated Federal, State, and local strategy for data gathering, planning, management, and restoration with an emphasis on advance planning of wetlands in watershed contexts.

(b) Purposes.—The purposes of this Act are—

(1) to help create a coordinated national wetland management effort with efficient use of scarce Federal, State, and local financial and manpower resources to protect wetland functions and values and reduce natural hazard losses;

(2) to help reverse the trend of wetland loss in a fair, efficient, and cost-effective manner;

(3) to reduce inconsistencies and duplication in Federal, State, and local wetland management efforts and encourage integrated permitting at the Federal, State, and local levels;

(4) to increase technical assistance, cooperative training, and educational opportunities for States, local governments, and private landowners;

(5) to help integrate wetland protection and management with other water resource management programs on a watershed basis such as flood control, storm water management, allocation of water supply, protection of fish and wildlife, and point and nonpoint source pollution control;

(6) to increase regionalization of wetland delineation and management policies within a framework of national policies through advance planning of wetland areas, programmatic general permits and other approaches and the tailoring of policies to ecosystem and land use needs to reflect significant watershed variance in wetland resources;

(7) to address the cumulative loss of wetland resources;

(8) to increase the certainty and predictability of planning and regulatory policies for private landowners;

(9) to help achieve no overall net loss and net gain of the remaining wetland base of the United States through watershed-based restoration strategies involving all levels of government;

(10) to restore and create wetlands in order to increase the quality and quantity of the wetland resources and by so doing to restore and maintain the quality and quantity of the waters of the United States; and

(11) to provide mechanisms for joint State, Federal, and local development and testing of approaches to better protect wetland resources such as mitigation banking.

SEC. 803. STATE, LOCAL, AND LANDOWNER TECHNICAL ASSISTANCE AND COOPERATIVE TRAINING.

(a) State and Local Technical Assistance.—Upon request, the Administrator or the Secretary of the Army, as appropriate, shall provide technical assistance to State and local governments in the development and implementation of State and local government permitting programs under sections 404(e) and 404(h) of the Federal Water Pollution Control Act, State wetland conservation plans under section 805, and regional or local wetland management plans under section 805.

(b) Cooperative Training.—The Administrator and the Secretary, in cooperation with the Coordinating Committee established pursuant to section 804, shall conduct training courses for States and local governments involving wetland delineation, utilization of wetlands in nonpoint pollution control, wetland and stream restoration, wetland planning, wetland evaluation, mitigation banking, and other subjects deemed appropriate by the Administrator or Secretary.

(c) PRIVATE LANDOWNER TECHNICAL ASSISTANCE.—The Administrator and Secretary shall, in cooperation with the Coordination Committee, and appropriate Federal agencies develop and provide to private landowners guidebooks, pamphlets, or other materials and technical assistance to help them in identifying and evaluating wetlands, developing integrated wetland management plans for their lands consistent with the goals of this Act and the Federal Water Pollution Control Act, and restoring wetlands.

SEC. 804. FEDERAL, STATE, AND LOCAL GOVERNMENT COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a Federal, State, and Local Government Wetlands Coordinating Committee (hereinafter in this section referred to as the "Committee").

(b) FUNCTIONS.—The Committee shall—

(1) help coordinate Federal, State, and local wetland planning, regulatory, and restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower and resources at all levels of government;

(2) provide comments to the Secretary of the Army or Administrator in adopting regulatory, policy, program, or technical guidance affecting wetland systems;

(3) help develop and field test, national policies prior to implementation such as wetland, delineation, classification of wetlands, methods for sequencing wetland mitigation responses, the utilization of mitigation banks;

(4) help develop and carry out joint technical assistance and cooperative training programs as provided in section 803;

(5) help develop criteria and implementation strategies for facilitating State conservation plans and strategies, local and regional wetland planning, wetland restoration and creation, and State and local permitting programs pursuant to section 404(e) or 404(g) of the Federal Water Pollution Control Act; and

(6) help develop a national strategy for the restoration of wetland ecosystems pursuant to section 6 of this Act.

(c) MEMBERSHIP.—The Committee shall be composed of 18 members as follows:

(1) The Administrator or the designee of the Administrator.

(2) The Secretary or the designee of the Secretary.

(3) The Director of the United States Fish and Wildlife Service or the designee of the Director.

(4) The Chief of the Natural Resources Conservation Service or the designee of the Chief.

(5) The Undersecretary for Oceans and Atmosphere or the designee of the Under Secretary.

(6) One individual appointed by the Administrator who will represent the National Governor's Association.

(7) One individual appointed by the Administrator who will represent the National Association of Counties.

(8) One individual appointed by the Administrator who will represent the National League of Cities.

(9) One State wetland expert from each of the 10 regions of the Environmental Protection Agency. Each member to be appointed under this paragraph shall be jointly appointed by the Governors of the States within the Environmental Protection Agency's region. If the Governors from a region cannot agree on such a representative, they will each submit a nomination to the Administrator and the Administrator will select a representative from such region.

(d) TERMS.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

(e) VACANCIES.—A vacancy in the Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

(f) PAY.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) COCHAIRPERSONS.—The Administrator and one member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) (selected by such members) shall serve as cochairpersons of the Committee.

(h) QUORUM.—Two-thirds of the members of the Committee shall constitute a quorum but a lesser number may hold meetings.

(i) MEETINGS.—The Committee shall hold its first meeting not later than 120 days after the date of the enactment of this Act. The Committee shall meet at least twice each year thereafter. Meetings will be opened to the public.

SEC. 805. STATE AND LOCAL WETLAND CONSERVATION PLANS AND STRATEGIES; GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.

(a) STATE WETLAND CONSERVATION PLANS AND STRATEGIES.—Subject to the requirements of this section, the Administrator shall make grants to States and tribes to assist in the development and implementation of wetland conservation plans and strategies. More specific goals for such conservation plans and strategies may include:

(1) Inventorying State wetland resources, identifying individual and cumulative losses, identifying State and local programs applying to wetland resources, determining gaps in such programs, and making recommendations for filling those gaps.

(2) Developing and coordinating existing State, local, and regional programs for wetland management and protection on a watershed basis.

(3) Increasing the consistency of Federal, State, and local wetland definitions, delineation, and permitting approaches.

(4) Mapping and characterizing wetland resources on a watershed basis.

(5) Identifying sites with wetland restoration or creation potential.

(6) Establishing management strategies for reducing causes of wetland degradation and restoring wetlands on a watershed basis.

(7) Assisting regional and local governments prepare watershed plans for areas with a high percentage of lands classified as wetlands or otherwise in need of special management.

(8) Establishing and implementing State or local permitting programs under section 404(e) or 404(h) of the Federal Water Pollution Control Act.

(b) REGIONAL AND LOCAL WETLAND PLANNING, REGULATION, AND MANAGEMENT PROGRAMS.—Subject to the requirements of this section, the Administrator shall make grants to States which will, in turn, use this funding to make grants to regional and local governments to assist them in adopting and implementing wetland and watershed management programs consistent with goals stated in section 101 of the Federal Water Pollution Control Act and section 802 of this Act. Such plans shall be integrated with (where appropriate) or coordinated with planning efforts pursuant to section 319 of the Federal Water Pollution Control Act. Such programs shall, at a minimum, involve the inventory of wetland resources and the adoption of plans and policies to help achieve the goal of no net loss of wetland resources on a watershed basis. Other goals may include, but are not limited to:

(1) Integration of wetland planning and management with broader water resource and land use planning and management, including flood control, water supply, storm water management, and control of point and nonpoint source pollution.

(2) Adoption of measures to increase consistency in Federal, State, and local wetland definitions, delineation, and permitting approaches.

(3) Establishment of management strategies for restoring wetlands on a watershed basis.

(c) GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.—Subject to the requirements of this section, the Administrator may make grants to States which assist the Federal Government in the implementation of the section 404 Federal Water Pollution Control program through State assumption of permitting pursuant to sections 404(g) and 404(h) of such Act through State permitting through a State programmatic general permit pursuant to section 404(e) of such Act or through monitoring and enforcement activities. In order to be eligible to receive a grant under this section a State shall provide assurances satisfactory to the Administrator that amounts received by the State in grants under this section will be used to issue regulatory permits or to enforce regulations consistent with the overall goals of section 802 and the standards and procedures of section 404(g) or 404(e) of this Act.

(d) MAXIMUM AMOUNT.—No State may receive more than $500,000 in total grants under subsections (a), (b), and (c) in any fiscal year and more than $300,000 in grants for subsection (a), (b), or (c), individually.

(e) FEDERAL SHARE.—The Federal share of the cost of activities carried out using amounts made available in grants under this section shall not exceed 75 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 806. NATIONAL COOPERATIVE WETLAND ECOSYSTEM RESTORATION STRATEGY.

(a) DEVELOPMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in cooperation with other Federal agencies, State, and local governments, and representatives of the private sector, shall initiate the development of a National Cooperative Wetland Ecosystem Restoration Strategy.

(b) GOALS.—The goal of the National Cooperative Wetland Ecosystem Restoration Strategy shall be to restore damaged and degraded wetland and riparian ecosystems consistent with the goals of the Water Pollution Control Amendments and the goals of section 802, and the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

(c) FUNCTIONS.—The National Cooperative Wetland Ecosystem Restoration Strategy shall—

(1) be designed to help coordinate and promote restoration efforts by Federal, State, regional, and local governments and the private sector, including efforts authorized by the Coastal Wetlands Planning, Protection, and Restoration Act, the North American Waterfowl Management Plan, the Wetlands Reserve Program, and the wetland restoration efforts on Federal, State, local, and private lands;

(2) involve the Federal, State, and local Wetlands Coordination Committee established pursuant to section 804;

(3) inventory and evaluate existing restoration efforts and make suggestions for the establishment of new watershed specific efforts consistent with existing Federal programs and State, regional, and local wetland protection and management efforts;

(4) evaluate the role presently being played by wetland restoration in both regulatory and nonregulatory contexts and the relative success of wetland restoration in these contexts;

(5) develop criteria for identifying wetland restoration sites on a watershed basis, procedures for wetlands restoration, and ecological criteria for wetlands restoration; and

(6) identify regulatory obstacles to wetlands ecosystem restoration and recommend methods to reduce such obstacles.

SEC. 807. PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

(a) PERMIT MONITORING AND TRACKING.—Section 404(a) (33 U.S.C. 1344) is amended by adding at the end thereof the following: "The Secretary shall, in cooperation with the Administrator, establish a permit monitoring and tracking program on a watershed basis to monitor the cumulative impact of individual and general permits issued under this section. This program shall determine the impact of permitted activities in relationship to the no net loss goal. Results shall be reported biannually to Congress.".

(b) ISSUANCE OF GENERAL PERMITS.—Paragraph (1) of section 404(e) is amended by inserting "local," before "State, regional, or nationwide basis" in the first sentence.

(c) REVOCATION OR MODIFICATION OF GENERAL PERMITS.—Paragraph (2) of section 404(e) is amended by striking the period at the end and inserting "or a State or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State or local programmatic general permits.".

(d) PROGRAMMATIC GENERAL PERMITS.—Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(3) PROGRAMMATIC GENERAL PERMITS.—Consistent with the following requirements, the Secretary may, after notice and opportunity for public comment, issue State or local programmatic general permits for the purpose of avoiding unnecessary duplication of regulations by State, regional, and local regulatory programs:

"(A) The Secretary may issue a programmatic general permit based on a State, regional, or local government regulatory program if that general permit includes adequate safeguards to ensure that the State, regional, or local program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the environment, including all waters of the United States, and for Federal interests, as is provided by this section and by the Federal permitting program pursuant to section 404(a). Such safeguards shall include provisions whereby the Corps District Engineer and the Regional Administrators or Directors of the Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Marine Fisheries Service (where appropriate), shall have an opportunity to review permit applications submitted to the State, regional, or local regulatory agency which would have more than minimal individual or cumulative adverse impacts on the environment, attempt to resolve any environmental concern or protect any Federal interest at issue, and, if such concern is not adequately addressed by the State, local, or regional agency, require the processing of an individual Federal permit under this section for the specific proposed activity. The Secretary shall ensure that the District Engineer will utilize this authority to protect all Federal interests including, but not limited to, national security, navigation, flood control, Federal endangered or threatened species, Federal interests under the Wild and Scenic Rivers Act, special aquatic sites of national importance, and other interests of overriding national importance. Any programmatic general permit issued under this subsection shall be consistent with the guidelines promulgated to implement subsection (b)(1).

"(B) In addition to the requirements of subparagraph (A), the Secretary shall not promulgate any local or regional programmatic general permit based on a local or regional government's regulatory program unless the responsible unit of government has also adopted a wetland and watershed management plan and is administering regulations to implement this plan. The watershed management plan shall include—

"(i) the designation of a local or regional regulatory agency which shall be responsible for issuing permits under the plan and for making reports every 2 years on implementation of the plan and on the losses and gains in functions and acres of wetland within the watershed plan area;

"(ii) mapping of—

"(I) the boundary of the plan area;

"(II) all wetlands and waters within the plan area as well as other areas proposed for protection under the plan; and

"(III) proposed wetland restoration or creation sites with a description of their intended functions upon completion and the time required for completion;

"(iii) a description of the regulatory policies and standards applicable to all wetlands and waters within the plan areas and all activities which may affect these wetlands and waters that will assure, at a minimum, no net loss of the functions and acres of wetlands within the plan area; and

"(iv) demonstration that the regulatory agency has the legal authority and scientific monitoring capability to carry out the proposed plan including the issuance, monitoring, and enforcement of permits in compliance with the plan.".

(e) GRANDFATHER OF EXISTING GENERAL PERMITS.—Section 404(e) is further amended by adding at the end the following:

"(4) GRANDFATHER OF EXISTING GENERAL PERMITS.—General permits in effect on day before the date of the enactment of the Wetlands and Watershed Management Act of 1995 shall remain in effect until otherwise modified by the Secretary.".

(f) DISCHARGES NOT REQUIRING A PERMIT.—Section 404(f) (33 U.S.C. 1344(f)) is amended by striking the subsection designation and paragraph (1) and inserting the following:

"(f) EXEMPTIONS.—

"(1) ACTIVITIES NOT REQUIRING PERMIT.—

"(A) IN GENERAL.—Activities are exempt from the requirements of this section and are not prohibited by or otherwise subject to regulation under this section or section 301 or 402 of this Act (except effluent standards or prohibitions under section 307 of this Act) if such activities—

"(i) result from normal farming, silviculture, aquaculture, and ranching activities and practices, including but not limited to plowing, seeding, cultivating, haying, grazing, normal maintenance activities, minor drainage, burning of vegetation in connection with such activities, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

"(ii) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs (where such maintenance involves periodic water level drawdowns) which provide water predominantly to public drinking water systems, groins, riprap, breakwaters, utility distribution and transmission lines, causeways, and bridge abutments or approaches, and transportation structures;

"(iii) are for the purpose of construction or maintenance of farm, stock or aquaculture ponds, wastewater retention facilities (including dikes and berms) that are used by concentrated animal feeding operations, or irrigation canals and ditches or the maintenance or reconstruction of drainage ditches and tile lines;

"(iv) are for the purpose of construction of temporary sedimentation basins on a construction site, or the construction of any upland dredged material disposal area, which does not include placement of fill material into the navigable waters;

"(v) are for the purpose of construction or maintenance of farm roads or forest roads, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the waters are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

"(vi) are undertaken on farmed wetlands, except that any change in use of such land for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to the requirements of this section to the extent that such farmed wetlands are 'wetlands' under this section;

"(vii) are undertaken in incidentally created wetlands, unless such incidentally created wetlands have exhibited wetlands functions and values for more than 5 years in which case activities undertaken in such wetlands shall be subject to the requirements of this section; and

"(viii) are for the purpose of preserving and enhancing aviation safety or are undertaken in order to prevent an airport hazard.".

(g) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—Section 404(f) is further amended by adding the following:

"(3) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—

"(A) IN GENERAL.—For purposes of this section, the following shall not be considered navigable waters:

"(i) Irrigation ditches excavated in uplands.

"(ii) Artificially irrigated areas which would revert to uplands if the irrigation ceased.

"(iii) Artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and which are used exclusively for stock watering, irrigation, or rice growing.

"(iv) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons.

"(v) Temporary, water filled depressions created in uplands incidental to construction activity.

"(vi) Pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

"(vii) Artificial stormwater detention areas and artificial sewage treatment areas which are not modified natural waters.

"(B) DEMONSTRATION REQUIRED.—Subparagraph (A) shall not apply to a particular water body unless the person desiring to discharge dredged or fill material in that water body is able to demonstrate that the water body qualifies under subparagraph (A) for exemption from regulation under this section.".

SEC. 808. TECHNICAL ASSISTANCE TO PRIVATE LANDOWNERS, CODIFICATION OF REGULATIONS AND POLICIES.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(u)(1) The Secretary and the Administrator shall in cooperation with the United States Fish and Wildlife Service, Natural Resources Conservation Service, and National Marine Fisheries Service provide technical assistance to private landowners in delineation of wetlands and the planning and management of their wetlands. This assistance shall include—

"(A) the delineation of wetland boundaries within 90 days (providing on the ground conditions allow) of a request for such delineation for a project with a proposed individual permit application under this section and a total assessed value of less than $15,000; and

"(B) the provision of technical assistance to owners of wetlands in the preparation of wetland management plans for their lands to protect and restore wetlands and meet other goals of this Act, including control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

"(2) The Secretary shall prepare, update on a biannual basis, and make available to the public for purchase at cost, an indexed publication containing all Federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities in wetland areas pursuant to section 404(a). The Secretary and the Administrator shall also prepare and distribute brochures and pamphlets for the public addressing—

"(A) the delineation of wetlands,

"(B) wetland permitting requirements; and

"(C) wetland restoration and other matters considered relevant.".

SEC. 809. DELINEATION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(v) DELINEATION.—

"(1) IN GENERAL.—The United States Army Corps of Engineers, the United States Environmental Protection Agency, and other Federal agencies shall use the 1987 Corps of Engineers Manual for the Delineation of Jurisdictional Wetlands pursuant to this section until a new manual has been prepared and formally adopted by the Corps and the Environmental Protection Agency with input from the United States Fish and Wildlife Service, Natural Resources, Natural Resources Conservation Service, and other relevant agencies and adopted after field testing, hearing, and public comment. Any new manual shall take into account the conclusions of the National Academy of Sciences panel concerning the delineation of wetlands. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, shall develop materials and conduct training courses for consultants, State, and local governments, and landowners explaining the use of the Corps 1987 wetland manual in the delineation of wetland areas. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, may also, in cooperation with the States, develop supplemental criteria and procedures for identification of regional wetland types. Such criteria and procedures may include supplemental plant and soil lists and supplementary technical criteria pertaining to wetland hydrology, soils, and vegetation.

"(2) AGRICULTURAL LANDS.—

"(A) DELINEATION BY SECRETARY OF AGRICULTURE.—For purposes of this section, wetlands located on agricultural lands and associated nonagricultural lands shall be delineated solely by the Secretary of Agriculture in accordance with section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)).

"(B) EXEMPTION OF LANDS EXEMPTED UNDER FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt from the requirements of subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall also be exempt from the requirements of this section for such period of time as those lands are used as agricultural lands.

"(C) EFFECT OF APPEAL DETERMINATION PURSUANT TO FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt pursuant to an appeal taken pursuant to subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall be exempt under this section for such period of time as those lands are used as agricultural lands.".

SEC. 810. FAST TRACK FOR MINOR PERMITS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(w)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations to explore the review and practice of individual permits for minor activities. Minor activities include activities of 1 acre or less in size which also have minor direct, secondary, or cumulative impacts.

"(2) Permit applications for minor permits shall ordinarily be processed within 60 days of the receipt of completed application.

"(3) The Secretary shall establish fast-track field teams or other procedures in the individual offices sufficient to expedite the processing of the individual permits involving minor activities.".

SEC. 811. COMPENSATORY MITIGATION.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(x) GENERAL REQUIREMENTS.—(1) Each permit issued under this section that results in loss of wetland functions or acreage shall require compensatory mitigation. The preferred sequence of mitigation options is as set forth in subparagraph (A) and (C). However, the Secretary shall have sufficient flexibility to approve practical options that provide the most protection to the resource—

"(A) measures shall first be undertaken by the permittee to avoid any adverse effects on wetlands caused by activities authorized by the permit.

"(B) measures shall be undertaken by the permittee to minimize any such adverse effects that cannot be avoided;

"(C) measures shall then be undertaken by the permittee to compensate for adverse impacts on wetland functions, values, and acreage;

"(D) where compensatory mitigation is used, preference shall be given to in-kind restoration on the same water body and within the same local watershed;

"(E) where on-site and in-kind compensatory mitigation are impossible, impractical, would fail to work in the circumstances, or would not make ecological sense, off-site and/or out-of-kind compensatory mitigation may be permitted within the watershed including participation in cooperative mitigation ventures or mitigation banks as provided in section 404(y).

"(2) The Secretary in consultation with the Administrator shall ensure that compensable mitigation by a permitee—

"(A) is a specific, enforceable condition of the permit for which it is required;

"(B) will meet defined success criteria; and

"(C) is monitored to ensure compliance with the conditions of the permit and to determine the effectiveness of the mitigation in compensating for the adverse effects for which it is required.".

SEC. 812. COOPERATIVE MITIGATION VENTURES AND MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(y)(1) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Administrator shall jointly issue rules for a system of cooperative mitigation ventures and wetland banks. Such rules shall, at the minimum, address the following topics:

"(A) Mitigation banks and cooperative ventures may be used on a watershed basis to compensate for unavoidable wetland losses which cannot be compensated on-site due to inadequate hydrologic conditions, excessive sedimentation, water pollution, or other problems. Mitigation banks and cooperative ventures may also be used to improve the potential success of compensatory mitigation through the use of larger projects, by locating projects in areas in more favorable short-term and long-term hydrology and proximity to other wetlands and waters, and by helping to ensure short-term and long-term project protection, monitoring, and maintenance.

"(B) Parties who may establish mitigation banks and cooperative mitigation ventures for use in specific context and for particular types of wetlands may include government agencies, nonprofits, and private individuals.

"(C) Surveys and inventories on a watershed basis of potential mitigation sites throughout a region or State shall ordinarily be required prior to the establishment of mitigation banks and cooperative ventures pursuant to this section.

"(D) Mitigation banks and cooperative mitigation ventures shall be used in a manner consistent with the sequencing requirements to mitigate unavoidable wetland impacts. Impacts should be mitigated within the watershed and water body if possible with on-site mitigation preferable as set forth in section 404(x).

"(E) The long-term security of ownership interests of wetlands and uplands on which projects are conducted shall be insured to protect the wetlands values associated with those wetlands and uplands;

"(F) Methods shall be specified to determine debits by evaluating wetland functions, values, and acreages at the sites of proposed permits for discharges or alternations pursuant to subsections (a), (c), and (g) and methods to be used to determine credits based upon functions, values, and acreages at the times of mitigation banks and cooperative mitigation ventures.

"(G) Geographic restrictions on the use of banks and cooperative mitigation ventures shall be specified. In general, mitigation banks or cooperative ventures shall be located on the same water body as impacted wetlands. If this is not possible or practical, banks or ventures shall be located as near as possible to impacted projects with preference given to the same watershed where the impact is occurring.

"(H) Compensation ratios for restoration, creation, enhancement, and preservation reflecting and overall goal of no net loss of function and the status of scientific knowledge with regard to compensation for individual wetlands, risks, costs, and other relevant factors shall be specified. A minimum restoration compensation ratio of 1:1 shall be required for restoration of lost acreage with larger compensation ratios for wetland creation, enhancement and preservation.

"(I) Fees to be charged for participation in a bank or cooperative mitigation venture shall be based upon the costs of replacing lost functions and acreage on-site and off-site; the risks of project failure, the costs of long-term maintenance, monitoring, and protection, and other relevant factors.

"(J) Responsibilities for long-term monitoring, maintenance, and protection shall be specified.

"(K) Public review of proposals for mitigation banks and cooperative mitigation ventures through one or more public hearings shall be provided.

"(2) The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for creating and implementing mitigation banks and cooperative ventures and for evaluating alternative approaches for mitigation banks and cooperative mitigation ventures as a means of contributing to the goals established by section 101(a)(8) or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403). The Secretary shall also monitor and evaluate existing banks and cooperative ventures and establish a number of such banks and cooperative ventures to test and demonstrate:

"(A) The technical feasibility of compensation for lost on-site values through off-site cooperative mitigation ventures and mitigation banks.

"(B) Techniques for evaluating lost wetland functions and values at sites for which permits are sought pursuant to section 404(a) and techniques for determining appropriate credits and debits at the sites of cooperative mitigation ventures and mitigation banks.

"(C) The adequacy of alternative institutional arrangements for establishing and administering mitigation banks and cooperative mitigation ventures.

"(D) The appropriate geographical locations of bank or cooperative mitigation ventures in compensation for lost functions and values.

"(E) Mechanisms for ensuring short-term and long-term project monitoring and maintenance.

"(F) Techniques and incentives for involving private individuals in establishing and implementing mitigation banks and cooperative mitigation ventures.

Not later than 3 years after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report evaluating mitigation banks and cooperative ventures. The Secretary shall also, within this time period, prepare educational materials and conduct training programs with regard to the use of mitigation banks and cooperative ventures.".

SEC. 813. WETLANDS MONITORING AND RESEARCH.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(z) The Secretary, in cooperation with the Administrator, the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and appropriate State and local government entities, shall initiate, with opportunity for public notice and comment, a research program of wetlands and watershed management. The purposes of the research program shall include, but not be limited—

"(1) to study the functions, values and management needs of altered, artificial, and managed wetland systems including lands that were converted to production of commodity crops prior to December 23, 1985, and report to Congress within 2 years of the date of the enactment of this subsection;

"(2) to study techniques for managing and restoring wetlands within a watershed context;

"(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

"(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.".

SEC. 814. ADMINISTRATIVE APPEALS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(aa) ADMINISTRATIVE APPEALS.—

"(1) REGULATIONS ESTABLISHING PROCEDURES.—Not later than 1 year after the date of the enactment of the Wetlands and Watershed Management Act of 1995, the Secretary shall, after providing notice and opportunity for public comment, issue regulations establishing procedures pursuant to which—

"(A) a landowner may appeal a determination of regulatory jurisdiction under this section with respect to a parcel of the landowner's property;

"(B) a landowner may appeal a wetlands classification under this section with respect to a parcel of the landowner's property;

"(C) any person may appeal a determination that the proposed activity on the landowner's property is not exempt under subsection (f);

"(D) a landowner may appeal a determination that an activity on the landowner's property does not qualify under a general permit issued under this section;

"(E) an applicant for a permit under this section may appeal a determination made pursuant to this section to deny issuance of the permit or to impose a requirement under the permit; and

"(F) a landowner or any other person required to restore or otherwise alter a parcel of property pursuant to an order issued under this section may appeal such order.

"(2) DEADLINE FOR FILING APPEAL.—An appeal brought pursuant to this subsection shall be filed not later than 30 days after the date on which the decision or action on which the appeal is based occurs.

"(3) DEADLINE FOR DECISION.—An appeal brought pursuant to this subsection shall be decided not later than 90 days after the date on which the appeal is filed.

"(4) PARTICIPATION IN APPEALS PROCESS.—Any person who participated in the public comment process concerning a decision or action that is the subject of an appeal brought pursuant to this subsection may participate in such appeal with respect to those issues raised in the person's written public comments.

"(5) DECISIONMAKER.—An appeal brought pursuant to this subsection shall be heard and decided by an appropriate and impartial official of the Federal Government, other than the official who made the determination or carried out the action that is the subject of the appeal.

"(6) STAY OF PENALTIES AND MITIGATION.—A landowner or any other person who has filed an appeal under this subsection shall not be required to pay a penalty or perform mitigation or restoration assessed under this section or section 309 until after the appeal has been decided.".

SEC. 815. CRANBERRY PRODUCTION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(bb) CRANBERRY PRODUCTION.—Activities associated with expansion, improvement, or modification of existing cranberry production operations shall be deemed in compliance, for purposes of sections 309 and 505, with section 301, if—

"(1) the activity does not result in the modification of more than 10 acres of wetlands per operator per year and the modified wetlands (other than where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

"(2) the activity is required by any State or Federal water quality program.".

SEC. 816. STATE CLASSIFICATION SYSTEMS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(cc) STATE CLASSIFICATION SYSTEMS.—

"(1) GUIDELINES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, in consultation with the Administrator, the Secretary of Agriculture, and the Director of the United States Fish and Wildlife Service, shall establish guidelines to aid States and Indian tribes in establishing classification systems for the planning, managing, and regulating of wetlands.

"(2) ESTABLISHMENT.—In accordance with the guidelines established under paragraph (1), a State or Indian tribe may establish a wetlands classification system for lands of the State or Indian tribe and may submit such classification system to the Secretary for approval. Upon approval, the Secretary shall use such classification system in making permit determinations and establishing mitigation requirements for lands of the State or Indian tribe under this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect a State with an approved program under subsection (h) or a State with a wetlands classification system in effect on the date of the enactment of this subsection.".

SEC. 817. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(26) The term 'wetland' means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

"(27) The term 'discharge of dredged or fill material' means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

"(28) The term 'mitigation bank' shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

"(29) The term 'cooperative mitigation ventures' shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.

"(30) The term 'normal farming, silviculture, aquaculture and ranching activities' means normal practices identified as such by the Secretary of Agriculture, in consultation with the Cooperative Extension Service for each State and the land grant university system and agricultural colleges of the State, taking into account existing practices and such other practices as may be identified in consultation with the affected industry or community.

"(31) The term 'agricultural land' means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, nonindustrial forest land, an area that supports a water dependent crop (including cranberries, taro, watercress, or rice), and any other land used to produce or support the production of an annual or perennial crop (including forage or hay), aquaculture product, nursery product, or wetland crop or the production of livestock.".

H.R. 961

OFFERED BY: MR. BONIOR

AMENDMENT NO. 7: Page 22, strike lines 12 through 22.

Page 22, line 23, strike "(c)" and insert "(b)".

Page 27, line 8, strike "(d)" and insert "(c)".

H.R. 961

OFFERED BY: MR. BORSKI

AMENDMENT NO. 8: Page 239, strike line 3 and all that follows through line 22 on page 322 and insert the following:

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wetlands and Watershed Management Act of 1995".

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares the following:

(1) Wetlands perform a number of valuable functions needed to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including—

(A) reducing pollutants (including nutrients, sediment, and toxics) from nonpoint and point sources;

(B) storing, conveying, and purifying flood and storm waters;

(C) reducing both bank erosion and wave and storm damage to adjacent lands and trapping sediment from upland sources;

(D) providing habitat and food sources for a broad range of commercial and recreational fish, shellfish, and migratory wildlife species (including waterfowl and endangered species); and

(E) providing a broad range of recreational values for canoeing, boating, birding, and nature study and observation.

(2) Original wetlands in the contiguous United States have been reduced by an estimated 50 percent and continue to disappear at a rate of 200,000 to 300,000 acres a year. Many of these original wetlands have also been altered or partially degraded, reducing their ecological value.

(3) Wetlands are highly sensitive to changes in water regimes and are, therefore, susceptible to degradation by fills, drainage, grading, water extractions, and other activities within their watersheds which affect the quantity, quality, and flow of surface and ground waters. Protection and management of wetlands, therefore, should be integrated with management of water systems on a watershed basis. A watershed protection and management perspective is also needed to understand and reverse the gradual, continued destruction of wetlands that occurs due to cumulative impacts.

(4) Wetlands constitute an estimated 5 percent of the Nation's surface area. Because much of this land is in private ownership wetlands protection and management strategies must take into consideration private property rights and the need for economic development and growth. This can be best accomplished in the context of a cooperative and coordinated Federal, State, and local strategy for data gathering, planning, management, and restoration with an emphasis on advance planning of wetlands in watershed contexts.

(b) PURPOSES.—The purposes of this Act are—

(1) to help create a coordinated national wetland management effort with efficient use of scarce Federal, State, and local financial and manpower resources to protect wetland functions and values and reduce natural hazard losses;

(2) to help reverse the trend of wetland loss in a fair, efficient, and cost-effective manner;

(3) to reduce inconsistencies and duplication in Federal, State, and local wetland management efforts and encourage integrated permitting at the Federal, State, and local levels;

(4) to increase technical assistance, cooperative training, and educational opportunities for States, local governments, and private landowners;

(5) to help integrate wetland protection and management with other water resource management programs on a watershed basis such as flood control, storm water management, allocation of water supply, protection of fish and wildlife, and point and nonpoint source pollution control;

(6) to increase regionalization of wetland delineation and management policies within a framework of national policies through advance planning of wetland areas, programmatic general permits and other approaches and the tailoring of policies to ecosystem and land use needs to reflect significant watershed variance in wetland resources;

(7) to address the cumulative loss of wetland resources;

(8) to increase the certainty and predictability of planning and regulatory policies for private landowners;

(9) to help achieve no overall net loss and net gain of the remaining wetland base of the United States through watershed-based restoration strategies involving all levels of government;

(10) to restore and create wetlands in order to increase the quality and quantity of the wetland resources and by so doing to restore and maintain the quality and quantity of the waters of the United States; and

(11) to provide mechanisms for joint State, Federal, and local development and testing of approaches to better protect wetland resources such as mitigation banking.

SEC. 803. STATE, LOCAL, AND LANDOWNER TECHNICAL ASSISTANCE AND COOPERATIVE TRAINING.

(a) STATE AND LOCAL TECHNICAL ASSISTANCE.—Upon request, the Administrator, or the Secretary of the Army, as appropriate, shall provide technical assistance to State and local governments in the development and implementation of State and local government permitting programs under sections 404(e) and 404(h) of the Federal Water Pollution Control Act, State wetland conservation plans under section 805, and regional or local wetland management plans under section 805.

(b) COOPERATIVE TRAINING.—The Administrator and the Secretary, in cooperation with the Coordinating Committee established pursuant to section 804, shall conduct training courses for States and local governments involving wetland delineation, utilization of wetlands in nonpoint pollution control, wetland and stream restoration, wetland planning, wetland evaluation, mitigation banking, and other subjects deemed appropriate by the Administrator or Secretary.

(c) PRIVATE LANDOWNER TECHNICAL ASSISTANCE.—The Administrator and Secretary shall, in cooperation with the Coordination Committee, and appropriate Federal agencies develop and provide to private landowners guidebooks, pamphlets, or other materials and technical assistance to help them in identifying and evaluating wetlands, developing integrated wetland management plans for their lands consistent with the goals of this Act and the Federal Water Pollution Control Act, and restoring wetlands.

SEC. 804. FEDERAL, STATE, AND LOCAL GOVERNMENT COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a Federal, State, and Local Government Wetlands Coordinating Committee (hereinafter in this section referred to as the "Committee").

(b) FUNCTIONS.—The Committee shall—

(1) help coordinate Federal, State, and local wetland planning, regulatory, and restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower and resources at all levels of government;

(2) provide comments to the Secretary of the Army or Administrator in adopting regulatory, policy, program, or technical guidance affecting wetland systems;

(3) help develop and field test, national policies prior to implementation such as wetland, delineation, classification of wetlands, methods for sequencing wetland mitigation responses, the utilization of mitigation banks;

(4) help develop and carry out joint technical assistance and cooperative training programs as provided in section 803;

(5) help develop criteria and implementation strategies for facilitating State conservation plans and strategies, local and regional wetland planning, wetland restoration and creation, and State and local permitting programs pursuant to section 404(e) or 404(g) of the Federal Water Pollution Control Act; and

(6) help develop a national strategy for the restoration of wetland ecosystems pursuant to section 6 of this Act.

(c) MEMBERSHIP.—The Committee shall be composed of 18 members as follows:

(1) The Administrator or the designee of the Administrator.

(2) The Secretary or the designee of the Secretary.

(3) The Director of the United States Fish and Wildlife Service or the designee of the Director.

(4) The Chief of the Natural Resources Conservation Service or the designee of the Chief.

(5) The Undersecretary for Oceans and Atmosphere or the designee of the Under Secretary.

(6) One individual appointed by the Administrator who will represent the National Governor's Association.

(7) One individual appointed by the Administrator who will represent the National Association of Counties.

(8) One individual appointed by the Administrator who will represent the National League of Cities.

(9) One State wetland expert from each of the 10 regions of the Environmental Protection Agency. Each member to be appointed under this paragraph shall be jointly appointed by the Governors of the States within the Environmental Protection Agency's region. If the Governors from a region cannot agree on such a representative, they will each submit a nomination to the Administrator and the Administrator will select a representative from such region.

(d) TERMS.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

(e) VACANCIES.—A vacancy in the Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

(f) PAY.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) COCHAIRPERSONS.—The Administrator and one member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) (selected by such members) shall serve as cochairpersons of the Committee.

(h) QUORUM.—Two-thirds of the members of the Committee shall constitute a quorum but a lesser number may hold meetings.

(i) MEETINGS.—The Committee shall hold its first meeting not later than 120 days after the date of the enactment of this Act. The Committee shall meet at least twice each year thereafter. Meetings will be opened to the public.

SEC. 805. STATE AND LOCAL WETLAND CONSERVATION PLANS AND STRATEGIES; GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.

(a) STATE WETLAND CONSERVATION PLANS AND STRATEGIES.—Subject to the requirements of this section, the Administrator shall make grants to States and tribes to assist in the development and implementation of wetland conservation plans and strategies. More specific goals for such conservation plans and strategies may include:

(1) Inventorying State wetland resources, identifying individual and cumulative losses, identifying State and local programs applying to wetland resources, determining gaps in such programs, and making recommendations for filling those gaps.

(2) Developing and coordinating existing State, local, and regional programs for wetland management and protection on a watershed basis.

(3) Increasing the consistency of Federal, State, and local wetland definitions, delineation, and permitting approaches.

(4) Mapping and characterizing wetland resources on a watershed basis.

(5) Identifying sites with wetland restoration or creation potential.

(6) Establishing management strategies for reducing causes of wetland degradation and restoring wetlands on a watershed basis.

(7) Assisting regional and local governments prepare watershed plans for areas with a high percentage of lands classified as wetlands or otherwise in need of special management.

(8) Establishing and implementing State or local permitting programs under section 404(e) or 404(h) of the Federal Water Pollution Control Act.

(b) REGIONAL AND LOCAL WETLAND PLANNING, REGULATION, AND MANAGEMENT PROGRAMS.—Subject to the requirements of this section, the Administrator shall make grants to States which will, in turn, use this funding to make grants to regional and local governments to assist them in adopting and implementing wetland and watershed management programs consistent with goals stated in section 101 of the Federal Water Pollution Control Act and section 802 of this Act. Such plans shall be integrated with (where appropriate) or coordinated with planning efforts pursuant to section 319 of the Federal Water Pollution Control Act. Such programs shall, at a minimum, involve the inventory of wetland resources and the adoption of plans and policies to help achieve the goal of no net loss of wetland resources on a watershed basis. Other goals may include, but are not limited to:

(1) Integration of wetland planning and management with broader water resource and land use planning and management, including flood control, water supply, storm water management, and control of point and nonpoint source pollution.

(2) Adoption of measures to increase consistency in Federal, State, and local wetland definitions, delineation, and permitting approaches.

(3) Establishment of management strategies for restoring wetlands on a watershed basis.

(c) GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.—Subject to the requirements of this section, the Administrator may make grants to States which assist the Federal Government in the implementation of the section 404 Federal Water Pollution Control program through State assumption of permitting pursuant to sections 404(g) and 404(h) of such Act through State permitting through a State programmatic general permit pursuant to section 404(e) of such Act or through monitoring and enforcement activities. In order to be eligible to receive a grant under this section a State shall provide assurances satisfactory to the Administrator that amounts received by the State in grants under this section will be used to issue regulatory permits or to enforce regulations consistent with the overall goals of section 802 and the standards and procedures of section 404(g) or 404(e) of this Act.

(d) MAXIMUM AMOUNT.—No State may receive more than $500,000 in total grants under subsections (a), (b), and (c) in any fiscal year and more than $300,000 in grants for subsection (a), (b), or (c), individually.

(e) FEDERAL SHARE.—The Federal share of the cost of activities carried out using amounts made available in grants under this section shall not exceed 75 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 806. NATIONAL COOPERATIVE WETLAND ECOSYSTEM RESTORATION STRATEGY.

(a) DEVELOPMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in cooperation with other Federal agencies, State, and local governments, and representatives of the private sector, shall initiate the development of a National Cooperative Wetland Ecosystem Restoration Strategy.

(b) GOALS.—The goal of the National Cooperative Wetland Ecosystem Restoration Strategy shall be to restore damaged and degraded wetland and riparian ecosystems consistent with the goals of the Water Pollution Control Amendments and the goals of section 802, and the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

(c) FUNCTIONS.—The National Cooperative Wetland Ecosystem Restoration Strategy shall—

(1) be designed to help coordinate and promote restoration efforts by Federal, State, regional, and local governments and the private sector, including efforts authorized by the Coastal Wetlands Planning, Protection, and Restoration Act, the North American Waterfowl Management Plan, the Wetlands Reserve Program, and the wetland restoration efforts on Federal, State, local, and private lands;

(2) involve the Federal, State, and local Wetlands Coordination Committee established pursuant to section 804;

(3) inventory and evaluate existing restoration efforts and make suggestions for the establishment of new watershed specific efforts consistent with existing Federal programs and State, regional, and local wetland protection and management efforts;

(4) evaluate the role presently being played by wetland restoration in both regulatory and nonregulatory contexts and the relative success of wetland restoration in these contexts;

(5) develop criteria for identifying wetland restoration sites on a watershed basis, procedures for wetlands restoration, and ecological criteria for wetlands restoration; and

(6) identify regulatory obstacles to wetlands ecosystem restoration and recommend methods to reduce such obstacles.

SEC. 807. PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

(a) Section 404(a) (33 U.S.C. 1344) is amended by adding at the end thereof the following: "The Secretary shall, in cooperation with the Administrator, establish a permit monitoring and tracking programs on a watershed basis to monitor the cumulative impact of individual and general permits issued under this section. This program shall determine the impact of permitted activities in relationship to the no net loss goal. Results shall be reported biannually to Congress.".

(b) Paragraph (1) of section 404(e) is amended by inserting "local," before "State, regional, or nationwide basis" in the first sentence.

(c) Paragraph (2) of section 404(e) is amended by striking the period at the end and inserting "or a State or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State or local programmatic general permits.".

(d) Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(3) Consistent with the following requirements, the Secretary may, after notice and opportunity for public comment, issue State or local programmatic general permits for the purpose of avoiding unnecessary duplication of regulations by State, regional, and local regulatory programs:

"(A) The Secretary may issue a programmatic general permit based on a State, regional, or local government regulatory program if that general permit includes adequate safeguards to ensure that the State, regional, or local program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the environment, including all waters of the United States, and for Federal interests, as is provided by this section and by the Federal permitting program pursuant to section 404(a). Such safeguards shall include provisions whereby the Corps District Engineer and the Regional Administrators or Directors of the Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Marine Fisheries Service (where appropriate), shall have an opportunity to review permit applications submitted to the State, regional, or local regulatory agency which would have more than minimal individual or cumulative adverse impacts on the environment, attempt to resolve any environmental concern or protect any Federal interest at issue, and, if such concern is not adequately addressed by the State, local, or regional agency, require the processing of an individual Federal permit under this section for the specific proposed activity. The Secretary shall ensure that the District Engineer will utilize this authority to protect all Federal interests including, but not limited to, national security, navigation, flood control, Federal endangered or threatened species, Federal interests under the Wild and Scenic Rivers Act, special aquatic sites of national importance, and other interests of overriding national importance. Any programmatic general permit issued under this subsection shall be consistent with the guidelines promulgated to implement subsection (b)(1).

"(B) In addition to the requirements of subparagraph (A), the Secretary shall not promulgate any local or regional programmatic general permit based on a local or regional government's regulatory program unless the responsible unit of government has also adopted a wetland and watershed management plan and is administering regulations to implement this plan. The watershed management plan shall include—

"(i) the designation of a local or regional regulatory agency which shall be responsible for issuing permits under the plan and for making reports every 2 years on implementation of the plan and on the losses and gains in functions and acres of wetland within the watershed plan area;

"(ii) mapping of—

"(I) the boundary of the plan area;

"(II) all wetlands and waters within the plan area as well as other areas proposed for protection under the plan; and

"(III) proposed wetland restoration or creation sites with a description of their intended functions upon completion and the time required for completion;

"(iii) a description of the regulatory policies and standards applicable to all wetlands and waters within the plan areas and all activities which may affect these wetlands and waters that will assure, at a minimum, no net loss of the functions and acres of wetlands within the plan area; and

"(iv) demonstration that the regulatory agency has the legal authority and scientific monitoring capability to carry out the proposed plan including the issuance, monitoring, and enforcement of permits in compliance with the plan.".

(e) Section 404(f) is amended by adding the following:

"(3)(A) For purposes of this section, the following shall not be considered navigable waters:

"(i) Irrigation ditches excavated in uplands.

"(ii) Artificially irrigated areas which would revert to uplands if the irrigation ceased.

"(iii) Artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and which are used exclusively for stock watering, irrigation, or rice growing.

"(iv) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons.

"(v) Temporary, water filled depressions created in uplands incidental to construction activity.

"(vi) Pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

"(vii) Artificial stormwater detention areas and artificial sewage treatment areas which are not modified natural waters.

"(B) Subparagraph (A) shall not apply to a particular water body unless the person desiring to conduct an activity in that water body is able to demonstrate that the water body qualifies under subparagraph (A) for exemption from regulation under this section.".

SEC. 808. TECHNICAL ASSISTANCE TO PRIVATE LANDOWNERS, CODIFICATION OF REGULATIONS AND POLICIES.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(u)(1) The Secretary and the Administrator shall in cooperation with the United States Fish and Wildlife Service, Natural Resources Conservation Service, and National Marine Fisheries Service provide technical assistance to private landowners in delineation of wetlands and the planning and management of their wetlands. This assistance shall include—

"(A) the delineation of wetland boundaries within 90 days (providing on the ground conditions allow) of a request for such delineation for a project with a proposed individual permit application under this section and a total assessed value of less than $15,000; and

"(B) the provision of technical assistance to owners of wetlands in the preparation of wetland management plans for their lands to protect and restore wetlands and meet other goals of this Act, including control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

"(2) The Secretary shall prepare, update on a biannual basis, and make available to the public for purchase at cost, an indexed publication containing all Federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities in wetland areas pursuant to section 404(a). The Secretary and the Administrator shall also prepare and distribute brochures and pamphlets for the public addressing—

"(A) the delineation of wetlands,

"(B) wetland permitting requirements; and

"(C) wetland restoration and other matters considered relevant.".

SEC. 809. DELINEATION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(v) The United States Army Corps of Engineers, the United States Environmental Protection Agency, and other Federal agencies shall use the 1987 Corps of Engineers Manual for the Delineation of Jurisdictional Wetlands pursuant to this section until a new manual has been prepared and formally adopted by the Corps and the Environmental Protection Agency with input from the United States Fish and Wildlife Service, Natural Resources, Natural Resources Conservation Service, and other relevant agencies and adopted after field testing, hearing, and public comment. Any new manual shall take into account the conclusions of the National Academy of Sciences panel concerning the delineation of wetlands. The Corps in cooperation with the Environmental Protection Agency shall develop materials and conduct training courses for consultants, State, and local governments, and landowners explaining the use of the Corps 1987 wetland manual in the delineation of wetland areas. The Corps in cooperation with the Environmental Protection Agency may also, in cooperation with the States, develop supplemental criteria and procedures for identification of regional wetland types. Such criteria and procedures may include supplemental plant and soil lists and supplementary technical criteria pertaining to wetland hydrology, soils, and vegetation.".

SEC. 810. FAST TRACK FOR MINOR PERMITS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(w)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations to explore the review and practice of individual permits for minor activities. Minor activities include activities of 1 acre or less in size which also have minor direct, secondary, or cumulative impacts.

"(2) Permit applications for minor permits shall ordinarily be processed within 60 days of the receipt of completed application.

"(3) The Secretary shall establish fast-track field teams or other procedures in the individual offices sufficient to expedite the processing of the individual permits involving minor activities.".

SEC. 811. COMPENSATORY MITIGATION.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(x) GENERAL REQUIREMENTS.—(1) Each permit issued under this section that results in loss of wetland functions or acreage shall require compensatory mitigation. The preferred sequence of mitigation options is as set forth in subparagraph (A) and (C). However, the Secretary shall have sufficient flexibility to approve practical options that provide the most protection to the resource—

"(A) measures shall first be undertaken by the permittee to avoid any adverse effects on wetlands caused by activities authorized by the permit.

"(B) measures shall be undertaken by the permittee to minimize any such adverse effects that cannot be avoided;

"(C) measures shall then be undertaken by the permittee to compensate for adverse impacts on wetland functions, values, and acreage;

"(D) where compensatory mitigation is used, preference shall be given to in-kind restoration on the same water body and within the same local watershed;

"(E) where on-site and in-kind compensatory mitigation are impossible, impractical, would fail to work in the circumstances, or would not make ecological sense, off-site and/or out-of-kind compensatory mitigation may be permitted within the watershed including participation in cooperative mitigation ventures or mitigation banks as provided in section 404(y).

"(2) The Secretary in consultation with the Administrator shall ensure that compensable mitigation by a permitee—

"(A) is a specific, enforceable condition of the permit for which it is required;

"(B) will meet defined success criteria; and

"(C) is monitored to ensure compliance with the conditions of the permit and to determine the effectiveness of the mitigation in compensating for the adverse effects for which it is required.".

SEC. 812. COOPERATIVE MITIGATION VENTURES AND MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(y)(1) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Administrator shall jointly issue rules for a system of cooperative mitigation ventures and wetland banks. Such rules shall, at the minimum, address the following topics:

"(A) Mitigation banks and cooperative ventures may be used on a watershed basis to compensate for unavoidable wetland losses which cannot be compensated on-site due to inadequate hydrologic conditions, excessive sedimentation, water pollution, or other problems. Mitigation banks and cooperative ventures may also be used to improve the potential success of compensatory mitigation through the use of larger projects, by locating projects in areas in more favorable short-term and long-term hydrology and proximity to other wetlands and waters, and by helping to ensure short-term and long-term project protection, monitoring, and maintenance.

"(B) Parties who may establish mitigation banks and cooperative mitigation ventures for use in specific context and for particular types of wetlands may include government agencies, nonprofits, and private individuals.

"(C) Surveys and inventories on a watershed basis of potential mitigation sites throughout a region or State shall ordinarily be required prior to the establishment of mitigation banks and cooperative ventures pursuant to this section.

"(D) Mitigation banks and cooperative mitigation ventures shall be used in a manner consistent with the sequencing requirements to mitigate unavoidable wetland impacts. Impacts should be mitigated within the watershed and water body if possible with on-site mitigation preferable as set forth in section 404(x).

"(E) The long-term security of ownership interests of wetlands and uplands on which projects are conducted shall be insured to protect the wetlands values associated with those wetlands and uplands;

"(F) Methods shall be specified to determine debits by evaluating wetland functions, values, and acreages at the sites of proposed permits for discharges or alterations pursuant to subsections (a), (c), and (g) and methods to be used to determine credits based upon functions, values, and acreages at the times of mitigation banks and cooperative mitigation ventures.

"(G) Geographic restrictions on the use of banks and cooperative mitigation ventures shall be specified. In general, mitigation banks or cooperative ventures shall be located on the same water body as impacted wetlands. If this is not possible or practical, banks or ventures shall be located as near as possible to impacted projects with preference given to the same watershed where the impact is occurring.

"(H) Compensation ratios for restoration, creation, enhancement, and preservation reflecting an overall goal of no net loss of function and the status of scientific knowledge with regard to compensation for individual wetlands, risks, costs, and other relevant factors shall be specified. A minimum restoration compensation ratio of 1:1 shall be required for restoration of lost acreage with larger compensation ratios for wetland creation, enhancement and preservation.

"(I) Fees to be charged for participation in a bank or cooperative mitigation venture shall be based upon the costs of replacing lost functions and acreage on-site and off-site; the risks of project failure, the costs of long-term maintenance, monitoring, and protection, and other relevant factors.

"(J) Responsibilities for long-term monitoring, maintenance, and protection shall be specified.

"(K) Public review of proposals for mitigation banks and cooperative mitigation ventures through one or more public hearings shall be provided.

"(2) The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for creating and implementing mitigation banks and cooperative ventures and for evaluating alternative approaches for mitigation banks and cooperative mitigation ventures as a means of contributing to the goals established by section 101(a)(8) or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403). The Secretary shall also monitor and evaluate existing banks and cooperative ventures and establish a number of such banks and cooperative ventures to test and demonstrate:

"(A) The technical feasibility of compensation for lost on-site values through off-site cooperative mitigation ventures and mitigation banks.

"(B) Techniques for evaluating lost wetland functions and values at sites for which permits are sought pursuant to section 404(a) and techniques for determining appropriate credits and debits at the sites of cooperative mitigation ventures and mitigation banks.

"(C) The adequacy of alternative institutional arrangements for establishing and administering mitigation banks and cooperative mitigation ventures.

"(D) The appropriate geographical locations of bank or cooperative mitigation ventures in compensation for lost functions and values.

"(E) Mechanisms for ensuring short-term and long-term project monitoring and maintenance.

"(F) Techniques and incentives for involving private individuals in establishing and implementing mitigation banks and cooperative mitigation ventures. Not later than 3 years after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report evaluating mitigation banks and cooperative ventures. The Secretary shall also, within this time period, prepare educational materials and conduct training programs with regard to the use of mitigation banks and cooperative ventures.".

SEC. 813. WETLANDS MONITORING AND RESEARCH.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(z) The Secretary, in cooperation with the Administrator, the Director of the United States Fish and Wildlife Service, and appropriate State and local government entities, shall initiate, with opportunity for public notice and comment, a research program of wetlands and watershed management. The purposes of the research program shall include, but not be limited—

"(1) to study the functions, values and management needs of altered, artificial, and managed wetland systems including lands that were converted to production of commodity crops prior to December 23, 1985, and report to Congress within 2 years of the date of the enactment of this subsection;

"(2) to study techniques for managing and restoring wetlands within a watershed context;

"(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

"(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.".

SEC. 814. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(28) The term 'wetland' means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

"(29) The term 'discharge of dredged or fill material' means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

"(30) The term 'mitigation bank' shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

"(31) The term 'cooperative mitigation ventures' shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.".

Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MISS COLLINS OF MICHIGAN

AMENDMENT NO. 9: Page 62, after line 14, insert the following:

(d) CONSIDERATION OF CONSUMPTION PATTERNS.—Section 304(a) is further amended by adding at the end the following:

"(13) CONSIDERATION OF CONSUMPTION PATTERNS.—In developing human health and aquatic life criteria under this subsection, the Administrator shall take into account, where practicable, the consumption patterns of diverse segments of the population, including segments at disproportionately high risk, such as minority populations, children, and women of child-bearing age.".

Page 62, line 15, strike "(d)" and insert "(e)".

Page 63, line 4, strike "(e)" and insert "(f)".

Page 63, line 24, strike "(f)" and insert "(g)".

Page 64, line 4, strike "(g)" and insert "(h)".

H.R. 961

OFFERED BY: MISS COLLINS OF MICHIGAN

AMENDMENT NO. 10: Page 73, strike lines 19 through 22 and insert the following:

(c) FISH CONSUMPTION ADVISORIES.—Section 304 (33 U.S.C. 1314) is amended by adding at the end the following:

"(o) FISH CONSUMPTION ADVISORIES.—

"(1) POSTING.—Not later than 18 months after the date of the enactment of this Act, the Administrator shall propose and issue regulations establishing minimum, uniform requirements and procedures requiring States, either directly or through local authorities, to post signs, at reasonable and appropriate points of public access, on navigable waters or portions of navigable waters that significantly violate applicable water quality standards under this Act or that are subject to a fishing or shell-fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination.

"(2) SIGNS.—The regulations shall require the signs to be posted under this subsection—

"(A) to indicate clearly the water quality standard that is being violated or the nature and extent of the restriction on fish or shellfish consumption;

"(B) to be in English, and when appropriate, any language used by a large segment of the population in the immediate vicinity of the navigable waters;

"(C) to include a clear warning symbol; and

"(D) to be maintained until the body of water is consistently in compliance with the water quality standard or until all fish and shellfish consumption restrictions are terminated for the body of water or portion thereof.".

H.R. 961

OFFERED BY: MISS COLLINS OF MICHIGAN

Page 73, after line 18, insert the following:

(c) FISH AND SHELLFISH SAMPLINGS.—Section 304 (33 U.S.C. 1314) is amended by adding at the end the following:

"(n) FISH AND SHELLFISH SAMPLINGS; MONITORING.—Not later than 18 months after the date of the enactment of this Act, the Administrator shall propose and issue regulations to establish uniform and scientifically sound requirements and procedures for fish and shellfish sampling and analysis and uniform requirements for monitoring of navigable waters that do not meet applicable water quality standards under this Act or that are subject to a fishing or shell-fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination.".

Page 73, line 19, strike "(c)" and insert "(d)".

H.R. 961

OFFERED BY: MISS COLLINS OF MICHIGAN

AMENDMENT NO. 12: Page 203, after line 8, insert the following:

SEC. 410. ENVIRONMENTAL JUSTICE REVIEW.

Section 402 (32 U.S.C. 1342) is further amended by adding at the end the following:

"(u) ENVIRONMENTAL JUSTICE REVIEW.—No permit may be issued under this section unless the Administrator or the State, as the case may be, first reviews the proposed permit to identify and reduce disproportionately high and adverse impacts to the health of, or environmental exposures of, minority and low-income populations.".

Redesignate subsequent sections of the bill accordingly. Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MISS COLLINS OF MICHIGAN

AMENDMENT NO. 13: Page 213, after line 14, insert the following:

SEC. 508. DATA COLLECTION.

Section 516 (33 U.S.C. 1375) is amended by inserting after subsection (e) the following:

"(f) DATA COLLECTION.—

"(1) IN GENERAL.—The Administrator shall, on an ongoing basis—

"(A) collect, maintain, and analyze data necessary to assess and compare the levels and sources of water pollution to which minority and low-income populations are disproportionately exposed; and

"(B) for waters receiving discharges in violation of permits issued under section 402 or waters with levels of pollutants exceeding applicable water quality standards under this Act, collect data on the frequency and volume of discharges of each pollutant for which a violation occurs into waters adjacent to or used by minority and low-income communities.

"(2) PUBLICATION.—The Administrator shall publish summaries of the data collected under this section annually.".

Redesignate subsequent sections of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 236, strike lines 13 and 14.

Page 236, line 15, strike "(k)" and insert "(j)".

H.R. 961

OFFERED BY: MR. CRANE

AMENDMENT NO. 14: Page 311, strike line 16 and all that follows through line 9 on page 312.

H.R. 961

OFFERED BY: MR. EMERSON

AMENDMENT No. 15: Insert the following new section into H.R. 961:

SEC. . FEDERAL POWER ACT PART I PROJECTS.

Section 511(a) of the Federal Water Pollution Control Act (33 U.S.C. §1371) is amended by adding after "subject to section 10 of the Act of March 3, 1899," the following, and by renumbering the remaining paragraph accordingly:

"(3) applying to hydropower projects within the jurisdiction of the Federal Energy Regulatory Commission or its successors under the authority of Part I of the Federal Power Act (16 U.S.C. §§791 et seq.);".

H.R. 961

OFFERED BY: MR. ENGLISH

AMENDMENT NO. 16: Page 284, strike lines 10 through 18.

Page 284, line 19, strike "(3)" and insert "(2)".

H.R. 961

OFFERED BY: MR. ENGLISH

AMENDMENT NO. 17: Page 249, line 13, strike "20 percent" and insert "30 percent".

H.R. 961

OFFERED BY: MR. FRANKS OF NEW JERSEY

AMENDMENT NO. 18: Page 323, strike line 1 and all that follows through line 23 on page 326 and insert the following:

TITLE IX—NAVIGATIONAL DREDGING

SEC. 901. REFERENCES TO ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.).

SEC. 902. ENVIRONMENTAL PROTECTION AGENCY PERMITS.

Section 102(c) (33 U.S.C. 1412(c)) is amended—

(1) in the first sentence of paragraph (3) by striking "the Administrator, in conjunction with the Secretary," and inserting "the Secretary, in conjunction with the Administrator,"; and

(2) in the second sentence of paragraph (3) by striking "the Administrator and the Secretary" and inserting "the Secretary and the Administrator".

SEC. 903. CORPS OF ENGINEERS PERMITS.

(a) DISPOSAL SITES.—Section 103(b) (33 U.S.C. 1413(b)) is amended—

(1) in the matter preceding paragraph (1) by striking ", with the concurrence of the Administrator,"; and

(2) in paragraph (3) by striking "Administrator" and inserting "Secretary".

(b) CONSULTATION WITH THE ADMINISTRATOR.—Section 103(c) (33 U.S.C. 1413(c)) is amended to read as follows:

"(c) CONSULTATION WITH THE ADMINISTRATOR.—Prior to issuing a permit to any person under this section, the Secretary shall first consult with the Administrator.".

SEC. 904. PENALTIES.

Section 105 (33 U.S.C. 1415) is amended—

(1) in the first sentence by inserting "or, with respect to violations of section 103, the Secretary" before the period at the end;

(2) in the fourth, fifth, and sixth sentences by inserting "or the Secretary, as the case may be," after "Administrator" each place it appears; and

(3) in subsection (g)(2)(C) by inserting "or the Secretary, as the case may be," after "the Administrator" the first place it appears.

SEC. 905. ANNUAL REPORT.

Section 112 (33 U.S.C. 1421) is amended by striking "with the concurrence of the Administrator".

SEC. 906. REFERENCE TO COMMITTEE.

Section 104(i)(3) (33 U.S.C. 1414(i)(3)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MR. FRANKS OF NEW JERSEY

AMENDMENT NO. 19: Page 101, line 18, before the period insert the following:

except that a coastal State may submit a portion of its management program relating to the coastal areas of the State at an earlier date in which case the Administrator shall approve or disapprove such portion under subsection (d) within 6 months of the date of such submission

H.R. 961

OFFERED BY: MR. FRANKS OF NEW JERSEY

AMENDMENT NO. 20: Page 108, line 7, after the first period insert the following:

Such rules and regulations shall provide for priority consideration in the award of grants to coastal States under this section to a coastal State which receives approval of its management program, or any portion of such program relating to the coastal zones of the State, on or before December 31, 1995.

H.R. 961

OFFERED BY: MR. FRANKS OF NEW JERSEY

AMENDMENT NO. 21: Page 97, line 22, before the closing quotation marks insert the following:

and, in watersheds of impaired or threatened waters in coastal zones, with coastal zones being defined as the federally approved State coastal management programs under the Coastal Zone Management Act of 1972, to implement model management practices and measures within 5 years of the date of the enactment of the Clean Water Amendments of 1995

H.R. 961

OFFERED BY: MR. FRELINGHUYSEN

Amendment No. 22: Page 305, after line 4, insert the following:

"(8) TREATMENT OF EXISTING PROGRAMS.—Any State which has received approval to administer a program pursuant to this subsection before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall not be required to reapply for approval and shall be permitted to continue administering such program.

H.R. 961

OFFERED BY: MR. FRELINGHUYSEN

AMENDMENT NO. 23: In the matter proposed to be inserted as section 404(l) of the Federal Water Pollution Control Act by section 803 of the bill (as amended by Mr. Shuster's amendment) strike paragraph (8) and insert the following:

"(8) TREATMENT OF EXISTING PROGRAMS.—Any State which has received approval to administer a program pursuant to this subsection before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall not be required to reapply for approval and shall be permitted to continue administering such program.

H.R. 961

OFFERED BY: MR. FRELINGHUYSEN

Amendment No. 24: Page 305, after line 4, insert the following:

"(8) TREATMENT OF EXISTING PROGRAMS.—Any State which has received approval to administer a program pursuant to this subsection before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall not be required to reapply for approval and shall be permitted to continue administering such program.

H.R. 961

OFFERED BY: MR. GILCHREST

AMENDMENT NO. 25: Page 243, strike line 9 and all that follows through line 7 on page 249 and insert the following:

"(c) WETLANDS CLASSIFICATION.—The Secretary shall issue regulations for the classification of wetlands to the extent practicable based on the best available science. Requirements of this title based on the classification of wetlands as type A, type B, or type C wetlands shall not become effective until regulations are issued under this subsection.

Page 282, line 11, strike "subparagraphs (B) and (C)" and insert "subparagraph (B)".

Page 282, strike line 12 and all that follows through line 22 on page 283.

Page 283, strike line 23 and all that follows through "any" on line 25 and insert the following:

"(B) NORMAL CIRCUMSTANCES.—Any

Page 311, line 17, strike "section," and insert "section and".

Page 311, lines 18 through 20, strike ", and no exception shall be available under subsection (g)(1)(B),".

H.R. 961

OFFERED BY: MR. GILCHREST

AMENDMENT NO. 26: Page 309, strike lines 8 through 12.

Page 309, line 13, strike "(10)" and insert "(9)".

Page 312, line 10, strike "(11)" and insert "(10)".

H.R. 961

OFFERED BY: MR. LIPINSKI

AMENDMENT NO. 27: Pages 231 and 232, strike the table and insert the following:

	Percentage of sums authorized:
"States:	
Alabama	0.7736
Alaska	0.2500
Arizona	1.1526
Arkansas	0.3853
California	9.3957
Colorado	0.6964
Connecticut	1.3875
Delaware	0.2500
District of Columbia	0.3203
Florida	3.4696
Georgia	2.0334
Hawaii	0.2629
Idaho	0.2531
Illinois	5.6615
Indiana	3.1304
Iowa	0.6116
Kansas	0.8749
Kentucky	1.3662
Louisiana	1.0128
Maine	0.6742
Maryland	1.6701
Massachusetts	4.3755
Michigan	3.8495
Minnesota	1.3275
Mississippi	0.6406
Missouri	1.7167
Montana	0.2500
Nebraska	0.4008
Nevada	0.2500
New Hampshire	0.4791
New Jersey	4.7219
New Mexico	0.2500
New York	14.7435
North Carolina	2.5920
North Dakota	0.2500
Ohio	4.9828
Oklahoma	0.6273
Oregon	1.2483
Pennsylvania	4.2431
Rhode Island	0.4454
South Carolina	0.7480
South Dakota	0.2500
Tennessee	1.4767
Texas	4.6773
Utah	0.2937
Vermont	0.2722
Virginia	2.4794
Washington	2.2096
West Virginia	1.4346
Wisconsin	1.4261
Wyoming	0.2500
Puerto Rico	1.0866
Northern Marianas	0.0308
American Samoa	0.0908
Guam	0.0657
Palau	0.1295
Virgin Islands	0.0527".

H.R. 961

OFFERED BY: MR. MCINTOSH

AMENDMENT NO. 28: Page 99, line 5, strike the closing quotation marks and the final period.

Page 99, after line 5, insert the following:

"(J) An assurance that the State will not take any action under the program limiting the use of any portion of private property in a manner that diminishes the fair market value of that portion by 20 percent or more without providing just compensation to the property owner.".

H.R. 961

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 29: Title III of the bill is amended—

(a) on page 33, by striking line 7 and all that follows through line 10 on page 34;

(b) on page 62, by striking line 21 and all that follows through line 3 on page 63;

(c) on page 64, by striking line 4 and all that follows through line 14;

(d) on page 77, by striking line 1 and all that follows through line 23 on page 80;

(e) on page 83, by striking line 1 and all that follows through line 13;

(f) on page 93, by striking line 7 and all that follows through line 22 on page 95;

(g) on page 99, by striking line 12 and all that follows through line 10 on page 101;

(h) on page 121, by striking line 22 and all that follows through line 2 on page 122;

(i) on page 167, by striking line 12 and all that follows through line 14 on page 169; and

(j) renumber all sections, subsections, paragraphs, and subparagraphs accordingly.

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 30: Page 133, strike line 15, and all that follows through line 9 on page 170 and insert the following:

SEC. 322. MUNICIPAL STORMWATER MANAGEMENT PROGRAMS.

(a) STATE PROGRAMS.—Title III (33 U.S.C. 1311 et seq.) is further amended by adding at the end the following new section:

"SEC. 322. MUNICIPAL STORMWATER MANAGEMENT PROGRAMS.

"(a) PURPOSE.—The purpose of this section is to assist States in the development and implementation of municipal stormwater control programs in an expeditious and cost effective manner so as to enable the goals and requirements of this Act to be met in each State no later than 15 years after the date of approval of the municipal stormwater management program of the State. It is recognized that State municipal stormwater management programs need to be built on a foundation that voluntary pollution prevention initiatives represent an approach most likely to succeed in achieving the objectives of this Act.

"(b) State Assessment Reports.—

"(1) Contents.—After notice and opportunity for public comment, the Governor of each State, consistent with or as part of the assessment required by section 319, shall prepare and submit to the Administrator for approval, a report which—

"(A) identifies those navigable waters within the State which, without additional action to control pollution from municipal stormwater discharges, cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of this Act;

"(B) identifies those categories and subcategories of municipal stormwater discharges that add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

"(C) describes the process, including intergovernmental coordination and public participation, for identifying measures to control pollution from each category and subcategory of municipal stormwater discharges identified in subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such discharges; and

"(D) identifies and describes State and local programs for controlling pollution added from municipal stormwater discharges to, and improving the quality of, each such portion of the navigable waters.

"(2) Information used in preparation.—In developing, reviewing, and revising the report required by this subsection, the State—

"(A) may rely upon information developed pursuant to sections 208, 303(e), 304(f), 305(b), 314, 319, 320, and 321 and subsection (h) of this section, information developed from any group stormwater permit application process in effect under section 402(p) of this Act and such other information as the State determines is appropriate; and

"(B) may utilize appropriate elements of the waste treatment management plans developed pursuant to sections 208(b) and 303, to the extent such elements are consistent with and fulfill the requirements of this section.

"(3) Review and revision.—Not later than 18 months after the date of the enactment of the Clean Water Amendments of 1995, and every 5 years thereafter, the State shall review, revise, and submit to the Administrator the report required by this subsection.

"(c) State Management Programs.—

"(1) In general.—In substantial consultation with local governments and after notice and opportunity for public comment, the Governor of each State for the State or in combination with the Governors of adjacent States shall prepare and submit to the Administrator for approval a municipal stormwater management program based on available information which the State proposes to implement in the first 5 fiscal years beginning after the date of submission of such management program for controlling pollution added from municipal stormwater discharges to the navigable waters within the boundaries of the State and improving the quality of such waters.

"(2) Specific contents.—Each management program proposed for implementation under this subsection shall include the following:

"(A) Identification of model management practices and measures.—Identification of the model management practices and measures which will be undertaken to reduce pollutant loadings resulting from municipal stormwater discharges designated under subsection (b)(1)(B), taking into account the impact of the practice and measure on ground water quality.

"(B) Identification of programs and resources.—Identification of programs and resources necessary (including, as appropriate, nonregulatory programs or regulatory programs, enforceable policies and mechanisms, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to manage municipal stormwater discharges to the degree necessary to provide for reasonable further progress toward the goal of attainment of water quality standards which contain the stormwater criteria established under subsection (h) for designated uses of receiving waters identified under subsection (b)(1)(A) taking into consideration specific watershed conditions, by not later than the last day of the 15-year period beginning on the date of approval of the State program.

"(C) Program for reducing pollutant loadings.—A program for municipal stormwater discharges identified under subsection (b)(1)(B) to reduce pollutant loadings from categories and subcategories of municipal stormwater discharges.

"(D) Schedule.—A schedule containing interim goals and milestones for making reasonable progress toward the attainment of standards as set forth in subparagraph (B) established for the designated uses of receiving waters, taking into account specific watershed conditions, which may be demonstrated by one or any combination of improvements in water quality (including biological indicators), documented implementation of voluntary stormwater discharge control measures, or adoption of enforceable stormwater discharge control measures.

"(E) Certification of adequate authority.—

"(i) In general.—A certification by the Attorney General of the State or States (or the chief attorney of any State water pollution control agency that has authority under State law to make such certification) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a list of such additional authorities as will be necessary to implement such management program.

"(ii) Commitment.—A schedule for seeking, and a commitment by the State or States to seek, such additional authorities as expeditiously as practicable.

"(F) Identification of federal financial assistance programs.—An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's municipal stormwater management program.

"(G) Monitoring.—A description of the monitoring of navigable waters or other assessment which will be carried out under the program for the purposes of monitoring and assessing the effectiveness of the program, including the attainment of interim goals and milestones.

"(H) Identification of certain inconsistent federal activities.—An identification of activities on Federal lands in the State that are inconsistent with the State management program.

"(I) Identification of goals and milestones.—An identification of goals and milestones for progress in attaining water quality standards, including a projected date for attaining such standards as expeditiously as practicable but not later than 15 years after the date of approval of the State program for each of the waters listed pursuant to subsection (b).

"(3) Utilization of local and private experts.—In developing and implementing a management program under this subsection, a State shall, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in stormwater management.

"(4) Development on watershed basis.—A State shall, to the maximum extent practicable, develop and implement a stormwater management program under this subsection on a watershed-by-watershed basis within such State.

"(d) Administrative Provisions.—

"(1) Cooperation requirement.—Any report required by subsection (b) and any management program and report required by subsection (c) shall be developed in cooperation with local, substate, regional, and interstate entities which are responsible for implementing municipal stormwater management programs.

"(2) Time period for submission of management programs.—Each management program shall be submitted to the Administrator within 30 months of the issuance by the Administrator of the final guidance under subsection (l) and every 5 years thereafter. Each program submission after the initial submission following the date of the enactment of the Clean Water Amendments of 1995 shall include a demonstration of reasonable further progress toward the goal of attaining water quality standards as set forth in subsection (c)(2) established for designated uses of receiving waters taking into account specific watershed conditions by not later than the date referred to in subsection (b)(2)(B), including a documentation of the degree to which the State has achieved the interim goals and milestones contained in the previous program submission. Such demonstration shall take into account the adequacy of Federal funding under this section.

"(3) Transition.—

"(A) In general.—Permits issued pursuant to section 402(p) for discharges from municipal storm sewers, as in effect on the day before the date of the enactment of this section, shall remain in effect until the effective date of a State municipal stormwater management program under this section. Stormwater dischargers shall continue to implement any stormwater management practices and measures required under such permits until such practices and measures are modified pursuant to this subparagraph or pursuant to a State municipal stormwater management program. Prior to the effective date of a State municipal stormwater management program, municipal stormwater dischargers may submit for approval proposed revised stormwater management practices and measures to the State, in the case of a State with an approved program under section 402, or the Administrator. Upon notice of approval by the State or the Administrator, the municipal stormwater discharger shall implement the revised stormwater management practices and measures which may be voluntary pollution prevention activities. A municipal stormwater discharger operating under a permit continued in effect under this subparagraph shall not be subject to citizens suits under section 505.

"(B) ANTIBACKSLIDING.—Section 402(o) shall not apply to any activity carried out in accordance with this paragraph.

"(e) APPROVAL OR DISAPPROVAL OF REPORTS OR MANAGEMENT PROGRAMS.—

"(1) DEADLINE.—Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or revised report or management program under this section, the Administrator shall either approve or disapprove such report or management program, as the case may be. The Administrator may approve a portion of a management program under this subsection. If the Administrator does not disapprove a report, management program, or portion of a management program in such 180-day period, such report, management program, or portion shall be deemed approved for purposes of this section.

"(2) PROCEDURE FOR DISAPPROVAL.—If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that—

"(A) the proposed management program or any portion thereof does not meet the requirements of subsection (b) of this section or is not likely to satisfy, in whole or in part, the goals and requirements of this Act;

"(B) adequate authority does not exist, or adequate resources are not available, to implement such program or portion; or

"(C) the practices and measures proposed in such program or portion will not result in reasonable progress toward the goal of attainment of applicable water quality standards as set forth in subsection (c)(2) established for designated uses of receiving waters taking into consideration specific watershed conditions as expeditiously as possible but not later than 15 years after approval of a State municipal stormwater management program under this section;

the Administrator shall within 6 months of the receipt of the proposed program notify the State of any revisions or modifications necessary to obtain approval. The State shall have an additional 6 months to submit its revised management program, and the Administrator shall approve or disapprove such revised program within 3 months of receipt.

"(3) FAILURE OF STATE TO SUBMIT REPORT.—If a Governor of a State does not submit a report or revised report required by subsection (b) within the period specified by subsection (d)(2), the Administrator shall, within 18 months after the date on which such report is required to be submitted under subsection (b), prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (b). Upon completion of the requirement of the preceding sentence and after notice and opportunity for a comment, the Administrator shall report to Congress of the actions of the Administrator under this section.

"(4) FAILURE OF STATE TO SUBMIT MANAGEMENT PROGRAM.—

"(A) PROGRAM MANAGEMENT BY ADMINISTRATOR.—Subject to paragraph (5), if a State fails to submit a management program or revised management program under subsection (c) or the Administrator does not approve such management program, the Administrator shall prepare and implement a management program for controlling pollution added from municipal stormwater discharges to the navigable waters within the State and improving the quality of such waters in accordance with subsection (c).

"(B) NOTICE AND HEARING.—If the Administrator intends to disapprove a program submitted by a State the Administrator shall first notify the Governor of the State, in writing, of the modifications necessary to meet the requirements of this section. The Administrator shall provide adequate public notice and an opportunity for a public hearing for all interested parties.

"(C) STATE REVISION OF ITS PROGRAM.—If, after taking into account the level of funding actually provided as compared with the level authorized, the Administrator determines that a State has failed to demonstrate reasonable further progress toward the attainment of water quality standards as required, the State shall revise its program within 12 months of that determination in a manner sufficient to achieve attainment of applicable water quality standards by the deadline established by this section. If a State fails to make such a program revision or the Administrator does not approve such a revision, the Administrator shall prepare and implement a municipal stormwater management program for the State.

"(5) LOCAL MANAGEMENT PROGRAMS; TECHNICAL ASSISTANCE.—If a State fails to submit a management program under subsection (c) or the Administrator does not approve such a management program, a local public agency or organization which has expertise in, and authority to, control water pollution resulting from municipal stormwater sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a management program which is described in subsection (c) and can be approved pursuant to this subsection. After development of such management program, such agency or organization shall submit such management program to the Administrator for approval.

"(f) INTERSTATE MANAGEMENT CONFERENCE.—

"(1) CONVENING OF CONFERENCE; NOTIFICATION; PURPOSE.—

"(A) CONVENING OF CONFERENCE.—If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of pollution from stormwater in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute significant pollution resulting from stormwater to such portion.

"(B) NOTIFICATION.—If, on the basis of information available, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of significant pollution from stormwater in another State, the Administrator shall notify such States.

"(C) TIME LIMIT.—The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification under subparagraph (B), whether or not the State which is not meeting such standards requests such conference.

"(D) PURPOSE.—The purpose of the conference shall be to develop an agreement among the States to reduce the level of pollution resulting from stormwater in the portion of the navigable waters and to improve the water quality of such portion.

"(E) PROTECTION OF WATER RIGHTS.—Nothing in the agreement shall supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws.

"(F) LIMITATIONS.—This subsection shall not apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. The requirement that the Administrator convene a management conference shall not be subject to the provisions of section 505 of this Act.

"(2) STATE MANAGEMENT PROGRAM REQUIREMENT.—To the extent that the States reach agreement through such conference, the management programs of the States which are parties to such agreements and which contribute significant pollution to the navigable waters or portions thereof not meeting applicable water quality standards or goals and requirements of this Act will be revised to reflect such agreement. Such management programs shall be consistent with Federal and State law.

"(g) GRANTS FOR STORMWATER RESEARCH.—

"(1) IN GENERAL.—To determine the most cost-effective and technologically feasible means of improving the quality of the navigable waters and to develop the criteria required pursuant to subsection (g), the Administrator shall establish an initiative through which the Administrator shall fund State and local demonstration programs and research to—

"(A) identify adverse impacts of stormwater discharges on receiving waters;

"(B) identify the pollutants in stormwater which cause impact; and

"(C) test innovative approaches to address the impacts of source controls and model management practices and measures for runoff from municipal storm sewers.

Persons conducting demonstration programs and research funded under this subsection shall also take into account the physical nature of episodic stormwater flows, the varying pollutants in stormwater, the actual risk the flows pose to the designated beneficial uses, and the ability of natural ecosystems to accept temporary stormwater events.

"(2) AWARD OF FUNDS.—The Administrator shall award the demonstration and research program funds taking into account regional and population variations.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $20,000,000 per fiscal year for fiscal years 1996 through 2000. Such sums shall remain available until expended.

"(h) DEVELOPMENT OF STORMWATER CRITERIA.—

"(1) IN GENERAL.—To reflect the episodic character of stormwater which results in significant variances in the volume, hydraulics, hydrology, and pollutant load associated with stormwater discharges, the Administrator shall establish, as an element of the water quality standards established for the designated uses of the navigable waters, stormwater criteria which protect the navigable waters from impairment of the designated beneficial uses caused by stormwater discharges. The criteria shall be technologically and financially feasible and may include performance standards, guidelines, guidance, and model management practices and measures and treatment requirements, as appropriate, and as identified in subsection (g)(1).

"(2) INFORMATION TO BE USED IN DEVELOPMENT.—The stormwater discharge criteria to be established under this subsection—

"(A) shall be developed from—

"(i) the findings and conclusions of the demonstration programs and research conducted under subsection (g);

"(ii) the findings and conclusions of the research and monitoring activities of stormwater dischargers performed in compliance with permit requirements of this Act; and

"(iii) other relevant information, including information submitted to the Administrator under the industrial group permit application process in effect under section 402 of this Act;

"(B) shall be developed in consultation with persons with expertise in the management of stormwater (including officials of State and local government, industrial and commercial stormwater dischargers, and public interest groups); and

"(C) shall be established as an element of the water quality standards that are developed and implemented under this Act by not later than December 31, 2008.

"(i) COLLECTION OF INFORMATION.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to model management practices and measures and implementation methods, including, but not limited to—

"(1) information concerning the costs and relative efficiencies of model management practices and measures for reducing pollution from stormwater discharges; and

"(2) available data concerning the relationship between water quality and implementation of various management practices to control pollution from stormwater discharges.

"(j) REPORTS OF ADMINISTRATOR.—

"(1) BIENNIAL REPORTS.—Not later than January 1, 1996, and biennially thereafter, the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from stormwater discharges and improving the quality of such waters.

"(2) CONTENTS.—Each report submitted under paragraph (1), at a minimum shall—

"(A) describe the management programs being implemented by the States by types of affected navigable waters, categories and subcategories of stormwater discharges, and types of measures being implemented;

"(B) describe the experiences of the States in adhering to schedules and implementing the measures under subsection (c);

"(C) describe the amount and purpose of grants awarded pursuant to subsection (g);

"(D) identify, to the extent that information is available, the progress made in reducing pollutant loads and improving water quality in the navigable waters;

"(E) indicate what further actions need to be taken to attain and maintain in those navigable waters (i) applicable water quality standards, and (ii) the goals and requirements of this Act;

"(F) include recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from stormwater; and

"(G) identify the activities and programs of departments, agencies, and instrumentalities of the United States that are inconsistent with the municipal stormwater management programs implemented by the States under this section and recommended modifications so that such activities and programs are consistent with and assist the States in implementation of such management programs.

"(k) GUIDANCE ON MODEL STORMWATER MANAGEMENT PRACTICES AND MEASURES.—

"(1) IN GENERAL.—The Administrator, in consultation with appropriate Federal, State, and local departments and agencies, and after providing notice and opportunity for public comment, shall publish guidance to identify model management practices and measures which may be undertaken, at the discretion of the State or appropriate entity, under a management program established pursuant to this section. In preparing such guidance, the Administrator shall consider integration of a municipal stormwater management program of a State with, and the relationship of such program to, the nonpoint source management program of the State under section 319.

"(2) PUBLICATION.—The Administrator shall publish proposed guidance under this subsection not later than 6 months after the date of the enactment of this subsection and shall publish final guidance under this subsection not later than 18 months after such date of enactment. The Administrator shall periodically review and revise the final guidance upon adequate notice and opportunity for public comment at least once every 3 years after its publication.

"(3) MODEL MANAGEMENT PRACTICES AND MEASURES DEFINED.—For the purposes of this subsection, the term "model management practices and measures" means economically achievable measures for the control of pollutants from stormwater discharges which reflect the most cost-effective degree of pollutant reduction achievable through the application of the best available practices, technologies, processes, siting criteria, operating methods, or other alternatives.

"(l) ENFORCEMENT WITH RESPECT TO MUNICIPAL STORMWATER DISCHARGERS VIOLATING STATE MANAGEMENT PROGRAMS.—Municipal stormwater dischargers that do not comply with State management program requirements under subsection (c) are subject to applicable enforcement actions under sections 309 and 505 of this Act.

"(m) ENTRY AND INSPECTION.—In order to carry out the objectives of this section, an authorized representative of a State, upon presentation of his or her credentials, shall have a right of entry to, upon, or through any property at which a stormwater discharge or records required to be maintained under the State municipal stormwater management program are located.

"(n) LIMITATION ON DISCHARGES REGULATED UNDER WATERSHED MANAGEMENT PROGRAM.—Municipal stormwater discharges regulated under section 321 in a manner consistent with this section shall not be subject to this section.".

(b) CONFORMING AMENDMENTS TO INDUSTRIAL STORMWATER DISCHARGE PROGRAM.—Section 402(p) (33 U.S.C 1342(p)) is amended—

(1) in the subsection heading by striking "MUNICIPAL AND";

(2) in paragraph (1) by striking "1994" and inserting "2001";

(3) by adding at the end of the paragraph (1) the following: "This subsection does not apply to municipal stormwater discharges which are covered by section 322.";

(4) in paragraph (2) by striking subparagraphs (C) and (D) and by redesignating subparagraph (E) as subparagraph (C);

(5) in paragraph (3)—

(A) by striking the heading for subparagraph (A);

(B) by moving the text of subparagraph (A) after the paragraph heading; and

(C) by striking subparagraph (B);

(6) in paragraph (4)—

(A) by striking the heading for subparagraph (A);

(B) by moving the text of subparagraph (A) after the paragraph heading;

(C) by striking "and (2)(C)"; and

(D) by striking subparagraph (B);

(7) by striking paragraph (5);

(8) by redesignating paragraph (6) as paragraph (5); and

(9) in paragraph (5) as so redesignated—

(A) by striking "1993" and inserting "2000"; and

(B) by inserting after "paragraph (2)" the following: "and other than municipal stormwater discharges".

(c) DEFINITIONS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(25) The term 'stormwater' means runoff from rain, snow melt, or any other precipitation-generated surface runoff.

"(26) The term 'stormwater discharge' means a discharge from any conveyance which is used for the collecting and conveying of stormwater to navigable waters and which is associated with a municipal storm sewer system or industrial, commercial, oil, gas, or mining activities or construction activities.".

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 31: Page 65, strike line 2 and all that follows through line 9 on page 68.

Page 68, line 10, strike "(c)" and insert "(a)".

Page 69, line 7, strike "(d)" and insert "(b)".

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 32: Page 284, strike lines 10 through 18.

Page 284, line 19, strike "(3)" and insert "(2)".

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 33: Page 32, strike line 19 and all that follows through line 6 on page 33.

Page 33, line 7, strike "(c)" and insert "(b)".

Page 33, strike line 16 and all that follows though line 10 on page 34.

Pages 34 through 47, strike section 302 of the bill.

Redesignate subsequent sections of title III of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 47, strike line 20 and all that follows through line 8 on page 48 and insert the following:

SEC. 303. REVISION OF STATE WATER QUALITY STANDARDS.

Section 303(c)(1) is amended by striking

Conform the table of contents of the bill accordingly.

Page 48, strike line 16 and all that follows through line 10 on page 52.

Page 64, strike lines 4 through 14.

Pages 73 through 80, strike sections 311 and 312 of the bill.

Redesignate subsequent sections of title III of the bill accordingly. Conform the table of contents of the bill accordingly.

Pages 93 through 95, strike section 318 of the bill.

Redesignate subsequent sections of title III of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 130, line 2, after the period insert closing quotation marks and a period.

Page 130, strike lines 3 through 25.

Page 131, strike lines 5 through 22 and insert the following:

"(r) SYNCHRONIZED PERMIT TERMS.—Notwith-* * *

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 34: Page 181, strike line 17 and all that follows through line 9 on page 182.

Page 184, strike line 10 and all that follows through line 21 on page 185.

Page 204, strike line 11 and all that follows through line 13 on page 207.

Redesignate the remaining sections of title IV of the bill accordingly. Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 35: Page 208, strike lines 20 through 24.

Page 209, strike lines 1 through 17.

Redesignate subsequent sections of title V of the bill accordingly. Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 36:

Page 170, line 19, strike "issuing".

Page 170, line 20, before "any" insert "issuing".

Page 170, line 24, strike "or".

Page 171, line 1, before "any" insert "issuing".

Page 171, line 3, strike the period and insert a semicolon.

Page 171, after line 3, insert the following:

"(3) granting under section 301(g) a modification of the requirements of section 301(b)(2)(A);

"(4) issuing a permit under section 402 which under section 301(p)(5) modifies the requirements of section 301, 302, 306, or 307;

"(5) extending under section 301(k) a deadline for a point source to comply with any limitation under section 301(b)(1)(A), 301(b)(2)(A), or 301(b)(2)(E) or otherwise modifying under section 301(k) the conditions of a permit under section 402;

"(6) issuing a permit under section 402 which modifies under section 301(q) the requirements of section 301(b), 306, or 307;

"(7) issuing a permit under section 402 which modifies under section 301(r) the requirements of section 301(b), 306, or 307;

"(8) renewing, reissuing, or modifying a permit to which section 401(o)(1) applies if the permittee has received a permit modification under section 301(q) or 301(r) or the exception under section 402(o)(2)(F) applies;

"(9) extending under section 307(e) the deadline for compliance with applicable national categorical pretreatment standards or otherwise modifying under section 307(e) pretreatment requirements of section 307(b);

"(10) waiving or modifying under section 307(f) pretreatment requirements of section 307(b);

"(11) allowing under section 307(g) any person that introduces silver into a publicly owned treatment works to comply with a code of management practices in lieu of complying with any pretreatment requirement for silver;

"(12) establishing under section 316(b)(3) a standard other than best technology available for existing point sources;

"(13) approving a pollutant transfer pilot project under section 321(g)(1); or

"(14) issuing a permit pursuant to section 402(r)(1) with a limitation that does not meet applicable water quality standards.

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 37:

Page 172, line 14, insert "similar" before "risks".

Page 172, line 15, before the period insert the following: "regulated by the Environmental Protection Agency resulting from comparable activities and exposure pathways".

Page 172, after line 15, insert the following:

Comparisons under paragraph (7) should consider relevant distinctions among risks such as the voluntary or involuntary nature of risks and the preventability and nonpreventability of risks.

Page 173, line 18, after the period insert closing quotation marks and a period.

Page 173, strike line 19 and all that follows through page 175, line 17.

Page 176, lines 10 and 11, strike "the requirement or guidance maximizes net benefits to society" and insert "the incremental benefits to human health, public welfare, and the environment of the requirement or guidance will likely justify, and be reasonably related to, the incremental costs incurred by State, local, and tribal governments, the Federal Government, and other public and private entities".

Page 178, line 4, insert "and benefits" after "costs".

Page 179, strike line 3 and all that follows through page 180, line 22.

Page 180, line 23, strike "(g)" and insert "(f)".

H.R. 961

OFFERED BY: MS. MOLINARI

AMENDMENT NO. 38:

Page 247, line 3, before the semicolon at the end insert the following:

(other than prior converted cropland within a watershed providing public, unfiltered drinking water supplies)

H.R. 961

OFFERED BY: MR. NADLER

AMENDMENT NO. 39: Page 50, strike line 19 and all that follows through line 10 on page 52.

H.R. 961

OFFERED BY: MR. OBERSTAR

AMENDMENT NO. 40: Page 100, strike line 5 and all that follows through the first period on line 10 on page 101.

Page 102, line 1, strike "Such demonstration" and all that follows through the first period on line 3.

Page 114, strike line 17 and all that follows through line 4 on page 115.

Page 115, line 5, strike "(n)" and insert "(m)".

Page 117, line 4, strike "(o)" and insert "(n)".

Page 117, line 6, strike "(q)" and insert "(p)".

Page 117, line 10, strike "(p)" and insert "(o)".

Page 117, line 12, strike "(r)" and insert "(q)".

H.R. 961

OFFERED BY: MR. PALLONE

AMENDMENT NO. 41: Page 81, after line 1, insert the following:

(a) FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.—Section 101 (33 U.S.C. 1251) is further amended by adding at the end the following:

"(i) FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.—Congress finds that a discharge which results in a violation of this Act or a regulation, standard, limitation, requirement, or order issued pursuant to this Act interferes with the restoration and maintenance of the chemical, physical, and biological integrity of any waters into which the discharge flows (either directly or through a publicly owned treatment works), including any waters into which the receiving waters flow, and, therefore, harms those who use or enjoy such waters and those who use or enjoy nearby lands or aquatic resources associated with those waters.

"(j) FINDING WITH RESPECT TO CITIZEN SUITS.—Congress finds that citizen suits are a valuable means of enforcement of this Act and urges the Administrator to take actions to encourage such suits, including providing information concerning violators to citizen groups to assist them in bringing suits, providing expert witnesses and other evidence with respect to such suits, and filing amicus curiae briefs on important issues related to such suits.".

(b) VIOLATIONS OF REQUIREMENTS OF LOCAL CONTROL AUTHORITIES.—Section 307(d) (33 U.S.C. 1317(d)) is amended by striking the first sentence and inserting the following: "After the date on which (1) any effluent standard or prohibition or pretreatment standard or requirement takes effect under this section or any requirement imposed in a pretreatment program under section 402(a)(3) or 402(b)(8) of this Act takes effect, it shall be unlawful for any owner or operator of any source to operate such source in violation of the effluent standard, prohibition, pretreatment standard, or requirement.".

(c) INSPECTIONS, MONITORING, AND PROVIDING INFORMATION.—

(1) APPLICABILITY OF REQUIREMENTS.—Section 308(a) (33 U.S.C. 1318(a)) is amended by striking "the owner or operator of any point source" and inserting "a person subject to a requirement of this Act".

(2) PUBLIC ACCESS TO INFORMATION.—The first sentence of section 308(b) is amended—

(A) by inserting "(including information contained in the Permit Compliance System of the Environmental Protection Agency)" after "obtained under this section";

(B) by inserting "made" after "shall be"; and

(C) by inserting "by computer telecommunication and other means" after "public" the first place it appears.

(3) PUBLIC INFORMATION.—Section 308 is further amended by adding at the end the following:

"(e) PUBLIC INFORMATION.—

"(1) POSTING OF NOTICE OF POLLUTED WATERS.—At each major point of public access (including, at a minimum, beaches, parks, recreation areas, marinas, and boat launching areas) to a body of navigable water that does not meet an applicable water quality standard or that is subject to a fishing and shell fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination, the State within which boundaries all or any part of such body of water lies shall, either directly or through local authorities, post and maintain a clearly visible sign which—

"(A) indicates the water quality standard that is being violated or the nature and extent of the restriction on fish or shellfish consumption, as the case may be;

"(B) includes (i) information on the environmental and health effects associated with the failure to meet such standard or with the consumption of fish or shellfish subject to the restriction, and (ii) a phone number for obtaining additional information relating to the violation and restriction; and

"(C) will be maintained until the body of water is in compliance with the water quality standard or until all fish and shellfish consumption restrictions are terminated with respect to the body of water, as the case may be.

"(2) NOTICE OF DISCHARGES TO NAVIGABLE WATERS.—Except for permits issued to municipalities for discharges composed entirely of stormwater under section 402 of this Act, each permit issued under section 402 by the Administrator or by a State shall ensure compliance with the following requirements:

"(A) Every permittee shall conspicuously maintain at all public entrances to the facility a clearly visible sign which indicates that the facility discharges pollutants into navigable waters and the location of such discharges; the name, business address, and phone number of the permittee; the permit number; and a location at which a copy of the permit and public information required by this paragraph is maintained and made available for inspection or a phone number for obtaining such information.

"(B) Each permittee which is a publicly owned treatment works shall include in each quarterly mailing of a bill to each customer of the treatment works information which indicates that the treatment works discharges pollutants into the navigable waters and the location of each of such discharges; the name, business address and phone number of the permittee; the permit number; a location at which a copy of the permit and public information required by this paragraph is maintained and made available for inspection or a phone number for obtaining such information; and a list of all violations of the requirements of the permit by the treatment works over the preceding 12-month period.

"(3) REGULATIONS.—

"(A) ISSUANCE.—The Administrator—

"(i) not later than 6 months after the date of the enactment of this subsection, shall propose regulations to carry out this subsection; and

"(ii) not later than 18 months after such date of enactment, shall issue such regulations.

"(B) CONTENT.—The regulations issued to carry out this subsection shall establish—

"(i) uniform requirements and procedures for identifying and posting bodies of water under paragraph (1);

"(ii) minimum information to be included in signs posted and notices issued pursuant to this subsection;

"(iii) uniform requirements and procedures for fish and shellfish sampling and analysis;

"(iv) uniform requirements for determining the nature and extent of fish and shellfish bans, advisories, and consumption restrictions which—

"(I) address cancer and noncancer human health risks;

"(II) take into account the effects of all fish and shellfish contaminants, including the cumulative and synergistic effects;

"(III) assure the protection of subpopulations who consume higher than average amounts of fish and shellfish or are particularly susceptible to the effects of such contamination;

"(IV) address race, gender, ethnic composition, or social and economic factors, based on the latest available studies of national or regional consumption by and impacts on such subpopulations unless more reliable site-specific data is available;

"(V) are based on a margin of safety that takes into account the uncertainties in human health impacts from such contamination; and

"(VI) evaluate assessments of health risks of contaminated fish and shellfish that are used in pollution control programs developed by the Administrator under this Act.".

(4) STATE REPORTS.—Section 305(b)(1) (33 U.S.C. 1315(b)(1)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end the following:

"(F) a list identifying bodies of water for which signs were posted under section 308(e)(1) in the preceding year.".

(d) CIVIL PENALTIES.—

(1) ENFORCEMENT OF LOCAL PRETREATMENT REQUIREMENTS.—

(A) COMPLIANCE ORDERS.—

(i) INITIAL ACTION.—Section 309(a)(1) (33 U.S.C. 1319(a)(1)) is amended by inserting after "of this Act," the following: "or is in violation of any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(ii) ISSUANCE OF ORDERS.—Section 309(a)(3) is amended by inserting before "he shall" the following: "or is in violation of any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(B) CRIMINAL PENALTIES.—Section 309(c)(3)(A) is amended by inserting before "and who knows" the following: "or knowingly violates any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(C) ADMINISTRATIVE PENALTIES.—Section 309(g)(1) is amended by inserting after "or by a State," the following: "or has violated any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or an order issued by the Administrator under subsection (a) of this section,".

(2) TREATMENT OF SINGLE OPERATIONAL UPSETS.—

(A) CRIMINAL PENALTIES.—Section 309(c) is amended by striking paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(B) CIVIL PENALTIES.—Section 309(d) is amended by striking the last sentence.

(C) ADMINISTRATIVE PENALTIES.—Section 309(g)(3) is amended by striking the last sentence.

(3) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

(A) IN GENERAL.—Section 309(d) is amended by inserting after the second sentence the following: "The court may, in the court's discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.".

(B) CONFORMING AMENDMENT.—Section 505(a) (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: ", including ordering the use of a civil penalty for carrying out mitigation projects".

(4) DETERMINATION OF AMOUNT OF PENALTIES.—

(A) CIVIL PENALTIES.—Section 309(d) (33 U.S.C. 1319(d)) is amended by inserting "the amount of any penalty previously imposed on the violator by a court or administrative agency for the same violation or violations," after "economic impact of the penalty on the violator,".

(B) ADMINISTRATIVE PENALTIES.—Section 309(g)(3) is amended—

(i) by striking "or savings"; or

(ii) by inserting "the amount of any penalty previously imposed on the violator by a court or administrative agency for the same violation or violations," after "resulting from the violation,".

(5) LIMITATION ON DEFENSES.—Section 309(g)(1) is amended by adding at the end the following: "In a proceeding to assess or review a penalty under this subsection, the adequacy of consultation between the Administrator or the Secretary, as the case may be, and the State shall not be a defense to assessment or enforcement of such penalty.".

(6) AMOUNTS OF ADMINISTRATIVE CIVIL PENALTIES.—

(A) GENERAL RULE.—Section 309(g)(2) is amended to read as follows:

"(2) AMOUNT OF PENALTIES; NOTICE; HEARING.—

"(A) MAXIMUM AMOUNT OF PENALTIES.—The amount of a civil penalty under paragraph (1) may not exceed $25,000 per violation per day for each day during which the violation continues.

"(B) WRITTEN NOTICE.—Before issuing an order assessing a civil penalty under this subsection, the Administrator shall give to the person to be assessed the penalty written notice of the Administrator's proposal to issue the order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order.

"(C) HEARINGS NOT ON THE RECORD.—If the proposed penalty does not exceed $25,000, the hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(D) HEARINGS ON THE RECORD.—If the proposed penalty exceeds $25,000, the hearing shall be on the record in accordance with section 554 of title 5, United States Code. The Administrator may issue rules for discovery procedures for hearings under this subparagraph.".

(B) CONFORMING AMENDMENTS.—Section 309(g) is amended—

(i) in paragraph (1) by striking "class I civil penalty or a class II";

(ii) in the second sentence of paragraph (4)(C) by striking "(2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty" and inserting "(2)"; and

(iii) in the first sentence of paragraph (8) by striking "assessment—" and all that follows through "by filing" and inserting "assessment in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred by filing".

(7) STATE ENFORCEMENT ACTIONS AS BAR TO FEDERAL ENFORCEMENT ACTIONS.—Section 309(g)(6)(A) is amended—

(A) by inserting "or" after the comma at the end of clause (i);

(B) by striking clause (ii); and

(C) in clause (iii)—

(i) by striking "or the State"; and

(ii) by striking "or such comparable State law, as the case may be,".

(8) RECOVERY OF ECONOMIC BENEFIT.—Section 309 is amended by adding at the end the following:

"(h) RECOVERY OF ECONOMIC BENEFIT.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this section, any civil penalty assessed and collected under this section must be in an amount which is not less than the amount of the economic benefit (if any) resulting from the violation for which the penalty is assessed.

"(2) REGULATIONS.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall issue regulations establishing a methodology for calculating the economic benefits or savings resulting from violations of this Act. Pending issuance of such regulations, this subsection shall be in effect and economic benefits shall be calculated for purposes of paragraph (1) on a case-by-case basis.".

(9) LIMITATION ON COMPROMISES.—Section 309 is further amended by adding at the end the following:

"(i) LIMITATION ON COMPROMISES OF CIVIL PENALTIES.—Notwithstanding any other provision of this section, the amount of a civil penalty assessed under this section may not be compromised below the amount determined by adding—

"(1) the minimum amount required for recovery of economic benefit under subsection (h), to

"(2) 50 percent of the difference between the amount of the civil penalty assessed and such minimum amount.".

(10) MINIMUM AMOUNT FOR SERIOUS VIOLATIONS.—Section 309 is further amended by adding at the end the following:

"(j) MINIMUM CIVIL PENALTIES FOR SERIOUS VIOLATIONS AND SIGNIFICANT NONCOMPLIERS.—

"(1) SERIOUS VIOLATIONS.—Notwithstanding any other provision of this section (other than paragraph (2)), the minimum civil penalty which shall be assessed and collected under this section from a person—

"(A) for a discharge from a point source of a hazardous pollutant which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 20 percent or more, or

"(B) for a discharge from a point source of a pollutant (other than a hazardous pollutant) which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 40 percent or more,

shall be $1,000 for the first such violation in a 180-day period.

"(2) SIGNIFICANT NONCOMPLIERS.—Notwithstanding any other provision of this section, the minimum civil penalty which shall be assessed and collected under this section from a person—

"(A) for the second or more discharge in a 180-day period from a point source of a hazardous pollutant which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 20 percent or more,

"(B) for the second or more discharge in a 180-day period from a point source of a pollutant (other than a hazardous pollutant) which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 40 percent or more,

"(C) for the fourth or more discharge in a 180-day period from a point source of any pollutant which exceeds or otherwise violates the same effluent limitation, or

"(D) for not filing in a 180-day period 2 or more reports in accordance with section 402(r)(1),

shall be $5,000 for each of such violations.

"(3) MANDATORY INSPECTIONS FOR SIGNIFICANT NONCOMPLIERS.—The Administrator shall identify any person described in paragraph (2) as a significant noncomplier and shall conduct an inspection described in section 402(q) of this Act of the facility at which the violations were committed. Such inspections shall be conducted at least once in the 180-day period following the date of the most recent violation which resulted in such person being identified as a significant noncomplier.

"(4) ANNUAL REPORTING.—The Administrator shall transmit to Congress and to the Governors of the States, and shall publish in the Federal Register, on an annual basis a list of all persons identified as significant noncompliers under paragraph (3) in the preceding calendar year and the violations which resulted in such classifications.

"(5) HAZARDOUS POLLUTANT DEFINED.—For purposes of this subsection, the term 'hazardous pollutant' has the meaning the term 'hazardous substance' has under subsection (c)(7) of this section.".

(11) STATE PROGRAM.—Section 402(b)(7) (33 U.S.C. 1342(b)(7)) is amended to read as follows:

"(7) To abate violations of the permit or the permit program which shall include, beginning on the last day of the 2-year period beginning on the date of the enactment of the Clean Water Compliance and Enforcement Improvement Amendments Act of 1995, a penalty program comparable to the Federal penalty program under section 309 of this Act and which shall include at a minimum criminal, civil, and civil administrative penalties, and may include other ways and means of enforcement, which the State demonstrates to the satisfaction of the Administrator are equally effective as the Federal penalty program;".

(12) FEDERAL PROCUREMENT COMPLIANCE INCENTIVE.—Section 508(a) (33 U.S.C. 1368(a)) is amended by inserting after the second comma "or who is identified under section 309(j)(3) of this Act,".

(e) NATIONAL POLLUTANT DISCHARGE ELIMINATION PERMITS.—

(1) WITHDRAWAL OF STATE PROGRAM APPROVAL.—Section 402(b) (33 U.S.C. 1342(b)) is amended by striking "unless he determines that adequate authority does not exist:" and inserting the following: "only when he determines that adequate authority exists and shall withdraw program approval whenever he determines that adequate authority no longer exists:".

(2) JUDICIAL REVIEW OF RULINGS ON APPLICATIONS FOR STATE PERMITS.—Section 402(b)(3) is amended by inserting "and to ensure that any interested person who participated in the public comment process and any other person who could obtain judicial review of that action under any other applicable law has the right to judicial review of such ruling" before the semicolon at the end.

(3) INSPECTIONS FOR MAJOR INDUSTRIAL AND MUNICIPAL DISCHARGERS.—Section 402(b) is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(C) by adding at the end the following:

"(10) To ensure that any permit for a discharge from a major industrial or municipal facility, as defined by the Administrator by regulation, includes conditions under which such facility will be subject to at least annual inspections by the State in accordance with subsection (q) of this section;".

(4) MONTHLY REPORTS FOR SIGNIFICANT INDUSTRIAL USERS OF POTWS.—Section 402(b) is further amended by adding at the end the following:

"(11) To ensure that any permit for a discharge from a publicly owned treatment works in the State includes conditions under which the treatment works will require any significant industrial user of the treatment works, as defined by the Administrator by regulation, to prepare and submit to the Administrator, the State, and the treatment works a monthly discharge monitoring report as a condition to using the treatment works;".

(5) PERMITS REQUIRED FOR INTRODUCTION OF POLLUTANTS INTO POTWS.—Section 402(b) is further amended by adding at the end the following:

"(12) To ensure that, after the last day of the 2-year period beginning on the date of the enactment of this paragraph, any significant industrial user, or other source designated by the Administrator, introducing a pollutant into a publicly owned treatment works has, and operates in accordance with, a permit issued by the treatment works or the State for introduction of such pollutant; and".

(6) GRANTING OF AUTHORITY TO POTWS FOR INSPECTIONS AND PENALTIES.—Section 402(b) is further amended by adding at the end the following:

"(13) To ensure that the State will grant to publicly owned treatment works in the State, not later than 3 years after the date of the enactment of this paragraph, authority, power, and responsibility to conduct inspections under subsection (q) of this section and to assess and collect civil penalties and civil administrative penalties under paragraph (7) of this subsection.".

(7) INSPECTION.—Section 402 is amended by adding at the end the following:

"(r) INSPECTION.—

"(1) GENERAL RULE.—Each permit for a discharge into the navigable waters or introduction of pollutants into a publicly owned treatment works issued under this section shall include conditions under which the effluent being discharged will be subject to random inspections in accordance with this subsection by the Administrator or the State, in the case of a State permit program under this section.

"(2) MINIMUM STANDARDS.—The Administrator shall establish minimum standards for inspections under this subsection. Such standards shall require, at a minimum, the following:

"(A) An annual representative sampling by the Administrator or the State, in the case of a State permit program under this section, of the effluent being discharged; except that if the discharge is not from a major industrial or municipal facility such sampling shall be conducted at least once every 3 years.

"(B) An analysis of all samples collected under subparagraph (A) by a Federal or State owned and operated laboratory or a State approved laboratory, other than one that is being used by the permittee or that is directly or indirectly owned, operated, or managed by the permittee.

"(C) An evaluation of the maintenance record of any treatment equipment of the permittee.

"(D) An evaluation of the sampling techniques used by the permittee.

"(E) A random check of discharge monitoring reports of the permittee for each 12-month period for the purpose of determining whether or not such reports are consistent with the applicable analyses conducted under subparagraph (B).

"(F) An inspection of the sample storage facilities and techniques of the permittee.".

(8) REPORTING.—Section 402 is further amended by adding at the end the following:

"(s) REPORTING.—

"(1) GENERAL RULE.—Each person holding a permit issued under this section which is determined by the Administrator to be a major industrial or municipal discharger of pollutants into the navigable waters shall prepare and submit to the Administrator a monthly discharge monitoring report. Any other person holding a permit issued under this section shall prepare and submit to the Administrator quarterly discharge monitoring reports or more frequent discharge monitoring reports if the Administrator requires. Such reports shall contain, at a minimum, such information as the Administrator shall require by regulation.

"(2) REPORTING OF HAZARDOUS DISCHARGES.—

"(A) GENERAL RULE.—If a discharge from a point source for which a permit is issued under this section exceeds an effluent limitation contained in such permit which is based on an acute water quality standard or any other discharge which may cause an exceedance of an acute water quality standard or otherwise is likely to cause injury to persons or damage to the environment or to pose a threat to human health and the environment, the person holding such permit shall notify the Administrator, in writing, of such discharge not later than 2 hours after the later of the time at which such discharge commenced or the time at which the permittee knew or had reason to know of such discharge.

"(B) SPECIAL RULE FOR HAZARDOUS POLLUTANTS.—If a discharge described in subparagraph (A) is of a hazardous pollutant (as defined in section 309(j) of this Act), the person holding such permit shall provide the Administrator with such additional information on the discharge as may be required by the Administrator. Such additional information shall be provided to the Administrator within 24 hours after the later of the time at which such discharge commenced or the time at which the permittee became aware of such discharge. Such additional information shall include, at a minimum, an estimate of the danger posed by the discharge to the environment, whether the discharge is continuing, and the measures taken or being taken (i) to remediate the problem caused by the discharge and any damage to the environment, and (ii) to avoid a repetition of the discharge.

"(3) SIGNATURE.—All reports filed under paragraph (1) must be signed by the highest ranking official having day-to-day managerial and operational responsibility for the facility at which the discharge occurs or, in the absence of such person, by another responsible high ranking official at such facility. Such highest ranking official shall be responsible for the accuracy of all information contained in such reports; except that such highest ranking official may file with the Administrator amendments to any such report if the report was signed in the absence of the highest ranking official by another high ranking official and if such amendments are filed within 7 days of the return of the highest ranking official.".

(9) LIMITATION ON ISSUANCE OF PERMITS TO SIGNIFICANT NONCOMPLIERS.—Section 402 is further amended by adding at the end the following:

"(t) SIGNIFICANT NONCOMPLIERS.—No permit may be issued under this section to any person (other than a publicly owned treatment works) identified under section 309(j)(3) of this Act or to any other person owned or controlled by the identified person, owning or controlling the identified person, or under common control with the identified person, until the Administrator or the State or States in which the violation or violations occur determines that the condition or conditions giving rise to such violation or violations have been corrected. No permit application submitted after the date of the enactment of this subsection may be approved unless the application includes a list of all violations of this Act by a person identified under section 309(j) of this Act during the 3-year period preceding the date of submission of the application and evidence indicating whether the underlying cause of each such violation has been corrected.".

(10) APPLICABILITY.—The amendments made by this subsection shall apply to permits issued before, on, or after the date of the enactment of this Act; except that—

(A) with respect to permits issued before such date of enactment to a major industrial or municipal discharger, such amendments shall take effect on the last day of the 1-year period beginning on such date of enactment; and

(B) with respect to all other permits issued before such date of enactment, such amendments shall take effect on the last day of the 2-year period beginning on such date of enactment.

(f) EXPIRED STATE PERMITS.—Section 402(d) (33 U.S.C. 1342(d)) is amended by adding at the end the following:

"(5) EXPIRED STATE PERMITS.—In any case in which—

"(A) a permit issued by a State for a discharge has expired,

"(B) the permittee has submitted an application to the State for a new permit for the discharge, and

"(C) the State has not acted on the application before the last day of the 18-month period beginning on the date the permit expired,

the Administrator may issue a permit for the discharge under subsection (a).".

(g) COMPLIANCE SCHEDULE.—Section 302(b)(2)(B) (33 U.S.C. 1312(b)(2)(B)) is amended by adding at the end the following: "The Administrator may only issue a permit pursuant to this subparagraph for a period exceeding 2 years if the Administrator makes the findings described in clauses (i) and (ii) of this subparagraph on the basis of a public hearing.".

(h) EMERGENCY POWERS.—Section 504 (33 U.S.C. 1364) is amended to read as follows:

"SEC. 504. COMMUNITY PROTECTION.

"(a) ISSUANCE OF ORDERS; COURT ACTION.—Notwithstanding any other provision of this Act, whenever the Administrator finds that, because of an actual or threatened direct or indirect discharge of a pollutant, there may be an imminent and substantial endangerment to the public health or welfare (including the livelihood of persons) or the environment, the Administrator may issue such orders or take such action as may be necessary to protect public health or welfare or the environment and commence a suit (or cause it to be commenced) in the United States district court for the district where the discharge or threat occurs. Such court may grant such relief to abate the threat and to protect against the endangerment as the public interest and the equities require, enforce, and adjudge penalties for disobedience to orders of the Administrator issued under this section, and grant other relief according to the public interest and the equities of the case.

"(b) ENFORCEMENT OF ORDERS.—Any person who, without sufficient cause, violates or fails to comply with an order of the Administrator issued under this section, shall be liable for civil penalties to the United States in an amount not to exceed $25,000 per day for each day on which such violation or failure occurs or continues.".

(i) CITIZEN SUITS.—

(1) SUITS FOR PAST VIOLATIONS.—Section 505 (33 U.S.C. 1365) is amended—

(A) in subsection (a)(1) by inserting "to have violated or" after "who is alleged";

(B) in subsection (b)(1)(A)(ii) by striking "occurs" and inserting "has occurred or is occurring"; and

(C) in subsection (f)(6) by inserting "has been or" after "which".

(2) TIME LIMIT.—Section 505(b)(1)(A) is amended by striking "60 days" and inserting "30 days".

(3) EFFECT OF JUDGMENTS ON CITIZEN SUITS.—Section 505(b) is further amended—

(A) in paragraph (1)(B)—

(i) by striking ", or a State"; and

(ii) by striking "right." and inserting "right and may obtain costs of litigation under subsection (d), or"; and

(B) by adding at the end the following: "The notice under paragraph (1)(A) need set forth only violations which have been specifically identified in the discharge monitoring reports of the alleged violator. An action by a State under subsection (a)(1) may be brought at any time. No judicial action by the Administrator or a State shall bar an action for the same violation under subsection (a)(1) unless the action is by the Administrator and meets the requirements of this paragraph. No administrative action by the Administrator or a State shall bar a pending action commenced after February 4, 1987, for the same violation under subsection (a)(1) unless the action by the Administrator or a State meets the requirements of section 309(g)(6) of this Act.".

(4) CONSENT JUDGMENTS.—Section 505(c)(3) is amended by adding at the end the following: "Consent judgments entered under this section may provide that the civil penalties included in the consent judgment be used for carrying out mitigation projects in accordance with section 309(d).".

(5) PRETREATMENT REQUIREMENTS.—Section 505(f)(4) is amended by striking "or pretreatment standards" and inserting "or pretreatment standard or requirement described in section 307(d)".

(6) EFFLUENT STANDARD DEFINITION.—Section 505(f)(6) is amended by inserting "narrative or mathematical" before "condition".

(7) DEFINITION OF CITIZEN.—Section 505(g) is amended to read as follows:

"(g) CITIZEN DEFINED.—For purposes of this section, the term 'citizen' means a person or persons having an interest (including a recreational, aesthetic, environmental, health, or economic interest) which is, has been, or may be adversely affected and includes a person who uses or enjoys the waters into which the discharge flows (either directly or through a publicly owned treatment works), who uses or enjoys aquatic resources or nearby lands associated with the waters, or who would use or enjoy the waters, aquatic resources, or nearby lands if they were less polluted.".

(8) OFFERS OF JUDGMENT.—Section 505 is further amended by adding at the end the following:

"(i) APPLICABILITY OF OFFERS OF JUDGMENT.—Offers of judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure shall not be applicable to actions brought under subsection (a)(1) of this section.".

(j) Issuance of Subpoenas.—Section 509(a)(1) (33 U.S.C. 1369(a)(1)) is amended by striking "obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act," and inserting "carrying out this Act,".

(k) Judicial Review of EPA Actions.—Section 509(b)(1) (33 U.S.C. 1369(b)(1)) is amended—

(1) by inserting after the comma at the end of clause (D) "including a decision to deny a petition by interested person to veto an individual permit issued by a State,";

(2) by inserting after the comma at the end of clause (E) "including a decision not to include any pollutant in such effluent limitation or other limitation if the Administrator has or is made aware of information indicating that such pollutant is present in any discharge subject to such limitation,"; and

(3) by striking "and (G)" and inserting the following: "(G) in issuing or approving any water quality standard under section 303(c) or 303(d), (H) in issuing any water quality criterion under section 304(a), including a decision not to address any effect of the pollutant subject to such criterion if the Administrator has or is made aware of information indicating that such effect may occur, and (J)".

(l) National Clean Water Trust Fund.—

(1) In general.—Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 522 and by inserting after section 518 the following new section:

"SEC. 519. NATIONAL CLEAN WATER TRUST FUND.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Water Trust Fund'.

"(b) Transfers to Trust Fund.—There are hereby appropriated to the Clean Water Trust Fund amounts equivalent to the penalties collected under section 309 of this Act and the penalties collected under section 505(a) of this Act (excluding any amounts ordered to be used to carry out mitigation projects under section 309 or 505(a), as the case may be).

"(c) Administration of Trust Fund.—The Administrator shall administer the Clean Water Trust Fund. The Administrator may use moneys in the Fund to carry out inspections and enforcement activities pursuant to this Act. In addition, the Administrator may make such amounts of money in the Fund as the Administrator determines appropriate available to carry out title VI of this Act.".

(2) Conforming amendment to state revolving fund program.—Section 607 (33 U.S.C. 1387) is amended—

(A) by inserting "(a) In General.—" before "There is"; and

(B) by adding at the end the following:

"(b) Treatment of Transfers From Clean Water Trust Fund.—For purposes of this title, amounts made available from the Clean Water Trust Fund under section 519 of this Act to carry out this title shall be treated as funds authorized to be appropriated to carry out this title and as funds made available under this title.".

(m) Applicability.—Sections 101(h), 309(g)(6)(A), 505(a)(1), 505(b), 505(g), and 505(i) of the Federal Water Pollution Control Act, as inserted or amended by this section, shall be applicable to all cases pending under such Act on the date of the enactment of this Act and all cases brought on or after such date of enactment relating to violations which occurred before such date of amendment.

Redesignate subsequent subsections of section 313 of the bill accordingly.

Page 81, line 4, strike "(h)" and insert "(k)".

Page 131, line 5, strike "(r)" and insert "(u)".

Page 188, line 21 strike "(s)" and insert "(v)".

Page 192, line 6, strike "(t)" and insert "(w)".

Page 216, line 11, strike "by" and all that follows through "518" on line 13 and insert "by inserting after section 519".

Page 216, line 14, strike "519" and insert "520".

Page 217, line 7, strike "before" and all that follows through the comma on line 8 and insert "after section 520".

Page 217, line 9, strike "520" and insert "521".

Page 321, line 3, strike "(8)" and insert "(7)".

H.R. 961

Offered By: Mr. Pallone

Amendment No. 42: Page 240, line 23, after the semicolon insert "and"

Page 241, line 5, strike the semicolon and all that follows through the period on line 9 and insert a period.

Page 242, line 4, after the semicolon insert "and".

Page 242, line 7, strike the semicolon and all that follows through the period on line 11 and insert a period.

Page 276, line 10, strike the comma and all that follows through the comma on line 11.

Page 292, line 17, after the semicolon insert "and".

Page 292, strike lines 18 through 20.

Page 292, line 21, strike "(G)" and insert "(F)".

Page 292, strike line 24, and all that follows through line 6 on page 294.

Page 294, line 7, strike "(3)" and insert "(2)".

Page 295, line 3, strike "(4)" and insert "(3)".

Page 295, line 16, strike "(5)" and insert "(4)".

Page 315, strike lines 11 through 15.

Page 315, line 16, strike "(K)" and insert "(J)".

Page 315, line 19, strike "(L)" and insert "(K)".

Page 315, line 21, strike "(M)" and insert "(L)".

Page 316, line 14, strike "(N)" and insert "(M)".

H.R. 961

Offered By: Mr. Pallone

Amendment No. 43: Strike title IX of the bill (pages 323 through 326).

H.R. 961

Offered By: Mr. Pallone

Amendment No. 44: Page 72, strike line 20 and all that follows through line 18 on page 73 and insert the following:

(b) Beaches Environmental Assessment, Closure, and Health.—

(1) Water quality criteria and standards.—

(A) Issuance of criteria.—Section 304(a) (33 U.S.C. 1314(a)) is further amended by adding at the end the following:

"(13) Coastal recreation waters.—(A) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue within 18 months after the effective date of this paragraph (and review and revise from time to time thereafter) water quality criteria for pathogens in coastal recreation waters. Such criteria shall—

"(i) be based on the best available scientific information;

"(ii) be sufficient to protect public health and safety in case of any reasonably anticipated exposure to pollutants as a result of swimming, bathing, or other body contact activities; and

"(iii) include specific numeric criteria calculated to reflect public health risks from short-term increases in pathogens in coastal recreation waters resulting from rainfall, malfunctions of wastewater treatment works, and other causes.

"(B) For purposes of this paragraph, the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar primary contact purposes.".

(B) Standards.—

(i) Adoption by states.—A State shall adopt water quality standards for coastal recreation waters which, at a minimum, are consistent with the criteria published by the Administrator under section 304(a)(13) of the Federal Water Pollution Control Act not later than 3 years following the date of such publication. Such water quality standards shall be developed in accordance with the requirements of section 303(c) of the Federal Water Pollution Control Act. A State shall incorporate such standards into all appropriate programs into which such State would incorporate water quality standards adopted under section 303(c) of the Federal Water Pollution Control Act.

(ii) Failure of states to adopt.—If a State has not complied with subparagraph (A) by the last day of the 3-year period beginning on the date of publication of criteria under section 304(a)(13) of the Federal Water Pollution Control Act, the Administrator shall promulgate water quality standards for coastal recreation waters for the State under applicable provisions of section 303 of the Federal Water Pollution Control Act. The water quality standards for coastal recreation waters shall be consistent with the criteria published by the Administrator under such section 304(a)(13). The State shall use the standards issued by the Administrator in implementing all programs for which water quality standards for coastal recreation waters are used.

(2) Coastal beach water quality monitoring.—Title IV (33 U.S.C. 1341–1345) is amended by adding at the end thereof the following new section:

"SEC. 406. COASTAL BEACH WATER QUALITY MONITORING.

"(a) Monitoring.—Not later than 9 months after the date on which the Administrator publishes revised water quality criteria for coastal recreation waters under section 304(a)(13), the Administrator shall publish regulations specifying methods to be used by States to monitor coastal recreation waters, during periods of use by the public, for compliance with applicable water quality standards for those waters and protection of the public safety. Monitoring requirements established pursuant to this subsection shall, at a minimum—

"(1) specify the frequency of monitoring based on the periods of recreational use of such waters;

"(2) specify the frequency of monitoring based on the extent and degree of use during such periods;

"(3) specify the frequency of monitoring based on the proximity of coastal recreation waters to pollution sources;

"(4) specify methods for detecting short-term increases in pathogens in coastal recreation waters;

"(5) specify the conditions and procedures under which discrete areas of coastal recreation waters may be exempted by the Administrator from the monitoring requirements of this subsection, if the Administrator determines that an exemption will not impair—

"(A) compliance with the applicable water quality standards for those waters; and

"(B) protection of the public safety; and

"(6) require, if the State has an approved coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), that each coastal zone management agency of the State provide technical assistance to local governments within the State for ensuring that coastal recreation waters and beaches are as free as possible from floatable materials.

"(b) NOTIFICATION REQUIREMENTS.—Regulations published pursuant to subsection (a) shall require States to notify local governments and the public of violations of applicable water quality standards for State coastal recreation waters. Notification pursuant to this subsection shall include, at a minimum—

"(1) prompt communication of the occurrence, nature, and extent of such a violation, to a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which a violation is identified; and

"(2) posting of signs, for the period during which the violation continues, sufficient to give notice to the public of a violation of an applicable water quality standard for such waters and the potential risks associated with body contact recreation in such waters.

"(c) FLOATABLE MATERIALS MONITORING PROCEDURES.—The Administrator shall—

"(1) issue guidance on uniform assessment and monitoring procedures for floatable materials in coastal recreation waters; and

"(2) specify the conditions under which the presence of floatable material shall constitute a threat to public health and safety.

"(d) DELEGATION OF RESPONSIBILITY.—A State may delegate responsibility for monitoring and posting of coastal recreation waters pursuant to this section to local government authorities.

"(e) REVIEW AND REVISION OF REGULATIONS.—The Administrator shall review and revise regulations published pursuant to this section periodically.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

"(2) the term 'floatable materials' means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.".

(3) STUDY TO IDENTIFY INDICATORS OF HUMAN-SPECIFIC PATHOENS IN COASTAL RECREATION WATERS.—

(A) STUDY.—The Administrator, in co-operation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct an ongoing study to provide additional information to the current base of knowledge for use for developing better indicators for directly detecting in coastal recreation waters the presence of bacteria and viruses which are harmful to human health.

(B) REPORT.—Not later than 4 years after the date of the enactment of this Act, and periodically thereafter, the Administrator shall submit to the Congress a report describing the findings of the study under this paragraph, including—

(i) recommendations concerning the need for additional numerical limits or conditions and other actions needed to improve the quality of coastal recreation waters;

(ii) a description of the amounts and types of floatable materials in coastal waters and on coastal beaches and of recent trends in the amounts and types of such floatable materials; and

(iii) an evaluation of State efforts to implement this section, including the amendments made by this section.

(4) GRANTS TO STATES.—

(1) GRANTS.—The Administrator may make grants to States for use in fulfilling requirements established pursuant to paragraphs (1) and (2) (including any amendments made by such paragraphs).

(B) COST SHARING.—The total amount of grants to a State under this paragraph for a fiscal year shall not exceed 50 percent of the cost to the State of implementing requirements established pursuant to such paragraphs.

(5) DEFINITIONS.—In this subsection—

(A) the term "coastal recreation waters" means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

(B) the term "floatable materials" means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator—

(A) for use in making grants to States under paragraph (4) not more than $3,000,000 for each of the fiscal years 1996 and 1997; and

(B) for carrying out the other provisions of this subsection not more than $1,000,000 for each of the fiscal years 1996 and 1997.

Page 204, line 14, strike "406" and insert "407".

H.R. 961

OFFERED BY: MR. PALLONE

AMENDMENT NO. 45: Strike section 309 of the bill (pages 65 through 70).

Redesignate subsequent sections of title III of the bill accordingly and conform the table of contents of the bill.

H.R. 961

OFFERED BY: MR. RIGGS

AMENDMENT NO. 45: Insert at the appropriate place in title IV the following new section:

" DISCHARGE VOLUME.—Section 402(o)(2) (33 U.S.C. 1342(o)(2)) is amended in the first sentence by inserting ", or a change in the volume of wastewater discharge," after the word "pollutant".

H.R. 961

OFFERED BY: MR. RIGGS

AMENDMENT NO. 47: Insert at the appropriate place in title IV the following new section:

" DISCHARGE VOLUME.—Section 402(o)(2) (33 U.S.C. 1342(o)(2)) is amended in the first sentence by inserting "the concentration or loading of" after the words "applicable to".

H.R. 961

OFFERED BY: MR. RIGGS

AMENDMENT NO. 48: On page 276, strike lines 3 through 7 and insert in lieu thereof the following:

"ponds, wastewater management facilities (including pipelines, dikes and berms) that are used by concentrated animal feeding or municipal wastewater reuse operations, or irrigation canals and ditches or the maintenance of drainage ditches;".

H.R. 961

Amendment in the Nature of a Substitute

OFFERED BY: MR. SAXTON

AMENDMENT NO. 49: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clean Water Amendments of 1995".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definition.
Sec. 3. Amendment of Federal Water Pollution Control Act.

TITLE I—RESEARCH AND RELATED PROGRAMS

Sec. 101. Research, investigations, training, and information.
Sec. 102. State management assistance.
Sec. 103. Mine water pollution control.
Sec. 104. Water sanitation in rural and Native Alaska villages.
Sec. 105. Authorization of appropriations for Chesapeake program.
Sec. 106. Great Lakes management.

TITLE II—CONSTRUCTION GRANTS

Sec. 201. Uses of funds.
Sec. 202. Administration of closeout of construction grant program.
Sec. 203. Sewage collection systems.
Sec. 204. Value engineering review.
Sec. 205. Grants for wastewater treatment.

TITLE III—STANDARDS AND ENFORCEMENT

Sec. 301. Arid areas.
Sec. 302. Secondary treatment.
Sec. 303. Federal facilities.
Sec. 304. National estuary program.
Sec. 305. Nonpoint source management programs.
Sec. 306. Coastal zone management.
Sec. 307. Comprehensive watershed management.
Sec. 308. Revision of effluent limitations.

TITLE IV—PERMITS AND LICENSES

Sec. 401. Waste treatment systems for concentrated animal feeding operations.
Sec. 402. Municipal and industrial stormwater discharges.
Sec. 403. Intake credits.
Sec. 404. Combined sewer overflows.
Sec. 405. Abandoned mines.
Sec. 406. Beneficial use of biosolids.

TITLE V—GENERAL PROVISIONS

Sec. 501. Publicly owned treatment works defined.
Sec. 502. Implementation of water pollution laws with respect to vegetable oil.
Sec. 503. Needs estimate.
Sec. 504. Food processing and food safety.
Sec. 505. Audit dispute resolution.

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

Sec. 601. General authority for capitalization grants.
Sec. 602. Capitalization grant agreements.
Sec. 603. Water pollution control revolving loan funds.
Sec. 604. Allotment of funds.
Sec. 605. Authorization of appropriations.
Sec. 606. State nonpoint source water pollution control revolving funds.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Technical amendments.

Sec. 702. John A. Blatnik National Fresh Water Quality Research Laboratory.
Sec. 703. Wastewater service for colonias.
Sec. 704. Savings in municipal drinking water costs.

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

Sec. 801. Short title.
Sec. 802. Findings and purposes.
Sec. 803. State, local, and landowner technical assistance and cooperative training.
Sec. 804. Federal, State, and Local Government Coordinating Committee.
Sec. 805. State and local wetland conservation plans and strategies; grants to facilitate the implementation of section 404.
Sec. 806. National cooperative wetland ecosystem restoration strategy.
Sec. 807. Permits for discharge of dredged or fill material.
Sec. 808. Technical assistance to private landowners, codification of regulations and policies.
Sec. 809. Delineation.
Sec. 810. Fast track for minor permits.
Sec. 811. Compensatory mitigation.
Sec. 812. Cooperative mitigation ventures and mitigation banks.
Sec. 813. Wetlands monitoring and research.
Sec. 814. Administrative appeals.
Sec. 815. Cranberry production.
Sec. 816. State classification systems.
Sec. 817. Definitions.

TITLE IX—MISCELLANEOUS

Sec. 901. Obligations and expenditures subject to appropriations.

SEC. 2. DEFINITION.

In this Act, the term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 3. AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Water Pollution Control Act (33 U.S.C. 1251–1387).

TITLE I—RESEARCH AND RELATED PROGRAMS

SEC. 101. RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION.

(a) NATIONAL PROGRAMS.—Section 104(a) (33 U.S.C. 1254(a)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) in cooperation with appropriate Federal, State, and local agencies, conduct, promote, and encourage to the maximum extent feasible, in watersheds that may be significantly affected by nonpoint sources of pollution, monitoring and measurement of water quality by means and methods that will help to identify the relative contributions of particular nonpoint sources.".

(b) GRANTS TO LOCAL GOVERNMENTS.—Section 104(b)(3) (33 U.S.C. 1254(b)(3)) is amended by inserting "local governments," after "interstate agencies,".

(c) TECHNICAL ASSISTANCE FOR RURAL AND SMALL TREATMENT WORKS.—Section 104(b) (33 U.S.C. 1254(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(8) make grants to nonprofit organizations to provide technical assistance and training to rural and small publicly owned treatment works to enable such treatment works to achieve and maintain compliance with the requirements of this Act; and

"(9) disseminate information to rural, small, and disadvantaged communities with respect to the planning, design, construction, and operation of treatment works.".

(d) WASTEWATER TREATMENT IN IMPOVERISHED COMMUNITIES.—Section 104(q) (33 U.S.C. 1254(q)) is amended by adding at the end the following:

"(5) SMALL IMPOVERISHED COMMUNITIES.—

"(A) GRANTS.—The Administrator may make grants to States to provide assistance for planning, design, and construction of publicly owned treatment works to provide wastewater services to rural communities of 3,000 or less that are not currently served by any sewage collection or water treatment system and are severely economically disadvantaged, as determined by the Administrator.

"(B) AUTHORIZATION.—There is authorized to be appropriated to carry out this paragraph $50,000,000 per fiscal year for fiscal years 1996 through 2000.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 104(u) (33 U.S.C. 1254(u)) is amended—

(1) by striking "and" before "(6)"; and

(2) by inserting before the period at the end the following: "; and (7) not to exceed $50,000,000 per fiscal year for each of fiscal years 1996 through 2000 for carrying out the provisions of subsections (b)(3), (b)(8), and (b)(9), except that not less than 20 percent of the sums appropriated pursuant to this clause shall be available for carrying out the provisions of subsections (b)(8) and (b)(9)".

SEC. 102. STATE MANAGEMENT ASSISTANCE.

Section 106(a) (33 U.S.C. 1256(a)) is amended—

(1) by striking "and" before "$75,000,000";

(2) by inserting after "1990" the following: ", such sums as may be necessary for each of fiscal years 1991 through 1995, and $150,000,000 per fiscal year for each of fiscal years 1996 through 2000"; and

(3) by adding at the end the following: "States or interstate agencies receiving grants under this section may use such funds to finance, with other States or interstate agencies, studies and projects on interstate issues relating to such programs.".

SEC. 103. MINE WATER POLLUTION CONTROL.

Section 107 (33 U.S.C. 1257) is amended to read as follows:

"SEC. 107. MINE WATER POLLUTION CONTROL.

"(a) ACIDIC AND OTHER TOXIC MINE DRAINAGE.—The Administrator shall establish a program to demonstrate the efficacy of measures for abatement of the causes and treatment of the effects of acidic and other toxic mine drainage within qualified hydrologic units affected by past coal mining practices for the purpose of restoring the biological integrity of waters within such units.

"(b) GRANTS.—

"(1) IN GENERAL.—Any State or Indian tribe may apply to the Administrator for a grant for any project which provides for abatement of the causes or treatment of the effects of acidic or other toxic mine drainage within a qualified hydrologic unit affected by past coal mining practices.

"(2) APPLICATION REQUIREMENTS.—An application submitted to the Administrator under this section shall include each of the following:

"(A) An identification of the qualified hydrologic unit.

"(B) A description of the extent to which acidic or other toxic mine drainage is affecting the water quality and biological resources within the hydrologic unit.

"(C) An identification of the sources of acidic or other toxic mine drainage within the hydrologic unit.

"(D) An identification of the project and the measures proposed to be undertaken to abate the causes or treat the effects of acidic or other toxic mine drainage within the hydrologic unit.

"(E) The cost of undertaking the proposed abatement or treatment measures.

"(c) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of a project receiving grant assistance under this section shall be 50 percent.

"(2) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—Contributions of lands, easements, and rights-of-way shall be credited toward the non-Federal share of the cost of a project under this section but not in an amount exceeding 25 percent of the total project cost.

"(3) OPERATION AND MAINTENANCE.—The non-Federal interest shall bear 100 percent of the cost of operation and maintenance of a project under this section.

"(d) PROHIBITED PROJECTS.—No acidic or other toxic mine drainage abatement or treatment project may receive assistance under this section if the project would adversely affect the free-flowing characteristics of any river segment within a qualified hydrologic unit.

"(e) APPLICATIONS FROM FEDERAL ENTITIES.—Any Federal entity may apply to the Administrator for a grant under this section for the purposes of an acidic or toxic mine drainage abatement or treatment project within a qualified hydrologic unit located on lands and waters under the administrative jurisdiction of such entity.

"(f) APPROVAL.—The Administrator shall approve an application submitted pursuant to subsection (b) or (e) after determining that the application meets the requirements of this section.

"(g) QUALIFIED HYDROLOGIC UNIT DEFINED.—For purposes of this section, the term 'qualified hydrologic unit' means a hydrologic unit—

"(1) in which the water quality has been significantly affected by acidic or other toxic mine drainage from past coal mining practices in a manner which adversely impacts biological resources; and

"(2) which contains lands and waters eligible for assistance under title IV of the Surface Mining and Reclamation Act of 1977.".

SEC. 104. WATER SANITATION IN RURAL AND NATIVE ALASKA VILLAGES.

(a) IN GENERAL.—Section 113 (33 U.S.C. 1263) is amended by striking the section heading and designation and subsections (a) through (f) and inserting the following:

"SEC. 113. ALASKA VILLAGE PROJECTS AND PROGRAMS.

"(a) GRANTS.—The Administrator is authorized to make grants—

"(1) for the development and construction of facilities which provide sanitation services for rural and Native Alaska villages;

"(2) for training, technical assistance, and educational programs relating to operation and maintenance for sanitation services in rural and Native Alaska villages; and

"(3) for reasonable costs of administering and managing grants made and programs and projects carried out under this section; except that not to exceed 4 percent of the amount of any grant made under this section may be made for such costs.

"(b) Federal Share.—A grant under this section shall be 50 percent of the cost of the program or project being carried out with such grant.

"(c) Special Rule.—The Administrator shall award grants under this section for project construction following the rules specified in subpart H of part 1942 of title 7 of the Code of Federal Regulations.

"(d) Grants to State for Benefit of Villages.—Grants under this section may be made to the State for the benefit of rural Alaska villages and Alaska Native villages.

"(e) Coordination.—In carrying out activities under this subsection, the Administrator is directed to coordinate efforts between the State of Alaska, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of the Interior, the Secretary of Agriculture, and the recipients of grants.

"(f) Funding.—There is authorized to be appropriated $25,000,000 for fiscal years beginning after September 30, 1995, to carry out this section.".

(b) Conforming Amendment.—Section 113(g) is amended by inserting after "(g)" the following: "Definitions.—".

SEC. 105. AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE PROGRAM.

Section 117(d) (33 U.S.C. 1267(d)) is amended—

(1) in paragraph (1), by inserting "such sums as may be necessary for fiscal years 1991 through 1995, and $3,000,000 per fiscal year for each of fiscal years 1996 through 2000" after "1990,"; and

(2) in paragraph (2), by inserting "such sums as may be necessary for fiscal years 1991 through 1995, and $18,000,000 per fiscal year for each of fiscal years 1996 through 2000" after "1990,".

SEC. 106. GREAT LAKES MANAGEMENT.

(a) Great Lakes Research Council.—

(1) In general.—Section 118 (33 U.S.C. 1268) is amended—

(A) in subsection (a)(3)—

(i) by striking subparagraph (E) and inserting the following:

"(E) 'Council' means the Great Lakes Research Council established by subsection (d)(1);";

(ii) by striking "and" at the end of subparagraph (I);

(iii) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(iv) by adding at the end the following:

"(K) 'Great Lakes research' means the application of scientific or engineering expertise to explain, understand, and predict a physical, chemical, biological, or socioeconomic process, or the interaction of 1 or more of the processes, in the Great Lakes ecosystem.";

(B) by striking subsection (d) and inserting the following:

"(d) Great Lakes Research Council.—

"(1) Establishment of council.—There is established a Great Lakes Research Council.

"(2) Duties of council.—The Council—

"(A) shall advise and promote the coordination of Federal Great Lakes research activities to avoid unnecessary duplication and ensure greater effectiveness in achieving protection of the Great Lakes ecosystem through the goals of the Great Lakes Water Quality Agreement;

"(B) not later than 1 year after the date of the enactment of this subparagraph and biennially thereafter and after providing opportunity for public review and comment, shall prepare and provide to interested parties a document that includes—

"(i) an assessment of the Great Lakes research activities needed to fulfill the goals of the Great Lakes Water Quality Agreement;

"(ii) an assessment of Federal expertise and capabilities in the activities needed to fulfill the goals of the Great Lakes Water Quality Agreement, including an inventory of Federal Great Lakes research programs, projects, facilities, and personnel; and

"(iii) recommendations for long-term and short-term priorities for Federal Great Lakes research, based on a comparison of the assessments conducted under clauses (i) and (ii);

"(C) shall identify topics for and participate in meetings, workshops, symposia, and conferences on Great Lakes research issues;

"(D) shall make recommendations for the uniform collection of data for enhancing Great Lakes research and management protocols relating to the Great Lakes ecosystem;

"(E) shall advise and cooperate in—

"(i) improving the compatible integration of multimedia data concerning the Great Lakes ecosystem; and

"(ii) any effort to establish a comprehensive multimedia data base for the Great Lakes ecosystem; and

"(F) shall ensure that the results, findings, and information regarding Great Lakes research programs conducted or sponsored by the Federal Government are disseminated in a timely manner, and in useful forms, to interested persons, using to the maximum extent practicable mechanisms in existence on the date of the dissemination, such as the Great Lakes Research Inventory prepared by the International Joint Commission.

"(3) Membership.—

"(A) In general.—The Council shall consist of 1 research manager with extensive knowledge of, and scientific expertise and experience in, the Great Lakes ecosystem from each of the following agencies and instrumentalities:

"(i) The Agency.

"(ii) The National Oceanic and Atmospheric Administration.

"(iii) The National Biological Service.

"(iv) The United States Fish and Wildlife Service.

"(v) Any other Federal agency or instrumentality that expends $1,000,000 or more for a fiscal year on Great Lakes research.

"(vi) Any other Federal agency or instrumentality that a majority of the Council membership determines should be represented on the Council.

"(B) Nonvoting members.—At the request of a majority of the Council membership, any person who is a representative of a Federal agency or instrumentality not described in subparagraph (A) or any person who is not a Federal employee may serve as a nonvoting member of the Council.

"(4) Chairperson.—The chairperson of the Council shall be a member of the Council from an agency specified in clause (i), (ii), or (iii) of paragraph (3)(A) who is elected by a majority vote of the members of the Council. The chairperson shall serve as chairperson for a period of 2 years. A member of the Council may not serve as chairperson for more than 2 consecutive terms.

"(5) Expenses.—While performing official duties as a member of the Council, a member shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code.

"(6) Interagency cooperation.—The head of each Federal agency or instrumentality that is represented on the Council—

"(A) shall cooperate with the Council in implementing the recommendations developed under paragraph (2);

"(B) on written request of the chairperson of the Council, may make available, on a reimbursable basis or otherwise, such personnel, services, or facilities as may be necessary to assist the Council in carrying out the duties of the Council under this section; and

"(C) on written request of the chairperson, shall furnish data or information necessary to carry out the duties of the Council under this section.

"(7) International cooperation.—The Council shall cooperate, to the maximum extent practicable, with the research coordination efforts of the Council of Great Lakes Research Managers of the International Joint Commission.

"(8) Reimbursement for requested activities.—Each Federal agency or instrumentality represented on the Council may reimburse another Federal agency or instrumentality or a non-Federal entity for costs associated with activities authorized under this subsection that are carried out by the other agency, instrumentality, or entity at the request of the Council.

"(9) Federal advisory committee act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

"(10) Effect on other law.—Nothing in this subsection affects the authority of any Federal agency or instrumentality, under any law, to undertake Great Lakes research activities.";

(C) in subsection (e)—

(i) in paragraph (1) by striking "the Program Office and the Research Office shall prepare a joint research plan" and inserting "the Program Office, in consultation with the Council, shall prepare a research plan"; and

(ii) in paragraph (3)(A) by striking "the Research Office, the Agency for Toxic Substances and Disease Registry, and Great Lakes States" and inserting "the Council, the Agency for Toxic Substances and Disease Registry, and Great Lakes States,"; and

(D) in subsection (h)—

(i) by adding "and" at the end of paragraph (1);

(ii) by striking "; and" at the end of paragraph (2) and inserting a period; and

(iii) by striking paragraph (3).

(2) Conforming Amendment.—The second sentence of section 403(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447b(a)) is amended by striking "Great Lakes Research Office authorized under" and inserting "Great Lakes Research Council established by".

(b) Consistency of Programs With Federal Guidance.—Section 118(c)(2)(C) (33 U.S.C. 1268(c)(2)(C)) is amended by adding at the end the following: "For purposes of this section, a State's standards, policies, and procedures shall be considered consistent with such guidance if the standards, policies, and procedures are based on scientifically defensible judgments and policy choices made by the State after consideration of the guidance and provide an overall level of protection comparable to that provided by the guidance, taking into account the specific circumstances of the State's waters.".

(c) Reauthorization of Assessment and Remediation of Contaminated Sediments Program.—Section 118(c)(7) is amended by adding at the end the following:

"(D) Reauthorization of assessment and remediation of contaminated sediments program.—

"(i) IN GENERAL.—The Administrator, acting through the Program Office, in consultation and cooperation with the Assistant Secretary of the Army having responsibility for civil works, shall conduct at least 3 pilot projects involving promising technologies and practices to remedy contaminated sediments (including at least 1 full-scale demonstration of a remediation technology) at sites in the Great Lakes System, as the Administrator determines appropriate.

"(ii) SELECTION OF SITES.—In selecting sites for the pilot projects, the Administrator shall give priority consideration to—

"(I) the Ashtabula River in Ohio;

"(II) the Buffalo River in New York;

"(III) Duluth and Superior Harbor in Minnesota;

"(IV) the Fox River in Wisconsin;

"(V) the Grand Calumet River in Indiana; and

"(VI) Saginaw Bay in Michigan.

"(iii) DEADLINES.—In carrying out this subparagraph, the Administrator shall—

"(I) not later than 18 months after the date of the enactment of this subparagraph, identify at least 3 sites and the technologies and practices to be demonstrated at the sites (including at least 1 full-scale demonstration of a remediation technology); and

"(II) not later than 5 years after such date of enactment, complete at least 3 pilot projects (including at least 1 full-scale demonstration of a remediation technology).

"(iv) ADDITIONAL PROJECTS.—The Administrator, acting through the Program Office, in consultation and cooperation with the Assistant Secretary of the Army having responsibility for civil works, may conduct additional pilot- and full-scale pilot projects involving promising technologies and practices at sites in the Great Lakes System other than the sites selected under clause (i).

"(v) EXECUTION OF PROJECTS.—The Administrator may cooperate with the Assistant Secretary of the Army having responsibility for civil works to plan, engineer, design, and execute pilot projects under this subparagraph.

"(vi) NON-FEDERAL CONTRIBUTIONS.—The Administrator may accept non-Federal contributions to carry out pilot projects under this subparagraph.

"(vii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $3,500,000 for each of fiscal years 1996 through 2000.

"(E) TECHNICAL INFORMATION AND ASSISTANCE.—

"(i) IN GENERAL.—The Administrator, acting through the Program Office, may provide technical information and assistance involving technologies and practices for remediation of contaminated sediments to persons that request the information or assistance.

"(ii) TECHNICAL ASSISTANCE PRIORITIES.—In providing technical assistance under this subparagraph, the Administrator, acting through the Program Office, shall give special priority to requests for integrated assessments of, and recommendations regarding, remediation technologies and practices for contaminated sediments at Great Lakes areas of concern.

"(iii) COORDINATION WITH OTHER DEMONSTRATIONS.—The Administrator shall—

"(I) coordinate technology demonstrations conducted under this subparagraph with other federally assisted demonstrations of contaminated sediment remediation technologies; and

"(II) share information from the demonstrations conducted under this subparagraph with the other demonstrations.

"(iv) OTHER SEDIMENT REMEDIATION ACTIVITIES.—Nothing in this subparagraph limits the authority of the Administrator to carry out sediment remediation activities under other laws.

"(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $1,000,000 for each of fiscal years 1996 through 2000.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) RESEARCH AND MANAGEMENT.—Section 118(e)(3)(B) (33 U.S.C. 1268(e)(3)(B)) is amended by inserting before the period at the end the following: ", such sums as may be necessary for fiscal year 1995, and $4,000,000 per fiscal year for each of fiscal years 1996, 1997, and 1998".

(2) GREAT LAKES PROGRAMS.—Section 118(h) (33 U.S.C. 1268(h)) is amended—

(A) by striking "and" before "$25,000,000"; and

(B) by inserting before the period at the end of the first sentence the following: ", such sums as may be necessary for fiscal years 1992 through 1995, and $17,500,000 per fiscal year for each of fiscal years 1996 through 2000".

TITLE II—CONSTRUCTION GRANTS

SEC. 201. USES OF FUNDS.

(a) NONPOINT SOURCE PROGRAM.—Section 201(g)(1) (33 U.S.C. 1281(g)(1)) is amended by striking the period at the end of the first sentence and all that follows through the period at the end of the last sentence and inserting the following: "and for any purpose for which a grant may be made under sections 319(h) and 319(i) of this Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution).".

(b) RETROACTIVE ELIGIBILITY.—Section 201(g)(1) is further amended by adding at the end the following: "The Administrator, with the concurrence of the States, shall develop procedures to facilitate and expedite the retroactive eligibility and provision of grant funding for facilities already under construction.".

SEC. 202. ADMINISTRATION OF CLOSEOUT OF CONSTRUCTION GRANT PROGRAM.

Section 205(g)(1) (33 U.S.C. 1285(g)(1)) is amended by adding at the end the following: "The Administrator may negotiate an annual budget with a State for the purpose of administering the closeout of the State's construction grants program under this title. Sums made available for administering such closeout shall be subtracted from amounts remaining available for obligation under the State's construction grant program under this title.".

SEC. 203. SEWAGE COLLECTION SYSTEMS.

Section 211(a) (33 U.S.C. 1291(a)) is amended—

(1) in clause (1) by striking "an existing collection system" and inserting "a collection system existing on the date of the enactment of the Clean Water Amendments of 1995"; and

(2) in clause (2)—

(A) by striking "an existing community" and inserting "a community existing on such date of enactment"; and

(B) by striking "sufficient existing" and inserting "sufficient capacity existing on such date of enactment".

SEC. 204. VALUE ENGINEERING REVIEW.

Section 218(c) (33 U.S.C. 1298(c)) is amended by striking "$10,000,000" and inserting "$25,000,000".

SEC. 205. GRANTS FOR WASTEWATER TREATMENT.

(a) COASTAL LOCALITIES.—The Administrator shall make grants under title II of the Federal Water Pollution Control Act to appropriate instrumentalities for the purpose of construction of treatment works (including combined sewer overflow facilities) to serve coastal localities. No less than $10,000,000 of the amount of such grants shall be used for water infrastructure improvements in New Orleans, no less than $3,000,000 of the amount of such grants shall be used for water infrastructure improvements in Bristol County, Massachusetts, and no less than ⅓ of the amount of such grants shall be used to assist localities that meet both of the following criteria:

(1) NEED.—A locality that has over $2,000,000,000 in category I treatment needs documented and accepted in the Environmental Protection Agency's 1992 Needs Survey database as of February 4, 1993.

(2) HARDSHIP.—A locality that has wastewater user charges, for residential use of 7,000 gallons per month based on Ernst & Young National Water and Wastewater 1992 Rate Survey, greater than 0.65 percent of 1989 median household income for the metropolitan statistical area in which such locality is located as measured by the Bureau of the Census.

(b) FEDERAL SHARE.—Notwithstanding section 202(a)(1) of the Federal Water Pollution Control Act, the Federal share of grants under subsection (a) shall be 80 percent of the cost of construction, and the non-Federal share shall be 20 percent of the cost of construction.

(c) SMALL COMMUNITIES.—The Administrator shall make grants to States for the purpose of providing assistance for the construction of treatment works to serve small communities as defined by the State; except that the term "small communities" may not include any locality with a population greater than 75,000. Funds made available to carry out this subsection shall be allotted by the Administrator to the States in accordance with the allotment formula contained in section 604(a) of the Federal Water Pollution Control Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under this section $300,000,000 for fiscal year 1996. Such sums shall remain available until expended and shall be equally divided between subsections (a) and (c) of this section. Such authorization of appropriation shall take effect only if the total amount appropriated for fiscal year 1996 to carry out title VI of the Federal Water Pollution Control Act is at least $3,000,000,000.

TITLE III—STANDARDS AND ENFORCEMENT

SEC. 301. ARID AREAS.

(a) CONSTRUCTED WATER CONVEYANCES.—Section 303(c)(2) (33 U.S.C. 1313(c)(2)) is amended by adding at the end the following:

"(D) STANDARDS FOR CONSTRUCTED WATER CONVEYANCES.—

"(i) RELEVANT FACTORS.—If a State exercises jurisdiction over constructed water conveyances in establishing standards under this section, the State may consider the following:

"(I) The existing and planned uses of water transported in a conveyance system.

"(II) Any water quality impacts resulting from any return flow from a constructed water conveyance to navigable waters and the need to protect downstream users.

"(III) Management practices necessary to maintain the conveyance system.

"(IV) State or regional water resources management and water conservation plans.

"(V) The authorized purpose for the constructed conveyance.

"(ii) Relevant uses.—If a State adopts or reviews water quality standards for constructed water conveyances, it shall not be required to establish recreation, aquatic life, or fish consumption uses for such systems if the uses are not existing or reasonably foreseeable or such uses impede the authorized uses of the conveyance system.".

(b) Criteria and Guidance for Ephemeral and Effluent-Dependent Streams.—Section 304(a) (33 U.S.C. 1314(a)) is amended by adding at the end the following:

"(9) Criteria and guidance for ephemeral and effluent-dependent streams.—

"(A) Development.—Not later than 2 years after the date of the enactment of this paragraph, and after providing notice and opportunity for public comment, the Administrator shall develop and publish—

"(i) criteria for ephemeral and effluent-dependent streams; and

"(ii) guidance to the States on development and adoption of water quality standards applicable to such streams.

"(B) Factors.—The criteria and guidance developed under subparagraph (A) shall take into account the limited ability of ephemeral and effluent-dependent streams to support aquatic life and certain designated uses, shall include consideration of the role the discharge may play in maintaining the flow or level of such waters, and shall promote the beneficial use of reclaimed water pursuant to section 101(a)(10).".

(c) Factors Required To Be Considered by Administrator.—Section 303(c)(4) is amended by adding at the end the following: "In revising or adopting any new standard for ephemeral or effluent-dependent streams under this paragraph, the Administrator shall consider the factors referred to in section 304(a)(9)(B).".

(d) Definitions.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(21) The term 'effluent-dependent stream' means a stream or a segment thereof—

"(A) with respect to which the flow (based on the annual average expected flow, determined by calculating the average mode over a 10-year period) is primarily attributable to the discharge of treated wastewater;

"(B) that, in the absence of a discharge of treated wastewater and other primary anthropogenic surface or subsurface flows, would be an ephemeral stream; or

"(C) that is an effluent-dependent stream under applicable State water quality standards.

"(22) The term 'ephemeral stream' means a stream or segments thereof that flows periodically in response to precipitation, snowmelt, or runoff.

"(23) The term 'constructed water conveyance' means a manmade water transport system constructed for the purpose of transporting water in a waterway that is not and never was a natural perennial waterway.".

SEC. 302. SECONDARY TREATMENT.

(a) Coastal Discharges.—Section 304(d) (33 U.S.C. 1314(d)) is amended by adding at the end the following:

"(5) Coastal discharges.—For purposes of this subsection, any municipal wastewater treatment facility shall be deemed the equivalent of a secondary treatment facility if each of the following requirements is met:

"(A) The facility employs chemically enhanced primary treatment.

"(B) The facility, on the date of the enactment of this paragraph, discharges through an ocean outfall into an open marine environment greater than 4 miles offshore into a depth greater than 300 feet.

"(C) The facility's discharge is in compliance with all local and State water quality standards for the receiving waters.

"(D) The facility's discharge will be subject to an ocean monitoring program acceptable to relevant Federal and State regulatory agencies.".

(b) Modification of Secondary Treatment Requirements.—

(1) In general.—Section 301 (33 U.S.C. 1311) is amended by adding at the end the following:

"(s) Modification of Secondary Treatment Requirements.—

"(1) In general.—The Administrator, with the concurrence of the State, shall issue a 10-year permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works into marine waters which are at least 150 feet deep through an ocean outfall which discharges at least 1 mile offshore, if the applicant demonstrates that—

"(A) there is an applicable ocean plan and the facility's discharge is in compliance with all local and State water quality standards for the receiving waters;

"(B) the facility's discharge will be subject to an ocean monitoring program determined to be acceptable by relevant Federal and State regulatory agencies;

"(C) the applicant has an Agency approved pretreatment plan in place; and

"(D) the applicant, at the time such modification becomes effective, will be discharging effluent which has received at least chemically enhanced primary treatment and achieves a monthly average of 75 percent removal of suspended solids.

"(2) Discharge of any pollutant into marine waters defined.—For purposes of this subsection, the term 'discharge of any pollutant into marine waters' means a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement.

"(3) Deadline.—On or before the 90th day after the date of submittal of an application for a modification under paragraph (1), the Administrator shall issue to the applicant a modified permit under section 402 or a written determination that the application does not meet the terms and conditions of this subsection.

"(4) Effect of failure to respond.—If the Administrator does not respond to an application for a modification under paragraph (1) on or before the 90th day referred to in paragraph (3), the application shall be deemed approved and the modification sought by the applicant shall be in effect for the succeeding 10-year period.".

(2) Extension of application deadline.—Section 301(j) (33 U.S.C. 1311(j)) is amended by adding at the end the following:

"(6) Extension of application deadline.—In the 365-day period beginning on the date of the enactment of this paragraph, municipalities may apply for a modification pursuant to subsection (s) of the requirements of subsection (b)(1)(B) of this section.".

(c) Modifications for Small System Treatment Technologies.—Section 301 (33 U.S.C. 1311) is amended by adding at the end the following:

"(t) Modifications for Small System Treatment Technologies.—The Administrator, with the concurrence of the State, or a State with an approved program under section 402 may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works serving a community of 20,000 people or fewer if the applicant demonstrates to the satisfaction of the Administrator that—

"(1) the effluent from such facility originates primarily from domestic users; and

"(2) such facility utilizes a properly constructed and operated alternative treatment system (including recirculating sand filter systems, constructed wetlands, and oxidation lagoons) which is equivalent to secondary treatment or will provide in the receiving waters and watershed an adequate level of protection to human health and the environment and contribute to the attainment of water quality standards.".

(d) Puerto Rico.—Section 301 (33 U.S.C. 1311) is further amended by adding at the end the following:

"(u) Puerto Rico.—

"(1) Study by government of Puerto Rico.—Not later than 3 months after the date of the enactment of this section, the Government of Puerto Rico may, after consultation with the Administrator, initiate a study of the marine environment of Anasco Bay off the coast of the Mayaguez region of Puerto Rico to determine the feasibility of constructing a deepwater outfall for the publicly owned treatment works located at Mayaguez, Puerto Rico. Such study shall recommend one or more technically feasible locations for the deepwater outfall based on the effects of such outfall on the marine environment.

"(2) Application for modification.—Notwithstanding subsection (j)(1)(A), not later than 18 months after the date of the enactment of this section, an application may be submitted for a modification pursuant to subsection (h) of the requirements of subsection (b)(1)(B) of this section by the owner of the publicly owned treatment works at Mayaguez, Puerto Rico, for a deepwater outfall at a location recommended in the study conducted pursuant to paragraph (1).

"(3) Initial determination.—On or before the 90th day after the date of submittal of an application for modification under paragraph (2), the Administrator shall issue to the applicant a draft initial determination regarding the modification of the existing permit.

"(4) Final determination.—On or before the 270th day after the date of submittal of an application for modification under paragraph (2), the Administrator shall issue a final determination regarding such modification.

"(5) Effectiveness.—If a modification is granted pursuant to an application submitted under this subsection, such modification shall be effective only if the new deepwater outfall is operational within 5 years after the date of the enactment of this subsection. In all other aspects, such modification shall be effective for the period applicable to all modifications granted under subsection (h).".

SEC. 303. FEDERAL FACILITIES.

(a) Application of Certain Provisions.—Section 313(a) (33 U.S.C. 1323(a)) is amended by striking all preceding subsection (b) and inserting the following:

"SEC. 313. FEDERAL FACILITIES POLLUTION CONTROL.

"(a) Applicability of Federal, State, Interstate, and Local Laws.—

"(1) In general.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

"(A) having jurisdiction over any property or facility, or

"(B) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants,

and each officer, agent, or employee thereof in the performance of his official duties, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity, including the payment of reasonable service charges.

"(2) TYPES OF ACTIONS COVERED.—Paragraph (1) shall apply—

"(A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement),

"(B) to the exercise of any Federal, State, or local administrative authority, and

"(C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner.

"(3) PENALTIES AND FINES.—The Federal, State, interstate, and local substantive and procedural requirements, administrative authority, and process and sanctions referred to in paragraph (1) include all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.

"(4) SOVEREIGN IMMUNITY.—

"(A) WAIVER.—The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any requirement, administrative authority, and process and sanctions referred to in paragraph (1) (including any injunctive relief, any administrative order, any civil or administrative penalty or fine referred to in paragraph (3), or any reasonable service charge).

"(B) PROCESSING FEES.—The reasonable service charges referred to in this paragraph include fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local water pollution regulatory program.

"(5) EXEMPTIONS.—

"(A) GENERAL AUTHORITY OF PRESIDENT.—The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any requirement to which paragraph (1) applies if the President determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act.

"(B) LIMITATION.—No exemptions shall be granted under subparagraph (A) due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation.

"(C) TIME PERIOD.—Any exemption under subparagraph (A) shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods of not to exceed 1 year upon the President's making a new determination.

"(D) MILITARY PROPERTY.—In addition to any exemption of a particular effluent source, the President may, if the President determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vessels, vehicles, or other classes or categories of property, and access to such property, which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at 3-year intervals.

"(E) REPORTS.—The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with the President's reason for granting such exemption.

"(6) VENUE.—Nothing in this section shall be construed to prevent any department, agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof in the performance of official duties, from removing to the appropriate Federal district court any proceeding to which the department, agency, or instrumentality or officer, agent, or employee thereof is subject pursuant to this section, and any such proceeding may be removed in accordance with chapter 89 of title 28, United States Code.

"(7) PERSONAL LIABILITY OF FEDERAL EMPLOYEES.—No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local water pollution law with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

"(8) CRIMINAL SANCTIONS.—An agent, employee, or officer of the United States shall be subject to any criminal sanction (including any fine or imprisonment) under any Federal or State water pollution law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction.".

(b) FUNDS COLLECTED BY A STATE.—Section 313 (33 U.S.C. 1323) is further amended by adding at the end the following:

"(c) LIMITATION ON STATE USE OF FUNDS.—Unless a State law in effect on the date of the enactment of this subsection or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government in penalties and fines imposed for the violation of a substantive or procedural requirement referred to in subsection (a) shall be used by a State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

(c) ENFORCEMENT.—Section 313 is further amended by adding at the end the following:

"(d) FEDERAL FACILITY ENFORCEMENT.—

"(1) ADMINISTRATIVE ENFORCEMENT BY EPA.—The Administrator may commence an administrative enforcement action against any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government pursuant to the enforcement authorities contained in this Act.

"(2) PROCEDURE.—The Administrator shall initiate an administrative enforcement action against a department, agency, or instrumentality under this subsection in the same manner and under the same circumstances as an action would be initiated against any other person under this Act. The amount of any administrative penalty imposed under this subsection shall be determined in accordance with section 309(d) of this Act.

"(3) VOLUNTARY SETTLEMENT.—Any voluntary resolution or settlement of an action under this subsection shall be set forth in an administrative consent order.

"(4) CONFERRAL WITH EPA.—No administrative order issued to a department, agency, or instrumentality under this section shall become final until such department, agency, or instrumentality has had the opportunity to confer with the Administrator.".

(d) LIMITATION ON ACTIONS AND RIGHT OF INTERVENTION.—Section 313 is further amended by adding at the end the following:

"(e) LIMITATION ON ACTIONS AND RIGHT OF INTERVENTION.—Any violation with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or for which the Administrator has issued a final order and the violator has either paid a penalty or fine assessed under this subsection or is subject to an enforceable schedule of corrective actions, shall not be the subject of an action under section 505 of this Act. In any action under this subsection, any citizen may intervene as a matter of right.".

(e) DEFINITION OF PERSON.—Section 502(5) (33 U.S.C. 1362(5)) is amended by inserting before the period at the end the following: "and includes any department, agency, or instrumentality of the United States".

(f) DEFINITION OF RADIOACTIVE MATERIALS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(24) The term 'radioactive materials' includes source materials, special nuclear materials, and byproduct materials (as such terms are defined under the Atomic Energy Act of 1954) which are used, produced, or managed at facilities not licensed by the Nuclear Regulatory Commission; except that such term does not include any material which is discharged from a vessel or other facility covered by Executive Order 12344 (42 U.S.C. 7158 note; relating to the Naval Nuclear Propulsion Program).".

(g) CONFORMING AMENDMENTS.—Section 313(b) (33 U.S.C. 1323(b)) is amended—

(1) by striking "(b)(1)" and inserting the following:

"(b) WASTEWATER FACILITIES.—

"(1) COOPERATION FOR USE OF WASTEWATER CONTROL SYSTEMS.—";

(2) in paragraph (2) by inserting "LIMITATION ON CONSTRUCTION.—" before "Construction"; and

(3) by moving paragraphs (1) and (2) 2 ems to the right.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall only apply to violations occurring after such date of enactment.

SEC. 304. NATIONAL ESTUARY PROGRAM.

(a) FINDINGS.—The Congress finds the following:

(1) The Nation's estuaries are a vital natural resource to which many regional economies are closely tied.

(2) Many of the Nation's estuaries are under a severe threat from point source pollution and polluted run-off (nonpoint source pollution) and from habitat alteration and destruction.

(3) Only through expanded investments in waste water treatment and other water and sediment pollution control and prevention efforts can the environmental and economic values of the Nation's estuaries be restored and protected.

(4) The National Estuary Program created under the Federal Water Pollution Control

Act has significantly advanced the Nation's understanding of the declining condition of the Nation's estuaries.

(5) The National Estuary Program has also provided precise information about the corrective and preventative measures required to reverse the degradation of water and sediment quality and to halt the alteration and destruction of vital habitat in the Nation's estuaries.

(6) The level of funding available to States, municipalities, and the Environmental Protection Agency for implementation of approved conservation and management plans is inadequate, and additional financial resources must be provided.

(7) Funding for implementation of approved conservation and management plans should be provided under the State revolving loan fund program authorized by title VI of the Federal Water Pollution Control Act.

(8) Authorization levels for State revolving loan fund capitalization grants should be increased by an amount necessary to ensure the achievement of the goals of the Federal Water Pollution Control Act.

(b) Technical Amendment.—Section 320(a)(2)(B) (33 U.S.C. 1330(a)(2)(B)) is amended to read as follows:

"(B) Priority consideration.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor); Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; Santa Monica Bay, California; Galveston Bay, Texas; Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; Charlotte Harbor, Florida; Barnegat Bay, New Jersey; and Peconic Bay, New York.".

(c) Grants.—Section 320(g)(2) (33 U.S.C. 1330(g)(2)) is amended by inserting "and implementation monitoring" after "development".

(d) Authorization of Appropriations.—Section 320(i) (33 U.S.C. 1330(i)) is amended by striking "1987" and all that follows through "1991" and inserting the following: "1987 through 1991, such sums as may be necessary for fiscal years 1992 through 1995, and $19,000,000 per fiscal year for each of fiscal years 1996 through 2000".

SEC. 305. NONPOINT SOURCE MANAGEMENT PROGRAMS.

(a) Review and Revision.—Section 319(b) (33 U.S.C. 1329(b)) is amended by adding at the end the following:

"(5) Review and revision.—Not later than 18 months after the date of the enactment of this paragraph, the State shall review and revise the report required by this subsection and submit such revised report to the Administrator for approval.".

(b) Approval or Disapproval of Management Programs.—Section 319(d)(1) (33 U.S.C. 1329(d)(1)) is amended by inserting "or revised management program" after "management program" each place it appears.

(c) Grants for Protecting Ground Water Quality.—Section 319(i)(3) (33 U.S.C. 1329(i)(3)) is amended by striking "$150,000" and inserting "$500,000".

(d) Authorization of Appropriations.—Section 319(j) (33 U.S.C. 1329(j)) is amended—

(1) by striking "and" before "$130,000,000";

(2) by inserting after "1991" the following: ", such sums as may be necessary for fiscal years 1992 through 1995, $100,000,000 for fiscal year 1996, $150,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $250,000,000 for fiscal year 1999, and $300,000,000 for fiscal year 2000"; and

(3) by striking "$7,500,000" and inserting "$25,000,000".

(e) Agricultural Inputs.—Section 319 (33 U.S.C. 1329) is amended by adding at the end the following:

"(o) Agricultural Inputs.—For the purposes of this Act, any land application of livestock manure shall not be considered a point source and shall be subject to enforcement only under this section.".

SEC. 306. COASTAL ZONE MANAGEMENT.

Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "Program Development.—"; and

(B) by adding at the end the following:

"(B) A State that has not received Federal approval for the State's core coastal management program pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall have 30 months from the date of approval of such program to submit a Coastal Nonpoint Pollution Program pursuant to this section. Any such State shall also be eligible for any extension of time for submittal of the State's nonpoint program that may be received by a State with a federally approved coastal management program.";

(2) in subsection (b), in the matter preceding paragraph (1), by striking "to protect coastal waters generally" and inserting "to restore and protect coastal waters where the State has determined that coastal waters are threatened or significantly degraded";

(3) in subsection (b)(3)—

(A) by striking "The implementation" and inserting "A schedule for the implementation"; and

(B) by inserting ", and no less often than once every 5 years," after "from time to time";

(4) in subsection (b) by adding at the end the following:

"(7) Identification of priority areas.—A prioritization of the areas in the State in which management measures will be implemented.";

(5) in subsection (c) by adding at the end the following:

"(5) Conditional approval.—The Secretary and Administrator may grant conditional approval to a State's program where the State requests additional time to complete the development of its program. During the period during which the State's program is subject to conditional approval, the penalty provisions of paragraphs (3) and (4) shall not apply.";

(6) in subsection (h)(1) by striking ", 1993, and 1994" and inserting "through 2000"; and

(7) in subsection (h)(2)(B)(iv) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 2000".

SEC. 307. COMPREHENSIVE WATERSHED MANAGEMENT.

(a) In General.—Title III (33 U.S.C. 1300–1330) is amended by adding at the end the following:

"SEC. 321. COMPREHENSIVE WATERSHED MANAGEMENT.

"(a) Findings, Purpose, and Definitions.—

"(1) Findings.—Congress finds that comprehensive watershed management will further the goals and objectives of this Act by—

"(A) identifying more fully water quality impairments and the pollutants, sources, and activities causing the impairments;

"(B) integrating water protection quality efforts under this Act with other natural resource protection efforts, including Federal efforts to define and protect ecological systems (including the waters and the living resources supported by the waters);

"(C) defining long-term social, economic, and natural resource objectives and the water quality necessary to attain or maintain the objectives;

"(D) increasing, through citizen participation in the watershed management process, public support for improved water quality;

"(E) identifying priority water quality problems that need immediate attention; and

"(F) identifying the most cost-effective measures to achieve the objectives of this Act.

"(2) Purpose.—The purpose of this section is to encourage comprehensive watershed management in maintaining and enhancing water quality, in restoring and protecting living resources supported by the waters, and in ensuring waters of a quality sufficient to meet human needs, including water supply and recreation.

"(3) Definitions.—In this section, the following definitions apply:

"(A) Ecosystem.—The term 'ecosystem' means the community of plants and animals (including humans) and the environment (including surface water, the ground water with which it interacts, and riparian areas) upon which that community depends.

"(B) Environmental objectives.—The term 'environmental objectives' means the goals specified by States or State-designated watershed management entities to protect, restore, and maintain water resources and aquatic ecosystems within a watershed, including applicable water quality standards and wetlands protection goals established under the Act.

"(C) State.—The term 'State' includes Indian tribes eligible under section 518(e).

"(b) State Watershed Program.—

"(1) Submittal.—A State, at any time, may submit to the Administrator for approval a watershed management program for the State.

"(2) Approval.—The Administrator shall approve a State watershed program submitted under paragraph (1) if the program, at a minimum, contains the following elements:

"(A) An identification of the State agency generally responsible for overseeing and approving watershed management plans and a designation of watershed management entities and lead responsibilities for such entities. Such entities may include other State agencies and sub-State agencies.

"(B) A description of the scope of the program. In determining the scope of the program, the State may choose to address all watersheds within the State over a period of time or to concentrate efforts on selected watersheds. Within each watershed, the issues to be addressed should be based on a comprehensive analysis of the problems within the watershed. The scope of the program may expand over a period of time both in terms of the number of watersheds and the issues addressed by the program.

"(C) An identification of watershed management units for which watershed management plans will be developed. In selecting such units, the State shall consider those waters in the State that are water quality threatened or impaired or are otherwise in need of special protection. To the extent practicable, the boundaries of each watershed management unit shall be consistent with United States Geological Service hydrological units.

"(D) A description of activities required of watershed management entities (as specified under subsection (f)(1)) and a description of the State's approval process for watershed management plans.

"(E) A specification of an effective public participation process, including procedures to encourage the public to participate in developing and implementing watershed management plans.

"(F) An identification of the statewide environmental objectives that will be pursued in each watershed. Such objectives, at a minimum, shall include State water quality standards and goals under this Act, and, as appropriate, other objectives such as habitat restoration and biological diversity.

"(2) DEADLINE.—The Administrator, after consultation with other Federal agencies, shall approve or disapprove a State watershed program submitted under paragraph (1) on or before the 180th day following the date of the submittal. If a State watershed program is disapproved, the State may modify and resubmit its program under paragraph (1).

"(3) ANNUAL REPORT.—A State with an approved watershed program under this subsection shall provide to the Administrator an annual report summarizing the status of the program, including a description of any modifications to the program. An annual report submitted under this section may be used by the State to satisfy reporting requirements under sections 106, 314, 319, and 320.

"(4) EFFECTIVE PERIOD OF APPROVALS.—An approval of a State watershed program under paragraph (2) shall remain in effect for a 5-year period beginning on the date of the approval and may be renewed by the Administrator.

"(5) WITHDRAWAL OF APPROVAL.—Whenever the Administrator determines after public hearing that a State is not administering a watershed program approved under paragraph (2) in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

"(c) DESIGNATION OF ADDITIONAL WATERSHED MANAGEMENT UNITS AND ENTITIES.—A State with an approved watershed program under this section may modify such program at any time in order to designate additional watershed management units and entities, including lead responsibilities, for the purpose of developing and implementing watershed management plans.

"(d) ELIGIBLE WATERSHED MANAGEMENT AND PLANNING ACTIVITIES.—The following watershed management activities are eligible to receive assistance from the Administrator under sections 205(j), 319(h), and 604(b):

"(1) Characterizing waters and land uses.

"(2) Identifying problems within a watershed.

"(3) Selecting short-term and long-term goals for watershed management.

"(4) Developing and implementing measures and practices to meet identified goals.

"(5) Identifying and coordinating projects and activities necessary to restore and maintain water quality or meet other environmental objectives within the watershed.

"(6) Identifying the appropriate institutional arrangements to carry out an approved watershed management plan.

"(7) Updating an approved watershed management plan.

"(8) Any other activities deemed appropriate by the Administrator.

"(e) SUPPORT FOR WATERSHED MANAGEMENT AND PLANNING.—

"(1) INTERAGENCY COMMITTEE.—There is established an interagency committee to support comprehensive watershed management and planning. The President shall appoint the members of the committee. The members shall include a representative from each Federal agency that carries out programs and activities that may have a significant impact on water quality or other natural resource values that may be appropriately addressed through comprehensive watershed management.

"(2) USE OF OTHER FUNDS UNDER THIS ACT.—The planning and implementation activities carried out by a management entity pursuant to this section may be carried out with funds made available through the State pursuant to sections 205(j), 319(h), and 604(b).

"(f) APPROVED PLANS.—

"(1) MINIMUM REQUIREMENTS.—A State with an approved watershed program may approve a watershed management plan when such plan satisfies the following conditions:

"(A) If the watershed includes waters that are not meeting applicable water quality standards under this Act at the time of submission, the plan—

"(i) identifies the environmental objectives of the plan including, at a minimum, State water quality standards and goals under this Act, and any other environmental objectives the planning entity deems appropriate;

"(ii) identifies the stressors, pollutants, and sources causing the impairment;

"(iii) identifies actions necessary to achieve the environmental objectives of the plan, including source reduction of pollutants to achieve any allocated load reductions consistent with the requirements of section 303(d) and the priority for implementing such actions;

"(iv) contains an implementation plan, with schedules, milestones, projected completion dates, and the identification of those persons responsible for implementing the actions, demonstrating that water quality standards will be attained as expeditiously as practicable, but not later than deadlines in applicable sections of this Act and all other environmental objectives identified in the watershed management plan will be attained as expeditiously as practicable;

"(v) contains an effective public participation process in the development and implementation of the plan;

"(vi) specifies a process to monitor and evaluate progress toward meeting environmental objectives; and

"(vii) specifies a process to revise the plan as needed.

"(B) For those waters in the watershed attaining water quality standards at the time of submission (including threatened waters), the plan identifies those projects and activities necessary to maintain water quality standards and attain or maintain other environmental objectives in the future.

"(2) TERMS OF PLAN AND PLAN APPROVAL.—Each plan submitted and approved under this subsection shall extend for a period of not less than 5 years and include a planning and implementation schedule with milestones and completion dates within that period. The approval by the State of a plan shall apply for a period not exceed 5 years. A revised and updated plan may be submitted prior to the expiration of the period specified in the preceding sentence for approval pursuant to the same conditions and requirements that apply to an initial plan for a watershed that is approved pursuant to this subsection.

"(g) INCENTIVES FOR WATERSHED MANAGEMENT.—

"(1) POINT SOURCE PERMITS.—

"(A) IN GENERAL.—Notwithstanding section 301(b)(1)(C), a permit may be issued under section 402 with a limitation that does not meet water quality standards, if—

"(i) the receiving water is in a watershed with an approved watershed plan;

"(ii) the plan includes enforceable requirements under State or local law for nonpoint source pollutant load reductions that in combination with point source requirements will meet water quality standards prior to the expiration of plan; and

"(iii) the point source does not have a history of significant noncompliance with its permit effluent limitations, as determined by the Administrator or the State (in the case with an approved permit under section 402).

"(B) SYNCHRONIZED PERMIT TERMS.—Notwithstanding section 402(b)(1)(B), the term of a permit issued under section 402 may be extended by 5 years if the discharge is located in a watershed planning area for which a watershed management plan is to be developed.

"(C) 10-YEAR PERMIT TERMS.—Notwithstanding section 402(b)(1)(B), the term of a permit issued under section 402 may be extended to 10 years for any point source located in a watershed management unit for which a watershed management plan has been approved if the plan provides for the attainment and maintenance of water quality standards (including designated uses) in the affected waters and unless receiving waters are not meeting water quality standards due to the point source discharge. Such permits may be revised at any time if necessary to meet water quality standards.

"(2) NONPOINT SOURCE CONTROLS.—Not later than 30 months after the date of the enactment of this section, a State with an approved watershed program under this section may make a showing to the Administrator that nonpoint source management practices different from those established in national guidance issued by the Administrator under section 319 will attain water quality standards as expeditiously as practicable and not later than the deadlines established by this Act. If the Administrator is satisfied with such showing, then the Administrator may approve the State's nonpoint source management program that relies on such practices as meeting the requirements of section 319. Alternative watershed nonpoint source control practices must be identified in the watershed management plan adopted under subsection (f)(2) of this section.

"(3) FUNDING.—The Administrator may provide assistance to a State with an approved watershed management program under this section in the form of a multipurpose grant that would provide for single application, workplan and review, matching, oversight, and end-of-year closeout requirements for grant funding under sections 104(b)(3), 104(g), 106, 314(b), 319, 320, and 604(b). A State with an approved multipurpose grant may focus activities funded under such sections on a priority basis consistent with State-approved watershed management plans.

"(h) GUIDANCE.—Not later than 12 months after the date of the enactment of this section, and after consultation with other appropriate agencies, the Administrator shall issue guidance on recommended provisions to be included in State watershed programs and State-approved watershed management plans.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator for providing grants to States to assist such States in carrying out activities under this section $25,000,000 per fiscal year for each of fiscal years 1996 through 2000.".

(b) CONFORMING AMENDMENT.—Section 401(a)(1) (33 U.S.C. 1341(a)(1)) is amended by inserting "and with the provisions of a management plan approved by a State under section 321 of this Act" before the period at the end of the first sentence.

SEC. 308. REVISION OF EFFLUENT LIMITATIONS.

(a) ELIMINATION OF REQUIREMENT FOR ANNUAL REVISION.—Section 304(b) (33 U.S.C. 1314(b)) is amended in the matter preceding paragraph (1) by striking "and, at least annually thereafter," and inserting "and thereafter shall".

(b) SPECIAL RULE.—Section 304(b) (33 U.S.C. 1314(b)) is amended by striking the period at the end of the first sentence and inserting the following: "; except that guidelines issued under paragraph (1)(A) addressing pollutants identified pursuant to subsection (a)(4) shall not be revised after February 15, 1995, to be more stringent unless such revised guidelines meet the requirements of paragraph (4)(A).".

TITLE IV—PERMITS AND LICENSES

SEC. 401. WASTE TREATMENT SYSTEMS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS.

Section 402(a) is amended by adding at the end the following:

"(6) CONCENTRATED ANIMAL FEEDING OPERATIONS.—For purposes of this section, waste treatment systems, including retention ponds or lagoons, used to meet the requirements of this Act for concentrated animal feeding operations, are not waters of the United States. An existing concentrated animal feeding operation that uses a natural topographic impoundment or structure on the effective date of this Act, which is not hydrologically connected to any other waters of the United States, as a waste treatment system or wastewater retention facility may continue to use that natural topographic feature for waste storage regardless of its size, capacity, or previous use.".

SEC. 402. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

(a) DEADLINES.—Section 402(p) (33 U.S.C. 1343(p)) is amended—

(1) in paragraph (1) by striking "1994" and inserting "2005"; and

(2) in paragraph (6) by striking "1993" and inserting "2005".

(b) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Section 402(p)(3) is amended by adding at the end the following:

"(C) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Permits for municipal separate storm sewers shall not include numeric effluent limitations.".

SEC. 403. INTAKE CREDITS.

Section 402 (33 U.S.C. 1342) is amended by adding at the end the following:

"(q) INTAKE CREDITS.—

"(1) IN GENERAL.—Notwithstanding any provision of this Act, in any effluent limitation or other limitation imposed under the permit program established by the Administrator under this section, any State permit program approved under this section (including any program for implementation under section 118(c)(2)), any standards established under section 307(a), or any program for industrial users established under section 307(b), the Administrator, as applicable, shall or the State, as applicable, may provide credits for pollutants present in or caused by intake water such that an owner or operator of a point source is not required to remove, reduce, or treat the amount of any pollutant in an effluent below the amount of such pollutant that is present in or caused by the intake water for such facility—

"(A)(i) if the source of the intake water and the receiving waters into which the effluent is ultimately discharged are the same;

"(ii) if the source of the intake water meets the maximum contaminant levels or treatment techniques for drinking water contaminants established pursuant to the Safe Drinking Water Act for the pollutant of concern; or

"(iii) if, at the time the limitation or standard is established, the level of the pollutant in the intake water is the same as or lower than the amount of the pollutant in the receiving waters, taking into account analytical variability; and

"(B) if, for conventional pollutants, the constituents of the conventional pollutants in the intake water are the same as the constituents of the conventional pollutants in the effluent.

"(2) ALLOWANCE FOR INCIDENTAL AMOUNTS.—In determining whether the condition set forth in paragraph (1)(A)(i) is being met, the Administrator shall or the State may, as appropriate, make allowance for incidental amounts of intake water from sources other than the receiving waters.

"(3) CREDIT FOR NONQUALIFYING POLLUTANTS.—The Administrator shall or a State may provide point sources an appropriate credit for pollutants found in intake water that does not meet the requirement of paragraph (1).

"(4) MONITORING.—Nothing in this section precludes the Administrator or a State from requiring monitoring of intake water, effluent, or receiving waters to assist in the implementation of this section.".

SEC. 404. COMBINED SEWER OVERFLOWS.

Section 402 (33 U.S.C. 1342) is amended by adding at the end the following:

"(r) COMBINED SEWER OVERFLOWS.—

"(1) REQUIREMENT FOR PERMITS.—Each permit issued pursuant to this section for a discharge from a combined storm and sanitary sewer shall conform with the combined sewer overflow control policy signed by the Administrator on April 11, 1994.

"(2) TERM OF PERMIT.—

"(A) COMPLIANCE DEADLINE.—Notwithstanding any compliance schedule under section 301(b), or any permit limitation under section 402(b)(1)(B), the Administrator (or a State with a program approved under subsection (b)) may issue a permit pursuant to this section for a discharge from a combined storm and sanitary sewer, that includes a schedule for compliance with a long-term control plan under the control policy referred to in paragraph (1), for a term not to exceed 15 years.

"(B) EXTENSION.—Notwithstanding the compliance deadline specified in subparagraph (A), the Administrator or a State with a program approved under subsection (b) shall extend, on request of an owner or operator of a combined storm and sanitary sewer and subject to subparagraph (C), the period of compliance beyond the last day of the 15-year period—

"(i) if the Administrator or the State determines that compliance by such last day is not within the economic capability of the owner or operator; and

"(ii) if the owner or operator demonstrates to the satisfaction of the Administrator or the State reasonable further progress towards compliance with a long-term control plan under the control policy referred to in paragraph (1).

"(C) LIMITATIONS ON EXTENSIONS.—

"(i) EXTENSION NOT APPROPRIATE.—Notwithstanding subparagraph (B), the Administrator or the State need not grant an extension of the compliance deadline specified in subparagraph (A) if the Administrator or the State determines that such an extension is not appropriate.

"(ii) NEW YORK-NEW JERSEY.—Prior to granting an extension under subparagraph (B) with respect to a combined sewer overflow discharge originating in the State of New York or New Jersey and affecting the other of such States, the Administrator or the State from which the discharge originates, as the case may be, shall provide written notice of the proposed extension to the other State and shall not grant the extension unless the other State approves the extension or does not disapprove the extension within 90 days of receiving such written notice.

"(3) SAVINGS CLAUSE.—Any consent decree or court order entered by a United States district court, or administrative order issued by the Administrator, before the date of the enactment of this subsection establishing any deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables, for the evaluation, design, or construction of treatment works for control or elimination of any discharge from a municipal combined storm and sanitary sewer system shall be modified upon motion or request by any party to such consent decree or court order, to extend to December 31, 2009, at a minimum, any such deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables as is necessary to conform to the policy referred to in paragraph (1) or otherwise achieve the objectives of this subsection. Notwithstanding the preceding sentence, the period of compliance with respect to a discharge referred to in paragraph (2)(C)(ii) may only be extended in accordance with paragraph (2)(C)(ii).".

SEC. 405. ABANDONED MINES.

Section 402 (33 U.S.C. 1342) is further amended by inserting after subsection (o) the following:

"(p) PERMITS FOR REMEDIATING PARTY ON ABANDONED OR INACTIVE MINED LANDS.—

"(1) APPLICABILITY.—Subject to this subsection, including the requirements of paragraph (3), the Administrator, with the concurrence of the concerned State or Indian tribe, may issue a permit to a remediating party under this section for discharges associated with remediation activity at abandoned or inactive mined lands which modifies any otherwise applicable requirement of sections 301(b), 302, and 403, or any subsection of this section (other than this subsection).

"(2) APPLICATION FOR A PERMIT.—A remediating party who desires to conduct remediation activities on abandoned or inactive mined lands from which there is or may be a discharge of pollutants to waters of the United States or from which there could be a significant addition of pollutants from nonpoint sources may submit an application to the Administrator. The application shall consist of a remediation plan and any other information requested by the Administrator to clarify the plan and activities.

"(3) Remediation Plan.—The remediation plan shall include (as appropriate and applicable) the following:

"(A) Identification of the remediating party, including any persons cooperating with the concerned State or Indian tribe with respect to the plan, and a certification that the applicant is a remediating party under this section.

"(B) Identification of the abandoned or inactive mined lands addressed by the plan.

"(C) Identification of the waters of the United States impacted by the abandoned or inactive mined lands.

"(D) A description of the physical conditions at the abandoned or inactive mined lands that are causing adverse water quality impacts.

"(E) A description of practices, including system design and construction plans and operation and maintenance plans, proposed to reduce, control, mitigate, or eliminate the adverse water quality impacts and a schedule for implementing such practices and, if it is an existing remediation project, a description of practices proposed to improve the project, if any.

"(F) An analysis demonstrating that the identified practices are expected to result in a water quality improvement for the identified waters.

"(G) A description of monitoring or other assessment to be undertaken to evaluate the success of the practices during and after implementation, including an assessment of baseline conditions.

"(H) A schedule for periodic reporting on progress in implementation of major elements of the plan.

"(I) A budget and identified funding to support the activities described in the plan.

"(J) Remediation goals and objectives.

"(K) Contingency plans.

"(L) A description of the applicant's legal right to enter and conduct activities.

"(M) The signature of the applicant.

"(N) Identification of the pollutant or pollutants to be addressed by the plan.

"(4) Permits.—

"(A) Contents.—Permits issued by the Administrator pursuant to this subsection shall—

"(i) provide for compliance with and implementation of a remediation plan which, following issuance of the permit, may be modified by the applicant after providing notification to and opportunity for review by the Administrator;

"(ii) require that any modification of the plan be reflected in a modified permit;

"(iii) require that if, at any time after notice to the remediating party and opportunity for comment by the remediating party, the Administrator determines that the remediating party is not implementing the approved remediation plan in substantial compliance with its terms, the Administrator shall notify the remediating party of the determination together with a list specifying the concerns of the Administrator;

"(iv) provide that, if the identified concerns are not resolved or a compliance plan approved within 180 days of the date of the notification, the Administrator may take action under section 309 of this Act;

"(v) provide that clauses (iii) and (iv) not apply in the case of any action under section 309 to address violations involving gross negligence (including reckless, willful, or wanton misconduct) or intentional misconduct by the remediating party or any other person;

"(vi) not require compliance with any limitation issued under sections 301(b), 302, and 403 or any requirement established by the Administrator under any subsection of this section (other than this subsection); and

"(vii) provide for termination of coverage under the permit without the remediating party being subject to enforcement under sections 309 and 505 of this Act for any remaining discharges—

"(I) after implementation of the remediation plan;

"(II) if a party obtains a permit to mine the site; or

"(III) upon a demonstration by the remediating party that the surface water quality conditions due to remediation activities at the site, taken as a whole, are equal to or superior to the surface water qualities that existed prior to initiation of remediation.

"(B) Limitations.—The Administrator shall only issue a permit under this section, consistent with the provisions of this subsection, to a remediating party for discharges associated with remediation action at abandoned or inactive mined lands if the remediation plan demonstrates with reasonable certainty that the actions will result in an improvement in water quality.

"(C) Public participation.—The Administrator may only issue a permit or modify a permit under this section after complying with subsection (b)(3).

"(D) Effect of failure to comply with permit.—Failure to comply with terms of a permit issued pursuant to this subsection shall not be deemed to be a violation of an effluent standard or limitation issued under this Act.

"(E) Limitations on statutory construction.—This subsection shall not be construed—

"(i) to limit or otherwise affect the Administrator's powers under section 504; or

"(ii) to preclude actions pursuant to section 309 or 505 for any violations of sections 301(a), 302, 402, and 403 that may have existed for the abandoned or inactive mined land prior to initiation of remediation covered by a permit issued under this subsection, unless such permit covers remediation activities implemented by the permit holder prior to issuance of the permit.

"(5) Definitions.—In this subsection the following definitions apply:

"(A) Remediating party.—The term 'remediating party' means—

"(i) the United States (on non-Federal lands), a State or its political subdivisions, or an Indian tribe or officers, employees, or contractors thereof; and

"(ii) any person acting in cooperation with a person described in clause (i), including a government agency that owns abandoned or inactive mined lands for the purpose of conducting remediation of the mined lands or that is engaging in remediation activities incidental to the ownership of the lands.

Such term does not include any person who, before or following issuance of a permit under this section, directly benefited from or participated in any mining operation (including exploration) associated with the abandoned or inactive mined lands.

"(B) Abandoned or inactive mined lands.—The term 'abandoned or inactive mined lands' means lands that were formerly mined and are not actively mined or in temporary shutdown at the time of submission of the remediation plan and issuance of a permit under this section.

"(C) Mined lands.—The term 'mined lands' means the surface or subsurface of an area where mining operations, including exploration, extraction, processing, and beneficiation, have been conducted. Such term includes private ways and roads appurtenant to such area, land excavations, underground mine portals, adits, and surface expressions associated with underground workings, such as glory holes and subsidence features, mining waste, smelting sites associated with other mined lands, and areas where structures, facilities, equipment, machines, tools, or other material or property which result from or have been used in the mining operation are located.

"(6) Regulations.—The Administrator may issue regulations establishing more specific requirements that the Administrator determines would facilitate implementation of this subsection. Before issuance of such regulations, the Administrator may establish, on a case-by-case basis after notice and opportunity for public comment as provided by subsection (b)(3), more specific requirements that the Administrator determines would facilitate implementation of this subsection in an individual permit issued to the remediating party.".

SEC. 406. BENEFICIAL USE OF BIOSOLIDS.

(a) References.—Section 405(a) (33 U.S.C. 1345(a)) is amended by inserting "(also referred to as 'biosolids')" after "sewage sludge" the first place it appears.

(b) Approval of State Programs.—Section 405(f) (33 U.S.C. 1345(f)) is amended by adding at the end the following:

"(3) Approval of state programs.—Notwithstanding any other provision of law, the Administrator shall approve for purposes of this subsection State programs that meet the standards for final use or disposal of sewage sludge established by the Administrator pursuant to subsection (d).".

(c) Studies and Projects.—Section 405(g) (33 U.S.C. 1345(g)) is amended—

(1) in the first sentence of paragraph (1) by inserting "building materials," after "agricultural and horticultural uses,";

(2) in paragraph (1) by adding at the end the following: "Not later than January 1, 1997, and after providing notice and opportunity for public comment, the Administrator shall issue guidance on the beneficial use of sewage sludge."; and

(3) in paragraph (2) by striking "September 30, 1986," and inserting "September 30, 1995.

TITLE V—GENERAL PROVISIONS

SEC. 501. PUBLICLY OWNED TREATMENT WORKS DEFINED.

Section 502 (33 U.S.C. 1362) is further amended by adding at the end the following:

"(25) The term 'publicly owned treatment works' means a treatment works, as defined in section 212, located at other than an industrial facility, which is designed and constructed principally, as determined by the Administrator, to treat domestic sewage or a mixture of domestic sewage and industrial wastes of a liquid nature. In the case of such a facility that is privately owned, such term includes only those facilities that, with respect to such industrial wastes, are carrying out a pretreatment program meeting all the requirements established under section 307 and paragraphs (8) and (9) of section 402(b) for pretreatment programs (whether or not the treatment works would be required to implement a pretreatment program pursuant to such sections).".

SEC. 502. IMPLEMENTATION OF WATER POLLUTION LAWS WITH RESPECT TO VEGETABLE OIL.

(a) Differentiation Among Fats, Oils, and Greases.—

(1) In general.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law related to water pollution control, the head of a Federal agency shall—

(A) differentiate between and establish separate classes for—

(i)(I) animal fats; and

(II) vegetable oils; and

(ii) other oils, including petroleum oil; and

(B) apply different standards and reporting requirements (including reporting requirements based on quantitative amounts) to different classes of fat and oil as provided in paragraph (2).

(2) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii), the head of the Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) ANIMAL FAT.—The term "animal fat" means each type of animal fat, oil, or grease, including fat, oil, or grease from fish or a marine mammal and any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.

(2) VEGETABLE OIL.—The term "vegetable oil" means each type of vegetable oil, including vegetable oil from a seed, nut, or kernel and any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

SEC. 503. NEEDS ESTIMATE.

Section 516(b)(1) (33 U.S.C. 1375(b)(1)) is amended—

(1) in the first sentence by striking "biennially revised" and inserting "quadrennially revised"; and

(2) in the second sentence by striking "February 10 of each odd-numbered year" and inserting "December 31, 1997, and December 31 of every 4th calendar year thereafter".

SEC. 504. FOOD PROCESSING AND FOOD SAFETY.

Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 521 and by inserting after section 518 the following:

"SEC. 519. FOOD PROCESSING AND FOOD SAFETY.

"In developing any effluent guideline under section 304(b), pretreatment standard under section 307(b), or new source performance standard under section 306 that is applicable to the food processing industry, the Administrator shall consult with and consider the recommendations of the Food and Drug Administration, Department of Health and Human Services, Department of Agriculture, and Department of Commerce. The recommendations of such departments and agencies and a description of the Administrator's response to those recommendations shall be made part of the rulemaking record for the development of such guidelines and standards. The Administrator's response shall include an explanation with respect to food safety, including a discussion of relative risks, of any departure from a recommendation by any such department or agency.".

SEC. 505. AUDIT DISPUTE RESOLUTION.

Title V (33 U.S.C. 1361–1377) is further amended by inserting before section 521, as redesignated by this Act, the following:

"SEC. 520. AUDIT DISPUTE RESOLUTION.

"(a) ESTABLISHMENT OF BOARD.—The Administrator shall establish an independent Board of Audit Appeals (hereinafter in this section referred to as the 'Board') in accordance with the requirements of this section.

"(b) DUTIES.—The Board shall have the authority to review and decide contested audit determinations related to grant and contract awards under this Act. In carrying out such duties, the Board shall consider only those regulations, guidance, policies, facts, and circumstances in effect at the time of the grant or contract award.

"(c) PRIOR ELIGIBILITY DECISIONS.—The Board shall not reverse project cost eligibility determinations that are supported by an decision document of the Environmental Protection Agency, including grant or contract approvals, plans and specifications approval forms, grant or contract payments, change order approval forms, or similar documents approving project cost eligibility, except upon a showing that such decision was arbitrary, capricious, or an abuse of law in effect at the time of such decision.

"(d) MEMBERSHIP.—

"(1) APPOINTMENT.—The Board shall be composed of 7 members to be appointed by the Administrator not later than 90 days after the date of the enactment of this section.

"(2) TERMS.—Each member shall be appointed for a term of 3 years.

"(3) QUALIFICATIONS.—The Administrator shall appoint as members of the Board individuals who are specially qualified to serve on the Board by virtue of their expertise in grant and contracting procedures. The Administrator shall make every effort to ensure that individuals appointed as members of the Board are free from conflicts of interest in carrying out the duties of the Board.

"(e) BASIC PAY AND TRAVEL EXPENSES.—

"(1) RATES OF PAY.—Except as provided in paragraph (2), members shall each be paid at a rate of basic pay, to be determined by the Administrator, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board.

"(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Board who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

"(3) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Board, the Administrator shall provide to the Board the administrative support services necessary for the Board to carry out its responsibilities under this section.

"(g) DISPUTES ELIGIBLE FOR REVIEW.—The authority of the Board under this section shall extend to any contested audit determination that on the date of the enactment of this section has yet to be formally concluded and accepted by either the grantee or the Administrator.".

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

SEC. 601. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) (33 U.S.C. 1381(a)) is amended by striking "(1) for construction" and all that follows through the period and inserting "to accomplish the purposes of this Act.".

SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

(a) REQUIREMENTS FOR CONSTRUCTION OF TREATMENT WORKS.—Section 602(b)(6) (33 U.S.C. 1382(b)(6)) is amended—

(1) by striking "before fiscal year 1995"; and

(2) by striking "201(b)" and all that follows through "218" and inserting "211".

(b) COMPLIANCE WITH OTHER FEDERAL LAWS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following:

"(c) OTHER FEDERAL LAWS.—

"(1) COMPLIANCE WITH OTHER FEDERAL LAWS.—If a State provides assistance from its water pollution control revolving fund established in accordance with this title and in accordance with a statute, rule, executive order, or program of the State which addresses the intent of any requirement or any Federal executive order or law other than this Act, as determined by the State, the State in providing such assistance shall be treated as having met the Federal requirements.

"(2) LIMITATION ON APPLICABILITY OF OTHER FEDERAL LAWS.—If a State does not meet a requirement of a Federal executive order or law other than this Act under paragraph (1), such Federal law shall only apply to Federal funds deposited in the water pollution control revolving fund established by the State in accordance with this title the first time such funds are used to provide assistance from the revolving fund.".

(c) GUIDANCE FOR SMALL SYSTEMS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following new subsection:

"(d) GUIDANCE FOR SMALL SYSTEMS.—

"(1) SIMPLIFIED PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall assist the States in establishing simplified procedures for small systems to obtain assistance under this title.

"(2) PUBLICATION OF MANUAL.—Not later than 1 year after the date of the enactment of this subsection, and after providing notice and opportunity for public comment, the Administrator shall publish a manual to assist small systems in obtaining assistance under this title and publish in the Federal Register notice of the availability of the manual.

"(3) SMALL SYSTEM DEFINED.—For purposes of this title, the term 'small system' means a system for which a municipality or intermunicipal, interstate, or State agency seeks assistance under this title and which serves a population of 20,000 or less.".

SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Section 603(c) (33 U.S.C. 1383(c)) is amended to read as follows:

"(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

"(1) IN GENERAL.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance to activities which have as a principal benefit the improvement or protection of water quality to a municipality, intermunicipal agency, interstate agency, State agency, or other person. Such activities may include the following:

"(A) Construction of a publicly owned treatment works if the recipient of such assistance is a municipality.

"(B) Implementation of lake protection programs and projects under section 314.

"(C) Implementation of a management program under section 319.

"(D) Implementation of a conservation and management plan under section 320.

"(E) Implementation of a watershed management plan under section 321.

"(F) Implementation of a stormwater management program under section 322.

"(G) Acquisition of property rights for the restoration or protection of publicly or privately owned riparian areas.

"(H) Implementation of measures to improve the efficiency of public water use.

"(I) Development and implementation of plans by a public recipient to prevent water pollution.

"(J) Acquisition of lands necessary to meet any mitigation requirements related to construction of a publicly owned treatment works.

"(2) FUND AMOUNTS.—The water pollution control revolving fund of a State shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing financial assistance described in paragraph (1). Fees charged by a State to recipients of such assistance may be deposited in the fund for the sole purpose of financing the cost of administration of this title.".

(b) EXTENDED REPAYMENT PERIOD FOR DISADVANTAGED COMMUNITIES.—Section 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A) by inserting after "20 years" the following: "or, in the case of a disadvantaged community, the lesser of 40 years or the expected life of the project to be financed with the proceeds of the loan"; and

(2) in subparagraph (B) by striking "not later than 20 years after project completion" and inserting "upon the expiration of the term of the loan".

(c) LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGY.—Section 603(d)(5) (33 U.S.C. 1383(d)(5)) is amended to read as follows:

"(5) to provide loan guarantees for—

"(A) similar revolving funds established by municipalities or intermunicipal agencies; and

"(B) developing and implementing innovative technologies.".

(d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7) (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: "or $400,000 per year, whichever is greater, plus the amount of any fees collected by the State for such purpose under subsection (c)(2)".

(e) TECHNICAL AND PLANNING ASSISTANCE FOR SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to provide to small systems technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant operations; except that such amounts shall not exceed 2 percent of all grant awards to such fund under this title.".

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) (33 U.S.C. 1383(f)) is amended by striking "and 320" and inserting "320, 321, and 322".

(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—Section 603(g) (33 U.S.C. 1383(g)) is amended to read as follows:

"(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—The State may provide financial assistance from its water pollution control revolving fund with respect to a project for construction of a treatment works only if—

"(1) such project is on the State's priority list under section 216 of this Act; and

"(2) the recipient of such assistance is a municipality in any case in which the treatment works is privately owned.".

(h) INTEREST RATES.—Section 603 is further amended by adding at the end the following:

"(i) INTEREST RATES.—In any case in which a State makes a loan pursuant to subsection (d)(1) to a disadvantaged community, the State may charge a negative interest rate of not to exceed 2 percent to reduce the unpaid principal of the loan. The aggregate amount of all such negative interest rate loans the State makes in a fiscal year shall not exceed 20 percent of the aggregate amount of all loans made by the State from its revolving loan fund in such fiscal year.

"(j) DISADVANTAGED COMMUNITY DEFINED.—As used in this section, the term 'disadvantaged community' means the service area of a publicly owned treatment works with respect to which the average annual residential sewage treatment charges for a user of the treatment works meet affordability criteria established by the State in which the treatment works is located (after providing for public review and comment) in accordance with guidelines to be established by the Administrator, in cooperation with the States.".

(i) SALE OF TREATMENT WORKS.—Section 603 is further amended by adding at the end the following:

"(k) SALE OF TREATMENT WORKS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of this Act, any State, municipality, intermunicipality, or interstate agency may transfer by sale to a qualified private sector entity all or part of a treatment works that is owned by such agency and for which it received Federal financial assistance under this Act if the transfer price will be distributed, as amounts are received, in the following order:

"(A) First reimbursement of the agency of the unadjusted dollar amount of the costs of construction of the treatment works or part thereof plus any transaction and fix-up costs incurred by the agency with respect to the transfer less the amount of such Federal financial assistance provided with respect to such costs.

"(B) If proceeds from the transfer remain after such reimbursement, repayment of the Federal Government of the amount of such Federal financial assistance less the applicable share of accumulated depreciation on such treatment works (calculated using Internal Revenue Service accelerated depreciation schedule applicable to treatment works).

"(C) If any proceeds of such transfer remain after such reimbursement and repayment, retention of the remaining proceeds by such agency.

"(2) RELEASE OF CONDITION.—Any requirement imposed by regulation or policy for a showing that the treatment works are no longer needed to serve their original purpose shall not apply.

"(3) SELECTION OF BUYER.—A State, municipality, intermunicipality, or interstate agency exercising the authority granted by this subsection shall select a qualified private sector entity on the basis of total net cost and other appropriate criteria and shall utilize such competitive bidding, direct negotiation, or other criteria and procedures as may be required by State law.

"(l) PRIVATE OWNERSHIP OF TREATMENT WORKS.—

"(1) REGULATORY REVIEW.—The Administrator shall review the law and any regulations, policies, and procedures of the Environmental Protection Agency affecting the construction, improvement, replacement, operation, maintenance, and transfer of ownership of current and future treatment works owned by a State, municipality, intermunicipality, or interstate agency. If permitted by law, the Administrator shall modify such regulations, policies, and procedures to eliminate any obstacles to the construction, improvement, replacement, operation, and maintenance of such treatment works by qualified private sector entities.

"(2) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall submit to Congress a report identifying any provisions of law that must be changed in order to eliminate any obstacles referred to in paragraph (1).

"(3) DEFINITION.—For purposes of this section, the term 'qualified private sector entity' means any nongovernmental individual, group, association, business, partnership, organization, or privately or publicly held corporation that—

"(A) has sufficient experience and expertise to discharge successfully the responsibilities associated with construction, operation, and maintenance of a treatment works and to satisfy any guarantees that are agreed to in connection with a transfer of treatment works under subsection (k);

"(B) has the ability to assure protection against insolvency and interruption of services through contractual and financial guarantees; and

"(C) with respect to subsection (k), to the extent consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade—

"(i) is majority-owned and controlled by citizens of the United States; and

"(ii) does not receive subsidies from a foreign government.".

SEC. 604. ALLOTMENT OF FUNDS.

(a) IN GENERAL.—Section 604(a) (33 U.S.C. 1384(a)) is amended to read as follows:

"(a) FORMULA FOR FISCAL YEARS 1996–2000.—Sums authorized to be appropriated pursuant to section 607 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be allotted for such year by the Administrator not later than the 10th day which begins after the date of the enactment of the Clean Water Amendments of 1995. Sums authorized for each such fiscal year shall be allotted in accordance with the following table:

"States:	*Percentage of sums authorized:*
Alabama	1.0110
Alaska	0.5411
Arizona	0.7464
Arkansas	0.5914
California	7.9031
Colorado	0.7232
Connecticut	1.3537
Delaware	0.4438
District of Columbia	0.4438
Florida	3.4462
Georgia	1.8683
Hawaii	0.7002
Idaho	0.4438
Illinois	4.9976
Indiana	2.6631
Iowa	1.2236
Kansas	0.8690
Kentucky	1.3570
Louisiana	1.0060
Maine	0.6999
Maryland	2.1867
Massachusetts	3.7518
Michigan	3.8875
Minnesota	1.6618
Mississippi	0.8146
Missouri	2.5063
Montana	0.4438
Nebraska	0.4624
Nevada	0.4438
New Hampshire	0.9035
New Jersey	4.5156
New Mexico	0.4438
New York	12.1969
North Carolina	1.9943
North Dakota	0.4438
Ohio	5.0898
Oklahoma	0.7304
Oregon	1.2399
Pennsylvania	4.2145

	Percentage of sums authorized:
Rhode Island	0.6071
South Carolina	0.9262
South Dakota	0.4438
Tennessee	1.4668
Texas	4.6458
Utah	0.4764
Vermont	0.4438
Virginia	2.2615
Washington	1.9217
West Virginia	1.4249
Wisconsin	2.4442
Wyoming	0.4438
Puerto Rico	1.1792
Northern Marianas	0.0377
American Samoa	0.0812
Guam	0.0587
Pacific Islands Trust Territory	0.1158
Virgin Islands	0.0576.".

(b) CONFORMING AMENDMENT.—Section 604(c)(2) is amended by striking "title II of this Act" and inserting "this title".

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

Section 607 (33 U.S.C. 1387(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

"(6) such sums as may be necessary for fiscal year 1995;

"(7) $2,500,000,000 for fiscal year 1996;

"(8) $2,500,000,000 for fiscal year 1997;

"(9) $2,500,000,000 for fiscal year 1998;

"(10) $2,500,000,000 for fiscal year 1999; and

"(11) $2,500,000,000 for fiscal year 2000.".

SEC. 606. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

Title VI (33 U.S.C. 1381–1387) is amended—

(1) in section 607 by inserting after "title" the following: "(other than section 608)"; and

(2) by adding at the end the following:

"SEC. 608. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

"(a) GENERAL AUTHORITY.—The Administrator shall make capitalization grants to each State for the purpose of establishing a nonpoint source water pollution control revolving fund for providing assistance—

"(1) to persons for carrying out management practices and measures under the State management program approved under section 319; and

"(2) to agricultural producers for the development and implementation of the water quality components of a whole farm or ranch resource management plan and for implementation of management practices and measures under such a plan.

A State nonpoint source water pollution control revolving fund shall be separate from any other State water pollution control revolving fund; except that the chief executive officer of the State may transfer funds from one fund to the other fund.

"(b) APPLICABILITY OF OTHER REQUIREMENTS OF THIS TITLE.—Except to the extent the Administrator, in consultation with the chief executive officers of the States, determines that a provision of this title is not consistent with a provision of this section, the provisions of sections 601 through 606 of this title shall apply to grants made under this section in the same manner and to the same extent as they apply to grants made under section 601 of this title. Paragraph (5) of section 602(b) shall apply to all funds in a State revolving fund established under this section as a result of capitalization grants made under this section; except that such funds shall first be used to assure reasonable progress toward attainment of the goals of section 319, as determined by the Governor of the State. Paragraph (7) of section 603(d) shall apply to a State revolving fund established under this section, except that the 4-percent limitation contained in such section shall not apply to such revolving fund.

"(c) APPORTIONMENT OF FUNDS.—Funds made available to carry out this section for any fiscal year shall be allotted among the States by the Administrator in the same manner as funds are allotted among the States under section 319 in such fiscal year.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000 per fiscal year for each of fiscal years 1996 through 2000.".

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. TECHNICAL AMENDMENTS.

(a) SECTION 118.—Section 118(c)(1)(A) (33 U.S.C. 1268(c)(1)(A)) is amended by striking the last comma.

(b) SECTION 120.—Section 120(d) (33 U.S.C. 1270(d)) is amended by striking "(1)".

(c) SECTION 204.—Section 204(a)(3) (33 U.S.C. 1284(a)(3)) is amended by striking the final period and inserting a semicolon.

(d) SECTION 205.—Section 205 (33 U.S.C. 1285) is amended—

(1) in subsection (c)(2) by striking "and 1985" and inserting "1985, and 1986";

(2) in subsection (c)(2) by striking "through 1985" and inserting "through 1986";

(3) in subsection (g)(1) by striking the period following "4 per centum"; and

(4) in subsection (m)(1)(B) by striking "this" the last place it appears and inserting "such".

(e) SECTION 208.—Section 208 (33 U.S.C. 1288) is amended—

(1) in subsection (h)(1) by striking "designed" and inserting "designated"; and

(2) in subsection (j)(1) by striking "September 31, 1988" and inserting "September 30, 1988".

(f) SECTION 301.—Section 301(j)(1)(A) (33 U.S.C. 1311(j)(1)(A)) is amended by striking "that" the first place it appears and inserting "than".

(g) SECTION 309.—Section 309(d) (33 U.S.C. 1319(d)) is amended by striking the second comma following "Act by a State".

(h) SECTION 311.—Section 311 (33 U.S.C. 1321) is amended—

(1) in subsection (b) by moving paragraph (12) (including subparagraphs (A), (B) and (C)) 2 ems to the right; and

(2) in subsection (h)(2) by striking "The" and inserting "the".

(i) SECTION 505.—Section 505(f) (33 U.S.C. 1365(f)) is amended by striking the last comma.

(j) SECTION 516.—Section 516 (33 U.S.C. 1375) is amended by redesignating subsection (g) as subsection (f).

(k) SECTION 518.—Section 518(f) (33 U.S.C. 1377(f)) is amended by striking "(d)" and inserting "(e)".

SEC. 702. JOHN A. BLATNIK NATIONAL FRESH WATER QUALITY RESEARCH LABORATORY.

(a) DESIGNATION.—The laboratory and research facility established pursuant to section 104(e) of the Federal Water Pollution Control Act (33 U.S.C. 1254(e)) that is located in Duluth, Minnesota, shall be known and designated as the "John A. Blatnik National Fresh Water Quality Research Laboratory".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory and research facility referred to in subsection (a) shall be deemed to be a reference to the "John A. Blatnik National Fresh Water Quality Research Laboratory".

SEC. 703. WASTEWATER SERVICE FOR COLONIAS.

(a) GRANT ASSISTANCE.—The Administrator may make grants to States along the United States-Mexico border to provide assistance for planning, design, and construction of treatment works to provide wastewater service to the communities along such border commonly known as "colonias".

(b) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds made available under subsection (a) shall be 50 percent. The non-Federal share of such cost shall be provided by the State receiving the grant.

(c) TREATMENT WORKS DEFINED.—For purposes of this section, the term "treatment works" has the meaning such term has under section 212 of the Federal Water Pollution Control Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under subsection (a) $50,000,000 for fiscal year 1996. Such sums shall remain available until expended.

SEC. 704. SAVINGS IN MUNICIPAL DRINKING WATER COSTS.

(a) STUDY.—The Administrator of the Environmental Protection Agency, in consultation with the Director of the Office of Management and Budget, shall review, analyze, and compile information on the annual savings that municipalities realize in the construction, operation, and maintenance of drinking water facilities as a result of actions taken under the Federal Water Pollution Control Act.

(b) CONTENTS.—The study conducted under subsection (a), at a minimum, shall contain an examination of the following elements:

(1) Savings to municipalities in the construction of drinking water filtration facilities resulting from actions taken under the Federal Water Pollution Control Act.

(2) Savings to municipalities in the operation and maintenance of drinking water facilities resulting from actions taken under such Act.

(3) Savings to municipalities in health expenditures resulting from actions taken under such Act.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study conducted under subsection (a).

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wetlands and Watershed Management Act of 1995".

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares the following:

(1) Wetlands perform a number of valuable functions needed to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including—

(A) reducing pollutants (including nutrients, sediment, and toxics) from nonpoint and point sources;

(B) storing, conveying, and purifying flood and storm waters;

(C) reducing both bank erosion and wave and storm damage to adjacent lands and trapping sediment from upland sources;

(D) providing habitat and food sources for a broad range of commercial and recreational fish, shellfish, and migratory wildlife species (including waterfowl and endangered species); and

(E) providing a broad range of recreational values for canoeing, boating, birding, and nature study and observation.

(2) Original wetlands in the contiguous United States have been reduced by an estimated 50 percent and continue to disappear at a rate of 200,000 to 300,000 acres a year. Many of these original wetlands have also been altered or partially degraded, reducing their ecological value.

(3) Wetlands are highly sensitive to changes in water regimes and are, therefore, susceptible to degradation by fills, drainage, grading, water extractions, and other activities within their watersheds which affect the quantity, quality, and flow of surface and ground waters. Protection and management of wetlands, therefore, should be integrated with management of water systems on a watershed basis. A watershed protection and management perspective is also needed to understand and reverse the gradual, continued destruction of wetlands that occurs due to cumulative impacts.

(4) Wetlands constitute an estimated 5 percent of the Nation's surface area. Because much of this land is in private ownership wetlands protection and management strategies must take into consideration private property rights and the need for economic development and growth. This can be best accomplished in the context of a cooperative and coordinated Federal, State, and local strategy for data gathering, planning, management, and restoration with an emphasis on advance planning of wetlands in watershed contexts.

(b) PURPOSES.—The purposes of this Act are—

(1) to help create a coordinated national wetland management effort with efficient use of scarce Federal, State, and local financial and manpower resources to protect wetland functions and values and reduce natural hazard losses;

(2) to help reverse the trend of wetland loss in a fair, efficient, and cost-effective manner;

(3) to reduce inconsistencies and duplication in Federal, State, and local wetland management efforts and encourage integrated permitting at the Federal, State, and local levels;

(4) to increase technical assistance, cooperative training, and educational opportunities for States, local governments, and private landowners;

(5) to help integrate wetland protection and management with other water resource management programs on a watershed basis such as flood control, storm water management, allocation of water supply, protection of fish and wildlife, and point and nonpoint source pollution control;

(6) to increase regionalization of wetland delineation and management policies within a framework of national policies through advance planning of wetland areas, programmatic general permits and other approaches and the tailoring of policies to ecosystem and land use needs to reflect significant watershed variance in wetland resources;

(7) to address the cumulative loss of wetland resources;

(8) to increase the certainty and predictability of planning and regulatory policies for private landowners;

(9) to help achieve no overall net loss and net gain of the remaining wetland base of the United States through watershed-based restoration strategies involving all levels of government;

(10) to restore and create wetlands in order to increase the quality and quantity of the wetland resources and by so doing to restore and maintain the quality and quantity of the waters of the United States; and

(11) to provide mechanisms for joint State, Federal, and local development and testing of approaches to better protect wetland resources such as mitigation banking.

SEC. 803. STATE, LOCAL, AND LANDOWNER TECHNICAL ASSISTANCE AND COOPERATIVE TRAINING.

(a) STATE AND LOCAL TECHNICAL ASSISTANCE.—Upon request, the Administrator or the Secretary of the Army, as appropriate, shall provide technical assistance to State and local governments in the development and implementation of State and local government permitting programs under sections 404(e) and 404(h) of the Federal Water Pollution Control Act, State wetland conservation plans under section 805, and regional or local wetland management plans under section 805.

(b) COOPERATIVE TRAINING.—The Administrator and the Secretary, in cooperation with the Coordinating Committee established pursuant to section 804, shall conduct training courses for States and local governments involving wetland delineation, utilization of wetlands in nonpoint pollution control, wetland and stream restoration, wetland planning, wetland evaluation, mitigation banking, and other subjects deemed appropriate by the Administrator or Secretary.

(c) PRIVATE LANDOWNER TECHNICAL ASSISTANCE.—The Administrator and Secretary shall, in cooperation with the Coordination Committee, and appropriate Federal agencies develop and provide to private landowners guidebooks, pamphlets, or other materials and technical assistance to help them in identifying and evaluating wetlands, developing integrated wetland management plans for their lands consistent with the goals of this Act and the Federal Water Pollution Control Act, and restoring wetlands.

SEC. 804. FEDERAL, STATE, AND LOCAL GOVERNMENT COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a Federal, State, and Local Government Wetlands Coordinating Committee (hereinafter in this section referred to as the "Committee").

(b) FUNCTIONS.—The Committee shall—

(1) help coordinate Federal, State, and local wetland planning, regulatory, and restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower and resources at all levels of government;

(2) provide comments to the Secretary of the Army or Administrator in adopting regulatory, policy, program, or technical guidance affecting wetland systems;

(3) help develop and field test, national policies prior to implementation such as wetland, delineation, classification of wetlands, methods for sequencing wetland mitigation responses, the utilization of mitigation banks;

(4) help develop and carry out joint technical assistance and cooperative training programs as provided in section 803;

(5) help develop criteria and implementation strategies for facilitating State conservation plans and strategies, local and regional wetland planning, wetland restoration and creation, and State and local permitting programs pursuant to section 404(e) or 404(g) of the Federal Water Pollution Control Act; and

(6) help develop a national strategy for the restoration of wetland ecosystems pursuant to section 6 of this Act.

(c) MEMBERSHIP.—The Committee shall be composed of 18 members as follows:

(1) The Administrator or the designee of the Administrator.

(2) The Secretary or the designee of the Secretary.

(3) The Director of the United States Fish and Wildlife Service or the designee of the Director.

(4) The Chief of the Natural Resources Conservation Service or the designee of the Chief.

(5) The Undersecretary for Oceans and Atmosphere or the designee of the Under Secretary.

(6) One individual appointed by the Administrator who will represent the National Governor's Association.

(7) One individual appointed by the Administrator who will represent the National Association of Counties.

(8) One individual appointed by the Administrator who will represent the National League of Cities.

(9) One State wetland expert from each of the 10 regions of the Environmental Protection Agency. Each member to be appointed under this paragraph shall be jointly appointed by the Governors of the States within the Environmental Protection Agency's region. If the Governors from a region cannot agree on such a representative, they will each submit a nomination to the Administrator and the Administrator will select a representative from such region.

(d) TERMS.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

(e) VACANCIES.—A vacancy in the Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

(f) PAY.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) COCHAIRPERSONS.—The Administrator and one member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) (selected by such members) shall serve as cochairpersons of the Committee.

(h) QUORUM.—Two-thirds of the members of the Committee shall constitute a quorum but a lesser number may hold meetings.

(i) MEETINGS.—The Committee shall hold its first meeting not later than 120 days after the date of the enactment of this Act. The Committee shall meet at least twice each year thereafter. Meetings will be opened to the public.

SEC. 805. STATE AND LOCAL WETLAND CONSERVATION PLANS AND STRATEGIES; GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.

(a) STATE WETLAND CONSERVATION PLANS AND STRATEGIES.—Subject to the requirements of this section, the Administrator shall make grants to States and tribes to assist in the development and implementation of wetland conservation plans and strategies. More specific goals for such conservation plans and strategies may include:

(1) Inventorying State wetland resources, identifying individual and cumulative losses, identifying State and local programs applying to wetland resources, determining gaps in such programs, and making recommendations for filling those gaps.

(2) Developing and coordinating existing State, local, and regional programs for wetland management and protection on a watershed basis.

(3) Increasing the consistency of Federal, State, and local wetland definitions, delineation, and permitting approaches.

(4) Mapping and characterizing wetland resources on a watershed basis.

(5) Identifying sites with wetland restoration or creation potential.

(6) Establishing management strategies for reducing causes of wetland degradation and restoring wetlands on a watershed basis.

(7) Assisting regional and local governments prepare watershed plans for areas with a high percentage of lands classified as wetlands or otherwise in need of special management.

(8) Establishing and implementing State or local permitting programs under section 404(e) or 404(h) of the Federal Water Pollution Control Act.

(b) Regional and Local Wetland Planning, Regulation, and Management Programs.—Subject to the requirements of this section, the Administrator shall make grants to States which will, in turn, use this funding to make grants to regional and local governments to assist them in adopting and implementing wetland and watershed management programs consistent with goals stated in section 101 of the Federal Water Pollution Control Act and section 802 of this Act. Such plans shall be integrated with (where appropriate) or coordinated with planning efforts pursuant to section 319 of the Federal Water Pollution Control Act. Such programs shall, at a minimum, involve the inventory of wetland resources and the adoption of plans and policies to help achieve the goal of no net loss of wetland resources on a watershed basis. Other goals may include, but are not limited to:

(1) Integration of wetland planning and management with broader water resource and land use planning and management, including flood control, water supply, storm water management, and control of point and nonpoint source pollution.

(2) Adoption of measures to increase consistency in Federal, State, and local wetland definitions, delineation, and permitting approaches.

(3) Establishment of management strategies for restoring wetlands on a watershed basis.

(c) Grants To Facilitate the Implementation of Section 404.—Subject to the requirements of this section, the Administrator may make grants to States which assist the Federal Government in the implementation of the section 404 Federal Water Pollution Control program through State assumption of permitting pursuant to sections 404(g) and 404(h) of such Act through State permitting through a State programmatic general permit pursuant to section 404(e) of such Act or through monitoring and enforcement activities. In order to be eligible to receive a grant under this section a State shall provide assurances satisfactory to the Administrator that amounts received by the State in grants under this section will be used to issue regulatory permits or to enforce regulations consistent with the overall goals of section 802 and the standards and procedures of section 404(g) or 404(e) of this Act.

(d) Maximum Amount.—No State may receive more than $500,000 in total grants under subsections (a), (b), and (c) in any fiscal year and more than $300,000 in grants for subsection (a), (b), or (c), individually.

(e) Federal Share.—The Federal share of the cost of activities carried out using amounts made available in grants under this section shall not exceed 75 percent.

(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $15,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 806. NATIONAL COOPERATIVE WETLAND ECOSYSTEM RESTORATION STRATEGY.

(a) Development.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in cooperation with other Federal agencies, State, and local governments, and representatives of the private sector, shall initiate the development of a National Cooperative Wetland Ecosystem Restoration Strategy.

(b) Goals.—The goal of the National Cooperative Wetland Ecosystem Restoration Strategy shall be to restore damaged and degraded wetland and riparian ecosystems consistent with the goals of the Water Pollution Control Amendments and the goals of section 802, and the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

(c) Functions.—The National Cooperative Wetland Ecosystem Restoration Strategy shall—

(1) be designed to help coordinate and promote restoration efforts by Federal, State, regional, and local governments and the private sector, including efforts authorized by the Coastal Wetlands Planning, Protection, and Restoration Act, the North American Waterfowl Management Plan, the Wetlands Reserve Program, and the wetland restoration efforts on Federal, State, local, and private lands;

(2) involve the Federal, State, and local Wetlands Coordination Committee established pursuant to section 804;

(3) inventory and evaluate existing restoration efforts and make suggestions for the establishment of new watershed specific efforts consistent with existing Federal programs and State, regional, and local wetland protection and management efforts;

(4) evaluate the role presently being played by wetland restoration in both regulatory and nonregulatory contexts and the relative success of wetland restoration in these contexts;

(5) develop criteria for identifying wetland restoration sites on a watershed basis, procedures for wetlands restoration, and ecological criteria for wetlands restoration; and

(6) identify regulatory obstacles to wetlands ecosystem restoration and recommend methods to reduce such obstacles.

SEC. 807. PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

(a) Permit Monitoring and Tracking.—Section 404(a) (33 U.S.C. 1344) is amended by adding at the end thereof the following: "The Secretary shall, in cooperation with the Administrator, establish a permit monitoring and tracking programs on a watershed basis to monitor the cumulative impact of individual and general permits issued under this section. This program shall determine the impact of permitted activities in relationship to the no net loss goal. Results shall be reported biannually to Congress.".

(b) Issuance of General Permits.—Paragraph (1) of section 404(e) is amended by inserting "local," before "State, regional, or nationwide basis" in the first sentence.

(c) Revocation or Modification of General Permits.—Paragraph (2) of section 404(e) is amended by striking the period at the end and inserting "or a State or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State or local programmatic general permits.".

(d) Programmatic General Permits.—Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(3) Programmatic general permits.—Consistent with the following requirements, the Secretary may, after notice and opportunity for public comment, issue State or local programmatic general permits for the purpose of avoiding unnecessary duplication of regulations by State, regional, and local regulatory programs:

"(A) The Secretary may issue a programmatic general permit based on a State, regional, or local government regulatory program if that general permit includes adequate safeguards to ensure that the State, regional, or local program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the environment, including all waters of the United States, and for Federal interests, as is provided by this section and by the Federal permitting program pursuant to section 404(a). Such safeguards shall include provisions whereby the Corps District Engineer and the Regional Administrators or Directors of the Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Marine Fisheries Service (where appropriate), shall have an opportunity to review permit applications submitted to the State, regional, or local regulatory agency which would have more than minimal individual or cumulative adverse impacts on the environment, attempt to resolve any environmental concern or protect any Federal interest at issue, and, if such concern is not adequately addressed by the State, local, or regional agency, require the processing of an individual Federal permit under this section for the specific proposed activity. The Secretary shall ensure that the District Engineer will utilize this authority to protect all Federal interests including, but not limited to, national security, navigation, flood control, Federal endangered or threatened species, Federal interests under the Wild and Scenic Rivers Act, special aquatic sites of national importance, and other interests of overriding national importance. Any programmatic general permit issued under this subsection shall be consistent with the guidelines promulgated to implement subsection (b)(1).

"(B) In addition to the requirements of subparagraph (A), the Secretary shall not promulgate any local or regional programmatic general permit based on a local or regional government's regulatory program unless the responsible unit of government has also adopted a wetland and watershed management plan and is administering regulations to implement this plan. The watershed management plan shall include—

"(i) the designation of a local or regional regulatory agency which shall be responsible for issuing permits under the plan and for making reports every 2 years on implementation of the plan and on the losses and gains in functions and acres of wetland within the watershed plan area;

"(ii) mapping of—

"(I) the boundary of the plan area;

"(II) all wetlands and waters within the plan area as well as other areas proposed for protection under the plan; and

"(III) proposed wetland restoration or creation sites with a description of their intended functions upon completion and the time required for completion;

"(iii) a description of the regulatory policies and standards applicable to all wetlands and waters within the plan areas and all activities which may affect these wetlands and waters that will assure, at a minimum, no net loss of the functions and acres of wetlands within the plan area; and

"(iv) demonstration that the regulatory agency has the legal authority and scientific monitoring capability to carry out the proposed plan including the issuance, monitoring, and enforcement of permits in compliance with the plan.".

(e) GRANDFATHER OF EXISTING GENERAL PERMITS.—Section 404(e) is further amended by adding at the end the following:

"(4) GRANDFATHER OF EXISTING GENERAL PERMITS.—General permits in effect on day before the date of the enactment of the Wetlands and Watershed Management Act of 1995 shall remain in effect until otherwise modified by the Secretary.".

(f) DISCHARGES NOT REQUIRING A PERMIT.—Section 404(f) (33 U.S.C. 1344(f)) is amended by striking the subsection designation and paragraph (1) and inserting the following:

"(f) EXEMPTIONS.—

"(1) ACTIVITIES NOT REQUIRING PERMIT.—

"(A) IN GENERAL.—Activities are exempt from the requirements of this section and are not prohibited by or otherwise subject to regulation under this section or section 301 or 402 of this Act (except effluent standards or prohibitions under section 307 of this Act) if such activities—

"(i) result from normal farming, silviculture, aquaculture, and ranching activities and practices, including but not limited to plowing, seeding, cultivating, haying, grazing, normal maintenance activities, minor drainage, burning of vegetation in connection with such activities, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

"(ii) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs (where such maintenance involves periodic water level drawdowns) which provide water predominantly to public drinking water systems, groins, riprap, breakwaters, utility distribution and transmission lines, causeways, and bridge abutments or approaches, and transportation structures;

"(iii) are for the purpose of construction or maintenance of farm, stock or aquaculture ponds, wastewater retention facilities (including dikes and berms) that are used by concentrated animal feeding operations, or irrigation canals and ditches or the maintenance or reconstruction of drainage ditches and tile lines;

"(iv) are for the purpose of construction of temporary sedimentation basins on a construction site, or the construction of any upland dredged material disposal area, which does not include placement of fill material into the navigable waters;

"(v) are for the purpose of construction or maintenance of farm roads or forest roads, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the waters are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

"(vi) are undertaken on farmed wetlands, except that any change in use of such land for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to the requirements of this section to the extent that such farmed wetlands are 'wetlands' under this section;

"(vii) are undertaken in incidentally created wetlands, unless such incidentally created wetlands have exhibited wetlands functions and values for more than 5 years in which case activities undertaken in such wetlands shall be subject to the requirements of this section; and

"(viii) are for the purpose of preserving and enhancing aviation safety or are undertaken in order to prevent an airport hazard.".

(g) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—Section 404(f) is further amended by adding the following:

"(3) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—

"(A) IN GENERAL.—For purposes of this section, the following shall not be considered navigable waters:

"(i) Irrigation ditches excavated in uplands.

"(ii) Artificially irrigated areas which would revert to uplands if the irrigation ceased.

"(iii) Artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and which are used exclusively for stock watering, irrigation, or rice growing.

"(iv) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons.

"(v) Temporary, water filled depressions created in uplands incidental to construction activity.

"(vi) Pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

"(vii) Artificial stormwater detention areas and artificial sewage treatment areas which are not modified natural waters.

"(B) DEMONSTRATION REQUIRED.—Subparagraph (A) shall not apply to a particular water body unless the person desiring to discharge dredged or fill material in that water body is able to demonstrate that the water body qualifies under subparagraph (A) for exemption from regulation under this section.".

SEC. 808. TECHNICAL ASSISTANCE TO PRIVATE LANDOWNERS, CODIFICATION OF REGULATIONS AND POLICIES.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(u)(1) The Secretary and the Administrator shall in cooperation with the United States Fish and Wildlife Service, Natural Resources Conservation Service, and National Marine Fisheries Service provide technical assistance to private landowners in delineation of wetlands and the planning and management of their wetlands. This assistance shall include—

"(A) the delineation of wetland boundaries within 90 days (providing on the ground conditions allow) of a request for such delineation for a project with a proposed individual permit application under this section and a total assessed value of less than $15,000; and

"(B) the provision of technical assistance to owners of wetlands in the preparation of wetland management plans for their lands to protect and restore wetlands and meet other goals of this Act, including control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

"(2) The Secretary shall prepare, update on a biannual basis, and make available to the public for purchase at cost, an indexed publication containing all Federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities in wetland areas pursuant to section 404(a). The Secretary and the Administrator shall also prepare and distribute brochures and pamphlets for the public addressing—

"(A) the delineation of wetlands,

"(B) wetland permitting requirements; and

"(C) wetland restoration and other matters considered relevant.".

SEC. 809. DELINEATION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(v) DELINEATION.—

"(1) IN GENERAL.—The United States Army Corps of Engineers, the United States Environmental Protection Agency, and other Federal agencies shall use the 1987 Corps of Engineers Manual for the Delineation of Jurisdictional Wetlands pursuant to this section until a new manual has been prepared and formally adopted by the Corps and the Environmental Protection Agency with input from the United States Fish and Wildlife Service, Natural Resources, Natural Resources Conservation Service, and other relevant agencies and adopted after field testing, hearing, and public comment. Any new manual shall take into account the conclusions of the National Academy of Sciences panel concerning the delineation of wetlands. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, shall develop materials and conduct training courses for consultants, State, and local governments, and landowners explaining the use of the Corps 1987 wetland manual in the delineation of wetland areas. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, may also, in cooperation with the States, develop supplemental criteria and procedures for identification of regional wetland types. Such criteria and procedures may include supplemental plant and soil lists and supplementary technical criteria pertaining to wetland hydrology, soils, and vegetation.

"(2) AGRICULTURAL LANDS.—

"(A) DELINEATION BY SECRETARY OF AGRICULTURE.—For purposes of this section, wetlands located on agricultural lands and associated nonagricultural lands shall be delineated solely by the Secretary of Agriculture in accordance with section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)).

"(B) EXEMPTION OF LANDS EXEMPTED UNDER FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt from the requirements of subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall also be exempt from the requirements of this section for such period of time as those lands are used as agricultural lands.

"(C) EFFECT OF APPEAL DETERMINATION PURSUANT TO FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt pursuant to an appeal taken pursuant to subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall be exempt under this section for such period of time as those lands are used as agricultural lands.".

SEC. 810. FAST TRACK FOR MINOR PERMITS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(w)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations to explore the review and practice of individual permits for minor activities. Minor activities include activities of 1 acre or less in size which also have minor direct, secondary, or cumulative impacts.

"(2) Permit applications for minor permits shall ordinarily be processed within 60 days of the receipt of completed application.

"(3) The Secretary shall establish fast-track field teams or other procedures in the individual offices sufficient to expedite the processing of the individual permits involving minor activities.".

SEC. 811. COMPENSATORY MITIGATION.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(x) GENERAL REQUIREMENTS.—(1) Each permit issued under this section that results in loss of wetland functions or acreage shall require compensatory mitigation. The preferred sequence of mitigation options is as set forth in subparagraph (A) and (C). However, the Secretary shall have sufficient flexibility to approve practical options that provide the most protection to the resource—

"(A) measures shall first be undertaken by the permittee to avoid any adverse effects on wetlands caused by activities authorized by the permit.

"(B) measures shall be undertaken by the permittee to minimize any such adverse effects that cannot be avoided;

"(C) measures shall then be undertaken by the permittee to compensate for adverse impacts on wetland functions, values, and acreage;

"(D) where compensatory mitigation is used, preference shall be given to in-kind restoration on the same water body and within the same local watershed;

"(E) where on-site and in-kind compensatory mitigation are impossible, impractical, would fail to work in the circumstances, or would not make ecological sense, off-site and/or out-of-kind compensatory mitigation may be permitted within the watershed including participation in cooperative mitigation ventures or mitigation banks as provided in section 404(y).

"(2) The Secretary in consultation with the Administrator shall ensure that compensable mitigation by a permitee—

"(A) is a specific, enforceable condition of the permit for which it is required;

"(B) will meet defined success criteria; and

"(C) is monitored to ensure compliance with the conditions of the permit and to determine the effectiveness of the mitigation in compensating for the adverse effects for which it is required.".

SEC. 812. COOPERATIVE MITIGATION VENTURES AND MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(y)(1) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Administrator shall jointly issue rules for a system of cooperative mitigation ventures and wetland banks. Such rules shall, at the minimum, address the following topics:

"(A) Mitigation banks and cooperative ventures may be used on a watershed basis to compensate for unavoidable wetland losses which cannot be compensated on-site due to inadequate hydrologic conditions, excessive sedimentation, water pollution, or other problems. Mitigation banks and cooperative ventures may also be used to improve the potential success of compensatory mitigation through the use of larger projects, by locating projects in areas in more favorable short-term and long-term hydrology and proximity to other wetlands and waters, and by helping to ensure short-term and long-term project protection, monitoring, and maintenance.

"(B) Parties who may establish mitigation banks and cooperative mitigation ventures for use in specific context and for particular types of wetlands may include government agencies, nonprofits, and private individuals.

"(C) Surveys and inventories on a watershed basis of potential mitigation sites throughout a region or State shall ordinarily be required prior to the establishment of mitigation banks and cooperative ventures pursuant to this section.

"(D) Mitigation banks and cooperative mitigation ventures shall be used in a manner consistent with the sequencing requirements to mitigate unavoidable wetland impacts. Impacts should be mitigated within the watershed and water body if possible with on-site mitigation preferable as set forth in section 404(x).

"(E) The long-term security of ownership interests of wetlands and uplands on which projects are conducted shall be insured to protect the wetlands values associated with those wetlands and uplands;

"(F) Methods shall be specified to determine debits by evaluating wetland functions, values, and acreages at the sites of proposed permits for discharges or alternations pursuant to subsections (a), (c), and (g) and methods to be used to determine credits based upon functions, values, and acreages at the times of mitigation banks and cooperative mitigation ventures.

"(G) Geographic restrictions on the use of banks and cooperative mitigation ventures shall be specified. In general, mitigation banks or cooperative ventures shall be located on the same water body as impacted wetlands. If this is not possible or practical, banks or ventures shall be located as near as possible to impacted projects with preference given to the same watershed where the impact is occurring.

"(H) Compensation ratios for restoration, creation, enhancement, and preservation reflecting an overall goal of no net loss of function and the status of scientific knowledge with regard to compensation for individual wetlands, risks, costs, and other relevant factors shall be specified. A minimum restoration compensation ratio of 1:1 shall be required for restoration of lost acreage with larger compensation ratios for wetland creation, enhancement and preservation.

"(I) Fees to be charged for participation in a bank or cooperative mitigation venture shall be based upon the costs of replacing lost functions and acreage on-site and off-site; the risks of project failure, the costs of long-term maintenance, monitoring, and protection, and other relevant factors.

"(J) Responsibilities for long-term monitoring, maintenance, and protection shall be specified.

"(K) Public review of proposals for mitigation banks and cooperative mitigation ventures through one or more public hearings shall be provided.

"(2) The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for creating and implementing mitigation banks and cooperative ventures and for evaluating alternative approaches for mitigation banks and cooperative mitigation ventures as a means of contributing to the goals established by section 101(a)(8) or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403). The Secretary shall also monitor and evaluate existing banks and cooperative ventures and establish a number of such banks and cooperative ventures to test and demonstrate:

"(A) The technical feasibility of compensation for lost on-site values through off-site cooperative mitigation ventures and mitigation banks.

"(B) Techniques for evaluating lost wetland functions and values at sites for which permits are sought pursuant to section 404(a) and techniques for determining appropriate credits and debits at the sites of cooperative mitigation ventures and mitigation banks.

"(C) The adequacy of alternative institutional arrangements for establishing and administering mitigation banks and cooperative mitigation ventures.

"(D) The appropriate geographical locations of bank or cooperative mitigation ventures in compensation for lost functions and values.

"(E) Mechanisms for ensuring short-term and long-term project monitoring and maintenance.

"(F) Techniques and incentives for involving private individuals in establishing and implementing mitigation banks and cooperative mitigation ventures.

Not later than 3 years after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report evaluating mitigation banks and cooperative ventures. The Secretary shall also, within this time period, prepare educational materials and conduct training programs with regard to the use of mitigation banks and cooperative ventures.".

SEC. 813. WETLANDS MONITORING AND RESEARCH.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(z) The Secretary, in cooperation with the Administrator, the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and appropriate State and local government entities, shall initiate, with opportunity for public notice and comment, a research program of wetlands and watershed management. The purposes of the research program shall include, but not be limited—

"(1) to study the functions, values and management needs of altered, artificial, and managed wetland systems including lands that were converted to production of commodity crops prior to December 23, 1985, and report to Congress within 2 years of the date of the enactment of this subsection;

"(2) to study techniques for managing and restoring wetlands within a watershed context;

"(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

"(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.".

SEC. 814. ADMINISTRATIVE APPEALS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(aa) ADMINISTRATIVE APPEALS.—

"(1) REGULATIONS ESTABLISHING PROCEDURES.—Not later than 1 year after the date of the enactment of the Wetlands and Watershed Management Act of 1995, the Secretary shall, after providing notice and opportunity for public comment, issue regulations establishing procedures pursuant to which—

"(A) a landowner may appeal a determination of regulatory jurisdiction under this section with respect to a parcel of the landowner's property;

"(B) a landowner may appeal a wetlands classification under this section with respect to a parcel of the landowner's property;

"(C) any person may appeal a determination that the proposed activity on the landowner's property is not exempt under subsection (f);

"(D) a landowner may appeal a determination that an activity on the landowner's property does not qualify under a general permit issued under this section;

"(E) an applicant for a permit under this section may appeal a determination made pursuant to this section to deny issuance of the permit or to impose a requirement under the permit; and

"(F) a landowner or any other person required to restore or otherwise alter a parcel of property pursuant to an order issued under this section may appeal such order.

"(2) DEADLINE FOR FILING APPEAL.—An appeal brought pursuant to this subsection shall be filed not later than 30 days after the date on which the decision or action on which the appeal is based occurs.

"(3) DEADLINE FOR DECISION.—An appeal brought pursuant to this subsection shall be decided not later than 90 days after the date on which the appeal is filed.

"(4) PARTICIPATION IN APPEALS PROCESS.—Any person who participated in the public comment process concerning a decision or action that is the subject of an appeal brought pursuant to this subsection may participate in such appeal with respect to those issues raised in the person's written public comments.

"(5) DECISIONMAKER.—An appeal brought pursuant to this subsection shall be heard and decided by an appropriate and impartial official of the Federal Government, other than the official who made the determination or carried out the action that is the subject of the appeal.

"(6) STAY OF PENALTIES AND MITIGATION.—A landowner or any other person who has filed an appeal under this subsection shall not be required to pay a penalty or perform mitigation or restoration assessed under this section or section 309 until after the appeal has been decided.".

SEC. 815. CRANBERRY PRODUCTION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(bb) CRANBERRY PRODUCTION.—Activities associated with expansion, improvement, or modification of existing cranberry production operations shall be deemed in compliance, for purposes of sections 309 and 505, with section 301, if—

"(1) the activity does not result in the modification of more than 10 acres of wetlands per operator per year and the modified wetlands (other than where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

"(2) the activity is required by any State or Federal water quality program.".

SEC. 816. STATE CLASSIFICATION SYSTEMS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(cc) STATE CLASSIFICATION SYSTEMS.—

"(1) GUIDELINES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, in consultation with the Administrator, the Secretary of Agriculture, and the Director of the United States Fish and Wildlife Service, shall establish guidelines to aid States and Indian tribes in establishing classification systems for the planning, managing, and regulating of wetlands.

"(2) ESTABLISHMENT.—In accordance with the guidelines established under paragraph (1), a State or Indian tribe may establish a wetlands classification system for lands of the State or Indian tribe and may submit such classification system to the Secretary for approval. Upon approval, the Secretary shall use such classification system in making permit determinations and establishing mitigation requirements for lands of the State or Indian tribe under this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect a State with an approved program under subsection (h) or a State with a wetlands classification system in effect on the date of the enactment of this subsection.".

SEC. 817. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(26) The term 'wetland' means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

"(27) The term 'discharge of dredged or fill material' means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

"(28) The term 'mitigation bank' shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

"(29) The term 'cooperative mitigation ventures' shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.

"(30) The term 'normal farming, silviculture, aquaculture and ranching activities' means normal practices identified as such by the Secretary of Agriculture, in consultation with the Cooperative Extension Service for each State and the land grant university system and agricultural colleges of the State, taking into account existing practices and such other practices as may be identified in consultation with the affected industry or community.

"(31) The term 'agricultural land' means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, nonindustrial forest land, an area that supports a water dependent crop (including cranberries, taro, watercress, or rice), and any other land used to produce or support the production of an annual or perennial crop (including forage or hay), aquaculture product, nursery product, or wetland crop or the production of livestock.".

TITLE IX—MISCELLANEOUS

SEC. 901. OBLIGATIONS AND EXPENDITURES SUBJECT TO APPROPRIATIONS.

No provision or amendments of this Act shall be construed to make funds available for obligation or expenditure for any purpose except to the extent provided in advance in appropriation Acts.

H.R. 961

OFFERED BY: MR. STUDDS

AMENDMENT NO. 50: Page 115, strike line 5 and all that follows through line 3 on page 117 and insert the following:

(n) AMENDMENTS TO COASTAL ZONE ACT REAUTHORIZATION AMENDMENTS OF 1990.—Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "PROGRAM DEVELOPMENT.—"; and

(B) by adding at the end the following:

"(B) A State that has not received Federal approval for the State's core coastal management program pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall have 30 months from the date of approval of such program to submit a Coastal Nonpoint Pollution Program pursuant to this section. Any such State shall also be eligible for any extension of time for submittal of the State's nonpoint program that may be received by a State with a federally approved coastal management program.";

(2) in subsection (b), in the matter preceding paragraph (1), by striking "to protect coastal waters generally" and inserting "to restore and protect coastal waters where the State has determined that coastal waters are threatened or significantly degraded";

(3) in subsection (b)(3)—

(A) by striking "The implementation" and inserting "A schedule for the implementation"; and

(B) by inserting ", and no less often than once every 5 years," after "from time to time";

(4) in subsection (b) by adding at the end the following:

"(7) IDENTIFICATION OF PRIORITY AREAS.—A prioritization of the areas in the State in which management measures will be implemented.";

(5) in subsection (c) by adding at the end the following:

"(5) CONDITIONAL APPROVAL.—The Secretary and Administrator may grant conditional approval to a State's program where the State requests additional time to complete the development of its program. During the period during which the State's program is subject to conditional approval, the penalty provisions of paragraphs (3) and (4) shall not apply.";

(6) in subsection (h)(1) by striking ", 1993, and 1994" and inserting "through 2000"; and

(7) in subsection (h)(2)(B)(iv) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 2000".

H.R. 961

OFFERED BY: MR. TATE

AMENDMENT NO. 51: Insert the following new section into H.R. 961:

SEC. . FEDERAL POWER ACT PART I PROJECTS.

Section 511(a) of the Federal Water Pollution Control Act (33 U.S.C. §1371) is amended by adding after "subject to section 10 of the Act of March 3, 1899," the following, and by renumbering the remaining paragraph accordingly:

"(3) applying to hydropower projects within the jurisdiction of the Federal Energy

Regulatory Commission or its successors under the authority of Part I of the Federal Power Act (16 U.S.C. §791 et seq.); except that State water quality agencies may submit recommendations pursuant to this Act to the Commission as to those projects and the Commission shall consider those recommendations along with other agency recommendations under the comprehensive public interest licensing standard set out in section 10(a) of the Federal Power Act (16 U.S.C. §803(a));".

H.R. 961

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 52: Page 35, after line 23, insert the following:

"(2) LIMITATION.—The Administrator or a State may extend the deadline for point source compliance and encourage the development and use of an innovative pollution prevention technology under paragraph (1) only if the technology, to the greatest extent possible, is produced in the United States.

Page 35, line 24, strike "(2)" and insert "(3)".

Page 35, line 7, strike "(3)" and insert "(4)".

Page 35, line 18, strike "(4)" and insert "(5)".

H.R. 961

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 53: Page 216, line 12, strike "521" and insert "522".

Page 217, line 7, strike "521" and insert "522".

Page 219, after line 18, insert the following:

SEC. 512. AMERICAN-MADE EQUIPMENT AND PRODUCTS.

Title V (33 U.S.C. 1361–1377) is further amended by inserting before section 522, as redesignated by section 510 of this Act, the following:

"SEC. 521. AMERICAN-MADE EQUIPMENT AND PRODUCTS.

"(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

"(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Administrator, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the sense of Congress expressed by subsection (a)."

Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MR. VISCLOSKY

AMENDMENT NO. 54: Page 82, after line 21, insert the following:

(c) NATIONAL CLEAN WATER TRUST FUND.—Section 309 (33 U.S.C. 1319) is further amended by adding at the end the following:

"(i) NATIONAL CLEAN WATER TRUST FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a National Clean Water Trust Fund (hereinafter in this subsection referred to as the 'Fund') consisting of amounts transferred to the Fund under paragraph (2) and amounts credited to the Fund under paragraph (3).

"(2) TRANSFER OF AMOUNTS.—For fiscal year 1996, and each fiscal year thereafter, the Secretary of the Treasury shall transfer, to the extent provided in advance in appropriations Acts, to the fund an amount determined by the Secretary to be equal to the total amount deposited in the general fund of the Treasury in the preceding fiscal year from fines, penalties, and other moneys obtained through enforcement actions conducted pursuant to this section and section 505(a)(1), including moneys obtained under consent decrees and excluding any amounts ordered to be used to carry out mitigation projects under this section or section 505(a), as the case may be.

"(3) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such obligations shall be acquired and sold and interest on, and the proceeds from the sale or redemption of, such obligations shall be credited to the Fund in accordance with the requirements of section 9602 of the Internal Revenue Code of 1986.

"(4) USE OF AMOUNTS FOR REMEDIAL PROJECTS.—Amounts in the Fund shall be available, as provided in appropriations Acts, to the Administrator to carry out projects to restore and recover waters of the United States from damages resulting from violations of this Act which are subject to enforcement actions under this section and similar damages resulting from the discharge of pollutants into the waters of the United States.

"(5) SELECTION OF PROJECTS.—

"(A) PRIORITY.—In selecting projects to carry out under this subsection, the Administrator shall give priority to a project to restore and recover waters of the United States from damages described in paragraph (4), if an enforcement action conducted pursuant to this section or section 505(a)(1) against such violation, or another violation in the same administrative region of the Environmental Protection Agency as such violation, resulted in amounts being deposited in the general fund of the Treasury.

"(B) CONSULTATION WITH STATES.—In selecting projects to carry out under this section, the Administrator shall consult with States in which the Administrator is considering carrying out a project.

"(C) ALLOCATION OF AMOUNTS.—In determining an amount to allocate to carry out a project to restore and recover waters of the United States from damages described in paragraph (4), the Administrator shall, in the case of a priority project under subparagraph (A), take into account the total amount deposited in the general fund of the Treasury as a result of enforcement actions conducted with respect to such violation pursuant to this section or section 505(a)(1).

"(6) IMPLEMENTATION.—The Administrator may carry out a project under this subsection either directly or by making grants to, or entering into contracts with, the Secretary of the Army or any other public or private entity.

"(7) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this subsection, and every 2 years thereafter, the Administrator shall transmit to Congress a report on implementation of this subsection.".

(d) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

(1) IN GENERAL.—Section 309(d) (33 U.S.C. 1319(d)) is amended by inserting after the second sentence the following: "The court may, in the court's discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.".

(2) CONFORMING AMENDMENT.—Section 505(a) (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: ", including ordering the use of a civil penalty for carrying out mitigation projects in accordance with section 309(d)".

H.R. 961

OFFERED BY: MR. WYDEN

AMENDMENT NO. 55: Page 251, after line 2, insert the following:

"(C) PREVENTION OF REDUCTION IN FAIR MARKET VALUE OF PRIVATE HOMES.—No compensation shall be made under this section with respect to an agency action that prevents or restricts any activity that is likely to result in a total reduction in the fair market value of one or more private homes of $10,000 or more.

Page 315, after line 15, insert the following:

"(K) PRIVATE HOME.—The term 'private home' means any owner occupied dwelling, including any multi-family dwelling and any condominium.

Page 315, line 16, strike "(K)" and insert "(L)".

Page 315, line 19, strike "(L)" and insert "(M)".

Page 315, line 21, strike "(M)" and insert "(N)".

Page 316, line 14, strike "(N)" and insert "(O)".

H.R. 961

OFFERED BY: MR. YOUNG OF ALASKA

AMENDMENT NO. 56: On page 72, after line 10, insert the following:

"(e) SECONDARY TREATMENT STANDARDS.—Subsection 301(h) (33 U.S.C. 1311(h)) is amended by striking 'of the biological oxygen demanding material and'".

EXTENSIONS OF REMARKS

INTRODUCING THE PENSION PROTECTION ACT OF 1995

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. SAXTON. Mr. Speaker, I am here to speak to you this morning because $3.5 trillion in private pension funds are at risk. Why? Because the Clinton administration has targeted private pension funds as a new way to finance their liberal social spending agenda.

Faced with an angry revolt of voters, fed up with an oversized and overintrusive Federal Government, Clinton's advisers devised a behind the scenes, incremental strategy to achieve Clinton's pension grab.

The overall strategy came from a campaign document called, A National Economic Strategy calling for an $80 billion investment in an array of social projects that will be leveraged with public and private pensions.

President Clinton and his Department of Labor are trying to use private pensions to fund social investments. These social investments include: Public housing, infrastructure, and pork-barrel projects. The administration has dubbed these social projects economically targeted investments or ETI's, but I prefer to call them PTI's or politically targeted investments.

Stage 2 in Clinton's great pension grab came in June 1994, when Labor Secretary Robert Reich issued an interpretive bulletin which defined ETI's in a way that makes them seem consistent with the Employee Retirement Income Security Act, or ERISA. This law was specifically designed to ensure the safety of America's private pension funds. The strength and force of this law has now been undermined.

Stage 3 in Clinton's pension-fund grab was the establishment of a clearinghouse intended to showcase ETI investments and give them the Federal Government's seal of approval. The Clinton Labor Department, without congressional authorization I note, has already contracted to spend $1.2 million to get the clearinghouse up and running.

Stage 4 is now in the process of unfolding. As members of the press know, it has been widely reported that the President will likely nominate Assistant Treasury Secretary Alicia Munnell to be the next Governor of the Federal Reserve Board. Not long ago, Munnell proposed a 15-percent Federal tax on private pension funds to help finance the Federal Government's liberal spending habits. Once planted at the Fed, not only will Munnell be completely outside of the reach of Congress, she will also be strategically situated to help the administration execute its grab for private pensions.

Let me emphasize that targeting private pension fund investments is a radical and dangerous idea. ETI's violate the clear mandate of ERISA that a pension fund manager must give complete and undivided loyalty to the pension beneficiaries. Let me quote directly from ERISA: a pension fund manager must "discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and for the exclusive purpose of (i) providing benefits to participants and their beneficiaries; and (ii) defraying reasonable expenses of administering the plan."

Besides ETI's obvious conflict with ERISA, the best economic research indicates that pension funds that target social investments produce yields well below market averages. For instance, a 1983 study by none other than Alicia Munnell found that public pension funds that targeted social investments had assets that were significantly riskier, less liquid, and earned lower yields. Also, a 1993 study by Roberta Romano of Yale Law School concluded that the greater the political influence on the investment decision, the lower the corresponding return. And, a 1994 University of Pennsylvania study by Olivia Mitchell determined that public pension funds required to make a certain portion of in-State investments generated lower investment returns.

In light of the empirical research on ETI's and given their dubious legal standing, stage five and beyond in the great pension fund grab becomes easy to predict. The President and his administration will seek ways for the Federal Government to offer subsidies, guarantees, and other imaginative techniques to shield pension trustees from blame when ETI investing pension funds get into trouble.

Richard Ferlauto of the Center for Policy Alternatives gives us a clue to their plans: "ETI programs must be enhanced through the development and use of appropriate risk reduction mechanisms. Examples include state-funded loan guarantee programs, state or private insurance pools, and insurance premiums . . ."

This means taxpayers will be put at risk as well.

The ultimate objective would be to implement a social-responsibility requirement for private pension funds similar to the one now being imposed on banks—an ETI quota for every private pension fund. One need only refer to the ETI quota bill introduced on February 24, 1995, in California to realize the potential damage to the pension community.

What would a 5-percent quota mean if enforced at the national level? In 1993, total private pension fund assets in the United States amounted to $3.5 trillion. A 5-percent ETI quota would mean that the Government would suddenly have at its command a whopping $175 billion with which to enact the liberal social agenda. More insidiously still, a quota of even this magnitude would mean that politicians had succeeded in conscripting private pension funds into the compulsory economic service of the U.S. Government.

What Secretary Reich would make permissible today, will become compulsory tomorrow.

Today, I am introducing a bill that will protect the 36 million private pension participants from President Clinton's pension fund grab. My bill, the Pension Protection Act of 1995, will not alter the fiduciary duties laid out in ERISA. Instead, my bill will simply reiterate that the act means what it says, no more, or less.

ERISA couldn't be clearer. Trustees may not invest in ETI's because by definition ETI's seek to benefit someone other than solely the participants and beneficiaries of the pension plan; and ETI's pursue an objective other than exclusively the interest of the plan's participants and beneficiaries.

My bill removes any uncertainly by making it unambiguously clear that solely means solely not primarily or even overwhelmingly; and my bill makes it unambiguously clear that exclusively means exclusively not almost only or even just about completely. Exactly what parts of solely and exclusively doesn't the Clinton Labor Department understand?

My bill also will prohibit the Federal Government from guaranteeing, subsidizing, or encouraging social investments. And, it will put an end to the clearinghouse.

The security of our pension funds is no small issue. Every American who plans on retiring someday should be very concerned about what the Clinton administration is up to. I believe that if we act quickly, we can ensure that everyone working today can rest easier if my bill to protect their pensions is passed.

FUNDING FOR THE INTERNATIONAL MILITARY EDUCATION AND TRAINING [IMET] PROGRAM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. HAMILTON. Mr. Speaker, the Committee on International Relations will be considering the American Overseas Interests Act of 1995, authorizing foreign assistance programs for fiscal years 1996 and 1997, this week.

The International Military Education and Training [IMET] Program will be among those authorized in this legislation. The administration considers IMET a cost-effective and critically important program in advancing the U.S. interest in enhancing allies' defense professionalism and promoting professional militaries under civilian control. Accordingly, Under Secretary of Defense Slocombe has written to me, urging full funding of the administration's $39.8 million request for IMET for each fiscal year. The letter follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

THE UNDER SECRETARY OF DEFENSE,
Washington, DC, May 5, 1995.
Hon. LEE HAMILTON,
Ranking Democratic Member, Committee on International Relations, House of Representatives, Washington, DC.

DEAR MR. HAMILTON: I ask your support for full funding of the Administration's FY96 budget request for the critically important International Military Education and Training (IMET) program.

I am sensitive to the austere budget environment, but believe that less than full funding will make it virtually impossible to conduct a viable worldwide IMET program responsive to the changing international situation. Our modest, but essential, $39.8M request will request will reach more than 3,500 personnel from over 100 countries. It will enhance friends and allies' defense professionalism, strengthen their own training capabilities, and give us access and influence. The IMET program directly supports the United States' National Security and National Military Strategies. Our regional Commanders in Chief forcefully and repeatedly emphasize the program's centrality to the success of their regional security strategies.

While the FY96 request may appear to be a significant expansion of the program, in reality it would simply return IMET closer to traditional funding levels. From FY88 through FY93, annual IMET appropriations ranged from $47.4M to $42.5M. Then, in FY94, funding was precipitously cut in half, to $21.25M, with only a modest recovery to $25.5M in FY95.

Implementing the IMET program within dramatically lower funding levels of the past two years has been very difficult. Since FY91, our overriding national interest in the promotion and expansion of democracy around the world has required us to initiate IMET programs with 28 new and emerging democracies, primarily in Central Europe and the Newly Independent States. FY94–95 funding levels compelled us to curtail these new programs' growth, eliminate some traditional programs, and slash many more, particularly in Latin America, Asia, and Africa. Moreover, inflation and a smaller pool of U.S. students have significantly increased training costs for foreign students, reducing each IMET dollar's purchasing power. For example, the Army War College now costs $14,498 per student, vice $11,429 in FY93.

While we seek to return close to, though still below, the FY93 funding level, it is important to understand we are not simply returning to the earlier program. Important, positive changes have been made to the program's content and focus over the past two years. IMET has been tightly focused on professional military education and Expanded IMET (E-IMET). High cost education, such as pilot training, has been eliminated. The technical training that is still supported is focused on "training the trainer" so that countries can assume more responsibility for their own equipment-oriented instruction. Proposed FY96 funding for new democracies is 160 percent higher than in FY93, while funding for traditional programs is 25 percent less.

If we are to build upon our investments in the new and emerging democracies, maintain support for countries important to Middle East peace, and restore some of the funding for other traditional programs important to our regional strategies, the FY96 IMET request needs to be fully funded. For the Defense Department, IMET is critically important. I would be pleased to discuss these issues with you, and greatly appreciate your support for this important program.

Sincerely yours,
Walter B. Slocombe.

HONORING DR. ED WAYBURN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Ms. PELOSI. Mr. Speaker, I rise today to recognize the achievements of Dr. Edgar Wayburn and to congratulate him on receiving the 1995 Albert Schweitzer Prize for Humanitarianism. In his illustrious career, Ed has achieved distinction as a physician, environmentalist, and humanitarian. He is a worthy recipient of this award and I join his friends and colleagues in congratulating him.

Many people have described Ed as the present day incarnation of John Muir. This is not only an accurate description, but one which complements the legacy of Mr. Muir himself. During his 50 years of service with the Sierra Club, Ed was responsible for over 103 million acres of public lands in the United States being designated as protected areas. These lands included portions of the Redwood National Park, the Golden Gate/Point Reyes region, and vast tracts in Alaska. Their protected status is a tribute to Ed's tireless energy and his lifetime commitment to the preservation of our Nation's wild lands.

On behalf of the millions of Americans who seek respite in these natural sanctuaries, I salute you Ed and wish you and Peggy the best in the years to come.

TRIBUTE TO MEDICAL GROUP MISSIONS

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BAKER of California. Mr. Speaker, recently a physician from my district, Dr. Neil Wilson of Orinda, traveled to Ecuador for 2 weeks to help Indians in three Andean villages. He went with a group called Medical Group Missions, a nondenominational association designed to provide assistance to needy people worldwide.

The trip was put together by nurse Diana Bennett, with whom Dr. Wilson had served on the staff of Mt. Diablo Hospital.

As related by Dorothy Bowen in an article in "The Contra Costa Sun," Dr. Wilson in 1993 journeyed to Zimbabwe, treating AIDS patients, living in cement block houses and working with serious ill patients.

This year he traveled to South America. In describing his trip to Ecuador, Dr. Wilson said:

> We represent Jesus and His teaching and also our country * * *. The greatest gift was from them to us. They are beautiful people who have the courage to carry on day after day. It's hard to complain about my life after I get home.

It's an honor for me to recognize Dr. Wilson, Diana Bennett and the team that traveled to Ecuador. The work of these outstanding Californians reminds each of us the value of selfless service. I am pleased to recognize them today in the CONGRESSIONAL RECORD.

KILDEE HONORS VFW POST NO. 4087

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. KILDEE. Mr. Speaker, it is an honor for me to rise before you today to pay tribute to the Veterans of Foreign Wars Post No. 4087. VFW Post No. 4087 celebrated its 50th anniversary on April 29, 1995 at their beautiful facility that is located in my district in Davison, MI.

VFW Post No. 4087 boasts one of the largest memberships in the State of Michigan, with over 1300 members. The officers and members of VFW Post No. 4087 are known throughout the community for their charitable work on behalf of children. VFW Post No. 4087 is a major supporter of the VFW National Home, which has provided care to the children and grandchildren of America's veterans since 1925. VFW Post No. 4087 has also been an active supporter of Little League Baseball in our community, helping to provide equipment and uniforms so that young people will have the opportunity to play baseball. VFW Post No. 4087 has also been an energetic supporter of the Boy Scouts of America, playing host to a local Boy Scout troop.

VFW Post No. 4087 has played a key role in providing much needed medical equipment to residents of the community. The generosity of the members of Post No. 4087 have assured wheelchairs and hospital beds for those who might have otherwise gone without these essential items. Members of VFW Post No. 4087 frequently contribute their time, and travel many miles, to the nearest Veterans Hospital. The visits have helped to cheer and comfort these veterans who are sick and infirm. Many times through the years the Color Guards and the Firing Squad of Post No. 4087 have participated in events honoring our country. Their reputation precedes them. This has resulted in many invitations to attend parades and various functions in other communities, adding a touch of class and dignity to whatever event they might attend.

Mr. Speaker, VFW Post No. 4087 has provided a dignified home to the bronze plaques that honor those in our area who served in World War II. The plagues were formerly housed in the Industrial Mutual Association Auditorium but needed new home when that auditorium was discontinued. I am particularly pleased to read on these plaques the name of my brother, Kenneth Kildee, who served our country in both World War II and the Korean War.

Mr. Speaker, it is with great pride that I stand before you today, asking you and my fellow Members of Congress to honor the Veterans of Foreign Wars Post No. 4087. For 50 years they have stood firmly to their commitment to this Nation. Their dedication to protecting and promoting the enhancement of the human dignity of all Americans serves as inspiration to the entire community.

50TH ANNIVERSARY MANHASSET PUBLIC LIBRARY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents and the residents of Manhasset as the Manhasset Public Library celebrates its 50th anniversary. With an intense community spirit and desire to develop neighborhood-related services, the residents of Manhasset initiated a program in May 1945 that would provide the community with library services for half a century.

Organized by the local branch of the American Association of University Women, the Manhasset Library came into being in a small rented store with an initial collection of 1,500 volumes. Its first director was Ruth Cowell, who served in that capacity until 1972. Responding to the growth of the community and the increasing demand for more materials, the library grew and a new facility was constructed to house its every-growing materials and services. Ten short years later, the library continued its expansion and a new children's room was added. Shortly, thereafter, the Manhasset Public Library joined the 54 member Nassau Library System. In 1972, Elaine Seaton assumed the position of library director. It was during her tenure that the library's Sunday program was developed and the Friends of the Library was organized. In 1983, with Sylvia Levine serving as the director, the children's room was enlarged and the community room created. During the past 8 years, under the leadership of Marian Robertson, the library has witnessed a rapid growth in the expansion of computerized services, audio-visual materials, business and general reference services.

As the Manhasset community looks forward to an additional 50 years of outstanding library service, I ask my colleagues to join with me in applauding its efforts to help create and maintain a truly exceptional community.

BELARUS ON THE EVE OF ELECTIONS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. SMITH of New Jersey. Mr. Speaker, on Sunday, May 14, Belarus will be holding its first parliamentary elections since the dissolution of the Soviet Union in 1991. Some 2,400 registered candidates are running for 240 seats. Concerns have been raised about actions of the Belarusian Government during the pre-election period. These concerns center primarily on restrictions on the press and the assault last month on 19 parliamentarians conducting a hunger strike in the parliamentary chambers. Nearly 100 paratroopers, armed with submachine guns or wearing black masks entered the parliament, accosted the parliamentarians, beat them and dragged them into the street. The parliamentarians were protesting President Alyaksandr Lukashenka's initiative to hold a referendum that they felt would violate the Belarusian Constitution.

Restrictions on the press in Belarus, Mr. Speaker, also appear to be growing. On April 25, President Lukashenka fired the editor of a youth newspaper—the fourth editor of a nationwide newspaper he has fired since the Presidential election last July. Earlier, on March 17, Lukashenka dismissed the editor of the Belarusian parliament's daily Narodnaja Hazeta, for publishing a letter criticizing the President's pro-Russian policies. Critics are understandably distressed about this and other attempts to reign in the more independent voices within the state-subsidized press, especially since the independent press remains relatively weak. In addition, according to the newspaper Segodnya, the Belarusian media have refrained from reporting on the election campaign so as not to anger the President.

Mr. Speaker, until recent months, Belarus appeared to be making slow but steady progress on human rights and democracy. Last year, Belarus held presidential elections that were generally free and fair, and Mr. Lukashenka defeated an entrenched incumbent by a large and unexpected margin. I have become increasingly concerned, though, about the apparent backsliding in the democratic process in this strategic country on the eve of parliamentary elections. It would be unfortunate if Mr. Lukashenka should turn around and use pressure tactics to hinder free and fair elections to the legislative branch. As Chairman of the Helsinki Commission, I urge the Belarusian Government to respect its international human rights commitments, but most importantly, respect its commitments to the people of Belarus through the guarantee of unhindered, open elections.

A TRIBUTE TO JESSE J. LEWIS, JR.

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. HILLIARD. Mr. Speaker, Jesse J. Lewis, Jr., was a graduate of Miles College, where he obtained a bachelor of science degree in business administration. He continued his concern for education throughout his life, attending numerous executive continuing education programs at colleges and universities around the country.

Mr. Lewis began his illustrious advertising and communications career in 1979 with Jesse J. Lewis and Associates, where he held several important positions. Under his direction, clients won numerous prestigious awards for advertising, including a Telly which is awarded for regional and local television advertising. His unrelenting dedication and leadership enabled his clients to grow and succeed.

In addition to marketing and communications expertise, Jesse worked extensively in the production field. He was chief engineer at the New London Record Studios, where he supervised the production of radio spots, jingles, and custom music for local and national clients.

As a member of the board of directors for the police athletic team, the Alabama Ballet Theater and the Magic City Art Connection, Jesse was actively involved in civic and social work throughout Alabama. He was a member of the National Association of Marketing Developers, the Urban League, the Birmingham Area Musicians Association, and the Metropolitan Business Association. He was also chairman of special projects for Toys for Tots, and chairman of the Birmingham Crime Commission.

Jesse passed away suddenly due to a tragic car accident on February 26, 1995. He is survived by his loving mother, Helen; his devoted father, Jesse Lewis, Sr., former President of Lawson State Community College and Publisher of the Birmingham Times newspaper, and his brother, James Lewis.

Jesse Lewis, Jr., contributed immeasurably to the communications and business area of the African-American community of Birmingham, as well as to the constructive relationships with diverse business entities for the State of Alabama. Jesse will be greatly missed by family and friends. However, the legacy he leaves behind shall preserve an indelible impression for all of us who came to know and love him.

CONGRATULATIONS TO RAYMOND CLARKE ELLIS

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. FORBES. Mr. Speaker, I rise today to congratulate Mr. Raymond Clarke Ellis of Setauket, Long Island, NY upon his retirement from Phoenix Home Life Mutual Insurance Co. on May 15, 1995.

Mr. Ellis' retirement is a very special occasion. It marks the conclusion of his 80 years of service to the Phoenix Insurance Co. That's right. Eighty years. That's a remarkable amount of time for anybody to remain employed, especially at the very same company.

On June 1, 1915, Mr. Ellis joined what was then called the Home Life Insurance Co. as an office staff person. He spent 7 years as a field underwriter and then became an assistant supervisor of agencies. In 1928—1 year before the Great Depression—Mr. Ellis was named head of the New York City agency. And Mr. Ellis has been producing business for the company ever since.

Raymond Ellis still commutes on the Long Island Railroad from his home in beautiful Setauket, Long Island to New York City. An avid swimmer and accomplished handball player, I'm sure that Mr. Ellis could continue this commute for at least another 25 years.

Mr. Ellis is also an active member of his community, serving in several charitable organizations, including the Fraternity of the Masons which he joined in 1919. As a community leader, Mr. Ellis has proven that the strongest people are those who serve others.

Raymond Ellis is certainly a model of hard work and dedication. I'm confident that if we all reflected upon the contributions that Mr. Ellis has already given, we would all be inspired to try a little harder and give a little more. He truly is an exemplary role model.

On behalf of the people of Long Island, I congratulate Mr. Ellis on a job well done. We wish him the best of luck for his retirement.

WELCOME TO OLIVIA ALEXANDRA BECERRA

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BECERRA. Mr. Speaker, it is with great joy that I inform my colleagues that on April 25, 1995, my wife, Carolina, gave birth to Olivia Alexandra, our second daughter.

Because she was born near the end of the Easter district work period, I elected to remain in Los Angeles during the week of May 1 to be with and help care for her during her first week home. As such, I missed a number of recorded votes when the House met on May 2. I would have voted on each amendment and bill:

On motion to instruct conferees on H.R. 1158, Omnibus Rescissions and Supplemental Appropriations (rollcall 303)—Aye.

On final passage of H. Con. Res. 53, visit by President of Taiwan (rollcall 304)—Aye.

On final passage of H. Res. 135, condemnation of the Oklahoma City bombing (rollcall 305)—Aye.

Olver amendment to H.R. 655, Hydrogen Future Act (rollcall 306)—Aye.

Brown of California amendment to H.R. 655 (rollcall 307)—Aye.

THE SARAH WEBER HOME INFUSION CONSUMER PROTECTION ACT OF 1995

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BROWN of Ohio. Mr. Speaker, today, I introduce the Sarah Weber Home Infusion Consumer Protection Act of 1995 in honor of Sarah Weber, a young girl from Ohio.

Unfortunately, many of the most vulnerable patients who depend on home infusion therapy are currently at the mercy of certain unscrupulous home infusion providers. This legislation will ensure that patients are served more appropriately by these providers.

Let me share with you Sarah's story. Sarah was a happy little girl from Cleveland Heights, OH, who suffered from cerebral palsy and a rare digestive disorder that would not allow her to tolerate food. Given her condition, she needed to be fed and medicated intravenously. Wanting to stay with her family at home, Sarah received this treatment with her mother as her nurse. It sounds like the perfect situation. Unfortunately for Sarah and her family, it was not.

Instead, Marie was plagued by bill collectors once her $2 million insurance policy ran out. Sometimes, the wrong medications were delivered. Thankfully, Marie was astute enough to recognize the mistake and resolve the situation before harm could be done. Sarah was dropped by one provider, without notice, left hanging by a thread between life and death, with only a day's worth of life sustaining supplies.

These are just a few of the examples of the lack of quality standards and harmful practices that exist. My bill will require home infusion companies to be licensed according to quality standards included in the law. Further, the bill would crack down on fraud in the industry by extending the current restrictions on physician referrals to companies in which they have a financial interest to home infusion companies and all payers.

I believe this bill will go far to eliminate the abuses and will restore families faith in home infusion. Many seriously ill patients depend on home infusion for their medication or nutrients. In many cases, the available technology has enabled them to remain in the comfort of their own homes while they receive treatment. Yet, what good is treatment at home if it is of questionable quality? We must ensure that the care patients receive at home is of the utmost quality and that the patient's physician is involved in the process.

A summary of the bill follows. I invite all my colleagues to join me in cosponsoring this important legislation.

SUMMARY OF SARAH WEBER HOME INFUSION CONSUMER PROTECTION ACT OF 1995

1. Licensure: Require home infusion providers to be licensed according to the standards defined in the bill.

The language of the bill requires persons providing, or arranging for the provision of services, to hold a license. In this context, persons will apply to individuals or companies, whichever applies.

Further, the bill defines home infusion broadly to encompass all types of home infusion providers.

2. Standards: The bill would require providers: to maintain clinical records; adhere to written protocols and policies; make services available 24 hours a day, seven days a week; coordinate all home infusion therapy services with the patient's physician; conduct a quality assessment and assurance program including drug regimen and review and coordination of patient care; assure that only trained (and licensed if necessary) personnel provide infusion products or services; assume responsibility for the quality of services provided by others under arrangements with the person; establish appropriate protocols and explain protocols clearly to patients prior to the initiation of treatment plan; and, meet other requirements which the Secretary may determine are necessary to assure the safe and effective provision of home infusion therapy services.

3. Authorizes Funds for Start up Grants to the States: The bill provides for the authorization of funds to provide assistance to the states in establishing a licensing system. It further states to require the payment of a fee for the processing and licensing of companies.

4. Restrictions on Referrals: The legislation will ban physicians from referring patients to home infusion providers in which they have a financial interest. This requirement would apply to all payers.

5. Enforcement: The bill would be enforced via civil monetary penalties determined by the Secretary of Health and Human Services but not to exceed $10,000. The Secretary may also file an action to enjoin persons from violating the Act.

6. Study: The bill would require the study of the feasibility and economic impact of coverage of infusion services that may otherwise be covered in a hospital setting.

DR. BARBARA BARLOW, A GUARDIAN ANGEL FOR THE CHILDREN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. RANGEL. Mr. Speaker, I would like to bring to your attention and to the attention of my colleagues here in the house, a story about a very dedicated doctor committed to helping save the lives of our children in the Harlem community and beyond.

This guardian angel of which I speak is Dr. Barbara Barlow, chief of Pediatric Surgery at Harlem Hospital Center.

Her push for prevention in helping keep our children on the playgrounds and out of emergency rooms, was depicted recently in a story in Parade Magazine, April 16, 1995.

I am proud to have such a remarkable and devoted individual caring for the children in the Harlem community.

HER PUSH FOR PREVENTION KEEPS KIDS OUT OF ER

(By Peter Hellman)

Dr. Barbara Barlow still recalls the 4-year-old boy who arrived at Harlem Hospital Center 20 years ago, soon after she had been appointed chief of pediatric surgery. "He tumbled head-first out a fourth-floor window while his mother went to answer the phone," she told me. "Multiple fractures. Brain dead. An only child. It was just so incredibly sad."

Dr. Barlow was then treating an average of one dozen children annually who'd fallen from windows. "I only saw kids who were still breathing," said Barlow. "Others had been taken directly to the morgue."

Convinced that "prevention is better than sewing them up," Dr. Barlow decided to get involved. She knew that installing inexpensive window gates would remedy the problem and that a new law required New York City Landlords to install the guards upon request. But compliance was spotty, so Barlow put her energy into a campaign, started by the city's health department, called "Children Can't Fly." Harlem students acted our dramas about window falls. They were sent home from hospital clinics with window-guard request forms. At the culmination of the campaign, "Children Can't Fly" balloons were tied to window gates all over Harlem.

The result? Last year, Dr. Barlow treated only one window-fall victim.

If window falls could be so decisively reduced by attacking root causes, reasoned Dr. Barlow, why not also the other kinds of trauma injuries to Harlem's children? Through the mid-1980s, they were being hurt at a rate that was double the national average. Now, thanks to the Injury Prevention Program that Dr. Barlow established in 1988, admissions of children with trauma injuries to Harlem Hospital have been reduced by 44 percent.

Dr. Barlow first focused on Harlem's dirty and dangerous playgrounds. Emergency-room data showed that they caused many injuries. To help upgrade the playgrounds, she persuaded the nonprofit Robert Wood Johnson Foundation of Princeton, N.J., to provide a $240,000 grant. ("A very untraditional use for our money in terms of health care," admitted Michael Beachler, a program officer for the foundation.)

Though she was outwardly confident, Dr. Barlow remembers "lying awake all night and thinking, 'What if we can't get anyone to fix these playgrounds'?" But it turned out Barlow could put people together as well as bodies. With the cooperation of city agencies, schools and volunteer groups (she calls her own role "coalition-building"), more than a dozen playgrounds were made safer. Metal swings—which too often smashed into children, sometimes fracturing skulls—were replaced by soft rubber ones. Broken climbing bars with jagged points also were replaced. Pocked asphalt, which so easily tripped dashing feet, yielded to rubberized surfaces. Graffiti-strewn walls were painted over with cheerful murals by schoolchildren. Five entirely new playgrounds with Harlem motifs were created.

Dr. Barlow didn't stop there. When a child was raped in the darkness of unkempt Jackie Robinson Park in northern Harlem, where the lights had long been out, she demanded that city officials get the lights back on. Now, Little League teams once again play on the park's renovated fields, and two of the teams are sponsored by Harlem Hospital.

While sports have their place, they can't give a child what gardening can, according to Bernadette Cozart, a gardener for the city parks department. Her "Greening of Harlem" project works in cooperation with the Injury Prevention Program. Under Cozart's eye, children fill vacant lots and playground plots with flowers and vegetables. Typical is the garden at P.S. 197, an elementary school. Roses, lilies, tomatoes, eggplants, even collard greens thrive there. "I have kids who wouldn't eat anything green until they started growing it," said Cozart.

Like gardening, the hospital's popular dance program might seem far afield from injury prevention. But time spent dancing is time away from the mean streets of the inner city. "Why shouldn't these children be loaded up with afterschool activities, just like suburban children are?" asked Dr. Barlow.

No Harlem child, however, can avoid the streets: 48 percent of pediatric trauma injuries at Harlem Hospital involve motor vehicles. So "Safety City," a course for third-graders on how to be a safe pedestrian, is part of the Injury Prevention Program (aided by the city's department of transportation). Another part of the program is the Urban Youth Bike Corps, which provides helmets and bicycle-repair instruction, while the KISS (Kids, Injuries and Street Smarts) project educates teens about gun violence.

So varied has the Injury Prevention Program become that it's easy to assume Dr. Barlow has little time left for old-fashioned doctoring. That would be a mistake. She still takes a turn of duty every fourth night, though, as a department chief, she doesn't have to.

Dr. Barlow's pioneering program is now going national, thanks to a new $1.1 million grant from the Robert Wood Johnson Foundation. Pittsburgh, Chicago and Kansas City, Mo., are the first cities to replicate it. At Harlem Hospital, meanwhile, the surest sign of the continuing downward trend in trauma injuries is a dark corner of the pediatric ward. "We used to have patients hanging off the rafters when I first came here." said Dr. Barlow. "Now I've closed off six beds. We don't need them anymore."

SOCIAL SECURITY COURT OF APPEALS ACT OF 1995

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. JACOBS. Mr. Speaker, I am today introducing the Social Security Court of Appeals Act of 1995 which creates a court to adjudicate appeals from Federal district court related to Social Security. A summary prepared by the minority staff of the Subcommittee on Social Security follows:

The past decade has witnessed increasing regional variation in the standards of eligibility used by the Social Security Administration [SSA] to evaluate applications for disability benefits. A significant cause of this variation is the Federal courts' increased role in reviewing SSA decisions and interpreting agency regulations. Court intervention has been, and continues to be, vitally important in protecting the right of claimants. However, the regional nature of court jurisdiction can also serve to fragment Social Security disability standards along geographic lines and result in disparities in treatment of similarly situated claimants.

To address this problem, this legislation would establish a single, national Social Security Court of Appeals. This court would be modeled after the court of appeals for the Federal circuit, which has jurisdiction over patent and trademark law, international trade, and the Court of Claims. The new court would replace the 12 Federal circuit courts of appeal in adjudicating Social Security and Supplemental Security Income [SSI] benefit appeals from Federal district courts. The court would consist of five judges with lifetime appointments. It would render appeal decisions in panels of three judges, as is the case at present with Federal circuit courts of appeal. The new court would be located in Washington, DC, but would have authority to travel as it deemed necessary. As the single body to adjudicate Social Security and SSI appeals from Federal district courts, this court would be positioned to articulate a consistent body of case law and to eliminate regional discrepancies in SSA policy.

Claimants' rights to appeal SSA decisions to Federal district courts would be unaffected by this legislation. Moreover, decisions of the Social Security Court of Appeals would be appealable to the U.S. Supreme Court, just as Social Security decisions by the circuit courts of appeal are under current law.

DOD INCREMENTAL COSTS IN SUPPORT OF U.N. PEACEKEEPING

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. HAMILTON. Mr. Speaker, many members have expressed interest in the scope and nature of incremental costs incurred by the Department of Defense in support of peacekeeping operations conducted or authorized by the United Nations. This issue was the subject of some confusion during the debate in the House on H.R. 7, the National Security Revitalization Act.

On January 13, I wrote to Secretary of Defense William Perry requesting detailed information on these costs. On February 15, I received an interim response from Under Secretary of Defense Walter Slocombe, followed by further clarification in a letter from Under Secretary Slocombe on April 18.

The Department of Defense now estimates its voluntary incremental costs in support of nonassessed U.N. peacekeeping operations at $1.41 billion in fiscal year 1994. As Under Secretary Slocombe points out in his latest letter:

> Were the United States to credit amounts of this size against our annual U.N. peacekeeping assessment, it would cancel out our entire yearly contribution, thereby seriously impairing the U.N.'s capability to conduct peacekeeping operations.

Because these are now the latest official Department of Defense estimates of these costs, I ask that this correspondence be included in the RECORD.

COMMITTEE ON
INTERNATIONAL RELATIONS,
Washington, DC, January 13, 1995.

Hon. WILLIAM J. PERRY,
Secretary of Defense, Department of Defense, The Pentagon, Washington, DC.

DEAR SECRETARY PERRY: I write concerning the Committee on International Relations impending markup of H.R. 7, the foreign affairs portion of the "Contract with America", and information we need prior to that markup in order to defend the Administration's position.

Two provisions in H.R. 7, if enacted as currently drafted, would cripple the ability of the United States to support U.N. peacekeeping operations, and might well shut down such operations altogether. Sections 501 and 508 of that legislation, taken together, would prohibit effectively the ability of the Defense Department to support U.N. peacekeeping operations, and off-set any DOD support for U.N. authorized actions against the U.S. peacekeeping assessment to the U.N.

I believe that these provisions stem from a political perception that DOD participation in or support for U.N. peacekeeping operations and related activities has had a negative impact on U.S. military readiness. While I anticipate a lengthy debate this year in Congress on the subject of U.S. military readiness generally, my problem is that we in Congress do not have the necessary information to have an informed debate on whether and how DOD support for U.N. peacekeeping operations might contribute to the readiness issue.

I therefore would urge you to provide at your earliest possible convenience the following information:

How does DOD differentiate between direct and indirect support for "Contingency Operations", and for direct and indirect support for U.N. peacekeeping operations?

What costs has DOD incurred in Fiscal Year 1994 for contingency operations for U.N. authorized operations, such as the no-fly zone in Iraq? For "Blue Helmet" operations such as UNSOM II?

How much was DOD reimbursed by the U.N. in Fiscal Year 94 for support of U.N. peacekeeping operations? In each case, at what time were DOD costs incurred, on what date did DOD request each such reimbursement, and when did each such U.N. reimbursement occur?

How much of these costs in Fiscal Year 1994 have been covered by U.S. supplemental appropriations? In cases where supplemental appropriations have been provided and the U.N. has subsequently reimbursed those costs, how much has DOD returned to the U.S. Treasury?

Who within DOD compiles information on incremental costs associated with U.N. peacekeeping operations? Is it done by each service, then collated by the Office of the Secretary of Defense? Or some other way?

I look forward to your prompt response.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

THE UNDER SECRETARY OF DEFENSE,
Washington, DC, February 15, 1995.

Hon. LEE H. HAMILTON,
Ranking Democrat, Committee on International Relations, House of Representatives, Washington, DC.

DEAR CONGRESSMAN: Secretary Perry asked me to respond to your letter of January 13 about the effect of HR-7 on the ability of the United States to support UN peacekeeping activities. The provisions of the "Contract with America" embodied in HR-7 that address this issue could certainly significantly reduce the funding available to the United Nations for these efforts, especially if the U.S. position becomes the model for all nations to use. Let me discuss my concerns with three particular sections of the bill.

Section 501 would require that we deduct from our UN peacekeeping assessment the "costs of United States support for, or participation in, United Nations Peacekeeping activities for that preceding fiscal year." We oppose this. If this provision is broadly interpreted and recent experience is a guide, requiring the United States to deduct these costs from our peacekeeping assessment would end all U.S. assessment payments to UN peace operations—in violation of our commitment under the UN charter—or force us to cease those military activities which we voluntarily undertake to support UN operations when they serve our national security interests.

Further, this section would invite chaos in the United Nations financial system by prompting member states to adopt our unilateral policy. For example, other NATO states may seek credit for costs incurred in enforcing the Bosnia and Iraq no-fly zones; Japan might seek reimbursement for the fund it established to underwrite the logistics costs in Somalia or for its large voluntary contributions to the United Nations peace operation in Cambodia.

The Department also takes strong exception to Section 507, which would prohibit the United States from paying UN peacekeeping assessments until we are reimbursed for all prior-year assistance to the United Nations. The fact is, the United States already receives preferential treatment in being reimbursed promptly. Nevertheless, the process is sufficiently complex and time consuming that reimbursement takes some months to complete. In addition, any delays are due in part to the fact that many member states, including the United States, are perennially behind in paying their peacekeeping assessments to the United Nations.

Section 508 would prohibit the Department from paying incremental costs associated with participation in United Nations peace operations unless Congress has specifically appropriated funds for this purpose. This Section is an unacceptable infringement on the President's constitutional authority and could spell the end of many important U.S. operations. This provision would bar the President from deploying forces or otherwise supporting peace operations unless Congress first authorizes such operations. For example, this prohibition would have delayed the time sensitive Desert Shield/Desert Storm actions ordered by President Bush, thereby jeopardizing the success of this model of coordinated international efforts undertaken to sustain world order.

The effect of participation in United Nations peace operations on the readiness of our armed forces has been a much discussed topic. This should not be an issue. As you are aware, the Secretary of Defense has made readiness a top priority. The readiness of our military forces has clearly been demonstrated through superb performance in a wide range of contingency operations. Overall, the readiness ratings of our units remain at very high levels and the Secretary is committed to devoting the necessary resources to see our forces remain ready. Next year, in fact, our readiness funding per capita remains high, and in November 1994, the Secretary announced a $2.7 billion quality of life initiative tailored to ensure we sustain our well-trained military personnel.

We all know that peace operations are not a substitute for vigorous alliances or strong unilateral U.S. action when it is necessary to protect our vital interests. However, well-planned and well-managed United Nations peace operations have a demonstrated capacity to effectively protect and advance U.S. security and humanitarian interests. We do ourselves a disservice as a nation if in the process of identifying and taking steps to redress the shortcomings of United Nations peace operations, we disregard or disparage the concrete U.S. interests advanced by the more than 60,000 United Nations troops—98 percent of them non-American—serving in seventeen peace operations around the globe. For example, in the Persian Gulf, a 1,200 person observer mission—which includes 15 Americans—monitors Iraqi troop movements along the Iraq-Kuwait border, demonstrating the international community's continued resolve to contain Saddam Hussein's expansionist ambitions. Another longer term effort has been the UN presence in Cyprus, where 1,200 UN troops—all non-American—have successfully prevented a flareup of violence between two key NATO allies.

The enclosed fact sheet responds to each of your questions on FY 1994 funding and reimbursement for contingency operations, as well as providing information on how the Department compiles relevant cost data. I trust that the information provided advances informed congressional debate on this issue.

WALTER B. SLOCOMBE.

RESPONSES TO REPRESENTATIVE HAMILTON'S QUESTIONS

(1. How does DoD differentiate between direct and indirect support for "Contingency Operations," and for direct and indirect support for UN peacekeeping operations?)

The Department incurs costs associated with a wide range of unplanned "contingency operations." Many, but not all of these operations, are authorized by the United Nations. UN peace operations are among these UN-authorized activities.

U.S. involvement in UN related operations falls into three different categories.

(1) U.S. Participation in UN Peace Operations. A small number of U.S. troops participate in UN mandated and assessed "blue-helmeted" operations. These include some 800 U.S. military personnel serving with UNPROFOR contingents in Croatia and Macedonia and the more than 2,000 U.S. troops that served in UNOSOM II in 1993 and 1994.

(2) Support to UN Peace Operations. DoD provides various forms of support on a reimbursable basis to UN blue-helmeted peace operations under the authorities of Section 607 of the Foreign Assistance Act and the Arms Export Control Act. This support takes the form, for example, of military services to move troops or equipment to and from UN peace operations and the lease or sale of various types of equipment for such operations.

(3) U.S. Participation in Operations Authorized by the UN. Other U.S. troops participate in several operations that are authorized by the UN, often at the request of the United States as a means to gain wider international participation and support. Some of these operations are carried out in close coordination with and in the vicinity of ongoing UN peace operations. Examples include U.S. forces involved in conducting the Deny Flight operation over Croatia and Bosnia, sanctions enforcement directed against Iraq and several states of the former Yugoslavia, and the Multinational Force operation in Haiti. Also included in this category is support to UN peace operations for which the U.S. is not reimbursed (e.g., transportation support in Angola).

The Department does not differentiate between U.S. direct and indirect support for contingency operations in general, nor for UN peace operations in particular. Incremental costs are calculated for all contingency operations, including those operations identified as UN related.

Pending clarification of the definitions contained in H.R. 7, the Department has not determined which of the above types of operations and the costs associated with them should be considered "direct" and "indirect" support of UN peace operations.

(2. What costs has DoD incurred in Fiscal Year 1994 for contingency operations for UN authorized operations, such as the no-fly zone in Iraq? for "Blue Helmet" operations such as UNOSOM II?)

The table below provides FY 1994 incremental costs for each of the UN authorized operations. (Note that total incremental costs incurred by DoD for all contingency operations in FY 1994 were in excess of $1.9 billion, including responses to increased tensions in Korea, and support to pick up and process the Cuban migrants in Guantanamo and Panama as well as many UN authorized operations.)

Fiscal year 1994 U.N.-related operations DOD incremental costs[1]

[In millions of dollars]

U.S. Participation in Peace Operations:	
Former Yugoslavia (Macedonia) ..	3.0

Fiscal year 1994 U.N.-related operations DOD incremental costs[1]*—Continued*

Somalia[2]	528.0
Support to UN Peace Operations:	
Cambodia	5.0
Rwanda (UN requested airlift)	10.8
U.S. Participation in Operations Authorized by the UN:	
Angola	2.6
Former Yugoslavia (Bosnia/Croatia)	289.0
Haiti (Interdiction/Sanctions)	65.8
Haiti (Uphold Democracy)	200.8
Iraq (Provide Comfort)	91.8
Iraq (Southern Watch)	333.0
Rwanda	95.9
Western Sahara	.1
Total	1,625.8

[1] Excludes costs of longstanding UN Operations such as Korea and the Multinational Observer Force in the Sinai.

[2] Includes both the U.S. troops participating in the UN operation and the Quick Reaction Force operating in support of this effort as these costs cannot be differentiated.

(3. How much was DoD reimbursed by the UN in Fiscal Year 1994 for support of UN peacekeeping operations? In each case, at what time were DoD costs incurred, on what date did DoD request each such reimbursement, and when did each such UN reimbursement occur?)

During FY 1994, the Department received $95.9 million in reimbursements from the UN for goods and services provided to and personnel participation in UN peace operations. Most of the reimbursements ($92.8 million) were for Somalia. Of these, $11.5 million was for costs incurred in FY 1994, with the balance related to FY 1993 costs. At the minimum, it takes 90 days for the DoD to forward a bill to the United Nations, and 60 days for the United Nations to complete reimbursement.

(4. How much of these costs in Fiscal Year 1994 have been covered by U.S. supplemental appropriations? In cases where supplemental appropriations have been provided and the UN has subsequently reimbursed those costs, how much has the DoD returned to the U.S. Treasury?)

The information follows:

FISCAL YEAR 1994 UN-RELATED OPERATIONS

[In millions of dollars]

	Incremental costs	Covered by supplemental
U.S. Participation in Peace Operations:		
Former Yugoslavia (Macedonia)	3.0	3.0
Somalia	528.0	424.1
Support to U.N. Peace Operations:		
Cambodia	5.0	
Rwanda (U.N. requested Airlift)	10.8	
U.S. Participation in Operations Authorized by the U.N.:		
Angola	2.6	
Former Yugoslavia (Bosnia)	289.0	273.7
Haiti (Interdiction/Sanctions)	65.8	50.0
Haiti (Uphold Democracy)	200.8	([1])
Iraq (Provide Comfort)	91.8	92.0
Iraq (Southern Watch)	333.0	332.5
Rwanda (Unilateral Support)	95.9	122.2
Western Sahara	.1	
Total	1,625.8	1,297.5

[1] The Secretary of Defense used the Feed and Forage authority to cover $126.3 million of the costs incurred in this effort. The appropriations to cover these costs are requested in the FY 1995 Emergency Supplemental.

Note: The Department returned to the Treasury all reimbursements for costs already funded through supplemental appropriations. For FY 1994, the total amount was $25 million, of which $22 million was associated with UNOSOM II (Somalia) and the balance related to UNPROFOR (Former Yugoslavia).

(5. Who within DoD compiles information on incremental costs associated with UN peacekeeping operations? Is it done by each Service, then collated by the Office of the Secretary of Defense? Or some other way?)

The DoD Components determine the incremental costs for contingency operations in which each is involved. They report these costs to the Department of the Army, which as Executive Agent for these efforts prepares a consolidated report for all operations. The DoD is in the process of transferring the reporting responsibility to the Defense Finance and Accounting Service, an organization that has the basic mission of providing this type of service to the Department.

THE UNDER SECRETARY OF DEFENSE,
Washington, DC, April 18, 1995.

Hon. LEE HAMILTON,
Ranking Democrat, Committee on International Relations, House of Representatives, Washington, DC.

DEAR CONGRESSMAN; As I indicated in our 15 February response to your January 13 letter regarding the impact of H.R. 7 on the ability of the United States to support UN peacekeeping activities, we initiated another examination of the fiscal year 1994 costs associated with contingency operations. In particular, we wanted to provide you a more specific breakout of the costs associated with contingency operations related to United Nations Security Council resolutions, where possible. The attached information provides the best data available.

At the time that some of these UN-related operations commenced, we did not foresee the requirement to account for costs according to the authority under which U.S. forces participated, and therefore, did not require the Services or Defense Agencies to collect data at the level of detail requested in your letter. We have since remedied this through new financial procedures directed by the Under Secretary of Defense (Comptroller). In the interim, working with the Services and the Office of Management and Budget, we have been able to use existing information to develop a better estimate of the costs for certain operations. I stress, however, that the attached figures are our "best estimate" of the incremental costs since we did not require the Services and Defense Agencies to capture these precise data.

The most important point about this information is that it indicates that crediting the incremental expenditures associated with our voluntary participation in these UN-related operations would, at a minimum, reduce significantly the USG's payment of United Nations peacekeeping assessments if DoD's incremental costs were credited against the USG's assessment. The United States spent $1.4 billion in fiscal year 1994 on operations voluntarily undertaken in connection with UN Security Council resolutions. Were the United States to credit amounts of this size against our annual UN peacekeeping assessment, it would cancel out our entire yearly contribution, thereby seriously impairing the UN's capability to conduct peacekeeping operations.

I hope the following provides you with useful information and is of value during any further debate of this issue in the Congress.

Sincerely yours,

WALTER B. SLOCOMBE.

INCREMENTAL COSTS FOR FISCAL YEAR 1994 "NON-BLUE HELMET" BUT UN-RELATED OPERATIONS[1]

Operation	Cost (million)	UNSCR
Former Yugoslavia[2]	$289	
Sanctions Enforcement (Sharp Guard)	(75)	787
Humanitarian Airdrop (Provide Promise)	(77)	770
No-Fly Zone (Deny Flight)	(85)	781, 816, 836
Other Costs	(52)	
Haiti:		
Multinational Force (Uphold Democracy)	197	940
Sanctions Enforcement (Support Democracy)	65	841
Southwest Asia:		
Sanctions Enforcement/No-Fly Zone-S. Iraq (Southern Watch)	333	687
No-Fly Zone/Kurdish Relief-N. Iraq (Provide Comfort)	92	688
Somalia (non-UNOSOM II)[3]	434	794
Total	1,410	

[1] For the purposes of this analysis, the operations were limited to those carried out in relation to a UN Security Council Resolution (UNSCR) but not including UN mandated and assessed "blue helmet" peace operations.

[2] Estimates based on reports from the Services. The category titled "Other Costs" includes costs that are not attributable to the "blue-helmet" UNPROFOR operation, but are related to the other three operations in the former Yugoslavia. Further, these costs could not be allocated accurately to a specific DoD component. All other costs were related directly to a Military Department.

[3] Estimate based on reports from the Services.

IN RECOGNITION OF THE FROMM INSTITUTE FOR LIFELONG LEARNING

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Ms. PELOSI. Mr. Speaker, I rise today in recognition of the University of San Francisco's Fromm Institute for Lifelong Learning, which celebrates its 20th anniversary on May 6, 1995.

Alfred and Hanna Fromm are a living example of the American dream. As a married couple fleeing Hitler's Germany in the 1930's, they came to this country as refugees, and reaped the rewards of their hard work. Alfred was instrumental in reviving a dormant wine industry in California following Prohibition, using his talents to transform Christian Brothers, and then Paul Masson, into world-renowned labels of wine. His distributorship, Fromm & Sichel, became the largest distributor of California wines in the world.

Alfred and Hanna have never forgotten the needs of their community. They have involved themselves deeply and generously in the civic and cultural life of San Francisco. They are cofounders of the Jewish Community Museum, and have served on the boards and supported organizations as diverse as the opera and Amnesty International. Their dedicated service to the San Francisco community and the Nation is a model and inspiration for all.

In 1976, Hanna and Alfred recognized the need to expand and enhance the then severely limited educational opportunities and options available to senior San Franciscans living in retirement. Together, they set to work to provide a suitable setting where retired members of the community could pursue serious academic study among their peers and under the tutelage of their peers, but with the resources of a modern great urban university at their disposal.

Thus was born the Fromm Institute for Lifelong Learning. Thousands of seniors have enrolled in this "university within a university," presenting 8-week, noncredit, academic courses three times a year. Courses span the disciplines of psychology, literature, philosophy, science, theology, history, art, music, politics, and creative writing.

Mr. Speaker, Hanna and Alfred have received recognition and commendations from Presidents, Governors, and mayors. Yet, their deepest satisfaction comes from seeing their peers who enter the halls of the Fromm Institute for Lifelong Learning and continue the journey of learning through their retirement years. That may be the best and greatest legacy of these two extraordinary people, and on behalf of the Congress, let us join the entire San Francisco community in thanking Alfred and Hanna Fromm on the occasion of the 20th anniversary of the Fromm Institute for Lifelong Learning.

CAPT. RANDOLPH L. GUZMAN

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BAKER of California. Mr. Speaker, the entire Nation continues to mourn the tragedy in Oklahoma City. This cowardly and vicious act was an assault on our country, a wanton act of political terrorism and social destruction.

It was also an act in which dozens of individual lives were brutally ended. From small children to senior Federal employees, we have witnessed the heartbreaking spectacle of battered bodies carried out of the Murrah Federal Building, one by one.

One of these bodies was covered with an American flag. It was that of Marine Capt. Randolph L. Guzman, a native of Castro Valley, CA, a city in the East Bay area I am privileged to represent in Congress.

Captain Guzman was the recruiting station executive officer in the Murrah Building. A marine since 1983, he was a graduate of California State University at Hayward and was commissioned a second lieutenant in 1988.

A participant in Operation Desert Shield/Desert Storm, his service included tours in Virginia, Hawaii, Japan, and finally in Oklahoma. Among his many decorations are the Navy and Marine Corps Achievement Medal, the Combat Action Ribbon, and the Navy Unit Commendation. To say that Captain Guzman served faithfully is to understate the obvious. His presence in the Marine Corps was an honor for our country.

When Marine Reserve 1st Sgt. Michael S. Curtain and several former marines carried out Captain Guzman's flag-draped body from the rubble in Oklahoma City, all work around the site stopped. According to Mr. Curtain:

> Cranes had stopped. It was completely quiet. Rescuers stopped and looked; people had lined the street outside the building. Everyone was watching in silence as we brought our Marine out * * * You could tell the veterans. They were the ones with tears in their eyes.

It is with enormous pride that a grateful Nation today salutes Capt. Randolph Guzman and his service to his country. All California mourns the loss of this sterling young man, but does so with the knowledge that this son of the East Bay lived his life with a commitment to duty, honor and country that stands in the finest tradition of the Marines Corps. His life was a testimony to the Marine Corps motto: "Semper Fidelis," always faithful.

To Captain Guzman's parents, Erlinda Guzman and Rudolph Guzman, I offer my deepest sympathy. There is nothing I can say that can lessen their sense of loss. But I can assure them of America's abiding pride in their son and encourage them with the truth that the One the Bible calls "the God of all comfort" will be there for them through all the days ahead.

May God guide and bless the Guzman family, and may He guide and bless our beloved country.

KILDEE PAYS TRIBUTE TO WALTER REUTHER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in paying tribute to the late Walter P. Reuther. Mr. Reuther, and his late wife May, are being honored by the United Auto Workers with a commemorative tribute to be held on Tuesday, May 9, 1995. This tribute marks 25 years to the day they perished in a plane crash.

Walter Reuther was a true giant to the labor movement. He was the leader in the fight that gave birth to the labor movement in America. He committed his life to the workers of this Nation, assuring them justice and change in the workplace. Walter Reuther was a visionary. He established revolutionary precedents for workers including pensions, health care, and supplemental unemployment benefits. Walter Reuther is directly responsible for the standard of living that millions of Americans enjoy today.

Walter Reuther was a patriot. He was a confidante of Presidents. During World War II, his dramatic "500 Planes a Day" plan was adopted by President Franklin D. Roosevelt. It was this plan that helped galvanize the Nation's industrial might, converting automobile plants into producers of tanks and planes, leading to the eventual defeat of the Axis Powers. President Kennedy was provided with the concept of the Peace Corps by Walter Reuther in 1960, having first outlined the idea in a 1956 speech to the National Education Association. He believed that the enemies of democracy could be defeated with enlightenment, knowledge, and the free exchange of ideas.

Walter Reuther realized the labor movement should be a catalyst for social change. He waged a veritable war against racism, and was a tenacious champion of the civil rights movement. He was an ally and close supporter of Dr. Martin Luther King throughout the bittersweet days of the fifties and sixties.

Mr. Speaker, it is indeed an honor and pleasure for me to rise today to pay tribute to a true American hero, Walter P. Reuther. In recognition of his dedication to his country he has been nominated posthumously to receive the Presidential medal of Freedom in 1995. He has been an inspiration to me and countless other working men and women. I know the entire U.S. House of Representatives will join me today in honoring this great American, Walter P. Reuther.

IN RECOGNITION OF MIMI GALGANO AND SALLY CAMPBELL; WOMEN WHO ARE MAKING A DIFFERENCE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today with great pride to share with my colleagues in the House of Representatives the inspiring story of two women, Mimi Galgano and Sally Campbell, who are making a difference in the Long Island community. These women have taken a hands-on approach to aiding individuals in their neighborhoods and far beyond.

Mimi Galgano, a vibrant and enthusiastic leader, is the vice president of the Huntington Breast Cancer Action Coalition, director of the Breast Cancer Health Survey Project, a member of the Huntington Advisory Recycling Board and the first environmental chairperson of Commack.

Sally Campbell has volunteered her time and efforts to the community for the past 15 years. Currently, her volunteer efforts have been aimed at the betterment of the Cold Spring Harbor Whaling Museum. In 1982, Ms. Campbell recruited the museum's first group of volunteers, which reached the current force of 65 in 1994. She has served the museum on the board of directors as treasurer and vice president.

On April 28, 1995, these two remarkable women were honored at a special ceremony hosted by the Junior League of Long Island, an organization of women committed to promoting volunteerism and to improving the community through the effective action and leadership of trained volunteers. Its purpose is exclusively educational and charitable. Ms. Galgano and Ms. Campbell were nominated by the organizations they work with for their significant contributions to both their agencies and their communities.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join with me now in saluting Mimi Galgano and Sally Campbell, who have exhibited the ultimate commitment by working so diligently for the betterment of their communities.

HONORING JEANIE NERESON

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. RICHARDSON. Mr. Speaker, this June marks the end of an era in Los Alamos, NM. A school teacher, who has been with the school system as long as there has been a school system in Los Alamos, is retiring after 50 years of service.

Mrs. Jeanie Nereson started working for the Los Alamos Public Schools in the fall of 1944. That was the first year of the new school system—a system set up specifically to teach the children of the employees and scientists working on the Manhattan Project located on an isolated mountain in northern New Mexico.

That project of course helped us win World War II and the facilities later became the Los Alamos National Laboratories. The school system grew and Mrs. Nereson returned every September for 50 years to teach another group of children of laboratory workers.

Mrs. Nereson was reared in New York City, the daughter of Greek parents. Her childhood wasn't easy as English was her second language. She persevered and went onto college in Denton, TX. After just 3 years of schooling, she graduated from college at the age of 19.

She began her 57 year teaching career in Phar, TX. She started out with 69 first grade students. By Christmas, she was assigned 140 students. After 1½-years in Phar, she took a teaching assignment in Port Arthur, TX for 3½-years and then onto Corpus Christi for 1 year.

While studying for her masters degree during the summer at the University of Minnesota she met an educator who was given the responsibility of setting up a school system in Los Alamos, NM. Shortly thereafter she moved to Los Alamos and was with the school system from day one.

In her first year in Los Alamos in 1944, Mrs. Nereson taught a combination 5th and 6th grade class. Over the next 50 years, she worked in five different buildings and taught in every grade from one through six.

She used her summers off to travel around the world. She's been to every continent except Antarctica. Each of her excursions was an educational trip as she would bring back artifacts and other material and incorporate her findings in her lessons. Her classroom is described as a museum. She travelled as much for the children as for herself.

During the 1 year she took a sabbatical, she travelled to Brazil and did what she does best, she taught.

Over the years, Mrs. Nereson has taught some 1,800 students—many of them the sons and daughters of some of our Nation's most distinguished scientists. Some of these students have returned to Los Alamos in recent days to bid farewell to Mrs. Nereson, a local hero who will be sorely missed this September when students return to classes—never before has the Los Alamos Public Schools opened its doors without Mrs. Nereson welcoming children into a classroom.

I urge my colleagues to join me in congratulating Mrs. Nereson for her 57 years of educating our youth and wish her well during her retirement. Los Alamos County will be paying special tribute to Mrs. Nereson on Friday, May 19 which is being declared Jeanie Nereson Day in Los Alamos.

CONGRATULATIONS TO TONY D'AMICO, CITIZEN OF THE YEAR

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. WELLER. Mr. Speaker, tonight we are here to honor a gentleman who has brought so much to Joliet and to this region. He is being honored by UNICO National as their Citizen of the Year for his struggle as a young boy growing up in Italy and for his many successes as a restaurateur here in Joliet.

Mr. Anthony "Tony" D'Amico grew up in Eufemia, Italy as 1 of 11 children. Realizing his opportunities were limited in his hometown, he migrated to America in a steamship in 1920 at the age of 16. His first venture in America was in Pennsylvania where he worked at a steel company. He then moved to Joliet where he served as a member of the Local #75 Laborers Union for 22 years.

However, Mr. D'Amico's true calling was the restaurant business. He ran the lunch counter in Anderson's Gas Station from 1947–1951 and then opened his own full-time restaurant in Troy called Tony's. The short, but popular menu made Tony's a well-known eatery.

His success has not been short-lived. At the age of 91, Tony D'Amico is famous in Joliet restaurant history. He owns D'Amico's on Jefferson, D'Amico's 214, Earl's Cafe, the Sports Bar and Grill, and D'Amico's Catering, all employing 130 people.

It is Mr. D'Amico's dedication, hard work and success that brings us here tonight to honor him. He is a model citizen who represents all immigrants that have molded this great Nation of the United States of America.

So, thank you Mr. D'Amico for your inspiration and commitment to quality of life, heritage, family values and, of course, good food.

Congratulations Tony D'Amico on being named "Citizen of the Year."

HONORING A KNOX COUNTY LEADER

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. ROGERS. Mr. Speaker, I am deeply saddened by the death of my good friend, Herman "Vance" Mills. My family and thousands of others throughout Knox County and Kentucky are devastated by this terrible and sudden loss.

Our community has lost a topnotch businessman, an active church leader, an inspiring civic and community volunteer, a political leader, and a good Christian friend. He helped everyone he could and always was willing to sacrifice his time for others.

Vance's businesses employed dozens of local people and his high-energy, friendly style is what always stood out most.

One of Knox County's most prominent citizens, he was a man who always was known for taking care of business. In 1992, Vance received the Daniel Boone Festival Award for Outstanding Citizen because of his outstanding work for our community.

At 15, Vance started drilling wells alongside his father, Kail. In the 60's, Vance became a partner in a gas distributorship. He also owned gas stations, a rock quarry, a concrete company, a bank, and two hotels.

Vance was a man who could see the future for Barbourville, Knox County and southern and eastern Kentucky. He also had the drive and resourcefulness to make his vision a reality. These improvements meant more jobs and a better economy for the region.

Vance Mills was a great leader and a good man. He offered hope to many people in Knox County, and he will be sorely missed.

HONORING DR. PHILIP SEGAN

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. ENGEL. Mr. Speaker, On May 7, 1995 Dr. Philip Segan will be honored at the Student Sponsorship Breakfast to be held by the Riverdale Temple.

It has been noted that most of the significant life cycle events in Dr. Segan's adult life are connected to the Riverdale Temple. It is rare that we find someone so committed to his community and his religious ideals.

Dr. Segan has served as co-president of the Parents' Association and then as chairperson of the schools committee. But Dr. Segan's work with the temple did not stop when his children grew up. He went on to become temple vice president and then in 1990 became the temple's 18th president—a number with great significance in Judaism.

Dr. Segan and his family have also worked with indigent families in the surrounding community through the Kingsbridge, Riverdale, Marble Hill Food and Hunger Project. Now a former Schools Committee chairperson, still an active member, and past president of the temple, Dr. Segan remains actively involved in social and educational causes both in the temple and the community.

I join with Dr. Segan's family, friends and fellow temple members in congratulating him on this honor.

THE NEED FOR UNITED NATIONS REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. HAMILTON. Mr. Speaker, there is growing pressure in the Congress for meaningful reforms in the United Nations system. Due to U.S. budgetary constraints, the need to pare down our contributions to the United Nations and focus our resources on its most effective programs has become more urgent.

On April 7, I wrote to Secretary of State Warren Christopher urging high-level attention to the issue of U.N. reform. On May 4, I received the State Department's response.

Because there is a high degree of congressional interest in this issue, I ask that this correspondence be included in the RECORD.

U.S. DEPARTMENT OF STATE,
Washington, DC, May 4, 1995.

Hon. LEE HAMILTON,
House of Representatives,
Washington, DC.

DEAR MR. HAMILTON: Secretary Christopher has asked me to respond to your letter of April 7 regarding our UN reform efforts and the possibility that Congress will not approve the full amount of our request for contributions for the UN System.

We agree that UN reform is a high priority. Like most international—and national—institutions, the UN must adapt to changing times if it is to succeed. Today, that means learning, whenever possible, to deliver better results at a lower cost. That is a goal we are working with other UN members and the UN Secretariat to achieve.

As you rightly note, this Administration has taken the lead on UN reform in preparations for the Halifax Summit. We believe that the Group of Seven should commit themselves to improve the UN's efficiency, productivity and professionalism, and to make more equitable the scale of assessments for peacekeeping. We are working cooperatively with our G–7 partners in an effort to reach consensus on these issues and to increase the likelihood that we will gain support elsewhere. It is a fact of life that real reform cannot be achieved at the United Nations without broad support from other countries.

Overall, the Administration supports peacekeeping, management, personnel and budgetary reforms designed to produce greater value for each dollar we—and others—contribute to the UN. We agree with you that the success of the new Office of Internal Oversight Services (OIOS) is important. A strong UN Inspector General is an essential ingredient for true UN reform. We believe that the appointment of Karl Paschke of Germany to this post was a good choice. To help ensure his success, our own Inspector General has agreed to detail a member of our OIG staff to the UN. We have also forwarded to the OIOS the names of several Americans for the position of Principal Investigator. We are doing our best to see that OIOS is adequately funded, and we appreciate the support you have shown for our efforts.

OIOS has the authority already to undertake audits and investigations of separately administered UN organs such as UNDP, UNICEF, and UNEP. We have recently taken steps to pursue the institutionalization of an "IG-type" function in the specialized agencies, beginning with the largest—UNIDO, IAEA, FAO, WHO, and ILO. We believe there is no organizational substitute for an oversight mechanism modeled after the UN Secretariat's OIOS, which affords the qualities of accountability, transparency, and operational independence to the membership of these organizations.

In addition, following up on President Clinton's proposal at last fall's UN General Assembly, we are working with the President of the General Assembly to establish a special high-level working group to review existing studies on UN reform for the purpose of developing a practical strategy for implementing key recommendations on a timely basis.

We still believe that the Administration's budget request to meet our commitments to the United Nations and other international organizations is essential to our national interests. However, if our requests are not met, we will act to preserve U.S. leadership where it counts most.

Let us share with you some of our thoughts and actions as we prepare for that possibility:

First, we are continuing to closely scrutinize peacekeeping budgets, especially as we take factors from Presidential Decision Directive 25 (PDD–25) into consideration. For example, we limited operations in Georgia and Tajikistan to a small number of military observers, a relatively inexpensive means of maintaining a UN monitoring presence. The UN Mission for the Referendum in Western Sahara (MINURSO) has continued longer than we expected and has encountered several delays in achieving its objectives. Recently, however, the parties have demonstrated a commitment to the process and real gains have been made in registering and identifying potential voters, the first step necessary for holding the referendum. We agree with you that we cannot continue to support an operation that does not accomplish its goals and is not cost-effective. We will review MINURSO's progress in all areas to determine if it should be terminated or if an extension should be granted and a referendum can be successfully held.

Second, we are examining the ways and means of withdrawing from some organizations whose activities are of lesser priority to us.

Third, we are pushing for UN agency and other international organization budgets for the coming biennium that are below the zero real growth rate we have historically supported.

Fourth, we are actively reviewing options for reducing waste, decreasing costs and improving performance through the possible consolidation of agencies and programs where that is possible.

Fifth, we are opposing the scheduling under UN auspices of new global conferences or summits (and note that each of the conferences this Administration has participated in was scheduled prior to 1993).

Finally, we are prepared to signal to organizations in which we continue to participate that U.S. withdrawal from some is possible if they are unwilling to undertake needed reforms.

In the context of considering how we can pare down our contributions while limiting damage to our leadership, it is important to recognize that in the case of most UN organizations, we are obligated either by the terms of the treaty or other international agreement establishing the organization or by general principles of international law to pay assessment through calendar year 1996, even if we notify our intent to withdraw now. We also remain similarly obligated for arrears from previous withholdings.

We note, as well, that a number of the activities you cite specifically in your letter fall within the core programs of the UN Secretariat; these are not separate organizations from which we can "withdraw." Any decision on our part to reduce our contributions in an amount equal to our share of such an activity would simply be carried on the books by the UN as an arrearage to the organization as a whole. This underlines the importance of gaining UN member support and understanding for any actions that we might take.

Many UN activities are important to us; so is the success of the organization as a whole. There is a grave risk that substantial budget reductions will harm our leverage and leadership within the UN system. We must be frank about the possibility that substantial damage to our interests will result. Nowhere is this more clearly illustrated than with peacekeeping operations which provide us options in between doing nothing and going it alone. The strategy of this Administration is to make the case for our budget as persuasively as we can, and to develop a plan for minimizing harm to our interests should the reductions nevertheless occur. In doing so, we want to emphasize that Congress must allow us to decide where to cut and not tie our hands by earmarking funds. We welcome your support and counsel with respect to this strategy.

As a matter of policy, we want to see a leaner, less-costly, more productive United Nations. We are making progress in this direction. Our prospects will be better, however, if it is clear to our allies and those around the world that our emphasis is on helping international organizations to work better, rather than on reducing costs to ourselves regardless of consequences. One approach reflects the essence of leadership; the other retreats from it.

It is not possible to paint a comprehensive picture of our thinking on this important issue in one letter. Accordingly, we would be happy to discuss this with you in more detail or put together a briefing team to meet with you at your convenience.

Thank you again for your provocative and timely letter, and for your continued leadership and support.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

COMMITTEE ON
INTERNATIONAL RELATIONS,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 7, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State, Washington, DC.

DEAR MR. CHAIRMAN. I write to urge you to continue to give your personal attention to the issue of reforming the United Nations.

I know you face many crises every day, and there is much which demands your attention. But U.N. reform has become a serious and urgent issue because of pending Congressional budget cuts for the U.N.

I believe this Administration generally has the right policy on U.N. reform. I also commend the Administration for the efforts undertaken thus far, such as establishing an office of Inspector General at the United Nations. Your efforts to put U.N. reform on the agenda for the upcoming summit in Halifax is an excellent way to demonstrate our seriousness of purpose on this issue. We need to keep pushing for concrete action to implement our U.N. reform policy.

It is quite possible if not likely that hundreds of millions of dollars are going to be cut from the U.N. budget, both assessed and voluntary. Supporters of the U.N. and peacekeeping will not be able to stop these cuts, and I doubt the Administration can veto them at the end of the day.

The Congress will be faced with the tough choice of either cutting indiscriminately across the board, or deciding which U.N. programs are most important to us, and trying to save those programs by de-funding or withdrawing from those which are less important.

I believe the second option is the proper one. It is better to have a smaller, more effective United Nations than a crippled and ineffective United Nations.

Reforming the U.N. is so tough that it will require sustained, high-level attention. Ambassador Albright, who is doing an excellent job in a critical assignment, needs your continued, full support and the support of the President on U.N. reform.

I would urge you to take the following steps.

First, the G–7 reform initiative is a good step, but this step needs to be tightly focused, and coordinated with US/UN reform efforts. The state Department might want to consider some sort of Task Force on U.N. reform, perhaps on an inter-agency basis.

Second, the Administration must decide its priorities in the U.N. assessed and voluntary budgets, and communicate those to Congressional Democrats. I would suggest that we closely examine whether we still need UNCTAD, UNIDO, the regional U.N. economic commissions, the ILO, and the FAO. The funding crisis is reaching the point where we must consider withdrawal from, or de-funding of, some of these activities.

Third, we must be prepared to push for a stronger U.N. Inspector General. He should have authority over the whole U.N. system, as well as adequate, trained staff and a reasonable budget. And, his reports must be made available, unchanged, to Members States. This has not yet happened, to my knowledge.

Fourth, we must give greater scrutiny to U.N. peacekeeping budgets. And, you must consider whether we can continue to vote for operations, which are very expensive and have operated for years without tangible progress, such as MINURSO in the Western Sahara.

All of these efforts will require close coordination with other major donor countries, as you have recognized through the G–7 initiate. We must continue working hard with those countries in order to make these reforms happen.

We will likely face these issues in a HIRC markup in early May. If the Administration doesn't decide on its priorities and let Democrats try to help you support them, Republicans will make these decisions for you. The only line of defense against those who want to destroy the U.N. is to reform it. But it must be *real* reform in order to get votes for U.N. funding.

I appreciate your consideration of this letter, and I stand ready to work with you in any way I can to help make these reforms happen. I would stress once again the gravity and urgency of these problems, and urge that we press ahead on U.N. reform efforts.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

SOCIAL SECURITY CONTINUING DISABILITY REVIEW ACCOUNT ACT OF 1995

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. JACOBS. Mr. Speaker, I am today introducing the Social Security Continuing Disability Review Account Act of 1995. A summary of the legislation prepared by the minority staff of the Social Security Subcommittee follows.

The goal of the legislation is to protect the integrity of the Social Security Disability Insurance program. It would do this by increasing the availability of funds for conducting Continuing Disability Review [CDRs]—so that people who are no longer disabled can be reviewed and removed from the disability rolls.

The bill authorizes the Social Security Administration [SSA] to use a portion of the benefit savings it derives from conducting CDRs to conduct additional CDRs. Under the proposal, the benefit savings from removing those who are no longer disabled from the disability rolls are credited to a newly established CDR account in the disability insurance [DI] trust fund. It would operate as follows:

No later than September 1 of each year, the Commissioner of Social Security would estimate the present value of DI trust fund savings for all future years resulting from cessation of benefit payments during the prior year based on CDRs. the Commissioner would certify these savings to the managing trustee of the DI trust fund.

Upon receiving the Commissioner's certification, the managing trustee would transfer to the CDR account from amounts otherwise in the DI trust fund a portion of these estimated savings. This amount would vary depending on the CDR account balance but could not exceed 50 percent of estimated savings. No later than September 15 of each year, the Commissioner would certify to the managing trustee the expenditures required to perform mandated CDRs during the coming fiscal year. These expenditures would include the cost of staffing, training, purchase of medical and other evidence, and processing related to appeals and overpayments.

Upon commencement of the fiscal year, the managing trustee would make available to the Commissioner from the CDR account, to the extent that funds were available, the amount that the Commissioner certified as necessary to perform mandated CDRs during that year. These funds could then be used by the Social Security Administration to perform the required CDRs.

SLOVENIA: A MODEL FOR EASTERN EUROPE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. OBERSTAR. Mr. Speaker, on February 16 I stood on the floor of this House, during debate on the NATO expansion bill, and asked that any efforts to bring Eastern Europe into the Western community not ignore the former Yugoslav Republic of Slovenia.

A country of just over 2 million people, independent for less than 4 years, Slovenia has successfully thrown off the economic shackles of the Socialist Yugoslav system and is leading the newly emergent countries of Eastern Europe and the Balkan States in conversion to a free and open market economy.

In per capita terms, Slovenia is the 20th largest exporter in the world, exporting over $7 billion in goods each year, which accounts for 60 percent of Slovenia's GNP. Slovenia now enjoys a lively trade with the United States, shipping $229 million worth of goods to the United States each year and importing some $180 million in United States goods annually.

It is with great pride, then, Mr. Speaker, as a Slovenian-American, that I return to the floor today to bring my colleagues more accolades over Slovenia's accomplishments. This time, the praise comes from none less than the Journal of Commerce, which headlined an April 6 editorial "A Model for Eastern Europe." I commend this article to my colleagues and to the leadership of our various executive branch departments. I ask that you remember to include Slovenia and its hard working, enterprising people when making decisions on our country's future relationship with the transitional economies and governments which have replaced the former Communist regimes of Eastern and central-southeastern Europe.

[From the Journal of Commerce, April 6, 1995]

A MODEL FOR EASTERN EUROPE

(By Timothy Ashby)

Eastern Europe has had its share of bad news recently. Painful economic reforms and factional strife in Russia, political turmoil in Poland, continuing ethnic warfare in parts of former Yugoslavia—all have made Western businessmen cautious about trade and investment in the region.

Yet one small country, Slovenia, has emerged as an economic and political model for the old socialist bloc. Slovenia's accomplishments over the past year read like a wish list for its neighbors.

1994 exports were more than 14% greater than the previous year, and now account for 60.4% of gross domestic product. Manufacturing production increased 6.8% last year while unemployment fell 1.5%.

The tolar, Slovenia's national currency, appreciated 11% against the deutsche mark in 1994. The country has a very low debt service ratio of only 5.5%.

At $6,957, Slovenia has the highest GDP per head of all former socialist bloc republics in Eastern Europe, nearly twice that of the Czech Republic. GDP grew more than 5% in 1994 and the country enjoyed a healthy current account surplus of $2.6 billion at the end of last year.

Foreigners made direct investments of $72.3 million last year.

Three factors account for Slovenia's success. The first is its geographical location. Lying at the crossroads of Western and Eastern Europe, Slovenia borders European Union members Italy on the west, Austria on its northern border, Hungary to the northeast and the Republic of Croatia to the east and south. Slovenia also has a coast on the Adriatic Sea, where the major Port of Koper serves as a gateway for international seaborne trade with all of Central Europe.

The second factor is political stability. Prime Minister Janez Drnovsek presides over a Western European-style coalition government. Slovenia is a healthy young democracy, with parties in its Parliament running the gamut from Christian Democrats and Greens to reformist communists.

Despite rivalry between the parties, an unusually high degree of consensus over economic policy has been achieved, a fact foreign investors find reassuring. All sides are committed to the transformation to a Western-style market economy, but also to maintaining a strong social safety net and to forcing money-losing state enterprises to become competitive in the private sector.

Slovenia's carefully conceived strategy for creating a modern free market economy is the third reason for its success. The government has adopted a gradualist approach to economic restructuring, striking a pragmatic middle ground between the Czech Republic's shock therapy methods and the meandering reforms undertaken by some former Soviet republics.

To lessen the political and social impact of widespread redundancies, privatization has been undertaken at a slower pace than in other former socialist countries. The government occasionally intervenes and provides help to ailing companies by guaranteeing finance-for-debt rescheduling in return for moderation in dividend distribution and wage increases.

By the end of 1994, a quarter of all Slovenia's state-owned enterprises had been privatized. The process will be accelerated during 1995 to achieve the goal of placing 50% to 65% of public assets in private hands. Preference is given to privitization via management and employee buyouts. While initially criticized by some as a method that would do little to attract foreign capital and technology, many privatized companies have established joint ventures both domestically and internationally. As a result, Slovenia has not suffered from a lack of investment in new plant and capital equipment.

Domestic savings play a major role in the modernization of Slovenia's industrial sector. The growth in all areas of demand has stimulated a continuous expansion in industrial capacity. Much of this is fueled by the capital city's Ljubljana Stock Exchange, which together with the rest of the private financial services sector contributes 3.2% of the country's GDP. Slovenia's growing number of financial institutions, as well as its beautiful Alpine landscape, justify its nickname, "the Switzerland of Eastern Europe."

Compared to many of its neighbors, where red tape can seriously impede foreign direct investment, Slovenia has implemented one of the least restrictive investment climates in Eastern Europe. Foreign investments in any form enjoy full national treatment—that is, they have the same status as Slovene legal entities. All sectors of the economy are open to foreigners operating through joint ventures. Legal entities established and registered in Slovenia, even if they have 100% foreign ownership, may own real estate. The Slovenian Parliament is considering legislation to change real estate and other business-related laws to harmonize them with the EU.

With a 30% flat tax on corporate profits, Slovenia has one of the lowest tax burdens in Europe. The tax rate is further reduced to 20% in the case of reinvestment, which actually lowers the tax rate to 24%. All foreign investors are guaranteed free transfer of profits and repatriation of invested capital, while no restrictions are placed on foreign shareholders in Slovene enterprises who want to transfer their profits abroad in foreign currency.

Germany, Austria and Italy now account for 65.9% of all Slovenian foreign investment. Businessmen in these countries see great profit potential in Slovenia because of its proximity to major markets, its political stability and the high probability that it will become an early member of both the European Union and NATO. U.S. businesses, which account for less than 1% of FDI in Slovenia, have not yet awakened to these investment opportunities. Even Australia, which contributed 2.3% of the country's foreign direct investment in 1994, invested more in Slovenia—with a population of only 2 million—than in giant but strife-torn Russia.

Slovenia's lesson for other developing countries is that political and economic stability can only be attained by a true commitment to democracy and the creation of a free market. As Slovenia rapidly approaches the time when it will be ready for membership in the European Union and NATO, its eastern and western neighbors can point to it as an example of one of the world's great success stories.

AWARD WINNING STUDENTS OF CAESAR RODNEY HIGH SCHOOL

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. CASTLE. Mr. Speaker, on April 29—May 1, 1995, more than 1,200 students from 49 States and the District of Columbia will be in our Nation's Capital to compete in the national finals of the We the People—The Citizen and the Constitution program. I am proud to announce that the class from Caesar Rodney High School will represent Delaware. These young scholars have worked diligently to reach the national finals by winning local competitions in their home state.

The distinguished members of the team representing Delaware are: Ben Alexander, Lori Arellano, Samantha Batista, Andrea Bourey, Jason Cooke, Nick Davenport, Dawn Deakins, Stephen Eggan, Angela Foor, Matt Harker, Jennifer Hitzig, Cindy Houghtaling, Lisa Huang, Barbara Jandasek, Megen Kelly, Danielle Kiefer, Erica Mahar, Molly McGinty, Lisa Moller, Adam Perza, Katie Queen, Robin Reinhard, Alison Robinson, Jayne Ruggles, Kealy Russell, Theresa Siemanowski, Jessica Tenney, Angel Tucker, Matt Welch, Sean Whaley, Huei Wong, Alison Woodall.

I would also like to recognize their teacher, Bill Windett, who deserves much of the credit for the success of the team. The district coordinator, Diane Courtney, and the State coordinator, Lewis Huffman, also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People—The Citizen and the Constitution program, supported and funded by Congress, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the We the People program, now in its 8th academic year, has provided curricular materials at upper elementary, middle, and high school levels for more than 60,000 teachers, 22,000 schools, and 20 million students nationwide.

The We the People program provides an excellent opportunity for students to gain an informed perspective about the history and principles of our Nation's constitutional government. I wish these young constitutional experts the best of luck and look forward to their future participation in politics and government.

TRIBUTE TO THE KENTUCKY DERBY

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. WARD. Mr. Speaker, today, I would like to pay tribute to one of America's most historic sporting events, the Kentucky Derby.

Last Saturday, the first Saturday in May, the Kentucky Derby, also known as the greatest 2 minutes in sports, made its 121st running at Churchill Downs in Louisville. The Kentucky Derby, dating back to 1875, is rich in American history and intense sporting drama. It may strike many as excessive that so many events, including a fireworks display, a parade, a boat race, a hot air balloon race, and many others, precede an event that only lasts 2 minutes; however, there is no other sporting event like the Kentucky Derby.

The Kentucky Derby, the first leg of the Triple Crown, is the mark by which all other races are judged and this year, as in previous years, it will set the stage for a possible Triple Crown winner.

Over 130,000 people are estimated to have attended this year's running of the Kentucky Derby with nearly 50 million people estimated to have watched the televised coverage, making the Kentucky Derby one of the most watched sporting events in the world.

Mr. Speaker, I would also like to pay tribute and draw attention to a truly remarkable program which was in place at last Saturday's running of the Kentucky Derby.

The program, coordinated by the Party Smart Organization, is a designated driver program at Churchill Downs in Louisville, which asked spectators to sign a pledge that they would be a designated driver. Designated drivers, individuals who pledge not to drink alcohol so that they may drive others home safely, have for years played an invaluable role at such sporting functions. It is through their restraint and leadership that many lives have been saved.

Designated driver programs throughout the United States, at parks such as the Astrodome, Candlestick Park, the Meadowlands, and Yankee Stadium, have reminded millions of people of the importance of responsible drinking and have reminded people of the millions of lives that are placed in jeopardy by drinking and driving.

When I attended the Kentucky Derby this year, I left Churchill Downs feeling more secure that my drive home would be safer due in large part to the efforts of these designated driver programs.

Mr. Speaker, I urge everyone to support and participate in their local designated driver programs. Together, we can help end the thousands of senseless deaths caused each year by drunk driving.

TRIBUTE TO FORMER-SPEAKER FLORENCIO (LARRY) TORRES RAMIREZ

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. UNDERWOOD. Mr. Speaker, the island of Guam lost one of its premier citizens and public servants on April 12 of this year. The Hon. Florencio Torres Ramirez, a former speaker of the Guam Legislature, was called to his eternal rest at the age of 79.

The passing of former-Speaker Ramirez marks the end of an era. Considered nothing short of legendary by Guam's politicians, Larry Ramirez dedicated more than 63 years in public service. His government service dated back to 1931 when, during his teenage years, he worked for the Naval Governor of Guam.

Long considered as one of Guam's most popular lawmakers, Larry went on to hold public office longer than any other elected official in the island's history. He first got into politics in 1949 when he was elected as councilman from the village of Yigo. He later went on to serve as a senator in the first 12 Guam Legislatures. After having been elected as Speaker in 1971, he chose to retire after the 12th Guam Legislature.

Having been one of Guam's premier political pioneers, he is considered by many of today's leaders as a fitting role model and a major influence. He is remembered as a man of integrity. Despite countless years of political involvement, not once did he compromise his principles. Never pretentious, he did not let his political successes take the better of him. Amid all the changes that he had been forced to live through, he remained a true islander and an exceptional leader.

The late Hon. Florencio Torres Ramirez left a legacy of service and devotion to the island of Guam, to its people and to the United States as a whole. His distinguished career served as an inspiration to many of us who serve as elected officials of today. His passing is a great loss and his presence will surely be missed. On behalf of the people of Guam, I offer my condolences and join his bereaved children, and grandchildren in mourning the loss of a father, and a fellow servant to the people of Guam.

SALUTE TO MS. DOLORES FAIR FIELDS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute Ms. Dolores Fair Fields on the occasion of her retirement. As a native of South Philadelphia, Mrs. Fields has contributed a great deal to her community throughout her lifetime.

Twenty-nine years ago, Ms. Fields began a Government career with the U.S. Electronics Command. After working there, and at the U.S. Mint, Ms. Fields joined the Head Start Regional Office in Philadelphia in 1970. Throughout her career at Head Start, Ms. Fields was responsible for grants in Pennsylvania and Maryland. Ms. Fields was also responsible for training the new staff at the Head Start Regional Office. As a trainer, Ms. Fields brought many new Head Start Specialists to the Regional Office. Ms. Fields abilities have helped the Head Start Office grow to meet the changing needs of families throughout Pennsylvania.

Ms. Fields has been recognized by the Federal Government for her outstanding public service. She is a recipient of the Federal Executive Board Bronze Medal Certificate of Achievement, the Assistant Secretary's Exceptional Achievement Award, the Assistant Secretary's Certificate of Appreciation and numerous other awards and citations.

In addition to her full time work for the Federal Government, Ms. Fields is the single parent of two sons. Ms. Fields did an admirable job of raising her sons who have both served with distinction in the U.S. Air Force.

With her remaining spare time, Ms. Fields has served as a mentor for the literacy program in the Philadelphia School System and as an active member of the Tasker Street Baptist Church.

I hope my colleagues will join me today in recognizing Ms. Fields for her fine contributions to her country and community and I wish her the best of luck as she enters the next chapter of her life.

JENNIFER BREYER VOICE OF AMERICA SCHOLARSHIP WINNER

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. DEFAZIO. Mr. Speaker, a young constituent from Oregon's Fourth District has expressed through her writing a deep and patriotic understanding of our Nation. The Veterans of Foreign Wars and its Ladies Auxiliary presented Ms. Jennifer Breyer with the state award of the Voice of America Scholarship program. I ask that her Vision of America be included in the CONGRESSIONAL RECORD.

MY VISION FOR AMERICA

(By Jennifer Breyer)

"I want to be thoroughly used up when I die, for the harder I work, the more I live. Life is no brief candle for me, it is a sort of splendid torch that I have got hold of for a moment, and I want to make it burn as brightly as possible before handing it on to future generations."—George Bernard Shaw

This is my vision for America. Wouldn't it be wonderful if each citizen of the United States of America could take their candle and make it burn as brightly as possible for as long as they live? Wouldn't it be exciting if every citizen in this country could have this opportunity to make their dreams come true?

In America we are known to live in a Land of Prosperity, a Land of Hope, and a Land of Freedom, but are we truly free if we have not had the opportunity to accomplish our dreams but instead have been confined to small, everyday tasks? We are free only if we are able to accomplish our dreams and make our vision for America become reality.

My vision for America is to make this country be as strong as it possibly can be and make it clear to the world that we are truly the luckiest people on this earth. But in order to do that, each citizen in this great nation has a responsibility, not only to themselves but also to their country. You see, all of us are given a candle, but it is up to us, as individuals to take our candle and make it burn as brightly as we can.

They say you can always tell where the lamplighter has been by the path he has lit. But what if each and every one of us didn't have to follow the lamplighter's course but instead took our candles and made our own paths. We could make this nation shine like a great star in the sky.

Wouldn't it be wonderful if each American citizen could take their candle and pass it on to a newborn child, and explain that he has one chance, and only one chance in his lifetime to make his stand in this nation.

Can the people of this nation join together for one final stand? Can they unite and join candles so that every individual may feel as if they were part of another? Can we put aside the race or religion of people and say, "You are my fellow citizen, you can stand next to me, and you can fight with me for our country, the beautiful United States of America."

Ladies and gentlemen, my vision is one of a far off dream, one that may never come true, but that has made my life worth living for. My vision may not come true in reality but in my mind and in my dreams it has always been. For if I accomplish one thing in my life, it will be to pass my candle on to a newborn child, and let the legacy for the next generation live on. If the world is a better place for just one person, then my life and yours has been a success.

I wish you all the best of luck in your quest for your Vision of America. I have found my vision, and I hope you will find yours as well. Thank you.

HONORING VETERANS OF WORLD WAR II

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. MARTINI. Mr. Speaker, I rise today in recognition of the sacrifices and accomplishments of the men and women throughout the world who so bravely served in World War II with the faith that there would one day be victory in Europe against hate and aggression. It was their bravery and character that delivered the nations of this globe from the tyranny of evil men. To merely thank these men and women does not suffice. We must learn from them. We must learn from their experiences.

Those of us who are not old enough to remember must hold on to the stories and to the history. While we must never forget the horror, we must more importantly remember the valor and unity of our Nation, the likes of which has not since been revisited.

We honor the veterans not only because they protected our freedom and defended our honor, but also because they taught us about patriotism, for it is our patriotism that wins over hateful aggression. Let us never forget that the day of victory in Europe, 50 years ago, was a time when people looked after one another—a time of unity. Remembrance and togetherness are the greatest thanks we can give.

ADMINISTRATION RENEGES ON COMMITMENT TO PREVENT CUBAN INFLUX

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. STUMP. Mr. Speaker, the Attorney General again intends to use her parole powers to sidestep immigration law. In a rather abrupt and unwise change of policy, the Clinton Administration announced that thousands of Cuban refugees held at Guantanamo Bay will be brought to the United States.

The Attorney General defends this latest action as "another important step toward regularizing migration procedures with Cuba." I am convinced that it will have the opposite effect. In fact, this is just another in a long line of imprudent immigration decisions made by the Administration. Undoubtedly, it will have a devastating economic impact and send a clear message that the United States has no interest in controlling its borders.

Mr. Speaker, we simply cannot continue to allow the Attorney General to use her parole authority to exploit immigration laws and expand the definition of who is eligible to immigrate to the United States. Consequently, I am compelled to once again introduce the Emergency Immigration Parole Correction Act. The bill would amend the Attorney General's parole authority to prohibit her from carrying out this blatant circumvention of our immigration policies. I strongly urge my colleagues to put the interests of American citizens first and join me in stopping further deterioration of our immigration policies.

TRIBUTE TO MACK FARR

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. DAVIS. Mr. Speaker, I rise today to recognize and commend the accomplishments of an outstanding individual and fellow Virginian who has done exceptional work in the development and manufacture of night vision equipment. This equipment, enabling armies to fight in the dark, represents one of the most profound changes in military capability in history. It was a critical factor in the low loss of life and played a major role in the success of Operation Just Cause in Panama and Operation Desert Storm in Kuwait. These examples alone prove conclusively that night vision technology has revolutionized military tactics and strategy.

Mack Farr has demonstrated himself to be a leader in the development and application of increasingly more sophisticated night vision imaging systems for military use over a commercial and federal career that spans 37 years. In the early days of the Vietnam conflict, Mr. Farr worked first as a government contractor, and later as a physicist in the Army's Night Vision Laboratory in Northern Virginia, developing and fielding the first usable image intensifiers for use by the U.S. military. His later efforts in the improvement of the technology led, in part, to Generation III Night Vision Goggles that could, for the first time, be used as head mounted systems for ground troops. Similarly, when the aviators of rotor winged aircraft attempted to use this headmounted technology to improve their night flying operations, Mr. Farr and members of his government and industry team responded by developing a Third Generation Image Intensifier System, specifically designed for DOD aviators.

These systems have now been fielded in quantity and with ever increasing quality over time. As the Technology Director for the Army Project Management Office for Reconnaissance, Surveillance and Target Acquisition since 1984, each of the new image intensification products the result from Mr. Farr's technical and managerial oversight has created a new, and sought after, world standard for excellence. His expertise has also greatly aided the U.S. Government in the formulation of export policy opinions that are a foundation for munitions control policy decisions by twenty-two signatory nations.

In recognition of his many achievements, Mack Farr was inducted into the Association of Night Vision Manufacturers Image Intensification Hall of Fame on April 19, 1995. He was the first Government recipient to receive this honor.

Now that we are poised on the threshold of a new century, Mack Farr is guiding his team in the pursuit of new technologies and systems for the future. Mr. Speaker, I salute Mack Farr for his hard work, diligence and outstanding accomplishments in the development of night vision. We all owe him a debt of gratitude for his years of dedication and join together in commending him for showing great foresight and commitment to the night vision industry. We thank him for his genuine contributions to our Nation's security and wish all the best in his future endeavors.

IN SUPPORT OF TITLE IX

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mrs. MALONEY. Mr. Speaker, today the Subcommittee on Post-Secondary Education, Training and Lifelong Learning held oversight hearings on title IX and its effect on college sports. These hearings are particularly timely in view of the recent district court ruling that Brown University violated title IX when it eliminated its women's gymnastic and volleyball teams. Title IX has had an impact that goes beyond the limited effect of expanding women's opportunities to participate in sports at the college level. It has also expanded opportunities for women to attend college through sports scholarships and to develop skills they will use after college, such as teamwork, responsibility and self-confidence.

Since title IX became law in 1972, participation of women in sports at the secondary and college level has increased dramatically. Much of that growth has come since Congress passed the Civil Rights Restoration Act in 1988, requiring compliance with title IX by any college that receives Federal funds for any purpose. Women now comprise 37 percent to 43 percent of athletes in college sports. Women have come a long way, but we still have a long way to go to achieve parity with the men's sports programs.

Sports have long been used as a vehicle for young men from disadvantaged backgrounds to attain higher education. Since the enactment of title IX, sports have opened doors for their sisters as well. Top high school women athletes are actively recruited by colleges. As the competition for positions on the best teams increases, the level of play increases. Better equipment and better coaching, made possible through title IX, enables women athletes to improve their game to a level thought impossible just a few years before. By offering women opportunities in a variety of sports, more women choose to become involved in sports. Those who are not interested in field hockey or tennis, can try rugby or hockey or volleyball. Greater variety encourages greater participation.

The excitement surrounding women's achievement in sports in some cases has equaled that of their male counterparts. This year the undefeated University of Connecticut's women's basketball team played to a sellout crowd of over 18,000 in Minnesota, winning the NCAA basketball championship in a come from behind victory that thrilled sports fans of both sexes. Women's ice hockey has reached a level of play sufficient to permit women goalies, such as Manon Rheaume and Erin Whitten, to be recruited by the National Hockey League's minor league teams. I believe that more women would choose to participate in sports if there were more opportunities for women to continue their athletic careers after college. Men's star basketball players can look forward to lucrative careers in the National Basketball Association. The women must hope for a place on one of the teams playing women's basketball in Europe if they wish to continue to play ball seriously. This year women baseball players can hope to be selected by the new professional baseball league will begin competition in Southern France, Italy and Spain. The enormous profitability of women's ice skating, not to mention the sellout crowds for NCAA basketball, demonstrates that there is an audience for women athletes.

Participation in sports provides women with something beyond mere achievement in the athletic realm. They acquire confidence and assertiveness which works to their advantage in their careers. Those who participate in sports such as basketball, baseball or even rugby report a heightened sense of teamwork and responsibility. Title IX has given rise to a growth in the number of young women who achieve the kind of training that only sports can provide.

Title IX does not require schools to eliminate men's teams in order to offer women's teams. That is not to say that schools do not use title IX as a convenient excuse when men's teams are dropped. We should look beyond the reasons schools give for cutting men's teams and focus instead at the many benefits colleges receive from the inclusion of men and women in their athletic programs.

THE YEAR OF THE VETERAN

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. PACKARD. Mr. Speaker, one thing has remained constant throughout our Nation's history: The unquestioned loyalty, dedication, and bravery of our military personnel. As we mark the fiftieth anniversary of V–E Day, we must never forget the price that our troops paid. The sacrifice made by our fighting men and women should never be forgotten.

Driven by a sense of duty, our troops stormed the beaches of Inchon and Iwo Jima, staved off encirclements at Bastogne and Chosan, went head-to-head with superior numbers at Guadalcanal and Midway, and came away victorious. From the battle at Concord Bridge to the final actions in Somalia, American troops have proven to the world that they are the best in the world.

In my home State of California, Governor Pete Wilson, the county of San Diego, and the cities of San Marcos and Escondido have already proclaimed 1995 as the Year of the Veteran. These proclamations call on all to remember those that were so quick to answer the call in America's time of need.

Mr. Speaker, I urge my colleagues to join me in honoring all of the brave men and women who have put on the uniform to defend their country by proclaiming 1995 the Year of the Veteran.

PROCLAMATION CONGRATULATING JOHN L. AND MABLE A. MARSTRELL

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, Mr. John L. of Barnhill, OH, and Mrs. Mable A. Marstrell of Delaware, OH, celebrate 75 years of marriage; and,

Whereas, John and Mable have resided in Stillwater, OH for all of those 75 years raising two sons—Dr. John V. and Mr. Keane O. Marstrell, four grandchildren and nine great-grandchildren; and,

Whereas, John served his community as president and manager of the Laurel Valley Oil Co., president of the United Bank of Uhrichsville, founder of the Old Timers Baseball Association, and last year as an inductee into Ohio's Baseball Hall of Fame; and

Whereas, John has the honor of being the last living player to bat against the legendary Cy Young and serving as one of his pall bearers; and,

Whereas, over the course of Mable's many years as organist in the Pleasant Grove United Methodist Church her music became an inspiration and comfort to family, friends, and her church family; and,

Whereas, members of the Rotary club since 1935, 65 year member of the Masonic Order, and activity in various other civil projects together in the community they have volunteered hours in building character, citizenship, and leadership in their community and family; and,

Whereas, the city of Stillwater and all the surrounding areas of Ohio, with a real sense of pleasure commend John L. and Mable Marstrell as outstanding citizens, role models, and parents and join in the celebration of their seventy-fifth anniversary this eighth day of May in the year one thousand nine hundred ninety-five.

100th ANNIVERSARY OF THE FOUNDING OF ALL SAINTS CATHEDRAL PARISH OF THE POLISH NATIONAL CATHOLIC CHURCH OF CHICAGO, IL

HON. MICHAEL PATRICK FLANAGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. FLANAGAN. Mr. Speaker, in recognition of the 100th anniversary of the founding of All Saints Cathedral Parish of the Polish National Catholic Church of Chicago, IL, we in Congress salute its pastor, the Right Reverend Robert M. Nemkovich, the clergy and parishioner on this special occasion.

One hundred years ago, through the leadership of Bishop Anthony Kozlowski and a large group of Polish immigrants, All Saints Cathedral Parish was organized. The cathedral parish has been a force for good in the Chicagoland area, the State of Illinois and throughout our great country for 10 decades. The Polish-American parishioners and their ancestors have made significant contributions to the cultural, economic, educational and civic growth of out Nation.

The ancestors of the cathedral's parishioners fled Poland for want of a better life here in America. They brought with them their cherished national customs, their love of closely-knit family life, and their love for their adopted country, the United States of America.

May 21, 1995, is hereby especially noted as All Saints Cathedral Parish Centennial Day. The Centennial Mass of Praise and Thanksgiving, celebrated this day, will commence a year-long celebration. We in Congress acknowledge the accomplishments of the past and extend best wishes for the future as you strive to serve the spiritual needs of so many individuals. We urge all to join with the members of All Saints Cathedral in the observance of this memorable and happy occasion.

TRIBUTE TO HELEN LEWIS

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. EWING. Mr. Speaker, the State of Illinois is known for many things; the mighty rivers which run on its eastern and western borders, fertile farmland which produces food that feeds the entire world, villages and small towns with an unmatched quality of life, and the city of big shoulders, the international center for business and industry known as Chicago.

Illinois is known for all of these things, which makes all of us justifiably proud to call Illinois home. But what we are best known for is our people.

Mr. Speaker, I rise to pay tribute to one of Illinois' finest, a woman who has carried the banner for our State here in the Nation's capital for over 50 years, Helen Lewis.

Helen, a graduate of Western Academy in her hometown of Macomb, came to Washington in 1942 to work for the Federal Bureau of Investigation. As he tells it, "there was a war on," and with three brothers in military service, she came here to help.

In 1945, Helen began attending dances sponsored by the Illinois State Society. In 1947, Helen recognized that your membership card got you into the dances free, and she decided to join. Well, the spark fanned the flame, and Helen has been warming the hearts of Washington-based Illinoisans for more than half a century.

In the 1958–59 season of the society, Helen became an officer, and proceeded to hold every position the board had to fill, including two terms as president. This lead to her being elected president of the Conference of State Societies in the 1973–74 season.

The signature event for the society has always been the inaugural ball. Helen's first inaugural party was for the inauguration of President Nixon, and she has been a driving force in every event since then. Of course, it's not difficult to find people willing to help with the glamorous events. It's a little bit tougher to find people willing to commit of their time and energy to keep the mailing lists, select locations for events and keep the membership informed. For the Illinois State Society, we have always turned to Helen Lewis, who has organized the meetings, kept us faithful to our bylaws and made sure that everything was done with class and made everyone feel welcome.

Many people live here for many years without giving up what Helen has. In fact, Helen says she's gone "home, to my real home, Illinois," back to Macomb, where she is settling in, making new friends and renewing old acquaintances. She is genuinely missed.

When the history of Illinois in our capital city is written, the names Lincoln, Stevenson, Dirksen and Michel will surely be included. But no chronicle will be complete without recognizing the contributions of Helen Lewis, who helped make any prairie State transplant feel at home. Helen, for all you've done for the thousands of people who have been a part of the society, we are eternally thankful. Good luck and God bless.

THANKS TO LORRAINE HURLEY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. STARK. Mr. Speaker, I rise today to recognize the achievements of Ms. Lorraine

Hurley who is retiring after 40 years of dedicated service to the school children of the 13th Congressional District.

Ms. Hurley was born and raised in San Lorenzo. She graduated at age 15 from Hayward High School and dedicated the rest of her life to teaching. She taught in the Oakland School District for 10 years and then returned to the San Lorenzo Unified School District to teach for the next 31 years.

She has been the recipient of many awards, including the Alameda/Contra Costa Teacher of the Year. She was a member of Delta Kappa Gamma, the Teachers' Honor Society. Ms. Hurley is also an advocate for and supporter of her fellow teachers. She was very active in the San Lorenzo Teachers' Association and an officeholder in the National Education Association. She was chosen to be a mentor/teacher.

Mr. Speaker, I am proud to recognize Ms. Lorraine Hurley for her commitment to our children and am certain that she will be sorely missed.

TRIBUTE TO GREG STEEL

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. CONDIT. Mr. Speaker, I rise today to recognize and congratulate Mr. Greg Steel on the completion of 21 years of dedicated service to the Stanislaus Area Association of Governments, the last 5 of which he spent as executive director.

Among his many accomplishments, Greg was most instrumental in preparing the air quality maintenance plan which was adopted by the local governments and the California Resources Board, and approved by the U.S. Environmental Protection Agency. Greg also prepared the nonattainment plan for Stanislaus County, of which the applicable portions were adopted by the county and the nine surrounding cities which make up the Association. This plan included a commitment from each of the jurisdictions to implement control measures, for the purposes of improving air quality.

Mr. Speaker, on July 28, 1995, the Stanislaus Area Association of Governments will formally recognize Greg Steel for his many years of dedicated service.

On behalf of the 18th Congressional District of California, I would like to extend to Greg my best wishes for continued success and for many years of personal happiness.

LEGISLATION AMENDING THE INTERNAL REVENUE CODE RELATING TO THE TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, I am pleased today to introduce legislation that would make our Tax Code fairer and more equitable for farmers and ranchers who are forced to sell their livestock prematurely on account of weather-related conditions.

Our current Tax Code contains two provisions dealing with livestock sold because of drought conditions. One of these provisions allow producers to defer tax on any gain from these sales by reinvesting the proceeds in similar property within 2 years. The other provision permits producers who do not reinvest the proceeds from the sale in similar property to include these proceeds in their taxable income in the following year.

While these provisions provide some assistance to producers who have experienced a drought, they do not apply to livestock sold on account of flooding. However, floods can be just as devastating to producers as drought conditions, and can cause the destruction of crops grown to feed livestock, damage to fences, and high losses of young stock. The heavy rains and flooding we have been experiencing in my State of South Dakota have caused calf losses as high as 40 percent in some areas.

In addition, farmers who lose crops due to any natural disaster, including flooding, are able to benefit from certain provisions in the Tax Code. For example, farmers who receive insurance or disaster payments when their crops are lost or damaged due to severe weather conditions are often permitted to include these payments in the year following the disaster. Provisions such as this are designed to spread out the impact of taxes on farmers in these situations. I find it difficult to justify the fact that farmers who lose crops on account of flood conditions are covered by these provisions, while producers who are forced to sell livestock because of flooding are not.

This legislation would broaden the existing provisions of the Tax Code regarding livestock, adding flooding and other weather-related conditions to drought as conditions allowing the use of the special rules relating to proceeds from livestock sales. It would also result in more equitable treatment of crops and livestock relative to tax payments after disasters. However, it would not reduce the total amount of taxes paid by livestock producers who suffer disasters, but instead would merely delay the payment of taxes under these circumstances.

Mr. Speaker, I am certain that you and the rest of my colleagues would agree that it is unfair to deny the disaster-related provisions of the Tax Code to livestock producers just because the disaster involved is a flood and not a drought. I ask you to join me in making this commonsense change to the Federal Tax Code, and provide some needed assistance to our Nation's livestock producers.

THE 50TH ANNIVERSARY OF V-E DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. GILMAN. Mr. Speaker, celebrations are being held this week throughout our Nation and across the European continent to commemorate the fiftieth anniversary of the end of World War II in Europe. In London on Sunday, in Paris yesterday, and in Moscow today, millions of Europeans have gathered to give prayerful thanks for the hand-won peace which encompassed to continent 50 years ago this week.

Although we Americans, as far as casualties go, got off light compared to our European allies. In fact all nations involved in World War II suffered and suffered greatly. By crossing the oceans to assist in the overthrow of the Nazi and Fascist empires, American soldiers, sailors, airman and marines not only disrupted and risked their own lives, they also disrupted the lives of the loved ones they left behind.

The massive task of supporting our brave Americans necessitated a radical readjustment of our economy here at home. Automobiles and most household appliances were simply not available. You could not buy tire because rubber was one of the many, many commodities essential to the war effort.

While World War II was in progress, the Soviet government, led by Joseph Stalin, demanded that the Americans and British invade the coast of France in order to take the pressure off the Russian army, which was bearing the brunt of the battle against the Nazis. There was also intense pressure here at home to get the job done with and invade France.

Fortunately, our national leaders had a great deal of experience with warfare in France. During World War I, President Franklin D. Roosevelt was Assistant Secretary of the U.S. Navy, and Prime Minister Winston Churchill was First Lord of the Admiralty, which is the direct equivalent of Secretary of the Navy. They both knew from sad experience, that a land war in the north of France, with both sides equal, would result in bloody trench warfare. During the 4 years of World War I, literally millions of young men—on both sides—sacrificed their lives in futile, pointless efforts to recapture a few feet of ground. It has been said that Britain scarified entire generations of young men in the trenches of World War I. even though the refusal of President Roosevelt and Prime Minister Churchill to replay that tragedy in many ways led to the distrust and bitter feelings between the Russian government and our own for the past 50 years, we should all be thankful that both Roosevelt and Churchill—along with Supreme Allied Commander Dwight D. Eisenhower—refused to initiate any invasion of France until we were assured of massive superiority in forces and materiel.

Their patience paid off handsomely: less than 11 months after D-Day—a day that many observers predicted would not succeed—we had not only successfully invaded the coast of France, but we had totally conquered the Third Reich of Adolf Hitler. We, together with our Russian allies advancing from the east, brought to an end that evil nation which Hitler predicted would "last a thousand years" but in reality existed slightly more than a dozen.

A new book by David Fromkin, *In The Time of the Americans,* underscores the extent of the revolutionary changes World War II brought to the United States. In 1941, there was a sincere and heated debate in this nation about whether or not we should involve ourselves in what were called foreign wars. In 1945, our membership and leadership in the United Nations were taken for granted.

In 1941, it was almost universally believed that the oceans could protect us against any hostile forces and that thus there was no reason for us to become involved in the affairs of Europe. By 1945, there was no question we were the leaders of the free world. As soon as 1946 and 1947, we Americans were prepared to send assistance to protect freedom and liberty first in Greece and Turkey and then in Western Europe. By 1950, we recognized our responsibility to repel aggression on the Korean peninsula.

In 1941, Americans were in many ways a prejudiced society. Most of our south was deeply segregated and many public accommodations refused service to Jews. The Ku Klux Klan had a following.

By the time the war ended, Americans of all races, creeds and colors fought side by side and thus learned that far more binds us together than separates us. There was a long path to travel yet, but the first steps were taken on the road to racial equality.

The newsreel cameras and the magazine photos showed American troops liberating the concentration camps of Germany, thus sending us all a message of what racial, ethnic or religious bigotry can lead to. Anyone who lived through the Holocaust can not help but vow that nothing like this will ever happen again.

Mr. Speaker, this past Sunday I was deeply honored to have been able to participate in ceremonies at Camp Shanks Museum in Orangeburg, NY. Camp Shanks was the major east coast point of embarkation during World War II, and it was fitting that ceremonies commemorating the end of the war be conducted there. "Ruptured Duck" awards were presented to nearly 150 survivors of World War II, and an array of local officials shared their views on World War II with us.

The ceremonies were held under the guidance of Jerry Donnellan, who as Director of the Veterans Service Agency of Rockland County, NY, has earned a reputation as one of the more compassionate and qualified friends of all our veterans.

In my remarks on this solemn occasion, I reminded my fellow World War II veterans of the importance of our passing on to future generations the reasons the war was fought and what we experienced on the battlefields of Europe and the Pacific. I warned that we must not allow our revisionist historians to alter the truths of World War II.

Mr. Speaker, let us pause during our busy schedule to reflect on the monumental changes which took place 50 years ago this week, when the guns and the bombs fell silent in Europe, and let us also pause to remember those who did not return and all those W.W. II Veterans who are still lingering in Veterans Hospitals across our land.

WHAT THE FLAG MEANS TO ME

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. FARR. Mr. Speaker, as we honor the brave young men and women who gave so much of themselves in the Second World War, I thought it an opportune moment to reflect on the meaning of patriotism with the words of a special young man from my congressional district.

Josh Pritchard, a 5th grade student at Capitola Elementary School, placed first among all students for the following essay on the meaning of the American flag:

WHAT THE FLAG MEANS TO ME

(By Josh Pritchard)

To me, the American flag represents a dream, a great dream. A dream that someday America will be a place where everyone is treated equally, and no one is judged by their creed or religion.

When Betsy Ross made the American flag, she meant it to represent America and freedom. Around the time when Betsy Ross made the flag, everyone wanted America to someday be a place where everyone is treated equally, and no one is judged by their creed or religion. That wasn't true back then and it's still not true now. In the last 219 years, we've come a lot closer to the dream, but we're still not there.

To me, the flag is something to be proud of. The flag is what reminds me that someday America is going to be an even greater place.

The flag represents a place where there is no one creed but a place where all creeds join together as one. A place where it doesn't matter what religion you are, what color hair you have, or what kind of clothes you wear—as long as you are you.

That's the end of my essay but the dream still stands. Maybe in the next 100 years, the dream will come true.

A TRIBUTE TO MAX McCARTHY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. LAFALCE. Mr. Speaker, it was with deep regret and sadness that we learned over the weekend of the passing of Richard "Max" McCarthy, who served here in the House, representing the Buffalo, NY area from 1965 to 1970.

In addition to his congressional service where he was a leader on environmental issues and the effort to ban germ and gas warfare, Mr. McCarthy had a distinguished career as a journalist with the Buffalo News, serving as its Washington Bureau chief from 1978 until 1989 and continuing as a weekly columnist. He was press attache at the U.S. Embassy in Iran in 1975 and 1976, authored two books and served in the Navy at the end of World War II and in the Army during the Korean War.

Mr. McCarthy was an affable, congenial, and gregarious man, who will be missed by his many friends and colleagues. Murray Light, the editor and senior vice president of the Buffalo News, captured the spirit of the Max McCarthy so many of us knew so well, in his comments in the following obituary from the News:

Max was an outstanding citizen of Buffalo, outstanding patriot and a fine newspaperman. All of us associated with him will greatly miss his insight, his unending optimism and his enormous loyalty to his community, his friends, his country and his newspaper.

MAX MCCARTHY DIES; NEWS WRITER, EX-CONGRESSMAN

(By Karen Brady)

Max McCarthy—the retired Buffalo News Washington Bureau chief, former congressman, and foreign service diplomat—died Friday (May 5, 1995) in his Arlington, Va., home at the age of 67 after an extended illness.

A journalist first and last during his long public career—which included U.S. military service in two wars—McCarthy continued to write his weekly Washington column for The News, including a column that will appear this Sunday.

"Max was an outstanding citizen of Buffalo, outstanding patriot and a fine newspaperman. All of us who have been associated with him will greatly miss his insight, his unending optimism and his enormous loyalty to his community, his friends, his country and his newspaper," said Murray Light, editor and senior vice president of The News.

McCarthy in the last few months had been living in a McClean, Va., nursing home because of the debilitating effects of amyotrophic lateral sclerosis, often referred to as Lou Gehrig's disease.

Nonetheless, McCarthy continued to write his weekly columns for The News by dictating to a neighbor who typed the material into his laptop computer, recalled David Breasted, an independent television producer and long-time friend.

McCarthy, a Democrat, represented Buffalo in the House of Representatives from 1965 to 1970.

He later became press attache for the U.S. Embassy in Iran, and was working at the White House, as an adviser in legislative affairs, when he joined The News' Washington Bureau in 1978.

He was also one of the original leaders of the campaign to rid Lake Erie of pollution, and was a nationally recognized pioneer in other environmental causes.

He organized Buffalo's first Department of Human Resources, under Mayor Stanley Makowski, and was the author of two books—"The Ultimate Folly," an expose of the evils of chemical-biological warfare, and "Elections for Sale," a book on political fundraising and spending.

Born Richard Dean McCarthy in Buffalo but always called "Max," he came from a family active in Buffalo's political life.

His great-great-grandparents, on his mother's side, were Irish immigrants whose son, Peter B. Walsh, was elected to the old Buffalo Board of Aldermen in 1859.

His son—McCarthy's grandfather, Richard W. Walsh—was an attorney, and the official court stenographer at the trial of Leon Czolgosz, the man convicted of assassinating President, William McKinley at the Pan-American Exposition in Buffalo in 1901.

McCarthy's father, the late Ignatius D. McCarthy, also an attorney, ran twice for Buffalo City Court judge.

McCarthy's mother, the late Kathleen Walsh McCarthy, not only assisted her husband in his City Court bids, but was also office manager during her son's successful 1964 congressional campaign. She was a co-founder as well of Housewives to End Pollution here.

Max McCarthy attended St. Joseph's Catholic Elementary School. He graduated from Canisius High School and Canisius College, where he was a regular in the college's Little Theatre productions. He did graduate work at the University of Buffalo, Cornell and Harvard.

He served in the Navy in the Pacific at the end of World War II, and in the Army in the Far East during the Korean War.

In 1952—as a corporal with the 24th Infantry Division of the Army, stationed in Sendei, Japan—he sent accounts of military life to The Buffalo Evening News. The paper printed his accounts and then hired McCarthy as a reporter following his discharge.

Three years later, he was named public relations director of the National Gypsum Co., based in Buffalo, and remained in that position until 1964 when he was first elected to Congress, a Democrat representing Buffalo's heavily Republican old 39th Congressional District.

It was a startling victory. McCarthy, a political novice of 36, beat six-term incumbent Rep. John R. Pillion, a Hamburg Republican.

McCarthy's campaign theme was "a young man looking into the future." A chief aim, he said at the time, was to serve on the House Public Works Committee—because he wanted to rid Lake Erie of pollution.

McCarthy's first book, "The Ultimate Folly" was published by Knopf in 1969. It resulted in congressional hearings, a national policy review and canceling a plan to dump outdated nerve gases from three U.S. arsenals into the sea.

In constant demand as a speaker, McCarthy appeared on national television and was featured in major publications. He was selected to give a prestigious Chubb series of lectures at Yale University.

In 1970, he was persuaded by New York State Democrats to run for a U.S. Senate seat, it was a move that cost him his seat in the House of Representatives—and sent his personal political career on a downward spiral.

McCarthy's former House seat went to the Republican candidate—newcomer and former Buffalo Bill, Jack Kemp.

"As a three-term member of Congress, Max was a strong progressive and had an unblemished reputation for integrity. He did pioneering work on the environment and campaign finance reform. It was fitting that the last column published in his lifetime was an appeal for sanity on firearms. That courageous stand cost him a great deal of support in the 1960s," said Douglas Turner, The News' Washington Bureau chief.

McCarthy took a position as vice president and director of community development for A. Victor and Co. here.

A year later—after considering a run for Erie County executive—he was named a Harvard fellow, lecturing in the university's Institute of Politics of the John Fitzgerald Kennedy School of Government.

He completed his second book, "Elections for Sale," and served for a time as a Grover Cleveland fellow at UB.

In 1972, he sought election to the then-new 38th District but lost.

He subsequently became a visiting professor of political science at Canisius College and Niagara University.

In 1973, Buffalo Mayor Makowski made McCarthy a member of his Cabinet, charging him with formation of the city Department of Human Resources.

In 1974, President Gerald Ford appointed McCarthy to the U.S. Information Agency—and, for the next two years, he served as press attache at the U.S. Embassy in Iran.

In 1976, McCarthy was named to the Carter administration White House staff—where he was involved with legislative affairs until joining The News' Washington Bureau in June of 1978.

Three months later, he was named Washington bureau chief for The Buffalo News. McCarthy held the position until his own retirement in 1989, but continued to write a weekly Washington column for The News.

In 1985, McCarthy became the sixth member of The News to be elected to the prestigious Gridiron Club in Washington. He also was a member of the National Press Club.

He was a founder of the Greater Buffalo Development Foundation which he served as vice president for eight years.

McCarthy also was a lover of opera and collected fine literature, especially books on Irish history.

Survivors include his former wife, Gail; three sons, Dean of Buffalo, and Barry and Brendan, both of Chicago, and two daughters, Maura of New York City and Deidre of San Remo, Italy.

Funeral arrangements are incomplete.

TRIBUTE TO AL GUNTHER

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. REED. Mr. Speaker, it gives me great pleasure to rise today and salute Al Gunther, a distinguished individual from Rhode Island who is being honored for his outstanding contributions to the Boy Scouts of America on the occasion of his retirement from his position as Ranger of Camp Yawgoog.

He first came to Camp Yawgoog in 1959 with his wife Diane and for the past 36 years he has devoted his time and talents to providing young people with the rewarding experiences of camping. His leadership of Yawgoog was also enhanced by a unique blend of management skill and a special affection for his fellow man.

The Boy Scouts of Rhode Island owe a debt of gratitude to Al Gunther for his dedication and commitment. During his stewardship, Camp Yawgoog has prevailed through fires, floods, droughts, hurricanes, blizzards, and other adversities. His efforts have ensured that the camp has not only survived but flourished. Over a quarter of a million boys and campers have benefited from Al Gunther's hard work and from the humanitarian spirit which has prevailed at Camp Yawgoog.

I respectfully request that my colleagues join me in saluting Albert R. Gunther and recognizing his contributions to generations of young people, and toward the betterment of our community.

DEDICATION OF TEMPLE ISRAEL

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. HALL of Ohio. Mr. Speaker, I rise to call attention to the dedication of a new synagogue building for Temple Israel of Dayton, OH, within my district. The building is an important milestone for the Dayton Jewish community.

Temple Israel traces its roots to 1850, when 12 Jews in Dayton formed a Hebrew Society. The congregation, which was incorporated as Kehillah Kodesh B'nai Yeshurun, bought a building in 1863. In 1893, the congregation had grown enough to construct a new synagogue at the corner of First and Jefferson Streets in downtown.

Downtown was severely damaged by the great Dayton flood of 1913. By 1925, the congregation began construction of a new building at the corner of Salem and Emerson Avenues, in the neighborhood of Dayton View. This building was expanded in 1953 with the addition of a new sanctuary.

In November 1994, the congregation moved into its new home at One Riverbend, on the west bank of the Great Miami River, just north of downtown. On Friday, May 5, the building was formerly dedicated at a service. The following Sunday, Temple Israel opened its building and grounds to the Dayton community at an open house.

I offer my congratulations to Temple Israel's Rabbi P. Irving Bloom, whose vision and leadership have led to this moment. I further extend my best wishes to the entire congregation to find fulfillment in using the building for generations to come.

THREATS TO CUT USIA THREATEN AMERICAN SECURITY

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BERMAN. Mr. Speaker, next week the International Relations Committee will mark up legislation that threatens major changes in America's foreign policy institutions. This legislation—that appears to be largely driven by pledges from Senator HELMS to consolidate America's foreign policy instruments—was just received this morning by Congressman HAMILTON and has not yet been reviewed by most Democrats, nor, I venture to say, by many Republicans. Yet, the committee appears to be determined to move its legislation forward.

Through press statements, we have learned that Senator HELMS' agenda is to eliminate the Arms Control and Disarmament Agency [ACDA], the Agency for International Development [AID], and the U.S. Information Agency [USIA]. The functions of these agencies are to be combined into a mega-bureaucracy in the Department of State. Senator HELMS claims major savings in this reform although he acknowledges that few actual savings will be realized in the first 2 years of his proposed consolidation.

I believe that there is even a greater cost to this proposal. It is in the cost to our national security. In this day of increasing threats from terrorism and the proliferation of weapons of mass destruction, now is not the time to dismantle the first line of America's defense: our foreign policy institutions which served this country so well in the cold war.

We all believe that in this post-cold-war era, when threats to American citizens and our nation can come equally from the actions of a lone terrorist or another country, when threats can be economic as well as military, we do need to reexamine our Nation's foreign policy bureaucracy in order to make it more efficient. But this effort is already underway through Vice President GORE's National Policy Review and Secretary of State Christopher's internal strategic management initiative.

We need a reasoned, rational approach to reform that matches objective with means in a manner that protects and advances American national security. Legislation designed by political impulse and railroaded through the political process without time for full regard to cost or benefit is dangerous tinkering with America's security.

I am not alone in my desire for hesitation or in my concern for the result. A bipartisan group from Freedom House recently released a statement opposing the elimination of USIA. This group, which includes among others former U.N. Ambassador Jeane Kirkpatrick, Edward Fuelner, Jr., president of the Heritage Foundation, former Senator Malcolm Wallop, and Emmett Tyrrell, Jr., editor of the American Spectator, cogently and persuasively argues that "this proposed consolidation and centralization would weaken American public diplomacy."

The arguments that they make on behalf of preserving one agency, USIA, I believe can be made, and will be made next week, on behalf of the other agencies now threatened by the proposed legislation. Weakening the independent voices and undermining the effectiveness of ACDA and USAID will not strengthen American foreign policy. I encourage my colleagues to read closely the statement issued by Freedom House and review carefully the legislation once it is introduced by the Republicans.

I ask that the Freedom House report be printed in the RECORD at this point.

THE FUTURE OF U.S. PUBLIC DIPLOMACY

New proposals have been advanced to place the United States Information Agency (USIA)—long the chief instrument of American public diplomacy—under the centralized control of the State Department. We believe this proposed consolidation and centralization would weaken American public diplomacy.

Why should the USIA remain independent? Through its broadcasting, numerous exchange programs and links with people throughout the world, it already is highly successful in promoting American interests and articulating who we are and how our policies and values are shaped. The State Department has a different though related role. It explains U.S. foreign policy to Americans and presents our government's official positions to foreign governments. The State Department values quiet negotiations, government-to-government contacts, protracted discussion, compromise and sometimes secrecy. A credible public diplomacy, by contrast, requires openness, the ability to respond quickly to rapidly changing world events, and independence in reporting, analysis and comment. In short, the culture of the State Department differs substantially from the culture of the USIA.

There are other important reasons to retain the USIA's present status.

Public diplomacy and formal diplomacy. While formal diplomatic relations conducted by the State Department are an important aspect of our government's diverse engagement with other societies, public diplomacy—our open efforts to win understanding and support among the peoples of foreign countries on matters that affect U.S. national interests—suffers when it is subordinated to the demands of formal diplomacy. We have long-term interests in developing flexible relationships with foreign educators, journalists, cultural leaders, minority and opposition leaders that must not be subjected to the daily pressures of official government-to-government affairs. USIA has filled this niche by setting up exchanges that introduce foreign representatives to U.S. governmental, non-governmental, private, business and cultural institutions.

American values: independent voices, one theme. The promotion of American political and economic values has been an auspicious aspect of our foreign policy in recent times. The spread of democracy and the global communication revolution indicate that this form of engagement in foreign affairs will be of great importance in the future. Diversification and independence—not centralization and uniformity—make the U.S.'s message more meaningful and credible. The USIA's broadcasting and exchange programs should remain free of interference from officials with responsibilities in other areas. Radio Free Europe/Radio Liberty, Voice of America and Radio Marti remain vital sources of information around the world. In East-Central Europe and the former Soviet Union (where independent media continue to face difficulties) RFE/RL is trusted precisely because of its journalistic integrity. This would be seriously compromised if they were perceived as official organs of State Department policy.

Re-orientation before re-organization. The structure of our foreign affairs agencies needs to be considered in light of America's global strategy in a rapidly changing international environment. Re-organization not rooted in a clear and comprehensive understanding and consensus about goals and missions cannot work or last. The USIA and federally-funded international broadcasting have track records of success and will continue to work. Indeed, with today's menacing phenomena of international criminal activity, terrorism, inter-ethnic hatreds and anti-democratic forces around the world, the work of USIA is more critical than ever.

We understand that there will have to be some significant re-organization and reprioritization in foreign policy. Those who have offered proposals for change have done some service. The world has changed, in no small measure because of our multi-layered and multi-faceted foreign policy structures. Our goal should be coordination between agencies, not the kind of consolidated administrative centralism that will not work. The tasks of the State Department and the public diplomacy agencies should nurture one another, but must remain separate to be truly effective.

HONORING TUDOR CITY GREENS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mrs. MALONEY. Mr. Speaker, I stand before my distinguished colleagues to honor the invaluable work of Tudor City Greens.

Tudor City Greens is a not-for-profit organization that maintains two parks within the Tudor City complex; one of New York City's most densely populated neighborhoods. Surrounded by the steel and glass of towering skyscrapers, these two parks have provided tranquility and beauty for the public's enjoyment since the late 1920's.

The importance of the parks to New York's quality of life was brought to the forefront when the very existence of the parks were threatened in 1972. That year a real estate developer bought the Tudor City complex and planned to build apartments on the parks. The community rallied against the developer and vehemently battled to save the parks. After a 15-year legal battle, the properties were sold to Time Equities who donated the parks to the Trust for Public Land. The parks were deemed only for recreational and cultural use and in 1988 Tudor City and its parks were designated an historic district by the Landmarks Preservation Commission in 1988.

Tudor City Greens was founded in January of 1987 by residents of the complex to preserve and maintain the parks. Since its conception, the organization has worked diligently to develop and implement a comprehensive plan to restore and maintain the parks. They have cultivated new gardens, initiated a tree care program and organized annual events such as Easter egg hunts, caroling and a Halloween parade.

On May 10, Tudor City Greens, will sponsor its Parks Celebration to focus the city's attention on the beauty of the parks, and the continuing efforts to preserve them. I would like to personally thank the directors of Tudor City Greens for their dedication and outstanding work in preserving one of New York's cultural treasures.

Mr. Speaker, I am proud to pay tribute to Tudor City Greens for providing the citizens of New York with this emerald isle deep within the heart of New York.

EXPLANATION OF AMENDMENT TO BE OFFERED TO THE CLEAN AIR ACT

HON. RANDY TATE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. TATE. Mr. Speaker, earlier today I had preprinted in the CONGRESSIONAL RECORD an amendment offered by myself, and my distinguished colleague, Representative MIKE PARKER, to H.R. 961, the Clean Water Amendments of 1995.

The explanation follows:

AMENDMENT TO H.R. 961 TO RESOLVE THE TACOMA CASE BY INCLUDING STATE WATER QUALITY RECOMMENDATIONS IN THE FERC LICENSING PROCESS—EXPLANATION

The purpose of this amendment is to address the serious concerns that the Supreme Court's 1994 Tacoma decision are creating for the nation's hydropower projects. These projects are the leading source of clean, renewable electric energy in this country. But they are operating under a cloud because the Supreme Court has interpreted the Clean Water Act, in particular section 401 of the Act, so broadly as to effectively supersede the Federal Energy Regulatory Commission (FERC)'s licensing authority over the projects under the Federal Power Act.

This amendment would rectify that situation. It directs state water quality agencies to provide their Clean Water Act recommendations—for hydropower projects under the Commission's jurisdiction—to the Commission to consider under the Federal Power Act. Section 10(a) of the Federal Power Act requires FERC to conduct a lengthy, comprehensive review of both proposed hydropower projects and existing projects upon relicensing. That review focuses heavily on the potential environmental impacts of each project and best ways to mitigate or avoid those impact. Furthermore, section 10(a) specifically requires the Commission to take into account the recommendations of state and federal agencies, Indian tribes, and the public. Therefore, in the context of hydropower projects under FERC's jurisdiction, it makes sense to fold state water quality agency recommendations into the comprehensive licensing process that already exists under the Federal Power Act. This amendment accomplishes that objective.

TRIBUTE TO CPL BRUCE BARDELL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. DINGELL. Mr. Speaker, I rise today to pay tribute to a distinguished police officer who is retiring as a hero from the Allen Park, MI, Police Department. Cpl. Bruce Bardell was honored last month by the city he has served with bravery and skill for 29 years.

Since being wounded by a gunshot fired by a fleeing felon in 1978, Corporal Bardell has undergone four major surgeries, the most recent of which was in January of this year. I would like to share with my colleagues a little about the incident that led to this injury because it reveals much about the character of this officer, and the other officers on the Allen Park police force.

On June 3, 1978, Corporal Bardell was among the officers dispatched when a larceny was reported in the north end of the city. The suspects fled in a car. After the police gave chase, the suspects abandoned their vehicle and escaped through back yards on foot in the dark. When a resident reported a prowler, Officer Bardell responded. Upon arriving to the area of the report, he viewed a shadowy figure darting in a nearby yard, and gave chase on foot. Officer Bardell was surprised by a second suspect hiding behind a garage, who fired two shots at point blank range, striking Officer Bardell in the abdomen. He managed to return fire, striking the suspect, who was immobilized until other officers arrived on the scene.

Officer Bardell returned to duty following his recovery from his injuries, and I am pleased to be able to report that his assailant is still imprisoned, serving a 60- to 100-year term. However, I must also note that Corporal Bardell has suffered continuing health problems as a result of this craven criminal act. Despite these problems, he has continued to serve with distinction and honor.

For his years of dedicated service to the people of Allen Park, for his bravery in the face of great danger, and for his record as a good and faithful citizen, I call upon my colleagues in the House to join me in saluting this great American.

MONEY TO BURN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. LANTOS. Mr. Speaker, as I am sure you know, Arson Awareness Week, commemorating the end of the Los Angeles fires set during the 1992 riots, just ended, with communities all across the country focussing public attention on the terrible costs in lives and money from arson for profit. Arson Awareness Week has the support of firefighters around the Nation, many of whom have organized with consumers, government agencies and insurers to combat this form of insurance fraud through public information and the advocacy of such groups as the Coalition Against Insurance Fraud. The coalition recently published in its newsletter the following article, "Money To Burn", which I would like inserted in the CONGRESSIONAL RECORD in recognition of our firefighters and the arson problem:

MONEY TO BURN

(By Michael E. Diegel)

ARSON-FOR-PROFIT AND ITS MANY FACES ARE A DANGEROUS—SOMETIMES DEADLY—FORM OF INSURANCE FRAUD

In 560 cases in 1993, someone's world ended just as biblical writers predicted—in a blaze of fire.

The 560 dead were the victims not of apocryphal wrath but of arson.

For at least 80 other people living in apartments above a New York warehouse, salvation came in the form of investigators who unearthed a plot to burn the warehouse for the insurance money.

There's no way to know how many of the 560 were killed in cases of arson for profit, but experts believe at least 15 percent of reported fires are deliberately set for several reasons, including insurance fraud and other profit-seeking motives.

"It's as difficult, or perhaps even more so, as determining the level of [other types of] insurance fraud," said Rick Gilman of the Insurance Committee for Arson Control. "It's perhaps more difficult because arson covers a wide variety of motives where generally insurance fraud is strictly for profit."

He defines arson for profit as "an intentionally set fire to recover some financial gain. Maybe it's financial gain through insurance proceeds, maybe it's financial gain through reducing the competition, maybe it's financial gain through some other avenue.

"There isn't any information as to how common it is," Gilman continued. "The whole issue is one that's very difficult to find out anything about because there hasn't been an effective study of that aspect of arson for over a decade."

A 1982 study of closed claims files from 1980 was conducted by the Insurance Research Council's organizational predecessor, Gilman said.

"In general, what they found in the voluntary [insurance] market, the percentage of arson cases was 15–17 percent, but when you got into the FAIR [Fair Access to Insurance Requirement] plan market, they found [arson cases were] upwards of 40–50 percent," Gilman reported.

What is known are recent cases that illustrate the variety of arson-for-profit schemes, such as:

A seven-person ring operating in Florida for at least six years. Participants torched houses, usually under the guise of renovation or construction projects. The group also burned cars and at least 15 insurance companies.

A New Jersey couple accused in February of setting fire to their home after it languished on the real estate market for more than a year.

Three San Francisco men were arrested in March and accused of buying a house in 1990, enhancing its value by presenting a fictitious lease-to-purchase agreement and filing a claim after setting the house afire. Investigators said one of the men had been pursued since the late 1970s for suspected arson, but this was the first time they'd gotten enough evidence to charge him.

A Prince George's County (Md.) man who owns a topless bar recently was accused of hiring others to set fire to the county's only other topless bar.

While large commercial arson cases and homeowner arson-related fraud is fairly common, arson for profit crosses all socioeconomic groups. Investigators in Buffalo, N.Y., report a rash of arson fires in apartments occupied by people on public assistance. Officials cited one woman who had fires break out in five separate apartments over three years. Relatives of hers experienced at least three fires.

In these cases, burned out welfare clients move into public housing. They refuse to pay any rent and eventually are evicted. Then the apartment is torched, usually after all belongings have been surreptitiously removed. The client moves into a hotel, which is paid for, gets all her meals paid for, and collects on claims for the "destroyed" belongings.

Typically, the "victim" can collect around $3,000 plus pocketing what would have gone to rent. Fire investigators believe that more than a third of the city's more than 300 arson fires can be attributed to the scheme, which they say is increasingly popular. In a couple of blatant cases, they report welfare clients related to each other had fires at the same time.

Cases like these earn headlines or are part of the anecdotes told among arson investigators. So, too, are tales of arson by juvenile or serial offenders. Usually these cases aren't fraud-motivated arson. Residential fires, too, are less likely to be suspected arson for profit.

"It may be that the grease fire in the kitchen may have been intentionally set," Gilman said, "but it's the local fire department and the local homeowner that maybe they know, [so] I think there may be less of a tendency to investigate residential fires unless it's glaringly evident—multiple ignition sights or other glaring evidence of arson."

Gilman also suspects investigators are less likely to look closely at residential fires because there's not as much money involved as in commercial arson fires. Again, he lamented, "There's all too few facts in this arena."

Still, he added, companies are investigating fires more than in the past.

"The same intensity that is being addressed to insurance fraud is being found in the arson investigation arena," Gilman said. Companies are creating and expanding special investigation units, using resources such as property loss databases and public records, trying to identify patterns and motives. They also go low-tech.

"Some companies train arson dogs and give them to local fire departments," Gilman said, "Nationwide has its own arson dog they use for their investigations, which I think is kind of neat."

Passage of arson immunity laws has helped, too. All 50 states and the District of Columbia have some form of arson immunity to protect insurers who give information to law enforcement.

In some cases, the law's scope is limited. For example, 14 states do not allow reciprocity; law enforcement cannot share information with insurers. Most insurers support full reciprocity in immunity laws and also would like to see legislation protecting insurer-to-insurer information sharing.

And there is good news. The number of suspected arson fires has dropped for three straight years and there was a reported 11 percent drop in arson cases in cities with more than 1 million residents. However, the cost of those fires was up in 1993 by more than $350 million.

The National Arson Forum, a group of companies and organizations concerned about arson, developed Arson Awareness Week (the first week of May) to bring the cost of this crime to the attention of the public. It also commemorates the end of the Los Angeles fires set during the 1992 riots.

While the dollar costs are something that's borne by all of us, it's also a good time to remember that some of us pay with our lives.

TWO HUNDRED YEARS AGO

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, I think it would be fitting for me to share with my colleagues a poignant poem written by Carrie B.H. Collins of Denver, CO. Ms. Collins' poem expresses the essence of our great Nation, and will make an important contribution to the record.

TWO HUNDRED YEARS AGO

(By Carrie B.H. Collins)

Two hundred years ago
America started to grow
Her work was tedious and slow
And England had to go.

Two hundred years ago
They thought they had to fight
For freedom and for right
The Red Coats with their might.

Two hundreds years ago
We found the Indians here
They farmed and fished and sought
To hold their land they fought.

Two hundred years ago
The Brown folks lived here too
Their horses they did ride
And brand their cattle's hides.

Two hundred years ago
Black folks were shackled and chained
Free labor they did give
Some died that others may live.

Two hundred years ago
They came from far and near
Some came because of fears
And others shedding tears.

Two hundred years ago
America wanted more
She looked from coast to coast
For help without a toast.

Two hundred years ago
Some peole had a dream
That one day it would seem
Like they could live as Kings.

Two hundred years ago
Men worked hard with the land
And some of them couldn't stand
Hardships of their fellow-man.

Two hundred years ago
They came with all they had
High hopes, courage and faith
To live and grow in grace.

Two hundred years and here
America, stand up and cheer
For men have worked sincere
Thank God, move on without fear.

Two hundred years and here
America, stand up and cheer
Brave men have bled and died
For freedom side by side.

TRIBUTE TO GIRL SCOUT GOLD AWARD RECIPIENT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. OBEY. Mr. Speaker, today I would like to salute an outstanding young woman who has been honored with the Girl Scouts of the U.S.A. Gold Award by Birch Trails Girl Scout Council in my home town of Wausau, WI. She is Molly Olsen of Girl Scout Troop 291.

She was honored on March 11, 1995 for earning the highest achievement award in Girl Scouting. The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development.

Girl Scouts of the U.S.A., an organization serving over 2.6 million girls, has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches, earn the Career Exploration pin, earn the Senior Girl Scout Leadership Award project, earn the Senior Girl Scout Challenge, and design and implement a Girl Scout Gold Award project. A plan for fulfilling the requirements of the award is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

As a member of the Birch Trails Girl Scout Council, Molly began working toward the Girl Scout Gold Award in 1994. She completed her project in the areas of Bat Education and Preservation. She worked countless hours researching the bat population and finding donations to build eight bat houses at Camp Del O'Claire. She also donated books about bats to the camp library in hope that girls will become more educated about the species.

The earning of the Girl Scout Gold Award is a major accomplishment for Molly Olsen, and I believe she should receive the public recognition due her for this significant service to her community and her country.

VETERANS' EMPLOYMENT ASSISTANCE MUST BE MAINTAINED

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. MONTGOMERY. Mr. Speaker, I am today introducing the Veterans' Employment and Training Bill of Rights Act of 1995. Under this measure, which would amend section 4100, title 38, United States Code, veterans' eligibility for priority services under any federally funded work-force preparation, development, and/or delivery program would be clarified. An eligible veteran would be required to meet program eligibility requirements and be within 10 years of his or her date of discharge or release from active duty. Special disabled veterans would be given priority and preference under this section.

Additionally, the act would require entities that administer or deliver services under the above-described programs to provide information and effective referral assistance to veterans regarding benefits and services that may be obtained through other entities or service providers. The bill further provides that entities or services providers would be required to ensure that veterans are informed of their employment-related rights, benefits, and privileges provided under this measure.

The act would also require each State or local council, board, or advisory body established in support of the employment and training programs addressed by this measure to include representation from the veterans' community.

In order to ensure that veterans are being served in accordance with the intent of this legislation, the Secretary of Labor would be required to submit an annual report to the Committees on Veterans' Affairs of the House of Representatives and the Senate. It would be the Secretary's responsibility to determine what data is necessary to obtain the required information.

Mr. Speaker, our country has a longstanding commitment to providing priority services to veterans seeking employment and training assistance. We are now in the midst of an in-depth review and redesign of our national labor exchange and job training programs. As ranking member on the Veterans' Affairs Subcommittee on Education, Training, Employment, and Housing, I feel strongly that our commitment to veterans must be protected and even strengthened during this era of change. The men and women who defend our lives and liberty through military service earn the priority of services they have traditionally been provided and will continue to be provided under this bill.

I want to point out that no fewer than 17 States have implemented bills of employment rights for veterans. The Federal Government can and should do no less.

A SPECIAL TRIBUTE TO KATHRYN ELIZABETH RICHARDSON TYLER: CELEBRATING A LIFE OF COMMUNITY SERVICE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. STOKES. Mr. Speaker, on Monday, May 15, 1995, the city of Cleveland will celebrate the dedication of a new building addition to the Kathryn R. Tyler Neighborhood Center. The dedication ceremony will celebrate the strong commitment and vision of an individual who dedicated her life to serving the community and improving the lives of others.

The Cleveland community mourned the passing of Kathryn Elizabeth Richardson Tyler on April 5, 1995. For 32 years, Mrs. Tyler served as Administrator of the Kathryn Tyler Neighborhood Center. As we gather to break ground for the new building addition, we acknowledge her enormous contributions to our ceremony. I am proud to join the community for the special dedication ceremony. I wish to share with my colleagues and the Nation some information regarding Kathryn Tyler.

Mr. Speaker, Kathryn Elizabeth Richardson Tyler was born in Dawson, GA, and attended college in Knoxville, TN. She received two master degrees; the first was a Masters of Social Work from Atlanta University; and the second was a Masters of Social Work Administration from Case Western Reserve University in Cleveland.

Early in her professional career, Kathryn Tyler was a teacher in Sheffield, AL. She was also an instructor of social science at Albany State College, and North Carolina A&T College. Further, Mrs. Tyler served as Director of Field Services in the Mediterranean and European theaters during World War II for the American Red Cross.

Mr. Speaker, throughout her life, Kathryn Tyler exhibited a concern for the social welfare of the community. Shortly after relocating to the Cleveland area, Mrs. Tyler founded and served as the first Director of the Glenville Neighborhood and Community Centers. She ran the operation out of store fronts and in the old Glenville High School. However, Kathryn Tyler never gave up on the dream of a permanent home to address the needs of the community through basic social work.

In 1976, the Kathryn Tyler Neighborhood Center was named in honor of this individual's tireless efforts and commitment to the community where she resided and served. During her 32 years as Administrator of the Center, the Cleveland community benefited from important programs such as after school tutorial programs and Head Start for the children; mental health outreach services for families; adult education and job training classes for individuals throughout the community; and special programs to serve the elderly population.

Mr. Speaker, Kathryn Elizabeth Richardson Tyler was a beacon of light in our community. She had a love of people and a special gift of reaching out to those in need. Mrs. Tyler lived by the adage, "Have a dream . . . and reach for it." Due to her lifelong efforts, the community is better able to reach out to individuals and families in need. More importantly, because of Kathryn Tyler, our children have brighter and more promising futures. I was privileged to have known Kathryn Tyler. She was a close friend and someone whom I greatly admired.

I am proud to participate in the ground breaking ceremony for the new addition to the Kathryn Tyler Neighborhood Center. It represents a special tribute to an individual who dedicated her life to serving others.

"I LOVE LIFE AND I WANT TO LIVE" IS THEME ONCE AGAIN FOR THE UNITED BLACK FUND 23D ANNUAL VICTORY LUNCHEON

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. DELLUMS. Mr. Speaker, I rise today to enthusiastically extend my heartfelt congratulations to Ms. Wilhelmina J. Rolark, Esq., president/CEO, and the staff of the United Black Fund [UBF] in celebration of its 23d Annual Victory Luncheon.

I would also like to commend the staff of the UBF and its many member agencies for their continuous and much needed work in serving the community. It seems that the needs that were once taken care of by families and friends has now been placed in the lap of organizations such as the UBF.

Today, we face the possibility of many social programs being eliminated from our national landscape. We see our communities in distress and our Government has been thus far unable to provide for the growing numbers of people requesting assistance. This organization, and the many agencies it supports, are helping fill that void. I encourage UBF to continue to go forward, and to fight the good fight.

I know it is not easy to be called upon to do more and more with less. But with the kind of dedication the UBF has shown in the past, and the commitment it is making toward the future with programs such as "I Love Life and I Want To Live," the road to wellness is at hand, and the tide will be turned. As a former community worker, I know that it takes a strong will to constantly put the needs of others before one's own. I have the deepest respect and admiration for those who continue to do this day after day, year after year. Their selfless efforts make a difference in the lives of so many now and will do so in the years to come.

I find UBF's never-ending efforts a steadfast source of personal strength in my daily encounters with forces that seek an end to any and all programs that do not fit into their particular agenda. I know that without the UBF, there are many among us who would go hungry, who would be in the cold, and many more who would be without hope. I would like to thank UBF for caring for those people who need a helping hand. I know my friend, the late Dr. Calvin W. Rolark, Jr., is pleased as he peers down from above and witnesses the continuation of his lifelong work.

Mr. Speaker, I ask my colleagues to join me in saluting an organization that is serving a growing number of those in need. The UBF is definitely meeting unmet needs in the Washington metropolitan area and throughout America.

THE METAMORPHOSIS OF CZECH SOCIETY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mrs. KENNELLY. Mr. Speaker, the Center for Democracy last Wednesday honored the Prime Minister of the Czech Republic, Vaclav Klaus, by awarding him its prestigious International Democracy Medal for 1995.

The Center for Democracy is a nonpartisan, nonprofit organization dedicated to supporting the democratic process throughout the world. In previous years, the center has honored Presidents Raul Alfonsin, Corazon Aquino, Oscar Arias, Patricio Aylwin, Violeta Chamorro, Arpad Goncz, and Boris Yeltsin.

I was fortunate to be at the dinner award ceremony and hear Prime Minister Klaus' acceptance address. His comments on the democratization process are profound, and I am including the text at this point in the RECORD.

THE METAMORPHOSIS OF CZECH SOCIETY

It is a great honor for me to be awarded the International Democracy Medal from your distinguished society. And it is extremely intellectually stimulating to have the unique opportunity to speak here today and share with you some of my ideas about the fundamental systemic change which has been going on in the Czech Republic for the last five years.

As well known, the Czech Republic suffered for many decades under an oppressive, undemocratic and totally inefficient communist political, social and economic system. It was a system irresponsive to human wants and desires. It is over now. I have to admit that I do not feel enough motivated these days to discuss at length the intrinsic logic as well as peculiarities of the functioning of such a system although I am convinced that the standard "sovietologist's" paradigm of explaining it needs substantial rewriting and though communism is not an unrepeatable, singular event which can never happen. But we are already on the other side of the Rubicon.

The task of our time has been positive—to replace such a system with a free, democratic society, based on political pluralism and the rule of law, with a well-functioning, efficient market economy, based on private property, private initiative and limited government.

I will try to argue here tonight that the Czech Republic has already introduced basic elements of such a system and by having done so, the country has entered what we call the early posttransformation stage.

In all our effort during the last few years to dismantle communism and institute free society and market economy the central idea was that of democracy. Several years ago I coined the phrase "market economy without any adjectives" in an attempt to reject all forms of "third ways" of economic organization and it seems to me now that I can say as well "democracy without adjectives" because it contains the same message. We do not want to make the term fuzzy, therefore, we don't like people's democracy, socialist or social democracy, christian democracy, etc. Whether this is really understood or not is exactly what distinguishes successful from unsuccessful approaches to the transformation of the postcommunist countries.

Talking about the metamorphosis of Czech society (and those of other Central and East European countries), the most important thing now is to avoid falling into the dangerous reform trap of half-measures and useless political and social concessions, and not to give up the fight against an already emerging "rêforme fatigue". The transformation has nonzero "transformation" costs and our task is to minimize them. This cannot be achieved only by spontaneous evolution of social institutions. The profound systemic change can be successful only if it is based on a clear and transparent vision of the future, the ability of politicians to sell such a vision to the citizens of the country and a pragmatic, and rational (and definitely not simple) transformation strategy.

To structure the logic of the whole process, to differentiate between the intentional and the unintentional the organized and the spontaneous parts of it, it is helpful to distinguish between passive and active transformation measures.

The passive (nonconstructivistic and noninterventionist) side coincides with deregulation and liberalization. The political transformation was fully based on this, i.e. on creating preconditions for a free entry into the political market. We realized very soon that this was sufficient and that no direct measures were indispensable (it was almost not necessary to prohibit anything). This is not a trivial conclusion. The free political space was very soon filled with new political entities and by now, in my country at least, the standard political structure—characterized by ideologically well-defined political parties—has been developed. The political structure is more European than American, with more than two political parties, which results in a coalition government and standard pressures between the cabinet and parliament.

The economic transformation was, of course, based on liberalization as well. It has been proved that liberalization of markets, that is of prices, foreign trade and private entrepreneurship, is necessary for the fundamental change of the system, but we realized that this is not sufficient. As I said before, the passive transformation plus waiting for evolutionary emergence of efficient markets and strong economic agents would last too long and be too costly. It was, therefore, supplemented with positive, more or less active transformation measures.

As—I am sure—you expect, the most important shift at the microeconomic level was achieved by privatization. In our country we managed to effect the fastest and most extensive transfer of property rights, at least in this direction. As you know, it is much easier to nationalize than to privatize, it is more difficult to build than to destroy. The job required a very special mix of standard and nonstandard privatization methods, and the innovative Czech voucher privatization, which involved millions of our citizens, proved to be a catalyst of the economic transformation. Now, five years after the Velvet Revolution and four years after the beginning of privatization, the massive, "wholesale" privatization is practically over. We have to settle some residual cases, but these are already part of our posttransformation tasks and challenges.

Speaking of the posttransformation stage, we have to complete the process of liberalization, deregulate the few still regulated prices (though the list of regulated prices in the Czech Republic is not longer than in the Western countries) and institute full convertibility of the currency; complete the privatization process, which is anyway coming to its close.

This kind of institutional refinement is the posttransformation task of the government. In addition, we need to deepen the markets and to strengthen the health of participating economic agents. This is, however, already a part of the Hayekian evolutionary process, in which the role of government is marginal.

But it is connected with another important challenge which is no more an integral part of our original transformation task. That is the need to safeguard economic freedom and resist the temptations for the government (magnified by strong lobbyist pressures) to introduce the same forms of regulation, control, licensing, etc. as we can see in some Western countries these days.

I know you have your own experience in this respect in your country, you have your own prophets of a limited or expanding government, and I can assure you that we followed your domestic political debates with great interest before our Velvet Revolution and we do with enormous interest now.

Let me make a few comments about how I see it from Prague. The ideological conflict over communism is over and it makes us very happy. There are new conflicts and new dubious, but attractive and fashionable ideas which must be discussed and their pitfalls and unintended consequences must be exposed. I have in mind the protectionist arguments for the so-called fair trade (I always try to relate the dispute between free and fair trade to the difference between free and fair speech); competition constraining arguments based on the criticism of the alleged social and ecological dumping; collectivistic features of communitarianism and the ideology of civil society; environmental extremism and overkill, etc.

The protectionist blueprint is an illusion, based on fear. In the end, it will not protect jobs but destroy them. The accusations of "dumping" neglect the law of comparative advantage, different levels of productivity of labor and wages (and related working conditions), as well as the connection between wealth and externalities. Communitarianism, instead of advocating the importance of voluntary associations and naturally emerging intermediating structures, preaches nostalgic reminiscences about a past that never existed and criticizes modern society. Environmentalism with its distinctly Calvinistic flavour and an obvious biblical quality is based on widespread misinformation, myths, sensationalism and promotes a collectivist, redistributionist political agenda.

Our experience gives us special sensitivity to all that and we see the similarities of arguments used in our country in the past and now in the sophisticated debates in your country and elsewhere. It is our duty to remind of that. We all have to watch our own policies and institutions. There is always the danger of creeping etatism and stronger government powers. And it is our duty not to let it destroy our fragile free and democratic society.

MEMORIAL DAY 1995

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. STUMP. Mr. Speaker, sacrifice. It's a word we all know. All of us have made some sacrifices in our lives. We make sacrifices for our family, for our close friends, even for our neighbors and coworkers. Persons in the Armed Forces make many sacrifices, and over one million Americans have given their lives, the ultimate sacrifice, while serving in our Nation's armed forces. Throughout history, members of the Armed Forces have risked their lives not merely for their family or their coworkers, but for a cause represented by the American flag, and the freedom to choose and the liberty to succeed which it embodies.

Some Americans are too young to remember; others have too quickly forgotten. How important, therefore, that we honor our veterans, that we learn from them, and that we teach others about history, about war, about sacrifice. We are still reminded about Korea, Vietnam, and more recent encounters. We should not, however, allow the memory, the lessons, and the sacrifices of our terrible world wars to fade. Proud veterans of those wars are among us today. Their presence bears witness to sacrifice.

Fifty years ago this month, our Nation was beginning to absorb the meaning of victory in Europe, to realize what the final tally was in terms of lives lost or shattered as the result of the awful conflict in Europe and North Africa. In April of 1945, President Roosevelt had died of a cerebral hemorrhage at Warm Springs, GA. The battle in the Pacific still raged as scientists neared completion of the first atomic bomb. The sacrifices would continue for 4 more months, and then the bloodiest of all wars would be over.

Veterans of World War I saw staggering losses in bitter trench warfare and history's first use of such horrible tactics as gas warfare. Fewer than 20,000 veterans of that brutal conflict are still alive today.

Cemeteries in two small towns in northwest Maryland contain the dead from the bloodiest day of the Civil War. The United States and the world learned of the awful toll of war when two of Mathew Brady's assistants photographed the dead of the 1-day battle at Antietam. The pictures brought home the shocking toll of war and its accompanying sacrifice when they were first displayed in 1862, and they are no less shocking today. Each Memorial Day, the 2,100 graves of the Union dead are decorated with small American flags, a scene which stirs the conscience, but which only hints at the sacrifices which took place on the day of the battle. The nearby cemetery containing 2,400 Confederate dead, no less valiant, is undecorated on most Memorial Days, because there are not sufficient funds to remember the sacrifice of these equally selfless men and boys.

Battlefields and cemeteries remind us of the terrible sacrifices and loss of life in war. But many of us or our family members remember all too directly the experience of war. The first half of this century saw two world wars. These were the "wars to end all wars". How wrong we were to think the experience of war was behind us! Consider Korea, Vietnam, Lebanon, Grenada, and Panama. The Persian Gulf, Somalia, and Haiti. We have asked much of our fighting men and women.

Although many members of our Armed Forces are buried on foreign soils, there are cemeteries throughout this country which contain the remains of the very best that America had to offer. Remembering is what Memorial Day is for, and what gives it meaning is how each one of us remembers the great sacrifices which have made possible the blessings we share as Americans today.

LOS ANGELES STUDENTS RECEIVING THE "TOOLS FOR SUCCESS"

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. TORRES. Mr. Speaker, I rise today to recognize the Miller Brewing Company and the Los Angeles Trade Technical College (LATTC) for establishing the "Tools for Success' Scholarship Program.

Since it began 4 years ago, the scholarship program has built a nationwide reputation and expanded into six more cities. Instead of awarding students with scholarship funds, "Tools for Success" provides graduates with the actual tools they will need to excel in their profession. Whether it is automotive repair or fashion design, students embarking on a career will have both the skills and the implements to compete in the marketplace.

The top two graduates from 16 selected trade professions at Los Angeles Trade Technical College are honored annually. Each of the 32 honorees will receive a complete set of tools to help them begin their career. Since Miller Brewing started the Tools for Success Program more than 100 graduates have benefitted. Each honoree receives a set of tools donated by Snap-On Tools, valued between $1,500 and $2,000. Southern California Edison is also a partner in making this nationwide program a reality. Each of the scholarship sponsors deserves credit for developing a well-trained workforce that will stand ready to face the challenges of the 21st century.

Unfortunately, congressional duties will prevent me from attending the fourth annual awards ceremony. I say this partly because the College's renowed culinary arts students will prepare the awards luncheon.

The program is the brainchild of Victor Franco, Public Relations Manager, Miller Brewing Company at the Irwindale Brewery. Victor realized that vocational students have often been shortchanged at the scholarship table. Ninety percent of vocational graduates are required to have their own tools before they are hired. Often students cannot afford to make the large investment. By putting the tools in their hand, the students are well on their way to finding a job and honing their skills in the working world.

Mr. Speaker, I ask my colleagues to join me in honoring their year's Tools for Success scholarship awardees and to all of the individuals who have made this program thrive.

AN AMENDMENT ADDRESSING THE DEFINITION OF A SMALL BUSINESS IN SECTION 322

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BACHUS. Mr. Speaker, under Chairman Shuster's bill, H.R. 961—Clean Water Act Amendments of 1995, general and site-specific permits are required unless the entity can prove that its activities do not pose a significant risk to health and the environment, in which case, a permit would be required. However, an exemption is provided for small businesses that meet the definition of "small business" as promulgated by the EPA. Under the provisions of the committee bill, a small business is exempt from general and site-specific permits unless the State finds that, without permits, stormwater discharges would have a significant adverse effect on water quality. In this case, a permit would be required regardless of whether the entity was a small business or not.

While the reformed permitting process is a tremendous positive step in the right direction, the bill leaves it to the discretion of the EPA to define "small business." We fear that EPA will attempt to circumvent the clear intent of the bill and define "small business" so narrowly that it has no practical application.

The amendment which I plan to offer, a copy of which follows, uses similar language from section 507 of the Clean Air Act as it relates to defining "small business" based on number of employees. Under the Small Business Stationary Source Technical and Environment Compliance Assistance Program, small business is defined as having 100 or fewer employees. Our amendment as written would still allow EPA to define "small business," but any definition would have to include language to define "small business" as having 100 or fewer employees.

Even if this amendment is adopted, a State would still maintain authority to require permits by certain small businesses if it found that the stormwater discharges from the business would have a significant adverse effect on water quality. The amendment is intended to reduce the cost and paper-work that literally thousands of small business would be burdened with if they were not initially excluded from the permitting process.

AMENDMENT TO H.R. 961, AS REPORTED
OFFERED BY MR. BACHUS OF ALABAMA

Page 146, line 21, after the period insert the following:

At a minimum, the term "small business" shall include a corporation, partnership, unincorporated business, and sole proprietorship employing 100 or fewer full time employees.

AN AMENDMENT TO RESOLVE THE TACOMA DECISION

HON. BILL EMERSON

OF MISSOURI

HON. BILL K. BREWSTER

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. EMERSON. Mr. Speaker, the purpose of this amendment is to resolve the friction and conflict that the Clean Water Act, as interpreted by the Supreme Court in its 1994 Tacoma decision, is creating with the Federal Power Act. The Supreme Court has interpreted the Clean Water Act, in particular section 401 of the Act, so broadly as to effectively supersede the Federal Energy Regulatory Commission's licensing authority over hydropower projects under the Federal Power Act. This amendment would rectify that situation by exempting hydropower projects from regulation under the Clean Water Act.

The Federal Energy Regulatory Commission already conducts a comprehensive review of proposed new hydropower projects when first deciding whether to issue a license and again upon relicensing. That review takes into account the inputs of state and federal agencies, Indian tribes, and the public. The review also carefully evaluates and addresses the potential environmental impacts of each proposed and existing project. Therefore, in the context of hydropower projects under the Commission's jurisdiction, there is no need for the additional, duplicative layer of regulation that the Clean Water Act now creates. This amendment eliminates the duplicative layer of federal regulation.

CUTS IN NUCLEAR ARSENALS NEEDED

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Ms. FURSE. Mr. Speaker, I would like to submit for the RECORD the letter I and 24 of my colleagues sent to President Clinton last Friday. In it, we urged him to propose beginning negotiations with Russia on a START III agreement, to further limit our two nations' massive nuclear weapons arsenals.

Depending on the outcome of this week's summit in Moscow, I will consider introducing a resolution similar to this letter. I believe these reductions are vital in order to achieve a safer world for all of us.

ELIZABETH FURSE,
U.S. HOUSE OF REPRESENTATIVES,
May 5, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States of America,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We wish you success in your upcoming summit with President Boris Yeltsin in Moscow.

The substantial improvement in relations between Russia and ourselves in this post-Cold War era offers a historic opportunity to secure further reductions in nuclear arms, thereby reducing the nuclear risk and cost for the United States, Russia and the world. As you know, at your September 1994 summit with President Yeltsin, you agreed that our two nations would discuss possibilities for further limits on our remaining nuclear forces, including further reductions. As you prepare for the summit, we urge you to prompt the United States Senate to complete START II approval of ratification. In Moscow, we urge you to encourage Russia also to ratify START II.

We believe that the United States should begin negotiations with Russia as quickly as possible on a START III agreement to achieve deeper cuts in our strategic nuclear arsenals. Such an agreement should require dismantling excess warheads and placing the resulting nuclear materials in storage under international or bilateral monitoring. We also encourage you to initiate negotiations with Russia to retire and dismantle all tactical nuclear weapons in our respective arsenals.

Additional measures toward nuclear disarmament enjoy broad support among the American public and are vital to reducing the threat of nuclear conflict. We hope you will include these practical steps in the summit agenda.

Sincerely,

Tom Barrett, Howard Berman, Sherrod Brown, Bob Clement, Peter DeFazio, Ron Dellums, Michael Doyle, Lane Evans, Elizabeth Furse, Sam Gejdenson, Maurice Hinchey, Zoe Lofgren, Ed Markey, David Minge, Connie Morella, Jim Oberstar, Major Owens, Frank Pallone, Nancy Pelosi, Martin Sabo, Pat Schroeder, Jose Serrano, Louise Slaughter, Pete Stark, Ron Wyden.

AN AMENDMENT ADDRESSING HYDROELECTRIC POWER GENERATION

HON. SPENCER BACHUS

OF ALABAMA

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BACHUS. Mr. Speaker, last year, the U.S. Supreme Court issued a decision commonly referred to as the Tacoma decision that has created friction, conflict, and unnecessary, duplicative regulation for the Nation's hydropower projects. Specifically, the Court has interpreted section 401 of the Clean Water Act so broadly as to supersede the Federal Energy Regulatory Commission's licensing authority over the projects under the Federal Power Act.

The Court's opinion allows State water quality agencies to set conditions directly on the operation of hydropower projects, not just the discharges they produce. Furthermore, these conditions are not limited to standards set under the act but can be based on independent State laws that may not have water quality as their objective. The Court also said that water quality agencies can evaluate whether a project is consistent with the agency's designated uses for the water body, not just narrative and numeric water quality criteria. Most troubling, the Court also said that the conditions can directly address stream flows, even for aesthetic, fish and wildlife, or recreation purposes.

The following amendment, which we plan to offer to H.R. 961, the Clean Water Act Amendments of 1995, would restore the Federal Energy Regulatory Commission's licensing authority by narrowing the reach of the Clean Water Act, in particular section 401, as to hydroelectric projects. The amendment would limit State water quality agencies to applying narrative and numeric water quality criteria to the project discharges. If an agency wants to go beyond those definitive criteria, then it would need to submit its recommendations to the Commission for consideration as part of the Commission's comprehensive licensing review of the projects. Under section 10(a) of the Federal Power Act, such recommendations would get serious consideration, along with the numerous other environmental, recreational, and other recommendations the Commission reviews for each project.

AMENDMENT TO H.R. 961, AS REPORTED OFFERED BY MR. BACHUS OF ALABAMA

Page 213, after line 5, insert the following:

SEC. 507. FEDERAL POWER ACT PART I PROJECTS.

Section 511(a) (33 U.S.C. 1371(a)) is amended by striking ", or (3)" and inserting the following: "; (3) applying to hydropower projects within the jurisdiction of the Federal Energy Regulatory Commission or its successors under the authority of part I of the Federal Power Act (16 U.S.C. 791 et seq.); except that water quality certification, unless waived or denied, shall be issued for such projects under section 401 and the water quality conditions in those certifications shall become conditions on project licenses and except that any water quality certification conditions or denial issued under section 401 shall be limited to consideration of narrative and numeric water quality criteria adopted in water quality standards under section 303 and such conditions shall not regulate, or such denial be based on, water use or water quantities; or (4)".

Renumber subsequent sections of the bill and conform the table of contents of the bill accordingly.

SENATE—*Wednesday, May 10, 1995*

(Legislative day of Monday, May 1, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

God is able to make all grace abound toward you, that you, always having all sufficiency in all things, may have an abundance for every good work.—II Corinthians 9:8.

Gracious Father, we claim this Biblical promise as we begin this new day. We thank You for Your amazing grace, Your unqualified love, and forgiveness that flows from Your heart into our hearts filling up our diminished reserves. We are energized by the realization that You have chosen to be our God and have chosen us to belong first and foremost to You. So we clarify our priorities and commit ourselves to seek first Your will and put that above all else. It is liberating to know that You will supply all we need, in all sufficiency, to discern and do what glorifies You. Grant us wisdom, Lord, for the decisions of this day.

We ask this not for our own personal success but for our beloved Nation. America deserves the very best from us today. Experience has taught us that You alone can empower us to be the leaders America needs. Fill us with a new passion for patriotism and fresh commitment for the responsibilities of leadership You have entrusted to us.

In the name of Him who helps us live every day to the fullest. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. GORTON. Mr. President, this morning the leader time has been reserved and the Senate will resume consideration of H.R. 956, the product liability bill.

Under the provisions of the agreement reached last night, there will be at least two rollcall votes beginning at 9:45 this morning on or in relation to amendments to the substitute amendment. Further rollcall votes are expected following the 9:45 a.m. stacked votes, and a vote on final passage can be expected at about 11:30 this morning.

Senators should also be aware that the Senate will begin consideration of the solid waste disposal bill at noon.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER (Mr. CAMPBELL). The Senate will resume consideration of H.R. 956, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gorton amendment No. 596, in the nature of a substitute.

Coverdell-Dole amendment No. 690 (to amendment No. 596), in the nature of a substitute.

Shelby-Heflin modified amendment No. 693 (to amendment No. 690), to provide that a defendant may be liable for certain damages if the alleged harm to a claimant is death and certain damages are provided for under State law.

Harkin amendment No. 749 (to amendment No. 690), to adjust the limitation on punitive damages that may be awarded against certain defendants.

Mr. GORTON. Mr. President, as I have just announced on behalf of the majority leader, we will have two votes in about 10 minutes. Seeing nobody here at the moment to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 693, AS FURTHER MODIFIED, TO AMENDMENT NO. 596

Mr. SHELBY. Mr. President, I ask unanimous consent that I be allowed to amend the Shelby-Heflin amendment, which is slated to be voted on in a few minutes, by inserting at the end of the amendment: "This paragraph shall cease to be effective September 1, 1996."

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 693), as further modified, is as follows:

At the appropriate place insert the following:

SEC. . LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide for damages only punitive in nature, a defendant may be liable for any such damages without regard to section 107 but only during such time as the State law so provides. This paragraph shall cease to be effective September 1, 1996.

Mr. GORTON. Mr. President, this is now a reasonable amendment. There was a debate on the Shelby-Heflin amendment yesterday to which I had certain objections, but it is clear that the law of Alabama is unique and peculiar.

I think it can easily be amended, and the two Senators from Alabama will want to give the Alabama Legislature sufficient time to consider that amendment. I think that is appropriate, and I believe that we can now accept the Shelby-Heflin amendment by voice vote. Assuming that we do so, Mr. President, there will only be one vote at 9:45.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as further modified.

So the amendment (No. 693), as further modified, was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I have reservations about this in regard to what has occurred, but I am faced with reality, the reality of votes, and the reality of conference.

Senator SHELBY and I, therefore, are approaching this issue from a pragmatic, not philosophical, viewpoint. I just want to make that clear.

Mr. SHELBY. Mr. President, regarding the amendment we have worked out and that has been voted on, I agree with the senior Senator from Alabama. We can both count. We were counting votes and we were looking reality in the face.

Our State of Alabama is unique among the 50 States in that, as I have said before on the floor, we have had a wrongful death statute that assesses punitive damages only where someone is killed and there is a civil action because of the death. Most States in the Union—I guess all of them except Alabama—have compensatory damages.

If I had my "druthers," I would leave this like it was or like it is today, but this will give the Alabama Legislature until September 12, 1996, to consider changing it, if this proposed legislation were to become law.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 749

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 749, offered by the Senator from Iowa [Mr. HARKIN].

Mr. GORTON. I move to table the Harkin amendment, and I ask for the yeas and nays

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from Connecticut [Mr. LIEBERMAN] is absent because of death in the family.

The PRESIDING OFFICER (Mr. BURNS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 20, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—78

Abraham
Ashcroft
Bennett
Biden
Bingaman
Bond
Bradley
Breaux
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Robb
Rockefeller
Roth
Santorum
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond

NAYS—20

Akaka
Baucus
Boxer
Bumpers
Byrd
Conrad
Daschle
Dorgan
Harkin
Hatch
Hollings
Inouye
Kennedy
Leahy
Levin
Mikulski
Reid
Sarbanes
Shelby
Wellstone

NOT VOTING—2

Lieberman
Warner

So the motion to lay on the table the amendment (No. 749) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred.)

CHANGE OF VOTE

Mr. PACKWOOD. Mr. President, on rollcall vote 159 I voted "no." It was my intention to vote "yea." I ask unanimous consent I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 629 TO AMENDMENT NO. 690, AS AMENDED

(Purpose: To eliminate caps on punitive damage awards)

Mr. DORGAN. Mr. President, I would like to offer amendment No. 629. The amendment is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 629 to amendment No. 690, as amended:

The amendment is as follows:

Insert at the appropriate place: "Notwithstanding any other provision of this Act, nothing in this Act shall impose limitations on punitive damage awards."

Mr. DORGAN. Mr. President, the amendment which I have offered is not identical but nearly identical to the amendment I offered prior to cloture. The amendment deals with the punitive damage cap. The amendment I offered previously I offered to the Dole substitute. I now offer this amendment to the underlying bill.

Very simply, my amendment would remove the cap on punitive damages that exists in the bill. The amendment that I offered previously was defeated by a vote of 51 to 49. I would like for the Senate to express itself on that issue in light of the activities on this legislation since the Senate voted on it. While I think there is merit in a product liability reform bill and while I think there is merit on both sides of this issue, I believe the legislation should be like the legislation on product liability we considered last year. That legislation came to the floor of the Senate and was voted on with respect to the last cloture vote without any cap on punitive damages.

Last year, the bill that originated in the Commerce Committee and brought to the floor, did not include a cap on punitive damages. This year, the legislation, as it emerged in the Commerce Committee by the same authors, included a cap on punitive damages. I believe they were right last year and wrong this year on that particular section of the bill.

I believe some reform necessary in this area, but I believe their best impulses and best instincts last year served them better than this year when they decided to impose an arbitrary cap on punitive damages.

After all, the legislation requires you to provide clear and convincing evidence as a burden of proof that the harm caused was carried out with a—let me quote this—"conscious and flagrant indifference to the safety of others." If a plaintiff has gone through trial and provided clear and convincing evidence that harm was caused or carried out with a conscious and flagrant indifference to the safety of others, then I do not understand why someone would suggest we ought to have a cap on punitive damages.

The legislation that is before us contains a cap on punitive damages in several different steps. It is, as I understand it, two times compensatory damages to a maximum of $250,000, a distinction from that particular cap for small businesses, certain designated small businesses in the bill, and, third, a provision that a judge could increase the punitive damage award upon a petition by the plaintiff. That is my understanding of what is in the legislation that is before the Senate. My amendment says, notwithstanding any other provision of this act, nothing in this act shall impose limitations on punitive damage awards.

Again and finally, let me say that this is the same position Senator ROCKEFELLER and Senator GORTON had last year, no cap on punitive damages. And I think it is appropriate. The reason I think it is appropriate is we have changed the bar that you must get over in order to prove punitive damages. It requires clear and convincing evidence that the harm caused was carried out with conscious and flagrant indifference to the safety of others.

I just do not understand how, if you meet that burden of proof and demonstrate conscious and flagrant indifference to the safety of others, you can say to a corporation worth several billions of dollars, it would cost less to pay awards than it would to fix the problems. A punitive damages cap is appropriate. I really believe the Senate would improve this legislation by adopting the very position the two managers of the bill had last year. Their first and best instinct was not to have a punitive damages cap then. I believe that is the position the Senate ought to adopt now.

Mr. President, with that, I would hope, when we have another vote on this, the Senate will decide to eliminate the punitive damages cap. With that, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, unlike the situation at the time at which the Senator from North Dakota presented this amendment a week or so ago, we now have a bill in the Chamber in which there is no cap on punitive damages. I say that not in triumph but in regret. I believe that one of the great vices at which legislation of this sort properly should be aimed is at creating some kind of relationship between the actual damages caused by a tort, caused by a wrong, and the damages that can be recovered as a result. But with the latest set of amendments here, we have permitted a judge on certain findings of egregious conduct to go beyond what juries are permitted successfully to impose in the way of punitive damages.

The entire matter, Mr. President, is at one level an argument on philosophy but at another level it is a debate about the Constitution of the United States. The Supreme Court in several recent cases, while not setting a specific ceiling or cap on punitive damages itself, has spoken of serious constitutional questions caused by unlimited punitive damages, or by punitive damages that are not related in any rational fashion to actual damages found by a jury or determined by a court.

In other words, the Supreme Court of the United States has invited the Congress to do exactly what I had hoped we would do more successfully than we have accomplished in this bill.

But just to go over it again, we have said that the maximum punitive damages that can effectively be awarded by a jury are in an amount twice the total of all economic damages and all noneconomic damages that go for pain and suffering. And since those damages, in very serious cases of people being maimed for life, can well go into eight figures, and sometimes do, we have a very large potential remaining for punitive damages. But in addition to that provision, in the so-called Snowe amendment is a $250,000 figure when twice the total of economic and noneconomic damages would be less than $250,000, together with the right of a judge to go beyond even the Snowe formula where the judge feels that formula to be too limited not to permit proper punitive damages for particularly egregious conduct.

So the Senator from North Dakota, in a number of respects, has already succeeded. There is no number. There is no specific formula which limits punitive damages.

As I have said frequently, I think there should be. Working with the laws of my own State and a handful of other States where punitive damages are not allowed at all, where the cap is zero in most cases, we find no difference in the safety or carefulness of business enterprises in those States. No case has been proven for the efficacy of punitive damages as a deterrent, in any event. My own view is that the original limitation in this bill was an appropriate one, but that original limitation has twice been liberalized in the course of this debate. And I express the fervent hope that in concerning ourselves with the proposition that we should not permit absolutely unlimited discretion on the part of juries, we should not have no maximum sentence in civil cases for wrongs, that we will make the partial and halting move toward some kind of rationalization which is now contained in this bill.

Mr. President, we are in a peculiar situation here this morning in that we have a potential of this amendment and one other to be dealt with and we do not have specific limitations on the amount of time that can be utilized for them. So I hope that, when either the Senator from West Virginia or the Senator from North Dakota next speaks, we can get an indication as to when they will finish to allow the other amendment to take place. There will be votes on any other amendments which come up, but we will be asking unanimous consent that those votes take place after closing arguments and before the vote on final passage. So the sooner we know how long these two amendments will be debated, the earlier we will be able to predict to our Senators who are not here when they will have to come back to the floor to vote.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, a couple of points. I agree with what the Senator from the State of Washington said in argument to this amendment.

Just for the edification of my colleagues—this fact has not been brought out, I do not believe, in the debate—we have removed caps, but people do not realize, I think, often that there are caps on some rather extraordinary crimes in the Federal statutes. I will give some examples.

Many Federal criminal fines, even for particularly egregious crimes, do not exceed $250,000. And that was our original proposal, economic damages times three or $250,000, whichever is greater.

Listen to this. If you tamper with consumer products and it results in death, the Federal statute limitation is $100,000 for punitive damages. If you retaliate against a witness, it is $250,000. If you assault the President, it is $10,000. If you rob a bank with the use of a deadly weapon, the punitive damage limit cap is $10,000. Sexual exploitation of children for an individual, $100,000; in terms of an organization—however that would work out—$200,000. For treason—for treason—$10,000.

Now I say that in no way to defend caps, because the Senator from West Virginia has fought for the removal of caps and we have, I believe, been able to do that.

I would, in closing, remind my esteemed friend and colleague from the State of North Dakota, who is as principled a person as I have ever met, that the Senator from the State of Washington and I have so bloodied ourselves in making sure we come back with effective removal of caps that we have said, and that we have been unable to obtain unanimous consent in this body to, in effect, make the cap total and complete because of a matter of 60 seconds in filing the amendment, that if we bring back the amendment with anything but the cap removed, that we will vote against the motion for cloture should there be a filibuster on the conference report.

So I really do believe that we are operating not only in good faith but in good substance on removal of the cap. I hope, therefore, that what I consider a redundant amendment by the Senator from North Dakota would be defeated.

I thank the Chair and yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I shall not prolong the debate. When I have completed with my remarks, I see no reason that you could not enter a unanimous-consent request to have a vote. I have no objection to a vote.

First, let me make a couple of comments. The Senator from Washington said, and I think the Senator from West Virginia also seemed to say, the way the bill is constructed, there really are not caps on punitive damage awards. If that, in fact, is the case, then I would think that they would have no objection to accepting language that says there are no caps on punitive damage awards. That is what my amendment says.

That was the Commerce Committee position last year on this bill. It was the right position. We raised the bar on what you must prove to receive a punitive damage award. Once we raised the bar, we felt it inappropriate to include caps. Now this year they want to include caps.

When the two Senators say there are not really caps, I understand what they are referencing. But, honestly, I think the claimants will find there are caps. There is $250,000 written in. That is written there for a reason. Because, under ordinary circumstances, that will be a cap, two times compensatory damages.

Let me make two other quick points.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. ROCKEFELLER. Just as a point of clarification, the reason that the $250,000 was put in there in its new configuration was not in terms of the caps. We made certain that there was an alternate ceiling. So that if the economic damages and the noneconomic damages did not appear to arrive at $250,000 multiplied by two, that the claimant would be guaranteed the $250,000. It is an alternate ceiling.

Mr. DORGAN. If the Senators were building a floor rather than creating a cap, I say, God bless the floor and let us just get rid of the cap. Let us vote for my amendment and we will solve this.

But, let me make two other comments. First, if a company, a large company with vast resources, produces a product or a device that will be used in the field of medicine discovers, during its testing, the product is sufficiently faulty in its operation and it may cause some deaths; if the company fails to disclose that information and the product goes to market and some unsuspecting patient lies on a hospital gurney going into the operating room and dies during a routine procedure and later the family discovers that person died because the product used was faulty and the company knew it, I suppose they would want to bring a lawsuit against the company. In that case, I think society would want that company to be punished sufficiently so that other companies would understand you cannot do that, that kills people; you ought to be punished for it. You ought not get a slap on the wrist, you ought to be punished for it.

That is what punitive damage awards are for. The case I just mentioned is a real case, and there are plenty of cases like that.

There is not an epidemic of punitive damage awards in this country. It happens rarely because it requires a substantial burden of proof, and we have increased that burden. There is no litigation crisis with respect to punitive damages. In 25 years, the survey that I have seen—1965 to 1990—says that 355 punitive damages were awarded in State and Federal product liability lawsuits nationwide. This is a country of 250 million people; 355 punitive damage awards nationwide. Of those awards, 35 are larger than $10 million. All but one of these awards were reduced, and 11 of the 35 were reduced to zero.

The point I make is, this is not an epidemic or crisis. Punitive damage awards have not been escalating out of control. But I do think there are certain circumstances where an enterprise worth billions makes a conscious decision that we will risk whatever awards exist out there because we will gain more profit by selling this, knowing the defects, than we will risk paying the damages to someone injured or killed by that product.

My own view is that there is merit on both sides of the debate on product liability. That is why I have decided to support and have supported moving forward, increasing the standards, trying to shut down some of the litigation in this country, because there is too much frivolous litigation, as a matter of fact. The country is just prone to litigate almost everything. We have too many lawyers in America. And we keep training more and more every year.

I think there is merit to the position of the two Senators, that we ought to do something in a reasonable way on product liability. I think there is no merit to putting a cap on punitive damages. There was not merit to it last year. They did not have it in the bill last year. They changed their minds. Their first instinct is correct. Always stick with your first instinct. My amendment will allow us to stick with your first instinct. If the Senate agrees, we will live with your victory of last year deciding there shall not be punitive damages in the product liability bill.

Mr. President, with that, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Very briefly, Mr. President, I think that Members should know that this amendment by the Senator from North Dakota is all-encompassing and that it overrides the amendment which was supported by the vast majority of Members of the Senate that does have strict limits on punitive damages in cases involving small businesses, businesses with fewer than 25 employees and individuals of relatively modest means whose total assets are less than half a million dollars.

So they, after having been the beneficiary of the last week of that very careful protection, protection against absolute bankruptcy, should the Dorgan amendment be adopted, they will be thrown into a situation in which absolutely unlimited punitive damages can be awarded against them. It is important for Members to understand that.

UNANIMOUS CONSENT AGREEMENT

Mr. GORTON. With that, Mr. President, now having cleared this with the Democratic side, I ask unanimous consent that the vote on, or in relation to, the Dorgan amendment, or in relation to any other amendment in order, and final passage occur back to back at the conclusion of the previously allotted time with the first vote limited to 15 minutes and the other consecutive votes in the voting sequence limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I was going to ask for the yeas and nays.

Mr. GORTON. I move to table the Dorgan amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise to speak against passage of this bill. I realize that, with cloture having been invoked, my words may not change many votes, but maybe they might change one or two. And then I feel like maybe my remarks, in a strong adversarial posture, might appeal to the reason of Senators to encourage them to eliminate some of the grossly unfair provisions that are in this bill.

I might say in the beginning that I believe the difference between the caps that are put in this bill and the fact that there were no caps in the last bill reflects a change in the makeup of the Senate, as a result of last November's elections.

There are caps in this bill with an additur provision whereby a judge could increase a jury's award of punitive damages. Clearly, that has already been ruled on by the Supreme Court as being unconstitutional. The case of Dimick versus Schiedt was decided in 1935 on that issue and makes the additur provision unconstitutional.

In my judgment, there are a number of other unconstitutional elements that should be pointed out. One is the matter pertaining to the role of the U.S. circuit courts of appeal being able to determine controlling precedent on the State courts within the jurisdiction of the Federal circuit.

Article III of section 1 of the Constitution, which provides that the judicial power of the United States shall be vested in one Supreme Court, has been construed to mean that the State courts must follow the decision of the Supreme Court and not the lower Federal courts.

The case of Erie versus Tompkins basically says that the Federal courts, in diversity cases, shall follow the substantive law of the State. There is no question that the Federal courts, through its rulemaking process and Congress, pursuant to its powers under the Rules Enabling Act, control in regards to procedural matters. I just want to mention that.

I want to direct the Senate's attention to a chart that Senator LEVIN produced and used in a previous argument. I thought it was an excellent presentation, and I ask unanimous consent that this table be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PREEMPTION OF STATE PRODUCT LIABILITY LAWS UNDER S. 565, AS REPORTED

	State laws more favorable to plaintiffs	State laws more favorable to defendants
Liability of product sellers	Prohibited	Allowed.

PREEMPTION OF STATE PRODUCT LIABILITY LAWS UNDER S. 565, AS REPORTED—Continued

	State laws more favorable to plaintiffs	State laws more favorable to defendants
Alcohol or drug abuse defense	do	Do.
Misuse or alteration of product defense	do	Do.
Punitive damage limitations	do	Do.
Statute of limitations	do	Prohibited.
Statute of repose	do	Allowed.
Joint and several liability (non-economic damages).	do	Do.
Biomaterials provisions	do	Do.

Mr. HEFLIN. Mr. President, this is chart entitled "Preemption of State Product Liability Laws," and it has a column of State laws more favorable to plaintiffs and State laws more favorable to defendants and what happens as regards preemption under this legislation. First as to the liability of product sellers, that is retailers, this bill prohibits any laws more favorable to plaintiff, but it allows laws more favorable to the defendants. Second, with respect to the alcohol or drug abuse defense, the bill prohibits State laws more favorable to plaintiffs but it allows State laws more favorable to defendants. Third, as to the misuse or alteration of product defense, the bill prohibits State laws more favorable to plaintiffs but allows State laws more favorable to defendants.

Punitive damage limitations are treated the same way—unfavorable as to plaintiffs and favorable as to defendants. As to the statutes of limitations, that is the one and only provision that really exists in this whole bill is as to uniformity.

With regard to the statute of repose provision of 20 years, this bill preempts State laws more favorable to plaintiffs but not those State laws more favorable to defendants.

On the issue of eliminating joint and several liability for noneconomic damages, this bill preempts State laws which are more favorable to plaintiffs but allow State laws which are more favorable to defendants. And you have the biomaterials provisions which are treated in the same manner. I think this chart Senator LEVIN prepared is a very excellent chart, and I hope my colleagues will take time to reflect upon it.

Now, I want to also direct my colleagues attention to the potential costs of the bill, an issue which I hope will be investigated, because I do not believe CBO or anyone else has looked at this matter very closely. There is language in the bill that includes within the scope of the word "claimant" a governmental entity which includes the Federal Government and all of its entities.

I do not think there is any question that the purpose of this bill is to save product manufacturers money. The Government, as a claimant, would be bringing suit against a defendant, and if the purpose of the bill is to save money, it means it saves money for the defendant, for corporate America, when the Federal Government brings suit.

So the cost to the Government has never been calculated, and there are so many things that are involved, particularly like the statute of limitations and statute of repose as to helicopters, tanks, NASA equipment, and all of GSA's equipment, and every conceivable way regarding which products are purchased by the Government. The issue of costs to the Government ought to be looked at more closely in my judgment.

Now, there is also a provision dealing with foreign nationals and foreign governments, and I realize that this is under statutory construction, that nothing in this title can be construed to preempt State choice of law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation and, in effect, the right of any court to transfer venue, or to apply the law of a foreign nation, or to dismiss a claim of a foreign nation, or of a citizen of a foreign nation, on the grounds of inconvenient forum.

In the world of terrorism today, these issues ought to be addressed. Hopefully, in the terrorist bill that will come before the Senate in the coming weeks, we will give some consideration regarding this issue. The Senate ought to make certain that the provisions of this product liability bill do not in some unintended way give some advantage to a terrorist entity.

I think one of the most unfair provisions in this legislation is the provision that says that an injured party cannot introduce in the compensatory damage part of a trial elements of conduct that constitute a cause of action for punitive damages. Therefore, as I have pointed out before, gross negligence, recklessness, wantonness, intentional conduct, and all activity of a similar nature, is prohibited from being considered in the main trial for compensatory damages. To me, that is one of the most unfair provisions that exist in this bill.

The biomaterials section and the definition of implants therein, where there is language regarding coming in contact through a surgically produced opening and coming in contact with bodily fluids or tissue, in my judgment, is a wide-open situation for a great deal of problems pertaining to component parts of the implant, and I urge that that be carefully reviewed.

Some of these issues which I have just reviewed—and I hope some people in the White House are listening to me as I speak about this—ought to be carefully considered not only by the Department of Justice and every agency of Government that could be affected. Certainly, the FDA ought to consider the language that is being placed into this bill as to matters dealing with the human body in that biomaterial definition of "loss."

Of course, the very basic unfairness of the bill begins with the fact that commercial loss, which is a business loss, is excluded from being within the purview of this bill.

Of course, I have given illustrations on the floor about the fact that if a factory blows up and people that are injured from the faulty, defective product, they come under this bill; but for commercial law, they do not.

Some say the commercial loss exemption might be applied to individuals. I remember there was a "Dear Colleague" letter circulated on this issue. I would imagine in that instance we would find it would be rarely ever used, we might find out of 2,000 employees in a factory where a boiler blows up, we might find that there might be one moonlighting sock salesman. That would be the only way that we would have, basically, any commercial loss that would occur to that individual.

Now, most of all of the business litigation and most of the punitive damages awards that have come about are business or commercial losses. The case of Pennzoil versus Texaco was, for example, probably the largest punitive damages case that has ever been awarded, and it was a commercial litigation where business was suing other business.

There are other provisions throughout the bill that are very unfair, and I have listed them in previous arguments. I hope that this bill will be carefully reviewed in conference and we will see the removal of a great number unwise provisions.

I just appeal to the conscience of the people that are involved who will be in conference on this, and appeal to the White House to look at this matter when it reaches conference between the House and Senate. It just shocks the conscience to see the unfairness that exists in all the various provisions of this bill and I hope that I have pointed out the key issue very clearly for my colleagues to consider. Mr. President, I urge that we vote no on final passage.

Mr. ROCKEFELLER. Mr. President, I encourage my colleagues would vote aye on this bill.

Mr. President, while I had my doubts, I have believed for a long time that the Senate would eventually come to this point. Inexorably, it would happen. After many years of debate, many years of filibusters on this Senate floor, this body finally has a chance to cast its vote for what I think is responsible, balanced punitive damages tort reform.

I think the vote yesterday was historic. The Senate, for the first time, broke the log jam that has blocked action on what I referred to last night as a deadly serious issue, and the Senate has blocked that for years and years. Now the Senate has said, "proceed."

My belief that this time would come is based on several points. First and foremost, the problems with our punitive damages system cry out for solutions. We are here for that purpose. We were elected to address the problems that require attention and action. We have done so to the best of our ability.

In this case, because products by definition, virtually, involve interstate commerce—that point has been made but not accepted, I suppose, by all—70 percent of everything we make in West Virginia is sold in another State. By definition, States cannot preoccupy this field. This is precisely an area where Congress needs to step in.

Each State really cannot fix the flaws of the country's interstate product liability system. That is because the biggest problem involves the patchwork—varied, unpredictable nature—of every State in the union having different product liability rules and standards.

Businesses that sell or manufacture products are subject to the endless confusion, the hassle, the court costs, the wasteful costs, in general, of this maze.

Consumers who want safe products want more products that will increase their safety and cannot get them. Consumers who are victims of defective products and cannot get recompensed for an average of 3 years, are also hurt by the delays and the costs that stem from the product liability system. So businesses hurt, consumers are hurt. We have a problem.

My interest in these problems really stem from seeing the way they hurt my own State of West Virginia. Manufacturers, small businesses, the fear, consumers, workers, and the victims of defective products.

The Senator from North Dakota several moments ago said that there has only been x numbers of liability cases in the last 2 years, 10 years whatever. That argument has been used many, many times. It is a very misleading, false argument. It is not the number of punitive damages awards that have been granted. It is the threat which exists in every case, in every suit, of which there are unending numbers in this litigious society.

It is the threat of litigation that is the problem and has crushed so much innovation and research and development which would help consumers.

My interest, again, in West Virginia comes from knowing people who directly have suffered from this and have gone out of business from this, as well as victims who have been hurt by this. I have seen the victims who came back from the Persian Gulf war with something called a mystery syndrome illness which the Defense Department says does not exist, but I see these people and I know it does exist.

When we see the people, and we see the individuals and we see they are hurt, we want to help them. To put it simply, then, the product liability system is broken. The Congress and the President must have parity.

Second, I have believed that a product liability reform bill would eventually pass this Senate because of the way some Members have approached the effort to cause it to pass, which I believe it will.

Members of both sides of the aisle have been troubled by the problems with product liability. Some time ago the bipartisan team work necessary to enact legislation began to form. In the past 4 years, the Senator from the State of Washington and I have had the job of leading that team. The Senator from Washington and I made a pact: To promote a balanced, moderate, serious, legislative remedy to these problems in product liability, tort reform.

We let the businesses interested in reform know that the consumers and victims had to be the winners of reform, too. We made that very clear and have made that very clear up until the very last moments. We have kept making it clear.

We explained to the general public that the harm done to business by the problems with product liability also hurt the general public, which is called the rest of the country. They cost jobs, they stifle the innovation needed to make safer drugs and products, and they impose an enormous hidden tax on every American.

That is why we devised a bill to deal with the range of problems that affect different sectors of the society, and we did it fairly. In this legislation we promote quicker settlements through alternative dispute resolution. We insisted on that so victims get compensation faster. We give the victims of harm done by substances like asbestos enough time to seek relief by saying the clock can only run after they discover the harm that they are suffering and, again, the reason, the cause of the harm they are suffering.

We have made a number of adjustments in the way businesses are made liable for the impact of products where the rules are not fair to them.

But my point is also that this bill reflects the balance and the moderation that emerges when Members of both sides of the aisle choose to work together, choose to trust one another, choose to accommodate the diverse concerns that arise when a complicated topic like product liability comes up.

We are not seeing a lot of bipartisanship in the legislative process these days, and it is sad. It is more than sad for the country, it is grievous. I find all of that very troublesome. I think it is essentially a disservice to the country. We are a diverse nation with a Government designed to represent our differences and built with checks and balances on one another. We should draw on the strength of that diversity. Democrats and Republicans in the Senate should spend more time, I think, working together on the country's problems, working out solutions that will last and that will take root.

I think we do that in this bill. And when we do have bipartisan cooperation and it works, it only encourages us to do more, I hope. That is why the Senator from Washington and I formed the team to deal with the problems of product liability, and we intend to maintain that bipartisanship until we see a bill signed into law sometime later this year.

Finally, my belief that product liability legislation would pass has been based on the talent and the leadership that have been invested in this effort. Many Members of this body have contributed to this arduous, difficult effort. Senators DODD and LIEBERMAN have been staunch allies, and their staffs, Tony Orza and Nina Bang-Jensen. Senators on the other side of the aisle, from the majority leader to the chairmen of the Commerce and Judiciary Committees, have played essential roles in this. It is impossible to fully explain how much I respect and appreciate the Senator from Washington, SLADE GORTON. I think he stands out for, first of all, his acumen, his amazing mind, his tenacity, the wisdom of his counsel, his calmness under substantial fire, and his commitment to reform.

The staff who have assisted in this effort I think deserve medals for their valor and service and for their, by the way, exhaustion. On Senator GORTON's staff, Lance Bultena and Trent Erickson have been steady, quiet, dogged, and perfect in helping us work this through.

Assisting me, I cannot thank enough, and I would need to start with Tamera Stanton, who is my legislative director who sits at my left as I speak, who masters all subjects with tenacity and with understanding, is skillful in her sense of nuance, strategy, politics, and policy; Ellen Doneski, who does not know how to stop working, and as a result never does stop working and accomplishes incredible, amazing things, often many at the same time, so she just never stops working; Jim Gottlieb and Bill Brew, both in fact lawyers, which we need in our office. And they have both been brilliant, skillful, dogged, and successful. Without their labors and their incredible talent we would not be at this point.

I do not want to take the body's time, but I just want to make the point again that, if you pick up the paper, you will read Senator GORTON's name. If you listen to the television, you will hear his name and Senator HOLLINGS' name. And they can both do all of this on their own, pretty much, anyway. But actually it does not quite work out that way. Just as Senator HOLLINGS, Kevin Curtin, and others—it is the public that needs to know, while they are in their orgy of dislike for the Federal Government, that there are incredible people called staff of the U.S. Senators who make possible what it is that we do.

I want to acknowledge with respect the persistence and commitment of the flag-bearers who took the other side on this issue. The Senators from Alabama and South Carolina are daunting in their own legal minds and ferocity when it comes to this issue—both of them. They are different in many ways, the same in many ways, but both of them are extraordinary in their commitment to their beliefs. I hope they would agree it was a fair and open debate. They prevailed in the past without exception. It worked out the other way this time.

This has not been an easy issue for anybody involved. The legal system is a very serious part of our national fabric and life. The rights of every American are fundamental and are not to be tampered with easily. I have always felt that, as I have fought for product liability reform, in a sense I restate my pledge to navigate the remainder of the legislative process with a deep commitment to the principles of fairness and justice.

But I remain absolutely sure that it is time to fix this broken part of our legal system, and I think we have done a lot of it. The country is saddled with costs, with waste, with problems that can be eased with the reforms in this legislation.

The PRESIDING OFFICER (Mr. SANTORUM). The time of the Senator has expired.

Mr. ROCKEFELLER. Mr. President, I ask for an additional 60 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. I am proud to give the Senate a chance, finally, to cast its vote on a balanced legislative remedy. I am relieved we restored a bill simply dealing with product liability and with the important changes worked out in the final hours that represent the bipartisanship and the balance that we sought from the beginning of this effort.

I am confident that President Clinton will sign this bill with whatever perfections we can make. I hope we will soon see the benefits of reform and demonstrate to the skeptics that the changes are in the entire Nation's interests.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, first a procedural announcement. Thirty minutes remains under the order with respect to debate on product liability. Senators in their offices, therefore, should be on notice that approximately at 11:40 there will be a vote on my motion to table the Dorgan amendment, followed immediately by a vote on final passage of the product liability bill with, we think, the substitute adopted by voice vote. So Members should be prepared to come to the floor at or shortly after 11:40.

On a second matter, in which I know I am joined by my colleague from West Virginia, regrettably, due to the inability of the Senators from Washington and West Virginia to get unanimous consent to make one additional change in their proposal, the so-called new trial provision after an additur remains in this bill. The Senators from West Virginia and Washington have pledged that the bill will not be presented by them to this body with that provision in it, and that pledge remains.

Other than that, this bill is the work of many years of effort culminated in this Congress, as in the last Congress, by the joint efforts of the Senator from West Virginia and myself, and of many others whom I will mention after we have had a final vote. Together, with the input from Members on both sides of the aisle, I am confident that the bill will pass and that it will represent a significant step forward.

Mr. President, one other comment that I make as a sponsor and one of the people who drafted this bill in the punitive damages section, we included an additive provision at the request of the Department of Justice of the United States, with the assurance that the provision is constitutional. That opinion, in my view, is correct. Such provisions are found in the laws of many States. If a court should, however, find the additive provisions to be unconstitutional, it is our intention that the remainder of the punitive damages provision will stand and that only the additive provision which is now found in section 107(b)(3) would be severed.

Mr. President, one argument against congressional legislation in this field, which has been raised by almost all of those who have come here to speak against it, is that we should not interfere in the Federal system with the laws of the 50 States. It is a curious argument as it is generally advanced by those Members of this body who are most anxious to interfere with the prerogatives of the States in many areas for which there is no explicit constitutional warrant. This, however, is a case in which congressional legislation is expressly warranted by the Constitution, and may very well have been anticipated, or would have been anticipated had they known what the economy of the United States would look like in the late 20th century, by those who wrote the Constitution itself. One of the principal reasons for the Constitutional Convention was the chaos that attended interstate commerce among the 13 States after the close of the War of the Revolution and before the adoption of the Constitution.

So under article I, section 8, clause 3, the interstate commerce clause, the Congress is invited, is given plenary power over interstate commerce. Of course, most of the products with which this bill deals are made of materials that arrive in interstate commerce and are sold after they are manufactured in interstate commerce, and a far greater degree of uniformity that is now in this bill would be constitutionally warranted. The compromises in this bill are in certain cases political and in other cases highly principled attempts to provide a degree of predictability and uniformity which will lead to more economic development, greater jobs, and better products for consumers with the very real history of local control over our courts and over our litigation. But as long ago as in the Federalist Papers, Alexander Hamilton made it clear that one of the key purposes of the Constitution was to prevent interstate commerce from being, and I quote him: "Fettered, interrupted, and narrowed" by parochial State regulations.

That, regrettably, is exactly what we have, particularly in that handful of States, often in rural counties, in which we find repeated huge punitive damage awards, almost invariably entered against out-of-State defendants or out-of-State corporations in a way which fetters, interrupts, and narrows interstate commerce by discouraging research and development and discouraging the marketing of new products. We have seen that happen in instance after instance in which companies large and small have found it improvident to develop new products to cure previously incurably diseases or to solve problems in our society because they might have an adverse impact on some individual, and that individual might sue and that individual might persuade a jury in someplace or another to award punitive damages in an amount that would make it utterly unprofitable ever to have entered that business in the first place.

Perhaps worse, and perhaps a greater interference with interstate commerce, is successful defense litigation where large companies find that they have spent tens of millions of dollars successfully defending against product liability litigation over products, that gross price of which is far less than those legal fees. So they say, "Why produce parts for implant into the bodies of people of the United States, as much good as those things do?"

It is our hope to make a modest step forward in creating a balance, not by denying any person the right to go to court, not by limiting the actual damages that any individual can receive for an act which is the responsibility of the individual or company which is called upon to make payment, but to see to it that there are fewer arbitrary judgments; that less of the time defendants are required to pay for the negligence or for the acts of others.

Mr. President, a day or so ago, the Senator from California [Mrs. BOXER], argued at length with respect to the McCain-Lieberman portions of this bill on biomaterials and that corporations would be allowed to set up shell subsidiaries and protect themselves from liabilities.

That concern was raised in the Commerce Committee by the Senator from Nebraska [Mr. EXON], and expressly taken care of by an amendment that will allow piercing that corporate shell and not preventing the corporation, which is actually in control and which has assets, from protecting itself from the consequences of its own negligence.

But basically, Mr. President, we now have a product liability bill which includes a statutory repose for products that are used in a business enterprise. We have a limitation on joint liability with respect to noneconomic damages—that is, pain and suffering—under which we simply say that you are responsible as a defendant for the degree to which you have harmed the claimant, but that a defendant that is only 10 or 20 percent responsible for these damages is not going to be charged for the entire verdict simply because some other defendant cannot be reached.

We have imposed some modest rationality on the award of punitive damages. My colleague here this morning came up with one of the best sets of examples I have ever heard, something which has not been brought before the Senate in this 3 weeks, when he points out that for all practical purposes every Federal criminal statute which includes the right to a fine as a part of the sentence has a limitation on those fines, and yet to be subjected to a criminal fine one must be found guilty beyond a reasonable doubt. One has all of the protections of the fifth amendment against self-incrimination. And yet here we, the Congress of the United States, have set a maximum fine, $10,000; maximum fine, $25,000. I think the maximum fine they found was $250,000.

We vote for these criminal penalties, and yet our opponents tell us how outrageous it is in a civil case, with no fifth amendment rights, no standard of proof beyond a reasonable doubt, how unreasonable it is to set any limit on what a jury can do in the way of punishment—punishment over and beyond all of the damages that are actually proven by the claimant in a particular case.

Mr. President, this bill is not a perfect bill, in my view, and it is not a perfect bill because it does not limit that form of arbitrary punishment sufficiently. But it does begin down a road which we have been invited to take by the Supreme Court of the United States which says without having set standards itself that there are constitutional implications to unlimited punitive damage verdicts. And so here we have an experiment. We attempt to balance the rights of trial lawyers against the necessity for a better and more effective economy, one in which people are encouraged to innovate, to create new jobs and to create new products for the American people.

We have been at this for a long time. I know from personal experience that there were product liability bills in the Senate and in the Commerce Committee on which I serve as long ago as 1982. I suspect that they existed before that time. I can remember one product liability bill in that committee against which I voted myself because it seemed to me it went too far, that it was unbalanced on the other side. This one is not, Mr. President. This one is a good piece of legislation. It is something that will help the American economy and help the cause of balanced and appropriate justice.

Finally, Mr. President, it is a precedent in a sense but it has one preceding element. A year or so ago, we passed a very modest product liability bill for piston driven aircraft. The legal system, the legal system defended by the other side here, had destroyed that business, reduced its production by 95 percent. A modest change in the law at the Federal level has already contributed to the recovery, the beginning of the recovery of that business—a dramatic illustration that the horror stories are not true and that the promises made by the proponents of this litigation have been proven to be valid by history. If my colleagues will vote for this, if we get it accepted by the House and signed by the President of the United States, this country will be significantly better off.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Oh, so reasoned, says my distinguished colleague from Washington. It is so balanced. GOPAC has taken over. GINGRICH is the Speaker, and there is a contract. Look at the elements of this contract. Part and parcel either by way of amendments here or in bills on the House side or what they have in mind is not just product liability but they have limiting pain and suffering damages; they have limiting the punitive damages; they tried to fit in medical malpractice; they tried to then limit plaintiff's attorney's fees. They voted against the fees on the defendants. They were not making enough. They ought to make more than $133,000 a year. They tried to limit punitive damages in all civil cases. The English rule is in the bill over on the House side; the alternative dispute resolution with the plaintiff having to pay all the fees; the securities litigation, the FDA and FAA rules where they would bar damages if the product is approved by either of those entities; they exempt the medical devices and the doctors, a provision about frivolous suits, statutes of repose; restricted submission of evidence is in this bill, in the House bills, bifurcation of the trials, both actual and punitive damages. Then they even put in an unconstitutional additur provision here.

Like the sheepdog had tasted blood, with product liability they are going to gobble up all the other rights and say it is so reasoned and so balanced.

One exemption they have from all this, Mr. President. One exemption—the manufacturers, the very crowd that through this bill continue to put in the amendments and everything else. They exempt the manufacturer and apply this all to the injured party and have the unmitigated gall to come up here and say they are for consumers. Why, heavens above. Come on.

I ask unanimous consent to include in the RECORD the State-based organizations opposed to this legal reform bill.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

STATE BASED ORGANIZATIONS OPPOSED TO "LEGAL REFORM" IN THE SENATE (S. 565)

Alaska PIRG.
Arizona Citizen Action.
California Citizen Action.
Center for Public Interest Law at the University of San Diego.
California Crime Victims Legal Clinic.
Fair Housing Council of San Gabriel Valley.
Colorado Steelworkers Union Local 2102.
Coalition of Silicon Survivors.
Colorado DES Action.
Denver UAW.
Colorado ACLU.
Denver Gray Panthers.
Colorado Public Interest Research Group (CoPIRG).
Colorado Clean Water Action.
Colorado Senior Lobby.
Connecticut Citizen Action Group.
ConnPIRG (Connecticut Public Interest Research Group).
Delaware Coalition for Accountability and Justice.
Delaware AARP.
Delaware Council of Senior Citizens.
Delaware AFL–CIO.
Delaware Federation of Women's Clubs.
Delaware Women and Wellness.
Delaware Breast Cancer Coalition.
Building Trades Council of Delaware.
UAW Local 1183—Delaware.
Delaware Sierra Club.
Delaware Audubon Society.
Save the Wetlands and Bays—Delaware.
Georgia Consumer Center.
Idaho Citizens Action Network.
Idaho Consumer Affairs, Inc.
Illinois Council Against Handgun Violence.
Citizens Action Coalition of Indiana.
Planned Parenthood of Maryland.
Law Foundation of Prince George's County.
Maryland Sierra Club.
Teamsters Joint Council No. 62.
UFCW Local 440.
White Lung Association & National Asbestos Victims.
Sexual Assault/Domestic Violence Center, Inc.
IBEW Local 24.
Maryland Clean Water Action.
Maryland Employment Lawyers Association.
Health Education Resource Organization (H.E.R.O.).

Environmental Action Foundation.
Massachusetts Consumer Association.
Minnesotans for Safe Foods.
Missouri PIRG.
Montana PIRG.
Nebraska Coalition for Accountability & Justice.
Nebraska Farmers Union.
Nebraska Women's Political Network.
Nebraska National Organization for Women.
United Rubber Workers of America, Local 286.
Communications Workers of America, Local 7470.
Nebraska Head Injury Association.
Nebraska Center for Rural Affairs.
White Lung Association of New Jersey.
Consumers League of New Jersey.
Cornucopia Network of New Jersey.
New Jersey DES Action.
New Jersey Environmental Federation.
New Mexico Citizen Action.
Essex West Hudson Labor Council.
Uniformed Firefighters Association of Greater New York.
New York Consumer Assembly.
Niagara Consumer Association.
North Carolina Consumers Council.
North Dakota Public Employees Association.
North Dakota DES Action.
North Dakota Clean Water Action.
Dakota Center for Independent Living.
North Dakota Breast Implant Coalition.
North Dakota Progressive Coalition.
Laborer's International Union, Local 580.
Boilermaker's Local 647.
Ironworkers Local 793.
United Transportation Union.
Sierra Club, Agassiz Basin Group.
Plumbers & Pipefitters Local 338.
United Church of Christ.
Teamsters Local 116.
Teamsters Local 123.
Plumbers & Pipefitters, Local 795.
Workers Against Inhumane Treatment.
Ohio Consumer League.
Oregon Fair Share.
Oregon Consumer League.
Pennsylvania Citizens Consumer Council.
Pennsylvania Institute for Community Services.
SmokeFree Pennsylvania.
South Dakota AFSCME.
East River Group Sierra Club.
Black Hills Group Sierra Club.
South Dakota State University.
IBEW, Local 426.
South Dakota DES Action.
South Dakota Peace & Justice Center.
Native American Women's Health & Education Center.
Native American Women's Reproductive Rights Coalition.
South Dakota AFL–CIO.
UFCW Local 304A.
Yankton Sioux Tribe.
South Dakota Coalition Against Domestic Violence.
South Dakota Advocacy Network.
South Dakota United Transportation Union.
South Dakota United Paperworkers International Union.
Texas Alliance for Human Needs.
Texas Public Citizen.
Vermont PIRG.
WASHPIRG (Washington Public Interest Research Group).
Wisconsin PIRG.

CITIZEN ACTION,
Montgomery, AL, April 26, 1995.

Hon. RICHARD SHELBY,
U.S. Senate,
Washington, DC.

DEAR SENATOR SHELBY: On behalf of our members, I am writing to thank you for your past opposition to federal "tort reform" legislation and to offer our support in your efforts this year.

As you know, Governor Fob James, in his April 18th State of the State Address, stated that "intrusive federal law should not dictate tort reform legislation to the states." You might also be interested to know that similar sentiments have been reflected by the majority of audiences in several forums I have attended on the issued in the past month.

Our members also are deeply concerned about the consequences of capping punitive damages and eliminating joint and several liability for non-economic damages. Proposals such as these threaten public safety in Alabama by removing the deterrent effect of punitive damages, and they discriminate against those most likely to suffer non-economic damages, such as women, seniors, and children.

Thank you again for your leadership in fighting to uphold the democratic principles embodied in our state civil justice system and for voting "no" on the upcoming cloture votes on S. 565. Please do not hesitate to call on me for any assistance on this matter in the coming weeks.

Sincerely yours,

MIKE ODOM,
Executive Director.

ARIZONA CONSUMERS COUNCIL,
Phoenix, AZ, April 19, 1995.

Senator JOHN MCCAIN,
Russell Office Building,
Washington, DC.

DEAR SENATOR MCCAIN: Two bills are expected to come to the floor this week—The Telecommunications Competition and Deregulation Act of 1995, and the Product Liability Fairness Act of 1995. We believe that these bills are both anti-consumer and anti-competitive.

Consumers have been strong in their requests to continue regulation of cable and in feeling that their bills have gone too high—three times the rate of inflation—for this service. Reregulation was the ONLY bill which was passed over the veto of President Bush.

Your office asked me to represent you on KFYI in favor of reregulation at that time. I did my best on that program.

Local cable companies now have a network which pass 96% of the homes in the country. They are best positioned to compete with the monopoly local telephone companies. This bill would permit these local monopolies to buy each other, merge or joint venture, thus eliminating the most likely competitor in each market. This means the promised benefits of competition, including lower prices, greater innovation and better service may never be realized by most consumers.

S. 565 sets arbitrary limits on punitive damages and eliminates joint and several liability for non-economic damages. This bill will restrict the ability of injured consumers to obtain full and fair compensation for their injuries, and for juries to act to prevent further wrongdoing.

The Arizona Consumers Council which represents consumers in all countries of the state and was organized in 1966 is also a member of Consumer Federation of America, who represent 50 million consumers nationwide, we urge you to oppcsed S. 652. and also S. 565.

Sincerely,

PHYLLIS ROWE,
President.

CONSUMER FEDERATION OF CALIFORNIA,
Westminster, CA, April 18, 1995.

Re Opposition to S. 565 and S. 454.

Senator BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: On behalf of the Consumer Federation of California, I wish to express strong opposition to S 565, the "Product Liability Fairness Act of 1995." Injured consumers would not be able to obtain full and fair compensation if this legislation is passed.

The two major provisions of this legislation would have a far reaching, negative impact on consumers and workers. First, this bill would set arbitrary limits on punitive damage awards of $250,000 or three times economic damages, reducing the ability to deter corporations from inflicting harm on others and threatening Americans' economic security and well being. At a time when Congress is talking about increasing personal responsibility, it makes no sense to reduce the responsibility of corporations guilty of manufacturing or selling dangerous products.

Second, this bill would eliminate joint and several liability for noneconomic damages, making it difficult for consumers to recover costs related to injuries such as the loss of reproductive capacity, loss of sight, or disfigurement. Those injuries deserve to be compensated and should not be treated as less important than the loss of high salaries or investment income.

Consumer Federation of California also urges you to oppose S. 454, "The Health Care Liability and Quality Assurance Act" which would severely affect the rights of injured patients.

I urge you to act to prevent passage of this legislation, which would greatly restrict the ability of the consumer to be compensated fully for injuries and to act to prevent further wrong doing.

Sincerely,

DR. REGENE L. MITCHELL,
President.

MOTOR VOTERS,
Sacramento, CA, April 19, 1995.

Re S. 565: Oppose.

Hon. DIANE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: Motor Voters is a non-profit, non-partisan auto safety organization founded in Lemon Grove, outside San Diego, in 1979.

This letter is to urge you to oppose S. 565, the product liability measure. Our members include parents of children who suffered permanent, debilitating brain injuries or who were killed due to the deliberate disregard of auto manufacturers.

It would be impossible to tell you how strongly those parents feel that companies need to be held accountable for their actions. In fact, they wish to see the law strengthened to provide for felony criminal penalties for corporate executives who knowingly market unsafe products.

Corporate executive are too insulated from the damage they inflict upon their customers and the public at large. If they were more personally accountable, it would provide a desperately needed incentive for them to consider more than their bottom line.

In the absence of criminal penalties, the only hope we have of curbing rampant corporate misconduct is through product liability laws. It is appalling that special interests are seeking to restrict remedies in consumers' court of last resort. The "loser pays" concept is particularly pernicious, as it entirely ignores the unequal footing of the two parties. Individuals already risk a great deal when they sue a giant corporation, and experience tremendous stress. A family with a brain-injured child has enough to worry about without the danger that, if their attorney makes a mistake, they can be totally impoverished.

Ironically, many advances in safety technology, spurred by lawsuits, end up benefiting everyone—including companies. For example, here in California, many former defense contractors are converting to making auto safety components such as air bags. The demand for improved safety is spawning an entire new industry and creating new, high-tech jobs. It is time to move forward, not back.

For all of the above reasons, I urge your "no" vote on S. 565.

Sincerely,

ROSEMARY SHAHAN,
President.

CALIFORNIA PUBLIC INTEREST
RESEARCH GROUP,
Los Angeles, CA, April 24, 1995.

Protect Victims of Dangerous Products—Oppose Cloture and Vote "No" on S. 565.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN, We are writing on behalf of CALPIRG's members, and on behalf of all residents of California to urge your strong opposition to proposed legislation, S. 565, that would eviscerate the rights of victims of dangerous and defective products. As you know, CALPIRG is a statewide, non-profit, nonpartisan consumer and environmental advocacy group that has fought to protect the rights of consumers for many years.

Each year, more than 28 million Americans are injured by consumer products and 21,000 are killed. Why should this Senate pass legislation that limits the legal rights of victims at the same time as it is cutting back funding for the federal agencies that are supposed to protect consumers from these dangerous products?

S. 565, the so-called Product Liability "Fairness" Act is, in fact, manifestly unfair to consumers. We have numerous problems with the bill. Its caps on punitive damages will encourage faulty product design. Its limits on pain and suffering damages unfairly and unjustly restrict awards to women, children and senior citizens who are harmed. Its preemption of numerous stronger state laws is unfair to all consumers.

These anti-consumer provisions of S. 565 make it unacceptable. Yet the Senate must also consider that, if passed, S. 565 would have to be reconciled with the even more egregious and extreme House-passed bill. H.R. 1075, in addition to the measures above, arbitrarily caps pain and suffering awards in medical malpractice cases and establishes an automatic punitive damages shield for FDA-approved products. Worse, the House cap on punitive damages extends to all civil lawsuits, not only to product liability cases.

We urge you to vote against cloture on S. 565, against S. 565 and against any conference measure restricting the rights of consumers. We look forward to hearing your views on this important legislation. Please contact me if you or your staff have any questions.

Sincerely,

MARY RAFTERY,
Legislative Director.

COALITION FOR
ACCOUNTABILITY & JUSTICE,
April 21, 1995.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR CAMPBELL: We, the undersigned individuals and organizations, urge you to oppose efforts to weaken America's civil justice system. We urge you to vote against cloture on S. 565, the product liability measure sponsored by Sens. Gorton and Rockefeller, or any other legislation that would weaken the rights of the citizens of Colorado.

By restricting the rights of victims of dangerous and defective products, this measure undermines the role of the civil justice system in redressing damages and deterring harmful behavior. By giving "non-economic" damages second-class treatment, the bill discriminates against populations with less earning power, specifically women, children, seniors and low- and middle-income workers. Under S. 565, the U.S. would have a two-tier system of justice where rich, high-salaried workers would be accorded better treatment and higher damage awards than the rest of us. Finally, by establishing brand new federal rules for product liability cases, S. 565 removes from state authority and oversight a civil justice system that, despite the hyperbole of the big business interests backing this legislation, has served consumers and the residents of Colorado exceedingly well.

S. 565 is far more restrictive than last year's Senate product liability bill. First and foremost, the bill establishes a cap on punitive damages of three times economic loss, or $250,000, whichever is greater. Under this cap, corporations will be punished more if they injure or kill a corporate executive than if the same conduct harms a child, a senior citizen, or a schoolteacher. How can this be fair? In addition, the bill establishes a 20 year limit on lawsuits for capital goods—in last year's bill, the limit was 25 years. Moreover, S. 565 adds protection for manufacturers of raw materials in medical devices and for rental car companies, and reduces manufacturer liability for misuses or alterations made to the product by anyone else—provisions that were not in last year's bill. Even if one reasonably believes that the measure introduced by Sens. Gorton and Rockefeller is sound public policy (which we do not), it must ultimately be reconciled with the extreme revisions to the civil justice system recently adopted by the House of Representatives. H.R. 956, in addition to the provisions outlined above, enacts an arbitrary cap on pain and suffering awards in medical malpractice and cases involving drugs and medical devices, at the same time it offers an automatic punitive damages shield for products that have received FDA approval. In addition, the House measure extends the cap on punitive damages to all civil lawsuits, and establishes an arbitrary 15 year statute of repose for product liability cases.

Passage of either of these measures, or a combination of the two, would cause grievous harm to the people who have elected you—and depend on you—to represent their interests in Congress. We urge you to oppose any effort to weaken or federalize product liability laws, and to vote "no" on cloture on S. 565, on S. 565, and on any conference committee reported-measure restricting the rights of consumers.

Sincerely,

Julie Shiels, Son killed by defective bunkbed; International Steelworkers Union, Local 2102; Coalition of Silicon Survivors; DES Action, Colorado Chapter; Denver United Auto Workers; ACLU of Colorado; Gray Panthers of Denver; Colorado Public Interest Research Group (CoPIRG); Clean Water Action, Colorado Chapter; Ann Ives, Silicon breast survivor, DES survivor; Oil, Chemical & Atomic Worker International Union, AFL-CIO; Colorado Senior Lobby.

COLORADO PUBLIC INTEREST
RESEARCH GROUP,
Denver, CO, April 24, 1995.

Re Protect Victims of Dangerous Products—Oppose Cloture and Vote No. on S. 565.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR NIGHTHORSE CAMPBELL: We are writing on behalf of COPIRG's members, and on behalf of all residents of Colorado to urge your strong opposition to proposed legislation, S. 565, that would eviscerate the rights of victims of dangerous and defective products. As you know, COPIRG is a statewide, non-profit, nonpartisan consumer and environmental advocacy group that has fought to protect the rights of consumers for many years.

Each year, more than 28 million Americans are injured by consumer products and 21,000 are killed. Why should this Senate pass legislation that limits the legal rights of victims at the same time as it is cutting back funding for the federal agencies that are supposed to protect consumers from these dangerous products?

S. 565, the so-called Product Liability "Fairness" Act is, in fact, manifestly unfair to consumers. We have numerous problems with the bill. Its caps on punitive damages will encourage faulty product design. Its limits on pain and suffering damages unfairly and unjustly restrict awards to women, children and senior citizens who are harmed. Its preemption of numerous stronger state laws is unfair to all consumers.

These anti-consumer provisions of S. 565 make it unacceptable. Yet the Senate must also consider that, if passed, S. 565 would have to be reconciled with the even more egregious and extreme House-passed bill. H.R. 1075, in addition to the measures above, arbitrarily caps pain and suffering awards in medical malpractice cases and establishes an automatic punitive damages shield for FDA-approved products. Worse, the House cap on punitive damages extends to all civil lawsuits, not only to product liability cases.

We urge you to vote against cloture on S. 565, against S. 565 and against any conference measure restricting the rights of consumers. We look forward to hearing your views on this important legislation. Please contact me if you or your staff have any questions.

Sincerely,

RICHARD MCCLINTOCK,
Executive Director.

CONNECTICUT PUBLIC INTEREST
RESEARCH GROUP,
Hartford, CT, April 24, 1995.

Re Protect Victims of Dangerous Products—Oppose Cloture and Vote "No" on S. 565

Hon. CHRIS DODD,
U.S. Senate
Washington, DC.

DEAR SENATOR DODD: We are writing on behalf of ConnPIRG's members, and on behalf of all residents of Connecticut to urge your strong opposition to proposed legislation, S. 565, that would eviscerate the rights of victims of dangerous and defective products. As you know, ConnPIRG is a statewide; nonprofit, nonpartisan consumer and environmental advocacy group that has fought to protect the rights of consumers for many years.

Each year, more than 28 million Americans are injured by consumer products and 21,000 are killed. Why should this Senate pass legislation that limits the legal rights of victims at the same time as it is cutting back funding for the federal agencies that are supposed to protect consumers from these dangerous products?

S. 565, the so-called Product Liability "Fairness" Act is, in fact, manifestly unfair to consumers. We have numerous problems with the bill. Its cap on punitive damages will encourage faulty product design. Its limits on pain and suffering damages unfairly and unjustly restrict awards to women, children and senior citizens who are harmed. Its preemption of numerous stronger state laws is unfair to all consumers.

These anti-consumer provisions of S. 565 make it unacceptable. Yet the Senate must also consider that, if passed, S. 565 would have to be reconciled with the even more egregious and extreme House-passed bill. H.R. 1075, in addition to the measures above, arbitrarily caps pain and suffering awards in medical malpractice cases and establishes an automatic punitive damages shield for FDA-approved products. Worse, the House cap on punitive damages extends to all civil lawsuits, not only to product liability cases.

We urge you to vote against cloture on S. 565, against S. 565 and against any conference measure restricting the rights of consumers. We look forward to hearing your views on this important legislation. Please contact me if you or your staff have any questions.

Sincerely,

JAMES AMSPACHER,
Organizing Director.

CONNECTICUT CITIZEN
ACTION GROUP,
West Hartford, CT.

Senator CHRISTOPHER DODD,
Senate Office Building,
Washington, DC

DEAR SENATOR DODD: On behalf of the Connecticut Citizen Action Group, I'm asking you to oppose Senate Bill 565 and to vote against cloture. S. 565, called the "Product Liability Fairness Act" does nothing to protect consumers. Instead, it lets corporate wrongdoers off the hook when they produce products that injure consumers.

First, this bill sets arbitrary caps on punitive damages of $250,000 or three times the out-of-pocket expenses. Ordinary citizens serving on juries use these awards to punish and deter outrageous and dangerous behavior by corporations.

Second, this bill makes it more difficult for victims with less earning power—particularly seniors, women and children—to recover the fair cost of their injuries. Consumers and workers injured through no fault of their own, but by the actions of more than one wrongdoer would have to prove the degree of fault of each liable party. If any wrongdoer were unable to pay its share, the injured consumer would have to bear the cost.

Senator Dodd, these reforms are wrongminded. They imperil ordinary consumers and we ask that you work to defeat such measures. Again, please vote against S. 565 and against cloture.

GREGORY HADDAD,
Legislative Director.

DELAWARE COALITION FOR
ACCOUNTABILITY AND JUSTICE,
April 24, 1995.

Hon. WILLIAM ROTH,
Hon. JOSEPH BIDEN,
U.S. Senate,
Washington, DC.

DEAR SENATORS: We, the undersigned individuals and organizations, urge you to oppose efforts to weaken America's civil justice system. We urge you to vote against cloture on S. 565, the product liability measure sponsored by Sens. Gorton and Rockefeller, or any other legislation that would weaken the rights of the citizens of Delaware.

By restricting the rights of victims of dangerous and defective products, this measure undermines the role of the civil justice system in redressing damages, and deterring harmful behavior. By giving "noneconomic" damages second-class treatment, the bill discriminates against populations with less earning power, specifically women, children, seniors and low- and middle-income workers. Under S. 565, the U.S. would have a two-tiered system of justice where rich, high-salaried workers would be accorded better treatment and higher damage awards than the rest of us. Finally, by establishing brand new federal rules for product liability cases, S. 565 removes from state authority and oversight a civil justice system that, despite the hyperbole of the big business interests backing this legislation, has served consumers and the residents of Delaware exceedingly well.

S. 565 is far more restrictive than last year's Senate product liability bill. First and foremost, the bill establishes a cap on punitive damages of three times economic loss, or $250,000, whichever is greater. Under this cap, corporations will be punished more if they injure or kill a corporate executive than if the same conduct harms a child, a senior citizen or a schoolteacher. How can this be fair? In addition, the bill establishes a 20 year limit on lawsuits for capital goods—in last year's bill, the limit was 25 years. Moreover, S. 565 adds protections for manufacturers of raw materials in medical devices and for rental car companies, and reduces manufacturer liability for misuse or alterations made to the product by anyone else—provisions that were not in last year's bill.

Even if one reasonably believes that the measure introduced by Sens. Gorton and Rockefeller is sound public policy (which we do not), it must ultimately be reconciled with the extreme revisions to the civil justice system recently adopted by the House of Representatives. H.R. 959, in addition to the provisions outlines above, enacts an arbitrary cap on pain and suffering awards in medical malpractice and cases involving drugs and medical devices, at the same time it offers an automatic punitive damages shield for products that have received FDA approval. In addition, the House measure extends the cap on punitive damages to all civil lawsuits, and establishes an arbitrary 15 year statute of repose for product liability cases.

Passage of either of these measures, or a combination of the two, would cause grievous harm to the people who have elected you—and depend on you—to represent their interests in Congress. We urge you to oppose any effort to weaken or federalize product liability laws, and to vote "no" on cloture on S. 565, on S. 565, and on any conference committee reported-measure restricting the rights of consumers.

Sincerely,

Edward Cahill, State Director, Delaware AARP; Edward Peterson, President, Delaware AFL-CIO; Deirdre O'Connoll, Executive Director, Women and Wellness; Rick Crawford, President, Building Trades Council of Delaware; Debbie Heaton, President, Delaware Sierra Club; Til Purnell, Executive Director, Save Wetlands and Bays; Amos McCluney, Jr., President, Delaware Council of Senior Citizens; May Northwood, President, Delaware Federation of Women's Clubs;[1] Maureen Lauterbach, Women and Wellness and National Breast Cancer Coalition;[1] Don Cordell, President, United Auto Workers Local 1183; Ann Rydgren, President, Delaware Audubon Society.

CONSUMER FRAUD WATCH,
Tallahassee, FL, April 19, 1995.

Senator CONNIE MACK,
U.S. Senate,
Washington, DC.

DEAR SENATOR MACK: I want to express our strong opposition to S. 565, the "Product Liability Fairness Act of 1995". This bill would restrict the ability of injured consumers to obtain full and fair compensation and for citizen juries to impose adequate deterrents to prevent further injuries.

There are two major provisions of this legislation which would have a negative effect on consumers and workers. First, this bill would set arbitrary limits on punitive damage awards of $250,000 or three times economic damages, reducing the ability to deter corporations from inflicting harm on others and threatening Americans' economic security and well-being. At a time when Congress is talking about increasing personal responsibility, it makes no sense to reduce the responsibility of corporations guilty of manufacturing or selling dangerous products.

Second, this bill would eliminate joint and several liability for non-economic damages, making it difficult for consumers to recover costs related to injuries such as the loss of reproductive capacity, loss of sight, or disfigurement. Those injuries deserve to be compensated and should not be treated as less important than THE loss of high salaries or investment income. For similar reasons as those described, CFA also urges you to oppose S. 454, "The Health Care Liability and Quality Assurance Act" which would severely affect the rights of injured patients.

I urge you to act to prevent passage of this legislation, which would greatly restrict the ability of injured consumers to be compensated fully and for juries to act to prevent further wrongdoing.

Sincerely,

WALTER T. DARTLAND,
Executive Director.

FLORIDA CONSUMER ACTION NETWORK,
Tallahassee, FL, April 24, 1995.

Senator BOB GRAHAM,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRAHAM: The Florida Consumer Action Network (FCAN) is requesting that you vote "NO" on Senate Bill 565, the Product Liability Bill. Additionally, we are asking you to vote against cloture. If this bill passes, it will have a devastating effect on the more than 40,000 families that are members of FCAN and on all Florida consumers.

By capping punitive damages at $250,000 or three times the economic loss (whichever is greater) the legislation removes the punitive impact from punitive sanctions, rendering them meaningless as punishment in most cases. It will be cheaper for many corporations to pay such damages rather than rectify their faulty products.

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[1] For identification purposes only. Endorsements are by the individual, not the organization.

Eliminating joint and several liability for non-economic damages saddles the victim for the costs of damages incurred by the wrongdoing parties. It is unjust and particularly discriminatory for women, children and senior citizens.

Obviously this bill is not in the best interest of Florida's consumers. We again ask for your vote against S. 565 and against cloture in the upcoming debate.

Sincerely,

MONTE E. BELOTE,
Executive Director.

FLORIDA PIRG,
FLORIDA PUBLIC INTEREST RESEARCH GROUP,
Tallahassee, FL, April 24, 1995.

Re Protect Victims of Dangerous Products, Oppose Cloture and Vote No on S. 565.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: We are writing on behalf of Florida PIRG's members, and on behalf of all residents of Florida to urge your strong opposition to proposed legislation, S. 565, that would eviscerate the rights of victims of dangerous and defective products. As you know, Florida PIRG is a statewide, nonprofit, nonpartisan consumer and environmental advocacy group that has fought to protect the rights of consumers for many years.

Each year, more than 28 million Americans are injured by consumer products and 21,000 are killed. Why should this Senate pass legislation that limits the legal rights of victims at the same time as it is cutting back funding for the federal agencies that are supposed to protect consumers from these dangerous products?

S. 565, the so-called Product Liability "Fairness" Act is, in fact, manifestly unfair to consumers. We have numerous problems with the bill. Its caps on punitive damages will encourage faulty product design. Its limits on pain and suffering damages unfairly and unjustly restrict awards to women, children and senior citizens who are harmed. Its preemption of numerous stronger state laws is unfair to all consumers.

These anti-consumer provisions of S. 565 make it unacceptable. Yet the Senate must also consider that, if passed, S. 565 would have to be reconciled with the even more egregious and extreme House-passed bill. H.R. 1075, in addition to the measures above, arbitrarily caps pain and suffering awards in medical malpractice cases and establishes an automatic punitive damages shield for FDA-approved products. Worse, the House cap on punitive damages extends to all civil lawsuits, not only to product liability cases.

We urge you to vote against cloture on S. 565, against S. 565 and against any conference measure restricting the rights of consumers. We look forward to hearing your views on this important legislation. Please contact me if you or your staff have any questions.

Sincerely,

ANN WHITFIELD,
Executive Director.

CITIZEN ACTION,
Atlanta, GA, April 18, 1995.

Hon. PAUL COVERDELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COVERDELL: On behalf of the 40,000 members of Georgia Citizen Action, I am writing to express our opposition to S. 565 and to urge you to vote against cloture.

S. 565, the Product Liability Fairness Act of 1995, is anything but fair to consumers. In fact, it will effectively leave citizens unprotected against the manufacture and sale of hazardous or defective products. Capping punitive damages at $250,000 or three times economic loss defeats the purpose of punitive damages, which is to punish for a wrongdoing. Multi-million dollar corporations will consider these caps merely the cost of doing business, rather than a punishment for injuring unsuspecting consumers, and consequently, punitive damages will no longer serve as a deterrent to irresponsible and unscrupulous companies who would manufacture or sell harmful products.

Additionally, the provisions to eliminate joint and several liability for non-economic damages discriminates against women, children, and senior citizens as they are less likely to recover high economic damages (i.e. lost wages). Joint and several liability ensures that the parties at fault pay, not the victim, and by eliminating this, those victims who suffer loss of reproductive capacity, disfigurement, or loss of sight, for example, could be further wronged by not being able to recover the full amount of their awarded damages.

For these reasons, Georgia Citizen Action strongly urges you to oppose S. 565 and to vote against cloture. Please inform us of your actions regarding this bill.

Sincerely,

LORI GLIDEWELL,
Director.

CITIZEN ADVOCACY CENTER,
Elmhurst, IL, April 20, 1995.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: The Citizen Advocacy Center, a non-partisan, not-for-profit organization in DuPage County, is dedicated to building democracy for the 21st century. We promote good citizenship, participation in civic affairs, access to justice, and accountability of local governments to the citizens of the western suburbs of Chicago. We are writing to urge you to vote "no" both on the upcoming cloture vote of S. 565, and the vote on the merits. We oppose any legislation that makes access to justice more difficult for individual citizens.

As you know Senator Braun, the large crossover vote in the western suburbs of Chicago, particularly the crossover vote of women, helped to elect you to represent our interests in the United States Senate. We expect you to make access to justice easier, not more difficult, for consumers viciously injured by defective products. The provisions of S. 565 are an undisguised attempt to take control and common sense away from Illinois citizens in the jury box and to replace it with Washington-dictated arbitrariness designed to protect and payback the business interests that have paid so handsomely for this legislation. In particular, we find the provisions of S. 565 do great damage to women—and as one of the few women Senators, we frankly expect you to take a good hard look at how the specific provisions of this bill will prevent women with low economic damage awards from being adequately compensated for lifelong injuries caused by corporate greed.

Moreover, after last Sunday's Chicago Tribune Magazine cover story, it seems that you are burnishing your business image after having recently secured a seat on the Finance Committee. Nonetheless, Illinois voters remember that last year you voted against a less damaging products liability bill, and a flip-flop vote now will look like you are selling out ordinary citizens and consumers to cozy up to business interests. We are happy that you have won a seat on the committee, but we expect you to use that seat to remain true to the agenda that put you in the Senate in the first place. Please do not sell out the citizens of Illinois.

Very truly yours,

THERESA AMATO,
Executive Director,
Citizen Advocacy Center.

CHICAGO AND CENTRAL STATES JOINT BOARD, ACTWU, AMALGAMATED CLOTHING AND TEXTILE WORKERS UNION,
Chicago, IL, March 31, 1995.

Senator CAROL MOSELEY-BRAUN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: On behalf of the members of our union we urge you to vote against consideration of any legislation that lessons the financial responsibility of corporate polluters or manufacturers of dangerous products. These, so called, efforts at "tort reform" are more aptly known as the Wrongdoer Protection Act.

Furthermore, these attempts at reform are plainly anti-workers and anti-consumer.

Your opposition to the more onerous parts of these tort reforms proposals is not enough. Your leadership is needed to stop passage of any restrictions limiting the access of consumers and workers to the courts.

Your leadership against these tort restrictions can send a positive signal that you stand on the side of workers and consumers.

Sincerely,

JAMES K. TRIBBLE,
International Vice President.

RONALD WILLIS,
Manager, ACTWU, Chicago and Central States Joint Board.

PUBLIC ACTION,
Chicago, IL, April 24, 1995.

Senator CAROL MOSELEY-BRAUN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: Illinois Public Action is requesting that you vote "NO" on Senate Bill 565. Additionally we are asking you to vote against cloture. If this bill passes, it will have a devastating effect on the 215,000 families that are members of Public Action and on all Illinois consumers.

By capping punitive damages at $250,000 or three times the economic loss (which ever is greater), the legislation removes the punitive impact from punitive sanctions, rendering them meaningless as punishment in most cases. It will be cheaper for many corporations to pay such damages than rectify their faulty products.

Eliminating joint and several liability for non-economic damages saddles the victim for the costs of the damages incurred by the wrongdoing parties. It is unjust and particularly discriminatory for women, children and senior citizens.

Obviously this bill is not in the best interest of the Illinois public. We again ask for your vote against the bill and against cloture in the coming debate.

Sincerely,

ROBERT B. CREAMER,
Executive Director.

ILLINOIS PIRG, Illinois Public
INTEREST RESEARCH GROUP,
Chicago, IL, April 24, 1995.

Re: Protect Victims of Dangerous Products, Oppose Cloture and Vote No on S. 565.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate,
Wshington, DC.

DEAR SENATOR MOSELEY-BRAUN: We are writing on behalf of Illinois PIRG's members, and on behalf of all residents of Illinois to urge your strong opposition to proposed legislation, S. 565, that would eviscerate the rights of victims of dangerous and defective products. As you know, Illinois PIRG is a statewide, non-profit, nonpartisan consumer and environmental advocacy group that has fought to protect the rights of consumers for many years.

Each year, more than 28 million Americans are injured by consumer products and 21,000 are killed. Why should this Senate pass legislation that limits the legal rights of victims at the same time as it is cutting back funding for the federal agencies that are supposed to protect consumers from these dangerous products?

S. 565, the so-called Product Liability "Fairness" Act is, in fact, manifestly unfair to consumers. We have numerous problems with the bill. Its caps on punitive damages will encourage faulty product design. Its limits on pain and suffering damages unfairly and unjustly restrict awards to women, children and senior citizens who are harmed. Its preemption of numerous stronger state laws is unfair to all consumers.

These anti-consumer provisions of S. 565 make it unacceptable. Yet the Senate must also consider that, if passed, S. 565 would have to be reconciled with the even more egregious and extreme House-passed bill. H.R. 1075, in addition to the measures above, arbitrarily caps pain and suffering awards in medical malpractice cases and establishes an automatic punitive damages shield for FDA-approved products. Worse, the House cap on punitive damages extends to all civil lawsuits, not only to product liability cases.

We urge you to vote against cloture on S. 565, against S. 565 and against any conference measure restricting the rights of consumers. We look forward to hearing your views on this important legislation. Please contact me if you or your staff have any questions.

Sincerely,

DIANE BROWN,
Executive Director.

IOWA CITIZEN
ACTION NETWORK,
Des Moines, IA, April 14, 1995.

Hon. TOM HARKIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HARKIN: We are writing to communicate ICAN's views about the so-called Products Liability "Fairness" Act—S. 565. It is our understanding that S. 565 is set for two weeks of debate on the Senate floor, beginning on or about April 24.

We are pleased that you have indicated that, as in the past, you will lead the fight against this legislation. We heartily commend your determination to use all means available to keep the bill from coming to a vote on final passage.

S. 565 is a bill that would produce extremely detrimental consequences for citizens, workers, and consumers. There are a number of objectionable provisions in the legislation, but for the purposes of this letter we would like to focus on provisions relating to joint and several liability and punitive damages.

As you know, S. 565 eliminates joint and several liability for non-economic damages. This clearly discriminates against women, children, senior citizens, persons with disabilities, the poor, and low-wage workers, who more often receive the bulk of compensation for their injuries due to sustained non-economic losses, such as loss of reproductive capacity, loss of vision, disfigurement, etc. S. 565 treats these first rate members of society as second class citizens.

Under current Iowa law, in cases where more than one party is found to have been at fault in causing a plaintiff's injuries, a guilty party that caused more than 50% of the harm can be held jointly and severally liable for damages. S. 565 would supersede Iowa law, making it more likely that injured parties would be forced to forego amounts of compensation for their non-economic losses when one or more of the defendants are unable to pay. This Washington-Knows-Best bill reshuffles the cards and stacks the deck against plaintiffs in Iowa.

S. 565 also imposes an arbitrary and unreasonable cap on punitive damages that would undermine the important deterrent effect which these damages have on corporate wrongdoers. This is unnecessary and rash in light of the fact that punitive damages in product liability cases are rare but have made Americans much safer.

The bill limits punitive damage judgments to the greater of three times the amount of economic losses or $250,000. Once again, this provision is a slap in the face to women, children, senior citizens, persons with disabilities, the poor, and low-wage workers. And the provision sends a warped message to corporate wrongdoers: If you injure a woman, a child, an elderly grandparent, a disabled person, or a minimum wage worker, you are likely to be punished less than if you injure a corporate CEO. The consequences of such a legal policy would be lethal to many average Americans.

In addition, S. 565 imposes an unreasonable standard of "conscious flagrant indifference to safety" for assessment of punitive damages. A defendant whose conduct was merely "reckless" or "wanton" would escape punitive damages. If the superheightened punitive damage standards in S. 565 had applied to the Exxon-Valdez case, Exxon would probably not have paid a dime in punitive damages since the punitive damages were awarded for "reckless" conduct. Moreover, proving a corporate defendant's "state of mind" would be next to impossible in most product liability cases.

S. 565 is imprudent and unwarranted legislation. Product liability tort filings make up an extremely small percentage of all civil filings and the number of product liability filings has been steadily declining. We are mobilizing concerned citizens in Iowa to oppose this bogus bill.

We are grateful for your leadership in opposing this legislation. Please let us know whether and how we can provide any information or assistance to support your efforts.

Your commitment to civil justice for all Americans is greatly appreciated.

Respectfully,

STEVE SIEGEL/BL
President.

BRAD LINT,
Executive Director.

UAW SUB-REGIONAL OFFICE
REGION 4,
Des Moines, IA, April 20, 1995.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: On behalf of the UAW men and women who live, work, and vote in Iowa, I am writing to express our opposition to S. 565—the so-called Products Liability "Fairness" Act. This legislation is grossly unfair and one-sided.

S. 565 would, without a doubt, take away the right of workers to hold large corporations fully accountable for the injuries they cause when they manufacture and sell defective products—including dangerous workplace machinery. Employers claims, however, appear to be unaffected by the law—only workers would lose their right to be heard.

S. 565 sets up a series of hurdles and obstacles to the ability of injured workers and consumers to recover from the manufacturers of defective products. In fact, under the bill's statute of repose, workers injured by defective machinery more than twenty years old could not recover *at all*, but businesses apparently could recover all their losses—including lost profits.

S. 565 would also cap punitive damages far below the point of effectiveness. If the bill becomes law it would be much more difficult for ordinary Iowans to punish and deter corporate misbehavior, even when they are maimed or killed by the recklessness or negligence of a corporation.

In summary, S. 565 is unfair to workers and consumers. The UAW is delighted that you will be voting against cloture during debate and, if needed, against the bill on final passage.

Thank you for your firm commitment to civil justice for workers and consumers.

Respectfully,

CHUCK GIFFORD,
President.

IOWA STATE COUNCIL
OF SENIOR CITIZENS,
Waterloo, IA, April 20, 1995.

Hon. TOM HARKIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HARKIN: I am writing to express our concern about S. 565—the so-called Products Liability "Fairness" Act. The Iowa State Council of Senior Citizens believes the bill to be unfair to senior citizens and we are grateful for your announced opposition to it.

It is my understanding that S. 565 eliminates joint and several liability for non-economic losses. Senior citizens do not generally incur substantial economic losses when they are injured by defective products. They tend to receive compensation for non-economic losses resulting from disfigurement, loss of vision, pain and suffering, etc.

Under S. 565 when multiple parties are found to have caused the harm to an injured consumer the amount of compensation for non-economic losses would, without exception, be reduced when one or more of the at-fault parties is unable to pay. This situation would be worse than current Iowa law where injured consumers can at least recover non-economic damages jointly and severally whenever one of the parties at fault is more than 50% responsible for the harm caused to the injured consumer.

It is also my understanding that S. 565 limits punitive damages in product liability cases to the greater of three times the amount of economic losses or $250,000. This provision also discriminates against senior citizens. Again, since seniors do not usually have large economic losses, corporate wrongdoers who injure a senior are likely—if their misconduct was bad enough to warrant punitive damages—to be punished less than if they injure a corporate executive who has large earnings. Is this wise legal policy?

The Iowa State Council of Senior Citizens believes that, taken together, these two discriminatory provisions could lead to less safe medical devices and consumer products primarily manufactured for use by senior citizens. Women, children, disabled persons, and low-wage workers are also likely to be adversely affected by these ill-conceived provisions.

S. 565 could have a devastating effect on the economic security and safety of older Iowans. The Iowa State Council Citizens is glad you will oppose S. 565 during the coming Senate debate by voting against cloture and, if necessary, against the bill.

Thank you for your considerate attention to our point of view. Please let us know if we can be of any further assistance.

Respectfully,

FRANK ALEXANDER,
President.

CITIZEN ACTION,
Louisville, KY, March 14, 1995.

Hon. MITCH MCCONNELL,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of Kentucky Citizen Action, I would like to express our strong opposition to the so-called "Product Liability Fairness Act", S. 565. I urge you to vote against efforts to pass this legislation, as it is anything but fair to your constituents or to any individual American citizen.

While the proponents of this bill have attempted to cast a "moderate" light on the legislation, painting it as more fair and equitable than proposed legal reforms which came before it, our careful study from the consumer's perspective has revealed that it is neither fair nor equitable to real Americans. Areas of particular concern include:

Punitive damage caps of $250,000 or three times the economic loss. Imposing such caps completely undermines the important deterrent effect which these damages have on corporate wrongdoing. While punitive damages are rarely used, the very threat that their existence presents has proven to be critical in persuading manufacturers to improve the safety of their products or in actually removing unsafe products from the marketplace. If you undermine this system, American consumers truly will be at the mercy of big business.

Elimination of joint and several liability for non-economic damages. This provision discriminates against the most vulnerable members of our society—women, children, seniors, the poor—whose form of compensation would most likely be in the form of non-economic damages. This legislation says that only the wealthy should be empowered to hold wrongdoers accountable for their egregious behavior. These damages also cover a great deal more than just pain and suffering, as is often thought. They also cover loss of reproductive capacity, loss of sight, and disfigurement. Is it fair to punish individuals who have suffered these tragedies?

S. 565 is not fair, although its name attempts to imply otherwise. It is not fair to the workers, to women, to children, to the real people of this country. It is a one-sided, unjustified and cynical attempt to provide a subsidy to big business at the expense of the American consumer.

We understand that S. 565 will be brought to the floor on Monday, April 25 and a vote on cloture could come within a few days of this. We urge you to cast your vote on behalf of your constituents and all American citizens and oppose S. 565 by voting "No" on cloture.

Sincerely,

LORI EVERHART,
State Director.

CITIZEN ACTION,
Baton Rouge, LA, April 14, 1995.

Hon. JOHN BREAUX,
U.S. Senate,
Washington, DC.

DEAR SENATOR BREAUX: On behalf of our members, your constituents, Louisiana Citizen Action once again asks that you vote "No" on S. 565 and "No" on cloture. We strongly believe that it is your responsibility to hold negligent businesses accountable to the public.

By setting caps on punitive damages, S. 565 would send a clear message that corporations do not really have to worry about liability for dangerous products and practices. Punitive damages, after all, were meant to be deterrents to corporate misconduct.

This law, which favors the financial interests of big business over protecting the public, is especially threatening to the most vulnerable—women, children, and seniors. Elimination of joint and several liability for non-economic damages deeply undervalues the impact of injuries upon these citizens.

Please take a firm stand to support fairness and responsibility in our judicial system. We will be happy to inform our members when you vote no to S. 565 and no to cloture. Thank you for your consideration on this issue.

Sincerely,

PAULA HENDERSON,
State Director.

MAINE PEOPLE'S ALLIANCE.
April 21, 1995.

Senator OLYMPIA SNOWE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SNOWE: As you know, debate will begin next week on the Rockefeller-Gorton Bill (S. 565). We wanted to write you in hopes that with your concern for the citizens of Maine—particularly women, children and other economically underprivileged—you will join with us in opposition to that bill. The Contract With America effort is bulldozing ahead with legal reforms that only benefit the manufacturers of defective products.

The bill's supporters claim it is designed to reduce the "explosion" of product liability lawsuits, but there is no evidence suggesting that such a problem exists. In fact, close study of 30 years of case law in Maine reveals that punitive damages have been awarded in only three cases. At $250,000, companies will not be deterred and will simply write the cost of a punitive damage award into the cost of doing business.

An especially worrisome provision of this bill will be the elimination of joint and several liability for non-economic damages. Since women, seniors, and children are more likely to suffer non-economic injuries than high economic injuries (e.g. lost wages), the elimination of joint and several liability discriminates against them. This provision basically states that corporations which manufacture child car seats or children's pajamas can be less careful than manufacturers of golf carts.

As you know, our organization has differed with you on some issues in the past, however we know that you will join with us in opposing this tort reform effort. The notion of Federal Legislation that would preempt the ability of states like Maine to hold wrong doers accountable and deter their future wrongdoing is unacceptable. As you know our organization has had differences with you in the past, but we hope that you will join us in standing against the bill. All Mainers, especially those without the largest salaries (especially women and children) deserve access to a fair and supportive legal system.

Sincerely,

JOE DITRE,
Executive Director.

CITIZEN ACTION,
Bethesda, MD, April 17, 1995.

Hon. BARBARA MIKULSKI,
Hart Building,
Washington, DC.

DEAR SENATOR MIKULSKI: On behalf of Maryland Citizen Action and our 50,000 members I am writing to urge you to oppose "The Product Liability Fairness Act" (S. 565). Please vote pro-consumer and against cloture when this bill comes up in the Senate. If enacted the most vulnerable citizens in our state would be further disadvantaged and the rights of consumers to hold irresponsible manufacturers accountable for their wrongful behavior would be severely limited.

As a champion of women's health, working people and children, I am sure you know that these groups are disproportionately affected by faulty products—breast implants, asbestos, and flammable pajamas to name just a few. S. 565 limits the ability of these people to collect fair compensation for their injuries or losses because it would eliminate joint and several liability for non-economic damages. Under current law, a plaintiff is paid only once, and the cost is covered by the wrongdoers who contributed to the victim's loss. Under S. 565, non-economic damages, such as a women's loss of fertility or a worker's loss of a limb, would not be fully compensated if one of the wrongdoers is unavailable or insolvent. The victim would be forced to carry the burden.

S. 565 also imposes a cap on punitive damages ($250,000 or 3 times economic damages) which undermines the important deterrent effect that these damages have on corporate wrongdoers. Under our current system punitive damages are often the only means available to deter irresponsible behavior such as that exhibited by Dow Corning when it knowingly sold hundreds of thousands of faulty and dangerous breast implants to women. Under S. 565, large corporations, such as Dow Corning, may find it more cost effective to continue their harmful behavior and risk paying punitive damages.

Please stand up for consumers in Maryland by opposing S. 565 and voting against cloture. We are counting on your admirable leadership and your great fighting spirit to halt the current attack on average consumers, women, families and children.

Please let me know how you intend to vote.

Sincerely,

SHELLI CRAVER,
Director, Maryland Citizen Action.

MARYLAND STATE TEACHERS
ASSOCIATION—NEA,
Baltimore, MD, March 29, 1995.

Hon. PAUL S. SARBANES,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: The Maryland State Teachers Association has very strong reservations about the so-called "Common Sense Legal Reforms Act," which the Senate appears to be rushing forward without full debate or careful analysis. We urge you to vote against this bill as anti-consumer legislation.

We see this bill as restricting the ability of injured consumers and workers to obtain full and fair compensation for such injuries. While all of us have a stake in making sure that frivolous law suits become less common than they appear to be, we also all have a stake in making sure that individuals maintain rights to protest and recover damages from product manufactures which have been shown to be dangerous.

Therefore, I urge your opposition to this and similar legislation.

Yours truly,

KARL K. PENCE,
President.

MARYLAND PUBLIC INTEREST
RESEARCH GROUP,
Baltimore, MD, April 24, 1995.

PROTECT VICTIMS OF DANGEROUS PRODUCTS—OPPOSE CLOTURE AND VOTE "NO" ON S. 565

Hon. BARBARA MIKULSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MIKULSKI: We are writing on behalf of MaryPIRG's members, and on behalf of all residents of Maryland to urge your strong opposition to proposed legislation, S. 565, that would eviscerate the rights of victims of dangerous and defective products. As you know, MaryPIRG is a statewide, non-profit, nonpartisan consumer and environmental advocacy group that has fought to protect the rights of consumers for many years.

Each year, more than 28 million Americans are injured by consumer products and 21,000 are killed. Why should this Senate pass legislation that limits the legal rights of victims at the same time as it is cutting back funding for the federal agencies that are supposed to protect consumers from these dangerous products?

S. 565, the so-called Product Liability "Fairness" Act is, in fact, manifestly unfair to consumers. We have numerous problems with the bill. Its caps on punitive damages will encourage faulty product design. Its limits on pain and suffering damages unfairly and unjustly restrict awards to women, children and senior citizens who are harmed. Its preemption of numerous stronger state laws is unfair to all consumers.

These anti-consumer provisions of S. 565 make it unacceptable. Yet the Senate must also consider that, if passed, S. 565 would have to be reconciled with the even more egregious and extreme House-passed bill. H.R. 1075, in addition to the measures above, arbitrarily caps pain and suffering awards in medical malpractice cases and establishes an automatic punitive damages shield for FDA-approved products. Worse, the House cap on punitive damages extends to all civil lawsuits, not only to product liability cases.

We urge you to vote against cloture on S. 565, against S. 565 and against any conference measure restricting the rights of consumers. We look forward to hearing your views on this important legislation. Please contact me if you or your staff have any questions.

Sincerely,

DANIEL PONTIOUS,
Executive Director.

APRIL 24, 1995.

Hon. BARBARA A. MIKULSKI,
Hon. PAUL S. SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATORS: We, the undersigned organizations, urge you to oppose efforts to weaken America's civil justice system. We urge you to vote against cloture on S. 565, the product liability measure sponsored by Sens. Gorton and Rockefeller, or any other legislation that would weaken the rights of the citizens of Maryland.

By restricting the rights of victims of dangerous and defective products, this measure undermines the role of the civil justice system in redressing damages and deterring harmful behavior. By giving "non-economic" damages second-class treatment, the bill discriminates against populations with less earning power, specifically women, children, seniors and low- and middle-income workers. Under S. 565, the U.S. would have a two-tiered system of justice where rich, high-salaried workers would be accorded better treatment and higher damage awards than the rest of us. Finally, by establishing brand new federal rules for product liability cases, S. 565 removes from state authority and oversight a civil justice system that, despite the hyperbole of the big business interests backing this legislation, has served consumers and the residents of Maryland exceedingly well.

S. 565 is far more restrictive than last year's Senate product liability bill. First and foremost, the bill establishes a cap on punitive damages of three times economic loss, or $250,000, whichever is greater. Under this cap, corporations will be punished more if they injure or kill a corporate executive than if the same conduct harms a child, a senior citizen, or a schoolteacher. How can this be fair? In addition, the bill establishes a 20 year limit on lawsuits for capital goods—in last year's bill, the limit was 25 years. Moreover, S. 565 adds protections for manufacturers of raw materials in medical devices and for rental car companies, and reduces manufacturer liability for misuses or alterations made to the product by anyone else—provisions that were not in last year's bill.

Even if one reasonably believes that the measure introduced by Sens. Gorton and Rockefeller is sound public policy (which we do not), it must ultimately be reconciled with the extreme revisions to the civil justice system recently adopted by the House of Representatives. H.R. 956, in addition to the provisions outlined above, enacts an arbitrary cap on pain and suffering awards in medical malpractice and cases involving drugs and medical devices, at the same time it offers an automatic punitive damages shield for products that have received FDA approval. In addition, the House measure extends the cap on punitive damages to all civil lawsuits, and establishes an arbitrary 15 year statute of repose for product liability cases.

Passage of either of these measures, or a combination of the two, would cause grievous harm to the people who have elected you—and depend on you—to represent their interests in Congress. We urge you to oppose any effort to weaken or federalize product liability laws, and to vote "no" on cloture on S. 565, on S. 565, and on any conference committee reported-measure restricting the rights of consumers.

Sincerely,

Jennifer L. Marshall, Coalition for Accountability and Justice; Anne D. LoPiano, Law Foundation of Prince George's County, MD Inc.; Nancy Davis, Maryland Sierra Club; Ken Reichard, United Food and Commercial Workers, Local 400; Cynthia K. Bailey, LCSWC, Sexual Assault/Domestic Violence Center, Inc.; Dru Schmidt-Perkins, Clean Water Action; Dr. Leonardo Ortega, Health Education Resource Organization—HERO; Michele Douglas, Planned Parenthood of Maryland, Inc.; Dan Pontious, Maryland PIRG; Bob Turner, Teamsters Joint Council No. 62; Paul Safchuck, White Lung Association & National Asbestos Victims; Woody McNemar, International Brotherhood of Electrical Workers, Local 24; Kathleen Cahill, Maryland Employment Lawyers Association; Margaret Morgan-Hubbard, Environmental Action Foundation.

JOBS WITH JUSTICE,
Combridge, MA, April 21, 1995.

Senator EDWARD KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: We, the undersigned supporters of Jobs With Justice, a workers' rights coalition, are extremely concerned about the negative effects on the rights of workers and consumers which will result from proposals before the Senate to change the civil justice system. We urge you to oppose these proposals, particularly the "Product Liability Fairness Act," (S. 565) cosponsored by Senators Rockefeller and Gorton, and to oppose cloture, for the following reasons:

Elimination of Joint and Several Liability for Non-Economic Damages—The Rockefeller/Gorton bill would shift costs from parties that caused injuries to injured workers and consumers. By eliminating joint and several liability for non-economic damages, injured workers and consumers whose compensation includes losses related to lifelong excruciating pain, loss of fertility, loss of mobility, and disfigurement may be left to bear the cost of those injuries. Joint and several liability requires that those judged responsible for an injury be responsible for paying the costs of that injury. Elimination of it for non-economic damages unfairly hurts workers and consumers, especially those who don't earn high incomes or are older since their damages often are mostly non-economic.

Caps On Punitive Damages—Rockefeller/Gorton would limit punitive damages to $250,000 or three times economic damages, whichever is greater, and would make it much harder to impose them. Punitive damages, though rarely awarded, are a powerful tool in preventing repetition of preventable injuries. Limiting them would lessen the motivation of corporations to make safe products. As a result, more workers and consumers will be injured.

Statute of Repose—This would make it impossible for a worker injured by defective machinery and equipment to receive compensation from the manufacturer if the machinery and equipment had been on the market for twenty years.

For the above reasons, we urge you to protect workers and consumers by opposing the Rockefeller/Gorton bill and similar legislation and to oppose cloture.

Sincerely,

Juana Hernandez, Staff, Immigrant Workers Resource Ctr.; Melanie Kasperian, Vice President, Mass Teachers Association; Edward Kelly, Executive Director, Citizen Action of Massachusetts; Miles Calvey, Business Manager, I.B.E.W. Local 2222; Phil Mamber, President, United Electrical Workers, District 2; John Williams, Executive Director, Mass. Toxics Campaign; John Murphy, Secretary Treasurer, Teamsters Local 122; Richard Reardon, Business Agent, Teamsters Local 25; John O'Connor, Executive Director, Jobs & Environment Campaign; Rand Wilson, Director, Massachusetts Jobs with Justice.

CITIZEN ACTION,
Cambridge, MA, April 20, 1995.

Senator JOHN KERRY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KERRY: On behalf of the members of Citizen Action of Massachusetts, I strongly urge you to oppose S. 565, and similar product liability bills, and to vote against cloture on them.

There is no "litigation explosion." Defective products cases represent less than one-hundredth of one percent of the total caseload in state courts, according to the National Center for State Courts. Since 1990, total state tort filings have decreased. Nor have punitive damage awards been widespread. Between 1965 and 1990, punitive damages were awarded in less than 15 products liability cases each year, one quarter of which involved asbestos.

S. 565, and similar bills make it more difficult for consumers who obtain an award of damages caused by irresponsible corporate behavior from actually collecting those damages where more than one corporation is responsible for their injuries. In addition S. 565 and similar bills seek to drastically limit the ability of citizen juries to award punitive damages: the kind of damages which deter the production and marketing of unsafe products. At time of decreasing regulatory oversight, the possibility of punitive damages represents a vital pro-consumer bulwark against unsafe and defective products. Punitive damages, because they can be high, make corporations take notice and treat product safety seriously.

S. 565 and similar bills are irresponsible and anti-consumer. I strongly urge you to oppose them and to vote against cloture.

Sincerely,

EDWARD F. KELLY,
Executive Director.

MASSACHUSETTS PUBLIC INTEREST RESEARCH GROUP,
Boston, MA, 24 April 1995.

Hon. JOHN KERRY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERRY: We are writing on behalf of MASSPIRG's members, and on behalf of all residents of Massachusetts to urge your strong opposition to proposed legislation, S. 565, that would eviscerate the rights of victims of dangerous and defective products. As you know, MASSPIRG is a statewide, non-profit, nonpartisan consumer and environmental advocacy group that has fought to protect the rights of consumers for many years.

Each year, more than 28 million Americans are injured by consumer products and 21,000 are killed. Why should this Senate pass legislation that limits the legal rights of victims at the same time as it is cutting back funding for the federal agencies that are supposed to protect consumers from these dangerous products?

S. 565, the so-called Product Liability "Fairness" Act is, in fact, manifestly unfair to consumers. We have numerous problems with the bill. Its caps on punitive damages will encourage faulty product design. Its limits on pain and suffering damages unfairly and unjustly restrict awards to women, children and senior citizens who are harmed. Its preemption of numerous stronger state laws is unfair to all consumers.

These anti-consumer provisions of S. 565 make it unacceptable. Yet the Senate must also consider that, if passed, S. 565 would have to be reconciled with the even more egregious and extreme House-passed bill. H.R. 1075, in addition to the measures above, arbitrarily caps pain and suffering awards in medical malpractice cases and establishes an automatic punitive damages shield for FDA-approved products. Worse, the House cap on punitive damages extends to all civil lawsuits, not only to product liability cases.

We urge you to vote against cloture on S. 565, against S. 565 and against any conference measure restricting the rights of consumers. We look forward to hearing your views on this important legislation. Please contact me if you or your staff have any questions.

Sincerely,

DEIRDRE CUMMINGS,
Consumer Program Director.

MICHIGAN CONSUMER FEDERATION,
April 18, 1995.

Hon. CARL LEVIN,
U.S. Senator, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEVIN: I appreciated meeting you at the "Teddy Bear Clinic" where you so ably pointed out the threat to public safety posed by the Republican's "regulatory moratorium." Your leadership for consumer safety has always been appreciated.

We need your leadership in another consumer safety area—products liability. With federal cutbacks in regulatory programs, we look to the legal system as one of the few effective means of improving product safety. Time and time again, it has been private lawsuits—or the perceived threat of lawsuits—which has forced corporations to either remove defective products from the marketplace or improve them.

I know you are a fan of "cost-benefit" analyses. So are manufacturers. In a well-known memo, Ford Motor Company calculated that it would cost more to prevent Pintos from exploding than it would pay out in legal expenses. Consequently, many Pinto owners were incinerated. Why would we want to cap the only means of making "cost-benefit" assessments favor consumer safety?

The Michigan Consumer Federation is a member of the Consumer Federation of America. Annually, CFA bestows its highest honor for consumer advocacy—the Philip A. Hart award. We are proud that the nation's largest and most respected consumer organization recognized a Michigan giant and former United States Senator for its most prestigious award. That places a great deal of responsibility for those of us in Michigan.

S. 565 isn't about fairness. It's about corporations wanting to "get away with murder." Let's not tilt the playing field in their favor. Vote for a strong system of individual legal rights for victims of corporate wrongdoing. It helps make products safer for all of us.

Sincerely,

RICK GAMBER,
Executive Vice President.

CITIZEN ACTION,
East Lansing, MI, April 24, 1995.

Senator SPENCER ABRAHAM,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the 300,000 members of Michigan Citizen Action, I want to express our strong opposition to the so-called "Product Liability Fairness Act." I urge you to vote against efforts to move this anti-consumer, anti-worker legislation.

There are three major provisions in S. 565 which have been introduced in the Senate and which would have a negative effect on consumers and workers. First, all bills set arbitrary limits on punitive damage awards of $250,000 or three times economic damages, reducing the ability to deter corporations from inflicting harm on others and threatening Americans' economic security and well-being. At a time when Congress is talking about increasing personal responsibility, it makes no sense to reduce the responsibility of corporations guilty of manufacturing or selling dangerous products.

Second, S. 565 eliminates joint and several liability for non-economic damages, making it difficult for consumers to recover costs related to injuries such as the loss of reproductive capacity, loss of sight, or disfigurement. Those injuries deserve to be compensated and should not be treated as less important than the loss of high salaries or investment income.

Third, S. 565 prevents workers and consumers—but not businesses—from recovering for losses caused by defective machines or products over 20 years old.

I urge you to act to prevent passage of this legislation which would greatly restrict the ability of injured consumers to be compensated fully and for juries to act to prevent future wrongdoing. this bill is not in the best interest of Michigan residents. Vote "NO" on cloture and "NO" on the bill.

Yours Truly,

LINDA A. TEETER,
Program Director.

PUBLIC INTEREST RESEARCH GROUP IN MICHIGAN,
Ann Arbor, MI, April 25, 1995.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN. We are writing on behalf of PIRGIM's members, and on behalf of all residents of Michigan to urge your strong opposition to proposed legislation, S. 565, that would eviscerate the rights of victims of dangerous and defective products. As you know, PIRGIM is a statewide, non-profit, nonpartisan consumer and environmental advocacy group that has fought to protect the right of consumers for many years.

Each year, more than 28 million Americans are injured by consumer products and 21,000 are killed. Why should this Senate pass legislation that limits the legal rights of victims at the same time as it is cutting back funding for the federal agencies that are supposed to protect consumers from the dangerous products?

S. 565, the so-called Product Liability "Fairness" Act is, in fact, manifestly unfair to consumers. We have numerous problems with the bill. Its caps on punitive damages will encourage faulty product design. Its limits on pain and suffering damages unfairly and unjustly restrict awards to women, children and senior citizens who are harmed. Its preemption of numerous stronger state laws is unfair to all consumers.

These anti-consumer provisions of S. 565 make it unacceptable. yet the Senate must also consider that, if passed, S. 565 would have to be reconciled with the even more egregious and extreme House-passed bill. H.R. 1075, in addition to the measures above, arbitrarily caps pain and suffering awards in medical malpractice cases and establishes an automatic punitive damages shield for FDA-approved products. Worse, the House cap on punitive damages extends to all civil lawsuits, not only to product liability cases.

We urge you to vote against cloture on S. 565, against S. 565 and against any conference measure restricting the rights of consumers. We look forward to hearing your views on this important legislation. Please contact me if you or your staff have any questions.

Sincerely,

TIMEEN WEGMEYER,
Campaign Director.

MINNESOTA COACT,
St. Paul, MN, April 24, 1995.

Senator PAUL WELLSTONE,
Hart Office Building,
Washington, DC.

DEAR SENATOR WELLSTONE: On behalf of Minnesota COACT's 40,000 statewide members, I am writing to urge you to vote "no" on S. 565 and to vote against cloture. As a national leader in the fight for health care reform, you probably recognize that this legislation will seriously undermine the ability of consumers to be protected from and compensated for medical malpractice negligence.

By capping the punitive damages at $250,000 or three times the economic loss (whichever is greater), S. 565 restricts a person's ability to obtain full and fair compensation and dramatically reduces the ability to deter future wrongdoing.

Furthermore, S. 565 eliminated joint and several liability for punitive damages and non-economic loss but not for economic damages. This distinction will aggravate the disparity in awards between high-income earners and low-income earners.

Medical malpractice causes 80,000 deaths and up to 300,000 serious injuries each year according to a recent Harvard Medical Practice Study. For the health and safety of consumers throughout Minnesota, please vote "no" on S. 565 and vote against cloture on the Senate floor.

Sincerely,

JON YOUNGDAHL,
Executive Director.

MISSOURI CITIZEN ACTION,
April 24, 1995.

Senator JOHN ASHCROFT,
Senate Office Building,
Washington, DC.

DEAR SENATOR ASHCROFT, Missouri Citizen Action strongly urges you to vote "no" on Senate Bill 565. In addition, we urge you to vote against cloture when the bill is debated on the Senate floor. As Missouri's largest consumer coalition, we can tell you that this bill could have a major negative impact on the rights, and lives, of the tens of thousands of Missouri consumers and families which we represent.

Caps on punitive damages, such as those in S.B. 565, gut the ability of our civil justice system to threaten real punishment of those whose negligence or greed may tempt them to put a product on the market which could injure us or our family members. Without the threat of real punitive damages, these potential corporate wrongdoers will see damages awards as just another predictable cost of doing business, to be factored into the price of a defective product.

The elimination of joint and several liability for non-economic damages will, likewise, have a negative effect on average Missourians. This provision of S.B. 565 strikes especially at women, children, and seniors.

Clearly this legislation is not in the interest of working Missourians. It is merely an attempt to shield wrongdoers from the consequences of their actions. In that you have consistently voiced a strong opinion in favor of "getting tough" on criminals who prey on our communities, we believe that it would be inconsistent on your part to now vote to protect those whose potential to harm innocent victims in the pursuit of profit. Once again, we urge you to vote "no" on S.B. 565, and to vote against cloture.

Sincerely,

PATRICK HARVEY,
Executive Director.

CITIZEN ACTION,
Lincoln, NE, March 28, 1995.

Senator BOB KERREY,
Hart Office Building, Washington, DC.

DEAR SENATOR: As director of Nebraska Citizen Action, with over 8,000 active members, I want to express our strong opposition to the so-called "Common Sense Legal Reforms Act." The Senate is rushing this bill forward without full debate or time for careful analysis. I urge you to vote against efforts to move this anti-consumer legislation forward, including procedural moves to cut off debate.

This and similar bills pending in the Senate would restrict the ability of injured consumers and workers to obtain full and fair compensation and for citizen juries to impose adequate deterrents to prevent future injuries.

There are two major provisions which are common to all the bills which have been introduced in the Senate and which would have a negative effect on consumers and workers. First, all bills would set arbitrary limits on punitive damage awards of $250,000 or three times economic damages, reducing the ability to deter corporations from inflicting harm on others and threatening Americans' economic security and well-being. At a time when Congress is talking about increasing personal responsibility, it makes no sense to reduce the responsibility of corporations guilty of manufacturing or selling dangerous products.

Second, all bills would eliminate joint and several liability for non-economic damages, making it difficult for consumers to recover costs related to injuries such as the loss of reproductive capacity, loss of sight, or disfigurement. Those injuries deserve to be compensated and should not be treated as less important than the loss of high salaries or investment income. It defies all principals of fairness to base how we determine compensation for damages, only on a persons yearly salary.

I urge you to act to prevent passage of this legislation, which would greatly restrict the ability of injured consumers to be compensated fully and for juries to act to prevent future wrongdoing.

Sincerely,

WALT BLEICH,
Director.

COALITION FOR ACCOUNTABILITY & JUSTICE,
April 24, 1995.

Hon. J. JAMES EXON,
U.S. Senate,
Washington, DC.

DEAR SENATOR EXON: We, the undersigned organizations, urge you to oppose efforts to weaken America's civil justice system. We urge you to vote against cloture on S. 565, the product liability measure sponsored by Sens. Gorton and Rockefeller, or any other legislation that would weaken the rights of the citizens of Nebraska.

By restricting the rights of victims of dangerous and defective products, this measure undermines the role of the civil justice system in redressing damages and deterring harmful behavior. By giving "non-economic" damages second-class treatment, the bill discriminates against populations with less earning power, specifically women, children, seniors and low- and middle-income workers. Under S. 565, the U.S. would have a two-tiered system of justice where rich, high-salaried workers would be accorded better treatment and higher damage awards than the rest of us. Finally, by establishing new federal rules for product liability cases, S. 565 removes from state authority and oversight a civil justice system that has served consumers and the residents of Nebraska exceedingly well. As you noted during our meeting, your efforts at medical malpractice reform is but one example.

S. 565 is far more restrictive than last year's Senate product liability bill. First and foremost, the bill establishes a cap on punitive damages of three times economic loss, or $250,000, whichever is greater. Under this cap, corporations will be punished more if they injure or kill a corporate executive than if the same conduct harms a child, a senior citizen, or a schoolteacher. How can this be fair? In addition, the bill establishes a 20 year limit on lawsuits for capital goods—in last year's bill, the limit was 25 years. Moreover, S. 565 adds protections for manufacturers of raw materials in medical devices and for rental car companies, and reduces manufacturer liability for misuses or alterations made to the product by anyone else—provisions that were not in last year's bill.

One must also keep in mind that S. 565 must ultimately be reconciled with the extreme revisions to the civil justice system recently adopted by the House of Representatives. H.R. 956, in addition to the provisions outlined above, enacts an arbitrary cap on pain and suffering awards in automatic punitive damages shield for products that have received FDA approval. In addition, the House measure extends the cap on punitive damages to all civil lawsuits, and establishes an arbitrary 15 year statute of repose for product liability cases.

Passage of either of these measures, or a combination of the two, would cause grievous harm to the people who have elected you—and depend on you—to represent their interests in Congress. S. 565 does nothing to bring the rights and remedies available to Nebraskans up to the proposed federal standards, and yet it limits our ability to shape state law in a way that would address the unique needs and concerns of Nebraska citizens.

We urge you to oppose any effort to weaken or federalize product liability laws, and to vote "no" on cloture on S. 565, and on any conference committee reported-measure restricting the rights of consumers.

Sincerely,

John Hansen, President, Nebraska Farmers Union; Carol McShane, Nebraska

Women's Political Network; Jared Teichmeier, President, United Rubber Workers of America Local 286; Linda Burkey, Executive Director, Nebraska Head Injury Association; Walt Bleich, Executive Director, Nebraska Citizen Action; Cristina Sherman, State Coordinator, National Organization for Women; Marv Morrison, Secretary-Treasurer, Communications Workers of America Local 7470; Marty Strange, Program Director, Center for Rural Affairs.

NEW HAMPSHIRE CITIZEN ACTION,
Concord, NH, April 20, 1995.
Senator JUDD GREGG,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR GREGG: I am writing to express my concerns about S. 565—the Rockefeller-Gorton bill. The expressed goal of this bill is to reduce the supposed explosion of product liability lawsuits. It does this by effectively limiting the awards a plaintive could receive: capping punitive damages and eliminating joint and several liability.

I have three problems with this bill. First, I do not think that it will accomplish its goals. I am aware of no evidence that capping awards will in fact reduce the number of suits filed. Capping awards could in fact increase the total dollar amount of liability awards if it removes the incentive for a producer to correct a dangerous flaw in its product, such that more injuries occur and more suits are filed.

Second, I was under the impression that the Republican Party was a supporter of the rights of victims as opposed to criminals. Punitive damages are one way of compensating victims injured through criminal negligence. Protecting the assets of the perpetrator is wrong.

Third is the issue of states' rights. You and your Republican colleagues have gone on and on about returning decision making power to the states. Yet in this bill, by preempting state statutes, you would gather in to the federal government powers that have belonged to the states for over two hundred years. That, sir, is as big a flip-flop as Dick Swett ever made!

I urge you not to support this bill, and not to support any vote for cloture on debate of this bill. Thank you.

Sincerely,

ROBERT D. YAGER, M.D.,

P.S.: I have been sued and lost a case involving punitive damages. Despite that personal experience, I still think this is a bad bill.

NEW JERSEY CITIZEN ACTION,
Hackensack, NJ, April 18, 1995.
Hon. BILL BRADLEY,
Senate Office Building, Washington, DC.

DEAR SENATOR BRADLEY: New Jersey Citizen Action in requesting that you vote "NO" on Senate Bill 565. Additionally we are asking you to vote against cloture. If this bill is passed, it will have a devastating effect on the 115,000 families that are members of N.J.C.A.

By capping punitive damages at $250,000 or three times the economic loss (which ever is greater) the legislation removes "the punishment" that is supposed to be reflected in the damages. It becomes cheaper to pay the damages than to rectify the situation.

Eliminating joint and several liability for non-economic damages discriminates against women, children, and seniors. Non-economic loss is much more than pain and suffering—it could also be loss of reproductive capacity, loss of sight or disfigurement.

Obviously this bill is not in the best interests of New Jersey residents. Once again we ask you to vote "NO" on Senate Bill 565 and vote against cloture.

Very truly yours,

PHYLLIS SALOWE-KAYE,
Executive Director.

NEW JERSEY PUBLIC INTEREST
RESEARCH GROUP,
Trenton, NJ, April 24, 1995.
Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: We are writing on behalf of NJPIRG's members, and on behalf of all residents of New Jersey to urge your strong opposition to proposed legislation, S. 565, that would eviscerate the rights of victims of dangerous and defective products. As you know, NJPIRG is a statewide, non-profit, nonpartisan consumer and environmental advocacy group that has fought to protect the rights of consumers for many years.

Each year, more than 28 million Americans are injured by consumer products and 21,000 are killed. Why should this Senate pass legislation that limits the legal rights of victims at the same time as it is cutting back funding for the federal agencies that are supposed to protect consumers from these dangerous products?

S. 565, the so-called Product Liability "Fairness" Act is, in fact, manifestly unfair to consumers. We have numerous problems with the bill. Its caps on punitive damages will encourage faulty product design. Its limits on pain and suffering damages unfairly and unjustly restrict awards to women, children and senior citizens who are harmed. Its preemption of numerous stronger state laws is unfair to all consumers.

These anti-consumer provisions of S. 565 make it unacceptable. Yet the Senate must also consider that, if passed, S. 565 would have to be reconciled with the even more egregious and extreme House-passed bill. H.R. 1075, in addition to the measures above, arbitrarily caps pain and suffering awards in medical malpractice cases and establishes an automatic punitive damages shield for FDA-approved products. Worse, the House cap on punitive damages extends to all civil lawsuits, not only to product liability cases.

We urge you to vote against cloture on S. 565, against S. 565 and against any conference measure restricting the rights of consumers. We look forward to hearing your views on this important legislation. Please contact me if you or your staff have any questions.

Sincerely,

ANDY IGREJAS,
Consumer Advocate.

NEW JERSEY TENANTS ORGANIZATION,
Hackensack, NJ, April 20, 1995.
Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: The New Jersey Tenants Organization (NJTO) opposes any changes in joint and several liability and the imposition of punitive damage caps. This is not reform; it is war on consumers.

Please oppose the tort reform legislation now before the Senate and vote "NO."

Thank you for your anticipated stand in favor of the consumers of the State of New Jersey.

Yours truly,

BONNIE SHAPIRO,
Administrative Director.

CITIZEN ACTION OF NEW YORK,
Albany, NY, April 24, 1995.
Hon. DANIEL PATRICK MOYNIHAN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: We are writing to urge that you protect victims of dangerous products by voting to be sure that S. 565 never comes to the Senate floor and continuing to oppose S. 565 and any other measures that would strip victims of dangerous products, incompetent doctors or other negligent parties of their fundamental rights to justice and fair compensation.

Those who would vote for S. 565 forget the famous exploding Pinto, a traveling bomb that Ford's bean counters let stay on the road rather than spend a few dollars to fix the gas tank. They would forget the damage to women from the Dalkon shield and breast implants, products that the manufacturers knew might cause harm. They would forget those children who were horribly burned by flammable pajamas. And they would forget the thousands of workers who were exposed to asbestos decades after the manufacturers knew that the material caused cancer.

There are very few cases a year, 15, in which punitive damages are awarded. But the threat of these damages is too often the only barrier to more companies making the cold calculation that making a safe product isn't worth the cost. Artificial caps on punitive damages will result in a slap on the wrist to negligent corporations and expose American consumers to dangerous products.

The provision in S. 565 that would not allow workers or consumers to sue over damages caused by older products, but allows companies to sue, reveals the vicious anti-consumer bias of this bill. If the bill were honestly concerned about the legal system why would it allow businesses to sue but not consumers or workers? The exemption for businesses shows that the authors primary motive is to protect corporations from being punished for the harm their negligence causes to consumers and employees.

We also urge your opposition to changes in joint and several liability. This provision only increases the likelihood that a victim will not be fairly compensated for the injuries and suffering caused by negligence. Those who are the most vulnerable, women, children and the elderly, will lose the most if joint and several liability is eliminated.

Finally, we remain concerned that the Senate will consider establishing a cap on pain and suffering in medical malpractice cases. Such an action would be particularly ironic coming just after well publicized incidents of medical malpractice. The facts remain that, as the Office of Technology Assessment found in a recent report, caps on malpractice awards will have no impact on the nation's health care costs but they will save money for doctors at the expense of victims of gross malpractice.

We urge your continued vigilance on behalf of victims of negligence by voting against cloture for S. 565 and working vigorously to oppose any other measures that would gut the civil justice system.

Sincerely,

RICHARD KIRSCH,
Executive Director.

EMPIRE STATE CONSUMER ASSOCIATION,
Rochester, NY, April 19, 1995.
Hon. ALFONSE M. D'AMATO,
Hart Building, U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: I want to express our strong opposition to S. 565, the "Product Liability Fairness Act of 1995." This bill would restrict the ability of injured consumers to obtain full and fair compensation and for citizen juries to impose adequate deterrents to prevent further injuries.

There are two major provisions of this legislation which would have a negative effect on consumers and workers. First, this bill would set arbitrary limits on punitive damage awards of $250,000 or three times economic damages, reducing the ability to deter corporations from inflicting harm on others and threatening Americans' economic security and well-being. At a time when Congress is talking about increasing personal responsibility, it makes no sense to reduce the responsibility of corporations guilty of manufacturing or selling dangerous products.

Second, this bill would eliminate joint and several liability for non-economic damages, making it difficult for consumers to recover costs related to injuries such as the loss of reproductive capacity, loss of sight, or disfigurement. Those injuries deserve to be compensated and should not be treated as less important than THE loss of high salaries or investment income. For similar reasons as those described, CFA also urges you to oppose S. 454, "The Health Care Liability and Quality Act" which would severely affect the rights of injured patients.

I urge you to act to prevent passage of this legislation, which would greatly restrict the ability of injured consumers to be compensated fully and for juries to act to prevent further wrongdoing.

Sincerely yours,

JUDY BRAIMAN.

CITIZEN ACTION,
Raleigh, NC, March 14, 1995.

Hon. D.M. LAUCH FAIRCLOTH,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR FAIRCLOTH: On behalf of North Carolina Citizen Action, I would like to express our strong opposition to the so-called "Product Liability Fairness Act", S. 565. I urge you to vote against efforts to pass this legislation, as it is anything but fair to your constituents or to any individual American citizen.

While the proponents of this bill have attempted to cast a "moderate" light on the legislation, painting it as more fair and equitable than proposed legal reforms which came before it, our careful study from the consumer's perspective has revealed that it is neither fair nor equitable to real Americans. Areas of particular concern include:

Punitive damage caps of $250,000 or three times the economic loss. Imposing such caps completely undermines the important deterrent effect which these damages have on corporate wrongdoing. While punitive damages are rarely used, the very threat of that their existence presents has proven to be critical in persuading manufacturers to improve the safety of their products or in actually removing unsafe products from the marketplace. If you undermine this system, American consumers truly will be at the mercy of big business.

Elimination of joint and several liability for non-economic damages. This provision discriminates against the most vulnerable members of our society—women, children, seniors, the poor—whose form of compensation would most likely be in the form of non-economic damages. This legislation says that only the wealthy should be empowered to hold wrongdoers accountable for their egregious behavior. These damages also cover a great deal more than just pain and suffering, as is often thought. They also cover loss of reproductive capacity, loss of sight, and disfigurement. Is it fair to punish individuals who have suffered these tragedies?

S. 565 is not fair, although its name attempts to imply otherwise. It is not fair to the workers, to women, to children, to the real people of this country. It is a one-sided, unjustified and cynical attempt to provide a subsidy to big business at the expense of the American consumer.

We understand that S. 565 will be brought to the floor on Monday, April 24 and a vote on cloture could come within a few days of this. We urge you to cast your vote on behalf of your constituents and all American citizens and oppose S. 565 by voting "NO" on cloture.

Sincerely,

LORI EVERHART,
State Director.

COALITION FOR ACCOUNTABILITY AND JUSTICE,
April 4, 1995.

Hon. KENT CONRAD,
Hon. BYRON DORGAN,
U.S. Senate, Washington, DC.

DEAR SENATORS: We, the undersigned organizations, urge you to oppose efforts to weaken America's civil justice system, and to vote "no" on S. 565, the product liability measure sponsored by Sens. Gorton and Rockefeller.

By restricting the rights of victims of dangerous and defective products, this measure undermines the role of the civil justice system in redressing damages and deterring harmful behavior. By limiting pain and suffering damages in some cases, the bill will severely restrict awards to certain groups—including seniors, women, and children—and favor the rich who, in the case of death or serious injury, have high lost wages, over the rights of low- and middle-income wage earners. Finally, by establishing brand new federal rules for product liability cases, S. 565 removes from state authority and oversight a civil justice system that, despite the hyperbole of the big business interests backing this legislation, has served consumers and the residents of North Dakota exceedingly well.

S. 565 is far more restrictive than last year's Senate product liability bill. First and foremost, the bill establishes a cap on punitive damages of three times economic loss, or $250,000, whichever is greater. Under this cap, corporations will be punished more if they injure or kill a corporate executive than if the same conduct harms a child, a senior citizen, or a schoolteacher. How can this be fair? In addition, the bill establishes a 20 year limit on lawsuits for capital goods—in last year's bill, the limit was 25 years.

Even if one reasonably believes that the measure introduced by Sens. Gorton and Rockefeller is sound public policy (which we do not), it must ultimately be reconciled with the extreme revisions to the civil justice system recently adopted by the House of Representatives. H.R. 956, in addition to the provisions outlined above, enacts an arbitrary cap on pain and suffering awards in medical malpractice and cases involving drugs and medical devices, at the same time it offers an automatic punitive damages shield for products that have received FDA approval. In addition, the House measure extends the cap on punitive damages to all civil lawsuits, and establishes an arbitrary 15 year statute of repose for product liability cases. Passage of either of these measures, or a combination of the two, would cause grievous harm to the people who have elected you—and depend on you—to represent their interest in Congress. We urge you to oppose any effort to weaken or federalize product liability laws, and to vote "no" on cloture on S. 565, and on any conference committee reported-measure restricting the rights of consumers.

Sincerely,

Gerrard Friesz, North Dakota Public Employees Association.
Pam Solwey, North Dakota DES Action.
Sherry Shadley, North Dakota Clean Water Action.
Chuck Stebbins, Dakota Center for Independent Living.
Pauline Nygaard, North Dakota Breast Implant Coalition.
Don Morrison, North Dakota Progressive Coalition.
Lani Weatherly, Laborers International Union, Local 580.
Jude M. Reilly, Boilermakers Local 647.
Gary L. Nelson, Ironworkers Local 793.
John Risch, United Transportation Union.
Dexter Perkins, Sierra Club, Agassiz Basin Group.
Gary McKenzie, Plumbers and Pipefitters Local 338.
Rev. Jack Seville, United Church of Christ (organization for identification only).
Dean Cypher, Teamsters Local 116.
Al Thomas, Teamsters Local 123.
Norman Stuhlmiller, (former chairperson, Legislative Committee, North Dakota AARP).
Logan Dockter, Plumbers and Pipefitters Local 795.
Jeff Husebye, Doug Swanson, Workers Against Inhumane Treatment.

CITIZEN ACTION,
April 24, 1995.

Members of the U.S. Senate, Washington, DC:

DEAR SENATORS: I am writing on behalf of Ohio Citizen Action, Ohio's largest consumer and environmental organization, to urge Members of the Senate to oppose S. 565 and to vote against cloture. There are a number of reasons for our opposition to this bill, but we will briefly mention only two.

First, the cap on punitive damages would unquestionably undermine the potential for such assessments to truly punish wrongdoers. While punitive damage assessments are rare in product liability cases, they often are the only means for citizens to stop the reckless behavior of a wrongdoer. With the arbitrary cap, not only would future punitive damage assessments not adequately punish the wrongdoer, but companies could calculate whether it would be more cost-effective to produce a safe product or risk punitive damages.

Second, the statute of repose would deny workers and consumers their right to seek compensation if they are injured by a product that is more than twenty years old. It is, by no means, uncommon for workplace equipment to exceed this limit. At the same time, however, businesses are exempt from this restriction. The company can still sue for commercial losses.

S. 565 would be a giant step backwards in a legal system that now works reasonably well to protect average Americans. We urge you to oppose S. 565 and to vote against cloture.

Thank you for your consideration.

Sincerely,

SHARI WEIR,
Consumer Issues Director.

Ohio Public Interest Research Group,
Columbus, OH, April 25, 1995.
Hon. Mike DeWine,
U.S. Senate, Washington, DC.

Dear Senator DeWine: We are writing on behalf of Ohio PIRG's members, and on behalf of all residents of Ohio to urge your strong opposition to proposed legislation, S. 565, that would eviscerate the rights of victims of dangerous and defective products. As you know, Ohio PIRG is a statewide, nonprofit, nonpartisan consumer and environmental advocacy group that has fought to protect the rights of consumers for many years.

Each year, more than 28 million Americans are injured by consumer products and 21,000 are killed. Why should this Senate pass legislation that limits the legal rights of victims at the same time as it is cutting back funding for the federal agencies that are supposed to protect consumers from these dangerous products?

S. 565, the so-called Product Liability "Fairness" Act is, in fact, manifestly *unfair* to consumers. We have numerous problems with the bill. Its caps on punitive damages will encourage faulty product design. Its limits on pain and suffering damages unfairly and unjustly restrict awards to women, children and senior citizens who are harmed. Its preemption of numerous stronger state laws is unfair to all consumers.

These anti-consumer provisions of S. 565 make it unacceptable. Yet the Senate must also consider that, if passed, S. 565 would have to be reconciled with the even more egregious and extreme House-passed bill. H.R. 1075, in addition to the measures above, arbitrarily caps pain and suffering awards in medical malpractice cases and establishes an automatic punitive damages shield for FDA-approved products. Worse, the House cap on punitive damages extends to all civil lawsuits, not only to product liability cases.

We urge you to vote against cloture on S. 565, against S. 565 and against any conference measure restricting the rights of consumers. We look forward to hearing your views on this important legislation. Please contact me if you or your staff have any questions.

Sincerely,
Amy Simpson,
Campaign Director.

Oregon State Public Interest Research Group,
Portland, OR, April 25, 1995.
Hon. Mark Hatfield,
U.S. Senate, Washington, DC.

Dear Senator Hatfield: We are writing on behalf of OSPIRG's members, and on behalf of all residents of Oregon to urge your strong opposition to proposed legislation, S. 565, that would eviscerate the rights of victims of dangerous and defective products. As you know, OSPIRG is a statewide, non-profit, nonpartisan consumer and environmental advocacy group that has fought to protect the rights of consumers for many years.

Each year, more than 28 million Americans are injured by consumer products and 21,000 are killed. Why should this Senate pass legislation that limits the legal rights of victims at the same time as it is cutting back funding for the federal agencies that are supposed to protect consumers from these dangerous products?

S. 565, the so-called Product Liability "Fairness" Act is, in fact, manifestly unfair to consumers. We have numerous problems with the bill. It caps on punitive damages will encourage faulty product design. Its limits on pain and suffering damages unfairly and unjustly restrict awards to women, children and senior citizens who are harmed. Its preemption of numerous stronger state laws is unfair to all consumers.

These anti-consumer provisions of S. 565 make it unacceptable. Yet the Senate must also consider that, if passed, S. 565 would have to be reconciled with the even more egregious and extreme House-passed bill. H.R. 1075, in addition to the measures above, arbitrarily caps pain and suffering awards in medical malpractice cases and establishes an automatic punitive damages shield for FDA-approved products. Worse, the House cap on punitive damages extends to all civil lawsuits, not only to product liability cases.

We urge you to vote against cloture on S. 565, against S. 565 and against any conference measure restricting the rights of consumers. We look forward to hearing your views on this important legislation. Please contact me if you or your staff have any questions.

Sincerely,
Maureen Kirk,
Executive Director.

Victims Against Lethal Valves,
Pittsburg, PA, April 19, 1995.
Hon. Arlen Specter,
U.S. Senate, Washington, DC.

Dear Senator Specter: As founder and leader of V.A.L.V. (Victims Against Lethal Valves) I am writing to you for all implanted victims of the Bjorg/Shiley ConvexoConcave heart valve to urge you to vote against bill S. 565.

We oppose this legislation as it definitely limits the rights of consumers in our civil justice system. We believe bill S. 565 is an anti-consumer legislative move that will only enhance the rights of big business, i.e., manufacturers. We believe that this bill will only encourage manufacturers to have a stronger attitude of uncaring towards the products they produce and place in the marketplace for the consumer. Today, with workers' relaxed attitudes and work ethics it would hardly be a feasible idea to give the manufacturers a freer hand in the quality control of products. This is a time when we need stronger controls over big business, not the consumer. The consumer is being hurt enough as it is with the dangerous quality of products that is being turned out to them now.

Injuries that are the result of a manufacturer's flaw should be compensated to the injured. When products are marketed as being wonderful and safe in fancy, expensive advertisements to draw in the consumer to purchase, the manufacturer should be responsible for any consequence after the sale of their product if it has been flawed from the manufacturing process.

V.A.L.V. members throughout the state of Pennsylvania strongly urge you to vote against bill S. 565 as well as similar legislation and to vote against cloture.

We thank you for considering our fears.

Respectfully yours,
Elaine S. Levenson,
Founder.

Citizen Action/
Pennsylvania Chapter,
April 21, 1995.
Hon. Arlen Specter,
U.S. Senate, Washington, DC

Dear Senator Specter: On behalf of our 40,000 members in Pennsylvania, we are writing to express our strong opposition to S. 565, the so-called "Product Liability Fairness Act" sponsored by Senators Rockefeller and Gorton. We urge you to oppose any effort to move this anti-consumer, anti-worker legislation forward, including procedural moves to cut off debate.

S. 565 would drastically limit the ability of injured consumers and workers to obtain full and fair compensation, and would restrict the ability of citizen juries to impose adequate deterrents to prevent future injuries.

Specifically, S. 565 would place caps on punitive damage awards of $250,000 or three times economic damages. Such awards, while rare, are designed to punish corporations that intentionally or recklessly disregard the safety of consumers, and to deter other corporations from such behavior. Placing arbitrary limits on punitive damages will only serve to encourage such behavior, placing consumers at greater risk.

S. 565 would also eliminate joint and several liability for noneconomic damages, making it difficult for consumers to recover costs related to injuries such as the loss of child-bearing capacity, loss of sight or limb, or disfigurement. This provision places a greater value on lost income, thereby discriminating against women, children, and senior citizens.

Finally, this bill would prevent workers and consumers—but not businesses—from recovering damages for losses caused by defective machines or products that are more than 20 years old.

We strongly urge you to protect the legal rights of consumers and workers throughout Pennsylvania by voting against passage of S. 565 and voting against cloture. Thank you for your consideration.

Sincerely,
Lauren Townsend,
Philadelphia Area Director.
Jennifer O'Donnell,
Pittsburgh Area Director.

Pennsylvania Public Interest Research Group,
Philadelphia, PA, April 24, 1995.
Protect Victims of Dangerous Products—Oppose Cloture and Vote No on S. 565.
Hon. Arlan Specter,
U.S. Senate, Washington, DC.

Dear Senator Specter: We are writing on behalf of PennPIRG's members, and on behalf of all residents of Pennsylvania to urge your strong opposition to proposed legislation, S. 565, that would eviscerate the rights of victims of dangerous and defective products. As you know, PennPIRG is a statewide, non-profit, nonpartisan consumer and environmental advocacy group that has fought to protect the rights of consumers for many years.

Each year, more than 28 million Americans are injured by consumer products and 21,000 are killed. Why should this Senate pass legislation that limits the legal rights of victims at the same time as it is cutting back funding for the federal agencies that are supposed to protect consumers from these dangerous products?

S. 565, the so-called Product Liability "Fairness" Act is, in fact, manifestly unfair to consumers. We have numerous problems with the bill. Its caps on punitive damages will encourage faulty product design. Its limits on pain and suffering damages unfairly and unjustly restrict awards to women, children and senior citizens who are harmed. Its preemption of numerous stronger state laws is unfair to all consumers.

These anti-consumer provisions of S. 565 make it unacceptable. Yet the Senate must also consider that, if passed, S. 565 would have to be reconciled with the even more egregious and extreme House-passed bill. H.R. 1075, in addition to the measures above, arbitrarily caps pain and suffering awards in medical malpractice cases and establishes an automatic punitive damages shield for FDA-approved products. Worse, the House cap on punitive damages extends to all civil lawsuits, not only to product liability cases.

We urge you to vote against cloture on S. 565, against S. 565 and against any conference measure restricting the rights of consumers. We look forward to hearing your views on this important legislation. Please contact me if you or your staff have any questions.

Sincerely,

STEPHANIE HAYNES,

Campaign Director.

DES ACTION,

Nescopeck, PA, April 24, 1995.

DEAR SENATOR RICK SANTORUM: On behalf of 480,000 DES exposed in Pa. we deplore you to oppose S.B. 565.

We still deserve to have a trial by jury and also awarded as they see fit. That means no PS!

Common Sense Legal Reform was written to protect major corporations and forgetting the real victims. Such as 10 million DES exposed.

Our spouses deserve to receive compensation for * * * several liability.

DES Action Pa. would urge you to prevent passage of any legislation, which would greatly restrict the ability of injured consumers to be compensated fully and * * * injured to act to prevent further wrongdoing.

Sincerely,

MARY JEAN GRECO GOLOMB.

PENNSYLVANIA AFL–CIO,

Harrisburg, PA, April 6, 1995.

Re S. 565—Product Liability.

Hon. RICH SANTORUM,
U.S. Senate, Dirkson Bldg., Washington, DC.

DEAR SENATOR SANTORUM: We are writing to urge your strong opposition to S. 565, reforms to the Product Liability Law. S. 565 will have its most dramatic effect on working men and women who are injured by defective machinery. It is our understanding that 60% of the Product Liability claims arise from workplace injuries.

First and foremost, we are concerned that weakening the Product Liability Law will undermine safety in the workplace. As a practical matter, it is the threat of a lawsuit that encourages manufacturers to design and produce safe machinery. OSHA, which could play some role, has been ineffective in regulating in this area and is likely to continue to be ineffective. We must look to the Product Liability Law as the single most important force for safety machinery in the workplace.

The specific changes proposed by S. 565 will not only undermine safety, but unfairly deny injured workers compensation for loss of body part or body function.

Several issues are of priority concern for Pennsylvania workers:

(1) *Twenty-year Statute of Repose:*

The statute of repose would deny the right to file a claim if a worker is injured by machinery more than 20 years old. Pennsylvania, as you know, is a mature industrial state. Many of our workers are working with machinery that is older than 20 years.

To cut off their rights by a fixed time limitation is artificial and will deny those injured any remedy. The age of the machine should be taken into account in determining the defect, but the proposed change is inflexible and unfair. Finally, it will create a market for used machinery rather than encourage new manufacturing of safer equipment.

(2) The overriding of both the Federal Employers' Liability Act and the Longshoremen's and Harbor Workers Compensation Act will hurt those covered by these laws in Pennsylvania—specifically our Longshoremen and Railroad and Airline workers.

(3) The elimination of joint and several liability could end up leaving injured workers with no responsible party to pay for a judgement and award.

(4) The cap on punitive damages again is arbitrary and will undermine the incentive to produce safe machinery. The cap of $250,000 is artificially low and fails to consider the reality that few punitive damages are awarded under current Pennsylvania law.

The real purpose of punitive damages is to control outrageous conduct on the part of manufacturers.

These are just some of our major concerns with S. 565.

We urge you to strongly oppose this legislation and vote in support of encouraging the manufacture of safe products. Each year, 150,000 Pennsylvanians experience serious workplace injuries and close to 5,000 occupationally caused deaths occur. Many of these injuries and diseases are caused by defective products. S. 565 will only add to the pain and suffering of those who go to work each day with an expectation of returning home safe.

Thank you.

Sincerely,

WILLIAM M. GEORGE,
President.
RICHARD W. BLOOMINGDALE,
Secretary-Treasurer.

COALITION FOR ACCOUNTABILITY & JUSTICE

April 24, 1995.

Hon. LARRY PRESSLER,
Hon. THOMAS DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR: We, the undersigned organizations, urge you to oppose efforts to weaken America's civil justice system. We urge you to vote against cloture on S. 565, the product liability measure sponsored by Sens. Gorton and Rockefeller, or any other legislation that would weaken the rights of the citizens of South Dakota.

By restricting the rights of victims of dangerous and defective products, this measure undermines the role of the civil justice system in redressing damages and deterring harmful behavior. By giving "non-economic" damages second-class treatment, the bill discriminates against populations with less earning power, specifically women, children, seniors and low- and middle-income workers. Under S. 565, the U.S. would have a two-tiered system of justice where rich, high-salaried workers would be accorded better treatment and higher damage awards than the rest of us. Finally, by establishing brand new federal rules for product liability cases, S. 565 removes from state authority and oversight and civil justice system that, despite the hyperbole of the big business interests backing this legislation, has served consumers and the residents of South Dakota exceedingly well.

S. 565 is far more restrictive than last year's Senate product liability bill. First and foremost, the bill establishes a cap on punitive damages of three times economic loss, or $250,000, whichever is greater. Under this cap, corporations will be punished more if they injure or kill a corporate executive than if the same conduct harms a child, a senior citizen, or a schoolteacher. How can this be fair? In addition, the bill establishes a 20 year limit on lawsuits for capital goods—in last year's bill, the limit was 25 years. Moreover, S. 565 adds protections for manufacturers of raw materials in medical devices and for rental car companies, and reduces manufacturer liability for misuses or alterations made to the product by anyone else—provisions that were not in last year's bill.

Even if one reasonably believes that the measure introduced by Sens. Gorton and Rockfeller is sound public policy (which we do not), it must ultimately be reconciled with the extreme revisions to the civil justice system recently adopted by the House of Representatives. H.R. 956, in addition to the provisions outlined above, enacts an arbitrary cap on pain and suffering awards in medical malpractice and cases involving drugs and medical devices, at the same time it offers an automatic punitive damages shield for products that have received FDA approval. In addition, the House measure extends the cap on punitive damages to all civil lawsuits, and establishes an arbitrary 15 year statute of repose for product liability cases.

Passage of either of these measures, or a combination of the two, would cause grievous harm to the people who have elected you—and depend on you—to represent their interests in Congress. We urge you to oppose any effort to weaken or federalize product liability laws, and to vote "no" on cloture on S. 565, and on any conference committee reported-measure restricting the rights of consumers.

Sincerely,

Mike Coffey, AFSCME; Bob Burns, South Dakota State University; Jeanne Koster, South Dakota Peace and Justice Center; Jack E. Dudley, South Dakota AFL–CIO; Roann Redlin, South Dakota Coalition Against Domestic Violence; Phyllis Bitterman, United Paperworks International Union; Karen Fogas, East River Group Sierra Club; David Feller, IBEW, Local 426; Charon Asetoyer, Native American Women's Health and Education Center; Jim Larson, UFCW Local 304A; Roann Redlin, South Dakota Advocacy Network; Sam Clauson, Black Hills Group Sierra Club; Mary Kirkus, South Dakota DES Action; Charon Asetoyer, Native American Women's Reproductive Rights Coalition; Darrell Drapeau, Yankton Sioux Tribe; Rick Davids, United Transportation Union.

CITIZEN ACTION,

Nashville, TN, April 20, 1995.

Hon. FRED THOMPSON,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR THOMPSON: Greetings from Nashville. I am director of Tennessee Citizen Action, a grassroots consumer group with over 5,000 members across the state. I am writing to express Citizen Action's strong concerns about S. 565, the product liability bill to be considered next week on the Senate floor.

It is our view that this legislation would have serious implications for the health and safety of your constituents. S. 565 would impose federal requirements, for the first time in over two hundred years, on an area which has been under state authority. In doing so, we believe that it would limit both the ability of injured consumers to obtain fair compensation and the ability of citizen juries to hold guilty parties accountable for their actions. As a result, the incentives which have convinced many companies to improve the safety of their products will be lessened.

While there are a number of troubling provisions in S. 565, I would like to raise two key issues. First, the bill would destroy the ability of citizen juries to impose penalties on wrongdoers in order to prevent future injuries. Punitive damages are rarely used. In fact, over the last 25 years, punitive damages have been awarded in less than 15 cases each year (less than 11 cases excluding asbestos cases). But punitive damages have proven to be critical in persuading manufacturers to improve the safety of their products or remove unsafe products from the marketplace. By placing arbitrary caps on awards, S. 565 would make it virtually impossible for citizen juries to act to protect society from future harm. At a time when Congress is considering limits on federal regulation, it makes little sense to further erode the ability of people to use the courts as a way to improve the safety of the marketplace.

Second, S. 565 would establish a discriminatory legal system in which the level of compensation is based not on the level of the injury, but on the economic status of the injured consumer. By eliminating joint and several liability for non-economic damages, the bill states that it is not important to compensate individuals for having to live with excruciating pain, disfigurement, blindness, or loss of the ability to bear children.

Given these and other provisions, Tennessee Citizen Action believes that the passage of S. 565 would be detrimental to consumers and the nation. We appreciate your consideration of our views and look forward to learning your position on these important issues.

Sincerely,

C. BRIAN MCGUIRE,
State Director.

TEXAS CITIZEN ACTION,
Austin, TX, April 23, 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: We are writing you to ask for your vote against cloture on S.565 the "Unfair Product Liability Act" introduced by Senator Rockefeller. We are extremely concerned about the impact this will have on the safety standards of everyday products for consumers and innocent citizens. We believe there are several provisions of the bill which will eliminate the consumers ability to hold wrongdoers accountable for their actions, and limit innocent victims recourse to fully recover for damages they have accrued.

Capping punitive damages will do nothing to increase safety standards for innocent consumers. By limiting punitive damage awards to $250,000 or three times economic damages you are creating a nuisance expense for multi-billion dollar companies such as Ford Motor Company or Dow Chemical. This is creating a predictability in the market place for the minute number of companies who act negligently allowing them to calculate their risk for producing a less than safe product and further lets them rest assured they will never be held liable past a certain dollar amount.

S.565 prevents consumers from holding manufacturers of products which cause significant harm or injury accountable if the product is older than 20 years. Many products are intended to last longer than 20 years. This law however, would eliminate all consumer rights to be made whole if a 20 year old product caused significant harm or damages. This is an example of corporate wrongdoers being protected at the expense of consumers protection.

The elimination of "Joint and Several Liability" is a slap in the face to innocent individuals, families, and communities. Allowing guilty defendants off the hook without having to make innocent victims 100% whole is a disgrace. We will without a doubt see victims paying for portions of their damages even when they were completely without fault. This will not only affect individuals but likewise families, communities, cities, and states. We will see wrongdoers getting off free of charge while cities, towns, and families pick up the tab for the irresponsible behavior of others.

Texas Citizen Action has a membership of well over 150,000 citizens. These people have joined our organization because they believe in the positions we take on consumer protection issues. The passage of S.565 will be a major step backwards for individuals and communities and their rights to hold others accountable for wrongs they may commit. We ask you to vote against cloture on S.565 for the citizens of Texas.

Sincerely,

DANIEL LAMBE,
Program Director.

DEFENDERS OF THE RIGHTS OF TEXANS,
Austin, TX, April 24, 1995.

Re S. 565.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Washington, DC.

DEAR SENATOR HUTCHISON: Defenders of the Rights of Texans (DRT) is asking you to vote against cloture on S. 565, Sen. Rockefeller's "Unfair Product Liability Act." This bill will adversely impact the safety standards of products which we consumers utilize on a daily basis. We strongly feel that victims of unsafe products must retain the ability to hold accountable those who produce products which kill and maim. Limiting damages does not protect consumers, it protects manufacturers of products that injure consumers. That should not happen!

The effect of eliminating some of the current protections in the law will be to make the victim pay twice, even when they contributed nothing to the accident or injury. If Congress eliminates "Joint and Several Liability", you will make it difficult for your constituents to recover fully from their misfortune. The only pain and suffering you will be eliminating is that of the offending party. We support victims' rights, not the rights of those corporations or individuals who do not want to take responsibility when their products harm the American public.

We oppose capping punitive damages because we know that it takes significant awards to get the attention of manufacturers who continue to foist its products on an unsuspecting public years after the corporation knows the product to be unsafe. Why Congress would consider rewarding such unacceptable behavior is beyond our organization's comprehension.

Defenders of the Rights of Texans is a coalition of individuals and organizations—consumer, environmental, worker, academic, clergy, student, and victims—who oppose sacrificing our rights on the alter of corporate greed. We ask you to represent our interests by voting against cloture on S. 565.

Sincerely,

BOB COMEAUX,
San Antonio, TX.

VIRGINIA NATIONAL ORGANIZATION
FOR WOMEN,
April 15, 1995.

Hon. CHARLES ROBB,
U.S. Senate, Washington, DC.

DEAR SENATOR ROBB, Virginia N.O.W., represents some 20,000 Virginia women. We are writing to urge you to vote no on cloture and no on S. 565 and any other measure that restricts individual legal rights.

S. 565, the "Product Liability Fairness Act", is in fact, unfair. By limiting non-economic damages, it give wealthy individuals and corporations greater rights than middle-income citizens and families. Additionally, S. 565 transfers authority for the civil justice system from the states to the federal government. States know better how to serve its individual citizens and the issues that impact the citizens than the Washington bureaucracy. Whatever happened to the idea of states' rights and limiting the power of the federal government? S. 565 caps pain and suffering awards on medical malpractice suits. Why single out a particular type of lawsuit to cap awards?

Virginia N.O.W. has supported many women who have filed lawsuits, for both international and negligent injuries. During the 1995 legislative session we along with other citizens groups such as the VTLA, NAACP, ACLU, LofWV, worked hard to obtain a compromise on the Virginia Human Rights Act. A bill which passed the legislative session only to be vetoed by the Governor. The bill reverses the Lockhart decision, which basically prevents a small business employee from filing a lawsuit based on race, color, sex or national origin. Additionally, VA N.O.W. supports lawsuits for sexual harassment, defective products, product liability, employment discrimination and of course intentional injury. Economic justice as well as civil justice must be preserved. S. 565 seeks to destroy both, please vote "no" on S. 565.

People all across America are closely watching the new Republican majority in Congress in an effort to determine whether it truly represents the people or big business. Surely, the outcome and deliberations of S. 565 will provide an answer.

Sincerely,

DULANEY S. NICKERSON.

CITIZEN ACTION,
Charlottesville, VA, April 17, 1995.

Hon. CHARLES S. ROBB,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR ROBB: I am writing on behalf of Virginia Citizen Action and its over 50,000 members to ask you to oppose S. 565, the "Product Liability Fairness Act." We would ask you that you do whatever is necessary to defeat this bill, including voting against any effort invoke cloture on debate.

Senator, this bill would make America a much more dangerous place for all of us. By capping punitive damages, this bill will send a signal to corporate wrongdoers that they can escape any real punishment for making and selling products that will kill or injure innocent people. S. 565 would eliminate the deterrent effect of punitive damages and remove one of the real protections Americans have had for over 200 years.

This bill is anything but fair. By eliminating joint and several liability for non-economic damages, it discriminates against women, children and seniors. Non-economic damages are not just pain and suffering. What about a women's loss of the ability to bear children or a child's disfigurement for life!

Senator, S. 565 is not "moderate" and it is not "fair". We hope that you will work to defeat this bill and protect every Virginian and every American from those special interests who want to escape responsibility for their actions at the expense of the health and safety of the American people.

Sincerely,

MARC WETHERHORN,
State Director.

VIRGINIA CITIZENS CONSUMER COUNCIL,
Yorktown, VA, April 25, 1995.

Re S. 565.

Hon. CHARLES S. ROBB,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROBB: The Virginia Citizens Consumer Council strongly urges you to oppose S. 565, the "Product Liability Fairness Act of 1995. This bill will do irreparable harm to Virginia consumers by restricting the ability of injured consumers to obtain full and fair compensation and for citizen juries to impose adequate deterrents to prevent further injuries. Corporate wrongdoers must be held accountable when consumers are harmed by the products they buy as a matter of simple justice and to foster confidence in the American marketplace.

Two major provisions of this legislation will have a negative impact on consumers and workers. First, this bill sets arbitrary limits on punitive damage awards of $250,000 or three times the economic damages, reducing the ability to deter corporations from inflicting harm on others and threatening Virginians' economic security and well-being. At a time when Congress is talking about increasing personal responsibility, it makes no sense to reduce the responsibility of corporations guilty of manufacturing or selling dangerous products.

Second, this bill eliminates joint and several liability for non-economic damages, making it difficult for consumers to recover costs related to injuries such as the loss of reproductive capacity, loss of sight, or disfigurement. Those injuries deserve to be compensated and should not be treated as less important than the loss of high salaries or investment income. For similar reasons, VCCC urges you to oppose S. 454, "The Health Care Liability and Quality Assurance Act" which would severely affect the rights of injured patients.

VCCC urges you to act to prevent passage of this legislation, which will greatly restrict the ability of injured consumers to be compensated fully and for juries to act to prevent further wrongdoing. Virginia consumers count on you to act in our best interest by voting NO on this anti-consumer, auto-worker bill. Please let me know the outcome of the Senate votes on S. 565 and S. 454 and how you cast your votes. Thank you.

Sincerely,

JEAN ANN FOX,
President.

WASHINGTON CITIZEN ACTION,
STATE HEADQUARTERS,
Seattle, WA, April 19, 1995.

Hon. SLADE GORTON:

On behalf of our 42,000 members statewide and our 20 affiliate community, church, labor, and senior organizations, Washington Citizen Action urges you to oppose Senate Bill 565 and to vote against cloture. This bill is one of the most anti-consumer pieces of legislation to make it to the Senate floor in decades. Please do all that you can to stop S. 565 from passing.

The arbitrary caps on punitive damages would eliminate the incentive to produce safe products and would allow negligent corporations to operate with little to no accountability. S. 565 will undoubtedly result in a multitude of injuries, disfigurements, and deaths. In addition, these limits will take away all recourse society has to punish wrongdoers that knowingly and repeatedly maim and kill people with deadly products and negligent actions.

By eliminating joint and several liability for non-economic damages, S. 565 would weaken the ability of ordinary Americans to receive fair compensation when they are injured by unsafe products and practices. The bill is unfair to women, children, seniors, working families, small businesses, and lower to middle income Americans. Victims and their families will be rendered unable to receive adequate compensation for their injuries while the guilty parties are let off the hook. This is not our idea of American justice.

In America, the courts have proven to be the major protection citizens have against negligent corporations and unsafe products. We cannot afford to let our civil justice system be dismantled by the provisions of S. 565. Vote NO on S. 565! Vote NO on cloture!

Sincerely,

DAVID WEST,
Executive Director.

WEST VIRGINIA-CITIZEN ACTION GROUP,
Charleston, WV, April 24, 1995.

Re Proposed legislation concerning Civil Justice System (S. 565).

Hon. JOHN D. ROCKEFELLER, IV,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROCKEFELLER. On behalf of the twenty thousand members of the West Virginia-Citizen Action Group (WV-CAG), I am writing this brief letter to encourage you to rethink your support for S. 565. However well-intentioned this legislation may be, I honestly believe that the potential—and unintended—consequences are so great as to offset any perceived benefits.

I realize, of course, that the House-passed "Common Sense Legal Reform Act" is more draconian than S. 565. This does not ameliorate the many deficiencies contained in the Senate bill, including the two most egregious (as follows):

By capping punitive damage caps at $250,000 or three times the economic loss (whichever is greater), the proposed legislation removes the "punishment" that is supposed to be reflected in damages. As a result, it will become cheaper in many instances to pay the damages than to rectify the problem.

By eliminating joint and several liability for non-economic damages, the proposed legislation unfairly discriminates against women, children, and seniors. Non-economic loss is much more than pain and suffering; it can also be loss of reproductive capacity, loss of right or disfigurement.

After studying this, and related tort reform proposals for many year, we are convinced that such efforts are contrary to public policy and will jeopardize the hand-earned rights of injured West Virginians. Accordingly, I would like to urge you to reconsider your position and fight, as you have done so often in the past, for the rights of West Virginia consumers.

Thank you very much for your time and consideration. I hope to see and/or talk with you again soon. If you need any further information, please feel free to contact me.

Sincerely,

STATE SENATOR DAVID GRUBB,
Executive Director.

WISCONSIN CONSUMERS LEAGUE,
Milwaukee, WI.

Re SB 565 and 454.

Senator HERBERT KOHL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KOHL: We write to urge your opposition to the so-called "Common Sense Legal Reforms Act" submitted as part of the Contract with America. This package of bills would substantially modify existing product liability and medical malpractice laws. It is largely unsupported by the vast majority of the rigorous evidence which has been developed on these topics. Rather, it is seemingly being swept along on a wave of anecdote, innuendo and, in some cases, outright untruths.

There can be little doubt that product liability and medical malpractice laws have evolved to reflect emerging technologies. They have had the desired effects of modifying behavior to the optimum end of preventing injury to consumers and workers. The claims regarding the alleged stultifying effects of these bodies of common law are generally unsupported by credible, systematic evidence. For example, the work of Professor Galanter, at the UW Law School, compellingly refutes allegations regarding any alleged 'litigation explosion'. The punitive damages which S. 565 would limit are only relatively rarely awarded. Such 'sledge-hammer' approaches to "reforming" such legal standards, while politically satisfying, are only coincidentally related to thoughtful policy-making.

It is, in our view, remarkably arrogant for legislators to substitute their prospective judgments regarding equitable outcomes for specific factual cases yet to arise for the judgment of juries, which, by definition, can examine each case on its own unique, and prospectively unknowable, facts. How can anyone think they can be more fair regarding situations yet to occur than can juries with the benefit of hindsight?

We repeat our opposition to these unnecessarily broad attempts to weaken the preventative impacts of the common law.

Very truly yours,

JAMES L. BROWN,
President.

WISCONSIN CITIZEN ACTION,
Milwaukee, WI, April 21, 1995.

Hon. RUSS FEINGOLD,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINGOLD: On behalf of our 103,000 members and our coalition of 110 labor, senior, religious, environmental, women's, farm and community organizations, we are writing to urge you to oppose S. 565 and to vote against cloture. We very much appreciated your help last year in the defeat of S. 687, this bill's predecessor. We're confident we can count on you again.

This bill is very similar to the product liability "reform" Bob Kasten used to push when he represented Wisconsin in the United States Senate. We like to think that one of the reasons why Wisconsin voters chose not to re-elect Bob Kasten to the Senate is because they repudiated his consistently anti-consumer positions. S. 565 is similarly out of step with the interests of Wisconsin consumers.

The provisions in this bill cannot claim to be "moderate." A punitive damage cap of $250,000 or three times the economic loss to a victim of an injurious product is no more than a slap on the wrist to the corporations responsible for the deaths and injuries caused by products like the Ford Pinto, the Dalkon Shield, silicone-gel breast implants and flammable baby pajamas. The manufacturer of the "Slip 'N' Slide" water slide, which caused a 35-year old Wisconsin mechanic to break his neck, become temporarily quadriplegic and suffer permanent spasms, would have had its punishment reduced to one-thirtieth of what a jury thought appropriate. The U.S. Senate would be changing the punishment so that it cannot possible fit the crime in an era of public sentiment to get tough on wrongdoers.

We have no idea how many similar horror stories like those are waiting to happen. Corporate wrongdoers would face a dollar and cent deterrent too cheap to stay their pursuit of profit without regard for consumer health and safety. The temptation for corporations to proceed with dangerous products, even if they are eventually found guilty in a lawsuit, would get that much easier. S. 565 will weaken the ability of our civil justice system to act as both deterrent and remedy.

The elimination of joint and several liability for noneconomic damages discriminates against the most vulnerable populations in our society—women, children and seniors. These are the members of our society who are usually forced to claim noneconomic losses, and these constituencies would now be forced to shoulder the burden of being only partially compensated. Noneconomic damages include the loss of reproductive capacity, loss of sight and permanent disfigurement, not just "pain and suffering." It is simply unfair that a party found to be negligent should not be required to make these vulnerable people whole after they have been injured.

The U.S. Consumer Product Safety Commission once estimated that some 33,000,000 people are injured by defective or dangerous products every year. 29,000 of them die. Only 1.6% of the injured parties sue. S. 565 solves no problem in our civil justice system, but it will create a very real human toll if it is allowed to pass. We respectfully urge you to vote against the bill and to vote against cloture.

Thanks once again for your outstanding leadership in defeating the anti-consumer product liability "reform" bill in last year's Congress. We appreciate all your help in continuing that effort by defeating this bill again, albeit in a tougher political climate. Thank you for attention in this matter.

Sincerely,

LARRY MARX,
Executive Director.

CENTER FOR PUBLIC
REPRESENTATION, INC.,
Madison, WI, April 21, 1995.

Re Senate bill 565.
Senator HERB KOHL,
Washington, DC.

DEAR SENATOR KOHL: As you know S. 565, the misleadingly-named "Common Sense Product Liability and Legal Reform Act of 1995" will soon be considered by the Senate. As one of the major consumer advocacy groups in Wisconsin, we urge you to oppose this anti-consumer measure.

While certain aspects of our tort system are certainly in need of reform, this bill totally misses the mark. Instead of protecting consumers from some of the excesses of our legal system, it would protect manufacturers of defective products from assuming full responsibility for their actions. Seizing upon such highly publicized and distorted cases like the "burning McDonald's coffee" proponents of this measure (as well as similar proposals in numerous state legislatures including Wisconsin) would eviscerate the ability of our legal system to effectively enforce rules on product safety and punish those who violate them.

The proposed restrictions on punitive damages are completely counter-intuitive. By encouraging corporations to produce safe products, punitive damages (which, insurance industry rhetoric notwithstanding, are rarely awarded by juries or upheld on appeal) actually help corporations *save* money. Safe products mean fewer, not more lawsuits. Safe products mean fewer, not more medical insurance claims filed by consumers. Safe products mean fewer government recalls. And safe products mean an improved quality of life for all consumers.

The elimination of joint and several liability for non-economic damages is also misplaced. On first blush, this common law concept may seem unfair; why should one corporation that is only slightly liable have to pick up the tab for a more culpable corporation that happens to be insolvent? But when you look closer, joint and several liability *is* the fairest resolution to a difficult dilemma. It looks at all of the parties involved in a products liability lawsuit and decides that the costs should be spread so as to fully compensate the victim who, after all, is the only innocent party. And since non-economic damages are frequently awarded to the most vulnerable members of society; the poor, young children, senior citizens, this provision would affect such groups disproportionately.

The elimination of liability for products more than twenty years old is also unfair to consumers. Again, this provision would disproportionately harm the most vulnerable consumers, since they rely more heavily on older, used products. The anti-consumer nature of this bill is especially apparent in this provision, since it exempts companies who suffer commercial losses.

Another particularly disturbing provision in S. 565 from the Wisconsin perspective is its preemption of state consumer protection laws. As you know, Wisconsin is a national leader in the area of consumer protection. Its well-deserved reputation in this area has been built up over many decades. S. 565 would tarnish that image and bring Wisconsin down to the lowest common denominator in protecting its citizens from consumer abuse.

There are other consumer-unfriendly aspects to S. 565, including its exemption from liability for the sellers of products and the special treatment provided for suppliers of materials for medical devices. Moreover, the bill exempts corporations from many of the restrictions on damages which it imposes on individual consumers.

Consumer groups in Wisconsin and around the country have fought long and hard over the past few decades to insure that consumers have access to safe and effective products. S. 565 would annul much of this hard work in one fell swoop. On behalf of all of Wisconsin's consumers, we urge you to oppose it.

Thank you.

Yours truly,

STEPHEN E. MEILI,
Director, Consumer Law Clinic.

Mr. HOLLINGS. There it is. I did not want to really fill up the RECORD, but every responsible, credible consumer entity in any of the 50 States is opposed to this initiative, and the other side knows it. But they come around and talk balance and they talk consumers and they say you cannot produce products.

I ask unanimous consent to insert in the RECORD these two advertisements by the pharmaceutical companies, February 23, 1995, and April 5, 1995, in the Washington Post.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 23, 1995]

DRUG COMPANIES TARGET MAJOR DISEASES WITH RECORD R&D INVESTMENT

Pharmaceutical companies will spend nearly $15 billion on drug research and development in 1995. New medicines in development for leading diseases include: 86 for heart disease and stroke, 124 for cancer, 107 for AIDS and AIDS-related diseases, 19 for Alzheimer's, 46 for mental diseases, and 79 for infectious diseases.

[From the Washington Post, Apr. 5, 1995]

WHO LEADS THE WORLD IN DISCOVERING MAJOR NEW DRUGS?

Between 1970 and 1992, close to half of the important new drugs sold in major markets around the world were introduced by U.S. pharmaceutical companies. And here at home, the drug industry has been making 9 out of every 10 new drug discoveries. So when a breakthrough medicine is created for AIDS, heart disease, Alzheimer's, stroke, cancer or any other disease, chances are it will come from America's drug research companies.

Mr. HOLLINGS. Just the one in February, one statement:

> Pharmaceutical companies will spend nearly $15 billion on drug research and development in 1995.

According to the Senator from Washington, they cannot spend. They just cannot work anymore with this law. And right here in April:

> Between 1970 and 1992, close to half of the important new drugs sold in major markets around the world were introduced by U.S. pharmaceutical companies. And here at home the drug industry is making nine out of every ten new drug discoveries. Breakthrough medicines that are going to be created for AIDS, heart disease, Alzheimer's, stroke, cancer, or any other disease will come from the American drug companies.

But according to the Senator from Washington, they cannot bring out products. Come on. They have tried every trick in the book.

What we really have afoot, Mr. President, when they cite the Constitution is just that—an assault against the constitutional right of trial by jury guaranteed by the seventh amendment. People who say they do not trust politicians anymore are waiting for the politicians to behave as though they trust the people. You and I trust them to elect us, but when they get us 12 men and women on a jury sworn to listen to the facts and make their finding, according to their sworn oath, "They do not know what they are doing; they have gone ape; they are just runaway juries," and everything else of that kind.

But we up here, the bureaucracy in Washington, we should decide rather than letting the juries decide back home.

We have a right, Mr. President, that has worked over the many, many years. You have safe drug products. Thank heavens, we have product liability and we have taken off Dalkon shield and all the rest of these other things—cancer causing products. We have safer automobiles.

Why do you think Chrysler the other day said they were going to recall I think some 350,000 or several million cars? I had the summation. Seventy-one million automobiles in the last 10 years, American and foreign manufacture, have been recalled. They do not recall them because of the goodness of their heart. They recall them on account of product liability. What we have in hand here they want to destroy. We have always had in this land "salus populi suprema lex." Safety of the people is the supreme law.

Now they come with this measure, the profits of the manufacturers is the supreme law, and whine that they are for the consumers and they cannot put out products.

How does this come about? I have been in this for 40 years and I have watched it develop: Pollster politics. They tell you when you come to this national office up here that you have to get a poll and get to four or five hot-button items and then you have to identify with them. You are for jobs, everybody is for jobs; you are against crime; you are against taxes. They just go down the list.

Then they tell you, and in fact GOPAC puts on a school over there for the young Congressmen that are elected, they say, "You have only got a 20-second time bite to give your message, so you need words that count, words that excite, inflame."

And do you know what they call us up here now? I quote the Speaker. He terms the U.S. Government that pledged to preserve, protect, and defend, he calls it the corrupt liberal welfare State.

And when you can come in this anti-Government drive with the Contract With America and you see it in the morning paper and if you read it closely, it is gone: "Get rid of the Government. The Government is not the solution, the Government is the problem. The Government is the enemy."

That has been the drumbeat. If you can wrap it together in tort reform, you can get against the lawyers and against the Government both and you can really have a winner.

Well, for 15 years we have defended against this assault. President Ford helped us 15 years ago. He appointed a commission. And when President Ford appointed that commission, they had a 4-year study that came out and found that the States for 200 years have been handling this properly, basic tort law.

Incidentally, of all the civil findings, only 9 percent are tort. And of all the tort, only 4 percent of the 9 percent, or 0.38, thirty-eight one-hundredths of 1 percent of what we are supposed to be dealing with. It is not a problem at all.

They said the States were handling it. And now we know by record in the hearing that the States have reformed, they have acted. The legislators are not asleep, the Governors are not asleep, the attorneys general are not asleep back in the States. They can handle this problem. That is the plea of the contract in reality. Get all of these things, housing grants, block grants to the States, welfare block grants, whatever it is. Give it back to the States.

Not on this one. You are in the hands of the Philistines, that manufacturing crowd out there—the Conference Board, the NFIB, the Chamber of Commerce.

I have been elected six times and they do not come running.

That crowd that we have, they come running. Yes, the Chamber wants to know where you stand, the NFIB, the Conference Board, everything else. They talk about trial lawyers giving you money. They give money but the others, the manufacturing and insurance crowd, they give more money and they have the votes.

And the people who really oppose this bill do not have a PAC. Have you ever seen a PAC for the American Bar Association? Have you ever seen a PAC for the Consumer Association, Public Citizen, Association for State Supreme Court Justices, Association of State Legislators, law school deans—they have all appeared in the polls—the State attorneys general? They do not have PAC's.

But there they come with all this. And we have been working with them, but we have the contract now. And we have had many of these Senators that finally changed their votes who said, "You know, I got in trouble. I committed a year ago."

That is how it happens, if people want to know. When all the powerful organizations come to you in a campaign and you are for reform—"Yeah, I'm for reform. I'm for reform." They have been reminded in the last several days in this debate here how they gave their commitment.

So I went to them, I said, "How do you change your vote?" They said, "Well, I got in trouble a year ago or 2 years ago when I was running." And that explains it. But it does not change the lack of merit in this particular initiative and the danger of it all.

So what we have is "Kill all the lawyers." You could see it in the amendments. That is what they have.

Our friend Dan Quayle started that before the American Bar Association some 4 years ago and we still have it going. If you can vote against the lawyers and say they are running away and getting all the money and everything else like that, you have mob action on foot and you can get it moving.

Well, Mr. President, it is bad law. What happens is they do not give you a Federal cause of action. If they had come in—and I have been insisting for the 15-year period, if you want to make a finding under the interstate commerce clause that they plea, that we are going to make a congressional finding that there is a national problem and give a Federal cause of action, that is one thing. No, that is not what they want. They say they are trying to get simplicity, eliminate complexity, get uniformity. But then they put guidelines down for the 50 States to interpret and then can go into the Federal court and, by the way, exempt the manufacturer. Any of these things that I have talked of, any of these initiatives, any of these amendments, just exempt the crowd that wrote the bill.

Now I can tell you here and now if that is not hypocrisy, I do not know what the heck is. And yet they are saying they are proud now and they want to thank everybody, tell them about their balance and everything else like that.

This is one of the most dangerous initiatives. It has been held up for 15 years by all of these organizations. It is a nonproblem. They know it. It is a solution looking for a problem, in all reality.

And we are headed, yes, with the English rule, we are headed with two levels of society. "Get rid of the jurors and people with common sense back home. We know it all up here."

They started over 130 years ago diminishing that guaranteed right of trial by jury. So today, less than 2 percent of civil cases go to a jury trial in England. And you are told that the issues are too complex, you do not have sense enough to understand and what have you. And that is the initiative that starts today on the floor of the U.S. Senate.

They know in their hearts it is bad law. They have tried everything from the Girl Scouts, and had to withdraw that; they tried the Little League and had to withdraw that. They put George McGovern on TV and had to pull him off. They tried everything—the McDonald's case, then when that was explained to them, you do not hear them talk about the McDonald's case. Always these little anecdotal things that they bring up.

But they got one winner: "Let's get rid of the lawyers." We can get a majority vote on that. We can get a majority vote on that. And so it is.

In essence, what you are really doing is getting rid of the jurors. The trial by jury, they are eroding it, nibbling at it bit by bit is the intent and purpose, just like they had in England where you do not even get a review of facts or anything else. You cannot even ask the jurors any questions; you cannot find the background.

I could go down the list, but my time is now limited and I am practically out of time.

I simply say that it is a sad day in the history of government because it brings to culmination the so-called contract of reform which goes totally in contradiction to the entire theme of the contract back home. The people know—you are going to hear it now in the budget. The people back home need a tax cut because they know how to spend the money better than the Government up here. All of these pleas and everything. The people back home know this, they know that, they know everything except the facts of the case that they are sworn to uphold.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. I yield the floor.

Mr. GORTON. Mr. President, again, for the information of Members, we will now have the vote on my motion to table the Dorgan amendment.

There are then two other amendments, all amounting to the same thing, that will come before final passage. I hope that those two amendments will be adopted by voice vote. I will then ask for a rollcall on final passage of the bill.

The PRESIDING OFFICER. Under the previous order, the question occurs on agreeing to the motion to table amendment No. 629 offered by the Senator from North Dakota [Mr. DORGAN]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from Connecticut [Mr. LIEBERMAN] is absent because of death in the family.

I further announce that, if present and voting, the Senator from Connecticut [Mr. LIEBERMAN] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—54

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dodd
Dole
Domenici
Exon
Faircloth
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pell
Pressler
Robb
Rockefeller
Santorum
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond

NAYS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Dorgan
Feingold
Feinstein
Ford
Graham
Harkin
Heflin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Packwood
Pryor
Reid
Roth
Sarbanes
Shelby
Simon
Simpson
Specter
Wellstone

NOT VOTING—2

Lieberman
Warner

So the motion to lay on the table the amendment (No. 629) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TOXIC HARM

Ms. MIKULSKI. Are asbestos-related injuries and deaths covered by the toxic harm exception to the statute of repose in S. 565?

Mr. ROCKEFELLER. Yes, asbestos-related injuries and deaths are covered by the toxic harm exception to the statute of repose.

AMENDMENT NO. 790

Mr. HATCH. Mr. President, I wish to discuss language in the Gorton-Rockefeller-Dole substitute amendment concerning punitive damages. The substitute language includes a formula for calculating the amount of punitive damages allowed to be awarded to a claimant against a defendant. This formula originated with Senator SNOWE and was added to the Dole-Exon-Hatch amendment last week, with my support. It remains part of the underlying substitute amendment. The formula to which I refer provides generally that the amount awarded to the claimant for punitive damages in a products liability action shall not exceed the greater of two times the sum of the amount awarded for economic loss and noneconomic loss, or $250,000. In the case of a small business, a special rule provides that the amount of punitive damages shall not exceed the lesser of two times the sum of the amount awarded to the claimant for economic loss and noneconomic loss, or $250,000.

It is my understanding that the formula for calculating the amount of punitive damages is intended to take into account the separate provision in the bill that makes a defendant only severally liable for noneconomic losses. Thus, when doubling the amount of noneconomic losses in computing the upper limit of punitive damages which may be awarded against a defendant, it is appropriate only to consider the share of noneconomic loss attributable to that defendant. It would be unfair and inconsistent with other provisions in this act to expand the base multiplier in the punitive damages section of this bill to include noneconomic losses not attributable to a defendant.

Mr. HELMS. Mr. President, the pending Product Liability Fairness Act, even though it has been watered down considerably by our Democrat colleagues, is nonetheless needed to remedy the morass of product liability laws plaguing our judicial system today. We have a duty to ensure that Americans are fairly compensated when they are injured by faulty products. But today's legal system has been maneuvered into a position of encouraging many people to file frivolous suits demanding unreasonably high damage awards.

I am extremely disappointed that the medical malpractice provisions, approved by the Senate on May 2, were deleted because of threats by the Democrats that they would block passage of the entire bill.

Americans are suing each other too often, for too much money and for too little reason. Last year, more than 70,000 product liability lawsuits clogged U.S. courts. And by 1992, lawyer fees accounted for 61 percent of the total amount spent on product liability claims.

In so many cases, those who are injured least tend to receive the largest settlements, while many of the most severely injured spend years in the legal system, sometimes never receiving the compensation they deserve.

Mr. President, the pending legislation will be a first step toward remedying these problems with the current system by:

First, giving manufacturers and consumers certainty as to the rules of the game when it comes to product liability lawsuits;

Second, allowing consumers with valid claims to receive fair awards, and receive these awards faster;

Third, reducing costs of litigation and insurance premiums, which in turn, will lead to lower prices for consumer products;

Fourth, giving consumers with valid claims more time to file complaints against negligent manufacturers; and

Fifth, eliminating unwarranted lawsuits which threaten to bankrupt small businesses—the segment of our economy that provides most of the jobs in this country.

Mr. President, rather than expound on the problems with the current system, I will share with my colleagues a letter from the plant manager of Butler Manufacturing, a small business in Laurinburg, NC. His letter is similar to many I have received from 99 other small businessmen from my State. It reads:

> DEAR SENATOR HELMS: As you know, Butler Manufacturing has a plant in Laurinburg, North Carolina which employs two hundred workers. We urge your support of S. 565, the Product Liability Fairness Act, which offers

> some of the reforms needed in the product liability area.
>
> Our company spends hundreds of thousands of dollars each year for product liability insurance and legal fees and our employees devote hundreds of hours of their time to help our attorneys defend unwarranted product liability claims.
>
> Many times we settle a claim which we honestly believe has little merit because it is less expensive to settle than to litigate or to expose the Company's assets to punitive damages.
>
> Our Company competes in the international market place. To be competitive we cannot bear the cost of product liability insurance, huge punitive damage expense, and large costs to defend unwarranted claims which our competitors do not bear.
>
> We believe persons injured by faulty products through no fault of their own ought to be compensated for their out-of-pocket losses. However, current court-made rules allow much greater compensation than is justified and also make it difficult for companies to properly defend themselves.

Mr. President, this explains why small businesses—not the Fortune 500 companies—are the ones most threatened if nothing is done to reform the current legal system.

According to the National Federation of Independent Businesses, the cost and availability of liability insurance rank No. 5 out of a list of 75 problems facing small businesses today. They are constantly in danger of being pulled into unwarranted lawsuits, where the fear of punitive damages forces them to settle in cases in which they should never have been involved.

About half of all small business owners earn about $50,000 a year. However, a Rand Institute study shows that it costs the same small businessman an average of $100,000 to defend against a lawsuit—regardless of the suit's merit. Thus, defending even a single unwarranted lawsuit costs twice as much as the average small business owner earns in a year.

Perhaps the most critical problem for small businesses is something lawyers know as joint and several liability, which permits plaintiffs to recover the full amount of damages from any one of the defendants—regardless of the amount of fault of the individual defendant. So, even if a small businessman is responsible for only 10 percent of the damage caused the plaintiff, under the current system, that businessman can still be held liable for 100 percent of the damages. The pending bill fixes this problem by holding a defendant liable for the percentage of noneconomic damages for which he or she is responsible.

Mr. President, I have many friends who are trial lawyers. They have made some compelling arguments in favor of the current system; however, in this matter, we have had to agree to disagree.

For example, trial lawyers argue that: First, limits on punitive damage awards are unnecessary because courts don't frequently award punitive damages; and Second, when they are awarded, punitive damages generally do not amount to very large sums.

As every first year law student knows—or should know—there are three kinds of damages awarded in civil lawsuits.

The first—economic damages—reimburses an injured person for lost wages, medical care, and out-of-pocket costs incurred as a result of the injury.

Second—noneconomic damages—are awarded for things such as pain and suffering, and

Finally, there are punitive damages. The purpose of punitive damages is not to compensate the injured person, but rather to punish the defendant for his or her negligent behavior. Most of the disagreement in the pending bill surrounds punitive damages.

Mr. President, are punitive damages rarely awarded as trial lawyers claim? No. Injured parties routinely request punitive damages in product liability and other tort claims. They do so because they know that's where the big bucks are. Not only are punitive damages routinely requested, the amount of punitive damages awarded is increasing. In Cook County, IL, the average punitive damage award was $6.7 million. In 1984, the average punitive award in San Francisco was $743,000.

In North Carolina punitive damages have been awarded only once. Despite this fact, any time a product manufactured in North Carolina ends up in another State, the North Carolina manufacturer can still be hauled into an out-of-State court and sued for outrageous punitive damage amounts.

Mr. President, trial lawyers also assert that product liability reforms are unnecessary because so very few lawsuits filed today are product liability cases. They claim that contract disputes and domestic relations cases make up more of the current case load in today's courts.

That product liability cases make up a small piece of all tort cases ignores one important and critical point: It only takes one product liability lawsuit to bankrupt a small manufacturing firm. Even if the manufacturer is not found negligent, it still costs that small business a small fortune to defend the lawsuit.

Lastly, lawyers argue that product liability reform will not lower liability insurance premiums that manufacturers pay. I disagree. Over the past 40 years, liability insurance costs have increased 4 times the rate of growth of the national economy.

Moreover, for every extra dollar a company pays in product liability insurance, that's a dollar less in an employee's pocket, or a dollar less used to develop new products.

In closing, let me return to the letter from the plant manager in Laurinburg, NC. This is a small business pleading for fairness and for an opportunity to compete fairly for business. If this plant, and the other 99 small businesses who've written me, are to prosper, they cannot afford to defend unwarranted claims every time they turn around.

We cannot continue to tie the hands of small businesses by forcing them to defend case after case in a legal system that is unfair, inconsistent, and unpredictable. The pending bill does nothing to impede an injured person's right to recover reasonable damages for his or her injuries. Nor does the bill favor any particular industry. It simply weeds out frivolous and unwise lawsuits, making it easier and for injured individuals to obtain the recovery they deserve.

PRODUCT LIABILITY—STATES' RIGHTS AND ONE-WAY PREEMPTION

Mr. FEINGOLD. Mr. President, I rise to briefly discuss one of the more interesting—and most distressing—components of S. 565, the so-called Product Liability Fairness Act. That, Mr. President, is the conscious and flagrant expropriation of the rights of the State and local governments to fashion their own civil justice systems.

Over and over in the early months of the 104th Congress we have heard the distinguished majority leader announce his intent to "dust off the 10th amendment". That amendment, part of the Bill of Rights and sometimes thought of as the forgotten child of the Bill of Rights, states that:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Well, here is a power that has been reserved by the States for over 200 years. And I cannot help but note the hypocrisy present here. We have heard the thunderous voices of States rights advocates, railing against Washington bureaucrats and proclaiming that this new Congress is committed to the proposition of shifting control of policies from Washington back to the States.

But then many of the same advocates of States rights also support legislation such as this that is designed to seize control over a policy area that has been the domain of the States since our Nation's founding and turn it over to 535 Members of the Congress.

Make no mistake about it: Under this legislation, we are going to tell the States—even in instances where there is no Federal jurisdiction over a tort case—the parameters within which they are to conduct their judicial proceedings.

That means that if a consumer in Sheboygan sues a manufacturer in Green Bay, they will have to litigate under Federal standards, such as a Federal cap on punitive damages, even though this is a completely intrastate judicial question.

There is also a provision that states that a decision of a U.S. circuit court of appeals interpreting the provisions of this legislation shall be controlling precedent to be followed by each and every Federal and State court within that circuit unless overruled or modified by the Supreme Court.

This provision was denounced by Stanley Feldman, chief justice of the Arizona State Supreme Court in his testimony to the Senate Commerce Committee on April 3 on behalf of the conference of chief justices. Chief Justice Feldman said that:

> . . . This provision will be the first time in the history of America that any Federal court has been given the authority to decide a question of State law, a subject which raises the chills on the back of every member of the conference of chief justices.

What happened to the commitment of those on the other side of the aisle to return power back to the State governments? What happened to all of those criticisms we heard of health care reform and other initiatives last year where the other side derided the one-size-fits-all approach to solving problems?

When I made my opening statements on this bill I mentioned a statement made by the Speaker of the House in his address to the Nation on April 7 about the intent of the congressional Republicans in the 104th Congress. The Speaker stated that:

> We must restore freedom by ending bureaucratic micromanagement here in Washington . . . This country is too big and too diverse for Washington to have the knowledge to make the right decision on local matters; we've got to return power back to you—to your families, your neighborhoods, your local and State governments.

Mr. President, I don't say this very often, but when the Speaker of the House says: "This country is too big and too diverse for Washington to have the knowledge to make the right decision on local matters," I tend to agree with him.

That is precisely why I opposed last year's crime bill. Enforcement of our criminal laws is best left in the hands of our local police and sheriffs' departments, because what works and is needed in the inner city of Milwaukee is not necessarily what works and is needed in the rural confines of Rusk County. It is problematic enough for a Senator from Wisconsin to understand these regional distinctions, but to suggest that 524 Members of Congress from 49 other States will know how to address the idiosyncrasies of fighting crime in Onalaska, WI, seems a bit farfetched to me.

This same principle holds true for our tort systems. Maybe one of our rural farming States has purposely fashioned their legal system so as to protect farmers from defective machinery that is commonplace in that State. Maybe another State that attracts large numbers of retired persons has used the availability of punitive damages to deter certain products from being sold that are unsafe and would disproportionately affect the elderly.

The other side talks a good game when it is expressed over and over again that State legislatures and governments are best equipped to solve problems that are local in nature. But whether it is crime legislation, or civil justice reform, or even term limits, there is a clear assumption that local or private decisions are best made by those in Washington, DC.

I served in the Wisconsin State Senate for over 10 years and I know how the various State legislatures around the country would react to this bill. In fact, the national conference of State legislatures strongly opposes the Product Liability Fairness Act. In a letter sent to all Members of this body, the conference states:

> State civil justice systems are expressions of local values and needs, as the Founders intended when they established our system of Constitutional federalism. National product liability standards put at risk this fundamental expression of self-government and federalism.
>
> Moreover, the confusion resulting from superimposing a one-size-fits-all Federal standard for product liability over existing State tort law presents a risk to the efficient administration of justice in State courts.

Mr. President, I think it is abundantly clear that the notion of States' rights is about to go right out the window as we usurp over 200 years of State control over their tort systems. Another organization comprised of those who are involved in local judicial systems is the conference of State chief justices. Let me quote from a statement submitted by the chief justices expressing their opposition to Federal product liability legislation. They say;

> The negative consequences of S. 565 for federalism are incalculable. With the proposed legislation reaching so far into substantive civil law, States will be forced to provide the judicial structure, but will not be permitted to decide the social and economic questions in the law that their courts administer. Enactment of S. 565 would alter, in one stroke, the fundamental principles of federalism inherent in this country's tort law. . . .
>
> S. 565 is a radical departure from our current legal regime and is neither justified by experience nor wise as a matter of policy.

So I think it is clear what a dramatic and radical arrogation of power this legislation represents. But even if you accept this notion that we should have Federal standards with regard to product liability actions—and I don't—but even if you do believe such standards are necessary, this legislation is light-years away from bringing any sense of uniformity to our civil justice system.

The supporters of this legislation have made it clear that they believe Federal uniform standards for our product liability laws are warranted, presumably to address the supposed uncertainty and unpredictability of our legal system.

Those of us on the other side disagree. We believe the system was designed to protect innocent consumers who have been injured by defective products, and more importantly, we are reluctant to usurp the authority of the States over an area that for 200 years has been the domain of the State legislatures.

As I stated earlier, many of us are also bewildered as to why some would make changes to the legal system that are opposed by the National Conference of State Legislatures, the Conference of Chief Justices, the American Bar Association and law professors throughout the country.

But I think it is important to point out the great fallacy in the notion that this bill provides uniform Federal standards. It clearly does not. What it does provide, is a line in the sand. This bill says that State laws and State reforms that are designed to protect consumers, children, working people, and the elderly are no longer applicable.

It says that those States do not know how to protect consumers—we here in Washington, DC know best how to do that. If you are on that side of the line in the sand, well sorry but you are out of luck because apparently it is the Congress that knows best how to protect farmers in Iowa, factory workers in Michigan, and children in California.

But if you are on the other side of that line, if there are State laws or State reforms that are designed to protect the interests of the business and manufacturing communities, well those are OK. This bill says that those State legislatures know exactly what they are doing and we should not preempt any of their efforts.

These are uniform Federal standards? Let me raise a couple of examples to illustrate just how unfair and unbalanced the bill is in this regard. The punitive damage cap is an obvious example. The underlying bill calls for a cap on punitive damages equal to the greater of two times compensatory damages of $250,000. In addition, under certain circumstances a judge may award supplementary punitive damages above the amount the jury has rewarded.

I think the layperson would look at this provision and assume that this cap—a Federal cap of $250,000 or two times compensatory damages—would apply across the board. In other words, whether you were injured by a defective product in Wisconsin, New York, or Mississippi and filed suit in any of those State courts, a jury would be able to award punitive damages of up to $250,000 or two times compensatory damages.

Unfortunately, especially for those who support uniformity, that is not what this legislation would do. Under the now-amended bill, the punitive damage cap would not preempt, supersede, or alter any State law to the extent that such law would further limit the availability or amount of punitive damages. Those State laws would not be preempted.

In other words, if a State allowed unlimited punitive damages, or even had a cap but that cap was higher than this new Federal cap, that State law would be preempted by this legislation.

But if a State prohibited punitive damage awards, or had a cap lower than the cap in the underlying bill, that State law is hailed as responsible and fair and allowed to continue under this legislation.

I wonder if any of my colleagues are familiar with the "Slip 'n Slide" case we had in Wisconsin just a few short years ago. The Slip 'n Slide is a sort of water slide that is spread out over the ground. You are supposed to get a good running start, jump head first on the wet plastic and then slide along the rest of the wet plastic. It was a product that was manufactured for families and obviously, targeted especially for children.

The plaintiff in this case, a 35-year-old father of two, dove onto this water slide, struck his chin on the ground and broke his neck. He was rendered an incomplete quadriplegic. The plaintiff was unable to return to his $12,000 a year job and had no means to pay the $46,000 in medical bills he was saddled with.

During the trial, the plaintiff alleged that the product was unreasonably dangerous for its intended purpose. This was compounded by the fact that the water slide's warnings were inadequate because they were not prominently displayed among the product's list of instructions and warnings.

Testimony was presented showing that other users had experienced similar injuries and one individual had even died from such an accident. It was also made clear that the manufacturer continued to market the product even after it was made aware that numerous neck injuries such as this were occurring.

Let me say that again; the facts showed that the manufacturer knew the product was causing neck injuries and yet still continued to market the product.

The jury in this case, in a Wisconsin State court, found that the manufacturer was 100 percent at fault and awarded over $12 million to the plaintiff, including $10 million in punitive damages. This judgment was later reduced so that the plaintiff and his family in the end received about $5 million.

We know what the other side's response to this is; "$10 million? That jury must be out of control."

Some of us, however, have faith in the ability of the American people to serve on juries and administer justice in a fair and equitable manner.

You can bet, Mr. President, that the manufacturer of the Slip 'n Slide is thrilled about this legislation. Those on the other side want to insulate such companies from juries and the threat of extensive punitive damages. Why? Because such a large punitive damage award might force the manufacturer to take a product off the market that has been considerably profitable for that manufacturer.

But I would contend, Mr. President, that our civil justice system is designed to do just that—to sanction parties that knowingly market a defective product and to protect the consumers that are victimized by these products.

That Wisconsin jury awarded a large punitive damage award for two reasons: One, to get a dangerous product off the market that is often used by young children and that was causing numerous neck injuries and paralysis; and second, to punish the manufacturer for continuing to market the product with knowledge of its very serious defects and to deter other manufacturers from engaging in similar conduct.

I would say that in this case, the jury—in a State court—knew exactly what it was doing and justice was served.

Mr. President, the Wisconsin jury in this case awarded $10 million in punitive damages in the slip 'n slide case. I have no doubt that most of the proponents of this bill believe that this is a classic case of a jury run amok.

Here is what I find interesting though. That jury found the manufacturer in this case 100 percent at fault. Suppose this was a criminal defendant on trial for assault with a deadly weapon. After all, the manufacturer in this case was marketing a product that they knew was causing neck injuries and paralysis.

The fact is, if this had been a criminal defendant I have no doubt that there would have been a bidding war on the other side to see who could propose the stiffest criminal sentence for this defendant.

We can only speculate about what the fate of the Slip 'n Slide would have been had this accident and litigation occurred in a State that currently prohibits punitive damage awards. Most likely, more neck injuries and maybe some fatalities would have occurred until a suit had been filed in a court where punitive damages were permitted.

Had the underlying bill been in effect 4 years ago, that Wisconsin jury would have had to award an amount consistent with the arbitrary cap. One can only wonder if the manufacturer would have pulled this dangerous product because of a $250,000 slap on the wrist.

Let me say this one more time: The jury in this case—a State jury—found the manufacturer to be 100 percent at fault. The jury found that the manufacturer continued to market the product—a product targeted mostly at children—even after the manufacturer discovered that the product was causing numerous neck injuries and paralysis.

The jury elected to award substantial punitive damages to punish the manufacturer for this reprehensible behavior and to deter other manufacturers from engaging in similar conduct.

I say to my colleagues that this is exactly what our civil justice system, grounded in the principle of trial by jury, was designed to do and I am confounded as to why the supporters of this bill are unwilling to trust those Americans that meet their civil duties by serving on juries.

How troubling that at a time when Americans are so distrustful of their Government that we in Government are not willing to trust Americans to administer civil justice.

Mr. President, I am somewhat mystified as to how supporters of this bill can suggest that this bill is proconsumer when they want to place this kind of a straightjacket on juries. In addition, I find it absolutely ludicrous that the supporters of this bill would suggest that we are providing uniformity when we are going to have completely different punitive damage standards throughout the 50 States.

Let me provide another example of how this bill would pre-empt State laws to the extent that those laws are proconsumer.

S. 565 creates a new Federal standard for the number of years a manufacturer or product seller can be held liable for a harm caused by a particular product. Known as a statute of repose, that period is 20 years under this bill. Why 20 years? Good question.

The product liability legislation considered in the last Congress, written by the same two principal authors, contained a 25-year statute of repose—5 years longer. Why? Well a footnote in the committee report from last year justified 25 years by pointing out that according to testimony received by the Commerce Committee, and I quote,

> Thirty percent of the lawsuits brought against machine tool manufacturers involve machines that over 25 years old.

Therefore, presumably, the authors of this bill selected 25 years as the life expectancy of all products manufactured in the United States.

But now we have a new bill that the supporters have tried to characterize as much more moderate and much narrower than either the House-passed legal reform legislation or the product liability bill considered by the Senate just last year. But remarkably, the 25-year statute of repose has been dropped to 20 years.

Why? Once again, good question. This year's committee report conspicuously leave out that footnote about the machine tool testimony, and makes absolutely no mention whatsoever as to why 20 years was selected.

Instead, the committee report promotes the consistency of this statute of repose with the General Aircraft Revitalization Act of 1994, passed by this body last year. Mr. President, I voted for that legislation. But that legislation provided an 18 year statute of repose for a very narrow segment of our manufacturing base.

This body came to the conclusion, the overwhelming conclusion as I recall that vote, that 18 years was a reasonable length of time for liability claims associated with the general aviation aircraft.

This statute of repose, however, is entirely different. His 20-year period would apply to all durable products across the board with a few limited exceptions. Machine tools, farm equipment, football helmets—you name it. This Congress is going to decide that the life expectancy of virtually every product in America is 20 years.

But this takes us back to the issue of selective preemption of State authority over liability laws. Section 108(B)(2) reads;

> . . . If pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 20-year period that is shorter than the 20-year period specified in such paragraph, the State law shall apply with respect to such period.

In other words, if a state legislature has decided against having a statute of repose, or has decided on a statute that is longer than 20 years, this new Federal law will override the judgment of that State legislature. Again, so much for uniform Federal standards.

Ironically, this year's committee report also justifies a Federal statute of repose on the basis that Japan is poised to enact a short 10-year statute of repose. So now apparently the Japanese Government knows better than the State of Wisconsin how to properly administer civil justice in cases involving Wisconsin litigants. I wonder how the Framers of the Constitution would feel about that assertion.

Before I conclude my remarks, Mr. President, I would like to remind my colleagues of the giant precedent we are about to set, or the radical departure from our current system as the Chief Justices put it. This legislation would make dramatic alterations to some of the oldest and most fundamental underlying principles of our judicial system.

Product liability is just a first step—the majority has made their intention clear to pursue legislation that would overhaul our entire civil justice system.

As we make these sort of tremendously consequential decisions, there are a variety of groups and individuals we can seek advice from. Those of us that oppose this legislation have chosen to listen to the experts on this issue—whether it is Chief Justices, the American Bar Association or the National Conference of State Legislatures.

But those who support this legislation do not want to listen to State legislators, judges or even the consumer organizations that this bill purports to protect. Instead, the other side has chosen to listen to the advice of corporate America on how to best to shield those who manufacture and sell defective products from any sort of liability. That is unfortunate for all of us.

Thank you, Mr. President, and I yield the floor.

Mr. DOMENICI. Mr. President, I am pleased to support the efforts of my colleagues today to reform our system of products liability litigation. The Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], and the Senator from West Virginia [Mr. ROCKEFELLER] deserve a lot of credit for putting together a bipartisan approach to solving the problems associated with products liability.

I have watched this debate over the past 2 weeks with great interest. I was pleased to see that there was some interest in expanding this bill in order to achieve general across-the-board legal reform, and I supported many of the thoughtful amendments which were brought to the floor. I would have preferred to include the rule 11 amendment offered by the distinguished Senator From Colorado [Mr. BROWN] and the amendment on joint and several liability offered by the distinguished Senator from Michigan [Mr. ABRAHAM] in any bill we might eventually pass. But I realize that in the interest of compromise, changes had to be made in order to get something passed, and unfortunately that compromise will not include comprehensive legal reform.

I am no stranger to legal reform. I have been trying to fix our broken securities class action system for several years, and many of the problems associated with securities litigation are inherent to our general tort system. I also have introduced legislation in past years to fix some of the problems associated with medical malpractice.

I am disappointed that we will not address medical malpractice litigation reform in this bill. The distinguished Senator from Kentucky [Mr. MCCONNELL] and the chairperson of the Labor Committee, the gentlewoman from Kansas [Mrs. KASSEBAUM], did a fine job putting together a comprehensive and fair overhaul of our medical malpractice system. There were several provisions in the medical malpractice amendment which I included in my health care reform bill last Congress, and I believe that the amendment would have gone a long way toward reducing health care costs for all American citizens. For that reason, I hope that we will take up medical malpractice reform later on in this Congress.

Particularly, I would like to address collateral source reform, which would prevent duplicative payments by insurance companies for the same injuries. I heard just last week from an individual who works for a company that sells insurance in my home State of New Mexico. He told me about a case that he just handled where a claimant was paid five different ways for the same injury. He told me that four ways was common, but that this was his first five-way case. He told me that if we want to achieve significant reform, preventing this sort of duplicative payment and the litigation that goes along with it will substantially strengthen our system. I hope we will continue to pursue collateral source reform later this year.

I also had hoped that we would be able to include general rule 11 reform in this bill and the Senator from Colorado, Senator BROWN, should be commended for bringing his important amendment to the floor. Prior to 1993, courts were required to sanction attorneys who filed a frivolous complaint, and rule 11 served as a healthy deterrent to strike suits. However, rule 11 was weakened in 1993 and judges were given the discretion to impose sanctions even when they found that a complaint truly was frivolous. Senator BROWN's amendment would return us to the pre-1993 standard and adopt a preference for the sanction to be payment of the attorneys fees and costs of the opposing party.

It also would limit fishing expedition lawsuits by requiring attorneys to make an adequate inquiry into the facts prior to the filing of a complaint. Attorneys should be required to stop, think and investigate the facts before filing lawsuits which could have a potentially devastating effect, and Senator BROWN's amendment would have done just that. I believe that this issue also should be re-visited later in the year.

As for products liability, there can be no doubt that the current system in place in this country extracts tremendous costs from the business community and from consumers. The great expense associated with products liability lawsuits drives up the cost of producing and selling goods, and these costs are passed on to the American consumer. We have heard several Senators talk about how half of the cost of a $200 football helmet is associated with products liability litigation, and how $8 out of the cost of a $12 vaccine goes to products liability costs. We can no longer afford to require our consumers to pay this tort tax.

Because of the high costs associated with products liability litigation, American companies often find it difficult to obtain liability insurance. The insurance industry has estimated that the current cost to business and consumers of the U.S. tort system is over $100 billion. Insurance costs in the United States are 15 to 20 times greater than those of our competitors in Europe and Japan. Much of this money ends up in the pockets of lawyers, who exploit the system and reap huge fee awards while plaintiffs go undercompensated and our businesses suffer.

For companies involved in the manufacture of certain products, like machine tools, medical devices, and vaccines, this means that beneficial products go undeveloped, or after they are developed, they do not make it to the marketplace out of fear of being sued. This hampers our competitiveness abroad, and limits the products available to consumers. Harvard Business School Prof. Michael Porter has written about how products liability affects American competitiveness. He wrote:

> In the United States * * * product liability is so extreme and uncertain as to retard innovation. The legal and regulatory climate places firms in constant jeopardy of costly, and, as importantly, lengthy product liability suits. The existing approach goes beyond any reasonable need to protect consumers, as other nations have demonstrated through more pragmatic approaches.

In the case of manufacturers of vaccines and other medical devices, the cost of our unreasonable and certainly unpragmatic products liability litigation system often means that potentially life-saving innovations never make it to the American public. Products liability adds $3,000 to the cost of a pacemaker, and $170 to the cost of a motorized wheelchair. It also has caused the DuPont Co. to cease manufacturing the polyester yarn used in heart surgery out of fears of products liability litigation. Five cents worth of yarn cost them $5 million to defend a case, and DuPont decided that they simply could not afford further litigation costs. Now, foreign companies manufacture the yarn and will not sell it in the United States out of fear of also being sued.

In cases where a truly defective product has injured an individual, the litigation process is too slow, too costly, and too unpredictable. This bill, because it creates a Federal system of products liability law, will return some certainty to a system that now often undercompensates those really injured by defective products and overcompensates those with frivolous claims.

Those injured by defective products often must wait 4 to 5 years to receive compensation. This leads victims to settle more quickly in order to receive relief within a reasonable time. Companies must expend huge amounts of money in legal fees to settle or litigate these long, complicated cases. These again are resources that could be better spent developing new products or improving the designs of existing ones.

Another major problem with our tort system is with punitive damages. As their name implies, punitive damages are designed to punish companies and deter future wrongful conduct. They are assessed in these cases in addition to the actual damages suffered by injured victims.

Unfortunately, these damages have little effect except to line the pockets of lawyers. They serve relatively little deterent purpose and led former Supreme Court Justice Lewis Powell to describe them as inviting "punishment so arbitrary as to be virtually random." Because juries can impose virtually limitless punitive damages, in Justice Powell's words, they act as "legislator and judge, without the training, experience, or guidance of either." Justice Powell is absolutely correct, and I applaud the drafters of this bill for dealing with the problems associated with these types of damages.

Reform of punitive damages will return some common sense to the system. Under the current system, punitive damages do little to deter wrongful conduct and merely serve to line the pockets of contingency fee lawyers. Huge punitive damage awards also threaten to wipe out small businesses and charitable organizations. By limiting the amount of punitive damages available in these cases and raising the legal threshold for an award of punitive damages, this bill will relieve some of the pressure on even the most innocent defendant to settle or face an award which could potentially bankrupt the company. It also will provide some uniformity and certainty in States which still allow punitives. Finally, for those States which do not allow punitive damages, I think the bill makes it clear that they may continue to do so.

The drafters of this bill also have taken the wise step to reform joint liability, without limiting the ability of plaintiffs to recover their economic damages. The bill abolishes joint liability for noneconomic damages, like pain and suffering, but allows States to retain it for economic damages like hospital bills. This will reduce the pressure on defendants who are only nominally responsible for the injury to settle the case or risk huge liability out of proportion to their degree of fault, while ensuring that injured victims get compensated for their out-of-pocket loss.

I would have liked to see this extended across the board to all civil cases and I voted for the Abraham amendment, but at least in the area of products liability, this provision strikes a fair balance between the rights of injured plaintiffs and those of those defendants brought into cases merely because of their deep pocket.

The bill also limits liability in cases where the victim altered or misused the allegedly defective product in an unforeseeable way. It simply is unfair to hold manufacturers liable in cases where consumers use products in ways for which they were not intended. It also is unfair to hold defendants liable in cases where the plaintiff's use of alcohol or drugs significantly contributed to their injury. I am happy to see that this bill provides an absolute defense in such cases.

Mr. President, as I said earlier, I am no stranger to legal reform. Many of those who are responsible for this important and well-crafted legislation are cosponsors of the securities reform bill Senator DODD and I hope to bring to the floor soon after this bill. I hope that we can follow our colleagues in the House and enact comprehensive but fair legal reform in the 104th Congress. I appreciate all of the hard work that went into this bill and hope that we will pass it.

Mr. GLENN. Mr. President, product liability reform is long overdue and I am pleased that the Senate is acting favorably on this bill. I have cosponsored product liability reform legislation in three previous Congresses.

I believe that this legislation is good for both consumers and businesses. Our product liability system is out of control and reform is desperately needed. Under our current system manufacturers of products are subject to a patchwork of varying State laws whose beneficiaries are most often lawyers instead of litigants.

The Congress is currently debating the proper role of the Federal Government across a broad range of issue areas. Many believe that functions now conducted at the Federal level should be moved to the States. On this issue I believe that we need a more uniform system of product liability and therefore Federal standards are necessary.

The current system is unfair to consumers. Much too much of the money paid by manufacturers goes to attorneys' fees instead of the injured party. the high cost of product liability insurance means higher costs for consumers. Because of the unpredictability of the current system, many severely injured consumers receive less than they deserve while mildly injured consumers often recover more. Furthermore, because of unpredictability, cases which are substantially similar receive very different results. Product liability cases often require a great deal of time and many claimants are forced to settle because of economic necessity.

The current system is unfair to manufacturers. The cost of litigation is a substantial expense to companies. Companies spend more on legal costs and less on other important areas such as research and development. In some cases manufacturers decide not to invest in or develop new products because of product liability concerns. Ultimately this burden or product liability makes our companies less competitive in world markets than foreign companies.

During the debate on this legislation, I have been particularly concerned that as we reform our product liability laws we do not affect the rights of individuals to bring suits when they have been harmed. On the contrary, it is my intent to bring rationality to a system that has become more like a lottery. For me, legal reform does not mean putting a padlock on the court house door.

There are several very important improvements that this legislation will provide. A statute of repose of 20 years is established for durable goods in the workplace. After 20 years no suit may be brought unless there is an expressed warranty.

Joint liability is abolished for noneconomic damages in product liability cases. Defendants are liable only in direct proportion to their responsibility for harm. Therefore, fault will be the controlling factor in the award of damages, not the size of a defendant's wallet.

Another important area is punitive damages. I am supportive of raising the standard of proof to clear and convincing evidence. I am very concerned, however, about the establishment of caps on punitive damages and that the bill not impose a one size fits all prescription. In fact this is the issue that kept me from cosponsoring this legislation during this Congress. The bill originally provided for a proportional cap based on economic damages. During the amending process, that cap was improved by including all compensatory damages. Even with that improvement, however, the bill remained too restrictive. I support the further inclusion of the judge additur provision allowing an increase in punitive damage awards in especially egregious cases.

However, I believe that an additional provision in the additur section is without merit. That provision would allow a defendant another trial on damages should additur occur. This goes against the fundamental principles behind product liability reform—fairness, simplification and streamlining the system. Instead, this provision could provide a never ending litigation cycle which will insure full employment for all lawyers. And it increases the burden on an already overburdened legal system. This one provision is so egregious, that it prompted my vote against cloture on the Gorton-Rockefeller compromise which I found otherwise acceptable. I am pleased that Senators ROCKEFELLER and GORTON intend to address this language in conference.

Unfortunately, the product liability legislation this year turned into a Christmas tree attracting numerous unrelated items that had never been in the bill before. The expansion of the legislation to include medical malpractice and general civil liability litigation, as Senator ROCKEFELLER has accurately pointed out, caused the tree to topple over. Those matters should and will be addressed more completely in separate legislation.

During the debate, the Senate considered several amendments addressing medical malpractice. I believe action is needed to ensure timely and appropriate awards for patients who are harmed by negligent medical care, while at the same time protecting health care providers from unwarranted lawsuits and the need to practice costly defensive medicine.

I supported a medical malpractice amendment offered by Senator KENNEDY which was based on provisions contained in comprehensive health care reform legislation in the last Congress. This approach requires States to establish alternative dispute resolution mechanisms so that cases can get an early hearing, and it limits attorney's contingency fees to one-third of the first $150,000 awarded and 25 percent thereafter. I regret that this amendment, which would have modified Senator MCCONNELL's medical malpractice amendment, was defeated.

I oppose Senator MCCONNELL's medical malpractice amendment, for both substantive and procedural reasons. I was concerned that the amendment did not allow States to adopt their own medical malpractice laws if they were more beneficial to consumers, and I opposed its caps on punitive damages.

I am hopeful that the Senate will return to the important issue of medical malpractice reform when the Labor and Human Resources Committee reports the bill it has approved and during debate on health care reform measures.

With the addition of medical malpractice and general civil liability, efforts to pass product liability bill reform were diminished. All of these extraneous items have threatened passage of a good product liability bill and the White House has also made it clear that they would veto such Christmas tree legislation.

In an effort to pare the bill back to its core principles, I opposed motions to cut off debate on the bill. I believe that through this process, the bill now provides effective product liability reform and its chances of enactment are improved. I applaud the efforts of Senators ROCKEFELLER and GORTON in the enormous amount of work undertaken to pass this legislation.

Mr. ROTH. Mr. President, the Senate's debate on product liability reform has revealed that many citizens and many members of the business community strongly favor legislation that would alter significant aspects of tort law. Products liability law traditionally has been a matter of State law, and the primary venue for products cases traditionally has been the State courts, which are our Nation's courts of general jurisdiction. Proponents of the products liability legislation have asked us, then, to change the laws of each State by creating Federal standards that would apply in all products cases, whether they are brought in Federal or State courts.

I oppose Federal products liability legislation because it will preempt whole areas of State law that have been developed incrementally over many, many years. The legislation does not deal with Federal question jurisdiction or any Federal cause of action. Instead, it pertains to an area of law that has long been the primary responsibility of State courts. If it is to occur, the reinvention of tort law should occur through the State courts and legislatures, which are best situated to determine and control the impact of reform within their own communities.

We are not dealing in an area where the States have proven incapable of enacting change. The vast majority of States have already adopted some type of tort reform, and many States are considering further changes. These reform measures have varied widely. Some have involved more dramatic changes than the Senate has debated; some have involved more modest changes; and some have involved referendums on important Sate constitutional provisions. In my own State of Delaware, the State legislature has before it several different tort reform proposals.

The impact of the reforms passed so far at the State level is unclear, but at least by one measure, the State reforms appear to be having a positive effect. In a recent survey involving 1993 data, American businesses for the first time in many years reported that they spent less on insurance and other risk-related expenses than they did the year before. Much of the savings came from changes enacted by States to their workers compensation laws, which have enabled employers to contain their workers compensation costs in various ways. The survey reported that the cost businesses paid for liability risks, which includes products liability, had leveled out. This is encouraging news.

The patchwork course of tort reform at the State level has not happened with the alacrity or the uniformity that many reform proponents would like to see. But the State efforts demonstrate why Federal legislation in this area is so profoundly misguided. In the best tradition of our Federal form of Government, the States have balanced, and in many instances are still considering how to balance, the competing interests in the tort reform debate for their own communities. We stand poised to upend that State-based process in favor of legislation that purports to create uniform Federal standards. In doing so, we are involving the Federal Government intimately in an area where it does not belong.

The Supreme Court's recent ruling in United States versus Lopez, the case which struck down as unconstitutional the Federal Gun Free School Zones Act, raises a serious question as to whether the Federal Government is permitted to take over the law of products liability.

I oppose the products liability legislation not because of any specific provisions being debated, but because the federalization of this area of the law is a bad idea. Federalizing products liability law embarks us, I fear, on a course where over the years Congress will succumb to a creeping temptation to federalize other areas of State law solely, as in this case, on the grounds of convenience. I am wary of where that course leads.

(At the request of Mr. ROCKEFELLER, the following statement was ordered to be printed in the RECORD.)

• Mr. LIEBERMAN. Mr. President, due to the death of a close family member, I am regrettably unable to be present on the Senate floor today to join my colleagues in passing product liability legislation. It is day long awaited by those of us who have been working on behalf of reform for years only to be denied, not only passage of a bill, but full and open debate. I was proud to be a cosponsor of past product liability bills, including this year's bill, S. 565.

Credit for this remarkable turn of events is due to Senators ROCKEFELLER and GORTON, who have labored long and hard on the Senate floor over the last 2 weeks and, quite literally, for years to produce a fair bill. It is their perseverance and fair treatment of all that is responsible for our success today. Their staffs have done extraordinary work on their behalf and deserve all of our thanks—Tamera Stanton, Ellen Doneski, Lance Bultena, Trent Erickson, and others.

Were I present today, I would have voted to table Harkin amendment No. 749, to table Dorgan amendment No. 629 and, of course, I would have enthusiastically voted "yes" for final passage.

Mr. President, I would ask unanimous consent that I be added as a cosponsor of the bill as passed by the Senate today. This is an important first step toward comprehensive reform of our legal system. It is incremental reform, but it's significance should be understated. It establishes some important principles for further reform: parties responsible for harm must be held fully accountable and parties who have caused no harm should not be bullied into settlements by a system that does more to compensate lawyers than to achieve justice for injured people.•

Mr. PRESSLER. Mr. President, as we conclude the debate over S. 565, the Product Liability Fairness Act, we have come full circle.

COMMITTEE ACTION

On March 15 I joined with Senators GORTON and ROCKEFELLER in introducing legislation designed to reform that portion of America's tort system dealing with products liability. Two days of hearings were conducted on the bill and on April 6 the Senate Committee on Commerce, Science, and Transportation, of which I am chairman, met in executive session to consider the legislation.

During the committee process there was talk of expanding the bill to encompass a broader array of tort reform. As chairman, I resisted efforts to expand the legislation into any areas that did not fall within the jurisdiction of the Commerce Committee. Do not get me wrong. I support more broad-based tort reform. My voting record over the past 2 weeks proves that fact. However, during committee consideration I believed it was important not to add provisions that fall under the province of other Senate committees. As a result, on April 6 the Commerce Committee voted 13 to 6 to send a products liability reform bill to the full Senate.

SENATE CONSIDERATION

On April 24 the full Senate took up the measure. Over the past 2½ weeks the legislation has consumed some 90 hours of Senate debate. It has been a constructive process. No one can say this body did not fully explore the issues involved. No one can say we blocked any attempts to make changes to the legislation. Indeed, it was those—like myself—who favored a broader bill that found themselves blocked.

Since April 24, we have debated and voted upon over 30 amendments. Roughly a dozen of those dealt with reforming the medical malpractice system. Senator MCCONNELL introduced a broad reform amendment similar to legislation that had been fully debated by the Committee on Labor and Human Resources. That major amendment, together with a number of smaller malpractice reform measures passed the Senate and became part of the bill. I was proud to support these efforts and voted for many of the malpractice initiatives.

Next the Senate turned its attention toward broadening reforms concerning punitive damages. By considering some half dozen punitive damages amendments and adopting several—including major provisions offered by Senators DOLE and HATCH, by Senator SNOWE and by Senator DEWINE—a majority of the Senate worked its will to expand the reform of punitive damage awards from product liability cases to include all civil cases. Again I supported these efforts and worked for their passage.

Finally, the Senate turned to a consideration of joint and several liability. S. 565 as reported contained a provision abolishing joint liability for noneconomic damages. As to these damages, defendants would be liable only in direct proportion to their responsibility for the claimant's harm. They would not be responsible for the harm caused by another defendant who later was found unable to pay the compensation awarded. In other words, with regard to noneconomic damages, a defendant's liability would be several and not joint. Senator ABRAHAM offered an amendment on the floor to extend this concept to all civil cases. Unfortunately, that amendment was tabled.

Mr. President, these actions brought us to Thursday of last week. They also put a majority of the Senate on record in favor of broad-based legal reform. Most importantly, our efforts produced a fair, reasonable, and balanced bill.

Sadly, our efforts were not enough. Last Thursday the Senate failed in two votes to end debate, allow a vote on final passage of the bill, and move to a conference with the House of Representatives to work out the difference between our bill and the much more sweeping legislation passed by the House earlier this year.

As a result, Senate leadership crafted an alternative bill. That measure, introduced Friday as a substitute to the pending legislation, returned the reform initiative to its Commerce Committee roots. That proposal, along with the amendment we are debating today, is very similar to S. 565 as reported by the Commerce Committee.

How did this happen? Quite simply the opponents of broad-based tort reform were highly effective in their campaign against the legislation. Like much of the debate over the issue of civil justice reform, the rhetoric tended to get very emotional and often strayed off course.

THE TRUTH ABOUT THE BILL

Mr. President, the truth is this legislation would not change any of what is right with our current legal system. The courthouse doors would remain open. Consumers would still have a full range of rights. Persons wrongfully injured still would be compensated. Tort cases could be used to provide a strong check on corporate behavior. Contingent fees would continue to allow ordinary citizens with limited means the ability to bring suit. What would change is that frivolous lawsuits would be curtailed—pure and simple.

In an earlier statement I outlined how the bill's provisions concerning punitive damages, the statutes of limitations and repose, joint and several liability, defenses for alcohol and drug abuse, and biomaterial suppliers would benefit small business, consumers, and those injured by products. Therefore, I will not take the Senate's time to reexamine those issues today. It is not necessary. Under the latest alternative we have before us today, the things I said in that statement continue to apply.

I would add only a few comments concerning the views of the American people—specifically the citizens of my home State of South Dakota—with regard to our legal system. A recent poll conducted in my State found that 83 percent of survey respondents say that "the present liability system has problems and should be improved," while only 10 percent say that "the present liability lawsuit system is working well and should not be changed."

In addition, this is not a partisan issue: 78 percent of Democrats, 83 percent of Independents, and 88 percent of

Republicans in South Dakota responding to the survey say there are problems that need to be improved. of those who had served on a civil trial jury, 79 percent say the system has problems and needs improvement.

Mr. President, the pending measure is not as broad as I would like. I truly wish we could have done more to address the problems of the tort system generally and not limit ourselves simply to product liability cases. However, I am gratified the model used by the Senate for product liability reform continues to be the bill reported to this body by the Commerce Committee. It represents an excellent move forward and I strongly urge all of my colleagues to vote for this legislation.

Mr. BINGAMAN. Mr. President, I rise today in opposition to H.R. 956, the Product Liability Act of 1995.

I have closely followed the debate on this legislation over the past 2 weeks and I have come to the conclusion that despite the efforts of many of this Chamber, including my good friend from West Virginia, to craft a balanced bill, the bill we are voting on today falls short of that goal.

Mr. President, the issues we have debated over the course of the past 2 weeks are complex and far reaching. Contrary to what some would have the American public believe, the solutions to the problems facing our legal system cannot be explained away in 30-second sound bites or by anecdotal evidence. Each day throughout this country, judges and juries struggle to determine what is meant by justice, and, I believe in the vast majority of cases, these people, our neighbors, friends, coworkers and family, do a remarkable job of determining what is fair and what is just.

I have supported reforms to our legal system in the past and was prepared to support a reasonable reform measure at the end of this debate. I am a cosponsor of S. 240, the Securities Litigation Reform Act of 1995, authored by my colleagues from New Mexico and Connecticut. I have supported my own State's efforts at reform in the area of product liability and medical malpractice, and I worked with my colleagues on the Labor and Human Resources Committee last year to fashion reasonable medical malpractice reform during the health care reform debate. Last week, I voted for an amendment by my colleague from Massachusetts, Senator KENNEDY, that was a reasonable approach to medical malpractice reform and would have protected the rights of States such as New Mexico to enact their own reform.

Indeed, a proposal that would have significantly improved this legislation was considered by Senator BREAUX. This amendment would have created a truly uniform statute of repose and addressed the concerns about the elimination of joint and several liability in a reasoned and balanced matter. The amendment also would have allowed a jury to determine whether or not punitive damages are warranted in a particular case and would have allowed the judge to determine the amount of punitive damages that should be awarded. Unfortunately, Senator BREAUX did not have the opportunity to offer his amendment and the Senate did not have the opportunity to debate it as a result of cloture being invoked yesterday.

I have come to the conclusion that the bill that we vote on today tilts the scales too heavily against protection of the rights of injured victims and against just punishment of dangerous practices. Also, Mr. President, I am concerned about the provision limiting the award of punitive damages in cases filed against a small business. I take a back seat to no one in my concern for small businesses and have worked throughout my career in the Senate to promote the growth and prosperity of small businesses especially in my home State. However, the provision contained in this bill is not well considered; I am afraid that it would lead to more litigation, not less, and arbitrarily eliminate the opportunity for injured plaintiffs to recover fair and just compensation for damages inflicted as a result of conscious and flagrant indifference to their safety. That is what we are talking about Mr. President, not simply a mistake, but a conscious and flagrant indifference to the safety of consumers.

Mr. President, I would say to my friend from West Virginia, Senator ROCKEFELLER, and my friend from Washington, Senator GORTON, that I commend them for their efforts during this debate to bring reason to our deliberations. I know that they have worked diligently and in good faith to develop meaningful and balanced legislation in this area. Unfortunately, I do not believe that the bill before us reaches those objectives and for that reason I intend to vote against this bill and urge my colleagues to join me.

Mr. KERRY. Mr. President, when we talk about reforming product liability law, we are talking about taking away the rights of U.S. citizens. This is serious business—among the most serious things we can do in the Senate, and it is from this perspective that we must approach this debate.

Cloture has been invoked and we are about to vote on final passage. But before we haphazardly strip citizens of their rights, we need to take a long, hard look at what this means to people—how it affects families and children and average, hard-working people who have suffered.

Let us take a representative case. It is a wrongful death case.

A woman drives a Pinto to the supermarket. Someone bumps into the rear of the car, and the car explodes—it explodes. She is tragically burned alive—a wife, a mother, a human being burned alive because of what, after years of legal hassling and thousands of dollars in legal fees, lawyers hours, and a legal battle that has become part of tort history, Ford had calculated that it was cheaper to settle than to protect the lives of every Pinto owner with a recall.

It made good business sense to take the risk of people dying.

Mr. President, that kind of business sense is exactly what I am here to fight against.

I am here to fight for the husband of that woman in the Pinto. I ask my colleagues—would you settle for $250,000 in exchange for losing your spouse and destroying your life?

Is that fair? Is that just?

Mr. President, if this bill were to become law, you would not even get the $250,000 because there is not a lawyer in the country who would take the case.

No law firm could afford to go up against the Ford Motor Co., with its host of attorneys and huge legal budget, and an infinite ability to push motions and appeals to the limit and slow down the process to their advantage. It just would not happen.

Mr. President, I cannot sanction stripping this legal right from even one American. I cannot do it. And anyone who can, should look into the eyes of that husband. They should look into the face of the thousands and thousands of victims across this country who seek simple justice and fairness and ask only to be given a chance to fight the big guys.

It is a matter of fairness. It assures that those who do not have the resources to fight the richest and most prominent American corporations when they are wrong will have a chance for simple justice.

I am here to fight for average hardworking Americans and to put a face to this legislation—to talk about how this bill will affect real Americans. Real Americans, like the 5-year-old boy in New Bedford, MA, who died in a house fire after the flammable material on a couch ignited, or the 8-month-old baby who suffered second- and third-degree burns on his arms, legs, and back in a house fire that started when the bedding in his crib was ignited by a portable electric heater.

Or, the eight working-class families in Woburn who sued two of our Nation's biggest corporations because they suspected the companies had polluted the East Woburn water supply with highly toxic industrial solvents, causing death and injury to their children.

The Woburn case took 9 years, and the attorney that pleaded the case spent $1 million of his own money on it. The jury ultimately found one of the companies negligent, and the scientific research done during the 9-year trial demonstrated the link between the industrial solvents in the water supply and human disease. The company is now helping to clean up the polluted aquifer. The attorney has said that if this bill were law today, he would never have considered the case.

If we pass the Dole substitute to H.R. 956, I fear we will be doing great harm. Our votes will have a serious impact on real Americans.

Mr. President, our laws play a critical role in fostering a competitive economic environment by establishing groundrules for fair competition and by helping to reduce the costs of doing business. But I believe Congress has a special responsibility to ensure the laws we write are reasonable and fair; we must weigh the impact of laws will have on both consumers and business.

In the 10 years I have considered product liability reform at the Federal level, I have heard proponents of reform argue that consumers lose under the present system. They have argued that injured consumers receive inadequate compensation, and that injured consumers wait unreasonable amounts of time in litigation—on the average of 3 years—before they receive compensation. They have also argued that injured consumers face closed courthouse doors because the statutes of limitation have expired on their cases.

Proponents of reform have stressed that companies in the United States also lose under the current system. They have pointed to insurance rates that disable American manufacturers by forcing them to pay 10 to 50 times more for product liability insurance than their foreign competitors. They have claimed there is an explosion in products liability litigation, with uncontrollable punitive damages awards. They have argued that the present system of lottery liability, where liability differs from State to State, does not enhance the safety of U.S. products.

Each time the Senate has considered products liability legislation, I have measured the legislation against four tests: Is it fair to injured consumers; will it help lower insurance rates for American business; will it help reduce the number of tort cases and lower the cost of litigation, the transaction costs, for American business; and will it create uniformity in the laws covering products liability or generate more confusion in the legal system?

In my examination of whether S. 565, the products Liability Fairness Act, and the Dole substitute satisfy these tests, I have concluded that this legislation fails on each account. It does not address the real concerns of business, nor is it fair to consumers.

IS THE LEGISLATION FAIR TO CONSUMERS?

Consumer products are responsible for an estimated 29,000 deaths and 30 million injuries each year. But, according to the most authoritative study on punitive damages, conducted in 1993 by professors at Boston's Suffolk University Law School and Northeastern University, there were only 355 awards in products suits from 1965 to 1990, and half of these awards were reduced or overturned. In my own State of Massachusetts, there were absolutely no punitive damages awarded in products cases.

Contrary to ensuring that injured consumers will receive adequate compensation in relation to their actual damages, this legislation imposes a cap on punitive damages. This is perhaps the most damaging aspect of this legislation to consumer interests. Although the cap has been amended to equal the sum of economic and noneconomic damages, a cap is still a cap.

In our civil justice system compensatory damages—economic and noneconomic for pain and suffering—compensate victims; in addition, punitive damages may be awarded by juries to punish the wrongdoer.

As such, punitive damages are often the only way individual Americans can force reckless defendants to change their conduct. However, despite the effectiveness of punitive damages as deterrents, they are exceedingly rare.

And the new standards imposed for punitives in this bill will make them more rare than the Alabama sturgeon.

Under most State laws, the defendant can be found liable for punitive damages if they engaged in reckless or willful and wanton or grossly negligent type of behavior.

But under this bill, Mr. President, such behavior is not enough. A plaintiff must show that a company engaged in conduct manifesting a "conscious, flagrant, indifference to safety". I have no idea what that means, Mr. President. but it certainly appears to be a tougher standard to meet.

Moreover, it is unclear how the cap on punitives in this bill would affect the 39 States that presently either do not permit punitive damage awards or have enacted measures that significantly reduce the size and frequency of such awards.

Far from ensuring injured consumers will enjoy expeditious resolution of their case, this legislation could prolong litigation by allowing either party to request a separate hearing in order for punitive damages to be awarded. Far from ensuring courthouse doors remain open to injured consumers, this bill imposes a 2-year statute of limitation and shortens the statute of repose by 5 years from last year's bill.

If this bill truly protects consumers interests, why is it opposed by every major consumer group in America?

If this legislation had been in effect, many cases would simply not have been possible. Let me give just one more example here:

In 1988, Playtex removed from the market its super-absorbent tampons linked to Toxic Shock Syndrome only after a $10 million punitive damages award following the death of a woman who used the tampons.

The Tenth Circuit Court of Appeals found "Playtex deliberately disregarded studies and medical reports linking high-absorbency tampons fibers with increased risk of toxic shock at a time when other manufacturers were responding to this information by modifying or withdrawing their high-absorbency tampons."

Playtex subsequently strengthened its warnings and began a public awareness campaign about the dangers of toxic shock. It is doubtful whether a cap of $250,000 on punitive damages would have caused Playtex to alter its behavior.

If the cap on punitive damages contained in this legislation is enacted, wrongdoers may find it more cost effective to continue their bad behavior and risk paying punitive damages. I do not believe we should pass a bill that reduces the incentive for companies to produce the safest products.

WILL THIS LEGISLATION LOWER INSURANCE COSTS FOR BUSINESSES?

In testimony before the Commerce Committee several years ago, the American Insurance Association stated:

> The bill is likely to have little or no beneficial impact on the frequency or severity of product liability claims * * * And it is not likely to reduce claims or improve the insurance market.

So, this legislation will not provide businesses with cheaper insurance rates. Insurance premiums for most industries account for less than 1 percent of a business' gross receipts. Such a small percentage hardly threatens the viability of business and should not result in increased costs to consumers.

Over the last decade, product liability insurance cost 26 cents per $100 of retail product sales, which would account for $26 on the price of a $10,000 automobile. Since 1987, according to a study by the Consumer Federal of America, product liability insurance premiums have actually dropped by 47 percent, from $4 billion to $2.7 billion, a fact that was confirmed by a 1992 Commerce Department study.

Let us take a look at Florida. In Florida's 1986 tort reform law, the State eliminated joint and several liability, limited noneconomic damages to $450,000, limited punitive damages, and required the insurance industry to make rate filings indicating the effect of the changes in its tort laws on product liability insurance rates.

Yet, Aetna's subsequent rate filing listed the effect of each change on its rates as zero. If such dramatic changes in Florida's tort reform law resulted in no lowering of liability insurance costs for a major carrier like Aetna, where is the evidence to suggest this bill will produce different results?

WILL THE LEGISLATION LOWER THE COST OF PRODUCTS LIABILITY LITIGATION FOR BUSINESSES?

Proponents of this legislation speak in terms of an explosion in product liability litigation. However, the evidence belies this characterization. In fact, the number of nonasbestos products liability suits in Federal courts has declined almost 40 percent since 1985. In State courts, where most products liability claims are filed, lawsuits have remained constant since 1990, according to testimony presented to the committee on April 3, by the National Center for State Courts.

The 1992 annual report of the National Center for State Courts found that tort cases are approximately 9 percent of the 10 million civil filings in State courts and products cases are 4 percent of these—40,000.

Only one-third of 1 percent of all tort filings in State courts are product filings.

Of all tort filings in 1991, 58 percent were related to automobile liability; 33 percent were miscellaneous; 5 percent were malpractice; and 4 percent were products. Since 1990, the national total of State tort filings has fallen by 2 percent.

In 1990, the Rand Corp. found that most injured Americans never file a lawsuit for their injuries: only 10 percent of injury victims ever use the tort system to seek compensation for their injuries.

This report also found that only 7 percent of all compensation for accident victims is paid through the tort system. The report observed:

> Americans' behavior does not accord with the more extreme characterizations of litigiousness that have been put forward by some.

If there has been a litigation explosion, it is not in the area of products liability. Once again, this legislation misses the target in addressing the real litigation problems facing business.

WILL THIS LEGISLATION BRING UNIFORMITY TO PRODUCT LIABILITY LAW?

Tort law has traditionally been a State responsibility, and the imposition of Federal products standards upon State tort law would, according to the National Conference of State Legislatures, "create confusion in State courts."

Testimony by the Conference of Chief Justices was even more emphatic:

> If the primary goal of this legislation is to provide consistency and uniformity in tort litigation, we are concerned that its effect will be the opposite.
>
> Preempting each State's existing tort law in favor of a broad Federal product liability law will create additional complexities and unpredictability for tort litigation in both State and Federal courts, while depriving victims of defective products of carefully reasoned principles and procedures already developed at the State level.

This bill will not end the search of the sponsors for a single settled law because it does not create Federal question jurisdiction. The legislation would preempt all related State law and substitute Federal standards, but it would impose the Federal standards in a single overlay upon the 56 existing State court systems as well as the Federal courts.

The result will be both State and Federal courts applying a mix of State and Federal law in the same case; State supreme courts will no longer be the final arbiters of their tort law. The U.S. Supreme Court, which many experts argue is already overburdened, will become the final arbiter of this new legal thicket.

So, here we have what is indeed an irony: Those who ordinarily preach the virtue of reserving power to the States are instead advancing legislation to usurp the legitimate authority of States.

At a time when many in Congress are intent upon returning responsibility for many Federal programs to the States, this legislation would preempt State law.

Mr. President, the sponsors of this legislation have worked extremely hard, and I particularly wish to commend my friend from West Virginia for his tireless efforts on behalf of this legislation. I also commend the ranking Democrat on the Commerce Committee, Senator HOLLINGS, for his stalwart defense of consumer interests.

For all of this effort, I regret that I cannot support this bill. I cannot support it for two very simple reasons. The legislation is patently unfair to consumers, and it will not resolve the products liability problems businesses tell me they face.

It will remove from ordinary Americans the power they retain in the jury box to force accountability for dangerous, careless, or reckless behavior. In the jury box, each American can bring about positive change. If we undermine the ability of our citizens to force changes in bad behavior, we will have compromised our Nation's core values.

While many Americans increasingly sense an erosion of personal responsibility, our civil justice system remains one institution that holds individuals and organizations accountable for their behavior. Make no mistake, by restricting the civil justice system, this bill will take rights away from Americans.

All of the available evidence on this legislation shows it will not make businesses more competitive by reducing insurance rates or the costs of corporate litigation, and it will not create national uniformity in products liability law.

A great deal of hype has been generated about this issue, and after 15 years, it appears to have taken on a life of its own. But all the lobbying and advertising cannot convince me that this legislation will accomplish its stated goals.

The Dole substitute to H.R. 956 fails to strike a reasonable balance between promoting the competitive interests of business and protecting the rights of consumers. It will create a nightmarish new legal thicket that should be avoided rather than embraced. It is unfortunate that after all the effort we could not have achieved a reasonable balance.

After we have argued all the complicated points of law, after we have poured over horror story after horror story, the issues boil down to one simple point: This bill is not fair, and it should be rejected.

I yield the floor.

Mr. GORTON. Mr. President, I ask unanimous consent that a letter I received from the National Federation of State High School Associations be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF STATE
HIGH SCHOOL ASSOCIATIONS,
Kansas City, MO, May 9, 1995.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: On behalf of the National Federation of State High School Associations, I want to commend you for your leadership on legislation to address the long overdue reform of our civil justice system. We applaud your efforts to rein in the exploding costs of litigation that, if unchecked, threaten to bankrupt non-profit organizations such as ours and our member affiliates. The National Federation is comprised of 51 state high school associations, with the primary purpose of promulgating sports and non-sports playing rules, including those specific to safety issues, for more than 20,000 schools and approximately 10,000,000 students each year. Additionally, our member associations establish and enforce the eligibility rules under which all boys and girls compete in high school athletics.

The legislation pending before the United States Senate, The Product Liability Fairness Act of 1995 (H.R. 956), sets limits on all product liability cases. Furthermore, the bill as currently amended, would eliminate joint liability for non-economic damages. Instead, only several liability would be allowed which means that each defendant would be liable only for his, her, or its portion by reason of its proportion of the fault causing the injury. Economic damages, i.e. lost wages, medical costs, etc. would remain joint and several at the discretion of each state.

We strongly agree with your comment on the floor this past week stating "it is unfair and unproductive to make defendants pay for damages of a nature that are literally beyond their control or beyond their fault." This fundamental concept should apply to the civil justice system as well.

Let me cite two examples of costly litigation we recently incurred which epitomize the unfairness and counterproductive nature of current civil law. Both occurred in school swimming pools.

First, in Indiana a high school boy was "leap frogging" off the starting platform, prior to the start of practice, despite repeated warnings from his coach. On one such leap, his foot got caught under the platform; he fell head first into the water and struck his head on the pool bottom. Tragically, he suffered a neck injury that ultimately resulted in quadriplegla. While this unimaginably horrible accident was not related to any swimming competition, the National Federation was sued simply because it writes the rules for interscholastic swimming, including rules related to standards for equipment and facilities such as the depth of swimming pools.

Yet another incident occurred in Michigan during a water polo practice. This incident involved a high school boy who jumped off the platform over a lane designation rope and struck his head on the pool bottom. This seemingly harmless leap resulted in a lifetime of paralysis from the neck down. While the National Federation does not even write water polo rules, nor rules for the practice sessions for any sport, we were included in the law suit and incurred exorbitant legal fees for a defense that should not have been necessary.

These are but two examples of what has become a nightmare of litigation for the National Federation and its member affiliates. Without radical reforms to our system of civil justice, organizations such as ours whose sole mission is to build a consensus for safe sports competition will be unfairly jeopardized and possibly destroyed.

Unfortunately, lawyers often join sanctioning bodies such as ours in law suits as a trial strategy rather than because of a reasonable belief that the injury was caused in any way by the action of the sanctioning body. Current law discourages sanctioning bodies from setting minimum safety standards because of their fear of being joined in subsequent litigation. This is bad public policy.

Therefore, in addition to holding firm in your effort to reform the civil justice system, we urge you to include an exemption in the law for sanctioning bodies such as ours who are joined in law suits solely because they recommend minimum standards for facilities and equipment for the purpose of reducing risk inherent in participation in almost any given sport. This exemption would be consistent with your stated belief that it is unfair and unproductive to make defendants liable for incidents that are "literally beyond their control or beyond their fault."

Again, thank you for your leadership on this vital issue. The members of the National Federation of State High School Associations and I look forward to assisting you in achieving these needed reforms.

Sincerely,

ROBERT F. KANABY,
Executive Director.

Mr. BYRD. Mr. President, the Senate has been considering legislation related to product liability for almost 2 weeks. During that time I have heard from a number of West Virginians who have been harmed or injured by defective products, as well as from businesses that have been seriously impacted by lawsuits brought against them—at times somewhat unfairly. I have listened to the debate and considered how the Senate can best balance these competing interests, and have concluded that the substitute amendment offered by Senators GORTON and ROCKEFELLER does not adequately protect the rights of injured parties and consumers in two critical areas.

The first involves the issue of several or proportional liability, versus joint and several liability. Under the concept of proportional liability, a defendant is only responsible for a percentage of liability directly contributing to the injury or harm caused by the defective product. On the other hand, joint and several liability provides that each defendant who contributes to causing a plaintiff's injury may be held liable for the total amount of damages. Joint and several liability, by enabling a plaintiff to recover all of his or her damages from a single defendant with the greatest financial assets or resources—the so-called "deep pocket"—makes it more likely that the plaintiff will obtain full recovery in the event that one defendant does not have the assets to pay part of the judgment.

The proposed legislation completely eliminates joint and several liability for noneconomic damages, such as pain and suffering, while retaining it for economic damages. This means that victims would fully recover their economic damages in the form of lost income or medical expenses, but victims with higher lost incomes, such as business executives, would receive greater compensation. Victims would fully recover their economic damages, even if only one defendant among several defendants is still solvent, because the "deep pocket" would provide full compensation for economic damages; however, due to the elimination of joint and several liability for noneconomic damages the parties would only receive partial compensation for pain and suffering.

This provision could significantly reduce compensation in cases where the individual could still earn a livelihood, and thus not have large economic damages, yet that same individual could still have significant noneconomic damages. In this context, noneconomic damages could include not just pain and suffering, but also any diminishment of the quality of life, such as infertility or the loss of a limb.

The result of completely eliminating joint and several liability for noneconomic damages, then, would be that the innocent victim might not receive a majority of the compensation due if the other wrongful defendants were insolvent. I have concluded that this provision in the legislation shifts the balance too far in the direction of defendants at the expense of the victims of wrong doing in the form of defective products.

The other key provision of the legislation is the section dealing with punitive damages. Punitive damages are intended to punish willful or wanton misconduct on the part of a manufacturer or business. Furthermore, by punishing misconduct, punitive damages are intended to deter such behavior in the future.

Punitive damages therefore must take into consideration the financial assets of the defendant or guilty party. A punitive damage judgment of $250,000 may be both harsh punishment and a significant deterrent to a small business, but it is insignificant to a large corporation. Any cap on punitive damages can only serve to benefit, if not condone, egregious and wanton behavior by large corporations.

The legislation limits punitive damages to the greater of $250,000 or two times the total economic and noneconomic damages. The bill also stipulates that a judge may add to these punitive damages, and exceed the cap, at his discretion. I am concerned that this "judge additur" provision does not fully resolve the problem of capping punitive damages for large corporations. First, many judges may be reluctant to overrule a jury's decision, and add to the punitive judgment. Second, the effect could be arbitrary, as some judges may opt to add to punitive judgments, while others may not. Third, the burden of proof would be on judges to demonstrate why a larger punitive judgment that would exceed the cap is necessary, which could discourage judges from adding to punitive judgments. Fourth, it strikes at the heart of our tradition of jury judgments in such product liability and civil litigation.

I recognize that the current product liability system, which involves different laws in each of the 50 States, imposes a considerable hardship on some manufacturers, particularly in the case of small business. I endorse the goal of establishing some type of national uniformity in this area. However, I regret that I cannot support the legislation that is now before the Senate. While national uniformity is a laudable goal, any national standard must also fully protect the rights of consumers and victims of harm caused by defective products.

While I may disagree on several of the provisions included in this measure, I would be remiss if I did not acknowledge and salute the hard work and leadership of Senator ROCKEFELLER. He believes in this legislation. He has put his heart into working on it, and I believe that he is correct in that there are inequities in the present system which need to be addressed. My opposition notwithstanding, I want to commend both Senator ROCKEFELLER and Senator GORTON for their tireless efforts on behalf of product liability reform.

Mr. LEVIN. Mr. President, I believe that there is a strong argument to be made for uniformity in product liability law since so many products are sold across State lines.

But there is no uniformity in this bill. This bill contains limits and restrictions on compensation for injuries caused by defective products, but those limits and restrictions are not uniform. On the contrary, the bill contains a one-way preemption provision, which allows States to adopt virtually any law that differs from the so-called national standard, as long as that law is more restrictive than that standard. A patchwork of State laws is still permitted, provided that the divergences are in the direction of greater restrictions on the injured party.

As I pointed out earlier in this debate, every single provision of this bill is written to prohibit State laws that are more favorable to plaintiffs. But the only provision of the bill that would prohibit State laws that are more favorable to defendants is the statute of limitations. We are not adopting true national standards at all.

This bill is not balanced, it is not uniform, and I cannot support it.

I ask unanimous consent that a table demonstrating the one-way nature of the preemption in this bill be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PREEMPTION OF STATE PRODUCT LIABILITY LAWS UNDER S. 565, AS REPORTED

	State laws more favorable to plaintiffs	State laws more favorable to defendants
Liability of product sellers	Prohibited	Allowed.
Alcohol or drug abuse defense	do	Do.
Misuse or alteration of product defense	do	Do.
Punitive damage limitations	do	Do.
Statute of limitations	do	Prohibited.
Statute of repose	do	Allowed.
Joint and several liability (non-economic damages).	do	Do.
Biomaterials provisions	do	Do.

Ms. MIKULSKI. Mr. President, I voted for cloture on the product liability bill because I believe it is important to the economy, job creation, international investment, and our ability to do research, especially on issues of women's health.

Mr. President, much has been said about caps. I do not like caps—caps on job creation or caps on innovative research. I do not like caps on technological advancement or caps on our ability to go global. I am opposed to caps on profits, caps on wages, or caps on opportunity.

My job as a U.S. Senator is to save jobs, save lives and save communities. I support efforts to reduce frivolous law suits and improve the efficiency of our legal system.

I have heard of cost estimates for cases that are in the millions. That's outrageous. We should make every effort to establish consistency and uniformity, but not at the price of people's fundamental right to redress.

When it comes to public health and safety I want to ensure that those responsible are in fact held accountable for their actions. For that reason, I will not support any legislation which closes the courthouse door to citizens with legitimate cases.

This is the kind of balance I support and that I believe we, as Members of Congress, need to achieve with this legislation.

Mr. President, today's cloture vote was a difficult decision for me. Product liability involves very complex and complicated issues, including joint and several liability, noneconomic versus economic damages, statute of repose, punitive damages, and alternate dispute resolution. To help me better understand product liability and its impact on people's day to day lives, I met with people on both sides of this issue. I met with business organizations and consumer organizations. All the groups made legitimate arguments expressing worthwhile and important concerns.

Some businesses are concerned about how our current system ultimately impacts their decisions about innovation and competitiveness, small businesses are concerned about going out of business all together. We should take every step we can to cut unnecessary liability costs and encourage innovation. Innovation will ultimately lead to jobs today and jobs tomorrow. We must acknowledge that innovation, particularly in the health field, is critical for out Nation's economic stability and competitiveness, and it is critical to the health and safety of American citizens.

I was particularly moved by the National Family Planning and Reproductive Health Association's position that tort reform is needed to increase investment in women's health research and technologies. Mr. President, the product liability issue has been around for quite some time. There was no doubt that I could not sign on to previous product liability reform bills introduced in the early 1980's. But, I believe the current legislation is an attempt to achieve a reasonable balance at this point.

Is this bill perfect? Of course, it is not. In this case, it is hard to put forth a perfect bill. There is no doubt that we should review this issue in the coming years and make sure it is working. If it is not working, we in Congress have the option to review it and make changes. Looking at our current system, I believe there are areas that can be improved. For that reason, I am willing to support Federal product liability reform. Many of the reforms proposed by this legislation have already been done at the State level. So, in many ways we are acting consistently with respect to the States.

Mr. President, I want to make it clear. The House bill goes too far. It includes a number of bad provisions, including severe caps on pain and suffering. To move beyond the Senate bill would be a mistake. The scales on this issue are delicately balanced. If those scales are tipped, it is unlikely I will support this bill.

Mr. PELL. Mr. President, today the Senate has passed by a convincing margin the product liability bill. It was a difficult and contentious effort, much akin to the debate that this area has generated over the last decade. I was pleased that the Senate saw fit to pass this legislation and am hopeful that a productive and successful conference with the House will follow and eventually that the President will sign this legislation into law.

I have long supported product liability reform even when it began as a somewhat lonely effort over a decade ago. Finally, with a supportive Congress, it seems that we may be coming up with a bill that can actually become the law of the land. It must be noted that in order to preserve the best possible chance of reaching that result, other areas of legal reform, such as medical malpractice and broad tort reform, have been excluded. I joined in the effort to keep this bill clean from those additions but I want to state that I support reform in those areas as well and look forward to addressing them in the future. I simply felt that this legislation was an inappropriate forum for dealing with those issues. In the end, this bill represents a workable and reasonable balance for reforming the legal procedures and standards governing how one can seek redress for harm caused by faulty products.

I congratulate the hard work of my colleagues, in particular Senators ROCKEFELLER and GORTON, who artfully and doggedly crafted a compromise that was acceptable to the Senate. They have worked hard and long, indeed for years, on this legislation and they are to be commended for their accomplishment. I await the conference report on this legislation with anticipation and express my hope for speedy final consideration.

Mr. BRADLEY. Mr. President, I rise in opposition to the Product Liability Fairness Act of 1995. Let me first say, Mr. President, that I share the concerns of the people of New Jersey and this country that our society is too litigious. I share the concerns of my colleagues and the American people that the cost of this litigation explosion is injurious to the social and economic future of this country. However, after reviewing this bill and assessing the arguments, both pro and con, I do not think that this bill strikes the appropriate balance between the desires of manufacturers and product sellers to streamline the product liability process and the ability of ordinary Americans to bring lawsuits seeking relief from injuries resulting from defective and dangerous products.

Mr. President, I favor a cap on punitive damages for small businesses. I supported the amendment of my colleague from Ohio, Senator DEWINE, which provides for a cap on punitive damages for small businesses with 25 or fewer employees and individuals with assets of less than $500,000. Small businesses are the engine that drives the

American economy and provide for at least half of this country's new employment opportunities. While a cap on punitive damage awards should be sufficient to punish and deter future action, it should also reflect the fact that a cap that may be sufficient to punish a large corporation may in fact push a small business into the abyss of bankruptcy.

However, Mr. President, I have grave concerns about the overall cap on punitive damages. The purpose of punitive awards is to punish the wrongdoer for egregious behavior and deter such behavior in the future. I believe that if we place a low cap on punitive damages, some corporations will not be discouraged from exposing consumers to dangerous products. Indeed, with predictable caps, Mr. President, wrongdoers may find it more cost effective to make dangerous decisions and risk paying punitive damages. Moreover, Mr. President, while this bill authorizes judges to increase an award of punitive damages beyond the limits of the cap, this safeguard is illusory because defendants have the right to receive a new trial—a right which they will surely exercise. Indeed, the provision in the bill will only lead to repetitive litigation, increase costs and prevent deserving consumers from obtaining their awards in a timely manner.

Mr. President, I do not need to repeat the horror stories about women who have tragically suffered and died from using dangerous products, children who have been burned by flammable clothing, or hard working Americans, who have senselessly been injured and killed as a result of defective automobiles. What needs to be repeated is that the one constant in all of these horror stories is that the manufacturer knew of the dangerous defect and failed to take adequate steps to protect the public. Mr. President, punitive damages are available to police conduct that is so egregious that the offender disregarded forseeable dangerous consequences. Indeed, as this bill provides, punitive damages are only available where there is clear and convincing evidence of a conscious, flagrant indifference to the safety of others. Given the nature of the offense, Mr. President, I firmly believe that placing a cap on punitive damages will be counterproductive to society's efforts to police and deter such egregious conduct.

Mr. President, under the present caps, cigarette manufacturers and those who irresponsibly market alcohol to intoxicated persons or minors who then kill or injure innocent victims in traffic crashes would continue to manufacture and market these products of destruction with less fear of having to one day pay the price for the massive damage that their products inflict on society. Moreover, firearms and ammunition are virtually the only unregulated consumer product in America. As such, the tort system is the only check on the safety of consumers. I am not willing, Mr. President, to place a cap on punitive damages when the result will be that such action will lessen the liability of the manufacturers who profit from these destructive products.

Mr. President, while I also think that there is a need for joint and several liability reform, I cannot endorse the blanket elimination of joint and several liability for noneconomic damages that is in the present bill. Instead, Mr. President, I favor the approach currently in operation in New Jersey, which provides for proportional liability if the defendant is responsible for 20 percent or less of the harm, several liability for noneconomic damages if a defendant is responsible for between 20 percent and 60 percent of the harm, and joint and several liability if the defendant is responsible for 60 percent or more of the harm.

Mr. President, this bill would preempt State product liability law "to the extent that state law applies to an issue covered under the Act." Proponents of product liability reform argue that Federal legislation is needed to establish uniformity. However, the bill does not require States to have uniform State laws. For example, those States that do not now allow punitive damages would not be required to award them, even though the bill provides for the award of such damages. The effect of this provision is that States can offer their individual citizens fewer rights, but not more.

Mr. President, this bill also excludes actions involving commercial loss. By excluding such actions, the bill places restrictions on the ability of individuals to seek redress from defective products, but does not place any restrictions on corporations to seek redress. For example, if a product explodes in a factory, the worker's recovery for injuries is limited by this bill; however, the factory owner may sue the product manufacturer or seller free from the restrictions of the bill for such speculative damages as the factory's loss of profits because of delays in production. Thus, the effect of this provision is to value material property over the health and safety of individual citizens.

Mr. President, we have been told that there is a litigation explosion with respect to product liability and that corporations and the business community are suffering under the weight of this explosion. However, Mr. President, excluding cases of asbestos, product liability claims in Federal courts have declined by approximately 36 percent between 1985 and 1991. Moreover, in State courts, product liability cases are approximately 4 percent of all tort filings, .0036 percent of all civil caseloads and .00097 percent of the total State court caseloads.

Mr. President, although there have been relatively few punitive damage awards in product liability cases over the last 25 years, we have been told that the threat of punitive damages encourages many product manufacturers to settle cases that they would have no problem winning in an effort to avoid having claims for punitive damages go to juries unfamiliar with the precautions that are now taken to insure that products are safe. However, Mr. President, the numbers simply do not add up to the conclusion that the business community is being treated unfairly by juries. Indeed, almost 60 percent of the product liability cases brought in 1993, plaintiffs were the losing parties.

Mr. President, it has additionally been argued that these lawsuits increase the costs of producing products in this country and thus hurt American competitiveness. However, a 1987 Conference Board survey of risk managers of 232 corporations shows that product liability costs for most businesses are 1 percent or less of the final price of a product, and have very little impact on larger economic issues such as market share or jobs. In addition, the American Insurance Association, the largest trade association representing the insurance industry, has testified that this legislation will have virtually no effect on insurance costs.

Mr. President, to put it succinctly, I do not think that the bill will really do what its proponents say it will do. As mentioned earlier, the proponents of this bill argue that the business community is suffering under the weight of a litigation explosion. They contend that this bill will decrease both the incidence and cost of litigation. Mr. President, no one disagrees that we are an overly litigious society. However, I am not convinced that this bill can correct the problem of litigiousness in society. Indeed, Mr. President, the fact is that the punitive caps provision providing for the automatic right to a new trial by defendants will serve to only increase the delay and cost of litigation. This bill tilts the scales of justice too far to the disadvantage of individual consumers. Thus, I cannot support legislation which will endanger the health and safety of hard working Americans.

In conclusion, Mr. President, because of the above stated concerns, I must oppose the Product Liability Fairness Act of 1995.

VOTE ON AMENDMENT NO. 690, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 690, the Coverdell-Dole substitute, as amended.

So the amendment (No. 690), as amended, was agreed to.

VOTE ON AMENDMENT NO. 596, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 596, the Gorton substitute, as amended.

So the amendment (No. 596), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. GORTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from Connecticut [Mr. LIEBERMAN] is absent because of death in the family.

I further announce that, if present and voting, the Senator from Connecticut [Mr. LIEBERMAN] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 37, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—61

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Conrad
Coverdell
Craig
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feinstein
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Nickles
Nunn
Pell
Pressler
Pryor
Robb
Rockefeller
Santorum
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond

NAYS—37

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
D'Amato
Daschle
Feingold
Ford
Graham
Harkin
Heflin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Moynihan
Murray
Packwood
Reid
Roth
Sarbanes
Shelby
Simon
Simpson
Specter
Wellstone

NOT VOTING—2

Lieberman
Warner

So the bill (H.R. 956), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 956) entitled "An Act to establish legal standards and procedures for product liability litigation, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act of 1995".

TITLE I—PRODUCT LIABILITY

SEC. 101. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ACTUAL MALICE.—The term "actual malice" means specific intent to cause serious physical injury, illness, disease, or damage to property, or death.

(2) CLAIMANT.—The term "claimant" means any person who brings a product liability action and any person on whose behalf such an action is brought. If an action is brought through or on behalf of—

(A) an estate, the term includes the decedent; or

(B) a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(3) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means the amount paid to an employee as workers' compensation benefits.

(4) CLEAR AND CONVINCING EVIDENCE.—

(A) IN GENERAL.—Subject to subparagraph (A), the term "clear and convincing evidence" is that measure of degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.

(B) DEGREE OF PROOF.—The degree of proof required to satisfy the standard of clear and convincing evidence shall be—

(i) greater than the degree of proof required to meet the standard of preponderance of the evidence; and

(ii) less than the degree of proof required to meet the standard of proof beyond a reasonable doubt.

(5) COMMERCIAL LOSS.—The term "commercial loss" means any loss or damage to a product itself, loss relating to a dispute over its value, or consequential economic loss the recovery of which is governed by the Uniform Commercial Code or analogous State commercial law, not including harm.

(6) DURABLE GOOD.—The term "durable good" means any product, or any component of any such product, which has a normal life expectancy of 3 or more years or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(7) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including any medical expense loss, work loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent that recovery for the loss is permitted under applicable State law.

(8) HARM.—The term "harm" means any physical injury, illness, disease, or death, or damage to property, caused by a product. The term does not include commercial loss or loss or damage to a product itself.

(9) INSURER.—The term "insurer" means the employer of a claimant, if the employer is self-insured, or the workers' compensation insurer of an employer.

(10) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product), and who designs or formulates the product (or component part of the product), or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, constructs, designs, or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another person; or

(C) any product seller that is not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(11) NON-ECONOMIC LOSS.—The term "non-economic loss"—

(A) means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; and

(B) does not include economic loss.

(12) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(13) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term "product" does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; and

(ii) electricity, water delivered by a utility, natural gas, or steam.

(14) PRODUCT LIABILITY ACTION.—The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(15) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who—

(i) in the course of a business conducted for that purpose, sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(16) State.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, or any political subdivision thereof.

(17) Time of delivery.—The term "time of delivery" means the time when a product is delivered to the first purchaser or lessee of the product that was not involved in manufacturing or selling the product, or using the product as a component part of another product to be sold.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) Applicability.—

(1) Actions covered.—Subject to paragraph (2), this title applies to any product liability action commenced on or after the date of enactment of this Act, without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

(2) Actions excluded.—

(A) Actions for damage to product or commercial loss.—A civil action brought for loss or damage to a product itself or for commercial loss, shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable commercial or contract law.

(B) Actions for negligent entrustment.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable State law.

(b) Scope of Preemption.—

(1) In general.—This Act supersedes a State law only to the extent that State law applies to an issue covered under this title.

(2) Issues not covered under this act.—Any issue that is not covered under this title, including any standard of liability applicable to a manufacturer, shall not be subject to this title, but shall be subject to applicable Federal or State law.

(c) Statutory Construction.—Nothing in this title may be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601(8)) or the threat of such remediation.

(d) Construction.—To promote uniformity of law in the various jurisdictions, this title shall be construed and applied after consideration of its legislative history.

(e) Effect of Court of Appeals Decisions.—Notwithstanding any other provision of law, any decision of a circuit court of appeals interpreting a provision of this title (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 103. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) Service of Offer.—A claimant or a defendant in a product liability action that is subject to this title may, not later than 60 days after the service of the initial complaint of the claimant or the applicable deadline for a responsive pleading (whichever is later), serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(b) Written Notice of Acceptance or Rejection.—Except as provided in subsection (c), not later than 10 days after the service of an offer to proceed under subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(c) Extension.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in subsection (b), extend the period for filing a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b). Discovery may be permitted during such period.

SEC. 104. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS.

(a) General Rule.—

(1) In general.—In any product liability action that is subject to this title filed by a claimant for harm caused by a product, a product seller other than a manufacturer shall be liable to a claimant, only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant; or

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing w±as a proximate cause of the harm that is the subject of the complaint.

(2) Reasonable opportunity for inspection.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect a product if the product seller had no reasonable opportunity to inspect the product that allegedly caused harm to the claimant.

(b) Special Rule.—

(1) In general.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(2) Statute of limitations.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) Rented or Leased Products.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101 (14)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 105. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) General Rule.—Notwithstanding any other provision of law, a defendant in a product liability action that is subject to this title shall have a complete defense in the action if the defendant proves that—

(1) the claimant was under the influence of intoxicating alcohol or any drug that may not lawfully be sold over-the-counter without a prescription, and was not prescribed by a physician for use by the claimant; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for the accident or event which resulted in the harm to the claimant.

(b) Construction.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

SEC. 106. REDUCTION FOR MISUSE OR ALTERATION OF PRODUCT.

(a) General Rule.—

(1) In general.—Except as provided in subsection (c), in a product liability action that is subject to this title, the damages for which a defendant is otherwise liable under applicable State law shall be reduced by the percentage of responsibility for the harm to the claimant attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, the express warnings or instructions of the defendant if the warnings or instructions are determined to be adequate pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) Use intended by a manufacturer is not misuse or alteration.—For the purposes of this title, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) State Law.—Notwithstanding section 3(b), subsection (a) of this section shall supersede State law concerning misuse or alteration of a product only to the extent that State law is inconsistent with such subsection.

(c) Workplace Injury.—Notwithstanding subsection (a), the amount of damages for which a defendant is otherwise liable under State law shall not be reduced by the application of this section with respect to the conduct of any employer or coemployee of the plaintiff who is, under applicable State law concerning workplace injuries, immune from being subject to an action by the claimant.

SEC. 107. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) General Rule.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in a product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) Limitation on Amount.—

(1) In general.—Except as provided in paragraphs (2) and (3), the amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this title shall not exceed the greater of—

(A) 2 times the sum of—

(i) the amount awarded to the claimant for economic loss; and

(ii) the amount awarded to the claimant for noneconomic loss; or

(B) $250,000.

(2) Special rule.—The amount of punitive damages that may be awarded in a product liability action that is subject to this title against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization which has fewer than 25 full-time employees, shall not exceed the lesser of—

(A) 2 times the sum of—

(i) the amount awarded to the claimant for economic loss; and

(ii) the amount awarded to the claimant for noneconomic loss; or

(B) $250,000.

(3) Exception.—

(A) Determination by court.—Notwithstanding subparagraph (C), in a product liability action that is subject to this title, if the court makes a determination, after considering each of the factors in subparagraph (B), that the application of paragraph (1) would result in an award of punitive damages that is insufficient to punish the egregious conduct of the defendant against whom the punitive damages are to be awarded or to deter such conduct in the future, the court shall determine the additional amount of punitive damages in excess of the amount determined in accordance with paragraph (1) to be awarded to the claimant (referred to in this paragraph as the "additur") in a separate proceeding in accordance with this paragraph.

(B) Factors for consideration.—In any proceeding under subparagraph (A), the court shall consider—

(i) the extent to which the defendant acted with actual malice;

(ii) the likelihood that serious harm would arise from the misconduct of the defendant;

(iii) the degree of the awareness of the defendant of that likelihood;

(iv) the profitability of the misconduct to the defendant;

(v) the duration of the misconduct and any concurrent or subsequent concealment of the conduct by the defendant;

(vi) the attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated;

(vii) the financial condition of the defendant; and

(viii) the cumulative deterrent effect of other losses, damages, and punishment suffered by the defendant as a result of the misconduct, reducing the amount of punitive damages on the basis of the economic impact and severity of all measures to which the defendant has been or may be subjected, including—

(I) compensatory and punitive damage awards to similarly situated claimants;

(II) the adverse economic effect of stigma or loss of reputation;

(III) civil fines and criminal and administrative penalties; and

(IV) stop sale, cease and desist, and other remedial or enforcement orders.

(C) Requirements for awarding additurs.—If the court awards an additur under this paragraph, the court shall state its reasons for setting the amount of the additur in findings of fact and conclusions of law. If the additur is—

(i) accepted by the defendant, it shall be entered by the court as a final judgment;

(ii) accepted by the defendant under protest, the order may be reviewed on appeal; or

(iii) not accepted by the defense, the court shall set aside the punitive damages award and order a new trial on the issue of punitive damages only, and judgment shall enter upon the verdict of liability and damages after the issue of punitive damages is decided.

(4) Application by court.—This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

(5) Remittiturs.—Nothing in this subsection shall modify or reduce the ability of courts to order remittiturs.

(c) Bifurcation at Request of Any Party.—

(1) In general.—At the request of any party, the trier of fact in a product liability action that is subject to this title shall consider in a separate proceeding whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) Inadmissibility of evidence relative only to a claim of punitive damages in a proceeding concerning compensatory damages.—If any party requests a separate proceeding under paragraph (1), in any proceeding to determine whether the claimant may be awarded compensatory damages, any evidence that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

SEC. 108. LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to section 107, but only during such time as the State law so provides. This section shall cease to be effective September 1, 1996.

SEC. 109. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Statute of Limitations.—

(1) In general.—Except as provided in paragraph (2) and subsection (b), a product liability action that is subject to this title may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered, the harm that is the subject of the action and the cause of the harm.

(2) Exceptions.—

(A) Person with a legal disability.—A person with a legal disability (as determined under applicable law) may file a product liability action that is subject to this title not later than 2 years after the date on which the person ceases to have the legal disability.

(B) Effect of stay or injunction.—If the commencement of a civil action that is subject to this title is stayed or enjoined, the running of the statute of limitations under this section shall be suspended until the end of the period that the stay or injunction is in effect.

(b) Statute of Repose.—

(1) In general.—Subject to paragraphs (2) and (3), no product liability action that is subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed after the 20-year period beginning at the time of delivery of the product.

(2) State law.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 20-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) Exceptions.—

(A) A motor vehicle, vessel, aircraft, or train that is used primarily to transport passengers for hire shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety of the specific product involved which was longer than 20 years, but it will apply at the expiration of that warranty.

(C) Paragraph (1) does not affect the limitations period established by the General Aviation Revitalization Act of 1994 (49 U.S.C. 40101 note).

(c) Transitional Provision Relating to Extension of Period for Bringing Certain Actions.—If any provision of subsection (a) or (b) shortens the period during which a product liability action that could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action pursuant to this title not later than 1 year after the date of enactment of this Act.

SEC. 110. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In a product liability action that is subject to this title, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 111. WORKERS' COMPENSATION SUBROGATION STANDARDS.

(a) GENERAL RULE.—

(1) RIGHT OF SUBROGATION.—

(A) IN GENERAL.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this title.

(B) WRITTEN NOTIFICATION.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) INSURER NOT REQUIRED TO BE A PARTY.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) SETTLEMENTS AND OTHER LEGAL PROCEEDINGS.—

(A) IN GENERAL.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this title, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) WRITTEN NOTIFICATION.—Except as provided in subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the employer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER OR COEMPLOYEE.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this title, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the employer.

(B) RIGHTS OF EMPLOYER.—

(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an employer shall, in the same manner as any party in the action (even if the employer is not a named party in the action), have the right to—

(I) appear;

(II) be represented;

(III) introduce evidence;

(IV) cross-examine adverse witnesses; and

(V) present arguments to the trier of fact.

(ii) LAST ISSUE.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is presented to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS OF SUBROGATION NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

SEC. 112. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction under section 1331 or 1337 of title 28, United States Code, over any product liability action covered under this title.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1995".

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR.—With respect to an action brought on behalf or through a minor, such term includes the parent or guardian of the minor.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(8) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related manufacturer meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii)(I) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j); and

(II) have received clearance from the Secretary,

if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection,

such discovery shall be limited solely to establishing whether a genuine issue of material fact exists.

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 205(b) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

SEC. 207. APPLICABILITY.

This title shall apply to all civil actions covered under this title that are commenced on or after the date of enactment of this Act, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this Act.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I would want to take this opportunity to first congratulate the majority of the Members of the Senate and Members on both sides of the aisle for by far the most significant step in legal reform which has been taken by the Senate in many, many years, perhaps in the memory of the most senior of the sitting Senators. This has been a project by members of the Commerce Committee which has lasted for a decade and a half. It also, I may say, after 2½ weeks of debate, has been one in which the views of the Members had an impact, had an impact in showing that a majority of the Senate, a bare majority, wants a broader legal reform package than is included in this bill, but that others worried about particular details were willing to work on those details, and to cast their votes accordingly. So I believe that the Senate has worked its will in a particularly fine fashion.

I want to pay particular tribute to my colleague, the Senator from West Virginia [Mr. ROCKEFELLER]. In many respects this has been a far more difficult task for him than it has been for me. I represent a broad coalition of views within my own political party with only a few having had differences. Senator ROCKEFELLER throughout this entire period of time has spoken for a significant number of Members of his colleagues but by no means a majority of them. But his dedication to the cause of this reform has been exemplary, and his persuasive ability with many of those colleagues has constantly left me in awe and with a great deal of inspiration. I believe that his persistence has paid off, and how wonderfully that it has done so.

I have gotten to know Tamera Stanton, his legislative director, and Ellen Doneski, his legislative assistant, very well during the course of this period of time and know how much they have contributed to his success, as has Trent Erickson, Lance Bultena, Jeanne Bumpus for me, and the majority leader's assistant, Kyle McSlarrow.

Other Senators have contributed significantly to this result, the chairman of the Commerce Committee, Senator PRESSLER, Senator COVERDELL, and Senators SNOWE and DEWINE who came up with the formula for punitive damages which appealed to the majority of Members of this body.

I only regret that Senator LIEBERMAN, the other principal cosponsor of this bill, through a family emergency is absent today. I know that he would like to have been in on the end of this. But his contributions are greatly appreciated. And he is one of the primary authors of the portion of this bill that deals with medical devices.

Now we go on to try to get a final proposal passed by the Congress and through the President of the United States.

The majority leader has been patient in allowing us 2½ weeks on this, and was an absolute key to its success as well.

With that, I think he wishes us to go on to another subject.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I too want to at this moment thank those who have been in the trenches over the years and, of course, most of all my distinguished colleague, the Senator from Alabama. It is always good to get in behind the chief justice because you know you are on the side of the law and of equity, and you know you are on the side of the judgment. Certainly it is, as we all revere him ethically, that you are on the side of ethics and equity.

I thank publicly Senator HEFLIN for his leadership, and particularly Winston Lett, a member of his staff. On my staff, Kevin Curtin, Jim Drewry, Moses Boyd, James Leventis, and Lloyd Ator. They have been working around the clock, Kevin and Moses and others have been working in sort of a minority position on this measure.

The record would show that my particular Commerce Committee has over the past several Congresses voted by a majority to report this bill. So we have had a sort of uphill fight. I still feel that, of course, we had the merit. I guess they feel they had the merit. But in any event, I think the 15-year holdup was because of that on our side. I also would like to thank Senator BIDEN's staff, the Senator himself, Sean Moylan, Karen Robb. And then with respect to, of course, the medical malpractice part, we did not have hearings but Health and Human Resources did. The distinguished former chairman, Senator KENNEDY, was the leader on that.

We had, of course, the vigorous help of Senator BOXER and Senator WELLSTONE. So it has been thoroughly aired and properly heard. The Senate has voted. But let us see what the House crowd comes up with in the contract.

I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I would like to congratulate Senator HOLLINGS for his outstanding work in regard to it, although we did not come out victorious. He is a great comrade in arms and has had a vast amount of experience on this matter. I suppose that looking back over the years, 15 or more years, he has fought these battles and I have been with him throughout, and he has tremendous knowledge in this area.

Originally, this bill was designed not to go to Judiciary. It was designed to go to Commerce. At that time, Senator HOLLINGS was not chairman. But obviously, it is a bill that deals with the judicial system. From the very beginning it was designed to avoid a careful scrutiny in regards its judicial impact. Fortunately, over the years, we had an individual who was an outstanding lawyer, and who had been an outstanding trial lawyer, Senator HOLLINGS in the State of South Carolina, and who has been there to deal with this matter.

I would also like to thank the staffs of Senator HOLLINGS and others who have been so important. They have really exhibited tremendous knowledge of the law. They have followed this legislation diligently and have done a tremendous job. Senator HOLLINGS has named them, and I will not repeat their names. But on my staff, Winston Lett and Jim Whiddon have worked tirelessly and diligently on this legislation, and I thank them for their great service in our legislative efforts.

I also want to congratulate Senator ROCKEFELLER and Senator GORTON for their advocacy in pushing forward on their bill. They just seem to have better allies than we did. I always at the end of a lawsuit, whether I won or lost, went over and congratulated my opposing counsel, and do so today. We will be having other battles as they come down the road, and sometimes we will be compatriots. We will be cosponsors and joint fighters in the same cause. Then, as it is with all Senators, we will be on opposite sides again in the future on some issue. But that is the way the Senate works; that is the way democracy works. During the debate on a great issue, you can disagree but you do not have to be disagreeable.

I think that Senator GORTON and Senator ROCKEFELLER never showed any disagreeable nature. I disagreed with them with respect to the cause the were advancing, but not in the manner they advanced it; they played fair and square. I want to thank them particularly for working out a settlement in regard to the unique and different situation as to Alabama's wrongful death statute.

We worked out a situation by which the amendment was adopted giving time to our State legislature or to our courts or to both to find a solution to be able to fit into this bill, if it is finally passed.

Then I want to say, while I will congratulate them, please do not take that as any indication that I have ceased to fight. I have not surrendered and will not give up in my efforts to maintain the traditional role of the 50 States in allowing them to fashion their own solutions to problems which may arise with regard to product liability laws. I believe the 10th amendment to the U.S. Constitution still has some meaning, and I will continue to assert the primacy of the States on these matters.

There are appeals. There are appeals to conference, there are appeals to the White House, there are appeals to the President to eliminate the unfairness of the bill or to see the death of this unfair bill. So we will continue to fight. The battle is not over. We have not surrendered, and we will continue to battle in the future because we feel we are battling for the injured parties, the consumers of America, and that we have right on our side. And we ask the Lord to give us a little more guidance in regard to these appeals as we move forward.

So I thank everybody concerned who has put up with me, and we will continue to battle on this issue as well as other issues that come up that affect the rights of the people.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me thank all of my colleagues for the fact we finished this bill. It has been 2 weeks and 2 days, but there were a couple of interruptions—the death of former Senator Stennis and other matters. So it was not solid. We probably did it in about 8 or 9 days.

We have had a lot of good debate on both sides. I congratulate all the principal players, Senators HEFLIN and HOLLINGS, also Senator ROCKEFELLER and Senator GORTON, who were on the winning side of this issue. I think they did a remarkable job in keeping a very fragile, narrow coalition together. We broadened the bill with narrow margins. I think we knew at the time those provisions would not be in the bill or we could not obtain the 60 votes we needed for cloture, so adjustments were made. But at least we made a record on medical malpractice, on punitive damages, and on other issues that we believe are very important and we believe will be back before the Senate.

I also wish to thank Senator COVERDELL for his work with outside groups as sort of the coordinator, and my colleague, Senator LOTT of Mississippi, the majority whip, who did an excellent job, along with his staff and members of my staff and others because we had some very difficult votes.

I think we have had a dramatic step forward. The product liability bill has been introduced in every Congress for the last decade. In most cases, however, we could not even muster the votes to consider the legislation. We could not get the 60 votes to even talk about it because we had strong opposition and we had a lot of what we thought were distortions. The other side would say not.

So I think passage today is an important victory for common sense and the American people. It is also important to note that we have just passed a bill that was stronger than bills introduced in previous years, stronger because of the efforts of some of our Members in the Chamber that added small business protections.

I wish to pay tribute to our newest Members, who as a group provided energy, ideas, and determination in this debate. Senators SNOWE and DEWINE made a significant contribution that allowed us to obtain meaningful protection from abusive punitive damages while protecting small businesses.

Senators ABRAHAM and KYL responded to the call of the American people in last year's elections by their efforts to expand these protections to include volunteer and charitable organizations and to add needed civil justice reforms. Together with Senators KASSEBAUM and MCCONNELL, who introduced medical malpractice reforms, they produced something never before seen on the Senate floor—clearer majorities for broader reform. For various reasons, we could not get the 60 votes to bring debate to a close on these broader reforms, but we have had the opportunity and I think it is certainly important.

Just 3 days ago, I received a letter from the head of the Boy Scouts of America, Mr. Jere Ratcliffe. In just the second line of his letter, Mr. Ratcliffe says something that ought to cause all of us to pause. I quote:

> The civil justice system, as it now exists, has consequences which worked a chilling effect on our willingness and ability to continue to pursue activities that are beneficial to all of us. . . . This is particularly so in the case of volunteer service organizations.

That is what he believes. That is what many of us believe. So we have heard from the trial lawyers. They say everything is fine, but the volunteer organizations tell us a different story.

I would just say that we hope to bring up sometime later this year or, if not, next year the McConnell-Lieberman-Kassebaum health care liability bill—hopefully, later this year. The amendment was added by a 53 to 47 vote. In addition, some Senators support medical malpractice reform but voted against that amendment last week because they wanted to pursue only a product liability bill. So we are going to revisit that later in the year. We have a lot of work to do. I do not know how late it is going to be. But in any event, we will be taking a hard look at that legislation, hopefully this year; if not, early next year.

So, again, I thank the managers, Senator GORTON and Senator ROCKEFELLER. This is a bipartisan effort, as are most things in the Senate because without a bipartisan effort, you cannot get the 60 votes to shut off debate and pass the bill. That is the way it works. Some people may not totally understand it, may disagree with it, but that is the way it works. So now we move to another legislative matter, which I would ask the Chair to report.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The PRESIDING OFFICER. Under the previous order, the hour of noon having arrived, the Senate will now proceed to the consideration of S. 534, which the clerk will now report.

The legislative clerk read as follows:

> A bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Transportation of Municipal Solid Waste Act of 1995".

TITLE I—INTERSTATE WASTE

SEC. 101. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

(a) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"SEC. 4011. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

"(a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) Except as provided in paragraph (4), immediately upon the date of enactment of this section if requested in writing by an affected local government, a Governor may prohibit the disposal of out-of-State municipal solid waste in any landfill or incinerator that is not covered by the exceptions provided in subsection (b) and that is subject to the jurisdiction of the Governor and the affected local government.

"(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(D) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to or greater than the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

"(3)(A) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(E), and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may prohibit or limit the amount of out-of-State municipal solid waste disposed of at any landfill or incinerator covered by the exceptions in subsection (b) that is subject to the jurisdiction of the Governor, generated in any State that is determined by the Administrator under paragraph (6)(E) as having exported, to landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste, more than—

"(i) 3,500,000 tons of municipal solid waste in calendar year 1996;

"(ii) 3,000,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

"(iii) 2,500,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

"(iv) 1,500,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

"(v) 1,000,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

"(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

"(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

"(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

"(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

"(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

"(V) In calendar year 2000, 1,000,000 tons.

"(VI) In calendar year 2001, 800,000 tons.

"(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

"(ii) The Governor of an importing State may take action to restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

"(I) the Governor of the importing State has notified the Governor of the exporting State and the Administrator, 12 months prior to taking any such action, of the importing State's intention to impose the requirements of this section;

"(II) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to taking any such action; and

"(III) the restrictions imposed by the Governor of the importing State are uniform at all facilities.

"(C) The authority provided by subparagraphs (A) and (B) shall apply for as long as a State exceeds the permissible levels as determined by the Administrator under paragraph (6)(E).

"(4)(A) A Governor may not exercise the authority granted under this section if such action would result in the violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste.

"(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

"(5) Any limitation imposed by a Governor under paragraph (2) or (3)—

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin and all such limitations shall be applied to all States in violation of paragraph (3).

"(6) ANNUAL STATE REPORT.—

"(A) IN GENERAL.—Within 90 days after enactment of this section and on April 1 of each year thereafter the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the affected local government and to the Governor of the State in which the landfill or incinerator is located, information specifying the amount and State of origin of out-of-State municipal solid waste received for disposal during the preceding calendar year. Within 120 days after enactment of this section and on July 1 of each year thereafter each State shall publish and make available to the Administrator, the Governor of the State of origin and the public, a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding calendar year.

"(B) CONTENTS.—Each submission referred to in this section shall be such as would result in criminal penalties in case of false or misleading information. Such information shall include the amount of waste received, the State of origin, the identity of the generator, the date of the shipment, and the type of out-of-State municipal solid waste.

"(C) LIST.—The Administrator shall publish a list of States that the Administrator has determined have exported out-of-State in any of the following calendar years an amount of municipal solid waste in excess of—

"(i) 3,500,000 tons in 1996;

"(ii) 3,000,000 tons in 1997;

"(iii) 3,000,000 tons in 1998;

"(iv) 2,500,000 tons in 1999;

"(v) 2,500,000 tons in 2000;

"(vi) 1,500,000 tons in 2001;

"(vii) 1,500,000 tons in 2002;

"(viii) 1,000,000 tons in 2003; and

"(ix) 1,000,000 tons in each calendar year after 2003.

The list for any calendar year shall be published by June 1 of the following calendar year.

"(D) SAVINGS PROVISION.—Nothing in this subsection shall be construed to preempt any State requirement that requires more frequent reporting of information.

"(7) Any affected local government that intends to submit a request under paragraph (1) or take formal action to enter into a host community agreement after the date of enactment of this subsection shall, prior to taking such action—

"(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

"(B) publish notice of the action in a newspaper of general circulation at least 30 days before taking such action;

"(C) provide an opportunity for public comment; and

"(D) following notice and comment, take formal action on any proposed request or action at a public meeting.

"(8) Any owner or operator seeking a host community agreement after the date of enactment of this subsection shall provide to the affected local government the following information, which shall be made available to the public from the affected local government:

"(A) A brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantities to be handled.

"(B) A map of the facility site that indicates the location of the facility in relation to the local road system and topographical and hydrological features and any buffer zones and facility units to be acquired by the owner or operator of the facility.

"(C) A description of the existing environmental conditions at the site, and any violations of applicable laws or regulations.

"(D) A description of environmental controls to be utilized at the facility.

"(E) A description of the site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

"(F) A list of all required Federal, State, and local permits.

"(G) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner and operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective measures taken as a result of the proceedings.

"(H) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

"(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) The authority to prohibit the disposal of out-of-State municipal solid waste provided under subsection (a)(1) shall not apply to landfills and incinerators in operation on the date of enactment of this section that—

"(A) received during calendar year 1993 documented shipments of out-of-State municipal solid waste; and

"(B)(i) in the case of landfills, are in compliance with all applicable Federal and State laws and regulations relating to operation, design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action; or

"(ii) in the case of incinerators, are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429) and applicable State laws and regulations relating to facility design and operations.

"(2) A Governor may not prohibit the disposal of out-of-State municipal solid waste pursuant to subsection (a)(1) at facilities described in this subsection that are not in compliance with applicable Federal and State laws and regulations unless disposal of municipal solid waste generated within the State at such facilities is also prohibited.

"(c) Additional Authority To Limit Out-of-State Municipal Solid Waste.—(1) In any case in which an affected local government is considering entering into, or has entered into, a host community agreement and the disposal or incineration of out-of-State municipal solid waste under such agreement would preclude the use of municipal solid waste management capacity described in paragraph (2), the Governor of the State in which the affected local government is located may prohibit the execution of such host community agreement with respect to that capacity.

"(2) The municipal solid waste management capacity referred to in paragraph (1) is that capacity—

"(A) that is permitted under Federal or State law;

"(B) that is identified under the State plan; and

"(C) for which a legally binding commitment between the owner or operator and another party has been made for its use for disposal or incineration of municipal solid waste generated within the region (identified under section 4006(a)) in which the local government is located.

"(d) Cost Recovery Surcharge.—

"(1) Authority.—A State described in paragraph (2) may adopt a law and impose and collect a cost recovery charge on the processing or disposal of out-of-State municipal solid waste in the State in accordance with this subsection.

"(2) Applicability.—The authority to impose a cost recovery surcharge under this subsection applies to any State that on or before April 3, 1994, imposed and collected a special fee on the processing or disposal of out-of-State municipal solid waste pursuant to a State law.

"(3) Limitation.—No such State may impose or collect a cost recovery surcharge from a facility on any out-of-State municipal solid waste that is being received at the facility under 1 or more contracts entered into after April 3, 1994, and before the date of enactment of this section.

"(4) Amount of surcharge.—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (6) and in no event may exceed $1.00 per ton of waste.

"(5) Use of surcharge collected.—All cost recovery surcharges collected by a State covered by this subsection shall be used to fund those solid waste management programs administered by the State or its political subdivision that incur costs for which the surcharge is collected.

"(6) Conditions.—(A) Subject to subparagraphs (B) and (C), a State covered by this subsection may impose and collect a cost recovery surcharge on the processing or disposal within the State of out-of-State municipal solid waste if—

"(i) the State demonstrates a cost to the State arising from the processing or disposal within the State of a volume of municipal solid waste from a source outside the State;

"(ii) the surcharge is based on those costs to the State demonstrated under clause (i) that, if not paid for through the surcharge, would otherwise have to be paid or subsidized by the State; and

"(iii) the surcharge is compensatory and is not discriminatory.

"(B) In no event shall a cost recovery surcharge be imposed by a State to the extent that the cost for which recovery is sought is otherwise paid, recovered, or offset by any other fee or tax assessed against or voluntarily paid to the State or its political subdivision in connection with the generation, transportation, treatment, processing, or disposal of solid waste.

"(C) The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A)(iii).

"(7) Definitions.—As used in this subsection:

"(A) The term 'costs' means the costs incurred by the State for the implementation of its laws governing the processing or disposal of municipal solid waste, limited to the issuance of new permits and renewal of or modification of permits, inspection and compliance monitoring, enforcement, and costs associated with technical assistance, data management, and collection of fees.

"(B) The term 'processing' means any activity to reduce the volume of solid waste or alter its chemical, biological or physical state, through processes such as thermal treatment, bailing, composting, crushing, shredding, separation, or compaction.

"(e) Savings Clause.—Nothing in this section shall be interpreted or construed—

"(1) to have any effect on State law relating to contracts; or

"(2) to affect the authority of any State or local government to protect public health and the environment through laws, regulations, and permits, including the authority to limit the total amount of municipal solid waste that landfill or incinerator owners or operators within the jurisdiction of a State may accept during a prescribed period, provided that such limitations do not discriminate between in-State and out-of-State municipal solid waste, except to the extent authorized by this section.

"(f) Definitions.—As used in this section:

"(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means—

"(i) the public body created by State law with responsibility to plan for municipal solid waste management, a majority of the members of which are elected officials, for the area in which the facility is located or proposed to be located; or

"(ii) the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located.

"(B)(i) Within 90 days after the date of enactment of this section, a Governor may designate and publish notice of which entity listed in clause (i) or (ii) of subparagraph (A) shall serve as the affected local government for actions taken under this section and after publication of such notice.

"(ii) If a Governor fails to make and publish notice of such a designation, the affected local government shall be the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

"(C) For purposes of host community agreements entered into before the date of publication of the notice, the term means either a public body described in subparagraph (A)(i) or the elected officials of any of the public bodies described in subparagraph (A)(ii).

"(2) Host community agreement.—The term 'host community agreement' means a written, legally binding document or documents executed by duly authorized officials of the affected local government that specifically authorizes a landfill or incinerator to receive municipal solid waste generated out of State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State waste is also included.

"(3) The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. To the extent that the President determines it is consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States.

"(4) The term 'municipal solid waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company with which the generator is affiliated;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.

"(6) The terms 'specifically authorized' and 'specifically authorizes' refer to an explicit authorization, contained in a host community agreement or permit, to import waste from outside the State. Such authorization may include a reference to a fixed radius surrounding the landfill or incinerator that includes an area outside the State or a reference to any place of origin, reference to specific places outside the State, or use of such phrases as 'regardless of origin' or 'outside the State'. The language for such authorization may vary as long as it clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from sources outside the State.".

(b) Table of Contents Amendment.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal solid waste.".

TITLE II—FLOW CONTROL

SEC. 201. SHORT TITLE.

This title may be cited as the "Municipal Solid Waste Flow Control Act of 1995".

SEC. 202. STATE AND LOCAL GOVERNMENT CONTROL OF MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.), as amended by section 101, is amended by adding after section 4011 the following new section:

"SEC. 4012. STATE AND LOCAL GOVERNMENT CONTROL OF MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL.

"(a) Definitions.—In this section:

"(1) Designate; designation.—The terms 'designate' and 'designation' refer to an authorization by a State or political subdivision, and the act of a State or political subdivision in requiring or contractually committing, that all or any portion of the municipal solid waste or recyclable material that is generated within the boundaries of the State or political subdivision be delivered to waste management facilities or facilities for recyclable material or a public service authority identified by the State or political subdivision.

"(2) Flow control authority.—The term 'flow control authority' means the authority to control the movement of municipal solid waste or voluntarily relinquished recyclable material and direct such solid waste or voluntarily relinquished recyclable material to a designated waste management facility or facility for recyclable material.

"(3) Municipal solid waste.—The term 'municipal solid waste' means—

"(A) solid waste generated by the general public or from a residential, commercial, institutional, or industrial source, consisting of paper, wood, yard waste, plastics, leather, rubber, and other combustible material and noncombustible material such as metal and glass, including residue remaining after recyclable material has been separated from waste destined for disposal, and including waste material removed from a septic tank, septage pit, or cesspool (other than from portable toilets); but

"(B) does not include—

"(i) waste identified or listed as a hazardous waste under section 3001 of this Act or waste regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

"(ii) waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604, 9606) or any corrective action taken under this Act;

"(iii) medical waste listed in section 11002;

"(iv) industrial waste generated by manufacturing or industrial processes, including waste generated during scrap processing and scrap recycling;

"(v) recyclable material; or

"(vi) sludge.

"(4) Public service authority.—The term 'public service authority' means—

"(A) an authority or authorities created pursuant to State legislation to provide individually or in combination solid waste management services to political subdivisions; or

"(B) an authority that was issued a certificate of incorporation by a State corporation commission established by a State constitution.

"(5) Recyclable material.—The term 'recyclable material' means material that has been separated from waste otherwise destined for disposal (at the source of the waste or at a processing facility) or has been managed separately from waste destined for disposal, for the purpose of recycling, reclamation, composting of organic material such as food and yard waste, or reuse (other than for the purpose of incineration).

"(6) Waste management facility.—The term 'waste management facility' means a facility that collects, separates, stores, transports, transfers, treats, processes, combusts, or disposes of municipal solid waste.

"(b) Authority.—

"(1) In general.—Each State and each political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction by directing the municipal solid waste or recyclable material to a waste management facility or facility for recyclable material, if such flow control authority—

"(A) is imposed pursuant to a law, ordinance, regulation, or other legally binding provision of the State or political subdivision in effect on May 15, 1994; and

"(B) has been implemented by designating before May 15, 1994, the particular waste management facilities or public service authority to which the municipal solid waste or recyclable material is to be delivered, the substantial construction of which facilities was performed after the effective date of that law, ordinance, regulation, or other legally binding provision and which facilities were in operation as of May 15, 1994.

"(2) Limitation.—The authority of this section extends only to the specific classes or categories of municipal solid waste to which flow control authority requiring a movement to a waste management facility was actually applied on or before May 15, 1994 (or, in the case of a State or political subdivision that qualifies under subsection (c), to the specific classes or categories of municipal solid waste for which the State or political subdivision prior to May 15, 1994, had committed to the designation of a waste management facility).

"(3) Lack of clear identification.—With regard to facilities granted flow control authority under subsection (c), if the specific classes or categories of municipal solid waste are not clearly identified, the authority of this section shall apply only to municipal solid waste generated by households.

"(4) Duration of authority.—With respect to each designated waste management facility, the authority of this section shall be effective until the later of—

"(A) the end of the remaining life of a contract between the State or political subdivision and any other person regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994);

"(B) completion of the schedule for payment of the capital costs of the facility concerned (as in effect May 15, 1994); or

"(C) the end of the remaining useful life of the original facility, as that remaining life may be extended by—

"(i) retrofitting of equipment or the making of other significant modifications to meet applicable environmental requirements or safety requirements;

"(ii) routine repair or scheduled replacement of equipment or components that does not add to the capacity of a waste management facility; or

"(iii) expansion of the facility on land that is—

"(I) legally or equitably owned, or under option to purchase or lease, by the owner or operator of the facility; and

"(II) covered by the permit for the facility (as in effect May 15, 1994).

"(5) Additional authority.—Notwithstanding anything to the contrary in this section, but subject to subsection (j), a State or political subdivision of a State that, on or before January 1, 1984, adopted regulations under State law that required or directed the transportation, management, or disposal of solid waste from residential, commercial, institutional, or industrial sources (as defined under State law) to specifically identified waste management facilities and applied those regulations to every political subdivision of the State may—

"(A) designate any waste management facility in the State that—

"(i) was designated prior to May 15, 1994, and meets the requirements of subsection (c); or

"(ii) meets the requirements of paragraph (1); and

"(B) continue to exercise flow control authority for the remaining useful life of that facility over all classes and categories of solid waste that were subject to flow control on May 15, 1994.

"(c) Commitment to Construction.—

"(1) In general.—Notwithstanding subsection (b)(1) (A) and (B), any political subdivision of a State may exercise flow control authority under subsection (b), if—

"(A) the law, ordinance, regulation, or other legally binding provision specifically provides for flow control authority for municipal solid waste generated within its boundaries and was in effect prior to May 15, 1994; and

"(B) prior to May 15, 1994, the political subdivision committed to the designation of a waste management facility to which municipal solid waste is to be transported or at which municipal solid waste is to be disposed of under that law, ordinance, regulation, plan, or legally binding provision.

"(2) FACTORS DEMONSTRATING COMMITMENT.—A commitment to the designation of a waste management facility is demonstrated by 1 or more of the following factors:

"(A) CONSTRUCTION PERMITS.—All permits required for the substantial construction of the facility were obtained prior to May 15, 1994.

"(B) CONTRACTS.—All contracts for the substantial construction of the facility were in effect prior to May 15, 1994.

"(C) REVENUE BONDS.—Prior to May 15, 1994, revenue bonds were presented for sale to specifically provide revenue for the construction of the facility.

"(D) CONSTRUCTION AND OPERATING PERMITS.—The State or political subdivision submitted to the appropriate regulatory agency or agencies, on or before May 15, 1994, substantially complete permit applications for the construction and operation of the facility.

"(d) CONSTRUCTED AND OPERATED.—

"(1) IN GENERAL.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

"(A) prior to May 15, 1994, the political subdivision—

"(i) contracted with a public service authority or with its operator to deliver or cause to be delivered to the public service authority substantially all of the disposable municipal solid waste that is generated or collected by or is within or under the control of the political subdivision, in order to support revenue bonds issued by and in the name of the public service authority for waste management facilities; or

"(ii) entered into contracts with a public service authority to deliver or cause to be delivered to the public service authority substantially all of the disposable municipal solid waste that is generated or collected by or within the control of the political subdivision, which imposed flow control pursuant to a law, ordinance, regulation, or other legally binding provision and where outstanding revenue bonds were issued in the name of public service authorities for waste management facilities; and

"(B) prior to May 15, 1994, the public service authority—

"(i) issued the revenue bonds for the construction of municipal solid waste facilities to which the political subdivision's municipal solid waste is transferred or disposed; and

"(ii) commenced operation of the facilities.

"(2) DURATION OF AUTHORITY.—Authority under this subsection may be exercised by a political subdivision qualifying under paragraph (1)(A)(ii) only until the expiration of the contract or the life of the bond, whichever is earlier.

"(e) STATE-MANDATED DISPOSAL SERVICES.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

"(1) was mandated by State law to provide for the operation of solid waste facilities to serve the disposal needs of all incorporated and unincorporated areas of the county;

"(2) is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent;

"(3) has been authorized by State statute to exercise flow control authority and had implemented the authority through a law, ordinance, regulation, contract, or other legally binding provision; and

"(4) had incurred significant financial expenditures to comply with the mandates under State law and to repay outstanding revenue bonds that were issued for the construction of solid waste management facilities to which the political subdivision's waste was designated.

"(f) RETAINED AUTHORITY.—

"(1) REQUEST.—On the request of a generator of municipal solid waste affected by this section, a State or political subdivision may authorize the diversion of all or a portion of the solid waste generated by the generator making the request to an alternative solid waste treatment or disposal facility, if the purpose of the request is to provide a higher level of protection for human health and the environment or reduce potential future liability of the generator under Federal or State law for the management of such waste, unless the State or political subdivision determines that the facility to which the municipal solid waste is proposed to be diverted does not provide a higher level of protection for human health and the environment or does not reduce the potential future liability of the generator under Federal or State law for the management of such waste.

"(2) CONTENTS.—A request under paragraph (1) shall include information on the environmental suitability of the proposed alternative treatment or disposal facility and method, compared to that of the designated facility and method.

"(g) LIMITATIONS ON REVENUE.—A State or political subdivision may exercise flow control authority under subsection (b), (c), or (d) only if the State or political subdivision certifies that the use of any of its revenues derived from the exercise of that authority will be used for solid waste management services.

"(h) REASONABLE REGULATION OF COMMERCE.—A law, ordinance, regulation, or other legally binding provision or official act of a State or political subdivision, as described in subsection (b), (c), or (d), that implements flow control authority in compliance with this section shall be considered to be a reasonable regulation of commerce retroactive to its date of enactment or effective date and shall not be considered to be an undue burden on or otherwise considered as impairing, restraining, or discriminating against interstate commerce.

"(i) EFFECT ON EXISTING LAWS AND CONTRACTS.—

"(1) ENVIRONMENTAL LAWS.—Nothing in this section shall be construed to have any effect on any other law relating to the protection of human health and the environment or the management of municipal solid waste or recyclable material.

"(2) STATE LAW.—Nothing in this section shall be construed to authorize a political subdivision of a State to exercise the flow control authority granted by this section in a manner that is inconsistent with State law.

"(3) OWNERSHIP OF RECYCLABLE MATERIAL.—Nothing in this section—

"(A) authorizes a State or political subdivision of a State to require a generator or owner of recyclable material to transfer recyclable material to the State or political subdivision; or

"(B) prohibits a generator or owner of recyclable material from selling, purchasing, accepting, conveying, or transporting recyclable material for the purpose of transformation or remanufacture into usable or marketable material, unless the generator or owner voluntarily made the recyclable material available to the State or political subdivision and relinquished any right to, or ownership of, the recyclable material.

"(j) REPEAL.—(1) Notwithstanding any provision of this title, authority to flow control by directing municipal solid waste or recyclable materials to a waste management facility shall terminate on the date that is 30 years after the date of enactment of this Act.

"(2) This section and the item relating to this section in the table of contents for subtitle D of the Solid Waste Disposal Act are repealed effective as of the date that is 30 years after the date of enactment of this Act.".

SEC. 203. TABLE OF CONTENTS AMENDMENT.

The table of contents for subtitle D in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901), as amended by section 101(b), is amended by adding after the item relating to section 4011 the following new item:

"Sec. 4012. State and local government control of movement of municipal solid waste and recyclable material.".

TITLE III—GROUND WATER MONITORING

SEC. 301. GROUND WATER MONITORING.

(a) AMENDMENT OF SOLID WASTE DISPOSAL ACT.—Section 4010(c) of the Solid Waste Disposal Act (42 U.S.C. 6949a(c)) is amended—

(1) by striking "CRITERIA.—Not later" and inserting the following: "CRITERIA.—

"(1) IN GENERAL.—Not later"; and

(2) by adding at the end the following new paragraph:

"(2) ADDITIONAL REVISIONS.—Subject to paragraph (2), the requirements of the criteria described in paragraph (1) relating to ground water monitoring shall not apply to an owner or operator of a new municipal solid waste landfill unit, an existing municipal solid waste landfill unit, or a lateral expansion of a municipal solid waste landfill unit, that disposes of less than 20 tons of municipal solid waste daily, based on an annual average, if—

"(A) there is no evidence of ground water contamination from the municipal solid waste landfill unit or expansion; and

"(B) the municipal solid waste landfill unit or expansion serves—

"(i) a community that experiences an annual interruption of at least 3 consecutive months of surface transportation that prevents access to a regional waste management facility; or

"(ii) a community that has no practicable waste management alternative and the landfill unit is located in an area that annually receives less than or equal to 25 inches of precipitation.

"(3) PROTECTION OF GROUND WATER RESOURCES.—

"(A) MONITORING REQUIREMENT.—A State may require ground water monitoring of a solid waste landfill unit that would otherwise be exempt under paragraph (2) if necessary to protect ground water resources and ensure compliance with a State ground water protection plan, where applicable.

"(B) METHODS.—If a State requires ground water monitoring of a solid waste landfill unit under subparagraph (A), the State may allow the use of a method other than the use of ground water monitoring wells to detect a release of contamination from the unit.

"(C) CORRECTIVE ACTION.—If a State finds a release from a solid waste landfill unit, the State shall require corrective action as appropriate.

"(4) REMOTE ALASKA NATIVE VILLAGES.—Upon certification by the Governor of the State of Alaska that application of the requirements of the criteria described in paragraph (1) to a solid waste landfill unit of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (16 U.S.C. 1602)) would be infeasible, would not be cost-effective, or is otherwise inappropriate because of the remote location of the unit, the unit shall be exempt from those requirements.".

(b) REINSTATEMENT OF REGULATORY EXEMPTION.—It is the intent of section 4010(c)(2) of the Solid Waste Disposal Act, as added by subsection (a), to immediately reinstate subpart E of part 258 of title 40, Code of Federal Regulations, as added by the final rule published at 56 Federal Register 50798 on October 9, 1991.

Mr. DOLE. Mr. President, I understand the distinguished Democratic leader wants to speak for a few moments on product liability, and so he will be here momentarily. But I would say, as we start S. 534, keep in mind it came out of the committee by a vote of 16 to 0. And I hope this is something we can complete before the week is out, sometime by late Friday afternoon. I know there are amendments. We can dispose of amendments. But I hope that in many cases the amendments can be resolved by agreement, by working them out. And I know we have reasonable managers on both sides of the aisle.

This is important legislation, and I am happy to have it before the Senate. I hope we can complete action on it before the week is out because next week we will go to the budget and, hopefully, following that to telecommunications. So we have our next 2 or 3 weeks laid out for us before a very brief Memorial Day recess.

I will also be sending a letter to Senator DASCHLE today with reference to the August recess, and unless we can reach some accommodation, I then will announce in the next week whether or not there will be an August recess and, if so, the length of that recess.

Mr. CHAFEE. I wonder if the leader would yield to a question.

I heard the ominous words "a very brief Memorial Day recess." What does that mean?

Mr. DOLE. It is a week.

Mr. CHAFEE. That is fine.

Mr. DOLE. It may be longer than the August recess.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRODUCT LIABILITY BILL

Mr. DASCHLE. Mr. President, I want to commend so many Senators on both sides of the aisle for their efforts over the last couple of weeks on product liability. This has been a vigorous debate, and a debate that obviously has required a good deal of compromise and concession on both sides.

I believe there was another opportunity that we could have had to reach greater consensus on the bill, and I am sorry we missed that opportunity in the final days of this debate.

But I do believe that as a result of the decisions made by this body over the last couple of weeks, the message ought to be very clear. The message is this: Members of the Senate are not willing to accept the extreme measures that have been proposed by the House. If those more extreme measures are added to the bill in conference, it is very unlikely that anything will ultimately pass.

It is critical, as we look to the conference report, that we keep this bill modest, that we not load it up with expansionist amendments, that we seek to ensure that what has been passed is all that comes back to the Senate.

I will say unequivocally that I believe this legislation will again be in trouble if it comes back vastly different from what it is right now. Many of us felt very strongly we could have improved upon this bill, especially with regard to punitive limits and with regard to the limitations on joint and several liability. For many of us who opposed the bill, there were provisions that we supported and would have liked to have been able to vote for, but, unfortunately, we could not resolve the issues that, in our view, were still too onerous to support.

But let me say, in spite of the fact that there was a very strong vote, that vote is directly dependent upon the degree to which the more extreme measures that were initially added are kept off the bill. We do not want to see them when this comes back. We will continue to fight this in a consequential way if they do come back, and I hope that that message was loud and clear.

I was very pleased with the comments made by both Senators ROCKEFELLER and GORTON yesterday as they commented about what they expect to see in conference. Senator GORTON said that he does not think there is one semicolon that is negotiable, and I think that is an accurate reflection of where the Senate stands.

So, indeed, we passed a piece of legislation today that may reflect the views of three-fifths of the Senate, but I think that it is a very tenuous victory, depending upon what may or may not occur in the conference report. So we look to that at some point in the future. But I must say that while those on both sides of the aisle who supported the legislation can claim victory, I think it is also important that they appreciate how tenuous that victory is and how important it is that we come back to the floor with something meaningful, something narrow and focused, and something that directly addresses the concerns raised on this floor for the last 2 weeks.

With that, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

SIXTY VOTES NEEDED ON CONTROVERSIAL ISSUES

Mr. CHAFEE. Mr. President, I would also say to the distinguished Democratic leader, it appears around here if there is anything controversial now, you need 60 votes to get it passed. Not a 51 vote margin, 51 to 49, it has to be 60 votes if the legislation is controversial; something new in the life of the Senate, but not entirely new, I will say that.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. CHAFEE. Mr. President, I call up S. 534.

The PRESIDING OFFICER. It is the pending business.

Mr. CHAFEE. Mr. President, I join with the Senator from New Hampshire, Senator SMITH, in presenting S. 534 to the Senate. This is legislation dealing with interstate waste and flow control authority.

I want to acknowledge Senator SMITH's efforts as chairman of the Environment and Public Works Committee's Subcommittee on Superfund, Waste Control, and Risk Assessment. Senator SMITH has taken the lead in drafting this legislation, targeting issues that went unresolved last year.

I also want to acknowledge the work of the distinguished ranking member of our committee, Senator BAUCUS, for his help in the framing of this legislation which we will now be discussing over the next day or so.

Mr. President, this legislation is straightforward and attempts to deal with the issues of interstate waste and flow control, balancing the interests of the States that import waste, trash that comes into States for disposal, and the exporters, States that do not have landfills or incinerators and thus ship it out. We try to deal with communities with outstanding revenue bonds as they deal with the issues of construction of waste facilities the local individual who dispose of his or her garbage.

This bill includes three titles. Title I deals with interstate waste and is similar to the bill approved by the Senate last year. I would like to stress that. The interstate waste portion is one that was approved unanimously by this Senate last year.

Title II focuses on flow control, which we will discuss in a few minutes. And title III reinstates the ground water monitoring exemption for small landfills in the municipal solid waste landfill criteria.

Let me turn to title I. This is a very contentious area. Indeed, I guess we have dealt with this, on and off, over the past 5 years. And no one has been more ardent in trying to get this problem solved than the distinguished Senator from Indiana, Senator COATS.

Now, on interstate shipments, the bill before us, as I say, is similar to S. 2345, which was approved unanimously last year by the Senate.

I want to make it clear that the bill before us deals exclusively with the transport, across State borders, of municipal solid waste. That is what we are talking about. We are not talking about restrictions on hazardous waste or industrial waste or even construction and demolition debris. Those items involve an entirely different set of problems and would require different approaches than we are dealing with here.

We are dealing here with municipal solid waste, sometimes referred to as MSW; what the rest of us, in layman's terms, would call garbage or trash.

Specifically the bill provides the following. There is an import ban. A Governor may, if requested by the affected local community, as designated by the Governor, ban out-of-State municipal solid waste at landfills or incinerators that did not receive out-of-State waste in 1993.

Now, this gets a little bit complicated, but these are provisions that we have worked out with Governors and municipalities, particularly the ones that cross borders.

So the first point is there can be an import ban that the Governor can impose, if he is requested by a local community and if that community did not receive out-of-State waste in 1993. Or he can impose this same ban at those facilities that received municipal solid waste in 1993 but are not in compliance with applicable Federal or State standards. So there is a power in the Governor. Now that is an import ban.

Further, a Governor may unilaterally freeze out-of-State waste at 1993 levels at landfills and incinerators that received waste during 1993 and are in compliance. In other words, the Governor can put a clamp on limiting it to the amount that came in in 1993, at those levels.

Now, there is an export ratchet, likewise. A Governor may unilaterally ban out-of-State waste from any State exporting more than 3.5 million tons in 1996. This declines to 3 million tons in 1997 and 1998, drops to 2.5 million tons in 1999 and the year 2000, 1.5 million tons in the year 2001 and 2002, and 1 million tons in 2003 and every year thereafter. So the Governor has this power to ban out-of-State waste coming from a State that is exporting very substantial amounts. That is the power in the importing State Governor.

There is also another ratchet. A Governor may unilaterally restrict out-of-State waste imported from any one State in excess of certain levels.

There is a cost recovery surcharge provision. States that imposed a differential fee on the disposal of out-of-State waste on or before April 3, 1994, are allowed to impose a fee of no more than $1 per ton.

So there is that $1-per-ton limitation, a differential that a State can impose, as long as the differential fee is used to fund solid waste management programs.

What we are dealing with all through here are the limitations that are imposed by the commerce clause of our Constitution. The bill we are dealing with today explicitly prohibits a Governor from limiting or prohibiting solid waste imports to landfills or incinerators that have a host community agreement to receive out-of-State waste.

In addressing the problem of interstate waste, I, as chairman, and Senator SMITH, likewise as chairman of the subcommittee, have tried to find a solution that will reduce unwanted imports yet give exporting States some time to reduce the amount of waste generated, to increase recycling, and to site new in-State capacity.

What we are trying to do is to take into account the large exporting States' problems, but we are not going to let them export forever.

What can they do? As I say, they can reduce the amount of waste generated, they can increase recycling, and they can set up their own sites in their States to deal with the problem—incinerators, landfills, or whatever they might be.

Title II deals with what is known as flow control. Flow control refers to the legal authority of States or local governments to designate where waste must be taken for processing or treatment or disposal. Over the past 20 years, State and local governments have used flow control as a financing mechanism for the development of municipal solid waste disposal facilities.

What am I talking about? I am talking about incinerators and landfills, for example. A municipality says, "We have to have an incinerator to take care of the waste within our municipality." So they say, "Well, we'll build one. And where do we get the money? We issue bonds. All right, but how are we going to make certain that we are going to have the waste flowing in and the so-called tipping fees?" So the municipality passes an ordinance which says: Everybody in this municipality must take trash to this central facility, and there they pay a tipping fee and you are not allowed to ship it elsewhere. BFI or other commercial firms cannot come in and say, "I'll take your waste for a lower price." No.

The way it works is the locals say you can only take it here, because that is the way we can pay off our bonds.

Flow control guarantees that a projected amount of waste will be received at a designated waste facility. Thus, a predictable revenue stream is generated for the retirement of the cost of the facility, the capital cost, and the operating expenses.

Flow control, as you can see, distorts the waste market by creating State or municipally controlled waste monopolies. Obviously, it becomes a monopoly. If the city of St. Louis says that no trash can be taken elsewhere but to the city incinerator, that is a monopoly. But the city of St. Louis might say, well, we spent a lot of money to build this incinerator and the only way we can pay off our bonds is with a guarantee flow from our municipality so when the big trucks, private trucks pick up, they can only take it to the city of St. Louis incinerator.

Communities across the country have made investments predicated on flow control, but I, and likewise Senator SMITH and Senator BAUCUS, do not believe in perpetuating that kind of system into the future. Designating where waste must go will only drive up the cost of waste disposal for our citizens.

Not unlike the interstate transport of municipal solid waste and its implications on interstate commerce, flow control has emerged as a controversial legislative issue because of several recent Federal court decisions. Over the past 5 years, Federal courts have ruled that flow control laws in no fewer than four States violate the commerce clause of the U.S. Constitution. Similar to restrictions on interstate waste, flow control undermines the commerce clause by barring States and political subdivisions by placing undue burdens on interstate commerce.

This case all came up May 16, 1994, just a year ago. It was called the Carbone case, Carbone versus Town of Clarkstown, NY, which the Supreme Court decided just a year ago. The Supreme Court's ruling in the Carbone case has made it clear that absent congressional action, the exercise of flow control by States and political subdivisions is unconstitutional; it interferes with interstate commerce. The city of St. Louis no longer can say to all its citizens, "You must bring your trash to this central facility." That is interfering with interstate commerce and is unconstitutional, unless Congress decides otherwise.

So we are here today to override the constitutional provisions on State laws that interfere with interstate commerce and so as to provide new authority to the States. We are beset with communities, such as the illustrative one I gave of St. Louis, that has invested substantial sums of money in their incinerators and are counting on paying off those bonds through the fees that come in and suddenly the whole ground rules are changed by the Supreme Court decision. So they come to us and say, "Grandfather us. We issued those bonds dependent upon this flow of trash."

The Supreme Court has said Congress can do this. We can provide new authority to the States by declaring that the impact of such laws on interstate commerce is reasonable.

Should we move in this direction? I say yes, but a qualified yes. We should tread carefully, and this bill does that.

This Senator believes that Congress was granted the power to regulate commerce in order to ensure the free flow of goods and to protect against economic warfare among the States. We must not create a system that builds walls around our States and our communities. The economy of our country has been successful over the past 200 years because of the free flow of goods and services among our States. Let us not go overboard today loading up this bill with discriminatory amendments. Unnecessarily restricting the interstate transport of waste and providing unlimited flow control will limit competition in the waste market. It will discourage the selection of less costly waste disposal options, and it will force duplicative infrastructure investments in our communities.

The intention of the bill before us today is to provide States and political subdivisions with flow control authority in order to meet financial obligations with respect to solid waste management facilities and to maintain their creditworthiness.

Title II provides limited flow control authority under certain conditions to States and subdivisions that have embarked on these commitments, these financial investments that, rightly or wrongly, were predicated on the expectation or implementation of flow control. They built these facilities and issued the bonds believing that what they were doing was right, was legal and was dependent upon restricting where the trash within their communities could go. It could only come to the municipal landfill or incinerator.

We are not, in grandfathering these provisions, reflecting any position on the appropriateness of flow control as a policy option. In each instance in which flow control authority is granted under this legislation, that grant is predicated on meeting debt obligations.

The final part is title III, which is called groundwater monitoring. In it, we reinstate a groundwater monitoring exemption for small landfills in the municipal solid waste landfill criteria. All of this reflects back on the Resource Conservation Recovery Act, section 4010(c). One of the most significant issues raised during the revision of the criteria was the impact on small community landfills.

As a result, the October 9, 1991, final rule for the criteria included a groundwater exemption of owners and operators of certain small landfills.

In January 1992, petitions were filed with the U.S. Court of Appeals for review of the new landfill criteria. The court, in its review, vacated the small landfill exemption as it pertained to groundwater monitoring.

The purpose of title III of the reported bill is to reinstate the exemption.

As many of us remember from the debate on interstate waste in 1992, the flow of garbage raises intense local and regional concerns. In some areas of the country, this seemingly mundane issue is politically potent. Who would have thought that so much heat could be generated by garbage disposal?

Mr. President, I believe this legislation represents a good-faith effort to bring the various parties together on the issues of interstate waste and flow control. It provides additional authority to waste importers without overriding the needs of waste-exporting States.

It protects past community financial investments with respect to flow control; yet, it provides opportunities for the private sector. I commend the Senator from New Hampshire and look forward to working with him and other Members of the Senate to approve this legislation in an expeditious fashion.

Now, Mr. President, I would like to yield the floor, without losing the same, to Senator BAUCUS for his opening statement.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I am pleased to be here considering legislation to give our States and communities the right to say "no" to out-of-State trash. That is basically what the major portion of this bill is all about—that is, enabling States to say, "We do not want this stuff and we have the right to say, no, we do not want the garbage." We need this legislation to allow States to do that, and that is basically because of the U.S. Constitution, commerce clause, article I, which basically states that only Congress can regulate interstate commerce, States cannot. So we are now acting in Congress.

Mr. President, we have been working on this issue for a long time—6 years. We have explored a lot of options, we have held many hearings, and we have debated this issue frequently. We passed interstate waste bills in each of the last three Congresses here in the U.S. Senate. I believe it is finally time to finish the job.

I will have more to say on that subject later. Let me say a little bit about this legislation.

Garbage is big business. Each year, the United States throws out more than 200 million tons of municipal waste. That is enough to build a 30-foot wall of trash from Los Angeles to New York. About 1 ton in 14 goes to a landfill or incinerator in another State. Nearly every State is a seller or a buyer in the municipal waste market; 47 States export some garbage, and 44 States import some garbage.

Some interstate movement of garbage makes sense. In Montana, for example, two towns have made arrangements to share landfills with western North Dakota towns. Some trash from Wyoming areas of Yellowstone Park is disposed of in Montana. These arrangements save money for the communities involved. And the establishment of shared regional landfills can be a policy that does make sense.

But it only makes sense when the communities involved agree to it. No place should become an unwilling dumping ground. Nobody should have to take garbage they do not want from another community.

The legislation before us takes us a step closer to preventing Montana and other rural States from becoming a national dump. It lets Governors freeze imports at 1993 levels, and stop new imports if affected communities want them stopped. It is not perfect, but it is a good start.

Mr. President, I want to congratulate the Senators who have worked so hard over the years on this issue trying to develop a balanced bill. Senator COATS has been particularly helpful and particularly committed to enacting interstate legislation. Senators LAUTENBERG, MOYNIHAN, and our new chairman, Senator CHAFEE, and many others have worked tirelessly.

This issue has been around Congress long enough. I think it is time to stand up for the small towns and finish the job.

Senator LAUTENBERG, the ranking member of the relevant subcommittee, is now in the Budget Committee and is not able to be here. He worked hard, along with Senator SMITH, and at a later time he will want to make a statement.

Mr. CHAFEE. Mr. President, I yield to the distinguished Senator from New Hampshire.

Mr. SMITH. Mr. President, I thank Chairman CHAFEE.

Mr. President, this bill is a compromise bill. It is not going to please everyone, and maybe that is the reason why it is a good piece of legislation, I do not know. But a little more than 2 months ago, the Superfund Waste Control and Risk Assessment Subcommittee, which I chair, held a hearing to consider proposals to regulate the interstate transportation of solid waste and whether to provide local control authority to State and local governments.

The controversy here surrounding the interstate transportation of municipal solid waste is one that the Senate has been considering since 1990. Today, 47 States export approximately 14 to 15 million tons of municipal solid waste per year for disposal in other States—14 to 15 million tons.

While short-distance waste exports have been occurring for some time, the development of a long-haul waste transport market has been a more recent development. With tipping fees as high as $140 per ton in some large cities, compared with the national average of between $30 and $50 a ton, there is an incentive, obviously, from municipalities to transport these wastes by truck and rail to distant States for some permanent disposal.

That is a pretty big incentive. Anywhere from $30 to $50 to $140 a ton is a huge disparity.

Those States that have recently been the recipients of large amounts of long-haul waste have raised a concern that their limited capacity for solid waste is being filled and that they have become a dumping ground for somebody else's waste problems. So over the last few years, 37 States have passed laws to prohibit, limit, or severely tax waste that enters their jurisdiction. However, almost all of these laws have been struck down by the Supreme Court for violating the commerce clause of the Constitution.

So while there has been a recent easing of disposal and the capacity to dispose nationwide, there is still significant concerns about the future consequences of this long-haul system. Congress needs to define what the future is, whether we are going to honor the interstate commerce clause or not, or whether we are going to adjust it or micromanage it, or do something with it. But there are people out there who are impacted, as we speak, by the fact that this decision is still in limbo.

So to address these concerns, Congress—specifically the Environment and Public Works Committee—has been attempting to strike a balance between importing and exporting States. Last year, the Committee on Environment and Public Works, of which I am a member, unanimously reported S. 2345 to address this problem. A number of Members, both on and off of the committee, including very prominent Members who will be involved in this debate over the next couple of days, like Senators COATS, SPECTER, LAUTENBERG, MOYNIHAN, and others, took a very active role in attempting to develop a compromise that importing and exporting States could live with. While the Senate easily passed this compromise by a voice vote on September 30, 1994, it was the end of the session and time ran out before this issue could be finally resolved.

So this legislation has been a balancing effort, a real balancing effort. In regard to the interstate transportation of municipal solid waste, we have tried to carefully balance the issues of both the importers and the exporters, and nobody is happy with the interstate language. Perhaps that indicates to me, as I said earlier, that we might be on to something.

The bill that Senator CHAFEE and I introduced incorporates the interstate waste bill that unanimously passed the Senate last year.

Let me repeat that, because I think in the debate, as the chairman, Senator CHAFEE, knows, it is getting lost. What Senator CHAFEE and I are offering in the area of interstate waste transfer unanimously passed the Senate last year. That is what we put in our bill. That is simply all we are offering this year.

Mr. CHAFEE. Mr. President, could I ask a question to make a point?

When it passed unanimously last year, that was when the other party was in charge, had the majority. So not only did all of the Democrats vote for it in a bill that was drafted by a majority of the Democrats in the committee and approved on the floor, but every Republican likewise voted for it.

So two different parties have worked on this legislation over 2 separate years and come to exactly the same result. Having passed unanimously last year, I certainly hope we can get on with the same language, get the same approval this year of the same language.

Mr. SMITH. I thank Senator CHAFEE for making that point. He is correct. This is not a partisan issue. It is a carefully crafted compromise to try to accommodate some genuine concerns out there among many individuals.

Again, in the Senate, controlled by the Democratic Party last session, it was passed unanimously. The Republicans are now under control, and we are offering the same language again on interstate transfer. There is not any reason why we should have a huge fight here, unless people, for whatever reason, are trying to capitalize on something or take unfair advantage.

We felt it was fair and we continue to feel that now. Senator CHAFEE and I are in agreement on that, and I know there will be Senators from both the importing and exporting States that will try to weaken or strengthen, depending on their position, the interstate portions of this bill. The bill is in two sections—both interstate as well as flow control. There are two sections to the bill.

My response is, we struck this compromise last year, all parties agreed, and there have been no significant changes. What would be the fight?

Let me move to the issue of flow control, because we have heard statements from a variety of individuals before our committee, very prominent individuals. Senator BILL COHEN, Governor Christine Whitman of New Jersey and others, Congressman CHRIS SMITH of New Jersey, who asked Members to move quickly to address the issue of flow control. And we did. We moved very quickly at the behest of those individuals.

Frankly, ever since we moved quickly at their behest, we have been getting beat about the head and shoulders by some who asked Members to move at their behest. A number of witnesses expressed a strong concern that without prompt congressional action to provide for continued authority in this area, many communities would be in danger of having their bond ratings lowered. That is true.

For those of my colleagues who may not have heard me speak to this issue on the subject of flow control, let me be clear. This bill is in my subcommittee, the Superfund Committee, which I chair. It is in my jurisdiction.

I tried to craft a compromise, which I think we did successfully, to get the bill to the floor and help those people who did have a problem. I oppose flow control. I think it is wrong. I do not support walking away from the interstate commerce clause of the Constitution. I believe that we ought to stand firm on that.

There is a situation that has developed, as Senator CHAFEE has already outlined, where individuals—municipalities—have let bonds, and there are people who stand to lose on this. So we tried to craft a compromise. In that compromise, we basically grandfathered, with reasonable grandfathering provisions, those communities.

I do not believe that flow control is necessary to deal with the problem of solid waste. We do not—I think the private sector can do it just fine. I do not believe the free market is broken. There is no evidence that the free market is broken in this area.

There are many people who are involved in the transport of this material, and I refuse to believe that recycling cannot be accomplished without flow control. I simply do not believe it. I do not think there is any evidence to say that. But some States and some communities got themselves in a bind, and we are trying to help them out of that bind.

Instead, we are being attacked for trying to help them, in many ways by those who wanted it and now have dramatically changed or moved their position. That is the reason why nothing has happened, because everybody wants their position.

This is a compromise. That is the point. I am sympathetic to the communities that feel they need congressional assistance on this matter. There are some. If we are starting from ground zero and there were no bonds let, no contracts signed, Mr. President, I would be here on the floor saying no flow control, period.

However, it was because of this plea, that Senator CHAFEE and I moved forward to introduce this legislation, S. 534, that would provide the flow control authorities to those municipalities that imposed flow control and either constructed or began construction of facilities prior to May 15, 1994, the Carbone decision.

While our bill provides limited grandfather protection for flow control, it also—and this is the key issue—it gives finality. This is final. At the end of 30 years it is over. There is no flow control anymore. We now have the free market kick in. We have help during this 30-year period which I think is more than ample. There are not any bonds I am aware of beyond the 30-year period. So precisely 30 years after the legislation is adopted, no further flow control measures will be allowed—none, zero, zilch.

Both my subcommittee as well as the full committee moved very quickly to mark up this legislation. We did so primarily to help those communities whose bond ratings are endangered as a result of the Supreme Court's recent action. They are. We agree they are. They should not have gotten themselves in that position, but they did. Rather than get into whether or not they should not have gotten into that decision, we did not use that as a criteria. We simply said for whatever reason, they made some decisions that maybe they should not have made, but they are in that position so we will help them out.

Speaking for myself, I am very uncomfortable with providing flow control authority. I do not want flow control authority. I felt that the bill of Senator CHAFEE and myself struck a fair balance in accommodating those who are strong proponents of States rights and those who are strong proponents of the free market. It is a compromise for both of those positions.

During the course of the last 2 months, I have continued to work to accommodate Senators who had concerns about various proceedings in the bill. Everyone wants a fix. We are now hearing from the sublime to the ridiculous. "Well, we might have a contract in 5 years, we are thinking about it. Could we be exempted?" No, absolutely not. We are not going to exempt them, if I have anything to say about it. That is wrong. It defeats the spirit and intent of what we are trying to do.

We cannot satisfy everyone. We have tried. We tried hard to address the legitimate concerns, and we will address those concerns. Some of the amendments we will accept. Some we will not.

As a result of our efforts, the EPW Committee ordered this reported as amended on March 23 by a rollcall vote of 16–0. Again, the whole sequence of events here: Last year it was unanimous, no objection by Republicans or Democrats in the Senate in a Democrat Congress. We have a Republican Congress, it passes the committee 16–0.

That says something about this bill. It says that those people out there who are trying to dramatically alter the bill are simply on a course that is not going to be in the best interest of those people who are sitting out there right now waiting for help, which is why we mark this bill up.

I have to say if we ask Senator SMITH, "What are your priorities in the subcommittee of the Superfund?" It is Superfund reform. That is what we are working on. We have had six hearings on it. We have another hearing tomorrow. We had one yesterday. We will try to draft a bill in the next 6 weeks to 2 months, and that is a high priority.

Because people came to me, including the ranking member of the subcommittee, Senator LAUTENBERG, and outlined these problems, we agreed—Senator CHAFEE and I and others—that we would bring this bill to the floor as quickly as possible. We have done that and, frankly, with great difficulty, simply because we have been focused on the Superfund issues. I did not anticipate the amount of amendments and the amount of opposition that would be generated on this bill.

But let me just make this very clear to my colleagues. I believe this is an emergency bill for those communities or individuals or entities that have let those bonds. There are communities in a number of States that need quick passage of this legislation to provide them with the financial relief for their previously flow-controlled facilities. If this bill gets bogged down because of amendments, everyone trying to get their way—they want total flow control or no flow control or no grandfathering or we move into the interstate waste transfer and they want no exporting or total exporting or the Governor having the total right to make decisions and communities having no rights or whatever—whatever the position may be, if they insist on that, this bill will get bogged down. It will not get passed by the end of this week, this legislative week, on Friday. And the budget will be up next week.

After that, I cannot imagine where there will be a window of time to deal with this again. So I appeal to my colleagues who desperately want this bill to help them and their communities in their States with this flow control to not hold this bill up by adding amendments or trying to add amendments that may in fact derail it. Because once it is derailed, in my opinion, it is going to be a long time until it gets back here.

It is the leader's decision, of course, when it comes up. But the point is there is so much on the table after Monday when the budget comes up, any discussion of flow control, with all due respect, is going to be way down here when the budget and the numbers in that get out and the American people begin to interact with their Senators and Congressmen on that.

So I think there is going to be a lot of discussion. If Members choose to oppose this or dilute it or whatever they choose to do, or even—maybe they would like to strengthen it—they will do it at their own peril. This issue, which has been simmering for the last 6 or 7 years, will continue to remain on the back burner during the 104th Congress.

I hope that does not happen, but the choice is clear. Either vote to pass this bill which has the overwhelming majority support, maybe unanimous support, in the Senate and protect those facilities that come within the scope of this bill, or risk it all to protect a small handful of communities that do not fit within this legislation, who are trying desperately to create a situation where, if they want to have flow control at some point in the future, they can have it, or if they have let a little bit of money out there somewhere, a relatively insignificant amount, and they are not sure what they are going to do—that violates the spirit and intent of this bill and I hope it does not happen.

We will be down here as long as it takes to deal with the amendments. I appeal to colleagues, if they have amendments, let us try to work them out. We will try to work out the ones we agree with, and if we can agree with them, we will accept them. If they violate the spirit and intent of what we tried to do in drafting this bill, we will oppose them forcefully on the floor of the Senate.

Let me conclude with a brief summary as follows. Communities out there, as far as flow control is concerned, are in a tough situation. According to the public securities situation, $20 billion in bonds have been issued to pay for flow-controlled facilities. That is not the fault of the U.S. Senate. The interstate commerce clause, I believe, was in effect when that happened. But somehow it got ignored and they got into this bind and they have $20 billion in let bonds.

We are going to try to help them and we do help them with this legislation. We grandfather them, we protect them. We protect the investors, the bondholders, the taxpayers, the individuals out there who have in whatever way participated in these bonds.

As a result of the Carbone decision, the Supreme Court invalidated flow control, so it is in limbo. Here we are in limbo. Nobody knows what to do. They do not know whether to proceed or not to proceed, because they do not know what Congress is going to do in regard to the interpretation of that decision.

Six incinerators in New Jersey have had their bond ratings lowered, and I am sure that is the case in other States, because flow control was invalidated. Again, we are trying to help those communities. That is the goal. Dozens of incinerators and landfills are in immediate danger if flow control is not reauthorized immediately, and every bond based on flow control authority is threatened, every one. Every single bond out there is threatened unless we do something soon. The longer it goes on the worse the threat gets.

So the bill provides a narrow flow control authority to protect those bonds. Again, it is a compromise. It is a fair compromise. It is not my position totally. I would be for no flow control. That is not my position. But it is a compromise position to help those individuals.

With that, Mr. President, I yield the floor and indicate I hope we could get some time agreements and some reasonable information regarding these amendments. If Members who have amendments could come to the floor and offer them in a timely manner so we do not get bogged down and not pass this bill by the end of the week.

Mr. CHAFEE. I thank the distinguished Senator from New Hampshire.

PRIVILEGE OF THE FLOOR—S. 534

Mr. CHAFEE. Mr. President, I ask unanimous consent James McCarthy, of the Congressional Research Service, be granted the privilege of the floor for the pendency of S. 534.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH. Mr. President, I ask unanimous consent Mr. Paul Longsworth, a U.S. Department of Energy employee assigned to my staff for a period of 1 year, be granted the privilege of the floor for the duration of the consideration of S. 534.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

ENDANGERED SPECIES ACT REFORM AMENDMENTS

Mr. PACKWOOD. Mr. President, I am pleased to join with my colleagues as an original cosponsor of the Endangered Species Act Reform Amendments of 1995. This bill is the result of several years' work. The bill represents the culmination of a broad, grassroots effort to bring balance to the Endangered Species Act. This coalition consists of miners, ranchers, loggers, refiners, manufacturers, the fisheries industry, and organized labor.

There are problems with the current Endangered Species Act. The Endangered Species Act is an act that has gone awry. It is wreaking havoc on our communities and economies, particularly in the Pacific Northwest, but increasingly nationwide. It is devastating entire regions and industries. In the Pacific Northwest alone, since the spotted owl was listed as threatened in 1990, millions of acres of Federal timberland and thousands of private acres have been set aside. It takes about 1,300 acres for a pair of owls to breed, so we are told. We have set aside thousands and thousands and thousands of acres in hopes of the owl being saved. No guarantee it will, no guarantee it will not, but a tremendous damper on legitimate economic activity.

It has impacted tens of thousands of human beings and hundreds of rural communities. The estimates on job losses range from a low of 35,000 to a high of 150,000 in the Pacific Northwest.

I was here when the act was originally passed, and I remember what our intention was. We were thinking "a" project: a dam, a road, a canal versus a species. When you read the debate, when the original Endangered Species Act was passed, I do not recall the word "ecosystem" being mentioned in the debate. None of us was thinking of an entire section of the country being affected by one species. Yet this act is now being used as a tool by environmental groups to further their agenda of locking up not only all public land but much private land as well.

I want to emphasize again, this act applies to private land. For a long time I think people thought this was a public land issue in the West, that while it might limit the activities of the U.S. Forest Service or the Bureau of Land Management or the U.S. Park Service, it did not affect private land. It does. It affects your right in ownership. It can diminish the value of your land in every sense. The Government can take your property under the current Endangered Species Act and not pay you. Private property owners are increasingly losing the right to use their property as they intended.

Let us look at the economic cost of the Endangered Species Act. Edward O. Wilson, a renowned entomologist, has observed that there may be something on the order of 100 million species and yet only 1.4 million have been named. How many billions of dollars are we willing to spend attempting to save insects, bacteria, fungi—that we have never heard of, never identified, for which there may be little or no chance of recovery. Yet in the effort, we will cause dislocation and hardship for thousands and thousands of people.

The social impacts are no less devastating. Professor Lee, Robert Lee, at the University of Washington in Seattle in the College of Forestry Resources, has an interesting background: an undergraduate degree from the University of California in sociology and then a graduate degree in forestry. He has done extensive work on the social trauma that affects timber towns. He points to the destruction of families, long-lasting social fallout. He can identify it, pinpoint it. He points out that, if you are going to go ahead and apply the Endangered Species Act and close the mill in this town—and it does not take a very big mill if you have a town of 2000 and you have a mill that employs 150 people—that mill is in essence the backbone of the town. If you close it, he says he can guarantee that you will see an increase in suicides, homicides, divorce, juvenile delinquency, drug abuse, spousal and child abuse.

He is not saying that in this town this is all going to happen. What he is saying is when you take a 45- or 50-year-old mill worker who married his childhood sweetheart in high school, lived in town all of his life, his children are in the school, he is making $25,000, $26,000, or $28,000 in the mill, it is the only job he is trained for, and the only principal occupation in town is the mill. It is closed. His mother is still alive and he does not want to leave the town. You take away his livelihood. The Federal Government takes away his livelihood.

Professor Lee says you can bank on it, as sure as we are here, that you are going to have the increases that I talked about in the suicides, homicides, the abuses, the divorces, and alcoholism. It is understandable when you think about it. A 45- or 50-year-old is not likely retrained, does not want to move from town, has lived there all of his life. Those things are as likely to happen as you and I being in this Chamber today.

It is ironic that for years we considered the needs of humans as though nothing else mattered. During that period, probably a long period in our country when we developed this country, from approximately 1800 to 1960, we moved west. We gave no thought to limitation of resources because we thought the resources were unlimited. I am old enough to remember in the Pacific Northwest within the last 30 to 35 years when the electric companies advertised: "Use more electricity. The more you use, the less per unit you will pay. Have an all-electric house, electric furnace, electric air conditioning." The theme was, we will never be able to use all of the electricity we generate. If we ever have to have more, we will build another dam. Or, as we got into the seventies, we will build nuclear plants. But it was use, use, use.

As we moved across the West, the pioneers came over those mountains and they looked at valleys and mountains of timber, timber, and more timber. It is understandable why they thought that those resources could never be used up. These resources were plentiful. The pioneers were not malicious people; they were not greedy; they were not selfish. But they saw the land and thought it was good and right to develop it.

Mr. President, if 100 years ago, 150 years ago, we had on the books, only two laws, the Endangered Species Act and the Wetlands legislation, we would not have developed the West. Every railroad you see, once you get across the Great Plains, is built on rivers and fill. We never would have cleared the valleys, never would have cut the trees and pried out the rocks and farmed it. You would have been prohibited from doing it by just those two acts. But as people moved west, they saw nothing wrong with clearing the land. As a matter of fact, the native Americans, and the early settlers, when they were there saw nothing wrong with burning the trees. They did this not for any kind of malicious intent; they burned for ecological reasons. I doubt if you could do that today.

Things changed. I understand why. You had the century and a half of moving west. You developed the resources, harnessed the rivers, and plowed the land. There was not much thought about the environment, and certainly not much thought at all about endangered species. Then along came Rachel Carson's book, Silent Spring, which I like to say is the pivot upon which the environmental movement started. Basically, the book dealt with agricultural pesticides and runoffs and the damage these were doing. But from that moment forward, you could see the pendulum, which had swung for 160 years toward development and exploitation of the resources, swing in the other direction. Now the pendulum has swung completely the other way.

I do not level this charge at everybody who is a member of the Sierra Club or the Wilderness Society. By far, most of them are very reasonable, decent people. But they are accusing unjustifiably a group of people who are excellent stewards of the land, people who living on the land and taking care of the land and replenishing the land. The irresponsible utilization of natural resources is wrong. But I do not know anybody who is a farmer who wants to misuse and abuse his or her land and not have the option of passing it along to their children. I do not know of anyone—if they used to exist, I do not know them now—in the timber industry who wants to cut and run. Everyone I know in the timber industry who is in the industry wants to cut and plant and grow, and cut and plant and grow forever on an intelligent, sustained-yield practice of forestry.

There is only one group where I have seen a danger. And it is not their fault, and I do not blame them. You are a little woodlot owner. You have 60 or 70 acres of land. You are not Weyerhauser. You are not a commercial timber company. But you have 60 or 70 acres of land. You have been managing it well, and you cut a bit, and you plant a bit. You will use some of it to educate your kids, and maybe some of it to help their families, and maybe some of it for retirement. You are faced now with the possibility, under the Endangered Species Act, that you may be prohibited from cutting on your land at all. Right at the moment, you are not cutting and had not intended to cut. Do you know what you are thinking to yourself? "I had better do it now. I had better cut and run and get out while I can still get my money to educate my kids and do some of the other things I had planned to do, because maybe in 5 years, the Endangered Species Act will not let me cut at all." This is a person who is willing to and had planned to cut and plant land that will be in the family for generations. These are the kinds of unintended consequences we face because of this act.

Under the Endangered Species Act, we have to remember that we must balance both species and humans. But here is the problem with the present act. I want to phrase this carefully. This is the present act. When you are determining whether or not a species is threatened or endangered—those are the two classifications under the act—you are to use the best scientific evidence, and nobody quarrels with that.

Realizing science can be wrong, you may recall that science said if we built the Tellico Dam, the snail darter would disappear. We went through a long battle on the Tellico Dam. Finally, the Endangered Species Committee—the God Squad, as we call it—said if we built the dam, the snail darter would disappear and that was to be the end of it. Congress overruled the Endangered Species Committee and said finish the dam, build the dam. We do not care if the snail darter disappears. The dam is all but done. We just have not dropped the gate. Go ahead with it. We were told we would run the risk of the snail darter disappearing. The best scientific evidence said it would disappear. What happened? We dropped the gate, the reservoir filled up, and the snail darter exists in all of the streams that flow into the reservoir. Science was absolutely wrong. This is no excuse not to use science, but science is not perfect.

I have no quarrel with listing a species as threatened or endangered and using the best science that we know. I would like there to be good scientific peer review, and I would like a chance to appeal to the courts should you have a really horrendously bad decision. But I think the best science ought to be used.

Now you come to the issue of whether or not you are going to have a recovery plan to try to save the species. And here, only the species counts. If you cannot come up with a recovery plan under the present law, if you cannot come up with a recovery plan that will save the species, or, to put it the other way around, if every recovery plan that you can think of by the best scientific evidence will lead to the extinction of the species, then nothing else counts. People do not count. Revenues to counties do not count. Whether or not the schools have enough money to keep going does not count. Nothing counts but the species, and that is where this act is not balanced.

So, Mr. President, I am glad to join a number of my fellow Senators in introducing amendments to the Endangered Species Act. We think these amendments are a balance. We are not getting rid of the act. We are not getting rid of science. As a matter of fact, we are asking for stronger science, for better science, for better review. But this act finally allows people to be considered as much as bugs. And that has been the failing of the present law.

I hope the Senate will favorably consider this. I am proud to join as a cosponsor.

I am pleased to join with my colleagues as an original cosponsor of the Endangered Species Act Reform Amendments of 1995.

This bill is the result of several years' work.

The bill represents the culmination of broad grassroots efforts to bring balance to the Endangered Species Act.

This broad grassroots coalition consists of miners, ranchers, loggers, farmers, manufacturers, the fisheries industry, and organized labor.

PROBLEMS WITH CURRENT ENDANGERED SPECIES ACT

The Endangered Species Act is an act gone awry. The act is wreaking havoc on our communities and economies, particularly in the Pacific Northwest, but increasingly nationwide. The act is devastating entire industries and regions.

In the Pacific Northwest alone, since the spotted owl was listed as threatened in 1990, millions of acres of Federal timberland and thousands of private acres have been set aside for owls.

The act has impacted tens of thousands of human beings and hundreds of rural communities.

Estimates of the number of jobs lost as a result of the listing range anywhere from 35,000 to 150,000.

The act was originally intended to ensure the survival of species that were threatened by site-specific projects, such as roads, dams, and sewer systems

The act is now being used as a tool by environmental groups to further their agenda of locking up not only all public land, but private land as well.

Private property owners are increasingly losing the right to use their property as they intended.

ECONOMIC COSTS OF ESA

Edward O. Wilson, a renowned entomologist at Harvard observes that there may be something on the order of 100 million species.

Yet only 1.4 million have been named.

How many billions of dollars are we willing to spend attempting to save:

fungi, insects, and bacteria we've never heard of, and species for which there may be little or no chance of recovery in any case.

SOCIAL COSTS OF ESA

While the economic costs of protecting species is great, the social impacts are no less devastating.

Robert Lee, sociologist with the University of Washington College of Forest Resources, has done extensive research on the social trauma afflicting timber towns. He points to the destruction of families and long-lasting social fallout in the form of suicide, homicide, divorce, juvenile delinquency, drug abuse, and spousal and child abuse.

It is ironic that for years we considered the needs of humans as though nothing else mattered.

Now, under the Endangered Species Act, we are considering the needs of fish, wildlife, and plants as though nothing else matters.

Both policies are short-sighted and flawed.

CURRENT EFFORTS

We need a process which not only protects plants and animals, but one which recognizes legitimate human needs as well.

That is why, in the last Congress, I joined with Senators GORTON, SHELBY and others in introducing legislation to bring balance to the Endangered Species Act.

This year, with even stronger bipartisan support, we have again introduced legislation to require that the economic and social impacts of Federal efforts to protect species be fully considered.

SUMMARY OF BILL

Our bill contains several components essential to meaningful reform.

The bill reforms the process by which species are listed as threatened or endangered:

Requires independent scientific peer review of the science;

Requires better data collection.

Provides for broader participation by affected States and the public;

Requires judicial review of listing decisions;

In place of intensive Federal management, the bill includes incentives to encourage private landowners to protect species, such as:

Encouraging the exchange of private land for Federal land to provide habitat for affected species; and

Establishing a Federal cost-share program for any direct costs imposed on a private person.

Our bill requires the Secretary to set a "conservation objective," ranging from full recovery of the species to solely protecting the species from actions which would directly injure or kill the species.

In other words, the Secretary could decide to allow a species to go extinct.

Our bill requires that economic and social impacts are fully considered in the development of conservation measures.

Our bill changes the statutory definition of "harm" and "take" to mean the actual injury or killing of a member of a species.

"Harm" will no longer apply to the modification of a species' habitat as the courts have broadly interpreted current law.

Our bill minimizes the impacts to private property.

CONCLUSION

It is not our goal to abandon our national commitment to the protection of endangered species; however, we cannot protect every imaginable species.

We can do a better job of balancing jobs and economic opportunity with species protection.

While this bill does not go as far as I would like, it will begin the debate which is long overdue.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I ask unanimous consent I be allowed to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT CLINTON BRINGS HOME NOTHING

Mr. McCONNELL. Mr. President, President Clinton has gone to Moscow, and he has come home with nothing. I repeat: President Clinton has gone to Moscow, and he has come home with nothing.

There has not been much coverage yet of the summit over there in Russia, but it is pretty clear that President Clinton has in effect gone to Moscow, given President Yeltsin an opportunity to show that he can deliver the President of the United States for a celebration of the end of World War II, and we have had no progress on stopping the sale of nuclear material to Iran, no apologies about the slaughter of 25,000 people in Chechnya.

In summary, Mr. President, very little, if anything, has been accomplished at this summit that would benefit this country.

Now, arguably, our President showing up over there has helped President Yeltsin and the Russians, but typically we think of these summits as producing something beneficial for our side. It does not seem to me there has been one single step in the direction that we would like to see us go as a result of this summit.

The issue, of course, is not whether we have a relationship with Russia. We all want to have a relationship with Russia. The question is, What kind of relationship is it going to be?

During the past 2 years, we have seen a real change in the makeup of President Yeltsin's inner cycle or kitchen cabinet. He has fired reformers and replaced them with hard-line reactionary advisers who are suspicious of free market reforms and suspicious of democracy. Some observers have said there is only one reformer left in the cabinet and he is the one they sent over here to the United States to talk to people in the Senate.

In a recent hearing, I asked Deputy Secretary Talbott to identify a single voice of reason in the kitchen cabinet; just one. Secretary Talbott changed the subject.

Yeltsin's decisions are making it very difficult to sustain support for assistance to Russia.

In February, Secretary Christopher said the President would not go to Moscow for a summit if Chechnya were unresolved. Well, the President is there and Chechnya is unresolved. Almost as soon as that line was drawn in the sand by President Clinton, he backed down.

Current Russian policy test United States interests and principles. In fact, current Russian policy makes no sense at all, Mr. President.

In Chechnya, basic principles of democracy and human rights are under siege. It really begs the question: Does a democratic government turn its guns on its civilians, killing 25,000 men, women, and children?

Preliminary indications are we have accepted Yeltsin's determination that this is basically an internal matter and is none of our business. Essentially, that is what President Yeltsin said: "This is our affair. You butt out, President Clinton."

Both our security interests and our allies are threatened by the pending sale of nuclear technology to Iran. The biggest current issue between ourselves and the Russians is the pending sale of nuclear technology to Iran. And the President has said earlier in the year he would not go to Moscow for this celebration of V-E Day unless there was progress on that issue. Well, there has been no progress. The nuclear sale continues to go forward.

This agreement that the administration has announced that there will be no sale of the centrifuge technology is simply not adequate. That is a figleaf to allow President Clinton to claim somehow that progress was made on deterring the nuclear transfer to Iran when, in fact, no real progress has been made.

In addition to that, Mr. President, nothing has changed on the issue of NATO expansion and other European security questions. Everyone was surprised by the Russian reversal last December when Yeltsin and Kozyrev denounced NATO plans to enlarge itself and rejected the Partnership for Peace program. Combined with recent statements that Moscow has the right to use force to protect Russian minorities in the Soviet Republics, leaders across the region are justifiably concerned. It should have been essential for the summit to produce a concrete commitment by Yeltsin to respect the political, economic and territorial sovereignty of those countries that used to make up the Soviet Union.

In summary, Mr. President, what is going on here is the Russians are saying, "We don't want you to expand NATO. And, oh, by the way, all the countries that we used to dominate, that used to be part of the Soviet Union, are our business and none of yours."

No progress has been made at this summit on any of these issues; not a single shred of evidence of any progress whatsoever on any of these issues.

Mr. President, I, like many Members of the Senate, want to get along with the Russians. Obviously, we have a better relationship than we did during the cold war, but some days I wonder where this relationship is going. It seems to me, by pursuing this Moscow myopia, this view that whatever Yeltsin wants Yeltsin gets, by pursuing that particular point of view, we stand no chance of having the opportunity to build a genuinely constructive relationship with the Russians.

So let me just, in sum, Mr. President, say that I think this summit has been a disappointment. I am sorry that President Yeltsin has been unable to commit to any of the progress that we had hoped for, but mostly I am sorry that President Clinton chose to go. Why is he there?

At virtually every summit in my memory, something has been brought back that was arguably in the interest of the United States. President Clinton has gone to Moscow, gone to Moscow at President Yeltsin's request, given President Yeltsin an opportunity to look good, made no progress on the nuclear sale to Iran, made no progress on the expansion of NATO, and comes home emptyhanded. So, by any standard, Mr. President, this summit is a disappointment.

I yield the floor.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I am very pleased that the Senate today has turned its attention relatively early in the session to a bill of primary importance to my State of Indiana and to many other States in this Nation. It is a bill that the Senate is very familiar with, one to allow States to limit the importation of out-of-State waste. We have discussed it on numerous occasions.

I want to thank the chairman of the subcommittee, Senator SMITH of New Hampshire, and the chairman of the full committee, Senator CHAFEE, for bringing this bill to the floor, as well as the ranking member, Senator BAUCUS, and, of course, Senator DOLE for scheduling this legislation.

Early in my Senate career, which has not been that long, I observed a phenomenon in Indiana as I was driving through the State. All across the State homemade signs posted on telephone poles or stuck in the ground appeared that said, "Don't dump on us."

I began to inquire what the subject was. We checked into that and found that the citizens throughout Indiana, many small towns in particular, found that, instead of the local garbage dump which received a truck or two of local community waste, garbage, a day, suddenly they discovered that 18-wheelers were lined up for blocks waiting to enter the local dump to dump their waste. And people said, "Where is all this coming from?"

You really cannot call these facilities landfills, because they were designed for receipt of small amounts of everyday household trash, waste, that was picked up maybe a couple of times a week at most and delivered to the local dump.

In a little more than a year, our State saw negligible volumes of out-of-State trash that were coming into the State explode to more than 20 percent of our total waste disposal. Virtually overnight, the State of Indiana became a target for out-of-State trash.

The statistics do not begin to tell the story. Because, as I said, the trash parade targeted many small communities in rural areas in Indiana. So the magnitude of the change was dramatic for the citizens of those communities.

Let me just tell you one story, the story of Center Point. This small town in Indiana, a town of 250 people, had a local garbage dump. Not a landfill, it was not certified as a big landfill. It was just a place where the local citizens were able to dispose of their local trash. A couple of trucks picked up the trash in the community and surrounding areas and disposed of it in this area.

In 1989, the local landfill was purchased by out-of-State investors, and the site was doubled. Ads began appearing in national magazines that said: "Send us your trash." Narrow country lanes were clogged with 18-wheelers loaded with trash and garbage from other States. Local citizens, rightfully so, I believe, began to keep a watch on a daily basis, on a 24-hour-a-day basis. They would log in the license plates of the trucks coming to bring the trash, and we found that most of it was coming from just a few States.

I heard about the incident. I asked my staff to take me there. We went early one morning, and we stood on a hill overlooking the landfill, which now had been expanded considerably. I saw on this narrow, unpaved country lane a whole long line of 18-wheeler trucks that had driven all night to bring east coast waste to Indiana because the disposal fees were so much less than they were at the point of origin.

Suddenly, this little town of Center Point was overwhelmed, as its fragile country roads were torn up by the weight of the 18-wheelers, as signs and posts were knocked over as the 18-wheelers tried to negotiate the narrow turns, and as a landfill facility, a garbage disposal facility designed to take care of the needs of that community for many, many years in the future suddenly was the subject of unwanted and extraordinary volumes of trash, which became obvious were going to quickly fill up that local community's disposal site, leaving its local citizens with no local option to deal with their own waste problem.

Capacity that was sufficient to meet local needs for years was suddenly being used up in months. Hoosiers were understandably angry, and I was angry. We had a very clear message we wanted to deliver, and I delivered that on this Senate floor: That our State, which had mustered the political will to site landfill capacity in our own State borders, within those borders, to dispose of our own generated waste, were overwhelmed by trash flowing from States that were unwilling to responsibly handle their own waste.

Today, Mr. President, over 15 million tons of trash cross State lines. Indiana, Pennsylvania, Ohio, Virginia, and Michigan have borne a disproportionate share of receiving that capacity. We happen to be on an interstate route that runs east to west, Interstate 70. Interstate 70 has become the trash corridor for the flow of east coast trash to lower fee landfills in the Midwest.

Americans throw away about 180 million tons of solid waste yearly. That is enough trash to spread 30 stories high over 1,000 football fields. The question that confronts us is where are we going to put all this? Some communities have been pretty creative. Ten miles from downtown Detroit, there is an old landfill accommodating 21 years' worth of the city's garbage. It rises 150 feet into the sky. It no longer receives trash, but city officials have covered it with some top fill and they make snow in the winter and they declared it a ski area. It is colloquially called "Mount Trashmore," and it attracts thousands of visitors a year. But for most, trash is not a recreational resource; it is a municipal nightmare. Landfills fill up, and there is nowhere else to take the waste.

So our Nation's heartland is becoming our Nation's wasteland as trash increasingly moves across State lines following the route of cheap disposal from the East to the West.

Of the 15 million tons of trash crossing State lines, Indiana, Pennsylvania, Ohio, Virginia, and Michigan have borne, as I said, a disproportionate share. This rising tide of trash wreaks havoc with our planning efforts which, by our own State law, must ensure local capacity for 20 years.

Some States have reacted to this influx of out-of-State trash by forbidding all new landfill sites. Others have taken measures which amount to the nationalization of the trash industry by banning for-profit disposal facilities in order to give States control over this. Because public facilities may discriminate between in-State and out-of-State, one method of eliminating unwanted out-of-State trash is to restrict the commercial sector altogether.

These are not feasible solutions. These do not go to solving the problem. Our own legislature has tried to take care of the problem, but has found that its ability to act effectively is extraordinarily limited. We had a discussion of that this morning. The Senator from Rhode Island, and others, talked about the fact that under the commerce clause of the Constitution, garbage waste is considered a part of interstate commerce, and unless the Congress affirmatively acts to grant States and local jurisdictions the authority to control the flow of waste, they do not have the power to do so. That is why we are here. That is why we have been pursuing for these last several years the prospect of giving these States and these local communities the authority to regulate the flow of out-of-State trash.

We passed laws in Indiana, for instance, that would impose additional fees, that allowed us to check the content of the material coming in. The statute that we passed was on the books 4 days before it was challenged in the court as a violation of the commerce clause, and that case eventually was lost by the State.

Frustrated by the court decisions, Indiana has turned to bilateral agreements. Our Governor and the former Governor of New Jersey agreed to cooperate in stopping illegal waste from New Jersey. They agreed to share information and to pursue joint investigations.

Mr. President, the vast majority of waste shipped across State lines is not illegal waste, it is just ordinary garbage. It is the coffee grounds and eggshells and orange peels, discarded Dr. Pepper bottles, the newspaper, unless it is recycled—just the ordinary waste that each of us carries out to the trash bin in the garage and puts out once or twice a week in front of the house.

In addition, we have no way to accurately count the amount of trash we are receiving illegally to determine what that is. Many shipments are sent indirectly through collecting points in other States. To determine what came from a particular State to Indiana that might be legal or illegal requires a procedure that is an investigative nightmare.

As our own Governor has indicated, and as many other Governors have indicated, and as I believe a solid majority of Senators and Representatives have indicated, the only hope for a solution lies with Federal legislation.

In November 1989, my first year in the Senate, the 101st Congress, I introduced the first bill in the Senate which would allow States to ban, regulate, or impose fees on the interstate transportation of solid waste. After a strenuous debate, this bill passed by a very significant and, I think, surprising vote of 68–31. Unfortunately, in the conference with the House of Representatives, the bill which was passed here was stripped from that bill and the legislation died before becoming law.

In the very next Congress, I again introduced legislation and again forced the issue on the Senate floor. And, again, the Senate acted decisively on the interstate issue, now by a vote of 89–2. The Senators became aware of the problem and realized that their States may not have been the current target of out-of-State waste, but a little bit further down the road they were going to become targets. Many realized that the problem we identified in Indiana in 1989 was now a problem in their State. Senator EXON came to me and said, "Since you raised this issue, I have discovered communities in my own State that are becoming the recipients of out-of-State trash and they are overwhelming our efforts to deal with this."

That bill I introduced in the 102d Congress operated on three basic principles: First, it allowed communities that did not currently receive out-of-State trash to prohibit new shipments without express authorization. Second, it grandfathered facilities that were receiving trash from other States in order to give the exporting States time to site their own State capacity. It recognized that States in the crowded east coast corridor had significant waste disposal problems, and that to simply slam the door and say that, as of this date forward, you cannot export any trash whatsoever was simply not going to be a solution to the problem. So in recognizing that, we grandfathered a certain amount of shipment of out-of-State waste.

Third, it allowed Governors the authority to freeze volumes at current levels at the grandfathered facilities, because we wanted to give the Governors of the importing States the ability to say we can continue to take so much with this capacity but no more. Again, that legislation, while it passed the Senate 89–2, did not pass the House of Representatives and it died in that Congress.

In the next Congress, the 103d Congress, I used those principles to craft legislation that the Senate again positively addressed and the House positively addressed, but unfortunately it died in the last hours of the session coming very close to being enacted into law.

Now, here we are in the 104th Congress and I indicated back in 1989 that this issue was not going to go away. They can kill it in conference; the House can kill it; it can die by procedural methods, but I was not going to give up. I was like a dog who had his teeth sunk deep in the bone and I was not going to let go; I was going to come back and back and back until we got this thing passed. And here I am in the 104th Congress, and I hope this time we will be successful. I am getting lockjaw from keeping my teeth locked onto this issue. I would like to release that grip, send it to the President, get it signed into law, and move on to some other legislation.

Now, the bill before us today recognizes the principles upon which we have operated. The bill, I think, is a reasonable compromise that grants States and local communities the authority that they need to plan for their own needs, to say "no" to out-of-State trash. It recognizes the problems of exporting States, and it gives them methods and ways in which to reduce significantly the amount of trash they send out of State. It balances a lot of different needs. As has been described here, it deals with flow control and ground water monitoring.

The heart and soul of this bill, however, is the question of interstate trash shipment. We are working now on some areas of the bill that we feel may need some adjustment, as it has come out of committee. There are negotiations underway, and I trust they will be successful and will allow us to avoid offering some amendments to clarify some of these provisions.

We will talk a little bit more about that later.

Mr. CHAFEE. I wonder if I can ask a question.

Mr. COATS. I yield to the Senator.

Mr. CHAFEE. First, I want to confirm that indeed the Senator has sunk his teeth and jaws deep into this issue. I will second everything he said about his determination on this whole project. He has been at it for, I guess, 5, 6 years, whatever.

Mr. COATS. Six years.

Mr. CHAFEE. The Senator mentioned he had some amendments which I guess he is going to discuss now.

Mr. COATS. Actually, I plan to defer discussion of those amendments now because we are in negotiation with the Senator from Rhode Island, and other Senators of affected States, to try to reach a resolution on these amendments, which we can hopefully put into a package that would be acceptable and offer them as a package rather than as individual amendments. So I would be premature in offering those amendments at this particular time.

Mr. CHAFEE. I am caught in kind of a bind in that I want to be here when the Senator makes his remarks and offers his amendment. But I may have to step out for a minute or two. Who is working with the Senator in connection with his amendments? You mentioned "we." Is it several of you?

Mr. COATS. I say to the Senator from Rhode Island that it is virtually all of the affected parties, both from the exporting States as well as the importing States that are working together to try to resolve these issues.

Mr. CHAFEE. Fine.

Mr. COATS. I will not bring up any amendments in the immediate time period ahead of us here, and certainly the Senator will have an opportunity to leave the floor.

Mr. CHAFEE. OK. Because there is going to come a time when we are going to want amendments brought forward. If the Senator feels he is not quite ready, we will try and complete any negotiations. As the leader has indicated, he wants to finish this bill by the end of the week. My hope is that we can finish it tomorrow. So we will work with your folks and see if we cannot come to some conclusion at least by the time we go to work tomorrow.

Mr. COATS. I appreciate that very much. Obviously, the Senator's cooperation and input is necessary for this. I am anxious, also, to move forward on this. I would be delighted if we can finish this bill tomorrow and not have to carry it over until Friday. We are working as we speak on this matter and hope to have some answer to the Senator shortly.

Mr. CHAFEE. I thank the Senator.

Mr. COATS. In conclusion, Mr. President, let me just say that we have tried several approaches. We have tried the path of patience. We have waited our turn and bided our time. We have agreed to continue to accept some levels of out-of-State waste in exchange for having realistic controls over how much waste we will receive from other States. There is simply no other way for States to realistically plan for their own future capacity, unless we can enact legislation that gives them the authority to regulate the volume of out-of-State trash which that State receives.

The problem here is very basic. There is no negotiation; there is no arm's length or both-parties-at-the-table negotiation that takes place, because States are virtually powerless to sit at the table with the exporters and sit down and say, let us establish some reasonable volumes, let us make sure that we have the capacity to receive what you are sending in; let us negotiate the fees on which this will be shipped back and forth; let us determine the terms of the contract.

Because of the Constitution's commerce clause, it is possible—and it is a practice that has been used over and over again—for someone outside the State, or even inside the State, to purchase a landfill and suddenly open up that landfill, which was designed originally for local needs, to massive volumes of out-of-State trash, which fills up the landfill in a very short period of time and leaves the local citizens few, if any, alternatives. In fact, it forces them to ship their waste out of State in order to find a place to dispose of it.

So we end up with a game of pass the trash. Everybody is passing it on down the highway, generally from east to west. Not always. Metropolitan areas to rural areas, across State lines, it is pass the trash.

As the landfills get filled up, no new ones get built, no new efforts put in place to dispose of out-of-State waste, to reduce the amount, to recycle, to reduce the amount generated initially, to find other ways to dispose of the waste. So we just are moving it around the country to different locations, filling up the cheapest hole in the ground that is available for a certain fee for out-of-State trash.

In the 5 years that Congress has debated the issue, the trucks continue to roll. The garbage continues to mount. The changes that we are proposing here are not an attack on any particular State. They are a defense of our own States. They are not rooted in bitterness, but they are rooted in urgent need.

Again, I want to commend my colleagues on the Environmental Committee for moving expeditiously in this new Congress on this legislation. I look forward to working with them, to strengthening the bill to ensure that we afford real protection to importing States while allowing exporters sufficient time to get their house in order.

That is our goal, Mr. President. I am confident that we can accomplish that goal in the time that we have in the next day or two. I am very, very hopeful that within 48 hours or so we will be able to report that the U.S. Senate has, once again, taken action to deal with this problem and that we will work carefully and closely with the House of Representatives, which in my understanding is moving forward on this expeditiously also, and finally resolve this issue and send the legislation to the President's desk for his signature, which in the past he has indicated he will sign.

Mr. President I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I take to the floor to discuss the provisions of S. 534, the legislation to address the issue of interstate transportation waste and flow control authority. Very often when one mentions flow control authority, I sense that heads begin to drop because of the rather arcane subject but a very important one.

If I can just take a moment to say that flow control—and perhaps it has been discussed on the floor and I missed it but I think the importance of the issue will bear some repetition—gives the States the ability to control the flow of household trash, particularly trash within State borders. And while that does not sound like very much to ask, the fact is that demands are being placed on external facilities' availability so that it can simply be trucked, often out-of-State to other States, where in many cases there is an objection to receiving volumes of trash. Though there was a Supreme Court case decision not too long ago that dealt with this and said you cannot stop this, it directs the Congress to resolve the problem and allowed the parameters under which they were to operate to do just that.

So if it begins to inhibit the trucking or the transportation of waste outside the State, then within a State, they have to have some way of controlling where it goes. Again, though the subject seems a bit arcane, the fact is that it has enormous influence on States like my own who are trying to resolve the need, the ability to deal with their waste in an orderly fashion.

Without significant changes to S. 534, my State is going to experience a severe financial crisis precipitated by the Senate's failure to delegate waste management decisions to the States. I am hoping through the amendment process that we can improve the bill so that States can continue to handle their waste the way they deem appropriate.

Title I of the legislation, which addresses interstate restrictions, which I was talking about earlier, is essentially identical. Title I of S. 2345, which was approved by the Senate Environment and Public Works Committee last year, overturns the decision of the Supreme Court in the case of New Jersey versus Philadelphia. The Supreme Court's decision said that interstate restrictions are unconstitutional because a State cannot discriminate against a commodity—in this case out-of-State trash—from being transported. The court said that States cannot give unfair competitive disadvantage against out-of-State haulers, those who are trucking the material from one State to the other who are out of State, for example, Pennsylvania to New Jersey, who want to dispose of trash where it makes the most economic sense.

So the first title will allow the Governors in each State to restrict imports of trash into their States. I have supported this title in the past and will support it in the future if States are given the authority to find an alternative to this obstructive commerce to find in State solutions that now out-of-State exports would restrict.

Unfortunately, S. 534, while giving States new power over interstate shipment of waste, actually reduces the authority that they have enjoyed within a State to properly handle their waste. That is a principal problem that I have with title II of S. 534, the title that deals with flow control authority within the State. Once again, I will take a moment to explain why States use flow control.

Congress passed the Resource Conservation and Recovery Act in 1976. The acronym is RCRA. RCRA made standards and improved solid waste disposal methods and practices. Under subtitle (d) of that law, State and local governments developed comprehensive waste management plans that meet minimum standards that are set by EPA. Although the law created national standards imposed through the solid waste management plans, Congress recognized that solid waste was a problem traditionally managed at the local level. Under the philosophy of local control, subtitle (d) gave State and local governments the flexibility they needed to determine the best way to meet the national standards.

In response to the Federal mandate that waste should be disposed of in an environmentally sound manner, it is hard to disagree with that. Many local governments constructed modern, state-of-the-art recycling systems, waste-to-energy facilities, and sanitary landfills. Integrated waste management systems were implemented to promote recycling, consumer education and proper management and disposal of household hazardous waste.

While necessary and desirable, these facilities were also very costly. The Federal Government does not share the cost of municipal solid waste management disposal at the State and local level. States and local governments, therefore, adopted various means to finance municipal solid waste management services and facilities. The general approach taken by State and local government was to issue revenue bonds. These bonds were secured by long-term contractual promises which rely on a steady, dependable, and consistent quantity of waste for disposal in new facilities. It was their revenue streams, necessary to pay off the bonds and to meet the financial obligations, that were incurred in financing these facilities. To ensure guaranteed quantities of waste, cities and towns enact laws requiring that trash generated within their borders be disposed of in these recently financed facilities. Those laws are the ones we commonly call flow control laws.

Now, these flow control laws were consistent with Congress' instruction in subtitle D that State and local governments endeavor to secure long-term contracts for supplying resource recovery facilities and other environmentally responsible waste disposal facilities. It is also consistent with several courts of appeal and State supreme court decisions. However, on May 16, 1994, the legal basis for flow control was overturned by the Supreme Court in the case of Carbone versus Clarkstown. In the 6-to-3 decision, the U.S. Supreme Court ruled that a New York municipality could not require that garbage generated in the locality be sent to a designated waste management facility.

And again, though the language is common, I think it is important to understand what the outcome was, that is, if a community suddenly elected to abandon its responsibility to provide trash for a disposal facility, then it left that facility, already financed, with insufficient resources, insufficient revenues to continue to meet the financial obligations, as well as keeping the facility operating. They had a choice in many cases. They could ship it out of State. But interstate commerce, as we now know it, looks as if it is going to be obstructed by the first part of the law being proposed here, the bill that is before the Senate.

The Court held that the Clarkstown, NY, flow control ordinance interfered with interstate commerce and deprived out-of-State firms access to the local trash market. Again, out-of-State firms are those that cart the material to landfills that are licensed in other States.

As in the New Jersey versus Philadelphia case, States could not discriminate against out-of-State haulers. In other words, if New Jersey did not want that garbage, that trash brought into their State, it would have been a violation of law, so said the Court in the case of New Jersey versus Philadelphia.

The Court held that since Congress had not specifically delegated this power to the States, these flow control laws violated the interstate commerce clause of the Constitution.

The May 1994 decision in Carbone invalidated the historic right of local and State governments to manage solid waste. The case overturned almost 20 years of sound solid waste management policy and is jeopardizing the solid waste management systems of the over 40 States that rely on flow control authority to manage their solid waste.

The Carbone decision makes it difficult for cities to guarantee a steady stream of waste to disposal and processing facilities. Without this guaranteed steady stream of revenues, it will be virtually impossible for the communities to get financing to build solid waste management facilities.

Second, this decision could result in localities losing the revenue generated by having garbage sent to municipal disposal facilities.

This would eliminate their ability to subsidize nonprofitable waste management activities such as recycling and household hazardous waste programs, which have been very effective in many communities, especially in New Jersey. As we have seen in the District of Columbia, the loss of flow control authority threatens existing recycling programs. This article, entitled "District to Suspend Curbside Recycling," from the Washington Post of April 12, about a month ago, clearly makes the case that private haulers taking trash to out-of-State locations to avoid the recycling fees led to this financial crisis.

Finally, the Supreme Court decision puts existing bonds used to finance waste management facilities at risk. If localities cannot send an adequate level of garbage to a facility to generate the revenue needed to pay off the bonds, those communities face default. Citizens in the affected communities could find the possibility of extraordinarily high taxes and the inability to go to the financial markets for any of their needs.

The Public Securities Association estimates that $23 billion of bonds are in jeopardy because of the Carbone decision and every citizen, every taxpayer in almost every State, has to worry about this because suddenly they could be faced with having to make up the revenue that is lost as a result of the decision to ship the material out of State because there is no flow control on this.

In last year's bill, in difficult negotiations with importing States, exporting States, and the waste industry, accommodation was reached. S. 2345 overturned both the Philadelphia case and the Carbone case. It recognized that trash was a local issue and one where States should make the rules, not the Supreme Court and not the Congress.

Some amendments were made to assure the maximum amount of competition was included in any flow control program, competition between simply shipping it out of State and the need to furnish the local facility with appropriate revenue opportunities. Certain restrictions were placed on Governors' ability to overturn existing contractual relationships. Because of concerns of the waste industry, flow control could not be expanded to States that had not used it before the Carbone decision. Unfortunately, at the last minute, the bill failed to win unanimous support.

Instead of starting from last year's compromise, this year's bill goes in two different directions. Almost identical to last year's bill, Governors are given the power to shop interstate shipment of waste. However, the bill goes in the other direction as far as waste within States. Title II, the flow control title, only allows existing flow control where default is likely. The title is based on the philosophy that flow control is wrong and anticompetitive, and that protection should be provided for only those communities that are in immediate financial jeopardy because of the Supreme Court decision in Carbone.

Title I, the interstate title, discriminates against free market solutions by allowing States to say no to economically viable interstate shipments. Title II, however, attempts to enshrine the free market by preventing States from considering long-term social goals in addition to short-term economic benefits. Indeed, in its present form, I find the bill internally inconsistent. Without flow control authority denied to them in title II, States will find it more difficult to meet the self-sufficiency goal that is virtually required by title I. Title II says turn waste control over to free enterprise. It sounds like a good idea. However, title I says if you do allow free enterprise to take over, other States can close the market to you. It is a catch-22 situation.

It is interesting to note that additional amendments are expected to further limit the free flow of trash over State lines. Title I, the interstate restriction title, gives new powers that conflict with the interstate commerce clause to Governors that they have not enjoyed since the Philadelphia case was decided in 1972. Title II takes powers away from the States and municipalities that they enjoyed since the 1970's, powers that they have used to keep the trash flowing within their States to local facilities.

My colleague from New Hampshire, the chairman of the subcommittee on Superfund, philosophically believes that flow control is wrong, and I understand his position. But his position conflicts with a concern of my Governor and many Governors who believe that, after the last election, more authority would be put in their hands rather than in the hands of Congress.

Limiting the bill as the sponsors have intended has not been easy.

Since flow control has been a tool to solve the waste disposal problems, the States and towns across America have been a laboratory of unique and creative solutions to their waste problems. These non Federal solutions to the waste problem have led to nonuniform statutes and nonuniform problems that were inadvertently not fixed by S. 534.

At subcommittee markup, over 50 amendments were filed. Changes were accepted to respond to specific problems in five States. Two of those States need additional clarifying language. A colloquy was entered into for another State and one other State was promised consideration before floor action. These seven State-specific amendments have one thing in common—each of these States are represented by Senators who sit on the Environment and Public Works Committee.

It is a complicated issue. I wish we had been able to resolve these issues before we got to the floor here. But it was necessary to get this bill on the agenda for all kinds of reasons and, as a consequence, we are where we are. But we still have a lot of work to do.

Because many States have delegated waste control authorities to lower levels of government that do not employ Washington counsel, many communities are still reviewing the committee's reported product, still looking at what is being offered. And we always have that from the States when they have an interest or when they have a particular problem with a piece of legislation. They have not had time enough yet to deal with it.

New situations that seem consistent with the intent of the authors but not exactly fitting the language of the bill, are still being discovered.

Mr. President, flow control is not necessary or even preferable for every State. Each State is different. It has its own unique needs. But this bill, as written, is not acceptable by my Governor, Christine Todd Whitman, and neither is it acceptable to many others. As those who have been involved in the flow control discussions over the years, New Jersey has the most sweeping and encompassing system and it has been a success.

In the 1980's, New Jersey's environmental initiatives to close substandard landfills drastically reduced the State's disposal capacity. New Jersey's waste quickly became a burden for other States as the need to export our waste grew.

The high cost and market volatility associated with exporting waste triggered a garbage crisis and strained municipal resources. It was at this time that elected officials of both parties in New Jersey accepted the responsibility to develop a solid waste management system that would provide long-term stability and ultimately, self-sufficiency.

"Self-sufficiency" simply meaning that we could take care of all of our waste disposal needs within our State's borders. It could not happen overnight. We tried to stop it when it came from other places, and we were turned down by the courts. As I have said now several times, we could not stand to have our shifting of material suddenly cut off from other States when now we are an exporter.

It was clear to the State that other States would not accept New Jersey's waste forever and Federal legislation to eliminate waste exports was inevitable. To meet the goal of self-sufficiency, flow control laws have been in place in New Jersey since 1979 and control all of the nonhazardous solid waste in the State. Flow control has been a significant part of New Jersey's ability to build an infrastructure, mostly landfills, to handle the 14 million tons of solid waste requiring disposal annually.

Since 1988, exports of municipal solid waste from New Jersey have decreased 50 percent. If the flow control authority from last year's bill is included in legislation that passes this body, New Jersey will be self-sufficient by the year 2000, only 5 years away.

New Jersey's recycling programs are also dependent on revenues received from use of New Jersey waste management facilities. Today, New Jersey recycles over 53 percent of its waste.

Despite New Jersey's system, it is not a system that leaves out the private sector. The private sector has built and operates most of the waste facilities in the State. Through competitive bidding, the authorities within the State ensure services will be provided at the lowest cost. The collection, transportation, construction of disposal facilities, and their operations, are all services for which bids are sought.

Governor Whitman testified that "every major waste management firm in America, and a laundry list of smaller waste companies, operate in New Jersey today, and we are in the 17th year of a flow control system. That is not a Government monopoly."

Because of New Jersey's unique system where all the wastes are now flow controlled, without additional amendments, a waste crisis will inevitably occur. Once part of our system is no longer flow controlled, wastes will flow out of State.

New, in-state replacement facilities will be impossible to finance or justify economically although the supply of trash will be there, the trash will flow out-of-state. Even BFI, the company leading the fight against flow control, acknowledges that new private facilities in the State would not be practical without flow control, without the ability to direct where this trash flows.

Even without the recycling fees, it is and will continue to be cheaper to dump garbage in a landfill in Pennsylvania or other States than to handle it anywhere in New Jersey. This is appealing, in the short term, for some of the mayors and some of the communities and towns in New Jersey.

But the free market available over the border is subject to governmental closure by title I of this very bill. Without flow control, what is now a decreasing waste problem will again become a garbage crisis. Without flow control, communities will again give their garbage to low-cost haulers and hope it ends up in certified RCRA facilities, as opposed to being dumped casually someplace in an unlicensed facility that they do not have control over.

Without flow control, communities will select haulers on the basis of only one factor, and that is price. But all of us know that the cheapest alternative is not always the best or the legal one.

Without flow control, we will see more illegal midnight dumping.

Mr. President, to protect my State, I will be offering an amendment to protect the flow control system in existence in New Jersey. With this amendment, I can state that New Jersey will not be sending garbage out-of-state after the year 2000. We just need that window of time to deal with it.

Another alternative is to not fix State problems one by one, but to have a generic fix that was the essence of S. 2345 last year.

Depending on the amendment process we are going to be using in this debate, I will be considering offering such amendment based on that agreement and which I introduced in this Congress as S. 398.

Mr. President, the Governor of New Jersey, Christine Todd Whitman, testified before the committee on this important issue. She said:

> It has been argued by some, and may be said again, that flow control legislation is at odds with the goals and philosophy of the new Congress. The contrary is true. A flow control bill that ensures private sector competition while allowing local governments to make long-term waste management plans is entirely consistent with the goals of this Congress. If Congress denies flow control authority to New Jersey, it essentially mandates that States like Pennsylvania and Ohio take trash from my State, only because land cost in those States are lower than in New Jersey.

Mr. President, the interests of the exporting States and importing States are not in conflict. New Jersey does not want to send its waste out-of-State. It wants to be self-sufficient. But to be self-sufficient, it needs to protect its flow control system and it needs several years to be totally self-sufficient. Without that protection, the fears of the proponents of interstate restrictions, will be realized and wastes will again flow out of states looking for cheap places to send their garbage.

In March of this year, the National Governors unanimously passed a resolution reaffirming a mutual commitment to each State's management of waste within its borders and endorsed the use of flow control in the pursuit of self-sufficiency.

Because title II is so much more restrictive that last year's bill, it will be necessary for New Jersey to send more of its waste out-of-State. Unless title II is corrected, I must strongly oppose the existing title I and any amendments that further limit the State's options of going out of State.

Mr. President, I know that my dissertation just now does not compare with some of the most important declarations delivered on the floor of the U.S. Senate nor in this great city of Washington. However, without trivializing the problem, I just want to make the case once more that it cannot exist both ways: We cannot say to the States you are not allowed to control the flow of trash within your State and, on the other hand, face the very high risk of having a law created that says, "Uh-uh, you can't ship it to my State or any other State that now or in the future may import trash."

So we have to arrive at a balance. That is what I have been saying through that flood of words that I have been issuing for the last 25 minutes or so. The subject is not an easy one. It is not a pleasant one. Garbage never is. But the fact of the matter is that it is our garbage and it is our problem and there is not a State exempt from the problem. Today's importer may be tomorrow's exporter, which we bitterly discovered in the State of New Jersey over 23 years ago.

So I hope that my colleagues in the Senate will comply with our request to give the States the authority that they need to handle their garbage within the State with the same authority they will have to keep waste out of their States.

With that, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LAUTENBERG. Mr. President, I promise there will not be a second speech similar to the one I just delivered. This is a simple request, Mr. President. And that is, I ask unanimous consent that Douglas Johnson, of Senator WELLSTONE's office, and Jill Schneiderman, of Senator DASCHLE's office, be given the privilege of the floor during the consideration of S. 534.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LAUTENBERG. I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, first, I remind my colleagues on both sides of the aisle that S. 770 is still at the desk and will be there until the close of business today. If colleagues on either side are interested in cosponsoring the bill which would ultimately move the embassy in Israel from Tel Aviv to Jerusalem, we hope you will take advantage and cosponsor the measure.

Second, we are on the Interstate Transportation of Municipal Solid Waste Act of 1995, and we have not been on it long, only since about 1 o'clock. I know a lot of good opening statements have been made. I understand there are a lot of amendments. I urge my colleagues who may not be on the floor, or their staffs who may be listening in their offices, if Members have amendments, we would like to have some votes here this afternoon. We would like to keep this bill moving.

I am tempted to file cloture on the whole bill this afternoon and have a cloture vote on Friday. I would rather not do that. I would rather have Members come to the floor and offer their amendments. But I am certain the managers are here and they are prepared to do business. I know there is one amendment under discussion now. I have heard there are dozens and dozens of amendments. If we are going to complete action on this bill by Friday, we need to move quickly.

I say to all of my colleagues that if you have an amendment, come to the floor and let us enter into a time agreement of 30, 40 minutes, whatever, and dispose of some of these amendments this afternoon. Senator SMITH is here, Senator CHAFEE is here, Senator BAUCUS has been here, so I think you are prepared to do business, right?

Mr. SMITH. Yes. If the majority leader will yield, the majority leader is correct. I think if the bill does not get completed this week because these amendments do not get offered, they are jeopardizing the things we are trying to accomplish. We are here, and if those who have amendments get them here, we can finish this by this week.

Mr. DOLE. We may be on the budget resolution as early as Tuesday of next week. So the window is not very broad here. This is important legislation that affects everybody all over the country. Tonight we cannot stay in as late as I would like to because we have the Senate spouses annual dinner this evening. We will have to probably stop about 7. So tomorrow night we can go late and late Friday afternoon.

I urge my colleagues again to cooperate and help us move the business of the Senate so that we can move on to something else.

Mr. WELLSTONE. Mr. President, I wanted to say to the majority leader and to the managers that I appreciate wanting to move forward. We are trying to work out something on an amendment right now. I think it is an important piece of legislation. I hope we are close.

I yield the floor.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 750

(Purpose: To clarify the continuation of flow control authority where such authority was imposed prior to May 15, 1994)

Mr. WELLSTONE. Mr. President, I thank the Senator from West Virginia for being kind enough to defer to me. I am hoping that we will be able to go forward with an amendment, if we can do it in a very brief period of time. I asked the Senator from West Virginia for his permission to do so. I will wait for a moment, if the Senator would be patient.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. JEFFORDS). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 750.

Mr. WELLSTONE. I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, line 10, strike "is imposed" and insert "had been exercised prior to May 15, 1994, and was being implemented on May 15, 1994,".

On page 56, line 12, insert ";' after "subdivision" and strike "in effect on May 15, 1994".

On page 60, lines 4–5, strike "was in effect prior to" and insert "such authority was imposed prior to May 15, 1994 and was being implemented on".

Mr. WELLSTONE. Mr. President, I rise today to speak to a subject that is of the greatest importance to many communities in my State of Minnesota, and indeed to communities across the country.

The topic is flow control, and particularly as it relates to S. 534, the Interstate Transportation of Municipal Solid Waste Act of 1995. For those Senators who may not be familiar with the subject of flow control—although you are likely to be very familiar with it once we all finish with this bill—you should take a moment and talk to the people in your communities who are responsible every day of the week for picking up the trash, finding a way to dispose of it, and doing so in an affordable and ecologically sound manner. People like Mr. Rob Dunnette, the plant manager at the Olmstead County Waste-To-Energy facility in Rochester, MN.

Mr. President, in 1980 my State of Minnesota, the cost of disposing of solid wastes in municipal landfills was on the rise * * * and the amount of available landfill space was on the decline. "At that time," says Mr. Dunnette, "our landfills were filling up, and there was a lot of material going into landfills that shouldn't have." The Minnesota State legislature responded by passing the Solid Waste Management Act of 1980, an act which sought to give local communities the tools they needed to deal with the landfill problem. One of those tools was the ability to take on for themselves the authority to control the flow of municipal solid waste. Says Mr. Dunnette, "The Feds and the State told us to do something different, do something better * * * so we did."

Mr. President, what Olmstead County did was to adopt flow control. It obtained $27 million in municipal bonds for the construction of three disposal facilities—one for hazardous waste, one for recyclables, and one to convert the remaining solid waste into steam, which was used to heat neighboring buildings and generate electricity.

The entire plan was based on what the State and Federal Government had been encouraging communities to do for years—namely, to adopt flow control authority to integrate and consolidate the disposal of municipal solid wastes.

And it worked. In fact because of the many counties—like Olmstead County—that began to engage in flow control, my State of Minnesota became a national example of how flow control could be an effective tool in managing our local solid waste streams in an economically and ecologically sound manner.

That is until May 15, 1994, when the U.S. Supreme Court ruled that flow control authority was unconstitutional unless explicitly granted by Congress. This is largely why all of us are here on the floor today, talking about flow control.

Mr. President, the issue is simple. The bill before us today, as it is written, excludes many Minnesota communities that have floated millions of dollars in municipal bonds to build facilities under the presumption that they could engage in flow control. But there is a solution to this problem.

Mr. President, I have prepared an amendment, which would ensure that all of the Minnesota counties that had engaged in flow control and had invested money into facilities would be allowed to continue doing so. It clears up a possible misunderstanding, and I thank my colleagues for accepting it.

Let us be clear: My amendment would not authorize flow control for any new communities. Some communities have had good experience with it; clearly, however, it is not right for everyone. What I am saying is that this is a decision that should not be made here in Washington, but rather in the communities directly affected.

My amendment would not require anybody to use flow control. It would only allow those that had been encouraged to engage in flow control since 1980 by the State and Federal Governments, to continue to do so. However without my amendment, millions upon millions of dollars in municipal bonds in Minnesota could be put at risk. As Mr. Dunnette said, "We're 8 years into our 20-year bond * * * without this fix, it is possible, if not probable, that we may default on those bonds."

Mr. President, it is as simple as that. If ever there was a clear example of a States-rights issue, this is it. We need to address this issue now, but we need to do so in a manner that is responsive to our communities. Our communities are telling us loud and clear what they need. I hope my colleagues will listen to them.

Mr. President, this is an amendment that really just clears up a possible misunderstanding. I thank the Senator from Rhode Island, the Senator from Montana, and the Senator from New Hampshire for accepting this amendment.

This amendment makes it clear that when a county has gone forward with its own flow control, has bonded, and is implementing this, that they clearly will be covered by this bill. I believe the managers have accepted this amendment.

Mr. CHAFEE. Mr. President, the Senator from Minnesota is correct, this is acceptable to this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 750) was agreed to.

Mr. CHAFEE. I move to reconsider the vote.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Vermont, makes a motion to lay that amendment on the table.

The motion to table is agreed to.

Mr. WELLSTONE. Mr. President, I again would like to thank my colleagues.

This was, for a good many counties in Minnesota, a very, very important question. For all Senators, whether Democrats or Republicans, it always feels good to come through for people in your State. I worked hard at this. I thank my colleagues for their cooperation. I yield the floor.

UNITED STATES ACTION ON JAPAN TRADE

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, our United States Trade Representative, Ambassador Kantor, this morning announced a pair of initiatives regarding our trade relations with Japan for which he is to be commended and which deserve the strong support of this body.

With respect to the first initiative, Ambassador Kantor has announced a plan to impose trade sanctions under section 301 of the Trade Act, pursuant to an investigation into the Japanese auto parts aftermarket. On this issue, this body has already spoken decisively by agreeing to a resolution offered on yesterday by the two leaders and myself, and the vote was 88–8. The Senate, thereby, decisively supports the imposition of such sanctions, given the complete unwillingness of the Japanese to address their market closing practices which block access of the United States parts to Japanese consumers. This has resulted in persistent, large trade deficits which are unfair to our industries and cost tens of thousands of jobs every day.

The Trade Representative is on solid ground to publish a proposed retaliation list under section 301.

Regarding the second initiative, the Trade Representative has also announced his intention to take a broad case against Japan's automotive practices before the World Trade Organization [WTO] by invoking the dispute settlement mechanism. As stated in his letter to the new Director General of the WTO, the case will be based on the fact that "Japan has failed to carry out its obligations under the WTO" and thereby "nullified and impaired benefits accrued to the United States under the WTO", and "impedes the attainment of important objectives of the GATT and the WTO."

As my colleagues are aware, in the debate last December over America's accession to the new WTO system, the question of the impact on United States sovereignty by creating binding decisionmaking dispute settlement bodies in that organization was discussed. In fact, it seems clear that some other nations were quick to sign up to the WTO, specifically in order to attack United States trade laws.

In testimony before the Senate Finance Committee today, a former United States trade negotiator, Alan Wolff, stated with respect to the context of negotiations creating the WTO,

> Our negotiators should have begun to recognize that there was something suspect about the U.S. proposal for an automatically binding system when the rest of the parties to the negotiation made an about face and embraced it. They thought that they were curbing America's ability to act under section 301.

So, some opinion has been expressed that it would be risky to go before the WTO in that a dispute settlement panel could rule against United States 301 action in imposing new retaliatory tariffs on Japanese products.

But the question is, what is in the national interest of the United States? Let us keep our eye on the ball. The case of Japanese discrimination on a very persistent and massive scale has been clear for many years in the automotive market as well as in other markets. No serious person can take issue with this.

I commend the approach taken by Ambassador Kantor. There should be a good case against Japanese automotive industry barriers before the WTO because they are so overwhelming—Japanese practices overwhelm tariff schedules and make them irrelevant to the real dynamics of the market. If there is not a winnable case, I, for one, would suspect something deeply flawed with WTO decisionmaking and not the United States' case. Let me say that again: If there is not a winnable case, then I, for one, would suspect something deeply flawed with the World Trade Organization decisionmaking and not something flawed about the United States' case.

The U.S. Trade Representative has maintained consistently that the operation of section 301 as a bilateral mechanism regarding specific barriers and practices is completely appropriate at the same time that we also attempt to breathe life into the new WTO dispute system. WTO rules do not cover the complete range of barriers that are practiced by the Japanese and, therefore, 301 treatment is totally appropriate in many instances. Furthermore, as a general matter, it certainly appears reasonable to believe that if Japanese practices nullify the value to be gained from the tariff-lowering regime of the GATT, then the United States should prevail in a World Trade Organization dispute.

The Trade Representative has established a two-track approach taking the initiative before the WTO and exercising our bilateral rights under our trade law. I do not see any inconsistency in this approach. It is the right approach because our practices in our market are transparent and open, while Japan's practices are not. Thus, it is a fair challenge to the WTO to recognize and act on the reality of the market situation.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter sent yesterday from Ambassador Kantor to the new Director General of the WTO, Mr. Renato Ruggerio, which gives prefiling notification of the intention of the United States to initiate a WTO challenge against Japanese automotive discrimination. In addition, I also ask unanimous consent to include an op-ed piece from today's Washington Post by the vice chairman of the Chrysler Corp., Mr. Thomas G. Denomme, outlining in detail problems that Chrysler has experienced in attempting to break into the Japanese market.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
U.S. TRADE REPRESENTATIVE,
Washington, DC.

RENATO RUGGIERO,
Director-General, World Trade Organization, Geneva, Switzerland.

DEAR DIRECTOR-GENERAL: I am writing you today to give pre-filing notification of the intention of the United States to invoke the dispute settlement mechanism of the WTO to challenge the discrimination against United States and other competitive foreign products in the market for automobiles and automotive parts in Japan. It is our intention to officially file a case with the World Trade Organization (WTO) in approximately 45 days.

Through its actions and inactions with respect to the automotive sector, Japan has failed to carry out its obligations under the WTO, has nullified and impaired benefits accruing to the United States under the WTO, and has fostered a situation in the automotive sector that nullifies and impairs such benefits, and impedes the attainment of important objectives of the GATT and the WTO.

The market access problems in the automotive sector reflect problems endemic in many sectors in Japan. Relative to gross domestic product, Japan imports far fewer manufactured goods than any other G–7 country and maintains a persistent surplus in its global trade and current accounts. Japan's imports of manufactured goods are one-fifth to one-tenth the level of European countries and nearly one-third the level of the United States, relative to GDP. Overregulation, toleration of market restrictive practices and market structures, and pervasive and unwarranted intervention in the Japanese economy all work together to systematically discriminate against foreign competitive imports.

The United States has focussed on the automotive sector because of its central importance to the United States and other economies, and its huge contribution to the U.S.-Japan trade imbalance. This sector accounts for almost 5 percent of the U.S. GDP, and it directly provides jobs for 2.5 million Americans. The 1994 U.S.-Japan trade imbalance in the automotive sector was $37 billion, nearly 60 percent of the total U.S. trade deficit with Japan and nearly a quarter of the entire U.S. global trade deficit.

This trade imbalance reflects a lack of access for foreign autos and auto parts to the Japanese market for the past 35 years. In Japan today, foreign automobiles have a 4.6 percent share of the market. In the United States, foreign autos occupy a 32.5 percent share of the market. Throughout the rest of the G–7, foreign cars range from 33 to 55 percent of the market. In Japan, foreign auto parts account for only 2.6 percent of the market. In the United States, foreign parts make up 35 percent of the market. Throughout the rest of the G–7, the market share of foreign parts ranges from 16 to 60 percent.

While we are first and foremost concerned about the impact of Japan's automotive barriers and restrictive practices on the interests of U.S. companies and workers, this is a general international economic problem, adversely affecting the interests of many trading nations. Japan's huge trade imbalances in the automotive sector contribute substantially to unstable international economic conditions which undermine global economic recovery and growth, and the health of the international trading system.

The Government of Japan in the past implemented measures to protect the domestic automobile industry, such as discriminatory allocation of capital, foreign investment restrictions, high tariffs, and a range of other measures. As these barriers were removed and as tariffs were reduced through multilateral tariff negotiations, the Government of Japan developed other measures to protect domestic producers from foreign competition. Such measures included, among others, excessively burdensome inspection requirements for imported vehicles, discriminatory access to vehicle registration data, and maintaining an unreasonably complex system of motor vehicle inspection and repair regulations.

At the same time, the Japanese automotive sector as it has developed has been pervasively characterized by close interlocking relationships between auto manufacturers, suppliers, distributors, dealers, and those who repair and inspect cars. The Government of Japan has guided or tolerated the creation by industry of informal market restrictive measures and market structures, which have placed a critical role in excluding foreign competitive suppliers of autos and auto parts from the market.

Foreign motor vehicle manufacturers now face a situation in which limited access to auto dealerships—which until recently were prohibited from carrying products from competing suppliers and which still fear that carrying a competitor's products will damage their relationship with their current supplier—seriously impedes market access. In addition, foreign auto parts suppliers find it virtually impossible to sell high value-added parts to Japanese manufacturers.

In the auto parts aftermarket, excessive and complex regulations channel most repairs to garages tied closely to Japanese parts manufacturers, which results in market discrimination. While we are very conscious of the need for any country to establish regulations pertaining to safety and the environment, the Japanese regulations in the aftermarket go far beyond what is necessary to protect those interests, and are applied with the effect of creating unnecessary obstacles to international trade. Japan has chosen to create and maintain a regulatory system which effectively locks out foreign competitors and imposes extraordinary additional costs on Japanese consumers. According to our estimates, Japan's 34 million households would save $24 billion annually from deregulation of the auto parts aftermarket.

As you are aware, the United States and Japan have been discussing measures to substantially increase access and sales of foreign competitive autos and auto parts in the Japanese market. After long negotiations, the United States and Japan have been unable to reach agreement regarding any of the three principal areas—access and sales of motor vehicles, original equipment parts, and replacement parts—that are crucial to a meaningful solution.

I have directed a task force of lawyers and economists to ready our case for submission to the WTO. I must underline the seriousness of our intentions in this matter.

Yours sincerely,

MICHAEL KANTOR.

JAPAN: ONE-WAY TRADE TACTICS

U.S. Trade Ambassador Mickey Kantor is currently toe to toe with the Japanese in the most contentious trade negotiations to date. The aim is to open Japan to American vehicles and parts. Agreements have been reached in theory to open Japan to foreign insurance, medical equipment, telecommunications equipment and glass. But the toughest and most important sector—automotive—remains unresolved.

The total American trade deficit with Japan last year was $66 billion, and 60 percent of that—more than $36 billion—was in auto trade alone. We can't fix the trade gap with Japan unless we fix the auto sector. And make no mistake, the Japanese domestic industry is virtually closed to foreigners and will remain closed unless we, as a nation, force them to open it. Here are just a few facts:

American companies have sold 400,000 vehicles in Japan in the past 25 years. Japanese companies have sold 40 million in this country. Japanese consumers bought 6.5 million vehicles last year. Only 301,391 were imported—less than 5 percent of the market. We project that Big Three sales in Japan will increase this year by about 12,000 vehicles. Japan ships that many to the United States every three days. The Japanese auto parts market is worth $107 billion per year. America's world-class suppliers have less than 2 percent of that business, even with the weakest dollar since World War II.

Japan does not play by the same rule book as Western nations. It is a closed, mercantilistic society with government and business working hand in hand to prevent any serious foreign competition in the home market, while waging an economic war of conquest in overseas markets. With the second-largest economy in the world, Japan is simply too big and too important for such behavior to be tolerated. It also sends the wrong message to newly developing economies that one-way trade is an acceptable model to follow. It is time for the Japanese traders to grow up and act like responsible economic adults in the world trading system. That system is based on reciprocity. You can sell to us if we can sell to you.

Totally free trade has always been a textbook theory. It has never existed in reality. However, when a major trading nation consistently and egregiously violates the rules of reciprocity to beggar its neighbors, it can ultimately lead to the collapse of world trade. Other nations eventually find the costs of such violations to their own producers to be too great, and a major trade war develops.

The Japanese or their apologists continually protest that their auto markets are not closed to imports. It's just that we don't try hard enough, or that our vehicles are too big or that the steering wheel is on the wrong side.

It all boils down to an argument that Japanese roads and drivers are unique and unsuited to "foreign" vehicles and parts—just as a Japanese baseball was unique and unsuitable for "foreign" bats, and Japanese snow was unique and unsuitable for "foreign" skis and just as (for 23 years) Japanese stomachs were unique and unsuitable for "foreign" apples. The list is endless, and the arguments are all bunk.

All of the U.S. companies have right-hand-drive vehicles. Chrysler was the first of the Big Three to export a right-hand-drive vehicle from the United States to Japan with the Jeep Cherokee. The sport utility segment is an increasingly popular segment of the Japanese market, just as it is in the United States and Europe. Last year, 197,877 sport utility vehicles were sold in Japan. Chrysler sold 13,208 vehicles in Japan; 12,701 of them were Jeep vehicles. That is an improvement over 1993, but it is still not a level we would expect in an open market. Japanese officials contend that our sales are going through the ceiling. If so, it's a very low ceiling. Those 12,701 Jeep vehicles represented only 6.4 percent of the sport utility market in Japan.

In the United Kingdom, a market we have only recently entered, we captured a 30 percent share of the gasoline-powered sport utility market. Both markets are right-hand drive. Both have domestic sport utility manufacturers. If we had achieved a 30 percent share in Japan, our sales would have totaled 59,363 vehicles in 1994.

Chrysler projects sales in Japan of 20,000 vehicles in 1995. This increase can be attributed to a number of things—favorable exchange rates, competitive pricing on our vehicles (we just lowered our Jeep prices by 10 percent), the popularity of the sport utility segment and, certainly, the current negotiations and pressure by the Clinton administration. History shows that Japan doesn't liberalize entry unless there is a reason to do so.

Last year, Chrysler opened a new office in Tokyo and expanded our staff there. In early 1996 we will introduce a right-hand-drive Grand Cherokee in Japan, followed by a right-hand-drive Neon and, in early 1997, a right-hand-drive version of our new minivan. We are making these substantial commitments of money, time and engineering talent because we are counting on the continued efforts of the U.S. government to expand entry into the Japanese market and other auto markets around the world.

Chrysler is committed to breaking into the Japanese market and will continue to expand our presence there with more products and staff support and by testing the Japanese auto manufacturers' latest message: that Japanese dealers are free to sell whatever vehicles they choose. We will be knocking on dealers' doors, trying to establish broader distribution opportunities for our products. We will provide Japanese dealers with more products and profits. And we will offer the Japanese consumer a wider choice of vehicles.

A trade agreement that provides real access to Japan's vehicle and parts markets is critical, not only to the Big Three and our employees, but to all of the related industries that supply the industry: semiconductors, electronics, steel, aluminum, chemicals, rubber, machine tools and many others. All told, about 1.5 million employees of America's automakers and their suppliers are waiting for Japan to remove its "do not enter" sign.

Regardless of successes in other sectors, the U.S.-Japan framework negotiations will fail both the American producers and the Japanese consumers if the automobile sector is not opened to U.S. vehicles and parts.

Mr. BYRD. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 751

Mr. SMITH. Mr. President, we have an amendment offered by Senator

KEMPTHORNE. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for Mr. KEMPTHORNE, proposes an amendment numbered 751.

Mr. SMITH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 69, line 13, strike the word, "remote".

On page 69, line 19, after the word, "infeasible", insert the word, "or".

On page 69, lines 21 and 22, strike the words, "the unit shall be exempt from those requirements" and in lieu thereof insert the words, "the State may exempt the unit from some or all of those requirements".

On page 69, line 22, add the following new sentence: "This subsection shall apply only to solid waste landfill units that dispose of less than 20 tons of municipal solid waste daily, based on an annual average.".

Mr. SMITH. Mr. President, this amendment offered by the Senator from Idaho has been agreed to on both sides.

There is no objection on either side. It is a technical amendment to title III and it deals with ground water monitoring.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 751) was agreed to.

Mr. SMITH. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island [Mr. CHAFEE] is recognized.

Mr. CHAFEE. I thank the Chair.

(The remarks of Mr. CHAFEE pertaining to the introduction of S. 786 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Ohio is recognized.

CRIME IN AMERICA

Mr. DEWINE. Mr. President, in the coming weeks the Senate will once again turn to the very important issue of crime. Within the next few days I will be introducing on this floor a crime bill of my own. Over the next 4 days I intend to discuss on each one of those 4 days a different aspect of the crime bill that I will be introducing.

Today, I would like to start by talking about two truly fundamental and basic issues and questions. First, what is the proper role of the Federal Government in fighting crime in this country? Second, despite all of the rhetoric, what really works in law enforcement? What matters? What does not matter? What is rhetoric and what is reality? What can the Federal Government do to help local law enforcement? Because, Mr. President, the fact is that over 90 percent of all criminal investigations, prosecutions, and trials do not occur at the Federal level. Rather, they take place at the local and State level.

This means that one of the criteria for any crime bill has to be the impact that bill will have on the ability of local communities themselves to fight crime. Of any crime bill, we have to ask this question: Does it help or does it hurt the local crimefighters, the men and women who are on the front line every single day? Mr. President, if it does help, does the help it gives help permanently or just over the short run? In other words, are we going to get any lasting impact in our battle against crime for the billions of dollars that we are talking of spending at the Federal level?

Mr. President, the role of the Federal Government first and foremost is to do those things that the local community cannot do for itself. I believe the Federal Government has to provide the tools to a local community to fight crime, tools that they could not have but for the help of the Federal Government.

One major Federal responsibility that I would like to discuss today is the creation and maintenance of a national criminal records system. The idea is really very basic and very simple. We need to make it possible for any police officer anywhere in the country to access a national data base, a fully automated data base, data bank, which includes information on fingerprints, DNA, ballistics, outstanding warrants, and complete criminal record history of suspects and of those who have previously been convicted of crimes.

I believe that this system will be an absolutely essential component of local law enforcement in the 21st century. We already have much of this technology in place today, but, quite frankly, it will only become more important in the years ahead. That is why we need to focus on it today, this year, this crime bill. We have to build this system correctly from the beginning.

Mr. President, we will soon be considering the single largest crime fighting bill in the history of this country. If we do not focus on this technology issue now as part of this crime bill, we never will again have the opportunity to do it and to do it correctly. I think that would be tragic, because if we do not do this it will be much more difficult later on for police to fight crime. Conversely, if we do do it, we will solve crimes. We will save people from becoming victims. Yes, we will save lives. I think that really is what is at stake.

Mr. President, if we do not do this now, it will be more difficult for the police to solve crimes committed by the same individual in different cities—to catch, for example, a criminal who used the same gun to commit crimes in both Washington, DC, and Baltimore, MD. It will be more difficult to keep track of sex offenders and to prevent them from repeating their offenses.

Mr. President, when a felon is fleeing from justice and inadvertently falls into the hands of law enforcers in some other jurisdiction, those arresting officers will not know through fingerprints that that person is wanted, let us say, for kidnapping or a terrorist act—kidnapping a child.

Mr. President, when a brave police officer pulls someone over on a deserted highway in the middle of the night, that police officer will not know the kind of person he is pulling over, will not know that the person he has pulled over is a convicted criminal, maybe a fugitive from justice.

Local police work hard and do a great job. They deserve much better than this. They deserve to have the best technology that we can give them.

To do that they need national help. They need the technological backup that only a fully functioning national—national—system can provide. For local law enforcement to get the maximum benefit from a national system, we have to grow this national system locally.

The unique thing about law enforcement in the United States, a country with a Federal system, not a top-down system, of government, is that you can only have a national system if the local law enforcement people build it up themselves. To attempt to create a national system from the top down is like trying to create a TV network if nobody has a television.

We can have all the Federal technology in the world in Washington, DC, but if a police officer in Tennessee or in Ohio or in Massachusetts cannot pull it up in his or her squad car or at the police station, what in the world use is it?

To make a national system, we really need two things. We need the local people to collect data and put it into the national system. And then we need to make sure the men and women scattered throughout this country, tens of thousands of them, who need this information have the ability to get the data back and to use it and to solve crimes and to convict criminals. Unless we invest in local technology, the local data collection, and retrieval, this just will not happen.

When I was in Cleveland recently, I saw the future of law enforcement. I saw police officers punch a name into a laptop computer, no bigger than this. The computer then gave them a picture of the individual and a lot of other information, including outstanding warrants and a complete criminal record.

We have the technology today to give this ability to every law enforcement officer in the country. For a system like this to work, Mr. President, we need local police all over America to be putting in this information. It is the kind of system we have to grow locally so that it can work nationally. Only the Federal Government can do the national coordination that is necessary for this kind of a system. There is an important and legitimate Federal role in crime technology, and my bill reflects this fact. My bill gives direct assistance to local authorities so that they can contribute their knowledge, their information to a national crime fighting system.

Anyone who visits the laboratories of the FBI, as I have, here in Washington cannot help being impressed by the tremendous capabilities and capacity that they have. Our challenge, though, is to ensure that the hub, the FBI's data base, is both expanded by and is useful to local authorities.

While I was at the FBI headquarters recently, the agents looked me directly in the eye and told me that the awesome technology we have really will not be fully utilized, will not live up to the great potential it has unless the local authorities can collect the information and put it into the system.

They expressed to me quite bluntly a skepticism as to whether or not there are the funds available today in jurisdictions across this country to achieve this type of a national system. They have it here in Washington. The FBI has it. But local law enforcement does not today have the resources.

Talk to the police officers of Lucas County, OH. They will tell you how crucially important access to this technology really is. Let me take one example, something we have heard a lot about in the law the last few months on television— DNA. Let us take DNA in a rape case. The police in Lucas County have the technology to collect blood and semen in a rape scene. Today, however, the Lucas County police, sheriff's office, Toledo Police Department, if they have no suspect, there is no quick way to match the DNA samples from the crime scene against the DNA samples of past offenders because Lucas County is not on line with an existing national DNA data base that might help them determine who the predator really was. And even if they already have a suspect in Lucas County, proving that the DNA matches that of the suspect is a very slow process. It is slow because of the great backlog that exists today in getting these samples fully analyzed by a competent individual, an expert who later on can come into court and testify.

If we give Lucas County or the Toledo Police Department immediate access to a national DNA data base, they could know pretty swiftly who committed that crime.

The same problem exists in regard to fingerprints. Now, when a suspect is booked, generally, his fingers get rolled in ink onto three or four separate cards which then get headings like name, address, et cetera, which are typed by the county sheriff's department onto the cards. These fingerprints are then mailed—mailed, Mr. President—in 1995, still mailed—to the FBI and into BCI in Ohio, which is our Bureau of Criminal Identification.

The technology, though, Mr. President, already exists for the computerized fingerprinting of suspects. All they have to do now is place their hands onto a computer imager—the technology is available today—and the fingerprints go then directly into a data base, what could be a national data base.

That would be a tremendous improvement. But, you know, the folks in Lucas County tell me that what they and other police officers nationwide really need is a national computer linkup for fingerprints.

I think that is absolutely correct. If you look at the technology they are trying, let us say, in Cleveland Heights, laptop computers in a squad car, and if you look at the incredible technology already available for fingerprinting, for matching bullet fragments and other physical evidence, the conclusion is really inescapable. We need to make technology a truly national priority.

This is something that we in the U.S. Senate can do and, frankly, something that we must do. The time is now. This is our opportunity.

The situation today is almost like a system of stereo components. We have a great receiver; we have a great set of speakers; we even have a world-class selection of CD's. But we have not hooked the system up and we have not plugged it in.

Mr. President, make no mistake: America's police men and women are already the best in the world. If we give them this equipment, they will solve the crimes; they will get the job done.

The U.S. Senate needs to give these local police officers the tools they really need. The bill that I will introduce in the next several days will accelerate the process of setting up this system of 21st century technology. We really will be going from 19th century technology, which is how many police carry out their functions today, to 21st century technology.

Only if we do this can the State and local authorities make their crime information readily available to the FBI, the national data base, the Federal Bureau of Investigation here in Washington and, frankly, more importantly, vice versa.

My bill makes it possible for States without technology to come on line. And if a State is already on line with the FBI, that State can use the funds to make further improvements to its data collection system.

Let me give you another example. The combined DNA index system, called CODIS, a data base, includes DNA information on criminals convicted of rape, murder, and other violent crimes. Under my legislation, participation in CODIS will be truly national for the first time, and it will be supported by Federal dollars.

In another area that I think is very important, my bill would require convicted sex offenders and other violent criminals to give blood samples as they enter or as they leave prison so that we can develop a truly national sex offender DNA data base.

Mr. President, there exists in this country a class of individuals who I will call, for want of a better term, sexual predators. A predator, as we know, is an animal that preys on other animals, and typically on the weak—sexual predators.

A recent study, Mr. President, found that 28 percent—28 percent—of convicted sex offenders were later convicted of a second sex offense. I will say, Mr. President, based upon my own experience when I was a county prosecutor in Greene County, that that percentage probably is even higher than 28 percent. That is a very high recidivism rate and it shows how serious a problem we are really up against.

And so it makes eminent sense to develop a nationwide system where we can collect systematically the blood, then the DNA, and develop this national DNA data base for sexual predators. If we do this, we will solve crimes; we will prevent crimes; we will prevent tragedies.

I think, Mr. President, we clearly need to do everything in our power to stop these predators. That is why we need to give police access to this national data base.

Mr. President, fingerprints and criminal histories would also be included in this integrated Federal data base.

In addition, my legislation would allocate some of the crime money to fund the FBI's DRUGFIRE program. This is an existing program that, quite frankly, needs to be expanded. We need to help the FBI develop and install computer equipment that would match bullet evidence to information in the FBI's bullet data base.

Today, for example, law enforcement officers in my home county of Greene County, OH, have a filing cabinet full of bullets. These bullets are arranged by caliber—9 mm, .38 slugs, and so on.

Every gun, of course, as we know from watching TV shows, leaves a telltale print on a bullet, so police officers in Greene County or any county can take a bullet from the crime scene and compare it to the bullets they have in their bullet file. They take the bullets that look similar and put them under a microscope, quite frankly, in the very distant hope they might get a match.

Tragically, there is absolutely no hope of matching the bullet with bullets from other police departments. That is one reason there are a lot of unsolved gun crimes in this country today.

DRUGFIRE changes this dramatically. DRUGFIRE connects each bullet microscope to a computer, which takes a picture of the bullet and stores an image in its memory. It can then be matched with millions of other bullets from all around the country.

Today, about eight jurisdictions between Baltimore and Washington, DC, are linked up through DRUGFIRE. They have already connected Baltimore crimes to D.C. crimes—the same gun, the same criminals.

Thanks to DRUGFIRE, a search through 10,000 bullets takes about a minute. Without DRUGFIRE, no one knows how long it will take because no one, of course, would even try to do that.

Mr. President, if everyone in local law enforcement were hooked up to each other nationwide, and to the FBI, through DRUGFIRE, they would have a huge new advantage in the fight against criminals with guns. Gun criminals do not respect State borders—very obvious.

Mr. President, a key criterion on which any crime bill should be judged is: Does it do any permanent good? Not just immediately, but does it do permanent good? Does it just spend money, or does it invest in something that has consistent, long-term benefits?

Mr. President, I maintain that the criminal justice records we are talking about—indeed, all the technology we are talking about—are a crucial long-term investment for this country.

We are not really just talking about the next 5 years. We are talking about a cumulative effect, building, building far out into the future. The efficiency of this system will continue to increase each year. It will have truly a cumulative effect.

We want to do for law enforcement, if I could use this analogy, what the interstate highway system did for U.S. transportation back in the 1950's.

Now, I must admit to my colleagues that this is not a glitzy nor a glamorous issue. The first thing I learned, now almost 20 years ago, as a young assistant county prosecuting attorney, was that law enforcement is very seldom glamorous. It is hard work. What we generally see on TV is not an accurate depiction of police investigations. It is not an accurate depiction of criminal prosecutions.

In fact, Mr. President, what we are seeing or we are hearing about, day after day after day, as the FBI and other law enforcement agencies investigate the horrible tragedy in Oklahoma, what we are seeing unfold is typical law enforcement work, just magnified as they go about their business—their hard, tough, sometimes very boring business—of looking for the lead that will take them to the next lead, the piece of evidence, the shred of evidence that will take them to something else, and on and on until the crime is solved.

Good police work is, if I could use this term, Mr. President, largely grunt work. It can be downright boring hitting the pavement day after day to track down leads. The police in Lucas County, OH, spent a good 8 years trying to track down a grandfather who abducted his granddaughter. They followed his trail from State to State. They finally found him, after 8 years, in California.

Mr. President, a national, easily accessible database would have made that capture probably a lot easier and maybe, just maybe, that little girl would have been reunited with her parents a lot sooner than 8 years after her disappearance.

The Oklahoma City bombing case, as I mentioned a moment ago, demonstrates the real value of a usable national database. A scrap of metal that was blown 2 blocks away from the crime scene by the bomb blast had a vehicle identification number on it. The FBI fed the number into the computerized rapid start system. The vehicle identification number then led the FBI to the rental company in Junction City, and that is where they got the description of the suspect.

Then it took more legwork around Junction City to match a name to the suspect. When the suspect's name was fed into the FBI's national computer database, that is how the FBI found that the terrorism suspect actually had been arrested earlier in Perry, OH, that he was actually in custody.

Mr. President, local law enforcement officers really need access to that kind of technology. The measures I am talking about will help provide them with these tools. This technology may not be glamorous—it is not glamorous—but believe me, it matters, it makes a difference. It will make a huge difference in our national fight against crime. Every single time a police officer pulls someone over, we need that police officer to know that America is with him or with her, not just our encouragement, not just our moral support, but we need to back up that by giving that police officer all the relevant facts we as a nation have compiled about that person, that individual that the police officer has just pulled over.

Last year, we started down the right path. Last year's crime bill did provide some money for this important work. But now we have to concentrate on helping the local—the local—law enforcement community to participate. That is what this year's crime bill absolutely must do, because, Mr. President, if we do not do this, we will be missing a major component of our crimefighting arsenal.

It is no use to have a gold-plated database system in Washington if local crimefighters cannot, do not contribute to it and if they cannot draw out the information, if they cannot use it. Again, back to the statistic that I started this speech with and that is that well over 90 percent of all criminal prosecution is, in fact, local. And so, you have to judge the system you are establishing not just by what it does for the FBI, although that is important, you have to judge what it does for its component parts, what it does for the tens of thousands of police officers and law enforcement agencies around this country.

Our challenge, Mr. President, is to prepare America's law enforcement for the 21st century, and we are falling behind in this task. We have the technology, we have the ability to prevent many of the crimes that are being committed today. Think of it, that is in and of itself a crime, that we have the technology to give law enforcement the tools they need to solve crime and to, more importantly, catch criminals and put them behind bars and keep them locked up, criminals who, but for that technology, will continue to go on and continue to commit crimes and continue to prey upon our citizens. We need to get that technology to where it is needed the most, and that is the local law enforcement.

The improvements I am proposing in America's crime information system constitute a basic investment in the security of American families well into the next century. It is time to move out of the stone age on law enforcement. That is the principle behind my crime technology proposals.

I look forward to working on this in our Judiciary Committee process and on the floor of this Senate in the next few weeks. I think the work we do on this truly has the potential to make a major difference in the lives of ordinary Americans for decades to come. I am proud to be a part of this effort.

I yield the floor

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

OPPOSING THE ELIMINATION OF THE DEPARTMENT OF EDUCATION

Mr. KENNEDY. Mr. President, we now have two budget proposals, one from the House of Representatives and one from the Senate. Both claim to balance the budget to ensure a better future for our children, to provide them with more and better opportunities than we now have. Nothing could be further from the truth, if Congress accepts the House Republican proposal to abolish the Department of Education.

You do not turn your back on education in the name of ensuring a better future for our children. You do not turn your back on education to pay for tax cuts for the wealthiest Americans. You do not turn your back on schoolchildren to pay for tax cuts for the wealthiest Americans. You do not turn your back on college students to pay for tax cuts for the wealthiest Americans. And you do not turn your back on working families to pay for tax cuts for the wealthiest Americans.

Education is critical to the Nation's future. It deserves a seat at the Cabinet table and at the President's right hand when critical decisions are being made. Children do not vote, children cannot hire lobbyists, but a Cabinet officer can fight for them. It is especially objectionable that the Department of Education would be abolished in order to pay for a tax cut for the wealthiest individuals and corporations in our country.

What does the proposal to abolish the Department of Education say about Republican priorities? What kind of Nation are we? What kind of Congress are we? Last Congress, Republicans and Democrats stood together as the Education Congress. Are we now the anti-education Congress?

Last Congress, Democrats and Republicans worked together to reform the Head Start Program. Republicans and Democrats worked to bring about changes in the chapter 1 program. We worked together to adopt the Goals 2000 program, the School-to-Work Program, and the direct loan program. These programs were all passed with Republicans and Democrats working together. It truly was an education Congress.

Now we have the proposal to eliminate the Department of Education which is nothing more than a political stunt. It would save less than 2 percent of the Federal investment in education. These budget proposals will not eliminate bureaucracy in education. What these cuts will do is jeopardize billions of dollars in aid to education which go directly to schools and colleges and students to give them a greater opportunity to learn and to succeed.

Mr. President, I have a list of the various education programs targeted by the House Republican budget for elimination. Outlined in these programs are the safe and drug free school State grants and the Safe and Drug Free School National Program. These are the programs that have been developed to try and help local school districts deal with the problems of substance abuse and violence in their schools.

These programs are all targeted for elimination.

Also on the list for elimination is assistance for the magnet schools which have been developed to try to help the public schools to develop magnet concepts to attract the best of the young people in public schools, to give them some advantages and different specialties so they can advance in their educational competence. That program is effectively dropped out.

The dropout prevention programs, demonstration programs which are targeted at some 400,000 young people who drop out of school every year. They are the principal cause of violence in our society and the principal individuals that have the challenges with teenage pregnancy. We have a small program that is having some positive effects, and it is targeted to be eliminated.

The charter school programs. Last year, when we were considering the education reforms, how many of our Republican colleagues said what we need is break-the-mold public schools, we need to permit the States to move ahead with new charter schools? We included charter schools funding in our Goals 2000 proposals. A number of different States are experimenting with those programs. There are funds in there to help and assist local school communities that are trying to develop charter schools. Those programs effectively have been emasculated.

All of the education technology programs. I was listening to my friend and colleague, the Senator from Ohio, talking about the importance of new technologies to fight crime. We heard important testimony today in our Immigration Committee about how we are trying to utilize the best in technology to try to bring sanity into the whole area of employment and the exploitation of illegal immigrants and deal with the problems of the discrimination that exist against Americans in employment, using the best of technology. How is it that we are trying to do the best in technology when we are trying to deal with immigration and we are trying to use the best of technology in talking about the problems of crime? Here we have a modest program to try to bring the latest technology into the public schools of this country, and it is targeted for elimination under the budget recommendations of the House.

In vocational education the tech-prep educational program is the best work-based learning program that has been developed in this country by the private sector and the public sector working together. It is effectively emasculated. It is an effective program. Many of our colleagues know about model tech-prep programs that have taken place in their States. They are small programs, but they really have the pattern for the development of future training programs and partnerships between the public and private sectors. They are effectively emasculated.

The efforts we made last year on the School-to-Work Program which had bipartisan support, and which Republican Governor Thompson testified on before our Human Resource Committee as being an extremely effective program in helping to move many of the young people that are not going on to 4-year colleges or 2-year colleges or post-high-school education and help them gain employment. Sixty-five percent of all the high school students that graduate do not go on to advanced education. They are the ones who are having the difficulty in getting decent jobs. They are the ones who have seen their real income decline over the period of the last 15 to 18 years. They are the ones who are losing confidence in the whole education system and the democratic process and the free enterprise system.

One of the most innovative and creative programs has been the School-to-Work Program, which helps move these young people, in a thoughtful way, in a way that has the strong support and initiation of the private sector, from school right into employment and future job opportunities with good and decent job programs. It has broad bipartisan support and is supported by Republican Governor Thompson, who was down testifying before us, as being one of the creative programs to try to help reach those young people that are not going on to college. Nonetheless, it is a modest program that was started last year. And that program is effectively eliminated.

Mr. President, I could go on. The Star Schools Program brings distance learning into many of the school districts of this country. Many of the school districts have had tightening budgets, and they are not able to get that science teacher, that language teacher, that chemistry teacher, that biology teacher, because of the demographics of their particular community have decreased, school budgets have gone down. But what we have been able to do with the Star Schools Program is to beam into those schools the best educator, the best physics teacher, the best history teacher, the best language teacher, for the very bright students in those schools who otherwise would be unchallenged in terms of their ability to compete in science and other kinds of technology, which this Nation needs in such desperate amounts. A modest program. It is $30 million, and it is affecting thousands of students, not just in urban areas but in rural areas of the country. The program MCET, in my part of the country, effectively provides distance learning throughout New England. Its greatest supporters are in the rural parts of Maine, New Hampshire, and Vermont—in the rural communities.

You have an exciting program in South Carolina. I have attended programs in Mississippi that have reached out into rural areas all through the South that are teaching children foreign languages, physics, advanced mathematics, and a number of other programs where they do not have those kinds of teachers. It is a modest program that depends upon local support, local matching funds, and it has been an effective program in every kind of evaluation, and it is effectively eliminated and cut.

So, Mr. President, these are matters which we are going to have to have a debate and discussion about when we have the opportunity to debate this matter here on the floor of the U.S. Senate later and also when that conference report comes out.

I urge those who are committed to the cause of education to take a little time and review in detail the assault on many of the programs that have been outlined in the House budget proposal, and a number of those which have been included in the Senate proposal. We have seen the basic assault on the programs which provide for an interest subsidy students while they are in school. That is a program that has been in effect, and that program is effectively being eliminated. In my State of Massachusetts, 70 percent of the students that go to higher education get some form of help, of scholarship help or assistance; 75 to 78 percent of all the scholarship help and assistance is provided by the Federal Government.

The cuts in school-to-work programs proposed in the Republican budget would deny more funds for working families' children in my State of Massachusetts than is being provided by the State today. This is not an issue where the State is going to pick up the slack. I hope that during this debate we will hear from our colleagues in other States and that they will tell us what State has been devoting more and more to higher education for their children. It is not true in Massachusetts.

Tuition and fees in public education have increased dramatically. And that has been true in almost State in the country. And the people that qualify for the student assistance programs are, by definition, the sons and daughters of working families. This is a program that has been tried and tested and true.

I applauded the President of the United States when he talked about trying to provide at least some tuition deduction for working families, up to $10,000, because of the increases in tuition which have taken place in this country. I myself believe we ought to consider permitting the repayment of interest on student loans to be deductible under the Tax Code. Why do we permit the interest that wealthy individuals pay on their second homes to be deductible when we will not permit students to deduct interest payments on their student loans?

That says something about national priorities. Instead of moving in a direction to try and help and assist the sons and daughters of working families, we are moving completely in the opposite direction.

Mr. President, there are many features of those programs which are troublesome. I have mentioned just a few. We are committed to try and consolidate various programs. We made some progress last year in the areas of education. We are doing so now in the training programs. We are working toward those objectives in the Labor and Human Resources Committee.

We welcome the opportunity to do that with our colleagues, to eliminate unnecessary bureaucracy and the overlapping of various programs. I think that makes sense. We welcome the chance to do that.

But kind of wholesale assault on education programs that has been outlined today in the budget by the House of Representatives and the significant undermining of student assistance programs in the Senate, I find to be troublesome and I hope that when the time comes that we will reject those particular areas.

The Republicans claim that these budgets are to give children a better future. Will children have a better future if we revoke our commitment to raise education standards? Will children have a better future if we slash funds to help them learn to read, write, and do math and science? Will children have a better future if we abolish funds to modernize all aspects of education, so that we no longer have to prepare students for the 21st century in 19th-century classrooms. Will children have a better future if the Federal Government slashes $20 billion from student aid, so that vast numbers of able young men and women can no longer afford to go to college? The answer to all these questions is no—no, no, no, no.

The American people agree. Two out of three Americans oppose a balanced budget if it means cutting Social Security, Medicare, or education. Eighty-nine percent of Americans believe a Federal Department of Education is necessary. Sixty-four percent of Americans would increase spending on public schools if they had the opportunity to write the budget.

The American people see what our Republican colleagues refuse to see in their shortsighted budget proposals. Students, families, and the country itself will suffer if we abandon our commitment to education.

Our Republican colleagues say that they want to balance the budget so as not to bury the next generation in debt. Why then are they so willing to bury this generation of students in debt?

The question answers itself. Congress and the Nation should say a resounding no to these irresponsible anti-education proposals.

Mr. CHAFEE. I wonder if the senior Senator from Massachusetts would yield for a question?

Mr. KENNEDY. I yield.

Mr. CHAFEE. Mr. President, here is the problem I find: We have a terrible deficit of $200 billion which every objective group says will rise to over $300 billion and close to $400 billion by the end of the century.

The Republicans have come up with a program that reaches a balanced budget not next year, not the year after, but 7 years away, which seems to me that would be a reasonable timetable to arrive at a situation where we are no longer sending the bills to our children.

Now, the proposal that has emerged from the Republican Budget Committee has many harsh provisions to it. When we are reducing expenditures there are going to be difficulties, as we all recognize and as the Senator has ably pointed out.

It affects this, affects that, affects things I am interested in, that the Senator is interested in, that the Presiding Officer is interested in. There is not one that will not find things we do not like.

The question is, what is the alternative? I do not believe the answer is to say stop giving those tax cuts to rich people, because in the Domenici budget there are no tax cuts. Never mind the rich people. There are no tax cuts at all.

So he has presented a budget which I know we will all find terribly challenging and difficult and dissatisfying. What is the alternative? Maybe the answer is to increase taxes. I do not believe that we can continue on the path we are, which consists of sending the bills to our children. We live high on the hog, and send the bill to our children and grandchildren. I think that is immoral.

If we do not like the proposal, what is a better one? I am not trying to put the Senator on the spot.

Mr. KENNEDY. That is fine.

Mr. CHAFEE. This is a tremendous challenge we all face.

Mr. KENNEDY. I appreciate the Senator's question.

Let me just outline my response very quickly.

First of all, I fail to understand how we are saving the future generations from indebtedness when we are increasing so significantly—about 25 or 30 percent—the debt of students going on to higher education, which is the part I have been talking about.

Let me answer it in this way. First of all, if the Senator is prepared to reject what the majority leader has stated, and that is, that his desire to see the set-asides, the savings of $170 billion which have been included in the Republican budget in the House and the Senate of the United States, that can be used for future tax cuts, if we are going to count those in or count those out, do we say that the majority leader is for the tax cut and Senator GRAMM is for the tax cut?

I listened to the Senator from Rhode Island indicate that he is not. That, I think, is certainly a more responsible position. These cuts are coming at a time when one is fair enough to juxtapose what has been included in the House budget cuts as well as in the Senate cuts and the saving programs.

To make the judgment that we are cutting back on a number of the programs, particularly as I have mentioned here in education, and setting aside that $170 billion which can be used for tax cuts.

Second, there is no review of the fastest growing contributor to the size of the deficit, which is our tax expenditures. I indicated during the time of the line-item veto, which I supported, that I wanted to see the line-item veto go on this for tax expenditures. We are not reviewing tax expenditures. There is no similar kind of review by the Budget Committee to review the various kinds of subsidies that are out there that are going, in many instances, to some of the most successful companies and corporations. There is no review by the Budget Committee to review those and to find out which ones make sense, which ones do not make sense, and to do the same kinds of cuts that we have seen illustrated by the kinds of cuts that have taken place in this budget, identifying program after program after program after program after program that deals with education.

I think that the Senator's position in terms of fairness and judgment and in terms of the budget would be enhanced if he said, "Let's take a look at $460 billion in tax expenditures and review those and find out which ones are fair and which ones are not."

I think that is a position. Finally, let me say that I do think, and I think the Senator would agree with me, we are never going to get at the principal contributor to expanding deficits, which is the health care issue, and the escalations of health care costs both now in terms of medical care which is different from where it was from the mid-1980's to 1990, but nonetheless has doubled virtually the cost of living in terms of where we are for other goods and services.

We are never going to really deal with that increase by just cutting. We are going to have to deal with the escalation of health care costs by looking at the total health care system.

Social Security and Medicaid represent one-quarter of our health care expenditures. If we are going to have some kind of a discipline on that one-quarter, and we will have cutbacks as being included, then we will have a reduction of services without giving some kind of additional sense of reform of health care.

The Senator knows very well that treating people with long-term care and in-home care and permitting them to get help and assistance with prescription drugs which are outside of a hospital setting, and providing for better health care services, that there are many things that can be invested. It can have an impact in reducing the pressures in terms of the growth of the Medicare population.

But the idea that we are going to solve the expansion of health care costs just by cutting back again on Medicare is something that I find troublesome. I wanted to indicate to the Senator that I respect his sincere desire to move and support programs that will bring America into a closer position on the issues of our deficit, but it does seem to me that we should not simply have the harshest cuts in the areas that I think are counterproductive, because I would say to my friend and colleague, that every dollar we cut back in education we will be paying $2 more in terms of social services.

I think, and particularly with regard to education, that is wrong.

Mr. REID. Will the Senator yield?

Mr. CHAFEE. I wonder if the Senator from Nevada would let me finish.

Mr. REID. Of course.

Mr. CHAFEE. I appreciate the suggestions that the Senator from Massachusetts made. Tax expenditures—I suppose he is talking about, first of all, a whole series of things. Whether we should be providing pensions, deductible pensions, or whether we are talking about in the tax expenditures, whether he is talking about depreciation. I do not find those objectionable. But never mind.

It seems to me it would behoove everyone to come up with plans. That is, if the Senator and the administration do not like the Republican proposal for doing something about this balanced budget by the year 2002, which is a very reasonable goal to reach. We have no wars, times are relatively good, inflation is low, unemployment is low, relatively low, and this is the time to gun for this balanced budget amendment, balanced budget situation. But the administration has not done that. It has chosen not to do that.

All right, how about the Democratic Senators doing it themselves? I would be interested to see what they come up with, because this is very, very difficult. And every step that we take, we being the Republicans who have come up with this balanced budget, we are going to be attacked. And there are going to be wonderful things to attack us on. But at least we are trying to get there.

I think as a part of a sense of responsibility, if you want to call it that, that it would be wise, it would be helpful if others came up with their approach. Maybe you can do it better than we can do it. If so, three cheers, and let us hear your ideas.

Mr. KENNEDY. I thank the Senator. I appreciate his moment of challenge.

I am mindful, though, that this does come from voices that were not there when we saw the $70 billion deficit reduction program on the 1993 budget resolution. We did not have it. That is a historic fact. It is a political fact of life, as well. But there was not a single vote that came from that side, not one single vote, when we were moving toward at least a very modest increase in tax which was presented for the top 1 to 2 percent of the taxpayers, to provide a very modest increase. We did not have any support there. Nor did we have support when we were trying to provide the extension of the earned-income tax credit—that is 84,000 families in my State who were able to get some benefit, plus reduce the overall deficit by $600 million. We had that.

I have said on other occasions I respect the seriousness with which the Senator from Rhode Island approached the efforts to try to deal with the health care issue and crisis in a comprehensive way. I am not sure the Senator desires, nor do I, to get into a long debate on what happened to that particular measure.

But, nonetheless, dealing in a comprehensive way with the total health care issues that included Medicare plus other kinds of expenditures was, I think—I thought then and I still do, and I think eventually the country will recognize, whether we do it the way that was suggested the last time or in some other way—we are never going to be serious about getting a handle on health care costs, which is the principal contributor in entitlement spending, until we deal with that issue. We were not able to break through and develop bipartisan support.

I am not here tonight to get into where the blame lies for that. But I do think those of us who supported those positions, and also supported at least a line-item veto that included the tax expenditures, do not come to this debate empty-handed. We do come to this with a recognition that we have attempted to be responsible on this. I, frankly, think that is something that ought to be a part of it, as well.

Should the Senator from Rhode Island say, "OK, we did not do the health care last year. We understand we are going to have to deal with Medicare this year, and we are prepared to try to work across the line, with this President, with the other side of the aisle, to try to get a handle on health care costs that are part of health care reform," I would welcome the opportunity to be the first who comes to the table on that issue. I think I speak for many on this side.

I must say, hope springs eternal in my soul. I think many of us understand there is nobody who could put that challenge with greater credibility than the Senator from Rhode Island. Perhaps we will wait for a little while to hear that challenge go out there where we can sit down and really try to come to grips with this issue.

Mr. REID. Before the Senator yields the floor, I have a question I would like to ask the Senator.

Mr. KENNEDY. I will be glad to yield for a question.

Mr. REID. I say to the senior Senator from Massachusetts, I recall many of us being on this floor just a few months ago, talking about the crisis in health care.

Does the Senator recall that?

Mr. KENNEDY. Yes, I do.

Mr. REID. In fact, it was not minutes or hours or days; we spent weeks on the floor talking about the health care crisis a few months ago.

I am curious; is the crisis suddenly upon us regarding Medicare? The fact of the matter is, that same crisis was here last year, when we worked weeks and weeks trying to solve the problem; is that not true?

Mr. KENNEDY. The Senator is absolutely correct. What stands out even in greater relief is the fact that in that debate there were going to be adjustments made in the Medicare system but, nonetheless, it was going to be part of an overall reform. So the seniors were going to be able, hopefully, to not only have a more comprehensive range of services available to them, but it would give them the kind of protection in the future that the continued escalation of costs for them would not provide.

As the Senator knows full well now, for the average Medicare recipient, they are paying about $1 out of $4, $1 out of $5, of every dollar for health care. Twenty years ago, it was $1 out of every $12.

Now, for those in the lower part of the Medicare system, in many instances, it is $1 out of $3.

So there is a need to both have the reform and to use resources for health care reform rather than tax cuts.

Mr. REID. I ask the Senator from Massachusetts, the fact of the matter is, if there is suddenly a recognition on the other side that there is a crisis in Medicare, should we recognize that the crisis is not in Medicare, it is in health care? Is that not a fair statement?

Mr. KENNEDY. The Senator has stated it very well.

Mr. REID. If the health care costs, as they relate to Medicare, are escalating 10.7 percent a year, is it not a fact that some private systems are going up even more than that?

Mr. KENNEDY. The Senator is correct again.

Mr. REID. That means higher insurance premiums. Does it not mean that people who have no insurance go to an emergency room; and is there any higher cost of medical care any place in the country than in an emergency room?

Mr. KENNEDY. The Senator is absolutely correct on that. The great tragedy in the cost is not only in the dollars and cents, but it is in the cost of parents who wonder if that child is $75 or $100 sick before they will even go to the emergency room to take care of those needs.

As the Senator knows, about 45 percent of all needs that are treated in the emergency room could have been treated—or are preventable—and could have been treated in a much lower-cost setting at a savings of not only resources, but also the anxiety primarily of parents and loved ones because of the illness or sickness of a member of the family.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent I be allowed to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, before the Senator from Massachusetts leaves the floor, I want to say I have been here and I have used as an illustration some of the things that are being done on the other side of the aisle, as being—well, they remind me some of the things that go on in Las Vegas. We have in Las Vegas the greatest magicians, illusionists in the world. I talked earlier this week about Siegfried and Roy. They can make things happen.

Mr. KENNEDY. And David Copperfield.

Mr. REID. I did not talk about him the other day, but we have David Copperfield, who spends a lot of time in Las Vegas, who does many wonderful things. We have Melinda, who is the Woman of Magic. We also have two new magicians who now live in Las Vegas by the names of Penn and Teller. The reason the other illusionists are so mad at them is because they tell people how they do their tricks.

I think we need some help from the other side of the aisle to tell us how they are doing their tricks because the fact of the matter is, a health care crisis has been upon us for a long time. Suddenly, because they are presenting a budget to us, they find a health care crisis when there has been one here all the time. I think they have been taking lessons from some of my friends in Nevada. I think that because our colleagues on the other side of the aisle are really illusionists or magicians in the true sense of the word.

I appreciate the statement the Senator has given regarding education. We really have to concentrate on education and what it is doing to future generations.

Mr. KENNEDY. May I just ask the Senator, in the House Budget Committee, they actually cut $90 billion, I understand, from Medicare, and put it that much more at risk, in order to recapture funds in the House budget that can be used for tax reduction. Is the Senator familiar with that?

(Mr. BROWN assumed the chair).

Mr. REID. I am very familiar with that. I say to my friend that the Democrats are not against tax cuts. But I think we have to have our priorities in order. Do we take $90 billion away from senior citizens? As indicated, $1 out of every $3 they have they have to spend on health care. Is that a proper priority that we give tax cuts, $20,000 tax cuts, to people making over $350,000 a year? Is that fair, I say to my friend?

Mr. KENNEDY. I think the answer is obvious. I think that it is important as we move through this debate and the budget that is taking place in the House and the Senate that the facts come out about exactly what has been cut and who is going to pay for it. I think the Senator is providing a real service to the membership here in discussing these matters and bringing them to the attention of the membership and to the American people. I thank him for his comments.

Mr. REID. Mr. President, the budget that we have just received today does some interesting things. One thing that it does without any dispute—there is no reason to debate this—is that senior citizens on an average will spend $900 per year more for health care costs. Every year they can expect to lose about $900—in fact, if they can, and most of them cannot—they will have to pay that much more money for health care costs. As I have said to my friend from Massachusetts, there is no crisis today that there was not last December. Suddenly, there is a crisis now. Suddenly, they want to start talking about Medicare and not talk about the rest of health care costs.

Mr. President, this year health care costs in America will go up over $100 billion. We will not have any better health care as a result of that. We have to be concerned about health care generally and not Medicare particularly.

Mr. President, this rhetoric that we have heard and encompassed in this budget about Medicare reform is nothing but a smokescreen for tax cuts. There is a proposal in this Republican budget that we have for tax cuts. It is camouflaged, and says any savings we get we will apply to the tax cut. I think any savings we get we should help these senior citizens that are having their Medicare bills increased. I think we should talk about young people who cannot go to school, or go to college. That is where the money should go, not for tax cuts for the wealthy.

We are talking about a $900 a year increase in out-of-pocket health care for every senior citizen on Medicare, and we will pay for the $20,000 annual tax cut for Americans making $350,000 a year or more. When the facts are filtered from this rhetoric, it is not the Medicare trust fund they are concerned about at all. It is tax cuts they are concerned about.

As I indicated, Mr. President, we are all for tax cuts. But there has to be a prioritization of what is important. Is it more important we give tax cuts to people who make a lot of money or that we take money away from senior citizens or kids trying to get an education?

Eighty-three percent of Medicare spending is for senior citizens with annual incomes of less than $25,000 a year. Two-thirds is for those with incomes of less than $15,000 a year. Medicare does not cover prescription drugs. It does not cover long-term care. It does not cover dental care or eye care. I think it is time for us to be concerned about improving Medicare rather than trashing Medicare.

We can come up with some savings. Should not those savings be applied to maybe taking a look at long-term care, dental care, or eye care? I would think so.

Drastic cuts in Medicare not only threaten the pocketbooks of seniors but also those of families. Some seniors may be forced to move in with their extended families once the burden of increased premiums, copayments, and deductibles become too great, if in fact they are fortunate enough to have those extended families. A move would result in loss of independence for seniors as well. That is one of the reasons that Medicare was such an important thing—that we will make sure that we did things to increase the independence of seniors, not take away their independence.

What it all boils down to, Mr. President, is priorities. How do we feel about priorities? I believe the most important thing we can be engaged in is reducing the deficit. I think it is for a lot of different reasons and we need to increase savings. We need to increase our balance of trade. We need to make sure that we do not spend more than 17 percent a year for interest on the debt. The American public has to understand that about 48 percent of what we spend is for entitlements. What is the largest part of that? Health care costs—Medicare and Medicaid. We have to do something about that, not just hack away at Medicare but do something about overall health care costs. That should not be swept under the rug.

Last year we debated health care. Perhaps we tried to do too much. There were lots of losers in that health care debate; hundreds of losers, and only one real winner in the health care debate and that was the health insurance industry. They were head and shoulders the winner. They got over the finish line way before anybody else got out of the starting block. They, through their Harry and Louise ads, set out to frighten and confuse the American public, and they hit a home run. They frightened and confused the American public beyond, I think, what even they hoped.

When the health care debate started everyone recognized the truth, that health care was in trouble. Almost 90 percent of the American public favored health care reform. When the debate ended, Mr. President, nobody favored health care reform. The health insurance lobby won the day. That does not mean that the day is won forever because the problems still exist. Health care costs are increasing, and they are driving deficits on local governments, State governments, and the Federal Government.

All of this debate about let us give everything back to the States is scaring the people in Nevada. Why? Especially the large counties, Clark and Washoe Counties get all of leftovers, people that have fallen through the safety net. Social services in Washoe County, Clark County, Reno, and Las Vegas have to take care of those people that fall through the safety net. They cannot do it. They do not have a tax base to do it. They are frightened about what is probably going to happen back here.

Mr. President, there is a statement they want to return the $170 billion dividend to the American people in the form of a tax cut. I do not think that is where the dividend should go. The budget that has been proposed slashes the prime trust funds—aid to education, student loans, all kinds of medical research, and raises taxes on working families who make under $26,000 a year. We have focused on a tax cut. That is a priority of the House and their Contract With America. That is the foundation of their contract—tax cuts amounting to almost $1 trillion over the next 10 years. But have we talked about what has happened to people who are going to get a tax increase in this budget; that is, working families who make under $26,000 a year?

The earned income tax credit is being slashed with a proposal that was introduced, or will be introduced, by the Senate Budget Committee, about 7.8 million people, will have their earned income tax credit whacked. On an average, these people have their taxes increased by $270.

Earned income tax credit recipients with incomes lower than $26,000 will lose their eligibility, generally speaking.

Now, Mr. President, what is an earned income tax credit? It is a way of keeping people off welfare, and it is a way of having people who are on welfare to get off welfare. Why? Because under current law people who make less than $26,000 a year can apply—it is on a sliding scale—to have part of the taxes they pay rebated to them. It works very well. Under current law, with earnings of $16,500 and no other source of income, a married couple with two children would have income slightly above the poverty level in 1996. While they would not owe individual income taxes, they would pay about $2,500 in Social Security taxes on their earnings. Under current law, they would receive an earned income tax credit for the amount they pay, completely offsetting their tax liability.

That is why people want to get off welfare. That is why people do not want to go on welfare. They have a chance to get ahead and be part of working America. Because larger families have greater needs than smaller families, taxpayers with two or more children are entitled to a larger earned income tax credit than taxpayers with one or no children. But under the Senate Budget Committee's mark, a very low-wage worker with two or more children will receive only a token adjustment to compensate him or her for the additional cost of raising this family.

So, Mr. President, we have to be concerned about the tax increases in this mark that we are getting from the Senate. We have heard a lot about the tax decreases for the wealthy, but what about the tax increases for people who make less than $26,000 a year?

The budget grants short-term tax cuts, especially that from the House, instead of focusing on long-term investments on education, health research, and crime control.

May I ask the Chair how much time I have remaining?

The PRESIDING OFFICER. There is 1 minute 52 seconds remaining of the Senator's time.

Mr. REID. I ask unanimous consent that I be extended an additional 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. I held a crime summit in Las Vegas which, coincidentally, had been scheduled for several months. It was the day after the Oklahoma City explosion. I met there with the chiefs of police of southern Nevada: Boulder City, Las Vegas, Henderson; Federal officials, DEA, FBI, judges, and a number of other people in an off-the-record discussion about problems relating to crime. There are serious problems that we are not addressing. Law enforcement needs help, lots of help. Yet, the budget proposal cuts the violent crime trust fund.

I will be speaking to a number of graduating classes in Nevada in the next few weeks. These young people, these high school students do not face a very bright future. We are cutting back on student loans and grants, instead of being aware of the fact that money we spend for education comes back to us.

Low-income families—we have talked about them—making less than $26,000 a year are going to be paying more taxes. The budget resolution we have, Mr. President, calls for more taxes.

Research. I would recommend to every one of my colleagues that they go to the National Institutes of Health and talk to the people who have dedicated their lives to curing disease. It is wonderful, the stories you hear out there. Paralysis. We have a significant number of people who have spinal cord injuries. As a result of the perseverance of a number of physicians out there, they have been able to make significant strides in trauma associated with spinal cord injury. And as a result of the work they have done, especially work done with massive doses of steroids immediately following an accident, people today who would have been paralyzed are not as a result of the work done at the National Institutes of Health. The problems that we deal with there deal with people who are sick and injured and need help.

We are going to cut back on that research. That is wrong.

The time has come, Mr. President, to live up to promises made during the balanced budget debate. For example, to protect Social Security. The Republicans claim that under their budget they will protect Social Security. Social Security, however, will face it's greatest threat under this budget in 2002 when this budget supposedly will balance. Because Social Security surpluses are being scored against the deficit, this budget will collateralize the Social Security trust fund. Black's Law Dictionary defines collateral as "property which is pledged as security for the satisfaction of a debt." In this budget proposal, the definition of collateral is Social Security.

I think we have to live up to the responsibilities that we have. I repeat, we have to do a better job of balancing the budget. This will be the third year in a row that the budget will be lower than the year before, the first time in 50 years. Certainly, we have to do much better than we have done. We have reduced, in the last 2 years, Federal employment by 150,000 people. I think that is significant. We have had the highest economic growth in some 40 years. That is important. We certainly have not done enough. The economy needs a lot of help. The one thing we could do that would help more than any other thing would be to reduce the deficit, but we cannot do it with tax cuts. We cannot do it with cutting educational benefits.

We have to look at the big items. What are the big items? They are interest on the debt, medical expenses, and, of course, we have to look at defense. We cannot leave that because 20 percent of every dollar we spend goes for defense.

I thank the Senator from Rhode Island, the chairman of my committee, for his allowing me to go out of order in morning business.

I yield the floor.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending question before the Senate is the substitute amendment reported by the Committee on Environment and Public Works to S. 534.

Is there further debate on the bill?

The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, this is the Graham amendment?

The PRESIDING OFFICER. What is before the Senate is the committee-reported substitute at this point.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

AMENDMENT NO. 752

(Purpose: To revise the provision relating to State-mandated disposal services)

AMENDMENT NO. 753

(Purpose: To provide that a law providing for State-mandated disposal services shall be considered to be a reasonable regulation of commerce)

Mr. GRAHAM. Mr. President, I send to the desk two amendments and ask for their immediate consideration.

The PRESIDING OFFICER. Does the Senator wish these amendments to be considered en bloc?

Mr. GRAHAM. The Senator requests that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes en bloc amendments numbered 752 and 753.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 752

On page 63, strike line 4 and all that follows through page 64, line 2, and insert the following:

"(e) STATE-MANDATED DISPOSAL SERVICES.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

"(1) was responsible under State law for providing for the operation of solid waste facilities to serve the disposal needs of all incorporated and unincorporated areas of the county;

"(2) is required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent;

"(3) has been authorized by State statute to exercise flow control authority and had implemented the authority through the adoption or execution of a law, ordinance, regulation, contract, or other legally binding provision; and

"(4) had incurred, or caused a public service authority to incur, significant financial expenditures to comply with State law and to repay outstanding bonds that were issued specifically for the construction of solid waste management facilities to which the political subdivision's waste is to be delivered.

(5) the authority under this subsection shall be exercised in accordance with Section 401z(b)(4).

AMENDMENT NO. 753

On page 65, line 10, strike "or (d)" and insert "(d), or (e)".

On page 65, line 3, strike "or (d)" and insert "(d), or (e)".

Mr. GRAHAM. Mr. President, these two amendments represent technical refinements to a provision of the bill which appears on pages 63 through 65, which I understand have been agreed to by both sides of the aisle, and I ask for their immediate consideration.

Mr. CHAFEE. Mr. President, indeed, they have been agreed to by this side of the aisle, and we are prepared to accept them.

The PRESIDING OFFICER. Is there further debate on the amendments Nos. 752 and 753? Is there objection to the amendments? If not, the amendments are agreed to.

So the amendments (Nos. 752 and 753) were agreed to.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I wish to express my appreciation to Senator CHAFEE, who, in his usual gracious manner, has been so helpful in working through these two technical amendments as well as having assisted the committee in bringing to the floor this important piece of legislation.

I would also like to commend the chair of the subcommittee with specific responsibility, Senator SMITH of New Hampshire, and the ranking minority member, Senator BAUCUS, and Senator LAUTENBERG for their courtesies in the development of these amendments and other provisions in the legislation. I would like to take this opportunity to make a few remarks on the general subject of title II of this legislation which is the provision relating to flow control.

Mr. CHAFEE. I wonder if the Senator, before he gets into that, would like to move to reconsider the vote by which the amendments were agreed to.

Mr. GRAHAM. In further thoughtfulness on the part of the Senator, I move to reconsider the votes by which the two amendments were agreed to en bloc.

Mr. CHAFEE. I move to table that motion.

The motion to lay on the table was agreed to.

Mr. GRAHAM. I thank you, Mr. President, and I thank Senator CHAFEE.

This legislation in title II, which is the title to which my remarks will be directed, raises again the fundamental question that this Federal Government has dealt with throughout its history, and that is the appropriate role of the State government and the National Government. In this case, it raises, in stark relief, the question of who should decide an issue as basic to our public welfare as the disposition of garbage.

I start from a general presumption that that level of government which is closest to the people who will be affected by the action should be able to control the action and therefore I have a general predisposition toward local and State government having responsibility and control. In this case, that predisposition also happens to be in the historical responsibility of local government for the control of their solid waste and its disposition.

Let me turn to a little background of how we got to the legislation that is before us today. I will use for purposes of my examples primarily illustrations from my State of Florida but I believe that similar examples could be drawn from any of the other some 35 States which have adopted a flow control process to direct their solid waste.

In the case of my State, this involvement was largely driven by environmental and particularly water-related concerns and the impact that those proper considerations of environmental circumstances would have on the public health. I was concerned in reading the report of the committee that the statement is made that the principal issue relative to flow control is economics. In my judgment, while economics are certainly concerns, the statement made on page 6 that "The primary factor driving the imposition of flow control ordnances is economics" confuses the ends with the means. The economics are a means of achieving the end.

In the case of my State, the end was to have appropriate sites that would protect the environment and protect public health. My State is one which is growing rapidly. We are adding some 300,000 people every year, having just crossed the 14 million size. Eighty percent of the population of the State of Florida lives in the coastal zone, basically a thin strip of land over pools of water. We depend upon that subsurface water for all of our purposes—human consumption, economic purposes, agriculture—for this large and growing population and the economy which supports that population.

A number of years ago, it was recognized that if we continued to grow at this rapid rate and continued to dispose of our solid waste in the traditional pattern that we were going to endanger our underground water supply. And, therefore, the State passed a comprehensive solid waste management law approximately a decade ago, a law that I am proud to say has been described as one of the most progressive in the Nation and has been a model for other States. That solid waste management law gave a great deal of responsibility to local government, particularly counties, to implement solid waste disposal programs. The goal was to remove a substantial amount of solid waste from landfills and into other disposal methods or into landfills that met a very high standard of environmental protection.

The authority to implement flow control already existed in Florida and thus counties used it as a tool to develop an integrated solid waste management plan that was in compliance with the State law and that addressed the threat of ground water contamination from the more traditional, less protected landfills.

It was in this context, Mr. President, that 2 years ago the U.S. Supreme Court issued an opinion, called the Carbone opinion, which essentially stated that States were without the authority to grant flow control power to their local governments, because the use of that flow control could constitute a restraint on interstate commerce.

That came as a surprise to many who felt that there were few items that were as indigenously local as the direction of garbage. The Supreme Court reached that conclusion, but went on to provide that it was now the responsibility of Congress to set whatever standards it felt appropriate in order to authorize local governments to continue exercising their flow control authority.

If I could quote from the concurring opinion of Justice O'Connor who, in joining the majority in the Carbone opinion stated that, "It is within Congress' power to authorize local imposition of flow control. Should Congress revisit this area, and enact legislation providing a clear indication that it intends States and localities to implement flow control, we will, of course, defer to that legislative judgment."

So what we have before us today is the legislative judgment carrying out that empowerment by the U.S. Supreme Court. I am concerned that the judgment that is represented in title II of this bill is a narrow judgment. It is a judgment which essentially says that as the first proposition local governments are denied the authority to engage in flow control; that is the ability to direct their solid waste.

As a second point, it provides that those communities which have already engaged in flow control prior to the date of the Supreme Court opinion, or prior to the date of May 15, 1994, which was the date upon which this initial version of legislation was first proposed, that those communities would be allowed to continue to exercise flow control for the period of time that was required for that community to meet its financial responsibility but in no cases longer than 30 years after the passage of this legislation. The implication of that is that no community which was not engaged in flow control prior to May 15, 1994, would be sanctioned to do so and those communities which were so engaged but which met their financial obligations, such as paying off the bonds that were necessary to construct a modern landfill or a solid waste recycling plant or an incinerator, that once those financial obligations were met they would lose their authority to exercise flow control and no community, regardless of circumstance, would have flow control authority for more than 30 years.

I am deeply concerned about the philosophy that says that the Federal Government is going to assume that degree of policy control over an activity which has been so historically local and which, by all of its characteristics, should continue to be local.

Mr. CHAFEE. I wonder if I could present the counterargument to the Senator's proposal. The Senator is saying that it goes against his grain and his philosophical belief that a local community cannot impose so-called flow control; a local community cannot say: We are going to build an incinerator. We are going to bond it with revenue bonds, with the revenue coming from the requirement that, for everybody in this community and every business, all trash must go to this central facility. And the reason we, the town, say that, or the city says that, is because we have to pay off the bonds to pay for the facility.

And the Senator finds it disturbing, and understandably so, that in this legislation we are saying, "No, you cannot do that anymore. Oh, yes, you can do it if you have some bonds outstanding."

Let us say the bonds have 18 years to go and that is the expected life of the facility. But beyond that, no, you cannot have this proposal. It is a little bit like, I suppose the Senator would say, Big Brother saying to the town of Lakeland, or whatever it is in Florida, whatever the town might be, "You can't do that."

Here is the other side of the argument. The other side of the argument says the Constitution of the United States as interpreted by our courts says you cannot do this to start with; that no way can you be able to issue these requirements that everybody in this local community must go to point A to dump the trash. You cannot have some local hauler come in and take it anyplace—to take it to Rhode Island, take it to Texas, take it someplace else, no. The Supreme Court of the United States says that it is unconstitutional to have restrictions that we provide for in this legislation.

I look at it another way. Instead of saying it is difficult to comprehend why Big Brother should step in and say why you cannot have flow control or you can only have it for a limited period, instead the Congress of the United States is saying, "Despite the fact that flow control is against the Constitution of the United States because it interferes with interstate commerce, we are still going to let you have it in order to pay off your bonds."

So I look on it more as the Congress giving rather than the Congress taking it away.

Mr. GRAHAM. Mr. President, I think, respectfully, that is not a proper reading of what the Supreme Court said in the Carbone case. I will just refer you to page 8 of the committee report which quotes the language of Justice O'Connor in which she states quite unequivocally:

> It is within Congress' power to authorize local imposition of flow control.

Mr. CHAFEE. That is right.

Mr. GRAHAM. Mr. President, I continue the quote:

> Should Congress revisit this area and enact legislation, providing a clear indication that it intends States and localities to implement flow control, we will, of course, defer to that legislative judgment.

So we have a range of judgments that we can make, including that it is appropriate for State and local governments to continue to implement flow control, those communities which had done it in the past and those which might like to do it in the future and those which have done it in the past which have paid off indebtedness and wish to continue to utilize it. It is within our power to place the decisionmaking as to whether to use flow control or not in the hands of literally tens of thousands of local government officials, as opposed to centralizing that decision in Washington, with the judgment that is contained in title II of this legislation, which essentially is: Thou shalt not engage in flow control unless you were doing it before May 1994 and, even then, only for the period necessary to pay off your indebtedness and, in no case, more than 30 years from now.

Mr. CHAFEE. I dispute the Senator's characterization of the Congress or the Senate saying thou shalt not engage in flow control. It is not us that is saying that. The Supreme Court has said, "You can't do it. And, indeed, if you try and do it, you are violating the Constitution."

But the Supreme Court goes on to say, "But if you, the Congress, want to give them that power, then you have the ability to do so."

I do not think it is us imposing a "thou shalt not" on them. In effect, we are coming to their rescue. It is true, we could be a broader rescue mission than we are currently on. The Senator aptly has pointed out, all we are doing is limiting our rescue mission; all we are saying is we will rescue those towns that have already made the commitment. They had imposed flow control saying everything had to go to this central landfill or central incinerator, and we are saying you can keep it up because you issued bonds thinking the law was the way it was, you did it fairly, and along comes the Supreme Court which says it is against the Constitution. OK, we will come and help you out.

That is what we are doing. We are not doing it, as the Senator is aptly saying, in perpetuity. We are not saying whatever you want to do in the towns is OK. We are limiting it.

But it is not us who said no to them to start with.

Mr. GRAHAM. Mr. President, I say to my friend and colleague, the Supreme Court has clearly stated, as it does in many of these instances, that activities which are violative of the interstate commerce clause can be made constitutionally acceptable if Congress sets the standards and clearly grants the conditions for that authority.

Mr. CHAFEE. Absolutely.

Mr. GRAHAM. Justice O'Connor has stated it quite explicitly that we have that authority, and I am suggesting that prudence would lead us to a position that would say, let us exercise the authority that the Supreme Court has held that we can possess under the Constitution in a way that decentralizes decisionmaking, that lets local communities, with locally elected officials, take into account their local conditions.

For instance, we are about to say to one of the fastest growing communities in my State, Volusia County, which contains cities such as Daytona Beach and Ormond Beach and DeLand—a very rapidly growing area—that they cannot engage in flow control as a means of managing their solid waste in such a way as to give maximum protection to their vulnerable underground water supply.

I do not know why we in Washington feel that we know more about the sensibilities, the economics, the values, the environment, the public health threat of the people in Volusia County than their locally elected officials. What purpose are we serving by being so narrow in our willingness to offer—my State just a few years ago was one of the smallest States in the Union. In fact, we are celebrating our 150th anniversary of statehood. When we came into the Nation in the year 1845, we had only slightly more than 40,000 people. One hundred fifty years later, we have 14 million people. Twenty years from now we will have 19 million people. They are occupying the same piece of property with the same environmental circumstances.

Many communities, about 15 to 20 in my State, have said, "We need to do a better job of protecting our water supply and inappropriate landfills." Here is what we are going to do for the citizens of my community with the support of the citizens of my community through their elected representatives to do so. We are now about to say that everybody who did not get on to that train, authorized flow control prior to May 1994, are going to be forever shut off.

I do not understand what public purpose we are advancing by denying them the right to do so.

Mr. CHAFEE. I do not want to quibble over language, but it is not us saying you are forever shut off. If we did nothing, you could be shut off, if we did not pass a piece of legislation here. What Florida is doing now, plus those who want to do it, they would be shut off. I guess I am just trying to see where is the nonaction—if we did no action, nothing would happen, you would not have flow control.

Mr. GRAHAM. I am going to describe in a moment the dilemma that a person like myself is in, because there clearly is an urgency to act for those 15 to 20 communities which had formed an alliance using flow control and committed themselves to these major environmentally and public health protecting measures. But it wounds and offends me that in the same action where we are protecting the past, we are unnecessarily closing off the future for those communities which today, and certainly in a few years, will be exactly like those that have taken advantage of flow control in order to develop these more environmentally and public health protecting measures.

Mr. CHAFEE. Well, the Senator has a good point. The other side of the coin is that once you permit this, you are permitting communities to set up and operate. That may be all well and good. But BFI, or Waste Haulers, or whoever it is, cannot come in there and offer better, cheaper service, and some citizen in that community is being deprived of choice.

Mr. GRAHAM. You are taking the position that we here in Washington have to be the "big brother" to protect 260 million Americans. I do not think that the county commissioners of Broward County, FL, or the city council of Providence, RI, are insensitive to the desires of their citizens. They are the ones who wake up every morning in that community. They are the ones who daily deal with these issues which are, in many cases, difficult balancing questions. Yes, you could have cheaper garbage rates in Broward County if everybody just hauled it to the local hole in the ground and dumped it. But you would also be putting your water supply at risk. And so the commissioners of that community made a judgment that they were prepared to ask their citizens to pay higher garbage fees in order to be able to dispose of their solid waste in a more environmentally appropriate manner. Why should they not be making that decision as opposed to our telling them it is a decision that will be unavailable to them?

Mr. CHAFEE. I think this. First, I am not willing to concede that in Broward or Dade County, or wherever it might be, inevitably, if do you not have flow control, your waste is going to end up in an environmentally damaging situation. That does not necessarily follow. We have all kinds of laws on the books dealing with the handling of waste in this country. And if some other outfit comes in—Waste Management, or whoever it is—and hauls it, they cannot just take it and dump it in some lovely field above a ground water area. They have to dispose of it in a proper way.

But the whole root of what we are dealing with is the commerce clause of the Constitution of the United States, which says that there should be free interstate transportation and movement in our Nation. That has served us pretty well. You might say, "How petty can you get? Why should Miami, or wherever, not be permitted to handle their waste, and if everybody has to take it to one place, and that is the only place, that is the way we want to run our business?" But the Supreme Court has said that is against the Constitution. I know we can fix it up, and the Supreme Court, as you pointed out, has also said we can straighten it out. So far, we have chosen not to take that extra step.

Mr. GRAHAM. So we are here, Mr. President, making an important political judgment. We have the range of authority to deny totally flow control authority to anybody, including those communities which have already utilized it and, in reliance upon it, committed themselves to significant financial obligations. That is an alternative that is available to us.

At the other end of the spectrum, we have the authority to grant a very broad license to local governments and States to utilize flow control.

What we have chosen to do—and I underscore the word "chosen"—we have selected among options what I will call a targeted grandfather approach, in which we have said that for those who were in business as of May 1994, and a rather tight definition of what you had to be doing in May 1994, all of which is outlined on pages 56 through 58 of the legislation, for a specific duration of time, you shall have authority to use flow control. Everybody else you excluded.

Let me, if I could, complete some examples that would give some context as to this theory of who should decide as to the range of local authority. I mentioned earlier a case of Volusia County, Deland, and the largest city, which is Daytona Beach, a fast-growing area in east central Florida. The county currently does not have flow control. The county was wise a number of years ago when it was able to purchase a large piece of land at a low price and has been, in part because of that, extremely successful in keeping its tipping fees—that is the charges to use the landfill—at a low rate, the lowest in the State, and still provide for an integrated solid waste management system.

At this point, they are not facing any particular competition and, therefore, the county has not had a need for flow control. But the director of solid waste in Volusia County is concerned about the future. The director recognizes that he may not be able to effectively address the public safety issues in our State—the threat of ground water contamination—without the ability to control the waste stream, should a private facility decide to open a facility in the area that undercuts the counties' tipping fees.

In addition, the director of solid waste is concerned about the ability of the county to float bonds in the future when it needs to expand its current facilities. Flow control authority would enable the county to have a stronger bond rating. Therefore, the absence of prospective flow control is a serious concern to this rapidly expanding county in Florida.

The dilemma that I mentioned to Senator CHAFEE that many of us feel is that we recognize the sense of urgency to pass legislation that reempowers those communities which had been using flow control and which had relied upon it. We all agree that we must act quickly to address the financial crisis that those communities are facing now.

Again, I use an example in Florida of Dade County. Dade County a number of years ago, utilizing the State authority for flow control in order to carry out its responsibilities for an integrated solid waste system, set up a series of modern landfills and incinerators. Since the Supreme Court action, which has undercut its ability to use flow control to assure that there was a sufficient amount of solid waste going to these facilities in order to generate enough revenue to pay for the cost of operation, maintenance, and debt service on those facilities, the county has been losing 45 percent of its waste, which equates to $53 to $68 million a year in revenue. Moody's Investors Service has recently downgraded Dade County's solid waste revenue bond from an "A" to "Baal." Moody's specifically stated that the significant diversion of waste to out-of-county facilities undermined the current rate structure and that the lack of a long-term strategy jeopardizes the system's continued ability to meet financial obligations.

The county is also faced with an inability to plan for future capacity and to ensure that recycling goals will be met in the future, that is, future planning has been eliminated due to the severity of the current fiscal crisis.

Half of the bulk waste recycling centers in Dade County have now been closed. These centers used to accept old furniture, appliances, tires, and other materials that could be recycled rather than placed in a landfill.

Dade County had extensive school education programs encouraging young people to become involved in appropriate activities for the disposal of solid waste, especially directed at recycling. Those school programs had to be eliminated because of the financial crisis.

Dade County had an active mulching program which has been dramatically scaled back now to a bare minimum. This program in the past provided mulching services to residents who brought yard waste and tree branches, and the mulch was distributed to homeowners and farmers. Now it goes directly to a landfill so that the county can come closer to meeting its waste level requirements.

Elimination of innovative recycling programs has also been a consequence of this financial crisis. Phone books, high-grade trash, tires, and destruction and demolition debris which used to be recycled are now headed for the landfill.

The clean organic waste composting programs are in jeopardy, due to insufficient waste to implement the plan beyond a demonstration phase.

Those are some of the urgent consequences of the Supreme Court's action for a community which had adopted flow control, and based upon flow control, an integrated solid waste management program. They had incurred very substantial, in the case of Dade County, over $100 million of indebtedness in order to pay for all those facilities.

It is because of communities such as that across America that there is an urgency to pass legislation that will provide for reempowering of those communities to utilize flow control and regain control of an important segment of a traditional local government responsibility.

Mr. President, I am concerned that there is a bleak outlook for communities in the future. There are many other communities which are going to want to do what counties like Dade have already done. That is, utilize flow control.

The ability of the local government to direct where its trash will be stored, as unromantic a function as government could engage in, but an important function which touches the lives of every citizen in the community; to allow the people who are elected in that community to make the judgment as to what is most appropriate to meet the variety of needs in that community.

As I mentioned earlier, when my State came in the Union 150 years ago, it was the smallest, the poorest, and the most remote State in the Union, with a population of slightly more than 40,000. Today it has a population of over 14 million. Twenty years from now, at current growth rates, it will have a population nearing 20 million from its current 14 million.

Are we to assume there will not be a similar set of concerns about protecting our ground water supplies, protecting public health 20 years from now, as there was when these communities that today are engaging in flow control adopted their plans? Clearly, the answer to that is no, there will be a similar need for this type of local control of where trash is disposed of in order to meet local environmental and public health circumstances.

I believe strongly that these decisions should be made at the local level by those elected officials who are closest to the situation. This is not a conflict between government control and free market. In fact, in my State, most of the actual work of solid waste management is done by private firms.

As an example in Hillsborough County, the county seat of which is Tampa, waste energy facility is operated by Ogden-Martin; landfill by Waste Management; BFI operates a majority of the residential recycling program. A wonderful example of a public-private partnership. In Lake County in the center of the State, the waste energy facility is also operated by Ogden-Martin, and the county has franchise agreements to haul solid waste with three different private companies.

This is not an issue of the free market versus government control. It is an example of local communities, through locally-elected representatives, taking control of the responsibility for their destiny, particularly protecting one of the most critical resources of that community, its ground water.

Mr. President, I believe that it is urgent that we pass legislation on this subject. I would hope that before we complete our deliberations that we would think seriously about the restraints that we are imposing—I think, unnecessarily—that we would think about the degree to which we are Federalizing what has been a traditional local responsibility, the decision of where to dispose of garbage.

We are going to continue to be engaged as we have over the past several weeks in some fundamental questions of what level of government should decide important public issues and whether those decisions should be made one time here in Washington or should be made 50, or 500, or 5,000 times at State and local levels.

Earlier today, we passed legislation that changed over two centuries of American law relative to product liability. For two centuries that responsibility was placed at the State level. States had the responsibility to understand their own history, culture, politics, economics, and they make a judgment as to how these matters of civil justice should be resolved.

Colorado is a different State than Florida. South Carolina is a different State than South Dakota. I believe in the proposition that the citizens of those individual States should make judgments as to what is appropriate for them today and in the future.

I strongly feel that that is also true of the issue of how to protect natural resources, and how the disposition of solid waste affects the protection of those resources. The situation is different from a relatively arid State in the West than it is in a subtropical environment in my State of Florida. The situation is different in the State with the peaks of Colorado, from the State that is relatively close to its water supply as we are with our high underground surface water in Florida.

I believe that prudent policy for the future should be as it has been in the past. That it is a responsibility of locally-elected officials who are accountable to the people that elect them, to make a judgment as to what is in the best interest. They would have the same range of choices that we would have, but they would be making it based on their understanding of the specific circumstances in their community.

I think that is intelligent federalism which we should apply to this issue of solid waste disposal in the future, as we have in the past. That it is not appropriate for Congress to make a decision here today that two centuries of American tradition will be overturned, and now we are going to federalize into a single decision here in Washington for all of our States and all of our local communities one answer to the question, of how they can dispose of their garbage.

Mr. President, I think the American people feel we have a lot of important things to be dealing with here in Washington. Clearly, one of those is going to be how to bring the Federal budget into balance.

I would suggest that that is a demanding enough responsibility for Senators to make. We do not have much time left over to decide how Quincy or Greeley will dispose of their garbage. We ought to let the people in Greeley, CO, and Quincy, FL, decide how to dispose of their garbage and put our attention to what the public expects Congress to do—how are we going to balance our budget.

If we allocate responsibilities in that way, I think both the citizens of Greeley, the citizens of Quincy, and the citizens of America, would feel as if we were doing the jobs that they expected the Senate to do, and how we were graded on how well we balanced the budget, would hold Senators to account and how well the county and city commissioners of Greeley and Quincy did their job would be the basis upon which they would be held accountable by their vote.

Mr. President, in conclusion, I appreciate the fact that my friend and colleague, the junior Senator from Rhode Island and the chairman of the Environment and Public Works Committee, accepted the amendments which I offered earlier. I hope that during this process we will give serious attention to the question of, do we really want to federalize the issue of disposal of local garbage? Or would we not be more prudent to accept the invitation of the Supreme Court to allow this to continue to be a responsibility of properly elected State and local officials?

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that I be permitted to speak as this morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S TRIP TO RUSSIA

Mr. DASCHLE. Mr. President, earlier today Senator MCCONNELL suggested on the Senate floor that the President's trip to Moscow has been a wasted effort—that there has not been a shred of progress made there. I do not want anyone who may have been listening to that statement to be misled by it, for, in my view, it simply is not accurate. It is important to review the reasons President Clinton went to Moscow and to assess his trip to Moscow—which is not yet over—with those goals in mind.

The President went to Moscow to honor the sacrifices of the Russian people to defeat the Nazis and fascism in World War II. Russians lost approximately 20 million people in that war—more than any other Nation. With the end of the cold war, this is the United States first opportunity to convey our appreciation. Our policy's to seek better relations not only with the Russian Government, but with the Russian people as well to help democracy take root there.

The President also went to Moscow to pursue discussion on key issues. The United States expectations were low, and our progress has exceeded those expectations. Among the accomplishments so far—and I emphasize that the trip continues tomorrow—are:

First, with respect to European Security, the Russians agreed to implement two Partnership for Peace agreements that are important to realize our goal of a comprehensive system of security in Europe.

Second, on the issue of theater missile defenses. The Russians agreed to a Statement of Principles that preserves the ABM Treaty and enables us to proceed with deployment of theater missile defense systems.

Third, the Russians agreed not to provide a gas centrifuge enrichment facility to Iran and to continue to review and discuss the proposed sale of lightwater reactors. That review will be through a special group created at the March ministerial meeting of Secretary Christopher and Foreign Minister Kozyrev.

Fourth, President Clinton secured an agreement with respect to nuclear materials to enable both countries to cooperate to ensure the safe storage of nuclear weapons and nuclear weapons materials.

Finally, agreement was reached on a statement to guide economic relations between the two countries that is important to our efforts to keep the Russian economic reforms on track.

So, in my view, a substantial degree of progress has been made with regard to Iran, with regard to the ABM Treaty, with regard to a number of issues relating to European security. And, as I indicated, the trip continues.

That list of substantive accomplishments is impressive; to expect more from one trip is, frankly, unrealistic.

Overall, the progress is indicative of the continuing interest of both countries to cooperate where we can and manage our differences constructively.

We should not judge this relationship or this meeting against an arbitrary scorecard, and we must not forget that this is not the old Soviet Union. This is a process to develop our relationship with the new Russia—again, not just its government, but also its people; to build on the potential that resides within that relationship that must be rooted in democracy and a mature and balanced dialog.

It is an important relationship, and the President is wise to invest in it. I applaud his efforts, and the fact that he has accomplished as much as he has in the last 2 days.

Perhaps President Clinton said it best today:

> If you asked me to summarize in a word or two what happened today, I would say that we advanced the security interests of the people of the United States and the people of Russia.

I should also note that, regarding Chechnya, the President spoke out strongly and publicly against Russian action in Chechnya at an event at Moscow State University. He has made clear to President Yeltsin and to the Russian people the United States position. Tomorrow he will meet with opposition leaders and with the family of Fred Cuny, the American aid worker still missing in Chechnya.

So I would say the President certainly went to Russia knowing we have serious differences with Russia, but committed to the essential process of supporting democratic roots and institutions in Russia and developing our relationship with the Russian people. The list of accomplishments is impressive, and the trip continues.

I only hope that in the interest of ensuring the greatest degree of success, at least until he returns, we give him the greatest benefit of the doubt, that we offer him our support, that we send the right message to the Russian people that we stand behind this President as he negotiates, as he continues to confront the many very perplexing issues that we must address in our complicated relationship with the people of Russia and certainly Russian leadership.

So, again, I must say I think in 2 days it is remarkable the President has developed the list of accomplishments he has. I hope we could continue to add to that list in the remaining time the President spends in Russia. It was a trip well spent. It was a trip I think we can look on with some satisfaction. I hope as the President continues to travel we can demonstrate our support for him and for his efforts, and wish him well as he continues.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. I thank the Chair.

(The remarks of Mr. CHAFEE pertaining to the introduction of S. 789 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending question before the body is the substitute amendment reported by the Committee on Environment and Public Works to S. 534. Is there further amendment?

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 754

(Purpose: To express the sense of the Senate on taking all possible steps to combat domestic terrorism in the United States)

Mr. SPECTER. Mr. President, I send an amendment to the desk on behalf of myself, Senator CRAIG, Senator GRASSLEY, and Senator BROWN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] for himself, Mr. CRAIG, Mr. GRASSLEY, and Mr. BROWN, proposes an amendment numbered 754.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) There has been enormous public concern, worry and fear in the U.S. over international terrorism for many years;

(2) There has been enormous public concern, worry and fear in the U.S. over the threat of domestic terrorism after the bombing of the New York World Trade Center on February 26, 1993;

(3) There is even more public concern, worry and fear since the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995;

(4) Public concern, worry and fear has been aggravated by the fact that it appears that the terrorist bombing at the Federal building in Oklahoma City was perpetrated by Americans;

(5) The United States Senate should take all action within its power to understand and respond in all possible ways to threats of domestic as well as international terrorism;

(6) Serious questions of public concern have been raised about the actions of federal law enforcement officials including agents from the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms relating to the arrest of Mr. Randy Weaver and others in Ruby Ridge, Idaho, in August, 1992 and Mr. David Koresh and others associated with the Branch Davidian sect in Waco, Taxas, between February 28, 1993, and April 19, 1993;

(7) Inquiries by the Executive Branch have left serious unanswered questions on these incidents;

(8) The United States Senate has not conducted any hearings on these incidents;

(9) There is public concern about allowing federal agencies to investigate allegations of impropriety within their own ranks without congressional oversight to assure accountability at the highest levels of government;

(10) Notwithstanding an official censure of FBI Agent Larry Potts on January 6, 1994, relating to his participation in the Idaho incident, the Attorney General of the United States on May 2, 1995, appointed Agent Potts to be Deputy Director of the FBI;

(11) It is universally acknowledged that there can be no possible justification for the

Oklahoma City bombing regardless of what happened at Ruby Ridge, Idaho, or Waco, Texas;

(12) Ranking federal officials have supported hearings by the U.S. Senate to dispel public rumors that the Oklahoma City bombing was planned and carried out by federal law enforcement officials:

(13) It has been represented, or at least widely rumored, that the motivation for the Oklahoma City bombing may have been related to the Waco incident, the dates falling exactly two years apart; and

(14) A U.S. Senate hearing, or at least setting the date for such a hearing, on Waco and Ruby Ridge would help to restore public confidence that there will be full disclosure of what happened, appropriate congressional oversight and accountability at the highest levels of the federal government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that hearings should be held before the Senate Judiciary Committee on countering domestic terrorism in all possible ways with a hearing on or before June 30, 1995, on actions taken by federal law enforcement agencies in Ruby Ridge, Idaho, and Waco, Texas.

Mr. SPECTER. Mr. President, the thrust of this amendment is clear on its face; that is to proceed as promptly as possible, but in a reasonable way, to have as comprehensive hearings as possible in the U.S. Senate on ways to combat terrorism.

Pursuant to that general objective, this Senator scheduled hearings in the Subcommittee on Terrorism, a series of four hearings, with a fifth one planned. The first hearing was scheduled for April 27 on legislation which had been pending dealing with terrorism, with its focus on transnational terrorism but also with some focus on domestic terrorism as it related to FBI counterterrorism strategies. A second hearing was scheduled for May 4, with the subject being technical aspects of the legislation and also to provide an opportunity to the American Civil Liberties Union, the American Jewish Congress, the Irish National Caucus, and the National Association of Arab-Americans to be heard on the civil liberties issues raised by the legislation. The third hearing is scheduled for May 11, which is tomorrow, on the subject of the so-called mayhem manuals on how to make bombs being transmitted over the Internet. A fourth hearing is scheduled for May 18, dealing with Ruby Ridge, ID, and Waco, TX. There is a fifth hearing planned, which we may be able to schedule for May 25, which would deal with the growth of the militia movement around the United States.

The hearing scheduled for April 27 became a full committee hearing and proceeded on that basis. Then Senator HATCH, who is on the floor at the moment—I had notified him that I would be presenting this sense-of-the-Senate resolution at about 6:20, as we are doing at this time—wrote to me saying that he believed the May 18 hearing should not be held as scheduled but ought to be held at some time in the future with a date not specified.

It is my view, Mr. President, that it is a matter of urgent public interest that the hearing be held as promptly as reasonably possible, but in any event that a date certain should be set so that we do not have the vague and indefinite statement as to when a hearing might be held in the future.

This is a matter which I have been concerned about since the incident in Waco, going back to April 1993. I had requested, shortly after the incident in Waco, that the Judiciary Committee hold hearings on the subject. The response which was given at that time was that hearings ought to be deferred until internal agency investigations were concluded. Once that had happened, other matters overtook the Judiciary Committee, and the hearings have never been held. I pursued the matter last year, however, by inquiring of the Justice and Treasury Departments about some of the conclusions they reached in their internal reports.

There is a great deal of public unrest as to what happened at Waco. There has been a report filed pursuant to an investigation initiated by the Department of the Treasury which was highly critical of the actions of law enforcement officials there. An internal investigation by the Department of Justice found little fault, to characterize it, although the report speaks for itself.

The incident at Ruby Ridge drew a tremendous amount of controversy. A deputy Federal marshal was killed; others were killed. There was a Federal prosecution, and the defendant, Mr. Randy Weaver, was acquitted of the most serious charges in that matter.

As specified in the sense-of-the-Senate resolution, there is substantial public concern that the handling of the Waco incident may well have been a triggering factor in the Oklahoma City bombing, with the Oklahoma City bombing coming on April 19, 1995, exactly 2 years after the date of the Waco incident.

Mr. President, it is hard to emphasize it any more strongly than was said in the sense-of-the-Senate resolution, that regardless of what happened at Waco and regardless of what happened at Ruby Ridge, there was absolutely no possible, no conceivable justification for the bombing in Oklahoma City. But there are those who say that the triggering factor at the Oklahoma City bombing was the failure to have appropriate action taken as to what happened at Waco. The media are full of reports of militias being concerned about what is happening in the Federal Government and fears expressed by many people that the Federal Government will infringe on or abolish the constitutional rights of citizens, including their rights under the second amendment.

I believe that it is incumbent upon the Senate to have hearings on this matter so that there may be assurances of full disclosure—let the chips fall where they may—so that there may be public assurance that the Congress of the United States will exercise its oversight responsibilities and that, if we do not act at least to set a hearing date, that this issue will fester and who knows what the consequences may be.

I certainly do not want to make any predictions or have any self-fulfilling prophecies. But I believe as a U.S. Senator, as chairman of the Terrorism Subcommittee, as a member of the full Judiciary Committee, and also as the chairman of the Senate Intelligence Committee—which could conceivably have jurisdiction over these matters, but I think it is more properly a matter for the Judiciary Committee—that action be taken so that the Congress of the United States, the Senate of the United States, in pursuance of its oversight responsibilities, will do everything that it can to investigate and understand the problem of terrorism and to take all action which it can to respond. If we sit by idly without taking as much action as we can to allay the public concerns which have been expressed, that there has not been appropriate action by the Federal Government to hold accountable the Federal officials who were involved in Waco, TX and Ruby Ridge, ID, that certainly we would be responsible if anything happens in the interim which might be attributable, fairly or unfairly, to our inaction.

There had been reports that the Senate was not acting on Ruby Ridge, ID, because of concerns that there might be some interference with the investigation which is being undertaken by the prosecuting attorney of Boundary County, ID. The prosecuting attorney there, Randall Day, is conducting an inquiry to make a determination as to whether there ought to be a State prosecution of Federal officials.

Having had some experience in that particular line and not wanting to interfere with whatever the prosecuting attorney of Boundary County, ID, might want to do, I called Mr. Day and had an extensive conversation with him. There is no objection on Mr. Day's part for Congress to undertake whatever kind of an inquiry we choose to undertake.

Mr. Day advised me that there is a report by the Department of Justice which he has seen, which is not public, and he has a concern that if that report comes into the hands of potential witnesses that there may be some problem with those witnesses. But that would be unrelated to whatever kind of a hearing the U.S. Senate might want to undertake.

Mr. President, the essence of this resolution is that we move ahead with a hearing on Waco and Idaho, as they are, at least in the minds of many, related to the problems of terrorism in the United States. I personally believe it is totally insufficient to deal with this matter by talking about hearings, as Senator HATCH has said, "in the near future" or "after the House completes its hearings." That is a framework which is not sufficiently definable or definite, I think, to address this problem as it should be addressed.

My preference is to proceed with a hearing on May 18. I would be delighted to see that hearing in the full committee, as the hearing was held on April 27, after the original notification and purpose was sent out for a Terrorism Subcommittee hearing. So let there be no mistake, a full committee hearing would accomplish all of the purposes which I have in mind.

But I feel very strongly that we should not stand idly by without having the hearing or at least setting a date for the hearing. That is why the resolution is specifically calling for a hearing on or before June 30, which will at least let everyone out there know that there will be oversight and that the Senate will take action to put all the facts on the table and let the chips fall where they may, so that we will be doing everything in our power to understand terrorism and to curtail it to the maximum extent that we can.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Utah.

AMENDMENT NO. 755 TO AMENDMENT NO. 754

(Purpose: To express the sense of the Senate concerning the scheduling of hearings on Waco and Ruby Ridge in the near future)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 755 to amendment No. 754.

The amendment is as follows:

Strike all after the first word and insert the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) The American public is entitled to a full, comprehensive, and open hearing on the circumstances surrounding the efforts of federal law enforcement officers, including agents from the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms, to investigate and effectuate (or seek to effectuate) the arrest of Mr. David Koresh and others associated with the Branch Davidian sect in Waco, Texas;

(2) The American public is entitled to a full, comprehensive, and open hearing on the circumstances surrounding the efforts of federal law enforcement officers, including agents from the Federal Bureau of Investigation, the U.S. Marshals Service, and the Bureau of Alcohol, Tobacco and Firearms, to investigate, and effectuate (or seek to effectuate) the arrest of Mr. Randy Weaver and others associated with Mr. Weaver, in Ruby Ridge, Idaho;

(3) The Senate has not yet conducted comprehensive hearings on either of these incidents;

(4) The public interest requires full disclosure of these incidents through hearings to promote public confidence in government; and

(5) The public's confidence in government would be further promoted if the timing of the hearings takes into consideration the need for such hearings to be conducted in an atmosphere of reflection and calm deliberation.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that hearings should be held in the near future, before the Senate Judiciary Committee, at a time and under such circumstances as determined by the Chairman, regarding the actions taken by federal law enforcement agencies and their representatives in the aforementioned Ruby Ridge and Waco incidents.

Mr. HATCH. Mr. President, as usual, I have a lot of respect for the distinguished Senator from Pennsylvania. I know that his intentions are honorable. He would like to have these matters examined, and I believe that they will be examined.

I have to say that there were 12 Federal law enforcement officers and personnel who were murdered in the Oklahoma City tragedy.

I understand that memorial services for those Federal law enforcement personnel will be held next week. Out of respect for those who were victims, I am reluctant to hold hearings on Waco at this time—although I believe Congress must do so. I have to admit that nobody has been more concerned about the Waco incident and the Ruby Ridge incident than I have been. After all, both States are in close proximity to mine. I have a lot of friends in both States, and there has been a considerable amount of pressure on me to hold hearings in the last month or so, and even before that.

I been frank about the fact that I intend to hold Judiciary Committee hearings. When I heard that the House was going to start hearings on Waco and Ruby Ridge, with the agenda that we have in the Senate, which is a very heavy Judiciary Committee agenda, and also with the occurrence at Oklahoma City, I told people that we will hold hearings but that I would like to wait at least a reasonable time and allow the FBI and other law enforcement agencies to do everything they possibly can to catch, convict, and punish those people who were responsible for the Oklahoma City bombing. It is certainly the most tragic terrorist incident in the history of this country. There are others that I can cite, some of which even involve my own forebears. As people will recall, the Mormon Church is the only church in the history of this country where its members had an extermination order against them, issued by a Governor of one of these States, which extermination order was rescinded by none other than one of our colleagues when he was Governor of that respective State.

I have to say that we will hold hearings and I intend to hold them in a reasonable period of time. They will be held, though at the full committee which is the proper jurisdictional setting, as the full Judiciary Committee has retained jurisdiction over the Department of Justice. This issue is a Department of Justice oversight issue, so the full committee should hold these hearings.

One thing I am very concerned about is pulling any FBI leader off of the Oklahoma City case until they wrap up the investigation. They are making great headway. I am updated almost daily by the Director of the FBI, by people at the Justice Department, people in this administration, and others who are on top of what is happening following the Oklahoma City bombing. And I personally believe we should allow our law enforcement community some time—and it may be longer than the middle of next month or the end of June—for them to use every power at their disposal to resolve the investigation and problems in Oklahoma City.

Now, every time we have one of these hearings—and in this particular case, if we hold a hearing, a Department of Justice oversight hearing on Waco and Ruby Ridge, the FBI Director is going to have to be there. Mr. Potts, who is doing an excellent job of running the investigation on Oklahoma City, is getting accolades from everybody involved in this particular investigation. Were we to hold hearings now, Mr. Potts would have to defer his time from Oklahoma City to prepare for and testify at our hearings up here. And there are innumerable other people who may or may not be involved in hearings, but who need to be on the job in Oklahoma City.

That is why I am reticent to calling these hearings during the month of May, and I am reticent to have a due date of June 30, which is what the distinguished Senator has in his sense-of-the-Senate resolution. I will be happy to do whatever the Senate says. But it is my prerogative as chairman of the Judiciary Committee to determine when these hearings are going to be held. I have to say that I hope that the Senate will take into consideration the importance of the work that is being done to try and uncover the problems and catch those responsible for the Oklahoma City bombing.

I personally think it is the wrong thing to do—to try to push hearings too soon on this matter, under these circumstances at this time.

Now, perhaps there is reason to criticize the Senator from Utah for not having held hearings before the Oklahoma City incident, but the Senator from Utah has been studying these matters and we have people looking into them. We do not feel that we are prepared to hold the hearings at this particular time, and we certainly were not prepared before the Oklahoma City incident. Indeed, much of our attention in the Judiciary Committee has been focused on passing the Contract With America.

I want to share with my colleague from Pennsylvania that I have many friends who are very concerned in my home State and in the State of Idaho, my neighboring State, and in the State of Texas, a State I have a great deal of love and respect for, who are very concerned about the fact that the Waco and Ruby Ridge matters have been allowed to drag on as long as they have. When I heard that the House was going to move forward, I thought to myself, good, let them do it and then we will watch that carefully and we will follow up with hearings, if necessary, to do the necessary things to cover all of the matters that were not covered there or that need to be recovered by Members of the Senate.

There is no desire on my part to avoid holding hearings, no desire to ignore these matters. And there is no desire to fight the distinguished Senator from Pennsylvania on this issue. I will be happy to hold hearings, as I informed the Senator. There will be full committee hearings. The distinguished Senator from Pennsylvania will have every right to participate as a distinguished member of the committee. He is a member whom I respect. But it ought to be done, it seems to me, in a reasonable and a considered way, giving consideration to the pressures on everybody, including members of the Judiciary Committee but, most importantly, on the leadership of the FBI at this particular time. Perhaps they will wrap up the Oklahoma City investigation within the next week or so. I imagine it is going to take more time than that. But they are on their way, and they are making great headway and I do not want to pull anybody off from that investigation at this particular time.

If we did, you never know whether some felon or murderer could slip through and escape or find some way out, or cover his or her tracks or their tracks; we just do not know at this point.

So I encourage my colleague from Pennsylvania to work with me on a resolution that will certainly express the sense of the Senate to hold hearings on this matter but to do so in a timeframe that I think will bring people together rather than split us apart. I would like to do that, and I am humble enough to be given advice and to try and follow it. But in this particular case, I feel very deeply that there is a time to hold these hearings and a time not to. And right now is not the time to do it. I believe probably next month will not be the time to do that as well. I certainly hope that we will hold hearings in a short time and in a reasonable time from this particular date.

So I commend the Senator from Pennsylvania for his desire to do this, for his zeal, and for his interest in trying to resolve wrongs that exist or may exist in this country with regard to these two incidents and any other incident. I also believe that if we are patient and wait until we see the outcome of the investigation of the Oklahoma City bombing—if we wait a short while longer, not only will we help the FBI and others to get the job done, but we may be able to uncover some things that will help us to understand improvements that they are making at the FBI with regard to terrorism. And I have no doubt that we will uncover the truth about whether there is no conspiracy of the Government against the American people, or against the militia movement, or against individual citizens. We know that there have been mistakes made. In Waco, it was a catastrophe; I have said that publicly, and I cannot remember, but I believe I have said it on the floor. Ruby Ridge was one of the great tragedies of our western lives. I believe that hearings are going to be appropriate and we will hold them.

I hope that we will work this out so that we can work together on it rather than work apart.

Let me just add that I think it is the prerogative of the chairman, to determine when hearings within his committee's jurisdiction will be held. I intend to stand by that position—for a reasonable time but not a definite time—until after I see what happens in Oklahoma City. I do not want to put extraordinary pressure on the FBI at a time when they have extraordinary pressure on them anyway.

Especially with the understanding that Ruby Ridge and Waco will not go away, with the understanding that we are studying those matters now, and trying to figure out what would make the most effective and reasonable and worthwhile hearings on the subject, I feel we can withhold on hearings. I have no doubt that the administration and others with whom my colleague from Pennsylvania has spoken have informed him that if the Senate chooses to hold hearings, they will appear. I cannot, however, believe that they would take the position that hearings at this time, in the midst of the largest criminal investigation in history, are a priority for them.

I commend my distinguished colleague from Pennsylvania for his efforts in trying to move this issue forward. I hope he will work with me on it. If he will, we will get farther than if he does not. If he does not work with me, the Senate will vote on a sense-of-the-Senate resolution—a nonbinding resolution. I will determine when these hearings will be held. I just think it would be flying in the face of good law enforcement, flying in the face of reality, flying in the face of the need to hold hearings which are calm and deliberative, and flying in the face of the people who have died in Oklahoma City, who deserve a resolution to their problem, to hold Waco and Ruby Ridge hearings at this time.

Now, there are people who have died in Waco, and people who have died in Ruby Ridge, both law enforcement people and innocent people in those compounds, and they all deserve to have this matter fully reviewed. I intend to do so. But these are matters which require a comprehensive and full review—not a hurried hearing.

I intend to work with every member of the Judiciary Committee so that every member can have an opportunity to be part of the hearings, to have an opportunity to ask the questions, and hopefully they can during the time that will be allotted. It may take more than one day of hearings. In fact, it will probably take more than one day.

I have the commitment from the Director of the FBI and from the people at Justice that they will cooperate in those hearings. I have discussed with them the need to hold hearings and I have made it clear to them that we will hold them. And they, themselves, have indicated to me that they would like a little bit of time to finish the Oklahoma City matter before they have to divert their efforts and come up here for full-blown hearings before any committee of the U.S. Senate and, I believe, even the House of Representatives.

They will do it if we demand they do it. I just believe there is a time to have them do it. That time is not now, under the circumstances of Oklahoma City.

With that, I offer to work with the distinguished Senator from Pennsylvania and see what we can do to resolve this problem. I stand ready to work with him.

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator KEMPTHORNE be added as an original cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, when the Senator from Utah talks about patience, it seems to me that the American people have been patient long enough, since April 19, 1993. There has been ample time to hold these hearings, long ago.

As I said, I had asked for hearings shortly after the event itself. Had they been held in January or February or March or up to mid-April of this year, we would not be looking awaiting further action on Oklahoma City. It may be that we would not have looked at anything at Oklahoma City at all had the hearings been held earlier.

I do not know that that is so, but I think that when there is a request for patience, I think that there has already been an undue amount of patience on the matter. I do not think that it is impatient to say, "Do it by June 30." That is 41 days from May 10, as we stand here at the present time.

I discussed these hearings with the Director of the FBI, Louis Freeh, who was willing to proceed at this time and has no objection. The Attorney General of the United States has publicly stated that she is prepared for hearings.

When the Senator from Utah offers a resolution that "hearings should be held in the near future," my judgment is that is totally, totally, insufficient.

When he talks about time, and he says we should wait until we "catch and punish those responsible for Oklahoma City"—punishing them may take a matter of years. Some murder cases languish in the courts for up to 20 years. I do not think he necessarily means that, but if he is talking about waiting for punishment, even a trial would take months or more than a year.

When he talks about awaiting hearings in the House, "We will wait for the hearings in the House, if necessary to see if we proceed," the Senator from Utah is not even talking in a definite way about hearings after the House hearings. We will see after the House hearings, if necessary. I firmly believe that the Senate has an independent responsibility. We do not have to get involved in being a bicameral legislature. We have an independent responsibility to undertake these hearings.

When paragraph 12 of the resolution calls to hearings by the U.S. Senate to dispel public rumors that the "Oklahoma City bombing was planned and carried out by Federal law enforcement officials," that is a statement of the Director of the FBI himself. When Director Freeh was at lunch yesterday in the Republican Caucus he talked about rumors that the Federal Government itself had caused the bombing in Oklahoma City, and that he welcomed the hearings to dispel those rumors.

On two occasions the Senator from Utah has said that it is "My prerogative"—"My prerogative to decide when the hearings would be held." I think that that is customarily the situation. When we schedule subcommittee hearings, however, it is the prerogative of the chairman of the subcommittee to schedule the hearings.

Or, as I said, it would be conceivable to have hearings in the Intelligence Committee which has jurisdiction over terrorism matters. And a good bit of what we are considering now in the Judiciary Committee relates to the deportation or aliens, which is clearly a matter within the jurisdiction of the Intelligence Committee. As chairman, I could schedule them there, if we want to talk about prerogatives, but I have not done so because I think this is really a matter for terrorism as it is defined in the Terrorism Subcommittee of the Judiciary Committee. As I say, I would be glad to see the hearings held in the full committee, as was the hearing on April 27 after the notice had been given by the subcommittee for that hearing.

When we talk about the prerogatives of Senators, I think that is a little excessive, even if the Senators are chairmen, when we have a matter of public interest.

I am a little surprised by the statement by the Senator from Utah, again I wrote this down, that even if the resolution passes, "I am going to determine when to hold these hearings, unless the Senate orders me."

I do not know of any procedure for having an order or a mandamus, or direction of that sort under our Senate procedures, but the way we determine the will of the Senate is to have a sense-of-the-Senate resolution, which is what I have offered. It gives a lot of latitude as to when the hearings will be held.

So it is a little surprising to hear that the Senator from Utah is going to determine when to hold the hearings, whatever the sense of the Senate may be, unless the Senate issues some kind of an order. I know of no such procedure for such an order.

Mr. President, I am very much concerned about the officers, the Federal officials, who were murdered in Oklahoma City. I think every American is. I know the area very well.

I went to the University of Oklahoma, which is in Norman, 20 miles away, and have a lot of friends in Oklahoma City. It is a catastrophe of the first order. I think that we can best serve the public interest and best pay our respect to the victims in Oklahoma City and best pay our respect to victims of terrorism everywhere if we act and if we do what we can to clear the air on any notion which may be current in the country that there has been a coverup by the Federal Government, or a failure to act or a failure to look into what happened in Waco and Ruby Ridge.

I think this resolution is a very reasonable approach to the issue, deferring from the date of May 18, which the subcommittee has set, and deferring to the full committee. It is not a matter of who conducts the hearings. Let the full committee do it. But let us do it with reasonable promptness.

I think it is important that we not talk about personal Senatorial prerogatives or about being ordered to do something, not talk about conduct them "if necessary," after the House holds it hearings, or not talk about the vagaries of the near future. We need to set a time when at least we will let all Americans know we are going to move ahead, we are not stonewalling, and although we are not having the hearing on May 18, we will at least set a date that will give public assurance—that we will give the public assurance that we will let the chips fall where they may and there will be accountability in America regardless of how high the officials may be.

Mr. CRAIG. Mr. President, I strongly support the call for hearings into the Federal Government's handling of standoffs in Naples, ID and Waco, TX.

Some of my colleagues may remember I have been pushing for many months to get the Government to tell what it knows about the incident in my home State—often referred to as Ruby Ridge. I asked for an investigation of the incident, which was done; I pressed for release of the reports of that investigation, which is presently awaiting the consent of the local Idaho prosecutor; and in January, I asked for hearings in the Senate.

Government agents have already been disciplined for acts and failures to act at Ruby Ridge. Just a few weeks ago, the Deputy Attorney General released a list of problems that she thinks occurred there and asked the heads of three agencies to report how they are addressing these problems.

Yet there still has not been any public accounting as to what happened, nor answers to the questions that continue to multiply.

Mr. President, the public has a right to know. The Senate should hold hearings into this matter and into the handling of the Waco standoff, as well.

There are some who have suggested that now is not the time for these hearings. They say we should wait until Oklahoma City recovers, or until the polls show a more favorable political climate in the country, or some other goal is met.

At the same time, we have been hearing a lot in the press and even in this Chamber about the public's so-called "paranoia"—fear and mistrust of the Federal Government that is being labeled as irrational.

I should not need to remind my colleagues: fear breeds in ignorance. Mistrust is fueled by rumor. The worst thing this Congress could do to improve the situation would be to put these issues on the shelf or try to drive public discussion underground.

That is not the way a responsive, and responsible, representative body should operate. We depend upon our State and Federal authorities to maintain order and keep the peace, and we trust they will do so in a way that is consistent with the law and in keeping with the trust we have placed in them. Sometimes a line is crossed that runs the risk of breaking the trust and confidence Americans have place in our Federal law enforcement community.

Many across America fear such a line was crossed at Waco and at Ruby Ridge. That fear has only increased, not decreased, as the days and months have passed without an adequate Congressional response.

Surely everyone in this Congress would agree that it would be helpful to have answers to these questions before we respond to Federal law enforcement requests for greater powers and resources. Hearings in this area may well point out areas where additional help is needed; conversely, they may point out areas where additional powers may contribute to the potential for abuse. And if Congress deserves to know the answers to these questions before making such an important policy determination, surely the public also deserves it.

Mr. President, it serves neither the law enforcement community nor the interests of civil liberties or delay addressing these incidents. We should hold hearings and seek answers to the legitimate questions that have been raised—and we should do it now, rather than allow the cancer of suspicion and mistrust to grow.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator's amendment is currently not pending for those purposes. It takes unanimous consent to order the yeas and nays on your amendment, Senator.

Mr. SPECTER. Mr. President, I ask unanimous consent that my amendment be considered as a freestanding resolution which, as I understand from the Parliamentarian, is permissible.

The PRESIDING OFFICER. It does take unanimous consent.

Mr. SPECTER. I ask unanimous consent it be considered as a freestanding resolution.

The PRESIDING OFFICER. In my capacity as a Senator from Minnesota, and acting as Chair, I do object.

Objection is heard.

Mr. SPECTER. I ask unanimous consent that the yeas and nays be ordered.

The PRESIDING OFFICER. Is there objection that it be in order to order the yeas and nays at this time?

Is there a sufficient second?

There is clearly not a sufficient second.

Mr. SPECTER. All Senators on the floor are voting in favor of the yeas and nays.

Come on now, Mr. President, I have seen the yeas and nays ordered with one Senator on the floor asking for the yeas and nays constituting a sufficient second.

The PRESIDING OFFICER. According to the Parliamentarian, a minimum of 11 Senators need to be on the floor for a sufficient second.

Mr. SPECTER. Parliamentary inquiry, Mr. President. Will the Parliamentarian represent that the yeas and nays have not been ordered in any case he has seen where fewer than 11 Members of the Senate have asked for the yeas and nays?

The PRESIDING OFFICER. Senator, there is not a record kept of that, according to the Parliamentarian. So the information would not be available.

Mr. SPECTER. I ask for his best recollection but not necessarily a record, Mr. President.

Mr. President, I ask unanimous consent that the yeas and nays be ordered.

The PRESIDING OFFICER. Is there objection? Without objection, so ordered.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. SPECTER. Mr. President, I send a motion to invoke cloture on the pending matter to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the pending committee substitute amendment to S. 534, the solid waste disposal bill.

John H. Chafee, Bob Dole, Bob Smith, Jim Jeffords, Hank Brown, Kit Bond, Orrin Hatch, Spencer Abraham, Jon Kyl, Larry E. Craig, Kay Bailey Hutchison, Trent Lott, R.F. Bennett, Pete V. Domenici, Dirk Kempthorne, Jesse Helms.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted:)

PRODUCT LIABILITY FAIRNESS ACT

Mr. DODD. Mr. President, today the Senate passed the Product Liability Fairness Act, which I have cosponsored, by an overwhelming vote of 61–37. For those of us who have been working on this issue for a long time—my involvement dates back to 1985—this is an historic day. With passage of this balanced measure, we have taken a huge step toward improving the product liability system for everyone—for the injured people who need fast and fair compensation, for consumers who need quality products to choose from, for those American businesses who are at the cutting edge of international competition, and for workers who depend on a strong economy to support their families.

I commend Senator ROCKEFELLER and Senator GORTON, and their staffs, for their heroic efforts on this measure. From drafting the legislation, to skillfully guiding it through a lengthy debate on the Senate floor, they have worked extremely effectively. Their success is reflected in the broad bipartisan coalition that supported the bill.

I also commend Senator LIEBERMAN, my colleague from my home State of Connecticut. He authored an important section on biomaterials. That provision is designed to ensure that manufacturers of life-saving and life-enhancing medical devices have access to raw materials. In recent years, the supply of raw materials has been threatened by litigation. This is a critical problem, and I commend Senator LIEBERMAN for crafting a promising solution.

Of course, like any compromise, this bill will not please everyone in all respects. I had drafted, for example, an amendment providing a different approach to punitive damages. under my amendment, the jury would determine whether punitive damages are appropriate, and the judge, guided by certain factors, would determine the amount. That procedure, in my view, offers a better approach to punitive damages than one which provides limits, or caps. Senators ROCKEFELLER and GORTON incorporated some aspects of my proposal in the final provision, and I appreciate their efforts on this difficult issue.

The final version of this bill does not contain a provision that I have supported in the past—the Government standards defense. One aspects of that defense, related to approval of drugs and medical devices by the Food and Drug Administration, was passed by voice vote in the House and will, I understand, be considered in conference. I ask unanimous consent that a number of letters supporting this provision be printed in the RECORD at the end of my remarks. As these letters point out, inappropriate punitive damages have convinced many corporate researchers to avoid the search for safer and more effective drugs.

Once again, I commend my colleagues, particularly Senators ROCKEFELLER and GORTON, for their bipartisan efforts on the Product Liability Fairness Act.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

PHARMACEUTICAL RESEARCH AND
MANUFACTURERS OF AMERICA,
Washington, DC, April 25, 1995.

Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC

DEAR SENATOR DODD: As a physician volunteer, I treat AIDS patients at the Whitman-Walker Clinic. The suffering that I see—and the threat of an ever-wider epidemic—convince me that the greatest gift anyone could give to society would be an AIDS vaccine. If I were the chairman of a philanthropic foundation, I would invest every dollar in vaccine research.

However, if I were CEO of a pharmaceutical company, knowing that the investment in my company represented the retirement and college savings of many of my stockholders, I wouldn't touch AIDS vaccine research with a ten-foot pole—until the liability issue has been successfully addressed.

Even the safest, most widely accepted vaccines entail risks—and potentially bankrupting liability burdens. Childhood vaccines are available in adequate supply only because Congress passed the Childhood Vaccine Compensation Act. This came about only because several manufacturers got out of the business of manufacturing childhood vaccines due to liability concerns—raising fears of a dangerous scarcity.

In 1975, a man who got polio after changing his baby's diaper sued the manufacturer of the Sabin polio vaccine, which the baby had received. The risk of polio transmission was known, but small—about 1 in 1 million. Nevertheless, the jury awarded punitive damages. The award was later reversed, but only by the narrowest possible margin. The very fact that such a widely acclaimed health advance could expose a manufacturer to punitive damages would certainly give pause to any manufacturer considering research on an AIDS vaccine—which entails special liability risks.

With a preventive AIDS vaccine, people who are vaccinated will probably turn HIV positive—with all the social stigma and threat of job loss or insurance loss that this involves. There is a risk that a very small number of people will get AIDS from the vaccine. Additionally, there is the risk that the vaccine won't "take" in all cases and that some people who think they are protected may engage in risky behavior and come down with AIDS. All of these eventualities could result in lawsuits.

In the case of therapeutic vaccines for people who already have the disease, it would be very difficult to distinguish the symptoms of AIDS from any side-effects of the vaccine. And people with AIDS, prodded by unscrupulous lawyers, might easily be tempted to sue vaccine manufacturers.

Unless the liability threat is alleviated—at least by exempting manufacturers of FDA-approved products from punitive damages—developing an AIDS vaccine is decidedly a "no-win" proposition. This is outrageous, unfair, tragic—but true.

Sincerely,

JOHN D. SIEGFRIED, M.D.

MAY 2, 1995.

Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: We are writing to ask that you vote in favor of a proposal that we believe will have a positive effect on research and development of new medicines and medical devices. American innovation is in trouble in the courts particularly in the high risk areas of reproductive health. Liability fears have caused the withdrawal of new drugs and medical devices that the Food and Drug Administration (FDA) considers safe and effective. We understand that when S. 565, the "Product Liability Fairness Act of 1995" is considered on the Senate floor, an amendment will be offered that would prevent juries from second-guessing the FDA's scientific decisions that a drug is safe insofar as punitive damages are concerned.

The proposed FDA-approval defense to punitive damages would establish a defense to punitive damages in tort actions involving drugs or devices approved by the FDA and subject to FDA regulation. The defense would apply only to punitive damages, and would not be available to a manufacturer that has withheld or misrepresented information to the FDA, including all required post-approval disclosure of unexpected adverse effects.

In the past twenty years, most companies have halted U.S. research on contraceptives and drugs to combat infertility and morning sickness. As a case in point, Bendectin, a morning-sickness drug, was removed from the market by its manufacturer in 1984 after more than 2,000 lawsuits were filed claiming it caused birth defects. Merrell Dow has spent over $100 million defending those suits and is still doing so. Even though almost every court which has looked at the issue has determined that there is no scientific evidence to support the contention that the drug causes birth defects, and even though Bendectin is still approved by the FDA for use in pregnancy, no manufacturer will risk making a morning sickness drug.

The 1970s brought more litigation over oral contraceptives than any other drug. In the early 1970s, there were 13 companies doing research and development on contraceptives. Eight of these were American. Today there are only two major U.S. companies doing such research. In 1990, a distinguished panel of scientists put together by the National Academy of Sciences noted that due to fear of lawsuits, the United States is decades behind Europe and other countries in the contraceptive choices it offers women.

In early 1994, because it had spent tens of millions of dollars defending against suits by people claiming injury from tempero-mandibular joint implants, DuPont announced it would no longer make polymers available to the medical device industry in the United States. These polymers are used in artificial hearts, pacemakers, catheters, hip and knee prostheses, and a host of other implantable devices. We have not even begun to feel the full impact of that decision.

The Senate is taking advantage of an unprecedented opportunity to fix a flawed product liability system. We ask that you include a reform that will encourage the development of better medical products without impairing the ability of people who are injured from recovering just compensation.

Sincerely,

NANCY SANDER,
Allergy and Asthma Network/Mothers of Asthmatics, Fairfax, Virginia.

PATRICIA TOMPKINS,
National Black Nurses' Association, Washington, DC.

DOROTHY I. HEIGH,
National Council of Negro Women, Inc., Washington, DC.

ADELE BAKER,
Wright, Robinson, McCammon, Osthimer and Taturn, Washington, DC.

SUSAN WALDEN,
Renaissance Women Foundation, Washington, DC.

NATIONAL FAMILY PLANNING & REPRODUCTIVE HEALTH ASSOCIATION,
Washington, DC, May 1, 1995.

DEAR SENATOR: As the Senate considers S. 565, "The Product Liability Fairness Act of 1995," we urge you to support a provision known as the FDA defense. With the FDA defense, companies would not be held liable for punitive damages in a lawsuit if the drug or medical device involved received pre-market approval from the FDA, and if the company fully complied with the FDA's rigorous requirements, which include specifying the warnings that companies must provide about their products and furnishing post-market reports on adverse reactions.

As an organization dedicated to expanding medical research and increasing access to products that can improve women's reproductive health, we know firsthand the extent to which the current liability system is impeding these important goals. In 1990, a distinguished panel of scientists put together by the National Academy of Sciences noted that due to U.S. Pharmaceutical companies fear of lawsuits, the United States is decades behind Europe and other countries in the contraceptive choices it offers women. An FDA defense would begin to turn the tide on this disturbing trend by encouraging research and development of products women need without impairing the ability of women who are injured by drugs and medical devices to recover just compensation.

We are deeply distressed that opponents of reform are mounting a fear-based campaign directed at women as their strategy to block change. A great deal of misinformation has been circulated concerning the impact of the FDA defense on women. We certainly recognize that women have had a painful history with medical products, such as DES and the Dalkon Shield, which have caused tragic injuries to women and their children. Opponents of an FDA defense are mistaken, however, in claiming this provision would have prevented plaintiffs from collecting punitive damages in these cases. In fact, the Dalkon Shield was on the market before the Medical Devices Amendment was adopted in 1976, and thus, was never approved by the FDA. As for DES, various manufacturers involved are alleged to have defrauded or withheld information from the FDA, and therefore would not be covered by the FDA defense.

The FDA defense would allow plaintiffs to obtain full compensatory damages and non-economic damages, including medical costs, lost wages, loss of functioning, and pain and suffering. We would not support the FDA defense if limited a plaintiff's ability to obtain full compensatory and non-economic damages in any manner. The FDA defense would limit only punitive damages. Also, the FDA defense would not be available to any company that is found to have lied or withheld information from the FDA or otherwise failed to comply with FDA rules.

The FDA defense is crucial given the current legal climate. A quick review of recent events clearly points out the impact of current policies. During the 1970s, there were 13 companies doing research and development on contraceptives. Eight of these companies were American. Today, only two American companies continue to conduct such research.

Given the current legal climate, it is easy to understand why companies are increasingly reluctant to make available products, despite their known therapeutic value. Two cases in point:

Bendectin, a morning sickness drug that was taken by over 30 million American women, was removed from the market by its manufacturer in 1984, after more than 2,000 lawsuits were filled claiming it caused birth defects. The manufacturer has spent over $100 million defending those lawsuits and is still doing so. Even though almost every court that has looked at the issue has determined there is no scientific evidence to support the contention that the drug causes birth defects, and even though Bendectin is still approved by the FDA for use during pregnancy, no other manufacturer will risk making a morning sickness drug.

Norplant, one of the most significant contraceptive developments of the past 20 years in the United States, was approved by the FDA in 1990. It is now the target of numerous cookie cutter, mass-produced class action lawsuits fueled by sensationalism and slick advertising directed at women. Despite the fact that Norplant continues to be supported by the medical community—as recently as a March 1995 endorsement by the American Society for Reproductive Medicine—many women have been driven by unwarranted fears away from a safe and effective contraceptive product.

Punitive damages are meant to punish willful, flagrant, malicious or grossly illegal behavior. A company that has compiled in good faith with the FDA's regulations cannot be guilty of such behavior and should not be threatened with punitive damages. Nor should juries be permitted to second-guess the expert judgment of the FDA on whether the benefits of a drug outweigh the risks.

Increasingly, the legitimate concerns for the health and welfare of American women are being sidelined in the pursuit of large financial settlements. It is our view that inclusion of a FDA defense, similar to the one included in the House-passed product liability bill, would provide a much needed incentive for increased investment in women's health research and technologies. We believe this is a measured response and we urge you to adopt an FDA defense in any final product liability legislation.

Sincerely,

JUDITH M. DESARNO,
President/CEO, National Family Planning and Reproductive Health Association.

PHYLLIS GREENBERGER,
Executive Director, Society of the Advancement of Women's Health Research.

DENNIS BARBOUR, J.D.
President, Association of Reproductive Health Professionals.

LINDA BARNES BOLTON, DR. P.H., R.N, FAAN,
President, National Black Nurses' Association, Inc.

SUSAN WYSOCKI, RNC, NP,
President, National Association of Nurse Practitioners in Reproductive Health.

MAY 1, 1995.

Hon. CHRISTOPHER J. DODD,
SR-444 Russell Senate Office Building, Washington, DC.

DEAR SENATOR DODD: We have been asked to convey our views with regard to an amendment to H.R. 956, the Product Liability Fairness Act, to establish a defense to punitive damages for FDA-approved drugs and devices. Each of the undersigned has served at some time as Chief Counsel to the Food and Drug Administration. Each of us, in our current professional capacities, advises firms engaged in the manufacture of drugs and devices. However, the views expressed in this letter reflect our shared personal judgment.

The proposed defense to punitive damages for the marketing of medical products that meet applicable federal regulatory requirements makes eminent sense as a matter of public policy and can be expected to facilitate the development and continued availability of important products to treat and prevent serious disease and to address other significant health concerns. We describe below FDA's philosophy of new drug regulation and its powers in this area, which, we believe, strongly support the defense.

FDA exercises sweeping authority over the development, manufacture, and marketing of pharmaceuticals. Indeed, no other industry in this country is subject to such a comprehensive regulatory scheme. Pursuant to its statutory mandate, FDA requires premarket approval of all new drugs. A new drug may not be approved unless it has been shown to be safe and effective under the conditions of use described in its labeling.

In making their approval decisions, FDA physicians and scientists employ a risk-benefit standard. This standard recognizes that all drugs have unavoidable risks, some of them very serious. Therefore, FDA allows drugs onto the market only when the benefits from using a drug outweigh those risks. A drug's labeling is an important factor in making the approval decision. Once a drug is available, the treating physician, apprised of the recognized significant risks of a drug, can make an informed decision whether a drug is appropriate for use in a particular patient.

Inevitably, not all of the risks from a drug can be discovered prior to approval. While manufacturers are required to conduct extensive clinical trials, often in thousands of patients, some adverse events are so rare that they emerge only after a drug is in widespread use after approval. FDA therefore requires manufacturers to report all adverse events to the agency. The most serious of these must be reported within 15 days. FDA and the Justice Department have vigorously enforced the adverse event reporting requirements through a series of widely publicized criminal prosecutions.

FDA has the power to act swiftly and decisively when postmarket surveillance does identify a safety issue. The Secretary of Health and Human Services can immediately suspend approval of a drug that poses an imminent hazard, prior even to granting the manufacturer a hearing. FDA also can compel labeling changes to incorporate new safety information. As a practical matter, formal action under any of these authorities is rarely necessary because, in our experience, companies generally comply voluntarily with agency requests.

With this context, the desirability of the punitive damages defense is readily apparent. Where manufacturers have complied with all of FDA's approval, labeling, and safety reporting requirements, they should not be open to punishment through the imposition of punitive damages. This defense does nothing to restrict the availability of compensatory damages. Injured persons will still be made whole for their losses under the law. And they will even be able to recover punitive damages in cases where their injuries were caused by violations of FDA regulations. The defense simply recognizes—as a clear rule—that manufacturers who comply with FDA's comprehensive regulatory process do not manifest the type of willful misconduct that could merit punitive damages.

While we recognize that the imposition of punitive damages is a comparatively rare (but by no means unknown) event, the threat of punitive damage awards skews the entire litigation process and, with it, the process for developing new drugs and making them available to the public. Pharmaceutical manufacturers have withdrawn beneficial products from the market and have ceased promising research because of this threat. Congress is now in the position to remove this obstacle and thereby to make a genuine contribution to the public health. We therefore urge you to support the FDA approval amendment to H.R. 956.

Sincerely,

THOMAS SCARLETT,
Hyman Phelps & McNamara, Chief Counsel—1981–89.

NANCY L. BUC,
Buc Levitt & Beardsley, Chief Counsel—1980–81.

RICHARD A. MERRILL,
Covington & Burling, Chief Counsel—1975–77.

RICHARD M. COOPER,
Williams & Connolly, Chief Counsel—1977–79.

PETER BARTON HUTT,
Covington & Burling, Chief Counsel—1971–75.

CONGRATULATING SENATOR DOLE ON THE EISENHOWER LEADERSHIP PRIZE

Mrs. KASSEBAUM. Mr. President, last night my colleague from Kansas, Senator DOLE, received the prestigious Eisenhower Leadership Prize in recognition of his distinguished service to the United States. I have long admired Senator DOLE for his leadership and dedicated service and am pleased that the Eisenhower World Affairs Institute and Gettysburg College recognized him with such a high honor.

This prize is made all the more notable because Dwight D. Eisenhower, the award's namesake, is a fellow Kansan and Senator DOLE's hero. I add my voice to the many who congratulate him on this honor and ask unanimous consent that the remarks Senator DOLE gave last night be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

I want to thank the Trustees of The Eisenhower World Affairs Institute and Gettysburg College for this honor.

I am truly humbled to receive this award. And I thank the Awards Committee for dipping down in the military ranks. The first Leadership Prize went to General Scowcroft. The second to General Colin Powell. Last year you honored Major Lloyd Bentsen. And this year, you're down to Lieutenant Bob Dole. I guess there's still hope for all you Privates out there.

A special word of thanks to my colleagues from the 10th Mountain Division who joins us this evening. I've always wondered why they assigned a kid from the plains of Kansas to the 10th Mountain Division. But I've never wondered about the men I served beside. You are all heroes in my book.

A few years back, the 10th Mountain veterans formed a national association. Over the years, there have been five Presidents of the Association, and I am honored that all five are here this evening. At least they got to be President of something.

I am also honored by the presence of many friends and colleagues of President Eisenhower and of several members of the Eisenhower family.

I have been privileged to get to know John on several occasions—including the Eisenhower Centennial in Abilene in 1990, and a few years ago in the Capitol when we unveiled the sign which marks the Eisenhower Interstate Highway System.

Elizabeth and I are very proud to call David and Julie Eisenhower our friends. We've also had the pleasure of meeting their children, and can tell you that David and Julie are as good as parents as they are authors.

And Mary Eisenhower Atwater was the one who came to my office last year to inform me of my selection as the recipient of this prize. The only promise I had to make to her was that my acceptance remarks would be brief.

In fact, I am tempted to do this evening what Ike did one evening when he was President of Columbia University. At the end of a long evening of speeches, Eisenhower's turn came. After being introduced, he stood up and reminded his audience that every speech, written or otherwise, had to have a punctuation. He said, "Tonight, I am the punctuation. I am the period." And he sat down. He later said that was one of the most popular speeches he ever gave.

It is a bit intimidating to talk about President Eisenhower and his legacy before family members and friends and who knew him much better than I.

I can say, however, that, like countless Kansans and countless Americans, I not only "liked Ike," I regarded him as a hero. I will never forget the first time I saw him. It was the spring of 1952. I had just finished law school, and was serving in the Kansas House of Representatives. General Eisenhower had come home to Abilene to officially launch his Presidential campaign, and I was in the rain-soaked audience that greeted him.

That campaign was, of course, wildly successful. And I took it as a good omen that my official announcement in Topeka on April 10 had to be moved indoors because of rain.

I did have the privilege of meeting my hero on several occasions during his lifetime, but the truth is I knew him no better than the countless soldiers who called him our general, and the millions of Americans who called him our President.

Eisenhower succeeded as a soldier and as a President for many reasons. Intelligence. Courage. Honesty. Leadership. The ability to place the right people in the right spots. These were all qualities Ike possessed.

But as I look at the Eisenhower statue in the reception area of my Capitol office, or the painting of Ike that hangs behind my desk, one word often comes to mind. And that word is "Trust."

Ike inspired trust as no leader has before or since. Millions of Americans may have voted for Adlai Stevenson in 1952 and 1956, but everyone trusted President Eisenhower to do what was best for America.

And there's a simple reason why America's citizens trusted Ike. And that's because he trusted America's citizens. Don't get me wrong. President Eisenhower believed in government—our Interstate Highway System is proof of that. But, moreover, Ike believed in citizens. He believed in the wisdom of the American people.

When Ike looked at America's people he saw himself. According to David Eisenhower, the title that meant the most to his grandfather was not "Supreme Commander," or "President;" rather it was the simple title that all Americans share: The title of "citizen."

And David reminded me of a speech Ike made in London the month after VE Day. Ike said, "To preserve his freedom of worship, his equality before law, his liberty to speak and act as he sees fit, subject only to provisions that he trespass not upon similar rights of others—a Londoner will fight. So will a citizen of Abilene."

Throughout World War II, Ike saw himself as someone who would do what any American citizen would do when freedom was at risk. And throughout his Presidency, Ike spoke of how all of us shared with him the responsibility of guiding our country.

As Ike said in his first Inaugural address, "We are summoned to act in wisdom and in conscience, to work with industry, to teach with persuasion, to preach with conviction, to weigh our every deed with care and with compassion. For this truth must be clear before us: Whatever America hopes to bring to pass in the world must first come to pass in the heart of America."

What do those words mean in the America of 1995? I believe they mean we should rededicate ourselves to remembering the duties of citizenship: To keep informed and to become involved in the decisions that affect the life and future of all the citizens of our country.

And they also mean that government should trust the American people with decisions that matter most—the decisions that affect their families and their businesses.

To be sure, the 1950's weren't perfect. And as we look to the 21st century, we should not seek to return to those times. But what I hope America can return to is a relationship of trust between the people and their government. And if that's to happen, then we must rein in the federal government. It's too big, too intrusive, and makes too many decisions. I carry a copy of the 10th Amendment with me wherever I go. It's only 28 words long. And it basically states that all powers not specifically delegated to the federal government should be given to the states, and to the people. Dusting off that amendment, and restoring it to its rightful place in the Constitution is my mandate as Majority Leader, and I like to think that it's a mandate that Ike would have heartily endorsed.

Perhaps Ike said it best when he responded to those who were urging bigger and bigger government, all in the name of providing Americans with security.

"If all that Americans want is security, they can go to prison," Ike said. "They'll have enough to eat, a bed, and a roof over their heads.

But he went on to say that citizens want more than security. We also want freedom. We want dignity. We want control of our lives. We want our government to trust us. And the lesson that Ike taught us is that if the American people believe our government trusts us, then we will trust our government in return.

Americans also trusted Ike because he trusted us with the truth. As Supreme Commander, Ike never hid the truth from his soldiers. If a mission was dangerous * * * if some wouldn't be coming home, then Ike laid it on the line. And, with his Kansas candor, he spoke about issues that many in Washington today shy away from. One of those was the federal budget.

How much stronger our country would be if our leaders took to heart the prophetic words that Eisenhower spoke in his 1961 farewell address to the American people:

Ike said, "As we peer into society's future, we must avoid the impulse to live only for today, plundering for our own ease and convenience the precious resources of tomorrow. We cannot mortgage the material assets of our grandchildren without risking the loss also of their political and spiritual heritage. We want democracy to survive for all generations to come, and not to become the insolvent phantom of tomorrow."

As always, Eisenhower matched his words with actions. There have been four balanced federal budgets in the last half century. And Ike gave us three of them. He knew that it was easy to be popular. It is easy to say "yes" to every federal program. But he also knew that more important than being popular for a moment is to provide leadership that stands the test of time.

Along with trusting the American people, Ike also trusted the values that built our country, and that were instilled in him by his parents in Abilene. Values like hard work. Honesty. Personal responsibility. Common sense. Compassion for those in need. And, above all, love of family, God, and country.

These are the values that built America, and they are values that must never go out of fashion, or be regarded as "politically incorrect," by our government or by those in our entertainment industry.

Along with trusting our citizens, and trusting our values, there's one final lesson about trust that Eisenhower's life and career can teach us. And that's the fact that the world must always be able to count on American leadership.

And that's a lesson I hope we especially remembered yesterday, the 50th anniversary of VE Day. It was American leadership that built the arsenal of democracy which made that victory possible. It was American leadership that held the Allies together during the darkest days of the war. And it was American leadership which conquered the forces of tyranny and restored liberty and democracy to Europe.

Make no mistake about it, leadership carries a price. It did during World War II. It did during the Eisenhower Administration. And it does today. But it is a price worth paying. As Ike said in his Second Inaugural Address, "The building of * * * peace is a bold and solemn purpose. To proclaim it is easy. To serve it will be hard. And to attain it, we must be aware of its full meaning—and ready to pay its full price.

And Ike never forgot just what that full price meant. He said that whenever he returned to Normandy after the war, his foremost thoughts were not with the planes and the ships or the guns. Rather, he said, "I thought of the families back home that had lost men at this place."

I was privileged to walk the beaches of Normandy and to return to the hills of Italy where I saw action during the D-Day commemorations last June. And I, too, thought of the families back home that had lost men, and how we must never forget the cause for which they fought and died. And the only way to ensure that future generations of Americans will not be buried on foreign land, is to continue to provide leadership whenever and wherever it is needed.

Ladies and gentlemen, I am honored by the confidence bestowed in me through this leadership award and will do my best to meet the high expectations left by the legacy of Dwight Eisenhower.

In closing, I want to share with you a few more words of this American hero—and they were words he spoke on that rainy day in Abilene 43 years ago.

Returning home led Ike to think about growing up in Kansas, and he said "I found out in later years we were very poor, but the glory of America is that we didn't know it then: all that we knew was that our parents * * * could say to us, "Opportunity is all about you. Reach out and take it."

By working together and trusting one another, we can ensure that for generations yet to come, America's parents will still be able to say those words to their sons and daughters. This is what we owe to the memory of people like Dwight Eisenhower and all the GIs of World War II we remembered yesterday. But ultimately, we owe it to ourselves, to our children, and to the future of the country we love.

FREEDOM SHRINE FOR THE HOT SPRINGS VA MEDICAL CENTER

Mr. PRESSLER. Mr. President, an exciting event recently took place in

the southern Black Hills of South Dakota. The Freedom Shrine, a collection of documents from U.S. history, was dedicated at the Hot Springs VA Medical Center in Hot Springs, SD.

I commend Maurice Wintersteen, the Exchange Club of Rapid City, and Hot Springs VA Director Dan Marsh, for their efforts to bring the Freedom Shrine to Hot Springs. Late last year, Maurice Wintersteen approached the Exchange Club of Rapid City about sponsoring a freedom shrine in the local VA Hospital. The Exchange Club of Rapid City agreed to his request, and Director Marsh threw his full support behind the project.

As a result of their dedicated efforts, the Freedom Shrine became a reality and was placed in the rotunda of the VA Domiciliary Building. The Freedom Shrine displays reproductions of 28 historic American documents, including the U.S. Constitution, President Lincoln's Gettysburg Address, and President Kennedy's Inaugural Address. It is my understanding the Hot Springs VA Hospital is the only VA facility in the Nation to have such a freedom shrine.

It is very fitting that the Freedom Shrine was dedicated on the 50th anniversary of the death of President Franklin Roosevelt—the man who led a worldwide alliance against a tyranny that threatened freedom-living people throughout the world. The Freedom Shrine serves as an essential reminder to all Americans that the freedom we enjoy today is the direct result of the enormous effort and sacrifice of our forefathers, from the pioneers who first settled the Nation, to the veterans who gave their lives to defend it and the values we stand for. We must never forget the precious gift they gave us. It is ours to preserve for future generations.

Inspired by the Freedom Train that toured the United States with American historical documents after the Second World War, the National Exchange Club resolved to display documents from U.S. history in communities throughout the Nation so that Americans of all ages would have easy access to the rich heritage of their past. Since 1949, many freedom shrines have been installed by exchange clubs in various communities across the Nation, Puerto Rico, and at American outposts around the world. From State capitols to U.S. warships, and hundreds of schools across the Nation, freedom shrines serve as an invaluable reference for students and other citizens seeking information or inspiration from these historic treasures.

Again, I congratulate the Exchange Club of Rapid City, Maurice Wintersteen, Hot Springs VA Director Dan Marsh, and all our veterans for their ongoing commitment to the preservation of American principles. Their deep pride in the history, traditions, and values of our great State and Nation are reflected in the Freedom Shrine. Most important, they have given present and future generations of South Dakotans a precious and lasting gift. I salute everyone involved with this inspiring project.

THE FUTURE OF THE B–1B BOMBER IS SECURE

Mr. PRESSLER. Mr. President, last week the Pentagon released a much-anticipated report by the Institute for Defense Analyses [IDA] on our Nation's heavy bomber force structure. This report, the heavy bomber study, examined the deployment options of our long-range heavy bomber forces—in association with additional tactical forces—under the circumstances of two hypothetical, nearly simultaneous world conflicts. To date, the IDA study is the most comprehensive, in-depth analysis of the use of our Nation's three heavy bombers—the B–1 bomber [B–1B], the B–2 stealth bomber, and the B–52—in a conventional war-fighting role.

I am pleased that the IDA study confirmed what I have said for quite some time: The B–1B is an efficient and effective long-range bomber, and it can be used successfully as the centerpiece of American airpower projection. The IDA study suggests that planned conventional upgrades to the B–1B would be more cost-effective than purchasing 20 additional B–2 bombers. Further, the study recommends that remaining B–2 bomber production preservation funds should be reallocated to other weapons and conventional upgrades. That would allow for a total bomber force consisting of 95 B–1B's, 66 B–52's, and 20 B–2's.

As my colleagues know, the B–1B was developed and built at the height of the cold war. Thus, it was anticipated that its function would be limited to meeting one of several nuclear options. However, the B–1B has shown to be an effective conventional force component—a testament to designers, Air Force strategists and pilots who recognized the versatility of this aircraft.

Time and again, the B–1B has had to meet new challenges. For example, the 1994 congressionally mandated assessment test of the B–1B, performed by the 28th Bomber Wing at Ellsworth Air Force Base and code named the Dakota Challenge, measured the readiness rate of one B–1B bomber wing when provided fully with the necessary spare parts, maintenance equipment, support crews, and logistics equipment. The Dakota Challenge found that a fully funded B–1B wing could maintain an unprecedented 84 percent mission capable rate. In addition, improvements were seen in other readiness indicators, including the 12-hour fix rate—a measure of how often a malfunctioning aircraft can be repaired and returned to the air within one half day.

By meeting a number of different challenges, the B–1B has earned justifiably the designation as the workhorse of the heavy bomber fleet.

Based on the analysis of the IDA report, the B–1B should assume a prominent role in our Nation's defense. The study recognizes that maintaining the B–1B as the workhorse of the heavy bomber fleet would yield the highest return on our defense investment and render the most cost-effective contribution to our Nation's heavy bomber requirements. With continued investments in weapons upgrades, I believe the B–1B will be an outstanding and effective conventional heavy bomber capable of projecting America's air power into the next century.

Mr. President, over the next several decades, the United States increasingly will be forced to respond rapidly and decisively to regional security threats around the globe. Holding 36 world records for speed, payload, and distance, the B–1B is uniquely suited to meeting our Nation's present and future defense challenges. In this period of budget constraints, I urge my colleagues to consider carefully the recommendations in the IDA Heavy Bomber Study before casting their vote on any defense measures affecting our heavy bomber force structure.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let us do that little pop quiz once more. You remember—one question, one answer:

Question: How many million dollars are in $1 trillion? While you are arriving at an answer, bear in mind that it was the U.S. Congress that ran up the Federal debt that now exceeds $4.8 trillion.

To be exact, as of the close of business Tuesday, May 9, the exact Federal debt—down to the penny—stood at $4,853,699,696,611.41. This means that every man, woman, and child in America now owes $18,424.73 computed on a per capita basis.

Mr. President, back to the pop quiz: How many million in a trillion? There are a million million in a trillion.

HONORING MARGARET STANFILL FOR BRAVERY AND SERVICE DURING WORLD WAR II

Mr. ASHCROFT. Mr. President, I rise today to salute a Missourian who has distinguished herself for her bravery while in service to her country, Margaret Stanfill of Hayti, MO. As a nurse serving in the U.S. Army Nurses Corps during the Second World War, Margaret served her country with unprecedented bravery and dedication while participating in some of the greatest Allied successes of the war.

Margaret Stanfill was documented as the first American nurse to arrive on the beaches of Normandy during the Allies' D-day invasion of France on June 6, 1944. The wire service accounts of the invasion reported that the first nurses to arrive by barge, "waded ashore while battle-weary soldiers blinked in astonishment." The nurses, led by Margaret Stanfill and clothed in two layers of men's uniforms with steel helmets, went to work immediately setting up dressing stations in pup tents and ministering to the wounded. Many of the wounded were paratroopers injured as part of the initial assault. I rise today to salute Margaret's bravery and leadership, not only at Normandy, but throughout her life.

Margaret Stanfill grew up in Hayti, in the bootheel of southeastern Missouri near the Tennessee border, graduating from Hayti High School in 1938. While in high school Margaret was a 4-year member of the basketball team, serving 1 year as team captain. She was also a 4-year member of the Hayti High School tennis team and was county high school's girls singles champion. After graduation, Margaret entered nurses training at the Baptist Hospital in Memphis, TN, graduating from there in 1940. After a year in private nursing, Margaret felt the call of service end entered the U.S. Army Nurses Corps, training at Camp Tyson.

Margaret arrived in England for additional training on August 1, 1942. By November of that year, she was among the first nurses to arrive on shore during the Allied invasion to liberate North Africa. The scenes of Margaret and her surgical operating unit being carried ashore from barges on the shoulders of their male colleagues appeared in news reels shown around the world. Her unit followed the Allied advance through North Africa into Sicily, where Margaret followed the infantry onto European soil at the invasion of Italy before returning to England for further training preceding the D-day Invasion.

Margaret Stanfill returned from the war and married Wick P. Moore, an Army captain she served with during the North Africa campaign. They settled down in Texas and had three children, two sons and a daughter. I once again salute Margaret Stanfill Moore for her service and bravery in playing a role in some of the most crucial events in the history of our Nation and our world. Her love of freedom and willingness to give of herself and her talents for her country sets an example of service of which all of us can be proud.

NONPROFIT HOSPITALS

Mr. SPECTER. Mr. President, many may believe that health care reform is not an issue in the 104th Congress. But I have been advocating reform in one form or another throughout my now 15 years in the Senate, and I continue to do so. I have come to the floor on 14 occasions over just the last 3 years to urge the Senate to address health care reform. On the first day the Congress was in session in 1993 and again on the first day in 1995, I introduced comprehensive health care legislation. The Health Care Assurance Act of 1995, S. 18, which I introduced on January 4 of this year, is comprised of reform initiatives that our health care system needs and can adopt immediately. They are reforms which can both improve access and affordability of coverage and health care delivery and implement systemic changes to bring down the escalating cost of care. Today, I again address my colleagues on the issue of health care access. I want to bring to the Senate's attention a particular component of our health care delivery system which is uniquely poised to provide innovative services which respond to the particular needs of individual communities, but which is in jeopardy—nonprofit hospitals.

In my view, it is indispensable that there be comprehensive affordable, accessible health care for all Americans. I believe the essential question is whether we have sufficient resources; that is, medical personnel and hospital, laboratory, diagnostic and pharmaceutical facilities to deliver services. I think we do; and nonprofit hospitals are an important resource of innovative, community-based care. Well over 80 percent of the hospitals in this country have been and are nonprofit institutions. Most nonprofits were founded decades ago and arose from religiously or ethnically identified groups and so were dedicated to serving a particular community. Most have adhered to this dedication to community and all of them serve without restriction or preference. There are approximately 80,000 voluntary trustees, leaders in their respective communities giving freely of their time, their energies, and their money to raise the level of health care in those communities. However, I am concerned that recent trends in the health care market, including the growth of large for-profit hospital systems, and the emphasis on costs and profits of many managed care organizations as they become economically dominant, threaten the community health focus of nonprofit hospitals.

We stand at the threshold of dramatic breakthroughs in understanding, preventing, and treating a variety of diseases. Clinical application of the breakthroughs in research will yield wondrous results which will alleviate human suffering, prolong life, and produce enormous savings in medical costs in the United States. Nonprofit hospitals are essential to the application of these breakthroughs for the prevention and treatment of disease. The community outreach programs typical of nonprofit hospitals demonstrate their dedication to the needs of their particular communities. They are uniquely attuned to the most fiscally and personally debilitating diseases of a community and therefore provide the services for treatment and prevention most demanded in the community. Prevention is the most successful method of containing the costs associated with disease as it is the first step toward controlling disease. But the health care system today appears to be making it more difficult for the nonprofit community hospital to be dedicated to prevention and accessible treatment for the survival of patients.

While the demand to be competitive is increasing, hospitals' resources are dwindling. Changes in the health care system have reduced hospital occupancy, and have therefore reduced revenue. The Washington Post reported on March 14, 1995, that hospitals have quadrupled the number of out-patient surgical procedures and same-day procedures now exceed the number requiring overnight stays. Health care experts cite technological advances as well as cost-cutting efforts by insurance companies as two key factors which have encouraged the growth in outpatient services. For-profit hospitals tend to exclude those from coverage and service who cannot afford to pay and minimize nonrevenue generating outreach programs.

On the other hand, nonprofits are committed to their missions to provide high-quality service, thus increasing expense, but not necessarily increasing revenue. The limited revenues which once could be used for outreach and prevention are being reallocated to meet today's specialized care needs, and at the same time hospitals are being forced to compete with one another to maintain their existence.

As we continue to discuss the reform of our health care system, we must reconcile the two forces which drive provision of hospital care today, that is profitability and quality. Hospitals should be able to continue to operate as a community resource, to provide preventive medicine, not only curative medicine. As I have said, prevention is the most economical cure for what ails our health care system, that is escalating costs for short- and long-term treatment. Prevention and early detection are the most successful methods of controlling costs associated with disease as they are the first steps toward preventing the inevitable need for costly treatment incurred by disease.

In S. 18 I have taken such steps through streamlining the statutory provisions related to the right to decline treatment, increasing Federal support for clinical trials at the National Institutes of Health, and increasing public health programs at the State and local levels. I look forward to working and reconciling the competing forces in our health care system today to ensure the continuation of community-based and -focused prevention and treatment services, such as those historically provided by nonprofit hospitals.

CHINA'S OBLITERATION OF TIBET

Mr. LEAHY. Mr. President, 7 years ago I visited Tibet, a land of striking beauty whose people are among the most inspiring and interesting I have ever had the privilege to meet. Most of the photographs of Tibet, I had seen before my visit, were of the jagged Himalayan Mountains, Buddhist monks, and a sleepy, poor country of subsistence farmers and their herds of yaks. There is another Tibet, which many people may not be aware of.

It was with great sadness that I and my wife Marcelle saw first hand the effects of China's ruthless, systematic campaign to obliterate Tibetan culture and Tibetan life. We met some of the Tibetans who had suffered under Chinese occupation, and saw the empty palace of His Holiness the Dalai Lama, who lives in exile in India and who I have had the honor of meeting several times. Since our visit, and despite international condemnation, China's campaign of cultural annihilation has steadily progressed.

A recent article in Newsweek magazine describes the genocide. Tibet is being overrun by the Chinese. According to the article, Lhasa, Tibet's capital, is now at least 50-percent non-Tibetan. Buddhist monasteries have been destroyed, the Tibetan language is suppressed, and Tibet's natural resources have been plundered.

There are 60,000 Chinese troops in Tibet, whose job is to instill fear and quell any dissent. Public gatherings are monitored with video cameras, and protesters are quickly arrested before they attract attention.

Mr. President, Tibet is perhaps the most vivid example of why the Chinese Government is widely regarded as among the world's most flagrant violators of human rights. A decade from now, if current trends continue, the only thing left of Tibetan culture may be a memory. Even today it may be too late to prevent that result, since it would take a major, international campaign to turn back the Chinese tide. I, for one, would welcome such a campaign, because I believe we have a responsibility to try to protect endangered peoples whose existence is threatened with cultural genocide.

I ask unanimous consent that the Newsweek article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, Apr. 3, 1995]

CHINA INVADES TIBET—AGAIN

(By Melinda Liu)

Chip * * * chip. That's the sound of Tibetan civilization being hacked away. Below Lhasa's imposing Potala Palace, home of the exiled Dalai Lama, Chinese stonemasons chisel granite that will pave a vast new plaza with government monuments. The ancient downtown, some of it dating from the seventh century, has already suffered a terminal face-lift. The 1,000-room Potala is now surrounded by hair-dressing salons, chain-smoking prostitutes and karaoke bars blaring Madonna music. Streets that once housed traditional Tibetan tea shops have given way to rows of greasy Chinese eateries run by recent arrivals from China's interior. Just outside the capital, young Tibetan boys scavenge at a new open dump piled high with trash. "The Chinese keep coming," complains one Lhasa resident, "especially those who can't find jobs anywhere else."

The Chinese are invading Tibet—again. Four decades after the People's Liberation Army seized the kingdom and crushed an uprising by the followers of the Dalai Lama, Beijing has found a more effective method of conquest: money. In 1992 the government lifted controls on Chinese migration to Tibet, then made it worthwhile by offering jobs that paid two or three times the rate of the same work in China's interior. Last year alone Beijing invested some $270 million in 62 projects—including the plaza near the Potala and a solar-powered radio and TV station that will broadcast Communist Party propaganda in Tibetan. As a result of these inducements, Lhasa's population is now at least 50 percent non-Tibetan, according to Western analysts.

Locals might not mind so much if they thought they were getting more of the economic benefits. Tibet—which means "Western treasure house" in Mandarin—has long been plundered for its gold, timber and other resources and remains unremittingly poor. Many Tibetans still live a nomadic hand-to-mouth existence. Working herds of shaggy yaks in the summer and retreating to the capital in the winter to seek alms until the winter snows subside, they earn less than $100 per year. But now maroon-robed monks compete with Chinese beggars for spare change. Lhasans also grumble that most new entrepreneurial opportunities go to outsiders. Government funds are "inextricably linking Tibet's economy with the rest of China," argues Prof. Melvyn Goldstein, a Tibet scholar at Case Western Reserve University. "This has also resulted in non-Tibetans controlling a large segment of the local economy at all levels, from street-corner bicycle repairmen to electronic-goods-store owners and firms trading with the rest of China."

Gawking nomads: Newcomers have a significant advantage over locals—connections in the Chinese interior. In landlocked Tibet, the best consumer goods were smuggled in from Nepal only a decade ago. Now Chinese Muslim (Hui) peddlers in the vegetable market hawk chicken eggs trucked in from Gansu province, bananas from coastal Guangdong and Lux soap made in Shanghai. Chinese shopkeepers prefer to sell to other Chinese and seem openly disdainful of Tibetans, sometimes grabbing a broom to shoo out gawking nomads who spend too much time fiddling with the merchandise.

The tension inevitably erupts. Recently a local sat down in a Hui restaurant to a meal—and pulled from his plate of dumplings what Xinhua news agency called "a long fingernail." The disgusted diner shouted to his friends, "They're serving human flesh!" After the enraged restaurateur attacked them with a metal bar, some Khampas from eastern Tibet joined the brawl. The fighting spilled into the street for a while, and resumed the next day. When it was over, several Hui shops had been vandalized; a dozen Tibetans were arrested. The provocations continue. On Lhasa's streets, Chinese vendors sometimes prepare dog meat in plain view of passersby—an outrageous affront to Tibetans, who believe that dogs are reincarnated as people. "The potential for overreaction," says a Western diplomat in Beijing, "is great."

Government officials dismiss the idea that China is obliterating Tibetan culture. "That's sheer fabrication," snaps Raidi, deputy Communist Party secretary of Tibet, who is Tibetan. He claims that Chinese people constitute less than 3 percent of Tibet's population of 2.2 million—neglecting to mention the 60,000 PLA troops and 50,000 or more migrants in the region. The official press blames Tibet's troubles on a "psychology of idleness." There are now more monks and nuns than high-school students, the Tibet Daily, a Communist Party mouthpiece, recently pointed out. "Such a huge number of young, strong people are not engaged in production. * * * The negative influence on economic and ethnic cultural development is self-evident."

But Beijing continues to undermine Tibet's self-sufficiency. Designated as an "autonomous region," Tibet is anything but. Its religious life, as well as its economic and political fate, depends entirely on Beijing. Chinese authorities recently dropped a commitment to mandate the use of the Tibetan language in government offices. "Tibetans can speak Tibetan at home and at work," says a Lhasa intellectual who has a government job. "But in order to get ahead, you must speak Chinese."

The influx of Chinese people has a political purpose, too—to muffle calls for independence. Many Lhasa residents blame Hui shopkeepers for harboring police during separatist demonstrations back in 1989, and for supporting the brutal crackdown that followed. Today, closed-circuit video cameras monitor activities at major intersections in the Tibetan quarter, around the markets near the fabled Jokhang temple, even in the altar rooms of the Potala Palace. Police pounce on protesters before they can attract crowds. The intimidation seems to be working. "The Chinese are more clever than we Tibetans," says an educated Lhasan. "So they get all the good jobs. They work very hard, even moving mountains when they want to." Beijing's most potent weapon is to make Tibetan culture seem worthless—even in a Lhasan's eyes.

REPORT ON THE EMERGENCY WITH SERBIA AND MONTENEGRO—MESSAGE FROM THE PRESIDENT—PM 46

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the emergency declared with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro), as expanded to address the actions and policies of the Bosnian Serb forces and the authorities in the territory that they control within the Republic of Bosnia and Herzegovina, is to continue in effect beyond May 30, 1995.

The circumstances that led to the declaration on May 30, 1992, of a national emergency have not been resolved. The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) continues to support groups seizing and attempting to seize territory in the Republics of Croatia and Bosnia and Herzegovina by force and violence. In addition, on October 25, 1994, I expanded the scope of the national emergency to address the actions and policies of the Bosnian Serb forces and the authorities in the territory that they control, including their refusal to accept the proposed territorial settlement of the conflict in the Republic of Bosnia and Herzegovina. The actions and policies of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serb forces and the authorities in the territory that they control pose a continuing unusual and extraordinary threat to the national security, foreign policy interests, and the economy of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure to the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) and to the Bosnian Serb forces and the authorities in the territory that they control to reduce their ability to support the continuing civil strife in the former Yugoslavia.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 10, 1995*.

REPORT OF PROPOSED LEGISLATION ENTITLED "THE GUN-FREE SCHOOL ZONES AMENDMENTS ACT OF 1995"—MESSAGE FROM THE PRESIDENT—PM 47

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

Today I am transmitting for your immediate consideration and passage the "Gun-Free School Zones Amendments Act of 1995." This Act will provide the jurisdictional element for the Gun-Free School Zones Act of 1990 required by the Supreme Court's recent decision in *United States* v. *Lopez*.

In a 5-4 decision, the Court in *Lopez* held that the Congress had exceeded its authority under the Commerce Clause by enacting the Gun-Free School Zones Act of 1990, codified at 18 U.S.C. 922(q). The Court found that this Act did not contain the jurisdictional element that would ensure that the firearms possession in question has the requisite nexus with interstate commerce.

In the wake of that decision, I directed Attorney General Reno to present to me an analysis of *Lopez* and to recommend a legislative solution to the problem identified by that decision. Her legislative recommendation is presented in this proposal.

The legislative proposal would amend the Gun-Free School Zones Act by adding the requirement that the Government prove that the firearm has "moved in or the possession of such firearm otherwise affects interstate or foreign commerce."

The addition of this jurisdictional element would limit the Act's "reach to a discrete set of firearm possessions that additionally have an explicit connection with or effect on interstate commerce," as the Court stated in *Lopez*, and thereby bring it within the Congress' Commerce Clause authority.

The Attorney General reported to me that this proposal would have little, if any, impact on the ability of prosecutors to charge this offense, for the vast majority of firearms have "moved in * * * commerce" before reaching their eventual possessor.

Furthermore, by also including the possibility of proving the offense by showing that the possession of the firearm "otherwise affects interstate or foreign commerce," this proposal would leave open the possibility of showing, under the facts of a particular case, that although the firearm itself may not have "moved in * * * interstate or foreign commerce," its possession nonetheless has a sufficient nexus to commerce.

The Attorney General has advised that this proposal does not require the Government to prove that a defendant had knowledge that the firearm "has moved in or the possession of such firearm otherwise affects interstate or foreign commerce." The defendant must know only that he or she possesses the firearm.

I am committed to doing everything in my power to make schools places where young people can be secure, where they can learn, and where parents can be confident that discipline is enforced.

I pledge that the Administration will do our part to help make our schools safe and the neighborhoods around them safe. We are prepared to work immediately with the Congress to enact this legislation. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 10, 1995*.

MESSAGES FROM THE HOUSE

At 1:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill; in which it requests the concurrence of the Senate:

H.R. 1139. An act to amend the Atlantic Striped Bass Conservation Act, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution; in which it requests the concurrence of the Senate:

H. Con. Res. 64. Concurrent resolution authorizing the 1995 Special Olympics Torch Relay to be run through the Capitol Grounds.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1139. An act to amend the Atlantic Striped Bass Conservation Act, and for other purposes; to the Committee on Commerce, Science, and Transportation; pursuant to the order of May 9, 1995, that if and when reported by the Committee on Commerce, Science, and Transportation the bill be referred to the Committee on Environment and Public Works for a period not to exceed 20 session days to report or be discharged and placed on the calendar.

The following bill, previously ordered held at the desk, was referred to the Committee on Foreign Relations:

S. 770. A bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-93. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Agriculture, Nutrition, and Forestry.

"ENGROSSED HOUSE JOINT MEMORIAL 4004

"Whereas, approximately two-thirds of the farmgate value of agricultural production in Washington State is based on minor crops; and

"Whereas, Washington State is one of the most diverse agricultural states in the nation, growing a large number of relatively small but specialized crops of great significance to the American consumer; and

"Whereas, the continued production of these crops and their availability to consumers is dependent on the ability to safely and effectively control insects, weeds, diseases, and other pests; and

"Whereas, an essential tool in the control of pests in either a conventional or an integrated pest management strategy is the availability of pesticides; and

"Whereas, without the availability of a full array of safe and adequate pest management tools, there is likely to be a number of negative consequences including: Decrease in the exports of food products to other countries; increase in imports of less wholesome food products; farming communities will have less diversified economies and will be subject to more economic volatility; decrease of yield; increase in price; decrease in food supply and variety; decrease in ability to meet state and national produce quality standards; increase in incidents of food safety hazards; and an increase in use of products that have greater impact on human health due to higher toxicity than the products that were previously in use; and

"Whereas, the production of food in several states is similarly affected due to the lack of availability of pest control products for the production of minor crops;

"Now, therefore, your Memorialists respectfully pray that the appropriate committees of the United States Congress inquire into the effects of the 1988 amendments to the Federal Insecticide, Fungicide, and Rodenticide Act on the availability of pesticides for the protection of minor crops and that legislation be introduced and voted upon that has considered the following provisions:

"(1) Extend the registrants' exclusive data rights by ten years, thereby increasing the time period over which pesticide registrants have to recoup the cost of registration;

"(2) Establish specific time periods for the Environmental Protection Agency to act on minor crop registrations as an incentive to registrants to pursue additional registrations for minor uses;

"(3) Provide for an extension in the time for registrants to submit data equal to the time it takes for the Environmental Protection Agency to act upon a request for a waiver, so that registrants are not inadvertently forced to develop data during the time the Environmental Protection Agency is deliberating on the waiver request;

"(4) Provide additional time for registrants to generate the necessary residue data for reregistration of pesticides for minor crop uses, or if the registrant is unwilling to finance the generation of the data, to give time to find other methods to generate the required data; and

"(5) Provide a temporary extension of registration for unsupported minor uses so that, if the current registrant declines to request the reregistration, other organizations have the time to comply with registration requirements before cancellation of the registration.

"*Be it resolved*, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, each member of Congress from the State of Washington, the Secretary of the United States Department of Agriculture, the Administrator of the United States Environmental Protection Agency, and the National Association of State Departments of Agriculture."

POM-94. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Appropriations.

"ASSEMBLY RESOLUTION NO. 124

"Whereas, the President of the United States' Fiscal Year 1996 budget proposal includes a significant reduction in funding for ongoing shore protection, beach restoration and flood control projects in New Jersey; and

"Whereas, the completion of these projects is essential to preserving a State and national resource, and can be accomplished only with the assistance of the federal government; and

"Whereas, new Jersey, in establishing a $15.0 million annual Shore Protection Fund, has clearly committed State funding to assist in the replenishment and preservation of beaches along the New Jersey shore; and

"Whereas, tourism is the State's second largest industry, and the annual $10.0 billion in tourism spending in the coastal area constitutes approximately one-half of the total tourism spending in the State; and

"Whereas, the proposed budget reduction, if realized, would have a disastrous effect on the shore tourism economy, including the potential loss of hundreds of thousands of jobs directly and indirectly related to the tourism industry, on property values and on State and local tax revenues; Now, therefore, be it

"*Resolved by the Assembly of the State of New Jersey:*

"1. The President and the Congress of the United States are respectfully urged to restore funding in the Fiscal Year 1996 federal budget for beach stabilization and flood control projects along the Jersey Shore.

"2. Copies of this resolution, signed by the Speaker of the Assembly and attested by the Clerk thereof, shall be transmitted to the President and Vice President of the United States, the Majority Leader of the United States Senate, the Speaker of the House of Representatives, the Commander and Chief of Engineers of the United States Army Corps of Engineers, every member of Congress elected from the State, the Governor of the State, and the Commissioner of Environmental Protection."

POM-95. A resolution adopted by the Council of the City of Fairview Park, Ohio relative to telecommunications; to the Committee on Commerce, Science, and Transportation.

POM-96. A resolution adopted by the City of Brook Park, Ohio relative to telecommunications; to the Committee on Commerce, Science, and Transportation.

POM-97. A resolution adopted by the Council of the City of Barberton, Ohio relative to cable television; to the Committee on Commerce, Science, and Transportation.

POM-98. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Commerce, Science, and Transportation.

"SENATE CONCURRENT MEMORIAL 1003

"Whereas, the globalization of the United States economy has resulted in the expansion of international trade and tourism; and

"Whereas, the international trade and tourism are dependent on an efficient transportation system, including the availability of direct international flights with multiple destinations; and

"Whereas, the travel and tourism industry is one of the largest industries in the United States; and

"Whereas, international trade is key to the economic health of this nation and contributes directly and indirectly to more than sixty per cent of new jobs created in the United States in recent years; and

"Whereas, international air service is an important component of international trade and the travel and tourism industry; and

"Whereas, international air service is becoming increasingly important to the economic well-being of states and cities; and

"Whereas, increased international air service results in local job development, an enlarged tax base, access to new markets for local products, increased foreign investment, enhanced cultural exchange and increased visibility on the world stage; and

"Whereas, international air service is regulated by treaties negotiated between sovereign nations of the world; and

"Whereas, with the passage of the North American Free Trade Agreement the flow of goods and people will greatly increase among this country, Canada and Mexico, as well as the rest of the world; and

"Whereas, individual states have fought hard and committed resources to securing and bolstering international trade and tourism between themselves and other nations thereby increasing their own exports by over seventy per cent in recent years; and

"Whereas, federal regulations governing the negotiations of international flight routes impinge on the power of states to enter into their own agreements, impede state attempts to compete in the international market place and hamper the economic development efforts of individual states; and

"Whereas, the positions and views of individual communities should play an increasing role in decisions by the United States government with respect to international air service negotiations; and

"Whereas, more liberal international air route regimes between the United States and its trading partners are necessary; and

"Whereas, the easing of certain federal processes would hasten new international air service and the benefits associated with such air service. Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

"1. That the Congress of the United States enact legislation to reduce federal regulations restricting the ability of states to participate in the negotiation of international flight routes.

"2. That the Secretary of State of the State of Arizona transmit copies of this Concurrent Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and to each Member of the Arizona Congressional Delegation."

POM-99. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Commerce, Science, and Transportation.

"SENATE JOINT MEMORIAL NO. 103

"Whereas, Amtrak provides mobility to citizens of many smaller communities poorly served by air and bus services, as well as to those senior citizens, disabled people, students and persons with medical conditions preventing them from flying who need trains as a travel option; and

"Whereas, Amtrak is nine times safer than driving on a passenger-mile basis, and operates even in severe weather conditions; and

"Whereas, Amtrak travel rose forty-eight percent from 1982 to 1993 and Amtrak dramatically improved coverage of its operating costs from revenue; and

"Whereas, expansion of Amtrak service by using existing rail rights-of-way would cost less and use less land than new highways and airports, and would further increase Amtrak's energy-efficiency advantage; and

"Whereas, federal investment in Amtrak has fallen in the last decade while it has risen for airports and highways; and

"Whereas, states may use highway trust fund money as an eighty percent federal match for a variety of nonhighway programs, but they are prohibited from using such moneys for Amtrak projects; and

"Whereas, Amtrak pays a fuel tax that airlines do not pay; and

"Whereas, Amtrak workers and vendors pay more in taxes than the federal government invests in Amtrak;

Now, therefore, be it resolved by the members of the First Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, That we urge the Congress of the United States to take the following steps to insure the continued operation of the Amtrak transportation system: That federal funding of Amtrak not be reduced, that Amtrak be excused from paying fuel taxes that airlines do not pay, that states be given the flexibility to use federal highway trust fund moneys on Amtrak projects if they so choose, that federal officials include a strong Amtrak system in any plans for a National Transportation System.

"*Be it further resolved,* That the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, and the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM–100. A resolution adopted by the Assembly of the State of New York; to the Committee on Commerce, Science, and Transportation.

"LEGISLATIVE RESOLUTION ASSEMBLY NO. 374

"Whereas, Amtrak is energy-efficient and environmentally beneficial, consuming about half as much energy per passenger mile as airlines and causing less air pollution; and

"Whereas, Amtrak provides mobility to citizens of many smaller communities, poorly served by air and bus services, as well as to those senior citizens, disabled people, students and persons with medical conditions, who are prevented from flying and who depend on trains as a travel option; and

"Whereas, Amtrak is nine times safer than driving, on a passenger-mile basis, and operates even in severe weather conditions; and

"Whereas, Amtrak travel rose 48 percent, from 1982 to 1993, and Amtrak dramatically improved coverage of its operating costs from revenues; and

"Whereas, Amtrak provided service to 7,422,288 riders in New York State in fiscal year 1994; and

"Whereas, Expansion of Amtrak service through the use of existing rail rights-of-way would cost less and use less land than new highways and airports, and would further increase Amtrak's energy-efficiency advantage; and

"Whereas, The State of New York has made significant investments to ensure the continuation of certain Amtrak services, as well as for capital improvements to rail infrastructure; and

"Whereas, Federal investment in Amtrak has fallen in the last decade, while it has risen for airports and highways; and

"Whereas, States may use highway trust fund money as an 80 percent Federal match for a variety of non-highway programs, while Amtrak is prohibited from using moneys for such projects; and

"Whereas, Amtrak workers and vendors pay more in taxes than the federal government invests in Amtrak; and

"Whereas, Amtrak adds to the New York State economy by expending more than $23 million for goods and services (in fiscal year 1993), employing over 3,250 New York State residents whose annualized earnings total approximately $95 million; Now, therefore, be it

"*Resolved,* That this Legislative Body pause in its deliberations to memorialize Congress and the President of the United States to take the following steps to insure adequate funding and regulatory support of Amtrak: maintain current funding levels for Amtrak; provide Amtrak the same exemption on fuel taxes as that provided to the airline industry; provide states with the flexibility of utilizing federal highway trust funds for Amtrak projects; and provide federal officials with the appropriate authority and regulatory support necessary to make Amtrak a strong component of a National Transportation System; and be it further

"*Resolved,* That copies of this Resolution, suitably engrossed, be transmitted to President William J. Clinton, the President of the Senate of the United States, the Speaker of the House of Representatives, the members of the New York State Congressional Delegation, and the Save Amtrak Coalition."

POM–101. a resolution adopted by the Senate of the Legislature of the Commonwealth of Puerto Rico; to the Committee on Commerce, Science, and Transportation.

"S.R. 1491

"The government of Puerto Rico has stated that among its priorities is the need to effectively attend to the problems of antisocial conduct which threatens our quality of life and harmonious existence. To achieve this, it is essential to incorporate prevention strategies which avoid the promotion of aggressiveness and violence in the citizenry, especially in our children and youths. The government's action and private initiative must direct their best efforts to programs directed to strengthen the family and to propitiate a wholesome upbringing of Puerto Rican children and youths.

"The scientific community has indicated that there is a relationship between exposure to violence on television and aggressive behavior. Televised violence conditions the mind and physical skills of children and adolescents. It also teaches and develops antisocial values and attitudes. In Puerto Rico, studies conducted by distinguished professionals have established the negative effect on human behavior produced by the messages of violence transmitted in the communication media. It has been stated that the mass communication media could be considered as the main vehicles of social conditioning. From said studies, it has also been revealed that in Puerto Rico almost all the population has access to television, and that during infancy, the exposure to this medium is greater than exposure to schooling.

"Within this context, the Senate of Puerto Rico deems it essential to adopt measures which contribute to make television programming more wholesome and to improve the quality and content of the messages received by television viewers. Government action and private initiatives should be directed to prevent our children and youth from being exposed to violent situations and harmful activities that lead to delinquent and antisocial conduct at home, school and the community.

"With the objective of promoting affirmative action on the effects of television programs with a high content of violence, and showing of adult situations, this Body is, at present, considering Senate Bill No. 507. This measure has the purpose of creating an Advisory Board attached to the Department of Consumer's Affairs, with the function of designing a television program classification system to serve as a guide for commercial stations. It would be adopted voluntarily and through self-regulation, fixing the parameters of scheduling and content.

"However, when analyzing the possible options of the Legislature of Puerto Rico to determine the feasibility of adopting regulations on the content of the programming, we find that within our juridical frame, television constitutes an activity which affects interstate commerce. The Congress of the United States has directed that the Federal Communications Commission is the agency responsible for regulating the same. That is, the Federal Government has primary jurisdiction over this matter. The courts have interpreted that in matters of regulating interstate communications, the field is preempted by the Federal Communications Act. It is understood that the Congress has preempted the field completely, in radio as well as television communication.

"With each passing day, American citizens are more aware of the damage that arises from the continuous and repetitive violence transmitted through the communications media. With the conviction that the voluntary initiatives of the media have not been sufficient to fight the problem of televised violence, Senator Kent Conrad filed S. 332 before the United States Senate, which provides resources to limit the exposure of children to television programs with a high content of violence.

"The measure proposes to adopt what is known as the 'Childrens' Media Protection Act'. In essence, the bill requires all manufacturers to install on every new television set, a device which allows the blocking of those programs that are not fit for minors. With this resource at hand, parents can make a decision as to the type of program their children will be exposed to.

"The legislation also contains provisions regarding the classification of programs of violent content. The Federal Communications Commission, upon consulting with broadcasters of television stations and cable retransmitters, private groups and interested citizens, is required to promulgate rules to classify the levels of violence in television programming.

"The measure provides additional safeguards which require the Federal Communications Commission to adopt rules to prohibit commercial television, the Cable TV industry and the public telecommunications entities from transmitting programs and commercials which contain unnecessary violence, from 6:00 a.m. to 10:00 p.m.

"The Senate of Puerto Rico recognizes that the approval of S. 332 shall have a positive effect on the programming that is broadcast locally by commercial channels and Cable TV. To such ends, we support the efforts of the United States Senate directed to reducing televised violence and improving the quality of the programming, for the benefit of our children and youths. Therefore, through this Resolution, the Senate of Puerto Rico respectfully exhorts the Senate of the United States to proceed with, and approve the 'Childrens' Media Protection Act' contained in S. 332.

"Be it resolved by the Senate of Puerto Rico:

"Section 1.—To express the United States Senate the support of the Senate of Puerto Rico to the approval of S. 332, filed in that Body by Senator Kent Conrad, for the purpose of establishing the 'Childrens' Media Protection Act', providing the mechanisms to limit the exposure of children to television programs with a high content of violence.

"Section 2.—The Secretary of the Senate of Puerto Rico is hereby directed to remit a copy of this Resolution, in both of our official languages, to the Senate of the United States, to the Majority and Minority Floor

Leaders of the Senate of the United States, to the Chairperson and members of the Committee on Commerce, Science and Transportation that has for its consideration S. 332, to Senator Kent Conrad, author of said legislative initiative, and to the Resident Commissioner, Carlos Romero Barceló.

"Section 3.—This Resolution shall take effect immediately after its approval."

POM-102. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Commerce, Science, and Transportation.

"HOUSE JOINT MEMORIAL 4008

"Whereas, harbor seal and sea lion populations have greatly expanded in recent years due to the almost absolute protection afforded them under the federal Marine Mammal Protection Act; and

"Whereas, seals and sea lions are active predators upon anadromous fish such as salmon and steelhead trout; and

"Whereas, anadromous fish populations are significantly reduced in numbers throughout Washington state, and some stocks have been listed as threatened or endangered species; and

"Whereas, many more anadromous fish stocks are likely to be listed as threatened or endangered; and

"Whereas, in order to allow certain salmon and steelhead populations to recover to and be sustained at viable levels, it will be necessary to have more flexibility to manage seals and sea lions in identifiable areas where they cause unacceptable mortality levels in specific fish runs; and

"Whereas, while recent amendments to the federal Marine Mammal Protection Act to allow for lethal removal of problem seals or sea lions, the process established to do so is cumbersome and time-consuming and will do little to protect the fish; and

"Whereas, seal and sea lion predation of anadromous fish is a problem that has been going on for some time and needs to be addressed with some urgency;

"Now, therefore, Your Memorialists respectfully pray that the Marine Mammal Protection Act be modified to allow for a more common-sense approach to managing predacious seals and sea lions, including provision for reasonable, balanced, and prudent population levels of seals and sea lions in Washington state and provision for the active management of abundant populations at set levels determined with modern wildlife management science by federal and state management agencies, including use of a less cumbersome lethal removal option when and where necessary. In asking for these amendments, it is not our intention to decimate or eliminate seals and sea lions but to find balance between protection of marine mammals and protection of anadromous fish.

"*Be it resolved*, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Finance:

Jeffrey M. Lang, of Maryland, to be Deputy U.S. Trade Representative, with the rank of Ambassador, vice Rufus Hawkins Yerxa, resigned.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHAFEE (for himself and Mr. PELL):

S. 786. A bill to designate the United States Post Office building located at 24 Corliss Street, Providence, Rhode Island, as the "Harry Kizirian Post Office Building", and for other purposes; to the Committee on Governmental Affairs.

By Mr. BURNS:

S. 787. A bill to provide an exemption from certain hazardous material transporation regulations for small cargo tank vehicles with a capacity of not more than 3,500 gallons that transport petroleum, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 788. A bill to delay the effective date of trucking deregulation under the Federal Aviation Administration Authorization Act of 1994; to the Committee on Commerce, Science, and Transportation.

By Mr. CHAFEE (for himself, Mr. MOYNIHAN, and Mr. KYL):

S. 789. A bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself and Mr. PELL):

S. 786. A bill to designate the United States Post Office building located at 24 Corliss Street, Providence, Rhode Island, as the "Harry Kizirian Post Office Building," and for other purposes; to the Committee on Governmental Affairs.

THE HARRY KIZIRIAN POST OFFICE BUILDING ACT OF 1995

Mr. CHAFEE. Mr. President, I send to the desk a bill for Senator PELL and myself. This deals with the designation of the U.S. Post Office building located on 24 Corliss Street in Providence. Under the new designation it becomes the "Harry Kizirian Post Office Building."

Mr. President, today Senator PELL and I are introducing legislation to name the post office at 24 Corliss Street in Providence, RI after a renowned Rhode Islander and a proud American—Harry Kizirian. Representatives JACK REED and PATRICK KENNEDY are introducing identical legislation in the House of Representatives. The Rhode Island congressional delegation is united in its desire to honor Harry Kizirian for his years of service to our State.

Mr. President, just a word about Harry Kizirian. He is a celebrated citizen in our State. For many, many years he has been postmaster of our principal post office. He is a community leader.

Harry Kizirian is a household name in Rhode Island because of his lifelong career in the Postal Service but, even more so, because of his involvement with and commitment to his community. He has served on the board of directors of Butler Hospital, Big Brothers of Rhode Island, the Providence Human Relations Commission, Rhode Island Blue Cross, and the Rhode Island Heart and Lung Associations. Over the years he has earned countless awards and citations for his community involvement. He was inducted into the Rhode Island Hall of Fame and received the Roger Williams Award. He served on advisory boards for Rhode Island College, Providence Heritage Commission on R.I. Medal of Honor Recipients, the Disabled American Veterans, and the Marine Corps League. Harry Kizirian is a husband, a father, a grandfather, a Postmaster to Rhode Island, and a decorated World War II hero.

The lessons learned from Harry Kizirian are lessons of fortitude, valor, strength of character, and perseverance.

While Harry was just a boy in school, at Mt. Pleasant High School in Providence, he went to work part-time as a postal clerk. He was 15 years old and his father had died, so Harry took responsibility for supporting his family. He did so while keeping his grades up and participating in athletics. Twenty years later, at 35, Harry was named Postmaster of Rhode Island, a position he held for more than 25 years.

Like many young men at the time, Harry's job was interrupted by World War II. The day after high school graduation Harry enlisted in the Marine Corps.

After going through training, he ended up with the marines that were invading Okinawa.

He fought on Okinawa with the 6th Marine Division. He was awarded the Navy Cross—the second highest honor a Marine can receive—for his valor on Okinawa. What did he do for it?

Harry and a group of marines were pinned down by a Japanese machine gunner. Harry got up and ran toward the machinegun. He was shot in the legs. Despite his injuries, he pulled himself forward and eliminated the enemy position. This extraordinary act of valor sent Harry Kizirian, a teenage boy, to a hospital in Guam with the Navy Cross, a Bronze Star, and a Purple Heart with a Gold Star.

Harry Kizirian was seen by millions of Americans as the face of the war in the Pacific. Before he was injured, a news photographer captured his image, the image of a boy in battle—by that time he was the age of 19—for the cover of the New York Times Sunday Magazine. Last November, I was present when Harry was honored by his old Atwood-Bucci Detachment of the Marine Corps. The famous photograph was prominently displayed on the podium. It has been 50 years since that picture was snapped and many have glorified the war, but not Harry. Harry's message to young people, and to all of us, is that "war is awful. There's no way to describe it. Nobody wins a war."

After the war, Harry returned to Providence and to his job at the post office. He was a substitute clerk. By 1954 he was made foreman. He was named assistant superintendent during the transition from the old postal system to the turnkey mechanization system. The Providence post office on Corliss Street was the first post office in the country to use the turnkey system. The turnkey system was the first fully automated system for sorting the mail. Until that point, all of the mail was sorted by hand. The new system was not easily implemented, but once again Harry persevered. In 1961, Harry was rewarded for his hard work and dedication. He was named Postmaster of Rhode Island.

What better way to honor the life and lessons of Harry Kizirian than to name the post office on Corliss Street for him. I am pleased to introduce this bill today with Senator PELL and hope that it will receive speedy consideration by the Subcommittee on Post Office and Civil Service of the Governmental Affairs Committee.

So it seems very fitting, Mr. President, that this post office in our capital city should be named after Harry Kizirian.

Mr. PELL. Mr. President, I join with my friend and colleague, Senator CHAFEE of Rhode Island, in introducing legislation to designate the U.S. Post Office building at 24 Corliss Street, Providence, as the Harry Kizirian Post Office Building.

I am enthusiastic about this designation. I can think of no more fitting tribute. Harry Kizirian has made extraordinary contributions to the United States, to Rhode Island, and to Providence.

A very brief review of his contributions is instructive. Harry enlisted in the U.S. Marine Corps after graduating from Mt. Pleasant High School. He subsequently became Rhode Island's most decorated marine.

He fought in Okinawa and was shot in battle. He earned the Navy Cross, the Bronze Star with a "V", the Purple Heart with a Gold Star and, finally, the Rhode Island Cross.

Upon his return to Rhode Island, he went to work at the post office, where he had worked as a 15-year-old to support his widowed mother. He worked his way up through leadership positions in the Postal Service.

He was confirmed by the U.S. Senate as Postmaster in 1961, a position he held for 25 years. In addition to his military service and his work in the Postal Service, he has served on numerous committees and boards in Rhode Island.

Harry served on the board of directors of Butler Hospital, Big Brothers of Rhode Island, the Providence Human Relations Commission, Rhode Island Blue Cross and Rhode Island Heart and Lung Associations.

He also was a member of the Community Advisory Board of Rhode Island College, the Providence Heritage Commission, the Commission on Rhode Island Medal Honor Recipients, DAV, and the Marine Corps League.

Harry Kizirian already is a Rhode Island landmark. His name has become synonymous with the qualities he exemplifies—dedication, loyalty, leadership, and hard work.

The Harry Kizirian Post Office Building will be an entirely appropriate testament to his remarkable life and friendships.

By Mr. BURNS:

S. 787. A bill to provide an exemption from certain hazardous material transportation regulations for small cargo tank vehicles with a capacity of not more than 3,500 gallons that transport petroleum, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE HAZARDOUS MATERIALS REGULATORY RELIEF ACT OF 1995

• Mr. BURNS. Madam President, today I am introducing legislation to reduce yet another regulatory burden on many petroleum marketers and other small businesses across the country. My bill would prohibit the Department of Transportation's Research and Special Programs Administration [RSPA] from enforcing an unwarranted and unnecessary regulation on operators and owners of small cargo tanks of 3,500 gallons or less and return that authority back to the States where it belongs. Specifically, my bill would repeal a regulation promulgated by RSPA which requires cargo tank operators and owners to comply with cumbersome Federal testing inspections and retrofitting mandates.

Members of the Montana-Western Petroleum Marketers Association and the Petroleum Marketers Association of America have been especially negatively impacted with RSPA's requirements. The cost of the regulation to small businesses often costs thousands of dollars, with little additional safety protection. In addition, the Federal inspection requirements often force cargo tank operators to travel great distances to comply with the regulations. It is time that we force regulators to be responsible and establish justification before the implementation of such regulations. I think we could send a clear message by passing my proposed legislation.

Many of the cargo tank owners and operators are owned by small "mom and pop" businesses, who operate on a slim profit margin. The cost of compliance can be devastating to their business. For years, States had the authority to inspect small cargo tank vehicles. Not only was this more convenient for owners and operators, but States had the ability to structure the program to benefit their constituents. I think we should return this authority to the States and allow them to make decisions which best suit their needs.

Up until 1991, RSPA provided an exemption of cargo tanks carrying 3,500 gallons of petroleum product or less. However, since that time, RSPA has decided that no tank is too small to regulate and that all cargo tank operators should operate under the same rules. In theory this may sound reasonable, but, in reality, small cargo tanks are very different from larger tanks and should be treated as such. I ask for your support of my legislation and introduce it today to restore some common sense into the Federal bureaucracy.•

By Mr. CHAFEE (for himself, Mr. MOYNIHAN, and Mr. KYL):

S. 789. A bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly traded stock to certain private foundations, and for other purposes; to the Committee on Finance.

GIFTS LEGISLATION

Mr. CHAFEE. Mr. President, today I am introducing legislation on behalf of myself, Senator MOYNIHAN, and Senator KYL, which would permit the full value deduction for gifts of appreciated stock to private foundations.

Since 1984, donors have been allowed to deduct the full fair market value of certain gifts and publicly traded stock given to private foundations. In other words, if an individual has a private foundation that he has set up, and he has some stock—in General Electric, for example, that has appreciated substantially—when he makes a gift of that stock to the foundation, and General Electric, say, is trading at 58, that the full value of that stock, namely each share at the present value of 58, is a deductible contribution by the donor.

Clearly, if an individual made such a contribution to Yale University or to the United Way, whatever it was, the full value of the stock would be a deductible contribution.

And the question here is, what about now, the contribution of that stock to a private foundation? Up until January 31, 1994—in other words last January—December 31—it has been possible to get a full deduction for the contribution of stock to a private foundation.

Unfortunately, on that date, the action which provided for the full deductibility terminated. It sunsetted.

Mr. President, I would like to stress that private foundations are nonprofit organizations. They support charitable activity. They have to do that or they are not allowed an exemption. They provide support for making grants to other nonprofit agencies.

In other words, sometimes a private foundation has the capacity to make a charitable contribution itself to the United Way or Nature Conservancy or the Sierra Club or whatever it might be. They provide support for such things as scholarships and disaster relief. Also, they make grants to individuals.

Now, foundations are created by endowments, money given by individuals or by families or by corporations. They make grants and operate programs with the income earned from investing the endowments. Since most foundations have permanent endowments, they do not have to raise funds each year from the public in order to continue their work.

Most functions, charitable activities every year have to go out and raise money so they are reluctant to get into long-term commitments, but foundations such as the Ford Foundation with a substantial amount of money that they know is there—realizing the income is going to be there next year, they are not dependent upon annual donations—act as the research and development arm of our society.

In a 1965 Report on Private Foundations, the Treasury Department recognized the special nature of foundations by describing them as "uniquely qualified to initiate thought and action, experiment with new and untried ventures, dissent from prevailing attitudes, and act quickly and flexibly." Indeed, foundations reflect the innovative spirit of the individuals and corporations that endow them.

There are more than 30,000 private foundations in America today that provide over $10 billion annually to support innumerable projects, large and small. Among other things, they help the poor and disadvantaged, advance scientific and medical research, and strengthen the American educational system.

Let me give you a few examples of some of the medical advances that have occurred as a result of the financial assistance provided by private foundations:

The polio vaccine developed by Dr. Jonas Salk in 1953 after the Sarah Scaife Foundation provided him with the money he needed to establish and equip his virus laboratory.

With the help of the Commonwealth Fund, Dr. Papanicolaou discovered in 1923 that cervical cancer could be diagnosed before a woman presented any symptoms. That breakthrough led to the basic and now routine diagnostic technique known as the Pap smear.

In 1951 Dr. Max Theiler received the Nobel prize in medicine for his work in developing the yellow fever vaccine. That effort was the direct result of a 30-year, all-out commitment by the Rockefeller Foundation to eradicate this disease.

But, Mr. President, private foundations have been involved in many more aspects of our daily lives than simply funding medical advances. Dr. John V.N. Dorr was an engineer in the early 1950's. He speculated that many accidents occurring on our Nation's highways during inclement weather were the result of drivers hugging the white lines painted in the middle of the road. Dorr believed that if similar lines were painted on the shoulder side of the road, lives could be saved.

Dorr convinced transportation engineers in Westchester County, NY, to test his theory along a particularly treacherous stretch of highway. The dropoff in accidents along this part of the road was dramatic, and Dr. Dorr used his own foundation to publicize the demonstration's results nationally. Today, although State funds are now used to paint white lines on the shoulder side of the Nation's highways, every person traveling in a motor vehicle is indebted to Dorr and his foundation for implementing this life-saving discovery.

As these examples indicate, private foundations provide a great many benefits to our society. By permanently extending this tax incentive, we can continue to encourage individuals to dedicate a substantial portion of their wealth to public, rather than private purposes. I hope my colleagues will support this legislation.

• Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished colleague, Senator CHAFEE, in introducing a bill to restore a full, fair-market-value deduction for gifts of publicly traded stock to private foundations. This was in fact the law through 1994, but the provision in the Tax Code providing for a charitable deduction measured by the fair market value of stock donated to a private foundation expired on December 31, 1994.

As many in this body will recall, I worked for many years to restore a full, fair-market-value deduction for gifts of appreciated property to public charities. That deduction had been limited in 1986 tax legislation for taxpayers subject to the alternative minimum tax, so that they could only deduct the "basis"—usually, the original purchase price—of property donated to public charities, such as colleges and universities, museums and other charitable institutions that receive the larger share of their support from the public at large. Happily, the full, fair-market-value deduction for all such gifts—personal property, real estate, and intangible property such as stock—was restored on a permanent basis in the 1993 budget legislation, the Omnibus Budget Reconciliation Act of 1993.

The bill we introduce today concerns charitable gifts to private foundations, which unlike public charities, receive their support from, and are often controlled by, a limited group of individuals. A full, fair-market-value deduction for gifts of publicly traded stock had been available in the case of private foundations over the past 10 years under a special rule enacted in 1984 and scheduled to expire on December 31, 1994. This automatic expiration was intended to provide Congress an opportunity to review the private foundation contribution rule with the benefit of several years of practical experience under it. I believe that most commentators have concluded that the private foundation rules are working relatively well, and that the rule providing for fair-market-value deductions for gifts of publicly traded stock has not been a source of compliance problems. As a result, there is no reason to provide different treatment for gifts of publicly traded stock to private foundations that is currently provided for such gifts to public charities. The bill we introduce today would conform the rules for both.

Mr. President, private foundations are an important aspect of America's nonprofit, independent sector. The contributions made by nonprofit institutions to our society in the areas of education, health, disaster relief, the advancement of knowledge and the preservation of our history and cultural artifacts is vast. I daresay it is often not fully understood or appreciated, particularly the extent to which nonprofit institutions perform functions that are typically governmental undertakings in other societies. Nonprofit institutions are a part of our culture that we should take care not to lose, and government has a role in insuring that they thrive. The legislation we introduce today is a part of that role.•

ADDITIONAL COSPONSORS

S. 324

At the request of Mr. WARNER, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 324, a bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes.

S. 334

At the request of Mr. McCONNELL, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 334, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a law enforcement officers' bill of rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes.

S. 490

At the request of Mr. GRASSLEY, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 490, a bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes.

S. 524

At the request of Mr. WELLSTONE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 524, a bill to prohibit insurers from denying health insurance coverage, benefits, or varying premiums based on the status of an individual as a victim of domestic violence, and for other purposes.

S. 530

At the request of Mr. GREGG, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 530, a bill to amend the Fair Labor Standards Act of 1938 to permit State and local government workers to perform volunteer services for their employer without requiring the employer to pay overtime compensation, and for other purposes.

S. 768

At the request of Mr. GORTON, the names of the Senator from Virginia [Mr. WARNER], the Senator from Mississippi [Mr. LOTT], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 768, a bill to amend the Endangered Species Act of 1973 to reauthorize the act, and for other purposes.

S. 770

At the request of Mr. GRAMM, his name was added as a cosponsor of S. 770, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 770, supra.

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 770, supra.

At the request of Mr. DEWINE, his name was added as a cosponsor of S. 770, supra.

At the request of Mr. DOLE, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Kentucky [Mr. McCONNELL], the Senator from Mississippi [Mr. LOTT], the Senator from Utah [Mr. HATCH], the Senator from Indiana [Mr. COATS], the Senator from Montana [Mr. BAUCUS], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 770, supra.

S. 772

At the request of Mr. DORGAN, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 772, a bill to provide for an assessment of the violence broadcast on television, and for other purposes.

S. 607

At the request of Mr. WARNER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 753

At the request of Mr. BAUCUS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 753, a bill to allow the collection and payment of funds following the completion of cooperative work involving the protection, management, and improvement of the National Forest System, and for other purposes.

AMENDMENTS SUBMITTED

THE INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT OF 1995

WELLSTONE AMENDMENT NO. 750

Mr. WELLSTONE proposed an amendment to the bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes; as follows:

On page 56, line 10, strike "is imposed" and insert "had been exercised prior to May 15, 1994, and was being implemented on May 15, 1994,"

On page 56, line 12, insert ";" after "subdivision" and strike "in effect on May 15, 1994"

On page 60, lines 4–5, strike "was in effect prior to" and insert "such authority was imposed prior to May 15, 1994 and was being implemented on"

KEMPTHORNE AMENDMENT NO. 751

Mr. SMITH (for Mr. KEMPTHORNE) proposed an amendment to the bill S. 534, supra; as follows:

On page 69, line 13, strike the word, "remote".

On page 69, line 19, after the word, "infeasible", insert the word, "or".

On page 69, lines 21 and 22, strike the words, "the unit shall be exempt from those requirements" and in lieu thereof insert the words, "the State may exempt the unit from some or all of those requirements".

On page 69, line 22, add the following new sentence: "This subsection shall apply only to solid waste landfill units that dispose of less than 20 tons of municipal solid waste daily, based on an annual average.".

GRAHAM AMENDMENTS NOS. 752–753

Mr. GRAHAM proposed two amendments to the bill S. 534, supra; as follows:

AMENDMENT NO. 752

On page 63, strike line 4 and all that follows through page 64, line 2, and insert the following:

"(e) STATE-MANDATED DISPOSAL SERVICES.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

"(1) was responsible under State law for providing for the operation of solid waste facilities to serve the disposal needs of all incorporated and unincorporated areas of the country;

"(2) is required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent;

"(3) has been authorized by State statute to exercise flow control authority and had implemented the authority through the adoption or execution of a law, ordinance, regulation, contract, or other legally binding provision; and

"(4) had incurred, or caused a public service authority to incur, significant financial expenditures to comply with State law and to repay outstanding bonds that were issued specifically for the construction of solid waste management facilities to which the political subdivision's waste is to be delivered.

"(5) the authority under this subsection shall be exercised in accordance with Section 401z(b)(4)".

AMENDMENT NO. 753

On page 65, line 10, strike "or (d)" and insert "(d), or (e)".

On page 65, line 3, strike "or (d)" and insert "(d), or (e)".

SPECTER (AND OTHERS) AMENDMENT NO. 754

Mr. SPECTER (for himself, Mr. CRAIG, Mr. GRASSLEY, Mr. KEMPTHORNE, and Mr. BROWN) proposed an amendment to the bill, S. 534, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) There has been enormous public concern, worry and fear in the U.S. over international terrorism for many years;

(2) There has been enormous public concern, worry and fear in the U.S. over the threat of domestic terrorism after the bombing of the New York World Trade Center on February 26, 1993;

(3) There is even more public concern, worry and fear since the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995;

(4) Public concern, worry and fear has been aggravated by the fact that it appears that the terrorist bombing at the Federal building in Oklahoma City was perpetrated by Americans;

(5) The United States Senate should take all action within its power to understand and respond in all possible ways to threats of domestic as well as international terrorism;

(6) Serious questions of public concern have been raised about the actions of federal law enforcement officials including agents from the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms relating to the arrest of Mr. Randy Weaver and others in Ruby Ridge, Idaho, in August, 1992 and Mr. David Koresh and others associated with the Branch Davidian sect in Waco, Texas, between February 28, 1993, and April 19, 1993;

(7) Inquiries by the Executive Branch have left serious unanswered questions on these incidents;

(8) The United States Senate has not conducted any hearings on these incidents;

(9) There is public concern about allowing federal agencies to investigate allegations of impropriety within their own ranks without congressional oversight to assure accountability at the highest levels of government;

(10) Notwithstanding an official censure of FBI Agent Larry Potts on January 6, 1994, relating to his participation in the Idaho incident, the Attorney General of the United States on May 2, 1995, appointed Agent Potts to be Deputy Director of the FBI;

(11) It is universally acknowledged that there can be no possible justification for the Oklahoma City bombing regardless of what happened at Ruby Ridge, Idaho, or Waco, Texas;

(12) Ranking federal officials have supported hearings by the U.S. Senate to dispel public rumors that the Oklahoma City bombing was planned and carried out by federal law enforcement officials;

(13) It has been represented, or at least widely rumored, that the motivation for the Oklahoma City bombing may have been related to the Waco incident, the dates falling exactly two years apart; and

(14) A U.S. Senate hearing, or at least setting the date for such a hearing, on Waco and Ruby Ridge would help to restore public confidence that there will be full disclosure of what happened, appropriate congressional oversight and accountability at the highest levels of the federal government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that hearings should be held before the Senate Judiciary Committee on countering domestic terrorism in all possible ways with a hearing on or before June 30, 1995, on actions taken by federal law enforcement agencies in Ruby Ridge, Idaho, and Waco, Texas.

HATCH AMENDMENT NO. 755

Mr. HATCH proposed an amendment to amendment No. 754 proposed by Mr. SPECTER to the bill S. 534, supra; as follows:

Strike all after the first word and insert the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) The American public is entitled to a full, comprehensive, and open hearing on the circumstances surrounding the efforts of federal law enforcement officers, including agents from the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms, to investigate and effectuate (or seek to effectuate) the arrest of Mr. David Koresch and others associated with the Branch Davidian sect in Waco, Texas;

(2) The American public is entitled to a full, comprehensive, and open hearing on the circumstances surrounding the efforts of federal law enforcement officers, including agents from the Federal Bureau of Investigation, the U.S. Marshals Service, and the Bureau of Alcohol, Tobacco and Firearms, to investigate, and effectuate (or seek to effectuate) the arrest of Mr. Randy Weaver and others associated with Mr. Weaver, in Ruby Ridge, Idaho;

(3) The Senate has not yet conducted comprehensive hearings on either of these incidents;

(4) The public interest requires full disclosure of these incidents through hearings to promote public confidence in government; and

(5) The public's confidence in government would be further promoted if the timing of the hearings takes into consideration the need for such hearings to be conducted in an atmosphere of reflection and calm deliberation.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that hearings should be held in the near future, before the Senate Judiciary Committee, at a time and under such circumstances as determined by the Chairman, regarding the actions taken by federal law enforcement agencies and their representatives in the aforementioned Ruby Ridge and Waco incidents.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 10, 1995, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider the nomination of James J. Hoecker to be a member of the Federal Energy Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 10, 1995, for purposes of conducting a full committee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on the Federal Energy Regulatory Commission's notice of proposed rulemaking and supplemental notice of proposed rulemaking, "Promoting Wholesale Competition Through Open-Access Non-discriminatory Transmission Services by Public Utilities" (Docket No. RM95-8-000), and "Recovery Stranded Costs by Public Utilities and Transmitting Utilities" (Docket No. RM94-7-001).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Wednesday, May 10, 1995, beginning at 9:30 a.m. in room SD-215, to conduct a hearing on the World Trade Organization Dispute Settlement Review Commission Act and on the nomination of Jeffrey Lang to be Deputy U.S. Trade Representative.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 10, 1995, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 10, 1995, at 2:30 p.m., to hold a hearing on "The Role of the Military in Combating Terrorism."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 10, 1995, at 2 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND FORCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces of the Committee on Armed Services be authorized to meet at 3 p.m., on Wednesday, May 10, 1995, in open and closed session, to receive testimony on tactical intelligence and related activities in the Army and Air Force in review of S. 727, the National Defense Authorization Act for Fiscal Year 1996, and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Immigration Subcommittee of the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 10, 1995, at 9:30 a.m., to hold a hearing on "Verification of Applicant Identity for Purposes of Employment and Public Assistance."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

AN ETHICAL DILEMMA

• **Mr. SIMON.** Mr. President, there is a lot of emotion and not much rationality to the question of whether we use fetal tissue to assist people who have problems, particularly with Parkinson's disease.

It is interesting that in the U.S. Senate, many of those who support the use of fetal tissue comprise those who are totally opposed to abortions.

I believe their stand makes sense, much more sense than those who emotionally oppose use of fetal tissue.

If for a reason of taste, or culture, or religion, people are opposed to any transplant, I understand it.

When I die, if my eyes or any part of me can be used to be of assistance to someone else, I want that done.

I would think most people who have had an abortion would want the same.

The requirements are very strict. You cannot make any money on it. You cannot designate to whom the tissue would go. You cannot even know to whom it is going.

Joan Beck has written a column in the Chicago Tribune that outlines the situation clearly, and I ask that it be printed in the RECORD.

The column follows:

[From the Chicago Tribune, April 30, 1995]

AN ETHICAL DILEMMA—IN DEFENSE OF FETAL TISSUE TRANSPLANTS TO TREAT NEUROLOGICAL DISORDERS

(By Joan Beck)

He was 59 years old and he had had Parkinson's disease for eight years. His body was becoming increasingly rigid and immobile. He had trouble moving and talking clearly. He had tremors he couldn't stop and he had to give up his job.

The medication that had helped early in the onset of the illness could no longer give him much relief, despite increasing doses. As the disease inexorably progressed, he decided to try a new, experimental treatment, despite the intense political and medical controversy that has marked its development.

Surgeons inserted several grafts of fetal tissue into one side of his brain. A month later, they repeated the procedure on the other side. The transplants came from seven donors, aborted babies from 6½ to 9 weeks old.

Within a few weeks after the surgery, the man's condition improved markedly, according to a report in the current issue of the New England Journal of Medicine. He could once again handle daily activities, even take part in an active exercise program. He needed less medication, but now it was much more effective.

A year and a half after the first transplant, the patient had surgery on his ankle to repair damage from a fracture years earlier. As he was recovering from the operation, he suffered a massive pulmonary embolism and died.

Studying his brain after death, doctors found conclusive evidence that the transplants had worked as hoped. The fetal neurons had survived, grown and were functioning, replacing the patient's damaged brain cells, just as the improvement in his symptoms had indicated.

An estimated 200 transplants of fetal tissue into human brains have been done over the past several years. Some have been performed in other countries, some under scientifically questionable circumstances. Results have been uneven and often discouraging.

The case reported this week is important because it is the first to prove that fetal tissue transplants can survive and function and that they can be linked to a patient's improvement.

The long-range implications are medical, political and ethical. The success story offers eventual hope for hundreds of thousands of patients, not only with Parkinson's disease but also with Huntington's disease, Alzheimer's disease and other disorders caused by brain cell impairment and destruction for which no good treatment or cure is now available.

Much research is still necessary, however. More data are needed about optimal size of the grafts, whether the tissue can be frozen in advance, which patients are likely to benefit, how long improvement will last, whether the underlying disease will eventually destroy the new brain cells.

Fetal tissue is considered necessary for transplants because it can survive and grow where grafts of more mature cells do not. It can take on new biological functions, unlike other cells. And the recipient's body is not so likely to reject it.

But the research has been slowed in the past for political and ethical reasons.

The problem is that such transplants almost always must come from abortions—and that has raised fierce and intractable opposition from pro-life forces. They see the possibility that women will deliberately get pregnant and have an abortion to provide a graft for a loved one—or even worse, sell the tissue on some sort of medical black market.

Even with tight controls, abortion opponents argue, using tissue from aborted fetuses will make it easier for women to decide to have an abortion because they can rationalize that some desperately ill person could benefit and that might ease any guilt feelings they may have.

Should fetal transplants eventually prove to be of great medical benefit and become widely used, it will be even harder to rally the nation to oppose abortion—the source of such grafts—pro-life leaders fear.

In response to anti-abortion fervor, the Reagan administration prohibited the use of federal funds for research using fetal tissue for humans, a major setback because most research grants are based on federal approval. Some experiments did continue, however, using private money, and in other countries.

Under mounting pressure from Congress, President Bush attempted a compromise. He authorized a grant of more than $2 million to study whether fetal tissue obtained as a result of miscarriages and ectopic pregnancies—not deliberate abortions—could be used for transplants.

The answer turned out to be no. Out of 1,500 such fetuses tested, all but seven were unsuitable because of chromosome errors (a major cause of miscarriage) or problems with bacteria and virus contamination.

In 1993, President Clinton finally lifted the ban on federal funding for fetal tissue research. The use of such transplants is carefully governed by state and federal laws and government and medical guidelines similar to those that cover other transplants, including the Uniform Anatomical Gift Act which has been adopted in all states.

The stark facts remain. Abortion is legal in the United States. About 1.5 million abortions occur every year. Aborted tissue is now discarded, even though it holds the potential for successfully treating several terrible, intractable diseases.

Abortion is a tragedy, as is death from gunshot wounds and traffic accidents. But the success of fetal tissue grafts isn't going to encourage abortion any more than organ transplants increase car crashes and murders.

Research is under way to find other means to treat neurological disorders, some of it building on findings from fetal tissue studies. But until these experiments are successful, surely it is more ethical and merciful to try to use fetal tissue than simply destroy it.•

TRIBUTE TO THE GREEN MOUNTAIN BOY SCOUTS

• **Mr. JEFFORDS.** Mr. President, I rise today to pay tribute to the Green Mountain Boy Scouts and congratulate the Boy Scouts of America on their 85th anniversary. It seems fitting, indeed, that the Green Mountain Boy Scouts of America will hold its statewide camporee on the historic Rutland fairgrounds. While 10,000 Vermont scouts and 4,000 adult volunteer leaders will be marking the 85th anniversary of the Boy Scouts of America in June, the Rutland Fairgrounds prepares to celebrate the 150th anniversary of the Vermont State Fair.

To these fairgrounds in 1861 came 1,000 young men to form the First Vermont Regiment of infantry, the initial unit sent from Vermont to fight in the Civil War. It is my understanding that the first night in camp, a chill wind came down off Pico and Killington flattening many of their tents. It was a strong omen, for hard times were ahead for the Vermonters who went off to fight in that war. Before it was over, nearly 35,000 young men from Vermont would serve, and more than 5,000 would give their lives.

Those lads, every one of them volunteers, established a model of service from which Vermont did not falter during four bloody years. It is a model that we still find personified by the young people, and their leaders, who fill the ranks of scouting in Vermont.

Not only do scouts well serve the communities in which they live, they are constantly acquiring knowledge and skills which will serve them well in later years—and make them better citizens. In scouting lies much of the hope for America in the fast approaching next century.

It is reassuring to know that Vermont still has within its borders able young people willing to serve in the best interests of their State and Nation, as did the boys of the long ago Civil War days.

I want to congratulate the Boy Scouts of America on their 85 years of excellent service to the United States and welcome the Vermont boy scouts to my home city of Rutland for their celebration. Rutland is where I served in my youth as a boy scout. I hope the Vermont camporee is as enjoyable and successful as it is historic.•

WORKING FAMILIES ANXIETY OVER EDUCATION CUTS

• Mr. DODD. Mr. President, we should never lose sight of the meaning of the decisions we make here for ordinary Americans and their families. This point was brought home to me by an article in Monday's New York Times, "Families Await News on Cuts in Education Aid." I ask that this article be printed in the RECORD at the conclusion of my remarks.

This is a difficult time of year for parents of college-age children. Along with their sons and daughters, they anxiously await college acceptance or rejection letters and financial aid offers. They worry about children away from home for the first time, about summer jobs, about SAT scores and grades and about the job market for college graduates. But for the vast majority of parents, the biggest worry is how they will be able to make it all possible for their children.

This year, unfortunately, there is another gnawing worry for millions of families who rely on Federal student financial aid to make college possible. Serious cuts in these programs are being proposed. The Contract With America calls for the elimination of one of the key pillars of Federal support for college students—the in-school interest subsidy on guaranteed Federal loans. The Domenici budget plan calls for the elimination of this subsidy for graduate students, but it goes on to proposes overall education cuts so severe that the subsidy for all students is called into question.

In addition, campus-based aid programs and other higher education programs are endangered by the severe cuts proposed in discretionary spending for educational activities. This casts a shadow over the future of the College Work Study Program, the Supplemental Education Opportunities Grant Program, the State Student Incentive Grant Program, and the Perkins Loan Program.

Mr. President, education has always been one of the most solidly placed rungs on the ladder of economic opportunity. For generations, American families have sacrificed to assure their access to the best education possible. That has paid off for us as individuals and for us as a nation. And yet many in Congress are prepared to turn their backs on this record of success.

As we debate the budget resolution in committee this week and on the floor as early as next week, there is clearly a great deal hanging in the balance, not the least of which are the hopes and dreams of American families for their children's future. I urge all my colleagues to read this excellent article and consider our country's future.

The article follows:

[The New York Times, May 8, 1995]

FAMILIES AWAIT NEWS ON CUTS IN EDUCATION AID

(By Lynda Richardson)

These are uncertain times for the family of David and Maureen Grau of St. Paul, Minn. As they await final word on financial aid for the colleges that three of their eight children attend, they worry what sacrifices will need to be made, and even which child might not go.

The Graus know that some cuts in Government aid are likely. In the next several weeks, Congress will begin considering the strongest assault in recent years on the array of college loans, grants and work-study programs that many lower- and middle-class families have relied on since passage of the nation's first major Federal student aid program, the Higher Education Act of 1965.

And across the nation, governors and legislatures are cutting the state university budgets and considering deep reductions in aid for impoverished students.

But in the absence of decisions on what will be cut, the most the Graus can do—like thousands of other Americans—is make contingency plans and hope for the best. Two daughters will cram three extra courses into their full college loads next year so they get through school faster, saving tuition. And all three will work full time—or more—this summer.

Baby-boomers, the Graus were themselves beneficiaries of Federal student loans and grants back in the 70's. Mr. Grau, 44, is now a registered nurse; his wife, 42, is a homemaker. With an annual income of $36,500, they save and scrimp. They have not bought new furniture, other than a couch, in 23 years.

The Graus hold many of the bedrock American beliefs that swept the new Republican leadership into office. They go to Mass every Sunday. They are anti-abortion. Each child has a chore at home. Now, they say they are feeling betrayed.

"We never questioned whether or not college education was available to us," Mrs. Grau said. "Loans, grants and college work-study were there for the taking. All that was truly needed was a desire, and now you have a lot of hurdles."

House Republicans have called for $1.7 billion in cuts in money already appropriated in the $34 billion Department of Education budget for the 1995 fiscal year. They have proposed $20 billion in higher education cuts over the next five years.

The largest cut would come from ending the Government subsidy of interest on loans while students are in college, which could save $12 billion in five years. Currently, a student who borrows $5,000 for freshman year owes $5,000 at graduation. Under the proposal, interest would be added to the principal each month, so the $5,000 would become $6,000 or so in debt at graduation. Students would see an average of 20 percent to 25 percent more debt when they graduate, financial aid officers say.

Republican leaders, in their first 100 days, also suggested dismantling Federal aid programs that are managed by colleges, including the Perkins loans for needy students, Supplemental Educational Opportunity Grants and work-study programs in which the Federal government pays 75 percent of a student's salary and the institution pays the rest.

"It is safe to say that every low- and middle-income family with a student in college and hoping to send a child to college has a stake in the outcome of the debate that Congress is holding now and will be holding for the next few months," said Terry Hartle, spokesman for the American Council on Education, a Washington-based association of 1,700 colleges and universities. "Many families would find their plans for college disrupted, fundamentally changed or eliminated by major changes in Federal student aid."

But the Republicans who have proposed them say the cuts are necessary for the financial health of the nation. Bruce Cuthbertson, a spokesman for Representative John R. Kasich, the Ohio Republican who chairs the House Budget Committee, said of loan subsidies, "We think it's a matter of fairness. We just put this on equal footing with all other types of loans one would receive."

The potential cuts have stirred public protests and private anguish. In the Bronx, Elba Velez, a single mother of three, worries that the cuts will halt her family's fragile upward mobility.

"The programs that are being cut are for the people who need them the most," said Ms. Velez, who left welfare behind after getting her degree in the 70's. Her son is a freshman at Wesleyan University.

Carmen Vega Rivera and her husband, John, worry that their high school senior will never go to college. Financial aid was crucial to Mrs. Rivera's education. She now heads an East Harlem tutorial program.

THE PRESENT—BEING MARRIED WITH CHILDREN

The three Grau college students are among the nearly half of all 14.7 million college students who receive student aid. Two daughters attend Concordia College, a small liberal arts school in St. Paul, and the third is at the University of St. Thomas there. Besides the subsidized loans, the young women get a wide array of aid from the Federal Government, the state and the college, and both work during the school year.

At Concordia, Amy, a sophomore, who lives at home, received $12,305 in aid this year. Her sister, Sarah, a freshman who lives on campus, was awarded $13,308. The total cost of Concordia is $15,550 for dorm students and $14,500 for students living off campus. The Graus pay the rest.

Their older sister, Rochelle, a junior who plans to attend graduate school, is interested in biomedical ethics and philosophy. She received $17,028 in aid this year to pay for books, fees and other expenses at St. Thomas, which has an average student cost of $16,263.

Rochelle and Amy are lining up full-time summer jobs, as counter help at a fast-food restaurant and as an office administrator. Sarah will work as a counselor at a day camp.

"They are thinking maybe a part-time evening and weekend job also," said her mother, Maureen Grau, 42. This would rule out summer courses, but the women want enough money to pay their expenses all year.

Mrs. Grau received a degree in health and physical education at the College of St. Catherine in town. Mr. Grau received a degree in English and education at St. Thomas. He taught, then worked as a mechanic. Four years ago, he returned to college to become a nurse.

Mr. Grau says he and his wife are not in a position to help their college-age daughters because they have five more children at home, ages 8 to 17. "How am I going to educate them?" he asked. "I don't know."

THE PAST—ERECTING A LADDER OF OPPORTUNITY

For the Graus, the commitment to college education goes back three generations on Mrs. Grau's side; four on her husband's. But for hundreds of thousands of low-income Americans, like Elba Velez of the Bronx, the "War on Poverty" in the 1960's brought access to college degrees for the first time. Federal student-aid programs began small but expanded under the Nixon, Carter and Reagan Administrations.

Not since the G.I. Bill, after World War II, had the Federal Government played so strong a role in insuring that a specific segment of the population got a chance to go to college. Minority enrollment, in particular, showed a dramatic increase.

"The generation that preceded this one has tremendously benefited from Governmental assistance to attend college," said Jamie P. Merisotis, the president of the Institute for Higher Education Policy in Washington. "Both for individuals and the nation, the payoff is clear."

Ms. Velez was on welfare in the 1970's when she decided to go to college. She had considered a job in Manhattan's garment district but said that when she saw the assembly lines of uneducated women hunched over heavy machinery, "I looked around and said, 'This is not for me. I'm going to take charge of my life. I'm not going to let anyone tell me what I am going to be.'"

Ms. Velez enrolled at Bronx Community College in 1979. With the support of Federal Pell grants—created in 1972—and state tuition aid for needy students, she received a bachelor's degree in business administration from Baruch College in 1983.

"I have more power," she said. "I am able to provide for my children, but I'm also able to give back to the community."

But she is concerned about her children's future, with the cost of private colleges averaging $9,995 last year. "I just want my children to have an opportunity to go on to school," she said.

Her 19-year-old son, Daniel, a bookish young man interested in science and creative writing, gets a $13,975 scholarship from Wesleyan University in Middletown, Conn. In a work-study job that pays $1,400 a year, Daniel re-stocks and cleans the salad bar in the dining hall. He also receives $7,825 annually in subsidized loans, as well as Pell and Supplemental Educational Opportunity grants. He and his mother contribute about $2,090 a year to make up the rest of Wesleyan's $26,790 tuition and board costs.

To offset college costs next year, Daniel hopes to find summer work at a fast-food restaurant.

His sister, Felicia, a senior at Central Park Secondary School in East Harlem, was recently accepted at Syracuse University. Her financial package covers only $19,000 of the school's $25,000 cost. Felicia cannot expect much help from her mother.

And just last week, Ms. Velez learned that she may be laid off at Bronx Community College as part of the cost cutting proposed for the city university system.

THE FUTURE—$93,000 A YEAR AND STILL WORRIED

Walking into a noncredit class at New York University more than two decades ago, Carmen Vega Rivera remembers the sea of mostly Hispanic and black faces. Like Mrs. Rivera, many also were first-generation college students.

She and the others were enrolled in the state's Higher Education Opportunity Program, created in 1969 for students with both academic and financial need who wanted to go to private colleges. Gov. George Pataki proposes cutting that, along with similar programs at state and city universities, though many legislators are fighting to restore the programs. H.E.O.P. alone would save $22.5 million this fiscal year, the Governor's office said.

Mrs. Rivera was 49th of 500 students at the High School of Art and Design in midtown Manhattan but scored poorly on the verbal portion of the Scholastic Assessment Test. "My chance of coming through the traditional admissions was not likely," she said.

With intensive counseling, emotional support and tutoring in the special N.Y.U. class, Mrs. Rivera received her bachelor's degree in education and the arts in 1976.

Now, at 41, she earns $65,500 a year as executive director of the East Harlem Tutorial Program. Her husband, John, who manages a commercial building, only recently began a $27,000-a-year job. He had stayed at home for the last decade to look after their son, Jaime, now 10.

Still, even with a $93,000 combined income, Mrs. Rivera said her family lives from paycheck to paycheck, renting an $800-a-month apartment near Yankee Stadium. There are bills for medical problems and deaths in their extended family, and they support a 17-year-old daughter, Taina, and her 7-month-old child.

If Mrs. Rivera had her dream, Taina would attend New York University, she said. But as the family now explores state and city universities, everything seems up in the air.

"As a parent, it's eating up my mind all the time," she said. "I'm thinking, 'How am I going to pull it off? Is it all going to work out?'"•

TRIBUTE TO AVIS B. BAILEY

• Mr. BUMPERS. Mr. President, I rise today to pay tribute to a fellow Arkansan, Avis B. Bailey. Avis is the owner of Avis Nissan in Fayetteville, and I am proud to say, was honored last week by the U.S. Small Business Administration as the 1995 Arkansas Small Business Person of the Year. I had a chance to visit with Avis and her husband last week on the Capitol steps, and I was immediately convinced that this honor is richly deserved.

Avis Bailey was born and raised in Prairie Grove, AR. The youngest of six, she married right out of high school and then moved with her husband to Tulsa, OK. Twelve years later and a single parent, she returned to northwest Arkansas and settled in Fayetteville, where she worked in her brother's transmission repair shop. In 1971, Avis took another job as a cashier at Hatfield Pontiac and Cadillac, one of Arkansas' oldest and most respected Cadillac dealerships. This became job No. 3 for her. However, in less than 2 years Avis was out from behind the cashier's desk crunching numbers and in the showroom selling Cadillacs. It was not long before she became one of the State's top salespersons for automobiles and, within 10 years, manager of the dealership.

Avis told me she could remember when new Cadillacs started selling for over $10,000. It was at that time that her father told her she needed to get out of the business. He said no one would pay that much for a car. Mr. President, 20-some-odds years and many success stories later, Avis B. Bailey bought that Pontiac-Cadillac dealership where she started as a cashier. I know many people who still dream of owning a Cadillac someday, and here is Avis with a whole parking lot full. Her whole career is a testament to what hard work and dedication can accomplish. She has truly risen through the ranks of the small business world.

In 1991, Avis bought a Nissan dealership that was nearly bankrupt. Its standing in the community was down, but Avis took the initiative and the gamble to take that failing business and turn it around. Within 3 years, she more than doubled the volume of sales and her number of employees. Sales totaled $11.7 million in 1994 for Avis Nissan. Avis and her partners have also bought four more automobile dealerships in Arkansas, adding both to the economy and to the community. She and her partners are now owners of Mazda and Ford dealerships in northwest Arkansas as well.

Mr. President, we need more people like Avis Bailey in this country. She is more than a shrewd business woman. She is filled with a spirit that can make a difference. Avis avidly supports the athletic programs of the University of Arkansas, she is a member of both the Fayetteville and Springdale Chamber of Commerce, and she's a friend to area grade schools, working to furnish school supplies and clothing. We need more people who aren't afraid to roll up their sleeves, work hard, and make a difference in their communities. Mr. President, I hope you will join me in congratulating Avis Bailey on being named the Arkansas Small Business Person of the Year for 1995.•

THE MISSING SERVICE PERSONNEL ACT

• Mrs. FEINSTEIN. Mr. President, I am pleased to cosponsor the Missing Service Personnel Act of 1995, introduced by Senators DOLE and LAUTENBERG earlier this year.

The Missing Service Personnel Act is a significant and an appropriate piece of legislation. It would establish new methods for determining the status of missing service personnel and improving the means by which full accountability is achieved. Due in part to the handling of POW/MIA cases by the Department of Defense and the United States Government since the Vietnam war, existing procedures have been criticized as being unresponsive to the needs of effected families. In fact, current law does not adequately address issues that have emerged over the past

25 years regarding how missing persons and their families are treated by Government officials. S. 256 would implement procedures which foster a sense of trust and credibility between the Government and families of missing personnel, while attempting to ensure fairness to all involved.

Considering the tremendous sacrifices our men and women make when facing combat, maintaining credibility and trust are crucial. Soldiers face the terrible prospect of capture and, in turn, their loved ones face the horrible possibility of intense anguish and heartache. We must assure our armed services personnel and their civilian counterparts that the United States will do everything possible to return them home safely in the event they turn up missing in action. At the same time, they must also be assured that more open and fair procedures will be established to determine their exact status. S. 256 takes concrete steps to achieve these objectives.

There are, however, some issues with the bill that I think still need to be reviewed. For instance, S. 256 restricts identification of recovered remains to licensed practitioners of forensic medicine. Utilization of personnel in disciplines other than medicine which may be appropriate are not permitted. According to DOD, such a requirement would be unreasonable during combat operations or on the battlefield. Moreover, as this legislation would be retroactive to World War II, DOD may be required to review thousands of cases. The Defense Department has indicated that it does not have the personnel or budget to handle such a workload. These are some issues that I hope the Senate Armed Services Committee will look into when reviewing this legislation.

Overall, I believe that S. 256 is an important and noteworthy bill. The Government has been perceived as being unresponsive to the needs of families whose loved ones are classified as missing in action. This legislation would safeguard the rights of missing armed service members while addressing the concerns of their effected families and the Federal Government. I am pleased to cosponsor the Missing Service Personnel Act.●

ORDERS FOR THURSDAY, MAY 11, 1995

Mr. SPECTER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. on Thursday, May 11, 1995; that following the prayer, the Journal of proceedings be deemed approved, the time for the two leaders be reserved for their use later in the day, and the Senate then immediately resume consideration of S. 534, the Solid Waste Disposal Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SPECTER. Mr. President, for the information of all Senators, the Senate will resume consideration of the Solid Waste Disposal Act tomorrow. Further amendments are expected to the bill, therefore Senators should anticipate rollcall votes throughout Thursday's session of the Senate, and a late night session could occur with votes into the evening. A cloture motion was filed on the substitute this evening. It is the hope of the leader, Senator DOLE, that the Friday vote could be vitiated if an agreement can be reached to conclude the bill by Friday. Otherwise, a cloture vote will occur Friday morning.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the following Senators as members of the Senate delegation to the Mexico-United States Interparliamentary Group during the first session of the 104th Congress, to be held in Tucson, AZ, May 12–14, 1995: the Senator from Iowa [Mr. GRASSLEY]; the Senator from Alaska [Mr. MURKOWSKI]; and the Senator from Washington [Mr. GORTON].

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. SPECTER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 7:08 p.m., recessed until Thursday, May 11, 1995, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, May 10, 1995*

The House met at 11 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are reminded by the Psalmist that Your Word, O God, is a lamp to our feet and a light to our path. In these times when there are many options available to people in their lives and diverse opinions and ideas, we pray for lamps to lighten our way and show us the course to follow. We recognize that we can communicate with all the authorities from every background and attempt to gain all knowledge, and yet we know that to be touched by Your spirit is the beginning of wisdom. May that spirit, O God, that is new every morning, encourage and lighten our path, now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from North Carolina [Mrs. CLAYTON] come forward and lead the House in the Pledge of Allegiance.

Mrs. CLAYTON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY CHAIRMAN OF THE COMMITTEE ON RULES ON AMENDMENT PROCESS FOR THE BUDGET RESOLUTION

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, the Rules Committee is planning to meet on next Tuesday, May 16, to grant a rule which may limit the kind of amendments offered to the concurrent resolution on the budget for fiscal year 1996.

Members are strongly advised to submit only amendments in the nature of a substitute which provide for a balanced budget not later than the year 2002.

Any Member who is contemplating an amendment to the budget resolution should submit 55 copies and a brief explanation by 5 p.m. on Monday, May 15, to the Rules Committee, room H-312 in the Capitol.

Members should use the Office of Legislative Counsel and the Congressional Budget Office to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

A FAILURE TO ACT

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, as we start the budget process today, we will hear many doomsday predictions from liberal Democrats about the Republican approach to balancing the budget.

Sadly, we will not hear a thing about the Democrat approach because there is no Democrat approach to balancing the budget. That failure to act is a monumental decision.

A failure to act on the budget means higher interest rates, slower economic growth, and less job opportunity for working Americans.

A failure to act means higher taxes and more wasteful government spending. A failure to act means less buying power for American families, a heavier burden on our middle class, less stability for our senior citizens.

A failure to act means a bankrupt Medicare system. A failure to act means a less secure future for our children.

Mr. Speaker, the Democrats have failed to act, and that failure is completely irresponsible. I urge the American people to keep that in mind as House Democrats come to the floor with their hysterical charges.

CUTTING MEDICARE AND MEDICAID SO THE WEALTHY GET A TAX BREAK

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I rise today, the 126th day of the imperial speakership, to protest the proposed Gingrich Republican budget plan. This plan would cut Medicare and Medicaid Programs by over $400 billion so that the wealthy can have a tax break.

Two months ago, Mr. Speaker, the Gingrich Republicans voted to cut benefits for children in the School Lunch Program. Then they attacked the Student Loan Program. Now it is the elderly through cuts in Medicare and Social Security. The Republicans have stated time and time again they would not touch the Social Security system, but their proposed fiscal year 1996 budget would decrease cost-of-living increases for Social Security recipients.

There is no reason that we should be making these cuts that will hurt the elderly, the young, and those hoping to lead our country during the next century, our college students, so that those making over $200,000 a year can be given a big tax break. That is right. Those 1 million fortunate Americans who make over $200,000 a year will be getting a $20,000 tax break while 37 million seniors are losing $900 a year.

THE REPUBLICAN BUDGET IS A CONTRACT WITH OUR CHILDREN

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, once again we are experiencing a historical day. Today the House Committee on the Budget will submit a plan to balance the budget by 2002. It is the only plan around today to balance the budget, and it has been since 1968 that the Federal Government has balanced its budget resulting in almost a $5 trillion debt. Common sense tells us that we can no longer afford such irresponsibility. We can no longer put the burden of this debt onto our children. The budget Republicans will introduce is a contract with our children. We must balance the budget so our children's future will be free of debt and full of opportunity.

This budget and the debate is not about money as much as it is about our children. We cannot allow an out-of-control Federal budget to rob our kids of freedom and economic security. It is just plain wrong to make them responsible for our mismanagement.

I ask my colleagues to join together on this historical day and help restore the American dream to our children.

BALANCING THE BUDGET ON THE BACKS OF SENIORS

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, I rise this morning, as the Committee on the Budget is meeting and deliberating. But more importantly, as we are instructed to keep close to our constituents, I have come back recently from interacting with the constituents of the 18th Congressional District in Texas, and what I have heard most of all is that we should work together, that we should focus our issues not as Democratic or Republican, but as American issues, and yet, as the Committee on the Budget deliberates, they now talk about cutting Medicare spending between $270 and $280 billion over the next 7 years and $184 billion for Medicaid.

Mr. Speaker, these are not working-class/middle-class issues. These are issues of the American working people who want to confront better health care for their citizens.

My seniors have said to me, "Don't cut Medicare, make it more efficient. Cut the waste, but don't cut Medicare."

Now we find that the new budget plan is on the backs of seniors in America. But it is not only on the backs of seniors. It is on our medical facilities, our community hospitals. It is on our physicians who dedicate their lives to serving American working people.

We must confront this as an American issue, and we must not turn our backs on our seniors. I will not let Texas down. I will not let the citizens of the 18th Congressional District down by recklessly cutting Medicare and Medicaid for an ill-conceived budget.

WE ARE NOT CUTTING MEDICARE

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, I feel compelled to respond to the allegations that this budget cuts Medicare and cuts Medicaid; that just is not true. Just look at the budget, and look at the figures in the budget. Today every Medicare recipient, the average across the country, gets $4,700. At the end of this budget process that will have risen to $6,300. That is not a cut.

What we are going to do is to preserve the Medicare system. It is now doomed unless one does something about it going bankrupt by 2002. We are not cutting Medicare. It will increase from $4,700 to $6,300 per every recipient; that is not a cut.

Let me say it again: When you go from $4,700 to $6,300, that's not a cut.

Please be productive. Please join us in this process to perfecting a budget that is going to save our country for our children. Do not continue with these misstatements of fact.

REPUBLICAN TAX CUTS FOR MILLIONAIRES WILL LEAD TO RATIONING OF HEALTH CARE

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, Republicans love to say that they are not cutting Medicare and Medicaid, they are only slowing their growth. What they do not tell us is that Medicare and Medicaid reform is actually health care rationing. House Republicans want to cut Medicare and want to cut Medicaid to pay for tax cuts for the wealthy, for wealthy special interests and to pay for star wars. Republicans want to force the elderly into HMO's and to health maintenance organizations which will only lead to rationing of health care and will lead to taking away of physician choice. Republicans want to do that all because some people in this House want to cut taxes on millionaires, cut taxes on millionaires forcing Medicare and Medicaid patients into rationing and taking away their physician choice. Mr. Speaker, it simply does not make sense.

WASHINGTON PHILANTHROPY

(Ms. PRYCE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE. Mr. Speaker, in the early 1990's, a study was completed by political scientist James L. Payne. Mr. Payne tabulated the witnesses who appeared before congressional hearings. The findings are astonishing. He found that 95.7 percent of those who appeared came to urge more spending. Only 0.7 percent came to urge against more spending.

Washington has created a culture of spending. People come to Washington, perhaps with good intentions, and are sucked into this philanthropic swirl, where problems somehow go away if more tax dollars are spent.

Well, the game is up. Last November, the American people said "enough" and put Republicans in charge of Congress to put an end to the 40-year-long philanthropic tendencies of our friends on the other side.

If spending tax money truly solves problems, America would be the most trouble free society in the world. But we're not. Today, America is facing a $4 trillion national debt in the face of some of the worst societal conditions we have ever witnessed. It's time to break Washington's spending culture. Philanthropy is a wonderful thing, but not with tax dollars.

MEDICARE AND MEDICAID CUTS WILL PUSH MANY SENIORS BELOW THE POVERTY LINE

(Mr. WAXMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAXMAN. Mr. Speaker, the level of Medicare and Medicaid cuts would gut health care for the elderly and the poor leading to rationing of health care to those people to whom we promised health security: $400 billion over 7 years; that is a breathtaking amount. That will mean cuts in Medicaid for the frail, elderly, and nursing homes, leaving them to languish there without care, if they are lucky enough to get into a nursing home at all. Community, at-home-nursing services will be cut, denying them that assistance as well. Hundreds of hospitals and clinics will be forced to close because they will not be able to afford care to the newly under-insured as well as all the uninsured of which there are 42 million in this country, a problem the Republicans even refuse to acknowledge exists. Doctors will turn Medicare patients away as their payment levels to them start resembling those for Medicaid, and greater costs will be borne for the elderly who live on fixed incomes, many of whom will be pushed below the poverty line.

Mr. Speaker, this budget is cruel, it's cynical, and it's mean.

ENDANGERED SPECIES ACT DESTROYING SANTA ROSA ISLAND

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, today I bring to light another example of the overreaching arm of the Federal Government. Santa Rosa Island off Santa Barbara, CA, happens to be one of the homes for the snowy plover bird. The National Park Service has decided that the snowy plover is so endangered by cattle ranching on the island that a 3-mile-long fence and road must be built to protect the bird. The local ranching company must build the fence within 7 days or the Government will do it for them and give them the bill. Scientific data proves that cattle ranching on Santa Rosa Island does not endanger the bird. In fact a strong case can be made that 93 years of cattle ranching has actually led to a greater proliferation of the bird.

□ 1115

Unfortunately, the Department of Fish and Wildlife refused to review this data.

Mr. Speaker, the Endangered Species Act was supposed to protect species in danger of becoming extinct. It was not meant to be a vehicle to destroy the well cared for environment of Santa Rosa Island.

CUTTING WELFARE TO FUND TAX CUTS IS WRONG

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FURSE. Mr. Speaker, I am here because my constituents have asked me to speak out for their interests. I want to read what they have said. James Gamwill wrote to me and said, "I hope you will use your good office to prevent cuts in Medicare. It aids seniors whose health may not be so robust. The high cost of health care puts us in a financial bind."

Or Louise Robertson, who wrote from Aloha, OR. She said, "I urge you strongly to fight all attempts to diminish Social Security and Medicare benefits."

Well, in their interests, I say shame on this Republican budget, because it cuts senior health care protection, it gives tax cuts to the wealthy, and it increases Pentagon spend spending. This budget hurts all working families, American families, and Oregon families. I think it is wrong, and I know that many Oregonians think it is wrong too.

A TIME FOR ACTION

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, I am a firm believer that actions have consequences. By the same token, doing nothing can have consequences as well. If Congress does nothing about Medicare or the budget, I doubt America could survive the consequences.

The actions of Congress over the past generation have resulted in an enormous national debt. Servicing this debt consumes a large chunk of the over-all budget. If Congress does nothing about the disastrous trend of deficit spending, in 10 years we will be unable to meet other obligations while servicing the debt.

Likewise, if Congress does nothing to protect Medicare, it too will become insolvent in just 7 years. Let me be clear, this information is coming from President Clinton's own people and is not a Republican gimmick.

Mr. Speaker, the consequences for doing nothing are too great. We here in Congress have the ability and the responsibility to do something about these two problems. The debt poses a threat to future generations and a collapse of Medicare would hurt older Americans. Now is not the time for inaction or the arrogant avoidance of responsibility that has permeated Washington.

MEDICARE: THE REAL CONTRACT WITH AMERICA

(Mr. FARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR. Mr. Speaker, there is a lot of talk these days about contracts.

There is the Republican Contract With America.

There is the contract with America's veterans.

There is the contract with Federal retirees.

And there is the contract with senior citizens.

So far this year, the spotlight has been on the Republican Contract With America. The Republicans are quite boastful about moving their contract through the House in 100 days.

But what about the other contracts? What about the promises made to veterans, Federal retirees, and senior citizens?

I am particularly concerned about breaking America's contract with our senior citizens.

For years we have promised reasonable health care through the Medicare system. Now the Republicans are willing to sacrifice Medicare—and the seniors who depend on it—in order to pay for tax cuts for the wealthy.

If the Republicans want to meet the terms of this country's contract with senior citizens, then they should look elsewhere for their budget and tax fixes than the pocketbooks of our senior citizens.

REPUBLICANS MEAN TO PRESERVE AND IMPROVE MEDICARE

(Mr. FOX of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, the Clinton administration's Trustees Report on Medicare warns that the Medicare trust fund starts to go broke in 1996 and is bankrupt by 2002. House Republicans are determined to save Medicare by using new approaches, new management, and new technologies to improve it, preserve it, and protect it. The current Government-controlled Health Care Financing Administration system has a lot of waste and fraud. The General Accounting Office estimates $44 billion a year in Medicare and Medicaid fraud.

We want to give senior citizens an incentive to fight waste and fraud by paying them 25 percent of any waste or fraud they find in their own bills. House Republicans want to strengthen and empower senior citizens.

House Republicans will increase Medicare spending from $4,700 per retiree today to $6,300 per retiree in 2002. That is a 34-percent increase in Medicare spending per retiree. There is no proposed cut in Medicare spending.

House Republicans will preserve the current Medicare system. We will create a series of new choices so senior citizens can control their own future.

Mr. Speaker, together we can create a Medicare system that offers the best care at the lowest cost, with senior citizens having the greatest control over their own health care.

PROTECT THE MEDICARE TRUST FUND

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, 50 years ago we celebrated Victory in Europe. And while it would be another 3 months before Japan surrendered, World War II would soon be at an end.

Victory did not come easily. Millions of Americans answered the call of duty, and many gave their lives. On the homefront, men and women worked to keep the country running, and my home State of Connecticut made invaluable contributions in defense manufacturing.

A generation answered the call of duty—now our Government must do the same for them.

If we reform the Medicare system, it cannot be to pay for tax breaks for the few. It must be to shore up the trust fund to benefit seniors.

We can never fully express our gratitude to the World War II generation—words just do not go far enough. However, our deeds can help show our respect. We must protect the Medicare trust fund.

THE INVISIBLE DEMOCRAT PLAN TO BALANCE THE BUDGET

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, yesterday House Republican leaders introduced our 7-year program to balance the budget. Democrats and liberal critics immediately jumped on it, crying and screaming and insisting there is another way to balance the budget without cutting spending.

So to keep the debate in perspective, I thought I would introduce to the people the Democrat plan to balance the budget and take care of Medicare. Here it is. Excuse me, it is upside down, backward. There you go. There you go. This is it, Mr. Speaker, the Democrat plan to balance the budget and take care of Medicare.

I hope it is not in too much detail for my friends on the other side of the aisle. I am sorry to get into such detail during a 1-minute speech. But the fact is, it is May. We have been in session since January. Balancing the budget is a bipartisan responsibility. We are $4.8 trillion in debt. The third largest expenditure on the budget is the interest service on the national debt. Medicare will be broke in 6 years. If we want to help senior citizens, Mr. Speaker, we have got to do a little bit more than this.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

JAPAN TAKES UNITED STATES TO COURT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan is suing Uncle Sam. And guess what? This new court is the World Trade Organization. Remember GATT? Supposedly created to promote and enforce free trade? GATT is now being used by the most protectionist nation in world history, Japan, to kill free trade. And listen to what Japan says. We here in Japan believe we have a better than 50-percent chance of winning in court.

Unbelievable, ladies and gentlemen. Congress has been a bunch of wimps, allowed Japan to wreck our economy, wreck our jobs, and now Japan is taking us to court. What is next, Congress? A judgment in favor of Japan in this kangaroo court? Beam me up. Shame, Congress. You have allowed our jobs to be stolen, our companies to be taken overseas, and you are talking about some wild Disney business around here. Straighten out our order of business, our balance of payments, or you will never, never balance our budget.

THE BUDGET

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, today, the House Budget Committee starts work on the first fiscally responsible budget the American people have seen in decades. Many House Democrats will come to the floor, attacking various parts of the budget for being too hard on their special interest groups, I ask my colleagues to reflect on the choice before us today.

We can continue to do things the Democrats' way. We can continue to waste more of the taxpayers' money for more Government programs, more bureaucracy, and more Federal intrusion into the lives of the American people. Or we can go a different route. We can start taking steps that will mean a brighter future for our children, better jobs for working Americans and more security for our Nation.

In the election of 1994, the American people decided that fiscal irresponsibility and broken promises were a thing of the past. With the budget process we start today, Republicans will lead the way to a balanced budget.

PASS BOTH A BUDGET BILL AND A FARM BILL

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, we are now in the process of shaping a budget for America for the next fiscal year. Soon, we will consider reauthorization of a farm bill for the next several years. It is my hope that we will pass a budget bill and pass a farm bill. The two bills should not be mixed.

None will dispute that cuts in the budget are inevitable; all will agree that farm programs should bear a share of the cuts. But, $15 billion in reductions is not a cut, Mr. Speaker, it is a severance. $15 billion in reductions will gut the farm programs, will disrupt vital revenue sources in rural communities, and will affect the economy in severe and unintended ways. This issue transcends party and region. It is a direct hit on rural America, and it also strikes a blow against urban America.

Let us pass a budget bill. Then, let us pass a farm bill, but, in our effort to stabilize the budget, we must be careful not to destabilize food production for working families who are America's consumers.

PROTECT AMERICAN AGRICULTURE

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NETHERCUTT. Mr. Speaker, we have many tough choices to make during the next several weeks and Republicans have been the first to come forward and face these challenges. But we need to take great care in reducing those programs that have had such a profound effect on our rural communities over the last 60 years. America's rural communities are fading examples of American history—neighbor helping neighbor, family helping family.

We cannot turn back 60 years of farm programs overnight and expect our rural communities to survive. Farm communities can survive through tax and regulatory relief, farm program reform and better trade policy reform. Remember, farm programs have declined an average of 9 percent each year since 1985—a reduction of over $15 billion. If all other Federal programs had taken the same budget reductions during this period, our budget would balance. Assaults on agriculture are not productive, so I challenge my colleagues to roll up our sleeves and learn how important farming is to America.

REFORM THE MINING LAW OF 1872

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAHALL. Mr. Speaker, 123 years ago today, President Grant signed into law a bill aimed at promoting the settlement of the Western States. This bill allowed folks to mine valuable minerals such as gold and silver from Federal lands in those States for free. It also allowed people to obtain title to these lands for $2.50 an acre. In one sense, the mining law of 1872 served much the same purpose as the Homestead Act.

Today, the Homestead Act has long since been repealed. The West is well settled. Yet, the mining law of 1872 survives intact, in this age of skyrocketing Federal budget deficits still allowing the wholesale giveaway of valuable Federal lands and minerals. It is incredible, but true, that annually under this law the United States allows about 1.8 billion dollars' worth of gold and silver to be mined for absolutely free.

And for the most part, these minerals are not being mined by the lone prospector of old, but rather, by multinational corporations who reap the benefits of this last great giveaway of American natural resources.

What a shame. What a shame, Congress, to allow lands, owned by every American, to be given away for fast food hamburger prices. To allow billions of dollars worth of the public wealth to be produced for free by corporations based in Luxembourg, Toronto, and London.

Well, happy birthday mining law of 1872. But may I say, I hope there will not be any more such birthdays left to you. My colleagues, please join me and 83 other Members of this body in seeking to reform the mining law of 1872; cosponsor H.R. 357 today.

MEMBERS URGED TO SUPPORT CLEAN WATER ACT REAUTHORIZATION

(Mr. HOSTETTLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOSTETTLER. Mr. Speaker, I rise in support of H.R. 961, the Clean Water Act reauthorization. We have a chance, with this bill, to provide a great amount of regulatory relief to the American farmer. Farmers depend on the land to make a living, so they are last ones who want to jeopardize ground water with poor ecological practices. But an out-of-control bureaucracy has caused nightmare after nightmare for farm families by implementing a ridiculous definition of wetlands that prohibits producers from farming or improving their property because of puddles in their fields. I am particularly distressed that the National Academy of Sciences would sacrifice sound science for the sake of partisan politics, as shown by the timing of their recent release on wetlands. I commend my colleague, Mr. SHUSTER, my colleague, Mr. HAYES, and all the others who had a role in providing this much-needed sanity. I urge my colleagues who are interested in getting the government out of the American farmer's way, to support H.R. 961. Oh, by the way, did you notice the Republicans just produced a balanced budget?

□ 1130

THE REPUBLICAN BUDGET

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, the gentleman referenced the balanced budget. He cannot get to a balanced budget while increasing military spending, cutting taxes for the wealthy and the largest corporations, and here is the proof, the Republican budget.

It is impossible to do that unless, unless you want to gut virtually every other program of the Federal Government from child nutrition to student loans, to Federal law enforcement, to veterans benefits, Medicare, and, yes, Social Security.

They will all take a massive cut so the Pentagon can continue its wanton spending and the wealthy can put another BMW in the garage. I expected that kind of a budget, but never, never did I expect that the Republicans would go back on their pledge to not touch Social Security.

Buried deep in this budget is a little change in the COLA factor, just a little change. It will cut future retirement benefits for veterans, future retirement benefits for military retirees, future benefits for every civil service retiree. And yes, Social Security benefits, too, starting in 1999 will be reduced by their budget.

MORE ON THE REPUBLICAN BUDGET

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, I think we should have shame on us for the campaign that is being waged against our efforts to balance the budget. All of us know that it is necessary, if we are going to save this country, to balance the budget. And yet we have a smear campaign of unusual proportions.

My colleagues we hear about cuts in Medicare, except Medicare is going to go up. We hear about specific changes, but you cannot point out those specific changes. You just get up and spout off about them. We talk about tax cuts for the rich, but you miss the whole point, that there is tax relief for the families of America.

We talk about letters from home. I will answer those letters honestly. I am going to save the Medicare Program. I am going to balance the budget.

I believe the cruelest thing we can do is put fear in the hearts of senior citizens. The thinking Americans know that we are going to do it, and they support us.

MEDICARE CUTS

(Mr. SANDERS asked and was given permission to address the House for 1 minute.)

Mr. SANDERS. Mr. Speaker, on behalf of 80,000 Vermont senior citizens who receive Medicare, I rise today in vehement opposition to the proposed 7-year, $400 billion cut in Medicare funding proposed by the Republican leadership.

Today under present funding, many Vermont seniors are hard pressed to pay the high cost of Medicare premiums, and many others cannot afford the expensive prescription drugs that they desperately need. Any cuts which will raise premiums or cut benefits or raise deductible will cause terrible pain for some of the most hard-pressed citizens in America and in Vermont.

It is unconscionable to cut back on Medicare when we are giving huge tax breaks to the wealthiest people in this country. It is unconscionable to cut back on Medicare when we spend $100 billion a year on corporate welfare.

THE PHELPS SCHOOL

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I rise today to recognize and congratulate the Phelps School from Malvern, PA. The students at that school, the senior class is here today, and I want to recognize them.

The Phelps School whose motto is "dedication to the individual boy," strives to meet the needs and develop the strengths of each of its students.

The teachers and faculty take great pride in empowering young men to improve themselves. The school fosters the growth of each student, academically, socially, and personally. In other words, Mr. Speaker, it builds character, something sorely needed in America today.

The Phelps School is a small institution where every young man feels special, like a member of a family. The Phelps School exemplifies a good education today in America. Students come to the school as boys and leave as young men, ready to further their education.

I take great pride today in welcoming the Phelps School and the senior class. I wish them all the best as they begin their journey toward the rest of their lives. I know they are well prepared and ready for the world, as all the school's graduates have been for almost 50 years. My hat is off to the director, Mr. Phelps, and all the seniors.

REPUBLICANS BREAK CONTRACT WITH SENIORS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, there is a loud shattering sound all over Capitol Hill today as the Republicans rush to break our Nation's historic contract with its senior citizens.

House Republicans today make it official: They want to cut Medicare and Medicaid by $464 billion in order to pay for a tax cut for the wealthiest Americans.

And now they have added a new ingredient to this sickening stew. Now House Republicans want to redefine the Consumer Price Index and lower cost-of-living adjustments for Social Security recipients. So much for their promise to keep Social Security off the table.

In short, the Republican plan squeezes seniors from both ends. Seniors would have to pay more for health care, and they would be less able to afford that increase because they would get a smaller Social Security COLA.

Altogether, this plan would cost 37 million seniors $900 more a year so a lucky 1.1 million of the wealthiest taxpayers can enjoy a $20,000 bonus.

The Republican plan does not save Medicare. Instead it uses Medicare as a piggybank for tax cuts we cannot afford and do not need.

THE CLEAN WATER ACT, H.R. 961

(Mr. TAYLOR of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise today in support of H.R. 961, the legislation to reauthorize the Clean Water Act. As someone with experience in growing trees, I understand the concerns about the so-called nonpoint source pollutions from forests. I appreciate that we have extensive regulations which address other sources and that we are looking to control runoff of water from all sources. You would not know it from the rhetoric, but the forest industry has done a pretty good job already in controlling the problem.

When I was in the State legislature, I cosponsored sedimentation legislation that today on North Carolina's basis controls runoff from forests as well as other sources. Every State in the country with any significant forest activity has what is called best management practices which are sets of very detailed practices which have to be in place before forest practices are undertaken.

For example, the best management practices include everything from ways to build temporary roads with water bars to prevent runoff in other ways.

I urge support of the Clean Water Act and the bill of the gentleman from Pennsylvania [Mr. SHUSTER].

MEDICARE

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

Ms. VELÁZQUEZ. Mr. Speaker, I rise to take strong exception to the Republicans' proposed massive Medicare and Medicaid cuts. These cuts will hurt the most vulnerable of Americans, our children, our seniors, the poor and the disabled.

Large reductions in Medicare payments will mean increased out-of-pocket costs for seniors. On average seniors will have to come up with another $3,000 for medical expenses once the Republican plan goes into full effect.

The Republican plan also puts the squeeze on urban and rural health centers, institutions that rely heavily upon Medicare reimbursement.

The end result would be hospital closures and declining health among poor and working families. Why are they cutting this program? In order to fund corporate welfare programs and tax cuts for the 1 percent of the families who control 40 percent of the assets in this country. That is right, for the wealthiest Americans.

Let us stop this charade and consider real health care reform.

GEORGE ORWELL, SPIN DOCTOR

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, apparently George Orwell has become the spin doctor for the leadership on the other side of the aisle. Only in Orwell's world or the old Washington, DC, when the Congress was under different leadership, could an increase of from $4,700 to $6,300 for Medicare be considered a draconian cut. That is right.

Under our proposal we are increasing the level of spending for Medicare from $4,700 to $6,300 over the next 7 years, and time after time our colleagues have gotten down here and labeled this a draconian cut which is simply to pay for a tax cut for the rich. Nothing could be further from the truth.

It is wrong for this message to be getting out and tragic that people are being frightened by this kind of message.

Mr. Speaker, the American people want the truth, not the spin. George Orwell should not be the guide for any leadership in this Congress.

REPUBLICANS IN THE MEDICARE BOX

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, Republicans are in a box. They are trying to divert attention from what they are trying to do to Medicare. They are cutting Medicare by $300 billion, and they do not know how to explain it.

The reason is that they have to find a way to pay for their tax cuts for a tax cut that benefits 1 percent of the population making over $230,000 per year. That is not class warfare. Those are the facts.

Here are the Medicare excuses: Another commission to study the problem, slow the growth of Medicare, tinker with the Medicare trust fund.

Mr. Speaker, the facts are clear. They are cutting Medicare to pay for a tax cut for America's wealthy, the crown jewel of the Contract With America.

A HISTORIC DAY

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, today truly is a historic day in America. For the first time in anybody's memory, this Congress today will present to the American people a plan to balance the budget over the next 7 years, a plan that will save Medicare, will improve Medicare for our senior citizens.

It has taken a new Congress to have the guts to bring this issue to the floor of the House because the American people want it. Eighty percent of the American people are demanding that we deal with the fiscal and moral crisis that is occurring in this country and so we have a plan.

I find it interesting that, my colleagues on the other side of the aisle, the President of the United States has no plan. There is no plan from you. And so they are going to criticize. They are going to spread fear amongst the people about what our plan is. But I would urge the American people to ask the other side, the liberals, where is their plan to balance the budget? Where is their plan to save the future for our children and their children? Because the Republican plan to balance the budget is a contract with our children and theirs.

TRADE WITH JAPAN

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, at this moment the U.S. Trade Representative Mickey Kantor is announcing the action by the United States on autos and auto parts under section 301 of our trade laws and the World Trade Organization.

The issue here is clear, opening up the Japanese markets to United States autos and auto parts. We are the free marketeers. The Japanese are the protectionists in this area.

Yesterday the Senate passed overwhelmingly on a bipartisan basis support for the administration position and last night the gentlewoman from Connecticut [Mrs. JOHNSON] and I introduced the same resolution in the House.

It says,

> The House strongly supports the decision by the President to impose trade sanctions on Japanese products in accordance with section 301, unless an acceptable accord with Japan is reached in the interim that renders such action unnecessary.

Let us, as the Senate did, support this effort on a bipartisan basis. For the first time the industry is united. Let us be united and let us negotiate this out with the Japanese so we open up their markets to our goods as our markets are open to their goods.

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CUTTING MEDICARE IS THE WRONG WAY TO BALANCE THE BUDGET

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, let me say that this administration deserves a heck of a lot of credit. For the first time in two decades, we are doing something real to open up Japanese markets. Every time America has a better product, whether it be in automobiles or financial services or anything else, the Japanese come up with a million different barriers and put them in the way. Today we are finally saying "Enough." We are not being protectionist. Our markets are wide open, but so should theirs be.

However, I have one admonition. As we put tariffs on certain Japanese products in an effort to force their markets open, our own manufacturers ought not to take advantage by raising their own prices. We need to have a united front here in America, and no one group, not the automobile manufacturers or anyone else, should take advantage of that.

As long as they do not raise their prices, market share for them will increase, the Japanese will feel the heat, and maybe for the first time in a long time, free trade will be on both sides of the Pacific Ocean.

DESPITE THE RHETORIC, A CUT IN MEDICARE IS STILL A CUT

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the Republican majority is almost a month late in meeting the statutory deadline for passing a House budget resolution, but finally they've decided to prepare a budget that is even uglier than we thought. If the Republican majority wanted to balance the budget, they could do that today if we cut Medicare, Social Security, and COLA's, but no, their budget is going to cut it 5 or 7 years from now. Medicare faces cuts in excess of $256 billion.

It is true. Despite the public outcry not to cut Social Security or Medicare, Republicans are united in a plan that will directly cut Medicare to pay for a tax cut. They also intend to cut the COLA for Social Security recipients by readjusting the formula. The worst part is that Republicans are telling us they are not cutting, they are simply slowing the growth.

They can call it what they want, but if someone is 65 in 1998 and they do not have Medicare, that is a cut. This bill is a cut for that person who is now 62 and needs Medicare 3 years from now, so it is a cut. I do not think we need to play with words. I think the Republican majority needs to be honest with the American people: that in order to balance the budget and pay for tax cuts for the rich they stand united in their effort to cut Medicare.

THE BOTTOM LINE WITH MEDICARE: FIX IT OR LOSE IT

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, for the last decade I have represented a district that has as many senior citizens in it as any other district save one or two in the country. I think it is totally unfair to our older Americans to pretend there is no problem with Medicare and try to say that the Republican Party is out to make cuts in Medicare to give the rich people a tax cut. It is simply not true.

Under our plan, Medicare increases from $4,700 a participant to over $6,000. As a matter of fact, it is $6,300 per participant. That is not a cut.

The bottom line with Medicare is, and their party needs to figure this out, fix it or lose it, because the President himself says it will be bankrupt in 7 years.

MEDICARE CUTS PROPOSED BY REPUBLICANS WILL RESULT IN FEWER SERVICES TO AMERICANS

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, let me point out that the Republicans are talking about saving and improving Medicare by cutting it. We just cannot believe that. If we talk about cuts to Medicare as well as Medicaid, it is going to have a direct impact on senior citizens, in the case of Medicare, and a direct impact on poor people with regard to Medicaid.

There are only certain choices that exist when Medicare is cut. First of all, we will have higher copayments. Seniors will have to pay more money out of their own pocket, or they will have increased deductibles before they get benefits. Again, they will have to pay out of their own pocket.

The other option is that the reimbursement rate to hospitals or doctors will go down. That means a lot of doctors or even hospitals will not accept Medicare patients. A lot of seniors in New Jersey now know they cannot find doctors who will accept Medicare or even Medicaid.

The other option is that the hospitals simply reduce the quality of services, or do not provide the services that they normally do because they are not getting the money through a reduced reimbursement rate. There is a direct impact on hospitals, on the provisions of how medical care and health care is provided to senior citizens. There is no way around that if we make the cuts that are being proposed by the Republicans.

CLEAN WATER LEGISLATION WILL HARM AMERICA'S WETLANDS, STORMWATER PERMITTING PROCESS, AND COASTAL WATERS

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, today the House of Representatives will take up the most serious public health environmental legislation considered yet in this historic 104th Congress. The proponents of the measure have labeled it good environmental legislation. That is a violation of the truth in advertising law.

The fact of the matter is the legislation we will consider today would decimate our Nation's wetlands, would end the stormwater permitting process, would do serious damage to our coastal waters.

We have worked, those of us identified with the Saxton-Boehlert alternative, with the National Governors Association, with the Coastal States Organization, with public health groups, with environmental organizations all over the country, to say that we can be responsible in dealing with clean water in America.

Those who are concerned about this subject are urged to call their elected representatives to let them know that they want clean water, and the time for meaningful action is now.

COMMUNICATION FROM THE CHAIRMAN OF THE DEMOCRATIC CAUCUS

The SPEAKER pro tempore (Mr. WICKER) laid before the House the following communications from the Honorable VIC FAZIO, chairman of the Democratic Caucus:

DEMOCRATIC CAUCUS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 10, 1995.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to inform you that Representative Nathan Deal is no longer a member of the Democratic Caucus.

Sincerely,

VIC FAZIO,
Chairman.

VACATING ELECTION OF MEMBER TO CERTAIN STANDING COMMITTEES OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communications from the Honorable NEWT GINGRICH, Speaker of the House of Representatives:

THE SPEAKER,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 10, 1995.

Hon. DON YOUNG,
Chairman, Committee on Resources, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that Representative Nathan Deal's election to the Committee on Resources has been automatically vacated pursuant to clause 6(b) of rule X, effective today.

Sincerely,

NEWT GINGRICH.

THE SPEAKER,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 10, 1995.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that Representative Nathan Deal's election to the Committee on Transportation and Infrastructure has been automatically vacated pursuant to clause 6(b) of rule X, effective today.

Sincerely,

NEWT GINGRICH.

ELECTION OF MEMBER TO THE COMMITTEE ON COMMERCE

Mr. BOEHNER. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 143) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the following named Member be, and is hereby, elected to the Committee on Commerce of the House of Representatives: Representative Nathan Deal of Georgia.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR CERTAIN COMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule:

The Committee on Agriculture; the Committee on Banking and Financial Services; the Committee on Commerce; the Committee on Economic and Educational Opportunities; the Committee on House Oversight; the Committee on International Relations; and the Committee on Resources.

It is my understanding that the minority has been consulted and that there is no objection to this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE GUN-FREE SCHOOL ZONES AMENDMENTS ACT OF 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–72)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection referred to the Committee on the Judiciary and ordered to be printed:

To the Congress of the United States:

Today I am transmitting for your immediate consideration and passage the "Gun-Free School Zones Amendments Act of 1995." This Act will provide the jurisdictional element for the Gun-Free School Zones Act of 1990 required by the Supreme Court's recent decision in *United States* v. *Lopez*.

In a 5–4 decision, the Court in *Lopez* held that the Congress had exceeded its authority under the Commerce Clause by enacting the Gun-Free School Zones Act of 1990, codified at 18 U.S.C. 922(q). The Court found that this Act did not contain the jurisdictional element that would ensure that the firearms possession in question has the requisite nexus with interstate commerce.

In the wake of that decision, I directed Attorney General Reno to present to me an analysis of *Lopez* and to recommend a legislative solution to the problem identified by that decision. Her legislative recommendation is presented in this proposal.

The legislative proposal would amend the Gun-Free School Zones Act by adding the requirement that the Government prove that the firearm has "moved in or the possession of such firearm otherwise affects interstate or foreign commerce."

The addition of this jurisdictional element would limit the Act's "reach to a discrete set of firearm possessions that additionally have an explicit connection with or effect on interstate commerce," as the Court stated in *Lopez*, and thereby bring it within the Congress' Commerce Clause authority.

The Attorney General reported to me that this proposal would have little, if any, impact on the ability of prosecutors to charge this offense, for the vast majority of firearms have "moved in . . . commerce" before reaching their eventual possessor.

Furthermore, by also including the possibility of proving the offense by showing that the possession of the firearm "otherwise affects interstate or foreign commerce," this proposal would leave open the possibility of showing, under the facts of a particular case, that although the firearm itself may not have "moved in . . . interstate or foreign commerce," its possession nonetheless has a sufficient nexus to commerce.

The Attorney General has advised that this proposal does not require the Government to prove that a defendant had knowledge that the firearm "has moved in or the possession of such firearm otherwise affects interstate or foreign commerce." The defendant must know only that he or she possesses the firearm.

I am committed to doing everything in my power to make schools places where young people can be secure, where they can learn, and where parents can be confident that discipline is enforced.

I pledge that the Administration will do our part to help make our schools safe and the neighborhoods around them safe. We are prepared to work immediately with the Congress to enact this legislation. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 10, 1995.*

NOTICE OF CONTINUATION OF EMERGENCY WITH RESPECT TO THE FEDERAL REPUBLIC OF YUGOSLAVIA BEYOND MAY 30, 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–73)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the emergency declared with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro), as expanded to address the actions and policies of the Bosnian Serb forces and the authorities in the territory that they control within the Republic of Bosnia and Herzegovina, is to continue in effect beyond May 30, 1995.

The circumstances that led to the declaration on May 30, 1992, of a national emergency have not been resolved. The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) continues to support groups seizing and attempting to seize territory in the Republics of Croatia and Bosnia and Herzegovina by force and violence. In addition, on October 25, 1994, I expanded the scope of the national emergency to address the actions and policies of the Bosnian Serb forces and the authorities in the territory that they control, including their refusal to accept the proposed territorial settlement of the conflict in the Republic of Bosnia and Herzegovina. The actions and policies of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serb forces and the authorities in the territory that they control pose a continuing unusual and extraordinary threat to the national security, foreign policy interests, and the economy of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure to the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) and to the Bosnian Serb forces and the authorities in the territory that they control to reduce their ability to support the continuing civil strife in the former Yugoslavia.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 10, 1995.*

PROVIDING FOR CONSIDERATION OF H.R. 961, CLEAN WATER AMENDMENTS OF 1995

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 140 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 140

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the

House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. The first three sections and each title of the committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI or clause 5(a) of rule XXI or section 302(f) of the Congressional Budget Act of 1974 are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. Before consideration of any other amendment it shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution. That amendment may be offered only by a Member designated in the report, may amend portions of the bill not yet read for amendment, shall be considered as read, shall be debatable for ten minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. If that amendment is adopted, then the committee amendment in the nature of a substitute as so amended shall be considered as original text for the purpose of further amendment. At the conclusion of consideration of the bill for amendment for the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on an amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] is recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 140 is an open rule providing for the consideration of H.R. 961, the Clean Water Amendments of 1995. The rule provides 2 hours of general debate divided equally between the chairman and ranking minority member of the Committee on Transportation and Infrastructure. The rule waives section 302(f) of the Budget Act, prohibiting new budget authority in excess of the committee's section 602(b) allocation, against consideration of the bill.

The rule also makes in order the committee amendment in the nature of a substitute as original text for amendment purposes, which shall be read by title rather than section for amendment, with each title considered as read. The rule provides the following waivers against the amendment in the nature of a substitute: waives clause 7 of rule XVI pertaining to germaneness; clause 5(a) of rule XXI, prohibiting appropriations in a legislative bill, and section 302(f) of the Budget Act.

Before consideration of any other amendment, it shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution. This is an en bloc amendment addressing concerns of other committees of jurisdiction and makes technical amendments. This amendment may be offered only by Mr. SHUSTER or his designee, may amend portions of the bill not yet read for amendment, shall be considered as read, shall be debatable for 10 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. If that amendment is adopted, then the committee amendment in the nature of a substitute as so amended shall be considered as original text for the purpose of further amendment.

Mr. Speaker, I would like to point out that the Transportation and Infrastructure Committee furnished the Rules Committee with a list of waivers required and specified the provisions requiring such waivers. Therefore, I do not object to the waivers provided in this rule.

Under this rule, the Chair may accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, the Clean Water Act has not been amended comprehensively since 1987, and I strongly support this bill. I'm particularly pleased to see that the bill takes giant steps toward relieving the enormous burdens placed on the States, on business and industry and agriculture, and on individuals by outrageous and unnecessary Federal regulations. The Clean Water Act has done a good job in getting Federal, State, and local governments and private industry to work together to provide our Nation with clean, healthy water. But the Clean Water Act has not been without controversy, and this bill before us today provides an important balance between environmental protection and private property rights. It provides much needed clarification of wetlands issues and requires risk assessment and cost benefit analysis for any new clean water regulations. Perhaps most important, this bill provides flexibility to State and local governments in implementating regulations.

H.R. 961 has been strongly endorsed by almost all agricultural, business, and industry organizations, and this widespread support is a clear indication that a great deal of cooperation, dedication, and common sense went into the development of this important legislation. I commend the members of the Transportation and Infrastructure Committee for their hard work.

This open rule will allow Members to offer any relevant amendments to address their particular concerns, and I urge adoption of the rule.

Mr. Speaker, I include for the RECORD the following material comparing open and closed rules in the 103d and 104th Congresses:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of May 9, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	24	75
Modified Closed[3]	49	47	8	25
Closed[4]	9	9	0	0
Totals:	104	100	32	100

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[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of May 9, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: v.v. (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1158	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we support this open rule for H.R. 961, the clean water amendments of 1995, which makes major and substantial changes in current requirements for controlling water pollution and protecting wetlands.

Fortunately, the majority on the Committee on Rules did not accede to a request from the chairman of the Committee on Transportation and Infrastructure that a time limit be place don the amendment process. This is an enormously controversial bill that would in the view of many of us reverse many of the gains in water quality that have been achieved by what is probably our most successful environmental law, and Members should not be shut out by an arbitrary time limit.

As the gentleman from Tennessee has explained, the rule does contain several waivers. We are told that the waiver of the Budget Act prohibition against legislation containing new budget authority in excess of the committee's 602(b) budget allocation is necessary because of the provision in the bill that waives the Federal Government's sovereign immunity under the Clean Water Act.

We would point out to Members that the Congressional Budget Office was unable to provide estimates for the cost of this provision that is being protected, but it did report that the cost "could be significant."

Mr. Speaker, the Committee on Rules heard criticism yesterday about the process of the Committee on Transportation and Infrastructure in considering this bill. Many of us are concerned that some of the most controversial provisions of H.R. 961 did not receive adequate attention in the hearings that preceded markup of the bill. The provisions in question are those that provide waivers, loopholes, and rollbacks of existing Clean Water Act provisions relating to major dischargers of pollution in our waters.

We are concerned that the public did not have the opportunity to comment on the new provisions in the bill that were added late in the process and which would weaken or revoke many of the basic features of the Clean Water Act that have made it so successful over the years.

We are concerned, too, about widespread reports that those provisions of H.R. 961 were written in large part by lobbyists representing industries that are major polluters. Several agencies, including the EPA and the Department of Justice, have protested that they did not have the opportunity to comment in a timely manner on these new and very damaging provisions.

This open rule will give us the opportunity to discuss and emphasize some of those changes and ensure that the public has a greater awareness of their impact on the quality of our Nation's water supply.

Mr. Speaker, we will agree that there are reasonable changes that should be made in the Clean Water Act. Its requirements should be as rational, efficient, and cost effective as possible.

Complying with its regulations should not be more expensive or more burdensome than is necessary for the municipalities, industries, and private landowners affected by the provisions of the act.

Unfortunately, the bill before us would have widespread and serious consequences for the quality of the Nation's water supply. It would make legitimate regulation much more difficult, in many cases impossible.

Interestingly, many of its provisions—including the new classification system and compensation program for wetlands—would set up cumbersome and costly procedures that are likely to require more Federal employees and agency costs at a time when we are trying to downsize the Federal bureaucracy, or the agencies in charge will simply have to decide not to effectively enforce the law.

And, as CBO reported, the cost of the compensation program for landowners of wetlands is impossible to estimate, but it is a program that could dramatically increase costs to the taxpayers. There are preliminary estimates that indicate that the effect of the bill would be to increase the deficit by several billion dollars during fiscal years 1995–98.

The Clean Water Act has been one of our most successful environmental laws and one of the most popular ones with individual citizens, a great majority of whom would prefer to see the act strengthened, and not weakened as H.R. 961 would do. This is legislation that threatens to overturn very important health protections that citizens have under the law as it is currently written.

The bill in its present form is likely to invite massive amounts of new litigation that ignores scientific information, most notably in making major changes in wetlands regulation without the benefit of a congressionally-mandated study on wetlands that was released just yesterday and which, and I quote from the article in the New York Times discussing it, "repudiates the basic approach taken by the bill," mainly because it found that the cost-benefit analysis requirements in the bill are inflexible and unrealistic.

The bill has many other objectionable features including those that reduce water quality protection by undermining the strong national standards that have produced significant water quality improvements in the last 20 years. It seeks to repeal regulations that protect city water from pollution runoff.

It eases Federal protections for industrial polluters, and allows development of protected wetlands that are critical to our Nation's water supply. In fact it would redefine wetlands in such a way that well over half of the Nation's wetlands, including parts of the Everglades, would be removed from protection.

Mr. Speaker, one would think from reading this bill that we have gone too far or certainly far enough in attempting to clean up our Nation's waters. In fact, however, over 40 percent of our waters do not meet the standards for the uses designated under existing law.

Finally, Mr. Speaker, the administration strongly opposes the bill because, in its words, it threatens to undermine achievement in cleaning up the Nation's waters and would significantly delay progress in addressing remaining water pollution problems.

Among its most objectionable provisions, the bill would reduce water quality protection, eliminate fundamental wetlands protections, create enormous new costs, fail to address effectively non-point source pollution, and finally would paralyze the Federal Government's ability to issue regulations and guidance to protect the Nation's waters.

Fortunately as we have discussed, as the gentleman from Tennessee told us at the outset, this is an open rule, so we will have the opportunity to try to change many of the most worrisome features of the bill. We hope that amendments strengthening the act, or at least returning it to its existing state, are approved.

Again, Mr. Speaker, we support the rule for H.R. 961. We urge its approval so that we may proceed with consideration of this legislation today.

Mr. Speaker, I include the following for the RECORD.

Floor Procedure in the 104th Congress; Compiled by the Rules Committee Democrats

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on suspension calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R.
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments..	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute..	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time..	1D.
H.R. 655	Hydrogen Future Act	H. Res 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.

*Contract Bills, 67% restrictive; 33% open. ** All legislation, 68% restrictive; 32% open. **** Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. **** Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. BEILENSON. Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Florida [Mr. GOSS], a very valuable member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Tennessee [Mr. QUILLEN], the chairman emeritus, for yielding me this time.

Mr. Speaker, I rise in support of this open rule for the clean water amendments of 1995. The Clean Water Act is one our most important and far-reaching environmental laws, and the policies associated with it deserve a full hearing on the floor of this House.

I congratulate Chairman SHUSTER and Subcommittee Chairman BOEHLERT for their hard work in acting on this reauthorization in such a timely manner—it is a credit to them and the Transportation and Infrastructure Committee that we have this bill on the floor in early May.

Mr. Speaker, clean water is vital to everyone in America, but nowhere more so than in the State of Florida. We are literally surrounded by water—the Atlantic Ocean and the Gulf of Mexico. In southwest Florida, we have lakes, streams, and wetlands that are national treasures like the Everglades and Big Cypress—all of which are vital to our economy and our well-being. Thousands of new residents move to my district every year for the pristine beaches, the clear harbors, and the subtropical climate, providing tremendous economic growth. Each one of our major industries—tourism, fishing, and agriculture, depend on clean water and a healthy environment.

For years, the Clean Water Act has helped to remove pollution from many of America's lakes, rivers, and coastlines. It has aided in the preservation of our more pristine bodies of water. And yes, it has created some problems along the way. Wetlands protection, for instance, has become a regulatory nightmare for most ordinary citizens. Obtaining permits can take years, enforcement can be inconsistent, and local conditions are sometimes not considered. States and local governments have complained about rigid Federal mandates that are both costly and inefficient.

Improvements to the Clean Water Act can and should be made, and I look forward to addressing these issues in a full and open debate. I am especially pleased that this debate will include a substitute amendment offered by my friend, JIM SAXTON, from New Jersey.

The floor discussion on the fine points of these proposals will likely be determinant for the way many Members will vote. For instance, I will be seeking answers to questions like, will H.R. 961 replace one inefficient, unworkable wetlands bureaucracy with another? How will the classification criteria used by the Army Corps of Engineers relate to the just-released National Academy of Sciences Wetlands Report? Would it be better to address the problems associated with wetlands permitting by adopting the National Governor's Association proposal to do the work at the local level, with Federal oversight?

In addition, I will be interested in the debate over the coastal zone management provisions in H.R. 961; specifically, are we better off eliminating the nonpoint source pollution provisions from the CZMA, or do these just need some basic reforms? And if we do repeal section 1627 of the CZMA, are we providing enough coastal protection in other areas?

Finally, I am concerned about the takings language in H.R. 961 that would provide automatic compensation for any portion of a property that lost 20 percent of its value. Estimates from the Congressional Budget Office suggest that the cost to the Corps of Engineers of this provision alone could be $15 billion. The alternative could be to leave our most vital wetlands unprotected.

Mr. Speaker, I urge my colleagues to support this open rule.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA], the distinguished ranking member of the full committee.

Mr. MINETA. Mr. Speaker, I thank my colleague, the gentleman from California, for yielding me this time.

Mr. Speaker, I rise in support of this rule. It provides no limitations in terms of amendments, nor any limitation on the time available for amendments.

This is a very large and very complex bill with enormous consequences for people from all across America. It will determine how healthy or unhealthy their drinking water supply will be. It will determine whether the water that flows through their community is a blessing or a blight, and whether they need to try to keep their kids from swimming in it or fishing in it. It will determine whether they have enough clean water to be able to attract new businesses with new jobs.

This is a big bill. When it was introduced, it was 141 pages. Now it is 326 pages. This bill makes far-reaching changes in the Clean Water Act, one of the most important and successful basic protections that our citizen have.

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This bill will reach into every community, every home and come out through every faucet in America. This is a bill which requires careful and thorough consideration. This is a bill where we cannot afford to make mistakes and we cannot afford to act in haste. It is therefore imperative that this rule does not limit amendments or amendment time. Whatever concerns Members have, we need to hear from them. We need to consider them. We need to correct them if they need correcting, and for the same reasons it is important to hear all points of view in general debate.

We have Democrats who oppose the bill, and Democrats who support the bill. We have Republicans who oppose the bill, and we have Republicans who support the bill. All have different concerns and issues that they wish to air, and all should be given that opportunity.

The rule contributes to that goal by providing extra general debate time, 2 hours to be equally divided. But that still leaves open the question of distributing that time is a way which is fair to all points of views and allows all points of view to be heard.

I, for my part, have committed that I will yield 15 minutes of my time to Democrats who are in favor of the bill; namely in opposition to the position I take. And my suggestion yesterday at the Committee on Rules was that 15 minutes of the majority time should be set aside for Republicans who are in opposition to the bill. In that way both parties and both opponents and proponents would have equal time. To do otherwise would bar some points of view from being expressed on the floor, and would artificially skew the debate by providing more time for proponents than for opponents, which would be clearly an attempt to bias the debate.

I assume that no one here is afraid of anyone else's arguments, and so if I might I would like to ask either the gentleman from Tennessee, or my very fine chairman from Pennsylvania, as to whether or not Republicans who oppose the bill will have time from the majority side, something on the other of let us say 15 minutes, as I have given to the gentleman from Louisiana [Mr. HAYES] to express their view on the bill.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I am more than happy to yield to my friend, the gentleman from Pennsylvania.

Mr. SHUSTER. I am pleased to respond to the gentleman that the Republican leadership has agreed to give 15 minutes to the Democratic proponents of the bill, and so I of course will accede to that request. There were no requests at the Committee on Rules yesterday formally submitted at the time we met. It would be my intention to give as much time as I possibly could to all points of view.

However, because of the previous commitment that had been made by the Republican leadership to those Democrats who support the bill, I am constrained to honor that commitment, but I would point out that I understand there is a substitute which the gentleman from New York [Mr.

BOEHLERT] and the gentleman from New Jersey [Mr. SAXTON] have which will be offered and under the rule there will be unlimited debate made available on that.

So, it certainly would not be my intention at this time to attempt to limit or constrain their time on their substitute at all.

Mr. MINETA. If I might reclaim my time, Mr. Speaker, as I understand it then under the arrangement then the gentleman from Pennsylvania [Mr. SHUSTER] will have 45 minutes of general debate time under his control, I will have 45 minutes of debate time under my control, and the gentleman from Louisiana [Mr. HAYES] will then have a half hour, is that correct?

Mr. SHUSTER. That is my understanding as to what the agreement was that I am simply carrying out.

Mr. MINETA. And that opponents of the bill that will be on the floor, then, will be accorded their time only when they present their substitute rather than under general debate time under H.R. 961.

Mr. SHUSTER. If I have the time I will be happy to yield to them, but since I do not know whether I am going to have any time, I cannot commit a block of time, because that block of time previously had been committed by the Republican leadership. Of course, the gentleman from California is certainly free to yield whatever time he wants to the opponents of the bill.

Mr. MINETA. Absolutely. I am going to be yielding my time to do that.

I appreciate the gentleman from California giving me the time.

Mr. BEILENSON. Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania [Mr. SHUSTER]

Mr. SHUSTER. Mr. Speaker, I simply take this time to announce to the body that it is our intention to finish this bill by 1 p.m. Friday afternoon. In consultation with the leadership, I am informed that we might go tonight until between 9:30 and 10, that we will go tomorrow night as long as is necessary, so that we can finish this bill by 1 p.m.

I am pleased that we have an open rule; I am pleased that we have no time limits. If it appears that it is being dragged out, or there might be dilatory tactics, which I certainly do not anticipate, but should there be such tactics to delay or to get to go to final passage, then I of course reserve the right to move to put time limits on the debate.

I hope that we do not have to do that. It is not my intention, but it is indeed our intention to complete this bill and have final passage by 1 p.m. Friday afternoon.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. BORSKI], the ranking member of the subcommittee.

Mr. BORSKI. I want to thank the gentleman for yielding me this time.

Mr. Speaker, I wish to express my support for the rule and my strong opposition to H.R. 961, an industry-written bill filled with loopholes and waivers to roll back the Clean Water Act.

H.R. 961 will do tremendous damage to our Nation's environment, the water quality of our rivers, lakes, and streams, and will threaten the health of the American public.

This bill has been rushed through the process with no time for adequate consideration.

At no time was the Democratic leadership of the Transportation and Infrastructure Committee ever consulted about the drafting of this bill.

The Environmental Protection Agency and the environmental community were totally excluded from the process.

H.R. 961 is an industry wish-list drafted by secret industry task forces that has had no hearings and the barest minimum of consideration in the committee.

The 326-page industry wish-list was unveiled for the first time on March 22. One week later, we went to subcommittee markup.

Less than 1 week after that markup began in full committee. These were markups that were scheduled over the objections of the Democratic leadership.

In only 15 days, we moved from seeing a 326-page bill for the first time, through subcommittee and full committee markups.

That would be impressive for a noncontroversial bill—but this bill is very controversial.

The result of that one-sided and exclusive process—a process that is totally unprecedented in our committee—is a bill that will completely gut the Clean Water Act.

H.R. 961 will roll back 20 years of environmental protection that has cleaned up many of our Nation's rivers, lakes, and streams.

Before 1972, the rivers in many cities were no more than open sewers. Some even caught fire.

We must not turn back the clock on environmental protection.

H.R. 961 would pit State against State, city against city, in the race to save money and attract industry by relaxing environmental standards.

It would do virtually nothing to attack the major remaining source of water pollution—non-point source runoff from rural and urban areas. In fact, it would eliminate the Coastal Zone Non-Point Control Act—the one effective program we have for managing non-point pollution.

In the last 10 years, there have been more than 100 outbreaks of waterborne disease. In Milwaukee polluted runoff in drinking water resulted in 400,000 illnesses and more than 100 deaths.

H.R. 961 would remove protection from 60 to 80 percent of our Nation's wetlands.

It would leave parts of such valuable areas as the Florida Everglades, the Great Dismal Swamp and large portions of the New Jersey shore unprotected.

Mr. Speaker, this bill should be defeated. The Transportation and Infrastructure Committee should start over on a bill that will make the reforms that are truly needed in the Clean Water Act but will maintain protection of the environment.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York [Mr. BOEHLERT], who is chairman of the Subcommittee on Water Resources and Environment.

Mr. BOEHLERT. Mr. Speaker, I support the rule we will vote on this morning. I am proud that the people's House will bring this landmark legislation up for debate under an open rule that allows for maximum debate.

I think it is a sign of the maturity and confidence of the new majority that we are willing to air our disagreements over major legislation. Competing ideas are not just permitted, but encouraged to percolate to the top, where we will have full and open debate.

Let me also say that I believe the committee's hearing process was open as well. As Chairman of the subcommittee of jurisdiction, the Subcommittee on Water Resources and the Environment, I presided over six major hearings in Washington, and one field hearing in upstate New York, that one dealing exclusively with the subject of nonpoint source pollution.

The process was open, and I applaud that. I voted for the bill out of subcommittee to report it to the full committee despite the fact that I had major objections, but I feel that the day has long since gone when one person in the House can deny all of the others the opportunity to consider major legislation.

I voted for that bill to come out of the subcommittee to the full committee, but I could not in good conscience vote for that bill in the full committee, and let me tell Members why.

First of all, a 334-page bill was filed last Thursday. For most Members, the first opportunity that they had to be exposed to the extensive material on this complex legislation was yesterday when we returned to the Nation's Capital, and today we are debating the legislation.

This legislation will remove over 60 percent of our Nation's wetlands from any level of protection, and allow the destruction of maybe 80 percent of the Nation's wetlands. Just yesterday the National Academy of Sciences issued a report, and in effect at the briefing these preeminent scientists said there is no scientific basis for the wetlands provision in the committee bill. We have to deal with good science.

We have gone, those of us who are proposing an alternative, my colleagues Congressman SAXTON of New Jersey and Congressman ROEMER of Indiana, we have gone with an extensive outreach program with the National Governors Association and we have listened. That is what we are supposed to do in Washington, listen, and we have embraced the National Governors Association section of our bill dealing with wetlands.

The bill, the committee bill, repeals the coastal zone nonpoint source pollution control problem, a very serious mistake with very serious consequences, so we reached out. We went to the coastal zone organization, comprised of 30 States, their Governors, their key environment and public safety people, and we have embraced, adopted their provision to deal with the Coastal Zone Reauthorization Act amendments.

The bill repeals entirely the storm water permitting process. We think that is a big mistake. We recognize problems for smaller communities and smaller businesses, so we have put into our alternative a 10-year moratorium that would exempt communities of less than 100,000 or smaller industries. We have tried to be responsive.

Time after time, poll after poll, the people of America said they want us to do something meaningful about clean water. There is not one person in this House, not one person in America, who would hesitate in this richest, most technologically advanced nation to go to a water fountain in any city to quench their thirst, but they did that in Milwaukee and 104 people died in 1993; 400,000 were made ill.

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Four hundred thousand were made ill, and that is just the most recent, the flagrant example of how the public health is in jeopardy if we do not do a better job with our Nation's clean water program.

My colleagues in the House, the people across America, I urge you to give very careful consideration to the alternative that will be offered by the gentleman from New Jersey [Mr. SAXTON], myself, and the gentleman from Indiana [Mr. ROEMER].

Clean water should be an American birthright.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in support of the rule and against this bill. This bill guts one of our strongest environmental statutes, the Clean Water Act. This bill is a bonanza for special interests and polluters. They are probably jumping for joy over this bill.

They are doing so because they probably wrote it and, in fact, a better title for this bill should be "The Dirty Water Act of 1995" or "The Polluters' Bill of Rights of 1995."

Mr. Speaker, what we have here is a dirty water bill which would significantly weaken laws, affecting protection of wetlands, enforcement of water quality standards, regulation of storm water runoff and a number of other sewage standards relaxed much too much. In effect, this legislation would leave 50 to 70 percent of our Nation's most valuable wetlands unprotected. It would delete controls on the discharge of more than 70,000 chemicals which are now regulated by the act, 70,000 chemicals no longer regulated by the act. It would allow waivers for more than two dozen cities to discharge sewage into the ocean. It would ignore the impact of pollution from runoff, which is the No. 1 source of pollution in our Nation's surface waters.

And here is a statement by the administration: "For these reasons, if H.R. 961 were presented to the President in its current form, the Administrator of EPA, the Secretary of the Interior, the Director of OMB, and the Attorney General would recommend that the bill be vetoed." Again, this bill reduces water quality protection.

We should support pollution prevention and flexible tailored cost approaches to meeting the goals of the act, but this bill would undermine the strong standards that have produced significant water quality improvements in the last 20 years.

On wetlands, wetlands are critical to our Nation's water supply by functioning as natural filters which improve water quality and mitigate potential disastrous flooding plus protecting a number of species. This bill would redefine wetlands and remove even the Everglades—as I said, over 70 percent of all wetlands.

Now, costs are created by this bill. We should all support private property rights, but the takings provision in this bill would dramatically increase costs to the taxpayer of protecting our vital wetlands.

The bill fails to address nonpoint source pollution. Nonpoint source pollution is the major water quality problem currently facing the country. It paralyzes the Federal Government's ability to issue regulations and guidance to protect the Nation's water.

The administration believes that cost-benefit analysis can and should influence environmental decisions and that regulations should be adopted upon a reasoned determination that the benefits of the regulation would justify its cost, but this bill would impose overly broad and judicially reviewable risk assessment and cost-benefit requirements prior to the issuance of such rules.

And most importantly, if you look at pay-as-you-go scoring, H.R. 961 would affect direct spending. Therefore, it would be subject to the pay-as-you-go provisions of the Omnibus Budget Reconciliation Act of 1990, and minimum estimates indicate that the effect of the bill would be to increase the deficit by several billion dollars during fiscal years 1995 and 1998.

Mr. Speaker, this is a bad bill. It should be rejected. We should start over and do this carefully. We must reauthorize the Clean Water Act, but not with this.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time.

Let me just say at the outset that I want to thank the gentleman from Pennsylvania [Mr. SHUSTER] and the Republican leadership for giving us the opportunity to debate this very important matter under an open rule, giving us the opportunity to bring our points forward as the gentleman from New York [Mr. BOEHLERT] and I will do in a substitute a little later on. I called the Speaker on Friday and I expressed my concerns about this bill from a New Jersey coastal perspective. The Speaker, without hesitation, said "You get together what you think is good for New Jersey in the way of a substitute or in the way of however you want to propose your amendments, and you bring them to floor, and we will have an open rule." And I appreciate that. I also appreciate the cooperation by the gentleman from Pennsylvania [Mr. SHUSTER] and members of the Committee on Rules in this regard. It truly is an opportunity for us to debate before the American people some issues that I think are of great importance.

I have now been in this House for a decade, and when I was elected to the House and became a member of the Committee on Merchant Marine and Fisheries, soon to be joined by the gentleman from New Jersey [Mr. PALLONE], already in place was Mr. Hughes from New Jersey, we were there because we had great concerns, concerns about water quality particularly in the coastal areas of our State.

I think the same concerns exist in many coastal States, but perhaps they were emphasized in New Jersey because of our density of population. Perhaps they were emphasized because of our proximity to the largest city on our coast in the country, New York City, of course.

We began to look at some of the problems caused by that in the Northeast, Long Island, New England, and along the New Jersey coast; we began on a bipartisan basis, without consideration for politics, in my opinion, in any partisan form, to put together programs that were intended to create a much better condition for inhabitants and visitors to those coastal areas. We had massive beach closings in the summers of 1987 and 1988 in New York and

New Jersey and other coastal States. We had flooding in many areas of our country, both inland areas as well as coastal areas, and that has to do very much with this bill.

We identified sources of pollution that were relatively easy to take care of; namely, point sources of pollution, and we also recognized that there is another category of pollution known as nonpoint sources of pollution that are much more difficult to deal with, and we put in place national policy sometimes tailored specifically to States through the Coastal Zone Management Act, and that process to take care of many of these programs and to take care of many of these issues and problems as well.

I must say together, as Republicans and Democrats, we have been very, very successful. As a matter of fact, just the day before yesterday, an airplane pilot friend of mine who has been flying over the eastern coast for many years said to us, "One of the things you have done right," he said, "and I know this from my observations of flying over these areas and viewing the habitat and the environment, particularly the water, that you have done a good job in beginning to turn the corner on coastal pollution," and we have been able to do that.

Unfortunately, I take issue with many or some, at least, of the provisions of this bill relative to the treatment of wetlands and their importance in keeping the environmental quality what it should be in coastal areas, with the repeal of the CZMA section which has reference to nonpoint pollution, and that is why the Coastal States Association endorses the Saxton-Boehlert approach which we think is much more sensible, as well as the storm water discharge and the permitting process which is repealed by this act. All of these things are vitally important to the health and welfare and the environmental quality that affects the people's lives that inhabit and visit coastal areas.

One other issue of particular importance, I know it is of importance to the gentleman from New Jersey [Mr. PALLONE], as it to me, is the ocean dumping provisions of this bill that relate to dredge spoils being dumped offshore and the elimination of the involvement on a direct basis of the Environmental Protection Agency.

And so we will offer at the appropriate time a substitute which we hope we will get broad consensus on relative to these and a few other subjects. And so, Mr. Speaker, I thank you for the opportunity to express my support for the rule this morning and my appreciation for the leadership on our side and the Committee on Rules for permitting us to offer under an open rule changes in regard to these provisions.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from California for yielding me this time.

I rise to say to Americans who believe that progress is preordained in this country, "Wake up." Because today we are going backward. Today we are on a real slippery slope, and for people who thought we would always be able to have clean water in America, that is one of the things we have been very proud of, you can turn on a tap, and rely on it. Guess what, today we are saying, "Well, no more. We just do not want to push the polluters, it costs them too much to deal with the pollution."

And so let me say in the next breath, for those who are looking for growth stocks today, I say buy bottled water stocks, because the real message is we do not want the polluters to have to clean up. We are going to have the people who use the water have to go buy bottled water or whatever in the future.

This is not the America or the Federal Government that I knew, and I must say I find it a very sad day. I do not even want to vote for the rule. Yes, it is open. I do not have any problem with the rule. The only problem is I do not think we should be dealing with this bill today, because the scientific evidence on this bill is not in.

Eighteen hours before we started debating this bill, the esteemed National Academy of Sciences released its report, 18 hours. Now, maybe everybody here is a little quicker than I am, but to absorb that and figure out how to deal with that and get it to the House floor in 18 hours is almost beyond, I think, most of our capability.

The Chair of that commission is William Lewis, a University of Colorado professor, and he and the others who drafted it were not complimentary at all of this bill. They said it was much too simplistic, and that it needed many, many pieces of work. They also were not particularly accepting of how the policy had gone on in the past. They came out with some long awaited changes of how we might be more efficient, how we might deal with some of the inconsistencies between different Federal agencies. To me, that is the issue I wish we had in front of us.

And I do not think this is the day that we have had time to get it done, so I fear that Americans are going to wake up and suddenly say, "What happened? Why didn't you tell us? Why didn't we know? We can't believe anybody undid this." Well, here we are, we are doing it, and I find it very sad.

As we talk about these issues, you know, people will talk about the wetlands, the wetlands, how very serious, there are too many wetlands, we do not need the wetlands.

Well, what do wetlands do? You know, wetlands are absolutely vital as a filter to filter out a lot of the pollutants, a lot of the pesticides, the sediment, the nitrogen that otherwise gets right into the water source and everything else. We cannot put concrete on and we cannot develop every inch of this planet, because the runoff and stuff needs to go somewhere. It needs to be filtered through some place, and the wetlands are a very essential part of that ecosystem.

When you also look at all the different contaminants being put in and the level of toxics that go into rivers that will be considered acceptable, well, let me tell you, if we are going to allow these to be in flux, if we are going to treat much more cavalierly the 70,000 different pollutants people have been talking about, that is going to get transferred to people, and in either having to buy bottled water or in higher health care costs, and more environmental damage to people's health, all sorts of things before you even get to the fallout on what happens to the wildlife.

We now know songbirds are dying in America at a much faster pace than we would like to see that happen. We do not know why. We were learning in this whole ecology debate that we are having more and more about how interconnected we have become and how important it is to take these things seriously.

But I would hope that this body would go on good science. I hope that we find out for people who support this bill long term when good science says this is not a good bill to support, I would hope that it is bad politics not to support good science.

You know, this has not been a flat Earth caucus. This has been a Nation that has been built on good science and relying on academics and relying on people who do not have a dog in the fight, and when the academics have spoken and when those who are really with no ax to bear have spoken, but they have spoken just 18 hours ago and they are warning this bill is going in the wrong direction, I hope we wake up and listen to that. I sincerely do.

I am very sorry that this day has come.

Mr. Speaker, H.R. 961 represents a fundamental change in the way we think about clean water. Unfortunately, the change is not a positive one.

Under current law, polluters do not have a right to dump messes into public resources; if they do, they pay a fine. In my district, for example, paying for the Sand Creek greenway was part of Conoco's penalty for discharging toxics into Sand Creek. Under H.R. 961, the outcome might be different. The cost benefit provisions in H.R. 961 essentially make polluting a legally acceptable use of water.

Currently, the level of toxic contamination in a river or lake that is considered acceptable is based on human health and ecological standards. The Shuster bill will change that standard. It incorporates the polluter's needs into the formula.

Wetlands would change too. For the most part they would disappear. Wetlands filter more than 90 percent of the pesticides, sediment, and nitrogen that would otherwise pollute our bodies of water. Wetlands are also vital to over 75 percent of our fish and shellfish. H.R. 961 eliminates wetlands protection by narrowly defining a wetland and allowing a claim as a "taking" for the protection of those wetlands that fit the difinition.

The original goal of the Clean Water Act was to make the Nation's waters swimmable, fishable, and drinkable. While we have not cleaned up everything, the Clean Water Act has brought us a long way on the road to that goal. The Shuster bill not only abandons that goal, but if enacted, will threaten our gains. Vote "no" on H.R. 961.

STEWART SCHOOL,
Oxford, OH, April 7, 1995.

SAVE OUR SEAS,
Washington, DC.

DEAR SIR OR MADAM: We are learning about oceans in school, and we don't like the pollution. Not only fish are dying, but birds, seagulls, and many more animals. I love animals and I hate pollution. Oil spills should be stopped. Well, I and 24 other friends of mine hate it.

Sincerely,

FAITH MANKA.

☐ 1245

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, Members of the House, I appreciate the opportunity to speak on the rule which I support and then to assert that my support for the bill itself is based on several propositions.

No. 1, I am impressed by the fact that this is a bipartisan piece of legislation that has reached the floor. One can only read the results of the subcommittee vote and the full committee vote to assert for themselves that this is indeed a bipartisan crafted piece of legislation. That in itself answers the request of the American people that we approach this and many other problems in our country on that bipartisan basis for which they have been yearning for so many years. Here is an excellent opportunity to put into play our search for bipartisan solutions to the Nation's problems.

No. 2, if that were not enough, it also is bipartisan in this particular unique tenant about which I am concerned. The Chesapeake Bay has for a long time been a strong concern of the environmental community of our Nation, and not only nationwide are the environmentalists interested in the preservation, and the cleanup and the stabilization of Chesapeake Bay, but naturally the regional interests, Pennsylvania, Delaware, Maryland, et cetera, are also interested in the preservation of the Chesapeake Bay as we once knew it. In that regard this bill calls for adoption, as a matter of fact, of increase in, the President's recommendation for reauthorization of that portion that has to do with funding the Chesapeake Bay, another facet of the bipartisan approach that we can adopt by supporting the committee's version of this vital piece of legislation.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I rise in support of the open rule but against the bill. I think it is very important that we do have an open rule without time limits on this legislation because it is so controversial, and I do believe that the bill makes fundamental changes to the Clean Water Act that are not in the national interest.

I was very pleased to hear my colleague, the gentleman from New Jersey [Mr. SAXTON], speak before because he pointed out and reminded me about the fact that when we were first elected to the Congress, back in the mid or late 1980's, that a big part of our election was because we swore that we would come down here and try to stop ocean dumping and improve ocean water quality. The fact of the matter is that since those New Jersey beach closings in 1987 and 1988 the ocean water quality and the quality of our rivers and harbors have increased dramatically in the State of the New Jersey and throughout the country. People tell us every day, and in particular looking forward to the beach season this summer, they talk about how improved the water quality is and how many people want to come down to the shore and swim and enjoy our beaches and our water.

We cannot turn the clock back, and my fear is that this is what this legislation does. It in effect turns the clock back and makes it very possible that, if it were to pass 5, 10, 20 years from now, our water quality would significantly decrease.

I would want to mention a few things, and some of them were mentioned by my colleague, the gentleman from New Jersey [Mr. SAXTON], specifically about what the bill does and how it is dangerous.

With regard to coastal runoff, contaminated runoff is the number one contributor to water pollution. The committee bill would end an existing program mandating States to draw up enforceable run-off control plans in coastal zones, replacing with a voluntary approach similar to an existing program in inland areas. Environmentalists and the EPA have said that our efforts should be directed toward making run-off programs enforceable, not voluntary.

With regard to storm water, the bill would repeal an existing formal permitting process governing city and industrial storm water releases into service water, replacing it with a system emphasizing voluntary measures of compliance, again voluntary rather than mandatory.

With regard to wetlands, by changing definitions, the proposed legislation would remove as much as half of the Nation's wetlands from protection. The EPA would also be stripped of its veto power of decisions by the Army Corps of Engineers to grant wetlands development permits.

My colleague, the gentleman from New Jersey [Mr. SAXTON], mentioned a substitute, and we also from New Jersey have several amendments that would try to improve and eliminate some of these more egregious measures that are in the bill. I urge my colleagues on the Democrat side to support the Saxton-Boehlert substitute. This substitute would eliminate some of the worst problems that exist in this bill.

I was hopeful, however, that this would be the opportunity, during the authorization of the Clean Water Act, to actually improve the existing Clean Water Act, and so I have proposed, pursuant to this open rule again, certain amendments that would actually improve the existing law. I am not sure, and I think perhaps in this atmosphere it is unlikely that some of these will pass, but it is important to put them forward.

One of them is the Clean Water Enforcement Act. We have noticed that with the existing Clean Water Act there has not been sufficient enforcement. In many cases it pays to pollute because the fines that are imposed for pollution or violating one's discharge permit are too small. The Clean Water Enforcement Act would go after the bad actors, the repeat violators of their discharge permits, require mandatory penalties and increasing penalties so that it does not pay to pollute.

Another amendment that I will be proposing today under the open rule is something that my colleague, the gentleman from New Jersey [Mr. HUGHES], has repeatedly introduced and had passed in this House several times in previous sessions of Congress that would basically require a national program for beach water quality testing. In New Jersey we have a very good program that requires the testing of water quality before we decide whether beaches are open to bathers. I would like to see that included in the Clean Water Act, and again that would be a strengthening amendment.

I would urge my colleagues today to, please, support the substitute. Please support some of the amendments being put forth by those of us who would like to see the Clean Water Act improved.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, the gentlewoman from Colorado [Mrs. SCHROEDER] talked about the Academy of Sciences and good science. We agree. First of all, San Diego has had a problem with effluent sewage. The sewage treatment is actually treated, and then we want to put it 4 miles out to sea, but the EPA, which a rule was written for the Clean Water Act, was written, "If you dump that sewage into a river or a lake." The Academy of Sciences and Scripps Oceanographic said it actually enhances the ocean, but yet the EPA is unwilling to bend, and what we are trying to do is, when we talk about risk assessment and fairness, is to look because what it would do is cost the city of San Diego between $8 to $12 billion. That is $12 billion we do not have for law enforcement, or housing, or education and those kinds of things, but yet science says that we do not have to double-treat the sewage. It is treated in the first place, but we do not have to do secondary sewage. That is reasonable.

When we take a look at it, when we need to move ahead, a company near my district named Micogen has a chemical. It is not actually a chemical, but it is an insecticide type that is created out of DNA, and, when they use that, the actual farmers would grow their material or spray it over their crops, and it is not a toxic pesticide that run off into our lakes, and rivers and oceans. That is what we need to support as far as good science. But yet the administration has put a burden on our biotech industry in California. Those are the things we need to move ahead with.

The EPA, Endangered Species, Clean Water, Clean Air were all written with good intentions, but there are special interests on both sides of this area, those that do want to pollute and those that want to use it as a weapon for no growth at all. What the legislation that the Republican Party is coming up with is a commonsense application and suits neither one. Take a look at the issues that burden us every day. Look at the EPA and Endangered Species. I think we can work on a more bipartisan area.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I support the rule.

The new majority has a case of special interest amnesia.

The special interests and polluters claim they are overregulated.

So the new majority is forgetting the days when our rivers burned, when fish and wildlife floated dead in our lakes and streams, and when our drinking water was in imminent danger of contamination.

The Clean Water Act remedied that situation.

Now, the new majority wants to gut the Clean Water Act.

The New York City water supply needs no additional purification, thanks to safeguards in the Clean Water Act and the Safe Drinking Water.

Weakened standards on pollution runoff under this bill will severely jeopardize the city's drinking water and our rivers and lakes.

So will loosened restrictions on sewage treatment plants that operate in watershed areas.

When is the new majority going to realize that some government regulations actually do some good?

This time, they are not just throwing the baby out with the bathwater.

They are throwing out the drinking water, too.

I implore my colleagues to think about what we drink and to reject this Dirty Water Act.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the adoption of the rule. I urge the passage of the bill. Amendments to the Clean Water Act are long overdue. I urge the Members of this body to adopt the rule, and pass the bill, and go forward with this legislation which is so badly needed.

Mr. BOEHLERT. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Speaker, I would like to point out that the substitute, the alternative that will be advanced by my colleagues, the gentleman from New Jersey [Mr. SAXTON], the gentleman from Indiana [Mr. ROEMER], and I, 70 percent of our alternative is identical to the committee bill. So there is much to be said for a number of provisions in the committee bill that address some problems that concern us all. We are focusing narrowly on those areas that need the most attention to preserve, and protect and enhance our Nation's waterways.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. WICKER). The question is the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BORSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 414, nays 4, not voting 16, as follows:

[Roll No. 311]

YEAS—414

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen

Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—4

Dingell
Jefferson
Schroeder
Yates

NOT VOTING—16

Bliley
Bunning
Cardin
Collins (IL)
Ford
Graham
Lewis (KY)
Lincoln
Moakley
Murtha
Pelosi
Peterson (FL)
Rogers
Talent
Waxman
White

□ 1316

Mr. HILLEARY changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GRAHAM. Mr. Speaker, I was inadvertently detained and missed rollcall No. 311, adoption of the Rule for H.R. 961, the Clean Water Act amendments of 1995. Had I been present, I would have voted "aye."

CLEAN WATER AMENDMENTS OF 1995

The SPEAKER pro tempore (Mr. WICKER). Pursuant to House Resolution 140 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 961.

□ 1316

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act, with Mr. MCGINNIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 1 hour, and the gentleman from California [Mr. MINETA] will be recognized for 1 hour.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield 15 minutes of my time to the gentleman from Louisiana [Mr. HAYES] for purposes of debate only, and I ask unanimous consent that the gentleman from Louisiana control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MINETA. Mr. Chairman, I yield 15 minutes of my time to the gentleman from Louisiana [Mr. HAYES], and I ask unanimous consent that he may control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from Louisiana [Mr. HAYES] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 961, the Clean Water Act Amendments of 1995.

This debate, Mr. Chairman, is essentially between two groups, between the professional environmentalists, the Washington-knows-best crowd, the EPA, the career bureaucrats, and the K-Street lobbyists on the one hand and the rest of America on the other hand.

It is extremely important to note, Mr. Chairman, that we bring this bill to the floor with strong bipartisan support. This bill passed the subcommittee by an overwhelming 19-to-5 vote with both a majority of Republicans and Democrats voting in favor of it. This bill passed the full committee by an overwhelming vote of 42 to 16, an overwhelming majority of Republicans voting for it and a full half of all the Democrats voting for it.

This bill, contrary to some of the fiction that is being spread about, keeps the goals of the successful clean water program while it fixes the problems that we have uncovered. And indeed, our process has been a very open process all along the way.

We have heard some crocodile tears here today about how quickly this bill has moved. The truth of the matter is, this essentially is the bipartisan bill that we tried to pass last year. Indeed, it is very significant to note that, while we have proceeded with an open process in committee and on the floor here today, an open rule today, last year this legislation was bottled up by the Democratic majority to the point that we were never even permitted to get a vote on this legislation.

So now we hear complaints about the process not being open enough when, in fact, it was worse than a closed process. It was a slammed-door process last year, and now I am very pleased that we do, indeed, have an open process and, in fact, the bill as reported out of committee was on the Internet 24 hours after it passed committee and has been available for the past several weeks.

Well, what does this bill do? It gives more flexibility to the State and local water quality officials. It is a fundamental shift from current Federal, top-down approach. Those who oppose the approach in this bill are saying that they do not trust the Governors and the State regulators. It provides a more reasonable risk-based regulation, consistent with recent House-passed legislation.

This bill requires EPA to subject its mandates and its regulations to risk assessment and cost-benefit analysis. In a major victory for common sense, this bill gives State and local government the flexibility to manage and control stormwater like other forms of runoff. And this bill provides market-based approaches allowing for trading in certain circumstances to provide the most cost-effective pollution reduction.

And this bill addresses unfunded mandates by providing regulatory flexibility. The bill reduces the cost of unfunded mandates, particularly in the area of stormwater management, where billions, yes, not millions, billions of dollars can be saved as a result of the approach in this bill.

Cities estimated—get this—cities estimated that the unfunded Federal mandates in the Clean Water Act cost the cities $3.6 billion in 1993. Grand Rapids, MI, a city of 250,000 people, had to spend $400,000 preparing its stormwater permit. The average cost to larger cities for stormwater permits exceeds $600,000. Tulsa, OK, had to spend $1.1 million just on their permit application, without solving the problem at all.

This bill also reforms the wetlands program. It provides for comprehensive reforms to the beleaguered wetlands permitting program. No longer will we have a situation, as in Morristown, NJ, where an airplane, the airport there, the pilot was unable to see the runway. And they were told they could not cut down a tree that was blocking the view because it was in a wetland. Or in Muncie, IN, an 80-year-old farmer, who had farmed his land all his life and his father and grandfather before him, inadvertently broke a water pipe and it flooded the field. They went in and told him he was no longer allowed to farm his farm because it was a wetland.

And there are hundreds and thousands of horror stories of the excessive regulation of wetlands, and this bill attempts to cure that. In fact, we have heard today about the National Academy of Sciences coming out with, finally, its wetlands approach and saying, alleging, that our approach is not scientific. Well, there is absolutely no scientific approach in the original clean water bill, because the original clean water bill does not even mention wetlands.

In fact, it is very interesting and sad to see the National Academy of Sciences politicized because their report was due 19 months ago. Then we were told, our staff was informed just last week that it would be, even though it was 19 months late, it would be impossible to have it before the 18th of May. And surprise, surprise, we scheduled this legislation for floor debate today, and it appears magically yesterday.

Well, of course, the American people should know that the study was funded by the EPA bureaucrats downtown. So, sadly, the National Academy of Sciences has been politicized for this debate. We regret that.

Beyond the wetlands issue, our bill provides renewed investment in our Nation's clean water infrastructure. We provide over $3 billion a year authorized for this program. Antienvironmental? We provide more money for the program than has previously been provided. Indeed, in spite of all the money we provide, clean water costs in 1996, estimated by EPA, are $23 billion for our country. Yet the total Federal environmental grants to State and local governments will total a little over $3 billion. In fact, EPA estimates that the States face long-term clean water capital needs of over $137 billion over the next 20 years.

Well, what is it that this bill does not do? There has been a concerted effort to mischaracterize the provisions of this bill. This bill does not, as has been alleged in the left-wing press, abolish a requirement that industry treat contaminated water for toxic chemicals and heavy metals for discharging it into urban reservoirs.

The bill allows for the removal of redundant pretreatment requirements before industry sends their wastewater to municipal treatment plants. Those plants must still enforce local pretreatment standards that prevent pollutants from interfering with or passing through the treatment works.

This bill does not wipe out the coastal nonpoint program, and, as some claim, make nonpoint programs weaker everywhere. The bill authorizes more funding for nonpoint programs. It retains environmental safeguards such as achieving water quality standards while providing more flexibility in getting there.

Yes, it repeals the controversial coastal zone provision, but—and get this—it includes the successful components into the national nonpoint program. It eliminates two separate nonpoint programs, but it combines them into one in a victory for both State flexibility and regulatory reform.

Nothing has been sadder than to see our process mischaracterized. The New York Times, in what could only be described as yellow journalism, wrote that this bill was written by Republicans behind closed doors with industry.

□ 1330

What is the truth? What is the easily verifiable set of facts? The original introduction of this bill had 16 cosponsors, 8 Republicans, 8 Democrats. Written by Republicans? Behind closed doors? The National Governors Association sent us a letter commending us for including them more than they had ever been included in the past. Behind closed doors? With industry?

Let me share with Members just some of the groups that strongly support our legislation, and were key participants. Just today, today, May 9, we received this letter from the National Governors Association which said, and I quote: "we urge approval of this bill, H.R. 961." Let me say it again: "We urge approval of this bill, H.R. 961."

They go on to say:

> Once again, we wish to express our strong appreciation for the unprecedented opportunities for State input in the development of an effective Clean Water Act reauthorization bill.

Written behind closed doors? I thank the governors of America, Republican and Democrat, for saying they support our bill, and for thanking us for including them in the process.

It does not end there. We have a letter, again dated today, from the National Association of Counties, the National League of Cities, and the U.S. Conference of Mayors, which says:

> Of particular concern to the Nation's local elected officials is the future of the stormwater management program. The National Association of Counties, the National League of Cities, and the U.S. Conference of Mayors—who together represent all the Nation's local elected officials—strongly oppose any efforts to amend the stormwater program approved by the Committee.

They go on to say:

> Charges that H.R. 961 rolls back environmental protection and that it guts the Clean Water Act are totally unfounded,

this from all the local officials across America.

However, it does not end there. Again we have another letter today from the Association of State and Interstate Water Pollution Control Administrators, the people on the firing line, the people who have to implement our laws, who write:

> With its new comprehensive approaches to nonpoint source, watershed and stormwater management, H.R. 961 sets forth a framework that better protects this Nation's waterways.

It goes on to say:

> It maintains a firm commitment to the Clean Water Act's goals, with more flexibility at the State and local levels to determine how they are best achieved.

It does not stop there. We have in front of us a letter dated today from the Water Environment Federation, 42,000 water quality specialists across America and around the world, which says:

> We therefore want to again urge you to support the Clean Water Act Amendments of 1995 (H.R. 961) on the House floor.

Therefore, what about these spurious allegations that the bill was written behind closed doors, by Republicans, with industry? They are demonstrably factually false. Why is the national media writing that? The national media is in the hip pocket of the environmental bureaucrats here in this town, and they have not given us a fair shake. The American people should understand that. There is no sense in our ducking that reality. It needs to be said, and it needs to be said very, very clearly.

Beyond the support I have just outlined, agriculture across America strongly supports our bill. The NFIB has said that not only is final passage of this legislation a key NFIB vote this year, but they have informed us in writing that a vote against the Boehlert substitute will also be a key NFIB vote this year, so we have not only the National Governors, the NFIB, the League of Cities, the Association of Counties, the Conference of Mayors, the Association of State Water Pollution Control Administrators, the State Metropolitan Sewage Association, the Water Environment Federation, and on and on, a broad-based support to this bill.

What kind of attacks have we been subjected to? I must confess that originally I was a little perturbed when some environmental extremists attempted to disrupt our markup by throwing at us bottles of dirty water marked "Shuster spring water." That did not pleasure me. Then when they started passing out posters "Wanted, Bud Shuster, for polluting our Nation's Waters."

However, upon reflection, I was delighted that they did this. I was delighted that they did it, because it gives the American people an opportunity to see the kind of hysterical, irrational opposition we have to our legislation, so I thank those radical environmentalists for giving us this opportunity to point out the lack of substance to their arguments, and the fact that they must resort to these kinds of personal attacks.

Indeed, if the election last November was about anything, it was about our reforming government control, top-down government regulations, and clean water is one of the areas crying out for reform.

Let me conclude by quoting something that Supreme Court Justice Breyer, a Democrat, wrote in a recent book. He talked about the environmental regulations, and he called environmental regulations an example of the classic administrative disease of tunnel vision. He wrote:

> Tunnel vision arises when an agency so organizes its tasks that each employee's individual conscientious performance effectively carries single-minded pursuit of a single goal too far, to the point when it brings about more harm than good. The regulating agency * * * promulgates standards so stringent that the regulatory action ultimately imposes high costs without achieving significant additional safety benefits. Removing that last little bit [of pollution] can involve limited technological choice, high cost, * * * large legal fees, and endless arguments.

That is what this bill is about today, to fix these problems. I would urge my colleagues to support the bill we bring to the floor today, the bill which has strong bipartisan support, overwhelming Republican support in the committee, and a full half of the Democrats in the committee voting for passage of this bill. It deserves to be passed.

Let me also commend the chairman of the Committee on Appropriations, the gentleman from Louisiana [Mr. LIVINGSTON], who has been quoted numerous times as saying if legislation does not get authorized, there are not going to be any appropriations.

I would say to my friends, and particularly some in the other body, who I am told think that perhaps the way to stymie these reform efforts is to simply block this so there is no authorization, "If you care about the environment, I urge you to be in support of having an authorizing bill, because if there is no authorizing bill, according to the distinguished chairman of the Committee on Appropriations, there are not going to be any appropriations for clean water," so I think all of us had better get together and support good legislation so we can continue to clean up our Nation's waters.

Mr. MINETA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Americans know that there is very little as important in their daily lives as clean water. Their health depends on it, the quality of life in their community depends on it, and the prospects for economic growth depend on it. That is why Americans hold in such high regard the efforts we have made over the past two decades to clean up our Nation's rivers, lakes, and coastal areas.

Americans know they cannot clean up the water in their own community by themselves, because the pollution in their water comes from others upstream, maybe even in another State. It may come from a factory, it may come from a sewage treatment works, it may come from a feed lot—but what somebody else in another jurisdiction puts in the river becomes one of the most important issues in their lives. They drink it, their kids swim in it, they rely on a supply of clean water to attract new jobs to their area.

That is why we have a Federal Clean Water Act. And that is why we should not weaken the Clean Water Act now on the books.

There are many complex provisions in the Clean Water Act. But what matters most to the majority of Americans is that somebody is limiting the amount of pollution being dumped into the river upstream from them by factories and by sewage treatment works. That is what the American people want. That's what they have in the existing Clean Water Act. And that is exactly what this bill would take away from them.

This is a bill by and for major polluters.

There are differences of opinion about how to fix problems in the stormwater program. There are differences of opinion about how to fix the wetlands program. There are differences of opinion about whether or not we should do more to deal with pollution which runs off farms.

But when you get to the core of the Clean Water program, and you ask the question whether factories and sewage treatment works should be able to do less treatment than they are doing today before they discharge into the river, very few Americans would say that is what they want. Some want factories and sewage treatment works to do more, but very few think they should do less.

Yet that is exactly what this bill would do. Over a hundred pages of this bill are rollbacks, waivers, and loopholes for factories and sewage treatment works to dump more pollution upstream than they are allowed to today. Americans did not march in here and ask for that. Americans do not want that.

How did all these rollbacks, loopholes, and waivers for big industry and big sewage treatment works get into this bill? Almost none of them were in the introduced bill. Almost none of them were in the bill we held hearings on. Almost all of them first appeared after hearings were over and right before we went into markup, at which point the bill roughly doubled in size.

What do these hundred-plus pages do? Too much to itemize here, but the administration's veto statement provides a brief summary. It says,

> H.R. 961 would undermine the strong standards which have produced significant water quality improvements in the last twenty years. H.R. 961 would allow polluters to circumvent national industrial performance standards * * * [and] would also undercut the existing Clean Water Act commitment to fishable and swimmable waters by allowing new ways to avoid or waive water quality standards. These provisions could create incentives for polluters to pressure states into offering environmental concessions. * * * Lower standards in an upstream state would mean higher costs to achieve clean water in downstream states.

These rollbacks, loopholes, and waivers sometimes repeal a requirement outright; they are sometimes written as though they are a waiver at the discretion of the regulating agency, but under the bill the agency in fact would have no discretion; and they are sometimes written as though it really is up to the regulating agency, but if the agency says no, the polluter will have new grounds to sue and to tie the issue up in courts for years, while the pollution continues. This is, in fact, one of the worst features of this bill, because it will make the Clean Water program more like the Superfund program, all litigation and no cleanup.

This bill has many other features which are contrary to the public interest.

It attempts to fix the wetlands program, but in so doing eliminates 60 to 80 percent of all wetlands from the program, including parts of the Everglades; it directly contradicts the National Academy of Sciences study just released; and it puts huge new cost burdens on taxpayers.

It attempts to fix the stormwater program as it effects cities, but then uses that as an excuse to virtually eliminate the stormwater program as it effects industrial sites.

It adds billions to the deficit just in the next 3 years, and much more beyond that, according to OMB.

It adopts a version of risk assessment which was rejected on the floor of the House after the advocates of risk assessment argued it would be unworkable.

And it would result in increased costs to many municipal ratepayers who will have to try to pay for more pollution cleanup because others are doing less.

But the worst thing it does is to allow factories and sewage treatment works, upstream from somebody else's town, somebody else's property, somebody else's drinking water intake, to pollute more than they do today. That is wrong, and we should not allow that to happen. In some cases industries would be turning off treatment facilities they have already built and are successfully operating. Whatever you think about wetlands or stormwater or feedlots, there is no excuse at the end of the day for voting yes on a bill that allows factories and sewage treatment works to do less than they are already doing.

I and other Members will offer amendments to strike these industrial and sewage rollbacks. But if we are not successful, then I would urge you to vote no on the bill itself. Make no mistake about it, this Nation would be better off, and our people would enjoy cleaner water, if we passed no bill, than if we passed this bill.

If we defeat this bill we can go back and do what we should have done all along—produce a moderate bill which fixes the wetlands program without throwing out most wetlands protection and raiding the Treasury; which fixes the municipal stormwater situation; which provides the basic authorization; and which, unlike this bill, can be signed into law.

□ 1345

Mr. Chairman, I reserve the balance of my time.

Mr. HAYES. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Condit], chairman of the Blue Dog Coalition.

Mr. CONDIT. Mr. Chairman, I thank the gentleman from Louisiana for yielding me the time.

Mr. Chairman, first of all, let me thank the gentleman from Pennsylvania [Mr. Shuster], the chairman of the committee, and the gentleman from California [Mr. Mineta], the ranking minority member, for their graciousness in allowing us their time. We appreciate that very, very much. It gives us an opportunity to add some constructive and positive input into H.R. 961. We want to thank them publicly for that.

Let me also make recognition of the contribution on the committee of the gentleman from Louisiana [Mr. Hayes] and the gentleman from Texas [Mr. Laughlin]. They have done a great service to this House and to people across this country in fighting the good battle of adding language and having a constructive input in that process, in making this what we believe to be a better bill.

Let me just remind the Members that are listening that what H.R. 961 does, some of the things that we have been working and fighting on for a long period of time. It provides comprehensive wetlands reform, which we have worked on and taken action on already this year, but we need to do it once again.

It establishes something that we have been fighting for for a long time in this House, and that is risk assessment, cost-benefit analysis, consistent with what we did with H.R. 9. It also helps place greater emphasis on voluntary incentives to base nonpoint source programs, which are extremely important to those of us who represent agricultural areas throughout this country.

Finally, what this bill does that I think is extremely important, it adds flexibility and responsibility to States and local governments which they have been asking for for a number of years. We have a great opportunity today, and that is to make changes in the Clean Water Act, at the same time protecting the public interest.

I once again want to thank the gentleman from Louisiana [Mr. Hayes] and the gentleman from Texas [Mr. Laughlin], and particularly the gentleman from Pennsylvania [Mr. Shuster], the chairman of the committee, for their leadership in this area. I encourage all the Members who are interested in those issues that I have mentioned, plus other issues to come down today, listen to the debate, reject those amendments that do not improve this bill, and pass this bill on final passage.

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. Blute].

Mr. BLUTE. Mr. Chairman, I thank the distinguished chairman for yielding me the time and for his efforts on this important reform legislation.

Mr. Chairman, I rise in support of H.R. 961, the Clean Water Amendments of 1995, because it provides a progressive and innovative framework for addressing the environmental water quality issues that our Nation faces. It is a practical, bipartisan bill that builds upon the important environmental standards and safeguards encased in the 1972 Clean Water Act, but reassesses the direction of the legislation to provide flexibility for States and local communities in achievement of those standards.

Everyone recognizes that the Clean Water Act of 1972 was a seminal piece of legislation which laid the groundwork for significant improvement in our Nation's water quality. When it was written over 20 years ago, it focused on the major environmental problem facing our country at the time, point source pollution. By imposing uniform nationwide standards and centralizing control of those standards in Washington, the Clean Water Act of 1972 provided a successful initial approach to pollution cleanup. It has been an effective tool for getting us to where we are today.

But times have changed, and it has become apparent that the one-size-fits-all approach that worked over two decades ago is not wholly and completely relevant or effective today. Point source pollution has been reined in significantly. Now it is evident that the problems associated with non-point source pollution have not been adequately addressed.

In fact, there are many unintended problems that have emerged from this old legislation, most notably the unacceptable costs and regulatory burdens that have been placed on States and local communities which dwarf dwindling environmental gains. My State of Massachusetts, for example, faces the highest per capita cost in the country for compliance with the mandates imposed by the current Clean Water Act.

The one-size-fits-all approach worked well to level the playing field initially, but it overlooked the fact that our Nation is composed of a series of diverse regions.

Mr. Chairman, I would end by saying I strongly support this Clean Water Reform Act. I commend the chairman for his work in this area.

Mr. MINETA. Mr. Chairman, I yield 3½ minutes to the gentleman from Pennsylvania [Mr. Borski], the ranking Democrat on the Subcommittee on Water Resources and Environment who has done so much work on this.

Mr. BORSKI. Mr. Chairman, I thank the distinguished gentleman from California for yielding me the time.

Mr. Chairman, I wish to express my strong opposition to H.R. 961, a bill that is inaccurately called the Clean Water Act Amendments of 1995.

Let us be clear about this, Mr. Chairman. If this bill becomes law, our waters will be dirtier, there will be more outbreaks of waterborne disease and there will be far fewer valuable wetlands.

It cannot be hidden behind talk of flexibility or local option, the goal of this bill is to make it easier to pollute our Nation's waters.

This bill takes us back to the days before 1972 when many rivers were open sewers and some even caught on fire.

In 1972, when the Clean Water Act was passed, only one-third of our Nation's rivers were fit for fishing and swimming. Today, more than 60 percent of our waters meet that test.

This is a record which should make us proud. It is not time for reversal of the Clean Water Act.

H.R. 961 will lead us backward by removing 60 to 80 percent of our Nation's wetlands from protection, including parts of the Florida Everglades, the great dismal swamp, and the New Jersey shore.

It will do virtually nothing to reduce pollution from runoff, the No. 1 cause of pollution in our Nation's waters. Polluted run-off into drinking water caused 400,000 illnesses and 104 deaths in Milwaukee 2 years ago.

This bill will mean more Milwaukees in the future. This bill even eliminates the one effective program we have to control run-off pollution in coastal areas—over the objections of the coastal States organization.

It is not just the coastal States organization that has concerns about this bill. It is the National conference of State Legislators, the Association of State Wetland Managers, the National Governors' Association, inconsistent with their wetlands policy, the International Association of Fish and Wildlife Associations.

There are just too many concerns that have been raised by too many groups about this bill.

It is a bill that will gut the core of the Clean Water Act, the basic national clean water standards that everyone must meet.

This bill will give us anti-environment races all over the country as local governments compete to attract development by reducing environmental standards and sending the pollution downstream. This is simply the wrong direction for the Clean Water Act.

We should be working to fix what needs to be fixed in the Clean Water Act so we can continue to protect the environment while promoting economic growth.

I have had my frustrations with parts of the Clean Water Act and the way some of it has been implemented.

These parts should be fixed.

We should fix the stormwater program to make it rational and sensible.

We should eliminate the unnecessary administrative requirements of the State Revolving Loan Fund and get the money out to the States.

We should fix the coastal zone Non-Point Pollution Program to allow targeting of impaired or threatened waters.

We should approve the new combined sewer overflow policy to help the Nation's older urban areas.

We should fix the wetlands permitting process that ties up too many projects in a snarl of red tape and treats all wetlands alike.

Instead, this bill gives us waivers, exemptions, repeals and limitations that will mean less environment protection for all Americans.

The American people do not want us to allow more water pollution. They want us to protect them from corporate polluters.

I urge my colleagues to vote no on H.R. 961 and let us write a bill that gives the American people clean water and environmental protection

Mr. HAYES. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Chairman, I first want to thank Chairman SHUSTER and members of our committee who have worked tirelessly in producing what I think is a commonsense balance between Federal and local control over clean water programs.

This bipartisan bill recognizes the critical need for flexibility at the State and local level. While, at the same time, the bill retains all existing EPA water quality standards and requirements.

Most importantly, this bill represents a renewed investment in our Nation's clean water infrastructure by authorizing $15 billion for the State revolving loan fund, among other programs.

This bill gives States and local officials the flexibility to manage and control stormwater like other forms of runoff. By providing this regulatory flexibility, the bill reduces the cost of unfunded mandates to our States.

The bill also provides needed comprehensive reforms to the Wetlands Permitting Program, while protecting true wetlands for all of us to enjoy.

Mr. Chairman, I think this is a commonsense approach to reauthorizing the Clean Water Act, and would urge my colleagues to support this bill.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. EHLERS].

(Mr. EHLERS asked and was given permission to revise and extend his remarks.)

Mr. EHLERS. Mr. Chairman, I thank the gentleman from Pennsylvania for granting me time, because I rise with some hesitation to speak against the bill as it came from the committee.

On the one hand, I appreciate what the gentleman from Pennsylvania, the chairman of the committee, has done, because clearly we need more commonsense application of the laws governing the environment and the regulations that are formulated.

At the same time, coming from the State of Michigan, which has more coastline than any of the 48 contiguous States and which has numerous wetlands, I must rise to speak against the wetlands provisions of the bill. They are unworkable. It would do great damage to wetlands in many States, and particularly in the State of Michigan, if those standards were applied in our State.

In particular, the hunters and fishers of our State, and of many States around the Midwest who come to Michigan to pursue their sport, will be deeply disappointed in the wetlands provisions because they are going to have a very deleterious effect upon the population of waterfowl, the population of fish, and, of course, there will be environmental damage as well due to the loss of the filtration properties of the wetlands that we have in our beautiful State.

Therefore, although I support the attempt to have a more commonsense approach to environmental regulation, and I will continue to support that, through risk assessment, and so forth, I do oppose the new provisions regarding wetlands and certain other portions of the bill and support the Saxton-Boehlert substitute.

Mr. MINETA. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE], a former colleague on our committee who has now gone on to the Committee on Commerce, but who has exhibited a great deal of interest in the work of our committee.

□ 1400

Mr. PALLONE. Mr. Chairman, I just wanted to take my 2 minutes if I could to talk about the economic impact of this bill. It is interesting because I think that many of the proponents have been making the argument, looking at the so-called cost-benefit or the risk assessment provisions and suggesting that somehow we need to revise the Clean Water Act during this reauthorization to look at cost-benefit and risk and other things which I might characterize as monetizing the Clean Water Act, something that was mentioned in the New York Times.

From my perspective though and I think from that from many of the coastal states and other parts of the country, by severely weakening the Clean Water Act as this bill does it is jeopardizing many of our most important industries, most notably the tourism industry.

In my part of New Jersey, in fact New Jersey as a whole, tourism is the No. 1 industry and we know that estimates are something like $400 billion a year in this country nationwide comes from the travel and tourism industry.

We also have to note that clean water is very important to the fishing industry, a $55 billion a year industry in this great Nation and also concerns about drinking water. Everyone relies on drinking water, municipal drinking water or other drinking water supplies.

The point I am trying to make, Mr. Chairman, is that by severely weakening the Clean Water Act we are in effect putting on our country and on our citizens and on our taxpayers a great deal of expense because if they lose the money that comes from travel and tourism, if we lose the money that comes from the fishing industry, if we are required to spend billions of dollars in the future to provide for better drinking water or cleaner water than ultimately the taxpayers and the country and the economic output of the country suffers. And I think that those who are urging that somehow weakening this act benefits the taxpayer because the taxpayer is in some way going to save some money is simply a false argument.

Mr. HAYES. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Chairman, I support H.R. 961, the bipartisan clean water reauthorization. I would like to say at the outset no one disputes the importance of clean water to our citizens. Nor does anyone that I know of dispute that the Clean Water Act has generally been a successful vehicle for improving the quality of our water.

Having said that, I think that it is equally clear that some of the provisions of the act need reform. In my view the area of current law that is in most need of an overhaul is section 404 of the Clean Water Act.

Over the years in our part of the country this section has been increasingly abused by Federal regulation and regulators. This abuse has made the wetlands permitting process a nightmare for private land owners and has led in some cases to literally an assault on the rights of many Americans.

This bill which the gentleman from Louisiana [Mr. HAYES] and the gentleman from Texas [Mr. LAUGHLIN] have helped to author takes, I think, constructive steps to correct some of these problems. The new wetlands classification process will permit the protection of our valuable wetlands while pragmatically allowing development of property that is of no importance to our environmental concerns.

Additionally the bill includes language from H.R. 925 that was overwhelmingly passed earlier this year in the House, and it would simply require compensation for landowners whose property value is diminished through government regulatory action.

I think most everyone agrees that as protectors and defenders of our Constitution no one can countenance the taking of private property without just compensation.

I have been contacted by many people in our district in middle and west Tennessee in what is a rural district over the years. Many of these farmers have been crying for relief from the burden of this out-of-control wetland permitting process. And I think this bill today is a most important step in this process.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. TATE].

Mr. TATE. Mr. Chairman, I thank the gentleman for yielding time to me.

First of all I would like to commend the chairman for his fine work on this particular piece of legislation. This truly is a clean water bill. And it advances our congressional commitment to protecting our environment. It is common sense, it is cost effective. Things are now going to be based on sound science and not on fad, not on emotion and not on the whims of the day.

And it upholds property rights, protects fairness, and provides incentives for people to comply, not a big club, but encourages people to do what they believe is right and that is protecting our clean waters.

It also streamlines the bureaucracy, and we need the bureaucrats back here in Washington, DC, not to be making every decision for cities that they cannot even pronounce in my district.

Most importantly, this bill protects the Puget Sound which is the pristine waters that border my district. It is a bipartisan bill, has strong bipartisan support and it upholds the true values that we are concerned about and that is clean water, not just more redtape, and I urge the support of Members of this body to support truly a clean water bill.

Mr. MINETA. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Chairman, I stand in strong opposition to H.R. 961. The Clean Water Act was written in 1972. In my State of Rhode Island, we have made a great deal of progress since then, thanks to the act.

In 1970 the Blackstone River, north of Woonsocket was a dead river. Today at least 16 different fish species swim in the Blackstone, including game fish such as large-mouth bass and brown trout.

In 1970 the Rhode Island Department of Health discovered metals in the fish of Narragansett Bay. Quahogs contained mercury, lead, and chromium. Today these are down 90 percent and are well within the safe zone because of private industry cutting back on discharges due to more stringent permits.

In 1970 because Jamestown had no sewer treatment plant, 200,000 gallons of raw sewage was dumped into Narragansett Bay everyday. Shellfishing and swimming areas were closed. Today the town has a secondary sewage treatment plant and most of the Island is open to shellfishing and swimming.

The Clean Water Act not only provides Rhode Island with the tools necessary to restore our coastal waterways, but also fosters economic development by preventing future shellfish bed closures through a full implementation of its coastal nonpoint source management program.

Anyone who has ever farmed Mount Hope Bay or the Kikamuit River knows that because of stormwater runoff from parking lots and failing septic systems the wildlife in the water becomes polluted and inedible. Simply changing the definition of swimmable and fishable does not change the fact that the fish will be inedible. Hence, it does not mean the fish can be sold. The economy and the environment are not competing interests.

In my State, relaxing standards will do more economic harm than good. Look at the facts. In Rhode Island commercial fishing industry is a $100 million industry, up 700 percent since the Clean Water Act was first implemented in 1972. Oppose H.R. 961. It is bad for the environment and bad for our economy.

Many of you may not know that Rhode Island is the Ocean State. Because of the vast array of beaches, rivers, and boating marinas, the travel and tourism industry generates almost $1.5 billion a year for my State. The vast majority of this occurs in and around Narragansett Bay. Salt water swimming is enjoyed by 67 percent of the Rhode Island population and $70 million is spent in sport fishing every year. I seriously doubt that Rhode Island would be such an attractive place for almost 2 million people to visit every year if our waters were polluted with metals that are especially harmful to our children and the elderly.

I ask you, who would want to smell the raw sewage blowing off the bay or pull a dying fish from the water. In short, if we gut the Clean Water Act today we will not only be jeopardizing our health, but the economies of our Nation's coastal States.

It was the Clean Water Act regulations that allowed Rhode Island to reduce pollution in the Mount Hope Bay, adding 800,000 lbs. of additional quahogs to each years harvest.

It was the Clean Water Act that saved Narragansett Bay so that many of New England's most important fish, like winter flounder, striped bass, and fluke could safely repopulate themselves.

And it was the Clean Water Act that helped publicly owned wastewater treatment plants in Narragansett Bay achieve a 57-percent reduction in the amount of pollutants they discharge.

I ask all my colleagues to look not at the short-run interests, but the long-term concerns and quality of life of our citizens. We must act wisely to avoid the same recklessness that forced us to legislate the Clean Water Act in the first place.

Unfortunately, environmentalists are typically characterized as eccentrics, with nothing better to do than complain about obscure pollutants or rare animals. I abhor that characterization. In my State, environmentalists come in many forms. They are the hard-working lobstermen and quahogers who farm Narragansett Bay. They are the sportsmen who canoe down the Runnins River or fish for striped bass in the Atlantic. Most importantly they are our children who swim in our rivers and play in our parks.

I am proud to call myself an environmentalist. A person who sees the future not just on a balance sheet but by the air we breathe, the water we swim in, and the diverse variety of life we share our community with. In the words of Teddy Roosevelt, our 26th President and renowned conservationist:

> To waste, to destroy, our natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them amplified and developed.

Oppose H.R. 961 and support economic environmentalism rather than economic expediency.

Mr. HAYES. Mr. Chairman I yield 2½ minutes to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Chairman, I rise in support of this bill. In particular, I rise in support of the balance this bill bring to our public policy on nonpoint source pollution control as well as wetlands definition and enforcement.

Representing a large rural district in central and southern Illinois there is not a single day that goes by that I do not deal with these problems.

The real question facing the rural areas of America is how we can best manage to come into compliance with the standards of clean water in this country, and in this bill, in the most cost-effective and efficient way possible. We do not have unlimited resources in this country.

The farmers of this country have been good conservationists; they have to be to sustain a family income on which they can live. They have proven through the conservation reserve program and other solid environmental protection measures that they can produce excellent watershed management on a voluntary basis without additional Government mandates. And those good voluntary watershed management practices have made positive contributions to the clean water in this country, not negative.

With respect to wetlands, not every acre that is on the books today are true wetlands, and even the true wetlands are not all of the same value. And in any case, there is absolutely no need for three separate Federal agencies to have jurisdiction over this issue. This bill brings a commonsense solution to these problems.

To suggest, as someone has already done today, that Americans should be afraid of turning on their tap water as a result of this bill, that we are all going to be drinking bottled water, is the kind of talk I just cannot believe. That kind of talk only fuels the paranoia against Government that is running rampant in this country today.

Mr. SHUSTER. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Ohio [Mr. LATOURETTE].

Mr. LATOURETTE. Mr. Chairman, first I want to commend Chairman SHUSTER for his leadership in bringing H.R. 961 to the floor.

Mr. Chairman, I rise today in support of H.R. 961, and in particular title I of H.R. 961, which reauthorizes environmental programs that are critical to the waters of the Great Lakes region. More than $12 billion in Federal investment has brought the Great Lakes back from the brink of death and is credited for making the Great Lakes great again. A $4.5 billion annual Great Lakes sport fishing economy is a further testament that our country will continue to reap important economic benefits by passing H.R. 961 by providing $3 billion in programs such as wastewater treatment facilities. This will serve to build on the success of the Clean Water Act.

H.R. 961 also seeks to address the contaminated sediments problem that clogs the Great Lakes system.

H.R. 961 also contains provisions to better coordinate research activities among Federal agencies engaged in research on the Great Lakes.

H.R. 961 is also supportive of making sure the fish in the Great Lakes are safe to eat.

I urge passage of H.R. 961.

Mr. SHUSTER. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I rise in support of the bill and in opposition to the Boehlert amendment.

Mr. Chairman, I want to express my support for H.R. 961, the Clean Water Amendments of 1995.

This bill makes significant commonsense reforms to our Nation's clean water program. It maintains the goals of the Clean Water Act while providing more flexibility to our States and local authorities who know their States and their waters and know best how to reach those goals. Let me point out that this flexibility is given to the States and also to EPA to utilize if they see fit—industry has not been given sweeping unilateral waivers from critical requirements of the act as has been charged.

This bill strengthens the current nonpoint source program and replaces the current broken stormwater program with one that will be more effective and gives States a range of tools—from voluntary measures to site-specific permits—to deal with stormwater runoff.

The section on watershed management encourages States to pursue comprehensive point and nonpoint source programs on a watershed basis to most efficiently meet water quality standards. The bill continues the Federal-State partnership by authorizing Federal assistance to the States for the construction of wastewater treatment plants, to address nonpoint source pollution, to continue cleanup of the Chesapeake Bay and the Great Lakes, and for a host of other pressing water quality needs.

H.R. 961 also incorporates many of the principles that the House has already passed, such as risk assessment and cost-benefit analysis to ensure that our limited financial resources are utilized in such a way as to get the greatest water quality benefit.

Now, with any bill of this length which addresses such complex issues, there undoubtedly will be some provisions that may cause some concern. For example, I may have some concerns regarding some of the wetlands provisions, but I realize that this bill will continue to be a work in progress and undoubtedly more revisions will be made before the bill finally is enacted into law.

Nevertheless, Mr. Chairman, we know that Americans want to preserve and protect our environment, particularly our precious water resources, and we know that they want commonsense regulation—that was made clear in last year's elections. I believe we can have both as is accomplished in this bill, and I urge the House to approve H.R. 961.

Mr. MINETA. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MILLER], the very distinguished ranking Democrat on the Committee on Resources.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the legislation before us today exemplifies the dangerous liaison between private interests and the majority in the House when it comes to amending our Nation's laws.

That close partnership is nowhere more evident than in the proposed revisions of the Clean Water Act—the law that has cleaned up San Francisco Bay near my district, and thousands of other rivers, streams, bays, and other bodies of water throughout America over the past quarter century.

Are there problems with the Clean Water Act? Of course. I have concerns about some of the ways in which the law has been implemented, too, and if we had a real commitment to reform, I have little doubt we could develop a sound alternative to this bill.

But let us make no mistake: H.R. 961 is not about fixing the mistakes. It is about devastating one of the great achievements of environmental policy in this country. And this emasculation of the law is taking place at the request, and at the direction of, powerful special interests who have been granted unprecedented access to the drafting of the legislation.

Strewn throughout H.R. 961, particularly in title III, are special exemptions, waivers, and exclusions that benefit these special interests:

An exemption from effluent limitations for coal remining operations that discharge into waters that already fail to meet water quality standards;

A provision limiting EPA's ability to upgrade discharge standards for industrial polluters which benefits the pulp and paper industry and others;

An exemption from wetlands permit requirements for iron and steel manufacturers;

An exemption from the silver discharge standard for the photoprocessing industry;

An exemption for oil and gas pipelines.

Exemption after exemption provided to high polluting industries by this legislation that masquerades as reform.

This is not reform. It is a clear example of special interest legislation, written on behalf of powerful interests and at the expense of our environment and the health and safety of the people of the United States.

I have introduced legislation that would require that the authors of any legislation prepared by private entities be disclosed before the Congress voted to make special interest provisions the law of the land. Although the majority has not yet accorded me a hearing on my bill, I am hopeful that the majority will voluntarily disclose who sought and wrote these special interest provisions before asking our colleagues to vote them into law.

Regardless of who authored these exemptions, they are bad policy and should be rejected by the House.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 2, 1995.

To: Distribution.
From: Patricia Law.
Re: Clean Water Task Forces.

Thank you for agreeing to participate in a very ambitious legislative timetable for reporting a Clean Water bill, but one which we hope you will find constructive and will result in a product that we can all support.

Attached is the list of participants from yesterday's meeting indicating each organization's primary area of focus if it was provided. We will notify you as soon as possible of the Subcommittee Member assignments and dates for Task Force meetings. Our hope is to have these meetings at the beginning of next week. In the meantime, we encourage you to work together to identify outstanding issues and to formulate your proposals for addressing them. The following groups have agreed to take the lead for this front work. If you are not identified on the attached list as having an interest in a particular task force, we suggest that you call the lead.

Nonpoint Source and Watershed: Thomas W. Curtis, Director, Natural Resources Group, National Governors Association, Hall of the States, 444 North Capitol Street, Suite 267, Washington, D.C. 20001-1512, 202/624-5389, 202/624-5313 (fax).

Point Source: Charles W. Ingram, Associate Manager, Environment Policy, U.S. Chamber of Commerce and Clean Water Industry Coalition, 1615 H Street, N.W., Washington, D.C. 20062-2000, 202/463-5627, 202/887-3445 (fax).

Funding and Unfunded Mandates: Robert K. Reeg, Manager, Congressional & State Relations, National Society of Professional Engineers, 1420 King Street, Alexandria, VA 22314-2794, 703/684-2873, 703/836-4875 (fax).

Stormwater: Carol Kocheisen, Counsel, Center for Policy and Federal Relations, National League of Cities, 1301 Pennsylvania Avenue, N.W., Washington, D.C. 2004, 202/626-3028, 202/626-3043 (fax).

Wetlands: Kim Putens, Executive Director, National Wetlands Coalition, 1050 Thomas Jefferson Street, N.W., 7th Floor, Washington, D.C. 20007, 202/298-1886, 202/338-2361 (fax).

Please feel free to call me with any questions or assistance that you require from us. Again, we appreciate your involvement and look forward to working with you.

CLEAN WATER TASK FORCE PARTICIPANTS

Joseph M. McGuire, Director, Legislative and Regulatory Affairs, Allied Signal, 1001 Pennsylvania Avenue, N.W., Suite 700, Washington, D.C. 20004, 202/662-2657, 202/662-2674 (fax), (point source).

Lee Garrigan, American Consulting Engineers Council, 1015 Fifteenth Street, N.W., Washington, D.C. 20005, 202/347-7474, 202/898-0068 (fax), (funding).

Sam White, America Crop Protection Association, 1156 15th Street, N.W., Suite 400, Washington, D.C. 20005, 202/872-3846, 202/463-0474 (fax), (nonpoint source).

Mark Maslyn, American Farm Bureau Federation and Clean Water Working Group, 600 Maryland Avenue, S.W., Suite 800, Washington, D.C. 20024, 202/484-3615, 202/484-3604 (fax) (nonpoint source).

Karla Perri, Director, Legislative Affairs, American Forest & Paper Association, 1111 19th Street, N.W., Suite 800, Washington, D.C. 20036, 202/463-2436, 202/463-2424 (fax), (nonpoint source, wetlands, point source, stormwater).

Christopher Myrick, Director, Government Relations, American Home Products Corporation, Suite 1001 1726 M Street, N.W., Washington, D.C. 20036, 202/659-8320, 202/659-2158 (fax), (point source, nonpoint source).

Cary L. Cox, Ashland Inc. and American Petroleum Institute, 601 Pennsylvania Avenue, N.W., North Building, Suite 540, Washington, D.C. 20004, 202/223-8290 x223, 202/293-2913 (fax), (point source).

Jennifer Boucher, Associated Builders and Contractors, 1300 North Seventeenth Street, Rosslyn, VA 22209, 703/812-2000, 703/812-8202 (fax), (funding).

Heidi H. Stirrup, Director, Congressional Relations, Associated General Contractors of America, 1957 E Street, N.W., Washington, D.C. 20006-5199, 202/393-2040, 202/347-5412 (fax), (stormwater, funding).

Ken Kirk, Association of Metropolitan Sewerage Agencies, 1000 Connecticut Avenue, N.W., Suite 410, Washington, D.C. 20036, 202/833-4653, 202/833-4567 (fax), (funding).

Linda Eichmiller, Deputy Director, Association of State and Interstate Water Pollution Control Administrators, 750 First Street, N.E., Suite 910, Washington, D.C. 20002, 202/898-0905, 202/898-0929 (fax), (stormwater, point source, nonpoint source, funding).

Rose Marie Sanders, Legislative Representative, Air & Water Chemical Manufacturers Association, 2501 M Street, N.W., Washington, D.C. 20037, 202/887-1123, 202/463-1598 (fax), (point source).

Edward M. Kavjian, Washington Representative, General Motors Corporation, 1660 L Street, N.W., Suite 401, Washington, D.C. 20036, 202/775-5086, 202/775-5032 (fax).

David T. Modi, Senior Director, Government Affairs, Georgia Pacific Corporation, 1875 Eye Street, N.W., Suite 775, Washington, D.C. 20006, 202/828-9631, 202/223-1398 (fax).

Aleesa L. Bell, Washington Representative, International Paper and Great Lakes Water Quality Coalition, 1101 Pennsylvania Avenue, N.W., Suite 200, Washington, D.C. 20004, 202/628-1223, 202/628-1368 (fax), (point source).

Victoria Shaw, Senior Manager of Government Relations, National Association of Metal Finishers, 1200 19th Street, N.W., Washington, D.C. 20036, 202/429-5108, 202/223-4579 (fax), (point source).

Greg Ruehle, Director, Private Lands, Water and Environment, National Cattlemen's Association and Clean Water Working Group, 1301 Pennsylvania Avenue, N.W., Suite 300, Washington, D.C. 20004, 202/347-0228, 202/638-0607 (fax), (nonpoint source).

Karen Ann Mogan, Director, Environmental Affairs, National Food Processors Association, 1401 New York Avenue, N.W., Washington, D.C. 20005, 202/639-5929, 202/637-8068 (fax) (stormwater, point source).

Thomas W. Curtis, Director, Natural Resources Group, National Governors Association, Hall of the States, 444 North Capitol Street, Suite 267, Washington, D.C. 20001-1512, 202/624-5389, 202/624-5313 (fax), (nonpoint source).

Carol Kocheisen, Counsel, Center for Policy and Federal Relations, National League of Cities, 1301 Pennsylvania Avenue, N.W., Washington, D.C. 20004, 202/626-3028, 202/626-3043 (fax), (stormwater, nonpoint source, watershed, funding).

Robert S. Long, Vice President, Government Affairs, National Mining Association, 1130 Seventeenth Street, N.W., Washington, D.C. 20036-4677, 202/463-2663, 202/833-1965 (fax), (stormwater).

Robert K. Reeg, Manager, Congressional & State Relations, National Society of Professional Engineers, 1420 King Street, Alexandria, VA 22314-2794, 703/684-2873, 703/836-4875 (fax), (funding).

John M. Stinson, Director, Government Affairs, National Steel Corporation, 1575 Eye Street, N.W., Suite 1100, Washington, D.C. 20005, 202/638-7707, 202/289-4616 (check fax), (point source).

A. William Hillman, Director of Government Relations, National Utility Contractors Association and Clean Water Council, 4301 N. Fairfax Drive, Suite 360, Arlington, VA 22203-1627, 703/358-9300, 703/358-9307 (fax), (funding).

Kim Putens, Executive Director, National Wetlands Coalition, 1050 Thomas Jefferson Street, N.W., 7th Floor, Washington, D.C. 20007, 202/298-1886, 202/338-2361 (fax), (wetlands).

Robert Hurley, Senior Vice President, R Duffy Wall & Associates, Inc., Suite 410 South, 601 13th Street, N.W., Washington, D.C. 20005, 202/737-0100, 202/628-3965 (fax).

Jean R. Toohey, Manager, Government Relations, Rhone-Pouleac, 1401 Eye Street, N.W., Suite 200, Washington, D.C. 20005, 202/898-3185, 202/628-0500 (fax).

Jeffrey S. Longworth, Stormwater Reform Coalition, c/o Collier, Shannon, Rill & Scott, 3050 K Street, N.W., Washington, D.C. 20007, 202/342-8642, 202/338-5534 (fax), (stormwater).

Jeffrey L Leiter, Stormwater Reform Coalition, c/o Collier, Shannon, Rill & Scott, 3050 K Street, N.W., Washington, D.C. 20007, 202/342-8490, 202/338-5534 (fax), (stormwater).

Charles W. Ingram, Associate Manager, Environment Policy, U.S. Chamber of Commerce and Clean Water Industry Coalition, 1615 H Street, N.W., Washington, D.C. 20062-2000, 202/463-5627, 202/887-3445 (fax).

Philip Cummings, Attorney at Law, Clean Water Act Reauthorization Coalition, McKutchen, Doyle, Brown & Enersen, 1101 Pennsylvania Avenue, N.W., Suite 800, Washington, D.C. 20004, 202/628-4900, 202/628-4912 (fax), (point source).

Peter A. Molinaro, Assistant Director, Government Affairs, Union Carbide Corporation and Clean Water Act Reauthorization Coalition, 801 Pennsylvania Avenue, N.W., Suite 230, Washington, D.C. 20004, 202/393-3211, 202/347-1684 (fax), (CWARC, point source).

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Mr. HAYES. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I support the bill. This is a commonsense approach and balance between regulations and jobs, and it is sorely needed in our country.

This Nation has gotten so overzealous with this environmental business that if a dog accidentally passes water in a parking lot some government agent might deem it to be a wetland. A farmer cannot even maintain the creeks on their own property from spilling over and ruining their own cropland. What kind of sense is this?

The American people have had it. They are asking Congress to employ a little common sense. That is what this bill does.

I have a couple of amendments. No. 1 is, the first, a standard buy American, and there should be no problem. The second one, though, states that my amendment would allow for a waiver for the encouragement and development and use of innovative pollution prevention technologies, but only if those technologies are American made to every extent practicable. I expect to have support on that amendment.

But what I really wanted to talk about today is this Great Lakes initiative. The report is out. The Great Lakes initiative was originally to be guidelines, not strict binding rules, guidelines, not rules. I support the language in this bill that maintains guidelines, not binding rules for the following reasons: If implemented under binding status, the Great Lakes States will suffer as much as $11 billion in cost factors and as many as 33,000 jobs. Now, that makes no sense.

Finally, I want to talk about this we-they business. Manufacturers, with this bill, are not getting carte blanche to go out and ruin our environment, and there is a common-sense approach that will, in fact, encourage jobs to stay here in America instead of being chased offshore by these overzealous regulators.

And, Congress, let me say this, we are not going to have a job left in America if you continue with oppressive regulations that allow an open door policy to leave our country. There is a balance. That balance can be reached. Let us reach it here today.

I support H.R. 961 and urge its passage.

Mr. SHUSTER. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I stand in favor of the bill.

Mr. Chairman, today I stand to applaud the fine bipartisan work of the Transportation and Infrastructure Committee in crafting, what should be recognized as a victory for the American people, the environment, and common sense.

This bill recognizes the critical need for flexibility at the State and local level. The approach of H.R. 961 is to preserve environmental standards and safeguards in the Clean Water Act, while providing flexibility in achieving those standards. The Clean Water Amendments of 1995 recognizes and reaffirms the fundamental thrust of the original 1972 act while focusing on those areas where the law clearly needs updating. H.R. 961 is a commonsense approach to provide flexibility to local officials, reduce unfunded mandates, ease redundant and costly regulations, and make bureaucrats factor risk assessment into their decisions.

In crafting this bill, Members of both parties have realized that officials at the local level know how to address their water quality matters a lot better than the bureaucrats in Washington. It was the desire to have cleaner water in my small town of Farmington, UT, 30 years ago that brought me into politics. It is the desire of all of us to have clean, safe water to drink and use. To mandate how standards must be reached may have worked in 1972, but it is my belief that city councilmen, mayors, Governors, and State regulators can be fully trusted to care for the water quality of their communities. They are closest to the situation and have the most to gain from achieving the high standards set out in this bill.

Without question, the current section 404 wetlands regulatory program is badly in need of reform. Since enactment of the Clean Water Act in 1972, the wetlands permitting program has been expanded broadly from a program affecting navigable waters, to a program regulating activities on 75 million acres of privately owned property.

I strongly support the wetland provisions of H.R. 961 as a major victory to achieve the Nation's wetlands conservation goals, while at the same time respecting the property rights of individuals. I applaud Chairman BUD SHUSTER and his committee for their fine work and urge strong support for passage of this historical bill.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Committee on Agriculture, the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding me this time.

The gentleman from California just made an allegory, made a statement that this is a dangerous liaison. It is not that. It is a partnership effort to prevent close encounters of the regulatory kind.

This is a good bill. For 15 years we have tried to get a bill like this making a partnership with industry, agriculture, environmentalists. Fifteen years we have been spinning our wheels. Thank you, Mr. Chairman, for your leadership in finally bringing a good bill to the floor of the House.

I want to talk about wetlands. The gentleman from Ohio just made a rather graphic reference to what the problem has been. It is true. We have now a well established procedure that says the land must be flooded if it is going to be a wetland. It must support water loving plants, and it must have hydric soils. The land must show clear evidence of all three characteristics.

Too long, too long we have been subjected to regulatory nightmares where a low spot in some farmer's field was declared a wetland in an area where no self-respecting duck would ever land. Let us end this business.

Let us pass this bill. It is a good partnership. I commend the chairman. I commend his leadership. No member of the Committee on Agriculture on either side should vote against this bill. It is a very good reform bill.

Mr. Chairman, I rise in strong support of H.R. 961, the Clean Water Amendments of 1995, as reported by the Committee on Transportation and Infrastructure.

As the Transportation Committee noted in its report, the Clean Water Act was last amended in 1987 and most of its authorizations expired in 1991. Because past Congresses could not get a bill out of either committee, our Nation's water quality programs have suffered. And, more importantly, Federal regulators have been allowed to run amok on private lands, entangling farmers, ranchers and other American businesses in unlegislated, prescriptive regulation. It is time to tell the regulators what the policy will be and follow up the enactment of this bill with vigorous oversight.

This bill sets sound policy for nonpoint pollution protection of the Nation's waters and amends Section 404 for a commonsense approach to the conservation of wetlands. Farmers and ranchers will find this policy to be both understandable, reasonable—and with proper implementation, very workable for American agriculture.

I want to emphasize two important parts of this bill that make it essential policy for the future of American agriculture: amendments to section 319 dealing with nonpoint source programs and title VIII amendments that rewrite section 404 provisions dealing with wetlands.

State water quality programs under section 319 of the bill are to be developed using voluntary, incentive-based standards that are likely to be achieved within the 15-year timetable set out in the bill. The amendments fully express the committee's correct understanding that the way to achieve water quality standards is not through command-and-control regulations, but by adopting policies that are possible, and timeliness and deadlines that make sense.

To the extent agriculture is responsible for nonpoint source discharges, the committee rightly chose to avoid the top-down approach to regulation. We cannot regulate nonpoint sources as if pollution was coming from the end of a pipe. In addition, the bill includes section 6217 of the Coastal Zone Management Act within section 319, ending a duplicative regulatory regime for agricultural producers in coastal areas.

I would caution Members about one provision that admittedly has caused me some concerns—concerns the Agriculture Committee may want to address once this bill is law and the 1995 farm bill has been enacted. That provision gives authority for the chief of the Natural Resources Conservation Service at the U.S. Department of Agriculture to enter into written agreements with States as they develop their section 319 water quality programs. The incentive for such an agreement would be to give agricultural producers the assurance that they are in compliance with the Clean Water Act. But, the problem is how the agreement may be written.

Frankly, farmers and ranchers have not been well served by a similar agreement on wetlands that was hailed by the Clinton administration as the end of controversy on the regulation of wetlands under both the Clean Water Act and the 1985 Food Security Act. We were told under this agreement farmers would no longer be subject to successive visits by Federal bureaucrats. There would be a final outcome on wetland determinations on the ground. Unfortunately, the members of the Agriculture Committee took this announcement on good faith. That faith has been sorely abused. The same kind of regulatory abuse is possible here. The Agriculture Committee intends to watch this closely.

The wetlands provisions of this bill are redesigned to finally end the abuse of farmers, ranchers, and other landowners. Title VIII is sound policy. It is derived from H.R. 1330, a bill introduced by the gentleman from Louisiana [Mr. HAYES] to restore sanity to our national wetlands policy. It recognizes there are different functions and values of wetlands and allows for a "type C" wetlands classification that will be left outside of Federal jurisdiction.

The Chairman's amendment to be offered today eliminates the concept that land no longer meeting wetland criteria can be classified a prior converted wetland, serving limited wetland functions. A prior converted cropland, one that was drained or filled prior to December 1985, no longer exhibits wetland characteristics—and, should be in law and regulation considered as an upland. These agricultural bottomlands, many of which have been dry for a generation or more, are not wetlands.

However, under current law, regulators look at prior converted croplands as just another parcel of private property they control through regulatory fiat which means more regulation, more hassles for the landowner, but no significant gains are realized for the environment. I want to make certain this is clear: prior converted croplands are not wetlands. Under this bill, they fall outside of Federal jurisdiction under the Clean Water Act.

The delineation procedures established under the committee-reported bill will make sense to farmers and ranchers. The land must be flooded. It must support water-loving plants. It must have hydric soils. The land must show clear evidence of all three characteristics.

Finally, Mr. Chairman, farmed wetlands and other agricultural lands determined to be exempt from subtitle C of the 1985 Food Security Act shall be exempt from the Clean Water Act so long as those lands are used for agricultural purposes.

To my colleagues, I say this is good, positive legislation. It protects the wetlands the public believes need protection; it, hopefully, will keep the bureaucrats off private property at least for the purposes of the Clean Water Act. It will bring to an end nearly a decade of abusive, over-reaching regulation. I urge its enactment.

Mr. MINETA. Mr. Chairman, I yield 2 minutes to our very fine colleague, the gentleman from West Virginia [Mr. RAHALL], the ranking Democrat on the Surface Transportation Subcommittee of our committee.

Mr. RAHALL. Mr. Chairman, it is indeed fitting that we are considering this bill today, this alleged reauthorization, the Clean Water Act.

I say this because on this day, 123 years ago, President Grant signed into law a bill that has perhaps created more environmental disasters than any other single measure.

The law he signed has left us with a legacy of acidified rivers and streams, devoid of aquatic life, running shades of orange and red.

A law that has left us with a legacy of mammoth open pits that serve as toxic swimming pools for migrating birds.

A law that has left us with a legacy of cyanide laced rock and debris, a ticking timebomb for future generations.

In short, a law that has given rise to more Superfund sites due to the activities it endorses than has any other type of activity.

This activity is hardrock mining, for minerals such as gold and silver, on Federal lands in the Western States. And the law is known as the mining law of 1872.

So today, on its 123d anniversary, we find ourselves considering another bill that if enacted promises to cause further environmental degradation and depravation.

I say this because the pending legislation represents a direct assault on the goals of the Clean Water Act.

Make no mistake about it, these are goals which are widely supported by the citizens of this country.

Moreover, the pending bill even goes so far as to significantly roll-back the progress that has already been made in achieving water quality.

And it does so for no particular reason at all.

In the Appalachian Region of this country—where we do not have hardrock mining under the mining law of 1872, but rather live on a daily basis with the environmental, health and safety threats of past coal mining practices—in many places we too have acidified rivers and streams running those shades of orange and red.

For example, the Cheat River in West Virginia, once a prime destination of whitewater rafting enthusiasts, today is so acidic that its water irritates the eyes and skin of anyone who dares traverse its rapids.

Our loss is not only the aquatic life that once inhabited parts of this river, but a healthy amount of revenue from tourism.

But rather than seek to promote the rehabilitation of this river, rather than seek to require that its designated water quality standards are met, the pending legislation takes the position that if something is polluted, well, it just might as well stay polluted.

And it does so by gutting the NPDES process, creating countless loopholes and waivers for point-source pollutants.

It does so by allowing effluent limitations for point sources of pollution to be based on new, weaker standards.

It does so by repealing the entire stormwater permit program, and by hampering efforts to control nonpoint source pollution.

And it does so by attacking the very basis for the promulgation of water quality standards, allowing non-scientific, arbitrary and capricious factors to be used in standard setting.

No Member from the Appalachian region should be able to vote for this bill.

And I would submit that those of our constituents who live with the ravages of mining, whether it be hardrock or coal, simply did not elect us to come up here and endorse the continued contamination of their water sources: The rivers, the streams, the groundwater that serves as the very lifeblood of our natural environment.

Finally, on the question of wetlands, I think all of us agree that something must be done to provide relief from a permitting process that has become a bureaucratic nightmare.

Yet, I do not believe that the majority of Americans want to see over 80 percent of our Nation's wetlands destroyed as could occur under the pending measure.

This does not constitute responsible wetlands reform, and, it would have far-reaching consequences.

For instance, I have been advised that this legislation would significantly reduce duck populations and diminish prospects for future duck-hunting seasons.

Obviously, ducks require duck habitat to survive, and that habitat—wetlands—would be seriously threatened by the pending legislation. This is something of concern to sportsmen and women throughout America, and I know it is a matter of great concern to sporting groups in my State of West Virginia.

For these, and many other reasons, I urge this body to reject the pending measure.

Mr. HAYES. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. LAUGHLIN], one of the founding coalition members.

Mr. LAUGHLIN. Mr. Chairman, I first want to thank the distinguished chairman of our committee for turning this bill into a truly bipartisan bill, and I commend our last chairman, the gentleman from California [Mr. MINETA], for tying to work with us in the last Congress to pass a clear water bill.

But let me set the record straight about the we-and-the-they and the special interests. Half the Democrats on the Transportation Infrastructure Committee have supported this bill, not three or four, not a couple from the South, not a couple of boll weevils, 50 percent, have supported this.

Mr. Chairman, I want to rise in support of the bill and encourage the continuation of the bipartisan support.

Not only do I support the bill, I want to address a focus on the nonpoint source pollution provisions, especially as they relate to agriculture. Too often we have tried to clean up the water of America by saying it is agriculture's fault, and when we come to cleaning up, look in the last few years, we have put over $60 billion into the point source, yet we put less than $1 billion into nonpoint source, and we have tried to tell agriculture across America, "You have got to do it by these rules," when in fact agriculture in one part of the country has a different focus and a different set of rules and a different set of criteria, and we cannot clean up the agricultural lands of America simply by having one set of rules that fit all.

In fact, it is farmers like Harley Savage, Steve Ballas, and other farmers who should have the ability to do what they know how best to do. They cannot produce a crop with dirty water, even though there are some in my party that want to say this is a dirty water bill.

But the farmers of America cannot produce what they do better than any industry in America, and that is to outproduce the rest of the world in producing their products, whether it is cotton, corn, rice, poultry, beef, or any other agricultural product, and we need to give them the flexibility to do what they do best and to make sure that they continue, unlike some big cities.

The agricultural community is not dirtying the water to the degree that they are given the blame.

So I urge we implement and pass this bill so the agricultural community can do the implementation with flexibility to ensure that they continue giving us the clean water that all of us, whether we are from the rural areas, from the cities, whether we are Democrats or Republicans, we not only deserve but we want and we strive to achieve.

So this is not a we-they bill. I urge support of 961, and I wanted at this point to thank the gentleman from Louisiana [Mr. HAYES] for his great leadership in ensuring that this is a bipartisan bill.

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I thank the chairman for yielding me this time.

I just wanted to remark there has been much said here today about the economic implications, whether they be good or bad, of this attempt to change the Clean Water Act as it currently exists.

I would just like to say if you represent a coastal State and if you look at the provisions of this bill as it stands today and if you think that is good for your economy, then you should have spent the years of the middle 1980's with me in New Jersey or with the Representatives of Long Island when water was dirty. Those were the dirty water days. And we got past them.

If you think that doing damage to the wetlands provisions as they exist today, in removing 90 percent of the wetlands in my home State from the rolls of wetlands, if you think that is good for my economy, then you should vote for this bill.

If you think it is good for the economy to gut the CZMA provisions that pertain to nonpoint source pollution, I do not think it is, but if you think it is, then you should vote for this bill.

I would just say that the Coastal States Association does not think that is good, because we have adopted their provisions, and we have done that in the name of the economy. If you think that doing damage to the storm water discharge permitting process, as it happens in this bill, is good for the economy of coastal States, then you should vote for this bill. But I cannot do that, because I know, having lived through the years of the middle 1980's in New Jersey and what happened on Long Island, that is not good for the economy.

So if you are concerned about the economy of the coastal areas in this United States, whether it be in Maine, Massachusetts, Rhode Island, New Hampshire, New York, New Jersey, Maryland, or Virginia or the Carolinas, I am not so sure about Georgia; I have never been there, or Florida or the Gulf States or California or Oregon or Wisconsin, if you are not concerned about the economic implications of this bill, then you have not observed what has gone on in those States that have developed dirty water climates.

In the summers of 1987 and 1988, for example, in New Jersey, people were afraid to go to the ocean, afraid to go in the water. They were afraid to take vacations in those kinds of places. So that is our economy, and this bill does damage to it.

Mr. MINETA. Mr. Chairman, I yield 2 minutes to our very fine colleague, the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in strong opposition to H.R. 961, the Clean Water Amendments of 1995. This bill would roll back decades of progress in cleaning up our rivers, lakes, and coastal waters, and it threatens the fragile ecosystems of our Nation's wetlands.

This bill has rightly been called a polluters' bill of rights. Special interests representing some of our Nation's largest polluters wrote this bill, so it is not surprising that it is riddled with custom-made loopholes to let industries pollute.

The bill would increase from just 5 to 70,000 the number of industrial pollutants that could be dumped into our Nation's waterways. It would open up our Nation's most fragile wetlands to development, including more than half of all the wetlands in my home State of Connecticut.

This bill poses a threat to our safe drinking water and to the rivers, streams, and lakes in which we swim and fish.

My constituents along Long Island Sound would be especially harmed by provisions of this bill repealing efforts to clean up our coastal waters. Our coast protection program has proven to be true—that good environmental policy is good economic policy. Clean coastal waters generate billions of dollars in tourism revenue, creates jobs in fishing and other industries, and provide numerous recreational activities.

Connecticut's Coastal Zone Management Program has made great strides at cleaning up the Long Island Sound. It has successfully restored over 1,500 acres of critical tidal wetlands. From 1991 to 1993, the number of beach closings along Long Island Sound was reduced from 292 to 174. But we clearly have more work to do. More than 25 percent of Long Island Sound's beaches still are chronically closed due to pathogen contamination. We need policies and financial resources to continue our progress, not reverse them as this bill would do.

I look forward to supporting the Boehlert-Saxton-Roemer substitute because it preserves our coastal cleanup effort, it takes a more reasonable approach to wetland protection, and closes the polluter loopholes of H.R. 961. I am grateful that the substitute provides strong support for the estuary protection goals of H.R. 1438, the Water Pollution Control and Estuary Protection Act introduced by my colleague from New York, Ms. Lowey, and myself.

The negative impact of H.R. 961 is immeasurable. It is bad news for everyone, except for those industries that will enjoy numerous loopholes and waivers. I urge my colleagues to join me in voting against this bad bill.

□ 1430

Mr. HAYES. Mr. Chairman, I yield 2 minutes to the gentlewoman from Missouri [Ms. DANNER].

Ms. DANNER. Mr. Chairman, I rise in support of H.R. 961 which maintains and builds on the current safeguards in place and complements the needs of States for flexibility. Those directly responsible for water quality in our communities, such as the National Association of Counties, the National League of Cities, and the U.S. Conference of Mayors, support H.R. 961 because it makes environmental benefit a primary focus of H.R. 961 and establishes a program that Congress can support in a truly bipartisan approach to solving our Nation's pollution dilemmas.

Let me read just one sentence from a letter that we have received from the presidents of respectively the National Association of Counties, National League of Cities and the U.S. Conference of Mayors, not the Members of Congress, but members who represent our constituency across the United States. Charges, and I quote exactly, charges that H.R. 961 rolls back environmental protection and that it guts the Clean Water Act are totally unfounded. The measure restores common sense to this unaffordable and undoable mandate.

Remember, my colleagues, we have passed legislation here to do away with unfunded mandates. The people that represent our constituents, as well as ourselves, ask us to recognize unfunded mandates as a real problem. I urge each of my colleagues to support H.R. 961 and to follow the discretion of the chairman and the full Committee on Transportation and Infrastructure by retaining the allotment formula in the bill and opposing any efforts to change the formula.

Mr. Chairman, I want to congratulate Chairman SHUSTER and the entire Transportation and Infrastructure Committee staff for their diligence and exemplary work on H.R. 961.

Mr. Chairman, I rise today in strong support of H.R. 961, the Clean Water Act amendments of 1995 which maintains and builds on the current safeguards in place in our system and complements the State needs for more flexibility.

Those directly responsible for water quality in our communities—such as the National Association of Counties, the National League of Cities and the U.S. Conference of Mayors support H.R. 961 because it makes environmental benefit a primary focus of H.R. 961 and establishes a program that Congress can support in a truly bipartisan approach to solving our Nation's pollution dilemmas.

In a letter submitted from the groups I previously mentioned they said and I quote:

> Charges that H.R. 961 rolls back environmental protection and that it guts the Clean Water Act, are totally unfounded. The measure restores common sense to this unaffordable and undoable mandate.

I urge each of my colleagues to support H.R,. 961 and to follow the discretion of Chairman and the full Transportation and Infrastructure Committee by retaining the allotment formula in the bill and opposing any efforts to change the formula.

I yield back the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding.

If I could just have a couple of seconds to give the audience a history lesson. Late in the 1500's we all remember Galileo, and he said at that time he was trying to educate people that the sun was the center of the solar system. Well the Pope heard that, Pope Urban VIII, the head of the early Roman Empire, and he said, if Galileo repeats that comment, the sun is the center of the solar system, he will have his arms and legs dislocated.

Mr. Chairman, I want to put everybody's mind at ease. I do not fear that my arms will be dislocated by making a comment about the provision in this Clean Water Act taking away wetlands, but by the Pope telling that to Galileo it made no difference. The sun was still the center of the solar system. In this legislation this will not be a wetland.

Now we can say anything we want about wetlands. We can describe them any way we want to describe them. But that does not change the way nature works, and this type of filtration system is absolutely essential if we are going to have any productive coastal fishery, if we are going to have any clean water.

This, my colleagues, regardless of what the bill says, is a wetland.

Mr. MINETA. Mr. Chairman, I yield 1 minute to the gentleman from San Diego, CA [Mr. FILNER], a very fine member of our committee on Transportation and Infrastructure.

Mr. FILNER. Mr. Chairman, I thank the gentleman for yielding, but more importantly I thank the gentleman for his tireless efforts on behalf of protecting our environment. I say to him, "Mr. MINETA, we may lose today's battle, but under your leadership I'm confident we're going to be back, and we will win the long-range war."

Mr. Chairman and colleagues, I rise today during this debate to urge my colleagues not to turn our back on the health and safety of Americans and to, once again, reassure my constituents in San Diego that they will not have to spend billions for an unnecessary sewage facility. San Diego is assured to regulatory relief with either of the major alternatives on the floor, but we must also be sure that we can fish and swim in San Diego's rivers, lakes, and beaches.

The critical questions that San Diegans must ask themselves about these bills before us is, will I have clean water to drink, will I have a clean beach to swim at, and will I get relief from the multi-billion-dollar secondary treatment boondoggle? With the Boehlert substitute, which I am supporting, the answers are "yes" to safe drinking water, "yes" to clean beaches, and "yes" to relief from increased sewage bills. I cannot support any bill that purports to help San Diego on the one hand and destroys the safety of our drinking water and beaches on the other.

Mr. HAYES. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding, and I particularly want to thank the chairman of the committee, the gentleman from Pennsylvania [Mr. SHUSTER], for bringing this bill to the floor, and I particularly want to pay a great debt of gratitude, I hope, on behalf of this entire House for the efforts, the long-standing efforts that have been made by my colleague and friend, the gentleman from Louisiana [Mr. HAYES], in this effort that has finally reached the floor to reform the wetland laws of America and create some sound, sensible regulations of wetlands in America combined with the right of property owners to be reimbursed when their property is taken for these regulatory purposes.

My colleagues, one of my colleagues from California rose earlier today to complain about lobbyists' hands in the writing of this bill. Let me set the record straight. This bill, the reforms have long been on this table, not this year when the new majority came to town. These reforms have long been on the table, never brought to the floor of this House unfortunately, but long on the table, drafted in part by the efforts, personal efforts of the gentleman from Louisiana [Mr. HAYES], the gentleman from Texas [Mr. LAUGHLIN], many other Members of this body who have urged this House to consider these amendments for many, many years when the Democratic Party was in the majority.

I want to remind my colleagues from California that it was at a meeting with lobbyists of the radical environmental groups in this town on March 4, 1992, with some Members of this House, that a decision was made then to kill the holy trinity, "unholy trinity" they called it, ideas called property rights, unfunded mandates and the risk assessment cost-benefit analysis regulatory reform. It was that link, that collusion between the radical environmental left and Members of this House that prevented this bill, these ideas, from ever getting to the floor.

Let me finally make a point. I say to my colleagues, this bill is not just about pollution and clean water. This bill is also about land regulations and activities that are not polluting activities, activities like building a home, activities like forming your property, activities like simply digging a drainage ditch on your property so it drains properly, nonpolluting activities that do not create nuisances for anybody, that have nothing to do with violations of local zoning laws, that simply have to do with the right of a person to use his property for the purposes he intended it for, perhaps to cut a tree for timber purposes, to grow some corn for agricultural purposes, perhaps just to build a house for that son or daughter on the farm so that they can live close to their parents. Those activities are regulated as land-regulated activities under this clean water bill in the guise of wetlands protection, and so when we discuss this bill, and you hear talk about pollution and this bill being only a bill dealing with pollution, remember this is land regulation, too, of nonpolluting activities.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I am pleased to support this reauthorization of the Clean Water Act. It allows us to protect our precious waterways in a cost-effective manner.

I have a particular interest in the Great Lakes provisions in this bill. Lake Erie is a tremendous asset to my home State of Ohio. States like Ohio want to be able to protect this resource in a way that makes regulatory and financial sense.

The language in this bill gives them the flexibility to do exactly that, and we will achieve more real progress than we would get if the EPA's Great Lakes Water Quality Initiative was imposed as a rigid, mandatory regulation.

Municipalities in my district have been concerned about the costly provisions of the G–L–I. Wastewater treatment plants are being told to reduce the discharge of mercury to a level lower than what naturally occurs in rainwater. That amounts to spending millions of dollars to remove a substance that is put back into the Great Lakes every time it rains.

Even if implemented as written, there is no guarantee that the G–L–I will lead to the lifting of a single fish advisory or the opening of an additional mile of shoreline for unrestricted use.

Mr. Chairman, this is a strong bill. Let us support it.

Mr. MINETA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Missouri [Ms. MCCARTHY], a member of the Committee on Science and the Committee on Small Business, who has been contributing a lot to this effort.

Ms. MCCARTHY. Mr. Chairman, I thank the gentleman from California [Mr. MINETA] for yielding this time to me and for his efforts on behalf of sound legislation.

Mr. Chairman, I rise today to express my concerns with H.R. 961, the Clean Water Amendments of 1995. My State of Missouri is a land of mighty rivers, and clean water is a gift from our ancestors and our legacy to our children.

H.R. 961 would mean the end of our coordinated efforts to improve the quality of this national resource. The strange patchwork of waivers and credits envisioned by this bill would allow polluters to choose the way they will diminish our water quality.

Mr. Chairman, the nine States in the Midwest which suffered devastating floods in 1993, including Missouri, are working to expand wetlands that will help absorb the shock of future flooding.

The National Conference of State Legislatures agrees that title VIII of this bill will cripple those efforts, expose Midwesterners to greater risk of flooding, and expose U.S. taxpayers to greater risk of having to pay for future flood cleanups.

While the funding formula currently in the legislation would provide for additional pollution run-off funds for Missouri, H.R. 961 does not explain to Missourians how to pay for new treatment plants when the lifeblood of their State, the great Missouri and Mississippi Rivers, run thick once again with pollution. It does not explain how to pay for new homes and businesses when the rivers overflow their banks.

I hope that as we debate amendments to H.R. 961 we will focus on quality of life, and that includes not only new jobs but a clean environment. I hope, too, that we adopt amendments to strike a proper balance between increased State authority and preservation of minimum Federal standards.

These goals are compatible; the Clean Water Act has proven that time and again.

Mr. SHUSTER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, my colleagues, the debate we begin today on the Clean Water Act is quite simply the test of whether the center can hold. We are faced on the one hand by the clean water statute that, despite its many strengths, has clear flaws that must be remedied.

□ 1445

We are confronted, on the other hand, with a proposal that instead of simply repairing those flaws, rolls back existing protections, imperiling our rivers, lakes, and coastal waters.

Clearly, neither the status quo nor the proposed rewrite of the Clean Water Act are acceptable alternatives. What is needed is an approach that preserves our water resources without causing undue economic hardship. The gentleman from New Jersey [Mr. SAXTON], the gentleman from Indiana [Mr. ROEMER], and I will offer a substitute later today that offers just such an approach.

What we have done is to take the best proposals being offered around town and combine them into one bill. Our litmus test has not been ideology, but practical input, which proposal was the most likely to reasonably protect our Nation's waters.

For example, we have adopted the National Governors' Association proposal for wetlands protection, a solid middle ground position. H.R. 961, on the other hand, would allow the wholesale destruction of more than half the Nation's wetlands. That is not my opinion, that is what we learned from the scientists. We have just had a report yesterday from the National Academy of Sciences. That would mean increased flooding, less fresh water, and a decline in the fishing and tourism industries.

Current law is too restrictive, and administratively burdensome. The Governors' proposal, which gives States a greater say over wetlands protection, is a sensible approach. It is also a cheaper approach, eliminating the need for a large Federal bureaucracy and a new entitlement through the takings provisions.

Similarly, we have adopted the Coastal States Organization's proposal on coastal nonpoint pollution, which gives States a greater say over how to meet environmental requirements. H.R. 961 would repeal coastal zone protections, increasing the likelihood that beaches will have to be closed to the public, 10,000 were closed last year, and that runoff pollution will close commercial fisheries, threatening a $55 billion industry.

The Coastal States Organization, a group of 30 Governors, has endorsed this provision of our substitute, because we amend the Clean Water Act to eliminate its excesses while retaining its protections. Let me stress that, we eliminate its excesses while retaining its protections. This is an approach we have taken throughout the bill, shopping around for the most sensible, rational approach, eliminating the bureaucracy and redtape of current law, which preventing the environmental degradation of H.R. 961.

Such a centrist approach should be welcome in a country that is clearly sick of ideological warfare and hungry for solutions to our Nation's problems, a country in which 76 percent of the American people want us to do more to protect our Nation's waters, but are skeptical of overbearing Government.

Perhaps that is why our substitute has broad bipartisan support. I look forward to the debate we will have this afternoon, because we will pass this substitute if good sense is allowed to triumph over ideology on both ends of the political spectrum.

A lot of people think Republicans do not give a damn about the environment. A lot of people are wrong. Keep in mind, one person's effluent is another person's drinking water.

Finally, let me point out what the National Conference of State Legislatures has to say. Unless H.R. 961 is significantly amended during floor consideration, the National Conference of State Legislatures urges you to vote against the bill.

We have that significant amendment. We urge you to support Saxton, Boehlert, and Roemer and to oppose the committee bill.

Mr. MINETA. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, I thank the gentleman from California for his great leadership.

Mr. Chairman, I rise today to say that H.R. 961, the Clean Water Amendments Act of 1995, as presently drafted lessens environmental protection and endangers the very quality of life of all Americans. I have been listening to the debate and, coming from local government, I know there are real concerns about storm water runoff, sewage wastewater, and certainly wetlands. But we must also listen to the EPA administrator that has criticized the bill as being unworkable.

Mr. Chairman, I hope we will come to this process with a bipartisan attitude to fix and correct, but not to eliminate. Currently the Clean Water Act is regarded as one of the most successful environmental mandates passed by Congress. Yes, some of the portions of the act may need some additional flexibility or fine-tuning, but we only have one environment, one planet Earth, and we ought not to take undue risks with it.

As for Texas, I know firsthand that the city of Houston is spending $1.3 billion to address its sanitary sewer overflow. It is important that we follow through. It is important that we continue to improve the quality of our drinking water. Let us not turn back. Let us make sure we fix, but not eliminate the Clean Water Act.

Mr. HAYES. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of H.R. 961. As chairman of the Committee on Resources, we had joint jurisdiction over this legislation. But also being ranking on the committee of the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the Committee on Transportation and Infrastructure, I watched the building of this bill and watched what he has been able to do, and our committee, full committee, with the exception of two people, fully agreed with what we are attempting to do here, and that is to have clean water.

We have to keep in mind what has been said prior to some of the other speakers about how bad this bill is. This bill achieves many things, but one of the main things that it achieves is clean water realistically. It requires clean water as it should be without the regulations, without the dominance of government interference. It is a needed bill. It has to occur.

One of the things I have heard from most of the Governors around the country is whatever happens, you must review and revamp the Clean Water Act so we can make it apply to our communities and stop making us waste money on testing that is unnecessary, meeting requirements that are unnecessary. And in Alaska alone, which I will have an amendment later on, the biggest city in Alaska had to add fish guts to make sure we met the standards for the particular amount in the water that comes out at the end of the effluent. We had pure water. I could drink it. To say we want to stay with the present bill, the regulations that should never have been applied, is absolutely ludicrous.

More than that, in this bill there is a provision which I hope everybody is listening. The one provision from this bill that should draw your attention because it affects every State in the Union is the wetlands provision.

You have seen what the wetlands have done to this country, how it has been implemented and enforced by a Federal Government without any jurisdiction of written law, other than a dredging law through regulatory law, where they can tell my State of Alaska that all of your land is wet. You have no longer a right to build or take and construct schools or do things good for your community because we have decided it is wet, without compensation. They have put inroads into our ability to take and produce.

Mr. Chairman, I suggest we also have to keep in mind this Congress in 1971 gave 44 million acres of land to the Alaskan natives, the American Eskimos in Alaska. We gave that land to them as a commitment to them for their economic and social well-being. And what do we do under the wetlands provision? We take it away, because we tell them under the Federal control it is 98 percent wetlands.

You call that justice? I am saying it is time we support this bill. The gentleman from Pennsylvania [Mr. SHUSTER] and the committee have done an excellent job. When I hear members of the committee say this is a bad bill, I say shame on you. This is a good bill that should be passed.

Mr. MINETA. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, today's young people think I am making a joke when I tell them about a river catching fire. That actually happened to the Cuyahoga in Ohio, it was so polluted with industrial wastes and inflammable solvents. In Oregon 3 million residents take for granted the fact they can swim, fish, and even drink Willamette River water. Well, the Willamette River was more like an open sewer in the mid 1960's than it was a pristine river.

They say you cannot turn back the clock. Who would want to turn back the clock to those bad old days? Who indeed? Well, watch for the votes on this bill. A vote for this bill is a vote to turn back the country to the days when our rivers were more like open sewers and industrial cesspools than they were precious resources.

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DELAY], the distinguished majority whip.

Mr. DELAY. Mr. Chairman, in reference to the previous speaker, fear, fear, fear. That is all we have to offer, is fear. We are here to rise in support of the Clean Water Act that brings some common sense, good science, and responsibility, adding much needed reforms to the Clean Water Act, bringing a responsible approach to the Clean Water Act.

I just want to point out a situation in my own district. The city of Lake Jackson, TX, is no stranger to the current tangle of regulatory policies when it comes to wetlands.

Mayor Doris Williams has led that effort since the late eighties to see that the city be allowed to construct a public golf course, despite the U.S. Corps of Engineers' objections that Lake Jackson had not adequately defined all of its jurisdictional wetlands.

You know what that is in this case? Footprints of cows. They had to go out and map every footprint from a cow on these 400 acres of property.

This small city purchased 400 acres of property, and after 4 years of working with regulatory agencies at a cost of well over $100,000, a lot of money to this small city, the city is only now eligible to submit an application to the U.S. Corps of Engineers for an individual 404 permit to construct a public golf course.

There is no guarantee at this time that a permit will be awarded, despite the city's significant efforts and investment. This bill brings the promise of reason and relief to communities such as Lake Jackson.

The time has come for sensible environmental reform. The Clean Water Act Amendments of 1995 provides for risk-based regulation and requires the EPA to subject its mandates to both risk assessment and cost-benefit analysis. It offers flexibility to the States in their efforts to determine how each may best comply with Federal law and contribute to long-term pollution control. Support the bill.

Mr. MINETA. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island, [Mr. REED].

Mr. REED. Mr. Chairman, I rise in opposition to H.R. 961. The Clean Water Act has been instrumental in cleaning up our waters and protecting our environment. H.R. 961, if enacted, would devastate Rhode Island, both its environment and, just as importantly, its economy. We depend upon a clean Narragansett Bay to support not only environmental activities, but also our economy.

In 1989, $42 million was generated by our commercial fishing industry. $11 million was generated by our shellfishing industry. If we lose the Clean Water Act, we will lose a lot of these profits and a lot of the jobs associated with them.

We depend on tourism: $146 million in 1989 for marine recreation activities; $637 million in 1989 for the marine industry in general. Without the Clean Water Act, we will not be able to realize this type of economic activity.

We have to support a strong Clean Water Act. This bill does not do that. We also have to provide the States the resources through the revolving fund to provide cleanup until Rhode Island and elsewhere. Again, this act does not do this. Mr. Chairman, we should reject this provision and support a Clean Water Act.

Mr. HAYES. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. PETE GEREN], a former member of the committee, now on temporary leave, who helped enormously on these issues last year.

Mr. PETE GEREN of Texas. Mr. Chairman, I rise in strong support of this very important legislation. I want to commend my colleague, the gentleman from Louisiana [Mr. HAYES], and the chairman, the gentleman from Pennsylvania [Mr. SHUSTER], for bringing us to where we are today. A lot of work over a lot of years has made this day possible. The legislation we have today brings long overdue balance back to the implementation of this most important piece of environmental legislation.

I would like to talk about a specific provision in the bill, the risk assessment and the cost benefit analysis provisions in H.R. 961. These provisions will result in greater improvements in water quality because they help to focus the Clean Water Act's requirements on significant risk reduction in a manner that provides the greatest amount of environmental benefit for the costs expended.

Mr. Chairman, we have reached the point in every area of this Government where we cannot afford to waste a dime. It is only through cost-benefit analysis and risk assessment that we can make sure that the scarce dollars are targeted for the most important environmental initiatives.

For 20 years the Clean Water Act has been addressing the problems of water quality in this country. The act imposed technology that forced requirements on industry and municipalities and imposed additional water quality controls where technology controls were not enough. These have been successful in cleaning up our Nation's water. It is now time for more precision in order to better focus the resources that are put in play by this act.

Mr. Chairman, I urge my colleagues to support H.R. 961 and commend those who have worked so hard to make this day possible.

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The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] has 11½ minutes remaining, the gentleman from California [Mr. MINETA] has 17 minutes remaining, and the gentleman from Louisiana [Mr. HAYES] has 7 minutes remaining.

Mr. MINETA. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. NADLER], a member of our committee.

Mr. NADLER. Mr. Chairman, the Clean Water Act, since 1972 has been one of the most successful pieces of legislation ever enacted by this Congress. Yet many Members of this body are willing to throw away all the advances we have made.

During the first 100 days of this Congress, we have heard a lot of talk of Government waste and commonsense reform. Apparently this talk applied only to legislation in the first 100 days.

Two years ago, for example, we ordered a study by the National Academy of Sciences of wetlands to define just what a wetland is. The findings of that study were released just yesterday.

What use has H.R. 961 made of this information? None. The findings of this multimillion dollar study are not reflected in this bill at all. We all knew the study results were promised for May, but the authors of H.R. 961 could not wait. Apparently whatever is driving this bill, it is not scientific information.

The Nation's wetlands, of course, provide a vital source of filtration for our drinking water. But this bill attempts to redefine wetlands. H.R. 961 provides that only 20 percent of the wetlands in the region may be deemed a critical wetland. That leaves 80 percent of the wetlands open for development. Why is only 20 percent of our wetlands going to be protected? This arbitrary standard will deprive 80 percent of our wetlands of any protection and will deprive us of the benefits of that 80 percent.

In New York City we have some of the cleanest drinking water in the United States. We have accomplished this not by building a massive filtration system but by protecting the integrity of our watershed and letting nature do its job. This bill throws out or makes voluntary many of the regulations that protect our watershed. If this dirty water bill passes, it is likely that New York City will have to spend between $6 and $8 billion to build a filtration system to imitate what nature has already accomplished; is that right?

Mr. Chairman, this is not fiscal conservatism. It is not anything we should do.

Mr. HAYES. Mr. Chairman, I reserve the balance of my time.

Mr. MINETA. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, I rise today in strong opposition to H.R. 961 and hope all our colleagues know how lucky California is to have the leadership of the gentleman from California [Mr. MINETA].

Nowhere will the bill's assault on clean water be felt more strongly than in my district. H.R. 961's many loopholes, waivers and exemptions would allow partially treated sewage to be dumped into Santa Monica Bay, a body of water only now recovering from years of neglect and pollution.

The EPA has reviewed the ocean discharging provisions in H.R. 961 and has stated that they are neither scientifically nor environmentally justifiable and could result in harm to the people who depend upon the oceans and coasts for their livelihood and enjoyment.

While some claim that economics necessitates granting sewage treatment exemptions, dirtier and unsafe oceans will actually hurt southern California's economy by keeping tourists away from our beaches.

The bill does not just relax sewage treatment standards, it also dismantles the storm water and wetlands programs. Such disdain for these important clean water safeguards is especially troubling in Los Angeles where storm water or nonpoint source pollution is now recognized as a major threat to the health of Santa Monica Bay.

Mr. Chairman, over the past 20 years, the Clean Water Act has been one of our most effective and most popular environmental statutes. In less than 20 weeks, the House will have effectively reversed this progress, if it passes H.R. 961. I urge my colleagues to stand up for clean water and to vote against this dirty water bill.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Chairman, I rise today in strong support of H.R. 961, the Clean Water Amendments of 1995, and urge my colleagues to support the bill as reported by the committee and to reject weakening amendments which seek to gut the bill and preserve the present regulatory status quo.

I also want to thank the gentleman from Pennsylvania [Mr. SHUSTER] for his strong leadership and commitment to clean water.

I would make the points that this bill is very important because it requires the EPA to subject its mandates and regulations to a risk assessment. The regulations must be performance-based. Market incentives can be used to achieve environmental goals. Environmental regulation should be based on the best science, and it is a major victory giving States and local governments control over runoff.

Finally, let me say that it ends the wetlands regulations.

Mr. Chairman, I rise today in strong support of H.R. 961, the Clean Water Amendments of 1995, and urge my colleagues to support the bill, as reported from committee, and to reject weakening amendments which seek to gut the bill and preserve the present regulatory status quo. I also want to thank Chairman SHUSTER for his strong leadership and commitment to Clean Water Act reform.

For the benefit of my colleagues who do not serve on the Transportation and Infrastructure Committee, and who may be confused by the rhetoric of the opponents of H.R. 961, I would like to take a few moments to set the record straight.

H.R. 961 does not weaken the existing Clean Water Act. The committee's bill preserves the same water quality standards as the original Clean Water Act, it authorizes $3 billion annually for water quality programs, and it restores the Founding Father's notion of federalism by freeing State and local governments from one-size-fits-all Federal mandates and empowering them with the flexibility to meet each State's unique regional needs and water quality challenges.

Make no mistake, opponents of H.R. 961 do not trust State and local officials to do what is right for their communities. They only trust Federal Government bureaucrats to make responsible decisions. I do not agree with this type of big government arrogance. The farmers and landowners in my congressional district have had enough of unnecessary interference and costly mandates from Federal bureaucrats.

In addition to stressing State and local management solutions, H.R. 961 is consistent with the regulatory reform themes contained in the Republican Contract With America. H.R. 961 adopts a commonsense approach which requires EPA to complete a regulatory cost-benefit analysis before issuing new rules. The bill also protects States and localities from unfunded Federal mandates, and landowners will receive compensation for regulatory takings of private property. Some of these commonsense provisions have been in law for over a decade, but H.R. 961 finally enforces them.

H.R. 961 applies reason and consistency to the Federal wetlands permitting process. By consolidating the section 404 permitting process under jurisdiction of the U.S. Army Corps of Engineers, landowners will not have to waste their resources and spend months, or sometimes years, trying to obtain the necessary permits from both EPA and the Army Corps. Title VIII of the bill outlines reasonable wetlands delineation standards, and represents sound, fair, and workable wetlands policy.

Arguments that the House should refrain from passing wetlands delineation standards until the National Academy of Sciences study is complete, only reflect H.R. 961's opponents' desire to leave the current, fragmented, and overly burdensome wetlands permitting process in place. Congress has patiently waited for over 19 months from the time the NAS study was originally due, and the results of the study will still not resolve our Nation's wetlands permitting difficulties. Only the language in title VIII of H.R. 961 affirmatively resolves the wetlands permitting problem.

H.R. 961 also prescribes progressive solutions to regulation of nonpoint source pollution and stormwater permitting. Indeed, common sense dictates that there is no need to require permits for stormwater discharge that does not come into contact with pollutants. Yet most importantly, the bill recognizes that voluntary compliance incentives are often more effective than punitive measures.

My colleagues, programmatic change is often met with some resistance, as illustrated by supporters of the status quo who have been critical of many provisions in this legislation. But careful examination of H.R. 961 reveals a bill that strikes a reasoned balance between funding realities and the national goals of the Clean Water Act. It is time to abandon the outdated logic which claims the Federal Government always knows what is best for States and localities, and to give States and the regulated community the flexibility to try new and innovative approaches to water pollution control.

For these reasons, I urge my colleagues to reject the alarmist rhetoric of the other side, and to support H.R. 961.

Mr. SHUSTER. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Chairman, I rise in strong support of the legislation before us.

Mr. Chairman, I rise today in strong support of the Transportation and Infrastructure Committee's efforts to improve the Clean Water Act. I applaud Chairman SHUSTER and all of the members of the committee who worked on this proposal.

There is no doubt that America enjoys extremely clean water. However, the problem with the current statute is not the intent: maintaining clean water is an admirable and necessary goal. The problem is its rigid standards. It imposes Federal mandates without regard to individual State and local circumstances and, ironically, it exempts Federal facilities from compliance. H.R. 961 goes a long way toward correcting these flaws.

State and local water systems as well as businesses are crying for relief from the current Federal standards. The one-size-fits-all attitude has created nightmare compliance scenarios for these entities. The clean water Americans currently enjoy will not be sacrificed. Rather, the Federal Government will relinquish its stranglehold and allow State and local officials to determine how to best achieve this worthy goal.

Most importantly, H.R. 961 brings the Federal Government itself into compliance with Clean Water Act standards. Currently, the Federal Government is allowed to taint the very water it claims to protect, all under the guise of sovereign immunity.

H.R. 961 would end this double standard and ensure full compliance at all Federal facilities. At last, communities that happen to be near polluted Federal lands will benefit from the clean water all other citizens enjoy.

Mr. Chairman, I urge all my colleagues to support the Transportation and Infrastructure Committee's thoughtful efforts to improve clean water regulation and its endeavor to end Federal exemption from environmental laws.

Mr. MINETA. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Chairman, I rise today in strong opposition to H.R. 961 and urge my colleagues to reject this overreaching piece of legislation. The Clean Water Act is really one of our Nation's most effective environmental laws, one of our Nation's most effective environmental laws.

In 1972, the year of the Clean Water Act's birth, only one our of three rivers are clean enough for people to fish or swim. Now, the EPA estimates that over 60 percent of our waters are clean enough for fishing and swimming.

I am the first to acknowledge that it is not perfect, and that sometimes it imposes rigid and unneeded requirements that it need not do. Unfortunately, the bill as written fails to target what is broken in the Clean Water Act and build on what works. Instead it throws out good along with the bad.

H.R. 961 would remove 60 percent of our Nation's remaining wetlands from any level of protection. It would weaken standards that protect our waters from industrial pollution by creating dozens of waivers and loopholes. And frankly, it would repeal the entire coastal zone nonpoint source pollution program which on the coastal counties of California would severely hamper the State of California's efforts to preserve the waters off of our coast so that they can be indeed recreational and economically viable for the fish industry.

These changes do not make environmental sense if they are going to gut the bill. And they certainly do not make any economic sense.

The drafters of H.R. 961 have created a bill that accounts for the cost of everything but the value of nothing. I have no doubt that H.R. 961 will save a great many people a great deal of money. But is this good value for future generations?

Clearly, the answer is no. Future generations will pay dearly in many ways to recover the environmental and economic damage that H.R. 961 will allow.

The best feature of the Clean Water Act is that it is a prevention program. It stops pollution before it gets into our waters. H.R. 961 would make the Clean Water Act more like the Superfund, one of the most broken environmental programs. It litigates first and cleans up later.

I urge my colleagues to support the substitute offered by the gentleman from New Jersey [Mr. SAXTON].

Mr. HAYES. Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Iowa [Mr. LATHAM].

Mr. LATHAM. Mr. Chairman, I want to compliment the gentleman from Pennsylvania [Mr. SHUSTER] on bringing this great bill up. I rise today to express my strong support for H.R. 961, the Clean Water Amendments Act reauthorization.

Over the next 3 days, Members of Congress who supported the regulatory reforms of the Contract With America will have an opportunity to put those general principles into existing environmental statute. H.R. 961 restores a proper regulatory balance between Federal, State, and local governments, and it was developed with unprecedented input from the real environmental experts, men and women from local governments and water systems.

It includes individual property rights protection, risk assessment, cost-benefit analysis, and protects against unfunded mandates.

Ultimately, H.R. 961 is a choice between those who believe good government should always regulate more and those who believe government should regulate smarter.

I believe government should regulate smarter, and I encourage my colleagues to support and vote for H.R. 961.

Mr. MINETA. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. MINETA] has 11 minutes remaining, the gentleman from Pennsylvania [Mr. SHUSTER] has 9½ minutes remaining, and the gentleman from Louisiana [Mr. HAYES] has 7 minutes remaining.

Mr. HAYES. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] has the right to close the debate.

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. EMERSON].

Mr. HAYES. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON].

The CHAIRMAN. The gentleman from Missouri [Mr. EMERSON] is recognized for 3 minutes.

Mr. EMERSON. Mr. Chairman, I thank the gentlemen for yielding time to me.

Mr. Chairman, I rise today in very strong support of the Clean Water Act Amendments of 1995 and against the so-called Boehlert-Roemer substitute. Parochially, let me say that this bill has tremendous positive implications for both rural America and the critical agricultural economy that sustains these same rural communities. But this is also a very genuine bipartisan effort led by the distinguished chairman, the gentleman from Pennsylvania [Mr. SHUSTER], and I welcome this opportunity to finally address both the needs and the solutions that are the subject of this legislation.

The commonsense approach found in this bill is long overdue. I want to commend the chairman for his leadership in bringing this bill before this body. With this being the first major piece of environmental legislation in the new Congress, I am impressed by the broad, bipartisan support behind this bill.

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Mr. Chairman, we all agree that adequate attention must be given to preserving and protecting our environment, but I believe that the pendulum has swung way too far in obstructing the control of this Nation's private property owners over their own land. There must be an appropriate balance, and this bill restores balance. Anyone who believes that private landowners should retain reasonable control over private land as guaranteed by our Constitution should vote for this bill.

In addition, for far too long, Federal wetlands law has been the primary land management tool for any Federal agency that wants to dictate its own wetlands policy. Without congressional debate or public comment, various government agencies and departments that promulgate our wetlands rules and regulations have acted freely in holding farmers and small business owners hostage to their wetlands definition. The fact of the matter is that the contrast between pristine wetlands and a mud puddle is not distinguishable by the various Federal agencies dealing with wetlands. The approach taken in this bill resolves the ever-changing definition of what constitutes a wetland by defining them according to their value and function. This bill also provides needed reforms in the current regulatory system and directs Federal regulators to consider the value of wetlands from competing social, economic, and environmental needs.

In other words, true wetlands have to be wet. And if they are determined to be a pristine wetland, they are protected. And if they are taken by the Government, then landowners will be paid for their economic losses. It is a pretty basic concept, but one that the Federal Government has had a hard time figuring out.

The Clean Water Act Amendments of 1995 provides for voluntary, incentive-based programs in local, State, and Federal partnership to advance clean water goals with nonpoint source pollution. It also gives State and local officials the flexibility to manage and control stormwater like other forms of runoff which helps reduce the high cost of unfunded mandates. Finally, it requires the Environmental Protection Agency [EPA] to subject its mandates and regulations to risk assessment and cost benefit analysis.

For the first time in a long time, we are successfully working together at all levels of government to meet our water quality needs. We do not need straitjackets to have clean drinking water, nor should we allow Federal bureaucrats who know the least about farming or operating a small business to deem what's a wetland from their Washington offices. Through its increased flexibility, the Clean Water Amendments of 1995 benefits farmers, businesses, consumers, local and State governments, and their taxpayers.

Mr. Chairman, any last-minute reactions to derail and weaken this bipartisan effort, whether they be in the form of amendments or so-called substitutes, should be voted down. Such efforts are a breach of our Contract With America and renege on the need for smart regulation, good science, cost-effective risk reduction, and commonsense. The Washington bureaucracy and professional environmental elitists have been ramming these edicts down the throats of the American taxpayer for too long. It is time for the farmer, the rancher, and the small business owner to finally have a say in the process, and we have provided for that forum in this legislation. Vote for the Clean Water Amendments Act of 1995 and vote against any and all efforts to weaken it.

Mr. MINETA. Mr. Chairman, I am privileged to yield 4 minutes to the gentleman from Michigan [Mr. BONIOR], our distinguished minority whip.

Mr. BONIOR. Mr. Chairman, clean water is not just an issue of us versus them. It is about our health, it is about our environment, it is about a quality of life. For many of us, it is about jobs. Since 1972, the Clean Water Act has made great strides in cleaning up our waters. Today 60 percent of our waterways are clean.

I remember as a boy taking my bike, driving down to Lake St. Clair to go swimming, and seeing a sign on the beaches, on the fences by the beaches, saying "No swimming today—pollution." We have cleaned up about 60 percent of that problem. The bad news is that the remaining 40 percent of our water is still polluted.

In the past few years alone we have seen 104 people die in Milwaukee due to drinking water poisoned with cryptosporidium. In my community beaches were closed 2 months last summer, and businesses lost millions of dollars, due to water so choked off by bacteria and seaweeds that ducks could literally walk across it. If anything, we should be strengthening the Clean Water Act, not gutting it. However, the bill before us today will stop a quarter century of progress dead in its tracks.

Mr. Chairman, why do we want to make it easier to poison or lakes and our streams? Why do we want cities and factories dumping raw sewage into the same lakes and rivers we get our drinking water from? Because a few corporations and lobbyists oppose the safeguards we have now? Does anybody really believe these people are looking out for the public interest and public safety first?

In the Great Lakes region, we have seen recent stories of some mothers who ate fish from Lake Michigan during pregnancy and are finding that their children are having developmental problems. Instead of finding answers, however, some people are now suggesting that we weaken the Great Lakes water quality initiative, which was put together so painstakingly with Republicans and Democrats during the Bush administration and into this administration over the last few years.

I sure hope this is not the case, but Mr. Chairman, after all this time, can we not agree that making our waterways safe benefits us all, especially business?

When Lake St. Clair, which borders on my district, was shut down for 2 months last summer, it did not just affect the quality of life, it devastated business. Local marinas and restaurants, businesses which bring in over $1 billion each year from boaters and beachgoers, suffered losses in the millions. When we wondered how it happened, we found out that State inspections were lax, sewer overflow discharges unchecked, and in some instances, Mr. Chairman, in some cases, State permits had not been renewed in nearly 20 years.

I understand the desire to send responsibility back to the States. That is the movement we are in now at the Federal level. However, we have to strike some sense of healthy balance here. It seems to me that a bill written by lobbyists on behalf of some of America's most notorious polluters takes us exactly in the wrong direction. Therefore, Mr. Chairman, I urge my colleagues to vote for common sense, vote for clean water, vote "no" on this irresponsible bill.

The CHAIRMAN. The Chair will advise the parties of the time remaining. The gentleman from Louisiana [Mr. HAYES] has 6 minutes remaining; the gentleman from Pennsylvania [Mr. SHUSTER] has 7½ minutes remaining, and the gentleman from California [Mr. MINETA] has 7 minutes remaining.

Mr. HAYES. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. Mr. Chairman, there is a lot of misinformation floating around about this bill. I just want to briefly touch on a couple of them.

I represent a prairie pothole region up in the northern part of the United States, and there is letter that has been put out by a wildlife group that claims that there are going to be, in this bill, changes that are going to devastate these prairie pothole regions. That is absolutely not the case. The swampbuster, which is what governs most of our problems, is not even included in this bill.

Second, there is an exemption for the prairie pothole region, so clearly, this letter was written by somebody who has not read the bill and does not understand what the situation is.

The other thing that is thrown around about this bill is this is somehow or another going to allow industry to pollute. If we believe that, then we are going to believe that the EPA or the State Environmental Protection Agency is going to allow this to happen, because in this bill, they have to sign off for these changes.

I just hope that people would read the bill before they engage in all of this rhetoric that really, in my judgment, misses the point. I ask support for the bill.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Georgia [Mr. BARR].

Mr. BARR. Mr. Chairman, as I listened a few moments ago to the distinguished gentleman from Michigan [Mr. BONIOR], I was struck with something. That is, yes to his question that we have had in this country tremendous improvements in the water supply and our waterways over the last 20 years or more, but let us ask ourselves, why have we seen those changes? Why have the improvements come from? Have they come from the basic Clean Water Act that we passed over a generation ago? The answer is yes.

Have those improvements, has that cleaner water, come, though, from the numerous additional amendments, regulations, and bureaucrats that have been foisted on our communities, our businesses, and our local governments since that time? The answer to that question is no.

What this bill does, and I rise in strong support of H.R. 961, is get us back to where we ought to be, and that is with the basic legislation that is good, and yet does not saddle our communities, our business, and ultimately, the taxpayers in this country, with needless regulation that does not do any good, other than raise the cost to our people. Let us bring balance, let us bring rationality back to this process.

Mr. MINETA. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. GEPHARDT], our very distinguished minority leader.

Mr. GEPHARDT. Mr. Speaker, I rise today to urge my colleagues to defeat this bill, to let all of America know that when it comes to the water that we all drink every day, the water we use to cook, and to feed to our children, there can be no compromise, and we can allow no special interest agenda.

The fact is this so-called clean water bill is anything but clean. It rolls back decades of environmental controls designed with one purpose in mind: to make sure that the water that comes out of our faucets, the water that we swim in and bathe in, is clean and safe.

That is not a Democratic or a Republican goal. Basic health and safety, freedom from pollution and contamination, is something that knows no bound of party or politics. However, in my view, this bill serves an interest that is outside the political process. It serves the interests of industrial polluters looking to save a few pennies, even if that means contaminated water and disease for people.

If Members ask me, that is not what the American voter voted for last November: polluted drinking water, contaminated soil in which to grow good food, filthy water in which to swim.

Some will try to argue that there is no national role in clean water, that States should set their own standards. However, clean water is a national issue. My town of St. Louis, MO, gets all of its drinking water from the Mississippi River, which originates in other States. If those States allow pollution, we in St. Louis drink the consequences.

At the same time, I know that this bill will cost my State millions of dollars in lost sewage treatment funds, money that we desperately need to keep our water clean. Mr. Chairman, if we vote for this bill, we will have more than dirty water. We will have an unclean conscience. This is a bill of special interests, by the special interests, for the special interests. In my opinion, that is reason enough to vote a resounding no.

Then with our drinking water saved from the special interest assault, we can roll up our sleeves and go back to work for the people for a change. I urge Members, in the interests of having safe drinking water in our towns and villages all across this country, to defeat this bill. We can do better.

Mr. HAYES. Mr. Chairman, I yield myself the remainder of my time.

The CHAIRMAN. The gentleman from Louisiana [Mr. HAYES] is recognized for the balance of his time, a period of 5 minutes.

Mr. HAYES. Mr. Chairman, I wish the leadership in my party, and I wish my friends in the other party, could all take a short journey with me right at this instant down the mighty Mississippi River and across a marsh to a small town that many of Members would not recognize, but it is named after the gentleman in that portrait, Lafayette. I wish they could stand for a few moments in what is my home.

In the back of my home are lakes. In the back of my home are marshes. In the back of my home are cypress trees. I am quite familiar with all of them. In the back of my home are the last memories I have of the last time I saw my grandmother. In the back of my home are the footsteps still left by my father when he filmed a television commercial, so proud that his son had not only finished school, which he was never able to do because of the Depression, but had gone on to be a Congressman, which to him meant public service. The place is a piece of land, but it is inextricably tied to my family.

I wish I could take those folks to whom land is a few square feet and a high-rise apartment, to understand the boundaries and the linkages between individuals who plant it and plow it and love it, and those who believe it could be better handled by regulators who have never in all likelihood seen it, and assuredly would not understand it.

My mother still lives in that home. She cannot understand why a lake that we dug would be treated as a wetland when it was not before we did it. To her a wetland was made in the marsh by God, not dug by tractors and Caterpillars. She thinks there is a difference between the two.

My mother, who understands the marshes of Louisiana, which are indeed class A wetlands, as they are in the marshes of Maryland, cannot understand why the parking lot of a shopping center in the middle of our towns been declared by the Corps of Engineers as the jurisdictional waters of the United States, nor can I understand how anyone could represent a congressional district, with its half million people, almost anywhere and not understand that what we have in this debate is a clash of rights of individuals versus powers of Government.

I cannot imagine anyone would support a substitute that insists upon having not one, but 5 Federal agencies veto the actions of potentially 7 other Federal agencies, and want to say that this bill that does nothing but streamline and have a single stop with a single Federal agency is for special interests.

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The folks who shrimp in the Gulf of Mexico are special to me. The folks who live there are special to me. The folks who vote there, and send me to Congress to be their voice, want somebody to say enough is enough, and there is a difference between the waterfowl lands that we know and hunt and the lands in individual residential subdivisions that are already for years before of no more ecological value but are very important, and property rights to the individuals who now own them.

I wish somebody could take that journey. Quite frankly, I agree with the gentleman from Michigan [Mr. BONIOR]. I wish I could go back a decade, because right now I am being instructed by folks who cannot understand how to stop crime in their big city on how to do a crime bill, for folks who where I live have been pretty managing and able to have power and rights in their sheriffs to do that for some time, and who do not want cities to teach them how to fight crime, and who sure do not want Manhattan and New York City to tell them about the environment.

They are especially tired of hearing about people that live in Washington DC, which by the way is a marsh, and which under any definition would be a wetland, but no one here who is a bureaucrat would dare treat the people in Washington like they treat the people in Lafayette, LA, on exactly the same kind of property.

The folks at the EPA who paid for the scientists to do the study talk about how useful it is. Well, if I paid for it, I would expect it to be real nice to me, too. Instead I have people who actually paid for it because they wrote the checks for the tax dollars, and who are explaining to the EPA that they work for them and that they ought to have some of their interest in mind.

I wish we could take that journey. It would be more philosophical than it would be in the 1,200 miles of distance, and it would have more education than the combined degrees of all of the scientists who prepared the report, and it would distinguish for you the clear and simple decision to be made in supporting the Clean Water Act.

Clean water is for people, people who in many cases own property, who care about the quality of life there more than any of these whose greatest desire is to exert bureaucratic control over the future of their lives. They believe more in their hometown than they believe in Washington. They believe more in their State than they believe in Washington, and they are right. That will be the degree to which we measure the independence and individuality of this vote on this floor. I hope Members will join me in voting yes.

Mr. SHUSTER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I was astonished by some of the comments of my good friend from Michigan, the minority whip, and indeed the gentleman from Missouri, the minority leader. They perhaps were not on the floor when we quoted directly from the National Governors Association and others, to have them say that this bill is written and supported by polluters and by special interests.

Let me share again who some of those so-called polluters and special interests are. I guess the National Governors Association are polluters and special interests, because we have a letter from them saying, "We urge approval of this bill."

I suppose the National Association of Counties, National League of Cities and U.S. Conference of Mayors are polluters and special interests, because we have this letter from them saying that when together we represent all of the Nation's elected officials and charges that H.R. 961 rolls back environmental protection and that it guts the Clean Water Act are totally unfounded.

I suppose, according to their definition, the Association of State and Interstate Water Pollution Control Administrators are polluters and special interests, because we have a letter from them saying with its new comprehensive approaches to nonpoint source watershed and water management, H.R. 961 sets forth a framework that better protects this Nation's waterways.

I support the Water Environment Federation, made up of 42,000 water quality specialists, are polluters and special interests, because we have a letter from them saying, "We, therefore, want to again urge you to support the Clean Water Amendments of 1995 on the House floor."

So by the definition of my liberal friends on the Democratic side, I guess the special interests and the polluters are the Governors and the mayors and the county leaders and the people responsible for seeing to it that clean water is maintained across our States.

However, let us suppose for a moment all the terrible things that we have heard about this legislation are true. Under this legislation, every State has the absolute right to impose whatever stricter standards it chooses to impose in its State.

So assuming the very worst, the States still have the right to impose whatever standards they choose to impose.

Yes, the bottom line here is what our friends on the other side are embracing, is the "Washington knows best" crowd. That is the argument here today. Does Washington know best or do our States and our localities know best?

That is the fundamental issue, and it is for that reason that we should support this legislation, we should reject the Boehlert substitute. We should support this legislation because it indeed goes a long way toward further improving the clean water of America.

Mr. MINETA. Mr. Chairman, I yield 2 minutes, the balance of our time, to the gentleman from Massachusetts [Mr. KENNEDY.]

Mr. KENNEDY of Massachusetts. Mr. Chairman, first I want to thank the gentleman from California [Mr. MINETA], the ranking member, for the tremendous work he has done on trying to protect America's clean water.

This bill that has become known as the Clean Water Act is fast becoming the dirty polluters protection act. The fact is that we have a nation today where 40 percent of our water fails to meet State designated water standards for swimming, fishing, drinking, and other uses. If we are truly interested in protecting this country, not only for our generation but for future generations, the last thing in the world we ought to be doing is allowing this country to create dirtier water that will ultimately affect the basic fundamental health care of this country.

In this bill, we see specific standards being rolled back. The water quality standards will be downgraded. There will be a rollback on the point source pollution issue, which means that big corporations will be able to pollute the drains that go and take water directly into our harbors, and the ratepayers that pay for the sewage treatment will be charged directly for the pollution that the biggest companies in America will go ahead and continue. We see the storm water runoff program again being gutted; the nonpoint source pollution program being gutted.

I heard the chairman of the committee suggest that the mayors and the Governors are all in favor of this bill, but the fact of the matter is he knows right well that they oppose unanimously the provisions in this pertaining to wetlands. The wetlands provisions will absolutely gut the budget of America. If we end up having to pay the billions and billions of dollars which this bill calls for to the owners of wetlands that right now are needed to protect the fundamental environment of this country, it will not only wreck our environment but it will wreck the fundamental economy of this country.

Therefore, let's recognize this bill for what it is. This bill is nothing more than a transfer, again, of power from the ordinary citizens of this country to the biggest corporations in America, saying we will turn a blind eye to what they do, to what the polluters do, in order to look out after the corporations. The Clean Water Act is going to be flushed down the toilet of the Republican agenda.

Mr. SHUSTER. Mr. Chairman, I yield the balance of our time for closing the debate to the gentleman from Tennessee [Mr. WAMP], the distinguished vice chairman of our Subcommittee on Water Resources and Environment.

The CHAIRMAN. The gentleman from Tennessee [Mr. WAMP] is recognized for 3½ minutes.

Mr. WAMP. Mr. Chairman, several months ago dozens of us were sent to Washington, DC, to try to bring back to this institution balance and reason. The American people want the pendulum to come back to the middle. We have gone too far with regulation. We have gone too far with litigation. We have gone too far with taxation. I could go on and on. The pendulum needs to come back to the middle.

We are not, as you hear from the other side, rolling back and gutting and destroying and all of these emotional words. We are bringing the pendulum back to the middle and preserving clean water and doing the right thing, but making it tolerable for our free society.

I am proud to come from Chattanooga, TN, a city that at one time was on the dirty air list in this country. Through a spirit of cooperation from the private sector and some government regulations—yes, some but not too many—we have gone from the dirty air list in this country in Chattanooga, TN to the clean air list. We are now becoming a model with respect to water quality and the improvements there in Chattanooga, but it is done out of a desire to cooperate between the private sector and the public sector, and it is not a result of Federal Government micromanagement in every single affair of our citizenry in this country.

H.R. 961 maintains our commitment to clean water while honoring our constitutionally protected private property rights. Every mud puddle in America should not be a wetland. We do not live in Eastern Europe or the Soviet Union. We must protect our constitutional rights. Sometimes in order to understand where we need to go, we need to look back.

Today I reference Thomas Jefferson's quote. He said, "A wise and frugal government shall restrain men from injuring one another but shall leave them otherwise free to regulate their own pursuit of industry and improvement."

The Clean Water Amendments of 1995 meet Thomas Jefferson's charge of the balance of regulation.

Back home, since I came here, the folks say to me, "Isn't there anything that Democrats and Republicans can agree on? Do they always have to go to the House floor and say they're the worst and we're the best and engage in all this partisan division?"

Folks, this is it. This is a historic piece of legislation, and dozens of reasonable Democrats are going to join us. I worked on the subcommittee and the committee level with these reasonable Democrats and they led the charge: good men and women from all across the country saying this is a case where the government has become too big and intrusive, and we cannot continue to thrive as a free society with these onerous regulations.

Bring the pendulum back to middle. All of my reasonable colleagues on both sides of the aisle join us in support of H.R. 961. We will do the right thing together.

Mr. REED. Mr. Chairman, I rise in strong opposition to the bill before us today. Most of us agree that the Clean Water Act has been instrumental in cleaning up our Nation's waters, yet we are debating a bill that, if enacted, would move us backward and undercut the progress that we have made to ensure that our Nation's waters are drinkable, swimmable, and fishable.

If enacted, H.R. 961 would devastate Rhode Island. Rhode Island's 420 miles of coastline, beaches, and water have long been a destination for tourists. Indeed, Narragansett Bay has played an integral role in my State's historical, social, and financial development. In 1989 alone, commercial fishing revenues generated over $42 million, marine recreation generated $146 million, the marine industry generated $637 million, and in 1992, the shellfishing industry yielded a harvest worth $11 million. Total revenues associated with Narragansett Bay exceeded $1 billion for the State of Rhode Island in 1989.

This sort of economic stability is predicated on clean water. However, there is still more work to be done. Beaches are monitored but periodically exceed safe water quality tests. And bans against shellfishing in Rhode Island still occur all too frequently. In December 1992, 2,800 acres of prime winter shellfish harvesting areas were closed, causing a loss of $1 million in revenues. The State was able to begin to address this environmental and economic disaster because of the support provided under the Clean Water Act's coastal nonpoint source management program, the National Estuary Program, and the National Pollutant Discharge Elimination System (NPDES).

In 1994, the State was able to reopen part of the shellfish harvesting area. However, 40 percent of the shellfish beds are still periodically closed due to coastal nonpoint source pollution, stormwater runoff, and combined sewer overflows. Rhode Island's share of our Nation's total quahog landings was nearly 50 percent in 1986. In 1993, it had dropped to 13 percent. Seventy percent of this drop was due to a decrease in water quality. What this means is that every time it rains, shellfishermen in Rhode Island are reminded that the problem has not been fixed yet.

Rhode Islanders also recognize the importance of a clean bay. A 1992 poll by the State Department of Environmental Management and the Narragansett Bay project found that 98 percent of those surveyed believed that Narragansett Bay is important to Rhode Island, and 93 percent said that it is important to take steps to reduce pollution in Narragansett Bay.

And today we are debating a bill, which, if enacted, would repeal the Clean Water Act's coastal nonpoint source management program. It does not contain any of the language of the DeLauro-Lowey Water Pollution Control and Estuary Restoration Act. And, it eliminates the storm water permit program.

Our water resources are already being pushed to their limits. Population in coastal areas continues to increase. In fact, by the year 2010, Rhode Island's population is expected to grow by 10 percent, with 47 percent of this growth occurring in coastal areas. This increase in population, along with development and pollution, puts more strain on our natural resources, particularly estuaries. And 75 percent of the fish caught by sportsmen and fishermen are estuarine-dependent.

The Clean Water Act has meant jobs, increased revenues for my State, and an increased quality of life for the residents of Rhode Island, as well as many other coastal states. The Clean Water Act provides States with the tools they need to combat the problems that still pollute our waterways. We should increase funding for the State Revolving Funds, but we need to do it in a meaningful way.

Now is not the time to roll back regulations that have improved our Nation's economy, environmental resources, and health. I urge my colleagues to oppose this bill.

Mr. MANTON. Mr. Chairman, I rise today to express my deep concern about the Clean Water Act amendments we are considering this week. Twenty years ago, Congress passed the landmark Clean Water Act that is responsible for remarkable improvement in the quality of our Nation's streams, rivers, and oceans. The Clean Water Act is a success story. It demonstrates the ability of Government to positively address a serious national problem. Today, economic development and revitalization, as well as tourism, are thriving along once threatened waterways. And while I encourage careful scrutiny of Federal agency actions, a balance must be struck between economic interests and Federal regulations affecting our water resources. Unfortunately, H.R. 961 does not strike this balance and simply goes too far.

As the former chairman of the Subcommittee on Fisheries Management and a member of the Merchant Marine and Fisheries Committee, I have serious problems with the provisions of H.R. 961 that would eliminate protection for a large percentage of American wetlands and significantly relax our national water quality standards.

Wetland protection is not just a local issue. It affects all parts of our country and provides billions of dollars in economic benefits. Wetlands are vital for both flood control and water quality as well as providing the spawning grounds for fish that are important to the commercial and recreational fishing industries. Our Nation's coastal communities, that support a multimillion-dollar fishing and tourism industry, are dependent on the continued safety and protection of our water resources.

As a Member representing this Nation's largest port city, I am fearful that H.R. 961 will halt the progress the Clean Water Act has achieved in cleaning up the Hudson River, New York Harbor, and Long Island Sound. Over the past 20 years, the Clean Water Act has been successful in both improving the quality of our Nation's ocean and coastal waters and in renewing the public's faith in Government's ability to protect our environment.

Mr. Chairman, clean water is crucial to ensuring public health, welfare, and quality of life. I urge my colleagues to oppose this ill-conceived measure.

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise in support of H.R. 961, the Clean Water Act amendments, even knowing that it is a flawed bill. While this legislation accomplishes a number of positive things, it also unnecessarily retreats on some important clean water initiatives. Nonetheless, no other clean water legislation can secure sufficient votes to pass this House and failure to address the inadequacies of the current Clean Water Act is not an alternative which I can support.

It is important to continue to move the clean water debate forward, and it is my hope that the Senate and conference committee will improve this legislation so that the final version of this bill will be a more carefully deliberated and moderate legislative effort.

Mr. KIM. Mr. Chairman, I rise in support of H.R. 961 and commend Chairman SHUSTER and the other members of our committee who have put this comprehensive reform package together.

Our committee spent months working with Governors, State legislatures, local governments, and the regulated community to learn what the problems are with the current law and how to solve them. We kept what is best in the Clean Water Act and provided the necessary funding to tackle the really difficult problems like nonpoint source pollution.

Our bill is a bipartisan bill with strong committee support, introduced by 8 Republicans and 8 Democrats, and passed the subcommittee 19 to 5 and full committee 42 to 16.

Don't be fooled, this bill has strong support at home and in Congress.

As you listen to the debate over the next 3 days, remember what this past election taught us. The American people want a Government that achieves results. They want a Government that respects their rights, their property, and returns authority to the States.

This bill does all of this: reforms the disastrous wetlands program; sets strong water quality criteria that are also cost effective; provides States the flexibility to meet these standards; respects private property rights; and most importantly, it has the money to achieve its goals.

WETLANDS EXAMPLE—1992 VENTURA FLOOD

Let me give you one example of why we need to pass H.R. 961:

In 1992, Ventura County tried for months—unsuccessfully—to get a 404 wetlands permit to clear vegetation out of a flood control channel. The county knew that a severe rainstorm would cause terrible flooding if the channel was clogged with plants. The EPA called the area a wetland and spent months processing the permit. When torrential rains finally came, Ventura was forced to have Governor Wilson and two Congressmen secure an emergency wetlands permit. The county set bulldozers into the channel during the storm and a few hours before the flood hit.

The flooding devastated communities and took several lives.

It is clear that any program that results in these problems must be reformed.

COST EFFECTIVE GOALS AND STANDARDS

Our bill sets tough water quality goals for the States to achieve; allows the Federal Government to enforce water quality criteria; requires EPA to consider costs and benefits; and makes risk assessment a prominent element of water quality decisionmaking.

STATE FLEXIBILITY

As a former city engineer, I know that the solutions to water quality problems in my district are different than New York's solutions. The goal is the same, but the ways to get there are as diverse as the communities in our country. That's why we need flexibility in the law.

Our bill recognizes this diversity and gives States the tools to achieve Federal goals:

Authorizes pollutant trading within watersheds.

Allows States to develop watershed protection programs that integrate nonpoint source and point source solutions to reach Federal water quality goals.

Again, if the States fail to improve water quality, then the Federal Government can enforce the Federal criteria.

PRIVATE PROPERTY RIGHTS

The American people are tired of a Federal Government that fails to recognize the economic repercussions of its actions.

Our bill is consistent with H.R. 965 which already passed the House.

Requires the Federal Government to compensate landowners whose property value has been diminished 20 percent or more by a Federal wetland restriction.

This does not prevent important health or safety regulations, but recognizes the constitutional requirement of private property compensation.

FUNDING—ENDS UNFUNDED MANDATES

Perhaps the strongest argument that our bill improves water quality is that it gives States the money to achieve Federal water quality goals: It authorizes $15 billion over 5 years for the State revolving loan fund; authorizes $1 billion over 5 years for nonpoint source funding; and $750 million over 5 years for State administration block grants.

Many Members would have you believe that you can't have clean water without bureaucratic nightmares, burdensome regulations, or unfunded mandates. But you can. The American people demand it. And this bill will give it to you.

I strongly urge my colleagues to support the chairman's bill and oppose weakening amendments.

Mr. BROWN of California. Mr. Chairman, for many years now I have been advocating that we make use of scientific and technological information in the formulation and implementation of public policy. Listening to the many calls for, and endorsements of, the use of sound science that have been made in the 104th Congress you would think that I would feel some sense of accomplishment. Instead, I am shocked and appalled at how far the rhetoric has diverged from reality. The gap has never been wider. Although many supporters of this legislation have emphasized to me their wish to have public policy based upon sound science I cannot reconcile the concept of sound science with the legislation before us. H.R. 961 contains provisions that demonstrate a flagrant disregard for that state of scientific and technological knowledge in the area of water quality. In many cases, it seems the committee went out of its way to ignore scientific information. The wetlands classification provisions of this bill are but one illustration of this.

Yesterday, the National Academy of Sciences released their study, "Wetlands: Characteristics and Boundaries." This review of wetland delineation was undertaken at the request of Congress. Anyone who takes the time to read through this report or its Executive Summary cannot possibly claim that the wetland classification and delineation scheme contained in this bill has a basis in science. It does not. H.R. 961 contains a political wetland classification scheme that is designed to undermine both Federal and State protection of these valuable ecosystems. Defend this scheme, if you wish, on its political merits, but since science was left out of the process of drafting it, be consistent and leave science out of the defense of it.

In looking at this bill, there are many provisions that have been driven by a number of factors: Politics, special interests, short-term concerns about the costs and benefits as they affect water pollution-prone industries, and a blind faith that good intentions will maintain water quality. However, I find little evidence that science or common sense were included and this bill shows a staggering lack of consideration of the many factors embodied by the term "social justice." Every human being, every household on this planet requires water. Every one.

There are many competing uses for our water resources, and they should all be carefully considered and weighed against one another. The discharge of wastewater into water bodies is one of these uses, and it is one that has the potential to preclude other critical uses if not carefully monitored and managed. Numerous provisions in this bill give more consideration to minimizing the cost to polluters of controlling pollution discharges than they do to minimizing the social and economic costs of degrading our water supplies, thus elevating the disposal use above all others. To make cheap pollution disposal the primary focus of this country's water quality policy is totally irresponsible and scientifically, economically, and socially indefensible.

The Clean Water Act is one of our greatest public health and environmental success stories. There are some challenges that remain, and there are sections of the law that should be altered to address the achievement of water quality in a more cost-effective manner. H.R. 961 does not do this. I cannot believe that after all the public money that has been spent to clean up air, water, and land when we have failed to adequately control disposal of pollutants that we will now proceed to return to failed policies that promoted pollution rather than prevention.

Our constituents do not want to return to the days before the Clean Water Act was implemented in this country. Clean water is essential for public health and economic health. Enactment of this bill will be devastating to both. I strongly urge my colleagues to reject this bill, and to insist that the Members of the Transportation Committee draft a responsible piece of legislation that balances all competing uses and all human needs for water in an equitable and truly cost-effective manner.

Mr. STOKES. Mr. Chairman, I rise to oppose H.R. 961, the Clean Water Amendments of 1995, a bill that would turn back progress of the Clean Water Act and undermine two decades of progress in improving the Great Lakes—an important recreational and economic resource to the people of my State. Millions of jobs are directly or indirectly dependent upon water from that body of surface water. H.R. 961 would threaten the economic and environmental resources that the lakes provide.

I am concerned that H.R. 961 eliminates the concept of a level playing field for businesses in the Great Lakes basin, the basis of the Great Lakes Governors' Agreement of 1986, and the Great Lakes initiative. H.R. 961 allows a State to adopt some provisions of the recent Great Lakes initiative, and not others. Clearly, this creates interstate competition based on willingness to degrade the environment.

H.R. 961 also allows companies and municipalities to avoid compliance with proven and accepted environmental standards and in effect rewards those who have done the least to prevent pollution with the greatest opportunity to reduce the cost of wastewater treatment. Indeed, time and time again, this bill guts the Clean Water Act and seriously weakens the Great Lakes water quality initiative—a landmark program designed to ensure that all States within the Great Lakes basin have uniform water quality standards to protect these national treasures—the Great Lakes.

Mr. Speaker, many of the problems facing the Great Lakes are interstate in character and cannot be addressed by any State acting alone. Over the past two decades my State and others have come to rely upon the State-Federal partnership that is the cornerstone of our system of public health protection. This concept of partnership was the basis for the cooperative effort of eight States to develop a water quality guidance program to protect the Great Lakes ecosystem. The overall objective is a consistent, basinwide water quality standard for the protection of human health, aquatic life, and for the first time, wildlife. This bill would significantly erode that partnership.

H.R. 961 steps backward, away from the call for cost-effective best management practices at the earliest possible date. The new deadline for action would be 20 years from now—a generation away. At the same time some industries would continue to release significant amounts of hazardous substances into the lakes.

Mr. Speaker, I submit that now is not the time to weaken the current clean water law which has been highly effective in improving the Nation's water resources. The argument that the Clean Water Act has become more burdensome than pollution itself is without foundation. What is clear, and rests on a secure factual foundation, is that the Clean Water Act has done much to protect the public's health and increase social and economic opportunities. And even more must be done. Unfortunately, H.R. 961 will ensure that we do less, not more. For these reasons I urge my colleagues to oppose H.R. 961.

Mr. **SHUSTER**. Mr. Chairman, the committee report accompanying H.R. 961, the Clean Water Amendments of 1995 (H Rept. 104-112), inaccurately reports one of the rollcall votes that was taken in the full Committee on Transportation and Infrastructure. On the Mineta motion relating to unfunded mandates, listed on pages 199-200 of the committee report, the committee report indicates a yes vote by Mr. ZELIFF.

The committee records (included in the report filed with the Clerk) indicate that Mr. ZELIFF's vote was no on that rollcall. Apparently, a printing mistake was made in the printing of the report. An errata sheet to the committee report will be printed correcting this mistake. The final record will indicate that Mr. ZELIFF's vote was no on the Mineta motion relating to unfunded mandates.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Committee amendment in the nature of a substitute printed in the bill shall be considered by titles as an original bill for the purpose of amendment. The first three sections and each title are considered as read.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

Before consideration of any other amendment, it shall be in order to consider the amendment printed in House Report 104-114. The amendment may be offered only by a Member designated in the report, may amend portions of the bill not yet read for amendment, shall be considered as read, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The amendment shall be debatable for 10 minutes, equally divided and controlled by the Chairman and ranking minority member of the Committee on Transportation and Infrastructure.

If the amendment is adopted, the Committee amendment in the nature of a substitute as so amended shall be considered as original text for the purpose of further amendment.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clean Water Amendments of 1995".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definition.
Sec. 3. Amendment of Federal Water Pollution Control Act.

TITLE I—RESEARCH AND RELATED PROGRAMS

Sec. 101. National goals and policies.
Sec. 102. Research, investigations, training, and information.
Sec. 103. State management assistance.
Sec. 104. Mine water pollution control.
Sec. 105. Water sanitation in rural and Native Alaska villages.
Sec. 106. Authorization of appropriations for Chesapeake program.
Sec. 107. Great Lakes management.

TITLE II—CONSTRUCTION GRANTS

Sec. 201. Uses of funds.
Sec. 202. Administration of closeout of construction grant program.
Sec. 203. Sewage collection systems.
Sec. 204. Treatment works defined.
Sec. 205. Value engineering review.
Sec. 206. Grants for wastewater treatment.

TITLE III—STANDARDS AND ENFORCEMENT

Sec. 301. Effluent limitations.
Sec. 302. Pollution prevention opportunities.
Sec. 303. Water quality standards and implementation plans.
Sec. 304. Use of biological monitoring.
Sec. 305. Arid areas.
Sec. 306. Total maximum daily loads.
Sec. 307. Revision of criteria, standards, and limitations.
Sec. 308. Information and guidelines.
Sec. 309. Secondary treatment.
Sec. 310. Toxic pollutants.
Sec. 311. Local pretreatment authority.
Sec. 312. Compliance with management practices.
Sec. 313. Federal enforcement.
Sec. 314. Response plans for discharge of oil or hazardous substances.
Sec. 315. Marine sanitation devices.
Sec. 316. Federal facilities.
Sec. 317. Clean lakes.
Sec. 318. Cooling water intake structures.
Sec. 319. Nonpoint source management programs.
Sec. 320. National estuary program.
Sec. 321. State watershed management programs.
Sec. 322. Stormwater management programs.
Sec. 323. Risk assessment and disclosure requirements.
Sec. 324. Benefit and cost criterion.

TITLE IV—PERMITS AND LICENSES

Sec. 401. Waste treatment systems for concentrated animal feeding operations.
Sec. 402. Permit reform.
Sec. 403. Review of State programs and permits.
Sec. 404. Statistical noncompliance.
Sec. 405. Anti-backsliding requirements.
Sec. 406. Intake credits.
Sec. 407. Combined sewer overflows.
Sec. 408. Sanitary sewer overflows.
Sec. 409. Abandoned mines.
Sec. 410. Beneficial use of biosolids.
Sec. 411. Waste treatment systems defined.
Sec. 412. Thermal discharges.

TITLE V—GENERAL PROVISIONS

Sec. 501. Consultation with States.
Sec. 502. Navigable waters defined.
Sec. 503. CAFO definition clarification.
Sec. 504. Publicly owned treatment works defined.
Sec. 505. State water quantity rights.
Sec. 506. Implementation of water pollution laws with respect to vegetable oil.
Sec. 507. Needs estimate.
Sec. 508. General program authorizations.
Sec. 509. Indian tribes.
Sec. 510. Food processing and food safety.
Sec. 511. Audit dispute resolution.

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

Sec. 601. General authority for capitalization grants.
Sec. 602. Capitalization grant agreements.
Sec. 603. Water pollution control revolving loan funds.
Sec. 604. Allotment of funds.
Sec. 605. Authorization of appropriations.
Sec. 606. State nonpoint source water pollution control revolving funds.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Technical amendments.
Sec. 702. John A. Blatnik National Fresh Water Quality Research Laboratory.
Sec. 703. Wastewater service for colonias.
Sec. 704. Savings in municipal drinking water costs.

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

Sec. 801. Short title.
Sec. 802. Findings and statement of purpose.
Sec. 803. Wetlands conservation and management.
Sec. 804. Definitions.
Sec. 805. Technical and conforming amendments.
Sec. 806. Effective date.

TITLE IX—NAVIGATIONAL DREDGING

Sec. 901. References to act.
Sec. 902. Ocean dumping permits.
Sec. 903. Dredged material permits.
Sec. 904. Permit conditions.
Sec. 905. Special provisions regarding certain dumping sites.
Sec. 906. References to Administrator.

□ 1545

AMENDMENTS OFFERED BY MR. SHUSTER

Mr. **SHUSTER**. Mr. Chairman, I offer en bloc amendments.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments offered by Mr. SHUSTER:

Page 6, line 21, before the first period insert the following:

and not unreasonably restrict outdoor recreation and other socially beneficial activities

Page 7, strike lines 14 through 16 and insert the following:

(b) Basic Research and Grants to Local Governments.—Section 104(b)(3) (33 U.S.C. 1254(B)(3)) is amended to read as follows:

"(3) in cooperation with Federal, State and local agencies and public or private institutions, organizations, or individuals, conduct and promote a comprehensive program of basic research, experiments, and studies relating to causes, sources, effects, extent, prevention, and detection of water pollution and make grants to State water pollution control agencies, interstate agencies, local governments, other public or nonprofit private agencies, institutions, organizations, and individuals for such purposes;".

Page 8, line 1, after "grants to" insert "States, local governments, and".

Page 8, line 3, after "works" insert "(including treatment works that utilize an alternative wastewater treatment system)".

Page 8, line 17, after "works" insert "and alternative wastewater treatment systems".

Page 8, line 20, strike "water" and insert "wastewater".

Page 9, strike lines 6 through 13 and insert the following:

(2) by inserting before the period at the end the following: "; (7) not to exceed $21,243,100 per fiscal year for each of fiscal years 1996 through 2000 for carrying out the provisions of subsection (b)(3); and (8) not to exceed $10,000,000 per fiscal year for each of fiscal years 1996 through 2000 for carrying out the provisions of subsections (b)(8) and (b)(9)".

Page 31, line 15, after "works" insert "and alternative wastewater treatment systems".

Page 32, line 15, strike "not later than" and all that follows through "established" on line 16 and insert the following:

within a reasonable period of time as determined by the Administrator or the State, as appropriate, considering facility planning, design, construction, and other implementation factors

Page 34, line 5, strike "such Act" and insert "the Surface Mining Control and Reclamation Act of 1977".

Page 34, strike lines 6 through 10 and insert the following:

"(B) the post-mining levels of pollutants (other than pH) discharged from such operation do not exceed the levels of pollutants discharged from the remined area before the coal remining operation began and the post-mining pH levels of the discharges from the remined area are not reduced below the pH levels of the discharges from the remined area before the coal remining operation began.".

Page 36, line 14, strike "shall reduce" and all that follows through the period on line 17 and insert the following:

shall take into account the permittee's good-faith efforts to implement the innovation and to comply with any interim limitations and may reduce or eliminate the penalty for such violation.

Page 37, line 5, strike the closing quotation marks and the final period.

Page 37, after line 5, insert the following:

"(5) Limitation on statutory construction.—Nothing in this subsection shall be construed to authorize the Administrator or a State to enforce, place conditions on, or otherwise regulate emissions into the air or the treatment, storage, or disposal of solid waste or require or enforce conditions on the manufacturing or processing of a chemical substance or mixture in any permit issued under this Act.".

Page 37, lines 12 and 13, strike "Notwithstanding any other provision of this Act, the Administrator" and insert "The Administrator".

Page 37, line 15, insert "at the request of the permittee and" before "after public notice".

Page 37, lines 17 and 18, strike "subsection (b)" and insert "subsection (b)(1)(A), (b)(2)(A), or (b)(2)(E)".

Page 37, line 24, insert "from the facility" after "pollutants".

Page 38, line 7, strike "subsection (b)" and insert "subsection (b)(1)(A), (b)(2)(A), or (b)(2)(E)".

Page 38, after line 23, insert the following:

"(4) Limitations on modifications.—A modification of an otherwise applicable limitation or standard may not be made under this subsection if such modification—

"(A) will cause a receiving body of water that is meeting its designated use for all pollutants to no longer meet such use;

"(B) will prevent a receiving body of water that is not meeting its designated use for all pollutants from meeting such use; or

"(C) will cause the introduction of pollutants into a publicly owned treatment works that interferes with, passes through, or is otherwise incompatible with such works or will cause such works to violate its permit under section 402 of this Act.

"(5) Guidance.—Not later than 270 days after the date of the enactment of this subsection, the Administrator shall publish guidance for determining whether a modification of an otherwise applicable limitation or standard under this subsection will achieve an overall reduction in emissions to the environment and result in an overall net benefit to the environment. In developing such guidance, the Administrator shall consult with the States and other interested parties.

"(6) Limitation on statutory construction.—Nothing in this subsection shall be construed to authorize the Administrator or a State to enforce, place conditions on, or otherwise regulate emissions into the air or the treatment, storage, or disposal of solid waste or require or enforce conditions on the manufacturing or processing of a chemical substance or mixture in any permit issued under this Act.

Page 38, line 24, strike "(4)" and insert "(7)".

Page 39, lines 8 and 9, strike "Notwithstanding any other provision of this Act, the Administrator" and insert "The Administrator".

Page 41, line 22, after the period insert the following:

Nothing in this subsection shall be construed to authorize the Administrator or a State to enforce, place conditions on, or otherwise regulate emissions into the air or the treatment, storage, or disposal of solid waste or require or enforce conditions on the manufacturing or processing of a chemical substance or mixture in any permit issued under this Act.

Page 41, after line 22, insert the following:

"(6) Limitations on modifications.—A modification of an otherwise applicable limitation or standard may not be made under this subsection if such modification—

"(A) will cause a receiving body of water that is meeting its designated use for all pollutants to no longer meet such use;

"(B) will prevent a receiving body of water that is not meeting its designated use for all pollutants from meeting such use; or

"(C) will cause the introduction of pollutants into a publicly owned treatment works that interferes with, passes through, or is otherwise incompatible with such works or will cause such works to violate its permit under section 402 of this Act.

"(7) Guidance.—Not later than 270 days after the date of the enactment of this subsection, the Administrator shall publish guidance for determining whether a modification of an otherwise applicable limitation or standard under this subsection will achieve an overall reduction in discharges to the watershed and result in an overall net benefit to the environment. In developing such guidance, the Administrator shall consult with the States and other interested parties.

Page 41, line 23, strike "(6)" and insert "(8)".

Page 51, line 8, insert "applicable to such waters for all pollutants" after "uses".

Page 51, strike line 18 and all that follows through line 4 on page 52.

Page 52, line 5, strike "(iv)" and insert "(iii)".

Page 52, after line 10, insert the following:

(d) Consideration of Influence of Exotic Species.—Section 303(c)(2) is further amended by adding at the end the following:

"(D) Consideration of influence of exotic species.—In establishing, adopting, or reviewing standards or goals based upon fishable or swimmable uses or uses to assure protection or propagation of a balanced population of fish, shellfish, and wildlife, the State or the Administrator shall consider the influence of exotic or introduced species upon such standards, goals, or uses.

"(E) Reclaimed wastewater.—If a State adopts or reviews water quality standards and policies pursuant to this section, the State may consider and balance, in addition to other factors referred to in this section, the need for allowing the discharge of reclaimed wastewater to navigable waters to promote the beneficial use of reclaimed wastewater. In addition, the State may take into consideration and reflect in the standards—

"(i) the use and value of reclaimed wastewater for public water supplies;

"(ii) the physical, chemical, and biological conditions that influence water quality in the area subject to the standards, including extremes of temperature, water flow, turbidity, mineralization, salinity, and flooding; and

"(iii) whether the discharge of reclaimed wastewater will result in a net environmental benefit to the watershed subject to the standards.".

(e) Clarification of Mixing Zone Authority.—Section 303 (33 U.S.C. 1313) is amended by adding at the end the following:

"(i) Continuation of Mixing Zones.—Nothing in this Act shall be construed to authorize the Administrator to prohibit or discontinue mixing zones established by any State for any pollutant or class of pollutants.".

Page 52, line 22, strike "an aquatic species" and all that follows through "criteria" on line 24 and insert the following:

an aquatic species that is indigenous to the type of waters, a species that is representative of such a species, or an appropriate species that indicates the toxicity of the effluent in the receiving waters

Page 54, line 1, after "demonstrates" insert "to the permitting authority".

Page 54, lines 3 and 4, strike "indigenous, or representative of indigenous, and relevant" and insert "indigenous".

Page 54, line 6, after "applicable" insert "numerical".

Page 54, line 7, after "standards" insert "for specific pollutants".

Page 54, line 10, strike "works" and all that follows through the final period on line 12 and insert the following:

works—

"(i) if the source or cause of such toxicity cannot, after thorough investigation, be identified; or

"(ii) if the permittee makes to the permitting authority a demonstration described in subparagraph (A).".

Page 54, line 23, strike "(D)" and insert "(F)".

Page 61, line 16, after the first period insert the following:

In the case of ammonia, the Administrator shall revise the criteria only to the extent that the current criteria are more stringent than necessary to achieve the objectives of this Act.

Page 63, after line 3, insert the following:

(e) INDUSTRIAL PUBLICLY OWNED TREATMENT WORKS.—Section 304(d) (33 U.S.C. 1314(d)) is amended by adding at the end the following:

"(5) INDUSTRIAL PUBLICLY OWNED TREATMENT WORKS.—

"(A) GUIDELINES.—Not later than 18 months after the date of the enactment of this paragraph, the Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish guidelines for effluent limitations under section 301 and sludge use and disposal requirements under section 405 applicable to publicly owned treatment works designed to treat a predominance of industrial wastewater. Such guidelines shall take into account differences in constituents, treatability, available technology procedures, and costs resulting from the fact that the publicly owned treatment works treat wastewater and manage sludge derived predominantly from industrial sources.

"(B) PERMITS.—Following the issuance of guidelines under this paragraph, permits under section 402 for such publicly owned treatment works shall be derived using the guidelines issued under this paragraph in lieu of applying the regulations otherwise applicable to publicly owned treatment works promulgated under paragraph (1) of this subsection and section 405(d).".

Page 63, line 4, strike "(e)" and insert "(f)".

Page 63, line 7, strike "3 years" and insert "1 year".

Page 63, line 24, strike "(f)" and insert "(g)".

Page 63, line 4, strike "(g)" and insert "(h)".

Page 64, strike line 15 and insert the following:

SEC. 308. PERSONNEL AND REPORTING.

Conform the table of contents of the bill accordingly.

Page 64, line 16, before "Section" insert "(a) PERMITTING BOARDS.—".

Page 64, after line 23, insert the following:

(b) REPORTING.—Section 305(b) (33 U.S.C. 1315(b)) is amended—

(1) in paragraph (1) by striking the matter preceding subparagraph (A) and inserting "Not later than 3 years after the date of the enactment of the Clean Water Amendments of 1995, and every 5 years thereafter, each State shall prepare and submit to the Administrator a report which shall include—"; and

(2) by adding at the end the following:

"(c) CONSOLIDATION OF REPORTING REQUIREMENTS.—A State may consolidate any of the reporting requirements of this Act that relate to ambient water quality into the report required under this section.".

Page 65, line 5, strike "(5)" and insert "(6)".

Page 68, line 20, strike "20,000" and insert "10,000".

Page 68, line 25, after "alternative" insert "wastewater".

Page 74, line 19, strike "and".

Page 74, line 22, after the semicolon insert "and".

Page 74, after line 22, insert the following:

"(E) local limits established by such treatment works in its approved pretreatment program are preventing and will continue to prevent the introduction of pollutants into such treatment works that interfere with, pass through, or are otherwise incompatible with such treatment works;

Page 75, lines 1 and 5, before "local" insert "approved".

Page 84, line 14, strike "or runoff".

Page 92, line 2, after "vessel" insert "or other facility".

Page 93, strike line 7 and all that follows through line 2 on page 95 and insert the following:

SEC. 318. COOLING WATER INTAKE STRUCTURES.

Section 316(b) (33 U.S.C. 1326(b)) is amended—

(1) by inserting after "(b)" the following: "REGULATION OF COOLING WATER INTAKE STRUCTURES.—";

(2) by inserting before "Any" the following: "(1) IN GENERAL.—";

(3) by indenting paragraph (1), as designated by paragraph (2) of this section, and moving such paragraph 2 ems to the right; and

(4) by adding at the end the following:

"(2) INTAKE STRUCTURE CONSIDERATIONS.—

"(A) IN GENERAL.—The Administrator shall require the application of the best technology available to new and existing cooling water intake structures in instances where the Administrator has determined that such a structure is having or could have a significant adverse impact on the aquatic environment.

"(B) NEW INTAKE STRUCTURE.—In identifying the best technology available for any new cooling water intake structure pursuant to subparagraph (A), the Administrator shall consider, at a minimum, the following:

"(i) The relative technological, engineering, and economic feasibility of available intake structure technologies for minimizing adverse impacts to the aquatic environment.

"(ii) The relative technological, engineering, and economic feasibility of available alternatives as to the location, design, construction, and capacity of the intake structure.

"(iii) The relative environmental, social, and economic costs and benefits of available technologies and alternatives identified pursuant to this subparagraph or subparagraph (D).

"(iv) The projected useful life of the point source at which the new cooling water intake structure is located.

"(C) EXISTING INTAKE STRUCTURES.—In identifying the best technology available for an existing cooling water intake structure pursuant to subparagraph (A), the Administrator shall consider, at a minimum, the following:

"(i) The relative technological, engineering, and economic feasibility of reasonably available intake structure retrofit technologies for minimizing adverse impacts to the aquatic environment.

"(ii) The relative environmental, social, and economic costs and benefits of available technologies and alternatives identified pursuant to this subparagraph or subparagraph (D).

"(iii) The projected remaining useful life of the point source at which the existing cooling water intake structure is located.

"(D) CONSIDERATION OF ALTERNATIVES.—In identifying the best technology available for any new or existing cooling water intake structure, the Administrator shall consider environmental enhancements or any other technique that the owner or operator has identified as appropriate alternatives for minimizing adverse impacts to the aquatic environment.

"(3) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) NEW COOLING WATER INTAKE STRUCTURE.—The term 'new cooling water intake structure' means any intake structure the construction of which commences after the publication of final regulations implementing this subsection.

"(B) EXISTING COOLING WATER INTAKE STRUCTURE.—The term 'existing cooling water intake structure' means any intake structure that is not a new cooling water intake structure.".

Page 109, line 3, strike "and".

Page 109, after line 3, insert the following:

"(E) providing financial assistance with respect to those water pollution control activities which have as their principal purpose the protection of public water supplies; and

Page 109, line 4, strike "(E)" and insert "(F)".

Page 114, line 23, strike "(j)" and insert "(h)".

Page 117, line 7, before "livestock" insert "agricultural inputs, including".

Page 117, line 7, after "manure" insert a comma.

Page 117, after line 18, insert the following:

(q) CONTROL OF SALT WATER INTRUSION.—Section 319 is further amended by adding at the end the following:

"(s) CONTROL OF SALT WATER INTRUSION.—Nothing in this section authorizes the Administrator to require a State to identify or establish procedures and methods to control salt water intrusion beyond what is provided for in section 208(b)(2)(I).".

Page 136, line 16, strike "and" and all that follows through the period on line 24 and insert the following:

, based on available information, and submit to the Administrator for approval a stormwater management program—

"(A) that controls pollution added from stormwater discharges to the navigable waters within the boundaries of the State and improves the quality of such waters; and

"(B) that the State proposes to establish and administer under State law or interstate compact to apply and assure compliance with this section.

The initial program submission must meet the requirements of this subsection and specifically address the first 5 fiscal years beginning after the date of submission of such management program.".

Page 137, lines 24 and 25, strike "established under subsection (i)".

Page 148, line 24, after the period insert the following:

If, upon review of a stormwater pollution prevention plan, the State determines that the plan is inadequate, the State may require the facility to modify the plan.

Page 150, line 24, after the first comma insert "or".

Page 150, line 24, strike "or (c)(2)(F),".

Page 152, line 8, after "PERMITS" insert "AND EFFLUENT GUIDELINES".

Page 152, line 12, after "a" insert "stormwater".

Page 152, line 14, after "1987," insert "or with respect to which an effluent guideline has been issued before February 4, 1987".

Page 153, line 15, strike "(b)" and insert "(c)".

Page 159, lines 17 and 18, strike "of this Act".

Page 161, strike line 4 and all that follows through line 24 on page 162.

Page 163, line 1, strike "(j)" and insert "(i)".

Page 163, line 14, strike "(k)" and insert "(j)".

Page 163, line 16 strike "1996" and insert "1998".

Page 165, line 10, strike "(l)" and insert "(k)".

Page 165, line 10, strike "STORMWATER".

Page 166, line 12, before the comma insert "and section 304(a)(13)".

Page 166, line 20, strike "(m)" and insert "(l)".

Page 167, line 1, strike "(n)" and insert "(m)".

Page 167, line 8, strike "(o)" and insert "(n)".

Page 167, line 12, strike "(p)" and insert "(o)".

Page 168, line 2, after the period insert the following:

Land that was previously used for mining activities for which reclamation requirements of the Surface Mining Control and Reclamation Act of 1977 have been met and a performance bond or deposit required under section 509 of such Act has been released under section 519 of such Act shall no longer be considered an ore mining and dressing site.

Page 168, after line 17, insert the following:

"(5) ACTIVE COAL MINING SITES.—Discharges comprised entirely of stormwater from an active coal mining site operating under a permit issued under the Surface Mining Control and Reclamation Act of 1977 shall be subject to section 319.

Page 168, line 18, strike "(5)" and insert "(6)".

Page 169, after line 19, insert the following:

(d) DEVELOPMENT OF STORMWATER CRITERIA.—Section 304(a) is further amended by adding at the end the following:

"(13) DEVELOPMENT OF STORMWATER CRITERIA.—

"(A) IN GENERAL.—To reflect the episodic character of stormwater which results in significant variances in the volume, hydraulics, hydrology, and pollutant load associated with stormwater discharges, the Administrator shall establish, as an element of the water quality standards established for the designated uses of the navigable waters, stormwater criteria which protect the navigable waters from impairment of the designated beneficial uses caused by stormwater discharges. The criteria shall be technologically and financially feasible and may include performance standards, guidelines, guidance, and model management practices and measures and treatment requirements, as appropriate, and as identified in section 322.

"(B) INFORMATION TO BE USED IN DEVELOPMENT.—The stormwater discharge criteria to be established under this paragraph—

"(i) shall be developed from—

"(I) the findings and conclusions of the demonstration programs and research conducted under section 322(h);

"(II) the findings and conclusions of the research and monitoring activities of stormwater dischargers performed in compliance with permit requirements of this Act; and

"(III) other relevant information, including information submitted to the Administrator under the industrial group permit application process in effect under section 402 of this Act on the day before the date of the enactment of this paragraph;

"(ii) shall be developed in consultation with persons with expertise in the management of stormwater (including officials of State and local government, industrial and commercial stormwater dischargers, and public interest groups); and

"(iii) shall be established as an element of the water quality standards that are developed and implemented under this Act by not later than December 31, 2008.".

Page 169, line 20, strike "(d)" and insert "(e)".

Page 169, line 24, before the period insert "that is subject to section 322".

Page 182, line 1, strike "An" and insert "If an".

Page 182, line 2, strike "that".

Page 182, line 6, strike "may" and all that follows through "use" on line 9 and insert ", such system or facility is exempt from this Act".

Page 183, strike lines 4 through 11 and insert the following:

(c) DISCHARGE LIMIT.—Section 402(a) (33 U.S.C. 1342(a)) is further amended by adding at the end the following:

"(7) QUANTITATION LEVEL.—

"(A) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall establish quantitation levels for pollutants based on the lowest level at which a pollutant can be reliably quantified on an interlaboratory basis for each test method published under section 304(h).

"(B) PERMIT LEVELS.—Whenever a limitation for a permit issued under this section is set at a level below the quantitation level established for that pollutant under subparagraph (A) for the test method specified in the permit, any measurement of the pollutant greater than the limitation but less than the quantitation level shall not be considered a violation of the permit. All measurements less than the quantitation level shall be deemed equal to zero for purposes of determining compliance with the limitation.".

(d) DISCHARGES UNDER PERMIT APPLICATIONS.—Section 402(k) (33 U.S.C. 1342(k)) is amended—

(1) in the first sentence by striking "except" and inserting "except for";

(2) in the second sentence—

(A) by striking "Until December 31, 1974, in" and inserting "In"; and

(B) by striking "(1) section 301, 306, or 402 of this Act, or (2)" and inserting "section 402 of this Act or"; and

(C) by inserting before the period at the end the following: ", and provided further that if the discharge results in a violation of effluent limitations or standards promulgated under section 301, 302, 303, 304, 306, or 307 of this Act that would be applicable upon issuance of a permit such discharge shall be considered unlawful under section 301 of this Act"; and

(3) by striking the last sentence.

Page 184, line 17, strike "be" and all that follows through "limitation" on line 18 and insert "have an affirmative defense to such alleged noncompliance".

Page 185, line 20, strike "be" and all that follows through "Act" on line 21 and insert "have an affirmative defense to such alleged noncompliance".

Page 187, line 12, strike the semicolon and insert "or are directly and proximately connected; or".

Page 187, strike lines 13 through 17.

Page 187, line 18, strike "(iii)" and insert "(ii)".

Page 187, line 23, strike "if, for conventional pollutants," and insert "for conventional pollutants, to the extent that the discharger demonstrates that".

Page 188, line 1, insert "or substantially similar to" after "the same as".

Page 188, line 12, strike "that" and all that follows through the period on line 13 and insert the following:

in circumstances that do not meet the requirements of paragraph (1), including circumstances in which the source of the intake water meets the maximum contaminant levels or treatment techniques for drinking water contaminants established pursuant to the Safe Drinking Water Act for the pollutant of concern. An appropriate credit for pollutants found in intake water is a credit that assures that an owner or operator of a point source is not required to remove, reduce, or treat the amount of any pollutant in an effluent below the amount of such pollutant that is present in the intake water for such facility, except to the extent that the level of such pollutant in the intake water will cause adverse water quality impact that would not otherwise occur.

Page 194, line 20, strike "paragraph (3)" and insert "paragraphs (2) and (3)".

Page 198, line 13, strike "approved within 180 days" and insert "submitted within 90 days".

Page 201, after line 2, insert the following:

"(F) DEEMED APPROVAL OF COMPLIANCE PLANS.—A compliance plan submitted under subparagraph (A)(iv) shall be deemed to be approved on the 90th day following the date of such submission, unless the Administrator notifies the remediating party before such 90th day that the plan has been disapproved.".

Page 201, line 8, strike "or its political subdivisions,".

Page 201, line 12, strike "a person described in clause (i)" and insert "a State or Indian tribe".

Page 202, line 4, strike "not actively mined or" and insert "neither actively mined nor".

Page 202, line 7, strike "section" and insert "subsection".

Page 203, line 17, strike "law" and insert "this Act".

Page 211, line 17, strike "**VEGETABLE OIL**" and insert "**NONPETROLEUM OIL PRODUCTS AND OIL SUBSTITUTES**".

Conform the table of contents of the bill accordingly.

Page 211, lines 18 and 19, strike "FATS, OILS, AND GREASES" and insert "PETROLEUM AND NONPETROLEUM PRODUCTS".

Page 211, lines 22 and 23, strike "a Federal law related to water pollution control," and insert "the Oil Pollution Act of 1990 or the Federal Water Pollution Control Act,".

Page 212, line 2, strike "for—" and insert the following:

for petroleum and nonpetroleum oil products and oil substitutes, including animal fats, vegetable oils, and silicone fluids; and

Page 212, strike lines 3 through line 6.

Page 212, line 10, strike "fat and oil" and insert "petroleum and nonpetroleum oil products and oil substitutes".

Page 212, lines 13 through 15, strike "animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii)" and insert "petroleum products and nonpetroleum oil products and oil substitutes".

Page 213, strikes lines 15 and 16 and insert the following:

SEC. 508. PROGRAM AUTHORIZATIONS.

(a) LIMIT ON AUTHORIZATIONS.—No funds are authorized for any fiscal year after fiscal year 2000 for carrying out the programs and activities for which funds are authorized by this Act, including amendments made by this Act.

(b) GENERAL PROGRAM AUTHORIZATIONS.—Section 517 (33 U.S.C. 1376) is amended—

Conform the table of contents of the bill accordingly.

Page 214, after line 7, insert the following:

(b) TREATMENT AS STATES.—Section 518(e) (33 U.S.C. 1377(e)) is amended—

(1) in paragraph (2)—

(A) by striking "water resources which are" and inserting "water resources within the exterior boundaries of a Federal Indian reservation which are on or appurtenant to lands";

(B) by inserting "or" after "Indians,";

(C) by striking "member of an Indian tribe" and inserting "member of the reservation's governing Indian tribe";

(D) by striking ", or otherwise within the borders of an Indian reservation"; and

(E) by striking "and" at the end;

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) the Administrator's action does not authorize the Indian tribe to regulate lands owned in whole or in part by nonmembers of the tribe or the use of water resources on or appurtentant to such lands.".

Page 214, line 8, strike "(b)" and insert "(c)".

Page 215, line 4, strike "(c)" and insert "(d)".

Page 215, line 17, strike "(d)" and insert "(e)".

Page 216, line 1, strike "(e)" and insert "(f)".

Page 222, line 13, after "quality" insert "of navigable waters".

Page 224, line 22, after "year" insert "or ½ percent per year of the current valuation of such fund".

Page 225, line 19, strike "amended by striking" and insert the following:

amended—

(1) by striking "is consistent" and inserting "is not inconsistent"; and

(2) by striking

Page 226, line 2, before "treatment" insert "publicly owned".

Page 226, line 4, before the semicolon insert "without regard to the rank of such project on the State's priority list".

Page 243, line 15, after "Secretary" insert ", in consultation with the States,".

Page 246, line 2, before the semicolon insert "based on verifiable, objective science".

Page 247, strike line 3.

Page 247, line 4, strike "(iv)" and insert "(iii)".

Page 247, line 5, strike "(v)" and insert "(iv)".

Page 256, strike line 16 and all that follows through page 257, line 6, and insert the following:

"(A) ANALYSIS.—The Secretary shall determine whether to issue a permit for an activity in waters of the United States classified under subsection (c) as type A wetlands based on—

"(i) a sequential analysis that seeks, to the maximum extent practicable, to—

"(I) avoid adverse impact on the wetlands;

"(II) minimize such adverse impact on wetlands functions that cannot be avoided; and

"(III) compensate for any loss of wetland functions that cannot be avoided or minimized; and

"(ii) the public interest analysis described in paragraph (3).

"(B) WATER DEPENDENT ACTIVITY.—For purposes of subparagraph (A)(i)(I), if an activity is water dependent, an alternative in an area that is not wetlands or waters of the United States shall not be presumed to be available. A water dependent activity is an activity that requires access or proximity to or siting within the wetlands or waters of the United States in question to fulfill its basic purpose.

Page 257, line 7, strike "(B)" and insert "(C)".

Page 266, line 20, strike "and".

Page 266, after line 20, insert the following:

"(vi) provide, where appropriate, for dual use of wetlands within the mitigation bank, as long as the use other than providing compensatory mitigation under this section (I) shall not interfere with the functioning of such bank for providing such mitigation, and (II) shall not adversely impact wetlands or other waters of the United States; and

Page 266, line 21, strike "(vi)" and "(vii)".

Page 280, line 3, strike "or".

Page 280, line 20, strike "or".

Page 280, line 23, strike the period and insert "; or".

Page 280, after line 23, insert the following:

"(v) result from any silvicultural activity or practice undertaken on economic base lands; or

"(S) result from the conduct of recreational hunting or shooting.".

Page 284, strike lines 10 through 18.

Page 284, line 19, strike "(3)" and insert "(2)".

Page 285, line 1, strike "section" and all that follows through the final period on line 2 and insert the following:

subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.).

Page 285, lines 11 and 19, after "used" insert the following:

, or a good faith effort is shown by the owner or operator to use such lands,

Page 285, after line 20, insert the following:

"(D) DELINEATIONS GRANDFATHERED.—Delineations by the Secretary of Agriculture regarding wetlands on agricultural lands and associated nonagricultural lands that have become administratively final on or before the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall not be subject to further delineation unless the owner requests a new delineation by the Secretary of Agriculture.

Page 289, after line 9, insert the following:

"(G) PERMISSION TO ENTER ONTO PRIVATE PROPERTY.—The Secretaries shall obtain written permission from the owner of private property before entering such property to conduct identification and classification of wetlands pursuant to this paragraph.

Page 293, line 4, before the semicolon insert the following:

; except that, in any case in which guidelines based on such criteria alone would prohibit the specification of a disposal site, the economic impact on navigation and anchorage shall be considered

Page 305, after line 4, insert the following:

"(8) TREATMENT OF EXISTING PROGRAMS.—Any State which has received approval to administer a program pursuant to this subsection before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall not be required to reapply for approval and shall be permitted to continue administering such program in a manner consistent with the provisions of this section. Upon receipt of a request from the Governor of such State, the Secretary, with the concurrence of the Governor, shall amend the program.

Page 312, after line 9, insert the following:

"(11) CERTIFICATION.—Notwithstanding any other provision of this Act, the Administrator shall not, either directly or indirectly, impose any requirement or condition in a certification required under section 401 that the Secretary determines is inconsistent with the provisions of this section.

Page 312, line 10, strike "(11)" and insert "(12)".

Page 316, after line 13, insert the following:

"(N) VERNAL POOLS.—The term 'vernal pools' means individual isolated wetlands that have exceptional waterfowl habitat functions and that exhibit the following characteristics:

"(i) an area greater than ½ acre;

"(ii) seasonal standing for no less than 45 consecutive days during the fall and winter in an average precipitation season;

"(iii) an impermeable subsurface hard pan soil layer that prevents subsurface water drainage or percolation; and

"(iv) a surface outlet for relief of water flow.

Page 316, line 14, strike "(N)" and insert "(O)".

Page 317, after line 16, insert the following:

"(31) The term 'farmed wetland' means those agricultural lands, as defined in section 404, and associated nonagricultural lands exhibiting wetlands characteristics, as delineated solely by the Secretary of Agriculture.

Page 317, line 17, strike "(31)" and insert "(32)".

Page 317, line 23, strike "(32)" and insert "(33)".

Page 318, line 4, strike "(33)" and insert "(34)".

Page 318, line 7, strike "(34)" and insert "(35)".

Page 318, line 12, strike "(35)" and insert "(36)".

Page 318, line 18, strike "(36)" and insert "(37)".

Page 318, line 22, strike "(37)" and insert "(38)".

Page 319, strike lines 5 through 11.

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from California [Mr. MINETA] will each be recognized for 5 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my understanding after we engage in a colloquy that this en bloc amendment may be accepted. I would simply like to point out that the en bloc amendment improves upon this already widely supported bill that we reported out. This package of agreements includes agreements reached with chairmen of the other committees of jurisdiction, noncontroversial items brought to our attention since the committee markup, and other technical matters and miscellaneous issues.

The en bloc also reflects an ongoing dialog with State and local water officials including various provisions directly responding to the concerns and clarifying existing environmental safeguards in the bill.

I would emphasize it is very important that once the en bloc amendment is passed it will be open for amendment by title as we go through the bill so Member's rights are protected as we go through the bill and they will be able, if they choose, to offer amendments to the en bloc amendment.

In the en bloc amendment we deal with several State issues, for examples, reducing from 20,000 to 10,000 the population ceiling for eligibility for the modification of secondary treatment requirements, this at the request of the States.

We delete, this is very important because the gentleman from New York in a previous comment complained about a 20-percent cap on type A wetlands, we delete the 20-percent cap for the type A wetlands for county parishes and boroughs, so this is in response to environmental requests, the various miscellaneous new matters in the bill. At each stage in the process matters have been brought to us, a very open process, and as a result we have included several noncontroversial items in this particular area.

Finally, with regard to committee issues, the package reflects agreements reached with the other committees of jurisdiction in several areas, technical and otherwise, and I would particularly focus on the fact that in this area we provide language that assures that the classification of isolated wetlands is based on sound science. This addresses a concern that all wetlands might be prejudged as falling into a single classification type. Environmentalists have talked with us about this and we have accepted their recommendations in this area.

And with regard to the technical amendments themselves, we have an important clarifying technical amendment that clarifies when local pretreatment limits apply in lieu of categorical pretreatment standards, such local limits must prevent the introduction of pollutants into the treatment works that will interfere with, pass through, or otherwise be incompatible with the treatment works, again, another proenvironmental provision which we have included in the en bloc amendments.

So, that is a very brief description of what I believe can be acceptable, particularly with emphasis that Member's rights are protected to offer amendments relating to any of these en bloc amendments as we move through the title-by-title amending process of this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. MINETA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would simply like to inquire of my friend from Pennsylvania, the distinguished chair of the full Committee on Transportation and Infrastructure, there is a provision in the en bloc amendment which affects EPA's authorities under section 401. And as the gentleman knows, the States are very concerned with any amendments which might affect section 401 and the rights of States to protect their water quality. It is my understanding that the provision is not intended to affect in any way the rights of States to protect water quality under section 401. Is that correct?

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the gentleman is correct. The provision in question is intended only to clarify that there is to be no interference from the EPA in the 401 certification process relating to section 404 permits.

Mr. MINETA. It is also my understanding that this provision is not intended to affect the broad issues of States' rights under section 401 and the relationship with hydropower relicensing; is that correct?

Mr. SHUSTER. The gentleman is correct.

Mr. MINETA. Mr. Chairman, it is also noted, as has my colleague from Pennsylvania, that each of the provisions included in the en bloc amendment will be amendable when the appropriate title in the bill is reached, and I understand that that is the way this works.

So, with that understanding, I have no objections to this en bloc amendment.

Mr. SHUSTER. I thank the gentleman.

Mr. MINETA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The amendments were agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SAXTON

Mr. SAXTON. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. SAXTON:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clean Water Amendments of 1995".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definition.
Sec. 3. Amendment of Federal Water Pollution Control Act.

TITLE I—RESEARCH AND RELATED PROGRAMS

Sec. 101. Research, investigations, training, and information.
Sec. 102. State management assistance.
Sec. 103. Mine water pollution control.
Sec. 104. Water sanitation in rural and Native Alaska villages.
Sec. 105. Authorization of appropriations for Chesapeake program.
Sec. 106. Great Lakes management.

TITLE II—CONSTRUCTION GRANTS

Sec. 201. Uses of funds.
Sec. 202. Administration of closeout of construction grant program.
Sec. 203. Sewage collection systems.
Sec. 204. Value engineering review.
Sec. 205. Grants for wastewater treatment.

TITLE III—STANDARDS AND ENFORCEMENT

Sec. 301. Arid areas.
Sec. 302. Secondary treatment.
Sec. 303. Federal facilities.
Sec. 304. National estuary program.
Sec. 305. Nonpoint source management programs.
Sec. 306. Coastal zone management.
Sec. 307. Comprehensive watershed management.
Sec. 308. Revision of effluent limitations.

TITLE IV—PERMITS AND LICENSES

Sec. 401. Waste treatment systems for concentrated animal feeding operations.
Sec. 402. Municipal and industrial stormwater discharges.
Sec. 403. Intake credits.
Sec. 404. Combined sewer overflows.
Sec. 405. Abandoned mines.
Sec. 406. Beneficial use of biosolids.

TITLE V—GENERAL PROVISIONS

Sec. 501. Publicly owned treatment works defined.
Sec. 502. Implementation of water pollution laws with respect to vegetable oil.
Sec. 503. Needs estimate.
Sec. 504. Food processing and food safety.
Sec. 505. Audit dispute resolution.

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

Sec. 601. General authority for capitalization grants.
Sec. 602. Capitalization grant agreements.
Sec. 603. Water pollution control revolving loan funds.
Sec. 604. Allotment of funds.
Sec. 605. Authorization of appropriations.
Sec. 606. State nonpoint source water pollution control revolving funds.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Technical amendments.
Sec. 702. John A. Blatnik National Fresh Water Quality Research Laboratory.
Sec. 703. Wastewater service for colonias.
Sec. 704. Savings in municipal drinking water costs.

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

Sec. 801. Short title.
Sec. 802. Findings and purposes.
Sec. 803. State, local, and landowner technical assistance and cooperative training.
Sec. 804. Federal, State, and Local Government Coordinating Committee.
Sec. 805. State and local wetland conservation plans and strategies; grants to facilitate the implementation of section 404.
Sec. 806. National cooperative wetland ecosystem restoration strategy.
Sec. 807. Permits for discharge of dredged or fill material.
Sec. 808. Technical assistance to private landowners, codification of regulations and policies.
Sec. 809. Delineation.
Sec. 810. Fast track for minor permits.
Sec. 811. Compensatory mitigation.

Sec. 812. Cooperative mitigation ventures and mitigation banks.
Sec. 813. Wetlands monitoring and research.
Sec. 814. Administrative appeals.
Sec. 815. Cranberry production.
Sec. 816. State classification systems.
Sec. 817. Definitions.
TITLE IX—MISCELLANEOUS
Sec. 901. Obligations and expenditures subject to appropriations.

SEC. 2. DEFINITION.

In this Act, the term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 3. AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Water Pollution Control Act (33 U.S.C. 1251–1387).

TITLE I—RESEARCH AND RELATED PROGRAMS

SEC. 101. RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION.

(a) NATIONAL PROGRAMS.—Section 104(a) (33 U.S.C. 1254(a)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) in cooperation with appropriate Federal, State, and local agencies, conduct, promote, and encourage to the maximum extent feasible, in watersheds that may be significantly affected by nonpoint sources of pollution, monitoring and measurement of water quality by means and methods that will help to identify the relative contributions of particular nonpoint sources.".

(b) GRANTS TO LOCAL GOVERNMENTS.—Section 104(b)(3) (33 U.S.C. 1254(b)(3)) is amended by inserting "local governments," after "interstate agencies,".

(c) TECHNICAL ASSISTANCE FOR RURAL AND SMALL TREATMENT WORKS.—Section 104(b) (33 U.S.C. 1254(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(8) make grants to nonprofit organizations to provide technical assistance and training to rural and small publicly owned treatment works to enable such treatment works to achieve and maintain compliance with the requirements of this Act; and

"(9) disseminate information to rural, small, and disadvantaged communities with respect to the planning, design, construction, and operation of treatment works.".

(d) WASTEWATER TREATMENT IN IMPOVERISHED COMMUNITIES.—Section 104(q) (33 U.S.C. 1254(q)) is amended by adding at the end the following:

"(5) SMALL IMPOVERISHED COMMUNITIES.—

"(A) GRANTS.—The Administrator may make grants to States to provide assistance for planning, design, and construction of publicly owned treatment works to provide wastewater services to rural communities of 3,000 or less that are not currently served by any sewage collection or water treatment system and are severely economically disadvantaged, as determined by the Administrator.

"(B) AUTHORIZATION.—There is authorized to be appropriated to carry out this paragraph $50,000,000 per fiscal year for fiscal years 1996 through 2000.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 104(u) (33 U.S.C. 1254(u)) is amended—

(1) by striking "and" before "(6)"; and

(2) by inserting before the period at the end the following: "; and (7) not to exceed $50,000,000 per fiscal year for each of fiscal years 1996 through 2000 for carrying out the provisions of subsections (b)(3), (b)(8), and (b)(9), except that not less than 20 percent of the sums appropriated pursuant to this clause shall be available for carrying out the provisions of subsections (b)(8) and (b)(9)".

SEC. 102. STATE MANAGEMENT ASSISTANCE.

Section 106(a) (33 U.S.C. 1256(a)) is amended—

(1) by striking "and" before "$75,000,000";

(2) by inserting after "1990" the following: ", such sums as may be necessary for each of fiscal years 1991 through 1995, and $150,000,000 per fiscal year for each of fiscal years 1996 through 2000"; and

(3) by adding at the end the following: "States or interstate agencies receiving grants under this section may use such funds to finance, with other States or interstate agencies, studies and projects on interstate issues relating to such programs.".

SEC. 103. MINE WATER POLLUTION CONTROL.

Section 107 (33 U.S.C. 1257) is amended to read as follows:

"SEC. 107. MINE WATER POLLUTION CONTROL.

"(a) ACIDIC AND OTHER TOXIC MINE DRAINAGE.—The Administrator shall establish a program to demonstrate the efficacy of measures for abatement of the causes and treatment of the effects of acidic and other toxic mine drainage within qualified hydrologic units affected by past coal mining practices for the purpose of restoring the biological integrity of waters within such units.

"(b) GRANTS.—

"(1) IN GENERAL.—Any State or Indian tribe may apply to the Administrator for a grant for any project which provides for abatement of the causes or treatment of the effects of acidic or other toxic mine drainage within a qualified hydrologic unit affected by past coal mining practices.

"(2) APPLICATION REQUIREMENTS.—An application submitted to the Administrator under this section shall include each of the following:

"(A) An identification of the qualified hydrologic unit.

"(B) A description of the extent to which acidic or other toxic mine drainage is affecting the water quality and biological resources within the hydrologic unit.

"(C) An identification of the sources of acidic or other toxic mine drainage within the hydrologic unit.

"(D) An identification of the project and the measures proposed to be undertaken to abate the causes or treat the effects of acidic or other toxic mine drainage within the hydrologic unit.

"(E) The cost of undertaking the proposed abatement or treatment measures.

"(c) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of a project receiving grant assistance under this section shall be 50 percent.

"(2) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—Contributions of lands, easements, and rights-of-way shall be credited toward the non-Federal share of the cost of a project under this section but not in an amount exceeding 25 percent of the total project cost.

"(3) OPERATION AND MAINTENANCE.—The non-Federal interest shall bear 100 percent of the cost of operation and maintenance of a project under this section.

"(d) PROHIBITED PROJECTS.—No acidic or other toxic mine drainage abatement or treatment project may receive assistance under this section if the project would adversely affect the free-flowing characteristics of any river segment within a qualified hydrologic unit.

"(e) APPLICATIONS FROM FEDERAL ENTITIES.—Any Federal entity may apply to the Administrator for a grant under this section for the purposes of an acidic or toxic mine drainage abatement or treatment project within a qualified hydrologic unit located on lands and waters under the administrative jurisdiction of such entity.

"(f) APPROVAL.—The Administrator shall approve an application submitted pursuant to subsection (b) or (e) after determining that the application meets the requirements of this section.

"(g) QUALIFIED HYDROLOGIC UNIT DEFINED.—For purposes of this section, the term 'qualified hydrologic unit' means a hydrologic unit—

"(1) in which the water quality has been significantly affected by acidic or other toxic mine drainage from past coal mining practices in a manner which adversely impacts biological resources; and

"(2) which contains lands and waters eligible for assistance under title IV of the Surface Mining and Reclamation Act of 1977.".

SEC. 104. WATER SANITATION IN RURAL AND NATIVE ALASKA VILLAGES.

(a) IN GENERAL.—Section 113 (33 U.S.C. 1263) is amended by striking the section heading and designation and subsections (a) through (f) and inserting the following:

"SEC. 113. ALASKA VILLAGE PROJECTS AND PROGRAMS.

"(a) GRANTS.—The Administrator is authorized to make grants—

"(1) for the development and construction of facilities which provide sanitation services for rural and Native Alaska villages;

"(2) for training, technical assistance, and educational programs relating to operation and maintenance for sanitation services in rural and Native Alaska villages; and

"(3) for reasonable costs of administering and managing grants made and programs and projects carried out under this section; except that not to exceed 4 percent of the amount of any grant made under this section may be made for such costs.

"(b) FEDERAL SHARE.—A grant under this section shall be 50 percent of the cost of the program or project being carried out with such grant.

"(c) SPECIAL RULE.—The Administrator shall award grants under this section for project construction following the rules specified in subpart H of part 1942 of title 7 of the Code of Federal Regulations.

"(d) GRANTS TO STATE FOR BENEFIT OF VILLAGES.—Grants under this section may be made to the State for the benefit of rural Alaska villages and Alaska Native villages.

"(e) COORDINATION.—In carrying out activities under this subsection, the Administrator is directed to coordinate efforts between the State of Alaska, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of the Interior, the Secretary of Agriculture, and the recipients of grants.

"(f) FUNDING.—There is authorized to be appropriated $25,000,000 for fiscal years beginning after September 30, 1995, to carry out this section.".

(b) CONFORMING AMENDMENT.—Section 113(g) is amended by inserting after "(g)" the following: "DEFINITIONS.—".

SEC. 105. AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE PROGRAM.

Section 117(d) (33 U.S.C. 1267(d)) is amended—

(1) in paragraph (1), by inserting "such sums as may be necessary for fiscal years 1991 through 1995, and $3,000,000 per fiscal year for each of fiscal years 1996 through 2000" after "1990,"; and

(2) in paragraph (2), by inserting "such sums as may be necessary for fiscal years 1991 through 1995, and $18,000,000 per fiscal year for each of fiscal years 1996 through 2000" after "1990,".

SEC. 106. GREAT LAKES MANAGEMENT.

(a) Great Lakes Research Council.—

(1) In general.—Section 118 (33 U.S.C. 1268) is amended—

(A) in subsection (a)(3)—

(i) by striking subparagraph (E) and inserting the following:

"(E) 'Council' means the Great Lakes Research Council established by subsection (d)(1);";

(ii) by striking "and" at the end of subparagraph (I);

(iii) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(iv) by adding at the end the following:

"(K) 'Great Lakes research' means the application of scientific or engineering expertise to explain, understand, and predict a physical, chemical, biological, or socioeconomic process, or the interaction of 1 or more of the processes, in the Great Lakes ecosystem.";

(B) by striking subsection (d) and inserting the following:

"(d) Great Lakes Research Council.—

"(1) Establishment of council.—There is established a Great Lakes Research Council.

"(2) Duties of council.—The Council—

"(A) shall advise and promote the coordination of Federal Great Lakes research activities to avoid unnecessary duplication and ensure greater effectiveness in achieving protection of the Great Lakes ecosystem through the goals of the Great Lakes Water Quality Agreement;

"(B) not later than 1 year after the date of the enactment of this subparagraph and biennially thereafter and after providing opportunity for public review and comment, shall prepare and provide to interested parties a document that includes—

"(i) an assessment of the Great Lakes research activities needed to fulfill the goals of the Great Lakes Water Quality Agreement;

"(ii) an assessment of Federal expertise and capabilities in the activities needed to fulfill the goals of the Great Lakes Water Quality Agreement, including an inventory of Federal Great Lakes research programs, projects, facilities, and personnel; and

"(iii) recommendations for long-term and short-term priorities for Federal Great Lakes research, based on a comparison of the assessments conducted under clauses (i) and (ii);

"(C) shall identify topics for and participate in meetings, workshops, symposia, and conferences on Great Lakes research issues;

"(D) shall make recommendations for the uniform collection of data for enhancing Great Lakes research and management protocols relating to the Great Lakes ecosystem;

"(E) shall advise and cooperate in—

"(i) improving the compatible integration of multimedia data concerning the Great Lakes ecosystem; and

"(ii) any effort to establish a comprehensive multimedia data base for the Great Lakes ecosystem; and

"(F) shall ensure that the results, findings, and information regarding Great Lakes research programs conducted or sponsored by the Federal Government are disseminated in a timely manner, and in useful forms, to interested persons, using to the maximum extent practicable mechanisms in existence on the date of the dissemination, such as the Great Lakes Research Inventory prepared by the International Joint Commission.

"(3) Membership.—

"(A) In general.—The Council shall consist of 1 research manager with extensive knowledge of, and scientific expertise and experience in, the Great Lakes ecosystem from each of the following agencies and instrumentalities:

"(i) The Agency.

"(ii) The National Oceanic and Atmospheric Administration.

"(iii) The National Biological Service.

"(iv) The United States Fish and Wildlife Service.

"(v) Any other Federal agency or instrumentality that expends $1,000,000 or more for a fiscal year on Great Lakes research.

"(vi) Any other Federal agency or instrumentality that a majority of the Council membership determines should be represented on the Council.

"(B) Nonvoting members.—At the request of a majority of the Council membership, any person who is a representative of a Federal agency or instrumentality not described in subparagraph (A) or any person who is not a Federal employee may serve as a nonvoting member of the Council.

"(4) Chairperson.—The chairperson of the Council shall be a member of the Council from an agency specified in clause (i), (ii), or (iii) of paragraph (3)(A) who is elected by a majority vote of the members of the Council. The chairperson shall serve as chairperson for a period of 2 years. A member of the Council may not serve as chairperson for more than 2 consecutive terms.

"(5) Expenses.—While performing official duties as a member of the Council, a member shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code.

"(6) Interagency cooperation.—The head of each Federal agency or instrumentality that is represented on the Council—

"(A) shall cooperate with the Council in implementing the recommendations developed under paragraph (2);

"(B) on written request of the chairperson of the Council, may make available, on a reimbursable basis or otherwise, such personnel, services, or facilities as may be necessary to assist the Council in carrying out the duties of the Council under this section; and

"(C) on written request of the chairperson, shall furnish data or information necessary to carry out the duties of the Council under this section.

"(7) International cooperation.—The Council shall cooperate, to the maximum extent practicable, with the research coordination efforts of the Council of Great Lakes Research Managers of the International Joint Commission.

"(8) Reimbursement for requested activities.—Each Federal agency or instrumentality represented on the Council may reimburse another Federal agency or instrumentality or a non-Federal entity for costs associated with activities authorized under this subsection that are carried out by the other agency, instrumentality, or entity at the request of the Council.

"(9) Federal advisory committee act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

"(10) Effect on other law.—Nothing in this subsection affects the authority of any Federal agency or instrumentality, under any law, to undertake Great Lakes research activities.";

(C) in subsection (e)—

(i) in paragraph (1) by striking "the Program Office and the Research Office shall prepare a joint research plan" and inserting "the Program Office, in consultation with the Council, shall prepare a research plan"; and

(ii) in paragraph (3)(A) by striking "the Research Office, the Agency for Toxic Substances and Disease Registry, and Great Lakes States" and inserting "the Council, the Agency for Toxic Substances and Disease Registry, and Great Lakes States,"; and

(D) in subsection (h)—

(i) by adding "and" at the end of paragraph (1);

(ii) by striking "; and" at the end of paragraph (2) and inserting a period; and

(iii) by striking paragraph (3).

(2) Conforming amendment.—The second sentence of section 403(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447b(a)) is amended by striking "Great Lakes Research Office authorized under" and inserting "Great Lakes Research Council established by".

(b) Consistency of Programs With Federal Guidance.—Section 118(c)(2)(C) (33 U.S.C. 1268(c)(2)(C)) is amended by adding at the end the following: "For purposes of this section, a State's standards, policies, and procedures shall be considered consistent with such guidance if the standards, policies, and procedures are based on scientifically defensible judgments and policy choices made by the State after consideration of the guidance and provide an overall level of protection comparable to that provided by the guidance, taking into account the specific circumstances of the State's waters.".

(c) Reauthorization of Assessment and Remediation of Contaminated Sediments Program.—Section 118(c)(7) is amended by adding at the end the following:

"(D) Reauthorization of assessment and remediation of contaminated sediments program.—

"(i) In general.—The Administrator, acting through the Program Office, in consultation and cooperation with the Assistant Secretary of the Army having responsibility for civil works, shall conduct at least 3 pilot projects involving promising technologies and practices to remedy contaminated sediments (including at least 1 full-scale demonstration of a remediation technology) at sites in the Great Lakes System, as the Administrator determines appropriate.

"(ii) Selection of sites.—In selecting sites for the pilot projects, the Administrator shall give priority consideration to—

"(I) the Ashtabula River in Ohio;

"(II) the Buffalo River in New York;

"(III) Duluth and Superior Harbor in Minnesota;

"(IV) the Fox River in Wisconsin;

"(V) the Grand Calumet River in Indiana; and

"(VI) Saginaw Bay in Michigan.

"(iii) Deadlines.—In carrying out this subparagraph, the Administrator shall—

"(I) not later than 18 months after the date of the enactment of this subparagraph, identify at least 3 sites and the technologies and practices to be demonstrated at the sites (including at least 1 full-scale demonstration of a remediation technology); and

"(II) not later than 5 years after such date of enactment, complete at least 3 pilot projects (including at least 1 full-scale demonstration of a remediation technology).

"(iv) ADDITIONAL PROJECTS.—The Administrator, acting through the Program Office, in consultation and cooperation with the Assistant Secretary of the Army having responsibility for civil works, may conduct additional pilot- and full-scale pilot projects involving promising technologies and practices at sites in the Great Lakes System other than the sites selected under clause (i).

"(v) EXECUTION OF PROJECTS.—The Administrator may cooperate with the Assistant Secretary of the Army having responsibility for civil works to plan, engineer, design, and execute pilot projects under this subparagraph.

"(vi) NON-FEDERAL CONTRIBUTIONS.—The Administrator may accept non-Federal contributions to carry out pilot projects under this subparagraph.

"(vii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $3,500,000 for each of fiscal years 1996 through 2000.

"(E) TECHNICAL INFORMATION AND ASSISTANCE.—

"(i) IN GENERAL.—The Administrator, acting through the Program Office, may provide technical information and assistance involving technologies and practices for remediation of contaminated sediments to persons that request the information or assistance.

"(ii) TECHNICAL ASSISTANCE PRIORITIES.—In providing technical assistance under this subparagraph, the Administrator, acting through the Program Office, shall give special priority to requests for integrated assessments of, and recommendations regarding, remediation technologies and practices for contaminated sediments at Great Lakes areas of concern.

"(iii) COORDINATION WITH OTHER DEMONSTRATIONS.—The Administrator shall—

"(I) coordinate technology demonstrations conducted under this subparagraph with other federally assisted demonstrations of contaminated sediment remediation technologies; and

"(II) share information from the demonstrations conducted under this subparagraph with the other demonstrations.

"(iv) OTHER SEDIMENT REMEDIATION ACTIVITIES.—Nothing in this subparagraph limits the authority of the Administrator to carry out sediment remediation activities under other laws.

"(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $1,000,000 for each of fiscal years 1996 through 2000.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) RESEARCH AND MANAGEMENT.—Section 118(e)(3)(B) (33 U.S.C. 1268(e)(3)(B)) is amended by inserting before the period at the end the following: ", such sums as may be necessary for fiscal year 1995, and $4,000,000 per fiscal year for each of fiscal years 1996, 1997, and 1998".

(2) GREAT LAKES PROGRAMS.—Section 118(h) (33 U.S.C. 1268(h)) is amended—

(A) by striking "and" before "$25,000,000"; and

(B) by inserting before the period at the end of the first sentence the following: ", such sums as may be necessary for fiscal years 1992 through 1995, and $17,500,000 per fiscal year for each of fiscal years 1996 through 2000".

TITLE II—CONSTRUCTION GRANTS

SEC. 201. USES OF FUNDS.

(a) NONPOINT SOURCE PROGRAM.—Section 201(g)(1) (33 U.S.C. 1281(g)(1)) is amended by striking the period at the end of the first sentence and all that follows through the period at the end of the last sentence and inserting the following: "and for any purpose for which a grant may be made under sections 319(h) and 319(i) of this Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution).".

(b) RETROACTIVE ELIGIBILITY.—Section 201(g)(1) is further amended by adding at the end the following: "The Administrator, with the concurrence of the States, shall develop procedures to facilitate and expedite the retroactive eligibility and provision of grant funding for facilities already under construction.".

SEC. 202. ADMINISTRATION OF CLOSEOUT OF CONSTRUCTION GRANT PROGRAM.

Section 205(g)(1) (33 U.S.C. 1285(g)(1)) is amended by adding at the end the following: "The Administrator may negotiate an annual budget with a State for the purpose of administering the closeout of the State's construction grants program under this title. Sums made available for administering such closeout shall be subtracted from amounts remaining available for obligation under the State's construction grant program under this title.".

SEC. 203. SEWAGE COLLECTION SYSTEMS.

Section 211(a) (33 U.S.C. 1291(a)) is amended—

(1) in clause (1) by striking "an existing collection system" and inserting "a collection system existing on the date of the enactment of the Clean Water Amendments of 1995"; and

(2) in clause (2)—

(A) by striking "an existing community" and inserting "a community existing on such date of enactment"; and

(B) by striking "sufficient existing" and inserting "sufficient capacity existing on such date of enactment".

SEC. 204. VALUE ENGINEERING REVIEW.

Section 218(c) (33 U.S.C. 1298(c)) is amended by striking "$10,000,000" and inserting "$25,000,000".

SEC. 205. GRANTS FOR WASTEWATER TREATMENT.

(a) COASTAL LOCALITIES.—The Administrator shall make grants under title II of the Federal Water Pollution Control Act to appropriate instrumentalities for the purpose of construction of treatment works (including combined sewer overflow facilities) to serve coastal localities. No less than $10,000,000 of the amount of such grants shall be used for water infrastructure improvements in New Orleans, no less than $3,000,000 of the amount of such grants shall be used for water infrastructure improvements in Bristol County, Massachusetts, and no less than ⅓ of the amount of such grants shall be used to assist localities that meet both of the following criteria:

(1) NEED.—A locality that has over $2,000,000,000 in category I treatment needs documented and accepted in the Environmental Protection Agency's 1992 Needs Survey database as of February 4, 1993.

(2) HARDSHIP.—A locality that has wastewater user charges, for residential use of 7,000 gallons per month based on Ernst & Young National Water and Wastewater 1992 Rate Survey, greater than 0.65 percent of 1989 median household income for the metropolitan statistical area in which such locality is located as measured by the Bureau of the Census.

(b) FEDERAL SHARE.—Notwithstanding section 202(a)(1) of the Federal Water Pollution Control Act, the Federal share of grants under subsection (a) shall be 80 percent of the cost of construction, and the non-Federal share shall be 20 percent of the cost of construction.

(c) SMALL COMMUNITIES.—The Administrator shall make grants to States for the purpose of providing assistance for the construction of treatment works to serve small communities as defined by the State; except that the term "small communities" may not include any locality with a population greater than 75,000. Funds made available to carry out this subsection shall be allotted by the Administrator to the States in accordance with the allotment formula contained in section 604(a) of the Federal Water Pollution Control Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under this section $300,000,000 for fiscal year 1996. Such sums shall remain available until expended and shall be equally divided between subsections (a) and (c) of this section. Such authorization of appropriation shall take effect only if the total amount appropriated for fiscal year 1996 to carry out title VI of the Federal Water Pollution Control Act is at least $3,000,000,000.

TITLE III—STANDARDS AND ENFORCEMENT

SEC. 301. ARID AREAS.

(a) CONSTRUCTED WATER CONVEYANCES.—Section 303(c)(2) (33 U.S.C. 1313(c)(2)) is amended by adding at the end the following:

"(D) STANDARDS FOR CONSTRUCTED WATER CONVEYANCES.—

"(i) RELEVANT FACTORS.—If a State exercises jurisdiction over constructed water conveyances in establishing standards under this section, the State may consider the following:

"(I) The existing and planned uses of water transported in a conveyance system.

"(II) Any water quality impacts resulting from any return flow from a constructed water conveyance to navigable waters and the need to protect downstream users.

"(III) Management practices necessary to maintain the conveyance system.

"(IV) State or regional water resources management and water conservation plans.

"(V) The authorized purpose for the constructed conveyance.

"(ii) RELEVANT USES.—If a State adopts or reviews water quality standards for constructed water conveyances, it shall not be required to establish recreation, aquatic life, or fish consumption uses for such systems if the uses are not existing or reasonably foreseeable or such uses impede the authorized uses of the conveyance system.".

(b) CRITERIA AND GUIDANCE FOR EPHEMERAL AND EFFLUENT-DEPENDENT STREAMS.—Section 304(a) (33 U.S.C. 1314(a)) is amended by adding at the end the following:

"(9) CRITERIA AND GUIDANCE FOR EPHEMERAL AND EFFLUENT-DEPENDENT STREAMS.—

"(A) DEVELOPMENT.—Not later than 2 years after the date of the enactment of this paragraph, and after providing notice and opportunity for public comment, the Administrator shall develop and publish—

"(i) criteria for ephemeral and effluent-dependent streams; and

"(ii) guidance to the States on development and adoption of water quality standards applicable to such streams.

"(B) FACTORS.—The criteria and guidance developed under subparagraph (A) shall take into account the limited ability of ephemeral and effluent-dependent streams to support aquatic life and certain designated uses, shall include consideration of the role the discharge may play in maintaining the flow or level of such waters, and shall promote the beneficial use of reclaimed water pursuant to section 101(a)(10).".

(c) FACTORS REQUIRED TO BE CONSIDERED BY ADMINISTRATOR.—Section 303(c)(4) is amended by adding at the end the following: "In revising or adopting any new standard for ephemeral or effluent-dependent streams under this paragraph, the Administrator shall consider the factors referred to in section 304(a)(9)(B).".

(d) DEFINITIONS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(21) The term 'effluent-dependent stream' means a stream or a segment thereof—

"(A) with respect to which the flow (based on the annual average expected flow, determined by calculating the average mode over a 10-year period) is primarily attributable to the discharge of treated wastewater;

"(B) that, in the absence of a discharge of treated wastewater and other primary anthropogenic surface or subsurface flows, would be an ephemeral stream; or

"(C) that is an effluent-dependent stream under applicable State water quality standards.

"(22) The term 'ephemeral stream' means a stream or segments thereof that flows periodically in response to precipitation, snowmelt, or runoff.

"(23) The term 'constructed water conveyance' means a manmade water transport system constructed for the purpose of transporting water in a waterway that is not and never was a natural perennial waterway.".

SEC. 302. SECONDARY TREATMENT.

(a) COASTAL DISCHARGES.—Section 304(d) (33 U.S.C. 1314(d)) is amended by adding at the end the following:

"(5) COASTAL DISCHARGES.—For purposes of this subsection, any municipal wastewater treatment facility shall be deemed the equivalent of a secondary treatment facility if each of the following requirements is met:

"(A) The facility employs chemically enhanced primary treatment.

"(B) The facility, on the date of the enactment of this paragraph, discharges through an ocean outfall into an open marine environment greater than 4 miles offshore into a depth greater than 300 feet.

"(C) The facility's discharge is in compliance with all local and State water quality standards for the receiving waters.

"(D) The facility's discharge will be subject to an ocean monitoring program acceptable to relevant Federal and State regulatory agencies.".

(b) MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS.—

(1) IN GENERAL.—Section 301 (33 U.S.C. 1311) is amended by adding at the end the following:

"(s) MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS.—

"(1) IN GENERAL.—The Administrator, with the concurrence of the State, shall issue a 10-year permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works into marine waters which are at least 150 feet deep through an ocean outfall which discharges at least 1 mile offshore, if the applicant demonstrates that—

"(A) there is an applicable ocean plan and the facility's discharge is in compliance with all local and State water quality standards for the receiving waters;

"(B) the facility's discharge will be subject to an ocean monitoring program determined to be acceptable by relevant Federal and State regulatory agencies;

"(C) the applicant has an Agency approved pretreatment plan in place; and

"(D) the applicant, at the time such modification becomes effective, will be discharging effluent which has received at least chemically enhanced primary treatment and achieves a monthly average of 75 percent removal of suspended solids.

"(2) DISCHARGE OF ANY POLLUTANT INTO MARINE WATERS DEFINED.—For purposes of this subsection, the term 'discharge of any pollutant into marine waters' means a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement.

"(3) DEADLINE.—On or before the 90th day after the date of submittal of an application for a modification under paragraph (1), the Administrator shall issue to the applicant a modified permit under section 402 or a written determination that the application does not meet the terms and conditions of this subsection.

"(4) EFFECT OF FAILURE TO RESPOND.—If the Administrator does not respond to an application for a modification under paragraph (1) on or before the 90th day referred to in paragraph (3), the application shall be deemed approved and the modification sought by the applicant shall be in effect for the succeeding 10-year period.".

(2) EXTENSION OF APPLICATION DEADLINE.—Section 301(j) (33 U.S.C. 1311(j)) is amended by adding at the end the following:

"(6) EXTENSION OF APPLICATION DEADLINE.—In the 365-day period beginning on the date of the enactment of this paragraph, municipalities may apply for a modification pursuant to subsection (s) of the requirements of subsection (b)(1)(B) of this section.".

(c) MODIFICATIONS FOR SMALL SYSTEM TREATMENT TECHNOLOGIES.—Section 301 (33 U.S.C. 1311) is amended by adding at the end the following:

"(t) MODIFICATIONS FOR SMALL SYSTEM TREATMENT TECHNOLOGIES.—The Administrator, with the concurrence of the State, or a State with an approved program under section 402 may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works serving a community of 20,000 people or fewer if the applicant demonstrates to the satisfaction of the Administrator that—

"(1) the effluent from such facility originates primarily from domestic users; and

"(2) such facility utilizes a properly constructed and operated alternative treatment system (including recirculating sand filter systems, constructed wetlands, and oxidation lagoons) which is equivalent to secondary treatment or will provide in the receiving waters and watershed an adequate level of protection to human health and the environment and contribute to the attainment of water quality standards.".

(d) PUERTO RICO.—Section 301 (33 U.S.C. 1311) is further amended by adding at the end the following:

"(u) PUERTO RICO.—

"(1) STUDY BY GOVERNMENT OF PUERTO RICO.—Not later than 3 months after the date of the enactment of this section, the Government of Puerto Rico may, after consultation with the Administrator, initiate a study of the marine environment of Anasco Bay off the coast of the Mayaguez region of Puerto Rico to determine the feasibility of constructing a deepwater outfall for the publicly owned treatment works located at Mayaguez, Puerto Rico. Such study shall recommend one or more technically feasible locations for the deepwater outfall based on the effects of such outfall on the marine environment.

"(2) APPLICATION FOR MODIFICATION.—Notwithstanding subsection (j)(1)(A), not later than 18 months after the date of the enactment of this section, an application may be submitted for a modification pursuant to subsection (h) of the requirements of subsection (b)(1)(B) of this section by the owner of the publicly owned treatment works at Mayaguez, Puerto Rico, for a deepwater outfall at a location recommended in the study conducted pursuant to paragraph (1).

"(3) INITIAL DETERMINATION.—On or before the 90th day after the date of submittal of an application for modification under paragraph (2), the Administrator shall issue to the applicant a draft initial determination regarding the modification of the existing permit.

"(4) FINAL DETERMINATION.—On or before the 270th day after the date of submittal of an application for modification under paragraph (2), the Administrator shall issue a final determination regarding such modification.

"(5) EFFECTIVENESS.—If a modification is granted pursuant to an application submitted under this subsection, such modification shall be effective only if the new deepwater outfall is operational within 5 years after the date of the enactment of this subsection. In all other aspects, such modification shall be effective for the period applicable to all modifications granted under subsection (h).".

SEC. 303. FEDERAL FACILITIES.

(a) APPLICATION OF CERTAIN PROVISIONS.—Section 313(a) (33 U.S.C. 1323(a)) is amended by striking all preceding subsection (b) and inserting the following:

"SEC. 313. FEDERAL FACILITIES POLLUTION CONTROL.

"(a) APPLICABILITY OF FEDERAL, STATE, INTERSTATE, AND LOCAL LAWS.—

"(1) IN GENERAL.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

"(A) having jurisdiction over any property or facility, or

"(B) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants,

and each officer, agent, or employee thereof in the performance of his official duties, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity, including the payment of reasonable service charges.

"(2) TYPES OF ACTIONS COVERED.—Paragraph (1) shall apply—

"(A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement),

"(B) to the exercise of any Federal, State, or local administrative authority, and

"(C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner.

"(3) PENALTIES AND FINES.—The Federal, State, interstate, and local substantive and procedural requirements, administrative authority, and process and sanctions referred to in paragraph (1) include all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.

"(4) SOVEREIGN IMMUNITY.—

"(A) WAIVER.—The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any requirement, administrative authority, and process and sanctions referred to in paragraph (1) (including any injunctive relief, any administrative order, any civil or administrative penalty or fine referred to in paragraph (3), or any reasonable service charge).

"(B) PROCESSING FEES.—The reasonable service charges referred to in this paragraph include fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local water pollution regulatory program.

"(5) EXEMPTIONS.—

"(A) GENERAL AUTHORITY OF PRESIDENT.—The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any requirement to which paragraph (1) applies if the President determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act.

"(B) LIMITATION.—No exemptions shall be granted under subparagraph (A) due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation.

"(C) TIME PERIOD.—Any exemption under subparagraph (A) shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods of not to exceed 1 year upon the President's making a new determination.

"(D) MILITARY PROPERTY.—In addition to any exemption of a particular effluent source, the President may, if the President determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vessels, vehicles, or other classes or categories of property, and access to such property, which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at 3-year intervals.

"(E) REPORTS.—The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with the President's reason for granting such exemption.

"(6) VENUE.—Nothing in this section shall be construed to prevent any department, agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof in the performance of official duties, from removing to the appropriate Federal district court any proceeding to which the department, agency, or instrumentality or officer, agent, or employee thereof is subject pursuant to this section, and any such proceeding may be removed in accordance with chapter 89 of title 28, United States Code.

"(7) PERSONAL LIABILITY OF FEDERAL EMPLOYEES.—No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local water pollution law with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

"(8) CRIMINAL SANCTIONS.—An agent, employee, or officer of the United States shall be subject to any criminal sanction (including any fine or imprisonment) under any Federal or State water pollution law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction.".

(b) FUNDS COLLECTED BY A STATE.—Section 313 (33 U.S.C. 1323) is further amended by adding at the end the following:

"(c) LIMITATION ON STATE USE OF FUNDS.—Unless a State law in effect on the date of the enactment of this subsection or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government in penalties and fines imposed for the violation of a substantive or procedural requirement referred to in subsection (a) shall be used by a State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

(c) ENFORCEMENT.—Section 313 is further amended by adding at the end the following:

"(d) FEDERAL FACILITY ENFORCEMENT.—

"(1) ADMINISTRATIVE ENFORCEMENT BY EPA.—The Administrator may commence an administrative enforcement action against any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government pursuant to the enforcement authorities contained in this Act.

"(2) PROCEDURE.—The Administrator shall initiate an administrative enforcement action against a department, agency, or instrumentality under this subsection in the same manner and under the same circumstances as an action would be initiated against any other person under this Act. The amount of any administrative penalty imposed under this subsection shall be determined in accordance with section 309(d) of this Act.

"(3) VOLUNTARY SETTLEMENT.—Any voluntary resolution or settlement of an action under this subsection shall be set forth in an administrative consent order.

"(4) CONFERRAL WITH EPA.—No administrative order issued to a department, agency, or instrumentality under this section shall become final until such department, agency, or instrumentality has had the opportunity to confer with the Administrator.".

(d) LIMITATION ON ACTIONS AND RIGHT OF INTERVENTION.—Section 313 is further amended by adding at the end the following:

"(e) LIMITATION ON ACTIONS AND RIGHT OF INTERVENTION.—Any violation with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or for which the Administrator has issued a final order and the violator has either paid a penalty or fine assessed under this subsection or is subject to an enforceable schedule of corrective actions, shall not be the subject of an action under section 505 of this Act. In any action under this subsection, any citizen may intervene as a matter of right.".

(e) DEFINITION OF PERSON.—Section 502(5) (33 U.S.C. 1362(5)) is amended by inserting before the period at the end the following: "and includes any department, agency, or instrumentality of the United States".

(f) DEFINITION OF RADIOACTIVE MATERIALS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(24) The term 'radioactive materials' includes source materials, special nuclear materials, and byproduct materials (as such terms are defined under the Atomic Energy Act of 1954) which are used, produced, or managed at facilities not licensed by the Nuclear Regulatory Commission; except that such term does not include any material which is discharged from a vessel or other facility covered by Executive Order 12344 (42 U.S.C. 7158 note; relating to the Naval Nuclear Propulsion Program).".

(g) CONFORMING AMENDMENTS.—Section 313(b) (33 U.S.C. 1323(b)) is amended—

(1) by striking "(b)(1)" and inserting the following:

"(b) WASTEWATER FACILITIES.—

"(1) COOPERATION FOR USE OF WASTEWATER CONTROL SYSTEMS.—";

(2) in paragraph (2) by inserting "LIMITATION ON CONSTRUCTION.—" before "Construction"; and

(3) by moving paragraphs (1) and (2) 2 ems to the right.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall only apply to violations occurring after such date of enactment.

SEC. 304. NATIONAL ESTUARY PROGRAM.

(a) FINDINGS.—The Congress finds the following:

(1) The Nation's estuaries are a vital natural resource to which many regional economies are closely tied.

(2) Many of the Nation's estuaries are under a severe threat from point source pollution and polluted run-off (nonpoint source pollution) and from habitat alteration and destruction.

(3) Only through expanded investments in waste water treatment and other water and sediment pollution control and prevention efforts can the environmental and economic values of the Nation's estuaries be restored and protected.

(4) The National Estuary Program created under the Federal Water Pollution Control Act has significantly advanced the Nation's understanding of the declining condition of the Nation's estuaries.

(5) The National Estuary Program has also provided precise information about the corrective and preventative measures required to reverse the degradation of water and sediment quality and to halt the alteration and destruction of vital habitat in the Nation's estuaries.

(6) The level of funding available to States, municipalities, and the Environmental Protection Agency for implementation of approved conservation and management plans is inadequate, and additional financial resources must be provided.

(7) Funding for implementation of approved conservation and management plans should be provided under the State revolving loan fund program authorized by title VI of the Federal Water Pollution Control Act.

(8) Authorization levels for State revolving loan fund capitalization grants should be increased by an amount necessary to ensure the achievement of the goals of the Federal Water Pollution Control Act.

(b) TECHNICAL AMENDMENT.—Section 320(a)(2)(B) (33 U.S.C. 1330(a)(2)(B)) is amended to read as follows:

"(B) PRIORITY CONSIDERATION.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor); Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; Santa Monica Bay, California; Galveston Bay, Texas; Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; Charlotte Harbor, Florida; Barnegat Bay, New Jersey; and Peconic Bay, New York.".

(c) GRANTS.—Section 320(g)(2) (33 U.S.C. 1330(g)(2)) is amended by inserting "and implementation monitoring" after "development".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 320(i) (33 U.S.C. 1330(i)) is amended by striking "1987" and all that follows through "1991" and inserting the following: "1987 through 1991, such sums as may be necessary for fiscal years 1992 through 1995, and $19,000,000 per fiscal year for each of fiscal years 1996 through 2000".

SEC. 305. NONPOINT SOURCE MANAGEMENT PROGRAMS.

(a) REVIEW AND REVISION.—Section 319(b) (33 U.S.C. 1329(b)) is amended by adding at the end the following:

"(5) REVIEW AND REVISION.—Not later than 18 months after the date of the enactment of this paragraph, the State shall review and revise the report required by this subsection and submit such revised report to the Administrator for approval.".

(b) APPROVAL OR DISAPPROVAL OF MANAGEMENT PROGRAMS.—Section 319(d)(1) (33 U.S.C. 1329(d)(1)) is amended by inserting "or revised management program" after "management program" each place it appears.

(c) GRANTS FOR PROTECTING GROUND WATER QUALITY.—Section 319(i)(3) (33 U.S.C. 1329(i)(3)) is amended by striking "$150,000" and inserting "$500,000".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 319(j) (33 U.S.C. 1329(j)) is amended—

(1) by striking "and" before "$130,000,000";

(2) by inserting after "1991" the following: ", such sums as may be necessary for fiscal years 1992 through 1995, $100,000,000 for fiscal year 1996, $150,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $250,000,000 for fiscal year 1999, and $300,000,000 for fiscal year 2000"; and

(3) by striking "$7,500,000" and inserting "$25,000,000".

(e) AGRICULTURAL INPUTS.—Section 319 (33 U.S.C. 1329) is amended by adding at the end the following:

"(o) AGRICULTURAL INPUTS.—For the purposes of this Act, any land application of livestock manure shall not be considered a point source and shall be subject to enforcement only under this section.".

SEC. 306. COASTAL ZONE MANAGEMENT.

Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "PROGRAM DEVELOPMENT.—"; and

(B) by adding at the end the following:

"(B) A State that has not received Federal approval for the State's core coastal management program pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall have 30 months from the date of approval of such program to submit a Coastal Nonpoint Pollution Program pursuant to this section. Any such State shall also be eligible for any extension of time for submittal of the State's nonpoint program that may be received by a State with a federally approved coastal management program.";

(2) in subsection (b), in the matter preceding paragraph (1), by striking "to protect coastal waters generally" and inserting "to restore and protect coastal waters where the State has determined that coastal waters are threatened or significantly degraded";

(3) in subsection (b)(3)—

(A) by striking "The implementation" and inserting "A schedule for the implementation"; and

(B) by inserting ", and no less often than once every 5 years," after "from time to time";

(4) in subsection (b) by adding at the end the following:

"(7) IDENTIFICATION OF PRIORITY AREAS.—A prioritization of the areas in the State in which management measures will be implemented.";

(5) in subsection (c) by adding at the end the following:

"(5) CONDITIONAL APPROVAL.—The Secretary and Administrator may grant conditional approval to a State's program where the State requests additional time to complete the development of its program. During the period during which the State's program is subject to conditional approval, the penalty provisions of paragraphs (3) and (4) shall not apply.";

(6) in subsection (h)(1) by striking ", 1993, and 1994" and inserting "through 2000"; and

(7) in subsection (h)(2)(B)(iv) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 2000".

SEC. 307. COMPREHENSIVE WATERSHED MANAGEMENT.

(a) IN GENERAL.—Title III (33 U.S.C. 1300–1330) is amended by adding at the end the following:

"SEC. 321. COMPREHENSIVE WATERSHED MANAGEMENT.

"(a) FINDINGS, PURPOSE, AND DEFINITIONS.—

"(1) FINDINGS.—Congress finds that comprehensive watershed management will further the goals and objectives of this Act by—

"(A) identifying more fully water quality impairments and the pollutants, sources, and activities causing the impairments;

"(B) integrating water protection quality efforts under this Act with other natural resource protection efforts, including Federal efforts to define and protect ecological systems (including the waters and the living resources supported by the waters);

"(C) defining long-term social, economic, and natural resource objectives and the water quality necessary to attain or maintain the objectives;

"(D) increasing, through citizen participation in the watershed management process, public support for improved water quality;

"(E) identifying priority water quality problems that need immediate attention; and

"(F) identifying the most cost-effective measures to achieve the objectives of this Act.

"(2) PURPOSE.—The purpose of this section is to encourage comprehensive watershed management in maintaining and enhancing water quality, in restoring and protecting living resources supported by the waters, and in ensuring waters of a quality sufficient to meet human needs, including water supply and recreation.

"(3) DEFINITIONS.—In this section, the following definitions apply:

"(A) ECOSYSTEM.—The term 'ecosystem' means the community of plants and animals (including humans) and the environment (including surface water, the ground water with which it interacts, and riparian areas) upon which that community depends.

"(B) ENVIRONMENTAL OBJECTIVES.—The term 'environmental objectives' means the goals specified by States or State-designated watershed management entities to protect, restore, and maintain water resources and aquatic ecosystems within a watershed, including applicable water quality standards and wetlands protection goals established under the Act.

"(C) STATE.—The term 'State' includes Indian tribes eligible under section 518(e).

"(b) STATE WATERSHED PROGRAM.—

"(1) SUBMITTAL.—A State, at any time, may submit to the Administrator for approval a watershed management program for the State.

"(2) APPROVAL.—The Administrator shall approve a State watershed program submitted under paragraph (1) if the program, at a minimum, contains the following elements:

"(A) An identification of the State agency generally responsible for overseeing and approving watershed management plans and a designation of watershed management entities and lead responsibilities for such entities. Such entities may include other State agencies and sub-State agencies.

"(B) A description of the scope of the program. In determining the scope of the program, the State may choose to address all watersheds within the State over a period of time or to concentrate efforts on selected watersheds. Within each watershed, the issues to be addressed should be based on a comprehensive analysis of the problems within the watershed. The scope of the program may expand over a period of time both in terms of the number of watersheds and the issues addressed by the program.

"(C) An identification of watershed management units for which watershed management plans will be developed. In selecting such units, the State shall consider those waters in the State that are water quality threatened or impaired or are otherwise in need of special protection. To the extent practicable, the boundaries of each watershed management unit shall be consistent with United States Geological Service hydrological units.

"(D) A description of activities required of watershed management entities (as specified under subsection (f)(1)) and a description of the State's approval process for watershed management plans.

"(E) A specification of an effective public participation process, including procedures to encourage the public to participate in developing and implementing watershed management plans.

"(F) An identification of the statewide environmental objectives that will be pursued in each watershed. Such objectives, at a minimum, shall include State water quality standards and goals under this Act, and, as appropriate, other objectives such as habitat restoration and biological diversity.

"(2) DEADLINE.—The Administrator, after consultation with other Federal agencies, shall approve or disapprove a State watershed program submitted under paragraph (1) on or before the 180th day following the date of the submittal. If a State watershed program is disapproved, the State may modify and resubmit its program under paragraph (1).

"(3) ANNUAL REPORT.—A State with an approved watershed program under this subsection shall provide to the Administrator an annual report summarizing the status of the program, including a description of any modifications to the program. An annual report submitted under this section may be used by the State to satisfy reporting requirements under sections 106, 314, 319, and 320.

"(4) EFFECTIVE PERIOD OF APPROVALS.—An approval of a State watershed program under paragraph (2) shall remain in effect for a 5-year period beginning on the date of the approval and may be renewed by the Administrator.

"(5) WITHDRAWAL OF APPROVAL.—Whenever the Administrator determines after public hearing that a State is not administering a watershed program approved under paragraph (2) in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

"(c) DESIGNATION OF ADDITIONAL WATERSHED MANAGEMENT UNITS AND ENTITIES.—A State with an approved watershed program under this section may modify such program at any time in order to designate additional watershed management units and entities, including lead responsibilities, for the purpose of developing and implementing watershed management plans.

"(d) ELIGIBLE WATERSHED MANAGEMENT AND PLANNING ACTIVITIES.—The following watershed management activities are eligible to receive assistance from the Administrator under sections 205(j), 319(h), and 604(b):

"(1) Characterizing waters and land uses.

"(2) Identifying problems within a watershed.

"(3) Selecting short-term and long-term goals for watershed management.

"(4) Developing and implementing measures and practices to meet identified goals.

"(5) Identifying and coordinating projects and activities necessary to restore and maintain water quality or meet other environmental objectives within the watershed.

"(6) Identifying the appropriate institutional arrangements to carry out an approved watershed management plan.

"(7) Updating an approved watershed management plan.

"(8) Any other activities deemed appropriate by the Administrator.

"(e) SUPPORT FOR WATERSHED MANAGEMENT AND PLANNING.—

"(1) INTERAGENCY COMMITTEE.—There is established an interagency committee to support comprehensive watershed management and planning. The President shall appoint the members of the committee. The members shall include a representative from each Federal agency that carries out programs and activities that may have a significant impact on water quality or other natural resource values that may be appropriately addressed through comprehensive watershed management.

"(2) USE OF OTHER FUNDS UNDER THIS ACT.—The planning and implementation activities carried out by a management entity pursuant to this section may be carried out with funds made available through the State pursuant to sections 205(j), 319(h), and 604(b).

"(f) APPROVED PLANS.—

"(1) MINIMUM REQUIREMENTS.—A State with an approved watershed program may approve a watershed management plan when such plan satisfies the following conditions:

"(A) If the watershed includes waters that are not meeting applicable water quality standards under this Act at the time of submission, the plan—

"(i) identifies the environmental objectives of the plan including, at a minimum, State water quality standards and goals under this Act, and any other environmental objectives the planning entity deems appropriate;

"(ii) identifies the stressors, pollutants, and sources causing the impairment;

"(iii) identifies actions necessary to achieve the environmental objectives of the plan, including source reduction of pollutants to achieve any allocated load reductions consistent with the requirements of section 303(d) and the priority for implementing such actions;

"(iv) contains an implementation plan, with schedules, milestones, projected completion dates, and the identification of those persons responsible for implementing the actions, demonstrating that water quality standards will be attained as expeditiously as practicable, but not later than deadlines in applicable sections of this Act and all other environmental objectives identified in the watershed management plan will be attained as expeditiously as practicable;

"(v) contains an effective public participation process in the development and implementation of the plan;

"(vi) specifies a process to monitor and evaluate progress toward meeting environmental objectives; and

"(vii) specifies a process to revise the plan as needed.

"(B) For those waters in the watershed attaining water quality standards at the time of submission (including threatened waters), the plan identifies those projects and activities necessary to maintain water quality standards and attain or maintain other environmental objectives in the future.

"(2) TERMS OF PLAN AND PLAN APPROVAL.—Each plan submitted and approved under this subsection shall extend for a period of not less than 5 years and include a planning and implementation schedule with milestones and completion dates within that period. The approval by the State of a plan shall apply for a period not exceed 5 years. A revised and updated plan may be submitted prior to the expiration of the period specified in the preceding sentence for approval pursuant to the same conditions and requirements that apply to an initial plan for a watershed that is approved pursuant to this subsection.

"(g) INCENTIVES FOR WATERSHED MANAGEMENT.—

"(1) POINT SOURCE PERMITS.—

"(A) IN GENERAL.—Notwithstanding section 301(b)(1)(C), a permit may be issued under section 402 with a limitation that does not meet water quality standards, if—

"(i) the receiving water is in a watershed with an approved watershed plan;

"(ii) the plan includes enforceable requirements under State or local law for nonpoint source pollutant load reductions that in combination with point source requirements will meet water quality standards prior to the expiration of plan; and

"(iii) the point source does not have a history of significant noncompliance with its permit effluent limitations, as determined by the Administrator or the State (in the case with an approved permit under section 402).

"(B) SYNCHRONIZED PERMIT TERMS.—Notwithstanding section 402(b)(1)(B), the term of a permit issued under section 402 may be extended by 5 years if the discharge is located in a watershed planning area for which a watershed management plan is to be developed.

"(C) 10-YEAR PERMIT TERMS.—Notwithstanding section 402(b)(1)(B), the term of a permit issued under section 402 may be extended to 10 years for any point source located in a watershed management unit for which a watershed management plan has been approved if the plan provides for the attainment and maintenance of water quality standards (including designated uses) in the affected waters and unless receiving waters are not meeting water quality standards due to the point source discharge. Such permits may be revised at any time if necessary to meet water quality standards.

"(2) NONPOINT SOURCE CONTROLS.—Not later than 30 months after the date of the enactment of this section, a State with an approved watershed program under this section may make a showing to the Administrator that nonpoint source management practices different from those established in national guidance issued by the Administrator under section 319 will attain water quality standards as expeditiously as practicable and not later than the deadlines established by this Act. If the Administrator is satisfied with such showing, then the Administrator may approve the State's nonpoint source management program that relies on such practices as meeting the requirements of section 319. Alternative watershed nonpoint source control practices must be identified in the watershed management plan adopted under subsection (f)(2) of this section.

"(3) FUNDING.—The Administrator may provide assistance to a State with an approved watershed management program under this section in the form of a multipurpose grant that would provide for single application, workplan and review, matching, oversight, and end-of-year closeout requirements for grant funding under sections 104(b)(3), 104(g), 106, 314(b), 319, 320, and 604(b). A State with an approved multipurpose grant may focus activities funded under such sections on a priority basis consistent with State-approved watershed management plans.

"(h) GUIDANCE.—Not later than 12 months after the date of the enactment of this section, and after consultation with other appropriate agencies, the Administrator shall issue guidance on recommended provisions to be included in State watershed programs and State-approved watershed management plans.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator for providing grants to States to assist such States in carrying out activities under this section $25,000,000 per fiscal year for each of fiscal years 1996 through 2000.".

(b) CONFORMING AMENDMENT.—Section 401(a)(1) (33 U.S.C. 1341(a)(1)) is amended by inserting "and with the provisions of a management plan approved by a State under section 321 of this Act" before the period at the end of the first sentence.

SEC. 308. REVISION OF EFFLUENT LIMITATIONS.

(a) ELIMINATION OF REQUIREMENT FOR ANNUAL REVISION.—Section 304(b) (33 U.S.C. 1314(b)) is amended in the matter preceding paragraph (1) by striking "and, at least annually thereafter," and inserting "and thereafter shall".

(b) SPECIAL RULE.—Section 304(b) (33 U.S.C. 1314(b)) is amended by striking the period at the end of the first sentence and inserting the following: "; except that guidelines issued under paragraph (1)(A) addressing pollutants identified pursuant to subsection (a)(4) shall not be revised after February 15, 1995, to be more stringent unless such revised guidelines meet the requirements of paragraph (4)(A).".

TITLE IV—PERMITS AND LICENSES

SEC. 401. WASTE TREATMENT SYSTEMS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS.

Section 402(a) is amended by adding at the end the following:

"(6) CONCENTRATED ANIMAL FEEDING OPERATIONS.—For purposes of this section, waste treatment systems, including retention ponds or lagoons, used to meet the requirements of this Act for concentrated animal feeding operations, are not waters of the United States. An existing concentrated animal feeding operation that uses a natural topographic impoundment or structure on the effective date of this Act, which is not hydrologically connected to any other waters of the United States, as a waste treatment system or wastewater retention facility may continue to use that natural topographic feature for waste storage regardless of its size, capacity, or previous use.".

SEC. 402. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

(a) DEADLINES.—Section 402(p) (33 U.S.C. 1343(p)) is amended—

(1) in paragraph (1) by striking "1994" and inserting "2005"; and

(2) in paragraph (6) by striking "1993" and inserting "2005".

(b) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Section 402(p)(3) is amended by adding at the end the following:

"(C) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Permits for municipal separate storm sewers shall not include numeric effluent limitations.".

SEC. 403. INTAKE CREDITS.

Section 402 (33 U.S.C. 1342) is amended by adding at the end the following:

"(q) INTAKE CREDITS.—

"(1) IN GENERAL.—Notwithstanding any provision of this Act, in any effluent limitation or other limitation imposed under the permit program established by the Administrator under this section, any State permit program approved under this section (including any program for implementation under section 118(c)(2)), any standards established under section 307(a), or any program for industrial users established under section 307(b), the Administrator, as applicable, shall or the State, as applicable, may provide credits for pollutants present in or caused by intake water such that an owner or operator of a point source is not required to remove, reduce, or treat the amount of any pollutant in an effluent below the amount of such pollutant that is present in or caused by the intake water for such facility—

"(A)(i) if the source of the intake water and the receiving waters into which the effluent is ultimately discharged are the same;

"(ii) if the source of the intake water meets the maximum contaminant levels or treatment techniques for drinking water contaminants established pursuant to the Safe Drinking Water Act for the pollutant of concern; or

"(iii) if, at the time the limitation or standard is established, the level of the pollutant in the intake water is the same as or lower than the amount of the pollutant in the receiving waters, taking into account analytical variability; and

"(B) if, for conventional pollutants, the constituents of the conventional pollutants in the intake water are the same as the constituents of the conventional pollutants in the effluent.

"(2) ALLOWANCE FOR INCIDENTAL AMOUNTS.—In determining whether the condition set forth in paragraph (1)(A)(i) is being met, the Administrator shall or the State may, as appropriate, make allowance for incidental amounts of intake water from sources other than the receiving waters.

"(3) CREDIT FOR NONQUALIFYING POLLUTANTS.—The Administrator shall or a State may provide point sources an appropriate credit for pollutants found in intake water that does not meet the requirement of paragraph (1).

"(4) MONITORING.—Nothing in this section precludes the Administrator or a State from requiring monitoring of intake water, effluent, or receiving waters to assist in the implementation of this section.".

SEC. 404. COMBINED SEWER OVERFLOWS.

Section 402 (33 U.S.C. 1342) is amended by adding at the end the following:

"(r) COMBINED SEWER OVERFLOWS.—

"(1) REQUIREMENT FOR PERMITS.—Each permit issued pursuant to this section for a discharge from a combined storm and sanitary sewer shall conform with the combined sewer overflow control policy signed by the Administrator on April 11, 1994.

"(2) TERM OF PERMIT.—

"(A) COMPLIANCE DEADLINE.—Notwithstanding any compliance schedule under section 301(b), or any permit limitation under section 402(b)(1)(B), the Administrator (or a State with a program approved under subsection (b)) may issue a permit pursuant to this section for a discharge from a combined storm and sanitary sewer, that includes a schedule for compliance with a long-term control plan under the control policy referred to in paragraph (1), for a term not to exceed 15 years.

"(B) EXTENSION.—Notwithstanding the compliance deadline specified in subparagraph (A), the Administrator or a State with a program approved under subsection (b) shall extend, on request of an owner or operator of a combined storm and sanitary sewer and subject to subparagraph (C), the period of compliance beyond the last day of the 15-year period—

"(i) if the Administrator or the State determines that compliance by such last day is not within the economic capability of the owner or operator; and

"(ii) if the owner or operator demonstrates to the satisfaction of the Administrator or the State reasonable further progress towards compliance with a long-term control plan under the control policy referred to in paragraph (1).

"(C) LIMITATIONS ON EXTENSIONS.—

"(i) EXTENSION NOT APPROPRIATE.—Notwithstanding subparagraph (B), the Administrator or the State need not grant an extension of the compliance deadline specified in subparagraph (A) if the Administrator or the State determines that such an extension is not appropriate.

"(ii) NEW YORK-NEW JERSEY.—Prior to granting an extension under subparagraph (B) with respect to a combined sewer overflow discharge originating in the State of New York or New Jersey and affecting the other of such States, the Administrator or the State from which the discharge originates, as the case may be, shall provide written notice of the proposed extension to the other State and shall not grant the extension unless the other State approves the extension or does not disapprove the extension within 90 days of receiving such written notice.

"(3) SAVINGS CLAUSE.—Any consent decree or court order entered by a United States district court, or administrative order issued by the Administrator, before the date of the enactment of this subsection establishing any deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables, for the evaluation, design, or construction of treatment works for control or elimination of any discharge from a municipal combined storm and sanitary sewer system shall be modified upon motion or request by any party to such consent decree or court order, to extend to December 31, 2009, at a minimum, any such deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables as is necessary to conform to the policy referred to in paragraph (1) or otherwise achieve the objectives of this subsection. Notwithstanding the preceding sentence, the period of compliance with respect to a discharge referred to in paragraph (2)(C)(ii) may only be extended in accordance with paragraph (2)(C)(ii).".

SEC. 405. ABANDONED MINES.

Section 402 (33 U.S.C. 1342) is further amended by inserting after subsection (o) the following:

"(p) PERMITS FOR REMEDIATING PARTY ON ABANDONED OR INACTIVE MINED LANDS.—

"(1) APPLICABILITY.—Subject to this subsection, including the requirements of paragraph (3), the Administrator, with the concurrence of the concerned State or Indian tribe, may issue a permit to a remediating party under this section for discharges associated with remediation activity at abandoned or inactive mined lands which modifies any otherwise applicable requirement of sections 301(b), 302, and 403, or any subsection of this section (other than this subsection).

"(2) APPLICATION FOR A PERMIT.—A remediating party who desires to conduct remediation activities on abandoned or inactive mined lands from which there is or may be a discharge of pollutants to waters of the United States or from which there could be a significant addition of pollutants from nonpoint sources may submit an application to the Administrator. The application shall consist of a remediation plan and any other information requested by the Administrator to clarify the plan and activities.

"(3) REMEDIATION PLAN.—The remediation plan shall include (as appropriate and applicable) the following:

"(A) Identification of the remediating party, including any persons cooperating with the concerned State or Indian tribe with respect to the plan, and a certification that the applicant is a remediating party under this section.

"(B) Identification of the abandoned or inactive mined lands addressed by the plan.

"(C) Identification of the waters of the United States impacted by the abandoned or inactive mined lands.

"(D) A description of the physical conditions at the abandoned or inactive mined lands that are causing adverse water quality impacts.

"(E) A description of practices, including system design and construction plans and operation and maintenance plans, proposed to reduce, control, mitigate, or eliminate the adverse water quality impacts and a schedule for implementing such practices and, if it is an existing remediation project, a description of practices proposed to improve the project, if any.

"(F) An analysis demonstrating that the identified practices are expected to result in a water quality improvement for the identified waters.

"(G) A description of monitoring or other assessment to be undertaken to evaluate the success of the practices during and after implementation, including an assessment of baseline conditions.

"(H) A schedule for periodic reporting on progress in implementation of major elements of the plan.

"(I) A budget and identified funding to support the activities described in the plan.

"(J) Remediation goals and objectives.

"(K) Contingency plans.

"(L) A description of the applicant's legal right to enter and conduct activities.

"(M) The signature of the applicant.

"(N) Identification of the pollutant or pollutants to be addressed by the plan.

"(4) PERMITS.—

"(A) CONTENTS.—Permits issued by the Administrator pursuant to this subsection shall—

"(i) provide for compliance with and implementation of a remediation plan which, following issuance of the permit, may be modified by the applicant after providing notification to and opportunity for review by the Administrator;

"(ii) require that any modification of the plan be reflected in a modified permit;

"(iii) require that if, at any time after notice to the remediating party and opportunity for comment by the remediating party, the Administrator determines that the remediating party is not implementing the approved remediation plan in substantial compliance with its terms, the Administrator shall notify the remediating party of the determination together with a list specifying the concerns of the Administrator;

"(iv) provide that, if the identified concerns are not resolved or a compliance plan approved within 180 days of the date of the notification, the Administrator may take action under section 309 of this Act;

"(v) provide that clauses (iii) and (iv) not apply in the case of any action under section 309 to address violations involving gross negligence (including reckless, willful, or wanton misconduct) or intentional misconduct by the remediating party or any other person;

"(vi) not require compliance with any limitation issued under sections 301(b), 302, and 403 or any requirement established by the Administrator under any subsection of this section (other than this subsection); and

"(vii) provide for termination of coverage under the permit without the remediating party being subject to enforcement under sections 309 and 505 of this Act for any remaining discharges—

"(I) after implementation of the remediation plan;

"(II) if a party obtains a permit to mine the site; or

"(III) upon a demonstration by the remediating party that the surface water quality conditions due to remediation activities at the site, taken as a whole, are equal to or superior to the surface water qualities that existed prior to initiation of remediation.

"(B) LIMITATIONS.—The Administrator shall only issue a permit under this section, consistent with the provisions of this subsection, to a remediating party for discharges associated with remediation action at abandoned or inactive mined lands if the remediation plan demonstrates with reasonable certainty that the actions will result in an improvement in water quality.

"(C) PUBLIC PARTICIPATION.—The Administrator may only issue a permit or modify a permit under this section after complying with subsection (b)(3).

"(D) EFFECT OF FAILURE TO COMPLY WITH PERMIT.—Failure to comply with terms of a permit issued pursuant to this subsection shall not be deemed to be a violation of an effluent standard or limitation issued under this Act.

"(E) LIMITATIONS ON STATUTORY CONSTRUCTION.—This subsection shall not be construed—

"(i) to limit or otherwise affect the Administrator's powers under section 504; or

"(ii) to preclude actions pursuant to section 309 or 505 for any violations of sections 301(a), 302, 402, and 403 that may have existed for the abandoned or inactive mined land prior to initiation of remediation covered by a permit issued under this subsection, unless such permit covers remediation activities implemented by the permit holder prior to issuance of the permit.

"(5) DEFINITIONS.—In this subsection the following definitions apply:

"(A) REMEDIATING PARTY.—The term 'remediating party' means—

"(i) the United States (on non-Federal lands), a State or its political subdivisions, or an Indian tribe or officers, employees, or contractors thereof; and

"(ii) any person acting in cooperation with a person described in clause (i), including a government agency that owns abandoned or inactive mined lands for the purpose of conducting remediation of the mined lands or that is engaging in remediation activities incidental to the ownership of the lands.

Such term does not include any person who, before or following issuance of a permit under this section, directly benefited from or participated in any mining operation (including exploration) associated with the abandoned or inactive mined lands.

"(B) ABANDONED OR INACTIVE MINED LANDS.—The term 'abandoned or inactive mined lands' means lands that were formerly mined and are not actively mined or in temporary shutdown at the time of submission of the remediation plan and issuance of a permit under this section.

"(C) MINED LANDS.—The term 'mined lands' means the surface or subsurface of an area where mining operations, including exploration, extraction, processing, and beneficiation, have been conducted. Such term includes private ways and roads appurtenant to such area, land excavations, underground mine portals, adits, and surface expressions associated with underground workings, such as glory holes and subsidence features, mining waste, smelting sites associated with other mined lands, and areas where structures, facilities, equipment, machines, tools, or other material or property which result from or have been used in the mining operation are located.

"(6) REGULATIONS.—The Administrator may issue regulations establishing more specific requirements that the Administrator determines would facilitate implementation of this subsection. Before issuance of such regulations, the Administrator may establish, on a case-by-case basis after notice and opportunity for public comment as provided by subsection (b)(3), more specific requirements that the Administrator determines would facilitate implementation of this subsection in an individual permit issued to the remediating party.".

SEC. 406. BENEFICIAL USE OF BIOSOLIDS.

(a) REFERENCES.—Section 405(a) (33 U.S.C. 1345(a)) is amended by inserting "(also referred to as 'biosolids')" after "sewage sludge" the first place it appears.

(b) APPROVAL OF STATE PROGRAMS.—Section 405(f) (33 U.S.C. 1345(f)) is amended by adding at the end the following:

"(3) APPROVAL OF STATE PROGRAMS.—Notwithstanding any other provision of law, the Administrator shall approve for purposes of this subsection State programs that meet the standards for final use or disposal of sewage sludge established by the Administrator pursuant to subsection (d).".

(c) STUDIES AND PROJECTS.—Section 405(g) (33 U.S.C. 1345(g)) is amended—

(1) in the first sentence of paragraph (1) by inserting "building materials," after "agricultural and horticultural uses,";

(2) in paragraph (1) by adding at the end the following: "Not later than January 1, 1997, and after providing notice and opportunity for public comment, the Administrator shall issue guidance on the beneficial use of sewage sludge."; and

(3) in paragraph (2) by striking "September 30, 1986," and inserting "September 30, 1995,".

TITLE V—GENERAL PROVISIONS

SEC. 501. PUBLICLY OWNED TREATMENT WORKS DEFINED.

Section 502 (33 U.S.C. 1362) is further amended by adding at the end the following:

"(25) The term 'publicly owned treatment works' means a treatment works, as defined in section 212, located at other than an industrial facility, which is designed and constructed principally, as determined by the Administrator, to treat domestic sewage or a mixture of domestic sewage and industrial wastes of a liquid nature. In the case of such a facility that is privately owned, such term includes only those facilities that, with respect to such industrial wastes, are carrying out a pretreatment program meeting all the requirements established under section 307 and paragraphs (8) and (9) of section 402(b) for pretreatment programs (whether or not the treatment works would be required to implement a pretreatment program pursuant to such sections).".

SEC. 502. IMPLEMENTATION OF WATER POLLUTION LAWS WITH RESPECT TO VEGETABLE OIL.

(a) DIFFERENTIATION AMONG FATS, OILS, AND GREASES.—

(1) IN GENERAL.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law related to water pollution control, the head of a Federal agency shall—

(A) differentiate between and establish separate classes for—

(i)(I) animal fats; and

(II) vegetable oils; and

(ii) other oils, including petroleum oil; and

(B) apply different standards and reporting requirements (including reporting requirements based on quantitative amounts) to different classes of fat and oil as provided in paragraph (2).

(2) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii), the head of the Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) ANIMAL FAT.—The term "animal fat" means each type of animal fat, oil, or grease, including fat, oil, or grease from fish or a

marine mammal and any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.

(2) Vegetable oil.—The term "vegetable oil" means each type of vegetable oil, including vegetable oil from a seed, nut, or kernel and any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

SEC. 503. NEEDS ESTIMATE.

Section 516(b)(1) (33 U.S.C. 1375(b)(1)) is amended—

(1) in the first sentence by striking "biennially revised" and inserting "quadrennially revised"; and

(2) in the second sentence by striking "February 10 of each odd-numbered year" and inserting "December 31, 1997, and December 31 of every 4th calendar year thereafter".

SEC. 504. FOOD PROCESSING AND FOOD SAFETY.

Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 521 and by inserting after section 518 the following:

"SEC. 519. FOOD PROCESSING AND FOOD SAFETY.

"In developing any effluent guideline under section 304(b), pretreatment standard under section 307(b), or new source performance standard under section 306 that is applicable to the food processing industry, the Administrator shall consult with and consider the recommendations of the Food and Drug Administration, Department of Health and Human Services, Department of Agriculture, and Department of Commerce. The recommendations of such departments and agencies and a description of the Administrator's response to those recommendations shall be made part of the rulemaking record for the development of such guidelines and standards. The Administrator's response shall include an explanation with respect to food safety, including a discussion of relative risks, of any departure from a recommendation by any such department or agency.".

SEC. 505. AUDIT DISPUTE RESOLUTION.

Title V (33 U.S.C. 1361–1377) is further amended by inserting before section 521, as redesignated by this Act, the following:

"SEC. 520. AUDIT DISPUTE RESOLUTION.

"(a) Establishment of Board.—The Administrator shall establish an independent Board of Audit Appeals (hereinafter in this section referred to as the 'Board') in accordance with the requirements of this section.

"(b) Duties.—The Board shall have the authority to review and decide contested audit determinations related to grant and contract awards under this Act. In carrying out such duties, the Board shall consider only those regulations, guidance, policies, facts, and circumstances in effect at the time of the grant or contract award.

"(c) Prior Eligibility Decisions.—The Board shall not reverse project cost eligibility determinations that are supported by an decision document of the Environmental Protection Agency, including grant or contract approvals, plans and specifications approval forms, grant or contract payments, change order approval forms, or similar documents approving project cost eligibility, except upon a showing that such decision was arbitrary, capricious, or an abuse of law in effect at the time of such decision.

"(d) Membership.—

"(1) Appointment.—The Board shall be composed of 7 members to be appointed by the Administrator not later than 90 days after the date of the enactment of this section.

"(2) Terms.—Each member shall be appointed for a term of 3 years.

"(3) Qualifications.—The Administrator shall appoint as members of the Board individuals who are specially qualified to serve on the Board by virtue of their expertise in grant and contracting procedures. The Administrator shall make every effort to ensure that individuals appointed as members of the Board are free from conflicts of interest in carrying out the duties of the Board.

"(e) Basic Pay and Travel Expenses.—

"(1) Rates of pay.—Except as provided in paragraph (2), members shall each be paid at a rate of basic pay, to be determined by the Administrator, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board.

"(2) Prohibition of compensation of federal employees.—Members of the Board who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

"(3) Travel expenses.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(f) Administrative Support Services.—Upon the request of the Board, the Administrator shall provide to the Board the administrative support services necessary for the Board to carry out its responsibilities under this section.

"(g) Disputes Eligible for Review.—The authority of the Board under this section shall extend to any contested audit determination that on the date of the enactment of this section has yet to be formally concluded and accepted by either the grantee or the Administrator.".

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

SEC. 601. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) (33 U.S.C. 1381(a)) is amended by striking "(1) for construction" and all that follows through the period and inserting "to accomplish the purposes of this Act.".

SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

(a) Requirements For Construction of Treatment Works.—Section 602(b)(6) (33 U.S.C. 1382(b)(6)) is amended—

(1) by striking "before fiscal year 1995"; and

(2) by striking "201(b)" and all that follows through "218" and inserting "211".

(b) Compliance With Other Federal Laws.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following:

"(c) Other Federal Laws.—

"(1) Compliance with other federal laws.—If a State provides assistance from its water pollution control revolving fund established in accordance with this title and in accordance with a statute, rule, executive order, or program of the State which addresses the intent of any requirement or any Federal executive order or law other than this Act, as determined by the State, the State in providing such assistance shall be treated as having met the Federal requirements.

"(2) Limitation on applicability of other federal laws.—If a State does not meet a requirement of a Federal executive order or law other than this Act under paragraph (1), such Federal law shall only apply to Federal funds deposited in the water pollution control revolving fund established by the State in accordance with this title the first time such funds are used to provide assistance from the revolving fund.".

(c) Guidance for Small Systems.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following new subsection:

"(d) Guidance for Small Systems.—

"(1) Simplified procedures.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall assist the States in establishing simplified procedures for small systems to obtain assistance under this title.

"(2) Publication of manual.—Not later than 1 year after the date of the enactment of this subsection, and after providing notice and opportunity for public comment, the Administrator shall publish a manual to assist small systems in obtaining assistance under this title and publish in the Federal Register notice of the availability of the manual.

"(3) Small system defined.—For purposes of this title, the term 'small system' means a system for which a municipality or intermunicipal, interstate, or State agency seeks assistance under this title and which serves a population of 20,000 or less.".

SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) Activities Eligible for Assistance.—Section 603(c) (33 U.S.C. 1383(c)) is amended to read as follows:

"(c) Activities Eligible for Assistance.—

"(1) In general.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance to activities which have as a principal benefit the improvement or protection of water quality to a municipality, intermunicipal agency, interstate agency, State agency, or other person. Such activities may include the following:

"(A) Construction of a publicly owned treatment works if the recipient of such assistance is a municipality.

"(B) Implementation of lake protection programs and projects under section 314.

"(C) Implementation of a management program under section 319.

"(D) Implementation of a conservation and management plan under section 320.

"(E) Implementation of a watershed management plan under section 321.

"(F) Implementation of a stormwater management program under section 322.

"(G) Acquisition of property rights for the restoration or protection of publicly or privately owned riparian areas.

"(H) Implementation of measures to improve the efficiency of public water use.

"(I) Development and implementation of plans by a public recipient to prevent water pollution.

"(J) Acquisition of lands necessary to meet any mitigation requirements related to construction of a publicly owned treatment works.

"(2) Fund amounts.—The water pollution control revolving fund of a State shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing financial assistance described in paragraph (1). Fees charged by a State to recipients of such assistance may be deposited in the fund for the sole purpose of financing the cost of administration of this title.".

(b) Extended Repayment Period for Disadvantaged Communities.—Section 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A) by inserting after "20 years" the following: "or, in the case of a disadvantaged community, the lesser of 40 years or the expected life of the project to be financed with the proceeds of the loan"; and

(2) in subparagraph (B) by striking "not later than 20 years after project completion" and inserting "upon the expiration of the term of the loan".

(c) Loan Guarantees for Innovative Technology.—Section 603(d)(5) (33 U.S.C. 1383(d)(5)) is amended to read as follows:

"(5) to provide loan guarantees for—

"(A) similar revolving funds established by municipalities or intermunicipal agencies; and

"(B) developing and implementing innovative technologies.".

(d) Administrative Expenses.—Section 603(d)(7) (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: "or $400,000 per year, whichever is greater, plus the amount of any fees collected by the State for such purpose under subsection (c)(2)".

(e) Technical and Planning Assistance for Small Systems.—Section 603(d) (33 U.S.C. 1383(d)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to provide to small systems technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant operations; except that such amounts shall not exceed 2 percent of all grant awards to such fund under this title.".

(f) Consistency With Planning Requirements.—Section 603(f) (33 U.S.C. 1383(f)) is amended by striking "and 320" and inserting "320, 321, and 322".

(g) Limitations on Construction Assistance.—Section 603(g) (33 U.S.C. 1383(g)) is amended to read as follows:

"(g) Limitations on Construction Assistance.—The State may provide financial assistance from its water pollution control revolving fund with respect to a project for construction of a treatment works only if—

"(1) such project is on the State's priority list under section 216 of this Act; and

"(2) the recipient of such assistance is a municipality in any case in which the treatment works is privately owned.".

(h) Interest Rates.—Section 603 is further amended by adding at the end the following:

"(i) Interest Rates.—In any case in which a State makes a loan pursuant to subsection (d)(1) to a disadvantaged community, the State may charge a negative interest rate of not to exceed 2 percent to reduce the unpaid principal of the loan. The aggregate amount of all such negative interest rate loans the State makes in a fiscal year shall not exceed 20 percent of the aggregate amount of all loans made by the State from its revolving loan fund in such fiscal year.

"(j) Disadvantaged Community Defined.—As used in this section, the term 'disadvantaged community' means the service area of a publicly owned treatment works with respect to which the average annual residential sewage treatment charges for a user of the treatment works meet affordability criteria established by the State in which the treatment works is located (after providing for public review and comment) in accordance with guidelines to be established by the Administrator, in cooperation with the States.".

(i) Sale of Treatment Works.—Section 603 is further amended by adding at the end the following:

"(k) Sale of Treatment Works.—

"(1) In general.—Notwithstanding any other provisions of this Act, any State, municipality, intermunicipality, or interstate agency may transfer by sale to a qualified private sector entity all or part of a treatment works that is owned by such agency and for which it received Federal financial assistance under this Act if the transfer price will be distributed, as amounts are received, in the following order:

"(A) First reimbursement of the agency of the unadjusted dollar amount of the costs of construction of the treatment works or part thereof plus any transaction and fix-up costs incurred by the agency with respect to the transfer less the amount of such Federal financial assistance provided with respect to such costs.

"(B) If proceeds from the transfer remain after such reimbursement, repayment of the Federal Government of the amount of such Federal financial assistance less the applicable share of accumulated depreciation on such treatment works (calculated using Internal Revenue Service accelerated depreciation schedule applicable to treatment works).

"(C) If any proceeds of such transfer remain after such reimbursement and repayment, retention of the remaining proceeds by such agency.

"(2) Release of condition.—Any requirement imposed by regulation or policy for a showing that the treatment works are no longer needed to serve their original purpose shall not apply.

"(3) Selection of buyer.—A State, municipality, intermunicipality, or interstate agency exercising the authority granted by this subsection shall select a qualified private sector entity on the basis of total net cost and other appropriate criteria and shall utilize such competitive bidding, direct negotiation, or other criteria and procedures as may be required by State law.

"(l) Private Ownership of Treatment Works.—

"(1) Regulatory review.—The Administrator shall review the law and any regulations, policies, and procedures of the Environmental Protection Agency affecting the construction, improvement, replacement, operation, maintenance, and transfer of ownership of current and future treatment works owned by a State, municipality, intermunicipality, or interstate agency. If permitted by law, the Administrator shall modify such regulations, policies, and procedures to eliminate any obstacles to the construction, improvement, replacement, operation, and maintenance of such treatment works by qualified private sector entities.

"(2) Report.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall submit to Congress a report identifying any provisions of law that must be changed in order to eliminate any obstacles referred to in paragraph (1).

"(3) Definition.—For purposes of this section, the term 'qualified private sector entity' means any nongovernmental individual, group, association, business, partnership, organization, or privately or publicly held corporation that—

"(A) has sufficient experience and expertise to discharge successfully the responsibilities associated with construction, operation, and maintenance of a treatment works and to satisfy any guarantees that are agreed to in connection with a transfer of treatment works under subsection (k);

"(B) has the ability to assure protection against insolvency and interruption of services through contractual and financial guarantees; and

"(C) with respect to subsection (k), to the extent consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade—

"(i) is majority-owned and controlled by citizens of the United States; and

"(ii) does not receive subsidies from a foreign government.".

SEC. 604. ALLOTMENT OF FUNDS.

(a) In General.—Section 604(a) (33 U.S.C. 1384(a)) is amended to read as follows:

"(a) Formula for Fiscal Years 1996–2000.—Sums authorized to be appropriated pursuant to section 607 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be allotted for such year by the Administrator not later than the 10th day which begins after the date of the enactment of the Clean Water Amendments of 1995. Sums authorized for each such fiscal year shall be allotted in accordance with the following table:

"States:	*Percentage of sums authorized:*
Alabama	1.0110
Alaska	0.5411
Arizona	0.7464
Arkansas	0.5914
California	7.9031
Colorado	0.7232
Connecticut	1.3537
Delaware	0.4438
District of Columbia	0.4438
Florida	3.4462
Georgia	1.8683
Hawaii	0.7002
Idaho	0.4438
Illinois	4.9976
Indiana	2.6631
Iowa	1.2236
Kansas	0.8690
Kentucky	1.3570
Louisiana	1.0060
Maine	0.6999
Maryland	2.1867
Massachusetts	3.7518
Michigan	3.8875
Minnesota	1.6618
Mississippi	0.8146
Missouri	2.5063
Montana	0.4438
Nebraska	0.4624
Nevada	0.4438
New Hampshire	0.9035
New Jersey	4.5156
New Mexico	0.4438
New York	12.1969
North Carolina	1.9943
North Dakota	0.4438
Ohio	5.0898
Oklahoma	0.7304
Oregon	1.2399
Pennsylvania	4.2145
Rhode Island	0.6071
South Carolina	0.9262
South Dakota	0.4438
Tennessee	1.4668
Texas	4.6458
Utah	0.4764
Vermont	0.4438
Virginia	2.2615
Washington	1.9217
West Virginia	1.4249
Wisconsin	2.4442
Wyoming	0.4438
Puerto Rico	1.1792
Northern Marianas	0.0377
American Samoa	0.0812
Guam	0.0587
Pacific Islands Trust Territory	0.1158
Virgin Islands	0.0576.".

(b) Conforming Amendment.—Section 604(c)(2) is amended by striking "title II of this Act" and inserting "this title".

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

Section 607 (33 U.S.C. 1387(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

"(6) such sums as may be necessary for fiscal year 1995;

"(7) $2,500,000,000 for fiscal year 1996;

"(8) $2,500,000,000 for fiscal year 1997;

"(9) $2,500,000,000 for fiscal year 1998;

"(10) $2,500,000,000 for fiscal year 1999; and

"(11) $2,500,000,000 for fiscal year 2000.".

SEC. 606. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

Title VI (33 U.S.C. 1381–1387) is amended—

(1) in section 607 by inserting after "title" the following: "(other than section 608)"; and

(2) by adding at the end the following:

"SEC. 608. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

"(a) GENERAL AUTHORITY.—The Administrator shall make capitalization grants to each State for the purpose of establishing a nonpoint source water pollution control revolving fund for providing assistance—

"(1) to persons for carrying out management practices and measures under the State management program approved under section 319; and

"(2) to agricultural producers for the development and implementation of the water quality components of a whole farm or ranch resource management plan and for implementation of management practices and measures under such a plan.

A State nonpoint source water pollution control revolving fund shall be separate from any other State water pollution control revolving fund; except that the chief executive officer of the State may transfer funds from one fund to the other fund.

"(b) APPLICABILITY OF OTHER REQUIREMENTS OF THIS TITLE.—Except to the extent the Administrator, in consultation with the chief executive officers of the States, determines that a provision of this title is not consistent with a provision of this section, the provisions of sections 601 through 606 of this title shall apply to grants made under this section in the same manner and to the same extent as they apply to grants made under section 601 of this title. Paragraph (5) of section 602(b) shall apply to all funds in a State revolving fund established under this section as a result of capitalization grants made under this section; except that such funds shall first be used to assure reasonable progress toward attainment of the goals of section 319, as determined by the Governor of the State. Paragraph (7) of section 603(d) shall apply to a State revolving fund established under this section, except that the 4-percent limitation contained in such section shall not apply to such revolving fund.

"(c) APPORTIONMENT OF FUNDS.—Funds made available to carry out this section for any fiscal year shall be allotted among the States by the Administrator in the same manner as funds are allotted among the States under section 319 in such fiscal year.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000 per fiscal year for each of fiscal years 1996 through 2000.".

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. TECHNICAL AMENDMENTS.

(a) SECTION 118.—Section 118(c)(1)(A) (33 U.S.C. 1268(c)(1)(A)) is amended by striking the last comma.

(b) SECTION 120.—Section 120(d) (33 U.S.C. 1270(d)) is amended by striking "(1)".

(c) SECTION 204.—Section 204(a)(3) (33 U.S.C. 1284(a)(3)) is amended by striking the final period and inserting a semicolon.

(d) SECTION 205.—Section 205 (33 U.S.C. 1285) is amended—

(1) in subsection (c)(2) by striking "and 1985" and inserting "1985, and 1986";

(2) in subsection (c)(2) by striking "through 1985" and inserting "through 1986";

(3) in subsection (g)(1) by striking the period following "4 per centum"; and

(4) in subsection (m)(1)(B) by striking "this" the last place it appears and inserting "such".

(e) SECTION 208.—Section 208 (33 U.S.C. 1288) is amended—

(1) in subsection (h)(1) by striking "designed" and inserting "designated"; and

(2) in subsection (j)(1) by striking "September 31, 1988" and inserting "September 30, 1988".

(f) SECTION 301.—Section 301(j)(1)(A) (33 U.S.C. 1311(j)(1)(A)) is amended by striking "that" the first place it appears and inserting "than".

(g) SECTION 309.—Section 309(d) (33 U.S.C. 1319(d)) is amended by striking the second comma following "Act by a State".

(h) SECTION 311.—Section 311 (33 U.S.C. 1321) is amended—

(1) in subsection (b) by moving paragraph (12) (including subparagraphs (A), (B) and (C)) 2 ems to the right; and

(2) in subsection (h)(2) by striking "The" and inserting "the".

(i) SECTION 505.—Section 505(f) (33 U.S.C. 1365(f)) is amended by striking the last comma.

(j) SECTION 516.—Section 516 (33 U.S.C. 1375) is amended by redesignating subsection (g) as subsection (f).

(k) SECTION 518.—Section 518(f) (33 U.S.C. 1377(f)) is amended by striking "(d)" and inserting "(e)".

SEC. 702. JOHN A. BLATNIK NATIONAL FRESH WATER QUALITY RESEARCH LABORATORY.

(a) DESIGNATION.—The laboratory and research facility established pursuant to section 104(e) of the Federal Water Pollution Control Act (33 U.S.C. 1254(e)) that is located in Duluth, Minnesota, shall be known and designated as the "John A. Blatnik National Fresh Water Quality Research Laboratory".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory and research facility referred to in subsection (a) shall be deemed to be a reference to the "John A. Blatnik National Fresh Water Quality Research Laboratory".

SEC. 703. WASTEWATER SERVICE FOR COLONIAS.

(a) GRANT ASSISTANCE.—The Administrator may make grants to States along the United States-Mexico border to provide assistance for planning, design, and construction of treatment works to provide wastewater service to the communities along such border commonly known as "colonias".

(b) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds made available under subsection (a) shall be 50 percent. The non-Federal share of such cost shall be provided by the State receiving the grant.

(c) TREATMENT WORKS DEFINED.—For purposes of this section, the term "treatment works" has the meaning such term has under section 212 of the Federal Water Pollution Control Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under subsection (a) $50,000,000 for fiscal year 1996. Such sums shall remain available until expended.

SEC. 704. SAVINGS IN MUNICIPAL DRINKING WATER COSTS.

(a) STUDY.—The Administrator of the Environmental Protection Agency, in consultation with the Director of the Office of Management and Budget, shall review, analyze, and compile information on the annual savings that municipalities realize in the construction, operation, and maintenance of drinking water facilities as a result of actions taken under the Federal Water Pollution Control Act.

(b) CONTENTS.—The study conducted under subsection (a), at a minimum, shall contain an examination of the following elements:

(1) Savings to municipalities in the construction of drinking water filtration facilities resulting from actions taken under the Federal Water Pollution Control Act.

(2) Savings to municipalities in the operation and maintenance of drinking water facilities resulting from actions taken under such Act.

(3) Savings to municipalities in health expenditures resulting from actions taken under such Act.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study conducted under subsection (a).

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wetlands and Watershed Management Act of 1995".

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares the following:

(1) Wetlands perform a number of valuable functions needed to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including—

(A) reducing pollutants (including nutrients, sediment, and toxics) from nonpoint and point sources;

(B) storing, conveying, and purifying flood and storm waters;

(C) reducing both bank erosion and wave and storm damage to adjacent lands and trapping sediment from upland sources;

(D) providing habitat and food sources for a broad range of commercial and recreational fish, shellfish, and migratory wildlife species (including waterfowl and endangered species); and

(E) providing a broad range of recreational values for canoeing, boating, birding, and nature study and observation.

(2) Original wetlands in the contiguous United States have been reduced by an estimated 50 percent and continue to disappear at a rate of 200,000 to 300,000 acres a year. Many of these original wetlands have also been altered or partially degraded, reducing their ecological value.

(3) Wetlands are highly sensitive to changes in water regimes and are, therefore, susceptible to degradation by fills, drainage, grading, water extractions, and other activities within their watersheds which affect the quantity, quality, and flow of surface and ground waters. Protection and management of wetlands, therefore, should be integrated with management of water systems on a watershed basis. A watershed protection and management perspective is also needed to understand and reverse the gradual, continued destruction of wetlands that occurs due to cumulative impacts.

(4) Wetlands constitute an estimated 5 percent of the Nation's surface area. Because much of this land is in private ownership wetlands protection and management strategies must take into consideration private

property rights and the need for economic development and growth. This can be best accomplished in the context of a cooperative and coordinated Federal, State, and local strategy for data gathering, planning, management, and restoration with an emphasis on advance planning of wetlands in watershed contexts.

(b) Purposes.—The purposes of this Act are—

(1) to help create a coordinated national wetland management effort with efficient use of scarce Federal, State, and local financial and manpower resources to protect wetland functions and values and reduce natural hazard losses;

(2) to help reverse the trend of wetland loss in a fair, efficient, and cost-effective manner;

(3) to reduce inconsistencies and duplication in Federal, State, and local wetland management efforts and encourage integrated permitting at the Federal, State, and local levels;

(4) to increase technical assistance, cooperative training, and educational opportunities for States, local governments, and private landowners;

(5) to help integrate wetland protection and management with other water resource management programs on a watershed basis such as flood control, storm water management, allocation of water supply, protection of fish and wildlife, and point and nonpoint source pollution control;

(6) to increase regionalization of wetland delineation and management policies within a framework of national policies through advance planning of wetland areas, programmatic general permits and other approaches and the tailoring of policies to ecosystem and land use needs to reflect significant watershed variance in wetland resources;

(7) to address the cumulative loss of wetland resources;

(8) to increase the certainty and predictability of planning and regulatory policies for private landowners;

(9) to help achieve no overall net loss and net gain of the remaining wetland base of the United States through watershed-based restoration strategies involving all levels of government;

(10) to restore and create wetlands in order to increase the quality and quantity of the wetland resources and by so doing to restore and maintain the quality and quantity of the waters of the United States; and

(11) to provide mechanisms for joint State, Federal, and local development and testing of approaches to better protect wetland resources such as mitigation banking.

SEC. 803. STATE, LOCAL, AND LANDOWNER TECHNICAL ASSISTANCE AND COOPERATIVE TRAINING.

(a) State and Local Technical Assistance.—Upon request, the Administrator or the Secretary of the Army, as appropriate, shall provide technical assistance to State and local governments in the development and implementation of State and local government permitting programs under sections 404(e) and 404(h) of the Federal Water Pollution Control Act, State wetland conservation plans under section 805, and regional or local wetland management plans under section 805.

(b) Cooperative Training.—The Administrator and the Secretary, in cooperation with the Coordinating Committee established pursuant to section 804, shall conduct training courses for States and local governments involving wetland delineation, utilization of wetlands in nonpoint pollution control, wetland and stream restoration, wetland planning, wetland evaluation, mitigation banking, and other subjects deemed appropriate by the Administrator or Secretary.

(c) Private Landowner Technical Assistance.—The Administrator and Secretary shall, in cooperation with the Coordination Committee, and appropriate Federal agencies develop and provide to private landowners guidebooks, pamphlets, or other materials and technical assistance to help them in identifying and evaluating wetlands, developing integrated wetland management plans for their lands consistent with the goals of this Act and the Federal Water Pollution Control Act, and restoring wetlands.

SEC. 804. FEDERAL, STATE, AND LOCAL GOVERNMENT COORDINATING COMMITTEE.

(a) Establishment.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a Federal, State, and Local Government Wetlands Coordinating Committee (hereinafter in this section referred to as the "Committee").

(b) Functions.—The Committee shall—

(1) help coordinate Federal, State, and local wetland planning, regulatory, and restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower and resources at all levels of government;

(2) provide comments to the Secretary of the Army or Administrator in adopting regulatory, policy, program, or technical guidance affecting wetland systems;

(3) help develop and field test, national policies prior to implementation such as wetland, delineation, classification of wetlands, methods for sequencing wetland mitigation responses, the utilization of mitigation banks;

(4) help develop and carry out joint technical assistance and cooperative training programs as provided in section 803;

(5) help develop criteria and implementation strategies for facilitating State conservation plans and strategies, local and regional wetland planning, wetland restoration and creation, and State and local permitting programs pursuant to section 404(e) or 404(g) of the Federal Water Pollution Control Act; and

(6) help develop a national strategy for the restoration of wetland ecosystems pursuant to section 6 of this Act.

(c) Membership.—The Committee shall be composed of 18 members as follows:

(1) The Administrator or the designee of the Administrator.

(2) The Secretary or the designee of the Secretary.

(3) The Director of the United States Fish and Wildlife Service or the designee of the Director.

(4) The Chief of the Natural Resources Conservation Service or the designee of the Chief.

(5) The Undersecretary for Oceans and Atmosphere or the designee of the Under Secretary.

(6) One individual appointed by the Administrator who will represent the National Governor's Association.

(7) One individual appointed by the Administrator who will represent the National Association of Counties.

(8) One individual appointed by the Administrator who will represent the National League of Cities.

(9) One State wetland expert from each of the 10 regions of the Environmental Protection Agency. Each member to be appointed under this paragraph shall be jointly appointed by the Governors of the States within the Environmental Protection Agency's region. If the Governors from a region cannot agree on such a representative, they will each submit a nomination to the Administrator and the Administrator will select a representative from such region.

(d) Terms.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

(e) Vacancies.—A vacancy in the Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

(f) Pay.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) Cochairpersons.—The Administrator and one member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) (selected by such members) shall serve as cochairpersons of the Committee.

(h) Quorum.—Two-thirds of the members of the Committee shall constitute a quorum but a lesser number may hold meetings.

(i) Meetings.—The Committee shall hold its first meeting not later than 120 days after the date of the enactment of this Act. The Committee shall meet at least twice each year thereafter. Meetings will be opened to the public.

SEC. 805. STATE AND LOCAL WETLAND CONSERVATION PLANS AND STRATEGIES; GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.

(a) State Wetland Conservation Plans and Strategies.—Subject to the requirements of this section, the Administrator shall make grants to States and tribes to assist in the development and implementation of wetland conservation plans and strategies. More specific goals for such conservation plans and strategies may include:

(1) Inventorying State wetland resources, identifying individual and cumulative losses, identifying State and local programs applying to wetland resources, determining gaps in such programs, and making recommendations for filling those gaps.

(2) Developing and coordinating existing State, local, and regional programs for wetland management and protection on a watershed basis.

(3) Increasing the consistency of Federal, State, and local wetland definitions, delineation, and permitting approaches.

(4) Mapping and characterizing wetland resources on a watershed basis.

(5) Identifying sites with wetland restoration or creation potential.

(6) Establishing management strategies for reducing causes of wetland degradation and restoring wetlands on a watershed basis.

(7) Assisting regional and local governments prepare watershed plans for areas with a high percentage of lands classified as wetlands or otherwise in need of special management.

(8) Establishing and implementing State or local permitting programs under section 404(e) or 404(h) of the Federal Water Pollution Control Act.

(b) Regional and Local Wetland Planning, Regulation, and Management Programs.—Subject to the requirements of this section, the Administrator shall make grants to States which will, in turn, use this funding to make grants to regional and local governments to assist them in adopting and implementing wetland and watershed management programs consistent with goals stated in section 101 of the Federal Water

Pollution Control Act and section 802 of this Act. Such plans shall be integrated with (where appropriate) or coordinated with planning efforts pursuant to section 319 of the Federal Water Pollution Control Act. Such programs shall, at a minimum, involve the inventory of wetland resources and the adoption of plans and policies to help achieve the goal of no net loss of wetland resources on a watershed basis. Other goals may include, but are not limited to:

(1) Integration of wetland planning and management with broader water resource and land use planning and management, including flood control, water supply, storm water management, and control of point and nonpoint source pollution.

(2) Adoption of measures to increase consistency in Federal, State, and local wetland definitions, delineation, and permitting approaches.

(3) Establishment of management strategies for restoring wetlands on a watershed basis.

(c) GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.—Subject to the requirements of this section, the Administrator may make grants to States which assist the Federal Government in the implementation of the section 404 Federal Water Pollution Control program through State assumption of permitting pursuant to sections 404(g) and 404(h) of such Act through State permitting through a State programmatic general permit pursuant to section 404(e) of such Act or through monitoring and enforcement activities. In order to be eligible to receive a grant under this section a State shall provide assurances satisfactory to the Administrator that amounts received by the State in grants under this section will be used to issue regulatory permits or to enforce regulations consistent with the overall goals of section 802 and the standards and procedures of section 404(g) or 404(e) of this Act.

(d) MAXIMUM AMOUNT.—No State may receive more than $500,000 in total grants under subsections (a), (b), and (c) in any fiscal year and more than $300,000 in grants for subsection (a), (b), or (c), individually.

(e) FEDERAL SHARE.—The Federal share of the cost of activities carried out using amounts made available in grants under this section shall not exceed 75 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 806. NATIONAL COOPERATIVE WETLAND ECOSYSTEM RESTORATION STRATEGY.

(a) DEVELOPMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in cooperation with other Federal agencies, State, and local governments, and representatives of the private sector, shall initiate the development of a National Cooperative Wetland Ecosystem Restoration Strategy.

(b) GOALS.—The goal of the National Cooperative Wetland Ecosystem Restoration Strategy shall be to restore damaged and degraded wetland and riparian ecosystems consistent with the goals of the Water Pollution Control Amendments and the goals of section 802, and the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

(c) FUNCTIONS.—The National Cooperative Wetland Ecosystem Restoration Strategy shall—

(1) be designed to help coordinate and promote restoration efforts by Federal, State, regional, and local governments and the private sector, including efforts authorized by the Coastal Wetlands Planning, Protection, and Restoration Act, the North American Waterfowl Management Plan, the Wetlands Reserve Program, and the wetland restoration efforts on Federal, State, local, and private lands;

(2) involve the Federal, State, and local Wetlands Coordination Committee established pursuant to section 804;

(3) inventory and evaluate existing restoration efforts and make suggestions for the establishment of new watershed specific efforts consistent with existing Federal programs and State, regional, and local wetland protection and management efforts;

(4) evaluate the role presently being played by wetland restoration in both regulatory and nonregulatory contexts and the relative success of wetland restoration in these contexts;

(5) develop criteria for identifying wetland restoration sites on a watershed basis, procedures for wetlands restoration, and ecological criteria for wetlands restoration; and

(6) identify regulatory obstacles to wetlands ecosystem restoration and recommend methods to reduce such obstacles.

SEC. 807. PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

(a) PERMIT MONITORING AND TRACKING.—Section 404(a) (33 U.S.C. 1344) is amended by adding at the end thereof the following: "The Secretary shall, in cooperation with the Administrator, establish a permit monitoring and tracking programs on a watershed basis to monitor the cumulative impact of individual and general permits issued under this section. This program shall determine the impact of permitted activities in relationship to the no net loss goal. Results shall be reported biannually to Congress.".

(b) ISSUANCE OF GENERAL PERMITS.—Paragraph (1) of section 404(e) is amended by inserting "local," before "State, regional, or nationwide basis" in the first sentence.

(c) REVOCATION OR MODIFICATION OF GENERAL PERMITS.—Paragraph (2) of section 404(e) is amended by striking the period at the end and inserting "or a State or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State or local programmatic general permits.".

(d) PROGRAMMATIC GENERAL PERMITS.—Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(3) PROGRAMMATIC GENERAL PERMITS.—Consistent with the following requirements, the Secretary may, after notice and opportunity for public comment, issue State or local programmatic general permits for the purpose of avoiding unnecessary duplication of regulations by State, regional, and local regulatory programs:

"(A) The Secretary may issue a programmatic general permit based on a State, regional, or local government regulatory program if that general permit includes adequate safeguards to ensure that the State, regional, or local program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the environment, including all waters of the United States, and for Federal interests, as is provided by this section and by the Federal permitting program pursuant to section 404(a). Such safeguards shall include provisions whereby the Corps District Engineer and the Regional Administrators or Directors of the Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Marine Fisheries Service (where appropriate), shall have an opportunity to review permit applications submitted to the State, regional, or local regulatory agency which would have more than minimal individual or cumulative adverse impacts on the environment, attempt to resolve any environmental concern or protect any Federal interest at issue, and, if such concern is not adequately addressed by the State, local, or regional agency, require the processing of an individual Federal permit under this section for the specific proposed activity. The Secretary shall ensure that the District Engineer will utilize this authority to protect all Federal interests including, but not limited to, national security, navigation, flood control, Federal endangered or threatened species, Federal interests under the Wild and Scenic Rivers Act, special aquatic sites of national importance, and other interests of overriding national importance. Any programmatic general permit issued under this subsection shall be consistent with the guidelines promulgated to implement subsection (b)(1).

"(B) In addition to the requirements of subparagraph (A), the Secretary shall not promulgate any local or regional programmatic general permit based on a local or regional government's regulatory program unless the responsible unit of government has also adopted a wetland and watershed management plan and is administering regulations to implement this plan. The watershed management plan shall include—

"(i) the designation of a local or regional regulatory agency which shall be responsible for issuing permits under the plan and for making reports every 2 years on implementation of the plan and on the losses and gains in functions and acres of wetland within the watershed plan area;

"(ii) mapping of—

"(I) the boundary of the plan area;

"(II) all wetlands and waters within the plan area as well as other areas proposed for protection under the plan; and

"(III) proposed wetland restoration or creation sites with a description of their intended functions upon completion and the time required for completion;

"(iii) a description of the regulatory policies and standards applicable to all wetlands and waters within the plan areas and all activities which may affect these wetlands and waters that will assure, at a minimum, no net loss of the functions and acres of wetlands within the plan area; and

"(iv) demonstration that the regulatory agency has the legal authority and scientific monitoring capability to carry out the proposed plan including the issuance, monitoring, and enforcement of permits in compliance with the plan.".

(e) GRANDFATHER OF EXISTING GENERAL PERMITS.—Section 404(e) is further amended by adding at the end the following:

"(4) GRANDFATHER OF EXISTING GENERAL PERMITS.—General permits in effect on day before the date of the enactment of the Wetlands and Watershed Management Act of 1995 shall remain in effect until otherwise modified by the Secretary.".

(f) DISCHARGES NOT REQUIRING A PERMIT.—Section 404(f) (33 U.S.C. 1344(f)) is amended by striking the subsection designation and paragraph (1) and inserting the following:

"(f) EXEMPTIONS.—

"(1) ACTIVITIES NOT REQUIRING PERMIT.—

"(A) IN GENERAL.—Activities are exempt from the requirements of this section and are not prohibited by or otherwise subject to regulation under this section or section 301 or 402 of this Act (except effluent standards or prohibitions under section 307 of this Act) if such activities—

"(i) result from normal farming, silviculture, aquaculture, and ranching activities and practices, including but not limited to plowing, seeding, cultivating, haying, grazing, normal maintenance activities, minor drainage, burning of vegetation in connection with such activities, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

"(ii) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs (where such maintenance involves periodic water level drawdowns) which provide water predominantly to public drinking water systems, groins, riprap, breakwaters, utility distribution and transmission lines, causeways, and bridge abutments or approaches, and transportation structures;

"(iii) are for the purpose of construction or maintenance of farm, stock or aquaculture ponds, wastewater retention facilities (including dikes and berms) that are used by concentrated animal feeding operations, or irrigation canals and ditches or the maintenance or reconstruction of drainage ditches and tile lines;

"(iv) are for the purpose of construction of temporary sedimentation basins on a construction site, or the construction of any upland dredged material disposal area, which does not include placement of fill material into the navigable waters;

"(v) are for the purpose of construction or maintenance of farm roads or forest roads, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the waters are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

"(vi) are undertaken on farmed wetlands, except that any change in use of such land for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to the requirements of this section to the extent that such farmed wetlands are 'wetlands' under this section;

"(vii) are undertaken in incidentally created wetlands, unless such incidentally created wetlands have exhibited wetlands functions and values for more than 5 years in which case activities undertaken in such wetlands shall be subject to the requirements of this section; and

"(viii) are for the purpose of preserving and enhancing aviation safety or are undertaken in order to prevent an airport hazard.".

(g) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—Section 404(f) is further amended by adding the following:

"(3) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—

"(A) IN GENERAL.—For purposes of this section, the following shall not be considered navigable waters:

"(i) Irrigation ditches excavated in uplands.

"(ii) Artificially irrigated areas which would revert to uplands if the irrigation ceased.

"(iii) Artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and which are used exclusively for stock watering, irrigation, or rice growing.

"(iv) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons.

"(v) Temporary, water filled depressions created in uplands incidental to construction activity.

"(vi) Pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

"(vii) Artificial stormwater detention areas and artificial sewage treatment areas which are not modified natural waters.

"(B) DEMONSTRATION REQUIRED.—Subparagraph (A) shall not apply to a particular water body unless the person desiring to discharge dredged or fill material in that water body is able to demonstrate that the water body qualifies under subparagraph (A) for exemption from regulation under this section.".

SEC. 808. TECHNICAL ASSISTANCE TO PRIVATE LANDOWNERS, CODIFICATION OF REGULATIONS AND POLICIES.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(u)(1) The Secretary and the Administrator shall in cooperation with the United States Fish and Wildlife Service, Natural Resources Conservation Service, and National Marine Fisheries Service provide technical assistance to private landowners in delineation of wetlands and the planning and management of their wetlands. This assistance shall include—

"(A) the delineation of wetland boundaries within 90 days (providing on the ground conditions allow) of a request for such delineation for a project with a proposed individual permit application under this section and a total assessed value of less than $15,000; and

"(B) the provision of technical assistance to owners of wetlands in the preparation of wetland management plans for their lands to protect and restore wetlands and meet other goals of this Act, including control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

"(2) The Secretary shall prepare, update on a biannual basis, and make available to the public for purchase at cost, an indexed publication containing all Federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities in wetland areas pursuant to section 404(a). The Secretary and the Administrator shall also prepare and distribute brochures and pamphlets for the public addressing—

"(A) the delineation of wetlands,

"(B) wetland permitting requirements; and

"(C) wetland restoration and other matters considered relevant.".

SEC. 809. DELINEATION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(v) DELINEATION.—

"(1) IN GENERAL.—The United States Army Corps of Engineers, the United States Environmental Protection Agency, and other Federal agencies shall use the 1987 Corps of Engineers Manual for the Delineation of Jurisdictional Wetlands pursuant to this section until a new manual has been prepared and formally adopted by the Corps and the Environmental Protection Agency with input from the United States Fish and Wildlife Service, Natural Resources, Natural Resources Conservation Service, and other relevant agencies and adopted after field testing, hearing, and public comment. Any new manual shall take into account the conclusions of the National Academy of Sciences panel concerning the delineation of wetlands. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, shall develop materials and conduct training courses for consultants, State, and local governments, and landowners explaining the use of the Corps 1987 wetland manual in the delineation of wetland areas. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, may also, in cooperation with the States, develop supplemental criteria and procedures for identification of regional wetland types. Such criteria and procedures may include supplemental plant and soil lists and supplementary technical criteria pertaining to wetland hydrology, soils, and vegetation.

"(2) AGRICULTURAL LANDS.—

"(A) DELINEATION BY SECRETARY OF AGRICULTURE.—For purposes of this section, wetlands located on agricultural lands and associated nonagricultural lands shall be delineated solely by the Secretary of Agriculture in accordance with section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)).

"(B) EXEMPTION OF LANDS EXEMPTED UNDER FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt from the requirements of subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall also be exempt from the requirements of this section for such period of time as those lands are used as agricultural lands.

"(C) EFFECT OF APPEAL DETERMINATION PURSUANT TO FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt pursuant to an appeal taken pursuant to subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall be exempt under this section for such period of time as those lands are used as agricultural lands.".

SEC. 810. FAST TRACK FOR MINOR PERMITS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(w)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations to explore the review and practice of individual permits for minor activities. Minor activities include activities of 1 acre or less in size which also have minor direct, secondary, or cumulative impacts.

"(2) Permit applications for minor permits shall ordinarily be processed within 60 days of the receipt of completed application.

"(3) The Secretary shall establish fast-track field teams or other procedures in the individual offices sufficient to expedite the processing of the individual permits involving minor activities.".

SEC. 811. COMPENSATORY MITIGATION.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(x) GENERAL REQUIREMENTS.—(1) Each permit issued under this section that results in loss of wetland functions or acreage shall require compensatory mitigation. The preferred sequence of mitigation options is as set forth in subparagraph (A) and (C). However, the Secretary shall have sufficient flexibility to approve practical options that provide the most protection to the resource—

"(A) measures shall first be undertaken by the permittee to avoid any adverse effects on wetlands caused by activities authorized by the permit.

"(B) measures shall be undertaken by the permittee to minimize any such adverse effects that cannot be avoided;

"(C) measures shall then be undertaken by the permittee to compensate for adverse impacts on wetland functions, values, and acreage;

"(D) where compensatory mitigation is used, preference shall be given to in-kind restoration on the same water body and within the same local watershed;

"(E) where on-site and in-kind compensatory mitigation are impossible, impractical, would fail to work in the circumstances, or would not make ecological sense, off-site and/or out-of-kind compensatory mitigation may be permitted within the watershed including participation in cooperative mitigation ventures or mitigation banks as provided in section 404(y).

"(2) The Secretary in consultation with the Administrator shall ensure that compensable mitigation by a permitee—

"(A) is a specific, enforceable condition of the permit for which it is required;

"(B) will meet defined success criteria; and

"(C) is monitored to ensure compliance with the conditions of the permit and to determine the effectiveness of the mitigation in compensating for the adverse effects for which it is required.".

SEC. 812. COOPERATIVE MITIGATION VENTURES AND MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(y)(1) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Administrator shall jointly issue rules for a system of cooperative mitigation ventures and wetland banks. Such rules shall, at the minimum, address the following topics:

"(A) Mitigation banks and cooperative ventures may be used on a watershed basis to compensate for unavoidable wetland losses which cannot be compensated on-site due to inadequate hydrologic conditions, excessive sedimentation, water pollution, or other problems. Mitigation banks and cooperative ventures may also be used to improve the potential success of compensatory mitigation through the use of larger projects, by locating projects in areas in more favorable short-term and long-term hydrology and proximity to other wetlands and waters, and by helping to ensure short-term and long-term project protection, monitoring, and maintenance.

"(B) Parties who may establish mitigation banks and cooperative mitigation ventures for use in specific context and for particular types of wetlands may include government agencies, nonprofits, and private individuals.

"(C) Surveys and inventories on a watershed basis of potential mitigation sites throughout a region or State shall ordinarily be required prior to the establishment of mitigation banks and cooperative ventures pursuant to this section.

"(D) Mitigation banks and cooperative mitigation ventures shall be used in a manner consistent with the sequencing requirements to mitigate unavoidable wetland impacts. Impacts should be mitigated within the watershed and water body if possible with on-site mitigation preferable as set forth in section 404(x).

"(E) The long-term security of ownership interests of wetlands and uplands on which projects are conducted shall be insured to protect the wetlands values associated with those wetlands and uplands;

"(F) Methods shall be specified to determine debits by evaluating wetland functions, values, and acreages at the sites of proposed permits for discharges or alternations pursuant to subsections (a), (c), and (g) and methods to be used to determine credits based upon functions, values, and acreages at the times of mitigation banks and cooperative mitigation ventures.

"(G) Geographic restrictions on the use of banks and cooperative mitigation ventures shall be specified. In general, mitigation banks or cooperative ventures shall be located on the same water body as impacted wetlands. If this is not possible or practical, banks or ventures shall be located as near as possible to impacted projects with preference given to the same watershed where the impact is occurring.

"(H) Compensation ratios for restoration, creation, enhancement, and preservation reflecting and overall goal of no net loss of function and the status of scientific knowledge with regard to compensation for individual wetlands, risks, costs, and other relevant factors shall be specified. A minimum restoration compensation ratio of 1:1 shall be required for restoration of lost acreage with larger compensation ratios for wetland creation, enhancement and preservation.

"(I) Fees to be charged for participation in a bank or cooperative mitigation venture shall be based upon the costs of replacing lost functions and acreage on-site and off-site; the risks of project failure, the costs of long-term maintenance, monitoring, and protection, and other relevant factors.

"(J) Responsibilities for long-term monitoring, maintenance, and protection shall be specified.

"(K) Public review of proposals for mitigation banks and cooperative mitigation ventures through one or more public hearings shall be provided.

"(2) The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for creating and implementing mitigation banks and cooperative ventures and for evaluating alternative approaches for mitigation banks and cooperative mitigation ventures as a means of contributing to the goals established by section 101(a)(8) or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403). The Secretary shall also monitor and evaluate existing banks and cooperative ventures and establish a number of such banks and cooperative ventures to test and demonstrate:

"(A) The technical feasibility of compensation for lost on-site values through off-site cooperative mitigation ventures and mitigation banks.

"(B) Techniques for evaluating lost wetland functions and values at sites for which permits are sought pursuant to section 404(a) and techniques for determining appropriate credits and debits at the sites of cooperative mitigation ventures and mitigation banks.

"(C) The adequacy of alternative institutional arrangements for establishing and administering mitigation banks and cooperative mitigation ventures.

"(D) The appropriate geographical locations of bank or cooperative mitigation ventures in compensation for lost functions and values.

"(E) Mechanisms for ensuring short-term and long-term project monitoring and maintenance.

"(F) Techniques and incentives for involving private individuals in establishing and implementing mitigation banks and cooperative mitigation ventures.

Not later than 3 years after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report evaluating mitigation banks and cooperative ventures. The Secretary shall also, within this time period, prepare educational materials and conduct training programs with regard to the use of mitigation banks and cooperative ventures.".

SEC. 813. WETLANDS MONITORING AND RESEARCH.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(z) The Secretary, in cooperation with the Administrator, the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and appropriate State and local government entities, shall initiate, with opportunity for public notice and comment, a research program of wetlands and watershed management. The purposes of the research program shall include, but not be limited—

"(1) to study the functions, values and management needs of altered, artificial, and managed wetland systems including lands that were converted to production of commodity crops prior to December 23, 1985, and report to Congress within 2 years of the date of the enactment of this subsection;

"(2) to study techniques for managing and restoring wetlands within a watershed context;

"(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

"(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.".

SEC. 814. ADMINISTRATIVE APPEALS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(aa) ADMINISTRATIVE APPEALS.—

"(1) REGULATIONS ESTABLISHING PROCEDURES.—Not later than 1 year after the date of the enactment of the Wetlands and Watershed Management Act of 1995, the Secretary shall, after providing notice and opportunity for public comment, issue regulations establishing procedures pursuant to which—

"(A) a landowner may appeal a determination of regulatory jurisdiction under this section with respect to a parcel of the landowner's property;

"(B) a landowner may appeal a wetlands classification under this section with respect to a parcel of the landowner's property;

"(C) any person may appeal a determination that the proposed activity on the landowner's property is not exempt under subsection (f);

"(D) a landowner may appeal a determination that an activity on the landowner's property does not qualify under a general permit issued under this section;

"(E) an applicant for a permit under this section may appeal a determination made pursuant to this section to deny issuance of the permit or to impose a requirement under the permit; and

"(F) a landowner or any other person required to restore or otherwise alter a parcel of property pursuant to an order issued under this section may appeal such order.

"(2) DEADLINE FOR FILING APPEAL.—An appeal brought pursuant to this subsection shall be filed not later than 30 days after the date on which the decision or action on which the appeal is based occurs.

"(3) DEADLINE FOR DECISION.—An appeal brought pursuant to this subsection shall be decided not later than 90 days after the date on which the appeal is filed.

"(4) PARTICIPATION IN APPEALS PROCESS.—Any person who participated in the public comment process concerning a decision or action that is the subject of an appeal brought pursuant to this subsection may participate in such appeal with respect to those issues raised in the person's written public comments.

"(5) DECISIONMAKER.—An appeal brought pursuant to this subsection shall be heard and decided by an appropriate and impartial official of the Federal Government, other than the official who made the determination or carried out the action that is the subject of the appeal.

"(6) STAY OF PENALTIES AND MITIGATION.—A landowner or any other person who has filed an appeal under this subsection shall not be required to pay a penalty or perform mitigation or restoration assessed under this section or section 309 until after the appeal has been decided.".

SEC. 815. CRANBERRY PRODUCTION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(bb) CRANBERRY PRODUCTION.—Activities associated with expansion, improvement, or modification of existing cranberry production operations shall be deemed in compliance, for purposes of sections 309 and 505, with section 301, if—

"(1) the activity does not result in the modification of more than 10 acres of wetlands per operator per year and the modified wetlands (other than where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

"(2) the activity is required by any State or Federal water quality program.".

SEC. 816. STATE CLASSIFICATION SYSTEMS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(cc) STATE CLASSIFICATION SYSTEMS.—

"(1) GUIDELINES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, in consultation with the Administrator, the Secretary of Agriculture, and the Director of the United States Fish and Wildlife Service, shall establish guidelines to aid States and Indian tribes in establishing classification systems for the planning, managing, and regulating of wetlands.

"(2) ESTABLISHMENT.—In accordance with the guidelines established under paragraph (1), a State or Indian tribe may establish a wetlands classification system for lands of the State or Indian tribe and may submit such classification system to the Secretary for approval. Upon approval, the Secretary shall use such classification system in making permit determinations and establishing mitigation requirements for lands of the State or Indian tribe under this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect a State with an approved program under subsection (h) or a State with a wetlands classification system in effect on the date of the enactment of this subsection.".

SEC. 817. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(26) The term 'wetland' means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

"(27) The term 'discharge of dredged or fill material' means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

"(28) The term 'mitigation bank' shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

"(29) The term 'cooperative mitigation ventures' shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.

"(30) The term 'normal farming, silviculture, aquaculture and ranching activities' means normal practices identified as such by the Secretary of Agriculture, in consultation with the Cooperative Extension Service for each State and the land grant university system and agricultural colleges of the State, taking into account existing practices and such other practices as may be identified in consultation with the affected industry or community.

"(31) The term 'agricultural land' means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, nonindustrial forest land, an area that supports a water dependent crop (including cranberries, taro, watercress, or rice), and any other land used to produce or support the production of an annual or perennial crop (including forage or hay), aquaculture product, nursery product, or wetland crop or the production of livestock.".

TITLE IX—MISCELLANEOUS

SEC. 901. OBLIGATIONS AND EXPENDITURES SUBJECT TO APPROPRIATIONS.

No provision or amendments of this Act shall be construed to make funds available for obligation or expenditure for any purpose except to the extent provided in advance in appropriation Acts.

Mr. SAXTON. Mr. Chairman, let me begin by expressing my personal appreciation and the appreciation of many of my colleagues for the cooperation shown by the chairman of the committee in helping to bring forward this rule, and the opportunity of those of us who have some differences with the committee bill, and giving us an opportunity to express those differences as well as to offer amendments like the one at the desk.

I would also like to express my appreciation for the gentleman from New York [Mr. BOEHLERT] and the gentleman from Indiana [Mr. ROEMER], both of whom have worked many long hours along with me and my staff in working to bring forth the amendment that we are considering at this time.

I think it is noteworthy to mention that while this is a substitute amendment, that it adopts some 70 to 75 percent of the committee draft, and that the language of the gentleman from Pennsylvania [Mr. SHUSTER] in those cases remains the same.

There are several however, sections of the bill that we believe can be improved, and I just would like to talk about those several sections for just a minute.

As many of my colleagues know, having heard previous statements that I and others have made today, those of us who live in and represent areas of the country that are densely populated, or that are in coastal areas or that are in areas such as the Mississippi River Valley and other environmentally sensitive ecosystem type areas around the country have very serious concerns with at least four sections. One is the section that involves wetlands. The second is the section that involves nonpoint sources of pollutions. The third is in the permitting system, and what the committee mark does to the permitting process in terms of eliminating it is very effective. And the fourth, at least for me and for others I believe, is the issue of ocean dumping, and I would just like to address those four areas for just a minute.

With regard to wetlands, it is pretty obvious that in New Jersey, where we estimate that 90 percent of our wetlands would be declassified as wetlands under the language of the committee bill, this causes a great deal of concern inasmuch as wetlands play a very vital environmental role in coastal areas, and so if I, as I am, were a representative of a coastal area anywhere from Maine to Florida on the east coast I would be terribly concerned about the effect of this bill, or if I were a representative from the Gulf States bordering on the Gulf of Mexico I would be terribly concerned about the provisions of bill, and of course if I were from California or Oregon or Washington State I would be equally concerned by the provisions as they relate to wetlands.

Of course we all know as well that wetlands act as a natural filtering system and act as the very basis of life in many cases, and so the committee mark, which does what we think is wrong things to the concept of wetlands protection, needs to be rewritten, and our bill does that.

With regard to the nonpoint source pollution program and the Coastal Zone Management Act, which in its very nature creates a partnership between State governments and the Federal Government with regard to this very important nonpoint issue, was also done, we think, significant harm by the committee mark. And we believe, therefore, that changes are necessary.

Those of us who have had problems with point sources of pollution have been able to identify such things as outfalls into our streams and rivers and bays and oceans. We have been able to deal with them. They are a relatively simple task to take care of, and I say relatively simple. It is never easy nor it is ever simple, but at least you can identify the source of pollution.

With regard to nonpoint sources, it is a much more difficult task, and the CZMA sets up this partnership between the State and Federal Government in order to identify and develop programs in order to deal with nonpoint sources, and here again we would maintain what the coastal States association have endorsed, as a matter of fact CZMA language which solves this problem.

With regard to storm water discharge, obviously it is a very big issue and a problem that creates a great deal of damage to our coastal environment as well as to other tributaries around the country, and here again the permitting process is damaged severely under the language of the committee mark. And so we would make significant changes and do in the committee substitute which we will be voting on a little bit later today.

Finally with regard to ocean dumping, this has been a tremendous task which we have done on a bipartisan basis; the gentleman from New Jersey [Mr. PALLONE] is here and our former colleague, Bill Hughes, all worked together to put an end to ocean dumping. We address in our substitute only that section of the bill that has to do with dredge spoil deposit offshore.

So we ask our colleagues to support our substitute, and I thank the Members for their consideration.

Mr. PETERSON of Minnesota. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I said earlier, I represent an area that has a lot of wetlands, and I have been involved with this issue all of my political career in the State legislature, and now since I have been in Congress to some extent, and I think people ought to read what is in this bill.

The gentleman says they have 75 percent of what is in the Shuster bill, but you have to look at what the content is and realize some of things that have been left out. First of all, there is no risk assessment at all in this bill, No. 1.

No. 2, in the wetlands area, you know in our country we have been trying to simplify this process. What is driving people crazy is they have got to go to all of these agencies and they overrule each other and they do not talk to each other and they do not agree on things, and cause an untold amount of problems for my constituents. What this bill is going to do if you take it out and read it, it is going to create a new wetlands coordinating commission that is going to be appointed by the administrator of the Environmental Protection Agency, which we have been trying to get out of this process because frankly they do not belong in the process in the farm country, and they are going to create a coordinating committee that is going to have 18 Federal agencies trying to coordinate some kind of wetlands policy. And if I could just read some of the things that this new committee is supposed to do, I think that folks when they start taking a look at what is in this bill are going to have some different ideas.

They are going to help coordinate Federal, State, local wetland planning, regulatory restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower.

But let me tell Members what the problem is in my county, it is not the law that is the problem so much, it is the people that are trying to implement the law.

I have a county, two counties right next to each other, and in one county where the people used some common sense and worked together they resolved all of the wetlands problems without a single ripple. You go to the next county where you had some people that were rigid and did not want to work with each other, and you have the biggest hornets' nest and the biggest mess you have ever seen, and I submit any change in the law is not going to solve that kind of problem.

And clearly setting up a coordinating committee with 18 Federal agencies is not going to make this situation better. It is going to make it worse.

Last of all, I also heard this story that the wetlands are so important, a public treasure, and they are important to all of us in this country and we agree with that. But there is this point of view and mostly I think by urban folks, they somehow or another think we out in the country ought to pay that entire burden.

□ 1600

Well, I submit that if wetlands are that important, and I think we agree that they are, then we all, as a nation, need to pay for the cost of this, and that is what we are trying to do with some of the changes that were in the private property rights bill, and also some of the changes that are in 961, by taking that, recognizing that wetlands are important and something that we want to maintain, but spreading that cost across all of the people in this country, not just the people upon which the wetlands happen, their property where the wetlands happen to reside.

Mr. Chairman, last of all, I have been working on the conservation reserve program in the Committee on Agriculture. When that program was set up, wetlands were excluded from the Conservation Reserve program. We created another program called the wetlands reserve which was never funded and does not have public support.

What we need to do, rather than take this regulatory approach to wetlands, we need to take and change the Conservation Reserve so the No. 1 priority to go into the CRP is wetlands, a voluntary program, a 10-year program. We are going to preserve way more wetlands in that kind of an approach than we are setting up some kind of a committee with 18 agencies involved and some kind of bureaucracy. That is the last thing we need to do.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. PETERSON of Minnesota. I yield to the gentleman from New Jersey.

Mr. SAXTON. I would just like to point out to the gentleman I share your concerns about building bigger bureaucracies and establishing committees on top of committees.

The Wetlands Coordinating Committee is something that is endorsed by the Governors, that would have Federal Representation, State Representation, local representation in order to look at individual cases to try and determine where we believe this is warranted. If we all agree, as you stated, I agree with you, that wetlands are important, we have to have some mechanism in which to deal with them. This is a partnership effort established and created in cooperation with the States in order to carry out this coordinating function.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. PETERSON] has expired.

(At the request of Mr. BOEHLERT and by unanimous consent, Mr. PETERSON of Minnesota was allowed to proceed for 2 additional minutes.)

Mr. PETERSON of Minnesota. If I could just respond to the question, you know, with all due respect, you ought to come and see what is going on in Minnesota. It is the State of Minnesota that has created the bigger hornet's nest than the Federal Government. From my standpoint, if you see what has been happening with these State laws, they are causing more problems than we are, and as I understand it, it is the wetlands managers in the States that support this, not the Governors and elected officials.

Mr. SAXTON. The National Governors' Association supports this.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. PETERSON of Minnesota. I yield to the gentleman from New York.

Mr. BOEHLERT. I would like to make two points. If it is the State of Minnesota that is giving you some problems, I suggest you deal with the State and not question the Federal law.

Mr. PETERSON of Minnesota. The Federal law is a problem, too.

Mr. BOEHLERT. I want to point out on delineation, section 809 of the bill. I want to stress this, delineation by the Secretary of Agriculture, for purposes of this section, wetlands located on agricultural land and associated nonagricultural lands shall be delineated solely by the Secretary of Agriculture. That is critically important; not by the Environmental Protection Agency, not by some commission, solely by the Secretary of Agriculture. We are very sensitive to the needs of the agriculture community.

I am privileged to represent a district that has a large agricultural interest.

Mr. PETERSON of Minnesota. Just to answer the question, why do we need a coordinating committee with all of these agencies, if we are going to give the power to the Secretary of Agriculture? I mean, the trouble that I have had out there is that we get everybody else involved in these permits but you cannot get an answer half of the time from these agencies. If we get set up some new structure, we have got all of these agencies involved, and the EPA is in charge; even if you give it to the Secretary of Agriculture, I do not think it is going to work.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. PETERSON] has again expired.

(At the request of Mr. BOEHLERT and by unanimous consent, Mr. PETERSON of Minnesota was allowed to proceed for 1 additional minute.)

Mr. BOEHLERT. Let me stress once again on agriculture, solely by the Secretary of Agriculture, not some commission, but the commission that is set up outside of this to deal with nonagricultural lands is set up to give guidance to the States. The National Governors' Association, we have embraced in our substitute specific language of the National Governors' Association dealing with the subject of wetlands. We agree with you, we want to give our Governors, those are the laboratories, we want to give them more responsibility, more flexibility.

Mr. PETERSON of Minnesota. Just to close this off, I have a letter here from just about every agriculture group, soil-water conservation groups that I know of in my State, they are opposed to this substitute. They support the chairman's bill, 961. I would urge defeat of the Boehlert substitute.

Mr. BOEHLERT. If the gentleman will yield further, let me point out that this is a 334-page bill that was just made available Thursday. The report was just available yesterday for the first time. They have not read the report.

Mr. ROEMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this bipartisan, commonsense, locally driven bill to provide solutions to provide clean water to our constituents.

I want to start out by articulating my great respect for the gentleman from New Jersey [Mr. SAXTON] and the gentleman from New York [Mr. BOEHLERT].

I think the elections in November of 1994 were about bipartisanship and common sense and trying to reinvent Washington, DC, and come up with locally driven solutions, and that is precisely what this substitute does.

When I was a little boy and we used to go up to Lake Michigan, Lake Michigan borders my district, the Third District of Indiana, and we would try to find a spot in the sand to spread beach towels where there were not dead fish and dead seaweed and trash and all kinds of problems from Lake Michigan washed upon the shore. It was difficult to do it. Certainly we did not compete much with other people trying to go swimming or catch some sun.

We had huge difficulties with pollution on Lake Michigan. Now it is beautiful. The water is clean. We have festivals and fishing exhibits. We have all kinds of development. We have boating. We have condos and houses springing up along Lake Michigan is my district.

What we need to do, ladies and gentlemen, is come up with a common sense bill that does not swing so far to the left or to the right but comes firmly down in the middle to protect our clean water, to encourage business, to encourage a strong economy and to encourage a clean water future for our children.

I talk about the Great Lakes and Lake Erie as a great example of this. Twenty years ago, people used to joke about lighting Lake Erie on fire or walking across Lake Erie. Now they have built a brand new baseball stadium that is the pride of Cleveland that has a view of Lake Erie that has brought back the city.

The Clean Water Act has been part of that. Now, certainly, we can say that there are a great deal of problems with the Clean Water Act. They did not use, they have not used enough common sense. They have been too prescriptive in a lot of ways, especially in the wetlands where I hear from my farmers time in and time out, day after day, and what we try to do with this legislation, we try to keep about 70 percent of 961 and we try to come up with commonsense solutions on wetlands and other areas and incorporate that to improve this bill.

I have been on farms in my district where a farmer says to me, he has taken a backhoe in his back yard and accidentally broken some tile, and then the Federal Government wants to come along and say, "This is a wetlands. I am sorry, Harry, this is our land."

Our legislation gives the property right to the owner. We do want to make sure that that farmer has the privilege and the right to protect his land.

But we also want to attain a balance of not taking away 60 or 70 percent of the wetlands in this country.

I would also like to talk a little bit about the economy and businesses. A small business owner in my district who employees 700 people in four different plants was in my office. He said, "I strongly support the Saxton-Boehlert-Roemer substitute. I belong to the chamber of commerce. I belong to the host of business organizations, but I manufacture small boats and employ 700 people. We cannot roll back legislation that protects clean water. We need a fair compromise here." That is what this substitute achieves. It does not do it by achieving Washington standards on our wetlands solution.

We say that the National Governors' Association should develop the answer. They have simplified the permitting process and expanded the role for State wetland managers, moving the decision process directly to the local level. We have adopted the State solution.

I encourage my colleagues, for the sake of common sense and bipartisanship, to support this Saxton-Boehlert-Roemer substitute.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose the substitute amendment and in support of H.R. 961, and make no mistake about it, this substitute is being presented as a middle-of-the-road compromise, but it is much more than that.

Basically, it returns the status quo. It really retains many of the provisions in the existing law that have been the source of most of the objections and criticisms that we have seen come against the Clean Water Act.

In the time that I have been in the House, I think it has become very clear to me this institution as an institution resists change. It is reluctant to embrace change, is reluctant to recognize that times change and that, therefore, legislation needs to be fashioned to meet that change. It really is my belief that some of the opponents of the committee's bill and the supporters of this bill fear change, because it represents change in doing business by removing highly prescriptive, top-down federalism which is now integral to virtually all environmental programs that we have dealt with over the years.

This bill, I think, represents for the first time in recent memory the Federal Government will cede, this is almost unheard of, will cede some authority in the environmental arena to State and local government, giving them greater latitude to provide solutions to vexing pollution problems.

What the opponents of the committee bill and the proponents of the substitute choose to ignore rather artfully, I would have to say, is H.R. 961 does not turn back the clock on environmental standards. It does, in fact, lateral some of the responsibility and sets the stage for implementing locally designed solutions. And is that not what really we heard in the election last year, that people are crying out for the opportunity to use their own creativity to come up with solutions to unique problems? We are not talking about eroding or cutting back standards. We are saying give localities the ability to deal creatively with their own problems.

Environmentalists, the more rigid environmentalists, embrace the current program because it has worked and worked rather well these past 23 years. But I think in the face of vastly changed circumstances which we have now, they are unwilling to cede to State and local governments any degree of autonomy as we move to address more complicated and difficult problems, and they are unwilling to embrace innovative approaches that may achieve comparable or better cleanup standards at significantly lower costs.

Bear in mind, Mr. Chairman, that when the clean water program was first established, the national deficit was a mere fraction of its current size, and the Federal Government was at that time handing out huge grants to pay for up to 80 percent of the construction costs. Those days are long gone, have been gone forever. Today the market is radically different. The chief distinction being the elimination of the grants, as I have said, and communities now contemplating construction of wastewater plants are generally very small, secondary treatment standards are high, and the cost of technology has gone through the roof.

These small communities, in my congressional district, are emblematic of others around this country. This results in a very serious affordability problem.

Earlier this year the Congress, I think, recognized the tough financial challenges which face our communities when it passed the unfunded mandates legislation which I had the honor to bring to the floor saying we are no longer going to impose new requirements without providing resources to pay for them, a very simple proposal, but one which we, frankly, had difficulty even getting consideration for in this Congress.

This bill, the committee bill, is consistent with this public law by increasing the Federal contribution to State revolving funds and giving greater flexibility to States and localities to comply with the Clean Water Act, and I think that, to me, is the most critical part of this legislation, the fact that it does provide flexibility for the first time.

Take a close look at those who support and those who oppose the committee bill. Groups favoring the bill include many associations, as we have heard, representing State and local governments. Those opposed are nonprofit associations, environmentally oriented, nonprofit associations. State and local governments do not want to turn back the clock on environmental cleanup, and I think that is implicit perhaps in some of the dialogue we have heard today that somehow the States and local governments cannot be trusted, that they are going to insidiously subvert all the efforts made over the years to clean up, but State and local governments merely want a greater voice in devising cost-effective solutions.

□ 1615

Mr. Chairman, I would urge opposition to the substitute amendment.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. CLINGER] has expired.

(At the request of Mr. BOEHLERT and by unanimous consent, Mr. CLINGER was allowed to proceed for 2 additional minutes.)

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. Mr. Chairman, I say to the gentleman thank you for the time. Let me complete my statement, and then I'll be happy to yield.

I would just stress that we think it is of interest. I think that for the first time we are really going to have some consideration for what are the compliance costs, what does it cost to carry out the number of the mandates that we have had in the past, but I think that the environmental community, which has never shown too much concern or interest in, frankly, what the costs that we have imposed on the communities would be, I think would still rather straitjacket small communities insisting that they adhere to a national prescribed program specifically detailing in detail precisely how each community must meet the requirements without with regard to the financial consequences borne by the rate of players, and for that reason I would again oppose the amendment.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, my colleague points out that the bill will not turn back the clock. I would point out that the bill, as reported by the Committee, would repeal the storm water section. The bill would repeal the coastal zone section.

I would also point out that we recognize that there are a number of provisions in existing law that need to be addressed and some changes need to be made. That is why the Saxton-Boehlert-Roemer substitute has 70 percent of the language identical to the committee bill, because we do recognize some changes are in order. But we want to do it in a commonsense way, not just throw out everything in the name of flexibility, and I could not agree more with the gentleman, that we do want to give the Governors more responsibility. That is why our section on wetlands totally embraces the proposal advanced by the National Governors Association. That is why our section dealing with coastal zone management totally embraces the language advanced by the Coastal States Organization which represents 30 States and 30 Governors.

Mr. BORSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to express my support for the substitute offered by the gentleman from New Jersey.

I congratulate the gentleman from New Jersey [Mr. SAXTON], the gentleman from New York [Mr. BOEHLERT], and the gentleman from Indiana [Mr. ROEMER] for their work on this substitute which gives the members of this House a true choice.

The substitute makes practical and commonsense changes to the Clean Water Act while maintaining environmental protection.

H.R. 961 reverses 20 years of environmental progress.

The committee bill simply rolls back the Clean Water Act with waiver piled on top of exemption piled on top of loophole.

H.R. 961 would stop the cleanup that has taken place for 2 decades. It would not maintain current national water standards.

The committee bill has one purpose and one purpose only—to allow more pollution in our Nation's rivers, lakes and streams.

H.R. 961 weakens the requirements for industry to treat its discharges.

The bill provides far too many chances for local governments to discharge sewage that has not received secondary treatment.

It is waiver after waiver, loophole after loophole.

On top of that, the bill removes protection for 60 to 80 percent of the Nation's wetlands simply by ignoring the scientific evidence and redefining wetlands.

The authors of this bill couldn't even wait for the National Academy of Sciences to finish its study of wetlands which was released yesterday.

H.R. 961 simply tells us what a wetland is, regardless of the scientific evidence. Next, it will tell us the world is flat.

H.R. 961 also rejects the advice of the Coastal States Organization and repeals the Coastal Nonpoint Pollution Program—the one effective non-point pollution program we have.

The substitute has none of the weakening provisions of the committee bill.

It does provide needed flexibility in changes in the State Revolving Loan Fund Program.

It makes the changes in the Coastal Nonpoint Program that were requested by the Coastal States Organization.

It proposes language on wetlands and watersheds requested by the National Governors' Association with additional changes—changes that were included in H.R. 961—to help the Nation's farmers.

This substitute will restore reason and common sense to this process.

The substitute will make many of the changes that are needed in the Clean Water Program.

What it will not do is roll back clean water standards.

For anyone who wants to continue an effective Clean Water Program, this substitute should be your choice.

I urge support of the Boehlert-Roemer-Saxton substitute.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on behalf of business, and industry and farmers in Upstate New York where I come from, I rise in the strongest possible opposition to the Boehlert amendment.

As my colleagues know, a strange thing happened back in 1974. It was the year of Watergate.

Now, Mr. Chairman, there was a big turnover in the House, and a lot of people were elected. They, unfortunately, were not businessmen. For the most part they were lawyers. There is nothing bad about lawyers, but most of them were lawyers, or professors, or professional politicians or bureaucrats. They came in, and they took over this place, and they proceeded over the next 5 or 6 years to ramrod through legislation, as my colleagues know, creating the Department of Education, the Department of Energy, and vastly expanding the Environmental Protection Agency, the Army Corps of Engineers, and they brought the economy in this country to a standstill.

In upstate New York, Mr. Chairman, our people have been persecuted by these regulations. We are the most overtaxed, overregulated State in the Nation, and today they are about to get a little relief. I was sitting in my office because we do not have a Committee on Rules meeting today, which normally I spend all day there, and have to come back at 8 o'clock at night and work for 4 or 5 hours to get caught up. But today I was going to get caught up during the daytime, and I heard a lot of these people, still here from maybe that Watergate class of 1974, but a lot of later ones, too, coming from New York City, some of them, a lot of the metropolitan areas. They are talking about the dirty polluters and how this Boehlert amendment is going to stick it back to them again. We are not going to put up with those dirty polluters, they say.

Mr. Chairman, let me just read briefly this letter from these dirty polluters. They are my constituents.

The New York State Corn Growers Association, some of the most admirable people in America, the Dairy League Cooperative, New York Farm Bureau, the New York State Grange; these are people who have volunteered their lives for their communities, not only in military service, but in Little League and Boy Scouts. These are the dirty polluters. As my colleagues know, I could go on and read all of these names from all of these organizations, but they oppose the Boehlert amendment because they want change. They want to be treated like decent human beings, and they have not been for a long time now. When Ronald Reagan came into office, he could not change things back then because all the laws were in place. We could not change these laws because this House was controlled by the far left. We lost in 1974, lost a lot of good Democrats, too. As you know, we had a lot of good conservative Democrats controlling committees in those days. Now they are all gone, and all we had left in control before last November was the far left of the Democratic Party which would not allow us to make these changes. We could not put through risk assessment and cost-benefit analysis for regulations. We could not pass a balanced budget amendment and line item veto because we could not even get it on the floor of this House.

Well, we have our chance today to make vital correction, and that is why we need to defeat the Boehlert amendment, and we need to pass the committee reported legislation which is supported by all of these people.

Mr. Chairman, I insert for the RECORD letters in support of the original legislation and against my good friend's amendment:

MAY 10, 1995.

Hon. BUD SHUSTER,
Chair, House Transportation and Infrastructure Committee, Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Agriculture in the State of New York is alive and well. We are a leading producer of many fruits and vegetables, as well as being the nation's third leading dairy state. Once concern which crosses all commodity lines is the fate of the Clean Water Act. We have watched the debate in the House Transportation and Infrastructure Committee with interest. After careful review, we, the undersigned representing all facets of production agriculture and agribusiness in the Empire State, fully support the provisions of H.R. 961.

This bill embraces a spirit of bipartisan cooperation much like we have seen develop in New York to address non-point source water pollution. Voluntary, incentive based programs which are watershed specific will be successful if given the opportunity. Also included in this bill is an improved wetlands definition. It assures the farmer gets fair and prompt wetlands decisions and compensation when regulatory decisions devalue property.

Thank you for your leadership in bringing this bill to the floor for a scheduled vote May 12th. Again, we support H.R. 961 in its current form and do not support attempts by any member of congress to make significant modifications.

Sincerely,

Agway, Inc., Stephen Hoefer, Vice President; NYS Corn Growers, James Czub, President; Dairylea Cooperative, Inc., Clyde Rutherford, President; New York Farm Bureau, John Lincoln, President; New York State Grange, William Benson, Master; Empire Farm Credit, Robert Egerton Jr., President and Chief Executive Officer; Pioneer Farm Credit, William Lipinski, President and Chief Executive Officer; Farm Credit of Western New York, Robert Kesler, President and Chief Executive Officer; Milk Marketing, Inc., Eastern Region, Joseph C. Mathis, Assistant General Manager.

THE AMERICAN FARM
BUREAU FEDERATION,
Washington, DC, May 4, 1994.

Hon. NEIL ABERCROMBIE,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ABERCROMBIE: The American Farm Bureau Federation wants to reiterate our strong support for H.R. 961 as reported from the Committee on Transportation and Infrastructure. This bill strengthens efforts to address our remaining water quality problems and establishes a much needed common-sense approach to wetland regulation.

We are strongly opposed to the Boehlert-Shays-Saxton substitute and any similar amendments that would roll back the bipartisan and popularly backed wetland reforms contained in this bill. Such amendments would perpetuate the current bureaucratic and regulatory maze that has burdened agriculture and many other segments of society for years.

We consider the defeat of these hostile amendments to H.R. 961 to be key votes of the highest priority for farmers and ranchers.

We appreciate your support and commitment to the long-sought reforms contained in this important legislation.

DEAN R. KLECKNER,
President.

MAY 3, 1995.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The undersigned agricultural, agribusiness and soil and water conservation organizations wish to express our strong support for H.R. 961, The Clean Water Amendments of 1995, approved by the House Transportation and Infrastructure Committee on April 6, 1995. Our Community of interests has a direct investment in protecting water quality. Under your able leadership, H.R. 961 was passed with strong bipartisan support, 42–16. We are urging your colleagues to vote in favor of H.R. 961 when it is considered by the full House beginning May 10.

This bill strengthens efforts to ensure clean water and to address remaining water quality problems by stressing state and local leadership, as well as voluntary, incentive-based solutions to nonpoint source, stormwater and watershed planning. The top-down, command and control methods of the last twenty-five years do not hold the solutions to our nation's remaining water quality problems. We commend Chairman Shuster and the bipartisan supporters of H.R. 961 for their leadership and consensus building process in advancing a more workable and constructive approach to achieving water quality success. These reforms help agriculture and rural communities achieve clean water goals without putting them out of business.

H.R. 961 is a reasonable and cost-effective approach to addressing water quality challenges. The bill provides common sense water quality policies based on a prioritized, risk-based strategy. It establishes clear goals for nonpoint source pollution for the first time and empowers states to establish partnerships with private landowners to address impaired waters through more flexible and cost-effective means. The legislation strengthens the nonpoint source program and encourages watershed planning through voluntary incentives, not federal mandates.

The bill also provides new resources to States for carrying out their Clean Water Act responsibilities. Major increases in funding for nonpoint source, state revolving funds, and other programs are necessary steps in continuing our efforts to improve water quality.

H.R. 961 also contains positive tools to help the agricultural community meet its water quality responsibilities. The bill provides incentives to individuals to implement site-specific water quality management plans. This legislation also includes significant wetlands policy reforms that are extremely important to agriculture. Written into the bill is an improved wetlands definition. The bill gives sole authority to the Secretary of Agriculture to delineate wetlands on agricultural lands. H.R. 961 assures the regulated community gets fair and prompt wetland decisions and compensation for landowners when regulatory decisions devalue property, consistent with the House-passed property rights legislation.

Again, we thank you for your strong leadership on this important legislation. H.R. 961 reflects water quality policy principles our organizations adopted by consensus well over a year ago. These principles, and the related provisions found in H.R. 961, will provide farmers the opportunity they desire to help address our nation's remaining water quality problems. The attached provides additional points on H.R. 961 from our perspective.

Sincerely,

AgriBank, FCB; Agricultural Retailers Association; Agway, Inc.; American Association of Nurserymen; American Crop Protection Association; American Crystal Sugar Company; American Farm Bureau Federation; American Feed Industry Association; American Sheep Industry Association; American Soybean Association; Apricot Producers of California; CENEX, Inc.; CF Industries, Inc.; ConAgra, Inc.; Countrymark Cooperative, Inc.; Egg Association of America; Equipment Manufacturers Institute; Farm Credit Bank of Wichita; Farmland Industries, Inc.; International Apple Institute; Maine Potato Growers, Inc.; MBG Marketing; MFA Incorporated; Milk Marketing Inc.; Minnesota Association of Cooperatives; National Association of State Departments of Agriculture; National Association of Wheat Growers; National Barley Growers Association; National Broiler Council; National Cattlemen's Association; National Corn Growers Association; National Council of Farmer Cooperatives; National Grain and Feed Association; National Grange; National Milk Producers Federation; National Potato Council; National Pork Producers Council; National Turkey Federation; National Water Resources Association; Riceland Foods, Inc.; Southern States Cooperative, Inc.; The Agricultural Council of California; The Fertilizer Institute; Tree Top Inc.; USA Rice Federation.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York, my very good friend.

Mr. BOEHLERT. I want my colleague to know that I am just as sensitive as he is to the plight of America's farmers. That is why, as the chairman of the northeast ag caucus, I have worked for 10 years to protect the interests of the farmers. That is why our bill includes, our substitute, not just BOEHLERT'S, SAXTON and ROEMER, the same exemptions for agriculture as does the committee bill. That is why we have added in committee a $500 million provision per year for nonpoint-source pollution, because our farmers are sick of sanctimonious sermons. They want some assistance. They are responsible stewards of our land but they need some assistance as they deal with best management practices and the type of thing that they need to have to get on with the job because they are responsible stewards.

Mr. SOLOMON. Reclaiming my time, that is enough. Reclaiming my time, the gentleman's heart is in the right place, his legislation is in the wrong place. That is why all the dairy farmers and the apple growers oppose the gentleman's legislation and support the position of the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I want to make the point that, if this is so good for the farmers, why are the farmers all opposed to it?

Mr. SOLOMON. They are not just opposed, they are vehemently opposed, and they want this legislation to pass.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

It has already been stated, but let me make it clear again. This amendment deletes property rights compensation from the bill.

I will say it again. It deletes property rights compensation from the bill, so that whatever one believe about wetlands management and wetlands regulation, if they believe that people ought to be compensated when their property is taken because of a wetlands regulation, they ought not vote for this amendment. This deletes it.

Second, it deletes risk assessment cost-benefit analysis. Many of you voted for this principle on the House floor in days gone by.

I say to my colleagues, if you believe in that principle, why would you support an amendment that deletes it from wetlands management and wetlands regulation? Little inconsistent, I would suggest. But let me give you some other reasons why you ought to oppose this amendment.

This amendment, unlike the original bill, literally takes the science academy scientific definition of wetlands and makes it the regulatory definition. I say to my colleagues, now, if you read the academy report, the academy report said this is how we think you ought to scientifically define wetlands, but how you ought to regulate them, which ones you ought to regulate and how in the public policy, is a political decision we can't make. You need a referenced decision. Here is one. Here is the definition, but then you decide on policy on how to regulate.

This bill will in fact mandate that the manuals adopt the scientific definition which, by the way, is the current kind of definition that is causing the problem in America today, definitions that talk about hydrology and vegetation and sometimes have very little to do with the real functional aspects of the wetland that is to be regulated.

Third, this bill not only does not compensate someone when the Government regulates your property away. This amendment says that you will mandatorily be required to mitigate in all cases where permits are granted and wetland functions are disturbed. In effect this bill mandates that in every permit given in this regulatory regime set up under this massive new Federal coordinating agency, that in every case the landowner is not only not going to be compensated for the taking of his property, he is going to have to pay for the privilege of being regulated and, in fact, lose the use of this property in every case where a permit is granted.

Imagine that. Not only does this amendment destroy the property rights provisions that my colleagues, and I, and 72 Democrats and almost all the Republicans joined in supporting just in the last hundred days, but it turns it on its head and says that:

> If you're granted a permit, not only will we not compensate you for any loss of value that may be a part of the limitation under that permit, but you're going to have to compensate the government and the public at large for the fact that you've been granted a permit.

Now the amendment goes on. It is even worse. When it defines what is a fill of a wetlands, this really gets good. The definition of a fill of a wetland now includes under this amendment the cutting of vegetation, cutting the grass. Cutting the grass on a lot that they are going to describe as a wetland is now filling a wetland under this definition.

□ 1630

Protecting the vegetation now becomes a part of this wetlands protection program. You think you have problems with the Corps of Engineers today? You think you have problems with the EPA today, who works in cooperation with the environmental groups who support this amendment, going so far as to send them information that is confidential and illegally distributed, as I demonstrated on the House floor last night? You think you got problems with an agency out of control like that? Wait until you see an agency with the power to say we can regulate your grass cutting in America. We are going to go that far. That is the kind of amendment you fellows want to support on this side. That is the kind of amendment you want to support on this side.

Shame on you. If you think you have problems with regulations today, imagine, envision a situation where the scientists, not policymakers, not the Congress, the scientists say what is a wetland, what is going to get regulated. If you get a permit, you have to pay the Government for getting that permit. You do not get compensated for the loss of your property. And if you dare cut your grass without a permit, look out. That is a filling of a wetland under this definition.

This amendment creates a whole new regulatory authority to monitor all decisions, to coordinate not only wetlands regulations, but all flood control, all water management decisions, on a State and local and regional basis, and it creates it under authority that, as I pointed out to you, destroys property rights.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Mr. Chairman, it destroys property rights provisions, eliminates risk assessment cost-benefit analysis, turns it on its head, and forces you to pay the Government to get regulated. What a beautiful amendment. Anybody that votes for this better not go home.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, I would like to ask the gentleman, I agree that scientists and researchers should not dictate policy for the United States. But if we are going to make policy, we ought to know what the scientists say what a wetland is.

Mr. TAUZIN. Mr. Chairman, reclaiming my time, the scientists in the study told us what they think a wetland is. Read the report carefully. This is a reference definition. We are not telling you to regulate all the wetlands.

Mr. GILCHREST. The scientists recommended we go on a region-by-region basis. Your bill does not do that.

Mr. TAUZIN. Let me complete the answer, please. The academy said this is a reference decision, a scientific decision. We are not telling you you ought to regulate all these wetlands. Your amendment says regulate all them if they meet the reference definition criteria. This amendment ought to be defeated.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I certainly rise in strong support of the substitute amendment. I might just say in comment to that last interchange, I would suggest that we are not here today to pass a know-nothing piece of legislation. We should be here today passing legislation based on the 20 years of experience, more than 20 years of experience, that we have had, so that we can look at the successes of the past 20 years and correct the errors of the past.

I believe that is exactly what the Saxton-Boehlert-Roemer substitute does. It takes the best of both worlds. It does not say we are going to take two steps backwards instead of two steps forward. That is exactly why I am supporting it today. We must strive to maintain those aspects of the law that have proved clearly successful over the past 20 years and apply what we have learned in 20 years to the present situation. That is exactly the merit of this particular legislation.

With or without the dispute about what the National Academy of Sciences does or does not do, I think the best of the National Academy of Sciences wisdom is incorporated in this amendment and used to supplement it.

I also want to point out from the point of view of the State of New Jersey, but I think New Jersey's experience and concerns are equal in many other States, I want to point out that this is a very serious issue in the State of New Jersey, particularly the State which is the most densely populated State in the Nation and is clearly a coastal State. I think the committee bill proposes a much narrower definition of wetlands, and consequently large tracts of valuable wetlands will lose their protection in the State of New Jersey.

As has already been documented by my colleague, the gentleman from New Jersey [Mr. SAXTON], upwards of 80 percent of existing wetlands in New Jersey would face a changed status, and this would have a very serious detrimental effect on the quality of life and the drinking water quality for all of our citizens. The gentleman has laid that out for us.

It seems appropriate to me that we should take the advice of the experience of the last 20 years and apply it.

Second, as the gentleman from New Jersey [Mr. SAXTON] also carefully documented in his opening statements, the committee bill's language regarding nonpoint source pollution represents a dramatic change in existing policy that a coastal State like New Jersey simply cannot afford to endure.

These changes would bring significant negative economic impacts not only to New Jersey, but those negative impacts would apply to all coastal States. I suggest that my colleagues pay close attention to the problems of the Coastal Zone Management Act that Mr. SAXTON has already pointed out.

Third, the committee bill section on dredging is of some great concern to those of us in New Jersey, as I know it is to Representatives of other adjoining States. Although I know that some of our New Jersey people have been working on adjustments in the committee print, or the mark, on that subject, it is my understanding they are grossly inadequate to the standards that we want to see maintained in New Jersey.

In conclusion, I simply want to again endorse strongly this substitute amendment that we have before us.

Mr. Chairman, I rise in support of the Saxton-Boehlert-Roemer substitute amendment to H.R. 961, the Clean Water Acts Amendments of 1995.

Given that it is now more than 20 years after the original Clean Water Act was written, we must modify and improve this pivotal environmental law based on our experience and the documented successes of the period.

Mr. Chairman, this must not be a one step forward/two steps back exercise.

In updating the Clean Water Act, the Congress should strive to fix shortcomings of the existing program, without jeopardizing the progress that the United States has made in cleaning-up our water supply, at the same time we strive to maintain those aspects of this law that have clearly been successful. And that is what the Saxton-Boehlert-Roemer amendment does.

After reviewing the Public Works and Infrastructure Committee's version of H.R. 961, and consulting with the State of New Jersey's Department of Environmental Protection [DEP], I cannot supports its passage, in its present form.

In several areas, this legislation poses a serious threat to the State of New Jersey and its own efforts to carefully manage our water supply and environment.

First, the committee bill is proposing a new, much narrower definition of "wetlands". Consequently, large tracts of valuable wetlands will lose their protection, and could be vulnerable to development. According to some estimates, upwards of 80 percent of the existing wetlands in New Jersey would face a change in status under the committee's new language. And this in New Jersey the most densely populated State in the Nation which means that this would have a negative detrimental effect on the drinking water quality of our citizens.

On the other hand, the Saxton-Boehlert-Roemer alternative uses the definition of wetlands being proposed by the National Academy of Sciences which studied this issue exhaustively, and just released its recommendations to the Congress yesterday.

It seems appropriate to me that, on issues of considerable controversy and complexity, such as wetlands policy, the Congress can, and should, defer to nonpartisan scientific recommendations such as these.

Second, as my colleague from New Jersey, Representative SAXTON, has documented, the committee bill's language regarding nonpoint source pollution represents a dramatic change in existing policy that a coastal State like New Jersey simply cannot afford to endure. The committee bill, for example, repeals current requirements on States to implement aggressive programs to contain run-off from farms, land-use or cities. These changes would bring significant negative economic impact.

The Saxton-Boehlert-Roemer alternative contains language that basically reauthorizes the current Coastal Zone Management Act, which has worked well in helping States like New Jersey address the serious problems associated with run-off. This is of significant economic importance to New Jersey and to all coastal States.

Third, the committee bill's section on dredging is of some concern to the State of New Jersey. I know that some of my colleagues from New Jersey have been working with the committee on this portion of the bill, but I understand that our State remains concerned about how the committee bill's language would impact on its dredging program.

Before concluding, I would also note that while the Saxton-Boehlert-Roemer substitute differs from the committee bill in these specific respects, it has retained large segments of H.R. 961. For example, titles I, II, V, VI, Vii of the alternative are identical to the committee's proposal.

In conclusion, I will be supporting the Saxton-Boehlert alternative and urge all of my colleagues in the House to join me in working together to protect our water supply and environment, while providing State and local officials with some much-needed flexibility in doing so.

Mr. ROEMER. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I do not see the gentleman from Louisiana on the floor, but I did want to just briefly respond to a little bit of what the gentleman was saying.

In our substitute on page 130 there are exemptions on the wetlands and activities that do not require the permits, and in general this section reads:

> (A) . . . Activities are exempt from the requirements of this section and are not prohibited or otherwise subject to regulation under this section . . . if . . . (i) result from normal farming, silviculture, aquaculture, and ranching activities and practices, including but not limited to plowing, seeding, cultivating, haying, grazing, normal maintenance activities, minor drainage, burning of vegetables in connection with such activities, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices . . .

We are not trying to say what will take place when somebody cuts some grass. We are exempting many of these things. There are these exemptions on the permits.

Mrs. ROUKEMA. I know. The scare tactics do not hold up under close examination.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the substitute. Of course, I want to commend Mr. SAXTON and the other cosponsors of this substitute. I think it is important Mr. SAXTON mentioned in the beginning that this substitute adopts 75 percent of the draft of the gentleman from Pennsylvania, Mr. SHUSTER.

So those who think that somehow the substitute is a radical document that is significantly changing the bill are wrong. But the substitute does make four major changes in four major areas to the substitute that I think are necessary in order to protect the Nation's water quality.

With regard to wetlands, if I could go through the four, with regard to wetlands, it is a significant change for the better. As was mentioned, the bill itself classifies wetlands and specifically provides the takings language that has been looked at in this House before. I would submit that by doing the classification in the bill, you eliminate a significant amount of the Nation's wetlands, as well as wetlands in New Jersey, from any kind of supervision or any kind of regulatory process, and essentially you gut some of the wetlands protection that exists under the Clean Water Act.

The substitute by contrast does not include the classification system, does not include the takings language, and actually encourages States to get more involved in wetlands protection and taking over Federal regulatory authority.

Some of you know, I think, in our own State of New Jersey the Federal Government has actually approved New Jersey's wetlands program. This substitute would encourage that kind of delegation to the State and in effect encourages moving away from Federal regulatory control.

With regard to the nonpoint source pollution under the Coastal Zone Management Act and storm water discharge, in both cases the existing statute provides for mandatory program and States are moving in the direction of providing adequate nonpoint source pollution programs, also storm water discharge programs.

This bill that we have before us today would change the existing law and move essentially towards a voluntary system. A voluntary system will not work. Some States will adopt it and other States will not. We will not have a consistent program around the country to protect against nonpoint source and storm water discharges.

Last, Mr. Chairman, I would like to talk about the dredging provisions, because they are important. The bill right now changes the current Clean Water Act by essentially taking EPA out of the role of dealing with dredging of contaminated materials and disposal of contaminated dredge materials. I think that is wrong.

Essentially what the committee bill, or the committee mark does is to say that the Army Corps can provide and decide when contaminated dredge materials will be disposed, where they will be disposed, and also allows the Army Corps to provide for waivers against the very criteria that the corps might establish for disposal of contaminated dredge material. I think that that is wrong.

The EPA is our Environmental Protection Agency. The EPA should be involved in deciding whether or not we are going to have sites for disposal of contaminated dredge materials and where those should be and when it should be permitted and certainly when those waivers should be granted.

If you look at this substitute, it really makes some significant changes in these four areas, which are vital and increasingly more important to preserving our Nation's water quality, because as we know, the point source pollution increasingly has been dealt with. Our Clean Water Act has dealt with point source pollution, and we have made significant progress on that.

When you talk about wetlands preservation, nonpoint source, storm water discharge, these are the areas over the next 5 or 10 years where we need to make significant progress on trying to improve the Nation's water quality. If we move toward a voluntary system and get our EPA out of the process, if we declassify wetlands so that much of the wetlands of the Nation is no longer provided or included under any permit program, we are not going to see the goals of fishable and swimmable waters under the Clean Water Act met over the next decade or the next 20 years.

So I wanted to say how important I think it is for all of us to support this substitute. It is a bipartisan substitute, and the sponsors have really crafted some excellent legislation.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition this afternoon to this substitute that has been offered. Basically, I have one reason for opposing this substitute, and that is because it only destroys all the work and effort that I have tried to bring to this Congress in the area of using cost-benefit analysis and risk assessment.

I think if we take a minute and look back and reflect on the last election, you had the people of this country making a statement, and that statement that they made was a very clear statement that they did not want business as usual in the House of Representatives; that they did not want regulation as usual in the Congress of the United States or in its agencies. What they wanted was a change, a different approach.

You know, last year on the floor of the House of Representatives, and I served in this House and I will tell you it was run under a rather oppressive regime, because I tried to bring up cost-benefit analysis on the floor and it was denied, and it was denied in committee to give cost-benefit analysis and risk assessment an opportunity, it was denied in the Committee on Rules upstairs to give this an opportunity. We brought the issue before the House on February 2, and what happened? The entire House rebelled because we had an opportunity to bring up the question of cost-benefit analysis and risk assessment and applying it to regulations and to the biggest regulatory agency in the Federal Government, the Environmental Protection Agency.

□ 1645

And this entire House of Representatives, bucking the Vice President of the United States, bucking the Speaker of the House, bucking the committee chairman, bucking the House leadership, came out there and voted down that rule. That was the beginning of the change. It was the beginning when people started to say, Let us make some common sense out of the way this Congress and this Government imposes regulations on its citizens.

This substitute wipes out risk assessment, cost-benefit analysis. So what are we doing here? What progress have we made? Are we prepared to set back the clock on regulatory reform? And then under the Contract With America, the Members came out here, bipartisan, and the vote was, what, 1286 to 141. And if my math is correct, that is a bipartisan vote. They supported the cost-benefit analysis provisions and risk assessment provisions that are in this legislation.

So are we prepared this afternoon and in this legislation to wipe out all our progress, to say regulatory reform that the people have demanded and this Congress has demanded and the Members have voted on, is it time to wipe that out?

So there is only one problem with this bill. It wipes out everything we have done. It wipes out regulatory reform. It wipes out cost-benefit analysis.

Let me tell you what else it wipes out. I want to tell you, the other day I went to a grocery store and I met a gentleman. His name, I think, was Chuck. He was working behind the counter and I was buying a few items.

And Chuck said, "You are my Congressman. Mr. MICA, I want to tell you, you all are doing a good job."

I said, "Do you have any message? What would you like to see us do?"

He said, "Mr. MICA, there is just one thing I would like to see the Congress do." He says, "Use common sense."

That is what this legislation proposes, common sense, that we look at the costs, that we look at the benefit and we use risk assessment.

This amendment wipes all that out. It wipes out the hope of that gentleman, hundreds and thousands of Americans who sent to the polls and said, there needs to be a change in the conduct and the way this Government conducts its business.

So we have an opportunity. We are not going to throw out regulations. This bill does not throw out any regulations. It does not destroy the environment. It does not harm the environment. It does not do anything bad.

What it does is says, let us look at the costs. Let us look at the risks. Let us look at the benefits. Yes, indeed, my colleagues, we have had years to look at this. We have seen every county, every city, every State has said, let us make a change. They support the change that is advocated on a bipartisan basis by our committee.

So we can come out here and we can vote to set the clock back. We can return to the time of yesterday when we overregulated, when we put people out of jobs, when we put people out of business, when we lost our competitiveness stance, or we can make some progress and we can pass this legislation as it is proposed, without accepting this substitute, without going back and without destroying the progress that this Congress has made, both in the Contract With America and in every successive vote on the question of cost-benefit analysis and risk assessment.

There is only one thing wrong with this amendment and this proposal and this substitute. In fact, it destroys everything that we stand for as far as this Congress, everything we voted for, the 286 Members who supported regulatory reform, the successive votes that we have had in this Congress and the will of the American people.

I urge my colleagues to defeat this substitute, to enact the bill without changes, that we have a bipartisan agreement, that we have cities, counties, States, local government, associations and a broad base of support for what we are trying to do. And what we are trying to do is to do one thing, and that is what Chuck asked us to do, bring common sense to this process.

The CHAIRMAN. For the Members' understanding, this Chair will follow the precedent that members of the committee receive priority recognition and will go in that order.

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly must oppose the substitute to H.R. 961 offered by Mr. SAXTON and Mr. BOEHLERT—two Members of Congress who are dedicated and sincere in their efforts and support for clean water programs.

Many of the provisions in the substitute are laudable and certainly deserve support. It is what is not in the amendment which is the problem. Unfortunately, many of the provisions of H.R. 961 which I believe make meaningful and significant reforms to the Clean Water Act are not included in this substitute.

For example, this substitute does not contain the stormwater program reforms which are found in section 322 of H.R. 961.

There is little dispute that the current stormwater permitting program simply does not work and hasn't since the day it was enacted. H.R. 961 corrects this problem by treating stormwater runoff as runoff—and not trying to regulate discharges through cumbersome and confusing permits. Instead, States will have a variety of tools—including site specific permits if necessary—which can be used to fashion a program that will be more effective and cover more facilities than is possible under the current program.

The stormwater provisions in H.R. 961 were developed with the close cooperation and consultation of the States and cities which are, after all, responsible for implementing the program. They support this new approach to stormwater control.

Let me also briefly mention one other area which has generated a lot of discussion over the past few weeks—that is the repeal of section 6217 of the Coastal Zone Act Reauthorization Amendments and the incorporation of certain successful elements of that coastal program into the nonpoint source program.

Over the past several years, I have spent many hours listening to various officials from my State of Wisconsin expressing their concerns about this program. In fact, Wisconsin may even pull out of the program because they just don't think it is worth it.

The Wisconsin Department of Natural Resources supports the repeal of section 6217. The secretary of the department sent a letter to me a few weeks ago which includes this statement about H.R. 961:

> We also support the elimination of the coastal non-point pollution control program contained in Section 6217 * * *. With the provisions proposed to be added to Section 319 to provide for protection of coastal waters, Section 6217 is no longer needed. We favor having one non-point source management program in Wisconsin that provides for the achievement of water quality goals in all the waters of the State, including coastal areas.

Again, while I applaud the intentions and sincerity of the sponsors of this substitute, I do not believe their amendment is preferable to the overall approach of H.R. 961, and so I must urge defeat of this amendment.

Mr. TUCKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thought long and hard about this bill that we have before us here today. I have been a member of the committee with jurisdiction over this bill for the last 3 years. I have been a Member of this body. I have seen up close the difference between this bill and the one in the last Congress, the 103d Congress. I know there are a lot of concerns over the issues of nonpoint source pollution, storm water management, wetlands and risk assessment and cost-benefit analyses.

I have heard the complaints from witnesses who have testified in committee hearings. What I am hearing from people across the country, Mr. Chairman, from farmers as well as from business men and women is that the frustration level has reached a peak.

I commend the efforts the present chairman has made, the gentleman from Pennsylvania [Mr. SHUSTER], in addressing many of these issues and many of these problems in his Clean Water Act. I thank him for the good job he is trying to do in trying to bring together many diverging points of view. However, in the final analysis, I submit that it comes down to one thing and one thing only in mind. And that is, does this bill make our water cleaner or not?

On closer examination of this bill, Mr. Chairman, I am compelled to oppose the bill and to support the substitute. Our Nation's rivers, lakes and coastal waters have become cleaner and more fishable and swimmable since the enactment of the Clean Water Act in 1972. That is 23 years of progress toward a better environment for our future, our children's future.

I have heard time and again from my colleagues on the other side of the aisle that we must fight to reduce the budget deficit so that we do not place a financial burden on our children's future or, as it has been commonly coined, so that we do not mortgage our children's future. I think it is equally important to leave a world that is environmentally secure so that we do not give away our children's future.

I think that is imperative. It is imperative that we fix the provisions of this act that have not worked well, but that does not mean reducing standards that have made our waters cleaner. The Saxton-Boehlert-Roemer substitute amendment takes this approach. This substitute is a reasoned approach, fixing the Clean Water Act. It addresses the wetlands issue without putting real wetlands at risk. It is silent on the issue of risk assessment, cost-benefit analysis, contrary to what some of my colleagues would have you believe.

It allows more input at the State and local level regarding decisions on development of wetlands. The substitute provides more flexibility for States under the Coastal Zone Management Act. The substitute would not take away standards needed to keep our fisheries and oyster beds in good health, and it reduces the loopholes and exemptions that allow the release of pollutants into our waterways. There would be a 10-year moratorium on the implementation of any new storm water requirements on smaller communities and light industry, and it provides the much-needed funds to farmers and others who are working hard to control nonpoint source pollution.

Mr. Chairman, in light of all the circumstances surrounding this substitute, I simply wanted to urge a vote for this moderate and what I believe to be a well-reasoned approach, safeguarding our Nation's waterways. A vote for the Saxton-Boehlert-Roemer substitute to H.R. 961 is a vote for safeguarding the clean water of our children, the children who deserve a clean future.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from New Jersey.

Mr. SAXTON. I would just like to commend the gentleman on his very thoughtful and fine statement and we appreciate very much the gentleman's support.

I would just say to the gentleman that he has correctly pointed out, just as we owe our children a legacy in terms of the finances and the way we spend our money today and the way we borrow our money today, we certainly owe our children a legacy in terms of the world and the physical condition that we leave it. I appreciate very much the support of the gentleman.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the alternative. I want to make some comments, first, about wetlands. We cannot preserve clean water. We cannot have fish, we cannot preserve waterfowl and we cannot limit flooding unless we have wetlands. I know the controversy about which wetlands to regulate and which wetlands not to regulate. But if the bill goes through the way it is, we will not have any wetlands to regulate.

□ 1700

Mr. Chairman, there are serious flaws in the lack of science, or the complete absence of science, in the evaluation on how to delineate a wetland. People have been talking about the loss of value to people's property. If we will look at this in a broad sense, the vast majority of people in the United States will have their property value increased as a result of a carefully crafted, well-managed wetlands program. I do not know whose property value would be diminished if we continue to have wetlands.

If Members will look at this map, this is the State of Maryland up here, and this is the Chesapeake Bay. The value of wetlands to the Chesapeake Bay and its watershed in this region that we see on the map is in the billions of dollars. What the wetlands do, they filter out pollution, they limit flooding, they provide habitat for waterfowl, they do a whole host of things that increase the value of people's property in the region of the Chesapeake Bay.

I want Members to look at something. I am going to turn the map upside down. This, as we notice, is the Chesapeake Bay. Here we are in Washington, DC, and this is the Potomac River. We have a lot of development around Washington, DC, and there is much limited development in these other areas, which means they soak up the nutrients, the toxins, the silt that the rain normally washes into the water. We can see we do not have that protection around Washington, DC.

If we look down here in Richmond, VA, nothing against these great communities, if we look in the vicinity of Richmond, VA, we also see the lack of protection, because of the lack of wetlands, and we see the silt going into the water.

Mr. Chairman, I am going to turn the map upside down. I want Members to imagine that this is a root that goes up to the trunk of a tree. When we have a root in the ground, the root absorbs nutrients. It absorbs anything that is in the ground, whether it is water, whether it is water inundated with nutrients, a whole variety of things.

If there is a tree in a wetland, this tree is going to absorb those nutrients before they go anywhere else, and preserve the quality of water where the tree happens to stand, and it could be a forested wetland, or it could be a wetland. If this is a tree, these nutrients that you see pouring into the Chesapeake Bay would not pour into the Chesapeake Bay. This diminishes, right now, because they are not being absorbed, the value of the Chesapeake Bay, and reduces its productivity.

One other comment I want to make about the bill. That is the pure lack of science that is in the delineation criteria for what is a wetland. Right now in the bill, in order for an area to be considered a wetland, it has to be saturated at the surface, that means water ponded on the surface for 21 consecutive days during the growing season, and it has to have hydric soil, and it has to have the wettest of obligate vegetation. That is like a cattail.

In this picture, this area is wet for 21 consecutive days during the growing season, it has hydric soil, but it does not have the third criteria which meets the provisions of the bill to be a wetland, obligate plant species. If that is not a wetland, even if that is wet for 40 days during the growing season, if it does not have that third criteria, it is not a wetland.

There is one other comment that I think is worth mentioning. This is a pond in Nebraska. This pond in Nebraska, and I will show it to the other side, in case they cannot see it there, this is a pond in Nebraska. What it does, it offers habitat for migrating waterfowl. This is not always wet for 21 consecutive days during the growing season, or has obligate wetland species. It has hydric soil. It could be, unfortunately, wet for 20 days during the growing season, 20 days right after the growing season, and even if it had the obligate wetland species, still would not be classified as a wetland.

When we are traveling long distances if we are going on a trip with the family, you have to stop some places. My kids like McDonald's and I like diners, but we generally have to stop to consume a little refreshment. If we lose these wetlands, we lose an awful lot of value to property, we lose a lot of value to this Nation.

The CHAIRMAN. the time of the gentleman from Maryland [Mr. GILCHREST] has expired.

(At the request of Mr. SHUSTER and by unanimous consent, Mr. GILCHREST was allowed to proceed for 2 additional minutes.)

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I would ask the gentleman, is it true that under our bill, Maryland and Nebraska, the two examples the gentleman used, would be totally free to designate the two examples he gives as a wetland and regulate them as a wetland.

Mr. GILCHREST. Reclaiming my time, Mr. Chairman, it is my understanding that the States go by that. Since wetlands are regulated as waters of the United States, and they come under the Federal jurisdiction, the wetland delineation criteria is also used by the State.

Mr. SHUSTER. Mr. Chairman, I would respond to my friend that the law is very clear, and the technical staff tells me that in these examples, the State of Maryland or the State of New Jersey could regulate that land as a wetland under State regulations.

Mr. GILCHREST. Reclaiming my time, Mr. Chairman, even if that is true——

Mr. SHUSTER. It is.

Mr. GILCHREST. As the greatest legislative body in the world, which is the U.S. Congress, I think we should use the best scientific evidence available to determine the delineation criteria for a wetland, which is not the case in this bill now, and once we know the science, which is available to use now, we can make the policy. However, I think we are making policy in the absence of information.

Mr. SHUSTER. If the gentleman will yield further, I would say to my friend what may well be good for Maryland, what Maryland under this bill is totally free to do, may not be good for Arizona or Utah. That is the very reason we say let the States make these decisions. I thank the gentleman.

Mr. GILCHREST. Mr. Chairman, I think the States should have the information that the National Academy of Sciences has to offer to us as Congress.

The CHAIRMAN. The time for the gentleman from Maryland [Mr. GILCHREST] has expired.

(At the request of Mr. SAXTON and by unanimous consent, Mr. GILCHREST was allowed to proceed for 1 additional minute.)

Mr. GILCHREST. Mr. Chairman, I would like to make one other comment on the compensation criteria, which people say is absent in this bill. We already passed a law to compensate landowners for wetlands and for the Endangered Species Act, so putting it into the Clean Water Act I think is totally unnecessary.

I do want to make a comment about compensation and the Fifth Amendment property rights. If your property is taken away for the public good, you are to be compensated. Everybody endorses that. However, if your property is, in my judgment, reasonably regulated to prevent pollution of your neighbor's property or to prevent public harm, compensation in this area is a whole other different story. Should we compensate people to prevent them from polluting? I do not think we should.

Mr. ROEMER. Mr. Chairman, will the gentleman yield on that point?

Mr. GILCHREST. I yield to the gentleman from Indiana.

Mr. ROEMER. I just want to clarify the position of many people who support the substitute, Mr. Chairman. First of all, on risk assessment, if the President signs the legislation, and the Senate passes that, I voted for this legislation that would apply to this bill, as the same with takings. Therefore, just because we do not put every new thing in there——

The CHAIRMAN. The time of the gentleman from Maryland [Mr. GILCHREST] has expired.

(At the request of Mr. ROEMER and by unanimous consent, Mr. GILCHREST was allowed to proceed for 1 additional minute.)

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, it is the strong position of many people who support this substitute that we support such ideas as cost-benefit analysis, risk assessments, and the takings. I was one of the 72 Democrats who voted for that legislation. I hope if those two pieces of legislation pass this body, that we apply both pieces of legislation to this bill and to this substitute, if it passes.

However, to hear other people argue on the floor of the House of Representatives that we have to attach this stuff to every single bill that comes through here would make the case, illogical as it might be, that we have to put the Balanced Budget amendment on every single piece of legislation that goes through here. That is simply not true. Many of us support those ideas and those reforms. I thank the gentleman.

Mr. GILCHREST. I thank the gentleman for his comments, and I urge a vote on the Saxton substitute.

Mr. FILNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support for the Boehlert-Saxton-Roemer substitute. This better, safer alternative represents a moderate, commonsense and bi-partisan—quite frankly, an above party—approach to cleaning up our rivers, lakes and beaches without turning our back on the health and safety of Americans—and it insures that my constituents in San Diego will not have to spend billions to build an unnecessary sewage plant.

Fortunately from a purely parochial viewpoint both H.R. 961 and this safer alternative provide regulatory relief for San Diego and recognizes that our current sewage treatment system adequately protects our ocean. Let me repeat, this means that both bills would remove the requirement that would force San Diego to waste billions of dollars to modify our sewage treatment system.

But with Dan Diego assured of regulatory relief and the savings of billions of dollars, we must also be sure that our drinking water is protected, and that we can fish and swim in San Diego's rivers, lakes and beaches.

Unfortunately, H.R. 961 will radically change the Nation's laws that protect our beaches and drinking water.

H.R. 961 would increase the dangers of pesticides and chemical contamination of our drinking water—imposing higher costs to clean up our drinking water or forcing all of us to buy bottled water. It would let large agribusiness and industrial polluters off the hook from preventing the contamination of our drinking water—and it would pass those costs along to all San Diegans. That is right, we consumers will pay more to protect a few special interests.

San Diego gets its drinking water from the Colorado River. Many smaller cities from four States dump their treated sewage into the Colorado River, and before this water gets to San Diego, it must go through one of the largest agricultural areas in the country. Unlike the safer alternative, H.R. 961 would allow these cities and large agribusiness corporations to flood chemicals and other pollutants—at will—into our drinking water supply.

H.R. 961 also threatens our economy and our health. It includes the repeal of a section of the Coastal Zone Management Act—which will eliminate current protections for our beaches. How can we attract tourism if visitors cannot swim in our beaches? San Diego's beaches are already closed too often. Is this really the time to get rid of the very protections that help to keep the beaches safe for our families?

The safer alternative would not repeal the Coastal Zone Management Act program that protects our beaches. In fact, the substitute has adopted the language drafted by the Coastal States Organization, which represents the Governors of our Nation's coastal States, and continues to protect our beaches—for our children's health and for our economic health.

There are three critical questions that on behalf of San Diegans, I must ask about these bills: First, will we have clean water to drink? second, will we have a clean beach to swim at? and, third, will we get relief from the multibillion dollar secondary treatment boondoggle?

With the safer alternative the answers are: Yes to safe drinking water, yes to clean beaches, and yes to relief from higher sewage taxes.

Without the safer alternative the answers are no, no, and yes.

San Diego will get the regulatory relief it needs in either bill. But I cannot in good conscience support H.R. 961—a bill that purports to help San Diego on the one hand, but destroys the safety of our drinking water and beaches on the other.

San Diegans are asking three important questions. Let's not get one out of three right. Support the Boehlert-Saxton-Roemer substitute "Safer Alternative" and answer "yes" to all three.

Mrs. LOWEY. Mr. Chairman, will the gentleman yield?

Mr. FILNER. I yield to the gentlewoman from New York.

Mrs. LOWEY. Mr. Chairman, first it was school lunches, student loans, and Medicare. Now the Republican leadership has trained its sights on clean water.

As cochair of the Long Island Sound Caucus, I rise to support the Saxton-Boehlert-Roemer substitute. Unlike H.R. 961's sweeping, 326-page rollback of one our most effective environmental laws, the substitute recognizes that the battle for clean water has not yet been won.

Unlike H.R. 961, this proposal will not be a boon for polluters, and penalize anyone who bathes, swims, fishes, boats, or recreates in lakes, rivers, and oceans. Unlike H.R. 961, this substitute recognizes that if you allow polluters upstream to discharge more pollutants into the water—as H.R. 961 does—it's the people downstream who will ultimately get saddled with the bill to clean up the pollution.

As my constituents who live near Long Island Sound and the Hudson River know, all is not well with our rivers and bays. More than half of New York's rivers and 85 percent of its estuaries are closed to activities such as fishing and swimming at some time during the year. According to the most recent statistics available, New York's ocean beaches were closed completely on 93 occasions and more than 700 advisories were issued against swimming. More than 400 fishing advisories were issued to protect the public from ingesting contaminated fish.

In New York and Connecticut, business, labor, and environmental groups have set aside old disagreements and joined together in developing—with the aid of the EPA—a plan to clean up Long Island Sound. None of this would have been possible without the underpinning of the Clean Water Act, and now is certainly not the time to pull the rug out from under their feet. If H.R. 961 is enacted, it will only cause more delay and more expense to move forward with environmental clean-up in my region.

The vast majority of New York's water quality problems are caused by nonpoint pollution—from sources other than factory or sewage discharges. And yet H.R. 961 repeals the only Federal program that can reduce nonpoint pollution. In fact, two-thirds of coastal States have invested millions of dollars over the past 4 years crafting runoff control programs that are nearly ready for approval under the auspices of the Clean Water Act. In keeping with the wishes of the coastal States themselves, the substitute preserves this important program.

The substitute also removes some of H.R. 961's more egregious rollbacks of environmental protection.

Across the Nation, swimming and fishing are not available to millions of Americans because of pollution that runs into waterways every time it rains. In fact, more than one-third of all our Nation's water quality impairment is the result of stormwater discharge. Yet, H.R. 961 repeals the entire EPA stormwater permitting system, thereby ending all monitoring and enforceable requirements for the 342 cities and 134,000 industrial facilities that currently have stormwater discharge permits. Thankfully, the substitute preserves the act's stormwater permitting program, while providing a 10-year moratorium on any new requirements for cities under 100,000 or small industries.

The substitute also repeals 961's disastrous wetlands classification system—adopting the National Governors Association's reasonable wetlands proposal instead.

Now is not the time to relax our efforts to ensure clean water. Estuaries like Long Island Sound—a $6 billion-a-year resource for the entire region's fishing, boating, and recreation industries—are at stake. I urge my colleagues to support the Boehlert-Saxton-Roemer substitute. Let's not turn back the clock.

The CHAIRMAN. The time of the gentleman from California [Mr. FILNER] has expired.

Mrs. LOWEY. Mr. Chairman, I ask unanimous consent that the gentleman may have an additional 5 minutes.

The CHAIRMAN. The gentlewoman can seek her own time in due course. There are Members of the committee who have not had an opportunity to speak.

Mr. FILNER. Mr. Chairman, I ask unanimous consent to proceed for an additional 2 minutes.

Mr. SHUSTER. Mr. Chairman, I am constrained to object. There are Members of the committee who have not had a chance to speak yet.

The CHAIRMAN. The gentleman is correct. The Chair traditionally recognizes 1- or 2-minute extensions of time, with unanimous consent.

Mrs. LOWEY. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentlewoman from new York?

There was no objection.

Mr. EMERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, debate here in the House of Representatives lends itself to some interesting concepts. I must say to my dear friend, the gentleman from Maryland [Mr. GILCHREST], that I have never quite thought of the Chesapeake Bay as a tree. However, now I am getting that concept into my head, and I want to respond simply by saying that I think the answer of the chairman of the committee was an appropriate one.

H.R. 961 is a good bill, and it will be a good law for the whole country. If individual States want to exact a higher standard, in accordance with the process that are available to them from State to State to State, they are at liberty to adopt that.

However, I rise in very strong opposition to the substitute.

□ 1715

For some reason proponents are billing this measure as 75 percent H.R. 961, as though that percentage justifies the substitute. Come on. The substitute guts the bill, and there is a big difference between the bill and the substitute.

The substitute fails to address any of the major themes of H.R. 961 dealing with regulatory reform, unfunded mandates relief, risk assessment, cost-benefit analysis, protection regarding private property takings, allowing States to demonstrate their ability in finding solutions to water quality issues, and wetlands policy. Instead, the substitute retains the current top-down, the "bureaucracy knows best" approach to solving the country's remaining water quality problems.

The Clean Water Amendments of 1995 provide for voluntary incentive-based programs in local, State, and Federal partnership to advance clean water goals with nonpoint source pollution. The substitute does not.

It also gives State and local officials the flexibility to manage and control stormwater like other forms of runoff, which helps reduce the high cost of unfunded mandates. The substitute does not.

Finally, it requires the Environmental Protection Agency to subject its mandates and regulations to risk assessment and cost-benefit analysis, and the substitute does not.

For the first time in a long time, we are successfully working together at all levels of government to meet our water quality needs. We do not need straitjackets to have clean drinking water, nor should we allow the Federal bureaucracy who knows the least about forming or operating a small business to deem what is a wetland from their Washington offices.

Through its increased flexibility, the Clean Water Amendments of 1995 benefits citizens, farmers, businesses, consumers, local and State governments, and the taxpayers.

Mr. Chairman, these last-minute attempts to derail and weaken this strong bipartisan effort, whether they are in the form of amendments or so-called substitutes, should be voted down. Such efforts, in my view, are a breach of faith with the changes the American people demand. They renege on the need for smart regulation, good science, cost-effective risk reduction, and common sense.

The Washington bureaucracy and the professional environmental elitists have been ramming these edicts down the throat of the American taxpayer for far too long. It is time for citizens to have a say in the process. I am delighted that in this bill we have provided for that forum, for a citizen voice. Vote for the Clean Water Amendments of 1995 and against the Boehlert-Roemer substitute.

Mr. MENENDEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Boehlert substitute.

The proposed clean water amendments, H.R. 961, amount in my mind to nothing less than environmental sacrilege. The underlying principle behind the bill seems to be pollute now and leave a debased environment for our children. They take us back 20 years to an environmental stone age.

H.R. 961 would have a severe and negative impact on New Jersey and the 13th Congressional District in particular. The EPA 1992 toxic inventory shows release of toxic material into New Jersey surface water of more than 400,000 pounds. The current law would be modified by H.R. 961 to allow for downgrading water quality standards where they result in disproportionate costs over benefits.

This is unfair to the more than 90 percent of major industrial facilities and municipal facilities that are in compliance with the Clean Water Act in New Jersey. It rewards those who have resisted investing in pollution cleanup measures and punishes those who were responsible corporate citizens.

The State of New Jersey has a thriving tourism industry doing over $10 billion in business annually. The State has engaged in aggressive fish consumption and beachwater quality monitoring. Under H.R. 961, EPA is now directed to issue guidance instead of regulation with regard to fish consumption advisories and monitoring beachwater quality.

Nonpoint source pollution is responsible for roughly half of the remaining pollution in the country. H.R. 961 modifies current law to clarify that voluntary or incentive-based approaches are allowable in lieu of regulatory programs. It also repeals sections of the Coastal Zone Management Act which requires coastal States to develop nonpoint source control programs. This would hit New Jersey's coastal tourism industries and port activities very hard, since they are at the receiving end of newly degraded waters.

Simply put, H.R. 961 sets the clock back more than 20 years.

The bill pushes back deadlines, requires waivers, creates huge new exemptions and mandates major changes in the core of the program, the water quality standards, and permit conditions.

This is a piece of legislation that has been the most successful pollution cleanup program in existence.

However, H.R. 961 does also the following: It waives industrial pretreatment of waste; delays dates for meeting deadlines if Federal funding falls short of the authorized levels; severely limits EPA's ability to control dangerous toxic substances; removes thousands of acres of wetlands from Federal protection, which could lead to more flooding, lower fish catches and poorer water quality.

We have talked about the Coastal Zone Management Act. It also eliminates the ban on building sewage treatment plants in flood plains and wetlands and thereby encourages sewage overflow; and it puts it on a deadline for the control of agricultural runoff, to the detriment of downstream users.

There are provisions in this bill that no one is quite sure what is meant. The antibacksliding provisions, which are supposed to ensure that permit changes do not result in different kinds of water pollution, are virtually, in my mind, incomprehensible. The provision for trading point source pollution credits between air and water may not be a bad idea, but it is completely unclear how it is supposed to work or how it will affect downstream users.

That was before the markup. Now it is worse.

There is a wholesale exemption for livestock feeder operations, no matter how large. It is a total exemption for an entire industry to dump animal waste into lagoons, retention ponds, wetlands, and other waters of the United States without a permit. This is the exact source of the deadly cryptosporidium contamination which killed so many people in Wisconsin.

Current law lists 5 nonconventional pollutants for which a discharger may seek a modification of the best available standards of treatment. This bill goes from 5,000 to 70,000 different listings.

There are terms which go beyond vague. Pollution credit trading, statistical compliance, and innovative technologies are frequent additions to provide flexibility which are in reality techno-babble for loopholes.

This bill is a great leap backward in the control of water pollution. It is government by anecdote. If a special interest group wanted a small change in the law, it was generally granted at the expense of the environment. The result is a bill which has numerous contradictory provisions and repeals many longstanding commitments to water quality.

It is not the type of legacy we want to bequeath to our children, the next generation, as we approach a new century.

I urge support of the substitute and defeat of the legislation.

Mr. WELLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 961 and oppose the Boehlert substitute. Everyone here today supports clean water, and H.R. 961 works to keep our water clean.

Chairman SHUSTER has done yeoman's work in bringing together all sides in a compromise fashion, and has earned overwhelming bipartisan support from Republicans and Democrats in committee with an overwhelming 46 to 16 vote when this legislation passed the committee.

It has also earned bipartisan support from State and local officials. Let me list them once again. This is a list of some of the public sector groups that have endorsed H.R. 961:

The National Governors Association, a bipartisan group; the National League of Cities, a bipartisan group Association of State and Interstate Water Pollution Control Administrators, a bipartisan group; American Public Works Association, a bipartisan group; Association of Metropolitan Sewage Agencies, a bipartisan group; Association of Metropolitan Water Agencies, a bipartisan group.

In fact, I have with me a letter that the President of the Association of State and Interstate Water Pollution

Control Administrators sent to the committee, highlighting the many major improvements the States have repeatedly asked for and requested. Finally they were included in H.R. 961.

I would like to quickly list those 12 items that the committee has agreed to help State and locals by including. In fact, the letter says that while the States have repeatedly requested from Congress and that by working together they believe that considerable strides have been made to more efficiently and effectively deliver environmental results.

> With its new comprehensive approaches,

and I am quoting this letter,

> to non-point source, watershed and stormwater management, H.R. 961 sets forth a framework that better protects this Nation's waterways.

They have listed below provisions which are consistent with the goals of States and this association has asked for in a bipartisan fashion. According to the Association of State and Interstate Water Pollution Control Administrators, H.R. 961 clearly anticipates an enhanced State management role relative to clean water program implementation.

H.R. 961 maintains a firm commitment to the Clean Water Act's goals, with more flexibility at State and local levels to determine how they can be best achieved.

The letter also says that H.R. 961 establishes a national program to bring nonpoint source pollution under control, which provides a comprehensive rather than site-specific demonstration program, an unambiguous goal to meet water quality standards within a specified deadline, increased program funding to assist States with expanded implementation activities.

The fourth point they make in their letter says that H.R. 961 enables States to focus scarce resources on priority problems by providing 10-year permits, control strategies that consider the relative contributions of both point and nonpoint sources, the incorporation and active promotion of pollution prevention, and continued State certification authority under section 401 over hydropower facilities.

The letter also points out that H.R. 961 establishes a comprehensive framework to address stormwater runoff that goes beyond the limited number of sources covered by current law and addresses the multitude of stormwater problems, sets an unambiguous goal to comply with water quality standards within a specified deadline, and gives State flexibility to tailor solutions to local circumstances.

H.R. 961, according to this letter, encourages States to take the watershed approach to problem solving and consolidate planning and reporting requirements. H.R. 961 also, according to the letter, increases authorized funding for State implementation under section 106 in a State revolving loan fund.

H.R. 961 also streamlines SRF requirements to assure the construction of more projects at less cost. H.R. 961 addresses the special needs of small and hardship communities, and H.R. 961 codifies a consensus agreement of the States, the cities, and the U.S. EPA on combined sewer overflows.

H.R. 961 clarifies that as coregulators, States' consultations with U.S. EPA are not subject to the Federal Advisory Committee Act. Last, this letter points out that H.R. 961 requires Federal facilities to comply with the law to the same extent as other dischargers.

Mr. Chairman, H.R. 961 is a product of discussions with local and State officials, those who are responsible for administering and living with the Clean Water Act. For the first time, we have legislation——

The CHAIRMAN. The time of the gentleman from Illinois [Mr. WELLER] has expired.

(By unanimous consent, Mr. WELLER was allowed to proceed for an additional 30 seconds.)

Mr. WELLER. Mr. Chairman, this legislation is a bipartisan effort. H.R. 961 passed the committee with a vote of 46 to 16, clearly overwhelming bipartisan support.

I urge Members of the House to support the committee, vote for H.R. 961, and reject the substitute.

□ 1730

Mr. WISE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. I thank the distinguished gentleman for yielding.

Mr. Chairman, I just want to say there are many Governors and State legislators in favor of this substitute. The National Governors' Association wrote, "We believe the provisions on wetlands in H.R. 961 are inconsistent with the Governors' wetlands policy in several important respects."

The National Conference of State Legislators, "We could not support the bill unless a number of important revisions are made."

Finally, the South Carolina Department of Health and Environmental Control on coastal nonpoint programs, "Significantly changing this portion at this time would not only waste taxpayer money, but would send the wrong message."

I think that is just some quotes from a number of States' legislators that support the substitute. And I thank the gentleman.

Mr. WISE. Reclaiming my time, Mr. Chairman, I rise in support of the substitute. It is not all I would want it to be, but then none of this legislation is, to be honest with you, and somewhere between this bill and the present law that we are operating under is the perfect solution.

But let me just make a couple of notes. I come from an industrial area, and so I do not look with total alarm at some of the changes that the gentleman from Pennsylvania [Mr. SHUSTER] and committee have brought, and in fact I think there is a need for some flexibility dealing with the emissions requirements, because I point out that many of our industries have made significant investment and have complied with cleanup requirements, and often what we are finding is in meeting the final 10 percent of cleanup that you have is that it can be far more expensive then the previous 90 percent, and that some flexibility should be allowed.

The current Clean Water Act has reduced large amounts of point source pollution. Now we must look at how we can make sure that we continue that effort. While having done a lot of good, the remaining problems become more specialized, they become harder to fix with rigid one-size-fits-all solutions. The point source provisions of H.R. 961 do attempt to tap some of that creativity.

I have some concern, Mr. Chairman, about the current system of command-and-control regulation, and I think probably in some cases they have gone about as far as they can in making major gains for the environment.

For instance, Mr. Chairman, I look at the H.R. 961 section 301, subsection (q), which for instance permits the Administrator to authorize States to modify or permit requirements if pollution prevention pressures or practices will result in greater overall reduction than would otherwise be achievable under the existing command-and-control regime. This would seem to make sense. Pollution trading, which there are provisions of that in the existing Clean Air Act, also I think is something that should be looked at. The President's own reinventing environmental regulation initiative clause on the effluent trading program similar to this one is a cost-effective approach for reducing water pollution. So I think we should not be afraid of some flexibility.

But the reason I am supporting this substitute, Mr. Chairman, is about other areas as well, wetlands for instance. I hold a candle to no one being frustrated by wetlands bureaucrats. They make honest and responsible landowners be in fear of cattails that might suddenly spring up, but at some time I believe Congress should make decisions based on science. It should look at the fact it chartered to study by the National Science Academy a few years ago designed to help shed some light on this subject, and we have the results of that study, and yet we are racing ahead with the legislation.

I too believe that you ought to eliminate most of the agencies that are involved in wetlands disputes, it ought not to be some kind of lottery that you go through: Did you satisfy Fish and

Wildlife, did you satisfy Interior, did you satisfy this, and just when you think you have gotten to the end of the obstacle course, whoops, up pops another agency.

But by the same token, I am not sure we ought to be putting into legislation the kind of scientific standards or hoped to be scientific standards that are here.

I so I have great concern about that. And I also have concern about attaching the risk assessment provisions to this legislation.

Mr. Chairman, there is a reason that many of the people in this Chamber today are drinking bottled water out of the offices. There is a reason that bottled water has become one of fastest-growing industries in the country. There is a reason when I go to the grocery store I am now seeing whole shelves of bottled water. For some reason, I do not know whether I was ignorant or not, I used to turn the tap on and now worry. Now I worry. So it seems to me that this Congress ought to be taking a little more time being a little more reflective before it passes the law of the forest, and for that reason I support the substitute, and would urge my colleagues to do the same.

(Mr. SHUSTER asked and was given permission to speak out of order for 1 minute.)

TRIBUTE TO DUKE CUNNINGHAM, FIRST ACE OF THE VIETNAM WAR

Mr. SHUSTER. Mr. Chairman, I would like to inform the body that at precisely this moment, 5:35, 23 years ago today, our colleague, Congressman "DUKE" CUNNINGHAM became the first ace of the Vietnam war, was attacked by 22 MiG's, shot down 3 MiG's then was shot down himself, and as he was ejected and was about to be captured, a Marine helicopter swooped in, rescued him. And so on this anniversary of that momentous occasion I think we all want to join in saluting the first ace of the Vietnam war, our colleague, Congressman "DUKE" CUNNINGHAM.

Mr. LATHAM. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this substitute amendment, and let me begin by saying that I have the highest respect for the distinguished gentleman offering this amendment, and I admire their commitment to clean water. But having said that, I believe there are at least two fundamental flaws to the substitute amendment.

First, as it stands, H.R. 961 provides individuals flexibilities for individual States to implement storm water programs, watershed management programs, and provides commonsense relief to small and rural communities.

The substitute does not include crucial regulatory reform provisions that this House has already overwhelmingly approved in principle, the ideas of risk assessment, cost-benefit analysis, and ending unfunded Federal mandates.

Under the substitute, it will be harder for States to regulate smarter in order to provide more pollution prevention at a far less cost.

Second, I must oppose the substitute amendment because it does not take critical steps towards fairness that are in H.R. 961. No subject arouses more passionate opposition in my district than the excesses of the Federal wetlands programs administered under the Clean Water Act.

H.R. 961 includes commonsense classification and delineation criteria for wetlands that reflect the genuine differences in quality and utility of wetlands.

I would just like to tell a little bit about the State of Iowa. In Iowa we have 25 percent of the grade A farmland in the world, not just in the United States, but in the world. And if the requirements that are in this substitute amendment were in place in 1993 when we had the floods in the Midwest, that grade A farmland could be determined to be a permanent wetland. It is not enough today that farmers have to fight weather problems and fight the markets, but now they have a threat from the Government itself coming in and taking over their land and telling them how they can use their land. And you talk about property values. What more would reduce the value of agricultural crop land than to determine that to be a permanent wetland?

Also, much of the land that I am referring to has been in families like my own for well over 100 years. They have had to put some tile in, much of it was hand dug by our ancestors, 80, 90 years ago, and today because of these requirements you can no longer improve or repair those tile lines, because again of the bureaucrats.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. LATHAM. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I want to make it absolutely clear that the alternative permits repair of tiles on agricultural land. Our alternative does permit that.

Mr. LATHAM. Reclaiming my time, but you also talk about delineation of what is a wetland, and today under this substitute those wetlands can be defined as a permanent wetland, any pothole out there that a duck would not land in under this substitute can be classified as a wetland.

I really resent the idea too that somehow farmers are not conservationists, are not environmentalists. I tell you on our land, on our farm, we are the ones who have to make a living off of that land. We are the ones who are raising families who drink that water. And anyone who has the idea that a farmer is not concerned about the quality of life and the preservation of that land and also seeing to it that that water is purified is simply wrong and has no idea of what agriculture is about today or about what a family farm is about. And once again, people who think we are out there trying to pollute the environment simply do not understand reality.

Earlier someone tried to blame what happened in Milwaukee on a farmer. And the fact of the matter is, and it has been shown that that was wildlife that put that bacteria in the river, and if anyone thinks that a new Federal mandate or regulation is going to control wildlife out here again they certainly do not understand what is outside of the Beltway here in Washington.

This debate, folks, is about Washington regulators against the farm families, the small business people, and the local governments in America. H.R. 961 reflects the interests of the farm families and the small business people and the local governments, and the substitute represents the idea of the regulators, and I ask Members to vote no on the substitute and support H.R. 961.

Mr. CLYBURN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in favor of the substitute bill being offered by my colleagues, Mr. SAXTON, Mr. ROEMER, and Mr. BOEHLERT. During the lengthy committee markup of H.R. 961, I listened closely to my colleagues on both sides of the aisle as they delivered thoughtful opinions on every aspect of this complex legislation. In the end, I voted not to report H.R. 961 out of committee.

Mr. Chairman, my vote against H.R. 961 is not a vote against clean water. In fact, it is very much the opposite. My vote against H.R. 961 is a vote for clean water, for good health, and for an adequate level of environmental protection. I believe the Saxton-Roemer-Boehlert substitute is a sensible solution that can provide us with all of those things.

In my State of South Carolina, many programs under the current act are administered by the South Carolina Department of Health and Environmental Control—DHEC.

On yesterday, I was contacted by DHEC and they expressed to me they would rather have no change than the damaging changes found in H.R. 961. Now when the agency that was created to protect the health and environment of the people oppose a bill, that should cause us all to wonder about the ramifications of it.

The comments made by DHEC are not unfounded. Let me tell you why.

Throughout the debate on clean water in both this Congress and the last, we have heard what some call tales about people who catch their evening meals in the streams behind their homes, or our of the rivers that run through their communities. Let me assure you that these are not just fish tales.

Mr. Chairman, this is a reality, especially in rural districts such as the one I proudly serve in South Carolina. Over 48 States have issued over 1,300 fish advisories for recreational and subsistence anglers. As of 1994 in South Carolina, there were 18 fish advisories in effect. That is up from only three in 1992. Do the math anyway you like, but the sum adds up to there is more that needs to be done.

The provisions in the substitute bill would keep these waters clean and allow these people to keep fishing in the waters, and their children to keep playing in the waters without the hazards they could encounter if H.R. 961 were to be put in place. Among other harmful changes, H.R. 961 would allow water quality standards to be relaxed for up to 70,000 pollutants.

I don't know about you, Mr. Chairman, but I feel that is 70,000 more pollutants than the people of the Sixth Congressional District of South Carolina need to be exposed to.

I imagine if I asked for a show of hands of those Members who have visited the South Carolina coast, there would be quite a few.

Our State is one of 35 that belong to the Coastal States Organization. This is yet another reason to support this substitute because it contains provisions developed by the Coastal States Organization that are intended to protect these fragile coastal areas from runoff pollution.

The coastal lands need special provisions. The Saxton-Roemer-Boehlert substitute would give these special protections as developed by the Coastal States Organization, and allow for continued responsible use of our coastal areas.

Mr. Chairman, it is no doubt that people all across the country know the value of clean water. In a recent Times-Mirror poll, 76 percent of Americans said they felt we should do more, not less to protect our Nation's waters. However, no one knows the value of clean water as much as the residents of rural communities across America. There is a term we like to use today—"Environmental Justice."

I don't care what you call it, but the concept remains the same. People living in small, mostly rural and poorer communities across America consistently suffer from more health problems due to environmental negligence. It is for those people that I rise today to support the Saxton-Roemer-Boehlert substitute.

Mr. Chairman, I would like to say a few words about the markup of H.R. 961 in the Transportation of Infrastructure Committee. I want my chairman, Mr. SHUSTER, to know that even though we ultimately came down on different sides on H.R. 961, I congratulate him on the job he did in presiding over the markup, and I appreciate the sincerity of his views.

And I want my ranking member, Mr. MINETA, to know how much I appreciate his leadership and commitment on this critical issue.

Mr. Chairman, in the South we tend to tell stories to make a point, or use cliches to describe things. In keeping with that tradition, I would like to share two old adages we should all heed. One is "if it ain't broke don't fix it," and the other is "if you mess it up, clean it up." Mr. Chairman, this is the underlying message behind the substitute legislation being offered today, and I encourage all of my colleagues to joint with me in supporting clean water with a "yes" vote on the Saxton-Roemer-Boehlert substitute.

□ 1745

Mr. LoBIONDO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the substitute and commend my colleagues for their fine work on this bill.

As a strong supporter or regulatory reform, I was proud to vote for the regulatory reform proposals contained in the Contract With America.

And I rise today in the strong belief that indiscriminant regulation will sap our economic strength, our competitiveness and our future.

I believe that this substitute is consistent with regulatory reform.

First, most of the provisions of the substitute reflect the provisions in the chairman's bill. But, the substitute recognizes the importance of controlling stormwater runoff.

At the same time, the substitute provides States with flexibility in dealing with this problem. States would be able to target runoff control programs where they are needed most. And States would be given greater authority to use incentive-based programs and planning and management.

Similarly, the substitute would not overburden our small businesses and small municipalities with onerous regulations. They would fall under a 10-year moratorium on the implementation of new requirements under the stormwater management program.

Mr. Chairman, I represent a district that is surrounded on three sides by coastal waters. In our coastal areas in New Jersey, our businesses, indeed our economy, relies on having a clean coastal environment.

The family-owned hotels and motels in my district have approximately 3 months in the summer to earn their living for the year. If the beaches are closed because of pollution, those businesses are hurt and may not survive.

Mr. Chairman, commercial fishing is a $55 billion industry nationwide—and lets face it, people are not going to eat fish that they believe were caught in polluted waters.

In my district, nonpoint source pollution and storm water were major sources of ocean pollution. Actions taken at the State level have sharply reduced pollution in our ocean and bays. It is a testament to the commitment New Jersey has made, as a State, to protecting our coastal environment.

But we need a Federal standard. Our coastal waters do not recognize State boundaries. If New Jersey makes a commitment to prevent pollution from nonpoint sources and storm water runoff, that could be negated if another State does not.

Mr. Chairman, the substitute is a good bill.

Again, I commend my colleagues on a fine substitute and urge members on both sides of the aisle to support the Boehlert-Saxton-Roemer substitute.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment. I commend the authors. I urge that the amendment be adopted. And I hope that in so doing, we will improve the bill.

I would inform my colleagues that the Clean Water Act is not only the most successful but it is the oldest of our major environmental statutes, and it was not passed by a bunch of left-wing kooks. It was passed overwhelmingly by bipartisan majorities on both sides of the aisle, and it came out of the Committee on Public Works overwhelmingly.

There is good reason for everything that is in the current law, and the wonderful fact is that it works.

What would the bill that is now before us do? First of all, in the State of Michigan, it would eliminate wetlands protection for some of our 5,583,000 acres of wetlands. Altogether, it would risk the potential loss of 3,629,000 acres.

The current law is a good law, but it does not do all that it should. In recent times, better than 10,000 beaches have been shut because of pollution of coastal waters, and better than one-third of our shellfish beds are at risk.

Now, what does the bill do here? First of all, it does not really protect wetlands as it should. As I mentioned, it puts Michigan wetlands and Michigan migratory waterfowl populations at risk. Indeed, I would warn my colleagues that this bill puts migratory waterfowl and migratory birds and migratory bird hunting at risk. I speak as a member of the Migratory Bird Commission which works to try and save the lands for these species.

The bill would go further than that. The bill would repeal the Coastal Zone Nonpoint Pollution Control Program. It would remove 60 percent of our Nation's wetlands from any protection, and allow total destruction of possibly as high as 80 percent. It would weaken the standards governing industrial pollution and discharges into lakes, rivers, and harbors. It would threaten the

Great Lakes fishery, which is worth better than $4 billion a year. It would hamper efforts to control nonpoint source pollution, the source of over 50 percent of water quality impairment in the United States, and it would create, interestingly enough, an extraordinarily unworkable bureaucracy which would supposedly address the question of wetlands protection within the Corps of Engineers, and cost the American people millions of dollars a year.

The amendment is a responsible piece of legislation. It accepts about 70 percent of the legislation written in the committee. It would make possible continued progress, albeit at a somewhat slower rate than we have seen, because of the programs which we are now addressing which have been, I repeat, enormously successful in terms of preserving natural resources and protecting the clean water and protecting the health of the American people.

Tourism is a great industry in this country, and it is one of the most important we have. I know of no one who will go to see dirty water. They go to see places where the water is clean, where the fishing is good, where the swimming is safe, and where one may eat the fish that they catch. They do not go to Gowanus Canal or to places which are fabled with their filth.

Legislation which we have before us would roll back in a startling fashion better than 40 years of progress which we have made in cleaning up the waters of the Nation. It would not help the polluters particularly. It would simply allow them to evade their responsibilities. It would not help the American people. It would simply inflict upon them continued destruction of their most precious and important natural resource, the water of this country.

The legislation which this country wants, if you ask the people, and better than 70 percent of them will say so if inquired of, is legislation which protects the waters, which protects the environment, which protects the health of the American people.

I would urge that the amendment sponsored by my colleagues, the gentleman from New Jersey [Mr. SAXTON], the gentleman from New York [Mr. BOEHLERT], and the gentleman from Indiana [Mr. ROEMER] be adopted. I would urge that my colleagues reject the bill.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I would like to make reference to some comments made by a colleague and member of the committee, the gentleman from Iowa [Mr. LATHAM], earlier, particularly as they apply to agriculture. I want everyone to know we are very sensitive to the needs of agriculture. Our alternative specifically provides exemptions for the repair and construction of tiles.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(At the request of Mr. BOEHLERT and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. BOEHLERT. Mr. Chairman, the exemptions specifically allow repair and construction of tiles. We also have in our substitute the same exemptions for agriculture as are contained in H.R. 961.

Mr. DINGELL. The gentleman says all this talk about how your substitute is going to hurt agriculture; it cannot, because it is the same language they have in the bill?

Mr. BOEHLERT. He was genuinely concerned about that. The concern was heartfelt.

Mr. DINGELL. I do not care whether it is heartfelt or not, I want to know if it is factual. I gather you are telling me some of the concerns expressed are not factual.

Mr. BOEHLERT. Some of the concerns expressed here have not been factual.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. SAXTON. The gentleman mentioned beach closures. I just want to say what the gentleman spoke of in terms of the Coastal Zone Management Act and the provisions that have to do with nonpoint source pollution and the benefits provided for wetlands go a long way to prevent beach closures.

In 1987 and 1988, I lived through those beach closures along with the Northeast coast, and I can say, I think uncategorically, that by repealing the laws which the committee bill proposes to repeal, that we are bound to repeat summers like those summers when we had those beach closures, because we are eliminating the protections that we have since put in place that have worked very, very well, and so I thank the gentleman for pointing out those very, very important aspects of this substitute.

Mr. DINGELL. I thank the gentleman.

Mr. DUNCAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the entire 5 minutes, but I want to rise in strong support for H.R. 961 and urge that it be passed without major modification.

I would like to commend my outstanding chairman, the gentleman from Pennsylvania [Mr. SHUSTER], of the Transportation and Infrastructure Committee, for his outstanding and yeoman work that he has done in regard to this legislation. It is outstanding legislation, and it deserves the support of all of the Members of this body.

H.R. 961, as reported out of our committee, will reduce Federal power and will give us cleaner water. It gives control of water resource management to those who have the biggest stake in maintaining these resources, while taking control from bureaucrats here in Washington.

Even the Administrator of the EPA, Carol Browner, has said, "We must allow for flexibility, innovation and common sense as States and communities look for ways to achieve the standards." That is what the committee-approved bill does, Mr. Chairman. It restores common sense to our clean water regulation.

I have great respect for all of the authors of this substitute amendment. They are all good friends of mine. But I am afraid, Mr. Chairman, that the amendment in the nature of a substitute would eliminate the flexibility that is needed and that Ms. Browner called for, in that it seeks to retain Federal command and control in pursuit of clean water.

A one-size-fits-all approach to clean water regulation is no longer sound, if it ever was. The EPA bureaucrats and Army Corps of Engineers officials are simply not capable of making qualified, correct decisions for every State legislature, every city manager, every farmer, every land owner, every business owner in the Nation.

H.R. 961, as reported, lifts that responsibility from them and gives it back to the people and their representatives at the local level.

I do not need to repeat, Mr. Chairman, and would not have time to do so anyway, all the horror stories about EPA and Army Corps of Engineers regulations under our clean water laws at this time, one stupid, expensive, unfair decision after another.

A few years ago one of the officials of the National Association of Home Builders told me that if our wetlands laws were strictly enforced, that it would close up over 60 percent of the developable land in this country. It would make the dream of home ownership just go out of sight from an economic standpoint for most young couples in this country.

It has been mentioned before, but I think it bears repeating, that support for moving forward with H.R. 961 has come from a wide range of groups, including the National Governors' Association, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the Association of State and Interstate Water Pollution Control Administrators.

□ 1800

The water pollution control administrators are people who work full time in this area, and I can assure my colleagues they would not support this legislation were it not good clean water legislation. This bill is also supported by the Association of Metropolitan Sewerage Agencies, the American

Public Works Association, the Clean Water Council, the American Farm Bureau Federation, and the U.S. Chamber of Commerce, and the National Federation of Independent Businesses among many, many others.

H.R. 961 was reported out of our committee by a strong bipartisan vote of 42 to 16. This bill deserves bipartisan support now. It will return common sense to our signatory efforts in regard to clean water. It will return flexibility. It will do away with many of the unfair bureaucratic burdensome decisions that have come out in recent years.

Most importantly of all, Mr. Chairman, and I would like to emphasize this, if H.R. 961 passes as is, it will be the toughest clean water law in the world. This bill passing as is will be the toughest clean water bill in the world. It just does not go to some of the extremes that some people would have us do, some of the ridiculous extremes that some people would have us go.

So let us vote for the toughest clean water law in the world. Let us vote for Chairman SHUSTER's bill, H.R. 961. I urge its passage.

Mr. FARR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support of this substitute measure authored by the gentleman from New Jersey [Mr. SAXTON], the gentleman from Indiana [Mr. ROEMER], and the gentleman from New York [Mr. BOEHLERT]. It is not a perfect fix of H.R. 961's problems, but it offers a rational middle ground that preserves the rights of H.R. 961 while turning back H.R. 961's most damaging proposals, and it is interesting to note that many of my colleagues served in State legislatures before coming here, and I would like to point out that in a letter that I received from the National Conference of State Legislators they indicate that unless H.R. 961 is significantly amended during the floor consideration, the NCSL urges them to vote against this bill, and they point out that the problems with the bill that is before us that are addressed by this amendment is that the bill in print limits State discretion to impose effluent limits which are different than Federal limits. It also reduces State authority to update and strengthen controls on toxic and other discharges by providing that effluent limitations only be reviewed every 10 years.

So not only myself and others are urging our colleagues to support this, but the State legislatures are as well. The substitute amendment restores vital protections for wetlands, but makes commonsense exemptions for agriculture, flood control and other important activities. These provisions are based on wetlands language offered by the National Governors Association and increase the States' role in wetland's protection.

The substitute amendment replaces the repeal of the Coastal Zone Management Act non-point source program included in H.R. 961 with amendments to improve the program proposed by Coastal States Organizations. Any legislator representing a coastal State knows the significance of having the ability to control non-point source run off because it runs into the ocean. Our local economies are based on the fact that people make livings off that ocean, both for recreation and primarily for commercial fishing, and if that environment is not safe, and sound, and clean, then we are going to destroy the very economic base of many of our coastal regions.

Mr. Chairman, I think this bill in its drafted form goes a long way to doing that, so that is why I support the Saxton proposal, because it is a reasonable alternative, it is going to help protect clean water, and we need to do that because we are just borrowing time from future generations, and we need to turn over the world in a better shape than which it is in now. So I urge my colleagues to support this substitute.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, May 8, 1995.

Re H.R. 961, Clean Water Act Amendments of 1995.

Hon. SAM FARR,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE FARR: On behalf of the National Conference of State Legislatures, I am writing to express concerns about H.R. 961 as reported by committee. Unless H.R. 961 is significantly amended during floor consideration, NCSL urges you to vote against the bill.

In partnership with the federal government, states have worked diligently for more than two decades to achieve the Clean Water Act's goals of restoring and maintaining our nation's waters. The Clean Water Act serves as a baseline for state programs, while giving states flexibility to go beyond federal minimum requirements. Many of the problems facing our nation's water bodies are interstate in character and cannot be addressed by any state acting alone. Over the past two decades states have come to rely upon the state-federal partnership that is the cornerstone of our system of public health protection.

While NCSL applauds H.R. 961's proposed increases in SRF funding, efforts to provide states with greater flexibility, and other provisions that directly benefit state and local government, we are concerned with other aspects of the bill. For instance, if enacted in its present form, H.R. 961 would permit increased degradation of our nation's waters and allow for delay in achieving the Clean Water Act's goals. We urge you to seriously consider any amendments which aim to strike a proper balance between increased state authority and preservation of minimum federal standards.

One of our specific concerns with H.R. 961 is that it would reverse our nation's goal of eliminating the net loss of both wetlands acreage and wetlands habitat values. Wetlands are an integral component of both the environmental and economic health of our nation. They provide important economic and recreational benefits such as hunting, fishing, natural flood control, recharge zones for groundwater aquifers, reduced shoreline erosion and water purification through filtration of sediments and toxic pollutants from runoff. Given the direct and indirect economic benefits that are derived from wetlands, we are concerned by provisions in H.R. 961 that would encourage and increase development activities in wetlands.

In addition to the above, NCSL is also concerned with other provisions of H.R. 961. For instance, as reported by committee, H.R. 961 would: Limit state discretion to impose effluent limits which are different than federal limits; reduce state authority to update and strengthen controls on toxic and other discharges by providing that effluent limitations can only be reviewed every ten years; relax effluent pretreatment standards for waste waters destined for Publicly Owned Treatment Works (POTW's); and waive compliance time deadlines for any year in which actual funding levels fall short of authorized levels.

While NCSL supports many of the bill's provisions that would directly benefit states and their political subdivisions, we nonetheless do have concerns with other aspects of the bill. It is our sincere hope that floor amendments during consideration of the bill will succeed in addressing and resolving our concerns.

Thank you for the opportunity to share these thoughts with you.

Sincerely,

JANE CAMPBELL,
President, NCSL, Assistant Minority Leader,
Ohio House of Representatives.

Mr. LAZIO of New York. Mr. Chairman, will the gentleman yield?

Mr. FARR. I yield to the gentleman from New York.

Mr. LAZIO of New York. Mr. Chairman, I rise today to support the Saxton-Boehlert-Roemer substitute to H.R. 961, the Clean Water Act Amendments of 1995. This substitute is a sensible, reform measure which fixes many of the problems associated with Clean Water Act regulations, without sacrificing essential protections, particularly in the areas of wetlands policy and coastal zone management.

Long Islanders have always had a special appreciation for the delicate nature of our Nation's waters and the need to protect them for our economic health, as well as for future generations. My constituents carry on this tradition of concern. Long Island is, after all, an island. My district on the south shore has over 35 miles of coastal shoreline. Long Island's coastal waters are a premier source of recreation and the backbone of an essential tourism industry, which relies on our vast stretch of sandy beaches. In addition, they house thousands of acres of shellfish beds, and support both commercial and sport fishing.

Because of this reliance on our coastal waters, both wetlands protection and coastal zone management are essential to both the economic health and quality of life on Long Island. Wetlands are a natural filtering system which help protect the health of our fish population as well as help filter pollutants from seeping into our groundwater. Yet H.R. 961 would remove over 60 percent of our Nation's wetlands from any level of protection.

The Saxton-Boehlert-Roemer substitute addresses the concerns of private landowners by putting in place a proposal developed and supported by the National Governor's Association which simplifies and expedites the wetlands permitting process by expanding the role of State wetlands managers in the permitting process. This will help encourage decisions about wetlands management to be made on the local level, without paving the way for widespread wetlands destruction.

H.R. 961 would also repeal section 6217 of the Coastal Zone Act Reauthorization Amendments [CZARA], which is the only enforceable program developed by Congress to deal with nonpoint source pollution of coastal waters. Consequently, this bill would expect an already weak nonpoint source pollution program, section 319, to somehow attend to the special problems associated with coastal pollution. This pollution has resulted in the closure of 200,000 acres of New York City and Long Island shellfish beds. It has severely impacted both commercial and recreational fishing on Long Island. I clearly remember recent summers when medical waste, including used syringes, washed up on shore and forced the closure of certain Long Island beaches on hot summer days. In fact, more than 10,000 beaches nationwide were closed to bathing over the past 5 years due to pollution. My district cannot afford this kind of loss. The coastal State governors have spent years working on sensible State-managed programs to this threat to coastal waters. Working with CZARA, the coastal States have finally come up with solutions that they feel will work best for their States. The Saxton-Boehlert-Roemer substitute acknowledges this effort by adopting the reforms proposed by the 29 States of the Coastal States Organization for implementing CZARA.

Like many other coastal areas around the country, Long Island is dependent upon its waters to support its economy as well as its quality of life. By including provisions developed by the National Governor's Association and Coastal States Organization, the Saxton-Boehlert-Roemer substitute, gives each State the flexibility to develop the best programs to protect its water, while maintaining critical Federal support. I urge my colleagues to support this substitute.

Mr. ZELIFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Saxton-Boehlert substitute to H.R. 961.

Let us face it, colleagues. The Clean Water Act has made great strides in improving the quality of water sources and aquatic habitats across our Nation. However, unintended consequences of the provisions of the act as well as advances in environmental science and technology over the past 20 years have necessitated a revision of this law. H.R. 961, as passed by the Transportation Committee, brings a 1970's law into the 1990's and the 21st century.

With wastewater treatment needs of communities across the United States projected to cost over $120 billion during the next 20 years, it is essential that innovative financing and treatment methods be utilized. States need to be provided flexibility in the implementation of clean water programs in order to best address the particular water resource needs and conditions of their communities. Cost-benefit analysis, risk assessment and the use of sound science need to be included in a national clean water program to ensure that regulations do not burden the States, localities, and individual land owners.

Finally, commonsense reforms of the current section 404 wetlands permitting process are needed to relieve private landowners of the current regulatory maze and to protect their rights as guaranteed by the Constitution of the United States. Under the current Clean Water Act, landowners have been prosecuted or threatened with prosecution for removing trash, adding fill dirt, repairing a levee, installing a tennis court, plowing land, and planting crops without a section 404 permit.

A great deal of time and effort has been invested by Chairman SHUSTER and the Transportation and Infrastructure Committee to ensure that these issues are all addressed in H.R. 961 and that all perspectives on clean water issues have been taken into consideration. At the same time, H.R. 961 facilitates the continued improvement in the quality of our Nation's water resources. This bill has had resounding bi-partisan support throughout the committee process, having passed the subcommittee by a vote of 19 to 5 and the full committee by a vote of 42 to 16. I commend Chairman SHUSTER for his commitment to reforming the Clean Water Act to be a more effective and efficient national policy without compromising America's water quality, and for his dedication to seeing that this legislation comes to the floor during this Congress.

The Saxton-Boehlert substitute would gut the provisions of H.R. 961 which bring the Clean Water Act into the 21st century. The Saxton-Boehlert substitute does little to change the inflexible Federal Stormwater and nonpoint source regulations that are breaking the financial backs of small and rural communities across the Nation. The substitute does not adequately relieve the States, localities and landowners from onerous regulations and loss of private property rights. I strongly urge my colleagues to vote "no" on the substitute.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. ZELIFF. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, the gentleman said this would gut the provisions of the bill that bring us into the 21st century. It would be helpful to us if the gentleman elucidates those particular provisions because we are all anxious to go into the 21st century.

Mr. ZELIFF. I agree, and, although we have an honest disagreement, I think that the Contract With America and all that we were trying to do in terms of giving back some of the power to the States to make decisions classifying what a wetlands is and a wetland is not makes all the sense in the world, and so that kind of common sense brings us into the 21st century. Regulations and laws that cost all of us in taking precious rights away from us as individuals, putting those regulations back with the States and all those things make a lot of good common sense and hopefully go——

Mr. BOEHLERT. Wetlands provision we have adopted the language advanced by the National Governors Association because, like the gentleman, we agree that the Governors are in the best position to deal with these very sensitive issues.

Mr. ZELIFF. The Governors do not support the gentleman's amendment.

Mr. BOEHLERT. The Governors support title VIII to the bill as——

Mr. ZELIFF. Support the gentleman's position.

Mr. CARDIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Saxton-Boehlert-Roemer substitute amendment. It is far preferable to the underlying bill that has been brought to the floor.

Let me comment for a moment, if I might, about the efforts we have made in Maryland in regard to the Chesapeake Bay. This is an effort that has been undertaken now for over 15 years in which the people of Maryland have made a tremendous sacrifice in order to reclaim the quality of the water of the Chesapeake Bay. This has not just been an effort by the people of Maryland. It has been a cooperative effort between the people of Maryland, Pennsylvania, Virginia, the Nation's Capital. It has been an effort between the private sector and the Government working together in order to deal with some very serious pollution problems within the Bay. It has been a model program.

Mr. Chairman, we have seen this partnership has worked through some very tough changes in the manner in which we deal with water quality, including land use management, and fishing restrictions and other policies that we have undertaken in order to deal with the Chesapeake Bay, and it has been successful. The underlying bill would be a major step backward on the quality of the Chesapeake Bay.

Let me mention 3 significant differences between the underlying bill and the substitute that is before us. First, as it relates to the wetlands protection, the surge of nutrients into the Bay acts as a strangling of the oxygen that is important for the fish life, for the waterfowl, for oysters, crabs, and I could go on.

□ 1815

The quality of what we know on the Chesapeake Bay, whether it is for commercial or recreational purposes, is contingent upon us being able to control the level of nutrient in the Bay. That is why under the Bay Agreement we have a commitment to reduce the levels of nutrients by 40 percent by the year 2000.

The wetlands operate as a filtering system to remove nutrients and sediment from the Bay. Between 1982 and 1989, in the States of Maryland, Virginia, and Pennsylvania, we lost 37,000 acres of wetlands. That is equivalent to the size of the District of Columbia.

The substitute uses the standards helped developed by the National Governors' Association in order to put sensible restrictions on wetlands to protect wetlands. The underlying bill would literally allow the destruction of thousands, tens of thousands of acres of wetlands in our region and around the Nation.

A second reason why the substitute is far preferable is the pollution from storm water systems. We have a lot of old urban sewage systems in our State. During heavy storms, pollution, raw sewage, will just literally flow into the tributaries that lead into the Chesapeake Bay. The substitute that is before us offers some hope that we can deal with this issue. The underlying bill does nothing at all to protect us from the problems of storm water pollution.

Let me mention a third issue why the substitute is far preferable than the underlying bill, and that is the coastal zone non-pointed source runoff controls. Again, we are dealing with the nutrient level that I mentioned before. The underlying bill will allow the nutrients to continue, which act as a suffocation to the oxygen necessary for aquatic life. The substitute provides protection in this area, again allowing us to deal with the unacceptable level of nutrients that are flowing into the Chesapeake Bay and other waters.

Mr. Chairman, the bottom line is this: We have invested an awful lot in cleaning up the Chesapeake Bay in this region. We have put a lot of time, effort, and resources, both governmental and private sector. We have a choice in a few moments whether we are going to move forward in partnership with our States and with our local governments and with the private sector to help clean up the Chesapeake Bay, or whether we are going to move backwards.

The Federal Government has been a partner in this effort, a very proud partner in this effort, in helping the region deal with the Chesapeake Bay, which has been a model of a multi-jurisdictional body of water in dealing with pollution. It has acted as a model.

I hope the Congress, I hope my colleagues, will continue that fine tradition. Vote for the substitute, vote against the underlying bill. Let us continue that partnership and allow the people of our region to continue their efforts to reclaim one of the most important assets that we have, the Chesapeake Bay.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. CARDIN] has expired.

(At the request of Mr. SAXTON and by unanimous consent, Mr. CARDIN was allowed to proceed for 2 additional minutes.)

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from New Jersey.

Mr. SAXTON. I would just like to ask the gentleman, the nutrification process that you speak of in bodies of waters such as the Chesapeake Bay where nutrients create a situation where aquatic life cannot exist, at least in a healthy way, comes from in most cases the non-point source pollution issue that we are addressing in the substitute. The educational process, to enlist the help of the army of people necessary to change our forms of behavior, is absolutely necessary, as included in this bill.

I bring this up because the Chesapeake Bay is the great example of a great body of water that everybody is in love with and that everybody would like to help to nurture back to a good state of health, if only we had programs to help people understand how to do that.

I grew up in northeastern Pennsylvania on the south branch of the Tunkhannock Creek, which nobody has heard of. But it feeds into the east branch of the Susquehanna River, which is of course the source of fresh water for the Bay, and that is where the nutrients come from. My father a few years ago adopted the south branch of the Tunkhannock Creek and went about trying to eliminate the nutrients coming from that area.

Throughout Pennsylvania, those kinds of programs are necessary in order to help bring the Bay back to an appropriate level of healthfulness.

So I thank the gentleman for his comments.

Mr. CARDIN. Mr. Chairman, reclaiming my time, I thank the gentleman for his comments. He is absolutely correct. The nutrients are acting as a suffocation to aquatic life. Nonpoint pollution is the cause. Education is important. The substitute moves us in that direction to control the issues. The underlying bill would prevent the actions. I appreciate the comments made by the gentleman on this.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the substitute.

Mr. Chairman, this is a "while I" speech. While I share the concern and admire the leadership of Messrs. BOEHLERT and SHAYS and formerly Mr. SAXTON, I must rise in opposition to this amendment.

Let the record show that I am for a clean Chesapeake Bay. Let the record show I hope the gentleman from New Jersey is able to swim as long as he wants in the Susquehanna, or whatever. But I must say that agriculture has a stake in this. I think there has been debate here, and as chairman of the House Committee on Agriculture, I feel compelled to inform Members that most of those interested in agriculture are very concerned about this substitute.

Now, you are going to say "Who is that," and I am going to tell you. The Agricultural Retailers, American Association of Nurserymen, American Crop Protection Association, American Farm Bureau, American Feed Industry, American Sheep Industry, American Soybean Association, CF Industries, Inc., Agriculture Association, Farmland Industries, the dairymen, and National Association of State Departments of Agriculture. They are extremely important as you work on the environment. You have got to work with the state departments of agriculture as well as the state departments of environmental protection.

We have the wheat growers, the cattlemen, the corn growers, the cotton council. I can go on and on and on. But basically all of agriculture says while they understand the concern and the apprehension of those who have offered this substitute, that we need this bill. We need the other bill.

Now, why? Let me also add, if you are from rural and small town America, the National Federation of Independent Business, one of the many outfits here that rates Members of Congress. Some Members of Congress that are about, wake up in the offices, wake up here. The NFIB rating, two times, one on the substitute and one on final passage. They are opposed to the substitute; they are for the final passage.

Why would the NFIB and agriculture indicate their opposition to the substitute? Well, the substitute allows the 1987 Core Delineation Manual to be used for making wetlands determinations. That is the manual that has caused all the problems. That has been the problem.

This bill sets out a better determination, a much better definition. This 1987 manual would let the regulators decide wetland hydrology by looking at watermarks on trees, even though there is no water on the land. A parcel of land could be damp a foot below the surface and still meet their requirement. That has been part of the problem. We do require 21 consecutive days where a wetland would be wet. I think that makes a little sense. If more than 50 percent of the vegetation on the land is made up of plants that also thrive in other areas, well, there you are, that requirement of qualification is met.

This bill, the chairman's bill, the bill that we also support on the House Committee on Agriculture, requires some water loving wetland plant to be present. I think that makes common sense.

I will tell you, I know the gentleman from New York, [Mr. BOEHLERT] and the gentleman from Michigan, [Mr. DINGELL] and I have the utmost respect for him, has said it does not harm agriculture. I know the gentleman has made a very honest effort in that regard. But the chairman's bill allows State and local cooperation to restore a wetland ecosystem.

You know what? We have debated this and debated this. No one here knows exactly what an ecosystem is, a wetlands ecosystem, and that is the problem. Because when these matters end up in a Federal District Court, the judge then turns to the EPA and the Fish and Wildlife Service to tell him what a wetlands ecosystem is, and we are right back to the regulator and we are right back to the problem that has caused all of the problem in regards to farm country.

We have heard a lot about the Chesapeake and the Susquehanna. We have got a river in Kansas, one of the few rivers in Kansas. It is called the Arkansas. There is a community there called Great Bend, Kansas. And we heard a lot about nutrients and the different standards.

That community is now going to spend $12 million for a new waterworks system. You know why? There is too much chlorine in the water. It could endanger an endangered species fish called the shiner in the local river. One basic problem, there is no water in the river and there is no fish. Now, other than that, it makes a great deal of common sense.

That is an extreme example, but that is the kind of thing we are facing in agriculture. Low spots in the field where, as I said before, no self-respecting duck would ever land.

I urge you, if you come from rural and small town America, if you care about the NFIB rating, and if you serve on the Committee on Agriculture, vote against this substitute and support the bill.

AMENDMENT OFFERED BY MR. MINGE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SAXTON

Mr. MINGE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

Mr. SHUSTER. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore (Mr. ENSIGN). The gentleman reserves a point of order on the amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MINGE to the amendment in the nature of a substitute offered by Mr. SAXTON: "Page 130, after line 5, add the following: '(5) Agricultural Permit Authority.—The Secretary of Agriculture is authorized to issue permits in accordance with this section for any activity resulting from normal farming, silviculture, aquaculture, and ranching activities and practices carried out on agricultural lands or for any activity incidental thereto carried out on agricultural lands if the agricultural land is not subject to sections 1221–1223 of the Food Security Act of 1985 (16 U.S.C. 3821–3823). Any activity allowed by the Secretary of Agriculture under sections 1221–1223 of the Food Security Act of 1985 (16 U.S.C. 3821–3823) shall be deemed permitted under this section and no individual request for or granting of a permit shall be required.'"

"Page 146, after line 7, add the following: '(z) Mitigation of Agricultural Lands.—Any mitigation approved by the Secretary of Agriculture for agricultural lands shall be accepted by the Secretary as mitigation under this section.'"

Mr. MINGE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. MINGE. Mr. Speaker, I would like to briefly discuss the reason for this amendment. The problem that we face in rural areas with wetland delineation and permitting under section 404 is largely a problem that results from several Government agencies trying to make decisions about the same land. We have the Army Corps of Engineers, the Environmental Protection Agency, the U.S. Department of Agriculture, and the Fish and Wildlife Service all focusing on what ought to be done. The farmers and others in the rural area have found that this vast array of agencies at the State, Federal, and local level has resulted in delays of years, frustration, expense, and despair.

What is important I believe is that we clearly recognize here in Congress that although we have committees and we have jurisdiction and are concerned that we maintain clear lines of authority, that out there in the field, in the real world, it is terribly important, individuals, that we at the Federal level speak with one voice.

The purpose of my amendment is to make it possible for farmers and rural America to ask for an opinion on whether or not their situation requires a permit, whether or not mitigation that is acceptable to one Federal agency is acceptable to another, and have a straight answer from one Federal officer.

I submit that part of the credibility that we as Members of Congress and the Federal Government face is that we have been unable to put things together so that our agencies do in fact work with one voice, and we have one-stop shopping.

For this reason, Mr. Chairman, I request that this body approve this amendment and improve the way that we deal with people in rural America. This is not an amendment that goes to the merits of the legislation in terms of policy decisions, over what should and should not be a wetland. Instead, it goes to the procedure by which people deal with our Federal agencies. I request that this amendment be passed.

☐ 1830

Mr. SHUSTER. Mr. Chairman, I withdraw my reservation of a point of order. As I understand, the amendment will be accepted by the author of the substitute, and we may have problems with this, but we can fight that battle within the context of the whole substitute.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. MINGE. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, on behalf of the authors of the substitute, we do accept the amendment. We believe that it goes to the best interests of the farmers that the gentleman from Kansas was speaking so eloquently about just a few minutes ago. We commend the gentleman for his foresight in bringing this matter to our attention.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. MINGE. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I would like to compliment the gentleman, too, because we are vitally concerned with the interests of agriculture. The gentleman has evidenced a sensitivity to that, and we are glad to accept that proposal.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. MINGE. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I would just say, as one of the authors of the substitute as well, that we feel that we want to do everything we can to work closely with agriculture. We feel this improves the bill for farmers, for conservation, and for the convenience of farmers as one-stop shopping. And we are happy to accept the amendment.

The CHAIRMAN pro tempore (Mr. ENSIGN). The question is on the amendment offered by the gentleman from Minnesota [Mr. MINGE] to the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. SAXTON].

The amendment to the amendment in the nature of a substitute was agreed to.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in support of the Saxton-Boehlert substitute to the Clean Water Act. I have serious concerns about the impact of certain provisions of H.R. 961 on my State of Connecticut.

First, the Shuster bill repeals the coastal water protection program established by the Coastal Zone Management Act, which recognizes the unique water pollution issues facing coastal States and requires these States to take special steps to control nonpoint source pollution.

Connecticut has been a leader in this area, developing an innovative and successful program. Scaling back the Federal program would have serious negative consequences for my State's shores because no matter how committed Connecticut is to coastal quality, negligence by neighbor states could pollute our shores and our waterways. Nonetheless, the significant changes in the Coastal Zone Management Act are long overdue and to address these problems with the current program, the Saxton-Boehlert substitute adopts the recommendations made by the coastal State Governors, to preserve the benefits of the Coastal Zone Management Act but gives States greater flexibility to delineate the scope of their managed areas, expand the time frame for implementation of reforms and allow States to select and prioritize the projects they believe will address their nonpoint source pollution problems.

Given the facts that in the past 5 years over 10,000 beaches in the United States have been closed because of coastal water pollution and that over one-third of all shellfish beds are closed or threatened by water pollution, including 32 in Connecticut, we must focus greater attention, not less, on the problems of water pollution in our coastal zones.

This is both an economic and an environmental imperative. The pollution threatening our coasts stems mainly from nonpoint sources, storm water runoff from urban, suburban, commercial and industrial areas now accounts for 30 percent of water quality impairment. The current Clean Water Act mandates a program to control polluted storm water from municipal industrial sources and has already been phased into effect in most of the largest cities and industries.

Even though 342 cities and 134,000 industrial sources already have their permit and abatement programs in place, the problem of controlling storm water runoff has proven to be quite complicated. EPA has placed a 6-year moratorium on any new requirements on smaller cities or smaller industries while it works out the problems the programs have encountered in regard to small cities and small businesses.

The substitute adopts the EPA moratorium as law and extends it for 10 years. This is the right approach, because it maintains the pressure on States to deal with these issues while at the same time relieving States of taking irrational steps in regard to small towns and small industries.

Another provision with serious potential implications for Connecticut is the wastewater treatment standards, specifically secondary treatment waivers. The current Clean Water Act establishes secondary treatment as a minimum standard for municipal sewage treatment plants, governing how clean wastewater must be before it is discharged into rivers, oceans and other bodies of water. All municipally owned sewage treatment plants were required to provide secondary treatment by 1988 and all municipal facilities in Connecticut have already attained at least secondary treatment capability and some have gone beyond that standard.

Despite the fact that this requirement has been in effect for almost 7 years, the underlying bill seeks to exempt towns of less than 10,000 people from secondary treatment requirements.

Along the Connecticut River, which cuts through the heart of all of New England, this exemption would create havoc. Most of the towns in New England are smaller than 10,000 people. A town of 10,000 people gives off a million gallons of sewage a day.

Like most other States, Connecticut still has a long way to go in achieving its clean water goals. More than a third of the assessed rivers and estuaries cannot sustain fishing, permit swimming or maintain aquatic life year round. Exempting the majority of our towns as a majority of less than 10,000 people from secondary treatment requirements will not continue the progress we have made at great expense.

Finally, I am pleased to support the wetlands provisions of the Saxton-Boehlert substitute. This title adopts the recommendations of the National Governors Association with input from State wetlands managers.

I would remind Members that both in the wetlands section and in the coastal management section the Boehlert substitute simply adopts the recommendations of the State Governors for the reforms that their people say are needed in these programs.

I am troubled by title VIII of H.R. 961 for several reasons. The bill establishes a new entitlement for property owners whose property value is diminished by 20 percent. We have discussed this at great length. I will not repeat that discussion.

Secondly, the bill would require the Army Corps of Engineers to classify all wetlands into three categories with only the top category being fully protected.

The CHAIRMAN pro tempore. The time of the gentlewoman from Connecticut [Mrs. JOHNSON] has expired.

(By unanimous consent, Mrs. JOHNSON of Connecticut was allowed to proceed for 1 additional minute.)

Mrs. JOHNSON of Connecticut. Mr. Chairman, this would have a harsh effect on Connecticut where at least 60 percent of the wetlands would be declassified. Though I support the concept of classifying wetlands, this bill sets out criteria for classification not based on sound science, according to the newly released National Academy of Sciences wetlands report.

Further, the costs associated with classifying every wetland in the Nation would be staggering. A far less extensive plan to map all flood plain areas, which in Connecticut we have accomplished, wound up taking 10 years in the nation and cost a billion dollars.

In contrast, the substitute's wetlands provisions allow the Army Corps greater flexibility in wetlands delineation and encourage states to adopt their own permitting program independent of federal control. It encourages wetlands classification based on science with exceptions only for certain functioning wetlands and certain agricultural lands.

State and individuals have had difficulty applying current wetlands laws in recent years, but I am confident that the proposal put together by the States themselves and incorporated in the Saxton-Boehlert substitute addresses these problems effectively.

The CHAIRMAN pro tempore. The time of the gentlewoman from Connecticut [Mrs. JOHNSON] has again expired.

(By unanimous consent, Mrs. JOHNSON of Connecticut was allowed to proceed for 30 additional seconds.)

Mrs. JOHNSON of Connecticut. Mr. Chairman, faced with serious water quality problems a generation ago, the state of Connecticut passed its only Clean Water Act, and this is why I wanted the 30 additional seconds. We passed the first one.

The Federal law is modeled on our act. And since its passage, we have become the Nation's leader in the production of oysters because we have so cleaned up our offshore waters. With that, I ask Members' support of the Boehlert amendment.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the substitute offered by the gentleman from New Jersey [Mr. SAXTON], the gentleman from New York [Mr. BOEHLERT], the gentleman from Indiana [Mr. ROEMER], as amended by the gentleman from Minnesota [Mr. MINGE]. This substitute amendment is a reasonable alternative to H.R. 961, and I urge all of my colleagues to support it.

The substitute lessens the devastating impact of H.R. 961 by including the recommendation of the National Governors Association for protecting wetlands.

In addition, it incorporates a proposal for addressing coastal nonpoint pollution developed by the Coastal States Organization. The substitute, unlike H.R. 961, will not roll back toxicity standards that are working, and it will not provide a laundry list of exemptions for various industries to release new pollutants at will.

Mr. Chairman, of special concern to my state of California and to all coastal States, and I might add my native State of Maryland, home of the great Chesapeake Bay, is a provision which repeals the only existing program for reducing agricultural and urban runoff. This type of runoff is an especially significant contributor to coastal pollution and results in the closing of beaches, declining coastal fisheries, threats to drinking water and the shutting down of the shellfish beds. We are all concerned about the enforcement of regulations over the wetlands. We have heard this over and over, and I think it deserves attention. But, Mr. Chairman, this legislation goes too far because it affects millions of acres of wetlands by allowing these natural areas to be developed and polluted.

This would jeopardize over 75 percent of our fish and shellfish, which depend on marshes and other wetland environment.

Wetlands are an integral component of both the environmental and economic health of our Nation. They provide important recreational benefits, natural flood control, reduce shoreline erosion and water purification through filtration of sediments and toxic pollutants from runoff. The provisions of H.R. 961 would cause irreparable damage to these sensitive lands.

Mr. Chairman, the Clean Water Act is a tremendously complex piece of legislation dealing with national issues of critical importance. Unlike previous reauthorizations, however, H.R. 961 fails to make progress toward a cleaner environment.

Mr. Chairman, the substitute offered by our colleagues is reasonable and sensible, when compared to H.R. 961. Virtually every provision of H.R. 961 is harmful to both people and the environment and would degrade rivers, streams, estuaries, wetlands, and coastal zones throughout the country, including the sources of drinking water for two-thirds of all Americans.

Our Nation will never have a clean bill of health in any respect without clean water. I urge my colleagues to support the Saxton-Boehlert-Roemer substitute and to vote "no" on H.R. 961.

Mr. SAXTON. Mr. Chairman, may I inquire of the Chair, with the gentleman from Indiana, if we might explore limiting debate time to perhaps an additional period of time. May I ask the gentleman, how many additional speakers he believes he may have.

Mr. ROEMER. Mr. Chairman, we have one additional speaker.

Mr. SAXTON. I believe on our side we have three or four, possibly three additional speakers.

Mr. BORSKI. Mr. Chairman, I think there is one speaker in support of the substitute and one in opposition to the substitute on this side.

Mr. SAXTON. Mr. Chairman, I ask unanimous consent that we limit additional debate time to 30 minutes, to be divided equally between the proponents and the opponents of the substitute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. BOEHLERT. Reserving the right to object, Mr. Chairman, I think that works contrary to the interests of the authors of the amendment because there are four of us who wish to speak as advocates, so those four should each receive 5 minutes. I think there are two opposed. That would be four and two. So there would be seven more speakers, 5 minutes apiece.

Mr. SHUSTER. There are four opposed. Four are in favor, four opposed. That is 40 minutes.

Mr. SAXTON. If we could limit debate to 45 minutes, that would take care of the situation.

Mr. BOEHLERT. Mr. Chairman, I withdraw my reservation of objection.

Mr. SAXTON. Mr. Chairman, I ask unanimous consent that we limit further debate to 45 minutes, to be equally divided between the opponents and proponents.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. BORSKI. Reserving the right to object, Mr. Chairman, could we just limit it to seven speakers, 5 minutes each?

□ 1845

Mr. SAXTON. Mr. Chairman, I amend my unanimous-consent request.

Mr. BORSKI. Mr. Chairman, I withdraw my reservation of objection.

Mr. SHUSTER. If the gentleman will yield, I understand he has 4 in favor and we have 4 opposed, so that is 8.

Mr. SAXTON. I amend my unanimous consent request to that effect.

The CHAIRMAN pro tempore (Mr. ENSIGN). The pending unanimous consent request is to limit debate on the Saxton amendment and amendments thereto to 45 minutes, controlled by the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Pennsylvania, [Mr. SHUSTER], and they will yield debate as they see fit.

Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SAXTON. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we have had considerable discussion on this floor about the role of science in the consideration of this legislation, and legislation in general. Surely I would agree that we, as Members of Congress, have the responsibility to write the laws, but we also have a responsibility to take into account the facts of nature that scientists can describe for us. In that regard, there is an anecdote that may shed some light on this issue.

As we know, Mr. Chairman, from our high school geometry classes, the ratio between the diameter of a circle and the circumference of a circle is known as pi, and is equal to roughly 3.14159. It is a long decimal number that is hard to remember, so in 1897 the legislature of the State of Indiana decided that they would make life easier for high school students by passing a law that the value of pi would be 3.0 exactly.

Mr. Chairman, the legislators of the State of Indiana had it wrong, because regardless of what any legislature or Congress says the value of pi is, it will remain and will always be 3.14159.

There is a parallel here to the legislative definition of wetlands. Wetlands are defined by what they do in nature. They are not defined by any arbitrary formula written in legislation. Wetlands are useful. Wetlands control flooding. Wetlands provide wildlife habitat. Wetlands provide water purification and aquifer recharge.

If lands are covered with water for any period of time, and they perform those functions, they are wetlands, regardless of what the committee says, regardless of what this Congress says. We should recognize that, and we should protect the value of the wetlands because of what they do.

Mr. Chairman, in my State of New Jersey, the arbitrary legislative definition of wetlands proposed by this bill will devastate wetlands protection. That is why I support the Saxton substitute. According to the New Jersey Governor's office, under the provisions of H.R. 961, 90 percent of New Jersey's remaining wetlands will no longer qualify as federally protected. Most of the State's remaining wetlands are invaluable to flood control, but they do not meet the test that is set forth in the legislation that they have to be wet in the growing season for at least 21 consecutive days. This is a hard blow to a State that has lost 50 percent of its wetlands to development over the last 25 years.

Michigan and New Jersey are unique in that they are the only two States in the Union that have assumed wetlands delineation authority from the Federal Government under a provision of the 1987 act. While it is true that H.R. 961 places no restrictions on a State's ability to run its own stricter wetlands program, because of the State's assumption of the Federal program, there is no separate State-run program in New Jersey. New Jersey's laws and regulations are all based on and refer to definitions and legislative language in the current section, 404. Therefore, by changing section 404, we are limiting the ability of the State of New Jersey to protect its own wetlands in the manner that its own legislators have chosen to do.

To retain the current level of protection, the State legislature must pass a new set of wetlands laws without section 404 references, and promulgate new regulations with the normal lengthy notice and comment process. This will put the few remaining wetlands in my State of New Jersey at considerable risk.

According to Congressional Quarterly, wetlands save this country $31 billion a year as a result of flood mitigation. New Jersey rightly does not want to expose the communities along the Raritan River, the Passaic River, the Delaware River, to the enormous damage of flooding that has occurred in recent decades and in recent years in our State. However, that would be the effect of this legislation, unless it is amended by the Saxton substitute.

In addition, CBO scored H.R. 1330, the bill on which the chairman, the gentleman from Pennsylvania [Mr. SHUSTER], based title VIII of this legislation, to cost $10 to $15 billion to protect only type A wetlands. Congressional Quarterly estimates that the American taxpayers could shell out up to $45 billion if the Army Corps of Engineers does not permit development of all the wetlands covered by H.R. 961. Because the corps has a budget of only $4 to $6 billion, this poses an obvious problem. I urge my colleagues to vote for the Saxton amendment.

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. First of all, Mr. Chairman, I would like to thank the chairman for the earlier recognition. At this time I would have been swimming out of the mouth of the Red River over North Vietnam, and I want to tell the Members, it was not a river of pollution that you would want to swim in, or your children to swim in.

Would a Clean Water Act help clean up that river? Absolutely. Would the current Clean Water Act of today be supported by members? I think with clearer definitions. however, the last gentleman from New Jersey, according to him, a mud puddle that would replenish the aquifer would be considered a wetland. That is the lunacy of the bill. That is why, exactly why we are fighting.

There is probably not a Member in here that would not support the current Clean Water Act. There is not a Member that would not support the bill offered by the gentleman from New Jersey [Mr. SAXTON]. The clean water and clean air and endangered species, and yes, even the EPA, the organization, would be supported, but they have gone too far. There have been extreme cases.

However, there are honest attempts, and I appreciate, first of all, the dialogue. I do not think there has been a lot of mudslinging on either side of the issue. We have been talking about the issues, and they have been honest. I think they have been honest attempts to achieve elemental environmental security.

However, we have in this body fundamentalists, fundamentalist leftists, that have violated the interests and used the well-meaning legislation to the extremes. I am not talking about the gentleman from Indiana [Mr. ROEMER] or the gentleman from New Jersey [Mr. SAXTON] but there is an element in this organization that are extremist, and they have used these bills, aforementioned, as weapons against people.

Why are we even having a substitute, or a bill in the first place? To me it is not the Clean Water Act, it is to come somewhere within logic of what reasonable men and women would have us to save the environment. However, that has not been the case. That is why I think both the substitute and the bill is to try and bring us somewhere back to the center.

If we take a look, I had 3 Russian generals come into my office a few months ago. I asked one of them what was the most treasured right that they had gained since they had their freedom. They said "Congressman, it is the right to own property."

The problem is, for every item that I read here, there are going to be items on the other side that are violated. I recognize that. However, for example, in private property rights, I personally believe it is wrong from environmentalists, often extreme groups, to go in and take on somebody's property, devalue that property, and then say that is fair market value. That is wrong. However, that has existed.

I think that is why these laws and why these substitutes and bills have been changed, they are trying to change the current act, because there have been those violations.

Mr. Chairman, I look at Mexico. We discussed here once about a boy that was lost for three days, and the helicopter could not land because he went into a wilderness area. Fish and Game would not allow the helicopter to land. That is ludicrous. That is stupid. However, those kinds of things are allowed to exist.

In California, we had homes where the people had asked if they could disk around there homes because of the fire. We have a lot of fires and earthquakes in California. They said "Can we disk around them?" They said "No, because it is an endangered species area." We lost 34 homes. The people that went ahead and did it and violated the law saved their homes. That is wrong, Mr. Chairman.

For each of those issues that I could talk about, about the violations, we look at the Colorado slag, we look at the pollution in the Great Lakes. Talk about the Chesapeake Bay, look how the Great Lakes have been cleaned up.

There are advantages to the current Clean Air Act and Clean Water Act and endangered species. However, something has to bring the legislation to where logical decisions can be made, not by regulators. Government officials run amok, whether it is an RTC or whether it is an environmental group, they run amok. We have to change that.

California, the No. 1 economic product in California is agriculture. Yet, agriculture in the past, pesticides go into the lakes and into the rivers and into our oceans, where the gentleman from California [Mr. FILNER] is from. Down there in the district, we need to clear that up. It is not so much our outfall in sewage, it is the Tijuana raw sewage that is coming out of Mexico that is polluting our beaches. We need to attend to that.

I think there is an honest attempt for the Members in favor of the substitute and the Members in favor of the bill to resolve not the Clean Air Act, but to resolve logical decisions. That has not existed in the past.

Mr. SAXTON. Mr. Chairman, I yield 5 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in strong support of the Saxton-Boehlert-Roemer substitute and in opposition to H.R. 961 as reported. Members know I feel strongly, because I waited all afternoon to speak.

Mr. Chairman, among all of our environmental protection efforts, the Clean Water Act stands as a shining success story and as an international model.

In the twenty years of this program, the quality of our rivers, streams, and coastal waters has dramatically improved. The percentage of waters failing to meet swimming safety criteria has fallen. Ohio's Cuyahoga River, which once attracted firemen, now attracts fishermen. And our own Chesapeake Bay is making tough, halting steps on the long road to recovery.

Protection of wetlands is crucial both to the protection of our wildlife and the maintenance of our water quality. Wetlands are vital biological filters, removing sediments and pollutants that would otherwise suffocate our waters. Over half of the nation's wetlands have disappeared since the time of Columbus. Recognizing the importance of this resource, President

Bush pledged "no net loss of wetlands" during his administration.

Sadly, we are falling short of even this modest and reasonable goal. During the 1980's, despite the scientific recognition of the value of wetlands, our own Chesapeake Bay lost wetlands at the rate of 8 acres a day. No resource can long endure such depredation.

The Chesapeake Bay remains in a precarious state. Our oyster and shad fisheries are virtually gone; blue crab, the region's premier catch, has fallen into precipitous decline.

We have made great progress in other areas: point-source discharges of phosphorus to the Bay have fallen off by 70 percent and we are beginning to make strides controlling nitrogen contamination.

Those positive strides are directly attributable to the Nation's aggressive Clean Water Program. Much more needs to be done, particularly in the control of agricultural and municipal runoff. I am disappointed that H.R. 961 would allow decades of delay before we seriously address these problems.

Furthermore, the redefinition of wetlands under the Committee bill will remove vast areas from the scope of legal protections. I stood here on the floor two months ago as we debated risk assessment, and one principle we all agreed on was the need for the best possible science in formulating our environmental strategies.

We now have a situation where, at the expressed request of Congress, the National Academy has performed an exhaustive scientific analysis of the wetlands issue. Their conclusions are antithetical to those in H.R. 961. Are we in Congress, committed to good science, to ignore the verdict of the nation's foremost scientific advisory body?

H.R. 961 would divide currently protected wetlands into three categories. Wetlands at the lower end would effectively lose protection. I am reminded with a hint of irony of those famous words of Julius Caesar: "Gaul is divided in three parts." Division of the province into three sections was the prelude to subjugation.

H.R. 961 would undermine the health of the Bay, and, in the process, undermine the health and economic well-being of the residents of this region. I opposed private property takings legislation before; I will oppose it now where it applied to the preservation of wetlands.

There have been costs for this progress, but the benefits have been immeasurable. It would be unfortunate indeed if this Congress were to succumb to the whim of the moment and undercut this crown jewel of our nation's environmental efforts. I urge defeat of H.R. 961 and passage of the bipartisan substitute.

□ 1900

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. I thank the gentleman from Pennsylvania for yielding me the time.

Mr. Chairman, I would commend to the attention of my colleagues words from the Mesa Tribune in March of this year. Mark Flatten and Chris Coppola write the article. "In Arizona, sewage must be treated to drinking quality standards before discharged so that it won't harm phantom fish in a dry river."

The passage points up the challenge we face, the absurdity of regulation run amuck. For that reason, I stand in opposition to the amendment and in strong support of H.R. 961.

I have good friends who sponsor this amendment. I have no doubt to the nobility and the aim and the intent of the amendment. Here is my problem, colleagues. It seems to me that though the amendment is born of a noble impulse, it assumes the worst about duly elected representatives at the State level.

In other words, the assumption is that our friends in the State legislatures, that our friends in local and county government cannot move effectively to solve problems on their own. Indeed, the overwhelming sentiment and the underlying philosophy of the first 100 days of this new Congress was this concept: That those on the front lines can best fight the battles.

I am pleased to hear of the strides here on the East Coast. I am pleased to hear of the improvements, and indeed no one in this body, I believe, disputes the notion of the need a quarter century ago to stop and take stock of pollution and move toward meaningful conservation. But the problem comes, as I see it, in making the Federal Government always the instrument, and indeed making the unelected the final arbiters of what measures should be taken.

With that, I oppose the amendment, and I stand in strong support of H.R. 961.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. HAYWORTH. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, the gentleman points out some legitimate concerns, reading from that Arizona publication. I wish to point out that in title III, section 301, entitled "Arid Areas," we address the legitimate concern you have. So the substitute does address that legitimate concern.

I thank my colleague for yielding.

Mr. HAYWORTH. I thank my friend.

Mr. SAXTON. Mr. Chairman, I yield 5 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in support of the Boehlert substitute here today. I would like to say why because I have a great deal of respect for the sponsor of the bill itself.

Having worked in this area for 20 years in the State of Delaware, I have seen that of all the pieces of environmental legislation which I think have actually worked, that the Clean Water Act probably stands at the top. I believe that the substitute does more to support that original piece of legislation, but correcting or remedying some of the problems which existed, than does the actual bill before us.

I believe that the substitute deals with the problems of wetlands, it gives more control to the States, but it does not give up the wetlands which are a valuable source of nutrients, as we know. I believe that it preserves the Coastal Zone Management Act, which is extremely important.

We have the Delaware River and Bay in my State, and I cannot tell you how important that is to the environment of our State. The revolving loan fund is extremely important for infrastructure as far as water is concerned. The financial and technical needs of the farmers are something else that sometimes we overlook. That is a very dramatic problem that they are dealing with, and they are right on the edge of the water in many instances.

The stormwater program, which would be repealed by H.R. 961, is of vital importance. We have had to close our oceans, I have had to actually close down swimming in Rehoboth Beach, DE, because of stormwater runoff, and the same thing is true of nonpoint source pollution. It is the exact same thing. We get to the point where we actually have to close swimming and take other measures because of pollution caused by nonpoint source pollution. It does not have what I consider to be an onerous takings provision.

For all of those reasons, but mostly because ultimately when you are managing these kinds of programs and trying to create clean water in your jurisdiction, you have to take all these different aspects and you have to add them all up.

In the aggregate, eventually you begin to clean your water and you get rid of the burning rivers and you get rid of where the fish could not live. Eventually you get to the point where waters are swimmable, and you get to the point where our children can enjoy it for some period of time into their futures.

For all those reasons, I do support the bipartisan substitute. I would encourage all of us to do it.

Mr. SAXTON. Mr. Chairman, the gentleman from New York [Mr. BOEHLERT] is going to be our last speaker. If I may, Mr. Chairman, I wish to yield whatever time the gentleman from Delaware [Mr. CASTLE] did not use, in addition to the 5 minutes, to the gentleman from New York [Mr. BOEHLERT].

The CHAIRMAN. The gentleman from New Jersey [Mr. SAXTON] has 16 minutes remaining.

Mr. SHUSTER. Mr. Chairman, does the gentleman not have two more speakers?

The CHAIRMAN. The gentleman from Pennsylvania has 19½ minutes. The gentleman may divide that as he wishes with his speakers.

Mr. SHUSTER. Mr. Chairman, I have two more speakers.

The CHAIRMAN. But the gentleman has 19½ minutes left under the agreement.

Mr. SHUSTER. I would ask the Chair to recalculate. I do not think that is quite accurate.

The CHAIRMAN. To the gentleman from Pennsylvania, I would say, if he has two more speakers remaining, under the agreement, as I understand it, each speaker has 5 minutes.

Mr. SHUSTER. So we have 5 minutes apiece. That is 10 minutes on our side.

The CHAIRMAN. If that is what the gentleman from Pennsylvania is asking for, that is fine.

The gentleman from New Jersey is requesting that the gentleman from New York close; is that correct? The gentleman has no more speakers?

Mr. SHUSTER. He would close on their side. I have the right to close, but he would have 5 minutes plus whatever minutes are left over, a total of 8 minutes.

PARLIAMENTARY INQUIRY

Mr. SHUSTER. Mr. Chairman, if I might, let me put this in the form of a parliamentary inquiry.

My understanding, then, is that on our side we have a total of 10 minutes. I am going to next yield 5 minutes to the gentleman from Louisiana [Mr. HAYES]. Then the gentleman from New York [Mr. BOEHLERT] will be recognized for his 5 minutes, plus the 3 that has been yielded, so he will have 8 minutes to close on his side. Then I will close the debate for 5 minutes. That is my understanding of the parliamentary situation. Is that accurate?

The CHAIRMAN. Pursuant to the agreement made earlier, the gentleman still has 19½ minutes remaining. After his second speaker, he may yield back the balance of his time if he wishes.

Mr. SHUSTER. I would say, then, Mr. Chairman, that I think our agreement is that we will both yield back our time, so we will take a total of 10 minutes and the gentleman from New York [Mr. BOEHLERT] will take a total of 8 minutes, so there will be a total of 18 minutes used.

Mr. ROEMER. Mr. Chairman, I ask unanimous consent that we could reclaim some of the time that was yielded back. We have the gentleman from New York [Mr. BOEHLERT] who wants to close. However, we have the gentleman from South Carolina [Mr. SPRATT], and I would ask if we could give 2 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SHUSTER. I do not object to the 3 minutes, Mr. Chairman, but our agreement is that we will have 10 minutes left and the other side will have 5 plus 3, or 8 minutes left.

Mr. ROEMER. Eight minutes is fine.

The CHAIRMAN. Without objection, so ordered.

There was no objection.

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES. Mr. Chairman, this has been a wonderful debate. The gentleman from Louisiana [Mr. TAUZIN] and I have particularly enjoyed it because it was so informative for us to have an opportunity to learn what we learned today.

Starting early this afternoon, we learned that the bill that he and I had been working on for over 10 years, even though we sent over 900 copies of what was then H.R. 1330 to every environmental organization, every Member of Congress and everyone else when it was first filed in 1987, his property rights bill that was filed in the mid-1980's that has been discussed in just about every forum possible was in fact done in the dead of night, in seclusion, rushed without hearings.

He and I have attended between us 32 hearings on this subject in the time he and I have been in Congress and yet that is rushed through.

So what are we told to do? We are told by certain elements of leadership to vote against that product because it was not aired to the fullest degree. So what are we supposed to vote for?

Well, we have one speaker after another saying "Well, it's obvious, you vote for the substitute," that was released at a press conference two days ago that is 250 pages long, that has never had one hearing on one section, that has no idea by whom it was written, did not participate in a committee or subcommittee process, and that is open and above board.

The gentleman from Louisiana [Mr. TAUZIN] and I, and we are referred to on occasion as sneaky, but this elevates the term to a whole new level. And then we are told an even more extraordinary thing.

We are told, "Well, wait for the science. Wait for the science." We have had 16 different scientific studies in the last decade. We waited for the study that is not before us and has been mentioned on several occasions 19 months after its due date.

The results of that study, by the way, absolutely no one has mentioned clearly. After 3 years and over $1 million, a group of eminent scientists, paid by the EPA, concluded that the 1987 manual written by the EPA was the thing to do. I am shocked at the conclusion. What is incredible to me is it took 3 years to figure out who was footing the bill so you better do what they told you in the first place, and that to me is the biggest, biggest element of surprise.

But even more so, I am told that we should examine this study, even though it says do what you did in 1987 that did not work, caused everyone in America to complain about it, and required that you are on the floor here today amending it, even though that is the conclusion they have, we should take time to study the document because it was not released until 6 p.m. on Tuesday, for some people.

For others, it was released days earlier in order to allow those people who agreed with the study that said 1987 was the right thing to do after the cost of $1 million, to give them additional opportunity to prepare to place it in legislation in the above-board and open process.

My copy of it says "Advance Copy Not To Be Released Till 6 p.m. on Tuesday."

That does not sound scientific, does it? Unless of course we include the field of political science in which I got my degree.

The next extraordinary thing that I consider before us is the most unusual dissertation of all, and that is on individual rights. "We do not need to change the law. The law is working well."

I have heard some unusual examples of it. I heard about a stadium in Cleveland as a success story, even though the adjoining property houses a museum that a former Congressman from Cleveland had to get a waiver placed into a piece of legislation before my committee because it had been declared navigable. The successful stadium is in the jurisdictional waters of the United States unless your Congressman had enough influence to get it out.

I think the rest of America that does not have that individual influence to effect a piece of legislation ought to get the same break the gentleman from Pennsylvania [Mr. SHUSTER] is trying to give everybody.

I heard another example about State regulators in South Carolina saying we are for the substitute. Understand, South Carolina is the same State where Mr. Lucas had to go all the way to the U.S. Supreme Court to get his rights finally preserved by the court.

You know what they said? They said, "Mr. Lucas, South Carolina is wrong, their State regulators are wrong, their zone management is wrong, you were cheated, and we're going to give you over $1 million."

□ 1915

You know what the State did to pay the judgment? Since they got the property, they sold it to someone to build a house, which is what Lucas wanted to do in the first place. So when they needed the money they did precisely what they told him not to do.

And I am supposed to be told this is the system that works? I am supposed to support a bipartisan substitute?

We had a committee vote in which half of the Democrats, overwhelming majority of Republicans voted for the bill of the gentleman from Pennsylvania [Mr. SHUSTER]. If that is not bipartisan I do not know what is. So I am going to support the bipartisan measure and oppose the substitute, which remains to be seen where the chips may fall in bipartisanship.

Mr. SAXTON. Mr. Chairman, I yield the remainder of our time to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I yield to my colleague, the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding. I would like to rise in support of the Saxton-Boehlert-Roemer substitute. I support amending section 404 of the Clean Water Act. The district I represent is largely rural, and farmers in my district have real concerns about the way in which agricultural wetlands have been regulated, and I understand that because I own a farm myself and it has about 200 or 300 acres of bottom lands on it. I understand farmers' concerns about being overridden by the Corps of Engineers.

At the same time, in my State in particular, the gentleman who was just in the well referred to the State of South Carolina. We adopted a Beachfront Management Act to control the development of our beachfront. We have a Coastal Zone Management Act because we recognize the benefits of wetlands to one of the largest industries in our State, the tourism industry, a large and growing part of our economy, and our environment will benefit and what wetlands yield for water quality helps tourism, home owners, and farmers alike.

Title VIII, section 8 contains the language that is essentially the same as that the gentleman who just spoke offered in H.R. 1330 in the last Congress. I did not cosponsor it then. I do not cosponsor it now. I do not support it now because I think a national classification system as mandated in the bill is not workable. It mandates a national system for classifying it. The Corps is instructed to classify the land of any property owner who requests it and is required to get it done in 10 years' time. Not one single organization or person that I have heard has explained how the Corps, already overburdened, will be able to classify every single wetland in 10 years. Nor have I heard why all of a sudden property owners want to welcome the Corps of Engineers onto their land to decide whether or not it contains wetlands.

Mr. Chairman, the Saxton-Boehlert-Roemer substitute is a good piece of work. It is reform without going too far. I wholeheartedly support it and urge others to do likewise. I thank the gentleman for yielding.

Mr. BOEHLERT. Mr. Chairman, I thank my colleague.

Mr. Chairman, now we come to the moment of decision. The vote on our amendment presents this House with a clear, stark question: Are we truly for reform of the Clean Water Act, or is the word reform simply an alias to mask the evisceration of our Nation's most successful environmental statute?

That is the choice. If what Members want is to retreat on the Clean Water Act, support H.R. 961 as reported. However, if what they want is true reform of the Clean Water Act, this substitute provides it.

Let me give some of the details that highlight the difference between reform and repeal.

Let us look at the wetlands provisions. Are there problems with the wetlands provisions of current law? Of course there are. My district has wetlands, including agricultural wetlands. I know there are problems. How would H.R. 961 propose to deal with these problems? By allowing the wholesale elimination of wetlands, wetlands that purify our waters, and prevent flooding.

Is that a remedy?

And on what basis does H.R. 961 allow the destruction of these wetlands? Certainly not on a scientific basis. The National Academy of Sciences' distinguished panel on this issue has stated that the definitions in H.R. 961 have no scientific basis, and with all due respect to my distinguished colleague from Louisiana [Mr. HAYES] let me point out that these eminent scientists are not paid by the Environmental Protection Agency. There services are on a voluntary basis. The Environmental Protection Agency only pays the National Academy of Sciences for printing and distribution of the report.

The wetlands provisions of H.R. 961 would not reform current law. They would reform the surface of the Earth by allowing the destruction of precious wetlands.

Our substitute on the other hand propose true reform. Where do our wetlands reform provisions come from? From the National Governors' Association, not exactly a bunch of tree-huggers. We give the States more control over the regulation of there own wetlands, local control, not Federal control. We take a sensible, middle-ground approach, State control to allow more sensible regulation without threatening essential wetland protection.

Another example of real reform in our bill, control of coastal zone nonpoint source pollution. H.R. 961 would simply repeal the current program of protection. On what basis? None, really. You do not have to be a scientist to understand the problem runoff causes in coastal areas. All you have to be is someone who has not been able to go to a beach on a hot summer day because the beach was closed because of pollution; 10,000 beaches in America last year. Eliminating the coastal zone program is not reform. It would allow toxic substances to reform our Nation's beaches.

But are there problems with current law? Of course there are. Our substitute would take care of those problems with real reform.

Where did our proposal come from? From the Coastal States Organization, which represents 30 Governors of coastal States. Again not a bunch of environmental radicals. Here again we allow more State control to eliminate red tape while maintaining environmental protection.

And what about stormwater runoff? Same situation. H.R. 961 would just pretend that stormwater does not cause pollution, despite all of the scientific evidence to the contrary. Are there problems with current stormwater law? Of course there are. We offer real reform. We create an exemption for cities with populations under 100,000 and for light industry. Regulations of these entities may not be worth the cost of compliance, and we recognize it. But we do not allow larger cities and major industries to just return to using our Nation's lakes and rivers as sewers.

What about point source pollution? We cannot ignore this. More than 40 percent of the Nation's waters are still impaired, so in this case we do retain the provisions of current law.

And what about the many other areas H.R. 961 would affect? In those areas 70 percent of the bill, our alternative, 70 percent of that bill retains the language of H.R. 961. There are many areas of agreement.

Where H.R. 961 offers real reform, we adopt its provision. Where H.R. 961 raises the banner of reform to mask environmental degradation, we substitute real reform for sleight of hand.

I urge all of my colleagues to support the bipartisan Saxton-Roemer-Boehlert amendment. It would accomplish exactly what the public is seeking. Our substitute will prevent environmental damage while lessening the burden of regulation.

Our amendment substitutes pragmatism for ideology. Our amendment substitutes reform of regulation for its repeal. Our amendment substitutes hope for the future, not the abandonment of future generations.

I urge passage of the bipartisan substitute alternative.

Mr. SHUSTER. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. WAMP].

Mr. WAMP. Mr. Chairman, in both my committees, I have heard from the EPA and specifically from EPA Administrator Carol Browner that they need our help in using sound scientific research to make policy decisions. Many of the complaints I have heard about the EPA over the years is that there seems to be, to put it mildly, a poor match between their decisionmaking and their research. Now I'm not seeking to rake EPA over the coals one more time here, but to offer positive steps to solve the problem. Many of my colleagues agree that it is time to put our money where their mouth is. I offered an amendment in subcommittee, later revised in the full committee and again in consultation with Science Committee chairman Bob Walker's input in the Shuster en-bloc amendment here today, to make sure that in these tight budget times we do not lose sight of the fact that water quality research remains a vital function of how the federal government can participate in making our environment better.

But more importantly, my amendment has the intent not to fund the continued "paper-pushing research" of Washington bureaucrats, but to invest in cooperative efforts of localities and small municipalities, counties, and cities to find solutions to their clean water challenges. Specifically, asking EPA to use nonprofit and private organizations with expertise in water quality research, combined with the technical assistance necessary to get that information into the hands of rural and small town water authorities, will give us an independent body of information to make more sound decisions and achieve cleaner water.

I'd like to include in the RECORD a letter I have received from one such independent organization, stating the need for funding such research.

WATER ENVIRONMENT
RESEARCH FOUNDATION,
Alexandria, VA, March 29, 1995.

Mr. BOB CASTRO,
Legislative Assistant, Office of Congressman Zack Wamp, Washington, DC.

DEAR BOB: Thanks for the news that Congressman Wamp is supportive of legislation supportive of water quality research. We believe that increased funding on the national level is critical to ensure:

1. Science base for environmental decisionmaking. Wastewater utilities are concerned with "unfounded mandates". They believe that improving water quality is not a mandate, but a responsibility. Water quality professionals seek assurance, through sound science, that public money spent on water quality improvement programs achieve the desired results.

2. Simply stated, the technology of today is based upon the research of the past. The promise of the future is based upon the research of today.

3. The research needs focus is changing. In the past water quality concerns focused on fishable/swimmable waters and the technical issues of volume of wastewater, suspended solids, organics, and pathogens. The new focus is on health impacts, risk, watersheds, conservation, and others. New technologies are needed to focus on nutrients, toxics, residuals, air, reuse, and prevention.

Thank you for this opportunity to provide additional input. If there is any additional information required, please don't hesitate to contact me.

Sincerely,

GLENN REINHARDT,
Executive Director.

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, our friends are trying to represent that this substitute is 70 percent of the committee bill. That simply is not true. The substitute guts the committee bill which passed overwhelmingly on a bipartisan basis in committee.

They are trying to portray this substitute as having widespread support. Does the National Governors' Association support it? No. Does the National League of Cities support it? No. Do the State water pollution control officials support it? No. Does the Conference of Mayors support it? No. Do the agricultural groups support it? No. Does the NFIB support it? Not only do they not support it, they list this vote as a key vote as they measure our performance in the Congress. In writing, as we have demonstrated earlier here today, all of these organizations support the committee bill.

In fact, the nonpoint source, the substitute really does damage to what we do in the committee bill. The committee bill requires the States to develop comprehensive nonpoint source management plans. If the States do not develop the programs, the bill requires the EPA to do it.

As far as coastal management is concerned, we do not eliminate coastal management. We fold it into a unified nonpoint source program. So we eliminate the duplicative regulation of nonpoint sources of pollution.

The Boehlert substitute actually will continue this duplicative regulation on behalf of the coastal zone management officials, the bureaucrats who of course want to keep their separate offices and their separate funding.

On stormwater, one of the most glaring omissions in the Boehlert substitute is the failure to address the existing stormwater permitting program.

On unfunded mandates, during the debate on unfunded mandates cited most often were the greatest burdens on local government from the Clean Water Act, and indeed, the Boehlert substitute does not include any flexibility with regard to the unfunded mandates.

On risk assessment and cost-benefit analysis, get this, the Boehlert substitute incredibly completely wiped out any risk-assessment or benefit-cost requirement for Clean Water Act regulations. And on wetlands, this is absolutely extraordinary too. The Boehlert substitute not only does not streamline or reform the 404 program, but it actually adds new regulatory requirements into the existing law, so if you like the wetlands provisions that your people are living under today, you will love what they are going to have to live with under the Boehlert substitute. And yes, we heard from our friends in New Jersey about the loss of wetlands. I would say to my good friends in New Jersey or any other State, your State can pass whatever wetlands regulations they want to pass. If you want tougher wetlands regulations, pass them for your State. Just do not impose your view of life on the other 49 States.

Overall, this substitute guts the bill. If the election in November was about anything, it was about returning back to the States the decisionmaking process on so many of the regulations that, indeed, we must live under.

So I would urge my colleagues to support the bipartisan bill that passed the committee overwhelmingly, that passed the subcommittee 19 to 5, passed the full committee 42 to 19. Overwhelming bipartisan support.

If this substitute is adopted, we will be gutting reform of clean water, and we will have to go home and tell our people, tell our farmers, tell our homeowners, tell our small business people we are sorry, we have not really reformed those problems that you have come and told us about. You are going to have to live with the same old EPA, Washington-knows-best mentality.

So I urge Members to defeat this substitute and support the bill, which is true, balanced environmental reform.

Mr. HOYER. I rise today in support of the Boehlert-Saxton-Roemer substitute. This substitute is a reasonable and commonsense reform of the Clean Water Act.

Clearly, the present Clean Water Act needs to be reformed. As the reauthorization debate began there were several different approaches to how to best protect our Nation's lakes, streams, estuaries, and coastal waters.

This substitute will provide relief to farmers, industry, and individual landowners from costly and time-consuming mandates. It will also, however, continue many of the programs and provisions which have made the Clean Water Act one of our Nation's most effective environmental statutes.

The Chesapeake Bay, much of which borders my district, is the largest and most productive estuary in North America. Maryland, Virginia, and Pennsylvania experienced firsthand the bay's low point in the mid-1970's.

The habitat, especially the blue crab population, water quality, and the overall economy of the Bay were at an all time low.

Mr. Chairman, thanks to the Clean Water Act, the Bay and its industries made a remarkable comeback. The Chesapeake Bay Program, in conjunction with the Clean Water Act requirements, led the Bay's restoration.

Today, watermen in my district in southern Maryland, earn a living on the Chesapeake Bay. Previously, we have been up to the task of restoring the Bay and protecting their livelihood, and today their families are relying on us to continue our efforts.

I am pleased that the substitute provides funding for this successful partnership between State, local, and Federal Governments.

The substitute also continues the Coastal Zone Management Program which was initiated to implement coastal nonpoint pollution and control programs.

Nonpoint source pollution today provides us with our greatest environmental challenge, as it is the most difficult to detect and control.

Over 10,000 beaches were closed in the last 5 years due to pollution. Sixteen counties, in my home State of Maryland, make up the coastal zone, well over 65 percent of the State.

This substitute recognizes that our Nation's $400 billion a year travel and tourism industry and $55 billion a year fishing industry are directly reliant upon our coasts and continues our commitment to the Coastal Zone Program.

One of the more controversial aspects of clean water reauthorization has been wetlands reform. Clearly, the Federal Government must continue its commitment and environmental obligations to protect our Nations wetlands.

At the same time, however, wetlands policies have resulted in substantial burdens on our Nations farmers, industry, and individual landowners.

The substitute simplifies and expedites the wetlands permitting process by implementing a plan submitted by the National Governor's Association.

The NGA approached Congressman BOEHLERT in March with their proposal, as they deemed the provisions on wetlands contained in H.R. 961 to be inconsistent with the recommendations of the Nation's Governors.

This proposal will give more authority on wetlands management to the States where action can be more accurate, appropriate, and prompt. It will also make many needed administrative and regulatory changes in the way the system is run.

Mr. Chairman, most Members of this body agree that there are administrative and regulatory problems with the Clean Water Act.

However, the same percentage of Members would also agree about its importance and environmental successes.

This substitute will continue to provide environmental safeguards and promote programs to continue pollution cleanup and prevention well into the 21st century, while also providing regulatory relief to farmers, landowners, and industry.

I urge support for the Boehlert-Saxton-Roemer substitute and support smart, environmentally sound, commonsense reform to the Clean Water Act.

Mr. Chairman, I insert the following correspondence for the RECORD:

NATIONAL GOVERNORS ASSOCIATION,
March 28, 1995.

Hon. SHERWOOD BOEHLERT,
Chairman, Subcommittee on Water Resources and Environment, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We have been greatly encouraged by your willingness, as well as that of Rep. Shuster and others in the bipartisan group, to include states in the development of H.R. 961. We support the intent of that bill to provide substantially greater flexibility to states and local governments in our efforts to protect water quality. We support the Water Resources and Environment Subcommittee in its efforts to expeditiously move this comprehensive legislation reforming the Clean Water Act.

We have not yet completed our review of all provisions of the bill. However, as you know, the provisions on wetlands are not consistent with the recommendations of the nation's Governors. We raised concerns over this issue in our March 22 letter to Rep. Shuster (copy attached). In response to your request, we enclose an alternative approach to wetlands reform developed by the Association of State Wetland Managers, based on NGA policy recommendations. This proposal reflects the state perspective on wetlands management and we urge your consideration of this proposal as a substitute for the wetlands provisions of H.R. 961.

We look forward to working with you in advancing this important legislation, and will be in touch shortly concerning other issues.

Sincerely,

Governor MIKE LOWRY,
Chair, Committee on Natural Resources.
GOV. TERRY E. BRANSTAD,
Vice Chair, Committee on Natural Resources.

Mr. SHAYS. Mr. Chairman, I rise in strong opposition to H.R. 961, the Clean Water Act Amendments of 1995, and in support of the Saxton-Boehlert substitute to the bill.

Maintaining a strong Clean Water Act is essential for Connecticut and the Nation. Unfortunately, H.R. 961 does not build on the success the Clean Water Act has had over the past 23 years. Instead, it rolls back standards, loosens regulations and weakens protections.

Under H.R. 961, 60 to 80 percent of our Nation's wetlands would be either removed from any level of protection or destroyed. Industrial pollution standards would be significantly weakened, allowing discharge of industrial waste into lakes, rivers, and harbors. The entire coastal zone nonpoint source pollution control program would be repealed, and the Federal Government would be saddled with payments of more than $15 billion as a result of illogical and unfair takings provisions.

While it is important the Clean Water Act is reauthorized, it must not be at the environmental cost that would result from passage of H.R. 961. The Saxton-Boehlert substitute is a sensible alternative that makes necessary modifications without repealing or rolling back important protections that have contributed to the Clean Water Act's enormous success.

Specifically, the substitute makes improvements over H.R. 961 in four important areas: wetlands protection, storm water management, coastal water pollution, and nonpoint source pollution.

The Saxton-Boehlert substitute recognizes that there have been problems with the wetlands permitting process. But unlike title VIII of H.R. 961, the substitute streamlines the permitting process without leaving millions of acres of wetlands unprotected. It utilizes recommendations made by the National Governors Association to simplify and expedite the wetlands permitting process without establishing a bureaucratic classification system.

Wetlands serve as a breeding ground for fish, are critical habitat for wildlife and are necessary for most migratory birds. They are critical to Connecticut, where they also serve to filter out nutrients and toxics that would otherwise end up in Long Island Sound. The sound is already suffering from nitrogen overload that has resulted in hypoxia—low levels of dissolved oxygen which cause significant, adverse ecological effects in the bottom water habitats of the sound. Local, State, and Federal Government resources are being spent to reduce nitrogen levels in the sound, and it doesn't make sense to counter these efforts by removing wetlands from protection.

H.R. 961 would repeal the entire stormwater program in the Clean Water Act. This is unnecessary and harmful to health and safety. Stormwater is one of our most significant water pollution programs, but H.R. 961 would allow it to be freely discharged into our waters.

H.R. 961 would also repeal the coastal pollution control program. Over the past 5 years more than 10,000 beaches in the United States have been closed because of coastal water pollution. Over one-third of all shellfish beds in the United States are closed or threatened by water pollution. Connecticut is a world leader in oyster production, and this industry is dependent on clean water for prosperity. Repealing the coastal pollution program is harmful for Connecticut economically and environmentally.

The majority of coastal water quality impairment is the result of nonpoint sources of pollution, another major contributor to problems in Long Island Sound. In fact, nonpoint source pollution impairs more water bodies nationwide than any other pollution source, resulting in beach closings and declining fisheries. It threatens drinking water quality and impacts millions of coastal residents. Yet H.R. 961 loosens regulations for nonpoint source pollution. While the legislation authorizes funds for polluted runoff programs, it doesn't require accountability for the moneys it provides.

Clean water is essential to the economy, health, and livelihood of everyone, not only in my State of Connecticut, but in the entire country. We have made solid progress in clean water protection since enactment of the act in 1972. As we look for improvements to the act and solutions to the challenges that lie ahead, we must be both ambitious and thoughtful. We must seek rational policies that make sense. The Saxton-Boehlert substitute, not H.R. 961, achieves that goal.

Mr. PORTER. Mr. Chairman, I rise to urge my colleagues to support the substitute to H.R. 961 offered by Representatives SAXTON, BOEHLERT, and ROEMER. This substitute will vastly improve what is now a flawed bill.

Mr. Chairman, the Clean Water Act is one of our most effective environmental laws. It has significantly improved the quality of our Nation's rivers, streams and lakes over the past 25 years.

While the law has been extremely successful, there are significant problems with the Clean Water Act as well. Like many of our environmental laws, there have been instances of regulatory overkill under the act. That's why the Saxton-Boehlert-Roemer substitute incorporates 70 percent of H.R. 961's provisions. But the remainder of H.R. 961's provisions go too far.

H.R. 961 removes over 60 percent of our Nation's remaining wetlands from any level of protection. The destruction of these wetlands would increase flooding, decrease the supply of fresh water and lead to a decline in the fishing and tourism industries, all of which are concerns to my district.

The bill also includes takings provisions which would require the Federal Government to compensate a landowner when a portion of his or her property is devalued by 20 percent because of wetlands regulations. This provision could cost the Federal Government billions of dollars. As a fiscal conservative, I cannot support H.R. 961 in its current form because of this provision alone.

H.R. 961 would also repeal the entire coastal zone nonpoint source pollution program. When more than 10,000 beaches in the United States have been closed over the past 5 years because of coastal water pollution, it simply does not make sense to weaken efforts to limit nonpoint source pollution affecting these areas.

The Saxton-Boehlert-Roemer substitute is a reasonable approach to reauthorizing the Clean Water Act. It includes a proposal developed and endorsed by the National Governor's Association for protecting wetlands. This is a middle-ground approach which gives the States a greater say and more flexibility in protecting wetlands.

It also incorporates a proposal for addressing coastal nonpoint pollution developed by the Coastal States Organization. At a time when we are returning power to the States, we should respect the views of the 30 Governors representing the Coastal States Organization with regard to coastal zone protection.

I urge my colleagues to support the substitute. It is strong, sensible, environmentally sound and affordable.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended, offered by the gentleman from New York [Mr. SAXTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SAXTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 242, not voting 8, as follows:

[Roll No. 312]

AYES—184

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Berman
Bilbray
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Ehlers
Ehrlich
Engel
Eshoo
Evans
Farr
Fawell
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Goss
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
Kolbe
Lantos
Lazio
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Minge
Mink
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Porter
Rahall
Ramstad
Rangel
Reed
Reynolds
Rivers
Roemer
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Upton
Velazquez
Vento
Visclosky
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—242

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Emerson
English
Ensign
Everett
Ewing
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Johnston
Jones
Kaptur
Kasich
Kim
King
Kingston
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
Longley
Lucas
Manzullo
Martinez
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Mineta
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Regula
Richardson
Riggs
Roberts
Rohrabacher
Rose
Roth
Royce
Salmon
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Traficant
Volkmer
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Bunning
Collins (IL)
Fattah
Harman
Lewis (KY)
Moakley
Peterson (FL)
Rogers

□ 1948

Mr. MCINTOSH and Mr. BISHOP changed their vote from "aye" to "no."

Mr. BILBRAY changed his vote from "no" to "aye."

So the amendment, in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to section 1?

The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. DEFINITION.

In this Act, the term "Administrator" means the Administrator of the Environmental Protection Agency.

The CHAIRMAN. Are there any amendments to section 2?

The Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Water Pollution Control Act (33 U.S.C. 1251–1387).

The CHAIRMAN. The Clerk will now designate title I.

The text of title I is as follows:

TITLE I—RESEARCH AND RELATED PROGRAMS

SEC. 101. NATIONAL GOALS AND POLICIES.

(a) NONPOINT SOURCE POLLUTION; STATE STRATEGIES.—Section 101(a) (33 U.S.C. 1251(a)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) in paragraph (7)—

(A) by inserting ", including public and private sector programs using economic incentives," after "programs";

(B) by inserting ", including stormwater," after "nonpoint sources of pollution" the first place it appears; and

(C) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(8) it is the national policy to support State efforts undertaken in consultation with tribal

and local governments to identify, prioritize, and implement water pollution prevention and control strategies;''.

(b) ROLE OF STATE, TRIBAL, AND LOCAL GOVERNMENTS.—Section 101(a) is further amended by adding at the end the following:

''(9) it is the national policy to recognize, support, and enhance the role of State, tribal, and local governments in carrying out the provisions of this Act;''.

(c) RECLAMATION AND REUSE.—

(1) RECLAMATION.—Section 101(a)(4) is amended by inserting after ''works'' the following: ''and to reclaim waste water from municipal and industrial sources''.

(2) BENEFICIAL REUSE.—Section 101(a) is further amended by adding at the end the following:

''(10) it is the national policy that beneficial reuse of waste water effluent and biosolids be encouraged to the fullest extent possible; and''.

(d) WATER USE EFFICIENCY.—Section 101(a) is further amended by adding at the end the following:

''(11) it is the national policy that water use efficiency be encouraged to the fullest extent possible.''.

(e) NET BENEFITS.—Section 101 is further amended by adding at the end the following:

''(h) NET BENEFITS.—It is the national policy that the development and implementation of water quality protection programs pursuant to this Act—

''(1) be based on scientifically objective and unbiased information concerning the nature and magnitude of risk; and

''(2) maximize net benefits to society in order to promote sound regulatory decisions and promote the rational and coherent allocation of society's limited resources.''.

SEC. 102. RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION.

(a) NATIONAL PROGRAMS.—Section 104(a) (33 U.S.C. 1254(a)) is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(3) by adding at the end the following:

''(7) in cooperation with appropriate Federal, State, and local agencies, conduct, promote, and encourage to the maximum extent feasible, in watersheds that may be significantly affected by nonpoint sources of pollution, monitoring and measurement of water quality by means and methods that will help to identify the relative contributions of particular nonpoint sources.''.

(b) GRANTS TO LOCAL GOVERNMENTS.—Section 104(b)(3) (33 U.S.C. 1254(b)(3)) is amended by inserting ''local governments,'' after ''interstate agencies,''.

(c) TECHNICAL ASSISTANCE FOR RURAL AND SMALL TREATMENT WORKS.—Section 104(b) (33 U.S.C. 1254(b)) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(8) make grants to nonprofit organizations to provide technical assistance and training to rural and small publicly owned treatment works to enable such treatment works to achieve and maintain compliance with the requirements of this Act; and

''(9) disseminate information to rural, small, and disadvantaged communities with respect to the planning, design, construction, and operation of treatment works.''.

(d) WASTEWATER TREATMENT IN IMPOVERISHED COMMUNITIES.—Section 104(q) (33 U.S.C. 1254(q)) is amended by adding at the end the following:

''(5) SMALL IMPOVERISHED COMMUNITIES.—

''(A) GRANTS.—The Administrator may make grants to States to provide assistance for planning, design, and construction of publicly owned treatment works to provide wastewater services to rural communities of 3,000 or less that are not currently served by any sewage collection or water treatment system and are severely economically disadvantaged, as determined by the Administrator.

''(B) AUTHORIZATION.—There is authorized to be appropriated to carry out this paragraph $50,000,000 per fiscal year for fiscal years 1996 through 2000.''.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 104(u) (33 U.S.C. 1254(u)) is amended—

(1) by striking ''and'' before ''(6)''; and

(2) by inserting before the period at the end the following: ''; and (7) not to exceed $50,000,000 per fiscal year for each of fiscal years 1996 through 2000 for carrying out the provisions of subsections (b)(3), (b)(8), and (b)(9), except that not less than 20 percent of the sums appropriated pursuant to this clause shall be available for carrying out the provisions of subsections (b)(8) and (b)(9)''.

SEC. 103. STATE MANAGEMENT ASSISTANCE.

Section 106(a) (33 U.S.C. 1256(a)) is amended—

(1) by striking ''and'' before ''$75,000,000'';

(2) by inserting after ''1990'' the following: '', such sums as may be necessary for each of fiscal years 1991 through 1995, and $150,000,000 per fiscal year for each of fiscal years 1996 through 2000''; and

(3) by adding at the end the following: ''States or interstate agencies receiving grants under this section may use such funds to finance, with other States or interstate agencies, studies and projects on interstate issues relating to such programs.''.

SEC. 104. MINE WATER POLLUTION CONTROL.

Section 107 (33 U.S.C. 1257) is amended to read as follows:

''SEC. 107. MINE WATER POLLUTION CONTROL.

''(a) ACIDIC AND OTHER TOXIC MINE DRAINAGE.—The Administrator shall establish a program to demonstrate the efficacy of measures for abatement of the causes and treatment of the effects of acidic and other toxic mine drainage within qualified hydrologic units affected by past coal mining practices for the purpose of restoring the biological integrity of waters within such units.

''(b) GRANTS.—

''(1) IN GENERAL.—Any State or Indian tribe may apply to the Administrator for a grant for any project which provides for abatement of the causes or treatment of the effects of acidic or other toxic mine drainage within a qualified hydrologic unit affected by past coal mining practices.

''(2) APPLICATION REQUIREMENTS.—An application submitted to the Administrator under this section shall include each of the following:

''(A) An identification of the qualified hydrologic unit.

''(B) A description of the extent to which acidic or other toxic mine drainage is affecting the water quality and biological resources within the hydrologic unit.

''(C) An identification of the sources of acidic or other toxic mine drainage within the hydrologic unit.

''(D) An identification of the project and the measures proposed to be undertaken to abate the causes or treat the effects of acidic or other toxic mine drainage within the hydrologic unit.

''(E) The cost of undertaking the proposed abatement or treatment measures.

''(c) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the cost of a project receiving grant assistance under this section shall be 50 percent.

''(2) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—Contributions of lands, easements, and rights-of-way shall be credited toward the non-Federal share of the cost of a project under this section but not in an amount exceeding 25 percent of the total project cost.

''(3) OPERATION AND MAINTENANCE.—The non-Federal interest shall bear 100 percent of the cost of operation and maintenance of a project under this section.

''(d) PROHIBITED PROJECTS.—No acidic or other toxic mine drainage abatement or treatment project may receive assistance under this section if the project would adversely affect the free-flowing characteristics of any river segment within a qualified hydrologic unit.

''(e) APPLICATIONS FROM FEDERAL ENTITIES.—Any Federal entity may apply to the Administrator for a grant under this section for the purposes of an acidic or toxic mine drainage abatement or treatment project within a qualified hydrologic unit located on lands and waters under the administrative jurisdiction of such entity.

''(f) APPROVAL.—The Administrator shall approve an application submitted pursuant to subsection (b) or (e) after determining that the application meets the requirements of this section.

''(g) QUALIFIED HYDROLOGIC UNIT DEFINED.—For purposes of this section, the term 'qualified hydrologic unit' means a hydrologic unit—

''(1) in which the water quality has been significantly affected by acidic or other toxic mine drainage from past coal mining practices in a manner which adversely impacts biological resources; and

''(2) which contains lands and waters eligible for assistance under title IV of the Surface Mining and Reclamation Act of 1977.''.

SEC. 105. WATER SANITATION IN RURAL AND NATIVE ALASKA VILLAGES.

(a) IN GENERAL.—Section 113 (33 U.S.C. 1263) is amended by striking the section heading and designation and subsections (a) through (f) and inserting the following:

''SEC. 113. ALASKA VILLAGE PROJECTS AND PROGRAMS.

''(a) GRANTS.—The Administrator is authorized to make grants—

''(1) for the development and construction of facilities which provide sanitation services for rural and Native Alaska villages;

''(2) for training, technical assistance, and educational programs relating to operation and maintenance for sanitation services in rural and Native Alaska villages; and

''(3) for reasonable costs of administering and managing grants made and programs and projects carried out under this section; except that not to exceed 4 percent of the amount of any grant made under this section may be made for such costs.

''(b) FEDERAL SHARE.—A grant under this section shall be 50 percent of the cost of the program or project being carried out with such grant.

''(c) SPECIAL RULE.—The Administrator shall award grants under this section for project construction following the rules specified in subpart H of part 1942 of title 7 of the Code of Federal Regulations.

''(d) GRANTS TO STATE FOR BENEFIT OF VILLAGES.—Grants under this section may be made to the State for the benefit of rural Alaska villages and Alaska Native villages.

''(e) COORDINATION.—In carrying out activities under this subsection, the Administrator is directed to coordinate efforts between the State of Alaska, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of the Interior, the Secretary of Agriculture, and the recipients of grants.

''(f) FUNDING.—There is authorized to be appropriated $25,000,000 for fiscal years beginning after September 30, 1995, to carry out this section.''.

(b) Conforming Amendment.—Section 113(g) is amended by inserting after "(g)" the following: "Definitions.—".

SEC. 106. AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE PROGRAM.

Section 117(d) (33 U.S.C. 1267(d)) is amended—

(1) in paragraph (1), by inserting "such sums as may be necessary for fiscal years 1991 through 1995, and $3,000,000 per fiscal year for each of fiscal years 1996 through 2000" after "1990,"; and

(2) in paragraph (2), by inserting "such sums as may be necessary for fiscal years 1991 through 1995, and $18,000,000 per fiscal year for each of fiscal years 1996 through 2000" after "1990,".

SEC. 107. GREAT LAKES MANAGEMENT.

(a) Great Lakes Research Council.—

(1) In general.—Section 118 (33 U.S.C. 1268) is amended—

(A) in subsection (a)(3)—

(i) by striking subparagraph (E) and inserting the following:

"(E) 'Council' means the Great Lakes Research Council established by subsection (d)(1);";

(ii) by striking "and" at the end of subparagraph (I);

(iii) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(iv) by adding at the end the following:

"(K) 'Great Lakes research' means the application of scientific or engineering expertise to explain, understand, and predict a physical, chemical, biological, or socioeconomic process, or the interaction of 1 or more of the processes, in the Great Lakes ecosystem.";

(B) by striking subsection (d) and inserting the following:

"(d) Great Lakes Research Council.—

"(1) Establishment of council.—There is established a Great Lakes Research Council.

"(2) Duties of council.—The Council—

"(A) shall advise and promote the coordination of Federal Great Lakes research activities to avoid unnecessary duplication and ensure greater effectiveness in achieving protection of the Great Lakes ecosystem through the goals of the Great Lakes Water Quality Agreement;

"(B) not later than 1 year after the date of the enactment of this subparagraph and biennially thereafter and after providing opportunity for public review and comment, shall prepare and provide to interested parties a document that includes—

"(i) an assessment of the Great Lakes research activities needed to fulfill the goals of the Great Lakes Water Quality Agreement;

"(ii) an assessment of Federal expertise and capabilities in the activities needed to fulfill the goals of the Great Lakes Water Quality Agreement, including an inventory of Federal Great Lakes research programs, projects, facilities, and personnel; and

"(iii) recommendations for long-term and short-term priorities for Federal Great Lakes research, based on a comparison of the assessments conducted under clauses (i) and (ii);

"(C) shall identify topics for and participate in meetings, workshops, symposia, and conferences on Great Lakes research issues;

"(D) shall make recommendations for the uniform collection of data for enhancing Great Lakes research and management protocols relating to the Great Lakes ecosystem;

"(E) shall advise and cooperate in—

"(i) improving the compatible integration of multimedia data concerning the Great Lakes ecosystem; and

"(ii) any effort to establish a comprehensive multimedia data base for the Great Lakes ecosystem; and

"(F) shall ensure that the results, findings, and information regarding Great Lakes research programs conducted or sponsored by the Federal Government are disseminated in a timely manner, and in useful forms, to interested persons, using to the maximum extent practicable mechanisms in existence on the date of the dissemination, such as the Great Lakes Research Inventory prepared by the International Joint Commission.

"(3) Membership.—

"(A) In general.—The Council shall consist of 1 research manager with extensive knowledge of, and scientific expertise and experience in, the Great Lakes ecosystem from each of the following agencies and instrumentalities:

"(i) The Agency.

"(ii) The National Oceanic and Atmospheric Administration.

"(iii) The National Biological Service.

"(iv) The United States Fish and Wildlife Service.

"(v) Any other Federal agency or instrumentality that expends $1,000,000 or more for a fiscal year on Great Lakes research.

"(vi) Any other Federal agency or instrumentality that a majority of the Council membership determines should be represented on the Council.

"(B) Nonvoting members.—At the request of a majority of the Council membership, any person who is a representative of a Federal agency or instrumentality not described in subparagraph (A) or any person who is not a Federal employee may serve as a nonvoting member of the Council.

"(4) Chairperson.—The chairperson of the Council shall be a member of the Council from an agency specified in clause (i), (ii), or (iii) of paragraph (3)(A) who is elected by a majority vote of the members of the Council. The chairperson shall serve as chairperson for a period of 2 years. A member of the Council may not serve as chairperson for more than 2 consecutive terms.

"(5) Expenses.—While performing official duties as a member of the Council, a member shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code.

"(6) Interagency cooperation.—The head of each Federal agency or instrumentality that is represented on the Council—

"(A) shall cooperate with the Council in implementing the recommendations developed under paragraph (2);

"(B) on written request of the chairperson of the Council, may make available, on a reimbursable basis or otherwise, such personnel, services, or facilities as may be necessary to assist the Council in carrying out the duties of the Council under this section; and

"(C) on written request of the chairperson, shall furnish data or information necessary to carry out the duties of the Council under this section.

"(7) International cooperation.—The Council shall cooperate, to the maximum extent practicable, with the research coordination efforts of the Council of Great Lakes Research Managers of the International Joint Commission.

"(8) Reimbursement for requested activities.—Each Federal agency or instrumentality represented on the Council may reimburse another Federal agency or instrumentality or a non-Federal entity for costs associated with activities authorized under this subsection that are carried out by the other agency, instrumentality, or entity at the request of the Council.

"(9) Federal advisory committee act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

"(10) Effect on other law.—Nothing in this subsection affects the authority of any Federal agency or instrumentality, under any law, to undertake Great Lakes research activities.";

(C) in subsection (e)—

(i) in paragraph (1) by striking "the Program Office and the Research Office shall prepare a joint research plan" and inserting "the Program Office, in consultation with the Council, shall prepare a research plan"; and

(ii) in paragraph (3)(A) by striking "the Research Office, the Agency for Toxic Substances and Disease Registry, and Great Lakes States" and inserting "the Council, the Agency for Toxic Substances and Disease Registry, and Great Lakes States,"; and

(D) in subsection (h)—

(i) by adding "and" at the end of paragraph (1);

(ii) by striking "; and" at the end of paragraph (2) and inserting a period; and

(iii) by striking paragraph (3).

(2) Conforming amendment.—The second sentence of section 403(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447b(a)) is amended by striking "Great Lakes Research Office authorized under" and inserting "Great Lakes Research Council established by".

(b) Consistency of Programs With Federal Guidance.—Section 118(c)(2)(C) (33 U.S.C. 1268(c)(2)(C)) is amended by adding at the end the following: "For purposes of this section, a State's standards, policies, and procedures shall be considered consistent with such guidance if the standards, policies, and procedures are based on scientifically defensible judgments and policy choices made by the State after consideration of the guidance and provide an overall level of protection comparable to that provided by the guidance, taking into account the specific circumstances of the State's waters.".

(c) Reauthorization of Assessment and Remediation of Contaminated Sediments Program.—Section 118(c)(7) is amended by adding at the end the following:

"(D) Reauthorization of assessment and remediation of contaminated sediments program.—

"(i) In general.—The Administrator, acting through the Program Office, in consultation and cooperation with the Assistant Secretary of the Army having responsibility for civil works, shall conduct at least 3 pilot projects involving promising technologies and practices to remedy contaminated sediments (including at least 1 full-scale demonstration of a remediation technology) at sites in the Great Lakes System, as the Administrator determines appropriate.

"(ii) Selection of sites.—In selecting sites for the pilot projects, the Administrator shall give priority consideration to—

"(I) the Ashtabula River in Ohio;

"(II) the Buffalo River in New York;

"(III) Duluth and Superior Harbor in Minnesota;

"(IV) the Fox River in Wisconsin;

"(V) the Grand Calumet River in Indiana; and

"(VI) Saginaw Bay in Michigan.

"(iii) Deadlines.—In carrying out this subparagraph, the Administrator shall—

"(I) not later than 18 months after the date of the enactment of this subparagraph, identify at least 3 sites and the technologies and practices to be demonstrated at the sites (including at least 1 full-scale demonstration of a remediation technology); and

"(II) not later than 5 years after such date of enactment, complete at least 3 pilot projects (including at least 1 full-scale demonstration of a remediation technology).

"(iv) Additional projects.—The Administrator, acting through the Program Office, in consultation and cooperation with the Assistant Secretary of the Army having responsibility for civil works, may conduct additional pilot- and full-scale pilot projects involving promising

technologies and practices at sites in the Great Lakes System other than the sites selected under clause (i).

"(v) EXECUTION OF PROJECTS.—The Administrator may cooperate with the Assistant Secretary of the Army having responsibility for civil works to plan, engineer, design, and execute pilot projects under this subparagraph.

"(vi) NON-FEDERAL CONTRIBUTIONS.—The Administrator may accept non-Federal contributions to carry out pilot projects under this subparagraph.

"(vii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $3,500,000 for each of fiscal years 1996 through 2000.

"(E) TECHNICAL INFORMATION AND ASSISTANCE.—

"(i) IN GENERAL.—The Administrator, acting through the Program Office, may provide technical information and assistance involving technologies and practices for remediation of contaminated sediments to persons that request the information or assistance.

"(ii) TECHNICAL ASSISTANCE PRIORITIES.—In providing technical assistance under this subparagraph, the Administrator, acting through the Program Office, shall give special priority to requests for integrated assessments of, and recommendations regarding, remediation technologies and practices for contaminated sediments at Great Lakes areas of concern.

"(iii) COORDINATION WITH OTHER DEMONSTRATIONS.—The Administrator shall—

"(I) coordinate technology demonstrations conducted under this subparagraph with other federally assisted demonstrations of contaminated sediment remediation technologies; and

"(II) share information from the demonstrations conducted under this subparagraph with the other demonstrations.

"(iv) OTHER SEDIMENT REMEDIATION ACTIVITIES.—Nothing in this subparagraph limits the authority of the Administrator to carry out sediment remediation activities under other laws.

"(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $1,000,000 for each of fiscal years 1996 through 2000.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) RESEARCH AND MANAGEMENT.—Section 118(e)(3)(B) (33 U.S.C. 1268(e)(3)(B)) is amended by inserting before the period at the end the following: ", such sums as may be necessary for fiscal year 1995, and $4,000,000 per fiscal year for each of fiscal years 1996, 1997, and 1998".

(2) GREAT LAKES PROGRAMS.—Section 118(h) (33 U.S.C. 1268(h)) is amended—

(A) by striking "and" before "$25,000,000"; and

(B) by inserting before the period at the end of the first sentence the following: ", such sums as may be necessary for fiscal years 1992 through 1995, and $17,500,000 per fiscal year for each of fiscal years 1996 through 2000".

The CHAIRMAN. Are there any amendments to title I?

The Clerk will designate title II.

The text of title II is as follows:

TITLE II—CONSTRUCTION GRANTS

SEC. 201. USES OF FUNDS.

(a) NONPOINT SOURCE PROGRAM.—Section 201(g)(1) (33 U.S.C. 1281(g)(1)) is amended by striking the period at the end of the first sentence and all that follows through the period at the end of the last sentence and inserting the following: "and for any purpose for which a grant may be made under sections 319(h) and 319(i) of this Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution).".

(b) RETROACTIVE ELIGIBILITY.—Section 201(g)(1) is further amended by adding at the end the following: "The Administrator, with the concurrence of the States, shall develop procedures to facilitate and expedite the retroactive eligibility and provision of grant funding for facilities already under construction.".

SEC. 202. ADMINISTRATION OF CLOSEOUT OF CONSTRUCTION GRANT PROGRAM.

Section 205(g)(1) (33 U.S.C. 1285(g)(1)) is amended by adding at the end the following: "The Administrator may negotiate an annual budget with a State for the purpose of administering the closeout of the State's construction grants program under this title. Sums made available for administering such closeout shall be subtracted from amounts remaining available for obligation under the State's construction grant program under this title.".

SEC. 203. SEWAGE COLLECTION SYSTEMS.

Section 211(a) (33 U.S.C. 1291(a)) is amended—

(1) in clause (1) by striking "an existing collection system" and inserting "a collection system existing on the date of the enactment of the Clean Water Amendments of 1995"; and

(2) in clause (2)—

(A) by striking "an existing community" and inserting "a community existing on such date of enactment"; and

(B) by striking "sufficient existing" and inserting "sufficient capacity existing on such date of enactment".

SEC. 204. TREATMENT WORKS DEFINED.

(a) INCLUSION OF OTHER LANDS.—Section 212(2)(A) (33 U.S.C. 1292(2)(A)) is amended—

(1) by striking "any works, including site";

(2) by striking "is used for ultimate" and inserting "will be used for ultimate"; and

(3) by inserting before the period at the end the following: "and acquisition of other lands, and interests in lands, which are necessary for construction".

(b) POLICY ON COST EFFECTIVENESS.—Section 218(a) (33 U.S.C. 1298(a)) is amended by striking "combination of devices and systems" and all that follows through "from such treatment;" and inserting "treatment works;".

SEC. 205. VALUE ENGINEERING REVIEW.

Section 218(c) (33 U.S.C. 1298(c)) is amended by striking "$10,000,000" and inserting "$25,000,000".

SEC. 206. GRANTS FOR WASTEWATER TREATMENT.

(a) COASTAL LOCALITIES.—The Administrator shall make grants under title II of the Federal Water Pollution Control Act to appropriate instrumentalities for the purpose of construction of treatment works (including combined sewer overflow facilities) to serve coastal localities. No less than $10,000,000 of the amount of such grants shall be used for water infrastructure improvements in New Orleans, no less than $3,000,000 of the amount of such grants shall be used for water infrastructure improvements in Bristol County, Massachusetts, and no less than ⅓ of the amount of such grants shall be used to assist localities that meet both of the following criteria:

(1) NEED.—A locality that has over $2,000,000,000 in category I treatment needs documented and accepted in the Environmental Protection Agency's 1992 Needs Survey database as of February 4, 1993.

(2) HARDSHIP.—A locality that has wastewater user charges, for residential use of 7,000 gallons per month based on Ernst & Young National Water and Wastewater 1992 Rate Survey, greater than 0.65 percent of 1989 median household income for the metropolitan statistical area in which such locality is located as measured by the Bureau of the Census.

(b) FEDERAL SHARE.—Notwithstanding section 202(a)(1) of the Federal Water Pollution Control Act, the Federal share of grants under subsection (a) shall be 80 percent of the cost of construction, and the non-Federal share shall be 20 percent of the cost of construction.

(c) SMALL COMMUNITIES.—The Administrator shall make grants to States for the purpose of providing assistance for the construction of treatment works to serve small communities as defined by the State; except that the term "small communities" may not include any locality with a population greater than 75,000. Funds made available to carry out this subsection shall be allotted by the Administrator to the States in accordance with the allotment formula contained in section 604(a) of the Federal Water Pollution Control Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under this section $300,000,000 for fiscal year 1996. Such sums shall remain available until expended and shall be equally divided between subsections (a) and (c) of this section. Such authorization of appropriation shall take effect only if the total amount appropriated for fiscal year 1996 to carry out title VI of the Federal Water Pollution Control Act is at least $3,000,000,000.

The CHAIRMAN. Are there any amendments to title II?

The Clerk will designate title III.

The text of title III is as follows:

TITLE III—STANDARDS AND ENFORCEMENT

SEC. 301. EFFLUENT LIMITATIONS.

(a) COMPLIANCE SCHEDULES.—Section 301(b) (33 U.S.C. 1311(b)) is amended—

(1) in paragraph (1)(C) by striking "not later than July 1, 1977,";

(2) by striking the period at the end and inserting "not later than 3 years after the date such limitations are established;"; and

(3) by striking ", and in no case later than March 31, 1989" each place it appears.

(b) MODIFICATIONS FOR NONCONVENTIONAL POLLUTANTS.—

(1) GENERAL AUTHORITY.—Section 301(g)(1) (33 U.S.C. 1311(g)(1)) is amended by striking "(when determined by the Administrator to be a pollutant covered by subsection (b)(2)(F)) and any other pollutant which the Administrator lists under paragraph (4) of this subsection" and inserting "and any other pollutant covered by subsection (b)(2)(F)".

(2) PROCEDURAL REQUIREMENTS FOR LISTING AND REMOVAL OF POLLUTANTS.—Section 301(g) (33 U.S.C. 1311(g)) is further amended by striking paragraphs (4) and (5).

(c) COAL REMINING.—Section 301(p)(2) (33 U.S.C. 1311(p)(2)) is amended by inserting before the period at the end the following: "; except where monitoring demonstrates that the receiving waters do not meet such water quality standards prior to commencement of remining and where the applicant submits a plan which demonstrates to the satisfaction of the Administrator or the State, as the case may be, that identified measures will be utilized to improve the existing water quality of the receiving waters".

(d) PREEXISTING COAL REMINING OPERATIONS.—Section 301(p) (33 U.S.C. 1311) is amended by adding at the end the following:

"(5) PREEXISTING COAL REMINING OPERATIONS.—Any operator of a coal mining operation who conducted remining at a site on which coal mining originally was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977 shall be deemed to be in compliance with sections 301, 302, 306, 307, and 402 of this Act if—

"(A) such operator commenced remining at such operation prior to the adoption of this subsection in a State program approved under section 402 and performed such remining under a permit pursuant to such Act; and

"(B) the post-mining discharges from such operation do not add pollutants to the waters of the United States in excess of those pollutants discharged from the remined area before the coal remining operation began.".

SEC. 302. POLLUTION PREVENTION OPPORTUNITIES.

(a) INNOVATIVE PRODUCTION PROCESSES.—Subsection (k) of section 301 (33 U.S.C. 1311(k)) is amended to read as follows:

"(k) INNOVATIVE PRODUCTION PROCESSES, TECHNOLOGIES, AND METHODS.—

"(1) IN GENERAL.—In the case of any point source subject to a permit under section 402, the Administrator, with the consent of the State in which the point source is located, or the State in consultation with the Administrator, in the case of a State with an approved program under section 402, may, at the request of the permittee and after public notice and opportunity for comment, extend the deadline for the point source to comply with any limitation established pursuant to subsection (b)(1)(A), (b)(2)(A), or (b)(2)(E) and make other appropriate modifications to the conditions of the point source permit, for the purpose of encouraging the development and use of an innovative pollution prevention technology (including an innovative production process change, innovative pollution control technology, or innovative recycling method) that has the potential to—

"(A) achieve an effluent reduction which is greater than that required by the limitation otherwise applicable;

"(B) meet the applicable effluent limitation to water while achieving a reduction of total emissions to other media which is greater than that required by the otherwise applicable emissions limitations for the other media;

"(C) meet the applicable effluent limitation to water while achieving a reduction in energy consumption; or

"(D) achieve the required reduction with the potential for significantly lower costs than the systems determined by the Administrator to be economically achievable.

"(2) DURATION OF EXTENSIONS.—The extension of the compliance deadlines under paragraph (1) shall not extend beyond the period necessary for the owner of the point source to install and use the innovative process, technology, or method in full-scale production operations, but in no case shall the compliance extensions extend beyond 3 years from the date for compliance with the otherwise applicable limitations.

"(3) CONSEQUENCES OF FAILURE.—In determining the amount of any civil or administrative penalty pursuant to section 309(d) or 309(g) for any violations of a section 402 permit during the extension period referred to in paragraph (1) that are caused by the unexpected failure of an innovative process, technology, or method, a court or the Administrator, as appropriate, shall reduce or eliminate the penalty for such violation if the permittee has made good-faith efforts both to implement the innovation and to comply with any interim limitations.

"(4) REPORT.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall review, analyze, and compile in a report information on innovative and alternative technologies which are available for preventing and reducing pollution of navigable waters, submit such report to Congress, and publish in the Federal Register a summary of such report and a notice of the availability of such report. The Administrator shall annually update the report prepared under this paragraph, submit the updated report to Congress, and publish in the Federal Register a summary of the updaied report and a notice of its availability.".

(b) POLLUTION PREVENTION PROGRAMS.—Section 301 (33 U.S.C. 1311) is amended—

(1) in subsection (l) by striking "subsection (n)" and inserting "subsections (n), (q), and (r)"; and

(2) by adding at the end the following:

"(q) POLLUTION PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Administrator (with the concurrence of the State) or a State with an approved program under section 402, after public notice and an opportunity for comment, may issue a permit under section 402 which modifies the requirements of subsection (b) of this section or section 306 and makes appropriate modifications to the conditions of the permit, or may modify the requirements of section 307, if the Administrator or State determines that pollution prevention measures or practices (including recycling, source reduction, and other measures to reduce discharges or other releases of pollutants to the environment beyond those otherwise required by law) together with such modifications will achieve an overall reduction in emissions to the environment (including emissions to water and air and disposal of solid wastes) from the facility at which the permitted discharge is located that is greater than would otherwise be achievable if the source complied with the requirements of subsection (b) or section 306 or 307 and will result in an overall net benefit to the environment.

"(2) TERM OF MODIFICATION.—A modification made pursuant to paragraph (1) shall extend for the term of the permit or, in the case of modifications under section 307(b), for up to 10 years, and may be extended further if the Administrator or State determines at the expiration of the initial modifications that such modifications will continue to enable the source to achieve greater emissions reduction than would otherwise be attainable.

"(3) NONEXTENSION OF MODIFICATION.—Upon expiration of a modification that is not extended further under paragraph (2), the source shall have a reasonable period of time, not to exceed 2 years, to come into compliance with otherwise applicable requirements of this Act.

"(4) REPORT.—Not later than 3 years after the date of the enactment of this subsection, the Administrator shall submit to Congress a report on the implementation of this subsection and the emissions reductions achieved as a result of modifications made pursuant to this subsection.".

(c) POLLUTION REDUCTION AGREEMENTS.—Section 301 is further amended by adding at the end the following:

"(r) POLLUTION REDUCTION AGREEMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Administrator (with the concurrence of the State) or a State with an approved program under section 402, after public notice and an opportunity for comment, may issue a permit under section 402 which modifies the requirements of subsection (b) of this section or section 306 and makes appropriate modifications to the conditions of the permit, or may modify the requirements of section 307, if the Administrator or State determines that the owner or operator of the source of the discharge has entered into a binding contractual agreement with any other source of discharge in the same watershed to implement pollution reduction controls or measures beyond those otherwise required by law and that the agreement is being implemented through modifications of a permit issued under section 402 to the other source, by modifications of the requirements of section 307 applicable to the other source, or by nonpoint source control practices and measures under section 319 applicable to the other source. The Administrator or State may modify otherwise applicable requirements pursuant to this section whenever the Administrator or State determines that such pollution reduction control or measures will result collectively in an overall reduction in discharges to the watershed that is greater than would otherwise be achievable if the parties to the pollution reduction agreement each complied with applicable requirements of subsection (b), section 306 or 307 resulting in a net benefit to the watershed.

"(2) NOTIFICATION TO AFFECTED STATES.—Before issuing or modifying a permit under this subsection allowing discharges into a watershed that is within the jurisdiction of 2 or more States, the Administrator or State shall provide written notice of the proposed permit to all States with jurisdiction over the watershed. The Administrator or State shall not issue or modify such permit unless all States with jurisdiction over the watershed have approved such permit or unless such States do not disapprove such permit within 90 days of receiving such written notice.

"(3) TERM OF MODIFICATION.—Modifications made pursuant to this subsection shall extend for the term of the modified permits or, in the case of modifications under section 307, for up to 10 years, and may be extended further if the Administrator or State determines, at the expiration of the initial modifications, that such modifications will continue to enable the sources trading credits to achieve greater reduction in discharges to the watershed collectively than would otherwise be attainable.

"(4) NONEXTENSION OF MODIFICATION.—Upon expiration of a modification that is not extended further under paragraph (3), the source shall have a reasonable period of time, not to exceed 2 years, to come into compliance with otherwise applicable requirements of this Act.

"(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the Administrator or a State, as appropriate, to compel trading among sources or to impose nonpoint source control practices without the consent of the nonpoint source discharger.

"(6) REPORT.—Not later than 3 years after the date of the enactment of this subsection, the Administrator shall submit a report to Congress on the implementation of paragraph (1) and the discharge reductions achieved as a result of modifications made pursuant to paragraph (1).".

(d) ANTIBACKSLIDING.—Section 402(o)(2) (33 U.S.C. 1342(o)(2)) is amended—

(1) in subparagraph (D)—

(A) by inserting "301(q), 301(r)," after "301(n),"; and

(B) by striking "or" the last place it appears;

(2) in subparagraph (E) by striking the period at the end and inserting "; or"; and

(3) by inserting after subparagraph (E) the following:

"(F) the permittee is taking pollution prevention or water conservation measures that produce a net environmental benefit, including, but not limited to, measures that result in the substitution of one pollutant for another pollutant; increase the concentration of a pollutant while decreasing the discharge flow; or increase the discharge of a pollutant or pollutants from one or more outfalls at a permittee's facility, when accompanied by offsetting decreases in the discharge of a pollutant or pollutants from other outfalls at the permittee's facility.".

(e) ANTIDEGRADATION REVIEW.—Section 303(d) (33 U.S.C. 1313(d)) is amended by adding at the end the following:

"(5) ANTIDEGRADATION REVIEW.—The Administrator may not require a State, in implementing the antidegradation policy established under this section, to conduct an antidegradation review in the case of—

"(A) increases in a discharge which are authorized under section 301(g), 301(k), 301(q), 301(r), or 301(t);

"(B) increases in the concentration of a pollutant in a discharge caused by a reduction in wastewater flow;

"(C) increases in the discharge of a pollutant or pollutants from one or more outfalls at a permittee's facility, when accompanied by offsetting decreases in the discharge of a pollutant or pollutants from other outfalls at the permittee's facility;

"(D) reissuance of a permit where there is no increase in existing effluent limitations and, if a new effluent limitation is being added to the permit, where the new limitation is for a pollutant that is newly found in an existing discharge due solely to improved monitoring methods; or

"(E) a new or increased discharge which is temporary or short-term or which the State determines represents an insignificant increased pollutant loading.".

(f) INNOVATIVE PRETREATMENT PRODUCTION PROCESSES.—Subsection (e) of section 307 (33 U.S.C. 1317(e)) is amended to read as follows:

"(e) INNOVATIVE PRETREATMENT PRODUCTION PROCESSES, TECHNOLOGIES, AND METHODS.—

"(1) IN GENERAL.—In the case of any facility that proposes to comply with the national categorical pretreatment standards developed under subsection (b) by applying an innovative pollution prevention technology (including an innovative production process change, innovative pollution control technology, or innovative recycling method) that meets the requirements of section 301(k), the Administrator or the State, in consultation with the Administrator, in the case of a State which has a pretreatment program approved by the Administrator, upon application of the facility and with the concurrence of the treatment works into which the facility introduces pollutants, may extend the deadlines for compliance with the applicable national categorical pretreatment standards established under this section and make other appropriate modifications to the facility's pretreatment requirements if the Administrator or the State, in consultation with the Administrator, in the case of a State which has a pretreatment program approved by the Administrator determines that—

"(A) the treatment works will require the owner of the source to conduct such tests and monitoring during the period of the modification as are necessary to ensure that the modification does not cause or contribute to a violation by the treatment works under section 402 or a violation of section 405;

"(B) the treatment works will require the owner of the source to report on progress at prescribed milestones during the period of modification to ensure that attainment of the pollution reduction goals and conditions set forth in this section is being achieved; and

"(C) the proposed extensions or modifications will not cause or contribute to any violation of a permit granted to the treatment works under section 402, any violation of section 405, or a pass through of pollutants such that water quality standards are exceeded in the body of water into which the treatment works discharges.

"(2) INTERIM LIMITATIONS.—A modification granted pursuant to paragraph (1) shall include interim standards that shall apply during the temporary period of the modification and shall be the more stringent of—

"(A) those necessary to ensure that the discharge will not interfere with the operation of the treatment works;

"(B) those necessary to ensure that the discharge will not pass through pollutants at a level that will cause water quality standards to be exceeded in the navigable waters into which the treatment works discharges;

"(C) the limits established in the previously applicable control mechanism, in those cases in which the limit from which a modification is being sought is more stringent than the limit established in a previous control mechanism applicable to such source.

"(3) DURATION OF EXTENSIONS AND MODIFICATIONS.—The extension of the compliance deadlines and the modified pretreatment requirements established pursuant to paragraph (1) shall not extend beyond the period necessary for the owner to install and use the innovative process, technology, or method in full-scale production operation, but in no case shall the compliance extensions and modified requirements extend beyond 3 years from the date for compliance with the otherwise applicable standards.

"(4) CONSEQUENCES OF FAILURE.—In determining the amount of any civil or administrative penalty pursuant to section 309(d) or 309(g) for any pretreatment violations, or violations by a publicly owned treatment works, caused by the unexpected failure of an innovative process, technology, or method, a court or the Administrator, as appropriate, shall reduce, or eliminate, the penalty amount for such violations provided the facility made good-faith efforts both to implement the innovation and to comply with the interim standards and, in the case of a publicly owned treatment works, good-faith efforts were made to implement the pretreatment program.".

SEC. 303. WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS.

(a) NO REASONABLE RELATIONSHIP.—Section 303(b) (33 U.S.C. 1313(b)) is amended by adding at the end the following:

"(3) NO REASONABLE RELATIONSHIP.—No water quality standard shall be established under this subsection where there is no reasonable relationship between the costs and anticipated benefits of attaining such standard.".

(b) REVISION OF STATE STANDARDS.—

(1) REVIEW OF REVISIONS BY THE ADMINISTRATOR.—Section 303(c)(1) is amended by striking "three" and all that follows through "1972" and inserting the following: "5-year period beginning on the date of the enactment of the Clean Water Amendments of 1995 and, for criteria that are revised by the Administrator pursuant to section 304(a), on or before the 180th day after the date of such revision by the Administrator".

(2) FACTORS.—Section 303(c) (33 U.S.C. 1313(c)) is amended by striking paragraph (2)(A) and inserting the following:

"(2) STATE ADOPTION OF WATER QUALITY STANDARDS.—

"(A) IN GENERAL.—

"(i) SUBMISSION TO ADMINISTRATOR.—Whenever the State revises or adopts a new water quality standard, such standard shall be submitted to the Administrator.

"(ii) DESIGNATED USES AND WATER QUALITY CRITERIA.—The revised or new standard shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses.

"(iii) PROTECTION OF HUMAN HEALTH.—The revised or new standard shall protect human health and the environment and enhance water quality.

"(iv) DEVELOPMENT OF STANDARDS.—In developing revised or new standards, the State may consider information reasonably available on the likely social, economic, energy use, and environmental cost associated with attaining such standards in relation to the benefits to be attained. The State may provide a description of the considerations used in the establishment of the standards.

"(v) RECORD OF STATE'S REVIEW.—The record of a State's review under paragraph (1) of an existing standard or adoption of a new standard that includes water quality criteria issued or revised by the Administrator after the date of the enactment of this sentence shall contain available estimates of costs of compliance with the water quality criteria published by the Administrator under section 304(a)(12) and any comments received by the State on such estimate.

"(vi) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to limit or delay the use of any guidance of the Administrator interpreting water quality criteria to allow the use of a dissolved metals concentration measurement or similar adjustment in determining compliance with a water quality standard or establishing effluent limitations.".

(c) REVISION OF DESIGNATED USES.—Section 303(c)(2) (33 U.S.C. 1313(c)(2)) is amended by adding at the end the following:

"(C) REVISION OF DESIGNATED USES.—

"(i) REGULATIONS.—After consultation with State officials and not later than 1 year after the date of the enactment of this subparagraph, the Administrator shall propose, and not later than 2 years after such date of enactment shall issue, a revision to the Administrator's regulations regarding designation of uses of waters by States.

"(ii) WATERS NOT ATTAINING DESIGNATED USES.—For navigable waters not attaining designated uses, the Administrator shall identify conditions that make attainment of the designated use infeasible and shall allow a State to modify the designated use if the State determines that such condition or conditions are present with respect to a particular receiving water, or if the State determines that the costs of achieving the designated use are not justified by the benefits.

"(iii) WATERS ATTAINING DESIGNATED USES.—For navigable waters attaining the designated use applicable to such waters for all pollutants, the Administrator shall allow a State to modify the designated use only if the State determines that continued maintenance of the water quality necessary to support the designated use will result in significant social or economic dislocations substantially out of proportion to the benefits to be achieved from maintenance of the designated use.

"(iv) MODIFICATION OF POINT SOURCE LIMITS.—Notwithstanding any other provision of this Act, water quality based limits applicable to point sources may be modified as appropriate to conform to any modified designated use under this section.".

SEC. 304. USE OF BIOLOGICAL MONITORING.

(a) LABORATORY BIOLOGICAL MONITORING CRITERIA.—Subparagraph (B) of section 303(c)(2) (33 U.S.C. 1313(c)(2)) is amended—

(1) by inserting "CRITERIA FOR TOXIC POLLUTANTS.—" after "(B)";

(2) by moving such subparagraph 4 ems to the right;

(3) by inserting after the third sentence the following: "Criteria for whole effluent toxicity based on laboratory biological monitoring or assessment methods shall employ an aquatic species indigenous, or representative of indigenous, and relevant to the type of waters covered by such criteria and shall take into account the accepted analytical variability associated with such methods in defining an exceedance of such criteria.".

(b) PERMIT PROCEDURES.—Section 402 is amended by adding at the end the following:

"(q) BIOLOGICAL MONITORING PROCEDURES.—

"(1) RESPONDING TO EXCEEDANCES.—If a permit issued under this section contains terms, conditions, or limitations requiring biological monitoring or whole effluent toxicity testing designed to meet criteria for whole effluent toxicity based on laboratory biological monitoring or assessment methods described in section 303(c)(2)(B), the permit shall establish procedures for responding to an exceedance of such

criteria that includes analysis, identification, reduction, or, where feasible, elimination of any effluent toxicity. The failure of a biological monitoring test or whole effluent toxicity test shall not result in a finding of a violation under this Act, unless it is demonstrated that the permittee has failed to comply with such procedures.

"(2) Discontinuance of use.—The permit shall allow the permittee to discontinue such procedures—

"(A) if the permittee is an entity, other than a publicly owned treatment works, if the permittee demonstrates through a field bio-assessment study that a balanced and healthy population of aquatic species indigenous, or representative of indigenous, and relevant to the type of waters exists in the waters that are affected by the discharge, and if the applicable water quality standards are met for such waters; or

"(B) if the permittee is a publicly owned treatment works, the source or cause of such toxicity cannot, after thorough investigation, be identified.".

(c) Information on Water Quality Criteria.—Section 304(a)(8) (33 U.S.C. 1314(a)(8)) is amended—

(1) by striking ", after" and all that follows through "1987,"; and

(2) by inserting after "publish" the following: ", consistent with section 303(c)(2)(B) of this Act,".

SEC. 305. ARID AREAS.

(a) Constructed Water Conveyances.—Section 303(c)(2) (33 U.S.C. 1313(c)(2)) is amended by adding at the end the following:

"(D) Standards for constructed water conveyances.—

"(i) Relevant factors.—If a State exercises jurisdiction over constructed water conveyances in establishing standards under this section, the State may consider the following:

"(I) The existing and planned uses of water transported in a conveyance system.

"(II) Any water quality impacts resulting from any return flow from a constructed water conveyance to navigable waters and the need to protect downstream users.

"(III) Management practices necessary to maintain the conveyance system.

"(IV) State or regional water resources management and water conservation plans.

"(V) The authorized purpose for the constructed conveyance.

"(ii) Relevant uses.—If a State adopts or reviews water quality standards for constructed water conveyances, it shall not be required to establish recreation, aquatic life, or fish consumption uses for such systems if the uses are not existing or reasonably foreseeable or such uses impede the authorized uses of the conveyance system.".

(b) Criteria and Guidance for Ephemeral and Effluent-Dependent Streams.—Section 304(a) (33 U.S.C. 1314(a)) is amended by adding at the end the following:

"(9) Criteria and guidance for ephemeral and effluent-dependent streams.—

"(A) Development.—Not later than 2 years after the date of the enactment of this paragraph, and after providing notice and opportunity for public comment, the Administrator shall develop and publish—

"(i) criteria for ephemeral and effluent-dependent streams; and

"(ii) guidance to the States on development and adoption of water quality standards applicable to such streams.

"(B) Factors.—The criteria and guidance developed under subparagraph (A) shall take into account the limited ability of ephemeral and effluent-dependent streams to support aquatic life and certain designated uses, shall include consideration of the role the discharge may play in maintaining the flow or level of such waters, and shall promote the beneficial use of reclaimed water pursuant to section 101(a)(10).".

(c) Factors Required To Be Considered by Administrator.—Section 303(c)(4) is amended by adding at the end the following: "In revising or adopting any new standard for ephemeral or effluent-dependent streams under this paragraph, the Administrator shall consider the factors referred to in section 304(a)(9)(B).".

(d) Definitions.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(21) The term 'effluent-dependent stream' means a stream or a segment thereof—

"(A) with respect to which the flow (based on the annual average expected flow, determined by calculating the average mode over a 10-year period) is primarily attributable to the discharge of treated wastewater;

"(B) that, in the absence of a discharge of treated wastewater and other primary anthropogenic surface or subsurface flows, would be an ephemeral stream; or

"(C) that is an effluent-dependent stream under applicable State water quality standards.

"(22) The term 'ephemeral stream' means a stream or segments thereof that flows periodically in response to precipitation, snowmelt, or runoff.

"(23) The term 'constructed water conveyance' means a manmade water transport system constructed for the purpose of transporting water in a waterway that is not and never was a natural perennial waterway.".

SEC. 306. TOTAL MAXIMUM DAILY LOADS.

Section 303(d)(1)(C) (33 U.S.C. 1313(d)(1)(C)) is amended to read as follows:

"(C) Total maximum daily loads.—

"(i) State determination of reasonable progress.—Each State shall establish, to the extent and according to a schedule the State determines is necessary to achieve reasonable progress toward the attainment or maintenance of water quality standards, for the waters identified in paragraph (1)(A) of this subsection, and in accordance with the priority ranking, the total maximum daily load, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation.

"(ii) Phased total maximum daily loads.—Total maximum daily loads may reflect load reductions the State expects will be realized over time resulting from anticipated implementation of best management practices, storm water controls, or other nonpoint or point source controls; so long as by December 31, 2015, such loads are established at levels necessary to implement the applicable water quality standards with seasonal variations and a margin of safety.

"(iii) Considerations.—In establishing each load, the State shall consider the availability of scientifically valid data and information, the projected reductions achievable by control measures or practices for all sources or categories of sources, and the relative cost-effectiveness of implementing such control measures or practices for such sources.".

SEC. 307. REVISION OF CRITERIA, STANDARDS, AND LIMITATIONS.

(a) Revision of Water Quality Criteria.—

(1) Factors.—Section 304(a)(1) (33 U.S.C. 1314(a)(1)) is amended—

(A) by striking "and (C)" and inserting "(C)"; and

(B) by striking the period at the end and inserting the following: "(D) on the organisms that are likely to be present in various ecosystems; (E) on the bioavailability of pollutants under various natural and man induced conditions; (F) on the magnitude, duration, and frequency of exposure reasonably required to induce the adverse effects of concern; and (G) on the bioaccumulation threat presented under various natural conditions.".

(2) Certification.—Section 304(a) (33 U.S.C. 1314(a)) is amended by adding at the end the following:

"(10) Certification.—

"(A) In general.—Not later than 5 years after the date of the enactment of this paragraph, and at least once every 5 years thereafter, the Administrator shall publish a written certification that the criteria for water quality developed under paragraph (1) reflect the latest and best scientific knowledge.

"(B) Updating of existing criteria.—Not later than 90 days after the date of the enactment of this paragraph, the Administrator shall publish a schedule for updating, by not later than 5 years after the date of the enactment of this paragraph, the criteria for water quality developed under paragraph (1) before the date of the enactment of this subsection.

"(C) Deadline for revision of certain criteria.—Not later than 1 year after the date of the enactment of this paragraph, the Administrator shall revise and publish criteria under paragraph (1) for ammonia, chronic whole effluent toxicity, and metals as necessary to allow the Administrator to make the certification under subparagraph (A).".

(b) Consideration of Certain Contaminants.—Section 304(a) (33 U.S.C. 1314(a)) is amended by adding at the end the following:

"(11) Consideration of certain contaminants.—In developing and revising criteria for water quality criteria under paragraph (1), the Administrator shall consider addressing, at a minimum, each contaminant regulated pursuant to section 1412 of the Public Health Service Act (42 U.S.C. 300g–1).".

(c) Cost Estimate.—Section 304(a) (33 U.S.C. 1314(a)) is further amended by adding at the end the following:

"(12) Cost estimate.—Whenever the Administrator issues or revises a criteria for water quality under paragraph (1), the Administrator, after consultation with Federal and State agencies and other interested persons, shall develop and publish an estimate of the costs that would likely be incurred if sources were required to comply with the criteria and an analysis to support the estimate. Such analysis shall meet the requirements relevant to the estimation of costs published in guidance issued under section 324(b).".

(d) Revision of Effluent Limitations.—

(1) Elimination of requirement for annual revision.—Section 304(b) (33 U.S.C. 1314(b)) is amended in the matter preceding paragraph (1) by striking "and, at least annually thereafter," and inserting "and thereafter shall".

(2) Special rule.—Section 304(b) (33 U.S.C. 1314(b)) is amended by striking the period at the end of the first sentence and inserting the following: "; except that guidelines issued under paragraph (1)(A) addressing pollutants identified pursuant to subsection (a)(4) shall not be revised after February 15, 1995, to be more stringent unless such revised guidelines meet the requirements of paragraph (4)(A).".

(e) Schedule for Review of Guidelines.—Section 304(m)(1) (33 U.S.C. 1314(m)(1)) is amended to read as follows:

"(1) Publication.—Not later than 3 years after the date of the enactment of the Clean Water Amendments of 1995, the Administrator shall publish in the Federal Register a plan which shall—

"(A) identify categories of sources discharging pollutants for which guidelines under subsection (b)(2) of this section and section 306 have not been previously published;

"(B) establish a schedule for determining whether such discharge presents a significant risk to human health and the environment and whether such risk is sufficient, when compared to other sources of pollutants in navigable waters, to warrant regulation by the Administrator; and

"(C) establish a schedule for issuance of effluent guidelines for those categories identified pursuant to subparagraph (B).".

(f) Revision of Pretreatment Requirements.—Section 304(g)(1) (33 U.S.C. 1314(g)(1)) is amended by striking "and review at least annually thereafter and, if appropriate, revise" and insert "and thereafter revise, as appropriate,".

(g) Central Treatment Facility Exemption.—Section 304 (33 U.S.C. 1314) is amended by adding at the end the following:

"(n) Central Treatment Facility Exemption.—The exemption from effluent guidelines for the Iron and Steel Manufacturing Point Source Category set forth in section 420.01(b) of title 40, Code of Federal Regulations, for the facilities listed in such section shall remain in effect for any facility that met the requirements of such section on or before July 26, 1982, until the Administrator develops alternative effluent guidelines for the facility.".

SEC. 308. INFORMATION AND GUIDELINES.

Section 304(i)(2)(D) (33 U.S.C. 1314(i)(2)(D)) is amended by striking "any person" and all that follows through the period at the end and inserting the following: "any person (other than a retiree or an employee or official of a city, county, or local governmental agency) who receives a significant portion of his or her income during the period of service on the board or body directly or indirectly from permit holders or applicants for a permit).".

SEC. 309. SECONDARY TREATMENT.

(a) Coastal Discharges.—Section 304(d) (33 U.S.C. 1314(d)) is amended by adding at the end the following:

"(5) Coastal discharges.—For purposes of this subsection, any municipal wastewater treatment facility shall be deemed the equivalent of a secondary treatment facility if each of the following requirements is met:

"(A) The facility employs chemically enhanced primary treatment.

"(B) The facility, on the date of the enactment of this paragraph, discharges through an ocean outfall into an open marine environment greater than 4 miles offshore into a depth greater than 300 feet.

"(C) The facility's discharge is in compliance with all local and State water quality standards for the receiving waters.

"(D) The facility's discharge will be subject to an ocean monitoring program acceptable to relevant Federal and State regulatory agencies.".

(b) Modification of Secondary Treatment Requirements.—

(1) In general.—Section 301 (33 U.S.C. 1311) is amended by adding at the end the following:

"(s) Modification of Secondary Treatment Requirements.—

"(1) In general.—The Administrator, with the concurrence of the State, shall issue a 10-year permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works into marine waters which are at least 150 feet deep through an ocean outfall which discharges at least 1 mile offshore, if the applicant demonstrates that—

"(A) there is an applicable ocean plan and the facility's discharge is in compliance with all local and State water quality standards for the receiving waters;

"(B) the facility's discharge will be subject to an ocean monitoring program determined to be acceptable by relevant Federal and State regulatory agencies;

"(C) the applicant has an Agency approved pretreatment plan in place; and

"(D) the applicant, at the time such modification becomes effective, will be discharging effluent which has received at least chemically enhanced primary treatment and achieves a monthly average of 75 percent removal of suspended solids.

"(2) Discharge of any pollutant into marine waters defined.—For purposes of this subsection, the term 'discharge of any pollutant into marine waters' means a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement.

"(3) Deadline.—On or before the 90th day after the date of submittal of an application for a modification under paragraph (1), the Administrator shall issue to the applicant a modified permit under section 402 or a written determination that the application does not meet the terms and conditions of this subsection.

"(4) Effect of failure to respond.—If the Administrator does not respond to an application for a modification under paragraph (1) on or before the 90th day referred to in paragraph (3), the application shall be deemed approved and the modification sought by the applicant shall be in effect for the succeeding 10-year period.".

(2) Extension of application deadline.—Section 301(j) (33 U.S.C. 1311(j)) is amended by adding at the end the following:

"(6) Extension of application deadline.—In the 365-day period beginning on the date of the enactment of this paragraph, municipalities may apply for a modification pursuant to subsection (s) of the requirements of subsection (b)(1)(B) of this section.".

(c) Modifications for Small System Treatment Technologies.—Section 301 (33 U.S.C. 1311) is amended by adding at the end the following:

"(t) Modifications for Small System Treatment Technologies.—The Administrator, with the concurrence of the State, or a State with an approved program under section 402 may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works serving a community of 20,000 people or fewer if the applicant demonstrates to the satisfaction of the Administrator that—

"(1) the effluent from such facility originates primarily from domestic users; and

"(2) such facility utilizes a properly constructed and operated alternative treatment system (including recirculating sand filter systems, constructed wetlands, and oxidation lagoons) which is equivalent to secondary treatment or will provide in the receiving waters and watershed an adequate level of protection to human health and the environment and contribute to the attainment of water quality standards.".

(d) Puerto Rico.—Section 301 (33 U.S.C. 1311) is further amended by adding at the end the following:

"(u) Puerto Rico.—

"(1) Study by Government of Puerto Rico.—Not later than 3 months after the date of the enactment of this section, the Government of Puerto Rico may, after consultation with the Administrator, initiate a study of the marine environment of Anasco Bay off the coast of the Mayaguez region of Puerto Rico to determine the feasibility of constructing a deepwater outfall for the publicly owned treatment works located at Mayaguez, Puerto Rico. Such study shall recommend one or more technically feasible locations for the deepwater outfall based on the effects of such outfall on the marine environment.

"(2) Application for modification.—Notwithstanding subsection (j)(1)(A), not later than 18 months after the date of the enactment of this section, an application may be submitted for a modification pursuant to subsection (h) of the requirements of subsection (b)(1)(B) of this section by the owner of the publicly owned treatment works at Mayaguez, Puerto Rico, for a deepwater outfall at a location recommended in the study conducted pursuant to paragraph (1).

"(3) Initial determination.—On or before the 90th day after the date of submittal of an application for modification under paragraph (2), the Administrator shall issue to the applicant a draft initial determination regarding the modification of the existing permit.

"(4) Final determination.—On or before the 270th day after the date of submittal of an application for modification under paragraph (2), the Administrator shall issue a final determination regarding such modification.

"(5) Effectiveness.—If a modification is granted pursuant to an application submitted under this subsection, such modification shall be effective only if the new deepwater outfall is operational within 5 years after the date of the enactment of this subsection. In all other aspects, such modification shall be effective for the period applicable to all modifications granted under subsection (h).".

SEC. 310. TOXIC POLLUTANTS.

(a) Toxic Effluent Limitations and Standards.—Section 307(a)(2) (33 U.S.C. 1317(a)(2)) is amended—

(1) by striking "(2) Each" and inserting the following:

"(2) Toxic effluent limitations and standards.—

"(A) In general.—Each";

(2) by moving paragraph (2) 2 ems to the right;

(3) by indenting subparagraph (A), as so designated, and moving the remaining text of such subparagraph 2 ems further to the right; and

(4) in subparagraph (A), as so designated, by striking the third sentence; and

(5) by adding at the end the following:

"(B) Factors.—The published effluent standard (or prohibition) shall take into account—

"(i) the pollutant's persistence, toxicity, degradability, and bioaccumulation potential;

"(ii) the magnitude and risk of exposure to the pollutant, including risks to affected organisms and the importance of such organisms;

"(iii) the relative contribution of point source discharges of the pollutant to the overall risk from the pollutant;

"(iv) the availability of, costs associated with, and risk posed by substitute chemicals or processes or the availability of treatment processes or control technology;

"(v) the beneficial and adverse social and economic effects of the effluent standard, including the impact on energy resources;

"(vi) the extent to which effective control is being or may be achieved in an expeditious manner under other regulatory authorities;

"(vii) the impact on national security interests; and

"(viii) such other factors as the Administrator considers appropriate.".

(b) Beach Water Quality Monitoring.—

(1) In general.—Section 304 is further amended by adding at the end the following:

"(o) Beach Water Quality Monitoring.—After consultation with appropriate Federal, State, and local agencies and after providing notice and opportunity for public comment, the Administrator shall develop and issue, not later than 18 months after the date of the enactment of this Act, guidance that States may use in monitoring water quality at beaches and issuing health advisories with respect to beaches, including testing protocols, recommendations on frequency of testing and monitoring, recommendations on pollutants for which monitoring and testing should be conducted, and recommendations on when health advisories should be issued. Such guidance shall be based on the best available scientific information and be sufficient to protect public health and safety in the case of any reasonably expected exposure to pollutants as a result of swimming or bathing.".

(2) REPORTS.—Section 516(a) (33 U.S.C. 1375(a)) is amended by striking "and (9)" and inserting "(9) the monitoring conducted by States on the water quality of beaches and the issuance of health advisories with respect to beaches, and (10)".

(c) FISH CONSUMPTION ADVISORIES.—Any fish consumption advisories issued by the Administrator shall be based upon the protocols, methodology, and findings of the Food and Drug Administration.

SEC. 311. LOCAL PRETREATMENT AUTHORITY.

Section 307 (33 U.S.C. 1317) is amended by adding at the end the following new subsection:

"(f) LOCAL PRETREATMENT AUTHORITY.—

"(1) DEMONSTRATION.—If, to carry out the purposes identified in paragraph (2), a publicly owned treatment works with an approved pretreatment program demonstrates to the satisfaction of the Administrator, or a State with an approved program under section 402, that—

"(A) such publicly owned treatment works is in compliance, and is likely to remain in compliance, with its permit under section 402, including applicable effluent limitations and narrative standards;

"(B) such publicly owned treatment works is in compliance, and is likely to remain in compliance, with applicable air emission limitations;

"(C) biosolids produced by such publicly owned treatment works meet beneficial use requirements under section 405; and

"(D) such publicly owned treatment works is likely to continue to meet all applicable State requirements;

the approved pretreatment program shall be modified to allow the publicly owned treatment works to apply local limits in lieu of categorical pretreatment standards promulgated under this section.

"(2) PURPOSES.—The publicly owned treatment works may make the demonstration to the Administrator or the State, as the case may be, to apply local limits in lieu of categorical pretreatment standards, as the treatment works deems necessary, for the purposes of—

"(A) reducing the administrative burden associated with the designation of an 'industrial user' as a 'categorical industrial user'; or

"(B) eliminating additional redundant or unnecessary treatment by industrial users which has little or no environmental benefit.

"(3) LIMITATIONS.—

"(A) SIGNIFICANT NONCOMPLIANCE.—The publicly owned treatment works may not apply local limits in lieu of categorical pretreatment standards to any industrial user which is in significant noncompliance (as defined by the Administrator) with its approved pretreatment program.

"(B) PROCEDURES.—A demonstration to the Administrator or the State under paragraph (1) must be made under the procedures for pretreatment program modification provided under this section and section 402.

"(4) ANNUAL REVIEW.—

"(A) DEMONSTRATION RELATING TO ABILITY TO MEET CRITERIA.—As part of the annual pretreatment report of the publicly owned treatment works to the Administrator or State, the treatment works shall demonstrate that application of local limits in lieu of categorical pretreatment standards has not resulted in the inability of the treatment works to meet the criteria of paragraph (1).

"(B) TERMINATION OF AUTHORITY.—If the Administrator or State determines that application of local limits in lieu of categorical pretreatment standards has resulted in the inability of the treatment works to meet the criteria of paragraph (1), the authority of a publicly owned treatment works under this section shall be terminated and any affected industrial user shall have a reasonable period of time to be determined by the Administrator or State, but not to exceed 2 years, to come into compliance with any otherwise applicable requirements of this Act.".

SEC. 312. COMPLIANCE WITH MANAGEMENT PRACTICES.

Section 307 (33 U.S.C. 1317) is amended by adding at the end the following:

"(g) COMPLIANCE WITH MANAGEMENT PRACTICES.—

"(1) SPECIAL RULE.—The Administrator or a State with a permit program approved under section 402 may allow any person that introduces silver into a publicly owned treatment works to comply with a code of management practices with respect to the introduction of silver into the treatment works for a period not to exceed 5 years beginning on the date of the enactment of this subsection in lieu of complying with any pretreatment requirement (including any local limit) based on an effluent limitation for the treatment works derived from a water quality standard for silver—

"(A) if the treatment works has accepted the code of management practices;

"(B) if the code of management practices meets the requirements of paragraph (2); and

"(C) if the facility is—

"(i) part of a class of facilities for which the code of management practices has been approved by the Administrator or the State;

"(ii) in compliance with a mass limitation or concentration level for silver attainable with the application of the best available technology economically achievable for such facilities, as established by the Administrator after a review of the treatment and management practices of such class of facilities; and

"(iii) implementing the code of management practices.

"(2) CODE OF MANAGEMENT PRACTICES.—A code of management practices meets the requirements of this paragraph if the code of management practices—

"(A) is developed and adopted by representatives of industry and publicly owned treatment works of major urban areas;

"(B) is approved by the Administrator or the State, as the case may be;

"(C) reflects acceptable industry practices to minimize the amount of silver introduced into publicly owned treatment works or otherwise entering the environment from the class of facilities for which the code of management practices is approved; and

"(D) addresses, at a minimum—

"(i) the use of the best available technology economically achievable, based on a review of the current state of such technology for such class of facilities and of the effluent guidelines for such facilities;

"(ii) water conservation measures available to reduce the total quantity of discharge from such facilities to publicly owned treatment works;

"(iii) opportunities to recover silver (and other pollutants) from the waste stream prior to introduction into a publicly owned treatment works; and

"(iv) operating and maintenance practices to minimize the amount of silver introduced into publicly owned treatment works and to assure consistent performance of the management practices and treatment technology specified under this paragraph.

"(3) INTERIM EXTENSION FOR POTWS RECEIVING SILVER.—In any case in which the Administrator or a State with a permit program approved under section 402 allows under paragraph (1) a person to comply with a code of management practices for a period of not to exceed 5 years in lieu of complying with a pretreatment requirement (including a local limit) for silver, the Administrator or State, as applicable, shall modify the permit conditions and effluent limitations for any affected publicly owned treatment works to defer for such period compliance with any effluent limitation derived from a water quality standard for silver beyond that required by section 301(b)(2), notwithstanding the provisions of section 303(d)(4) and 402(o), if the Administrator or the State, as applicable, finds that—

"(A) the quality of any affected waters and the operation of the treatment works will be adequately protected during such period by implementation of the code of management practices and the use of best technology economically achievable by persons introducing silver into the treatment works;

"(B) the introduction of pollutants into such treatment works is in compliance with paragraphs (1) and (2); and

"(C) a program of enforcement by such treatment works and the State ensures such compliance.".

SEC. 313. FEDERAL ENFORCEMENT.

(a) ADJUSTMENT OF PENALTIES.—Section 309 (33 U.S.C. 1319) is amended by adding at the end the following:

"(h) ADJUSTMENT OF MONETARY PENALTIES FOR INFLATION.—

"(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this subsection, and at least once every 4 years thereafter, the Administrator shall adjust each monetary penalty provided by this section in accordance with paragraph (2) and publish such adjustment in the Federal Register.

"(2) METHOD.—An adjustment to be made pursuant to paragraph (1) shall be determined by increasing or decreasing the maximum monetary penalty or the range of maximum monetary penalties, as appropriate, by multiplying the cost-of-living adjustment and the amount of such penalty.

"(3) COST-OF-LIVING ADJUSTMENT DEFINED.—In this subsection, the term 'cost-of-living' adjustment means the percentage (if any) for each monetary penalty by which—

"(A) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; is greater or less than

"(B) the Consumer Price Index for—

"(i) with respect to the first adjustment under this subsection, the month of June of the calendar year preceding the date of the enactment of this subsection; and

"(ii) with respect to each subsequent adjustment under this subsection, the month of June of the calendar year in which the amount of such monetary penalty was last adjusted under this subsection.

"(4) ROUNDING.—In making adjustments under this subsection, the Administrator may round the dollar amount of a penalty, as appropriate.

"(5) APPLICABILITY.—Any increase or decrease to a monetary penalty resulting from this subsection shall apply only to violations which occur after the date any such increase takes effect.".

(b) JOINING STATES AS PARTIES IN ACTIONS INVOLVING MUNICIPALITIES.—Section 309(e) (33 U.S.C. 1319(e)) is amended by striking "shall be joined as a party. Such State" and inserting "may be joined as a party. Any State so joined as a party".

SEC. 314. RESPONSE PLANS FOR DISCHARGES OF OIL OR HAZARDOUS SUBSTANCES.

(a) IN GENERAL.—The requirements of section 311(j)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(5)) shall not apply with respect to—

(1) a municipal or industrial treatment works at which no greater than a de minimis quantity of oil or hazardous substances is stored; or

(2) a facility that stores process water mixed with a de minimis quantity of oil.

(b) REGULATIONS.—The President shall issue regulations clarifying the meaning of the term "de minimis quantity of oil or hazardous substances" as used in this section.

SEC. 315. MARINE SANITATION DEVICES.

Section 312(c)(1)(A) (33 U.S.C. 1322(c)(1)(A)) is amended by adding at the end the following: "Not later than 2 years after the date of the enactment of this sentence, and at least once every 5 years thereafter, the Administrator, in consultation with the Secretary of the Department in which the Coast Guard is operating and after providing notice and opportunity for public comment, shall review such standards and regulations to take into account improvements in technology relating to marine sanitation devices and based on such review shall make such revisions to such standards and regulations as may be necessary.".

SEC. 316. FEDERAL FACILITIES.

(a) APPLICATION OF CERTAIN PROVISIONS.—Section 313(a) (33 U.S.C. 1323(a)) is amended by striking all preceding subsection (b) and inserting the following:

"SEC. 313. FEDERAL FACILITIES POLLUTION CONTROL.

"(a) APPLICABILITY OF FEDERAL, STATE, INTERSTATE, AND LOCAL LAWS.—

"(1) IN GENERAL.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

"(A) having jurisdiction over any property or facility, or

"(B) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants,

and each officer, agent, or employee thereof in the performance of his official duties, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity, including the payment of reasonable service charges.

"(2) TYPES OF ACTIONS COVERED.—Paragraph (1) shall apply—

"(A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement),

"(B) to the exercise of any Federal, State, or local administrative authority, and

"(C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner.

"(3) PENALTIES AND FINES.—The Federal, State, interstate, and local substantive and procedural requirements, administrative authority, and process and sanctions referred to in paragraph (1) include all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.

"(4) SOVEREIGN IMMUNITY.—

"(A) WAIVER.—The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any requirement, administrative authority, and process and sanctions referred to in paragraph (1) (including any injunctive relief, any administrative order, any civil or administrative penalty or fine referred to in paragraph (3), or any reasonable service charge).

"(B) PROCESSING FEES.—The reasonable service charges referred to in this paragraph include fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local water pollution regulatory program.

"(5) EXEMPTIONS.—

"(A) GENERAL AUTHORITY OF PRESIDENT.—The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any requirement to which paragraph (1) applies if the President determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act.

"(B) LIMITATION.—No exemptions shall be granted under subparagraph (A) due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation.

"(C) TIME PERIOD.—Any exemption under subparagraph (A) shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods of not to exceed 1 year upon the President's making a new determination.

"(D) MILITARY PROPERTY.—In addition to any exemption of a particular effluent source, the President may, if the President determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vessels, vehicles, or other classes or categories of property, and access to such property, which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at 3-year intervals.

"(E) REPORTS.—The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with the President's reason for granting such exemption.

"(6) VENUE.—Nothing in this section shall be construed to prevent any department, agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof in the performance of official duties, from removing to the appropriate Federal district court any proceeding to which the department, agency, or instrumentality or officer, agent, or employee thereof is subject pursuant to this section, and any such proceeding may be removed in accordance with chapter 89 of title 28, United States Code.

"(7) PERSONAL LIABILITY OF FEDERAL EMPLOYEES.—No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local water pollution law with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

"(8) CRIMINAL SANCTIONS.—An agent, employee, or officer of the United States shall be subject to any criminal sanction (including any fine or imprisonment) under any Federal or State water pollution law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction.".

(b) FUNDS COLLECTED BY A STATE.—Section 313 (33 U.S.C. 1323) is further amended by adding at the end the following:

"(c) LIMITATION ON STATE USE OF FUNDS.—Unless a State law in effect on the date of the enactment of this subsection or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government in penalties and fines imposed for the violation of a substantive or procedural requirement referred to in subsection (a) shall be used by a State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

(c) ENFORCEMENT.—Section 313 is further amended by adding at the end the following:

"(d) FEDERAL FACILITY ENFORCEMENT.—

"(1) ADMINISTRATIVE ENFORCEMENT BY EPA.—The Administrator may commence an administrative enforcement action against any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government pursuant to the enforcement authorities contained in this Act.

"(2) PROCEDURE.—The Administrator shall initiate an administrative enforcement action against a department, agency, or instrumentality under this subsection in the same manner and under the same circumstances as an action would be initiated against any other person under this Act. The amount of any administrative penalty imposed under this subsection shall be determined in accordance with section 309(d) of this Act.

"(3) VOLUNTARY SETTLEMENT.—Any voluntary resolution or settlement of an action under this subsection shall be set forth in an administrative consent order.

"(4) CONFERRAL WITH EPA.—No administrative order issued to a department, agency, or instrumentality under this section shall become final until such department, agency, or instrumentality has had the opportunity to confer with the Administrator.".

(d) LIMITATION ON ACTIONS AND RIGHT OF INTERVENTION.—Section 313 is further amended by adding at the end the following:

"(e) LIMITATION ON ACTIONS AND RIGHT OF INTERVENTION.—Any violation with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or for which the Administrator has issued a final order and the violator has either paid a penalty or fine assessed under this subsection or is subject to an enforceable schedule of corrective actions, shall not be the subject of an action under section 505 of this Act. In any action under this subsection, any citizen may intervene as a matter of right.".

(e) DEFINITION OF PERSON.—Section 502(5) (33 U.S.C. 1362(5)) is amended by inserting before the period at the end the following: "and includes any department, agency, or instrumentality of the United States".

(f) DEFINITION OF RADIOACTIVE MATERIALS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(24) The term 'radioactive materials' includes source materials, special nuclear materials, and byproduct materials (as such terms are defined under the Atomic Energy Act of 1954) which are used, produced, or managed at facilities not licensed by the Nuclear Regulatory Commission; except that such term does not include any material which is discharged from a vessel covered by Executive Order 12344 (42 U.S.C. 7158 note; relating to the Naval Nuclear Propulsion Program).".

(g) CONFORMING AMENDMENTS.—Section 313(b) (33 U.S.C. 1323(b)) is amended—

(1) by striking "(b)(1)" and inserting the following:

"(b) WASTEWATER FACILITIES.—

"(1) COOPERATION FOR USE OF WASTEWATER CONTROL SYSTEMS.—";

(2) in paragraph (2) by inserting "LIMITATION ON CONSTRUCTION.—" before "Construction"; and

(3) by moving paragraphs (1) and (2) 2 ems to the right.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of

the enactment of this Act and shall only apply to violations occurring after such date of enactment.

SEC. 317. CLEAN LAKES.

(a) PRIORITY LAKES.—Section 314(d)(2) (33 U.S.C. 1324(d)(2)) is amended by inserting "Paris Twin Lakes, Illinois; Otsego Lake, New York; Raystown Lake, Pennsylvania;" after "Minnesota;".

(b) FUNDING.—Section 314 (33 U.S.C. 1324) is amended by adding at the end the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 per fiscal year for each of fiscal years 1996 through 2000.".

SEC. 318. COOLING WATER INTAKE STRUCTURES.

Section 316(b) (33 U.S.C. 1326(b)) is amended—

(1) by inserting after "(b)" the following: "STANDARD FOR COOLING WATER INTAKE STRUCTURES.—";

(2) by inserting before "Any" the following: "(1) IN GENERAL.—";

(3) by indenting paragraph (1), as designated by paragraph (2) of this section, and moving such paragraph 2 ems to the right; and

(4) by adding at the end the following:

"(2) NEW POINT SOURCE CONSIDERATIONS.—In establishing a standard referred to in paragraph (1) for cooling water intake structures located at new point sources, the Administrator shall consider, at a minimum, the following:

"(A) The relative technological, engineering, and economic feasibility of possible technologies or techniques for minimizing any such adverse environmental impacts.

"(B) The relative technological, engineering, and economic feasibility of possible site locations, intake structure designs, and cooling water flow techniques.

"(C) The relative environmental, social, and economic costs and benefits of possible technologies, techniques, site locations, intake structure designs, and cooling water flow techniques.

"(D) The projected useful life of the new point source.

"(3) EXISTING POINT SOURCES.—For existing point sources, the Administrator may require the use of best technology available in the case of existing cooling water intake structures if the Administrator determines such structures are having or could have a significant adverse impact on the aquatic environment. In establishing a standard referred to in paragraph (1) for such existing point sources, the Administrator shall consider, at a minimum, the following:

"(A) The relative technological, engineering, and economic feasibility of reasonably available retrofit technologies or techniques for minimizing any such adverse environmental impacts.

"(B) Other mitigation measures for offsetting the anticipated adverse environmental impacts resulting from the withdrawal of cooling water.

"(C) Relative environmental, social, and economic costs and benefits of possible retrofit technologies, techniques, and mitigation measures.

"(D) The projected remaining useful life of the existing point source.

"(4) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) NEW POINT SOURCE.—The term 'new point source' means any point source the construction of which will commence after the publication of proposed regulations prescribing a standard for intake structures that will be applicable to such source if such standard is promulgated in accordance with paragraph (2).

"(B) EXISTING POINT SOURCE.—The term 'existing point source' means any point source that is not a new point source.".

SEC. 319. NONPOINT SOURCE MANAGEMENT PROGRAMS.

(a) STATE ASSESSMENT REPORT.—

(1) CONTENTS.—Section 319(a)(1)(C) (33 U.S.C. 1329(a)(1)(C)) is amended by striking "best management practices and".

(2) INFORMATION USED IN PREPARATION.—Section 319(a)(2) is amended—

(A) by inserting ", reviewing, and revising" after "developing"; and

(B) by striking "section" the first place it appears and inserting "subsection".

(3) REVIEW AND REVISION.—Section 319(a) is amended by adding at the end the following:

"(3) REVIEW AND REVISION.—Not later than 18 months after the date of the enactment of the Clean Water Amendments of 1995, and every 5 years thereafter, the State shall review, revise, and submit to the Administrator the report required by this subsection.".

(b) STATE MANAGEMENT PROGRAM.—

(1) TERM OF PROGRAM.—Section 319(b)(1) is amended by striking "four" and inserting "5".

(2) CONTENTS.—Section 319(b)(2) is amended—

(A) in subparagraph (A)—

(i) by striking "best";

(ii) by striking "paragraph (1)(B)" and inserting "subsection (a)(1)(B)"; and

(iii) by inserting "and measure" after "practice";

(B) in subparagraph (B)—

(i) by striking "nonregulatory or regulatory programs for enforcement," and inserting "one or more of the following: voluntary programs, incentive-based programs, regulatory programs, enforceable policies and mechanisms, State management programs approved under section 306 of the Coastal Zone Management Act of 1972,"; and

(ii) by striking "achieve implementation" and all that follows before the period and inserting "manage categories, subcategories, or particular nonpoint sources to the degree necessary to provide for reasonable further progress toward the goal of attaining water quality standards within 15 years of approval of the State program for those waters identified under subsection (a)(1)(A)";

(C) by striking subparagraph (C) and inserting the following:

"(C) A schedule containing interim goals and milestones for making reasonable progress toward the attainment of standards, which may be demonstrated by one or any combination of the following: improvements in water quality (including biological indicators), documented implementation of voluntary nonpoint source control practices and measures, and adoption of enforceable policies and mechanisms.";

(D) in subparagraph (D) by striking "A certification of" and inserting "After the date of the enactment of the Clean Water Amendments of 1995, a certification by"; and

(E) by adding at the end the following:

"(G) A description of the monitoring or other assessment which will be carried out under the program for the purposes of monitoring and assessing the effectiveness of the program, including the attainment of interim goals and milestones.

"(H) An identification of activities on Federal lands in the State that are inconsistent with the State management program.

"(I) An identification of goals and milestones for progress in attaining water quality standards, including a projected date for attaining such standards as expeditiously as practicable but not later than 15 years after the date of approval of the State program for each of the waters listed pursuant to subsection (a).".

(3) UTILIZATION OF LOCAL AND PRIVATE EXPERTS.—Section 319(b)(3) is amended by inserting before the period at the end the following: ", including academic institutions, private industry experts, and other individual experts in water resource conservation and planning".

(4) NEW TECHNOLOGIES; USE OF RESOURCES; AGRICULTURAL PROGRAMS.—Section 319(b) is amended by adding at the end the following:

"(5) RECOGNITION OF NEW TECHNOLOGIES.—In developing and implementing a management program under this subsection, a State may recognize and utilize new practices, technologies, processes, products, and other alternatives.

"(6) EFFICIENT AND EFFECTIVE USE OF RESOURCES.—In developing and implementing a management program under this subsection, a State may recognize and provide for a methodology which takes into account situations in which management measures used to control one pollutant have an adverse impact with respect to another pollutant. The methodology should encourage the balanced combination of measures which best address the various impairments on the watershed or site.

"(7) RECOGNITION OF AGRICULTURAL PROGRAMS.—Any agricultural producer who has voluntarily developed and is implementing an approved whole farm or ranch natural resources management plan shall be considered to be in compliance with the requirements of a State program developed under this section—

"(A) if such plan has been developed under a program subject to a memorandum of agreement between the Chief of the Natural Resources Conservation Service and the Governor, or their respective designees; and

"(B) if such memorandum of agreement specifies—

"(i) the scope and content of the Natural Resources Conservation Service program (not an individual farm or ranch plan) in the State or regions of the State;

"(ii) the terms of approval, implementation, and duration of a voluntary farm or ranch plan for agricultural producers;

"(iii) the responsibilities for assessing implementation of voluntary whole farm and ranch natural resource management plans; and

"(iv) the duration of such memorandum of agreement.

At a minimum, such memorandum of agreement shall be reviewed and may be revised every 5 years, as part of the State review of its management program under this section.".

(c) SUBMISSION OF MANAGEMENT PROGRAMS.—Paragraph (2) of section 319(c) is amended to read as follows:

"(2) TIME PERIOD FOR SUBMISSION OF MANAGEMENT PROGRAMS.—Each management program shall be submitted to the Administrator within 30 months of the issuance by the Administrator of the final guidance under subsection (o) and every 5 years thereafter. Each program submission after the initial submission following the date of the enactment of the Clean Water Amendments of 1995 shall include a demonstration of reasonable further progress toward the goal of attaining water quality standards within 15 years of approval of the State program, including documentation of the degree to which the State has achieved the interim goals and milestones contained in the previous program submission. Such demonstration shall take into account the adequacy of Federal funding under this section.".

(d) APPROVAL AND DISAPPROVAL OF REPORTS AND MANAGEMENT PROGRAMS.—

(1) DEADLINE.—Section 319(d)(1) is amended by inserting "or revised report" after "any report".

(2) DISAPPROVAL.—Section 319(d)(2) is amended—

(A) in subparagraph (B) by inserting before the semicolon the following: "; except that such program or portion shall not be disapproved solely because the program or portion does not include enforceable policies or mechanisms";

(B) in subparagraph (D) by striking "are not adequate" and all that follows before the semicolon and inserting the following: "will not result in reasonable further progress toward the attainment of applicable water quality standards under section 303 as expeditiously as possible but not later than 15 years after approval of the State program"; and

(C) in the text following subparagraph (D)—

(i) by striking "3 months" and inserting "6 months"; and

(ii) by inserting "or portion thereof" before "within three months of receipt".

(3) FAILURE TO SUBMIT REPORT.—Section 319(d)(3) is amended—

(A) by striking "the report" and inserting "a report or revised report";

(B) by striking "30 months" and inserting "18 months"; and

(C) by striking "of the enactment of this section" and inserting "on which such report is required to be submitted under subsection (a)".

(4) PROGRAM MANAGEMENT BY THE ADMINISTRATOR.—Section 319(d) is amended by adding at the end the following:

"(4) FAILURE OF STATE TO SUBMIT PROGRAM.—

"(A) PROGRAM MANAGEMENT BY THE ADMINISTRATOR.—If a State fails to submit a management program or revised management program under subsection (b) or the Administrator disapproves such management program, the Administrator shall prepare and implement a management program for controlling pollution added from nonpoint sources to the navigable waters within the State and improving the quality of such waters in accordance with subsection (b).

"(B) NOTICE AND HEARING.—If the Administrator intends to disapprove a program submitted by a State, the Administrator shall first notify the Governor of the State in writing of the modifications necessary to meet the requirements of this section. The Administrator shall provide adequate public notice and an opportunity for a public hearing for all interested parties.

"(C) STATE REVISION OF ITS PROGRAM.—If, after taking into account the level of funding actually provided as compared with the level authorized under subsection (j), the Administrator determines that a State has failed to demonstrate reasonable further progress toward the attainment of water quality standards as required, the State shall revise its program within 12 months of that determination in a manner sufficient to achieve attainment of applicable water quality standards by the deadline established by this Act. If a State fails to make such a program revision or the Administrator disapproves such a revision, the Administrator shall prepare and implement a nonpoint source management program for the State.".

(e) TECHNICAL ASSISTANCE.—Section 319(f) is amended by inserting "and implementing" after "developing".

(f) GRANT PROGRAM.—

(1) IN GENERAL.—Section 319(h)(1) is amended—

(A) by amending the paragraph heading to read as follows: "GRANTS FOR PREPARATION AND IMPLEMENTATION OF REPORTS AND MANAGEMENT PROGRAMS.—";

(B) by striking "for which a report submitted under subsection (a) and a management program submitted under subsection (b) is approved under this section";

(C) by striking "the Administrator shall make grants" and inserting "the Administrator may make grants under this subsection";

(D) by striking "under this subsection to such State" and inserting "to such State";

(E) by striking "implementing such management program" and inserting "preparing a report under subsection (a) and in preparing and implementing a management program under subsection (b)";

(F) by inserting after the first sentence the following: "Grants for implementation of such management program may be made only after such report and management program are approved under this section."; and

(G) by adding at the end the following: "The Administrator is authorized to provide funds to a State if necessary to implement an approved portion of a State program or, with the approval of the Governor of the State, to implement a component of a federally established program. The Administrator may continue to make grants to any State with an program approved on the day before the date of the enactment of the Clean Water Amendments of 1995 until the Administrator withdraws the approval of such program or the State fails to submit a revision of such program in accordance with subsection (c)(2).".

(2) FEDERAL SHARE.—Section 319(h)(3) is amended—

(A) by striking "management program implemented" and inserting "report prepared and management program prepared and implemented";

(B) by striking "60 percent" and inserting "75 percent";

(C) by striking "implementing such management program" and inserting "preparing such report and preparing and implementing such management program"; and

(D) by inserting "of program implementation" after "non-Federal share".

(3) LIMITATION ON GRANT AMOUNTS.—Section 319(h)(4) is amended—

(A) by inserting before the first sentence the following: "The Administrator shall establish, after consulting with the States, maximum and minimum grants for any fiscal year to promote equity between States and effective nonpoint source management."; and

(B) by adding at the end the following: "The minimum percentage of funds allocated to each State shall be 0.5 percent of the amount appropriated.".

(4) ALLOCATION OF GRANT FUNDS.—Paragraph (5) of section 319(h) is amended to read as follows:

"(5) ALLOCATION OF GRANT FUNDS.—Grants under this section shall be allocated to States with approved programs in a fair and equitable manner and be based upon rules and regulations promulgated by the Administrator which shall take into account the extent and nature of the nonpoint sources of pollution in each State and other relevant factors.".

(5) USE OF FUNDS.—Paragraph (7) of section 319(h) is amended to read as follows:

"(7) USE OF FUNDS.—A State may use grants made available to the State pursuant to this section for activities relating to nonpoint source water pollution control, including—

"(A) providing financial assistance with respect to those activities whose principal purpose is protecting and improving water quality;

"(B) assistance related to the cost of preparing or implementing the State management program;

"(C) providing incentive grants to individuals to implement a site-specific water quality plan in amounts not to exceed 75 percent of the cost of the project from all Federal sources;

"(D) land acquisition or conservation easements consistent with a site-specific water quality plan; and

"(E) restoring and maintaining the chemical, physical, and biological integrity of urban and rural waters and watersheds (including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish, and wildlife, aquatic and riparian vegetation, and recreational activities in and on the water) and protecting designated uses, including fishing, swimming, and drinking water supply.".

(6) COMPLIANCE WITH STATE MANAGEMENT PROGRAM.—Paragraph (8) of section 319(h) is amended to read as follows:

"(8) COMPLIANCE WITH STATE MANAGEMENT PROGRAM.—In any fiscal year for which the Administrator determines that a State has not made satisfactory progress in the preceding fiscal year in meeting the schedule specified for such State under subsection (b)(2)(C), the Administrator is authorized to withhold grants pursuant to this section in whole or in part to the State after adequate written notice is provided to the Governor of the State.".

(7) ALLOTMENT STUDY.—Section 319(h) is amended by adding at the end the following:

"(13) ALLOTMENT STUDY.—

"(A) STUDY.—The Administrator, in consultation with the States, shall conduct a study of whether the allocation of funds under paragraph (5) appropriately reflects the needs and costs of nonpoint source control measures for different nonpoint source categories and subcategories and of options for better reflecting such needs and costs in the allotment of funds.

"(B) REPORT.—Not later than 5 years after the date of the enactment of the Clean Water Amendments of 1995, the Administrator shall transmit to Congress a report on the results of the study conducted under this subsection, together with recommendations.".

(g) GRANTS FOR PROTECTING GROUND WATER QUALITY.—Section 319(i)(3) is amended by striking "$150,000" and inserting "$500,000".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 319(j) is amended—

(1) by striking "and" before "$130,000,000";

(2) by inserting after "1991" the following: ", such sums as may be necessary for fiscal years 1992 through 1995, $100,000,000 for fiscal year 1996, $150,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $250,000,000 for fiscal year 1999, and $300,000,000 for fiscal year 2000"; and

(3) by striking "$7,500,000" and inserting "$25,000,000".

(i) CONSISTENCY OF OTHER PROGRAMS AND PROJECTS WITH MANAGEMENT PROGRAMS.—Section 319(k) (33 U.S.C. 1329(k)) is amended—

(1) by striking "allow States to review" and inserting "require coordination with States in";

(2) by inserting before the period at the end the following: "and the State watershed management program"; and

(3) by adding at the end the following: "Federal agencies that own or manage land, or issue licenses for activities that cause nonpoint source pollution from such land, shall coordinate their nonpoint source control measures with the State nonpoint source management program and the State watershed management program. A Federal agency and the Governor of an affected State shall enter into a memorandum of understanding to carry out the purposes of this paragraph. Such a memorandum of understanding shall not relieve the Federal agency of the agency's obligation to comply with its own mandates.".

(j) REPORTS OF THE ADMINISTRATOR.—

(1) BIENNIAL REPORTS.—Section 319(m)(1) is amended—

(A) in the paragraph heading by striking "ANNUAL" and inserting "BIENNIAL"; and

(B) by striking "1988, and each January 1" and inserting "1995, and biennially".

(2) CONTENTS.—Section 319(m)(2) is amended—

(A) by striking the paragraph heading and all that follows before "at a minimum" and inserting "CONTENTS.—Each report submitted under paragraph (1),";

(B) in subparagraph (A) by striking "best management practices" and inserting "measures"; and

(C) in subparagraph (B) by striking "best management practices" and inserting "the measures provided by States under subsection (b)".

(k) SET ASIDE FOR ADMINISTRATIVE PERSONNEL.—Section 319(n) is amended by striking "less" and inserting "more".

(l) GUIDANCE ON MODEL MANAGEMENT PRACTICES AND MEASURES.—Section 319 is further amended by adding at the end the following:

"(o) GUIDANCE ON MODEL MANAGEMENT PRACTICES AND MEASURES.—

"(1) IN GENERAL.—The Administrator shall publish guidance to identify model management practices and measures which may be undertaken, at the discretion of the State or appropriate entity, under a management program established pursuant to this section.

"(2) CONSULTATION; PUBLIC NOTICE AND COMMENT.—The Administrator shall develop the model management practices and measures under paragraph (1) in consultation with the National Oceanic and Atmospheric Administration, other appropriate Federal and State departments and agencies, and academic institutions, private industry experts, and other individual experts in water conservation and planning, and after providing notice and opportunity for public comment.

"(3) PUBLICATION.—The Administrator shall publish proposed guidance under this subsection not later than 6 months after the date of the enactment of this subsection and shall publish final guidance under this subsection not later than 18 months after such date of enactment. The Administrator shall periodically review and revise the final guidance at least once every 3 years after its publication.

"(4) MODEL MANAGEMENT PRACTICES AND MEASURES DEFINED.—For the purposes of this subsection, the term 'model management practices and measures' means economically achievable measures for the control of the addition of pollutants from nonpoint sources of pollution which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives. The Administrator may distinguish among classes, types, and sizes within any category of nonpoint sources.".

(m) INADEQUATE FUNDING.—Section 319 is further amended by adding at the end the following:

"(p) INADEQUATE FUNDING.—For each fiscal year beginning after the date of the enactment of this subsection for which the total of amounts appropriated to carry out this section are less than the total of amounts authorized to be appropriated pursuant to subsection (j), the deadline for compliance with any requirement of this section, including any deadline relating to assessment reports or State program implementation or monitoring efforts, shall be postponed by 1 year, unless the Administrator and the State jointly certify that the amounts appropriated are sufficient to meet the requirements of this section.".

(n) COASTAL NONPOINT POLLUTION CONTROL PROGRAMS.—

(1) REPEAL.—Section 6217 of the Omnibus Budget Reconciliation Act of 1990 (16 U.S.C. 1455b) is repealed.

(2) INCLUSION OF COASTAL MANAGEMENT PROVISIONS IN NONPOINT PROGRAM.—Section 319 is amended—

(A) in subsection (a)(1)—

(i) by striking "and" at the end of subparagraph (C);

(ii) by striking the period at the end of subparagraph (D) and inserting "(including State management programs approved under section 306 of the Coastal Zone Management Act of 1972); and"; and

(iii) by adding at the end the following:

"(E) identifies critical areas, giving consideration to the variety of natural, commercial, recreational, ecological, industrial, and aesthetic resources of immediate and potential value to the present and future of the Nation's waters in the Coastal Zone.";

(B) in subsection (a)(2) by inserting "any management program of the State approved under section 306 of the Coastal Zone Management Act of 1972," after "314,";

(C) in subsection (b)(2) by adding after subparagraph (I), as added by subsection (b) of this section, the following:

"(J) For coastal areas, the identification of, and continuing process for identifying, land uses which individually or cumulatively may cause or contribute significantly to degradation of—

"(i) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protected designated uses, as determined by the State pursuant to the State's water quality planning processes or watershed planning efforts; and

"(ii) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings."; and

(D) in subsection (c)(1) by inserting "or coastal zone management agencies" after "planning agencies".

(o) AGRICULTURAL INPUTS.—Section 319 is further amended by adding at the end the following:

"(q) AGRICULTURAL INPUTS.—For the purposes of this Act, any land application of livestock manure shall not be considered a point source and shall be subject to enforcement only under this section.".

(p) PURPOSE.—Section 319 (33 U.S.C. 1329) is further amended by adding at the end the following:

"(r) PURPOSE.—The purpose of this section is to assist States in addressing nonpoint sources of pollution where necessary to achieve the goals and requirements of this Act. It is recognized that State nonpoint source programs need to be built upon a foundation that voluntary initiatives represent the approach most likely to succeed in achieving the objectives of this Act.".

SEC. 320. NATIONAL ESTUARY PROGRAM.

(a) TECHNICAL AMENDMENT.—Section 320(a)(2)(B) (33 U.S.C. 1330(a)(2)(B)) is amended to read as follows:

"(B) PRIORITY CONSIDERATION.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor); Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; Santa Monica Bay, California; Galveston Bay, Texas; Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; Charlotte Harbor, Florida; Barnegat Bay, New Jersey; and Peconic Bay, New York.".

(b) GRANTS.—Section 320(g)(2) (33 U.S.C. 1330(g)(2)) is amended by inserting "and implementation monitoring" after "development".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 320(i) (33 U.S.C. 1330(i)) is amended by striking "1987" and all that follows through "1991" and inserting the following: "1987 through 1991, such sums as may be necessary for fiscal years 1992 through 1995, and $19,000,000 per fiscal year for each of fiscal years 1996 through 2000".

SEC. 321. STATE WATERSHED MANAGEMENT PROGRAMS.

(a) ESTABLISHMENT.—Title III (33 U.S.C. 1311–1330) is amended by adding at the end the following:

"SEC. 321. STATE WATERSHED MANAGEMENT PROGRAMS.

"(a) STATE WATERSHED MANAGEMENT PROGRAM.—

"(1) SUBMISSION OF PROGRAM TO ADMINISTRATOR.—A State, at any time, may submit a watershed management program to the Administrator for approval.

"(2) APPROVAL.—If the Administrator does not disapprove a State watershed management program within 180 days of its submittal or 240 days of a request for a public hearing pursuant to paragraph (3) with respect to the program, whichever is later, such program shall be deemed approved for the purposes of this section. The Administrator shall approve the program if the program includes, at a minimum, the following elements:

"(A) The identification of the State agency with primary responsibility for overseeing and approving watershed management plans in general.

"(B) The description of any responsible entities (including any appropriate State agency or substate agency) to be utilized in implementing the program and a description of their responsibilities.

"(C) A description of the scope of the program. In establishing the scope of the program, the State may address one or more watersheds, or pollutants, concurrently or sequentially. The scope of the State program may expand over time with respect to the watersheds, pollutants, and factors to be addressed under the program. In developing the State program, the State shall take into account all regional and local government watershed management programs that are consistent with the proposed State program and shall consult with the regional and local governments that developed such programs. The State shall consider recommendations from units of general purpose government, special purpose districts, local water suppliers, and appropriate water management agencies in the development and scope of the program.

"(D) Provisions for carrying out an analysis, consistent with the established scope of the program, of the problems within each watershed covered under the program.

"(E) An identification of watershed management units for which management plans will be developed, taking into consideration those waters where water quality is threatened or impaired or otherwise in need of special protection. A watershed management unit identified under the program may include waters and associated land areas in more than 1 State if the Governors of the States affected jointly designate the watershed management unit and may include waters and associated lands managed or owned by the Federal Government.

"(F) A description of the activities required of responsible entities (as specified under subsection (e)(1)) and a description of the watershed plan approval process of the State.

"(G) Documentation of the public participation in development of the program and description of the procedures that will be used for public participation in the development and implementation of watershed plans.

"(H) The identification of goals that will be pursued in each watershed, including attainment of State water quality standards (including site-specific water quality standards) and the goals and objectives of this Act.

"(I) An exclusion from the program of federally approved activities with respect to linear utility facilities, such as natural gas pipelines if such facilities extend to multiple watersheds and result in temporary or de minimis impacts.

"(J) A description of the process for consideration of and achieving consistency with the purposes of sections 319 and 322.

"(3) DISAPPROVAL PROCESS.—If the Administrator intends to disapprove a program of a State submitted under this subsection, the Administrator shall by a written notification advise the State of the intent to disapprove and the reasons for disapproval. If, within 30 days of receipt of such notice, a State so requests, the

Administrator shall conduct a public hearing in the State on the intent to disapprove and the reasons for such disapproval. A State may resubmit a revised program that addresses the reasons contained in the notification. If a State requests a public hearing, the Administrator shall conduct the hearing in that State and issue a final determination within 240 days of receipt of the State watershed management program submittal.

"(4) MODIFICATION OF PROGRAM.—Each State with a watershed management program that has been approved by the Administrator under this section may, at any time, modify the watershed management program. Any such modification shall be submitted to the Administrator and shall remain in effect unless and until the Administrator determines that the modified program no longer meets the requirements of this section. In such event, the provisions of paragraph (3) shall apply.

"(5) STATUS REPORTS.—Each State with a watershed management program that has been approved by the Administrator pursuant to this subsection shall, not later than 1 year after the date of approval, and annually thereafter, submit to the Administrator an annual watershed program summary status report that includes descriptions of any modifications to the program. The status report shall include a listing of requests made for watershed plan development and a listing of plans prepared and submitted by local or regional entities and the actions taken by the State on such plans including the reasons for those actions. In consultation and coordination with the Administrator, a State may use the report to satisfy, in full or in part, any reporting requirements under sections 106, 303(d), 305(b), 314, 319, 320, 322, and 604(b).

"(b) WATERSHED AREA IN 2 OR MORE STATES.—If a watershed management unit is designated to include land areas in more than 1 State, the Governors of States having jurisdiction over any lands within the watershed management unit shall jointly determine the responsible entity or entities.

"(c) ELIGIBLE WATERSHED MANAGEMENT AND PLANNING ACTIVITIES.—

"(1) IN GENERAL.—In addition to activities eligible to receive assistance under other sections of this Act as of the date of the enactment of this subsection, the following watershed management activities conducted by or on behalf of the States pursuant to a watershed management program that is approved by the Administrator under this section shall be considered to be eligible to receive assistance under sections 106, 205(j), 319(h), 320, and 604(b):

"(A) Characterizing the waters and land uses.

"(B) Identifying and evaluating problems within the watershed.

"(C) Selecting short-term and long-term goals for watershed management.

"(D) Developing and implementing water quality standards, including site-specific water quality standards.

"(E) Developing and implementing measures and practices to meet identified goals.

"(F) Identifying and coordinating projects and activities necessary to restore or maintain water quality or other related environmental objectives within the watershed.

"(G) Identifying the appropriate institutional arrangements to carry out a watershed management plan that has been approved or adopted by the State under this section.

"(H) Updating the plan.

"(I) Conducting training and public participation activities.

"(J) Research to study benefits of existing watershed program plans and particular aspects of the plans.

"(K) Implementing any other activity considered appropriate by the Administrator or the Governor of a State with an approved program.

"(2) FACTORS TO BE CONSIDERED.—In selecting watershed management activities to receive assistance pursuant to paragraph (1), the following factors shall be considered:

"(A) Whether or not the applicant has demonstrated success in addressing water quality problems with broadbased regional support, including public and private sources.

"(B) Whether the activity will promote watershed problem prioritization.

"(C) Whether or not the applicant can demonstrate an ability to use Federal resources to leverage non-Federal public and private monetary and in-kind support from voluntary contributions, including matching and cost sharing incentives.

"(D) Whether or not the applicant proposes to use existing public and private programs to facilitate water quality improvement with the assistance to be provided pursuant to paragraph (1).

"(E) Whether or not such assistance will be used to promote voluntary activities, including private wetlands restoration, mitigation banking, and pollution prevention to achieve water quality standards.

"(F) Whether or not such assistance will be used to market mechanisms to enhance existing programs.

"(d) PUBLIC PARTICIPATION.—Each State shall establish procedures to encourage the public to participate in its program and in developing and implementing comprehensive watershed management plans under this section. A State watershed management program shall include a process for public involvement in watershed management, to the maximum extent practicable, including the formation and participation of public advisory groups during State watershed program development. States must provide adequate public notice and an opportunity to comment on the State watershed program prior to submittal of the program to the Administrator for approval.

"(e) APPROVED OR STATE-ADOPTED PLANS.—

"(1) REQUIREMENTS.—A State with a watershed management program that has been approved by the Administrator under this section may approve or adopt a watershed management plan if the plan satisfies the following conditions:

"(A) If the watershed includes waters that are not meeting water quality standards at the time of submission, the plan—

"(i) identifies the objectives of the plan, including, at a minimum, State water quality standards (including site-specific water quality standards) and goals and objectives under this Act;

"(ii) identifies pollutants, sources, activities, and any other factors causing the impairment of the waters;

"(iii) identifies cost effective actions that are necessary to achieve the objectives of the plan, including reduction of pollutants to achieve any allocated load reductions consistent with the requirements of section 303(d), and the priority for implementing the actions;

"(iv) contains an implementation schedule with milestones and the identification of persons responsible for implementing the actions;

"(v) demonstrates that water quality standards and other goals and objectives of this Act will be attained as expeditiously as practicable but not later than any applicable deadline under this Act;

"(vi) contains documentation of the public participation in the development of the plan and a description of the public participation process that will be used during the plan implementation;

"(vii) specifies a process to monitor and evaluate progress toward meeting of the goals of the plan; and

"(viii) specifies a process to revise the plan as necessary.

"(B) For waters in the watershed attaining water quality standards at the time of submission (including threatened waters), the plan identifies the projects and activities necessary to maintain water quality standards and attain or maintain other goals after the date of approval or adoption of the plan.

"(2) TERMS OF APPROVED OR ADOPTED PLAN.—Each plan that is approved or adopted by a State under this subsection shall be effective for a period of not more than 10 years and include a planning and implementation schedule with milestones within that period. A revised and updated plan may be approved or adopted by the State prior to the expiration of the period specified in the plan pursuant to the same conditions and requirements that apply to an initial plan for a watershed approved under this subsection.

"(f) GUIDANCE.—Not later than 1 year after the date of the enactment of this section, the Administrator, after consultation with the States and other interested parties, shall issue guidance on provisions that States may consider for inclusion in watershed management programs and State-approved or State-adopted watershed management plans under this section.

"(g) POLLUTANT TRANSFER OPPORTUNITIES.—

"(1) POLLUTANT TRANSFER PILOT PROJECTS.—Under an approved watershed management program, any discharger or source may apply to a State for approval to offset the impact of its discharge or release of a pollutant by entering into arrangements, including the payment of funds, for the implementation of controls or measures by another discharger or source through a pollution reduction credits trading program established as part of the watershed management plan. The State may approve such a request if appropriate safeguards are included to ensure compliance with technology based controls and to protect the quality of receiving waters.

"(2) INCENTIVE GRANTS.—The Administrator shall allocate sums made available by appropriations to carry out pollution reduction credits trading programs in selected watersheds throughout the country.

"(3) REPORT.—Not later than 36 months after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the program conducted under this subsection.".

(b) INCENTIVES FOR WATERSHED MANAGEMENT.—

(1) POINT SOURCE PERMITS.—Section 402 (33 U.S.C. 1342) is further amended by adding at the end the following:

"(r) WATERSHED MANAGEMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, a permit may be issued under this section with a limitation that does not meet applicable water quality standards if—

"(A) the receiving water is in a watershed with a watershed management plan that has been approved pursuant to section 321;

"(B) the plan includes assurances that water quality standards will be met within the watershed by a specified date; and

"(C) the point source does not have a history of significant noncompliance with its effluent limitations under a permit issued under this section, as determined by the Administrator or a State with authority to issue permits under this section.

"(2) SYNCHRONIZED PERMIT TERMS.—Notwithstanding subsection (b)(1)(B), the term of a permit issued under this section may be extended for an additional period if the discharge is located in a watershed management unit for which a watershed management plan will be developed pursuant to section 321. Permits extended under this paragraph shall be synchronized with the approval of the watershed

management plan of a State adopted pursuant to section 321.".

(2) MULTIPURPOSE GRANTS.—

(A) IN GENERAL.—The Administrator may provide assistance to a State with a watershed management program that has been approved by the Administrator under section 321 in the form of a multipurpose grant that would provide for single application, work plan and review, matching, oversight, and end-of-year closeout requirements for grant funding under sections 104(b)(3), 104(g), 106, 314(b), 319, 320, and 604(b) of the Federal Water Pollution Control Act.

(B) TERMS.—The Administrator may attach terms that shall apply for more than 1 year to grants made pursuant to this paragraph. A State that receives a grant under this paragraph may focus activities funded under the provisions referred to in subparagraph (A) on a priority basis in a manner consistent with watershed management plans approved by the State under section 321(e) of the Federal Water Pollution Control Act.

(3) PLANNING.—Section 604(b) (33 U.S.C. 1384(b)) is amended by adding at the end the following: "In any fiscal year in which a State is implementing a State watershed management program approved under section 321, the State may reserve up to an additional 2 percent of the sums allotted to the State for such fiscal year for development of watershed management plans under such program or $200,000, whichever is greater, if 50 percent of the amount reserved under this sentence will be made available to local entities.".

SEC. 322. STORMWATER MANAGEMENT PROGRAMS.

(a) STATE PROGRAMS.—Title III (33 U.S.C. 1311 et seq.) is further amended by adding at the end the following new section:

"SEC. 322. STORMWATER MANAGEMENT PROGRAMS.

"(a) PURPOSE.—The purpose of this section is to assist States in the development and implementation of stormwater control programs in an expeditious and cost effective manner so as to enable the goals and requirements of this Act to be met in each State no later than 15 years after the date of approval of the stormwater management program of the State. It is recognized that State stormwater management programs need to be built on a foundation that voluntary pollution prevention initiatives represent an approach most likely to succeed in achieving the objectives of this Act.

"(b) STATE ASSESSMENT REPORTS.—

"(1) CONTENTS.—After notice and opportunity for public comment, the Governor of each State, consistent with or as part of the assessment required by section 319, shall prepare and submit to the Administrator for approval, a report which—

"(A) identifies those navigable waters within the State which, without additional action to control pollution from stormwater discharges, cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of this Act;

"(B) identifies those categories and subcategories of stormwater discharges that add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

"(C) describes the process, including intergovernmental coordination and public participation, for identifying measures to control pollution from each category and subcategory of stormwater discharges identified in subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such discharges; and

"(D) identifies and describes State, local, and as may be appropriate, industrial programs for controlling pollution added from stormwater discharges to, and improving the quality of, each such portion of the navigable waters.

"(2) INFORMATION USED IN PREPARATION.—In developing, reviewing, and revising the report required by this subsection, the State—

"(A) may rely upon information developed pursuant to sections 208, 303(e), 304(f), 305(b), 314, 319, 320, and 321 and subsection (h) of this section, information developed from the group stormwater permit application process in effect under section 402(p) of this Act on the day before the date of the enactment of this Act, and such other information as the State determines is appropriate; and

"(B) may utilize appropriate elements of the waste treatment management plans developed pursuant to sections 208(b) and 303, to the extent such elements are consistent with and fulfill the requirements of this section.

"(3) REVIEW AND REVISION.—Not later than 18 months after the date of the enactment of the Clean Water Amendments of 1995, and every 5 years thereafter, the State shall review, revise, and submit to the Administrator the report required by this subsection.

"(c) STATE MANAGEMENT PROGRAMS.—

"(1) IN GENERAL.—In substantial consultation with local governments and after notice and opportunity for public comment, the Governor of each State for the State or in combination with the Governors of adjacent States shall prepare and submit to the Administrator for approval a stormwater management program based on available information which the State proposes to implement in the first 5 fiscal years beginning after the date of submission of such management program for controlling pollution added from stormwater discharges to the navigable waters within the boundaries of the State and improving the quality of such waters.

"(2) SPECIFIC CONTENTS.—Each management program proposed for implementation under this subsection shall include the following:

"(A) IDENTIFICATION OF MODEL MANAGEMENT PRACTICES AND MEASURES.—Identification of the model management practices and measures which will be undertaken to reduce pollutant loadings resulting from each category or subcategory of stormwater discharges designated under subsection (b)(1)(B), taking into account the impact of the practice and measure on ground water quality.

"(B) IDENTIFICATION OF PROGRAMS AND RESOURCES.—Identification of programs and resources necessary (including, as appropriate, nonregulatory programs or regulatory programs, enforceable policies and mechanisms, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to manage categories or subcategories of stormwater discharges to the degree necessary to provide for reasonable further progress toward the goal of attainment of water quality standards which contain the stormwater criteria established under subsection (i) for designated uses of receiving waters identified under subsection (b)(1)(A) taking into consideration specific watershed conditions, by not later than the last day of the 15-year period beginning on the date of approval of the State program.

"(C) PROGRAM FOR INDUSTRIAL, COMMERCIAL, OIL, GAS, AND MINING DISCHARGES.—A program for categories or subcategories of industrial, commercial, oil, gas, and mining stormwater discharges identified under subsection (b)(1)(B) for the implementation of management practices, measures, and programs identified under subparagraphs (A) and (B). The program shall include each of the following:

"(i) VOLUNTARY ACTIVITIES.—Voluntary stormwater pollution prevention activities for categories and subcategories of such stormwater discharges that are not contaminated by contact with material handling equipment or activities, heavy industrial machinery, raw materials, intermediate products, finished products, byproducts, or waste products at the site of the industrial, commercial, oil, gas, or mining activity. Such discharges may have incidental contact with buildings or motor vehicles.

"(ii) ENFORCEABLE PLANS.—Enforceable stormwater pollution prevention plans meeting the requirements of subsection (d) for those categories and subcategories of such stormwater discharges that are not described in clause (i).

"(iii) GENERAL PERMITS.—General permits for categories and subcategories of such stormwater discharges if the State finds, based on available information and after providing notice and an opportunity for comment, that reasonable further progress toward achieving water quality standards in receiving waters identified by the State by the date referred to in subparagraph (B) cannot be made despite implementation of voluntary activities under clause (i) or prevention plans under clause (ii) due to the presence of a pollutant or pollutants identified by the State. A facility in a category or subcategory identified by the State shall not be subject to a general permit under this clause if the facility demonstrates that stormwater discharges from the facility are not contributing to a violation of a water quality standard established for designated uses of the receiving waters and are not significantly contributing the pollutant or pollutants identified by the State with respect to the receiving waters under this clause.

"(iv) SITE-SPECIFIC PERMITS.—Site-specific permits for categories or subcategories of such stormwater discharges or individual facilities in such categories or subcategories if the State finds, based on available information and after providing notice and an opportunity for comment, that reasonable further progress toward achieving water quality standards in receiving waters identified by the State by the date referred to in subparagraph (B) cannot be made despite implementation of voluntary activities under clause (i) or prevention plans under clause (ii) and general permits under clause (iii) due to the presence of a pollutant or pollutants identified by the State. A facility in a category or subcategory identified by the State shall not be subject to a site-specific permit under this clause if the facility demonstrates that stormwater discharges from the facility are not contributing to a violation of a water quality standard established for designated uses of the receiving waters and are not significantly contributing the pollutant or pollutants identified by the State with respect to the receiving waters under this clause.

"(v) EXEMPTION OF SMALL BUSINESSES.—An exemption for small businesses identified under subsection (b)(1)(B) from clause (iii), relating to general permits, and clause (iv), relating to site-specific permits, unless the State finds that, without the imposition of such permits, such discharges will have a significant adverse effect on water quality.

"(D) PROGRAM FOR MUNICIPAL DISCHARGES.—A program for municipal stormwater discharges identified under subsection (b)(1)(B) to reduce pollutant loadings from categories and subcategories of municipal stormwater discharges.

"(E) PROGRAM FOR CONSTRUCTION ACTIVITIES.—A program for categories and subcategories of stormwater discharges from construction activities identified under subsection (b)(1)(B) for implementation of management practices, measures, and programs identified under subparagraphs (A) and (B). In developing the program, the State shall consider current State and local requirements, focus on pollution prevention through the use of model management practices and measures, and take into account the land area disturbed by the construction activities. The State may require effluent

limits or other numerical standards to control pollutants in stormwater discharges from construction activities only if the State finds, after providing notice and an opportunity for comment, that such standards are necessary to achieve water quality standards by the date referred to in subparagraph (B).

"(F) BAD ACTOR PROVISIONS.—Provisions for taking any actions deemed necessary by the State to meet the goals and requirements of this section with respect to dischargers which the State identifies, after notice and opportunity for hearing—

"(i) as having a history of stormwater noncompliance under this Act, State law, or the regulations issued thereunder or the terms and conditions of permits, orders, or administrative actions issued pursuant thereto; or

"(ii) as posing an imminent threat to human health and the environment.

"(G) SCHEDULE.—A schedule containing interim goals and milestones for making reasonable progress toward the attainment of standards as set forth in subparagraph (B) established for the designated uses of receiving waters, taking into account specific watershed conditions, which may be demonstrated by one or any combination of improvements in water quality (including biological indicators), documented implementation of voluntary stormwater discharge control measures, or adoption of enforceable stormwater discharge control measures.

"(H) CERTIFICATION OF ADEQUATE AUTHORITY.—

"(i) IN GENERAL.—A certification by the Attorney General of the State or States (or the chief attorney of any State water pollution control agency that has authority under State law to make such certification) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a list of such additional authorities as will be necessary to implement such management program.

"(ii) COMMITMENT.—A schedule for seeking, and a commitment by the State or States to seek, such additional authorities as expeditiously as practicable.

"(I) IDENTIFICATION OF FEDERAL FINANCIAL ASSISTANCE PROGRAMS.—An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's stormwater management program.

"(J) MONITORING.—A description of the monitoring of navigable waters or other assessment which will be carried out under the program for the purposes of monitoring and assessing the effectiveness of the program, including the attainment of interim goals and milestones.

"(K) IDENTIFICATION OF CERTAIN INCONSISTENT FEDERAL ACTIVITIES.—An identification of activities on Federal lands in the State that are inconsistent with the State management program.

"(L) IDENTIFICATION OF GOALS AND MILESTONES.—An identification of goals and milestones for progress in attaining water quality standards, including a projected date for attaining such standards as expeditiously as practicable but not later than 15 years after the date of approval of the State program for each of the waters listed pursuant to subsection (b).

"(3) UTILIZATION OF LOCAL AND PRIVATE EXPERTS.—In developing and implementing a management program under this subsection, a State shall, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in stormwater management.

"(4) DEVELOPMENT ON WATERSHED BASIS.—A State shall, to the maximum extent practicable, develop and implement a stormwater management program under this subsection on a watershed-by-watershed basis within such State.

"(5) REGULATIONS DEFINING SMALL BUSINESSES.—The Administrator shall propose, not later than 6 months after the date of the enactment of this section, and issue, not later than 1 year after the date of such enactment, regulations to define small businesses for purposes of this section.

"(d) STORMWATER POLLUTION PREVENTION PLANS.—

"(1) IMPLEMENTATION DEADLINE.—Each stormwater pollution prevention plan required under subsection (c)(2)(C)(ii) shall be implemented not later than 180 days after the date of its development and shall be annually updated.

"(2) PLAN CONTENTS.—Each stormwater pollution prevention plan required under subsection (c)(2)(C)(ii) shall include the following components:

"(A) Establishment and appointment of a stormwater pollution prevention team.

"(B) Description of potential pollutant sources.

"(C) An annual site inspection evaluation.

"(D) An annual visual stormwater discharge inspection.

"(E) Measures and controls for reducing stormwater pollution, including, at a minimum, model management practices and measures that are flexible, technologically feasible, and economically practicable. For purposes of this paragraph, the term 'model management practices and measures' means preventive maintenance, good housekeeping, spill prevention and response, employee training, and sediment and erosion control.

"(F) Prevention of illegal discharges of nonstormwater through stormwater outfalls.

"(3) CERTIFICATION.—Each facility subject to subsection (c)(2)(C)(ii) shall certify to the State that it has implemented a stormwater pollution prevention plan or a State or local equivalent and that the plan is intended to reduce possible pollutants in the facility's stormwater discharges. The certification must be signed by a responsible officer of the facility and must be affixed to the plan subject to review by the appropriate State program authority. If a facility makes such a certification, such facility shall not be subject to permit or permit application requirements, mandatory model management practices and measures, analytical monitoring, effluent limitations or other numerical standards or guidelines under subsection (c)(2)(C)(ii).

"(4) PLAN ADEQUACY.—The State stormwater management program shall set forth the basis upon which the adequacy of a plan prepared by a facility subject to subsection (c)(2)(C)(ii) will be determined. In making such determination, the State shall consider benefits to the environment, physical requirements, technological feasibility and economic costs, human health or safety, and nature of the activity at the facility or site.

"(e) ADMINISTRATIVE PROVISIONS.—

"(1) COOPERATION REQUIREMENT.—Any report required by subsection (b) and any management program and report required by subsection (c) shall be developed in cooperation with local, substate, regional, and interstate entities which are responsible for implementing stormwater management programs.

"(2) TIME PERIOD FOR SUBMISSION OF MANAGEMENT PROGRAMS.—Each management program shall be submitted to the Administrator within 30 months of the issuance by the Administrator of the final guidance under subsection (l) and every 5 years thereafter. Each program submission after the initial submission following the date of the enactment of the Clean Water Amendments of 1995 shall include a demonstration of reasonable further progress toward the goal of attaining water quality standards as set forth in subsection (c)(2) established for designated uses of receiving waters taking into account specific watershed conditions by not later than the date referred to in subsection (b)(2)(B), including a documentation of the degree to which the State has achieved the interim goals and milestones contained in the previous program submission. Such demonstration shall take into account the adequacy of Federal funding under this section.

"(3) TRANSITION.—

"(A) IN GENERAL.—Permits, including group and general permits, issued pursuant to section 402(p), as in effect on the day before the date of the enactment of this section, shall remain in effect until the effective date of a State stormwater management program under this section. Stormwater dischargers shall continue to implement any stormwater management practices and measures required under such permits until such practices and measures are modified pursuant to this subparagraph or pursuant to a State stormwater management program. Prior to the effective date of a State stormwater management program, stormwater dischargers may submit for approval proposed revised stormwater management practices and measures to the State, in the case of a State with an approved program under section 402, or the Administrator. Upon notice of approval by the State or the Administrator, the stormwater discharger shall implement the revised stormwater management practices and measures which, for discharges subject to subsection (c)(2)(C)(i), (c)(2)(D), (c)(2)(E), or (c)(2)(F), may be voluntary pollution prevention activities. A stormwater discharger operating under a permit continued in effect under this subparagraph shall not be subject to citizens suits under section 505.

"(B) NEW FACILITIES.—A new nonmunicipal source of stormwater discharge subject to a group or general permit continued in effect under subparagraph (A) shall notify the State or the Administrator, as appropriate, of the source's intent to be covered by and shall continue to comply with such permit. Until the effective date of a State stormwater management program under this section, the State may impose enforceable stormwater management measures and practices on a new nonmunicipal source of stormwater discharge not subject to such a permit if the State finds that the stormwater discharge is likely to pose an imminent threat to human health and the environment or to pose significant impairment of water quality standards.

"(C) SPECIAL RULE.—Industrial facilities included in a Part 1 group stormwater permit application approved by the Administrator pursuant to section 122.26(c)(2) of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section, may, in lieu of continued operation under existing permits, certify to the State or the Administrator, as appropriate, that such facilities are implementing a stormwater pollution prevention plan consistent with subsection (d). Upon such certification, the facility will no longer be subject to such permit.

"(D) PRE-1987 PERMITS.—Notwithstanding the repeal of section 402(p) by the Clean Water

Amendments Act of 1995 or any other amendment made to section 402 on or before the date of the enactment of such Act, a discharge with respect to which a permit has been issued under section 402 before February 4, 1987, shall not be subject to the provisions of this section.

"(E) ANTIBACKSLIDING.—Section 402(o) shall not apply to any activity carried out in accordance with this paragraph.

"(f) APPROVAL OR DISAPPROVAL OF REPORTS OR MANAGEMENT PROGRAMS.—

"(1) DEADLINE.—Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or revised report or management program under this section, the Administrator shall either approve or disapprove such report or management program, as the case may be. The Administrator may approve a portion of a management program under this subsection. If the Administrator does not disapprove a report, management program, or portion of a management program in such 180-day period, such report, management program, or portion shall be deemed approved for purposes of this section.

"(2) PROCEDURE FOR DISAPPROVAL.—If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that—

"(A) the proposed management program or any portion thereof does not meet the requirements of subsection (b) of this section or is not likely to satisfy, in whole or in part, the goals and requirements of this Act;

"(B) adequate authority does not exist, or adequate resources are not available, to implement such program or portion; or

"(C) the practices and measures proposed in such program or portion will not result in reasonable progress toward the goal of attainment of applicable water quality standards as set forth in subsection (c)(2) established for designated uses of receiving waters taking into consideration specific watershed conditions as expeditiously as possible but not later than 15 years after approval of a State stormwater management program under this section;

the Administrator shall within 6 months of the receipt of the proposed program notify the State of any revisions or modifications necessary to obtain approval. The State shall have an additional 6 months to submit its revised management program, and the Administrator shall approve or disapprove such revised program within 3 months of receipt.

"(3) FAILURE OF STATE TO SUBMIT REPORT.—If a Governor of a State does not submit a report or revised report required by subsection (b) within the period specified by subsection (e)(2), the Administrator shall, within 18 months after the date on which such report is required to be submitted under subsection (b), prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (b). Upon completion of the requirement of the preceding sentence and after notice and opportunity for a comment, the Administrator shall report to Congress of the actions of the Administrator under this section.

"(4) FAILURE OF STATE TO SUBMIT MANAGEMENT PROGRAM.—

"(A) PROGRAM MANAGEMENT BY ADMINISTRATOR.—Subject to paragraph (5), if a State fails to submit a management program or revised management program under subsection (c) or the Administrator does not approve such management program, the Administrator shall prepare and implement a management program for controlling pollution added from stormwater discharges to the navigable waters within the State and improving the quality of such waters in accordance with subsection (c).

"(B) NOTICE AND HEARING.—If the Administrator intends to disapprove a program submitted by a State the Administrator shall first notify the Governor of the State, in writing, of the modifications necessary to meet the requirements of this section. The Administrator shall provide adequate public notice and an opportunity for a public hearing for all interested parties.

"(C) STATE REVISION OF ITS PROGRAM.—If, after taking into account the level of funding actually provided as compared with the level authorized, the Administrator determines that a State has failed to demonstrate reasonable further progress toward the attainment of water quality standards as required, the State shall revise its program within 12 months of that determination in a manner sufficient to achieve attainment of applicable water quality standards by the deadline established by this section. If a State fails to make such a program revision or the Administrator does not approve such a revision, the Administrator shall prepare and implement a stormwater management program for the State.

"(5) LOCAL MANAGEMENT PROGRAMS; TECHNICAL ASSISTANCE.—If a State fails to submit a management program under subsection (c) or the Administrator does not approve such a management program, a local public agency or organization which has expertise in, and authority to, control water pollution resulting from nonpoint sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a management program which is described in subsection (c) and can be approved pursuant to this subsection. After development of such management program, such agency or organization shall submit such management program to the Administrator for approval.

"(g) INTERSTATE MANAGEMENT CONFERENCE.—

"(1) CONVENING OF CONFERENCE; NOTIFICATION; PURPOSE.—

"(A) CONVENING OF CONFERENCE.—If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of pollution from stormwater in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute significant pollution resulting from stormwater to such portion.

"(B) NOTIFICATION.—If, on the basis of information available, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of significant pollution from stormwater in another State, the Administrator shall notify such States.

"(C) TIME LIMIT.—The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification under subparagraph (B), whether or not the State which is not meeting such standards requests such conference.

"(D) PURPOSE.—The purpose of the conference shall be to develop an agreement among the States to reduce the level of pollution resulting from stormwater in the portion of the navigable waters and to improve the water quality of such portion.

"(E) PROTECTION OF WATER RIGHTS.—Nothing in the agreement shall supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws.

"(F) LIMITATIONS.—This subsection shall not apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. The requirement that the Administrator convene a management conference shall not be subject to the provisions of section 505 of this Act.

"(2) STATE MANAGEMENT PROGRAM REQUIREMENT.—To the extent that the States reach agreement through such conference, the management programs of the States which are parties to such agreements and which contribute significant pollution to the navigable waters or portions thereof not meeting applicable water quality standards or goals and requirements of this Act will be revised to reflect such agreement. Such management programs shall be consistent with Federal and State law.

"(h) GRANTS FOR STORMWATER RESEARCH.—

"(1) IN GENERAL.—To determine the most cost-effective and technologically feasible means of improving the quality of the navigable waters and to develop the criteria required pursuant to subsection (i) of this Act, the Administrator shall establish an initiative through which the Administrator shall fund State and local demonstration programs and research to—

"(A) identify adverse impacts of stormwater discharges on receiving waters;

"(B) identify the pollutants in stormwater which cause impact; and

"(C) test innovative approaches to address the impacts of source controls and model management practices and measures for runoff from municipal storm sewers.

Persons conducting demonstration programs and research funded under this subsection shall also take into account the physical nature of episodic stormwater flows, the varying pollutants in stormwater, the actual risk the flows pose to the designated beneficial uses, and the ability of natural ecosystems to accept temporary stormwater events.

"(2) AWARD OF FUNDS.—The Administrator shall award the demonstration and research program funds taking into account regional and population variations.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $20,000,000 per fiscal year for fiscal years 1996 through 2000. Such sums shall remain available until expended.

"(4) INADEQUATE FUNDING.—For each fiscal year beginning after the date of the enactment of this subsection for which the total amounts appropriated to carry out this subsection are less than the total amounts authorized to be appropriated pursuant to this subsection, any deadlines established under subsection (c)(2)(L) for compliance with water quality standards shall be postponed by 1 year.

"(i) DEVELOPMENT OF STORMWATER CRITERIA.—

"(1) IN GENERAL.—To reflect the episodic character of stormwater which results in significant variances in the volume, hydraulics, hydrology, and pollutant load associated with stormwater discharges, the Administrator shall establish, as an element of the water quality standards established for the designated uses of the navigable waters, stormwater criteria which protect the navigable waters from impairment of the designated beneficial uses caused by stormwater discharges. The criteria shall be technologically and financially feasible and may include performance standards, guidelines, guidance, and model management practices and measures and treatment requirements, as appropriate, and as identified in subsection (h)(1).

"(2) INFORMATION TO BE USED IN DEVELOPMENT.—The stormwater discharge criteria to be established under this subsection—

"(A) shall be developed from—

"(i) the findings and conclusions of the demonstration programs and research conducted under subsection (h);

"(ii) the findings and conclusions of the research and monitoring activities of stormwater dischargers performed in compliance with permit requirements of this Act; and

"(iii) other relevant information, including information submitted to the Administrator under the industrial group permit application process in effect under section 402 of this Act on the day before the date of the enactment of this section;

"(B) shall be developed in consultation with persons with expertise in the management of stormwater (including officials of State and local government, industrial and commercial stormwater dischargers, and public interest groups); and

"(C) shall be established as an element of the water quality standards that are developed and implemented under this Act by not later than December 31, 2008.

"(j) COLLECTION OF INFORMATION.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to model management practices and measures and implementation methods, including, but not limited to—

"(1) information concerning the costs and relative efficiencies of model management practices and measures for reducing pollution from stormwater discharges; and

"(2) available data concerning the relationship between water quality and implementation of various management practices to control pollution from stormwater discharges.

"(k) REPORTS OF ADMINISTRATOR.—

"(1) BIENNIAL REPORTS.—Not later than January 1, 1996, and biennially thereafter, the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from stormwater discharges and improving the quality of such waters.

"(2) CONTENTS.—Each report submitted under paragraph (1), at a minimum shall—

"(A) describe the management programs being implemented by the States by types of affected navigable waters, categories and subcategories of stormwater discharges, and types of measures being implemented;

"(B) describe the experiences of the States in adhering to schedules and implementing the measures under subsection (c);

"(C) describe the amount and purpose of grants awarded pursuant to subsection (h);

"(D) identify, to the extent that information is available, the progress made in reducing pollutant loads and improving water quality in the navigable waters;

"(E) indicate what further actions need to be taken to attain and maintain in those navigable waters (i) applicable water quality standards, and (ii) the goals and requirements of this Act;

"(F) include recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from stormwater; and

"(G) identify the activities and programs of departments, agencies, and instrumentalities of the United States that are inconsistent with the stormwater management programs implemented by the States under this section and recommended modifications so that such activities and programs are consistent with and assist the States in implementation of such management programs.

"(l) GUIDANCE ON MODEL STORMWATER MANAGEMENT PRACTICES AND MEASURES.—

"(1) IN GENERAL.—The Administrator, in consultation with appropriate Federal, State, and local departments and agencies, and after providing notice and opportunity for public comment, shall publish guidance to identify model management practices and measures which may be undertaken, at the discretion of the State or appropriate entity, under a management program established pursuant to this section. In preparing such guidance, the Administrator shall consider integration of a stormwater management program of a State with, and the relationship of such program to, the nonpoint source management program of the State under section 319.

"(2) PUBLICATION.—The Administrator shall publish proposed guidance under this subsection not later than 6 months after the date of the enactment of this subsection and shall publish final guidance under this subsection not later than 18 months after such date of enactment. The Administrator shall periodically review and revise the final guidance upon adequate notice and opportunity for public comment at least once every 3 years after its publication.

"(3) MODEL MANAGEMENT PRACTICES AND MEASURES DEFINED.—For the purposes of this subsection, the term "model management practices and measures" means economically achievable measures for the control of pollutants from stormwater discharges which reflect the most cost-effective degree of pollutant reduction achievable through the application of the best available practices, technologies, processes, siting criteria, operating methods, or other alternatives.

"(m) ENFORCEMENT WITH RESPECT TO STORMWATER DISCHARGERS VIOLATING STATE MANAGEMENT PROGRAMS.—Stormwater dischargers that do not comply with State management program requirements under subsection (c) are subject to applicable enforcement actions under sections 309 and 505 of this Act.

"(n) ENTRY AND INSPECTION.—In order to carry out the objectives of this section, an authorized representative of a State, upon presentation of his or her credentials, shall have a right of entry to, upon, or through any property at which a stormwater discharge or records required to be maintained under the State stormwater management program are located.

"(o) LIMITATION ON DISCHARGES REGULATED UNDER WATERSHED MANAGEMENT PROGRAM.—Stormwater discharges regulated under section 321 in a manner consistent with this section shall not be subject to this section.

"(p) MINERAL EXPLORATION AND MINING SITES.—

"(1) EXPLORATION SITES.—For purposes of subsection (c)(2)(F), stormwater discharges from construction activities shall include stormwater discharges from mineral exploration activities; except that, for exploration at abandoned mined lands, the stormwater program under subsection (c)(2)(F) shall be limited to the control of pollutants added to stormwater by contact with areas disturbed by the exploration activity.

"(2) MINING SITES.—Stormwater discharges at ore mining and dressing sites shall be subject to this section. If any such discharge is commingled with mine drainage or process wastewater from mining operations, such discharge shall be treated as a discharge from a point source for purposes of this Act.

"(3) ABANDONED MINED LANDS.—Stormwater discharges from abandoned mined lands shall be subject to section 319; except that if the State, after notice and an opportunity for comment, finds that regulation of such stormwater discharges under this section is necessary to make reasonable further progress toward achieving water quality standards by the date referred to in subsection (c)(2)(B), such discharges shall be subject to this section.

"(4) SURFACE MINING CONTROL AND RECLAMATION ACT SITES.—Notwithstanding paragraph (3), stormwater discharges from abandoned mined lands site which are subject to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1328) shall be subject to section 319.

"(5) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

"(A) ABANDONED MINED LANDS.—The term 'abandoned mined lands' means lands which were used for mineral activities and abandoned or left in an inadequate reclamation status and for which there is no continuing reclamation responsibility under State or Federal laws.

"(B) PROCESS WASTE WATER.—The term 'process waste water' means any water other than stormwater which comes into contact with any raw material, intermediate product, finished product, byproduct, or waste product as part of any mineral beneficiation processes employed at the site.

"(C) MINE DRAINAGE.—The term 'mine drainage' means any water drained, pumped, or siphoned from underground mine workings or mine pits, but such term shall not include stormwater runoff from tailings dams, dikes, overburden, waste rock piles, haul roads, access roads, and ancillary facility areas.".

(b) REPEAL OF LIMITATION ON PERMIT REQUIREMENT.—Section 402(l) (33 U.S.C. 1342(l)) is repealed.

(c) REPEAL OF MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES PROGRAM.—Section 402(p) (33 U.S.C. 1342(p)) is repealed.

(d) DEFINITIONS.—Section 502 (33 U.S.C. 1362) is amended—

(1) by adding at the end of paragraph (14) the following: "The term does not include a stormwater discharge."; and

(2) by adding at the end the following:

"(25) The term 'stormwater' means runoff from rain, snow melt, or any other precipitation-generated surface runoff.

"(26) The term 'stormwater discharge' means a discharge from any conveyance which is used for the collecting and conveying of stormwater to navigable waters and which is associated with a municipal storm sewer system or industrial, commercial, oil, gas, or mining activities or construction activities.".

SEC. 323. RISK ASSESSMENT AND DISCLOSURE REQUIREMENTS.

Title III (33 U.S.C. 1311–1330) is further amended by adding at the end the following:

"SEC. 323. RISK ASSESSMENT AND DISCLOSURE REQUIREMENTS.

"(a) GENERAL RULE.—The Administrator or the Secretary of the Army (hereinafter in this section referred to as the 'Secretary'), as appropriate, shall develop and publish a risk assessment before issuing—

"(1) any standard, effluent limitation, water quality criterion, water quality based requirement, or other regulatory requirement under this Act (other than a permit or a purely procedural requirement); or

"(2) any guidance under this Act which, if issued as a regulatory requirement, would result in an annual increase in cost of $25,000,000 or more.

"(b) CONTENTS OF RISK ASSESSMENTS.—A risk assessment developed under subsection (a), at a minimum, shall—

"(1) identify and use all relevant and readily obtainable data and information of sufficient quality, including data and information submitted to the Agency in a timely fashion;

"(2) identify and discuss significant assumptions, inferences, or models used in the risk assessment;

"(3) measure the sensitivity of the results to the significant assumptions, inferences, or models that the risk assessment relies upon;

"(4) with respect to significant assumptions, inferences, or models that the results are sensitive to, identify and discuss—

"(A) credible alternatives and the basis for the rejection of such alternatives;

"(B) the scientific or policy basis for the selection of such assumptions, inferences, or models; and

"(C) the extent to which any such assumptions, inferences, or models have been validated or conflict with empirical data;

"(5) to the maximum extent practical, provide a description of the risk, including, at minimum, best estimates or other unbiased representation of the most plausible level of risk and a description of the specific populations or natural resources subject to the assessment;

"(6) to the maximum extent practical, provide a quantitative estimate of the uncertainty inherent in the risk assessment; and

"(7) compare the nature and extent of the risk identified in the risk assessment to other risks to human health and the environment.

"(c) Risk Assessment Guidance.—Not later than 180 days after the date of the enactment of this section, and after providing notice and opportunity for public comment, the Administrator, in consultation with the Secretary, shall issue, and thereafter revise, as appropriate, guidance for conducting risk assessments under subsection (a).

"(d) Margin of Safety.—When establishing a margin of safety for use in developing a regulatory requirement described in subsection (a)(1) or guidance described in subsection (a)(2), the Administrator or the Secretary, as appropriate, shall provide, as part of the risk assessment under subsection (a), an explicit and, to the extent practical, quantitative description of the margin of safety relative to an unbiased estimate of the risk being addressed.

"(e) Discretionary Exemptions.—The Administrator or the Secretary, as appropriate, may exempt from the requirements of this section any risk assessment prepared in support of a regulatory requirement described in subsection (a)(1) which is likely to result in annual increase in cost of less than $25,000,000. Such exemptions may be made for specific risk assessments or classes of risk assessments.

"(f) General Rule on Applicability.—The requirements of this section shall apply to any regulatory requirement described in subsection (a)(1) or guidance described in subsection (a)(2) that is issued after the last day of the 1-year period beginning on the date of the enactment of this section.

"(g) Significant Regulatory Actions and Guidance.—

"(1) Applicability of Requirements.—In addition to the regulatory requirements and guidance referred to in subsection (f), the requirements of this section shall apply to—

"(A) any standard, effluent limitation, water quality criterion, water quality based requirement, or other regulatory requirement issued under this Act during the period described in paragraph (2) which is likely to result in an annual increase in cost of $100,000,000 or more; and

"(B) any guidance issued under this Act during the period described in paragraph (2) which, if issued as a regulatory requirement, would be likely to result in annual increase in cost of $100,000,000 or more.

"(2) Covered Period.—The period described in this paragraph is the period beginning on February 15, 1995, and ending on the last day of the 1-year period beginning on the date of the enactment of this Act.

"(3) Review.—Any regulatory requirement described in paragraph (1)(A) or guidance described in paragraph (1)(B) which was issued before the date of the enactment of this section shall be reviewed and, with respect to each such requirement or guidance, the Administrator or the Secretary, as appropriate, shall based on such review—

"(A) certify that the requirement or guidance meets the requirements of this section without revision; or

"(B) reissue the requirement or guidance, after providing notice and opportunity for public comment, with such revisions as may be necessary for compliance with the requirements of this section.

"(4) Deadline.—Any regulatory requirement described in paragraph (1)(A) or guidance described in paragraph (1)(B) for which the Administrator or the Secretary, as appropriate, does not issue a certification or revisions under paragraph (3) on or before the last day of the 18-month period beginning on the date of the enactment of this section shall cease to be effective after such last day until the date on which such certification or revisions are issued.".

SEC. 324. BENEFIT AND COST CRITERION.

Title III (33 U.S.C. 1311–1330) is further amended by adding at the end the following:

"SEC. 324. BENEFIT AND COST CRITERION.

"(a) Decision Criterion.—

"(1) Certification.—The Administrator or the Secretary of the Army (hereinafter in this section referred to as the 'Secretary'), as appropriate, shall not issue—

"(A) any standard, effluent limitation, or other regulatory requirement under this Act; or

"(B) any guidance under this Act which, if issued as a regulatory requirement, would result in an annual increase in cost of $25,000,000 or more,

unless the Administrator or the Secretary certifies that the requirement or guidance maximizes net benefits to society. Such certification shall be based on an analysis meeting the requirements of subsection (b).

"(2) Effect of Criterion.—Notwithstanding any other provision of this Act, the decision criterion of paragraph (1) shall supplement and, to the extent there is a conflict, supersede the decision criteria otherwise applicable under this Act; except that the resulting regulatory requirement or guidance shall be economically achievable.

"(3) Substantial Evidence.—Notwithstanding any other provision of this Act, no regulation or guidance subject to this subsection shall be issued by the Administrator or the Secretary unless the requirement of paragraph (1) is met and the certification is supported by substantial evidence.

"(b) Benefit and Cost Analysis Guidance.—

"(1) In General.—Not later than 180 days after the date of the enactment of this section, and after providing notice and opportunity for public comment, the Administrator, in concurrence with the Administrator of the Office of Information and Regulatory Affairs, shall issue, and thereafter revise, as appropriate, guidance for conducting benefit and cost analyses in support of making certifications required by subsection (a).

"(2) Contents.—Guidance issued under paragraph (1), at a minimum, shall—

"(A) require the identification of available policy alternatives, including the alternative of not regulating and any alternatives proposed during periods for public comment;

"(B) provide methods for estimating the incremental benefits and costs associated with plausible alternatives, including the use of quantitative and qualitative measures;

"(C) require an estimate of the nature and extent of the incremental risk avoided by the standard, effluent limitation, or other regulatory requirement, including a statement that places in context the nature and magnitude of the estimated risk reduction; and

"(D) require an estimate of the total social, environmental, and economic costs of implementing the standard, effluent limitation, or other regulatory requirement.

"(c) Exemptions.—The following shall not be subject to the requirements of this section:

"(1) The issuance of a permit.

"(2) The implementation of any purely procedural requirement.

"(3) Water quality criteria established under section 304.

"(4) Water quality based standards established under section 303.

"(d) Discretionary Exemptions.—The Administrator or the Secretary, as appropriate, may exempt from this section any regulatory requirement that is likely to result in an annual increase in costs of less than $25,000,000. Such exemptions may be made for specific regulatory requirements or classes of regulatory requirements.

"(e) General Rule on Applicability.—The requirements of this section shall apply to any regulatory requirement described in subsection (a)(1)(A) or guidance described in subsection (a)(1)(B) that is issued after the last day of the 1-year period beginning on the date of the enactment of this section.

"(f) Significant Regulatory Actions and Guidance.—

"(1) Applicability of Requirements.—In addition to the regulatory requirements and guidance referred to in subsection (e), this section shall apply to—

"(A) any standard, effluent limitation, or other regulatory requirement issued under this Act during the period described in paragraph (2) which is likely to result in an annual increase in cost of $100,000,000 or more; and

"(B) any guidance issued under this Act during the period described in paragraph (2) which, if issued as a regulatory requirement, would be likely to result in annual increase in cost of $100,000,000 or more.

"(2) Covered Period.—The period described in this paragraph is the period beginning on February 15, 1995, and ending on the last day of the 1-year period beginning on the date of the enactment of this Act.

"(3) Review.—Any regulatory requirement described in paragraph (1)(A) or guidance described in paragraph (1)(B) which was issued before the date of the enactment of this section shall be reviewed and, with respect to each such requirement or guidance, the Administrator or the Secretary, as appropriate, shall based on such review—

"(A) certify that the requirement or guidance meets the requirements of this section without revision; or

"(B) reissue the requirement or guidance, after providing notice and opportunity for public comment, with such revisions as may be necessary for compliance with the requirements of this section.

"(4) Deadline.—Any regulatory requirement described in paragraph (1)(A) or guidance described in paragraph (1)(B) for which the Administrator or the Secretary, as appropriate, does not issue a certification or revisions under paragraph (3) on or before the last day of the 18-month period beginning on the date of the enactment of this section shall cease to be effective after such last day until the date on which such certification or revisions are issued.

"(g) Study.—Not later than 5 years after the date of the enactment of this section, the Administrator, in consultation with the Administrator of the Office of Information and Regulatory Affairs, shall publish an analysis regarding the precision and accuracy of benefit and cost estimates prepared under this section. Such study, at a minimum, shall—

"(1) compare estimates of the benefits and costs prepared under this section to actual costs and benefits achieved after implementation of regulations or other requirements;

"(2) examine and assess alternative analytic methods for conducting benefit and cost analysis, including health-health analysis; and

"(3) make recommendations for the improvement of benefit and cost analyses conducted under this section.".

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment.

PARLIAMENTARY INQUIRY

Mr. SHUSTER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SHUSTER. Is this title I or III?

Mr. CHAIRMAN. We are on title III.

Mr. SHUSTER. Title III?

The CHAIRMAN. Title III, and the gentleman from California has been recognized for an amendment to title III.

Mr. SHUSTER. Mr. Chairman, we cannot find a copy of the gentleman's amendment.

Mr. MINETA. Mr. Chairman, this has been printed in the RECORD. We will be more than happy to present one.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman.

Mr. MINETA. I had understood that the committee had copies of the amendments.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA:

Page 32, strike line 19 and all that follows through line 6 on page 33.

Page 33, line 7, strike "(c)" and insert "(b)".

Page 33, strike line 16 and all that follows through line 10 on page 34.

Pages 34 through 47, strike section 302 of the bill.

Redesignate subsequent sections of title III of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 47, strike line 20 and all that follows through line 8 on page 48 and insert the following:

SEC. 303. REVISION OF STATE WATER QUALITY STANDARDS.

Section 303(c)(1) is amended by striking

Conform the table of contents of the bill accordingly.

Page 48, strike line 16 and all that follows through line 10 on page 52.

Page 64, strike lines 4 through 14.

Pages 73 through 80, strike sections 311 and 312 of the bill.

Redesignate subsequent sections of title III of the bill accordingly. Conform the table of contents of the bill accordingly.

Pages 93 through 95, strike section 318 of the bill.

Redesignate subsequent sections of title III of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 130, line 2, after the period insert closing quotation marks and a period.

Page 130, strike lines 3 through 25.

Page 131, strike lines 5 through 22 and insert the following:

"(r) SYNCHRONIZED PERMIT TERMS.—Notwith-* * *

Mr. MINETA. Mr. Chairman, my amendment is an effort to salvage the heart of the Clean Water Act. It would do so by striking the provisions in title III that roll back standards for industrial dischargers.

We have all heard repeatedly that the Clean Water Act is the most successful Federal environmental law. The widely acknowledged successes of the Act are attributable to its control of pollutant discharges from so-called point sources. Point sources are industry and sewage treatment works discharging their polluted wastewater into our Nation's lakes, rivers and streams, and the ocean.

Ironically, it is precisely the part of the act that is responsible for its success that H.R. 961 would dismantle. In the name of increased flexibility, loophole by loophole the bill would eliminate fundamental protections of the Act that have resulted in the significant gains we have seen over the past 20 years.

Ideally, any amendments to the Clean Water Act would improve water quality, since 40 percent of our Nation's waters still do not meet state-designated water quality standards. Under that standard, these waivers clearly should be stricken.

However, even under a far lower standard for judging whether the bill's industrial waiver provisions should be stricken, the waivers must go. That lower standard is simple: will the waiver provision increase pollution and degrade water quality below today's level? If so, it should be stricken. That is what my amendment would do.

If a waiver provision will allow us to hold on to the progress that our municipalities, industries and citizens have worked so hard to achieve, then it might be acceptable. Unfortunately, when measured against this minimal standard, the bill's industrial waiver provisions fail miserably.

Here are a few of the many examples of the illogical, and environmentally and financially destructive, consequences of the bill's many industrial waivers:

A factory could obtain a permit that allows it to significantly increase the toxic pollutants it discharges into a river nearby a residential area, if the owner of a factory 100 miles away agrees to reduce its emissions into the air.

An industry that discharges its polluted wasterwater into a municipal sewage treatment plant could reduce the level of treatment prior to discharge, even if the municipal treatment plant regularly has combined sewer overflows that cause untreated waste, including industrial waste, to flow into resident's basements, the streets and waterbodies.

Dischargers of nearly 70,000 chemicals could flood EPA with requests for waivers from the current baseline standard for certain toxic and nonconventional pollutants. These include most of the pollutants referred to as dioxins.

It has been argued that the waivers will not cause a setback in water quality because waivers are not available unless authorized by a State or EPA. This supposed safeguard is in most instances an illusion.

In some instances the waiver is automatic, without State or EPA approval. In others, the bill requires EPA or a State to grant a waiver if certain conditions are met, and those conditions frequently do not focus upon water quality. The bill essentially creates entitlements to waivers, and then if the State or Federal agencies deny the waivers, the polluter can challenge the denial in court, further straining limited State and Federal resources, and making this program more like Superfund.

The bill's industrial waivers create new standards that are vague, unclear, and, in come instances, patently impossible to implement. These waivers would dramatically increase burdens on States responsible for implementing them, cause delays in permitting, and increase the amount and complexity of litigation.

The waivers would cause uncertainty for industry, by eliminating the bill's uniform standards and introducing in their place multiple ambiguous waivers. They would create competition between communities for industry and jobs, resulting in reduced standards for water. They would create an unlevel playing field, where the preferences given certain industrial dischargers will result in competitive disadvantages to those who did not obtain waivers. And, the waivers will especially harm those who live downstream, as most of us do, from industrial dischargers that may receive waivers from the Clean Water Act's treatment requirements.

My amendment would not increase regulatory requirements or financial burdens. It would simply mean that industry could not do less than it is already doing. My amendment is about holding on to the benefits of one of the Congress' and this Great Nation's true success stories. It is about not losing the achievements of the past 20 years. And, it is about improving the quality of the water that our children and our childrens' children will inherit. A vote for increasing industrial water pollution through waivers would be unconscionable. I urge you to support my amendment.

□ 1600

Mr. SHUSTER. Mr. Chairman, I rise in strong opposition to the amendment.

Mr. Chairman, this amendment is simply a grab bag of deletions of both the reform and flexibility provisions in the bill. It deletes the provisions of flexibility on the nonconventional pollution. It guts the pollution provision opportunities. It deletes the pretreatment flexibility. And, perhaps most importantly, it fundamentally mischaracterizes the waiver provisions in this bill.

My good friend from California says that these waivers should be eliminated because they give industry and others the opportunity to in effect get entitlements to waivers. That simply is not the case. No waiver can be granted unless the States water authority officials and the EPA approve the waiver.

Now, are the State water quality officials going to approve a waiver that harms the environment? Is the EPA going to approve a waiver that harms the environment?

Of course not. These waivers, when requested, must meet water quality standards, and they must get the written approval of the water quality officials in the States or the EPA.

So this simply is an attempt to gut the legislation we have before us. The very groups, and I will not take a lot of the committee's time to go through this in detail. We covered this in the previous debate. The very same groups from the National Governors' Association on down, who opposed the previous amendment, oppose this legislation.

So I would urge my colleagues to vote this down so we can get on with the consideration of this bill.

Mr. BORSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to express my strong support for the amendment offered by the gentleman from California [Mr. MINETA], the distinguished ranking member of the Committee on Transportation and Infrastructure. This amendment would strike the many loopholes and waivers that are sprinkled throughout the title of this bill. This title replaces the strong national standards that have made the Clean Water Act a success with national loopholes. The gentleman from California has found nine specific provisions that roll back the Clean Water Act.

Does anybody really know the impact of these changes? Has anyone examined their long-range implications?

The Environmental Protection Agency called the waivers and exemptions in the bill a wholesale repeal and replacement of the fundamental provisions in the Clean Water Act. Strong and predictable national standards have been at the heart of the success of the Clean Water Act during the past 2 decades. These standards should not be chopped up by this combination of waivers and loopholes that some secret industry task force had on its wish list.

The Clean Water Act has meant improved water quality across the Nation for every citizen in this country. For 20 years, we have been working to make our bath waters cleaner, and in many cases there has been much success. I urge my colleagues not to turn their back on the success of the past 20 years.

A vote for this amendment is a vote to maintain the strong Clean Water Act that we currently have. I urge Members to vote for the Mineta amendment and vote against a weakening of the Clean Water Act.

Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment. H.R. 961, as drafted, represents a frontal attack on one of our country's most successful environmental laws. We have spent two decades diligently cleaning up our Nation's streams and rivers and lakes, and it is inconceivable to me that anyone would now advocate back pedaling on the great progress we have made.

In the Portland metropolitan area, which I represent, clean water consistently ranks as the top environmental concern of area residents. So important is clean water to Oregonians that they have agreed to spend more than $750 million to prevent Portland's combined sewer overflow from dumping raw sewage into nearby waterways.

Oregonians remember very well the days when the Willamette River which flows through Portland was one of the most polluted rivers in the country. The waters of the Willamette were so choked with pollution that when live fish were put in a basket and lowered into the river to check water quality, it took only a minute and a half for the fish to die.

Obviously, at the same time it was unsafe for people to swim in the river, along with the fish. Now, this river, Mr. Chairman, was a disgrace. But thanks to the Clean Water Act, the Willamette River is now safe to swim in and salmon once again are present in increasing numbers.

Oregonians do not want to go back to the days of polluted waters, and neither do the American people. Americans do not want to see raw sewage floating in the surf when they visit the beaches. Americans do not want to worry about their children getting sick from swimming in a neighborhood stream. Americans do not want to think that the fish they catch in their favorite fishing hole might be too toxic to eat. And Americans do not want to turn back the clock to polluted rivers that actually caught fire. When they would go to the sink to get a drink of water, Americans do not want to choke on what comes out of the tap.

What American people do want is a strong Clean Water Act, and I urge my colleagues to vote "yes" on the Mineta amendment.

Mr. TAUZIN. Mr. Chairman, I rise in strong objection to the Mineta amendment. The pollution prevention provisions of H.R. 961 are not a loophole. Instead, this bill would allow a facility to engage in multimedia offsets within a facility, or to trade between facilities, if it could demonstrate to EPA or the State that the result would produce an overall net benefit to the environment.

A chemical plant in my district, Union Carbide, identified a multimedia pollution prevention project as an alternative to a rigid Clean Water Act technology-based numerical effluent limitation for certain non-toxic pollutants. Instead of a costly expansion of end-of-pipe treatment that would just shift waste from the water to a landfill, this innovative solution would have recovered 40 thousand pounds of product each day, reduced land disposal of sludge by 3,000 pounds a day, cut air emissions and saved energy. The only problem is that while pilot studies showed that the rigid Clean Water Act numerical limit could be met under most weather conditions, it could not guarantee that it would meet the standard 100 percent of the time. Pilot studies show that temperatures below 50 degrees F during the months of January and February would decrease the treatment efficiency. A conservative estimate, based on the unlikely prospect of 2 months of Southern Louisiana temperatures below 50 degrees, would still result in the treatment system meeting the standard a minimum of 84 percent of the time. Variance from the standard would be between 15 and 25 parts per million (ppm) for total suspended solids. The variance could be made up by executing a trading agreement with another source under section 302(c) of H.R. 961. A few cold days in Louisiana might cause the limit to be exceeded by an environmentally insignificant amount.

The plant could not take the risk of going forward with the project without the certainty of meeting the standard. Ironically, it would have cost more in initial capital expense than conventional end-of-pipe treatment, but the company was willing to do it because it made more environmental sense, and would have paid for itself over time. The plant was also willing to pay a farmer up-river to reduce his non-point discharge of TSS into the river. A greater reduction could have been achieved more cheaply. But because there was no flexibility available in the foreseeable future, this innovative solution has been shelved. Everybody loses. Especially the environment!

This bill, unlike the current law, will promote and reward innovation rather than stifle it. It's about time we started writing laws that unleashed creativity rather than shackled our industry to an outdated system of one size fits all regulations.

Mr. POSHARD. Mr. Chairman, I rise in opposition to the amendment offered by my good friend, Mr. MINETA.

In particular, I rise in opposition to that part of his amendment which deletes the remaining provisions of the bill, which we adopted in committee without opposition.

In 1987, all over the coal mining States of this country, we had sites that had previously been mined. They were sitting there with recoverable coal left at the site needing to be remined. The coal could be extracted and the area brought up to the standards of mine reclamation laws in this country.

The problem was that the coal industry would not go in and remine those previously mined lands because operators did not feel certain that preexisting discharges of poor water quality could be totally eliminated. And they were unwilling to be held liable for a pollutional discharge already existing on the site.

So this Congress said in 1987, OK, we know these sites exist. We know they need to be reclaimed. And if the Government has to pay for the reclamation it will be expensive to the taxpayers.

So in order to make it economically feasible for the coal companies to go in, remine what remaining coal they could get from the site and reclaim the land by bringing it up to present reclamation standards, the Congress in the 1987 Clean Water Act provided that a reminer only had to insure that his or her operation did not cause discharges to be worse than what was found at the site, and in fact, under the provisions of the 1987 act, every effort is to be made to improve the quality of the discharged water.

So the effect of this 1987 provision in the Clean Water Act is that we got not only the remaining coal on previously remined sites, we reclaimed previously mined sites that would not have been reclaimed, and in most cases improved the water quality discharges from those sites. But in no instance did we make the water quality discharge worse than it had previously been before the remining took place.

So what's the problem? The problem is that certain remining operations initiated prior to the 1987 amendments were not afforded this relief. While these pre-1987 operations may, in fact, meet the criteria set forth in the 1987 amendments, they are not in compliance with the Clean Water Act simply because they were initiated prior to the amendments. This bill simply provides this class of remining operations be accorded the same treatment as those initiated after the 1987 act.

The remaining provisions of this bill are just and appropriate and should be adopted and this amendment should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MINETA].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MINETA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 260, not voting 8, as follows:

[Roll No. 313]

AYES—166

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Boucher
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gonzalez
Green
Hall (OH)
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
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McCarthy
McDermott
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McKinney
McNulty
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Miller (CA)
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Pallone
Pastor
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Pelosi
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Pomeroy
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Richardson
Rivers
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
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Sanders
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Slaughter
Smith (NJ)
Stark
Stokes
Studds
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Taylor (MS)
Thompson
Thornton
Thurman
Torkildsen
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Velazquez
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Ward
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Wynn
Yates

NOES—260

Allard
Archer
Armey
Bachus
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brown (CA)
Brownback
Bryant (TN)
Bunn
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Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
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Chambliss
Chapman
Chenoweth
Christensen
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Collins (GA)
Combest
Cooley
Costello
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Cramer
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Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
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Hayes
Hayworth
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Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pickett
Pombo
Porter
Portman
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Roberts
Roemer
Rohrabacher
Roth
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Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
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Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Traficant
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Baker (CA)
Bunning
Collins (IL)
Fattah
Lewis (KY)
Moakley
Peterson (FL)
Rogers

□ 2030

The Clerk announced the following pair:

On this vote:

Mr. Moakley for, with Mr. Lewis of Kentucky against.

Mr. HOLDEN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title III?

Mr. BOEHLERT. Mr. Chairman, I would defer to our colleague, the gentleman from Alabama [Mr. BACHUS], because I understand he has a noncontroversial amendment that will be accepted by both sides.

The CHAIRMAN. For what purpose does the gentleman from Alabama, [Mr. BACHUS] rise?

AMENDMENT OFFERED BY MR. BACHUS

Mr. BACHUS of Alabama. Mr. Chairman, I offer a noncontroversial amendment. This is a revised version of amendment 1, as originally printed in the CONGRESSIONAL RECORD.

The Clerk read as follows:

Amendment offered by Mr. BACHUS: Page 146, line 17, strike "The" and insert "Working in conjunction with the Administrator of the Small Business Administration and the Small Business Ombudsman of the Environmental Protection Agency, the".

Mr. BACHUS of Alabama. Mr. Chairman, I did allow that amendment to be read because it was short, and it basically speaks for itself. The bill refers to small businesses, without any definition that allows the administrator of the EPA total discretion in defining small business. What we have simply done, at the request of small business advocates, including the NFIB, is simply ask that the administrator of the Small Business Administration and the small business advocate at the EPA have input in defining small businesses.

Mr. Chairman, this amendment will further clarify the provisions of the bill which are intended to reduce the paperwork and regulatory burden placed upon small businesses.

In order to reduce the regulatory burden that strangles small businesses in our Nation, the committee bill purports to exempt small businesses from general and site-specific stormwater discharge permits.

While the reformed permit process contained in the committee bill is a tremendously positive step in the right direction, the bill leaves it to the total discretion of the EPA to promulgate a definition of whether or not a business qualifies as a "small business." Many members, myself included, fear that EPA will attempt to circumvent the clear intent of the bill and define "small business" so narrowly that it will, as a practical matter, exempt few of the Nation's small businesses.

My amendment requires that the EPA work with the Small Business Administration and the EPA's Small Business Ombudsman in defining "small business." We think, and the NFIB and other small business advocacy groups agree, that with SBA and the Small Business Ombudsman's input, it will help ensure that in drafting its definition of "small business" the EPA will not frustrate the intent of the bill.

While my amendment will continue to give discretion to the EPA in coming to a proper definition of "small business," in my personal view any EPA definition of "small business" which does not include as small businesses, at the minimum, all businesses with 100 or fewer employees, would frustrate the intent of the bill. Including all such businesses as small businesses would be consistent with section 507 of the Clean Air Act that defines "small businesses" as any business with 100 or fewer employees.

In closing, let me stress that this amendment does not affect those provisions in the bill that empower a State to find that stormwater discharges from any entity would have a significant adverse effect on water quality. In any such case, a permit would be required regardless of whether the entity was a small business or not.

Thus, it should be made very clear that any small business can be made subject to the permit requirement if a State finds that the entity is conducting an activity that has a truly significant adverse effect on water quality. What my amendment does is help protect the goal of the committee to reduce cost and paperwork that burdens literally thousands of small businesses that do not pose a threat to our Nation's water quality.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. BACHUS of Alabama. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. We have examined this amendment and we support it, Mr. Chairman.

Mr. MINETA. Mr. Chairman, would the gentleman from Alabama yield?

Mr. BACHUS of Alabama. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, this side has looked at the amendment. We have no objections to it at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. BACHUS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BOEHLERT:

Page 115, strike line 5 and all that follows through line 3 on page 117 and insert the following:

(n) COASTAL ZONE MANAGEMENT.—Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "PROGRAM DEVELOPMENT.—"; and

(B) by adding at the end the following:

"(B) A State that has not received Federal approval for the State's core coastal management program pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall have 30 months from the date of approval of such program to submit a Coastal Nonpoint Pollution Program pursuant to this section. Any such State shall also be eligible for any extension of time for submittal of the State's nonpoint program that may be received by a State with a federally approved coastal management program.";

(2) in subsection (b), in the matter preceding paragraph (1), by striking "to protect coastal waters generally" and inserting "to restore and protect coastal waters where the State has determined that coastal waters are threatened or significantly degraded";

(3) in subsection (b)(3)—

(A) by striking "The implementation" and inserting "A schedule for the implementation"; and

(B) by inserting ", and no less often than once every 5 years," after "from time to time";

(4) in subsection (b) by adding at the end the following:

"(7) IDENTIFICATION OF PRIORITY AREAS.—A prioritization of the areas in the State in which management measures will be implemented.";

(5) in subsection (c) by adding at the end the following:

"(5) CONDITIONAL APPROVAL.—The Secretary and Administrator may grant conditional approval to a State's program where the State requests additional time to complete the development of its program. During the period during which the State's program is subject to conditional approval, the penalty provisions of paragraphs (3) and (4) shall not apply.";

(6) in subsection (h)(1) by striking ", 1993, and 1994" and inserting "through 2000"; and

(7) in subsection (h)(2)(B)(iv) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 2000".

Mr. BOEHLERT. Mr. Chairman, I think the last vote, the last recorded vote, indicates that there is strong sentiment for making some adjustments to H.R. 961, as reported from the Committee on Transportation and Infrastructure. As a matter of fact, we had a 184 vote, indicating that people want some adjustment.

I have been told that if we break down the overall package and bring some of the most important component parts before this body, we will have a better chance of achieving our objective. Therefore, we are doing just that. This amendment I am offering deals with the Coastal Zone Management Program. As we all know, the committee's bill repeals that very important program. The program cries out for reform, not repeal.

Nonpoint source pollution impairs more water bodies nationwide than any other pollution source. Nearly half of all estuarine waters are impaired or threatened, mostly from nonpoint sources. Pollution has limited the harvest of over one-third of all shellfish beds in the United States, and more than 10,000 beaches, 10,000 beaches, were closed to the public over the past 5 years, and 46 out of 50 States have banned or issued health advisories on fish consumption, because of contamination from dangerous toxins.

Clearly, this is a public health-public safety issue, as well as an environmental issue. The health costs pose even greater threats to the public welfare, not to mention the declining fisheries, the lost income, jobs for the tourism industry.

Section 6217 of the Coastal Zone Act reauthorization amendments is the only enforceable program developed by Congress to prevent nonpoint source pollution. It was adopted in 1990 expressly to address polluted runoff in coastal areas by creating a State-Federal partnership to develop and implement coastal nonpoint source pollution control programs.

Mr. Chairman, we look, and we have reached out to others beyond this institution, beyond this Nation's Capitol, for input. We have gone to those most directly affected by that. In this instance, we have been dealing with the Coastal States Organization, representing 30 coastal States, all up and down the east and west coasts of the United States and along the Gulf of Mexico.

The Coastal States Organization has endorsed the coastal zone provisions that I am referring to in this amendment as a substitute to the Clean Water Act reauthorization as it remains silent on that issue. Actually, it is more than silent. It repeals it.

Let me read from the letter of the Coastal States Organization; once again, 30 States, 30 Governors, Republicans and Democrats alike, people who day in and day out have to live with this issue. The letter says:

> We are encouraged to hear you will offer an alternative package to the Clean Water Act reauthorization that would amend, rather than repeal, the coastal nonpoint pollution control program. . . . Runoff pollution

causes significant economic harm. Commercial and recreational fisheries are being closed. Beaches are being closed to the public. Nonpoint pollution poses serious human health and safety concerns, while at the same time degrades wildlife habitat. This problem needs to be addressed now, before this country suffers further economic losses, health hazards, and environmental degradation. . . .

We "strongly support," says the Coastal States Organization, representing 30 States, 30 Governors, "We strongly support your efforts to amend, not repeal, the nonpoint pollution coastal program established under section 6217 of" the act.

Therefore, Mr. Chairman, I urge my colleagues to give this the very careful consideration it deserves. I know this has been a long day. It has been a good day, however, because the House has proven that we are spirited in debate, that competing ideas are considered, pro and con, and finally we will render a judgment in the people's behalf. I urge support of my amendment.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, this amendment simply was already included in the substitute, which was very resoundingly defeated two votes ago. I am sure my good friend, the gentleman from New York, would not knowingly intentionally mislead the House. The letter the gentleman quoted from was not from the Governors. In fact, the National Governors Association opposes this provision. The letter he quoted from was from the Coastal Zone Management Association, which is made up of the bureaucrats who run it, and of course that is quite a difference. Beyond that, the Water Quality Association also opposes this amendment.

Mr. Chairman, to say that we eliminate coastal zone management simply is not true. Our bill does not gut those protections. What our bill does is fold the coastal zone management provision into the section 319 program, so we bring together the two programs, so we have more flexibility, and what we do is eliminate this one-size-fits-all provision, which is in the law and which would be followed if my friend's amendment is adopted.

If his amendment is adopted, we would simply continue with the States being forced to adopt the same exact program for agriculture, ranching, forestry, marinas, and urban areas. It lacks flexibility. It imposes restrictive Federal mandates on States. It gives EPA the power to determine appropriate land use practices, and requires the States to adopt enforceable land use requirements, which would have to be approved by EPA.

States must identify, under the provisions in our bill, States must identify critical coastal areas. The States may focus resources on priority coastal waters, but have the flexibility to target areas of concern. Unlike CZARA, the bill does not allow the Federal Government to mandate where a State coastal zones boundary should be.

If the State already has developed its coastal zone management program, it may implement that program, but H.R. 961, the bill, does not mandate that States develop two separate programs, one for the State generally, and one for the coastal areas. Instead, it eliminates this duplicative regulation. In fact, even though it is late in the evening, with some difficulty, I can lift this 800-and-some-page tome, which now represents all the regulations that the States must follow under EPA guidance. This is the kind of thing we are trying to eliminate.

Mr. Chairman, we do not eliminate coastal zone management, we streamline it, fold it in, and tell the States they have flexibility to achieve what is best for them. I urge defeat of this amendment.

Mr. BOEHLERT. Mr. Chairman, will my colleague yield?

Mr. SHUSTER. I am happy to yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, the reason it is very difficult to lift that very heavy document is because that is not a document that contains regulations, it contains options for the States.

Mr. SHUSTER. I would take back my time, Mr. Chairman, and point out that the gentleman is so right, this was supposed to be guidelines. However, the EPA is using this and interpreting it as a basis for forcing the States to comply. It is one more example of something that is supposed to be an EPA guideline, but ends up really having the force of an unfunded mandate, and that is another reason why we should defeat this amendment.

□ 2045

Mr. BOEHLERT. If my distinguished chairman would yield one more time, I would point out my amendment fixes the problem you are referring to. That is exactly why the amendment deserves to be supported.

Mr. SHUSTER. I thank my friend. That is not the way we interpret it, it is not the way the national Governors interpret it, and it is not the way the State Water Quality Association interprets it.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I would just like to point out, I know there is some confusion over all the letters we have had floating around here today, but the letter that the gentleman from New York refers to that does endorse this provision, the provision that is the subject of this amendment, is a letter from the Coastal States Organization which was an organization founded in 1970 to represent the Governors of the 35 coastal States, Territories and Commonwealths on coastal, Great Lakes, and ocean affairs.

Mr. SHUSTER. I would take back my time and say the gentleman is absolutely right. It is an organization. These are the bureaucrats from the various States, and the National Governors Association opposes this amendment.

Mr. MINETA. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I thank the gentleman for yielding me the time. I had an identical amendment drafted myself. I commend the gentleman from New York and his leadership on this and all other matters today.

Mr. Chairman, I rise in support of the gentleman's amendment. H.R. 961 will undo much of the progress we have made in cleaning up our rivers, lakes, and oceans over the last 25 years. The supporters of this bill dismiss such concerns as hysterical. But all you have to do is read the bill. H.R. 961 throws out the baby and makes the taxpayer drink the bathwater. It weakens protection of the aquatic environment on nearly every major front. The amendment offered by the gentleman from New York would restore some protection on just one of those fronts—nonpoint pollution of our coastal waters.

Those of us that represent coastal areas—and there are many of us in this body, know that a clean marine environment is vital to the local economy and quality of life. This is important considering that more than half of all Americans now live in coastal counties, and this proportion is expected to increase in the future. Americans who do not live on the coast also benefit from a clean coastal environment, either in the form of abundant, healthy seafood or from recreational opportunities at the seashore. Fisheries and tourism can only thrive along our coasts if the water is clean. Commercial and recreational fisheries contribute more than $30 billion to the economy annually. Coastal tourism is worth another $10 billion each year.

While we need to continue to make progress on all fronts, it is only fair to say that a major success of the Clean Water Act has been to reduce pollution from point source discharges. However, the greatest remaining cause of water pollution in the United States is nonpoint source pollution—polluted runoff not attributable to a particular discharge pipe or outfall.

Unfortunately, the supporters of H.R. 961 ignore the need to deal effectively with nonpoint pollution. The bill before the House repeals the coastal nonpoint pollution control program, which is the only national program that holds any promise of actually abating nonpoint pollution. Repealing the program now is especially ill-timed because the coastal States will be submitting their plans for addressing nonpoint pollution this year. H.R. 961 would instead rely on existing voluntary measures under section 319 of the Clean Water Act. Hundreds of millions have been spent under section 319 over many years with no demonstrable progress.

To make matters worse, H.R. 961 weakens section 319 by pushing back deadlines and relaxing requirements for the State to identify meaningful ways of abating nonpoint pollution.

Under the coastal nonpoint pollution program, coastal States have been working hard for 5 years to prepare their plans for controlling nonpoint pollution. This has not been easy, but progress has been made. Perhaps more importantly, the coastal States support this program. They have, however, sought more flexibility in complying. While I believe that some of the changes sought by the Coastal States Organization will delay progress in reducing nonpoint pollution, that is not really the question. The real question is: Do we want a meaningful nonpoint pollution control program or do we not? If you support healthy fisheries, a strong coastal economy, and beautiful coastlines, the answer must be a resounding "yes."

This amendment strikes language in H.R. 961 that repeals the coastal nonpoint pollution control program. In addition, it makes the changes needed in the nonpoint program to give the States more flexibility in complying. Most importantly, it allows more time for States to meet the program's requirements and allows States to target priority areas for implementation of management measures.

The coastal States have put 5 hard years of work into this program. Don't throw away that progress. I urge the House to support the amendment.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am pleased to support the amendment which would preserve the coastal zone nonpoint source pollution control program while incorporating several important modifications to reflect the evolution of the program.

When Congress approved the nonpoint source program targeted at coastal areas, it did so with the recognition that nonpoint source pollution in the coastal zone is a serious and growing problem.

Nonpoint source pollution plays a significant role in nutrient enrichment in estuaries. This can lead to direct effects on human health, such as shellfish poisoning, as well as a loss of recreational uses of the coast and reduced fish mortality.

Unfortunately, the coastal zone is under tremendous stress from human activity. Although the coastal zone accounts for only about 11 percent of the country's area, it is home to about one-half of the Nation's population. Additionally, about 40 percent of commercial and industrial structures built in the United States between 1970 and 1989 were built in the coastal zone.

All of this activity in the coastal zone creates tremendous stress on the near-shore waters. Repealing the provisions for coastal protection will only exacerbate the decline of our coastal resources.

The States and EPA have made great progress in preparing plans to address nonpoint pollution in the coastal zone. States are preparing plans for submission this summer, with implementation likely to begin about 1 year later.

The repeal of the program will mean that the efforts of States and EPA and NOAA will have been largely wasted. More seriously, it also means that no real progress will be initiated on coastal nonpoint source pollution for nearly another 5 years. And that assumes that this bill is enacted soon. That is too long to wait when States are otherwise ready to go.

This repeal of coastal nonpoint programs sends exactly the wrong statement about our commitment to clean coastal waters. We hear repeatedly that we must move this bill quickly to preserve appropriations. One thing is near certain. If this committee approves legislation repealing the coastal program, how can we expect the appropriations committee to provide funding in 1996 or subsequent years?

What we will be creating if this amendment is defeated is an unfunded mandate on coastal States. The requirements will continue, but we cannot count on continued funding.

Second, we will be telling the States to stop in their tracks. Why would a State continue its efforts to establish a coastal zone program, when we are about to repeal it?

The States have had some differences with EPA over implementation of the program. Fortunately, the States and EPA have worked out a number of differences in the implementation of the program. These agreements are reflected in the amendment restoring the program. The amendment addresses the problems which the Coastal States Organization have identified. The coastal States do not want the program repealed—they want it fixed. This amendment does that.

Let us preserve those areas of water pollution control where real problems have been identified, and real solutions to those problems are being put in place. Let us respect the wishes of the States which implement the program, and support the Boehlert amendment.

Mr. SAXTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would first like to commend the gentleman from New York [Mr. BOEHLERT] for bringing this amendment back to the floor tonight, and I would also like to commend the ranking minority member for having the foresight to support it. I would just say two things.

Mr. Chairman, the first point I would make is that it is impossible for the Congress of the United States to pretend that the issue of nonpoint source pollution does not exist around the coasts of the United States. It is simply impossible, because the problem is there. It is a fact of life as clear as the nose on our faces. Beaches close every year. Red tides and blue tides and green tides, they come from algae buildup because nutrient buildup is there.

Organizations form around our coasts like the Committee to Save Chesapeake Bay, the Barnegat Bay Watershed Association, and other groups like that which recognize the seriousness of this problem. This House in 1990 recognized it as well. That is why we amended the Coastal Zone Management Act to provide for a nonpoint source pollution program and encouraged the States to adopt these programs.

It is dumb to pretend that the problem does not exist, just plain dumb. For us to stop in the middle of the road, amend the Coastal Zone Management Act while pretending the problem does not exist, is equally dumb. I do not know any other way to say it. It just does not make any sense whatsoever.

The second point that I would make, and I know that the chairman did not mean to misrepresent the identity of those organizations that support this amendment, but the Coastal States Organization is an organization made up of 35 States, Territories, and Commonwealths who are coastal States and have an interest in this type of issue and in this legislation. The Coastal States Organization was founded in 1970 to represent the Governors of coastal States.

We have a letter here which at the appropriate time I would like to make part of the RECORD, because it is as clear as a bell in support of the Boehlert amendment. I would just read one paragraph from that letter.

> The serious problem of non-point pollution of the Nation's coastal waters is well-documented. Runoff pollution causes significant economic harm. Commercial and recreational fisheries are being closed. Beaches are being closed to the public. Non-point pollution poses serious human health and safety concerns while at the same time degrades wildlife habitat. This problem needs to be addressed now, before this country suffers further economic losses, health hazards and environmental degradation. With the proper amendments, which we understand your bill contains, the section 6217 program will well serve this purpose.

It goes on to explain other reasons for supporting the program to do something about the very serious problem that remains in the coastal areas, namely, nonpoint source pollution, and the program is well under way with the States all around the coasts of this country.

Mr. Chairman, this amendment has to be passed in order to do any kind of sane continuation to solve the problem that we all must know exists.

Mr. Chairman, I include the letter referred to for the RECORD.

COASTAL STATES ORGANIZATION,
Washington, DC, May 8, 1995.

Hon. JIM SAXTON,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN SAXTON: We are encouraged to hear you will offer an alternative package on the Clean Water Act reauthorization that would amend, rather then

> repeal, the coastal nonpoint pollution control program established by §6217 of the Omnibus Budget Reconciliation Act of 1990 (OBRA). We write to support you in this effort.
>
> The serious problem of nonpoint pollution of the Nation's coastal waters is well documented. Runoff pollution causes significant economic harm. Commercial and recreational fisheries are being closed. Beaches are being closed to the public. Nonpoint pollution poses serious human health and safety concerns, while at the same time degrades wildlife habitat. This problem needs to be addressed now, before this country suffers further economic losses, health hazards and environmental degradation. With the proper amendments, which we understand your bill contains, the §6217 program will serve this purpose.
>
> It is no secret that we have had complaints about the §6217 program. Nonetheless, we believe that the immediacy of the coastal nonpoint pollution problem calls for this program to be fixed, not killed. The coastal States have over four years worth of work invested in developing the §6217 programs; they are nearly complete, and are due for submission in July. Why throw four years of diligent work out the window two months before the completion date? By amending the §6217 program as we propose, the Nation will have in place an effective coastal nonpoint pollution control program within 8 months from now. Repealing §6217, on the other hand, will delay getting any program up and running for another five or six years.
>
> We strongly support your efforts to amend, not repeal, the coastal nonpoint pollution control program established under §6217 of OBRA.
>
> Sincerely,
>
> H. WAYNE BEAM,
> *Chairman.*

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly support this amendment to strike the repeal of the highly effective coastal zone nonpoint pollution program.

The amendment would substitute the language that was proposed by the Coastal States Organization, a coalition of 30 States.

The Coastal States Organization has repeatedly expressed its strong opposition to the repeal of the coastal nonpoint pollution program.

On March 17, the Coastal States Organization said, "Section 6217 should not be repealed, but amended, to establish a workable and effective state-implemented program."

This is what the Coastal States Organization had to say on nonpoint pollution.

> The problem on non-point pollution of the nation's coastal waters is real and serious.
>
> Runoff pollution is causing serious economic harm.

Let me repeat that:

> Runoff pollution is causing serious economic harm.
>
> Commercial and recreational fisheries are being shut down due to runoff pollution. Beaches are being closed.
>
> Nonpoint source pollution poses human health and safety concerns, while at the same time degrading wildlife habitat.

I am still quoting from the Coastal States Organization.

> This problem needs to be addressed now, before this country suffers further economic losses, health hazards and environmental degradation.

They say the coastal States have 4 years of work invested in this program which would be lost if we repeal czara.

The coastal States letter opposes the very approach that is being taken in the bill before us.

> The assertion is often raised that the section 6217 program is Duplicative of the clean water act section 319 program. We assert it is the other way around.
>
> By amending the section 6217 program as we have suggested, the Nation will have in place an effective coastal nonpoint pollution control program within 10 months from now.
>
> But, by repealing section 6217 outright and replacing it with the clean water act section 319 program, the Nation will not have a program in place to address this serious problem for another five and a half years after the clean water reauthorization is enacted.
>
> The reauthorization effort will require at least several more months to finally be enacted, making it about six years before any program is in place to address the serious nonpoint pollution programs degrading our coastal waters.

These 30 States said:

> We believe the best course of action is not to throw out 4 years of State effort developing their coastal nonpoint pollution control programs, but rather to put in place, at the earliest possibility, a workable and effective program to attack nonpoint pollution of the Nation's coastal waters.

Finally, they said:

> We urge you to help us act against the pollution of our coastal waters as soon as possible and not let the problem fester for another 6 years.

Mr. Chairman, I urge that we do what the Coastal States Organization has asked us to do.

They want the program maintained with amendments that would allow impaired or threatened waters to be targeted and to allow additional time for States to receive approval of their programs. This amendment would substitute the language the States are seeking for the repeal in the bill.

This is a case of deciding whether the States who run the programs or Washington knows best. This amendment offered by the gentleman from New York supports the States.

□ 2100

Mrs. FOWLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to enter into a colloquy with the chairman regarding laboratory biological monitoring criteria and the field bioassessment in section 304 of H.R. 961 as amended by the chairman's en bloc amendment.

It is my understanding, Mr. Chairman, that section 304(a) of H.R. 961 as amended would revise the provisions of the Clean Water Act found in section 303(c)(2)(B) by giving additional direction as to the criteria for whole effluent toxicity, based on laboratory biological monitoring or assessment methods.

The statute as amended gives three criteria. Common to all three criteria is the concept that the test species must have some actual relationship to the receiving water.

The test species cannot, for instance, be selected simply because it is highly sensitive to toxicity. The test species must either be indigenous to the type of receiving water involved or be able to live in the type of receiving water involved.

Mr. SHUSTER. Mr. Chairman, if the gentlewoman will yield, that is correct.

Mrs. FOWLER. It is my understanding that section 304(b) of H.R. 961 as amended would revise section 402 of the Clean Water Act to make it clear that exceedence of a laboratory whole effluent bioassay would not be regarded as a permit violation, but would give rise to a procedure for re-testing and identification of the cause of such exceedence.

However, the permittee can discontinue such procedure if the permittee can demonstrate, through a field bio-assessment, that there is no real world toxicity problem because a balanced and healthy population of aquatic species, indigenous to the type of water involved, exists in the receiving water affected by the discharge.

To complete this demonstration, the permittee must also show that all applicable numerical water quality standards for specific pollutants are met. The point here is that this is a real world demonstration. There is no reference in this provision to laboratory whole effluent bioassays, which can be highly variable and unrelated to real world conditions.

Mr. SHUSTER. The gentlewoman is absolutely correct.

Mr. HEFLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. FOWLER. I am happy to yield to my colleague, the gentleman from Colorado.

Mr. HEFLEY. First, I would like to thank the gentlewoman from Florida for seeking this clarification in section 304(a) of H.R. 961. This section as amended seeks only to bring a sense of place-based science to the development of criteria based biological monitoring to the Clean Water Act.

Second, I would like to commend the chairman of the full committee for including these well crafted provisions on whole effluent criteria and use of biological monitoring in the committee bill. These provisions faithfully address those issues and provisions of my bill, the Publicly Owned Treatment Works Biological Monitoring Use Act, introduced this year as H.R. 634 with our colleague form Arizona, Congressman PASTOR. As further explained in the committee report, this section would bring common sense and due process to the use of whole effluent toxicity tests by substituting enforceable response procedures for locating and reducing toxicity in place of fines and penalties for test failures. This is important to local governments particularly because of the unreliability of these tests and because sewage treatment plants are not designed to treat whole effluent toxicity as they are designed to treat specific chemicals.

I thank the chairman and the committee for including section 304 and I thank the gentlelady for yielding to me.

Mrs. FOWLER. Mr. Chairman, I thank Congressman HEFLEY for his supportive comments and I thank the chairman for this understanding.

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have heard a lot of misinformation in this Chamber about the widespread support this bill has from State and local governments. The truth is that the State's interests were ignored when it came to the coastal nonpoint pollution program because their wishes differed with those of polluters and special interests.

Today, coastal counties are growing three times faster than the rest of the country. Already about half of the U.S. population lives in coastal areas. Without adequate protection, this continuing growth will only exacerbate coastal pollution—resulting in more beach closings, more polluted shellfish beds, more contaminated fish, and millions of dollars in lost tourism revenue.

To tackle these threats, Congress enacted the Coastal Nonpoint Pollution Program (section 6217) under the Coastal Zone Act Reauthorization Amendments of 1990. In fact I sponsored the amendment at that time. Section 6217 establishes sensible, State-managed partnerships to address the threats to coastal waters—the majority of which comes from nonpoint sources. It is the only program that will bring about significant reductions in nonpoint source pollution. Yet, H.R. 961 repeals this important program—even though the coastal States themselves want it preserved.

The Coastal States Organization [CSO], which represents the 35 coastal States, territories, and commonwealths, has made it clear that the urgency of the coastal nonpoint pollution problem compels us not to pull the plug on this program.

Let's be clear: This amendment does what the States asked us to do. It adopts their suggestions for providing flexibility and targeting of coastal nonpoint programs. Our amendment will put an effective Coastal Nonpoint Pollution Program in place in less than a year.

Two-thirds of coastal States have invested millions of dollars over the past 4 years crafting innovative runoff control programs that are nearly ready for approval. My own State of New York has invested considerable time and effort in developing a plan that will benefit Long Island Sound, the Hudson River, and the New York City watershed. By making sensible investments early-on, it also promises to save taxpayers millions of dollars down the road—or downstream as the case may be.

Long Island Sound is a $6 billion a year resource for the region's fishing, boating, and recreation industries. In New York and Connecticut, business, labor, and environmental groups have set-aside old disagreements and joined together in developing a plan to clean up the sound. They have forged a powerful coalition. The Coastal Nonpoint Pollution Program is an integral component of those efforts, and now is certainly not the time to pull the rug out from under their feet.

As the coastal States themselves are asking: Why throw 4 years of diligent work out the window 2 months before the completion date? There is no reasonable answer. I urge my colleagues to support their States by supporting this amendment.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just do not understand. Why do we think we have to have more bureaucracy to stop pollution? That is the old approach. The new approach is an approach of flexibility, consolidation, elimination of unnecessary bureaucracy. All this bill does is streamline, then consolidate. Basically the amendment that is being offered is essentially the same provision that was in the substitute that was rejected decisively by the Members of this House.

This bill eliminates a duplicative program of regulation and it consolidates it into one program. Now the question is why should we do this now, because the answer is no State has this coastal management program up and running. That is why we should do it now. It makes perfect sense to do it now. Because if we wait, then we will have these programs up and running. We still allow the States all of the flexibility they want to target these resources, to identify the programs that they consider to be a problem and to focus resources into that. And when we hear the argument that the States want to be told by the EPA what to do with their land use, et cetera, I just do not buy that, Mr. Chairman.

What we need to do is to reject this amendment just as we rejected the substitute and move ahead, streamline and consolidate and make this a workable program.

PARLIAMENTARY INQUIRY

Mr. MINETA. Mr. Chairman, I have a parliamentary inquiry. Is the Chair going to be alternating between the Republican and Democratic side in terms of recognition?

The CHAIRMAN. That is the attempt of the Chair, yes. Was the gentleman from California seeking recognition?

Mr. MINETA. Mr. Chairman, under that procedure, I believe the gentleman from New Jersey [Mr. PALLONE] was standing.

The CHAIRMAN. The Chair has recognized the gentleman from Maryland [Mr. GILCHREST], a member of the committee. The gentleman from Maryland will proceed. Following the gentleman from Maryland's statement the Chair would intend to come to this side for recognition. The gentleman from Maryland may proceed for a period of 5 minutes.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, the previous speaker did not extend the courtesy of yielding at the conclusion of his time. I would like to directly rebut a couple of comments he made.

First of all he said the States do not want it. He is wrong. The States do want it. As matter of fact, the secretary of state for New York was in town today lobbying for this. I will tell you who wants it: every single coastal State up and down the east coast and west coast and on along the Gulf of Mexico and along the Great Lakes region.

And second, and this is very important as my colleague knows, it is no secret, say the Coastal States Organization, that we have had complaints about this program. Nonetheless, we believe that the immediacy of the coastal nonpoint pollution program calls for this program to be fixed, not killed. And this is very important. The coastal States, 30 of them, have invested over 4 years of work in developing the 6,217 programs; they are nearly complete, with that program and it will be submitted in July. Why throw out, say the coastal States, 4 years of diligent work, throw it out the window 2 months before the completion date.

I thank my colleague for yielding.

□ 2115

Mr. GILCHREST. I need to make a couple of quick statements. No. 1, the previous gentleman, and a number of people, have been talking about giving the States the flexibility, let the States do this, let the States do that.

One comment about the Constitutional Convention, you know, over 200 years ago, the reason the Constitutional Convention came about was because there was a dispute between Maryland and Virginia dealing with the Potomac River because it went across State lines, so there is a Federal role to play, especially when pollution runs downstream.

I would like to draw your attention to this map one more time, the Chesapeake Bay region. We are talking about nonpoint source pollution, and we are talking about the Coastal Zone Management Act which helps protect pollution along the coastal waters. If you look at Washington, DC, right here, here, we have a certain amount of nonpoint source protection, but you still see this urban area putting pollution, silt, and a number of other things into the Potomac River which gradually gets into the coastal waters.

If you look at the coast of Delaware, Maryland, and Virginia, you see no such thing during that storm, and the reason is because the Coastal Zone Management Act was able to protect this particular area of the coastline, and if we go with the same rule of nonpoint programs and fold the Coastal Zone Management Act into that program, we stand the chance of having this that you see on this map, polluting the Chesapeake Bay and eventually the coastal waters, happening over here along the coast.

The last thing is, there are a lot of people that have approached me on the House floor today and said, "Washington, DC, was built on a wetland. What do you think about that?" I guess there was not a sense of the problem of population and urban sprawl and unbridled development 200 years ago, 200 years ago, let us say 1795; there were 3 million people in the world; 100 years ago in 1895, there were 76 million people in the world. Today, 1995, there are 265 million people in the United States.

Now, there is a certain sense of sharing the resources and what we do or do not do to our neighbor downstream. And so the cumulative impact of population growth which is expanding now to the coastal areas of this country poses a certain threat to the resources of those areas, and it is up to us, this legislative body, to understand how we can help the State and local communities create an environment where we can manage resources and still have people living in areas where they do not have to worry about their drinking water, their natural resources.

And one more comment before my time is up, I want to point to the areas that have urban sprawl and urban development. If you will notice, during this rain storm, all of the silt that comes down the Potomac River, but you do not see that because of the protection of the coastal areas along Delaware, Maryland, and Virginia.

So I urge my colleagues to vote for the amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not use the 5 minutes.

I did want to make reference though to a previous speaker, the gentleman from California, and his statement about the vote being very close on the Saxton-Boehlert amendment, and also the suggestion that somehow this amendment was not in order. I would point out that the vote was actually fairly close on the Boehlert-Saxton amendment, and also that this amendment is a very important part of that overall substitute which I think should be addressed separately.

I think one of the things that needs to be pointed out tonight is that the amendment offered by the gentleman from New York [Mr. BOEHLERT] basically is a reasonable compromise, if you will, based on the recommendations of the Coastal States Organization. The amendment does not take us back to the original language of the existing statute but, rather, it is a carefully crafted compromise that allows States that have not received Federal approval of their coastal zone management program to have 30 months to submit their coastal nonpoint source pollution program. It only applies to threatened or significantly degraded waters as opposed to coastal waters generally. It allows for prioritization of areas for implementation of management measures. It allows for conditional approval when States request additional time to complete their plans without penalty.

The bottom line is the gentleman from New York [Mr. BOEHLERT], again, as part of this substitute, has drafted something that seeks to change the language, if you will, of the current law without sacrificing the mandatory and enforceable nature of the original law, and I think that is the key.

Nonpoint source pollution is really the problem that we face with regard to water quality in the future. Over the next 5 or 10 years this is likely, if it is not already, to become the major source of pollution that would we have, and the committee bill makes this whole program voluntary.

Basically what the gentleman from New York [Mr. BOEHLERT] is trying to do is to put the teeth back into the program, preserving the program while also looking at it in a way that I think is very reasonable and manageable.

I have to say, Mr. Chairman, I think this is a very important amendment, because section 6217 of the Coastal Zone Act reauthorization amendments is the only enforceable program developed by Congress to prevent nonpoint source pollution, and H.R. 961 basically repeals this entire section 6217 and, instead, the bill replaces the enforceable provisions with a proviso that State programs make reasonable progress, essentially making the program voluntary.

As my own State of New Jersey has made significant progress with regard to this program, and is very proud of the progress we have made, there are about 19 other coastal States, including New Jersey, that went through a very helpful threshold review, with respect to these plans. In our State in the summer of 1994, we did a review. We held three public hearings this month. We will be submitting our completed section 6217 program proposal in July.

All of the coastal States are currently making progress in development of their coastal nonpoint programs. Thousands of dollars and years of efforts have been expended, and proposals for new programs have been made.

The section 6217 program has already gained a significant momentum, and shows great promise. But to undermine it with a less substantive program that decreases predictability of action would greatly increase the risks to valuable coastal resources, and it would penalize those coastal States that have made a concerted effort to comply with existing law.

I ask the House, do not pull the rug out from under the program. Support the Boehlert amendment. I is what the coastal States want.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not intend to take my full 5 minutes either.

But this is a very, very important issue to coastal States. I do not believe this amendment does any damage to the underlying bill. I think it is, in fact, perfectly compatible with the underlying bill.

My colleague from California says we do not want more bureaucracy, we are trying to stop bureaucracy, we are trying to create local control. That is exactly what this amendment does.

Now, California takes up almost the entire coast of the Western United States. They only have a couple of neighbors to worry about.

Little States in New England have lots of other States to worry about, and so New England with its number of little States along the coast, needs a regional plan, needs Federal conformity. And this amendment preserves the underlying coastal zone management law, but reverts to the States the kind of flexibility, the kind of relief from Federal bureaucracy and Federal control that we all know makes for a more cost effective and solid response, that combines the environmental interest of the State with the economic interest of a State.

Now, the Governors have proposed, through those who have worked to make these plans and to implement that law, three things, and let me tell you how they affect my district. The reforms in this plan will allow States the flexibility to delineate the scope of the management area. That means EPA cannot come in and tell you that every little stream that feeds into every river is part of the coastal area management section. So it means that a lot of my farmers are no longer going to be attacked by EPA to do things that they do not know how to do, and that we do not know how to help them to do. That ability in this law to let

States delineate their area, let States even select the projects that they think are important, and implement those projects, that is exactly what the States are asking for, and that is what we are going to get.

But why do we need the underlying law?

We need it because no matter how much money Connecticut puts into this, if Massachusetts does not, if Maine does not, and if New York does not, then we will lose those fisheries and those shell beds that we have spent millions of dollars to bring back on our intracoastal water, and if we lose those, we lose jobs in an industry that is growing. We lose a coast that attracts tourism.

This is a big economic issue for our State, and I do not think the interior States quite understand what a big economic issue this is for the coastal States and how impossible it is going to be for us to achieve the level of coastal water cleanliness that is essential to our economies as well as to our environments if we do not have the Federal uniformity that the underlying coastal zone management law provides, complemented by the reforms that the Governors have asked for.

This amendment does no damage to the underlying bill. It achieves the objectives of the underlying bill in harmony with the consistency of principle and program that an area of old industrial States, which is what the Northeast is, so we have got lots of old site land, that is a problem in terms of nonpoint source pollution, gives us that uniformity of goal that will return our shores and our shoreline waters to the level, to the quality that will assure the economic benefits of clean coastal waters as well as the health and environment benefits.

So I urge you to think about what is the difference between living in the middle of the United States and what is the responsibility of the coastal States. And, please, do not take from us the program that we all now support and give us the flexibility we need to make it work right economically and environmentally.

Mr. BOEHLERT. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I thank the gentlewoman for a very eloquent statement.

I want to point out it is not just the 23 coastal States, also all the Great Lakes States are heavily involved and deeply interested in this. The Coastal States Organization represents 30, 30 coastal States, Great Lakes and coastal States, so it is very important.

I thank the gentlewoman for a fine statement.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I realize the time is late, but I think it is important to correct the RECORD.

You heard tonight that all of the coastal States are in support of this program called CZARA 6217. That is incorrect.

We are in possession of a letter from the State of Louisiana opposing that section of the CZM law and supporting the provisions of the bill that would, in fact, fold language back into section 319 of the current Coastal Management Act. We are in possession also of letters from the State of Wisconsin indicating support for the bill and for elimination of the coastal nonpoint pollution control program contained in section 6217, and a letter from the Texas department of agriculture similarly in support of the changes embodied in the bill.

Let me correct another point in the RECORD. The Boehlert amendment that contained the same amendment we now debate was not defeated on a close vote. If 58 votes is a close vote, I am very surprised in this House. That is a very good margin.

Let me tell you why this amendment ought to be defeated and why the bill, as it recommends changes in the law, should be approved. The bill that we are talking about does, in fact, repeal a section of the Coastal Zone Act, not the act that was passed years ago; it repeals a section of the act that was adopted in a budget resolution in 1990, not through the normal process. The section of the Coastal Zone Management Act that the bill repeals was not adopted as a part of the original act. It was adopted as a part of a budget resolution, an amendment attached to a budget resolution, not the normal process by which we write environmental law in this body.

It was attached in 1990, and those programs are about to go into effect unless we change it here tonight.

Now, why should we change it here tonight? Because if we do not change it here tonight, what will go into effect is a program that mandates a one-size-fits-all Federal mandate program on the States inflexible, that gives the EPA the power to determine appropriate land use practices in coastal zones, that gives the EPA the power to determine coastal zone boundaries, unlike the current law which allowed the States to make those determinations.

☐ 2130

If we do not repeal that section, you will be giving in effect the EPA that authority. What the bill does is repeal that section, fold this section of environmental law protection for coastal zone into Section 319 where the States have the power to focus their resources on the critical coastal areas they want to work on and, in fact, protect those areas as much as any of my colleagues in this House want to have them protected.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Wisconsin.

Mr. PETRI. I just want to reiterate what you said as far as the State of Wisconsin is concerned. We are just a coastal State. We do oppose the Boehlert amendment. DNR has worked on this very closely with Chairman SHUSTER and others. We want a strong nonpoint source program. We have to have an integrated one, not a separate one for coastal, and for lakes, and for rivers, and to get the job done, and, to do it most effectively, we want one program, not a proliferation of many programs.

So the gentleman is absolutely right.

Mr. TAUZIN. I thank the gentleman.

Let me say to my colleagues and point out again, if you believe your State ought to have the flexibility to adopt its coastal zone program to the needs of your coastal zone, then you vote against the Boehlert amendment. If you like Federal mandates and new Federal EPA authorities to determine land use restrictions and the coastal zone of your State, then vote for Mr. Boehlert's amendment because that's what it does. It ought to be defeated.

Mr. QUINN. Mr. Chairman, I rise in support of this amendment to reauthorize the coastal nonpoint source pollution control program known as section 6217.

This program is important because our coastal States have unique and significant problems. While there have been some complaints about the 6217 program, we should look at ways to improve not kill it.

I had representatives from my State come to me to announce that New York will have a management program for approval in July. Approximately 18 States will be ready to go on September. We can not end the program now.

To repeal this program would punish the States that are making good faith efforts to work on their nonpoint pollution. To repeal this program would reward States that have not been making strong efforts to address the nonpoint problems specific to the coastal States.

I am worried that to repeal the program now will delay any progress that it ready to be made.

I rise in support of the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BOEHLERT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOEHLERT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 224, noes 199, not voting 11, as follows:

[Roll No. 314]

AYES—224

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilirakis
Bishop
Blute
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Callahan
Cardin
Castle
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Ehlers
Ehrlich
Engel
English
Eshoo
Evans
Farr
Fawell
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gordon
Goss
Graham
Greenwood
Gunderson
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefley
Hefner
Hinchey
Houghton
Hoyer
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Kolbe
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCollum
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pomeroy
Porter
Quinn
Rahall
Ramstad
Reed
Reynolds
Richardson
Rivers
Roemer
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Whitfield
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOES—199

Allard
Archer
Armey
Bachus
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bevill
Bilbray
Bliley
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Burr
Burton
Buyer
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Emerson
Ensign
Everett
Ewing
Fazio
Fields (TX)
Fowler
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gonzalez
Goodlatte
Goodling
Green
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lightfoot
Linder
Lipinski
Livingston
Lucas
Manzullo
McCarthy
McCrery
McDade
McInnis
McIntosh
McKeon
Metcalf
Mica
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Portman
Poshard
Pryce
Quillen
Radanovich
Regula
Riggs
Roberts
Rohrabacher
Rose
Roth
Royce
Salmon
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Traficant
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Wicker
Young (AK)
Zeliff

NOT VOTING—11

Baker (CA)
Boucher
Bunning
Collins (IL)
Fattah
Jefferson
Lewis (KY)
Moakley
Peterson (FL)
Rangel
Rogers

☐ 2152

Messrs. REYNOLDS, CHAPMAN, MILLER of Florida, CALLAHAN, McCOLLUM, GRAHAM, and BISHOP changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. TATE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. NORWOOD) having assumed the chair, Mr. McINNIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 961) to amend the Federal Water Pollution Control Act, had come to no resolution thereon.

personal explanation

Mr. BUNNING of Kentucky. Mr. Chairman, I was back in Kentucky on personal business attending the funeral of Shirley Rogers, the late wife of my Kentucky colleague, HAL ROGERS. I was not present for rollcall votes Nos. 311 through 314.

I would like for the RECORD to show that if I had been present I would have voted "yes" on rollcall vote No. 311, "no" on rollcall vote No. 312, "no" on rollcall vote No. 313, and "no" on rollcall vote No. 314.

PERSONAL EXPLANATION

Mr. LEWIS of Kentucky. Mr. Speaker, on May 10, 1995, I attended the funeral for the wife of my esteemed colleague, Mr. Hal Rogers. Consequently, I was not available to vote on a number of measures pertaining to H.R. 961, the Clean Water Act. Had I been available, I would have cast the following votes:

Rollcall No.:

	Vote
311	Yes
312	No
313	No
314	No

PERMISSION FOR CERTAIN COMMITTEES TO SIT TOMORROW, THURSDAY, MAY 11, 1995, DURING THE 5-MINUTE RULE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule.

The Committee on Agriculture; the Committee on Banking and Financial Services; the Committee on Commerce; the Committee on Economic and Educational Opportunities; the Committee on International Relations; the Committee on Resources; the Committee on Transportation and Infrastructure; the Committee on Veterans' Affairs; and the Select Committee on Intelligence.

Mr. Speaker, it is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. NORWOOD). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE REPUBLICAN BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, we finally got an outline of the proposed Republican budget. It is in violation of the Budget Act, a bit late, but better late than never.

I have got to say there is one thing I find I have in common, which is I share their objective to get deficit spending under control and to bring the Federal Government's budget into balance by the year 2002. But past that point, I find we have tremendous differences, and they revolve around the basic approach taken by the Republican Party on this matter.

□ 2200

That is, Mr. Speaker, their first assumption is that we will not reduce military spending. That is the largest discretionary item from the Federal budget. The Pentagon will take no reductions. The Pentagon, which will have a budget in fact increased above the President's requests in this budget, a budget which is equivalent to the last budget of the great cold war with the Soviet Union, we will still fund 100,000 troops in Europe waiting for the invasion of the Soviet Union into West Germany, unified Germany anyhow, somewhere into that region.

We will still spend $60 billion a year in defense of Japan against the Soviet Union. We will still produce stealth bombers with no objective, at the cost of $1 billion each. We will produce a myriad of other weapons systems that we no longer need that would not have worked in any case against our principal adversary of 10 years ago. However, we cannot ask for a penny of cuts at the Pentagon. We know they are spending every dollar wisely. That is off the table.

Then we come to the revenue side. On the revenue side, actually what we are going to do is reduce revenues in order to reach a balanced budget. That does not make sense to most Americans, Mr. Speaker. Most Americans who are having a little trouble making their car payment, house payment, utility payment, and buying clothes for their kids would not think they could reduce their income and get their home budget in balance.

No, indeed, through the miracles in budgeting here in the U.S. Congress, that is exactly what we are going to do. According to the Republican budget proposal, we will reduce income by $340 billion, not decrease the military by a penny, and we will get to a balanced budget. One might ask "How are we to do that, given that the largest single discretionary expenditure will not be reduced, the military; given the fact that we will reduce our incomes by $350 billion?" We are going to do it by gutting virtually everything else in the Federal budget that is important to average and working American families.

Mr. Speaker, we will eliminate the Women, Infants, and Children Program. We will cut back on the School Lunch Program. We will reduce student loans, dramatically. After all, who needs a student loan program? Certainly not the wealthy, who are going to get very generous tax cuts under this proposal. In fact, they will have so much discretionary income they will be buying another BMW. They are not worried about sending their kids to college.

Middle-income families, average folks, those struggling to find a way for their kids to go to college, sorry, the Federal Government has to balance its budget, and it has to give tax cuts to the wealthy, and it has to give tax cuts to the largest corporations, repeal the alternative minimum tax, and it cannot find a penny of reductions in the military budget.

This is all laid out here in a rather brutal reality by the Republican majority in this House. I do not believe that these are the priorities of the American people. They are certainly not my priorities. We have just received these documents, so, as I stand here, I am paging through to look for some of the more interesting portions.

We can find places to cut back in natural resources and environmental protection. We can find places to cut back in energy development, particularly in renewable energy resources and cleanup of hazardous waste sites. We cannot find much to cut in agriculture, $13 billion a year in subsidies. Sam Donaldson getting $75,000 a year to not raise sheep on the ranch that he does not live on, we cannot cut that. We could not cut Sam Donaldson. He might give some negative press to the majority party. Business as usual. When the Democrats were in charge, we could not cut Sam Donaldson. Now the Republicans are in charge, they cannot cut the Sam Donaldsons of the world. He should get the $75,000 on the ranch on which he does not live, he is going to live there some day. This is not the bare bones budget we need, and it does not make cuts in the proper priorities.

COMMENDING UNSUNG HEROES

The SPEAKER pro tempore (Mr. NORWOOD). Under a previous order of the House, the gentleman from California [Mr. HUNTER] will be recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, let me just briefly answer my friends who just spoke about the defense budget numbers. From my calculations the President's defense budget cuts $127 billion below the Bush baseline. In practical terms, that means that under this President, we have reduced the Army from 18 divisions to 12 divisions. We have reduced our air wing equivalents from about 24 to 13. We have reduced the Navy from about 540 ships to about 340, almost a 40 percent cut. We are going down radically.

However, Mr. Speaker, I would like to talk about something else tonight, because the gentleman mentioned defense, and this happens to be the anniversary, May 10, 1972, of our colleague, the gentleman from California, DUKE CUNNINGHAM, being shot down in the skies over Vietnam, having shot down five MiG aircraft, and I understand at least three of them were in the air, and being nominated for the Congressional Medal of Honor for flying into a pack of MiG aircraft that were on his wingman's tail, and probably would have killed his wingman, had DUKE not flown his aircraft into that enemy air formation.

DUKE, we commend you.

While we are at it, I thought I might talk about a few other unsung heroes. Those are people who have been taking a lot of hits lately from the President. They are called talk show hosts. We have a few of them in San Diego. One of them, Roger Hedgecock, is a leader of talk radio in KSDO in San Diego. The President apparently does not like him. He criticizes the President a lot. He led a group of citizens back here a few weeks ago, when we had the balanced budget vote in the House of Representatives, and Roger Hedgecock staged his talk show, his talk radio show, from the Halls of the U.S. Capitol. He brought back in excess of 100 U.S. citizens, people from all walks of life, who walked door to door, not professional lobbyists, but people who went door to door and talked to their Congressmen and other Congressmen about voting for, of all things, a balanced budget.

We have another talk show host, Peter Weisbach, in San Diego, KOGO radio, who thought that perhaps the Mexican bailout, the $20 billion of taxpayers' money that we sent to Mexico, was not a good idea; obviously, somebody else who disagreed with the President's policies. The President apparently does not like that.

Mike Reagan is another talk show host who appears on KOGO, and many times I have been on Mike's show talking about American foreign policy. He has educated our listeners in areas in which most Americans do not pay a great deal of attention. I can remember listening to Stacy Taylor of KFMB, my neighbor up in Alpine, CA. Stacy is a talk show host that you might classify as liberal or moderate, except for his strong belief in the second amendment. I do not know exactly how you would classify him, but I think that the way he conducts his show is provocative. I think it is informative. He takes me on a lot, takes on a lot of the political figures, takes on the President now and then, and that is not bad.

Lastly, we have Hudson and Bauer of KFMB in San Diego. They were invited by President Clinton when he thought maybe he could get talk radio on his side to come back and have their talk show located on the White House grounds.

I can remember walking there through the talk radio, through all the talk show hosts who were located on the White House grounds, at President Clinton's invitation, giving their commentary on American politics, and this President's performance. When the President thought that he could bring these people to his side and swing opinion in his direction, he lobbied the talk show hosts. He thought they were great people. However, they listened to people, and most Americans are fairly conservative. Apparently, he has not appreciated the heat that he has taken from these people.

In a couple of weeks, Mr. Speaker, we are going to celebrate and commemorate the Americans who lost their lives in battles in this country and outside of this country, from Bunker Hill to Belleau Wood to Inchon in Korea, to Khe Sanh, to the Persian Gulf, and those Americans who lost their lives fought, of course, for that broad array of freedoms that we generally describe as liberty in this great land. One of those greatest freedoms is the right to criticize your elected officials.

Therefore, Mr. President, when you listen to talk show hosts and you do not like to the fact that they are criticizing you or taking you on, do not worry. Do not complain. It is the sound of freedom.

REPUBLICANS WANT TO BALANCE THE BUDGET ON THE BACKS OF AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, I think it is important that we are facing up to a very important decision, albeit late, and that is the budget for the people of the United States of America. I stand here this evening because a couple of weeks ago the State Comptroller for the State of Texas announced that through the rescission cuts, the State of Texas and its people will lose $1.5 billion.

Yet, now, we have a budget proposal that takes those dollars on the backs of Texans and eliminates some 283 programs, as proposed by Republicans, and agrees to give the full measure of tax cuts already denied and rejected by the Senate Committee and the Budget chairman, Senator DOMENICI. This is the tax cut that will give those individuals making $30,000 or less a mere $124 a year, and the tax cut that gives the real working Americans, along with those Americans making $30,000 or less, some $760; that is, those making between $30,000 and $75,000.

In the course of this budget proposal, which is focused particularly on the backs of young people, on teachers, on students, and on the elderly, we first come full force to cut the Department of Energy, at the same time that the Secretary of Energy is reforming and reinventing her own department.

Here, now, we are a country which indicates a great interest in technological discoveries, a great need for a renewed energy policy, and many of the environmental efforts that have been made by the Department of Energy. Now we want to eliminate that department, just as we are addressing the focus of that department, which is to develop a real domestic energy policy, one that will address the needs of business, create jobs, and yes, open up opportunities internationally.

That department has been targeted for elimination, not improvement, not downsizing, but elimination, so I guess we will throw technology to the winds, the environment to the winds, and certainly, we will throw the opportunities for bringing the energy industry to the table to discuss important issues of developing a domestic energy policy that many could agree with, we will throw that to the winds, too, by eliminating the department.

The Department of Commerce, which over the last couple of years has generated more business for Americans than any other department, rather than downsizing and effectively making it work for the American people, this budget proposal targeting the backs of Americans wants to eliminate the Department of Commerce.

We go further. Many of us have had the opportunity, particularly in the city of Houston, to see the Americorps students working, the domestic Peace Corps. We have seen them working to help communities, but as much as them working to help communities, we have seen them build opportunities for themselves by providing for themselves to go to college.

What are we trying to do with this new budget proposed by the Republicans? Shut down departments that are effective and working, rather than creating opportunities for downsizing, and over a measured period of time bringing down the deficit, as all of us could agree with, now we are attacking Americorps and totally eliminating it, a program that has gone into the trenches of America and worked with communities to improve housing, to clean up neighborhoods, to work with underprivileged children, to work with seniors, to build buildings, if you will, and to help those particular areas to cut down on their costs. We are eliminating it.

Then we are so generous-spirited and generous-hearted, along with the $280 billion cut from Medicare, which our seniors have vigorously indicated "What more do you want from us," we now want to cut from the Republican budget now being discussed, as we speak, housing for the elderly; individuals who have worked all their lives, but possibly worked in jobs that would not allow them to have the kinds of savings that you need, and they are provided for in these group retirement homes that are assisted by our housing authorities throughout this country. Yet, we wish to cut that. No alternatives could be offered, other than to cut housing for the elderly, along with Medicare.

The State Bar of Texas, which I have had the great pride of serving as a member of the legal profession on the board of directors on that organization, comprised of law firms and sole practitioners and attorneys who understand what it is to serve the public, they pleaded in my office for us to preserve the Legal Services Corporation; not a group that goes out and instigates litigations, as would be accused by Republicans who are apparently cutting it out, but those who would help individuals who do not have the ability to secure their own lawyers; the Legal Services Corporation, helping mothers get child support payments, working with the elderly, working with those legal immigrants who come in and need services. Yet, they are totally cutting out Legal Services.

We do not have a budget, we have a joke. We have something that is going to hurt the citizens of Texas, hurt the citizens of Houston. We need to get down to the business of working for America. Mr. Speaker, we need a real budget to work for Americans.

□ 2215

THE FLAT TAX

The SPEAKER pro tempore (Mr. NORWOOD). Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to address the House on an important issue. Now that the House has completed work on the Contract with America is a good time to begin looking past the first 100 days to future legislative goals.

I believe, Mr. Speaker, that a flat tax is in America's future. It is an idea which is catching fire across the Nation. What is it about the flat tax that Americans find so attractive? I believe the answer can be summarized in three words: trust, simplicity, and fairness.

Today's Tax Code is artificially and unnecessarily suppressing living standards. The first problem in today's code is the fact we have double taxed business earnings, which places a strong bias against savings and investment. This makes saving and investing much less attractive relative to consumption.

Capital, as we know, is the lifeblood of the economy. Without capital, workers cannot enhance their productivity and their wages stagnate. Today's double, even triple taxation of income discourages saving, reduces the pool of capital available to entrepreneurs and workers, slows productivity and wage growth.

A second problem with today's tax code is its high marginal rates.

The third problem with today's tax code is its complexity and its hundreds of sections, thousands of pages of regulations. The rates are high, loopholes abound, and noncompliance is rife because taxpayers feel that the code is written for well-organized special interests and not for them.

Mr. Speaker, perhaps most disturbing, the complexity and unfairness of the code lead our citizens to take an excessively jaded and cynical view of their government.

Fourth, I believe the overall level of taxes, Mr. Speaker, is too high, especially for families with children. The average family now pays more in taxes than it spends on food, clothing and shelter combined.

There are two major flat tax proposals, Mr. Speaker, one in the House and one in the Senate. The one in the House is Congressman DICK ARMEY's. Under his plan, all income would be taxed once at 17 percent. There would be no credits or deductions. Under his flat tax, there would be no taxes paid by single individuals earning $13,100 or less and couples earning $26,200 or less. A corporation would simply subtract expenses from revenues and pay 17 percent on the remainder.

Senator ARLEN SPECTER has also offered a flat tax proposal. His is a 20-percent tax rate but has a couple of deductions. It would have a home mortgage deduction retained for homes up to $100,000, and $2,500 in charitable deductions, and maintains payroll withholding.

America's current tax is a patchwork quilt. It should be replaced. The need for tax simplification is self-evident. Americans now spend approximately 5.4 billion hours each year just filling out the tax forms, Mr. Speaker. In 1994, businesses spent approximately $127 billion in compliance with the Federal tax laws, and individuals another $65 billion.

Both proposals meet the test, I believe, of fairness, simplicity, and economic neutrality. Americans would fill out merely a small postcard and answer a few easy questions, instead of toiling over reams of papers and instructions. These changes will get the IRS and the government off the backs of individual and corporate taxpayers, and will allow all of us to redirect our energies to more productive pursuits.

I hope that our fellow colleagues in the House, Mr. Speaker, will look over these proposals in the coming months, and hope they will find favor with them.

ADDRESSING JAPANESE TRADE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I come to the well this evening to discuss a very important trade dispute that is going on between the United States and Japan, a negotiation that has now dragged on through three different Presidents relating to the major portion of the trade deficit between the United States and Japan, the automotive industry and the automotive parts industry.

I rise this evening to let the American people know that these negotiations have hit an impasse and today we met with the ambassador of the United States, our Trade Ambassador, Mr. Kantor, and were informed that the administration intends to, for the first time, the first administration in over a decade, intends to impose trade sanctions on the Nation of Japan in order to help pry open Japan's market not just to goods from the United States but hopefully as a result of our success there if it can occur to the goods of other nations as well.

I think that the Clinton administration should be commended for bringing us to this point. We rise this evening also to say to them, hang tough. As they do this and try to pry open that market which if it were open and we actually had trade equity with Japan in automotive, we literally could construct in this country an additional 100 plants each employing over 5,000 people. That is how bad the differential has become between our two nations.

The other point I would like to raise before calling on my very capable colleague from the State of Ohio, Mr. BROWN, is to say that we hope that as these sanctions are imposed that the major auto manufacturers of this country and the major automotive parts manufacturers of this Nation will not raise prices but will use the power that the people of the United States are giving them through these negotiations to continue to gain market share in this country and to begin to gain additional market share in Japan.

We wish the Clinton administration well as the President returns from Russia. We want him to be successful not just in the sanctions but hopefully in the case that will be placed before the World Trade Organization in Geneva.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. I appreciate the work the gentlewoman from Ohio [Ms. KAPTUR] has done in fighting for fair trade. All of us appreciate the courage and the commitment that President Clinton and Trade Representative Kantor have shown in standing tough with Japanese. When we have a $25 billion trade deficit with the Japanese on auto-related, automobiles and auto parts, $25 billion, that costs us somewhere in the vicinity of, it is literally hundreds of thousands of good-paying industrial jobs in this country that have gone to Japan because their trade doors are closed to American goods. This standing tough that the President and Trade Representatives Kantor are doing right now will mean as they pry open, as it pries open the Japanese market, it will mean more jobs for Ohio, it will mean more jobs all over this country, good-paying industrial jobs that create middle-class families, that give people the opportunity to send their children to school, to send their children to college, to provide for their retirement, to have good-paying jobs and nice homes in nice neighborhoods and all that the auto industry can do if in fact the President and Trade Representative Kantor hang tough like you said. I think they will. All of us here in a bipartisan way would encourage them to do that.

I also want to echo what the gentlewoman from Ohio [Ms. KAPTUR] said, it is important that as this happens, as we stands up to the Japanese this time finally, and a President is actually doing that as President Clinton is, that auto companies do not raise prices, that auto companies expand their market share. That is what will create jobs in Lorain, OH; in Avon Lake, OH; in Twinsburg, OH, and all over the United States, good-paying industrial jobs to create a stronger better-paid middle class.

Ms. KAPTUR. I thank the gentleman from Ohio for his leadership in this effort and with the dollar situation around the world, the value of the dollar versus the yen, there is certainly no reason for our companies to raise prices here or in other places but rather to go after market share, especially when the people of the United States are standing together through their elected representatives here in Washington and fighting for this key lodestar American industry, the automotive industry.

When you think about it, a third of the market in this country, both automotive and automotive parts, is comprised of foreign product that we import into the United States not just from Japan but from everywhere. It is interesting to look at Japan. Only 4 percent of their market, the second largest industrial power in the world, comes from anyplace else, 4 percent of their market versus one-third of ours.

Mr. BROWN of Ohio. If the gentlewoman would yield, one of the things that Ambassador Kantor told us today at a meeting with a group of about a dozen Members is that the Japanese have found a way with fixing cars with auto repairs of shutting out American auto parts so that if you are an auto consumer in Japan, you go to get your car fixed and you have got to use Japanese auto parts.

Ms. KAPTUR. We ask the President, hang tough with Japan.

LEGISLATION HONORING HARRY KIZIRIAN

The Speaker pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. REED] is recognized for 5 minutes.

Mr. REED. Mr. Speaker, it is my pleasure to introduce legislation today, along with my colleague from Rhode Island, Mr. KENNEDY, to designate the main U.S. Post Office in Providence, RI, as the "Harry Kizirian Post Office."

Harry Kizirian is a truly remarkable individual. The most decorated living veteran in Rhode Island, Harry displayed qualities of leadership and courage at a very young age. At the age of 15, Harry had to go to work to support his widowed mother, but he continued to maintain his excellent academic record at Mt. Pleasant High School in Providence. Upon graduation, Harry enlisted in the United States Marine Corps and was sent to Okinawa.

On Okinawa, Harry fought with tenacity and courage, while engaged continuously in fierce combat. Harry was severely wounded while leading an infantry assault. For his extraordinary heroism, Harry was awarded the Navy Cross, the Bronze Star with V Device for Valor, the Purple Heart with a Gold Star, and the Rhode Island Cross.

Upon Harry's return, he immediately went to work at the main post office in Providence where he had worked during high school. At work, Harry displayed the same commitment and teamwork he showed on the frontlines at Okinawa, and was eventually appointed as the Postmaster. He was confirmed by the United States Senate in 1961, and held the position of Postmaster for 25 years.

Throughout his career with the Postal Service, Harry also devoted much of his time to the community, serving on numerous boards and committees. Harry served on the board of directors for Butler Hospital, Big Brothers of RI, RI Blue Cross, the RI Heart and Lung Associations, and numerous others.

One of Harry's greatest accomplishments was raising a wonderful family. He and his wife, Hazel, raised five children and have three grandchildren.

Harry has served his country in every capacity: in the military, as a civil servant, as a devoted husband and father, and as a loyal American. Harry Kizirian is a source of inspiration for the young and old, and he is a particularly cherished member of Rhode Island's proud and vibrant Armenian community.

This bill would commemorate his generosity and valor for future generations, and it would pay tribute to a remarkable gentleman who has given so much to his nation, his community, and his family. I urge my colleagues to join me in honoring Harry Kizirian by supporting this bill.

CALLING FOR AN APOLOGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. RAHALL] is recognized for 5 minutes.

Mr. RAHALL. Mr. Speaker, yesterday in a special order, I expressed my total disbelief that, at an event convened at taxpayer's expense, a Member of this House would publicly charge that a Member of the U.S. Senate should be tarred and feathered and run out of the country.

Was this a joke, Mr. Speaker? From press accounts, what we do know is that it was a reaction to a constituent's call for the murder of a Member of the other body, and that the murderer be given a medal.

The Member from Washington State in question with whom I have spoken, did not object to the murder of a U.S. Senator. The member did not attempt to argue at all, instead Mr. Speaker, he fueled the flames of violence against members of the people's house, against the representatives elected by the American people.

Let me read from a definition of "tar and feathers":

> Pouring molten tar over the body and covering it with feathers was an official punishment in England as early as the 12th century. It was never legal in the United States, but was always a mob—demonstration. The practice finally vanished in the late 19th Century.

But now, Mr. Speaker, a Member of the House wants to resurrect the practice—to drag the American people, not toward the next millennium, but back to the last.

Is this the course the new majorities in the Congress have set? Is this a new contract of tar and feathering, of drawing and quartering, of star chambers and chambers of torture for the American people?

Are there no limits on inciting violence? Has America not seen enough hate in the last few weeks? Will this hate make America stronger?

Mr. Speaker, When the people's representatives remain silent in the face of hate speech, they endorse it. When the people's representatives suggest violent acts against their colleagues, they tear at the very fabric that binds us as a nation. Should we not, as representatives of the people, seek a higher civility in this body? Should we not as leaders of this country, seek to uplift this nation, rather than tear it down?

I ask for this Member's public apology Mr. Speaker. I ask that he apologize to the Member of the other body—that he apologize to the American people—and that he apologize to this institution of which he is a Member.

□ 2230

BLOODY SUNDAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. HILLIARD] is recognized for 5 minutes.

Mr. HILLIARD. Mr. Speaker, today, I rise to discuss what occurred in my congressional district 30 years ago this week. During that time in Selma, AL, a young black man named Jimmy Lee Jackson was murdered because he dared to stand up against the multitudes of racial injustices, from white-only water fountains to the States-rights stand which would not allow blacks to vote.

Fortunately, Jimmy Lee Jackson's murder in 1965 was not in vain. It prompted the historic 54 mile Selma to Montgomery voting rights march, which was the catalyst for the 1965 Voting Rights Act. This act secured the rights of all Americans to participate, without harassment, in the political system.

Today, we again have challenges before us which threaten the basic rights of many Americans. The so-called Republican Contract With America threatens to take away many rights which we, as Americans, hold dear.

I am speaking of the right to have proper medical care, the right to proper nutrition, the right to a good education, and the right to be treated equally and fairly under the law.

Mr. Speaker, I hope and pray that it does not take a murder like Jimmy Lee Jackson's, which occurred over 30 years ago in Selma, to wake up America to action.

DEFENDING DEMOCRACY AGAINST TERRORISM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from New York [Mr. NADLER] is recognized for 45 minutes as the designee of the minority leader.

Mr. NADLER. Mr. Speaker, I rise today in an effort to shed light on a problem on nearly everyone's mind these days—the problem of terrorism—the problem of a relatively small number of violent lawbreakers who have set out to undermine our democratic way of life and seek either to blackmail the government through violence or the threat of violence to comply with their demands, or to overthrow the government entirely.

What these misguided zealots are attempting to do is to create a climate of fear so great that Americans can't even drop off their children at day care in the morning without having to worry if it will be the last time they will ever see them. This climate of violence and fear is sometimes fostered by people who organize or join so-called militias and say they are acting in the name of patriotism. They invoke our Founding Fathers to defend heinous acts of senseless violence, or to advocate such violence.

How ironic! How tragic!

In Hamilton, MT, U.S. District Court Judge Jeff Langton received the following letter:

> We are prepared . . . to defend with our life, our Rights to Life, Liberty and the Pursuit of Happiness. We number in the thousands in your area and everywhere else. . . . How many of your agents will be sent home in body bags before you hear the pleas of the people? Proceed at your own peril.

It was signed by the "North American Militia."

In April of this year, in eastern Montana, approximately 15 men, calling themselves "freemen," placed million-dollar bounties on a county judge, a sheriff, a county attorney and on other local officials who they felt were infringing on their rights.

While these particular threats have not yet resulted in violent terrorist acts, they well illustrate the dangers that now confront law-abiding Americans.

We must not give in to the terrorists. We need to enforce the laws we have, and to enact whatever legal authority we need to deal with this domestic terrorist threat. But we must also be ever vigilant not to destroy the very freedoms we are attempting to protect. If we do that, then America loses and the terrorists win.

We have seen some attempts here in Congress to deal with both domestic and international terrorism. Many of these initiatives will bring much needed and appropriate relief. Some threaten the rights of law-abiding citizens. We must be careful not to use a scatter-shot approach, because, as every hunter knows, scatter-shot often strikes innocent bystanders along with, or even instead of, the intended target.

Some proposals, already presented to the Judiciary Committee, would violate such fundamental and sacred protections of our liberties as: the right to a fair and public trial; the right to confront witnesses; the right to be informed of the nature and cause of the accusation; and the right to require that government prove criminal charges beyond a reasonable doubt.

These rights set our Nation apart. They safeguard our freedom. We can defend our families, our communities, and our laws without violating the Constitution, without tearing down the bulwarks of our liberties, and without trampling on the rights of the accused.

I have introduced H.R. 1544, the Domestic Insurgency Act of 1995, which would give our law enforcement officers the legal authority they need to crack down on one major aspect of domestic terrorism—the private armies or militias that have recently proliferated across our land.

This narrowly focused bill would prohibit participating knowingly in private paramilitary activities if it can be demonstrated beyond a reasonable doubt to a jury of twelve Americans that the individual intended to use violence against the United States or any State or for any other illegal purpose.

This bill does not limit the right of free speech or of free assembly or association. People would still be free to express any ideas they choose, no matter how offensive others might find them. It would in no way threaten legal activities such as the Boy Scouts, rod and gun clubs, or people participating in nonviolent citizen activist efforts. It would not affect nonviolent civil disobedience. It would not threaten the right to associate freely with like-minded people. It would penalize only those who have in their hearts the desire to overthrow our legally constituted, democratically elected government and who are bent on taking violent action to do so and who assemble arms and weaponry and practice military techniques for the purpose of doing so. Only the terrorists have any reason to fear this bill.

There are those who do not understand, or who deliberately will not understand, that this bill does not violate the Constitution in any way. They use self-serving, so-called patriotic arguments to justify their opposition.

While vigorous debate is a healthy and necessary part of the democratic process, invoking our Founding Fathers to rationalize terrorism does not promote productive discourse. I want my colleagues and the American people to hear what some have argued.

One American writes: "particularly in jeopardy seem to be habeas corpus, the First, Second and Fourth Amendments and restraints on the Executive Branch."

Another writes on the Internet, "This is an attempt to undermine the Second Amendment by outlawing the concept of 'citizen militia man.'"

Still a third writes,

> This final act of unsurpation should be considered by all who love their country, not government, as the Final Straw, and they should prepare themselves for the imposition of a police state to complete the task for denial of our rights granted by G-d. "It is their right, it is their duty to throw off that government" and it appears that, should this bill be passed, duty calls!

A fax sent to my office reads as follows,

> Apparently you have never read the Constitution, if you had, you would know that your Bill is not only illegal but treasonous as well. You cannot undo what is a constitutional right (the Second Amendment), except by repeal of the Constitution itself through a Constitutional Convention! How the hell did you get in office as ignorant as you are?

A fair question. Why don't we read the second amendment together?

> A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

What did the people who wrote the Constitution mean by "a well-regulated Militia"?

Fortunately, the people who wrote these words provided a written explanation for future generations in the Federalist Papers.

In Federalist No. 29, Alexander Hamilton makes clear, "that the plan of the [Constitutional] Convention [which adopted the Second Amendment] proposed to empower the Union 'to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.'"

Hamilton further explains that, "[i]f a well-regulated militia be the most natural defense of a free country, it ought certainly to be under the regulation and at the disposal of that body which is constituted the guardian of the national security,"—in other words Congress, to which the Constitution grants the power to raise armies.

Therefore, Hamilton points out, "[t]he power of regulating the militia, and of commanding its services in times of insurrection and invasion are natural incidents to the duties of superintending the common defence, and of watching over the internal peace of the Confederacy."

So, clearly, just because a private group of people who arm themselves with the intent to take violent action against our Government or its citizens call themselves a militia, does not make them part of the well-regulated militia referred to in the second amendment. The authors of the Constitution did not see it that way and neither has the Supreme Court.

The Constitution, the Federalist Papers, and Supreme Court precedent all make crystal clear that a well-regulated militia means the auxiliary armed forces of the States that can be called into national service by the President—what we today call the National Guard.

Those who attempt to cloak acts of terrorism or sedition as rights under the mantle of the second amendment ought to reread these crucial passages.

We should all think about what kind of country we want to live in. To be truly patriotic means recognizing our responsibilities to uphold the democratic principles which make this the freest nation on Earth. It is important to remember that the opening words of the Constitution are "We the People" not "I the People." Being a citizen in a democracy means that you can't organize your own private army because you disagree with the actions of the democratically elected government. If you settle political differences with bullets instead of ballots, you don't live in a democracy, you live in Beruit or Bosnia. This is America, and I don't think we want that to happen here.

We have a responsibility—indeed, in a democracy we have a patriotic duty—to speak out against what we believe to be wrong, against that with which we do not agree, and about that which we want to change. Peacefully, lawfully, democratically, and with respect for the rights and liberties of those with whom we disagree—that's the American way.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of personal business.

Mr. LEWIS of Kentucky (at the request of Mr. ARMEY), for today, on account of attending a funeral.

Mr. BUNNING of Kentucky (at the request of Mr. ARMEY), for today, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

Mr. BECERRA, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. FRANK of Massachusetts, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. REED, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. RAHALL, for 5 minutes, today.

Mr. MENENDEZ, for 5 minutes, today.

Mr. HILLIARD, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mrs. SEASTRAND, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

Mr. BRYANT of Tennessee, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, on May 17.

Mr. FOX of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. ACKERMAN in two instances.

Mr. VISCLOSKY.

Mr. JOHNSON of South Dakota.

Mr. HAMILTON.

Mr. LAFALCE.

Mr. POSHARD.

Ms. HARMAN in three instances.

Mr. MATSUI.

Mr. FOGLIETTA.

Mr. COYNE in two instances.

Mr. CLAY.

Mr. KILDEE.

Ms. KAPTUR.

Mr. MANTON.

Mr. TORRES.

Mr. REED.

Mr. RICHARDSON.

Mr. HALL of Texas.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. BRYANT of Tennessee.

Mr. FAWELL.

Mr. CAMP.

Mr. COOLEY.

Mrs. ROUKEMA.

Mr. BEREUTER.

Mr. DAVIS in two instances.

Mr. WOLF.

Mr. MARTINI in two instances.

Mr. HYDE.

Mr. RADANOVICH.

Mr. WALKER.

Mrs. JOHNSON of Connecticut.

ADJOURNMENT

Mr. NADLER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 43 minutes p.m.), the House adjourned until tomorrow, Thursday, May 11, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

844. A letter from the Under Secretary, Department of Defense, transmitting certification with respect to the maneuver control system [MCS] major defense acquisition program, pursuant to 10 U.S.C. 2433(e)(2)(B)(i); to the Committee on National Security.

845. A letter from the Under Secretary, Department of Defense, transmitting certification with respect to ADDS, C-17, and Javelin major defense acquisition programs, pursuant to 10 U.S.C. 2433(e)(2)(B)(i); to the Committee on National Security.

846. A letter from the Under Secretary, Department of Defense, transmitting certification with respect to the M1A2 Abrams upgrade major defense acquisition program, pursuant to 10 U.S.C. 2433(e)(2)(B)(i); to the Committee on National Security.

847. A letter from the Secretary, Department of Defense, transmitting the Department's Future Years Defense Program [FYDP] and associated procurement and RDT&E annexes for the fiscal year 1996–fiscal year 1997 President's budget, pursuant to 10 U.S.C. 221(a); to the Committee on National Security.

848. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to provide for alternative means of acquiring and improving housing and supporting facilities for the Armed Forces and their families; to the Committee on National Security.

849. A letter from the Secretary, Department of Health and Human Services, transmitting the annual report for fiscal year 1994 of the Administration on Aging, pursuant to 42 U.S.C. 3018; to the Committee on Economic and Educational Opportunities.

850. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the price and availability report for the quarter ending March 31, 1995, pursuant to 22 U.S.C. 2768; to the Committee on International Relations.

851. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on missile proliferation, pursuant to 22 U.S.C. 2797 note; to the Committee on International Relations.

852. A letter from the Chief Counsel, Foreign Claims Settlement Commission of the United States, transmitting the Commission's 1993 annual report on operations under the War Claims Act of 1948, as amended, pursuant to 50 U.S.C. app. 2008; 22 U.S.C. 1622a; to the Committee on International Relations.

853. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to section 1207(c) of the National Defense Authorization Act for fiscal year 1995; to the Committee on International Relations.

854. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to repeal a provision of the National Defense Authorization Act for fiscal year 1994 that prohibits the United States Government from acquiring or modifying diplomatic or consular facilities in Germany unless done with residual value funds provided by Germany and only after Germany has committed to repay at least 50 percent of the residual value of United States installations returned to Germany; to the Committee on International Relations.

855. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–38, "Pennsylvania Avenue Development Area Parks and Plaza Public Safety Amendment Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

856. A letter from the Federal Financial Institutions Examination Council, Appraisal Subcommittee, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1994, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

857. A letter from the Chairman, Federal Communications Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

858. A letter from the Secretary, Department of the Interior, transmitting the 1994 section 8 report on national historic and natural landmarks that have been damaged or to which damage to their integrity is anticipated, pursuant to 16 U.S.C. 1a–5(a); to the Committee on Resources.

859. A letter from the Comptroller General, General Accounting Office, transmitting a report entitled, "Military Bases: Analysis of DOD's 1995 Process and Recommendations for Closure and Realignment," pursuant to Public Law 101–576, section 305 (104 Stat. 2853); jointly, to the Committees on National Security and Government Reform and Oversight.

860. A letter from the Comptroller General, General Accounting Office, transmitting the financial audit of the Federal Deposit Insurance Corporation's 1994 and 1993 financial statements, pursuant to Public Law 101–576,

section 305 (104 Stat. 2853); jointly, to the Committees on Banking and Financial Services and Government Reform and Oversight.

861. A letter from the Attorney General of the United States, transmitting the 1994 annual report on the number of applications that were made for orders and extension of orders approving electronic surveillance under the Foreign Intelligence Surveillance Act, pursuant to 50 U.S.C. 1807; jointly, to the Committees on Intelligence (Permanent Select) and the Judiciary.

862. A letter from the Secretary of Energy, transmitting notification that the Department's report on commercial projects employing clean coal technologies in countries projected to have significant growth in greenhouse gas emissions, will be provided by June 15, 1995; jointly, to the Committees on Appropriations, Commerce, and Science.

863. A letter from the Acting Director, Central Intelligence Agency, transmitting a draft of proposed legislation entitled, the "Intelligence Authorization Act for Fiscal Year 1996," pursuant to 31 U.S.C. 1110; jointly, to the Committees on Intelligence (Permanent Select), Government Reform and Oversight, National Security, and the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WALKER (for himself and Mr. SENSENBRENNER):

H.R. 1601. A bill to authorize appropriations to the National Aeronautics and Space Administration to develop, assemble, and operate the international space station; to the Committee on Science.

By Mr. LONGLEY:

H.R. 1602. A bill to impose a moratorium on sanctions under the Clean Air Act with respect to marginal and moderate ozone nonattainment areas, and for other purposes; to the Committee on Commerce.

H.R. 1603. A bill to amend the Internal Revenue Code of 1986 to correct mistakes which advertently included certain ferries operating between Portland, ME, and Nova Scotia under the excise tax on the transportation of passengers by water as opposed to the actual intent which was to tax voyages the primary purpose of which is gambling; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut (for herself and Mr. THOMAS):

H.R. 1604. A bill to amend the Internal Revenue Code of 1986 to promote the continuity and portability of health insurance coverage by restricting discrimination based on health status, limiting use of preexisting condition exclusions, and making COBRA continuation coverage more affordable and available; to the Committee on Ways and Means.

By Mr. KILDEE (for himself, Mr. CLAY, Mr. WILLIAMS, Mr. MILLER of California, Mr. OWENS, Mr. SAWYER, and Mr. PAYNE of New Jersey):

H.R. 1605. A bill to provide assistance to State and local communities to improve adult education and family literacy, to help achieve the National Education Goals for all citizens, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. REED (for himself and Mr. KENNEDY of Rhode Island):

H.R. 1606. A bill to designate the U.S. Post Office building located at 24 Corliss Street, Providence, RI, as the "Harry Kizirian Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. ROYCE:

H.R. 1607. A bill to provide for the conveyance of El Toro Marine Corps Air Station, selected for closure under the Defense Base Closure and Realignment Act of 1990, to Orange County, CA; to the Committee on National Security.

By Mr. SCHUMER:

H.R. 1608. A bill to amend title 18, United States Code, to ensure that the prohibitions against guns in school zones have the requisite nexus with interstate or foreign commerce; to the Committee on the Judiciary.

By Ms. WATERS:

H.R. 1609. A bill to amend the Social Security Act and title 38, United States Code, to provide for sharing of medical information relating to determination of disability between the Social Security Administration and Department of Veterans Affairs; to the Committee on Ways and Means, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

76. By the SPEAKER: Memorial of the House of Representatives of the State of Colorado, relative to the Contract With America; to the Committee on Government Reform and Oversight.

77. Also, memorial of the House of Representatives of the State of Colorado, relative to the Federal Aviation Administration Authorization Act of 1994; to the Committee on Transportation and Infrastructure.

78. Also, memorial of the General Assembly of the State of Rhode Island, relative to the Small Business Administration; to the Committee on Small Business.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 42: Mr. DIXON, Mr. GUTIERREZ, Mr. ENGEL, Mr. MEEHAN, Mr. LEWIS of Georgia, Mr. BEILENSON, Mr. JOHNSTON of Florida, and Mr. MANTON.

H.R. 44: Mrs. ROUKEMA, Mr. VENTO, Ms. RIVERS, Mr. EMERSON, Mrs. VUCANOVICH, Mr. RAHALL, Mr. DURBIN, and Mr. PASTOR.

H.R. 94: Mr. BACHUS, Mr. GUNDERSON, Mr. FAWELL, and Mr. DUNCAN.

H.R. 127: Mr. LUTHER and Mr. BEREUTER.

H.R. 230: Mr. COOLEY.

H.R. 311: Mr. EVANS, Mr. OLVER, Ms. WOOLSEY, Ms. LOWEY, Mr. GUNDERSON, and Mr. MEEHAN.

H.R. 329: Mr. CRAPO and Mr. ENGLISH of Pennsylvania.

H.R. 367: Mr. BROWN of California and Mr. STUDDS.

H.R. 398: Mr. GUTIERREZ.

H.R. 399: Mr. JACOBS, Mr. DIXON, Mr. EVANS, Mr. PALLONE, Mr. WARD, and Mr. BISHOP.

H.R. 452: Mr. GENE GREEN of Texas.

H.R. 501: Mr. KINGSTON and Mr. HOSTETTLER.

H.R. 580: Ms. LOWEY, Mrs. THURMAN, Mr. TORRICELLI, and Mrs. ROUKEMA.

H.R. 588: Ms. WOOLSEY and Ms. VELAZQUEZ.

H.R. 739: Mr. BURR and Mr. EWING.

H.R. 764: Ms. NORTON.

H.R. 798: Mr. ACKERMAN, Ms. FURSE, Mr. LIPINSKI, Mrs. ROUKEMA, Mr. PASTOR, Mr. Murtha, and Ms. LOWEY.

H.R. 803: Mr. ROSE, Mr. CAMP, Mrs. KENNELLY, Mr. MEEHAN, Mr. KENNEDY of Massachusetts, and Mr. KLECZKA.

H.R. 833: Mrs. MORELLA and Ms. LOFGREN.

H.R. 860: Mr. STUMP and Mr. COOLEY.

H.R. 896: Mr. PAYNE of Virginia and Mrs. COLLINS of Illinois.

H.R. 897: Mr. FUNDERBURK.

H.R. 957: Mr. BAKER of California and Mr. HERGER.

H.R. 972: Mr. GEJDENSON.

H.R. 1003: Mr. WILSON and Mr. MATSUI.

H.R. 1023: Mr. HUNTER, Mrs. SCHROEDER, Mr. CLINGER, Mr. SANDERS, Mr. MASCARA, and Mr. TORRES.

H.R. 1024: Mr. COBLE.

H.R. 1047: Mr. COX and Mr. MCINNIS.

H.R. 1052: Mr. COOLEY.

H.R. 1061: Mr. NORWOOD, Mr. FUNDERBURK, Mr. MCCOLLUM, Mr. TUCKER, Mr. BONO, Mr. WILSON, Mr. SCHIFF, Mrs. CHENOWETH, Mr. PACKARD, and Mr. GENE GREEN of Texas.

H.R. 1073: Mrs. MEEK of Florida, Mr. CRAMER, Mr. ENGEL, Mr. STOKES, Mr. HOYER, and Mr. EMERSON.

H.R. 1074: Mrs. MEEK of Florida, Mr. CRAMER, Mr. ENGEL, Mr. STOKES, Mr. HOYER, and Mr. EMERSON.

H.R. 1083: Mrs. VUCANOVICH, Mr. COBLE, Mr. FRAZER, Mr. BARTLETT of Maryland, Ms. DUNN of Washington, and Mr. COLLINS of Georgia.

H.R. 1084: Mr. GIBBONS, Mrs. CLAYTON, Mr. DELLUMS, Mr. EVANS, Mr. HINCHEY, Mr. FROST, Mr. THOMPSON, Mr. GENE GREEN of Texas, Mr. SERRANO, and Mr. DURBIN.

H.R. 1176: Mr. KIM.

H.R. 1189: Mr. ZIMMER, Mr. MANTON, and Mr. DEUTSCH.

H.R. 1192: Mr. OBERSTAR, Mr. FROST, Mr. DEUTSCH, Mr. ACKERMAN, Mr. FRANK of Massachusetts, Mr. GENE GREEN of Texas, Mr. MANTON, and Mr. WYDEN.

H.R. 1193: Mr. OBERSTAR, Mr. FROST, Mr. DEUTSCH, Mr. ACKERMAN, Mr. FRANK of Massachusetts, Mr. GENE GREEN of Texas, Mr. TORRICELLI, Mr. MANTON, Mr. SERRANO, Mr. WYDEN, and Mr. MEEHAN.

H.R. 1222: Mr. FOX.

H.R. 1235: Mr. KLUG and Mrs. LOWEY.

H.R. 1242: Mr. Ewing, Mr. DURBIN, Mr. KNOLLENBERG, and Mr. ROBERTS.

H.R. 1253: Mr. SCOTT, Mr. VENTO, Mr. FILNER, Mr. GEJDENSON, Mr. WAXMAN, Ms. SLAUGHTER, Mr. BRYANT of Texas, Mr. SERRANO, Mr. HOYER, Mr. DOOLEY, Mrs. LOWEY, Mr. LEWIS of Georgia, and Mr. LAFALCE.

H.R. 1262: Mr. VENTO, Mr. CARDIN, Mr. SMITH of New Jersey, and Mr. SERRANO.

H.R. 1288: Mr. VISCLOSKY and Mr. JACOBS.

H.R. 1289: Mr. ROMERO-BARCELO, Mrs. FOWLER, and Mr. CRANE.

H.R. 1418: Mr. HEFLEY and Mr. CHAPMAN.

H.R. 1424: Mr. DUNCAN.

H.R. 1447: Mr. MOAKLEY, Mr. BEILENSON, and Mr. FRANK of Massachusetts.

H.R. 1448: Mr. WELDON of Pennsylvania, Mr. MCKEON, and Mr. LONGLEY.

H.R. 1462: Mr. BOUCHER, Mr. JOHNSTON of Florida, and Mr. HINCHEY.

H.R. 1514: Mr. SENSENBRENNER, Mr. RICHARDSON, Mr. QUILLEN, Mr. PAYNE of Virginia, Mr. WOLF, Mr. FUNDERBURK, Mr. SKELTON, Mr. SISISKY, Mr. OBERSTAR, Mr. Tanner, Mr. VOLKMER, Mr. ROSE, Ms. LOFGREN, and Mr. SPENCE.

H.R. 1546: Mr. FRANK of Massachusetts.

H.R. 1560: Ms. Pelosi and Mr. Gene Green of Texas.

H.R. 1578: Mr. Pastor.

H.R. 1589: Mr. Hoekstra, Mr. Saxton, and Mr. McKeon.

H.R. 1594: Mr. Ramstad, Mr. Solomon, and Mr. Christensen.

H.J. Res. 79: Mr. Bonilla.

H. Con. Res. 36: Mr. Zimmer.

H. Con Res. 37: Mr. Zimmer.

H. Con. Res. 40: Mr. Houghton, Mr. Ackerman, Ms. McKinney, Mr. Jefferson, and Mr. Johnston of Florida.

H. Con. Res. 48: Mr. Deutsch, Mr. Ney, Mr. Brown of Ohio, Mr. LaFalce, Ms. Lowey, Mrs. Meyers of Kansas, Mrs. Clayton, and Mr. Ackerman.

H. Con. Res. 59: Mr. Brown of Ohio.

H. Res. 23: Mr. Brown of Ohio.

H. Res. 24: Mr. McKeon.

H. Res. 98: Ms. Furse, Mr. Bunn of Oregon, and Mr. Martinez.

H. Res. 99: Ms. Furse and Mr. Bunn of Oregon.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 961

Offered By: Mr. Bateman

Amendment No. 57: Pages 231 and 232, strike the table and insert the following:

State	Percentage of Sums Authorized for Fiscal Year			
	1996	1997	1998	1999 & 2000
Alabama	1.0693	1.0110	0.9504	0.8896
Alaska	0.5723	0.5411	0.5087	0.4761
Arizona	0.7139	0.7464	0.7767	0.8060
Arkansas	0.6255	0.5914	0.5560	0.5204
California	7.5590	7.9031	8.2244	8.5345
Colorado	0.7649	0.7232	0.6885	0.6847
Connecticut	1.2948	1.3537	1.3718	1.3643
Delaware	0.4694	0.4438	0.4173	0.3905
District of Columbia	0.4694	0.4438	0.4173	0.3905
Florida	3.4532	3.4462	3.4304	3.4115
Georgia	1.7870	1.8683	1.9443	1.9993
Hawaii	0.7406	0.7002	0.6583	0.6161
Idaho	0.4694	0.4438	0.4173	0.3905
Illinois	4.7801	4.9976	5.2008	5.3970
Indiana	2.5472	2.6631	2.7714	2.8759
Iowa	1.2942	1.2236	1.1503	1.0767
Kansas	0.8708	0.8690	0.8650	0.8602
Kentucky	1.3452	1.3570	1.3508	1.3433
Louisiana	1.0512	1.0060	1.0014	0.9958
Maine	0.7402	0.6999	0.6666	0.6629
Maryland	2.3128	2.1867	2.0557	1.9241
Massachusetts	3.5884	3.7518	3.9043	4.0515
Michigan	4.1117	3.8875	3.8061	3.7850
Minnesota	1.7576	1.6618	1.5622	1.4622
Mississippi	0.8615	0.8146	0.7658	0.7167
Missouri	2.6509	2.5063	2.3562	2.2054
Montana	0.4694	0.4438	0.4173	0.3905
Nebraska	0.4891	0.4624	0.4347	0.4069
Nevada	0.4694	0.4438	0.4173	0.3905
New Hampshire	0.9556	0.9035	0.8494	0.7950
New Jersey	4.3190	4.5156	4.6686	4.6428
New Mexico	0.4694	0.4438	0.4173	0.3905
New York	11.6659	12.1969	12.6928	13.1714
North Carolina	1.9075	1.9943	2.0754	2.1537
North Dakota	0.4694	0.4438	0.4173	0.3905
Ohio	5.3833	5.0898	4.9266	4.8993
Oklahoma	0.7726	0.7304	0.6867	0.6427
Oregon	1.1939	1.2399	1.2342	1.2274
Pennsylvania	4.1866	4.2145	4.1952	4.1720
Rhode Island	0.6421	0.6071	0.5707	0.5342
South Carolina	0.9796	0.9262	0.8707	0.8150
South Dakota	0.4694	0.4438	0.4173	0.3905
Tennessee	1.4697	1.4668	1.4600	1.4520
Texas	4.6552	4.6458	4.6245	4.5989
Utah	0.5039	0.4764	0.4479	0.4192
Vermont	0.4694	0.4438	0.4173	0.3905
Virginia	2.1630	2.2615	2.3534	2.4379
Washington	1.8380	1.9217	1.9998	2.0752
West Virginia	1.4907	1.4249	1.4184	1.4106
Wisconsin	2.5852	2.4442	2.2978	2.1507
Wyoming	0.4694	0.4438	0.4173	0.3905
Puerto Rico	1.2472	1.1792	1.1185	1.1123
Northern Marianas	0.0399	0.0377	0.0355	0.0332
American Somoa	0.0859	0.0812	0.0763	0.0714
Guam	0.0621	0.0587	0.0552	0.0517
Palau	0.1224	0.1158	0.1088	0.1019
Virgin Islands	0.0551	0.0576	0.0599	0.0599''.

H.R. 961

Offered By: Mr. Cooley

Amendment No. 58: Page 181, after line 16, insert the following:

SEC. 401. GRAZING OF LIVESTOCK

Section 401(a)(1) (33 U.S.C. 1341(a)(1)) strike ''Federal license or permit'' and insert ''Federal license or permit (other than a lease or permit to authorize the grazing of livestock on any lands owned or under the control of the United States)''.

Redesignate subsequent sections of title IV of the bill and conform the table of contents accordingly.

H.R. 961

Offered By: Mr. Cooley

Amendment No. 59: Page 209, strike line 1 and insert **''SEC. 503. POINT SOURCE DEFINED.''**.

Conform the table of contents of the bill accordingly.

Page 209, at the beginning of line 2, insert ''(a) CAFO Definition Clarification.—''.

Page 209, after line 17, insert the following:

(b) Agricultural Stormwater Discharges.—Section 502(14) is further amended by inserting '', including discharges from cropland, pasture land, rangeland, any grazing lands used pursuant to a Federal grazing permit or lease, and forest lands,'' after ''agricultural stormwater discharges''.

H.R. 961

Offered by: Mr. DeFazio

Amendment No. 60: Page 92, line 2, strike ''or other facility'', as inserted on page 14 of the committee amendment offered by Mr. Shuster.

H.R. 961

Offered By: Mr. Minge

Amendment No. 61: Page 243, after line 8, insert the following:

''(3) Agricultural permit authority.—The Secretary of Agriculture is authorized to issue permits in accordance with this section for any activity resulting from normal farming, silviculture, aquaculture, and ranching activities and practices carried out on agricultural land or for any activity incidental thereto carried out on the agricultural land if the agricultural land is not subject to sections 1221–1223 of the Food Security Act of 1985 (16 U.S.C. 3821–3823). Any activity allowed by the Secretary of Agriculture under such sections 1221–1223 shall be treated as having a permit issued under this section and no individual request for or granting of a permit shall be required under this section.

Page 274, after line 19, add the following:

''(10) Mitigation of agricultural lands.—Any mitigation approved by the Secretary of Agriculture for agricultural lands shall be accepted by the Secretary as mitigation under this section.

Page 276, line 7, after ''ditches'' insert ''(including resloping of drainage ditches to control bank erosion)''.

H.R. 961

Offered By: Mr. Riggs

Amendment No. 62: On page 276, strike lines 3 through 7 and insert in lieu thereof the following:

''ponds, wastewater retention or management facilities (including pipelines, dikes and berms) that are used by concentrated animal feeding operations or advanced treatment municipal wastewater reuse operations, or irrigation canals and ditches or the maintenance of drainage ditches;''.

EXTENSIONS OF REMARKS

REFORMING U.S. INTELLIGENCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 10, 1995 into the CONGRESSIONAL RECORD.

REFORMING U.S. INTELLIGENCE

Many efforts are currently underway to reform and streamline the federal government. Few parts are better candidates for reform than the multi-billion dollar agencies that make up the intelligence community. With aggressive growth but no master plan for several decades, the intelligence community has become a bloated, poorly-managed bureaucracy whose mission has yet to be redefined for the post-Cold War world.

The Intelligence Community. Intelligence is information on foreign events, intentions, capabilities, and personalities that could affect our security. The Pentagon uses intelligence to design weapons, make deployment decisions, and fight wars. The President and other foreign policy officials use intelligence to prepare for negotiations and predict foreign developments that could threaten U.S. interests.

Thirteen civilian and military agencies—not just the CIA—collect and analyze intelligence. Each of our four military services has its own intelligence unit, and the Pentagon has another. U.S. intelligence agencies employ tens of thousands of people and produce dozens of different daily or weekly reports.

Need for Reform. The U.S. needs an intelligence community that gives government officials information that is accurate, relevant, timely, and cost efficient. To meet that challenge in a world far different from the one for which it was created, the intelligence community will require a new mission and substantial organizational change.

From the end of World War II until the early 1990s, U.S. intelligence had one overriding objective: winning the Cold War. By the end of the Cold War, roughly half of all intelligence resources were focused on Soviet bloc military forces. The world has changed dramatically in the past few years, but the mission of U.S. intelligence has been slow to adjust.

Winning the Cold War was so important an objective that almost any intelligence expenditure could be justified. Intelligence programs and spending grew steadily. The number of CIA employees nearly doubled during the 1980s alone.

Our massive intelligence bureaucracy is not well-coordinated. It is a ship without a captain. Agencies often needlessly cover the same topic, wasting money. Sometimes agencies fail to collaborate effectively. That generates intelligence that is lower in quality and less timely than our national security demands.

What Should Be Done? With the President's backing, John Deutch, the incoming director of the CIA, has promised dramatic reforms in U.S. intelligence. The intelligence community is also being carefully examined by a bipartisan commission established by law last year. Several key reforms are needed.

First, we need to redefine the mission of U.S. intelligence—to decide what we want our intelligence agencies to focus on, and in what order of priority. Nearly everyone agrees that intelligence on weapons proliferation, terrorism, and regional wars should be the highest priority after the Cold War. But some officials also want U.S. intelligence agencies to monitor economic, environmental, and other non-military developments. The lack of consensus has permitted the number of intelligence targets to grow in recent years. That complicates coordination and risks spreading resources too thin.

Second, once we have figured out what our intelligence community needs to focus on, we must decide what combination of agencies and resources it needs to do the job. For example, paramilitary covert action should be assigned to the Department of Defense. To ensure that we get all the intelligence we need at a price we can afford, we should subject the intelligence community to a top-to-bottom management review. We must eliminate redundant programs and improve coordination. In general, the intelligence community should be smaller and more focussed on the central issues of national security.

Third, since effective management will require stronger leadership, we should create a new post, the Director of National Intelligence, with authority over key appointments and the entire intelligence budget, which the head of the CIA now lacks. The Director should be in charge of the intelligence community. Our current management system is a recipe for inefficiency. No one person is in charge of the thirteen intelligence agencies.

Fourth, we need to address the politicization of intelligence. Policy officials sometimes misuse intelligence to promote favored policies, and intelligence officials sometimes tell policy makers what they think they want to hear. President Clinton's decision to make the new CIA director a member of his cabinet threatens the necessary separation between intelligence and policy, and should be reconsidered. The CIA director should not be a policy maker, and should scrupulously keep his assessments free of policy considerations.

Fifth, we need to improve counter-espionage efforts. The case of Aldrich Ames, the convicted CIA agent who spied for Russia without detection for nine years, highlighted stunning weaknesses in our counter-espionage system. Congress has approved legislation that makes it easier to monitor the personal lives and finances of intelligence employees, but additional steps may be necessary.

Finally, I have come to the view that fundamentally the culture of the CIA needs to be changed. Within the intelligence community today is an attitude that they know better than the policymakers—including the President and Congress—about what to do to protect national security. Decisive steps must be taken to ensure that intelligence officials are fully accountable to policymakers. The intelligence community must rigorously respect the law, move toward greater openness, and work closely and cooperatively with Congress.

Conclusion: The U.S. must engage the post-Cold War world with a smaller, better, more cost-efficient intelligence community. The challenges that bedevil us today require that our policymakers have the very best information upon which to make the decisions necessary to preserve the national security of the country.

TRIBUTE TO THE ALMA COLLEGE MODEL UNITED NATIONS TEAM

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. CAMP. Mr. Speaker, I want to recognize the accomplishment of 18 young men and women from Alma College, in the Fourth Congressional District of Michigan.

Every year, the United Nations in New York City sponsors a "Model United Nations Championships" which is a simulation of committee work the U.N. performs. In this competition, students compete in areas such as building and keeping peace, leadership skills, and other issues such as the role of women in national government.

This year, 165 teams, consisting of 1,945 students from 40 States and 18 countries, participated in this 4-day competition. In the end, it was the team from Alma that won it all.

These students worked up to 40 hours a week in preparation for this competition. Their hard work and sacrifice, as well as the efforts of their advisor, Dr. Sandy Hume, resulted in a world championship for Alma College

Their campus, their community, their State and their country have reason to be proud. We can be proud because they set a goal, worked tirelessly to achieve that goal and joined together as a team to accomplish that goal. As far as I'm concerned, they were winners before they ever got to New York.

Congratulations to Dr. Hume and the students of the 1995 Model United Nations World Champions. And here's to sweet repeat in 1996.

HONORING MR. GOULD

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with the constituents of my district in honoring Mr. Morton Gould, who recently received the 1994 Pulitzer Prize for Music Composition.

The work for which he was honored is "Stringmusic" which was commissioned by the National Symphony Orchestra and first performed by the orchestra here in Washington in March of last year.

The Pulitzer is just the latest honor conferred on Morton. This past December, he was a Kennedy Center honoree for his lifetime contributions to American culture through performing arts.

Born in Richmond Hill, NY, on December 10, 1913, Morton Gould has been composing and performing as conductor of the major symphony orchestras in the United States and throughout the world for most of the 20th century. His first published composition appeared in 1920 when he was just 6 years old.

By the time he was 21, Morton was conducting and arranging a weekly series of orchestra radio programs for the WOR Mutual Network on which many of his orchestral settings were introduced.

A gifted composer, his work is characterized by its distinctively American flavor; it incorporates folk, blues, jazz, gospel, and western elements with the classic symphonic form. Among his more popular symphonic works are "Latin-American Symphonette," "Jekyll and Hyde Variations," "Spirituals for Orchestra," "American Salute," "Tap Dance Concerto," and "Derivations for Clarinet and Band," written for the late Benny Goodman.

In addition to the National Symphony Orchestra, his music has been commissioned by other major symphony orchestras, the Library of Congress, the Chamber Music Society of Lincoln Center, the American Ballet Theatre, and the New York City Ballet.

Morton's talents are not limited to the symphonic mode. His Broadway credits include the musicals "Arms and the Girl" and "Billion Dollar Baby" while his film scores include "Windjammer," "Delightfully Dangerous" and "Cinerama Holiday." His scores composed for television include "Holocaust," "F. Scott Fitzgerald in Hollywood" and CBS's "World War I" documentary series.

His list of credits is virtually endless. At age 81 he lives in Great Neck, NY, where he still is actively composing works which have been commissioned by major orchestras.

It is a pleasure to salute Morton Gould and bring the latest honor bestowed on this true American icon to the attention of our colleagues.

A TRIBUTE TO BETTY McLAUGHLIN, PRESIDENT, DISTRICT 29 VETERANS OF FOREIGN WARS LADIES AUXILIARY

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. COYNE. Mr. Speaker, I want to join today in offering a tribute to Betty McLaughlin, district 29 president for the Veterans of Foreign Wars Ladies Auxiliary. Betty McLaughlin will be honored on May 12, 1995, by the members of district 29 of the VFW Ladies Auxiliary.

It is fitting that the Members of the U.S. House of Representatives should have this opportunity to reflect on the patriotic civic commitment of a woman like Betty McLaughlin. Since joining the ladies auxiliary to the Veterans of Foreign Wars in 1970, Betty McLaughlin has given countless hours of her time in support of VFW activities that celebrate American values of family, community, and country.

Betty McLaughlin originally joined the VFW Ladies Auxiliary on the eligibility of her husband, Bob McLaughlin, who served with the 1st Calvary Division, 7th Calvary Regiment of the U.S. Army during World War II. They married in 1952 and currently reside in West View, PA. She and her husband have four children, Robert Jr., Linda, Robin, and Sean. They are also the proud grandparents of six grandchildren.

Betty McLaughlin has served in a number of leadership posts over the years since first joining the VFW's Ladies Auxiliary. She was elected president of the West View Auxiliary in 1973 when her husband Bob served as commander. They were the first husband and wife team to serve together as president and commander at the West View Post. During her first term as president of the West View Post, Betty McLaughlin was honored for her success at recruiting new members. She has been chairman of several committees, including Americanism and Loyalty Day Safety, Community Activities, and Cancer. She is currently serving as committee chairman for Cancer, and Americanism and Loyalty Day as well as trustee.

Betty McLaughlin's first appointment on the Allegheny County Council level was as a color bearer. After serving on many committees at the county council level, she was elected to the office of president of the Allegheny Council Ladies Auxiliary in June 1982. Betty McLaughlin was appointed department of Pennsylvania chief of staff by department president-elect Jean Gasior in 1990 and has held several State chairmanships, such as 1991 chairman of the Pennsylvania Western Area Chairman for National Home, the 1992 department of Pennsylvania chairman for Political Action Committee, and the 1993 Department of Pennsylvania western area chairman for Americanism and Loyalty Day.

While deeply involved with the VFW Ladies Auxiliary, Betty McLaughlin has also been active in her community and has given her time and energy to programs sponsored by local groups, churches, and schools. She has served as den mother, Brownie, and Girl Scout Mother. She is currently serving as advisor to the West View Junior Girls Unit. She has also served the last 6 years on the election board in her local community.

Mr. Speaker, in 1994, Betty McLaughlin attained the office of district 29 president of the Veterans of Foreign Wars Ladies Auxiliary. She has brought to this position the same dedication and spirit that she has demonstrated in so many positions since joining the VFW Ladies Auxiliary in 1970. I am proud to represent Betty McLaughlin as a constituent of the 14th Congressional District of Pennsylvania and I want to wish her and her family the very best. It is a distinct pleasure to join with the comrades and sisters of the West View Veterans of Foreign Wars Post 2754 and its auxiliary and junior girls in saluting Betty McLaughlin.

AMERICA AS EXPORT SUPERPOWER

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Ms. HARMAN. Mr. Speaker, the aftermath of the cold war presents America with a wide range of opportunities as well as challenges to its pre-eminent position in world commerce. To many, the source of our success provides comfort in the fact of these challenges. And, indeed, the skills and technology which created the military might by which we won the cold war afford us one means for shaping our future response.

But skills and technology alone are not enough. We must do more. We must carefully assess the international environment and understand more fully the nature of our competition abroad. Thus, while the United States is poised to build upon its superiority in world commerce, there are some questions which are part of our public debate which remain to be answered. Among them are the evolving relationship between government and business, industry's relative strengths and weaknesses, and how we can open markets currently closed to U.S. investment and products.

The answers to these questions are not easy ones. But a recent speech by my friend Michael Armstrong concisely presents some possibilities worthy of further discussion. Mike is the chairman and CEO of Hughes Electronics, a company highly successful because of its clear understanding of the international environment. I commend to my colleagues his remarks on making America an export superpower.

AMERICA AS EXPORT SUPERPOWER: REASSESSING GOVERNMENT'S ROLE IN ECONOMIC GROWTH

(By C. Michael Armstrong)

It is a tremendous honor to follow the long line of distinguished speakers to this podium. Since its founding in the wake of World War I, the Council on Foreign Relations has been at the very center of the public debate on America's place in the world—a forum for ideas, and a fulcrum for change.

I want to underscore right at the onset, that while I am privileged to serve as Chairman of the President's Export Council—and while my visits to Washington have been more frequent—I can still say, at this point, that the views I express today are my own.

TRANSITIONS: 1945–1995

I think all of us were moved by the celebrations—the commemoration—of V-E Day. That journey back to May 1945 to the beginning of a post-war era that was prelude to the long Cold War no one could yet foresee—has undeniable parallels to our present. Today, we are once again making a difficult crossing—ending one era and entering the next: A new world, with new rules for the way nations cooperate—for the way nations compete.

As the historians in the audience today know better than I, the outlines of our era are only now becoming clear. Just as American GIs shook hands with Ivan at Torgau on the Elbe in 1945—only to find an implacable Soviet Union blockading Berlin in 1948—periods of transition unfold in unpredictable ways.

The distance from 1995 back to the fall of the Berlin Wall or the implosion of the Soviet Union may seem significant—but in the handful of years since those events, we are only now beginning to seize the opportunities—to shape a future—beyond the Cold War's long shadow.

Already we see more clearly that with the passing of the Cold WAr, the coming competition will be less military than economic: Dominion will be defined by the development of new technologies and economic performance. I am convinced: If the measure of our Cold War strength was military—America's destiny in the remainder of the century is as an Export Superpower.

As the first generation after the Cold War—we have an opportunity that is also an obligation. History will judge what happens on our watch.

If we are to sustain our role of global leadership and expand our country's economic well-being, it will only happen if America is the export superpower of the world.

And there are signs we are on track:

We've just passed Japan and Germany to regain the top spot as the world's largest exporter—12.8% of all global trade, compared to 10.5% for Germany and 9.9% for Japan.

U.S. exports, according to the latest Department of Commerce estimates, are projected at double-digit growth—up from a still-impressive 5 to 7% as recently as one year ago.

Broad, bipartisan leadership has passed NAFTA and now GATT, opening the way to expanded trade opportunities that will boost GDP and job creation.

So with all this good news—what's the problem? Why are some of us more concerned than confident?

Because the positive signs I've just mentioned coexist with a more worrisome record: A record that points to a far different future—to a competitive implosion so fundamental it could amount to gradual economic disarmament.

We've got to ask:

Does a decade-long trade deficit of $1.1 trillion dollars define an export superpower?

Does a 10-year, $2.1 trillion federal budget deficit—a budget that hasn't been balanced since 1969—define an economic superpower?

Does an education "deficit" that produces students that rank consistently in last place among industrialized nations portend a leader of the societies of this world?

We've had a good run at economic success for 50 years, but I happen to believe that we succeeded so well economically after World War II also because of some fundamentals:

First, we won the war without internal economic destruction. As a result, we quickly re-tooled our war economy and dominated global commerce.

Second, we firmly established the world's foremost public education system including a GI bill that opened the door of opportunity to millions throughout our society.

And third, we let the market system sort through our problems which gave an adaptive America room to restructure to compete.

But is the market system alone enough to deliver America's economic destiny? Just what should the government's role be to enable our businesses to compete globally; to enable our people to enjoy a standard of living second to none; to enable our nation to preserve where history has witnessed the demise of others.

TECHNOLOGY V. BUREAUCRACY

To answer this, we must recognize two new realities that are currently transforming our world: First, with the fall of the Berlin Wall and the Soviet Union, we are witnessing the fall of economic, social and cultural borders as well. There is an unmistakable, irreversible trend toward open markets—to the reality and the bounty of a global village.

Second, the phenomenon that defines our age—the speed of technology in bringing new products, new capabilities, new markets, new lifestyles and new economics. In contrast to the past, where either government or mega-corporations defined markets, today the contest pits the speed of technology versus the speed of bureaucracy—or, more precisely, the lack of it, as the information age makes a mockery of borders and barriers of all kinds.

It is in this context that we should ask, "How much Government do we need?"

I believe the answer is simply, just enough.

Just enough: No more—and no less government than we need to sustain a globally competitive society.

Enough government means getting the right government where we need it—and getting rid of it where we don't.

While the premise of "just enough" is hard to dispute, the devil is in the details. Thus, I would propose we answer two questions with each policy and factor-in our quest for exports:

What government must do.

What governments should not do.

COMPETITTIVENESS, EXPORTS AND ECONOMIC GROWTH

As we explore this question of government's role in America's export competitiveness, I want to be clear that our country's economic responsibility makes demands of the private sector as well as public policy.

While business cannot overcome a government that shackles it with a bureacractic ball and chain, nothing government can do—no policy/no practice/no politics—will spark our economic engine if American business is not competitive.

There is sometimes a certain "no-fault" mentality that's crept into American management. The antidote is accountability.

The ancient Romans had a tradition: Whenever one of their engineers constructed an arch—as the capstone was hoisted into place, the engineer assumed accountability for his work in the most profound way possible:

He stood under the arch.

If his construction was shoddy—he would be the first to know.

With out market systems, American management must, at the end, stand under the arch.

And we've had our share of fallen arches. Historically, the companies that did not respond to the international challenge are the companies that did not reap the rewards. Look back at the list of companies at the top of the first-ever Fortune 500, compiled back in 1955: Of the Top 50—⅓ have dropped off the list/another ⅓ have merged—only ⅓ are still going strong. Whatever their industry, the companies that have kept their place all share one common trait. They took their American business international—conquering new markets to create new growth.

Now look ahead—to the export opportunities we enjoy: Over the next two decades, 12 countries with a combined population of 2.7 billion—more than ten times the population of the United States—are expected to account for 40 percent of all export opportunities. For countries as well as individual companies, there's a world out their hungry for the goods and services we provide.

The question is whether American industry is up the challenge. Many of you know the studies by the Council on Competitiveness of U.S. industry's strengths and weaknesses in 94 critical, cutting-edge technologies. The most recent review showed some positive movement—but also distressing evidence of the distance we've got to go to make our positions more competitive.

While the U.S. has improved its position in 22 categories—a closer look reveals the sobering part of the story. In 11 of those 22 areas we moved from the last category—"losing badly or lost"—to "weak." In the other 11, we moved from "weak" to "competitive." In not one case—not one—did we move from competitive to strong.

Now, getting off the critical list is welcome news for anyone—but finding out the patient has a pulse isn't the same as watching him hop out of bed and run a marathon.

WHAT GOVERNMENT CAN DO

My promise is thus quite straightforward, if we are to be an export superpower, it takes both a competitive commercial base and a competitive government system. For the most part, over time, our market system should define and produce a competitive commercial base. But it is up to all of us to define the role of government in our pursuit of exports.

To begin, I'd suggest what government must do.

First, while we may need a balanced budget to discipline our politicians, what we need for export growth is a balanced economy.

We need a reasonable balance between our country's investment accounts and its "care and feeding" accounts. Undisciplined deficits and a disabled dollar are critical challenges government must address.

We need competitive and well educated graduates coming out of our schools if we are going to have competitive products to export. It is not enough to delegate such a national policy to thousands of individual communities to solve alone. A national consensus should be followed by a thoughful results-based education strategy.

We need a political balance in our system of government that is both principled and practical—that is responsive, committed and gets things done. If we elect people to spend their time serving society, we are out of balance if they spend half their time running for re-election. Whether it takes the form of campaign reform or term limits—a better balance must be struck.

Second, government must act to open markets for our exports and our investment.

The passage of NAFTA and GATT will serve trade expansion well—and the passage of these landmark agreements was surely a signal from both ends of Pennsylvania Avenue that America's destiny is tied to trade.

However, we need to build on those successes, and open the markets of the second largest commercial nation in the world. We should all support the difficult negotiations now underway with Japan. It will never be easy; it will take understanding and trust on both sides; but it must be done now. Hopefully, if sanctions are required, they will limit Japan and not just layoff Americans.

We need to sustain our support for Mexico, our third largest export market. It is not politics; it is not Federal Aid; it is not a give-away to banking interests; it is simply in our economic self-interest.

We need to ensure market access to U.S. consumer goods—taking aim at restrictive standards designed to keep foreign goods out and protect domestic producers.

We need effective, strategic negotiating authority in government to respond, act and conclude. Fast-track negotiating authority is not an option—it is a necessity—if we really want to open markets.

And while we drive to open markets, we should concurrently demand that respect for intellectual property rights must be a condition of access to our market.

Third, in addition to opening markets, all of our government must act as an export advocate. While we now have a sensible and thoughtful National Export Strategy, we need support and follow-through in the marketplace. It is terrific to see Commerce, Defense, Transportation, Energy and Ambassadors around the world, not only stating their support, but engaging to help make things happen. But we need more advocacy; more agency coordination and consolidation; more leadership in the markets, not just at the podium.

However, I've heard proposals to reorganize the U.S. Foreign and Commercial Services—newly named the Commercial Service—a network of offices across the country and in our embassies whose clientele is American companies trying to break export barriers and win business. This is an area where our present policy makes sense—change would be a mistake. It ain't broke—so don't fix it.

Fourth, at times, government must act as an export financier. This is not a disguised form of foreign aid. This is a market necessity for large and small American businesses to compete abroad and create jobs at home.

There are many instances where businesses and banks with their balance sheets should fear to tread. Where the risk, the venture, or the competition dictates that the appropriate role of government is as guarantor.

There is a critical roll for established institutions like the Export-Import Bank. Ex-Im can help broker blockbuster deals—like the recent $500 million package for Indonesia's first-ever private-sector power project. Without Ex-Im's political risk coverage, projects like this one would not go forward—and the loss wouldn't just be Indonesia's because, in this case, the project will provide 7000 new American jobs.

And the benefits of export financing and export advocacy should flow so that small businesses can become powerhouses in the export game. There is no reason the small firms in the industrial park down the street can't export to markets around the globe. It ought to be possible in America to be an export entrepreneur.

Fifth, we must recognize that long-term export expansion and technology leadership are synonymous. To assure direction and application, we should enact a permanent R&D tax credit. However, I would add that irrespective of an R&D tax credit, businesses should be investing in R&D to satisfy their futures and stay ahead of their competitors. But tax policy in this country has often helped to shape our republic and assure our future. A permanent R&D tax policy today could help to do just that.

And sixth, we need U.S. export policy that addresses a globally competitive marketplace, not policies rooted in the Cold War, fashioned to contain communism rather than expand peace and prosperity. We should have an Export Administration Act that minimizes licensing requirements; that implements, where needed, a licensing process that is fast, fair and responsive; that places commodity jurisdiction within the government where it belongs—based on today's technology and markets; and a Munitions List that is rational to the realities of technology as well as the needs of national security.

Anything less constitutes a weakness of American competitiveness—anything less consigns our industry to a kind of bureaucratic Berlin Wall blocking American exports.

I disagree with the school of thought that suggests a strong export strategy equals a weak foreign policy. In fact, the truth is just the opposite: Strong exports mean more leverage—more options, more choice in our foreign policy.

In our current foreign policy, we seem to think technology can be quarantined by bureaucracy. The fact is: Technology travels. One nation's export ban is another nation's economic boon: An invitation to win trade opportunities while competitor companies are kept in the penalty box.

On this last point, an outdated Munitions List too often teaches the right lesson to the wrong people.

Last month, it was a businessman stopped at Customs for carrying a telephone on a foreign trip. The phone was equipped with a security scrambler—a technology on the Munitions List.

And that made the telephone a dangerous weapon—right along with ballistic missiles and nuclear warheads. Meanwhile, any foreign national can walk into an American computer store, buy the same encryption software that makes the phone secure—and take it out of the country. And even that is a waste of a plane ticket—because anyone on the internet can e-mail the program, anywhere in the world. You can even print the computer code on a mailing label and send it abroad—for the price of a postage stamp.

In fact, there's only one way you can't carry or sell that software abroad—and that's if you're an American citizen.

While the government is busy managing exports based on yesterday's threats and technology, the 1995 Cadillac now has more computing power under its hood than the original guidance system that landed the Apollo space capsule on the moon.

The examples are legion:

In the 1970s the average interval between taking a computer from the drawing board to the market was 7 years.

Today, in some cases, a new generation comes along every 12–18 months.

70% of American computer products have a shelf-life of less than 18 months.

Some of the fastest growing foreign markets—some expanding as much as 7 to 10% per year—are among the 50 to 60 countries designated as "sensitive" on the Munitions List.

That's one-third of all the countries in the world—fenced from U.S. high-tech goods and services.

We've got to recognize the inherent tension between the speed of technology and the speed of bureaucracy: Government policies that slow non-threatening technology will cost this country its competitive position in the marketplace.

I am encouraged that secretaries Christopher and Brown have pledged their support to work with each other, and the Congress, for the passage of an effective Export Administration Act this year.

Each of the issues I've identified argue for what is just enough government.

While 19 agencies may be too many to achieve a coherent trade policy . . .

While the finance function government performs may be fine-tuned . . .

While government's role in advocating U.S. exports may be activist in a number of ways . . .

We cannot lose sight of the positive role government must play in promoting our economy's export engine. To do anything less would be to abandon our destiny as an Export Superpower—and put ourselves on the path to economic disarmaments.

If these are the areas where we need the right kind of government to support export expansion, there are also areas where we need government to change or get out of the way.

The most difficult policy that needs to be addressed is also one of the most economically damaging policies of our government. I'm speaking of the use of unilateral economic sanctions. Generally speaking, history has judged unilateral economic sanctions as an unsuccessful policy to change errant behavior. Only if unilateral sanctions are a means of leadership to bring about multilateral sanctions, are the chances of success able to justify the cost at home.

That's not the case when we take a go-it-alone approach to sanctions. I would cite two examples.

In August of 1993, the State Department invoked unilateral economic sanctions against China for violations of the MTCR. This was due to alleged shipments in 1992 by China of M-11 missile parts to Pakistan. The State Department chose to extend interpretation of the Munitions List to embedded technology. Based on this interpretation, it then forbade the export or launch of commercial communications satellites.

As a result:

Australia and Hong Kong could not launch their Hughes satellites—satellites that would primarily be carrying home TV, much of it American programming.

The Chinese canceled their orders with Hughes for 2 satellites, mainly to be used for tying their banking system together. This was a $400 million order worth hundreds of American jobs.

Then, after Chancellor Kohl visited China and pointed out the differences between American and German policy, China canceled a joint agreement to build 10 sat ellites—and transferred this multi-billion dollar agreement to Deutsch Aerospace. Thousands more jobs were lost.

The sanctions did little to hurt China—but they certainly registered in California, creating a new wave of unemployment potential among people already dealing with difficult times.

Now, there are times when government gets it right. When the issue was piracy of intellectual property rights involving American-made movies and other software, the U.S. threatened the Chinese government—and it paid off, with quick and conspicuous results. We taught the right lesson to the right people.

The tragedy is that if there was some process, some required involvement with affected industry, its possible sanctions could be implemented without sustaining such large self-inflicted wounds.

Presently the U.S. has just invoked broad unilateral sanctions against Iran. There is no question in my mind—and no lessons we can look to—that suggests sanctions will change the behavior of Iran—unless they are multilateral. The purpose of sanctions cannot simply be to feel politically justified. The purpose, of course, must be to change errant behavior.

In imposing unilateral sanctions, this step by the United States should be our calling card for them to join us. If this is not the charge to the State Department, then the outcome will merely be a shift in the flow of commerce, a few thousand fewer jobs in America, and more important, no change in Iran's behavior.

To learn from the lessons over time of unilateral economic sanctions, I strongly urge the Administration to put in place a process to involve industries affected and a policy that recognizes that multilateral sanctions, and "reverse" sanctions on the offending country are the only effective means to achieve our security objectives.

Yes, Ladies and Gentlemen, the end of a century is like a hinge in history: A time to look to at the past—and always a time to complete the unfinished work of the future. The steps we take in the final five years of this century could well spell our destiny in the next.

Failure to understand the public and private economic imperatives of export expansion, will put us on a slow but sure spiral into economic disarmament: Will earn us a page in history offering a painful lesson in decline—a lesson made more bleak because our prospects were so bright.

Success—traveling the path that leads to our destiny as an Export Superpower—will bring a standard of living and a level of security the likes of which earlier generations could never have dreamed possible.

To realize that future: We must all pay attention . . .

And America must act.

Thank you.

TRIBUTE TO ELFEGO BACA

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. RICHARDSON. Mr. Speaker, many of us have spoken at great length about the cowards responsible for the bombing of the Federal building in Oklahoma City. With all this talk about cowards, I thought it might be helpful to remind my colleagues that while our country is plagued with cowards from time to time, we have a rich history of heros and famous sons and daughters. One such famous son is Elfego Baca who to this day—more than 110 years after his remarkable feat in New Mexico—is still remembered fondly by New Mexicans.

An encounter between Elfego Baca and some Texas cowboys in the fall of 1884 has to many in the New Mexico Hispanic community resulted in the elevation of Baca to heroic status.

Elfego Baca was born the youngest child to a family of Spanish ancestry in 1865. During his youth, he held a job as a clerk in a merchant's store in Socorro County, NM. Several years later in 1883, Baca experienced his first introduction to the legal side of law enforcement.

Socorro County was undergoing rapid economic growth with the development of the Santa Fe Railroad. This expansion brought new faces to the area—laborers, miners, and ranchers to name a few. Many of the Texan newcomers held the local native community in low esteem. These cattlemen would often ride inebriated through town while shooting their guns. Obviously this posed a dangerous problem to the safety of the community so Sheriff Simpson called on Baca to help chase the cowboys out of town. Consequently, Elfego was appointed deputy sheriff for Socorro County.

It is still a mystery why Baca travelled to San Francisco Plaza in October 1884, but his confrontation with some Texas cowboys is what made him a legend. Shortly after arriving, deputy Baca encountered Charles McCarthy who was firing his pistol in a local saloon. Baca quickly took control and brought McCarthy to the justice of peace. McCarthy paid a fine and was released, but again repeated his lawless actions and was again arrested by Baca. McCarthy had fired his gun directly at Baca, so the deputy decided to guard the drunk prisoner in a private house in town. This enraged the other Texas cowboys and created an enormously tense scenario between them and deputy Baca. That night, a mob of stockmen threatened Baca for the release of McCarthy, but the deputy declined and held off their advances. It finally came to a head when Baca fired shots to disperse the mob and shot a horse which one of the cowboy's was riding, pinning the rider and crushing him to death.

The cattlemen used the following day to muster up their forces in retaliation of their comrade's death. Baca meanwhile hid in a small shack just outside town. When the cowboys finally tried to storm the house, Baca fired at the intruders, hitting one man in the chest and killing him. The infuriated gang of Texas cowboys that had congregated outside returned fire at the house but were unable to dislodge Baca from his fortification.

Finally after nearly a day of hiding out, the justice of peace issued an arrest warrant for Deputy Sheriff Baca. Baca surrendered under the condition that his life be spared from the cowboy mob and that he receive a fair trial in Bernalillo County with an Hispanic jury. Baca was acquitted under the grounds of self-defense.

The story of Elfego Baca demonstrates a man's will to preserve justice in a land and time of rampant corruption and bullying. Baca's bravery instilled hope to the native New Mexican people who upheld the laws of the land and refused to succumb to racial injustices.

I urge my colleagues to join me in paying special tribute to Elfego Baca and the countless numbers of other American heros and famous sons and daughters who have helped make this country great.

TRIBUTE TO THE BERNIE V. GUTHRIE SQUADRON

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise today to honor the Bernie V. Guthrie Squadron, a charter member of the Arnold Air Society, located on the campus of South Dakota State University in Brookings, SD. The Guthrie Squadron was established in 1951, and named in honor of Capt. Bernie V. Guthrie, an Air Force pilot who was shot down over Hamm, Germany during World War II.

Since its establishment, the Bernie V. Guthrie Squadron has had an outstanding record of accomplishment and community service. The squadron instituted an annual veterans vigil, which began as a local project in the late 1980's and was expanded into a permanent nationwide project in 1991. In addition, the Guthrie Squadron sold POW/MIA bracelets at South Dakota State University to increase student awareness of POW/MIA issues, and instituted a POW/MIA name tracing project which included all area squadrons.

The Guthrie Squadron has also served the community and the State by organizing blood drives, participating in the Big Brother/Big Sister Program, and working with handicapped children and adults. It has received numerous honors, including the Outstanding Squadron of 1992, the Outstanding State Service Award, and the Jaycees Community Service Award.

I ask my colleagues to join me today in recognizing the achievements of the Bernie V. Guthrie Squadron, and to encourage the squadron to continue its long and proud tradition of service in South Dakota.

HONORING THE CROATIAN FRATERNAL UNION

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to congratulate the Croatian Sons Lodge No. 170 of the Croatian Fraternal Union on the festive occasion of its 87th anniversary and 50-year-member banquet.

This year, the Croatian Fraternal Union will hold this gala event at the beautifully renovated Croatian Center in Merrillville, IN. Traditionally, the anniversary ceremony includes a recognition of those members who have achieved 50 years of membership. Honorees who have pledged their allegiance include: Vincent Brebrich, Bessie Briski, Marko Buncich, Edward Carija, John William Carr, Vera Depa, Julia Farrenkopf, Rose Marie Franz, Helen Griffin, Peter Hecimovich, Mildred Kennedy, Helen Lucas, John Meznarick, Lubi Paligraf, Steve Paulich, Violet Plummer, Delores Roppolo, John Simunic, Frank Sostaric, Ann Stankovic, Marie Vucich, Anna Wilson, and Peter Yukich.

These loyal and dedicated individuals share this prestigious honor with a total of 256 additional lodge members who have attained this status.

This memorable day begins with Mass at St. Joseph the Worker Catholic Church in Gary, IN, officiated by the Reverend Father Benedict Benakovich. Croatian Fraternal Union national president, Bernard Luketich, will be this year's distinguished guest speaker. Festivities will be enriched by the music of the Croatian Glee Club, "Preradovic," directed by Brother Dennis Barunica and by the Hoosier Hrvati Adult Tamburitza Orchestra, directed by Ed Sindicih. In addition, the Croatian Junior Tamburitzans will perform under the direction of Dennis Barunica.

I am proud to commend lodge president, Elizabeth Morgavan, as well as every member of the Croatian Fraternal Union Lodge No. 170, for their loyalty and radiant display of passion for their ethnicity. It is my hope that this year will bring renewed hope and prosperity for all members of the Croatian community and their families.

CONGRATULATIONS ADAMSVILLE HIGH SCHOOL

HON. ED BRYANT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. BRYANT of Tennessee. Mr. Speaker, I rise today to congratulate the Adamsville High School Cardinals for the outstanding 1994–95 basketball season they enjoyed.

It gives me great pleasure to pay tribute to one of the outstanding high schools in the State of Tennessee, and at this time, to specially recognize their runner-up status in the Tennessee State Basketball Tournament in Mufreesboro, TN.

Head Coach Greg Martin, in his first year in that capacity, directed the team, with the able assistance of Assistant Coach Rick Coffman. Coach Martin won the District 15A Coach of the Year Award for his outstanding effort.

At a time when some question the commitment and work ethic of our youth, those 15 young men dispelled that myth with their team efforts. Led by All-State Tournament Team member Matt Hoover, the Cardinals also included Michael Cleary, Tony Engle, Jon Luna, Casey Meek, B.J. Sherron, Chad Wyatt, Tracy Carter, Nick Ernest, John Hoover, Luke Rogers, Dexter Chambers, John Massey, Steven Moore, and George Root.

Also to be commended for this outstanding year are the school principal, Mark Massey; athletic director, Fred Carroll; and cheerleaders Christy Carroll, Stephanie Gibbs, Dana James, Brook Garner, Keesha Bromley, and Tracey Harris.

Mr. Speaker, I would ask that all members join me in paying tribute to the Adamsville High School basketball team as it celebrates another outstanding season and such fine leadership and all-around young men.

H.R. 1601; THE INTERNATIONAL SPACE STATION AUTHORIZATION ACT OF 1995

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. WALKER. Mr. Speaker, today I am introducing H.R. 1601, The International Space Station Authorization Act of 1995. Mr. Speaker, this legislation will firmly establish America's fundamental commitment to human spaceflight for decades to come by committing the Congress to finish the international Space Station on time and on budget.

How often in the past 5 years has this House devoted its precious time and conducted purposeful debates on the fate of the Space Station, only to conclude each time to continue building it? Mr. Speaker, the House has consistently voted to support Space Station's development every time since it was proposed in 1984—under Republican and Democratic Presidents, through four significant redesign efforts, and under equally distressing fiscal circumstances.

In November, the American people voted for change in the way Congress does business. Surely the American people want Congress to stop wasting money on programs and subsidies they can neither see nor understand. But I believe the succession of votes the House has taken over 10 years to build the Space Station demonstrates the consternation over building it, lays only with some Members of the House, and not with the American people.

This legislation, to commit the Nation to finish what it has started, is a new way of doing business. It represents a change in the way Congress does business because it says, "here is our highest space priority, and we're going to finish it." Passage of a full-program authorization for the Space Station will be a breath of fresh air to those who have watched in amazement while successive Congresses have revisited, revised, and reinvented the Space Station year after year.

Mr. Speaker, the American people aren't among those who "know the price of everything and the value of nothing." Human space exploration is an adventure that affects us all in big and small ways. Space is and has always been an integral part of our science, our popular culture, and our science fiction. Americans are committed to a future for themselves and their children that includes space travel. So it is with a sense of triumph for that pioneer spirit that I am proud to introduce this legislation today, setting our priorities to make certain a future in space for this Nation.

The mechanics of this legislation to fully authorize the Space Station are simple. It gives the National Aeronautics and Space Administration the authority to proceed on its current, baseline Space Station development plan, extending from fiscal year 1996 through fiscal year 2002—for a total of $13,141,000,000, not to exceed $2,121,000,000 in any one fiscal year. The authorization is conditioned upon each year's success, meaning that NASA must stay on budget and on time for the legislation to remain effective.

As you can imagine, the best of all worlds would be to fully appropriate these funds in a full-program appropriation to mirror this legislation. We hope this can be done. This legislation is the first step towards the goal of achieving discipline and stability in the Space Station program.

By setting these norms and requirements in law—today we are still only working from NASA's word to the Congress—and making a contract with NASA for completion, I am convinced Congress and the American people will save money. The on-again, off-again nature of making space station budgets has increased the cost of the space station from $8 billion, as proposed in 1984, to $30 billion before the final redesign of the project last year. Most of that nearly 4-to-1 cost growth can be attributed to redesigns and fiscal stretch-outs called for by actions taken by the Congress.

Today, the space station will cost $13,141,000,000 to complete and begin operations, between fiscal years 1996 through 2002. This is a significant savings over earlier designs and projections. The redesign of 1993 was a redesign aimed at cost reduction, not cost stretch-out, while at the same time limiting the annual total to $2.1 billion.

Mr. Speaker, I believe we have seen enough of no good deeds go unpunished. NASA has succeeded in arriving at a design-to-cost space station that America can afford and in which that all nations can fully participate. Shall we reward NASA's success in this effort by redesigning the program again? If I were not convinced that this was the best space station attainable under the constraints we have given NASA and given ourselves, Mr. Speaker, I would not be able to offer this legislation today.

I would like to stress to my colleagues the compelling need for such a full-program authorization at this time.

First, let us agree there is no cheaper program for building a space station than this one. NASA looked in depth at three radically different redesign proposals and chose this approach in consultation with President Clinton. This is the bare bones space station Congress has been searching for, and it has been achieved with minimal sacrifices in capability. In fact, I am happy to report that the current design will offer more laboratory space and more power than any of the previous designs. But this is not a design that can be trimmed without radical restructure, and that is why the legislation requires a full program authorization. If we are to avoid wasting another nickel, a full program authorized to completion is necessary now.

Second, but also related to cost, is facing the question of human space development. Failing to complete this space station within the safe operational life of the space shuttle will constrain America to a humanless space program. I submit we are always at a critical juncture when it comes to keeping people in space. The human space program is expensive, always has been, and always will be, until it becomes a normal part of everyday life. Yet, if raiding the space station program as though it were the cash cow to fund other programs within NASA, or elsewhere in the Federal budget, is something Congress wants to do, it must be made aware of the consequence: America will abandon flying people in space except on Russian space systems. If we raid the space station budget, it will cause delays that I fear will extend beyond the space shuttle's planned operational life.

Another situation that requires us to act is the international nature of our partnership. We are committed by this design to cooperate in depth with the Russian space program, and that means we must be good partners not just do-gooders. It is of particular importance to them, to Europe, Japan, and to Canada, that Congress show it has chosen to move forward—not just for another year, but until the job is done. No other government in the solar system undertakes to build something of this scope and scale on a year-to-year basis. A full-program authorization will help focus the attention of the international partnership on those questions that affect the station's operations.

Finally, and this is profound in the context of today's budget battles, President Clinton chose the Space Station project alone to be spared from NASA's other budget cuts. That's right, Mr. Speaker, the President's tax-cut will not be funded by killing off America's future in space. This is important news, since the President's budget proposes significant cuts to NASA in general, but exempts the Space Station in particular. I believe the President has told Congress what I am saying here: Space Station is the highest national priority in space today and we must finish the job.

In conclusion, Mr. Speaker, I urge my colleagues in both parties that now is the time to either make the commitment to finish this important project or to abandon it. I believe the weight of the arguments and the success of past votes indicates the Space Station will win our full support. In the spirit of changing the way we do business and in response to President Clinton's leadership in supporting the Space Station as an international partnership, I believe that time has come to commit Congress to America's future: Space Station.

SALUTE TO SONNY DRIVER

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to recognize Mr. Sonny Driver, the publisher of Scoop, U.S.A., "The Community Peoples Newspaper," which reaches communities throughout the Philadelphia area.

Sonny Driver has always been closely connected to the heartbeat of the city of Philadelphia. Throughout his work in the management and promotion of some of our Nation's top entertainers, Mr. Driver saw a need for the exposure of minority entertainers and community businesses in the Delaware Valley. Mr. Driver created Scoop, U.S.A. to fill that void.

The first issue of Scoop, U.S.A. was published on February 28, 1960. In the first years of its publication, Scoop, U.S.A. primarily focused on the entertainment scene in the Philadelphia area. Over the years, it has expanded to report on all news and events which will encourage the positive development and growth of the community.

For 35 years, Scoop, U.S.A. has been a viable and informative publication. It continues to be an important medium for the entertainment industry, and a valuable source for the disbursement of information which is used by members of the community, local businesses, and national organizations. Scoop, U.S.A. is a place where positive achievements and events of community individuals and organizations can be found on a regular basis.

Scoop, U.S.A. is distributed every Friday in communities throughout the Delaware Valley and southern New Jersey. Each issue of Scoop, U.S.A. contains information to enhance the life of inner-city youth, homeowners, senior citizens, and community businesses.

In addition to his work with Scoop, U.S.A., Mr. Driver has provided other minority-owned publications in the Delaware Valley with technical and graphic assistance. Mr. Driver never hesitates to help others, including other publishers who may compete with him for local advertising. He is clearly committed to helping others whenever it is possible.

Mr. Driver has received numerous awards for the contribution he has made to the community through the services offered by Scoop, U.S.A.

I hope my colleagues will join me today in recognizing Mr. Sonny Driver for his great accomplishments and contributions to communities throughout the Delaware Valley. I wish him the best of luck in all his future pursuits.

HONORING MARTHA K. GLENNAN

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. DAVIS. Mr. Speaker, it gives me great pleasure to rise today to honor a woman from Northern Virginia who has given so much to her community and is being honored with the Fairfax County Citizen of the Year Award.

Martha K. Glennan, chair of the Fairfax Area Disability Services Board and president of Project WORD, Working and Organizing Resources for People with Disabilities, has been named Citizen of the Year by the Fairfax County Federation of Citizens Associations.

Under her leadership as chairman, the Fairfax Area Disability Services Board completed the first community needs assessment, focusing on more than 29,000 adults with disabilities. Recommendations targeted State and local service delivery system changes, as well as needs for housing, health transportation and employment.

She has spoken out forcefully on the need for Fairfax County to move forward and comply with the Americans with Disabilities Act. Her very presence in a meeting challenges preconceived notions about disability. She is knowledgeable, innovative, and skilled, using her sense of humor to press home her point.

The Fairfax County Federation of Citizens Associations is a 56-year-old, non-partisan, non-profit volunteer-run organization that serves as the umbrella group representing more than 200 Fairfax County civic and homeowner organizations. Through its committee structure, the Federation addresses a broad scope of county-wide concerns in the areas of transportation, education, budget and finance,, health and human services, public safety, land use, environment, and other issues of concern to county citizens. The Federation often works closely with other county organizations to pinpoint issues of community concern before the Fairfax County Government, the Virginia General Assembly, and other governmental bodies.

Mr. Speaker I know my colleagues join me in honoring Martha K. Glennan and two Citation of Merit award winners, Kathryn Brooks, 84 for providing older Americans an opportunity to continue their education and Marilyn Gould, for her contributions to Northern Virginia Community College, Leadership Fairfax and the Council for the Arts. These citizens are to be commended for their outstanding achievements and hard work for the community.

TRIBUTE TO MORROW BROWN GARRISON

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. FAWELL. Mr. Speaker, I rise today to pay tribute to Morrow Brown Garrison, a civic leader in my district and a national leader in manufacturing technology. He exemplified what is best about this country—hard work and commitment. He was born on March 21, 1930, to Leldon D. and Grace Lorraine Garrison.

Gary, as he was known to his friends, volunteered for the U.S. Navy at the age of 18. He served from 1948 to 1952. Those 5 years of active duty included a tour of duty in Korea and two in the European theater. Gary earned the rank of first class petty officer on the U.S.S. *Johnson.* He received an honorable discharge with a good conduct medal and a captain's commendation.

While his ship was docked in Newport, RI, he met a charming young woman named Gertrude Bouzan. When Gary returned to civilian life he married Gertrude on June 13, 1953. His new wife's family and his commitment to completing his education would keep him in the New England area.

Gary pursued his education at Northeastern University. In 1957 he received his bachelor of science with a major in accounting. Accomplishing this was no easy task. He needed to take two jobs, as both a painter and as an apprentice building superintendent, to pay for his education which he pursued during the day. The late 1950's brought on yet another stage in Gary's life. This stage would be marked by the birth of his only child Brenda Gail Garrison.

In 1964 he took a position as controller of Snow Manufacturing Co. This company was soon after bought by Wallace Carroll. This transition would begin an association that would form a major portion of his working career. Gary's commitment and loyalty to the enterprise was quickly noted and he was made a vice president in 1972. Gary's hard work was also noted and he was soon given more duties and responsibilities.

In the 1970's and 1980's he served as vice president and director of American Machine and Science, Inc. [AMSI], another company owned by the late Mr. Carroll. Gary would later become president of AMSI group of companies. In the late 1980's he was appointed to serve on one of the committees of the National Machine Tool Builders, now known as the Association for Manufacturing Technology. His good suggestions and hard work earned him election in 1987 as treasurer of that organization.

Gary served as chairman of the association from 1993–94. In that capacity, he represented the association on matters of trade, technology, political, and legal matters. He led conferences and missions in Bangkok, Thailand, Japan, Hawaii, and Washington, DC. Gary was able to see some of his recommendations enacted into law by the U.S. Congress.

Gary will be remembered fondly by the many friends and family he leaves behind. He was loyal to both his friends and business associates. This loyalty was shown through his dedication to CRL industries, of which he worked for in some capacity since 1964. Gary cared for his community and friends and was generous with his time.

His memory will be cherished by his wife of 42 years, Trudy, and by his daughter and son-in-law Brenda and Ward Hinds, his brother Don and wife Barbara Garrison, and sister Dorothy and husband Daniel Nix, and sister Margaret Hauser.

Mr. Speaker, Gary was a caring individual who achieved a great deal in his lifetime. He was a leader in his community, in his business, and in national and international manufacturing technology. He will be well remembered. My most heartfelt condolences go to his friends and family.

TRIBUTE TO LT. COL. TODD E. BLOSE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to Lt. Col. Todd E. Blose for exceptionally meritorious service from July 1993 to May 1995, while serving as the last commander of the Sacramento Depot Activity.

The closure of the Sacramento Army Depot has been an unparalleled success and has become a standard of excellence held up at the highest levels of the Army and Department of Defense. In all aspects of the closure, environmental cleanup, transfer of missions and equipment, transition of real property, and reuse of the facilities, the Sacramento Depot Activity family has led the way with resourcefulness, innovation, and dedication.

Lieutenant Colonel Blose has been the leader of this process, collaborating with a very diverse group of individuals and agencies at the local, State, and Federal levels. Closure of the base was completed 2 years ahead of the original base closure schedule saving over $10 million in fiscal year 1994, $7 million in fiscal year 1995 and $1.5 million in caretaker funds in fiscal year 1996 and fiscal year 1997.

This accelerated closure could not have been accomplished without the impressive support received from the civilian employees who were, in fact, losing their jobs through the closure. Lieutenant Colonel Blose convinced the employees that he would work hard on their behalf and gained their promise of dedicated service to support the closure process. He carried through on his promise and was able, through extensive and aggressive outplacement efforts, to place all but 161 of the original 994 employees on board when he arrived. These 161 have continued to receive support and 10 have received subsequent job placements.

Lieutenant Colonel Blose led the efforts to complete the necessary environmental documentation for closure, have the appropriate agencies review the findings, and gain their approval. Many real estate and environmental proceeding actions and negotiations had to take place concurrently so that all required documents were in place by the target closure date on March 3, 1995. There were numerous challenges encountered during the past 2 years, none more difficult than completing the radiation surveys at the depot and gaining delicensing approval. Lieutenant Colonel Blose's knowledge of radiation issues and his skill in teamwork and persuasion were vital in coercing reluctant bureaucracies to expedite their efforts on the depot's behalf and to maintain the proper balance of cost versus risk.

Lieutenant Colonel Blose also played a key role in establishing and cochairing the Restoration Advisory Board, which reviewed and ultimately supported the cleanup process. He also provided valuable input and counsel to the city of Sacramento Army Depot Reuse Commission. The resulting reuse plan laid the groundwork for attracting Packard Bell Electronics to the depot site, completely replacing the former depot work force and providing the basis for the city's $7.2 million payment to the Army for the property in 2005.

In his command tour at Sacramento Depot Activity, Lieutenant Colonel Blose set a tone of professionalism, teamwork, and compassion. He challenged his staff and employees to perform extraordinary efforts and they responded with an accelerated closure which is being cited as the national model for base closure, environmental cleanup, and reuse. I ask my colleagues to join me in saluting Lieutenant Colonel Blose's exceptional leadership performance, which is a credit to himself, the Tooele Army Depot Complex, the Industrial Operations Command, and the U.S. Army.

ADULT EDUCATION AND FAMILY LITERACY ACT OF 1995

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. KILDEE. Mr. Speaker, today I am introducing along with a number of my colleagues the Adult Education and Family Literacy Reform Act of 1995. We are pleased to join with the Administration of this effort to improve the way literacy services are provided to adults and families.

There is a literacy crisis in this country. As the 1993 National Adult Literacy survey shows, more than 20 percent of adults performed at or below the 5th grade level in reading and math—far below the level needed for effective participation in the workforce. And because a parent's educational level is a strong predictor of children's academic success, the effects of this crisis move from one generation to the next with tragic regularity. Despite the obvious need for literacy services among our Nation's adults, the Adult Education Act serves only a small percentage of those people who need help. This fact was underscored by the recent National Evaluation of Adult Education Programs. While many adults benefit from participation in the program, many leave before they achieve any literacy gains. Overall, the current design of adult education and family literacy programs is too diffuse and diverts human and financial resources from what should be the focus of all Federal literacy efforts; the provision of high-quality, results-oriented services.

The literacy crisis we are facing as a Nation are serious, ranging from the diminished productivity of business and industry to the inability of parents to help their children do better in school. In response, the Adult Education and Family Literacy Reform Act creates, by consolidating a number of related programs into a single grant to States, a performance partnership designed around five broad principles—quality, flexibility, streamlining, consumer choice, and targeting.

The bill responds to concerns regarding the potential duplication of adult education and family literacy programs by creating a single funding stream to States. It consolidates separate discretionary programs for library literacy, workplace literacy, and literacy programs for prisoners and the homeless. The bill will ensure that the needs of at-risk populations are met and requires States to assess the adult education and family literacy needs of the hard-to-serve and most-in-need.

Demand for adult education programs has exploded in recent years for reasons as varied as the need to learn English to become an American citizen, to upgrade employment skills, to obtain a GED, to learn to read and dozens of others too numerous to list today.

I hope you will join me in helping American adults reach their full potential as citizens. Please call Sara Davis or my staff.

NATIONAL VOLUNTEER WEEK

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Ms. KAPTUR. Mr. Speaker, I rise today to recognize efforts in Northwest Ohio to celebrate the beginning of National Volunteer Week in America. It is very hard to imagine our country without its corps of ready, willing and able volunteers. So strong and proud is America's history of volunteerism, that the concept and nature of "American Volunteerism" has become an institution by which the world recognizes and understands our national identity of compassion and caring for our fellow humankind.

Has there ever been a time in our history that there were not volunteers ready to lend a hand? Beginning with Paul Revere and extending right through to the response of emergency and medical personnel to last week's tragedy in Oklahoma—Americans have always been ready to help their fellow citizens.

While volunteerism in America does not always manifest itself in terms as dramatic as when every available doctor and nurse within a 100-mile radius and beyond rushes to the scene of a tragedy, it is no more important or devoted than the millions of Americans who respond daily and regularly to the unsatisfied needs of their communities.

Here in our community, volunteers feed the hungry, shelter and minister to the homeless, reach out and touch minds that are eager to learn and spirits that yearn to fly. Even in the lives of those whose needs are not borne from necessity, but whose pursuits are dedicated toward service and improvement, volunteers make the day.

I know my colleagues join me in recognizing National Volunteer Week and in saying to every citizen in our community and country who works for a recompense that no amount of money can satisfy, thank you for answering the call, thank you for helping make our country a better place.

TRIBUTE TO DR. NEAL THOMAS JONES

HON. THOMAS M. DAVIS

OF VIRGINIA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. DAVIS. Mr. Speaker, my colleague and I rise today to pay tribute to a fine individual of the Eleventh District of Virginia, who has contributed so much to his community.

Dr. Neal Thomas Jones retired as pastor of Columbia Baptist Church in Falls Church, Virginia April 30, 1995 after twenty-six years of dedicated and faithful service. Under Dr. Jones' leadership, the congregation became one of the largest congregations of any faith in Virginia and a leader among Virginia Baptists. Because of his vision, Columbia Baptist has extended its reach far beyond the traditional religious activities to include an array of intensive community services. Among them are:

World Friends, which provides English As A Second Language Instruction for more than 100 people each week.

Church and Community Ministries, which provides food, clothing, furniture, rent, and transportation to more than 500 people annually.

Columbia Child Development Center which provides Day Care for approximately 200 children on a year-round basis; Care-A-Van which at its peak delivered more than 200 meals weekly and served as a life line for many rescued from homelessness.

Counseling Ministry, which involves crisis prevention and crises prevention measures such as marriage preparation and parenting classes.

Columbia Institute of Fine Arts, which provides instruction to the community in fine arts.

In addition, Columbia Baptist facilities have become a vital resource for various community support groups including Alcoholics Anonymous, Survivors of Incest, Narcotics Anonymous, Alzheimer support groups, Alzheimer Day Care Program, Family Nurturing Training Program, Muscular Dystrophy and other support groups.

Columbia Baptist Church's other activities include working with local Police Departments to provide summer camps for children from disadvantaged areas, working with city and county agencies to provide a myriad of community services to the poor and disadvantaged, and fostering a sister relationship with the Baptists of Moscow before the days of normalized relationship. Furthermore, Columbia Baptist provides facilities for various community events including regional conferences on drug abuse and prevention, and mental health services related to aging, including the White House Conference on Aging in 1995.

Mr. Speaker, we know our colleagues join us in honoring Dr. Jones whose church has attracted the neediest downtrodden elements of our society along with diplomats, members of Congress, professional football coaches, and others who sought spiritual inspiration.

A TRIUMPH OF COMMON SENSE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. BEREUTER. Mr. Speaker, Washington, DC's, Metro deserves high praise for its steadfast resolve which resulted in a common sense agreement on its subway platform edges. Last year, the Department of Transportation insisted that Metro install costly platform edges with bumps in order to warn blind riders and comply with the Americans with Disabilities Act. However, this huge expenditure would have resulted in little, if any, benefit. In fact, there was disagreement among the organizations representing the visually impaired about the merit of the platform edge requirement. This appeared to be yet another case of the Federal Government forcing compliance simply for the sake of compliance rather than making an effort to meet an actual need. On June 13, 1994, this Member wrote to Metro's general manager, Lawrence Reuter, to urge him to stand up to the DOT bureaucracy and fight for a practical solution. A copy of the letter was also sent to Transportation Secretary Federico Peña.

This Member is pleased that a reasonable agreement has now been reached between Metro and the Federal Transit Administration. Under the agreement, Metro will install a system of transmitters that will allow visually impaired riders wearing wrist beepers to be signaled when they are too close to the edge of the subway platform. This system will be much less expensive than the proposed bumpy platforms and should also provide a higher degree of safety. This Member also commends the Federal Transit Administration for finally demonstrating common sense and flexibility in arriving at this agreement. Too bad it took a confrontation to reach a common sense solution but sometimes that is necessary.

Mr. Speaker, this Member commends to his colleagues the following editorial in support of the agreement from the April 27, 1995, edition of the Washington Post.

METRO PLATFORMS: REASON PREVAILS

It had all the earmarks of a classic legal regulatory battle between a regional agency and the federal government: Metro General Manager Lawrence G. Reuter was bucking an order from the federal government under the Americans With Disabilities Act to rip out and replace all of its subway platform edges as a safety measure for blind riders. Comply or risk federal funding, said the Department of Transportation's Federal Transit Administration. It's too expensive and isn't needed on a system with a good safety record already, replied Mr. Reuter.

We'll sue, said DOT. We're not budging, said Metro, noting that there was a division of opinion among organizations representing people whose vision is impaired as to the usefulness, or potential additional hazards, of the federally mandated surfaces with raised bumps.

But now, after nearly a year of wrangling, bumpy edges are giving way to smooth solutions. The Clinton administration has backed away from its demand, settling instead for agreement by Metro to install a system of transmitters that will signal blind riders wearing wrist beepers that they are close to platform edges. Federal mass transit administrator Gordon J. Linton concluded that the regulation is "so narrow and prescriptive" that "there is not room to exercise judgment or discretion" and agreed to grant Metro's request for a "determination of equivalent facilitation" for the edges that are already along the platforms.

Translation: Score one for good sense. Instead of proceeding with expensive, time-consuming litigation to try to force expensive, revenue-consuming measures to resolve a problem that didn't seem to be one, the federal government though better of it.

TRIBUTE TO THE CIVIC LEAGUE OF GREATER NEW BRUNSWICK, INC.

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. PALLONE. Mr. Speaker, on Saturday, May 13, 1995, at the Pines Manor in Edison, NJ, the Civic League of Greater New Brunswick, Inc., will hold its annual dinner. I rise today to pay tribute to this great institution, which has made such a significant difference in the lives of generations of people in Middlesex County.

The Civic League of Greater New Brunswick, formerly the Urban League, was established in 1945 as a civil rights organization. A non-profit, tax-exempt organization, the League's mission is "to enable African Americans and other minority group members to cultivate and exercise their full human potential on par with all other Americans. To accomplish this mission, the Civic League intervenes at all points in the social and economic structure where the interests of African Americans, other racial minorities and the poor are at stake." To accomplish this mission, the League provides community advocacy along with the provision of employment and housing referral services. The League also offers a comprehensive youth development program to help young people become academically successful, emotionally sound and productive contributors to their communities.

The Civic League is governed by a 21-member Board of Directors, volunteers with a diversity of backgrounds and experiences. This policy-making body has set a major agenda for the 1990's which includes more program activities in the health and youth development areas. The Project 2000 Program, supported by corporate volunteers, became one of the first initiatives developed as a result of an increased focus of the organization on early youth development activities. A Middle School Development Program was initiated recently, also with corporate support, to offer classroom support to the public school adolescent population. Since 1970, C. Roy Epps has served as the League's Executive Director. The 25th anniversary of Mr. Epps's leadership of the League was marked 2 months ago with a roast in his honor.

Mr. Speaker, it is an honor and a privilege as the Representative of the Sixth District of New Jersey to pay tribute to this great institution located in my district. The Civic League of Greater New Brunswick is a wonderful example of everything that is good about America—dedicated people working together, often under difficult circumstances, to build a better community and provide our people with a sense of purpose, direction and hope.

TRIBUTE TO THE TOWNSHIP OF MONTCALM, MI

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize an outstanding township in the State of Michigan. Montcalm Township is like many townships throughout the United States, but it possesses a unique character all its own. On May 20, 1995, the township of Montcalm, MI, will commemorate 150 years of history by celebrating its sesquicentennial anniversary.

Nestled among serene lakes and the surrounding beautiful landscape of mid-Michigan, the township of Montcalm is rich in historical heritage and tradition. Montcalm Township was established on March 19, 1845, and was the pioneer township of what is now Montcalm County. It grew to become an essential township in the region, due primarily to its vast contributions to the rural and logging communities of Michigan.

As the industrial revolution swept the country, the citizens of Montcalm Township succeeded in holding on to much of the area's historical tradition. It maintains its rural connections to this day, while still managing to prosper within the State economy.

The citizens of Montcalm Township are to be commended for providing an impeccable example of a growing community. While exceeding in economic excellence, Montcalm Township also provides its residents with the tight knit community feeling of a small town.

Mr. Speaker, Montcalm Township has a colorful history and bright future. Its commitment to the community and its citizens embody the ideals that make this Nation great. I know you will join me in congratulating the citizens of Montcalm Township on their 150th anniversary and wishing them well during their sesquicentennial celebration. We hope Montcalm Township will continue to provide the same example of strong community spirit for the next 150 years.

HONORING DR. MARIO SALVADORI, DISTINGUISHED EDUCATOR

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. ACKERMAN. Mr. Speaker, I join today with my constituents in the Fifth Congressional District of New York City recognizing Dr. Mario Salvadori.

For more than two decades, Dr. Salvadori has distinguished himself with effective efforts to help his students discover and understand mathematics and science through the wonders of architechure and engineering.

Mr. Speaker, in April 1975, Dr. Salvadori boldly accepted the challenge issued by the New York Academy of Science to "do something to improve mathematics and science education" in the public schools of New York City by volunteering to teach an innovative course, "Why Buildings Stand Up." to 30 disadvantaged seventh-grade students.

Throughout the years, Dr. Salvadori has continued to teach and write books of children and instructional manual for teachers. At the same time, he has developed an exciting, innovative, and effective program of hands-on activities base upon the familiar urban built environment. Eight years ago, he founded the Salvadori Education Center on the Built Environment [SECBE] to expand the reach of his innovative pedagogy and instructional materials. SECBE has now grown into a nationally known influence for the improvement of science and mathematics education.

In the 20 years since Dr. Salvadori began this noble cause, more than 600 teachers have incorporated the Salvadori methodology into their classroom practice. More than 100,000 students in New York City alone have benefited from their involvement in SECBE programs, demonstrating significant improvement in their mathematics and science studies, and increased motivation to remain in school.

In addition to the effective impact Dr. Salvadori has made upon our educational system, he has emerged as a major force in the field of architecture and engineer. As a partner and chairman of the board of Weidlinger Associates, Consulting Engineers, he has had a role in developing and constructing buildings all over the world. He was served on the staffs of Columbia, Princeton and the University of Rome. His publications in the fields of applied mathematics and architecture have been distributed world wide in over a dozen languages. Dr. Salvadori's colleagues have long recognized his brilliance, and he has received numerous medals and awards in architecture and engineering.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join with me this day in recognizing Dr. Mario Salvadori, a dedicated educator, a leading architect, and a person who unselfishly gives of his many talents.

CELEBRATING FIFTY YEARS OF COMMUNITY SERVICE BY THE AVON CLUB

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. COYNE. Mr. Speaker, I am pleased to have this opportunity to join with my constituents in saluting the members of the Avon Club who are celebrating over 50 years of community service.

The Avon Club was formed in 1944 as a social and community organization with membership open to women age 18 or over who live and work in the municipalities comprising the Avonworth School District. This area includes Ben Avon, Ben Avon Heights, Emsworth, Kilbuck and Ohio Township. It is an honor to represent these communities in the U.S. House as the Representative for the Fourteenth Congressional District and I want to speak to the Members of the House about the outstanding nature of the community service provided by the Avon Club.

The Avon Club was originally started in 1944 by women whose husbands were serving in World War II. Avon Club members aided the war effort by rolling bandages, knitting sweaters and corresponding with servicemen. When the war ended, Avon Club members refocused their activities on a broader array of social interests and community projects. the Avon Club also established itself as a service organization willing to raise money to support civic improvements and other charitable community organizations.

Each year the Avon Club hosts two major fundraisers to support its many community service activities. An annual fall festival is sponsored in early October and this event features a celebration of the creative, musical, and culinary talents of local district residents. The annual fashion show and luncheon provides an opportunity to enjoy food and good conversation while viewing the latest from the fashion world. In addition to these fundraisers, the Avon Club has published a community telephone directory since 1952. Members canvass their local neighborhoods and all residents, local businesses, and merchants are invited to be listed in this valuable community resource.

Avon Club member dedicated the proceeds from these fundraising activities to the support of several charitable activities. Since 1990, these charitable activities have been managed by the Avon Club Foundation, a nonprofit organization which manages both fundraising activities and the distribution of funds. In 1994, the Avon Club Foundation gave away $7,671 and brought the total level of philanthropic contributions throughout their 50 years to over $100,000.

The Avon Club Foundation is guided by long-range goals emphasizing service to education, recreation, the environment and social responsibility. The foundation has donated funds to local parks, schools, sports organizations and also provides assistance to charitable organizations serving women and children. Members of the Avon Club have also volunteered with local recycling efforts and community cleanup days.

Mr. Speaker, it is fitting for the Members of the U.S. House of Representatives to join in saluting an organization like the Avon Club. The Members of the Avon Club are to be commended for their energy and neighborhoods together to the benefit of all local residents.

TRIBUTE TO CAPT. MIKE TRACY AND SGT. TOM VANDERPOOL

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Ms. HARMAN. Mr. Speaker, on Monday, May 15, the Grand Lodge of the Fraternal Order of Police will honor over 100 police officers from across the Nation who were slain in the line of duty. Among those officers are two courageous men from the 36th Congressional District of California who gave their lives to protect others. It is with deep sadness that I join in paying tribute to these individuals, Capt. Mike Tracy and Sgt. Tom Vanderpool.

Mike Tracy and Tom Vanderpool were both gunned down by a robber on February 14, 1994, while they attended a management seminar for employees of the city of Palos Verdes Estates, CA. Both men were model police officers who leave behind family, friends, colleagues, and a community made all the better by their service.

Mike, who was raised in Torrance, CA, first joined the PVE Police Department as a reserve officer in 1966. His colleagues described him as a "cop's cop": instinctive, professional, and supportive of his fellow officers. Those close to him say he liked to "live life to the fullest," and many were touched by his humor and humanity. In his spare time, Mike counseled teenagers in trouble. He was also a husband, and father of two.

Tom spent his early years in law enforcement with the Los Angeles Police Department before beginning 13 years of service with the PVE Police Department. He was respected by his colleagues and occupied a special place in the hearts of needy children in the community. Every Christmas, he would use his patrol car to deliver toys, blankets, and clothing to these children and their families. A husband and father of three, Tom was preparing to celebrate his 36th wedding anniversary shortly before he was killed.

My heart fills with sadness when I think of the tragic circumstances surrounding the deaths of these two officers. The job of our law enforcement officers has changed dramatically from earlier times in our Nation's history. Not only must these officers protect our citizens against dangers unimaginable, but they must increasingly protect themselves from mindless expressions of rage and frustration. We owe an enormous debt of gratitude to those men and women who do the job of law enforcement every day.

A luncheon to award the South Bay Medal of Valor was recently held in my district to honor those who have performed heroic acts in the line of duty. Capt. Mike Tracy and Sgt. Tom Vanderpool were both awarded the medal posthumously. I only wish the legislative schedule had permitted me to be there, as I was when hundreds of Californians including my Governor attended their funeral.

To their families and friends, and to the families and friends of all officers slain in the line of duty, your loved ones were patriots. They gave their lives for ours.

IN HONOR OF GILBERT HERRERA, OUTSTANDING YOUNG TEXAS-EX

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. HALL of Texas. Mr. Speaker, it is my privilege to rise today to pay tribute to Gilbert A. Herrera, a recipient of the 1995 Outstanding Young Texas-Ex Award. Gilbert was a page in the Texas Senate during the time that I was a Texas State Senator, and we have been great friends ever since. Gilbert's intelligence, enthusiasm, and commitment to excellence have served him well, culminating with this prestigious honor.

The Outstanding Young Texas-Ex Award has been presented annually since 1980 by the Ex-Students' Association to four alumni under the age of 41 who have excelled in their chosen fields of endeavor and have shown loyalty to the University of Texas. The 1995 award will be presented during UT's spring commencement ceremonies on Saturday, May 20.

Gilbert graduated from UT in 1978 with a B.B.A. degree in finance. He is a principal of G.A. Herrera & Co., a private investment banking firm with offices in Houston and Austin, and he is also a consultant on corporate governance. Gilbert previously served in a variety of corporate finance and banking positions. In 1993 he was appointed by the Supreme Court of Texas to the Commission for Lawyer Discipline, where he serves as chair of its budget committee.

Gilbert also has been active in community service. He is a member of the Board of Advisors for the Texas Product Development Commission. In Houston he served on the Houston Parks Board and as trustee of the Harris County Mental Health and Mental Retardation Authority, where he chaired the Legislative and Employee Benefits Committees. Gilbert is a life member of the Ex-Students' Association, a lifetime member of the Century Club, a member of the Littlefield Society, the UT Chancellor's Council, the MBA Investment Fund, L.L.C., and the Longhorn Associates for Women's Athletics.

Gilbert and his wife, Kari, have been personal friends of mine for many years. Today I join their family and many friends in offering my sincere congratulations to this outstanding young Texas Ex on his selection for this prestigious award. His achievements are a source of pride for his family, his friends, and the University of Texas, and I know that he will continue to distinguish himself in his profession as well as in his service to his community, his State, and his country.

IN RECOGNITION OF THE MEXICAN-AMERICAN OPPORTUNITY FOUNDATION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. TORRES. Mr. Speaker, I rise today to congratulate and recognize the Mexican-American Opportunity Foundation [MAOF] as they inaugurate their new facilities on Thursday, May 11, 1995.

MAOF was founded in 1962 by Mr. Dionicio Morales in Los Angeles, CA, and for over 33 years it has provided educational and charitable assistance to the general public and the Latino community. MAOF has developed and administered projects, programs, research and related activities on behalf of the socially and economically disadvantaged youth and adults of our community.

One of the special projects began when Mr. Morales and MAOF recognized the plight of Latina women. Eighteen years ago, MAOF created "Visiones Hispanas", a Hispanic women's conference that focuses on Hispanic women's needs and provides direction on career and education opportunities.

In furthering their mission to assist economically disadvantaged individuals, MAOF has established child care development programs. MAOF founded these centers to provide a bilingual/bicultural learning environment for children. It is a developmental program where children, whether they speak only English or only Spanish, become an integral component of this educational interaction with the teachers. Additionally, MAOF sponsors child nutrition programs, in conjunction with their child social interests and community projects. the Avon Club also established itself as a service organization willing to raise money to support civic improvements and other charitable community organizations.

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Gilbert and his wife, Kari, have been personal friends of mine for many years. Today I join their family and many friends in offering my sincere congratulations to this outstanding young Texas Ex on his selection for this prestigious award. His achievements are a source of pride for his family, his friends, and the University of Texas, and I know that he will continue to distinguish himself in his profession as well as in his service to his community, his State, and his country.

IN RECOGNITION OF THE MEXICAN-AMERICAN OPPORTUNITY FOUNDATION

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In short, MAOF has been at the forefront of helping the people of the community advance and prosper through work and education.

Mr. Speaker, it is with pride that I rise to recognize one of the finest community organizations in the country, the Mexican-American Opportunity Foundation, and its founder, Mr. Dionicio Morales. I ask my colleagues to join me in congratulating them and wishing them continued success in their new facility.

DR. CHARLES A. BRADY, A MULTI-TALENTED MAN

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. LAFALCE. Mr. Speaker, western New Yorkers and the Canisius College community in Buffalo this weekend mourned the passing of Dr. Charles A. Brady, former head of the college's English department, author and literary critic for the Buffalo News for more than half a century.

Dr. Brady was an extremely talented, multifaceted person, as evidenced by the Buffalo News' obituary, which described him as: "A professor, poet, novelist, critic and caricaturist * * *."

In addition to his voluminous literary creations, Dr. Brady will also be remembered fondly by the many generations of Canisius' alumni, like me, who were taught and influenced by him.

Following are his obituary which appeared in the Buffalo News, and an insightful article by Jeff Simon, the News' book editor, which appeared in the paper May 9 and headlined: "A Man of Letters, But Even More, a Man of Life."

Charles A. Brady Dies; Canisius Prof., Author, Literary Critic for News Was 83

Charles A. Brady, former head of the English Department at Canisius College, author and literary critic for The Buffalo News for five decades, died Friday (May 5, 1995) in Sisters Hospital, following a long illness.

A professor, poet, novelist, critic and caricaturist, Brady had used both pen and wit to illuminate even the darkest recesses of literature for three generations of Western New Yorkers. He was 83.

Brady, who was born April 15, 1912, often pointed out that he was born "the day, the hour and the moment that the Titanic sank."

It was that coincidence, he said, that gave him his "bent for epic things."

For more than 50 years, Brady served as an intellectual beacon to students and residents of the Buffalo area and beyond, contributing to and interpreting the literary scene both here and abroad.

A man of enormous enthusiasm and dauntless energy, Brady since childhood defied a serious heart condition and pursued an active life, often from his bedside at home, or in the hospital.

Brady wrote four novels. One of them, "Stage of Fools: A Novel of Sir Thomas More," outsold any book published by E.P. Dutton in 1953. It was translated into Dutch and Spanish and printed in paperback as well as hard cover.

In 1968, the Poetry Society of America gave first prize to Brady's "Keeper of the Western Gate" and, in 1970, its Cecil Hemley Memorial Award for the best poem on a philosophical theme, "Ecce Homo Ludens."

C.S. Lewis, the eminent British author, once called Brady's critique of his work the best published in Great Britain and the United States.

Brady's literary output was voluminous—from novels, short stories, poems, children's stories, holiday "fantasies," to critical essays and book reviews. Throughout his work ran the deep vein of history.

Son of Andrew J. Brady, Sr., a former lumberman who owned freighters on the Great Lakes, and Belinda Dowd of Black Rock, Brady's commitment to literature began at Canisius College, which he attended after graduating from Canisius High School in 1929. He received his bachelor of arts degree from Canisius in 1933.

During those years, he also played championship tennis and, in the spring of 1987, was named to the Canisius College All Sports Hall of Fame for his undergraduate tennis prowess.

He received a master of arts degree in English from Harvard University and then returned to Canisius at age 23 as an associate professor of English.

A year later, he was promoted to professor and chairman of the English Department, a position he held until 1959, when he continued his professorship until retirement in 1977.

In his more than 40 years at the college, he touched and helped mold the tastes and lives of thousands of students and graduate students, many from other colleges or universities, who also attended his courses or sought his counsel.

The AZUWUR, the Canisius College yearbook, was dedicated to Brady in 1956 and again in 1976.

From 1938 to 1941, Brady directed Canisius College's graduate division, and during World War II, in addition to his English classes, he taught the classics, French, military geography and Renaissance history.

Academically, Brady probably was best known for his lectures and critical studies of Cooper, Marquand, Sigrid Undset, Charles Williams, the Volsunga Saga, John Le Carre and C.S. Lewis. His studies on J.R.R. Tolkien and, more especially, Lewis, have been cited as "definitive in this country."

Copies of Lewis' original letters to Brady, embracing a correspondence that the British author initiated and that continued over a number of years, are in the Bodleian Library at Oxford University.

In addition to "Stage of Fools," Brady's works include "Viking Summer," which combined Norse legend with a present-day Niagara Frontier setting; "This Land Fulfilled" and "Crown of Grass," both historical novels; "Wings Over Patmos," a book of verse; and "A Catholic Reader," a personalized anthology.

For children, he wrote "Cat Royal," "The Elephant Who Wanted to Pray," "The Church Mouse of St. Nicholas" and "Sir Thomas More of London Town." For older children, he wrote "Sword of Clontart" and "The King's Thane."

A short story, "The Foot That Went Too Far," which he had written as an undergraduate, was the origin of the griffin as the Canisius College mascot.

The capstone of his career at Canisius was writing the college's centenary history, "Canisius College: The First Hundred Years." Written over almost five years, the book, unlike most school histories, was done in an impressionistic style, capturing the spirit of the college as well as that of the Niagara Frontier.

Brady wrote for national and international journals, and reviewed books for other major publications, such as The New York Times, the old Herald Tribune, America, Commonweal and the Catholic World.

A man of many talents, including some musical composition, Brady enjoyed drawing line caricatures of authors, many of which were used to illustrate his critical essays and book reviews for The News. His last book review and drawing for The News was printed March 12.

In September 1986, the Burchfield Center at Buffalo State College exhibited his literary caricatures in a one-man show.

A familiar figure on the lecture platform, Brady held the Candlemas Lectureship at Boston College and gave Notre Dame's Summer Lectures in the humanities.

The News named him "an outstanding citizen" in 1970.

He was the recipient of the Canisius College LaSalle Medal, the highest honor awarded to an alumnus. In 1970, the Canisius Alumni Association presented him with its Peter Canisius Medal for his "scholarly brilliance and teaching excellence that inspired and informed legions of Canisius students."

A longtime resident of the Town of Tonawanda, he moved to Buffalo's Delaware District in the early 1990s.

Brady is survived by his wife of 57 years, the former Mary Eileen Larson; four daughters, Karen Brady Borland and Moira Brady Roberts, both of Buffalo, Sheila Brady Nair of New Bethlehem, Pa., and Kristin M. of London, Ont.; two sons, Erik L. of Arlington, Va., and Kevin C. of Buffalo and 17 grandchildren.

Prayers at 11 a.m. Monday in the George J. Roberts & Sons Funeral Home, 2400 Main St., will precede a Mass of Christian Burial at 11:30 a.m. in Christ the King Chapel at Canisius College, 2001 Main St. Burial will be in Mount Olivet Cemetery in the Town of Tonawanda.

A Man of Letters, But Even More, A Man of Life

Charles Brady died on Friday afternoon at age 83. His loss to The News' book pages is virtually incalculable. If it isn't precisely accurate to say that Charles A. Brady invented literary reviewing at The Buffalo News, it's certainly close enough to the truth to pass. He was a treasured literary voice here in five separate decades.

I've been The News' book editor for six years and was the book assignment editor for six years before that. Editing Dr. Brady and finding books that I knew would stimulate him provided the job's greatest pleasures.

His latest work would appear in my mail every Friday or Monday morning. Inside the envelope—impeccably typed on soft, old-fashioned, khaki-colored copy paper—would be three pages of crystalline prose. Accompanying it, on white paper, would be one of his pen-and-ink caricatures. Even on busy Mondays, I would try to save editing Dr. Brady for the last work of the day—an Edwardian reward of wit, wisdom and uncommon grace for dealing with all the coarse, witless drudgery that almost all work requires, journalism included.

At least half the time, there would be a word or spelling in it that I'd never encountered before—some strange semantic hippogriff that Dr. Brady had captured in his library and uncaged for the delight and enchantment of company.

Typically, I'd walk over to our glorious battery of dictionaries in a state of bafflement or skepticism: Surely, this time, it's a misspelling. And then the huge Random House Dictionary, American Heritage Dictionary and Oxford English Dictionary would set me straight—Dr. Brady's was very much a word, even if its usage or spelling were Victorian or Elizabethan.

It's a walk I'll never make again; it's a smile of marvel and appreciation I won't be smiling anymore.

Every day that goes by brings at least one book that I would automatically send to Dr. Brady in total confidence that it would elicit a smile of complicity on the other end of our discourse-by-mail-and-phone.

No discussion was necessary to pick out "Brady books." I have been reading him since my early teens. I knew what he liked or, failing that, what interested him. That was vastly more than the epics or Celticmyths or Irish literature or work of C.S. Lewis, J.R.R. Tolkien and their fellow Oxford Inklings that people thought of as his special province. It encompassed virtually the whole of English literature, early American literature (James Fenimore Cooper was a Brady specialty; minor Twain was a Brady weakness), all American fictional modernism and, late in life, Yiddish and Jewish literature, for which he developed an entirely unpredictable fondness.

We disagreed strongly on some writers, but he was the sort of man with whom disagreement was one of the friendliest experiences you could have. If he never quite subscribed to all the hoo-ha about Jorge Luis Borges from me and others, he would, with impish geniality, point out how much he liked Anthony Burgess, and what was the name Borges, after all, but the Spanish version of Burgess?

It's also true, I think, that he was doing some of the best journalistic work of his life in his final decade. In the place of earlier reviews that could sometimes be constricted by myth (it's tempting to call such prose "myth-begotten" and hope he'd approve), his work in the past decade was informed by marvelous wit, total scholarship and a glorious new clarity. I could delude myself into thinking that our unspoken communication had something to do with it, but I know it's not the case.

I think what his readers read in the past decade was the work of a man who, besides being loved at home, had finally thrown off all the vestiges of professorial presentation. To be as great a teacher as so many generations of Canisius College students say that Charles Brady was requires a certain theatricality—a well-communicated sense of literary passion and identification, an exaggerated self-definition.

You can't just commune with the avid young scholars in the front row. If you have any honor at all, you have to communicate something to the deadheads in the cheap seats. Even if they don't understand a word you're saying, you have to give them some sense of the bardic and of the glory of a life spent in literature.

It made some of this '70s and early '80s journalism operatic in its mythology, I think. In his final decade's work, he had stopped composing operatic arias and started composing magnificent chamber music. It is then, I think, that we heard his truest voice—just as passionate as the Yeatsian visionary his students knew, but wittier, more Edwardian and seemingly effortless.

Wonderfully apropos quotes from the Alexandrian library inside his head would find their way into his work, but so would the damnedest, spot-on references to the society around him.

Anyone who thought that he resided in a 1940s Oxford of his own devising would be disabused of that notion on encountering an up-to-the-minute and unfalsified Brady take on academic gender wars or a perfectly appropriate reference to gangsta rap. (I must confess, the day I first encountered the phrase "gangsta rap" in a review by the 82-year-old Brady, I threw my head back and roared with pleasure.)

He was, in that great Henry James phrase, a thoroughly independent and aware man "on whom nothing was lost."

I remember seeing Dr. Brady on an old '50s Buffalo television show called "The University of Buffalo Roundtable." The subject of Beat poetry came up. The acceptable cant from the Professoriat of the '50s—and certainly from those on that show—was that the Beats were, to a man, hairy and filthy overhyped pretenders. Brady listened patiently to it all and said, "I don't know, I haven't read all of them, but I've read some (Lawrence) Ferlinghetti and I think he's pretty good."

Lest one think that his tower was totally ivory, he was also, without fail, the most journalistically current book reviewer we had—right to the end. It never ceased to amaze me that an old valiant man in failing health was, without question, our greatest sprinter. His reviews of major books would continually precede and presage major treatment in the New York Times and the newsmagazines, often by several weeks. In such matters, his instincts were impeccable.

When longtime readers lose a voice like Charles Brady's it is always a personal loss, even for those who never knew him. But at the end of his life, I think, he was teaching us all some life lessons that were infinitely greater than he ever taught in the classroom—that the life of the mind can not only survive intact to the very hour of our death, but can, until the moment one is visited by what James called "that distinguished thing," actually increase in acuity, understanding and grace.

The world is full of people whom Charles A. Brady taught how to read and write and think.

At the end of his life and bedeviled by illness, he taught us something even richer—how to be.

SUPERIOR PERFORMANCE BY SPRINGFIELD, VIRGINIA'S LEE HIGH SCHOOL CHOIRS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. HYDE. Mr. Speaker, once again a magnificent performance by the Lee High School Madrigal Singers and Ladies' Chamber Choir earned them "Superior" marks in the April 22 Boston Festivals of Music Competition.

Schools from the United States and Canada were competing for the honor of being judged "Superior" by receiving the highest numerical score in each category of competition within their division.

In addition to capturing the "Superior" title within their division, the Madrigal Singers were awarded the "Grand Champion" trophy for receiving the highest scores of all choirs competing in the 1995 "Boston Festival." Five scholarships to a choral summer camp were presented to the group.

The Singing Lancers, five separate choirs in all, are a terrific group of teens with many proud accomplishments. The choral program is directed by Mr. Lindsey Florence who has been with Lee since 1978 and directed numerous choirs whose efforts have resulted in award-winning performances in North America.

This special group of young vocalists love to touch the world with their songs, and that is exactly what they did yesterday. The five choirs entertained the young patients at Children's Hospital where they brought some of the children's favorite songs to life in a program they choreographed themselves. Selected choirs have performed at the White House, Drug Enforcement Administration, Virginia Music Educators Conference, and numerous civic organizations. I am very pleased to recognize the Singing Lancers and the positive image they project to their community.

I want to once again offer my personal congratulations to Mr. Florence, an exceptional music teacher, and to the following young men and women who experienced the rewards of their hard work the night they were chosen "Superior." Members of the Madrigal Singers are: Pam Albanese, Gretchen Arndt, Andy Barrett, Steph Daniels, Alisa Ersoz, Craig Goheen, Steph Hawk, Heidi Hisler, Jen Holder, Matt Horner, Cathy Javier-Wong, Robbie Johanson, Emily Mace, Tanya Moore, Scott Niehoff, Ty Oxley, Corey and John Perrine, Joe Steiner, and Becky Whittler. The members of the Ladies' Chamber Choir are: Beth Brown, Alison Cherryholmes, Rebecca Dosch, Randa Eid, Stephanie Evans, Katie Farrell, Kelly Good, Emily Henrich, Nadiyah Howard, Amy Huntington, Mary Kim, Christina Lewis, Jenn Montgomery, Sara Nahrwold, Nicole Orton, Courtney Parish, Jenny Platt, Laura Scheip, Damara Thompson, Nhien To, and Marika Tsanganelias. My very best wishes to this very special group of teens.

COMMENDING LIEUTENANT COLONEL MOSES WHITEHURST FOR SERVICES WELL-RENDERED

HON. WES COOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. COOLEY. Mr. Speaker, I rise today to recognize the service and the accomplishments of Lt. Col. Moses Whitehurst, Jr. who commanded Umatilla Depot Activity [UMDA], in Hermiston, OR from July 1993 to July 1995. Although continually challenged with mission changes, personnel reductions, dwindling resources, and short supplies, Moses Whitehurst performed his duties with vigor and professionalism while always meeting or exceeding requirements and expectations.

Lieutenant Colonel Whitehurst performed mission operations effectively as exhibited by successful completion of countless reviews and inspections. While under the command of Lieutenant Colonel Whitehurst, UMDA exceeded fiscal year 1994 conventional ammunition demilitarization forecasts by accomplishing 100 percent of the workload ahead of schedule. In addition, UMDA exceeded all expectations for shipment of ammunition stocks and general commodities by shipping more in fiscal year 1994 than had been shipped in the 4 previous years combined.

During Lieutenant Colonel Whitehurst's service, UMDA met or exceeded all BRAC time requirements. Through effective use of the one team approach, he has ensured a seamless transition for the operational control of the chemical stockpile mission from the Industrial Operations Command to the Chemical and Biological Defense Command.

By all accounts, Lt. Col. Moses Whitehurst has done an outstanding job of fulfilling all UMDA civic responsibilities and ensuring that a very positive public perception was maintained by the communities surrounding the installation. Under his command, UMDA was always well-represented at all meetings regarding CSEPP; in addition to hosting many local professional groups at UMDA, which included tours of the installation.

During his command tour at Umatilla Depot Activity, Lieutenant Colonel Moses Whitehurst set a tone of professionalism and teamwork. His exceptional leadership performance is a credit to himself, the Tooele Army Depot Complex, the Industrial Operations Command, and the U.S. Army. The people of the Second District and I are grateful to have had the benefit of his service.

TWA—NEW YORK TO LONDON

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. CLAY. Mr. Speaker, I would like to share with this body an issue which is of great importance to the St. Louis community and vital to the future of one of our major domestic airlines, Trans World Airlines. TWA, which maintains its operating hub at Lambert International Airport in St. Louis, needs to regain its longstanding New York-London route authority.

I have joined my St. Louis area colleagues in urging the Department of Transportation to pursue this issue in behalf of TWA at the ongoing bilateral negotiations with United Kingdom representatives. I would like to take this opportunity to share the text of a letter which St. Louis Mayor Freeman Bosley recently sent to the Transportation Secretary Fredrico Peña. This communication clearly articulates the vital importance of TWA's request for New York to London route authority.

DEAR SECRETARY PEÑA: I am submitting this letter as Mayor of St. Louis in strong support of Trans World Airlines regaining its long-standing New York-London route authority in the current bilateral negotiations with the United Kingdom. It is essential that TWA—one of the nation's great pioneers of international service—not be left out of these negotiations.

TWA maintains its major hub operation at St. Louis and employs over 12,000 Missourians. This proposed New York-London (Gatwick) service would not directly affect Missouri (TWA already flies between St. Louis and Long-Gatwick), but it would go far toward rebuilding an airline attempting to escape the financial damage and job loss caused by less than satisfactory management for over six years.

TWA had served London since 1950 from several large U.S. gateways and all but the St. Louis authority was sold in 1991 and 1992. St. Louis opposed such sales and unsuccessfully appealed the Department's approval. Under new energetic management. TWA is now seeking to return to the New York-London market which was wrongfully given up by prior management and whose transfer was wrongfully approved by the prior Administration. The present Administration should be fair to TWA and its new employee ownership move to redress that error and find a means to return to TWA its New York-London authority which was the backbone of its transatlantic route system. The current negotiations offer an ideal opportunity to accomplish this objective.

I also want to urge that TWA be granted St. Louis-Toronto authority as early as possible under the new U.S.-Canada agreement. St. Louis has been attempting for fifteen years to obtain nonstop St. Louis-Toronto service. The St. Louis area and the entire state of Missouri have an exceptionally strong community of interest with Toronto and Canada as a whole. Through all this period Toronto has continued to represent one of the major deficiencies in St. Louis air service. St. Louis clearly ranks very high on the nation's list of deprived cities as far as Canada is concerned. It is long past time to remedy this situation.

TWA's proposed St. Louis-Toronto service involves first nonstop operations to one of the largest U.S. service areas, would offer beyond traffic support unequaled by any other carrier and would provide the only effective means through one service proposal of meeting the Canada needs of both the Midwest and Western parts of the United States. TWA should definitely be one of the carriers selected for Toronto service in the second year of interim operation.

Further, St. Louis—in addition to its tremendous beyond area support—has a very strong traffic base in its own area. St. Louis is the nation's fifth ranking Fortune 500 company headquarters city and was ranked by World Trade magazine as one of the ten best U.S. cities for international companies. Substantial numbers of St. Louis area companies have major business ties to Canada. The Canadian business investment in the St. Louis area is similarly substantial and long standing in nature. According to Canadian data (Canadian Consulate, Chicago) total Missouri exports to Canada were $1.934 billion in 1993 and Canadian exports to Missouri were $1.435 billion in that year. Trade between Canada and Missouri is about the same as that between Canada and Mexico.

In the interest of building a sound airline industry, it is high time that the Department look away from the mega-carriers such as American, Delta, Northwest and United in favor of competition. TWA's London and Toronto requests are fully in accord with the Administration's consistent position that there should be increased competition—not less—in the airline industry.

Moreover, there are unique reasons for finding ways to strengthen TWA. The most important of these is the fact that TWA is under new ownership by its own employees. TWA's employees now own 45 percent of the voting stock of the carrier, an equity interest for which the employees are paying substantial amounts in hard earned wages. These employees have incredible dedication to the success of the carrier. This development—the employee-ownership reorganization of TWA—represented the first successful equity reorganization of this nature in the industry and constitutes a model for subsequent airline restructuring. It should be encouraged by the Department.

Further, TWA has demonstrated great determination to reform itself by completely overthrowing its old management and by developing new service concepts that truly attempt to met public needs. It was able to effect its major ownership and management change and come through a painful reorganization under Chapter 11 in an expeditious and successful fashion. It is now undergoing a further financial restructuring to strengthen its operation. These efforts by TWA's employee owners deserve to be recognized by the Department as a major favorable development in an airline industry that has seen too few favorable developments in recent years.

In achieving its turnaround, TWA has been able to preserve one of the great historic names in the international aviation arena. TWA was a true pioneer of international operations and its name continues to command respect abroad. It is only right that the Department move to strengthen the carrier in the international arena and grant it strong London and Toronto routes which will materially aid its operations while at the same time meeting clear public needs. I appreciate your consideration of these matters which are vital to TWA's future.

Sincerely,

FREEMAN R. BOSLEY, JR.,
Mayor.

WORKING FAMILIES HEALTH ACCESS ACT

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mrs. JOHNSON of Connecticut. Mr. Speaker, as a step toward creating a national health care policy that assures continuity of coverage for all working Americans, I am introducing the Working Families Health Access Act of 1995 and invite your co-sponsorship.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Working Families Health Access Act of 1995".

SEC. 2. PROMOTING THE CONTINUITY AND PORTABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 is amended by inserting after chapter 44 the following new chapter:

"CHAPTER 45—CONTINUITY AND PORTABILITY OF HEALTH COVERAGE

"Sec. 4986. Imposition of tax.
"Sec. 4987. Nondiscrimination based on health status.
"Sec. 4988. Limited use of preexisting condition exclusions.
"Sec. 4989. Guaranteed renewability of health insurance coverage.
"Sec. 4990. Relation to State standards.
"Sec. 4991. Definitions.

"SEC. 4986. IMPOSITION OF TAX FOR FAILURE TO MEET CONTINUITY AND PORTABILITY STANDARDS.

"(a) INSURED HEALTH PLANS.—

"(1) IN GENERAL.—In the case of any health insurance policy which fails to meet the applicable standards specified in this chapter at any time during a calendar year, there is hereby imposed a tax equal to 25 percent of the premiums received under such policy during the calendar year.

"(2) LIABILITY FOR TAX.—The tax imposed by paragraph (1) shall be paid by the issuer of the policy.

"(3) TREATMENT OF PREPAID HEALTH COVERAGE.—For purposes of this subsection:

"(A) IN GENERAL.—In the case of any prepaid health arrangement—

"(i) such arrangement shall be treated as a health insurance policy,

"(ii) the payments or premiums referred to in subparagraph (B)(i) shall be treated as premiums received for a health insurance policy, and

"(iii) the person referred to in subparagraph (B)(i) shall be treated as the issuer.

"(B) PREPAID HEALTH ARRANGEMENT.—For purposes of subparagraph (A), the term 'prepaid health arrangement' means an arrangement under which—

"(i) fixed payments or premiums are received as consideration for any person's agreement to provide or arrange for the provision of accident or health coverage regardless of how such coverage is provided or arranged to be provided, and

"(ii) substantially all the risks of the rates of utilization of services is assumed by such person or the provider of such services.

"(4) INSURANCE POLICY.—For purposes of this subsection, the term 'insurance policy' means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

"(5) PREMIUM.—For purposes of this subsection, the term 'premium' means the gross amount of premiums and other consideration (including advance premiums, deposits, fees, and assessments) arising from policies issued by a person acting as the primary insurer, adjusted for any return or additional premiums paid as a result of endorsements, cancellations, audits, or retrospective rating.

"(b) SELF-INSURED HEALTH PLANS.—

"(1) IN GENERAL.—In the case of a self-insured health plan which fails to meet the applicable standards specified in this chapter at any time during a calendar year, there is hereby imposed a tax equal to 25 percent of the health coverage expenditures for such calendar year under such plan.

"(2) LIABILITY FOR TAX.—The tax imposed by paragraph (1) shall be paid by the plan sponsor.

"(3) SELF-INSURED HEALTH PLAN.—For purposes of this subsection, the term 'self-insured health plan' means any plan for providing accident or health coverage if any portion of such coverage is provided other than through an insurance policy.

"(4) HEALTH COVERAGE EXPENDITURES.—For purposes of this subsection, the health coverage expenditures of any self-insured health plan for any calendar year are the aggregate expenditures for such year for health coverage provided under such plan.

"(c) LIMITATIONS ON IMPOSITION.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed under this section on any failure for which it is established to the satisfaction of the Secretary that none of the persons liable for the tax knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO CERTAIN FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) or (b) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any person liable for the tax knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by this section to the extent that the payment of such tax would be excessive relative to the failure involved.

"SEC. 4987. NONDISCRIMINATION BASED ON HEALTH STATUS.

"(a) COVERAGE UNDER GROUP HEALTH PLANS.—A group health plan and a carrier offering health insurance coverage in connection with such a plan may not establish or impose eligibility, continuation, enrollment, or contribution requirements for an individual based on factors directly related to the health status, medical condition, claims experience, receipt of health care, medical history, disability, or evidence of insurability of the individual.

"(b) INDIVIDUAL COVERAGE.—

"(1) IN GENERAL.—A carrier offering health insurance coverage (other than in connection with a group health plan) may not establish or impose eligibility, continuation, or enrollment requirements for a qualifying individual (as defined in paragraph (2)) based on factors directly related to the health status, medical condition, claims experience, receipt of health care, medical history, disability, or evidence of insurability of the individual.

"(2) QUALIFYING INDIVIDUAL DEFINED.—For purposes of paragraphs (1), the term 'qualifying individual' means an individual who meets all of the following requirements:

"(A) The individual is in a period of qualifying previous coverage (as defined in paragraph (3)) which is at least 6 months long.

"(B) The individual is not eligible for coverage under any group health plan (including continuation coverage under section 4980B) and has not lost such coverage but for a failure to make required premium payments or contributions or due to fraud or misrepresentation of material fact.

"(C) If the individual's most recent coverage during the period of qualifying previous coverage under subparagraph (A) was health insurance coverage not in connection with a group health plan, such coverage was discontinued or terminated by the carrier only on the basis of—

"(i) a change in residence of the individual so that the individual no longer resided within a service area of a carrier with respect to such coverage, or

"(ii) a change in the individual's status so that the individual was no longer eligible for dependent coverage, if the individual previously was only eligible for such coverage as a dependent.

Nothing in subparagraph (C) shall be construed as preventing a carrier from waiving the application of such subparagraph during an annual open enrollment period or otherwise.

"(3) PERIOD OF QUALIFYING PREVIOUS COVERAGE DEFINED.—For purposes of this chapter, the term 'period of qualifying previous coverage' means the period—

"(A) beginning on the date an individual is enrolled under a group health plan or is provided health insurance coverage, and

"(B) ending on the date the individual is neither covered under a group health plan or covered under health insurance coverage (including coverage described in section 4991(2)(D)) for a continuous period of more than 2 months.

SEC. 4988. LIMITED USE OF PREEXISTING CONDITION EXCLUSIONS.

"(a) IN GENERAL.—A carrier offering health insurance coverage and a group health plan may impose a limitation or exclusion of benefits relating to treatment of a condition based on the fact that the condition is a preexisting condition (as defined in subsection (c)) only if the following requirements are met:

"(1) LIMITATIONS TO 3-MONTH LOCK-BACK.—The condition was diagnosed or treated during the period not more than 3 months before the date of enrollment for such coverage or under such plan.

"(2) LIMITATION ON EXCLUSION PERIOD.—

"(A) GENERAL RULE OF MAXIMUM OF 6-MONTH EXCLUSION.—Subject to paragraph (3), the limitation or exclusion extends for a period not more than 6 months (or 12 months in the case of a late enrollee described in subparagraph (B)) after such date of enrollment.

"(B) LATE ENROLLEE DESCRIBED.—

"(i) IN GENERAL.—Except as provided in clause (ii), a late enrollee described in this subparagraph with respect to a group health plan is an individual who becomes covered under the plan but who, at the time the individual first was eligible to elect such coverage, had elected not to be covered under the plan.

"(ii) EXCEPTION FOR INDIVIDUALS WITH CONTINUOUS COVERAGE.—An individual shall not be considered to be a late enrollee with respect to a plan if the individual establishes that, with respect to the period beginning on the date the individual first could have obtained coverage under the plan and until the date the individual was so covered, there was no period of more than 2 months during all of which the individual neither had health insurance coverage (including coverage described in subparagraph (C) or (D) of section 4991(2)) or was covered under any group health plan.

"(3) CREDIT FOR PREVIOUS QUALIFYING COVERAGE.—In the case of an individual who is in a period of qualifying previous coverage (as defined in section 4987(b)(3)) as of the date of enrollment for health insurance coverage or under the group health plan, the limitation or exclusion period under paragraph (2)(A) shall be reduced by the length of such period of qualifying previous coverage.

"(4) EXCEPTION FOR TREATMENT OF PREGNANCY.—The limitation or exclusion does not apply to treatment relating to pregnancy.

"(5) EXCEPTION FOR CERTAIN DEPENDENT COVERAGE.—

(A) NEWBORNS.—The limitation or exclusion does not apply to a child who has health insurance coverage (or is covered under a group health plan) as a dependent within 1 month of the birthdate until such time as the child does not have such coverage (or is not so covered) for a continuous period of more than 2 months.

(B) ADOPTED CHILDREN.—The limitation or exclusion does not apply (beginning on the date of adoption) to an adopted child who has health insurance coverage (or is covered under a group health plan) within 1 month of such date until such time as the child does not have such coverage (or is not so covered) for a continuous period of more than 2 months.

"(b) LIMITATION ON USE OF DELAYED COVERAGE IN LIEU OF PREEXISTING EXCLUSION LIMITATIONS.—

"(1) IN GENERAL.—A carrier offering health insurance coverage and a group health plan providing coverage, with respect to an individual, may delay the effective date of coverage of the individual beyond the first date of the month beginning after the date of election of the coverage only if the following requirements are met:

"(A) LIMITATION ON DELAY PERIOD.—Subject to paragraph (2), such additional delay does not extend over a period of longer than 2 months (or 3 months in the case of a late enrollee described in subsection (a)(2)(B)).

"(B) NO SUBSEQUENT APPLICATION OF ANY PREEXISTING EXCLUSION.—After the period of such additional delay, no limitation or exclusion described in subsection (a) may be applied.

"(C) NO PREMIUMS.—No premium or required contribution may be charged for the period before the effective date of coverage. Nothing in this paragraph shall waive the applicable requirements of subsection (a).

"(2) VOLUNTARY WAIVER.—The additional delay may extend over a period longer than the period specified under paragraph (1)(A) if the individual involved waives the protection provided under such paragraph.

"(c) PREEXISTING CONDITION DEFINED.—For purposes of this section, the term 'preexisting condition' means, with respect to coverage under health insurance coverage or under a group health plan, a condition which was diagnosed or treated for a condition, or for which a reasonably prudent person would have sought medical care diagnosis or treatment, within the 3-month period ending on the day before the date of enrollment (without regard to any delayed coverage period).

"SEC. 4989. GUARANTEED RENEWABILITY OF HEALTH INSURANCE COVERAGE.

"(a) IN GENERAL.—Except as provided in subsection (b), a carrier offering health insurance coverage shall guarantee that such coverage may be renewed or continued in force at the option of the policyholder or contractholder.

"(b) GROUNDS FOR REFUSAL TO RENEW.—

"(1) IN GENERAL.—Subject to paragraphs (3) and (4), a carrier offering health insurance coverage may cancel or refuse to renew such coverage—

"(A) for nonpayment of premium or contribution in accordance with the terms of the coverage;

"(B) for fraud or misrepresentation of material fact;

"(C) because of a general discontinuation or termination of coverage, but only if the carrier provides prior notice of such discontinuation or termination and if the conditions described in clause (i) or (ii) of paragraph (2)(A) are met;

"(D) in the case of coverage offered in connection with a group health plan, for failure of the plan to maintain participation rules consistent with paragraph (4); or

"(E) in the case of coverage that is continuation coverage under section 4980B, for loss of eligibility to continue such coverage.

"(2) CONDITIONS FOR DISCONTINUATION.—

"(A) IN GENERAL.—

"(i) NONDISCRIMINATORY SUBSTITUTION OF ALTERNATIVE COVERAGE.—The conditions described in this clause are the following:

"(I) The carrier is no longer offering health insurance coverage to new policyholders or contractholders.

"(II) The carrier is offering to the previously covered policyholder or contractholder the option to purchase any other health insurance coverage currently being offered to new policyholders or contractholders.

"(III) The discontinuation or termination of coverage and option to replace with other coverage is made uniformly without regard to the health status or insurability of any person provided health insurance coverage.

"(ii) GENERAL DISCONTINUATION OF COVERAGE IN A STATE.—The conditions described in this clause are that the carrier is discontinuing and not renewing all health insurance coverage within a class of coverage (as defined in subparagraph (B)) in a State.

"(B) CLASSES OF COVERAGE.—For purposes of subparagraph (A)(ii), each of the following is considered a separate class of health insurance coverage:

"(i) INDIVIDUAL COVERAGE.—Health insurance coverage not offered in connection with any group health plan.

"(ii) SMALL EMPLOYER GROUP COVERAGE.—Health insurance coverage offered to small employers (as defined by State law) in connection with any group health plan for covered employees and their dependents.

"(iii) OTHER GROUP COVERAGE.—Health insurance coverage offered in connection with a group health plan and not described in clause (ii).

"(3) APPLICATION OF GEOGRAPHIC LIMITATIONS TO COVERAGE PROVIDED THROUGH A NETWORK ARRANGEMENT.—

"(A) IN GENERAL.—Coverage under health insurance or under a group health plan that consists primarily of coverage through a network arrangement (as defined in subparagraph (B)) may be denied to individuals who neither live nor reside in the service area of the arrangement, but only if such denial is applied uniformly, without regard to the health status or the insurability of particular individuals.

"(B) NETWORK ARRANGEMENTS.—For purposes of subparagraph (A), the term 'network arrangement' means, with respect to a group health plan or under health insurance coverage, an arrangement under such plan or coverage whereby providers agree to provide items and services covered under the arrangement to individuals covered under the plan or who have such coverage.

"(4) MINIMUM PARTICIPATION REQUIREMENTS.—A carrier that offers health insurance coverage in connection with a group health plan that covers the employees of one or more employers may require that a minimum percentage of eligible employees of such an employer obtain such coverage if such percentage is applied uniformly to all such coverage offered to employers of comparable size.

"SEC. 4990. RELATION TO STATE STANDARDS.

"Nothing in this chapter shall prevent a State from establishing, implementing, or continuing in effect standards related to health insurance coverage (including the issuance, renewal, or rating of such coverage) if such standards are at least as stringent as the standards established under this chapter with respect to such coverage.

"SEC. 4991. DEFINITIONS.

"For purposes of this chapter—

"(1) CARRIER.—The term 'carrier' means—

"(A) a licensed insurance company;

"(B) an entity offering prepaid hospital or medical service plan;

"(C) a health maintenance organization; and

"(D) any similar entity which (i) is engaged in the business of providing a plan of health insurance or health benefits or services and (ii) is regulated under State law for solvency.

"(2) HEALTH INSURANCE COVERAGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'health insurance coverage' means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by a carrier.

"(B) EXCEPTION.—Such term does not include any of the following (or any combination of the following):

"(i) Coverage only for accident, dental, vision, or disability income, or any combination thereof.

"(ii) Medicare supplemental health insurance.

"(iii) Coverage issued as a supplement to liability insurance.

"(iv) Liability insurance, including general liability insurance and automobile liability insurance.

"(v) Workers' compensation or similar insurance.

"(vi) Automobile medical-payment insurance.

"(vii) Coverage providing wages or payments in lieu of wages for any period during which an employee is absent from work on account of sickness or injury.

"(viii) A long-term care insurance coverage, including a nursing home fixed indemnity policy (unless the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and of the Treasury, determines that such coverage is sufficiently comprehensive so that it should be treated as health insurance coverage.)

"(ix) Any coverage not described in any preceding clause which consists of benefit payments, on a periodic basis, for a specified disease or illness or period of hospitalization without regard to the costs incurred or services rendered during the period to which the payments relate.

"(x) Such other coverage as the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and of the Treasury, determines is not health insurance coverage.

"(C) TREATMENT OF STATE RISK POOLS.—Except for purposes of sections 4987(b)(3), 4988(a)(2)(B)(ii), and 4988(a)(3), such term does not include coverage provided through a State risk pool, uncompensated care pool or similar subsidized program.

"(D) PUBLIC PLANS COUNTED FOR PURPOSES OF QUALIFYING PREVIOUS COVERAGE.—For purposes of sections 4987(b)(3), 4988(a)(2)(B)(ii), and 4988(a)(3), such term also includes coverage under any of the following:

"(i) The medicare program under title XVIII of the Social Security Act.

"(ii) A State plan under title XIX of such Act.

"(iii) A program of the Indian Health Service.

"(iv) The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) under title 10, United States Code.

"(v) Any other similar governmental health insurance program (including a program described in subparagraph (C)).

"(3) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 5000(b)(1), but does not include any type of coverage excluded from the definition of health insurance coverage under paragraph (2)(B) or (C) and does not include any plan unless at least one of the following requirements is met:

"(A) Any portion of the premium or benefits under the plan is paid by or on behalf of the employer.

"(B) An eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the employer for any portion of the premium.

"(C) The health benefit plan is treated by the employer, or any of the eligible employees or dependents, as part of a plan or program for the purposes of section 162, section 25, or section 106 of the Internal Revenue Code of 1986.

"(4) STATE.—The term 'State' includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to individuals who commence health insurance coverage or coverage under a group health plan after the first day of the first month beginning more than 6 months after the date of the enactment of this Act.

(2) PLAN YEAR EXCEPTION.—Such amendments shall not apply to plan years ending before the first day referred to in paragraph (1).

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by inserting after the item relating to chapter 44 the following new item:

"CHAPTER 45. Continuity and portability of health coverage."

SEC. 3. CHANGES IN COBRA CONTINUATION REQUIREMENTS.

(a) MORE AFFORDABLE COVERAGE THROUGH REQUIREMENT OF LOWER-COST HEALTH PLAN CHOICES.—

(1) IN GENERAL.—Section 4980B(f) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1), by striking ", continuation coverage under the plan" and inserting "and as selected by the qualified beneficiary under this subsection, continuation coverage of the type described in subparagraph (A), (F)(i), or (F)(ii) of paragraph (2)";

(B) in paragraph (2)(A), by striking "The coverage" and inserting "Unless the coverage is the type of coverage described in clause (i) or (ii) of subparagraph (F), the coverage";

(C) in paragraph (2)(C)—

(i) in clause (i), by inserting "(or in the case of alternative continuation coverage described in clause (i) or (ii) of subparagraph (F), 69 percent or 52 percent, respectively, of such applicable premium)" after "for such period", and

(ii) in the last sentence by inserting ", '69 percent', or '52 percent'" after " '102 percent'" and by inserting ", '100 percent', or '75 percent', respectively,";

(D) by adding at the end of paragraph (2) the following new subparagraph:

"(F) TYPES OF ALTERNATIVE CONTINUATION COVERAGE REQUIRED.—

"(i) COVERAGE WITH TWO-THIRDS ACTUARIAL VALUE.—The type of coverage described in this clause is coverage which—

"(I) has an actuarial value (determined with respect to the similarly situated beneficiaries referred to in subparagraph (A)) of not less than ⅔ of the actuarial value (determined with respect to such beneficiaries) of the reference coverage, and

"(II) meets the requirements of clause (iii).

"(ii) COVERAGE WITH ONE-HALF ACTUARIAL VALUE.—The type of coverage described in this clause is coverage which—

"(I) has an actuarial value (determined with respect to the similarly situated beneficiaries referred to in subparagraph (A)) of not less than ½ of the actuarial value (determined with respect to such beneficiaries) of the reference coverage, and

"(II) meets the requirements of clause (iii).

"(iii) REQUIREMENTS RELATING TO GENERAL AVAILABILITY AND PREEXISTING CONDITIONS.—Coverage meets the requirements of this clause if the coverage—

"(I) is made available to all qualified beneficiaries who become eligible for coverage under this subsection after the effective date of this subparagraph, and

"(II) does not impose any restriction or limitation on coverage based on a preexisting condition unless such restriction or limitation could be imposed under the coverage described in subparagraph (A).

"(iv) REFERENCE COVERAGE DEFINED.—For purposes of this subparagraph, the term 'reference coverage' means, with respect to a group health plan, the costliest continuation coverage available under subparagraph (A) under the plan, excluding coverage in which an insignificant proportion of the eligible individuals is enrolled."; and

(E) by adding at the end of paragraph (4) the following new subparagraph:

"(D) COMPUTATION BASED ON FULL COVERAGE.—For purposes of this section, the applicable premium shall be computed based on the type of coverage described in paragraph (2)(A)."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning on or after the first day of the first month beginning at least 6 months after the date of the enactment of this Act.

(b) CONTINUATION COVERAGE FOR CERTAIN FORMERLY COVERED DEPENDENT SPOUSES AND CHILDREN.—

(1) IN GENERAL.—Section 4980B(f) of such Code is amended by adding at the end the following new paragraph:

"(9) CAPTURE OF DELAYED DIVORCE OR SEPARATION.—

"(A) IN GENERAL.—For purposes of this section, if a covered employee disenrolls from coverage (or fails to renew coverage of) a qualified beneficiary within the 12-month period preceding the date of the divorce or legal separation of the employee from the employee's spouse, the divorce or separation shall be treated as a qualifying event described in paragraph (3)(C) and the loss of coverage shall be considered to be a result (and by reason) of such event.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a qualified beneficiary if—

"(i) the beneficiary waives the rights under such subparagraph, or

"(ii) the qualified beneficiary at the time of the qualifying event or at the time of the disenrollment or failure to renew coverage has coverage under a group health plan (other than by reason of this paragraph) if the plan does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary."

(2) TREATMENT OF PERIOD BEFORE DELAYED DIVORCE OR SEPARATION.—Subparagraph (D) of section 4980B(f)(2) of such Act is amended by adding at the end the following new sentence: "For purposes of applying any preexisting condition limitation or restriction, any period beginning on the date of the disenrollment or failure to renew coverage referred to in paragraph (9)(A) and ending on the date of the divorce or separation referred to in such paragraph shall not be treated as a break in coverage if such paragraph applies to the qualified beneficiary.".

(3) TREATMENT OF ANNULMENTS.—Section 4980B(g) of such Code is amended by adding at the end the following new paragraph:

"(5) TREATMENT OF ANNULMENT AS DIVORCE.—The term 'divorce' includes an annulment.".

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to divorces, legal separations, and annulments occurring more than 60 days after the date of the enactment of this Act.

(c) ELIMINATION OF TERMINATION OF CONTINUATION COVERAGE BY REASON OF MEDICARE ELIGIBILITY THROUGH END STAGE RENAL DISEASE.—

(1) IN GENERAL.—Subclause (II) of section 4980B(f)(2)(B)(iv) of such Code is amended by inserting "other than by reason of section 226A of such Act" after "the Social Security Act".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to covered employees and qualified beneficiaries

who become entitled to benefits under title XVIII of the Social Security Act pursuant to section 226A of such Act on or after the first day of the first month that begins after the date of the enactment of this Act.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 11, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 12

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Environmental Protection Agency, the Council on Environmental Quality, and the Agency for Toxic Substances and Disease Registry.

SD–192

10:00 a.m.

Appropriations

Legislative Branch Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Secretary of the Senate, the Sergeant at Arms and Doorkeeper of the Senate, the Senate Legal Counsel, and the Senate Office of Fair Employment Practices.

SD–116

MAY 15

2:00 p.m.

Appropriations

Legislative Branch Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Library of Congress, the Congressional Budget Office, and the U.S. Capitol Police.

SD–116

Governmental Affairs

Post Office and Civil Service Subcommittee

To hold hearings on Federal pension reform.

SD–342

2:30 p.m.

Armed Services

Personnel Subcommittee

Readiness Subcommittee

To hold joint hearings on S. 727, authorizing funds for fiscal year 1996 for military activities of the Department of Defense and the future years defense program, focusing on military family housing issues.

SR–222

MAY 16

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the nominations of Karl N. Stauber, of Minnesota, to be Under Secretary of Agriculture for Research, Education, and Economics, and Eugene Branstool, of Ohio, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

SR–332

9:30 a.m.

Agriculture, Nutrition, and Forestry

To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on rural development and credit.

SR–328A

Armed Services

SeaPower Subcommittee

To resume hearings on S. 727, authorizing funds for fiscal year 1996 for military activities of the Department of Defense and the future years defense program, focusing on the requirements for continued production of nuclear submarines, submarine industrial base issues, procurement strategy, and associated funding.

SR–222

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine NASA's space shuttle and reusable launch vehicle programs.

SR–253

Energy and Natural Resources

To hold hearings to review Nuclear Regulatory Commission licensing activities with regard to the Department of Energy's civilian nuclear waste disposal program and other matters within the jurisdiction of the Nuclear Regulatory Commission.

SD–366

Finance

To resume hearings on the fiscal solvency of Medicare and the status of the program's delivery of health care services, focusing on methods to preserve and improve the Medicare program.

SD–215

Labor and Human Resources

Disability Policy Subcommittee

To resume hearings to examine proposed legislation relating to the education of individuals with disabilities.

SD–430

MAY 17

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings to examine the National Academy of Public Administration's study on the Environmental Protection Agency.

SD–G50

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the National Park Service, Department of the Interior.

SD–192

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

Finance

To continue hearings on the fiscal solvency of Medicare and the status of the program's delivery of health care services, focusing on methods to preserve and improve the Medicare program.

SD–215

10:00 a.m.

Governmental Affairs

To hold hearings to examine proposals to reorganization of the Executive Branch.

SD–342

Joint Economic

To hold hearings to examine the use of the flat tax.

SD–106

2:00 p.m.

Armed Services

Acquisition and Technology Subcommittee

To resume hearings on S. 727, to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, and to prescribe military personnel strengths for fiscal year 1996, focusing on dual-use technology programs.

SR–232A

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

2:30 p.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on environmental programs.

SD–192

MAY 18

9:30 a.m.

Energy and Natural Resources

To hold hearings to examine the administration of timber contracts in the Tongass National Forest and administration of the Tongass Timber Reform Act of 1990.

SD–366

Rules and Administration

To resume hearings to examine management guidelines for the future of the Smithsonian Institution.

SD–106

Small Business

To hold hearings to examine the Small Business Administration's 7(a) business loan program.

SD–628

Indian Affairs

To hold oversight hearings on the recommendations of the Joint Department of the Interior/Bureau of Indian

Affairs/Tribal Task Force on Reorganization of the Bureau of Indian Affairs.
SR-485

10:00 a.m.
Governmental Affairs
To continue hearings to examine proposals to reorganize the Executive Branch.
SD-342

Judiciary
Business meeting, to consider pending calendar business.
SD-226

0:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs.
SH-216

1:00 p.m.
Armed Services
SeaPower Subcommittee
To resume hearings on S. 727, authorizing funds for fiscal year 1996 for military activities of the Department of Defense and the future years defense program, focusing on the Marine Corps modernization programs and current operations.
SR-232A

2:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Institutes of Health, Department of Health and Human Services.
SD-192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Treasury Department, and the Federal Election Commission.
SD-192

Energy and Natural Resources
Energy Production and Regulation Subcommittee
To hold hearings on proposed legislation to extend the deadlines of certain hydroelectric projects, including S.283, S.468, S.543, S.547, S.549, S.552, S.595, and S.611.
SD-366

MAY 19

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Housing and Urban Development.
SD-192

10:00 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Architect of the Capitol, and the Government Printing Office.
SD-116

MAY 22

2:00 p.m.
Governmental Affairs
Post Office and Civil Service Subcommittee
To resume hearings on Federal pension reform.
SD-342

MAY 23

9:30 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on Federal nutrition programs.
SR-328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on financial management.
SD-192

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on NASA's Space Station Program.
SR-253

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 620, to direct the Secretary of the Interior to convey, upon request, certain property in Federal reclamation projects to beneficiaries of the projects and to set forth a distribution scheme for revenues from reclamation project lands.
SD-366

Indian Affairs
To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.
SR-485

2:30 p.m.
Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings to review the Department of the Interior's programs, policies and budget implications on the reintroduction of wolves in and around Yellowstone National Park.
SD-366

MAY 24

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Fish and Wildlife Service, Department of the Interior.
SD-192

10:00 a.m.
Agriculture, Nutrition, and Forestry
Research, Nutrition, and General Legislation Subcommittee
to hold hearings on psoposed legislation to strengthen and improve United States agricultural programs, focusing on research and the future of U.S. agriculture.
SR-328A

MAY 25

9:30 a.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on property line disputes within the Nez Perce Indian Reservation in Idaho.
SD-366

10:00 a.m.
Agriculture, Nutrition, and Forestry
Marketing, Inspection, and Product Promotion Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on Federal farm export programs.
SR-328A

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for military construction programs of the Department of Defense, focusing on Army and certain Defense agencies.
SD-192

Finance
Social Security and Family Policy Subcommittee
To hold hearings to examine the financial and business practices of the American Association of Retired Persons (AARP).
SD-215

2:00 p.m.
Energy and Natural Resources
To hold hearings on S. 638, to authorize funds for United States insular areas.
SD-366

MAY 26

10:00 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the General Accounting Office, and the Office of Technology Assessment.
SD-116

JUNE 6

9:30 a.m.
Agriculture, Nutrition, and Forestry
Forestry, Conservation, and Rural Revitalization Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on resource conservation.
SR-328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on intelligence programs.
S-407, Capitol

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Interior.
SD-138

Energy and Natural Resources
Energy Production and Regulation Subcommittee
To hold hearings on S. 708, to repeal section 210 of the Public Utility Regulatory Policies Act of 1978.
SD–366

JUNE 7

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Service and the Selective Service System.
SD–192

10:00 a.m.
Judiciary
Youth Violence Subcommittee
To hold hearings to examine the welfare system's effect on youth violence.
SD–226

JUNE 13

9:30 a.m.
Agriculture, Nutrition, and Forestry
Production and Price Competitiveness Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.
SR–328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on health programs.
SD–192

JUNE 15

9:30 a.m.
Agriculture, Nutrition, and Forestry
Production and Price Competitiveness Subcommittee
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.
SR–328A

JUNE 20

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on counternarcotic programs.
SD–192

JUNE 27

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense.
SD–192

SENATE—*Thursday, May 11, 1995*

(Legislative day of Monday, May 1, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we praise You for Your empowering us to stand with strength and courage in the midst of spiritual warfare. We see the results of the works of evil in the violence and terrorism in both word and deed all around us. And inside our own hearts we often feel hassled by the temptations of pride, aggrandizement, and the need to control.

We come to the armory of Your presence to be suited up with Your whole armor for the battles of the mind and spirit today. Thank you for the breastplate of righteousness that makes us secure in Your unqualified love and forgiveness. Shod our feet with the preparation of the Gospel of peace and help us to stride forward with the inner calm of Your perfect peace that passes understanding. Give us the shield of faith to quench the fiery darts of the invasion of Satanic influence. Place over our heads the helmet of salvation and protect our thinking brain from distorted half-truths and confused direction. Then help us to grasp the sword of the Spirit, Your words of guidance for hand-to-hand battles with evil. On time and in time, whisper in our souls the exact word of encouragement and courage that we need.

So, Lord, we gladly accept Your whole armor as we prepare for the battles of this day. In the name of the One who vanquished evil and is our victorious Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. CHAFEE. Mr. President, this morning the leader time has been reserved, and the Senate will immediately resume consideration of S. 534, the interstate solid waste bill. Pending is the Hatch amendment to the Specter amendment regarding Senate hearings on Waco and Ruby Ridge. Also, Senators should be aware that a cloture motion was filed on the committee substitute. Therefore, a cloture vote will occur tomorrow, unless an agreement can be reached. All first-degree amendments should be filed by 1 p.m. today. That is very important. Rollcall votes can be expected throughout the day today and into the evening in order to make progress on this bill.

I would add, Mr. President, it would be my hope that we finish this bill today and that those who have amendments will bring them over and let us consider them and see if we can handle them, and, if not, we will vote. But above all, it is very important that people come over with their amendments. All first-degree amendments have to be filed by 1 p.m. today.

So we are here ready to do business, Mr. President.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The PRESIDENT pro tempore. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Specter amendment No. 754, to express the sense of the Senate on taking all possible steps to combat domestic terrorism in the United States.

(2) Hatch amendment No. 755 (to amendment No. 754), to express the sense of the Senate concerning the scheduling of hearings on Waco and Ruby Ridge in the near future.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

THE BUDGET AND MEDICARE

Mr. THOMAS. Mr. President, I am very anxious that we proceed with the bill before us. In the meantime, I would like to just for a moment or two continue on our freshman focus on the idea of moving forward with these issues that are before the Senate and the House and that do need to be resolved soon, and to emphasize the opportunity that we have to solve them. Specifically, of course, to the budget and more specifically Medicare.

We have talked about Medicare for a good deal of time over the past, but now we come to a time when there is no choice as to whether we have to make a decision or whether we do not. We have before us a report from the trustees, of course, which indicates that unless we do something the fund will be broke in probably 3 years. So it is not a matter of not doing something. It is a matter of what do we do.

I am disappointed, I must say, that the administration has taken the position that we are just going to wait; we are just going to see what happens; we tried last year; our plan was not acceptable; and therefore we are not going to do anything.

That is not a strong leadership position. That is not a position that the administration should take. Nevertheless, the issue has to be dealt with. We propose to deal with it. The budget will suggest that in terms of part A the remedy might be found in the area of reducing growth—not cuts, not draconian cuts but, rather, reducing the growth from 10 percent to 7 percent, 8 percent, and that we can do this by changing some of the processes.

I think that this is the important thing that we have to talk about; that there ought to be some choices for seniors; that we ought to have some opportunities to use managed care; that there ought to be some incentives for people to find better ways of receiving services.

But the idea that we can simply sit back and continue to do what it is—the suggestion was made yesterday, if we can do something with the budget, we simply ought to take more money and put it into the program without changing.

Mr. President, that is not a useful solution. We have to find some ways to make the program work better. It seems to me that that is the great opportunity that we have had in this Congress for the first time in a number of years, to examine programs; not to do away with programs, but to find ways to deliver services more efficiently, to find ways, better ways, to deliver services to people who are eligible for those services. That is the challenge that we have.

Mr. President, I yield to my colleague, the Senator from Tennessee.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

FACING UP TO OUR RESPONSIBILITIES

Mr. THOMPSON. I thank my colleague from Wyoming. As usual, he hits the mark squarely. He outlines the problem.

Mr. President, I think what we are about here today is a part of a broader consideration, and that is our responsibility to the American people. We are getting about, I believe, responding to an issue here that is on the minds of the American people and we are doing something that is different, I think, than what has been going on in this body and in this city for a long time. And that is, we are facing up to our responsibilities.

Mr. President, I feel that for a long period of time in this country the U.S. Congress, in being more interested in the next election and the next election cycle than the next generation, for a long time has been putting its problems off and rolling them forward again and again and again hoping that perhaps the next generation or someone else will figure out how to dig out from under the present problems that we have laid on them.

This Medicare situation falls into that category. We have to face up to it. I believe it is the responsibility of this body to identify those items, those matters which we have concluded represent a substantial affect on peoples lives in the future. I think the Medicare trustees have put us in that position. They have given us information. We have the bully pulpit. We must inform the American people of what is happening. There is no room for recriminations right now as to how we got there, why we got there. We need to get about solving this problem.

Put in blunt terms, Mr. President, the trustees have informed us that, if we do not do anything, in 7 years Medicare is going to go broke. I do not know how much more simply we can explain it.

Medicare expenditures are increasing at the rate of 10 percent a year. We cannot sustain 10 percent a year. Now, the budget that has been put forward by the Budget Committee increases Medicare spending. It increases Medicare spending at the rate of 7.1 percent a year; not the 10 percent, but 7.1 percent.

We can get the job done at that rate, Mr. President. We can save the trust fund. Obviously, it has budget implications. But, separate and apart from any budget considerations, the Medicare problem, the Medicare crisis, must be addressed.

The budget that was submitted at 7.1 percent is an increase of Medicare spending of twice the rate of inflation. We can increase Medicare spending at twice the rate of inflation and still, by not going the full 10 percent, we can get out of this problem and save the Medicare Program for the 36 million Americans that depend on it. You would think that when you have a clear problem like that pointed out by a bipartisan commission—everyone in this body knows there is a substantial problem—that you would have both branches of Government, the executive branch and the legislative branch, pulling together. You would think you would have both political parties pulling together; that this is indeed a matter of national interest that we all have to work together to solve.

Unfortunately, Mr. President, it seems that the President of the United States has taken the position that, because we did not pass his health care bill last year, he is going to somehow get back at us by not being a player in this game.

These are tough decisions. These are tough political decisions. Even reducing the rate of growth on any program in America is a tough political decision, one that we are prepared to face up to.

But next year, being an election year, apparently the President has decided to sit on the sidelines and not participate because we did not pass his broad-sweeping health care program last year.

I think the President misses the point. People knew last year that the problem was not in the private sector. The problem was with the Federal sector; that is, the Medicare-Medicaid sector. In the private sector, costs are actually stabilizing; in many cases costs are actually going down in the private sector.

What the American people said "no" to was a broad-sweeping, perceived-to-be Federal takeover, which included the private sector. They did not say "no" to reforming and saving the Medicare Program that we have in this country. And that is what we are dealing with here today.

So let us decouple that. Let us get away from the past politics and who did what when. Let us give the President the benefit of the doubt. Let us say everything he says from a political standpoint is true; that he tried to save the entire health care system and we would have saved all this money. The facts are otherwise in my opinion, but let us give him the benefit of the doubt.

Let us say, assuming all that is true, assuming all that is true, that is the past. This is the future. The problem is a severe one. We have been told by a bipartisan commission that we are going to go bankrupt in this system within 7 years if we do not do something. We have to pull together to save the Medicare system for the 36 million Americans that depend on it.

How do we do that, Mr. President? I do not know anybody in this body or anybody on this side of the aisle who claims that we have all the answers as to exactly how to do that. The Senator from Wyoming has mentioned several different proposals, possibilities. It has been suggested that a commission be formed to look at ways of saving additional moneys, hopefully keeping the same amount of benefits; not being under the illusion that we can squeeze providers forever and get it from that source, but to have more choice, give elderly people more choice and more opportunity, perhaps, to save moneys that have heretofore been spent on the Federal program by availing themselves of options in the private sector.

There are any number of possibilities there. But we have to work together to solve this problem. We have to put aside partisan politics. We have to put aside past politics. The problem is too great. There are too many people that depend on our solving that problem.

Thank you, Mr. President. I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to speak as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

THE BUDGET AND MEDICARE

Mr. WELLSTONE. Mr. President, first of all, I thought I might just respond very briefly to my colleagues about the budget and specifically about Medicare.

Mr. President, let me just simply say that the most fundamental problem about the proposed cuts in Medicare and Medicaid, up to about $400 billion between now and 2002, is that these cuts reflect, I fear, a real lack of knowledge about health care policy. That is what bothers me more than anything else, Mr. President.

Mr. President, no one should be surprised about the increase in the cost of Medicare, which, by the way, is a benefits program. It is not an actuarial program. It is a commitment we made in 1965; by no means perfect. Catastrophic expenses are not covered, prescription drug costs are not covered. There are many gaps.

But, Mr. President, the reason that this is an expensive program and the reason the expense increases is because more and more of our population are aging and more and more of the aged population are now in their eighties.

Obviously, we are not going to be able to do anything about that, and I do not think we want to do anything about that.

The second reason is general inflation.

The third is medical inflation.

Mr. President, the problem with this proposal is you cannot single out one part of the health care costs, one segment of the population and cut there without very serious consequences.

Let me spell out a couple. First of all, you do ration. This time we really do ration. Last year, last Congress, there was a hue and cry about rationing when we wanted to have universal coverage. You are going to ration by age, you are going to ration by income, and you are going to ration by disability.

Mr. President, that is what happens when you just pick out one part of the health care costs and you target the elderly and you target low income, and I want to talk about Medicaid as well.

Second of all, the reason the business community, the larger businesses—and I think they are going to get joined by other businesses as well—are going to be uniformly opposed to this—and we are already hearing from the business community—is because it is just going to get shifted to them. This is the problem of charge shifting, I say to my colleague, of cost shifting. This is the shell game to this whole proposition.

When you pay less than what the providers need, when you do not have adequate reimbursement, which is already too low in rural America, those providers have no other choice but to shift it to those who can pay. That is private health insurance. Then businesses are hurt more. Then employees are hurt more. That is what is going to happen. And more people get dropped. You are going to have a huge amount of cost shifting. You cannot single out one segment of the population. You cannot do it. Welcome to health care reform. That is what we have to get back to.

Mr. President, third of all, in rural America, in rural Minnesota, many of our hospitals and clinics have 75 percent of their patient mix financed by Medicare payments. These hospitals are already having a difficult time. They are going to go under. It is not crying wolf; that is what is going to happen. That is exactly what is going to happen, Mr. President.

Fourth of all, and there are a lot of "alls," but there is another issue I want to talk about as well. But fourth of all, I smile when I hear some of my colleagues make these proposals about vouchers; people can go out and purchase their own health insurance and people have the freedom to do so. Has anybody ever heard of preexisting condition? Do you think that these health insurance companies are going to grant coverage to people who are old and sick? They do not do that. It is called preexisting condition.

By the way, managed care plans, by and large, have been most interested in people that are healthier. I am telling you right now, these cuts—they say they are not cuts—are in relation to an ever-growing percentage of the population who are aged, many who require ever more by way of medical care. I will tell you what, if it is my father and mother—both of them had Parkinson's disease—you better believe I want to make sure they get the best care. So do not tell me you are not going to seriously cut into the quality of care for older Americans. You certainly are.

In addition, you are going to cause a lot of havoc in this whole health care system. Just ask doctors, hospitals, clinics, all sorts of consumer organizations, all sorts of other people whether or not that will not be the case.

So, Mr. President, the irony is we get back to health care reform. There were some very interesting proposals about how to contain costs which we have to do if we are willing to have the courage to go forward. But this just picks out one segment of the population, and, in that sense, it is not intended but I think it will be very cruel in its effect. I do not think it is an intended effect. And it will create widespread havoc in the health care field. No question about it. From where do you think the teaching hospitals are going to get their funding?

FARM BILL

Mr. WELLSTONE. Mr. President, to shift, I want to talk about this 1995 farm bill, and I want to talk about what has come out of the Budget Committee.

I thought we were going to have a farm bill as opposed to just drastic budget cuts. The document that comes out of the Senate proposes cuts of $28 billion over 5 years and $45 billion over 7 years. A fair percentage of these cuts, the majority of these cuts are in nutrition programs—food stamps, Women, Infants and Children Program, School Lunch Program.

By the way, my colleagues in the Senate have gone on record that we will not take any action to create more hunger or homelessness among children. We had studies in the mid- and late 1960's about hunger in America, TV documentaries. That is when we expanded the Food Stamp Program.

Guess what? You bet it was a program that worked. I am not going to let anybody get away with talking about fraud here and fraud there. Yes, there are examples of fraud, no question about it, which should be stopped, but on the whole, this Food Stamp Program has made a gigantic difference in reducing hunger and malnutrition in the United States of America.

Now we want to have drastic cuts in the Food Stamp Program, Women, Infants, and Children Program, and, in addition, you go after the deficiency payments, the target prices, I say to the Chair, for farmers.

The farmers in Minnesota are real clear. We took a big hit last time around on deficit reduction, and people in agriculture in my State are not opposed to deficit reduction, but they want to see some standard of fairness. What family farmers say in Minnesota is, "If you give us a price in the marketplace, you can eliminate the target prices, you can eliminate the deficiency payments."

But if we do not have a fair price in the marketplace and you have drastic cuts in deficiency payments, you will erode family farm income, you will erode the value of the land and just as sure as that happens, we will see family farmers go under.

This is simply unacceptable. If you want to raise the loan rate to a higher level, if you want to give us a fair price in the marketplace, great, that is what people want. But instead what we have had is a policy of low prices which, by definition—correct me—means target price deficiency payments are higher, then that is now used as an excuse for cutting these programs, when we have already taken one hit after another.

The future for agriculture in this country is a fair price in the marketplace. The future for agriculture is let us put value to our products. In Minnesota, we lead the Nation with farmer-owned value-added farm co-ops. That is a big part of what people want to do. But we are not interested in not getting the fair price in the marketplace, not having access to capital to move forward with our own cooperatives, not being able to keep the value of what we produce in our communities and, in addition, seeing severe cuts in programs that provide needed income to family farms. That is what these budget cuts do, Mr. President. That is what these budget cuts do.

Why impose the most pain on those for whom it will be most difficult to bear? Why ask the very people who cannot tighten their belts to tighten their belts? Where is the Minnesota standard of fairness?

I do not see a focus on cutting more unneeded military and corporate welfare spending. I do not see a focus on eliminating lucrative tax breaks for special interests. I do not see a focus on moving away on the House side, and it seems to be that some of my colleagues on the other side of the aisle have split on this, on dealing with the problem of tax cuts for wealthy people.

What are we talking about? We are talking about $370-some billion, the vast amount of which flows to people on the top. If you have an income of $200,000 a year, it is a break of about $30,000. If you have a family income of under $30,000 a year, it is a break of about $100 a year. What are we talking about here? Where is the standard of fairness?

Mr. President, over and over and over again, through the time of this 104th Congress, I have been on the floor. I remember when I first uttered these words, I thought to myself, "Are you just giving a speech or is it going to happen?" I had to believe it was going to happen to say it. I said that my fear is the deficit reduction is going to be based on the path of least political resistance. That is exactly what is going on.

I remember David Stockman's book about the early eighties. He said what we should have done was go after the weak claims, not the weak claimants. We are not going after the weak claims, we are not going after the corporate welfare, we are not going after the military contracts, we are not going after the tax breaks, but we are going after the family farmers, we are going after the children, we are going after senior citizens, we are going after education.

There is no standard of fairness whatsoever. It is all based upon who are the folks who have the financial and the political clout to get their voice heard here and who are the vast majority of the people who are shut out of the process. We are going to have one sharp budget debate. When it gets to Medicare and Medicaid, I am going to insist that my colleagues know this policy well and understand exactly what the consequences are of what they are doing. When it comes to the cuts in agriculture—disproportionate cuts—I want to make sure that people know that we are talking about farmers not out of sight out of mind, but the producers in this country, and what this is going to do to family farmers. When it comes to education, I want people to understand the consequences of what it means when we do not invest in education and young people. When it comes to children and child nutrition programs, I want to make this argument: Do not go after the most vulnerable citizens in this country.

When it comes to alternatives, I want to talk about the corporate welfare, I want to talk about the tax dodgers, I want to talk about the military contract, and I want to talk about how we really can contain health care costs. I look forward to this debate. I hope all of the people in the United States of America are engaged in it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ASSAULT ON MEDICARE: MYTH AND REALITY

Mr. KENNEDY. The Republican budget plans in the Senate and House of Representatives propose unprecedented cuts in Medicare, some $250 to $300 billion over the next 7 years. Cuts of this magnitude will break America's contract with the elderly. Millions of senior citizens will be forced to go without health care they need. Millions more will have to choose between food on the table, adequate heat in the winter, paying the rent, and medical care.

These cuts will also be a heavy blow to the quality of American medicine. It will damage hospitals and other health care institutions that depend on Medicare and that provide essential care for Americans of all ages, not just senior citizens. Progress in medical research and training of health professionals depend on the financial stability of these institutions. Academic health centers, public hospitals, and rural hospitals will bear an especially serious burden if these deep cuts are enacted.

In addition, such cuts will inevitably impose a hidden tax on workers and businesses who will face increased costs and higher insurance premiums as physicians and hospitals shift even more costs to the nonelderly.

According to recent statistics, Medicare now pays only 64 percent of what the private sector pays for comparable physician services. For hospital care, the figure is 68 percent. The proposed Republican cuts will widen this already ominous gap even farther.

Because of the current gaps in Medicare, senior citizens already pay too much for the health care they need. Elderly Americans pay an average of one-fifth of their income to purchase health care, a higher proportion than they paid before Medicare was enacted.

Yet the reason Medicare was enacted in the first place, 30 years ago, was to deal with the health care crisis affecting the lives of older Americans at that time. How can we care any less about their needs today?

Medicare today does not cover prescription drugs. Its coverage of home health care and nursing home care is extremely limited. We go to any senior citizen home in America and ask the senior citizens there how many of them are paying, say, $50 a month for prescription drugs, half the hands will go in the air. If asked how many pay $25 a month or more per month for prescription drugs, three-quarters of the hands go in the air.

Looking at what has happened in terms of cost of those prescription drugs, which are so necessary for the senior citizens, we find those costs have been going right up through the roof. They are absolutely an essential part of the needs for our elderly people, and they are not included in the Medicare Program, and they are draining down scarce resources for retirees and for senior citizens.

Unlike virtually all private insurance policies, Medicare does not have a ceiling on out-of-pocket costs. It does not cover eye care, it does not cover foot care, it does not cover dental care. All of those are important needs for our senior citizens.

Yet the Republican budget cuts will ask senior citizens to pay $900 more a year out of their pockets when the cuts are fully implemented. And the Republican tax bill already passed by the House of Representatives gives the tax cut of $20,000 to wealthy individuals making more than $350,000 a year. That is not right and the American people know it.

The assault on Medicare is based on five myths. Myth No. 1 is that deep cuts are needed to save Medicare from bankruptcy. The hypocrisy of this claim is astonishing. A few weeks ago, the House Republicans included a provision in their tax bill to take $90 billion out of the Medicare hospital insurance trust fund over the next 10 years. We did not hear a word then about the impending bankruptcy of Medicare. They took that amount of money out of the Medicare trust funds. They did not have to unless they were interested in increasing the tax reductions for the wealthiest individuals, but they took that out of the Medicare trust funds.

Now they are talking about how the Medicare fund itself is facing financial difficulties, when just 3 weeks ago they took $90 billion out of there to use it for tax cuts for the wealthiest individuals.

It is true that an April 3 report of the Medicare trustees projects that the Medicare hospital insurance trust funds will run out of money by the year 2002. Few, if any, Republicans will be talking about deep Medicare cuts to cure that problem if they did not also need such cuts to finance their tax cut for the wealthy.

As the Medicare trustees themselves noted in their report, modest adjustments can keep Medicare solvent for an additional decade—plenty of time to find fair solutions for the longer term. Similar projections of Medicare insolvency have been made numerous times in the past. Each time, adjustments enacted by Congress were able to deal with the problem without jeopardizing beneficiaries, and we can do the same again.

For example, an estimated 20 percent of all Medicare hospitalizations could be avoided with better preventive services, and more timely primary and outpatient care. As much as 10 percent of all Medicare expenditures may be due to fraud, and that could be reduced substantially by the better certification procedures. This has been shown by the hearings that have been held by Senator COHEN of Maine with a series of recommendations which, fully implemented, would stabilize the Medicare trust fund.

The message is clear: We do not have to destroy Medicare in order to save it. The American people understand that basic point, and Congress should recognize it, too.

Myth No. 2 is that the Republican budget proposal is not a cut, because the total amount of spending will continue to grow. In fact, the Republican plan calls for spending $250 billion less on Medicare than the Congressional Budget Office says is necessary to maintain the current level of services to beneficiaries.

Every household in America knows that if the cost of rent and utilities goes up and income stays the same, there is a real cut in your standard of living. If Medicare pays $80 toward the cost of your visit to a doctor in 1995 and the same $80 in 1996, but his fee goes up by $20, the value of your Medicare protection is cut by $20. Every senior citizen understands that.

The irony is that our Republican colleagues accept this argument when they talk about defense expenditures. They know that defense is being cut if funds increase more slowly than inflation. Our colleagues should apply the same accounting rules to the needs of senior citizens as they do the purchase of guns and tanks.

Myth No. 3 is that Medicare is different from Social Security and is an entitlement less deserving of protection. In fact, the distinction between Medicare and Social Security is false because Medicare is a part of Social Security.

Like Social Security, Medicare is a compact between the Government and the people. It says, "Pay into the trust fund during your working years and we will guarantee decent health care in your old age." Any elderly American who has been hospitalized or suffers from a serious chronic illness knows there is no security without Medicare. The cost of illness is too high. A week in intensive care can cost more than a total yearly income of most senior citizens. Low- and moderate-income elderly will suffer the most from Medicare cuts. Eighty-three percent of all Medicare spending is for older Americans with annual incomes below $25,000. Two-thirds is for those with incomes below $15,000.

Imagine, average income of $15,000 and trying to make ends meet when a person fought in the world wars of this country, has been a part of the whole building of the American economy, sacrificed to bring up children, and is barely making it at $15,000, and then there are the important health care needs to be attended to that are no fault of your own. Those are the people that we are talking about that are going to be adversely impacted with these cuts.

When the Republicans tried to cut Social Security in the 1980's, the American people said, "No," and they will say no to these equally damaging proposals to cut Medicare in the 1990's.

Myth No. 4 is that Medicare costs can be cut by encouraging seniors to join managed care. True, it can help bring medical costs under control in the long run. Enrollment by senior citizens in managed care is already increasing rapidly. It is up by 75 percent since 1990, but no serious analyst believes that increased enrollment in managed care will substantially reduce Medicare expenditures in the timeframe of the proposed Republican cut. In fact, according to the General Accounting Office, Medicare is now actually losing money on managed care because only the healthiest senior citizens tend to enroll in it, leaving Medicare left to pay for those more seriously ill.

The only realistic way to save money in the short term on managed care is to penalize senior citizens who refuse to enroll. This option has already been suggested by the Republican health task force in the House. I say it is wrong to force senior citizens to give up their freedom to choose their own doctors and hospitals. It is wrong to penalize them financially if they refuse to enroll in managed care.

I will add, in the debate we had on the health care measures of last year, that particular option was preserved for our senior citizens and it ought to be preserved in any health care reform.

Myth No. 5 is that the deep, unilateral cuts in Medicare are necessary to balance the budget. As President Clinton told the White House Conference on Aging last week, 40 percent of the projected increase in Federal spending in coming years will be caused by escalating health costs.

What this Republican budget fails to recognize is that the current growth in medical care is a symptom of the underlying program in the entire health care, not a defect in Medicare alone. In fact, Medicare has done a better job than the private sector in restraining costs in recent years.

Since 1984, Medicare costs have risen at an annual rate of 25 percent lower than comparable private health care spending. Slashing Medicare unilaterally is no way to balance the budget. It will simply shift the costs from the budget of the Federal Government to the budgets of senior citizens, their children, and their grandchildren.

If Medicare is cut in isolation, senior citizens will also face greater discrimination from physicians and hospitals, who are less willing to accept the elderly as patients, because Medicare reimbursements are much lower than the reimbursements available under private insurance.

We know that previous cuts in the Medicare reimbursement have led to serious cost-shifting, as physicians and hospitals seek to make up their reduced income from Medicare patients by charging higher fees to other patients. The result has been higher health care costs and higher health insurance premiums for everyone, as cost-shifting becomes a significant hidden tax on individuals and businesses.

The right way to slow Medicare growth is in the context of overall health reform that will slow rising health costs in the economy as a whole. That is the way to bring Federal health costs under control without cutting benefits or shifting costs to working families, comprehensive reform, to try to make available to our seniors good health care, preventive care programs to provide the services to keep people out of the hospitals so they do not go into the high-cost facilities, and to try to do something in terms of home care, community-based care, which is much more satisfactory for our seniors and can be done at considerably less cost. And to build upon the nurses, nursing profession, to assist with skilled nursing attention some of the needs for our seniors.

In the context of broad health reform, the special needs of academic health centers, rural health centers, inner-city hospitals also can be addressed. Deep Medicare cuts alone, by contrast, will undermine the availability and quality of care for young and old alike.

We are talking about the kind and quality of trained health personnel that Medicare participates in. We are talking about necessary institutions, academic institutions which are the center for much of the research that benefits our senior citizens. We are talking about diminishing the kinds of research that has to take place in those areas as well.

President Clinton has emphasized he is willing to work for bipartisan reform of the health care system, but the Republicans have said no. The only bipartisanship they seem to be interested in is the kind that says, "Join us in slashing Medicare." That is not the kind of bipartisanship the American people want. It is not the kind of bipartisanship that senior citizens deserve.

It is especially telling that Republicans are proposing these harsh cuts in Medicare at the same time they support the massive tax cut that will disproportionately benefit the richest individuals and corporations in our society. The Republican tax plan that has already passed the House will reduce Federal revenues by $250 billion. Without that tax cut for the wealthy there would be virtually no need to cut Medicare in order to achieve a balanced budget under their plan. The Senate Budget Resolution reserves $170 billion for tax cuts. Without that allocation the Medicare cuts could be reduced by two-thirds without any increase in the deficit.

The arguments used to justify deep cuts in Medicare cannot pass the truth-in-labeling test. They will not fool the American people. As the ceremonies on V–E Day earlier this week commemorating the end of World War II in Europe reminded us, today's senior citizens have stood by America in war and peace and America must stand by them now. The senior citizens of today are the veterans of the Army, the Navy, the Air Force, the Marines, and the hard-working men and women on the home front. They pulled us through that terrible war. We cannot pull the rug out from under them on Medicare now.

I urge the Senate to reject these unwise Republican proposals.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BURNS. Mr. President, I ask unanimous consent that I may proceed as if in morning business for no more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. BURNS. Mr. President, we have all been receiving phone calls and getting letters about the proposed budget that is being recommended now or being talked about and marked up in the respective committees in the Senate and House of Representatives. We have had time to talk to the chairmen of those committees and get copies of the proposal that they have put forth. In other words, the great debate has started on this year's budget.

I think we have to applaud the chairman of each committee because they have come forward with very daring proposals. I applaud the chairmen, especially Senator DOMENICI of the Senate Budget Committee. When you look at our deficit spending we see, yes, that the deficit did become lower last year. It went down. But it now continues to climb. The deficit this year alone stands at $175 billion, and for a while. But, nonetheless, it is growing at the outrageous rate of $482 million a day. That sounds like a lot of money to me.

So, consequently, it is time for this body and this Government to do something responsible and to deal very frankly with the budget, to be up front about it, and to try to address some of the problems that we have because I think most Americans are wanting something done to rein it in.

It is absolutely necessary if we are to continue the economic viability and the leadership in this world for our Nation. We cannot continue to stand by and conduct business as usual, and in so doing allow the national debt to increase by $1 trillion every Presidential term.

So the time has come for bold initiatives to look at getting spending under control, and Senator DOMENICI's budget right now does exactly that.

The chairman of the Budget Committee slows the annual growth of most lines. Every line in that budget, with the exception of a few, grow every year. We have heard a lot of attention brought to the Medicare line, growing 10 to 11 percent every year. Now we want to slow that growth because already the trustees of that trust fund have told us that by the year 2002 it will be broke and they will pay no bills at all.

Also it transforms Medicaid into block grant funds to the States where they will have the responsibility to do something responsible to get spending under control.

It further calls for the establishment of a bipartisan congressional committee to represent policy changes needed to maintain the short-term solvency of the Medicare system. Such measures would generate the savings needed to put the system on a financially sound footing for the next 7 years while we work together to develop a long-term solution for Medicare solvency gap. There can be no getting around the fact that, if we continue on the path that we are presently on, Medicare will lapse into bankruptcy within 7 years and then it will be too late, or too expensive, to solve the problem.

The chairman's budget proposes the elimination of spending for the National Biological Survey. I have long said that we had the resources within the organizations of the Fish and Wildlife, the Park Service, or in the Department of the Interior to do that without creating another bureau or the money that goes with it. We also want our policy decisions based on sound science and we start dealing with the biological makeup of this country or this world. And I think we can do it without the National Biological Survey.

The chairman's budget proposes the reduction in the Agricultural Research Service by 10 percent which would reduce the total outlays in this program by $1 million.

It is true that we all will not agree with this budget. This is one area where I do not agree. This is one area where we cannot pull back on any investment in the research and development in agriculture. I will stand on this floor and maintain until I can draw my last breath that the second thing everybody who lives in this Nation does every morning is eat. I do not know what the first thing is that they do. They have a lot of options there. But I know the second thing they do is eat.

We still have an obligation to feed this Nation and this society.

So when it comes time to talking about budgets, basically that is what a balanced budget amendment would have done; make us talk about the most important things and to set our priorities where we think those important things are.

We have to look to the necessities of life, not to the frills but the necessities of life and also the individual responsibility that each one of us has at just being a citizen of this great country.

You might be surprised to know that for the first time in the history of agriculture our yields in wheat are going down, because we are just not getting enough money for research, plant breeding, developing those strains of wheat that are disease resistant because that is a constant thing; it goes on all the time. And so we must, if we are going to feed this Nation—and right now, 1 farmer feeds 145 other people. Also, one of our greatest exports is agriculture. In fact, it has been in the black forever. We have to continue with our ability to produce foodstuffs, food and fiber for this society.

The chairman of the Budget Committee also proposed the privatization of the PMA's, the power marketing administrations. They are making money for the Treasury. They also generate and produce power for our REA's. In rural America, we would not have electricity yet if it was not for REA's. My father served on an REA board. I have often said if it was not for REA on the farms, we would be watching television by candlelight.

We have to be very cautious in the way we set our priorities in this budget. So consequently I think we have to take a very hard look at long-term revenue implications that would happen, that is, if WAPA, western area power marketing, and the Southwest and the Southeast are moved into private hands.

And this is nothing new. We will argue about different parts of the budget. Where we set our priorities is what is really important for this Nation and the people who live in it. That is what this budget will do. But it will be a responsible budget that I am sure, after America looks at it, we will have the confidence in its integrity to do what we have to do, and that is to balance the budget by the year 2002.

I do not think there is anything that will come before this body that will be any more important than the issue of this budget and the roadmap, the blueprint to get us where we want to be as not only an economically free and viable leader of the world but also that keeps us free.

In conclusion, I wish to again praise the chairman. He presented a responsible budget resolution, and I pledge to work with the Budget Committee and all my colleagues to make sure we do those things that are necessary and do away with those things, those frills at this time in our history that we cannot afford just because we like to say we have them.

So I wish to work with the chairman and this body in producing a budget that will work for all Americans.

Mr. President, I yield the floor and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 758

Mr. CHAFEE. Mr. President, on behalf of Senators DODD and LIEBERMAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. DODD, for himself and Mr. LIEBERMAN, proposes an amendment numbered 758.

The amendment is as follows:

On page 62, line 4, after the words "public service authority", add "or its operator".

Mr. CHAFEE. Mr. President, this is a technical amendment, obviously. It is needed to be consistent with the language on page 61, line 18 of the legislation.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 758) was agreed to.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

FLOW CONTROL

Mr. DODD. Mr. President, I would like to engage in a colloquy with Senator CHAFEE, the chairman of the Environment and Public Works Committee and Senator BAUCUS, the committee's ranking member, regarding the intent of S. 534 with respect to flow control.

Is it the intent of this bill to allow for the refinancing of public debt for waste management facilities where only the interest rate would change, and not the amount or maturity date of the bond?

Mr. CHAFEE. Yes, that is the intent of the bill.

Mr. DODD. Is this the understanding of the Senator from Montana?

Mr. BAUCUS. Yes, that is my understanding as well.

FLOW CONTROL AND FREE MARKET ISSUES

Mr. SANTORUM. Mr. President, I seek recognition for the purpose of engaging in a colloquy with the distinguished Senator from New Hampshire, Senator SMITH, the manager of S. 534.

First, may I congratulate my colleague on his skillful handling of this difficult legislation.

Second, it is that very difficulty on which I would like to focus in this colloquy.

I think my colleague would agree with me in my characterization of this legislation as statutory interference with the commerce clause of the Constitution of the United States. This interference comes as a result of the Carbone versus Clarkstown decision, which has caused problems with certain public facilities financed by revenue bonds. Carbone invalidated State and local laws which create a solid waste monopoly for those facilities. And, of course, there is the continued desire to come to grips with the problem of interstate transfer of solid waste. I am especially aware of this problem because my own State of Pennsylvania has been the unwilling recipient of solid waste exported from New Jersey and New York, in particular.

Thus, we have a clash between the fundamental wisdom of the commerce clause and the practical effects of the interstate trade in solid waste. May I ask my colleague from New Hampshire the following question?

Is it fair to state that he has attempted to craft legislation which would interfere as little as possible with the commerce clause and thereby he would try to protect the free market where it has worked?

Mr. SMITH. I have stated before that I am not in favor of flow control. Flow control is anticompetitive. But it is only fair and equitable that communities that have indebted themselves—completely within the law prior to the Supreme Court decision—must not be left to suffer the consequences of financial failure. The outstanding municipal bonds that total more than $20 billion must be honored and the communities' financial stability must be maintained. However, only those facilities with bonded revenues are given grandfather coverage under this bill. Any municipality indebted after the Carbone decision is not and will not be protected.

The free market must prevail. Rather than assisting with the creation of yet another bloated Government bureaucracy, we should be encouraging the establishment of a healthy free market, one in which competition keeps prices low, offers consumers better services, and disposal techniques are state-of-the-art.

Mr. SANTORUM. Further, it appears to me that the interstate title of this legislation gives my Commonwealth of Pennsylvania the tools it needs to prevent abuse of our resources and environment. Could my colleague comment on that?

Mr. SMITH. Yes, the interstate title gives the Governor of Pennsylvania and the Governors of other affected States authority to ensure that their States do not continue as unabated dumping grounds for States which do not act to site their own disposal capacity.

Mr. SANTORUM. Last, with regard to title II, flow control, may I inquire of my colleague whether this legislation imposes flow control or in any way makes it mandatory and thereby suppresses the free market?

Mr. SMITH. This legislation does not impose flow control. Flow control is fundamentally incompatible with the principles of free enterprise, market competition, and the best interest of the consumer. Requiring the use of flow control would be a step backward in the handling of municipal solid waste. This bill is designed specifically to protect the bond holders and commitments previously made. The free market is not broken, and with the inclusion of a 30-year sunset provision, the free market will once again take over.

Mr. SANTORUM. Based on the response of my colleague, may I validly draw the following two conclusions?

First, this legislation allows the continuation of flow control as previously enacted under State law under certain conditions but not require or mandate flow control.

Second, it is the intention of the distinguished subcommittee chairman that this legislation not be used in and of itself as an argument to suppress the free market.

Mr. SMITH. My colleague from Pennsylvania is correct in his conclusions regarding the spirit of the legislation. Flow control will continue under certain conditions but is not required or mandated. As I have said before, the free market must be allowed to prevail.

Mr. SANTORUM. I thank my distinguished colleague and again commend him for so ably discharging this difficult responsibility.

Mr. DASCHLE. Mr. President, I am fortunate to come from a State with sparsely populated expanses of some of the most beautiful land in this country. States like South Dakota have a special interest in the legislation before the Senate today, as it will directly affect their future.

The legislation, S. 534, amends the Solid Waste Disposal Act to provide important authority for States and local governments to better control the transportation of municipal solid waste between and within States.

The time has come to enact this legislation. States and local government are facing increasing challenges in the responsible regulation of municipal waste management. Interstate shipments of waste have been growing in recent years. Between 1990 and 1992, interstate shipments of waste grew by 4 million tons—a 25% increase. Currently, about 15 million tons of municipal waste is transported between States for treatment and disposal, much of it from densely populated regions to less populated areas.

Moreover, the U.S. Supreme Court has ruled that unless Congress acts on this issue, States and local governments can have no meaningful role in controlling the movement of waste into and within their borders.

The combination of increasing interstate shipments of municipal waste and recent Supreme Court decisions understandably has created concern among States like South Dakota, who fear that without authority to restrict unwanted imports of municipal waste, they will become the dumping ground for other, more heavily populated areas.

In addition, Congress has a responsibility to help protect the investments made by towns across America in municipal waste management facilities—investments that have been placed in jeopardy by the Supreme Court's recent Carbone decision.

The temptation can be great to ship waste to the more remote regions of our country. But some of these lands are fragile and are home to some of our country's greatest natural assets. In South Dakota alone, the geological wonderland of the Badlands, the expansive prairie, and the majestic Black Hills are examples of areas that deserve protection from the designs of anyone who would use them for waste disposal.

The responsibility for disposing trash produced by large urban areas should be confronted and met by the citizens and community leaders who live there. Rural States should never be considered as a waste management option, unless they willingly choose to make their land available for that purpose. In the end, the choice must belong to the State and local governments that would bear the long-term environmental consequences of waste disposal.

This bill addresses the rights and responsibilities of States and local governments to achieve their own environmental and economic objectives. It is about State and local self-determination. The interstate waste provisions of this bill represent a delicate balance between States that import and export waste. It is a step in the right direction because it encourages States to take responsibility for managing the waste they generate, rather than sending it elsewhere. Out of sight and out of mind will not work when it comes to management of municipal solid waste, particularly if it means leaving it within the sight and on the minds of those who do not want it.

Reduce, reuse, and recycle is a better solution. It represents a philosophy that more States will have to adopt as a result of this bill.

Like most legislation, this bill will not completely satisfy the objectives of every State or local government. Some States, like South Dakota, would like, and I believe deserve, even greater authority to prevent imports of waste. Other States, which with an interest in exporting municipal waste, would prefer to see fewer restrictions. Likewise, I am aware that while there are cities and towns that would prefer to have greater and more enduring authority to regulate flow control, there are Members of this body who feel that the free and unfettered competition of the marketplace should be given a greater opportunity to determine the flow of municipal waste.

This bill strikes a reasonable balance between these competing interests, one that I believe is essential if we are to move forward and enact meaningful legislation. It gives States and local governments the ability to promote their own environmental goals and meet important financial obligations. We must pilot a course of responsible stewardship of our resources. This bill gives States and cities the power to do just that, and I hope that my colleagues will join me in supporting this important and timely legislation.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—S. 534

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Anna Garcia, a fellow in my office, be allowed floor privileges during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 761

(Purpose: To require the Administrator of the Environmental Protection Agency to conduct a study of solid waste management issues associated with increased border use resulting from the implementation of the North American Free Trade Agreement)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 761.

Mr. BINGAMAN. Mr. President, I ask unanimous consent further reading be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. ___. BORDER STUDIES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term "maquiladora" means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term "solid waste" has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—

(1) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH NORTH AMERICAN FREE TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator is authorized to conduct a study of solid waste management issues associated with increased border use resulting from the implementation of the North American Free Trade Agreement.

(2) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH UNITED STATES-CANADA FREE-TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator may conduct a similar study focused on border traffic of solid waste resulting from the implementation of the United States-Canada Free-Trade Agreement, with respect to the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—A study conducted under this section shall provide for the following:

(1) A study of planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border involved.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) In the case of the study described in subsection (b)(1), research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) In the case of the study described in subsection (b)(1), a determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992–1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region involved, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region involved, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In conducting a study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and, in the case of the study described in subsection (b)(1), census data prepared by the Government of Mexico.

(2) In the case of the study described in subsection (b)(1), information from the United States Customs Service of the Department of the Treasury concerning solid waste transported across the border between the United States and Mexico, and the method of transportation of the waste.

(3) In the case of the study described in subsection (b)(1), information concerning the type and volume of materials used in maquiladoras.

(4)(A) Immigration data prepared by the Immigration and Naturalization Service of the Department of Justice.

(B) In the case of the study described in subsection (b)(1), immigration data prepared by the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region involved where solid waste is treated, stored, or disposed of.

(7) In the case of the study described in subsection (b)(1), a profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) With respect to reviewing the study described in subsection (b)(1), States and political subdivisions of States (including municipalities and counties) in the region of the border between the United States and Mexico.

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and with respect to reviewing the study described in subsection (b)(1), equivalent officials of the Government of Mexico.

(f) REPORTS TO CONGRESS.—On completion of the studies under this section, the Administrator shall, not later than 2 years after the date of enactment of this Act, submit to the appropriate committees of Congress reports that summarize the findings of the studies and propose methods by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) BORDER STUDY DELAY.—The conduct of the study described in subsection (b)(2) shall not delay or otherwise affect completion of the study described in subsection (b)(1).

(h) FUNDING.—If any funding needed to conduct the studies required by this section is not otherwise available, the President may transfer to the Administrator, for use in conducting the studies, any funds that have been appropriated to the President under section 533 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3473) that are in excess of the amount needed to carry out that section. States that wish to participate in study will be asked to contribute to the costs of the study. The terms of the cost share shall be negotiated between the Environmental Protection Agency and the State.".

Mr. BINGAMAN. Mr. President, this amendment addresses a problem of increasing urgency in my part of the country, my home State of New Mexico. That is, the disposition of solid waste, along the United States-Mexico border.

As the United States and Mexico move further into their trade relationship under the North American Free-Trade Agreement, increased development along the border is inevitable. With that development comes new challenges regarding the transport and disposal of solid waste.

This is not just an issue for the Governments of the United States and Mexico, it is also an issue for the four border States of California, Arizona, New Mexico, and Texas. It is one that we need to deal with in this legislation, and capitalize on the opportunity offered by NAFTA. We are going to have to plan for this increased development. This means conducting necessary research on the scope of the problem.

The amendment authorizes the Administrator of EPA to conduct a study of solid waste management issues associated with this increased use of the area along the border, in order that States and localities can properly plan for waste treatment, transportation, storage and disposal.

The study will address six key issues. First, planning for additional landfill capacity; second, related impact on border communities of a regional siting of solid waste storage and disposal facilities; third, research on methods of tracking the transportation of materials to and from industries located along the border; fourth, the need for materials safety training for workers; fifth, the adequacy of existing emergency response networks in the border region; sixth, a review of solid waste management practices in the entire border region.

It is my expectation that the Administrator, in order to fulfill the requirements of the amendment, would enter into contractual agreements with other entities such as States and universities and university consortia.

Mr. President, I am convinced in the long run NAFTA will prove to be a good movement, a good initiative for economic opportunities for my home State of New Mexico and for the entire border region.

This is only true if we manage these opportunities correctly and deal with the potential health and environment problems that the increased development will bring. This amendment helps to do that.

I urge my colleagues to support the amendment. I understand the amendment has been reviewed by both the manager and the ranking member, and that this amendment is accepted.

Mr. CHAFEE. Mr. President, this is a good amendment, and I congratulate the Senator from New Mexico. It is acceptable to this side.

Mr. BAUCUS. Mr. President, I agree. The Senator from New Mexico has consulted with Senators, and I appreciate the approach he is taking. There is a problem with respect to what he raises.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is agreeing to the amendment.

So the amendment (No. 761) was agreed to.

Mr. BINGAMAN. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR—S. 534

Mr. BAUCUS. Mr. President, I ask unanimous consent that Ken Berg, a fellow from the office of Senator BOXER, have the privileges of the floor during consideration of S. 534, and that Linda Critchfield, a fellow from the office of Senator LIEBERMAN, be allowed on the floor during consideration of S. 534.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 769

Mr. KYL. Mr. President, I ask unanimous consent to lay aside the pending amendment for the purpose of offering an amendment which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 769.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, strike line 16 and all that follows through page 58, line 22, and insert the following:

"(4) CONTINUED EFFECTIVENESS OF AUTHORITY DURING AMORTIZATION OF FINANCING.—

"(A) IN GENERAL.—With respect to each designated waste management facility or facilities, or Public Service Authority, authority may be exercised under this section only—

"(i) until the date on which payments under the schedule for payment of the capital costs of the facility concerned, as in effect on May 15, 1994, are completed; and

"(ii) so long as all revenues (except for revenues used for operation and maintenance of the designated waste management facility or facilities, or Public Service Authority) derived from tipping fees and other fees charged for the disposal of waste at the facility concerned are used to make such payments.

"(B) REFINANCING.—Subparagraph (A) shall not be construed to preclude refinancing of the capital costs of a facility, but if, under the terms of a refinancing, completion of the schedule for payment of capital costs will occur after the date on which completion would have occurred in accordance with the schedule for payment in effect on May 15, 1994, the authority under this section shall expire on the earlier of—

"(i) the date specified in subparagraph (A)(i); or

"(ii) the date on which payments under the schedule for payment, as in effect after the refinancing, are completed.

"(C) Any political subdivision of a State exercising flow control authority pursuant to subsection (c) may exercise such authority under this section only until completion of the original schedule for payment of the capital costs of the facility for which permits and contracts were in effect, obtained or submitted prior to May 15, 1994.".

Mr. KYL. Mr. President, the amendment which I offer now will tighten the flow control provisions of title II to more accurately reflect what I believe is the committee's intent; namely, to authorize flow control for a limited period of time to ensure that States and political subdivisions are able to service the debt that they incurred for the construction of solid waste management facilities prior to the Carbone decision.

Flow control is inherently anticompetitive. It was ruled a violation of the Constitution's commerce clause by the U.S. Supreme Court in the Carbone case. The Court ruled:

> State and local governments may not use their regulatory power to favor local enterprise by prohibiting patronage of out-of-State competitors of their facilities.

While Justice O'Connor in a concurring opinion noted Congress' power to authorize local imposition of flow control, I do not believe it is in the public interest to sanction these Government monopolies intrastate, and it could impede competition, particularly for any more than the minimum amount of time required for State and local governments to pay off the debt that they incurred prior to the Supreme Court decision.

So my amendment would authorize flow control authority only until the debt incurred prior to the Carbone decision is repaid. During the period for which flow control is authorized, revenues derived from tipping fees and other fees charged at the flow control designated facility—these are net of revenues used for operation and maintenance of the facility, of course—must be used to pay off the debt obligations.

This amendment would permit the refinancing of debt to allow State and local governments to take advantage of lower interest rates when they are available. However, flow control authority would end on the date on which the original debt would have been repaid or the date on which the refinanced debt is repaid, whichever is earlier.

Mr. President, it appears to me that flow control has only one purpose; and, that is, to protect State or local monopolies that have developed in the disposal of municipal solid waste. That only hurts taxpayers, and there is no good reason for it.

Flow control does not offer the benefit of added protection for human health and the environment either. According to a March 1995 report by the Environmental Protection Agency:

> Protection of human health and the environment is directly related to the implementation and enforcement of federal, State, and local environmental regulations. Regardless of whether State or local governments administer flow control programs, States are required to implement and enforce federally approved regulations that fully protect human health and the environment. Accordingly, there are no empirical data showing that flow control provides more or less protection.

That is the end of quoting from the EPA report. In other words, disposal facilities, whether public or private, must meet the same standards of environmental protection. Flow control does not add to the environmental protection.

Flow controls do result in substantially increased costs to communities across the country. That can have negative impacts on the environment due to the extent that it creates incentives for illegal dumping. In fact, in a column that appeared in the Washington Times on March 23 of this year, the mayor of Jersey City, Bret Schundler, noted:

> All of the illegal dumping that New Jersey is now suffering from because of the soaring costs of waste disposal.

In New Jersey, where flow control is in place, the price of disposal is approaching $100 per ton. That compares to an average of about $35 per ton in areas without flow control.

Although flow controls do not typically add as much as that to the cost of disposal in other parts of the country, the increased costs can still be substantial. A study just released by National Economic Research Associates found that flow controls increase disposal costs on average $14 a ton, or 40 percent. That is 40 percent, Mr. President, that flow controls add to the cost of disposal. That is an additional cost that individuals and businesses must ultimately bear.

For example, again, Mayor Schundler notes that flow control prevents his community from reducing property taxes or taking advantage of lower cost alternatives.

That is wrong and it is unnecessary.

Some might say that flow control is needed to ensure sufficient waste management capacity or to help State and local governments achieve goals for source reduction, reuse and recycling. Again EPA's answer is no. In its March report, EPA stated, and I am quoting:

> There are no data showing that flow controls are essential either for the development of new solid waste capacity or the long-term achievement of State and local goals for source reduction, reuse and recycling.

What about the necessity of flow control to finance new landfills or landfill expansions? Again EPA's answer is no. Again quoting:

> Flow controls do not appear to have played a significant role in financing new landfills.

In fact, Mr. President, EPA goes on to note that private landfill firms have demonstrated their ability to raise substantial capital from publicly issued equity offerings, indicating that investors are willing to provide capital for the expansion of landfills without flow control guarantees. In other words, the private sector is willing and able to accommodate the demand for landfill capacity.

In some instances, flow control laws have not merely been used to generate revenues to finance construction and O&M costs but also for the purpose of funding other activities, like recycling, composting, and hazardous waste collection, to name a few. That would be fine if State and local governments were not using the force of law to compel the use of specified facilities at specified rates, if they competed in the free market. But they are using statutory authority to compel certain sites. Users are therefore required, by law, to subsidize other activities.

To the extent that we are considering limited flow control relief to help protect State and local investments, the revenues derived should be used solely for that purpose and not other things. My amendment will limit the use of revenues to that purpose.

Mr. President, our goal here should not be to preserve anticompetitive practices but to establish a framework for orderly transition, to allow limited relief for State and local governments that had in good faith made commitments based on the law as they understood it prior to the Carbone decision.

I hope my colleagues will join me in supporting this amendment and resist efforts to carve out exceptions to protect or extend local monopoly power. And, Mr. President, for the benefit of my colleagues, I ask that the full text of Mayor Schundler's column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington (DC) Times, Mar. 23, 1995]

THE SMELLY TRUTH ABOUT GARBAGE DISPOSAL

(By Bret Schundler)

Last May, in a case called Carbone vs. Town of Clarkstown the United States Supreme Court held that state-imposed waste-flow regulations violate the commerce clause of the Constitution.

This was an important and proper decision. But today, the Republican-controlled House Commerce Committee will hold hearings on anti-free-market legislation that would re-establish the authority of states to set up government monopolies in garbage disposal. The flow-control legislation that will be considered is bad public policy, and it should be rejected.

To understand how this issue affects you, let's look at the experience of New Jersey.

Prior to the Carbone decision, New Jersey used the guise of solid-waste-flow regulation to establish county government monopolies called "improvement authorities" that are given the power to dictate to mayors where—and at what price—they must dispose of their municipal garbage. Experience teaches us that anytime a public or private monopoly controls the quantity and price of a service, that monopoly will have no incentive to control costs or improve services. And this is precisely what has occurred in New Jersey.

Let's look at the issue of cost. The average price for the disposal of solid waste in America is only $35 per ton. But in New Jersey, thanks to the establishment of governmental disposal monopolies, the price is fast approaching $100 per ton.

Now let's look at the quality of services delivered. The defenders of the status quo argue that allowing private disposal sites to compete on the basis of cost is environmentally unsound. But, in fact, it is easy to regulate private disposal sites to ensure that proper environmental standards are maintained. What is not easy to regulate is all of the illegal dumping that New Jersey is now suffering from because of the soaring costs of waste disposal.

Apologists for the former Soviet Union used to contend that government-run industries are more environmentally sensitive than industries under private control. But we now know that the reverse is true. Government-controlled industry tends to be less responsible than private industry, because when industry and regulator are one in the same, the inherent conflict of interest is invariably resolved in favor of lax enforcement of environmental safeguards.

Instead of building and protecting government monopolies, we should be encouraging the creation of a healthy free market of properly regulated private disposal firms. These firms should compete not only on the basis of price, but also in terms on the basis of price, but also in terms of environmentally sound disposal techniques. Protected government monopolies, in contrast, will never have any incentive to innovate.

The New Jersey Environmental Federation, representing all of the state's lending environmental organizations, has joined me and other New Jersey mayors in opposing waste-flow-control legislation. According to the Federation, New Jersey's governmental monopoly in waste disposal stifles "technical innovation, private investment, and market development for lower cost, environmentally preferable material recovery and composting technologies." The Federation is right on target.

New Jersey Gov. Christine Todd, Whitman supports the maintenance of country waste disposal monopolies. This is because the governor believes that a competitive market would cause financial chaos. She worries that without having a guaranteed source of revenue, county improvement authorities, which have borrowed large sums of money to build incinerators, could possibly default on their bonds. But there is a solution to this problem that is much preferable to the current flawed policy.

Stated simply. New Jersey could issue bonds to pay off the existing debt that county governments have incurred to build government disposal facilities. Next the state could establish a $10-per-ton surcharge on solid waste disposal fees, which could be used to fully amortize the new bonds in just 10 years. County disposal facilities, freed of debt service costs, could immediately drop their rates by a like $10-per-ton—or more. Municipalities, able to find less expensive disposal alternatives, could take advantage of the opportunity, and thereby provide their residents with much-needed property-tax relief.

In many New Jersey counties, the property-tax relief that could be realized is substantial. In some counties, market prices for disposal are than $50-per-ton less than the governmental monopoly price. After the $10-per-ton surcharge that would have to be paid to the state, local taxpayers could still save $40-per-ton of waste generated.

The current system makes no sense. In Jersey City, because of government monopoly pricing we pay almost 50 percent more to dispose of our solid waste than does neighboring New York City, which pays free-market rates to dump at a disposal facility located just outside Newark, NJ. This is ridiculous!

As a mayor, I'm the one who must collect from property owners the taxes they pay for garbage disposal. But New Jersey's waste-flow-control regulations prevent me from taking advantage of lower priced, more environmentally sound disposal alternatives.

The effect of these flow-control regulations is to prohibit me from reducing property taxes for my residents. And when I have to raise property taxes to pay for skyrocketing disposal costs, residents do not get angry with the state. Neither do they direct their ire at the executive director of the county improvement authority for running a costly, inefficient government bureaucracy, bursting at the seams with unnecessary patronage workers. Instead, property owners get mad at me, because I am the one who must send out the bills to pay for all of this foolishness.

I know very well why some county governments in New Jersey support flow-control legislation. It's nice to have a relatively anonymous place where you can place patronage hires and generate huge contracts for law firms and consultants, who subsequently get tapped for political campaign contributions. This arrangement is especially nice, in the view of some county officials, since it is the mayors, and not county executives, who will get the blame for soaring property taxes.

But we should realize by now that government never works well when power is insulated from accountability. Good government requires that power be kept as close to the people as possible. Good government also requires that a clear demarcation of responsibility exist between different levels of government, so that the people know whom to throw out of office for unnecessarily inflating service costs or degrading the environment. Flow control legislation flies in the face of these principles. It is not good government.

America was built on the principles of the free market, where there are natural incentives for the providers of goods and services to be efficient and to keep prices down. There isn't any legitimate reason not to allow these same market forces to ensure that municipalities have the freedom to dispose of garbage by taking advantage of the least expensive, most environmentally sound alternatives.

With Congress now looking at school choice and other forms of empowerment as the way to reform our education system and enhance the provision of essential government services, it would be a travesty to allow states to move away from free-market solutions in the area of garbage disposal.

Mr. KYL. Mr. President, let me conclude by summarizing in this fashion.

What we are dealing with here is municipalities coming to Congress and asking for relief from a Supreme Court decision which said that what certain States had done in the past, limiting the free flow of interstate commerce, in this case in treating garbage, solid waste, was an unconstitutional infringement on the commerce clause, and so unless the Congress acts, these arrangements that have been entered into by the States will not be able to proceed in a monopoly fashion. They will have to compete with the private market. As the EPA report notes, the private market is quite capable of working in this area.

And so some municipalities have said, well, since we made our decision on good faith, based upon the law as we knew it, we should at least be protected to the extent that it takes us to pay off the investment, to pay off the bonds, and my amendment would grant that grandfathering authority. We would say to these municipalities, whatever the length of your bond period is to pay off those bonds, we will grant you the authority to create a monopoly so you have no competition, if that is what you want, and you can pay off those bonds. But you should not be entitled to have a monopoly beyond that point.

What this amendment boils down to, Mr. President, is which side you are on. Are you for saying that for the period of time that it takes a municipality to pay off the bonds we should grant this grandfathering exception, or should we grant even further extensions, and here are the two that are most frequently cited.

In some cases it is said that a municipality has a contract to accept waste and dispose of it lasting longer than the period of the bond repayment. So let us hypothetically assume you have a 20-year bond and a 30-year contract. They would argue that the length of time for the monopoly protection should be 30 years, not 20 years. There is absolutely no logic to that whatsoever.

Once the 20 years has elapsed, the bonds have been paid, the facility now exists debt free, it ought to be able to compete, for the last 10 years of its contract, with anybody in the private market who comes along with the necessity of raising the capital to construct a facility to compete with that municipal facility and then to treat this garbage at a lesser rate.

In any event, the city has the contract for the remaining 10 years, and the other contracting party is required to comply with the terms of the contract. So there are two reasons why there is no reason to extend the grandfathering protection, monopoly protection, of this legislation beyond the term that it takes to repay the debt.

No. 1, the party providing the garbage has to fulfill its end of the contract regardless of what we do, so the municipality is protected in that regard. And No. 2, the municipality has a free facility, in effect, a facility that is now totally paid up. If it cannot compete with the private market under those circumstances, then there is something drastically wrong and the Congress should not be creating a monopoly to permit that to occur.

As I noted, EPA has noted there is neither a problem with environmental laws nor a problem with generating fees for other purposes here.

So that is the first argument that is raised, that we should extend it to the contract period. The other is more amorphous, and that is that we should extend this to the useful life of the plant. That is in effect selling the entire concept of the free market down the drain. We may as well say let us have socialized garbage. If we are saying that the municipality can have the monopoly protection for the entire life of the plant, then we are providing no opportunity for competition whatsoever.

Is it not enough that we allow them the monopoly protection until they have repaid all of their debts? Is it not enough that a contracting party would still have to abide by the terms of the contract and sell its garbage to the city under the terms of that contract? Are we now being asked to also extend this monopoly power to the useful life of the plant, whatever they may define that to be? It is a very unclear definition as to what that is. And there are not very many plants that are that well planned whose life can be extended without modernizing the plant. So we want municipalities to do this. That is fine. So municipalities are asking for virtually unlimited power.

With that in mind, the committee has wisely said "enough." At 30 years, enough is enough. We will not extend this protection beyond 30 years. That was a wise thing for the committee to do. But I submit the committee should not have gone that far; that it ought to be sufficient that the municipality is granted the monopoly protection until all of its obligations for repayment of the bonds have been satisfied. At that point, it ought to have to compete along with anybody else. And for us to grant an exemption beyond that is to do something which the U.S. Supreme Court has said is violative of the commerce clause of the Constitution. And our oath requires us not to do that.

That is why, despite the fact that I have no interest in this—my State is not involved. I have no municipality or county government in the State of Arizona contacting me on this because we are not a State that does this. So I have no personal interest in this, or political interest. But it does seem to me that as Senators we have an obligation to do what is right as a country. The legislation which the committee has crafted has very carefully taken care of very severe problems in very specific situations.

Those States—and I would mention one, New Jersey—have been accommodated under the committee legislation. It is not necessary to broaden this exemption any beyond what my amendment would provide for.

So, Mr. President, I would be happy to engage in a colloquy with anyone who would like to inquire further as to the effect or intent of my amendment. I intend eventually to call for a vote. I will be very happy to debate this under a time agreement, starting with whenever anyone would wish to enter into such an agreement.

But I certainly hope that my colleagues will realize that the municipalities that need this relief are not in a position to hold leverage over our head. The U.S. Senate does not have to succumb to what municipalities would desire or like to have in this regard, but only that which they need. And that is all that we ought to be granting them if we are talking about monopoly power in an area where the free market should work just fine, again, according to the Environmental Protection Agency.

I yield the floor at this point. If no one wishes to examine my views on this at this point, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, is there a pending amendment and, if so, I ask unanimous consent that it be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. CHAFEE. Mr. President, I ask unanimous consent that a tabling vote occur in relation to the pending Kyl amendment at 2:30 p.m. today and that no second-degree amendments be in order to the Kyl amendment prior to the tabling vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, that vote will occur at 2:30 p.m. on the tabling motion unless it is vitiated. As it is now, it appears we will be having that tabling vote at 2:30.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the pending amendments be set aside at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 773

Mr. CHAFEE. Mr. President, I send to the desk an amendment on behalf of Senator FAIRCLOTH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. FAIRCLOTH, proposes an amendment numbered 773.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, after line 20, insert the following:

(6) FLOW CONTROL ORDINANCE.—Notwithstanding anything to the contrary in this section, but subject to subsection (j), any political subdivision which adopted a flow control ordinance in November 1991, and designated facilities to receive municipal solid waste prior to April 1, 1992, may exercise flow control authority until the end of the remaining life of all contracts between the political subdivision and any other persons regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994). Such authority shall extend only to the specific classes or categories of municipal solid waste to which flow control authority was actually applied on or before May 15, 1994. The authority under this subsection shall be exercised in accordance with section 4012(b)(4).

Mr. CHAFEE. Mr. President, this deals with flow control and it pertains to a community in North Carolina which had a very specialized situation. In effect, it is a technical amendment. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHAFEE. Mr. President, this has been cleared on both sides.

The PRESIDING OFFICER. If not, the question is on agreeing to the amendment.

The amendment (No. 773) was agreed to.

Mr. CHAFEE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the pending amendment before the Senate be set aside for such length of time as it takes me to offer an amendment which has been accepted by the other side.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 775

(Purpose: To revise the provision providing additional flow control authority)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 775.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, strike line 23 and all that follows through page 59, line 20, and insert the following:

"(5) ADDITIONAL AUTHORITY.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph applies to a State or political subdivision of a State that, on or before January 1, 1984—

"(i) adopted regulations under State law that required the transportation to, and management or disposal at, waste management facilities in the State, of—

"(I) all solid waste from residential, commercial, institutional, or industrial sources (as defined under State law); and

"(II) recyclable material voluntarily relinquished by the owner or generator of the recyclable material; and

"(ii) as of Jan 1, 1984, had implemented those regulations in the case of every political subdivision of the State.

"(B) AUTHORITY.—Notwithstanding anything to the contrary in this section (including subsection (j)), a State or political subdivision of a State described in subparagraph (A) may continue to exercise flow control authority (including designation of waste management facilities in the State that meet the requirements of subsection (c)) for all classes and categories of solid waste that were subject to flow control on Jan 1, 1984."

Mr. LAUTENBERG. Mr. President, this amendment follows the construct of this bill by protecting flow control authority that was in effect before May 15, 1994. Its provisions will sunset in 30 years.

With these limitations or restrictions, the amendment is narrowly crafted to respond to a very special situation in New Jersey, about which I spoke on the floor yesterday. I appreciate the willingness of the committee chairman, Senator CHAFEE, and the subcommittee chairman, Senator SMITH, to accept this narrowly crafted amendment, which will avoid the need for New Jersey to export increasing volumes of waste and will permit the State to meet its self-sufficiency goals by the year 2000.

While I cannot say that I share the enthusiasm that some have for the structure created by this bill, I, nevertheless, accept it. At present, I intend to support the bill and vote for it. I say at present, obviously, because if there are any amendments that are new and adopted, I reserve the right at that point to reexamine my decision.

At present, as I say, I intend to support the bill. I hope and trust that the bill itself will quickly be adopted in the Senate, in conference, and sent to the President to be signed into law. Otherwise, New Jersey and many other States face a potential waste disposal crisis and serious financial disruption of the plans and the indebtedness that exists out there.

As I earlier said, it has been my understanding that the chairman of the subcommittee, who I worked very closely with on several environmental matters, Senator SMITH, has accepted this amendment. I ask him for any comments he wants to make.

Mr. SMITH. Mr. President, we have accepted the amendment. The Senator from New Jersey has mentioned his amendment is a special situation in New Jersey. We are aware of this. It was the spirit and intent of the compromise language in the bill to deal with those special circumstances that New Jersey has, being an entire system for flow control.

Even though we have some philosophical disagreements on the subject of flow control, part of the very carefully crafted compromise was that we would do our best to deal with those folks who had made certain commitments in this rather unique situation in New Jersey.

This side has no objection to the amendment.

Mr. LAUTENBERG. Mr. President, I thank the subcommittee chairman.

Mr. President, this amendment recognizes the unique situation in New Jersey. New Jersey is the only State in our Nation in which all municipal solid waste is now flow controlled and has been flow controlled for over a decade. This extensive use of flow control was necessary in order to reduce our exports of garbage to other States. And it has worked.

New Jersey has decreased exports by 50 percent since 1988 and we are on target to be self-sufficient by the year 2000.

However, we do face some problems in terms of our existing facilities. Although New Jersey already recycles 53 percent of its waste stream, New Jersey exports 2 million tons of waste. There is not sufficient capacity in my State today to handle that volume. Facilities will be needed if we are to further reduce exports and become self-sufficient.

Therefore, New Jersey will need to build new facilities. Without flow control, however, it will be impossible to provide the needed capacity.

Lenders will not finance new facilities when it appears waste can easily and cheaply be exported. Without this amendment, therefore, it will be impossible to handle the waste volumes that we do export and we will continue to export more waste. That is not what Senators from other neighboring States want. And it is not what New Jersey wants.

New Jersey has attempted, probably more than any other State, to limit its exports. Title I, to restrict exports of solid waste, and further restrictions discussed by Mr. COATS, will make it harder to send waste across State lines.

Under my amendment, New Jersey will be able to live with some interstate restrictions because the amendment will protect the system New Jersey has worked so hard to develop. Under this amendment, title I restrictions on interstate shipments will not be a problem to my State.

And the title II flow control provisions will allow facilities to be built so that New Jersey can control and dispose of its waste.

This amendment follows the construct of the bill in that it protects flow control authority that was in effect before May 15, 1994. It will sunset in 30 years.

With these limitations and restrictions, this amendment is narrowly crafted to respond to the very special situation in New Jersey that I spoke of yesterday on the floor.

I appreciate the willingness of Chairman CHAFEE and Subcommittee Chairman SMITH to accept this narrowly crafted amendment which will avoid the need for New Jersey to export increasing volumes of waste and will allow the State to meet its self-sufficiency goals by 2000.

While I cannot say that I share the enthusiasm that some have for the structure created by this bill, I do accept it. I intend to support the bill and vote for it. And I hope and trust it will quickly be adopted in the Senate, conferenced, and sent to the President to be signed into law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (No. 775) was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. SMITH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SMITH. Mr. President, it is a unique situation when the Senator who has an amendment on the floor is presiding, because he is in the unfortunate situation of not being able to respond at this particular time. I apologize to the Senator for that, because I have another commitment. I have to chair a subcommittee meeting at 1:30.

I do want to make some remarks, but at some point later, if the Senator wishes to engage in any type of colloquy, I would be more than happy to do that with him.

Mr. President, I want to clarify that the current business before the Senate is the Kyl amendment; is that correct?

The PRESIDING OFFICER. The Hatch amendment to the Specter amendment to the substitute.

AMENDMENT NO. 769

Mr. SMITH. I will make some remarks in response to the amendment offered by the Senator from Arizona, Senator KYL, in regard to shortening the grandfather to the length of the bonds.

This is a difficult situation for this Senator, because in concept and in philosophy I totally agree with what the Senator from Arizona is trying to do.

I have made my statement here on the floor regarding this issue in the opening debate on the bill that I oppose flow control. I think that the interstate commerce clause should be safeguarded. I do not want Congress to interfere.

The reason why we have had a difficult time with this issue, I say to my colleagues, is that there are special circumstances where people have incurred a tremendous amount of expense. As the Senator from Arizona, Senator KYL, said in his very eloquent remarks regarding his amendment, the free enterprise system should be allowed to work.

We might say, why did those people go ahead and make these financial obligations, knowing full well that they did not have the protection of the law? I think that is a very valuable argument and an argument that we certainly considered as we crafted this bill.

The problem was, and we had a hearing on this matter, and as we heard from so many witnesses, there truly are some real national hardships out there that, in terms of the investors, in some cases through no fault of their own, perhaps, although not deliberately misled, some of the bondholders probably did not get the full explanation of the impact of the Carbone decision and what it meant for all of their investments in these bonds.

It was something that we really struggled with, those members on the committee, Senator CHAFEE and myself and others on the committee, who really oppose flow control and did not want to interfere with the free market on this issue.

On the other side there are two sections of the bill. The interstate waste transfer is part of this legislation as well. So we have flow control and interstate waste. The two parts of this bill, together, is a very carefully crafted compromise to move both things forward at the same time.

I guess with some amusement we think of how when laws and sausages are made, we would be sick if we knew it. Maybe this is an example of that.

Again, I will with great reluctance oppose the amendment of the Senator from Arizona because of the fact it interferes with the compromise. I will be specific, again, on the basis of the compromise, not on the basis of philosophy.

We heard testimony from the Public Securities Association that $20 billion in bonds were used for flow control facilities. So, nationwide there is some $20 billion in bonds out there.

These people have a liability. There is some question, we would say, well, we went in knowing full well—maybe they did, maybe they did not. This Senator is not convinced that all investors knew this. I could be wrong.

I think it is pretty obvious, based on the testimony, all investors were not fully aware of the impact of this, and I think people invested in these facilities believing that they were going to have the protection of flow control. Right or wrong, they believed, in some cases, that they did. I am sure on the other side there are many people who knew full well that they did not and took the risk. Again, every investor bondholder, I do not believe, was fully aware of the ramification.

When Carbone invalidated flow control, this whole situation was left in limbo. Nothing is happening, no one knows what to do. No one knows whether there will be flow control or no flow control. So here it is before the Congress.

Now, most members on the EPW Committee did not want to have the Congress speak to overturning the interstate commerce clause of the Constitution.

There are dozens of incinerators and landfills in immediate danger if flow control is not reauthorized immediately. What we have here is not only a delicately crafted compromise, but an urgency in the sense that every bond based upon flow control authority at this point is threatened.

So I think there is an emergency. Senator CHAFEE asked me to hold hearings on this quickly and to try to move this out of committee and to the floor, and it has been on the calendar for quite some time. We were looking for an opening to get it here.

The purpose, again, looking at the negatives of this which the Senator from Arizona pointed out, the purpose, though, is to try to give relief to these people. It is not to permanently interfere with the free market, which is why the 30-year grandfather was placed there.

The reason for the 30 year was we did not want to go back and review every single bond, whether it was a 10-year bond, a 5-year bond, 20-year bond, or 25-year bond. There were not any bonds beyond 30 years, which is why we selected that date. Could we have selected 15 years and been more in line with what the Senator from Arizona favors? Yes, we could have. Could we have selected the life of the bond as the Senator's amendment addresses? Yes, we could have.

The problem is, though, we also added through language in the bill the opportunity to upgrade facilities. And I think that is where we get into a problem with the amendment of the Senator. If, after the expiration of a bond, someone wants to upgrade these facilities—not really expand but upgrade, keep them maintained—then they have no protection under the Kyl amendment. The underlying bill provides a very narrow flow control authority to protect these bonds. It may not be a perfect compromise, it certainly is not. But I think it is a fair compromise. It serves notice on everyone.

I hope 20 years from now, 25 years from now, Congress will not go back and extend this. It is our intent it be ended. Everybody, all 50 States, all the entities in those 50 States, all the haulers and the Governors and the systems, everyone who is involved with flow control in any way should be on notice that, effective with the passage of this bill, it is over in 30 years and they ought to plan accordingly. That is the goal. The Kyl amendment disrupts that slightly and provides more uncertainty, although it is well intended. Again, the Kyl amendment does limit flow control. There is no question about it. It limits it further than the underlying bill. Philosophically I agree with that but, again, it is the compromise we are concerned about.

The amendment would provide grandfathered authority only until the time the bonds are paid off. So if you have a 15-year bond and a contract that extends beyond those 15 years, or the need to upgrade your facility beyond the 15-year length of the bond, then you cannot do it under the Kyl amendment. You cannot do it with the protection of the flow control legislation.

This amendment also does not cover contracts. It will create havoc in a number of cities and towns that made financial commitments based on the mistaken impression—true, mistaken impression—that they had this authority. I think the phrase "mistaken impression" really goes to the heart of why I came down on the side I did on the amendment, on the Kyl amendment, as well as the underlying bill. There are innocent people here who have been impacted. I could not in good conscience allow that to continue without the protection they thought they had when they entered into this agreement.

Maybe it is an interesting conclusion here that it is a compromise, and if you wanted to put it in direct statements, those who love flow control do not like the Smith-Chafee bill. Those who oppose flow control do not like the bill. I think that probably means the compromise is about right. It is in the middle.

I know there are those who are going to, from a philosophical perspective, support the Kyl amendment. My fear, and I think it is a legitimate fear, is that at the time the Kyl amendment is agreed to and becomes part of the underlying bill I think it could possibly, conceivably, kill the bill or at least kill the compromise. I think if that happens and the bill gets pulled back from the floor because of the budget legislation which will be coming up next week, the budget resolution that will be coming up next week, then I do not know when we would get back to it as we get into the pressures of time with more legislation. Again, those people who need immediate relief will not have it.

I might just say in conclusion, we have tried to work with a number of States that have had concerns: Florida, Maine, Minnesota—the Senator from Minnesota, Senator WELLSTONE, and I agreed on an amendment yesterday. Senator LAUTENBERG and I disagreed on another amendment in New Jersey. States do have special considerations and special problems. But, again, the intention here—and I want to make this point, because it is important—the intention here was to strike this balance and not to move too far. Not to allow open-ended flow control authority on the left, if you will, on the one side; and at the same time not to allow it to go back so far over to the free market side on this particular bill that we would lose the balance.

I might say for the benefit of the Senator from Arizona, we have rejected a number of amendments that would allow for open-ended action. If this community says, "We would like to think about having flow control at some point within the 30-year period, will you exempt us?" The answer is, "No, we will not." In other words, there had to be some financial commitment, preferably a bond or contract, some amount of money had to be committed, usually in the form of a contract or a bond. So we were very, very tough on those people who came to us. We did not agree to allow that far-reaching aspect of the bill.

Again, it might not be exactly what everybody wanted but it is a compromise and I urge my colleagues, no matter whether you are moving further to the free market side as I am, or whether you are moving further toward flow control where Senator LAUTENBERG and others are, whichever one of those positions you favor, I urge my colleagues to stay here in the center, in the compromise, and reject the Kyl amendment and reject any amendments on the other side that may come up to expand flow control authority. So, on the one hand let us not expand it. On the other hand, let us not restrict it.

I again encourage my colleagues, when the vote does come on this amendment, to defeat it for the reasons given.

Mr. President, I yield the floor. If no other Senators are seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I further ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHOOL BUS SAFETY

Mr. DEWINE. Mr. President, a few weeks ago on this Senate floor I discussed the problem of school bus safety. In February of this year a young girl by the name of Brandie Browder, an eighth grader in Beaver Creek, OH, was killed when the drawstring around the waist of her coat got caught in the handrail of her school bus.

Just 4 days later, in Cincinnati, a seventh grader suffered a broken foot in a very similar accident.

As I pointed out when I spoke previously about this matter, while school buses are certainly among the very safest modes of transportation, the sad fact remains that an average of 30 schoolchildren are killed every single year in America either getting off or getting back on their own school buses—30 children.

Each child, Mr. President, with parents, grandparents, brothers, and sisters, and because of that child's death their life will never be the same; 30 children who will never have the opportunity to grow up, 30 children who will never have the opportunity to live out their potential. The sad fact is, Mr. President, that almost without exception these are preventable deaths.

When I last spoke on this issue, I discussed three specific safety issues, three problems that cause these deaths. One was a handrail problem. The second was the problem of the child getting on and off the bus and how we can make that area safer so the school bus driver will know what is going on in that area. And finally, I talked about the possibility of better training for school bus drivers.

Today, I would like to concentrate on the issue of handrails on these school buses because between the time that I last spoke to the Senate about this issue myself and my staff have spent a great deal of time looking at this issue and finding out additional facts. And the sad fact is that we lose many children because of this handrail problem.

This is a problem, Members of the Senate, that can be corrected very easily for less than $20 per school bus. So it is not something that is going to cost a great deal of money. It is something though that will not be fixed unless parents, teachers, administrators, and members of the public demand that this problem be fixed in each school bus in the country.

As I previously mentioned, an alarming number of these accidents are occurring when a strap from a backpack on a child or the drawstring of a little girl's or little boy's coat gets snagged in the handrail while that child is exiting the bus. We all know I think from our own experience from our own children how many kids today have backpacks or have a poncho or something that has a string that can in fact get caught as that child is getting off the bus.

Mr. President, with many of these handrails there is a small space between the handrail and the wall of the bus where something like the drawstring around the waist of a coat can get snagged. The child is getting off the bus. The child begins to get off that bus but the child's clothing is stuck and is still attached when the bus driver mistakenly begins to pull away thinking the child has exited the school bus. As I pointed out, a number of children have been killed in this exact manner since 1991.

Let me give a little background on the analysis of this problem. Beginning in early 1993, the National Highway Traffic Safety Administration [NHTSA] initiated a series of investigations to find out if the handrails on school buses were actually designed in an unsafe manner. As a result of these investigations, nine distinct models of school buses were recalled because of potentially unsafe handrails. However, tens of thousands of these unsafe buses were not recalled. They are still on the road. The bus that killed little Brandie was not recalled, not because the bus was safe—just the contrary—but it was not recalled because the company that made the bus had already gone out of business.

Mr. President, we clearly must track down these buses. We must make sure that every single bus in this country is inspected. We have to fix them or get them off the road.

Let me again repeat. We are not talking about a very expensive repair. It is not a cost question. It is a question of locating the buses. It is a question of public awareness, which is why I am on the floor today.

We as parents need to make sure our children are not getting on an unsafe bus this afternoon, tomorrow morning, or ever. We can all look for ourselves. When our child gets on the bus tomorrow morning, or gets off the bus this afternoon, look at the handrail to see if that gap does in fact exist. We must not rest until every one of these buses is identified and fixed.

Let me advise my colleagues what we are doing in the State of Ohio with regard to this. I had the opportunity this morning to talk to highway patrol officials who are in charge in the State of Ohio of school bus inspections.

As I have indicated, there really is a simple solution to this particular handrail problem. Every year the Ohio State Highway Patrol during the summer months when school is not in session conduct inspections of every single school bus in the State of Ohio. I suspect that there are other law enforcement agencies that perform the same function in all the other States of the Union as well.

The Ohio State Highway Patrol, when they begin these inspections in the next several weeks, are going to in addition to what they normally do look for this specific problem. When they find the problem, if they do, they are going to take the bus off the road until the problem is corrected because as I indicated it is a very relatively simple problem to solve at a cost of probably no more than $20.

They use an inspection device, a tool. If I describe it, I think it will give our listeners and Members of the Senate a good idea how simple it is. It is a tool made with a long string with a nut attached to the end. From outside the school bus door, you drop the nut end of the device into the crevice where with the lower end of the handrail is attached to the lower area of the stepped wall. When you pull the device toward the outside of the school bus through the crevice, if the tool gets caught the bus is rejected and then not allowed onto the road until this is fixed.

As I point out, fixing these buses is relatively easy. For around $20 you can put a safe new handrail on the bus, a whole new handrail, or for even less money than that you can modify the handrail by inserting a special wood or rubber spacer between the bottom attachment point of the handrail and the bus wall itself. The process is cheap, simple and will save lives.

Mr. President, I urge that all States that are not currently following this inspection policy and are not looking for this problem start doing this as soon as possible. Ohio certainly does not have a monopoly on these potentially unsafe buses. These unsafe buses can probably and I am sure can be found in any State in the Union.

Mr. President, this week just happens to be National Safe Kids Week. There is no better time than the present during this week to focus our attention on the real dangers to schoolchildren who travel by schoolbus.

The goals of National Safe Kids Week are fourfold, but they are quite simple.

First, raise awareness of the problem of childhood injuries.

Second, build grassroots coalitions to implement prevention strategies.

Third, stimulate changes in behavior and products to reduce the occurrence of injuries.

Fourth, make childhood injuries a public policy priority.

Mr. President, these four goals should set our agenda for safety for children and specifically should set our agenda for school bus safety. I will in the weeks ahead again return to the floor to revisit this entire issue, but at this time I think it is important that we get about the business of dealing with this handrail problem.

In conclusion, I should like to alert my colleagues and other concerned Americans to an important satellite feed about this issue of school bus safety. Later today and tomorrow, the National Highway Traffic Safety Administration will be showing a TV program on this very issue. This program will be available by satellite, and I would urge those who are interested in this vital issue to contact NHTSA about the details.

Again, Mr. President, I thank all the concerned parents and the educators and others who are contributing to the success of National Safe Kids Week. To them I simply say thank you, thank you for caring, and, believe me, you are in fact making a difference.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Does the Senator suggest the absence of a quorum?

Mr. DEWINE. Mr. President, I do suggest at this time the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. KYL. Mr. President, while I was presiding, the Senator from New Hampshire made some comments relative to the amendment I had just introduced and spoken on. I regret he is not here, but I would like to respond to those remarks. They were well put, and I appreciate the cooperative spirit in which he gently opposed my amendment. I wish to respond to the points he made to illustrate why I still think my amendment should be adopted.

As you will recall, my amendment provides very simply that the grandfathering of monopoly status that these facilities need because the Supreme Court has declared them unconstitutional ought to be limited to the period of time that it takes for these facilities to repay the bonds; that beyond that time there is no rationale, at least no rationale that the Senate ought to be a party to, that once the bonds are paid off, the investor's money has been returned in full, there is no rationale for protecting the municipality from competition in the handling of garbage.

That is why my amendment would cut it off at that point and not allow the remaining exceptions, which include expanding the life of the plant, or the useful life of the plant to some unknown length of time with a 30-year time limit or for contracts that are in existence.

It would limit the grandfathering to that which is necessary or required but not beyond.

Mr. President, the Senator from New Hampshire made the point that investors believed that they would have the protection of the law and we ought to give it to them, and that is precisely what my amendment does—no less but no more. It says to those investors, you get your money back when the bonds are fully paid off; that then but only then does this exemption from the U.S. Constitution apply. So we give them that grace period. That is point No. 1.

Point No. 2. The Senator from New Hampshire said, well, there is a provision in this carefully crafted compromise for upgrades of facilities. And my response to that is, yes, that is there, but it is not needed and certainly not deserved. It creates a giant loophole which in effect means that all that the owners of these plants have to do is to provide some kind of upgrade to their facility—I presume that is anything beyond usual maintenance—and up to a 30-year period they can foreclose all competition.

That is un-American, it is unconstitutional, and it is not something that the Senate should be a party to, Mr. President. That is why my amendment specifically would not permit this special monopoly to exist beyond the time that it takes to repay the bonds. You cannot just fix your facility up and say we have extended its useful life and we want to continue to have a monopoly during the useful life of the plant.

That would not be a justifiable reason, and I know of no reason which justifies that particular exemption. None has been suggested.

Third, our colleague from New Hampshire made the point that innocent people were impacted as a result of the Supreme Court decision, and that is true. My guess is that most of the people who invested in these bonds had no idea that the Supreme Court would declare the whole practice unconstitutional.

Agreeing with the principle that those innocent people should be protected, my amendment does precisely that. It protects them. It says that until those bonds are paid off, the monopoly status of the facility is protected. So, in other words, the bonds get paid off, the investors get made whole, all of those innocent people have their investment returned, and they lose nothing as a result of my amendment.

Mr. President, there are other innocent people involved in this as well. These are the people who are required to pay the higher taxes because of the unreasonably high prices extracted by virtue of the fact that this is a monopoly. That is why we have antitrust laws. That is why our Constitution contains a clause that says that States cannot interfere with interstate commerce.

But that is what has been done in this case. That is what the Supreme Court outlawed. And the U.S. Senate ought to pay attention not only to the innocent people who invested, who are totally protected under my amendment, but also the totally innocent people of the State who are having to pay two, three, four times as much; the EPA estimates 40 percent more than they would otherwise have to pay as a result of this monopoly status that is being granted. So if the argument is that we should protect innocent people, then the Senate should adopt my amendment.

Finally, and the real reason why I think there is an objection to my amendment is that it might unravel a carefully crafted compromise.

Mr. President, that is the unprincipled but very pragmatic reason frequently given to opposing amendments in this Chamber and in the other body. We have all been a party to those. It is necessary to craft legislation that is required to make compromises and no one argues against that practice.

But there are certain situations where there are fundamental principles involved. And where fundamental principles are involved, we need to be very, very careful about justifying opposition to principles on the basis of compromise. In other words, Mr. President, there are some things that ought not to be compromised. One of them is the United States Constitution.

When the Supreme Court says that a practice is unconstitutional, we ought to be very, very careful how we override that decision. We ought to do it in the narrowest possible way. That is what my amendment does. It says, until the bonds are repaid, we will grant these municipalities a monopoly power that nobody else can get, that the United States Supreme Court says is unconstitutional but, recognizing that investment decisions were made based upon the previous existing law, we will acknowledge that that exemption should last at least until the bonds are paid off. But my amendment says, at that point, no further. We do not need to go any further. No one else needs protection here.

All we are doing at that point is creating a monopoly protection which creates higher prices and prevents the free market from operating. Now it may be true that standing on that principle will cause a bill to unravel; that if my amendment were to pass, there is insufficient support then for the legislation to get it passed. My response to that is that we do much better politically in this body when we do what is right and that, if we will stick to principles, in the end we will get the kind of legislation that is necessary; that we make mistakes when we compromise principle for the sake of getting something through rather than for the sake of doing what is right.

This is a constitutional issue. I would perhaps suggest an analogy here.

Mr. President, what if a municipality had passed an ordinance declaring that certain speech could no longer be engaged in in the community, and everyone rose up in arms and said, "Why that is unconstitutional"? A lawsuit was brought and the Supreme Court says, "That is correct. You cannot impede free speech. Municipality, your actions are unconstitutional." And the municipality said, "But we have a real need to impede free speech in this particular area."

Do you not think that the U.S. Senate would be very, very careful about granting an exemption from the Constitution, in effect, here; would be very, very careful? Obviously, we could not constitutionally do that, but we would want to be as limited as possible in crafting legislation that would meet the constitutional standards the Court laid down.

That is what we should be doing in this case, because the Court has already spoken. The Court has said that States that have this flow control do so in violation of the U.S. Constitution.

So, in trying to figure out a way around that, we ought to be as careful and as limited as possible, not as expansive as we can think of. And that is why my amendment, I submit, is the only constitutional, commonsense course of action that the Senate can take to protect those situations where there has been an investment made until the investment is paid off. But, after that, no more monopoly.

And if that should cause the compromise to break apart, then it would be necessary, as the Senator from New Hampshire said, to go back to the drawing board and redo it. And I think that would be a good thing. But my hope would be, Mr. President, that it would not cause the compromise to fall apart; that we would all recognize that a limited exemption is all right to pass, we should pass it, but that we should not do more than that simply because some Senators might want to, in effect, overreach beyond what is really necessary or appropriate given the Supreme Court's decision.

So with all due respect to my friend and colleague from New Hampshire, who really helped to make the argument in principle to what I am saying but found it necessary to object nonetheless because of the position he finds himself in, I suggest the best way to a deal with this issue is to adopt my amendment, provide full protection for all those who need protection, but to limit the exemption to that point.

Mr. President, we are going to be voting on the Kyl amendment at 2:30 and, unless our colleagues, who have not been here on the floor, are watching from wherever they may be, it is going to be very confusing what this is all about, because this was not part of the committee action. I just urge my colleagues to consider this, to ask questions about this, come to the floor to engage me in a colloquy if that is their desire. I would be happy to answer any questions I can.

No one—no one—has made the case why we should extend to the useful life of a project a special exemption after the bonds have already been paid off; how it is that an operator cannot simply add something to the plant and say they have extended the useful life, thereby going to the full 30-year limit of this legislation. No one has made the case of why that should be the law. And until that case is made, if it can be made, we should not accept that proposition in dealing with something as sacred as a constitutional principle here.

Mr. President, I will ask my colleagues, again, to support the Kyl amendment when we vote on it at 2:30.

At this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIGGERLOCK

Mr. DEWINE. Mr. President, yesterday I came to the floor to begin a discussion about the crime bill that within the next several days I will be introducing. I would like today to continue to talk about other provisions of that crime bill.

As I indicated yesterday, I believe that there are really two truly fundamental issues that we always need to address when we are looking at the validity or the merits of any particular crime bill. First, what is the proper role of the Federal Government in fighting crime in this country? Second, despite all the rhetoric, what really works in law enforcement; what matters and what does not matter?

It has been my experience, Mr. President, as someone who does not pretend to be an expert in this area but someone who has spent the better part of 20 years in different capacities dealing with this, beginning in the early 1970's as a county prosecuting attorney, it has been my experience that many times the rhetoric does not square very closely with the reality, and that really, if we are serious about dealing with crime, the people that we ought to talk to are the men and women who are on the front lines every single day—the police officers, the tens of thousands of police officers around this country who really are the experts and who know what works and what does not work.

The bill that I will introduce is based upon my own experience, but it is also based on hundreds and hundreds of discussions that I have had over the years with the people who, literally, are on the front line.

Yesterday, I discussed these issues with specific reference to crime-fighting technology. The conclusion I have reached is that we have an outstanding technology base in this country that will do a great deal to catch criminals. Technology does, in fact, matter, and it clearly matters in the area of law enforcement. But we need the Federal Government to be more proactive in this area, more proactive in helping the States get on line with their own technology.

Having a terrific national criminal record system or a huge DNA data base for convicted sex offenders in Washington, DC, is great, but it will not really do much good if the police officer in Lucas County, OH, or Greene County or Clark County or Hamilton County cannot tap into it. It will not do any good if we cannot get the information, the primary source of this information, from them and get it into the system.

Crimes occur locally. Ninety-five percent of all criminal prosecution, of all criminal investigations, occurs locally, not at the national level. Crime occurs locally, so we have to make sure that the crime-fighting resources, like this high-technology data base that I talked about yesterday, are available to local law enforcement.

Mr. President, today I would like to continue this discussion, and I would like to discuss another component of my crime legislation: How do we go about protecting America from armed career criminals? I am talking about repeat violent criminals who use a gun in the commission of a felony. In this area, too, we need to be asking what works, what does not work, and what level of Federal Government is most appropriate to do what, what level of Federal Government is most appropriate to get certain help from.

Again, experience tells us that we really do know what matters, we really do know what works. In the area of gun crimes, we have a pretty good answer.

We all know that there is a great deal of controversy about guns, controversy over whether general restrictions on gun ownership would help reduce crime. But, Mr. President, there is no controversy over whether taking guns away from convicted felons will reduce crime. Let me guarantee you, if we know one thing, it is this: If we take guns out of the hands of convicted felons, we will reduce crime and we will have fewer victims.

There is legitimate disagreement over bills such as the Brady bill, whether that will reduce crime. Similarly, reasonable people can disagree concerning the question of whether a ban on assault weapons will reduce crime. I happen to support both of these measures, but I recognize that many people do not and many people think that they are not effective.

But what I am talking about today is something on which there is absolutely no controversy, absolutely no dispute. There simply is no question that taking the guns away from armed career criminals will, in fact, reduce crime, and history shows that that works.

When it comes to armed career criminals, we need to disarm them, we need to lock them up, we need to get them out of society. Let us disarm the people who are hurting our victims, who are hurting the citizens of this country. As I said, history indicates that this works. We have a historic track record to point to. We actually have tried this and it does, in fact, work.

One of the most successful crime-fighting initiatives of recent years in this country was a project that was known as Project Triggerlock. This project was very successful, wildly successful, precisely because it addressed a problem squarely and it placed the resources where they were most needed.

Let me tell the Members of the Senate a little bit about the history of this Project Triggerlock.

The U.S. Justice Department began Project Triggerlock in May of 1991. The program targeted for prosecution in Federal court armed and violent repeat offenders. Under Triggerlock, U.S. attorneys throughout the country turned to the local prosecuting attorneys in whatever jurisdiction they were located and said: "If you catch a felon with a gun, if you want us to, we, under existing Federal statute, we the Federal prosecutors, we the U.S. attorneys will take over that prosecution for you. We will prosecute that individual, we will convict that individual, and we will hit that individual with a stiff Federal mandatory sentence, and we will lock this individual up in a Federal prison at no cost to the local community, to the State."

That is true Federal assistance. That is Federal assistance that matters. That is Federal assistance that makes a difference. That is Federal assistance and Federal action that will save lives by taking these career criminals off our streets.

Mr. President, that is what Project Triggerlock did. Triggerlock was an assault on the very worst criminals, the worst of the worst in American society. And it worked. This program took 15,000—15,000—career criminals off the streets in just an 18-month period of time. Incredibly—at least incredibly to me as a former prosecutor—the Clinton Justice Department abandoned Project Triggerlock. It was the most effective Federal program in recent history for targeting and removing armed career criminals from our society. But for some reason—for some reason—the Justice Department stopped Triggerlock dead in its tracks.

What I propose in my crime legislation is that we resurrect Project Triggerlock, and we can do it. My legislation includes a provision requiring the U.S. attorneys in every jurisdiction in this country to make a monthly report to the Attorney General in Washington on the number of arrests, the number of prosecutions and convictions they have gotten within that last 30-day period of time on gun-related offenses. The Attorney General then would report semiannually to the U.S. Congress on the success of this program and report on the number of these individuals who have been convicted.

Like all prosecutors, U.S. attorneys have limited resources. In fact, with U.S. attorneys, they have more discretion because of the fact that many times we have concurrent jurisdiction between the local prosecutors under State law and Federal prosecutors under Federal law. So the Federal prosecutors have a great deal of discretion about what type cases to pursue. It really is a question of what the priorities are. It is a question of prioritization.

Like all prosecutors, U.S. attorneys do have to exercise discretion about whom to prosecute. We all recognize that Congress cannot dictate to U.S. attorneys, cannot dictate to the Attorney General who should be prosecuted. But it is clear that we should go on record with the following basic proposition, and that is this: There is nothing more important than getting armed career criminals off the streets. There is nothing more important that the Justice Department can do than to set this as a priority.

Mr. President, I think Project Triggerlock was a very important way to keep the focus on the prosecution of gun crimes. Getting criminals off the streets, criminals who use guns, is a major national priority and we all should behave accordingly.

Let me turn now to a second portion of this bill that deals with the problem of criminals using guns in the commission of a felony. The second thing we need to do is to change the law. We need to toughen the law against those who use a gun to commit a crime. My bill would say to career criminals: If you are a convicted felon and you possess a gun, you will get a mandatory sentence. Under current law, a first-time felon gets a 5-year mandatory sentence. A third-time felon gets a mandatory minimum of 15 years. But there is a gap in current law. There is no mandatory minimum for a second-time felon.

My legislation, Mr. President, would fix that. It would provide a mandatory minimum of 10 years for a second-time felon with a gun. That would make it a lot easier for police to get that gun criminal off of our streets.

Third, bail reform. The third thing we need to do is to reform the bail system. Under current law, the Bail Reform Act, certain dangerous, accused criminals can be denied bail if they have been charged with crimes of violence. But it is unclear under current law whether possession of firearms should be considered a crime of violence or not.

Mr. President, let us do a reality check here today. If someone who is a known convicted felon is walking around with a gun in your community in Michigan, or in my community in Ohio, what is the likelihood that that person is carrying the gun for law-abiding purposes? Convicted felon with a gun. I think it is perfectly reasonable to consider that person prima facie dangerous. We should deny bail to keep that convicted felon off the streets while awaiting trial on the new charge.

My legislation would eliminate the ambiguity in current law. My bill would define a crime of violence to specifically include possession of a firearm by a convicted felon. If you are a convicted felon and you are walking around with a gun, you are dangerous and you need to be kept off the streets. We need to give the prosecutors the legal right to protect the community from these people while they are awaiting trial.

Mr. President, a fourth way we can crack down on gun crimes is to go after those who knowingly provide—knowingly provide—guns to felons. Under current law, you can be prosecuted by providing a gun only if you knew for certain that it would be used in a crime. The revision I propose would make it illegal to provide a firearm if you have reasonable cause to believe that it is going to be used in the commission of a crime. This is the best way, I believe, to go after the illegal gun trade, those who provide guns to those people who are predators in our society. We will no longer, under this provision, allow these gun providers to feign ignorance. They are helping felons and they need to be stopped.

Mr. President, all of these proposals are motivated by a single purpose. I, along with the police officers of this country, believe that we have to get the guns away from the gun criminals. Project Triggerlock was one major initiative that we can pursue at the Federal level to help make this happen. Imposing stiff mandatory minimums, cracking down on illegal gun providers, are also good, important measures.

All of the gun proposals contained in my crime legislation, Mr. President, really have the same goal. They are designed to assure American families who are living in crime-threatened communities that we are going to do what it takes to get guns off of their streets. We are going to go after the armed career criminals. We are going to prosecute them, convict them, and we are going to keep them off of our streets. That is why we have a Government in the first place, to protect the innocent, to keep ordinary citizens safe from violent, predatory crimes.

Mr. President, I believe that Government needs to do a much better job with this fundamental task. That is why targeting the armed career criminals is such a major component of the crime bill that I will be introducing.

Mr. President, tomorrow I intend to talk briefly about a third major component of my bill, and that is how we help the victims of crime, those who are victimized by the criminals, those who we, many times, forget.

It has been my experience that, unfortunately, many times society treats the criminals as if they are victims and the victims as if they are criminals. Provisions in the bill that I will be discussing tomorrow deal with that. We will reach out to the victims of crime to help them and to make the playing field more level.

Mr. President, at this point, I will yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 789

Mr. SMITH. Mr. President, I send a manager's amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside, and the clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] for himself, Mr. CHAFEE, and Mr. BAUCUS, proposes an amendment numbered 789.

Mr. SMITH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, line 18, strike the phrase "the Administrator has determined".

On page 39, after line 8 insert the following: "For purposes of developing the list required in this Section, the Administrator shall be responsible for collating and publishing only that information provided to the Administrator by States pursuant to this Section. The Administrator shall not be required to gather additional data over and above that provided by the States pursuant to this Section, nor to verify data provided by the States pursuant to this Section, nor to arbitrate or otherwise entertain or resolve disputes between States or other parties concerning interstate movements of municipal solid waste. Any actions by the Administrator under this Section shall be final and not subject to judicial review."

On page 38, after the "." on line 16 insert the following: "States making submissions referred to in this Section to the Administrator shall notice these submissions for public review and comment at the State level before submitting them to the Administrator."

On page 33, line 20, strike "(6)(D)" and insert "(6)(C)".

On page 34, line 13, strike "determined" and insert "listed".

On page 34, line 13, strike "(6)(E)" and insert "(6)(C)".

On page 36, line 16, strike "(6)(E)" and insert "(6)(C)".

On page 50, strike line 18 and insert the following: "in which the generator of the waste has an ownership interest.".

Mr. SMITH. Mr. President, this amendment has been agreed to by both sides. It is a managers' amendment, a very technical amendment that has been requested by EPA, and it applies to tracking interstate waste pursuant to title I of the bill.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (No. 789) was agreed to.

Mr. SMITH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Arizona, moves to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 769

Mr. CHAFEE. Mr. President, I would like to address the pending amendment which is, indeed, the Kyl amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. Mr. President, I would just like to say a few words about the amendment presented by the distinguished Senator from Arizona.

In our Environment and Public Works Committee, there are 16 members: 9 Republicans and 7 Democrats. The bill that is before the Senate today that the Senator from Arizona seeks to amend was approved in the committee by a vote of 16 to 0. Every Democrat and every Republican voted for it.

Now, this bill before the Senate represents a delicate balance. There are two sides to this issue. On one side is the following: The State and local governments say, why should we not be allowed to designate that all municipal solid waste, all solid waste within this entity, be it the city of Detroit or be it some small town in Michigan or town or city in Rhode Island, whether it is in the Nation—why should we not be able to designate that all of the municipal waste within that community go to a facility that we designate—we, the town fathers; and in that fashion, we, the town fathers and the community, will be able to afford a proper disposal facility, be it an incinerator or be it a licensed proper landfill?

If our citizens do not like this arrangement, if they think they can have their solid waste hauled away by some private entrepreneur in a different fashion, then they can vote Members out of office and we will be gone and the citizens can have a separate system, if that is what they want. At least we ought to have that power.

Now, on the other side of the equation is the view espoused by Senator KYL, which is that flow control is anticompetitive and is against the U.S. Constitution, in addition to all that. The Constitution has said that flow control is against the commerce clause and it should not be permitted.

However, the Senator in his amendment recognizes that there are some facilities that have been built pursuant to the belief that flow control will be there in perpetuity and, therefore, he has arranged under his amendment that those investments made by those communities can be paid off. In other words, his amendment is tailored to the life of the outstanding bonds.

Once they are paid off, then that ends it regarding flow control existing in that community. In other words, he has kept the flow control limited to a minimal period to provide for the payment of the bonds. Now, he has put a lot of thought into that argument, and as I say, an argument can be made for it, as indeed he has made.

In crafting this view, we balanced these two views. The ones who say on one side, we do not want to have anything that inhibits competition; and on the other side those who say, why should we, in our communities, not be able to do what we want to do? If it is wrong we will be voted out of office. Leave that to the citizens. Do not have Big Brother in Washington, DC, saying how to do things.

We had those views vigorously brought to our attention both in the committee and on the floor of the Senate and in our conversations with other Senators.

What did we say? We set limits. We said, "We are going to give broader flow control possibilities than that suggested by the Senator from Arizona in his amendment." However, we are going to set an outside limit. This is going to end at a certain time under our bill. It ends at 30 years. That does it. But we did not want to cut it off immediately, for the same reasons the Senator from Arizona has suggested. We go a little beyond him because there are communities here that are tied up in contracts that are different from just paying off the bonds. They have different situations.

Indeed, they feel very strongly about the arrangements they have made within their communities, within some States. They do not want this limitation. If we are going to have this legislation passed, then it seems to me we have to recognize the views on both sides to a greater extent than is recognized by the Senator from Arizona in his amendment.

Therefore, Mr. President, when the proper time comes I will move to table the amendment of the Senator from Arizona—not that I think it is totally out of line. I can see the rationale that is behind his amendment.

The truth of the matter is it will upset this delicate arrangement that we have put together here over the past several weeks. I might say this was not just created by the imagination of this Senator or that Senator. It came as a result of hearings we had in connection with flow control and trying to craft a bill that is very, very difficult.

Indeed, what has been going on today and yesterday? We were on this bill starting at 12 o'clock yesterday, going up until something like 6:30. Today we have been on it since 9:30, with very little action on the floor.

Why? Because we are trying to compromise and recognize and deal with these various forces that are tugging in exactly opposite directions here. That is difficult to reconcile.

Therefore, Mr. President, I would hope that our colleagues would support the efforts of the committee in trying to meet this very, very, difficult compromise.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I wonder if the Senator from Rhode Island would engage in a colloquy with me regarding this legislation?

Mr. CHAFEE. I would be happy to.

Mr. KYL. Mr. President, I appreciate his characterization of my remarks. They are precisely as he described them. I appreciate the difficult dilemma that a chairman always has in trying to get legislation which is not uniformly agreed to and, therefore, requires some compromise.

Having conceded that much, first I want to make a very quick point, because there is some misinformation, I think, being conveyed, and that is that our amendment does not permit refinancing.

This is not something that the Senator from Rhode Island addressed but was addressed earlier. Under our amendment, I make it clear, that refinancing is committed so you are not bound by the original financing. Entities can refinance, and however long it takes for either the original bond issue or the refinanced bond issue to be repaid, that would be the length of time that this exemption under my amendment would pertain.

Mr. CHAFEE. In your bill—in other words, you refinance and you could extend beyond the period of the original bond?

Mr. KYL. I believe that is correct, yes.

Mr. CHAFEE. It was my understanding that refinancing was permitted but it could not extend beyond the date of the original financing. I may be wrong there.

Mr. KYL. I am sorry, yes. The Senator from Rhode Island is correct. In subsection (B):

> (A) shall not be construed to preclude refinancing of the capital costs of a facility, but if, under the terms of a refinancing, completion of the scheduled for payment of capital costs will occur after the date on which completion would have occurred. * * *

Then the authority expires at the earlier of those two dates. The Senator is correct. With respect to the issue generally that a community should have the right to grant a monopoly, and that the remedy is to vote them out of office—the argument posited against this—I ask my colleague this question:

It is true that if a municipality, a county government or whatever, creates this monopoly they could be voted out of office. But is it not true that the U.S. Congress, by this legislation, will have created the situation where despite these people being voted out of office, the contract, under the bill as written—the contract term, or as long as it takes to refinance, or even the point at which the useful life ceases to exist, after it has been extended, up to 30 years—would still allow the monopoly to continue? So the candidates themselves may be defeated but that which they constructed, because we protected it, would continue to exist?

Mr. CHAFEE. That is correct.

Mr. KYL. I think that makes my point. We ought to be very, very careful when we are seeking ways to get around the U.S. Supreme Court decision interpreting the Constitution; that we should do so in the narrowest way possible. I think what we have done here is, in order to accommodate the special desires of different Senators from different States to go beyond just the repayment obligations but to actually continue to act as a monopoly so they will have a competitive advantage over others who might wish to provide the same kind of service, that in constructing the compromise we have, I think, gone too far and acted beyond the principle which justifies the more limited grandfathering, if you will, more limited exemption which I provided for in my amendment.

That is why, while I certainly recognize the difficulties the chairman has in cobbling together a compromise in something of this nature, I suggest colleagues may wish to support my amendment. I hope they would support my amendment. If that means we then have to go back and do some more working of the bill, then at least it might be done from a better basis.

I might ask the Senator from Rhode Island another question here. I can understand, under a very limited circumstance, why we might want to recognize a contract term which extends beyond the term for refinancing or financing bonds. There are basically three reasons why the monopoly is being granted here. One, to allow the refinancing to occur—both of us have agreed on that. Two, in order to extend the exemption to the point that contracts are outstanding. And, three, to extend it when something has been done to the plant to extend its useful life. I can understand a limited rationale in the second situation and we both provided for the first.

What I cannot understand is a rationale for the third aspect of the exemption whereby, simply because it makes economic sense to do so, or the jurisdiction in question decides to do something to the plant to extend its useful life, that fact ought to occasion us to grant an additional exemption.

At that point there is no longer contract obligation that might be more difficult to fulfill. There is no more investor interest out there. This is simply, perhaps, a very rational decision to extend the life of the plant, but not one which creates in my mind any rationale for extending the grant of authority here.

Would the Senator from Rhode Island care to respond to that?

Mr. CHAFEE. That is a good question. But the answer is—and we have had this raised, obviously, not only on the floor here but in calls from Governors that come to us. The original plea of the Governors is, "Why can't we do what we want to do? Who are you in Washington, always telling us, yes/no?"

As the Senator has pointed out, it is the Supreme Court that said no. It is not us who said "no." Indeed, what we are doing is in effect coming to the rescue, if you would, of those communities that want to extend flow control or have flow control because, as the Senator knows, it was declared unconstitutional. So we are stepping in, trying to fill a void, fill a problem that exists.

But you say, OK, if you step in just step in for this limited period which is, as you say, the length of the bonds that are outstanding or what the contract requires between the facility and the community—whatever it might be. But the answer is that in many of these States and communities they set up arrangements based on flow control continuing to exist. In other words, they pass statutes that flow control be there. So we have some occasions where the length of time of the contract is not necessarily going to cover all the expenses and is going to be renegotiated for a variety of reasons, but all with the anticipation that the flow control statute that the municipality had entered into was going to continue to be there.

So they say, "We made arrangements." The arrangements might be the original bonds, for example, and did not cover the total construction cost of the facility. Or that they were dependent upon flow control to provide the flow of waste and the tipping fees for the rather high maintenance costs. They had it all worked out and they say, "Why can't we continue to do that?"

That is the rationale that we have, when we have State A, or B, or C, or Governor A, B, or C, calling us and saying this is what we want. So we have tried to juggle it around, leaving not everybody happy, as is apparent today.

Mr. KYL. If I could respond, I appreciate that fact. And I suspected that basically was the rationale for it. But it does seem to me that just because the operators of the plant want a monopoly does not necessarily mean that is good public policy or that we ought to go along with it. By definition, if at the time bonds have been paid off—since I doubt seriously these plants are constructed by anything other than bond issues—but once the bonds have been paid off, they have been built. They may continue to have high operating costs. But at that point it is the citizens of the State and the community whose interests we ought to have in mind, which is the rationale behind the interstate commerce clause in the first place, that a State should not grant a monopoly to either a private business or a State enterprise to extract more money from the taxpayers of the community than is necessary.

And if a private investor or some other competitor can build a plant, can come up with the capital to do so and compete favorably with an institution that has already been totally financed by public funds and had that financing repaid, then at that point public policy would suggest that the people are more benefited by the lower prices and the competition because, by definition, they are the ones who are getting the contract rather than the older, outmoded or very expensive facility that we have been protecting in the meantime.

So I guess I can recognize that the owners or operators of the plants may wish to stay in business without competition. I still am not clear as to why that should occasion us to grant an exemption from an otherwise constitutional prohibition here.

As I say, I can understand the rationale as to the first point as to the bonds, and to some extent on the contracts, but on this third area here—and what I am searching for here is a possible accommodation with the chairman and others who would be involved in this—I just really fail to see the rationale for the third. Perhaps that is something we could explore an agreement on.

Mr. CHAFEE. I think the Senator made a rather telling point. He pointed out that if they enter into these contracts and the town fathers say, "Look, if you do not like it you can vote us out of office," you say, "What good does it do to vote you out of office, you have locked us in for 20 years? It is little satisfaction for us that you are gone but we are stuck with the contract."

But I would like to say this. Here we are in a situation where if this Senate does nothing or this Congress does nothing, there will be no flow control at all.

Yet we have publicly elected servants, Governors, Senators, coming to us and say, "Extend this in perpetuity." That is what many of them want. These are people who are saying this before it is a done deal. In other words, the public knows their position, should know it, and many Governors—it has been no secret—do not say, "Don't tell anybody, I am urging you to do this."

So there are a lot of factors involved. But pursuant to the wishes and the views of the Senator from Arizona, and our own views likewise, we have set a sunset. We said this is all over with. We do not care what your arguments are. At the end of 30 years, there is not going to be any more flow control. You did give us arguments about bonds, this, that, but that is it. You may say 30 years is a long time. It is not just some people on the floor of the Senate who are after us to change that.

Mr. KYL. Unlike STROM THURMOND, we are going to be gone by the end of 30 years. But I see the point.

If the Senator will just yield for one final comment, I appreciate the arguments the Senator has made. I think what I am suggesting is something that is correct on principle. I would not want it to impede good legislation. I tried to suggest a couple of areas of possible ways of dealing with the issue and would be happy to continue to pursue those areas should anyone be interested.

On my behalf, I am not doing this for anybody in my State, because we do not have this. But I urge my colleagues to support the amendment and enable us perhaps with a little stronger leverage to go back and construct something that would make a little more sense.

I thank the Senator for yielding.

Mr. CHAFEE. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I find this a rather distressing moment because the amendment that is proposed, frankly, will do much to undo a lot of hard work that was done in a consensus fashion in trying to arrive at a way to accommodate the need for States to dispose of their trash in a sensible way. When you say "trash, garbage," et cetera, immediately it sounds like the subject is on the trivial side of things. It is hardly that because there are a few States that do not have a problem. As a matter of fact, this country of ours, and this world of ours is filled with problems created by the excess creation of trash by its citizens.

It is a serious problem when you come from a State like mine, the most crowded State in the country. We still value the quality of life that we can develop. We like our hills. Some call them mountains. It depends on whether you have seen mountains or not. But they are our hills and they are our forests, they are our woodlands, and our streams. And we try to make as good use of those as we can. We want for our children nothing different than those who live in Montana or Wyoming or in the other places, the wide open places. As a matter of fact, population growth in this country is much more toward the crowded areas because young people like to be where other young people are, and as a consequence there has to be a national cooperation on efforts like this to help us deal sensibly with the problem.

Now, this bill is carefully crafted—the bill itself; I am not talking about the amendment of the Senator from Arizona—to give States the power to restrict in some form or fashion the amount of trash that comes to their States from other States. This is not a simple calculation because within States there is often enormous disputes between those who govern the local community—mayors, councils—those sometimes who are responsible for county government and State government because the mayor in a town may very well be able to find a way to get rid of their trash from the community by shipping it to the nearest, cheapest out-of-State facility.

To give you an example, in my own State we have created some waste disposal facilities, and in order to build those facilities we had to go out and arrange for financing, indebtedness, and that indebtedness, like any other business, was calculated on a particular revenue or financial stream that was going to permit them to pay their bills and also to pay off their indebtedness.

So lots of communities across this country developed something called a flow control program that says a State may regulate where the trash is going to go, not simply permit a mayor, even though it looks on its surface to be in the best interests of the residents of the community, to simply say OK, tipping fees, which are the fees associated with the disposal of garbage, to send it to State X nearby are one-third or 40 percent of what it might cost to send it to a nearby waste processing facility. That can be true on a particular day at a particular moment.

However, Mr. President, what happens if suddenly the opportunity to ship to State X, Y, or Z is terminated by laws that are pending in this body that say look, we are not going to take your garbage. We are not going to permit our communities to take it even though it is a revenue-producing source, even though it is clean, even though it has met all of the standards under RCRA for being a sanitary landfill where there is no possibility of leaching into the water supply, there is no danger to the community, even though we know it is great politics to keep the garbage out of the contract State. The fact is we have a contract and the Supreme Court says you cannot interfere with interstate commerce—unless, of course, laws are drawn to permit obstructing it in an ingenious way so that it gets around the constitutional question.

Well, what happens is those of us who live in exporting States are very nervous about the future, of what happens if suddenly the export possibility is cut off. And I repeat, though I have said it on this floor several times, the New Jersey story. When we were an importing State for garbage—Philadelphia used to ship its trash to my State—we tried through the courts to stop it. We went as far as the Supreme Court, and the Supreme Court said no, you cannot stop it. Well, we learned something. We were a net importer, and now as fate would have it we are an exporter. And in order to protect the solvency of our State, it was determined that my State would have a flow control structure, and they tried to direct the trash to the facilities that can accommodate it not just now, not just next year but in much of the next century as well.

That is the thought that went into this bill. Do not cut us off at the border and at the same time not permit us to control the flow within our States. My State of New Jersey wants to be independent. We do not want to depend on anybody else, to be gracious and fair and all that kind of stuff. We know that we have to take care of ourselves, so as a consequence we wrote the law to permit us to do that.

Well, now, after all of the deliberations that have gone on—and the distinguished chairman of the Environment and Public Works Committee from Rhode Island is in the Chamber. He worked very hard to get a consensus. He supports the flow control notion because he knows how important it is to the States that are concerned. Forty States in this country of ours have flow control authority, and they will be adversely affected by this amendment.

The amendment makes it difficult to expand landfills. For example, there are many landfills that need to be improved. If a 10-year bond was taken out for the original landfill 8 years ago, then that landfill operator will have little incentive to make improvements because he does not know how much waste will be coming in after 20 years. How good business is going to be he does not know because we are liable to cut off the opportunity for him to continue financing.

So we have an amendment now which I frankly believe would be very disruptive, and I want all the Senators from all the States that have flow control authority to pay attention because they could be losing a valuable asset, the sensible management of their trash problems.

We are going to have a vote on this amendment, I understand, at 2:30, and I would caution those offices where there is any interest at all in what happens with flow control to make sure that those Senators are alerted to the problems that might be created for them.

This amendment, by the way, is opposed by the National Association of Counties. They know what the problems are. It would be difficult to finance equipment, to finance new facilities because the amendment limits very specifically the financing of facilities to those that are presently in operation; would limit them to 30 years of life even if 25 have gone by. That means only 5 more. And the State may not have any other solution to its problems.

So I hope our colleagues will listen very carefully to what is being discussed, to note that the chairman of the Environment and Public Works Committee, that the chairman of the Subcommittee on Superfund, under whose jurisdiction this is, will be opposing this amendment and that others will take leave from them.

With that, I yield the floor, Mr. President.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield to my colleague, the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I will submit an amendment to the pending bill. I ask unanimous consent that the pending amendment be set aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 867

(Purpose: To provide flow control authority to certain solid waste districts)

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for himself and Mr. LEAHY, proposes an amendment numbered 867.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, between lines 2 and 3, insert the following:

"(f) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

"(1) the solid waste district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2000, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

"(2) prior to May 15, 1994, the solid waste district—

"(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid wastes within its jurisdiction;

"(B) was authorized by State statute (enacted prior to January 1, 1990) to exercise flow control authority, and subsequently adopted the authority through a law, ordinance, regulation, contract, franchise, or other legally binding provision; and

"(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994."

Mr. LEAHY. Mr. President, I ask unanimous consent that I be listed as a cosponsor with the Senator from Vermont.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, hopefully we will be able to reconcile our differences that we have right now with respect to the pending bill.

Vermont, I think, is a pioneer in this area. Some years ago, it set up a methodology of trying to reach what we believed were national goals as well as our own State's goals, and that was to try and develop recycling to reduce the amount of solid waste that enters into our waste system. Thus, we organized districts throughout the State. And also to try to enhance the ability to recycle, we have allowed some tipping fees to be exacted in order to take care of the costs that are involved with recycling.

If my memory serves me right, when I was on the committee that is handling this legislation, we had set or were going to set national goals that we ought to try to reach a 30-percent goal of recycling. Vermont right now is over 25 percent and moving toward 30 percent.

What would happen, if this bill passes and if the existing Supreme Court decision is not changed, is that Vermont will have to move away from what is a very desirable situation, and that is to be able to reduce our flow of trash by over 25 percent.

Mr. President, in 1987 the State of Vermont passed a solid waste management act which allowed small rural towns and cities to band together to solve their solid waste problems. Building a landfill which complies with EPA standards under the Resource Conservation and Recovery Act is not cheap. Recognizing that landfills out of compliance would be shutting down, and facing the reality that landfill space was dramatically declining, Vermont acted to assist small communities in their effort to handle their solid waste. The 1987 solid waste management law allows Vermont towns the ability to band together. Passage of Vermont's solid waste law and the implementation of the State's solid waste plan has been incredibly successful to date in achieving this goal. But we are not finished yet.

Mr. President, Vermont has spent over $20 million developing its district waste management plans. The vast majority of these plans rely on flow control. Without this ability, many small towns and cities would not have been able to plan for the future, reduce their production of waste or implement far reaching recycling and waste reduction programs. The communities in my State need to be able to count on the results of their investments. They need to continue to work to solve their solid waste problems together, in coordination with the State.

The loss of local authority over solid waste planning would be disastrous. These solid waste districts have developed comprehensive waste reduction plans, in order to reduce the costs of disposal and remove the need to continually open new and costly landfills. Since 1992, there has been a dramatic increase in the number of households and businesses participating in local waste reduction and recycling programs. And it is working. Currently, Vermont recycles approximately 25 percent of its solid waste and over 40 percent of Vermont's towns have recycling programs in place. And these are rural towns. Recycling in rural areas is not easy, nor cheap. I am proud of what these Vermont communities have achieved and want to ensure the continued growth of this trend in the future.

Mr. President, Vermont is among the most rural States in the Nation. Our solid waste districts generally have not financed disposal facilities, such as landfills, nor recycling infrastructure through the issuance of revenue bonds. Therefore, the exemptions in the bill will not hold. But the financial health of these communities necessitates the continuation of their ability to direct flows of waste. And these waste districts are just beginning to fully implement their waste management plans, which may include the sighting of safe, but expensive, waste disposal facilities.

My State has chosen to manage its waste in this manner. Now, in this time when the theme is to reduce mandates from Washington, are we going to impose a Washington solution on Vermont and other States who are properly managing their waste? Essentially, Washington will be removing Vermont's ability to implement their solid waste management plan. Washington will dismantle Vermont's recycling program. Washington will increase Vermont's waste generation, thereby increasing costs associated with waste disposal. Washington will end Vermont's ability to safely manage its waste, waste which without my amendment can go to out-of-State incinerators and less preferable landfills.

I ask my colleagues to let Vermont manage its waste as it chooses, not as Washington dictates. Do not impose a Washington mandate on Vermont. Let us maintain our extremely successful waste reduction and recycling programs.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I join with Senator JEFFORDS on this, because I think it is extremely important to our State. S. 534, as it is presently written, trashes Vermont's solid waste management plan, I might say literally and figuratively.

What we want to do is let the Vermont solution work in Vermont. We hear a lot about States' rights these days, but we are about to undermine our State's right to manage waste in

Vermont. We hear a lot about how States could find the best solutions to their problem, but this bill says the States' solutions are wrong. We hear a lot about not forcing States to adhere to national environmental standards, but when my own State goes and exceeds the national standard within the borders of our own State, we are told we cannot do that.

Now here we have a bill that says States can control what comes across their borders, but they cannot control what is within their borders. That is absurd.

My State uses flow control to reduce the leakage of household hazardous waste into the environment. That is something that benefits all Americans. My State uses flow control to increase recycling in rural areas.

Vermont manages waste better than Federal statutes, like the Clean Air Act and the Clean Water Act require. If a State like Vermont wants to go above and beyond the call of duty in addressing solid waste problems, then the Federal Government ought to stand out of its way. We are not suggesting we do less. We are just saying give us the right to do more if that is what we want.

The opponents of this amendment say the free market will take care of our solid waste management. Well, the fact is in a rural State like Vermont the free market will not increase recycling nor separate and collect household hazardous wastes or address a number of the other things that we are doing in Vermont.

When the State legislature or an individual waste management district chooses to pursue the policy suggested by Senators from other States, they will have the opportunity to do so. Until then, they ought to be allowed to pursue the policies they have set up themselves, especially when everybody agrees the policy goes beyond any national standards. We ought to be able to do what we want within our own borders in a case where we are not only not harming anybody else, but we are actually making the environment better.

Mr. JEFFORDS. Mr. President, I would also point out that this does not interfere in the sense of competition. There are bids that go out for those who want to bid. The only problem that is created is the tipping fee, which has to eventually, of course, be paid by the people that are getting the advantage of the waste disposal. And that helps in paying for the recycling programs.

In rural areas where you do not have large amounts of trash that is recyclable in the sense that it can be sold, you have to make up that cost some way. The question is, is it not better to put that cost on those that are getting the advantages of the waste disposal system? I think everyone would agree, the answer is yes. And if the answer is yes, then why should we not be allowed to do it? It is not in any way interfering with the problems that the Supreme Court handled, which was interfering with respect to fair and open competition

Mr. President, I yield the floor.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, am I correct in believing that 2:30 is the time set for the vote on the Kyl amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. That is the pending amendment, right?

AMENDMENT NO. 769

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of amendment No. 769 offered by the Senator from Arizona [Mr. KYL].

Mr. CHAFEE. Mr. President, I move to table the Kyl amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 769. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 79, nays 21, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—79

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bumpers
Burns
Chafee
Coats
Cohen
Conrad
Coverdell
D'Amato
Daschle
DeWine
Dodd
Dole
Dorgan
Exon
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—21

Ashcroft
Brown
Bryan
Byrd
Campbell
Cochran
Craig
Domenici
Feingold
Gramm
Inhofe
Kempthorne
Kohl
Kyl
Lott
McCain
Murkowski
Nickles
Robb
Rockefeller
Stevens

So the motion to lay on the table the amendment (No. 769) was agreed to.

Mr. PRYOR. Mr. President, seeing no other Members of the Senate seeking recognition at this time, I would like to ask unanimous consent that I may be allowed to speak as in morning business, not to exceed 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDATION TO FORMER PRESIDENT BUSH

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me and I thank the distinguished managers for allowing me to speak.

Mr. President, this morning's Washington Post and many television and radio news programs throughout America and perhaps the world, reported on what I would like to call a portrait in courage, and the person standing tall in that portrait was none other than former President George Bush.

Like many of my friends and family in Arkansas, former President Bush is a gun enthusiast. He is a long-time member of the National Rifle Association.

But like many other NRA members, President Bush was deeply offended by a recent NRA fundraising letter signed by Mr. Wayne LaPierre, the NRA's executive vice president. The LaPierre letter referred to several law enforcement officials: "Jack-booted thugs who harass, intimidate, even murder law-abiding citizens." The NRA referred to Federal agents "wearing Nazi bucket helmets and black storm trooper uniforms to attack law-abiding citizens."

This irresponsible, inflammatory NRA fundraising letter incited the former President of the United States to the point that he wrote NRA President Thomas Washington to resign his NRA membership.

Former President Bush's letter reads as follows:

> Your broadside against Federal agents deeply offends my own sense of decency and honor and it offends my concept of service to our country.

President Bush continues in his letter:

> It indirectly slurs a wide array of government law enforcement officials who are out there day and night, laying their lives on the line for all of us.

Mr. President, I am asking unanimous consent that an excerpt from the story in the Washington Post about President Bush resigning his membership from the National Rifle Association be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> But his resignation letter was more personal than political.
>
> "Al Whicher, who served on my [Secret Service] detail when I was vice president and president, was killed in Oklahoma City," Bush wrote. "He was no Nazi. He was a kind man, a loving parent, a man dedicated to serving his country—and serve it well he did.
>
> "In 1993, I attended the wake for ATF agent Steve Willis, another dedicated officer who did his duty. I can assure you that this honorable man, killed by weird cultists, was no Nazi." Willis was one of four federal agents killed in the initial February 1993 raid on the Branch Davidian compound near Waco, Tex.
>
> "John Magaw, who used to head the [Secret Service] and now heads ATF, is one of the most principled, decent men I have ever know," Bush wrote. "He would be the last to condone the kind of illegal behavior your ugly letter charges. The same is true for the FBI's able Director Louis Freeh. I appointed Mr. Freeh to the federal bench. His integrity and honor are beyond question."
>
> The letter concluded, "You have not repudiated Mr. LaPierre's unwarranted attack. Therefore, I resign as a life member of NRA, said resignation to be effective upon your receipt of this letter. Please remove my name from your membership list. Sincerely, George Bush."

GATT AND GENERIC DRUGS

Mr. PRYOR. Mr. President, when we in Congress voted on the GATT treaty recently, we all knew that we were breaking down trade barriers and leveling the playing field in international trade.

Make no mistake, I believe that Americans will benefit from this agreement when it is implemented in June. But never, Mr. President, in our wildest dreams or imagination, would we have ever thought we were voting to give special treatment and a $6 billion windfall to the prescription drug industry on one hand and higher drug prices to American consumers on the other. Yet that is exactly what is happening.

Mr. President, here is what has happened to bring us to this point today. Last year, the United States agreed under GATT to a new patent law, good for 20 years from filing. Our old patents were for 17 years, the effective date from their date of issue.

We also agreed under GATT to give existing patents the longer of the two patent terms. This extension applies to all industries.

At the same time, we knew that generic companies of all kinds all over America had already made significant investments based upon old patent expiration dates. These companies were prepared to introduce their competitively priced drug products just as the brand-name monopolies end.

We did not want to jeopardize the jobs and the factories which were at stake. So we decided under GATT to adopt a formula under which these generic companies could proceed with the introduction of their products if they paid the patent holders "equitable remuneration" for the period of time left on their patents.

Mr. President, here is where this story really begins. It just so happens that over 100 prescription drugs now protected by patents will be getting extra patent life under GATT.

For example, Glaxo's patent for the world's best selling drug, Zantac, would have run out December 5, 1995, but will now last until 1997. Generic drug companies have already spent millions of dollars to prepare to market lower cost, equivalent drugs on that date, giving consumers of America a tremendous price break.

But a small handful of brand-name pharmaceutical companies have objected. They are saying, "Thank you for the extra patent life. We really appreciate that part of GATT. But you should know there is an obscure provision in U.S. drug law which we think protects us from the rest of the GATT treaty. We are sorry our generic competitors have invested heavily in their business, but they do not deserve the protections that are rightfully theirs under GATT. So we guess we will not have any competition for quite some time."

This is what they have told the Food and Drug Administration. The pharmaceutical manufacturers have even threatened litigation against the Food and Drug Administration.

I am deeply concerned, Mr. President, because if they get their way at this time, they gain a multibillion dollar windfall—alone among the dozens of other industries and thousands of other companies complying rigidly with the GATT treaty.

Even worse, consumers now are going to have to pay double for these drugs. They will have to pay twice, Mr. President, as consumers and as taxpayers. The Federal Government and the State governments are going to pay an extra $1.25 billion for prescription drugs for older Americans under Medicare, veterans, low-income families and children, as well as the active duty military.

That will come out of our tax dollars. The American taxpayers will thus be paying more taxes so that a few brand-name drug companies can make more profits and block competition in the marketplace— forcing the American consumer to continue paying the highest drug prices in the world today.

Most important, I think, will be the effect on older Americans, Americans on fixed incomes, and Americans without adequate health insurance. They will feel the hurt of these soaring drug prices even more.

Mr. President, this chart is fascinating because it demonstrates very clearly that two of our best-selling drugs on the market are about to run out of patent protection, and should have generic competition by the end of this year.

Zantac, for example, is the leading drug for ulcers. It is manufactured by Glaxo. For a typical 2-month supply, the brand-name is $180. For a generic supply of 2 months, the cost is about $90. What we are going to see is, under GATT, an unintended consequence. Glaxo is going to receive a 19-month extension on their patent. This drug's price is not going to go down. There will be no generic competition with Zantac. We will see Zantac continue to soar in price. In fact, Glaxo is anticipating over a $1 billion windfall, because of this unintended consequence in GATT.

Do you think this brand-name drug, Zantac, is going to go down in price? Last year, Zantac's price grew 1½ times faster than inflation. The price for Zantac since 1989, only 6 short years ago, has increased 40 percent. What do you suppose is going to happen to that price if Zantac gains more than a year and a half of additional uncontested market exclusivity?

Mr. President, the intent of GATT, of course, was not to harm American consumers. The goal was to improve their standing in the world economy. The prescription drug marketplace today is one area where the American consumer has been particularly exploited as we have historically paid the highest price for drugs while subsidizing lower drug prices for consumers around the world.

This is why five of my colleagues and I have written to the Food and Drug Administration, asking the Food and Drug Administration to make the right decision—and that right decision is to allow generic drugs to come to the marketplace, offering competition to brand-named drugs which are about to receive an enormous unexpected and undeserved windfall.

This is a textbook case of a loophole resulting in an unwarranted windfall. No single industry deserves special treatment under GATT and today the pharmaceutical manufacturers of brand-name products are getting that special treatment at the expense of the American consumer. Should the Food and Drug Administration fail to provide the proper solution to this problem, I will immediately proceed with legislation to remedy this economic and this moral wrong. And I am hopeful my colleagues will join me.

Mr. President, I ask unanimous consent that an article appearing in Business Week magazine dated May 15, 1995, be printed in the RECORD, as well as letters to Dr. David Kessler, Commissioner of the Food and Drug Administration, from consumer, patient, health care, and trade groups supporting our concerns. These groups include the National Organization for Rare Disorders; Families USA and the Gray Panthers; AmeriNet, of St. Louis, MO, and Premier Health Alliance, of Westchester, IL; the National Association of Chain Drug Stores and the National Pharmaceutical Alliance.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Business Week, May 15, 1995]

A PATIENT MEDICINE CALLED GATT—FOR MAKERS OF BRANDED DRUGS, IT COULD PROVE A POWERFUL TONIC

(By John Carey)

It wouldn't be surprising if Robert J. Gunter took a dose of his own medicine. President of generic drugmaker Novopharm USA Inc., he has spent five years gearing up to produce a generic version of Glaxo Holdings PLC's blockbuster ulcer drug, Zantac. He even invested $40 million in a plant in Wilson, NC., built to pump out the low-cost version as soon as Glaxo's first patent expired in December.

Now, Gunter finds himself in the middle of stomach-churning patent battle. Glaxo and other brand name pharmaceutical giants are claiming that the General Agreement on Tariffs & Trade (GATT), signed by President Clinton in December, extends many of their patents, Zantac's among them. More important, they argue, the extended patent term gives them extra months—even years—of protection from competing generics.

While the case relies on complicated legal arguments, it boils down to whether provisions in GATT supersede a 1984 law that prevents the Food & Drug Administration from approving generics until the patent on a name brand expires. If the arguments prevail, more than 100 brand-name products will win an average of 12 months each of extra patent protection (table). A new study from the University of Minnesota estimates that the extra protection could give the drugmakers a windfall of $6 billion over the next 20 years. "That's obscene," fumes Senator David H. Pryor (D-Ark.). "American consumers are going to pay the bill."

"EUREKA" MOMENT

Pryor, a handful of other lawmakers, and the generics companies are fighting back. On Apr. 27, Pryor and five other senators asked the FDA to reject the brand-name companies' interpretation of GATT. Vows Novopharm's Gunter: "If the pharmaceutical industry thinks generics will roll over and play dead on this, they have another think coming." The FDA's decision is expected within weeks, but the wrangling won't end then. FDA officials and executives on both sides predict that whatever the FDA decision, the loser will take the issue to court.

The high-stakes controversy wasn't anticipated when GATT was approved late last year. The agreement harmonized U.S. law with the rest of the world's by changing patent terms to 20 years from the initial filing instead of 17 years after being granted. Most companies thought the change applied only to new patents, but soon after passage, Glaxo's lawyers had a "eureka" moment. Poring over the legislation, "we realized that for many of our existing products, patent life would be extended," says associate general counsel Marc Shapiro.

As a result, any patent that took under three years to win approval would have longer protection. Since the U.S. Patent Office took only 17 months to grant the first of two key patents on Zantac, the change would give the company an additional 19 months of protection for its top-selling drug.

But even as GATT changed patent terms, Congress tried to prevent harm to rivals that had been counting on the original expiration dates. Lawmakers inserted a clause permitting a company to introduce a competing product on the original patent expiration date if the company had made significant prior investments and if it paid the patent holder a royalty or some other form of "equitable remuneration." While Jeremiah McIntyre, counsel for generic drugmaker Geneva Pharmaceuticals Inc., calls that "a fair balance," on the theory that it's better to pay a royalty than not be allowed into the market at all, the provision would squeeze generic drugmakers' already thin profit margins.

OVERSIGHT?

Meanwhile, Glaxo, Bristol-Myers Squibb Co., and other brand-name companies are arguing that this escape clause shouldn't even apply to the drug industry. The reason, they say, is that it clashes with provisions in a 1984 U.S. generic-drug law that prevents the FDA from approving a generic drug until the brand-name patent expires. Unlike other instances where Congress amended existing laws to conform with GATT, it failed to resolve this conflict—implying an intent to keep existing law intact, says Glaxo's Shapiro. Pryor and others plead simple oversight. But the big drugmakers insist on claiming what they see as theirs.

In the coming fight, generic drugmakers face an uphill struggle. "We have to be better organized, and spend more money to get our message across," says Bruce Downey, CEO of Barr Laboratories Inc., a generic drugmaker in Pomona, N.Y. As policymakers focus once again on rising health-care costs, the generic companies do have one potent message: If the brand-name companies win, Americans will pay billions more for drugs. Faced with the prospect of dramatically higher costs, "I can't believe the [FDA] won't make the right choice," says Lewis A. Engman, president of the Generic Pharmaceutical Industry Assn. Robert Gunter can only hope he's right.

A WINDFALL IN THE MAKING

Pharmaceutical makers are seeking an average of 12 months' extra protection from generic competitors for more than 100 drugs.

[Dollars in millions]

Drug Company/Use	Months of added protection	Potential extra revenues because of lack of generic alternative
ZANTAC—Glaxo/ulcers	19	$1,000
MEVACOR—Merck/cholesterol-lowering	19	448
DIFLUCAN—Pfizer/antifungal agent	20	410
PRILOSEC—Merck/ulcers	17	586
CAPOTEN—Bristol-Myers Squibb/hypertension	6	101

Data: Prime Institute, University of Minnesota.

NATIONAL ORGANIZATION FOR
RARE DISORDERS, INC.,
New Fairfield, CT, April 13, 1995.

Hon. DAVID KESSLER,
Commissioner, Food and Drug Administration,
Rockville, MD.

DEAR DR. KESSLER: The National Organization for Rare Disorders, Inc. (NORD) is deeply concerned with the FDA's pending interpretation of the General Agreements on Tariffs and Trade (GATT) implementing legislation as it applies to pharmaceutical drug patents.

The branded pharmaceutical industry (represented by PhRMA) is seeking an extension of patents solely based on their desire to maximize profits. If these companies succeed in their attempt to limit consumer access to more affordable "generic" products, then millions of Americans will have no choice but to pay more for already over-priced drugs. NORD believes that Congress never intended to force American consumers to pay even higher prices for their prescription drugs.

While such patent extensions would significantly increase the cost of our Medicaid program, please consider the even greater burden this would place upon the millions of Americans who are refused health insurance—and in turn prescription drug coverage—because they are afflicted with a rare "orphan" disease.

GATT was intended to improve the welfare of American consumers through international trade—including the needs of patients who desperately rely on access to more affordable drugs. GATT was never intended to provide special treatment to any segment of the pharmaceutical industry.

Sincerely,

ABBEY S. MEYERS,
President.

FAMILIES USA FOUNDATION,
Washington, DC, April 10, 1995.

Dear Senator/Representative:

We understand that the FDA is currently reviewing its position on GATT language as it applies to the extension period on drug patents. If GATT rules are retrospectively applied to previously filed or issued patents, the average patent extension for currently marketed drugs would be more than 12 months. The FDA is considering regulations that would withhold approval of generic drugs covered by "GATT-extended" patents until the extension period has ended. This would force the American public to pay higher prescription drug prices.

Families USA recently studied price increases in the top-selling drugs used by Americans. In our report, *Worthless Promises: Drug Companies Keep Boosting Price*, we found that the prices consumers pay for the most commonly purchased drugs continue to increase faster than general inflation. Drug price increases are particularly harmful to senior citizens who have the greatest needs for drugs and are most likely to pay for them out of pocket.

Several of the brand-name drugs that could receive patent extensions are among the top-selling drugs used by Americans. Among the drugs whose patents would be extended are: Zantac, the top-selling drug used by Americans, which increased in price 38% from 1989 to 1994; Capoten, a blood pressure medicine which increased in price 65.3% from 1989 to 1994 and 4.9% last year; Pepcid, an ulcer medicine that increased in price 31.3% from 1989 to 1994; Mevacor, a cholesterol medicine which increased in price 27.8% from 1989 to 1994; and Prilosec, an ulcer medicine that increased in price 4.2% last year, and increased in price 7.5% (2.4 times as fast as inflation) in the year 1991 to 1992.

Generic drug products typically enter the market at prices 25% less than patented brand, and their prices are even less compared to the brand-name drug as generics further penetrate the market. Consumers desperately need relief from high drug prices.

A recent study by PRIME institute found that the extension would cost Medicaid about $1 billion. Federal and state governments will face more than $1.25 billion in added costs without generic drugs entering the marketplace.

We ask you to examine this issue and encourage the FDA to delay any ruling until the problem is fully investigated.

Sincerely,

JUDITH G. WAXMAN,
Director, Government Affairs.

GRAY PANTHERS PROJECT FUND,
Washington, DC, April 20, 1995.

Hon. DAVID KESSLER,
Commissioner, Food and Drug Administration, Rockville, MD.

DEAR DR. KESSLER: I am writing to you because we understand the FDA is reviewing its position on the language in GATT as it applied to extension periods on prescription drug patents. We understand that FDA is considering regulations that would prohibit the entry of generic drugs in the marketplace during this GATT extension period.

It is our position that this action would force the American public to pay higher prices for prescription drugs. It also seems to us, that the primary purpose of GATT is to create level playing fields and the best product at the lowest price to consumers. This action is contrary to that principle.

Many of the brand-name drugs that could receive extended patent protection are some of the most widely prescribed drugs used by Americans—especially the senior population. And these drugs continue to cost more and more each year. In a recent study by PRIME Institute of the University of Minnesota found that Medicare alone would incur about 1 billion added costs without the availability of generic drugs.

A generic prescription drug usually enters the marketplace at up to 25 percent less than the branded drug. To those individuals living on fixed incomes who already faced with rising health costs, the option to choose generic is very important.

Dr. Kessler, I trust that you will further investigate this issue and seriously consider the negative impact that prohibiting the availability of generic drugs on the American consumer.

Sincerely,

DIXIE HORNING,
Executive Director.

AMERIVET,
St. Louis, MO, April 25, 1995.

Hon. DAVID KESSLER,
Commissioner, Food and Drug Administration, Rockville, MD.

DEAR DR. KESSLER: The FDA is currently deliberating on an important issue that could force the American public to pay millions of dollars in higher prescription drug costs. The debate is over the interpretation of GATT legislation language as it pertains to patents on prescription drugs. This language extends the life of patents on a number of the country's most widely prescribed drugs, potentially generating a windfall to pharmaceutical companies at the expense of the American public.

As a group purchasing organization, the economic impact of the GATT patent extension and the projected cost to consumers is of great concern to us. We strongly urge you to do all you can to make available to consumers the generic drugs that may be delayed in reaching the market if the patents on brand-name drugs are extended.

As you realize, if a provider has a generic equivalent to substitute, the patient receives a cost savings over the brand-name drug. The cost to consumers for the currently marketed brand-name drugs is substantial, projected to be as high as $6,000,000, over potential generic equivalents. The cost will be incurred by the American public as well as Medicare, federal and state governments, employers, private insurers, and managed care firms.

We request that you seriously consider the enormous financial burden to the American public that would result from legislature preventing generic drugs from entering the marketplace during the GATT extension. We fully support your efforts in persuading the FDA to make lower-cost generic drugs available to consumers upon existing brand patent expiration.

Sincerely,

JOSEPH W. MULROY,
President.

PREMIER HEALTH ALLIANCE, INC.,
'Westchester, IL, April 14, 1995.

Hon. DAVID KESSLER,
Commissioner, Food and Drug Administration, Rockville, MD.

Re GATT Extension Period and Drug Patents

DEAR HONORABLE KESSLER: It has been brought to my attention that certain language in the recently approved GATT legislation may have a negative impact on the price Americans will pay for prescription drugs in the near future. It is also my understanding that the branded pharmaceutical industry is currently pressuring FDA to make a ruling that would prevent generic drugs from entering the marketplace during this extension period—a decision that would place an enormous financial burden on the American health care system and public through higher priced drugs.

It is my firm belief that Congress did not intend for brand name pharmaceutical companies to be the recipient of a $6 billion financial windfall during this GATT extension period to be subsidized by health care providers and the American public.

This "unintended consequence" of the GATT language should not be passed on to hospitals and physicians that already are aggressively seeking ways to reduce healthcare costs, as well as private citizens.

I am personally asking you to seriously consider the negative implications that would result from legislation preventing generic drugs from entering the marketplace during the GATT extension. The access to generic drugs is vital to those Americans who need them the most and I trust you will delay any ruling until further investigation into this matter has been made.

Yours truly,

BILL MAGRUDER,
Vice President, Pharmacy Program.

NATIONAL ASSOCIATION OF
CHAIN DRUG STORES,
Alexandria, VA, April 26, 1995.

Hon. DAVID KESSLER,
Commissioner, Food and Drug Administration, Rockville, MD.

DEAR DR. KESSLER: On behalf of the National Association of Chain Drug Stores (NACDS), I am writing to strongly urge that the Food and Drug Administration (FDA) recognize pre-GATT patent expiration dates for pharmaceuticals, and allow the approval of ANDAs for generic prescription pharmaceutical preparations where the sponsor of such application has made a "substantial investment" in the product prior to June 8, 1995, the date of implementation of the General Agreement on Tariffs and Trade (GATT). We understand that the FDA is currently considering whether GATT's implementing legislation provides such statutory authority. NACDS believes that it does.

NACDS represents America's chain drug store industry, and includes more than 160 chain companies in an industry that operates 30,000 retail community pharmacies. Chain pharmacy is the largest component of retail pharmacy practice, providing practice settings for more than 66,000 pharmacists. Our membership base fills over 60 percent of the more than two billion prescriptions dispensed annually in the United States.

We understand and support the importance of having generic prescription drugs available to consumers as soon as possible. Everyday, the availability of generic drugs enables the pharmacists who practice in our stores to help reduce overall prescription medication costs for populations that do not have prescription drug insurance. Among those who benefit from access to generic drugs are millions of older Americans and working poor, publicly-funded prescription drug programs such as Medicaid, and other third party prescription drug plans.

The impact that a misapplication of the GATT implementing legislation could have on the American public is significant. A recent study by the PRIME Institute at the University of Minnesota found that GATT provisions could result in an additional $6 billion in prescription drug expenditures in the United States because of the additional patent protections granted to brand name products, and the relative unavailability of lower-cost generic versions.

In summary, NACDS believes that the GATT agreement should not preclude the manufacturers of generic prescription drugs from bringing their products to market during the period of extended patent protection provided by GATT for brand name prescription drug products.

Sincerely,

RONALD L. ZIEGLER,
President and Chief Executive Officer.

NATIONAL PHARMACEUTICAL ALLIANCE,
Alexandria, VA, April 26, 1995.

Hon. DAVID PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: The National Pharmaceutical Alliance (NPA) is an association of over 165 manufacturers and distributors of pharmaceutical preparations for human and veterinary use. Our members are dedicated to providing safe and affordable alternatives to the American public whenever health needs dictate the use of pharmaceutical products.

In December of last year, the congress ratified the Uruguay Round Agreements Act [P.L. 103-465] (URAA) of the General Agreement on Trade and Tariffs (GATT). This agreement created some fundamental changes to be made in U.S. patent law. The new law provides for patents to be in force 20 years from the date of application as opposed to the historical law of the United States which provided for patents to be in force for 17 years from date of approval. Congress, realizing that such a change would cause a financial hardship on companies that expected to enter the marketplace at the expiration of the old patent date, provided a remedy to allow competing products on the market.

Under H.R. 5110, the implementing language of GATT, companies that could show that a substantial investment had been made in a product could enter the marketplace at the pre-GATT expiry date. The respective companies then would work out an "equitable remuneration" during the life of the patent extension. This remedy will work for every industry except the generic pharmaceutical industry due to its regulation by the Food and Drug Administration. Since approvals for Abbreviated New Drug Applications (ANDAs) are governed by the Drug

Price Competition and Patent Term Restoration Act of 1984, known as Hatch/Waxman, failure to change its provisions could prevent the FDA from granting approvals until after the patent extension has expired. We do not believe that Congress intended to treat the drug industry differently than other industries.

If the 109 generic pharmaceutical products inversely affected by GATT are kept off the market, the result could be an increased cost to the American consumer of over $6 billion and a cost of over $1.2 billion to Federal and State governments in higher Medicare and Medicaid costs. In 1995 alone, drugs such as alclometrasone dipr. (Alclovate), captopril (Capoten), and ranitidine HC1 (Zantac) could be unavailable to consumers in a generic version. Zantac alone could represent an additional cost to the consumers in excess of $1 billion during the time of the patent extension. At a time when both healthcare costs and government budgets are strained to the limit, it makes no sense for government to take any action that would fuel the growth in these expenditures.

In the ten years since its passage, the Hatch/Waxman legislation has done remarkably well at balancing the interests of proprietary drug companies and the generic drug industry. The public also has come to not only expect, but to rely upon, timely access to high quality, low cost alternatives to monopolistic priced name brand drugs.

NPA is pleased to see that members of Congress, such as yourself, are taking steps to correct this inequity in the law. Your actions are to be applauded and your decision to stand up for the American consumer is appreciated.

Sincerely,

CHRISTINE SIZEMORE,
Executive Director.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate resumed consideration of the bill.

The PRESIDING OFFICER (Mr. THOMAS). The pending business is the Jeffords amendment No. 867.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent I be allowed to proceed as in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

THE NATIONAL RIFLE ASSOCIATION

Mr. LEVIN. Mr. President, our friend from Arkansas has brought to our attention the fact that former President Bush has decided to resign from the National Rifle Association because of its refusal to repudiate some statements which were made by a vice president of NRA in a fundraising letter. I join Senator PRYOR in commending former President Bush for his action. I am sure it is a difficult one for the President, as a decades-long member of the NRA and as someone who believes in so many of its programs and efforts to protect rights under the second amendment.

But what President Bush reacted to is what I think most Americans who have read this letter reacted to, which is a statement by Mr. LaPierre, among others, that the Clinton administration has authorized law enforcement personnel to murder law-abiding citizens.

Those are the words in the letter. It is an outrageous allegation about any American President or any American administration. I do not think 1 percent of the members of the NRA believe that the Clinton administration has authorized its agents, its Treasury agents, its FBI agents, its law enforcement agents, to murder law-abiding citizens. I wrote a letter to Tom Washington, whom I know. He is a resident of Michigan who was president of the National Rifle Association, urging him to retract that statement and some other allegations in that letter which are, I think, equally offensive, but at least that statement.

In his response to me, which I put in the RECORD yesterday or the day before yesterday, he really did not respond to the request. He simply acknowledged that sometimes fundraising letters have exaggerated rhetoric. But this is not a case of just exaggerated rhetoric. This is an allegation by one of the Nation's largest organizations that this administration has given the go-ahead to law enforcement personnel to murder—I am using the word murder because that is exactly the word that they used; indeed the letter underlines it, italicizes it, emphasizes it—to murder law-abiding citizens.

I do not think, again, anybody on this floor would think there is truth to that statement. I do not think 1 percent of the members, as I said, of the NRA believes there is truth to that statement. It is that kind of a statement, of a wild statement, of an irresponsible statement by a major organization, which is creating an unacceptable climate in this country, I believe. Is it the only statement? Of course not. Others have made outrageous statements, too. Do they have a right to make that statement under the first amendment? They do. I will defend it.

They may have a right to make that statement, but that does not make it right to make that kind of a statement. It should be retracted.

I commend President Bush and I hope other members of the NRA, in one way or another, would let their leadership know that kind of rhetoric is unacceptable about an American administration. Like any other administration, it, I am sure, has agents who make mistakes from time to time. There is a place to rectify them. It is called a court. But to make that allegation from an organization the size of the NRA I think is unacceptable, it is irresponsible, and it still should be retracted.

I thank my friend from Arkansas for his continuing effort to try to bring some kind of calmer normalcy into the general climate in this country.

I yield the floor.

Mr. LOTT. Mr. President I just want to observe that the managers of the pending legislation I understand are working on some agreements hopefully that will make it possible to wrap up this legislation before the day is out. Therefore, at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I would like to ask the Chair what the pending business is.

The PRESIDING OFFICER. The pending business of the Senate is the Hatch amendment numbered 755.

Mr. COATS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GREGG). Without objection, it is so ordered.

THE NUCLEAR NON-PROLIFERATION TREATY

Mr. ROTH. Mr. President, just a couple of hours ago, the Nuclear Non-Proliferation Treaty—the single most important component of the international effort to prevent the spread of nuclear weapons—was enshrined for all time by an overwhelming decision made by more than 170 countries party to the treaty. The decision to make the NPT permanent was accomplished without any conditions or qualifications.

This is a truly historic day in our ongoing efforts to make ours a safer and more peaceful world. The security of all countries, weapons States and non-weapons States alike, has been strengthened.

The NPT has established the norm prohibiting the further acquisition of nuclear weapons. Indefinite extension of the NPT will help improve the climate of trust conducive to more restrictive controls over weapons-grade nuclear materials and related technologies and activities. It also provides momentum for addressing the dangers posed by other weapons of mass destruction.

Making the NPT permanent, of course, will not end the global nuclear proliferation threat. Treaty membership is never a guarantee of compliance. Yet, when backed by strong national policies, the NPT advances the security interests of all countries. Indeed, it has helped to keep the number of declared nuclear weapons States and so-called "threshold" States at five and three respectively.

Clearly, the world remains a dangerous place. Iran, North Korea, and the theft of fissile materials present immediate nuclear proliferation perils. Much progress on controls over other weapons of mass destruction remains to be made. Moreover, as the tragic bombing in Oklahoma has shown, determined terrorists can accomplish their contemptible intentions with even the crudest of weapons.

But today is a time for celebration. We have achieved a critical victory in making the post-cold-war period safer and more secure. This is a victory for all the world's people. I believe this body deserves a measure of credit for the unanimous adoption of a resolution in March calling for permanent, unconditional extension of the NPT. It is also a testament to the hard work of Tom Graham who took the lead in the negotiations. The chairman of the conference held in New York, the Honorable Jayantha Dhanapala of Sri Lanka, also deserves our thanks for his particularly skilled leadership. Happily, Mr. Dhanapala will be returning to Washington within a few days to resume his post as Ambassador of his country to the United States.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NON-PROLIFERATION TREATY AND U.S. SECURITY

Mr. THURMOND. Mr. President, 26 years ago, the Senate provided its advice and consent to ratification of the Nuclear Non-Proliferation Treaty [NPT]. In considering the treaty, Chairman Fulbright prevailed on the Members of the Senate to ratify the NPT, because without it, the world would face a wide array of potential nuclear horrors—such as developing nations acquiring nuclear weapons to elevate their status or national power; regional powers resorting to the use of nuclear weapons to settle their differences; or ethnic or religious differences being settled with nuclear weapons. He foresaw a world where major powers like the United States might be held hostage by small, poor countries who possess a few nuclear weapons and the means to deliver them, or, become drawn into a nuclear confrontation brought about by these small nations through a miscalculation or an accident.

At the time the NPT was negotiated there were relatively few countries who had tested or possessed nuclear weapons. Those countries were the United States, the United Kingdom, Russia, France, and China. They became known as the nuclear weapons states. All other states who did not possess or had not tested nuclear weapons became known as non-nuclear weapons states.

Back in 1969, when the Senate voted to provide its advice and consent to ratification of the NPT, I was one of the 15 members who voted against ratification of the treaty. I voted against it because I had grave reservations about the treaty's goals and whether they could be achieved. I was concerned that if the United States ratified the NPT, it would be unable to fulfill its NATO responsibilities and commitments. I feared that the NPT would also foreclose the ability of NATO members to participate fully in the operations of the Alliance. Lastly, I was concerned that the nuclear weapons states, and in particular, the United States, would bear the huge costs of transferring nuclear technology for peaceful uses to the non-nuclear weapons states.

Mr. President, the overall goal and purpose of the NPT is to stop the spread of nuclear weapons, and to prohibit the transfer, or acquisition and manufacture of nuclear weapons by non-nuclear weapons states. However, there are no enforcement mechanisms to prevent a non-nuclear weapons state from becoming a nuclear weapons state in the NPT. There are no sanctions for violations of the treaty. While the NPT requires the parties to pursue negotiations to end the nuclear arms race and bring about nuclear disarmament, the NPT cannot force an end to the race for nuclear weapons, nor can it force the destruction of all nuclear weapons.

For that matter, the NPT cannot ensure that parties to the Treaty, whether nuclear weapons states or non-nuclear weapons states, do not withdraw from the Treaty if they decide they wish to acquire or develop a nuclear arsenal for their own national security reasons. In fact, the NPT has a withdrawal clause.

The NPT only covers countries that have ratified the Treaty. For example, take the so-called threshold states which have developed nuclear weapons, or nuclear weapons technology. These countries, India, Pakistan, and Israel, are not parties to the Treaty. Even if these countries signed the NPT as non-nuclear weapons states, there is no way to ensure that these countries will ever stop development of, or destroy, their nuclear arsenals.

Mr. President, in the 26 years of its existence, the NPT did not free the world from the threat of nuclear weapons, and it will not do so in the future. It did, however, establish a global norm for nations to limit the proliferation of nuclear weapons and it has enjoyed the widest adherence of any arms control agreement. It is for this reason, that I rise today in support of extending the NPT. Let me qualify my statement of support of the Treaty by saying that I take no position on whether the Treaty should be indefinitely extended, or, extended only for a fixed period of time. I am concerned that the United States did not make any efforts to improve the NPT and make it a more viable agreement by strengthening its enforcement and inspection mechanisms.

I went back and reviewed the Senate floor debate on the ratification of the NPT. Mr. President, despite wide adherence to the NPT, the world still faces the potential horrors of a nuclear exchange between regional states. The risk of the use of nuclear weapons by countries to suppress governmental factions, or settle old ethnic and religious disputes still exists today, as it did 26 years ago.

Representatives of the international community have been gathered in New York City at the United Nations for the past month to determine the future of the Nuclear Non-Proliferation Treaty. The Clinton administration supports indefinite and unconditional extension of the Treaty, while representatives from the non-aligned member states, led by Indonesia, Iran and Egypt, oppose indefinite extension.

On March 16, a majority of Members of the Senate expressed their support for the administration's position of indefinite and unconditional extension of the NPT. They also expressed concerns that the NPT would be seriously undercut if it is not indefinitely extended, dealing a major below to global nuclear nonproliferation regimes. Mr. President, the treaty can be undermined at any time regardless of its duration because there are no enforcement mechanisms or automatic sanctions.

I remind my colleagues that as a non-nuclear weapons state to the NPT and member in good standing, Iraq, developed an illegal nuclear weapons program under the guise of a peaceful nuclear program, and it has been determined that Iran, under the guise of peaceful use of nuclear technology is pursuing an illegal nuclear weapons program. Likewise, North Korea, a non-nuclear weapons state to the NPT was determined to have violated the NPT. Of course, it was never determined to be a member in good standing of the treaty. Lastly, even though not members of the NPT, India, Pakistan, and Israel, were able to secretly develop nuclear weapons programs.

Representatives and leaders of a number of developing countries, or nonaligned member states, do not support indefinite and unconditional extension of the treaty. They cite as reasons for their lack of support for the U.S. position, the lack of progress in concluding a comprehensive test ban.

They claim that the nuclear weapons states have not fulfilled their nuclear disarmament obligations. They believe that the Treaty is discriminatory and that it sanctions the five nuclear powers' rights to hold on to their nuclear weapons and keep the non-nuclear weapon states as nuclear weapons "have-nots".

Mr. President, I reject the rationale offered by the non-aligned states for not supporting extension of the Treaty. For the past decade, the United States and Russia have made unprecedented reductions in their nuclear forces—beginning in 1985 with the Intermediate Range Nuclear Forces Treaty and more recently reducing strategic forces under START. Both President Clinton and President Yeltsin have agreed to discuss even further reductions to their nuclear weapons programs once START II is implemented. Prior to START entering into force, President Bush and President Gorbachev implemented unilateral reductions of United States and Russian tactical weapons. Since 1992, a testing moratorium has been in place in the United States, and the United States along with the other nuclear weapons states and members of the Conference on Disarmament have been negotiating a comprehensive test ban treaty.

Last month, the United States and the other four nuclear weapons states restated their support of negative security assurances in the United Nations. Additionally, negotiations will begin soon on a global ban on the production of fissile material for military purposes in the Conference on Disarmament. If these steps do not indicate a good faith effort on the part of the United States and other nuclear weapons states toward nuclear disarmament, I am not sure what else can be done.

Representatives of the non-nuclear weapons states who want to poke the United States in the eye by not supporting indefinite extension of the Treaty, because they believe we have not reduced our nuclear arsenals to zero, or completed the negotiations on a comprehensive test ban, would do well to focus attention on their own efforts at reducing the threat posed by nuclear weapons. How have they worked with their neighbors, and other countries, to build more positive relationships and confidence so that threat of attack and annihilation are reduced and countries do not feel compelled to acquire nuclear weapons for protection?

The Clinton administration and other NPT signatories should stop wringing their hands over the period of time for which the Treaty should be extended. Instead they should be focused on using this month-long conference to enhance the viability of the NPT by making it a living document which enables and ensures multilateral enforcement of the Treaty's provisions. Parties to the NPT should have confidence that its members will comply with the provisions of the Treaty, be supportive of its goals and that the proliferation of nuclear weapons and nuclear technology is eliminated. And, when a determination of a violation has been made by the international monitoring agency through its inspections and the United Nations Security Council has been notified, meaningful and appropriate actions or sanctions should be undertaken immediately.

Mr President, once again, I rise to say that I support extension of the NPT. I only regret that the administration did not believe the NPT was important enough to strengthen it to make it a more viable and effective arms control agreement.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The legislative clerk proceeded to call the roll

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, a vote has been scheduled at 6 o'clock by the managers on an amendment which has been offered by Senator CRAIG, Senator GRASSLEY, Senator BROWN, Senator KEMPTHORNE, and myself which would establish a sense of the Senate that hearings should be held on Ruby Ridge, ID, and Waco, TX, on or before June 30.

The purpose of the amendment is to set a date where there may be an inquiry by the full Judiciary Committee on those events because of the widespread reports of public unrest as to what occurred there.

I have attempted to get a hearing on the Waco incident since mid-1993. The incident there happened on April 19, 1993. It has always seemed to me that it is not sufficient to have the executive branch investigate itself when there is so much concern as to the propriety of the action which was taken there, with the assaults and with the rush and with the gases which were used.

There have been numerous reports and there is very substantial evidence of public unrest on what has happened there. It is speculative to an extent, or it may not be speculative, as to a connection between the Oklahoma City bombing on April 19, which is 2 years to the day after the events at Waco, TX. The subcommittee has held a series of hearings and had planned to have an inquiry scheduled for April 18, and the full committee did convene on the first date which was set back on April 26. And I think it is entirely appropriate for the full committee to handle the matter as opposed to the terrorism subcommittee.

But after having a series of hearings—we had our third hearing today—I am more convinced than ever that there is real public tension as to the events in Waco, TX, and Ruby Ridge, ID. I think it is just inappropriate for the Senate to wait an indefinite period of time.

Senator HATCH has proposed that there be hearings in the near future, as he categorizes it, and has further articulated the near future to mean sometime in the current session, which would be at the end of the year. If there is unrest, and if there is a causal connection, or if there is any connection, however slight or however tenuous, between the incident at Waco and the Oklahoma City bombing, I suggest it is our duty to proceed to clear the air to the maximum extent possible and to demonstrate that ranking public officials at whatever level will be held accountable. It seems to me this is something which is very important to do.

In establishing the date of June 30, I would be prepared to be flexible until the August recess, to extend the time for another period until August 4, which would be acceptable from my point of view. There has been an issue raised as to the completion of the FBI investigation, and that certainly could be done by August 4.

Mr. President, I think I will relax the language and ask unanimous consent that the amendment be modified so that the date August 4 would be inserted in place of the date June 30.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 754), as modified, is as follows:

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) There has been enormous public concern, worry and fear in the U.S. over international terrorism for many years;

(2) There has been enormous public concern, worry and fear in the U.S. over the threat of domestic terrorism after the bombing of the New York World Trade Center on February 26, 1993;

(3) There is even more public concern, worry and fear since the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995;

(4) Public concern, worry and fear has been aggravated by the fact that it appears that the terrorist bombing at the Federal building in Oklahoma City was perpetrated by Americans;

(5) The United States Senate should take all action within its power to understand and respond in all possible ways to threats of domestic as well as international terrorism;

(6) Serious questions of public concern have been raised about the actions of federal

law enforcement officials including agents from the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms relating to the arrest of Mr. Randy Weaver and others in Ruby Ridge, Idaho, in August, 1992 and Mr. David Koresh and others associated with the Branch Davidian sect in Waco, Texas, between February 28, 1993, and April 19, 1993;

(7) Inquiries by the Executive Branch have left serious unanswered questions on these incidents;

(8) The United States Senate has not conducted any hearings on these incidents;

(9) There is public concern about allowing federal agencies to investigate allegations of impropriety within their own ranks without congressional oversight to assure accountability at the highest levels of government;

(10) Notwithstanding an official censure of FBI Agent Larry Potts on January 6, 1994, relating to his participation in the Idaho incident, the Attorney General of the United States on May 2, 1995, appointed Agent Potts to be Deputy Director of the FBI;

(11) It is universally acknowledged that there can be no possible justification for the Oklahoma City bombing regardless of what happened at Ruby Ridge, Idaho, or Waco, Texas;

(12) Ranking federal officials have supported hearings by the U.S. Senate to dispel public rumors that the Oklahoma City bombing was planned and carried out by federal law enforcement officials;

(13) It has been represented, or at least widely rumored, that the motivation for the Oklahoma City bombing may have been related to the Waco incident, the dates falling exactly two years apart; and

(14) A U.S. Senate hearing, or at least setting the date for such a hearing, on Waco and Ruby Ridge would help to restore public confidence that there will be full disclosure of what happened, appropriate congressional oversight and accountability at the highest levels of the federal government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that hearings should be held before the Senate Judiciary Committee on countering domestic terrorism in all possible ways with a hearing on or before August 4, 1995, on actions taken by federal law enforcement agencies in Ruby Ridge, Idaho, and Waco, Texas.

Mr. SPECTER. I do that, Mr. President, so that there may be a little more lead time as to the completion of the investigation by the FBI. I make that modification because of my discussion with the FBI Director that, as he put it, 8 to 10 weeks would give ample latitude for that to be completed. So I am prepared to move at that time. I think that it is important that a specific date be set so that there is an acknowledgement by the Senate that we do plan to move forward on a date and the date has been established.

I understand we are to vote at 6 o'clock, Mr. President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the pending amendment, which is the Jeffords amendment, be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 754

Mr. CHAFEE. Mr. President, I move to table the Specter amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 754, offered by the Senator from Pennsylvania [Mr. SPECTER]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 23, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—74

Abraham
Akaka
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Conrad
Coverdell
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grams
Gregg
Harkin
Hatch
Hatfield
Helms
Inhofe
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simon
Simpson
Snowe
Thomas
Thompson
Thurmond

NAYS—23

Ashcroft
Baucus
Brown
Cohen
Craig
Faircloth
Gramm
Grassley
Heflin
Hollings
Hutchison
Jeffords
Kempthorne
McCain
McConnell
Nickles
Packwood
Pressler
Santorum
Smith
Specter
Stevens
Wellstone

NOT VOTING—3

D'Amato
Dole
Warner

So the motion to lay on the table the amendment (No. 754) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I just want to inform all my colleagues—I do not need to take much time on this bill, but just a few minutes—that I called for hearings last year. I have only been chairman for a little over 4 months.

Every Member knows the Judiciary Committee has had a lot on its plate, and we have a lot more on our plate. However, there are very few things that I feel more deeply about than what happened at Waco and at Ruby Ridge.

These are people in States that I admire and love. Many of the people I know—at least in Idaho. I admire and love them. I have said that we will hold hearings on these important issues, and I will do so as expeditiously as I can.

Everybody does know that to do it properly, we are going to have to spend some time investigating this. We are already in the process of that. Recently, I lost my chief investigator who moved to another office.

We will do this as expeditiously as we can. We will do it in the best interests of the Senate. I want to tell my dear friend from Pennsylvania that his desires here are not going to go ignored. It is just that I want to do it the right way. I want to make sure that all of the issues are aired and that they are aired fairly and in front of the full committee, because no hearings could be held unless they are Department of Justice oversight hearings. That is what they will have to be.

I certainly committed the other day, and I will again reaffirm my commitment that these hearings will be held. Therefore, there was no reason to have a sense-of-the-Senate resolution. I understand the sincerity of my colleagues. I hope that they will not feel badly with this vote.

I also want to say that I am very concerned about making sure that every available agent, every available leader of the FBI, every person in law enforcement that we can bring to bear on the Oklahoma situation, is out there doing that, rather than up here testifying on Capitol Hill.

We want to get that solved, and I want it solved. I speak almost daily with members of the Justice Department, including the FBI. We are on top of this. We will do what has to be done here. I want to reaffirm that to the Senate.

I think when we do it, it will be done right, and I think people will be pleased with it in the end. I hope my colleague from Pennsylvania will be particularly pleased with it and, as a distinguished member of the committee, will have every opportunity to participate. And I expect him to do so. In fact, I invite him to do so and will work with him to see what we can do to bring this to a fruition that is satisfactory to everybody.

Having said that, I can say more. There are some things that have been very irritating to some of us with regard to what has gone on here, but we will forget all that and just go forward and make the commitment to do this as expeditiously as we can, in good faith and in a good manner that hopefully will please everybody.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I had, frankly, hoped to avoid the necessity of a rollcall vote to spare my colleagues a vote on the matter. But I felt, and continue to feel very, very strongly, that it is incumbent upon the U.S. Senate and the Congress to have oversight hearings in order to show the American people—a lot of people think there has been a coverup on Ruby Ridge, ID, and Waco, TX—and to show those people we are willing to air all of the matters, let the chips fall where they may, and demonstrate that people at the highest ranks of Government will be held accountable.

No one is second to ARLEN SPECTER in concern that the FBI have a full opportunity to complete its investigation. I talked to Director Freeh, who said if he had 8 to 10 weeks more there would be ample time and the FBI would be in a position to cooperate. And this is more than the 8 to 10 weeks that Director Freeh asked for when the amendment was modified beyond the June 30 date, to provide for a date of August 4.

I believe that the potential for violence is enormous. We have had a number of wake-up calls. And it is no coincidence that the Oklahoma City bombing occurred on April 19, 2 years to the day after the incident at Waco, TX. If anything happens in the interim, if we have not had the ventilation, the safety valve, then there is a real issue as to whether the U.S. Senate is doing its job.

We have a lot of hearings in the Judiciary Committee. We have a lot of hearings in other committees. And there is not a single hearing being held which is more important than to air the public concern about Waco and about Ruby Ridge. I have been conducting hearings in the Subcommittee on Terrorism; I finished the third one today. It is an overwhelming problem.

The first hearing which was scheduled became a full committee hearing, which I thought was entirely appropriate, to allow more Senators to participate. But what I intend to do is to continue my own inquiry and my own speaking out on the facts as to what happened. I talked at length with Director Louis Freeh, and I have talked at length with Mr. Spencer, who is the attorney for the Weavers, and I intend to talk to the Weavers and I intend to review all the facts and to make periodic reports to the American people about what I find. Because I think it is totally inadequate to have an inquiry—a hearing sometime in the near future.

I felt strongly enough about it to bring the matter to the floor and I respect the conclusion of my fellow colleagues. But I intend to carry on this inquiry myself and to make these periodic reports.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, while the Senator from Pennsylvania is on the floor I want my colleagues to know that in the good old days, when I was chairman of the committee and the Democrats were in charge, the Senator from Pennsylvania shared the same view. I want the record to show that this is nothing new the Senator from Pennsylvania is suggesting. I have read some accounts that suggest that because the Senator from Pennsylvania may have other aspirations, this is propelling his interests. I want to vouch for the fact that I know that not to be true.

The fact of the matter is that when Waco occurred, shortly after Waco, the Senator did repeatedly talk to me about it and thought that, although I believe that we did have oversight hearings and everybody had an opportunity to ask about Waco—and a few did—that the Senator thought then, thinks now, and is totally consistent, whether he is seeking another office or not, in his view that this issue should be ventilated.

For those of us on this side of the aisle, this has been a little like watching a family quarrel. Both the Senators are my friends but I do not think I have a closer friend in the Senate than the Senator from Pennsylvania, and because a number of press people have come to me, and my colleagues have come to me, to ask me about issues relating to motivation—I can assert with absolute certainty, without any equivocation, that there has been absolutely no change in the intensity of the interest of the Senator from the time the matter occurred when I was chairman of that committee to the time I am the ranking member of that committee.

I just want that to be made clear, notwithstanding the fact I voted the other way. I voted to table the Specter amendment because of my consistent view as to how this should be handled.

The Senator may be right in terms of the value of the ventilation and when, and sooner than later. I have a slight disagreement with him on when. But I do not have any—any—any doubt, and I can confirm for my colleagues and anyone who is listening, that there is an absolute, total, unequivocal consistency to his position on this from the moment the tragedy in Waco occurred through this day.

I just want the record to reflect that. Not that anyone in particular has suggested otherwise, but I get a number of inquiries because people are looking to make press outside this institution. I just want the record to reflect it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I just want to bring this to a head. I would like to put into the RECORD, just so everybody understands, a letter we received today from Louis J. Freeh, Director of the FBI, to me.

> DEAR MR. CHAIRMAN: Thank you for your inquiry concerning my views about congressional hearings on Waco and Ruby Ridge. I have no hesitancy about testifying on the issue.

And that is the position he has always taken with me.

> I have often stated that a full and open hearing will provide an excellent forum for the Department of Justice and the FBI to bring all the facts before the American public. It undoubtedly would serve to debunk some of the "conspiracy" theories being discussed and provide the FBI with an opportunity to explain and distinguish our role in these incidents as well as provide our views concerning the proper role of federal law enforcement.
>
> It is Congress' prerogative as to timing. It would be helpful, however, to remove any hearing from such close proximity to the Oklahoma bombing. All of our attention is focused on this heinous crime as we continue to investigate and prepare for prosecution. While I am looking forward to the opportunity, I believe to schedule the hearing in the immediate future will distract from our Oklahoma efforts and could preclude us from discussion of issues relevant both to Oklahoma and Waco.
>
> Sincerely yours,
>
> LOUIS J. FREEH,
> *Director.*

I just want to put that in the RECORD because that is one of the things that has caused me great concern. We will hold hearings and we will do it in an expeditious and good way and hopefully to the satisfaction of all concerned, including my friend from Pennsylvania.

I ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

> U.S. DEPARTMENT OF JUSTICE,
> FEDERAL BUREAU OF INVESTIGATION,
> *Washington, DC, May 11, 1995.*
>
> Hon. ORRIN G. HATCH,
> *Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.*
>
> DEAR MR. CHAIRMAN: Thank you for your inquiry concerning my views about congressional hearings on Waco and Ruby Ridge. I have no hesitancy about testifying on the issue.
>
> I have often stated that a full and open hearing will provide an excellent forum for the Department of Justice and the FBI to bring all the facts before the American public. It undoubtedly would serve to debunk some of the "conspiracy" theories being discussed and provide the FBI with an opportunity to explain and distinguish our role in these incidents as well as provide our views concerning the proper role of federal law enforcement.

It is Congress' prerogative as to timing. It would be helpful, however, to remove any hearing from such close proximity to the Oklahoma bombing. All of our attention is focused on this heinous crime as we continue to investigate and prepare for prosecution. While I am looking forward to the opportunity, I believe to schedule the hearing in the immediate future will distract from our Oklahoma efforts and could preclude us from discussion of issues relevant both to Oklahoma and Waco.

Sincerely yours,

LOUIS J. FREEH,
Director.

Mr. SPECTER. Mr. President, just a word or two. The letter which Senator HATCH has just read is entirely consistent with the representation I made earlier that I had talked to Director Louis Freeh this afternoon, who told me, as I said earlier, that if he had 8 to 10 weeks that would be ample time. And that is why, as I had said earlier, I modified the amendment from the date of June 30 to August 4, which would give more than the 8 to 10 weeks.

So, when Senator HATCH cites a letter about the immediate future, the 8 to 10 weeks was accorded to the Director and the hearings could have been held within the timeframe of the resolution as framed.

I yield the floor.

Mr. CHAFEE. Mr. President?

The PRESIDING OFFICER. The Senator from Rhode Island.

ORDER OF PROCEDURE

Mr. CHAFEE. Mr. President, for my colleagues I will just outline what in my judgment will take place this evening.

We will have a vote on the Jeffords amendment and I do not know how long that will take. If the Senator could give us some indication, that will be helpful.

But following the Jeffords amendment there will be no more rollcall votes. However, tomorrow it is my belief we will have a series of rollcall votes. There will be a cloture vote at 10 o'clock and there will be some other votes after that.

I would very much hope we could finish this bill tomorrow. I hope, with the negotiations that take place tonight, we will be able to do so. But there will be no votes after the Jeffords vote.

AMENDMENT NO. 867, AS MODIFIED

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I have a modification of my amendment at the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment is modified.

The amendment (No. 867), as modified, is as follows:

On page 64, between lines 2 and 3, insert the following:

"(f) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district or a political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

"(1) the solid waste district political subdivision or municipality within said district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2005, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

"(2) prior to May 15, 1994, the solid waste district political subdivision or municipality within said district—

"(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid wastes within its jurisdiction;

"(B) was authorized by State statute (enacted prior to January 1, 1992) to exercise flow control authority, and subsequently adopted or sought to exercise the authority through a law, ordinance, regulation, regulatory proceeding, contract, franchise, or other legally binding provision; and

"(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994.

Mr. CHAFEE. I wonder if we could enter into a time agreement?

Mr. JEFFORDS. I had several people who asked to speak. I do not see them present, but I think we could finish in 15 minutes on our side.

Mr. CHAFEE. Would the Senator be willing to agree to 10 minutes on that side and no more than 10 minutes on this side?

Mr. JEFFORDS. That is agreeable to me.

Mr. CHAFEE. Is there any objection to that agreement?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I hope this amendment will not take very long. I think it is a very sensible one. I will explain to my colleagues what the amendment does, and I believe they will find it acceptable.

I understand the position of the chairman of the committee, who is reluctant to grant any exceptions to the bill because there would be two other exceptions. But to my knowledge the exceptions are that the State of Vermont and some municipalities in two other States have a situation which I think this body would agree deserves an exception. Let me review very briefly what we are talking about here.

The U.S. Supreme Court handed down a decision which said the States themselves had no right to be able to control the flow of solid waste, that this has to be approved by the Federal Government because it was an interference with interstate commerce. That decision by the Supreme Court created a serious problem for the State of Vermont and some political subdivisions in West Virginia and Michigan.

The purpose, and what we are trying to accomplish in this Nation with respect to solid waste, is to do three things, basically. First of all, we are trying to reduce the amount of solid waste that we have. Second, we are trying to improve the ability to recycle and to build a system in this Nation which will recycle and, therefore, reduce the demand on resources and reduce costs. Third, to find an equitable way to do it looking toward those that create the problem to have to pay for it; that is, those who create the trash ought to pay for it.

So Vermont, in view of these national purposes—and I was a member of the Environment and Public Works Committee, and I know we were trying very desperately to set standards for recycling to try to get this country to move up gradually. Vermont, in pursuant of that, passed a plan and program statewide that sets up districts for solid waste. In these districts, the system is set up which allows for haulers to get a tipping fee in order to take care of the additional costs of recycling the materials that were delivered to them. The only way it will work is if we have that ability. There is no other way they can do it other than to require the State of Vermont to provide the tipping fees and to take care of those people that are in those districts, and not others. And it would be very cumbersome. There are districts in West Virginia and Michigan that have a similar problem.

So all we are trying to do here is to make sure that this national goal, which everyone agrees ought to be reached, can be reached by the State of Vermont, which is leading the way in this. Right now we have a system which is recycling 25 percent of our waste. This amendment is limited and says that we might continue forward in pursuance of that goal, and we may continue with our present system, and, if we reach the goal, that we be permitted to do so. We have established a goal of 30 percent, which was the national goal which was in RCRA which was never passed.

Why should a State be penalized which has done what everyone in the Nation believes should be done, and then to turn around in an amendment by the committee to try to help those who have made investments but limit it to those on a temporary basis? In Vermont there are only two areas which qualify when the whole State is doing it. It makes no sense at all. I can understand the committee saying, if we give you an exception, then somebody else is going to come in for an exception.

I say if other communities have an exception like we do and like we are talking about which furthers the national goal, reduces waste, takes care and improves recycling, then sure, maybe they ought to have that. However, I do not know of any in that category.

So I would like to say that I hope the body will recognize that people who are trying to do what is right in this country should not be forced to buy onto a bill which is attempting to help in this area but just by the nature of things makes it impossible for those who are really leading out front doing what is in the national interest, and who would be foreclosed, destroys their system, and makes it impossible for the States to continue to pursue those goals.

I reserve the remainder of my time.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I wish to commend the Senators from Vermont for the amendment that they have offered and to suggest, just as the junior Senator from Vermont has said, that this is an example of federalism at its best. Vermont has some special concerns. It is a State with a very high level of environmental consciousness. It wants to be able to meet those needs in a manner that is appropriate to the specific circumstances of that beautiful State.

Yesterday, I spoke at some length about some of the special concerns that we have in our State of Florida, which are quite different from Vermont. Vermont is a mountainous State. We are a State where anything above 20 or 30 feet is considered to be a mountain. We have the very serious problem of our ground water supply and its vulnerability to contamination and have used the mechanisms which require flow control in order to be able to support effective and appropriate landfills and other technologies to dispose of our solid waste while also diverting a substantial amount of our solid waste into a recycling stream.

My basic concern with this legislation is that it goes beyond what is required to meet the Supreme Court's directive. The Supreme Court, as quoted on page 8 of the committee report, in the words of Justice O'Connor, who stated:

> It is within Congress' power to authorize local imposition of flow control. Should Congress revisit this area and enact legislation providing a clear indication that it intends * * * States and localities to implement flow control, we will, of course, defer to that legislative judgment.

So, clearly, the decision is within our hands. It reminds me of the old story of the callow youth who held a bird behind his back and asked the wise, older man, "Is the bird dead or alive?" The wise man, with solemn wisdom, opined, "It is in your control." That is, the young man had the ability to open his hand and allow the bird to fly free or to crush the bird.

Well, we are somewhat in that same situation with the opinion of the Supreme Court. It is in our control to do, allowing States to have a wide range of options as to how to deal with this issue, or to narrowly constrain.

This is particularly focused on the question of whether there should be prospective operations for States. Should States be allowed in the future to utilize this important technique as a means of achieving the broader end result of public health and environmental sensitivity as that State and its local communities find to be most appropriate for their particular set of circumstances?

In an era in which we are applauding federalism, or seriously considering reversing a half century of the consolidation of power by allowing States and local communities to have more control over issues such as health care financing, welfare, child care programs, it seems peculiar and strange in an area that has been as historically local as any in our Nation's history, the disposition of garbage, that we would now be nationalizing that issue.

So I join the Senator from Vermont. I applaud his creativity in crafting this amendment and hope that we will be wise enough to allow Vermont to take this initiative for the protection of that beautiful State and as a statement of our own sensitivity to the tremendous diversity in America and its desire to let the creativity of the local communities operate to the benefit of their local citizens.

Thank you, Mr. President.

Mr. CHAFEE. Mr. President, why are we here? We are here because of a Supreme Court decision a year ago, just a year ago, in the so-called Carbone case. So currently, the law of the land is that there cannot be these restrictive agreements that limit the delivery of municipal solid waste to one specific point. In other words, there cannot be what is known as flow control.

Now in our committee, we recognized that many communities across the States had made very, very substantial financial contributions or commitments to incinerators and to landfills, and they would be placed in a very difficult position if so-called flow control did not exist, if they were not able to tie up the entire waste from the community to go to a central point.

But we said we are going to limit this. We are going to limit it to the situations where they have problems arising from debt commitment, from bonded indebtedness, or that they already had flow control on their books and were used to functioning in that fashion.

In the Vermont situation, we have taken care of those communities where there is a commitment into a solid waste facility or—and they do not have incinerators for Vermont—to a landfill. They are taken care of.

But the Senator is stressing that, absent us giving an exception to the situation that exists in Vermont, Vermont will not be able to continue the excellent record it has had in connection with recycling. But, Mr. President, I do not think that necessarily follows. Who knows that recycling will fail because they do not have flow control?

Indeed, here is a report from the Office of Solid Waste in the EPA. The report is dated March 1995, 2 months ago. This is what the report says. There was a question.

> Identify the impact of flow control on the development of State and local waste management capacity and on the achievement of State and local goals for source reduction, reuse, and recycling.

In other words, what flow control does for recycling. We are all for recycling. The conclusion is as follows, on page ES–5.

> There is no data showing that flow controls are essential either for the development of new solid waste capacity or for the long term achievement of State and local goals for source reduction, reuse and recycling.

So the Senator's point, it seems to me from the study that has taken place here, just is not valid. He may feel strongly about it, and they have had considerable success in Vermont—although I suspect there are other communities across the Nation in States that have done extremely well likewise—but, at least from the data we have here, there is not a connection between having flow control and having a better recycling record.

But then we get back to the other point. Why did the Supreme Court decide the way it did? The Supreme Court decided the way it did because of the commerce clause.

And what does the commerce clause do? It says that it is good for the Nation to have competition, to permit commerce to flow. And that is exactly what flow control does not do.

Now, you might say, well, I argued earlier today for a situation where we had flow control. That is right. We did it, as I say, in those instances where a community made a commitment and was still involved with that commitment. But the overall thrust of this legislation is to take care of those specific situations that arose where the communities were harmed, financially harmed, as a result of the Carbone decision.

But we said, enough is enough. No matter how long the indebtedness is, no matter what the particular situation as far as bonded indebtedness, at the end of 30 years this privilege that we have given these communities to go against the commerce clause ends.

And so, Mr. President, for that reason, I strongly believe that the proposition from the State of Vermont, as advanced so ably by the junior Senator, is not valid in this particular situation

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, let me answer the arguments that have been put forth by my good friend from Rhode Island. I think if you examine our situation, it does not in any way fly in the face or raise any concerns.

The question is: Is our system working? It is. It is reducing waste, it is bringing about recycling, and most importantly, it does allow competition. There is competition among the haulers. The only thing is, every hauler has to pay the tipping fee. But there is no problem. We have haulers that are bidding on it. We have put contracts out for bid. There is no problem with any interference with competition.

Now, what the Supreme Court said was that the Federal Government can allow this, they just have to do it because a State cannot do it under the commerce clause without the authority of the Federal Government.

All we are asking for is a simple exception for a system that is working well. And there is no way it will work in rural areas unless you can have tipping fees; that is, getting the people in the areas sharing the cost of this to have a way to participate, in other words, in order to get the haulers to come in.

So I think this is a perfect example of what happens when Congress gets to look at a problem and gets carried away with some study done by EPA which is irrelevant to the situation and tramples on States rights to do what is right for the Nation and right for Vermont.

I understand—and this is the basic problem—that my colleagues are afraid of opening this bill up for exceptions. Well, if anybody can come with an exception as we have, fine. But I do not think you will find anybody.

Mr. DASCHLE. Will the Senator yield?

Mr. JEFFORDS. I am happy to yield to my good friend from South Dakota.

Mr. DASCHLE. I thank the Senator for yielding.

I just ask for a moment to associate myself with the remarks of the Senator from Vermont, as well as the other Senator from Vermont, Senator LEAHY.

Obviously, Vermont has had a very good experience with flow control. It has been able to promote programs for recycling and disposal of household hazardous waste. This amendment recognizes that fact and address the issue of flow control as it pertains to these Vermont programs. It recognizes that Vermont may be unique in this regard and gives that state the opportunity to continue to make those programs work.

That is all we are saying with this amendment. Let us give Vermont a little more flexibility. Let us defer to that State with regard to flow control, if it is going to be able to respond to this issue effectively.

So I applaud the Senator's amendment. I certainly hope that our colleagues on both sides of the aisle will support it.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I yield to the Senator whatever time I have remaining.

Mr. BAUCUS. Mr. President, I encourage Senators to not support this amendment, very simply because the committee has worked long and hard to try to find a balance here, to balance out interests of those communities on the one hand that want to have the right to control the flow of trash, garbage, dedicated facilities in their communities, and, on the other hand, the rights of companies, entrepreneurs, to ship trash to whatever location seems to make the most sense to let the free market work. It is a classic battle between those who want to control by statute and law in the market on the one hand, and those, on the other hand, who want total free market.

As is always the case, the right answer is somewhere in between. The solution crafted by the committee, we think, is a good solution in between.

Frankly, Mr. President, if the amendment offered by the Senator from Vermont were to pass, I believe we are going to start to find this compromise begin to unravel, and it would, therefore, very strongly jeopardize this bill.

If this bill does not pass, then we are not going to be able to have any kind of flow control because of the Carbone decision. At the same time, States will not be able to limit out-of-State trash coming into their State because of another Supreme Court decision.

So I urge Senators to vote against the Jeffords amendment.

Mr. CHAFEE. Mr. President, is the Senator ready to conclude debate on this?

Mr. JEFFORDS. Senator LEAHY wishes to speak.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. What is the parliamentary situation?

The PRESIDING OFFICER. The Senator from Vermont has 2 minutes remaining.

Mr. LEAHY. Mr. President, I hope that my colleagues will support the Jeffords-Leahy amendment. If you defeat this amendment, you help nobody in the country, but you hurt one State, the State of Vermont. This simply says that Vermont, provided we want to operate beyond what may be required under Federal laws, would be allowed to do so; that if we want to set up a procedure that fulfills everything that the Federal law might require but does even better but fits our small very special State, that we be allowed to do so.

Basically, we are saying to every Member of the Senate who has given speeches over the last year that States can design programs better, we agree and let us do that. We are making sure that we violate no Federal law, that we have followed every Federal rule, but we be allowed to design something that fits our State.

Every single Senator, I am willing to wager, Mr. President, in this body, has given a speech saying, "If we can do it better, allow us to do it, allow us to design it."

Basically what the Senator from Vermont [Mr. JEFFORDS] and I are saying is that is what we want to do. So let us adopt this. This is no different than taking care of a unique situation for Alabama yesterday in the product liability bill. This takes care of Vermont. It hurts nobody, but it helps us.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Vermont. Let me advise the Senator, time has expired.

Mr. JEFFORDS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. I have some time remaining; is that correct?

The PRESIDING OFFICER. That is correct, the Senator has 3 minutes 7 seconds.

Mr. CHAFEE. I will just use a couple minutes of that.

Mr. President, there are a couple of points I briefly want to make. The present situation is that it is against the Constitution of the United States to do what Vermont is suggesting. So what we have done is we have crafted an amendment which will help Vermont and all the other States in the Nation that have made these financial commitments, but it still says when all is said and done, that they cannot go against the Constitution in these other areas.

It is not correct to say that this is just a little something for Vermont. If this is adopted, there is no way in the world that we could keep flow control from being adopted universally across the Nation, because the Vermont case is what you might call a weak case.

So, Mr. President, if this amendment is adopted, then, I suspect, the whole effort to deal with this goes down the tube and then there will be no exceptions to the Constitution as provided.

So I am going to move to table the amendment, and I very much hope my colleagues will join with me.

Mr. President, I yield back the remainder of my time and move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 867, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—46

Ashcroft
Baucus
Bennett
Bond
Bradley
Breaux
Brown
Burns
Chafee
Coats
Coverdell
Craig
Dodd
Domenici
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lautenberg
Lieberman
Lott
Lugar
McCain
McConnell
Moynihan
Nickles
Packwood
Pell
Pressler
Santorum
Shelby
Smith
Thomas
Thompson
Thurmond

NAYS—51

Abraham
Akaka
Biden
Bingaman
Boxer
Bryan
Bumpers
Byrd
Campbell
Cochran
Cohen
Conrad
Daschle
DeWine
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Leahy
Levin
Mack
Mikulski
Moseley-Braun
Murkowski
Murray
Nunn
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Simpson
Snowe
Specter
Stevens
Wellstone

NOT VOTING—3

D'Amato
Dole
Warner

So the motion to lay on the table the amendment (No. 867), as modified, was rejected.

Mr. FORD. Regular order, Mr. President.

The PRESIDING OFFICER. The question is on the amendment.

Mr. LEAHY. Mr. President, I ask unanimous consent we vitiate the request for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 867), as modified, was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I request now that we proceed to morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RUSSIA SUMMIT

Mr. DOLE. Mr. President, President Clinton is now in Ukraine. I support his decision to visit Kiev. Economic and political reform in Ukraine are proceeding very well. There is strong bipartisan support for United States assistance to Ukraine. It is in the American national interest to strengthen our relations with Ukraine. I hope the President has a successful and productive summit with President Kuchman.

The report cards are now being filed on the Moscow Summit. As I said yesterday, I was disappointed at the lack of progress on the two key summit issues: Nuclear sales to Iran and the conflict in Chechnya. It seems pretty clear the American agenda at this summit did not fare well. My staff spoke to State Department and National Security Council officials yesterday afternoon. The White House provided my office with copies of all the joint statements from the Moscow Summit. To conclude that the summit made little progress in advancing American interests is not politics, and it is not partisan. It is simply a review of the facts.

On Iran, Russia did not agree to cancel its sale of nuclear reactors to Iran. If President Yeltsin cannot make the decision to stop the sale, I do not have great confidence that it will be made later at a lower level. With respect to the much-publicized concession on not selling advanced gas centrifuge technology, it seems clear this was floated as a bargaining chip. As recently as last Friday, I note the Washington Post headline: "Russia denies plan to sell gas centrifuge to Iran." It seems this was a plan designed to be a concession from the start.

Just last week, when asked if a halt in the gas centrifuge sale would be enough, Secretary of State Christopher said, "not at all. We would not be satisfied with that". I agree with the Secretary's assessment. We should not be satisfied. The bottom line is Russia still intends to proceed with a sale of nuclear technology to the outlaw regime in Tehran. This flies in the face of the summit's joint statement on proliferation which pledges "To work together closely to promote broad nonproliferation goals."

On Chechnya, President Yeltsin rejected any effort to address the legitimate concerns of the international community over human rights violations. In President Yeltsin's statement about Chechnya, there is an unfortunate ring of former soviet leaders rejecting western concerns over human rights as meddling. And whatever the political leaders were saying in Moscow, the Russian army kept attacking. Literally within minutes of yesterday's press conference, Russian helicopters attacked Chechen civilian targets.

The situation in Chechnya also raises the issue of the flank limits in the Conventional Forces in Europe [CFE] Treaty. In the fall, if Russian forces are still in Chechnya, the Russian Government will be in violation of these flank limits. The Moscow summit did not result in any assurances of Russian compliance with the CFE limits.

On missile defenses, the administration continued down the same path of seeking Russian permission on the deployment of theater missile defenses—despite the fact that Russian insistence on providing nuclear technology to Iran increases the proliferation threat. The fact is that theater missile defenses are not prohibited by the cold-war era ABM Treaty. Moreover, the United States must not allow Russia to have a veto over matters of national security.

The summit also failed in what was not on the agenda—namely, Bosnia. As the two Presidents were meeting, Sarajevo was being heavily shelled. There was no U.N. response, no NATO response, and no summit response.

It is true that Russia agreed to join the partnership for peace at this summit—as they previously agreed to do last year, before abruptly changing their minds at the OSCE summit in Budapest. At this summit, Russia continued to express strong opposition to the expansion of NATO.

Mr. President, summit diplomacy has a long and distinguished history. Historically, summits have succeeded when the parties had clear agendas, pursued their interests consistently, and were ready, willing, and able to meet each others' concerns. And if agreement is not reached, history shows it is better to state the disagreements clearly rather than paper them over. In the case of the Moscow summit, it is clear that President Yeltsin was not in a position to address our concerns. We should admit that forthrightly and respond appropriately. Congress will respond by looking closely at all forms of aid to Russia—especially aid to the government. Certain types of aid such as democracy support, or Nunn-Lugar funding for nuclear clean up still promote important American interests. Other aid programs may not, and may be halted.

The United States must remain engaged with Russia. It was and is our hope that democracy and free market reforms will prosper. We hope that the Russian elections planned for this year and next year proceed on time—and that they are free and fair. But Russia is not our only strategic relationship—we have other interests in other areas. That is why I support the President's decision to visit Ukraine. That is why NATO expansion should not be subject to a Russian veto. And that is why we cannot allow Iran to become a nuclear weapons state.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, it does not require one to be a rocket scientist to realize that the U.S. Constitution forbids any President's spending even a dime of Federal tax money that has not first been authorized and appropriated by Congress—both and House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that the Founding Fathers, two centuries before the Reagan and Bush presidencies, made it very clear that it is the constitutional duty of Congress to control Federal spending.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,856,766,568,058.09 as of the close of business Wednesday, May 10. This outrageous debt (which will become the debt of our children and grandchildren) averages out to $18,436.37 on a per capita basis.

PRESERVING MEDICARE FOR OUR SENIORS

Ms. MIKULSKI. Mr. President, I rise to speak about the Medicare Program and the need to protect it from drastic cuts. The Republicans have announced their plans to cut the Medicare budget by over $250 billion in order to fund tax cuts for the rich.

Let me start by saying that I want to make sure that we keep the care in Medicare. I believe that the basic values of honoring your father and your mother should be the anchors of our public policy.

I do not believe our seniors should have to pay almost $900 more in out of pocket health care costs each year. I do not believe that the typical Medicare beneficiary should have to see 40 to 50 percent of his or her Social Security cost-of-living adjustment eaten up by increases in Medicare cost sharing and premiums.

We cannot let this happen. We owe it to our mothers and fathers, and to our family members.

Last week I spoke at the White House Conference on Aging. It was an impressive gathering of 2,500 seniors and senior advocates from all over this Nation. Many of the delegates were current or former doctors, lawyers, administrators, business owners, nurses, social workers, gerontologists, and senior service providers.

The delegates were charged with coming up with a navigational chart to meet the needs of our seniors today and to take us into the 21st century.

The White House Conference on Aging came at a very crucial time in our history. We all know that our senior population is growing and growing rapidly. Demography is destiny. We must anticipate the future and what their needs are and what they will be.

At the end of the conference, the delegates voted on priorities. Ensuring the future of the Medicare Program was one of the top five priorities. More specifically, the conference stated that the United States should:

> . . . reaffirm the covenant that it established with the American people 30 years ago with the enactment of Medicare and act to maintain and strengthen the program's structure and purpose, its fiscal solvency, and widespread public support.
>
> . . . continue to protect older Americans and disabled Americans, especially those on low and fixed incomes with respect to health care affordability and access, giving special consideration to the burdens imposed by copayments, deductibles, and premiums.
>
> . . . ensure that programmatic changes safeguard the viability of the Medicare trust funds.
>
> . . . ensure that any changes to Medicare provide access to a standard package of benefits which includes affordable long term care, strengthens the program's financial well-being, preserves the social insurance nature of Medicare, enhances the quality of care and improves the program for beneficiaries within the broad context of health care reform

There is much talk about another contract with America, but I believe the real contracts we must honor are Medicare and Social Security. We must preserve the covenant that we established with our seniors and their families to provide them with health insurance for their old age. Seniors have worked hard all their lives, paid their dues, paid into the system.

We must remember who are seniors are. On May 8, we commemorated victory in Europe and the beginning of the end of World War II. Our seniors were part of the generation that saved Europe from tyranny and changed the course of history. We must never forget that.

We cannot forget them and we cannot forget who will be the next generation of seniors. They will be many of us. And the next generation after that. They will be our children and grandchildren. We must continue to ensure that all seniors now and into the next century have the resources they need for their health care. Without such resources I fear they will become impoverished, their children may become impoverished, and we as a country will become impoverished.

THE 45TH ANNIVERSARY OF THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Mr. COHEN. Mr. President, in recognition of the 45th anniversary of the Leadership Conference on Civil Rights, I believe it is appropriate to reflect upon this country's history on the issue of civil rights and express some thoughts about the direction the country is heading today.

In 1950, when the Leadership Conference was first formed, we essentially had a system of racial apartheid in many parts of the country. It was illegal for black and white children to attend school together, it was illegal for black and white adults to marry. Black Americans were shut out of the political system—they were not permitted to serve on juries, run for office, or, in many cases, cast a ballot. There was no meaningful equal protection of the laws, especially the criminal laws. Blacks who dared to assert their political rights or buck the mores of the racial caste system, were beaten or lynched. The police and formal legal system always looked the other way. Blacks could not receive a fair trial in a court of law as racial prejudice clouded the normal American presumption that justice is blind.

Through Federal court litigation, and eventually legislative action by the U.S. Congress, many of these barriers were cast aside, the chains of Jim Crow were unlocked, and the Constitution's promise of equal opportunity began to become a reality. As the decades passed and progress was made on many fronts, other groups of American citizens—women, racial minorities, religious groups, and the physically disabled, to name a few—rose to assert the rights that accrue with American citizenship. Their claims have been simple, clear, and powerful: treat us like everyone else in society is treated, give us the opportunities to succeed that other Americans are given as a matter of birthright, let us participate in the mainstream of American life.

So we have made progress. When in the past Jackie Robinson was spit upon and received death threats over the phone, today Michael Jordan can give genuine happiness to millions of Americans, of all creeds and colors, merely by deciding to trade in his baseball cleats for a pair of sneakers. When one of our country's greatest institutions, the U.S. Army, once had to be desegregated by Presidential decree, in modern times Colin Powell rose to lead that institution and now is one of our most popular public figures. When minorities were once threatened and intimidated from exercising the franchise, now hundreds of minorities hold public office throughout the country and dozens of minority legislators sit here in the U.S. Congress.

The Leadership Conference on Civil Rights has been at the forefront of this march of progress. The principles of equality, inclusion, and tolerance that it promotes are reflected in the structure of the organization, as it is comprised of 180 different groups representing people from all walks of life, all shades of skin color, and all denominations and ethnicities. The legislative achievements of the conference are monumental—not only for the importance of the bills on American life, but for the bipartisan support that they achieved. The Voting Rights Act Amendments of 1982, the Americans

With Disabilities Act, and the Religious Freedom Restoration Act are but a few of the conference's noteworthy achievements.

But one cannot look back fondly at successes without also thinking about our past shortcomings as well. Here we stand, a generation after the civil rights revolution, and we must ask how history will judge us. Have we done all we could to make our society more just, opportunities more available, tolerance and understanding more pervasive, violence less prevalent? Have poverty, intolerance, and ignorance been marginalized or have our actions or omissions led to the marginalizations of the poor, the uneducated, and others occupying the bottom rung of society?

Any honest appraisal must conclude that our record is mixed. Progress has been made in many areas, but we are going backward in others. Our problems were once simple and clear issues of equal justice that could be solved merely by changing the law. Our current problems now bear on complex social conditions that few can explain and even fewer know how to solve.

There is also new unrest in the country that is manifesting itself in ugly ways. Extremists seek to place at odds peoples and communities that have been traditional and genuine allies. The ethos of tolerance, dialog, and reconciliation are being subverted by those who, appealing to baser instincts, seek to balkanize America. And remarkably, there are those who now want to move to a color-blind society, based on the make-believe view that racism and intolerance are things of the past and that our centuries of overt discrimination have had absolutely no bearing on the current condition of the least fortunate members of society. It is as if many believe that the Emancipation Proclamation and Civil Rights Acts were written at the time of the Magna Carta and the beating of Rodney King happened centuries, not just years, ago.

But rather than be discouraged in the face of our failures, and lament about the difficult challenges ahead, we must find hope in the progress that has been made and summon the resolve to redouble our efforts to remake our society to bring us closer to the ideals we hold dear. The work of the Leadership Conference is not done. We are a better society as a result of its 45 years of dedication to equality and we will be a better society due to its work in the future.

THE 50TH ANNIVERSARY OF V-E DAY

Mr. HEFLIN. Mr. President, on August 19, 1944, Parisians rose up in defiance of their German occupiers as Hitler ordered his army to destroy the city. His generals, however, delayed the order, and American and Free French Forces liberated Paris on August 25. Meanwhile, General Patton was racing eastward toward the German border and Rhine River. To the north, British Forces led by Field Marshall Montgomery swept into Belgium and captured Antwerp on September 4. On September 17, about 20,000 paratroopers dropped behind German lines to seize bridges in the Netherlands. But bad weather and other problems hampered the operation.

Adolf Hitler pulled his failing resources together for another assault. On December 16, 1944, German troops surprised and overwhelmed the Americans in Belgium and Luxembourg, but they lacked the troops and fuel to turn their thrust into a breakthrough. Within 2 weeks, the Americans stopped the German advance near Belgium's Meuse River. This offensive in the Ardennes Forest of Belgium and Luxembourg became known as the "Battle of the Bulge," because of the bulging shape of the battleground as it appeared on a map. It was to be among the war's most bloody battles. Although Hitler's men knew they were beaten, it became clear that complete victory over Germany would have to wait until 1945.

Soviet Forces entered Poland, Romania, and Bulgaria in January 1945. The Germans had pulled out of Greece and Yugoslavia in the fall of 1944, But held out in Budapest, the capital of Hungary, until February 1945. Vienna fell to Soviet troops in April. By then, Soviet troops occupied nearly all of Eastern Europe, a sign of victory then, but, in retrospect, also an ominous harbinger of the nature of the post-World War II world.

The Allies began their final assault on Germany in early 1945. Soviet soldiers reached the Oder River, about 40 miles from Berlin, in January. Forces in the West occupied positions along the Rhine by early March. British and Canadian Forces cleared the Germans out of the Netherlands and swept into northern Germany as the Americans and French raced toward the Elbe River in central Germany. Hitler ordered his soldiers to fight to the death, but large numbers surrendered each day.

The capture of Berlin was left to the Soviets. By April 25, 1945, they had surrounded the city. From a bunker deep underground, Hitler ordered German soldiers to fight on. On April 30, he committed suicide. He remained convinced that his cause had been right, but that the German people had ultimately proven weak and unworthy of his rule.

Grand Adm. Karl Doenitz briefly succeeded Hitler as the leader of Germany, almost immediately arranging for Germany's surrender. On May 7, 1945, Col. Gen. Alfred Jodl, Chief of Staff of the German Armed Forces, signed a statement of unconditional surrender at General Eisenhower's headquarters in France. World War II in Europe had, at last, come to an end. Fifty years ago, the Allies declared May 8 "V-E Day"—Victory in Europe Day. America could now concentrate all of its strength toward the battle still being waged in the Pacific, which would last for 3 more months.

Today, the world celebrates a victory that represented the triumph of good over unspeakable evil, and the promise of a peaceful future for a Europe battered and torn by the bloodiest war in its history. May 8 is particularly special this year, since it marks the 50th anniversary of the end of the European chapter of World War II.

As the Allies had advanced in Europe, they discovered the horrifying remnants of the Nazis' "final solution." Hitler had ordered the imprisonment of Jews and members of other minority groups in concentration camps. The starving survivors of the death camps gave proof of the terrible suffering of those who had already died.

Today, we are familiar with those faces and pictures of death and destruction, but that familiarity has not led to understanding in many cases. We have the Holocaust Memorial Museum as a reminder of the past and as a warning to future generations of the grave dangers that are the ultimate fruits of hate, division, depravity. Victory in Europe Day, then, is also a time to reflect and to ask ourselves how such brutality could have been inflicted on the human race, and how it can be prevented from ever occurring again.

Hitler's rise to power was based upon a message of hate, of pitting one class against another, of demonizing Jews and others. His was a message of division, of blaming others for one's problems. During the early 1930's, Hitler instituted a policy of elimination of political opponents, of "enemies of the state." According to the statutes of the security police, Jews, politically active churches, Freemasons, politically dissatisfied people, members of the Black Front, and economic manipulators, among others, were singled out for persecution.

Hitler set down his political goals in his notorious book, "Mein Kampf." His foreign policy plans revolved around the central aim of exterminating the Jews as the mortal enemy of the Aryan race. During the first stage, following the seizure of power, the "cancerous democracy," as he called it, was to be abolished, and Jews, Bolsheviks, and Marxists were to be banished from the national community. Following the internal consolidation of the Reich, the German position in central Europe was to be secured step by step and then strengthened into world dominance.

While Hitler had fought the existing government aggressively prior to his imprisonment for high treason, during which he wrote "Mein Kampf," he adopted a new tactic after his early release from jail. Power was to be won slowly and legally as he systematically and methodically built up the Nazi empire. He used the Reichstag fire of February 27, 1933, as an opportunity to replace the constitutional laws of the Weimar Republic by passing an emergency decree "to protect the people and the state." This marked the beginning of the hounding and arresting of political opponents, especially those on the left. The public was subjected to propaganda on a grand scale, instructed "to think nothing but German, to feel German, and to behave German." Germans were also placed under heavy surveillance by the police and secret agents.

Hitler was able to create the Nazi state by fanning the flames of paranoia, distrust, and fear. By making the Jews and others "faceless rats" devoid of humanity, he was able to make his henchmen commit acts which shock and offend our sensibilities as human beings. He was successful in making these groups scapegoats responsible for all of Germany's economic and social ills. Just as some today try to divide, demonize, and scapegoat, Hitler managed to unite his people through their hatred of common enemies.

Too often today, the solution to our problems seems to be to blame someone else—the poor, minorities, immigrants, and bureaucrats. The politics of blame is a basic tactic of those who preach intolerance and division, whether on the left or right. Hitler was perhaps history's most terrible and tragic example of what can result when the politics of blame and hate are allowed to fester and grow. Too often, people attempt to glorify themselves by tearing down those with whom they disagree and by pitting one group against another. We need a return to moderation, tolerance, responsibility, and compassion so that nothing approaching the Holocaust and the hatred which fostered it will ever be allowed to again scar humanity in such a way.

It is appropriate to take the time to not only celebrate V-E Day and reflect upon the roots of what led to World War II, but to also remember the selfless heroism of the 15 million Americans and the millions of other Allied servicemen who fought valiantly to preserve the democratic ideals that we so cherish. All risked their lives, and, sadly, some 407,000 Americans gave their lives to defend those ideals and the individual freedom and human rights upon which they are based.

Fifty years after V-E Day, the light of history has shone brightly on the complex and harrowing events of World War II. Much of what has been revealed makes us shudder, and we would just as soon it not be illuminated. But only by looking can we learn, and as each year passes, we realize more fully just how much we owe our veterans for their patriotism, bravery, and sacrifice in serving on the battlefields of Europe during World War II.

JENA BAND OF THE CHOCTAW INDIANS

Mr. JOHNSTON. Mr. President, over 90 years ago, a small poverty ridden community of Choctaw Indians who lived in the area around Jena, LA, walked for 9 months from their homes to Muskogee, OK, to testify before the Dawes Commission. Although that commission determined that the Jena Band were full-blooded native American Indians, entitled to land and services, lands were not yet ready for allotment. Consequently, the Jena Band returned to Louisiana empty-handed. Soon thereafter they were told by letter that they could claim such lands and benefits—but only if they returned to Oklahoma within 4½ months. This was impossible for them, they did not return, and therefore received no land or benefits to which they were rightfully entitled.

This story of promised benefits, land, and services has been repeated throughout the last 90 years. Each time the Jena Band has come close to receiving the recognition they deserve, some additional obstacle has been thrown in their way. Yet, despite this long history of broken promises and neglect the Jena have maintained their identity, their dignity, and their hope that the Federal Government will at long last live up to the commitments made to them so long ago in Muskogee.

On May 18, 1995, the Jena Band will finally celebrate the arrival of justice as the Assistant Secretary for Indian Affairs at the Department of the Interior, Ada Deer, signs the documents establishing a government-to-government relationship between the United States of America and the Jena Band of the Choctaw.

Mr. President, I have known the Jena through their chief, Jerry Jackson, as we have struggled together for many years to gain their rightful recognition. The Jena are proud of there heritage and of their community. I look forward to seeing the strengthening of their tribe and their cooperation with the surrounding communities in the years to come, and I ask my colleagues to join me in celebrating this long-awaited event.

CARE ANNIVERSARY

Mr. NUNN. Mr. President, during this year 1995 we are commemorating many anniversaries of the last days of World War II—of terrible battles, of the liberation of concentration camps with their unspeakable crimes against humanity, and of the final victories—but I rise today to congratulate one of the great humanitarian organizations that was born in the ashes of that great war.

CARE begins the celebration of its 50th year today, on the anniversary of the day when the first CARE package arrived in France. A coalition of organizations and individual Americans founded CARE—the Cooperative for American Remittances to Europe—on November 27, 1945, and the first CARE package was received in France on the following May 11. They set out to create a large and efficient distribution network, because they knew the huge scope of the needs in a Europe devastated by a long and destructive war.

That package was the beginning of the largest person-to-person relief effort of this century—perhaps of any century. Millions of Americans sent more than 100 million CARE packages of food, clothing, medicine, and other relief supplies to war survivors in desperate need. CARE packages provided the first food some Holocaust victims received after being released from the camps. Later, CARE packages brought West Berliners their first food after the 1949 blockade.

CARE was a unique American phenomenon—highly individual, extremely generous, idealistic and—against all odds—tremendously successful. Germans, Italians, and Japanese remember how stunned they were to receive gifts from people with whom they had been at war only a few months before. CARE packages not only eased the suffering of survivors trying to rebuild their lives and their countries, but helped to build the bridges between former enemies that made possible a more lasting peace.

Every single American President has been involved in the relief effort since President Harry Truman who sent the first 100 CARE packages to the bombed-out town of Le Havre, France. American cities and towns had CARE package drives, businesses put up displays encouraging people to send CARE packages, Hollywood stars, including Bob Hope, Gregory Peck, Marlene Deitrich, Lauren Bacall, and Ingrid Bergman, joined in the effort that would make the CARE package a part of our language and history.

As Europe and Asia recovered from World War II, CARE adopted a new name—the Cooperative for Assistance and Relief Everywhere—and a new mission: to help the poorest of the world's poor.

Today CARE helps 30 million people in more than 60 developing countries each year to improve their lives through comprehensive disaster relief programs as well as assistance for long-term, sustainable development projects in agriculture, the environment, health, nutrition, population, and small business. In the years since that first package, CARE packages have helped more than 1 billion people in 121 countries around the world, sending more than $7 billion worth of assistance. The countries Americans helped

50 years ago have become our political and economic partners and many are now partners as well in providing CARE packages to others in need. CARE has 11 international offices in Europe and Japan, and has twice been nominated for a Nobel Prize.

The plain brown boxes stamped CARE have been a symbol of the best American spirit of generosity and hope to a hurting world for half a century. I am proud that CARE now is headquartered in Atlanta, GA, and proud of the wonderful work it has done throughout the world. This is an appropriate time for a new generation to learn about the real CARE package—not just goodies from home, but a package reflecting that same love and caring that reaches out in friendship to those in need.

Mr. President, as CARE begins its 50th anniversary celebration, I would urge that new generations—and their mothers, fathers, grandmothers, and grandfathers who have been sending those plain brown boxes stamped CARE all these years—to join in the effort to change lives and send a real CARE package.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:18 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1361. An act to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1361. An act to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–891. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to U.S. exports to South Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–892. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to provide for alternative means of acquiring and improving housing and supporting facilities for the armed forces and their families; to the Committee on Armed Services.

EC–893. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to amend title 49, United States Code (Transportation), to eliminate the requirement for preemployment alcohol testing in the mass transit, railroad, motor carrier and aviation industries, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–894. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the Superconducting Super Collider project; to the Committee on Energy and Natural Resources.

EC–895. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the safety of shipments of plutonium by sea; to the Committee on Environment and Public Works.

EC–896. A communication from the Chief Counsel of the Department of Justice, transmitting, pursuant to law, the annual report of the Foreign Claims Settlement Commission for 1993; to the Committee on Foreign Relations.

EC–897. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report relative to international agreements, other than treaties entered into by the United States within the 60-day period after May 4, 1995; to the Committee on Foreign Relations.

EC–898. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, a report relative to wiretap applications for calendar year 1994; to the Committee on the Judiciary.

EC–899. A communication from the Chairman of the U.S. Sentencing Commission, transmitting, a draft of proposed legislation to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to equalize mandatory minimum penalties relating to similar crack and powder cocaine offenses; to the Committee on the Judiciary.

EC–900. A communication from the Chairman of the Farm Credit Administration, transmitting, pursuant to law, the Administration's report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–901. A communication from the Chairman of the U.S. Sentencing Commission, transmitting, pursuant to law, amendments to the sentencing guidelines; to the Committee on the Judiciary.

EC–902. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation to amend chapter 11 of title 35 to provide for early publication of patent applications, to amend chapter 14 of title 35 to provide provisional rights for the period of time between early publication and patent grant and to amend chapter 10 of title 35 to provide a prior art effect for published applications; to the Committee on the Judiciary.

EC–903. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the OPM's fiscal year 1994 report on the Federal Equal Opportunity Recruitment Program; to the Committee on Governmental Affairs.

EC–904. A communication from the Chairperson of the Department of the Navy Retirement Trust, transmitting, pursuant to law, reports relative to the 1992 annual pension report; to the Committee on Governmental Affairs.

EC–905. A communication from the HUD Secretary's Designee to the Federal Housing Finance Board, transmitting, pursuant to law, the Inspector General's report for the 6-month period ending March 31, 1995; to the Committee on Governmental Affairs.

EC–906. A communication from the Director, Federal Management Issues, General Accounting Office, transmitting, pursuant to law, a report entitled "Government Corporations: Profiles of Recent Proposals"; to the Committee on Governmental Affairs.

EC–907. A communication from the Acting Director, Federal Management Issues, transmitting, pursuant to law, a report entitled "Managing for Results: Experiences Abroad Suggest Insights for Federal Management Reforms"; to the Committee on Governmental Affairs.

EC–908. A communication from the Attorney General of the United States, transmitting, pursuant to law, the 1994 annual report on the Federal Prison Industries, Inc.; to the Committee on Governmental Affairs.

EC–909. A communication from the Chairperson of the Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting, pursuant to law, a report relative to the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–910. A communication from the Inspector General of the Environmental Protection Agency, transmitting, pursuant to law, the Agency's Superfund report for fiscal year 1994; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–103. A joint resolution adopted by the Council of the City of Kwethluk, Alaska relative to the Alaska National Interest Lands Conservation Act; to the Committee on Energy and Natural Resources.

POM–104. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Energy and Natural Resources.

"RESOLUTION NO. 2

"Whereas, the Clinton Administration and Congress are considering proposals to sell the Western Area Power Administration (WAPA), which provides low-cost power to municipal utilities, electric cooperatives, and state facilities in Minnesota; and

"Whereas, sale of WAPA could trigger an estimated $36,000,000 increase in annual power costs for customers of the municipal utilities at Ada, Adrian, Alexandria, Barnesville, Baudette, Benson, Breckenridge, Detroit Lakes, East Grand Forks, Elbow Lake, Fairfax, Fosston, Granite Falls, Halstad, Hawley, Henning, Jackson, Kandiyohi, Lake

Park, Lakefield, Litchfield, Luverne, Madison, Marshall, Melrose, Moorhead, Mountain Lake, Nielsville, Olivia, Ortonville, Redwood Falls, Roseau, Sauk Centre, Sleepy Eye, Springfield, Staples, St. James, Stephen, Thief River Falls, Tyler, Wadena, Warren, Warroad, Westbrook, Willmar, Windom, and Worthington; and

"Whereas, sale of WAPA could trigger an estimated $20,000,000 increase in annual power costs for customers of the following rural electric cooperatives: Agralite, Beltrami, Brown County, Clearwater-Polk, Federated, Itasca-Mantrap, Kandiyohi, Lake Region, Lyon-Lincoln, McLeod, Meeker, Minnesota Valley, Nobles, North Star, PKM, Red Lake, Red River, Redwood, Renville-Sibley, Roseau, Runestone, South Central, Southwestern Minnesota, Stearns, Todd-Wadena, Traverse, and Wild Rice; and

"Whereas, sale of WAPA could trigger an estimated $1,000,000 increase in annual power costs for Fergus Falls State Hospital, Southwest Minnesota State University, and Willmar Regional Treatment Center; and

"Whereas, the cities, cooperatives, and state agencies that receive power from WAPA committed to the federal power program more than 40 years ago, and have relied on continued access to federal power in their long-range energy plans; and

"Whereas, the customers of WAPA's Eastern Pick Sloan facilities have repaid approximately 40 percent of the original investment in these facilities, with interest, and sale of the facilities would wipe out the customers' equity contribution; and

"Whereas, the customers of WAPA pay for the operation of the federal power facilities through their rates, the program places no drain on the federal treasury, and the program does not contribute to the federal deficit; and

"Whereas, in addition to producing electricity, WAPA's multipurpose power projects produce revenue for power sales which helps pay for irrigation, flood control, navigation, municipal and industrial water supply, wildlife enhancement, recreation, and salinity control; and no private party can step in and act as a surrogate for government in performing these functions; and

"Whereas, sale of these assets is extremely complex, due to the multipurpose nature of the projects, numerous legal and contractual problems, Indian, Mexican, and Canadian treaty provisions, and environmental concerns; and

"Whereas, the federal power program is one of our nation's greatest assets and it should be preserved; and

"Whereas, dismantling the federal power program is a short-sighted quick fix that will not benefit the nation in the long run: Now, therefore be it,

"*Resolved by the Legislature of the State of Minnesota*, That the President and the Congress of the United States should not pursue the sale of the Western Area Power Administration.

"*Be it further resolved*, That the Minnesota municipal utilities, cooperatives, and state facilities which receive federal power from the Western Area Power Administration should continue to receive their allocations of power at cost-based rates.

"*Be it further resolved*, That the Secretary of State of the State of Minnesota is directed to prepare copies of this memorial and transmit them to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, the chair of the Senate Committee on Energy and Natural Resources, the chair of the House Committee on Energy and Commerce, and Minnesota's Senators and Representatives in Congress."

POM–105. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Energy and Natural Resources.

"SUBSTITUTE SENATE JOINT MEMORIAL 8015

"Whereas, the preservation and enhancement of wetlands is extremely important to the state of Washington to protect wildlife habitat and viable waterfowl nesting areas; and

"Whereas, the Federal Clean Water Act and the Endangered Species Act both place a high priority on the creation or restoration of wetland areas; and

"Whereas, the Centralia Mining Company is the largest surface coal mining operation in the state and is unique among surface mines because of its location in Western Washington, which incurs a relatively high rainfall and can support healthy rechargeable wetlands; and

"Whereas, the Centralia Mining Company has been diligent in its extraordinary reclamation efforts and concerns for the environment as exemplified in their honor of receiving the prestigious directors' award from the Office of Surface Mining, Department of the Interior, in 1991, and receiving a national award from the Office of Surface Mining for excellence in surface mining reclamation including the environmental benefits their wetlands play in enhancing natural wildlife and waterfowl habitat in 1994; and

"Whereas, Ducks Unlimited, the largest private wetland conservation organization in the world, has affirmed their support for the need for the deep lake-like systems, intermediate-sized marsh areas, smaller seasonal wetlands, riparian stringers, and other wetlands which have been created on the Centralia Mining Company property; and

"Whereas, the Centralia Mining Company location is in close proximity to the migration pattern of numerous species of ducks and geese; and

"Whereas, surface mining creates many opportunities for innovative final land uses during the ongoing reclamation process which could enable the development of new wetlands that can enhance fish and wildlife habitat as well as the development of recreational lakes for the enjoyment of Washington citizens; and

"Whereas, the Centralia Mining Company is regulated by the Department of the Interior, Office of Surface Mining, and the provisions of the Surface Mining Control and Reclamation Act; and

"Whereas, the Office of Surface Mining rules and regulations for land reclamation have been very stringent and restrictive and require former-mined areas to be returned to the same land contours as prior to being mined; and

"Whereas, there were limited wetland areas prior to the commencement of mining at the Centralia mine and if the regulations do not allow for a variance, then the mine would be obligated to eventually destroy certain wetland areas and lakes that have been created in the mining process; and

"Whereas, the Office of Surface Mining has recently been reevaluating their position regarding the retention and creation of wetlands in reclaiming mine areas;

"Now, therefore, Your Memorialists respectfully pray that the Office of Surface Mining continue to be encouraged to expand its effort to find ways to preserve wetlands of significant size and value that are created as a result of substantial surface mining activities and to amend its rules and regulations in order to recognize the climatic differences of surface mine operations in differing regions throughout the United States and to allow the states to encourage their local mining industries to take advantage of the unique opportunities to preserve and enhance wetlands for the benefit of wildlife, fisheries, and recreation: Now, therefore, be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, each member of Congress from the State of Washington, the Secretary of the United States Department of the Interior, and the Director of the Office of Surface Mining."

POM–106. A resolution adopted by the Dakota Dunes Community Improvement District, Dakota Dunes, South Dakota relative to the Missouri River Master Water Control Manual; to the Committee on Environment and Public Works.

POM–107. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Environment and Public Works.

"SENATE CONCURRENT MEMORIAL 1004

"Whereas, a modern, well-maintained, efficient and interconnected system is vital to the economic growth, health and global competitiveness of this state and the entire nation; and

"Whereas, the highway network is the backbone of a transportation system for the movement of people, goods and intermodal connections; and

"Whereas, it is critical that highway transportation needs are addressed through appropriate transportation plans and program investments; and

"Whereas, the 1991 intermodal surface transportation efficiency act established the concept of a one hundred fifty-five thousand mile national highway system that includes the interstate system; and

"Whereas, on December 9, 1994, the United States department of transportation transmitted to Congress a one hundred fifty-nine thousand mile proposed national highway system that identified one hundred four ports, one hundred forty-three airports, one hundred ninety-one rail-truck terminals, three hundred twenty-one Amtrak stations and three hundred nineteen transit terminals; and

"Whereas, the 1991 intermodal surface transportation efficiency act requires that the national highway system and interstate maintenance funds not be released to the states if the national highway system is not approved by September 30, 1995; and

"Whereas, the uncertainty associated with the future of the national highway system precludes the possibility of this state effectively undertaking necessary, properly developed planning and programming activities.

"Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

"1. That the Congress of the United States enact legislation to approve and designate the national highway system no later than September 30, 1995 and to provide essential funding to this state and all other states for the maintenance, preservation and, where necessary, the improvement of the Congressionally designated national highway system.

"2. That the Secretary of State of the State of Arizona transmit copies of this Concurrent Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and to each Member of the Arizona Congressional Delegation."

POM–108. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Environment and Public Works.

"HOUSE CONCURRENT MEMORIAL 2005

"Whereas, the United States Congress is currently attempting to formulate long-term solutions to the myriad environmental concerns facing our nation; and

"Whereas, numerous environmental laws, rules, regulations and policy directives create the risk of imminent loss of precious national resources; and

"Whereas, numerous environmental laws, rules, regulations and policy directives impede the ability of states and their subdivisions to provide vital government services to their citizens, threaten the survival of essential industries and jeopardize the health, safety and welfare of our nation's citizens; and

"Whereas, emergency legislation providing immediate short-term relief from federal environmental laws, rules, regulations and policy directives while the United States Congress crafts long-term solutions to our nation's environmental problems would allow the continued provision of government services and the survival of industries and would protect the health, safety and welfare of our nation's citizens until such time as long-term solutions are found.

"Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the One Hundred Fourth Congress of the United States enact legislation that:

"(a) Places a moratorium on the issuance of new environmental rules, regulations and policy directives by the Environmental Protection Agency, the United States Department of the Interior, the United States Department of Agriculture, the United States Army Corps of Engineers, the National Marine Fisheries Service and the Council on Environmental Quality until such time as the Congress has formulated long-term solutions to the environmental concerns facing our nation.

"(b) Allows for the continued operation of current contracts and the continued provision of vital government services notwithstanding existing environmental laws, rules, regulations and policy directives until such time as the United States Congress has formulated long-term solutions to the environmental concerns facing our nation.

"(c) Allows timber harvests and sales in national and tribal forests to go forward up to the maximum quantities specified in current forest plans notwithstanding existing environmental laws, rules, regulations and policy directives until such time as the United States Congress has formulated long-term solutions to the environmental concerns facing our nation.

"2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the Speaker of the United States House of Representatives, the President of the United States Senate and to each Member of the Arizona Congressional Delegation."

POM–109. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Environment and Public Works.

"HOUSE CONCURRENT MEMORIAL 2002

"Whereas, current federal restrictions on the use of chlorofluorocarbons such as those found in the air conditioning process are based on unreliable and unsubstantiated "scientific" studies conducted by individuals utilizing propagandist scare tactics in support of their own co-called environmentalist agenda; and

"Whereas, by its very nature, research on the effects of chlorofluorocarbons fails to assess entirely the long-term impacts that the use of this class of compounds may have on the environment and particularly on the ozone. Observation of an alleged "hole" in the earth's ozone layer is a recent and unproven phenomenon, and short-term research cannot possibly predict with any degree of accuracy a potential threat that chlorofluorocarbons might pose to the environment. Indeed, studies on alleged ozone depletion do not indicate lasting repercussions resulting from the use of chlorofluorocarbons, nor that this occurrence is even a consequence of human activity; and

"Whereas, observations made by the scientific community regarding depletion of the ozone layer have failed to assign responsibility of this occurrence to any particular chemical, class of chemicals or chemical process. Furthermore, these studies have not conclusively shown there to be a continued threat to the ozone layer into the future, nor have they recommended a revision in public policy or social life-style regarding the use of chlorofluorocarbons; and

"Whereas, chlorofluorocarbons in the earth's atmosphere are minuscule when compared to the vastness of the ozone layer, and it is presumptuous to assume that they can substantially affect it. Any trivial benefits to be gained from prohibiting the use of chlorofluorocarbons do not warrant the economic and social costs resulting from such drastic and unnecessary measures.

"Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the Members of the United States Congress and the officials of the Environmental Protection Agency immediately initiate efforts to repeal the federal ban on the use of chlorofluorocarbons.

"2. That the Secretary of State of the State of Arizona transmit copies of this Concurrent Memorial to each Member of the United States House of Representatives and the United States Senate and to the director of the Environmental Protection Agency."

POM–110. A resolution adopted by the House of the Legislature of the State of Arkansas; to the Committee on Environment and Public Works.

"RESOLUTION

"Whereas, catastrophic natural disasters are occurring with greater frequency, a trend that is likely to continue for several decades, according to prominent scientists; and,

"Whereas, portions of Arkansas lie in the area of the New Madrid fault and are susceptible to earthquake damage; and,

"Whereas, the federal government has responded to disasters by appropriating relief funds which provide only short-term assistance to victims, but long-term burdens to taxpayers; and,

"Whereas, the increasing reliance on federal disaster relief has overshadowed the need to perform more comprehensive disaster planning and rely on private insurance for protection against disaster risks; and,

"Whereas, many Arkansans are not able to obtain adequate insurance coverage for the risk of natural disaster, particularly earthquake damage; Now therefore, be it

"*Resolved by the House of Representatives of the Eightieth General Assembly of the State of Arkansas*, That the House of Representatives hereby requests the United States Congress to pass legislation, in the 104th Congress, which would enable those who live in areas of high risk from natural disasters to assume more responsibility for their actions by insuring against such risks. We believe Congress should create a pooling mechanism for the spreading of disaster risk, in order to encourage the continued availability and affordability of private insurance.

"*Be it further resolved*, Upon approval of this Resolution, a copy hereof shall be transmitted by the Chief Clerk of the House of Representatives, to the President of the Senate and Speaker of the House of the United States Congress."

POM–111. A joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION NO. 71

"Whereas, the Honorable James H. Quillen has served the good people of Tennessee's First Congressional District as their representative to the U.S. Congress for the past thirty-two years with the utmost in acumen, perspicacity, devotion and industry; and

"Whereas, as a member of the 88th U.S. Congress through the 104th U.S. Congress, James H. Quillen has distinguished himself as a true statesman and an exemplary elected official who can be relied upon to carry out the people's will expeditiously; and

"Whereas, throughout his outstanding legislative career, Congressman Quillen has proven himself to be a good friend and stalwart supporter of the courageous veterans who risked their lives in time of war to defend and preserve the many blessed freedoms our nation and our state enjoy today; and

"Whereas, Congressman James H. Quillen has contributed significantly to the quality and availability of health care in the Northeast Tennessee community; and

"Whereas, he was instrumental in securing passage of the legislative initiative known as the Teague-Cranston legislation, which legislation provided for the establishment of a number of new medical colleges in conjunction with already existing Veterans Affairs facilities; and

"Whereas, Congressman Quillen also secured the addition of Mountain Home Veterans Affairs Center to the list of facilities covered under the terms of the Teague-Cranston legislation; and

"Whereas, James H. Quillen was also instrumental in the establishment of the School of Medicine at East Tennessee State University, which now bears his name; and

"Whereas, he also worked assiduously to secure federal funding for the construction of the modern Veterans Affairs Medical Center at Mountain Home; and

"Whereas, because of the important role he played in the establishment of this stellar medical facility, it is most appropriate that the Mountain Home Veterans Affairs Medical Center should bear the honorable name of James H. Quillen: Now, therefore, be it

"*Resolved by the Senate of the Ninety-Ninth General Assembly of the State of Tennessee, the House of Representatives concurring*, That this General Assembly hereby most feverently urges and encourages the members of Tennessee's delegation to the U.S. Congress to introduce and work for the passage of legislation to redesignate the Mountain Home Veterans Affairs Medical Center as "The James H. Quillen Veterans Affairs Medical Center" at Mountain Home, Tennessee in honor of Congressman Quillen's superlative leadership and vision as a member of the U.S. Congress and his lifetime of meritorious service to his constituents in Northeast Tennessee.

"*Be it further resolved*, That the Chief Clerk of the Senate is directed to transmit a certified copy of this resolution to each member of Tennessee's congressional delegation; the Speaker and the Clerk of the U.S. House of Representatives; and the President and the Secretary of the U.S. Senate."

POM–112. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 33

"Whereas, the Endangered Species Act originally was intended to protect threatened and endangered flora and fauna but has become a means to effect broader changes in land and water management; and

"Whereas, overdue for reauthorization by the Congress of the United States, the Endangered Species Act does not currently provide for adequate input by the states into the process of adding new species to the endangered species list; and

"Whereas, the United States Fish and Wildlife Service is poised to add the Arkansas River shiner to the endangered species list; and

"Whereas, the 74th Legislature of the State of Texas does not support the United States Fish and Wildlife Service's claim that the species is in danger of extinction in the foreseeable future because of habitat loss from the diversion of surface water, stream dewatering/depletion, water quality degradation, construction of impoundments, or possible inadvertent collection by the commercial bait fish industry or from competition with the introduced Red River shiner; and

"Whereas, this listing could effectively remove from the state, the cities, and local water districts control over the Ogallala Aquifer; Now, therefore, be it

"*Resolved*, That the 74th Legislature of the State of Texas hereby reject the suggestion by the United States Fish and Wildlife Service that it has failed to manage it natural resources in the Ogallala Aquifer in an environmentally conscious manner; and, be it further

"*Resolved*, That the 74th Legislature of the State of Texas hereby express its adamant opposition to the addition of the Arkansas River shiner to the endangered species list until such time as the Endangered Species Act has been reauthorized and amended by the Congress of the United States; and, be it further

"*Resolved*, That the 74th Legislature of the State of Texas hereby request the Secretary of Interior to direct the United States Fish and Wildlife Service to inform the governor, the lieutenant governor, the speaker of the house of representatives, the attorney general, and the Texas Parks and Wildlife Department, which is the state fish and wildlife agency, of any actions contemplated to further the process of listing the Arkansas River shiner as an endangered species; and, be it further

"*Resolved*, That the Texas Secretary of State forward official copies of this resolution to the Secretary of the Department of Interior of the United States, to the President of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all members of the Texas delegation to the congress."

POM–113. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Environment and Public Works.

"HOUSE JOINT MEMORIAL 4028

"Whereas, the establishment of the National Highway System (NHS) is deemed necessary to ensure that our citizens are connected to the rest of the nation and the world, and that all citizens of our nation are connected to the natural resources, national parks, cities, and other points of national importance now and in the future; and

"Whereas, the provisions of the Intermodal Surface Transportation Efficiency Act (ISTEA) provide States with overall responsibility for NHS route and project selection; and

"Whereas, the planning and public participation provisions of the ISTEA ensure that Metropolitan Planning Organizations (MPO), other transportation agencies, and the general public have a significant role in the NHS program; and

"Whereas, an equitable process for designation of NHS routes as defined by the ISTEA and Federal Highway Administration (FHWA) rules and procedures has been established; and

"Whereas, the flexibility and transferability provisions in Section 1006 of the ISTEA, describing the NHS, enable States to address critical transportation needs identified in the MPO and State transportation planning processes; and

"Whereas, the FHWA has submitted their proposed designations to Congress; and

"Whereas, after September 30, 1995, no Federal funds made available for the National Highway System or the Interstate Maintenance program may be apportioned unless a law has been approved designating the National Highway System; Now therefore, Your Memorialists respectfully urge that Congress pass legislation approving the National Highway System (NHS) at the earliest date possible, but no later than September 30, 1995.

"*Be it resolved*, That copies of this Memorial be immediately transmitted to the President and the Secretary of the United States Senate, to the Speaker and the Clerk of the United States House of Representatives, and to each member of this state's delegation to Congress."

POM–114. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on Environment and Public Works.

"ENROLLED JOINT RESOLUTION NO. 3,

"Whereas, the Federal Government, through the United States Fish and Wildlife Service, and under the authority of the Endangered Species Act, is reintroducing wolves into Yellowstone National Park; and

"Whereas, wolves are predatory animals, and left with no population control, may pose a threat to wildlife and domestic livestock outside the boundaries of Yellowstone National Park; and

"Whereas, the Endangered Species Act, and its implementing regulations, will provide extensive protection of the wolves, even outside the boundaries of Yellowstone National Park, making adequate control of the wolf population impossible; and

"Whereas, Yellowstone National Park will provide ample food, space and protection in order to sustain a viable population of wolves and will also provide viewing opportunities for the general public; and

"Whereas, hunting of the wolves outside the boundaries of Yellowstone National Park will provide protection for resident wildlife populations and the livestock industry and will assist in keeping the wolves inside the boundaries of Yellowstone National Park; Now, therefore, be it

"*Resolved by the members of the Legislature of the State of Wyoming:*

"Section 1. That the United States Congress amend the Federal Endangered Species Act to expressly provide for the State of Wyoming to control the hunting and population of wolves found outside the boundaries of Yellowstone National Park.

"Section 2. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to the Secretary of the Interior and to the Wyoming Congressional Delegation."

POM–115. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on Environment and Public Works.

"A LEGISLATIVE RESOLUTION

"Whereas, the United States Fish and Wildlife Service has been petitioned to include the black-tailed prairie dog (cynomys ludovicianus) to the list of candidates species to be listed as a threatened or endangered species pursuant to the Endangered Species Act of 1973; and

"Whereas, the black-tailed prairie dog (cynomys ludovicianus) is very prolific and has habitat over a large part of Wyoming public and private land; and

"Whereas, the prairie dog destroys all ground cover in its habitat; and

"Whereas, this destruction causes soil erosion leading to increased sediment in streams causing poor habitat for fish; and

"Whereas, this loss of ground cover is very detrimental to feed for livestock and wildlife. Now, therefore, be it

"*Resolved by the undersigned members of the Legislature of the State of Wyoming:*

"Section 1. The state of Wyoming will not tolerate the designation of the black-tailed prairie dog (cynomys ludovicianus) as a threatened or endangered species.

"Section 2. The United States Fish and Wildlife Service should deny any petition requesting the black-tailed prairie dog (cynomys ludovicianus) be further considered for listing as a threatened or endangered species under the Endangered Species Act of 1973.

"Section 3. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to the Acting Director of the Wyoming Game and Fish Department, to the lead United States Fish and Wildlife Service Field Office for consideration of the referenced petition and to the Wyoming Congressional Delegation."

POM–116. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on Environment and Public Works.

"A LEGISLATIVE RESOLUTION

"Whereas, a modern, well maintained, efficient and interconnected transportation system is vital to the economic growth, the health and the global competitiveness of the state of Wyoming and the entire nation; and

"Whereas, the highway network is the backbone of a transportation system for the movement of people, goods, and intermodal connections; and

"Whereas, it is critical to effectively address highway transportation needs through appropriate transportation plans and program investments; and

"Whereas, the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) established the concept of a 155,000 mile national highway system which includes the interstate system; and

"Whereas, on December 9, 1994, the United States department of transportation transmitted to Congress a 159,000 mile proposed national highway system which identified 104 port facilities, 143 airports, 191 rail-truck terminals, 321 Amtrak stations and 319 transit terminals; and

"Whereas, ISTEA requires that the national highway system and interstate maintenance funds not be released to the states if the system is not approved by September 30, 1995; and

"Whereas, the uncertainty associated with the future of the national highway system precludes the possibility of the state to effectively undertake the necessary, properly developed planning and programming activities; Now, therefore, be it

"*Resolved by the members of the fifty-third Wyoming Legislature;*

"Section 1. That the process for developing and approving the national highway system should be accelerated and that the Congress of the United States of America should pass legislation which approves and designates the national highway system no later than September 30, 1995.

"Section 2. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to the Governor of the state of Wyoming and to the Wyoming Congressional Delegation."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCAIN (for himself, Mr. LEVIN, Mr. ROTH, Mr. GLENN, and Mr. COHEN):

S. 790. A bill to provide for the modification or elimination of Federal reporting requirements; read the first time.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. 791. A bill to provide that certain civil defense employees and employees of the Federal Emergency Management Agency may be eligible for certain public safety officers death benefits, and for other purposes; to the Committee on Governmental Affairs.

By Ms. MOSELEY-BRAUN (for herself, Mr. BURNS, and Mr. ROBB):

S. 792. A bill to recognize the National Education Technology Funding Corporation as a nonprofit corporation operating under the laws of the District of Columbia, to provide authority for Federal departments and agencies to provide assistance to such corporation, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMPSON (for himself, Mr. MOYNIHAN, and Mr. KYL):

S. 793. A bill to amend the Internal Revenue Code of 1986 to provide an exemption from income tax for certain common investment funds; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. INOUYE, Mr. SANTORUM, Mr. CRAIG, Mr. COHEN, Mr. MACK, Mr. PRESSLER, Mr. BURNS, Mr. KERREY, Mr. GRAHAM, Mr. COATS, Mr. GORTON, Mr. PACKWOOD, Mr. CAMPBELL, Mr. DORGAN, Mr. MCCONNELL, Mr. THURMOND, Mr. DOLE, Mr. JEFFORDS, Mr. HELMS, Mr. BOND, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. HOLLINGS, Mr. JOHNSTON, Mr. INHOFE, Mr. ABRAHAM, Mrs. MURRAY, Ms. SNOWE, Mrs. FEINSTEIN, Mr. HATCH, Mr. NICKLES, Mr. HATFIELD, Mr. KEMPTHORNE, Mr. SPECTER, Mr. COCHRAN, Mr. PRYOR, Mr. DASCHLE, Mr. HEFLIN, Mr. COVERDELL, Mr. LOTT, and Mr. CONRAD):

S. 794. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to facilitate the minor use of a pesticide, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. COHEN:

S. 795. A bill for the relief of Pandelis Perdikis; to the Committee on the Judiciary.

By Mr. BOND (for himself and Mr. ASHCROFT):

S. 796. A bill to provide for the protection of wild horses within the Ozark National Scenic Riverways, Missouri, and prohibit the removal of such horses, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY:

S. 797. A bill to provide assistance to States and local communities to improve adult education and family literacy, to help achieve the National Education Goals for all citizens, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CONRAD (for himself, Mr. CHAFEE, Mr. JEFFORDS, Mr. BRADLEY, and Mr. ROCKEFELLER):

S. 798. A bill to amend title XVI of the Social Security Act to improve the provision of supplemental security income benefits, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself, Mr. LEVIN, Mr. ROTH, Mr. GLENN, and Mr. COHEN):

S. 790. A bill to provide for the modification or elimination of Federal reporting requirements; read the first time.

FEDERAL REPORTS ELIMINATION AND SUNSET ACT

Mr. MCCAIN. Mr. President, on behalf of Senator LEVIN and myself, I'm pleased to introduce the Federal Reports Elimination and Sunset Act of 1995. This legislation would terminate or modify the statutory requirement for over 200 mandatory reports to Congress, and sunset most other mandatory reports after 4 years. This legislation would also require the President to identify which reports he feels are unnecessary or wasteful in his next budget submission of Congress, which will hopefully spur Congress to swiftly dispose of those specific reports.

This legislation is a combination of two separate bills that Senator LEVIN and I have previously introduced, both of which were passed by the Senate as amendments to S. 244, the Paperwork Reduction Act. The intent of the Federal Reports Elimination and Sunset Act is to end the needless expense of hundreds of millions of taxpayer dollars each year on many Federal reports that are of minor value to the Congress and our constituents.

Mr. President, by passing this legislation the Senate can help bring to an end one of Congress' most unessential and burdensome practices. Each year Members of Congress add layer upon layer of onerous paperwork requirements upon executive branch agencies by mandating various reports. This problem has a very real and substantive cost to taxpayers in terms of wasting hundreds of millions of dollars, in addition to taking up untold numbers of work-hours by Federal employees, and untold amounts of other agency resources that could be far better utilized in more worthy endeavors.

It is astounding that in 1993 the Congress required the Office of the President and executive branch agencies to prepare over 5,300 reports! This is a problem that is reaching truly epic proportions of unnecessary and wasteful paper shuffling! This practice has been criticized by both Vice President Gore in his "National Performance Review," and the Senate's members of the Joint Committee on the Organization of Congress. The Joint Committee stated that:

> These reports should not continue in perpetuity without some clear evidence that the report serves a useful policy purpose. The proliferation of mandatory agency reports has been a matter of wide concern in the Congress and in the Executive Branch.

Furthermore, in 1992 the GAO found that:

In the 101st Congress, a single House committee received over 800 reports from Federal agencies in response to mandates from the Congress;

Another 600 reports were sent to the same committee in the 102d Congress;

The Office of Management and Budget had to submit 38 reports to a single House committee just to comply with the 1990 Budget Reconciliation Act;

Are these reports necessary? Does Congress really need to force every Federal agency to keep a small army of bureaucrats on the payroll solely to satisfy its insatiable appetite for reports? I think the answer is clearly no, and I'm confident most people sincerely interested in reducing the size and cost of Government will agree.

While I firmly believe we should sunset most annual or semi-annual mandatory reporting requirements, I in no way wish to contend that there are not many reports required by Congress that are vitally important. The recurring flow of timely and accurate information from the executive branch to the Congress is essential to our oversight responsibilities as Members, and as a legislative body. However, I will strongly contend that the cumulative weight and cost of the reporting mandates we've enacted year after year has gotten totally out of hand.

The problem of foisting massive reporting requirements on Federal agencies is not only very real, it's extremely expensive. The Department of Agriculture alone spent over $40 million in taxpayers money in 1993 to produce the 280 reports it was required to submit to the Congress. That is astounding, Mr. President—$40 million in taxpayer dollars spent by a single department last year on reports mandated by the Congress. The Department of Agriculture isn't even the leader in this respect, however, because the Department of Defense has estimated that it must prepare 600 reports each year for Congress! At a time when our country is struggling to alleviate the burdens of the middle class and also address the urgent needs of our citizenry, this is an especially egregious waste of money.

Let's consider this startling cost of reports at the USDA in another context: the money the Congress forced the Department of Agriculture to fritter away on reporting mandates last year could have provided services to an additional 100,000 low-income women and children under the USDA's WIC program. Think about that, Mr. President; an additional 100,000 women and children could have been provided vital nutritional and health services with the funds the USDA had to spend researching and preparing hundreds of reports! That same $40 million could have enrolled another 10,000 disadvantaged children in Head Start, as well! Imagine what the cost to taxpayers was to produce the more than 5,300 reports that the Congress required of Federal agencies in 1993!

Furthermore, this problem is getting worse and worse with each passing year. The GAO stated that in 1970, the Congress mandated only 750 recurring reports from Federal agencies. Now we have spiralled well past 5,300, and the GAO determined that "Congress imposes about 300 new requirements on Federal agencies each year!" Clearly, Mr. President, the wasteful blizzard of paperwork that Vice President Gore criticized is becoming an avalanche, and it's time for the Senate to take decisive action to remedy it.

This legislation would terminate the statutory requirement for all annual or recurring congressionally-mandated reports four years after it is signed into law, with two specific exceptions. The reports to be exempted are those required under the Inspector Generals Act of 1978 and the Chief Financial Officers Act of 1990. The Inspector Generals Act requires the Congress to be advised of activities regarding investigations into waste, fraud, and abuse in Federal agencies; and the CFO Act requires agencies to provide financial information about their short and long-term management of agency resources.

I believe the reports required by these two laws are very important and merit continuation, and I also recognize that there are many other reports that my colleagues feel have great value because of the information they provide to Congress. Such reports can simply be reauthorized at any time in the 4 years before this legislation would sunset them.

I want to commend my colleague, Senator LEVIN, for his considerable contribution to this legislation. Senator LEVIN and his staff worked for months in developing a list of over 200 mandatory reports that should either be promptly eliminated or modified in order to lessen the burdens and costs that the Congress has placed on Federal agencies. The provisions of this bill that he developed will terminate the production of some of the most dubious examples of unnecessary paperwork shuffling by Federal agencies, and I thank him for his valuable work in this area. The combined impact of the legislation we are introducing today will certainly help remove the millstone of unnecessary and costly paperwork that Congress has hung around the neck of the Federal Government for too long.

Mr. President, I am very pleased that the chairman and ranking member of the Governmental Affairs Committee, Senator ROTH and Senator GLENN, respectively, are cosponsors of this legislation. I further want to thank both Senator ROTH and Senator GLENN for clearing this bill to be placed directly on the Senate Calendar upon introduction, so that no further action by the committee is necessary. I hope it will be passed by the full Senate in the near future.

Mr. LEVIN. Mr. President, I am pleased to introduce along with Senators MCCAIN, ROTH, GLENN, and COHEN the Federal Reports Elimination and Sunset Act of 1995, which eliminates and modifies over 200 outdated or unnecessary congressionally mandated reporting requirements and also places a sunset on those reports with an annual, semi-annual, or other regular periodic reporting requirement 4 years after the bill's enactment. The legislation is designed to improve the efficiency of agency operations by eliminating paperwork generated and staff time spent in producing unnecessary reports to Congress.

The legislation that we are introducing today is similar to the bill Senator COHEN and I introduced last year, and is the product of a thorough effort to identify those congressionally-mandated agency reporting requirements that have outlived their usefulness and now serve only as an unnecessary drain on agency resources—resources that could be devoted to more important program use. The Congressional Budget Office estimates that enactment of this legislation could result in savings of up to $5 to $10 million without even factoring in the savings from the sunset provision.

In 1985, when a previous Reports Elimination Act was passed, there were approximately 3,300 reporting requirements. The 1985 act affected only 23 of these reports. Today, there are over 5,300 reporting requirements. Some estimates of the annual cost of meeting these reporting requirements are as high as $240 million a year, and the GAO reports that Congress imposes close to 300 new requirements every year.

This bill is the product of an extensive process that started with recommendations from executive and independent agencies. Senator COHEN and I wrote to all 89 executive and independent agencies and asked that they identify reports required by law that they believe are no longer necessary or useful and, therefore, that could be eliminated or modified. We stressed the importance of a clear and substantiated justification for each recommendation made. We received responses from about 80 percent of the agencies. For the most part, the agencies made a serious effort to review and recommend a respectable number of reporting requirements for elimination.

We then went to the chairman and ranking member of each of the relevant Senate committees—for their review and comment—the recommendations made by the agencies under their respective jurisdictions. We also asked that the committees provide us with any additional recommendations for eliminations or modifications that they might have.

Many of the committees responded to the request. Those responses were generally supportive of the subcommittee's efforts and most contained only a few changes to the agency recommendations. Those changes were primarily requests by committees to retain reports under their jurisdiction because the information contained in the report is of use to the committee or, in some cases, of use to outside organizations.

After this extensive review and comment period, Senator COHEN and I introduced S. 2156, the Federal Reports Elimination and Modification Act, on May 25, 1994. As introduced, the bill contained nearly 300 recommendations for eliminations or modifications. Senators GLENN, ROTH, STEVENS, and MCCAIN cosponsored that bill. Shortly after the introduction of S. 2156, Senator COHEN and I again wrote to all the committees and asked for comments on the bill as introduced.

S. 2156 was unanimously approved by the Governmental Affairs Committee on August 2, 1994. Unfortunately, the Senate was unable to act on S. 2156 before the end of the 103d Congress. But I am more hopeful that both Houses of Congress will pass this very timely piece of legislation this year. In fact, in March 1995, the Senate agreed to include the language of this bill in the form of two separate amendments to the 1995 Paperwork Reduction Act, S. 244.

The amendments, however, were struck in conference. The chairman of the House Committee on Government Reform and Oversight agreed, however, to support similar legislation in a free-standing bill.

Under this bill, 157 reports will be eliminated and 61 will be modified. The legislation also includes a modified version of Senator MCCAIN's sunset provision which will facilitate Congress's review of these reports. Rather than undergoing the same lengthy process of assessing the usefulness of each and every reporting requirement on a periodic basis, the sunset provision will eliminate those reports with a annual, semi-annual, or regular periodic reporting requirement 4 years after the bill's enactment, while allowing Members of Congress to re-authorize those reports it deems necessary in carrying out effective congressional oversight. The sunset provision does not apply to any reports required under the Inspector General Act of 1978 or the Chief Financial Officers Act of 1990.

Because the Senate had already passed similar legislation earlier this year, we will be seeking to place the bill directly on the calendar for the Senate's immediate consideration.

The enactment of this legislation is long overdue. Congressional staffers are being inundated with reports that are never read and are simply dropped into file cabinets or wastebaskets, never to be seen again. We are introducing this bipartisan legislation in the hopes that Congress will act quickly to plug this drain on needed resources caused by unnecessary and extraneous reporting requirements.

Mr. COHEN. Mr. President, I am pleased to be an original cosponsor of S. 790, the Federal Reports Elimination and Sunset Act of 1995, legislation to eliminate or modify over 200 statutory reporting requirements that have outlived their usefulness and sunset many others.

Senators LEVIN, MCCAIN, and I offered the text of this bill as two separate amendments, which were accepted by the Senate, during the debate on the Paperwork Reduction Act earlier this year. Because of the concerns of House conferees that the House Committees had not had adequate time to review the various reports targeted for elimination or sunset, the amendments were dropped in conference. The House conferees assured us, however, that the House would act quickly to take up separate legislation combining the two amendments.

The issue of eliminating unnecessary government reporting requirements is an area that Senator LEVIN and I have worked on for a number of years in our capacity as chairman and ranking minority member of the Governmental Affairs Subcommittee on Oversight of Government Management. The text of the amendment that Senator LEVIN and I offered to the Paperwork Reduction Act was based on legislation we introduced last Congress which CBO estimated would reduce agencies' reporting costs by $5 million to $10 million annually. The legislation was the product of more than a year's worth of discussions with Government agencies and congressional committees.

An example of the type of report this legislation will eliminate is an annual Department of Energy report on naval petroleum and oil shale reserves production. The same data in this report is included in the Naval Petroleum Reserves Annual Report. Other provisions of the bill will consolidate information to reduce the number of reports required. For example, the Department of Labor's annual report will be modified to include the Department's audited financial statements and, thereby, eliminate the need for a separate annual report for all money received and disbursed by the Department. Finally, the bill will also eliminate reports that are simply no longer necessary—reports that were useful at the time they were required but stopped serving a useful purpose and were kept on the books because no one was looking closely enough at them.

The bill also sunsets in 4 years reports made on a regular basis. Under the bill, the sunset will not apply to reports triggered by specific events such as a report to Congress required under the War Powers Act as a result of certain actions. The sunset will also not apply to reporting requirements required by the Inspector General Act or the Chief Financial Officers Act. The sunset provision will force Congress to periodically review mandated reporting requirements and reauthorize those that are still serving a valid purpose. The sunset is based on legislation introduced by Senator MCCAIN and will save additional taxpayers' dollars.

In closing, I believe this legislation is a reasonable approach to eliminating unnecessary reporting requirements and it is consistent with efforts by the Congress to reinvent Government and make it more efficient. The legislation is intended to reduce the paperwork burdens placed on Federal agencies, streamline the information that flows from these agencies to the Congress, and save millions of taxpayers' dollars. I hope the congress will act expeditiously to pass this legislation.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. 791. A bill to provide that certain civil defense employees and employees of the Federal Emergency Management Agency may be eligible for certain public safety officers death benefits, and for other purposes; to the Committee on Governmental Affairs.

PUBLIC SAFETY OFFICERS BENEFITS ACT EXTENSION

• Mr. COCHRAN. Mr. President, today I am introducing legislation to extend coverage under the Public Safety Officers Benefits Act to employees of the Federal Emergency Management Agency [FEMA] and employees of State and local emergency management and civil defense agencies who are killed or disabled in the line of duty.

The Public Safety Officers Benefits Act provides benefits to eligible survivors of a public safety officer whose death is the direct result of a traumatic injury sustained in the line of duty. The act also provides benefits to those officers who are permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty.

The act now covers State and local law enforcement officers and fire fighters, Federal law enforcement officers and fire fighters, and Federal, State, and local rescue squads and ambulance crews. However, an employee of a State or local emergency management, or civil defense agency, or an employee of FEMA, who is killed or permanently disabled performing his or her duty in responding to a disaster is not covered under the act.

The legislation I am introducing today will remedy this situation by extending the act to those employees. This will ensure that the survivors and family members of an employee killed in the line of duty will receive benefits and that an employee permanently and totally disabled as a result of injury sustained in the line of duty will also receive the benefits of the act.

During his confirmation hearing in the last Congress, FEMA Director James Lee Witt said that emergency management and civil defense employees put their lives on the line almost every time they respond to an event. Enactment of this legislation will provide them with some assurance that, should death or disabling injury result from the performance of their duty, their families will receive survivor benefits or they will receive disability benefits.

I hope my colleagues will carefully consider this legislation and join me in support of its enactment.•

By Ms. MOSELEY-BRAUN (for herself, Mr. BURNS, and Mr. ROBB):

S. 792. A bill to recognize the National Education Technology Funding Corporation as a nonprofit corporation operating under the laws of the District of Columbia, to provide authority for Federal departments and agencies to provide assistance to such corporation, and for other purposes; to the Committee on Labor and Human Resources.

THE NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION ACT

Ms. MOSELEY-BRAUN. Mr. President, I introduce the National Education Technology Funding Corporation Act, legislation designed to connect public schools and public libraries to the information superhighway.

PUBLIC EDUCATION

Mr. President, if there is any objective that should command complete American consensus, it is to ensure that every American has a chance to succeed. That is the core concept of the American dream—the chance to achieve as much and to go as far as your ability and talent will take you. Public education has always been a part of that core concept. In this country, the chance to be educated has always gone hand in hand with the chance to succeed.

Yet, as I have stated time and time again, education is more than a private benefit, it is also a public good. My experiences as a legislator have shown me that the quality of public education affects the entire community. Education prepares our work force to compete in the emerging global economy. It increases our productivity and competitive advantages in world markets. It also promotes our economy and the standard and quality of living for our people.

TECHNOLOGY

Nonetheless, I am convinced that it will be difficult if not impossible for us to prepare our children to compete in the emerging global economy unless we change the current educational system. If American students are to compete successfully with their foreign counterparts, systemic school reform must occur. And that means taking into account and addressing all aspects of the educational system.

Mr. President, the increased competition created by the emerging global economy requires teachers and students to transform their traditional roles in many ways. It requires teachers to act as facilitators in the classroom, guiding student learning rather than prescribing it. It also requires students to construct their own knowledge, based on information and data they manipulate themselves.

Technology can help teachers and students play the new roles that are being required of them. Technology can help teachers report and chart student progress on a more individualized basis. It can also allow them to use resources from across the globe or across the street to create different learning environment for their students without ever leaving the classroom. On the other hand, technology can allow students to access the vast array of material available electronically and to engage in the analysis of real world problems and questions.

FIRST GAO REPORT

A recent report released by the General Accounting Office concluded that our Nation's education technology infrastructure is not designed or sufficiently equipped to allow our children to take advantage of the benefits technology offers.

Last year, I asked the General Accounting Office [GAO] to conduct a comprehensive, nationwide study of the condition of our Nation's public schools. In responding to my request, the General Accounting Office surveyed a random sample of our Nation's 15,000 school districts and 80,000 public schools from April to December 1994. Based on responses from 78 percent of the schools sampled, GAO began preparing five separate reports on the condition of our Nation's public schools.

The first GAO report, which was released on February 1, 1995, examined the education infrastructure needs for our Nation's public elementary and secondary schools. As expected, this report made clear what most of us already knew; that our schools are deteriorating and we need to fix them. More specifically, the GAO report concluded that our Nation's public schools need $112 billion to restore their facilities to good overall condition.

SECOND GAO REPORT

The most recent GAO report, which was released on April 4, 1995, concluded that more than half of our Nation's public schools lack six or more of the technology elements necessary to reform the way teachers teach and students learn including: computers, printers, modems, cable TV, laser disc players, VCR's, and TV's.

In fact, the GAO report found that more of our Nation's schools do not have the education technology infrastructure necessary to support these important audio, video, and data systems. For example, their report states that: 86.8 percent of all public schools lack fiber-optic cable; 46.1 percent lack sufficient electrical wiring; 34.6 percent lack sufficient electrical power for computers; 51.8 percent lack sufficient computer networks; 60.6 percent lack sufficient conduits and raceways; 61.2 percent lack sufficient phonelines for instructional use; and 55.5 percent lack sufficient phonelines for modems.

LOCAL PROPERTY TAXES

Mr. President, these results are simply unacceptable. There is absolutely no reason why, in 1995, all of our Nation's children should not have access to the best education technology resources in the world.

The most recent GAO report did find that students in some schools are taking advantage of the benefits associated with education technology. For example, advanced chemistry students at Centennial High School in Champaign, IL, are developing experiments that allow them to move parts of molecules on their computer screens in response to their own computer commands. In one simulation, students watch the orbitals of electrons in reaction to imposed actions. Another simulation demonstrates the ionization of atoms—how the size of atoms changes when ions are added or subtracted.

The bottom line, however, is that we are still failing to provide all of our Nation's children with education technology resources like those being provided at Centennial High School because the American system of public education has forced local school districts to maintain our Nation's education infrastructure primarily with local property taxes.

For a long time, local school districts were able to meet that responsibility. Local property taxes, however, are now all too often an inadequate source of funding for public education. What is even worse is that this financing mechanism makes the quality of public education all too dependent on local property value.

As a result, the second GAO report found that, on average, only 8 percent of local school bond proceeds were spent on computers and telecommunications equipment. That is, for the average $6.5 million bond issue, only $155,600, or 2 percent was provided for the purchase of computers and only $381,100, or 6 percent for the purchase of telecommunications equipment.

Yet, most States continue to force local school districts to rely increasingly on local property taxes for public education, in general, and for education technology, in particular. In Illinois, for example, the local share of public education funding increased from 48 percent during the 1980–81 school year to 58 percent during the 1992–93 school year, while the State share fell from 43 to 34 percent during this same period.

The Federal Government must also accept a share of the blame for failing to provide our Nation's children with environments conducive to learning. The Federal Government's share of public education funding has fallen from 9.1 percent during the 1980–81 school year to 5.6 percent during the 1993–94 school year.

GOALS 2000

Mr. President, Congress passed the goals 2000: Educate America Act which President Clinton signed into law on

March 31, 1994. I support this legislation because it promises to create a coherent, national framework for education reform founded on the national education goals. Nonetheless, I firmly believe that it is inherently unfair to expect our children to meet national performance standards if they do not have an equal opportunity to learn.

EDUCATION INFRASTRUCTURE ACT

That is why I introduced the Education Infrastructure Act last year. This legislation addresses the needs highlighted in the first GAO report by helping local school districts ensure the health and safety of students through the repair, renovation, alteration, and construction of school facilities. More specifically, this legislation authorizes the Secretary of Education to make grants to local school districts with at least a 15-percent child poverty rate and urgent repair, renovation, alteration, or construction needs.

INFORMATION SUPERHIGHWAY

Mr. President, President Clinton and Vice President Gore have taken leadership roles in addressing the needs highlighted in the most recent GAO report. On September 15, 1993, the information infrastructure task force created by the Vice President released its report—"National Information Infrastructure: Agenda for Action." This report urges the Federal Government to support the development of the information superhighway—the metaphor used to describe the evolving technology infrastructure that will link homes, businesses, schools, hospitals, and libraries to each other and to a vast array of electronic information resources.

On this same day, President Clinton issued Executive Order 12864 which created the National Information Infrastructure Advisory Council to facilitate private sector input in this area.

Mr. President, a substantial portion of the information superhighway already exists. Approximately 94 percent of American households have telephone service, 60 percent have cable, 30 percent have computers, and almost 100 percent have radio and television. Local and long-distance telephone companies are currently investing heavily in fiber-optic cables that will carry greater amounts of information; cable companies are increasing their capacity to provide new services; and new wireless personal communications systems are under development. One prototype, the Internet, connects approximately 15–20 million people worldwide.

FEDERAL SUPPORT

Nonetheless, the results of the second GAO report suggest to me that the Federal Government must do more to help build the education portion of the national information infrastructure. Federal support for the acquisition and use of technology in elementary and secondary schools is currently fragmented, coming from a diverse group of programs and departments. Although the full extent to which the Federal Government currently supports investments in education technology at the precollegiate level is not known, the Office of Technology Assessment estimated in its report—"Power On!"—that the programs administered by the Department of Education provided $208 million for education technology in 1988.

COST OF TECHNOLOGY

There is little doubt that substantial costs will accompany efforts to bring education technologies into public schools in any comprehensive fashion. In his written testimony before the House Telecommunications and Finance Subcommittee on September 30, 1994, Secretary of Education, Richard Riley, estimated that it will cost anywhere from $3 to $8 billion annually to build the education portion of the national information infrastructure. The Office of Technology Assessment has also estimated that the cost of bringing the students to computer ratio down to 3-to-1 would cost $4.2 billion a year for 6 years.

NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

Mr. President, three leaders in the areas of education and finance came together recently to help public schools and public libraries meet these costs. On April 4, John Danforth, former U.S. Senator from Missouri, Jim Murray, past president of Fannie Mae, and Dr. Mary Hatwood Futrell, past president of the National Education Association, created the National Education Technology Funding Corporation.

As outlined in its articles of incorporation, the National Education Technology Funding Corporation will stimulate public and private investment in our Nation's education technology infrastructure by providing loans, loan guarantees, grants, and other forms of assistance to States and local school districts.

LEGISLATION

I am introducing the National Education Technology Funding Corporation Act today to help provide the seed money necessary to get this exciting, new private sector initiative off the ground. Rather than promoting our Nation's education technology infrastructure by creating another Federal program, this legislation would simply authorize Federal departments and agencies to make grants to the NETFC.

The National Education Technology Funding Corporation Act would not create the NETFC or recognize it as an agency or establishment of the U.S. Government; it would only recognize its incorporation as a private, nonprofit organization by private citizens. However, since NETFC would be using public funds to connect public schools and public libraries to the information Superhighway, my legislation would require NETFC to submit itself and its grantees to appropriate congressional oversight procedures and annual audits.

This legislation will not infringe upon local control over public education in any way. Rather, it will supplement, augment, and assist local efforts to support education technology in the least intrusive way possible by helping local school districts build their own on-ramps to the Information Superhighway.

Senator BURNS and Senator ROBB have endorsed this bill, and it has been endorsed by the National Education Association, the National School Boards Association, the American Library Association, the Council for Education Development and Research, and Organizations Concerned About Rural Education [OCRE].

CONCLUSION

Mr. President, I would like to conclude my remarks by urging my colleagues to help connect public schools and public libraries to the Information Superhighway by quickly enacting the National Education Technology Funding Corporation Act into law.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Education Technology Funding Corporation Act of 1995".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) CORPORATION.—There has been established in the District of Columbia a private, nonprofit corporation known as the National Education Technology Funding Corporation which is not an agency or independent establishment of the Federal Government.

(2) BOARD OF DIRECTORS.—The Corporation is governed by a Board of Directors, as prescribed in the Corporation's articles of incorporation, consisting of 15 members, of which—

(A) five members are representative of public agencies representative of schools and public libraries;

(B) five members are representative of State government, including persons knowledgeable about State finance, technology and education; and

(C) five members are representative of the private sector, with expertise in network technology, finance and management.

(3) CORPORATE PURPOSES.—The purposes of the Corporation, as set forth in its articles of incorporation, are—

(A) to leverage resources and stimulate private investment in education technology infrastructure;

(B) to designate State education technology agencies to receive loans, grants or other forms of assistance from the Corporation;

(C) to establish criteria for encouraging States to—

(i) create, maintain, utilize and upgrade interactive high capacity networks capable of providing audio, visual and data communications for elementary schools, secondary schools and public libraries;

(ii) distribute resources to assure equitable aid to all elementary schools and secondary schools in the State and achieve universal access to network technology; and

(iii) upgrade the delivery and development of learning through innovative technology-based instructional tools and applications.

(D) to provide loans, grants and other forms of assistance to State education technology agencies, with due regard for providing a fair balance among types of school districts and public libraries assisted and the disparate needs of such districts and libraries;

(E) to leverage resources to provide maximum aid to elementary schools, secondary schools and public libraries; and

(F) to encourage the development of education telecommunications and information technologies through public-private ventures, by serving as a clearinghouse for information on new education technologies, and by providing technical assistance, including assistance to States, if needed, to establish State education technology agencies.

(b) PURPOSE.—The purpose of this Act is to recognize the Corporation as a nonprofit corporation operating under the laws of the District of Columbia, and to provide authority for Federal departments and agencies to provide assistance to the Corporation.

SEC. 3. DEFINITIONS.

For the purpose of this Act—

(1) The term "Corporation" means the National Education Technology Funding Corporation described in section 2(a)(1);

(2) the terms "elementary school" and "secondary school" have the same meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965; and

(3) the term "public library" has the same meaning given such term in section 3 of the Library Services and Construction Act.

SEC. 4. ASSISTANCE FOR EDUCATION TECHNOLOGY PURPOSES.

(a) AUTHORIZATION OF ASSISTANCE.—Each Federal department or agency is authorized to award grants or contracts, or provide gifts, contributions, or technical assistance, to the Corporation to enable the Corporation to carry out the corporate purposes described in section 2(a)(3).

(b) AGREEMENT.—In order to receive any assistance described in subsection (a) the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(1) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate purposes described in section 2(a)(3);

(2) to review the activities of State education technology agencies and other entities receiving assistance from the Corporation to assure that the corporate purposes described in section 2(a)(3) are carried out;

(3) that no part of the assets of the Corporation shall accrue to the benefit of any member of the Board of Directors of the Corporation, any officer or employee of the Corporation, or any other individual, except as salary or reasonable compensation for services;

(4) that the Board of Directors of the Corporation will adopt policies and procedures to prevent conflicts of interest;

(5) to maintain a Board of Directors of the Corporation consistent with section 2(a)(2);

(6) that the Corporation, and any entity receiving the assistance from the Corporation, are subject to the appropriate oversight procedures of the Congress; and

(7) to comply with—

(A) the audit requirements described in section 5; and

(B) the reporting and testimony requirements described in section 6.

(c) CONSTRUCTION.—Nothing in this Act shall be construed to establish the Corporation as an agency or independent establishment of the Federal Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the Federal Government.

SEC. 5. AUDITS.

(a) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(1) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants who are members of a nationally recognized accounting firm and who are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) REPORTING REQUIREMENTS.—The report of each annual audit described in paragraph (1) shall be included in the annual report required by section 6(a).

(b) AUDITS BY THE COMPTROLLER GENERAL OF THE UNITED STATES.—

(1) AUDITS.—The programs, activities and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the Comptroller General shall have access to such books, accounts, financial records, reports, files and such other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit, and the representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. The representatives of the Comptroller General shall have access, upon request to the Corporation or any auditor for an audit of the Corporation under this section, to any books, financial records, reports, files or other papers, things, or property belonging to or in use by the Corporation and used in any such audit and to papers, records, files, and reports of the auditor used in such an audit.

(2) REPORT.—A report on each audit described in paragraph (1) shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the financial operations and condition of the Corporation, together with such recommendations as the Comptroller General may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed or reviewed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made contrary to the requirements of this Act. A copy of each such report shall be furnished to the President and to the Corporation at the time such report is submitted to the Congress.

(c) AUDIT BY INSPECTOR GENERAL OF THE DEPARTMENT OF COMMERCE.—The financial transactions of the Corporation may also be audited by the Inspector General of the Department of Commerce under the same conditions set forth in subsection (b) for audits by the Comptroller General of the United States.

(d) RECORDKEEPING REQUIREMENTS; AUDIT AND EXAMINATION OF BOOKS.—

(1) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to fully disclose—

(i) the amount and the disposition by such recipient of the proceeds of such assistance;

(ii) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(iii) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit.

(2) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance. Representatives of the Comptroller General shall also have such access for such purpose.

SEC. 6. ANNUAL REPORT; TESTIMONY TO THE CONGRESS.

(a) ANNUAL REPORT.—Not later than April 30 of each year, the Corporation shall publish an annual report for the preceding fiscal year and submit that report to the President and the Congress. The report shall include a comprehensive and detailed evaluation of the Corporation's operations, activities, financial condition, and accomplishments under this Act and may include such recommendations as the Corporation deems appropriate.

(b) TESTIMONY BEFORE CONGRESS.—The members of the Board of Directors, and officers, of the Corporation shall be available to testify before appropriate committees of the Congress with respect to the report described in subsection (a), the report of any audit made by the Comptroller General pursuant to this Act, or any other matter which any such committee may determine appropriate.

Mr. ROBB. Mr. President, I rise today in support of the legislation introduced by my colleague from Illinois. I applaud her for her vision and persistence in looking out for our Nation's most precious resource—our children, and I am pleased to join Senator MOSELY-BRAUN as an original cosponsor of the National Education Technology Funding Corporation Act.

During committee consideration of the telecommunications bill last year, I offered related legislation to ensure that every school and classroom in the United States has access to telecommunications and information technologies. I proposed an educational telecommunications and technology fund to support elementary and secondary school access to the information superhighway. Regrettably, last year's telecommunications bill was not taken up by the full Senate before adjournment.

The new telecommunications bill that recently passed the Commerce Committee has a provision, introduced by Senators SNOWE, ROCKEFELLER, and BOB KERREY, to make advanced telecommunications more affordable for schools. Specifically, the provision allows elementary and secondary schools, as well as libraries, to receive telecommunications services at affordable monthly rates. Currently, schools all over the country, including those in my own State of Virginia, are forced to pay business rates for access to the information superhighway. That means that schools are subsidizing residential customers.

Even with affordable monthly rates, many schools have limited or no technological infrastructure. They lack modern electrical wiring, a sufficient number of plugs, and access to wired or wireless technology that would allow them internal networking capabilities or connections to the Internet. The absence of this infrastructure leaves these schools without a technological on-ramp to the information superhighway. As a result, American children are left by the wayside.

This is where the National Education Technology Funding Corporation can play a critical role. We need a single efficient, expert entity that State and local authorities can approach for funding so they can join the Internet, participate in distance learning, investigate interactive computer learning, or explore other innovative technologies.

A private non-profit is a logical link between the public and commercial sectors. It is often difficult for schools to identify where to go to request Federal funding for new technologies, or where to go simply to learn more about technology applications for schools. Also, there is much more than can be done to promote the use of technologies in schools and to encourage private investments and standards. I can think of no better way to meet all of these needs than a private corporation run by a board that includes representatives from States, from public schools and libraries, and from the private sector.

Many opponents of Federal efforts to improve educational technologies claim that the private stock will have adequate incentives to assist schools with educational technologies. Just leave it to the private sector, they argue. This is a very shortsighted viewpoint.

There is no question that the private sector is doing great things for America's schools—and libraries—in the area of educational technologies. Computers and software are frequently donated by private firms. Internet access is provided in some areas. Several weeks ago I visited Arlington County Central Library, just a few miles from here, which MCI had made a generous grant to the library to install public Internet workstations. As a result, this library will be one of the first public locations in northern Virginia to offer Internet access. More recently, my staff visited Chantilly High School in Fairfax County to witness a state-of-the-art Internet lab made possible by assistance from the cable company, Media General. These are important private sector initiatives that will hopefully be duplicated time and time again across the nation.

But there are problems with a let the free market reign approach. First, wealthier schools will receive a disproportionate benefit. Wealthier schools can afford advanced educational technologies. Corporations are more likely to provide equipment and internet access to schools that have already invested in related technologies. Corporations are more likely to offer services in urban or suburban areas that have good telecommunications infrastructures. Yet the rural schools gain the most from internet access, distance-learning, and a host of other educational technologies. It is rural schools that are in danger of rapidly losing ground to those schools with access to the new technologies. We have to put an end to the ever-growing bifurcation of our educational system. As set forth in this bill, the corporation would encourage equitable technology funding to all elementary and secondary schools.

The second problem is commonality. Although we don't want to constrain educational technology development by mandating Government standards, we don't want to create a smorgasbord of technologies that can't communicate with each other and can't be shared across school systems. The proposed corporation could play an invaluable role in making sure school technology efforts nationwide are not wasteful, incompatible, or duplicative.

The third problem is time. The technologies are here today. It is a relatively straightforward process to make an internet connection or to establish a video link or to learn the highly effective software now available for education. We shouldn't rely solely on the timetables of the private sector to field the technologies that exist today for preparing our children for the next century. The Educational Technology Corporation would play a key role in promoting the use of technologies in education, and could significantly accelerate their introduction into America's schools.

For those of our colleagues that have any doubts about the value of new educational technologies, I challenge them to sit down on a computer with internet access, and surf. They'll be visiting the largest, most up-to-date, and fastest-growing library in the world. You can chat with experts from across the globe. You can set up a video link with teachers at distant schools, using a small camera costing as little as $100. You can share data or results in a joint research effort spanning continents. You can take an electronic tour of the White House, or visit the so-called webb-site of a Member of Congress. You can even see images or molecules or galaxies. The possibilities are endless.

In discussions with school administrators, it becomes clear that students are fascinated by the internet and other educational technologies. Students that might otherwise be indifferent are eagerly pursuing new subjects and sharing their new-found knowledge with the global community of students. Simply put, the child with access will be at a distinct advantage and better prepared for future employment. We simply cannot afford to let our school systems slip behind those of our leading competitors when the technology is at our fingertips—a technology pioneered here in the United States. Mr. President, I urge my colleagues to support the most cost-effective education we can offer our Nation's children. I urge my colleagues to cosponsor the National Education Technology Funding Corporation Act.

By Mr. SIMPSON (for himself, Mr. MOYNIHAN, and Mr. KYL):

S. 793. A bill to amend the Internal Revenue Code of 1986 to provide an exemption from income tax for certain common investment funds; to the Committee on Finance.

COMMON FUND LEGISLATION

Mr. SIMPSON. Mr. President, I rise today to join my good friends, Senator DANIEL PATRICK MOYNIHAN and Senator JON KYL, in introducing a bill to permit private and community foundations to pool investment assets into a "common fund" or cooperative organization. This legislation was twice passed by the Senate in 1992 as part of the comprehensive tax legislation ultimately vetoed by the President.

This bill would extend to foundations the same "common fund" model which has proven so successful for colleges and universities. The university common fund now manages over $10 billion—with more than 900 educational institutions participating.

Once established, a common fund for foundations would allow smaller foundations to increase their total return on investment and significantly reduce investment management fees by taking advantage of economies of scale. Both results have the same bottom line: Increased assets and income will then be available for private and community foundation grants to charitable groups.

Studies disclose that total investment returns earned by smaller foundations lag substantially behind those of many larger foundations. One major reason for this difference is that many of the best professional investment manages demand that new accounts to meet certain minimum size requirements. Smaller foundations often do not meet the minimum size.

Second, since management investment fees are based on percentages that decline as the size of the account increases, smaller foundations are less able to take advantage of economies of scale and cannot benefit from lower fee levels.

This bill would permit foundations to "band together" for investment purposes by providing tax-exempt status to common funds handling foundation investments. This would thus give foundation common funds the same tax treatment as educational institution common funds.

I feel this is a most appropriate response to a vexing problem. I urge your support.

By Mr. LUGAR (for himself, Mr. INOUYE, Mr. SANTORUM, Mr. CRAIG, Mr. COHEN, Mr. MACK, Mr. PRESSLER, Mr. BURNS, Mr. KERREY, Mr. GRAHAM, Mr. COATS, Mr. GORTON, Mr. PACKWOOD, Mr. CAMPBELL, Mr. DORGAN, Mr. MCCONNELL, Mr. THURMOND, Mr. DOLE, Mr. JEFFORDS, Mr. HELMS, Mr. BOND, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. HOLLINGS, Mr. JOHNSTON, Mr. INHOFE, Mr. ABRAHAM, Mrs. MURRAY, Ms. SNOWE, Mrs. FEINSTEIN, Mr. HATCH, Mr. NICKLES, Mr. HATFIELD, Mr. KEMPTHORNE, Mr. SPECTER, Mr. COCHRAN, Mr. PRYOR, Mr. DASCHLE, Mr. HEFLIN, Mr. COVERDELL, Mr. LOTT, and Mr. CONRAD):

S. 794. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to facilitate the minor use of a pesticide, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE MINOR USE CROP PROTECTION ACT OF 1995

• Mr. LUGAR. Mr. President, I am pleased to introduce today the Minor Use Crop Protection Act of 1995 to help ensure the availability of minor use pesticides for farmers and an abundant and varied food supply for our Nation.

This legislation has gained broad bipartisan support as evidenced by the 41 Senators who have joined as original cosponsors. This strong show of support will help us move swiftly toward enactment of this bill.

Minor use pesticides are generally used on relatively small acreage or for regional pest or disease problems. Manufacturers incur a significant cost to develop scientific data to register or reregister these products and yet face a limited market potential once the pesticide is approved for use. Therefore, Minor use pesticides are not being supported or are being voluntarily canceled for economic, not safety reasons.

This situation has been exacerbated by the Environmental Protection Agency's pesticide reregistration requirements. A law enacted in 1988 required that all pesticides, and their uses, registered before November 1984, be reregistered.

Loss of minor use pesticides could cause substantial production problems for many fruit, vegetable, and ornamental crops. Farmers also fear that loss of minor use pesticides will put them at a competitive disadvantage with foreign producers who would still have access to the pesticides.

While this is an important industry, fruits and vegetables have also taken on a more important role in the diet of Americans. Health experts recommend increased consumption of fruits and vegetables. A reduction in the availability of these foods or an increased cost due to less production would have a disproportionate impact on the health of low income Americans, who spend a greater amount of their disposable income on food.

The bill offers several incentives for manufacturers to maintain and develop new safe and effective pesticides for minor uses without compromising food safety or adversely affecting the environment.

Here are some examples where this bill would have a positive impact. Last year fire blight posed a serious threat to apple and pear production in Washington State. This bill would help to encourage registration of new products to control fire blight. Exports are also impacted by this pest. Japan restricts the entry of apples from areas near those where fire blight occurs. Last year half of the acreage in the State initially eligible for exports was later denied due to fire blight.

In my home State of Indiana, alternatives are needed for Dimethenamid used for weed control for strawberries. The manufacturer has not reregistered this product for this use due to economic reasons. Obviously, Indiana is not a large strawberry producing State. However, strawberry growers there still do need products to control Lambsquarters and Johnsongrass which can lower yields and in some cases reduce quality.

In California, sodium orthophenolphenate [OPP] has been used for decay control in citrus packinghouses. OPP is used in very small amounts and the manufacturers will not be supporting this use since the costs of reregistration outweigh the annual sales volume. This bill could help provide funding for additional studies required for reregistration if growers wanted to band together to continue this use and would also help encourage the development of additional alternative minor use products.

This is an important issue for our Nation's farmers and consumers. I pledge timely consideration of this bill within the Senate Agriculture Committee. I urge my colleagues to join me in cosponsorship and support of this needed legislation.

I ask unanimous consent that the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Minor Use Crop Protection Act of 1995".

(b) REFERENCES TO FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

SEC. 2. DEFINITION OF MINOR USE.

Section 2 (7 U.S.C. 136) is amended by adding at the end the following:

"(hh) MINOR USE.—The term 'minor use' means the use of a pesticide on an animal, on a commercial agricultural crop or site, or for the protection of public health if—

"(1)(A) in the case of the use of the pesticide on a commercial agricultural crop or site, the total quantity of acreage devoted to the crop in the United States is less than 300,000 acres; or

"(B) the Administrator, in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant—

"(i) the use does not provide a sufficient economic incentive to support the initial registration or continuing registration of a pesticide for the use; and

"(ii)(I) there are not a sufficient number of efficacious alternative registered pesticides available for the use; or

"(II) any 1 of the alternatives to the pesticide pose a greater risk to the environment or human health than the pesticide; or

"(III) the pesticide plays, or will play, a significant part in managing pest resistance; or

"(IV) the pesticide plays, or will play, a significant part in an integrated pest management program; and

"(2) the Administrator does not determine that, based on data existing on the date of the determination, the use may cause unreasonable adverse effects on the environment.".

SEC. 3. EXCLUSIVE USE OF MINOR USE PESTICIDES.

Section 3(c)(1)(F)(i) (7 U.S.C. 136a(c)(1)(F)(i)) is amended—

(1) by striking "(i) With respect" and inserting "(i)(I) With respect";

(2) by striking "a period of ten years following the date the Administrator first registers the pesticide" and inserting "the exclusive data use period determined under subclause (II)"; and

(3) by adding at the end the following:

"(II) Except as provided in subclauses (III) and (IV), the exclusive data use period under subclause (I) shall be 10 years beginning on the date the Administrator first registers the pesticide.

"(III) Subject to subclauses (IV), (V), and (VI), the exclusive data use period under subclause (II) shall be extended 1 year for each 3 minor uses registered after the date of enactment of this subclause and before the date that is 10 years after the date the Administrator first registers the pesticide, if the Administrator in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant—

"(aa) there are not a sufficient number of efficacious alternative registered pesticides available for the use; or

"(bb) any 1 of the alternatives to the pesticide pose a greater risk to the environment or human health than the pesticide; or

"(cc) the pesticide plays, or will play, a significant part in managing pest resistance; or

"(dd) the pesticide plays, or will play, a significant part in an integrated pest management program.

"(IV) Notwithstanding subclause (III), the exclusive data use period established under this clause may not exceed 13 years.

"(V) For purposes of subclause (III), the registration of a pesticide for a minor use on a crop grouping established by the Administrator shall be considered 1 minor use for each representative crop for which data are provided in the crop grouping.

"(VI) An extension under subclause (III) shall be reduced or terminated if the applicant for registration or the registrant voluntarily cancels the pesticide or deletes from the registration a minor use that formed the basis for the extension, or if the Administrator determines that the applicant or registrant is not actually marketing the pesticide for a minor use that formed the basis for the extension.".

SEC. 4. TIME EXTENSIONS FOR DEVELOPMENT OF MINOR USE DATA.

(a) In General.—Section 3 (7 U.S.C. 136a) is amended by adding at the end the following:

"(g) Time Extension for Development of Minor Use Data.—

"(1) Supported use.—In the case of a minor use, the Administrator shall, on the request of a registrant and subject to paragraph (3), extend the time for the production of residue chemistry data under subsection (c)(2)(B) and subsections (d)(4), (e)(2), and (f)(2) of section 4 for data required solely to support the minor use until the final date under section 4 for submitting data on any other use established not later than the date of enactment of this subsection.

"(2) Nonsupported use.—

"(A) If a registrant does not commit to support a minor use of a pesticide, the Administrator shall, on the request of the registrant and subject to paragraph (3), extend the time for taking any action under subsection (c)(2)(B) or subsection (d)(6), (e)(3)(A), or (f)(3) of section 4 regarding the minor use until the final date under section 4 for submitting data on any other use established not later than the date of enactment of this subsection.

"(B) On receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date on which the uses not being supported will be deleted from the registration under section 6(f)(1).

"(3) Conditions.—Paragraphs (1) and (2) shall apply only if—

"(A) the registrant commits to support and provide data for—

"(i) any use of the pesticide on a food; or

"(ii) any other use, if all uses of the pesticide are for uses other than food;

"(B)(i) the registrant provides a schedule for producing the data referred to in subparagraph (A) with the request for an extension;

"(ii) the schedule includes interim dates for measuring progress; and

"(iii) the Administrator determines that the registrant is able to produce the data referred to in subparagraph (A) before a final date established by the Administrator;

"(C) the Administrator determines that the extension would not significantly delay issuance of a determination of eligibility for reregistration under section 4; and

"(D) the Administrator determines that, based on data existing on the date of the determination, the extension would not significantly increase the risk of unreasonable adverse effects on the environment.

"(4) Monitoring.—If the Administrator grants an extension under paragraph (1) or (2), the Administrator shall—

"(A) monitor the development of any data the registrant committed to under paragraph (3)(A); and

"(B) ensure that the registrant is meeting the schedule provided under paragraph (3)(B) for producing the data.

"(5) Noncompliance.—If the Administrator determines that a registrant is not meeting a schedule provided by the registrant under paragraph (3)(B), the Administrator may—

"(A) revoke any extension to which the schedule applies; and

"(B) proceed in accordance with subsection (c)(2)(B)(iv).

"(6) Modification or revocation.—The Administrator may modify or revoke an extension under this subsection if the Administrator determines that the extension could cause unreasonable adverse effects on the environment. If the Administrator modifies or revokes an extension under this paragraph, the Administrator shall provide written notice to the registrant of the modification or revocation.".

(b) Conforming Amendments.—

(1) Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B)) is amended by adding at the end the following:

"(vi) Subsection (g) shall apply to this subparagraph.".

(2) Subsections (d)(4), (e)(2), and (f)(2) of section 4 (7 U.S.C. 136a–1) are each amended by adding at the end the following:

"(C) Section 3(g) shall apply to this paragraph.".

(3) Subsections (d)(6) and (f)(3) of section 4 (7 U.S.C. 136a–1) are each amended by striking "The Administrator shall" and inserting "Subject to section 3(g), the Administrator shall".

(4) Section 4(e)(3)(A) (7 U.S.C. 136a–1(e)(3)(A)) is amended by striking "If the registrant" and inserting "Subject to section 3(g), if the registrant".

SEC. 5. MINOR USE WAIVER.

Section 3(c)(2) (7 U.S.C. 136a(c)(2)) is amended by adding at the end the following:

"(E) In the case of the registration of a pesticide for a minor use, the Administrator may waive otherwise applicable data requirements if the Administrator determines that the absence of the data will not prevent the Administrator from determining—

"(i) the incremental risk presented by the minor use of the pesticide; and

"(ii) whether the minor use of the pesticide would have unreasonable adverse effects on the environment.".

SEC. 6. EXPEDITING MINOR USE REGISTRATIONS.

Section 3(c)(3) (7 U.S.C. 136a(c)(3)) is amended by adding at the end the following:

"(C)(i) As expeditiously as practicable after receipt, the Administrator shall review and act on a complete application that—

"(I) proposes the initial registration of a new pesticide active ingredient, if the active ingredient is proposed to be registered solely for a minor use, or proposes a registration amendment to an existing registration solely for a minor use; or

"(II) for a registration or a registration amendment, proposes a significant minor use.

"(ii) As used in clause (i):

"(I) The term 'as expeditiously as practicable' means the Administrator shall, to the greatest extent practicable, complete a review and evaluation of all data submitted with the application not later than 1 year after submission of the application.

"(II) The term 'significant minor use' means—

"(aa) 3 or more proposed minor uses for each proposed use that is not minor;

"(bb) a minor use that the Administrator determines could replace a use that was canceled not earlier than 5 years preceding the receipt of the application; or

"(cc) a minor use that the Administrator determines would avoid the reissuance of an emergency exemption under section 18 for the minor use.

"(iii) Review and action on an application under clause (i) shall not be subject to judicial review.

"(D) On receipt by the registrant of a denial of a request to waive a data requirement under paragraph (2)(E), the registrant shall have the full time period originally established by the Administrator for submission of the data, beginning on the date of receipt by the registrant of the denial.".

SEC. 7. UTILIZATION OF DATA FOR VOLUNTARILY CANCELED CHEMICALS.

Section 6(f) (7 U.S.C. 136d) is amended by adding the following:

"(4) Utilization of data for voluntarily canceled chemicals.—The Administrator shall process, review, and evaluate the application for a voluntarily canceled pesticide as if the registrant had not canceled the registration, if—

"(A) another application is pending on the effective date of the voluntary cancellation for the registration of a pesticide that is—

"(i) for a minor use;

"(ii) identical or substantially similar to the canceled pesticide; and

"(iii) for an identical or substantially similar use as the canceled pesticide;

"(B) the Administrator determines that the minor use will not cause unreasonable adverse effects on the environment; and

"(C) the applicant certifies that the applicant will satisfy any outstanding data requirement necessary to support the reregistration of the pesticide, in accordance with any data submission schedule established by the Administrator.".

SEC. 8. MINOR USE PROGRAMS.

The Act is amended—

(1) by redesignating sections 30 and 31 (7 U.S.C. 136x and 136y) as sections 33 and 34, respectively; and

(2) by inserting after section 29 (7 U.S.C. 136w-4) the following:

"SEC. 30. ENVIRONMENTAL PROTECTION AGENCY MINOR USE PROGRAM.

"(a) ESTABLISHMENT.—The Administrator shall establish a minor use program in the Office of Pesticide Programs.

"(b) RESPONSIBILITIES.—In carrying out the program established under subsection (a), the Administrator shall—

"(1) coordinate the development of minor use programs and policies; and

"(2) consult with growers regarding a minor use issue, registration, or amendment that is submitted to the Environmental Protection Agency.

"SEC. 31. DEPARTMENT OF AGRICULTURE MINOR USE PROGRAM.

"(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a minor use program.

"(b) RESPONSIBILITIES.—In carrying out the program established under subsection (a), the Secretary shall coordinate the responsibilities of the Department of Agriculture related to the minor use of a pesticide, including—

"(1) carrying out the Inter-Regional Research Project Number 4 established under section 2(e) of Public Law 89-106 (7 U.S.C. 450i(e));

"(2) carrying out the national pesticide resistance monitoring program established under section 1651(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5882(d));

"(3) supporting integrated pest management research;

"(4) consulting with growers to develop data for minor uses; and

"(5) providing assistance for minor use registrations, tolerances, and reregistrations with the Environmental Protection Agency.

"SEC. 32. MINOR USE MATCHING FUND PROGRAM.

"(a) ESTABLISHMENT.—The Secretary of Agriculture, in consultation with the Administrator, shall establish and administer a minor use matching fund program.

"(b) RESPONSIBILITIES.—In carrying out the program, the Secretary shall—

"(1) ensure the continued availability of minor use pesticides; and

"(2) develop data to support minor use pesticide registrations and reregistrations.

"(c) ELIGIBILITY.—Any person that desires to develop data to support a minor use registration shall be eligible to participate in the program.

"(d) PRIORITY.—In carrying out the program, the Secretary shall provide a priority for funding to a person that does not directly receive funds from the sale of a product registered for a minor use.

"(e) MATCHING FUNDS.—To be eligible for funds under the program, a person shall match the amount of funds provided under the program with an equal amount of non-Federal funds.

"(f) OWNERSHIP OF DATA.—Any data developed through the program shall be jointly owned by the Department of Agriculture and the person that receives funds under this section.

"(g) STATEMENT.—Any data developed under this subsection shall be submitted in a statement that complies with section 3(c)(1)(F).

"(h) COMPENSATION.—Any compensation received by the Department of Agriculture for the use of data developed under this section shall be placed in a revolving fund. The fund shall be used, subject to appropriations, to carry out the program.

"(i) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each fiscal year.".

SEC. 9. CONFORMING AMENDMENTS TO FIFRA TABLE OF CONTENTS.

The table of contents in section 1(b) (7 U.S.C. prec. 121) is amended—

(1) by adding at the end of the items relating to section 2 the following new item:

"(hh) Minor use.";

(2) by adding at the end of the items relating to section 3 the following new items:

"(g) Time extension for development of minor use data.
"(1) Supported data.
"(2) Nonsupported data.
"(3) Conditions.
"(4) Monitoring.
"(5) Noncompliance.
"(6) Modification or revocation.";

(3) by adding at the end of the items relating to section 6(f) the following new item:

"(4) Utilization of data for voluntarily canceled chemicals.";

and

(4) by striking the items relating to sections 30 and 31 and inserting the following new items:

"Sec. 30. Environmental Protection Agency minor use program.
"(a) Establishment.
"(b) Responsibilities.
"Sec. 31. Department of Agriculture minor use program.
"(a) Establishment.
"(b) Responsibilities.
"Sec. 32. Minor use matching fund program.
"(a) Establishment.
"(b) Responsibilities.
"(c) Eligibility.
"(d) Priority.
"(e) Matching funds.
"(f) Ownership of data.
"(g) Statement.
"(h) Compensation.
"(i) Authorization for appropriations.
"Sec. 33. Severability.
"Sec. 34. Authorization for appropriations.".●

SUMMARY—MINOR USE CROP PROTECTION ACT OF 1995

Establishes a minor use definition. The use of a pesticide on an animal, or on a commercial agricultural crop or site, or for the protection of public health could qualify as a minor use if the total acreage of the crop is less than 300,000 acres or if the use does not provide sufficient economic incentive to the manufacturer to support its registration and it meets one of four "public interest" criteria. The four public interest criteria are that there are insufficient efficacious alternatives available for the use, or the alternatives pose a greater risk to the environment or human health, or the pesticide can help manage pest resistance problems or the pesticide would be part of an integrated pest management program.

The current 10 year exclusive use protection for registrants of new chemicals could be extended one year for each three minor uses which a manufacturer registers, up to a maximum of three additional years for nine or more minor uses registered by EPA. In order to receive the extension, new minor uses must be approved before the end of the original exclusive use period. One of the above four "public interest" criteria must also be met. Exclusive use is subject to review by EPA to ensure that new minor uses are being marketed.

The time necessary for the development of residue chemistry data for a minor use could be extended until the final study due date for data necessary to support the other registered uses being maintained by the registrant.

EPA may waive minor use data requirements in certain circumstances where EPA can otherwise determine the risk presented by the minor use and such risk is not unreasonable.

EPA is to review and act on minor use registration applications within 1 year if the active ingredient is to be registered solely for a minor use, or if there are three or more minor uses proposed for every non-minor use, or if the minor use would serve as a replacement for any use that has been canceled within 5 years of the application or if the approval of the minor use would avoid the reissuance of an emergency exemption.

If a minor use waiver of data requirements is submitted to EPA and subsequently denied, the registrant would be given the full time period for supplying the data to EPA.

As a transition measure, the effective date of the voluntary cancellation of minor uses by a registrant could coincide with the due date of the final study required in the reregistration process for those uses being supported by the registrant.

EPA can consider data from a pesticide which has been voluntarily canceled in support of another minor use registration that is identical or similar and for a similar use. The new registration must be submitted before the voluntary cancellation occurs. Any additional data needed would have to be supplied by the new applicant.

A minor use program within EPA's Office of Pesticide Programs would be established.

A minor use program within USDA would be established. This would include a minor use matching fund for the development of scientific data to support minor uses.

By Mr. BOND (for himself and Mr. ASHCROFT):

S. 796. A bill to provide for the protection of wild horses within the Ozark National Scenic Riverways, Missouri, and prohibit the removal of such horses, and for other purposes; to the Committee on Energy and Natural Resources.

OZARK WILD HORSE PROTECTION ACT

Mr. BOND. Mr. President, today I am joined by Senator ASHCROFT in introducing the Ozark Wild Horse Protection Act. Since 1990, the citizens in southeast Missouri have been engaged in a struggle with the Department of the Interior's National Park Service [NPS] to prevent a group of about 30 feral horses from being rounded up by the Government and relocated or slaughtered. On behalf of these Missouri citizens who have fought to protect these horses, Congressman BILL EMERSON has tirelessly led the fight to stop this action.

This legislation I introduce today is companion legislation to H.R. 238, introduced in the House by Congressman EMERSON on January 4, 1995. It prohibits the removal or assistance in the removal of, any free-roaming horses from the Ozark National Scenic Riverways [ONSR], except in the case of medical emergency or natural disaster.

Mr. President, unfortunately, this is yet another case where the bureaucrats think they know best and have blatantly disregarded the perspective, suggestions, and views of the local citizens. St. Louis, MO, conservationist and landowner Leo Drey noted that these horses were in the park long before the NPS and "The horses probably spend more time loafing on our land than they do on the riverways. There's only a few of them and they don't congregate to the extent they do any serious trampling or damage."

A Missouri citizens' group called the Missouri Wild Horse League, which is based in Eminence, MO, was created several years ago to protect the horses from the National Park Service. This group has roughly 3,000 members. Mr. President, that membership is more than six times the number of citizens who live in the league's headquarters city of Eminence, MO.

It has been the contention of the NPS that the 30 horses that roam the 71,000-acre site should be removed because their presence is in conflict with the management policies of the NPS and their activities threaten plant communities. We are talking about a site almost two times the size of the District of Columbia where the 30 horses roam. I suggest that the NPS would be hard-pressed to even find the horses on roundup day.

In 1990, to prevent removal of a part of this area's heritage that the National Park Service is charged to preserve, 1,000 local citizens signed a petition to keep the wild horses in the ONSR. That same year, the Missouri Senate unanimously passed a resolution objecting to the removal of the horses. Still, the NPS ignored the importance of this local treasure to the people in this area.

Subsequently, citizens in Missouri filed suit and, in June of 1990, U.S. District Judge Stephen Limbaugh issued an injunction. The NPS would still not yield, appealing the ruling. They would not concede in their fight to impose the Federal Government's will on the public, notwithstanding the views of the local citizens, notwithstanding the views of the Missouri Senate, notwithstanding the views of Missouri representatives in Congress, and notwithstanding the decision of a U.S. district court judge. The NPS prevailed in the higher courts. That is why it is urgently needed for the Congress to intervene and prevent this Government-managed horse rustling.

At the request of Congressman EMERSON, former ONSR Superintendent Sullivan agreed to delay any roundup until there is opportunity to address this issue in the 104th Congress. While I appreciate this one concession on the part of the former superintendent, I find it inconceivable that the intransigence of former Superintendent Sullivan has brought this issue before the Secretary of the Interior, the U.S. Supreme Court, and now before the U.S. Congress. It is rare to find Federal field personnel as out of touch and acting with total disregard for local sentiment—that is typically reserved for their bosses in Washington.

Unfortunately, it is this form of raw arrogance that has the Federal Government in such low standing with the American citizens—the notion that it is the olympians on the hill who know what's best for the peasants in the valley. At this juncture, I believe Congress has no other alternative but to pursue this matter as expeditiously as possible. The National Parks Subcommittee of the House Committee on Resources is scheduled to hold a hearing on May 18 to consider H.R. 238.

I congratulate Congressman EMERSON for keeping up the heat on this issue. Had he not, I expect the horses would already be gone. And, I fear that if we cannot expedite action on this bill, they will be gone.

By Mr. KENNEDY:

S. 797. A bill to provide assistance to States and local communities to improve adult education and family literacy, to help achieve the national education goals for all citizens, and for other purposes; to the Committee on Labor and Human Resources.

ADULT EDUCATION AND FAMILY LITERACY REFORM ACT

Mr. KENNEDY. Mr. President, today I am introducing, on behalf of the Clinton administration, the Adult Education and Family Literacy Reform Act of 1995. This measure will reform and improve literacy services for adults and families.

As the 1993 National Adult Literacy Survey showed, 20 percent of adults perform at or below the fifth-grade level in reading and math—far below the level needed for effective participation in the work force. And because parents' educational level is a strong predictor of children's academic success, the problem seriously affects children as well as adults.

Despite the clear need for better literacy services for adults, the current Federal program serves only a small percentage of those who need assistance. While many adults benefit from participation in the program, many others leave before they achieve any significant improvement in literacy.

Current adult education and family literacy programs are too diffuse. They divert human and financial resources from what should be the focus of all Federal literacy efforts—the provision of high-quality, results-oriented services.

The problem of illiteracy presents the country with a number of serious challenges ranging from the way men and women function in the workplace to whether parents are able to participate effectively in their children's education. The Adult Education and Family Literacy Reform Act uses a single stream of funding to States and localities to create a partnership designed around five broad principles—streamlining, flexibility, quality, targeting, and consumer choice.

The single funding stream recognizes the need to eliminate duplication and overlap in current programs. The bill is a 10-year authorization to encourage States to engage in long-range planning. It consolidates 12 existing programs which now have separate line items in the Federal budget

First, the Library Literacy Program, which provides small competitive grants supporting literacy programs in public libraries,

Second, Workplace Literacy Partnerships, which support partnerships of education agencies and employers that help employees develop basic skills,

Third, the Literacy Training for Homeless Adults, which funds projects for homeless adults in all States,

Fourth, the Literacy Program for Prisoners, a nationally competitive grant awarded to correctional education agencies,

Fifth, Even Start, which provides literacy training to parents of public schoolchildren,

Sixth, adult education State grants, which provide funds to State education agencies to support programs that assist educationally disadvantaged adults in developing basic skills,

Seventh, gateway grants, which fund at least one adult education project in a public housing authority in each State,

Eighth, State literacy resource centers, which support Statewide coordination and training,

Ninth, Literacy for Institutionalized Adults, which supports literacy projects for adults in State hospitals and correctional institutions,

Tenth, the set-aside for education coordination in title II of the Job Training Partnership Act, which serves eligible adults who have basic education needs,

Eleventh, the National Institute for Literacy, as interagency institute which provides Federal leadership in coordinating and improving literacy services, and

Twelfth, evaluation and technical assistance, which provides Federal aid for research and technical assistance.

The fiscal year 1995 appropriation for these programs is $488 million. The bill recommends a $490 million authorization for the consolidated programs for fiscal year 1996, and such sums as may be necessary in future years.

While consolidating many categorical programs, the proposal requires States to ensure that the needs of at-risk populations are met. Under the bill, States can continue to use libraries and the workplace as sites for literacy services. It requires States to assess the adult education and family literacy needs of hard-to-serve and most-in-need individuals, and to describe how the program will meet those needs. Targeting provisions of the bill also will ensure that local areas with high concentrations of individuals in poverty or low levels of literacy, or both, receive priority for Federal funds.

This legislation responds to the well-documented literacy problem in this country. I look forward to working closely with other Senators to achieve the bipartisan support we need in order to assist the large number of adults in this country who are ready, willing, and able to become more productive citizens and better parents. What they need now is a helping hand, and this message will give it to them.

I ask unanimous consent that the letter of transmittal, the text of the bill, and a section-by-section analysis of the bill may be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Adult Education and Family Literacy Reform Act of 1995."

TITLE I—AMENDMENT TO THE ADULT EDUCATION ACT AMENDMENT

SECTION 1. The Adult Education Act (20 U.S.C. 1201 *et seq.*; hereinafter referred to as "the Act") is amended in its entirety to read as follows:

"SHORT TITLE; TABLE OF CONTENTS

"SEC. 101. (a) SHORT TITLE.—This Act may be cited as the 'Adult Education and Family Literacy Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"TABLE OF CONTENTS

"Sec. 1. Short title; table of contents.
"Sec. 2. Findings; purpose.
"Sec. 3. Authorization of appropriations.

"TITLE I—ADULT EDUCATION AND FAMILY LITERACY

"Sec. 101. Program Authority; Priorities.
"Sec. 102. State Grants for Adult Education and Family Literacy.
"Sec. 103. State Leadership Activities.
"Sec. 104. Even Start Family Literacy Program.
"Sec. 105. State Administration.
"Sec. 106. State Plan.
"Sec. 107. Subgrants to Eligible Applicants.
"Sec. 108. Applications From Eligible Applicants.
"Sec. 109. State Performance Goals and Indicators.
"Sec. 110. Evaluation, Improvement, and Accountability.
"Sec. 111. Allotments; Reallotment.

"TITLE II—NATIONAL LEADERSHIP

"Sec. 201. National Leadership Activities.
"Sec. 202. Awards for National Excellence.
"Sec. 203. National Institute for Literacy.

"TITLE III—GENERAL PROVISIONS

"Sec. 301. Waivers.
"Sec. 302. Definitions.

"FINDINGS; PURPOSE

"SEC. 2. (a) FINDINGS.—The Congress finds that:

"(1) Our Nation's well-being is dependent on the knowledge, skills, and abilities of all of its citizens.

"(2) Advances in technology and changes in the workplace are rapidly increasing the knowledge and skill requirements for workers.

"(3) Our social cohesion and success in combatting poverty, crime, and disease also depend on the Nation's having an educated citizenry.

"(4) The success of State and local educational reforms supported by the Goals 2000: Educate America Act and other programs that State and local communities are implementing requires that parents be well educated and possess the ability to be a child's first and most continuous teacher.

"(5) There is a strong relationship between educational attainment and welfare dependence. Adults with very low levels of literacy are ten times as likely to be poor as those with high levels of literacy.

"(6) Studies, including the National Adult Literacy Survey, have found that more than one-fifth of American adults demonstrate very low literacy skills that make it difficult for them to enter high-skill, high-wage jobs, to assist effectively in their children's education, or to carry out their responsibilities as citizens.

"(7) National studies have also shown that existing federally supported adult education programs have assisted many adults in acquiring basic literacy skills, learning English, or acquiring a high school diploma (or its equivalent), and family literacy programs have shown great potential for breaking the intergenerational cycle of low literacy and having a positive effect on later school performance and high school completion, especially for children from low-income families.

"(8) Current adult education programs, however, are often narrowly focused on specific populations or methods of service delivery, have conflicting or overlapping requirements, and are not administered in an integrated manner, thus inhibiting the capacity of State and local officials to implement programs that meet the needs of individual States and localities.

"(9) The President's GI Bill for America's Workers, of which this Act is a key component, will help strengthen the capacity of States, educational institutions, and businesses, working together, to upgrade the skills and literacy levels of youth and adults.

"(10) The Federal Government can, through a performance partnership with States and localities based on clear State-developed goals and indicators, increased State and local flexibility, improved accountability and incentives for performance, and enhanced consumer choice and information, assist States and localities with the improvement and expansion of their adult education and family literacy programs.

"(11) The Federal Government can also assist States and localities by carrying out research, development, demonstration, dissemination, evaluation, capacity-building, data collection, professional development, and technical assistance activities that support State and local efforts to implement successfully services and activities that are funded under this Act, as well as adult education and family literacy activities supported with non-Federal resources.

"(b) PURPOSE.—(1) It is the purpose of this Act to create a performance partnership with States and localities for the provision of adult education and family literacy services so that, as called for in the National Education Goals, all adults who need such services will, as appropriate, be able to—

"(A) become literate and obtain the knowledge and skills needed to compete in a global economy and exercise the rights and responsibilities of citizenship;

"(B) complete a high school education;

"(c) become and remain actively involved in their children's education in order to ensure their children's readiness for, and success in, school.

"(2) This purpose shall be pursued through—

"(A) building on State and local education reforms supported by the Goals 2000: Educate America Act and other Federal and State legislation;

"(B) consolidating numerous Federal adult education and literacy programs into a single, flexible grant;

"(C) tying local programs to challenging State-developed performance goals that are consistent with the purpose of this Act;

"(D) holding States and localities accountable for achieving such goals;

"(E) building program quality though such measures as encouraging greater use of new technologies in adult education and family literacy programs and better professional development of educators working in those programs;

"(F) integrating adult education and family literacy programs with States' school-to-work opportunities systems, career preparation education services and activities, job training programs, early childhood and elementary school programs, and other related activities; and

"(G) supporting the improvement of State and local activities through nationally significant efforts in research, development, demonstration, dissemination, evaluation, capacity-building, data collection, professional development, and technical assistance.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 3. (a) STATE GRANTS FOR ADULT EDUCATION AND FAMILY LITERACY.—For the purpose of carrying out this Act there are authorized to be appropriated $490,487,000 for fiscal year 1996 and such sums as may be necessary for each of the fiscal years 1997 through 2005.

"(b) RESERVATIONS.—(1) Except as provided in paragraph (2), from the amount appropriated for any fiscal year under subsection (a), the Secretary may reserve—

"(A) not more than 5 percent to carry out section 202;

"(B) not more than 3 percent to carry out sections 201 and 203; and

"(C) not more than $5,000,000 for Even Start family literacy programs for migratory families and Indian families under section 104(c).

"(2) The Secretary may reserve funds under paragraph (1)(A) beginning in fiscal year 1998.

"TITLE I—ADULT EDUCATION AND FAMILY LITERACY

"PROGRAM AUTHORITY; PRIORITIES

"SEC. 101. (a) PROGRAM AUTHORIZED.—In order to prepare adults for family, work, citizenship, and job training, and adults and their children for success in future learning, funds under this title shall be used to support the development, implementation, and improvement of adult education and family literacy programs at the State and local levels.

"(b) PROGRAM PRIORITIES.—In using funds under this title, States and local recipients shall give priority to—

"(1) services and activities designed to ensure that all adults have the opportunity to achieve to challenging State performance standards for literacy proficiency, including basic literacy, English language proficiency, and completion of high school or its equivalent;

"(2) services and activities designed to enable parents to prepare their children for school, enhance their children's language and cognitive abilities, and promote their own career advancement; and

"(3) adult education and family literacy programs that—

"(A) are built on a strong foundation of research and effective educational practices;

"(B) effectively employ advances in technology, as well as learning in the context of family, work, and the community;

"(C) are staffed by well-trained instructors, counselors, and administrators;

"(D) are of sufficient intensity and duration for participants to achieve substantial learning gains;

"(E) establish strong links with elementary and secondary schools, postsecondary institutions, one-stop career centers, job-training programs, and social service agencies; and

"(F) offer flexible schedules and, when necessary, support services to enable people, including adults with disabilities or other special needs, to attend and complete programs.

"STATE GRANTS FOR ADULT EDUCATION AND FAMILY LITERACY

"SEC. 102. (a) STATE GRANT.—From the funds available for State grants under section 3 for each fiscal year, the Secretary shall, in accordance with section 111, make a grant to each State that has an approved State plan under section 106, to assist that State in developing, implementing, and improving adult education and family literacy programs within the State.

"(b) RESERVATION OF FUNDS.—From the amount awarded to a State for any fiscal year under subsection (a), the State—

"(1) may use up to 5 percent, or $80,000, whichever is greater, for the cost of administering its program under this title;

"(2) may use up to 10 percent for leadership activities under section 103;

"(3)(A) may, beginning in fiscal year 1998, use up to 5 percent for financial incentives or awards to one or more eligible recipients in recognition of—

"(i) exemplary quality of innovation in adult education or family literacy services and activities; or

"(ii) exemplary services and activities for individuals who are most in need of such services and activities, or are hardest to serve, such as adults with disabilities or other special needs; or

"(iii) both.

"(B) The incentives or awards made under subparagraph (A) shall be determined by the State through a peer review process, using the performance goals and indicators described in section 109 and, if appropriate, other criteria; and

"(4) shall use the remainder for subgrants to eligible applicants under section 107, except that at least 25 percent of the remainder shall be used for Even Start family literacy programs, under section 104, unless the State demonstrates in its State plan under section 106, to the satisfaction of the Secretary, that it will otherwise meet the needs of individuals in the State for family literacy programs in a manner that is consistent with the purpose of this Act.

"(c) FEDERAL SHARE.—(1) The Federal share of expenditures to carry out a State plan under section 106 shall be paid from the State's grant under subsection (a).

"(2) The Federal share shall be no greater than 75 percent of the cost of carrying out the State plan for each fiscal year, except that with respect to Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands the Federal share may be 100 percent.

"(3) The State's share of expenditures to carry out a State plan submitted under section 106 may be in cash or in kind, fairly evaluated, and may include only non-Federal funds that are used for adult education and family literacy activities in a manner that is consistent with the purpose of this Act.

"(d) Maintenance of Effort.—(1) A State may receive funds under this title for any fiscal year only if the Secretary finds that the aggregate expenditures of the State for adult education and family literacy by such State for the preceding fiscal year were not less than 90 percent of such aggregate expenditures for the second preceding fiscal year.

"(2) The Secretary shall reduce the amount of the allocation of funds under section 111 for any fiscal year in the exact proportion to which a State fails to meet the requirement of paragraph (1) by falling below 90 percent of the aggregate expenditures for adult education and family literacy for the second preceding fiscal year.

"(3) The Secretary may waive the requirements of this subsection if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous decline in the financial resource of the State.

"(4) No lesser amount of State expenditures under paragraphs (2) and (3) may be used for computing the effort required under paragraph (1) for subsequent years.

"STATE LEADERSHIP ACTIVITIES

"SEC. 103. (a) STATE LEADERSHIP.—Each State that receives a grant under section 102(a) for any fiscal year shall use funds reserved for State leadership under section 102(b)(2) to conduct activities of Statewide significance that develop, implement, or improve programs of adult education and family literacy, consistent with its State plan under section 106.

"(b) USES OF FUNDS.—States shall use funds under subsection (a) for one or more of the following—

"(1) professional development and training;

"(2) disseminating curricula for adult education and family literacy programs;

"(3) monitoring and evaluating the quality of, and improvement in, services and activities conducted with assistance under this title, including establishing performance goals and indicators under section 109(a), in order to assess program quality and improvement;

"(4) establishing State content standards for adult education and family literacy programs;

"(5) establishing challenging State performance standards for literacy proficiency;

"(6) promoting the integration of literacy instruction and occupational skill training, and linkages with employers;

"(7) promoting the use of and acquiring instructional and management software and technology;

"(8) establishing or operating State or regional adult literacy resource centers;

"(9) developing and participating in networks and consortia of States that seek to establish and implement adult education and family literacy programs that have significance to the State or region, and may have national significance; and

"(10) other activities of Statewide significance that promote the purposes of this Act.

"EVEN START FAMILY LITERACY PROGRAMS

"SEC. 104. (a) EVEN START GRANTS.—Each State that receives a grant under section 102(a) for any fiscal year shall use funds reserved under section 102(b)(4) to award subgrants to partnerships described in subsection (b)(5) to carry out Even Start family literacy programs.

"(b) PROGRAM ELEMENTS.—An Even Start family literacy program shall—

"(1) provide opportunities (including opportunities for home-based instructional services) for joint participation by parents or guardians (including parents or guardians who are within the State's compulsory school attendance age range, so long as a local educational agency provides, or ensures the availability of, their basic education), other family members, and children;

"(2) provide developmentally appropriate childhood education for children from birth through age seven;

"(3) identify and recruit families that are most in need of family literacy services, as indicated by low levels of income and adult literacy (including limited English proficiency), and such other need-related indicators as may be appropriate;

"(4) enable participants, including individuals with disabilities or other special needs, to succeed through services and activities designed to meet their needs, such as support services and flexible class schedules; and

"(5) except as provided in subsection (c), be operated by a partnership composed of—

"(A) one or more local educational agencies; and

"(B) one or more community-based organizations, institutions of higher education, private non-profit organizations, or public agencies (including correctional institutions or agencies) other than local educational agencies.

"(c) MIGRATORY AND INDIAN FAMILIES.—From funds reserved under section 3(b)(1)(C) for any fiscal year, the Secretary shall, under such terms and conditions as the Secretary shall establish, support Even Start family literacy programs through grants to, or cooperative agreements with—

"(1) eligible applicants under section 107(b) for migratory families; and

"(2) Indian tribes and tribal organizations for Indian families.

"STATE ADMINISTRATION

"SEC. 105. (a) DESIGNATED STATE AGENCY OR AGENCIES.—A State desiring to receive a grant under section 102(a) shall, consistent with State law, designate an education agency or agencies that shall be responsible for the administration of services and activities under this title, including—

"(1) the development, submission, and implementation of the State plan;

"(2) consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of programs assisted under this title, such as business, industry, labor organizations, and social service agencies; and

"(3) coordination with other State and Federal education, training, employment, and social service programs, and one-step career centers.

(b) STATE-IMPOSED REQUIREMENTS.—Whenever a State imposes any rule or policy relating to the administration and operation of programs funded by this title (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline), it shall identify the rule or policy as a State-imposed requirement.

"STATE PLAN

SEC. 106. (A) Five-Year Plans.—(1) Except as provided in subsection (f), each State desiring to receive a grant under this title for any fiscal year shall submit to, or have on file with, the Secretary a five-year State plan in accordance with this section. Each State plan submitted to the Secretary shall be approved by the designated State agency or agencies under section 105(a).

"(2) The State may submit its State plan as part of a comprehensive plan that includes State plan provisions under one or more of the following statutes: section 14302 of the Elementary and Secondary Education Act of 1965; the Carl D. Perkins Career Preparation Education Act of 1995; the Goals 2000: Educate America Act; the Job Training Partnership Act, and the School-to-Work Opportunities Act of 1994.

"(b) PLAN ASSESSMENT.—In developing its State plan, and any revisions to the State plan under subsection (e), the State shall base its plan or revisions on a recent, objective assessment of—

"(1) the needs of individuals in the State for adult education and family literacy programs, including individuals most in need or hardest to serve (such as educationally disadvantaged adults and families, recent immigrants, individuals with limited English proficiency, incarcerated individuals, homeless individuals, recipients of public assistance, and individuals with disabilities);

"(2) the capacity of programs and providers to meet those needs, taking into account the priorities under section 101 and the State's performance goals under section 109(a).

"(c) PUBLIC PARTICIPATION.—In developing its State plan, and any revisions under subsection (e), the State shall consult widely with individuals, agencies, organizations, and institutions in the State that have an interest in the provision and quality of adult education and family literacy, including—

"(1) individuals who currently participate, or who want to participate, in adult education and family literacy programs;

"(2) practitioners and experts in adult education and family literacy, social services, and workforce development; and

"(3) representatives of business and labor.

"(d) PLAN CONTENTS.—The plan shall be in such form and contain such information and assurances as the Secretary may require, and shall include—

"(1) a summary of the methods used to conduct the assessment under subsection (b) and the findings of that assessment;

"(2) a description of how, in addressing the needs identified in the State's assessment, funds under this title will be used to establish adult education and family literacy programs, or improve or expand current programs, that will lead to high-quality learning outcomes, including measurable learning gains, for individuals in such programs;

"(3) a statement of the State's performance goals and indicators established under section 109, or, in the first plan, a description of how the State will establish such performance goals and indicators;

"(4) a description of the criteria the State will use to award funds under this title or eligible applicants under section 107, including how the State will ensure that its selection of applicants to operate programs assisted under this title will reflect the finds of program evaluations carried out under section 110(a);

"(5) a description of how the State will integrate services and activities under this Act, including planning and coordination of programs, with those of other agencies, institutions, and organizations involved in adult education and family literacy, such as the public school system, early childhood education programs, social service agencies, business, labor unions, libraries, institutions of higher education, public health authorities, vocational education and special education programs, one-stop career centers, and employment or training programs, in order to ensure effective us of funds and to avoid duplication of services;

"(6) a description of the leadership activities the State will carry out under section 103;

"(7) any comments the Governor may have on the State plan; and

"(8) assurances that—

"(A) the State will comply with the requirements of this Act and the provisions of the State plan;

"(B) the State will use such fiscal control and accounting procedures as are necessary for the proper and efficient administration of this title; and

"(C) programs funded under this title will be of such size, scope, and quality as to give realistic promise of furthering the purpose of this Act.

"(e) PLAN REVISIONS.—When changes in conditions or other factors require substantial modifications to an approved State plan, the designated State agency or agencies shall submit a revision to the plan to the Secretary. Such a revision shall be approved by the designated State agency or agencies.

"(C) programs funded under this title will be of such size, scope, and quality as to give realistic promise of furthering the purpose of this Act.

"(e) PLAN REVISIONS.—When changes in conditions or other facets require substantial modifications to an approved State plan, the designated State agency or agencies shall submit a revision to the plan to the Secretary. Such a revision shall be approved by the designated State agency or agencies.

"(f) PLANNING YEAR.—(1) For fiscal year 1996 only, a State may submit a one year State plan to the Secretary that either satisfies the specific requirements of this section or describes how the State will complete the development of its State plan with respect to those specific requirements within the following year. A State may use funds reserved under section 102(b)(2) to complete the development of its State plan.

"(2) A one year plan under this subsection shall—

"(A) be developed in accordance with subsection (c); and

"(B) contain the assurances described in subsection (d)(8).

"(3) In order to receive a grant under section 102(a) of fiscal year 1997, a State that submits a one year State plan under this subsection shall submit a four year State plan that covers fiscal year 1997 and the three succeeding fiscal years.

"(g) CONSULTATION.—The designated State agency or agencies shall—

"(1) submit the State plan, and any revision to the State plan, to the Governor for review and comment; and

"(2) ensure that any comments the Governor may have are included with the State plan, or revision, when the State plan, or revision, is submitted to the Secretary.

"(h) PLAN APPROVAL.—(1) The Secretary shall approve a State plan, or a revision to an approved State plan, if it meets the requirements of this section and is of sufficient quality to meet the purpose of this Act, and shall not finally disapprove a State plan, or a revision to an approved State plan, except after giving the State reasonable notice and an opportunity for a hearing.

"(2) The Secretary shall establish a peer review process to make recommendations regarding approval of State plans and revisions to the State plans.

"SUBGRANTS TO ELIGIBLE APPLICANTS

"SEC. 107 (a) AUTHORITY.—(1) From funds available under section 102(b)(4), States shall make subgrants to eligible applicants under subsection (b) to develop, implement, and improve adult education and family literacy programs within the State.

"(2) To the extent practicable, States shall make multi-year subgrants under this section.

"(b) ELIGIBILITY.—(1) Except as provided for subgrants for Even Start family literacy programs under section 104, the following entities shall be eligible to apply to the State for a subgrant under this section:

"(A) local education agencies;

"(B) community-based organizations;

"(C) institutions of higher education;

"(D) public and private nonprofit agencies (including State and local welfare agencies, corrections agencies, public libraries, and public housing authorities); and

"(E) consortia of such agencies, organizations, institutions, or partnerships, including consortia that include one or more for-profit agencies, organizations, or institutions, if such agencies, organizations, or institutions can make a significant contribution to attaining the objectives of this Act.

"(2) Each State receiving funds under this title shall ensure that all eligible applicants described under subsection (b)(1) receive equitable consideration for subgrants under this section.

"APPLICATIONS FROM ELIGIBLE APPLICANTS

"SEC. 108. (a) APPLICATION.—Any eligible applicant under sections 104(a) or 107(b)(1) that desires a subgrant under this title shall submit an application to the State containing such information and assurances as the State may reasonably require, including—

"(1) a description of the applicant's current adult education and family literacy programs, if any;

"(2) a description of how funds awarded under this title will be spent;

"(3) a description of how the applicant's program will help the State address the needs identified in the State's assessment under section 106(b)(1);

"(4) the projected goals of the applicant with respect to participant recruitment, retention, and educational achievement, and how the applicant will measure and report to the State regarding the information required in section 110(a); and

"(5) any cooperative arrangements the applicant has with others (including arrangements with social service agencies, one-stop career centers, business, industry, and volunteer literacy organizations) that have been made to deliver adult education and family literacy programs.

"(b) FUNDING.—In determining which applicants receive funds under this title, the State shall—

"(1) give preference to those applicants that serve local areas with high concentrations of individuals in poverty or with low levels of literacy (including English language proficiency), or both;

"(2) consider—

"(A) the results of the evaluations required under section 110(a), if any; and

"(B) the degree to which the applicant will coordinate with and utilize other literacy and social services available on the community.

"STATE PERFORMANCE GOALS AND INDICATORS

"SEC. 109. (a) STATE-ESTABLISHED PERFORMANCE GOALS AND INDICATORS.—Any State desiring to receive a grant under section 102(a), in consultation with individuals, agencies, organizations, and institutions described in section 106(c), shall—

"(1) identify performance goals that define the level of student achievement to be attained by adult education and family literacy programs, and express such goals in an objective, quantifiable, and measurable form;

"(2) identify performance indicators that State and local recipients will use in measuring or assessing progress toward achieving such goals; and

"(3) by July 1, 1997, ensure that the State performances indicators include, at least—

"(i) achievement in linguistic skills, including English language skills;

"(ii) receipt of a high school diploma or its equivalent;

(iii) entry into a postsecondary school, job training program, employment, or career advancement; and

"(iv) successful transition of children to school.

"(b) TRANSITION.—Except as provided in subsection (a)(3), each State receiving funds under this title may continue to use the indicators of program quality it developed under section 331(a)(2) of the Adult Education Act as in effect before the date of enactment of the Adult Education and Family Literacy Reform Act of 1995, to the extent that they are consistent with the State's performance goals.

"(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States regarding the development of the State's performance goals and indicators under subsection (a). Notwithstanding any other provision of law, the Secretary may use funds reserved under section 3(b)(1)(B) to provide technical assistance under this section.

"EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY

"SEC. 110. (a) LOCAL EVALUATION.—Each recipient of a subgrant under this title shall biennially evaluate, using the performance goals and indicators established under section 109, the programs supported under this title and report to the State regarding the effectiveness of its programs in addressing the priorities under section 101 and the needs identified in the State assessment under section 106(b)(1).

"(b) IMPROVEMENT ACTIVITIES.—If a State determines, based on the applicable performance goals and indicators established under section 109 and the evaluations under subsection (a), that a subgrant recipient is not making substantial progress in achieving the purpose of this Act, the State may work jointly with the local recipient to develop an improvement plan. If, after not more than two years of implementation of the improvement plan, the State determines that the recipient is not making substantial progress, the State shall take whatever corrective action it deems necessary, which may include termination of funding or the implementation of alternative service arrangements, consistent with State law. The State shall take corrective action under the preceding sentence only after it has provided technical assistance to the recipient and shall ensure that any corrective action it takes allows for continued services and activities to the recipient's students.

"(c) STATE REPORT.—The State shall biennially report to the Secretary on the quality and effectiveness of the adult education and family literacy programs funded through its subgrants under this title, based on the performance goals and indicators under section 109(a) and the needs identified in the State assessment under section 106(b)(1).

"(d) TECHNICAL ASSISTANCE.—If the Secretary determines that the State is not properly implementing its responsibilities under subsection (b), or is not making substantial progress in meeting the purpose of this Act, based on its performance goals and indicators under section 109(a), the Secretary shall work with the State to implement improvement activities.

"(e) WITHHOLDING OF FEDERAL FUNDS.—If, after a reasonable time, but not earlier than one year after implementing activities described in subsection (d), the Secretary determines that the State is not making sufficient progress, based on its performance goals and indicators under section 109(a), the Secretary shall, after notice and opportunity for a hearing, withhold from the State all, or a portion, of the State's allotment under this title. The Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services and activities within the State that meet the purposes of this Act.

"ALLOTMENTS; REALLOTMENT

"SEC. 111. (a) ALLOTMENT TO STATES.—(1) Subject to subsection (b), from the funds available under section 102(a) for each fiscal year, the Secretary shall allot to each State—

"(A) a sum that bears the same ratio to one-half that amount as the number of individuals in the State who are 16 years of age or older and not enrolled, or required to be enrolled, in secondary school and who do not possess a high school diploma or its equivalent, bears to the number of such individuals in all the States; and

"(B) a sum that bears the same ratio to one-half that amount as the number of individuals in the State who are 18 years of age or older and who are living at or below poverty bears to the number of such individuals in all the States.

"(2)(A) The Secretary shall allot to the Commonwealth of Puerto Rico an amount equal to 2.95 percent of the funds available under section 102(a) for each fiscal year.

"(B) For the purpose of the subsection, the term 'State' shall be deemed to exclude the Commonwealth of Puerto Rico.

"(3) The numbers of individuals specified in paragraph (1) shall be determined by the Secretary on the basis of the latest estimates available to the Department that are satisfactory to the Secretary.

"(b) HOLD-HARMLESS.—(1) Notwithstanding any other provision of law and subject to paragraph (2)—

"(A) for fiscal year 1996, no State shall receive under title I of this Act less than 90 percent of the sum of the payments made to the State for the fiscal year 1995 for programs authorized by section 313 of the Adult Education Act, section 1202 of the Elementary and Secondary Education Act of 1965, and sections 202(c)(1)(C) and 262(c)(1)(C) of the Job Training Partnership Act, as they were in effect prior to the enactment of the Adult Education and Family Literacy Reform Act of 1995; and

"(B) for fiscal year 1997, no State shall receive under title I of this Act less than 90 percent of the amount it received under title I for fiscal year 1996.

"(2) If for any fiscal year the amount available for allotment under this section is insufficient to satisfy the provisions of paragraph (1), the Secretary shall ratably reduce the payments to all States for such services and activities as necessary.

"(c) REALLOTMENT.—If the Secretary determines that any amount of a State's allotment under this section for any fiscal year will not be required for carrying out the program for which such amounts has been allotted, the Secretary shall make such amount available for reallotment to one or more other States on a basis that the Secretary determines would best serve the purposes of this Act. Any amount reallotted to a State under this subsection shall be deemed to be part of its allotment for the fiscal year in which it is obligated.

"(d) REPORT.—The Secretary shall, by September 30, 2000—

"(1) conduct a study to determine the availability and reliability of statistical data on the number of immigrants and limited English proficient individuals in each State; and

"(2) report to the Congress on the feasibility and advisability of including such populations as factors in the formula under subsection (a)(1).

"TITLE II—NATIONAL LEADERSHIP

"NATIONAL LEADERSHIP ACTIVITIES

"SEC. 201. (a) AUTHORITY.—From the amount reserved under section 3(b)(1)(B) for any fiscal year, the Secretary is authorized to establish a program of national leadership and evaluation activities to enhance the quality of adult education and family literacy nationwide.

"(b) METHOD OF FUNDING. The Secretary may carry out national leadership and evaluation activities directly or through grants, contracts, and cooperative agreements.

"(c) USES OF FUNDS.—Funds used under this section may be used for—

"(1) research and development;

"(2) demonstration of model and innovative programs;

"(3) dissemination;

"(4) evaluations and assessments, including independent assessments of services and activities assisted under this Act and of the condition and progress of literacy in the United States;

"(5) capacity building at the State and local levels;

"(6) data collection;

"(7) professional development;

"(8) technical assistance; and

"(9) other activities designed to enhance the quality of adult education and family literacy nationwide.

"AWARDS FOR NATIONAL EXCELLENCE

"SEC. 202. The Secretary may, from the amount reserved under section 3(b)(1)(A) for any fiscal year after fiscal year 1997, and through a peer review process, make performance awards to one or more States that have—

"(1) exceeded in an outstanding manner their performance goals under section 109(a);

"(2) made exemplary progress in developing, implementing, or improving their adult education and family literacy programs in accordance with the priorities described in section 101; or

"(3) provided exemplary services and activities for those individuals within the State who are most in need of adult education and family literacy services, or are hardest to serve.

"NATIONAL INSTITUTE FOR LITERACY

"SEC. 203. (a) PURPOSE.—The National Institute for Literacy shall—

"(1) provide national leadership;

"(2) coordinate literacy services; and

"(3) be a national resource for adult education and family literacy, by providing the best and most current information available and supporting the creation of new ways to offer improved services.

"(b) ESTABLISHMENT.—(1) There shall be a National Institute for Literacy (in this section referred to as the "Institute"). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the "Interagency Group"). The Secretary may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education whose purpose is determined by the Secretary to be related to the purpose of the Institute.

"(2) The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (the 'Board') under subsection (e) in planning the goals of the Institute and in the implementation of any programs to achieve such goals. The daily operations of the Institute shall be carried out by the Director.

"(c) DUTIES.—(1) In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized, to—

"(A) establish a national electronic data base of information that disseminates information to the broadest possible audience within the literacy and basic skills field, and that includes—

"(i) effective practices in the provision of literacy and basic skills instruction, including the integration of such instruction with occupational skills training;

"(ii) public and private literacy and basic skills programs and Federal, State,and local policies affecting the provision of literacy services at the national, State, and local levels;

"(iii) opportunities for technical assistance, meetings, conferences, and other opportunities that lead to the improvement of literacy and basic skills services; and

"(iv) a communication network for literacy programs, providers, social service agencies, and students;

"(B) coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels;

"(C) coordinate the support of research and development on literacy and basic skills in families and adults across Federal agencies, especially with the Office of Educational Research and Improvement, and carry out basic and applied research and development on topics that are not being investigated by other organizations or agencies;

"(D) collect and disseminate information on methods of advancing literacy that show great promise;

"(E) work with the National Education Goals Panel, assist local, State, and national organizations and agencies in making and measuring progress towards the National Education Goals, as established by P.L. 103–227;

"(F) coordinate and share information with national organizations and associations that are interested in literacy and workforce development; and

"(G) inform the development of policy with respect to literacy and basic skills.

"(2) The Institute may enter into contracts or cooperative agreements with, or make grants to, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

"(d) LITERACY LEADERSHIP.—(1) The Institute may, in consultation with the Board, award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

"(2) Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

"(3) The Institute, in consultation with the Board, is authorized to award paid and unpaid internships to individuals seeking to assist in carrying out the Institute's mission and to accept assistance from volunteers.

"(e) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—(1)(A) There shall be a National Institute for Literacy Advisory Board (the 'Board'), which shall consist of 10 individuals appointed by the President.

"(B) The Board shall comprise individuals who are not otherwise officers or employees of the Federal Government and who are representative of such entities as—

"(i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English as a second language programs and services, social service organizations, and providers receiving assistance under this Act;

"(ii) businesses that have demonstrated interest in literacy programs;

"(iii) literacy students, including those with disabilities;

"(iv) experts in the area of literacy research;

"(v) State and local governments; and

"(vi) organized labor.

"(2) The Board shall—

"(A) make recommendations concerning the appointment of the Director and staff of the Institute; and

"(B) provide independent advice on the operation of the Institute.

"(3)(A) Appointments to the Board made after the date of enactment of the 'Adult Education and Family Literacy Reform Act of 1995' shall be for three-year terms, except that the initial terms for members may be established at one, two, or three years in order to establish a rotation in which one-third of the members are selected each year.

"(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that members' term until a successor has taken office.

"(4) The Chairperson and Vice Chairperson of the Board shall be elected by the members.

"(5) The Board shall meet at the call of the Chairperson or a majority of its members.

"(f) GIFTS, BEQUESTS, AND DEVISES.—(1) The Institute may accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

"(2) The responsible official shall establish written rules setting forth the criteria to be used by the Institute in determining whether the acceptance of contributions of services, money, or property whether real or personal, tangible or intangible services would reflect unfavorably upon the ability of the Institute or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.

"(g) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(h) STAFF.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

"(i) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

"(j) EXPERTS AND CONSULTANTS.—The Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(k) REPORT.—The Institute shall submit a biennial report to the Interagency Group and the Congress.

"(l) FUNDING.—Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

"TITLE III—GENERAL PROVISIONS

"WAIVERS

"SEC. 301. (a)(1) REQUEST FOR WAIVER.—Any State may request, on its own behalf or on behalf of a local recipient, a waiver by the Secretary of Education, the Secretary of the Interior, or the Secretary of Labor, as appropriate, of one or more statutory or regulatory provisions described in subsection (c) in order to carry out adult education and family literacy programs under title I more effectively.

"(2) An Indian tribe or tribal organization may request a waiver by a Secretary described in subsection (a)(1), as appropriate, of one or more statutory or regulatory provisions described in subsection (c) in order to carry out an Even Start family literacy program under section 104(c) more effectively.

"(b) GENERAL AUTHORITY.—(1) Except as provided in subsection (d), a Secretary described in subsection (a)(1) may waive any requirement of a statute listed in subsection (c), or of the regulations issued under that statute, for a State that requests such a waiver—

"(A) if, and only to the extent that, the Secretary determines that such requirement impedes the ability of the State or a subgrant recipient under title I to carry out adult education and family literacy programs or activities in an effective manner;

"(B) if the State waives, or agrees to waive, any similar requirements of State law;

"(C) if, in the case of a statewide waiver, the State—

"(i) has provided all subgrant recipients of assistance under this title I in the State with notice of, and an opportunity to comment on, the State's proposal to request a waiver; and

"(ii) has submitted the comments of such recipients to the Secretary; and

"(D) if the State provides such information as the Secretary reasonably requires in order to make such determinations.

"(2) A Secretary shall act promptly on any request submitted under paragraph (1).

"(3) Each waiver approved under this subsection shall be for a period not to exceed five years, except that a Secretary may extend such period if the Secretary determines that the waiver has been effective in enabling the State to carry out the purpose of this Act.

"(c) EDUCATION PROGRAMS.—(1) The statutes subject to the waiver authority of the Secretary of Education under this section are—

"(A) this Act;

"(B) part A of title I of the Elementary and Secondary Education Act of 1965 (authorizing programs and activities to help disadvantaged children meet high standards);

"(C) part B of title II of the Elementary and Secondary Education Act of 1965 (Dwight D. Eisenhower Professional Development Program);

"(D) title VI of the Elementary and Secondary Education Act of 1965 (Innovative Education Program Strategies);

"(E) part C of title VII of the Elementary and Secondary Education Act of 1965 (Emergency Immigrant Education Program);

"(F) the School-to-Work Opportunities Act of 1994, but only with the concurrence of the Secretary of Labor; and

"(G) the Carl D. Perkins Career Preparation Education Act of 1995.

"(2) The Secretary of Interior may waive under this section the provisions of part B of the Education Amendments of 1978.

"(3) The statutes subject to the waiver authority of the Secretary of Labor under this section are—

"(A) the Job Training Partnership Act; and

"(B) the School-to-Work Opportunities Act of 1994, but only with the concurrence of the Secretary of Education.

"(d) WAIVERS NOT AUTHORIZED.—A Secretary may not waive any statutory or regulatory requirement of the programs listed in subsection (c) relating to—

"(1) the basic purposes or goals of the affected programs;

"(2) maintenance of effort;

"(3) comparability of services;

"(4) the equitable participation of students attending private schools;

"(5) parental participation and involvement;

"(6) the distribution of funds to States or to local recipients;

"(7) the eligibility of an individual for participation in the affected programs;

"(8) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or

"(9) prohibitions or restrictions relating to the construction of buildings or facilities.

"(e) TERMINATION OF WAIVERS.—A Secretary shall periodically review the performance of any State or local recipient for which the Secretary has granted a waiver under this section and shall terminate such waiver if the Secretary determines that the performance of the State affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law in accordance with subsection (b)(1)(B).

"DEFINITIONS

"SEC. 302. For the purpose of this Act:

"(1) the term 'adult' means an individual who is 16 years of age, or beyond the age of compulsory school attendance under State law, and who is not enrolled, or required to be enrolled, in secondary school;

"(2) the term 'adult education' means services or instruction below the college level for adults who—

"(A) lack sufficient education or literacy skills to enable them to function effectively in society; or

"(B) do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education;

"(3) the term 'community-based organization' means a private nonprofit organization that is representative of a community or significant segments of a community and that provides education, vocational rehabilitation, job training, or internship services and programs;

"(4) the term 'family literacy program' means a program that integrates adult education, parenting education, and early childhood education into a unified set of services and activities for low-income families that are most in need of such services and activities, and that is designed to help break the cycle of intergenerational poverty and undereducation;

"(5) the terms 'Indian tribes' and 'tribal organizations' have the meaning given such terms in section 3 of the Indian Self-Determination and Education Assistance Act;

"(6) the term 'individual of limited English proficiency' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

"(A) whose native language is a language other than English; or

"(B) who lives in a family or community environment where a language other than English is the dominant language;

"(7) the term 'institution of higher education' means any such institution as defined by section 1201(a) of the Higher Education Act of 1965;

"(8) the term 'literacy' means an individual's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve one's goals, and develop one's knowledge and potential;

"(9) the term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority;

"(10) the term 'migratory family' means a family with a migratory child as defined in section 1309(2) of the Elementary and Secondary Education Act of 1965;

"(11) the term 'public housing authority' means a public housing agency, as defined in 42 U.S.C. 1437a(b)(6), that participates in public housing, as defined in 42 U.S.C. 1437a(b)(1).

"(12) except under section 301, the term 'Secretary' means the Secretary of Education; and

"(13) except as provided in section 111(a)(2)(B), the term 'State' means each of the 50 States and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.".

TITLE II—EFFECTIVE DATE; TRANSITION

EFFECTIVE DATE

SEC. 201. This Act shall take effect on July 1, 1996.

TRANSITION

SEC. 202. Nothwithstanding any other provisions of law—

(1) upon enactment of the Adult Education and Family Literacy Reform Act of 1995, a State or local recipient of funds under the Adult Education Act, the Even Start Family Literacy Programs of the Elementary and Secondary Education Act of 1965, and sections 202(c)(1)(C) and 262(c)(1)(C) of the Job Training Partnership Act, as they were in effect prior to the enactment of the Adult Education and Family Literacy Reform Act of 1995, may use any such unexpended funds to carry out services and activities that are authorized by those statutes or the Adult Education and Family Literacy Act; and

(2) a State or local recipient of funds under the Adult Education and Family Literacy Act for the fiscal year 1996 may use such funds to carry out services and activities that are authorized by either such Act or were authorized by the Adult Education Act, the Even Start Family Literacy Programs of the Elementary and Secondary Education Act of 1965, and sections 202(c)(1)(A) and 262(c)(1)(C) of the Job Training Partnership Act, as they were in effect prior to the enactment of the Adult Education and Family Literacy Reform Act of 1995.

TITLE III—REPEALS OF OTHER ACTS

REPEALS

SEC. 301 (a) EVEN START.—Part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6361 et seq.) is repealed.

(b) NATIONAL LITERACY ACT.—The National Literacy Act of 1991 (20 U.S.C. 1201 et seq.) is repealed.

(c) GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.—Part E of title X of the Higher Education Act of 1965 (20 U.S.C. 1135g) is repealed.

DEPARTMENT OF EDUCATION,
Washington, DC, May 8, 1995.

Hon. ALBERT GORE, JR.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed for consideration of the Congress is the "Adult Education and Family Literacy Reform Act of 1995," the Administration's plan to create a comprehensive strategy for meeting our Nation's adult education and family literacy needs. Also enclosed is a section-by-section analysis summarizing the contents of the bill. I am sending an identical letter to the Speaker of the House.

As part of the G.I. Bill for America's Workers, the Administration is consolidating and restructuring nearly 70 separate programs into a streamlined system to empower youth and adults to acquire the education and skills they need for new and better jobs. The Adult Education and Family Literacy Reform Act is central to this goal.

Results from the 1993 National Adult Literacy Survey reveal a literacy crisis in this country. More than 20 percent of adults performed at or below a 5th-grade level in reading and math—far below the level needed for effective participation in the workforce. And because parents' educational level is a strong predictor of children's academic success, the effects of this crisis extend beyond adults to their children. Despite the obvious need for literacy services among our Nation's adults, the recent National Evaluation of Adult Education Programs found that the current Adult Education program serves only small percentage of adults in need of services and that, while many adults benefit from participation in the program, many leave before they achieve any literacy gains. Overall, the current configuration of adult education and family literacy programs is too diffuse and diverts human and financial resources from what should be the focus of all Federal literacy efforts: the provision of high-quality, results-oriented services.

The Administration recognizes that adults who need to improve their educational skills will be hindered in the workplace, and in promoting their children's progress in school, if they do not have access to adult education and family literacy programs that meet their needs. In response, the enclosed bill creates a performance partnership designed around give broad principles—streamlining, flexibility, quality, targeting, and consumer choice—described in detail below.

First, our strategy would streamline a dozen existing adult education and family literacy programs into a single State grant that has a clear purpose and is aimed at high standards. In addition, the enclosed bill would cut in half the number of State planning requirements. These changes would save States time and money and allow them to focus more attention on improving the quality of their programs.

Our second principle is flexibility. To place decision-making in the hands of the States, the bill would eliminate several restrictions on the use of funds, such as the current mandatory set-aside for services to institutionalized individuals, the requirement that States make "Gateway Grants" to public housing authorities, and the cap on State expenditures for adult secondary education. States could use Federal funds to support a range of services in the mix that they—not the Federal Government—determine would best meet the needs of adults in their States. These services would include parenting education, basic skills education, high school equivalency instruction, early childhood education, and English classes for adults who speak other languages.

Because the Even Start Family Literacy Program has shown exceptional promise as a family literacy model, the bill would set aside 25 percent of the funds available for subgrants for Even Start Family Literacy Programs. However, if a State is already meeting the family literacy needs of its residents through a program of comparable quality, the Secretary could modify or waive this requirement.

We have also built in other flexibility provisions. For example, a new waiver authority would permit States to request, for themselves or for the local service providers, waivers of statutory or regulatory provisions of related Federal programs, such as Part A of Title I of the Elementary and Secondary Education Act of 1965, the School-to-Work Opportunities Act of 1994, the Job Training Partnership Act, and the proposed Carl D. Perkins Career Preparation Education Act, in order to facilitate more effective implementation of adult education and family literacy programs.

Third, the Administration believes that strong accountability provisions must go hand-in-hand with increased flexibility and that, combined, these elements improve the overall quality of education programs. To this end, the bill would build on current accountability provisions in Adult Education and Even Start by requiring States to develop or modify their own performances goals and indicators and describe them in their State plans. States would use these goals and indicators to evaluate the effectiveness of local programs. The Department would assist States in developing their performance goals and indicators by providing technical assistance. If, after a reasonable period of time, and the opportunity for a hearing, the Secretary determines that a State is not making sufficient progress toward its performance goals, the bill would authorize the Secretary to withhold Federal funds.

Solid evaluation requirements are also key to building better programs. While the Adult Education Act requires States to evaluate annually 20 percent of their grant recipients, it neither requires nor encourages subgrantees to evaluate themselves. Our bill would require a biennial local evaluation, whose results local providers would describe in their applications for subgrants. States would then consider those results in awarding funds to applicants seeking to provide services in various localities.

The bill also includes incentives for exceptional State and local performance. The new Act would authorize the Secretary to use up to five percent of the appropriation to make National Excellence Awards to States with exemplary adult education and family literacy programs. States could also reward exemplary local programs by using up to five percent of their allotments for financial incentive awards.

The bill includes additional quality-enhancing provisions. A reservation of up to ten percent of State funds for leadership activities, including professional development and training, and the development, acquisition, and promotion of advanced technologies, would encourage program improvement. Research and development, evaluation, and demonstration of model and innovative programs would take place at the Federal level through the National Leadership authority. Such activities would expand our understanding of what works in adult education programs, thereby helping States to improve the effectiveness of their programs. The bill would also authorize the National Institute for Literacy to continue in its current role as a national resource on literacy issues.

Fourth, our bill would target funds to States and local areas with the greatest need for adult education and family literacy services. A new funding formula would distribute 50 percent of the funds based on the adult education population (excluding in-school students) and 50 percent based on adults living in poverty. In making determinations regarding local applications, States would be required to give preference for funding to those applicants that serve local areas with the highest concentrations of individuals in poverty or with low levels of literacy, or both.

Our final principle is consumer choice. In addition to allowing States flexibility to choose the services they offer, the enclosed bill would also expand adult learners' choices. By encouraging States to establish strong links with one-stop career centers, job-training programs, and social service agencies, the Administration's bill would facilitate the dissemination of information about the availability, services, and student outcomes of adult education and literacy programs. As learners make more informed choices about the programs they enter, the likelihood of their success in adult education and family literacy programs should improve.

I encourage Congress to act swiftly on our bill. By creating a single funding stream to States, the bill responds to concerns regarding the potential duplication of adult education and literacy programs. In doing so, the bill consolidates separate discretionary programs for library literacy, workplace literacy, and literacy programs for prisoners and the homeless. Although the Administration's bill would eliminate many narrow, categorical programs, we have taken steps to ensure that needy populations and promising practices are emphasized in our proposal. The bill permits States to continue to use libraries and the workplace as sites for the provision of services. It also requires States to assess the adult education and family literacy needs of hard-to-serve and most-in-need individuals, such as the homeless and the incarcerated, and describe programs' capacity to meet those needs. Targeting provisions of the bill also would ensure that local areas with high concentrations of individuals in poverty or low levels of literacy, or both, receive priority for Federal funds.

The Office of Management and Budget advises that there is no objection to the submission of this proposal to Congress and that its adoption would be in accord with the program of the President.

Yours sincerely,

RICHARD W. RILEY,
The Secretary.

ADULT EDUCATION AND FAMILY LITERACY REFORM ACT OF 1995—SECTION-BY-SECTION ANALYSIS

TITLE I OF THE BILL—AMENDMENTS TO THE ADULT EDUCATION ACT

Section 101. Amendment. Section 101 of the bill would amend the Adult Education Act ("current law") in its entirety, as described below.

In general, this amendment would consolidate the current Adult Education programs, eliminating the many separate and prescriptive categorical programs, and the Even Start program under Title I, Part B of the Elementary and Secondary Education Act of 1965 into a simplified, flexible, comprehensive, performance partnership between Federal and State and local providers of adult education and family literacy services. States would build on their accomplishments under current law and establish their own performance goals and indicators. The Federal Government would support State and local efforts with national leadership and evaluation activities, national performance awards to States, and waivers from specific statutory and regulatory rules.

Adult Education and Family Literacy Act (the "Act")

Section 1. Short title; table of contents. Section 1 of the Act would propose that the amended Adult Education Act be cited as the "Adult Education and Family Literacy Act" ("the Act"). This section would also set forth a table of contents for the Act.

Section 2. Declaration of policy, findings, and purpose. Section 2 of the Act would set forth the findings and purpose of the Act.

Subsection (a) would set forth congressional findings.

Subsection (b) would state that the purpose of the Act is to create a performance partnership with States and localities for the provision of adult education and family literacy services so that, as called for in the National Education Goals, all adults who need such services will, as appropriate, be able to: (1) become literate and obtain the knowledge and skills needed to compete in a global economy and exercise the rights and responsibilities of citizenship; (2) complete a high school education; (3) become and remain actively involved in their children's education in order to ensure their children's readiness for, and success in, school. This purpose would be pursued through: (1) building on State and and local education reforms supported by Goals 2000: Educate America Act and other Federal and State legislation; (2) consolidating numerous Federal adult education and literacy programs into a single, flexible grant; (3) tying local programs to challenging State-developed performance goals that are consistent with the purpose of this Act; (4) holding States and localities accountable for achieving such goals; (5) building program quality though such measures as encouraging greater use of technologies in adult education and family literacy programs and better professional development of educators working in those programs; (6) integrating adult education and family literacy programs with States' school-to-work opportunities systems, career preparation education services and activities, job training programs, early childhood and elementary school programs, and other related activities; and (7) supporting the improvement of State and local activities through nationally significant efforts in research, development, demonstration, dissemination, evaluation, capacity-building, data collection, professional development, and technical assistance.

Section 3. Authorization of appropriations. Section 3 of the Act would establish a ten-year authorization of appropriations for State and national programs. A ten-year authorization would facilitate stable growth and reform of the program.

Subsection (a) would authorize $490,487,000 for fiscal year 1996 and such sums as may be necessary for each of fiscal years 1997 through 20005 to carry out the Act. Subsection (b) would, from the amount appropriated in any fiscal year, authorize the Secretary to reserve not more than 3 percent to carry out sections 201 (national leadership activities) and 203 (National Institute for Literacy) of the Act, and not more than $5,000,000 for Even Start family literacy programs for migratory and Indian families under section 104(c) of the Act. Beginning in fiscal year 1998, the Secretary would also be authorized to reserve not more than 5 percent of section 202 (national performance awards).

TITLE I OF THE ACT—ADULT EDUCATION AND FAMILY LITERACY

Section 101. Priorities. Section 101 of the Act would require that, in order to prepare adults for family, work, citizenship, and job training, and adults and their children for success in future learning, funds under this title must be used to support the development, implementation, and improvement of adult education and family literacy programs at the State and local levels.

In using funds under the title, States and local recipients would be required to give priority to: (1) services and activities designed to ensure that all adults have the opportunity to achieve to challenging State performance standards for literacy proficiency, including basic literacy, English language proficiency, and completion of high school or its equivalent; (2) services and activities designed to enable parents to prepare their children for school, enhance their children's language and cognitive abilities, and promote their own career advancement; and (3) adult education and family literacy programs that are built on a strong foundation of research and effective educational practices; effectively employ advances in technology, as well as learning in the context of family, work, and the community; are staffed by well-trained instructors, counselors and administrators; are of sufficient intensity and duration for participants to achieve substantial learning gains; establish strong links with elementary and secondary schools, postsecondary institutions, one-stop career centers, job-training programs, and social service agencies; and offer flexible schedules and, when necessary, support services to enable people to attend and complete programs.

Section 102. State grants for adult education and family literacy. Section 102(a) of the Act would require the Secretary, from funds available for State grants under section 3 for each fiscal year and in accordance with section 111 of the Act, to make a grant to each State that has an approved State plan under section 106 of the Act, to assist that State in developing, implementing, and improving adult education and family literacy programs within the State.

Section 102(b) of the Act would authorize a State, from the amount awarded to it for any fiscal year under subsection (a), to use: (1) up to 5 percent, or $80,000, whichever is greater, for the cost of administering its program under this title; (2) up to 10 percent for leadership activities under section 103 of the Act; and (3) beginning in fiscal year 1998, 5 percent for financial incentives or awards to one or more eligible recipients in recognition of exemplary quality or innovation in adult education or family literacy services and activities, or exemplary services and activities for individuals who are most in need of such services and activities, or are hardest to serve, or both. Such incentives or awards would be determined by the State through a peer review process, using the performance goals and indicators described in section 108 and, if appropriate, other criteria.

Section 102(b) would also require that the remainder of the State's funds be used for subgrants to eligible applicants under section 107, except that at least 25 percent of such remainder would be required to be used for Even Start family literacy programs under section 104 of the Act, unless the State demonstrates in its State plan under section 106 of the Act, to the satisfaction of the Secretary, that it will otherwise meet the needs of individuals in the State for family literacy programs in a manner that is consistent with the purpose of this Act.

Section 102(c) of the Act would require that the Federal share of expenditures to carry out a State plan under section 106 of the Act be paid from the State's grant under subsection (a). However, such Federal share could be no greater than 75 percent of the cost of carrying out the State plan for each fiscal year, except that with respect to Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands, the Federal share could be 100 percent. Section 102(c) of the Act would permit the State's share of expenditures in carrying out its State plan to be in cash or in kind, fairly evaluated, including only non-Federal funds that are used for adult education and family literacy activities in a manner that is consistent with the purpose of this Act.

Section 102(d) of the Act would require State-level maintenance of effort. Under subsection (d)(1), a State would be permitted to receive funds under the title for any fiscal year only if the Secretary finds that the aggregate expenditures of the State for adult education and family literacy by such State for the preceding fiscal year were not less than 90 percent of such aggregate expenditures for the second preceding fiscal year. The Secretary would be required to reduce the amount of the allocation of funds to a State, under section 102(a), for any fiscal year in the exact proportion to which a State falls below 90 percent of the aggregate expenditures for the second preceding fiscal year. Subsection (d)(3) would permit the Secretary to waive the maintenance-of-effort requirements if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous decline in the financial resource of the State. Subsection (d)(4) would state that no lesser amount of State expenditures under paragraphs (2) and (3) could be used for computing the effort required under subsection (d)(1) for subsequent years.

Section 103. State leaderships activities. Section 103 of the Act would require States to use their State leadership funds to conduct activities of Statewide significance that develop, implement, or improve programs of adult education and family literacy, consistent with the State plan under section 106. Such activities would include one or more of the following: (1) professional development and training; (2) disseminating curricula for adult education and family literacy programs; (3) monitoring and evaluating the quality of, and improvement in, services and activities conducted with assistance under this title, including establishing performance goals and indicators under section 109(a) of the Act, in order to assess program quality and improvement; (4) establishing State content standards for adult education and family literacy programs; (5) establishing challenging State performance standards for literacy proficiency; (6) promoting the integration of literacy instruction and occupational skill training, and linkages with employers; (7) promoting the use of and acquiring instructional and management software and technology; (8) establishing or operating State or regional adult literacy resource centers; (9) developing and participating in networks and consortia of States that seek to establish and implement adult education and family literacy programs that have significance to the State or region, and may have national significance; and (10) other activities of Statewide significance that promote the purposes of the Act.

Section 104. Even Start Family Literacy Programs. Section 104 of the Act would require each State that receives a grant under section 102(a) of the Act for any fiscal year to use the funds reserved under section 102(b)(4) of the Act (unless the State demonstrates to the Secretary that it will otherwise meet the needs of individuals in the State for family literacy programs) to award Even Start family literacy subgrants to partnerships composed of one or more local educational agencies and one or more community-based organizations, institutions of higher education, private non-profit organizations, or public agencies (other than local educational agencies). Such Even Start family literacy programs must: (1) provide opportunities (including home-based instructional services) for joint participation by parents or guardians (including parents or guardians who are within the State's compulsory school attendance age range, so long as a local educational agency provides, or ensures the availability of, their basic education), other family members, and children; (2) provide developmentally appropriate childhood education for children from birth through age seven; (3) identify and recruit families that are most in need of family literacy services, as indicated by low levels of income and adult literacy (including limited English proficiency), and such other need-related indicators as may be appropriate; and (4) enable participants to succeed through services and activities designed to meet their needs, such as support services and flexible class schedules.

From funds reserved under section 3(b)(1)(C) of the Act for any fiscal year, the Secretary would be required, under such terms and conditions as he or she establishes, to support Even Start family literacy programs through grants to, or cooperative agreements with, eligible applicants under section 107(b) of the Act for migratory families and with Indian tribes and tribal organizations for Indian families. Assistance to Indian tribes and tribal organizations for Indian families under this Act could be integrated with other programs under the Indian Employment Training and Related Services Demonstration Act of 1992.

Section 105. State Administration. Section 105 of the Act would require a State desiring to receive a grant under section 102(a) of the Act to designate, consistent with State law, an education agency or agencies that shall be responsible for the administration of services and activities under this title, including the development, submission, and implementation of the State plan; consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of programs assisted under this title; and coordination with other State and Federal education and training programs.

Section 105(b) of the Act would require that whenever a State imposes any rule or policy relating to the administration and operation of programs funded by this title, it must identify the rule or policy as a State-imposed requirement.

Section 106. State Plan. Section 106(a) of the Act would require, except as provided in subsection (f), each State desiring to receive a grant under this title for any fiscal year to submit to, or have on file with, the Secretary a five-year State plan that is approved by the designated State agency or agencies under section 105(a) of the Act. A State may submit its State plan as part of a comprehensive plan that includes State plan provisions under one or more of the following statutes: section 14302 of the Elementary and Secondary Education Act of 1965; the Carl D. Perkins Career Preparation Education Act of 1995; the Goals 2000: Educate America Act; the Job Training Partnership Act; and the School-to-Work Opportunities Act of 1994.

Section 106(b) of the Act would require the State, in developing its State plan, and any revisions to the plan, to base its plan or revisions on a recent, objective assessment of: (1) the needs of individuals in the State for adult education and family literacy programs, including individuals most in need or hardest to serve; and (2) the capacity of programs and providers to meet those needs, taking into account the priorities under section 101 of the Act and the State's performance goals under section 109(a) of the Act.

Section 106(c) of the Act would require the State, in developing its State plan, and any revisions to the plan, to consult widely with individuals, agencies, organizations, and institutions in the State that have an interest in the provision and quality of adult education and family literacy.

Section 106(d) of the Act would require the State plan to be in such form and contain such information and assurances as the Secretary may require, and include: (1) a summary of the methods used to conduct the assessment under subsection (b) and the findings of that assessment; (2) a description of how, in addressing the needs identified in the State's assessment, funds under this title will be used to establish adult education and family literacy programs, or improve or expand current programs, that will lead to high-quality learning outcomes, including measurable learning gains, for individuals in such programs; (3) a statement of the State's performance goals and indicators established under section 109, or in the first such plan a description of how the State will establish such performance goals and indicators; (4) a description of the criteria the State will use to award funds under this title to eligible applicants under section 107, including a description of how the State will ensure that its selection of applicants to operate programs assisted under this title will reflect the findings of program evaluations carried out under section 110(a); (5) a description of how the State will integrate services and activities under this Act, including planning and coordination of programs, with those of other agencies, institutions, and organizations involved in adult education and family literacy in order to ensure effective use of funds and to avoid duplication of services; (6) a description of the leadership activities the State will carry out under section 103; and (7) any comments the Governor may have on the State plan. Section 106(d) of the Act would also require the State plan to provide assurances that: (1) the State will comply with the requirements of this Act and the provisions of the State plan; (2) the State will use such fiscal control and accounting procedures as are necessary for the proper and efficient administration of this title; and (3) programs funded under this title will be of such size, scope, and quality as to give realistic promise of furthering the purpose of this Act.

Section 106(e) of the Act would require the designated State agency or agencies, when changes in conditions or other factors require substantial modifications to an approved State plan, to submit a revision to the plan to the Secretary. Such a revision would have to be approved by the designated State agency or agencies.

Section 106(f) of the Act would authorize a State, for fiscal year 1996 only, to submit a one year State plan to the Secretary that either satisfies the specific requirements of this section or describes how the State will complete the development of its State plan with respect to those specific requirements within the following year. A State may use funds reserved under section 102(b)(2) to complete the development of its State plan. A one year State plan under this subsection would have to be developed in accordance with subsection (c); and contain the assurances described in subsection (d)(8). In order to receive a grant under section 102(a) for fiscal year 1997, a State that submits a one year State plan under this subsection would have to submit a four year State plan that covers fiscal year 1997 and the three succeeding fiscal years.

Section 106(g) of the Act would require the designated State agency or agencies to submit the State plan, and any revisions to the State plan, to the Governor for review and comment; and ensure that any comments the Governor may have are included with the State plan, or revision, when the State plan, or revision, is submitted to the Secretary.

Section 106(h) of the Act would require the Secretary to approve a State plan, or a revision to an approved State plan, if it meets the requirements of this section and is of sufficient quality to meet the purpose of this Act. The subsection would also prohibit the Secretary from finally disapproving a State plan, or a revision to an approved State plan, except after giving the State reasonable notice and an opportunity for a hearing. The Secretary would be required to establish a peer review process to make recommendations regarding approval of State plans and revisions to the State plans.

Section 107. Subgrants to eligible applicants. Section 107(a) of the Act would require States, from funds available under section 102(b)(4) of the Act, to make subgrants to eligible applicants to develop, implement, and improve adult education and family literacy programs within the State. To the extent practicable, States would make multi-year subgrants.

Under section 107(b), except for subgrants for Even Start family literacy programs under section 104, entities eligible to apply to the State for a subgrant would be: (1) local educational agencies; (2) community-based organizations; (3) institutions of higher education; (4) public and private nonprofit agencies (including State and local welfare agencies, corrections agencies, public libraries, and public housing authorities); and (5) consortia of such agencies, organizations, institutions, or partnerships, including consortia that include one or more for-profit agencies, organizations, or institutions, if such agencies, organizations, or institutions can make a significant contribution to attaining the objectives of the Act. Each State receiving funds under title I would be required to ensure that all the above-mentioned eligible applicants receive equitable consideration for subgrants under this section.

Section 108. Applications from eligible applicants. Section 108 of the Act would require any eligible applicant under sections 104(a) (Even Start partnerships) or 107(b)(1) (other eligible applicants) that desires a subgrant under title I to submit an application to the State containing such information and assurances as the State may reasonably require. Such information must include: (1) a description of the applicant's current adult education and family literacy programs, if any; (2) a description of how funds awarded under this title will be spent; (3) a description of how the applicant's program will help the State address the needs identified in the State's assessment under section 106(b)(1); (4) the projected goals of the applicant with respect to participant recruitment, retention, and educational achievement, and how the applicant will measure and report to the State regarding the information required in section 110(a); and (5) any cooperative arrangements the applicant has with others (including arrangements with social service agencies, one-stop career centers, business, industry, and volunteer literacy organizations) that have been made to deliver adult education and family literacy programs.

In determining which applicants receive funds under this title, section 108(b) of the Act would require the State to give preference to those applicants that serve local areas with the high concentrations of individuals in poverty, or with low levels of literacy (including English language proficiency), or both, and to consider the results of the evaluations required under section 110(a), if any, and the degree to which the applicant will coordinate with and utilize other literacy and social services available in the community.

Section 109. State performance goals and indicators. Section 109(a) of the Act would require any State desiring to receive a grant under section 102(a) of the Act, in consultation with individuals, agencies, organizations, and institutions described in section 106(c), to: (1) identify performance goals that define the level of student achievement to be attained in adult education and family literacy programs funded under title I, and express such goals in an objective, quantifiable, and measurable form; and (2) identify performance indicators that State and local recipients will use in measuring or assessing progress toward achieving such goals. By July 1, 1997, such performance indicators must include, at least: (1) achievement in linguistic skills, including English language skills; (2) receipt of a high school diploma or its equivalent; (3) entry into a postsecondary school, job training program, employment, or career advancement; and (4) successful transition of children to school.

Section 109(b) of the Act would authorize a State, except as provided in subsection (a)(3), to continue to use the indicators of program quality that it developed under section 331(a)(2) of current law, to the extent they are consistent with the State's performance goals.

Section 109(c) of the Act would require the Secretary to provide technical assistance to States regarding the development of such performance goals and indicators and authorize the Secretary to use funds reserved under section 3(b)(1)(B) of the Act to provide such technical assistance.

Section 110. Evaluation, improvement, and accountability. Section 110(a) of the Act would require each recipient of a subgrant under title I of the Act to evaluate biennially, using the performance goals and indicators established under section 109(a) of the Act, the programs supported under title I and report to the State regarding the effectiveness of its programs in addressing the priorities under section 101 and the needs identified in the State assessment under section 106(b)(1).

Section 110(b) of the Act would provide that if a State determines, based on the applicable performance goals and indicators and the evaluations under subsection (a), that a subgrant recipient is not making substantial progress in achieving the purpose of this Act, the State may, but is not required to, work jointly with the local recipient to develop an improvement plan. If, after not more than two years of implementation of the improvement plan, the State determines that the recipient is not making substantial progress, the State must take whatever corrective action it deems necessary, which may include termination of funding or the implementation of alternative service arrangements, consistent with the State law. The State could take such corrective action only after it provided technical assistance to the recipient and ensured that corrective action allowed for continued services and activities to the recipient's students. The State would have to report biennially to the Secretary on the quality and effectiveness of the adult education and family literacy programs funded through its subgrants under title I, based on the performance goals and indicators under section 109(a) and the needs identified in the State assessment under section 106(b)(1).

Section 110(d) of the Act would require that if the Secretary determines that the State is not properly implementing its responsibilities under subsection (b), or is not making substantial progress in meeting the purpose of this Act based on its goals and indicators under section 109, he or she must work with the State to implement improvement activities. If, after a reasonable time, but not earlier than one year after the State implements such activities, the Secretary determines that the State is not making sufficient progress, based on its performance goals and indicators, the Secretary would be required, after notice and opportunity for a hearing, to withhold from the State all, or a portion, of the State's allotment under this title. The Secretary would be given the authority to use funds withheld to provide, through alternative arrangements, services and activities within the State that meet the purposes of this Act.

Section 111. Allotments; reallocation. Section 111(a) of the Act would, subject to the hold-harmless provisions in subsection (b), from the funds available under section 102(a) for each fiscal year, require the Secretary to allot to each State: (1) a sum that bears the same ratio to one-half that amount as the number of individuals in the State who are 16 years of age or older and not enrolled, or required to be enrolled, in secondary school and who do not possess a high school diploma or its equivalent bears to the number of such individuals in all the States; and (2) a sum that bears the same ratio to one-half that amount as the number of individuals in the State who are 18 years of age or older and who are living at or below poverty bears to the number of such individuals in all the States. The Secretary would be required to allot to the Commonwealth of Puerto Rico an amount equal to 2.95 percent of the funds available under section 102(a) for each fiscal year. For the purpose of subsection (a), the term 'State' would be deemed to exclude the Puerto Rico. The numbers of individuals specified in paragraph (1) would be determined by the Secretary on the basis of the latest estimates available to the Department that are satisfactory to the Secretary.

Section 111(b)(1) of the Act would provide that, notwithstanding any other provision of law and subject to paragraph (2): (1) for fiscal year 1996, no State shall receive under title I of this Act less than 90 percent of the sum of the payments made to the State for the fiscal year 1995 for programs authorized by the section 313 of the Adult Education Act, section 1202 (Even Start) of the Elementary and Secondary Education Act of 1965, and sections 202(c)(1)(C) and 262(c)(1)(C) of the Job Training Partnership Act, as those statutes were in effect prior to the enactment of this bill; and (2) for fiscal year 1997, no State shall receive under Title I of this Act less than 90 percent of the amount it received under Title I for fiscal year 1996. Section 111(b)(2) of the Act would provide that, if for any fiscal year the amount available for allotment under this section is insufficient to satisfy the provisions of subsection (b)(1), the Secretary is to ratably reduce the payments to all States for such services and activities as necessary.

Section 111(c) of the Act would provide for reallotment of any unneeded portion of a State's allotment under subsection (a) for any fiscal year.

Section 111(d) of the Act would require the Secretary, by September 30, 2000, to conduct a study to determine the availability and reliability of statistical data on the number of immigrant and limited English proficient individuals in each State, and report to the Congress on the feasibility and advisability of including such population as a factor in the formula under subsection (a)(1).

TITLE II OF THE ACT—NATIONAL LEADERSHIP

Section 201. National Leadership Activities. Section 201 of the Act would authorize the Secretary, from the amount reserved under section 3(b)(1)(B) of the Act for any fiscal year, to establish a program of national leadership and evaluation activities to enhance the quality of adult education and family literacy nationwide. The Secretary would be authorized to carry out such activities directly or through grants, contracts, and cooperative agreements. Funds under this section could be used for: (1) research and development; (2) demonstration of model and innovative programs; (3) dissemination; (4) evaluations and assessments, including independent assessments of services and activities assisted under this Act and of the condition and progress of literacy of the United States; (5) capacity building at the State and local levels; (6) data collection; (7) professional development; (8) technical assistance; and (9) other activities designed to enhance the quality of adult education and family literacy nationwide.

Section 202. Awards for National Excellence, Section 202 of the Act would authorize the Secretary, from the amount reserved under section 3(b)(1)(A) of the Act for any fiscal year after fiscal year 1997, and through a peer review process, to make performance awards to one or more States that have: (1) exceeded in an out-standing manner their performance goals established under section 109(a) the Act; (2) made exemplary progress in developing, implementing, or improving their adult education and family literacy programs in accordance with the priorities described in section 101 of the Act; or (3) provided exemplary services and activities for those individuals within the State who are most in need of adult education and family literacy services, or are hardest to serve.

Section 203. National Institute for Literacy. Section 203 of the Act would reauthorize the National Institute for Literacy (the "Institute").

Subsection (a) would clarify the purpose of the Institute by requiring it to: (1) provide national leadership; (2) coordinate literacy services; and (3) be a national resource for adult education and family literacy, by providing the best and most current information available and supporting the creation of new ways to offer improved services.

Subsection (b) would establish the Institute, to be administered by the terms of an interagency agreement entered into by the Secretaries of Education, Labor, and Health and Human Services (the "Interagency Group"). The Secretary could include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education whose purpose is determined by the Secretary to be related to the purpose of the Institute.

Under subsection (b), the Interagency Group would consider the recommendations of the National Institute for Literacy Advisory Board in planning the goals of the Institute and in implementing any programs to achieve such goals. The daily operations of the Institute would be carried out by the Director.

Subsection (c) would authorize the Institute to: (1) establish a national electronic data base that disseminates information to the broadest possible audience within the literacy and basic skills field; (2) coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels; (3) coordinate the support of research and development on literacy and basic skills in families and adults across Federal agencies, especially with the Office of Educational Research and Improvement, and carry out basic and applied research and development on topics that are not being investigated by other organizations investigated by other organizations or agencies; (4) collect and disseminate information on methods of advancing literacy that show great promise; (5) work with the National Education Goals Panel in making and measuring progress towards the National Education Goals, as established by P.L. 103-227; (6) coordinate and share information with national organizations and associations that are interested in literacy and workforce development; and (7) inform the development of policy with respect to literacy and basic skills;

Subsection (c) would also authorize the Institute to enter into contracts or cooperative agreements with, or make grants to, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements would be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

Subsection (d) would authorize the Institute, in consultation with the Board, to award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation. Such fellowships would have to be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level. Subsection (d) would also authorize the Institute, in consultation with the Board, to award paid and unpaid internships to individuals seeking to assist in carrying out the Institute's mission and to accept assistance from volunteers.

Subsection (e) would establish the National Institute for Literacy Advisory Board (the 'Board'), consisting of 10 individuals appointed by the President who are not otherwise officers or employees of the Federal Government and who are representative of such entities as: (1) literacy organizations and providers of literacy services; (2) businesses that have demonstrated interest in literacy programs; (3) literacy students, including those with disabilities; (4) experts in the area of literacy research; (5) State and local governments; and (6) organized labor.

Subsection (e) would require the Board to: (1) make recommendations concerning the appointment of the Director and staff of the Institute; and (2) provide independent advice on the operation of the Institute. Subsection (e) would also provide for staggering the terms of appointment for Board members, filling vacancies on the Board, electing a Chairperson and Vice Chairperson of the Board by the members, and calling Board meetings.

Subsection (f) would authorize the Institute to accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible. Subsection (f) would also require the responsible official to establish written rules setting forth the criteria to be used in determining whether the acceptance of such gifts or donations reflect unfavorably upon the ability of the Institute or any employee to carry out its responsibilities or official duties in a fair and objective manner, or compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.

Subsection (g) would authorize the Board and the Institute to use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

Subsection (h) requires the Interagency Group, after considering recommendations made by the Board, to appoint and fix the pay of a Director.

Subsection (i) would permit the Director and staff of the Institute to be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and to be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

Subsection (j) would allow the Institute to procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

Subsection (k) would require the Institute to submit a biennial report to the Interagency Group and the Congress.

Subsection (l) would permit any amounts appropriated to the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section, to be provided to the Institute for such purposes.

TITLE III OF THE ACT—GENERAL PROVISIONS

Section 301. Waivers. Section 301 of the Act sets forth waiver provisions, in order to provide the flexibility States need to carry out adult education and family literacy programs.

Subsection (a)(1) provides that any State may request a waiver by the Secretary of Education, the Secretary of the Interior, or the Secretary of Labor, as appropriate, of one or more statutory or regulatory provisions in order to carry out adult education and family literacy programs under title I more effectively. Subsection (a) (2) provides that an Indian tribe or tribal organization may request a waiver by a Secretary described in subsection (a) (1), as appropriate, of one or more statutory or regulatory provisions described in subsection (c) in order to carry out an Even Start family literacy program under section 104(c) more effectively.

Subsection (b) would, with some exceptions, authorize a Secretary described in subsection (a) (1) to waive any requirement of any statute listed in subsection (c), or of the regulations issued under that statute. In both cases, the Secretary would be authorized to grant a waiver to a State that requests one: (1) if, and only to the extent that, the Secretary determines that the requirement impedes the State's or subgrant recipient's ability to carry out adult education and family literacy programs or activities in an effective manner; (2) if the State waives, or agrees to waive, any similar requirements of State law; (3) if, in the case of a statewide waiver, the State has provided all subgrant recipients of assistance under title I in the State with notice of, and an opportunity to comment on, the State's proposal to request a waiver and has submitted these comments to the Secretary; and (4) if the State provides such information as the Secretary reasonably requires in order to make such determinations.

Subsection (b) would require a Secretary to act promptly on any waiver request. This subsection would also provide that each waiver shall be for no longer than five years. However, a Secretary may extend the period if the Secretary determines that the waiver has been effective in enabling the State to carry out the purpose of the Act.

Subsection (c)(1) would list the following statutes as subject to waiver by the Secretary of Education: (1) this Act; (2) part A of title I of the Elementary and Secondary Education Act of 1965 (authorizing programs and activities to help disadvantaged children meet high standards); (3) part B of title II of the Elementary and Secondary Education Act of 1965 (Dwight D. Eisenhower Professional Development program); (4) title VI of the Elementary and Secondary Education Act of 1965 (Innovative Education Program Strategies); (5) part C of title VII of the Elementary and Secondary Education Act of 1965 (Emergency Immigrant Education program); (6) the School-to-Work Opportunities Act of 1994, but only with the concurrence of the Secretary of Labor; and (7) the Carl D. Perkins Career Preparation Education Act of 1995.

Subsection (c) (2) would authorize the Secretary of the Interior to waive the provisions of part B of the Education Amendments of 1978.

Subsection (c) (3) would list the following statutes as subject to waiver by the Secretary of Labor: (1) the Job Training Partnership Act; and (2) the School-to-Work Opportunities Act of 1994, but only with the concurrence of the Secretary of Education.

It is not necessary to include Head Start programs in the waiver authority section of this bill, because there already exists sufficient authority in Head Start legislation for a wide range of collaborative and coordination efforts with adult education and family literacy programs.

Subsection (d) would prohibit the Secretary from waiving any statutory or regulatory requirement of the programs listed in subsection (c) that relate to: (1) the basic purposes or goals of the affected programs; (2) maintenance of effort; (3) comparability of services; (4) the equitable participation of students attending private schools; (5) parental participation and involvement; (6) the distribution of funds to States or to local recipients; (7) the eligibility of an individual for participation in the affected programs; (8) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or (9) prohibitions or restrictions relating to the construction of buildings or facilities.

Subsection (e) would require a Secretary to review periodically the performance of any State or local recipient for which the Secretary has granted a waiver and to terminate the waiver, if the Secretary determines that the performance of the State affected by the waiver or the State fails to waive similar requirements of State law.

Section 302. Definitions. Section 302 would define the terms "adult," "adult education," "community-based organization," "family literacy," "Indian tribes" and "tribal organizations," "individual of limited English proficiency," "institution of higher education," "literacy," "local educational agency," "migratory family," "public housing authority," "Secretary," and "State" for the purpose of the Act.

TITLE II OF THE BILL—EFFECTIVE DATES; TRANSITION

Section 201. Effective date. Section 201 of the bill would provide that the Adult Education and Family Literacy Reform Act of 1995 would take effect on July 1, 1996.

Section 202. Transition. Section 202 of the bill would provide that, notwithstanding any other provisions of law, upon enactment of this bill, a State or local recipient of funds under the Adult Education Act, the Even Start Family Literacy Programs of the Elementary and Secondary Education Act of 1965, and sections 202(c)(1)(C) and 262(c)(1)(C) of the Job Training Partnership Act, as they were in effect prior to the enactment of this bill, could use any unexpended funds to carry out services and activities that were authorized in by those statutes or by the Adult Education and Family Literacy Act. A State or local recipient of funds under this Act for fiscal year 1996 could use those funds to carry out services and activities that are authorized by either this Act or the Adult Education Act, the Even Start Family Literacy Programs of the Elementary and Secondary Education Act of 1965, and sections 202(c)(1)(C) and 262(c)(1)(C) of the Job Training Partnership Act, as they were in effect prior to the enactment of this bill.

TITLE III OF THE BILL—REPEAL OF OTHER ACTS

Section 301. Repeals. Section 301 of the bill would repeal Part B (Even Start) of title I of the Elementary and Secondary Education Act of 1965, the National Literacy Act of 1991, and Part E (Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders) of title X of the Higher Education Act.

By Mr. CONRAD (for himself, Mr. CHAFEE, Mr. JEFFORDS, Mr. BRADLEY, and Mr. ROCKEFELLER):

S. 798. A bill to amend title XVI of the Social Security Act to improve the provisions of supplemental security income benefits, and for the purposes; to the Committee on Finance.

THE CHILDREN'S SSI ELIGIBILITY REFORM ACT

Mr. CONRAD. Mr. President, I rise today to introduce the Children's SSI Eligibility Reform Act.

As my colleagues know, the welfare reform bill passed by the House of Representatives attempted to address criticisms that have been leveled against the SSI program. But the House went too far.

SSI is the program of last resort for 850,000 children with severe disabilities who live in low-income families. The cash assistance provided to these children's families enables them to meet the added costs the disability imposes on the family—whether those costs result from necessary modifications to the home; day care for siblings while the child in question receives therapy; basic necessities like food, shelter, clothing and utilities; transportation expenses in making frequent trips to a therapist or hospital; or the cost of foregoing one parent's income in order to care for a child with a disability. SSI also provides for the basic necessities of low-income families, in order to maximize the likelihood that a child with a disability can remain at home.

But the SSI program is not without its faults. SSI as it relates to children has been poorly defined since its inception. There is concern that children who are not sufficiently disabled to merit assistance are making their way onto the SSI rolls. There have been allegations that some parents have coached their children to feign a disability in order to obtain benefits. And there is concern that SSI does nothing to promote the improvement of those children with disabilities who could improve with proper assistance.

Because of these issues and my concern that the House enacted an ill-conceived, sweeping proposal with insufficient data on its impact, I convened a series of psychiatric and disability experts to help me develop the Children's SSI Eligibility Reform Act. And I am extremely pleased that Senators CHAFEE, JEFFORDS and BRADLEY have joined me in this effort.

This is a bipartisan issue. Republicans and Democrats alike want to do the right thing when it comes to severely disabled children. That's why we should make every effort to repair the defects in the SSI program, but do so in a way that protects children with severe disabilities.

The House of Representatives, out of frustration with repeated reports of abuse under the program, went too far. The House wiped out the Individualized Functional Assessment that was developed to protect children with disabilities after the Supreme Court's Zebley decision. And as a result, the vast majority of the 250,000 children who currently receive SSI by virtue of the assessment would lose all benefits—both SSI cash benefits and Medicaid.

The proposal Senator CHAFEE, Senator JEFFORDS, Senator BRADLEY and I are introducing, on the other hand, takes a surgical approach to improving SSI. It targets the problems, not the kids.

But none of us can pretend that SSI reform will not eliminate some children from the rolls. Obviously, it will. Given that fact, our goal should be to remove those who should not be on the program in the first place.

In order to accomplish this, our proposal takes several approaches. First, it clarifies the purpose of the program, which critics argue was never sufficiently defined. It ensures that the purpose of SSI is not only covering the additional costs of caring for children with disabilities and maintaining them at home, but also providing basic necessities and enhancing the opportunity for these children to develop into independent adults.

Second, our proposal modifies SSI's medical listings and Individualized Functional Assessment to ensure that only children with severe disabilities are drawing SSI benefits.

This is not a modification I take lightly. Members of Congress, for the most part, must acknowledge our ignorance in making clinical diagnoses relating to mental illness and other disabilities. Any modifications we make to the diagnostic tools of clinicians should respect both what we know and do not know, so we do not harm innocent children.

Therefore, while our proposal modifies the medical listings and increases the level of severity required under the Individualized Functional Assessment, it also requires an evaluation of these changes by the Social Security Administration.

Mr. Chairman, much attention has been paid in this debate to children with mental disorders, and the degree to which they should be eligible for SSI.

I think we need to be very careful to avoid denying eligibility to someone who doesn't look disabled. And as much as we must reform this program to insure its integrity, we must also avoid making decisions based only on anecdotal evidence. A child who may not "look" disabled to the average person may suffer from a severe disability that is just as costly for the family as a physically disabled child.

Let me give you an example from North Dakota. The mother of a 6-year-old child named Garrett recently visited my office.

When Garrett was 4, he was diagnosed with attention deficit hyperactivity disorder—ADHD. A medication was prescribed for him after he experienced a series of seizures. But the medication caused brain damage which has deprived Garrett of the ability to control his negative emotions.

Because Garrett has no neurological control, he is incapable of exercising choice in his actions and requires constant supervision. Garrett's aggressive disorders have resulted in harm to himself, the members of his family, and their home.

SSI not only has enabled the family to make household repairs when Garrett has damaged the house, but also to pay for day care for their younger daughter when Garrett's mother has had to take him to therapy. There is no day care for a youngster like Garrett.

Garrett is just one example of the kind of child who should not be removed from SSI. I am hopeful that this Congress will see fit to take a balanced approach to this issue to ensure that we clean up this program in a way that is tough, honest and fair.

Mr. President, in addition to making the changes to SSI that I have already mentioned, our proposal also:

Increases the use of standardized tests to make it virtually impossible for anyone to feign a disability;

Expands and better targets SSI continuing disability reviews;

Expands civil penalties for those who coach children to act inappropriately in order to receive benefits;

Graduates the level of benefits that families receive when they have more than one child on SSI;

Changes the SSI policy regarding retroactive lump sum benefits;

Requires parents to demonstrate that they have sought appropriate treatment to alleviate their child's disability; and several other important provisions.

Mr. President, while a great deal of time and effort has gone into developing this legislation, I would be the first to acknowledge that there may be room for improvement. For example, the Slattery Commission on Childhood Disability appears ready to recommend that Medicaid coverage continue for children who leave SSI because their condition improves, but need continued medical assistance to ensure their condition does not worsen. Although this provision is not in our bill, I believe it is one the Congress should consider.

I also want to call to my colleagues' attention a new report by the National Academy of Social Insurance entitled "Restructuring the SSI Disability Program for Children and Adolescents." The Academy's study, conducted by a nonpartisan group of national experts, is an extremely thoughtful and comprehensive analysis of the approach Congress should take to reform SSI. And it contains many parallels to the legislation we are introducing today. The report recommends strengthening eligibility criteria, preserving the cash benefit, graduating the amount of benefits families receive when they have more than one child on SSI, encouraging measures to foster independence among those youngsters who can become independent, and several other items.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From National Academy of Social Insurance, May 8, 1995]

EXPERT GROUP RECOMMENDS STEPS TO RESTRUCTURE SUPPLEMENTAL SECURITY DISABILITY PROGRAM FOR CHILDREN, ADOLESCENTS

WASHINGTON, DC.—A nonpartisan group of national experts, responding to a study request from the House Ways and Means Committee in the 102nd Congress, said today that "there is a strong rationale for the payment of cash benefits to families with disabled children, while suggesting specific steps to restructure the Supplemental Security Income (SSI) disability program whose future is currently being debated in the Congress.

The Committee on Childhood Disability of the National Academy of Social Insurance released its findings in a study entitled "Restructuring the SSI Disability Program for Children and Adolescents." The study, one year in the making, also considered the views of 12 additional experts in government, academia, and the private sector who contribute to the Academy's Disability Policy Panel.

The population of children with disabilities is small, but significant, and varies depending on the definition of "disability." The National Health Interview Survey estimates in 1991 that children who had a "limitation in their major activity"—which means attending school for children age 5–17, or playing for younger children—numbered 2.7 million or 4.2 percent of children under 18. In December of 1994, there were 837,000 low-income children under 18 receiving SSI due to their disabilities.

Jerry Mashaw, the Panel chair and Sterling Professor of Law at Yale University, explained that "cash payments must be seen in the context of needs for family support. There are myriad special burdens placed on families of children with severe disabilities. Cash support can ease those burdens, even if it cannot remove them. Low-income families, already at the margin, face particular difficulties meeting the added costs associated with their child's disability."

The Committee, though clearly in support of cash benefits for disabled children, said that these benefits should be made "only in appropriate cases" and that they should not be excessive in the modest number of cases where families have more than one disabled child. Most importantly, they argued, "the approach to the support of disabled children through the SSI program should be reoriented toward an emphasis on the medical recovery, physical and mental development and job readiness of children with disabilities."

The rapid growth in SSI childhood disability awards between 1989 and 1993 has leveled off and actually declined in 1994. According to Mashaw, the growth appears to be a "wave" rather than a long term trend. The "wave" was attributed to four factors: updates of the listing of disabling childhood mental impairments in late 1990; implementation of a 1990 Supreme Court decision that expanded SSI eligibility criteria for children; legislatively mandated outreach activities by the Social Security Administration as well as efforts by States and private organizations to enroll eligible children in the SSI program; and an economic recession in 1990–91 that caused more families with disabled children to meet the program's low-income criteria.

The report also makes clear that allegations of widespread abuse have not been substantiated in any of the studies that have been done. The data show that children who receive SSI have very significant disabilities, and that those who are suspected of "gaming the system" are denied benefits. Further, the Social Security Administration has put in place rigorous new systems to investigate all such allegations and assure that benefits are not improperly paid.

The Academy's expert group identified five themes that define sound disability policy for children and adolescents:

Family preservation. "The basic purpose of cash benefits is to support and preserve the capacity of families to care for their disabled children in their own homes." This can be done by providing for some of the additional, non-medical, but disability-related, costs of raising a disabled child; by compensating for some of the income lost because of the everyday necessities of caring for a disabled child; and by meeting the child's basic needs for food, clothing, and shelter.

"Without these supports," they argue, "disabled children would be at a much greater risk of losing both a secure home environment and the opportunity for integration into community life, including the world of work."

Strengthened eligibility criteria. The Committee urged that "maladaptive behavior" be eliminated as a separate "functional domain" for evaluating childhood mental disorders that qualify one for SSI. Further, they called for increased use of standardized tests to assess functioning for children with mental disorders. And, they called for revamping the "individualized functional assessment" required by the Supreme Court to make it a more accurate barometer of both physical and mental disabilities, that is not so closely tied to mental disorders.

The Committee said that "new regulations should be developed expeditiously to strengthen the childhood eligibility criteria. At the same time, care should be taken not to repeat the tumult of the early 1980s, when radical retrenchment in Federal disability policy brought widespread individual hardship and judicial challenges. States were at first reluctant, and then refused, to implement the harsh policies because it left them with the burden of care for vulnerable populations whose Federal benefits were denied or terminated.

Limiting family benefits when there is more than one eligible child in the household. With appropriate exceptions for children who need round-the-clock nursing care or foster care, and for adopted special-needs children, SSI benefits for families with more than one disabled child should be limited to 1.5 times the individual benefit for two children and two times the benefit for three or more children, according to the Committee's recommendations. No disabled child should lose Medicaid eligibility because of this limit on cash benefits.

Encourage a work track for teens with disabilities. At age 14, teenagers on SSI, together with their parents and special education advisors, should begin setting career goals and developing transition plans out of SSI and into financial independence whenever possible, according to the study group. While these children are pursuing their goals for work or further education after high school, they would have assurance of SSI benefits until they reached age 18, even if they began to demonstrate work skills.

Encourage energetic measures by States, localities, and the private sector to limit the period when cash support is needed for infants and young children with disabilities. Children's progress should be tracked and periodically reviewed to ensure that those who recover do not remain on the SSI disability rolls, and that those whose disabilities persist are linked to services appropriate to their changing needs as they grow older.

The Disability Policy Panel will issue a report providing a fundamental review of the Social Security Disability programs for adults later this fall. Today's report on children and the SSI disability program is available from the National Academy of Social Insurance. The Academy is a nonprofit, nonpartisan organization devoted to furthering knowledge and understanding of Social Security and related public and private social programs. The Disability Project is supported by The Pew Charitable Trusts, The Robert Wood Johnson Foundation, and corporate members of the Health Insurance Association of America that offer long-term disability insurance.

MAY 11, 1995.

Hon. KENT CONRAD,
U.S. Senate, Washington, DC.

DEAR SENATOR CONRAD: The undersigned national organizations are writing to express our full support for the bill you, Senator

Chafee, Senator Jeffords and Senator Bradley are sponsoring, to make sensible reforms to the Supplemental Security Income (SSI) program for children with disabilities.

The SSI program is a lifeline for families who have children with disabilities. Over 900,000 children with severe impairments living in low-income families now receive cash benefits to meet their basic needs (which often cost more for children with disabilities), compensate for their extraordinary expenses, and offset loss of income because a parent must remain unemployed or underemployed to care for their child.

The SSI program for children has been maligned by allegations that parents are "coaching" their children to appear disabled and that SSA is qualifying children with mild impairments. The program has been intensively examined by the Social Security Administration, the HHS Office of Inspector General and the General Accounting Office. While they criticized some aspects of the program, they could not substantiate the allegations of widespread fraud or maladministration. Nevertheless, the House enacted legislation, H.R. 4, which throws 170,000 children off the program immediately, denies benefits to 400,000 others over the next five years, and replaces cash benefits to future eligible children with a vague set of services administered by the states. The House bill cuts by 35% estimated SSI spending for the children over the next five years.

Your bill represents sensible reform. It addresses the issues raised by the program's critics without decimating the program. It clarifies and raises the SSI eligibility standards, expands the definition of fraud to include "coaching" children to pass disability tests, requires periodic reviews to assure that children who are no longer disabled are removed from the program and improves incentives to encourage children to move toward independence.

We are happy to support your legislation and look forward to working with you to assure its passage in the Senate and ultimate enactment into law.

Sincerely,

Joseph Manes; Rhoda Schulzinger, Bazelon Center Mental Health Law; Martha Ford, The Arc; Al Guida, National Mental Health Association; on behalf of: American Academy of Child and Adolescent Psychiatry; American Association of Children's Residential Centers; American Association on Mental Retardation; American Association for Partial Hospitalization; American Association of Pastoral Counselors; American Association of Private Practice Psychiatrists; American Association of Psychiatric Services for Children; American Board of Examiners in Clinical Social Work; American Counseling Association; American Counseling Association; American Family Foundation; American Occupational Therapy Association; Orthopsychiatric Association; American Psychoanalytic Association; American Psychological Association; American Rehabilitation Association; Anxiety Disorders Association of America; Association of Mental Health Administrators; Bazelon Center for Mental Health Law; Corporation for the Advancement of Psychiatry; Cult Awareness Network; Epilepsy Foundation of America; Family Service America; Federation of Families for Children's Mental Health; International Association of Psychosocial Rehabilitation Services; Legal Action Center; National Association of Protection and Advisory Systems; National Association of Psychiatric Health Systems; National Association of Psychiatric Treatment for Children; National Association of School Psychologists; National Association of Social Workers; National Association of State Directors of Development Disabilities Services, Inc.; National Association of State Mental Health Program Directors; National Community Mental Healthcare Council; National Depressive and Manic Depressive Association; National Easter Seal Society; National Federation of Societies for Clinical Social Work; National Head Injury Foundation; National Mental Health Association; National Organization of State Associations for Children; National Organization for Rare Disorders; The Arc; United Cerebral Palsy Association; World Association of Psychosocial Rehabilitation.

Mr. CHAFEE. Mr. President, I am pleased today to join Senator CONRAD in introducing the Childhood SSI Eligibility Act. This legislation makes important reforms to the children's SSI program without completely dismantling this critical cash assistance program for low- income families with disabled children.

It is important to point out from the outset that, contrary to the many sensational stories we have seen in the press, 80 percent of children receiving SSI payments are severely disabled. They suffer from severe physical disabilities such as cystic fibrosis and cerebral palsy, or from significant developmental retardation. The other 20 percent have other mental impairments such as childhood autism or schizophrenia.

The families of such children need cash assistance in addition to medical services. In many of these cases, one parent must remain home with the child; in this case, the program serves as income replacement for a parent who must quit working. If these families were to lose their SSI cash benefits, many would not have the resources to care for their children at home resulting in a significant increase in institutionalization. Mr. President, if there is one thing we can all agree on it is that, whenever possible, children should remain at home with their families and in the community instead of in institutions. This legislation continues to make that possible.

The cash is also used for other critical supports, such as specially trained child care providers, specially equipped vehicles to transport children who use wheelchairs, home modifications and adaptations, special telecommunication services, and family support services.

Having said that, I also recognize that there are some problems with the children's SSI program, and that is why we are introducing legislation today. There has been rapid growth in the SSI program for children over the last 5 years. In 1989 the program was providing cash assistance to 300,000 children; by 1994 it was serving 890,000 children. During this same period the cost of the children's SSI program grew from $1.2 billion to $4.5 billion.

The growth in the program has now leveled out, but clearly, we need to ask ourselves why the program suddenly exploded and how we can prevent this from happening in the future. There are a couple of reasons for the sudden growth. First, the recession in the early 1990's resulted in many people falling into poverty, precipitating an increased need for government assistance. Second, in 1989 the Congress directed the Social Security Administration [SSA] to conduct outreach for the first time to potentially eligible families with children who have severe disabilities. Third, there was a change made to the mental impairment listings. And, finally, the 1990 Supreme Court decision, the so-called Zebley decision required SSA to change its childhood disability determination process to evaluate the child's level of functioning in addition to his or her medical condition. It was estimated at that time that 1 million additional children will meet the new criteria under Zebley.

We have all heard and read about the stories of parents gaming the system and coaching their children to act disabled in some fashion to qualify for SSI. And I do not question that some of this occurs. But is it rampant? The GAO finds no solid evidence of parents coaching their children, although it does recommend that we take a serious look at certain aspects of the eligibility determination process. And that is what our legislation does.

First, the legislation tightens eligibility to ensure that only children with severe and persistent impairments, which substantially limit their ability to function, receive benefits. Second, it increases and better targets continuing disability reviews to ensure that only those who remain eligible actually continue to receive benefits. Third, it expands penalties for coaching children to act inappropriately in order to receive benefits. Finally, it imposes graduated payments for additional children, like other cash assistance programs such as AFDC.

Mr. President, I think this legislation is a fair and balanced approach. It acknowledges and corrects abuses in the system while reinforcing the purpose of the program: to enable children with disabilities to remain at home or in another appropriate and cost-effective setting and to cover the additional costs of caring for and raising such a child.

Who is this money serving? Children like Juan, a 9-year-old youngster in my home State of Rhode Island. Juan has been on SSI since birth, confined to a wheelchair and dependent on medical technology to survive. Without the cash assistance he receives under SSI, Juan's mother would be forced to put him into a residential facility at a cost of almost $200,000 per year. Compare this to the maximum SSI benefit of $438 a month. It seems to me that we are getting a pretty good deal, and that families like Juan's deserve every nickel they get.

The Finance Committee will be taking up this issue in the coming weeks as part of welfare reform. Many of my colleagues are familiar with the provision in the House-passed welfare reform bill which would eliminate cash assistance for all children unless they would be otherwise institutionalized. In my view, this should be rejected. I sincerely hope that my colleagues on the Finance Committee will consider the legislation we are introducing today as an alternative which provides effective reforms without removing disabled children from the rolls who are truly in need.

Mr. JEFFORDS. Mr. President, I rise today in support of Senator CONRAD'S Childhood Supplemental Security Income [SSI] Eligibility Reform Act. I am pleased to be an original cosponsor of this bill. I would like to begin by acknowledging and thanking my colleague Senator CONRAD for his hard work and dedication on drafting this bill to cure the problems in the children's SSI program. I am hopeful for this bill's quick consideration and adoption.

In the welfare reform bill passed earlier this year by our colleagues in the House, substantial changes were made in the children's SSI program. However, I believe that the House version of this bill fails to address the criticisms leveled towards this program while at the same time ensuring that the children and families that rely on and need these benefits receive them.

For example, a family I know of in Vermont has two young children with cystic fibrosis. They live in a very rural area of Vermont about 2 hours away from the specialty clinic and hospital they go to. This distance creates a constant expense of travel to this clinic and hospital. In addition, the medication costs for the two children are very high. The infant had growth problems related to malabsorption which required special formula. The older child had severe malabsorption that required surgery and requires subsequent close follow-up of his nutritional status.

The father of these children works full time, but has to take time off to attend the clinics with the children and to transport and visit them in the hospital. Some of the time off is unpaid because he has limited vacation time.

The children's mother had intended to return to work after they were born but cannot find a day care provider who is comfortable with the children's medical care needs. She undoubtedly would also have difficulty finding an employer who would allow her the necessary time off for appointments, hospitalizations, and so forth.

Mr. President, this family has a clear need for the Medicaid coverage and extra income that SSI provides. It is difficult to imagine how they could continue to provide the medical care that their children need without these benefits. They are a hard-working and tax-paying couple who struggle to do the best that they can for their children. The effect of the House bill on this family would be devastating, while our bill would ensure that this family that needs to receive these benefits would still receive them.

I believe that the bill being introduced today will meet both of these goals: preserve the essential parts of the children's SSI program, while, at the same time, addressing the concerns raised by its critics. I would now like to address the valid criticisms of the SSI program, and our specific solutions in the bill to these criticisms.

First, our bill will address the issue that SSI's purpose for children with disabilities was never sufficiently defined. By defining the program as maintaining children with disabilities in the most appropriate and cost-effective setting, and enhancing such children's opportunities to develop into independent adults, our bill will combat the old once-disabled-always-disabled way of thinking.

This bill will also combat the current problem that children who are not severely disabled are drawing benefits. By tightening the SSI eligiibility requirements, our bill will ensure that children and families that truly need these benefits will be receiving them.

In addition, by increasing penalties to parents and guardians that knowingly and willfully coach children to act in ways that render them eligible for SSI, and requiring greater use of standardized testing, our bill will stem the practice of children who should be ineligible for benefits being found to be eligible for SSI.

Further, our bill will graduate payments to families for each additional child in the family receiving SSI benefits. This provision will ensure that families with multiple kids receiving SSI benefits will not be receiving the maximum benefit for each child.

Finally, our bill will help children receiving SSI benefits move toward self-sufficiency. I, for one, find this to be one of the most important provisions of the bill. By ensuring that we move people toward self-sufficiency, we are helping reduce the number of children receiving SSI benefits, while increasing the possibility that these individuals will not require future governmental support.

Mr. President, I believe that our bill changes what is wrong with the SSI program while maintaining legitimate benefits that children and their families rely on. We don't want to go back to a much more costly system that institutionalizes children rather than affording them an opportunity for productive and self-sufficient lives. Thus, I feel confident in stating that this bill will ensure that continued support of SSI benefits to families, like the one from Vermont I described earlier, while solving some of the problems currently plaguing the children's SSI system.

ADDITIONAL COSPONSORS

S. 234

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 234, a bill to amend title 23, United States Code, to exempt a State from certain penalties for failing to meet requirements relating to motorcycle helmet laws if the State has in effect a motorcycle safety program, and to delay the effective date of certain penalties for States that fail to meet certain requirements for motorcycle safety laws, and for other purposes.

S. 240

At the request of Mr. DOMENICI, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 256

At the request of Mr. DOLE, the names of the Senator from Utah [Mr. HATCH] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 302

At the request of Mrs. HUTCHISON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 302, a bill to make a technical correction to section 11501(h)(2) of title 49, United States Code.

S. 383

At the request of Mr. WARNER, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 383, a bill to provide for the establishment of policy on the deployment by the United States of an antiballistic missile system and of advanced theater missile defense systems.

S. 440

At the request of Mr. WARNER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 440, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 768

At the request of Mr. GORTON, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 768, a bill to amend the Endangered Species Act of 1973 to reauthorize the Act, and for other purposes.

S. 770

At the request of Mr. GORTON, his name was added as a cosponsor of S. 770, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

At the request of Mr. DOLE, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 770, supra.

AMENDMENTS SUBMITTED

THE INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT OF 1995

THOMPSON AMENDMENT NO. 756

(Ordered to lie on the table.)

Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes; as follows:

On page 56, line 18, strike after "delivered," through "provision" on line 21.

BAUCUS AMENDMENT NO. 757

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill, S. 534, supra; as follows:

On page 50, strike line 18 and insert the following: "in which the generator of the waste has an ownership interest.".

DODD (AND LIEBERMAN) AMENDMENT NO. 758

Mr. CHAFEE (for Mr. DODD, for himself and Mr. LIEBERMAN) proposed an amendment to the bill, S. 534, supra; as follows:

On page 62, line 4, after the words public service authority, add "or its operator".

ROTH (AND BIDEN) AMENDMENT NO. 759

(Ordered to lie on the table.)

Mr. ROTH (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by them to the bill, S. 534, supra; as follows:

On page 53, line 3, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 53, line 4, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 53, lines 7 and 8, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 53, line 10, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 56, lines 1 and 2 strike "and each political subdivision of a State" and insert ", political subdivision of a State, and public service authority".

On page 56, line 12, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 56, line 22, strike "operation" and insert "existence".

On page 57, line 4, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 57, line 7, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 57, line 21, strike "or political subdivision" and insert ", political subdivision, or public service authority".

CAMPBELL (AND OTHERS) AMENDMENT NO. 760

(Ordered to lie on the table.)

Mr. CAMPBELL (for himself, Mr. BROWN, and Mr. KEMPTHORNE) submitted an amendment intended to be proposed by them to the bill S. 534, supra; as follows:

On page 69, strike the quotation mark and period at the end of line 22.

On page 69, between lines 22 and 23, insert the following:

"(5) NO-MIGRATION EXEMPTIONS.—

"(A) IN GENERAL.—Ground water monitoring requirements may be suspended by the Director of an approved State for a landfill operator if the operator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost aquifer during the active life of the unit and the post-closure care period.

"(B) CERTIFICATION.—A demonstration under subparagraph (A) shall—

"(i) be certified by a qualified groundwater scientist and approved by the Director of an approved State.

"(C) GUIDANCE.—

"(i) IN GENERAL.—Not later than 6 months after the date of enactment of this paragraph, the Administrator shall issue a guidance document to facilitate and streamline small community use of the no migration exemption under this paragraph.

"(ii) CLARITY.—The guidance document described in clause (i) shall be written in clear terms designed to be understandable by officials of small communities without expert assistance.".

BINGAMAN AMENDMENT NO. 761

Mr. BINGAMAN proposed an amendment to the bill, S. 534, supra; as follows:

At the appropriate place insert the following:

SEC. . BORDER STUDIES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term "maquiladora" means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term "solid waste" has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—

(1) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH NORTH AMERICAN FREE-TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator is authorized to conduct a study of solid waste management issues associated with increased border use resulting from the implementation of the North American Free Trade Agreement.

(2) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH UNITED STATES-CANADA FREE-TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator may conduct a similar study focused on border traffic of solid waste resulting from the implementation of the United States-Canada Free-Trade Agreement, with respect to the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—A study conducted under this section shall provide for the following:

(1) A study of planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border involved.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) In the case of the study described in subsection (b)(1), research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) In the case of the study described in subsection (b)(1), a determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992–1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region involved, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region involved, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In conducting a study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and, in the case of the study described in subsection (b)(1), census data prepared by the Government of Mexico.

(2) In the case of the study described in subsection (b)(1), information from the United States Customs Service of the Department of the Treasury concerning solid waste transported across the border between the United States and Mexico, and the method of transportation of the waste.

(3) In the case of the study described in subsection (b)(1), information concerning the type and volume of materials used in maquiladoras.

(4)(A) Immigration data prepared by the Immigration and Naturalization Service of the Department of Justice.

(B) In the case of the study described in subsection (b)(1), immigration data prepared by the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region involved where solid waste is treated, stored, or disposed of.

(7) In the case of the study described in subsection (b)(1), a profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) With respect to reviewing the study described in subsection (b)(1), States and political subdivisions of States (including municipalities and counties) in the region of the border between the United States and Mexico.

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportion, and the Secretary of Commerce) and with respect to reviewing the study described in subsection (b)(1), equivalent officials of the Government of Mexico.

(f) REPORTS TO CONGRESS.—On completion of the studies under this section, the Administrator shall, not later than 2 years after the date of enactment of this Act, submit to the appropriate committees of Congress reports that summarize the findings of the studies and propose methods by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) BORDER STUDY DELAY.—The conduct of the study described in subsection (b)(2) shall not delay or otherwise affect completion of the study described in subsection (b)(1).

(h) FUNDING.—If any funding needed to conduct the studies required by this section is not otherwise available, the President may transfer to the Administrator, for use in conducting the studies, any funds that have been appropriated to the President under section 533 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3473) that are in excess of the amount needed to carry out that section. States that wish to participate in study will be asked to contribute to the costs of the study. The terms of the cost share shall be negotiated between the Environmental Protection Agency and the State.".

COATS AMENDMENTS NOS. 762–765

(Ordered to lie on the table.)

Mr. COATS submitted four amendments intended to be proposed by him to the bill, S. 534, supra; as follows:

AMENDMENT No. 762

On page 52, line 6, after "State." insert "A general reference to the receipt of waste outside the jurisdiction of the affected local government does not meet the requirement of the preceding sentence."

AMENDMENT No. 763

On page 34, line 4, after "1993" insert "or calendar year 1994, whichever is less".

AMENDMENT No. 764

On page 48, strike lines 15 through 24 and insert the following:

"(2) HOST COMMUNITY AGREEMENT.—

"(A) ON OR AFTER DATE THAT IS 90 DAYS AFTER DATE OF ENACTMENT.—The term 'host community agreement', with respect to an agreement entered into on or after the date that is 90 days after the date of enactment of this section, means a written, legally binding document or documents executed by duly authorized officials of the affected local government that specifically authorizes a landfill or incinerator to receive specified amounts of municipal solid waste generated out of State.

"(B) BEFORE DATE THAT IS 90 DAYS AFTER DATE OF ENACTMENT.—

"(i) IN GENERAL.—The term 'host community agreement', with respect to an agreement entered into before the date that is 90 days after the date of enactment of this section—

"(I) means a written, legally binding document or documents executed by duly authorized officials of the affected local government specifically authorizing a landfill or incinerator to receive municipal solid waste generated out of State; but

"(II) does not include an agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State municipal solid waste is also included.

"(ii) TERMINOLOGY.—An agreement under clause (i) may use a term other than 'out-of-State', provided that any alternative term or terms evidence the approval or consent of the affected local government for receipt of municipal solid waste from sources or locations outside the State in which the landfill or incinerator is located or is proposed to be located.

AMENDMENT No. 765

On page 35, strike line 3 and all that follows through page 36, line 12, and insert the following:

"(B) ADDITIONAL LIMIT FOR MUNICIPAL WASTE.—

"(i) IN GENERAL.—A State (referred to in this subparagraph as an 'importing State') may impose a limit under (in addition to or in lieu of any other limit imposed under this paragraph) on the amount of out-of-State municipal solid waste received at landfills and incinerators in the importing State.

"(ii) REQUIREMENTS.—A limit under clause (i) may be imposed only if each of the following requirements is met:

"(I) The limit does not conflict (within the meaning of clause (iii)) with any permit or host community agreement authorizing the receipt of out-of-State municipal solid waste.

"(II) The importing State has notified the Governor of the exporting State or States of the proposed limit at least 12 months before imposition of the limit.

"(III) The importing State has notified the Governor of the exporting State or States of the proposed limit at least 90 days before enforcement of the limit.

"(IV) The percentage reduction in the amount of out-of-State municipal solid waste that is received at each facility in the importing State at which a limit is established under clause (i) is uniform for all such facilities.

"(iii) CONFLICT.—A limit referred to in clause (ii)(I) shall be treated as conflicting with a permit or host community agreement if—

"(I) the permit or host community agreement establishes a higher limit; or

"(II) the permit or host community agreement does not establish any limit,

on the amount of out-of-State municipal solid waste that may be received annually at a landfill or incinerator that is the subject of the permit or host community agreement.

"(iv) LIMIT STATED AS PERCENTAGE.—

"(I) IN GENERAL.—A limit under clause (i) shall be stated as a percentage of the amount of out-of-State municipal solid waste generated in the exporting State and received at landfills and facilities in the importing State during calendar year 1993.

"(II) AMOUNT.—For any calendar year, the percentage amount of a limit under clause (i) shall be as specified in the following table:

"Calendar year:	**Applicable Percentage:**
1996	85
1997	75
1998	65
1999	55
after 1999	50.

HUTCHISON AMENDMENT NO. 766

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill, S. 534, supra, as follows:

On page 64, line 6, strike the word "may" and insert the word "shall."

ROTH (AND BIDEN) AMENDMENTS NOS. 767–768

(Ordered to lie on the table.)

Mr. ROTH (for himself and Mr. BIDEN) submitted two amendments intended to be proposed by them to the bill, S. 534, supra; as follows:

AMENDMENT No. 767

On page 66, between lines 17 and 18 insert the following:

"(j) PUBLIC SERVICE AUTHORITIES.—For all purposes of this title, a reference to a political subdivision shall include reference to a public service authority.

AMENDMENT No. 768

On page 56, line 22, strike "operation" and insert "existence".

KYL AMENDMENT NO. 769

Mr. KYL proposed an amendment to the bill, S. 534, supra; as follows:

On page 57, strike line 16 and all that follows through page 58, line 22, and insert the following:

"(4) CONTINUED EFFECTIVENESS OF AUTHORITY DURING AMORTIZATION OF FINANCING.—

"(A) IN GENERAL.—With respect to each designated waste management facility or facilities, or Public Service Authority, authority may be exercised under this section only—

"(i) until the date on which payments under the schedule for payment of the capital costs of the facility concerned, as in effect on May 15, 1994, are completed; and "(ii) so long as all revenues (except for revenues used for operation and maintenance of the designated waste management facility or facilities, or Public Service Authority) derived from tipping fees and other fees charged for the disposal of waste at the facility concerned are used to make such payments.

"(B) REFINANCING.—Subparagraph (A) shall not be construed to preclude refinancing of the capital costs of a facility, but if, under the terms of a refinancing, completion of the schedule for payment of capital costs will occur after the date on which completion would have occurred in accordance with the schedule for payment in effect on May 15, 1994, the authority under this section shall expire on the earlier of—

"(i) the date specified in subparagraph (A)(i); or

"(ii) the date on which payments under the schedule for payment, as in effect after the refinancing, are completed.

"(C) Any political subdivision of a State exercising flow control authority pursuant to subsection (c) may exercise such authority under this section only until completion of the original schedule for payment of the capital costs of the facility for which permits and contracts were in effect, obtained or submitted prior to May 15, 1994."

SNOWE (AND COHEN) AMENDMENT NO. 770

(Ordered to lie on the table.)

Ms. SNOWE (for herself and Mr. COHEN) submitted an amendment intended to be proposed by them to the bill, S. 534, supra; as follows:

On page 58, line 5, strike "original facility" and insert "facility (as in existence on the date of enactment of this section)".

SNOWE (AND COHEN) AMENDMENT NO. 771

(Ordered to lie on the table.)

Ms. SNOWE (for herself and Mr. COHEN) submitted an amendment intended to be proposed by them to the bill, S. 534, supra; as follows:

On page 56, lines 18 through 21, strike "the substantial construction of which facilities was performed after the effective date of that law, ordinance, regulation, or other legally binding provision and".

SPECTER AMENDMENT NO. 772

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill, S. 534, supra; as follows:

On line 23 on page 56, after "1994" insert the following: "; or

"(C) is imposed to direct the flow of municipal solid waste to existing publicly-financed resource recovery facilities (as defined in section 1004(24) of this Act) which were constructed prior to January 1, 1975 and were in operation as of May 15, 1994".

FAIRCLOTH AMENDMENT NO. 773

Mr. CHAFEE (for Mr. FAIRCLOTH) proposed an amendment to the bill, S. 534, supra; as follows:

On page 59, after line 20, insert the following:

"(6) FLOW CONTROL ORDINANCE.—Notwithstanding anything to the contrary in this section, but subject to subsection (j), any political subdivision which adopted a flow control ordinance in November 1991, and designated facilities to receive municipal solid waste prior to April 1, 1992, may exercise flow control authority until the end of the remaining life of all contracts between the political subdivision and any other persons regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994). Such authority shall extend only to the specific classes or categories of municipal solid waste to which flow control authority was actually applied on or before May 15, 1994. The authority under this subsection shall be exercised in accordance with section 4012(b)(4).

JEFFORDS AMENDMENT NO. 774

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 534, supra; as follows:

On page 64, between lines 2 and 3, insert the following:

"(f) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

"(1) the solid waste district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2000, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

"(2) prior to May 15, 1994, the solid waste district—

"(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid wastes within its jurisdiction;

"(B) was authorized by State statute (enacted prior to January 1, 1990) to exercise flow control authority, and subsequently adopted the authority through a law, ordinance, regulation, contract, franchise, or other legally binding provision; and

"(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994.

LAUTENBERG AMENDMENT NO. 775

Mr. LAUTENBERG proposed an amendment to the bill S. 534, supra; as follows:

On page 58, strike line 23 and all that follows through page 59, line 20, and insert the following:

"(5) ADDITIONAL AUTHORITY.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph applies to a State or political subdivision of a State that, on or before January 1, 1984—

"(i) adopted regulations under State law that required the transportation to, and management or disposal at, waste management facilities in the State, of—

"(I) all solid waste from residential, commercial, institutional, or industrial sources (as defined under State law); and

"(II) recyclable material voluntarily relinquished by the owner or generator of the recyclable material; and

"(ii) as of January 1, 1984, had implemented those regulations in the case of every political subdivision of the State.

"(B) AUTHORITY.—Notwithstanding anything to the contrary in this section (including subsection (j)), a State or political subdivision of a State described in subparagraph (A) may continue to exercise flow control authority (including designation of waste management facilities in the State that meet the requirements of subsection (c)) for all classes and categories of solid waste that were subject to flow control on January 1, 1984.

DORGAN AMENDMENT NO. 776

(Ordered to lie on the table.)

Dr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

On page 50, strike line 22 and all that follows through page 51, line 2.

WARNER AMENDMENTS NOS. 777–779

(Ordered to lie on the table.)

Mr. WARNER submitted three amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 777

On page 53, line 10, insert "or operated" after "identified".

AMENDMENT NO. 778

On page 58, line 20, strike "and" and insert "or".

AMENDMENT NO. 779

On page 65, line 6, insert "or related landfill restoration" after "services".

MCCONNELL AMENDMENT NO. 780

(Ordered to lie on the table.)

Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

At the end of the amendment add the following:

TITLE III—STATE OR REGIONAL SOLID WASTE PLANS

SEC. 301. FINDING.

Section 1002(a) of the Solid Waste Disposal Act (42 U.S.C. 6901(a)) is amended—

(1) by striking the period at the end of paragraph (4) and inserting "; and"; and

(2) by adding at the end the following:

"(5) that the Nation's improved standard of living has resulted in an increase in the amount of solid waste generated per capita, and the Nation has not given adequate consideration to solid waste reduction strategies.".

SEC. 302. OBJECTIVE OF SOLID WASTE DISPOSAL ACT

Section 1003(a) of the Solid Waste Disposal Act (42 U.S.C. 6902(a)) is amended—

(1) by striking the period at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by adding at the end the following:

"(12) promoting local and regional planning for—

"(A) effective solid waste collection and disposal; and

"(B) reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies.".

SEC. 303. NATIONAL POLICY.

Section 1003(b) of the Solid Waste Disposal Act (42 U.S.C. 6902(b)) is amended by inserting "solid waste and" after "generation of".

SEC. 304. OBJECTIVE OF SUBTITLE D OF SOLID WASTE DISPOSAL ACT.

Section 4001 of the Solid Waste Disposal Act (42 U.S.C. 6941) is amended by inserting "promote local and regional planning for effective solid waste collection and disposal and for reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies, and" after "objectives of this subtitle are to".

SEC. 305. GUIDELINES FOR STATE PLANS.

Section 4002(b) of the Solid Waste Disposal Act (42 U.S.C. 6942(b)) is amended by striking "eighteen months after the date of enactment of this section" and inserting "18 months after the date of enactment of the Interstate Transportation of Municipal Solid Waste Act of 1995".

SEC. 306. DISCRETIONARY STATE PLAN PROVISIONS.

Section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended by adding at the end the following:

"(e) Discretionary Plan Provisions Relating to Solid Waste Reduction Goals, Local and Regional Plans, and Issuance of Solid Waste Management Permits.—A State plan submitted under this subtitle may include, at the option of the State, provisions for—

"(1) establishment of a State per capita solid waste reduction goal, consistent with the goals and objectives of this subtitle, under which the State may disapprove a local or regional plan or deny a solid waste management permit that is inconsistent with those goals and objectives; and

"(2) establishment of a program relating solid waste management permits issued by the State in accordance with sections 4004 and 4005 to local and regional plans developed in accordance with section 4006 and approved by the State, under which the State may—

"(A) deny a permit for the reason that the permit is inconsistent with a local or regional plan;

"(B) issue a permit despite inconsistency with a local plan if—

"(i) the plan does not adequately provide for the current and projected solid waste management needs of the persons within the planning area; or

"(ii) issuance of the permit is necessary to meet the solid waste management needs of persons outside the planning area but within the State's jurisdiction;

"(C) deny a permit despite consistency with a local plan if the plan is inconsistent with a State per capita solid waste reduction goal established under paragraph (1); and

"(D) allow local and regional plans to ban or restrict the importation of solid waste (except hazardous waste, and except solid waste imported in accordance with a host community agreement for which the State issued a permit prior to January 1, 1994) from outside the planning area if the current and projected solid waste management needs of the persons within the planning area have been met by solid waste management facilities identified in the plan, whether within or outside the planning area.".

SEC. 307. PROCEDURE FOR DEVELOPMENT AND IMPLEMENTATION OF STATE PLANS.

Section 4006(b) of the Solid Waste Disposal Act (42 U.S.C. 6946(b)) is amended "and discretionary plan provisions" after "minimum requirements".

COATS AMENDMENT NO. 781

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

On page 43, between lines 14 and 15 insert the following:

"(d) Denial of Permit Based on a Needs Determinaton.—The Governor of a State may deny a permit for a solid waste management facility on the basis of a needs determination in the permitting process if State law enacted or regulation adopted prior to May 15, 1994, specifically authorizes a denial on that basis.

MOYNIHAN AMENDMENT NO. 782

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

On page 60 strike lines 6 through 12 and insert the following:

"(B) prior to May 15, 1994, the political subdivision committed to the designation of the particular waste management facilities or public service authority to which municipal solid waste is to be transported or at which municipal solid waste is to be disposed of under that law, ordinance, regulation, plan, or legally binding provision.

COHEN (AND SNOWE) AMENDMENTS NOS. 783–84

(Ordered to lie on the table.)

Mr. COHEN (for himself and Ms. Snowe) submitted two amendments intended to be proposed by them to the bill S. 534, supra; as follows:

Amendment No. 783

On page 55, between lines 10 and 11 insert the following:

"(5) Put or pay agreement.—(1) The term 'put or pay agreement' means an agreement that obligates or otherwise requires a State or political subdivision to—

"(A) deliver a minimum quantity of municipal solid waste to a waste management facility; and

"(B) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

"(2) For purposes of the authority conferred by subsections (b) and (c), the term 'legally binding provision of the State or political subdivision' includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988.

"(3) The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for all purposes of this title.

Amendment No. 784

On page 55, between lines 10 and 11, insert the following:

"(5) Put or pay agreement.—(1) The term 'put or pay agreement' means an agreement that obligates or otherwise requires a State or political subdivision to—

"(A) deliver a minimum quantity of municipal solid waste to a waste management facility; and

"(B) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

"(2) For purposes of the authority conferred by subsections (b) and (c), the term 'legally binding provision of the State or political subdivision' includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988 and that requires an aggregate tonnage to be delivered to the facility during each operating year by the political subdivisions which have entered put or pay agreements designating that waste management facility.

"(3) The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for all purposes of this title.

ROTH (AND BIDEN) AMENDMENT NO. 785

(Ordered to lie on the table.)

Mr. ROTH (for himself and Mr. Biden) submitted an amendment intended to be proposed by them to the bill S. 534, supra; as follows:

On page 56, line 23, strike "1994." and insert "1994, or were in operation prior to May 15, 1994, and were temporarily inoperative on May 15, 1994."

MURRAY AMENDMENT NO. 786

(Ordered to lie on the table.)

Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 534, supra; as follows:

On page 64, between lines 2 and 3, insert the following:

"(f) State-Mandated Solid Waste Management Planning.—A political subdivision of a State may exercise flow control authority for municipal solid waste, construction and demolition debris, and for voluntarily relinquished recyclable material that is generated within its jurisdiction if State legislation enacted prior to January 1, 1990 mandated the political subdivision to plan for the management of solid waste generated within its jurisdiction, and if prior to January 1, 1990 the State delegated to its political subdivisions the authority to establish a system of solid waste handling, and if prior to May 15, 1994:

(1) the political subdivision has, in accordance with the plan adopted pursuant to such State mandate, obligated itself through contract (including a contract to repay a debt) to utilize existing solid waste facilities or an existing system of solid waste facilities; and

(2) the political subdivision has undertaken a recycling program in accordance with its adopted waste management plan to meet the State's solid waste reduction goal of fifty percent; and

(3) significant financial commitments have been made to implement the plan cited above.

DeWINE AMENDMENT NO. 787

(Ordered to lie on the table.)

Mr. DeWINE submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

At the appropriate place insert the following:

"( ) Authority To Restrict Out-of-State Construction and Demolition Debris.—

"(1) LIST.—On or before June 1, 1997, the Administrator shall publish a list disclosing the amount of construction and demolition debris exported by each State in calendar year 1996.

"(2) AUTHORITY.—A State (referred to in this subsection as an 'importing State') may impose a limit on the amount of out-of-State construction and demolition debris received at landfills and incinerators in the importing State.

"(3) LIMIT STATED AS PERCENTAGE.—

"(A) IN GENERAL.—A limit under paragraph (1) shall be stated as a percentage of the amount of out-of-State construction and demolition debris generated in the exporting State and received at landfills and facilities in the importing State during calendar year 1996.

"(B) AMOUNT.—For any calendar year, the percentage amount of a limit under subparagraph (A) shall be as specified in the following table:

"Calendar year:	**Applicable Percentage:**
1998	100
1999	100
2000	100
2001	95
2002	90
2003	85
2004	80
2005	75
2006	70
2007	65
2008	60
2009	55
after 2009	50.

"(4) CONSTRUCTION AND DEMOLITION DEBRIS.—In this subsection, the term 'construction and demolition debris' means debris resulting from construction, remodeling, repair, or demolition of structures, other than such debris that—

"(A) is commingled with municipal solid waste (which such commingled debris is included within the meaning of 'municipal solid waste'); or

"(B) the generator of the debris has determined to be contained in accordance with paragraph (6).

"(54) OUT-OF-STATE CONSTRUCTION AND DEMOLITION DEBRIS.—In this subsection, the term 'out-of-State construction and demolition debris' means, with respect to any State, construction and demolition debris generated outside the State. Nothing in this paragraph shall be construed to interfere with a treaty to which the United States is a party.

"(6) CONTAMINATED DEBRIS.—

"(A) DETERMINATION.—For the purpose of determining whether debris is contaminated for the purpose of paragraph (4), the generator of the waste shall conduct representative sampling and analysis of the debris, the result of which shall be submitted to the affected local government for recordkeeping purposes only, unless not required by the affected local government.

"(B) DISPOSAL.—Debris that has been determined to be contaminated under paragraph (1) shall be disposed of in a landfill that meets, at a minimum, the requirements of this subtitle."

"(7) ANNUAL REPORTS.—Submissions and annual reports under subsection (a)(6) shall include the amount of construction and demolition debris received.

HATFIELD AMENDMENT NO. 788

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

At the end of the amendment, insert the following new title:

TITLE ___—

SEC. ___01. SHORT TITLE.

This title may be cited as the "National Beverage Container Reuse and Recycling Act of 1995".

SEC. ___02. FINDINGS.

Congress finds the following:

(1) The failure to reuse and recycle empty beverage containers represents a significant and unnecessary waste of important national energy and material resources.

(2) The littering of empty beverage containers constitutes a public nuisance, safety hazard, and aesthetic blight and imposes upon public agencies, private businesses, farmers, and landowners unnecessary costs for the collection and removal of the containers.

(3) Solid waste resulting from the empty beverage containers constitutes a significant and rapidly growing proportion of municipal solid waste and increases the cost and problems of effectively managing the disposal of the waste.

(4) It is difficult for local communities to raise the necessary capital to initiate comprehensive recycling programs.

(5) The reuse and recycling of empty beverage containers would help eliminate unnecessary burdens on individuals, local governments, and the environment.

(6) Several States have previously enacted and implemented State laws designed to protect the environment, conserve energy and material resources, and promote resource recovery of waste by requiring a refund value on the sale of all beverage containers.

(7) The laws referred to in paragraph (6) have proven inexpensive to administer and effective at reducing financial burdens on communities by internalizing the cost of recycling and litter control to the producers and consumers of beverages.

(8) A national system for requiring a refund value on the sale of all beverage containers would act as a positive incentive to individuals to clean up the environment and would—

(A) result in a high level of reuse and recycling of the containers; and

(B) help reduce the costs associated with solid waste management.

(9) A national system for requiring a refund value on the sale of all beverage containers would result in significant energy conservation and resource recovery.

(10) The reuse and recycling of empty beverage containers would eliminate unnecessary burdens on the Federal Government, local and State governments, and the environment.

(11) The collection of unclaimed refunds from a national system of beverage container recycling would provide the resources necessary to assist comprehensive reuse and recycling programs throughout the United States.

(12) A national system of beverage container recycling is consistent with the intent of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

(13) The provisions of this title are consistent with the goals established by the Administrator of the Environmental Protection Agency in January 1988. The goals include a national goal of 25 percent source reduction and recycling by 1992, coupled with a substantial slowing of the projected rate of increase in waste generation by the year 2000.

SEC. ___03. AMENDMENT OF SOLID WASTE DISPOSAL ACT.

(a) IN GENERAL.—The Solid Waste Disposal Act is amended by adding at the end thereof the following new subtitle:

"Subtitle K—Beverage Container Recycling

"SEC. 12001. DEFINITIONS.

As used in this subtitle:

"(1) BEVERAGE.—The term 'beverage' means beer or other malt beverage, mineral water, soda water, wine cooler, or a carbonated soft drink of any variety in liquid form intended for human consumption.

"(2) BEVERAGE CONTAINER.—The term 'beverage container' means a container—

"(A) constructed of metal, glass, or plastic (or a combination of the materials);

"(B) having a capacity of up to one gallon of liquid; and

"(C) that is or has been sealed and used to contain a beverage for sale in interstate commerce.

"(3) BEVERAGE DISTRIBUTOR.—The term 'beverage distributor' means a person who sells or offers for sale in interstate commerce to beverage retailers beverages in beverage containers for resale.

"(4) BEVERAGE RETAILER.—The term 'beverage retailer' means a person who purchases from a beverage distributor beverages in beverage containers for sale to a consumer or who sells or offers to sell in commerce beverages in beverage containers to a consumer.

"(5) CONSUMER.—The term 'consumer' means a person who purchases a beverage container for any use other than resale.

"(6) REFUND VALUE.—The term 'refund value' means the amount specified as the refund value of a beverage container under section 12002.

"(7) UNBROKEN BEVERAGE CONTAINER.—The term 'unbroken beverage container' shall include a beverage container opened in a manner in which the container was designed to be opened. A beverage container made of metal or plastic that is compressed shall constitute an unbroken beverage container if the statement of the amount of the refund value of the container is still readable.

"(8) WINE COOLER.—The term 'wine cooler' means a drink containing less than 7 percent alcohol (by volume)—

"(A) consisting of wine and plain, sparkling, or carbonated water; and

"(B) containing a non-alcoholic beverage, flavoring, coloring material, fruit juice, fruit adjunct, sugar, carbon dioxide, or preservatives (or any combination thereof).

"SEC. 12002. REQUIRED BEVERAGE CONTAINER LABELING.

"Except as otherwise provided in section 12007, no beverage distributor or beverage retailer may sell or offer for sale in interstate commerce a beverage in a beverage container unless there is clearly, prominently, and securely affixed to, or printed on, the container a statement of the refund value of the container in the amount of 10 cents. The Administrator shall promulgate regulations establishing uniform standards for the size and location of the refund value statement on beverage containers. The 10 cent amount specified in this section shall be subject to adjustment by the Administrator, as provided in section 12008.

"SEC. 12003. ORIGINATION OF REFUND VALUE.

"For each beverage in a beverage container sold in interstate commerce to a beverage retailer by a beverage distributor, the distributor shall collect from the retailer the amount of the refund value shown on the container. With respect to each beverage in a beverage container sold in interstate commerce to a consumer by a beverage retailer, the retailer shall collect from the consumer the amount of the refund value shown on the container. No person other than a person described in this section may collect a deposit on a beverage container.

"SEC. 12004. RETURN OF REFUND VALUE.

"(a) PAYMENT BY RETAILER.—If a person tenders for refund an empty and unbroken beverage container to a beverage retailer who sells (or has sold at any time during the 3-month period ending on the date of tender) the same brand of beverage in the same kind and size of container, the retailer shall promptly pay the person the amount of the refund value stated on the container.

"(b) PAYMENT BY DISTRIBUTOR.—

"(1) IN GENERAL.—If a person tenders for refund an empty and unbroken beverage container to a beverage distributor who sells (or has sold at any time during the 3-month period ending on the date of tender) the same brand of beverage in the same kind and size of container, the distributor shall promptly pay the person—

"(A) the amount of the refund value stated on the container, plus

"(B) an amount equal to at least 2 cents per container to help defray the cost of handling.

"(2) TENDERING BEVERAGE CONTAINERS TO OTHER PERSONS.—This subsection shall not preclude any person from tendering beverage containers to persons other than beverage distributors.

"(c) AGREEMENTS.—

"(1) IN GENERAL.—Nothing in this subtitle shall preclude agreements between distributors, retailers, or other persons to establish centralized beverage collection centers, including centers that act as agents of the retailers.

"(2) AGREEMENT FOR CRUSHING OR BUNDLING.—Nothing in this subtitle shall preclude agreements between beverage retailers, beverage distributors, or other persons for the crushing or bundling (or both) of beverage containers.

"SEC. 12005. ACCOUNTING FOR UNCLAIMED REFUNDS AND PROVISIONS FOR STATE RECYCLING FUNDS.

"(a) UNCLAIMED REFUNDS.—At the end of each calendar year, each beverage distributor shall pay to each State an amount equal to the sum by which the total refund value of all containers sold by the distributor for resale in that State during the year exceeds the total sum paid during that year by the distributor under section 12004(b) to persons in the State. The total amount of unclaimed refunds received by any State under this section shall be available to carry out pollution prevention and recycling programs in the State.

"(b) REFUNDS IN EXCESS OF COLLECTIONS.—If the total amount of payments made by a beverage distributor in any calendar year under section 12004(b) for any State exceeds the total amount of the refund values of all containers sold by the distributor for resale in the State, the excess shall be credited against the amount otherwise required to be paid by the distributor to that State under subsection (a) for a subsequent calendar year, designated by the beverage distributor.

"SEC. 12006. PROHIBITIONS ON DETACHABLE OPENINGS AND POST-REDEMPTION DISPOSAL.

"(a) DETACHABLE OPENINGS.—No beverage distributor or beverage retailer may sell, or offer for sale, in interstate commerce a beverage in a metal beverage container a part of which is designed to be detached in order to open the container.

"(b) POST-REDEMPTION DISPOSAL.—No retailer or distributor or agent of a retailer or distributor may dispose of any beverage container labeled pursuant to section 12002 or any metal, glass, or plastic from the beverage container (other than the top or other seal thereof) in any landfill or other solid waste disposal facility.

"SEC. 12007. EXEMPTED STATES.

"(a) IN GENERAL.—

"(1) EXEMPTION.—Sections 12002 through 12005 and sections 12008 and 12009 shall not apply in any State that—

"(A) has adopted and implemented requirements applicable to all beverage containers sold in the State if the Administrator determines the requirements to be substantially similar to the provisions of sections 12002 through 12005 and sections 12008 and 12009 of this subtitle; or

"(B) demonstrates to the Administrator that, for any period of 12 consecutive months following the date of enactment of this subtitle, the State achieved a recycling or reuse rate for beverage containers of at least 70 percent.

"(2) TERMINATION OF EXEMPTION.—If at anytime following a determination by the Administrator under paragraph (1)(B) that a State has achieved a 70 percent recycling or reuse rate, the Administrator determines that the State has failed, for any 12-consecutive month period, to maintain at least a 70 percent recycling or reuse rate of beverage containers, the Administrator shall notify the State that, on the expiration of the 90-day period following the notification, sections 12002 through 12005 and sections 12008 and 12009 shall apply with respect to the State until a subsequent determination is made under paragraph (1)(A) or a demonstration is made under paragraph (1)(B).

"(b) DETERMINATION OF TAX.—No State or political subdivision thereof that imposes a tax on the sale of any beverage container may impose a tax on any amount attributable to the refund value of the container.

"(c) EFFECT ON OTHER LAWS.—Nothing in this subtitle is intended to affect the authority of any State or political subdivision thereof—

"(1) to enact or enforce (or continue in effect) any law concerning a refund value on containers other than beverage containers; or

"(2) to regulate redemption and other centers that purchase empty beverage containers from beverage retailers, consumers, or other persons.

"SEC. 12008. REGULATIONS.

"(a) IN GENERAL.—Not later than 12 months after the date of enactment of this subtitle, the Administrator shall prescribe regulations to carry out this subtitle.

"(b) BEVERAGE RETAILER.—The regulations shall include a definition of the term 'beverage retailer' for any case in which beverages in beverage containers are sold to consumers through beverage vending machines.

"(c) ADJUSTMENT FOR INFLATION.—The regulations shall adjust the 10 cent amount specified in section 12002 to account for inflation. The initial adjustment shall become effective on the date that is 10 years after the date of enactment of this subtitle, and additional adjustments shall become effective every 10 years thereafter.

"SEC. 12009. PENALTIES.

"Any person who violates any provision of section 12002, 12003, 12004, or 12006 shall be subject to a civil penalty of not more than $1,000 for each violation. Any person who violates any provision of section 12005 shall be subject to a civil penalty of not more than $10,000 for each violation.

"SEC. 12010. EFFECTIVE DATE.

"Except as provided in section 12008, this subtitle shall take effect on the date that is 2 years after the date of enactment of this subtitle.".

(b) TABLE OF CONTENTS.—The table of contents for the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end thereof the following new items:

"SUBTITLE K—BEVERAGE CONTAINER RECYCLING

"Sec. 12001. Definitions.
"Sec. 12002. Required beverage container labeling.
"Sec. 12003. Origination of refund value.
"Sec. 12004. Return of refund value.
"Sec. 12005. Accounting for unclaimed refunds and provisions for State recycling funds.
"Sec. 12006. Prohibitions on detachable openings and post-redemption disposal.
"Sec. 12007. Exempted States.
"Sec. 12008. Regulations.
"Sec. 12009. Penalties.
"Sec. 12010. Effective date.".

SMITH (AND OTHERS) AMENDMENT NO. 789

Mr. SMITH (for himself, Mr. CHAFEE, and Mr. BAUCUS) proposed an amendment to the bill S. 534, supra; as follows:

On page 38, line 18, strike the phrase "the Administrator has determined".

On page 39, after line 8, insert the following: "For purposes of developing the list required in this Section, the Administrator shall be responsible for collating and publishing only that information provided to the Administrator by States pursuant to this Section. The Administrator shall not be required to gather additional data over and above that provided by the States pursuant to this Section, nor to verify data provided by the States pursuant to this Section, nor to arbitrate or otherwise entertain or resolve disputes between States or other parties concerning interstate movements of municipal solid waste. Any actions by the Administrator under this Section shall be final and not subject to judicial review."

On page 38, after the "." on line 16 insert the following: "States making submissions referred to in this Section to the Administrator shall notice these submissions for public review and comment at the State level before submitting them to the Administrator."

On page 33, line 20, strike "(6)(D)" and insert "(6)(C)".

On page 34, line 13, strike "determined" and insert "listed".

On page 34, line 13, strike "(6)(E)" and insert "(6)(C)".

On page 36, line 16, strike "(6)(E)" and insert "(6)(C)".

On page 50, strike line 18 and insert the following: "in which the generator of the waste has an ownership interest.".

D'AMATO AMENDMENTS NOS. 790–814

(Ordered to lie on the table.)

Mr. D'AMATO submitted 25 amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 790

At the appropriate place insert the following:

( ) SEVERABILITY.—If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

AMENDMENT NO. 791

On page 35, line 5, insert the phrase "or permits authorizing receipt of out-of-State municipal solid waste" after the word "agreements".

On page 37, line 22, insert the phrase "not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" before the world "shall".

On page 38, line 3, delete "July 1" and insert "May 1".

On page 38, line 8, insert the phrase "at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" after the word "State".

On page 38, line 19, insert the phrase "to landfills or incinerators not covered by host-community agreements or permits authorizing receipt of out-of-State municipal solid waste" before the word "in".

AMENDMENT NO. 792

On page 64, at line 3, insert the following and reletter all subsequent paragraphs:

(f) STATE-AUTHORIZED SERVICES AND LOCAL PLAN ADOPTION.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the other or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

(1) has been authorized by State statute to exercise flow control authority and had implemented the authority through a law, ordinance, regulation, contract, or other legally binding provision; and

(2) had adopted a local solid waste management plan pursuant to State statute; and

(3) had incurred significant financial expenditures for the planning, site selection, design, permitting, construction or acquisition of the facilities proposed in its local solid waste management plan.

AMENDMENT NO. 793

On page 60, delete from line 23 to page 61, line 2, and replace with the following:

(C) REVENUE BONDS.—Prior to May 15, 1994, revenue bonds were presented for sale to specifically provide revenue for the site selection, permitting or acquisition for construction of the facility.

On page 61, after line 8, add the following:

(E) FINANCIAL EXPENDITURES.—Prior to May 15, 1994, the State or political subdivision had executed revenue or general obligation bonds or other financial instruments (such as lines of credit and bond anticipation notes) to provide for the site selection, permitting, or acquisition for construction of the facility.

AMENDMENT NO. 794

On page 64, after line (2), add a new subdivision (4) as follows and reletter the remaining subdivisions accordingly:

(f) STATE-AUTHORIZED FLOW CONTROL.—A political subdivision of a State may exercise flow control for municipal solid waste and recyclable material that is generated within its jurisdiction if, prior to May 15, 1994 the political subdivision had been authorized by State statute to exercise flow control authority.

AMENDMENT NO. 795

Page 64, line 3, insert the following as letter (f) and reletter subsequent paragraphs accordingly:

(f) STATE-AUTHORIZED SERVICES AND LOCAL PLAN ADOPTION.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

(1) had been authorized by State statute which specifically named the political subdivision to exercise flow control authority and had implemented the authority through a law, ordinance, regulation, contract, or other legally binding provision; and

(2) had adopted a local solid waste management plan pursuant to State statute and was required by State statute to adopt such plan in order to submit a complete permit application to construct a new solid waste management facility proposed in such plan; and

(3) had presented for sale a revenue or general obligation bond to provide for the site selection, permitting, or acquisition for construction of new facilities identified and proposed in its local solid waste management plan; and

(4) includes a municipality or municipalities required by State law to adopt a local law or ordinance to require that solid waste which has been left for collection shall be separated into recyclable, reusable or other components for which economic markets exist; and

(5) is in a State that has aggressively pursued closure of substandard municipal landfills, both by regulatory action and under statute designed to protect deep flow recharge areas in counties where potable water supplies are derived from sole source aquifers.

AMENDMENT NO. 796

On page 61, after line 8, insert the following:

(E) SIGNIFICANT EXPENDITURE.—The political subdivision had, prior to May 15, 1994, expended or committed to expending at least 50 percent of the cost of a comprehensive solid waste management system, and had relied on flow control authority for the completion of the system and payment of obligations incurred for the establishment of the system.

AMENDMENT NO. 797

On page 61, after line 8, insert the following:

(E) SIGNIFICANT EXPENDITURE.—The political subdivision had, prior to May 15, 1994, expended or committed to expending at least 75 percent of the cost of a comprehensive solid waste management system, and had relied on flow control authority for the completion of the system and payment of obligations incurred for the establishment of the system.

AMENDMENT NO. 798

On page 35, line 9, replace "1993" with "1994".

AMENDMENT NO. 799

On page 46, line 19, before "or" add ", to authorize, require, or result in the violation or failure to perform the terms of a written, legally binding contract entered into before enactment of this section,"

AMENDMENT NO. 800

On page 39, line 8, replace "June 1" with "September 1".

AMENDMENT NO. 801

On page 38, lines 14 and 15, delete "the identity of the generator".

AMENDMENT NO. 802

On page 36, line 21, after "waste", add "A limit or prohibition shall be treated as violating and inconsistent with a host community agreement or permit if the agreement or permit establishes a higher limit or does not establish any limit."

AMENDMENT NO. 803

On page 33, line 1, delete immediately upon date of enactment of this section" and insert "beginning January 1, 1996".

AMENDMENT NO. 804

Starting on page 34, delete line 5 through page 35, line 2, and renumber the remainder of the paragraphs accordingly.

AMENDMENT NO. 805

Delete from page 34, line 5 through page 35, line 22 and replace with the following:

"(3)(i) Except as provided in paragraph (4), no State may export to landfills or incinerators in any 1 State, more than the following amounts of municipal solid waste:

"(I) In calendar year 1996, 95 percent of the amount exported to the State in calendar year 1993.

"(II) In calendar years 1997 through 2002, 95 percent of the amount exported to the State in the previous year.

"(III) In calendar year 2003, and each succeeding year, the limit shall be 50% of the amount exported in 1993."

On page 36, line 14, delete "and (B)".

On page 37, line 22, insert the phrase "not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" before the word "shall".

On page 38, line 3, delete "July 1" and insert "May 1".

On page 38, line 8, insert the phrase "at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" after the word "State".

Delete page 38, line 17 through page 39, line 6 and replace with the following:

"(C) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste."

AMENDMENT NO. 806

Delete from page 34, line 5 through page 35, line 22 and replace with the following:

"(3)(i) Except as provided in paragraph (4), no State may export to landfills or incinerators in any 1 State, more than the following amounts of municipal solid waste:

"(I) In calendar year 1996, 92 percent of the amount exported to the State in calendar year 1993.

"(II) In calendar years 1997 through 2002, 92 percent of the amount exported to the State in the previous year.

"(III) In calendar year 2003, and each succeeding year, the limit shall be 50% of the amount exported in 1993."

On page 36, line 14, delete "and (B)".

On page 37, line 22, insert the phrase "not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" before the word "shall".

On page 38, line 3, delete "July 1" and insert "May 1".

On page 38, line 8, insert the phrase "at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" after the word "State".

Delete page 38, line 17 through page 39, line 6 and replace with the following:

"(C) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste."

AMENDMENT NO. 807

Delete from page 34, line 5, through page 35, line 22 and replace with the following:

"(3)(i) Except as provided in paragraph (4), no State may export to landfills or incinerators in any 1 State, more than the following amounts of municipal solid waste.

(I) In calendar year 1996, 91 percent of the amount exported to the State in calendar year 1993;

(II) In calendar years 1997 through 2002, 91 percent of the amount exported to the state in the previous year;

(III) In calendar year 2003, and each succeeding year, the limit shall be 50% of the amount exported in 1993.

On page 36, line 14, delete "and (B)"

On page 37, line 22, insert the phrase "not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" before the word "shall".

On page 38, line 3, delete "July 1" and insert "May 1".

On page 38, line 8, insert the phrase "at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" after the word "State".

Delete page 38, line 17, through page 39, line 6 and replace with the following:

"(C) LIST.—The Administrator shall publish a list of importing states and the out-of-state municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste."

AMENDMENT NO. 808

Delete from page 34, line 5, through page 35, line 22 and replace with the following:

"(3)(i) Except as provided in paragraph (4), no State may export to landfills or incinerators in any 1 State, more than the following amounts of municipal solid waste.

(I) In calendar year 1996, 93 percent of the amount exported to the State in calendar year 1993;

(II) In calendar years 1997 through 2002, 93 percent of the amount exported to the state in the previous year;

(III) In calendar year 2003, and each succeeding year, the limit shall be 50% of the amount exported in 1993.

On page 36, line 14, delete "and (B)".

On page 37, line 22, insert the phrase "not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" before the word "shall".

On page 38, line 3, delete "July 1" and insert "May 1".

On page 38, line 8, insert the phrase "at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" after the word "State".

Delete page 38, line 17 through page 39, line 6 and replace with the following:

"(C) LIST.—The Administrator shall publish a list of importing states and the out-of-state municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste."

AMENDMENT NO. 809

Delete from page 34, line 5, through page 35, line 22 and replace with the following:

"(3)(i) Except as provided in paragraph (4), no State may export to landfills or incinerators in any 1 State, more than the following amounts of municipal solid waste."

(I) In calendar year 1996, 94 percent of the amount exported to the State in calendar year 1993,

(II) In calendar years 1997 through 2002, 94 percent of the amount exported to the state in the previous year;

(III) In calendar year 2003, and each succeeding year, the limit shall be 50% of the amount exported in 1993.

On page 36, line 14, delete "and (B)"

On page 37, line 22, insert the phrase "not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" before the word "shall"

On page 38, line 3, delete "July 1" and insert "May 1".

On page 38, line 8, insert the phrase "at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" after the word "State"

Delete page 38, line 17, through page 39, line 6 and replace with the following:

"(C) LIST.—The Administrator shall publish a list of importing states and the out-of-state municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste."

AMENDMENT NO. 810

Delete from page 34, line 5, through page 35, line 22 and replace with the following:

"(3)(i) Except as provided in paragraph (4), no State may export to landfills or incinerators in any 1 State, more than the following amounts of municipal solid waste.

(I) In calendar year 1996, 94 percent of the amount exported to the State in calendar year 1993;

(II) In calendar years 1997 through 2002, 90 percent of the amount exported to the state in the previous year;

(III) In calendar year 2003, and each succeeding year, the limit shall be 50% of the amount exported in 1993.

On page 36, line 14, delete "and (B)"

On page 37, line 22, insert the phrase "not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" before the word "shall"

On page 38, line 3, delete "July 1" and insert "May 1".

On page 38, line 8, insert the phrase "at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste" after the word "State"

Delete page 38, line 17, through page 39, line 6 and replace with the following:

"(C) LIST.—The Administrator shall publish a list of importing states and the out-of-state municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste."

AMENDMENT NO. 811

Replace from page 34, line 18, through page 35, line 2, with the following:

(i) 3,500,000 tons of municipal solid waste in each of calendar years 1996 and 1997

(ii) 3,000,000 tons of municipal solid waste in each of calendar years 1998 and 1999

(iii) 2,500,000 tons of municipal solid waste in each of calendar years 2000 and 2001

(iv) 2,000,000 tons of municipal solid waste in each of calendar years 2002 and each year thereafter.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,500,000 tons in 1996;
(ii) 3,500,000 tons in 1997;
(iii) 3,000,000 tons in 1998;
(iv) 3,000,000 tons in 1999;
(v) 2,500,000 tons in 2000;
(vi) 2,500,000 tons in 2001;
(vii) 2,000,000 tons in 2002 and each year thereafter.

AMENDMENT NO. 812

On page 34, line 9, delete "prohibit or".

AMENDMENT NO. 813

On page 34, lines 9 and 10, delete "prohibit or limit the amount" and insert "restrict levels of imports to reflect the appropriate level as specified in (i) through (v)".

AMENDMENT NO. 814

Insert the following at the appropriate place:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Iran Sanctions Act of 1995".

SEC. 2. CONGRESSIONAL FINDINGS.

(a) IRAN'S VIOLATIONS OF HUMAN RIGHTS.—The Congress makes the following findings with respect to Iran's violations of human rights:

(1) As cited by the 1991 United Nations Special Representative on Human Rights, Amnesty International, and the United States Department of State, the Government of Iran has conducted assassinations outside of Iran, such as that of former Prime Minister Shahpour Bakhtiar for which the Government of France issued arrest warrants for several Iranian governmental officials.

(2) As cited by the 1991 United Nations Special Representative on Human Rights and by Amnesty International, the Government of Iran has conducted revolutionary trials which do not meet internationally recognized standards of fairness or justice. These trials have included such violations as a lack of procedural safeguards, trial times of 5 minutes or less, limited access to defense counsel, forced confessions, and summary executions.

(3) As cited by the 1991 United Nations Special Representative on Human Rights, the Government of Iran systematically represses its Baha'i population. Persecutions of this small religious community include assassinations, arbitrary arrests, electoral prohibitions, and denial of applications for documents such as passports.

(4) As cited by the 1991 United Nations Special Representative on Human Rights, the Government of Iran suppresses opposition to its government. Political organizations such

as the Freedom Movement are banned from parliamentary elections, have their telephones tapped and their mail opened, and are systematically harassed and intimidated.

(5) As cited by the 1991 United Nations Special Representative on Human Rights and Amnesty International, the Government of Iran has failed to recognize the importance of international human rights. This includes suppression of Iranian human rights movements such as the Freedom Movement, lack of cooperation with international human rights organizations such as the International Red Cross, and an overall apathy toward human rights in general. This lack of concern prompted the Special Representative to state in his report that Iran had made "no appreciable progress towards improved compliance with human rights in accordance with the current international instruments".

(6) As cited by Amnesty International, the Government of Iran continues to torture its political prisoners. Torture methods include burns, arbitrary blows, severe beatings, and positions inducing pain.

(b) IRAN'S ACTS OF INTERNATIONAL TERRORISM.—The Congress makes the following findings, based on the records of the Department of State, with respect to Iran's acts of international terrorism:

(1) As cited by the Department of State, the Government of Iran was the greatest supporter of state terrorism in 1992, supporting over 20 terrorist acts, including the bombing of the Israeli Embassy in Buenos Aires that killed 29 people.

(2) As cited by the Department of State, the Government of Iran is a sponsor of radical religious groups that have used terrorism as a tool. These include such groups as Hezballah, HAMAS, the Turkish Islamic Jihad, and the Popular Front for the Liberation of Palestine-General Command (PFLP-GC).

(3) As cited by the Department of State, the Government of Iran has resorted to international terrorism as a means of obtaining political gain. These actions have included not only the assassination of former Prime Minister Bakhitiar, but the death sentence imposed on Salman Rushdie, and the assassination of the leader of the Kurdish Democratic Party of Iran.

(4) As cited by the Department of State and the Vice President's Task Force on Combatting Terrorism, the Government of Iran has long been a proponent of terrorist actions against the United States, beginning with the takeover of the United States Embassy in Tehran in 1979. Iranian support of extremist groups have led to the following attacks upon the United States as well:

(A) The car bomb attack on the United States Embassy in Beirut killing 49 in 1983 by the Hezballah.

(B) The car bomb attack on the United States Marine Barracks in Beirut killing 241 in 1983 by the Hezballah.

(C) The assassination of the president of American University in 1984 by the Hezballah.

(D) The kidnapping of all American hostages in Lebanon from 1984–1986 by the Hezballah.

SEC. 3. TRADE EMBARGO.

(a) IN GENERAL.—Except as provided in subsection (d), effective on the date of enactment of this Act, a total embargo shall be in force on trade between the United States and Iran.

(b) COVERED TRANSACTIONS.—As part of such embargo the following transactions are prohibited:

(1) CURRENCY TRANSACTIONS.—Any transaction in the currency exchange of Iran.

(2) CREDIT TRANSACTIONS.—The transfer of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of Iran or a national thereof.

(3) IMPORTATION OF CURRENCY OR SECURITIES.—The importing from, or exporting to, Iran of currency or securities.

(4) TRANSACTIONS IN PROPERTY.—Any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or any transaction involving, any property in which Iran or any national thereof has any interest; by any person, or with respect to any property, subject to the jurisdiction of the United States.

(5) EXPORTS.—The licensing for export to Iran, or for export to any other country for reexport to Iran, by any person subject to the jurisdiction of the United States of any item or technology controlled under the Export Administration Act of 1979, the Arms Export Control Act, or the Atomic Energy Act of 1954.

(c) EXTRATERRITORIAL APPLICATION.—In addition to the transactions described in subsection (b), the trade embargo imposed by this Act prohibits any transaction described in paragraphs (1) through (4) of that subsection when engaged in by a United States national abroad.

(d) EXCEPTIONS.—The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly, the following:

(1) COMMUNICATIONS.—Any postal, telegraphic, telephonic, or other personal communication, which does not involve a transfer of anything of value.

(2) HUMANITARIAN ASSISTANCE.—Donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, medicine, medical supplies, instruments, or equipment intended to be used to relieve human suffering, except to the extent that the President determines that such donations are in response to coercion against the proposed recipient or donor.

(3) INFORMATION AND INFORMATIONAL MATERIALS.—The importation from Iran, or the exportation to Iran, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact discs, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 5 of the Export Administration Act of 1979, or under section 6 of such Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code.

(e) PENALTIES.—Any person who violates this section or any license, order, or regulation issued under this section shall be subject to the same penalties as are applicable under section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to violations of licenses, orders, or regulations under that Act.

(f) APPLICATION TO EXISTING LAW.—This section shall apply notwithstanding any other provision of law or international agreement.

SEC. 4. IMPOSITION OF SANCTIONS ON PERSONS ENGAGING IN TRADE WITH IRAN.

(a) DETERMINATION BY THE PRESIDENT.—

(1) IN GENERAL.—The President shall impose the sanctions described in subsection (b) if the President determines in writing that, on or after the date of enactment of this Act, a foreign person has, with requisite knowledge, engaged in trade with Iran in any goods or technology (as defined in section 16 of the Export Administration Act of 1979).

(2) PERSONS AGAINST WHICH THE SANCTIONS ARE TO BE IMPOSED.—The sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that person if that parent or subsidiary with requisite knowledge engaged in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that person if that affiliate with requisite knowledge engaged in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(b) SANCTIONS.—

(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, as follows:

(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(B) EXPORT SANCTION.—The United States Government shall not issue any license for any export by or to any person described in subsection (a)(2).

(2) EXCEPTIONS.—The President shall not be required to apply or maintain the sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines in writing that the person or other entity to which the sanction would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines in writing that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction;

(C) to—

(i) spare parts which are essential to United States products or production;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(c) SUPERSEDES EXISTING LAW.—The provisions of this section supersede the provisions of section 1604 of the Iran-Iraq Arms Non-

Proliferation Act of 1992 (as contained in Public Law 102-484) as such section applies to Iran.

SEC. 5. OPPOSITION TO MULTILATERAL ASSISTANCE.

(a) International Financial Institutions.—(1) The Secretary of the Treasury shall instruct the United States executive director of each international financial institution described in paragraph (2) to oppose and vote against any extension of credit or other financial assistance by that institution to Iran.

(2) The international financial institutions referred to in paragraph (1) are the International Bank for Reconstruction and Development, the International Development Association, the Asian Development Bank, and the International Monetary Fund.

(b) United Nations.—It is the sense of the Congress that the United States Permanent Representative to the United Nations should oppose and vote against the provision of any assistance by the United Nations or any of its specialized agencies to Iran.

SEC. 6. WAIVER AUTHORITY.

The provisions of sections 3, 4, and 5 shall not apply if the President determines and certifies to the appropriate congressional committees that Iran—

(1) has substantially improved its adherence to internationally recognized standards of human rights;

(2) has ceased its efforts to acquire a nuclear explosive device; and

(3) has ceased support for acts of international terrorism.

SEC. 7. REPORT REQUIRED.

Beginning 60 days after the date of enactment of this Act, and every 90 days thereafter, the President shall transmit to the appropriate congressional committees a report describing—

(1) the nuclear and other military capabilities of Iran; and

(2) the support, if any, provided by Iran for acts of international terrorism.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) Act of international terrorism.—The term "act of international terrorism" means an act—

(A) which is violent or dangerous to human life and that is a violation of the criminal laws of the United States or of any State or that would be a criminal violation if committed within the jurisdiction of the United States or any State; and

(B) which appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(2) Appropriate congressional committees.—The term "appropriate congressional committees" means the Committees on Banking, Housing and Urban Affairs and Foreign Relations of the Senate and the Committees on Banking and Financial Services and International Relations of the House of Representatives.

(3) Foreign person.—The term "foreign person" means—

(A) an individual who is not a United States national or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is not a United States national.

(4) Iran.—The term "Iran" includes any agency or instrumentality of Iran.

(5) Nuclear explosive device.—The term "nuclear explosive device" means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(6) Definition.—For purposes of this subsection, the term "requisite knowledge" means situations in which a person "knows", as "knowing" is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2).

(7) United States.—The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States.

(8) United States national.—The term "United States national" means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States;

(B) a corporation or other legal entity which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons who are nationals of the United States own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity; and

(C) any foreign subsidiary of a corporation or other legal entity described in subparagraph (B).

BREAUX AMENDMENTS NOS. 815–818

(Ordered to lie on the table.)

Mr. BREAUX submitted four amendments intended to be proposed by him to the bill S. 534, supra; as follows:

Amendment No. 815

At the appropriate place, insert the following:

SEC. . STUDY OF INTERSTATE WASTE TRANSPORT.

(a) Definitions.—In this section:

(1) Hazardous waste.—The term "hazardous waste" has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(2) Sewage sludge.—The term "sewage sludge"—

(A) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

(B) includes—

(i) domestic septage;

(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

(iii) material derived from sewage sludge (as otherwise defined in this paragraph); but

(C) does not include—

(i) ash generated during the firing of sewage sludge (as otherwise defined in this paragraph) in a sewage sludge incinerator; or

(ii) grit or screening generated during preliminary treatment of domestic sewage in a treatment works.

(3) Sludge.—The term "sludge" has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) Study.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

(1) the quantity of sludge (including sewage sludge) and hazardous waste that is being transported across State lines; and

(2) the ultimate disposition of the transported sludge and waste.

Amendment No. 816

Beginning on page 49, strike line 14 and all that follows through page 51, line 17, and insert the following:

tics, leather, rubber, hazardous waste, sewage sludge, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include—

"(A) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(B) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(C) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company with which the generator is affiliated;

"(D) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(E) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(F) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

"(G) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.

"(6) Sewage sludge.—The term 'sewage sludge'—

"(A) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

"(B) includes—

"(i) domestic septage;

"(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

"(iii) material derived from sewage sludge (as otherwise defined in this paragraph); but

"(C) does not include—

"(i) ash generated during the firing of sewage sludge (as otherwise defined in this paragraph) in a sewage sludge incinerator; or

"(ii) grit or screenings generated during preliminary treatment of domestic sewage in a treatment works."

AMENDMENT NO. 817

On page 49, line 14, after "rubber," insert "hazardous waste,".

AMENDMENT NO. 818

Beginning on page 49, strike line 14 and all that follows through page 51, line 17, and insert the following: tics, leather, rubber, sewage sledge, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal old waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001;

"(B) any solid waste, including contaminated solid and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response. Compensation, and Liability Act of 1980 (42 U.S.C. 9604 OR 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company with which the generator is affiliated;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.

"(6) SEWAGE SLUDGE.—The term 'sewage sludge'—

"(A) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

"(B) includes—

"(i) domestic septage;

"(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

"(iii) material derived from sewage sludge (as otherwise defined in this paragraph); but

"(C) does not include—

"(i) ash generated during the firing of sewage sludge (as otherwise defined in this paragraph) in a sewage sludge incinerator; or

"(ii) grit or screenings generated during preliminary treatment of domestic sewage in a treatment works.

LIEBERMAN AMENDMENT NO. 819

(Ordered to lie on the table).

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

On pages 62–63, strike lines 24–25, and lines 1–3.

BIDEN AND ROTH AMENDMENT NO. 820

(Ordered to lie on the table.)

Mr. BIDEN (for himself and Mr. ROTH) submitted an amendment intended to be proposed by them to the bill S. 534, supra; as follows:

On page 56, line 23, strike "1994." and insert "1994, or were in operation prior to May 15, 1994 and were temporarily inoperative on May 15, 1994,".

BAUCUS AMENDMENT NO. 821

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

Beginning on page 33, line 9, strike all through page 46, line 19, and insert the following:

"(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE WASTE.—(1) IN GENERAL.—(A) Except as provided in subsections (b) and (e), effective January 1, 1996, a landfill or incinerator in a State may not receive for disposal or incineration any out-of-State municipal solid waste unless the owner or operator of such landfill or incinerator has entered into a host community agreement or obtained a permit authorizing receipt of out-of-State municipal solid waste prior to enactment of this section, or obtains a host community agreement pursuant to this subsection.

"(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(D) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to or greater than the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

"(3)(A) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(E), and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may prohibit or limit the amount of out-of-State municipal solid waste disposed of at any landfill or incinerator covered by the exceptions in subsection (b) that is subject to the jurisdiction of the Governor, generated in any State that is determined by the Administrator under paragraph (6)(E) as having exported, to landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste, more than—

"(i) 3,500,000 tons of municipal solid waste in calendar year 1996;

"(ii) 3,000,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

"(iii) 2,500,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

"(iv) 1,500,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

"(v) 1,000,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

"(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

"(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

"(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

"(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

"(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

"(V) In calendar year 2000, 1,000,000 tons.

"(VI) In calendar year 2001, 800,000 tons.

"(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

"(ii) The Governor of an importing State may take action to restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

"(I) the Governor of the importing State has notified the Governor of the exporting State and the Administrator, 12 months prior to taking any such action, of the importing State's intention to impose the requirements of this section;

"(II) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to taking any such action; and

"(III) the restrictions imposed by the Governor of the importing State are uniform at all facilities.

"(C) The authority provided by subparagraphs (A) and (B) shall apply for as long as a State exceeds the permissible levels as determined by the Administrator under paragraph (6)(E).

"(4)(A) A Governor may not exercise the authority granted under this section if such action would result in the violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste.

"(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

"(5) Any limitation imposed by a Governor under paragraph (2) or (3)—

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin and all such limitations shall be applied to all States in violation of paragraph (3).

"(6) ANNUAL STATE REPORT.—

"(A) IN GENERAL.—Within 90 days after enactment of this section and on April 1 of each year thereafter the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the affected local government and to the Governor of the State in which the landfill or incinerator is located, information specifying the amount and State of origin of out-of-State municipal solid waste received for disposal during the preceding calendar year. Within 120 days after enactment of this section and on July 1 of each year thereafter each State shall publish and make available to the Administrator, the Governor of the State of origin and the public, a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding calendar year.

"(B) CONTENTS.—Each submission referred to in this section shall be such as would result in criminal penalties in case of false or misleading information. Such information shall include the amount of waste received, the State of origin, the identity of the generator, the date of the shipment, and the type of out-of-State municipal solid waste.

"(C) LIST.—The Administrator shall publish a list of States that the Administrator has determined have exported out-of-State in any of the following calendar years an amount of municipal solid waste in excess of—

"(i) 3,500,000 tons in 1996;

"(ii) 3,000,000 tons in 1997;

"(iii) 3,000,000 tons in 1998;

"(iv) 2,500,000 tons in 1999;

"(v) 2,500,000 tons in 2000;

"(vi) 1,500,000 tons in 2001;

"(vii) 1,500,000 tons in 2002;

"(viii) 1,000,000 tons in 2003; and

"(ix) 1,000,000 tons in each calendar year after 2003.

The list for any calendar year shall be published by June 1 of the following calendar year.

"(D) SAVINGS PROVISION.—Nothing in this subsection shall be construed to preempt any State requirement that requires more frequent reporting of information.

"(7) Any affected local government that intends to enter into a host community agreement after the date of enactment of this section, shall prior to taking such action—

"(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

"(B) publish notice of the action in a newspaper of general circulation at least 30 days before taking such action;

"(C) provide an opportunity for public comment in accordance with State law, including at least 1 public hearing; and

"(D) following notice and comment, take formal action on any proposed request or action at a public meeting.

"(8) Any owner or operator seeking a host community agreement after the date of enactment of this subsection shall provide to the affected local government the following information, which shall be made available to the public from the affected local government:

"(A) A brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantities to be handled.

"(B) A map of the facility site that indicates the location of the facility in relation to the local road system and topographical and hydrological features and any buffer zones and facility units to be acquired by the owner or operator of the facility.

"(C) A description of the existing environmental conditions at the site, and any violations of applicable laws or regulations.

"(D) A description of environmental controls to be utilized at the facility.

"(E) A description of the site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

"(F) A list of all required Federal, State, and local permits.

"(G) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner and operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective measures taken as a result of the proceedings.

"(H) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

"(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) The prohibition on the disposal of out-of-State municipal solid waste in subsection (a)(1) shall not apply to landfills and incinerators in operation on the date of enactment of this section that—

"(A) received during calendar year 1993 documented shipments of out-of-State municipal solid waste; and

"(B)(i) in the case of landfills, are in compliance with all applicable Federal and State laws and regulations relating to operation, design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action; or

"(ii) in the case of incinerators, are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429) and applicable State laws and regulations relating to facility design and operations.

"(C) before the date of enactment of this section, the owner or operator entered into a host community agreement or received a permit specifically authorizing the owner or operator to accept at the landfill or incinerator municipal solid waste generated outside the State in which it is or will be located."

"(2) A Governor may not prohibit the disposal of out-of-State municipal solid waste pursuant to subsection (a)(1) facilities described in this subsection that are not in compliance with applicable Federal and State laws and regulations unless disposal of municipal solid waste generated within the State at such facilities is also prohibited.

"(3) The owner or operator of a landfill or incinerator that is exempt under this subsection from the prohibition in subsection (a)(1) shall provide to the State and affected local government, and make available for inspection by the public in the affected local community, a copy of the host community agreement or permit referenced in subparagraph (C). The owner or operator may omit from such copy or other documentation any proprietary information, but shall ensure that at least the following information is apparent; the volume of out-of-State municipal solid waste received; the place of origin of the waste, and the duration of any relevant contract.

"(c) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) In any case in which an affected local government is considering entering into, or has entered into, a host community agreement and the disposal or incineration of out-of-State municipal solid waste under such agreement would preclude the use of municipal solid waste management capacity described in paragraph (2), the Governor of the State in which the affected local government is located may prohibit the execution of such host community agreement with respect to that capacity.

"(2) The municipal solid waste management capacity referred to in paragraph (1) is that capacity—

"(A) that is permitted under Federal or State law;

"(B) that is identified under the State plan; and

"(C) for which a legally binding commitment between the owner or operator and another party has been made for its use for disposal or incineration of municipal solid waste generated within the region (identified under section 4006(a)) in which the local government is located.

"(d) COST RECOVERY SURCHARGE.—

"(1) AUTHORITY.—A State described in paragraph (2) may adopt a law and impose and collect a cost recovery charge on the processing or disposal of out-of-State municipal solid waste in the State in accordance with this subsection.

"(2) APPLICABILITY.—The authority to impose a cost recovery surcharge under this subsection applies to any State that on or before April 3, 1994, imposed and collected a special fee on the processing or disposal of out-of-State municipal solid waste pursuant to a State law.

"(3) LIMITATION.—No such State may impose or collect a cost recovery surcharge from a facility on any out-of-State municipal solid waste that is being received at the facility under 1 or more contracts entered into after April 3, 1994, and before the date of enactment of this section.

"(4) AMOUNT OF SURCHARGE.—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (6) and in no event may exceed $1.00 per ton of waste.

"(5) USE OF SURCHARGE COLLECTED.—All cost recovery surcharges collected by a State covered by this subsection shall be used to fund those solid waste management programs administered by the State or its political subdivision that incur costs for which the surcharge is collected.

"(6) CONDITIONS.—(A) Subject to subparagraphs (B) and (C), a State covered by this subsection may impose and collect a cost recovery surcharge on the processing or disposal within the State of out-of-State municipal solid waste if—

"(i) the State demonstrates a cost to the State arising from the processing or disposal within the State of a volume of municipal solid waste from a source outside the State;

"(ii) the surcharge is based on those costs to the State demonstrated under clause (i) that, if not paid for through the surcharge, would otherwise have to be paid or subsidized by the State; and

"(iii) the surcharge is compensatory and is not discriminatory.

"(B) In no event shall a cost recovery surcharge be imposed by a State to the extent that the cost for which recovery is sought is otherwise paid, recovered, or offset by any other fee or tax assessed against or voluntarily paid to the State or its political subdivision in connection with the generation, transportation, treatment, processing, or disposal of solid waste.

"(C) The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A)(iii).

"(7) DEFINITIONS.—As used in this subsection:

"(A) The term 'costs' means the costs incurred by the State for the implementation of its laws governing the processing or disposal of municipal solid waste, limited to the issuance of new permits and renewal of or modification of permits, inspection and compliance monitoring, enforcement, and costs associated with technical assistance, data management, and collection of fees.

"(B) The term 'processing' means any activity to reduce the volume of solid waste or alter its chemical, biological or physical state, through processes such as thermal treatment, bailing, composting, crushing, shredding, separation, or compaction.

"(e) SAVINGS CLAUSE.—Nothing in this section shall be interpreted or construed—

"(1) to have any effect on State law relating to contracts to authorize, require, or result in the violation or failure to perform the terms of a written, legally binding contract entered into before enactment of this section during the life of the contract as determined under State law; or

DODD AMENDMENT NO. 822

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

In the committee substitute on page 62, line 14, strike "and", and all that follows through line 3 on page 63, and insert the following:

"or

"(iii) entered into contracts with the operator of a solid waste facility selected by an operating committee composed of local political subdivisions created pursuant to State law to deliver or cause to be delivered to the facility substantially all of the disposable municipal solid waste that is generated or collected by or within the control of the political subdivision, which imposed flow control pursuant to a law, ordinance, regulation, or other legally binding provision and where outstanding revenue bonds were issued on behalf of the operating committee for waste management facilities;

"(B) prior to May 15, 1994, the public service authority or operating committee composed of local political subdivisions created pursuant to State law—

"(i) issued or had issued on its behalf, the revenue bonds for the construction of municipal solid waste facilities to which the political subdivision's municipal solid waste is transferred or disposed; and

"(ii) commenced operation of the facilities."

SMITH AMENDMENTS NOS. 823–824

(Ordered to lie on the table.)

Mr. SMITH submitted two amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 823

On page 56, lines 18 through 21, strike "the substantial construction of which facilities was performed after the effective date of that law, ordinance, regulation, or other legally binding provision and".

AMENDMENT NO. 824

On page 56, strike lines 10 through 13 and insert the following:

"(A)(i) had been exercised prior to May 15, 1994, and was being implemented on May 15, 1994, pursuant to a law, ordinance, regulation, or other legally binding provision of the State or political subdivision; or

"(ii) had been exercised prior to May 15, 1994, but implementation of such law, ordinance, regulation, or other legally binding provi-".

WELLSTONE AMENDMENTS NOS. 825–826

(Ordered to lie on the table.)

Mr. WELLSTONE submitted two amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 825

On page 56, strike lines 18 through 21 and insert in lieu thereof the following: "material is to be delivered, or the substantial construction of which facilities was performed after the effective date of that law, ordinance, regulation, or other legally binding provision, and

(c)".

AMENDMENT NO. 826

On page 59, between lines 20 and 21, insert the following:

"(6) For the purposes of (1), "was being implemented on May 15, 1994" includes provisions that would have been in implementation on such date but for any court decision finding that such provisions unconstitutionally interfere with interstate commerce or but for the voluntary decision of a State or its political subdivision to suspend implementation because of the existence of such court decision or decisions.".

SMITH AMENDMENTS NOS. 827–828

(Ordered to lie on the table.)

Mr. SMITH submitted two amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 827

On page 67, strike the period and quotation mark at the end of line 2.

On page 67, between lines 2 and 3, insert the following:

"(k) TITLE NOT APPLICABLE TO LISTED FACILITIES.—Notwithstanding any other provision of this title, the authority to exercise flow control shall not apply to any facility that—

"(1) on the date of enactment of this Act, is listed on the National Priorities List under the comprehensive Environmental, Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.); or

"(2) as of May 15, 1994, was the subject of a pending proposal by the Administrator of the Environmental Protection Agency to be listed on the National Priorities List.".

AMENDMENT NO. 828

On page 60, strike lines 1 through 5 and insert the following:

"(A)(i) the law, ordinance, regulation, or other legally binding provision specifically provides for flow control authority for municipal solid waste generated within its boundaries; and

"(ii) such authority was exercised prior to May 15, 1995, and was being implemented on May 15, 1994.".

DOMENICI AMENDMENT NO. 829

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

On page 69, line 22, strike "".".

On page 69, between lines 22 and 23, insert the following new provision:

"(5) FURTHER REVISIONS OF GUIDELINES AND CRITERIA.—Not later than April 9, 1997, the Administrator shall promulgate revisions to the guidelines and criteria promulgated under this title to allow states to promulgate alternate design, operating, landfill gas and groundwater monitoring, financial assurance, and closure requirements for landfills which receive 20 tons or less of solid waste per day based on an annual average and are located in areas receiving 20 inches or less of annual precipitation, provided that such alternate requirements are sufficient to protect human health and the environment.".

DEWINE AMENDMENTS NOS. 830–834

(Ordered to lie on the table.)

Mr. DEWINE submitted five amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 830

On page 43, between lines 14 and 15, insert the following:

"(d) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-STATE MUNICIPAL SOLID WASTE BY IMPOSING A PERCENTAGE LIMITATION.—

"(1) STATE LAW.—A State may by law provide that a State permit for a new landfill or incinerator shall include a percentage limitation on the total quantity of out-of-State municipal solid water that may be received at the landfill or incinerator.

"(2) REQUIREMENTS.—A percentage limitation imposed under paragraph (1)—

"(A) shall be uniform for all landfills or incinerators for which a permit is required under State law; and

"(B) shall not discriminate against out-of-State municipal solid waste based on the State of origin unless the waste is received under an agreement entered into under section 1005(b) pursuant to which the State and 1 or more other States (referred to in this subsection as an 'exporting State') have agreed on a different percentage limitation for specific facilities for municipal solid waste from any such exporting State.

"(3) MAJOR MODIFICATIONS.—This subsection shall apply to a permit (or permit amendment) for a major modification of a landfill or incinerator in the same manner as it applies to a permit for a new landfill or incinerator if the landfill or incinerator was not authorized to receive out-of-State municipal waste pursuant to a host community agreement prior to the date of enactment of this section.

AMENDMENT NO. 831

On page 42, line 19, after "Waste," insert the following: "by requiring use of municipal solid waste management capacity under a host community agreement".

AMENDMENT NO. 832

On page 43, line 15, strike "(d)" and insert "(e)".

AMENDMENT NO. 833

On page 46, line 16, strike "(e)" and insert "(f)".

AMENDMENT NO. 834

On page 47, line 5, strike "(f)" and insert "(g)".

KEMPTHORNE AMENDMENTS NOS. 835–848

(Ordered to lie on the table.)

Mr. KEMPTHORNE submitted 14 amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 835

On page 40, lines 19 and 20, after the word, "site", strike the following: "and any violations of applicable laws or regulations".

AMENDMENT NO. 836

On page 39, line 8, strike the word, "June", and in lieu thereof insert the word, "September".

AMENDMENT NO. 837

On page 38, line 14, after the word, "received," strike everything through the end of the sentence and in lieu thereof insert the following: "the State of origin and the date of shipment.".

AMENDMENT NO. 838

On page 33, line 11, strike the words, "immediately upon the date of enactment of this section," and in lieu thereof insert the words, "beginning January 1, 1996."

AMENDMENT NO. 839

On page 52, line 6, add the following new subsection:

( ) APPLICATION.—The provisions of this section shall not apply to prohibit or limit receipt of out-of-State municipal solid waste at any landfill or incinerator that meets both of the following conditions:

(A) The facility has been granted a permit under State law to receive municipal solid waste for combustion or disposal; and

(B) The State or its political subdivision within which the facility is located has exercised any flow control authority provided under other provisions of this subtitle to prohibit or limit the receipt by the facility of municipal solid waste that is generated within the State or its political subdivision.

AMENDMENT NO. 840

On page 45, lines 15 and 16, after the word, "tax", strike the words, "assessed against or voluntarily"; on lines 16 and 17, after the word, "subdivision", insert the following: ", or to the extent that the amount of the surcharge is offset by voluntarily agreed payments to a State or its political subdivision".

AMENDMENT NO. 841

On page 52, line 3, after the word, "it", strike the words, "clearly and affirmatively states", and in lieu thereof insert the words, "reasonably evidences".

AMENDMENT NO. 842

On page 45, line 19, after the number, "3001", add the following words, "or waste regulated under the Toxic Substances and Control Act (15 U.S.C. 2601 et seq.)".

AMENDMENT NO. 843

On page 48, lines 22 and 23, after the word, "additional", strike the word, "express" and in lieu thereof insert the word, "specific".

AMENDMENT NO. 844

On page 46, line 19, after the word, "contracts", insert the following: ", or to authorize, require, or result in the violation or failure to perform the terms of a written, legally binding contract entered into before enactment of this section".

AMENDMENT NO. 845

On page 44, line 8, strike the words, "enactment of this section" and in lieu thereof insert the words, "adoption of a State law authorized by this subsection".

AMENDMENT NO. 846

On page 43, line 23, after the word, "on", strike the words, "or before".

AMENDMENT NO. 847

On page 36, line 21, add the following new sentence: "A limit or prohibition shall be treated as a violation of and inconsistent with a host community agreement or permit if the agreement or permit establishes a higher limit or does not establish any limit.".

AMENDMENT NO. 848

On page 35, line 5, after the word "agreements", insert the words, "or permits authorizing receipt of out-of-State municipal solid waste".

LEVIN AMENDMENTS NOS. 849–858

(Ordered to lie on the table.)

Mr. LEVIN submitted 10 amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 849

On page 49, line 3, after "of the State." strike all that follows through line 8.

AMENDMENT NO. 850

On page 56, line 23, after "1994" insert ", or, (C) was used by the political subdivision to finance resource recovery or waste reduction programs."

AMENDMENT NO. 851

On page 60, lines 7 and 8, strike "a waste management facility" and insert "1 or more waste management facilities".

AMENDMENT NO. 852

On page 53, lines 17 and 18 and insert "to 1 or more designated waste management facilities or facilities for recyclable material".

AMENDMENT NO. 853

On page 63, line 24, strike "and" and insert "or".

AMENDMENT NO. 854

On page 63, line 22, strike "significant".

AMENDMENT NO. 855

On page 63, line 11, strike "operation of solid waste facilities to serve the".

AMENDMENT NO. 856

On page 63, line 16, strike "30" and insert "25".

AMENDMENT NO. 857

On page 56, line 18, after "delivered," insert "or".

AMENDMENT NO. 858

On page 59, line 1, strike "1984" and insert "1989".

FEINSTEIN AMENDMENT NO. 859

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 534, supra; as follows:

On page 64, line 3, insert the following as subsection (f) and reletter subsequent subsections accordingly:

(f) Notwithstanding the provisions of this section, a political subdivision which, upon date of enactment of this section, is mandated by state law to divert 25 percent, by January 1, 1995, and 50 percent, by January 1, 2000, of all solid waste generated within its jurisdiction from landfill and resource recovery facilities through source reduction, recycling, and composting activities, may enter into a contract, franchise or agreement with, or issue a license or permit to, a public or private entity by which the public or private entity is exclusively or nonexclusively authorized to provide a solid waste management activity. Such state or political subdivision may as a condition in such contract, agreement, license or permit, require the public or private entity to deliver the solid waste or voluntarily relinquished recyclable material to a waste management facility identified by the state or political subdivision in such contract, agreement, license or permit. Any such contract, franchise or agreement, regardless of its effective date, and any such license or permit, regardless of when issued, shall be considered to be a reasonable regulation of commerce and shall not be considered to be an undue burden on or to otherwise impair, restrain, or discriminate against interstate commerce. For purposes of this subsection, the term "solid waste" shall mean solid waste as defined under the law, in existence on the date of enactment of this subsection, of the state.

DODD AMENDMENT NO. 860

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

In the Committee substitute, on page 62, line 14, strike "and", and all that follows through line 3 on page 63, and insert the following:

"or

"(iii) entered into contracts with the operator of a solid waste facility selected by an operating committee composed of local political subdivisions created pursuant to state law to deliver or cause to be delivered to the facility substantially all of the disposable municipal solid waste that is generated or collected by or within the control of the political subdivision, which imposed flow control pursuant to a law, ordinance, regulation, or other legally binding provision and where outstanding revenue bonds were issued on behalf of the operating committee for waste management facilities;

"(B) prior to May 15, 1994, the public service authority or operating committee composed of local political subdivisions created pursuant to state law—

"(i) issued or had issued on its behalf, the revenue bonds for the construction of municipal solid waste facilities to which the political subdivision's municipal solid waste is transferred or disposed; and

"(ii) commenced operation of the facilities.

"(2) DURATION OF AUTHORITY.—Authority under this subsection may be exercised by a political subdivision qualifying under paragraph (1)(A)(ii) or paragraph (1)(A)(iii) only until the expiration of the contract or the life of the bond, whichever is earlier.

MURKOWSKI AMENDMENT NO. 861

Mr. MURKOWSKI proposed an amendment to the bill S. 534, supra; as follows:

On page 19, line 19, before "would be infeasible" insert "or unit that is located in or near a small, remote Alaska village".

MURKOWSKI AMENDMENT NO. 862

(Ordered to lie on the table.)

Mr. CHAFEE (for Mr. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

On page , line , before "would be infeasible" insert "or unit that is located in or near a small, remote Alaska village".

PRYOR AMENDMENT NO. 863

(Ordered to lie on the table.)

Mr. PRYOR submitted an amendment intended to be proposed by him to an amendment intended to be proposed by Mr. KEMPTHORNE to bill S. 534, supra; as follows:

On page 64, between lines 2 and 3, insert the following:

"(f) INCLUSION OF CERTAIN ADDITIONAL STATES AND POLITICAL SUBDIVISIONS.—Notwithstanding any other provision of this title, flow control authority granted under this title may be exercised by a State or political subdivision that, prior to May 15, 1994, adopted a flow control measure or measures, individually or collectively, that required the delivery of flow-controllable solid waste to a proposed or existing waste management facility.

LEVIN (AND ABRAHAM) AMENDMENT NO. 864

(Ordered to lie on the table.)

Mr. LEVIN (for himself and Mr. ABRAHAM) submitted an amendment intended to be proposed by them to the bill S. 534, supra; as follows:

On page 33, strike line 9 and all that follows through line 17, and insert the following:

"(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE MUNICIPAL SOLID WASTE.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION.—Effective 90 days after enactment, a landfill or incinerator in a State may not receive for disposal or incineration any out-of-State municipal solid waste unless the owner or operator of the landfill or incinerator obtains explicit authorization (as part of a host community agreement) from the affected local government to receive the waste.

"(B) REQUIREMENTS FOR AUTHORIZATION.—An authorization under subparagraph (A) shall—

"(i) be granted by formal action at a meeting;

"(ii) be recorded in writing in the official record of the meeting; and

"(iii) remain in effect according to its terms.

"(C) DISCRETIONARY TERMS AND CONDITIONS.—An authorization under subparagraph (A) may specify terms and conditions, including an amount of out-of-State waste that an owner or operator may receive and the duration of the authorization.

"(D) NOTIFICATION.—Promptly, but not later than 90 days after an authorization is granted, the affected local government shall notify the Governor, contiguous local governments, and any contiguous Indian tribes of an authorization under subparagraph (A).

"(2) INFORMATION.—Prior to seeking an authorization to receive out-of-State municipal solid waste under paragraph (1), the owner or operator of the facility seeking the authorization shall provide (and make readily available to the Governor, each contiguous local government and Indian tribe, and any other interested person for inspection and copying) the following information:

"(A) A brief description of the facility, including, with respect to both the facility and any planned expansion of the facility, the size, ultimate waste capacity, and the anticipated monthly and yearly quantities of (expressed in terms of volume) waste to be handled.

"(B) A map of the facility site disclosing—

"(i) the location of the site in relation to the local road system and topography and hydrogeological features; and

"(ii) any buffer zones or facility units to be acquired by the owner or operator.

"(C)(i) A description of the then-current environmental characteristics of the site and of ground water use in the area (including identification of private wells and public drinking water sources).

"(ii) A discussion of alterations that may be necessitated by, or occur as a result of, the facility.

"(D) A description of—

"(i) environmental controls typically required to be used on the site (pursuant to permit requirements), including run-on and runoff management, air pollution control devices, source separation procedures (if any), methane monitoring and control, landfill covers, liners or leachate collection systems, and monitoring programs; and

"(ii) any waste residuals generated by the facility, including leachate or ash, and the planned management of the residuals.

"(E) A description of site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

"(F) A list of all required Federal, State, and local permits.

"(G) Estimates of the personnel requirements of the facility, including information regarding the probable skill and education levels required for jobs at the facility, which, to the extent practicable, distinguishes between employment statistics for preoperational levels and those for postoperational levels.

"(H) Any information that is required by Federal or State law to be provided with respect to—

"(i) any violations of environmental laws (including regulations) by the owner, the operator, or any subsidiary of the owner or operator;

"(ii) the disposition of enforcement proceedings taken with respect to the violations; and

"(iii) corrective action and rehabilitation measures taken as a result of the proceedings.

"(I) Any information that is required by Federal or State law to be provided with respect to gifts and contributions made by the owner or operator.

"(J) Any information that is required by Federal or State law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

"(3) NOTIFICATION.—Prior to taking formal action with respect to granting authorization to receive out-of-State municipal solid waste pursuant to this subsection, an affected local government shall—

"(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

"(B) publish notice of the action in a newspaper of general circulation at least 30 days before holding a hearing and again at least 15 days before holding the hearing, unless State law provides for an alternate form of public notification; and

"(C) provide an opportunity for public comment in accordance with State law, including at least 1 public hearing.

BREAUX AMENDMENTS NOS. 865–866

(Ordered to lie on the table.)

Mr. BREAUX submitted two amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 865

At the appropriate place, insert the following:

SEC. . STUDY OF INTERSTATE SLUDGE TRANSPORT.

(a) DEFINITIONS.—In this section:

(1) SEWAGE SLUDGE.—The term "sewage sludge"—

(A) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

(B) includes—

(i) domestic septage;

(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

(iii) material derived from sewage sludge (as otherwise defined in this paragraph); but

(C) does not include—

(i) ash generated during the firing of sewage sludge (as otherwise defined in this paragraph) in a sewage sludge incinerator; or

(ii) grit or screenings generated during preliminary treatment of domestic sewage in a treatment works.

(2) SLUDGE.—The term "sludge" has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

(1) the quantity of sludge (including sewage sludge) that is being transported across State lines; and

(2) the ultimate disposition of the transported sludge.

AMENDMENT NO. 866

At the appropriate place, insert the following:

SEC. . STUDY OF INTERSTATE HAZARDOUS WASTE TRANSPORT.

(a) DEFINITION OF HAZARDOUS WASTE.—In this section, the term "hazardous waste" has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

(1) the quantity of hazardous waste that is being transported across State lines; and

(2) the ultimate disposition of the transported waste.

JEFFORDS (AND LEAHY) AMENDMENT NO. 867

Mr. JEFFORDS proposed an amendment to the bill S. 534, supra; as follows:

On page 64, between lines 2 and 3, insert the following:

"(f) State Solid Waste District Authority.—A solid waste district of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

"(1) the solid waste district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2000, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

"(2) prior to May 15, 1994, the solid waste district—

"(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid wastes within its jurisdiction;

"(B) was authorized by State statute (enacted prior to January 1, 1990) to exercise flow control authority, and subsequently adopted the authority through a law, ordinance, regulation, contract, franchise, or other legally binding provision; and

"(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994.

MOYNIHAN AMENDMENT NO. 868

Mr. CHAFEE (for Mr. Moynihan) proposed an amendment to the bill S. 534, supra; as follows:

On page 60, line 7, strike the word "a" and insert "the particular".

On page 60, line 8, strike the word "facility" and insert in its place "facilities or public service authority".

On page 60, line 15, strike the word "facility" and insert in its place "facilities or public service authority".

CAMPBELL (AND OTHERS) AMENDMENT NO. 869

Mr. CHAFEE (for Mr. Campbell for himself, Mr. Brown, and Mr. Kempthorne) proposed an amendment to the bill S. 534, supra; as follows:

On page 69, strike the quotation mark and period at the end of line 22.

On page 69, between lines 22 and 23, insert the following:

"(5) No-migration exemption.—

"(A) In general.—Ground water monitoring requirements may be suspended by the Director of an approved State for a landfill operator if the operator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost acquifer during the active life of the unit and the post-closure care period.

"(B) Certification.—A demonstration under subparagraph (A) shall—

"(i) be certified by a qualified groundwater scientists and approved by the Director of an approved State.

"(C) Guidance.—

"(i) In general.—Not later than 6 months after the date of enactment of this paragraph, the Administrator shall issue a guidance document to facilitate small community use of the no migration exemption under this paragraph.

DODD (AND LIEBERMAN) AMENDMENT NO. 870

Mr. CHAFEE (for Mr. Dodd, for himself, and Mr. Lieberman) proposed an amendment to the bill S. 534, supra; as follows:

On page 55, line 8, add:

"(B) other body created pursuant to State law or",

Redesignate "(B)" as "(C)".

On page 62 line 1 insert after "authority", "or on its behalf by a State entity".

On page 62 line 17 insert after "bonds", "or had issued on its behalf by a State entity".

On page 62 line 24 strike all through page 63 line 3, and insert the following, "the authority under this subsection shall be exercised in accordance with section 4012(b)(4).".

ROTH (AND BIDEN) AMENDMENT NO. 871

Mr. CHAFEE (for Mr. Roth, for himself, and Mr. Biden) proposed an amendment to the bill S. 534, supra; as follows:

On page 53, line 3, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 53, line 4, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 53, lines 7 and 8, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 53, line 10, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 56, lines 1 and 2, strike "and each political subdivision of a State" and insert ", political subdivision of a State, and public service authority".

On page 56, line 12, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 57, line 4, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 57, line 7, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 57, line 21, strike "or political subdivision" and insert ", political subdivision, or public service authority".

BIDEN (AND ROTH) AMENDMENT NO. 872

Mr. CHAFEE (for Mr. Biden, for himself, and Mr. Roth) proposed an amendment to the bill S. 534, supra; as follows:

On page 56, line 23, strike "1994." and insert "1994, or were in operation prior to May 15, 1994 and were temporarily inoperative on May 15, 1994,".

SMITH (AND OTHERS) AMENDMENT NO. 873

Mr. CHAFEE (for Mr. Smith, for himself, Mr. Thompson, Mr. Cohen, Mrs. Hutchison, and Ms. Snowe) proposed an amendment to the bill S. 534, supra; as follows:

On page 56, lines 18 through 21, strike "the substantial construction of which facilities was performed after the effective date of that law, ordinance, regulation, or other legally binding provision and".

On page 67, strike the period and quotation mark at the end of line 2.

On page 67, between lines 2 and 3, insert the following:

"(k) Title Not Applicable to Listed Facilities.—Notwithstanding any other provision of this title, the authority to exercise flow control shall not apply to any facility that—

"(1) on the date of enactment of this Act, is listed on the National Priorities List under the Comprehensive Environmental, Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.): or

"(2) as of May 15, 1994, was the subject of a pending proposal by the Administrator of the Environmental Protection Agency to be listed on the National Priorities List.".

SMITH (AND WELLSTONE) AMENDMENT NO. 874

Mr. CHAFEE (for Mr. Smith, for himself, and Mr. Wellstone) proposed an amendment to the bill S. 534, supra; as follows:

On page 56, strike lines 10 through 13 and insert the following:

"(A)(i) had been exercised prior to May 15, 1994, and was being implemented on May 15, 1994, pursuant to a law, ordinance, regulation, or other legally binding provision of the State or political subdivision; or

"(ii) had been exercised prior to May 15, 1994, but implementation of such law, ordinance, regulation, or other legally binding provision of the State or political subdivision was prevented by an injunction, temporary restraining order, or other court action, or was suspended by the voluntary decision of the State or political subdivision because of the existence of such court action."

On page 60, strike lines 1 through 5 and insert the following:

"(A)(i) the law, ordinance, regulation, or other legally binding provision specifically provides for flow control authority for municipal solid waste generated within its boundaries; and

"(ii) such authority was exercised prior to May 15, 1995, and was being implemented on May 15, 1994."

SNOWE (AND COHEN) AMENDMENT NO. 875

Mr. CHAFEE (for Ms. Snowe for herself and Mr. Cohen) proposed an amendment to the bill S. 534, supra; as follows:

On page 58, line 5, strike "original facility" and insert "facility (as in existence on the date of enactment of this section)".

PRYOR AMENDMENT NO. 876

Mr. CHAFEE (for Mr. Pryor) proposed an amendment to the bill S. 534, supra; as follows:

On page 61, between lines 7 and 8, insert the following:

"(d) Formation of Solid Waste Management District to Purchase and Operate Existing Facility.—Notwithstanding subsection (b)(1) (A) and (B), a solid waste management district that was formed by a number of political subdivisions for the purpose of purchasing and operating a facility owned by 1 of the political subdivisions may exercise flow control authority under subsection (b) if—

"(1) the facility was fully licensed and in operation prior to May 15, 1994;

"(2) prior to April 1, 1994, substantial negotiations and preparation of documents for the formation of the district and purchase of the facility were completed;

"(3) prior to May 15, 1994, at least 80 percent of the political subdivisions that were to participate in the solid waste management district had adopted ordinances committing the political subdivisions to participation and the remaining political subdivisions adopted such ordinances within 2 months after that date; and

"(4) the financing was completed, the acquisition was made, and the facility was placed under operation by the solid waste management district by September 21, 1994."

COHEN (AND SNOWE) AMENDMENT NO. 877

Mr. CHAFEE (for Mr. COHEN, for himself, and Ms. SNOWE) proposed an amendment to the bill S. 534, supra; as follows:

On page 55, between lines 10 and 11 insert the following:

"(5) PUT OR PAY AGREEMENT.—(1) The term 'put or pay agreement' means an agreement that obligates or otherwise requires a State or political subdivision to—

"(A) deliver a minimum quantity of municipal solid waste to a waste management facility; and

"(B) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

"(2) For purposes of the authority conferred by subsections (b) and (c), the term 'legally binding provision of the State or political subdivision' includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988 and that requires an aggregate tonnage to be delivered to the facility during each operating year by the political subdivisions which have entered put or pay agreements designating that waste management facility.

"(3) The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for all purposes of this title."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, May 11, 1995, at 9:30 a.m. in open session to receive testimony on the national security implications of lowered export controls on dual-use technologies and U.S. defense capabilities.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Thursday, May 11, 1995, beginning at 9:30 a.m. in room SD–215, to conduct a hearing on Medicare solvency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, May 11, 1995, at 9:30 a.m., to hold a hearing to receive testimony on the Smithsonian Institution: Management Guidelines for the Future.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. CHAFEE. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on the reorganization of the Veterans Health Administration, and the requirement of 38 U.S.C. 510(b) for the Department of Veterans Affairs to provide 90 days' notice to the Congress before an administrative reorganization may take effect. The hearing will be held on May 11, 1995, at 10 a.m., in room 118 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, May 11, at 9:30 a.m. to hold a hearing on the topic of long-term care financing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DISABILITY POLICY

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Disability Policy of the Committee on Labor and Human Resources be authorized to meet for a hearing on the Individuals with Disabilities Education Act, during the session of the Senate on Thursday, May 11, 1995, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Immigration of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, May 11, 1995, at 2:30 p.m. to hold a hearing on Immigration and Naturalization Service oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the International Operations Subcommittee of the Committee on International Relations be authorized to meet during the session of the Senate on Thursday, May 11, 1995, at 3 p.m. to hear testimony on the reorganization and revitalization of America's foreign affairs institutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Near Eastern and South Asian Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 11, 1995, at 10 a.m. to hear testimony on U.S. assistance programs in the Middle East.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Thursday, May 11, 1995, in open session, to receive testimony on Environmental, Military Construction and BRAC Programs in review of S. 727, the National Defense Authorization Act for 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, WASTE CONTROL, AND RISK ASSESSMENT

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Waste Control, and Risk Assessment be granted permission to conduct an oversight hearing Thursday, May 11, at 1:30 p.m., regarding the Comprehensive Environmental Response, Compensation, and Liability Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND GOVERNMENT

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Technology, and Government Information for the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, May 11, 1995, at 9:30 a.m. to hold a hearing on mayhem manuals and the internet.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO LEE TODD

• Mr. MCCONNELL. Mr. President, I rise today to recognize the career of Mr. Lee Todd, who is working hard to make Lexington, KY, a major stop on the information highway. Lee is president and CEO of DataBeam, one of the State's few high-technology companies.

Lee grew up in Earlington, KY, where at age 14 he became the best pool shooter in town. Lee credits his early years in the western Kentucky town with helping make him who he is today. In a recent article in Bluegrass magazine, Lee says "I think every kid needs something to feel good about, to develop self esteem. For some kids it was athletics. For me, it was pool."

After graduating from high school, Lee attended Murray State University, but after 2 years he transferred to the University of Kentucky. After receiving his diploma, Lee moved to Boston and attended M.I.T., where he earned his M.S. and Ph.D in electrical engineering. It was also in Boston that he met his wife, Patsy.

The Todds returned home to the Bluegrass State after graduation. They settled in Lexington, and Lee got a job in the Electrical Engineering Department at the University of Kentucky. He taught at U.K. for 9 years, and during that time he was honored with several teaching awards, including the coveted U.K. Alumni Association Great Teacher Award.

Lee caught "entrepreneur fever" at M.I.T, where he was awarded with six patents for advancements in picture tube technology. These patents helped lead to the development of DataBeam. In 1993, DataBeam introduced FarSite, the first software-driven computer conference room system. This high-technology allows a document to be viewed at the same time on different computer screens at different locations throughout the country.

DataBeam, which was given the Outstanding Small Business Award in 1988, is currently focusing on partnerships. The company recently added software giant Microsoft to its list of partners, which already includes AT&T, MCI, and Motorola.

Lee believes that by improving education and by helping to create a high-technology industry, Kentucky will have a brighter future. He founded and chairs the Kentucky Science, and Technology Counsel, which developed a hands-on learning package for elementary schoolchildren. This program is now used in about 60 percent of the elementary schools across the State.

Mr. President, I ask my colleagues to join me in recognizing this outstanding Kentuckian for his many accomplishments. I am confident that Mr. Todd will continue to invest in the future of Kentucky, as he has done so graciously in the past.•

POLITICAL TRANSITION IN CHINA

• Mr. BAUCUS. Mr. President, on March 23, the Congressional Economic Leadership Institute, in conjunction with the Congressional Competitiveness Caucus, held a discussion of China as that nation begins a political transition.

The meeting was led by three China experts: former United States Ambassador to China, Jim Lilley; Nigel Holloway, Washington correspondent of the Far Eastern Economic Review; and Drew Liu, executive director of the China Institute.

Called "China After Deng," this vigorous discussion highlighted some of the outstanding issues in Chinese internal affairs and the United States-China relationship. I commend it to my colleagues who wish to gain a deeper understanding of these issues.

The panelists agreed, in the words of Drew Liu, that "China is perhaps entering the most crucial period of transition."

Mr. Holloway expressed another theme by urging "constructive engagement," since the United States and the West generally "need to keep drawing China out, into the wider world, and help to prevent its becoming a merchantilist military state."

Ambassador Lilley put these points in context by noting that basic long-term economic and political trends within China are positive and leading toward a more economically and militarily powerful nation, and that the range of United States interests in the relationship with China is very broad.

I want to compliment the institute for organizing this useful discussion, and I ask that the transcript be printed in the RECORD.

The transcript follows:

CHINA AFTER DENG

PANELISTS

Ambassador James R. Lilley, Director of Asian Studies, American Enterprise Institute.

Nigel Holloway, Washington Correspondent, Far Eastern Economic Review.

Drew Liu, Executive Director, China Institute.

MODERATORS

U.S. Senator Max Baucus.

Congressman Jim Kolbe.

Rep. JIM KOLBE. We're here to look at a very timely topic and one in which there is a great deal of interest in the United States—the subject of China in the era after Deng Xiaoping.

It's my pleasure this morning to introduce my Senate colleague and good friend, Max Baucus. Senator Baucus has been involved with the Competitiveness Forum for a long time—in fact, since it was begun in 1987. He is a member of the Trade Subcommittee of the Senate Finance Committee; he's also ranking member of the Senate Environment Committee. As I think many of you know, he has taken a very strong and personal interest in the subject of China over the years. Please join me in welcoming, to introduce our panel this morning, the senior Senator from Montana, Max Baucus. Max:

Sen. MAX BAUCUS. Thank you, Jim. Thank you all for coming out this morning. We have three very distinguished guests this morning to help us discuss the future of China as that nation enters an era of political transition. In politics and security, China is critical to every major Asian security issue—from the conflict between India and Pakistan, to the Spratly Islands, to the Korean peninsula and on up north to the Russian Far East. It holds a permanent seat with a veto in the United Nations Security Council and, of course, China is a nation of 1.2 billion people with one of the world's largest armies.

In commerce, China is already one of the world's largest economies and international traders. Its trading power will increase even more after 1997. While China is our fastest growing export market, its issues—copyrights and patents; market-access for Montana wheat-producers; World Trade Organization membership; and trade deficits—show that China is also one of our most difficult trade policy challenges.

In environmental policy, China will very soon become the largest contributor to global warming. Its rapid coastal development, growing fishing fleet, and reliance on coal for power generation, all pose immensely difficult questions. And, of course, since Tiananmen Square in 1989, almost no foreign-policy issue has been as controversial or as divisive here in the United States as has human rights in China.

Internally, China faces high inflation, widespread corruption, and a declining standard-of-living in rural and inland regions relative to urban and coastal areas. At the National People's Congress last week, people as diverse as Prime Minister Li Peng and dissident petitioners identified these as problems threatening the stability of the country.

And what should we, the United States, expect in the next few years? What policies are likely to get results? Conversely, what actions will create a backlash? Difficult questions—and we have had heated debates over them since 1989. But I think everyone will agree the U.S. would benefit from a deeper understanding of trends and possible future developments in China. The CELI has brought together a panel of three long-time observers who can help us arrive at that understanding. They are:

The Honorable Jim Lilley. Jim is one of our country's most accomplished diplomats and Chinese scholars. He, of course, was the Ambassador of China during the Bush Administration and previously served as Ambassador to Korea. An internationally respected commentator on Chinese Affairs and U.S. China policy, he is now a Scholar-in-residence at the American Enterprise Institute.

Nigel Holloway, a long time observer of Chinese and Asian affairs. Mr. Holloway is the Washington correspondent for the Far Eastern Economic Review, which for decades has been the most respected Journal of East Asian business and politics.

And Drew Liu, Executive Director of the China Institute. The China Institute, established here in Washington by Wong Jung Tao on his release from prison last year, links China's most respectable intellectual dissidents on research on political and economic trends in China.

Each panelist will speak for a few minutes on what he sees as a major trend in China's economic and political development as we enter this transition era. Then we'll take questions. Thank you all for coming. Let's give a big warm welcome to our guest. [Applause.] Jim, I think you're first.

Ambassador JIM LILLEY. Well, that's quite a challenge. Let me just anecdote the first. I asked three people about the future of China—not romantics or visionaries, but people that basically do business there. One was a Korean fat cat who has invested probably three-quarters of a billion dollars in China and is investing more. And I said Chairman, how do you see China? He looked at me and he went like this [gesturing]—he said headaches, terrible headaches. But also, he said, long-term good.

Secondly, I talked to a Hong Kong businessman, just last night. And I said, where do you see it? He said, "I have just bought one-quarter of a billion dollars of property in Hong Kong and I see a long-term rise because I am in the business of making money. The one thing I avoid is having anything to do with princely, high-cadre kids, economically. Socially they're fine—but don't touch them any other way." But he said, "I'm putting my money where my mouth is—investing in the future of Hong Kong."

The third person was a Department of Commerce representative who speaks beautiful Chinese. He said Commerce is quadrupling its staff in Shanghai, hiring 22 new locals; it's going to become the base of operations, almost paralleling our operation in Beijing. In other words, the United States Government is putting its people where it's mouth is, and they are going to build a center in Shanghai. This on a bet on the future of China's economy. I'm not saying the U.S. Government is always right. But I'm saying this is where they are going to make their action.

Let's move into the situation of China. Just briefly, I'll touch on three zones which are the obvious ones—political, military, economic.

First, militarily: Senator Baucus has touched on the places in Asia where China is an indispensable player. On the Korean peninsula, the stakes are very high; we are in a game of chicken and brinkmanship this very weekend. Strategically, the Chinese are basically with us. But they play a different game, one with Chinese characteristics. They don't want to see Kim Joy Il with nuclear weapons and long-range missiles. Nor do they want to see instability on the peninsula. Probably better than anybody, the Chinese know what a really weird, strange regime Kim Joy Il runs. They're done good work in the past; they've also been ambiguous in certain areas. But, to get a solution, the Chinese have to be a player, and we have to play with them. Because when we work with China, North Korea tends to give; when we split with China, they take advantage of it.

Second, the South China Sea. Perhaps you saw the piece in the Outlook section of the Washington Post this weekend? China is playing a long-term game of taking over the South China Sea—no question about that. It's going to happen, not in this century perhaps, but in the next century. It is not going to be necessarily large or violent, but more of a creeping takeover. This is spelled out in their internal documents. They are modernizing their military with this objective in mind. Jiang Zemin mentioned this in effect at the National People's Congress. So you shouldn't be confused.

What you have a genuine argument over is: Can they do it? Are they able to do it? With economic growth, will China spend its money on unproductive military activity that puts them in confrontation with the rest of Asia and possibly with the world's most powerful instrument, the United States Seventh Fleet? They've got to calculate very carefully and intelligently—which is precisely what they are doing. But they have ambitions, there's little question.

The third area, of course, is the Taiwan Straits. There's a great deal of gong-banging, stage-acting and posturing: Both sides trying to use the Americans against the other side—a very old game. Please don't get sucked in. The Chinese and Taiwanese are working very, very closely to straighten things out—when they really put their mind to it. But it's much more fun for each one to use the Americans to bash the other side. So be careful here. We hope it isn't next year's issue. This year, the issue is intellectual-property rights; last year, it was MFN and human rights. Next year, is it going to be Taiwan? Let's not make it Taiwan. Let's work ourselves out of this one—and we can if we don't let the Chinese use us.

Finally, the economic situation—obviously a mixed bag. China has an excellent growth record. Reserves are up a hundred percent. The trade balance has gone from 12 billion negative last year to five billion plus this year. But China also has 150 million surplus laborers, along with real problems in getting some sort of a financial code—a taxation code that functions. You see progress, but it's shaky. So apply the same business judgment you would in any such country: Know your partner, know the local market situation, get a good contract, deal with the people in power to get things done. This all applies to China. There is no quick fix.

The good news I see coming out of the National People's Congress that just finished is—don't get me wrong on this one, don't caricature my position, but—a slow movement towards the rule of law. There are differences in the Chinese system about how this should be done, and how fast. But the arguments they are having are arguments we, as Americans, can comprehend: Subsidies to state-owned enterprises. Subsidies to agriculture. How you manage the distribution of money internally—how much you put into the state sector and how much you keep out in the free-market sector. Arguments about the rules governing property, bankruptcy, and central banking. And I see progress on most of these fronts.

But the most encouraging sign is a degree of autonomy coming out of the Chinese themselves. You find one-third of the people voting against a candidate for Vice-Premier. You certainly have people showing their displeasure at Li Peng's work report—very few, but they show it. You, see across-the-board, the Chinese representative bodies, usually overstaffed, beginning to move in the direction of some kind of an independent posture—where they can exercise a function over the party people. What I think it boils down to, over the long haul, is the rule of law versus the rule of man. A very deep issue in Chinese history, it is not easily solved—but the issue emerged in this National People's Congress. And I think that probably is the most promising sign in China today. Thank you. [Applause.]

NIGEL HOLLOWAY. Thank you very much. I'd like to thank the Institute very much for inviting me to this pulpit. First of all, I want to say that this is the first time that I've actually spoken about China's future in this way. I'm a journalist, probably as many of you are—so, we have something in common. But I maybe can see things in a slightly different way from the specialist. I have obviously traveled in China several times. I lived in Hong Kong for three-and-a-half years. And I've written about Asia as a whole since 1982.

I want to start by emphasizing the magnitude of what's happening in China today. Living standards have been doubling every five years or so—something that has never happened in a country larger than 100 million people. What an extraordinary change taking place with one-fifth of the world's population. (Of course, India is starting to go through the same transition—but it's different in India.)

Second point: In China, we have a Marxist superstructure, superimposed on a capitalist substructure. This is a recipe for tension, dislocation and conflict in the long term. You tend to compare it with Russia, where political opening preceded economic reform—and we can see where Russia is today. The Chinese transition, running the opposite way, is almost as difficult. China's leadership is "riding the capitalist tiger" like the capitalist governments in eastern Europe after the second world war were riding the communist tiger—and they were swallowed up. (The only country that succeeded in pulling it off was Singapore, in the late 1950s, where Lee Kuan Yew managed to stifle the communist tiger.)

In China's case today the tiger, of course, is the capitalist system. Deng and his cohorts know they have to delivery the goods. But the goods contain the seeds of their own destruction, namely the destruction of the communist system. The stock market, its shareholders, these are people with stakes in an economic system antagonistic to the political superstructure. This could be resolved gradually without major conflicts. It could also, of course, lead to another revolution.

The third factor is the leadership transition itself. We are going through another unprecedented situation for China, with nobody of a similar stature or credentials to replace Deng—so we are heading into an open country with no real road map. The first stages of the transition has already taken place: Deng has fully retired. I don't think he has been a factor for about a year now since the military appointments, made about a year ago. He is not playing a role like Lee Kuan Yew, still a major factor in Singapore politics.

What precedents do we have for the situation in China under a collective leadership? We have the inauspicious one, of course, of Yugoslavia after Tito—obviously there are major differences between the situation of Yugoslavia and that in China. Perhaps a better precedent is Vietnam: Since the death of Ho Chi Minh, there has been a fairly stable collective leadership. But Vietnam, of course, faces the same structural problems that China does long-term.

Nobody knows of course, what will happen in China, just as nobody knows who's going to win next year's presidential election here. But it's even harder to predict where China will be next year because it's so opaque. Talking to specialists, which is basically what I do, I get most of this second-hand. But the consensus is that China will move to a sort of authoritarian-capitalist model. That I think is what it's aiming for—rather like Singapore, a prospect the United States and the west can perhaps deal with. Singapore is a free-trading nation firmly in the Western camp but also with significant political differences. But Singapore is a very small island nation and China is a completely different kettle of fish. Could we live with a Singapore-style China?

Another question: Will China break up after the demise of Deng Xiaoping. Again, the consensus among specialists is that this is very unlikely. But one of the points they make is how the interest groups—the interest-group politics really running China now—is like the woven weft of a textile. Pull out one strand, and the textile will not fragment—because there are so many overlapping interests. For example, the military regions China is divided into do not exactly match the economic territory—they overlap. Another example is how the regional military command is rotated on a regular basis so they can't build local systems. At any rate, the consensus is China is unlikely to break up in the next 10 years.

What should American policy be towards China? Constructive engagement is certainly the right objective. The United States and the west need to keep drawing China out, into the wider world, and help to prevent its becoming a mercantilist military state. This is absolutely the right objective. Also, because the United States has such a wide array of interests in dealing with China, it should lay those out, and take a very hard look at where its priorities lie, rather than veering in one direction or another.

So I think the changes that are obviously taking place in U.S.-China policy over the last year have been in the right direction. This is absolutely the right way to go. The U.S. cannot bottle up China, nor should it. If it can help integrate China fully into world affairs, this will be one of the greatest achievements of the 21st Century. This requires an extremely deft handling to avoid the confusion we had a month ago when, in short order, we had conflict over intellectual-property rights, a dramatic reduction in MFN tariffs to China, and questions over the U.S. stance on China's application to the WTO. In the midst of all of this, we also had Hazel O'Leary in Beijing touting the contracts. It was confusing for China—and confusing for Americans too. I mean, what is American policy towards China? So it requires a very careful explanation: "We have this array of differing interests—but these are the ones that are important."

The shift in the U.S. stance towards China's WTO membership application is right—the U.S. is right to call for the toughest possible terms on China's application. China will probably become a member of the WTO by the end of the year, and that's the very best development. But I think it will be largely on the west terms rather than on China's.

If you look at all different aspects of China's relationships with the world and what Jim Lilley was saying about the rule of law, I sense a subtheme: China has to play by western rules if it wants to be a global player—whether it's arm sales, trade, and so on. And I think that the U.S. is right to stress that in all international forums.

I'd also like to make a plea that the U.S. should at every appropriate opportunity stress its strongest possible commitment to Hong Kong's long-term autonomy. As we've seen over the last few years, there's been a significant erosion in both the Chinese and, I must confess, the British attitude towards what was agreed on paper in the joint declaration. This is a source of serious concern. And the United States should stress during said meetings with Lu Ping, the senior representative of Beijing on Hong Kong affairs, that the U.S. has a strong interest in Hong Kong's economic and political autonomy.

I'd also like to agree with Jim Lilley that the U.S. must avoid pushing the Taiwan card too far. This has obviously been the major danger, I think, since the Republican victories in the election last year, and needs to be watched very carefully. That's my final point. Thank you.

DREW LIU. Thank you, Senator Baucus. Thank you, Congressman Kolbe. And I would like to thank also the Institute for this opportunity.

China is perhaps entering the most crucial period of transition, and many of the changes have taken place over last dozen years or so. Those changes are fundamental and from bottom-up. And so China has entered the threshold of fundamental change. What is the background, the nature of the forces, behind this change?

First, I would like to emphasize the crisis China is facing. In the political area, as everybody is aware, China is facing a crisis of transition, with a crack on the top echelon. And it's reflected especially in this People's Congress Session: Complaints and grievances from the lower echelon, and from local officials, are aimed against the center. And, in both political and economic areas—a linking point—you have this corruption issue. It is economical as well as political. The Chinese system is unable to contain corruption, which is very much hated by the Chinese populace.

In economics, the problem of the system is more fundamental than at first glance. The whole structure of communist state ownership has been very much undermined. But the new system has not been established during this transition. The transition is from the one kind of a planning system to the market system—and you have this plundering of the public funds, and public property, by officials. There is no law—it's a jungle. You [in America] talk about Ivan Boesky; in China today, everybody is Ivan Boesky. The Chinese people perceive this as very unfair, [a profound] injustice. Certainly in the social arena, you have hundreds of millions of people migrating from the rural area, from the inner provinces, to the southeast provinces. And these are the sign posts, in the Chinese history of big trouble, confirming a dynasty's end. The Ching dynasty was very much ended in that way—migration was part of the reason.

So there are three major scenarios. First is the continuation of dictatorship, the single-party model, maybe. Second is the opening of a political system and gradual transformation into democracy. The third one we could see is social unrest. The [inaudible word] of the Chinese society and maybe the breaking-up of China.

I would think the first scenario is growing less likely because of the lack of a strong man to hold China together—a Deng Xiaoping, a figure like that. With the power base in both military and party, and the state's bureaucratic system and in the Chinese political culture, the demand is for some kind of strong man to hold it together. It's like a reverse pyramid: One man at the bottom, everything is on top. The bottom goes away, and then you have the collapse. The current leadership of Jiang Zemin is less capable of playing the same kind of integrating role as Deng Xiaoping. And [Chinese society lacks] the tradition of politics. Once in transition, divisions multiply. So continuation of the dictatorship is also unlikely. In all systems, the social forces formed during the reform process have been unable to be controlled.

The second scenario is the deep social unrest. But we think the biggest opportunity [occurring with this scenario would be] the gradual transition to a constitutional democracy. And let me say how I envision this could happen. At the China Institute, we do studies, mainly in the integrated area of theory in the practice. And we try to combine the vision blueprinting with actual process of change. What we find is that China's change in progress, towards political openness and the signs towards democratization, is always the result of a muddling through. It's not designed. it's not planned. It's not in anybody's mind.

As a result, many consequences are unintended. The different interest groups need to reposition themselves—but they don't have commonly accepted rules of the game. The process of democracy could be introduced into this situation—even though people may not be aware of the consequences. For instance, the mechanism of free elections, the mechanism of checks and balances, and the mechanism of [an impartial] monitoring device—all could be gradually introduced into the process.

Now secondly, it's not a moral process, like [in America]. Here, it's the ideal—you know the Founding Fathers, you know about universal rights. In China, it's not like that; it's really a process of people. "See, this is we have to do. This [set of democratic mechanisms] is a way we can compromise without going total chaos [and risking] civil war."

So, in this [potential] process, what is the position and role of the western world? How is this important process linked to the western world in general and the U.S. in particular? Shift the angle a little bit to say the importance of the U.S./China relation in the immediate future. It's very paradoxical and, I mean—there's no China policy. Perhaps it shouldn't be a "China policy"—because of the two fundamental paradoxes in dealing with China. One is to deal with China on an international level—where you treat China as a society, as a state, as a collective. The other is the China of individuals.

Let me offer an example: On intellectual-property rights, we have monitored events, the process, very closely. Then we receive responses from different sectors among the Chinese—and I was surprised. Because, from our point of view, it is fair for China to abide by international standards. But I draw your attention to the internal Chinese response to this whole issue—to demonstrate why U.S. policy has to deal not only with China as a state and a collective, but also reach beyond that level, to the more individual level.

The Chinese look at intellectual-property rights, as the government crack down, and many Chinese businessmen think it's unfair—even though, from outside, we look at it as fair. Why is it unfair? Because in China there are more pressing issues—like fake medicine. Hundreds of people die as a result of fake medicine. One report in the Chinese media about hundreds dying—from fake wine made from industrial alcohol. People drink it and go blind. Things like that are more pressing issues than intellectual property. [America wants the Chinese] government to, you know, select intellectual-property rights and push them very hard. What the Chinese populace see is the government caving in to the interest of the foreigners—without taking care of the serious domestic issues.

One more thing about pressing China. When we look at an event, the nationalism is always in the back of mind. Some of the same complaints of national because of this disparity between the two systems. So what do you perceive the fair—"justice" in the global and international perspective, we perceive as injustice and defeat into some other forces that may not be productive. I'm trying to add perspective; I'm not saying specifically do this or do that. I offer an angle on China's present position in the system—incompatible with the democratic and market system on one hand; and, on the other hand, wanting to enter into the world community.

So the political transformation, the liberalization, democratization are really the key to the future of the U.S./China relations in the long-term may not, you know like a very pressing issue, tomorrow in the media. But it's like the under current that we will carry the problems or your [inaudible word] into a specific problem into U.S./China relations. If China is not going democratic, and that is very unlikely I would say. THe Chinese will observe the law of the, observe the general international accepted standards only by the doing system to be compatible, and then you can have a more better and more productive relationship. Thank you very much.

Sen. BAUCUS. I'll take the liberty of asking the first questions. A lot of discussion so far has been about the United States relationship to China. I would just like to turn the tables and ask our panelists: How the Chinese see us? I mean, do they see us as being fair or unfair? You mentioned that we're pushing intellectual property protection, for example, to the local people. Say, gee that's not according to our priorities in China. But do the businessmen in China or the Chinese leadership recognize or don't know the United States has a legitimate beef after all. And perhaps they should follow the United States in trying to protect intellectual property. Or, on the other hand, are they just using local conditions as a cover to not do what they know they should do? My basic point is: What's the Chinese leadership perception of the United States? For example, is this nation seen as relevant around the world these days? And, if we're relevant, where are we relevant to how they see their future? Jim, I'll give you that one.

JIM LILLEY. I think the main fear in China with regard to U.S. attitude is that the U.S. looking for a boogie man or looking for an enemy, after Russia, to settle on China and will adopt the sort of containment policy which ever way you would like to put it that was adopted towards the Soviet Union. And so that's, I think, one of the major reason why the constructive-engagement policy is the right one to draw China out to avoid the impression that United States is trying to encircle China and contain it.

JIM KOLBE. Well I listened last night at a dinner to the Minister for, Director of, Administrator for Hong Kong affairs in China described the commitment that China has to maintaining the rules of law as he puts it and the agreement that was reached with Britain over the transition of Hong Kong to China. And I'm wondering if any of our speakers, this morning's panelist would comment on the issue of how important is the transition to Chinese rule in Hong Kong. What will the rest of the world be watching in this transition and what do you think we can expect as this transition takes place?

DREW LIU. Hong Kong issue is a very touchy issue in the sentiment of the Chinese mentality because it would cause the Chinese a humiliating defeat. But Hong Kong is also a very hot—like what we say in Chinese, a hot potato: You hold it, you want to eat it, but it's hot. And there is paradox, of course: Hong Kong is resources for the foreign currency and, on the other hand, Hong Kong is the stronghold of liberal ideas, and may help to spread political instability. In reacting to that, how will the Chinese government deal with Hong Kong?

I see several possibilities. I think the most likely response is to contain Hong Kong. Right now, there's easier traffic form Hong Kong to China and then, if Chinese government step in, it most probably would maintain Hong Kong's current system: Let Hong Kong still play the role it has been playing. On the other hand, in order to prevent Hong Kong's penetration, especially in the media, China would make it more difficult for people to travel from Hong Kong to China and from China to Hong Kong. And I think that seeing this as one possible solution shows the mentality of the Chinese leadership.

So what we are suggesting is, Hong Kong is really constructing, of course, opening wider China's market, marketization and giving China the stimulus to go further in marketing reform, abolishing the kind of state-controlled ownership structure. And on the other hand, it can gradually bring, you know alternatives, some models, examples of how to live and operate in a more democratic, more efficient society.

So we propose that the following institutions, especially cultural institutions, may go into Hong Kong right now and then enlarge their activities—especially with regard to the linkages inside China. For instance, educational projects. You know, many cultural things may not be political—nonpolitical, I would say. You know, purely educational, but by doing this, by joint venture, joint project, then Hong Kong and China can be linked. If they try to cut off Hong Kong from China after 1997 in administrative ways, then China's internal education would also suffer loss and damage. This is a very crucial time in Hong Kong, definitely, it is very, very important for the future of China. Thank you.

JIM LILLEY [inaudible words] is basically allow free market forces to go and strangle the political process in the cradle. And they have a lot of sympathy from Chinese in Hong Kong who think this western bourgeois democracy is really not applicable. So I think you've got somewhat of an economy there in terms. Bob, you know the formula very well: Let the free-market process work in Hong Kong. Keep it the goose laying the golden eggs. Have commercial rule of law in Hong Kong. Persist it for 50 years—but do not allow the political process to work and to contaminate China. That is the formula they have—yes, their formula. I'm talking about how the Chinese view Hong Kong.

The question came up last night, as the Congressman knows. Somebody asked our distinguished visitor why he didn't deal with the democratic party in Hong Kong, the dissenters. And what he said in his very cogent and very frank way is this: The basic law of Hong Kong calls for freedom of press, freedom of assembly, freedom of da-da, da-da, da-da—he sounded like Jefferson. Of course, everybody knows that isn't what happens. And if, the basic law says very clearly, we're going to have a fully elected, [inaudible word] in Hong Kong. So what are you worried about?

The fact is, course, that most people say the Hong Kong process works just fine, but scattered angry people keep pushing a "bourgeois democracy" that doesn't really make much sense. "They are all trained in England. They talk English better than we do. They don't really represent the grassroots." Fact is, these people keep getting most of the votes. There is a feeling out in Hong Kong that they really do deserve democracy. And there are people voting for Martin Lee and Company. [Inaudible words.] They're voting for them. It's a rather positive sign.

MODERATOR: Okay.

Sen. BINGAMAN. I wanted to ask about our trade, growing trade imbalance with China. As I see it, the first year of the Bush administration, we had about a $3 million trade deficit with China. This year, this last year, we had about a $28 billion trade deficit with China. And China has only began to export: As a share of their gross national product, China is not near, doesn't devote near as much of their economy to export manufacture as do other industrial countries. So the potential for increased manufacture for export is great. I see this growing geometrically over the next five to 10 years and, in the next century, a greater U.S. trade deficit with China than we have with Japan today—with no way to turn that around. This will hamper our ability to produce or maintain manufacturing jobs in this country. I would be interested as to whether I am right or wrong in that prediction, and if there is some solution other than continued handwringing and teeth-gnashing.

JIM LILLEY. I'll take a crack at it. That is what Mickey Kantor's trips were all about. I don't think Mickey is sitting in a corner gnashing his teeth—he's going to the Chinese and saying: Open your market. I think this is all about China getting into GATT and WTO. This is why they want to come in as a developing nation. Fifteen percent, 22 percent tariffs, developed nation, fifteen percent. Three thousand items are put on the block. They've got to protect inefficient dinosaurs in the state-owned enterprise sector. They are frightened of what GATT and WTO will do to them. So we can face up to this problem the way we faced it in other areas where it has worked—Taiwan and Korea. It hasn't worked in Japan, unfortunately, because of their closed system. But we have been able to close some of these trade gaps by persistently demanding they pay royalties on intellectual properties—our strong suit, where we can export a great deal.

As Jack Valenti said, our exports in the entertainment industry are one of our largest exports. In some sectors of China we are comparatively effective. So you go after those. I'm talking about power. I'm talking about aircraft. I'm talking about automobiles. I'm talking about electronics. The Americans have to get in there and compete as strong as any nation in the world. We aren't going to win the China market by getting quotas or trying to force them into some sort of managed-trade arrangement. You get the Chinese to come across and change their trade surplus with us by opening their market. I think this is what Kantor is trying to do, and we should support it 100 percent. We are beginning to make some progress on this. But it's going to be a long hard road.

MALE VOICE. The question that has come to my mind is the degree to which the other countries—let's say Europe, Japan and others—are using our MFN position really [inaudible words], and are saying to China: No WTO membership until you open up and so forth. I agree that Japan and the others are taking advantage of us by working with the Chinese leadership.

JIM LILLEY. I think, Senator, you make a very good point. The Europeans and Japanese love to hold our coats while we go in and slug it out with the Chinese. We finally get the agreement, then they all follow to take advantage of it. Let me make a contrast. On human rights, it was totally bilateral. Nobody else had anything to do with our position. And this is what undercut us, or it's one big reason. The business community did not support us. No nation in the world supported us. They said, "What a bunch of goofballs. We're going to pick up the pieces of the American effort." But, on GATT and WTO, we got a lot of support; on IPR, we got a lot of support. They aren't as aggressive as we are, the don't have their Mickey Kantors—but they did come in. And they are going to support us to a degree on this. Of course, most of them are intellectual-property right violators too! So, there's all sort of hypocrisy mixed into this arrangement.

But it seems to me that in WTO and IPR, we are on solid ground with our friends, but as usual, Senator, the Americans have to take the lead.

MALE VOICE. [Inaudible words.]

MALE VOICE. Pardon.

MALE VOICE. [Inaudible word.]

JIM LILLEY. Well, I supposed what we try to do, at least we tried to do this when I was in GATT, is arrange tougher conditions on the Chinese. We would working with EC. And one of the, rather, I suppose I'm talking too much again. Through the EC and directly, we used to say to the Chinese: "You know, Taiwan's an applicant too. And they are meeting all of the standards of GATT, WTO. If you drag your feet, it could be possible that Taiwan would get it first." This was a very sobering influence, I think. It works about once or twice—that's all. And then you've got to get better tactics to work on it.

But the more usual argument, and you get European support on this, is if you don't shape up, you aren't going to get the technology you want. An the do lust for technology, they want the best—that's all you hear from the Chinese. So this is where you put the brakes on. We don't have COCOM anymore, but some sort of an arrangement with our allies. The Chinese are very dependent upon Europe and Japan to get some sort of common policy for when they violate too much by "going their own way," as people say, you can bring to bear collective pressure.

This approach worked very well in 1990 when I was in China. We worked very closely with Japan, the Europeans, Canadians, Australians, New Zealanders—to exert leverage. Because in the international bank, let me just make one point, China is very dependent on higher [inaudible word] loans. They are the biggest recipients in the world. It's two to three billion dollars a year. It may not sound like much. But it is crucial when matched with a third yen loan package from Japan, and most every nation from the United States. Don't use it as a club publicly, but quietly and effectively, through diplomatic channels.

NIGEL HOLLOWAY. I just want to say that the trade imbalance within the U.S. and China is really quite extraordinary. U.S. exports to China are less than $10 billion and China's exports here approach $40 billion. A lot of it has to do with the restructuring that is going on. The question then is, is Chin going to become another Japan, the capitalist but closed market. My hunch is it will not—because the corporate structure in China is evolving very different from that in Japan. Japan has these [inaudible word] networks of companies that basically collude through long-term equity arrangements. But the Chinese don't do business that way. I think that's something to bear in mind.

What we really have, as Jim says, is a market-access question. China is starting to open its market. If you look at the market within China, there are enormous barriers for one province trying to trade with another. They basically compete with each other, and stumble over each other, and try and prevent goods from one province going into another. And this is the area where the World Bank is especially keen to see major changes. And I think it's also one the U.S. should focus increasingly on: If it can pry open China's market, this will be the biggest factor in increasing democratization in China.

Sen. BAUCUS. Stand up please. Thank you.

QUESTION. [Inaudible.]

JIM LILLEY. I'm glad you asked for clarification, because there may be some misunderstanding. I'm not saying the United States will stay out of this thing. We are involved up to here. We have something called the Taiwan Relations Act, which is the law of the land. We also have an increasingly strong relationship with China. What I resent very much is lobbying groups and foreign ministry tantrums towards the United States to try to get us to become their point man on beating up on the other side. That's what I don't like. We've got a lot of leverage in this deal and I think we should use it—because both of them really need us in this one.

But don't get trapped into a Chinese "tong war" on it. Keep you powder dry. Keep managing it carefully. Don't make a great big announcement of a Taiwan policy review and beat the gong saying this some sort of a big deal, when it turns out to be a big fat zero and everybody knows it—the Chinese become furious at the policy review and the Taiwanese are disappointed. Much better to keep your mouth shut and work a little bit quietly on this thing as it is run by all of the other administrations.

By the same token, you have to be careful in terms of Chinese sensitivities on this. You also have to be careful in the Taiwan process, but as I was saying to Bob Kupp earlier, we have been pushing democracy in China for about 35 years. I used to beat upon the Taiwan government regularly about getting the dissidents out and letting the Taiwanese back in, letting the political process work. We succeeded. And now you've got a flourishing democracy, a chaotic democracy, and even fist-fighting in the legislative halls.

JIM LILLEY. On the other hand, for the United States to begin stumbling around in the thicket of Taiwan domestic policies, watch your step. The responsible businessmen and politicians in Taiwan know the limits of what they can do. And they know that breaking with China is not in their interest. But this doesn't stop demagogues and others from raising hell on the basis of political strategy. On the other side, on China's side, if I hear "sacred sovereignty" one more time, I think I'll vomit. I've gotten into a lot of trouble by noting how it sounds like Gunboat Diplomacy from the 19th century. "It's what you Chinese hate the worst. Don't talk about [engaging in] it yourself; don't start practicing it. Don't start flexing your muscles and saying if we don't get what we want, we're going to use force. This doesn't make any sense."

The irony is that China and Taiwan are getting along extremely well—solving problem after problem. Taiwan just hosted the highest-ranking Chinese delegation in history and many, many leading figures in the political, economic and cultural realms deal with their Chinese friends. You have Taiwan businessmen going over there to spend four hours with Jiang Zemin giving him advice on how to make a new central bank. You've got people from Taiwan going over there and reorganizing all of their deep ports—a major priority in China. You got them keeping the whole economy bustling. Of course, there's speculation, a few nasty little elements of it, but it increases the growth rate.

So all I can say to America is: Be careful you don't, somehow or another in the next year or so, get trapped into this ugly little war or this ugly little fracas they are trying to create. It's not in our interest to do so.

Sen. BAUCUS. Any questions?

VOICE. [Inaudible words.]

NIGEL HOLLOWAY. Yeah. Let me just give you three principles of what's happening in China right now. You have three things. You have what we call persistent feudalism, which is Confucianism—no, chaos collectively. This feudalism is part of the Chinese structure. This mixes in with decaying socialism. And this is socialism's ingrown privilege, a party privilege. Third, you have rapid capitalism. You have corruption, nepotism and growth. They all jam together in today's China.

If you have this growth and if you have feudalism, and if you have this decaying socialism, what results is great disparties of wealth between provinces, et cetera. And the millions of people begin to move towards the productive areas. It's very hard to control because these people live in camps. They have three and four children. They pay no attention to birth control or the national policy. It drives the Chinese wild—who, of course, have some rather draconian methods to keep things down. Basically, I think they have been very successful in keeping control of the population—but it's not very pretty to look at. They think it's crucial to the control of the situation.

What they are trying to do now in a very, very concerted effort is beginning to move investment capitalism into the hinterlands, but they've got to make it competitively attractive, and that's hard to do. They recognize the problem; they recognize it's very serious. It's right at the heart of how you reform state-owned enterprises. Because the conservatives are saying, keep the money flowing. Others say let them go bankrupt and take care of this thing through other means. And it ends up as gridlock in many cases. But, at least, I think they are acutely aware of the problem and are trying to deal with it.

Sen. BAUCUS. You have time for one more question.

QUESTION. [Inaudible words.]

DREW LIU. We touch on the topic of the trade imbalance as China opens up its market. And I would like to say something more about the fundamental problem, the system problem, the structural problem. One of the things is transparency of the legal system. And if you don't have transparency—when the local government, you know, the sector cannot break their own laws—this instantly creates barriers. For instance, on the WTO: The center wants to enter the WTO. The local, some of the local wants to enter the center also, but not without some incentive. But there's some problem in it. That is how to guarantee the Chinese abide by these laws and the standards. And, there are loopholes, you know, that are unpredictable. Our future in China comes without a well established legal system, without transparency and due process.

And the second thing is the political system. For instance, entering the WTO, whether China can do it or not politically, is a question. If, in entering the WTO, the center enforces the regulations—you know, opening its market—then maybe thirty percent of the state-owned workers will be unemployed. A great political problem and a great risk to the Chinese leadership. But are you going to take the risk or not take the risk? And what if the risk becomes threatening and then it [the new policy] reverses in some way. Much uncertainty links to the internal process of the Chinese system.

JIM LILLEY. OK. I just want to make one comment on agriculture. A terrible problem for China is that agricultural land is shrinking; the harvest is not good. They are going to import more and more grain. It's going to be a big problem and so I would say your agriculture-export possibilities are considerable. Some estimates have China importing as much as 100 million tons of grain by the next century; they have made some bad converting mistakes in terms of agricultural land, industrial land. The solution, people say, is what they call village- and township-enterprises: Basically capitalistic, they are put into the countryside, are use surplus agriculture labor to create small consumer items. But they've gone about increasing agriculture production by importing chemical fertilizers, by developing their own plants. It's really very, very difficult for them. And I see a big market for agricultural products.

Sen. BAUCUS. OK. We have no more time! Let's give a great round of applause to our panelists: Drew Liu, Nigel Holloway and Jim Lilley. Bob mentioned a packet of information which I think will be very interesting for everyone. I encourage you to go pick up a copy as you leave. I want to thank CELI very much for hosting this event—I want another soon. Thank you.•

DECISION TO EXTEND NPT INDEFINITELY

• Mr. PELL. Mr. President, international efforts to curb the spread of nuclear weapons were given a tremendous boost today with the decision by more than 170 nations to extend indefinitely the Nuclear Non-Proliferation Treaty. The U.S. Arms Control Agency and Ambassadors Ralph Earle II and Thomas Graham, Jr., deserve our deep appreciation.

The decision by the participants in the NPT extension conference demonstrates their willingness to trust us and the other nuclear powers to continue with the effort in SALT and START to reduce our strategic nuclear arsenals, to strive eagerly and effectively to bring about an end to nuclear testing, and to be unflagging in efforts to spare the world from nuclear war and the threat of nuclear war. We have today incurred a renewed obligation to prove to those who trust us that their trust is not misplaced.•

TRIBUTE TO INTERNATIONAL HERITAGE HALL OF FAME INDUCTEES

• Mr. LEVIN. Mr. President, I would like to recognize the accomplishments of four distinguished community leaders from the Detroit area. These four individuals will be inducted tonight, Thursday, May 11, 1995, into the International Heritage Hall of Fame housed at Cobo Center. The inductees have been selected for outstanding service to their respective ethnic groups and the community at large.

The International Institute of Metropolitan Detroit has been working since 1919 to assist immigrants who have arrived in the Detroit metropolitan area. The inductions of the four 1995 honorees will bring the membership in the Hall of Fame, which began in 1984, to 56. The inductees are U.S. Circuit Court Judge Damon J. Keith, the late Daniel F. Stella, Dr. Helen T. Suchara, and Mrs. Barbara C. VanDusen.

U.S. Circuit Judge Damon Keith is a former president of the Detroit Housing Commission and former chairman of the Michigan Civil Rights Commission. An African-American, Keith has served as a Federal judge since 1967 and was chief judge of the U.S. District Court for Eastern Michigan from 1975 to 1977. He is a graduate of West Virginia State College, the Howard University Law School, and Wayne State University School of Law. He also holds honorary doctorates from those 3 institutions and 24 other colleges and universities. He has held numerous civic positions including national chairman of the Judicial Conference Committee on the Bicentennial of the U.S. Constitution, chairman of the Citizens Council for Michigan Public Universities, and general cochair of the United Negro College Fund.

Daniel Stella was president for 10 years of Friends of the International Institute. An Italian-American who died last July, Stella was instrumental in the establishment of the Hall of Fame and an active promoter of relations between Detroit and its sister city, Toyota, Japan. Mr. Stella was also a partner in the Detroit law firm of Dykema Gossett. He was a graduate of the Harvard Law School, the College of Holy Cross, and the London School of Economics and Political Science, and a member of the Michigan and California bars, among others. He was a director of the Detroit and Windsor Japan-American Society and a member of the Association for Asian Studies, American Citizens for Justice, the Michigan Oriental Arts Society, and the Founders Society and Friends of Asian Art of the Detroit Institute of Arts. Mr. Stella also served in Vietnam with the U.S. Navy Judge Advocate General's Corps.

Helen Suchara, a retired educator, last served as director of the Office of Student Teaching at Wayne State University. A Polish-American, she was a Peace Corps volunteer in Poland from 1990 to 1992 and has begun a new career in public service since her retirement. She holds positions on the Madonna College Social Work Advisory Board and the board of regents of Saginaw Valley State University. She received bachelor's and master's degrees from Wayne State University and a doctorate from Columbia University. She taught at WSU, Columbia, the University of Delaware, the University of Virginia, and Wheelock College in Boston, and earlier in public schools in Detroit and Howell, MI. She has worked on the boards of the International Institute and Friends of the International Institute. She has also worked in affiliation with the Polish-American Congress of Michigan Scholarship Committee, the Catholic Social Services of Wayne County, the Michigan Elementary School Curriculum Committee, and the Dominican Sisters of Oxford Formation Committee.

Barbara VanDusen is a member of the executive committee of Detroit Symphony Orchestra Hall and cochair of the Greater Detroit Inter-faith Roundtable of the National Conference of Christians and Jews. An English-American who also has Cornish, Irish, Dutch, and Scottish heritage, she is the widow of Richard VanDusen, former chairman of the Greater Detroit Chamber of Commerce. Holder of a 1949 bachelor's degree from Smith College, she has also been involved in numerous community organizations as a trustee of the Community Foundation for Southeastern Michigan and as a member of the governing boards of the Michigan Nature Conservancy and the World Wildlife Fund.

I know my Senate colleagues and the people of Michigan join me in congratulating these distinguished members of the metropolitan Detroit community. Their commitment to their communities and to public service is an example to us all. We thank them for their extraordinary efforts.•

TRIBUTE TO THE VOLUNTEERS OF HOSPICE CARE, INC.

• Mr. LIEBERMAN. Mr. President, I rise today to acknowledge the volunteers of Hospice Care and their longtime commitment to care for people with life-threatening illnesses. Founded in 1981, Hospice Care, Inc., of Connecticut has been providing patients and their families with medical care and other support services that are crucial during difficult times. For over a decade these highly trained volunteers, along with the organization's professionals, have provided more than 2,000 patients and their loved ones with home care, inpatient care, and assistance whenever needed. Volunteers are also involved in administrative work, public awareness, fundraising, and act on the board of directors.

Many of the volunteers have been dedicated to the organization since its founding and will continue to give their time and energy to help their fellow residents of Connecticut. With their hard work and dedication they have provided important medical and moral support to those who are ill or suffer from the loss of a loved one. Through their selfless behavior the volunteers of Hospice Care Inc. have positively influenced the lives of many members of their communities.

I am proud to acknowledge the success and commitment of Hospice Care's volunteers. They have shown what can be achieved with private initiative and have thereby contributed to the welfare of Connecticut.•

COMMENDING REBECCA S. FINLEY

• Ms. MIKULSKI. Mr. President, I am delighted today to bring to the attention of my colleagues the installation next month of Rebecca S. Finley, Pharm.D, M.S., as the president of the

American Society of Health-System Pharmacists at the society's 52d annual meeting in Philadelphia.

ASHP is the 30,000-member national professional association that represents pharmacists who practice in hospitals, health maintenance organizations, long-term facilities, home care agencies, and other components of health care systems.

Early in her career, Dr. Finley made the professional commitment to practice, research, write, and teach pharmacy in the challenging field of clinical oncology. She currently directs the section of pharmacy services and is associate professor of oncology at the University of Maryland Cancer Center in Baltimore. She holds an appointment as associate professor in the department of clinical pharmacy at the university's school of pharmacy.

Dr. Finley received her bachelor of science and doctor of pharmacy degrees from the University of Cincinnati and a master of science in institutional pharmacy from the University of Maryland.

On behalf of my colleagues, Mr. President, I want to extend my best wishes to Dr. Finlay in her tenure as president of ASHP. I look forward to working with her and the society on health care issues in the years to come.•

NOMINATION OF JOHN M. DEUTCH, OF MASSACHUSETTS, TO BE DIRECTOR OF CENTRAL INTELLIGENCE

• Mr. MOYNIHAN. Mr. President, I thank my gallant friend from Nebraska. I rise in support of the position he has taken and also that of the distinguished chairman of the committee, the Senator from Pennsylvania.

In the 103d Congress and then the 104th, I offered legislation that would basically break up the existing Central Intelligence Agency and return its component parts to the Department of Defense and the Department of State. This in the manner that the Office of Strategic Services was divided and parceled out at the end of World War II.

I had hoped to encourage a debate on the role of intelligence and of secrecy in American society. That debate has taken place. Some of the results, I think, can be seen in the nomination of a distinguished scientist and public servant, John Deutch, to this position.

This could not have been more clear in his testimony. He made a point, self-evident we would suppose, but not frequently to be encountered in a pronouncement of a potential DCI. He said:

> Espionage does not rest comfortably in a democracy. Secrecy, which is essential to protect sources and methods, is not welcome in an open society. If our democracy is to support intelligence activities, the people must be confident that our law and rules will be respected.

It may have come as a surprise—although it ought not to have—in recent months and weeks, to find how many persons there are in this country who do not have confidence that our laws and rules will be respected; who see the Government in conspiratorial modes, directed against the people in ways that could be of huge consequence to Americans.

Richard Hofstadter referred to this disposition when he spoke of "The Paranoid Style in American Politics." Thus, for example, the widespread belief that the CIA was somehow involved in the assassination of President Kennedy.

It is important to understand how deep this disposition is in our society. In 1956, even before Hofstadter spoke of it, Edward A. Shils of the University of Chicago—a great, great, social scientist, who has just passed away—published his book, "The Torment of Secrecy," in which he wrote:

> The exfoliation and intertwinement of the various patterns of belief that the world is dominated by unseen circles of conspirators, operating behind our backs, is one of the characteristic features of modern society.

Such a belief was very much a feature of the Bolshevik regime that took shape in Russia in 1917 and 1918. Hence the decision to help found and fund in the United States a Communist Party, part of which would be clandestine. The recent discovery in the archives in Moscow that John Reed received a payment of 1,008,000 rubles in 1920. As soft money, that would be a very considerable sum today.

It is said that organizations in conflict become like one other. There is a degree to which we have emulated the Soviet model in our own intelligence services. A very powerful essay on this matter has just been written by Jefferson Morley in the Washington Post under the headline "Understanding Oklahoma" in an article entitled "Department of Secrecy: The Invisible Bureaucracy That Unites Alienated America in Suspicion."

I would refer also to Douglas Turner this weekend in the Buffalo News. I spoke of these concerns in an earlier statement on the Senate floor entitled "The Paranoid Style in American Politics," which I ask unanimous consent be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. Mr. President, what we have today is so much at variance with what was thought we would get. Allen Dulles was very much part of the foundation of postwar intelligence, having been in the OSS, serving with great distinction in Switzerland during World War II. Peter Grose, in his new biography, "Gentleman Spy: The Life of Allen Dulles," recounts the testimony Dulles gave before the Senate Armed Services Committee on April 25, 1947. as we were about to enact the National Security Act of 1947 which created a small coordinating body, the Central Intelligence Agency.

> Personnel for a central intelligence agency, he argued, "need not be very numerous * * *. The operation of the service must be neither flamboyant nor overshrouded with the mystery and abracadabra which the amateur detective likes to assume." In a lecturing tone, he tried to tell the Senators how intelligence is actually assembled.
>
> "Because of its glamour and mystery, overemphasis is generally placed on what is called secret intelligence, namely the intelligence that is obtained by secret means and by secret agents. * * * In time of peace the bulk of intelligence can be obtained through overt channels, through our diplomatic and consular missions, and our military, naval and air attaches in the normal and proper course of their work. It can also be obtained through the world press, the radio, and through the many thousands of Americans, business and professional men and American residents of foreign countries, who are naturally and normally brought in touch with what is going on in those countries.
>
> "A proper analysis of the intelligence obtainable by these overt, normal, and aboveboard means would supply us with over 80 percent, I should estimate, of the information required for the guidance of our national policy."

Mr. President, that did not happen. Instead, we entered upon a five-decade mode of secret analysis, analysis withheld from public scrutiny, which is the only way we can verify the truth of a hypothesis in natural science or in the social sciences.

The result was massive miscalculation. Nicholas Eberstadt in his wonderful new book, "The Tyranny of Numbers," writes "It is probably safe to say that the U.S. Government's attempt to describe the Soviet economy has been the largest single project in social science research ever undertaken." He said this in 1990, in testimony before the Committee on Foreign Relations. "The largest single project in social science research ever undertaken," It was a calamity.

No one has been more forthright in this regard than Adm. Stansfield Turner in an article in Foreign Affairs at about that time. He said when it came to predicting the collapse of the Soviet Union, the corporate view of the intelligence community missed by a mile.

I can remember in the first years of the Kennedy administration meeting with Walt Rostow, chairman of the policy planning staff in the Department of State. As regards the Soviet Union, he said he was not one of those "6 percent forever people." But there it was, locked into our analysis. That is what the President knew.

In Richard Reeves' remarkable biography of John F. Kennedy, he records that the Agency told the President that by the year 2000 the GNP of the Soviet Union would be three times that of the United States. Again, that is what the President knew. Any number of economists might have disagreed.

The great conservative theorists, Friedman, Hayek, Stigler, would never have thought any such thing. Important work done by Frank Holzman, at Tufts, and the Russian Research Center at Harvard disputed what little was public. But to no avail. The President knew otherwise, and others did not know what it was he knew.

The consequence was an extraordinary failure to foresee the central geo political event of our time. A vast overdependence on military and similar outlays that leave us perilously close to economic instability ourselves.

I would like to close with a letter written me in 1991 by Dale W. Jorgenson, professor of economics at the Kennedy School of Government, in which he said:

> I believe that the importance of economic intelligence is increasing greatly with the much-discussed globalization of the U.S. economy. However, the cloak-and-dagger model is even more inappropriate to our new economic situation than it was to the successful prosecution of the Cold War that has just concluded. The lessons for the future seem to me to be rather transparent. The U.S. Government needs to invest a lot more in international economic assessments. * * * [I]t should reject the CIA monopoly model and try to create the kind of intellectual competition that now prevails between CBO and OMB on domestic policy, aided by Brookings, AEI [American Enterprise Institute], the Urban Institute, the Kennedy School, and many others.

That is wise counsel. I have the confidence that John Deutch, as a scientist, will understand it. I am concerned, however, that the administration will not.

Mancur Olson, in his great book, "The Rise and Decline of Nations", asked: Why has it come about that the two nations whose institutions were destroyed in World War II, Germany and Japan, have had the most economic success since? Whereas Britain, not really much success at all; the United States—yes, but. He came up with a simple answer. Defeat wiped out all those choke points, all those rents, all those sharing agreements, all those veto structures that enable institutions to prevent things from happening. And we are seeing it in this our own Government today, 5 years after the Berlin wall came down. Nothing changes, or little changes.

Recall that 3 years before the wall came down the CIA reported that per capita GDP was higher in East Germany than in West Germany. I hope I take no liberty that I mentioned this once to Dr. Deutch and added, "Any taxi driver in Berlin could have told you that was not so." Dr. Deutch replied, "Any taxi driver in Washington." A most reassuring response.

Mr. President, I thank the Senator from Texas for her graciousness for allowing me to speak when in fact in alternation it would have been her turn.

EXHIBIT 1

[From the Congressional Record, Apr. 25, 1995]

THE PARANOID STYLE IN AMERICAN POLITICS

Mr. MOYNIHAN. Mr. President, as we think and, indeed, pray our way through the aftermath of the Oklahoma City bombing, asking how such a horror might have come about, and how others might be prevented, Senators could do well to step outside the chamber and look down the mall at the Washington Monument. It honors the Revolutionary general who once victorious, turned his army over to the Continental Congress and retired to his estates. Later, recalled to the highest office in the land, he served dutifully one term, then a second but then on principle not a day longer. Thus was founded the first republic, the first democracy since the age of Greece and Rome.

There is not a more serene, confident, untroubled symbol of the nation in all the capital. Yet a brief glance will show that the color of the marble blocks of which the monument is constructed changes about a quarter of the way up. Thereby hangs a tale of another troubled time; not our first, just as, surely, this will not be our last.

As befitted a republic, the monument was started by a private charitable group, as we would now say, the Washington National Monument Society. Contributions came in cash, but also in blocks of marble, many with interior inscriptions which visitors willing to climb the steps can see to this day. A quarter of the way up, that is. For in 1852, Pope Pius IX donated a block of marble from the temple of Concord in Rome. Instantly, the American Party, or the Know-Nothings ("I know nothing," was their standard reply to queries about their platform) divined a Papist Plot. An installation of the Pope's block of marble would signal the Catholic Uprising. A fevered agitation began. As recorded by Ray Allen Billington in The Protest Crusade, 1800–1860:

"One pamphlet, The Pope's Strategem: "Rome to America!" An Address to the Protestants of the United States, against placing the Pope's block of Marble in the Washington Monument (1852), urged Protestants to hold indignation meetings and contribute another block to be placed next to the Pope's 'bearing an inscription by which all men may see that we are awake to the hypocrisy and schemes of that designing, crafty, subtle, far seeing and far reaching Power, which is ever grasping after the whole World, to sway its iron scepter, with bloodstained hands, over the millions of its inhabitants.' "

One night early in March, 1854, a group of Know-Nothings broke into the storage sheds on the monument grounds and dragged the Pope's marble off towards the Potomac. Save for the occasional "sighting", as we have come to call such phenomena, it has never to be located since.

Work on the monument stopped. Years later, in 1876, Congress appropriated funds to complete the job, which the Corps of Engineers, under the leadership of Lieutenant Colonel Thomas I. Casey did with great flourish in time for the centennial observances of 1888.

Dread of Catholicism ran its course, if slowly. (Edward M. Stanton, then Secretary of War was convinced the assassination of President Lincoln was the result of a Catholic plot.) Other manias followed, all brilliantly describe in Richard Hofstadter's revelatory lecture "the Paranoid Style in American Politics" which he delivered as the Herbert Spencer Lecture at Oxford University within days of the assassination of John F. Kennedy. Which to this day remains a fertile source of conspiracy mongering. George Will cited Hofstadter's essay this past weekend on the television program "This Week with David Brinkley." He deals with the same subject matter in a superb column in this morning's Washington Post which has this bracing conclusion.

"It is reassuring to remember that paranoiacs have always been with us, but have never defined us."

I hope, Mr. President, as we proceed to consider legislation, if that is necessary, in response to the bombing, we would be mindful of a history in which we have often overreached, to our cost, and try to avoid such an overreaction.

We have seen superb performance of the FBI. What more any nation could ask of an internal security group I cannot conceive. We have seen the effectiveness of our State troopers, of our local police forces, fire departments, instant nationwide cooperation which should reassure us rather than frighten us.

I would note in closing, Mr. President, that Pope John Paul II will be visiting the United States this coming October.●

NATIVE AMERICAN PROGRAMS AUTHORIZATION ACT

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 51, S. 510.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 510) to extend the authorization for certain programs under the Native American Programs Act of 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 510) reported by the Committee on Indian Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. AUTHORIZATIONS OF CERTAIN APPROPRIATIONS UNDER THE NATIVE AMERICAN PROGRAMS ACT OF 1974.

(a) SECTION 816.—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) in subsection (a), by striking "for fiscal years 1992, 1993, 1994, and 1995." and inserting "for each of fiscal years 1996, 1997, 1998, and 1999.";

(2) in subsection (c), by striking "for each of the fiscal years 1992, 1993, 1994, 1995, and 1996," and inserting "for each of fiscal years 1996, 1997, 1998, and 1999,"; and

(3) in subsection (e) by striking "$2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997." and inserting "such sums as may be necessary for each of fiscal years 1996, 1997, 1998, and 1999.".

(b) SECTION 803A(f)(1).—Section 803A(f)(1) of such Act (42 U.S.C. 2991b–1(f)(1)) is amended by striking "for each of the fiscal years 1992, 1993, and 1994, $1,000,000" and inserting "such sums as may be necessary for each of fiscal years 1996 through 1999,".

Mr. CHAFEE. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, that the bill be deemed read a third time, passed, and that the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 510), as amended, was deemed read for the third time, and passed as follows:

S. 510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATIONS OF CERTAIN APPROPRIATIONS UNDER THE NATIVE AMERICAN PROGRAMS ACT OF 1974.

(a) SECTION 816.—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) in subsection (a), by striking "for fiscal years 1992, 1993, 1994, and 1995." and inserting "for each of fiscal years 1996, 1997, 1998, and 1999.";

(2) in subsection (c), by striking "for each of the fiscal years 1992, 1993, 1994, 1995, and 1996," and inserting "for each of fiscal years 1996, 1997, 1998, and 1999,"; and

(3) in subsection (e), by striking "$2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997." and inserting "such sums as may be necessary for each of fiscal years 1996, 1997, 1998, and 1999.".

(b) SECTION 803A(f)(1).—Section 803A(f)(1) of such Act (42 U.S.C. 2991b–1(f)(1)) is amended by striking "for each of the fiscal years 1992, 1993, and 1994, $1,000,000" and inserting "such sums as may be necessary for each of fiscal years 1996 through 1999,".

MEASURE INDEFINITELY POSTPONED—SENATE CONCURRENT RESOLUTION 9

Mr. CHAFEE. Mr. President, I ask unanimous consent that calendar No. 37, Senate Concurrent Resolution 9, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 790

Mr. CHAFEE. Mr. President, I understand that S. 790 introduced earlier today by Senators MCCAIN and LEVIN is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 790) to provide for the modification or elimination of the Federal Reporting Requirements.

Mr. CHAFEE. I now ask for its second reading.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

EXECUTIVE SESSION

Mr. CHAFEE. Mr. President, I request that the Senate go into executive session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—CONVENTION ON NUCLEAR SAFETY (TREATY DOCUMENT NO. 104–6)

Mr. CHAFEE. Mr. President, I ask unanimous consent that the injunction of secrecy be removed from the Convention of Nuclear Safety, Treaty Document Number 104–6, transmitted to the Senate by the President today; and the treaty considered as having been read the first time; referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and ordered that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention on Nuclear Safety done at Vienna on September 20, 1994. This Convention was adopted by a Diplomatic Conference convened by the International Atomic Energy Agency (IAEA) in June 1994 and was opened for signature in Vienna on September 20, 1994, during the IAEA General Conference. Secretary of Energy O'Leary signed the Convention for the United States on that date. Also transmitted for the information of the Senate is the report of the Department of State concerning the Convention.

At the September 1991 General Conference of the IAEA, a resolution was adopted, with U.S. support, calling for the IAEA secretariat to develop elements for a possible International Convention on Nuclear Safety. From 1992 to 1994, the IAEA convened seven expert working group meetings, in which the United States participated. The IAEA Board of Governors approved a draft text at its meeting in February 1994, after which the IAEA convened a Diplomatic Conference attended by representatives of more than 80 countries in June 1994. The final text of the Convention resulted from that Conference.

The Convention establishes a legal obligation on the part of Parties to apply certain general safety principles to the construction, operation, and regulation of land-based civilian nuclear power plants under their jurisdiction. Parties to the Convention also agree to submit periodic reports on the steps they are taking to implement the obligations of the Convention. These reports will be reviewed and discussed at review meetings of the Parties, at which each Party will have an opportunity to discuss and seek clarification of reports submitted by other Parties.

The United States has initiated many steps to deal with nuclear safety, and has supported the effort to develop this Convention. With its obligatory reporting and review procedures, requiring Parties to demonstrate in international meetings how they are complying with safety principles, the Convention should encourage countries to improve nuclear safety domestically and thus result in an increase in nuclear safety worldwide. I urge the Senate to act expeditiously in giving its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 11, 1995.*

ORDERS FOR FRIDAY, MAY 12, 1995

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. on Friday, May 12, 1995; that following the prayer the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then immediately resume consideration of S. 534 the Solid Waste Disposal Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I ask unanimous consent that Members have until 10 a.m. to file second-degree amendments to S. 534.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I ask unanimous consent that the cloture vote on the committee substitute occur at 10 a.m. on Friday, and that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CHAFEE. For the information of all Senators, the Senate will resume consideration of the Solid Waste Disposal Act tomorrow. A cloture vote will occur on the committee substitute at 10 a.m. Senators should be on notice that it is the hope of the leader to complete action on this bill on Friday. Also the leader may want to consider Calendar No. 92, H.R. 483, the Medicare select bill. Therefore, votes will occur throughout Friday's session of the Senate.

Mr. FORD. Mr. President, will the distinguished acting floor leader yield for a question?

Mr. CHAFEE. I certainly will.

Mr. FORD. Since he is the floor manager of the bill, regardless of whether cloture is voted tomorrow or not, what amendments and how many would he think we might have? Does he have a ballpark figure? There are a good many amendments that have been filed. I wonder. Most of them are germane.

Mr. CHAFEE. I think the bidding has changed since this last vote. I would expect tomorrow we would have several votes in the morning rather rapidly, I hope. Just call them up.

Mr. FORD. That might be a little hard to do, call them up and vote on them or move to table.

Mr. CHAFEE. I hope that they will be brought up.

As I say, the situation has changed since this last vote. If we had prevailed on this last vote, I would have thought we would be able to finish tomorrow by 2 o'clock, something like that. Now, the situation has changed, so it is a little difficult to say. All I can say is we will move these amendments along as fast as we can.

Mr. FORD. I understand there might be some Senators leaving at an early hour tomorrow and it might not be appropriate to have these votes when they would miss so many.

I wonder if, after cloture, we may have one or two and that might end it for the day, but I see the heads are shaking, so you do not want me to know that tonight.

Mr. CHAFEE. It is not a question of not wanting the Senator to know. If we told him something, it would be from ignorance, I am afraid.

In any event, it would be my hope that we could finish tomorrow at a decent hour, but I am not so sure based on that last vote we had.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate resume the pending business.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I would like to seek the chairman's clarification of the relationship between the flow-control provisions of S. 534 and existing State law. Section 4012(i)(2) of the bill before the Senate states that "[n]othing in the section shall be construed to authorize a political subdivision of a State to exercise flow control authority granted by this section in a manner that is inconsistent with State law."

Am I correct that this language would restrict a local government from exercising flow control if an existing State statute does not grant such authority to a local government, such as section 15.1-28.01 of the Code of Virginia (1950), as amended?

Mr. ROBB. I share the concerns of my senior colleague. In Virginia, local governments and private industry have worked over the years to develop a fair compromise to provide for an effective integrated waste management system. It is not our intention to have this legislation interfere with that balance.

Mr. SMITH. The Senators from Virginia are correct. This legislation is not intended to expand a local government's flow-control authority beyond that permitted under existing State law.

Mr. CHAFEE. Mr. President, I have a series of amendments that have been agreed to. I will send them to the desk successively.

AMENDMENT NO. 861

(Purpose: To allow exemption from certain requirements of units in small, remote Alaska villages)

Mr. CHAFEE. The first is an amendment by Senator MURKOWSKI. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. MURKOWSKI, proposes an amendment numbered 861.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 69, line 19, before "would be infeasible" insert "or unit that is located in or near a small, remote Alaska village".

Mr. BAUCUS. Mr. President, we have examined this amendment and we have no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 861) was agreed to.

AMENDMENT NO. 868

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration. This amendment is proposed by Senator MOYNIHAN.

The amendment has the agreement of both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. MOYNIHAN, proposes an amendment numbered 868.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, line 7, strike the word "a" and insert "the particular".

On page 60, line 8, strike the word "facility" and insert in its place "facilities or public service authority".

On page 60, line 15, strike the word "facility" and insert in its place "facilities or public service authority".

Mr. BAUCUS. Mr. President, this amendment has been examined on this side and we are in agreement with it.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 868.

The amendment (No. 868) was agreed to.

AMENDMENT NO. 869

(Purpose: To authorize the administrator to exempt a landfill operator from ground water monitoring requirements in circumstances in which there is no chance of ground water contamination)

Mr. CHAFEE. Mr. President, I send to the desk an amendment on behalf of Senator CAMPBELL, cosponsored by Senators BROWN, and KEMPTHORNE, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. CAMPBELL, for himself, Mr. BROWN, and Mr. KEMPTHORNE, proposes an amendment numbered 869.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 69, strike the quotation mark and period at the end of line 22.

On page 69, between lines 22 and 23, insert the following:

"(5) NO-MIGRATION EXEMPTION.—

"(A) IN GENERAL.—Ground water monitoring requirements may be suspended by the Director of an approved State for a landfill operator if the operator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost aquifer during the active life of the unit and the post-closure care period.

"(B) CERTIFICATION.—A demonstration under subparagraph (A) shall—

"(i) be certified by a qualified groundwater scientist and approved by the Director of an approved State.

"(C) GUIDANCE.—

"(i) IN GENERAL.—Not later than 6 months after the date of enactment of this paragraph, the Administrator shall issue a guidance document to facilitate small community use of the no migration exemption under this paragraph.

Mr. BAUCUS. Mr. President, I have examined the amendment and it is acceptable.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 869.

The amendment (No. 869) was agreed to.

AMENDMENT NO. 870

Mr. CHAFEE. Mr. President, I send to the desk an amendment on behalf of Senator DODD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. DODD, for himself, and Mr. LIEBERMAN, proposes an amendment numbered 870.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 55, line 8, add:

"(B) other body created pursuant to State law, or",

Redesignate "(B)" as "(C)".

On page 62, line 1, insert after "authority" "or on its behalf by a State entity".

On page 62, line 17, insert after "bonds" "or had issued on its behalf by a State entity".

On page 62, line 24, strike all through page 63, line 3, and insert the following: "The authority under this subsection shall be exercised in accordance with section 4012(b)(4).".

Mr. BAUCUS. Mr. President, I ask the clerk, is this the amendment that begins "On page 55, line 8 add"?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAUCUS. I have examined the amendment and find it acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 870) was agreed to.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator LIEBERMAN be added as an original cosponsor to the Dodd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 871

(Purpose: To make clear that flow control authority is provided to public service authorities and modify the condition for exercise of flow control authority)

Mr. CHAFEE. Mr. President, I send to the desk an amendment on behalf of Senators ROTH and BIDEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. ROTH, for himself and Mr. BIDEN, proposes an amendment numbered 871.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, line 3, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 53, line 4, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 53, lines 7 and 8, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 53, line 10, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 56, lines 1 and 2, "and each political subdivision of a State" and insert ", political subdivision of a State, and public service authority".

On page 56, line 12, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 57, line 4, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 57, line 7, strike "or political subdivision" and insert ", political subdivision, or public service authority".

On page 57, line 21, strike "or political subdivision" and insert ", political subdivision, or public service authority".

Mr. BAUCUS. Mr. President, I also have examined this amendment and find it acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 871) was agreed to.

AMENDMENT NO. 872

(Purpose: To modify the condition for exercise of flow control authority)

Mr. CHAFEE. Mr. President, I send to the desk an amendment on behalf of Senator BIDEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. BIDEN, for himself and Mr. ROTH, proposes an amendment numbered 872.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, line 23, strike "1994." and insert "1994, or were in operation prior to May 15, 1994 and were temporarily inoperative on May 15, 1994,".

Mr. BAUCUS. Mr. President, we find this amendment acceptable.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 872.

The amendment (No. 872) was agreed to.

AMENDMENT NO. 873

(Purpose: To protect communities that enacted flow control ordinances after substantial construction of facilities but before May 15, 1994)

Mr. CHAFEE. Mr. President, on behalf of Senators SMITH, THOMPSON and COHEN, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. SMITH, for himself, Mr. THOMPSON and Mr. COHEN, proposes an amendment numbered 873.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, lines 18 through 21, strike "the substantial construction of which facilities was performed after the effective date of that law, ordinance, regulation, or other legally binding provision and".

On page 67, strike the period and quotation mark at the end of line 2.

One page 67, between lines 2 and 3, insert the following:

"(k) TITLE NOT APPLICABLE TO LISTED FACILITIES.—Notwithstanding any other provision of this title, the authority to exercise flow control shall not apply to any facility that—

"(1) on the date of enactment of this Act, is listed on the National Priorities List under the comprehensive Environmental, Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.): or

"(2) as of May 15, 1994, was the subject of a pending proposal by the Administrator of the Environmental Protection Agency to be listed on the National Priorities List.".

Mr. BAUCUS. We find this amendment acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 873) was agreed to.

AMENDMENT NO. 874

(Purpose: To modify the conditions on exercise of flow control authority)

Mr. CHAFEE. Mr. President, on behalf of Senators SMITH and WELLSTONE, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. SMITH, for himself and Mr. WELLSTONE, proposes an amendment numbered 874.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, strike lines 10 through 13 and insert the following:

"(A)(i) had been exercised prior to May 15, 1994, and was being implemented on May 15, 1994, pursuant to a law, ordinance, regulation, or other legally binding provision of the State or political subdivision; or

"(ii) had been exercised prior to May 15, 1994, but implementation of such law, ordinance, regulation, or other legally binding provision of the State or political subdivision was prevented by an injunction, temporary restraining order, or other court action, or was suspended by the voluntary decision of the State or political subdivision because of the existence of such court action.

On page 60, strike lines 1 through 5 and insert the following:

“(A)(i) the law, ordinance, regulation, or other legally binding provision specifically provides for flow control authority for municipal solid waste generated within its boundaries; and

“(ii) such authority was exercised prior to May 15, 1995, and was being implemented on May 15, 1994.

Mr. BAUCUS. Mr. President, we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 874) was agreed to.

AMENDMENT NO. 875

(Purpose: To clarify the intent of the provision relating to the duration of flow control authority)

Mr. CHAFEE. Mr. President, on behalf of Senator SNOWE, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Ms. SNOWE, for herself and Mr. COHEN, proposes an amendment numbered 875.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, line 5, strike “original facility” and insert “facility (as in existence on the date of enactment of this section)”.

Mr. BAUCUS. Mr. President, is this the amendment which begins “On page 58, line 5, strike ‘original facility’ ”?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAUCUS. I thank the Chair. We accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 875) was agreed to.

AMENDMENT NO. 876

(Purpose: To provide for the case of a formation of a solid waste management district for the purchase and operation of an existing facility)

Mr. CHAFEE. Mr. President, on behalf of Senator PRYOR, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. PRYOR, proposes an amendment numbered 876.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 61, between lines 7 and 8, insert the following:

“(d) FORMATION OF SOLID WASTE MANAGEMENT DISTRICT TO PURCHASE AND OPERATE EXISTING FACILITY.—Notwithstanding subsection (b)(1)(A) and (B), a solid waste management district that was formed by a number of political subdivisions for the purpose of purchasing and operating a facility owned by 1 of the political subdivisions may exercise flow control authority under subsection (b) if—

“(1) the facility was fully licensed and in operation prior to May 15, 1994;

“(2) prior to April 1, 1994, substantial negotiations and preparation of documents for the formation of the district and purchase of the facility were completed;

“(3) prior to May 15, 1994, at least 80 percent of the political subdivisions that were to participate in the solid waste management district had adopted ordinances committing the political subdivisions to participation and the remaining political subdivisions adopted such ordinances within 2 months after that date; and

“(4) the financing was completed, the acquisition was made, and the facility was placed under operation by the solid waste management district by September 21, 1994.

Mr. BAUCUS. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 876) was agreed to.

AMENDMENT NO. 877

(Purpose: To make clear that entering into a put or pay agreement satisfies the requirement of a legally binding provision and a designation of a facility)

Mr. CHAFEE. Mr. President, on behalf of Senators COHEN and SNOWE, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. COHEN, for himself and Ms. SNOWE, proposes an amendment numbered 877.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 55, between lines 10 and 11 insert the following:

“(5) PUT OR PAY AGREEMENT.—The term ‘put or pay agreement’ means an agreement that obligates or otherwise requires a State or political subdivision to—

“(A) deliver a minimum quantity of municipal solid waste to a waste management facility; and

“(B) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

“(2) For purposes of the authority conferred by subsections (b) and (c), the term ‘legally binding provision of the State or political subdivision’ includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988 and that requires an aggregate tonnage to be delivered to the facility during each operating year by the political subdivisions which have entered put or pay agreements designating that waste management facility.

“(3) The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for all purposes of this title.”

Mr. BAUCUS. Mr. President, I have examined it and agreed with it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 877) was agreed to.

ADDITIONAL COSPONSORS

Mr. CHAFEE. Mr. President, I ask that Senators HUTCHISON and SNOWE be added as cosponsors to amendment No. 873, which was previously adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I want to compliment the chairman of the committee, as well as the Presiding Officer, the chairman of a relevant subcommittee, for being very active on this bill. We have made a lot of progress today and particularly this evening. I think it is a good omen, and I hope we can wrap up this bill expeditiously tomorrow. So, once again, I compliment the chairman of the committee and the chairman of the subcommittee.

Mr. CHAFEE. Mr. President, let me just say that without the forceful drive of the ranking member, we would not be this far. So on behalf of myself and of the occupant of the chair, the distinguished chairman of the subcommittee, I thank the ranking member for all of his support in making this possible.

I, too, hope that tomorrow we can finish what we have here. It may be that we can. Certainly, we are going to try.

We are going to come in at 9:30, and there is a vote on cloture at 10. Regardless of the outcome of that vote, I hope we can continue working to see if we cannot finish all of this. If we cannot finish, at least maybe we can get agreements so there will be voting at a set time on whatever date the leader chooses. But it is my goal, and I know it is the goal of the chairman of the subcommittee and the ranking member, to finish this bill quickly. There is always the threat that if we do not get it through, the leader will pull it down, as he has other business we have to attend to.

So I thank the ranking member for all of his support.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. CHAFEE. If there is no further business to come before the Senate, I ask that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 9:13 p.m., recessed until Friday, May 12, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 11, 1995:

DEPARTMENT OF AGRICULTURE

KARL N. STAUBER, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE DANIEL A. SUMNER, RESIGNED.

IN THE ARMY

THE FOLLOWING U.S. ARMY RESERVE OFFICERS FOR PROMOTION TO THE GRADES INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF SECTIONS 3371, 3384 AND 12203(A), TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. JOHN T. CROWE [redacted].
BRIG. GEN. CHARLES A. INGRAM [redacted].
BRIG. GEN. HERBERT KOGER, JR [redacted].
BRIG. GEN. CALVIN LAU [redacted].
BRIG. GEN. BRUCE G. MACDONALD [redacted].

To be brigadier general

COL. LLOYD D. BURTCH [redacted].
COL. ROBERT L. LENNON [redacted].
COL. RAYMOND E. GANDY, JR. [redacted].
COL. ROBERT W. SMITH III [redacted].
COL. HARRY E. BIVENS [redacted].
COL. KENNETH P. BERGQUIST [redacted].

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY, WITHOUT SPECIFICATION OF BRANCH COMPONENT, AND IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED IN ACCORDANCE WITH ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION OF THE UNITED STATES, AS DEAN OF THE ACADEMIC BOARD, UNITED STATES MILITARY ACADEMY, A POSITION ESTABLISHED UNDER TITLE 10, UNITED STATES CODE, SECTION 4335:

DEAN OF THE ACADEMIC BOARD

To be permanent brigadier general

COL. FLETCHER M. LAMKIN, JR. [redacted] U.S. ARMY.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. BRENT M. BENNITT, U.S. NAVY [redacted].

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

To be lieutenant colonel

ABBOTT, SCOTT L. [redacted]
ACOSTA, JESSE T [redacted]
ADAMAKOS, GEORGE L. [redacted]
ADKINS, DONALD M. [redacted]
ADLER, PETER J [redacted]
AGEE, COLLIN A. [redacted]
AIELLO, JAMES P [redacted]
AKLEY, SUSAN E. [redacted]
ALDERETE, GREGORY L [redacted]
ALDERMAN, MARC I. [redacted]
ALFORD, KENNETH L. [redacted]
*ALICEA, FRANCISCO J. [redacted]
ALLMENDINGER, PERRY [redacted]
ALLMON, THOMAS A. [redacted]
ALLOR, PETER G [redacted]
ALLYN, DANIEL B. [redacted]
ALSPACH, WILLIAM A. [redacted]
ALVAREZ, CHARLES [redacted]
ALVAREZ, ROBERT [redacted]
ANDERSON, DAVID L. [redacted]
ANDERSON, DONNIE P. [redacted]
ANDERSON, JOSEPH [redacted]
ANDERSON, NICHOLAS [redacted]
ANDERSON, SARA F. [redacted]
ANDERSON, WELSEY B. [redacted]
*ANDREORIO, STEPHEN [redacted]
ANDREWS, KRISTOPHER [redacted]
ANDREWS, SANDRA S. [redacted]
ANGELOSANTE, JAMES [redacted]
ANTLEY, BILLY W. [redacted]
ANTRY, ROBERTA A. [redacted]
APPLEGET, JEFFREY A [redacted]
ARATA, STEPHEN A. [redacted]
ARGO, HARRY M. [redacted]
ARMOUR, DAVID T. [redacted]
ARMSTRONG, KEITH A. [redacted]
ARNDT, F.J. [redacted]
ARROYONIEVES, JOSE [redacted]
ARTHUR, JOHN E. [redacted]
*AUSTIN, BENNY B. [redacted]
AUSTIN, STEPHEN D [redacted]
BAHR, MARK S. [redacted]
BAKER, DOUGLAS S. [redacted]
BAKER, GEORGE R. [redacted]
BALTAZAR, THOMAS P. [redacted]
BANNER, GREGORY T. [redacted]
BARBER, JESSE L [redacted]
BARNER, FRANCHESTEE, [redacted]
BARNETTE, MARK F. [redacted]
BARRETO, DANIEL [redacted]
BARRETT, BRUCE J. [redacted]
BARTON, DOUGLAS A. [redacted]
BASSETT, WILLIAM E. [redacted]
BASSETT, JEFFREY L [redacted]
BATTEN, BRUCE W. [redacted]
BAUGHMAN, DANIEL M. [redacted]
BAUGHMAN, JEFFREY A. [redacted]
BAYLESS, ROBERT M. [redacted]
BEALE, CAROLYN M [redacted]
BEALE, JOHNNIE L. [redacted]
BEANLAND, THOMAS J. [redacted]
BEASLEY, DANIEL G. [redacted]
BEATTY, ROBERT J. [redacted]
BECNEL, WADE B. [redacted]
BELLINI, MARK A. [redacted]
BELT, BRUCE D. [redacted]
BENITO, RICKY [redacted]
BENNETT, THOMAS B. [redacted]
BENNETT, WILLIAM W. [redacted]
BERBERICK, RAYMOND [redacted]
BETTEZ, MICHAEL G. [redacted]
BEYER, RENAE M. [redacted]
BIANCA, DAMIAN P. [redacted]
BIANCO, STEPHEN G. [redacted]
BIERWIRTH, ROY C. [redacted]
BILL, GARY F. [redacted]
BILLINGS, TONY R. [redacted]
BISACRE, MICHAEL D. [redacted]
BLACK, KENNETH B. [redacted]
*BLACKBURN, THOMAS P. [redacted]
BLAINE, JOHN M. [redacted]
BLAKELY, TERRY A. [redacted]
BLAKEMAN, KEITH E. [redacted]
BLANK, JAMES E. [redacted]
BLASHACK, CATHERINE [redacted]
BLEAKLEY, ALBERT M. [redacted]
BLECKMAN, DALE M. [redacted]
BLEIMEISTER, ROBERT [redacted]
BLOECHL, TIMOTHY D. [redacted]
BLOISE, JAMES E. [redacted]
BLUE, THOMAS G. [redacted]
BOATNER, MICHAEL E. [redacted]
BONDS, MARCUS [redacted]
BONE, JOHN J., JR [redacted]
BONEBRAKE, DOUGLAS [redacted]
BONESTEEL, RONALD M. [redacted]
BONNER, DOUGLAS C. [redacted]
BONSELL, JOHN A. [redacted]
BOOZER, JAMES C. [redacted]
BORNICK, BRUCE K. [redacted]
BOSHEARS, STEVEN R. [redacted]
BOSLEY, LARRY L. [redacted]
BOURGAULT, RICHARD [redacted]
BOWERS, BOBBY S. [redacted]
BOWERS, WILLIAM E. [redacted]
BOWLES, KEVIN L. [redacted]
BOWMAN, MICHAEL [redacted]
BOWMAN, ROBERT E. [redacted]
BOYD, JANE A. [redacted]
BOZEK, GREGORY J. [redacted]
BRADLEY, DARRYL M. [redacted]
BRAY, BRITT E. [redacted]
BRESLIN, CHARLES B. [redacted]
BRIGGS, RALPH W. [redacted]
BRODERSEN, STEPHEN [redacted]
BRODEUR, MARC P. [redacted]
BROKAW, NINA L. [redacted]
BROOKS, RICHARD W. [redacted]
BROSSART, THOMAS M. [redacted]
BROWN, ARMOR D. [redacted]
BROWN, DAVID W. [redacted]
BROWN, INEZ C. [redacted]
BROWN, JOSEPH A. [redacted]
BROWN, LAWRENCE H. [redacted]
BROWN, MATTHEW J. [redacted]
BROWN, REX E. [redacted]
BROWN, RONNIE L. [redacted]
BRUMFIELD, CALVIN D. [redacted]
BRYANT, KATHERINE M. [redacted]
BRYDGES, BRUCE E. [redacted]
BRYNICK, MARK T. [redacted]
BRYSON, RUTH E. [redacted]
BUCHNER, MICHAEL S. [redacted]
BUCK, STEPHEN D. [redacted]
BUFFKIN, RONALD M. [redacted]
BUITRAGO, JOSE A. [redacted]
BUNDE, VICTOR A. [redacted]
BUNTING, TIMOTHY L. [redacted]
BURKE, JOHN D. [redacted]
BURKE, KEVIN J. [redacted]
BURKHART, TIMOTHY J. [redacted]
BURLESON, BRUCE B. [redacted]
BUZAN, MILTON T. [redacted]
BYRNES, RONALD B. [redacted]
BUYS, DAVID L. [redacted]
CALL, MARK K. [redacted]
CALLAWAY, CHARLES T. [redacted]
CAMP, LOIS F. [redacted]
CAMPBELL, RICHARD D. [redacted]
CAMPBELL, STEPHEN T. [redacted]
CAMPISI, PETER C. [redacted]
CAMPOS, LIONEL G. [redacted]
CANNON, PATRICK M. [redacted]
CAPRANO, REBECCA H. [redacted]
CAPSTICK, PAUL R. [redacted]
CARDARELLI, MICHAEL [redacted]
CARDENAS, WILLIAM G. [redacted]
CARDINAL, BEVERLY S. [redacted]
CAREY, THOMAS J. [redacted]
CARNEY, ROBERT L. [redacted]
CARPENTER, ANTONIO [redacted]
CARPENTER, SHERRY L. [redacted]
CARROLL, DOUGLAS E. [redacted]
CARROLL, DEKKETH W. [redacted]
CARROLL, LANCE S. [redacted]
CARTER, FREDERICK L. [redacted]
CASON, TONY W. [redacted]
CERVONE, MICHAEL B. [redacted]
CHALLANS, TIMOTHY L. [redacted]
CHANEY, RONALD H. [redacted]
CHAPEL, DIANA M. [redacted]
CHASTAIN, RICHARD L. [redacted]
CHEEK, GARY H. [redacted]
CHIN, MING G. [redacted]
CHRANS, DONALD E. [redacted]
CHRISTENSEN, JOHN A. [redacted]
CLARK, BENJAMIN R. [redacted]
CLARK, DAVID A. [redacted]
CLARK, EARL M. [redacted]
CLARK, WALTER L. [redacted]
CLAY, MICHAEL D. [redacted]
CLAY, STEVEN E. [redacted]
CLEGG, JAMES D. [redacted]
CLEMENT, DAVID L. [redacted]
CLEMONS, JOHN L., JR. [redacted]
CLEPPER, FRANCIS D. [redacted]
CLIFTON, WILLIAM R., [redacted]
COCKER, LOUIS F. [redacted]
COLBERT, PATRICK L. [redacted]
COLEMAN, GIFFORD [redacted]
COLLETTI, FRANCIS A. [redacted]
COLLINS, ALFRED C. [redacted]
COLLINS, JACK [redacted]
COLLYAR, LYNN A. [redacted]
CONLEY, JOE E. [redacted]
CONNER, DALE R. [redacted]
CONWAY, RANDALL G. [redacted]
COOPER, KEITH L. [redacted]
COPELAND, WILLIAM H. [redacted]
CORBETT, STEVEN R. [redacted]
CORDES, MICHAEL A. [redacted]
CORLEY, MICHAEL J. [redacted]
COTTER, GERARD J. [redacted]
COTTON, EDMUND W. [redacted]
COURTNEY, EDWIN L. [redacted]
COX, KENDALL P. [redacted]
CRITES, STEVEN J. [redacted]
CROSBY, WILLIAM T. [redacted]
CROSS, JESSE R. [redacted]
CROSSLEY, RICHARD J. [redacted]
*CROSSONWILLIAMS, M.E. [redacted]
CROWSON, MARK S. [redacted]
CRUMP, LEONARD A., JR. [redacted]
CRUTCHFIELD, BRENDA [redacted]
CRUZE, HOYT A. [redacted]
CUGNO, RONALD J. [redacted]
CUMMINGS, WINFRED S. [redacted]
CURTIS, DWIGHT D. [redacted]
CYPHER, ERICKSON D. [redacted]
CZEPIGA, STEVEN M. [redacted]
DAILEY, DENISE F. [redacted]
DALLAS, WILLIAM B. [redacted]
DALTON, JAMES B. [redacted]
DANCZYK, GARY M. [redacted]
DARCY, PAUL A. [redacted]
DARROCH, DAVID L. [redacted]
DAVIS, DIANA L. [redacted]
DAVIS, HENRY J. [redacted]
DAVIS, KEVIN A. [redacted]
DAVIS, MARK J. [redacted]
DAVIS, MICHAEL L. [redacted]
DAVIS, RICHARD A. [redacted]
DAVIS, STEVEN L. [redacted]
DAY, KAREN K. [redacted]
DEAN, JOHN C. [redacted]
DEFFERDING, MICHAEL [redacted]
DEGRAFF, CHRISTIAN [redacted]
DEKANICH, WILLIAM M. [redacted]
DELZELL, GAIL E. [redacted]
DEMAYO, MICHAEL F. [redacted]
DEMING, JAMES F. [redacted]
DEROBERTIS, PETER S. [redacted]
DEVERILL, SHANE M. [redacted]
DEVLIN, ROBERT J. [redacted]
DEYOUNG, MICHAEL W. [redacted]
DIBB, KEVIN L. [redacted]
DIDONATO, DAVID M. [redacted]
DIEHL, GREGORY D. [redacted]
DIEMER, MANUEL A. [redacted]
DIETRICK, KEVIN M. [redacted]
DIMITROV, GEORGE V. [redacted]
*DIODONET, HECTOR, [redacted]
DISALVO, PHILIP J. [redacted]
DISSINGER, FREDERIC [redacted]
DOLINISH, GERALD A. [redacted]
DONAHER, WILLIAM F. [redacted]
DONALDSON, BRUCE J. [redacted]
DOOLEY, JOHN M. [redacted]
DORMAN, GOODE G. [redacted]
DOUGLAS, KATHY L. [redacted]
DOWLING, EDMUND A. [redacted]
DRAGON, RANDAL A. [redacted]
DRAKE, WAYNE [redacted]
DRATCH, SCOTT R. [redacted]
DRUMMOND, WILLIAM T. [redacted]
DRZEMIECKI, MARK E. [redacted]

DUDLEY, REX E. [redacted]
DUEMLER, RICHARD F [redacted]
DUFFY, MATTHEW J. [redacted]
DUFFY, MICHAEL E. [redacted]
DUFFY, SHARON R. [redacted]
DUFFY, WILLIAM R. [redacted]
DUNCAN, RAYMOND J. [redacted]
DUPAS, LAWRENCE L. [redacted]
DURR, PETER P [redacted]
EARLY, DREW N. [redacted]
EARNEST, CLAY B. [redacted]
EATON, GEORGE B. [redacted]
EAYRE, TIMOTHY E. [redacted]
EBEL, WILLIAM E [redacted]
EHRMANTRAUT, SCOTT [redacted]
EISEL, GEORGE W. [redacted]
ELDRIDGE, CHARLES R. [redacted]
ELEDUI, WILLIAM E. [redacted]
ELLER, GARY D. [redacted]
ELLIS, BRYAN W. [redacted]
ELLIS, DAVID R. [redacted]
*EMBREY, WALLACE E. [redacted]
ENGEBRETSON, STEVEN [redacted]
ENGLAND, MARK A. [redacted]
ENGLERT, MARVIN A. [redacted]
ESHELMAN, MARK J. [redacted]
EVANS, CALVIN E. [redacted]
EVANS, GEORGE S. [redacted]
EVANS, PHILIP M. [redacted]
FAGAN, WILLIAM J. [redacted]
FAILLE, ROBERT C. [redacted]
FAIN, JOHN R. [redacted]
FEIERSTEIN, MARK D. [redacted]
FERRELL, DONALD M. [redacted]
FINKE, JON E. [redacted]
FIX, ROBERT G. [redacted]
FLANAGAN, MICHAEL S. [redacted]
FLESER, WILLIAM C. [redacted]
FLETCHER, EDWARD A. [redacted]
FLUEGEMAN, STEPHEN [redacted]
FLUEVOC, JEAN E. [redacted]
FLYNN, MICHAEL T. [redacted]
FOLEY, EDWARD J. [redacted]
FONTANELLA, SHARON [redacted]
FORD, CHARLES K. [redacted]
FORRESTER, PATRICK [redacted]
FOSTER, JAMES C. [redacted]
FOSTER, STEPHEN [redacted]
FOWLER, JAMES M. [redacted]
FOX, MICHAEL E. [redacted]
FOX, STEVEN G. [redacted]
FRANCIS, WAYNE A. [redacted]
FRANCKS, JOHN M. [redacted]
FRANK, BRIAN K. [redacted]
FRANKE, RONALD E. [redacted]
FRANKLIN, FRANK L. [redacted]
FREELAND, RAYMOND E. [redacted]
FRENDAK, THOMAS M. [redacted]
FRIEDSON, JOHN M. [redacted]
FROST, JACK R. [redacted]
FULMER-SHAW, DOROTH [redacted]
GABRIEL, BERNARD P. [redacted]
GALE, MATTHEW J. [redacted]
GALGANO, FRANCIS A. [redacted]
GAMBLE, GEORGE K. [redacted]
GANTT, JOHN K. [redacted]
GARCIA, MELFRED S. [redacted]
GARCIA, WAYNE L. [redacted]
GARDNER, JOHN P. [redacted]
GARRISON, CHARLES A. [redacted]
GARVEY, DANIEL L. [redacted]
GASBARRE, ANTHONY J. [redacted]
GASKELL, DOUGLAS, M. [redacted]
GATES, FRANCIS K. [redacted]
GATEWOOD, DAVID M. [redacted]
GAULT, CLOVIS G. [redacted]
GAVIN, TIMOTHY P. [redacted]
GAVORA, WILLIAM M. [redacted]
GELHARDT, MARK D. [redacted]
GIBSON, CHARLES L. [redacted]
GIBSON, PETER R [redacted]
GIBSON, TIMOTHY J. [redacted]
GIDDENS, CECIL D. [redacted]
GIERLAK, JAMES E [redacted]
GILBERT, REX L. [redacted]
GILLISON, AARON P. [redacted]
GILMORE, LLOYD J. [redacted]
GINEVAN, MARK E. [redacted]
GLEN, PAUL D. [redacted]
GLENNON, THOMAS J. [redacted]
GLOVER, DOUGLAS, [redacted]
GLYNN, MARK V. [redacted]
GOLD, ALLAN J. [redacted]
GOLD, RUSSELL D. [redacted]
GOLDEN, WALTER M. [redacted]
GOLDER, LANCE G. [redacted]
GOLIGOWSKI, STEVEN [redacted]
GOMEZ, ALBERT J. [redacted]
GORDON, ROBERT L [redacted]
GRAHAM, CLIFFORD P. [redacted]
GRAHAM, ONEY M. [redacted]
GRAHAM, THOMAS E. [redacted]
GRAHEK, RONALD A. [redacted]
GRANDIN, JAY F [redacted]
GRANGER, JAMES E. [redacted]
GRAUGNARD, GERRI K. [redacted]
GRAY, XAVIER D. [redacted]
GREENBERG, WILLIAM [redacted]
GREENE, GUS E. [redacted]
GREY, DANIEL G. [redacted]
GRIFFIN, GREER [redacted]
GRIFFIN, THOMAS M. [redacted]
GROLLER, ROBERT L. [redacted]
GROSSMAN, DAVID A. [redacted]
GROTKE, MARK L. [redacted]
GRUNER, ELLIOTT G. [redacted]
GRUNWALD, ARTHUR A. [redacted]
GUADALUPE, JOSE A. [redacted]
GUERRY, CHARLES J. [redacted]
GUGLIELMI, ROBERT T. [redacted]
GULAC, CHARLIE C. [redacted]
GULOTTA, GASPER [redacted]
GUMM, GARY J. [redacted]
GUNNING, JOAN A. [redacted]
GUSSE, SHERRY M. [redacted]
HAGEN, THOMAS M. [redacted]
HAHN, ROBERT F. [redacted]
HALE, DAVID D. [redacted]
HALE, MATTHEW T. [redacted]
HALLISEY, CHRISTINE [redacted]
HALSTEAD, REBECCA [redacted]
HAMILTON, HARRY S. [redacted]
HAMILTON, JOHN A. [redacted]
HAMILTON, JOHN C. [redacted]
HAMMELL, ROBERT J. [redacted]
HANAYIK, ROBERT A. [redacted]
HANIFY, DOUGLAS J. [redacted]
HANSEN, ROGER A. [redacted]
HANSINGER, THOMAS R. [redacted]
HANSON, RICKEY L. [redacted]
HANSON, ROBERT J [redacted]
HANSON, WILLIAM V. [redacted]
HARBISON, JOHN W. [redacted]
HARCHELROAD, JOAN L. [redacted]
HARDMAN, SUSAN B. [redacted]
HARDRICK, HAROLD S. [redacted]
HARDY, KIRT T. [redacted]
HARKINS, HOMER W. [redacted]
HARMAN, FRANK L.I [redacted]
HARNAGEL, NATHAN C. [redacted]
HARPER, JAMES H. [redacted]
HARPER, THELMA P. [redacted]
HARPER, WILLIAM P., II [redacted]
HARRELL, WILLIAM D. [redacted]
HARRISON, MICHAEL T. [redacted]
HARTER, GARY R. [redacted]
HARTER, ROBERT L. [redacted]
HARTMAN, MICHAEL J. [redacted]
*HARVEY, AARON C. [redacted]
HARVEY, DEREK J. [redacted]
HATCH, RICHARD G. [redacted]
HAUGHS, MARK I. [redacted]
HAVERTY, ROBERT B. [redacted]
HAWES, KENNETH A. [redacted]
HAYNES, FOREST D. [redacted]
HEANEY, THOMAS A. [redacted]
HECKEL, JEFFREY J [redacted]
HECKMAN, DEBRA L. [redacted]
HEINE, KURT M. [redacted]
HELMICK, MICHAEL R. [redacted]
HELTON, EMORY R. [redacted]
*HENDERSON, JOYCE [redacted]
HENRICKSON, RAY D. [redacted]
HENNE, SCOTT M. [redacted]
HENNIGAN, JOHN R. [redacted]
HENSON, JOHN C. [redacted]
HENTSCHEL, HELMUT K. [redacted]
HENTSCHEL, TIMOTHY [redacted]
HERITAGE, GREGORY M. [redacted]
HERR, LOREN D. [redacted]
HESTER, JAMES R. [redacted]
HESTER, JOHN B. [redacted]
HEWITT, STEPHANIE A. [redacted]
HICKS, KELLY J [redacted]
HIGGINS, DAVID W. [redacted]
HILDRETH, BRADFORD [redacted]
HILL, MONTE R. [redacted]
HILL, ROBERTA A. [redacted]
HINK, DANIEL B. [redacted]
HINKLE, MICHAEL J. [redacted]
HINRICHSEN, THOMAS [redacted]
HOBERNICHT, RICHARD [redacted]
HODGE, JAMES A. [redacted]
HODGES, FREDERICK B. [redacted]
HOFF, MICHAEL J. [redacted]
HOFF, RICHARD H. [redacted]
HOFFMAN, LAWRENCE W. [redacted]
HOLLADAY, CHRISTOPH [redacted]
HOLLOWAY, SAMUEL A. [redacted]
HOLMES, ROBERT S. [redacted]
HOOVER, WILLIAM G. [redacted]
HORN, MICHAEL R. [redacted]
HORVATH, JAN S. [redacted]
HOSSELRODE, RANDY W. [redacted]
HOUCK, BOYD D. [redacted]
HOUGH, ROBERT D. [redacted]
HOUSE, JAMES M. [redacted]
HOUSTON, THOMAS D. [redacted]
HUFF, DONALD C. [redacted]
HUGGINS, JAMES L. [redacted]
HUGGLER, SUSAN L. [redacted]
HUGHES, BERNARD C. [redacted]
HUGHES, DUANE E. [redacted]
HUGHES, ERIC M. [redacted]
HUNSBERGER, JERALD [redacted]
HURLEY, BRIAN R. [redacted]
HURLEY, MARK S. [redacted]
HYNES, DEWITT, JR. [redacted]
ILER, GERALD A. [redacted]
INGRAM, BERND L. [redacted]
IPPOLITO, MARY K. [redacted]
ISHMAEL, LAUREN M. [redacted]
*ISOM, RONALD G. [redacted]
ITHIER, JAN P [redacted]
IVES, JOHN W. [redacted]
*IVY, LENORA A. [redacted]
JACKSON, BONNIE L. [redacted]
JACKSON, HOWARD C. [redacted]
JACKSON, KEVIN D. [redacted]
JACKSON, KOREY V. [redacted]
JACKSON, LEON, JR. [redacted]
*JACKSON, MICHELE M. [redacted]
JACOB, KEVIN P. [redacted]
JACOBS, CARL M. [redacted]
JACOBSON, DANIEL J. [redacted]
JACOBY, MARTIN A. [redacted]
JAGOE, MARCELLUS H. [redacted]
JAMESON, LARRY W. [redacted]
JANKER, PETER S. [redacted]
JANNING, DONALD J. [redacted]
JENKINS, PLEZ A. [redacted]
JENKINS, RICHARD B. [redacted]
JENKINS, ROY T. [redacted]
JIMENEZ, MARTIN A. [redacted]
*JOHNSON, ALBERT, JR. [redacted]
JOHNSON, CARL M. [redacted]
JOHNSON, DAN A. [redacted]
JOHNSON, DAVID H. [redacted]
JOHNSON, DOROTHY T. [redacted]
JOHNSON, ERIC J. [redacted]
JOHNSON, GREGORY L. [redacted]
JOHNSON, JEROME [redacted]
JOHNSON, MARK H. [redacted]
JOHNSON, MICHAEL V. [redacted]
JOHNSON, NANCY A. [redacted]
JOHNSON, RODNEY E. [redacted]
JOHNSON, ROY A. [redacted]
JONES, CHARLES A. [redacted]
JONES, DONALD E. [redacted]
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MC CALLISTER, LARRY [redacted]
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TEAGUE, GEORGE E [redacted]
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VOGT, WILLIAM C. [redacted]
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VOSTI, PAUL H. [redacted]
WAGNER, SUSAN K. [redacted]
WALDEN, JOSEPH L. [redacted]
WALDROP, JAMES R [redacted]
WALLACE, CHRISTOPHE [redacted]
WALLACE, ROBERT M. [redacted]
WALSH, PETER K. [redacted]
WAMPLER, DOUGLAS L. [redacted]
WARD, GEORGE A. [redacted]
WARD, RONALD C. [redacted]
WARRICK, LARRY P. [redacted]
WASHINGTON, LEE E. [redacted]
WATERS, HENRY J. [redacted]
WATTS, VICKY C. [redacted]
WAYBRIGHT, HAROLD B. [redacted]
WEBBER, KURT E. [redacted]
WEIDERHOLD, MICHAEL [redacted]
WEILAND, PETER L. [redacted]
WEINER, BEN W. [redacted]
WEINTRAUB, JASON S. [redacted]
WELCH, DAVIS S. [redacted]
WELCH, RONALD W. [redacted]
*WELLS, DEMETRA A. [redacted]
WEST, STEPHEN K. [redacted]
WEST, TERRY A. [redacted]
WESTFIELD, ALAN D. [redacted]
WETTIG, KEITH S. [redacted]
WHEAT, JANIS A. [redacted]
WHITE, JOHN S. [redacted]
WHITEHEAD, GARY W. [redacted]
WHITEHEAD, RAY A. [redacted]
WHITEFIELD, CHARLES [redacted]
WHITTAKER, DAVID F. [redacted]
WILCOX, PAUL A. [redacted]
WILEY, ANTHONY G. [redacted]
WILHELM, GERD P. [redacted]
WILKERSON, KEVIN V. [redacted]
WILKINSON, JEFFERY [redacted]
WILLETT, JAMES A. [redacted]
WILLIAMS, CHARLES K. [redacted]
WILLIAMS, JAMES R. [redacted]
WILLIAMS, KEWYN L. [redacted]
WILLIAMS, MARVIN W. [redacted]
WILLIAMS, PETER G. [redacted]
WILLIAMS, RICHARD A. [redacted]
WILSON, BERNARD E. [redacted]
WILSON, DANIEL M. [redacted]
WILSON, MARILEE D. [redacted]
WININGER, WALTER E. [redacted]
WISEMAN, JOHN W. [redacted]
WITHERS, GEORGE K. [redacted]
WITHERS, JAMES M. [redacted]
*WONSIDLER, CRAIG [redacted]
YOUNG, DANIEL D. [redacted]
YOUNG, GARY R. [redacted]
YOUNG, THOMAS W. [redacted]
ZACCARDI, ROBERT W. [redacted]
ZACOVIC, WILLIAM R. [redacted]
ZAJ, EDWARD A. [redacted]
ZARGAN, CURT S. [redacted]
ZELLER, WALTER G. [redacted]
ZIELINSKI, PETER J [redacted]
ZIMMERMAN, JANET A. [redacted]
ZIMMERMAN, RALF W. [redacted]
ZOLIK, DAMIAN J. [redacted]
ZUVICH, ANTHONY J. [redacted]
0426X
0092X
0732X

IN THE NAVY

THE FOLLOWING–NAMED LIEUTENANT COMMANDERS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICERS

To be commander

MILTON D. ABNER [redacted]
MICHAEL W. ACKERMAN [redacted]
RONALD C. ADAMO [redacted]
MARK H. ADAMSHICK [redacted]
MICHAEL H. ALBRIGHT [redacted]
DAVID M. ANDERSON [redacted]
DOUGLAS M. ANDRE [redacted]
GREGORY E. ANTOLAK [redacted]
BARON W. ASHER [redacted]
LARRY D. AYERS [redacted]
CARLOS E. AYUSO [redacted]
STUART D. BAILEY [redacted]
MARK J. BAKER [redacted]
MICHAEL J. BAREA [redacted]
EDWARD BARFIELD [redacted]
THOMAS H. BARGE II [redacted]
JOHN W. BARNHILL [redacted]
RICHARD R. BARTIS [redacted]
ANDREW J. BARTON [redacted]
JEFFREY B. BATES [redacted]
MARK A. BAULCH [redacted]
PETER D. BAUMANN [redacted]
ROBERT W. BECK [redacted]
WALTER S. BEDNARSKI, JR. [redacted]
STEPHEN J. BENSON [redacted]
DAVID M. BENTZ [redacted]
THOMAS A. BERG [redacted]
FRED V. BERLEY [redacted]
ELLIOTT M. BERMAN [redacted]
SCOTT A. BERNARD [redacted]
RUSSELL E. BIRD [redacted]
CHARLES R. BLAKE [redacted]
WILLIAM J. BLEVINS [redacted]
MARK W. BOCK [redacted]
MARK R. BOETTCHER [redacted]
JOHN W. BOLIN III [redacted]
ALLEN R. BOUGARD [redacted]
KEITH P. BOWMAN [redacted]
JAMES W. BOYD, JR. [redacted]
PATRICK H. BRADY [redacted]
SCOTT M. BREEDING [redacted]
ROBERT C. BROWN, JR. [redacted]
EDWARD L. BROWNLEE [redacted]
GLENN M. BRUNNER [redacted]
DAVID L. BUCKEY, [redacted]
KENNETH P. BUELL [redacted]
JOHN M. BURDON [redacted]
ROBERT J. BURRELL [redacted]
EDWARD C. BURTON [redacted]
JOHN E. BUTALA [redacted]
RANDALL S. BUTLER [redacted]
JAMES F. CALDWELL, JR. [redacted]
JAY D. CALER [redacted]
CHARLES B. CAMERON [redacted]
JOHN M. CAMERON [redacted]
DIANA T. CANGELOSI [redacted]
THOMAS W. CARPENTER, JR. [redacted]
CLARENCE E. CARTER [redacted]
GILBERT A. CARTER [redacted]
WALTER E. CARTER, JR. [redacted]
ODILON V. CAVAZOS, JR. [redacted]
CARLOS M. CHAVEZ [redacted]
PATRICK D. CLARK, [redacted]
RANDY W. CLARK [redacted]
RAY L. CLARK, JR. [redacted]
WILLIAM J. CLARK, JR. [redacted]
MARTIN S. COHEN [redacted]
MICHAEL A. COLLINS [redacted]
DAVID J. CONAWAY [redacted]
JAMES K. COOK [redacted]
MICHAEL J. COOMES [redacted]
GARY T. COOPER [redacted]
ERIC A. COPELAND III [redacted]
THOMAS F. COSGROVE, JR. [redacted]
JOHN W. COTTON [redacted]
CHARLES E. COUGHLIN [redacted]
THOMAS A. CROPPER [redacted]
SCOTT E. CROSSLEY [redacted]
ROY W. CROWE [redacted]
PAUL A. G. CRUZ [redacted]
WILLIAM P. CULLEN [redacted]
THOMAS J. CULORA [redacted]
ALBERT CURRY, JR. [redacted]
BRUCE H. CURRY [redacted]
BARRY F. DAGNALL [redacted]
DAVID A. DAHL [redacted]
DENNIS P. DANKO [redacted]
JOHN R. DAUGHERTY [redacted]
SUSAN A. DAVIES [redacted]
WILLIAM C. DAVIS [redacted]
RICHARD L. DAWE [redacted]
SUZANNE M. DEE [redacted]
THOMAS P. DEE [redacted]
KEVIN P. DENHAM [redacted]
DANA S. DERVAY [redacted]
JEFFREY W. DESPAIN [redacted]
RANDOLPH L. DEWAR [redacted]
CURTIS R. DICKERSON [redacted]
DAVID J. DICKSHINSKI [redacted]
JOHN W. DIMOCK [redacted]
ERNEST W. DOBSON, JR. [redacted]
LARRY W. DODSON [redacted]
ROBERT E. DOLAN [redacted]
FREDERICK G. DORAN, JR. [redacted]
JAMES P. DOWNEY [redacted]
ROBERT G. DRAKE [redacted]
WILLIAM M. DRAKE [redacted]
WILLIAM G. DUBYAK [redacted]
PAUL A. DUNNE II [redacted]

JOHN B. EGGLESTON [redacted]
RICHARD K. ELEY [redacted]
MARK A. ERIKSON [redacted]
ALAN E. ESCHBACH [redacted]
MANUEL E. FALCON [redacted]
PHILIP G. FARRELI [redacted]
CRAIG C. FELKER [redacted]
MARK A. FILIPIC [redacted]
JOSEPH J. FITZGERALI [redacted]
GEORGE E. FLAX [redacted]
ROBERT L. FORWOOD, JR. [redacted]
DAVID J. FROST [redacted]
DONALD E. GADDIS [redacted]
JAMES W. GALANIE [redacted]
DANIEL I. GALLAGHER [redacted]
GARY D. GALLOWAY [redacted]
JOHN H. GARNER, JR. [redacted]
JOHN P. GATELY [redacted]
BRIAN J. GERLING [redacted]
LLOYD E. GILHAM [redacted]
DAVID W. GLAZIER [redacted]
MICHAEL D. GNOZZIO [redacted]
LEONARD G. GOFF [redacted]
DEVON G. GOLDSMITH [redacted]
BENJAMIN J. GOSLIN, JR. [redacted]
STEPHEN N. GRAHAM [redacted]
JON A. GREENE [redacted]
THOMAS R. GRIMM [redacted]
RUSSELL J. GROCKI [redacted]
DAVID W. GRUBER [redacted]
MICHAEL J. GURLEY [redacted]
JOHN R. HAFEY [redacted]
RICHARD E. HAGY II [redacted]
KENNETH E. HALLOWAY III [redacted]
MICHAEL S. HANLEY [redacted]
WILLIAM J. HARDEN [redacted]
DAVID C. HARDESTY [redacted]
RUSSELL E. HARRIS [redacted]
WILLIAM R. HARTSFIELD [redacted]
STEPHEN J. HAUSSMANN [redacted]
CHRISTOPHER C. HAYES [redacted]
RICHARD HEIMERLE [redacted]
CARL R. HELDRETH [redacted]
MARK T. HELMKAMP [redacted]
XERXES Z. HERRINGTON, JR. [redacted]
THOMAS W. HILLS [redacted]
WILLIAM P. HOGAN [redacted]
ALBIN L. HOVDE [redacted]
JEFFRY L. HUBER [redacted]
JOHN S. HUSAIM [redacted]
PAUL D. IMS, JR. [redacted]
GLENN M. IRVINE [redacted]
DAVID W. JACKSON [redacted]
L. P. JAMES III [redacted]
BRENT W. JETT, JR. [redacted]
JORGE I. JIMENEZROJC [redacted]
RANDALL L. JOHNSON [redacted]
WILLIAM H. JOHNSON [redacted]
MARK C. JONES [redacted]
RICHARD L. JORDAN [redacted]
BRADLEY F. JUBLOU [redacted]
HOWARD C. KEESE [redacted]
WILLIAM L. KERVAHN [redacted]
MICHAEL E. KILEY [redacted]
JEFFREY A. KING [redacted]
TIMOTHY J. KISLEY [redacted]
PATRICK N. KLUCKMAN [redacted]
WINFORD W. KNOWLES [redacted]
TERRY B. KRAFT [redacted]
ANTHONY M. KURTA [redacted]
NEAL J. KUSUMOTO [redacted]
DAVID A. LABARBERA [redacted]
ROBERT J. LABELLE, JR. [redacted]
THOMAS LANG [redacted]
RUSSELL G. LANKER [redacted]
MARK S. LAUGHTON [redacted]
DAVID L. LEACH [redacted]
SCOTT F. LEFTWICH [redacted]
MATTHEW A. LEIDEN [redacted]
ANTHONY M. LEIGH, JR. [redacted]
MARK R. LICHTENSTEIN [redacted]
HOWARD R. LIND [redacted]
CHRISTOPHER J. LINDBERG [redacted]
ERIC J. LINDENBAUM [redacted]
LEE H. C. LITTLE [redacted]
JEFFREY S. LOCKE [redacted]
JOSEPH C. LODMELL [redacted]
MICHAEL LOIZOS, JR. [redacted]
ROBERT L. LONG [redacted]
RANDALL LOVDAHL [redacted]
WILLIE T. LOVETT II [redacted]
PETER LYDDON [redacted]
TIMOTHY S. MAC GREGOR [redacted]
JOHN MAITNER II [redacted]
TODD W. MALLOY [redacted]
THOMAS J. MALONE [redacted]
MICHAEL R. MARA [redacted]
GERARD M. MARKARIAN [redacted]
LOUIS D. MARQUET [redacted]
WILLIAM R. MASSEY, JR. [redacted]
JOHN R. MATHIS [redacted]
JAMES E. MC ALOON [redacted]
JOSEPH A. MC BREARTY [redacted]
JEFFREY C. MC CAMPBELL [redacted]
TIMOTHY A. MC CANDLESS [redacted]
MARK A. MC CORMICK, [redacted]
PHILIP C. MC DANIEL [redacted]
KIM MC ELIGOT [redacted]
BRIAN G. MC KEEVER [redacted]
FREDERICK P. MC KENNA, JR. [redacted]
THOMAS D. MC KENNA [redacted]
STEVEN A. MC LAUGHLIN [redacted]
JAMES R. MC MILLAN, JR. [redacted]
LANCE W. MC MILLAN [redacted]
ARTHUR A. MC MINN [redacted]
THOMAS A. MC MURRY [redacted]
ROBERT P. MEAGHER [redacted]
WALTER A. MEEKS [redacted]
THOMAS R. MEHRINGER [redacted]
TIMOTHY W. MEIER [redacted]
ANDRE R. MERRILL [redacted]
CHARLES L. MEYERS, JR. [redacted]
DEWOLFE H. MILLER [redacted]
NEAL R. MILLER [redacted]
TODD R. MILLER [redacted]
MARK E. MILLS [redacted]
PATRICK M. MILLS [redacted]
VERNON B. MILLSAP, JR. [redacted]
MARTIN D. MOKE [redacted]
MARK A. MONTI [redacted]
JONATHAN D. MOORE [redacted]
MICHAEL L. MORAN [redacted]
MARK T. MULLIGAN [redacted]
THOMAS H. MYERS [redacted]
KEVIN B. NEARY [redacted]
THOMAS F. NEDERVOLD [redacted]
BRUCE E. NELSON [redacted]
MARK R. NICHOLS [redacted]
JOHN W. NICHOLSON, [redacted]
CHRISTOPHER D. NOBLE [redacted]
MARK L. NOLD [redacted]
GREGORY R. NOWAK [redacted]
ROBERT W. NOWAK [redacted]
KEVIN OFLAHERTY [redacted]
PATRICK W. OKANE [redacted]
ELIZABETH D. OLMO [redacted]
WILLIAM C. OMSPACH [redacted]
JOHN F. ORTOLF [redacted]
GEOFFREY T. PACK [redacted]
RICHARD K. PACKER [redacted]
TIGHE S. PARMENTER [redacted]
JEFFREY M. PAULS [redacted]
ROBERT H. PERRY [redacted]
CHRIS F. PIERSON [redacted]
DAVID T. PITTELKOW [redacted]
PAUL M. PLESCOW [redacted]
MARK R. POLNASZEK [redacted]
KENNETH R. PORTER [redacted]
DAVID A. PORTNER [redacted]
KEVIN J. PRINDLE [redacted]
BRIAN D. QUERRY [redacted]
EDWARD J. QUINN [redacted]
STEVEN A. RABOGLIATTI [redacted]
ROD D. RAYMOR [redacted]
JOHN B. READ III [redacted]
CHRISTOPHER S. REAL [redacted]
BRADLEY T. RENNER [redacted]
JOHN M. RICHARDSON [redacted]
MICHAEL H. RIDDLE [redacted]
DAVID W. ROBEY [redacted]
MICHAEL D. ROBINSON [redacted]
RAUL D. J. RODRIGUEZ [redacted]
FREDERICK J. ROEGGE [redacted]
KENNETH C. ROSE [redacted]
THOMAS S. ROWDEN [redacted]
KEVIN G. SAIGHMAN [redacted]
CARL V. SCHLOEMANN [redacted]
BARBARA L. SCHOLLEY [redacted]
DENNIS A. SCHULZ [redacted]
DAVID E. SCHWARTZENBURG [redacted]
BRUCE E. SERVICE [redacted]
THOMAS K. SHANNON [redacted]
HERMAN A. SHELANSKI [redacted]
STEPHEN T. SHEPHERD [redacted]
MARK R. SICKERT [redacted]
RONALD L. SINGER [redacted]
JAY M. SMITH [redacted]
MARTIN P. SMITH [redacted]
STEPHEN S. SMITH [redacted]
KENNETH V. SMOLANA [redacted]
PATRICK W. SNELLINGS [redacted]
JAMES D. SOUTHWARD [redacted]
JOSEPH A. SPATA [redacted]
DAVID B. STANSBURY [redacted]
JIMMIE C. STEELMAN [redacted]
MARK R. STEERS [redacted]
JAMES A. STEWART, [redacted]
JAMES T. STEWART [redacted]
TIMOTHY R. STITH [redacted]
EAMON M. STORRS [redacted]
JEFFREY P. STRATTON [redacted]
MATTHEW D. STURGES [redacted]
JOSEPH STUYVESANT [redacted]
DAVID G. SUMMER [redacted]
MARK L. SUYCOTT [redacted]
MITCHELL T. SWECKER [redacted]
KENNETH W. TAYLOR [redacted]
THOMAS F. TAYLOR [redacted]
THOMAS R. TAYLOR, JR. [redacted]
JAMES J. THADEN [redacted]
JAMES E. THIRKILL [redacted]
HOWARD W. THORP, JR. [redacted]
ROBERT D. THRELKELD [redacted]
JASON E. TIBBELS [redacted]
TIMOTHY S. TIBBITS [redacted]
JOHN J. TIERNEY, JR. [redacted]
BRYAN W. TOLLEFSON [redacted]
JULIAN E. TONNING [redacted]
BRUCE J. TOTH [redacted]
JEFFREY TRUMBORE [redacted]
EDWARD TUCHOLSKI [redacted]
WAYNE A. TUNICK [redacted]
MAX W. UNDERWOOD [redacted]
RONALD J. UNTERREINER [redacted]
WILLIAM H. VALENTINE [redacted]
WILLIAM J. VANDERLIP, JR. [redacted]
JAMES T. VAZQUEZ [redacted]
RONALD J. VELIZ [redacted]
JACK E. VESS [redacted]
KENNETH VOORHEES [redacted]
JOHN M. WACHTER [redacted]
HARRY E. WAIDELICH [redacted]
ROBERT M. WALL [redacted]
WILLIAM E. WARD [redacted]
JAMES L. WATERS, JR. [redacted]
MARION E. WATSON, JR. [redacted]
THOMAS H. WEBBER [redacted]
CHRISTROPHER G. WENZ [redacted]
JAMES R. WHITE, JR. [redacted]
WARREN M. WIGGINS [redacted]
CLAYTON S. WILCOX [redacted]
KARL C. WILLIAMS [redacted]
R. D. WILSON, JR. [redacted]
WARD A. WILSON III [redacted]
ROBERT W. WINSOR [redacted]
EDWARD G. WINTERS III [redacted]
JONATHAN D. WINTERS [redacted]
WILLIAM S. WOLFNER [redacted]
MICHAEL P. WOOD [redacted]
DAVID B. WOODS [redacted]
STEVEN W. WRIGHT [redacted]
MICHAEL L. YARNOFF [redacted]
TODD A. ZECCHIN [redacted]
NEIL G. ZERBE [redacted]
RONALD E. ZIEMBKO [redacted]

ENGINEERING DUTY OFFICERS

To be commander

DWIGHT R. ALEXANDER [redacted]
CARL S. BARBOUR [redacted]
JOHN M. BARENTINE [redacted]
LAWRENCE R. BAUN [redacted]
JOHN K. BERGERSEN [redacted]
JAMES P. BROWN [redacted]
PETER S. BUCZYNSKI [redacted]
GLENN E. CANN [redacted]
DAVID C. CHAPPELL [redacted]
ROBERT D. CHILDS [redacted]
STEVEN R. CHISM [redacted]
FRANCIS R. COLBERG [redacted]
EDWARD M. CONNOLLY [redacted]
CHARLES V. DOTY [redacted]
GARY G. DURANTE [redacted]
MARGARET S. FARRELL [redacted]
PEGGY A. FELDMANN [redacted]
JONATHAN C. IVERSON [redacted]
GIBSON B. KERR [redacted]
RICHARD D. LANTZ [redacted]
CHARLOTTE V. LEIGH [redacted]
ALAN D. LEWIS [redacted]
DAVID H. LEWIS [redacted]
CRAIG W. LITTLE [redacted]
RONALD W. LUBATTI [redacted]
RICHARD D. MARVIN, JR. [redacted]
MICHAEL E. MC MAHON, [redacted]
THOMAS J. MOORE [redacted]
KURT A. MULLER [redacted]
RANDAL D. NIVER [redacted]
DEAN M. PEDERSEN [redacted]
MARK PHILLIPS [redacted]
RONALD G. RAHALL [redacted]
JEFFREY S. REED [redacted]
FREDERICK F. SCHULZ [redacted]
EUGENE B. SEDY [redacted]
DALE E. SIGMAN [redacted]
SCOTT J. SMITH [redacted]
JOHN P. SPENCER [redacted]
STEPHEN W. STANKO [redacted]
CAROL A. THOMPSON [redacted]
MANNING M. TOWNSEND [redacted]
CLARK E. WHITMAN [redacted]
ROY L. WOOD, JR. [redacted]
STEVEN W. WOODSON, [redacted]
HENRI W. ZAJIC [redacted]

AEROSPACE ENGINEERING DUTY OFFICERS

(ENGINEERING)

To be commander

STEVEN R. EASTBURG [redacted]
RICHARD H. FANNEY [redacted]
ELI E. HERTZ [redacted]
KIM A. JOHNSON [redacted]
WILLIAM F. LONCHAS, JR. [redacted]
DENNIS A. LOTT [redacted]
JOHN M. MULCAHY [redacted]
R. J. NIEWOEHNER [redacted]
ROBERT P. PATY [redacted]
PETER J. RIESTER [redacted]
JAMES W. ROBERTS [redacted]
JOHN W. SCANLAN II [redacted]
ALAN D. SCOTT [redacted]
RUSSELL W. SCOTT [redacted]
RANDALL G. SHORT [redacted]
DAVID E. STEVENS [redacted]
JAMES W. TRUEBLOOD [redacted]
DAVID R. WAGNER [redacted]
DOUGLAS L. WHITENER [redacted]
JOHN A. ZAWIS [redacted]

AEROSPACE ENGINEERING DUTY OFFICERS

(MAINTENANCE)

To be commander

ROBERT L. ALLEN [redacted]

ERICH S. BLUNT, JR [redacted]
WAYNE P. BORCHERS [redacted]
JOHN D. BURPO [redacted]
FRED E. CLEVELAND [redacted]
JEFFREY S. COOK [redacted]
MARK W. CZARZASTY [redacted]
LEONARD B. GORDON [redacted]
THOMAS R. HAMMAN [redacted]
MARTHA E. KANTOR [redacted]
DANIEL J. LAFOND [redacted]
HARRY LEHMAN, JR [redacted]
WILLIAM R. MC SWAIN [redacted]
MARK H. STONE, JR [redacted]
STEVEN R. VOYLES [redacted]

AVIATION DUTY OFFICERS

To be commander

JOHN K. BRADY [redacted]
CHRISTOPHER M. STEINNECKER [redacted]
BRUCE A. VANDENBOS [redacted]

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be commander

MICHAEL A. BROWN [redacted]
JOHN W. GORDON [redacted]
CLINTON G. LYONS IV [redacted]
JOHN B. MAYS III [redacted]
JAMES R. MCGOVERN, JR [redacted]
STEPHEN S. MCKENZIE [redacted]
RICHARD D. PAUPARD, JR [redacted]
HELENA E. REEDER [redacted]
SCOTT L. ROME [redacted]
JEREMIE P. SAR [redacted]
PAUL W. SCHUH [redacted]
PAUL W. THRASHER [redacted]
CHRISTINE J. WESTONLYONS [redacted]
ROBERT A. ZELLMANN [redacted]

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be commander

WILLIAM W. ARRAS [redacted]
LAWRENCE N. ASH [redacted]
LINDA J. BAHRANI [redacted]
CHRISTOPHER D. BOTT [redacted]
DAVID B. CAMPBELL [redacted]
CHRISTOPHER A. COOK [redacted]
ANNE M. DONOVAN [redacted]
TIMOTHY J. DOOREY [redacted]
ROBERT D. ESTVANIK [redacted]
KEVIN K. FRANK [redacted]
CHRISTOPHER O. GEVING [redacted]
WILLIAM E. GORHAM, JR [redacted]
CHARLES G. HART [redacted]
DONNA S. W. HOLLY [redacted]
DEBRA J. JUSTIN [redacted]
SARA A. KING [redacted]
WILLIAM M. LUOMA [redacted]
EILEEN F. MACKRELL [redacted]
ROBERT M. NAVARRO [redacted]
JOHN P. RUBEL [redacted]
WILLIAM D. SAS [redacted]
RICHARD L. SAUNDERS [redacted]
VINCENT A. SHAHAYDA [redacted]
WAYNE F. SWEITZER [redacted]
DAVID B. WAUGH [redacted]
STEVEN K. WESTRA [redacted]
JAMES J. WHITUS [redacted]

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be commander

BRUCE A. COLE [redacted]
BRIAN P. CULLIN [redacted]
GORDON J. HUME [redacted]
TIMOTHY S. OLEARY [redacted]
FRANK THORP IV [redacted]
PAUL J. WEISHAUPT [redacted]

SPECIAL DUTY OFFICERS (FLEET SUPPORT)

To be commander

JUDITH L. C. ACKERSON [redacted]
MARY L. ANDERSON [redacted]
NORMA M. ANDERTON [redacted]
CELESTE A. BILICK [redacted]
LEANNE J. BRADDOCK [redacted]
VICTORIA L. BURCHETT [redacted]
BONITA I. CAMPBELL [redacted]
KIMBERLY A. CAMPBELL [redacted]
ELIZABETH F. CAREY [redacted]
PATRICIA A. CERCHIO [redacted]
KATHLENE CONTRES [redacted]
CYNTHIA A. COVELL [redacted]
BERNITA D. DODD [redacted]
CATHERINE T. EADS [redacted]
ROBIN R. GANDOLFO [redacted]
KRISTINE H. GEDDINGS [redacted]
WENDY A. GEE [redacted]
AMALIE R. GLUF [redacted]
ROBERTA A. GOLDENBERG [redacted]
GAIL A. GRIFFIN [redacted]
ANNE W. HEMINGWAY [redacted]
SUSAN L. HIGGINS [redacted]
MARY E. HILL [redacted]
AMY L. HUGHES [redacted]
SHANNON M.L. HURLEY [redacted]
CAROLYN D. JACKSON [redacted]
CYNTHIA K. JACKSON [redacted]
PATRICIA A. JACKSON [redacted]
LEAH D. JOHNSON [redacted]
BONNIE L. JOHNSTON [redacted]
SUSAN S. JORDAN [redacted]
ANNE E. KELLEY [redacted]
DEBORAH R. KERN [redacted]
BARBARA A. KLESK [redacted]
ELIZABETH A. KNUTSON [redacted]
MARY M. KOLAR [redacted]
TARA L. LACAVERA [redacted]
PEGGY L. LAU [redacted]
SANDRA L. LAWRENCE [redacted]
DEBORAH R. LEIGHTON [redacted]
MARY A. MARGOSIAN [redacted]
JILL L. MATHEWS [redacted]
JEANNE M. MCDONNELL [redacted]
ANNE E.S. MCKINNEY [redacted]
KATHRYN MCNAMARA [redacted]
DIANE C. MIELCARZ [redacted]
CAROLYN J. MILLER [redacted]
RUTH A. MILLER [redacted]
GLORIA D. MOBERY [redacted]
LINDA L. MUTH [redacted]
GALE V. NAPOLIELLO [redacted]
MARY B. NEWTON [redacted]
NANETTE M. OGARA [redacted]
LYSA L. OLSEN [redacted]
VIRGINIA OVERSTREET [redacted]
CAROL S. PETREA [redacted]
MARGARET E. PINKERTON [redacted]
SUSAN F. PLOWMAN [redacted]
JOYCE C. POWELL [redacted]
KAREN M. RASMUSSEN [redacted]
KAREN A. RAYBURN [redacted]
MARGARET R.W. REED [redacted]
PAULA M.P. RICKETTS [redacted]
JULIE A. ROWELL [redacted]
LOIS J.H. SCHOONOVER [redacted]
EOLA L. SCOTT [redacted]
LINDA K. SHULTZ [redacted]
MILAGROS M. SIMONS [redacted]
KRISTINE K. SIMS [redacted]
PATRICIA J. SOTTILE [redacted]
LINDA S. SPEED [redacted]
DOROTHY L. TATE [redacted]
LAUREN TAULMAN [redacted]
CATHY A. THOMAS [redacted]
VICTORIA S. TURNER [redacted]
ELLEN C. VADNEY [redacted]
DORIS V. VANSAUN [redacted]
MARCIA VANWYE [redacted]
AMY L. WARRICK [redacted]
LISA R. WERKHAVEN [redacted]
MARILYN S. WESSEL [redacted]
ANNE L. WESTERFIELD [redacted]
LAURA J. ZIEGLER [redacted]

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be commander

ROBERT L. BEARD [redacted]
JEFFREY S. BEST [redacted]
STEVEN R. CAMERON [redacted]
ROLAND E. DEJESUS [redacted]
EDMOND M. FROST [redacted]
KATHARINE S. GARCIA [redacted]
MARK J. GUNZELMAN [redacted]
JAMES A. HILL [redacted]
HENRY JONES [redacted]
ERIK C. LONG [redacted]
RUTLEDGE P. LUMPKIN [redacted]
GARY M. MINEART [redacted]
JOHN F. OHARA [redacted]
DANIEL H. STREED [redacted]
DAVID W. TITLEY [redacted]

LIMITED DUTY OFFICERS (LINE)

To be commander

JOSEPH W. ALIGOOD [redacted]
JERRY L. BIRDSONG [redacted]
MARVIN P. BRUMBAUGH [redacted]
MICHAEL P. BRYCE [redacted]
DAVID R. CARLSON [redacted]
ANTHONY V. DEBELLO [redacted]
CIPRIANO M. DELUNA [redacted]
HERBERT R. DUFF [redacted]
JOHN G. FAHLING [redacted]
MICHAEL L. FAIR [redacted]
HAROLD A. FISCHER [redacted]
BRUCE J. HERMAN [redacted]
JOHN W. HIBBARD [redacted]
ROBERT A. KEENAN [redacted]
CHARLES N. KIRTLEY [redacted]
JOHN H. MCCRINK [redacted]
KERRY P. MURRAY [redacted]
FRANK W. NICHOLS [redacted]
JACK H. NORRIS [redacted]
JOHN J. ORDEMANN [redacted]
ALBERT C. L. I. PAQUIN [redacted]
NORMAN B. PETERS [redacted]
ROY C. PETERSON [redacted]
DEL L. RENKEN [redacted]
GARY L. RICHARD [redacted]
RICHARD A. SPON [redacted]
RONALD E. SWART [redacted]
THOMAS G. WARNER [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED CAPTAINS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE GRADE OF MAJOR, UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be captain

DAVID V. ADAMIAK [redacted]
SCOTT D. AIKEN [redacted]
ROBERT C. ALEXANDER [redacted]
ROBERT D. ALLEN [redacted]
SCOTT A. ALLEN [redacted]
SCOTT T. ALLEN [redacted]
BERN J. ALTMAN [redacted]
JERALDO T. ALVAREZ [redacted]
VINCENT AMATO, JR. [redacted]
BRIAN J. ANDERSON [redacted]
DAVID A. ANDERSON [redacted]
RICHARD A. ANDERSON [redacted]
ROARKE L. ANDERSON [redacted]
JOSEPH A. ANDY [redacted]
HAL M. ANGUS [redacted]
EUGENE N. APICELLA [redacted]
JOHN R. ARMOUR [redacted]
ROBERT K. ARMSTRONG, JR. [redacted]
VAUGHN A. ARY [redacted]
JOHN D. AUGSBURGER [redacted]
DAVID F. AUMULLER [redacted]
THOMAS G. AVEY [redacted]
MARK T. AYCOCK [redacted]
JEFFREY T. BAILEY [redacted]
GREGGORY L. BAKER [redacted]
ROBERT S. BAKER [redacted]
ROSSER O. BAKER, JR [redacted]
THOMAS W. BAKER [redacted]
MARY H. BALDWIN [redacted]
CHRISTOPHER P. BALESTER [redacted]
JEFFREY B. BARBER [redacted]
RICHARD L. BARFIELD [redacted]
DENNIS J. BARHAM [redacted]
TIMOTHY M. BARROW [redacted]
JOHN D. BARTH [redacted]
KEITH W. BASS [redacted]
TROY R. BATES [redacted]
LUDOVIC M. BAUDOINDAJOUX [redacted]
RICHARD W. BAXTER [redacted]
PATRICK B. BEAGLE [redacted]
MICHAEL K. BEALE [redacted]
JAMES C. BECKER, JR [redacted]
WILLIAM H. BECKETT [redacted]
MICHAEL H. BELDING [redacted]
GREGGORY R. BEMBENEK [redacted]
CALVIN B. BENNETT III [redacted]
EUGENE S. BENVENUTTI, JR [redacted]
STEVEN W. BERGER [redacted]
RONNIE A. BERNAL [redacted]
JOEL H. BERRY III [redacted]
MICHAEL C. BERRYMAN [redacted]
CRAIG W. BEVAN [redacted]
SHERMAN L. BIERLY [redacted]
MONTE G. BIERSCHENK [redacted]
ANDREW D. BIGELOW [redacted]
JAMES H. BISHOP [redacted]
RICHARD K. BLAND [redacted]
BENJAMIN S. BLANKENSHIP [redacted]
KIRK J. BLAU [redacted]
BRIAN D. BOHMAN [redacted]
GREGORY J. BONAM [redacted]
GREGORY F. BOND [redacted]
JAMES C. BONNER [redacted]
DAVID H. BOOTH [redacted]
JOHN R. BORNEMAN III [redacted]
EUGENE N. BOSE [redacted]
FRANCIS P. BOTTORFF [redacted]
PAUL R. BOUGHMAN [redacted]
JOHN M. BOURGAULT [redacted]
JOSEPH G. BOWE [redacted]
MICHAEL R. BOWERSOX [redacted]
PETER L. BOWLING [redacted]
RICHARD D. BOYER [redacted]
JEFFRY S. BRADY [redacted]
MATTHEW P. BRAGG [redacted]
CARTER H. BRANDENBURG [redacted]
TERENCE P. BRENNAN [redacted]
JAMES B. BRIGHT [redacted]
MICHAEL G. BROIHIER [redacted]
JOSEPH R. BROSHEARS [redacted]
JOHN A. BROW [redacted]
CONRAD N. BROWN, JR. [redacted]
GARY E. BROWN, JR. [redacted]
MARK S. BROWN [redacted]
STEPHEN D. BROWN [redacted]
KIRK E. BRUNO [redacted]
JOHN A. BRUSH [redacted]
DONOVAN E. BRYAN [redacted]
FREDRICK C. BRYAN [redacted]
MARTIN C. BRYANT [redacted]
KEITH D. BUCHANAN [redacted]
JAMES E. BUDWAY [redacted]
ADRIAN W. BURKE [redacted]
GERARD K. BURNS [redacted]
MARTIN J. BURNS [redacted]
SHAWN W. BURNS [redacted]
MICHAEL H. BURT [redacted]
BRETT K. BURTIS [redacted]
JOHN M. BUTTERWORTH [redacted]
KEVIN L. BYWATERS [redacted]
WILLIAM P. CABRERA II [redacted]
GREGORY R. CALDWELL [redacted]
PAUL F. CALLAN [redacted]
DEXTER CAMPBELL [redacted]
PATRICK J. CAMPBELL [redacted]
MICHAEL T. CARIELLO [redacted]
JOHN W. CARL [redacted]
CHARLES K. CARROLL [redacted]
WAYNE D. CARSON [redacted]
JAMES S. CASON [redacted]

ANTONIO J. CERRILLO [redacted]
MARK S. CHANDLER [redacted]
MURRAY W. CHAPMAN [redacted]
JAMES B. CHARTIER [redacted]
BRENT C. CHERRY [redacted]
CAMILO CHINEA [redacted]
CHISHOLM ROY [redacted]
PHILLIP C. CHUDOBA [redacted]
MATTHEW R. CICCHINELL [redacted]
KEITH L. CIER [redacted]
JAMES W. CLARK, JR. [redacted]
KENNETH W. CLARK [redacted]
ROBERT D. CLARK [redacted]
THOMAS S. CLARK III [redacted]
JONATHAN S. CLAUCHERTY [redacted]
JUSTON H. CLEMENT [redacted]
DAVID W. COFFMAN [redacted]
CHRIS A. COLEE [redacted]
WILLIAM T. COLLINS [redacted]
STEPHEN J. CONBOY [redacted]
PATRICK P. CONNELLY [redacted]
MICHAEL R. CONNOLLY [redacted]
ALBERT T. CONORD [redacted]
KEVIN B. CONROY [redacted]
HARRY G. CONSTANT, JR. [redacted]
PATRICK M. COOKE [redacted]
WILLIAM R. COPE [redacted]
GEORGE D. COPELAND [redacted]
ADAM J. COPP [redacted]
STEPHEN P. CORCORAN [redacted]
GEOFFREY A. CORSON [redacted]
SCOTT E. CORWIN [redacted]
WILLIAM R. COSTANTIN [redacted]
CHRISTOPHER R. COVER [redacted]
JONATHAN D. COVINGTON [redacted]
JOHN D. COWLEY [redacted]
JOHN J. CRANE [redacted]
JAMES T. CRAVENS [redacted]
CRAIG C. CRENSHAW [redacted]
RAFFAELE CROCE [redacted]
JEFFREY B. CROCKETT [redacted]
DOUGLAS F. CROMWELL [redacted]
MADISON H. CRUM, JR. [redacted]
GARY W. CUBBAGE [redacted]
RONALD S. CULP [redacted]
JOSEPH W. CURATOLA [redacted]
WILLIAM D. CURRY [redacted]
PAUL J. CYR [redacted]
RONALD R. DALTON [redacted]
ERIC M. DAMM [redacted]
MATTHEW F. DANIEL [redacted]
CHRISTOPHER J. DAVIS [redacted]
RICHARD D. DAVIS, JR. [redacted]
NEWELL B. DAY II [redacted]
DANIEL C. DEAMON [redacted]
DAVID D. DEAN [redacted]
RICHARD A. DEFOREST [redacted]
DAVID W. DEIST [redacted]
PATRICK M. DELATTE [redacted]
GARY R. DELIBERTO [redacted]
PETER L. DELORIER [redacted]
FRANCIS A. DELZOMPO [redacted]
JAMES R. DENNEY [redacted]
JAMES G. DERDAL [redacted]
MARK J. DESENS [redacted]
JAMES E. DEVERS [redacted]
STUART L. DICKEY [redacted]
KURT E. DIEHL [redacted]
MARK V. DILLARD [redacted]
JOHN E. DIXISON [redacted]
JEFFREY S. DOD [redacted]
JON G. DOERING [redacted]
DENNIS A. DOGS [redacted]
THOMAS E. DOLAN, JR. [redacted]
TIMOTHY J. DOLAN [redacted]
WILLIAM L. DOLLEY [redacted]
JAMES V. DOMINICK II [redacted]
GREGORY M. DOUQUET [redacted]
JEROME E. DRISCOLL [redacted]
BARRY T. DUNCAN [redacted]
ROBERT T. DURKIN [redacted]
CHARLES E. DYE [redacted]
BRADLEY R. EADS [redacted]
WINSTON I. EARLE [redacted]
STEVEN M. EIDSMOE [redacted]
DAVID A. ELLIS [redacted]
JOSEPH R. ELLIS [redacted]
TAMMY R. ELLIS [redacted]
KEVIN G. EMERY [redacted]
RICHARD C. ERLER [redacted]
LINK P. ERMIS [redacted]
WILLIAM P. ESHELMAN, JR. [redacted]
CLAYTON O. EVERS, JR. [redacted]
THOMAS A. EWING [redacted]
JOACHIM W. FACK [redacted]
MARK C. FELSKE [redacted]
CARL FELTON [redacted]
NICHOLAS FERENCZ II [redacted]
STEPHEN A. FERRANDO [redacted]
ERIC K. FIPPINGER [redacted]
HENRY G. FISCHER [redacted]
KENNETH S. FISCHLER [redacted]
DANIEL M. FITZGERALD [redacted]
BRIAN P. FITZGIBBONS [redacted]
JACK E. FLANAGAN [redacted]
ROBERT J. FLEMING [redacted]
MATTHEW D. FLETCHER [redacted]
ERIC A. FOLLSTAD [redacted]
SUSAN W. FONTENO [redacted]
PATRICK D. FORD [redacted]
KIM E. FOSS [redacted]
DAVID C. FOSTER [redacted]
TIMOTHY S. FOSTER [redacted]
STEVEN D. FOX [redacted]
DAVID S. FOY [redacted]
MICHAEL M. FRAZIER [redacted]
BENNETT C. FREEMON [redacted]
JAMES B. FRITZ [redacted]
SCOTT B. FROSCH [redacted]
THOMAS J. FUHRER [redacted]
SCOTT J. FULLER [redacted]
JOHN D. GAMBOA [redacted]
JAMES M. GANNON [redacted]
JEFFERY A. GARDNER [redacted]
ROBERT L. GARDNER [redacted]
DAVID P. GARNISH [redacted]
MICHAEL G. GARRETT [redacted]
KENNETH E. GASKILL, JR. [redacted]
JAMES D. GASS [redacted]
ROBERT W. GATES [redacted]
SHERYL G. GATEWOOD [redacted]
BRAD R. GERSTBREIN [redacted]
JEFFREY G. GERVICKAS [redacted]
HERMAN H. GILES, JR. [redacted]
KENYON M. GILL III [redacted]
DANIEL J. GILLAN [redacted]
THOMAS C. GILLESPIE [redacted]
BRENT P. GODDARD [redacted]
STEWART O. GOLD [redacted]
ROBERT G. GOLDEN III [redacted]
BRIAN S. GOOD [redacted]
HENRY J. GOODRUM [redacted]
DAVID M. GOUDREAU [redacted]
RICKEY L. GRABOWSKI [redacted]
BRIAN J. GRADEN [redacted]
RICHARD E. GRANT [redacted]
ANTHONY J. GRECO, JR. [redacted]
EDWARD M. GREEN [redacted]
PETER GRELL [redacted]
KEVIN L. GROSS [redacted]
SAMUEL B. GROVE [redacted]
MICHAEL A. GROVES [redacted]
JOSEPH GUADAGNO [redacted]
BRIAN H. GUDMUNDSSON [redacted]
ROLANDO GUZMAN [redacted]
GREGG T. HABEL [redacted]
JOHN R. HAHN [redacted]
RONALD D. HAHN, JR. [redacted]
CHRISTIAN N. HALIDAY, [redacted]
JACK Q. HALL, [redacted]
JOHN A. HALL, JR. [redacted]
MARK E. HALL [redacted]
TIMOTHY J. HALL [redacted]
DOUGLAS R. HAMILTON [redacted]
THOMAS J. HAMILTON II [redacted]
RICHARD M. HANCOCK, [redacted]
EDDIE W. HANNA [redacted]
TERRENCE L. HANNIGAN [redacted]
ROBERT J. HANSBERRY, JR. [redacted]
DAVID K. HANSEN [redacted]
MICHAEL B. HANYOK [redacted]
DOUGLAS M. HARDISON [redacted]
RICHARD S. HARPER [redacted]
LONNIE R. HARRELSON [redacted]
WILLIAM M. HARRISON [redacted]
DANA L. HASKELL [redacted]
JOSEPH K. HAVILAND [redacted]
JEFFREY M. HAYNES [redacted]
JOHN D. HAYNES, JR. [redacted]
BRENT HEARN II [redacted]
RANDY L. HEBERT [redacted]
NELSON T. HECKROTH [redacted]
JEFFREY J. HEDERER [redacted]
DAVID S. HEESACKER [redacted]
SCOTT A. HEFFNER [redacted]
ANTHONY J. HEIDEMAN [redacted]
DANIEL K. HENRY [redacted]
FELIPE HERNANDEZ [redacted]
JEFFREY M. HEWLETT [redacted]
DAN P. HICKEY [redacted]
WILLIAM E. HICKEY, JR. [redacted]
MICHAEL K. HILE [redacted]
CHANDLER B. HIRSCH [redacted]
JON S. HOFFMAN [redacted]
PATRICK R. HOGAN [redacted]
LARRY J. HOLCOMB [redacted]
RICHARD W. HOLLAND, [redacted]
ROBERT H. HOLMAN [redacted]
GERALD M. HORSEMAN [redacted]
CHRISTOPHER B. HOUSER [redacted]
FRANCIS X. HOWARD [redacted]
MICHAEL R. HUDSON [redacted]
JAY L. HUSTON [redacted]
CARL R. INGEBRETSEN, JR. [redacted]
DAVID A. INGEBRETSEN [redacted]
BIENVENIDO P. INTOY, JR. [redacted]
JOSEPH A. ISAAC, JR. [redacted]
THOMAS R. IVAN, [redacted]
GINO V. JACKSON [redacted]
JEROME A. JACKSON [redacted]
JERRY G. JAMISON [redacted]
RUSSELL E. JAMISON, JR. [redacted]
RICHARD B. JAQUES [redacted]
MARC W. JASPER [redacted]
MARK S. JEBENS [redacted]
CHARLES A. JOHNSON, JR. [redacted]
DANIEL P. JOHNSON [redacted]
CARL E. JONES III [redacted]
KEVIN M. JONES [redacted]
MICHAEL S. JONES [redacted]
BARRY D. JUSTICE [redacted]
STEPHEN P. KACHELEIN [redacted]
PAUL A. KARAFA [redacted]
HARVEY A. KEELING III [redacted]
KEVIN T. KELLEY [redacted]
CHARLES A. KELLY [redacted]
KATHLEEN P. KELLY [redacted]
KEVIN M. KELLY [redacted]
STEVEN A. KELLY [redacted]
TODD G. KEMPER [redacted]
STEVEN C. KENDALL [redacted]
PAUL J. KENNEDY [redacted]
PHILLIP W. KENOYER [redacted]
ELIZABETH K. KERSTENS [redacted]
ASAD A. KHAN [redacted]
MICHAEL J. KIBLER [redacted]
ROBERT F. KILLACKEY, JR. [redacted]
JEFFREY B. KILMER [redacted]
EARNEST D. KING [redacted]
STEPHEN D. KING [redacted]
CHARLES L. KIRKLAND [redacted]
STEPHEN F. KIRKPATRICK [redacted]
CARLOS P. KIZZEE [redacted]
DOUGLAS R. KLEINSMITH [redacted]
GREG A. KOSLOSKE [redacted]
BARRY L. KRAGEL [redacted]
BRIAN J. KRAMER [redacted]
JOHN L. KRATZERT [redacted]
MICHAEL E. KRIVDO [redacted]
PAUL A. KUCKUK [redacted]
KEVAN B. KVENLOG [redacted]
JAMES G. KYSER IV [redacted]
JOHN D. LADUE [redacted]
ROOSEVELT G. LAFONTANT [redacted]
CHRIS A. LAMSON [redacted]
MICHAEL E. LANGLEY [redacted]
MARTIN E. LAPIERRE, JR. [redacted]
MICHAEL L. LAWRENCE [redacted]
ROBERT F. LEARY [redacted]
SHELDON H. LEAVITT [redacted]
PAUL J. LEBLANC [redacted]
DANIEL J. LECCE [redacted]
GARY C. LEHMANN [redacted]
ERICK J. LERMO [redacted]
WILLIAM M. LEVISON [redacted]
KYLE B. LEWIS [redacted]
GEORGE E. LINES [redacted]
DAVID P. LOBIK [redacted]
LAWRENCE S. LOCH [redacted]
JOAN LONGUA [redacted]
PATRICK G. LOONEY [redacted]
RAYMOND S. LOPES, JR. [redacted]
MATTHEW A. LOPEZ [redacted]
CHRISTOPHER J. LORIA [redacted]
DONALD A. LORKOWSKI [redacted]
JOHN K. LOVE [redacted]
BRADLEY L. LOWE [redacted]
JON K. LOWREY [redacted]
JOHN LOWRY III [redacted]
KENNETH D. LOY [redacted]
GREGG L. LYON [redacted]
MARK R. LYONS [redacted]
SCOTT J. MACK [redacted]
STEPHEN A. MACKEY [redacted]
ANDREW R. MAC MANNIS [redacted]
MARK L. MAGRAM, [redacted]
PATRICK J. MALAY [redacted]
JOHN C. MALIK III [redacted]
STEVEN T. MANNING [redacted]
MICHAEL W. MANZER, JR. [redacted]
NICHOLAS F. MARANO [redacted]
DOUGLAS C. MARR [redacted]
FRANCESCO MARRA [redacted]
LARRY R. MARSHALL [redacted]
JOHN R. MARTI [redacted]
CHRISTOPHER B. MARTIN [redacted]
JAMES M. MARTIN [redacted]
ANTONIO J. MATTALIANO, JR. [redacted]
WILLIAM G. MATTHEWS [redacted]
ANTHONY J. MAURO [redacted]
MICHAEL T. MAURO [redacted]
JOHN F. MAY [redacted]
ROBERT C. MC ARTHUR [redacted]
MARK W. MC CADDEN, [redacted]
EDWARD C. MC CARTHY [redacted]
GARY J. MC CARTHY [redacted]
TERESA F. MC CARTHY [redacted]
ROB B. MC CLARY [redacted]
KEVIN P. MC CLERNON [redacted]
KEVIN M. MC CONNELL [redacted]
MARK G. MC CONNELL [redacted]
BRYAN P. MC COY [redacted]
JAMES M. MC CUE [redacted]
DWAYNE T. MC DAVID [redacted]
EDWARD F. MC DONNELL [redacted]
JOHN G. MC GONAGLE [redacted]
SCOTT R. MC GOWAN [redacted]
JAMES A. MC GREGOR [redacted]
LEON A. MC ILVENE [redacted]
SCOTT J. MEDEIROS [redacted]
STEPHEN A. MEDEIROS [redacted]
GLEN E. MELIN [redacted]
MARK A. MELIN [redacted]
JUDITH J. MELLON [redacted]
MARK W. MELORO [redacted]
LAWRENCE E. MICCOLIS [redacted]
MICHAEL A. MICUCCI [redacted]
DREW B. MILLER [redacted]
LEONARD D. MILLER [redacted]
SIDNEY F. MITCHELL [redacted]
MICHAEL T. MIZE [redacted]
JOHN A. MOFFETT [redacted]
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GREGORY M. RYAN [redacted]
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MARISSA A. SOUZA [redacted]
RICHARD W. SPOONER [redacted]
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KATHY L. TATE [redacted]
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MARK J. TOAL [redacted]
FRANK D. TOPLEY, JR. [redacted]
FRANK E. TOY III [redacted]
ERIC M. TRANTER [redacted]
KEVIN M. TREPA [redacted]
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ELVIS F. VASQUEZ [redacted]
MAARTEN VERMAAT [redacted]
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RUDOLF WEBBERS [redacted]
PAUL J. WEBER [redacted]
ROBERT K. WEINKLE, JR. [redacted]
JOHN L. WELINSKI [redacted]
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WES S. WESTON [redacted]
BARRON D. WHITAKER [redacted]
DUFFY W. WHITE [redacted]
KEVIN L. WHITE [redacted]
BARNEY K. WICK [redacted]
VICTOR WIGFALL II [redacted]
DAVID S. WIGGINS [redacted]
BRIAN K. WILHOITE [redacted]
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GARY A. WINTERSTEIN [redacted]
DONALD G. WOGAMAN [redacted]
DAKOTA L. WOOD [redacted]
DAVID S. WOOD [redacted]
PETER D. WOODMANSEE [redacted]
MICHAEL K. WOODWARD [redacted]
GEORGE T. WRIGHT, JR. [redacted]
LLOYD A. WRIGHT [redacted]
DANIEL D. YOO [redacted]
ROY D. YOUNG [redacted]
GEORGE D. ZAMKA [redacted]
RONALD M. ZICH [redacted]
JOAN P. ZIMMERMAN [redacted]
JOHN G. ZUPPAN [redacted]

HOUSE OF REPRESENTATIVES—*Thursday, May 11, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 11, 1995.

I hereby designate the Honorable MARK ADAM FOLEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Richard A. Rhoades, Friedens Evangelical Lutheran Church, Gibsonville, NC, offered the following prayer:

Gracious God, as You have created a world so lush and wonderful and placed us here to both care for and enjoy it, guide this Nation as a people to consciously respect and care for one another and for all that exists. Bless this body, set apart by the people, to faithfully steward and guide the activities of the United States of America. Empower the leaders to use their gifts to the fullest, and enable their staff members to perform their tasks with excellence. Comfort these Your servants through the demands and stresses of their positions. And help all of our Nation's citizens to join in working together for universal peace and for the good of each other and of the world. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina [Mr. JONES] come forward and lead the House in the Pledge of Allegiance.

Mr. JONES led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 956. An act to establish legal standards and procedures for product liability litigation, and for other purposes.

The message also announced that pursuant to sections 276h-276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mrs. FEINSTEIN as a member of the Senate delegation to the Mexico-United States Interparliamentary Group during the 1st session of the 104th Congress, to be held in Tucson, AZ, May 12-14, 1995.

The message also announced that pursuant to sections 276d-276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. AKAKA as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the 1st session of the 104th Congress, to be held in Huntsville, ON, Canada, May 18-22, 1995.

The message also announced that pursuant to sections 276h-276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. GRASSLEY, Mr. MURKOWSKI, and Mr. GORTON as members of the Senate delegation to the Mexico-United States Interparliamentary Group during the 1st session of the 104th Congress, to be held in Tucson, AZ, May 12-14, 1995.

250TH ANNIVERSARY OF FRIEDENS LUTHERAN CHURCH

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, I am pleased to welcome to the House of Representatives today a minister from my district. Reverend Rhoades serves as the pastor of the Friedens Lutheran Church. Friedens Lutheran Church, Mr. Speaker, is beautifully situated among the gentle rolling hills of Piedmont, NC, between Gibsonville and McLeansville in the heart of the sixth Congressional District.

Friedens, a patriotic congregation, focusing on worship of God, service to the community, and living the love of God in their own lives and with everyone they meet, is celebrating its 250th anniversary this year. In addition to Reverend Rhoades, we are privileged, Mr. Speaker, to have in the House gallery today several members of the Friedens Lutheran Church.

Again, I say it is our privilege to welcome our guest chaplain, Reverend Rhoades today, and the members of the Friedens Lutheran Church, to the House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members not to refer to members in the gallery.

BUDGET RESOLUTION A PRODUCT OF SECRECY

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, this morning around 1 or 1:15 a budget resolution was adopted by the House Committee on the Budget. It is the product of secrecy, of task forces meeting, working as a shadow government in this Capitol, to design a budget resolution. And if you had sat there from 10 in the morning until a little after 1 in the morning the next day as I have, you would understand why it has been necessary to conceive this budget resolution in secret, because the members of the Republican caucus have again broken their word.

They have broken their word about having an open House, which they promised on the first day. And the reason it was so essential for them to operate in secrecy is that they are breaking their word to seniors across this country. They are coming after Medicare to the tune of almost $300 billion in cuts, directly out of the pockets of American seniors.

Finally, after being pressed, they admitted that copayments are going up for American seniors and that many seniors will see a cut in their benefits. They just do not know who has been marked for the most pain.

FEDERAL BUDGET MUST BE BROUGHT UNDER CONTROL

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, time is running out.

If Congress fails to address the out-of control Federal budget, it will soon be too late for our children's future.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

If we fail to end the irresponsible spending that Washington has engaged in for the last 25 years, we can say goodbye to the American dream, and say hello to a diminished standard of living for our kids.

The consequences are just too great to imagine if we do not bring the Federal budget into balance. In just 10 years, at current projections, the Federal Government will be unable to pay for anything beyond the service on the debt and entitlements. That means no defense, no law enforcement, or any other domestic spending.

Mr. Speaker, Republicans are committed to bringing budgetary sanity out of budgetary chaos. We will balance the budget by eliminating outdated agencies, waste, and programs that simply do not work. All the liberal Democrats can offer is class warfare rhetoric and posture for the best political angle. They totally fail to realize that the future of America is on the line and that time is running out.

GOP BUDGET RESOLUTION

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, is it any surprise how the Republicans would reach a balanced budget in 7 years? By breaking our contract with senior citizens, with veterans, with the most vulnerable people in our society, and with those of us who live in cities.

I take the floor today to challenge just one aspect of this disastrous plan, that which would bankrupt American mass transit. The best way that we can empower people and bring them out of poverty and welfare is to help them get jobs and to keep those jobs. This requires meeting practical needs, job training, child care, health insurance, and mass transit. We must help people get to their jobs on safe, dependable, and economical public transit.

Thus I rise to oppose some of the aspects of this mean-spirited budget plan and to oppose, as strongly as I can, the end of the Federal Government's commitment to mass transportation.

ZERO DEFICIT BUDGET RESOLUTION PASSED

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, Rome burns and Nero fiddles. Since yesterday at this time, the national debt has increased $548 million. That is almost $23 million every single hour, $383,000 every single minute, $9,000 every second. Every newborn baby enters the world owing $17,300 of his or her share of the national debt. That means that between yesterday morning at this time and today, we have on a per capita basis increased the debt about $2.10 each.

Thomas Jefferson said that "We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves." Yesterday the Republican members of the Committee on the Budget, joined by one of the Democrat members of the committee, passed what will be a zero, goose egg, nothing, no deficit in the year 2002, balanced budget resolution.

MEDICARE RECIPIENTS PLACED AT GREAT RISK

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, we now know that the majority proposes to reduce Medicare spending by $250 billion over the next 7 years. This will mean the average Medicare patient's benefits will be reduced by $132 in 1996 to $2,000 in the balanced budget year 2002. Out-of-pocket costs will rise as well. Each American on Medicare, and their families, can expect to be responsible for thousands of dollars of additional costs per year. The import of these huge spending reductions are profound—less people will have access to quality health care, and our Nation's hospitals will be put at great risk.

As Medicare goes under the knife, so too does funding for medical education, especially teaching hospitals, such as Pitt Memorial, in my congressional district. Hospitals like Pitt Memorial receive about 30 percent of their funding for resident training. They get additional funds for graduate medical education programs. These funds provide such hospitals with the financial cushion so that they can continue to provide care for Medicare patients. Who will pick up the slack for this essential funding—certainly not the States, the counties or the people? I invite my colleagues from across the aisle to really consider the impact that these deep spending reductions will have on millions of seniors and their families. This will end Medicare, as we know it.

Mr. Speaker, if these huge reductions go into effect. Medicare patients and their families will suffer.

TIME WARP

(Mr. CHRYSLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRYSLER. Mr. Speaker, my colleagues on the other side of the aisle are caught in a time warp.

They are still thinking like the Congress of old, where through the magic of baseline budgeting, Democrats could claim they were cutting spending when actually they were spending more than ever.

Now they come to the floor and claim that Republicans are cutting Medicare, when the cold, hard facts are just the opposite.

As you can see by this chart, the per capita expenditure in Medicare will increase from $4,700 to $6,300 over the next 7 years.

In Democrat parlance, that is a cut, but to most Americans that is a significant increase.

Coupled with our reforms, which will weed out waste and fraud, we will protect, improve, and preserve Medicare far into the next century.

Mr. Speaker, House Democrats who come to the floor today will continue to attack Republicans for cutting Medicare. But as this chart shows, the truth is far different from the Democrat version of reality.

MEDICARE CUTS PAY FOR TAX CUTS FOR WEALTHY

(Mr. ROMERO-BARCELÓ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROMERO-BARCELÓ. Mr. Speaker, the Republicans have finally unveiled their budget proposal. And as expected, the news is not good for our senior citizens.

House Republicans returned from their party conference last week united by a plan to cut Medicare in order to pay for their $345 billion tax cut for the wealthiest Americans. Under this proposal, 37 million seniors will lose $900 a year while a very lucky 1.1 million taxpayers—those making more than $230,000 a year—will enjoy a $20,000 bonus.

When President Clinton came to office, the Medicare Trust Fund was due to run out of funds in 1999. Through tough actions that this administration passed, and every Republican opposed, the trust fund was strengthened for an additional 3 years. The President then proposed a highly detailed health care reform proposal that would have significantly strengthened the Medicare Trust Fund, and again was opposed by most Republicans.

Since last year's election, the President has made clear that he still wants to work on Medicare cost issues with the Republicans, but that it has to be in the context of real health care reform that protects the integrity of the program, expands coverage, and protects choice as well as quality and affordability. No responsible person should stand by and allow Medicare to be used as a cover to pay for tax cuts for the wealthy and, in doing so, break our historic contract with the senior citizens.

REPUBLICANS SUBMIT AN HONEST BALANCED BUDGET PROPOSAL

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, my daughter is grown and she and her husband have a 1½-year-old son and another child on the way. The last time an official House committee submitted a bill to balance the budget, she was 2.

Today, House Republicans present the first honest attempt to balance the budget. We do so not for politics, but for our children, my daughter and son, and my grandchildren. We do so because my family, your family and families across the country cannot achieve the American dream if we do nothing.

If we do nothing, we will pay more interest on the debt than we spend for defense. Moreover, my grandchildren will pay more than $185,000 in their lifetimes just to pay interest on the debt.

We will not stand by and watch any child in this country be subject to that type of cruelty. Yet the Democrat Party, which needlessly frightened children of the impending doom of school lunches is utterly unmoved by the threat to the dreams and future of those same kids.

□ 1015

TRADE DEFICIT WITH JAPAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the battle for a balanced budget is not taking place in the Halls of Congress. The battle for a balanced budget is raging in the Pacific over the protectionist trade policies of Japan. You know that, I know that, and the American worker, they absolutely know it. Watch them at election time.

I commend President Clinton for his efforts. The President's fight is absolutely right. I just hope at the last minute they do not make another compromise washed-down deal.

Let me say this: The hammer is in the hands of Congress. I recommend imposing a 15-percent across-the-broad tariff on Japanese products, all products until they open their market. Think about it. That worked for Washington. That worked for Lincoln. And that worked for Japan.

There is nothing wrong with winning and losing is contagious. Let us join the President's fight. Let us take action against Japan. They are not going to open their doors on a voluntary request.

WHERE'S THE DEMOCRATS' PLAN

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, yesterday, Republicans produced a historic plan to bring us to a balanced budget by the year 2002. The liberal Democrats here in Congress have already jumped on the whining, moaning, and groaning bandwagon to denounce our plan in every way they can.

But let me just ask my colleagues on the other side of the aisle one question, Where's your bill? Where's your plan to balance the budget?

The fact is that you don't have a plan. You haven't submitted anything in writing to balance the budget. Instead, you are content to sit there maintaining the status quo while our children's future goes down the drain.

Mr. Speaker, Republicans care about the future of our country. Republicans will pass a balanced budget. We will keep our promise to the American people.

KEEPING THE MEDICARE PROMISE

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO of California. Mr. Speaker, after waging a war against our Nation's children by slashing school lunch and child nutrition programs, the Republicans have turned their sights on America's senior citizens.

Yesterday, they released the details of a Republican budget that finances tax breaks for wealthy Americans by gutting Medicare.

The Republicans intend to write their wealthy friends a check for $305 billion. And to finance this giveaway, they plan to force seniors to cough up an extra $900 a year.

By targeting those with the most yet to give, our children, and those who have made the greatest sacrifice—our seniors—the Republicans are undermining a fundamental, moral obligation.

This debate is not about deficit reduction. It is about sacrifice. The generation of Americans who now receive Medicare benefits sacrificed to bring this Nation great prosperity.

A senior from my district—from Vacaville, CA—wrote to tell me that these programs are: "promises made to people who earned these benefits."

Promises? Where have I heard that word before? "Promises made, promises kept."

Obviously, this is one promise the Republicans do not intend to keep.

THE WRONG WAY TO GO WITH SOCIAL SECURITY

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Speaker, the Republicans are solving something that has bothered all the people, but I do not think they are doing it the right way. Older people have complained to me; I am not talking about the wealthy older people who will be the beneficiaries of the Republican tax cuts but the average older person for whom Social Security is a major part of their income. And they have complained that, as the Social Security cost of living has gone up, Medicare has come and taken it away. And they have been virtually equal in many cases.

Well, no longer under the Republican budget plan will the cost-of-living increase that older people get be equal to the increase they have to pay in Medicare. But the Republicans are solving this in the wrong way.

Older people are going to have to pay more for their Medicare, and under the Republican plan they will get less for their Social Security. So every year older people will see under the plan an erosion in their incomes because the Republicans will reduce the cost of living.

They want to cut taxes for wealthy older people who will be making $150,000 or $200,000 a year, but they will cut the cost of living for an older person living on $9,000 or $10,000. That is the wrong way to go.

REPUBLICANS PROMISES ARE BROKEN

(Mrs. LOWEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, the Republican budget cuts $24 billion from Social Security. Seniors who have worked hard their whole lives will lose hundreds of dollars in Social Security benefits. Social Security is a contract that we've made with our Nation's seniors. The Republican budget tears that contract into pieces.

The Republican budget cuts $283 billion from Medicare. The Republican budget will eliminate Medicare as we know it by herding seniors into HMO's and by charging them $3,500 more for their health care. Seniors who depend on Medicare will be out of luck.

Mr. Speaker, the Republican budget breaks faith with the millions of American seniors who depend on Medicare and Social Security to make ends meet.

Day after day we have heard how the Republicans have kept their promises to the American people. One after another the Republicans told us that promises made are promises kept.

Well Mr. Speaker, today we learn that Republican promises made are promises broken.

Speaker GINGRICH and the Republican majority promised that they would not cut Social Security benefits. They promised not to devastate Medicare.

But what is the truth? What does their new budget say?

This is how the Republicans keep their promises: By cutting Medicare. By cutting Social Security. The American people deserve better.

BROKEN PROMISES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, Republicans love to get up here everyday and talk about promises made and promises kept, but it seems that my GOP colleagues have forgotten our sacred promise to take care of America's senior citizens. In fact, under the GOP budget proposal, released yesterday, seniors take a double hit.

First, Republicans cut health care for seniors. The GOP budget reduces Medicare spending by $283 billion over 7 years—a 25-percent reduction in the year 2002. Then, to make matters worse, Republicans turn around and reduce Social Security benefits for seniors by $24 billion between 1999 and 2002.

Now, Speaker GINGRICH calls these cuts painless. But, they are not painless to the millions of seniors who rely on Medicare and Social Security to help pay the bills and make ends meet.

Republicans promised to protect Medicare. Republicans promised that Social Security would be off the table during this budget debate. Promises made, promises broken.

REPUBLICAN BUDGET AND NATION'S CHILDREN

(Mr. POMEROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POMEROY. Mr. Speaker, we had a long day in the House Committee on the Budget yesterday. I am here to tell Members about one aspect of the Republican plan to balance the budget that they do not want to talk much about. That is about the deep cuts in Medicare, $184 billion over the next 7 years. And the impact of these would take health insurance away from 5 million kids that now have it. It is taking a health care problem in this country and making it much worse by depriving 5 million kids of health insurance coverage.

The plan does not stop there, because it also assaults the elderly that depend upon Medicaid to help them defray the cost of nursing home expenses when they have exhausted their personal accounts. What will happen to some in a nursing home that has exhausted their life savings? Will they be put out on the street when the Republican Medicaid cuts begin to hit and there are no more funds available? Will they be forced to move in with their children who are already struggling to make it and provide for the college education of their children?

These are questions that need to be answered as we flesh out the Republican budget. Disaster for kids; disaster for seniors.

SHRINKING THE BUDGET

(Mr. WISE asked and was given permission to address the House for 1 minute.)

Mr. WISE. Mr. Speaker, if they are making a movie this summer of the Republican budget, I think it can be titled "Honey, I Shrunk the Budget and I Blew Up the Economy." I blew it up by gutting Medicare, cutting it up to 25 percent. And who will pay for that? Senior citizens, by not getting care; businesses and young people, by having to pay more insurance premiums; hospitals that have to close because they cannot absorb these kinds of losses.

Blew up the economy by cutting programs that bring growth. Student loans cut by $33 billion. Student loans that affect almost every person in this country. The Economic Development Administration, the linchpin for so much industrial develop, the Appalachian Regional Commission terminated. These grow the economy; the Republican budget shrinks it. Balancing the budget, Mr. Speaker, is important for a strong economy. But not with this budget and not one that bankrupts the economy.

KEEP PRESSURE ON JAPAN

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, recently the United States and Japan resumed automobile trade talks and these talks have collapsed. The talks were aimed at opening the Japanese market to autos and auto parts.

The United States presented new proposals in the two priority areas—improved foreign access to Japan's auto markets and increase sales of auto parts in both the United States and Japan. Japan's auto market remains closed. It has been stated Japan sells as many cars in a week in the United States as United States automakers sell a whole year in Japan.

Japan continues to maintain a closed economy which discriminates against United States auto exports and effects international economics. Japanese officials have expressed dismay over what they termed new demands at a late stage of talks.

Currently, there is a $36.7 billion United States-Japan gap in trade in autos and auto parts. This gap has to be decreased. Japan's market share of auto imports is only 4 percent. In addition, Japan's market share of auto imports is only 2.4 percent.

Nearly 2 years of negotiations have failed to produce an agreement in the United States-Japan auto trade talks. The administration announced tough trade sanctions against Japan. These sanctions will probably entail higher tariffs on Japanese imports worth billions of dollars a year.

I urge USTR and the administration to remain tough on Japan. The United States-Japan gap in trade is not reflective of the competitiveness of United States autos and auto parts. The United States is manufacturing auto and auto parts that are capable of competing in the Japanese market. The quality of United States products would gradually bring about a reduction of the deficit, if Japan would only begin to open their market.

We need to send Japan a clear message that we will not back down on the opening of their markets to auto and auto parts. If they refuse to negotiate, we should promptly enact tough sanctions.

CLEAN WATER ACT PROTECTIONS THREATENED BY H.R. 961

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, I rise today in opposition to H.R. 961 because I know that rolling back essential protections of the Clean Water Act will not contribute to the health and welfare of my constituents. In communities such as mine, water quality problems still persist. In addition to New York City-wide problems with giardia, a bacteria that causes stomach ailments, the families in my district have had to depend on aggressive water quality standards, challenging the water company in court when health is endangered by substandard water quality. This right to appeal is predicated on the existence of strong enforcement water quality standards. Standards that H.R. 961 would roll back to erase 23 years of progress.

In addition, the Sixth Congressional District of New York borders on Jamaica Bay, a fragile area of marshland and islands that is widely used for fishing and recreation. Jamaica Bay is regularly contaminated by raw sewage and toxins that result from combined sewer overflow problems and storm water. And we are not alone, a 1992 study showed that 14 large cities, including New York City, Atlanta, and Minneapolis have deposited more than 165 billion gallons of raw sewage and pollution into surface waters each year. For my constituents, H.R. 961 seriously impedes any attempt to control this problem by postponing action to correct problems with combined sewer systems for at least 15 years. While we wait, the health concerns about fishing grow. Jamaica Bay cannot wait until year 2010 for this problem to be addressed. Can the waters in my colleagues district wait? Oppose H.R. 961.

REPUBLICANS BALANCE THE BUDGET

(Mr. TATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TATE. Mr. Speaker, the time to balance the budget is now. It is time to end 40 long years of reckless spending.

The Republicans yesterday passed an historic budget. We believe it is wrong to burden a child born today with $187,150 in taxes in their lifetime just to balance the budget. We think it is wrong to do nothing and let Medicare go by the wayside. We believe it is right to cut waste, to cut duplication. We believe we have a moral imperative to balance the budget.

But where is the Democrat plan? There is no plan, folks. That is the problem.

We believe you should have a plan. And I was taught as a young boy, if I do not agree with something or I think it is wrong. I should have a better plan. There should be a better way to do things.

Their idea is to say, you are cutting kids. Well, there you go again. We have a plan. We have a plan to save our children's future, to protect Medicare and to get us back on the road to fiscal responsibility. That is exactly what the Republicans plan on doing. We are going to join with the American people in doing so.

□ 1145

THE CONTRACT WITH AMERICA: A DISASTER FOR MIDDLE-INCOME AND WORKING PEOPLE

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, at a time when the gap between the rich and the poor is growing wider, I am not impressed by the Republican plan which provides huge tax breaks for the wealthiest people in this country and the largest corporations, and cuts back savagely on a wide variety of programs meant for low-income and middle-income people.

When thousands and thousands of senior citizens in the State of Vermont today are finding it very hard to pay their health care bills, I am not impressed by a Contract With America which savagely cuts back on Medicare and Medicaid. When millions of middle class families today cannot afford to send their kids to college because of the high cost of higher education, I am not impressed by a Contract With America which cuts back terribly on loans that millions of young people will need in order to get to college. The Contract With America works for the rich. It is a disaster for middle-income and working people.

WATER CROSSES STATE LINES

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, I was disappointed yesterday that the substitute for the Clean Water Act was not passed on the House floor, but I think that during the course of the debate one very important fact was brought out.

Several speakers said and pointed out that the problem with clean water, or the problem with water in general, is that it follows, it crosses State lines. In other words, when we are dealing with the various amendments to the Clean Water Act today, we have to keep in mind that each State cannot be responsible totally for the water within its jurisdiction, because it has an impact on other States. That is why I think it was very important yesterday that we were able to pass the amendment on coastal nonpoint source pollution, because it means that one State will not be able to have a lesser standard or a lesser management program than another State and negatively impact that State.

The same philosophy has to go before us today when we are dealing with the other amendments, whether it is ocean discharge and waivers for secondary treatment, or it is beach water testing. All these things should be voted on and looked at in the context of the fact that water crosses State lines. Whatever one State does is going to have an impact on another State.

WHERE IS THE CUT?

(Mr. HOBSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, where is the cut?

House Democrats have come to the floor, claiming that Republicans are cutting Medicare.

But I have to ask my colleagues, where is the cut?

If you look at this simple chart, you will see that Republicans are not cutting Medicare at all. In fact, we are increasing Medicare spending per person from $4,700 to $6,300.

So, where is the cut?

In a liberal Democrat's mind, whenever you slow the growth of spending, whenever you weed out waste and fraud, whenever you give a bureaucrat his walking papers, that is a cut.

But to the American taxpayers, these are not cuts. To senior citizens, these are not cuts. To people possessed of common sense, these are not cuts.

These are reforms that preserve, protect and improve Medicare far into the next century.

Mr. Speaker, I have to ask my colleagues, where is the cut?

THE AMERICAN PEOPLE WANT A BALANCED BUDGET, NOT EXCUSES

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, for weeks now, liberal Democrats have taken to this floor to decry, accuse, condemn, denounce, declaim, vilify, incriminate, fulminate, remonstrate, deprecate, and attack any plan to balance our budget. For some reason, they see no need to balance our budget. We have to make changes.

Despite all the carping from the other side, our friends on this side offer no alternatives. They offer no solutions. They offer no plan.

Mr. Speaker, yesterday the Republican majority introduced a plan to balance our budget in 7 years. There is no longer any excuse not to balance the budget. We have exhausted all the old methods. All of the old big government ideas have been tried and found wanting and found lacking. for the liberals to come to this floor with their hot air about class warfare is nothing short of irresponsible.

The American people are tired of excuses. They want this Congress to balance the budget. Republicans will do this, with or without the carping and crying of the liberal Democrats.

THE NATION'S FUTURE TIED TO BALANCING THE FEDERAL BUDGET

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, balancing the Federal budget is a noble cause. It is one of the few issues of our era that demands our full attention. The reason is very simple: moving the Federal budget into balance is not, ultimately, a debate about numbers, programs, agencies or interest groups. It is a debate about the future of our country. It is about whether or not we will leave our children in utter bankruptcy or with the hope of a better tomorrow. Either we tame the deficit monster that is ravaging our capacity for economic survival, or the very concept of prosperity will, for most of our children, be little more than a wistful memory.

By the early 21st century—a few years from now—the entire Federal budget will be consumed by entitlement spending and interest on the national debt. This is the shocking conclusion of the President's own commission on entitlements. It demands change—now.

Republicans are committed to capping the growth of Federal spending and cutting waste in the Federal budget, not to meet an arbitrary deadline, but for the sake of our children and our country. That is our mission, Mr. President. We will accomplish it.

AMERICA NEEDS A NATIONAL CLEAN AIR ACT

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, as this body meets today, the conferees are discussing the rescission bill a number of substantive changes in the Clean Air Act; first, to prevent EPA from imposing sanctions on States that violate the Clean Air Act, no matter how deliberate or egregious the violation; to eliminate the requirement that new highway projects funded with Federal monies must conform to the Clean Air Act by taking air quality considerations into account; and to eliminate the requirement that EPA give 100 percent credit to all State inspection and maintenance programs, no matter how deficient, how inadequate, or how patently empty those particular programs might be.

These are amendments which eliminate EPA's sanction authority, and effectively makes the Clean Air Act voluntary. If a State wants to opt out of the act and allow limitless pollution in that State, it is allowed to do so. This is fundamentally inconsistent with the position that the Congress has taken time after time for so many years, that we need a national Clean Air Act to prevent and to protect our people against interstate pollution.

WHERE IS THE DEMOCRAT PLAN TO BALANCE THE BUDGET?

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, I never cease to be amazed at the speed with which liberal Democrats are able to rattle off class warfare rhetoric. It is as if liberal Democrats get up every morning and drink a specially concocted bromide which enables them to spew forth class warfare epitaphs with machine-gun like rapidity.

The most recent example was yesterday when Republicans offered our plan to balance the Federal budget in 7 years.

But what was the response from the liberals?

Well, they just about tripped over themselves to get to the floor to denounce our plan as a devious plot to benefit the rich at the expense of children, the elderly, and the poor.

Mr. Speaker, the liberals are not fooling anyone. Even President Clinton's own Cabinet members admit that Medicare is going broke. And nobody denies the existence of the national debt.

But what have the liberal Democrats offered? Nothing but a few well-rehearsed class warfare epitaphs.

I only have one question for my friends on the other side. You know the problems we face—where is your plan? Where is it?

DEMOCRATS WILL NOT BALANCE THE BUDGET ON THE BACKS OF SENIORS OR THE POOR

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the new Republican majority has shown great courage and guts, as we heard from another speaker, to cut and balance the budget. They are balancing their budget by making significant cuts in Medicare, the cost of living for Social Security, education funds, and job training funds. That takes a lot of guts and courage to pick on the least fortunate of our society.

The Republican majority call their drastic budget cuts in Medicare slow growth. Either way, it is less money for the next 7 years than expected for the growth in senior citizens, so it is a cut, whether we call it that or not. Medicare is not a bank to be raided by the Republicans, just because they want to pay for a tax cut.

The Republican majority also changes the way the Consumer Price Index is calculated, ultimately cutting the COLA's for seniors. I thought our new leadership told us Social Security would be sacred.

I want everyone in Congress to know that Democrats want to work with Republicans, but we refuse to balance the budget on the backs of Medicare, on the backs of cost of living for seniors, or education funding, or the least fortunate of our society.

REPUBLICANS WILL WORK TO PRESERVE AND PROTECT MEDICARE

(Mr. FOX of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, according to the President's Commission on Entitlements, in about a decade all Federal revenues will be consumed by entitlements and interest on the debt. At that point, the Federal Government will cease to exist as we know it: no defense, no law enforcement, no education, no anything outside of entitlements and debt service.

The fact is, there is a problem with Medicare. By the year 2002, the funds will be out completely. What could we do about that? We can work together, Republicans and Democrats together, to make sure that we help our seniors, to make sure that Medicare is sound and safe and protected.

The fact is, the Republicans do have a plan. We will be presenting it. We do expect to have the American people embrace it, because it is one that is sensitive to families, sensitive to our children, sensitive to senior citizens, and one that will provide the kind of health care that Americans have come to expect. The fact is, Republicans will lead the way to protect, preserve, and to protect Medicare, and to work with senior citizen organizations and their families to make sure that Medicare is protected. We guarantee that. We will work on it every day. So help me God, it will be accomplished.

CLEAN WATER AMENDMENTS OF 1995

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to House Resolution 140 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 961.

□ 1040

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act, with Mr. HOBSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, May 10, 1995, the amendment offered by the gentleman from New York [Mr. BOEHLERT] had been disposed of, and title III was open to amendment at any point.

Are there further amendments to title III?

AMENDMENTS OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer 2 amendments, and I ask unanimous consent that the amendments, one in title III and one in title V, be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. TRAFICANT:

Page 35, after line 23, insert the following:

"(2) LIMITATION AND NOTICE.—If the Administrator or a State extends the deadline for point source compliance and encourages the development and use of an innovative pollution prevention technology under paragraph (1), the Administrator or State shall encourage, to the maximum extend practicable, the use of technology produced in the United States. In providing an extension under this subsection, the Administrator or State shall provide to the recipient of such extension a notice describing the sense of Congress expressed by this paragraph.

Page 35, line 24, strike "(2)" and insert "(3)".

Page 35, line 7, strike "(3)" and insert "(4)".

Page 35, line 18, strike "(4)" and insert "(5)".

Page 216, line 12, strike "521" and insert "522".

Page 217, line 7, strike "521" and insert "522".

Page 219, after line 18, insert the following:

SEC. 512. AMERICAN-MADE EQUIPMENT AND PRODUCTS.

Title V (33 U.S.C. 1361-1377) is further amended by inserting before section 522, as redesignated by section 510 of this Act, the following:

"SEC. 521. AMERICAN-MADE EQUIPMENT AND PRODUCTS.

"(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

"(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Administrator, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the sense of Congress expressed by subsection (a)."

Conform the table of contents of the bill accordingly.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, these are basically Buy American amendments. This one, though, deals with the fact that if the administrator or State extends the deadline for point source compliance, and encourages development and use of an innovative pollution prevention technology, under paragraph 1, the administrator or State shall encourage, to the maximum extent practicable, the use of technology produced in the United States. That would encourage more technology development in our country to deal with these issues.

It has been worked out. The second amendment is a standard "Buy American" amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding to me.

We have reviewed these, and we think these are good amendments. We support them.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I have no reason to object to the amendments offered by the gentleman from Ohio.

Mr. TRAFICANT. With that, Mr. Chairman, I urge a vote in favor of the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendments were agreed to.

The CHAIRMAN. Are there other amendments to title III of the bill?

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows'.

Amendment offered by Mr. PALLONE: Strike title IX of the bill (pages 323 through 326).

Mr. PALLONE. Mr. Chairman, my amendment would strike provisions of the bill which authorize waivers of secondary treatment requirements for sewage treatment plants in certain coastal communities which discharge into ocean water.

There are two major steps to wastewater treatment which I think many of us know. One is the physical primary treatment, which is the removal of suspended solids. The second is the biological or secondary treatment, which is the removal of dissolved waste by bacteria.

Secondary treatment, in my opinion, is very important, because it is critical to the removal of organic material from sewage. It is the material linked to hepatitis and gastroenteritis for swimmers. It is also the common denominator. Secondary treatment sets a base level of treatment that all must achieve, putting all facilities on equal ground.

Today almost 15,000 publicly owned treatment works around the country apply secondary treatment. It makes no sense to exempt many of these facilities. Under existing law, a national standard of secondary treatment for public owned treatment works was established by Congress in the original 1972 Clean Water Act.

There was a window of time during which facilities could apply for ocean discharge as an alternative to secondary treatment. However, this window has closed. A bill was passed last year, October 31, that allows the city of San Diego to apply for a waiver, even though that window has closed.

The EPA has a year pursuant to that legislation to make a decision on their application, and at present it looks likely that San Diego would be granted such a waiver. However, despite these concessions that have been made, a provision has been included in H.R. 961 that would grant such a waiver to San Diego without the necessary EPA review.

I am concerned, Mr. Chairman, that we are going toward what I would call a slippery slope on the issue of secondary treatment.

□ 1045

The San Diego waiver was for ocean outfalls at least 4 miles out and 300 feet deep. This was the only provision in the original H.R. 961. But in committee this section was expanded. Other towns can now apply for 10-year permits that would allow for ocean discharge only 1 mile out and at 150 feet of depth.

This new expansion of the section applies to at least six facilities in California, two in Hawaii, and there may be two dozen other facilities that it could apply. Also, communities under 10,000 are now eligible for permits, and there are about 6,500 facilities of 63 percent of all facilities that could be eligible under this under 10,000 provision. Soon Puerto Rico may also be able to apply for a waiver of secondary treatment because of the legislation the committee marked.

I think that this is a terrible development. I would like to know what is next. What other waivers and weakening amendments are going to exist to the Clean Water Act?

Ultimately, if we proceed down this slippery slope, secondary treatment may in fact disappear in many parts of the country. Secondary treatment may be costly, but it will cost more to clean up the mess after the fact, if we can clean it up at all.

The ultimate problem I have, and I am trying to correct with this amendment, is this idea that somehow the ocean is out of sight, out of mind, that is, a sort of endless sink that we can continue to dump material in. It is not true. The material comes back and ocean water quality continues to deteriorate.

Please do not gut the Clean Water Act. Let us not start down the slippery slope of allowing ocean discharge without secondary treatment, and please support this amendment.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment strikes all of the secondary treatment provisions in the bill. During the debate on the unfunded mandates, secondary treatment was cited as one of the most costly unfunded mandates to States and localities.

Our bill provides relief from this mandate, but it provides relief only where it is also an unfunded mandate. Our bill allows a waiver of secondary treatment for deep ocean discharges, but only where secondary treatment provides no environmental benefit.

Let me emphasize that. We allow for a waiver of secondary treatment for deep ocean benefits but only when secondary treatment provides no environmental benefit.

This waiver must be approved by either the State water quality authority people or by the EPA, so this is not some willy-nilly waiver that a locality can give itself. It must go through the rigorous procedure of first showing that by getting the waiver, they are providing no environmental benefit, and, second, getting the approval of the EPA or the State.

The bill also allows certain alternative wastewater treatment technologies for small cities to be deemed secondary treatment if, and this is a big if, if they will contribute to the attainment of water quality standards.

This flexibility, Mr. Chairman, is badly needed because traditional centralized municipal wastewater treatment systems do not always make economic sense to small communities. We need to provide the flexibility to the States and to EPA to allow the use of alternatives, for example, like constructed wetlands or lagoons, where they make both economic and environmental sense.

Perhaps the most egregious example of the problems we would face if we were to adopt this amendment is the situation in San Diego to spend $3 billion on secondary treatment facilities when indeed the California EPA and the National Academy of Sciences says it is unnecessary. So this flexibility is needed not only for San Diego but for many of the cities across America.

I strongly urge defeat of this amendment.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the idea of waiving secondary treatment standards sounds alarms because the successes of the Clean Water Act over the past 23 years are attributable in large part to the act's requirements for a baseline level of treatment—secondary treatment, in the case of municipal dischargers.

There are several reasons that these waivers should be stricken from the bill: First, they are not based on sound science; second, they threaten to degrade water quality and devastate the shoreline; third, they are unfair; and, fourth, they are unnecessary.

NOT BASED ON SOUND SCIENCE

Several of the bill's secondary waiver provisions abandon the basic requirement that the applicant demonstrate that a waiver will not harm the marine environment. The bill abandons this requirement, even though it makes sense, and has been met by more than 40 communities that have obtained waivers.

This congressional waiver of scientific standards is at direct odds with the themes of sound science and risk analysis that were embraced in the Contract With America. The consequences could be devastating to the environment.

HARMFUL TO WATER QUALITY AND THE MARINE ENVIRONMENT

For example, the secondary waiver provision intended for Los Angeles provides for waivers if the discharge is a mere 1 mile offshore, and 150 feet deep. Unfortunately, history has taught us that sewage discharges at about 1 mile offshore can wreak havoc.

In 1992, San Diego's sewage pipe ruptured two-thirds of a mile offshore, spewing partially treated sewage containing coliform and other bacterias and viruses, and closing more than 4 miles of beaches. This environmental disaster happened just one-third of a mile closer to shore than the 1-mile-offshore standard for municipal discharges under one of the waivers in this bill.

In addition, it appears that this waiver provision, although intended for Los Angeles, picks up at least 19 other cities as well. And, the waiver for small communities makes thousands more communities eligible for waivers, even though many of them are already meeting secondary requirements and could seek to reduce current treatment under this provision.

Since the number of waivers authorized under this bill is potentially quite large, the environmental impact also can be expected to be substantial, particularly for waste discharged just 1 mile from shore.

The San Diego and Los Angeles provisions both provide for enhanced primary treatment in place of secondary. We would think for a minute about what primary treatment is. It is not really treatment at all—you just get the biggest solids out by screening or settling, and the rest goes through raw, untreated. Chemically enhanced primary means you add a little chlorine to the raw sewage before discharging it.

This means that even when the system is operating properly—without any breaks in the pipe spewing sewage onto our beaches—the bill could result in essentially raw human waste being dumped a mile out from our beaches. Most Californians do not want essentially raw sewage dumped 1 mile from their beaches.

UNFAIR

The waiver provisions are unfair because they grant preferential treatment to select communities. This favoritism has direct consequences for the thousands of communities that most of us represent: those that have expended, or are in the process of spending, substantial resources to comply with secondary requirements. Some communities, such as the city of San Jose which I represent, have gone well beyond secondary.

The waiver provisions say to all of these communities that they were fools for having complied with the law, because if they had just dragged their feet, they, too, could have escaped these requirements.

UNNECESSARY

In the case of San Diego, the inequity of allowing a third bite at the apple is heightened by the fact that San Diego will obtain a secondary waiver treatment without the bill. Yes, the bill's waiver provision is completely unnecessary for San Diego because San Diego was singled out for preferential treatment just last year.

In October 1994 President Clinton signed into law a bill that was passed in the closing days of the 103d Congress. Of the thousands of communities required to achieve secondary treatment, only San Diego was authorized to apply for a waiver last year. San Diego submitted its application last month, an EPA has publicly announced its commitment to act quickly and both EPA and the city expect that a waiver will be granted.

Why, then, is San Diego now receiving another waiver? Because this year's waiver would provide even a better deal than last year's—it would be permanent, and would excuse Dan Diego from baseline requirements that last year San Diego agreed that it could and would meet.

Mr. Chairman. I urge my colleagues to support this amendment.

Mr. BILBRAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. I would have to say, as someone who has spent 18 years fighting to clean up the pollution in San Diego County, it concerns me when my colleague from California speaks of the pollution problems in San Diego, when in fact we can recognize that one of the major problems we have had is that the regulation has taken precedence over the science and the need to protect the public health.

This bill as presented by the chairman reflects the scientific data that shows that not only does having chemically enhanced primary not hurt the environment, but it also shows that the studies that have been done by many, many scientific groups, in fact every major scientific study in the San Diego region has shown that if we go to secondary, as my colleague from California would suggest, that the secondary mandate would create more environmental damage than not going to secondary.

This is a big reason why a gentleman from Scripps Institute, a Dr. Revell, came to me and personally asked me to intervene. My colleagues may not think that I have any credentials in the environmental field, but I would point out that Dr. Revell is one of the most noted oceanographers that has ever lived in this century. He just passed away. He was saying strongly that the secondary mandate on the city of San Diego was going to be a travesty, a travesty to the people of San Diego but, more important, a damage to the environment of our oceans and our land.

My colleague from San Jose has pointed out that there may be a problem giving waivers. I think we all agree that there are appropriate procedures, but those procedures should follow science.

The city of San Jose has gone to extensive treatment, Mr. Chairman, but when the science said that you could dispose of that in the estuary of southern San Francisco Bay, my colleague's city of San Jose was given a waiver to be able to do that, and will continue to do it because the science says that it is okay. Our concern with this is the fact that the process should follow the path toward good environment.

What we have today now is a process that diverts the attention of those of us in San Diego and the EPA away from real environmental problems and puts it toward a product that is 26 pounds of reports, 1.5 million dollars' worth of expenses. It is something that I think that we really have to test those of us here: Do we care about the environment of America or do we care about the regulations of Congress?

When the science and the scientists who have worked strongly on this stand up and say, "Don't require secondary sewage in San Diego," we really are put to the test. Are we more wedded to our regulation than we are to our environment?

□ 1100

Now if you do not believe me, though I have fought hard at trying to clean up Mexican sewage and trying to get the sewage to stay in pipes, while the EPA has ignored that, they have concentrated on this process. I would ask my colleague to consider his own colleague, the gentleman from California [Mr. FILNER], who has worked with me on this and lives in the community and has talked to the scientists, and Mr. FILNER can tell you quite clearly that this is not an issue of the regulations with the environment, this is one of those situations where the well-intentioned but misguided mandate of the 1970's has been interpreted to mean we are going to damage the environment of San Diego, and I would strongly urge that the environment takes precedence here.

Mr. Chairman, I would ask my colleague from San Diego, Mr. FILNER, to respond to the fact that is it not true that the major marine biologists, Scripps Institute of Oceanography, one of the most noted institutes in the entire country on the ocean impacts, supports our actions on this item?

Mr. FILNER. Mr. Chairman, will the gentleman yield?

Mr. BILBRAY. I yield to the gentleman from California.

Mr. FILNER. Mr. Chairman, I appreciate being here with the Congressman from my adjacent district, San Diego. Before I answer the question, I do want to point out that for many years we had adjacent districts in local government, Mr. BILBRAY being a county supervisor and myself being a San Diego city councilman. We have worked together for many, many years on this very issue. We have fought about it, we have argued about it, we have come to an agreement about how we should handle this, and I think it is very appropriate that we are both now in the Congress to try to finally give San Diego some assurance to try to deal satisfactorily with the environment, and yet do it in a cost-effective manner.

The gentleman from California asked me about good science. The gentleman from San Jose talked about good science. The most respected scientists who deal with oceanography in the world at the Scripps Institute of Oceanography have agreed with our conclusions.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BILBRAY] has expired.

(At the request of Mr. FILNER and by unanimous consent, Mr. BILBRAY was allowed to proceed for 1 additional minute.)

Mr. FILNER. If the gentleman will continue to yield, the scientists from the Scripps Institute have lobbied this Congress for this change. The Federal judge in charge of the case has lobbied us for the change. The local environmental groups have lobbied us for the change. The local environmental groups have lobbied us for the change. And I would ask my colleague to continue that thought.

Mr. BILBRAY. I would like to point out, Mr. Chairman, my experience with Mr. FILNER was as the director of the public health department for San Diego, and as he knows, this is not something I am not involved with. I happened to be personally involved with the water quality there. I surf, my 9- and 8-year-old children surf. We have water contact; we care about the environment.

Mr. PALLONE. Mr. Chairman, will the gentleman yield?

Mr. BILBRAY. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Chairman, what I do not understand though, since the existing bill that was passed last year actually allows for you to have a waiver, assuming certain conditions are met, and EPA I understand has already gone through that application process, why do you find it necessary in this bill to grant an absolute waiver?

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BILBRAY] has again expired.

(At the request of Mr. MINETA and by unanimous consent, Mr. BILBRAY was allowed to proceed for 2 additional minutes.)

Mr. BILBRAY. Why would I ask?

Mr. PALLONE. In other words, my understanding, you tell me if I am wrong, is that pursuant to this legislation, I will call it special legislation if you will that passed last year, San Diego can now apply for a waiver. It may be the only municipality that can. And EPA is now in the process of looking at that application for a waiver, and if in fact what Mr. FILNER and you say is the case that the waiver then is likely to be granted, why do we need to take that one exception that is already in the law for San Diego and now expand it to many others, thousands possibly of other municipalities around the country?

Mr. BILBRAY. The fact is that it is costing $1.5 million. The fact is, it is only a 4- to 5-year waiver, and the fact that under our bill all monitoring, the EPA will monitor it, the Environmental Protection Agency of California will monitor it. We have developed a system that scientists say will be the most cost-effective way of approaching this. All of the monitoring, all of the public health protections are there. As long as the environment continues not to be injured, we will continue to move forward.

And you have to understand, too, one thing you do not understand that Mr. FILNER and I do understand, we have had at the time of this process, this bureaucratic process has been going on, we have had our beaches closed and polluted from other sources that the EPA has ignored.

Mr. PALLONE. I understand, and you have gone through that with me and I appreciate that. My only point is I do not want to go down the slippery slope of the possibility of getting applications and waivers granted.

Mr. BILBRAY. There is no slippery slope. What it says is those that have proven scientifically there is no reasonable reason to think there is environmental damage that is going to occur should not have to go through a process of having to go through EPA and the Federal bureaucracy. I think you would agree if we in the 1970's were told by scientists there is no foreseeable damage or foreseeable problem with water quality, this law would never have been passed. In San Diego the scientists have said that, and I think you need to reflect it.

Mr. PALLONE. My point is the exemption for San Diego applies to 3 miles out, certain feet.

Mr. BILBRAY. Four miles, 300 feet.

Mr. PALLONE. Now you have another exemption for certain towns.

Mr. BILBRAY. Totally different.

Mr. PALLONE. Though you have another exemption, towns under 10,000, no scientific basis for that. All these things are thrown into the bill.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BILBRAY] has again expired.

(At the request of Mr. MINETA and by unanimous consent, Mr. BILBRAY was allowed to proceed for an additional 2 minutes).

Mr. BILBRAY. The fact is here it is outcome-based. In fact the water quality is not violated as long as scientists at EPA say there is not damage. My concern to you is if the monitoring is done, if the environment is protected, if EPA and all of the scientists say it is fine, why, then why is the process with a million and a half dollars and 26 pounds of paper so important to you to make sure those reports have been filed?

Mr. PALLONE. The difference is you are going through that process and you may actually achieve it in convincing the EPA pursuant to the existing law that that is the case. But what this bill has done is go beyond that, it has said that there is an absolute waiver for San Diego, they do not really have to do anything else at this point.

Mr. BILBRAY. Yes, with all the monitoring that would have to be done under existing law, the same review process and public testimony the same way.

Mr. PALLONE. Then it goes on to take another category, 1 mile and 150 is OK, and for a third category if you are under 10,000 it is OK. For another category for Puerto Rico we are going to do the study. You know you may make the case, we will have to see, that your exception makes sense. You may be able to do that to the EPA, but why do we have to gut the entire bill and make all those other exceptions? It makes no sense to carry one San Diego case that is now going through proper channels. This says they get the waiver; they do not need to go through the process in the previous bill, and now we have all these other exemptions.

Mr. BILBRAY. You have to read the bill and all the conditions of being able to meet the triggers of the EPA.

Mr. PALLONE. I have the bill in front of me. It has four different categories. The San Diego category, then it goes for the ones who go 1 mile and 150, then the ones that are 10,000 or fewer, and then it goes to Puerto Rico. All of these categories.

Mr. BILBRAY. And you have monitoring that basically says that you have to prove, bring monitoring that you do not, that you are not degrading the environment. That is what we are talking about; we are talking about an outcome basis. Does it hurt the environment? Not the regulations. Is the environment hurt here.

Mr. PALLONE. I do not see any scientific basis.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BILBRAY] has again expired.

Mr. MINETA. Mr. Chairman, I ask unanimous consent that the gentleman from California [Mr. BILBRAY] be allowed to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. SHUSTER. Mr. Chairman, reserving the right to object, I will not do so now, but if we are going to move this along, I think we should all try to stay within the rules of the House and the time allotment.

Mr. MINETA. Mr. Chairman, if the gentleman will yield, I was just asking for unanimous consent for the gentleman from San Diego, Mr. BILBRAY, to be given an additional 2 minutes, and I would like to be able to ask a question of him since he also referred to the city of San Jose, and I happen to be the former mayor of San Jose.

The CHAIRMAN pro tempore. The Chair will inquire once again, is there objection to the request of the gentleman from California?

There was no objection.

Mr. MINETA. Mr. Chairman, will the gentleman yield.

Mr. BILBRAY. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, my objection is this: that last year we worked to grant the city of San Diego the opportunity to apply under previously expired provisions to apply for a waiver. I thought we did that in good faith, with the city of San Diego also agreeing to certain conditions. Things like the need for alternative uses for their water and say that this would be a waiver that would only be good for a certain period of time. It is my understanding that the waiver is indefinite, except that there is a requirement for a report to be done every 5 years. And that to me is a reasonable kind of an approach.

Also in terms of any waiver for the city of San Jose, I am not familiar with what the gentleman is referring to, because we are at tertiary treatment in terms of our discharge into San Francisco Bay.

Mr. BILBRAY. The fact is that San Jose opens into an open trench into 20 feet of water in an estuary; it does not place it 350 feet deep and 4½ miles out in an area where scientists say not only does it not hurt the environment, it helps it. And so you do have a waiver to be able to do that rather than being required to have to use other outfall systems but it is because you were able to show that.

But the trouble here with this process is that all reasonable scientific data shows that there is no reason to have to spend the 26 pounds of reports, the $1½ million, and when you get into it, EPA will be the trigger to decide if that process needs to go. What EPA told me as a public health director when I say this is a waste of money, the Government did not mean to do this, they said Congress makes us do it. They do not give us the latitude to be able to make a judgment call based on reasonable environmental regulations they have mandated to us. So I am taking the mandate away from them.

Mr. BORSKI. Mr. Chairman, I move to strike requisite number of words.

Mr. Chairman, I wish to express my strong support for this amendment to strike the waivers of secondary treatment requirements.

This is an issue of protecting our Nation's beaches and coastal waters.

It is a matter of protecting the tourist economies of many States and of protecting the health of the American people.

Do we want our ocean waters to be a disposal area for sewage that has received only the barest minimum of treatment?

For 20 years, we have done better than that as the secondary treatment requirement has stood as one of the pillars of the Clean Water Act.

This bill started with a waiver for one city—San Diego. Then it moved to two dozen more in California and another possible six in Florida. Then we added Puerto Rico.

Where will this race to lower standards end?

H.R. 961 tells those who complied with the Clean Water Act that they should have waited. Maybe, they could have gotten a waiver.

It tells those who waited that they were smart. They could keep putting their untreated sewage in the ocean.

The beaches of New Jersey had frequent water problems several years ago before New York City finished its secondary treatment plant.

The problems in New Jersey should be a warning that we should stick to the secondary treatment requirements and not put poorly treated sewage in the ocean.

This provision of H.R. 961 sends us back more than 20 years. Since 1972, secondary treatment has been the standard that all communities have been required to meet.

That basic standard of the Clean Water Act should not be changed. We should keep moving forward on the effort to clean up our waters.

Mr. Chairman, I urge my colleagues to hold the line on secondary treatment and vote for this amendment.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have to admit that I have seen some alternatives around the world that do intrigue me. If we are going to go to this broad of an exemption from secondary treatment, for instance in Hong Kong, I was there and on the ferry early one morning, and I noticed how they deal with it, they do not require secondary; in many cases they do not require primary treatment. They are a little oversubscribed to their sewer system. They have nifty boats that go around the harbor with nets in the front and they scoop up everything that floats, and if it does not float, it is not a problem. So I guess you know if we cannot support the Pallone amendment, we can say we are headed in that direction. We can buy some of the nifty little boats from Hong Kong with the nets on the front and drive them around the beachfront areas in the morning before people go in for that swim, and you know if you cannot see it, it is not a problem.

□ 1115

Mr. FILNER. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from California.

Mr. FILNER. Mr. Chairman, the gentleman from Oregon knows that on almost every environmental issue, we are in total agreement.

Are you familiar with the percentage of solid removal in the system that San Diego now uses?

Mr. DEFAZIO. Reclaiming my time, my understanding is you attempt to achieve 84 percent.

Mr. FILNER. It is not an attempt. We achieve 84 percent.

Mr. DEFAZIO. I will tell you, reclaiming my time, in my metropolitan wastewater facility, of which I was on the board of directors as a county commissioner, we built it for $110 million. We get 100 percent out. We do secondary and we do tertiary treatment. Theoretically, if one wanted to, one could drink the outfall. I do not want to drink the outfall. I do not know that we have to drive everything to that standard. But to think of the ocean as an endless dump close in proximity, I realize you have a big problem with Mexico, basically you are saying Mexico can dump all their stuff in there, why cannot we not just dump in a small amount of our stuff. I do not think that is the solution. I think we should be forcing Mexico to clean up so the people in California can go to the beach every day in the future.

Mr. FILNER. If the gentleman will yield, that is exactly our policy. As a matter of fact, those of us who live in San Diego and who completely depend on the beaches not only for our own enjoyment but for tourism and economic help, we could never possibly see the ocean as merely a dumping ground. We believe it, as you do, we believe that money to get that infinitesimal increase in solid removal required by the EPA to put into water reclamation, to put into tertiary, to deal with the Mexican sewage is the way we ought to spend our money, not be required to spend billions of dollars on something which gives us very little marine environment protection.

Mr. DEFAZIO. Reclaiming my time, do you think 16 percent is infinitesimal?

Mr. FILNER. No, it is not 16 percent. You know what secondary requirements are?

Mr. DEFAZIO. I am talking about the difference between the 84 percent and the 100 percent.

Mr. FILNER. The law requires us to do 85 percent. We are doing 84 percent. Should we spend $5 billion to get an infinitesimal increase in that solid removal with enormous damage to the land environment, because we would have to put in extra energy to do that for sludge.

Mr. DEFAZIO. Reclaiming my time.

Mr. FILNER. It is not environmentally sound.

Mr. DEFAZIO. Does this exemption go narrowly to that 1 percent for San Diego, or does exemption go beyond that?

Mr. FILNER. I am certainly supporting it as the section in the bill that applies to San Diego.

Ms. HARMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I spoke yesterday generally about this bill and my objections to it.

I am rising today to support the Pallone amendment, and also to make some more specific comments about that portion of the bill providing a waiver for full secondary treatment. That portion of the bill was drafted by my good friend and colleague, the gentleman from California [Mr. HORN], and his district is just south of mine, and we agree on most everything, except for this.

I want to explain why we disagree and also to say that we worked together. His office was extremely helpful to me in providing information in support of his amendment, and I hope he understands that my demur has to do specifically with what I believe are the unintended consequences of his amendment on Santa Monica Bay.

Santa Monica Bay is the largest bay in southern California, and most of it is in my congressional district. I wrote to EPA so that I could understand better whether good science was involved in his amendment and how it would affect Santa Monica Bay. The letter that I received the other day from the assistant administrator of EPA says, in part:

> This amendment does not appear to be based upon sound science. We are not aware of any scientific documentation which suggests that discharges through outfalls that are 1 mile and 150 feet deep are always environmentally benign. To the contrary, a 1993 study by the National Research Council recommended that, "Coastal wastewater management strategy should be tailored to the characteristics, values, and uses of the particular receiving environment." Thus, we believe this blanket exemption is neither scientifically nor environmentally justifiable, and could result in harm to the people who depend upon the oceans and coasts for their livelihood and enjoyment.

And the letter goes on to say specifically that with respect to the Santa Monica Bay Restoration project, a project worked on by all sorts of agencies and individuals in California and supported by California's Governor, Pete Wilson, this blanket exemption could derail the key element of the restoration plan.

For those careful and specific reasons, I oppose the Horn language, and I support the Pallone amendment.

And let me add just one thing, Mr. Chairman. Somewhere here is a chart that was provided to me by EPA, and it shows the consequences of not going to full secondary treatment. The suspended solids that can be discharged are the biggest problem, and the chart has this broken out by area of Los Angeles. In the L.A. County sanitation district, which would be directly affected by this exemption, the suspended solids are the highest portion of this chart, and it is a big problem specifically for Los Angeles.

Let me finally say one more thing. The gentleman from California [Mr. HORN] has sent, I think today, a "Dear Colleague" letter, and he makes a point with which I agree, and I want to apologize to him. He says that in a different "Dear Colleague" letter circulated by some of us, we said that his amendment could result in raw sewage dumped into Santa Monica Bay. That was an error. I apologize for that. The amendment would result in partially treated sewage dumped into Santa Monica Bay.

I urge my colleagues to support the Pallone amendment.

Mr. HORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. HORN. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I thank my good friend for yielding.

The San Diego situation is a classic example of regulatory overkill. But regardless of how you feel about San Diego, you should vote "no" on this amendment, because it guts all of the provisions that allow flexibility on secondary treatment, including the flexibility for small communities across America.

We have worked on all of these provisions with State officials, wastewater and environmental engineers, and we should resoundingly defeat this amendment not only because of San Diego but because of what it does across America.

Mr. HORN. Mr. Chairman, I rise today in opposition to this amendment to strike the provisions of the bill which authorize waivers of secondary treatment requirements for certain coastal communities which discharge into deep waters.

I successfully offered this provision in the committee markup of H.R. 961. My reasons for doing so were based on sound scientific reasons, and they are environmentally responsible.

I was delighted, and I am delighted to take the apology of my distinguished colleague from southern California.

That letter she quotes from the assistant administrator of EPA talks in broad generalities. It does not talk about the specifics of the Los Angeles area situation, and I want to go into that.

There is no permanent waiver in this provision. It would be good for 10 years. It would be subject to renewal after that period. The driving force behind this amendment is simply good science.

This Congress is moving forward to implement cost/benefit analysis and risk assessment across all environmental statutes.

Deep ocean outfalls that meet all water quality standards are an obvious place to apply these principles.

Now, to obtain this waiver, publicly owned treatment works must meet a stringent high-hurdles test, and I have not heard one word about that today. Outfalls must be at least 1 mile long, 150 feet deep. The discharge must meet all applicable State and local water quality standards, and I do not think anyone is going to tell us that California has low water quality standards. We have high standards, just as we do in air pollution.

Now, the publicly owned treatment works must have an ongoing ocean monitoring plan in place, and we do in Los Angeles City and County. The application must have an EPA-approved pretreatment plan, and we do in Los Angeles City and County. Effluent must have received at least a chemically enhanced primary treatment level, and at least 75 percent of suspended solids must have been removed. That is exactly what we have.

This provision is not any broad loophole. Indications also are that only five publicly owned treatment works in the country would meet this high-hurdles test. They are Honolulu, Anchorage, Orange County, and Los Angeles Country, and the city of Los Angeles. The first three cities already have waivers.

As I said in committee, the program under which the original waivers were given to the city and country, that has expired. The country of Los Angeles is being forced to spend $400 million to go to full secondary treatment.

Now, if that money went to improving the environment or cleaning up real environmental problems, and we have hundreds of them where usually the lawyers are getting the fees and we are not cleaning up the problems, that would all be understandable. But it is not.

This provision simply assures that we are spending local and Federal dollars wisely, not forcing communities to take steps that simply make no sense, which begs the question: Why should we force communities to spend hundreds of millions of dollars to meet a standard where that standard is already being met?

The city of Los Angeles treatment already meets the requirements of secondary treatment. So why spend millions of the taxpayers' hard-earned dollars to require Los Angeles to build facilities that already meet that required standard? The effluent from the county of Los Angeles far exceeds the rigorous State ocean plan developed by the State of California for every single measured area, including suspended solids, toxics, and heavy metals.

I have some attached graphs here some of you might want to wander up and look at. The current requirements to force the publicly owned treatment works to full secondary treatment is not justified when meeting that standard will bring no environmental improvement to the ocean but will cost local ratepayers hundreds of millions of dollars.

Mr. Chairman, the science behind this provision is irrefutable. No one is advocating pumping untreated wastewater into deep oceans off of Santa Monica Bay or in Santa Monica Bay or elsewhere.

The CHAIRMAN pro tempore. (Mr. HOBSON). The time of the gentleman from California [Mr. HORN] has expired.

(By unanimous consent, Mr. HORN was allowed to proceed for 1 additional minute.)

Mr. HORN. Mr. Chairman, going to full secondary treatment will not have any positive environmental benefit. Instead, we will be spending, as I have said earlier, hundreds of millions of dollars of the citizens of the county and city of Los Angeles, local taxpayer money, for no good reason. We simply cannot afford to be wasting money on problems that do not exist.

If municipal wastewater treatment facilities are meeting the high-hurdles test, including in H.R. 961, it serves the public interest, it serves the interests of the local taxpayers, and it serves the interests of the Nation to keep this waiver intact, and all else is really nonsense.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. HORN] has again expired.

(At the request of Mr. PALLONE and by unanimous consent, Mr. HORN was allowed to proceed for 2 additional minutes.)

Mr. PALLONE. Mr. Chairman, will the gentleman yield?

Mr. HORN. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Chairman, what I wanted to ask is: We had the gentlewoman from California [Ms. HARMAN] read from some sections of this letter from the EPA from a Mr. Perciasepe. I do not know if the gentleman from California [Mr. HORN] has seen this or not.

Mr. HORN. I have not.

Mr. PALLONE. And also from the EPA I received a list of another, I do not know, another 10 to 20 municipalities beyond 6 in California and the extra 2 in Hawaii you mentioned. My concern is this; this is the crux of it. Clearly, San Diego is one situation. They already have a waiver pursuant to existing law. But the amendment offered by the gentleman from California [Mr. HORN] which now goes to the 150-foot depth and the 1 mile.

Mr. HORN. And 5 miles, I might add, is the other one. One is 1 mile out, one is 150; the other is 5 miles out, 150.

Mr. PALLONE. This begins to open the door, if you will, to a whole different group of municipal sewage treatment plants beyond the San Diego waiver and is, of course, of greater concern to me than even that one.

You mentioned scientific evidence. Clearly, this letter from the EPA assistant administrator indicates that they are very concerned that this exemption that you have now put in is not based on sound science, plus the EPA has given us a strong indication that beyond the 6 or so California and the 2 Hawaii ones, we are talking now possibly about another 20 or 30. We do not know how many. It is a major concern. I just have not heard anything from the gentleman to verify scientific basis for this new exemption that goes beyond San Diego.

Mr. HORN. I know of no one that disagrees that the city and county of Los Angeles have met the scientific standards. EPA has never said it. If they are suddenly coming in at the last minute with a little sideswiping and saying all of these cities will be eligible for it, that is nonsense.

☐ 1130

My language is very specific. It applies to one situation: The city and county of Los Angeles, that already have the waste treatment, that goes out to sea. There has not been any complaints that they are violating any standard of science. They test regularly.

The CHAIRMAN pro tempore (Mr. HOBSON). The time of the gentleman from California [Mr. HORN] has expired.

(At the request of Mr. HUNTER and by unanimous consent, Mr. HORN was allowed to proceed for 2 additional minutes.)

Mr. HORN. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. chairman, my point is, again, I heard the San Diego argument, I heard the Los Angeles argument. I do not agree with it, but I am hearing it. You are opening the door, and you have opened it to the six California and two Hawaii ones, to eliminating secondary treatment requirements for a whole slew of other municipalities. That is a problem.

Mr. HORN. Mr. Chairman, reclaiming my time, may I say to the gentleman from New Jersey, we are not opening the door. The language is very specific. The hurdles are quite specific as to the outfalls 1 mile long, 150 feet deep, that must meet all applicable State and local water quality standards and must have an ongoing ocean monitoring plan in place. That is exactly what we have. These charts show that we are way below the level of concern.

The question if very simple, folks. For the sake of the ego of EPA, do we have the taxpayers of Los Angeles spend $400 million when it will not improve the situation one iota, because they already meet it? So the full secondary bit has been met in the pre-secondary, and that is why we should not be spending $400 million more.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. HORN. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding. Let me say I support him in his efforts to inject some common sense into this arbitrary application of law that defies science. The best scientists in the world have supported our situation in San Diego, where they say nature takes care of this; you do not have to spend $2 billion, EPA, we can spend it somewhere else where we desperately need it. Science also supports the gentleman from Long Beach.

The point is, the gentleman says this opens the door. Let me say to my friend from New Jersey, the door should always be open to reason, common sense, and science. That is precisely what we are injecting in this argument today. With all the programs, good programs, that must take reductions because of the deficit problem, the idea that you do not use common sense to reduce spending where it does not have to be done makes no sense. So I support the gentleman.

Mr. FILNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, not to beat a dead horse or a dead sewage system, as the case may be, I do rise in strong opposition to the amendment offered by my friend the gentleman from New Jersey [Mr. PALLONE].

This amendment raises the possibility that San Diego will be forced to waste, yes, waste, billions of dollars to change a sewage system that this Congress, the Environmental Protection Agency, a Federal District Court judge, the San Diego chapter of the Sierra Club, the world renowned scientists from the Scripps Institute of Oceanography, have all agreed does no harm and in fact may benefit the marine environment.

Mr. Chairman, the one-size-fits-all requirement of the Clean Water Act just does not make sense for San Diego. It does not make scientific sense, it does not make economic sense, nor does it make environmental sense. It is simply a bureaucratic requirement to provide a level of treatment that is unnecessary, costly, and provides no beneficial impact to the marine environment.

This is not simply my personal opinion. The option, as we stated over and over again, is stated by scientists from the Scripps Institute of Oceanography and from the National Academy of Sciences. It is supported by reams of scientific data collected over the years. These studies have shown there is no degradation of water quality or the ecology of the ocean due to the discharge of the plant's chemically enhanced treated waste water.

Let me point out, this is not merely a chlorine treated primary situation. This is an alternative to secondary treatment that includes a much higher level of technology that my friend, if I can yield to my friend from California [Mr. BILBRAY], might explain.

Mr. BILBRAY. Mr. Chairman, if the gentleman will yield, I think the problem is understanding the technical issues here. The fact that what was interpreted as being chlorination, San Diego is not using the chlorination.

Chemically enhanced primary treatment was actually brought to San Diego by members of the Sierra Club as a much more cost effective and environmentally safe way of getting to secondary treatment. It is where you use chemicals to remove the solids to fulfill the standard.

What it does is say look, back in the seventies we thought there was only one way to able to clean up the water. Now scientists have come up with new technologies. If we look at a 1970 car and a 1990 car, we will agree there is a difference.

The other issue, the chemical, what is called chemical enhanced primary, the fact is primary really is talking about a secondary treatment that does not use injected air and bubbling sewage around, biological activity. In a salt water environment scientists say there is no problem with this, it does the job. The only difference is the BOD, the biochemical oxygen demand, which in a deep salt water environment does not create any problem according to the scientists.

I would like to point out, too, as my colleague has, we are talking about this can only be done if the facility's discharges are consistent with the ocean plan for the State of California, one of the most strict water quality programs in the entire Nation, if not the most. So we are saying how you do it we do not mind, as long as the finished product does not hurt the environment and gets the job done.

I appreciate my colleagues who are going through a transition here. We are getting away from command and control, Washington knows the answer to everything. What we are trying to get down to is saying, local people, if you can find a better answer to get the job done that we want done, you not only have a right to do that, you have a responsibility, and we will not stand in the way of you doing that.

I would like to point out that the monitoring continues. If there is a pollution problem, if the EPA sees there is a hassle, if the monitoring problem shows there is an environmental problem, this waiver immediately ceases and we go back to the same process. That should assure everyone who cares about the environment.

Mr. FILNER. Mr. Chairman, reclaiming my time, I do want to thank the chair of the Committee on Transportation and Infrastructure for understanding the issues for San Diego, for helping us last year get our waiver, and for guaranteeing a success this year.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, I would like my colleagues in the Congress to recognize that this has been an issue that has been before the Congress for as long as I have served in Congress, for 12 years and more. We have been working on this issue of trying to resolve the problems that San Diego has had. If we are to follow the general policy that is now taking place in the Congress, where we evaluate every requirement and every mandate and every regulation on the basis of cost-benefit analysis, there is absolutely no question that we would never impose a multibillion-dollar process on San Diego.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. FILNER] has expired.

(By unanimous consent, Mr. FILNER was allowed to proceed for 1 additional minute.)

Mr. FILNER. Mr. Chairman, I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, there is no way that this project, as it would be required to go to secondary treatment, could possibly pass a cost-benefit analysis, and thus we ought to really allow the flexibility that the gentleman from Pennsylvania [Mr. SHUSTER] has put in the bill that would allow the City of San Diego to meet their requirements in an environmentally sound way.

I strongly urge that the Congress approve the bill as it is written and reject this amendment. There is a bipartisan issue for this. The entire delegation from San Diego, of whom I am one, has recommended we disapprove this amendment. It is certainly important to us that we do not impose a $12 billion cost on the people of San Diego.

Mr. Chairman, I rise in opposition to Mr. PALLONE's amendment to the clean water reauthorization bill. This amendment plays right into the environmentalists' chicken little cries that our environmental protection system is falling. On the contrary, chairman Shuster's amendments to the clean water bill provide communities the flexibility they need to better protect our natural resources.

Specifically, Mr. PALLONE claims that allowing San Diego a permanent waiver to the EPA's burdensome secondary sewage requirements jeopardizes southern California's water resources. The facts just do not support this assertion.

San Diego's location on southern California's beautiful coastline allows the city to take advantage of deep ocean outfall capabilities. Scientific studies conclude that San Diego's sewage treatment efforts are both effective and environmentally sound. In fact, the surrounding ecosystem flourishes partly as a result of the outfall effluence.

Yet, the EPA continues to shove their Federal mandates from Washington down the throats of San Diego taxpayers. They continue to require San Diego to spend up to $12 billion on an unnecessary and potentially environmentally damaging secondary sewage treatment plant.

Year after year, San Diego officials battle Federal bureaucrats who require the city to submit a costly, time consuming waiver application. The last one cost $1 million and was more than 3,000 pages long. The American people are tired of this kind of bureaucratic bullying.

Far from the Chicken Little cries of the environmentalists, the American people cry out for a little commonsense. Chairman SHUSTER's bill and the San Diego waiver provision bring a level of rationality to the environmental protection process. Since I began my service in Congress, I have worked as a former member of Chairman SHUSTER's committee to do just that. Now as part of a Republican majority, I am pleased to see my efforts come to fruition.

Republicans love the environment as much as anyone. My district in southern California contains some of the most beautiful natural resources in the country. I would never vote for a bill which would damage those resources in any way. I just think the people who live on the coast, or in the forests, or canyons or grasslands have a better sense of how to protect their resources than some bureaucrat sitting in an office in Washington. The situation in San Diego demonstrates this most clearly. For that reason, I oppose Mr. PALLONE's amendment.

Mrs. FOWLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is an issue on which I would like to engage in a colloquy and get the support of the chairman of the committee. I understand that section 319(h)(7)(F) identifies the scope for which a State may use clean water grants.

Mr. Chairman, in my State of Florida, the excessive growth of nonindigenous, noxious aquatic weeds, like hydrilla, is an extremely serious impairment of our waters. Funds available for control of these weeds are presently very limited.

This provision authorizes States like Florida to utilize a portion of their nonpoint source funds, should they choose to do so, for the control of excessive growth of these nonindigenous aquatic weeds. Although this is an important use, Mr. Chairman, it is my understanding that the utilization of funds for aquatic weed control should not deplete the funds available for other nonpoint source programs. Is that the understanding of the chairman of the committee?

Mr. SHUSTER. If the gentlewoman will yield, Mr. Chairman, that is correct.

Mrs. FOWLER. I thank the chairman of the committee for his support and clarification of this section.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment. H.R. 961 is a dangerous piece of legislation for my district, which includes the beautiful Santa Monica Bay. For years the people of Los Angeles have worked to clean the bay and make it safe for swimmers, divers, and the thousands of people who eat local seafood.

The city of Los Angeles, however, deserves very little credit for this. City bureaucrats have dragged their feet and done everything they could to avoid tougher controls. But our community was so committed that it overruled the bureaucrats and twice voted by overwhelming margins to stop the Los Angeles sewage system from dumping poorly treated sewage into the bay.

As a result, we have spent over $2 billion to bring full secondary treatment to the Hyperion treatment plant. Let me repeat that, because it is important to understand our situation. We have already spent $2 billion to stop dangerous pollution. To complete the project, we need to spend $85 million more.

Well, under this bill, we will never spend that $85 million, and we will never be able to clean up the bay. H.R. 961 would overturn our local decision and relieve the sewage system from meeting its obligation under the Clean Water Act to treat sewage.

This is a bizarre situation. This Congress is going to overturn a local decision made by Los Angeles voters, and in the process throw $2 billion down the drain and condemn the Santa Monica Bay to a constant flow of sewage. Let us avoid this lunacy and vote for the Pallone amendment.

Let me point out the anomaly here. Unless we have EPA insisting that the decisions be made to protect the Santa Monica Bay, the publicly owned sewage system will not be upgraded to accomplish that result. They have dragged their feet. The local decisionmakers, the people, will be frustrated.

We need the strength of the Environmental Protection Agency to be sure that the people's will is carried out.

The gentlewoman from California [Ms. HARMAN] has indicated in her statements the points made by the assistant administrator of the EPA, where he has said in the letter to her that the bill would alter fundamentally the current processes and standards by which EPA assures that communities achieve cost-effective commonsense sewage treatment solutions.

The decision that will be made in fact if this bill is not amended by the Pallone amendment would be to undermine decisions based upon sound science. It would undermine the process of the Santa Monica Bay restoration project, which has involved so many people over many years in developing comprehensive approaches to water pollution control and infrastructure investments.

The key point is not to let government bureaucrats in Los Angeles decide to ignore what the people in the area want, which is secondary treatment so that we can protect Santa Monica Bay.

I urge that we adopt the Pallone amendment, so that it would permit the existing law that has been pursued in making that work to succeed, and that we not let the present bill, which is being proposed today, undermine what is so important for the Santa Monica Bay and all around this country, to protect the public and to overturn the last 20 years of effort to clean up polluted waters.

□ 1145

I urge support for the Pallone amendment.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let me just take issue with the theme that was offered by my friend and colleague from the Los Angeles area and apply it to our situation in San Diego.

In San Diego, we have the Scripps Institute, as has been said a number of times by the gentlemen from California, Mr. FILNER and Mr. BILBRAY and Mr. PACKARD, the best scientists in the world with respect to oceanography. Those scientists over many years have affirmed and reaffirmed that you do not need to do this $2 billion treatment program for the cleaning of San Diego sewage.

We have literally thousands of projects throughout the country where you do have pollution problems, where you are begging for dollars.

In the defense nuclear weapons complex, we have a $6 billion budget that has been submitted to us by the Clinton administration to clean up the nuclear waste that has been reposited through the years at our defense weapons installations.

You have a lot of places where we can use this money. Here we have our own scientists, the best scientists in the world, who are not rebutted scientifically by anybody, saying, you do not have to spend $2 billion doing this.

I have been in these meetings with EPA over the years, as Mr. BILBRAY has. The basic theme that has come from them time and again in the meetings has been, we do not care what the scientists say. You have got to do it because it is the law.

Here we are affording our colleagues and the taxpayers to do what is right, to do what is consistent with science, to do what is consistent with public safety and to save $2 billion. If we cannot understand that this blind adherence to this rigid philosophy that has made EPA frankly an enemy of many communities in this country, if we cannot understand that this philosophy needs to be changed, then we are going to be spending billions in the future that we do not need to spend.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding to me.

I do want to make a clear distinction between the San Diego situation and the Los Angeles-Santa Monica Bay situation. Under existing law, San Diego can get a waiver, and I think you are making an excellent case for that waiver. But if this bill becomes law, places like Santa Monica Bay, which should not be excused from secondary treatment, would be disadvantaged. You are taken care of, but the bill, without the Pallone amendment, disadvantages Los Angeles and other communities around this country where good science would indicate that we ought to have the secondary treatment.

Mr. HUNTER. As I understand it, this permanentizes our waiver. If we do not achieve it, we will be back in the same boat perhaps in a year or two begging the Federal Government not to force us to spend in San Diego several billions of dollars.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, I would point out that in each section, the facility discharge is subject to the ocean monitoring program acceptable to Federal and State regulators, and it must be in compliance with the ocean plan for the State of California.

If my colleague from California feels that California's water quality board is somehow not enforcing, we have one of the most efficient water quality controls here. In fact, they pointed out in the San Diego instance that—the water quality control board has pointed out that we do fulfill their discharge requirements and that EPA would have the lead role in assessing these permits. This happens at both locations. I think the problem is we are talking about chemically enhanced primary, does it fulfill the intention of Congress of cleaning up the pollution?

The BOD, which is what it does not address, does not apply, is not needed in a saltwater deep outfall. It does in an estuary like the shallow waters of San Francisco and in the lakes and rivers. But here what we get down to is, is Congress worried about the environment or is it a command and control thing; we made a decision that there was a certain way you treated sewage and if somebody has a different way that does the job cheaper, we do not care. We will not allow them to do it because we figure there is only one way to get the job done.

All of the regulatory agencies, the EPA, let me point out, the EPA not only is impressed with San Diego's jump on monitoring. The Federal Government, EPA has hired the city of San Diego's monitoring system to monitor the entire northern Baja.

The CHAIRMAN pro tempore (Mr. HOBSON). The time of the gentleman from California [Mr. HUNTER] has expired.

(On request of Mr. PALLONE, and by unanimous consent, Mr. HUNTER was allowed to proceed for 1 additional minute.)

Mr. HUNTER. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, my point again is that with regard to the San Diego situation, we understand that under current law you can apply for this waiver, and we have every reason to believe that you will get the waiver.

I would disagree with the gentleman from San Diego in his statement that the language of the bill in just granting the waiver outright allows at some future time for this waiver to be taken back. I do not see the ocean monitoring program as providing for that.

Leaving that aside, the point of the matter is that this legislation opens up a lot of other waivers, for LA, for a lot of other different towns. The letter that we have—and the gentlewoman from California [Ms. HARMAN] presented today from the EPA—actually says that that is not scientifically based.

I understand the arguments that are being made by the San Diego people, but I think it is distinct and they have opportunities for a waiver. There has been no evidence presented that there is any scientific basis for any of these other waivers.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. BILBRAY. The scientific data, what is called chemically enhanced primary, is equivalent to secondary treatment.

I would like to make several points about my legislation to recognize San Diego's primary advanced treatment as the equivalent of secondary sewage treatment.

Comprehensive ocean monitoring studies conducted by the city of San Diego demonstrates that the present combination of industrial waste source controls, chemically enhanced primary treatment facilities and ocean discharge facilities are highly effective at protecting the ocean environment.

Under the legislation I have introduced, the city will still be required to demonstrate that it meets the State and Federal clean water standards through the continued monitoring and testing procedures witnessed today.

As many of my California colleagues know, Mayor Golding has submitted the city's application for a waive from the secondary sewage requirement of the Clean Water Act.

The city had worked for years to get straightforward, unconditional legislation to acknowledge the scientific basis for the adequacy of our existing level of treatment. During the closing days of the 103d Congress, a compromise was ultimately accepted in the form of a free standing bill which limits the capacity of the point Loma plant and requires significant water reclamation capacity.

Failure to obtain this legislation would have meant a costly time-consuming trial on the requirement of the secondary treatment.

I would like to point out to you today what the difference between the waiver application, and my legislation, which provides permanent relief from the mandate.

Point Loma must operate under a National Pollution Discharge Elimination [NPDES] permit, issued by the Environmental Protection Agency every 5 years.

Regardless of whether the city is operating under a waiver, or an exemption as I have proposed, Point Loma must still renew its permit.

Likewise, the permit can only be reissued after a public review and hearing process is completed.

Either way, if the city is not in compliance with State or Federal standards, it would not receive its operating permit from the EPA.

The bottom line: It is more cost effective to provide the city with permanent relief from the secondary sewage requirement. The waiver application that Mayor Golding submitted to the EPA was 15 volumes long and cost $1 million dollars to assemble.

This is money which could be spent improving the existing system, or expanding it to meet future needs.

Finally, I'd like to point out that the State of California, which was a plaintiff in the Federal lawsuit against San Diego for 6 years switched sides, and became a defendant in the case, supporting the city's contention that the sewage treatment standard is needlessly stringent for San Diego. California switched sides after the city began operating the extended sewage disposal pipe, an action designed to bring the city into compliance with the State's ocean plan.

The city has currently been in compliance with the State standards for 17 months.

My legislation in no way exempts the city from the requirements and standards of the clean Water Act.

Continued monitoring and testing is explicitly provided for in order to ensure that the ocean environment is protected.

And if the State of California can be convinced that the city was acting in good faith to protect the ocean, the EPA must surely be able to recognize that the city's resources can be spent on more environmentally friendly pursuits that $1 million dollar waiver applications.

My legislation will accomplish the parallel goals of protecting our ocean environment and the taxpayer's wallet.

CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY,
Sacramento, CA, March 8, 1995.

Hon. SUSAN GOLDING,
Mayor, City of San Diego,
San Diego, CA.

DEAR MAYOR GOLDING: The purpose of this letter is to convey the California Environmental Protection Agency's support for your efforts to obtain a legislative exemption from the federal secondary treatment requirements for San Diego's Pt. Loma wastewater treatment plant.

This support is in recognition of the demonstrated ability of the Pt. Loma plant to comply with state Ocean Plan standards. The recently extended ocean outfall has been shown to be performing very well. This, in conjunction with the successful implementation of chemically enhanced treatment at Pt. Loma has given the city of San Diego a sewage treatment and disposal system fully capable of protecting the marine environment without the need for expensive secondary treatment.

The consensus statements by the scientists of the Scripps Institution of Oceanography fully support the concept of advance primary treatment for discharge in swiftly moving marine waters such as those that exist off Pt. Loma. Additionally, scientists of the National Academy of Science, after three years of study, have published conclusions that support San Diego's efforts to amend the Clean Water Act. The Academy's April 1993 study "Waste Management for Coastal Urban Areas" includes many findings applicable to San Diego's situation. The Academy concluded that the secondary treatment requirement can lead to overcontrol and overprotection along open ocean coasts. Further, the Academy stressed that the Clean Water Act does not allow regulators to adequately address regional variations in environmental systems. In the case of a deep ocean discharge, such as San Diego, they concluded that biochemical oxygen demand, pathogens, nitrogen and other nutrients were of little concern. In summary, the Academy scientists concluded that chemically enhanced primary treatment is an effective technology for removing suspended solids and associated contaminants.

The State of California concurs with the Scripps scientists as well as the National Academy of Science. Our review of your system and the extensive Ocean Monitoring Program reports further support the fact that San Diego will continue to meet all State Ocean Plan Standards for your discharge. Based on this scientific evidence, the State of California fully supports the City's request for legislation to grant an exemption from secondary treatment.

Sincerely,

JAMES M. STROCK.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION,
San Diego, CA, March 27, 1995.

DAVID SCHLESINGER,
Director, Metropolitan Wastewater Department,
San Diego, CA.

DEAR MR. SCHLESINGER: Recently there have been some questions raised about regulation of the City of San Diego's discharge through the Point Loma Ocean Outfall. Because of the length of the extended outfall, the terminus is now beyond the 3 mile offshore boundary for State waters. Nevertheless, a NPDES permit would still be required for the City's ocean discharge. However, U.S. EPA would have the lead role in the issuance of this permit.

I anticipate that the Regional Board will participate in formulating the regulations that will apply to the City's ocean discharge. This participation will most likely be either furnishing comments on the NPDES permit to be issued by U.S. EPA or the issuing of a NPDES permit for the discharge by the Regional Board. In either event, it would be my recommendation that the NPDES permit for the City's ocean discharge contain requirements consistent with the State's Ocean Plan for the effluent, receiving waters and monitoring. Further, with regard to the State's Ocean Plan, I would recommend that the receiving water limits therein apply at the boundary of the zone of initial dilution (ZID) even though the ZID is beyond the 3 mile limit.

If you have any questions, or would like to discuss this matter further, please call me at the number on the letterhead.

Very truly yours,

ARTHUR L. COE,
Executive Officer.

[From the Union-Tribune, Mar. 23, 1995]

END THE NIGHTMARE—BOXER SHOULD SUPPORT BILBRAY'S SEWAGE BILL

San Diego's multibillion-dollar sewage nightmare is on the verge of being solved. A solution has been devised in the House of Representatives in the form of a bill that would permanently exempt San Diego's sewage system from the secondary treatment mandates contained in the Clean Water Act.

It looks like this legislation, sponsored by Rep. Brian Bilbray, R-Imperial Beach, will pass the House easily. It is supported by our country's entire congressional delegation and by the House Republican leadership, including Speaker Newt Gingrich, R-Ga.

That means the crucial hurdle for the Bilbray bill will be the Senate.

On a measure that affects only one state, tradition in the Senate holds that both senators from that state must approve of the bill before it can reach the floor for a vote. So, San Diego ratepayers' hopes of avoiding what could be an extremely costly and totally unnecessary sewage upgrade rest with California Democratic Sens. Barbara Boxer and Dianne Feinstein.

Boxer in the past has shown a good grasp of this issue. She sponsored an amendment in the Senate last year that allowed San Digeo to apply for a waiver from the secondary treatment mandates in the Clean Water Act. The waiver, which the city is applying for, would have to be renewed every five years.

Boxer lobbied hard for the waiver, explaining to her colleagues that secondary treatment is unnecessary for San Diego's sewage system because of our deep ocean outfall. With San Diego city officials at here side she pointed out at public hearings that the scientific community overwhelmingly supports that contention.

The exemption now proposed by Bilbray would simply codify in perpetuity the waiver that Boxer sponsored for San Diego last year.

Local environmental groups such as the Sierra Club have opposed the exemption because they have said it wouldn't mandate the extensive ocean monitoring that the waiver requires. Upon hearing that complaint, Bilbray toughened the language on environmental monitoring in his bill.

The Sierra Club's other objection to the exemption has been that it would undermine provisions for producing reclaimed water that are contained in the waiver legislation. The exemption actually divorces the issue of water reclamation from sewage treatment, which is proper. The two are separate issues.

If scientists say San Diego doesn't need to treat its sewage to secondary standards, there's no reason it should be forced to treat some of it to an even higher standard for reclaimed water. If San Diegans want reclaimed water, that should be a local policy decision wholly separate from the issue of secondary sewage treatment.

The Bilbray measure could move to the Senate in one of two ways, either as a separate bill or as an amendment to a broader bill reauthorizing the Clean Water Act. Either way, Boxer and Feinstein should support it.

Boxer understands San Diego's sewage problems, so she should see that the exemption is even better than the waiver.

And so should Feinstein, who voted for the waiver amendment last year. With their support, San Diego's sewage nightmare could vanish.

[From the Union-Tribune, Apr. 10, 1995]

PASS THE SEWAGE BILL—FILNER, BOXER SHOULD NOT BOW TO PRESSURE

San Diego has reached a crucial turn in its long battle to escape a multibillion-dollar federal sewage mandate that scientists agree is environmentally unnecessary.

At stake is more than $3 billion in potential outlays by San Diego ratepayers to build a mammoth secondary-sewage treatment plant, as required by the federal Clean Water Act.

A measure by Rep. Brian Bilbray, R-Imperial Beach, to exempt San Diego from this exorbitant—and scientifically specious—mandate is advancing on Capitol Hill. It deserves the support of San Diego County's five representatives in the House and California's two Democratic senators, Barbara Boxer and Dianne Feinstein.

Regrettably, however, the legislation does not have the unanimous backing of our delegation in Congress.

Last week, Sen. Boxer announced her opposition to the Bilbray measure. A day later, Rep. Bob Filner, D-San Diego, said he was undecided whether to support reauthorization of the Clean Water Act, a broad bill which includes Bilbray's sewage exemption.

Filner says he backs the exemption, which he long has championed. But he has very serious reservations about other provisions in the bill. "There are significant problems with the bill overall," he says.

Consequently, Filner may vote against it when it reaches the House floor—despite the billions of dollars at stake for San Diego households.

The Democratic lawmaker was conspicuously absent last week when the House Transportation and Infrastructure Committee approved the Clean Water Act by a 42–16 vote. Filner, the only San Diego-area lawmaker on the panel, said he missed the critical vote because he had a doctor's appointment.

But political reality is that both Boxer and Filner, along with other Democratic lawmakers, are under intense lobbying pressure from environmentalists to vote against the Clean Water Act. Environmental groups such as the Sierra Club vigorously oppose San Diego's sewage exemption and other provisions of the bill which they claim would harm the environment.

But, unlike opponents of the exemption, San Diego has science on its side.

An authoritative study by the National Academy of Sciences concluded in 1993 that San Diego's current method of "enhanced primary treatment" of its sewage poses no harm to the environment. That's because San Diego discharges its sewage 4.5 miles out to sea, where the water is over 300 feet deep. A "consensus statement" signed by 33 eminent scientists at the Scripps Institution of Oceanography in La Jolla reached the same conclusion.

In the face of such evidence, Rep. Filner and Sen. Boxer should recognize that Bilbray's exemption serves the interests of not only San Diego sewage users but the environment as well. The real question is whether these two lawmakers will sacrifice good science and billions of dollars out of the pockets of San Diegans to satisfy the demands of Democratic pressure groups.

HISTORICAL REVIEW OF SAN DIEGO'S EFFORTS TO MEET THE REQUIREMENTS OF THE CLEAN WATER ACT, APRIL 1995

THE METROPOLITAN SEWERAGE SYSTEM

The Metropolitan Sewerage System serves approximately 1.8 million persons living in San Diego and in 14 other cities and sewer districts in San Diego County. Each day, 180 to 190 million gallons of sewage collected from these entities is treated at the Point Loma Wastewater Treatment Plant which is owned and operated by the City of San Diego.

The Point Loma Plant uses a settling method known as advanced primary treatment to remove approximately 80 percent of the solids from sewage. The liquid waste, or effluent, is then discharged into the Pacific Ocean through an ocean outfall pipe which originally stretched about two and a half miles into the ocean to a discharge depth of more than 200 feet. This outfall was extended to a total length of 4.5 miles with a discharge depth of 320 feet in November 1993.

Solids, or sludge, are settled out of the sewage and are discharged into "digester" tanks. Heating of the sludge within the digesters produces methane gas which is burned to generate electricity to run the Point Loma plant and to produce revenue to offset a portion of the operating costs of the plant.

The heating also reduces the volume of the sludge by half, and the remaining solids are then pumped to open-air drying beds and mechanical presses on Fiesta Island. After the sludge is dried, it is beneficially used in soil conditioners, or landfilled when necessary.

Improvements currently under way at the Point Loma Plant will increase its treatment capacity to 240 million gallons per day (mgd). An additional 100 mgd will be needed in the system by the year 2050.

THE CLEAN WATER ACT

In 1972, the federal Clean Water Act became law, and directed the EPA to adopt standards of secondary sewage treatment for all municipal wastewater dischargers. Cities and sewerage districts were originally given five years to construct facilities to meet the secondary standards, and costs were to be shared by local, state and federal governments under the Clean Water Grant Program. The deadline for compliance with the secondary treatment standards was extended several times, and eventually was set at July 1, 1988.

Under the Clean Water Act, all U.S. dischargers were required to obtain from EPA a National Pollutant Discharge Elimination System (NPDES) permit which established effluent standards for both the sewage discharge and for receiving waters. A single set of standards was adopted for all municipal dischargers whether their effluent entered a lake, stream, river, bay or ocean. This approach differed dramatically from California's existing system for setting discharge standards. Prior to the Clean Water Act, California had been operating under the Dickey Act, which allowed the Regional Water Quality Control Board to adopt the requirements for individual dischargers within their jurisdiction. The Regional Board studied the discharge and receiving water at each individual point of discharge and set the requirements for each discharger based on the specific technical data from that site. This resulted in different standards for communities which discharged into smaller bodies of water or into waters which served as drinking water supplies than for communities which discharged into the ocean.

EPA regulations under the Clean Water Act defined secondary treatment in terms of three wastewater constituents; Biochemical Oxygen Demand (BOD), suspended solids, and pH: 1) BOD is a measure of how much the organic material in the wastewater can be broken down by microorganisms. Thirty-day average concentrations of BOD were not to exceed limits of 30 milligrams per liter (mg/l) or 85% removal, whichever was more restrictive. In San Diego's case, because the influent concentration can be as high as 300 mg/l, the 85% removal rate yields a 45 mg/l effluent concentration. Therefore, the 30 mg/l requirement is the more stringent, and a 90% removal rate is required. 2) Suspended solids were also not to exceed thirty-day average concentration limits of 30 mg/l or 85% removal. As with BOD, the more stringent criterion is the 30 mg/l, which corresponds to approximately 90 percent removal of solids from the incoming wastewater. 3) pH is a measure of the acidity of the wastewater. A range from 6.0 to 9.0 was established for pH.

With the exception of the BOD, suspended solids and pH, the EPA relied on the water quality standards contained in the State Ocean Plan to control the numerous other constituents found in normal municipal discharge, such as microorganisms, heavy metals and organic toxic substances. In addition to the secondary requirements set by EPA, California dischargers had to meet 200 other technical requirements set by federal and state water standards.

THE METROPOLITAN FACILITIES PLAN

At the time the federal secondary treatment standards were adopted, the Point Loma discharge was operating under a State of California permit which contained no limitation for BOD pH, and a limitation of 125 mg/l for suspended solids.

San Diego received its first NPDES permit for Point Loma in 1974. The initial permit allowed the facility to continue to treat sewage at the primary level as had been practiced for more than a dozen years under the State waste discharge requirements, but directed the City to complete plans and specifications to convert to secondary treatment by January 1, 1977.

The City was awarded a federal/state Clean Water Grant in 1975 to finance the preparation of a facilities plan to convert the metropolitan sewerage system to secondary treatment. Preparation of the plan included review of comprehensive ocean monitoring data, extensive analysis of numerous primary and secondary treatment alternatives, study of various layouts of the Metropolitan Sewerage System and multiple cost estimates.

The report, referred to as the "Metropolitan Facilities Plan" was completed in January of 1977. It concluded that San Diego's primary effluent was creating virtually no adverse impacts on the ocean and that secondary treatment was not necessary at Point Loma. The consultant recommended that San Diego request a waiver from EPA's secondary treatment standards.

At the time the facilities plan was written, however, there was no provision in the Clean Water Act which authorized EPA to grant waivers from secondary treatment. Because the waiver process did not exist and there was no guarantee that San Diego could obtain one, the facilities plan also included a plan to convert Point Loma to secondary treatment.

THE SECTION 301(H) WAIVER PROCESS

While the NPDES permit for Point Loma was being renewed in 1977, San Diego began action in Congress to enable EPA to grant waivers from secondary treatment. The City was soon joined by an association of all the major municipal wastewater dischargers in the United States. In late 1977, Congress added to the Clean Water Act Section 301(h) which established the waiver process.

Section 301(h) allowed municipalities discharging wastewater to marine waters to apply for modified standards of secondary treatment. Modifications were to be granted on a case-by-case basis and were to allow the dischargers to meet comparable state standards in place of the federal secondary standards for BOD, suspended solids and pH. The municipalities had to demonstrate that sewage discharged under the modified standards protected the environment at a level comparable to sewage treated under federal secondary standards. The dischargers also had to meet all state and federal ocean water quality standards and had to protect the beneficial uses of the ocean.

THE WAIVER APPLICATION AND DUAL FACILITY PLANNING EFFORTS

San Diego filed its waiver application in September of 1979. The application asked that San Diego be allowed to meet State Ocean Plan standards which are based on advanced primary treatment of sewage as an alternative to federal standards for secondary treatment.

Concurrent to filing an application for a waiver, the City continued facility planning efforts. The Metro II facilities plan which included engineering studies for both advanced primary treatment and secondary treatment recommended a new system that would consist of a 45 mgd secondary sewage treatment plant at Point Loma and a 140 mgd secondary sewage treatment plant in the Tijuana River Valley. A major new interceptor system would convey sewage south to the border area and a new land outfall would be constructed along the Tijuana River connecting the new treatment plant with a new ocean outfall.

STATE WATER RESOURCES CONTROL BOARD'S REACTION TO THE WAIVER

After San Diego submitted its Section 301(h) waiver application to EPA, the State Water Resources Control Board assigned a very low priority to the award of federal grant money for construction of secondary treatment facilities. On May 15, 1980, the State Board resolved through Resolution No. 80–37 not to award Clean Water Grants for any ocean discharge project in excess of that needed to meet the provisions of the Ocean Plan until the Board determined that sufficient grant funds were available to justify funding of such projects.

After the resolution was adopted, numerous coastal communities throughout the state, including San Diego, modified their wastewater treatment planning to eliminate or postpone secondary treatment. Plans already completed or partially completed were shelved as the dischargers awaited the outcome of the Section 301(h) applications.

Resolution No. 80-37 is still in effect and has not been amended.

EPA'S TENTATIVE APPROVAL OF THE WAIVER

On September 23, 1981, EPA tentatively approved San Diego's waiver application, conditioned upon the issuance of a revised NPDES permit for the Point Loma discharge. The 301(h) permit was to be issued following a joint public hearing before EPA staff and the Regional Water Quality Control Board. The public hearing was held in November 1982, however, the issuance of the permit was held in abeyance to allow the EPA and Regional Board to consider the public testimony.

MEXICAN/UNITED STATES BORDER ISSUES

In April 1982, San Diego continued its facilities planning efforts by initiating a study directed toward determining a long-term solution for the Tijuana sewage discharge problem that had resulted in millions of gallons of raw sewage entering the United States from Mexico. The City Council conceptually approved in 1983, a plan for the construction of a $730 million joint international wastewater treatment and disposal system with capacity for both Tijuana and a portion of San Diego.

REVISED WAIVER APPLICATION

During the three years in which the EPA was reviewing the original waiver application, the City updated population projections. The new projections were substantially higher than those used in determining the projected sewage flows in the waiver application. When, in 1983, the EPA opened up the waiver process for a second time, the City used the opportunity to revise and resubmit its initial waiver application to include projections for sewage discharge through the year 1993, and to account for treatment of Tijuana sewage. The 1983 application reaffirmed the 1979 conclusions that secondary treatment of the Point Loma sewage discharge was not necessary to protect public health and the environment.

REVISION OF THE STATE OCEAN PLAN

While the City was filing its revised waiver application with EPA, the State Water Resources Control Board was making changes in the State Ocean Plan which would eventually have a direct impact upon the application.

In 1983, the board adopted two significant revisions to the plan:

1. Body contact bacteriological standards, the same ones formerly applied only to public bathing beaches, were adopted for all kelp beds off the California coast. This action was taken to protect those persons who SCUBA dive in the beds, and was to take effect on July 1, 1988. The law also allowed the Regional Board to examine kelp beds near sewer outfalls on a case-by-case basis and exclude them from the standards ("dedesignation") where warranted.

2. Cities were given the opportunity to apply for an exemption from the suspended solids standards under the Ocean Plan and to request to remove 60 percent rather than 75 percent of suspended solids.

Prior to the 1983 revision of the Ocean Plan, neither the City nor any public health or water quality regulatory agency had received complaints of illness among SCUBA divers in or near the Point Loma kelp beds. In 1985, the City asked the State to exclude or "dedesignate" the Point Loma kelp beds from the body-contact bacteriological standards. By excluding the Point Loma kelp beds from the new state standards, the Point Loma discharge would be subject to the original Ocean Plan bacteriological standards, as addressed in the City's 1979 and 1983 waiver applications.

The Regional Water Quality Control Board conducted public hearings on the City's request for dedesignation of the kelp beds in September and November of 1985. The Regional Board postponed a decision on the matters, however, until after the City completed further studies.

DEDESIGNATION AND WAIVER REQUESTS

A. *Dedesignation.*—After the City filed its original dedesignation request in September 1985, with the Regional Water Quality Control Board, it conducted extensive field studies of the Point Loma kelp beds and of the health of those who dive in the kelp beds. The study showed that the proposed bacteriological standards were being met in the inner portions but were frequently exceeded along the outer edges of the beds.

The accompanying health effects study showed, however, that few cases of gastrointestinal illness were reported among divers after using the Point Loma beds, and that the number of reported cases was well below the level accepted by the EPA. (The study indicated eight reported cases of illness following 1,000 dives, and the proposed EPA bacterial standards permit up to 19 cases per 1,000).

In September of 1986, the Executive Officer of the Regional Water Quality Control Board indicated at a public meeting that he would recommend against San Diego's dedesignation request because no alternate ocean standards had been developed to protect divers in the kelp beds. He also said he would recommend against the City's proposed reduction in suspended solids removal because San Diego could not demonstrate an economic necessity for it and was already removing 75 percent of sewage solids at Point Loma with existing rate revenues.

Following discussions at a Council meeting on December 9, 1986, (discussed further in following paragraphs), the City of San Diego discontinued its dedesignation request for a revision to the water quality standards on December 16, 1986.

B. *Waiver.*—On September 30, 1986, EPA announced its decision to reverse its tentative approval of San Diego's 1979 waiver application and to tentatively deny both the City's 1979 and 1983 applications. EPA cited two reasons for denying the applications: First, it cited the City's inability to comply with the new State Ocean Plan bacteriological standards scheduled to take effect in 1988. Those standards apply body-bacteriological standards, like those formerly applied only to public bathing beaches, to all kelp beds off the California coast. The EPA stated that compliance with the standards is necessary to protect the health of recreational users of the kelp beds, and concluded that the Point Loma sewage discharge "has degraded the recreational beneficial use in the kelp bed vicinity". Second, the EPA concluded that the Point Loma discharge "interferes with the protection and propagation of a balanced indigenous population" of bottom dwelling ocean organisms in the vicinity of the Point Loma outfall. In support of this conclusion, EPA noted that species of clam is found in greater abundance near the outfall discharge than away from the outfall, and a species of starfish, a brittle star, is less common near the outfall discharge point than away from the outfall. The brittle star found in reduced numbers near the outfall is one of the most common and abundant species on the Southern California shelf.

The City had until March 30, 1987 to submit a revised waiver application to EPA if it intended to continue to pursue the waiver. On November 3, the San Diego City Council authorized the City Manager to send EPA a letter of intent to file a revised application. That letter had to be submitted to EPA by November 15, 1986, or the EPA tentative denial would have become final, and a revised waiver application would not be allowed. In authoring the filing of the letter, several members of the Council cautioned that their action did not indicate support for the filing of a revised waiver application, and that such a decision would be made following a public hearing on the waiver scheduled on December 9.

SAN DIEGO'S DECISION

San Diego's City Council devoted two public hearings, one on December 9, 1986, and one on February 17, 1987, to the issue of the 301(h) waiver application versus secondary treatment. Public response at both meetings favored abandoning waiver efforts and pursuing the federally mandated secondary treatment requirements. Additionally, there was much emphasis and support placed on the potential for water reclamation and reuse if the City were to modify its sewage treatment system.

Public testimony combined with consistent negative response by the regulatory agencies placed the City of San Diego in a position requiring immediate forward action. While all the efforts of the past (waiver and facilities planning) had provided beneficial avenues to San Diego, laws as well as public opinion changed over time and it was clear that either option that the City chose would require long range planning and provisions for water reclamation.

On February 17, 1987, the decision was made to discontinue waiver efforts and comply with federal sewage treatment standards. The City immediately proceeded at full speed to implement secondary treatment and water reclamation. Immediate actions by the City included establishing an advisory committee, the Metropolitan Sewer Task Force (MSTF), to lend expertise and guidance to Council on the many issues surrounding the sewage modifications; and creating the Clean Water Program to oversee the upgrade and expansion of the sewerage system.

CONSENT DECREE DISCUSSIONS WITH EPA

Although the City was swiftly and judiciously pursuing facilities planning efforts, it was clear that the July 1, 1988 compliance deadline would not be met. Beginning in January, 1988, the City embarked on discussions with the Department of Justice, EPA, SWRCB and RWQCB to establish a realistic time schedule for compliance with the federal discharge standards. Despite the City's commitment to comply, the federal government sued the City on July 27, 1988. The State of California joined as a co-plaintiff.

From 1987 to 1989 the City carried out intensive facilities planning with a team of engineers, planners, and environmental specialists working with the community. After consolidating twenty-two alternatives into seven, the City adopted a plan that included the upgrade of the Point Loma treatment plant, the construction of a new secondary treatment plant in the South Bay, and seven new water reclamation plants located throughout the service area. This plan, called Alternative IVa, was the basis for an agreement between the City and the State and Federal governments. This agreement, called a Consent Decree, was signed by the parties in January 1990 and was lodged in federal court. The cost to implement the facilities in the Consent Decree was estimated to be $2.5 billion in 1992 dollars.

FEDERAL COURT FINDINGS, JUNE 1991

When presented with the proposed plan, Judge Rudi Brewster noted that in order to finalize the Decree, he would need to find that the plan was in the best interest of the public. He held a hearing on whether or not the present discharge at Point Loma has adverse impacts on the marine environment and found that, while there is a potential impact to divers using the kelp beds due to bacteriological contamination, there is no significant impact to the sea life surrounding the discharge. He also recognized in his findings that extension of the outfall (which has now been completed) would eliminate the contamination of the kelp beds.

Judge Brewster ruled on June 18, 1991 that the proposed Consent Decree should be deferred to January 1993. He directed that the City conduct pilot tests at the Point Loma facility to determine whether or not chemically-enhanced primary treatment could meet the secondary treatment requirements and suggested that the City pursue its best efforts to amend the Clean Water Act. He also suggested that the National Academy of Science study entitled "Wastewater Management for Coastal Urban Areas," which was due to be completed soon, be used as further guidance on the level of treatment necessary to protect the environment.

CONSUMERS' ALTERNATIVE

In May 1992 the City Council directed a reevaluation of Alternative IVa based on retaining Point Loma as an advanced primary treatment plant operating at an ultimate capacity of 240 mgd. With this change, 90 mgd of additional capacity could be provided at the Point Loma plant that would not be available if a conversion to secondary treatment had occurred as envisioned by Alternative IVa. The new plan, dubbed the Consumers' Alternative, has an estimated capital cost of $1.2 billion in 1992 dollars. At a July 10, 1992 hearing in Federal Court, Judge Brewster directed the City to proceed with the Consumers' Alternative and await the results of the pilot testing at Point Loma and the report from the National Academy of Science.

PILOT STUDY RESULTS

The City completed the 18-month pilot testing in August 1993. Its purpose was to determine whether or not chemically enhanced primary treatment could be used to bring the Point Loma Plant into compliance with the 30 mg/l effluent requirement for total suspended solids and BOD currently embodied in the Clean Water Act. The results are clear for both constituents: the 30 mg/l law to achieve secondary treatment cannot be met. As a result, the City has redoubled its efforts to amend the Clean Water Act to provide modified standards where it is demonstrated that there will be no adverse impact to the environment.

NATIONAL ACADEMY OF SCIENCE REPORT CONCLUSIONS

After three years of study the Academy released "Wastewater Management for Coastal Urban Areas" in April 1993. No specific recommendations were made regarding San Diego's wastewater treatment system, but a number of conclusions reported by the Academy support San Diego's efforts to amend the Act: (1) The secondary treatment requirement can lead to over-control and over-protection along open ocean coasts; the 1972 Clean Water Act does not allow regulators to adequately address regional variations in environmental systems. (2) In the case of deep ocean discharge where BOD, pathogens, nitrogen, and other nutrients are of little concern, and contributions of toxics and metals associated with solids are low, treatment for removal of these constituents is unnecessary. (3) Chemically enhanced primary treatment is an effective technology for removing suspended solids and associated contaminants.

FEDERAL COURT FINDINGS AND INTERIM ORDER

On March 31, 1994 Judge Rudi Brewster rejected the Consent Decree proposed in 1990 as "not in the public interest." His memorandum decision stated that the Consent Decree presents no environmental benefit, requires wasteful over-treatment, requires unnecessary sludge production, and mandates unnecessary reclamation facilities. Key testimony in the courtroom included the legislative efforts of San Diego's Council members, Senators, and Members of Congress to allow the Point Loma Treatment Plant to continue its advanced primary level of treatment.

An Interim Order issued August 26, 1994 requires San Diego to continue implementation of the Consumers' Alternative.

OCEAN POLLUTION REDUCTION ACT

After the bill received the unanimous support of the House and Senate, President Clinton signed the Ocean Pollution Reduction Act on October 31, 1994. This Act allows the City of San Diego to apply for a waiver from secondary treatment within six months and requires the EPA to complete its review of the application within one year of its receipt. It requires that San Diego commit to 45 MGD of water reclamation capacity by 2010 and that certain effluent parameters (80% suspended solids removal and 58% biological oxygen demand removal) be met. It also requires that there be fewer suspended solids discharged to the ocean at the end of the waiver period than are discharged at the beginning of the waiver period.

San Diego submitted the waiver application on April 24, 1995. EPA Administrator Carol Browner has notified San Diego that an initial assessment will be completed by about June 8, 1995 and a Tentative Decision Document will be issued by about August 7, 1995.

MAY 9, 1995.

Hon. DAVID DREIER,
Chairman, Subcommittee on Rules and Organization of the House, Committee on Rules, House of Representatives, Washington, DC.
Hon. DAVID M. MCINTOSH,
Chairman, Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR CHAIRMAN: I write to respond to a letter written by the Honorable Norman Y. Mineta, dated May 1, 1995 (the "May 1 letter") and delivered to your Subcommittees for consideration in connection with your hearing on the procedures to be used for the Speaker's "Corrections Day." In that letter, Congressman Mineta voices his concerns with H.R. 794, a bill introduced by Congressman Bilbray, that has been widely touted as a prime candidate for the Corrections Day process.

The purpose of this response is to set the record straight about San Diego's motivations, justifications and evidentiary support for H.R. 794, and further to assuage the concerns of those who mistakenly believe that H.R. 794 is ill-conceived or ill-motivated. Contrary to the message of the May 1 letter, H.R. 794 is critical to the long-term resolution of San Diego's wastewater treatment plans, and specifically the City's dispute with the Environmental Protection Agency (the "EPA") over the level of treatment necessary to protect the environment. By responding to the assertions made in the May 1 letter, I hope to educate and assure the members of Congress that by enacting H.R. 794 they are promoting fiscal and environmental responsibility.

San Diego has been pursuing environmentally sound and fiscally responsible compliance with the Clean Water Act (the "CWA") for more than two decades. Over the past four years our Congressional representatives have worked with the appropriate Congressional committees to pass legislation that would provide an opportunity to establish, once and for all, that the current level of sewage treatment at the Point Loma Treatment Plant fully protects the marine environment, and that the secondary level of treatment prescribed by the CWA does not make sense for our ocean or our ratepayers. Last year we consistently requested straightforward, unconditional legislation that would acknowledge the scientific basis for the adequacy of our existing level of treatment, but ultimately accepted compromise language that limits the capacity of the Point Loma plant and requires significant water reclamation capacity to be built. We worked hard to get this language into the CWA reauthorization; when it became clear that the CWA was not going to be reauthorized, we agreed in the closing days of Congress to the Ocean Pollution Reduction Act of 1994, a stand-alone bill that mirrored the compromise provision in the CWA. Failure to obtain this legislation by either vehicle would have meant a costly, time-consuming trial on the requirement for secondary treatment.

H.R. 794 embodies precisely the legislation we originally sought. In recent months, the House Transportation and Infrastructure Committee approved H.R. 961, which contains a coastal discharge provision for San Diego that substantially mirrors H.R. 794. We are encouraged by the bi-partisan support we received from the committee, but with the experience of last year's CWA re-authorization process still fresh in our minds, we urge you to consider H.R. 794 as equally vital to ensure that the necessary, long-awaited legislative relief is assured.

The May 1 letter authored by Congressman Mineta argues that H.R. 794 is inappropriate for consideration under Corrections Day procedures, raising in support of that argument several concerns as to San Diego's motivation, justification and evidentiary support for H.R. 794. Although I understand these arguments were addressed in the course of including the coastal discharge provision in H.R. 961, I offer the following detailed response to aid you in fully understanding San Diego's position on each of these matters.

THE NEED FOR SECONDARY TREATMENT

There is no dispute that the nationwide requirement for secondary treatment, imposed in 1972, has improved the overall quality of the nation's water. This is because most treatment plants in the country discharge into inland lakes, rivers and streams where there is limited capacity to assimilate suspended solids or biochemical oxygen demand ("BOD"). The May 1 letter notes that the city of San Jose, California, requires an even higher level of treatment than secondary to protect the environment; this, however, is because San Jose discharges into a tidal estuary in South San Francisco Bay via an open channel (not a submerged outfall pipe) into waters approximately 20 feet deep—a far different circumstance from San Diego's outfall pipe discharge into swiftly moving currents off our open coast at over 300 feet of depth and over four miles offshore. In fact, San Jose also has to have a "conditional exception" to the requirements of the Bays and Estuaries Act, which would otherwise prohibit discharges of this nature to the Bay in that area.

There is also little dispute that San Diego's current use of advanced primary treatment protects the marine environment. Among the numerous favorable findings of various scientists and agencies, I offer the following for your consideration:

The Environmental Protection Agency, in its 1981 Tentative Decision Document on San Diego's original waiver application, states that "the applicant's proposed discharge will comply with the California State water quality standards" and that "the applicant's proposed discharge will not adversely impact public water supplies or interfere with the protection and propagation of a balanced indigenous population of marine life, and will allow for recreational activities."

Judge Brewster stated, in his findings in his March, 1994 Memorandum Decisions and Order Rejecting the Proposed Consent Decree, that "the scientific evidence without dispute establishes that the marine environment is not harmed by present sewage treatment, and in fact appears to be enhanced."

The National Research Council committee on "Wastewater Management for Coastal Urban Areas" stated in its April 1993 report that "chemically enhanced primary treatment is an effective technology for removing suspended solids and associated contaminants."

Scientists from all over the country have testified in various forums, including under oath in the federal district court in San Diego, that San Diego's current level of treatment fully protects the offshore environment.

INDUSTRIAL PRETREATMENT

The May 1 letter credits secondary treatment and "the corresponding basic level of treatment for industrial discharges" with the success of the CWA. In fact, wastewater plant treatment and industrial pretreatment are two entirely separate requirements, not at all reliant on one another although they can work in concert, as they do in San Diego. San Diego's strong industrial pretreatment program is exactly what makes our sewage treatment system a model for the rest of the country. Instead of spending billion of dollars on ever higher levels of treatment, San Diego works with its industries to ensure that toxic constituents never even get into the system. As a result, San Diego has a higher quality of wastewater coming into its Point Loma plant than is required for the effluent discharged after treatment.

Part of this confusion in the May 1 letter may be attributable to a misunderstanding of what "secondary equivalency" means. San Diego's application for modified standards of secondary treatment is exactly that, and no more: a redefinition of "secondary" under certain circumstances. It is not a waiver of or an exemption from the protections of the CWA, and it is certainly not a "license to pollute." San Diego's permit under the Ocean Pollution Reduction Act—and any modified definition applied under H.R. 794—seeks modification of only two of the secondary treatment requirements: total suspended solids and BOD. All of the 200-plus other constituents that are typically measured and monitored at treatment plants across the nation will still have to conform to the secondary treatment requirements of the CWA. Because of the comprehensive and effective industrial pretreatment program currently in place, San Diego meets those standards now and would continue to meet those standards under the new law. "Secondary treatment," as currently defined in the CWA, would add nothing significantly beneficial to the process.

REASONS FOR REJECTION OF THE 1983 WAIVER APPLICATION

The May 1 letter is incorrect insofar as it implies that the State of California denied San Diego's waiver application in 1986. The state's Regional Water Quality Control Board ("RWQCB"), in a March 1985 letter, informed the City that the State had responded to the EPA with a tentative finding that "the discharge will comply with applicable state laws, including applicable water quality standards, and will not result in additional treatment, pollution control, or other requirements on any other point or non-point source." The denial was the work of the EPA, not the State. Moreover, the Tentative Decision Document issued in 1986 by the EPA clearly states that EPA's tentative denial was due to the 1983 amendment of the California State Ocean Plan that applied the same water quality standards to the offshore kelp beds as had previously been applied only to bathing beaches. This change came after the Point Loma plant had been operating for over twenty years, and led to the extension of the outfall that is currently in place. It was a change in the Ocean Plan, and not a failure of San Diego's treatment system, that led to the denial.

SAN DIEGO'S WITHDRAWAL OF THE WAIVER APPLICATION

The circumstances under which San Diego withdrew its waiver application in 1987, as referenced in the May 1 letter, must be corrected for the record. In federal court the issue was fully reviewed and the testimony demonstrated that key officials from the EPA and Regional Board convinced San Diego's mayor at that time that not only would a revised application not receive favorable review, but that the EPA would ensure that federal funds would be forthcoming to help San Diego pay for upgrade of the system to secondary treatment. In addition, those who opposed anything less than secondary treatment used sewage spills from a major pump station as a tool to convince some San Diegans to press for withdrawal of the waiver application. Unfortunately, it was never explained to the public that the two issues are in no way related, and that spending billions on secondary treatment would do nothing to prevent sewer spills or pump station break-downs (and would, in fact, take away dollars sorely needed to address those problems).[1] Based on the promises of the EPA and the concerns of a few citizens, the City Council voted 8-1 to withdraw the application, thus closing the door on San Diego's waiver unless reopened by new law.

SAN DIEGO'S "HISTORY"

The May 1 letter characterizes San Diego's "reversals" during the last 23 years, regarding whether or not to implement secondary treatment, as a failure of municipal leadership. The true history of the situation does not support that contention.

When Congress passed the law requiring secondary treatment in 1972, San Diego, along with most other municipalities in the country, began the facilities planning necessary to implement the higher level of treatment. After the appropriate environmental impact documents had been completed, the findings were that the No Project Alternative (not implementing secondary treatment) had the least environmental impact. Other municipalities discharging through long deep ocean outfalls had similar findings, and based on that, in 1977 Congress amended the Clean Water Act, adding Section 301(h), allowing for waivers from secondary treatment.

San Diego applied for a waiver in 1979 and in 1981 received a tentative approval from EPA. We were encouraged that we were on the right track. Then in 1986 the EPA reversed itself, issued a tentative denial, convinced San Diego to withdraw the waiver application, and sued the City.

San Diego pursued not just secondary treatment, but an aggressive water reclamation program, from 1988 until 1992, when it became apparent that the cost far outweighed both the need and the benefits of seven new water reclamation plants by 1999. We revised our plans, advised the court, and the court agreed, rejecting the Proposed Consent Decree that would have required these overreaching efforts. The judge cautioned, however, that the City had to obtain a change in the law, or he would be forced by existing law to put us on a schedule to implement secondary treatment. Because time was literally running out, and because Congress at the time was not receptive to the legislative relief now proposed by H.R. 794 (or its counterpart provision in H.R. 961), San Diego agreed to the conditions included in the Ocean Pollution Reduction Act. Importantly, it was never represented that with the passage of the Ocean Pollution Reduction Act, the city would abandon its efforts to obtain permanent legislative relief for its ratepayers.

Recognizing that the cost of the conditions in the Ocean Pollution Reduction Act was high, and that the compromise was not necessarily in the best long-term interests of San Diego's ratepayers, I began discussions with our Congressional delegation to enact a better bill—one that would be based on science, would give San Diego the same opportunity given to other coastal dischargers, and would continue to protect the marine environment.

San Diego's actions over the past 23 years have always been in response to changes that were made by Congress, the EPA, or both. One of the reasons for H.R. 794 is to provide some certainty to San Diego that as long as the ocean is protected, as verified by scientific testing, secondary treatment will not be required due purely to changing bureaucracies and the individuals that make them up.

SECONDARY EQUIVALENCY

The May 1 letter states that H.R. 794 would give San Diego "a permanent exemption from secondary treatment—no conditions, no review, no questions asked," and further asserts that the City would merely screen out the larger solids and add chlorine to the rest, "basically untreated sewage except for the chlorine." This contention is likewise in error. First, chemically enhanced primary treatment is, according to the National Research Council, "an effective technology for removing suspended solids and associated contaminant." San Diego does not chlorinate its effluent, as is stated in the May 1 letter, because the length and depth of its outfall precludes the need for doing so. The wastefield is completely isolated from both the kelp beds and the bathing beaches, fully protecting the health and safety of our citizens.

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[1] The further implication in the May 1 letter that the 1992 break in the outfall was somehow forecast by the EPA in 1983—or that spending billions of dollars on secondary treatment would have prevented the break—is equally unfounded.

Moreover, H.R. 794 merely allows the regulators responsible for enforcing the Clean Water Act, the EPA and the RWQCB, to deem certain discharge to be the equivalent of secondary treatment. An operating permit will still be required, and to obtain that permit the City will have to continually meet some very strict standards. Even San Jose, with its tertiary treatment level must have an operating permit issued by the EPA and RWQCB, must monitor the treatment plant and receiving waters, must have an industrial pretreatment program in place, and must renew its permit every five years. Implementing secondary treatment—or a higher level of treatment—does not exempt a plan from oversight by the regulatory agencies, nor does it exempt a plant from any of the other requirements of the CWA.

SUPPORT OF SCIENTISTS FOR CURRENT LEVEL OF TREATMENT

The assertion in the May 1 letter, that Scripps Institution of Oceanography has taken no position on H.R. 794, is true. However, every credible scientist who has taken a position on whether or not secondary treatment is needed at the Point Loma facility has supported the current level of treatment. Further, Scripps Institution of Oceanography does not, as an institution, take positions on policy issues such as this. Even so, a consensus statement signed by 33 professors and researchers employed by Scripps supports the current level of treatment, and many other scientists around the country at other prestigious academic and research institutions also support the current level of treatment. Finally, the 1933 report issued by the National Research Council, the operating arm of the National Academy of Science, solidly supports the appropriateness of less than secondary treatment for municipalities like San Diego and more than secondary treatment for municipalities like San Jose. There is ample, uncontroverted scientific support for San Diego's position.

JUDGE BREWSTER'S COMMENTS ON SAN DIEGO

The May 1 letter includes just one comment by Judge Brewster, made in 1991 when he made his Findings regarding the several changes brought by the Department of Justice on behalf of EPA. The quote refers to spills and sewer backups, for which San Diego was fined $500,000. That problem is irrelevant to the question addressed by the consideration of H.R. 794: whether or not San Diego should be required to implement secondary treatment.

In that regard, Judge Brewster in his 1994 decision rejecting the Proposed Consent Decree, said that ". . . with the new outfall, the scientific evidence without dispute establishes that the marine environment is not harmed by present sewage treatment, and in fact it appears to be enhanced . . ." He goes on to note that the National Research Council report states "that on a scientific basis, it would be wise to consider environmental differences regulating sewage treatment standards under the CWA" and that "BOD is irrelevant in deep ocean discharges because of the massive abundance of oxygen in the ocean." He reminds us that in his 1991 Findings, the same ones that Mr. Mineta references, "this Court held that the City's Point Loma discharge was not causing significant harm to the balanced indigenous population surrounding the outfall pipe." And most recently, at a May 1, 1995 hearing in his courtroom, Judge Brewster stated that "the City has aggressively moved forward to complete all of the Court-ordered projects—many ahead of schedule."

The fact is that San Diego has a well-run sewage treatment system. There have been, and will continue to be, spills occurring, as there are with every municipality in the country. However, it is noteworthy that the California Water Pollution Control Association in March 1995 awarded the City of San Diego its "Best of the Best" award for the Collection System of the Year. San Diego is making progress and will continue to do so. The money that would be spent on secondary treatment can unquestionably be better spent on pipelines and pump stations to continue our improvement of the system.

Finally, San Diego has made substantial commitments to supplementing our water supply in ways which include water reclamation. We began construction on the North City Water Reclamation Plant, a facility with a capacity of 30 million gallons per day ("MGD"), in 1993, and expect to begin operation in 1997. It is a $150 million state-of-the-art plant that will provide reclaimed water for customers in the northern part of our service area. We are also designing a 7 MGD water reclamation plant in the South Bay. As we go forward with our system-wide planning we will continually evaluate the market demand and economics that are an integral part of the viability of water reclamation.

We recognize in San Diego that the ocean is one of our most valuable assets, and we are committed to protecting it now and in the future. The existing waiver process provides temporary relief from expensive overtreatment, but will only be valid for five years. Thus, in another four years, the City will once again have to expend over $1 million to prepare another waiver application, to show once again what is already a matter of scientific fact—that secondary treatment is unnecessary and cost-ineffective for San Diego. Given the City's history of dispute with the EPA, the city is wary of having to fight further battles over this issue.

The House Transportation and Infrastructure Committee believes H.R. 794 makes sense, as evidenced by its ready willingness to include it as well in H.R. 961. This provision protects the environment, provides continuing monitoring and oversight, and welcomes public review of the permit application. The relief provided by H.R. 794 does not give San Diego a license to pollute; on the contrary, it acknowledges a continuing duty to meet strict California State Ocean Plan standards for coastal discharge. What it does provide is relief from regulators who disregard scientific fact and common sense, in favor of a strict, blind and costly adherence to ill-fitting regulations.

Thank you for this opportunity to present the facts underlying this important legislation.

Sincerely,

SUSAN GOLDING,
Mayor,
City of San Diego.

The CHAIRMAN. The time of the gentleman from California [Mr. HUNTER] has again expired.

(On request of Mr. WAXMAN, and by unanimous consent, Mr. HUNTER was allowed to proceed for 1 additional minute.)

Mr. HUNTER. Mr. Chairman, I yield to the gentleman from California [Mr. WAXMAN] who has agreed that the San Diego case is a valid one.

Mr. WAXMAN. Mr. Chairman, it seems to me the gentleman makes a very good case for San Diego and he ought to get his waiver under existing law. But the point I want to make to the gentleman, it is not in any way denigrating your case, but in our situation, the local people want the secondary treatment and the bureaucrats that are dragging their feet are local bureaucrats. So let us understand, bureaucrats are not only at the Federal level that frustrates actions that the people want.

Mr. HUNTER. Reclaiming my time, Mr. Chairman, the tie goes to the runner. We would rather have the local bureaucrats making decisions than those in Washington, DC.

Mr. BILBRAY. Mr. Chairman, if the gentleman will continue to yield, as somebody who was operating a health department, the elected officials locally that have to surf in those waters, the ones who are elected and go face to face with the citizens every day, they are the ones who know what really is happening in the ocean and they are the ones who are the most concerned and the most appropriate to be able to enforce this.

Mr. WAXMAN. Mr. Chairman, if the gentleman will continue to yield, they are the ones who have dragged their feet contrary to the will of the people who have had to vote twice to say they wanted this.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. PALLONE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 154, noes 267, not voting 13, as follows:

[Roll No. 315]

AYES—154

Ackerman
Andrews
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Forbes
Ford
Frost
Furse
Gejdenson

Gephardt
Gibbons
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (MN)
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Torres
Torricelli
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—267

Abercrombie
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Filner
Flanagan
Foley
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
Longley
Lucas
Manzullo
Markey
Martini
McCollum
McCrery
McHugh
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Williams
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—13

Barrett (NE)
Bono
Collins (GA)
Collins (IL)
McDade
McInnis
Moakley
Murtha
Peterson (FL)
Rogers
Sanford
Towns
Whitfield

□ 1212

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. McInnis against.

Mr. MARTINI changed his vote from "aye" to "no."

Mr. LAZIO of New York changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Are there additional amendments to title III of the bill?

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer amendment No. 30, as printed in the RECORD.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA:

Page 133, strike line 15, and all that follows through line 9 on page 170 and insert the following:

SEC. 322. MUNICIPAL STORMWATER MANAGEMENT PROGRAMS.

(a) STATE PROGRAMS.—Title III (33 U.S.C. 1311 et seq.) is further amended by adding at the end the following new section:

"SEC. 322. MUNICIPAL STORMWATER MANAGEMENT PROGRAMS.

"(a) PURPOSE.—The purpose of this section is to assist States in the development and implementation of municipal stormwater control programs in an expeditious and cost effective manner so as to enable the goals and requirements of this Act to be met in each State no later than 15 years after the date of approval of the municipal stormwater management program of the State. It is recognized that State municipal stormwater management programs need to be built on a foundation that voluntary pollution prevention initiatives represent an approach most likely to succeed in achieving the objectives of this Act.

"(b) STATE ASSESSMENT REPORTS.—

"(1) CONTENTS.—After notice and opportunity for public comment, the Governor of each State, consistent with or as part of the assessment required by section 319, shall prepare and submit to the Administrator for approval, a report which—

"(A) identifies those navigable waters within the State which, without additional action to control pollution from municipal stormwater discharges, cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of this Act;

"(B) identifies those categories and subcategories of municipal stormwater discharges that add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

"(C) describes the process, including intergovernmental coordination and public participation, for identifying measures to control pollution from each category and subcategory of municipal stormwater discharges identified in subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such discharges; and

"(D) identifies and describes State and local programs for controlling pollution added from municipal stormwater discharges to, and improving the quality of, each such portion of the navigable waters.

"(2) INFORMATION USED IN PREPARATION.—In developing, reviewing, and revising the report required by this subsection, the State—

"(A) may rely upon information developed pursuant to sections 208, 303(e), 304(f), 305(b), 314, 319, 320, and 321 and subsection (h) of this section, information developed from any group stormwater permit application process in effect under section 402(p) of this Act and such other information as the State determines is appropriate; and

"(B) may utilize appropriate elements of the waste treatment management plans developed pursuant to sections 208(b) and 303, to the extent such elements are consistent with and fulfill the requirements of this section.

"(3) REVIEW AND REVISION.—Not later than 18 months after the date of the enactment of the Clean Water Amendments of 1995, and every 5 years thereafter, the State shall review, revise, and submit to the Administrator the report required by this subsection.

"(c) STATE MANAGEMENT PROGRAMS.—

"(1) IN GENERAL.—In substantial consultation with local governments and after notice and opportunity for public comment, the Governor of each State for the State or in combination with the Governors of adjacent States shall prepare and submit to the Administrator for approval a municipal stormwater management program based on available information which the State proposes to implement in the first 5 fiscal years beginning after the date of submission of such management program for controlling pollution added from municipal stormwater discharges to the navigable waters within the boundaries of the State and improving the quality of such waters.

"(2) SPECIFIC CONTENTS.—Each management program proposed for implementation under this subsection shall include the following:

"(A) IDENTIFICATION OF MODEL MANAGEMENT PRACTICES AND MEASURES.—Identification of the model management practices and measures which will be undertaken to reduce pollutant loadings resulting from municipal stormwater discharges designated under subsection (b)(1)(B), taking into account the impact of the practice and measure on ground water quality.

"(B) IDENTIFICATION OF PROGRAMS AND RESOURCES.—Identification of programs and resources necessary (including, as appropriate, nonregulatory programs or regulatory programs, enforceable policies and mechanisms, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to manage municipal stormwater discharges to the degree necessary to provide for reasonable further progress toward the goal of attainment of water quality standards which contain the stormwater criteria established under subsection (h) for designated uses of receiving waters identified under subsection (b)(1)(A) taking into consideration specific watershed conditions, by not later than the last day of the 15-year period beginning on the date of approval of the State program.

"(C) PROGRAM FOR REDUCING POLLUTANT LOADINGS.—A program for municipal stormwater discharges identified under subsection (b)(1)(B) to reduce pollutant loadings from categories and subcategories of municipal stormwater discharges.

"(D) SCHEDULE.—A schedule containing interim goals and milestones for making reasonable progress toward the attainment of standards as set forth in subparagraph (B) established for the designated uses of receiving waters, taking into account specific watershed conditions, which may be demonstrated by one or any combination of improvements in water quality (including biological indicators), documented implementation of voluntary stormwater discharge control measures, or adoption of enforceable stormwater discharge control measures.

"(E) CERTIFICATION OF ADEQUATE AUTHORITY.—

"(i) IN GENERAL.—A certification by the Attorney General of the State or States (or the chief attorney of any State water pollution control agency that has authority under State law to make such certification) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a list of such additional authorities as will be necessary to implement such management program.

"(ii) COMMITMENT.—A schedule for seeking, and a commitment by the State or States to seek, such additional authorities as expeditiously as practicable.

"(F) IDENTIFICATION OF FEDERAL FINANCIAL ASSISTANCE PROGRAMS.—An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's municipal stormwater management program.

"(G) MONITORING.—A description of the monitoring of navigable waters or other assessment which will be carried out under the program for the purposes of monitoring and assessing the effectiveness of the program, including the attainment of interim goals and milestones.

"(H) IDENTIFICATION OF CERTAIN INCONSISTENT FEDERAL ACTIVITIES.—An identification of activities on Federal lands in the State that are inconsistent with the State management program.

"(I) IDENTIFICATION OF GOALS AND MILESTONES.—An identification of goals and milestones for progress in attaining water quality standards, including a projected date for attaining such standards as expeditiously as practicable but not later than 15 years after the date of approval of the State program for each of the waters listed pursuant to subsection (b).

"(3) UTILIZATION OF LOCAL AND PRIVATE EXPERTS.—In developing and implementing a management program under this subsection, a State shall, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in stormwater management.

"(4) DEVELOPMENT ON WATERSHED BASIS.—A State shall, to the maximum extent practicable, develop and implement a stormwater management program under this subsection on a watershed-by-watershed basis within such State.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) COOPERATION REQUIREMENT.—Any report required by subsection (b) and any management program and report required by subsection (c) shall be developed in cooperation with local, substate, regional, and interstate entities which are responsible for implementing municipal stormwater management programs.

"(2) TIME PERIOD FOR SUBMISSION OF MANAGEMENT PROGRAMS.—Each management program shall be submitted to the Administrator within 30 months of the issuance by the Administrator of the final guidance under subsection (l) and every 5 years thereafter. Each program submission after the initial submission following the date of the enactment of the Clean Water Amendments of 1995 shall include a demonstration of reasonable further progress toward the goal of attaining water quality standards as set forth in subsection (c)(2) established for designated uses of receiving waters taking into account specific watershed conditions by not later than the date referred to in subsection (b)(2)(B), including a documentation of the degree to which the State has achieved the interim goals and milestones contained in the previous program submission. Such demonstration shall take into account the adequacy of Federal funding under this section.

"(3) TRANSITION.—

"(A) IN GENERAL.—Permits issued pursuant to section 402(p) for discharges from municipal storm sewers, as in effect on the day before the date of the enactment of this section, shall remain in effect until the effective date of a State municipal stormwater management program under this section. Stormwater dischargers shall continue to implement any stormwater management practices and measures required under such permits until such practices and measures are modified pursuant to this subparagraph or pursuant to a State municipal stormwater management program. Prior to the effective date of a State municipal stormwater management program, municipal stormwater dischargers may submit for approval proposed revised stormwater management practices and measures to the State, in the case of a State with an approved program under section 402, or the Administrator. Upon notice of approval by the State or the Administrator, the municipal stormwater discharger shall implement the revised stormwater management practices and measures which may be voluntary pollution prevention activities. A municipal stormwater discharger operating under a permit continued in effect under this subparagraph shall not be subject to citizens suits under section 505.

"(B) ANTIBACKSLIDING.—Section 402(o) shall not apply to any activity carried out in accordance with this paragraph.

"(e) APPROVAL OR DISAPPROVAL OF REPORTS OR MANAGEMENT PROGRAMS.—

"(1) DEADLINE.—Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or revised report or management program under this section, the Administrator shall either approve or disapprove such report or management program, as the case may be. The Administrator may approve a portion of a management program under this subsection. If the Administrator does not disapprove a report, management program, or portion of a management program in such 180-day period, such report, management program, or portion shall be deemed approved for purposes of this section.

"(2) PROCEDURE FOR DISAPPROVAL.—If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that—

"(A) the proposed management program or any portion thereof does not meet the requirements of subsection (b) of this section or is not likely to satisfy, in whole or in part, the goals and requirements of this Act;

"(B) adequate authority does not exist, or adequate resources are not available, to implement such program or portion; or

"(C) the practices and measures proposed in such program or portion will not result in reasonable progress toward the goal of attainment of applicable water quality standards as set forth in subsection (c)(2) established for designated uses of receiving waters taking into consideration specific watershed conditions as expeditiously as possible but not later than 15 years after approval of a State municipal stormwater management program under this section;

the Administrator shall within 6 months of the receipt of the proposed program notify the State of any revisions or modifications necessary to obtain approval. The State shall have an additional 6 months to submit its revised management program, and the Administrator shall approve or disapprove such revised program within 3 months of receipt.

"(3) FAILURE OF STATE TO SUBMIT REPORT.—If a Governor of a State does not submit a report or revised report required by subsection (b) within the period specified by subsection (d)(2), the Administrator shall, within 18 months after the date on which such report is required to be submitted under subsection (b), prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (b). Upon completion of the requirement of the preceding sentence and after notice and opportunity for a comment, the Administrator shall report to Congress of the actions of the Administrator under this section.

"(4) FAILURE OF STATE TO SUBMIT MANAGEMENT PROGRAM.—

"(A) PROGRAM MANAGEMENT BY ADMINISTRATOR.—Subject to paragraph (5), if a State fails to submit a management program or revised management program under subsection (c) or the Administrator does not approve such management program, the Administrator shall prepare and implement a management program for controlling pollution added from municipal stormwater discharges to the navigable waters within the State and improving the quality of such waters in accordance with subsection (c).

"(B) NOTICE AND HEARING.—If the Administrator intends to disapprove a program submitted by a State the Administrator shall first notify the Governor of the State, in writing, of the modifications necessary to meet the requirements of this section. The Administrator shall provide adequate public notice and an opportunity for a public hearing for all interested parties.

"(C) STATE REVISION OF ITS PROGRAM.—If, after taking into account the level of funding actually provided as compared with the level authorized, the Administrator determines that a State has failed to demonstrate reasonable further progress toward the attainment of water quality standards as required, the State shall revise its program within 12 months of that determination in a manner sufficient to achieve attainment of applicable water quality standards by the deadline established by this section. If a State fails to make such a program revision or the Administrator does not approve such a revision, the Administrator shall prepare and implement a municipal stormwater management program for the State.

"(5) LOCAL MANAGEMENT PROGRAMS; TECHNICAL ASSISTANCE.—If a State fails to submit a management program under subsection (c) or the Administrator does not approve such a management program, a local public agency or organization which has expertise in, and authority to, control water pollution resulting from municipal stormwater sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a management program which is described in subsection (c) and can be approved pursuant to this subsection. After development of such management program, such agency or organization shall submit such management program to the Administrator for approval.

"(f) INTERSTATE MANAGEMENT CONFERENCE.—

"(1) CONVENING OF CONFERENCE; NOTIFICATION; PURPOSE.—

"(A) CONVENING OF CONFERENCE.—If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of pollution from stormwater in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute significant pollution resulting from stormwater to such portion.

"(B) NOTIFICATION.—If, on the basis of information available, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of significant pollution from stormwater in another State, the Administrator shall notify such States.

"(C) TIME LIMIT.—The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification under subparagraph (B), whether or not the State which is not meeting such standards requests such conference.

"(D) PURPOSE.—The purpose of the conference shall be to develop an agreement among the States to reduce the level of pollution resulting from stormwater in the portion of the navigable waters and to improve the water quality of such portion.

"(E) PROTECTION OF WATER RIGHTS.—Nothing in the agreement shall supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws.

"(F) LIMITATIONS.—This subsection shall not apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. The requirement that the Administrator convene a management conference shall not be subject to the provisions of section 505 of this Act.

"(2) STATE MANAGEMENT PROGRAM REQUIREMENT.—To the extent that the States reach agreement through such conference, the management programs of the States which are parties to such agreements and which contribute significant pollution to the navigable waters or portions thereof not meeting applicable water quality standards or goals and requirements of this Act will be revised to reflect such agreement. Such management programs shall be consistent with Federal and State law.

"(g) GRANTS FOR STORMWATER RESEARCH.—

"(1) IN GENERAL.—To determine the most cost-effective and technologically feasible means of improving the quality of the navigable waters and to develop the criteria required pursuant to subsection (g), the Administrator shall establish an initiative through which the Administrator shall fund State and local demonstration programs and research to—

"(A) identify adverse impacts of stormwater discharges on receiving waters;

"(B) identify the pollutants in stormwater which cause impact; and

"(C) test innovative approaches to address the impacts of source controls and model management practices and measures for runoff from municipal storm sewers.

Persons conducting demonstration programs and research funded under this subsection shall also take into account the physical nature of episodic stormwater flows, the varying pollutants in stormwater, the actual risk the flows pose to the designated beneficial uses, and the ability of natural ecosystems to accept temporary stormwater events.

"(2) AWARD OF FUNDS.—The Administrator shall award the demonstration and research program funds taking into account regional and population variations.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $20,000,000 per fiscal year for fiscal years 1996 through 2000. Such sums shall remain available until expended.

"(h) DEVELOPMENT OF STORMWATER CRITERIA.—

"(1) IN GENERAL.—To reflect the episodic character of stormwater which results in significant variances in the volume, hydraulics, hydrology, and pollutant load associated with stormwater discharges, the Administrator shall establish, as an element of the water quality standards established for the designated uses of the navigable waters, stormwater criteria which protect the navigable waters from impairment of the designated beneficial uses caused by stormwater discharges. The criteria shall be technologically and financially feasible and may include performance standards, guidelines, guidance, and model management practices and measures and treatment requirements, as appropriate, and as identified in subsection (g)(1).

"(2) INFORMATION TO BE USED IN DEVELOPMENT.—The stormwater discharge criteria to be established under this subsection—

"(A) shall be developed from—

"(i) the findings and conclusions of the demonstration programs and research conducted under subsection (g);

"(ii) the findings and conclusions of the research and monitoring activities of stormwater dischargers performed in compliance with permit requirements of this Act; and

"(iii) other relevant information, including information submitted to the Administrator under the industrial group permit application process in effect under section 402 of this Act;

"(B) shall be developed in consultation with persons with expertise in the management of stormwater (including officials of State and local government, industrial and commercial stormwater dischargers, and public interest groups); and

"(C) shall be established as an element of the water quality standards that are developed and implemented under this Act by not later than December 31, 2008.

"(i) COLLECTION OF INFORMATION.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to model management practices and measures and implementation methods, including, but not limited to—

"(1) information concerning the costs and relative efficiencies of model management practices and measures for reducing pollution from stormwater discharges; and

"(2) available data concerning the relationship between water quality and implementation of various management practices to control pollution from stormwater discharges.

"(j) REPORTS OF ADMINISTRATOR.—

"(1) BIENNIAL REPORTS.—Not later than January 1, 1996, and biennially thereafter, the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from stormwater discharges and improving the quality of such waters.

"(2) CONTENTS.—Each report submitted under paragraph (1), at a minimum shall—

"(A) describe the management programs being implemented by the States by types of affected navigable waters, categories and subcategories of stormwater discharges, and types of measures being implemented;

"(B) describe the experiences of the States in adhering to schedules and implementing the measures under subsection (c);

"(C) describe the amount and purpose of grants awarded pursuant to subsection (g);

"(D) identify, to the extent that information is available, the progress made in reducing pollutant loads and improving water quality in the navigable waters;

"(E) indicate what further actions need to be taken to attain and maintain in those navigable waters (i) applicable water quality standards, and (ii) the goals and requirements of this Act;

"(F) include recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from stormwater; and

"(G) identify the activities and programs of departments, agencies, and instrumentalities of the United States that are inconsistent with the municipal stormwater management programs implemented by the States under this section and recommended modifications so that such activities and programs are consistent with and assist the States in implementation of such management programs.

"(k) GUIDANCE ON MODEL STORMWATER MANAGEMENT PRACTICES AND MEASURES.—

"(1) IN GENERAL.—The Administrator, in consultation with appropriate Federal, State, and local departments and agencies, and after providing notice and opportunity for public comment, shall publish guidance to identify model management practices and measures which may be undertaken, at the discretion of the State or appropriate entity, under a management program established pursuant to this section. In preparing such guidance, the Administrator shall consider integration of a municipal stormwater management program of a State with, and the relationship of such program to, the nonpoint source management program of the State under section 319.

"(2) PUBLICATION.—The Administrator shall publish proposed guidance under this subsection not later than 6 months after the date of the enactment of this subsection and shall publish final guidance under this subsection not later than 18 months after such date of enactment. The Administrator shall periodically review and revise the final guidance upon adequate notice and opportunity for public comment at least once every 3 years after its publication.

"(3) MODEL MANAGEMENT PRACTICES AND MEASURES DEFINED.—For the purposes of this subsection, the term "model management practices and measures" means economically achievable measures for the control of pollutants from stormwater discharges which reflect the most cost-effective degree of pollutant reduction achievable through the application of the best available practices, technologies, processes, siting criteria, operating methods, or other alternatives.

"(l) ENFORCEMENT WITH RESPECT TO MUNICIPAL STORMWATER DISCHARGERS VIOLATING STATE MANAGEMENT PROGRAMS.—Municipal stormwater dischargers that do not comply with State management program requirements under subsection (c) are subject to applicable enforcement actions under sections 309 and 505 of this Act.

"(m) ENTRY AND INSPECTION.—In order to carry out the objectives of this section, an authorized representative of a State, upon presentation of his or her credentials, shall have a right of entry to, upon, or through any property at which a stormwater discharge or records required to be maintained under the State municipal stormwater management program are located.

"(n) LIMITATION ON DISCHARGES REGULATED UNDER WATERSHED MANAGEMENT PROGRAM.—Municipal stormwater discharges regulated under section 321 in a manner consistent with this section shall not be subject to this section.".

(b) CONFORMING AMENDMENTS TO INDUSTRIAL STORMWATER DISCHARGE PROGRAM.—Section 402(p) (33 U.S.C 1342(p)) is amended—

(1) in the subsection heading by striking "MUNICIPAL AND";

(2) in paragraph (1) by striking "1994" and inserting "2001";

(3) by adding at the end of the paragraph (1) the following: "This subsection does not apply to municipal stormwater discharges which are covered by section 322.";

(4) in paragraph (2) by striking subparagraphs (C) and (D) and by redesignating subparagraph (E) as subparagraph (C);

(5) in paragraph (3)—

(A) by striking the heading for subparagraph (A);

(B) by moving the text of subparagraph (A) after the paragraph heading; and

(C) by striking subparagraph (B);

(6) in paragraph (4)—

(A) by striking the heading for subparagraph (A);

(B) by moving the text of subparagraph (A) after the paragraph heading;

(C) by striking "and (2)(C)"; and

(D) by striking subparagraph (B);

(7) by striking paragraph (5);

(8) by redesignating paragraph (6) as paragraph (5); and

(9) in paragraph (5) as so redesignated—

(A) by striking "1993" and inserting "2000"; and

(B) by inserting after "paragraph (2)" the following: "and other than municipal stormwater discharges".

(c) DEFINITIONS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(25) The term 'stormwater' means runoff from rain, snow melt, or any other precipitation-generated surface runoff.

"(26) The term 'stormwater discharge' means a discharge from any conveyance which is used for the collecting and conveying of stormwater to navigable waters and which is associated with a municipal storm sewer system or industrial, commercial, oil, gas, or mining activities or construction activities.".

Mr. MINETA. Mr. Chairman, my amendment would strike the provision in the bill related to control of stormwater discharges, and replace it with a revised version which addresses all of the cities' concerns.

Mr. Chairman, my amendment would amend the bill to address the stormwater horror stories which have been raised by the cities and the other side, and it would continue the expectations of our constituents that industrial dischargers will continue to do their share.

Stormwater pollution from municipalities and industry has been identified as a major contributor of water quality violations by the states. In 1987, Congress enacted a comprehensive mechanism to address stormwater discharges from municipalities and industries. We approved a phased approach, allowing for flexibility in the program's implementation.

The current provision has not been without its difficulties, particularly for municipalities, and is in need of amendment. But we should not throw out the current program in its entirety for a new untested program—a program which will create huge loopholes for industry, with questionable environmental benefits.

The stormwater program has been criticized for being overly burdensome. But the question is, do we fix the burdens while maintaining environmental protection, or do we do away with the environmental protection?

I have heard my colleagues and the witnesses at our hearings talk about the need to reduce burdens, but always with the commitment to continue environmental protection. My amendment does that.

My amendment adopts the provisions of H.R. 961 related to stormwater discharges from municipalities. There would no longer be permits for municipal stormwater discharge, just like in the bill.

For nonmunicipal dischargers, my amendment continues the status quo. No new requirements are added. The amendment continues the exemption for commercial or other discharges, leaving those discharges to be regulated by States as they see fit, or to be controlled under the nonpoint source program.

Finally, like the bill reported by the committee, I would create a new $100 million program to conduct stormwater research to test innovative approaches to stormwater control.

Mr Chairman, we have heard a number of objections to the current stormwater program from the mayors and city councils. We should address them.

While I am not convinced that the municipal permitting program should be scrapped, I am willing to try something other than the current program.

But, we should not throw out the entire program and force the States to begin anew for industrial discharge. Too much valuable time and too many resources have been devoted to the effort to date.

If the amendment is adopted in its current form, States will have to begin the development of entirely new programs for the control of industrial stormwater discharges. This requirement for completely new programs will apply even in States which do not currently implement a stormwater permitting program.

While it may be appropriate to impose this burden upon the States to provide relief for a few hundred cities, I find no compelling reason to mandate that States create entirely new programs to address thousands of industrial discharges when a mechanism currently exists. It appears that water quality suffers, the States have a new mandate, but industrial polluters benefit.

Mr. Chairman, one of the recurring arguments in favor of repealing the stormwater permitting program is that the permitted entities cannot control what is put into their stormwater. If, for example, a homeowner decides to put excessive amounts of pesticide on his lawn right before it rains, that will show up in stormwater pollution. That is very difficult for a community to control. However, for industry, the industry can control what pollutants are present at their site, the industry can control the activities of its employees, and the industry can control the exposure of pollutants to precipitation.

The arguments which are used to justify relief for municipalities just do not hold up for industrial stormwater. Let us make the program work, ease the burdens upon cities, and address our Nation's water pollution problems in a responsible manner.

Support my amendment to give relief to the cities, but assure that industry does its share.

□ 1215

Mr. SHUSTER. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, this amendment should be soundly defeated, because it really destroys our effort to reform the stormwater provisions in the bill.

We have provided for State-developed stormwater management programs. Under this amendment, private firms would continue to be regulated or unregulated, depending on the standard industrial classification code of the industry, not on whether or not it contributed pollution to stormwater discharges. This is another example of regulatory overkill, of one-shoe-fits-all.

As a result, if a company falls within a particular industry code, under this amendment it would have to get a stormwater permit even, and get this, even if the company happens to be located in an office suite and has no outside facilities. It makes no sense.

This amendment leaves this broken program in place for over 7 million commercial and smaller industrial facilities that are covered by the stormwater permitting program today, merely extending the permit deadline until the year 2001. This amendment also would fragment the Stormwater Program into two parts, increasing rather than decreasing the bureaucracy.

In contrast, our bill provides the needed regulatory relief and will protect the environment from stormwater discharges. Our bill repeals section 402(p) and regulates stormwater in a manner similar to other nonpoint sources and discharges. However, unlike the section 319 nonpoint program, our Stormwater Program will require enforceable pollution prevention plans. If necessary, the program also provides for the general and site specific permits.

I would emphasize that we have a letter from the association of State and Interstate Water Pollution Control Administrators strongly supporting our provision in the bill and opposing this amendment.

Mr. Chairman, I urge the defeat of this amendment.

The CHAIRMAN pro tempore (Mr. HOBSON). The question is on the amendment offered by the gentleman from California [Mr. MINETA].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote

A recorded vote was ordered.

The votes was taken by electronic device, and there were—ayes 159, noes 258, not voting 17, as follows:

[Roll No. 316]

AYES—159

Abercrombie
Ackerman
Andrews
Baesler
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Collins (MI)
Conyers
Coyne
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Green
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Pomeroy
Rahall
Reed
Reynolds
Richardson
Rivers
Roemer
Ros-Lehtinen
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Thurman
Torres
Torricelli
Tucker
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—258

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rohrabacher
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—17

Baldacci
Bono
Brown (FL)
Collins (GA)
Collins (IL)
Hall (OH)
McNulty
Metcalf
Moakley
Murtha
Peterson (FL)
Rangel
Rogers
Smith (MI)
Torkildsen
Towns
Whitfield

□ 1243

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Bono against.

Mr. MEEHAN changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman I offer and amendment, amendment No. 44.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PALLONE:

Page 72, strike line 20 and all that follows through line 18 on page 73 and insert the following:

(b) BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH.—

(1) WATER QUALITY CRITERIA AND STANDARDS.—

(A) ISSUANCE OF CRITERIA.—Section 304(a) (33 U.S.C. 1314(a)) is further amended by adding at the end the following:

"(13) COASTAL RECREATION WATERS.—(A) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue within 18 months after the effective date of this paragraph (and review and revise from time to time thereafter) water quality criteria for pathogens in coastal recreation waters. Such criteria shall—

"(i) be based on the best available scientific information;

"(ii) be sufficient to protect public health and safety in case of any reasonably anticipated exposure to pollutants as a result of swimming, bathing, or other body contact activities; and

"(iii) include specific numeric criteria calculated to reflect public health risks from short-term increases in pathogens in coastal recreation waters resulting from rainfall, malfunctions of wastewater treatment works, and other causes.

"(B) For purposes of this paragraph, the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar primary contact purposes.".

(B) STANDARDS.—

(i) ADOPTION BY STATES.—A State shall adopt water quality standards for coastal recreation waters which, at a minimum, are consistent with the criteria published by the Administrator under section 304(a)(13) of the Federal Water Pollution Control Act not later than 3 years following the date of such publication. Such water quality standards shall be developed in accordance with the requirements of section 303(c) of the Federal Water Pollution Control Act. A State shall incorporate such standards into all appropriate programs into which such State would incorporate water quality standards adopted under section 303(c) of the Federal Water Pollution Control Act.

(ii) FAILURE OF STATES TO ADOPT.—If a State has not complied with subparagraph (A) by the last day of the 3-year period beginning on the date of publication of criteria under section 304(a)(13) of the Federal Water Pollution Control Act, the Administrator shall promulgate water quality standards for coastal recreation waters for the State under applicable provisions of section 303 of the Federal Water Pollution Control Act. The water quality standards for coastal recreation waters shall be consistent with the criteria published by the Administrator under such section 304(a)(13). The State shall use the standards issued by the Administrator in implementing all programs for which water quality standards for coastal recreation waters are used.

(2) COASTAL BEACH WATER QUALITY MONITORING.—Title IV (33 U.S.C. 1341–1345) is amended by adding at the end thereof the following new section:

"SEC. 406. COASTAL BEACH WATER QUALITY MONITORING.

"(a) MONITORING.—Not later than 9 months after the date on which the Administrator publishes revised water quality criteria for coastal recreation waters under section 304(a)(13), the Administrator shall publish regulations specifying methods to be used by States to monitor coastal recreation waters, during periods of use by the public, for compliance with applicable water quality standards for those waters and protection of the public safety. Monitoring requirements established pursuant to this subsection shall, at a minimum—

"(1) specify the frequency of monitoring based on the periods of recreational use of such waters;

"(2) specify the frequency of monitoring based on the extent and degree of use during such periods;

"(3) specify the frequency of monitoring based on the proximity of coastal recreation waters to pollution sources;

"(4) specify methods for detecting short-term increases in pathogens in coastal recreation waters;

"(5) specify the conditions and procedures under which discrete areas of coastal recreation waters may be exempted by the Administrator from the monitoring requirements of this subsection, if the Administrator determines that an exemption will not impair—

"(A) compliance with the applicable water quality standards for those waters; and

"(B) protection of the public safety; and

"(6) require, if the State has an approved coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), that each coastal zone management agency of the State provide technical assistance to local governments within the State for ensuring that coastal recreation waters and beaches are as free as possible from floatable materials.

"(b) NOTIFICATION REQUIREMENTS.—Regulations published pursuant to subsection (a) shall require States to notify local governments and the public of violations of applicable water quality standards for State coastal recreation waters. Notification pursuant to this subsection shall include, at a minimum—

"(1) prompt communication of the occurrence, nature, and extent of such a violation, to a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which a violation is identified; and

"(2) posting of signs, for the period during which the violation continues, sufficient to give notice to the public of a violation of an applicable water quality standard for such waters and the potential risks associated with body contact recreation in such waters.

"(c) FLOATABLE MATERIALS MONITORING PROCEDURES.—The Administrator shall—

"(1) issue guidance on uniform assessment and monitoring procedures for floatable materials in coastal recreation waters; and

"(2) specify the conditions under which the presence of floatable material shall constitute a threat to public health and safety.

"(d) DELEGATION OF RESPONSIBILITY.—A State may delegate responsibility for monitoring and posting of coastal recreation waters pursuant to this section to local government authorities.

"(e) REVIEW AND REVISION OF REGULATIONS.—The Administrator shall review and revise regulations published pursuant to this section periodically.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

"(2) the term 'floatable materials' means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.".

(3) STUDY TO IDENTIFY INDICATORS OF HUMAN-SPECIFIC PATHOENS IN COASTAL RECREATION WATERS.—

(A) STUDY.—The Administrator, in co-operation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct an ongoing study to provide additional information to the current base of knowledge for use for developing better indicators for directly detecting in coastal recreation waters the presence of bacteria and viruses which are harmful to human health.

(B) REPORT.—Not later than 4 years after the date of the enactment of this Act, and periodically thereafter, the Administrator shall submit to the Congress a report describing the findings of the study under this paragraph, including—

(i) recommendations concerning the need for additional numerical limits or conditions and other actions needed to improve the quality of coastal recreation waters;

(ii) a description of the amounts and types of floatable materials in coastal waters and on coastal beaches and of recent trends in the amounts and types of such floatable materials; and

(iii) an evaluation of State efforts to implement this section, including the amendments made by this section.

(4) GRANTS TO STATES.—

(1) GRANTS.—The Administrator may make grants to States for use in fulfilling requirements established pursuant to paragraphs (1) and (2) (including any amendments made by such paragraphs).

(B) COST SHARING.—The total amount of grants to a State under this paragraph for a fiscal year shall not exceed 50 percent of the cost to the State of implementing requirements established pursuant to such paragraphs.

(5) DEFINITIONS.—In this subsection—

(A) the term "coastal recreation waters" means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

(B) the term "floatable materials" means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator—

(A) for use in making grants to States under paragraph (4) not more than $3,000,000 for each of the fiscal years 1996 and 1997; and

(B) for carrying out the other provisions of this subsection not more than $1,000,000 for each of the fiscal years 1996 and 1997.

Page 204, line 14, strike "406" and insert "407".

Mr. PALLONE. Mr. Chairman, my amendment provides for a national uniform beach water quality testing and monitoring program that provides adequate protection for swimmers and flexibility for the States. It is basically oriented toward providing, if I could call it, a right-to-know for bathers and swimmers in the Nation's waters that they should know when the beach water quality is such that they should not be bathing in those particular waters or at that particular beach.

□ 1245

Again, the amendment provides for a nationally uniform beach water quality testing and monitoring program for bathers and swimmers, essentially to assure that bathers and swimmers on the Nation's beaches have a right to know and should know when the beaches are of such quality that they should not be swimming there.

The reason we need this amendment is because coastal areas are the most populated areas of the country and also the areas most rapidly being developed. The growth in population demands on sewer systems are extreme and have resulted in overflows contaminating coastal waters with human waste. This human waste is the leading cause of human health problems in coastal waters.

The coastal economy and the economy of our Nation in general is inextricably linked to the quality of our coastal waters. Coastal tourism, recreation, commercial fishing are all mutibillion-dollar industries and create thousands of jobs. The health and safety of coastal residents and visitors to coastal waters depend on it.

States have highly inconsistent water quality standards for sewage contamination, beach water quality testing, and beach closing standards and criteria. Monitoring in some States is completely absent. Most States have not even adopted EPA's recommended testing methods.

Essentially, this amendment is based on the Beaches, Environmental Assessment, Closure and Health Act of 1993, long championed by our former colleague, Mr. Hughes from New Jersey.

This language which we have in the amendment today enjoyed broad-based support and passed overwhelmingly, I stress overwhelmingly, in the House in the 101st and 102d Congresses. The amendment provides for a national uniform beach quality testing program. It requires the EPA to issue regulations on procedures to monitor coastal recreational waters, but it provides the States with flexibility in the way that they go about the monitoring program. It also establishes minimum standards to protect the public from pathogen contaminated waters and requires States to post signs at beaches alerting beachgoers whenever standards are violated.

It also requires the EPA and NOAA to conduct a study to develop better indicators for detection pathogenic risk to human health and guidance of marine debris, the floatables that many of us know occur, continue to occur, but really were a major cause for our beach closings in New Jersey back in 1987 and 1988.

Mr. Chairman, the focus of the bill basically is to ensure States have in place adequate beach testing programs. We provide authorization of $1 million to the EPA to carry out its responsibility and $3 million for States to have matching grants so that they can also follow up on this beach water quality and monitoring program.

Again, I would stress the lack of uniformity around the country with regard to beach closings is a major problem. In my own State of New Jersey, we do have a very good program that has moved forward in terms of monitoring beaches and making sure that they are closed when the water quality level if unacceptable for swimmers and bathers.

However, this is not the case nationally, and I would urge this amendment be passed so that, as I said, again, our bathers and swimmers and tourists that use the coastal waters of this Nation will know when it is safe to swim.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the gentleman's amendment, which is a mandate on States to monitor beaches and incorporates criteria for pathogens on the State water quality standards, and this would appear to me to be maybe one of the first examples we would have of a potentially unfunded mandate.

I wanted to address the author of the amendment with regard to the funding of this, whether any consideration has been given, or CBO has been asked to give, any sort of estimate as to what the cost of this might be applied nationwide.

Mr. PALLONE. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. PALLONE. I would say, first of all, again, I would point out that this amendment is exactly the same as legislation that passed in the last two Congresses and that there were estimates made. The funding provided in the bill for the grant programs is basically in there to provide adequate funding for the States on a matching grant basis to do this kind of monitoring.

Now, again, I am not saying a lot of States do not already do this. Some do, some do not. What we are trying to do is provide uniform criteria and provide the States with some funding so that they can administer the program.

Mr. CLINGER. Reclaiming my time, I understand that while the amendment did pass in the previous two Congresses, it was given very minimal debate. We really have had not a full-scale discussion of this issue.

I would also point out that in the last two Congresses we did not have on the books, albeit not applicable, we did not have on the books an unfunded mandates statute.

Mr. PALLONE. I would point out to the gentleman that, you know, again, from a procedural point of view, that unfunded mandate legislation, of course, does not go into effect until next year. But I would maintain there is adequate funding in this bill, at least the authorization for it, to provide adequate funding to the States to do this type of monitoring.

Mr. CLINGER. It strikes me there are analogies here to the Great Lakes initiative where we have had some indication what the cost might be, but the costs became wildly beyond anybody's wildest dreams what it might actually involve.

At any rate, Mr. chairman, I must oppose the amendment, as the gentleman from New Jersey has indicated, that that State, New Jersey, has adopted pathogen criteria on their water quality standards. That is certainly something every State can and perhaps should consider, but what this amendment would do would be to force that, would make other States do precisely the same thing.

As I say, New Jersey may, and obviously does, consider it useful to have pathogen criteria, but other States may disagree or may have different criteria that they would prefer to pursue.

Point sources do not discharge pathogens. It is a very difficult task, sometimes almost impossible, to determine the source, so it is really unclear how a State may meet a pathogen standard if forced to adopt one, which this amendment would ultimately require, a forced adoption of pathogen standards.

So New Jersey may, indeed, think it is useful to monitor beaches. Other States may agree, and certainly that would be, in my personal idea, would be a good idea, but to force them under this, in this mechanism, I think is wrong.

H.R. 961 does, I would point out, acknowledge the importance, extreme importance, of monitoring by requiring EPA to develop monitoring guidance, to give guidance to the States on how to go about monitoring, but it is not a mandate. It is not something that is going to be forced, assuming again into Washington total wisdom, total knowledge how to do this. We have enough mandates already.

Mr. Chairman, I urge a "no" vote.

Mr. TORRICELLI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there have been some Government programs we have seen throughout the years that have worked. We have seen some that have failed.

But few, from the perspective of my State of New Jersey, have been as successful as our ocean testing and monitoring program.

Since 1974, the State of New Jersey has developed a program to ensure to those who visit our beaches, those in our $18 billion tourist industry, if you swim in the waters off our shore, it is safe, it is clean, it is a place you would want to take your family. Today, 180 different locations and 143 bays and rivers are monitored continuously to assure that level of safety, and to anyone who in any summer visits those ocean locations, there is a perceptible and an overwhelming difference in the quality of the water and the enjoyment of your vacation time at a New Jersey resort.

We did it, Mr. Chairman, because we had no choice. There were allegations of sickness, implications of health, and, indeed, the economic losses were mounting. Restoring confidence to families and to business became critical.

In the last Congress, the Members of this institution recognized the success of this program and overwhelmingly, Democrats and Republicans, 320 strong, voted to have just such a program across the country. They were right then. The gentleman from New Jersey [Mr. PALLONE] is right now.

This is a program we should have on a national basis. It makes about as much sense, Mr. Chairman, for one State to have ocean monitoring and another not to have it as if the States would have individual air quality standards. It is only a few miles from the beaches of Coney Island, NY, to the beaches of Sandy Hook, NJ. If one State will have high standards and monitor and attempt to assure a quality of water and another State will not, it is no more than a swift breeze, an ocean current away from one State violating the standard of another.

Indeed, it goes to the very issue of federalism. These are the kinds of standards that were contemplated in forming a union to assure uniformity, safety for all of the States and their interests.

I trust, Mr. Chairman, that in each of our States we recognize the potential loss economically and in quality of life if people lose confidence in the basic American right on a weekend or a summer afternoon to take your child and your family to a beach. That is what life is all about, and if the Federal Government can mean anything to our families, for all of the excesses of other things it has done, all the programs that did not work, all the things we should eliminate, do we really want to go so far that as a Federal Government we cannot say to an individual American family, "We will assure you you will know when your child walks into an ocean resort, that water will be safe and it will be to the highest standards, whether it is the Oregon, California, New York, New Jersey or Florida"? That is what the gentleman from New Jersey [Mr. PALLONE] asks, and almost to the person, Democrats and Republicans, have voted for exactly that in the past.

Today, we ask you to do so again.

I congratulate the gentleman from New Jersey [Mr. PALLONE] for offering this amendment. I am very proud to have joined with him in his sponsorship, and I am very proud that my State uniquely has taken the lead in setting these high standards.

Mr. Chairman, the alternative situation is this: Some States will offer their citizens no assurance at all. Twenty-two other States will have 11 different standards, conflicting, lower but without any minimum Federal guarantee. As we offer this for the air we breathe and the water we drink, the ocean that would receive our families should have no less.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

I will not take the 5 minutes.

I simply rise in strong opposition to this.

New Jersey certainly can impose whatever regulatory requirements they have, but to mandate what New Jersey says is good for New Jersey on the other 49 States, I think, is wrong.

We have required EPA to develop monitoring guidance, but not a mandate. This is just one mandate, and it should be defeated.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the gentleman's amendment.

Water pollution at beaches poses a special health problem because these are the places where people, including numerous children, come into direct contact with dirty water. With little protection, and sometimes without warning, people are exposed to serious water-borne diseases.

Coastal waters are also particularly susceptible to pollution because virtually all of the water eventually drains to the sea. As water flows toward the coast, pollutants are picked up and become increasingly concentrated. The result is a very serious health problem and a very serious environmental problem.

This amendment provides very necessary protection to the public who visits our coastal recreation areas. It would require EPA to issue water quality criteria for pathogens, and States to establish water quality standards, in these areas. It would also require a State program to monitor beach water quality, and to notify local governments and the public of violation of applicable water quality standards.

This is the approach that has brought us most of the improvement in water quality under the Clean Water Act to date. We should expect it to be equally effective in addressing beach water pollution problems.

Mr. Chairman, I urge adoption of the Pallone amendment.

☐ 1300

Mr. PALLONE. Mr. Chairman, I thank the gentleman for yielding. I will be brief. My only point is essentially I believe that this amendment, more than anything else, is what I call a right-to-know amendment. In other words, when people are swimming or bathing, they should know whether the water quality is clean enough. I do not think it matters whether you are in New Jersey or any other State. The problem is, without some sort of national standard and program for testing, with flexibility for the individual States about how they go about it, there is no way for a bather or swimmer to know when they are swimming whether the water quality is adequate.

The CHAIRMAN pro tempore (Mr. HOBSON). The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. PALLONE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 251, not voting 8, as follows:

[Roll No. 317]

AYES—175

Ackerman
Andrews
Baldacci
Barcia
Becerra
Beilenson
Bentsen
Berman
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mineta
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Torkildsen
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—251

Abercrombie
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Bono
Collins (IL)
Laughlin
Miller (CA)
Moakley
Norwood
Peterson (FL)
Rogers

☐ 1320

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Bono against.

Mr. BAESLER changed his vote from "aye" to "no."

Mr. FRANK of Massachusetts and Mrs. KENNELLY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. HOBSON). Are there further amendments to title III of the bill?

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment, amendment No. 36.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA: Page 170, line 19, strike "issuing".

Page 170, line 20, before "any" insert "issuing".

Page 170, line 24, strike "or".

Page 171, line 1, before "any" insert "issuing".

Page 171, line 3 strike the period and insert a semicolon.

Page 171, after line 3, insert the following:

"(3) granting under section 301(g) a modification of the requirements of section 301(b)(2)(A);

"(4) issuing a permit under section 402 which under section 301(p)(5) modifies the requirements of section 301, 302, 306, or 307;

"(5) extending under section 301(k) a deadline for a point source to comply with any limitation under section 301(b)(1)(A), 301(b)(2)(A), or 301(b)(2)(E) or otherwise modifying under section 301(k) the conditions of a permit under section 402;

"(6) issuing a permit under section 402 which modifies under section 301(q) the requirements of section 301(b), 306, or 307;

"(7) issuing a permit under section 402 which modifies under section 301(r) the requirements of section 301(b), 306, or 307;

"(8) renewing, reissuing, or modifying a permit to which section 401(o)(1) applies if the permittee has received a permit modification under section 301(q) or 301(r) or the exception under section 402(o)(2)(F) applies;

"(9) extending under section 307(e) the deadline for compliance with applicable national categorical pretreatment standards or otherwise modifying under section 307(e) pretreatment requirements of section 307(b);

"(10) waiving or modifying under section 307(f) pretreatment requirements of section 307(b);

"(11) allowing under section 307(g) any person that introduces silver into a publicly owned treatment works to comply with a code of management practices in lieu of complying with any pretreatment requirement for silver;

"(12) establishing under section 316(b)(3) a standard other than best technology available for existing point sources;

"(13) approving a pollutant transfer pilot project under section 321(g)(1); or

"(14) issuing a permit pursuant to section 402(r)(1) with a limitation that does not meet applicable water quality standards.

Mr. MINETA. Mr. Chairman, I want to thank the Chairman for his diligence in chairing the Committee of the Whole House.

Mr. Chairman, this bill would allow new waivers for as many as 70,000 chemical pollutants, waivers which would allow some to trade air pollution credits in one area for the right to dump extra pollution into the river in another area, waivers to industrial polluters discharging into municipal sewer systems, waivers for innovative technologies, waivers for mining, pulp and paper, iron and steel, photo processing, food processing, electric power, cattle, oil and gas, and waivers from water quality standards if you say you are in a watershed. And this is not an exhaustive list.

As a result, an enormous number of decisions are going to have to be made about waivers, and those decisions taken together will have an enormous effect on the environment and on the costs of compliance. In fact, taken all together, these decisions on all these waiver requests will be very important regulatory decisions.

There has been a lot of talk in recent months about cost-benefit analysis and risk assessment, and how important these tools are when making regulatory decisions involving tradeoffs between costs and benefits. Many have defended the new cost-benefit and risk assessment proposals as better ways to make regulatory decisions, and they have denied that they were merely trying to hamstring the issuance of new regulations.

Here's our chance to show what it is that we really mean. The waiver decisions in H.R. 961 would constitute important regulatory decisions and they should be subject to an assessment of the risks they pose. My amendment would apply risk assessment to those aspects of the bill where it is most desperately needed.

Opponents of this amendment will say that there is no need to apply the risk assessment provisions to these waivers since the risk assessment will have been done in establishing the original standard from which the waiver is granted. But that argument just further justifies my amendment.

When the basic requirements from which waivers are requested are put in place, a risk assessment determined that the required measures were justified by the risks which would be avoided. Now, under the bill, industry will have the opportunity to do less than the basic standard—the standard which the risk to be addressed justified. If undertaking the basic requirement is justified by the reduction of risk, shouldn't we know what the risks are of doing something less than what has been determined to be justified? Sound risk assessment demands no less.

My amendment expands the use of risk assessment under the bill. This amendment would simply say that in making the decision to grant these waivers, EPA should do the same risk assessment that this bill would require of many other regulatory decisions. If it's a good way to make regulatory decisions, then let's use it. We owe it to our constituents to be able to say that when industry receives a waiver from the basic, minimum requirements of the Clean Water Act, we required that there be an assessment of the risks posed by such a waiver.

Support my amendment to achieve consistency in and expand the use of risk assessment.

Mr. MICA. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I greatly respect the gentleman from California and his leadership on many issues in the transportation and public works arena, but I rise this afternoon in strong opposition to the amendment he has proposed.

Let me say first of all that this amendment was very soundly rejected in the committee by a very large and wide bipartisan majority of 38 to 18. Earlier in the debate, the chairman of the committee, the gentleman from Pennsylvania [Mr. SHUSTER], referred in his comments on the floor to the liberals big lie strategy to try and defeat this bill.

This amendment is predicated on one of the small fibs that makes up the big lie strategy, I am afraid to say.

This amendment is based on the fiction that risk assessments only apply when standards are being made stronger and do not apply if they are being made weaker. It masquerades as what is good for the goose is good for the gander in the form of an amendment.

This is simply not true, and I will demonstrate that fact in just a minute.

First, let me tell you why the bill distinguishes between generally applicable regulations and site-specific decisions. The reason for this distinction is already clear to the sponsor of this amendment.

I might note that the dissenting views in the committee report support national affluent limitations over site-specific standards because they allow the regulator to implement the Clean Water Act without exhausting resources on complex resource-intensive scientific adjustments, such as those required under many of the waiver provisions of H.R. 961.

□ 1330

I agree that the amount of risk assessment analysis necessary to make up a site-specific permit modification should be left up to the EPA or the State. Some site-specific modification will undoubtedly be needed, but others will not. As the report language warns, a mandatory risk assessment would unnecessarily exhaust precious resources in these cases. Let me tell the Members why this amendment is based on a fib.

The fact is the bill already allows a what-is-good-for-the-goose-is-good-for-the-gander philosophy. There are simply two separate flocks of geese here. The first flock are local site-specific decisions. Site-specific permit modification, regardless of whether a limitation is being made more or less stringent, will not automatically trigger a risk assessment.

For instance, under section 402, EPA can tighten the limitations in a facilities permit based on new site-specific information showing greater ecological harm than was previously expected. H.R. 961 does not require EPA to perform a risk assessment to make the permit more stringent.

The second flock, using that analogy, are significant regulations, such as effluent limitation guidelines for a class of industry. They must be supported by sound risk assessment, regardless of whether they are raising or lowering regulatory requirements, because they can have potentially broad and important effects on a large number of people.

For instance, any deregulation that may be necessary to refocus EPA's priorities will be subject to a risk assessment. What is particularly ironic about this amendment is that it actually does the opposite of its stated purpose. Far from treating all requirements equally, the list of waivers and permit modification it would subject to risk assessment do not include any modification that would tighten permit requirements.

The Mineta amendment before us would not apply risk assessment when EPA wants to tighten requirements for a permittee, but magically, risk assessment would be necessary before a permittee would be granted any kind of variance, no matter how minor. This approach is a microcosm of a well-worn extreme environmentalist strategy: scream long, scream loud about any alleged advantage so-called polluters are getting, while you slip in your own fix that gives you the very advantage you were just condemning.

The American people have really been turned off by this mixture of arrogance and hypocrisy that has been displayed in the past, and this is no place for this today. That is why Congress has overwhelmingly passed risk assessment in every consistent vote before this body by wider and wider margins. That is why we must defeat this amendment. It is an ill-conceived amendment. It does just the opposite of what we need to do.

Mr. Chairman, I strongly oppose this amendment. I urge my colleagues to defeat this amendment, and let us pass a good revision to our clean water legislation.

Mr. BORSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support this commonsense amendment offered by the gentleman from California.

If we are serious about apply risk assessment to the Clean Water Act then we should apply it to proposals to grant waivers of the Clean Water Act.

What could have more risk associated with it than relaxing pollution control standards?

These waivers raise the possibility of adding serious and harmful pollutants into our Nation's rivers, lakes, and streams.

If we are going to allow these waivers, we should at least subject them to the same risk analysis as other parts of the clean water program.

If these waivers can withstand the scrutiny of risk analysis, then there is even more reason for granting them.

If they cannot measure up, they should not be allowed.

This bill allows waivers of the Clean Water Act's requirements to limit discharges into the waters.

I do not believe there is a full understanding of the meaning of those waivers.

The waiver proposal has not been subjected to any kind of scientific evaluation.

The Mineta amendment would apply science—good science—and risk analysis to these waivers.

If we want to limit these waivers to areas where they won't harm the environment, this is the right amendment.

I urge passage of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. MINETA].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. MINETA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 152, noes 271, not voting 11, as follows:

[Roll No. 318]

AYES—152

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Collins (MI)
Conyers
Costello
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefley
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney

Manton
Markey
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Moran
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—271

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Bono
Boucher
Brown (CA)
Coleman
Collins (IL)
Davis
Martinez
Moakley
Peterson (FL)
Rogers
Torres

☐ 1354

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Bono against.

Mrs. MEYERS of Kansas changed her vote from "aye" to "no."

Mr. COSTELLO changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MISS COLLINS OF MICHIGAN

Miss COLLINS of Michigan. Mr. Chairman, I have a series of amendments at the desk, amendments 9, 10, 11, 12, and 13. I ask unanimous consent that they be considered en bloc. It is my understanding that the majority has no objection to this.

The CHAIRMAN pro tempore (Mr. HOBSON). The Clerk will first designate the amendments.

The text of the amendments is as follows:

Amendments offered by Miss COLLINS of Michigan:

Page 62, after line 14, insert the following:

(d) CONSIDERATION OF CONSUMPTION PATTERNS.—Section 304(a) if further amended by adding at the end the following:

"(13) CONSIDERATION OF CONSUMPTION PATTERNS.—In developing human health and aquatic life criteria under this subsection, the Administrator shall take into account, where practicable, the consumption patterns of diverse segments of the population, including segments at disproportionately high risk, such as minority populations, children, and women of child-bearing age.".

Page 62, line 15, strike "(d)" and insert "(e)".

Page 63, line 4, strike "(e)" and insert "(f)".

Page 63, line 24, strike "(f)" and insert "(g)".

Page 64, line 4, strike "(g)" and insert "(h)".

Page 73, strike lines 19 through 22 and insert the following:

(c) FISH CONSUMPTION ADVISORIES.—Section 304 (33 U.S.C. 1314) is amended by adding at the end the following:

"(o) FISH CONSUMPTIONS ADVISORIES.—

"(1) POSTING.—Not later than 18 months after the date of the enactment of this Act, the Administrator shall propose and issue regulations establishing minimum, uniform requirements and procedures requiring States, either directly or through local authorities, to post signs, at reasonable and appropriate points of public access, on navigable waters or portions of navigable waters that significantly violate applicable water quality standards under this Act or that are subject to a fishing or shell-fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination.

"(2) SIGNS.—The regulations shall require the signs to be posted under this subsection—

"(A) to indicate clearly the water quality standard that is being violated or the nature and extent of the restriction on fish or shellfish consumption;

"(B) to be in English, and when appropriate, any language used by a large segment of the population in the immediate vicinity of the navigable waters;

"(C) to include a clear warning symbol; and

"(D) to be maintained until the body of water is consistently in compliance with the water quality standard or until all fish and shellfish consumption restrictions are terminated for the body of water or portion thereof.".

Page 73, after line 18, insert the following:

(c) FISH AND SHELLFISH SAMPLINGS.—Section 304 (33 U.S.C. 1314) is amended by adding at the end the following:

"(n) FISH AND SHELLFISH SAMPLINGS; MONITORING.—Not later than 18 months after the date of the enactment of this Act, the Administrator shall propose and issue regulations to establish uniform and scientifically sound requirements and procedures for fish and shellfish sampling and analysis and uniform requirements for monitoring of navigable waters that do not meet applicable water quality standards under this Act or that are subject to a fishing or shell-fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination."

Page 73, line 19, strike "(c)" and insert "(d)".

Page 203, after line 8, insert the following:

SEC. 410. ENVIRONMENTAL JUSTICE REVIEW.

Section 402 (32 U.S.C. 1342) is further amended by adding at the end the following:

"(u) ENVIRONMENTAL JUSTICE REVIEW.—No permit may be issued under this section unless the Administrator or the State, as the case may be, first reviews the proposed permit to identify and reduce disproportionately high and adverse impacts to the health of, or environmental exposures of, minority and low-income populations.".

Redesignate subsequent sections of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 213, after line 14, insert the following:

SEC. 508. DATA COLLECTION.

Section 516 (33 U.S.C. 1375) is amended by inserting after subsection (e) the following:

"(f) DATA COLLECTION.—

"(1) IN GENERAL.—The Administrator shall, on an ongoing basis—

"(A) collect, maintain, and analyze data necessary to assess and compare the levels and sources of water pollution to which minority and low-income populations are disproportionately exposed; and

"(B) for waters receiving discharges in violation of permits issued under section 402 or waters with levels of pollutants exceeding applicable water quality standards under this Act, collect data on the frequency and volume of discharges of each pollutant for which a violation occurs into waters adjacent to or used by minority and low-income communities.

"(2) PUBLICATION.—The Administrator shall publish summaries of the data collected under this section annually.".

Redesignate subsequent sections of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 236, strike lines 13 and 14.

Page 236, line 15, strike "(k)" and insert "(j)".

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Miss COLLINS of Michigan. Mr Chairman, my amendment in part directs the Administrator to take into account the differing consumption patterns of different segments of the population when developing water quality criteria.

There is compelling evidence to show that different segments of our population consume greater quantities of fish per capita than do others. Consequently, if the fish are tainted with toxic compounds, these segments of the population would be at far greater risk of health problems than others.

One specific example is in my home State of Michigan. There, different native American ethnic groups such as the Ottawa and Chippewa have a long and well-documented fishing culture. Studies have shown their fish consumption rate to be as high as four times the rate of the average Michigan resident. These higher consumption rates coincide with higher average level of PCB's in the blood of these people.

The Michigan native Americans provide only one example of this problem. So, consequently, I ask that in developing human health and aquatic life criteria under this subsection, the administrator shall take into account, where practicable, the consumption patterns of diverse segments of the population, including segments with disproportionately high risk such as minority population, children, and women of childbearing age.

The next amendment asks that not later than 18 months after the enactment of this act the Administrator shall propose and issue regulations to establish uniform and scientifically sound requirements and procedures for fish and shellfish sampling and uniform requirements for monitoring of navigable waters that do not meet applicable water standards under this act or that are subject to a fishing ban, advisory, or consumption restriction. The amendment asks that the States have uniform requirements to either directly or through local authorities post signs at reasonable and appropriate points of public access.

These amendments are designed for those who rely on lakes and rivers and other navigable waters as a recreation or sustenance. They work together, so there I am presenting them together. The problems addressed by these amendments are quite serious. One-third of the Nation's shellfish beds are closed or restricted to harvest due to pollution. In 1992, over 2,600 beaches were closed or placed under swimming advisories because of dangers to public health. However, there are no uniform requirements for fish and shellfish bans or advisory and consumer restrictions.

Moreover, there are no Federal requirements for public notification when water quality standards are violated. Unfortunately, there is a great disparity in the manner in which States monitor water safety for fishing and swimming. There is also much disparity in their means for notifying the public.

The problems are especially significant for people who depend on local fishing as a regular food source because they may be subjected to higher doses of contaminants.

The public has a right to know if their waters are safe for swimming or fishing, and these amendments will justify that need.

Mr. Chairman, my next amendment seeks to include impact evaluations on minority and low-income populations in their review of pollution discharge permit applications.

Studies by the Environmental Protection Agency, the National Law Journal, the University of Michigan, the United Church of Christ, and the Council on Environmental Quality have demonstrated beyond any reasonable doubt that minority and low-income neighborhoods are more likely to be situated near major sources of pollution than other neighborhoods. Consequently, these neighborhoods suffer greater exposure to health risk. In fact, the President issued Executive Order 12-898 in February 1994 to address issues related to environmental justice in minority and low-income populations.

This amendment would ensure that all permit applications under section 402 of the Clean Water Act be reviewed for their effect on minority and low-income populations. This amendment sends a message that minority neighborhoods and water tables will not be dumping grounds for irresponsible toxic waste dumpers. Mr. Chairman, this amendment seeks to collect and publish data on water pollution affecting minority and low-income populations. The need for such a function is clear. Many different studies have shown a strong correlation between race and income and exposure to unsafe environmental factors.

Studies by the EPA, the National Law Journal, the University of Michigan, the United Church of Christ, and the Council on Environmental Quality have demonstrated that minority and low-income neighborhoods are more likely to be situated near major sources of pollution than are other neighborhoods. For example, three out of the Nation's five largest waste disposal facilities are located in minority areas, including Emil, AL, site of the biggest toxic landfill in the United States. Also, the Nation's biggest concentration of hazardous waste sites is on Chicago's South Side, where the residents are predominantly African-American.

A personal example concerns my hometown of Detroit where the University of Michigan researchers assessed the relative influence of income and race on the distribution of waste management facilities. Their study found that minority residents were four times more likely than white residents to live within a mile of a commercial hazardous waste facility, and that race was a better predicator of proximity to the site than was income. In the name of equality and decency, I ask all my colleagues to support this en bloc amendment.

In the name of equality and decency, I ask all my colleagues to support this en bloc amendment.

□ 1400

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment.

I must reluctantly oppose these amendments from my good friend. These amendments simply represent the mandating of more regulations so that specific groups will get special protection.

The goal of all environmental legislation is to protect all people from unreasonable risks. The EPA already has sufficient authority to consider the effects on sensitive subject populations in the design of their standards. EPA already is factoring environmental justice considerations into all of its programs. And nothing in this legislation would prohibit those considerations.

We simply believe that we should not be creating new regulations. We should not be forcing EPA, we should not be micromanaging EPA to do what they already have the authority to do if they decide it is in the best interests of the environment in our country.

Further, section 323(b) of our bill requires risk assessment used to develop water quality criteria to provide a description of the specific populations subject to the assessment.

So for all of those reasons, while these are very well-intentioned en bloc amendments, I must urge their defeat.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in strong support of the en bloc amendment offered by our fine colleague, the gentlewoman from Michigan.

These amendments attempt to provide protection against disease caused by consumption of contaminated fish and shellfish caught from polluted waters.

Waterborne diseases are hazardous to your health. We may recall that more than 100 people died in Milwaukee when they drank contaminated water. Eating contaminated seafood is no less deadly.

This amendment would require scientifically sound sampling and monitoring of fish and shellfish, as well as posting of signs on navigable waters that significantly violate applicable water quality standards. Doing so will let us know if the catch is safe to eat, and if it is not, warn people against eating it.

Low-income and minority communities often are exposed to a higher level of water pollution than society as a whole. To adequately protect residents of these at-risk communities, we need good information and special recognition of their disproportionate exposure.

That is what this amendment will do. It would require EPA to take steps to minimize the health and environmental impacts on poor and minority populations when issuing discharge permits. It would also require EPA to take into account consumption patterns of poor and minority when developing water quality criteria.

These efforts will help address the higher risks facing these communities. I urge support of the Collins en bloc amendment.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the Collins en bloc amendments, and I want to tell this group much progress has been made since the Clean Water Act has been enacted. It is one of our Nation's success stories, but much still remains to be done. One-third of the Nation's shellfish beds are still closed or restricted to harvest; one-half of the Nation's rivers are polluted; and there are still great disparities as to how States monitor pollution and warn citizens of polluted waters. Florida was once called the polluted paradise. Many other States still have that distinction, they still can be called polluted areas.

This, Mr. Chairman, puts many Americans at risk. Studies show that many minorities and particularly the poor search for fish and use fish for subsistence. They live from their daily fishing catch.

The clean water bill before us today is really a misnomer, Mr. Speaker. It will not provide clean water. It does nothing to address environmental inequities faced by millions of minority and low-income Americans. Their communities are exposed to disproportionately high levels of pollutants that end up in the water supply.

This environmental injustice is real, Mr. Chairman, and it must be stopped. But the bill before us today is virtually silent on environmental injustice. It ignores the years of environmental abuse suffered by minority and low-income communities across this great country of ours, whether they are farm workers, inner-city teenagers, native Americans on reservations, or minorities in small towns.

The Collins amendments will begin to bring some justice to those Americans who face daily environmental threats to their health.

Mr. Chairman, I urge my colleagues in support of environmental justice to support the Collins amendments.

Mr. BECERRA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also rise in strong support of this en bloc amendment offered by my esteemed colleague from Michigan. It is true that at times we try to do our utmost to protect our societies and our communities from pollution, from hazards, from the environment when we create those hazards. But oftentimes we do not succeed.

It is unfortunate that current law has not done the job of protecting certain communities, mostly low-income communities, minority communities, when it comes to things like environmental hazards. Let me give some very concrete examples.

I represent a portion of the city of Los Angeles. I happen to represent, in portions of my district, some of the wealthiest individuals in Los Angeles, and at the same time in another portion of my district I represent individuals of very low income.

On one end of my district I have no freeways crossing through the district. I have no problems with waste dumps. I have no problems with projects for incineration plants or for pipelines for oil to be passed through. But on the other side of my district, I do. I have a district that has within its 5-mile radius around seven prison facilities that have been housed there over the last 10 years as a result of a supposed need by the county to have a place to house prisoners. We have a toxic waste dump that is on the EPA site for cleanup, and it must be taken care of because it is emitting pollutants and hazardous emissions. I had, at one point nearby, a proposal to build a toxic waste incineration plant in the district or close to the district. It has not gone through, but clearly present law was not enough to protect this. Current legislation is not enough to protect, and we need the en bloc amendments by the gentlewoman from Michigan to make sure we do so, because there is a danger, it is clearly the case, the facts show it, that disproportionately minority communities, low-income communities share the exposure, the highest exposure and the burden of that exposure of those environmental hazards.

We should and we must do what we can to ensure that there is equal treatment of all communities when it comes to hazardous wastes to make sure that they are all protected, but oftentimes we do not go far enough. This gives us an opportunity to ensure that the past wrongs can be righted and that we will never make those mistakes again, so that every community, whether they are very empowered, very enfranchised, or not, have the opportunity to say that they will benefit from the protections of our environment that we are trying to do here today.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is clear that all of us do not represent districts that are exactly alike. My district is very similar to Congressman BECERRA's. We have right now a Superfund site.

I do not think we can address water in this country without addressing health status in this country. And unfortunately, this bill which is before us fails to address this issue from the standpoint of public health. This poses a very serious problem. In families with annual incomes at or below poverty, almost 70 percent of black children suffer from high lead blood levels, while only 36 percent, which is much too high, of the nonblack children. Blood poisoning is the most preventable disease that we can address. It is identifiable. We just need the protections to do it. We know what levels; our scientific levels and science has taught us that.

What we need now are standards that ensure that all of our citizens are protected. Women living less than 1 mile from a hazardous waste site have a 12-percent higher risk of having a child with a birth defect than other mothers. Three million homes or 74 percent of all private housing built before 1980 contains some lead paint.

☐ 1415

Minority and low-income people are more likely to live in these older homes. The lead which they are exposed to is stored in the bone, and later calcium and lead are released into the bloodstream, placing these people, particularly women, at risk for continuing lead poisoning many years later.

We are considering now the costs of health care. We cannot do that in a vacuum. We must consider all of the things that lead to a large price tag when we talk about the cost of health care. We cannot afford to ignore a very preventable illness that is so common among the poor.

We cannot stand here and say that we are upholding our oath without remembering that we have a large percentage of poor people and poor children in this country, and they live in the areas that many of us might not see, but that does not mean they do not exist.

The clean water bill now before us is notably silent about these and other important issues relating to the health of minorities and low-income Americans.

These amendments offered by my colleague, the gentlewoman from Michigan [Miss COLLINS] take an important step toward addressing these concerns, and I urge this body, I urge my colleagues who might not know of these kinds of areas, to please give serious consideration in supporting these amendments.

Mr. LEWIS of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Collins amendment.

It is time to do right by our Nation's poor and minority communities. Too often, we throw garbage, place incinerators and dump dirty water in these communities.

This amendment is an important step in making a bad bill better. People have a right to know what is in their water, the water they drink. The poor and minorities have the same right to clean water as the rest of us.

Mr. Chairman, our right to clean water is threatened.

In 1972, Democrats and Republicans came together to end pollution of our water. They recognized that no industry, no person—no matter how rich or how powerful—has the right to poison our streams, our lakes, or our people.

The Clean Water Act is a proud, bipartisan law that stands up for the common person. It says "no" to those who would poison our environment. We must not allow it to be weakened.

I plead, with all my colleagues to make this bad bill a little bit better. Support the Collins en bloc amendment.

Mr. STOKES. Mr. Chairman, I rise in support of the Collins amendments.

Mr. Chairman, although pollution affects all people, no matter where they live, direct exposure to water pollutants and other environmental hazards are disproportionately distributed. Data now indicate that low-income, racial and ethnic minorities are more likely to live in areas where they face environmental risk.

However, a stronger data base is needed to better understand the problems, to identify solutions to those problems and evaluate the efficacy of programs that address the problems. This is why it is imperative that the Environmental Protection Agency collect and analyze data on sources of water pollution to which minorities and low-income populations are disproportionately exposed. For example there are clear situations where certain populations are exposed to higher levels of pollutants in waters. Thus it is essential that prior to the granting of discharge permits, the Environmental Protection Agency review the permit application and related elements to ensure that minority and low-income communities will not be adversely impacted.

Recognizing that a number of factors might increase susceptibility to the effects of water pollutants, the environmental justice amendment calls for the development of water quality standards that take into consideration the variations in water usage among diverse segments of the population, including the high risk individuals such as pregnant women and children. These individuals may be more or less sensitive then others to the toxic effects of water pollutants.

Mr. Speaker, these and other provisions of the environmental justice amendment will help ensure that water improvement approaches are applied equitably across racial and socioeconomic groups, minority and low-income communities faced with a higher level of environmental risk.

Therefore, I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Michigan [Miss COLLINS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Miss COLLINS of Michigan. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 271, not voting 10, as follows:

[Roll No. 319]

AYES—153

Abercrombie
Ackerman
Andrews
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Matsui
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moran
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—271

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Bono
Boucher
Collins (IL)
Fields (TX)
McDade
Moakley
Oxley
Peterson (FL)
Richardson
Rogers

□ 1437

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Bono against.

Mr. RIGGS changed his vote from "aye" to "no."

Mr. ORTIZ changed his vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA: Page 172, line 14, insert "similar" before "risks".

Page 172, line 15, before the period insert the following: "regulated by the Environmental Protection Agency resulting from comparable activities and exposure pathways".

Page 172, after line 15, insert the following: Comparisons under paragraph (7) should consider relevant distinctions among risks such as the voluntary or involuntary nature of risks and the preventability and nonpreventability of risks.

Page 173, line 18, after the period insert closing quotation marks and a period.

Page 173, strike line 19 and all that follows through page 172, line 17.

Page 176, lines 10 and 11, strike "the requirement or guidance maximizes net benefits to society" and insert "the incremental benefits to human health, public welfare, and the environment of the requirement or guidance will likely justify, and be reasonably related to, the incremental costs incurred by State, local, and tribal governments, the Federal Government, and other public and private entities".

Page 178, line 14, insert "and benefits" after "costs".

Page 179, strike line 3, and all that follows through page 180, line 22.

Page 180, line 23, strike "(g)" and insert "(f)".

Mr. MINETA. Mr. Chairman, this amendment would make this bill's provisions on risk assessment and cost-benefit analysis consistent with those in H.R. 1022, the Risk Assessment and Cost-Benefit Act of 1995 already passed by the House earlier this year.

This bill requires elaborate risk assessment and cost-benefit analysis to be performed before regulations to protect clean water can be issued.

The argument in favor of these requirements is that the House has already spoken on the issue of risk assessment and cost-benefit analysis, and we should be consistent with it in the Clean Water Act.

But the provisions in this bill are not consistent with H.R. 1022—they are more extreme and more onerous in three key respects.

First, regarding comparative risk analysis, H.R. 961 would have EPA and the Corps of Engineers compare the risks which are the subject of their rulemaking to not only risks that they know something about, such as the health effects of toxics in water or flooding due to filling of wetlands, but also risks about which they know nothing, such as auto accidents on highways or building collapse due to earthquakes. H.R. 1022 specifically rejected having agencies make risk comparisons outside their areas of expertise, because of a valid concern that agencies wouldn't know what they were doing.

Second, this bill contains a look-back provision which would require risk assessment and cost-benefit analysis to be applied to existing, as well as proposed, regulations. This was the Barton amendment to H.R. 1022, but without safeguards to protect the risk assessment process. This issue was specifically rejected on the House floor during debate on H.R. 1022. The House rejected Mr. BARTON's look-back idea because of concerns that it would overwhelm not only the regulatory process but also the risk assessment procedures, and subject them to endless legal challenges. We should not adopt in this bill what the House has earlier specifically rejected for the risk assessment bill.

And third, this bill goes well beyond the standard established in H.R. 1022, that regulatory benefits would likely justify, and be reasonably related to, costs. Instead, it requires a clean water regulation to maximize net benefits. H.R. 1022 did not adopt that standard because our ability to quantify all costs and all benefits is not that precise. Requiring an agency to select the one regulatory option with the highest net benefits, out of all possible options, assumes a level of measurement precision which does not exist in our agencies, nor can be achieved by cost-benefit analysis. H.R. 1022 did not adopt this standard for the simple reason that it was bound to fail.

Many have argued that on risk assessment and cost-benefit analysis we should be consistent with what the House did on H.R. 1022. That is exactly what my amendment does. I assume this amendment, therefore, will be noncontroversial, and urge its adoption.

□ 1445

Mr. MICA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, again I rise in opposition to another amendment by the distinguished gentleman from California which, unfortunately, would also gut some of the provisions we have worked so hard to establish in this legislation dealing with risk assessment and cost-benefit analysis.

I would like to also share with my colleagues the fact that this amendment, just like the other amendment offered, again by the distinguished gentleman, was soundly rejected by our committee. This amendment has really a grab bag of provisions in it and changes, some of which there is good news for and some bad news for. Unfortunately, most of the news presented in this amendment is bad news.

Let me say, for instance, that the one good thing in this proposed amendment is that it would clarify that risk comparisons should include a discussion of differences between the nature of risks being compared. However, this is already addressed in section 324(b)(2)(C) on page 177, but it does not really hurt to misstate as the champion of this particular amendment has offered.

Now, that is the good news. Now, my colleagues, let us look at the bad news, and there are a number of areas that fall into that category. Unfortunately, the majority of the changes proposed in the rest of this amendment are all undesirable, and I want to highlight a couple of these.

First, the amendment would change the cost-benefit criterion for maximizing net benefits to a weaker standard. The benefits must be "reasonably related to the cost."

This is a standard that already exists under certain sections of the Clean Water Act, such as section 302(b)(2)(A), and would be less than vigorous at weeding out unnecessary and really inept rules.

Further, this standard, since it does not address cost effectiveness, conflicts with the regulatory review criteria adopted by the House in H.R. 1022 this year that passed earlier by a wide margin.

Second, the amendment would greatly restrict the risks that EPA could use for comparison purposes. Under the amendment, EPA could only compare risks if they have already been regulated by EPA and result from comparable activities and exposure pathways. This would greatly diminish the benefit of risk comparisons.

For instance, part of the value of performing these comparisons is to see whether there may be other unregulated risks that deserve more immediate attention. This would not be possible under the amendment proposed by my good colleague.

Finally, and unfortunately, this amendment would wipe out the modest retroactive provisions of this bill. Let me say, I would like to see much more retroactive attention to all of these regulatory matters, even in this legislation.

For instance, the retroactive coverage has been described and misquoted, and let me give you one example here, by the National Wildlife Federation, as repealing "23 years of existing major Clean Water Act standards by requiring extensive cost-benefit and risk assessment reviews for all major existing standards within an impossible deadline of 18 months."

This is simply untrue and misleading. In fact, H.R. 961, our legislation, requires EPA to review only those regulatory requirements and guidelines issued after February 15, 1995, that would result in costs of $100 million or more per year. Such reviews must be completed within 18 months of enactment of this section.

Thus far, only one requirement, the Great Lakes Initiative, issued in March 1995, would need to be reviewed under this subsection. Further, since rules costing $100 million or more already are required to be evaluated by EPA and the Office of Management and Budget under Executive Order 12866, the committee expects that the retroactive review required by sections 323 and 324 will place little or no additional burden on EPA, assuming EPA has complied with the Executive order.

These are only three of the serious problems with the grab bag of changes proposed under this amendment, and any one of them is in fact enough for my colleagues to come forth and vote against this amendment.

Mr. Chairman, on the basis of just these three points, I urge my colleagues to vote against the amendment.

The CHAIRMAN. The time of the gentleman from Florida [Mr. MICA] has expired.

(On request of Mr. VOLKMER, and by unanimous consent, Mr. MICA was allowed to proceed for 2 additional minutes.)

Mr. MICA. Mr. Chairman, let me say I appreciate the extension of time, and also the opportunity to talk about risk assessment, because this is probably the last frontal attack on risk assessment before the House of Representatives.

As my colleagues know, this issue came before the House in the last Congress and we were denied an opportunity to bring this forth in the form of a complete piece of legislation. It was never voted on as far as affecting all regulatory items before the Congress.

Now we have the first individual bill, a regulatory bill, a regulatory reform bill, and we have an opportunity to pass good cost-benefit risk assessment language. This is in fact going to be the last assault, I believe, on risk assessment.

So many of the colleagues who have come here on many occasions to vote for risk assessment will have that opportunity today. Many of the people who have come here and asked for cost-benefit analysis in the way we pass regulations in this Congress and through the agencies, the Federal Government, will have an opportunity to vote today. And once and for all we can bring common sense to a process, a regulatory process, that has been out of control, out of hand, put people out of work, out of business, out of jobs.

So I urge my colleagues to come to the floor this afternoon, defeat this final amendment that proposes a frontal assault on good risk assessment language and also on cost-benefit language that is so essential to have in this clean water bill. This is what this is all about, bringing common sense, bringing some light into an area of darkness in the regulatory processes of this country.

I thank the gentleman for the additional time.

Mr. DOGGETT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in strong support of the Mineta amendment. I have to tell the House that the Democratic members of the House Committee on the Budget were put to a very difficult choice yesterday: Should we stay across the street in the Cannon Building and fight the surprise attack disclosed in its details for the first time yesterday morning of the Republican members of the Committee on the Budget to wreck havoc with Medicare, to break their promises with reference to Medicare, and to affect senior citizens across this country by reaching in their pocket and insisting they come up with more money to fund their health care, the same group that wants to challenge the middle class families of this country who want to send a child to college, to thwart their efforts by adding $5,000 to the cost of a Stafford loan, do we stay over there and fight that kind of surprise attack concocted in the shadows of this Capitol by secret Republican task forces, or do we come across the street and help the gentleman from California here on the floor of the Congress stave off the polluters who want to wreck one of the most effective pieces of environmental protection legislation that this country has ever known?

Well, it was a tough choice. But staying there from 10 in the morning until after 1 o'clock this morning did not stop a mean-spirited budget resolution from passing. But I hope it has helped inform the American people about what lies ahead, because with Mother's Day coming up, if there is any American citizen that has not yet bought a present for Mom, they better send her some money if she is on Social Security, because these Republicans are coming after Social Security and coming after Medicare.

Now, what about this issue of water? Not having had a chance to fight the battle yesterday, I do not quite understand why some of our Republican colleagues are so insensitive to the idea of clean water. Maybe it is because they drink Perrier all the time. I do not know what it is. But for whatever the reason, in my part of the country, Colorado on the rocks is still not a bad drink. You take Colorado River water that is pure, and you pour it over some good ice, and on a hot summer day in Texas it tastes might good. This battle is about protecting Colorado on the rocks, protecting the drinking water in the Colorado River, in the critical tributary of that river called Barton Creek, with a natural spring called Barton Springs, which is a source of entertainment and, I might say, a little coolness on a hot summer day in Texas.

Citizens all over central Texas are struggling to protect that natural resource. They recognize we have something very unique in the beauty and the quality of the water of the Colorado River and of Barton Springs, a place to swim, to fish, and, most importantly, a source of drinking water. And what is occurring today affects Austin, TX, very much, because we value our water. We have developed a balance between the necessary part of our economy, the need to expand and develop and have jobs, and the recognition that does not have to be in conflict with clean water and the environment. Rather, the two can interface and work together.

Our children will benefit because we would not let those two very legitimate concerns get in conflict. What is occurring here today is an effort to thwart the attempt of the people of central Texas to protect their water supply.

Mr. Chairman, the bottomline is that this so-called Clean Water Act is really a dirty water act. And of the many horrible provisions of this bill, and goodness knows there are a lot of them, the one that the distinguished gentleman from California is now trying to fix concerning the standards for risk assessment is one of the worse.

What this measure does is to take an amendment that was rejected by the House Committee on Science, chaired by the gentleman from Pennsylvania [Mr. WALKER], and rejected here on the floor of the House. Let me tell you, an amendment that is so bad that it gets rejected in that committee is so bad you cannot scrub it down with a brush, Members.

Let me assure you that that committee on risk assessment—and let me remind you how it handled the risk assessment bill. This is a committee where when you ask the committee counsel about the risk assessment bill, he cannot give you an answer without turning over his shoulder and getting the answer from the lobbyists that helped draft the bill. That risk assessment bill is the one this House passed. It will be in this piece of legislation even if the amendment of the gentleman from California [Mr. MINETA] is adopted today. The question is, do we go even further than that?

Well, the amendment that is already in the bill has received bipartisan opposition. It was Senator CHAFEE, the Republican Member of the Senate, who indicated that this is not about good science, it is about gumming up the regulatory process or, to use his words, it is a recipe for gridlock. And that is all that people want who oppose this amendment.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DOGGETT] has expired.

(On request of Mr. VOLKMER, and by unanimous consent, Mr. DOGGETT was allowed to proceed for 2 additional minutes.)

Mr. DOGGETT. Mr. Chairman, risk assessment is a good concept if, and only if, risk assessment means good science. If risk assessment is only good politics, if risk assessment is only gumming up the regulatory process so that you cannot regulate and assure clean water, then it is a pretty worthless concept.

☐ 1500

We get a good dose of that in this bill, because it was not 30 minutes ago that the distinguished gentleman from California said, well, let us have it both ways. If they are going to come along and weaken the process, if they are going to come along and have waivers so that polluters can pollute a little here on the side and a little there and a little here, then let us apply risk assessment to that. Was that amendment accepted? Absolutely not, because this is a one way street for polluters.

It is OK to pollute; do not get in the way of anyone trying to regulate the polluter. But if it is someone who wants to do something about regulating pollution, then let us erect as many barriers as possible.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, is it not true that H.R. 1022 applies to all regulations that may be forthcoming under this legislation? The old risk assessment regulatory reform bill that we passed, the House passed back during the 100 days.

Mr. DOGGETT. It does that. This is a question of whether you go even further than that bad old amendment that we passed back then.

Mr. VOLKMER. Let us say that that bill goes on and eventually becomes law and then we have this bill go on with these provisions that the gentleman from Florida thinks so much about and this House does not think so much, if you follow the regulatory reform process in the House when we voted on these things, but, anyway, this passes. Now we have got two different, EPA, Corps of Engineers for everybody else to follow; is that correct?

Mr. DOGGETT. That is absolutely right.

Mr. VOLKMER. It is absolutely crazy. I do not generally disagree with the thrust of much of this legislation. As far as the agriculture sections of it, I love it. But when it comes to things like this, these are the kinds of things that make me question whether I want to vote for this bill.

Mr. GANSKE. Mr. Chairman, I move to strike the last word.

With respect to the Mineta amendment, I would argue against this and in favor of the bill. President Clinton and Mrs. Browner and many in the press have stated over and over again that big business is responsible for the risk assessment and cost-benefit analysis. This legislation does have the support of over 1,000 industry trade associations, the NFIB, and the National Farm Bureau, but the truth is that the risk and cost-benefit agenda is long overdue and represents principles with broad-ranging support among State and local governments.

The claim that this is just an agenda of big business is nonsense. President Clinton and Mrs. Browner and the press know it. The National Governors Association states:

> Environmental requirements should be based upon sound science and risk-reduction principles, including the appropriate use of cost-benefit analysis that considers both quantifiable and qualitative measures. Such analyses will ensure that funds expended on environmental protection and conservation address the greatest risks first and provide the greatest possible return on investment.

The National Association of Counties in hearings before the Committee on Commerce stated:

> Congress should adopt legislation which requires federal agencies to provide fair, scientifically sound and consistent assessments of purported health, safety or environmental risks prior to the imposition of new regulations. It is just plain wrong to regulate without at least an attempt to make a scientifically based assessment of the risk that is sought to be abated, its relationship to other risks, and the costs involved.

The American public, by a margin of three to one, supports cost-benefit analysis. This amendment would significantly weaken that. That is why I would urge Members to vote against this amendment and in support of the bill.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I just wanted to make a couple of responses in response to some comments that were made by a previous speaker who came to the floor and said that he was only given the opportunity to be at budget hearings or to run to the floor and talk about this clean water legislation. Indeed, those are some of the choices that we have to face.

We have to face the fact that literally for the last 40 years that we have, that this Congress has robbed every cookie jar in the country and that the cookie jars are all empty and we have busted the budget, and the country is in serious shape, financial shape, and facing a disaster. Those are the choices before us.

The choice is not a question of just balancing the budget or going on in the means that we have done in the past. The choice is that we, in fact, address these serious financial problems and that the cookie jar has been raided for the last time, and we have to make those choices.

The choice on the floor today that we run back and forth on relates to regulation and the regulatory process. We have so overregulated. We have had the experience of this law on the books and we know what it is doing. We know how it is driving people out of business, out of jobs, out of the open world competition market.

We know, in fact, that he talked about bottled water and Perrier. Well, there are probably no Federal regulations except for possibly some fancy labeling regulations. That is a situation we find ourselves in, we are swatting at the flies and missing the elephants. So we have to make those choices and we have to decide.

We have to bring into the regulatory process cost-benefit analysis and risk assessment, which is only a commonsense approach. This is not anything that is intended to destroy the environment and have a lesser environment, have less pure water or air. It is to bring some reasonableness, some common sense to the process.

So whether it is the physical condition of the United States or the regulatory conditions imposed by this Congress in years and years of overregulation, those are the questions before us.

Now we have a chance with this amendment to defeat the progress we want to make in regulatory reform. I urge my colleagues to defeat the Mineta amendment. Let us go forward. Let us bring common sense to the process. Let us make this Congress work for the people and for business and for jobs and for competition rather than against folks and make some commonsense improvements in the process.

I thank the gentleman for yielding to me.

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment offered by the gentleman from California [Mr. MINETA].

Very simply, the House spent a week debating the issues of risk assessment and cost-benefit determinations.

I did not agree with all of the outcomes but the House has made a determination.

Unfortunately, many of the provisions of this bill go far beyond the House-passed provisions.

In one case, this bill contains a look back provision that was specifically rejected on the House floor by a vote of 206 to 220.

The bill also contains language on maximum net benefits that goes well beyond the cost-benefit language approved by the House by a vote of 415 to 15.

Mr. Chairman, we should not go beyond what the House has already done. I urge support for the amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words in support of the amendment.

Mr. Chairman, I rise in support of the amendment. I do so because the gentleman from Florida gave a very compelling speech here. It just did not happen to be accurate. Because the reason we have the Clean Water Act, the reason we have the Clean Water Act was not because of 40 years of overregulation. It was because of 100 years of people abusing the waterways of this Nation, abusing the airways of this Nation, abusing the natural resources and lands of this Nation that the taxpayers unfortunately now have had to come back and clean up much of that mess.

Without the Clean Water Act, without the Clean Air Act, there was no industry that walked into the Congress and said, I am going to voluntarily clean up the air in the San Francisco Bay area or in Los Angeles or in Cincinnati or in Philadelphia. There was no industry that walked in here and said, I will voluntarily take our sewage, our toxic materials from the steel mills, from the chemical mills, from the refineries out of the bays, out of the rivers, nobody did that. They fought this measure tooth and nail. They have been fighting it for 30 years.

But what has been the net result? The net result is we have the cleanest industry and the most efficient industries in almost every segment of manufacturing, of doing business in the entire world.

The auto industry is now more efficient and it is cleaner. And when you read the business journals, you will understand that much of that innovation, much of that technology, much of that efficiency came about as a result of having to comply with RCRA, with clean air, with clean water.

Why does Dow Chemical now recycle what used to be toxics that were taken off their site, or duPont? Because of the efficiencies that were built in and the cost that was built in when they could no longer dump it in the river, when they could no longer dump it in the land, when they could no longer dump it in people's backyards, when they had to think about how to do it.

What happens now? We refine more oil out of every barrel. We refine more materials and refine more products that are used in exports, that are used in products in this country than ever before. Why? Because it was subsidized before. It was subsidized by throwing it into the river, by sending it up a smokestack and not caring what happened.

If Members want to see what happens to those nations that chose another route, that chose not to have clean water in the 1960's and 1970's, 1980's and 1990's, go to Eastern Europe, go to Asia. You cannot breathe. You cannot go outside of your hotel. Citizens cannot live. They cannot grow vegetables. Lands are taken out of circulation.

No, this is a monument to success.

Wonderful speech by the gentleman from Florida. It simply was not accurate. It simply was not accurate. It was a bunch of anecdotal crap that cannot be supported on the record.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MINETA].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BORSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 157, noes 262, not voting 15, as follows:

[Roll No. 320]

AYES—157

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—262

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Fattah
Frank (MA)
Lazio
Linder
Moakley
Parker
Peterson (FL)
Richardson
Rogers
Walsh

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1530

The Clerk announced the following pair:

On this vote:

Mrs. COLLINS of Illinois for, with Mr. BARTON against.

AMENDMENT OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DeFazio: Page 92, line 2, strike "or other facility", as inserted on page 14 of the committee amendment offered by Mr. Shuster.

Mr. DEFAZIO. Mr. Chairman, the amendment before the committee would restore three words that were in the act as it passed out of committee. Those three simple words, which were struck yesterday by the so-called technical amendments and an unamendable amendment at the beginning of consideration, are very important because they would subject the Federal Government of the United States and Federal facilities to the same laws that apply to every State, to every private entity in America and every municipal entity in America.

Should we grant a broad exemption to Federal facilities in this bill from the Clean Water Act when private contractors, industry, municipal governments, county governments, sewer districts and others cannot get such broad exemptions? I think that for the sake of consistency, most Members of the House would argue no.

We are going to hear further that this exemption is warranted for national security purposes, because most of these facilities, these are nuclear Navy facilities, are essential to the defense of the United States. There is another section in the bill, and that section allows the President of the United States, by simple Executive order, to exempt any Federal facility or operation from all the requirements of this bill, but that would require a separate action.

I would argue that that would be the more consistent way to deal with these facilities. If some of them truly need an exemption from the Clean Water Act, I do not know what they are doing or what they are putting in the water that they need exemptions. But if they need exemptions so that they can put things in the water that industries and local governments are not allowed to put in the water, then they should ask the Commander in Chief for individual exemptions so there is at least some level of accountability and scrutiny applied.

There are 10 States directly affected by this amendment, and a total of 12 States when you consider downstream entities. Again, the question is what is it that is objected to by the Federal Government? What can the Federal Government not do? What are they putting in the water?

I think the people who live in or represent those 12 States should ask that question. I think their constituents are going to ask them that question in the future. What are they putting in the water that we will not allow industry to put in the water, that we will not allow local governments to put in the water? What is the Federal Government putting in my water it needs a blanket exemption under the act?

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, am I hearing what the gentleman said correctly, that all of the Navy nuclear facilities have been taken out and you did not know about this? Did I hear what he said?

Mr. DEFAZIO. Mr. Chairman, that is correct. The committee saw fit to include them under the bill and then the technical amendments removed them from the jurisdiction of this bill.

Mrs. SCHROEDER. If the gentleman would yield again, I have always really respected him. He is one of the few who really reads the bill. I assume he did not get any notice, he just found this out?

Mr. DEFAZIO. Mr. Chairman, I am afraid that neither the staff nor I caught this before the technical amendments had gone through the Committee on Rules.

Mrs. SCHROEDER. If the gentleman will continue to yield, how many facilities are there like this? I really find it amazing that the Federal Government does not want to be under the same law as everyone else is.

Mr. DEFAZIO. This would exempt 12 Federal facilities, Mr. Chairman, from the laws that every other local government, State government and industry would be subjected to. Furthermore, we will hear, I am certain, and the gentlewoman is familiar with this from her work on the committee, the claim that they need an exemption for national security purposes.

The bill allows the President with the stroke of a pen to exempt anything, any Federal facility, if that is necessary. Beyond that, two are closed and one is being decommissioned. Why would we remove a closed or a decommissioned facility from jurisdiction under the Clean Water Act for national security purposes?

Mrs. SCHROEDER. Mr. Chairman, I thought I heard what he said and I appreciate very much the gentleman clarifying that. That is really shocking. I hope people support the gentleman's amendment.

Mr. DEFAZIO. I thank the gentlewoman.

Again, just back to the basic point here. If indeed there is a threat to national security, particularly at those closed bases or the base that is being decommissioned——

The CHAIRMAN. The time of the gentleman from Oregon [Mr. DEFAZIO] has expired.

(On request of Mrs. SCHROEDER, and by unanimous consent, Mr. DEFAZIO was allowed to proceed for 2 additional minutes.)

Mr. DEFAZIO. Mr. Chairman, again the question is, Why should we grant a blanket exemption under this bill when the President has the authority as Commander in Chief to exempt any individual military facility? In particular, why is it in the States of California, Idaho, and South Carolina that we would exempt facilities that are closed or being decommissioned? It is particularly puzzling.

Even beyond that, I think the residents of the other States, and the list is long, New York, Pennsylvania, South Carolina, Virginia, Idaho, Washington, Hawaii, Connecticut, I think the residents of those States should ask, what is it that the Federal Government is putting into the water that no industry in America is allowed to put into the water, that no local government in America is allowed to put into their water, whether it is recreational water or drinking water or just something that happens to flow through their community; what is it that the Feds are putting in that they need this blanket exemption? I think that is a question that should be answered.

All I am saying is put back in the words, subject the Federal Government to the same requirements as everyone else in this country, the same way we subjected the Congress of the United States to the same laws as everyone else in this country, for the sake of consistency make the Federal Government follow its own laws, and if it needs an exemption for national security purposes, the bill allows it with a simple signature by the President of the United States.

Mrs. FOWLER. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, this amendment creates a new and duplicative regulatory authority for the EPA.

The Naval Nuclear Propulsion Program currently exercises regulatory authority over the activities affected by this amendment. This is a system that has worked well and has been found by the GAO to contain "no significant deficiencies." The system is already regulated and has no need for additional or duplicative regulations by the EPA.

Contrary to our efforts to reinvent government, do more with less, and reduce unnecessary regulation, the gentleman's amendment would do just the opposite.

I am particularly concerned with the costs this would impose on the Navy. As with most other branches of the Government, the Navy is facing significant budget cuts. Adding another layer of unnecessary regulation will have the effect of imposing additional tax on the Navy and require the Navy to devote scarce resources from defense programs and missions and instead use them for yet another layer of unnecessary and duplicative regulations.

I urge my colleagues to vote against this amendment and protect scarce naval resources.

Mr. SHUSTER. Mr. Chairman, will the gentlewoman yield?

Mrs. FOWLER. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentlewoman for yielding.

I would make the point that this simply returns us to current law. In fact, in the Mineta clean water bill of last year, this provision was included. We are simply doing what was in last year's clean water bill.

Perhaps most importantly, I was the author of the provision to change it, and I was wrong. After I studied the issue, I came to the conclusion that the points that the gentlewoman makes are very valid points. We do not need a duplicative process. This is already regulated by the Nuclear Regulatory Commission. It works. "If it ain't broke, don't fix it."

Ms. FURSE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am really pleased that my colleague, the gentleman from Oregon [Mr. DEFAZIO], has brought this to my attention because I am just shocked that my constituents are not going to be told that there are nuclear materials being put into the rivers, into the waters, if that polluter is a Federal facility.

We do not allow anyone else in this country to self-regulate. It does not seem fair that private businesses are held to stricter rules, to stricter costs, much greater costs than Government facilities. If private businesses are not allowed to self-regulate, why should the Federal Government be?

I represent the First Congressional District of Oregon. That is on the Columbia River. The Idaho National Engineering Lab is upstream from me. That means that my constituents of the First Congressional District of Oregon may be having nuclear materials put into the river and they are not going to be told about it. I just think that is plain wrong.

Mr. Chairman, we are sent here to speak for our constituents, to defend their health. I would like to urge my colleagues who represent districts that are downstream from these Federal facilities to make sure that we do not allow our constituents' health to be damaged.

I am going to vote yes to protect the health of my citizens on the DeFazio amendment, and I would like to urge every other Member who represents someone who is maybe downstream from a Federal facility to do the same.

Mr. DEFAZIO. Mr. Chairman, will the gentlewoman yield?

Ms. FURSE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, just to respond to the previous speech, I was a bit puzzled to hear that the nuclear Navy is subject to the EPA and NRC. If that were true, then there would be and there would never have been any need to include them in this bill.

They are exempt from the Clean Water Act, they are exempt from the authority of the Environmental Protection Agency, and they self-regulate. Unlike any other polluter in America, the nuclear Navy tells us they have adopted standards, they are meeting their standards and we should not worry about it.

Well, if that is good enough for the nuclear Navy, perhaps we should look at that approach for private interests or municipal interests. I resent the fact that my municipal government has to be monitored by the EPA for its sewer system. It costs money.

But at some point we do not allow self-regulation. I realize that of course the Navy is certainly holding itself to higher standards and certainly meeting its own conditions, and if that is true, then it will cost them nothing to comply.

Ms. FURSE. I say to the gentleman from Oregon [Mr. DEFAZIO], the point you make I think is really important. The city of Portland has invested $750 million in cleaning up any pollution site and they are happy to live by the rules of the EPA.

I am just shocked to find the nuclear Navy, this Federal facility, is not held to the same standards. I think it is really great that the gentleman brought it to our attention. I certainly support the amendment and hope my colleagues will do so, too.

Mr. SOLOMON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I do not have much more than 5 minutes because we have to get a budget resolution out here on the floor for next week.

Somebody posed a question a few minutes ago: What is the nuclear Navy putting in the waters that others don't? Well, they put in nuclear submarines, for one thing, torpedoes. They even put this marine in the water once.

This amendment would strike much of what was accomplished yesterday in the chairman's en bloc amendment. Let me emphasize, Mr. Chairman, and I think Members ought to listen to this on both sides of the aisle. The Department of the Navy, the Department of Defense, and the Joint Chiefs under President Clinton all strongly oppose this DeFazio amendment. Keep that in mind.

□ 1545

You know only a few years ago there was a Congressman here by the name of Synar who, like Congressman DEFAZIO, is a remnant of the nuclear freeze movement. You know they led all of that fight a few years ago.

Mr. DEFAZIO. Mr. Chairman, I rise to a point of personal privilege.

Mr. SOLOMON. Can I yield to my good friend, because the gentleman was part of the movement on this floor. You and I have debated it many times.

Mr. DEFAZIO. Will the gentleman yield?

Mr. SOLOMON. I said that with all due respect, as you know.

Mr. DEFAZIO. Mr. Chairman, I understand the gentleman perhaps is overreaching with his rhetoric. I am not aware of a movement which people signed up for. We certainly differ over the need for additional nuclear capability when we have 12,000 hydrogen bombs, that is correct.

Mr. SOLOMON. That is exactly what I was referring to, and I thank the gentleman for repeating what I just said.

But let me just say Mr. Synar and I think Mr. DEFAZIO probably, I do not know, requested that the General Accounting Office determine if there was a safety or a health or an environmental problem with the nuclear Navy. And you know what the GAO report came back with? They found no deficiencies in the area of the environmental protection, they found no deficiencies in nuclear safety, and they even found no deficiencies in occupational safety and health.

Just last month, and I think the minority side of the aisle ought to listen to this too, our President, President Clinton, praised the nuclear Navy. I would like to quote him. He said, "Our Navy has steamed over 100 million miles on nuclear power * * * in a way that has protected the public and the environment, both here and abroad." And that, ladies and gentlemen, that is a fact, 100 million miles.

We all know my colleague and friend from Oregon opposes all things nuclear, but this amendment does not make sense. It is an attempt to fix something that is not only not broken, but is actually working very, very well.

In fact, I would again quote President Clinton, who just recently described the nuclear propulsion program as "exemplifying the level of excellence we are working toward throughout our government."

Mr. Chairman, no environmental problem exists with this program. I think we can safely assume this amendment is little more than a backdoor attempt to once again undermine an essential national security program in this country. And again I would request that Members support the position taken by the Navy and our Joint Chiefs of Staff and President Clinton and myself and vote "no" on this DEFAZIO amendment.

Mr. BATEMAN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Virginia, one of the most distinguished members of the National Security Committee.

Mr. BATEMAN. Mr. Chairman, I thank the gentleman for yielding. I want to join in the comments just made by my colleague from New York, the distinguished chairman of the Rules Committee. I would only offer in addition to that if you take the record of the Navy's nuclear propulsion system, the standards of safety and their performance, the military discipline and integrity that has underlain their program for all of these years, and you wanted to make an amendment to make EPA and others subject to them and give them the money to discharge it, it might make sense, but which certainly do not add any additional cost to the taxpayers for duplicating, replicating that which is already being done in a very distinguished way.

The idea that people are putting things in your water and you do not know about it I think is basically pretty darn frivolous.

Mr. SOLOMON. Let me thank the gentleman for his comments.

Let me remind my colleagues of what is going to happen here next week. There is going to be on this floor a budget resolution which is going to lead to a balanced budget sometime at least by the year 2002. There are going to be drastic cuts in the programs in the Environmental Protection Agency, in all of these programs, and to pile yet another obligation on our Navy which is already so under-funded today is just outrageous. This amendment had better be defeated for the good of America.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words and I rise in strong support of the gentleman's amendment.

I must admit I was very, very surprised, Mr. Chairman, when I came on the floor and heard what the gentleman was saying, because I know those of us in the Colorado delegation have insisted that Federal installations be under the same laws that the private sector is. I think that has been very important and we have wanted that in our own State, and I was really shocked to find out that even though we are lessening some of these standards, we still do want these installations to be at the same standard that the private sector is. And even when if the President thought there was some reason, he could with the stroke of a pen pull them out.

So I think the gentleman's amendment is the right way to go and that is the way the bill was originally, if I remember.

Mr. DEFAZIO. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, I thank the gentlewoman for yielding. Yes, the bill as passed out of committee by a large margin included these Federal facilities. They would have been subjected to the same laws as all other businesses or Federal facilities in America.

The situation that would be created here, first off, vessels were never a consideration, vessels were not part of this bill. So to bring out the red herring of the nuclear submarines or nuclear-powered carriers is a red herring. They were never included.

This is shore-based fixed facilities in the United States of America which have the potential to harm American citizens. That is what we are trying to regulate here, and in fact the situation would be created if this amendment is not adopted, in Idaho we would have two different Federal agencies regulating two different standards at Idaho nuclear propulsion laboratories, because part of the property is nuclear Navy, which will be exempt from all Federal laws, and part of the property is DOE and will be subject to Federal laws. So the situation we are going to create is bizarre, and to say it is a burden or it is going to create a national security risk when we are dealing with two bases that have already been closed, two that are closed and one that is being decommissioned, that is an absurdity to say somehow by subjecting two closed bases, which perhaps, you know, pose a daily threat to nearby citizens from the Clean Water Act is a threat to our national security. The gentlewoman is on the committee of jurisdiction.

Mrs. SCHROEDER. I do not really understand it, because one of the things I found when we were going through this base-closure process was many of the citizens are very upset. They are so afraid we are going to declare these areas sacrifice zones and not clean them up, and I certainly hope that is not what we are doing in this bill, because if you are saying closed bases do not have to comply, and we are doing it to save money, well, if people who happen to live around it want it to be cleaned up, I guess what we are saying is they have to do it with their own money at the local level and the Federal Government is not going to help. I really think this is surprising, and I am particularly startled that the gentleman was not notified then that the bill was changed before it came to the House floor.

I think the gentleman's point too that he is making is he is talking about the shore installations. He is not talking about tracking ships and doing all of that, you are talking about the shore installations that should be good neighbors, and if there is some reason that cannot be that is highly classified, the gentleman is assuring me there is something in the bill that would allow the President to deal with that, am I correct?

Mr. DEFAZIO. That is correct. On page 86 beginning with line 17, "The President may exempt any effluent source of any department, agency or instrumentality," et cetera, and goes on to explain there is no limitation on that authority.

Mrs. SCHROEDER. I really thank the gentleman from Oregon again for his vigilance.

Mr. CUNNINGHAM. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, I am shocked, I am absolutely penetratively shocked. I do not think the gentlewoman from Colorado has even been shocked about anything in her life, especially this.

Second, I look at the individuals that are offering this. Is there any shocking doubt, the same people that would vote to cut defense $177 billion, the same ones that would put homos in the military, the same ones that would not fund BRAC, the same ones that would not clean up.

Mr. SANDERS. Mr. Chairman——

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. No, I will not. Sit down, you socialist.

Mr. SANDERS. Mr. Chairman——

Mr. CUNNINGHAM. The ludicrousness of this, even to appeal this. It is the lunacy of this, the EPA and other organizations have continually stated you take the shore-based and the surface-based, have less problems than any of your public bases, less than all of them put together.

I have operated off these carriers. I have operated out of these. You want to take a Geiger counter, go ahead. I have scuba dived underneath the docks. I am not going to do that if it is polluting. And the same people that would control with big Government the rules and the regulations and try and diminish national security, look at them, just look at them right here. And the same people. The team never changes, and you want to put these burdens, and the problems is that you fail to see the solutions to very simple problems. You state your own opinion as fact when it is not.

There are studies and studies and studies that show that there is no discharge, that it is not regulated, but yet you would cost the American taxpayers and lay on rules and regulations and have bigger Government, more facilities, more control over the regulatory factors, and that is wrong.

Mrs. SCHROEDER. Mr. Chairman, do we have to call the gentleman "the gentleman" if he is not one?

Mr. SANDERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak in support of the amendment. I thank the chairman very much and would like the opportunity, if the gentleman from California would respond, just to ask him a brief question, if I might.

My ears may have been playing a trick on me, but I thought I heard the gentleman a moment ago say something quote unquote about homos in the military. Was I right in hearing that expression?

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from California.

Mr. CUNNINGHAM. Absolutely, putting homosexuals in the military.

Mr. SANDERS. You said something about homos in the military. Was the gentleman referring to the thousands and thousands of gay people who have put their lives on the line in countless wars defending this country? Was that the groups of people that the gentleman was referring to?

Mr. CUNNINGHAM. I am talking about the military. People in the military do not support this.

Mr. SANDERS. That is not what we were talking about. You used the word homos in the military. You have insulted thousands of men and women who have put their lives on the line. I think they are owed——

Reclaiming my time, Mr. Chairman, I would also say that if my friend in support of this amendment, if my friend from Oregon was involved in the nuclear freeze movement, I want to congratulate him. There are millions of Americans who wonder about the wisdom of spending millions and millions more dollars building more and more nuclear weapons at the same time as the Republicans are cutting back on Medicare, Medicaid, and student loans.

Furthermore, I find it incomprehensible that at a time when the vast majority of the people in this country are terribly concerned about what is going on in the environment, terribly concerned about the environmental implications of nuclear energy, that the American people do not know what is in their waterways, and that various military installations might be exempted from Federal regulatory practices.

So I very much applaud this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. DEFAZIO].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DEFAZIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 126, noes 294, not voting 14, as follows:

[Roll No 321]

AYES—126

Abercrombie
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bonior
Borski
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clyburn
Coleman
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hinchey
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kildee
Kleczka
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reynolds
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—294

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kennelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dunn
Frisa
Hancock
Martinez
Moakley
Peterson (FL)
Richardson
Rogers
Schumer

☐ 1619

The Clerk announced the following pairs:

On the vote:

Mrs. COLLINS of Illinois for with Mr. BONO against.

Mr. MOAKLEY for, with Ms. DUNN against.

Miss COLLINS of Michigan for, with Mr. FRISA against.

Messrs. BERMAN, MORAN, and JEFFERSON, and Mrs. CLAYTON changed their vote from "aye" to "no."

Mrs. LINCOLN changed her vote from "no" to "aye."

So the amendment was rejected

The result of the vote was announced as above recorded.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was not on the floor during the last debate, but I was informed of some of the remarks that I want to address. I am here, Mr. Chairman, referring to the comment of the Member from California in opposition to the last amendment in which he said that this was to be expected from those who supported homos in the military.

Mr. Chairman, I very much regret taking the time away from Members on this serious subject, but the time is over when I will let that kind of gratuitous bigotry go unchallenged, and I take the floor simply to express my contempt for the effort to introduce such unwarranted and gratuitous slurs on decent human beings on the floor of this House.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I want to join with the distinguished gentleman from Massachusetts [Mr. FRANK] in expressing my shock, outrage, and contempt for what was said on the floor of this House a little while ago. To express gratuitous bigotry when the subject of gays and lesbians in the military was not on the agenda—we are debating an environmental bill—for someone to get up and make an ad hominem attack on an environmental bill by saying, "What do you expect from someone who would support homos in the military," is beneath the dignity of what should be uttered on the floor of this House and deserves condemnation by every decent individual in this House.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, first of all it was not the only item mentioned. It is a series of things in which the liberals in this House have supported their social agenda.

Second, do I support homosexuals in the military? The answer is no. I personally believe that it affects readiness; yes, I do.

Does the majority of the military, men and women in the military, want homosexuals in the military? The answer is no, and, as long as the military leaders and those people feel that way, and if the gentleman could ever prove to me that that does not have an effect, then I will change that position, but that is the position currently, that it affects the national security and readiness of this country, and that is what I support.

Mr. FRANK of Massachusetts. Mr. Chairman, I come to Congress prepared to do a number of things that are difficult. I like the job, and I will undertake them, but trying to prove anything to the gentleman from California goes beyond the pale of my oath, and I will not try.

I will say again that we are not here talking about the merits of that issue. We are talking about the gratuitously bigoted formulation of it by which it was injected into this debate, and I find that to be beneath the dignity of the House.

Mr. DeFAZIO. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Oregon.

Mr. DeFAZIO. Mr. Chairman, as I understood the statement which was directed at me, it was not to say that I wanted to put them in the military. Well, I have news for the gentleman from California. There are quite a number of gays and lesbians serving proudly in the U.S. military, unfortunately not serving proudly and openly because of the fact that people like him exist and have pressured, as my colleagues know, the President and others to deny that opportunity to those people.

Mr. FRANK of Massachusetts. Let me say to the gentleman I do not want to get diverted. I am not here debating the substance of the policy; we have done that, and we will do it again. I am particularly calling attention to the formulation, the gratuitously, I believe, bigoted and insulating formulation, and I am very disappointed to see that language on the floor of the House.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CUNNINGHAM. I think the gentleman would be correct if that is the only issue. I meant it. I said it as a policy of the people in general that support the issues that degrade national security of this country, and that is one of those many issues which the gentleman supports, and in a case of amendment that is absolutely ridiculous, it was meant to formulate those same people that do not support defense are trying to tie the hands of defense even in the future.

Mr. FRANK of Massachusetts. The defense of a bigoted remark, and it was one of several remarks, makes even less sense than I had expected. I am talking about the formulation. It was bigoted, and I would hope it would not be repeated.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

First of all, it is not a bigoted statement. Many times the gentleman from California [Mr. DELLUMS] has told me that people have differences of opinion. It is this Member's opinion that homosexuals in the military do not do service to the national security of this country, and in that vein making a statement that those that support that are supporting the nonreadiness of defense is—and I will be happy to yield in just a second.

The second thing is that there is a tendency by the Members that support that kind of activity, support all the rest of it, and it is meant that we need to support national security in this country.

I say to my colleagues, "A bigoted statement, if I was directing it to you or anybody else in this thing, in other contexts, yes, would be bigoted, but a personal opinion, that it degrades the national readiness of this country, is not a bigoted statement."

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I was referring in part to the formulation of homos in the military. The gentleman has been very careful since that time to say homosexuals, but he was not very careful when he got up on the floor, and I took specific offense to the deliberately bigoted and belittling form of words that he chose to use.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, let me say that I used the shorthand term, and it should have been homosexuals instead of homos. We do misspeak sometimes.

Ms. JACKSON-LEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the previous speaker, the gentleman from California, attempted to make a correction in the utilization of the word homo or homosexuals. I just want to reemphasize the point that I think my colleagues are making on this side of the aisle. It is the point that we were discussing an environmental issue, and it is the point that for some reason it was thought appropriate to intrude a discussion on another nonmeritorious issue that gave some suggestion that the gentleman was throwing stones, if my colleagues will, at a person for having supported a group of people on another issue on another point. That to me seems to suggest bigotry, and maybe the gentleman did not mean that, and we would accept, certainly, his clarification and even an apology, but it is certainly my understanding that, if my colleagues were discussing one issue, and someone throws another issue in and castigates a group of people, then he has clearly made it an issue of discrimination and bigotry. Inappropriate behavior and words, and this certainly calls for an apology to both the colleague that was speaking and, as well, the whole group that he has maligned.

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. NADLER: Page 50, strike line 19 and all that follows through line 10 on page 52.

Mr. NADLER. Mr. Chairman, I rise today so that we will not have to see signs like the one to my left in the future. It is the right of citizens of this country to have clean water. If this bill is passed in its current form, the signs will never come down.

During the committee markup of this legislation, Mr. Chairman, I introduced an amendment that would have deleted a section of the bill that allowed pollution controls to be lowered or eliminated for waterways that had already been cleaned up if the cost of maintaining those controls outweighed the benefit of maintaining the level of water quality in the opinion of the State. I would like to commend the gentleman from Pennsylvania [Mr. SHUSTER] for taking this section of the bill out of the bill in his en bloc amendments we adopted yesterday. While I am pleased this was done, I believe we must go further.

The bill still permits States to abandon all efforts to attain the previously set water quality goals, or even any water quality goals at all, if the State determines that in its opinion the cost of reaching the designated water quality standard outweighs the benefit.

□ 1630

My amendment would delete this section of the bill and maintain the current process in which the designated use, the designated quality, fishable, swimmable, navigable, can be reviewed by the State every 3 years.

I ask my colleagues to support this amendment for the following reasons: First, this bill waives Clean Water Act quality standards if the cost outweighs the benefit of keeping the water clean.

I ask, how do you measure the benefit of parents being able to take their children fishing, or of children using their favorite watering hole, or a fisherman making their livelihoods, and how do you determine whether that outweighs the cost of attaining that level of water quality?

The bill does not define what constitutes a benefit that would outweigh the cost, and vice versa. The bill does not define how to measure the cost versus the benefit and what standards to apply to measure which exceeds the other.

Second, proponents of this bill never referred to any problems with the current guidelines for determining how clean the waterway must be, what standards must be attained, nor does this bill try to modify existing guidelines. They do not identify why we should change it.

Instead, the bill reflects the notion that if a State believes it is too expensive to reach the water quality levels set pursuant to the standards that it already determined, and that it can change every 3 years, then you can just stop, or not try quite as hard to clean up the water.

The bill essentially says in this section that we do not really care about the health and well-being of the people using this water. If it is expensive for a polluter to clean up the water, do not bother. In other words, the cost to the polluter is more important than the health of our children under this text.

Third, the current law gives the States ample flexibility to adjust the designated uses of a waterway and the level of water quality they must attain. Current law reflects that every 3 years this must be reviewed in the practicality of keeping the designation of each waterway, whether it be fishable, swimmable, navigable, must be reviewed every 3 years. They must take into account health, safety, agricultural, industrial, and recreational uses of the waterway. The States can then, after EPA approval, increase the amount of pollution that is allowed into those waters.

Some of my colleagues argue we should trust the States to make these determinations without EPA approval and allow them greater flexibility. But this is not just a matter of trusting the States. It has to do with preventing polluters, big businesses, from in essence blackmailing the States by saying to a State if you do not lower the water quality standards, we will move to the other States and we will take our taxes and our jobs with us.

The only way to protect the States against this form of blackmail by big polluters is to have the EPA still have a role to set minimal standards, so that the State can say well, while you may be able to move because you do not want to attain the quality standards here, but you will not be able to do the same kind of pollution in the next State either.

It also has to do with preventing interstate pollution. If one State lowers its water quality standards in their section of a river, that pollution then flows down the river to other States that need the same water for fishing or recreational, agricultural, fishing or drinking purposes. As I mentioned earlier, the States already have the ability to lower water quality standards if they need to do so. But by including this cost-benefit analysis without any guidelines, it gives too much leverage to large polluters.

Finally it says that the State may eliminate the water quality standard if the State determines that the costs of achieving the designated use are not justified by the benefits. It can go to no standard at all.

In conclusion, Mr. Chairman, we must adopt this amendment and get rid of this language if we are going to attain a safe and healthy environment for people to fish, swim, and drink the water.

Mr. MICA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am afraid that the gentleman from New York has presented an amendment in search of a problem. States actually have asked for this flexibility, and States currently set these standards now. What we are looking at proposing in our legislation is to allow a reasonable change and a reasonable opportunity to make changes under reasonable circumstances.

The amendment of the gentleman from New York [Mr. NADLER] strikes the provisions of H.R. 961 that allow States to take costs and benefits into account in revising designated uses of water bodies.

Let me point out that in 1975, the administrator required States to designate all navigable waters for which a use had not been designated as follows: They are either fishable, swimmable, and that is to use the quote, the designation by the administrator. They are designated as fishable-swimmable.

As a result, many of the waters have received a designated fishable-swimmable category and an unrealistic designated use. For example, streams in the arid West that are dry most of the year have been designated as fishable and swimmable.

The bill that we have proposed changes current regulations, the revision of designated uses, in two ways. Let me explain those two ways. First, current regulations allow a State to revise designated uses if it demonstrates to EPA that achieving the designated use is infeasible. The bill allows the State to make the determination of feasibility, but feasibility is still defined by EPA.

Second, and let us look at the second point, under current law designated uses may be revised only if attaining the use will result in substantial economic dislocations.

Certainly the author of this amendment is very familiar with economic dislocations. I had the opportunity to visit his district some time ago, and I saw the skyline of his district and the vacated factories, and I think he told how many hundreds of thousands of manufacturing jobs have been gone, how the piers are abandoned and how the housing tenements are abandoned. So we know about this question of substantial economic dislocation. I am sure the gentleman is familiar with that.

Let me say that H.R. 961 allows States to revise a designated use that is not being attained if the cost of attainment is outweighed by the benefits. So what we are trying to do is something reasonable. This is a reasonable approach, and this is an approach that we think makes a lot of sense. So we are using costs and benefits here in a manner that will give flexibility to the States, and the States have requested this flexibility.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Florida is quite correct when he says that we are granting this flexibility to the States. The key difference, of course, is that under current law the administrator of EPA has to agree with the State that is changing the designated use that it meets the requirements of the law. That in effect is being removed here. Here the final authority is the States. That is exactly the kind of flexibility which would mean that there would be no uniform standard across the country to make sure that States are in fact making proper progress toward Clean Water Act standards, and that is a key difference.

Mr. MICA. Reclaiming my time, if I may, again, I think feasibility is still defined under our legislation by the Environmental Protection Agency. They will be a participant in this process. Indeed, the gentleman from New York is offering an amendment that is in search of a problem that does not exist, that we have a broad base of support for this from the States, from governors, from counties and cities and local officials. What we are trying to do is take some of the unreasonable approaches, and I gave an example, swimmable-fishable in the desert, in an area that may have water in it a few days a year. This does not make sense.

So we are just trying to take a common sense approach, look at this, and move forward.

Mr. MINETA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment.

Adoption of the amendment will preserve the current, cooperative system of States and EPA combining in the protection of State water quality consistent with the States' goals and desires.

Designated uses are set by the States. They reflect the use of the waterbody which the State determines is appropriate—not what the Federal Government determines is appropriate.

Currently, States may change a designated use if attaining the use is not feasible because the more stringent controls would result in substantial and widespread economic and social impact. The bill would expand the ability to downgrade water quality standards if a State determines that the costs of achieving the designated use are not justified by the benefits.

This gives much too great an emphasis on cost at the expense of environmental and human health impacts. Cost is and always should be of concern in the Clean Water Act. However, cost should be used when determining the method of achieving water quality goals—it should not operate as a limit upon those goals.

If this amendment is rejected, the bill would allow cost to become the overriding concern in establishing water quality standards. That is not the way to achieve expected water quality.

The American people want and expect clean, healthy water in their rivers, lakes and coastal areas. The Nadler amendment will help assure that the wishes of the people are fulfilled. Support the amendment.

Mr. WAMP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I came to the well yesterday and talked about the pendulum of regulation being pulled back to the middle, not going back to where we were, but to where we should be based on a reasonable balance of regulation.

One of the other defining issues, I believe, in this new Congress is this notion of do we trust those that we elect to office in our respective States with a lot of the decisions that come before the people in those States. We do not have to federally micro-manage every specific element of every program.

We need to Clean Water Act. We do agree with the concept of clean water. But overregulation, I believe, is what brings us to this debate in 1995 to amend the Clean Water Act with some reasonable amendments. I believe the States will do the right thing. I believe the elected leadership of our States are closer to the people, they are more responsible to the people. And I believe that sometimes costs can shut down a free market and there needs to be a reasonable balance of regulation.

That is what we are here today, yesterday, and even tomorrow to debate with these revisions to the Clean Water Act.

I clearly believe that this amendment goes too far again with Federal micro-management of many decisions that can be best made by our States. The 10th amendment clearly articulates the difference here between the Federal micro-management and the rights we should have in our States.

Mr. Chairman, I encourage our friends from both sides of the aisle to oppose this amendment.

□ 1645

Mr. NADLER. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. SHUSTER. Mr. Chairman, reserving the right to object, the gentleman has already spoken; has he not?

The CHAIRMAN. That is correct. That is the purpose of the Chair asking if there was objection.

Mr. SHUSTER. Did the gentleman ask for 2 additional minutes?

Mr. NADLER. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. NADLER] is recognized for 2 additional minutes.

There was no objection.

Mr. NADLER. Mr. Chairman, the fundamental question in this amendment is twofold. One, do we not believe, do we recognize that the water quality standards are not, first of all, an issue only with respect to one State? Rivers flow through several States. It is not simply the case that a decision on the quality of water only affects necessarily that one State. When one State decides to permit pollution to continue because it thinks it is too expensive, the costs outweigh the benefits, that will affect the next State the river runs through. This is not simply something that we can keep within one State.

Second, it is not simply a question of do we trust the States? We know that the States are subject to pressures that exceed what the Federal Government is exposed to. We know that the polluting businesses have a major way, a major leverage over the State to tell the State, You had better give us this ability to keep polluting. Do not make us spend this money or move to the other State.

That does not mean the State officials necessarily agree that it is better to let the pollution continue. But they might agree that they have no choice but to submit to this ultimatum and say, We will let you continue polluting. We will lower the water quality standards because we do not want to lose the jobs and the taxes.

The Federal Government is not subject to that pressure and therefore can better represent, therefore has to be in a partnership with the State to represent the interests of the people to fishable, navigable, swimmable, drinkable, safe, clean water.

Therefore, I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. NADLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. NADLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 121, noes 294, not voting 19, as follows:

[Roll No. 322]

AYES—121

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hastings (FL)
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Matsui
McCarthy
McDermott
McHale
McKinney

Meek
Menendez
Meyers
Mfume
Mineta
Mink
Nadler
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Thompson
Torricelli
Towns
Tucker
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—294

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Martini
Mascara
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Metcalf
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—19

Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dunn
Frisa
Hancock
Leach
McCollum
Miller (CA)
Moakley
Ortiz
Peterson (FL)
Richardson
Rogers
Schumer
Skelton
Torres

☐ 1708

The Clerk announced the following pairs:

On this vote:

Mrs. COLLINS of Illinois for, with Mr. WATTS against.

Mr. MOAKLEY for, with Mr. BARTON against.

Miss COLLINS of Michigan for, with Ms. DUNN of Washington against.

Mr. MASCARA and Ms. FURSE changed their vote from "aye" to "no."

Mr. HOYER changed his vote from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OBERSTAR:

Page 100, strike line 5 and all that follows through the first period on line 10 on page 101.

Page 102, line 1, strike "Such demonstration" and all that follows through the first period on line 3.

Page 114, strike line 17 and all that follows through line 4 on page 115.

Page 115, line 5, strike "(n)" and insert "(m)".

Page 117, line 4, strike "(o)" and insert "(n)".

Page 117, line 6, strike "(q)" and insert "(p)".

Page 117, line 10, strike "(p)" and insert "(o)".

Page 117, line 12, strike "(r)" and insert "(p)".

Mr. OBERSTAR. Mr. Chairman and colleagues, nonpoint source pollution is the next frontier of our clean water program. The Nation has done very well in cleaning up pollution from point sources. Over the past 20-plus years since the Clean Water Act was enacted in 1972, industry and municipalities both have spent on the order of $230 billion cleaning up point sources.

Yet, although a measure of progress has been made in our lakes and streams, we still have unacceptably high levels of pollution, principally coming from runoff from open land sources: agricultural lands, lands under development for housing or other purposes, forestry lands that have not been properly protected.

The most egregious effect of such runoff from nonpoint source was the already-referred-to attack of Cryptosporidium in the city of Milwaukee a couple of years ago, where runoff from agricultural land carried with it a deadly disease; it got into the drinking water of the city of Milwaukee, and affected some 400,000 citizens, of whom 120-plus died.

Those illnesses and those deaths could have been prevented with effective nonpoint source protection programs. I spent some 10 years attempting to develop such language, which was included in the committee bill introduced by our chairman in the last Congress, the gentleman from California [Mr. MINETA], and which I have very strongly advocated.

That bill died with the 103d Congress, and in the current legislation, the bill before us does attempt to deal with the issue of nonpoint source. I commend our current chairman, the gentleman from Pennsylvania, Mr. SHUSTER, for attempting to address this issue.

However, there are two fatal shortcomings in this bill that make the nonpoint source program utterly ineffective. The first is one that introduces into this debate a totally new concept. On section 319 (B)7, subsection 7, there is language providing for an exemption for whole farm or ranch natural resources management plans, but nowhere in the bill are those two items defined. Nowhere in legislative language do we have those items clarified.

Yes, there is some reference to it in committee report language, but as we all know, when an issue of this kind is challenged in court, the court does not look to committee report language. It scarcely looks at the debate that we conduct here on the floor. It looks to the legislative language, and there is no definition of what is a whole farm or a ranch natural resources management plan.

The bill, therefore, in that section, where it should be addressing runoff from open sources, pesticides, fungicides, rodenticides, fertilizers, herbicides, makes no such reference, has no control mechanism. Then in a further section, the bill provides some funding, for which I do commend our chairman.

It starts off at $100,000 and goes up to $300,000 a year. Then it says "However, if the appropriation level does not meet the authorization level, the enforcement does not follow." The State is not required to enforce the program. EPA has no enforcement authority.

This scenario, and in these tight budget times, that language becomes a self-fulfiling prophecy. If we get close, say $95 million in appropriation, but not $100 million, there is no requirement for enforcement. There is some sort of language that suggests that if the administrator of EPA and the State together certify that the amounts appropriated are sufficient to meet the requirements of the section, that the deadline then will be enforced.

I do not think that will ever happen. I do not think we are ever going to have a Governor saying less will do more.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 2 additional minutes.)

□ 1715

Mr. OBERSTAR. Mr. Chairman, although we know the pressures and constraints and we know very well what enormous pressures there will be on Governors not to move to the stage of compliance, I want to see compliance. I want to see our open spaces, runoff of pollution from open lands, cleaned up.

That is the next frontier. That is the challenge that we must meet. This bill gives 19 years to get to that point, but the deadline will always be a mirage. It will always be out there just beyond our grasp because the funding will never be there.

I wish the Chair would agree to a means in which we could accomplish that the objective without having it slip from our grasp and not be so elusive as this bill provides.

I urge my colleagues to support my amendment, which strikes those provisions and puts some teeth into the non-point source provisions of this bill, which otherwise are reasonably good.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am surprised that my good friend from the great agricultural State of Minnesota would come forward with a provision that really guts, eliminates whole farm planning in the State's non-point source management program. Essentially what this amendment says is, once again, we do not trust the States. Once again, we in Washington know best.

In fact, we have a letter from the National Governors Association dated just yesterday in which they urge strong support for the language that we have in the bill. They say, "We support this approach to non-point source pollution."

So the Governors are strongly in support of what we are attempting to do here, and I think it is time that we trust our States and do not come to the conclusion that Washington always know best.

The whole farm plan is a voluntary initiative that makes environmental sense. What is very significant is that there must be approval from the water quality people in the State, through a written memorandum of agreement, that the whole farm plan is consistent with a non-point source management program before such a whole farm plan can be adopted in the State.

That is fair. That says that we do put emphasis on the environment. That says there has got to be a non-point source management program in a State.

Further, I may not agree with too much of what the Clinton administration is attempting to do, Mr. Chairman, but the Clinton administration, and I say to my friends on the other side of the aisle, the Clinton administration has proposed the whole farm plan in the 1995 farm bill. It is a Clinton farm initiative and it is a good one, and we should support it.

In fact, as to the issue of the definition of what this plan should be, first of all, it is indeed defined in the report; but much more importantly than being defined in the report, we looked to the Committee on Agriculture of this House to define it in the farm bill.

That is where the definition should take place. It is a farm issue. The farm bill should be the place where the definition is provided. We have confidence in the Committee on Agriculture to do that. Further, the gentleman's amendment also strikes the safeguards against unfunded mandates. This is an extremely important point.

The last thing I think we want to do around here is eliminate safeguards against unfunded mandates. Indeed, if the appropriation is enough in any given year to allow the States to implement the program, there is no slippage of deadlines.

For all of those reasons, I think we should support our farmers, we should support our Governors, we should support oui States, and we should reject this amendment.

Ms. FURSE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I have here in my hand a letter from the Governor of Oregon. He says in this letter, "The State of Oregon is opposed to H.R. 961. This bill includes several unacceptable provisions that would undermine the careful balance of the Clean Water Act."

He goes on to say, "Proposals raise significant concerns that the progress made in improving water quality over the last 20 years will be traded in for short-term economic gains without sufficient consideration of the long-run costs."

"The proposals," he says, "which raise the greatest concern in Oregon include failure to add clear deadlines, goals, and consequences to the non-point source program."

For 95 percent of Oregon's 100,000 miles of streams, non-point pollution is the only source of pollution. Yet H.R. 961, as the Governor has said, does not provide clear guidance or goals to address non-point source pollution. Even worse, the bill would repeal the State's existing coastal zone non-point pollution programs.

In other words, for 95 percent of the State's streams, the Oregon streams, H.R. 961 would not only fail to make any progress in combating water pollution problems, it would actually undermine existing programs.

Mr. Chairman, I find it a little ironic that the 104th Congress, which has repeatedly said it is a protector of States' rights, is now advocating to pull the rug from under States like Oregon which are diligently trying to improve the quality of life inside their borders.

There is absolutely no point to H.R. 961's non-point provisions. I urge my colleagues to oppose them by supporting the amendment of the gentleman from Minnesota [Mr. OBERSTAR] which would put teeth into non-point source pollution protections.

Mr. EMERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong opposition to the gentlemen's amendment to strike the provisions of the bill supporting the concept of whole farm and ranch management programs. The provisions as included in the bill have the support of many major commodity groups (including the U.S. Wheat Growers, National Cotton Council, National Corn Growers, American Soybean Association), several farm and agribusinesses organizations (American Farm Bureau, National Council of Farm Cooperatives), along with that of the National Governor's Association and the National Association of the State Departments of Agriculture. These provisions direct the EPA Administrator, in coordination with the U.S. Department of Agriculture, to consult with individual States in order to reduce or eliminate conflicting requirements and guidelines relating to nonpoint source pollution—this amendment removes those incentives.

As I have stated in this body many times over the years, American farmers and ranchers are the original stewards of the land. No one has a greater interest in maintaining and improving the quality of their soil and water than the domestic farm and ranch producer. I have also noted that the hard-working men and women of today's farming and ranching communities are willing to further commit themselves to continued responsible soil and water practices. These provisions direct farmers and ranchers to work with their individual State in developing and implementing a voluntary plan to address nonpoint source pollution.

For too long, agricultural producers have been subject to onerous rules and regulations from both the federal and state level. In many cases, this confusion has deterred efforts to exercise common-sense, nonpoint source pollution reduction efforts. By rejection of this amendment, farmers and ranchers will be able to utilize sound conservation practices, such as Best Management Practices, low-tillage, no-tillage, buffer strips, and a variety of other USDA approved management practices in their crop production efforts.

Individual farmers and ranchers finally deserve the opportunity to prove their commitment to nonpoint source pollution reduction without the heavy-handed, inflexible mandatory demands of Washington's Federal bureaucracy. I ask the Members of this body to reject this attempt to take away incentives to provide some much-needed flexibility to our Nation's farmers and ranchers to adopt proven plans to improve water quality on agricultural lands.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly support this amendment. It would eliminate two of the most egregious loopholes in the nonpoint source section of the bill.

First, the amendment would strike a provision that exempts agricultural producers from the nonpoint provisions of the Clean Water Act, if a producer has in place a plan referred to as a "whole farm or ranch natural resources management plan."

I want to be clear at the outset. I have no objection to the concept of whole farm plans. It makes a lot of sense for farms that are subject to numerous planning requirements to consolidate them into a comprehensive management plan. But that is not what H.R. 961 does.

H.R. 961 creates a mechanism for escape from Clean Water Act coverage without any assurance whatsoever that a farm plan will even address nonpoint source pollution.

Any farmer who prepares a document and calls it a whole farm plan can be out of the nonpoint program entirely.

The bill contains no specifications or standards as to what the farm plan should address, or what it should attempt to accomplish.

There is no requirement that the State or Federal environmental agencies with expertise in protecting water quality play any role in ensuring that these plans address water quality concerns.

In fact, there is no requirement that the plans include measures to address water quality concerns.

H.R. 961 removes from the reach of the Clean Water Act the single greatest source of water quality impairment. By allowing whole farm plans to serve as compliance, the bill takes away from States the ability to require nonpoint control by these producers, even if the State program is not making progress in controlling nonpoint pollution. This will unnecessarily hamper the efforts of States in achieving environmental results.

The Oberstar amendment also would strike provisions that improperly make environmental protection contingent on receipt of Federal funding. Requirements on States for assessments, nonpoint program implementation and monitoring would all be delayed one year for each year that the Federal appropriation for nonpoint programs falls even one dollar short of the amount authorized. And, the amount of federal assistance provided will be taken into consideration in determining whether a State's program is making reasonable progress toward attainment of water quality standards.

These concepts of linking Clean Water Act goals with Federal funding are bad policy and are certain to thwart any progress in addressing the largest remaining source of pollution. The Clean Water Act has never been a fully federally funded program. Individuals and corporations have responsibilities not to contaminate their neighbors' water regardless of whether they receive any payments from the Federal Government.

As with all of the loopholes in the bill, someone will pay the price. Nonpoint sources of pollution need to do more, not less, to reduce water pollution. That is the only way to avoid disproportionate burdens on industrial and municipal dischargers, and enormous losses to the tourism industry, recreation and others. And, it is the only way we can achieve the quality of water that our citizens expect and deserve.

I urge my colleagues to support the Oberstar amendment.

□ 1730

Mr. LATHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strongest possible opposition to the Oberstar amendment. This is an amendment that every single member of the House should oppose.

First of all, as a fourth generation family farmer, I cannot stress strongly enough how offensive the Oberstar amendment is. We, in agriculture, are sick and tired of Washington, DC, bureaucrats treating us with contempt.

There is general agreement among people who understand agriculture that Best Management Practices are the most cost effective programs for reducing agricultural run-off. That is the responsible principle that this bill seeks to put into affect.

And, who are the experts on agricultural run-off? I assure you that the answer is not the bureaucrats at EPA.

H.R. 961 puts the responsibility of developing Best Management Practices in the hands of the USDA.

The Oberstar amendment demonstrates contempt for farmers and contempt for the USDA.

As far as the unfunded mandates portion of the Oberstar amendment, President Clinton has already signed into law the Unfunded Mandates Reform Act to prevent exactly this type of legislation from being passed by Congress.

The provisions of H.R. 961 are simple, but fair. The bill makes an estimate of annual needs toward attaining the goals of the Clean Water Act. If Congress does not appropriate these funds, compliance deadlines for the States are delayed.

This is the type of unfunded mandate relief that both Houses of Congress have already approved overwhelmingly and is already Federal law.

The Oberstar amendment says "forget all that, let's pretend that the unfunded mandate bill never passed. Let's go back to business as usual, passing the buck as we've done before."

Even if you didn't support unfunded mandate reform, you should respect that this is now the law of the land. No Member, no matter how you feel about the rest of the bill, should support this amendment.

Vote "no" on the Oberstar amendment. It's an insult to farmers. It deserves to be defeated resoundingly. In fact, it deserves to be defeated unanimously.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. OBERSTAR].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBERSTAR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 122, noes 290, not voting 22, as follows:

[Roll No. 323]

AYES—122

Abercrombie
Ackerman
Andrews
Barrett (WI)
Becerra
Beilenson
Berman
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Engel
Eshoo
Evans
Fattah
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Harman
Hastings (FL)
Hinchey
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McDermott
McHale
McKinney
Meehan
Menendez
Mfume
Mineta
Mink
Moran
Nadler
Neal
Oberstar
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Rahall
Rangel
Reed
Reynolds
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Shays
Skaggs
Slaughter
Stark

Stokes
Studds
Stupak
Thompson
Thornton
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Woolsey
Wyden
Wynn
Yates

NOES—290

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Volkmer
Vucanovich
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—22

Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dunn
Frisa
Hancock
Meek
Miller (CA)
Moakley
Ortiz
Pastor
Peterson (FL)
Richardson
Rogers
Schumer
Tanner
Torres
Waldholtz
Watts (OK)
Young (FL)

□ 1751

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Texas for, with Mr. Bono against.

Mr. Markley for with Ms. Dunn against.

Mrs. Collins of Michigan for, with Mr. Watts against.

Messrs. FRANKS, of New Jersey, WISE, CLYBURN, and BRYANT of Texas changed their vote from "aye" to "no."

Ms. DELAURO and Mr. DOGGETT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman, I offer an amendment, Amendment No. 41.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PALLONE:

H.R. 961

OFFERED BY: MR. PALLONE

AMENDMENT NO. 41: Page 81, after line 1, insert the following:

(a) FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.—Section 101 (33 U.S.C. 1251) is further amended by adding at the end the following:

"(i) FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.—Congress finds that a discharge which results in a violation of this Act or a regulation, standard, limitation, requirement, or order issued pursuant to this Act interferes with the restoration and maintenance of the chemical, physical, and biological integrity of any waters into which the discharge flows (either directly or through a publicly owned treatment works), including any waters into which the receiving waters flow, and, therefore, harms those who use or enjoy such waters and those who use or enjoy nearby lands or aquatic resources associated with those waters.

"(j) FINDING WITH RESPECT TO CITIZEN SUITS.—Congress finds that citizen suits are a valuable means of enforcement of this Act and urges the Administrator to take actions to encourage such suits, including providing information concerning violators to citizen groups to assist them in bringing suits, providing expert witnesses and other evidence with respect to such suits, and filing amicus curiae briefs on important issues related to such suits.".

(b) VIOLATIONS OF REQUIREMENTS OF LOCAL CONTROL AUTHORITIES.—Section 307(d) (33 U.S.C. 1317(d)) is amended by striking the first sentence and inserting the following: "After the date on which (1) any effluent standard or prohibition or pretreatment standard or requirement takes effect under this section or any requirement imposed in a pretreatment program under section 402(a)(3) or 402(b)(8) of this Act takes effect, it shall be unlawful for any owner or operator of any source to operate such source in violation of the effluent standard, prohibition, pretreatment standard, or requirement.".

(c) INSPECTIONS, MONITORING, AND PROVIDING INFORMATION.—

(1) APPLICABILITY OF REQUIREMENTS.—Section 308(a) (33 U.S.C. 1318(a)) is amended by striking "the owner or operator of any point source" and inserting "a person subject to a requirement of this Act".

(2) PUBLIC ACCESS TO INFORMATION.—The first sentence of section 308(b) is amended—

(A) by inserting "(including information contained in the Permit Compliance System of the Environmental Protection Agency)" after "obtained under this section";

(B) by inserting "made" after "shall be"; and

(C) by inserting "by computer telecommunication and other means" after "public" the first place it appears.

(3) PUBLIC INFORMATION.—Section 308 is further amended by adding at the end the following:

"(e) PUBLIC INFORMATION.—

"(1) POSTING OF NOTICE OF POLLUTED WATERS.—At each major point of public access (including, at a minimum, beaches, parks, recreation areas, marinas, and boat launching areas) to a body of navigable water that does not meet an applicable water quality standard or that is subject to a fishing and shell fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination, the State within which boundaries all or any part of such body of water lies shall, either directly or through local authorities, post and maintain a clearly visible sign which—

"(A) indicates the water quality standard that is being violated or the nature and extent of the restriction on fish or shellfish consumption, as the case may be;

"(B) includes (i) information on the environmental and health effects associated with the failure to meet such standard or with the consumption of fish or shellfish subject to the restriction, and (ii) a phone number for obtaining additional information relating to the violation and restriction; and

"(C) will be maintained until the body of water is in compliance with the water quality standard or until all fish and shellfish consumption restrictions are terminated with respect to the body of water, as the case may be.

"(2) NOTICE OF DISCHARGES TO NAVIGABLE WATERS.—Except for permits issued to municipalities for discharges composed entirely of stormwater under section 402 of this Act, each permit issued under section 402 by the Administrator or by a State shall ensure compliance with the following requirements:

"(A) Every permittee shall conspicuously maintain at all public entrances to the facility a clearly visible sign which indicates that the facility discharges pollutants into navigable waters and the location of such discharges; the name, business address, and phone number of the permittee; the permit number; and a location at which a copy of the permit and public information required by this paragraph is maintained and made available for inspection or a phone number for obtaining such information.

"(B) Each permittee which is a publicly owned treatment works shall include in each quarterly mailing of a bill to each customer of the treatment works information which indicates that the treatment works discharges pollutants into the navigable waters and the location of each of such discharges; the name, business address and phone number of the permittee; the permit number; a location at which a copy of the permit and public information required by this paragraph is maintained and made available for inspection or a phone number for obtaining such information; and a list of all violations of the requirements of the permit by the treatment works over the preceding 12-month period.

"(3) REGULATIONS.—

"(A) ISSUANCE.—The Administrator—

"(i) not later than 6 months after the date of the enactment of this subsection, shall propose regulations to carry out this subsection; and

"(ii) not later than 18 months after such date of enactment, shall issue such regulations.

"(B) CONTENT.—The regulations issued to carry out this subsection shall establish—

"(i) uniform requirements and procedures for identifying and posting bodies of water under paragraph (1);

"(ii) minimum information to be included in signs posted and notices issued pursuant to this subsection;

"(iii) uniform requirements and procedures for fish and shellfish sampling and analysis;

"(iv) uniform requirements for determining the nature and extent of fish and shellfish bans, advisories, and consumption restrictions which—

"(I) address cancer and noncancer human health risks;

"(II) take into account the effects of all fish and shellfish contaminants, including the cumulative and synergistic effects;

"(III) assure the protection of subpopulations who consume higher than average amounts of fish and shellfish or are particularly susceptible to the effects of such contamination;

"(IV) address race, gender, ethnic composition, or social and economic factors, based on the latest available studies of national or regional consumption by and impacts on such subpopulations unless more reliable site-specific data is available;

"(V) are based on a margin of safety that takes into account the uncertainties in human health impacts from such contamination; and

"(VI) evaluate assessments of health risks of contaminated fish and shellfish that are used in pollution control programs developed by the Administrator under this Act.".

(4) STATE REPORTS.—Section 305(b)(1) (33 U.S.C. 1315(b)(1)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end the following:

"(F) a list identifying bodies of water for which signs were posted under section 308(e)(1) in the preceding year.".

(d) CIVIL PENALTIES.—

(1) ENFORCEMENT OF LOCAL PRETREATMENT REQUIREMENTS.—

(A) COMPLIANCE ORDERS.—

(i) INITIAL ACTION.—Section 309(a)(1) (33 U.S.C. 1319(a)(1)) is amended by inserting after "of this Act," the following: "or is in violation of any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(ii) ISSUANCE OF ORDERS.—Section 309(a)(3) is amended by inserting before "he shall" the following: "or is in violation of any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(B) CRIMINAL PENALTIES.—Section 309(c)(3)(A) is amended by inserting before "and who knows" the following: "or knowingly violates any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(C) ADMINISTRATIVE PENALTIES.—Section 309(g)(1) is amended by inserting after "or by a State," the following: "or has violated any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or an order issued by the Administrator under subsection (a) of this section,".

(2) TREATMENT OF SINGLE OPERATIONAL UPSETS.—

(A) CRIMINAL PENALTIES.—Section 309(c) is amended by striking paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(B) CIVIL PENALTIES.—Section 309(d) is amended by striking the last sentence.

(C) ADMINISTRATIVE PENALTIES.—Section 309(g)(3) is amended by striking the last sentence.

(3) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

(A) IN GENERAL.—Section 309(d) is amended by inserting after the second sentence the following: "The court may, in the court's discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.".

(B) CONFORMING AMENDMENT.—Section 505(a) (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: ", including ordering the use of a civil penalty for carrying out mitigation projects".

(4) DETERMINATION OF AMOUNT OF PENALTIES.—

(A) CIVIL PENALTIES.—Section 309(d) (33 U.S.C. 1319(d)) is amended by inserting "the amount of any penalty previously imposed on the violator by a court or administrative agency for the same violation or violations," after "economic impact of the penalty on the violator,".

(B) ADMINISTRATIVE PENALTIES.—Section 309(g)(3) is amended—

(i) by striking "or savings"; or

(ii) by inserting "the amount of any penalty previously imposed on the violator by a court or administrative agency for the same violation or violations," after "resulting from the violation,".

(5) LIMITATION ON DEFENSES.—Section 309(g)(1) is amended by adding at the end the following: "In a proceeding to assess or review a penalty under this subsection, the adequacy of consultation between the Administrator or the Secretary, as the case may be, and the State shall not be a defense to assessment or enforcement of such penalty.".

(6) AMOUNTS OF ADMINISTRATIVE CIVIL PENALTIES.—

(A) GENERAL RULE.—Section 309(g)(2) is amended to read as follows:

"(2) AMOUNT OF PENALTIES; NOTICE; HEARING.—

"(A) MAXIMUM AMOUNT OF PENALTIES.—The amount of a civil penalty under paragraph (1) may not exceed $25,000 per violation per day for each day during which the violation continues.

"(B) WRITTEN NOTICE.—Before issuing an order assessing a civil penalty under this subsection, the Administrator shall give to the person to be assessed the penalty written notice of the Administrator's proposal to issue the order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order.

"(C) HEARINGS NOT ON THE RECORD.—If the proposed penalty does not exceed $25,000, the hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(D) HEARINGS ON THE RECORD.—If the proposed penalty exceeds $25,000, the hearing shall be on the record in accordance with section 554 of title 5, United States Code. The Administrator may issue rules for discovery procedures for hearings under this subparagraph.".

(B) CONFORMING AMENDMENTS.—Section 309(g) is amended—

(i) in paragraph (1) by striking "class I civil penalty or a class II";

(ii) in the second sentence of paragraph (4)(C) by striking "(2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty" and inserting "(2)"; and

(iii) in the first sentence of paragraph (8) by striking "assessment—" and all that follows through "by filing" and inserting "assessment in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred by filing".

(7) STATE ENFORCEMENT ACTIONS AS BAR TO FEDERAL ENFORCEMENT ACTIONS.—Section 309(g)(6)(A) is amended—

(A) by inserting "or" after the comma at the end of clause (i);

(B) by striking clause (ii); and

(C) in clause (iii)—

(i) by striking "or the State"; and

(ii) by striking "or such comparable State law, as the case may be,".

(8) RECOVERY OF ECONOMIC BENEFIT.—Section 309 is amended by adding at the end the following:

"(h) RECOVERY OF ECONOMIC BENEFIT.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this section, any civil penalty assessed and collected under this section must be in an amount which is not less than the amount of the economic benefit (if any) resulting from the violation for which the penalty is assessed.

"(2) REGULATIONS.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall issue regulations establishing a methodology for calculating the economic benefits or savings resulting from violations of this Act. Pending issuance of such regulations, this subsection shall be in effect and economic benefits shall be calculated for purposes of paragraph (1) on a case-by-case basis.".

(9) LIMITATION ON COMPROMISES.—Section 309 is further amended by adding at the end the following:

"(i) LIMITATION ON COMPROMISES OF CIVIL PENALTIES.—Notwithstanding any other provision of this section, the amount of a civil penalty assessed under this section may not be compromised below the amount determined by adding—

"(1) the minimum amount required for recovery of economic benefit under subsection (h), to

"(2) 50 percent of the difference between the amount of the civil penalty assessed and such minimum amount.".

(10) MINIMUM AMOUNT FOR SERIOUS VIOLATIONS.—Section 309 is further amended by adding at the end the following:

"(j) MINIMUM CIVIL PENALTIES FOR SERIOUS VIOLATIONS AND SIGNIFICANT NONCOMPLIERS.—

"(1) SERIOUS VIOLATIONS.—Notwithstanding any other provision of this section (other than paragraph (2)), the minimum civil penalty which shall be assessed and collected under this section from a person—

"(A) for a discharge from a point source of a hazardous pollutant which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 20 percent or more, or

"(B) for a discharge from a point source of a pollutant (other than a hazardous pollutant) which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 40 percent or more,

shall be $1,000 for the first such violation in a 180-day period.

"(2) SIGNIFICANT NONCOMPLIERS.—Notwithstanding any other provision of this section, the minimum civil penalty which shall be assessed and collected under this section from a person—

"(A) for the second or more discharge in a 180-day period from a point source of a hazardous pollutant which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 20 percent or more,

"(B) for the second or more discharge in a 180-day period from a point source of a pollutant (other than a hazardous pollutant) which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 40 percent or more,

"(C) for the fourth or more discharge in a 180-day period from a point source of any pollutant which exceeds or otherwise violates the same effluent limitation, or

"(D) for not filing in a 180-day period 2 or more reports in accordance with section 402(r)(1),

shall be $5,000 for each of such violations.

"(3) MANDATORY INSPECTIONS FOR SIGNIFICANT NONCOMPLIERS.—The Administrator shall identify any person described in paragraph (2) as a significant noncomplier and shall conduct an inspection described in section 402(q) of this Act of the facility at which the violations were committed. Such inspections shall be conducted at least once in the 180-day period following the date of the most recent violation which resulted in such person being identified as a significant noncomplier.

"(4) ANNUAL REPORTING.—The Administrator shall transmit to Congress and to the Governors of the States, and shall publish in the Federal Register, on an annual basis a list of all persons identified as significant noncompliers under paragraph (3) in the preceding calendar year and the violations which resulted in such classifications.

"(5) HAZARDOUS POLLUTANT DEFINED.—For purposes of this subsection, the term 'hazardous pollutant' has the meaning the term 'hazardous substance' has under subsection (c)(7) of this section.".

(11) STATE PROGRAM.—Section 402(b)(7) (33 U.S.C. 1342(b)(7)) is amended to read as follows:

"(7) To abate violations of the permit or the permit program which shall include, beginning on the last day of the 2-year period beginning on the date of the enactment of the Clean Water Compliance and Enforcement Improvement Amendments Act of 1995, a penalty program comparable to the Federal penalty program under section 309 of this Act and which shall include at a minimum criminal, civil, and civil administrative penalties, and may include other ways and means of enforcement, which the State demonstrates to the satisfaction of the Administrator are equally effective as the Federal penalty program;".

(12) FEDERAL PROCUREMENT COMPLIANCE INCENTIVE.—Section 508(a) (33 U.S.C. 1368(a)) is amended by inserting after the second comma "or who is identified under section 309(j)(3) of this Act,".

(e) NATIONAL POLLUTANT DISCHARGE ELIMINATION PERMITS.—

(1) WITHDRAWAL OF STATE PROGRAM APPROVAL.—Section 402(b) (33 U.S.C. 1342(b)) is amended by striking "unless he determines that adequate authority does not exist:" and inserting the following: "only when he determines that adequate authority exists and shall withdraw program approval whenever he determines that adequate authority no longer exists:".

(2) JUDICIAL REVIEW OF RULINGS ON APPLICATIONS FOR STATE PERMITS.—Section 402(b)(3) is amended by inserting "and to ensure that any interested person who participated in the public comment process and any other person who could obtain judicial review of that action under any other applicable law has the right to judicial review of such ruling" before the semicolon at the end.

(3) INSPECTIONS FOR MAJOR INDUSTRIAL AND MUNICIPAL DISCHARGERS.—Section 402(b) is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(C) by adding at the end the following:

"(10) To ensure that any permit for a discharge from a major industrial or municipal facility, as defined by the Administrator by regulation, includes conditions under which such facility will be subject to at least annual inspections by the State in accordance with subsection (q) of this section;".

(4) MONTHLY REPORTS FOR SIGNIFICANT INDUSTRIAL USERS OF POTWS.—Section 402(b) is further amended by adding at the end the following:

"(11) To ensure that any permit for a discharge from a publicly owned treatment works in the State includes conditions under which the treatment works will require any significant industrial user of the treatment works, as defined by the Administrator by regulation, to prepare and submit to the Administrator, the State, and the treatment works a monthly discharge monitoring report as a condition to using the treatment works;".

(5) PERMITS REQUIRED FOR INTRODUCTION OF POLLUTANTS INTO POTWS.—Section 402(b) is further amended by adding at the end the following:

"(12) To ensure that, after the last day of the 2-year period beginning on the date of the enactment of this paragraph, any significant industrial user, or other source designated by the Administrator, introducing a pollutant into a publicly owned treatment works has, and operates in accordance with, a permit issued by the treatment works or the State for introduction of such pollutant; and".

(6) GRANTING OF AUTHORITY TO POTWS FOR INSPECTIONS AND PENALTIES.—Section 402(b) is further amended by adding at the end the following:

"(13) To ensure that the State will grant to publicly owned treatment works in the State, not later than 3 years after the date of the enactment of this paragraph, authority, power, and responsibility to conduct inspections under subsection (q) of this section and to assess and collect civil penalties and civil administrative penalties under paragraph (7) of this subsection.".

(7) INSPECTION.—Section 402 is amended by adding at the end the following:

"(r) INSPECTION.—

"(1) GENERAL RULE.—Each permit for a discharge into the navigable waters or introduction of pollutants into a publicly owned treatment works issued under this section shall include conditions under which the effluent being discharged will be subject to random inspections in accordance with this subsection by the Administrator or the State, in the case of a State permit program under this section.

"(2) MINIMUM STANDARDS.—The Administrator shall establish minimum standards for inspections under this subsection. Such standards shall require, at a minimum, the following:

"(A) An annual representative sampling by the Administrator or the State, in the case of a State permit program under this section, of the effluent being discharged; except that if the discharge is not from a major industrial or municipal facility such sampling shall be conducted at least once every 3 years.

"(B) An analysis of all samples collected under subparagraph (A) by a Federal or State owned and operated laboratory or a State approved laboratory, other than one that is being used by the permittee or that is directly or indirectly owned, operated, or managed by the permittee.

"(C) An evaluation of the maintenance record of any treatment equipment of the permittee.

"(D) An evaluation of the sampling techniques used by the permittee.

"(E) A random check of discharge monitoring reports of the permittee for each 12-month period for the purpose of determining whether or not such reports are consistent with the applicable analyses conducted under subparagraph (B).

"(F) An inspection of the sample storage facilities and techniques of the permittee.".

(8) REPORTING.—Section 402 is further amended by adding at the end the following:

"(s) REPORTING.—

"(1) GENERAL RULE.—Each person holding a permit issued under this section which is determined by the Administrator to be a major industrial or municipal discharger of pollutants into the navigable waters shall prepare and submit to the Administrator a monthly discharge monitoring report. Any other person holding a permit issued under this section shall prepare and submit to the Administrator quarterly discharge monitoring reports or more frequent discharge monitoring reports if the Administrator requires. Such reports shall contain, at a minimum, such information as the Administrator shall require by regulation.

"(2) REPORTING OF HAZARDOUS DISCHARGES.—

"(A) GENERAL RULE.—If a discharge from a point source for which a permit is issued under this section exceeds an effluent limitation contained in such permit which is based on an acute water quality standard or any other discharge which may cause an exceedance of an acute water quality standard or otherwise is likely to cause injury to persons or damage to the environment or to pose a threat to human health and the environment, the person holding such permit shall notify the Administrator, in writing, of such discharge not later than 2 hours after the later of the time at which such discharge commenced or the time at which the permittee knew or had reason to know of such discharge.

"(B) Special rule for hazardous pollutants.—If a discharge described in subparagraph (A) is of a hazardous pollutant (as defined in section 309(j) of this Act), the person holding such permit shall provide the Administrator with such additional information on the discharge as may be required by the Administrator. Such additional information shall be provided to the Administrator within 24 hours after the later of the time at which such discharge commenced or the time at which the permittee became aware of such discharge. Such additional information shall include, at a minimum, an estimate of the danger posed by the discharge to the environment, whether the discharge is continuing, and the measures taken or being taken (i) to remediate the problem caused by the discharge and any damage to the environment, and (ii) to avoid a repetition of the discharge.

"(3) Signature.—All reports filed under paragraph (1) must be signed by the highest ranking official having day-to-day managerial and operational responsibility for the facility at which the discharge occurs or, in the absence of such person, by another responsible high ranking official at such facility. Such highest ranking official shall be responsible for the accuracy of all information contained in such reports; except that such highest ranking official may file with the Administrator amendments to any such report if the report was signed in the absence of the highest ranking official by another high ranking official and if such amendments are filed within 7 days of the return of the highest ranking official.".

(9) Limitation on issuance of permits to significant noncompliers.—Section 402 is further amended by adding at the end the following:

"(t) Significant Noncompliers.—No permit may be issued under this section to any person (other than a publicly owned treatment works) identified under section 309(j)(3) of this Act or to any other person owned or controlled by the identified person, owning or controlling the identified person, or under common control with the identified person, until the Administrator or the State or States in which the violation or violations occur determines that the condition or conditions giving rise to such violation or violations have been corrected. No permit application submitted after the date of the enactment of this subsection may be approved unless the application includes a list of all violations of this Act by a person identified under section 309(j) of this Act during the 3-year period preceding the date of submission of the application and evidence indicating whether the underlying cause of each such violation has been corrected.".

(10) Applicability.—The amendments made by this subsection shall apply to permits issued before, on, or after the date of the enactment of this Act; except that—

(A) with respect to permits issued before such date of enactment to a major industrial or municipal discharger, such amendments shall take effect on the last day of the 1-year period beginning on such date of enactment; and

(B) with respect to all other permits issued before such date of enactment, such amendments shall take effect on the last day of the 2-year period beginning on such date of enactment.

(f) Expired State Permits.—Section 402(d) (33 U.S.C. 1342(d)) is amended by adding at the end the following:

"(5) Expired state permits.—In any case in which—

"(A) a permit issued by a State for a discharge has expired,

"(B) the permittee has submitted an application to the State for a new permit for the discharge, and

"(C) the State has not acted on the application before the last day of the 18-month period beginning on the date the permit expired,

the Administrator may issue a permit for the discharge under subsection (a).".

(g) Compliance Schedule.—Section 302(b)(2)(B) (33 U.S.C. 1312(b)(2)(B)) is amended by adding at the end the following: "The Administrator may only issue a permit pursuant to this subparagraph for a period exceeding 2 years if the Administrator makes the findings described in clauses (i) and (ii) of this subparagraph on the basis of a public hearing.".

(h) Emergency Powers.—Section 504 (33 U.S.C. 1364) is amended to read as follows:

"SEC. 504. COMMUNITY PROTECTION.

"(a) Issuance of Orders; Court Action.—Notwithstanding any other provision of this Act, whenever the Administrator finds that, because of an actual or threatened direct or indirect discharge of a pollutant, there may be an imminent and substantial endangerment to the public health or welfare (including the livelihood of persons) or the environment, the Administrator may issue such orders or take such action as may be necessary to protect public health or welfare or the environment and commence a suit (or cause it to be commenced) in the United States district court for the district where the discharge or threat occurs. Such court may grant such relief to abate the threat and to protect against the endangerment as the public interest and the equities require, enforce, and adjudge penalties for disobedience to orders of the Administrator issued under this section, and grant other relief according to the public interest and the equities of the case.

"(b) Enforcement of Orders.—Any person who, without sufficient cause, violates or fails to comply with an order of the Administrator issued under this section, shall be liable for civil penalties to the United States in an amount not to exceed $25,000 per day for each day on which such violation or failure occurs or continues.".

(i) Citizen Suits.—

(1) Suits for past violations.—Section 505 (33 U.S.C. 1365) is amended—

(A) in subsection (a)(1) by inserting "to have violated or" after "who is alleged";

(B) in subsection (b)(1)(A)(ii) by striking "occurs" and inserting "has occurred or is occurring"; and

(C) in subsection (f)(6) by inserting "has been or" after "which".

(2) Time limit.—Section 505(b)(1)(A) is amended by striking "60 days" and inserting "30 days".

(3) Effect of judgments on citizen suits.—Section 505(b) is further amended—

(A) in paragraph (1)(B)—

(i) by striking ", or a State"; and

(ii) by striking "right." and inserting "right and may obtain costs of litigation under subsection (d), or"; and

(B) by adding at the end the following: "The notice under paragraph (1)(A) need set forth only violations which have been specifically identified in the discharge monitoring reports of the alleged violator. An action by a State under subsection (a)(1) may be brought at any time. No judicial action by the Administrator or a State shall bar an action for the same violation under subsection (a)(1) unless the action is by the Administrator and meets the requirements of this paragrah. No administrative action by the Administrator or a State shall bar a pending action commenced after February 4, 1987, for the same violation under subsection (a)(1) unless the action by the Administrator or a State meets the requirements of section 309(g)(6) of this Act.".

(4) Consent judgments.—Section 505(c)(3) is amended by adding at the end the following: "Consent judgments entered under this section may provide that the civil penalties included in the consent judgment be used for carrying out mitigation projects in accordance with section 309(d).".

(5) Pretreatment requirements.—Section 505(f)(4) is amended by striking "or pretreatment standards" and inserting "or pretreatment standard or requirement described in section 307(d)".

(6) Effluent standard definition.—Section 505(f)(6) is amended by inserting "narrative or mathematical" before "condition".

(7) Definition of citizen.—Section 505(g) is amended to read as follows:

"(g) Citizen Defined.—For purposes of this section, the term 'citizen' means a person or persons having an interest (including a recreational, aesthetic, environmental, health, or economic interest) which is, has been, or may be adversely affected and includes a person who uses or enjoys the waters into which the discharge flows (either directly or through a publicly owned treatment works), who uses or enjoys aquatic resources or nearby lands associated with the waters, or who would use or enjoy the waters, aquatic resources, or nearby lands if they were less polluted.".

(8) Offers of judgment.—Section 505 is further amended by adding at the end the following:

"(i) Applicability of Offers of Judgment.—Offers of judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure shall not be applicable to actions brought under subsection (a)(1) of this section.".

(j) Issuance of Subpoenas.—Section 509(a)(1) (33 U.S.C. 1369(a)(1)) is amended by striking "obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act," and inserting "carrying out this Act,".

(k) Judicial Review of EPA Actions.—Section 509(b)(1) (33 U.S.C. 1369(b)(1)) is amended—

(1) by inserting after the comma at the end of clause (D) "including a decision to deny a petition by interested person to veto an individual permit issued by a State,";

(2) by inserting after the comma at the end of clause (E) "including a decision not to include any pollutant in such effluent limitation or other limitation if the Administrator has or is made aware of information indicating that such pollutant is present in any discharge subject to such limitation,"; and

(3) by striking "and (G)" and inserting the following: "(G) in issuing or approving any water quality standard under section 303(c) or 303(d), (H) in issuing any water quality criterion under section 304(a), including a decision not to address any effect of the pollutant subject to such criterion if the Administrator has or is made aware of information indicating that such effect may occur, and (J)".

(l) NATIONAL CLEAN WATER TRUST FUND.—

(1) IN GENERAL.—Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 522 and by inserting after section 518 the following new section:

"SEC. 519. NATIONAL CLEAN WATER TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Water Trust Fund'.

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Clean Water Trust Fund amounts equivalent to the penalties collected under section 309 of this Act and the penalties collected under section 505(a) of this Act (excluding any amounts ordered to be used to carry out mitigation projects under section 309 or 505(a), as the case may be).

"(c) ADMINISTRATION OF TRUST FUND.—The Administrator shall administer the Clean Water Trust Fund. The Administrator may use moneys in the Fund to carry out inspections and enforcement activities pursuant to this Act. In addition, the Administrator may make such amounts of money in the Fund as the Administrator determines appropriate available to carry out title VI of this Act.".

(2) CONFORMING AMENDMENT TO STATE REVOLVING FUND PROGRAM.—Section 607 (33 U.S.C. 1387) is amended—

(A) by inserting "(a) IN GENERAL.—" before "There is"; and

(B) by adding at the end the following:

"(b) TREATMENT OF TRANSFERS FROM CLEAN WATER TRUST FUND.—For purposes of this title, amounts made available from the Clean Water Trust Fund under section 519 of this Act to carry out this title shall be treated as funds authorized to be appropriated to carry out this title and as funds made available under this title.".

(m) APPLICABILITY.—Sections 101(h), 309(g)(6)(A), 505(a)(1), 505(b), 505(g), and 505(i) of the Federal Water Pollution Control Act, as inserted or amended by this section, shall be applicable to all cases pending under such Act on the date of the enactment of this Act and all cases brought on or after such date of enactment relating to violations which occurred before such date of amendment.

Redesignate subsequent subsections of section 313 of the bill accordingly.

Page 81, line 4, strike "(h)" and insert "(k)".

Page 131, line 5, strike "(r)" and insert "(u)".

Page 188, line 21 strike "(s)" and insert "(v)".

Page 192, line 6, strike "(t)" and insert "(w)".

Page 216, line 11, strike "by" and all that follows through "518" on line 13 and insert "by inserting after section 519".

Page 216, line 14, strike "519" and insert "520".

Page 217, line 7, strike "before" and all that follows through the comma on line 8 and insert "after section 520".

Page 217, line 9, strike "520" and insert "521".

Page 321, line 3, strike "(8)" and insert "(7)".

Mr. PALLONE. Mr. Chairman, my amendment seeks to improve enforcement of the Clean Water Act. Based on EPA data, almost 20 percent of U.S. major industrial, municipal and Federal facilities were in significant noncompliance with their Clean Water Act permits.

The EPA inspector general has found that penalty assessments are not sufficient to recover the economic benefits gained by noncompliance with the Clean Water Act. Small fines and lengthy time limits to achieve compliance promote an it-pays-to-pollute mentality, and failure to recover economic benefits places those who comply with the law at an economic disadvantage relative to those who are in violation of the law.

The Clean Water enforcement program should be strengthened to promote greater incentives to comply with the law.

Mr. Chairman, in New Jersey we have on the books as a State law Clean Water enforcement amendments, which became law in May of 1990, that increase enforcement. In March of 1995, the New Jersey department of environmental protection released their 4th annual report of the Clean Water Enforcement Act in New Jersey. Their findings reflect a significant decrease in penalty assessments as a result of increased compliance. The number of significant noncompliers declined from 70 to 44 in a given year.

Basically, the enforcement provisions in this amendment require State programs to establish mandatory minimum penalties for serious violations of and significant noncompliance with the Clean Water Act. They require penalties recover at least economic benefits, and they improve and increase the frequency of discharge reporting.

In addition to the enforcement provisions, this amendment would remove obstacles to citizen suits. The 1972 Clean Water Act included authority for citizens to sue polluters, thereby recognizing the U.S. EPA and the States might be unable or unwilling to aggressively pursue all violators, and citizen suits are a proven enforcement tool.

According to a U.S. Department of Justice statistical report, private citizen actions over 5 fiscal years have recovered approximately $11 million in penalties and interest. Basically, what we do in this amendment is allow citizens to sue for past violations, overturning a 1987 Supreme Court case which made those kinds of actions more difficult.

The amendment also increases citizens' rights to know, through posting notice requirements and fish consumption advisories. There are currently no Federal requirements the public be notified when water quality standards are violated. There are no uniform requirements for determining the nature and extent of fish and shellfish bans. Essentially, we have posting of notice requirements for areas where you should not swim or fish, and also fish consumption advisories.

Lastly, Mr. Chairman, I would point out the amendment establishes a national Clean Water trust fund to carry out inspections and enforcement pursuant to the act. The idea is the penalties we would get for increased enforcement would go into this fund, and they would be used to carry out the purposes of the act.

Mr. Chairman, I ask that this amendment be considered. I think that one of the most important things we can do is increase enforcement of the Clean Water Act, and that is the primary purpose of this amendment.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I rise in strong opposition to this amendment. This amendment is 5 congressional pages of mandatory enforcement provisions inserted into the Clean Water Act. This amendment not only is unnecessary but could be, and is, counterproductive to effective enforcement of the act.

This amendment, and get this, this amendment would deny due process to alleged violators in connection with the imposition of administrative penalties. Penalties could be imposed without the alleged violators having the right to due process.

Further, this amendment specifies minimum penalties, mandatory minimum penalties, that must be imposed, and so severely limits the abilities of the enforcement authorities, the EPA and the States, to sit down and compromise proposed penalties, to negotiate proposed penalties. In some instances, it would bar such compromises altogether.

Now, this certainly is not flexibility.

The National Governors' Association is strongly opposed to this amendment. The State water quality officials are strongly opposed to this amendment, and, indeed, this amendment also would allow duplicative enforcement by citizens' groups of violations that have been the subject of State enforcement actions. Not only could the State bring an enforcement action, but citizens' groups could come along and also bring an enforcement action, and even worse, citizens' groups could bring an enforcement action against something that already has been corrected. Let me emphasize that.

Even though something has been corrected, citizens' groups would be able to reach back and bring an enforcement action against somebody even though they corrected the problem.

In sum, this amendment imposes greater rigidity on the Clean Water Act. It would encourage, rather than discourage, protracted litigation. This is a lawyers' paradise, and this should be defeated.

Mr. MINETA. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, it is very important that citizens be notified when a beach or lake where they take their children to swim or fish is subject to a fishing ban due to fish contamination, or is not meeting water quality standards. This amendment would give the public the information it deserves, so that people can protect themselves from illness caused by eating contaminated fish or swimming in polluted water.

It makes sense that where a court finds that a discharger has violated the Act, the penalty should, at a minimum, recoup the economic benefit that the violator realized as a result of its violations. Otherwise, the polluter would gain an advantage over its competitors who complied with the law. This amendment would prevent windfalls that reward polluters.

These are just a few of examples of how the amendment would strengthen enforcement and other provisions of the Act, and ultimately improve the quality of our Nation's waters and the protection provided to our citizens.

Mr. Chairman, I urge support for the amendment.

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Mr. DEFAZIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the thrust of this amendment is to bring about mandatory enforcement, and I do not find that as a shocking thing, or something that is undesirable or should not be part of this bill.

I do not believe anybody who is more than 25 or 30 years old in this country has any problem remembering the bad old days, the days when the Cuyahoga River was so polluted that it actually caught fire, the days when the Willamette River in Oregon, a State highly regarded for its environmental laws, was not fishable, swimmable, or drinkable, and, thanks to the Clean Water Act, and actual mandatory enforcement, those rivers have been substantially cleaned up.

But work remains to be done, and I do not see how those on the other side of the aisle who are diluting the standards which would be enforceable under this bill, and minimizing them, and moving significant areas of concern to voluntary compliance, would object for those few things that they leave to be mandatorily regulated, that to be the prospect of fines against polluters and higher fines against repeat polluters. There is due process for every violation. I am puzzled that the esteemed chairman would say there is not due process. It is there.

On the issue of fines, Mr. Chairman, what we would do here is level the playing field among competitors in an industry. For example, in my State, in my district, one of my paper mills has just spent $50 million, and that is a lot of money, to clean up its discharge into the Willamette River because downstream that same river is used for drinking water in addition to the fishing and other benefits, and they are state-of-the-art, fully in compliance. Now should another mill, which has drug its feet thus far and is not in compliance with existing law, be allowed to continue in that vein and economically benefit? This amendment says no, that the fine would be commensurate at least to the economic benefits. So what we would do is level the playing field among members of an industry, between those who have acted in good faith as good citizens, good corporate citizens and good citizens of their community, and those who have not.

So I do not find it a radical proposal at all that we should have mandatory enforcement of those standards which do remain the bill which is before us today, and I rise in strong support.

Mr. PALLONE. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Chairman, I would just like to point out that what we are basically talking about here are bad actors, repeat offenders, and in the case of the bad actors or the repeat offenders of their discharge permits, we are imposing mandatory minimum penalties, and then they, for the more serious violations, those penalties increase on a daily basis to a maximum penalty which is much higher than what is currently in the law. The idea is basically very similar to what is done in a lot of statutes where we want to make sure that bad actors have to pay a fine that is commensurate with the economic benefit that they have received. Otherwise, what is the point of having the Clean Water Act?

In regard to the State administrative actions, I know the gentleman on the other side mentioned that he did not like the idea of State administrative actions, that they should be able to preclude citizens' suits, but I would point out that in many cases courts have construed the preclusion provision so broadly that almost any State administrative action, no matter how inadequate, has had a preclusive effect on citizens' suits. So we want citizens to be able to bring actions where necessary to enforce the act, and again, in the past those citizen action suits have really done a lot to enforce the Clean Water Act and should be encouraged.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman from New Jersey [Mr. PALLONE] for his good work on this amendment and urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PALLONE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 299, not voting 29, as follows:

[Roll No. 324]

[Roll No. 324]

AYES—106

Ackerman
Andrews
Becerra
Beilenson
Berman
Bonior
Borski
Brown (CA)
Brown (OH)
Bryant (TX)
Clay
Clayton
Clyburn
Coleman
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hastings (FL)
Hinchey,
Jackson-Lee
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Lantos
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
McDermott
McHale
McKinney
Menendez
Mineta
Moran
Nadler
Oberstar
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Rahall
Reynolds
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Saxton
Schroeder
Scott
Serrano
Shays
Slaughter
Smith (NJ)
Stark
Stokes
Studds
Thompson
Thornton
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Woolsey
Wyden
Wynn
Yates

NOES—299

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce

LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Obey
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Sawyer
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—29

Abercrombie
Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dicks
Dunn
Fattah
Frisa
Hancock
Kleczka
Martini
Meek
Miller (CA)
Mink
Moakley
Nussle
Ortiz
Pastor
Peterson (FL)
Rangel
Richardson
Rogers
Schumer
Tanner
Torres
Watts (OK)
Young (FL)

□ 1825

The Clerk announced the following pairs:

On this vote:

Mrs. COLLINS of Illinois for, with Mr NUSSLE against.

Mr. MOAKLEY for, with Mr. BARTON against.

Miss COLLINS of Michigan for, with Ms. DUNN against.

Mr. RANGEL for, with Mr. BONO against.

Mr. NEAL of Massachusetts and Mr. TORKILDSEN changed their vote from "aye" to "no."

Mr. GENE GREEN of Texas changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 70, after line 25, insert the following:

(e) ANCHORAGE, ALASKA.—Section 301 (33 U.S.C. 1311) is further amended by adding at the end the following:

"(v) ANCHORAGE, ALASKA.—The Administrator may grant an application for a modification pursuant to subsection (h) with respect to the discharge into marine waters of any pollutant from a publicly owned treatment works serving Anchorage, Alaska, notwithstanding subsection (j)(1)(A) and notwithstanding whether or not the treatment provided by such treatment works is adequate to remove at least 30 percent of the biological oxygen demanding material.".

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman. My amendment will revise section 301(h) of the Clean Water Act to allow the city of Anchorage which has a waiver of secondary treatment to be relieved of the 30-percent BOD removal requirement. This requirement puts a tremendous burden on the city.

EPA requires the Anchorage Wastewater Utility to remove 30 percent of organic material from sewage before it can be discharged. Meeting this requirement for Anchorage has been extremely difficult because sewage inflow is very clean.

In 1991, the utility was approached by 2 fish processors who wanted to discharge 5,000 pounds of fish guts into the system daily. Anchorage approved the request and it made it easier to meet the 30-percent requirement. The discharge was less clean, but the EPA requirement was satisfied. This is a perfect example of why we need cost benefit analysis in our laws.

The cost for Anchorage is $180,000 per year in increased operating expenses. They will be required to spend more than $4 million within the next 2 years. All this while spending $1 million over 6 years to monitor outflows to ensure there is no negative impact from the discharge.

Had their been some flexibility in the law, Anchorage could have avoided millions of unnecessary expenditures.

I urge support of the amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, as I understand it, this is limited to Anchorage, AK.

Mr. YOUNG of Alaska. The gentleman is correct.

Mr. SHUSTER. It makes a lot of sense, and I support the gentleman.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I just would like to make a short comment that I oppose this amendment. This is just another waiver of standards, another rollback of existing requirements, and it is specifically for Anchorage, AK. If this amendment is adopted, the law will allow for less than primary treatment. I am concerned that the next amendment will be to allow totally untreated sewage to be discharged into coastal waters, whether it is offered by the gentleman from Alaska or other amendments that will come forward.

□ 1830

I urge rejection of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska [Mr. YOUNG].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VISCLOSKY

Mr. VISCLOSKY. Mr. Chairman, I have an amendment at the desk, amendment No. 54.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. VISCLOSKY: Page 82, after line 21, insert the following:

(c) NATIONAL CLEAN WATER TRUST FUND.—Section 309 (33 U.S.C. 1319) is further amended by adding at the end the following:

"(i) NATIONAL CLEAN WATER TRUST FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a National Clean Water Trust Fund (hereinafter in this subsection referred to as the 'Fund') consisting of amounts transferred to the Fund under paragraph (2) and amounts credited to the Fund under paragraph (3).

"(2) TRANSFER OF AMOUNTS.—For fiscal year 1996, and each fiscal year thereafter, the Secretary of the Treasury shall transfer, to the extent provided in advance in appropriations Acts, to the fund an amount determined by the Secretary to be equal to the total amount deposited in the general fund of the Treasury in the preceding fiscal year from fines, penalties, and other moneys obtained through enforcement actions conducted pursuant to this section and section 505(a)(1), including moneys obtained under consent decrees and excluding any amounts ordered to be used to carry out mitigation projects under this section or section 505(a), as the case may be.

"(3) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such obligations shall be acquired and sold and interest on, and the proceeds from the dale or redemption of, such obligations shall be credited to the Fund in accordance with the requirements of section 9602 of the Internal Revenue Code of 1986.

"(4) USE OF AMOUNTS FOR REMEDIAL PROJECTS.—Amounts in the Fund shall be available, as provided in appropriations Acts, to the Administrator to carry out projects to restore and recover waters of the United States from damages resulting from violations of this Act which are subject to enforcement actions under this section and similar damages resulting from the discharge of pollutants into the waters of the United States.

"(5) SELECTION OF PROJECTS.—

"(A) PRIORITY.—In selecting projects to carry out under this subsection, the Administrator shall give priority to a project to restore and recover waters of the United

States from damages described in paragraph (4), if an enforcement action conducted pursuant to this section or section 505(a)(1) against such violation, or another violation in the same administrative region of the Environmental Protection Agency as such violation, resulted in amounts being deposited in the general fund of the Treasury.

"(B) CONSULTATION WITH STATES.—In selecting projects to carry out under this section, the Administrator shall consult with States in which the Administrator is considering carrying out a project.

"(C) ALLOCATION OF AMOUNTS.—In determining an amount to allocate to carry out a project to restore and recover waters of the United States from damages described in paragraph (4), the Administrator shall, in the case of a priority project under subparagraph (A), take into account the total amount deposited in the general fund of the Treasury as a result of enforcement actions conducted with respect to such violation pursuant to this section or section 505(a)(1).

"(6) IMPLEMENTATION.—The Administrator may carry out a project under this subsection either directly or by making grants to, or entering into contracts with, the Secretary of the Army or any other public or private entity.

"(7) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this subsection, and every 2 years thereafter, the Administrator shall transmit to Congress a report on implementation of this subsection.".

(d) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

(1) IN GENERAL.—Section 309(d) (33 U.S.C. 1319(d)) is amended by inserting after the second sentence the following: "The court may, in the court's discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.".

(2) CONFORMING AMENDMENT.—Section 505(a) (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: ", including ordering the use of a civil penalty for carrying out mitigation projects in accordance with section 309(d)."

Mr. VISCLOSKY. Mr. Chairman, I rise today to offer an amendment to H.R. 961, which would help expedite the cleanup of our Nation's waters. My amendment would create a national clean water trust fund, establish fines, penalties and other moneys collected through enforcement of the Clean Water Act to help alleviate the problems for which the enforcement actions were taken.

This amendment would not in any way change the way in which enforcement actions were taken, the nature of the penalties or the manner in which the penalties were levied. I would want to make that very clear. A similar provision was included in last year's Clean Water Act reauthorization, H.R. 3948.

Currently, there is no guarantee that fines or other moneys that result from violations of the Clean Water Act be used to correct water quality problems. Instead, some of the money goes into the general fund of the U.S. Treasury without any provision that it be used to improve the quality of our nation's water.

The congressional district I represent is in northwest Indiana. It is home to abundant rivers and wetlands. It is also home to the Indiana Dunes National Lakeshore and five major steel facilities. A century of industrial development has created many toxic hot spots, including the Indiana Harbor Ship Canal, which pose a constant threat to the health and safety of northwest Indiana residents. I am keenly aware of the need to balance between protecting the environment and encouraging economic growth. It would certainly be a step in the right direction to ensure that penalty moneys paid to the U.S. Treasury for violations of the act were used to clean up polluted water.

Today I am concerned that EPA enforcement activities under which fines and other penalties are levied ignore the fundamental issue of how to pay for the cleanup of the water pollution problems for which the enforcement occurred. If we are really serious about ensuring the successful implementation of the act, we should put enforcement funds to work and actually clean up our nation's waters.

It does not make sense for scarce resources to go into the bottomless pit of the Treasury's general fund especially if we fail to solve our serious water quality problems.

Specifically my amendment would establish a National Clean Water Trust Fund within the U.S. Treasury for fines, penalties, and moneys including consent decrees obtained through enforcement of the act that would otherwise be placed into the Treasury's general fund. Under my proposal, the EPA Administrator would be authorized to prioritize and carry out projects to restore and recover waters of the United States using the funds collected from violations of the Clean Water Act.

However, this amendment would not in any way preclude EPA's authority to undertake and complete supplemental environmental projects as part of settlements related to violations of the act and other legislation. I strongly support the use of SEPs to facilitate the cleanup of serious environmental problems which are particularly prevalent in districts such as mine.

However, my bill would dedicate the cash payment to the Treasury, to the Clean Water Trust Fund. The amendment further specifies that remedial projects be within the same EPA region where enforcement action was taken. Northwest Indiana is in EPA Region 5, and there are 10 EPA regions throughout the United States. Under the proposal, any funds collected from enforcement of the Clean Water Act in Region 5 would remain in the trust fund for that region.

The establishment of the trust fund is an innovative way in which to help improve the quality of our nation's waters by targeting funds accrued from enforcement of the act that would otherwise go into the Treasury. We can put scarce resources to work to facilitate the cleanup of the problem areas throughout not only the Great Lakes but this great country.

I urge support of my amendment.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word. It is with great reluctance that I must oppose the amendment of my good friend.

This amendment has appeal. I would be very happy to work with the gentleman and other interested committees on this to see if indeed we could work something out. The concerns we have here tonight, however, are multifold.

First of all, this could end up creating a slush fund for the EPA. That, I think, we do not want to see happen. This, in effect, could become a superfund for water, if you will, an aquatic superfund. We certainly do not want to see a replay of all the superfund problems we have had.

One of the things that concerns me greatly is that this provision, I am told, could encourage citizen lawsuits for even minor infractions and, indeed, it could possibly create a situation where EPA might exercise prosecutorial discretion. That is something I do not think we want to see happen.

Indeed, it also, as I understand the way it is crafted, could create a situation where hundreds, if not thousands, of citizens groups would be going into the court to seek funds out of this program or, indeed, going into court using, even worse, using the funds from this program to pay for citizen lawsuits.

Finally, the Committee on Ways and Means certainly has a clear interest in this because it does take money out of the general fund Treasury, and so I think anything that we do here would have to be done in concert with the Committee on Ways and Means.

For all of the reasons, I think we should reject this amendment tonight. But I would be happy to work with the gentleman to see if we could craft something that might be acceptable not only to our committee but to the other committees of jurisdiction.

I thank the gentleman.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the gentleman's amendment.

Mr. Chairman, I am pleased to support the gentleman's amendment.

In today's tight economic times, it is important that we attempt to maximize the resources available for environmental protection. This amendment would assure that the fines and penalties which are assessed and collected for violations of the Clean Water Act are used to benefit the environment in the area where the violation occurred.

This amendment will put these fines and penalties to use to create remedial projects to restore and recover from damages resulting from the violation. While consent orders often include environmental remediation, when cases go to trial, fines and penalties often end up as miscellaneous receipts in the Treasury. This may assist the general fund, but it doesn't help the local environment which has suffered the harm.

Funding at all levels of Government is under increasing pressure. If we can increase funding for environmental cleanup, without using tax receipts, I believe that we should pursue such an option.

Mr. Chairman, I support the amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just also want to indicate support for the amendment of the gentleman. As those of you who listened to the debate on my amendment previously know, I had advocated establishing a trust fund with fines and penalties that are received from violations for enforcement purposes. But I think that the purpose of the gentleman from Indiana [Mr. VISCLOSKY], in setting up this trust fund is certainly just as valid.

There is no question that we need more funding for cleanup, and I would like to see nothing better than to have the money that comes from violations of the Clean Water Act placed into a fund that would be used for more cleanup rather than go to the general Treasury. I think that is the way to go in order to provide additional funding for cleanup.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the requisite number of words.

Mr. SHUSTER. Mr. Chairman, is the gentleman asking for unanimous consent to be recognized for 1 minute?

Mr. VISCLOSKY. Mr. Chairman, I ask unanimous consent to proceed for an additional 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. VISCLOSKY. Mr. Chairman, I would like to respond to the arguments made by the chairman.

First of all, the idea that a slush fund would be traded is simply not true. If you look at the total national fines that have been imposed by EPA and the courts, you are talking about $12 million in a year like 1989. You are talking about $28 million in a year like 1993.

Second, that the moneys would be used to pay for citizens' suits is absolutely not true. I point out in the text of the amendment it states, "Amounts in the fund shall be available, as provided in appropriations acts," that is your ultimate break on this system, "to the administrator to carry out projects to restore and recover waters of the United States from damages resulting from violations of this act which are subject to enforcement actions under this section and similar damages resulting from the discharge of pollutants into the waters of the United States."

Again, the control of this system is the appropriations process. They are subject to it, and they are only available to clean up polluted waterways in the United States.

The final point the gentleman made, that this would encourage bureaucrats to run amok, again, the break on the system is the subject of the annual appropriations process, just as the highway trust funds, the aviation trust funds and other funds are. So I do not think we have that encouragement. We are not changing the penalties.

I would recommend the amendment to the Members' attention.

Mr. BOEHLERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman has a very interesting amendment. I think it should be very carefully considered.

The purpose of my rising today is to address an undercurrent that is going on in the House right now. That undercurrent pertains to the vote last night on the coastal zone management program. There are a number of Members who are wondering what really is going to happen now that the House has spoken its will by a vote of 224 to 199.

There are a lot of Members wondering what people outside this Chamber who have a vested interest in the success of this program are saying. So I thought it would be timely to share with my colleagues in the House a letter I have received just today from the Coastal States Organization which says:

"We are writing in great appreciation for the vote on the floor of the House yesterday in restoring and fixing the coastal nonpoint pollution control program during the debate on the reauthorization of the Clean Water Act. Finally, through your amendment"—the letter is addressed to me—"we can address the critical problem of coastal nonpoint pollution in a manner that grants the coastal states, rather than the federal agencies, the flexibility and authority to determine which coastal waters are threatened or degraded, target the coastal nonpoint pollution program as well as prioritize which waters to address first, utilize voluntary measures first to address coastal nonpoint pollution rather than being required to implement mandatory requirements and start working to address this serious problem now, not five years from now."

The letter from the Coastal States Organization goes on to say:

"Through your amendment, this program has been redesigned to be a state-implemented program. Thank you for taking this 'states rights' approach and granting us the authority and flexibility to address this serious problem as the states deem appropriate as well as for saving over four years worth of work. Please convey our gratitude to all the Members of Congress who supported your efforts to restore and protect this nation's companies."

□ 1845

Less than 24 hours ago, the House, by a decisive vote, voted to protect the coastal management program. Now the undercurrent in this Chamber indicates that there is a secretive plan to undo what we did. I want Members to know the Coastal States Organization does not want any secret plan to be implemented. The Coastal States Organization does not want any sleight of hand. The Coastal States Organization, with 30 States involved, representing tens of millions of people, are watching us, and they are saying "Don't back down." I thought it was very important, so timely, to present this letter to this Chamber, so that we could all have the benefit of the wisdom of the Governors in the States and the people we are trying to effectively serve.

What we are about today is addressing a most sensitive environmental and public health piece of legislation. Let no undercurrents undermine what we have already done.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. VISCLOSKY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VISCLOSKY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 247, not voting 31, as follows:

[Roll No. 325]

AYES—156

Abercrombie
Andrews
Barcia
Becerra
Beilenson
Berman
Boehlert
Bonior
Borski
Brown (CA)
Brown (OH)
Burr
Castle
Clay
Clement
Clyburn
Condit
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Ehlers
Engel
Ensign
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hastings (FL)
Heineman
Hinchey
Horn
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
Lantos
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lowey
Luther
Maloney
Manton
Markey
Martinez
McDermott
McHale

McKinney
Meehan
Menendez
Metcalf
Mineta
Mink
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pomeroy
Porter
Portman
Poshard
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Roybal-Allard
Rush
Sabo
Sawyer
Saxton
Schroeder
Serrano
Sisisky
Skaggs
Slaughter
Smith (NJ)
Souder
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—247

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehrlich
Emerson
English
Everett
Ewing
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Goss
Graham
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lofgren
Longley
Lucas
Manzullo
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Rivers
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wolf
Young (AK)
Zeliff

NOT VOTING—31

Ackerman
Ballenger
Barton
Bono
Boucher
Brown (FL)
Collins (IL)
Collins (MI)
Dunn
Fattah
Frisa
Hancock
Harman
Istook
Johnston
McNulty
Meek
Mfume
Miller (CA)
Moakley
Ortiz
Pastor
Peterson (FL)
Rogers
Roukema
Sanders
Schumer
Tanner
Torres
Watts (OK)
Young (FL)

☐ 1904

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Illinois for, with Mr. Watts against.

Mr. Moakley for, with Mr. Bono against.

Miss Collins of Michigan for, with Ms. Dunn of Washington against.

Mr. WAXMAN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PASTOR. Mr. Chairman, today I returned to Arizona to attend the graduation of my daughter from Arizona State University. Consequently, I missed a number of rollcall votes on H.R. 961. Had I been present, I would have voted in the following manner: "Nay" on rollcall vote No. 323; "aye" on rollcall vote No. 324; "aye" on rollcall vote No. 325.

LEGISLATIVE PROGRAM

Mr. GEPHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of inquiring from the chairman of the committee or the distinguished majority leader if we could know what the schedule is for the remainder of today and tomorrow.

I rise because we were told during the period when the contract was on that when the contract was finished, that the schedule would be a little more family friendly and that we could get people home at a reasonable hour. This is the second night that we are going to be here late.

I realize this is important legislation but as I look at the schedule for next week, there are days when there is not a lot of business that we could perhaps finish this bill. I inquire of the distinguished majority leader if we could perhaps leave fairly soon so that Members could see their families and come back tomorrow and try to finish.

Mr. ARMEY. If the gentleman would yield, let me thank the gentleman for his inquiry. We have been talking to a variety of Members on both the majority and minority side.

There are, for a great many of our Members, very serious matters before the House that have very serious consequences to their particular national and local interests. It has been our hope and intention to move this bill to the point that we could complete the work on the bill by 1 p.m. tomorrow because many Members have some departure times that are very strategically important to them there as well.

It is our hope to finish the bill by 1 p.m. tomorrow and to do that in such a way as to not abridge the rights of any Member that chooses to offer the amendment that they, in so many cases, have so often carefully prepared and so patiently waited their turn to offer, and also to hold without any bias against that Member their right to call their vote. Many times a Member offers an amendment and wants to have a vote, a recorded vote, and it is fundamentally that Member's right.

In the meantime we have been in discussions, and I had hoped that by 7 p.m. we would have some greater clarity of understanding to where I could make an announcement. As it is now, I think discussions are still ongoing.

We are still optimistic that we could either continue tonight to a later hour and finish the bill, so that we could all be done with our week this evening, or to see clearly that it is possible for us to rise at an earlier hour and then complete the bill tomorrow in such a time as to convenience those people who are trying to get their departure by 1 p.m. or thereabouts.

The other option that is out there that we are cognizant of is to hold the bill over into next week. That is something that a great many Members also would like to avoid.

Let me just say that we are continuing that information. Perhaps during the course of the next amendment, between now and the next vote that is called, we can have some definitive final understanding of where we can go, and we will be able to make an announcement that defines which of the three alternatives has sort of presented itself through the will of the Members who are participating in the bill.

Mr. GEPHARDT. I thank the gentleman.

I realize it is difficult to make everything come out on time, but I really believe that there was a great amount of anticipation and excitement among all Members when we talked about making the schedule more family friendly. I admit it is hard to do. I have been in your position, and I know how difficult it is. But in that this bill is not essential, we are not on a strict time line, I really believe it would be helpful if Members could go home at a decent hour, come back tomorrow, get out at 1 p.m., come back on Tuesday and get our work done.

Mr. ARMEY. If the gentleman will yield further, let me just say, I understand that, and again as the gentleman from Missouri knows, we always try to juggle as fairly as possible the heartfelt interests of a large group of different Members with different interests, and we are continuing to work with that.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, the distinguished leader from Texas and I have engaged many times over the course of the last 125 days about the schedule, and about getting a more predictable schedule and a more effective schedule and a more family-friendly schedule.

I would just like to ask the leader a couple of questions.

How many amendments do we have left on this bill?

Mr. ARMEY. If the gentleman would yield, there are a fairly significant number of amendments, about 15. Then there are questions related at who among the 15 choose to offer their amendment? Do they choose to call recorded votes? Are there agreements that might be made?

We have also looked at the option of a time limitation. We have some Members that feel very strongly they do not want that and would object to it.

As I have said, I suppose I have sort of kept the gates of bargaining and negotiation open a little longer perhaps than one normally does. But we like to keep options open for fair consideration for all interested parties as long as we can before we come to some sort of "This is it, we've got to pick option A, B, or C and close the gate on the other options."

Mr. ROEMER. If the leader would answer some other questions, we have about 3 or 4 amendments left on this side, so you have 10 or 11 amendments left on your side. Is that correct?

You are working on your side now to try to get some unanimous-consent agreements to bracket the wetlands section or to limit time on this open rule?

Mr. ARMEY. I think the gentleman is almost wholly correct. We are really working with our side rather than on our side. Given that little subtlety, we are working together, and I understand we all would like to get out early. If we are going to come back tomorrow, we would rather get out earlier than later.

I think if we can get back to the bill and maybe again talk to some of these final Members, maybe we can get a final answer.

Mr. ROEMER. Can the leader give us some time as to when he is going to make an announcement tonight to let us know if we will be in until midnight tonight and until 1 p.m. tomorrow? Can we begin to let our staffs know when we can make reservations to fly back home tomorrow?

Can the leader be a little bit more specific, since the 11 or 12 amendments are on his side?

Mr. ARMEY. Again, if I may remind you, the schedule has been, as a matter of fact, the schedule you had before you left for your April recess that scheduled your departure time for tomorrow at 3 p.m. We are working for 1 p.m.

In all due respect to all the other Members, I have more or less felt that anything between now and your printed schedule that you had prior to your April recess that says 3 p.m. is fair game. Again, I am trying to work with everybody.

I would not hold anybody late tonight unless there was some chance we could compensate for that lateness by getting the bill done.

Mr. ROEMER. That is my question to the leader, is if we go late tonight, we could be out earlier than 1 p.m. tomorrow and we could make reservations to fly back home at 10 or 11 a.m. tomorrow.

When would we know that?

Mr. ARMEY. That is a level of fine-tuning that goes even beyond the great expectations of Keynesian fiscal policy in the early 1960's. Certainly we should be able to get a look at whether or not we can finish the bill tonight or must come back tomorrow. When we get to that definitive point, then we can see the option.

I would not ask Members to stay until midnight tonight, stay late tomorrow, and then come back next week and work on this bill.

Mr. ROEMER. Would the leader be willing to roll votes until tomorrow and have debate on these serious questions?

I agree with the leader that many of these questions and many of these amendments are very serious. We offered a serious substitute yesterday. Many of these amendments need to be seriously debated, but to then limit this serious debate between now and 1 p.m. tomorrow does not do the service that the leader has talked about.

What about on Tuesday, where you have scheduled the New London National Fish Hatchery Conveyance Act? I think that is the only order of business all day Tuesday.

Mr. ARMEY. I thank the gentleman again for that recommendation.

Mr. ROEMER. But he is not going to listen to my recommendation.

Mr. ARMEY. The gentleman, I think, does me a bit of a disservice to presume that I have not taken that into consideration up to this point.

Mr. ROEMER. You are the leader, and I am sure you are way ahead of this minority Member.

Mr. GEPHARDT. Perhaps if I could reclaim my time and bring this to a conclusion, because we are now wasting time.

Mr. ARMEY. As Randy Quaid says, "I'll get back to you later with the details as quickly as I can."

Mr. GEPHARDT. I know the gentleman is doing everything that he can to bring this to a successful and swift conclusion. Just please know that there is a lot of, unhappiness maybe is too strong of a word, but deep concern and unhappiness, I am sure, on both sides of the aisle about the failure to get out.

The contract is over. It is time for family friendly.

☐ 1915

Let us do everything we can to make that happen.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding. I would like to point out there have been nine recorded votes on your side today, none on ours.

Mr. GEPHARDT. I understand.

Mr. ARMEY. If I may respond to the gentleman?

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. ARMEY. I do understand the concern the Members have. And let me just say to a large extent it is out of our concern for the full rights of each individual Member that we have come to this point, and we will get back to that business and try to resolve this as quickly as we can.

Mr. GEPHARDT. I thank the gentleman.

The CHAIRMAN. Are there any further amendments to title III.

The Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—PERMITS AND LICENSES

SEC. 401. WASTE TREATMENT SYSTEMS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS.

Section 402(a) is amended by adding the following new paragraph:

"(6) CONCENTRATED ANIMAL FEEDING OPERATIONS.—For purposes of this section, waste treatment systems, including retention ponds or lagoons, used to meet the requirements of this Act for concentrated animal feeding operations, are not waters of the United States. An existing concentrated animal feeding operation that uses a natural topographic impoundment or structure on the effective date of this Act, which is not hydrologically connected to any other waters of the United States, as a waste treatment system or wastewater retention facility may continue to use that natural topographic feature for waste storage regardless of its size, capacity, or previous use.".

SEC. 402. PERMIT REFORM.

(a) DURATION AND REOPENERS.—Section 402(b)(1) (33 U.S.C. 1342(b)(1)) is amended—

(1) in subparagraph (B) by striking "five" and inserting "10" and by striking "and";

(2) by inserting "and" after the semicolon at the end of subparagraph (D); and

(3) by adding at the end the following new subparagraph:

"(E) can be modified as necessary to address a significant threat to human health and the environment;".

(b) REVIEW OF EFFLUENT LIMITATIONS.—Section 301(d) (33 U.S.C. 1311(d)) is amended to read as follows:

"(d) REVIEW OF EFFLUENT LIMITATIONS.—Any effluent limitation required by subsection (b)(2) that is established in a permit under section 402

shall be reviewed at least every 10 years when the permit is reissued, and, if appropriate, revised.".

(c) Discharge Limit.—Section 402(b)(1)(A) (33 U.S.C. 1342(b)(1)(A)) is amended by inserting after the semicolon at the end the following: "except that in no event shall a discharge limit in a permit under this section be set at a level below the lowest level that the pollutant can be reliably quantified on an interlaboratory basis for a particular test method, as determined by the Administrator using approved analytical methods under section 304(h);".

SEC. 403. REVIEW OF STATE PROGRAMS AND PERMITS.

(a) Review of State Programs.—Section 402(c) (33 U.S.C. 1342(c)) is amended by inserting before the first sentence the following: "Upon approval of a State program under this section, the Administrator shall review administration of the program by the State once every 3 years.".

(b) Review of State Permits.—Section 402(d)(2) (33 U.S.C. 1342(d)(2)) is amended—

(1) in the first sentence by striking "as being outside the guidelines and requirements of this Act" and inserting "as presenting a substantial risk to human health and the environment"; and

(2) in the second sentence by striking "and the effluent limitations" and all that follows before the period.

(c) Court Proceedings to Prohibit Introduction of Pollutants into Treatment Works.—Section 402(h) (33 U.S.C. 1342(h)) is amended by inserting after "approved or where" the following: "the discharge involves a significant source of pollutants to the waters of the United States and".

SEC. 404. STATISTICAL NONCOMPLIANCE.

(a) Number of Excursions.—Section 402(k) (33 U.S.C. 1342(k)) is amended by inserting after the first sentence the following: "In any enforcement action or citizen suit under section 309 or 505 of this Act or applicable State law alleging noncompliance with a technology-based effluent limitation established pursuant to section 301, a permittee shall be deemed in compliance with the technology-based effluent limitation if the permittee demonstrates through reference to information contained in the applicable rulemaking record that the number of excursions from the technology-based effluent limitation are no greater, on an annual basis, than the number of excursions expected from the technology on which the limit is based and that the discharges do not violate an applicable water-quality based limitation or standard.".

(b) Pretreatment Standards.—Section 307(d) (33 U.S.C. 1317(d)) is amended by adding at the end the following: "In any enforcement action or citizen suit under section 309 or 505 of this Act or applicable State law alleging noncompliance with a categorical pretreatment standard or local pretreatment limit established pursuant to this section, a person who demonstrates through reference to information contained in the applicable rulemaking record—

"(1) that the number of excursions from the categorical pretreatment standard or local pretreatment limit are no greater, on an annual basis, than the number of excursions expected from the technology on which the pretreatment standard or local pretreatment limit is based, and

"(2) that the introduction of pollutants into a publicly owned treatment works does not cause interference with such works or cause a violation by such works of an applicable water-quality based limitation or standard,

shall be deemed in compliance with the standard under the Act.".

SEC. 405. ANTI-BACKSLIDING REQUIREMENTS.

Section 402(o) (33 U.S.C. 1343(o)) is amended by adding at the end the following:

"(4) Nonapplicability to Publicly Owned Treatment Works.—The requirements of this subsection shall not apply to permitted discharges from a publicly owned treatment works if the treatment works demonstrates to the satisfaction of the Administrator that—

"(A) the increase in pollutants is a result of conditions beyond the control of the treatment works (such as fluctuations in normal source water availabilities due to sustained drought conditions); and

"(B) effluent quality does not result in impairment of water quality standards established for the receiving waters.".

SEC. 406. INTAKE CREDITS.

Section 402 (33 U.S.C. 1342) is further amended by inserting after subsection (k) the following:

"(l) Intake Credits.—

"(1) In General.—Notwithstanding any provision of this Act, in any effluent limitation or other limitation imposed under the permit program established by the Administrator under this section, any State permit program approved under this section (including any program for implementation under section 118(c)(2)), any standards established under section 307(a), or any program for industrial users established under section 307(b), the Administrator, as applicable, shall or the State, as applicable, may provide credits for pollutants present in or caused by intake water such that an owner or operator of a point source is not required to remove, reduce, or treat the amount of any pollutant in an effluent below the amount of such pollutant that is present in or caused by the intake water for such facility—

"(A)(i) if the source of the intake water and the receiving waters into which the effluent is ultimately discharged are the same;

"(ii) if the source of the intake water meets the maximum contaminant levels or treatment techniques for drinking water contaminants established pursuant to the Safe Drinking Water Act for the pollutant of concern; or

"(iii) if, at the time the limitation or standard is established, the level of the pollutant in the intake water is the same as or lower than the amount of the pollutant in the receiving waters, taking into account analytical variability; and

"(B) if, for conventional pollutants, the constituents of the conventional pollutants in the intake water are the same as the constituents of the conventional pollutants in the effluent.

"(2) Allowance for Incidental Amounts.—In determining whether the condition set forth in paragraph (1)(A)(i) is being met, the Administrator shall or the State may, as appropriate, make allowance for incidental amounts of intake water from sources other than the receiving waters.

"(3) Credit for Nonqualifying Pollutants.—The Administrator shall or a State may provide point sources an appropriate credit for pollutants found in intake water that does not meet the requirement of paragraph (1).

"(4) Monitoring.—Nothing in this section precludes the Administrator or a State from requiring monitoring of intake water, effluent, or receiving waters to assist in the implementation of this section.".

SEC. 407. COMBINED SEWER OVERFLOWS.

Section 402 (33 U.S.C. 1342) is further amended by adding at the end the following:

"(s) Combined Sewer Overflows.—

"(1) Requirement for Permits.—Each permit issued pursuant to this section for a discharge from a combined storm and sanitary sewer shall conform with the combined sewer overflow control policy signed by the Administrator on April 11, 1994.

"(2) Term of Permit.—

"(A) Compliance Deadline.—Notwithstanding any compliance schedule under section 301(b), or any permit limitation under section 402(b)(1)(B), the Administrator (or a State with a program approved under subsection (b)) may issue a permit pursuant to this section for a discharge from a combined storm and sanitary sewer, that includes a schedule for compliance with a long-term control plan under the control policy referred to in paragraph (1), for a term not to exceed 15 years.

"(B) Extension.—Notwithstanding the compliance deadline specified in subparagraph (A), the Administrator or a State with a program approved under subsection (b) shall extend, on request of an owner or operator of a combined storm and sanitary sewer and subject to subparagraph (C), the period of compliance beyond the last day of the 15-year period—

"(i) if the Administrator or the State determines that compliance by such last day is not within the economic capability of the owner or operator; and

"(ii) if the owner or operator demonstrates to the satisfaction of the Administrator or the State reasonable further progress towards compliance with a long-term control plan under the control policy referred to in paragraph (1).

"(C) Limitations on Extensions.—

"(i) Extension Not Appropriate.—Notwithstanding subparagraph (B), the Administrator or the State need not grant an extension of the compliance deadline specified in subparagraph (A) if the Administrator or the State determines that such an extension is not appropriate.

"(ii) New York-New Jersey.—Prior to granting an extension under subparagraph (B) with respect to a combined sewer overflow discharge originating in the State of New York or New Jersey and affecting the other of such States, the Administrator or the State from which the discharge originates, as the case may be, shall provide written notice of the proposed extension to the other State and shall not grant the extension unless the other State approves the extension or does not disapprove the extension within 90 days of receiving such written notice.

"(3) Savings Clause.—Any consent decree or court order entered by a United States district court, or administrative order issued by the Administrator, before the date of the enactment of this subsection establishing any deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables, for the evaluation, design, or construction of treatment works for control or elimination of any discharge from a municipal combined storm and sanitary sewer system shall be modified upon motion or request by any party to such consent decree or court order, to extend to December 31, 2009, at a minimum, any such deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables as is necessary to conform to the policy referred to in paragraph (1) or otherwise achieve the objectives of this subsection. Notwithstanding the preceding sentence, the period of compliance with respect to a discharge referred to in paragraph (2)(C)(ii) may only be extended in accordance with paragraph (2)(C)(ii).".

SEC. 408. SANITARY SEWER OVERFLOWS.

Section 402 (33 U.S.C. 1342) is further amended by adding at the end the following:

"(t) Sanitary Sewer Overflows.—

"(1) Development of Policy.—Not later than 2 years after the date of the enactment of this subsection, the Administrator, in consultation with State and local governments and water authorities, shall develop and publish a national control policy for municipal separate sanitary sewer overflows. The national policy shall recognize and address regional and economic factors.

"(2) Issuance of Permits.—Each permit issued pursuant to this section for a discharge from a municipal separate sanitary sewer shall conform with the policy developed under paragraph (1).

"(3) COMPLIANCE DEADLINE.—Notwithstanding any compliance schedule under section 301(b), or any permit limitation under subsection (b)(1)(B), the Administrator or a State with a program approved under subsection (b) may issue a permit pursuant to this section for a discharge from a municipal separate sanitary sewer due to stormwater inflows or infiltration. The permit shall include at a minimum a schedule for compliance with a long-term control plan under the policy developed under paragraph (1), for a term not to exceed 15 years.

"(4) EXTENSION.—Notwithstanding the compliance deadline specified in paragraph (3), the Administrator or a State with a program approved under subsection (b) shall extend, on request of an owner or operator of a municipal separate sanitary sewer, the period of compliance beyond the last day of such 15-year period if the Administrator or the State determines that compliance by such last day is not within the economic capability of the owner or operator, unless the Administrator or the State determines that the extension is not appropriate.

"(5) EFFECT ON OTHER ACTIONS.—Before the date of publication of the policy under paragraph (1), the Administrator or Attorney General shall not initiate any administrative or judicial civil penalty action in response to a municipal separate sanitary sewer overflow due to stormwater inflows or infiltration.

"(6) SAVINGS CLAUSE.—Any consent decree or court order entered by a United States district court, or administrative order issued by the Administrator, before the date of the enactment of this subsection establishing any deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables, for the evaluation, design, or construction of treatment works for control or elimination of any discharge from a municipal separate sanitary sewer shall be modified upon motion or request by any party to such consent decree or court order, to extend to December 31, 2009, at a minimum, any such deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables as is necessary to conform to the policy developed under paragraph (1) or otherwise achieve the objectives of this subsection.".

SEC. 409. ABANDONED MINES.

Section 402 (33 U.S.C. 1342) is further amended by inserting after subsection (o) the following:

"(p) PERMITS FOR REMEDIATING PARTY ON ABANDONED OR INACTIVE MINED LANDS.—

"(1) APPLICABILITY.—Subject to this subsection, including the requirements of paragraph (3), the Administrator, with the concurrence of the concerned State or Indian tribe, may issue a permit to a remediating party under this section for discharges associated with remediation activity at abandoned or inactive mined lands which modifies any otherwise applicable requirement of sections 301(b), 302, and 403, or any subsection of this section (other than this subsection).

"(2) APPLICATION FOR A PERMIT.—A remediating party who desires to conduct remediation activities on abandoned or inactive mined lands from which there is or may be a discharge of pollutants to waters of the United States or from which there could be a significant addition of pollutants from nonpoint sources may submit an application to the Administrator. The application shall consist of a remediation plan and any other information requested by the Administrator to clarify the plan and activities.

"(3) REMEDIATION PLAN.—The remediation plan shall include (as appropriate and applicable) the following:

"(A) Identification of the remediating party, including any persons cooperating with the concerned State or Indian tribe with respect to the plan, and a certification that the applicant is a remediating party under this section.

"(B) Identification of the abandoned or inactive mined lands addressed by the plan.

"(C) Identification of the waters of the United States impacted by the abandoned or inactive mined lands.

"(D) A description of the physical conditions at the abandoned or inactive mined lands that are causing adverse water quality impacts.

"(E) A description of practices, including system design and construction plans and operation and maintenance plans, proposed to reduce, control, mitigate, or eliminate the adverse water quality impacts and a schedule for implementing such practices and, if it is an existing remediation project, a description of practices proposed to improve the project, if any.

"(F) An analysis demonstrating that the identified practices are expected to result in a water quality improvement for the identified waters.

"(G) A description of monitoring or other assessment to be undertaken to evaluate the success of the practices during and after implementation, including an assessment of baseline conditions.

"(H) A schedule for periodic reporting on progress in implementation of major elements of the plan.

"(I) A budget and identified funding to support the activities described in the plan.

"(J) Remediation goals and objectives.

"(K) Contingency plans.

"(L) A description of the applicant's legal right to enter and conduct activities.

"(M) The signature of the applicant.

"(N) Identification of the pollutant or pollutants to be addressed by the plan.

"(4) PERMITS.—

"(A) CONTENTS.—Permits issued by the Administrator pursuant to this subsection shall—

"(i) provide for compliance with and implementation of a remediation plan which, following issuance of the permit, may be modified by the applicant after providing notification to and opportunity for review by the Administrator;

"(ii) require that any modification of the plan be reflected in a modified permit;

"(iii) require that if, at any time after notice to the remediating party and opportunity for comment by the remediating party, the Administrator determines that the remediating party is not implementing the approved remediation plan in substantial compliance with its terms, the Administrator shall notify the remediating party of the determination together with a list specifying the concerns of the Administrator;

"(iv) provide that, if the identified concerns are not resolved or a compliance plan approved within 180 days of the date of the notification, the Administrator may take action under section 309 of this Act;

"(v) provide that clauses (iii) and (iv) not apply in the case of any action under section 309 to address violations involving gross negligence (including reckless, willful, or wanton misconduct) or intentional misconduct by the remediating party or any other person;

"(vi) not require compliance with any limitation issued under sections 301(b), 302, and 403 or any requirement established by the Administrator under any subsection of this section (other than this subsection); and

"(vii) provide for termination of coverage under the permit without the remediating party being subject to enforcement under sections 309 and 505 of this Act for any remaining discharges—

"(I) after implementation of the remediation plan;

"(II) if a party obtains a permit to mine the site; or

"(III) upon a demonstration by the remediating party that the surface water quality conditions due to remediation activities at the site, taken as a whole, are equal to or superior to the surface water qualities that existed prior to initiation of remediation.

"(B) LIMITATIONS.—The Administrator shall only issue a permit under this section, consistent with the provisions of this subsection, to a remediating party for discharges associated with remediation action at abandoned or inactive mined lands if the remediation plan demonstrates with reasonable certainty that the actions will result in an improvement in water quality.

"(C) PUBLIC PARTICIPATION.—The Administrator may only issue a permit or modify a permit under this section after complying with subsection (b)(3).

"(D) EFFECT OF FAILURE TO COMPLY WITH PERMIT.—Failure to comply with terms of a permit issued pursuant to this subsection shall not be deemed to be a violation of an effluent standard or limitation issued under this Act.

"(E) LIMITATIONS ON STATUTORY CONSTRUCTION.—This subsection shall not be construed—

"(i) to limit or otherwise affect the Administrator's powers under section 504; or

"(ii) to preclude actions pursuant to section 309 or 505 for any violations of sections 301(a), 302, 402, and 403 that may have existed for the abandoned or inactive mined land prior to initiation of remediation covered by a permit issued under this subsection, unless such permit covers remediation activities implemented by the permit holder prior to issuance of the permit.

"(5) DEFINITIONS.—In this subsection the following definitions apply:

"(A) REMEDIATING PARTY.—The term 'remediating party' means—

"(i) the United States (on non-Federal lands), a State or its political subdivisions, or an Indian tribe or officers, employees, or contractors thereof; and

"(ii) any person acting in cooperation with a person described in clause (i), including a government agency that owns abandoned or inactive mined lands for the purpose of conducting remediation of the mined lands or that is engaging in remediation activities incidental to the ownership of the lands.

Such term does not include any person who, before or following issuance of a permit under this section, directly benefited from or participated in any mining operation (including exploration) associated with the abandoned or inactive mined lands.

"(B) ABANDONED OR INACTIVE MINED LANDS.—The term 'abandoned or inactive mined lands' means lands that were formerly mined and are not actively mined or in temporary shutdown at the time of submission of the remediation plan and issuance of a permit under this section.

"(C) MINED LANDS.—The term 'mined lands' means the surface or subsurface of an area where mining operations, including exploration, extraction, processing, and beneficiation, have been conducted. Such term includes private ways and roads appurtenant to such area, land excavations, underground mine portals, adits, and surface expressions associated with underground workings, such as glory holes and subsidence features, mining waste, smelting sites associated with other mined lands, and areas where structures, facilities, equipment, machines, tools, or other material or property which result from or have been used in the mining operation are located.

"(6) REGULATIONS.—The Administrator may issue regulations establishing more specific requirements that the Administrator determines would facilitate implementation of this subsection. Before issuance of such regulations, the Administrator may establish, on a case-by-case basis after notice and opportunity for public comment as provided by subsection (b)(3), more specific requirements that the Administrator determines would facilitate implementation of this

subsection in an individual permit issued to the remediating party.".

SEC. 410. BENEFICIAL USE OF BIOSOLIDS.

(a) REFERENCES.—Section 405(a) (33 U.S.C. 1345(a)) is amended by inserting "(also referred to as 'biosolids')" after "sewage sludge" the first place it appears.

(b) APPROVAL OF STATE PROGRAMS.—Section 405(f) (33 U.S.C. 1345(f)) is amended by adding at the end the following:

"(3) APPROVAL OF STATE PROGRAMS.—Notwithstanding any other provision of law, the Administrator shall approve for purposes of this subsection State programs that meet the standards for final use or disposal of sewage sludge established by the Administrator pursuant to subsection (d).".

(c) STUDIES AND PROJECTS.—Section 405(g) (33 U.S.C. 1345(g)) is amended—

(1) in the first sentence of paragraph (1) by inserting "building materials," after "agricultural and horticultural uses,";

(2) in paragraph (1) by adding at the end the following: "Not later than January 1, 1997, and after providing notice and opportunity for public comment, the Administrator shall issue guidance on the beneficial use of sewage sludge."; and

(3) in paragraph (2) by striking "September 30, 1986," and inserting "September 30, 1995,".

SEC. 411. WASTE TREATMENT SYSTEMS DEFINED.

Title IV (33 U.S.C. 1341–1345) is further amended by adding at the end the following:

"SEC. 406. WASTE TREATMENT SYSTEMS DEFINED.

"(a) ISSUANCE OF REGULATIONS.—Not later than 1 year of the date of the enactment of this section, the Administrator, after consultation with State officials, shall issue a regulation defining 'waste treatment systems'.

"(b) INCLUSION OF AREAS.—

"(1) AREAS WHICH MAY BE INCLUDED.—In defining the term 'waste treatment systems' under subsection (a), the Administrator may include areas used for the treatment of wastes if the Administrator determines that such inclusion will not interfere with the goals of this Act.

"(2) AREAS WHICH SHALL BE INCLUDED.—In defining the term 'waste treatment systems' under subsection (a), the Administrator shall include, at a minimum, areas used for detention, retention, treatment, settling, conveyance, or evaporation of wastewater, stormwater, or cooling water unless—

"(A) the area was created in or resulted from the impoundment or other modification of navigable waters and construction of the area commenced after the date of the enactment of this section;

"(B) on or after February 15, 1995, the owner or operator allows the area to be used by interstate or foreign travelers for recreational purposes; or

"(C) on or after February 15, 1995, the owner or operator allows the taking of fish or shellfish from the area for sale in interstate or foreign commerce.

"(c) INTERIM PERIOD.—Before the date of issuance of regulations under subsection (a), the Administrator or the State (in the case of a State with an approved permit program under section 402) shall not require a new permit under section 402 or section 404 for any discharge into any area used for detention, retention, treatment, settling, conveyance, or evaporation of wastewater, stormwater, or cooling water unless the area is an area described in subsection (b)(2)(A), (b)(2)(B), or (b)(2)(C).

"(d) SAVINGS CLAUSE.—Any area which the Administrator or the State (in the case of a State with an approved permit program under section 402) determined, before February 15, 1995, is a water of the United States and for which, pursuant to such determination, the Administrator or State issued, before February 15, 1995, a permit under section 402 for discharges into such area shall remain a water of the United States.

"(e) REGULATION OF OTHER AREAS.—With respect to areas constructed for detention, retention, treatment, settling, conveyance, or evaporation of wastewater, stormwater, or cooling water that are not waste treatment systems as defined by the Administrator pursuant to this section and that the Administrator determines are navigable waters under this Act, the Administrator or the States, in establishing standards pursuant to section 303(c) of this Act or implementing other requirements of this Act, shall give due consideration to the uses for which such areas were designed and constructed, and need not establish standards or other requirements that will impede such uses.".

SEC. 412. THERMAL DISCHARGES.

A municipal utility that before the date of the enactment of this section has been issued a permit under section 402 of the Federal Water Pollution Control Act for discharges into the Upper Greater Miami River, Ohio, shall not be required under such Act to construct a cooling tower or operate under a thermal management plan unless—

(1) the Administrator or the State of Ohio determines based on scientific evidence that such discharges result in harm to aquatic life; or

(2) the municipal utility has applied for and been denied a thermal discharge variance under section 316(a) of such Act.

AMENDMENT OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment numbered 47 offered by Mr. RIGGS: Insert at the appropriate place in title IV the following new section:

"DISCHARGE VOLUME.—Section 402(o)(2) (33 U.S.C. 1342(o)(2)) is amended in the first sentence by inserting "the concentration or loading of" after the words "applicable to".

Mr. RIGGS. Mr. Chairman, I want to thank the chairman of the full committee, the gentleman from Pennsylvania [Mr. SHUSTER], for his excellent work on the bill.

Mr. Chairman, I hope and believe that my amendment should not be controversial. It reaffirms what the EPA should already know. Clean water is not itself a pollutant, and should not be regulated as such.

Specifically, Mr. Chairman, my amendment clarifies the anti-backsliding exception in the Clean Water Act under section 402(o). The act now allows a discharge permit to be "renewed, reissued or modified to contain a less stringent effluent limitation applicable to a pollutant" in certain circumstances.

The amendment would make clear that as long as other clean water precautions are followed, a discharge permit could be renewed, reissued or modified to contain a less stringent effluent limitation applicable to the concentration or loading of a pollutant.

The effect of the language is that increased volumes of treated wastewater could be discharged into a river or other body of water as long as water quality is not degraded.

The amendment is consistent with the spirit of H.R. 961 in that it gives flexibility while preserving requirements that water quality standards be met.

This amendment is particularly important to a jurisdiction, a portion of which I represent, the city of Santa Rosa in Sonoma County, CA.

Mr. Chairman, the anti-backsliding exception criteria explicitly addresses only the concentration of effluent quality constituents, not the pollutant quantity or wastewater flow. It appears that my amendment would enable the city of Santa Rosa to discharge into a nearby river at a greater than 1 percent rate only with modification of the anti-backsliding provision.

Mr. Chairman, this amendment will allow funds to be spent where the environment will benefit the most. Without this proposed language publicly owned wastewater treatment works across the country could be forced by existing regulations to forgo implementation of wastewater reuse projects that would restore wetlands and supply reclaimed water to support local agriculture, the wastewater that would be made available by this amendment and in the case of the city of Santa Rosa, avoid agricultural pumping of water from streams used by salmon and flathead.

For all of these reasons, Mr. Chairman, I urge my colleagues' approval of this amendment, and again I would hope that my amendment would be accepted by the minority and I believe that my amendment is noncontroversial in nature.

Mr. BACHUS. Mr. Chairman, I move to strike the last word, and I rise in support to the Riggs amendment. It provides a needed clarification of the 402(o) exemptions, and I would urge a yes vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. RIGGS].

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to title IV?

The Clerk will designate title V.

The text of title V is as follows:

TITLE V—GENERAL PROVISIONS

SEC. 501. CONSULTATION WITH STATES.

Section 501 (33 U.S.C. 1361) is amended by adding at the end the following new subsection:

"(g) CONSULTATION WITH STATES.—

"(1) IN GENERAL.—The Administrator shall consult with and substantially involve State governments and their representative organizations and, to the extent that they participate in the administration of this Act, tribal and local governments, in the Environmental Protection Agency's decisionmaking, priority setting, policy and guidance development, and implementation under this Act.

"(2) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to meetings held to carry out paragraph (1)—

"(A) if such meetings are held exclusively between Federal officials and elected officers of State, local, and tribal governments (or their designated employees with authority to act on

their behalf) acting in their official capacities; and

"(B) if such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of this Act.

"(3) IMPLEMENTING GUIDELINES.—No later than 6 months after the date of the enactment of this paragraph, the Administrator shall issue guidelines for appropriate implementation of this subsection consistent with applicable laws and regulations.".

SEC. 502. NAVIGABLE WATERS DEFINED.

Section 502(7) (33 U.S.C. 1362(7)) is amended by adding at the end the following: "Such term does not include 'waste treatment systems', as defined under section 406.".

SEC. 503. CAFO DEFINITION CLARIFICATION.

Section 502(14) (33 U.S.C. 1362(14)) is further amended—

(1) by inserting "(other than an intermittent nonproducing livestock operation such as a stockyard or a holding and sorting facility)" after "feeding operation"; and

(2) by adding at the end the following: "The term does include an intermittent nonproducing livestock operation if the average number of animal units that are fed or maintained in any 90-day period exceeds the number of animal units determined by the Administrator or the State (in the case of a State with an approved permit program under section 402) to constitute a concentrated animal feeding operation or if the operation is designated by the Administrator or State as a significant contributor of pollution.".

SEC. 504. PUBLICLY OWNED TREATMENT WORKS DEFINED.

Section 502 (33 U.S.C. 1362) is further amended by adding at the end the following:

"(27) The term 'publicly owned treatment works' means a treatment works, as defined in section 212, located at other than an industrial facility, which is designed and constructed principally, as determined by the Administrator, to treat domestic sewage or a mixture of domestic sewage and industrial wastes of a liquid nature. In the case of such a facility that is privately owned, such term includes only those facilities that, with respect to such industrial wastes, are carrying out a pretreatment program meeting all the requirements established under section 307 and paragraphs (8) and (9) of section 402(b) for pretreatment programs (whether or not the treatment works would be required to implement a pretreatment program pursuant to such sections).".

SEC. 505. STATE WATER QUANTITY RIGHTS.

(a) POLICY.—Section 101(g) (33 U.S.C. 1251(g)) is amended by inserting before the period at the end of the last sentence "and in accordance with section 510(b) of this Act".

(b) STATE AUTHORITY.—Section 510 (33 U.S.C. 1370) is amended—

(1) by striking the section heading and "SEC. 510. Except" and inserting the following:

"SEC. 510. STATE AUTHORITY.

"(a) IN GENERAL.—Except"; and

(2) by adding at the end the following new subsection:

"(b) WATER RIGHTS.—Nothing in this Act shall be construed to supersede, abrogate, or otherwise impair any right or authority of a State to allocate quantities of water (including boundary waters). Nothing in this Act shall be implemented, enforced, or construed to allow any officer or agency of the United States to utilize directly or indirectly the authorities established under this Act to impose any requirement not imposed by the State which would supersede, abrogate, or otherwise impair rights to the use of water resources allocated under State law, interstate water compact, or Supreme Court decree, or held by the United States for use by a State, its political subdivisions, or its citizens. No water rights arise in the United States or any other person under the provisions of this Act. This subsection shall not be construed as limiting any State's authority under section 401 of this Act, as excusing any person from obtaining a permit under section 402 or 404 of this Act, or as excusing any obligation to comply with requirements established by a State to implement section 319.".

SEC. 506. IMPLEMENTATION OF WATER POLLUTION LAWS WITH RESPECT TO VEGETABLE OIL.

(a) DIFFERENTIATION AMONG FATS, OILS, AND GREASES.—

(1) IN GENERAL.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law related to water pollution control, the head of a Federal agency shall—

(A) differentiate between and establish separate classes for—

(i)(I) animal fats; and

(II) vegetable oils; and

(ii) other oils, including petroleum oil; and

(B) apply different standards and reporting requirements (including reporting requirements based on quantitative amounts) to different classes of fat and oil as provided in paragraph (2).

(2) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii), the head of the Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) ANIMAL FAT.—The term "animal fat" means each type of animal fat, oil, or grease, including fat, oil, or grease from fish or a marine mammal and any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.

(2) VEGETABLE OIL.—The term "vegetable oil" means each type of vegetable oil, including vegetable oil from a seed, nut, or kernel and any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

SEC. 507. NEEDS ESTIMATE.

Section 516(b)(1) (33 U.S.C. 1375(b)(1)) is amended—

(1) in the first sentence by striking "biennially revised" and inserting "quadrennially revised"; and

(2) in the second sentence by striking "February 10 of each odd-numbered year" and inserting "December 31, 1997, and December 31 of every 4th calendar year thereafter".

SEC. 508. GENERAL PROGRAM AUTHORIZATIONS.

Section 517 (33 U.S.C. 1376) is amended—

(1) by striking "and" before "$135,000,000"; and

(2) by inserting before the period at the end the following: ", and such sums as may be necessary for each of fiscal years 1991 through 2000".

SEC. 509. INDIAN TRIBES.

(a) COOPERATIVE AGREEMENTS.—Section 518(d) (33 U.S.C. 1377(d)) is amended by adding at the end the following: "In exercising the review and approval provided in this paragraph, the Administrator shall respect the terms of any cooperative agreement that addresses the authority or responsibility of a State or Indian tribe to administer the requirements of this Act within the exterior boundaries of a Federal Indian reservation, so long as that agreement otherwise provides for the adequate administration of this Act.".

(b) DISPUTE RESOLUTION.—Section 518 is amended—

(1) by redesignating subsection (h) as subsection (j); and

(2) by inserting after subsection (g) the following new subsection:

"(h) DISPUTE RESOLUTION.—The Administrator shall promulgate, in consultation with States and Indian tribes, regulations which provide for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide, in a manner consistent with the objectives of this Act, that persons who are affected by differing tribal or State water quality permit requirements have standing to utilize the dispute resolution process, and for the explicit consideration of relevant factors, including the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards.".

(c) PETITIONS FOR REVIEW.—Section 518 (33 U.S.C. 1377) is amended by inserting after subsection (h) (as added by subsection (b) of this section) the following:

"(i) DISTRICT COURTS; PETITION FOR REVIEW; STANDARD OF REVIEW.—Notwithstanding the provisions of section 509, the United States district courts shall have jurisdiction over actions brought to review any determination of the Administrator under section 518. Such an action may be brought by a State or an Indian tribe and shall be filed with the court within the 90-day period beginning on the date of the determination of the Administrator is made. In any such action, the district court shall review the Administrator's determination de novo.".

(d) DEFINITIONS.—Section 518(j)(1), as redesignated by subsection (b) of this section, is amended by inserting before the semicolon at the end the following: ", and, in the State of Oklahoma, such term includes lands held in trust by the United States for the benefit of an Indian tribe or an individual member of an Indian tribe, lands which are subject to Federal restrictions against alienation, and lands which are located within a dependent Indian community, as defined in section 1151 of title 18, United States Code".

(e) RESERVATION OF FUNDS.—Section 518(c) (33 U.S.C. 1377(c)) is amended in the first sentence—

(1) by striking "beginning after September 30, 1986,";

(2) by striking "section 205(e)" and inserting "section 604(a)";

(3) by striking "one-half of"; and

(4) by striking "section 207" and inserting "sections 607 and 608".

SEC. 510. FOOD PROCESSING AND FOOD SAFETY.

Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 521 and by inserting after section 518 the following:

"SEC. 519. FOOD PROCESSING AND FOOD SAFETY.

"In developing any effluent guideline under section 304(b), pretreatment standard under section 307(b), or new source performance standard under section 306 that is applicable to the food processing industry, the Administrator shall consult with and consider the recommendations of the Food and Drug Administration, Department of Health and Human Services, Department of Agriculture, and Department of Commerce. The recommendations of such departments and agencies and a description of the Administrator's response to those recommendations shall be made part of the rulemaking record for the development of such guidelines and standards. The Administrator's response shall include an explanation with respect to food safety, including a discussion of relative risks, of any departure from a recommendation by any such department or agency.".

SEC. 511. AUDIT DISPUTE RESOLUTION.

Title V (33 U.S.C. 1361–1377) is further amended by inserting before section 521, as redesignated by section 510 of this Act, the following:

"SEC. 520. AUDIT DISPUTE RESOLUTION.

"(a) ESTABLISHMENT OF BOARD.—The Administrator shall establish an independent Board of Audit Appeals (hereinafter in this section referred to as the 'Board') in accordance with the requirements of this section.

"(b) DUTIES.—The Board shall have the authority to review and decide contested audit determinations related to grant and contract awards under this Act. In carrying out such duties, the Board shall consider only those regulations, guidance, policies, facts, and circumstances in effect at the time of the grant or contract award.

"(c) PRIOR ELIGIBILITY DECISIONS.—The Board shall not reverse project cost eligibility determinations that are supported by an decision document of the Environmental Protection Agency, including grant or contract approvals, plans and specifications approval forms, grant or contract payments, change order approval forms, or similar documents approving project cost eligibility, except upon a showing that such decision was arbitrary, capricious, or an abuse of law in effect at the time of such decision.

"(d) MEMBERSHIP.—

"(1) APPOINTMENT.—The Board shall be composed of 7 members to be appointed by the Administrator not later than 90 days after the date of the enactment of this section.

"(2) TERMS.—Each member shall be appointed for a term of 3 years.

"(3) QUALIFICATIONS.—The Administrator shall appoint as members of the Board individuals who are specially qualified to serve on the Board by virtue of their expertise in grant and contracting procedures. The Administrator shall make every effort to ensure that individuals appointed as members of the Board are free from conflicts of interest in carrying out the duties of the Board.

"(e) BASIC PAY AND TRAVEL EXPENSES.—

"(1) RATES OF PAY.—Except as provided in paragraph (2), members shall each be paid at a rate of basic pay, to be determined by the Administrator, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board.

"(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Board who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

"(3) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Board, the Administrator shall provide to the Board the administrative support services necessary for the Board to carry out its responsibilities under this section.

"(g) DISPUTES ELIGIBLE FOR REVIEW.—The authority of the Board under this section shall extend to any contested audit determination that on the date of the enactment of this section has yet to be formally concluded and accepted by either the grantee or the Administrator.".

AMENDMENT OFFERED BY MR. EMERSON

Mr. EMERSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. EMERSON: Insert the following new section into H.R. 961:

SEC. . FEDERAL POWER ACT PART I PROJECTS.

Section 511(a) of the Federal Water Pollution Control Act (33 U.S.C. §1371) is amended by adding after "subject to section 10 of the Act of March 3, 1899," the following, and by renumbering the remaining paragraph accordingly:

"(3) applying to hydropower projects within the jurisdiction of the Federal Energy Regulatory Commission or its successors under the authority of Part I of the Federal Power Act (16 U.S.C. §§791 et seq.);".

Mr. EMERSON. Mr. Chairman, the purpose of this amendment is to resolve the friction and conflict that the Clean Water Act, as interpreted by the Supreme Court in its 1994 Tacoma decision, is creating with the Federal Power Act. The Supreme Court has interpreted the Clean Water Act, in particular section 401 of the Act, so broadly as to effectively supersede the Federal Energy Regulatory Commission's licensing authority over hydropower projects under the Federal Power Act. This amendment would rectify that situation by exempting hydropower projects from regulation under the Clean Water Act.

The Federal Energy Regulatory Commission already conducts a comprehensive review of proposed new hydropower projects when first deciding whether to issue a license and again upon relicensing. That review takes into account the inputs of State and Federal agencies, Indian tribes, and the public. The review also carefully evaluates and addresses the potential environmental impacts of each proposed and existing project. Therefore, in the context of hydropower projects under the Commission's jurisdiction, there is no need for the additional, duplicative layer of regulation that the Clean Water Act now creates. This amendment eliminates the duplicative layer of Federal regulation.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. EMERSON. I am happy to yield to the chairman of the committee of jurisdiction.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding. I understand what he is attempting to accomplish here. My judgment is that it does go a little too far, and I am hopeful that we might be able to work out a compromise. I believe either Congressman TATE or myself or Congressman LAUGHLIN will have a compromise, and I would be constrained to vigorously support the compromise and hope the gentleman might be able to see his way clear to do that.

Mr. EMERSON. I am glad to be amended, if that is the intent of the chairman.

Mr. SHUSTER. I thank the gentleman for his cooperation.

Mr. RAHALL. Mr. Chairman, we have heard a great deal of talk this year about unfunded mandates, about the rights of the States, about regulatory burdens on local units of government. Well, I would say to my colleagues, this amendment represents the granddaddy of all burdens on the States, of all unfunded mandates on the States and of all violations of the rights of the States.

What this amendment says is that we will let the Federal Government, in the form of FERC, run roughshod over State water quality determinations during the licensing of hydroelectric power projects.

It is an amendment of convenience. At times, it is convenient to support State primacy. This time, to some, apparently it is not convenient.

And so, what this amendment basically says is that we will allow FERC to shove hydro projects down the throats of the States, and while we're at it, overturn a Supreme Court decision and disregard the views of 40 State attorneys general.

The simple fact of the matter is that water quality, where the States have primacy under section 401 of the act, and water quantity considerations cannot be separated.

For this reason, the States currently have the right to condition hydroelectric power licenses issued by FERC to protect their bona fide interest in maintaining the water quality of their rivers and streams.

This amendment would do away with that fundamental right of the States.

As 40 State attorneys general wrote to the committee leadership recently: "This Congress is actively pursuing a new federalism, seeking to delegate to States authority previously held by the Federal Government."

They concluded: "How ironic it would be for this Congress to reverse this policy and strip away longstanding State authority over water quality."

Mr. Chairman, I urge the defeat of this amendment.

AMENDMENT OFFERED BY MR. LAUGHLIN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. EMERSON

Mr. LAUGHLIN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. LAUGHLIN as a substitute for the amendment offered by Mr. EMERSON: Page 213, after line 5, insert the following:

SEC. 507. DISPUTE RESOLUTION.

(a) IN GENERAL.—Section 401 of the Federal Water Pollution Control Act does not apply with respect to the licensing of a hydroelectric project under Part I of the Federal Power Act if the relevant federal agency makes the determination referred to in subsection (b) in accordance with the mechanism described in subsection (c).

(b) DETERMINATION.—The determination referred to in subsection (a) is a specific determination that a denial, condition, or requirement of a certification under section 401 of the Federal Water Pollution Control Act for such a project is inconsistent with the purposes and requirements of Part I of the Federal Power Act.

(c) MECHANISM.—The dispute resolution mechanism for purposes of subsection (a) shall be a mechanism established by the relevant federal agency in consultation with the Administrator and the States, for resolving any conflicts or unreasonable consequences resulting from actions taken under section 401 by a State, an interstate water pollution control agency or the Administrator relating to the issuance of a license (or to activities under such license) for a hydroelectric project under Part I of the Federal Power Act. Such mechanism shall include, at a minimum, a process whereby: (1) the relevant federal agency, in coordination with the State, the interstate agency or the Administrator (as the case may be) may determine whether any denial, condition or requirement under section 401 of the Federal Water Pollution Control Act relating to the issuance of such license or to activities under such license is inconsistent with the purposes and requirements of Part I of the Federal Power Act; (2) such denial, condition, or requirement shall be presumed to be consistent with the purposes and requirements of Part I of the Federal Power Act if based on temperature, turbidity or other objective water quality criteria regulating discharges of pollutants; and (3) any denial, condition, or requirement not based on such criteria shall be presumed to be consistent with the purposes and requirements of Part I of the Federal Power Act unless the relevant federal agency, after attempting to resolve any inconsistency, makes a specific determination under subsection (b) and publishes such determination together with the basis for such determination in the license or other appropriate order.

Mr. LAUGHLIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LAUGHLIN. Mr. Chairman, the Laughlin-Tate-Brewster-Bachus-Parker amendment to the Emerson amendment is a balanced, reasonable amendment to address the ongoing problem involving section 401 of the Clean Water Act and the Federal Energy Regulatory Commission.

This sets up a balanced, fair dispute resolution process. It responds to the conflicts—or at least potential conflicts—between Clean Water Act water quality certifications and FERC hydropower licensing decisions.

A recent Supreme Court case has expanded the interpretation and use of section 401.

This amendment does not overturn that case. It does not weaken States rights to protect water quality.

Instead, it sets up a fair mechanism to resolve potential conflicts or unreasonable consequences. It also retains States rights to protect water quality—the original intent of the Clean Water Act.

I urge my colleagues to support the amendment.

Mr. BACHUS. Mr. Chairman, I rise in support of the substitute amendment.

Mr. Chairman, this amendment deals with hydroelectric power. Hydroelectric power is our largest renewable energy source. Ninety-five percent of our renewable energy in the United States is hydroelectric power. That source of renewable energy is threatened by the 1994 Supreme Court ruling which the gentleman from Texas mentioned, and it has placed this energy resource in jeopardy. The Supreme Court ruling known as the Tacoma decision expands the role of the State water quality agency beyond traditional water quality issues by permitting these agencies to regulate operations of a hydro project, a power previously under the jurisdiction of the Federal Energy Regulatory Commission and Federal natural resource agencies.

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Hydropower today provides 12 percent of our Nation's electricity, and I call your attention to the fact that hydropower emits no greenhouse gases or pollutants. It does not produce any toxic waste. It is completely renewable through annual rainfall and snow melt, and it is domestically produced, which is critical to national security. In the next decade a large portion of the Nation's hydroelectric projects will come up for relicensing before FERC.

In my home State of Alabama, 70 percent of the hydroelectric projects must be relicensed in the next 10 years. Unfortunately, as these vital projects come up for relicensing, they are threatened by the Tacoma decision.

If left unaddressed in this present legislation, the Supreme Court's interpretation of section 401 of the existing Clean Water Act threatens the continuing operation of hydroelectric projects throughout this country, and in doing so, it threatens the viability of our most significant renewable resource and millions of business and customers who depend on hydroelectric power. To allow this situation to threaten the hundreds of existing projects that will undergo relicensing in the coming year is simply not good environmental or public policy.

As the largest provider of renewable energy, hydropower must not be strangled by the dual regulatory process that has been inadvertently created by the Tacoma decision.

The substitute being offered by the gentleman from Texas [Mr. LAUGHLIN], the gentlemen from Washington, Oklahoma, Mississippi, and myself, gives this Congress the chance to pull hydroelectric projects out of the regulatory quicksand that has been created and get our energy and environmental policies working together for a secure, clean energy future.

Mr. DEFAZIO. Mr. Chairman, I move to strike the last word.

If I could enter into a discussion with my friend from Missouri, we just received a copy of this, and what I am trying to understand in reading through it is: Are we preempting the States? I know that that was the objective of the original amendment, to preempt the State's authority to control its own water. In this case, we seem to have some kind of a dispute mechanism being set up, but it seems to me ultimately the decisions will all be made within the Federal Energy Regulatory Commission.

Mr. EMERSON. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Missouri.

Mr. EMERSON. The object here is to establish a dispute resolution process. That is the intent of the amendment, to avoid duplicative efforts.

Mr. DEFAZIO. Reclaiming my time, who would have the final say in a dispute where a State has determined that a hydro project is inconsistent with that State's regulation of its own waters; that is, of whether they have a concern regarding drinking water quality, turbidity, fisheries, whatever?

Mr. EMERSON. In an issue involving the jurisdiction of FERC, it would be FERC.

Mr. DEFAZIO. Reclaiming my time then, so the gentleman is preempting States' rights, and in the Western States a number of States have opted to oppose projects by FERC, and now in this case, should a State oppose a project approved by FERC, FERC could overrule the State? Is that correct? I guess it is.

Mr. EMERSON. If the gentleman would yield, no, the States still have their right to protect their water quality. It is when we get into the issues of water quantity that you need an arbiter above an individual State

Mr. DEFAZIO. Reclaiming my time, I do not know how in the West, where it does not rain in the summertime and some years we do not have a lot of runoff, we can separate the issues of water quantity and quality. They kind of go together. If we do not have enough water, a lot of times there may be something, a problem with resident fish, and there may be a problem with other naturally occurring pollutants. We have some mercury contamination that is natural. If we do not have enough water, it reaches dangerous levels.

Mr. EMERSON. If the gentleman would yield, I think the best way to put it is that when a State acts under the Clean Water Act and there is a dispute, you need a higher authority to go to resolve the dispute. So this is a dispute resolution mechanism more than anything else.

Certainly, it would not be my object to preempt States' rights, but there certainly are issue areas where States, where a higher authority needs to be invoked.

Mr. DEFAZIO. Reclaiming my time, is the gentleman familiar with the position of the Western Governors, and have the Western Governors signed off on this? Because they were opposed to the previous amendment.

Mr. EMERSON. We have worked with the Western Governors. No, they have not signed off on it. We have given them every opportunity to be involved, and that is one of the reasons, quite frankly, for which there needs to be a dispute resolution.

Mr. DEFAZIO. Reclaiming my time, there is a dispute resolution now. It has been determined, you know, through the Supreme Court that, in fact, States ultimately control the waters within their States and they cannot be preempted by a bunch of faceless Federal bureaucrats. I guess I would ask, could the gentleman name the members of the Federal Energy Regulatory Commission? I cannot. I do not know who they are.

Mr. EMERSON. If the gentleman would yield, the Supreme Court specifically did not address the issue that the gentleman is raising, which is why we need a dispute resolution process.

Mr. DEFAZIO. Reclaiming my time, I mean, so we would determine that if a State disagrees with the Federal Energy Regulatory Commission, the Federal Energy Regulatory Commission would essentially have the ultimate say. As a western Member, I have a real concern giving authority over State water in the Western States to a bunch of nameless, faceless bureaucrats in Washington, DC, even if they are appointed by an ostensibly Democrat President and Administration.

Really, it is not something I am particularly interested in granting to this agency, and this amendment seems to do so, and I am not interested in doing that. I am trying to understand this. The staff is furiously reading through it. If we could ask for an additional extension of time, I would appreciate the Chair doing so.

Mr. BACHUS. If the gentleman would yield, I would like to respond to your concerns for the Western States by pointing out to you some testimony from David Conrad, who is the water resource specialist for the National Wildlife Federation, and he, in fact, in testimony given in connection with H.R. 649.

The CHAIRMAN. The time of the gentleman from Alabama [Mr. BACHUS] has expired.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. SHUSTER was allowed to speak out of order.)

Mr. SHUSTER. Mr. Chairman, I wish to take this time in order to make an announcement.

In consultation with several Members, including the majority leader, what we have decided is to rise tonight at 8:30, to come in tomorrow at 10 o'clock, work until 1 o'clock, rise tomorrow afternoon, take this bill up Monday evening, probably around 6 o'clock, as soon as we can Monday. I understand there is other legislation before us Monday, and take the bill up again at 10 a.m. on Tuesday and attempt to complete it on Tuesday.

The majority leader tells me that we would consider setting time limits next week, if necessary, but this is my understanding of where we are. So I would expect that we will rise around 8:30 tonight, and I thank the distinguished chairman.

Mr. DEFAZIO. Mr. Chairman, I ask unanimous consent for an additional 5 minutes for the gentleman from Alabama [Mr. BACHUS] so the gentleman and I may continue our colloquy.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DEFAZIO. Mr. Chairman, I defer to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS. What I was saying was Mr. Conrad gave testimony in 1991, in which he argued against FERC giving up being the final arbitrator of these hydroelectric projects, and he said at that time that he would like FERC preserved as the final arbitrator by saying that if the right was withdrawn, it would eliminate, and he gave three reasons, it would eliminate the critical floor of environmental protection that now exists in the Federal Power Act and in related Federal environmental laws; second, it would make hydroelectric licensing and the protection of the environment much more difficult and unpredictable than it is currently; and third, and to address your specific concerns, it would vastly reduce, especially in the Western States, the opportunities for the public to be involved in the environmental conditions associated with hydropower development.

As I am sure the gentleman is aware, FERC goes through exhaustive hearings in which local citizens are allowed to give testimony. Local agencies are allowed to give testimony, and under the amendment which has been proposed, the States would still have every right to establish and to enforce water quality standards, including adopting water quality standards to rightfully establish the amount of chemicals or pollutants, percentages, in the water, and establish numeric water quality criteria standards.

Mr. DEFAZIO. If I could ask the gentleman, the point I was making, for instance, and I can go to a specific instance but I will not, but it involved quantity, not quality, because without the quantity we do not get to that point because of naturally occurring pollutants. So you are saying if there is a naturally occurring problem or pollutant, the State could control the quantity sufficient to dilute it, because that is essentially what we are doing in this instance, in order to keep up temperatures and in order to offset other problems in the water; we could, the State would still have the right to control quantity if it could make a case based on water quality grounds. Is that the gentleman's understanding of the amendment?

Mr. BACHUS. As the gentleman knows, you have to have adequate inflow for these projects, and FERC would continue to be the final arbiter of that. But the States would, and local governments and citizen groups, would all participate through a mediation or arbitration process that is set up in this amendment.

Mr. DEFAZIO. Reclaiming my time then, I guess ultimately, I mean I would then conclude, in opposition to the amendment, because I do not want the Federal Energy Regulatory Commission to be the final arbiter of something that concerns the waters of a sovereign western State. You know, we had a dispute in my State between FERC and the State, and the State prevailed because the State demonstrated that the project approved by FERC would have caused the decimation of a fishery. The State had wildlife concerns, and also would have very detrimental effects on a very, very heavily used river in terms of whitewater rafting.

So I am not assured by the idea that these faceless, nameless bureaucrats at FERC are going to be the protectors of the 50 States' sovereign water rights. So I would reluctantly rise in objection to the amendment, as I understand it. I have hardly been given the opportunity to review it.

Mr. EMERSON. If the gentleman would yield, we do recognize that quality and quantity are mixed. But let me say to the gentleman that when a State makes a quantity decision that may be in conflict with FERC, there needs to be a dispute resolution process.

Mr. DEFAZIO. Reclaiming my time, my understanding now, in those cases, either it has been decided by the courts, I am not certain, or certainly people have had recourse to the courts, given the conflict between a State agency and a Federal agency. But to have a dispute resolution wherein FERC has the final say, if this were a neutral dispute resolution process with an arbitrator or a mediator or something, someone not part of FERC, I would be more interested and enthusiastic, but to say there will be a dispute resolution and FERC, who disagrees with the State, will get to determine the resolution is going back to the fox guarding the chickenhouse.

Mr. EMERSON. If the gentleman would yield, if it is strictly a FERC issue, FERC will decide. The problem comes when there is a conflict between FERC and the States.

Mr. DEFAZIO. Again, that is my concern. I would like to see the States have at least equal footing, if not preeminence, when it comes to this.

Mr. TATE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, I would like to thank the chairman of the Transportation Committee for his efforts on this particular issue, trying to forge a compromise, as well as the gentleman from Texas [Mr. LAUGHLIN] and others who have been working on this particular issue.

Since January 4, we have been trying to make Government more efficient, less bureaucracy, trying to streamline all processes of Government.

The Tacoma case complicates this entire issue. What we are trying to do is bring some common sense back to this, and there are some questions left unanswered by the Supreme Court.

Now, this amendment recognizes the expanded role granted to the States by the Supreme Court, but we need a balance. We need a reasoned approach.

The current process under FERC looks at environmental concerns, looks at power production, looks at fish and wildlife, looks at native American treaties, looks at irrigation, looks at management of Federal lands, looks at interstate flow issues, and FERC does not always rule on the side of hydro.

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I mean, if we do not have these kind of changes, this is going to be a lawyers' dream. We are going to fight over between who and which is right. The current process is complicated. The current process is lengthy. Otherwise, if we do not make these changes, we are going to have the Noah's Ark approach. We are going to have two of everything. We have got to have some kind of process to solve this problem.

This amendment, I think and I believe, will promote what is our renewable resource right here in America, and that is our water resources. We need to protect it. To me this is a commonsense solution. It has been worked out in a bipartisan way, and I think that it deserves the support of the Members of this body.

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. TATE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Well, again just returning to—as my colleague knows, I think we all strive for consistency. I mean the issue of preempting the State on waters solely within, as my colleague knows, its jurisdiction disturbs me, and I would assume it disturbs the gentleman to give that power to a bunch of—— Could the gentleman name the members of the Federal Energy Regulatory Commission for me?

Mr. TATE. Once again, I cannot name the names of the FERC, but the point to keep in mind, the gentleman from Oregon, is, if we do not make these differences and changes, we are going to have two processes. I mean we have to decide. Eventually, there has to be an answer. Otherwise this becomes a lawyers' dream. We are going to argue between which is right. I am someone who respects States' rights, but ultimately there needs to be a decision. This provides that ultimate decision. Otherwise we are just hanging out there in space waiting for someone to answer. This gives a final answer, and that is what we need.

Mr. DEFAZIO. If the gentleman will yield, in my State we got to a final answer. FERC approved the project, the State disapproved it, and the project did not go forward, and I would hope that would be the result, but under this amendment FERC would approve it, the State would disapprove it, and FERC would then preempt the State, and I am puzzled that a Western Member would support——

Mr. TATE. Reclaiming my time, that could still occur under this current provision. We are just trying to have some finality to this, some certainty to this, and to move forward with this. The gentleman's scenario would still exist under this particular bill, or actually substitute to the Emerson amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. TATE. I yield to the gentleman from Washington.

Mr. DICKS. I rise in support of this substitute amendment. This case occurred in—Tacoma case is in my district and it affected a dam up on the Olympic Peninsula in the State of Washington, and I have thought about this at some great length, and in my judgment we have to have some way to resolve this. I say to my colleagues, You can't have the States being able to completely block. I mean that the FERC should consider the States' objections, they should give them very thorough consideration and that there should be—as I understand the bill, there is basically you're saying that, unless the FERC can show that it's inconsistent with the Federal Power Act, basically it has to go along with the State objection. It seems to me that is fine, but to have this—to have these two processes where both of them are kind of State FERC's and a national FERC I think is a big mistake, and I think this is a good compromise. I think it's well-thought-out and very balanced, and I would hope that it would be adopted.

Mr. TATE. Reclaiming my time to agree with the gentleman from the Sixth District of Washington, I say, You are exactly right. The burden of proof is on FERC to prove that it is the problem, and so that's—we are solving the problem with this. We are getting rid of the duplication, and I commend the gentleman for his support.

Mr. DICKS. I would point out this does mean this is kind of a strong Federal system, but I think in this case it is warranted.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the requisite number of words.

As my colleagues know, it is very interesting that in the Northwest we rely about 40 percent on hydropower production. Unfortunately, hydropower production is dependent upon water for its fuel source, and unless there is a reliable quantity of water which could be taken away from a project because of quality concerns, and unless there is a stability in that in the long term over the period of the license, a project can be threatened, and ratepayers ultimately have to pay that cost.

Mr. DEFAZIO. Mr. Chairman, will the gentlewoman yield on that point?

Mrs. CHENOWETH. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Maybe I misheard the gentlewoman, but I understood her to say that a project might be deprived of a quantity of water because of quality, water quality, concerns. Well, I would hope that would be the case, and I would imagine that most people in Idaho would hope that would be the case.

Mrs. CHENOWETH. Well, reclaiming my time, if a project is required because of water quality problems to have to spill in order to raise the level of the water downstream because of water quality problems, and they are required by a State agency to spill above and beyond the capacity of the plan to take the water, and they are not only able to produce the electricity that they should be producing over a period of time, that causes a great deal of uncertainty, not only to the power producers, the ratepayers, but also to the bankers and the bond company. The water is the fuel source, and before a license is granted, the license applicant certainly has to go though all of the hoops set forth in the Environmental Comprehensive Protection Act which requires that the State once and for all set the criteria as far as quality and quantity of water and how that would mix. Our concern is that the goal posts do not get moved down the pike so that it can break projects because we are so reliant on hydropower.

Mr. DEFAZIO. Mr. Chairman, will the gentlewoman yield again?

Mrs. CHENOWETH. I yield to the gentleman from Oregon.

Mr. DEFAZIO. I just like to point out, and I do not know the gentlewoman's relationship with the gentleman, but Allen G. Lance, attorney general of Idaho, was opposed to the last iteration of this that he saw, and I do not believe he has had an opportunity to review this one.

Mrs. CHENOWETH. Yes, I do not think our attorney general has had the opportunity to review this amendment, and I have not had the opportunity to speak to him. I am a very strong proponent of States' water rights; that is one of the reasons I ran for Congress, but I think that we have to offer to our ratepayers and to the license holders a certain degree of certainty, and I think that this amendment would do that.

Mr. BREWSTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Laughlin amendment. Mr. Chairman, this amendment resolves very simply a potential problem resulting from the so-called Tacoma decision by the Supreme Court. That decision actually puts the Clean Water Act in direct conflict with the Federal Energy Regulatory Commission under the Federal

Power Act. It erodes FERC's ability to balance broad national interests when making decisions about hundreds of hydro projects around the country.

Without this amendment, hydroelectricity's clean and affordable contribution to our Nation is threatened. I urge my colleagues to support the Laughlin amendment.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. BACHUS. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, I think one unfair thing about this debate is there has been some suggestion that under this amendment that the States and their water quality agencies do not have significant authority under this amendment. I would remind the gentleman from Oregon and anyone that is concerned about this that FERC will still be required to include the State's position on the need for power for the project, the value of the project to the local and regional economy, as well as the effects on recreation, fish and wildlife, and water quality in deciding whether or not to issue a license, and over the past history of FERC's regulation, even prior to this amendment which expands the rights of the water quality agencies of the States, FERC has accepted the recommendations of the States in over 90 percent of the cases, and we strengthen that. We strengthen under this amendment the right of the States to mandatory input and to mandatory participation.

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Oregon.

Mr. DEFAZIO. The qualification I see in here is for such a project, is inconsistent with the purposes and requirement of part 1 of the Federal Power Act. Again, not having been given the time to go back and review the statutes, what protections are in part 1 of the Federal Power Act. Are all the things that the gentleman just mentioned included in part 1 of the Federal Power Act.

Mr. BACHUS. All the present protections of the Federal Power Act are included and preserved under this amendment.

Mr. DEFAZIO. So part 1 of the Federal Power Act includes all of those concerns and additions the gentleman just listed.

Mr. BACHUS. Either those or the Clean Water Act, which is now in effect, or other statutes and FERC regulations, rules and regulations.

Mr. DEFAZIO. If the gentleman would yield further, the point is we are exempting them unless it is inconsistent here, and I guess, as the gentleman knows, I think that this is an amendment of such import to the West, to unveil it with no opportunity to have it reviewed by the rather lengthy list of attorney generals—four pages from the West; I am not sure how many are on here, and other States other than the West: Delaware, Georgia, Hawaii, Illinois, Iowa, Maine. Well, looks like we went to the East: Pennsylvania, New Mexico, et cetera. It looks like most of the State attorney generals signed this, and to not have an opportunity to run it by all the attorney generals that objected to the original iteration, it seems again, as my colleagues know, that this is something that would perhaps be better left until Tuesday to at least give some of us an opportunity to review it with attorney generals.

Mr. BACHUS. In conclusion I would like to say to the gentleman from Oregon and to the Members, "Remember the days when hydroelectric power was the most popular of energy resources. It was cheap, it was friendly to the environment. Fishermen and boaters loved the reservoirs that were created. The big dams were called the Eight Wonders of the World. The National Geographic had article after article about the popularity and the attractiveness of hydroelectric power."

I say that is not changed today. It is 95 percent of our renewable energy comes from hydroelectric power. It is as important today, if not more important, than it was then, and 70 percent of those projects, hundreds of projects throughout this country, are going to be coming up for relicensing in the next 10 years. We have to establish an arbitration and a licensing agreement and not keep these tied up in court, as the gentleman alluded to, for years and years. It is a matter of national security. It makes us less dependent on foreign oil.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. LAUGHLIN] as a substitute for the amendment offered by the gentleman from Missouri [Mr. EMERSON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DEFAZIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

PARLIAMENTARY INQUIRY

Mr. DEFAZIO. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DEFAZIO. This vote is on the amendment offered by the gentleman from Missouri [Mr. EMERSON] as amended; is that correct?

The CHAIRMAN. The gentleman is not correct.

Mr. DEFAZIO. All right; go ahead. I was just trying to get straight for Members what we are voting on. We are voting on the amendment offered as a substitute for the amendment offered by the gentleman from Missouri [Mr. EMERSON].

The CHAIRMAN. The gentleman is correct.

The vote as taken by electronic device, and there were—ayes 309, noes 100, not voting 25, as follows:

[Roll No. 326]

AYES—309

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jacobs
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon

Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Zeliff
Zimmer

NOES—100

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Bonior
Brown (OH)
Clay
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dixon
Durbin
Engel
Ensign
Eshoo
Evans
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gibbons
Gilchrest
Gutierrez
Hastings (FL)
Hinchey
Jackson-Lee
Jefferson
Johnson (CT)
Johnston
Kennedy (MA)
Kennedy (RI)
Kildee
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Markey
McCarthy
McDermott
McInnis
McKinney
Meehan
Menendez
Meyers
Mineta
Mink
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Serrano
Skaggs
Slaughter
Stokes
Studds
Thompson
Torricelli
Towns
Tucker
Velazquez
Vento
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Wynn
Yates

NOT VOTING—25

Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dunn
Frisa
Hancock
Harman
Istook
Livingston
Meek
Mfume
Miller (CA)
Moakley
Ortiz
Pastor
Peterson (FL)
Rogers
Schumer
Stark
Tanner
Torres
Watts (OK)
Young (FL)

□ 2020

The Clerk announced the following pairs:

On this vote:

Mr. Bono for, with Mrs. Collins of Illinois against.

Mr. Watts for, with Mr. Moakley against.

Mr. Barton for, with Miss Collins of Michigan against.

Ms. VELÁZQUEZ, Ms. PELOSI, Mrs. JOHNSON of Connecticut, Ms. McKINNEY, and Messrs. SKAGGS, BARRETT of Wisconsin, and MEEHAN changed their vote from "aye" to "no."

Messrs. TAYLOR of Mississippi, BROWNBACK, WISE, BARCIA, POMEROY, and HOUGHTON changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Chairman, I was, unfortunately, required to attend to business in my congressional district in Baltimore this evening and thus forced to miss two record votes. Specifically, I was not present to record my vote on rollcall vote No. 325, the amendment offered by Mr. VISCLOSKY of Indiana and rollcall vote No. 326, the amendment offered by Mr. LAUGHLIN of Texas to the Emerson of Missouri amendment.

Had I been here I would have voted "yea" on rollcall vote No. 325 and "nay" on rollcall vote No. 326.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. EMERSON], as amended.

The question was taken, and the Chairman announced that the noes appeared to have it.

The CHAIRMAN. In the opinion of the Chair, the noes have it, and the amendment is rejected.

PARLIAMENTARY INQUIRY

Mr. SHUSTER. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. SHUSTER. Mr. Chairman, I was on my feet and did not hear the Chair announce the vote. What was the announcement of the 5-minute vote?

The CHAIRMAN. The announcement of the 5-minute vote was that the noes prevailed. The Chair stands corrected. It was not a 5-minute vote. There was a voice vote.

On the voice vote, the noes prevailed and the amendment was not agreed to.

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Those in favor of a recorded vote will indicate by standing.

PARLIAMENTARY INQUIRY

Mr. MINETA. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MINETA. Mr. Chairman, it seems to me Members have left. To now call for a vote——

The CHAIRMAN. The Committee will be in order.

Mr. SHUSTER. Mr. Chairman——

The CHAIRMAN. The House will be in order. Members will suspend.

The gentleman from California [Mr. MINETA] has been recognized by the Chair. The gentleman from California shall proceed.

Mr. MINETA. Mr. Chairman, on the basis of what we have now heard, I ask unanimous consent that the last vote be reconsidered, that the voice vote be reconsidered; that there be a reconsideration of the voice vote.

The CHAIRMAN. A motion to reconsider is not in order.

Mr. SHUSTER. Mr. Chairman——

The CHAIRMAN. The Members will suspend.

By unanimous consent, the Committee may vacate a voice vote, and do it over.

Mr. THOMAS. Mr. Chairman, I ask unanimous consent that the voice vote be vacated.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. EMERSON], as amended.

The amendment, as amended, was agreed to.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, after title VI is read, I will then move that the Committee do rise. We will come in tomorrow at 10 o'clock to resume debate on this legislation. We will proceed until 1 o'clock tomorrow afternoon. We will take up this legislation Tuesday morning. However, I am informed by the majority leader that there will be other votes on Monday, as has been previously announced.

The CHAIRMAN. Are there further amendments to title V?

If not, the Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

SEC. 601. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) (33 U.S.C. 1381(a)) is amended by striking "(1) for construction" and all that follows through the period and inserting "to accomplish the purposes of this Act.".

SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

(a) REQUIREMENTS FOR CONSTRUCTION OF TREATMENT WORKS.—Section 602(b)(6) (33 U.S.C. 1382(b)(6)) is amended—

(1) by striking "before fiscal year 1995"; and

(2) by striking "201(b)" and all that follows through "218" and inserting "211".

(b) COMPLIANCE WITH OTHER FEDERAL LAWS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following:

"(c) OTHER FEDERAL LAWS.—

"(1) COMPLIANCE WITH OTHER FEDERAL LAWS.—If a State provides assistance from its water pollution control revolving fund established in accordance with this title and in accordance with a statute, rule, executive order, or program of the State which addresses the intent of any requirement or any Federal executive order or law other than this Act, as determined by the State, the State in providing such assistance shall be treated as having met the Federal requirements.

"(2) LIMITATION ON APPLICABILITY OF OTHER FEDERAL LAWS.—If a State does not meet a requirement of a Federal executive order or law other than this Act under paragraph (1), such Federal law shall only apply to Federal funds deposited in the water pollution control revolving fund established by the State in accordance with this title the first time such funds are used to provide assistance from the revolving fund.".

(c) GUIDANCE FOR SMALL SYSTEMS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following new subsection:

"(d) GUIDANCE FOR SMALL SYSTEMS.—

"(1) SIMPLIFIED PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall assist the States in establishing simplified procedures for

small systems to obtain assistance under this title.

"(2) PUBLICATION OF MANUAL.—Not later than 1 year after the date of the enactment of this subsection, and after providing notice and opportunity for public comment, the Administrator shall publish a manual to assist small systems in obtaining assistance under this title and publish in the Federal Register notice of the availability of the manual.

"(3) SMALL SYSTEM DEFINED.—For purposes of this title, the term 'small system' means a system for which a municipality or intermunicipal, interstate, or State agency seeks assistance under this title and which serves a population of 20,000 or less.".

SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Section 603(c) (33 U.S.C. 1383(c)) is amended to read as follows:

"(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

"(1) IN GENERAL.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance to activities which have as a principal benefit the improvement or protection of water quality to a municipality, intermunicipal agency, interstate agency, State agency, or other person. Such activities may include the following:

"(A) Construction of a publicly owned treatment works if the recipient of such assistance is a municipality.

"(B) Implementation of lake protection programs and projects under section 314.

"(C) Implementation of a management program under section 319.

"(D) Implementation of a conservation and management plan under section 320.

"(E) Implementation of a watershed management plan under section 321.

"(F) Implementation of a stormwater management program under section 322.

"(G) Acquisition of property rights for the restoration or protection of publicly or privately owned riparian areas.

"(H) Implementation of measures to improve the efficiency of public water use.

"(I) Development and implementation of plans by a public recipient to prevent water pollution.

"(J) Acquisition of lands necessary to meet any mitigation requirements related to construction of a publicly owned treatment works.

"(2) FUND AMOUNTS.—The water pollution control revolving fund of a State shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing financial assistance described in paragraph (1). Fees charged by a State to recipients of such assistance may be deposited in the fund for the sole purpose of financing the cost of administration of this title.".

(b) EXTENDED REPAYMENT PERIOD FOR DISADVANTAGED COMMUNITIES.—Section 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A) by inserting after "20 years" the following: "or, in the case of a disadvantaged community, the lesser of 40 years or the expected life of the project to be financed with the proceeds of the loan"; and

(2) in subparagraph (B) by striking "not later than 20 years after project completion" and inserting "upon the expiration of the term of the loan".

(c) LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGY.—Section 603(d)(5) (33 U.S.C. 1383(d)(5)) is amended to read as follows:

"(5) to provide loan guarantees for—

"(A) similar revolving funds established by municipalities or intermunicipal agencies; and

"(B) developing and implementing innovative technologies.".

(d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7) (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: "or $400,000 per year, whichever is greater, plus the amount of any fees collected by the State for such purpose under subsection (c)(2)".

(e) TECHNICAL AND PLANNING ASSISTANCE FOR SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to provide to small systems technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant operations; except that such amounts shall not exceed 2 percent of all grant awards to such fund under this title.".

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) (33 U.S.C. 1383(f)) is amended by striking "and 320" and inserting "320, 321, and 322".

(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—Section 603(g) (33 U.S.C. 1383(g)) is amended to read as follows:

"(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—The State may provide financial assistance from its water pollution control revolving fund with respect to a project for construction of a treatment works only if—

"(1) such project is on the State's priority list under section 216 of this Act; and

"(2) the recipient of such assistance is a municipality in any case in which the treatment works is privately owned.".

(h) INTEREST RATES.—Section 603 is further amended by adding at the end the following:

"(i) INTEREST RATES.—In any case in which a State makes a loan pursuant to subsection (d)(1) to a disadvantaged community, the State may charge a negative interest rate of not to exceed 2 percent to reduce the unpaid principal of the loan. The aggregate amount of all such negative interest rate loans the State makes in a fiscal year shall not exceed 20 percent of the aggregate amount of all loans made by the State from its revolving loan fund in such fiscal year.

"(j) DISADVANTAGED COMMUNITY DEFINED.—As used in this section, the term 'disadvantaged community' means the service area of a publicly owned treatment works with respect to which the average annual residential sewage treatment charges for a user of the treatment works meet affordability criteria established by the State in which the treatment works is located (after providing for public review and comment) in accordance with guidelines to be established by the Administrator, in cooperation with the States.".

(i) SALE OF TREATMENT WORKS.—Section 603 is further amended by adding at the end the following:

"(k) SALE OF TREATMENT WORKS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of this Act, any State, municipality, intermunicipality, or interstate agency may transfer by sale to a qualified private sector entity all or part of a treatment works that is owned by such agency and for which it received Federal financial assistance under this Act if the transfer price will be distributed, as amounts are received, in the following order:

"(A) First reimbursement of the agency of the unadjusted dollar amount of the costs of construction of the treatment works or part thereof plus any transaction and fix-up costs incurred by the agency with respect to the transfer less the amount of such Federal financial assistance provided with respect to such costs.

"(B) If proceeds from the transfer remain after such reimbursement, repayment of the Federal Government of the amount of such Federal financial assistance less the applicable share of accumulated depreciation on such treatment works (calculated using Internal Revenue Service accelerated depreciation schedule applicable to treatment works).

"(C) If any proceeds of such transfer remain after such reimbursement and repayment, retention of the remaining proceeds by such agency.

"(2) RELEASE OF CONDITION.—Any requirement imposed by regulation or policy for a showing that the treatment works are no longer needed to serve their original purpose shall not apply.

"(3) SELECTION OF BUYER.—A State, municipality, intermunicipality, or interstate agency exercising the authority granted by this subsection shall select a qualified private sector entity on the basis of total net cost and other appropriate criteria and shall utilize such competitive bidding, direct negotiation, or other criteria and procedures as may be required by State law.

"(l) PRIVATE OWNERSHIP OF TREATMENT WORKS.—

"(1) REGULATORY REVIEW.—The Administrator shall review the law and any regulations, policies, and procedures of the Environmental Protection Agency affecting the construction, improvement, replacement, operation, maintenance, and transfer of ownership of current and future treatment works owned by a State, municipality, intermunicipality, or interstate agency. If permitted by law, the Administrator shall modify such regulations, policies, and procedures to eliminate any obstacles to the construction, improvement, replacement, operation, and maintenance of such treatment works by qualified private sector entities.

"(2) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall submit to Congress a report identifying any provisions of law that must be changed in order to eliminate any obstacles referred to in paragraph (1).

"(3) DEFINITION.—For purposes of this section, the term 'qualified private sector entity' means any nongovernmental individual, group, association, business, partnership, organization, or privately or publicly held corporation that—

"(A) has sufficient experience and expertise to discharge successfully the responsibilities associated with construction, operation, and maintenance of a treatment works and to satisfy any guarantees that are agreed to in connection with a transfer of treatment works under subsection (k);

"(B) has the ability to assure protection against insolvency and interruption of services through contractual and financial guarantees; and

"(C) with respect to subsection (k), to the extent consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade—

"(i) is majority-owned and controlled by citizens of the United States; and

"(ii) does not receive subsidies from a foreign government.".

SEC. 604. ALLOTMENT OF FUNDS.

(a) IN GENERAL.—Section 604(a) (33 U.S.C. 1384(a)) is amended to read as follows:

"(a) FORMULA FOR FISCAL YEARS 1996–2000.—Sums authorized to be appropriated pursuant to section 607 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be allotted for such year by the Administrator not later than the 10th day which begins after the date of the enactment of the Clean Water Amendments of 1995. Sums authorized for each such fiscal year shall be allotted in accordance with the following table:

''States:	*Percentage of sums authorized:*
Alabama	*1.0110*
Alaska	*0.5411*
Arizona	*0.7464*
Arkansas	*0.5914*
California	*7.9031*
Colorado	*0.7232*
Connecticut	*1.3537*
Delaware	*0.4438*
District of Columbia	*0.4438*
Florida	*3.4462*
Georgia	*1.8683*
Hawaii	*0.7002*
Idaho	*0.4438*
Illinois	*4.9976*
Indiana	*2.6631*
Iowa	*1.2236*
Kansas	*0.8690*
Kentucky	*1.3570*
Louisiana	*1.0060*
Maine	*0.6999*
Maryland	*2.1867*
Massachusetts	*3.7518*
Michigan	*3.8875*
Minnesota	*1.6618*
Mississippi	*0.8146*
Missouri	*2.5063*
Montana	*0.4438*
Nebraska	*0.4624*
Nevada	*0.4438*
New Hampshire	*0.9035*
New Jersey	*4.5156*
New Mexico	*0.4438*
New York	*12.1969*
North Carolina	*1.9943*
North Dakota	*0.4438*
Ohio	*5.0898*
Oklahoma	*0.7304*
Oregon	*1.2399*
Pennsylvania	*4.2145*
Rhode Island	*0.6071*
South Carolina	*0.9262*
South Dakota	*0.4438*
Tennessee	*1.4668*
Texas	*4.6458*
Utah	*0.4764*
Vermont	*0.4438*
Virginia	*2.2615*
Washington	*1.9217*
West Virginia	*1.4249*
Wisconsin	*2.4442*
Wyoming	*0.4438*
Puerto Rico	*1.1792*
Northern Marianas	*0.0377*
American Samoa	*0.0812*
Guam	*0.0587*
Pacific Islands Trust Territory	*0.1158*
Virgin Islands	*0.0576.''.*

(b) CONFORMING AMENDMENT.—Section 604(c)(2) is amended by striking ''title II of this Act'' and inserting ''this title''.

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

Section 607 (33 U.S.C. 1387(a)) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

''(6) such sums as may be necessary for fiscal year 1995;

''(7) $2,500,000,000 for fiscal year 1996;

''(8) $2,500,000,000 for fiscal year 1997;

''(9) $2,500,000,000 for fiscal year 1998;

''(10) $2,500,000,000 for fiscal year 1999; and

''(11) $2,500,000,000 for fiscal year 2000.''.

SEC. 606. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

Title VI (33 U.S.C. 1381–1387) is amended—

(1) in section 607 by inserting after ''title'' the following: ''(other than section 608)''; and

(2) by adding at the end the following:

''SEC. 608. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

''(a) GENERAL AUTHORITY.—The Administrator shall make capitalization grants to each State for the purpose of establishing a nonpoint source water pollution control revolving fund for providing assistance—

''(1) to persons for carrying out management practices and measures under the State management program approved under section 319; and

''(2) to agricultural producers for the development and implementation of the water quality components of a whole farm or ranch resource management plan and for implementation of management practices and measures under such a plan.

A State nonpoint source water pollution control revolving fund shall be separate from any other State water pollution control revolving fund; except that the chief executive officer of the State may transfer funds from one fund to the other fund.

''(b) APPLICABILITY OF OTHER REQUIREMENTS OF THIS TITLE.—Except to the extent the Administrator, in consultation with the chief executive officers of the States, determines that a provision of this title is not consistent with a provision of this section, the provisions of sections 601 through 606 of this title shall apply to grants made under this section in the same manner and to the same extent as they apply to grants made under section 601 of this title. Paragraph (5) of section 602(b) shall apply to all funds in a State revolving fund established under this section as a result of capitalization grants made under this section; except that such funds shall first be used to assure reasonable progress toward attainment of the goals of section 319, as determined by the Governor of the State. Paragraph (7) of section 603(d) shall apply to a State revolving fund established under this section, except that the 4-percent limitation contained in such section shall not apply to such revolving fund.

''(c) APPORTIONMENT OF FUNDS.—Funds made available to carry out this section for any fiscal year shall be allotted among the States by the Administrator in the same manner as funds are allotted among the States under section 319 in such fiscal year.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000 per fiscal year for each of fiscal years 1996 through 2000.''.

Mr. OLVER. Mr. Chairman. I rise today in opposition to H.R. 961. This bill has many, many flaws. It allows industry to discharge more toxics than they do today—forcing cities and towns to be responsible for cleaning up industry's discharges, or allowing those pollutants to flow into our waterways. The bill does nothing to address the problems of non-point source pollution, which is now an even bigger problem than point source pollution. The bill establishes wholesale new categories of waivers and exemptions which will roll back protections for our citizens and set us back in our efforts to clean up our rivers and streams.

There is a lot wrong with this bill. However, as a scientist, I want to address in detail one particular set of appalling provisions—those concerning wetlands.

We have heard repeatedly since the start of the 104th Congress and in the debate on this very bill over the last 2 days that Republicans want to rely on sound science in reforming our environmental laws. Speaker GINGRICH himself endorsed this principle in describing his vision of what 21st century America should look like.

In fact, Mr. Shuster's Committee report emphasizes the importance of using sound science, and says quite plainly "The Committee also heard repeatedly of the need to ensure that Clean Water Act standards and requirements are based on sound scientific evidence and principles."

I agree. In fact, I think wetlands regulation is one area crying out for greater reliance on scientific knowledge.

But unfortunately, we are seeing a pattern emerge in this House that sound science is only to be used when it agrees with the preconceived notions of Republicans.

The National Academy of Sciences assembled a very broad and diverse panel to examine how we can identify a wetland. The results of 2 years of study by the best people working in the field—wetlands professionals and academics alike—are now in.

The study makes it absolutely clear that there is no scientific justification for the wetlands provisions in H.R. 961.

For example, the NAS Committee concluded that the best scientific description of a wetland would use 14 days of water saturation in the root zone. H.R. 961 mandates a definition of 21 days of saturation on the surface. The difference could result in 30 to 50 percent less wetlands across the country.

In addition, H.R. 961 restricts protections of wetlands on the basis of the functions they perform. This might be a fine idea—if we had the knowledge to back it up. I strongly support increased cost-effectiveness and prioritization in our environmental protection. However, the NAS study found that we simply do not know enough about wetlands at this point to reliably classify them on the basis of function. The NAS Committee found that any shorthand attempt to prioritize wetlands on the basis of size, or proximity to developed areas, is wholly inadequate from a scientific point of view.

We should classify wetlands, but only based on our scientific knowledge. We know that wetlands perform important functions—in flood prevention, water quality, wildlife habitat and other areas. However, the plain fact is that no one has the scientific knowledge to pick and choose which wetlands to regulate on the basis of function.

Each Member of this House faces a straightforward test of whether or not one agrees with the principle of basing our regulatory decisions on sound science.

Any suggestion that the content or timing of the NAS report is politically motivated is outrageous and represents a wholesale rejection of the principle that Congress should utilize professional expertise in making difficult scientific decisions.

The fact is, Members who make such insinuations are simply disappointed that their ostrich-like efforts to schedule floor consideration of H.R. 961 in advance of the release of this report were unsuccessful.

Make no mistake, if you support using sound science in regulatory decisions, you must oppose the provisions of H.R. 961. Anything less is sheer hypocrisy.

Mr. SERRANO. Mr. Chairman, there they go again.

The pattern the Republicans set for the first 200 days was to cut spending and repeal programs intended to help children, the poor, the elderly, legal immigrants, and working families, so they can give tax cuts to the wealthiest

Americans at the same time they are balancing the federal budget by 2002.

The first significant piece of legislation for the second hundred days is the Clean Water Amendments of 1995, H.R. 961, known in some circles as the "Dirty Water Act" because the Republicans have chosen to protect polluters rather than the health and well-being of ordinary people.

This bill would roll back two decades of progress in reducing pollution in our lakes, rivers, and coastal areas, and halt further progress. It would let corporate polluters increase pollution, and make downstream water users pay to remove pollution that shouldn't get into the water in the first place.

There are problems throughout the bill. Perhaps the most widely debated provisions would redefine 80 percent of the nation's wetlands out from under federal protection.

Now, we don't have a lot of wetlands in the South Bronx, but we do drink water, and wetlands recharge water supplies and filter harmful substances from our water. We eat fish and seafood, and wetlands provide critical habitat, assuring adequate stocks now and in the future. We enjoy fishing, swimming, and other recreation on and around the water, and wetlands help keep our waters clean. But H.R. 961's wetlands provisions would cost us more while reducing the quality of our water and the safety and quantity of our seafood. We have plenty of reasons to care about wetlands.

Another major problem for me, Mr. Chairman, is the burden this bill would place on urban consumers downstream from runoff sources—the agribusinesses, miners, foresters, and developers that would not be required to take even minimal actions to prevent pollution for decades, if every. In many areas, overall water quality continues to be poor because sources of polluted runoff are not doing their share. Under H.R. 961, low-income urban ratepayers would have to pay more to get clean water, while upstream businesses that could afford to limit pollution would not be required to do so.

In addition, I am deeply distressed by the bill's lack of environmental justice protections for poor people and people of color. Amendments to require water quality testing and reporting in areas where the most vulnerable populations live, work, fish, and swim, and posting of fish advisories to warn subsistence fishers that fish in certain waters are too poisoned to eat—low-cost and cost-effective measures—have been rejected.

And, Mr. Chairman, these are only a few of the problems I see in this bill. The Clean Water Act is widely regarded as one of our most effective and successful environmental laws. It has produced marked improvements in the health of our people, the quality of life along our waterways and coasts, and the availability of clean water for household use and recreation. But the Republicans, in H.R. 961 reverse these successes and deny us further progress.

Mr. Chairman, I oppose this bill, as do many thoughtful New Yorkers, who have written letters opposing H.R. 961.

Marcia Fowle of the New York City Audubon Society wrote:

> Over 23 years, the water quality of New York Harbor, the Hudson River, the East River, Long Island Sound and Jamaica Bay—making up 578 miles of New York City waterfront—has markedly improved due primarily to the Clean Water Act. This progress should not be broken nor weakened.

Judith Enck and Linda Babiarz of NYPIRG wrote:

> There are few things as important to sustaining life as water. We must not return to the days when swimming and fishing threatened our health.

Bruce Carpenter of New York Rivers United wrote:

> Regardless of amendments, please vote NO on H.R. 961. The quality of our country's waters must not be undermined by polluters and special interests.

Rav Freidel of Concerned Citizens of Montauk wrote:

> We have tried to find alternative amendments that would make the Clean Water Act clean again. There is no way to fix it. It is simply a dirty water bill.

Marcy Benstock of the Aquatic Habitat Project, Clean Air Campaign in New York City wrote:

> H.R. 961 includes so many harmful changes that it cannot be fixed.

They are right. No amendments adopted in the House will fix this bill and I urge my colleagues to join me in voting against passage of H.R. 961.

Mr. COBLE. Mr. Chairman, the Federal regulation of stormwater in my congressional district has become known simply as the "rain tax."

The city has imposed a new utility tax on all property owners in order to raise $5.5 million annually to offset some of the costs of this unfunded Federal mandate. As my constituents in Greensboro, NC, have become aware of the direct tax resulting from the current Clean Water Act, they have called and written my office to express their outrage over this, a perfect example of Federal overreach. "What will be taxed next?" they ask.

I have a letter from Greensboro's city manager, Bill Carstarphen, in which he supports the stormwater management provisions in H.R. 961. Further, city officials urge the defeat of amendments that could subvert the improved flexibility in H.R. 961 for State and local governments to address stormwater pollution. Our city's environmental services director, Elizabeth Treadway, praises the recognition in H.R. 961 that stormwater cannot be considered a point-source pollution problem. These are our community experts speaking to the need for developing this program to the States, with an emphasis on voluntary compliance.

Greensboro was issued its permit in late 1994. The city spent almost $1 million over a 2-year period just to secure the permit. The city was forced to spend this money even though a solution to stormwater pollution under current law is unenforceable. It is multisource.

The stormwater provisions in H.R. 961 have been criticized as rolling back existing protections and allowing currently treated stormwater to be discharged without treatment. In fact, H.R. 961 does not eliminate the permit under which Greensboro currently manages its stormwater program. Greensboro and 341 other large cities—and 134,000 industrial facilities—already have stormwater permits. Greensboro would be required to comply with the existing permit until it became subject to voluntary activities, enforceable plans, general permits, and site-specific permits under approved State stormwater management programs described in H.R. 961.

The stormwater provisions of the current Clean Water Act are unworkable. H.R. 961 would replace the current, broken Federal requirements with a new program worked out between local governments and their State. H.R. 961 would recognize city officials' concerns that stormwater varies dramatically by season, by climate, and by each storm. This issue cries out for the application of balance.

I urge my colleagues to reject stormwater amendments designed to perpetuate the status quo.

Mr. BARTON. Mr. Chairman, I support the clean water bill, H.R. 961. Among its many good provisions, which have already been described and extolled, is a commonsense solution to an issue that has unnecessarily burdened cities in my district, as well as many others, regarding separate "Sanitary Systems Overflows" [SSO's].

H.R. 961 instructs the EPA to develop a reasonable, flexible, consistent, and economically feasible approach for controlling discharges from SSO's. It also instructs them to stop, review, and modify enforcement actions for projects required under the old policy.

While overinterpreting the Clean Water Act, the EPA has required cities with SSO systems, like Dallas and Fort Worth in my district, to eliminate all overflows. The overflows in question do not present a public health or water quality concern. Yet, to date, the EPA has forced cities in Texas alone to begin hundreds of millions of dollars of work to eliminate all overflows. This bill will correct this situation.

We have come a long way since I asked EPA officials to meet in my office with representatives of Dallas and Forth Worth on this issue, when few others were raising this concern.

I thank the chairman of the Transportation and Infrastructure Committee for his help on this issue and would like to work with him to make some technical and refining changes that are currently being discussed. I strongly support the solution included in this bill and look forward to it becoming law.

Mr. BONILLA. Mr. Chairman, I strongly urge all my fellow Members to vote for H.R. 961, Clean Water Act Amendments. This is much needed legislation. The Clean Water Act includes an unfunded Federal mandate which places a terrible toll on our State, county, and local governments and the taxpayers who pay their bills.

In my hometown of San Antonio, TX, the Federal stormwater regulation—a provision of the Clean Water Act—has forced the municipal water districts to raise taxes on property owners. This egregious assessment is listed on monthly water bills as the FED STMWTR FEE, so constituents know this levy is a direct result of Federal mandates. Let me tell you, they are upset.

Many small businesses' water bills have risen from $30 to $200 a month. This is money that could have gone for employee raises or company improvements and investments.

The city of Laredo, TX, also in my district, faced a $3 million-a-year bill from unneeded stormwater regulation. This city on the border with Mexico has to comply with United States Federal regulations while Nuevo Laredo, it's sister community on the Mexican side, does not. This means that the discharged water does not get any cleaner. The stormwater fee is irrelevant in Laredo, but it's required. In fact, it is a lot like money flowing down a sewer. Well intentioned, but of no practical use.

Please vote for this sensible legislation. Far too many American communities are in dire financial situations and cannot afford these costly and, in many cases, unnecessary burdens.

Mr. SHUSTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WELLER) having assumed the chair, Mr. McINNIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 961) to amend the Federal Water Pollution Control Act, had come to no resolution thereon.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 357

Mr. LaHOOD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 357.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 535, THE CORNING NATIONAL FISH HATCHERY CONVEYANCE ACT

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–116) on the resolution (H. Res. 144) providing for consideration of the bill (H.R. 535) to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 584, CONVEYANCE OF THE FAIRPORT NATIONAL FISH HATCHERY TO THE STATE OF IOWA

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–117) on the resolution (H. Res. 145) providing for consideration of the bill (H.R. 584) to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 614, THE NEW LONDON NATIONAL FISH HATCHERY CONVEYANCE ACT

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–118) on the resolution (H. Res. 146) providing for consideration of the bill (H.R. 614) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility, which was referred to the House Calendar and ordered to be printed.

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REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1500

Ms. PELOSI. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1500.

The SPEAKER pro tempore (Mr. WELLER). Is there objection to the request of the gentlewoman from California?

There was no objection.

PERMISSION FOR CERTAIN COMMITTEES TO SIT TOMORROW, FRIDAY, MAY 12, 1995 DURING 5-MINUTE RULE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: the Committee on Banking and Financial Services; the Committee on Commerce; the Committee on Economic and Educational Opportunities; the Committee on International Relations; and the Committee on Veterans Affairs.

It it my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. WATT of North Carolina. Mr. Speaker, reserving the right to object, I am instructed by the leadership that these committees have been consulted, and it is proper for them to meet tomorrow.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1143, H.R. 1144, AND H.R. 1145

Mr. FOX of Pennsylvania. Mr. Speaker, I ask unanimous consent that Mr. BRYANT of Texas be removed from the list of cosponsors of the following bills introduced by myself: H.R. 1143, H.R. 1144, and H.R. 1145.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

NATIONAL SPACEPORT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Mrs. SEASTRAND] is recognized for 5 minutes.

Mrs. SEASTRAND. Mr. Speaker, tomorrow I will formally introduce the National Spaceport Act, but today, I would like to take a few minutes to discuss why I believe this is a critical and important step forward for American space policy as we prepare for the 21st century.

America has always been a world leader in space development, exploration, technology, and most recently commercialization. Our Nation has always understood the importance of space and has exercised bipartisan cooperation when it came to advancing space issues. This bipartisan cooperation has come from every corner of the political spectrum because of a universal recognition that space is an area of national unity and importance. I recently saw this bipartisan cooperation firsthand during the deliberations over the California Spaceport and its 25-year lease with the Air Force.

We are now into the next frontier of space and that is the growing commercial arena. Commercial space was once an area dominated by the United States. However, over the past few years, we have relinquished our leadership position and stood by as other nations have stepped in and vigorously embraced the vast opportunities presented by this market.

Today, a European consortium controls over 60 percent of the commercial launch market. In addition, many other nations including China, Russia, Japan, India, Canada, and Australia are becoming stronger and stronger competitors. Most have the benefit of big and seemingly unlimited government subsidies. For example, earlier this year, the Japanese government announced a 5.1-percent increase in their overall space budget. The Russians have also approved a substantial increase in 1995 funding while the Indian Government increased their funding for 1995–96 by 31 percent. There is a strong return on the investment. European industry expects to post sales of up to $12 billion from commercial launches of Ariane rockets by the end of the decade.

Although the United States remains a strong competitor with active spaceports and a healthy booster and satellite market, we have not charted a course to regain a leading role in what has become a very large market. Moreover, this very large market promises to be an even larger international enterprise in the 21st century.

We have to take a step out of the box and employ a new approach with regard to commercial space. The first step is educating and making the case that space is more than a NASA, science, or an exploration issue. Space is a vast area of untapped economic potential for local communities, State, and most importantly our Nation.

We are not looking for government to play the leading role, but instead we are looking to the private sector. But if we are to convince the private sector that commercial space is a worthwhile and ultimately profitable undertaking we have to demonstrate Government's commitment to a comprehensive commercial space policy and the development of commercial spaceports.

A spaceport is a transportation center that moves surface infrastructure into space. I believe that we ought to look at spaceports in the same way that we look at airports and treat them just like we would airports. Rather than moving passengers from one place to another, spaceports move commerce from one place to another.

The spaceport philosophy is a commitment to use-friendly environments, integrated launch services, and low-cost access to space. In addition it is important to recognize that facility development is separate from the overall commercial space industry. In the United States, the available parts of the market are launch bases, boosters, and satellites. The missing piece of the puzzle is a facility for the launches and timing is important. It is imperative that spaceport development progress quickly in order to maintain the other elements of the market.

In America today, there are only two existing spaceports, but many more who want to become active spaceports. I would encourage all States who are interested in developing spaceports to get involved. Commercial spaceports means jobs—many jobs. Jobs in building the spaceports; manufacturing rockets and satellites; research, training, and education.

Commercial spaceports produce positive economic return. In California for example, the growth of a spaceport helps in the revitalization of the high-tech industries which have been hurt by defense cuts. This means more high paying jobs, added business for local service providers, new hotels, homes, shopping centers, education centers, and research facilities.

In America we want to do it a little differently than other nations. We want to reach a point where government acts as a facilitator not an obstacle. We want the government to be primarily a customer rather than a provider. We want to give States the flexibility necessary to develop commercial spaceports and attract private industry support. We want to encourage greater private industry support through tax-exempt bond financing. We want spaceport development to progress free of the traditional regulatory barriers imposed by Government.

Mr. Speaker, commercial spaceport development is in the national economic interest. It is an issue of transportation and it should be pursued as part of a national transportation policy. It means jobs, it means economic opportunity, and it requires American leadership.

A SMALLER, MORE EFFICIENT FEDERAL GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. BROWNBACK] is recognized for 5 minutes.

Mr. BROWNBACK. Mr. Speaker, for the first time today in 26 years, something very, very unusual has happened. That is, this morning at 1:05 a.m., the Committee on the Budget of the House of Representatives proposed a balanced budget, a balanced budget, one so that in 7 years our kids and grandkids won't be having more debt to pay off because we were not willing to face the tough task and make the tough choices now to be able to cut things back.

I think this is a grand moment that we are finally addressing this most critical of problems. This year alone the Federal debt is going to $5 trillion. If we don't balance the budget, going on the current projection path we have, if we don't put our oar into the water to make this happen, it is going to be at $7 trillion by the year 2002. It is time we do it.

There is only one way we are going to be able to balance the budget. That is, creating a smaller, more focused, more efficient Federal Government, one that was originally intended by the Founding Fathers, one that is not into all functions and tries to do everything for everybody but a limited government, a focused Federal Government, one I think that Thomas Jefferson would be proud of, one that I would hope that Peter Drucker, the management guru, would be proud of for its efficiency, and one most of all that I would hope the American people would be proud of for what it delivers of services of what they call on their Government to do.

We have had a Federal Government this past quarter of a century that has grown out of control and everybody has contributed to it, everybody in this country, and in this institution here on both sides of the aisle. It is time to get it back into control. It is time to cut it back. It is time to recreate the limited Government that was always intended by our Founding Fathers.

The Federal Government was not meant to be all things to all people. James Madison wrote early on in the founding of our country this:

"The powers delegated by the proposed Constitution to the Federal Government are few and defined."

We must get the Federal Government back to its core functions of what it was originally intended to be and not flung out here into so many different things but focused, efficient, and smaller so that we can be able to cut back on the spending, so that we can be able to not deliver so much debt to our children, so that we can hold the dream out and push toward even paying off the debt, the nearly $5 trillion in debt that has been accumulated.

There are a number of proposals that have been put forward. Some of them call for the elimination of whole agencies in the Federal Government, agencies such as the Department of Commerce and Energy, HUD and Education, keeping certain of the core functions that are functions of the Federal Government and should be done by the Federal Government and eliminating other portions, privatizing some functions and sending some functions back to State and local units of government so that at the end of the day we have a smaller, more focused, more efficient Federal Government.

This is an absolute need, if for no other reason than for our children and grandchildren, so that they can have a future, not saddled with this huge debt, not saddled with such an enormous mortgage on America.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, I rise with great concern over the administration's action in Haiti. On March 31, 1995, President Clinton turned over control of the Multi National Force [MNF] in Haiti, to the United Nations, under the auspice of the U.N. Mission in Haiti [UNMIH]. UNMIH, although still under American command, differs from the previous U.S. operation in two respects. The net effect of these changes is a U.S. commander and U.S. forces under the control of the U.N. Special Representative, Mr. Lakhdar

Brahimi and a U.N. mandate for rules of engagement [ROE] which dictate the use of force by U.S. troops.

Mr. Speaker, in his report to the U.N. Security Council on January 17, 1995, Secretary General Boutros Boutros-Ghali stated; "UNMIH will consist of civilian, military and civilian police components under the control of my special representative, Mr. Lakhdar Brahimi." This statement by the Secretary makes it clear he expects that General Kinser will work under the direction of the United Nations. In his report to Congress on February 1, 1995, President Clinton indirectly acknowledged this by stating "the UNMIH commander will work for the U.N. Special Representative of the Secretary General."

The administration, Mr. Speaker, will respond to my concern by stating that General Kinzer will have operational control of all forces in Haiti. This is a considerable improvement over the situation in Somali, but it is still not good enough. We all remember Somalia, where United States soldiers were shot down and dragged through the streets while under a foreign command, in an event forever etched in American minds.

Mr. Speaker, my concern is best illustrated by the current situation in Bosnia. Lt. Gen. Rupert Smith has the same operational control in Bosnia that Gen. Kinzer has in Haiti. Serbian gunners attacked Butmir last weekend killing 10 and wounding 50. Mr. Speaker this area was well within the exclusion zone. Lt. Gen. Smith requested NATO support enforcing the U.N. resolution protecting Sarajevo by ordering air strikes. With the planes in the air U.N. Special Representative Akashi rejected the request. Mr. Speaker, I ask you how can Lt. Gen. Smith protect his troops and their commitments when his military judgment is overruled by a U.N. representative.

Mr. Speaker, operational control is simply not good enough. We must take additional steps to assure General Kinzer and our troops will not be overruled by the U.N. civilian command when ordering military action.

The second concern I have deals with the revised rules of engagement under UNMIH. The rules of engagement approved by the Security Council are significantly more restrictive than the rules under U.S. command of the Multi National Force. The rules of engagement of UNMIH were mandated by the United Nations; not by the United States. Any changes to the current rules of engagement must go through the Secretary General and the Security Council, not through Gen. Kinzer or any other American. Mr. Speaker, how can the administration assert U.S. command of our forces when policy is evolving not out of the Pentagon, but the United Nations.

The record of U.N. "peacekeeping operations", Mr. Speaker is poor at best. The situation in Bosnia illustrates multiple scenarios were operational control was called into question by the U.N. Special Representative. Moreover, we should never be forced to accept U.N. mandates for rules of engagement that place unreasonable restrictions on our forces. This is not what the House intended under the National Security Revitalization Act. We must take action to restore the integrity and safety of our forces. We must work quickly to protect our forces from the action taken by the administration, before we are forced to accept another tragedy at the hands of the United Nations.

□ 2045

SAVING MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to give a brief review of how this Congress is fighting for our senior citizens across the country. First, we rolled back the Social Security tax increase of 1993. Second, we have raised the income eligibility level above $11,200 for those under 70. Over the next 5 years, Mr. Speaker, seniors will be able to earn income up to $30,000 without ever having a deduction from their Social Security. Third, Social Security is off the table, Mr. Speaker, when it comes to this budget. And fourth, now House Republicans are determined to save Medicare by using new approaches, new managements, and new technologies to improve it, preserve it, protect it, and eliminate the fraud and abuse.

The Clinton Administration's Trustees Report on Medicare warns that the Medicare trust fund starts to go broke in 1996 and could be bankrupt by 2002. The current Government-controlled Health Care Finance Administration system has much waste and fraud. The General Accounting Office estimates $44 billion a year in Medicare and Medicaid fraud.

Our legislation will obviously make sure that these changes are made so that a strong Medicare system is what we have restored.

We also want to give senior citizens an incentive to fight waste and fraud by paying them 25 percent of any waste or fraud that they find on their bills. We want to strengthen and empower our senior citizens.

Republicans will also increase Medicare spending from $4,700 per retiree today to $6,300 per retiree in 2002. That is a 34-percent increase in Medicare spending per retiree. There is absolutely no cut in Medicare spending.

We will preserve the current Medicare system for seniors who want it, but no one will of course be forced into a system they do not want. We will create a series of new choices so senior citizens can control their own future, Mr. Speaker. Any good ideas citizens have would be appreciated by their Representative on Commerce and Ways and Means Committees as they develop a new and improved Medicare system.

As for me, Mr. Speaker, I will be heading a Medicare preservation task force for the purpose of preserving, improving, and protecting our Medicare system for our seniors.

Together we can create a Medicare system that offers the best care at the lowest cost with the senior citizens having the greatest control over their own health care. We will improve Medicare so it can be protected and saved.

BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, we have heard comments today about the action of the House Budget Committee early this morning in enacting a budget resolution which basically sets the spending goals for Congress for the next year. But before I address that, I would like to remind those who are listening that just a few weeks ago on the floor of this House of Representatives, as part of the so-called Republican Contract With America, the Republicans by and large with a few Democratic votes enacted a tax cut, yes, a tax cut during a period of high Federal deficits.

Many people, including a number of Republicans, questioned the wisdom of cutting taxes when in fact we are in the red. But the Republicans were determined to do it and went ahead with their plan. Their plan, unfortunately, did not cut taxes primarily for middle-income and working families. No; primarily the tax breaks went to wealthy corporations and wealthy individuals. In fact, for 1.71 million Americans the Republican plan will result in a $20,000 tax break.

Now you cannot give away those Federal taxes without it costing you something, and in fact over the next 7 years that Republican tax break is going to cost taxpayers an additional $345 billion. Over and above the deficits that we run each year, we are adding another $345 billion dollars to the national debt for this tax cut package.

Why did we do it? A lot of people wonder. Of course it is good news for a politician to go home and say, guess what, I got a tax break for you. But people at home I think are a little wiser and understand at a time of deficits a tax break, particularly for the wealthy people and corporations, is certainly not the right medicine for the patients.

So now let us fast-forward to 1 a.m. this morning when the House Budget

Committee decides to put out their House Budget Resolution and lay out the spending goals for Congress for the next year.

Well they had a problem. They not only had to deal with the deficit, they had to figure out how to pay for that tax break, and so they had to make deeper cuts in spending in order to take care of the Republican tax break, and to come out with the so-called balanced budget when it is all said and done.

So, where did they turn to make the cuts in Federal spending to pay for the tax break for wealthy individuals and profitable corporations? They turned to Medicare. In fact, they cut over a 7-year period of time $283 billion from Medicare. Medicare of course is the health insurance plan for America's senior citizens.

What does that mean when you make a $283 billion cut in Medicare? It means that during that 7-year period of time, every senior citizen in America will be asked to pay an average of $3,500 more in premiums in Medicare. So you have the seniors, many of them in very low income situations if any income, paying more, so that they can in fact compensate for the Republican tax break.

That to me raises some serious questions of fairness. And make no mistake, we are talking about cuts in Medicare. Many Republicans will stand up and say it is not really a cut, you Democrats have it wrong all over again. We are increasing spending.

Well, let me try to tell you what they mean by that. Assume for a minute that you get a notice from your bank or savings and loan that your mortgage payment just went up $100 a month. That is a source of real concern for most families. But then your boss tells you, incidently I am giving you a raise of $50 a month.

Well you thank your boss. You think to yourself, I am still $50 short. What the Republicans are doing is providing the $50 a month in Medicare increases when the cost of Medicare is going up $100, and the same thing is going to be happening in the out years. The cost of Medicare goes up, but the Republicans do not provide enough money for it because they have to take care of this tax break that they passed.

And then take a look at what they did on Social Security. We stood on this floor, passed a resolution and said no, not never, never will we cut Social Security, not even to achieve a balanced budget. Just count on it. And everybody ceremoniously voted, went home and put out a press release and told the seniors they never, never have to worry, we are never going to touch Social Security.

Guess what, 1 a.m. this morning in comes the House Republican budget resolution and it cuts Social Security.

It reduces the COLA, the cost-of-living adjustment for Social Security. So here you have the senior citizens getting hit in both directions. First they do not get the cost-of-living adjustment they anticipated for Social Security, and then have to pay for more Medicare.

For what? To pay for the Republican tax break. That to me is upside down. If we are going to balance the budgets, let us do it in a fair way and not nail Medicare and Social Security.

A MOTHER'S DAY TRIBUTE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, this Sunday, May 14, 1995, we will have another very joyous occasion to celebrate and commemorate a very special day for Americans, and so I thought it appropriate during the course of deliberation and sometimes making very difficult decisions on behalf of all of our citizens to simply take a moment to part the waters and stop for a moment and pause and simply say happy Mother's Day, happy Mother's Day to the mothers, to grandmothers, to mothers-in-law, to stepmothers, to foster mothers, those mothers who take in children, mothers who have adopted, and act as mothers, those women with no relation by blood or law but have really mothered someone somehow, somewhere, and certainly to those mothers in your neighborhoods and cities and towns and our counties and our States and our churches and synagogues and parishes and mothers who are always there to help someone. I simply want to say to you and to all Americans let us make May 14, 1995 a very special time, a very close time, a very rewarding time for that woman who has been so very special to you. Let us make sure we say to each and every one of those mothers and I certainly want to say to all of those in the 18th Congressional District of Texas happy Mother's Day to you. You deserve it and we could not have done it without you.

COME SHOP WITH ME FOR MOTHER'S DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, this Sunday America celebrates Mother's Day. And families all over our country will gather on this day to honor the women who strive every day both inside and outside the home to keep the families of America strong; a celebration they richly deserve.

□ 2100

We all know that American women are working more and more inside the home and outside the home, and what we may not know is that many of them are working for less money.

For women in many industries, textiles, apparel footwear, for instance, their pay has actually dropped nearly 5 percent over the last 10 years in spite of the fact that they are working harder and working longer. In fact, one-third of America's working women earn poverty-level wages.

Ironically, many of the gifts which we traditionally give our mothers on Mothers' Day as expressions of our gratitude turn out to be the products of industries which depend on the depression of wages, primarily women's wages, both at home and abroad, products such as new shoes or new handbags or new outfits and, yes, even roses.

Last Tuesday, I had the privilege of participating in a press conference at which we pointed out the discrepancies in wages between products made in our country and the same products made overseas, in fact, products made by U.S. companies that have outsourced production abroad. We, to demonstrate our point, dressed a mannequin in many of these foreign goods, and on the mannequin we had a Coach handbag, where American women used to earn $7.42 an hour, not high wages by any standards, but today those bags are being made by Korean workers being paid $1.64 an hour, and those Coach bags cost nearly $200. So who is making the profit off those women?

Or Naturalizer shoes; women in our country used to make $6.95 an hour in manufacturing Naturalizer shoes, but their wages and jobs are gone, and those shoes are now made in Brazil, where women there earn 47 cents an hour, but, of course, Naturalizer shoes cost well over $50. So who is making the profit off those women?

Or take this sweater, a Chaus sweater that used to be manufactured in the United States, where women earned $7.88 an hour. Now this very same sweater made by that same company in China, where women work for pennies, but, of course, the sweater is not cheap. In fact, the price tag on this one is over $40. Who is making the profit off those women?

Or take this skirt, manufactured by the At Last Company. This skirt used to be made in the United States of America. Women workers earned $7.49 an hour. Now this skirt is being made in India, and chances are if a child in India helped make that skirt, which is very likely, no wages were paid.

So it being Mothers Day, we provided our mannequin with a dozen roses. Roses are grown in this country, and they are harvested, and the average wage of farm workers is $5 an hour. But, of course, the roses that are available in this community today are provided through Colombia, where workers earn 55 cents an hour. But if you try to buy your mom a dozen roses in Washington this week, it is going to cost you $75. So ask yourself, who is making the money off of these women?

But are we getting a real bargain for all of this value for our money? A break for the consumer? Well, I ask you, is a bargain a Coach handbag at $200 or Naturalizer shoes at $50 or a Chaus sweater at $40 or roses at 75?

The Come Shop With Me campaign asks: Is it worth it? Are we really getting a good deal? Can the 7,300 people who have lost their jobs making handbags here in America afford a $200 Coach handbag made in Korea? Can the 17,700 women who have lost their jobs in our country in the footwear industry buy Naturalizer shoes made in Brazil that cost $50? And can the women of Brazil or the women of Korea or the women of India, can they buy those products on the wages they earn? Absolutely not.

Over the last decade in our country, nearly 300,000 women workers have lost jobs in the textile industry alone, mostly to foreign competition.

Mr. Speaker, let me end by saying the Come Shop With Me campaign will continue over the next few months to draw our attention to the human cost of trade.

Tonight I say to the mothers of America and the world, "Happy Mother's Day. We will not forget you."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. MEEK of Florida (at the request of Mr. GEPHARDT), for today after 4:15 p.m., on account of illness.

Mr. PASTOR (at the request of Mr. GEPHARDT), for today after 5 p.m. and the balance of the week, on account of personal business.

Mr. TANNER (at the request of Mr. GEPHARDT), for today after 5 p.m. and the balance of the week, on account of official business.

Mr. BONO (at the request of Mr. ARMEY), for today and May 12, on account of medical leave.

Ms. DUNN of Washington (at the request of Mr. ARMEY), for today after 3:30 p.m. and the balance of the week, so that she may attend the graduation of her son Reagan from Arizona State University.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative programs and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WATT of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. BECERRA, for 5 minutes, today.

Mr. DURBIN, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. BROWNBACK, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, on May 16 and 17.

Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. JACKSON-LEE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WATT of North Carolina) and to include extraneous matter:)

Mr. COLEMAN.
Mr. DURBIN.
Mr. RUSH.
Mr. FOGLIETTA.
Mr. GORDON.
Mr. BAESLER.
Mr. TOWNS.
Mrs. THURMAN.
Mr. MONTGOMERY.
Mr. REED.
Ms. KAPTUR.
Mr. MANTON.
Mr. JACOBS.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. DUNCAN.
Mr. MARTINI in two instances.
Mr. WALSH.
Mr. PACKARD.
Mr. BILIRAKIS.
Mrs. ROUKEMA.
Mr. DORNAN.
Mr. YOUNG of Florida.
Mr. FORBES.
Mr. HUNTER.
Mr. GOODLING.
Mr. GUNDERSON.
Mr. MCKEON.
Mr. HORN in two instances.

(The following Members (at the request of Ms. KAPTUR) and to include extraneous matter:)

Mr. UPTON.
Mrs. FOWLER.
Mr. GOODLATTE.
Mr. TRAFICANT.
Mr. RAHALL.
Mr. MFUME.
Mr. KIM.
Ms. MCCARTHY.
Mr. STOKES.

ADJOURNMENT

Ms. KAPTUR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Friday, May 12, 1995, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. PRYCE: Committee on Rules. House Resolution 144. Resolution providing for the consideration of the bill (H.R. 535) to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas (Rept. 104–116). Referred to the House Calendar.

Mr. McINNIS: Committee on Rules. House Resolution 145. Resolution providing for consideration of the bill (H.R. 584) to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa (Rept. 104–117). Referred to the House Calendar.

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 146. Resolution providing for consideration of the bill (H.R. 614) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility (Rept. 104–118). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows;

By Mr. THOMAS (for himself, Mr. STARK, Mrs. JOHNSON of Connecticut, Mr. CARDIN, Mr. MCCRERY, Mr. MCDERMOTT, Mr. ENSIGN, Mr. KLECZKA, Mr. CHRISTENSEN, Mr. LEWIS of Georgia, Mr. CRANE, Mr. HOUGHTON, and Mr. SAM JOHNSON):

H.R. 1610. A bill to amend the Internal Revenue Code of 1986 to require employer-provided group health plans to credit coverage under a prior group health plan against any preexisting condition limitation; to the Committee on Ways and Means.

By Mr. MONTGOMERY:

H.R. 1611. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to assist in alleviating housing shortages for active duty personnel through interest rate buy downs, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BUNNING of Kentucky (for himself, Mr. JOHNSTON of Florida, Mr. OWENS, Mr. PARKER, Mr. MCKEON, and Mr. TRAFICANT):

H.R. 1612. A bill to require the general application of the antitrust laws to major league baseball, and for other purposes; to the Committee on the Judiciary.

By Mr. CONYERS:

H.R. 1613. A bill to amend the United States Housing Act of 1937 to require the Secretary of Housing and Urban Development to administer a program of construction and revitalization of public housing, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. DURBIN (for himself, Mr. KLECZKA, Mrs. MEEK of Florida, Mr. PALLONE, Mr. ACKERMAN, Mr. WAXMAN, Mr. MCDERMOTT, Ms. PELOSI, Mr. FROST, Mr. KENNEDY of Rhode Island, Ms. KAPTUR, Mr. STARK, Mr. OLVER, Mr. GENE GREEN of Texas, Mr. COLEMAN, Mr. GONZALEZ, Mr. OBERSTAR, Mr. YATES, and Mr. HILLIARD):

H.R. 1614. A bill to amend the provisions of title XVIII of the Social Security Act relating to medigap policies to eliminate age rating in premiums, and for other purposes; to the Committee on Commerce.

By Mr. GOODLATTE (for himself, Mr. INGLIS of South Carolina, Mr. POSHARD, Mr. HANCOCK, Mr. FRANK of Massachusetts, and Mr. BARTLETT of Maryland):

H.R. 1615. A bill to require that a monthly statement of costs charged against the official mail allowance for persons entitled to use the congressional frank be kept and made available to the public, and to reduce the amount of that allowance for any Member of the House of Representatives; to the Committee on House Oversight.

By Mr. UPTON (for himself and Mr. BOUCHER):

H.R. 1616. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide a process for the allocation of liability among potentially responsible parties at Superfund sites; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCKEON (for himself, Mr. GOODLING, Mr. CUNNINGHAM, Mr. GUNDERSON, Mr. RIGGS, Mr. DELAY, Mr. BOEHNER, Mr. KASICH, Mr. MCINTOSH, Mr. PETRI, Mrs. ROUKEMA, Mr. FUNDERBURK, Mr. SOUDER, Mr. FAWELL, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. HOEKSTRA, Mr. CASTLE, Mrs. MEYERS of Kansas, Mr. SAM JOHNSON, Mr. TALENT, Mr. GREENWOOD, Mr. HUTCHINSON, Mr. KNOLLENBERG, Mr. GRAHAM, Mr. WELDON of Florida, Mr. NORWOOD, and Mr. DAVIS):

H.R. 1617. A bill to consolidate and reform workforce development and literacy programs, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. GUTKNECHT (for himself, Mr. METCALF, Mr. BROWNBACK, Mr. FOX, Mr. WAMP, Mr. RIGGS, Mr. NEUMANN, Mr. ENGLISH of Pennsylvania, Mr. SOUDER, Mr. DAVIS, Mr. SANFORD, Mr. KLUG, Mr. SMITH of Michigan, Mr. COBURN, Mr. CHRISTENSEN, Mr. SCARBOROUGH, Mr. SHADEGG, Mr. LOBIONDO, Mr. RADANOVICH, Mrs. SEASTRAND, Mr. HAYWORTH, Mrs. SMITH of Washington, and Mr. LARGENT):

H.R. 1618. A bill to amend title 5, United States Code, to impose certain limitations relating to participation by a Member of Congress in the Civil Service Retirement System or the Federal Employees' Retirement System; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MOLINARI (for herself, Mrs. MALONEY, Mr. WILSON, and Mr. PAXON):

H.R. 1619. A bill to amend section 227 of the Housing and Urban-Rural Recovery Act of 1983 to prohibit owners and managers of federally assisted rental housing from preventing elderly residents of such housing from owning or having household pets in such housing; to the Committee on Banking and Financial Services.

By Mr. REGULA (for himself, Mr. VISCLOSKY, Mr. TRAFICANT, Mr. LIPINSKI, Mr. DOYLE, Mr. SERRANO, Mr. ACKERMAN, Mr. FOGLIETTA, Mr. KLINK, Ms. PELOSI, Mr. LATOURETTE, Mr. ENGLISH of Pennsylvania, and Mr. MURTHA):

H.R. 1620. A bill to authorize the Administrator of the Environmental Protection Agency to establish a pilot project providing loans to States to establish revolving loan funds for the environmental cleanup of sites in distressed areas that have the potential to attract private investment and create local employment; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 1621. A bill to require the Administrator of the Environmental Protection Agency to establish a program under which States may be certified to carry out voluntary environmental cleanup programs for low and medium priority sites; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TOWNS:

H.R. 1622. A bill to require the Consumer Product Safety Commission to ban toys which in size, shape, or overall appearance resemble real handguns; to the Committee on Commerce.

By Mr. NEUMANN (for himself, Mr. SOLOMON, Mr. CHRYSLER, Mr. TIAHRT, Mrs. CUBIN, Mr. SOUDER, Mr. COBURN, Mr. DREIER, Mr. GOSS, Mr. ZELIFF, Mr. UPTON, Mr. BARTLETT of Maryland, Mr. GRAHAM, Mr. ROTH, Mr. HILLEARY, Mr. FRISA, Mrs. SMITH of Washington, Mr. STOCKMAN, Mr. COOLEY, Mr. BARTON of Texas, Mr. METCALF, Mr. SCARBOROUGH, Mr. BROWNBACK, Mr. DORNAN, Mr. SMITH of Michigan, Mr. CHRISTENSEN, Mr. SAM JOHNSON, Mr. GILCHREST, Mr. HOSTETTLER, Mr. COMBEST, and Mr. HORN):

H. Con. Res. 66. Concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002; to the Committee on the Budget.

MEMORIALS

Under clause 4 of rule XXII,

79. The SPEAKER presented a memorial of the Legislature of the State of Alaska, relative to medical savings account legislation; to the Committee on Economic and Educational Opportunities.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. BRYANT of Tennessee.

H.R. 62: Mr. HOSTETTLER.

H.R. 123: Mr. SAXTON, Mr. KASICH, Mr. MCCRERY, Mr. HOKE, Mr. EWING, Mr. RAHALL, Mr. MCCOLLUM, Mr. ZELIFF, Ms. DUNN of Washington, Mr. CHAMBLISS, Mr. CREMEANS, Mr. METCALF, Mr. RADANOVICH, Mrs. JOHNSON of Connecticut, Mr. SALMON, and Mr. WHITFIELD.

H.R. 373: Mr. HILLIARD and Mr. RADANOVICH.

H.R. 485: Mr. COYNE.

H.R. 499: Mr. NEY, Mr. BONO, and Mr. STEARNS.

H.R. 500: Mr. CALVERT and Mr. KIM.

H.R. 539: Mr. TAUZIN, Mr. SABO, Mr. WICKER, Mr. INGLIS of South Carolina, and Mr. MINGE.

H.R. 540: Mr. RAHALL, Mr. LEWIS of Georgia, Mr. BERMAN, Mr. CAMP, Mr. SAXTON, Mr. OWENS, Ms. MOLINARI, Mr. LIPINSKI, Mr. FOGLIETTA, Ms. SLAUGHTER, Mr. LAFALCE, Mr. FROST, Ms. LOWEY, and Mr. MOAKLEY.

H.R. 575: Mr. BROWNBACK, Mr. BROWN of Ohio, and Ms. FURSE.

H.R. 580: Mr. ABERCROMBIE and Mr. DIAZ-BALART.

H.R. 582: Mr. HUNTER and Mr. FILNER.

H.R. 659: Mr. REYNOLDS, Mr. FOLEY, Ms. FURSE, Mr. HANSEN, Mr. FATTAH, Mr. SENSENBRENNER, Mr. MARTINEZ, Mr. HANCOCK, and Mr. CLEMENT.

H.R. 719: Mr. RANGEL, Mr. MASCARA, Mr. JACOBS, Mrs. MEEK of Florida, Ms. LOWEY, and Mr. BROWN of Ohio.

H.R. 743: Mr. CUNNINGHAM, Mr. RIGGS, Mr. CASTLE, and Mr. HANCOCK.

H.R. 747: Mr. LAFALCE and Mr. LEWIS of Georgia.

H.R. 752: Mr. DURBIN, Mr. HEFLEY, Mr. LAUGHLIN, Mr. MCCOLLUM, Mr. ROTH, and Mr. VOLKMER.

H.R. 769: Mr. DAVIS.

H.R. 789: Mr. MANZULLO, Mr. INGLIS of South Carolina, Mr. BLUTE, and Mr. GANSKE.

H.R. 910: Mr. MINETA.

H.R. 928: Mr. CRANE.

H.R. 946: Mr. BUNN of Oregon.

H.R. 958: Mr. PALLONE, Mr. FOLEY, Mr. KENNEDY of Rhode Island, Mr. FRANK of Massachusetts, and Mr. QUINN.

H.R. 972: Mr. FOX.

H.R. 991: Mr. LEWIS of Georgia and Mr. WYDEN.

H.R. 994: Mr. LATHAM and Mr. WILSON.

H.R. 1020: Mr. OXLEY, Mr. TORKILDSEN, Mr. GOODLATTE, Mr. BARTLETT of Maryland, Mrs. JOHNSON of Connecticut, Mr. CREMEANS, Mr. GUTKNECHT, Mr. MCHALE, Mr. PETRI, Mr. QUILLEN, Mr. GUTIERREZ, Mr. BUNNING of Kentucky, Mr. YOUNG of Florida, Mr. MANZULLO, Mr. RAHALL, Mr. MCINTOSH, Mr. ROBERTS, Mr. SKEEN, Mr. DUNCAN, Mr. BARTON of Texas, Mrs. CLAYTON, Mr. CLINGER, Mr. FLANAGAN, Mr. DEUTSCH, Mr. PACKARD, and Miss COLLINS of Michigan.

H.R. 1085: Mr. HOEKSTRA.

H.R. 1103: Mr. EVERETT.

H.R. 1118: Mr. SCHAEFER.

H.R. 1173: Mr. BATEMAN.

H.R. 1202: Mr. FRANKS of New Jersey, Mr. ROMERO-BARCELÓ, Mr. DOYLE, Mr. FAWELL, Mr. JONES, and Ms. PRYCE.

H.R. 1242: Mr. MILLER of Florida, Mrs. WALDHOLTZ, and Mr. HASTINGS of Washington.

H.R. 1264: Mr. FRANK of Massachusetts and Mr. FRAZER.

H.R. 1278: Ms. VELÁZQUEZ, Mr. TORRES, Mr. KANJORSKI, Mr. HILLIARD, and Mr. OLVER.

H.R. 1293: Mr. MINGE.

H.R. 1300: Mr. ENGLISH of Pennsylvania, Mr. BALLENGER, Mr. FOX, Mrs. MYRCK, Mr. ROSE, Mr. SCHAEFER, and Mr. HEFNER.

H.R. 1363: Mr. TANNER, Mr. HEFLEY, and Mr. INGLIS of South Carolina.

H.R. 1389: Mr. NADLER, Mr. EVANS, Mr. SERRANO, and Mr. GUTIERREZ.

H.R. 1406: Mr. MURTHA, Mr. FATTAH, and Mr. RAHALL.

H.R. 1448: Mr. CUNNINGHAM, Mr. SCHAEFER, Mr. ZELIFF, Mr. LIGHTFOOT, Mr. CREMEANS, Mr. HANSEN, Mr. GILCHREST, Mr. DORNAN, and Mr. TEJEDA.

H.R. 1559: Mr. EMERSON, Mr. GENE GREEN of Texas, Mr. HALL of Texas, Mr. HOBSON, Mr. KLINK, Mr. HILLIARD, Mr. JOHNSTON of Florida, Ms. LOFGREN, and Mr. LUTHER.

H.R. 1589: Mr. BARRETT of Nebraska.

H.R. 1594: Mr. CHABOT, Mr. FOLEY, and Mr. BALLENGER.

H.J. Res. 16: Mr. LEWIS of Kentucky and Mr. DUNCAN.

H.J. Res. 70: Mr. ZIMMER, Mr. CUNNINGHAM, Mr. SHAYS, Ms. WOOLSEY, Mr. CARDIN, Mr. GEJDENSON, Mr. WALSH, Mr. MORAN, Ms. DELAURO, Mr. BARRETT of Wisconsin, Mr. BONIOR, Mr. MFUME, Mr. MEEHAN, Ms. LOWEY, Mr. BRYANT of Texas, Mr. FOGLIETTA, and Mr. QUINN.

H.J. Res. 79: Mrs. JOHNSON of Connecticut, Mr. SMITH of Michigan, Mr. DOOLEY, and Mrs. LINCOLN.

H. Con. Res. 47: Mr. FARR, Mr. FOX, Mr. HINCHEY, Mr. KENNEDY of Massachusetts, Mr. MCKEON, Mr. NORWOOD, and Mr. PALLONE.

H. Con. Res. 50: Mr. SOLOMON.

H. Con. Res. 63: Mr. BAKER of Louisiana.

H. Res. 39: Ms. WOOLSEY and Mr. GEJDENSON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 357: Mr. LAHOOD.
H.R. 1143: Mr. BRYANT of Texas.
H.R. 1144: Mr. BRYANT of Texas.
H.R. 1145: Mr. BRYANT of Texas.
H.R. 1500: Ms. PELOSI.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 961

OFFERED BY: MR. DE LA GARZA

AMENDMENT NO. 63: On page 237, in line 11 after "treatment works" insert "and appropriate connections".

On page 237, strike line 14, and all that follows through "(c)" on line 19 and insert "(b)".

On page 237, on line 23 redesignate "(d)" as "(c)".

H.R. 961

OFFERED BY: MR. LARGENT

AMENDMENT NO. 64: Page 232, strike lines 13 through 17 and insert the following:

"(7) $2,250,000,000 for fiscal year 1996;

"(8) $2,300,000,000 for fiscal year 1997;

"(9) $2,300,000,000 for fiscal year 1998;

"(10) $2,300,000,000 for fiscal year 1999; and

"(11) $2,300,000,000 for fiscal year 2000.".

Page 232, strike line 18 and all that follows through line 20 on page 234.

Conform the table of contents of the bill accordingly.

Page 32, line 6, strike "$3,000,000,000" and insert "2,250,000,000".

H.R. 961

OFFERED BY: MR. TAYLOR OF MISSISSIPPI

AMENDMENT NO. 65: Page 292, line 20, strike "and".

Page 292, after line 20, insert the following:

"(G) standards and procedures that, to the maximum extent practicable and economically feasible, require the creation of wetlands and other environmentally beneficial uses of dredged or fill material associated with navigational dredging; and

Page 292, line 21, strike "(G)" and insert "(H)".

EXTENSIONS OF REMARKS

THE MEDIGAP CONSUMER PROTECTION ACT OF 1995

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. DURBIN. Mr. Speaker, today I am introducing the Medigap Consumer Protection Act of 1995, which will help millions of seniors hang on to the private health insurance they purchase to pay for the deductibles and services which are not covered by Medicare.

In recent years, insurance companies have increasingly sold Medigap policies whose premiums are determined using a method known as "attained age rating". An attained age policy offers the buyer lower premiums at an early age but its premiums increase as a result of the aging of the policyholder. At various age thresholds the insurer raises premiums to reflect the expected greater use of health care by older policyholders. Due to the high inflation rate in the cost of health care, all Medigap policy premiums increase with time, but the premiums of attained age policies increase much more sharply.

The Medigap Consumer Protection Act would prohibit annual Medigap premium increases from being based on the age or aging of the policyholder. This would prohibit insurance companies from selling any more attained age Medigap policies. Ten States already prohibit attained age rating for Medigap: Arkansas, Connecticut, Florida, Georgia, Idaho, Maine, Massachusetts, Minnesota, New York, and Washington. The bill would allow people who have already purchased attained age policies to keep them if they choose to do so. However, insurance companies would have to offer these policyholders the option of changing their insurance coverage to a policy not based on attained age rating, for example, a community rated or issue age rated policy.

Most Medigap purchasers, and many insurance agents, do not understand how attained age rating works, so prospective policy buyers often have a difficult time in making an informed decision. Senior citizens who purchase attained age policies and later face unexpectedly large premium increases as they age find it difficult to change policies because they usually must face a 6-month waiting period for pre-existing health conditions. When seniors enter the Medicare system—usually at age 65—they have a 6-month window of opportunity during which they can sign up for Medigap insurance without being denied coverage because of pre-existing conditions. At all other times they are subject to such a pre-existing condition waiting period.

The Medigap Consumer Protection Act would direct the National Association of Insurance Commissioners [NAIC] to develop guidelines to eliminate attained age rating which would then be implemented in all States. The NAIC, founded in 1871, is the Nation's oldest association of State public officials. It is composed of the chief insurance regulators of all 50 States, the District of Columbia and the 4 U.S. territories. In the past, Congress has requested similar action from the NAIC, which has successfully completed these requests.

For instance, the Omnibus Budget Reconciliation Act of 1990 instructed NAIC to develop model standardized benefit packages for the Medigap market. After holding public hearings, and consulting with interested parties, the NAIC completed the standards, which were approved by the Secretary of Health and Human Services and became law.

I would like to include in the RECORD the following excerpt from a Consumer Reports article of August 1994 which describes the attained-age pricing problem in the Medigap market:

> Many companies have changed the way they price policies so they can bait consumers with low premiums at the outset and trap them with very high increases later on.
>
> In 1989, most carriers used either "community rates" or "issue-age rates" to price their policies. With community rates, all policyholders, young or old, pay the same premium. With issue-age rates, premiums will vary depending on the age of the buyer. But in either case, the annual premium will go up only to reflect inflation in the cost of benefits; it will not rise because you get older. Both community and issue-age rates protect policyholders from steep annual increases.
>
> Now, however, more and more insurance companies are restoring to a less benign strategy as "attained-age" pricing. It allows companies to gain a competitive advantage by selling cheap policies to 65-year-olds when they enter the Medicare-supplement market. With attained-age pricing, the initial premiums, especially for those between 65 and 69, are usually lower than for issue-age or community-rated policies. But there's a catch: Premiums will rise steeply as the policyholder gets older.
>
> In 1990, 31 percent of all Blue Cross-Blue Shield affiliates sold policies with attained-age rates. In 1993, 55 percent did. At the same time, the proportion of Blue Cross-Blue Shield plans offering community rates has dropped from 51 percent to 21 percent. AARP/Prudential still offers community rates but finds its initial premiums have become less competitive for policyholders age 65 to 69.
>
> Attained-age policies are hazardous to policyholders. By age 75, 80, or 85, a policyholder may find that coverage has become unaffordable—just when the onset of poor health could make it impossible to buy a new, less expensive policy. Take, for example, an attained-age Plan F offered by New York Life and an issue-age Plan F offered by United American. For someone age 65, the New York Life policy is about $114 a year cheaper. But by age 80, the New York Life policyholder would have spent a total of $5000 more than the buyer of the United American policy.
>
> Buyers are rarely warned of these consequences. Neither insurers nor agents are required to tell consumers how expensive attained-age policies will become over time. A sales brochure from California Blue Cross, which boasts one of the state's hottest-selling Medicare supplements, says nothing about rate increases; it doesn't even mention that rates are calculated on an attained-age basis. Of the 17 agents our reporter heard, only one discussed the way his company's rates were set—and he thoroughly confused the three methods. "The vast majority of agents don't understand attained-age pricing, so they can't possibly explain it to their customers," says Mark McAndrew, president of United American.
>
> Only 10 states—Arkansas, Connecticut, Florida, Georgia, Idaho, Maine, Massachusetts, Minnesota, New York, and Washington—either require that insurers use community rates or specifically ban attained-age policies. In most other states, insurers are shifting to attained-age policies. United American, a large seller of Medicare-supplement policies, has just notified state insurance regulators that it plans to switch from issue-age to attained-age rates. "We think attained-age rates are a bad thing, but our agents had to eat," explains Joyce Lane, a United American Vice president.

Mr. Speaker, Bonnie Burns, a private contractor for California's Health Insurance Counseling and Advocacy Program delivered the following testimony before the House Health and Environment Subcommittee earlier this year:

> The danger [with attained age rating] is that just when people begin to need more and more medical care, they will also be hit with much higher premiums. Alternative methods of calculating premiums mean that older beneficiaries will almost always pay less than with attained age rates. The impact of sharply increased premiums is minimized.
>
> Most seniors are in the middle class or below and are already spending about 23 percent of their income on health care expenses according to the AARP, while those under 65 spend about 8 percent. As people age their income and resources go down over time, particularly for older widowed women, and out of pocket costs for health care consume an increasingly larger part of their income. Their ability to absorb additional costs in premiums, deductibles and coinsurance is limited.

Mr. Speaker, affordable premiums and reliable health care coverage are crucial issues for millions of elderly Americans on fixed incomes. At age 65, virtually all Americans recognize the importance of good health coverage. Seniors face rapidly increasing health costs as they reach their seventies and eighties. It is inappropriate to lure seniors into attained age policies which they will not be able to afford if they live for a decade or two. That is why Consumers' Union and the National Council of Senior Citizens have written letters strongly supporting the Medigap Consumer Protection Act.

I would like to close, Mr. Speaker, by describing a few of the things the Medigap Consumer Protection Act will not do:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The Medigap Consumer Protection Act does not place price controls on the insurance industry. Under this bill each insurance carrier will continue to set its own rates and can charge as much or as little as it feels is prudent as long as it continues to meet the loss ratio requirements which are already in place under current law.

The Medigap Consumer Protection Act does not diminish valuable consumer choice. Attained age rating makes it more difficult and confusing for consumers to make price comparisons and compare different policies. Attained age rating confuses prospective policybuyers and insurance agents. Attained age rating deceives the average Medigap purchaser into purchasing coverage which they may not be able to afford later in life. This bill only prohibits the sale of any more of those policies that Consumer Reports correctly described as bait and trap policies.

The Medigap Consumer Protection Act will not force insurance carriers out of business. Under current law, insurance carriers must meet loss ratio requirements of 65 percent for the individual market and 75 percent for the group market. Loss ratios represent how much an insurance company must spend on benefits for each dollar it collects in premiums. For instance, a carrier selling Medigap policies to individuals must offer an average of at least 65 cents in benefits for each dollar it collects in premiums. This bill will still allow insurance carriers to clear up to 35 cents on each dollar in premiums they collect.

I hope that my colleagues on both sides of the aisle will join me in cosponsoring the Medigap Consumer Protection Act and in working toward its enactment so we can help seniors retain affordable, private Medigap coverage as they grow older. This legislation simply eliminates a type of policy that ropes seniors into policies with deceptively low initial premiums followed by sharp increases when those consumers may no longer have the option of switching to a competing policy.

PASSAIC HIGH SCHOOL INDIANS

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. MARTINI. Mr. Speaker, I would like to take this opportunity to commemorate one of the greatest high school basketball teams of all time, the 1919–25 Passaic High School Indians. Over that 6-year stretch, the Indians enjoyed the longest winning streak ever for a high school, college, or professional team. They won an incredible 159 games in a row.

From December 17, 1919, to February 6, 1925, Passaic High was unbeatable. In an era of low-scoring basketball, they outscored their opponents by an average of 39 points, topping 100 points a dozen times. They once crushed an opponent 145 to 5.

While these teams were blessed with great players, such dominance transcends individual stars and usually begins with the coach. It was Prof. Ernest Blood that led the charge for these young men for so many years. Blood began playing basketball just a year after it was invented, and soon after he stopped playing he was coaching. In Potsdam, NY, his high school team did not lose to another high school team from 1906 to 1915.

A move to Passaic. NJ, in 1918 brought him to the job that would make him famous. Although his first season was marred by a defeat in the State championship, the streak began on the first day of the 1919 season. Win after win turned into State championship after State championship. As the streak progressed, the team became the center of attention for this industrial city: A factory whistle would indicate the results of the game, two loud blasts for a win, one long blast for a loss. Blood's foresight and desire kept the team ahead of its time, and he eventually led them to five consecutive undefeated seasons, 147 games in all.

Blood left after the 1923–24 season, but the streak continued well into the next season, finally coming to an end in a 39 to 35 defeat at the hands of Hackensack High on February 6, 1925. It had been 159 games since the Indians had experienced a defeat, and the magnitude of their accomplishments did not go unnoticed. Coach Blood was the third coach ever elected to the Basketball Hall of Fame, and one of the team's greatest stars, Johnny Roosma, was also accorded that honor.

And to this day, the wonder teams of Passaic High are enjoying much-deserved accolades. On May 18 of this year, they will be inducted into the Sports Hall of Fame of New Jersey. Congratulations to the families and friends of all of those connected with these special athletes. Their accomplishments are rightly being enshrined into the memory of our great State, and memorialized for basketball fans across the country.

STATEMENT HONORING RAY AND BETTY WELLS

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mrs. ROUKEMA. Mr. Speaker, I rise to call attention to the Girl Scout spring gala being held by the Girl Scout Council of Bergen County, May 12, in Teaneck, NJ. They will honor Ray and Betty Wells, who will receive the Girl Scouts Outstanding Achievement Award for their many years of service to the Girl Scouts and other community and civic organizations. Proceeds from this event will benefit nearly 10,000 girls and 2,500 Girl Scout volunteers.

Ray and Betty Wells, whom I have known for many years, are community leaders who are an inspiration to us all. Each has a résumé of service, activities, and dedication that is incomparable. Their energy and enthusiasm are endless. It is their brand of volunteerism and personal generosity that has made our county an exceptional place to work and raise a family. Bergen County has been blessed to have good citizens like Betty and Ray.

Betty Wells, a Girl Scout herself for 5 years as a young girl, worked as a volunteer in Girl Scouting for more than 25 years, highlighted by 10 years as the leader of Troops 350 and 276 in Paramus. She was a charter member of the Order of the Evergreen and is a recipient of the "Thanks" badge, the Girl Scouts' highest honor for adults. She served as the association chairwoman and service team chairwoman in Paramus.

Ray Wells became involved in the Girl Scouts through Betty's involvement, serving first for several years as the fund drive chairman in Paramus before ultimately taking on the fundraising efforts for all of Bergen County. He also served on the board of directors. An architect, he also wrote a Girl Scout manual on building.

The Wells' Girl Scout activities centered, of course, around their daughter, Holly, who enjoyed Girl Scouting from age 7 to 17 with her mother as troop leader. Holly today continues the tradition of shaping young people as owner and operator of a preschool in Pennsylvania.

Holly, of course, is only one member of Ray and Betty's lovely family, to whom they are immensely dedicated. They have two other daughters, Kerry, a secretary who lives in Fair Lawn, and Julie, a nurse in Seoul, South Korea. Their son, Tom, is an attorney, Peter is director of the Paramus Building Department and Jeff is the principal of Wells Associates, the family architecture firm.

Betty and Ray, who both grew up in Lyndhurst, moved in 1953 and began their involvement in community service almost immediately. Both served as Sunday School teachers at the Old Paramus Reformed Church, where Ray was Sunday School superintendent and Betty was a choir member, deacon, and elder. Betty joined the Stony Lane Elementary School Parent-Teacher Organization after their children began school, eventually becoming its president. She also was a member of or volunteered at the Paramus Junior Women's Club, the Paramus Garden Club, the Paramus Women's Club, the Juvenile Conference Committee, the Hermitage in Ho-Ho-Kus, the Church Guild an Valley Hospital.

Ray was a member of or worked with the Paramus Jaycees, the George Washington Cemetery Board, the Aviation Hall of Fame, the Bergen County Regional Blood Center, the Oradell Planning Board, the Bergen Museum of Arts and Science, the Boy Scouts, March of Dimes, and United Way. He joined the Paramus Rotary Club in 1964 and went on to serve as a director, president, and district governor before becoming an international director of the service organization. He headed up Rotary projects as diverse as Polio Plus—an effort to eradicate polio—Preserve Planet Earth and restoration of the gazebo at Bergen Pines.

The Rotary motto best describes Ray and Betty: "Service Above Self." Their good work and service to their neighbors and fellow men are limitless. Four decades of community service is a record that few can even come close to matching. I give my heartfelt congratulations to the Wells and wish them the best for the future. We are all blessed to have you pass our way. God bless and Godspeed.

CHANGE OF COMMAND OF ADMIRAL SKIP DIRREN

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mrs. FOWLER. Mr. Speaker, I would like to take this opportunity to pay tribute to Rear Adm. Frank M. "Skip" Dirren, Jr., who has been the commander of Naval Base Jacksonville since July of 1992, and who will be leaving us tomorrow to accept a new command in Norfolk, VA. Admiral Dirren is a man of character, courage and compassion and an outstanding naval officer. I am proud to call him my friend.

If it is true that "nothing is really work unless you would rather be doing something else," as J.M. Barrie once said, then Skip Dirren has not done a lick of work since he joined the Navy in 1964. He loves his job and is the quintessential Navy man—patriotic, loyal, and devoted to duty. A decorated veteran helicopter pilot, he has made the Navy his life, and he exemplifies the virtues that I associate with the service at its best.

Skip is also a fine leader and good man to have in your corner, as he has consistently demonstrated during his tenure in Jacksonville. His turn at the helm of our Navy complex has helped to steer our facilities and personnel through some very rough waters, and he has strengthened the already good relationship between the community and its Naval facilities in many ways.

His community activism has particularly endeared him to our citizens, and his warmth and eloquence have made him a much sought-after speaker. In short, he has become a respected and beloved member of the community, and his generosity, his kindness, and his many talents will be greatly missed.

Mr. Speaker, although the business of the House prevents me from attending Admiral Dirren's change of command ceremony tomorrow, my thoughts will be with him and his lovely wife, Susan, as they celebrate a job well done and prepare to enter a new chapter in their life together. I hope they know that they take with them the gratitude and affection of our entire city. I wish them both fair winds and following seas.

TRIBUTE TO MORTON GOULD: COMPOSER, CONDUCTOR, AND FRIEND

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. GORDON. Mr. Speaker, I rise today to highlight merely a few of the countless accomplishments in my dear friend Morton Gould's distinguished career, recently capped off by his receipt of the Pulitzer Prize for music composition.

A New York native, Gould began this career at the early age of six, when his first composition was published. His tutelage in piano and composition continued, and by age 21, he was conducting and arranging weekly orchestra radio programs for the WOR Mutual Network.

Perhaps Gould's most performed instrumental piece is his "Pavanne," from his "Second Symphonette." Other works familiar to all of us include "Latin-American Symphonette," "Spirituals for Orchestra," "Tap Dance Concerto," "Jekyll and Hyde Variations," and "American Salute."

The Library of Congress has commissioned his work, as well as the Chamber Music Society of Lincoln Center, The New York City Ballet, and the American Ballet Theater. He has composed scores for Broadway musicals, films, and both television movies and series.

Conductors worldwide have had the pleasure of directing performances of his compositions, and, as conductor, Gould has appeared with major orchestras in the United States, Japan, Australia, and Israel.

Some of Gould's other awards include a Grammy Award, several Grammy nominations, the 1983 Gold Baton Award, the 1985 Medal of Honor for Music from the National Arts Club, and the Kennedy Center Honors in 1994. He received the Pulitzer Prize this year for "Stringmusic," which was composed at the request of Director Rostropovich, to commemorate his last season as director of the Washington, DC, National Symphony Orchestra.

Gould served as president of ASCAP [American Society of Composers, Authors and Publishers] from 1986 to 1994. He has been an ASCAP member since 1935 and a board member since 1959.

Certainly we have all benefited over the years from his work and know that future generations will benefit as well. Please join me today in honoring one of America's truest virtuosos.

SALUTE TO MR. ROBERT HEENAN

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to honor Mr. Robert T. Heenan, the business manager of the International Union of Operating Engineers, Local 542, who is the 1995 recipient of the Salute to Labor Gold Medal Award.

Mr. Heenan joined the Operating Engineers Local 542 in 1948 after completing his service with the U.S. Army. He has served as the business agent, collection manager for the welfare and pension fund and the business manager for local 542.

In addition to his work with local 542, Mr. Heenan has served with distinction on the Pennsylvania State Housing Authority, the CETA board of Bucks County, PA and the Bucks County Water and Sewer Authority. Mr. Heenan is the current vice president of the Philadelphia Building and Construction Trades Council and the Pennsylvania State AFL–CIO Council.

Mr. Heenan's commitment to community service has led to significant strides in neighborhoods throughout the Philadelphia region. Under Mr. Heenan's leadership, local 542's apprenticeship program has donated a great deal of assistance to local nonprofit groups. For example, Mr. Heenan is responsible for the reconstruction of two ballfields at seventh and Packer Streets in Philadelphia.

Mr. Heenan is also a long-time supporter of UNICO Charities the American Diabetes Association, and the Marine Corps League's toys for tots campaign.

I join the Philadelphia chapter on UNICO, Bob's wonderful wife Mary Heenan, and the Heenan children and grandchildren in recognizing Mr. Robert Heenan for his fine contributions to his country and community. I wish him the best of luck in his future endeavors and am confident that he will continue to be a great contributor to communities throughout the Delaware Valley.

THE MILITARY HOUSING ASSISTANCE ACT OF 1995

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. MONTGOMERY. Mr. Speaker, I am today introducing H.R. 1611, the Military Housing Assistance Act of 1995. The purpose of this measure is to enable active duty military personnel to purchase homes for themselves and their families in areas where the supply of suitable military housing is inadequate. As a result, the Department of Defense's on-base housing costs could be significantly reduced. This joint Department of Veterans' Affairs/Department of Defense [VA/DOD] program would be an excellent example of Federal agencies working together to enhance the lives of our armed services personnel while reducing DOD construction expenditures.

Under this program, DOD would be authorized to buy down the interest rate for certain active duty personnel purchasing off-base housing using the VA guaranteed home loan. This buydown would lower the monthly mortgage payment during the first 3 years of the loan. Loans covered by this proposal would, as is currently the case with VA home loans, be made by private lenders. The escrowed funds needed for the buydown would be provided to the lender by the VA. DOD would then reimburse the VA. These loans would be processed in the same way as any other VA loan which includes a buydown except that these loans would be underwritten at the second-year rate rather than at the full note rate, thus enabling more individuals to qualify for the loans. Additionally, DOD would be authorized to indemnify mortgagees against any loss, thereby covering the difference between the VA guaranty and any actual loss on the sale of the property.

Eligibility for these loans would be limited to all enlisted members and officers in the pay grade 0–3 or below who are first-time users of the VA home loan program. Application for participation in this program would be made within 12 months of assignment to a housing shortage area. The service Secretaries would designate those bases that have a housing shortage.

An important component of this bill would require individuals participating in the program to participate in comprehensive prepurchas counseling. It has been demonstrated that counseling of this type results in borrowers who are better prepared to assume the responsibilities of homeownership. Additionally, VA would be authorized to assign qualified VA loan guaranty personnel to the bases designated as having housing shortages. These VA personnel would provide prepurchase counseling and loan servicing assistance and assist GI's with the purchase and subsequent sale of their homes.

After consulting with and obtaining the agreement of the VA, DOD would be authorized to transfer its property management jurisdiction to the VA. Thirty VA FTEE would be authorized to fulfill these responsibilities.

Under this bill, DOD would be authorized $104 million and $6 million would be authorized for the VA. VA estimates these amounts would provide for 32,000 loans per year.

I believe the Military Housing Assistance Act of 1995 would establish an excellent program, and I urge my colleagues who would like to cosponsor this measure to contact Bo Maske at 225–5031 or Beth Kilker at 225–9756.

REMARKS BY MAJ. GEN. VANG PAO AT THE VIETNAM WAR MEMORIAL CEREMONY IN REMEMBRANCE OF THE 20TH ANNIVERSARY OF THE FALL OF SAIGON

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. DORNAN. Mr. Speaker, on Sunday, April 30, I was at the Vietnam Memorial here in Washington. I met personally with many Vietnam veterans and their families at the Wall there to remember the sacrifices of our soldiers and the 20th anniversary of the tragic fall of South Vietnam to communism.

One of the important ceremonies that I attended at the Wall was held by the Counterparts organization where thousands of Montagnards, Hmong, Laotians and Vietnamese attended to mark the 20th anniversary of the tragic and bloody Communist takeover of their homelands. Some of those in attendance at this somber and important event were Grant McClure, Commanding Officer of Counterparts and former advisor to the Montagnards in the Central Highlands of South Vietnam, Ambassador Bill Colby former director of the Central Intelligence Agency; Maj. Gen. Homer Smith head of the Defense Attaché Office during the fateful last hours in Saigon; Brig. Gen. Kor Ksor, a Montagnard leader; Maj. Gen. Vang Pao, Commander of Military Region II for the Royal Lao Army and head of Hmong Special Forces; General Thonglit Chokbenbun, Royal Lao Army Commander; Dr. Jane Hamilton-Merritt the distinguished Lao/Hmong scholar, author and photojournalist; and Philip Smith, Senior Legislative Assistant to former U.S. Congressman Don Ritter and current Director of the Center for Public Policy Analysis.

Mr. Speaker, I believe it is crucial for the United States and Thailand not to forget the tremendous sacrifices of our former Vietnamese, Montagnard, Hmong and Laotian allies during the Vietnam War. I call upon all Vietnam veterans and Americans to oppose the current U.S. State Department and Thai policy of forcibly repatriating many of these former Hmong and Vietnamese Special Forces Commandos and combat veterans from refugee camps back to the repressive Communist regimes that they fled.

Mr. Speaker, it is important to make a part of the public record the speech that Maj. Gen. Vang Pao gave at the 20th Anniversary Ceremony which describes so well the major contribution made by many of our former allies and so many American soldiers during the Vietnam war.

STATEMENT OF MAJOR GENERAL VANG PAO

Dear Honorable Guests, Fellow Veterans, Ladies and Gentlemen: We are gathered here today at this ceremony to mark the 20th Anniversary of the tragic fall of South Vietnam, Laos and Cambodia to invading Communist forces. But, we are also gathered here to recognize and honor those men and women who sacrificed and lost their lives in the Vietnam War—the Second Indochina War—fighting for freedom, democracy, and for the peace and security of Southeast Asia and the United States.

Tens of thousands of Lao and Hmong soldiers and their families who fought against the invading Soviet-backed North Vietnamese Army during the war are buried in unmarked graves in Laos and Vietnam. They fought to defend their country and to help the United States against the expansion of Soviet Communism through its proxy regime in Hanoi. But, their names are not on the Vietnam Memorial Wall here in Washington. So, we must be vigilant to keep alive their memory in our hearts and tell the story of their brave sacrifices to our children and our children's children so that their memory and the important cause that they fought for is not forgotten by future generations.

In Laos, from 1969 to 1970, the Lao and Hmong Special Forces under my command captured and occupied the strategic site of the Plain of Jars (Thong Haihin) which was crucial to the overall course of the war effort. The Plain of Jars is near the border of North Vietnam and was controlled by three North Vietnamese divisions. During heavy fighting the Lao and Hmong Special Forces under my command defeated the North Vietnamese troops and captured many Soviet-supplied tanks, artillery pieces, anti-aircraft guns, trucks and many hundreds of tons of small arms and other equipment which cost Moscow an enormous amount of money. The Superpowers—the Soviet Union and the United States—were surprised that such a small number of Hmong and Lao soldiers could defeat such a large force of the North Vietnamese Army and then occupy and defend the Plain of Jars. This battlefield victory saved many Americans from having to fight against these North Vietnamese troops and their weapons as well as greatly slowing the advance of Communism in Southeast Asia for many additional years.

It is also important to note the major contribution made by the Lao and Hmong soldiers of the Royal Lao Army in locating and destroying many of the North Vietnamese Army's supply lines along the Ho Chi Minh Trail. The Lao/Hmong Special Forces caused heavy losses to the North Vietnamese troops and rescued many hundreds of downed American pilots.

The United States did not lose the Vietnam War on the battlefield. The United States withdrew from the Indochina War in 1975 because of world politics, U.S.-Soviet detente, American-Chinese relations and U.S. domestic opposition to the War. However, the United States eventually won the war in world politics in the struggle between Communism and Capitalism. Communism in the Soviet Union and Eastern Europe collapsed with the help of freedom fighters like the Hmong and Lao combat veterans who assisted the United States in resisting the expansion of international Communism. Many Communist countries changed to become free countries because of the sacrifices of the Laotian and American men and women who defended freedom and democracy during the Cold War. Therefore, we must recognize and honor those men and women-in-arms who fought and died in the Vietnam War and remember that freedom, democracy and peace will once again return to Laos, Vietnam and Cambodia in the near future.

Thank you for joining me here today to mark this important occasion. God bless you all.

CENTRAL NEW YORK: NATION'S FIRST PEE WEE WORLD HOCKEY CHAMPIONS

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. WALSH. Mr. Speaker, last year I was as proud as I could be, or thought I could be, of some very special young athletes in my home district, the Syracuse Stars Pee Wee Hockey Team. They had won the USA Nationals and all of our hometown was awash in publicity and congratulations.

Today I am eager to report that the same team has once again prevailed. They are now the holders of the World Cup of Pee Wee Hockey, having won on February 19 this year the 36th Annual Tournoi De Quebec in Quebec City. The tournament hosted 115 teams from 17 countries. The Stars defeated teams from Russia, Ukraine, Detroit, and Toronto on their way to becoming the first United States team to ever win the World Cup.

To put this tournament in perspective, more than 550 former or present NHL players have participated, including Wayne Gretzky, Brett Hull, and Mario Lemieux.

The players are: Daniel Bequer, goalie, of North Syracuse; Brian Balash, forward, of Auburn; Gary Baronick, forward, of North Syracuse; Drew Bucktooth, forward, of the Onondaga Indian Nation; Tim Connolly, forward, of Baldwinsville; Jeremy Downs, defense, of Syracuse; Joshua Downs, defense, of Syracuse; J.D. Forrest, defense, of Auburn; Todd Jackson, forward, of Cortland; Josh Jordan, forward, of Marathon; Tom LeRoux, forward, of Syracuse; Doug MacCormack, forward, of Cortland; Matt Magloine, defense, of North Syracuse; Freddy Meyer, defense, of New Hampshire; Anthony Pace, forward, of Cortland; Steve Pakan, defense, of Syracuse; Mike Saraceni, goalie, of North Syracuse; and Ricky Williams, forward, of McGraw. Head Coach Don Kirnan was assisted by coaches Mike Connolly and John Jackson and manager Chris Kirnan.

Freddy Meyer won the Tournament MVP trophy and Drew Bucktooth won the Grand Finale Game MVP. Tim Connolly was top scorer of the tournament and along with Anthony Pace was named a single-game MVP. Dan Bequer gave up only two goals in the last three games, which proved for some exciting hockey, especially in the Stars' 6–2 final game win over the Toronto Young Nationals.

I ask that my colleagues join me in congratulating these young athletes for their performance, and for bringing home to the United States our first World Cup of Pee Wee Hockey.

CONGRATULATIONS TO THE FOOD SERVICE STAFF AT THE MIDDLE COUNTRY SCHOOL DISTRICT

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. FORBES. Mr. Speaker, I rise today to congratulate the excellent food service staff at Middle Country School District in Centereach, Long Island, NY, for their hard work and outstanding service.

Next week, we will begin to celebrate National Child Nutrition Week, and it's an important time for us all to focus on the health and well-being of our children. For the food service staff at Middle Country schools, however, every week is Child Nutrition Week and every day is an opportunity to make sure that children are eating healthy and staying fit.

These individuals at the Middle Country schools continually go above and beyond the call of duty. Their work is not just another job, it is an important vocation. They are entrusted with our society's most precious possessions—our children. In their delicate hands, we place the crucial responsibility that's usually just reserved for mothers and fathers—the responsibility of caring for our children. The food service workers rise to this occasion graciously, and they gently nuture our students.

The food service staff who work at the Middle Country schools know that the little things make all the difference. They go out of their way to make sure that a particular little boy finishes his milk or a certain little girl sticks to her special diet. For this extra effort, we are most grateful, and on behalf of all of the people of eastern Long Island, I would like to thank them for a job well done. They truly are role models. Their example can teach us all.

I would also like to extend a special note of congratulations and gratitude to Audrey Prentice, the coordinator of the Middle Country School District's food service program. Audrey is a tireless champion for the health and welfare of our society's most vulnerable members. Her heart is in her work and that makes all the difference. I am very thankful for all of her wisdom, her counsel, and her service.

WELCOME TO JESSAMINE COUNTY MIDDLE SCHOOL

HON. SCOTTY BAESLER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. BAESLER. Mr. Speaker, I am delighted to welcome Jessamine County Middle School from Nicholasville, KY, to Washington, DC, on their annual trip.

There is a proud history in our Nation's Capital and I am pleased that these fine young men and women are able to take advantage of the educational opportunities available here in Washington.

REMEMBERING THE ARMENIAN GENOCIDE

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. RUSH. Mr. Speaker, I rise today to honor the more than 1.5 million victims of Armenian genocide who perished 79 years ago, and their families who still to this day remember this crime against humanity with the same intensity and pain that was felt during 8 years of murder, plight, and savagery.

For 3,000 years, Armenians and Armenian culture had thrived in the area covered by the Ottoman Empire. The Turkish authorities in power in 1915, however, systematically wiped out nearly two-thirds of its Armenian population. They first executed intellectuals and doctors, then adult males, leaving the elderly, the very young, and women defenseless, as the Turkish Government forced them on death marches through the deserts.

In 8 short years, Turkey managed to slaughter a vibrant, thriving, indigenous population, whose descendants today are ever vigilante in their reminding the world never to repeat crimes of this magnitude again.

For too long, people have ignored or forgotten this unimaginable atrocity. The time has come for the United States, and people everywhere, to remember and honor the victims of this brutal crime against humanity. It is imperative that we all remember the incredible inhumanity of which people are capable, for to remember is to be vigilant. And vigilance is the only way we can ever keep such atrocities from reoccurring. Through these efforts we can promote peace and goodwill among all nations and cultures. We must, for if not all that we consider humanity will be lost.

CUTS ENDANGER OUR ELDERLY

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. COLEMAN. Mr. Speaker, the Republican party is certainly full of contradictions. Six months after signing a "Contract With America" that included a platform promising fairness for senior citizens, they propose a budget that will harm the poorest and the least healthy of our Nation's older population. The House Republican budget outlines cutting Medicare funding by $270 billion over the next 7 years. In the same period of time, they propose that we abdicate responsibility for the Medicaid to the States, while decreasing the funding by $184 billion. In order to justify their cuts, they are insisting that without reform, the Medicare Program will be bankrupt by the year 2002.

Frankly, their new position makes very little sense. After all, nothing is being done to actually reform the system. Capping Medicare spending is not reform. Last year, President Clinton and the Democratic leaders in Congress struggled to reform the whole health care system, and to prevent the very crisis in Medicare that the Republicans decry today. Republicans refused to assist in the health care debate, and preferred partisan sniping. They were hiding their heads in the sand. They were all too eager to criticize the Democratic reform that would have applied small Medicare savings to comprehensive health care reform.

This year, we hear nothing of comprehensive reform. We are moving no closer to universal and affordable coverage. There are no genuine efforts to make our health care system more effective and more affordable. But the Republicans are talking about Medicare and Medicaid cuts. The cuts that they are proposing will not go toward saving Medicare, or ensuring universal coverage, but toward tax breaks to the wealthy.

The Republican party, which proudly authored a bill entitled the "Senior Citizens Fairness Act" now proposes to take a hit and the poor and the sick elderly, without putting one penny back into their health care. They are offering us all the pain of cuts, without the benefits of reform. Cuts like these are misguided, and should not be tolerated. Many people who have made tremendous contributions to this Nation, people in the twilight of their life, will suffer as a result of this budget.

SUPERFUND LIABILITY ALLOCATION ACT OF 1995, H.R. 1616

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. UPTON. Mr. Speaker, if ever a Federal program needed reform, it is the Superfund Program. It was first created in 1980 under the Comprehensive Environmental Response, Compensation & Liability Act [CERCLA]. It was changed and reauthorized in 1986 under the Superfund Amendments and Re-authorization Act [SARA]. It was supposed to be reauthorized in the last Congress and committees in the House and in the other body reported comprehensive reform bills, but this effort fell short in the final days of the session.

At the center of the Superfund Program are liability provisions arguably more draconian than found in any other Federal statute. Superfund liability is retroactive, meaning that potentially responsible parties can be held liable for lawful actions taken before enactment of CERCLA or SARA. Superfund liability is also strict, meaning that there is no need to prove negligence to establish liability. It is also joint and several, meaning that a party or parties that contributed small amounts of contamination to a contaminated site can be held liable for all cleanup expenses.

With Superfund site cleanups now averaging $30 million, the incentive to avoid any liability at any cost is strong. Small wonder that

Superfund has launched a tidal wave of litigation. At least $1 in $4 spent on Superfund cleanups is spent on lawyers and the consultants needed to support lawyers in litigation to avoid Superfund liability or to transfer liability to other parties via so-called contribution suits.

In my district, one of these contribution suits eventually involved more than 700 firms and organizations. More recently, a firm that had negotiated a cleanup plan costing nearly $20 million with EPA turned around and filed contribution suits against three dozen local firms. More important than the moneys involved, these Superfund-driven suits have divided whole communities and created resentment that will last for years. This can't be what Congress wanted to happen when the program was created.

In response to these unpleasant realities, I am today joining the gentleman from Virginia [Mr. BOUCHER], in introducing the Liability Allocation Act of 1995. Mr. BOUCHER and I first addressed these issues in November 1993 in the Superfund Liability Reform Act (H.R. 3624). After negotiations with the administration and other Superfund stakeholders, we introduced a revised version of H.R. 3624 as H.R. 4351, also entitled the Superfund Liability Allocation Act. This latter measure became section 412 of H.R. 3800, as reported by the then Committee on Energy and Commerce, and section 413 of the same bill as reported by the then Committee on Public Works and Transportation. As I mentioned earlier, H.R. 3800 was not considered by the House prior to adjournment in 1994.

This legislation would create an entirely new system of liability under Superfund, one based upon proportionality and the allocation of liability shares among potentially responsible parties. It places a moratorium on the commencement of cost recovery and contribution suits for cleanup costs until the allocation process is concluded and a stay on all existing cost recovery and contribution litigation. Each party's liability would be calculated in expedited manner; parties will pay only their equitable share of the cleanup costs, those clearly related to their respective roles at the site and to the amount of waste they actually contribute; finally, the expedited process for assigning liability and the limited court review of that process should significantly decrease transaction costs for all parties at Superfund sites.

The new system established under this bill would operate as follows:

First, after a site is listed on Superfund's National Priority List, EPA notifies all parties at the site that they are required to participate in the liability allocation process.

Second, the parties choose from an EPA-approved list of private allocators to conduct the allocation.

Third, EPA and any of the parties may nominate additional parties to be included in the process or may excuse parties from the process.

Fourth, EPA is able to provide expedited settlements to "de minimis" and "de micromis" parties to enable such parties to avoid having to participate in the 18-month allocation process, satisfying small business' major concern.

Fifth, the allocator is armed with the necessary information-gathering powers, including subpoena power, and is able to enforce such powers with the backing of the Justice Department. Parties who do not cooperate in providing information are subject to stiff civil and criminal penalties.

Sixth, each party is given the opportunity to be heard, including submitting an initial statement and commenting on the draft allocation report before the final report is issued.

Seventh, after considering the "Gore Factors"—including the party's role at the site and the toxicity and volume of material—the allocator issues a report identifying each party's share of liability for the cleanup costs at the site.

Eighth, each party may settle with the EPA based on its allocated share. As consideration, the party is shielded from joint and several liability and from actions for contribution from other parties. Any party who rejects its allocated share will be exposed to joint and several liability and remains unprotected from contribution suits. Although the allocation is nonbinding as to the parties, the exposure to joint and several liability serves as a disincentive to reject the allocated share.

Ninth, the Government is bound by the allocation unless there is proof of bias, fraud or unlawful conduct on the allocator's part or if "no rational interpretation of the facts before the allocator, in light of the factors he is required to consider, would form a reasonable basis" for the allocation. The Government only has 180 days during which such review can occur, after which the right to reject the allocation is waived.

Tenth, the orphan share—for defunct and insolvent parties—is paid out of the Superfund.

Eleventh, the Government reimburses parties who pay for the cleanup for amounts spent beyond their allocated shares. The Government also pursues recalcitrant parties who fail to pay their allocated shares.

Mr. Speaker, many interests worked together in developing this legislation. If the adage that success has many fathers while failure is an orphan is accurate, than the father of this excellent proposal is my cosponsor and learned friend from Virginia, Mr. BOUCHER. We have cosponsored several bills in the past and each of these bills has done well in the legislative process. It is a pleasure to join him again in offering this legislation.

We urge every Member of this House to join us in cosponsoring H.R. 1616, the Superfund Liability Allocation Act of 1995, and ask that they call David Luken of my staff (ext. 53761) or Andrew Wright of Mr. BOUCHER's staff (ext. 53861) to do so.

RABBI AND REBBETZEN RYBAK HONORED

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. MARTINI. Mr. Speaker, on Sunday night, May 14, 1995, Rabbi Dr. Solomon Rybak and Rebbetzen Dr. Shoshana Rybak will observe the completion of 10 years affiliation with the congregation and service to the Passaic and Clifton communities at Congregation Adas Israel in Passaic, New Jersey. I congratulate them and wish them all the best as they celebrate this truly special occasion.

Rabbi and Rebbetzen Rybak have been recognized as exceptional personalities in the Passaic-Clifton area as well as in the larger metropolitan New York-New Jersey educational community. Both have attained significant achievements in furthering Jewish education and values. Upon completing his studies at Yeshiva University and receiving rabbinical ordination from the late, renowned torah giant Rabbi Dr. Joseph Soleveitchik, Rabbi Rybak served as Rabbi Soleveitchik's research assistant in the Rogosin Institute of Ethics. Rabbi Rybak was appointed by Dr. Samuel Belkin, President of Yeshiva University, to the position of Rosh Yeshiva at the Yeshiva University High School and held that position for 27 years. Rabbi Rybak earned his Ph.D. in Semitic languages from the Bernard Revel Graduate School of Yeshiva University and has lectured and published on educational and Halachic topics. In addition to his duties as spiritual leader of Congregation Adas Israel, Rabbi Rybak is a Professor of Jewish Studies at Touro college, serves as the editor of CHAVRUSA, the professional publication of the Yeshiva University Rabbinical Alumni and is a member of the executive board of the Rabbinical Council of America.

Equally accomplished, Rebbetzen Rybak has balanced the dual role of a Rebbetzin and a professional in her daily routine. Rebbetzen Rybak was educated in both Israel and in New York and holds a Jewish Teacher's Diploma from Beth Jacob Seminary and a Doctorate in school and clinical psychology from Pace University. Rebbetzin Rybak has been involved in many of the congregation's programs, concentrating on the youth Yom Tov celebrations and the congregation's Simchat Torah, Purim, and Yom Haatzmaut festivals. As a therapist and licensed psychologist, Dr. Rybak has been involved with several groups of exceptional children including the handicapped, the developmentally disabled and the gifted. She is currently the clinical coordinator at the Hebrew Academy for Special Children [HASC] in Brooklyn and is a member of several professional organizations including the American Psychological Association, the National Association of School Psychologists, and the Council for Exceptional Children.

Upon their arrival in Passaic in 1984, Rabbi and Rebbetzen Rybak found a diversified community representing the full spectrum of modern Jewish society. In a quiet and unassuming manner Rabbi and Rebbetzen Rybak began actively participating in the ongoing revitalization of the Passaic-Clifton community. The contributions of Rabbi and Rebbetzen Rybak over the past 10 years have been instrumental in continuing to make Passaic and Clifton attractive to young Jewish couples looking for a vibrant area in which to establish their home. Their dedication to community service and education serves as a role model and inspiration to all. I salute these two fine individuals, and can only say that I am proud to call them members of the Eighth Congressional District of New Jersey.

RACHEL D. KILLIAN, SCRIPTWRITING CONTEST WINNER

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. DUNCAN. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. This past year, more than 126,000 secondary school students participated in the contest competing for the 54 national scholarships totaling more than $109,000.

This year's Tennessee winner is Rachel D. Killian, a junior at South-Doyle High School. Miss Killian is an active member of her student council, enjoys reading and drama, and belongs to Knoxville Youth in Government. She plans a career in television and radio journalism-communications. Miss Killian was sponsored by VEW Post 1733 and its ladies auxiliary in Knoxville, TN.

I would ask that Miss Killian's essay, "My Vision for America" be entered into the RECORD. I believe we can all benefit from her insightful, patriotic remarks:

MY VISION FOR AMERICA

This country was founded by people of great vision. Although they came from different countries and backgrounds, they had a common dream which brought them together—the dream of a land where they could have better lives. By working together, these strong pioneers made this dream of freedom and opportunity a fantastic reality we call "America."

During the past two hundred years, this vision of freedom has appealed to many trapped under oppressive governments. Thousands found their way to America each year, escaping from wars, hunger, political unrest and religious persecution. They found a haven in America. These immigrants are our ancestors. They are our relatives not necessarily by blood, but by a common heritage. They endured many pains and sacrifices to arrive here. Many had noting to hang on to but a dream.

These early Americans were genuinely grateful for every opportunity they were given. They respected the government for all it provided and gladly participated in the duties of citizenship. Unlike the grateful citizens of the past, many Americans today insult the government and blame the system for every problem. They demand benefits, such as military protections, without accepting the burden of paying taxes. They often believe they are entitled to certain rights over others and have forgotten what it means to be tolerant of others' beliefs. Worst of all, they display a loss of confidence in the future of America and the capability of American leaders. These unpatriotic feelings are destroying the optimism, the honor and the pride we should have in America. Because there are people burning with anger instead of burning with pride, we have lost the sense of brotherhood which once flowed from sea to shining sea and united this country.

My vision of America calls for a change in every American heart. We must remember the dreams of our immigrant ancestors and imitate some of their patriotic values such as love for each other, for our community and for our government. The men and women who created our nation did not expect others to rescue them from hardships. They were not complainers, but achievers, and their hard work brought America prosperity.

In my dream we are more like our ancestors. We are people of vision pushing for what we know is right. We display tolerance and patience for other individuals, and we emphasize our similarities rather than our differences. We look at our collective ancestors and say, "We are one, with one spirit. We are an American Family."

In my vision, I see a "new" America with patriotic citizens who know and appreciate all the lyrics to the "Star-Spangled Banner." I see citizens who talk about what's right with the country instead of what's wrong, where Uncle Sam is welcome at every dinner table and where citizens are proud to show they are Americans at times other than during the Olympics. I see a country that shares dreams and reaches for goals that will benefits everyone, not just a select few. I see Americans with changed attitudes toward each other and a land where every worker has a respected place and purpose—where every single person feels like an important part of one united spirit.

There are ways that my vision for America could be achieved. First, American newpapers need to print more positive articles to improve the public morale. Second, to remind citizens of their many blessings, everyone needs to be informed of the lack of human rights in other countries. It is so easy to forget how lucky we are to be living in the United States. Finally, Americans must stop dividing into so many groups. Instead of being Democrat or Republican, upper class or blue collar, black or white, we should be American. If we are going to be strong as a country, and supportive of each other, then we must be united as a people.

My vision for America in not a new one. Our ancestors held the same hopes for this country, but over the years their visions have been forgotten. If we could remember one thing from their success, then it should be that we must never stop believing in our visions for America. History has taught us that there are dreams that can come true.

VISION FOR AMERICA

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. BILIRAKIS. Mr. Speaker, each year the Veterans of Foreign Wars and its ladies auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. This year more than 126,000 secondary school students participated in the contest, competing for the 54 national scholarships totaling more than $109,000. The contest theme for this year was "My Vision For America."

I am proud to announce that one of my constituents, Stephen Jensen, won fourth place honors and a $6,000 scholarship in the Voice of Democracy contest. Stephen is a junior at Tarpon Springs High School and hopes to pursue a career in entertainment or public relations.

In his speech, Stephen reminds us all of what can be accomplished when people are united by a common objective. I would like to share Stephen's speech with you.

What a vision we must have been. Drenched in sweat, caked with mud, and surrounded by the foul stench of rotting vegetation and debris, over six thousand volunteers toiled in Albany, Georgia this past summer under the blazing July sun to help the people whose lives were devastated by the worst floods in recent history. Side by side we gutted out homes and churches sodden by the floods and stripped the buildings down to their foundations. Sharing in this service gave me a vision of what an American community can accomplish when people are united by a common purpose.

There are those in this country who are overwhelmed by another flood sweeping through the streets of our land. The surge of violence and crime, drug abuse, loss of private and public virtue and the erosion of the family are but some of the storm-waters surging over the banks in our country today. Our first reaction is to view these problems with bitterness and despair, but if we can truly hold on to a positive vision, we will not lose hope. Let us share in the view expressed by American poet, Carl Sandburg when he wrote, "I see America not in the setting sun of a black night of despair ahead of us. I see America in the crimson light of a rising sun, fresh from the burning, creative hand of God. I see great days ahead, great days possible to men and women of will and vision."

Experiencing great opposition is not unique to Americans today. Are the challenges we face any more difficult than those faced by previous generations? Early colonists struggled with disease, famine, and the rigors of an untamed wilderness. Later, our inexperienced forefathers fought the superior military and economic might of Great Britain to claim their freedom from oppression. In the nineteenth century, America was literally torn apart by Civil War yet a people was freed from slavery. Pioneers of that day endured tragic hardships in settling the West, yet prevailed and helped this country grow to its present dimensions. In this century, Americans have faced World War I and the devastation of the Great Depression, followed almost immediately after by the exhausting conflicts of the second World War. America's foundation was created and strengthened through overcoming all of these trials.

My vision for America calls for renewal of the ideals and faith in this country that made our forefathers victorious and America great. It was their commitment to these beliefs that gave them the determination to sacrifice and surmount tremendous obstacles. We as Americans must uphold heritage of freedom. We must reaffirm respect for the dignity of the individual and respect for our laws and those who work to carry them out. We must acknowledge a higher power and adhere to the principles of honesty, hard work, cooperation with others and loyalty to our country.

As President John F. Kennedy declared, "No nation can remain free unless its people cherish their freedoms, understand the responsibilities they entail, and nurture the will to preserve them."

Working side by side with fellow American in Albany, I experienced first hand the vision of mankind which has given us strength and hope and courage in ages past as we have faced adversity and challenges. I felt the spirit of brotherhood of putting aside personal differences and working together for the common good. This is the vision which calls out through the Pledge of Allegiance, for us to be—". . . one nation, under God, indivisible." My vision for America is the one bequeathed to each of us, the legacy of our forbearers who sacrificed their lives in every age for all our freedoms. I see an America at peace through the renewed commitment of her people, an America that is still the hope of the world. To this vision I pledge, in the words of the Declaration of Independence, 'my life, my fortune, and my sacred honor.'

THE ENERGY RESOURCE CENTER OF DOWNEY, CA, LEADING THE WAY FOR AN ENERGY-EFFICIENT NATION

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. HORN. Mr. Speaker, in this day of growing concern over both the economic and the environmental future of our Nation, I rise to spotlight a "new" building in my district that sets a national standard in energy efficiency, environmental concern, and the use of recycled materials. It is the Southern California Gas Company's Energy Resource Center [ERC] which is located in Downey, CA. Envisioned as a clearinghouse on energy and energy conservation information, the planners of the ERC sought to house this information center in a building that embodied the environmental goals of recycling and energy and resource conservation. They succeeded magnificently.

The ERC opened its doors in April in its "new" recycled building as a one-stop center where customers can find the most efficient, cost-effective, and environmentally sensitive solutions to all their energy needs. At the ERC, people will be able to get answers to energy questions on such diverse subjects as natural day lighting, gas cooling, and low emissivity windows. The ERC will also house an air quality permitting office of the South Coast Air Quality Management District, that will allow businesses to make energy decisions and understand air quality permitting requirements in one stop. The ERC will provide meeting space for up to 700 people.

Designated by the U.S. Environmental Protection Agency [EPA] as an "Energy Star Building," the ERC is one of the Nation's best working models of energy efficiency and cutting-edge environmental products—a living example of how to recycle a building and use energy in the most efficient way. When construction began on the 38-year-old building in April of 1994, there were no wrecking balls. Instead, builders reused many of the materials that were already there. They incorporated those materials with many of the most advanced and environmentally sensitive technologies which are available today.

During the construction process, all of the 550 tons of material removed from the building—asphalt, red clay brick, porcelain plumbing fixtures among others—were sorted and stockpiled. Materials that could not be used again in the building were taken to recycling centers or were given to other builders. About 60 percent of the materials removed—approximately 350 tons—were recycled one way or another.

Contractors were required to use recycled, toxic-free, and environmentally-sensitive materials. As a result, 80 percent of the materials used in the construction of the ERC came from recycled or reused materials. The ERC building now features many unusual recycled materials such as concrete reinforcement bars made of recycled steel from weapons confiscated by the Los Angeles Sheriff's Department; flooring made of wood recovered from a condemned turn-of-the-century building in San Francisco; a wall made from recycled aircraft aluminum; and sections of the movie set used in the recent Warner Bros. film "Disclosure."

In addition to the construction materials, other state-of-the art, environmentally-sensitive methods were used such as soil protection, dust minimization, and adherence to noise control regulations. The preservation of existing land resources was not forgotten—whether they were trees, shrubs, vines, and or top soil. Drought-resistant plants were used for exterior landscaping. There are plans for an underground drip irrigation system to be fed by reclaimed water.

The Southern California Gas Company's Energy Resource Center in Downey, CA, is leading the way for sound environmental construction that is economics-friendly. Mr. Speaker, the Energy Resource Center will enable those who use it to have a much better energy-efficiency future and that is good news for our Nation.

TRIBUTE TO COLONEL SCOTT E. MILLS

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. GILLMOR. Mr. Speaker, I rise today to recognize Colonel Scott E. Mills, U.S. Air Force, on the occasion of his retirement from the military.

Scott Mills has served as Chief of the U.S. Air Force Academy Activities Group since June, 1993. During the last 2 years, he has worked closely with many of our offices in coordinating Congressional nominations and inquiries for the Academy.

Born in Berkeley, CA, Scott Mills received a Bachelor of Science degree as a member of the U.S. Air Force Academy Class of 1973. He received a Master of Science in Logistics from the Air Force Institute of Technology in 1984. His professional military education includes Squadron Officer School, Air Command and Staff College, and the Air War College.

Scott Mills' Air Force career is one marked diverse accomplishments. He is a Master Navigator with over 3,000 flying hours, serving as both C–141 navigator and C–141 navigator instructor. He has served with 4th Military Airlift Squadron, 323d Flying Training Wing, Headquarters Air Training Command, the Joint Cruise Missiles Project, and the 323d Support Group.

Scott Mills has received numerous awards including the Defense Meritorious Service Medal, the Meritorious Service Medal with two oak leaf clusters and the Air Force Commodation Medal with one oak leaf cluster.

Mr. Speaker, Scott Mills' service to his country has touched the lives of countless young men and women either serving in the U.S. Air Force or attending the United States Air Force Academy. His integrity and his commitment to excellence are the trademarks of his career.

I ask my colleagues to join me in thanking him for his distinguished and selfless service to our Nation. As he returns to civilian life, may he and his family enjoy the full blessings of the freedom he has so ably defended during this career as a officer in the U.S. Air Force.

CAREERS BILL INTRODUCTION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. GOODLING. Mr. Speaker, I am pleased to join Training Subcommittee Chairman BUCK MCKEON, his Vice Chairman FRANK RIGGS, Youth Subcommittee Chairman DUKE CUNNINGHAM, Congressman STEVE GUNDERSON, Majority Whip TOM DELAY, Conference Chairman JOHN BOEHNER, and Budget Committee Chairman JOHN KASICH, to introduce the CAREERS (the Consolidated and Reformed Education, Employment, and Rehabilitation Act) Act to reform the Federal job training system.

This bill is the result of a number of subcommittee hearings, and is the first complete product of the Opportunities Committee's Agenda 104 process in which we examined the various programs within our committee's jurisdiction to determine their effectiveness. Our committee will be working to mark up this bill throughout the month of May, and will hopefully send a bill to the floor for consideration early this summer.

We drafted this bill starting from the position that the current Federal work force preparation system is fundamentally flawed and in need of reform. There are simply too many programs, too much bureaucracy, too much duplication, and too much waste of taxpayer money.

The CAREERS bill is drafted based on two overarching principles: quality and local control. For many years, I have been talking to anyone who would listen about the need to institute quality into the Federal training system. Briefly, CAREERS focuses on providing quality training services by:

Simplifying the entire system from more than 100 programs into just 4 that we believe should be the focus of Federal involvement in job training: adult employment and training; adult education; vocational rehabilitation; and, career education and training for youths;

Giving States and communities the maximum amount of responsibility to run their own programs;

Because we believe that education and literacy hold the key to maintaining the long-term economic competitive position of the United States, we require that these issues are a key focus of the Federal work force preparation system; and

Demanding results in the form of high standards for improvement of local training and education systems.

With regard to local control: let me be clear, we are giving States and localities more power to run Federal job training programs than they have ever had in recent history. Governors will have unprecedented power to coordinate all work force preparation State level activities. As a State's highest ranking elected official, a Governor is the key to the job training system in every State.

It is at the local level, however, where the most dramatic change takes place. Work force development boards led by businesses will coordinate the entire system in communities around the Nation. They will create one-stop sites to ensure coordinated access to all local work force preparation programs. They will operate programs for adult training and severely disabled adults, as well as work with schools, libraries, literacy providers, and others to ensure the entire training system works together within the community.

As you can see, this is a tremendous undertaking and truly a dramatic reform in the way the Federal Government does business in job training. The CAREERS bill also undertakes enormous reforms in the higher education arena as well by eliminating SPRE's (State Postsecondary Review Entities) and privatizing the SALLIE MAE and CONNIE LEE corporations.

Our final note. We have looked carefully at other approaches that would completely turn this program over to States in a modified version of revenue sharing. As I have said many times, I do not support revenue sharing because we have no revenue to share. What I support is outlined in this bill: four consolidated programs, additional flexibility for States and communities, but we must continue the Federal role in demanding results in the form of broad standards and goals to ensure accountability for this important investment of taxpayer dollars.

Again, I salute the hard work of committee members to come up with this bill, and I look forward to working with the administration and committee Democrats to develop a bill that truly reforms our Nation's job training system.

INTRODUCTION OF THE "CONSOLIDATED AND REFORMED EDUCATION, EMPLOYMENT, AND REHABILITATION SYSTEMS ACT" THE "CAREERS ACT"

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. GUNDERSON. Mr. Speaker, at a time when the skills levels of the American work force are more important than ever before to U.S. competitiveness, this country's programs designed to prepare its workers are seriously fragmented and duplicative. Because education and training programs have been developed independently over many years, there is no national strategy for a coherent work force preparation and development system.

As we all know by now, the U.S. GAO has identified 163 different Federal programs, totaling $20 billion, which offer some form of job training and/or employment assistance to youth and adults in the United States—yet over the past several years we have continued to add to this number. A major focus of any reform effort must be to eliminate unnecessary duplication and fragmentation in these systems, and at the same time, provide States and localities with the flexibility needed to build on successful existing programs and initiate change where appropriate.

Today we are introducing the Careers Act—a multitiered job training reform effort that: Streamlines work force preparation programs at the Federal level through consolidation of similar programs; and provides flexibility needed by States and local areas to further reform State and local systems—building on existing successful programs, encouraging change where such change is needed, and involving the private sector at all levels in development of the system.

This proposal builds very closely on two bills that committee Republicans introduced last Congress—H.R. 2943, the National Workforce Preparation and Development Act; and H.R. 4407, the original Careers Act. It also follows through on legislation we introduced earlier this year, H.R. 511, which pledged significant reform in this area. With the Careers Act, we are going much further with reform than anyone dreamed was possible during last Congress.

Specifically, the Careers Act consolidates well over 100 Federal education and training programs—as listed by the GAO—into 4 consolidation grants to States and local communities. The four consolidation grants include: A Youth Workforce Preparation Consolidation Grant—consolidating Vocational Education; School-to-Work; and JTPA's Summer Youth Employment, Year-Round, and Youth Fair Chance Programs with programs would be built on a model integrating academic, vocational, and work-based learning, and enhancing State and local employer input in the design/development/delivery of programs; a vocational rehabilitation consolidation grant; an adult training consolidation grant including programs for disadvantaged adults and for dislocated workers; and an adult education and literacy consolidation grant—including all adult education and literacy programs. The legislation will provide maximum authority to States and localities in the design and operation of their work force preparation system; drive money to States—and down to local communities to the actual points of service delivery; require the involvement of local employers in the design and implementation of local systems—through employer-led local work force development boards; require that service delivery be provided through a one-stop delivery structure; and we even allow the Secretary of Labor and States to use a portion of their funding to establish employer loan accounts for the training of incumbent workers.

Further, the legislation privatizes two existing Government-sponsored enterprises, Sallie Mae and Connie Lee, in the spirit of reduced Federal control for programs that no longer need Government support.

There is no doubt that future U.S. competitiveness is dependent on the skill levels of our workers. In addition to global competition, technological advances and corporate realignments highlight the need to focus on worker preparation. The future of U.S. competitiveness really rests on what I describe as a "3-legged stool." We have already accomplished the construction of the first leg—tearing down barriers to trade through the enactment of NAFTA and GATT. We are currently working on the second leg—providing tax and other incentives for modernization of the workplace. Finally, the third leg, and probably the most difficult to strengthen and uphold, but one that is imperative to succeed, is that of investing in and strengthening the education and training of our citizenry.

I think that the Careers Act accomplishes the building and strengthening of this third leg. It focuses on the work force preparation and literacy needs of youth, adults, and individuals with disabilities. I hope that we will succeed in seeing its enactment this year.

FRANKING REDUCTION ACT OF 1995

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. GOODLATTE. Mr. Speaker, I rise today to reintroduce the Franking Reduction Act of 1995, legislation that is necessary if we are to truly reform this House. The bloated franking budget has become nothing more than a blatantly abused political advertising slush fund, and it has got to stop. My bill, which has received bipartisan support, would slash the $31 million franking budget in half.

The past 100 days have seen the passage of several substantial in-House reforms, proving to the American people our commitment to real change. The American people are getting the message that real change is finally happening here in Washington, which is precisely why we can't stop now. We need to continue to pass legislation consistent with our promise of reform to the American people.

To keep the spirit of reform moving, I urge my colleagues to join me in some spring House cleaning. The frank has grown from a tool to inform and educate constituents about legislative issues into a campaign advertisement to promote personal and political agendas. We need to restore credibility to the franking process by making Members accountable for the costs they incur.

Not only will my bill cut franking by 50 percent, but it also requires monthly statements of costs charged to each Member's account to be made available to the public. This bill will apply to sessions of Congress beginning after the date of enactment.

The bloated franking budget can be cut without damaging the ability of Members to communicate with their constituents. In the 103d Congress, I used less than 50 percent of my franking budget, without impairing my ability to effectively correspond with my constituents. It is a common misnomer that a reduction in franking affects a Member's performance. Rather, it forces Members to use their mail budget solely to inform and educate.

Mr. Speaker, I think we can all agree that bringing an end to franking abuse is long overdue. Cutting the franking budget by 50 percent will restore the original intent of the frank while following through with our promise of continued congressional reform. I urge my colleagues to join me in supporting this bill.

TRIBUTE TO LEONARD H. MACKAIN

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. KIM. Mr. Speaker, I rise before the House floor today to recognize a major civic leader in the 41st District who has recently retired from many years of public service. The city of Brea has greatly benefited from the contributions of Mr. Leonard H. MacKain who has been a leader in our community for many years.

Mr. MacKain has previously served on the Brea City Council from 1972 to 1976 with two consecutive terms as mayor from 1974 to 1976. During this period, he played an integral part in the building of the Brea Civic Center and Library and forming redevelopment areas which allowed for the construction of the Brea Mall.

In his career in education, Mr. MacKain has held the positions of superintendent, assistant superintendent, teacher principal, project manager, and board educator member. His commitment and enthusiasm in this area has led to the construction and expansion of five schools in Brea and has created strong bonds between the city and the school district.

I also want to mention that Mr. MacKain has also served on the harbors, beaches and parks commission in 1976 and held this position for the next 15 years.

As the U.S. Congressman for the 41st District, I salute Mr. MacKain for his outstanding achievements and dedication as a public servant. Washington is beginning to delegate its power to the State and local level. This requires able leaders to use excellent judgment with this new responsibility. Mr. Speaker, I believe that Mr. MacKain is a fine example of a decisionmaker at the local level who has put in the effort to successfully transform a community by understanding and recognizing how to utilize existing resources given to it. America needs more people like him.

HOME FOR GUIDING HANDS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. HUNTER. Mr. Speaker, mentally and physically disabled people are being helped by computers in two homes for the disabled because of techniques developed by Lloyd Hartvigsen. He credits part of the success for the lab he established at the Home for Guiding Hands at Lakeside, CA, to Lorraine Barrack, now 36 years of age, who has had cerebral palsy since birth.

"It just made sense that people who can't speak might find their voice with the aid of a computer," said Mr. Hartvigsen, a retired printer who established a 10-terminal lab for residents of the Home for Guiding Hands. The mother of Lorraine Barrack, Mrs. Elaine Barrack, said "It's the first time my daughter has been able to write us a note that says 'I love you.' This was the first year she's been able to send out Christmas cards. You just can't know how precious these notes and letters are to me."

Mr. Hartvigsen, working with Lorraine's family, decided that the wand and touch screen would be perfect, since she had control of her head movements. "With a touch screen, everything you do with a keyboard can be done just by touching the screen," he explained. "To use the computer, Lorraine puts on a cap with a foot-long wand attached. By leaning forward and tapping the wand on certain parts of the computer screen, she can write a note or play a game."

Lorraine and 14 classmates at the Home for Guiding Hands use the computer system to do schoolwork, to paint and draw, and also to learn to type and send letters to relatives and friends. Mr. Hartvigsen is also employed part-time as a computer instructor at St. Madeleine Sophie's Center for the Handicapped in El Cajon, CA. He began volunteer work at the Home for Guiding Hands in 1988, but it was in the past 4 years that he realized how helpful computers could be as communication tools for the developmentally handicapped. Originally a volunteer at the Home for Guiding Hands, he was hired several months ago by the home to operate the computer lab that he had set up. He now instructs residents of the home in the use of computers, as well as residents of the St. Madeleine Sophie's Center.

Mr. Hartvigsen is the son of Austin Hartvigsen of Santee and the late Mrs. Austin Hartvigsen, both of whom were volunteers for several years at the naturalization ceremonies in San Diego. They welcomed the new citizens, answered any questions they might have, and helped them register to vote. The family is an outstanding example of the best in volunteerism in America.

WHY AMERICA NEEDS A DEPARTMENT OF VETERANS AFFAIRS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. MONTGOMERY. Mr. Speaker, I am pleased to share with my colleagues a letter written by the Honorable Jesse Brown, Secretary of the Department of Veterans Affairs, to Mr. Stuart Butler, vice president of the Heritage Foundation. The letter is in response to the Heritage Foundation's proposal to eliminate the Department of Veterans Affairs and establish it as a bureau within the Department of Defense.

I believe Secretary Brown's remarks point out how important it is to maintain the Department of Veterans Affairs. In the wake of all the myths being printed in the media about the Department's facilities and the services it provides, the facts laid out in Secretary Brown's letter make for very compelling reading.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, May 10, 1995.

Mr. STUART BUTLER,
Vice President, The Heritage Foundation, Massachusetts Avenue NE., Washington, DC.

DEAR MR. BUTLER: I was rather perplexed when I read your proposal to eliminate the Department of Veterans Affairs and establish it as a bureau in the Department of Defense. Likewise, I was mystified by some of the specific program recommendations in your report on "Rolling Back Government." About the only statement that I agree with is, "The care of Americans who have served their country in the armed forces is a core function of the federal government." At least you are right in that regard.

CABINET STATUS

VA was elevated to Cabinet status in 1989 after years of congressional deliberation. President Reagan agreed with Congress that the agency charged with administering benefits and services to our veterans and their dependents (who now number 26 million and 44 million, respectively) belongs at the Cabinet table when issues are being formulated and acted upon. President Reagan was right. Your report portrays VA as an inefficient bureaucracy while offering no evidence in support of such a statement. I am curious how you arrive at the conclusion that the existing structure for providing veterans benefits and services would become more efficient with another layer over it, that of the Office of the Secretary of Defense, and possibly others. Further, if VA were to be made a bureau within DoD, the Nation's obligations to our veterans would constantly be at risk of being subordinated to National defense and security needs, particularly in time of conflict or great danger. The lack of wisdom of placing veterans programs in such a precarious position has been obvious to Congress and Presidents for many decades. How could you possibly fail to realize—or even address—the fact that a separate VA assures that veterans' needs are addressed on their own merits and not based on whether our Nation needs to spend more or less on defense?

DISABILITY COMPENSATION

Turning to the proposals you make for specific VA programs, I found it extremely ironic that, in the name of "allowing veterans to enjoy the benefits of privately provided . . . retirement services" and modernizing the VA disability compensation program, you simply propose taking away compensation from certain veterans. One group who would "benefit" from your efforts to bring VA up to the private, modern standards you admire are veterans with service-connected injuries or illnesses rate 10% or 20% disabling who do not meet an economic-need test that you failed to disclose and, thus, would lose their benefits. These veterans could have lost two fingers or four toes, or they might have persistent, moderate swelling of a foot as a residual of frostbite, or any of a wide range of other impairments—for which VA pays about 1.2 million veterans monthly compensation in the amount of $89 (the 10% rate or $170 (the 20% rate). These veterans, the target of your efforts to provide the "benefits" of what the private sector provides, will certainly be grateful for your efforts. I am also certain that they will find dismaying, as will all disabled veterans and all other Americans with disabilities, your unfounded conclusion that "[d]isabity is no longer a major hindrance in finding work."

You also urge that disability compensation payments be limited to those disabled as a result of "direct" active duty experiences. This apparently would mean that compensation would no longer be paid for disabilities incurred during military service unless it can be shown they were caused by the performance of official duties. However, military personnel are considered to be on duty 24 hours a day and are subject to military discipline and the military system of criminal justice around the clock every day of the year. Unlike civilian employees, who can refuse assignments and leave their jobs, service members cannot refuse orders sending them to remote or unfamiliar areas in the United States or overseas. Doing so would subject them to criminal prosecution, as would unauthorized absences. In addition, our people in uniform are often subjected to unusual physical and psychological stress, including the special dangers involved in training for combat and the horrible risks and unique hardships of armed conflict. In a very real sense, whatever happens to them during their period of service is in the line of duty.

Given these unique circumstances of military service, it is only fair and reasonable that the package of pay and benefits for our military personnel includes comprehensive health care during service and, thereafter, a system of disability compensation and medical benefits for any disabilities incurred during service. I see these benefits as essential to the maintenance of our All-Volunteer Force.

Moreover, I believe it would be a disgrace, as well as very harmful to recruitment, if our military were to take a young man who was left paralyzed from an off-base accident, for example in Thailand or on an icy road in New England, and simply send him back to his parents and tell them that the Government was not going to be responsible for his medical bills or pay him compensation to make up for his lost earning power. To me, that would be a tragic reversal of our current, very sound policies.

MEDICAL CARE

Your assertion that the VA health-care system provides poor care to American veterans is totally unsubstantiated—except for a newspaper article by a disgruntled former VA employee (hardly the type of scholarship expected of a prestigious policy institute). Our accreditation scores are consistently substantially higher than those in the private sector. You say that "most telling is that only 9.6 percent of eligible veterans rely exclusively on the VA system for their health care." What this tells is not that VA provides poor service. Rather, it says that VA does not have the resources to treat many veterans who are not service-disabled or poor. Veterans groups tell us that many of their members who are locked out by current constraints would prefer to use VA health-care services.

You cite as evidence of poor medical care successful malpractice suits against VA of $254 million during the decade 1983–1992. That comes to an average of about $25 million per year. Our data indicate a slightly higher number, about $30 million annually. However, in the absence of any comparative data regarding the private sector, these numbers have no significance. In fact, when you consider that VA runs the largest health care system in the country and annually provides care to 2.5 million veterans, including 1 million episodes of inpatient care and 26 million outpatient visits, that figure does not seem out of line. Perhaps, your figures show just the opposite; that VA is providing high quality care.

You advocate a voucher system to provide health care for veterans. You say that this would permit veterans to choose their own insurance plans and that this would help save $7.9 billion over five years. I would really like to see the economic analysis underlying that ridiculous projection. To whom would you provide vouchers: The 2.5 million veterans who receive VA care in any given year; the 5 million who receive care over a five-year span; or the approximately 12 million service-disabled and low-income veterans who have entitlement to VA care? How much would these vouchers be worth? Would they be sufficient for our veterans with a history of heart attacks or cancer to purchase comprehensive health care? Would they enable veterans with chronic mental illness, diabetes, or epilepsy to obtain all the care they need? Would your vouchers cover the complete health-care and rehabilitation needs of veterans with spinal-cord injuries, missing limbs, and blindness? Would you provide vouchers for World War II veterans needing long-term care? Or would your vouchers shift major costs of care to sick and disabled veterans or simply leave many of them out in the cold?

Have you examined the several studies suggesting that VA care is less costly than private care? How did you arrive at your apparent conclusion that private care would be more economical?

I believe you also need to realize that about 1 million of our patients have Medicare eligibility but have chosen VA as their health-care provider.

You want VA to close many of its hospitals, and you claim that the majority of VA buildings are under-used. Our hospitals run at an occupancy rate of 75 percent, compared to the private sector average of 67 percent. Our nursing homes have an occupancy rate of over 90 percent; and our domiciliaries, 83 percent. What kind of survey enabled you to reach the preposterous conclusion that most VA facilities are underused? Again, I would like to see the underlying research and analysis.

You call for a halt to all new VA construction. You obviously haven't seen the things that I have—veterans housed in open wards, communal bathrooms, inadequate facilities for female patients. These deficiencies need to be corrected; and we need to meet the growing need for modern outpatient facilities and fill major gaps in inpatient care in certain areas. We can't just terminate our construction program, unless we wish to close down the VA system. Unfortunately, that appears to be your goal.

You also mistakenly took a swipe at VA construction as "pork barrel spending." Very little pork creeps into VA construction, and your unfamiliarity with veterans' programs is revealed by your silly, mistaken reference to the appropriation of $5 million for bedside phones "in Virginia medical centers."

The appropriations conference report item you referred to used the expression "VA medical centers." The money was to assist in VA's national effort to provide bedside phones in all VA hospitals. In the veterans' area, "VA" usually means the Department of Veterans Affairs, not Virginia. If you continue to work in this field, this is one of the many, many things with which you'll need to become acquainted. Most are more consequential, such as the extent of the Nation's obligation to those who have served and sacrificed so much and the gratitude that the American people feel for their defenders.

Because of your reputation as a think tank, your report will receive serious consideration in Congress. It's a shame that it is as lacking in concern for our Nation's veterans as it is in rigorous analysis and pertinent data. I wish you had done a better job.

Sincerely,

JESSE BROWN.

SPEAKING OUT ON MEDICARE/MEDICAID BUDGET CUTS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. STOKES. Mr. Speaker, I want to thank my distinguished colleagues, FRANK PALLONE, KAREN MCCARTHY, and CAL DOOLEY, for sponsoring this special order. I am pleased to join them for this candid discussion on proposed budget cuts to the Medicare and Medicaid Programs.

The Republican plan calls for nearly $200 billion in cuts to Medicaid and other health initiatives. In my congressional district, and in communities throughout the United States, millions of Americans are served by the Medicare and Medicaid Programs. In spite of this critical need, in order to fund a tax cut for the wealthy, Republicans in Congress have placed Medicare and Medicaid on the chopping block. By taking this position, they are continuing to exhibit a callous disregard for those most vulnerable in our society—those in the dawn of life, our children; those in the twilight of life, the elderly; and those who are in the shadow of life—the sick, the needy and the handicapped.

Medicaid is America's largest health care program for the poor, covering about 60 percent of all Americans, This year, Medicaid will provide basic health care coverage for over 36 million low-income children, mothers, elderly, and disabled Americans.

Mr. Speaker, approximately 40 million Americans have no health insurance coverage. Without Medicaid, the number of uninsured would nearly double. This would result in needless suffering, and death and disease would increase. Further, we have not considered the drain this would create on the Nation's health care delivery system in treating those who are uninsured.

Between 1988 and 1994, Medicaid was expanded to provide coverage for pregnant women and children. This was done in an effort to decrease the Nation's infant mortality rate, and, at the same time, increase childhood immunizations. The expansion signalled our commitment to guarantee our children a healthy start and thus, a brighter future.

Mr. Speaker, the Republican leadership has promised to balance the budget by cutting $1 trillion from the budget over 7 years. This would finance a proposed $350 billion tax break for America's wealthiest citizens. In addition to its assault on Medicare and Medicaid, the Budget plan represents an assault on programs such as housing, summer jobs for our youth, education, job training, and energy assistance for our elderly.

As Members of Congress, we must take a strong stance in defense of our Nation's seniors. It is estimated that the proposed $282 billion in cuts to Medicare would add more than $3,000 to seniors' health costs. In fact, if the cuts to Medicare become law, the average Medicare beneficiary is expected to pay approximately $3,500 more in health costs over the same 7-year period.

According to the Urban Institute, the typical Medicare beneficiaries already dedicate a staggering 21 percent of their incomes to pay out-of-pocket health care expenditures. While our Republican colleagues say that they aren't cutting Social Security, under their budget proposal for Medicare, seniors would see 40 to 50 percent of their cost-of-living adjustment consumed by increases in Medicare cost sharing and premiums.

Mr. Speaker, I am grateful to my colleagues for allowing this meaningful discussion on a very important issue. I share their concern that we must protect Medicare and Medicaid from the Republican budget ax. We must not allow the Republican Party to balance the budget on the backs of those most in need. By the same token, we will not allow our seniors and the poor to be used as pawns in a tax give-away scheme for the rich.

INTRODUCTION OF THE CONSOLIDATED AND REFORMED EDUCATION, EMPLOYMENT, AND REHABILITATION SYSTEMS ACT, THE CAREERS ACT

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. McKEON. Mr. Speaker, today I am joining the distinguished Chairman of the Committee on Economic and Educational Opportunities, Rep. BILL GOODLING, all Republican Members of our Committee, and Representatives KASICH, DELAY, BOEHNER, and DAVIS, in introduction of the Consolidated and Reformed Education, Employment, and Rehabilitation Systems Act—better known as the Careers Act of 1995. This legislation transforms this Nation's vast array of career-related education, employment, and job training programs into a true system of workforce preparation and development.

As was brought to the attention of the Congress by the U.S. General Accounting Office over the past several years, the United States currently has as many as 163 different Federal programs, totaling $20 billion, which offer some form of job training and/or employment assistance for youth and adults. In addition to the excessive number of Federal programs, the quality of U.S. training programs varies significantly. As a result, earlier this year we introduced H.R. 511, the Workforce Preparation and Development Act, which pledged that the 104th Congress would, thoroughly evaluate our current programs, and subsequently develop and enact legislation that: First, Eliminates duplication and fragmentation in federal workforce development programs; Second, transfers major decision-making to States and local communities; Third, stresses the vital role of the private sector, at all levels, in the design and implementation of the workforce preparation system; Fourth, is market driven, accountable, reinforces individual responsibility, and provides customer choice and easy access to services; and Fifth, establishes a national labor market information system that provides employers, job seekers, students, teachers, training providers, and others with accurate and timely information on the local economy, on occupations in demand and the skill requirements for such occupations, and information on the performance of service providers in the local community.

Today, after a comprehensive set of hearings on this issue, we are following through on our promise. We are introducing legislation that will do what was pledged in H.R. 511. The Careers Act, does all of the above and more. The Careers Act would consolidate and eliminate over 150 existing education, training, and employment assistance programs into 4 consolidation grants to the States. Such grants would include: A Youth Workforce Preparation Grant; and Adult Employment and Training Grant; a Vocational Rehabilitation Grant; and an Adult Education and Literacy Grant. And these 4 programs, working together, will form each State's workforce preparation system.

Our bill provides maximum authority to States and localities in the design and operation of their workforce preparation systems. We significantly reduce administrative requirements, paperwork, duplicative planning, reporting, and data collection requirements across the various programs—in general eliminating vast bureaucracy within the system. However, our legislation does provide some broad parameters for the design of a workforce development system, that we feel are necessary to move the system in the right direction, based on testimony heard in our numerous hearings, and in talking to people around the country.

Specifically, title I of Careers, is designed to build an infrastructure in States and local communities for development and implementation of a comprehensive workforce development system. At the State level, Governors are asked to pull together key State agency heads and leaders from business and education to develop a single State plan and performance measurement system for the entire workforce development system. Governors are also asked to designate workforce development areas throughout the State, for the distribution of funds and service delivery under much of the system.

To ensure the involvement of employers in the design and implementation of local systems, Careers requires the establishment of local, employer-led, workforce development boards. These boards would provide policy guidance and oversight over local systems, and would be responsible for the establishment of local one-stop delivery systems—easily accessible single points of entry into the local workforce preparation system.

The youth workforce development program pulls school systems and postsecondary institutions together with local business leaders to develop a school-to-work system for both in-school, and out-of-school youth in the community. This system is designed to result in challenging academic and occupational competency gains for all youth in the community, as well as completion of high school, or its equivalent, and other positive outcomes such as placement and retention in employment, or continuation into postsecondary education or training. States would also be require to show how special population students meet the performance standards.

Under the adult and the vocational rehabilitation programs, upfront or core services—such as information on jobs, assessment of skills, counseling, job search assistance, information on education, training, and vocational rehabilitation programs in the local community, assessment of eligibility for such programs—including eligibility for student financial aid—and referral to appropriate programs would be available to all individuals through a net work of one-stop career centers and affiliated satellite centers throughout each community. For individuals with severe disabilities and determined to be in need of more intensive services, such services would be available through vouchers and other means to be used with approved providers of vocational rehabilitation services. Under the adult training system, for individuals who are unable to obtain employment through the core services, more intensive service such as specialized assessment and counseling, and development of employability plans, would be available—also through the one-stops. For those unable to obtain employment through these services and determined to be in need of education or training, such services would be provided—through the use of vouchers or other means that offer maximum customer choice in the selection of training providers. States would be required to establish a certification system for the identification of legitimate providers of education and training for receipt of vouchers—taking into account the recommendations of local workforce boards.

Finally, beyond the specific area of job training, the Careers Act includes privatization proposals for 2 existing government sponsored enterprises—again focusing on the streamlining of federal programs. Sallie Mae and Connie Lee were created by the Higher Education Act and are examples of for-profit, stockholder owned GSEs which have successfully fulfilled their intended purposes. Privatization cuts the ties to the Federal Government and establishes a willingness on the part of the Government to take a successful public-private partnership and turn it into a completely private venture when government support is no longer necessary. I want to thank the administration for its thoughtful testimony at our hearing on the issue of privatization and for its assistance in identifying and addressing the important and complex issue involved in privatization proposals. And also, I would like to thank the administration for its testimony and advice on reform of our job training system.

As a Congressman from a district in California that has been hit hard by defense and aerospace cutbacks—I understand that the skills of this Nation's workforce are more important today then ever before to U.S. competitiveness. However, our current patchwork of Federal programs is not the answer. The Careers Act addresses our long term workforce preparation strategy by creating a seamless system for youth and adults to meet the competitive needs of our work force. I thank our distinguished chairman for his insight and leadership on this vital issue and I invite all of my colleagues to join with us in this dramatic effort to overhaul the Federal approach to job training and work force preparation.

DEDICATION OF THE RICHARD BOLLING FEDERAL BUILDING

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Ms. McCARTHY. Mr. Speaker, I rise today to inform the Members of this body that on Sunday, May 13, the people of the Fifth Congressional District of Missouri will pay tribute to the late Dick Bolling, a Member of the House of Representatives from 1949–1983. We come together this weekend to dedicate the Federal building in downtown Kansas City as the Richard Bolling Federal Building.

Dick Bolling represented my congressional district for 34 years and it is a fitting tribute that this building be named in his honor. This building resulted from his vision—the vision of a man who understood how vitally important it is for the employees of the Federal Government to live and work in local communities like Kansas City throughout the country.

Dick Bolling will long be remembered as a giant of the House, and a voice for his constituents on the national political stage. He is a shining example of the generation we so recently honored on VE Day, a generation that fought economic depression, went overseas to defend our freedom, and returned to build a new society with opportunity for all.

Initially intent on an academic career after college, World War II intervened and Dick Bolling enlisted as a private and emerged 5 years later as a lieutenant colonel with a Bronze Star. Continuing as he began, Dick Bolling battled entrenched forces all of his life—the armies of ignorance, segregation, and machine politics. His first post-war job brought him to Kansas City as director of Student Activities and Veterans Affairs at the University of Kansas City, now known as the University of Missouri-Kansas City.

While at the University Dick Bolling became very active in the American Veterans Committee and the Americans for Democratic Action. His political activities led to his decision to run for Congress in 1948 against the Pendergast machine candidate in the primary and against a one-term Republican who was perceived to have a lock on the district. Mobilizing a core group of activist veterans, Dick Bolling characterized his election on President Truman's coattails as a fluke. He went on to be re-elected, by overwhelming victory margins, to 16 additional terms.

It is difficult to describe in a few short sentences the career of a man who served in this institution for 34 years. He was passionate about the House of Representatives. He was not afraid to be critical of the House as he was in his best known book, "House Out of Order," and he devoted much of his career to reform of its shortcomings. Known for his parliamentary skills, he was particularly proud of his contributions which led to passage of the Civil Rights Act of 1957, the first meaningful civil rights legislation enacted after Reconstruction.

Dick Bolling served as an adviser to many of the great political personalities of his time: Speakers of the House of Representatives, Presidents and Presidential contenders, and other national leaders. I have also been moved by the statements of his colleagues made in tributes at the time of his retirement from the House in 1982 and at the time of his death in 1991. He was a mentor to many of those elected to serve in this body and clearly the hero of countless more both inside and outside of the House of Representatives.

Perhaps Dick Bolling's greatest contribution to those who knew him or who know of him was his spirit. He never shied from fighting for a cause in which he believed. He urged his fellow Members to work hard, to serve their constituents, to be honest, and to have the courage of their convictions. He is a role model to me and to countless others of my generation who have chosen public service. His leadership is a contribution which will not be forgotten in his congressional district or by the country. On behalf of the people of the Fifth District of Missouri I am proud to join in the dedication of the Richard Bolling Federal Building.

WE NEED TO BAN TOY GUNS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. TOWNS. Mr. Speaker, once again, another child in the city of New York died needlessly at the hands of a police officer who thought the child had a gun. While the child did have a gun, it was a toy gun.

As a result of this ongoing crisis, I am introducing a bill today asking the Consumer Product Safety Commission to ban toys which in size, shape, or overall appearance resemble real handguns. Congress tried to ban toy handguns by passing the Federal Energy Management Improvement Act of 1988 which required that all toy guns manufactured or sold after May 5, 1989, be marked to distinguish them from real weapons.

The act required one of the following markings: a blaze orange plug inside the muzzle; an orange band covering the outside end of the muzzle; construction of transparent or translucent materials; coloration of the entire surface with bright colors; or predominately white coloration in combination with bright colors. The act also required the Director of the National Institute of Justice [NIJ] to conduct a technical evaluation of the marking systems.

The conclusion of the evaluation conducted by NIJ showed that the orange plug marking standard completely failed to enable police officers to identify the weapon as a toy gun. In fact, clearly marked toy guns were most likely to provoke shootings on the first trial, and less likely only after police officers gained some familiarity with the situation and the possible appearance of toy guns.

It is quite clear to me, and should be to all of you, that something drastic needs to be done to stop the needless shooting of innocent children. Markings are not enough—they do not work.

To ensure that there are no mistakes, no failures to recognize plastic from steel, I strongly encourage you to vote for a total ban on the manufacturing of realistic toy handguns.

TRIBUTE TO OFFICER JOSEPH GALAPO

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. MANTON. Mr. Speaker, as a former New York City police officer and in recognition of National Police Week, I rise today to pay tribute to Officer Joseph Galapo.

Officer Joseph Galapo was killed in the line of duty on August 16, 1988. He made the ultimate sacrifice for those he served. I extend my most heartfelt condolences to Officer Galapo's widow and three children. I hope it is of some comfort to the family to know the people of New York City feel a deep sense of gratitude for the sacrifice you have made.

During the week of May 14, we recognize the tremendous sacrifice officers of the law make to keep our society free from crime and violence. I hope my colleagues join me in acknowledging the police officers who continue to protect the community in which they live and remember those who have lost their lives in doing so. I encourage you all to visit the National Law Enforcement Officers Memorial located in the heart of Washington, DC at Judiciary Square. This is a fine way to remember those who we could never repay.

A TRIBUTE TO FATHER MICHAEL LAVELLE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. TRAFICANT. Mr. Speaker, it gives me great pleasure to stand here today to honor a remarkable man from the 17th Congressional District of Ohio. Father Michael Lavelle took great pleasure in helping others and this Earth will sorely miss the light his presence brought.

Father Lavelle had a long and illustrious career with John Carroll University, culminating in his appointment as president of the university. He was a scholar of the highest order and a social worker with a giant heart. Father Lavelle is even known in international circles for his successful efforts to bring books and religious items into Communist Eastern Europe. Indeed, Father Lavelle was a scholar, an author, a linguist who spoke most of the major languages of Europe, and a literary man whom more than one Jesuit referred to as the "last of the Renaissance men." But, above all else he was a loyal and faithful priest who cared deeply not only for his fellow countrymen but for all people.

Mr. Speaker, it is rare that I have the opportunity to honor someone like Father Michael Lavelle who gave so much not only to his own community but also to the entire country. My heartfelt appreciation goes out to Father Lavelle for his contributions. He was a great man and will be sorely missed. May he find eternal peace and happiness in his reunion with the Lord.

HONORING DR. MICHAEL GANNON

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mrs. THURMAN. Mr. Speaker, this year, the State of Florida is celebrating its 150th birthday. This important milestone, Florida's Sesquicentennial, will be observed all year as our citizens recognize the varied events and people that have contributed to our State's rich heritage.

Mr. Speaker, I rise today to honor someone who has contributed greatly to the understanding and popularization of Florida's history, Dr. Michael Gannon.

Dr. Michael Gannon is a distinguished service professor of history at the University of Florida. A specialist in the Spanish colonial history of Florida and the Caribbean, he is also director of the Institute for Early Contact Period Studies, which conducts research into the voyages of Christopher Columbus and the first contacts between Europeans and Native Americans in the New World.

Raised in St. Augustine, FL, Dr. Gannon has had a long interest in the early Spanish missions of Florida about which he has written extensively. Two of his books, "Rebel Bishop" (1964) and "The Cross in the Sand" (1965) give readers an indepth look at the early history of Florida. He is coauthor of two other books and a contributor to numerous others on the region, including "Spanish Influence in the Caribbean, Florida and Louisiana, 1500–1800," and "The Hispanic Experience in North America." Dr. Gannon also edited the comprehensive "New History of Florida," which will appear in bookstores later this year.

Dr. Gannon served for 19 years as a member and two-time chairman of the Historic St. Augustine Preservation Board; and currently serves under the Secretary of State as chairman of the De Soto Trail Committee and chairman of the Spanish Mission Trail Committee. Under the Secretary of Commerce he served as a member of the State's Columbus Quincentenary Jubilee Commission, and chairman of that body's History and Culture Committee. In 1992 the U.S. Secretary of the Interior appointed Dr. Gannon to a 4-year term on the National De Soto Expedition Trail Commission. He is an honorary board member of the St. Augustine Historical Society, and a member of the editorial board of the Florida Historical Quarterly.

In the area of military history, Dr. Gannon published "Operation Drumbeat," a history of Germany's first U-boat operation along the American coast in World War II. The book became a national best seller and the subject of a National Geographic Explorer program. The show won an emmy award as the best historical program in 1992. Dr. Gannon published "Florida: A Short History" in 1993 and in 1994, "Secret Missions," a Florida-based historical novel set in World War II.

Dr. Gannon has published numerous articles on history, religion, military affairs, and ethics in national journals and magazines. In the summer of 1968, Dr. Gannon served in Vietnam as a war correspondent for the journal, "America" and the National Catholic News Service. He is the author of the historical article on "The Catholic Church in the United States" that appears in the 1994 edition of the "Encyclopedia Americana" and of another article under the same title that appears in the "Encyclopedia of Southern History." Dr. Gannon has lectured widely in this country, as well as in Spain, Italy, Mexico, and the Caribbean.

Mr. Speaker, Dr. Gannon is a distinguished professor who has been honored for his expertise and achievements. In 1979, the University of Florida National Alumni Association awarded him its first distinguished alumni professorship in recognition of the impact that he has had on student's lives and careers. In 1990, King Juan Carlos I of Spain conferred on Dr. Gannon the highest civilian award of that country, Knight Commander of the Order of Isabel la Catolica. Dr. Gannon has also been the recipient of the Arthur W. Thompson Prize in Florida History and in 1978 was named Teacher of the Year for the College of Liberal Arts and Sciences.

Mr. Speaker, Dr. Gannon's work has added a great deal to our knowledge of the varied influences that have shaped the history of Florida. The sesquicentennial celebrations in Florida will be that much more meaningful because of the careful research of Dr. Gannon. Mr. Speaker, I am very proud to represent the University of Florida and professors like Dr. Gannon, who are dedicated to excellence.

MARTIN UNIVERSITY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. JACOBS. Mr. Speaker, Martin University is the oldest University in Indiana primarily devoted to the education of African-American students.

What follows is a richly deserved editorial about the University which was published in the Indianapolis News in April 1995.

[From the Indianapolis News, Apr. 13, 1995]

A PILLAR IN BRIGHTWOOD

Thanks are due those community leaders who have made the inner-city Brightwood area a little brighter. What has happened there is an example to the nation of how local institutions can make a difference in their communities.

In 1987, Martin University moved its main campus from College Avenue to the Brightwood address of 2171 Avondale Place. The low-budget, nondenominational school came to the neighborhood at a time when families and businesses were moving out.

"The primary reason we moved to Brightwood is because the vacated buildings, including the beautiful St. Francis de Sales Catholic parish, became available to us at a great price. The revitalization in the community is a by-product," said Martin's public relations director, Pat Stewart.

Martin University still has four buildings at the original College Avenue campus. And in 1988, the university opened the Lady Elizabeth. Campus at the Indiana Women's Prison for inmates there.

The main campus in Brightwood comprises nine buildings. The university's move has provided a unifying entity for the community, which was divided in the 1970s when I-70 was constructed. The neighborhood also suffered from a loss of residents who moved to the suburbs.

Martin University has offset some of these changes.

Besides making good use of old buildings, the 84 faculty and staff members educate and train people who may not have similar opportunities elsewhere.

The institution serves 520 students from all over Indianapolis, most from minority and low-income back-grounds. Approximately 150 students reside in the Brightwood neighborhood.

The university offers more than traditional academic courses.

Senior citizens and children may attend computer classes and summer school programs, and all residents may attend seminars about economic and political empowerment.

The university also runs a health clinic were university staff, students and Brightwood residents who aren't students can come for counseling and medical services. And it holds clothing and food drives to benefit people with various needs in Brightwood.

The school doesn't stop there, however. Recognizing the need to broaden the experiences of the people it serves, it provides artistic and cultural events for residents. Among those activities, it has hosted the Carmel Symphony Orchestra and holds an annual Martin Luther King Jr. celebration.

"Caring about this community isn't an afterthought of the university. It's in our mission statement." Sister Jane Schilling told News reporter Judith Cebula. She teaches and serves as vice president at Martin.

The Rev. Boniface Hardin, founder and president of this university, deserves commendation for the vision he has for his university and community. His goal of serving others and seeking to make them successful is the cause of success in his efforts.

One of the most impressive aspects of Martin University is its financial foundation. The money comes through tuition, private donations and foundation grants.

At a time when welfare plans are being debated to death, it is refreshing to see dedicated individuals responding to urban problems with so little dependence on government remedies.

HOUSE OF REPRESENTATIVES—*Friday, May 12, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. LONGLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 12, 1995.

I hereby designate the Honorable JAMES B. LONGLEY, Jr., to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, that in all the moments of life there are friends and colleagues who offer to us their counsel and good word, who speak the truth with us and who correct us when we need correction, who support us when we need help, and who walk with us when we are alone. Our hearts are thankful, O gracious God, that every person can receive love and respect and kindness from others, even as we open our hearts and minds to those near and dear to us. May Your blessing, O God, that is new every morning and is with us in the depths of our souls, be with us this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Missouri [Mr. VOLKMER] come forward and lead the House in the Pledge of Allegiance.

Mr. VOLKMER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 510. An act to extend the authorization for certain programs under the Native American Programs Act of 1974, and for other purposes.

CLEAN WATER AMENDMENTS OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 140 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 961.

□ 1003

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act, with Mr. MCINNIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, May 11, 1995, the amendment offered by the gentleman from Missouri [Mr. EMERSON], as amended, had been disposed of, and title VI was open at any point.

Are there any amendments to title VI?

AMENDMENT OFFERED BY MR. LIPINSKI

Mr. LIPINSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LIPINSKI: Pages 231 and 232, strike the table and insert the following:

"States:	*Percent of sums authorized:*
Alabama	0.7736
Alaska	0.2500
Arizona	1.1526
Arkansas	0.3853
California	9.3957
Colorado	0.6964
Connecticut	1.3875
Delaware	0.2500
District of Columbia	0.3203
Florida	3.4696
Georgia	2.0334
Hawaii	0.2629
Idaho	0.2531
Illinois	5.6615
Indiana	3.1304
Iowa	0.6116
Kansas	0.8749
Kentucky	1.3662
Louisiana	1.0128
Maine	0.6742
Maryland	1.6701
Massachusetts	4.3755
Michigan	3.8495
Minnesota	1.3275
Mississippi	0.6406
Missouri	1.7167
Montana	0.2500
Nebraska	0.4008
Nevada	0.2500
New Hampshire	0.4791
New Jersey	4.7219
New Mexico	0.2500
New York	14.7435
North Carolina	2.5920
North Dakota	0.2500
Ohio	4.9828
Oklahoma	0.6273
Oregon	1.2483
Pennsylvania	4.2431
Rhode Island	0.4454
South Carolina	0.7480
South Dakota	0.2500
Tennessee	1.4767
Texas	4.6773
Utah	0.2937
Vermont	0.2722
Virginia	2.4794
Washington	2.2096
West Virginia	1.4346
Wisconsin	1.4261
Wyoming	0.2500
Puerto Rico	1.0866
Northern Marianas	0.0308
American Samoa	0.0908
Guam	0.0657
Palau	0.1295
Virgin Islands	0.0527".

Mr. LIPINSKI. Mr. Chairman, this amendment is very straightforward. During the subcommittee markup of H.R. 961, an amendment was adopted which revised the allotment formula for the State revolving fund grants for wastewater treatment facilities. Although putting a 10 percent cap in a hold harmless provision in the bill may seem like a good idea, the change in the formula has a dramatic impact on allotments for 21 States, including Illinois.

Let us look at history. Right now allocation is based on needs and population data from the 1970's. Nobody thinks we should keep using this allocation, and until the amendment was adopted in subcommittee, everyone agreed on the allocation that is in my amendment which was based on the most current data, which means the 1990 population figures, the 1990 needs. But it was changed by the subcommittee, and I want to change it back. The reason should be clear.

Mr. Chairman, if my amendment does not pass, Illinois, represented by me and 19 other Members of this body, will lose almost $83 million over 5 years. Also, Arizona will lose $50 million; California, $186 million; Connecticut, $4 million; Florida, $3 million; Georgia,

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

$20 million; Indiana, $58 million; Kansas, $737,000; Kentucky, $1½ million; Louisiana, $850,000; Massachusetts, $78,000; New Jersey, $25,000; New York, $381 million; North Carolina, $74 million; Oregon, $1 million; Pennsylvania, $3.575 million; Tennessee, $1 million; Texas, $4 million; Virginia, $27 million; Washington, $35 million; West Virginia, $1.2 million; American Samoa, $1.2 million; Guam, $875,000. For the 21 affected States we are talking about a total of almost $1 trillion; to be exact, $955 million.

But obviously some States benefit from the provision. Alaska gains $37 million; Hawaii, $55 million; Iowa, $77 million; Missouri, $99 million, and Wisconsin is the biggest winner with an increase of more than $127 million.

I would not be so bold as to suggest that the 16 Members from Wisconsin vote for this amendment. If they did, they would be voting against $127 million for their own State. The same goes for the Representatives of the 29 States that benefit from this allocation that is presently in the bill. Although I would be more than happy to have their votes, I certainly will not seek them, expect them to vote against the best interests of their State, but, if I and every other Member from a State that loses money under the new allocation votes against this amendment, we will be voting against our State. That does not make any sense to me, Mr. Chairman.

This amendment is not complicated. There are winners and losers on the issue. But if every Member votes in the best interest of his or her State, my amendment will pass 299 to 136. I hope that will happen.

AMENDMENT OFFERED BY MR. BATEMAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. LIPINSKI

Mr. BATEMAN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The clerk read as follows:

Amendment offered by Mr. BATEMAN as a substitute for the amendment offered by Mr. LIPINSKI: Pages 231 and 232, strike the table and insert the following:

State	Percentage of sums authorized for fiscal year			
	1996	1997	1998	1999 & 2000
Alabama	1,0693	1.0110	0.9504	0.8896
Alaska	0.5723	0.5411	0.5087	0.4761
Arizona	0.7139	0.7464	0.7767	0.8060
Arkansas	0.6255	0.5914	0.5560	0.5204
California	7.5590	7.9031	8.2244	8.5345
Colorado	0.7649	0.7232	0.6885	0.6847
Connecticut	1.2948	1.3537	1.3718	1.3643
Delaware	0.4694	0.4438	0.4173	0.3905
District of Columbia	0.4694	0.4438	0.4173	0.3905
Florida	3.4532	3.4462	3.4304	3.4115
Georgia	1.7870	1.8683	1.9443	1.9993
Hawaii	0.7406	0.7002	0.6583	0.6161
Idaho	0.4694	0.4438	0.4173	0.3905
Illinois	4.7801	4.9976	5.2008	5.3970
Indiana	2.5472	2.6631	2.7714	2.8759
Iowa	1.2942	1.2236	1.1503	1.0767
Kansas	0.8708	0.8690	0.8650	0.8602
Kentucky	1.3452	1.3570	1.3508	1.3433
Louisiana	1.0512	1.0060	1.0014	0.9958
Maine	0.7402	0.6999	0.6666	0.6629
Maryland	2.3128	2.1867	2.0557	1.9241
Massachusetts	3.5884	3.7518	3.9043	4.0515
Michigan	4.1117	3.8875	3.8061	3.7850
Minnesota	1.7576	1.6618	1.5622	1.4622
Mississippi	0.8615	0.8146	0.7658	0.7167
Missouri	2.6509	2.5063	2.3562	2.2054
Montana	0.4694	0.4438	0.4173	0.3905
Nebraska	0.4891	0.4624	0.4347	0.4069
Nevada	0.4694	0.4438	0.4173	0.3905
New Hampshire	0.9556	0.9035	0.8494	0.7950
New Jersey	4.3190	4.5156	4.6686	4.6428
New Mexico	0.4694	0.4438	0.4173	0.3905
New York	11.6659	12.1969	12.6928	13.1714
North Carolina	1.9075	1.9943	2.0754	2.1537
North Dakota	0.4694	0.4438	0.4173	0.3905
Ohio	5.3833	5.0898	4.9266	4.8993
Oklahoma	0.7726	0.7304	0.6867	0.6427
Oregon	1.1939	1.2399	1.2342	1.2274
Pennsylvania	4.1866	4.2145	4.1952	4.1720
Rhode Island	0.6421	0.6071	0.5707	0.5342
South Carolina	0.9796	0.9262	0.8707	0.8150
South Dakota	0.4694	0.4438	0.4173	0.3905
Tennessee	1.4697	1.4668	1.4600	1.4520
Texas	4.6552	4.6458	4.6245	4.5989
Utah	0.5039	0.4764	0.4479	0.4192
Vermont	0.4694	0.4438	0.4173	0.3905
Virginia	2.1630	2.2615	2.3534	2.4379
Washington	1.8380	1.9217	1.9998	2.0752
West Virginia	1.4907	1.4249	1.4184	1.4106
Wisconsin	2.5852	2.4442	2.2978	2.1507
Wyoming	0.4694	0.4438	0.4173	0.3905
Puerto Rico	1.2472	1.1792	1.1185	1.1123
Northern Marianas	0.0399	0.0377	0.0355	0.0332
American Samoa	0.0859	0.0812	0.0763	0.0714
Guam	0.0621	0.0587	0.0552	0.0517
Palau	0.1224	0.1158	0.1088	0.1019
Virgin Islands	0.0551	0.0576	0.0599	0.0599."

Mr. BATEMAN. Mr. Chairman and Members of the House, I rise reluctantly to offer an alternative by way of a substitute for the amendment just discussed and presented by the distinguished gentleman from Illinois [Mr. LIPINSKI]. Our relationship has been a very close and cordial one, and I would hold it up as an example of the bipartisan spirit in which all of us should conduct our affairs for all Members of the House.

Let me say that I find myself somewhat in the position of the interloper who sought to separate two young sisters involved in a fist fight in the schoolyard, where the interloper, the peacemaker, became the subject of attack by both parties. There are indeed winners and losers any time we change any formula by which funding is allocated, as the gentleman from Illinois has pointed out.

One of the things that we must bear in mind, however, as we go through this debate about how to accomplish this reallocation based upon a new formula is some notion of equity, especially as it bears upon the default of the Congress over so many years to have upgraded the formula that has been in the law since the 1970's. We did not do that which we should have done over that long period of time, and so finally, when we have a new need for assessment and a proposed formula for allocation, it creates incredible peaks and valleys for so many States. There are States that lose as much as 59 percent of the funding they have historically been receiving. There are States which have enormous gains as a result in the new formula. The committee bill has capped the gains and losses at 5 percent. The amendment offered by the gentleman from Illinois [Mr. LIPINSKI] implements the new formula without any caps, without any effort to deal with the incredible losses which some States will sustain while giving all of the gain to every State——

Mr. NADLER. Will the gentleman yield?

Mr. BATEMAN. Not at this point; I will try to save some time so that I might at the end.

The alternative provision that I offer to both the committee bill and to the gentleman from Illinois' amendment is to allow those States that gain to gain more than is available to them under the committee bill, while at the same time putting some floor under the losses of the losing States. Under my substitute amendment, Mr. Chairman, the gainers would gain 5 percent each year until they had gained 20 percent above their present allocations. The losers would lose 5 percent each year until they had lost 20 percent of their allocation. Obviously this is an effort to do some equity, to prevent the enormous peaks and valleys that would occur if we just implement the new assessment formula without any change, but certainly would be dealing more equitably with the gaining States than allowing them significantly more of the gains they are entitled to under the new formula than would the committee bill as it comes to the floor.

I strongly recommend to my colleagues that, not only from a sense of equity, but in terms of looking at this bill more analytically, that they support my substitute amendment. There are States which would gain more under the gentleman from Illinois' amendment, but suppose the gentleman from Illinois' amendment at the end of the day is not the version which carries. They would then be stuck with the allocation formula in the bill as it comes to the floor or some modification which ultimately may arise in committee of conference, and under the worst possible case, if the bill is not enacted into law, we would have no reauthorization other than revolving funds and no funds in the future.

I say to my colleagues, "When you contemplate all of the alternatives, I think the responsible, the fair, the equitable alternative would be found to be the one which I offer this morning."

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from New York.

Mr. NADLER. Could the gentleman answer the following questions? The gentleman from Illinois [Mr. LIPINSKI] gave us a list of States, of how much they would lose under the committee's formula compared to his formula. It names some of the larger losers, and can the gentleman tell me the corresponding figures for his substitute, please?

Mr. BATEMAN. I do not have them in front of me. I will get them and bring them to the gentleman. There is a list, and it will be available on the floor. I do not have it in my remarks. I do not have it in front of me.

Mr. LIPINSKI. Mr. Chairman, if the gentleman will yield to me, I have those figures, and I will give them to him.

Mr. NADLER. Would the gentleman yield to the gentleman from Illinois so we can get those figures?

The CHAIRMAN. The time of the gentleman from Virginia [Mr. BATEMAN] has expired.

(At the request of Mr. NADLER and by unanimous consent, Mr. BATEMAN was allowed to proceed for 2 additional minutes.)

□ 1015

Mr. LIPINSKI. Mr. Chairman, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Chairman, I have the list. The gentleman wants to know what the losses are going to be. He does not know what you are going to ask.

Mr. BATEMAN. Might I suggest if the time has been yielded back to me, the more orderly way to proceed might be for me to yield back the time and then you all can raise such questions as you want, and then I will try and have the information to respond. At this point let me yield back the time. I am not trying to avoid getting you the information.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me first make a couple of comments here. Allocations of highway funding should be based on need and population. That is the tradition in the House and the fairest way. The amendment offered by the gentleman from Illinois bases the allocations on the latest needs figures from 1990 and on the latest population figures from the 1990 census. Of course, they differ from the needs and population figured in 1970, 20 years ago, based on a 20-year-old formula. Of course, some States have greater needs now relative to others and greater population now relative to others, and others have less.

They should gain and lose accordingly. If some States have much less needs, then they should have much less funds. If some States have much more needs, they should get a much greater proportion. That is the fairest way to do it, and that is what the gentleman from Illinois does, and that is the tradition we have followed over the years.

The committee formula bases it on current needs and population, modified by a hold-harmless formula to say that those States which no longer have the need relative to others should continue getting more than they need relative to others.

The substitute of the gentleman from Virginia says well, we are not going to continue that indefinitely, but we are going to continue to give an unfair proportion to some States, to 6 States, and an unfairly low proportion to 26 States, for 5 years. In fact, for any that are off balance by more than 20 percent, indeterminately. It is not fair and not right.

Therefore I urge the defeat of the substitute amendment and the adoption of the amendment.

With that, I will ask if the gentleman from Illinois would answer a couple of questions.

I would ask the gentleman, under the committee formula, Washington loses $35 million. How much would it lose under the gentleman from Virginia's amendment?

Mr. LIPINSKI. $28,452,500.

Mr. NADLER. Virginia loses $27 million. How much would it lose under the amendment?

Mr. LIPINSKI. $18,588,500.

Mr. NADLER. New York loses $318 million. Under the gentleman's substitute, how much would it lose?

Mr. LIPINSKI. The great State of New York would lose $270,720,500.

Mr. NADLER. Illinois would lose $83 million. How much would it lose under the substitute?

Mr. LIPINSKI. $63,375,000.

Mr. NADLER. Arizona would lose $50 million. How much would it lose under the substitute?

Mr. LIPINSKI. $47,850,000.

Mr. NADLER. California would lose $186 million under the gentleman's substitute.

Mr. LIPINSKI. $155,570,000.

Mr. NADLER. And Florida would lose $3 million. Under the gentleman's substitute, how much would it lose?

Mr. LIPINSKI. $4,888,000.

Mr. NADLER. Indiana would lose $58 million under the gentleman's substitute.

Mr. LIPINSKI. $47,962,000.

Mr. NADLER. Georgia would lose $20 million under the gentleman's substitute.

Mr. LIPINSKI. $14,220,000.

Mr. NADLER. Mr. Chairman, I thank the gentleman from Illinois.

Mr. Chairman, I would simply observe the gentleman's substitute does very little, as you heard from those figures, to undo the inequity of the committee formula. The gentleman's substitute should not be adopted. The amendment of the gentleman from Illinois, which bases the allocation formula strictly on needs and on population based on the 1990 census, should be adopted as continuing the tradition of the House to base these allocations fairly on population and on needs. And if some States have much less needs currently, so be it. If others have greater, they should get proportionately what they need.

Mr. BATEMAN. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Virginia.

Mr. BATEMAN. Mr. Chairman, I thank the gentleman from New York for yielding.

Mr. Chairman, I would not question the arithmetic of the gentleman from Illinois or the gentleman from New York. I would question, however, the ultimate analysis and where the bottom line falls. It is true that States you enumerated would not do as well under my substitute as under the Lipinski amendment. I think, however, you need to assess it in the context of what is the difference between the version of the formula in the committee bill and the Bateman substitute, and all of those States would be substantially improved or enhanced under my substitute, more than they would under the bill as it comes to the floor.

The CHAIRMAN. The time of the gentleman from New York [Mr. NADLER] has expired.

(By unanimous consent, Mr. NADLER was allowed to proceed for 2 additional minutes.)

Mr. NADLER. Mr. Chairman, here are the differences. The States that have greater needs and greater populations would not be substantially benefited and treated substantially more fairly under the substitute offered by the gentleman from Virginia. Compare: Washington would only lose $28 million instead of $35 million. Is $7 million substantial? It would still lose $28 million from what it should get. Virginia would lose $18 million instead of $27 million. New York would lose $270 million. It is better than $318 million, but still $270 million. Unfair. Illinois would lose $63 million. Better than $83 million. California would lose $155 million. A little better than $186 million, but still $155 million less than it should get. Georgia, $14 million; Florida, $3 million.

The sum and substance, Mr. Chairman, is that most States, the majority of States, 26 States, would be treated unfairly under this amendment and under the substitute. Six States would gain. There is no reason for that other than a desire to protect the States which have relatively less need, and in this era of fiscal stringency, where we are going to be cutting down the funds appropriated pursuant to this appropriations bill, we should not treat the States unfairly.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, if this passes, will the gentleman from New York vote for the bill? If the Lipinski amendment passes, will the gentleman vote for the bill?

Mr. NADLER. Mr. Chairman, if many of the other changes that I and others on this side have suggested are adopted, I would certainly consider it.

Mr. SHUSTER. I thank the gentleman for his obfuscation.

Mr. NADLER. Reclaiming my time, it is never a valid argument against an amendment that the people supporting the amendment may or may not support the bill. The question is, What does the bill look like at the end? I cannot tell you right now what the bill is going to look like at the end. I reserve judgment on whether I will vote.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment offered by the gentleman from Virginia [Mr. BATEMAN].

Mr. Chairman, in the committee bill we rewrote the formula. The formula was developed in the 1970's based on population and based on needs. As a result of the changing needs and the changing population, we rewrote that formula. However, in doing so, we recognized that it would have an extreme impact on 23 States, which under the raw formula change would see one-third or more of their grants wiped out between 1995 and 1996. Three States, Alaska, Hawaii, and Iowa, would have their programs cut by 55 to 70 percent. So we said to ease the pain and the transition, we would put a plus or minus 10 percent cap, which seems to be fair.

Now, Pennsylvania would gain under Mr. LIPINSKI's wiping out of this 10 percent cap. But, nevertheless, in the interest of balance and fairness, I think that it is appropriate to have some form of transition.

Along comes the amendment of the gentleman from Virginia [Mr. BATEMAN], which actually goes a lot further toward Mr. LIPINSKI than the 10-percent cap which we imposed in the committee. Under this formula, it would go from a 55-percent cap to 10 percent in the second year, to 15 percent, to 20 percent, and 20 percent in the fifth year, the final year of this bill. Presumably there would be no caps as we move beyond the fifth year.

I think that is more balanced and more fair. It phases out the caps and, ultimately over a 5-year period, we get to the raw formula that Mr. LIPINSKI is proposing, and the formula which is in the bill, without the caps.

So, for all of those reasons, I believe in the interest of fairness and balance, we should support the Bateman amendment as a compromise to this issue, and urge adoption of the Bateman amendment.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Bateman substitute amendment and am in support of the Lipinski amendment. The formula used to allocate wastewater State evolving loan fund money under existing law is based on data from the mid-1970's, with most of the weight on needs and relatively little weight on population. No one can defend using out-of-date data as the best way to allocate scarce resources, or to effectively address needs into the 21st century, which is what the formula we put in this bill will have to do.

All the clean water bills introduced in the last Congress and in this Congress, including H.R. 961 as originally introduced, have used the same new formula, one that retains the weights in existing law but is based on the latest needs and population data available.

The formula was changed during subcommittee markup. This latest formula—the one that is in the reported bill—basically keeps the formula that is in existing law, but adjusts a State's allocation up or down by 10 percent. That is hardly bringing the formula up to date.

We have heard a great deal in this Congress, and by proponents of this bill, about making decisions based on sound science. But one is hard put to explain how relying on data that are 20 years out of date and an arbitrary plus or minus 10 percent adjustment can be sound science.

Because of tight Federal budget, wastewater treatment program suffers from severely limited funding. It is, therefore, imperative that we use the money available in the most effective way possible. Allocating it in the way best reflective of current needs is part of assuring that it is used as effectively as possible. The formula in existing law, of course, does not meet that test. Neither does the formula in H.R. 961.

It has been argued that while a change in the existing formula is clearly overdue, we should only marginally adjust the formula because otherwise a few States would have their allotments changed substantially. That may be true. But it is only because we have waited so long to update the formula. For instance, if you allow no Social Security cost-of-living adjustment for 20-year catch-up cost-of-living adjustment will produce a big jump, too. But that does not make it any less justified.

The gentleman from Illinois has circulated a "Dear Colleague" so that Members can see exactly how the formula in this bill would treat all States and how the formula in his amendment would treat all States. Given the importance of this vote, I would urge all Members to be familiar with that information before they cast their votes. If anyone does not have that information, I am sure that Mr. LIPINSKI can make that available to our colleagues.

Mr. Chairman, I rise at this time in support of the Lipinski amendment.

□ 1030

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Bateman amendment and in opposition to the Lipinski amendment.

Mr. Chairman, I strongly oppose this amendment which would reinstate a previously rejected and inequitable formula for the allocation of Federal capitalization grants for State revolving loan funds.

First of all, it is my understanding that there is a certain amount of controversy regarding the validity of the 1992 needs survey on which the formula in the amendment is based. In addition, the formula results in such wild fluctuations that most States experience either tremendous losses or tremendous gains in their allotment.

My own State of Wisconsin would experience a 48-percent drop from the formula in existing law. And that is not the most severe decrease—several States would be cut even more dramatically. How can we be expected to support that?

A decrease of that amount would be particularly frustrating and discouraging to States which are leaders in water quality programs and devote State resources to wastewater treatment programs beyond the required 20-percent match under the Clean Water Act. Many of these leaders would be cut severely under this amendment. A 10-percent decrease still causes some concern, but a 48-percent drop would be devastating and would send the wrong message to our State partners in clean water.

I can assure you that many of us would be happy to receive a 10-percent increase. Some States will receive less of an increase under the formula in H.R. 961, but they are still receiving a 10-percent increase.

Finally, I believe that we really should take another look at what elements are included in this needs based formula. H.R. 961 opens up the State revolving loan funds so that States can use the Federal funds for wastewater treatment, clean lakes programs, nonpoint source pollution control programs, watershed and stormwater programs, and a host of other activities. But this formula reportedly is based primarily on wastewater treatment capital infrastructure requirements.

But if you consider Wisconsin's nearly 15,000 lakes, 57,000 stream and river miles, 1,100 miles of Great Lakes shoreline, 1,700 square miles of estuaries and harbors, and the agricultural pollution challenges that we face from 70,000 farms—which is 4 times what New York State has—and if all of these factors were included in the formula, I can assure you the overwhelming water needs we have in Wisconsin would become quite apparent.

I want to commend the chairman of the Transportation and Infrastructure Committee for his action and leadership on this issue. And I urge that the Lipinski amendment be defeated by the House as it already has been in the committee.

Mr. BATEMAN. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Virginia.

Mr. BATEMAN. Mr. Chairman, I take it the gentleman agrees with me and shares my concern that if you just implemented the raw data from the new formula, 29 States would lose, some of them as much as 9 percent of their funding.

Mr. PETRI. That is absolutely right. What this would do, too, is, frankly, based on needs and not looking at what States have done tends to reward States that have been ineffective in using funds they got under the last program rather than States that have done a good job.

It seems to me that is a little bit funny, plus removing the nonpoint source approaches here and the needs assessment survey does not reflect the broadening of the State and Federal pollution fighting effort. The needs are based on wastewater needs, not on total needs in each State.

Mr. BATEMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I guess the bottom line here is that we often get embroiled in these formula debates here in the House. And I have heard some seemingly convincing arguments on the other side enumerating the number of States that would benefit under one formula or the other. But, of course, part of what is neglected in that argument is the population base on those States.

Actually, under the Lipinski amendment, the math is pretty simple for 299 Members of this House and for the constituents of 299 Members of this House. There is not enough money to do everything we need to do in wastewater treatment. I think there should be more money in the budget. I think the Republican budget proposed yesterday by slashing funds for infrastructure and wastewater treatment is going the wrong way. I would be willing to support a higher emphasis on these needs in our Nation. But given the fact we are fighting over a shrinking pie here, there is a pretty basic equation.

That is, if you lose under the committee bill, which 299 Members of this body do, far more than a simple majority, those same 299 Members still lose under the Bateman substitute to the Lipinski amendment.

So I would suggest, despite all the Rube Goldberging and everything else that is going on around here, that we get back to the basic facts. And that is, the needs are not met in those States represented by 299 Members any better than they are in the other States represented by a minority of Members in this House who would benefit under this amendment. So I would strongly suggest that any of those 299 who vote to gut the Lipinski amendment will perhaps have some explaining to do when they go home to their constituents.

Mr. FLANAGAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Lipinski amendment and in opposition to the Bateman substitute.

Mr. Chairman, I thank the gentleman from Virginia for his very thoughtful substitute. And he is my friend and I reluctantly oppose his substitute here. I would say that under its current form, title VI of the Clean Water Act amendment authorizes an annual allocation of $2.5 billion over the next 5 years for State water pollution controlling revolving funds or SRF's. These SRF's provide critical assistance to States for the operation loan programs, for the construction and maintenance of municipal wastewater treatment plants. These loans represent the frontline for localities in their struggle to improve our drinking water quality.

However, as it is written now, title VI unfairly distributes these funds under a bizarre and outdated formula that is based on estimated needs and population statistics from the 1970's. Instead, the Lipinski allocation reflects real needs and uses real current census data, the result being a better return for each dollar spent.

The Bateman substitute, on the other hand, attempts to address inequity through a level of caps and also trying to move in this same direction. But to offer or foster the argument that we have a past inequity that is 20 years old, that is based on data that is that old, that will only move toward correcting it rather than correcting it now seems to be perpetuating the same wrong of the past just to a lesser degree.

I think in pure fairness, we should adopt the Lipinski amendment and reject the Bateman substitute, painful though it may be for those States who have, under the current calculation, received more than they should have for many years and will continue to receive more under this substitute.

If the Lipinski amendment is not adopted, then States like California, New York, and my home State of Illinois will lose millions. The Lipinski amendment is a question of fairness. With the adoption of this amendment, States like Illinois will receive their equitable share of SRF assistance as opposed to something closer to their equitable share.

So I urge my colleagues to support the Lipinski amendment and to defeat the Bateman substitute.

Mr. LIPINSKI. Mr. Chairman, I rise in opposition to the Bateman substitute amendment, and I move to strike the requisite number of words.

Mr. Chairman, I appreciate my very good friend, and I mean this sincerely, my very good friend, the gentleman from Virginia [Mr. BATEMAN], putting forth this amendment. He and I came to Congress together. We were friends then.

In the last few years, we worked very closely together on the Merchant Marine Subcommittee. In fact, I doubt seriously there has ever been a majority or minority that worked any closer together. So I am happy that he has brought forth this amendment. I know that he frames it as a compromise, but in all honesty I do not see it as a compromise. It is a minute step in the right direction but only a minute step in the right direction.

Let us remember that my amendment simply restores what was in the bill last year, what was in the bill at the beginning of this year, and what was not removed from the bill until the subcommittee markup.

At the full committee markup, I attempted to return to the original formula in the bill based upon 1990 population and needs. We lost. We lost on a vote of 30 to 30. Unfortunately the 31st vote in our favor wandered in the door a few minutes after the gavel fell. The next day we attempted to revive it for another vote, but we failed. It was tabled.

Mr. Chairman, I have heard people talk about here today that it was defeated in committee. There have been letters sent out saying it was defeated in committee, my amendment. It is true, but I thought I would put it in the proper perspective.

Once again I would like to reiterate, there are winners and there are losers. I oppose and I ask you to oppose the Bateman substitute, and I ask you to support the Lipinski amendment, particularly the following States: Arizona, California, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, Virginia, Washington, and West Virginia.

If you do not defeat the Bateman amendment and support the Lipinski amendment, those States will lose close to $800 million.

Mr. BLUTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Lipinski amendment. I have a great deal of respect for the gentleman from Illinois but I think this approach is flawed. I will be supporting the Bateman amendment and vote against the Lipinski amendment because, quite frankly, the Lipinski amendment provides an inequitable allotment formula for the distribution of State revolving loan funds.

Sure, I would love to think solely about my State and how much more money we could get out of the Lipinski formula. But we are talking about clean water as a national policy here. Every State deserves a fair allotment. The fact of the matter is the SRF is a national program. We in Congress have a duty and responsibility to ensure that national programs are run fairly and equitably. The chairman and the committee did that in the committee, and the Bateman substitute goes even further toward that end.

It provides safeguards to prevent huge disparities in funding allotments and ensures that no State benefits at the expense of another State. Under Lipinski, however, only a few States would benefit at the expense of 23 other States, 14 of which stand to see their SFR funds cut by more than 50 percent. This is not fair, and it simply is not good public policy especially at a time when we are encouraging States to play a more active role in managing their pollution control programs.

Mr. BATEMAN'S amendment is more evenhanded and does not contain this egregious treatment that some States receive under the Lipinski amendment. The allotment formula is far more objective.

For this reason, I ask my colleagues to do the fair thing and vote against the Lipinski amendment and vote for the Bateman substitute.

Mr. HAYES. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Bateman substitute and in opposition to the Lipinski amendment.

The gentleman is entirely correct in his formula approach; by that I mean the gentleman from Illinois [Mr. LIPINSKI], as was the committee. However, the committee balanced the extraordinary impact that would occur on the handful of States, somewhere 14 to 20, that would be so disproportionate to their present funding that it simply was not fair.

☐ 1045

I would have no quarrel with accepting the formula of the gentleman from Illinois [Mr. LIPINSKI], if it did not so disservice that handful of States. The gentleman from Illinois was also correct when he read his list a moment ago and included my home State of Louisiana as one that would lose under both the committee and the substitute amendment by the gentleman from Virginia [Mr. BATEMAN]. But I believe a State like Louisiana, that I represent, would lose something bigger if we did not understand that we should not gain at the tremendous expense of those who would be so unfairly impacted by the rigid change in allocation of formula.

Therefore, the phase-in by the gentleman from Virginia [Mr. BATEMAN] is a much fairer approach, balances between the two, and I hope is supported by a majority of the House. We come here never forgetting where we are from, but we also recognize that "U.S." stands in front of "Congressman," and on the occasions when our States would be so severely negatively impacted we hope to remember and remind those that we helped at these times in asking their help in the future.

For that reason, I, on one of the rare occasions, disagree with the gentleman from Illinois [Mr. LIPINSKI]. I am going to oppose his amendment.

Mr. ZELIFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Lipinski amendment. H.R. 961, as passed by the Transportation Committee, authorizes general State revolving fund capitalization grants at $3 billion each year for fiscal years 1996 through 2000. These SRF capitalizing grants provide essential assistance to States and local governments which will be faced with over $120 billion in capital needs related to Clean Water Act water quality requirements over the next 20 years.

In addition to increasing the total amount of SRF grants available to States and localities, title VI, as passed by the committee, is based on the population and the recently estimated needs of a State, and includes a hold harmless cap to prevent any State from losing or gaining more than 20 percent of its prior allotment.

The current SRF allotment formula is based on an outdated 1977 State population and needs data. The Lipinski amendment would force States to absorb the effects of updating a nearly 20-year-old SRF formula in 1 year. Without the Bateman amendment and the 20-percent floor and cap, there would be many very big losers and a couple of very big gainers. The elimination of the 20-percent loss limitation, as proposed by Mr. LIPINSKI, would result in 30 States and the District of Columbia being faced with a drastic reduction in their share of SRF grants.

New Hampshire would be the fourth largest loser under the Lipinski allotment formula. It would suffer a 53-percent reduction in its current allotment of SRF grants, which translates as a loss of over $10 million per year. Based on the 1992 Needs Survey Report to Congress, New Hampshire's total sewage infrastructure needs a total over $1 billion. This cut of $53 million between fiscal years 1996 and 2000 would be devastating to the communities of New Hampshire. New Hampshire's $536 million in new sewer construction needs would still be unmet. Its $164 million in wastewater treatment needs would be unmet. Its $37 million in rehabilitation of existing sewer needs would be unmet. And its $330 million in combined sewer overflow needs would be unmet. The amendment would financially cripple communities throughout the State and hinder efforts to improve the quality of their water resources.

New Hampshire is by no means the only State faced with enormous water infrastructure costs, nor is it the only State that would be faced with severe reductions in its SRF allotment under the Lipinski amendment. There would be far more big losers than big gainers under this amendment. The biggest losers would be Hawaii at a 66-percent loss, Alaska at 59 percent, Iowa at 55 percent, Delaware at 50 percent, Montana at 50 percent, Nevada at 50 percent, New Mexico at 50 percent, North Dakota at 50 percent, South Dakota at 50 percent, Wyoming at 50 percent, and Idaho at 49 percent. The big winners under the Lipinski amendment would be Arizona at a 68-percent increase, North Carolina, at 42 percent, and New York at 32 percent. Mr. LIPINSKI'S State of Illinois would gain 24 percent. Mr. Chairman, is it fair for 10 States to lose 50 percent or more of their SRF funding to 1 State's gain of 68 percent; or for 22 States and the District of Columbia to lose 30 percent or more of their funding to 5 States' gain of 30 percent or more? With the 10 percent hold harmless in place, the 30 States and the District of Columbia which would have otherwise suffered significant cuts in their share of the SRF grants will be able to continue their needed wastewater treatment projects.

This is an issue of fairness and of sound national public policy. Let us not return the Clean Water Act to be an unfunded mandate for a majority of the States. It is our obligation to ensure equity in the SRF allotment distribution so that all States, counties, and localities across this Nation have the ability to meet their wastewater infrastructure needs and to do their part in improving the quality of America's water resources. I strongly urge my colleagues join with me, support the Bateman amendment, and vote "no" on the Lipinski amendment.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in reluctant opposition to the amendment of my good friend, the gentleman from Illinois [Mr. LIPINSKI], and in support of the amendment offered by the gentleman from Virginia [Mr. BATEMAN].

In my judgment, Mr. Chairman, the allocation formula of the gentleman from Illinois would virtually wipe out in less than a year almost half of the State clean water programs in this program. Maryland would lose money under this formula, but as many of us here have discussed in the last few minutes, it is not the focus of one State versus another State. We are not in competition. If we are in a mode to understand the necessity for watershed management for clean water, where a number of States in a particular watershed have to work together to clean their water, to reduce the problem of nonpoint source pollution, to do all those things that are necessary for States to improve the quality of life for those people, and to have a State revolving loan fund to impact that, the formula of the gentleman from Illinois [Mr. LIPINSKI] does not do that.

In my judgment, under the allocation of the gentleman from Illinois, over 20

States or a third or more of the States with SRF grants would largely be eliminated. The States that gain under the amendment of the gentleman from Illinois [Mr. LIPINSKI] would still gain under the committee bill and under the gentleman's amendment, they just would not gain as much.

To be fair to the many States that may potentially lose large portions of their programs, this amendment should be defeated. I encourage Members to vote for the Bateman amendment.

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Lipinski amendment and in opposition to the Bateman amendment.

Mr. LIPINSKI. Mr. Chairman, will the gentleman yield?

Mr. BORSKI. I am happy to yield to the gentleman from Illinois.

Mr. LIPINSKI. I thank my good friend from Pennsylvania for yielding to me.

First of all, Mr. Chairman, I have failed to mention the fact that I think that during the course of the subcommittee markup, full committee markup, and here on the House floor, with a bill that is very controversial, because people have very strong opinions, that the gentleman from Pennsylvania [Mr. SHUSTER], chairman of the Committee on Public Works and Transportation, has done an outstanding job. I have said this on other occasions, and I want to say it once again.

I would also like to jump back just for a moment to my friend, the gentleman from Virginia [Mr. BATEMAN], because it pains me to be up here opposing him when, as I say, in the last 2 years we worked so diligently on attempting to save the U.S. merchant marine.

However, I have to say that the Bateman substitute suffers from the same defects as the ones in the bill. It uses the same outdated population and needs data to apportion SRF money to finance construction of wastewater facilities. The result is a formula that bears no resemblance to the clean water needs we face today. Thus, it will not help us prepare for the environmental challenges we will be facing in the near future.

The phase-in period is also problematical. It simply means that we have to wait another 4 years to get 20 percent of the adjustment we need to reflect current and future needs. We have waited a long time to update the wastewater SRF formula. We should not have to wait another 4 years to get another 20 percent of the changes in the current data showing that we need it now. For the sake of getting the most efficient allocation of resources, of getting the most bang for our buck, we should defeat the substitute, and we should support the Lipinski amendment.

One last time, I simply want to say that if Members are from the following States, and there are 299 Members from the following States, if you are from these States, defeat the Bateman amendment, support the Lipinski amendment, and these States will gain close to $1 trillion: Arizona, California, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, Virginia, Washington, and West Virginia.

Mr. BORSKI. Mr. Chairman, I thank the gentleman and congratulate him on his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. BATEMAN] as a substitute for the amendment offered by the gentleman from Illinois [Mr. LIPINSKI].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to the provisions of clause 2(c) of rule XXIII, the Chair announces that he may reduce to not less than 5 minutes the period of time within which a rollcall vote may be taken without intervening business on the amendment offered by the gentleman from Illinois [Mr. LIPINSKI].

The vote was taken by electronic device, and there were—ayes 160, noes 246, not voting 28, as follows:

[Roll No. 327]

AYES—160

Abercrombie
Allard
Armey
Bachus
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bliley
Blute
Boehlert
Bonilla
Bonior
Brewster
Browder
Brown (OH)
Callahan
Camp
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clinger
Clyburn
Coburn
Collins (MI)
Combest
Cramer
Crapo
Cremeans
Cubin
Danner
Davis
Deal
DeLay
Dickey
Dingell
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Fields (TX)
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Goodlatte
Goodling
Graham
Greenwood
Gunderson
Gutknecht
Hansen
Hayes
Hefley
Hilliard
Hobson
Hoekstra
Hoke
Hostettler
Hutchinson
Inglis
Johnson (SD)
Kaptur
Kennedy (RI)
Kildee
Kleczka
Klink
Klug
Knollenberg
Largent
Latham
Laughlin
Leach
Levin
Lightfoot
Lincoln
Linder
Longley
Lucas
Luther
McCrery
McDade
McInnis
McIntosh
Mfume
Minge
Mink
Montgomery
Moran
Morella
Neumann
Ney
Nussle
Obey
Orton
Oxley
Parker
Paxon
Payne (VA)
Petri
Pickett
Portman
Pryce
Ramstad
Reed
Regula
Richardson
Rivers
Roth
Sabo
Sanders
Sanford
Sawyer
Schaefer
Schiff
Schroeder
Scott
Sensenbrenner
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Souder
Spence
Spratt
Stenholm
Stokes
Stupak
Talent
Tauzin
Taylor (MS)
Thompson
Thornton
Traficant
Upton
Vento
Volkmer
Vucanovich
Waldholtz
Walker
Wicker
Wolf
Young (AK)
Zeliff

NOES—246

Ackerman
Andrews
Archer
Baesler
Baker (CA)
Ballenger
Becerra
Beilenson
Bentsen
Berman
Bilbray
Bilirakis
Bishop
Boehner
Borski
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Canady
Chapman
Chrysler
Clayton
Clement
Coble
Coleman
Collins (GA)
Condit
Conyers
Cooley
Costello
Coyne
Crane
Cunningham
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Durbin
Edwards
Engel
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Geren
Gibbons
Gilman
Gonzalez
Gordon
Goss
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Heineman
Herger
Hilleary
Hinchey
Holden
Horn
Houghton
Hunter
Hyde
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kelly
Kennedy (MA)
Kennelly
Kim
King
Kingston
Kolbe
LaFalce
LaHood
Lantos
LaTourette
Lazio
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McHale
McHugh
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Mineta
Molinari
Moorhead
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Norwood
Oberstar
Olver
Owens
Packard
Pallone
Payne (NJ)
Pelosi
Pombo
Pomeroy
Porter
Poshard
Quillen
Quinn
Radanovich
Rahall
Rangel
Reynolds
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Royce
Rush
Salmon
Saxton
Scarborough
Schumer
Seastrand
Serrano
Shadegg
Shaw
Shays
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Stark
Stearns
Stockman
Studds
Stump
Tate
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Tucker
Velazquez
Visclosky
Walsh
Wamp
Ward
Waters

Watt (NC)
Waxman
Weldon (FL)
Weller
White

Whitfield
Williams
Wilson
Wise
Woolsey

Wyden
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—28

Baker (LA)
Bono
Boucher
Collins (IL)
Cox
Dornan
Dunn
Fattah
Gejdenson
Hancock

Hefner
Hoyer
Istook
Kasich
McDermott
Meek
Miller (CA)
Moakley
Mollohan
Ortiz

Pastor
Peterson (FL)
Peterson (MN)
Rogers
Tanner
Torres
Watts (OK)
Weldon (PA)

☐ 1122

The Clerk announced the following pair:

On the vote:

Mr. Watts of Oklahoma for, with Mr. Bono against.

Mr. SOLOMON, Ms. PELOSI, and Messrs. STOCKMAN, PACKARD, NEAL of Massachusetts, ROYCE, CUNNINGHAM, DICKS, GALLEGLY, BUYER, FRELINGHUYSEN, LAZIO of New York, SMITH of Texas, TIAHRT, TORKILDSEN, KIM, and QUINN changed their vote from "aye" to "no."

Messrs. ARMEY, GEKAS, LIGHTFOOT, DEAL of Georgia, NEY, CREMEANS, SABO, BALDACCI, and HOBSON, Mrs. SCHROEDER, Messrs. GEPHARDT, HEFLEY, EHLERS, and GANSKE, Mrs. MINK of Hawaii, Messrs. MFUME, BARCIA, and CLAY, Ms. KAPTUR, Messrs. EHRLICH, STUPAK, TAUZIN, BONIOR, GUTKNECHT, and RICHARDSON, and Miss COLLINS of Michigan changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Chairman, I was in conference with Senators on the Senate side on the rescission bill and did not hear the bells nor realize a vote was being taken on rollcall No. 327. Had I been present and voting, I would have voted "aye."

PERSONAL EXPLANATION

Mr. HOYER. Mr. Chairman, I was unavoidably absent on rollcall 327. Had I been present, I would have voted "aye."

I was unavoidably absent on rollcall 328. Had I been present, I would have voted "no."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. LIPINSKI].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LIPINSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 247, noes 154, not voting 33, as follows:

[Roll No. 328]

AYES—247

Ackerman
Andrews
Archer
Baesler
Ballenger
Barr
Barton
Bateman
Becerra
Beilenson
Bentsen
Berman
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Borski
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Canady
Chambliss
Chapman
Clayton
Clement
Clinger
Coble
Coleman
Collins (GA)
Condit
Conyers
Cooley
Costello
Coyne
Crane
Cunningham
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Durbin
Edwards
Engel
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen

Frisa
Frost
Funderburk
Furse
Gallegly
Gibbons
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Green
Gutierrez
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Heineman
Herger
Hilleary
Hinchey
Holden
Hostettler
Houghton
Hunter
Hyde
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kelly
Kennedy (MA)
Kennelly
Kim
King
Kingston
Klink
Kolbe
LaFalce
LaHood
Lantos
Lazio
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCollum
McDade
McDermott
McHale
McHugh
McIntosh
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Mineta
Molinari
Moorhead
Moran

Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Norwood
Olver
Owens
Packard
Pallone
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Pickett
Pombo
Poshard
Quinn
Rahall
Rangel
Reynolds
Riggs
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Royce
Rush
Salmon
Saxton
Scarborough
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Sisisky
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Stark
Stearns
Stockman
Studds
Stump
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thurman
Torkildsen
Torricelli
Towns
Tucker
Velazquez
Visclosky
Walsh
Ward
Watt (NC)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wilson
Wise
Wolf
Woolsey
Wyden
Yates
Young (FL)
Zimmer

NOES—154

Abercrombie
Allard
Armey
Bachus
Baker (CA)
Baldacci
Barcia
Camp
Cardin
Castle
Chabot
Chenoweth
Christensen
Chrysler
Clay
Clyburn
Coburn
Collins (MI)
Combest
Cramer
Crapo
Cremeans
Cubin
Danner
DeLay
Dingell
Duncan
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Fields (TX)
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Goodling
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hayes
Hefley
Hilliard
Hobson

Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bereuter
Bevill
Blute
Hoekstra
Hoke
Horn
Hutchinson
Inglis
Johnson (SD)
Johnson, Sam
Kaptur
Kennedy (RI)
Kildee
Kleczka
Klug
Knollenberg
Largent
Latham
LaTourette
Laughlin
Leach
Levin
Lightfoot
Lincoln
Linder
Longley
Lucas
Luther
McCarthy
McCrery
McInnis
Minge
Mink
Montgomery
Morella
Neumann
Ney
Nussle
Oberstar
Orton
Oxley
Parker
Petri
Pomeroy
Portman
Pryce
Quillen
Radanovich

Boehner
Bonilla
Bonior
Brewster
Browder
Brown (OH)
Callahan
Ramstad
Reed
Regula
Richardson
Rivers
Roberts
Roth
Sabo
Sanders
Sanford
Sawyer
Schaefer
Schiff
Schroeder
Sensenbrenner
Shuster
Skaggs
Skelton
Smith (MI)
Spence
Spratt
Stenholm
Stokes
Stupak
Talent
Taylor (MS)
Thompson
Thornberry
Thornton
Tiahrt
Traficant
Upton
Vento
Volkmer
Vucanovich
Waldholtz
Walker
Wamp
Wicker
Williams
Wynn
Young (AK)
Zeliff

NOT VOTING—33

Baker (LA)
Bono
Boucher
Collins (IL)
Cox
Dickey
Dornan
Dunn
Fattah
Gejdenson
Hancock

Hefner
Hoyer
Istook
Kasich
Livingston
Meek
Miller (CA)
Moakley
Mollohan
Obey
Ortiz

Pastor
Peterson (FL)
Peterson (MN)
Porter
Rogers
Skeen
Tanner
Torres
Waters
Watts (OK)
Weldon (PA)

☐ 1130

Mr. HILLEARY and Mr. MCDERMOTT changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title VI?

AMENDMENT OFFERED BY MR. LARGENT

Mr. LARGENT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LARGENT: Page 232, strike lines 13 through 17 and insert the following:

"(7) $2,250,000,000 for fiscal year 1996;
"(8) $2,300,000,000 for fiscal year 1997;
"(9) $2,300,000,000 for fiscal year 1998;
"(10) $2,300,000,000 for fiscal year 1999; and
"(11) $2,300,000,000 for fiscal year 2000.".

Page 232, strike line 18 and all that follows through line 20 on page 234.

Conform the table of contents of the bill accordingly.

Page 32, line 6, strike "$3,000,000,000" and insert "2,250,000,000".

The CHAIRMAN. The Chair notes the gentleman from Oklahoma has an amendment which, in part, references title II. It will be necessary for the gentleman to ask for unanimous consent in order to have consideration of the part of his amendment which affects title II.

Mr. MINETA. Mr. Chairman, reserving the right to object, can we get a further explanation of that portion of it in terms of its relationship to title II?

Mr. LARGENT. Mr. Chairman, will the gentleman yield?

Mr. MINETA. Further reserving the right to object, I yield to the gentleman from Oklahoma.

Mr. LARGENT. Mr. Chairman, does the Chair wish me to address the concern of our colleague, the gentleman from California, or address the amendment?

The CHAIRMAN. The Chair believes the gentleman from California has yielded to the gentleman from Oklahoma in pursuit of a question for further explanation of that part of the amendment offered by the gentleman from Oklahoma that affects or impacts title II. The Chair would reference the gentleman to the last two lines of the amendment.

Mr. LARGENT. Mr. Chairman, I would note that it is a conforming change, and we would ask that the last line be stricken.

Mr. MINETA. Mr. Chairman, if I might, I was just wanting to hear the explanation. I have no objection to what the gentleman is doing. I just wanted an explanation on the title II portion of it, and I appreciate that very, very much.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the original amendment will be considered.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma [Mr. LARGENT] for 5 minutes in support of his amendment.

Mr. LARGENT. Mr. Chairman, I rise today to conform the water infrastructure authorizations in H.R. 961, the Clean Water Amendments of 1995, to the House budget resolution passed earlier yesterday morning.

H.R. 961 currently authorizes roughly $3 billion annually for water infrastructure programs and capitalization of water quality State revolving funds. While these are laudable programs and the States do have an important unmet clean water need, the bill's authorization total is too high. The bills' fiscal year 1996 total of $3.05 billion is just over $750 million more than the $2.3 billion included in the House budget resolution passed by the Committee on the Budget.

While my amendment represents a 25-percent reduction in H.R. 961, water infrastructure authorization, it still maintains the bill's authorization levels above the President's request of $1.87 billion for fiscal year 1996.

Specifically, my amendment will eliminate the new nonpoint source State revolving fund capitalization program. This new program was not requested by the President and could cost up to $500 million a year. The program is redundant, since H.R. 961 allows moneys from the current State revolving fund program to be used for nonpoint source projects.

My amendment further reduces the State revolving authorization from $2.5 billion annually to $2.25 billion in fiscal year 1996. That total is increased to $2.3 billion in fiscal years 1997 through 2000.

My amendment will make a good bill better. The amendment is fiscally sound, while allowing the States to receive funding they need for water infrastructure.

Mr. Chairman, I would also like to include a letter that was written to the chairman, Chairman SHUSTER. This is from the Association of State and Interstate Water Pollution Control Administrators, the folks responsible with the State revolving fund. It is their strong recommendation, in fact, I will quote:

> It is the strong position of the Association that the existing State revolving fund should be the mechanism for infrastructure financing in the future, and that single-purpose grants like the nonpoint source revolving fund should not be created, that the new nonpoint source State revolving fund duplicates existing authority and is unnecessary, that it would require duplication of administrative effort and financial resources, it limits gubernatorial flexibility, that it does not currently provide for the level of flexibility provided under the existing SRF,

And, again, finally, it is their basic position the Clean Water Act project-level technical and financial assistance should be consolidated rather then fragmented under the existing State revolving fund, and, therefore, they conclude, "We are not in a position to be supportive of this provision that is included in the Clean Water authorization."

ASSOCIATION OF STATE AND INTERSTATE WATER POLLUTION CONTROL ADMINISTRATORS,
Washington, DC, May 9, 1995.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SHUSTER: As was requested by the Committee, the Association has reviewed the provision to create a State Revolving Fund for non-point sources and provides the following comments. Please be aware that, for the most part, these comments have been shared personally with Chairman Boehlert (in advance of the full committee mark-up) and some items were addressed at that time.

1. It is the strong position of the Association that the existing SRF should be the mechanism for infrastructure financing in the future. Subsidies/single purpose grants or SRF's should not be created.

2. This NPS/SRF duplicates existing authority and is unnecessary inasmuch as non-point sources are already eligible under the current program and non-point source projects are currently being funded by states.

3. The NPS/SRF would require some duplication of administrative effort and financial resources to establish and maintain. Again, this is an unnecessary expenditure, because currently, authority allows for non-point source loans.

4. The NPS/SRF limits gubernatorial flexibility by targeting State funds to a particular problem rather than the overall goals of the Act—as determined by a State.

5. The NPS/SRF does not currently provide for the level of flexibility provided by the existing SRF, (i.e., the negative interest options). Therefore, it is our understanding that NPS loan recipients cannot benefit from reduced paybacks.

6. It is our understanding that the Tax Act places a restriction on the percentage (e.g. 10%) of an SRF that can be provided to an individual or private sector entity when tax exempt bonds are used to leverage or secure the State match. As the NPS/SRF is specifically targeted to individuals/farmers, this Tax Act restriction applies. Hence, it is likely that only 10% of the total fund could be utilized in some States.

The ASIWPCA appreciates Chairman Boehlert's interest in placing higher priority on non-point source pollution. Also, ASIWPCA supports efforts, (within the context of the existing SRF), to address these diffuse sources. However, our basic position is that all Clean Water Act project-level technical and financial assistance should be consolidated—rather than fragmented—under the existing SRF. Therefore, we are not in a position to be supportive of this provision.

We hope that these comments are useful to the committee.

Sincerely,

BRUCE BAKER,
President.

Mr. MINETA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I must strongly oppose the gentleman's amendment.

We are all concerned about the budget and the Federal deficit. However, we cannot ignore the needs of our cities and States, and the bill before us is already inadequate to fully meet such needs.

Current estimates of the needs of cities and States to meet water quality goals under the Clean Water Act are placed at $137 billion over the next 20 years. Even at $3 billion per year as provided in the bill, we will not be able to provide as much assistance to cities and States as I would prefer. Further reducing the amount will only delay achieving desired water quality.

One of the recurring themes of the debate on this legislation has been the need to reduce unfunded mandates upon cities and States. Further reducing the authorized funding will not help in reducing unfunded mandates, it will only make matters worse.

The $137 billion in needs which the cities and States have identified are real needs, and those needs will continue even if this bill were to become law.

I would also like to point out to my colleagues, that the cuts in assistance to states and cities are even greater than they might appear. These Federal grants are for capitalization of State revolving loan funds—the money is used over and over in providing assistance to localities.

Over 20 years, these funds will be used three times. Therefore, a $3.5 billion reduction over the life of this bill will actually be a reduction of over $10 billion in assistance to States and cities.

Few of our Federal investments yield such a high return. We receive improved water quality, and the funds will be available in perpetuity.

The final point I will make in opposition to the Largent amendment is that while I appreciate the efforts of the Budget Committee in developing spending assumptions, it is a function of the authorizing and appropriating committees to determine final funding levels for individual programs. This amendment presupposes the results of that process. And, it presupposes the results of that process even before the budget resolution has been considered by the House.

Should the final budget resolution require reconciliation legislation or reduced levels of appropriations, then the House and appropriate committees can consider those options at that time. However, I believe that we would be doing a great disservice to the interests of the cities and States if we should choose to reduce the authorization levels in the bill at this time.

Mr. Chairman, I urge the rejection of this amendment. We should allow the budget and appropriations process to work their course, and we should do our best to aid cities and States.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to be able to support our full authorization that we brought to the floor. I would like to be able to support it because the needs for clean water far exceed the authorization which is in this bill.

However, I am extremely cognizant of the extraordinary budget pressures this Congress faces. The general fund budget must be brought under control.

So, for that reason, with some reluctance, I nevertheless must support the amendment which we have before us today, and perhaps most importantly, I think we should focus on the reality that in the last Congress the actual appropriation for this program was $2.3 billion.

The gentleman from Oklahoma [Mr. LARGENT] brings to the floor today a reduction which will nevertheless this coming year leave that authorization at $2.6 billion, or $300 million more than the reality of the actual appropriation which we saw last year. So considering the pressures we have on the budget, considering the reality of what the actual appropriations have been, and also recognizing the extraordinary needs that we have for clean water, I would urge support of the Largent amendment.

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to express my opposition to this amendment that will continue the trend of reducing the investment in our Nation's infrastructure.

The authorization levels in the committee bill show a commitment to continuing the program of investment that has existed for 20 years. This investment has been crucial to the success of our efforts to clean up the Nation's waters.

Last year, as chairman of the Subcommittee on Investigations and Oversight, I chaired a series of hearings that examined the need for more capital investment in this Nation.

We found that the Nation's needs for investment in wastewater treatment are continuing to increase.

The Environmental Protection Agency estimates the Nation's total investment needs in wastewater treatment to be almost $140 billion.

It is estimated that an additional $6 billion a year is needed to meet our needs.

One report by a respected infrastructure consulting firm estimated that we will have a $62 billion shortfall in our investment in wastewater treatment by the end of the decade.

Mr. Chairman, I do not believe reducing the authorization levels in H.R. 961 is the way to meet our Nation's pressing water pollution problems.

The State Revolving Loan Fund Program has been a shining success in the area of innovative financing on a cooperative Federal and State basis.

The States contribute their share and then control the funds as they are recycled.

Many other infrastructure initiatives have been looking to the Clean Water Act as a model for their own areas.

We should not be attempting to curtail these programs but enhancing them as a way of solving our urgent water pollution problems.

Adoption of this amendment would be another setback in our attempt to clean up our Nation's waters. I urge its defeat.

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The States contribute their share and then control the funds as they are recycled. Many other infrastructure initiatives have been looking to the Clean Water Act as a model for their own areas. We should not be attempting to curtail these programs, but enhancing them as a way of solving our urgent water pollution problems. Adoption of this amendment would be another setback in our attempt to clean up our Nation's waters.

Mr. Chairman, I would also make a note for those who are concerned most about unfunded mandates. If this amendment were to pass, we would give our States, and cities and localities more of an unfunded mandate to meet their needs. I urge defeat of the amendment.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment goes to the heart of the ability of cities to meet their obligations to clean up the Nation's waterways. At the very start of the Clean Water Act in 1956, my predecessor, John Plotnik, took on the daunting task, and then formidable and incredible task, of crafting legislation to clean up the Nation's waterways which are in a despicable state. He recognized that at the end of all the laws and all the discussions we have to have funds to cities and States to build sewage treatment plants to clean up their effluent, an incentive. A partnership was struck between the Federal Government, and municipalities and the States, and that partnership has grown, and it has worked extraordinarily well.

Over the years of construction, of the construction grant program for the Federal water pollution control program, municipalities have used, in combination with Federal funds, some $75 billion to clean up point sources of discharge. And industry has spent in the range of $130 billion to clean up their responsibility. Together over $205 billion spent in the last 25 years on cleaning up point source discharges to help clean up America's waterways. Most municipalities of large size meet secondary treatment standards, but the unmet needs and the most recent EPA surveys show $137 billion in needs by municipalities to build sewage treatment facilities to clean up those discharges. Talk will not clean them up. Talk will not take sewage out of the Nation's waterways. Treatment facilities do, and that costs money.

Now several years ago we eliminated the construction grant program and replaced it with a revolving loan fund that shifted significantly greater costs to municipalities for their responsibility in what is essentially a Federal problem: Rivers run between States; that is a Federal responsibility. We have a partnership to carry out with them. We said no more grants, loans, that it is going to cost more, and now what the gentleman's amendment would do is for each State cut roughly one-quarter of the funding available to them to help municipalities to do the job of cleaning, continue the job of cleaning up, discharges into lakes and streams.

Shifting of burden on to State and local governments is not the direction that we ought to go in the clean water program. It will take longer to achieve the Clean Water Act goals. It will take longer to address the incredibly complex problem of separating combined storm and sanitary sewers in this country. The CSO, the combined sewer overflow, problem continues to grow as we urbanize America, and less water is soaked up by wetlands, and goes directly into sewers, and causes more sewage to go into the Nation's waterways. We need to stay on track with the construction of sewage treatment facilities.

I wish we did have a construction grant program. We now have this revolving loan program. I say to my colleagues, Don't make it more burdensome for local governments to meet their responsibilities to continue with the task of cleaning up their discharges into the Nation's waterways. Make it a real partnership.

The funding in the bill that the committee has reported is in my judgment modest. It is less than what we need to achieve our goals. But it is a responsible figure. We should not cut below that number.

Defeat the Largent amendment.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I would like to just mention for the benefit of all the Members so that they understand where we are. We have just voted overwhelmingly to accept the Lipinski amendment so that our cities and States would be able to get the needed funds in order to meet the clean water needs of the cities and States across the country. It appears now this amendment would take away some $700 million in fiscal year 1996 for our cities and States and some $3.5 billion over the 5-year period, and so it seems to me, if our colleagues voted "yes" on the Lipinski amendment, then they should be voting "no" in very strong numbers again on the Largent amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(On request of Mr. SHUSTER and by unanimous consent, Mr. OBERSTAR was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I simply point out to my friends that under the Largent amendment, even with the cuts, the State revolving fund under the Largent amendment would still be very substantially higher than the appropriation requested by the Clinton administration. Under the Largent amendment the State revolving fund would be $2.3 billion. The administration has only requested $1.6 billion, and so we still would be above the administration.

Mr. OBERSTAR. I make no apologies for the administration proposal. I think it is grossly inadequate. But I think the committee bill, which the chairman has reported out, is on target, it is responsible, it is less than, I think, what we need, but I think in today's budget climate it is an appropriate number, and we ought not to undercut the good work the committee has done.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, most of the Members know that the gentleman from Oklahoma [Mr. LARGENT] is not only an NFL Hall of Famer, but he is a very caring Hall of Famer here in this body. But I would like the people that are thinking about supporting the amendment, and I reluctantly rise in opposition to the gentleman's amendment, and I have a couple of concerns, but, first of all, yesterday we had a bill that would have placed on DOD an unfunded mandate that would have cost billions of dollars when it was proven that those DOD facilities, both the surface and the shore based, complied better, all put together, than individual ones, and that was an unfunded mandate, and I did not support that as well.

I also believe in the authorization level in the committee mark that is thoughtful in the process. And I know that the mention of the Clinton budget. I do not imagine the President realized at the time of that budget that we were going to take a look and reauthorize the Clean Water Act as much as we are today.

I also made a statement earlier that Members on both sides of the aisle have reacted in ways that, because of extremes on both sides, those that want to concrete the world and pollute, and yet those on the other side from the environmental groups that have used it as a weapon, and somewhere in between we have got to lie, but if we give this to the States, we have got to give them the right and the power to do what we are asking them to do, and I think the committee mark is adequate.

I look in San Diego. If we treat secondary water in our sewage problem, it would cost us between $8 to $12 billion just for the city of San Diego in a waiver process. If we look at the Tijuana River that comes out of Mexico, that is why our beaches are fouled, and we need support in that, and the State cannot do it by itself.

So reluctantly I rise in opposition to my friend's amendment, and I ask my colleagues to think twice before they degrade the amount in the level.

Mr. BOEHLERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am somewhat perplexed as I face this issue, and it probably is the plight of a moderate. I can appreciate what the chairman is trying to do to get to a lower figure to reflect the everyday realities, the fiscal realities, we have now, and I can support that. But I cannot support eliminating section 606, the State nonpoint-source water pollution control revolving funds, for a very basis reason.

We have constantly preached to American agriculture that we want them to identify with the problem and be part of the solution, and quite frankly American agriculture is justified when they come back to us and say, "Quit giving us the sanctimonious sermon. How about a little financial assistance? You want us to do things that are going to cost money. We don't have the money. How about helping us out?"

I think that is a legitimate request.

So during the committee deliberations we debated long and hard on establishing a separate State nonpoint-source pollution revolving fund to the tune of $500 million. Give to the States the flexibility to use those funds to address the problem of nonpoint-source pollution, however, if there is a much higher priority and they want to use those funds for wastewater treatment plants, they can do so. So what we have said to the States and to agriculture is simply this:

"We have heard your pleas. On the one hand the States want flexibility. On the other hand agriculture wants some financial assistance." So we say we will accommodate both of those requests by setting up section 606, the nonpoint-source pollution revolving loan fund.

Now with this amendment cutting back, and I understand the need to cut back; I am very sympathetic to what the ranking member has said and the chairman of the full committee has said. We know full well the legitimate needs that are out there all across America. It would take $130 billion if we are going to pass the funding right now as the gentleman from Minnesota [Mr. OBERSTAR] has so eloquently stated, but we do not have that money.

So we have to deal with the situation, not as we would like it, but as we are faced with it. So what I want to do is ask the author of the amendment if he is sympathetic to my basic request that we retain the section 606, State nonpoint-source pollution revolving fund, and if he would accept a perfecting amendment which would allow us to do so. Then when that is incorporated into his amendment, we can then go on to vote on the amendment as perfected, and everyone can vote as they best see fit.

Mr. LARGENT. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Oklahoma.

Mr. LARGENT. Mr. Chairman, regretfully I would not be wiling to accept that friendly amendment, and let me just say a couple of things, reasons why.

Currently the present funding for the State revolving fund is $1.2 billion. Under this amendment we increase that funding over a billion dollars, where it would be $2.25 billion. Currently the State revolving fund has the flexibility to address nonpoint-source problems, and on top of that I have a letter to the chairman of the Committee on Transportation and Infrastructure from the Cattlemen's Association, the Council of Farmer Cooperatives, the sheep industry and pork producers, the very people that are concerned about nonpoint-source problems, and they say in this letter that the increased funding that we are authorizing under this amendment, that we believe that this provides adequate authority for States to reorient appropriate portions of the existing, the existing, State revolving fund creatively and aggressively and assisting those who must address nonpoint-source runoff, including provisions that allow modifications to reflect economic need.

And so the reason that I would object to this is that it is running 180 degrees opposite of what I feel like that we are trying to do in the 104th Congress, and that is try to reduce the amount of bureaucracy and creating any structures within the Clean Water Act.

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Mr. BOEHLERT. Mr. Chairman, reclaiming my time, that is unfortunate, because the fact of the matter is what I am suggesting will not add $1, not $1, to the bottom-line amount. But what it will add is flexibility for the Governors, and what it will do is guarantee for the first time that America's farmers have a source to apply to receive some assistance to follow through with instilling best management practices, doing the type of things that they want to do.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 3 additional minutes.)

Mr. BOEHLERT. Mr. Chairman, I have found repeatedly that America's farmers are among the best stewards of our land. They drink the water that we drink, they breathe the air that we breathe. They want to be responsible, but they lack the resources. And, very honestly, and I think everyone here will admit that under the present State revolving fund program, not one dime goes to American farmers to give them a helping hand.

I want to guarantee that they know that there is a source of money that is fenced off for them. They can apply for it, they can use it. They can help be part of the solution. That is what they want to do.

But, as I said earlier, the farmers of America are tired of our sanctimonious sermons coming from Washington, on this great Hill, the citadel of freedom, telling them very pompously, "We want you to be part of the solution. But, incidently, we are not going to give you any money to solve the problem." That is not responsible.

So I fail to see why my distinguished colleague from Oklahoma would not accept the perfecting amendment that does not add one penny to the total bottom-line amount. Not one penny. It just says for the first time, after this great deliberation in our Committee on Transportation and Infrastructure, after I worked hand in glove with the chairman to develop something that was going to be meaningful. And it passed with not one dissenting vote. Nobody voted against it. Every single member of that committee, Democrat, Republican; liberal, conservative; supported the Boehlert amendment, because they said you are right, we have got to do something to recognize the problem, and we have got to do it with more than just words and good intentions.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has again expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 2 additional minutes.)

Mr. BOEHLERT. Mr. Chairman, I want my colleagues to know one of the reasons I am proceeding is we are trying to draft the language for the perfecting amendment, so we can all appreciate that sometimes takes a little time. We have got great scholars and wizards in the back room doing that.

But the fact of the matter is, Mr. Chairman, Mr. LATHAM was here on the floor, my good and distinguished colleague and great friend from Iowa telling us of the problems of American agriculture. I serve as the chair of the Subcommittee on Water, Resources, and the Environment. We had a hearing in upstate Utica, NY, on this very subject, exclusively devoted to that subject of nonpoint-source pollution.

We have talked to agriculture. Agriculture likes this initiative. They want us to get it in part of the final language, and so do I. So I know nobody, that, really sincerely, when they evaluate all the facts of this, would argue that we should turn our backs on American farmers. I am not going to do so.

I am privileged to serve as chair of the Northeast Agriculture Caucus. In that capacity I work with my colleagues from both sides of the aisle to listen to America's farmers, to work with them. I want to help them, and the perfecting amendment I am suggesting would be very much in order and would help them.

AMENDMENT OFFERED BY MR. BOEHLERT TO THE AMENDMENT OFFERED BY MR. LARGENT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Oklahoma [Mr. LARGENT].

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT to the amendment offered by Mr. LARGENT: Strike that portion of the amendment which strikes line 18 on page 232 and all that follows, through line 20 on page 234.

Mr. BOEHLERT. Mr. Chairman, I would ask the gentleman from Oklahoma [Mr. LARGENT] once again, now that he has had a chance to reflect upon this, if he might see a different perspective to it; and, as the gentleman approaches the podium, I want to remind him, we are not adding one penny to the bottom line.

What we are adding is something the gentleman has fought vigorously for, as you have campaigned, and I welcome you here to be part of the new majority, you said during that campaign you want to return more authority to local government. Boy, I agree with the gentleman 100 percent. The gentleman said during his campaign he wants to cut down as much as possible the Federal spending.

I could not agree more with the gentleman. I, too, want to cut down as much as possible Federal spending. The gentleman has said, and I have said, we want to march together, to go forward, to help American agriculture, and I want to do that.

So I would ask the gentleman if, upon sober reflection, if he has any new insights he would like to share with this distinguished body.

Mr. LARGENT. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Oklahoma.

Mr. LARGENT. Mr. Chairman, I would just say that I have not seen the amendment yet. I look forward to reading it here in just a second. But I would just say that in my mind what I see this doing is what the gentleman is saying, is that we are not asking for one additional penny. But what the gentleman would do with his amendment is simply add another drawer in the already full kitchen of the Federal Government. We will not put any money in there right now, but that drawer will still be there.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, not so; not adding another drawer. It goes to the States. That is what the State revolving fund does. We send the money from Washington to the States. The States administer the State revolving fund. We are saying the same people administer it. Do not hire any more bureaucrats; we have enough of them.

We are saying take that money and sort of put it over to the side, just like when you sit down and work out the monthly budget at home. You have so much for your mortgage, so much for your car payments, so much for your groceries. If you decide to earmark a specific amount for groceries, you do not go out and add new members to your family. You just sort of move that account over a little bit.

What I am saying is let us demonstrate, colleagues, here on the floor of the House of Representatives, let us demonstrate in very tangible form that we want to work with American agriculture. We want to help America's farmers. Once again, let me repeat, they are the best stewards of the land that I know.

I am privileged to represent a district where agriculture is very important, and I talk to farmers. I can go and talk to a farmer. A typical farmer in upstate New York might be milking 60 or 70 cows, a farmer, wife, maybe a couple of kids. Along comes somebody and says, Mr. Farmer, we are concerned about the quality of water. Guess what the farmer says? So am I.

Then along comes this expert and says we know how to solve part of the problem. We would like you to maybe have a little buffer strip between your land where you are growing crops and where your pasture land is, and the river or stream, or put up a fence, or, maybe even more costly, a little manure management system. It is only going to cost you $10,000. The farmer looks you in the eye and says where in the hell am I going to get $10,000? Money does not come down from Heaven.

We say we have set up a special fund. You can apply to your State government, not Washington, not those bureaucrats down there, but your State government. You can go to them and say here is the best management plan that I have worked out. I accept. I think it makes good sense. It is going to protect my land and your land; it is going to protect our water. Now, I would like to have a low-interest, long-term loan from the State revolving fund to help me do it. I think that makes an awful lot of sense.

Mr. LARGENT. If the gentleman will yield further, I would just say once again that the current State revolving fund is accessible to that farmer in your district as it currently exists right now.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, let me tell you the everyday practical politics of it. Not one penny has gone to farmers. There are all the pressures on the State capitals and the people administering those fund dollars for funds for wastewater treatment plants. If you have this fund fenced off and they say this is what we collectively have agreed on, the Federal Government, the State government, we think this makes sense, I think it would help a great deal.

Mr. LARGENT. If the gentleman will yield further, I would argue just the opposite, that by creating a special fund that in fact you could eventually limit the amount of money that would be available to those farmers if you depleted that fund and they said you have already used up everything you have got in your special nonpoint source revolving fund, so we are not going to give you any more, as opposed to being able to tap the entire fund.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, you cannot take anything away from nothing. That is what they are now getting, zero, zip, zilch, nothing. I want to say here is some hope. You might have an opportunity to get something. I think that serves our best interests. It serves the best interests of American agriculture, and I will urge support of my perfecting amendment.

Mr. WISE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe I am in support of the gentleman from New York's perfecting amendment, but I really want to go at the overall amendment because I think that is what is crucial here.

The gentleman from Oklahoma's amendment I believe is sincere. He is concerned about deficit reduction and other things. I just think it is the wrong way to go at this time.

I have the opportunity from time to time to be involved in, as we all in this hall do, the dedication and ground breaking ceremonies for sewage treatment facilities, and there is a map that we have in the West Virginia facilities when we preside over these.

There is a map that is provided; there are actually two maps. One has all that has been built, the partnership between the State government, the Federal Government, the local government, and the ratepayers, as well as taxpayers all. That partnership has built $1 billion worth of sewage treatment facilities, wastewater construction projects, in our State. And that is impressive in a small State. That is the map on one side, what has been done.

There is a map on the other side, too, and that shows the many locations that still need to be constructed if it is to meet the goals set by this Congress and to meet commonsense goals of health. What that map shows is that there is at least a $2 billion need.

So that map on one side says $1 billion has been constructed. The map on the other side says there is still $2 billion worth of construction to do. So we look at what the national figures are. Nationally, I hear statistics ranging everywhere from the most conservative of somewhere around 100 to 130 to 150 billion dollars' worth of projects still needing to be done simply to meet existing requirements.

So I ask how are we going to do this? I think it is important to look at the evolution of the State revolving fund. Remember, it was just a few years ago, a dozen years ago, that it was a grant program, and it was authorized for as much as $5 billion. That was imply for point source pollution. Then it was ratcheted down over the years to $2.5 billion. Then it changed from a grant fund gradually to a revolving loan fund that people have to pay back.

So what we have gone from is an outright grant to a revolving loan fund. Incidentally, it is funded at a far lesser rate than $5 billion, roughly $2 billion last year.

Now look at what is in this bill as far as additional demands upon municipal treatment facilities. I supported some of the measures in this bill for additionally flexibility, but I also know that when you per deal with pretreatment of industrial waste, you are going to put additional demands on existing facilities as well as those to be built. Are we now to step back from that commitment as well? Are we to step back from some of the requirements and demands that will be placed upon state and local governments?

I also look at unfunded mandates. A lot of talk around here about that. This legislation does maintain certain mandates in place. Yet would we cut back further on the money that is to go to the State and local governments and the ratepayers themselves to assist in meeting those mandates?

Mr. Chairman, this is really I think prefacing for what will be a much greater discussion that must be conducted in this Congress, but in some ways it is going to be started on some of these seemingly smaller issues.

What role does growth have in our budget process? The effort to balance the budget in 7 years, we all agree on the need for a balanced budget. But the effort to balance that, is it going to restrict the kind of growth that is going to be needed to take place in order to accomplish that?

My feeling is you cannot cut your way out of this mess. You are going to have growth as a solid component. We have legitimate disagreements in here as to what will lead to that growth, but I do not think we ought to be cutting back those very programs that are indeed so necessary.

I had the chance to attend a ground breaking the other day for an industrial part which is guaranteed to create at least 350 jobs and probably as high as 800 jobs. So important to that park was the money necessary for the sewage treatment facilities. They could not have that park without it.

☐ 1215

The Federal Government's return on its investment is going to be gotten back entirely within 4 years, based upon taxes that will be paid by the newly working people and so on—4 years. I had a real estate developer, major developer come up to me afterward and say, If I could get my return back in 4 years on every investment, I would be in hog heaven.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. WISE] has expired.

(By unanimous consent, Mr. WISE was allowed to proceed for 2 additional minutes.)

Mr. WISE. Mr. Chairman, I ask this body to recognize the important need of investment. Behind every major industrial development project is a need for waste treatment disposal. We are asking the Government, governmental sector, local and State governments and public service districts to take on an increased responsibility along with increased flexibility. This is not the time to be cutting back the authorization for them to do that. It is the time actually to be increasing.

I will not make that argument on the floor today, but I would urge that we not support the amendment of the gentleman from Oklahoma and urge my colleagues to permit the language to continue that is in the bill.

MODIFICATION OF AMENDMENT OFFERED BY MR. BOEHLERT TO THE AMENDMENT OFFERED BY MR. LARGENT

Mr. BOEHLERT. Mr. Chairman, I ask unanimous consent that the amendment to the amendment be modified, in the interest of clarity, so that my colleagues will understand, to strike $2.3 billion each place it appears in the bill and insert $1.8 billion. So what we do, in effect, is retain the section 606 that sets up this nonpoint source pollution revolving fund at $500 million, when added to the $1.8 billion totals the $2.3 billion that the gentleman from Oklahoma [Mr. LARGENT] has set as his ceiling. So that is the perfecting amendment.

I would hope on a bipartisan basis the perfecting amendment can be accepted. Then we could have the vote on the Largent amendment as perfected and everyone can work as they wish.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Mr. BOEHLERT to the amendment offered by Mr. LARGENT: Strike "$2,300,000,000" each place it appears and insert "$1,800,000,000".

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. HAYES. Mr. Chairman, reserving the right to object, my understanding of what would occur in that reduction is that all of that would come from the State revolving fund. I vigorously oppose that. I most certainly believe the gentleman has a right to a vote on that, but I certainly could not consent to it under unanimous consent.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, what I want my distinguished colleague, the gentleman from Louisiana, to note is that the funds are interchangeable. This gives the flexibility to the State government, the State government agency administering the fund.

As you well know, because you are a student of this, as you well know, presently farmers get zip from the State revolving fund, nothing. We are setting up something that says, We are responsive to your need for financial assistance. We will give the money in a State revolving fund. We will fence off $500 million for non-point-source pollution.

However, in recognition of your legitimate concern, we will give the flexibility to the State. The State can use all of that money for other than non-point-source pollution, if that is its highest priority.

But I would respectfully submit to the gentleman, and that has been pointed out to me by a number of my colleagues from agriculture States, that in many States they have done very will in terms of addressing the problem of waste water treatment plants. They have got what they need. But they need more assistance for non-point-source pollution and they have not had the source.

Mr. HAYES. Mr. Chairman, continuing my reservation of objection, I ask the gentleman, in what manner would that be distributed? Under the formula?

Mr. BOEHLERT. Mr. Chairman, if the gentleman will continue to yield, that would be the same formula as we had for the SRF.

Mr. HAYES. Mr. Chairman, as I say, I do not think that is the appropriate time or moment. I will object to the unanimous consent. I most certainly will not object to furthering our discussion at a different time.

Mr. Chairman, continuing my reservation of objection, I yield to the gentleman from Oklahoma [Mr. LARGENT].

Mr. LARGENT. Mr. Chairman, I remind the gentleman that under the current State revolving funds the States already have the flexibility to address non-point-source matters. So what we are doing is really redundant and provides less flexibility for States, potentially supplies less flexibility.

Mr. HAYES. Mr. Chairman, I do not wish to belabor the point at this time. As I say, it is certainly an appropriate discussion but I feel that I will have to object to the unanimous consent request.

Mr. Chairman, continuing my reservation of objection, I yield to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, before the gentleman maintains his objection, you, as a senior member of the committee of jurisdiction, know full well, because we have examined this very thoroughly in long, long hearings, American farmers are not getting one penny out of the State revolving fund to do some of the things that we are suggesting from on high here in Washington they should do to be part of the solution rather than just standing idly by and being perpetuators of the problem. We want to give them a source of money so that they can apply to their State government. We want to give their State government the flexibility that I think you and I would agree they should have to make the decisions at that level.

Louisiana knows what is best for Louisiana, what is good for Louisiana, as does New York know best what is good for New York.

Mr. HAYES. Mr. Chairman, it would be my understanding, I do not want to belabor the point now, but I believe that the agricultural community is opposed to the gentleman's position, as are the cities and States.

Mr. BOEHLERT. Mr. Chairman, if the gentleman will continue to yield, no.

Mr. HAYES. As I say, I think that would be more appropriate perhaps for another moment.

Mr. Chairman, I am simply going to have to object to the unanimous-consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. HAYES. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of my colleague from New York. What I would like to do for the Members, especially for Members who might be from a suburban area or an urban area, is to give them some idea what non-point-source pollution is.

Non-point-source pollution happens in suburbs. It happens in urban areas. It happens in rural areas on agricultural farms.

You have all kinds of farms. You have dairy farms. You have chicken farms. You have grain farms, et cetera. There is a variety of farms. I want to show you what the problems are with non-point-source pollution on farms in any one of these areas.

Most farms, especially if there are cows, chickens, grain farmers, cattle farmers, they have a barn. Somebody said pig, OK. Now we have a barn. Somewhere around a farm generally you are going to have a river or some waterway.

This is the Clean Water Act that we are talking about. We are trying to prevent pollution from a source to get into the water. So what we see here, whether you have pigs, cows, chickens, grain, or whatever, they have manure. So it very often costs money, if you are going to put a manure shed for composting purposes next to the farm. That composting shed could cost $5,000.

If you have dairy farms and cows, you will have to put a holding area for the cows sometime before you take them in to milk. That holding area is concentrating manure which gradually will get into the ground water unless you build a holding area which prevents the manure from leaving that area. That is about $10,000 on this side.

The other things you need for a farm is fertilizer, pesticides, herbicides. All of these things, if they leach or flow into the waterway, are going to cause a problem with the quality of the water. So what do you need to do to hold those things? You need certain things called waterways, if you have any contour on the land.

A waterway is a grassy area that helps absorb the runoff to prevent the silt or the fertilizer from getting into the ground water into the waterway. You need other things called buffer zones. A buffer zone is a grassy area around the waterway and that, again, prevents the pollution or the silt or a variety of other things from getting into the ground water.

There is something else you need. If you plant corn or wheat or rye or soybean, very often you do not put anything on the ground during the winter months and the nitrogen that you put on the ground in the spring and the summer, unless it is taken up into these plants during the winter months, gets into the ground water so that costs more money.

In essence, for one farm, if this is a dairy farm or a pig farm or a chicken farm or a grain farm, every single farmer, whether they own 10,000 acres or 100 acres, has a certain amount of cost if he is going to prevent non-point-source pollution. And all of this costs money.

Generally speaking, farmers have not gotten enough aid in this area. So I strongly, I am a big football fan and all the rest of that, but I have to rise in strong opposition to the gentleman's amendment.

Mr. HAYES. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. Mr. Chairman, I yield to the gentleman from Louisiana.

Mr. HAYES. Would the gentleman mind drawing in the five different Federal regulators that are going to be on the farm right after that river was drawn in?

Mr. GILCHREST. First of all, the Federal regulators should be on the farm and talk about possom hunting, then have a cup of coffee and a piece of pie, and the Federal regulators ought to be good neighbors and talk about how we can solve some of these problems, but unless the allocation is there, unless the funding is there, unless the awareness is there that this kind of thing exists, we are not going to stop the greater problem that we have today of non-point-source pollution and help those people who need to be a part of the solution.

Mr. HOKE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wanted to point out to the gentleman from Maryland and also the gentleman from New York that we actually have already in Ohio a non-point-source program that has been specifically developed inside the existing law. And it is particularly targeted for ag interests so that farmers can get funding through the revolving loan fund in order to be able to do exactly the kinds of things that you are talking about.

What I am saying is, we do not need to fence off this money inside this bill in order to achieve what you want to do. I cannot see any reason to support the Boehlert amendment when, A, it is possible to do what the gentleman from New York wants to do already; B, it is being done in places like Ohio; and C——

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. HOKE. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, it may be done in places like Ohio, but it is not being done across the Nation. If we are looking at watershed ideas and keeping water going from one State to another State and raising the awareness of non-point-source problems, especially in agriculture, I think the gentleman from New York [Mr. BOEHLERT] has the right idea.

Mr. HOKE. Mr. Chairman, I understand that the gentleman does think that, but clearly the whole argument here and the reason that we are making these changes in this act have to do with giving greater flexibility to the States to be able to do these things.

What I am suggesting to the gentleman is that already in many States, Ohio is not the only one, that flexibility has been utilized in a responsible way.

Last, the other thing I wanted to say about the bill generally, the Largent amendment, is that I sit on the Committee on the Budget. And it strikes me that if we do not undertake the kind of amendment that the gentleman from Oklahoma [Mr. LARGENT] has brought today, then we are just back in the same old routine that we have been in year after year after year.

I frankly do not want to support going through this charade where we have these authorizing bills that have 20, 30, 40, 50 percent more money in them than what the Committee on the Budget has said there will be available to spend and what we know that the appropriators are going to come up with ultimately.

Let us have some honesty, some truth in budgeting. Let us have some truth in legislation in this. This is supported by the chairman. This is the right direction. This is the right way to go.

We ought to have the mark in the authorizing bill match the mark in the Committee on the Budget bill, match the mark that we are finally going to come up with in the Committee on Appropriations. That is crystal clear.

If we do not take this opportunity now to start on that road, then we will play the same old games in the 104th Congress that we have played in all previous Congresses.

□ 1230

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to ask the distinguished gentleman from New York [Mr. BOEHLERT] if he will engage me in a colloquy.

Mr. Chairman, as I understand it, the Largent amendment would reduce the total funding to $2.3 billion.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. BORSKI. I yield to the gentleman from New York.

Mr. BOEHLERT. That is my understanding.

Mr. BORSKI. And I would ask the gentleman, what would the Boehlert amendment do? Would that add $500 million to that $2.3 billion?

Mr. BOEHLERT. No, Mr. Chairman, it would not. My perfecting amendment would reduce it to $1.8 billion, and retain the section 606, which is $500 million. Here is what I would suggest we do for the good of the cause.

Mr. Chairman, I ask unanimous consent that I be allowed to withdraw the amendment, so we can continue the discussions between the chairman and the ranking minority member and the subcommittee chair and the ranking minority member of the subcommittee, and try to work this out. I do not think that there is any argument here, that we are trying to do something that demonstrates to American agriculture that we want to set up something that is earmarked specifically for their needs in addressing the problem of non-point-source pollution, but we want to do it in such a way as to permit flexibility for the State Governors and the administrators of the State revolving fund.

I would like to think that we are creative enough to accomplish both worthy objectives.

The CHAIRMAN. Is the gentleman from New York [Mr. BOEHLERT] requesting that his amendment be withdrawn?

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. BORSKI. I am happy to yield to the distinguished chairman, the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding to me.

Mr. Chairman, I would say to the gentleman from New York [Mr. BOEHLERT] then, so we can move forward on other provisions here, that one of the suggestions is that he put this in title X, so we may proceed with the amendment before us.

Mr. BOEHLERT. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. BORSKI] yield for that purpose?

Mr. BORSKI. I yield to the gentleman from New York for that purpose.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The request has been granted, and the amendment is withdrawn.

Mr. MINETA. Reserving the right to object, Mr. Chairman, just as a parliamentary inquiry, would this require, then, that the gentleman from New York [Mr. BOEHLERT] go back to title VI if we are to have him withdraw this, and we proceed forward on the bill? Would he have to get unanimous consent to go back to title VI in order to be able to amend, if he is to do this in title X?

Mr. BOEHLERT. Mr. Chairman, if I may amend my unanimous-consent request, the unanimous-consent request is to withdraw this amendment at this point, with authority to revisit title VI for the purpose of this amendment only at a later date.

The CHAIRMAN. The Chair will first state that the amendment has been withdrawn.

Mr. BOEHLERT. With this proviso.

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. BOEHLERT] that the gentleman be able to offer an amendment to title VI after it is passed in the reading?

Mr. BOEHLERT. For this specific amendment only.

The CHAIRMAN. For this specific purpose only.

Without objection, it shall be in order for the gentleman from New York [Mr. BOEHLERT] to offer a form of his amendment to title VI at a later time during consideration.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. MINETA. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MINETA. Mr. Chairman, at this point is the only issue pending before us the amendment offered by the gentleman from Oklahoma [Mr. LARGENT]?

The CHAIRMAN. That is correct.

Mr. BORSKI. Mr. Chairman, I just want to reiterate my opposition to the Largent amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. LARGENT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MINETA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 209, noes 192, not voting 33, as follows:

[Roll No. 329]

AYES—209

Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clinger
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cubin
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Edwards
Ehrlich
Emerson
Ensign
Everett
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (NJ)
Frelinghuysen
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilman
Goodlatte
Goodling
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
Martini
McCollum
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Tejeda
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Walker
Walsh
Wamp
Weldon (FL)
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—192

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Bateman
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Brown (FL)
Brown (OH)
Bryant (TX)
Camp
Cardin
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (MI)
Costello
Coyne
Cremeans
Cunningham
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Ehlers
Engel
English
Eshoo
Evans
Ewing
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Frisa
Frost
Furse
Gephardt
Gilchrest
Gillmor
Gonzalez
Gordon
Goss
Green
Gutierrez
Hall (OH)
Harman
Hastert
Hastings (FL)
Heineman
Hinchey
Holden
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
LaHood
Lantos
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Menendez
Mfume
Mineta
Minge
Mink
Mollohan
Moran
Morella
Nadler
Neal
Ney
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Pomeroy
Porter
Portman
Poshard
Rahall
Rangel
Reed
Reynolds
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Taylor (NC)
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
White
Whitfield
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—33

Andrews
Baker (LA)
Barrett (NE)
Bono
Boucher
Brown (CA)
Chenoweth
Collins (IL)
Conyers
Cramer
Dornan
Dunn
Gejdenson
Gibbons
Hancock
Hefner
Lincoln
Longley
McCrery
Meek
Miller (CA)
Moakley
Murtha
Ortiz
Pastor
Peterson (FL)
Peterson (MN)
Richardson
Rogers
Tanner
Torres
Watts (OK)
Williams

□ 1252

The Clerk announced the following pairs:

On this vote:

Ms. Dunn of Washington for, with Mrs. Collins of Illinois against.

Mr. Bono for, with Mrs. Meek of Florida against.

Mr. Watts of Oklahoma for, with Mr. Moakley against.

Messrs. HOUGHTON, COBLE, WELLER, HASTERT, and EWING changed their vote from "aye" to "no."

Mr. GRAHAM and Mr. HORN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. ROUKEMA. Mr. Speaker, I would like to note that on the last vote, rollcall 329, I voted incorrectly. I had intended to vote "no" and I was registered as "yes."

PERSONAL EXPLANATION

Mr. GEJDENSON. Mr. Speaker, on Friday, May 12, I was unexpectedly called back to Connecticut. As a result, I missed three rollcall votes. Had I been present, I would have voted as follows: rollcall No. 327—Bateman amendment to Lipinski amendment—"no"; rollcall No. 328—Lipinski amendment—"yes"; rollcall No. 329—Largent amendment—"no."

PERSONAL EXPLANATION

Mr. PASTOR. Mr. Speaker, on Friday, May 12, I was granted a leave of absence to return to Arizona to attend the graduation of my daughter from Arizona State University. Consequently, I was absent for three rollcall votes on H.R. 961. Had I been present, I would have voted in the following manner: "nay" on rollcall vote No. 327; "aye" on rollcall vote No. 328; "nay" on rollcall vote No. 329.

The CHAIRMAN. Are there any other amendments to title VI?

If not, the Clerk will designate title VII.

The text of title VII is as follows:

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. TECHNICAL AMENDMENTS.

(a) SECTION 118.—Section 118(c)(1)(A) (33 U.S.C. 1268(c)(1)(A)) is amended by striking the last comma.

(b) SECTION 120.—Section 120(d) (33 U.S.C. 1270(d)) is amended by striking "(1)".

(c) SECTION 204.—Section 204(a)(3) (33 U.S.C. 1284(a)(3)) is amended by striking the final period and inserting a semicolon.

(d) SECTION 205.—Section 205 (33 U.S.C. 1285) is amended—

(1) in subsection (c)(2) by striking "and 1985" and inserting "1985, and 1986";

(2) in subsection (c)(2) by striking "through 1985" and inserting "through 1986";

(3) in subsection (g)(1) by striking the period following "4 per centum"; and

(4) in subsection (m)(1)(B) by striking "this" the last place it appears and inserting "such".

(e) SECTION 208.—Section 208 (33 U.S.C. 1288) is amended—

(1) in subsection (h)(1) by striking "designed" and inserting "designated"; and

(2) in subsection (j)(1) by striking "September 31, 1988" and inserting "September 30, 1988".

(f) SECTION 301.—Section 301(j)(1)(A) (33 U.S.C. 1311(j)(1)(A)) is amended by striking "that" the first place it appears and inserting "than".

(g) SECTION 309.—Section 309(d) (33 U.S.C. 1319(d)) is amended by striking the second comma following "Act by a State".

(h) SECTION 311.—Section 311 (33 U.S.C. 1321) is amended—

(1) in subsection (b) by moving paragraph (12) (including subparagraphs (A), (B) and (C)) 2 ems to the right; and

(2) in subsection (h)(2) by striking "The" and inserting "the".

(i) SECTION 505.—Section 505(f) (33 U.S.C. 1365(f)) is amended by striking the last comma.

(j) SECTION 516.—Section 516 (33 U.S.C. 1375) is amended by redesignating subsection (g) as subsection (f).

(k) SECTION 518.—Section 518(f) (33 U.S.C. 1377(f)) is amended by striking "(d)" and inserting "(e)".

SEC. 702. JOHN A. BLATNIK NATIONAL FRESH WATER QUALITY RESEARCH LABORATORY.

(a) DESIGNATION.—The laboratory and research facility established pursuant to section 104(e) of the Federal Water Pollution Control Act (33 U.S.C. 1254(e)) that is located in Duluth, Minnesota, shall be known and designated as the "John A. Blatnik National Fresh Water Quality Research Laboratory".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory and research facility referred to in subsection (a) shall be deemed to be a reference to the "John A. Blatnik National Fresh Water Quality Research Laboratory".

SEC. 703. WASTEWATER SERVICE FOR COLONIAS.

(a) GRANT ASSISTANCE.—The Administrator may make grants to States along the United States-Mexico border to provide assistance for planning, design, and construction of treatment works to provide wastewater service to the communities along such border commonly known as "colonias".

(b) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds made available under subsection (a) shall be 50 percent. The non-Federal share of such cost shall be provided by the State receiving the grant.

(c) TREATMENT WORKS DEFINED.—For purposes of this section, the term "treatment works" has the meaning such term has under section 212 of the Federal Water Pollution Control Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under subsection (a) $50,000,000 for fiscal year 1996. Such sums shall remain available until expended.

SEC. 704. SAVINGS IN MUNICIPAL DRINKING WATER COSTS.

(a) STUDY.—The Administrator of the Environmental Protection Agency, in consultation with the Director of the Office of Management and Budget, shall review, analyze, and compile information on the annual savings that municipalities realize in the construction, operation, and maintenance of drinking water facilities as a result of actions taken under the Federal Water Pollution Control Act.

(b) CONTENTS.—The study conducted under subsection (a), at a minimum, shall contain an examination of the following elements:

(1) Savings to municipalities in the construction of drinking water filtration facilities resulting from actions taken under the Federal Water Pollution Control Act.

(2) Savings to municipalities in the operation and maintenance of drinking water facilities resulting from actions taken under such Act.

(3) Savings to municipalities in health expenditures resulting from actions taken under such Act.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study conducted under subsection (a).

AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DE LA GARZA: On page 237, in line 11 after "treatment works" insert "and appropriate connections".

On page 237, strike line 14, and all that follows through "(c)" on line 19 and insert "(b)".

On page 237, on line 23 redesignate "(d)" as "(c)".

Mr. DE LA GARZA. Mr. Chairman, I wish to thank the chairman of the committee and the ranking member for agreeing to this amendment. It is an amendment that will give more flexibility to the Administrator of EPA to negotiate with areas on wastewater treatment that are underserved and underprivileged.

I want to thank Chairman SHUSTER and the ranking member of the committee, Mr. MINETA, for supporting my amendment to section 703, the wastewater service for colonias of H.R. 961, the Clean Water Amendments of 1995. Section 703 is similar to a bill I introduced last Congress and which I reintroduced this Congress as H.R. 908.

As some of you know, colonias are unincorporated areas along our southwestern border that lack basic services, such as water and wastewater. There are some 250,000 Americans living in colonias.

This amendment will amend section 703 of the bill to authorize the Administrator to make grants to States to provide assistance for planning, design, and construction of treatment works to provide wastewater service and for appropriate connections. My amendment would allow recipient States to use the financial assistance for appropriate connections for colonia residences to connect them to sewer collection systems which will allow them to make any improvements necessary to meet existing county or city requirements. This is an important problem that we need to address in order to bring wastewater connections into the homes of these communities.

In addition, this amendment will delete the requirements that the Federal share of the cost of a project for a wastewater service be 50 percent. This deletion will allow maximum flexibility for the Administrator in determining the appropriate funding of these projects in allowing EPA to negotiate the match requirement with the recipient State.

Again, thank you Chairman SHUSTER and Mr. MINETA for your assistance regarding this important problem to our southwestern communities. I look forward to working with you and your committee on this important issue.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, we have examined this. We think it is a good amendment, and we support it.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have looked at the amendment. We have no objections to the amendment on this side. We do appreciate the gentleman from Kansas [Mr. ROBERTS] being on our side as well.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas, the distinguished chairman of the Committee on Agriculture.

Mr. ROBERTS. Mr. Chairman, I thank the distinguished ranking member for his leadership on this particular bill. We on this side of the aisle have looked at it very carefully and we agree. We are certainly happy to have the gentleman, on our side of the aisle.

Mr. DE LA GARZA. Mr. Chairman I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to title VII?

If not, the Clerk will designate title VIII.

The text of title VIII is as follows:

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Comprehensive Wetlands Conservation and Management Act of 1995".

SEC. 802. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) wetlands play an integral role in maintaining the quality of life through material contributions to our national economy, food supply, water supply and quality, flood control, and fish, wildlife, and plant resources, and thus to the health, safety, recreation and economic well-being of citizens throughout the Nation;

(2) wetlands serve important ecological and natural resource functions, such as providing essential nesting and feeding habitat for waterfowl, other wildlife, and many rare and endangered species, fisheries habitat, the enhancement of water quality, and natural flood control;

(3) much of the Nation's resource has sustained significant degradation, resulting in the need for effective programs to limit the loss of ecologically significant wetlands and to provide for long-term restoration and enhancement of the wetlands resource base;

(4) most of the loss of wetlands in coastal Louisiana is not attributable to human activity;

(5) because 75 percent of the Nation's wetlands in the lower 48 States are privately owned and because the majority of the Nation's population lives in or near wetlands areas, an effective wetlands conservation and management program must reflect a balanced approach that conserves and enhances important wetlands values and functions while observing private property rights, recognizing the need for essential public infrastructure, such as highways, ports, airports, pipelines, sewer systems, and public water supply systems, and providing the opportunity for sustained economic growth;

(6) while wetlands provide many varied economic and environmental benefits, they also present health risks in some instances where they act as breeding grounds for insects that are carriers of human and animal diseases;

(7) the Federal permit program established under section 404 of the Federal Water Pollution Control Act was not originally conceived as a wetlands regulatory program and is insufficient to ensure that the Nation's wetlands resource base will be conserved and managed in a fair and environmentally sound manner; and

(8) navigational dredging plays a vital role in the Nation's economy and, while adequate safeguards for aquatic resources must be maintained, it is essential that the regulatory process be streamlined.

(b) PURPOSE.—The purpose of this title is to establish a new Federal regulatory program for certain wetlands and waters of the United States—

(1) to assert Federal regulatory jurisdiction over a broad category of specifically identified activities that result in the degradation or loss of wetlands;

(2) to provide that each Federal agency, officer, and employee exercise Federal authority under section 404 of the Federal Water Pollution Control Act to ensure that agency action under such section will not limit the use of privately owned property so as to diminish its value;

(3) to account for variations in wetlands functions in determining the character and extent of regulation of activities occurring in wetlands areas;

(4) to provide sufficient regulatory incentives for conservation, restoration, or enhancement activities;

(5) to encourage conservation of resources on a watershed basis to the fullest extent practicable;

(6) to protect public safety and balance public and private interests in determining the conditions under which activity in wetlands areas may occur; and

(7) to streamline the regulatory mechanisms relating to navigational dredging in the Nation's waters.

SEC. 803. WETLANDS CONSERVATION AND MANAGEMENT.

Title IV (33 U.S.C. 1341 et seq.) is further amended by striking section 404 and inserting the following new section:

"SEC. 404. PERMITS FOR ACTIVITIES IN WETLANDS OR WATERS OF THE UNITED STATES.

"(a) PROHIBITED ACTIVITIES.—No person shall undertake an activity in wetlands or waters of the United States unless such activity is undertaken pursuant to a permit issued by the Secretary or is otherwise authorized under this section.

"(b) AUTHORIZED ACTIVITIES.—

"(1) PERMITS.—The Secretary is authorized to issue permits authorizing an activity in wetlands or waters of the United States in accordance with the requirements of this section.

"(2) NONPERMIT ACTIVITIES.—An activity in wetlands or waters of the United States may be undertaken without a permit from the Secretary if that activity is authorized under subsection (e)(6) or (e)(8) or is exempt from the requirements of this section under subsection (f) or other provisions of this section.

"(c) WETLANDS CLASSIFICATION.—

"(1) REGULATIONS; APPLICATIONS.—

"(A) DEADLINE FOR ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, the Secretary shall issue regulations to classify wetlands as type A, type B, or type C wetlands depending on the relative ecological significance of the wetlands.

"(B) APPLICATION REQUIREMENT.—Any person seeking to undertake activities in wetlands or waters of the United States for which a permit is required under this section shall make application to the Secretary identifying the site of such activity and requesting that the Secretary determine, in accordance with paragraph (3) of this subsection, the classification of the wetlands in which such activity is proposed to occur. The applicant may also provide such additional information regarding such proposed activity as may be necessary or appropriate for purposes of determining the classification of such wetlands or whether and under what conditions the proposed activity may be permitted to occur.

"(2) DEADLINES FOR CLASSIFICATIONS.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B) of this paragraph, within 90 days following the receipt of an application under paragraph (1), the Secretary shall provide notice to the applicant of the classification of the wetlands that are the subject of such application and shall state in writing the basis for such classification. The classification of the wetlands that are the subject of the application shall be determined by the Secretary in accordance with the requirements for classification of wetlands under paragraph (3) and subsection (i).

"(B) RULE FOR ADVANCE CLASSIFICATIONS.—In the case of an application proposing activities located in wetlands that are the subject of an advance classification under subsection (h), the Secretary shall provide notice to the applicant of such classification within thirty days following the receipt of such application, and shall provide an opportunity for review of such classification under paragraph (5) and subsection (i).

"(3) CLASSIFICATION SYSTEM.—Upon application under this subsection, the Secretary shall—

"(A) classify as type A wetlands those wetlands that are of critical significance to the long-term conservation of the aquatic environment of which such wetlands are a part and which meet the following requirements:

"(i) such wetlands serve critical wetlands functions, including the provision of critical habitat for a concentration of avian, aquatic, or wetland dependent wildlife;

"(ii) such wetlands consist of or may be a portion of ten or more contiguous acres and have an inlet or outlet for relief of water flow; except that this requirement shall not operate to preclude the classification as type A wetlands lands containing prairie pothole features, playa lakes, or vernal pools if such lands otherwise meet the requirements for type A classification under this paragraph;

"(iii) there exists a scarcity within the watershed or aquatic environment of identified functions served by such wetlands such that the use of such wetlands for an activity in wetlands or waters of the United States would seriously jeopardize the availability of these identified wetlands functions; and

"(iv) there is unlikely to be an overriding public interest in the use of such wetlands for purposes other than conservation;

"(B) classify as type B wetlands those wetlands that provide habitat for a significant population of wetland dependent wildlife or provide other significant wetlands functions, including significant enhancement or protection of water quality or significant natural flood control; and

"(C) classify as type C wetlands all wetlands that—

"(i) serve limited wetlands functions;

"(ii) serve marginal wetlands functions but which exist in such abundance that regulation of activities in such wetlands is not necessary for conserving important wetlands functions;

"(iii) are prior converted cropland;

"(iv) are fastlands; or

"(v) are wetlands within industrial, commercial, or residential complexes or other intensely developed areas that do not serve significant wetlands functions as a result of such location.

"(4) REQUEST FOR DETERMINATION OF JURISDICTION.—

"(A) IN GENERAL.—A person who holds an ownership interest in property, or who has written authorization from such a person, may submit a request to the Secretary identifying the property and requesting the Secretary to make one or more of the following determinations with respect to the property:

"(i) Whether the property contains waters of the United States.

"(ii) If the determination under clause (i) is made, whether any portion of the waters meets the requirements for delineation as wetland under subsection (g).

"(iii) If the determination under clause (ii) is made, the classification of each wetland on the property under this subsection.

"(B) PROVISION OF INFORMATION.—The person shall provide such additional information as

may be necessary to make each determination requested under subparagraph (A).

"(C) DETERMINATION AND NOTIFICATION BY THE SECRETARY.—Not later than 90 days after receipt of a request under subparagraph (A), the Secretary shall—

"(i) notify the person submitting the request of each determination made by the Secretary pursuant to the request; and

"(ii) provide written documentation of each determination and the basis for each determination.

"(D) AUTHORITY TO SEEK IMMEDIATE REVIEW.—Any person authorized under this paragraph to request a jurisdictional determination may seek immediate judicial review of any such jurisdictional determination or may proceed under subsection (i).

"(5) DE NOVO DETERMINATION AFTER ADVANCE CLASSIFICATION.—Within 30 days of receipt of notice of an advance classification by the Secretary under paragraph (2)(B) of this subsection, an applicant may request the Secretary to make a de novo determination of the classification of wetlands that are the subject of such notice.

"(d) RIGHT TO COMPENSATION.—

"(1) IN GENERAL.—The Federal Government shall compensate an owner of property whose use of any portion of that property has been limited by an agency action under this section that diminishes the fair market value of that portion by 20 percent or more. The amount of the compensation shall equal the diminution in value that resulted from the agency action. If the diminution in value of a portion of that property is greater than 50 percent, at the option of the owner, the Federal Government shall buy that portion of the property for its fair market value.

"(2) DURATION OF LIMITATION ON USE.—Property with respect to which compensation has been paid under this section shall not thereafter be used contrary to the limitation imposed by the agency action, even if that action is later rescinded or otherwise vitiated. However, if that action is later rescinded or otherwise vitiated, and the owner elects to refund the amount of the compensation, adjusted for inflation, to the Treasury of the United States, the property may be so used.

"(3) EFFECT OF STATE LAW.—If a use is a nuisance as defined by the law of a State or is already prohibited under a local zoning ordinance, no compensation shall be made under this section with respect to a limitation on that use.

"(4) EXCEPTIONS.—

"(A) PREVENTION OF HAZARD TO HEALTH OR SAFETY OR DAMAGE TO SPECIFIC PROPERTY.—No compensation shall be made under this section with respect to an agency action the primary purpose of which is to prevent an identifiable—

"(i) hazard to public health or safety; or

"(ii) damage to specific property other than the property whose use is limited.

"(B) NAVIGATION SERVITUDE.—No compensation shall be made under this section with respect to an agency action pursuant to the Federal navigation servitude, as defined by the courts of the United States, except to the extent such servitude is interpreted to apply to wetlands.

"(5) PROCEDURE.—

"(A) REQUEST OF OWNER.—An owner seeking compensation under this section shall make a written request for compensation to the agency whose agency action resulted in the limitation. No such request may be made later than 180 days after the owner receives actual notice of that agency action.

"(B) NEGOTIATIONS.—The agency may bargain with that owner to establish the amount of the compensation. If the agency and the owner agree to such an amount, the agency shall promptly pay the owner the amount agreed upon.

"(C) CHOICE OF REMEDIES.—If, not later than 180 days after the written request is made, the parties do not come to an agreement as to the right to and amount of compensation, the owner may choose to take the matter to binding arbitration or seek compensation in a civil action.

"(D) ARBITRATION.—The procedures that govern the arbitration shall, as nearly as practicable, be those established under title 9, United States Code, for arbitration proceedings to which that title applies. An award made in such arbitration shall include a reasonable attorney's fee and other arbitration costs (including appraisal fees). The agency shall promptly pay any award made to the owner.

"(E) CIVIL ACTION.—An owner who does not choose arbitration, or who does not receive prompt payment when required by this section, may obtain appropriate relief in a civil action against the agency. An owner who prevails in a civil action under this section shall be entitled to, and the agency shall be liable for, a reasonable attorney's fee and other litigation costs (including appraisal fees). The court shall award interest on the amount of any compensation from the time of the limitation.

"(F) SOURCE OF PAYMENTS.—Any payment made under this section to an owner and any judgment obtained by an owner in a civil action under this section shall, notwithstanding any other provision of law, be made from the annual appropriation of the agency whose action occasioned the payment or judgment. If the agency action resulted from a requirement imposed by another agency, then the agency making the payment or satisfying the judgment may seek partial or complete reimbursement from the appropriated funds of the other agency. For this purpose the head of the agency concerned may transfer or reprogram any appropriated funds available to the agency. If insufficient funds exist for the payment or to satisfy the judgment, it shall be the duty of the head of the agency to seek the appropriation of such funds for the next fiscal year.

"(6) LIMITATION.—Notwithstanding any other provision of law, any obligation of the United States to make any payment under this section shall be subject to the availability of appropriations.

"(7) DUTY OF NOTICE TO OWNERS.—Whenever an agency takes an agency action limiting the use of private property, the agency shall give appropriate notice to the owners of that property directly affected explaining their rights under this section and the procedures for obtaining any compensation that may be due to them under this section.

"(8) RULES OF CONSTRUCTION.—

"(A) EFFECT ON CONSTITUTIONAL RIGHT TO COMPENSATION.—Nothing in this section shall be construed to limit any right to compensation that exists under the Constitution, laws of the United States, or laws of any State.

"(B) EFFECT OF PAYMENT.—Payment of compensation under this section (other than when the property is bought by the Federal Government at the option of the owner) shall not confer any rights on the Federal Government other than the limitation on use resulting from the agency action.

"(9) TREATMENT OF CERTAIN ACTIONS.—A diminution in value under this subsection shall apply to surface interests in lands only or water rights allocated under State law; except that—

"(A) if the Secretary determines that the exploration for or development of oil and gas or mineral interests is not compatible with limitations on use related to the surface interests in lands that have been classified as type A or type B wetlands located above such oil and gas or mineral interests (or located adjacent to such oil and gas or mineral interests where such adjacent lands are necessary to provide reasonable access to such interests), the Secretary shall notify the owner of such interests that the owner may elect to receive compensation for such interests under paragraph (1); and

"(B) the failure to provide reasonable access to oil and gas or mineral interests located beneath or adjacent to surface interests of type A or type B wetlands shall be deemed a diminution in value of such oil and gas or mineral interests.

"(10) JURISDICTION.—The arbitrator or court under paragraph (5)(D) or (5)(E) of this subsection, as the case may be, shall have jurisdiction, in the case of oil and gas or mineral interests, to require the United States to provide reasonable access in, across, or through lands that may be the subject of a diminution in value under this subsection solely for the purpose of undertaking activity necessary to determine the value of the interests diminished and to provide other equitable remedies deemed appropriate.

"(11) LIMITATIONS ON STATUTORY CONSTRUCTION.—No action under this subsection shall be construed—

"(A) to impose any obligation on any State or political subdivision thereof to compensate any person, even in the event that the Secretary has approved a land management plan under subsection (f)(2) or an individual and general permit program under subsection (l); or

"(B) to alter or supersede requirements governing use of water applicable under State law.

"(e) REQUIREMENTS APPLICABLE TO PERMITTED ACTIVITY.—

"(1) ISSUANCE OR DENIAL OF PERMITS.—Following the determination of wetlands classification pursuant to subsection (c) if applicable, and after compliance with the requirements of subsection (d) if applicable, the Secretary may issue or deny permits for authorization to undertake activities in wetlands or waters of the United States in accordance with the requirements of this subsection.

"(2) TYPE A WETLANDS.—

"(A) SEQUENTIAL ANALYSIS.—The Secretary shall determine whether to issue a permit for an activity in waters of the United States classified under subsection (c) as type A wetlands based on a sequential analysis that seeks, to the maximum extent practicable, to—

"(i) avoid adverse impact on the wetlands;

"(ii) minimize such adverse impact on wetlands functions that cannot be avoided; and

"(iii) compensate for any loss of wetland functions that cannot be avoided or minimized.

"(B) MITIGATION TERMS AND CONDITIONS.—Any permit issued authorizing activities in type A wetlands may contain such terms and conditions concerning mitigation (including those applicable under paragraph (3) for type B wetlands) that the Secretary deems appropriate to prevent the unacceptable loss or degradation of type A wetlands. The Secretary shall deem the mitigation requirement of this section to be met with respect to activities in type A wetlands if such activities (i) are carried out in accordance with a State-approved reclamation plan or permit which requires recontouring and revegetation following mining, and (ii) will result in overall environmental benefits being achieved.

"(3) TYPE B WETLANDS.—

"(A) GENERAL RULE.—The Secretary may issue a permit authorizing activities in type B wetlands if the Secretary finds that issuance of the permit is in the public interest, balancing the reasonably foreseeable benefits and detriments resulting from the issuance of the permit. The permit shall be subject to such terms and conditions as the Secretary finds are necessary to carry out the purposes of the Comprehensive Wetlands Conservation and Management Act of 1995. In determining whether or not *to issue the permit and whether or not specific terms and conditions are necessary to avoid a significant loss of wetlands functions, the Secretary shall consider the following factors:*

"(i) The quality and quantity of significant functions served by the areas to be affected.

"(ii) The opportunities to reduce impacts through cost effective design to minimize use of wetlands areas.

"(iii) The costs of mitigation requirements and the social, recreational, and economic benefits associated with the proposed activity, including local, regional, or national needs for improved or expanded infrastructure, minerals, energy, food production, or recreation.

"(iv) The ability of the permittee to mitigate wetlands loss or degradation as measured by wetlands functions.

"(v) The environmental benefit, measured by wetlands functions, that may occur through mitigation efforts, including restoring, preserving, enhancing, or creating wetlands values and functions.

"(vi) The marginal impact of the proposed activity on the watershed of which such wetlands are a part.

"(vii) Whether the impact on the wetlands is temporary or permanent.

"(B) DETERMINATION OF PROJECT PURPOSE.—In considering an application for activities on type B wetlands, there shall be a rebuttable presumption that the project purpose as defined by the applicant shall be binding upon the Secretary. The definition of project purpose for projects sponsored by public agencies shall be binding upon the Secretary, subject to the authority of the Secretary to impose mitigation requirements to minimize impacts on wetlands values and functions, including cost effective redesign of projects on the proposed project site.

"(C) MITIGATION REQUIREMENTS.—Except as otherwise provided in this section, requirements for mitigation shall be imposed when the Secretary finds that activities undertaken under this section will result in the loss or degradation of type B wetlands functions where such loss or degradation is not a temporary or incidental impact. When determining mitigation requirements in any specific case, the Secretary shall take into consideration the type of wetlands affected, the character of the impact on wetland functions, whether any adverse effects on wetlands are of a permanent or temporary nature, and the cost effectiveness of such mitigation and shall seek to minimize the costs of such mitigation. Such mitigation requirement shall be calculated based upon the specific impact of a particular project. The Secretary shall deem the mitigation requirement of this section to be met with respect to activities in type B wetlands if such activities (i) are carried out in accordance with a State-approved reclamation plan or permit which requires recontouring and revegetation following mining, and (ii) will result in overall environmental benefits being achieved.

"(D) RULES GOVERNING MITIGATION.—In accordance with subsection (j), the Secretary shall issue rules governing requirements for mitigation for activities occurring in wetlands that allow for—

"(i) minimization of impacts through project design in the proposed project site consistent with the project's purpose, provisions for compensatory mitigation, if any, and other terms and conditions necessary and appropriate in the public interest;

"(ii) preservation or donation of type A wetlands or type B wetlands (where title has not been acquired by the United States and no compensation under subsection (d) for such wetlands has been provided) as mitigation for activities that alter or degrade wetlands;

"(iii) enhancement or restoration of degraded wetlands as compensation for wetlands lost or degraded through permitted activity;

"(iv) creation of wetlands as compensation for wetlands lost or degraded through permitted activity if conditions are imposed that have a reasonable likelihood of being successful;

"(v) compensation through contribution to a mitigation bank program established pursuant to paragraph (4);

"(vi) offsite compensatory mitigation if such mitigation contributes to the restoration, enhancement or creation of significant wetlands functions on a watershed basis and is balanced with the effects that the proposed activity will have on the specific site; except that offsite compensatory mitigation, if any, shall be required only within the State within which the proposed activity is to occur, and shall, to the extent practicable, be within the watershed within which the proposed activity is to occur, unless otherwise consistent with a State wetlands management plan;

"(vii) contribution of in-kind value acceptable to the Secretary and otherwise authorized by law;

"(viii) in areas subject to wetlands loss, the construction of coastal protection and enhancement projects;

"(ix) contribution of resources of more than one permittee toward a single mitigation project; and

"(x) other mitigation measures, including contributions of other than in-kind value referred to in clause (vii), determined by the Secretary to be appropriate in the public interest and consistent with the requirements and purposes of this Act.

"(E) LIMITATIONS ON REQUIRING MITIGATION.—Notwithstanding the provisions of subparagraph (C), the Secretary may determine not to impose requirements for compensatory mitigation if the Secretary finds that—

"(i) the adverse impacts of a permitted activity are limited;

"(ii) the failure to impose compensatory mitigation requirements is compatible with maintaining wetlands functions;

"(iii) no practicable and reasonable means of mitigation are available;

"(iv) there is an abundance of similar significant wetlands functions and values in or near the area in which the proposed activity is to occur that will continue to serve the functions lost or degraded as a result of such activity, taking into account the impacts of such proposed activity and the cumulative impacts of similar activity in the area;

"(v) the temporary character of the impacts and the use of minimization techniques make compensatory mitigation unnecessary to protect significant wetlands values; or

"(vi) a waiver from requirements for compensatory mitigation is necessary to prevent special hardship.

"(4) MITIGATION BANKS.—

"(A) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this subparagraph, after providing notice and opportunity for public review and comment, the Secretary shall issue regulations for the establishment, use, maintenance, and oversight of mitigation banks. The regulations shall be developed in consultation with the heads of other appropriate Federal agencies.

"(B) PROVISIONS AND REQUIREMENTS.—The regulations issued pursuant to subparagraph (A) shall ensure that each mitigation bank—

"(i) provides for the chemical, physical, and biological functions of wetlands or waters of the United States which are lost as a result of authorized adverse impacts to wetlands or other waters of the United States;

"(ii) to the extent practicable and environmentally desirable, provides in-kind replacement of lost wetlands functions and be located in, or in proximity to, the same watershed or designated geographic area as the affected wetlands or waters of the United States;

"(iii) be operated by a public or private entity which has the financial capability to meet the requirements of this paragraph, including the deposit of a performance bond or other appropriate demonstration of financial responsibility to support the long-term maintenance of the bank, fulfill responsibilities for long-term monitoring, maintenance, and protection, and provide for the long-term security of ownership interests of wetlands and uplands on which projects are conducted to protect the wetlands functions associated with the mitigation bank;

"(iv) employ consistent and scientifically sound methods to determine debits by evaluating wetlands functions, project impacts, and duration of the impact at the sites of proposed permits for authorized activities pursuant to this section and to determine credits based on wetlands functions at the site of the mitigation bank;

"(v) provide for the transfer of credits for mitigation that has been performed and for mitigation that shall be performed within a designated time in the future, provided that financial bonds shall be posted in sufficient amount to ensure that the mitigation will be performed in the case of default; and

"(vi) provide opportunity for public notice of and comment on proposals for the mitigation banks; except that any process utilized by a mitigation bank to obtain a permit authorizing operations under this section before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 satisfies the requirement for such public notice and comment.

"(5) PROCEDURES AND DEADLINES FOR FINAL ACTION.—

"(A) OPPORTUNITY FOR PUBLIC COMMENT.—Not later than 15 days after receipt of a complete application for a permit under this section, together with information necessary to consider such application, the Secretary shall publish notice that the application has been received and shall provide opportunity for public comment and, to the extent appropriate, opportunity for a public hearing on the issuance of the permit.

"(B) GENERAL PROCEDURES.—In the case of any application for authorization to undertake activities in wetlands or waters of the United States that are not eligible for treatment on an expedited basis pursuant to paragraph (8), final action by the Secretary shall occur within 90 days following the date such application is filed, unless—

"(i) the Secretary and the applicant agree that such final action shall occur within a longer period of time;

"(ii) the Secretary determines that an additional, specified period of time is necessary to permit the Secretary to comply with other applicable Federal law; except that if the Secretary is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to prepare an environmental impact statement, with respect to the application, the final action shall occur not later than 45 days following the date such statement is filed; or

"(iii) the Secretary, within 15 days from the date such application is received, notifies the applicant that such application does not contain all information necessary to allow the Secretary to consider such application and identifies any necessary additional information, in which case, the provisions of subparagraph (C) shall apply.

"(C) SPECIAL RULE WHEN ADDITIONAL INFORMATION IS REQUIRED.—Upon the receipt of a request for additional information under subparagraph (B)(iii), the applicant shall supply such

additional information and shall advise the Secretary that the application contains all requested information and is therefore complete. The Secretary may—

"(i) within 30 days of the receipt of notice of the applicant that the application is complete, determine that the application does not contain all requested additional information and, on that basis, deny the application without prejudice to resubmission; or

"(ii) within 90 days from the date that the applicant provides notification to the Secretary that the application is complete, review the application and take final action.

"(D) EFFECT OF NOT MEETING DEADLINE.—If the Secretary fails to take final action on an application under this paragraph within 90 days from the date that the applicant provides notification to the Secretary that such application is complete, a permit shall be presumed to be granted authorizing the activities proposed in such application under such terms and conditions as are stated in such completed application.

"(6) TYPE C WETLANDS.—Activities in wetlands that have been classified as type C wetlands by the Secretary may be undertaken without authorization required under subsection (a) of this section.

"(7) STATES WITH SUBSTANTIAL CONSERVED WETLANDS.—

"(A) IN GENERAL.—With respect to type A and type B wetlands in States with substantial conserved wetlands areas, at the option of the permit applicant, the Secretary shall issue permits authorizing activities in such wetlands pursuant to this paragraph. Final action on issuance of such permits shall be in accordance with the procedures and deadlines of paragraph (5). The Secretary may include conditions or requirements for minimization of adverse impacts to wetlands functions when minimization is economically practicable. No permit to which this paragraph applies shall include conditions, requirements, or standards for mitigation to compensate for adverse impacts to wetlands or waters of the United States or conditions, requirements, or standards for avoidance of adverse impacts to wetlands or waters of the United States.

"(B) ECONOMIC BASE LANDS.—Upon application by the owner of economic base lands in a State with substantial conserved wetlands areas, the Secretary shall issue individual and general permits to owners of such lands for activities in wetlands or waters of the United States. The Secretary shall reduce the requirements of subparagraph (A)—

"(i) to allow economic base lands to be beneficially used to create and sustain economic activity; and

"(ii) in the case of lands owned by Alaska Native entities, to reflect the social and economic needs of Alaska Natives to utilize economic base lands.

The Secretary shall consult with and provide assistance to the Alaska Natives (including Alaska Native Corporations) in promulgation and administration of policies and regulations under this section.

"(8) GENERAL PERMITS.—

"(A) GENERAL AUTHORITY.—The Secretary may issue, by rule in accordance with subsection (j), general permits on a programmatic, State, regional, or nationwide basis for any category of activities involving an activity in wetlands or waters of the United States if the Secretary determines that such activities are similar in nature and that such activities, when performed separately and cumulatively, will not result in the significant loss of ecologically significant wetlands values and functions.

"(B) PROCEDURES.—Permits issued under this paragraph shall include procedures for expedited review of eligibility for such permits (if such review is required) and may include requirements for reporting and mitigation. To the extent that a proposed activity requires a determination by the Secretary as to the eligibility to qualify for a general permit under this subsection, such determination shall be made within 30 days of the date of submission of the application for such qualification, or the application shall be treated as being approved.

"(C) COMPENSATORY MITIGATION.—Requirements for compensatory mitigation for general permits may be imposed where necessary to offset the significant loss or degradation of significant wetlands functions where such loss or degradation is not a temporary or incidental impact. Such compensatory mitigation shall be calculated based upon the specific impact of a particular project.

"(D) GRANDFATHER OF EXISTING GENERAL PERMITS.—General permits in effect on day before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall remain in effect until otherwise modified by the Secretary.

"(E) STATES WITH SUBSTANTIAL CONSERVED LANDS.—Upon application by a State or local authority in a State with substantial conserved wetlands areas, the Secretary shall issue a general permit applicable to such authority for activities in wetlands or waters of the United States. No permit issued pursuant to this subparagraph shall include conditions, requirements, or standards for mitigation to compensate for adverse impacts to wetlands or waters of the United States or shall include conditions, requirements, or standards for avoidance of adverse impacts of wetlands or waters of the United States.

"(9) OTHER WATERS OF THE UNITED STATES.—The Secretary may issue a permit authorizing activities in waters of the United States (other than those classified as type A, B, or C wetlands under this section) if the Secretary finds that issuance of the permit is in the public interest, balancing the reasonably foreseeable benefits and detriments resulting from the issuance of the permit. The permit shall be subject to such terms and conditions as the Secretary finds are necessary to carry out the purposes of the Comprehensive Wetlands Conservation and Management Act of 1995. In determining whether or not to issue the permit and whether or not specific terms and conditions are necessary to carry out such purposes, the Secretary shall consider the factors set forth in paragraph (3)(A) as they apply to nonwetlands areas and such other provisions of paragraph (3) as the Secretary determines are appropriate to apply to nonwetlands areas.

"(f) ACTIVITIES NOT REQUIRING PERMIT.—

"(1) IN GENERAL.—Activities undertaken in any wetlands or waters of the United States are exempt from the requirements of this section and are not prohibited by or otherwise subject to regulation under this section or section 301 or 402 of this Act (except effluent standards or prohibitions under section 307 of this Act) if such activities—

"(A) result from normal farming, silviculture, aquaculture, and ranching activities and practices, including but not limited to plowing, seeding, cultivating, haying, grazing, normal maintenance activities, minor drainage, burning of vegetation in connection with such activities, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

"(B) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs (where such maintenance involves periodic water level drawdowns) which provide water predominantly to public drinking water systems, groins, riprap, breakwaters, utility distribution and transmission lines, causeways, and bridge abutments or approaches, and transportation structures;

"(C) are for the purpose of construction or maintenance of farm, stock or aquaculture ponds, wastewater retention facilities (including dikes and berms) that are used by concentrated animal feeding operations, or irrigation canals and ditches or the maintenance of drainage ditches;

"(D) are for the purpose of construction of temporary sedimentation basins on a construction site, or the construction of any upland dredged material disposal area, which does not include placement of fill material into the navigable waters;

"(E) are for the purpose of construction or maintenance of farm roads or forest roads, railroad lines of up to 10 miles in length, or temporary roads for moving mining equipment, access roads for utility distribution and transmission lines if such roads or railroad lines are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the waters are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

"(F) are undertaken on farmed wetlands, except that any change in use of such land for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to the requirements of this section to the extent that such farmed wetlands are 'wetlands' under this section;

"(G) result from any activity with respect to which a State has an approved program under section 208(b)(4) of this Act which meets the requirements of subparagraphs (B) and (C) of such section;

"(H) are consistent with a State or local land management plan submitted to the Secretary and approved pursuant to paragraph (2);

"(I) are undertaken in connection with a marsh management and conservation program in a coastal parish in the State of Louisiana where such program has been approved by the Governor of such State or the designee of the Governor;

"(J) are undertaken on lands or involve activities within a State's coastal zone which are excluded from regulation under a State coastal zone management program approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.);

"(K) are undertaken in incidentally created wetlands, unless such incidentally created wetlands have exhibited wetlands functions and values for more than 5 years in which case activities undertaken in such wetlands shall be subject to the requirements of this section;

"(L) are for the purpose of preserving and enhancing aviation safety or are undertaken in order to prevent an airport hazard;

"(M) result from aggregate or clay mining activities in wetlands conducted pursuant to a State or Federal permit that requires the reclamation of such affected wetlands if such reclamation will be completed within 5 years of the commencement of activities at the site and, upon completion of such reclamation, the wetlands will support wetlands functions equivalent to the functions supported by the wetlands at the time of commencement of such activities;

"(N) are for the placement of a structural member for a pile-supported structure, such as a pier or dock, or for a linear project such as a bridge, transmission or distribution line footing, powerline structure, or elevated or other walkway;

"(O) are for the placement of a piling in waters of the United States in a circumstance that involves—

"(i) a linear project described in subparagraph (N); or

"(ii) a structure such as a pier, boathouse, wharf, marina, lighthouse, or individual house built on stilts solely to reduce the potential of flooding;

"(P) are for the clearing (including mechanized clearing) of vegetation within a right-of-way associated with the development and maintenance of a transmission or distribution line or other powerline structure or for the maintenance of water supply reservoirs which provide water predominantly to public drinking water systems;

"(Q) are undertaken in or affecting waterfilled depressions created in uplands incidental to construction activity, or are undertaken in or affecting pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned; or

"(R) are undertaken in a State with substantial conserved wetlands areas and—

"(i) are for purposes of providing critical infrastructure, including water and sewer systems, airports, roads, communication sites, fuel storage sites, landfills, housing, hospitals, medical clinics, schools, and other community infrastructure;

"(ii) are for construction and maintenance of log transfer facilities associated with log transportation activities;

"(iii) are for construction of tailings impoundments utilized for treatment facilities (as determined by the development document) for the mining subcategory for which the tailings impoundment is constructed; or

"(iv) are for construction of ice pads and ice roads and for purposes of snow storage and removal.

"(2) STATE OR LOCAL MANAGEMENT PLAN.—Any State or political subdivision thereof acting pursuant to State authorization may develop a land management plan with respect to lands that include identified wetlands. The State or local government agency may submit any such plan to the Secretary for review and approval. The Secretary shall, within 60 days, notify in writing the designated State or local official of approval or disapproval of any such plan. The Secretary shall approve any plan that is consistent with the purposes of this section. No person shall be entitled to judicial review of the decision of the Secretary to approve or disapprove a land management plan under this paragraph. Nothing in this paragraph shall be construed to alter, limit, or supersede the authority of a State or political subdivision thereof to establish land management plans for purposes other than the provisions of this subsection.

"(g) RULES FOR DELINEATING WETLANDS.—

"(1) STANDARDS.—

"(A) ISSUANCE OF RULE.—The Secretary is authorized and directed to establish standards, by rule in accordance with subsection (j), that shall govern the delineation of lands as 'wetlands' for purposes of this section. Such rules shall be established after consultation with the heads of other appropriate Federal agencies and shall be binding on all Federal agencies in connection with the administration or implementation of any provision of this section. The standards for delineation of wetlands and any decision of the Secretary, the Secretary of Agriculture (in the case of agricultural lands and associated nonagricultural lands), or any other Federal officer or agency made in connection with the administration of this section shall comply with the requirements for delineation of wetlands set forth in subparagraphs (B) and (C).

"(B) EXCEPTIONS.—The standards established by rule or applied in any case for purposes of this section shall ensure that lands are delineated as wetlands only if such lands are found to be 'wetlands' under section 502 of this Act; except that such standards may not—

"(i) result in the delineation of lands as wetlands unless clear evidence of wetlands hydrology, hydrophytic vegetation, and hydric soil are found to be present during the period in which such delineation is made, which delineation shall be conducted during the growing season unless otherwise requested by the applicant;

"(ii) result in the classification of vegetation as hydrophytic if such vegetation is equally adapted to dry or wet soil conditions or is more typically adapted to dry soil conditions than to wet soil conditions;

"(iii) result in the classification of lands as wetlands unless some obligate wetlands vegetation is found to be present during the period of delineation; except that if such vegetation has been removed for the purpose of evading jurisdiction under this section, this clause shall not apply;

"(iv) result in the conclusion that wetlands hydrology is present unless water is found to be present at the surface of such lands for 21 consecutive days in the growing seasons in a majority of the years for which records are available; and

"(v) result in the classification of lands as wetlands that are temporarily or incidentally created as a result of adjacent development activity.

"(C) NORMAL CIRCUMSTANCES.—In addition to the requirements of subparagraph (B), any standards established by rule or applied to delineate wetlands for purposes of this section shall provide that 'normal circumstances' shall be determined on the basis of the factual circumstances in existence at the time a classification is made under subsection (h) or at the time of application under subsection (e), whichever is applicable, if such circumstances have not been altered by an activity prohibited under this section.

"(2) LAND AREA CAP FOR TYPE A WETLANDS.—No more than 20 percent of any county, parish, or borough shall be classified as type A wetlands. Type A wetlands in Federal or State ownership (including type A wetlands in units of the National Wildlife Refuge System, the National Park System, and lands held in conservation easements) shall be included in calculating the percent of type A wetlands in a county, parish, or borough.

"(3) AGRICULTURAL LANDS.—

"(A) DELINEATION BY SECRETARY OF AGRICULTURE.—For purposes of this section, wetlands located on agricultural lands and associated nonagricultural lands shall be delineated solely by the Secretary of Agriculture in accordance with section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)).

"(B) EXEMPTION OF LANDS EXEMPTED UNDER FOOD SECURITY ACT.—Any area of agricultural land or any activities related to the land determined to be exempt from the requirements of subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall also be exempt from the requirements of this section for such period of time as those lands are used as agricultural lands.

"(C) EFFECT OF APPEAL DETERMINATION PURSUANT TO FOOD SECURITY ACT.—Any area of agricultural land or any activities related to the land determined to be exempt pursuant to an appeal taken pursuant to subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall be exempt under this section for such period of time as those lands are used as agricultural lands.

"(h) MAPPING AND PUBLIC NOTICE REQUIREMENTS.—

"(1) PROVISION OF PUBLIC NOTICE.—Not later than 90 days after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, the Secretary shall provide the court of each county, parish, or borough in which the wetland subject to classification under subsection (c) is located, a notice for posting near the property records of the county, parish, or borough. The notice shall—

"(A) state that wetlands regulated under this section may be located in the county, parish, or borough;

"(B) provide an explanation understandable to the general public of how wetlands are delineated and classified;

"(C) describe the requirements and restrictions of the regulatory program under this section; and

"(D) provide instructions on how to obtain a delineation and classification of wetlands under this section.

"(2) PROVISION OF DELINEATION DETERMINATIONS.—On completion under this section of a delineation and classification of property that contains wetlands or a delineation of property that contains waters of the United States that are not wetlands, the Secretary of Agriculture, in the case of wetlands located on agricultural lands and associated nonagricultural lands, and the Secretary, in the case of other lands, shall—

"(A) file a copy of the delineation, including the classification of any wetland located on the property, with the records of the property in the local courthouse; and

"(B) serve a copy of the delineation determination on every owner of the property on record and any person with a recorded mortgage or lien on the property.

"(3) NOTICE OF ENFORCEMENT ACTIONS.—The Secretary shall file notice of each enforcement action under this section taken with respect to private property with the records of the property in the local courthouse.

"(4) WETLANDS IDENTIFICATION AND CLASSIFICATION PROJECT.—

"(A) IN GENERAL.—The Secretary and the Secretary of Agriculture shall undertake a project to identify and classify wetlands in the United States that are regulated under this section. The Secretaries shall complete such project not later than 10 years after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995.

"(B) APPLICABILITY OF DELINEATION STANDARDS.—In conducting the project under this section, the Secretaries shall identify and classify wetlands in accordance with standards for delineation of wetlands established by the Secretaries under subsection (g).

"(C) PUBLIC HEARINGS.—In conducting the project under this section, the Secretaries shall provide notice and an opportunity for a public hearing in each county, parish or borough of a State before completion of identification and classification of wetlands in such county, parish, or borough.

"(D) PUBLICATION.—Promptly after completion of identification and classification of wetlands in a county, parish, or borough under this section, the Secretaries shall have published information on such identification and classification in the Federal Register and in publications of wide circulation and take other steps reasonably necessary to ensure that such information is available to the public.

"(E) REPORTS.—The Secretaries shall report to Congress on implementation of the project to be conducted under this section not later than 2 years after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 and annually thereafter.

"(F) RECORDATION.—Any classification of lands as wetlands under this section shall, to

the maximum extent practicable, be recorded on the property records in the county, parish, or borough in which such wetlands are located.

"(i) ADMINISTRATIVE APPEALS.—

"(1) REGULATIONS ESTABLISHING PROCEDURES.—Not later than 1 year after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, the Secretary shall, after providing notice and opportunity for public comment, issue regulations establishing procedures pursuant to which—

"(A) a landowner may appeal a determination of regulatory jurisdiction under this section with respect to a parcel of the landowner's property;

"(B) a landowner may appeal a wetlands classification under this section with respect to a parcel of the landowner's property;

"(C) any person may appeal a determination that the proposed activity on the landowner's property is not exempt under subsection (f);

"(D) a landowner may appeal a determination that an activity on the landowner's property does not qualify under a general permit issued under this section;

"(E) an applicant for a permit under this section may appeal a determination made pursuant to this section to deny issuance of the permit or to impose a requirement under the permit; and

"(F) a landowner or any other person required to restore or otherwise alter a parcel of property pursuant to an order issued under this section may appeal such order.

"(2) DEADLINE FOR FILING APPEAL.—An appeal brought pursuant to this subsection shall be filed not later than 30 days after the date on which the decision or action on which the appeal is based occurs.

"(3) DEADLINE FOR DECISION.—An appeal brought pursuant to this subsection shall be decided not later than 90 days after the date on which the appeal is filed.

"(4) PARTICIPATION IN APPEALS PROCESS.—Any person who participated in the public comment process concerning a decision or action that is the subject of an appeal brought pursuant to this subsection may participate in such appeal with respect to those issues raised in the person's written public comments.

"(5) DECISIONMAKER.—An appeal brought pursuant to this subsection shall be heard and decided by an appropriate and impartial official of the Federal Government, other than the official who made the determination or carried out the action that is the subject of the appeal.

"(6) STAY OF PENALTIES AND MITIGATION.—A landowner or any other person who has filed an appeal under this subsection shall not be required to pay a penalty or perform mitigation or restoration assessed under this section or section 309 until after the appeal has been decided.

"(j) ADMINISTRATIVE PROVISIONS.—

"(1) FINAL REGULATIONS FOR ISSUANCE OF PERMITS.—Not later than 1 year after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, the Secretary shall, after notice and opportunity for comment, issue (in accordance with section 553 of title 5 of the United States Code and this section) final regulations for implementation of this section. Such regulations shall, in accordance with this section, provide—

"(A) standards and procedures for the classification and delineation of wetlands and procedures for administrative review of any such classification or delineation;

"(B) standards and procedures for the review of State or local land management plans and State programs for the regulation of wetlands;

"(C) for the issuance of general permits, including programmatic, State, regional, and nationwide permits;

"(D) standards and procedures for the individual permit applications under this section;

"(E) for enforcement of this section;

"(F) guidelines for the specification of sites for the disposal of dredged or fill material for navigational dredging; and

"(G) any other rules and regulations that the Secretary deems necessary or appropriate to implement the requirements of this section.

"(2) NAVIGATIONAL DREDGING GUIDELINES.—Guidelines developed under paragraph (1)(F) shall—

"(A) be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the oceans under section 403(c); and

"(B) ensure that with respect to the issuance of permits under this section—

"(i) the least costly, environmentally acceptable disposal alternative will be selected, taking into consideration cost, existing technology, short term and long term dredging requirements, and logistics;

"(ii) a disposal site will be specified after comparing reasonably available upland, confined aquatic, beneficial use, and open water disposal alternatives on the basis of relative risk, environmental acceptability, economics, practicability, and current technological feasibility;

"(iii) a disposal site will be specified after comparing the reasonably anticipated environmental and economic benefits of undertaking the underlying project to the status quo; and

"(iv) in comparing alternatives and selection of a disposal site, management measures may be considered and utilized to limit, to the extent practicable, adverse environmental effects by employing suitable chemical, biological, or physical techniques to prevent unacceptable adverse impacts on the environment.

"(3) JUDICIAL REVIEW OF FINAL REGULATIONS.—Any judicial review of final regulations issued pursuant to this section and the Secretary's denial of any petition for the issuance, amendment, or repeal of any regulation under this section shall be in accordance with sections 701 through 706 of title 5 of the United States Code; except that a petition for review of action of the Secretary in issuing any regulation or requirement under this section or denying any petition for the issuance, amendment, or repeal of any regulation under this section may be filed only in the United States Court of Appeals for the District of Columbia, and such petition shall be filed within 90 days from the date of such issuance or denial or after such date if such petition for review is based solely on grounds arising after such ninetieth day. Action of the Secretary with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

"(4) INTERIM REGULATIONS.—The Secretary shall, within 90 days after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, issue interim regulations consistent with this section to take effect immediately. Notice of the interim regulations shall be published in the Federal Register, and such regulations shall be binding until the issuance of final regulations pursuant to paragraph (1); except that the Secretary shall provide adequate procedures for waiver of any provisions of such interim regulations to avoid special hardship, inequity, or unfair distribution of burdens or to advance the purposes of this section.

"(5) ADMINISTRATION BY SECRETARY.—Except where otherwise expressly provided in this section, the Secretary shall administer this section. The Secretary or any other Federal officer or agency in which any function under this section is vested or delegated is authorized to perform any and all acts (including appropriate enforcement activity), and to prescribe, issue, amend, or rescind such rules or orders as such officer or agency may find necessary or appropriate with this subsection, subject to the requirements of this subsection.

"(k) ENFORCEMENT.—

"(1) COMPLIANCE ORDER.—Whenever, on the basis of reliable and substantial information and after reasonable inquiry, the Secretary finds that any person is or may be in violation of this section or of any condition or limitation set forth in a permit issued by the Secretary under this section, the Secretary shall issue an order requiring such persons to comply with this section or with such condition or limitation.

"(2) NOTICE AND OTHER PROCEDURAL REQUIREMENTS RELATING TO ORDERS.—A copy of any order issued under this subsection shall be sent immediately by the Secretary to the Governor of the State in which the violation occurs and the Governors of other affected States. The person committing the asserted violation that results in issuance of the order shall be notified of the issuance of the order by personal service made to the appropriate person or corporate officer. The notice shall state with reasonable specificity the nature of the asserted violation and specify a time for compliance, not to exceed 30 days, which the Secretary determines is reasonable taking into account the seriousness of the asserted violation and any good faith efforts to comply with applicable requirements. If the person receiving the notice disputes the Secretary's determination, the person may file an appeal as provided in subsection (i). Within 60 days of a decision which denies an appeal, or within 150 days from the date of notification of violation by the Secretary if no appeal is filed, the Secretary shall prosecute a civil action in accordance with paragraph (3) or rescind such order and be estopped from any further enforcement proceedings for the same asserted violation.

"(3) CIVIL ACTION ENFORCEMENT.—The Secretary is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which the Secretary is authorized to issue a compliance order under paragraph (1). Any action under this paragraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

"(4) CIVIL PENALTIES.—Any person who violates any condition or limitation in a permit issued by the Secretary under this section and any person who violates any order issued by the Secretary under paragraph (1) shall be subject to a civil penalty not to exceed $25,000 per day for each violation commencing on expiration of the compliance period if no appeal is filed or on the 30th day following the date of the denial of an appeal of such violation. The amount of the penalty imposed per day shall be in proportion to the scale or scope of the project. In determining the amount of a civil penalty, the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require.

"(5) CRIMINAL PENALTIES.—If any person knowingly and willfully violates any condition or limitation in a permit issued by the Secretary under this section or knowingly and willfully violates an order issued by the Secretary under paragraph (1) and has been notified of the issuance of such order under paragraph (2) and if such violation has resulted in actual degradation of the environment, such person shall be punished by a fine of not less than $5,000 nor

more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or by both. An action for imposition of a criminal penalty under this paragraph may only be brought by the Attorney General.

"(l) STATE REGULATION.—

"(1) SUBMISSION OF PROPOSED STATE PROGRAM.—The Governor of any State desiring to administer its own individual or general permit program for some or all of the activities covered by this section within any geographical region within its jurisdiction may submit to the Secretary a description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the chief legal officer in the case of the State or interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program.

"(2) STATE AUTHORITIES REQUIRED FOR APPROVAL.—Not later than 1 year after the date of the receipt by the Secretary of a program and statement submitted by any State under paragraph (1), the Secretary shall determine whether such State has the following authority with respect to the issuance of permits pursuant to such program—

"(A) to issue permits which—

"(i) apply, and assure compliance with, any applicable requirements of this section; and

"(ii) can be terminated or modified for cause, including—

"(I) violation of any condition of the permit;

"(II) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts; or

"(III) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted activity;

"(B) to issue permits which apply, and ensure compliance with, all applicable requirements of section 308 of this Act or to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

"(C) to ensure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

"(D) to ensure that the Secretary receives notice of each application for a permit and that, prior to any action by the State, both the applicant for the permit and the State have received from the Secretary information with respect to any advance classification applicable to wetlands that are the subject of such application;

"(E) to ensure that any State (other than the permitting State) whose waters may be affected by the issuance of a permit may submit written recommendation to the permitting State with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Secretary) in writing of its failure to so accept such recommendations together with its reasons for doing so; and

"(F) to abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

"(3) APPROVAL; RESUBMISSION.—If, with respect to a State program submitted under paragraph (1) of this section, the Secretary determines that the State—

"(A) has the authority set forth in paragraph (2), the Secretary shall approve the program and so notify such State and suspend the issuance of permits under subsection (b) for activities with respect to which a permit may be issued pursuant to the State program; or

"(B) does not have the authority set forth in paragraph (2) of this subsection, the Secretary shall so notify such State and provide a description of the revisions or modifications necessary so that the State may resubmit the program for a determination by the Secretary under this subsection.

"(4) EFFECT OF FAILURE OF SECRETARY TO MAKE TIMELY DECISION.—If the Secretary fails to make a determination with respect to any program submitted by a State under this subsection within 1 year after the date of receipt of the program, the program shall be treated as being approved pursuant to paragraph (3)(A) and the Secretary shall so notify the State and suspend the issuance of permits under subsection (b) for activities with respect to which a permit may be issued by the State.

"(5) TRANSFER OF PENDING APPLICATIONS FOR PERMITS.—If the Secretary approves a State permit program under paragraph (3)(A) or (4), the Secretary shall transfer any applications for permits pending before the Secretary for activities with respect to which a permit may be issued pursuant to the State program to the State for appropriate action.

"(6) GENERAL PERMITS.—Upon notification from a State with a permit program approved under this subsection that such State intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e) with respect to activities in the State to which such general permit applies, the Secretary shall suspend the administration and enforcement of such general permit with respect to such activities.

"(7) REVIEW BY SECRETARY.—Every 5 years after approval of a State administered program under paragraph (3)(A), the Secretary shall review the program to determine whether it is being administered in accordance with this section. If, on the basis of such review, the Secretary finds that a State is not administering its program in accordance with this section or if the Secretary determines based on clear and convincing evidence after a public hearing that a State is not administering its program in accordance with this section and that substantial adverse impacts to wetlands or waters of the United States are imminent, the Secretary shall notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days after the date of the receipt of such notification, the Secretary shall—

"(A) withdraw approval of the program until the Secretary determines such corrective action has been taken; and

"(B) resume the program for the issuance of permits under subsections (b) and (e) for all activities with respect to which the State was issuing permits until such time as the Secretary makes the determination described in paragraph (2) and the State again has an approved program.

"(m) MISCELLANEOUS PROVISIONS.—

"(1) STATE AUTHORITY TO CONTROL DISCHARGES.—Nothing in this section shall preclude or deny the right of any State or interstate agency to control activities in waters within the jurisdiction of such State, including any activity of any Federal agency, and each such agency shall comply with such State or interstate requirements both substantive and procedural to control such activities to the same extent that any person is subject to such requirements. This section shall not be construed as affecting or impairing the authority of the Secretary to maintain navigation.

"(2) AVAILABILITY TO PUBLIC.—A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or portion thereof shall further be available on request for the purpose of reproduction.

"(3) PUBLICATION IN FEDERAL REGISTER.—The Secretary shall have published in the Federal Register all memoranda of agreement, regulatory guidance letters, and other guidance documents of general applicability to implementation of this section at the time they are distributed to agency regional or field offices. In addition, the Secretary shall prepare, update on a biennial basis and make available to the public for purchase at cost—

"(A) an indexed publication containing all Federal regulations, general permits, memoranda of agreement, regulatory guidance letters, and other guidance documents relevant to the permitting of activities pursuant to this section; and

"(B) information to enable the general public to understand the delineation of wetlands, the permitting requirements referred to in subsection (e), wetlands restoration and enhancement, wetlands functions, available nonregulatory programs to conserve and restore wetlands, and other matters that the Secretary considers relevant.

"(4) COMPLIANCE.—

"(A) COMPLIANCE WITH PERMIT.—Compliance with a permit issued pursuant to this section, including any activity carried out pursuant to a general permit issued under this section, shall be deemed in compliance, for purposes of sections 309 and 505, with sections 301, 307, and 403.

"(B) CRANBERRY PRODUCTION.—Activities associated with expansion, improvement, or modification of existing cranberry production operations shall be deemed in compliance, for purposes of sections 309 and 505, with section 301, if—

"(i) the activity does not result in the modification of more than 10 acres of wetlands per operator per year and the modified wetlands (other than where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

"(ii) the activity is required by any State or Federal water quality program.

"(5) LIMITATION ON FEES.—Any fee charged in connection with the delineation or classification of wetlands, the submission or processing of an application for a permit authorizing an activity in wetlands or waters of the United States, or any other action taken in compliance with the requirements of this section (other than fines for violations under subsection (k)) shall not exceed the amount in effect for such fee on February 15, 1995.

"(6) BALANCED IMPLEMENTATION.—

"(A) IN GENERAL.—In implementing his or her responsibilities under the regulatory program under this section, the Secretary shall balance the objective of conserving functioning wetlands with the objective of ensuring continued economic growth, providing essential infrastructure, maintaining strong State and local tax bases, and protecting against the diminishment of the use and value of privately owned property.

"(B) MINIMIZATION OF ADVERSE EFFECTS ON PRIVATE PROPERTY.—In carrying out this section, the Secretary and the heads of all other Federal agencies shall seek in all actions to minimize the adverse effects of the regulatory program under this section on the use and value of privately owned property.

"(7) PROCEDURES FOR EMERGENCIES.—The Secretary shall develop procedures for facilitating actions under this section that are necessary to respond to emergency conditions (including flood events and other emergency situations) which may involve loss of life and property damage. Such procedures shall address circumstances requiring expedited approvals as

well as circumstances requiring no formal approval under this section.

"(8) USE OF PROPERTY.—For purposes of this section, a use of property is limited by an agency action if a particular legal right to use that property no longer exists because of the action.

"(9) LIMITATION ON CLASSIFICATION OF CERTAIN WATERS.—For purposes of this section, no water of the United States or wetland shall be subject to this section based solely on the fact that migratory birds use or could use such water or wetland.

"(10) TRANSITION RULES.—

"(A) PERMIT REQUIRED.—After the effective date of this section under section 806 of the Comprehensive Wetlands Conservation and Management Act of 1995, no permit for any activity in wetlands or waters of the United States may be issued except in accordance with this section. Any application for a permit for such an activity pending under this section on such effective date shall be deemed to be an application for a permit under this section.

"(B) PRIOR PERMITS.—Any permit for an activity in wetlands or waters of the United States issued under this section prior to the effective date referred to in subparagraph (A) shall be deemed to be a permit under this section and shall continue in force and effect for the term of the permit unless revoked, modified, suspended, or canceled in accordance with this section.

"(C) REEVALUATION.—

"(i) PETITION.—Any person holding a permit for an activity in wetlands or water of the United States on the effective date referred to in subparagraph (A) may petition, after such effective date, the Secretary for reevaluation of any decision made before such effective date concerning (I) a determination of regulatory jurisdiction under this section, or (II) any condition imposed under the permit. Upon receipt of a petition for reevaluation, the Secretary shall conduct the reevaluation in accordance with the provisions of this section.

"(ii) MODIFICATION OF PERMIT.—If the Secretary finds that the provisions of this section apply with respect to activities and lands which are subject to the permit, the Secretary shall modify, revoke, suspend, cancel, or continue the permit as appropriate in accordance with the provisions of this section; except that no compensation shall be awarded under this section to any person as a result of reevaluation pursuant to this subparagraph and, if the permit covers activities in type A wetlands, the permit shall continue in effect without modification.

"(iii) PROCEDURE.—The reevaluation shall be carried out in accordance with time limits set forth in subsection (e)(5) and shall be subject to administrative appeal under subsection (i).

"(D) PREVIOUSLY DENIED PERMITS.—No permit shall be issued under this section, no exemption shall be available under subsection (f), and no exception shall be available under subsection (g)(1)(B), for any activity for which a permit has previously been denied by the Secretary on more than one occasion unless such activity—

"(i) has been approved by the affected State, county, and local government within the boundaries of which the activity is proposed;

"(ii) in the case of unincorporated land, has been approved by all local governments within 1 mile of the proposed activity; and

"(iii) would result in a net improvement to water quality at the site of such activity.

"(11) DEFINITIONS.—In this section the following definitions apply:

"(A) ACTIVITY IN WETLANDS OR WATERS OF THE UNITED STATES.—The term 'activity in wetlands or waters of the United States' means—

"(i) the discharge of dredged or fill material into waters of the United States, including wetlands at a specific disposal site; or

"(ii) the draining, channelization, or excavation of wetlands.

"(B) AGENCY.—The term 'agency' has the meaning given that term in section 551 of title 5, United States Code.

"(C) AGENCY ACTION.—The term 'agency action' has the meaning given that term in section 551 of title 5, United States Code, but also includes the making of a grant to a public authority conditioned upon an action by the recipient that would constitute a limitation if done directly by the agency.

"(D) AGRICULTURAL LAND.—The term 'agricultural land' means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, nonindustrial forest land, an area that supports a water dependent crop (including cranberries, taro, watercress, or rice), and any other land used to produce or support the production of an annual or perennial crop (including forage or hay), aquaculture product, nursery product, or wetland crop or the production of livestock.

"(E) CONSERVED WETLANDS.—The term 'conserved wetlands' means wetlands that are located in the National Park System, National Wildlife Refuge System, National Wilderness System, the Wild and Scenic River System, and other similar Federal conservation systems, combined with wetlands located in comparable types of conservation systems established under State and local authority within State and local land use systems.

"(F) ECONOMIC BASE LANDS.—The term 'economic base lands' means lands conveyed to, selected by, or owned by Alaska Native entities pursuant to the Alaska Native Claims Settlement Act, Public Law 92-203 or the Alaska Native Allotment Act of 1906 (34 Stat. 197), and lands conveyed to, selected by, or owned by the State of Alaska pursuant to the Alaska Statehood Act, Public Law 85-508.

"(G) FAIR MARKET VALUE.—The term 'fair market value' means the most probable price at which property would change hands, in a competitive and open market under all conditions requisite to a fair sale, between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts, at the time the agency action occurs.

"(H) LAW OF A STATE.—The term 'law of a State' includes the law of a political subdivision of a State.

"(I) MITIGATION BANK.—The term 'mitigation bank' means a wetlands restoration, creation, enhancement, or preservation project undertaken by one or more parties, including private and public entities, expressly for the purpose of providing mitigation compensation credits to offset adverse impacts to wetlands or other waters of the United States authorized by the terms of permits allowing activities in such wetlands or waters.

"(J) NAVIGATIONAL DREDGING.—The term 'navigational dredging' means the dredging of ports, waterways, and inland harbors, including berthing areas and local access channels appurtenant to a Federal navigation channel.

"(K) PROPERTY.—The term 'property' means land and includes the right to use or receive water.

"(L) SECRETARY.—The term 'Secretary' means the Secretary of the Army.

"(M) STATE WITH SUBSTANTIAL CONSERVED WETLANDS AREAS.—The term 'State with substantial conserved wetlands areas' means any State which—

"(i) contains at least 10 areas of wetlands for each acre of wetlands filled, drained, or otherwise converted within such State (based upon wetlands loss statistics reported in the 1990 United States Fish and Wildlife Service Wetlands Trends report to Congress entitled 'Wetlands Losses in the United States 1780's to 1980's'); or

"(ii) the Secretary of the Army determines has sufficient conserved wetlands areas to provided adequate wetlands conservation in such State, based on the policies set forth in this Act.

"(N) WETLANDS.—The term 'wetlands' means those lands that meet the criteria for delineation of lands as wetlands set forth in subsection (g).".

SEC. 804. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is further amended—

(1) in paragraph (6)—

(A) by striking "dredged spoil,";

(B) by striking "or (B)" and inserting "(B)"; and

(C) by inserting before the period at the end "; and (C) dredged or fill material"; and

(2) by adding at the end thereof the following new paragraphs:

"(28) The term 'wetlands' means lands which have a predominance of hydric soils and which are inundated by surface water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"(29) The term 'creation of wetlands' means an activity that brings a wetland into existence at a site where it did not formerly occur for the purpose of compensatory mitigation.

"(30) The term 'enhancement of wetlands' means any activity that increases the value of one or more functions in existing wetlands.

"(31) The term 'fastlands' means lands located behind legally constituted man-made structures or natural formations, such as levees constructed and maintained to permit the utilization of such lands for commercial, industrial, or residential purposes consistent with local land use planning requirements.

"(32) The term 'wetlands functions' means the roles wetlands serve, including flood water storage, flood water conveyance, ground water recharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fisheries, wetlands plant habitat, aquatic habitat, and habitat for wetland dependent wildlife.

"(33) The term 'growing season' means, for each plant hardiness zone, the period between the average date of last frost in spring and the average date of first frost in autumn.

"(34) The term 'incidentally created wetlands' means lands that exhibit wetlands characteristics sufficient to meet the criteria for delineation of wetlands, where one or more of such characteristics is the unintended result of human induced alterations of hydrology.

"(35) The term 'maintenance' when used in reference to wetlands means activities undertaken to assure continuation of a wetland or the accomplishment of project goals after a restoration or creation project has been technically completed, including water level manipulations and control of nonnative plant species.

"(36) The term 'mitigation banking' means wetlands restoration, enhancement, preservation or creation for the purpose of providing compensation for wetland degradation or loss.

"(37) The term 'normal farming, silviculture, aquaculture and ranching activities' means normal practices identified as such by the Secretary of Agriculture, in consultation with the Cooperative Extension Service for each State and the land grant university system and agricultural colleges of the State, taking into account existing practices and such other practices as may be identified in consultation with the affected industry or community.

"(38) The term 'prior converted cropland' means any agricultural land that was manipulated (by drainage or other physical alteration to remove excess water from the land) or used for the production of any annual or perennial agricultural crop (including forage or hay),

aquacultural product, nursery product or wetlands crop, or the production of livestock before December 23, 1985.

"(39) The term 'restoration' in reference to wetlands means an activity undertaken to return a wetland from a disturbed or altered condition with lesser acreage or fewer functions to a previous condition with greater wetlands acreage or functions.

"(40) The term 'temporary impact' means the disturbance or alteration of wetlands caused by activities under circumstances in which, within 3 years following the commencement of such activities, such wetlands—

"(A) are returned to the conditions in existence prior to the commencement of such activity; or

"(B) display conditions sufficient to ensure, that without further human action, such wetlands will return to the conditions in existence prior to the commencement of such activity.

"(41) The term 'airport hazard' has the meaning such term has under section 47102 of title 49, United States Code.".

SEC. 805. TECHNICAL AND CONFORMING AMENDMENTS.

(a) VIOLATION.—Section 301(a) (33 U.S.C. 1311(a)) is amended—

(1) by striking "402, and 404" and inserting "and 402"; and

(2) by adding at the end the following: "Except as in compliance with this section and section 404, the undertaking of any activity in wetlands or waters of the United States shall be unlawful.".

(b) FEDERAL ENFORCEMENT.—Section 309 (33 U.S.C. 1319) is amended—

(1) in subsection (a)(1) by striking "or 404";

(2) in subsection (a)(3) by striking "or in a permit issued under section 404 of this Act by a State";

(3) in each of subsections (c)(1)(A) and (c)(2)(A) by striking "or in a permit" and all that follows through "State;" and inserting a semicolon;

(4) in subsection (c)(3)(A) by striking "or in a permit" and all that follows through "State, and" and inserting "and";

(5) by adding at the end of subsection (c) the following:

"(8) TREATMENT OF CERTAIN VIOLATIONS.—Any person who violates section 301 with respect to an activity in wetlands or waters of the United States for which a permit is required under section 404 shall not be subject to punishment under this subsection but shall be subject to punishment under section 404(k)(5).";

(6) in subsection (d) by striking ", or in a permit issued under section 404 of this Act by a State,";

(7) by adding at the end of subsection (d) the following: "Any person who violates section 301 with respect to an activity in wetlands or waters of the United States for which a permit is required under section 404 shall not be subject to a civil penalty under this subsection but shall be subject to a civil penalty under section 404(k)(4).";

(8) in subsection (g)(1)—

(A) by striking "—" and all that follows through "(A)";

(B) by striking "or in a permit issued under section 404 by a State, or"; and

(C) by striking "(B)" and all that follows through "as the case may be," and inserting "the Administrator";

(9) by adding at the end of subsection (g) the following:

"(12) TREATMENT OF CERTAIN VIOLATIONS.—Any person who violates section 301 with respect to an activity in wetlands or waters of the United States for which a permit is required under section 404 shall not be subject to assessment of a civil penalty under this subsection but shall be subject to assessment of a civil penalty under section 404(k)(4).";

(10) by striking "or Secretary", "or the Secretary", "or the Secretary, as the case may be,", "or Secretary's", and "and the Secretary" each place they appear; and

(11) in subsection (g)(9)(B) by inserting a comma after "Administrator".

SEC. 806. EFFECTIVE DATE.

This title, including the amendments made by this title, shall take effect on the 90th day following the date of the enactment of this Act.

Mr. VENTO. Mr. Chairman, I rise in opposition to H.R. 961, the Clean Water Act amendments, a measure which represents a retreat from over 20 years of progress and commitment and since presented on the floor this week has become increasingly weakened by further amendments being added.

The first 3 months of this 104th Congress has with the Republican "Contract" represented an assault on the sound, fair and needed environmental laws enacted on a bipartisan basis the past four decades.

The Clean Water Act [CWA] has been a good success with extraordinary achievements and effort within the Federal framework. State and local governments have been spurred to positive action with an effective national framework of law and funding to help achieve the objectives and standards. Each instance when the law was rewritten resulted in pragmatic adjustments and amendments reinforcing and empowering safety, health and environmental considerations. As new information and pressures impact the range of law and issues inherent regarding the CWA, efforts have been made to respond.

That is changed in the measure H.R. 961 that is being promoted in the Congress today.

This legislation is a denial of the problem and trades short-term gain for a narrow group of special interests against the long term problems of despoiling the safety, health and environment of the people.

This negative initiative discards the lessons of the past, abandons the investments made by the Federal and State Governments as it sacrifices sound standards to political expediency; it is wrong for the economy and the environment.

The measure H.R. 961 includes provisions waiving secondary treatment facilities, replaces the wetland delineation with loose State process and creates a new payment entitlement system to reward polluters for not polluting, the measure H.R. 961 repeals existing law for special runoff control provisions for coastal areas, repeals the existing storm water management program. An effort to restore these provisions was rejected save the amendment addressing some coastal provisions—which no doubt will be revoted before we complete this measure in the House. Candidly, the fingerprints of special interests are all over this bill as it left committee, in fact it's an open secret that portions of the bill, the CWA 1995, have been written by the lobbyists. It isn't just the environment that is being despoiled; it is the Congress and the House in such a mode of behavior and activity that is being despoiled.

The bottom line is that this measure represents a retreat, a reneging on the commitment to clean water and sound environmental policy.

Dismantling the Federal role and the Federal Government and the coordination, collaboration that is inherent to the Federal Government role is absolutely essential to sound environmental policy, to clean water, to clean air, to the protection of biodiversity. In fact, today we, the Congress, should be pursuing global agreements, not turning back and away from science and sound policy.

Congress can't achieve sound environmental policy in the absence of a weakened or undercut Federal policy and as nature abhors a vacuum, the power of the people, the Federal Government, is being filled by the big corporations and special interests who put private profit and interest first and the American people second. We must reject this measure and flawed policy and philosophy.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

I do that simply to announce that it is my understanding we will take up the wetlands debate Monday evening after the votes occur on suspensions, but there will be no votes on the wetlands debate Monday evening and we will move to the continuation of this bill Tuesday morning, with an objective of finishing this legislation by Tuesday night.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOX of Pennsylvania) having assumed the chair, Mr. MCINNIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 961) to amend the Federal Water Pollution Control Act, had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I yield to the distinguished gentleman from Texas [Mr. ARMEY] for the purpose of discussing the schedule for next week.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Missouri for yielding.

Mr. Speaker, on Monday, May 15, the House will meet at 12 p.m. for legislative business. We will consider three bills under suspension of the rules: a resolution expressing the sense of the House that Japan should immediately eliminate barriers to United States exports on autos and auto parts.

Mr. Speaker, let me just mention with respect to this bill, out of consideration for the gentleman from Michigan [Mr. LEVIN], it is possible that this may not be considered until Tuesday. We will see if we can work that out.

We will continue then on Monday with H.R. 1045, legislation eliminating the National Education Standards and Improvement Council, and H.R. 1266, the Greens Creek Land Exchange Act of 1995.

□ 1300

We then plan to take up the rules for three hatchery bills: H.R. 614, the New London National Fish Hatchery Conveyance; H.R. 584, the Fairport National Fish Hatchery Conveyance; and H.R. 535, the Corning National Fish Hatchery Conveyance.

Mr. Speaker, if any recorded votes are ordered, they will not take place before 5 p.m. on Monday evening.

We then plan to return to debate on amendments to H.R. 961, the Clean Water Amendments Act of 1995.

On Tuesday the House will meet at 10 a.m. to consider one bill under suspension of the rules.

Mr. Speaker, that bill is H.R. 1590, legislation requiring the trustees of the Medicare trust fund to report recommendations on resolving the projected financial insolvency of the trust funds.

We then plan to continue consideration of amendments for the clean water legislation.

Mr. Speaker, it is our hope and our intention that we will be able to complete the clean water legislation on Tuesday, and we will continue working between the majority and minority floor managers with those people who have amendments to see what arrangements we can make to assure completion within that timeframe and still give it as much consideration as possible to the Members. But it is our hope and I think with some confidence I can say our intention to complete the bill in that time.

That will make it possible, Mr. Speaker, on Wednesday for the House to meet at 10 a.m. and consider the three hatchery bills made in order under the rules adopted on Monday. We will then begin general debate on the fiscal year 1996 budget resolution. Members should be advised that the House may work late on Wednesday evening.

On Thursday the House will meet at 9 a.m. We plan to recess immediately to honor former Members of Congress, and then reconvene at 10 a.m. to return to debate and consideration of substitutes to the committee-passed fiscal year 1996 budget resolution.

It is our hope to have Members on their way home to their families and their districts by approximately 6:30 p.m. on Thursday night.

There will be no votes on Friday, May 19.

I thank the gentleman for yielding.

Mr. GEPHARDT. I would like to ask the distinguished majority leader a couple of questions. First, do you expect votes on Monday night on clean water amendments?

Mr. ARMEY. No. We can have some of the debate, but we expect no votes on the Clean Water Act on Monday night.

Mr. GEPHARDT. Second, I would like to ask if we could reserve the time between say 2 p.m. and 5 p.m. on Monday for special orders, instead of recessing.

Mr. ARMEY. I do not believe we can make this agreement at this point because we have suspensions we must look at.

Mr. GEPHARDT. Finally, in looking at the schedule, it appears that we are talking about a 4-hour period for debate on the budget. And I must say to the distinguished majority leader that there is a lot of desire I am sure on both sides of the aisle to adequately debate this very important budget, and the changes that are being proposed by many Members in the budget, and I would like to ask if we could perhaps see more time for debate in this period that you have set out.

Mr. ARMEY. I do appreciate the gentleman's point. The Committee on Rules has not issued a rule on debate for the budget, and I am sorry I cannot report on how much time will be made available, and I know there are discussions taking place on that.

Mr. GEPHARDT. I would just say to the gentleman that we had been hoping for more like 14 hours of general debate. This is a very important document for the future of the country, and people deserve to know exactly what the alternatives are and how they would work and allow for adequate debate, so I urge the Committee on Rules to take that under consideration. I know these hatchery bills are probably important somewhere, but probably more important and especially to a bass fisherman of such renown as the majority leader, but maybe we could get to the budget a little faster and have more time to use.

Mr. ARMEY. Again let me say I do appreciate that. It is a point perhaps you want to communicate to the Committee on Rules, and I would certainly be willing to do the same. This is a very important piece of legislation. I know those members of the Joint Economic Committee that generally conduct what is know as the Humphrey-Hawkins debate have expressed their concern, and we will continue to encourage the Committee on Rules.

Mr. GEPHARDT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the minority leader for yielding. I suppose the question I want to ask is in terms of Monday night's treatment of the current bill we are on, the Clean Water Act, I understand there will be no votes Monday night, but will there be debate on amendments, and how long will we go Monday night, do you expect?

Mr. ARMEY. Again I thank the gentleman. The debate that we have Monday night will be on the Boehlert amendments. We would probably, possibly debate for as much as an hour or an hour and one-half. One of the things we are going to be very sensitive to is there be some time retained so that there will be closing comments made before the vote is taken on the next day.

Any Members that wish to participate in that debate on the Boehlert amendment should be advised, though, that their best opportunity to do so would be Monday evening, because we do have a real resolve to complete the bill on Tuesday, and, therefore, between the floor managers there may be a need to do some time arrangements for Tuesday. So if you are anxious to be a part of that debate relative to wetlands that is known as the Boehlert amendment, I would encourage you to be here Monday night.

Mr. GEPHARDT. I yield to the gentleman from California.

Mr. MINETA. I thank the leader for yielding. I was just going to ask relative to the debate, then we would still have all of Monday without any limitation, is that what I hear? How long do you anticipate that we would then be going on Monday?

Mr. ARMEY. Monday evening.

Mr. MINETA. No set time?

Mr. ARMEY. No, there would be no set time. Of course, participation is determined by the number of Members here. We would obviously like to get as much of that debate out of the way while still retaining some opportunity for the principals to have some statements before the end of debate.

Mr. MINETA. I would also like to ask, the Pennsylvania primary or I guess Philadelphia city elections are on Tuesday, and there have been some comments from our colleagues in the Philadelphia area about that. So if they are not able to be back for Monday night's general debate, would they still be able to do general debate or at least make some statements on Tuesday?

Mr. ARMEY. We would try to accommodate that. Of course as you know the reason we have determined not to have votes Monday night is out of consideration for those folks. Certainly we will talk to them. And of course the sponsor of the amendment would want to have some comments prior to the vote on Tuesday and perhaps one or two others, so we will try to be as accommodating as possible.

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. DOGGETT. I thank the gentleman for yielding, and I would ask the distinguished majority leader, I am troubled to hear of even the possibility that this budget might get as little as 4 hours of time. It has been described as a revolutionary budget, and I know as one of I guess what would be the chief revolutionaries you would have some concern about explaining it fully, and that is barely 1 hour for $100 billion of Medicare cuts, and I would hope you would work with the Committee on Rules so that we could have a full and complete debate extending over at least a couple of days to explore what this budget means for ordinary American families.

Mr. ARMEY. Let me just say I thank the gentleman from Texas for that observation, and as I said to the gentleman from Missouri, we will work with the Committee on Rules to get as full a debate as we can.

Mr. DOGGETT. I thank the gentleman.

Mr. GEPHARDT. I thank the gentleman.

FORMAT FOR MORNING HOUR DEBATES AND SPECIAL ORDERS

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the order of the House of January 4, 1995, relating to morning hour debates be continued through the adjournment of the 2d session of the 104th Congress sine die, except that on Tuesdays the House shall convene for such debates 1 hour earlier than the time otherwise established by order of the House rather than 90 minutes earlier; and the time for such debates shall be limited to 25 minutes allocated to each party rather than 30 minutes to each; but in no event shall such debates continue beyond the time that falls 10 minutes before the appointed hour for the resumption of legislative business, and with the understanding that the format for recognition for special order speeches first instituted on February 23, 1994, be continued for the same period.

Mr. DOGGETT. Reserving the right to object, Mr. Speaker, these morning hour debates are very important to both sides and I understand there has been consultation on this. We applaud the gentleman's effort.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT TO MONDAY, MAY 15, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10:30 a.m. on Monday next for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON THURSDAY, MAY 18, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday, May 17, 1995, it adjourn to meet at 9 a.m. on Thursday, May 18, 1995, for the purpose of receiving in this Chamber former Members of Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON THURSDAY, MAY 18, 1995, FOR THE PURPOSE OF RECEIVING FORMER MEMBERS OF CONGRESS

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare a recess, subject to the call of the Chair, on Thursday, May 18, 1995, for the purpose of receiving in this Chamber former Members of Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute speeches.

REPUBLICAN BUDGET DOES NOT CUT MEDICARE

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, for the last few days, liberal Democrats have taken to the floor to denounce so-called Medicare cuts.

What cuts?

Where are they?

This chart clearly shows that under the House Republican budget, Medicare funding will increase.

This year, we will spend over $150 billion on Medicare.

This will not decrease.

Let me be absolutely clear about this—Medicare funding will not decrease.

Under the House Republican plan, Medicare spending will have increased to about $230 billion by the year 2002.

Let me say that again—Medicare spending will be $230 billion in the year 2002. Now, if Medicare spending is $150 billion this year and $230 billion seven years from now, that is an increase in Medicare spending. Where's the cut?

Only in Washington could an increase be a cut.

Well, the American people are tired of the old Washington accounting methods. Those methods are the very reason we have a $5 trillion debt.

Republicans are committed to scrapping the old Washington accounting methods and replacing them with the truth, something not often seen around here.

MEDICARE INCREASES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, as we go home for Mother's Day, I think all of us know that mothers have that extrasensory perception about when people are fudging. Well, let me tell you, there is going to be a lot of fudging going on here about this budget. You are going to hear it's traditional family values.

But let me ask a question? Do you know any family in America that when they pull up to the table to put their budget together says let us push the children away and let us push the elderly away, the most vulnerable in the family, so those who are doing real well can get a larger piece of the pie? I do not know any family like that. That is the traditional mogul budget.

So we have really turned it on its head and turned traditional family values into traditional mogul values. And if you are really wondering what to get your mother this year for Mother's Day, they have now answered the question. Send her a check, send her cash. She is going to need at least $900 to $1,000 a year because there is going to be an increase in premiums and an increase in all things that affect her Medicare.

Not a good Mother's Day present.

□ 1315

LET US EXERCISE LEADERSHIP

Mr. BUYER. To my good friend from Colorado, I think there is a big difference between families in America. Her vision is she wants every family in America to drive the very same type of car and for everybody to have the same piece in size.

I submit right now we are going to hear a lot of rhetoric with regard to the Nation's budget.

It is interesting, this morning, though, when I saw C–SPAN, I got to see the Vice President, the minority leader here in the House, the minority leader in the Senate. They were asked a very important question by a member of the press. Intriguing. "What is your plan to balance the Nation's budget without a tax increase in 7 years?" They looked at each other, and there was complete silence for a good 4 or 5 seconds. It was wonderful. It reminded me almost of the Three Stooges; I saw Curley, Larry, and Mo. They stood and all kind of looked at each other.

The answer is they have no plan.

So my message is: Stop the squawking, stop the whining, and let us get down and work on the Nation's business, roll up our sleeves, and let us do it. Because this is very serious business.

You want to talk about what happens to the American family, the lady from Colorado, the greatest threat to the American family today is the national debt. That is the greatest threat.

Folks, if we are successful, and it is now 2002, the national debt will be in excess of $7 trillion. Stop squawking, and let us exercise leadership.

CALLING FOR THE NAMING OF AN INDEPENDENT COUNSEL

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, today marks the 113th day since the formation of the House Ethics Committee, and no substantial action has yet been taken with regard to our imperial Speaker's serious ethics problems. Four very serious complaints have been filed and have been pending before the Ethics Committee now for months, yet no action. It is obvious that an independent counsel is needed. I advise the Ethics Committee to follow the advice that Congressman GINGRICH gave on July 28, 1988, when he said,

> The rules normally applied by the Ethics Committee to an investigation of a typical Member are insufficient in an investigation of the Speaker of the House . . . clearly this investigation has to meet a higher standard of public accountability.

I call on Chairperson JOHNSON and members of the Ethics Committee to quit dragging their feet and name an independent counsel. Inactivity by the Ethics Committee and press releases from the Gingrich legal team will not clear up this most serious situation. An independent counsel will.

PROTECTING OUR CHILDREN'S FUTURE

(Mr. TATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TATE. Mr. Speaker, within a decade, entitlements and interest will consume the entire national debt, and the President has presented no balanced budget, and the Clinton Democrats across the aisle have continued the status quo.

The Republicans have announced a plan to balance the budget and to protect our children's future, and the Democrats have announced yesterday that they have no plan.

Well, let me tell you, folks, here is their plan. Right here is what they do on Medicare to save it. Right down here is what they do to protect our children. Right down here is what they do to provide tax relief for working families.

Folks, there is no plan. That is the fact. The Republicans have a plan, a plan to balance the budget, protect our children's future and to protect, preserve, and improve Medicare.

The Republicans are willing to stand up to the plate and be counted and protect our future. The Democrats have their plan right here.

Take a look.

REPUBLICAN PLAN UNFAIR TO MOST VULNERABLE POPULATIONS

(Mr. WATT of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATT of North Carolina. Mr. Speaker, as we approach the budget debate next week, I think it is important for the American people to put this in perspective.

We have cut taxes now $600 to $700 billion over the next 10 years to benefit the wealthy people. Now we have got to come up with some cuts in the budget to offset that lost revenue, $600 to $700 billion, to offset cuts in taxes for rich people.

Well, we started by trying to do that on the backs of poor people, and we realized that there was not enough money in poor people's programs to do that. So now, next week, we are turning our attention to our senior citizens, and we will try to finish this job under the Republican plan by balancing the budget on the backs of our senior citizens, poor people, senior citizens, balance the budget on their backs, my colleagues say. Unfair to our most vulnerable populations.

PRESERVING THE AMERICAN DREAM

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker and colleagues, yesterday House Republicans offered a plan to balance the Federal budget by the year 2002. Our plan allocates $11 trillion for Federal spending over the next 7 years. It protects Social Security. It eliminates three Cabinet-level departments, 13 agencies and 284 Federal programs, and it provides the much needed tax relief for families, as promised in our Contract With America.

Now, let us look at what will happen if we take the House Democrats' approach and do nothing but maintain the status quo. A child born this year can expect to pay $187,000 over the course of his or her lifetime as a wage earner and taxpayer just in interest on the national debt, and in 2 years, interest on the national debt will exceed defense spending as the single largest item in the Federal budget.

Mr. Speaker, which alternative would the House choose next week: the status quo or a plan to balance the budget by limiting the growth in Federal spending and eliminating wasteful spending and programs that simply have outlived their usefulness?

The answer is clear. We have to balance the Federal budget. We have a moral imperative to preserve the American dream for our children and our grandchildren.

BALANCE PRIORITIES FIRST

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, you can take each dollar that the majority plans to spend on the wealthy through their tax break and spend it on older Americans through Medicare and still have moneys to balance the budget come the year 2002.

One wonders why there is such an insistence by the majority to take from the poor and give to the wealthy. When one examines the record, you see a consistent pattern. That consistent pattern says if you are a pregnant woman, you are out of luck, and if you are an infant baby, certainly you do not count, and if you are from rural America, you can be ignored, and if you are poor, you do not matter, and if you are a senior citizen, you are too late.

This weekend we will celebrate Mother's Day. Mothers have always taught us, and we are reminded on Mother's Day, get your priorities right. How we spend our moneys and where we spend our moneys says a lot about us. It says what is important. It says to America that those who spend more than $200,000 certainly are of more consequence than those who earn less.

It says to America that mothers do not count. It says to the working America we have nothing at all to celebrate this Mother's Day.

WHERE IS THE CUT?

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, where is the cut? This chart shows that under the Republican budget plan, Medicare spending will increase by nearly $100 billion over the next 7 years.

Now, this second chart that we are going to show here shows that spending per recipient for welfare recipients will go from $4,700 up to $6,300 per person.

Now, I know this has to come as a complete shock to my friends on the other side of the aisle who spare no opportunity to scream about imagined Medicare cuts. They look at America and they see only two kinds of people: The wealthy and the victimized. The wealthy are, of course, evil and in need of punishment. The victims need protection, and they think that only liberal Democrats here in Congress can provide that protection.

Well, the liberal political world view has been almost totally rejected by the American people. Americans are tired of excuses. They are tired of the slick blame game, and they will not be scared by the liberal Democrat shrieks they hear here in Congress anymore. These are imaginary cuts. They do not exist.

REPUBLICAN MEDICARE CUTS

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, with Mother's Day on Sunday, we are reminded of the commandment to "honor thy father and thy mother." And, my, how our fathers and our mothers and our seniors all over this country have been honored this week. They have been honored with $300 billion, almost, of Medicare cuts, and they can bring charts up here all day and all night and all week long.

Apparently, they want to limit the time to discuss this to the bare minimum, but they cannot deny the fact that under existing law they are cutting Medicare by almost $300 billion.

It is not a matter of what happens here in the Halls of Congress. It is the way the American people will view these cuts. If you do not understand a cut is a cut, go out and ask the seniors across this country and the people that care for them what it means that in order to get the same level of care, your medical deductible is doubled, your premiums go up every month, suddenly you have to pay for home health care and for lab services.

You may not call that a cut, but a senior citizen that faces the decision of whether to eat or whether to get health care is going to view it as the very serious cut that it is.

ENTERING THE BUDGET DEBATE WITH FACTS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, you know, Sunday is Mothers' Day. I do not remember my mother in the 40 years that I have been her son, worrying about the Federal budget on Mother's Day. I just do not see ourselves sitting around the house and ringing, "Oh, my goodness, the Democrats are not going to get their way in Congress. Mother's Day is ruined."

You know, my mom, my family, we do just fine without the Federal Government running our lives, and that is what the American people want: less Federal Government intervention in the family.

The families of America want the Federal Government out of the picture. The best way to protect the family is to make sure that we have a balanced budget so that there will be a Government that is not totally bankrupt in our future, which my mother's grandchildren and their grandchildren will enjoy.

You know, a great political campaign was run on this slogan: "If not us, who; if not now, when; if not this, what?"

The Democrats' answer to that question, "Well, if not us, somebody; if not now, someday; and if not this, we do not know."

You know, it is time to come to the table with specifics. Are you going to balance the budget, or are you going to sit here and scare everybody in America that the sky is falling? Let us get responsible; let us enter the debate with the true spirit of facts and not rhetoric.

MEDICARE IS ON THE BLOCK

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, the previous speaker and I can probably agree on one thing; and that is, we hope everybody has a happy Mother's Day. We hope they are not worried about the Federal budget and the deficit problems.

However, I would observe I have looked at this budget carefully. I have seen what it does to Medicare. As someone observed yesterday, the best thing you can do for mother this year is do not send flowers, send a check.

Because the fact is there is a real cut in Medicare, $300 billion, and, yes, I have heard that, well, the spending increases. But what happens if, instead of two people there are now three people entitled to it? What happens if you now have higher deductibles when you go to the physician? You have to pay more out of pocket. You are now paying for lab fees you did not pay for before. And, yes, medical inflation in this country still rises faster than regular inflation.

The fact of the matter is that in order to keep current or even slightly current, there is a real cut that is proposed in this budget in the program that affects all of us. So Medicare is on the block, and I think it is an important statement.

Finally, what is more obnoxious to me about this cut it does not do anything about the deficit. It does not do anything for seniors. What it does is pay for a tax break for the wealthiest Americans in the tax cut package that has already passed here.

ACHIEVING A BALANCED BUDGET

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I just came over because I was hearing some of the comments.

What concerns me very, very much is what is happening from the Democrats while Republicans have designed a budget that will balance in the year 2002. Everybody, I would hope, thinks that there is some good in achieving a zero deficit, balancing our budget and not spending any more than we take in.

Yet the other side of the aisle, and I usually am not partisan on these things, have seen this as an opportunity to criticize every one of these cuts that the Republicans are making, without presenting to us their idea of where we should be.

If you just look at what the President sent over here as far as his budget, his deficit spending, his spending more than what we are taking in in the year 1996 is 211, Republicans 156; in the last year, 2002, the Republicans' proposal is down to zero, zero deficit. We are living within the budget, within the revenues that we are taking into this Government. The President is 318.

Mr. Speaker, the other side should not criticize. They should be forthright in a saying here is what we think are the reasonable cuts if we are going to achieve a balanced budget.

DISTRICT OF COLUMBIA'S 1995 SUPPLEMENTAL BUDGET AND RESCISSIONS OF AUTHORITY REQUEST ACT OF 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 104-74)

The SPEAKER pro tempore (Mr. FOX of Pennsylvania) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with section 446 of the District of Columbia Self-Government and Governmental Reorganization Act, I am transmitting the District of Columbia's 1995 Supplemental Budget and Rescissions of Authority Request Act of 1995. This transmittal does not represent an endorsement of the contents of the District's budget.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 12, 1995.*

□ 1330

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE REPUBLICAN BUDGET IS A CUT IN MEDICARE AND SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, I rise this afternoon to speak about the Republican budget and its effect on Medicare and Social Security. The assertion is trying to be made on the Republican side that this is not a cut. Well, I beg to differ. To the senior citizens of this country who have paid all their lives into this trust fund, it is a cut.

A cut is a reduction in services, an increase in premiums, an increase in copays and deductibles. So to the senior citizen out there, or to their family, you can call it anything you want to call it; it is a reduction in services. It is less than they expected to be able to get out of this very, very important program in their lives, and let us remember who we are affecting here. We are not just affecting the recipient of the program for the person that is enrolled in Medicare. We are affecting their entire family. The 30-, and 40-, and 50-year-old sons and daughters of these recipients of Social Security will have to make up the money if their parent cannot come up with it for the copay, or the deductible or the increased premium, and remember that this increased premium will come out of their Social Security check. It is automatically deducted, so it is in effect a decrease in their Social Security monthly payment.

Mr. Speaker, we have got lots and lots of senior citizens around the country who live on their Social Security. It is the only thing they have to look forward to every month to pay their rent, to pay their heating bill, to pay for their food, and so that amount will be reduced. Let us also remember this budget calls for a reduction in the Social Security benefit. It calls for an arbitrary reduction in the cost of living escalator by over a half a percent a year beginning in 1999.

By the year 2002 it means a $240 cut in their Social Security benefit. So, because of the Medicare cut which comes to about $1,000 a person a year immediately, the $240 cut in their Social Security benefit by the year 2002, these folks who are living on Social Security and their families who help support them are going to be out about $1,240 a year that they now count on in order to get by.

Now let us remember that these programs are supported by taxes. There is no deficit in the Medicare trust fund. There is no deficit in the Social Security trust fund. There is more money coming into those trust funds today than is spent, and we believe that it is wrong to make up for problems somewhere else in the budget out of those trust funds, yet that is precisely what the Republican budget does.

They said proudly for days, "We're not going to touch Social Security; it's off the table." Well, it is on the table again in a big way, $1,240 per person per year it is on the table, and that is not what was said. What was said before the budget came out was Social Security is off the table, it is not going to be cut.

And now we even see why it is being cut. It is being cut for a tax break. The Medicare cut almost equals the amount that is going out to give a tax break, a tax windfall, for the wealthiest people in the country.

So now we see the real value that is being expressed. A budget is an expression of values in its most important meaning. The value that the Republican Party is expressing in this budget is that it is fine to take dollars, $1,240 a year ultimately, from the middle-income families of this country and transfer it to people making $200, and $300, and $400 and $500,000 a year so they can get a $20,000-a-year tax break. We are going to take $1,240 a year from middle-income families and families trying to stay in the middle class.

Is that our sense of values? Is that what we want to have happen in this country? I do not think so. I think what we want is to help middle-income families stay in the middle class, and that is what Social Security and Medicare have primarily been about.

This is not the right approach, this is not what we ought to be doing, and if you say the Social Security funds may not be stable and solvent 5 and 10 years from now, I say, "Fine, let's look at that. Let's look at the whole health care system as we do it, and let's not start this discussion by giving a $20,000-a-year tax break to families earning $250,000 a year. Let's put that off to the side. Let's save that one for later when we finally got enough money in the budget to consider things like that. But for right now let's talk about the real problems of our country: education, Medicare, Social Security, keeping those programs there for the middle-income people who paid their taxes their entire life. Let's not take it from them. Let's help strengthen those programs."

So I hope, as we go into this most important budget, this Republican budget represents the greatest change in U.S. budgets in many, many years. Let us have a full debate in this Congress about what is actually happening here. This budget will have direct significance, dramatic consequences, in the lives of average working American families. They deserve to know what this budget will do to them, and before we vote on it and cast votes for it or against it, let us let the people know what is in it. Let us let them participate in the debate. Then we can make a judgment. And I believe if that is done, we will make the right judgment, and the right judgment is not to invade Medicare and Social Security to give tax breaks to the people who have done the best in our country. That will not be our judgment, and I urge that, after this debate, we will make a better judgment, and we will make sure that Social Security and Medicare are not invaded, and that these cuts are not made to the middle-income people of this country simply to give a tax break to the people who have it made.

OSHA UNDER ATTACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, OSHA, the agency responsible for the health and safety of workers in this Nation, is presently under intense attack. Particularly my colleague, the gentleman from Georgia [Mr. NORWOOD], who is a fellow member of the Economic and Educational Opportunities Committee, has launched a relentless series of attacks on OSHA.

Today, I would like to make a special appeal to Congressman NORWOOD that we lower our voices and make a sincere effort to humanize our discussion. Instead of focusing on the overwhelming but abstract statistics such as the 56,000 hard-working Americans who die each year from job related causes, from now on let us emphasize instead the individual workers with names and faces.

There are workers in Mr. NORWOOD's district like William McDaniel, who without adequate restraining protection fell 80 feet off a television tower to his death in Pendergrass, GA. Like Paul Powell, who was crushed in the unguarded drive shaft of a machine at an Augusta, GA, plant. Like Earnest Gosnell of Homer, GA, who was operating a timber log skidder that had no safety belts when the machine overturned and crushed him. these fine Americans were all residents of Mr. NORWOOD's district in Georgia.

What's really alarming here is that Mr. NORWOOD and so many other Republicans show no concern whatsoever for these workers and the other 56,000 hard-working Americans who die each year from work-related causes. It is really disappointing and tragic that so many Members of Congress like Mr. NORWOOD, would rather launch a cold-hearted and sweeping attack on a Federal agency than do everything possible to protect their own constituents.

It is the duty of every Member of Congress to recognize and remember that OSHA protects the lives of workers in every district.

Mr. Speaker, one of the great things about the Vietnam War Memorial is that the Vietnam War Memorial names names of each individual soldier who gave his life for his country. I do not think we should ever again have monuments for unknown soldiers. Why have celebrations of unknown soldiers when you could name the names and have the faces? It will make it less likely than for those who make decisions about war in the future to be careless or casual when they are making those decisions.

In the same way we ought to try and humanize all the work we do here in Congress. In the budget that has been prepared by the Republicans, OSHA has been drastically reduced. OSHA next week will be under attack in the Economic and Educational Opportunities Committee. An omnibus bill which will deal with work-related protections will be on the floor of the committee, and OSHA will again be under attack.

OSHA saves lives. Stop and consider that OSHA saves lives. Fifty-six thousand people every year die of accidents on the job or work-related causes, diseases they contract on the job or accidents they have and later die in the hospital away from the job. Six thousand die immediately in accidents on the job, but 56,000 people a year is as many people as died, almost as many people that died, in the Vietnam war over the whole 7-year period of the Vietnam war.

☐ 1345

It is a very serious matter. Accidents in the workplace, conditions in the workplace, are very serious. Let us not condemn our workers to unsafe conditions unnecessarily. OSHA protects lives.

Medicaid protects lives too. In the same budget that is going to reduce OSHA, we have tremendous reductions for Medicaid. I am not talking about Medicare, because we can talk about Medicare and the reductions there. That also needs to be debated. But Medicare will be protected. It will be discussed at length on this floor.

Greater cuts have been made in Medicaid than have been made in Medicare, and the Republican budget proposes to get rid of Medicaid as an entitlement. Medicaid is health care for poor people. We are going to have a second-class health care system sanctioned by the Federal Government. One system for those not in Medicaid, those who are in Medicare and can afford Medicare and can afford private insurance, and another system for the poor, that is financed by the Government, a second-class system that will be left to the States to run it. And there will be no Federal entitlements. When the States run out of money, if you are sick or ill, you will not get any help.

Those are human beings out there with faces. Those are people that we all know. Somebody will know the workers who are killed in accidents or the workers who die from job related causes. Somebody knows somebody who is going to die as a result of those cuts in Medicaid and Medicare. Let us not proceed with an across-the-board cut in Medicaid of 18 percent, higher than the cut in Medicare, across-the-board cut, and assume that human beings are not going to die as a result.

Second-class health care is dangerous health care. I once had a situation where a hospital about to go broke in my district told me that we are down to such a level that we cannot afford to really sterilize our towels properly. We do not have the equipment.

I said to the administrator of that hospital, if you cannot sterilize your towels properly, it is time to close the hospital. Let us not try to keep it open.

The provision of second-class health care is dangerous and deadly. If we treat people as numbers and do not treat them as human beings, we run the risk of destroying lives. Let us lower our voices and look at the faces again.

MEDICARE: CUT OR LOSE?

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, the distinguished majority leader probably has a point when he was saying—excuse me, I mean the distinguished minority leader, force of habit—Mr. GEPHARDT, was giving a speech a few minutes ago saying that Medicare is going to be cut. And I think to some degree that you can argue that there is going to be certainly a modification of Medicare, and you may want to say that that is a cut. But I would say, what is better, modifying Medicare or losing Medicare? It will be broke under the current Medicare system in 6 years. It is not a matter of let us keep business as usual and avoid changing Medicare. We have got to do that.

You know, I wish that the critics, and most of the critics right now are coming from the minority side of the aisle, would enter into the solution as freely as they have entered into the criticism of the Republican plan. If they could enter the debate with facts and substance, instead of just with tactics and strategy, it would be so helpful. We need the help of the leadership and the wisdom of the Democrat Party.

We on the Republican side would be shortchanging ourselves if we said we had all the answers. And that is why our Founding Fathers had a two party system. We need the ideas from both sides of the aisle in order to come up with the solution.

The fact is, though, that the Clinton Cabinet is the one who said Medicare is going to go broke in 6 years. The Clinton Cabinet also has come out with statistics showing that baby boomers are going to be retiring in the year 2002, the Social Security trust fund runs out of money in the year 2030, and these are huge problems.

I yield to my friend from Michigan, Mr. SMITH.

Mr. SMITH of Michigan. I thank the gentleman very much for yielding. You know, what is so very interesting is that it was 2 years ago that the trustees of the Medicare trust fund came to Congress and said, "This trust fund is going broke, and it will be out of money by the year 2000." This time they came back and said it might last until 2002.

But the fact is, it is a political hot potato. For the last 2 years, with the existing majority in Congress and the President, they did not want to deal with it because they knew it left a target. They were politically vulnerable.

Republicans met and said, do we want to save Medicare? If we do, are we willing to take the hits that we knew were going to come from the other side of the aisle? "Oh boy, are you guys cruel and unreasonable." The fact is, there is going to be less money coming into the Medicare trust fund in the next 2 years than the payouts. There is a little reserve there in part A that is going to allow us to continue until 2002, and then it is bankrupt.

Mr. KINGSTON. If the gentleman will yield back, what is bothering me is we still seem to have folks on the other side of the aisle debating that Medicare is fine and dandy and there are no problems. We can go on ad infinitum with Medicare.

We cannot do that. We are driving straight into a brick wall that we will collide with a bus full of senior citizens in 7 years, period.

The tragedy of this is look at the wisdom on the Democrat side. I am envious as I look at the Democrat Party. They have a lot of talent and brains over there. I would like, as the Republican Party, to recruit some of their folks. Some of the people I would rather not recruit. I am sure there are folks over here they would rather not recruit. But good gracious, the wisdom of getting the two parties together to come up with a solution for Medicare, would that not be the responsible thing to do for senior citizens? We are wrapping ourselves around momma's bath robe in the name of Mother's Day. We have heard the speeches for the last 40 minutes. What my momma told me to do is put aside party differences and do what is right. That is what we need to do.

Medicare needs to be reformed. The Clinton administration, Senator KERREY, many Democrats, have come out front and said that. Republicans have certainly said that. Take it a step further: To reform it, the American people need the Democrat and the Republican Parties working together on this.

Mr. SMITH of Michigan. I was just saying on reform, testimony before our Committee on the Budget indicated there was $40 billion of fraud and abuse in the system. So, for a start, last year we had a proposal by the administration that the Federal Government should take over all of the medical health care needs in this country.

The fact is that we have seen Medicaid and Medicare grow at the rate of 10 and 12 percent a year. The private practice health care has been 6 and 7 percent. In fact, last year it was about 4 percent, with many parts of the country being zero. The private sector is growing at 4 percent, the public sector, where we have Medicaid and Medicare, where the Government is responsible, has been growing at 10 and 12 percent. To say it is a solution to have the Federal Government take over everything does not jibe. We have got to do something the corporations and the rest of America are doing. We have got to make smart shoppers out of every American, including senior Americans.

Mr. KINGSTON. I think the gentleman ran out of time a little while ago. I wanted to hear about your charts. Alice Rivlin said today there are other places to cut in the budget. She said where the Republican Party was cutting was idiotic. I am sure there are things that the administration does that the Republican Party and Americans think are idiotic. Has the administration cut the budget in their proposal, in the President's budget proposal?

Mr. SMITH of Michigan. Mr. KINGSTON, what I learned is I am not a better number drawer when I have extra time than I am with short time. All this says is that the only budget that—and I do not want to be partisan, but that the President has sent the Congress is figured in the same way as the Republicans are figuring their budget as far as deficits. These are the deficits that are going to exist under the President's budget that he sent us about 8 weeks ago, and the Republican budget passed out of the House, very similar to the one passed out of the Senate.

In year 1996, the deficit under the President's plan is $211 billion, $156 for the Republican. Every year you see our deficit keeps going down and down. We are trying to brag about it. We are saying for the first time since 1969, the end figure is zero as far as the deficit. The zero at the end is the fact we are balancing revenues with expenses. The projection down here for the President is going up on the deficit in those out years.

Mr. KINGSTON. The figures are right. It is atrocious, your momma is ashamed of you. But if I read that correctly, in the year 2001, the President's budget has a $276 billion deficit. The Kasich Committee on the Budget proposal has a $108 billion deficit. The year 2002, the President is at a $318 billion deficit. We are at a $15 billion surplus.

Mr. SMITH of Michigan. We are actually starting to pay back some of this huge, gigantic, $6 trillion debt that the kids and grandkids are going to owe at that time if we do not change.

COMMENTS ON THE DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, just some comments on the debt. You know, we have made a decision in the U.S. Congress to require that the Senate vote, that the House vote, that the President sign, any time that we increase the debt ceiling. Right now we have a debt ceiling of $4.9 trillion. That was done 2 years ago, when this administration came into office.

Now, that is good, no more charts. That debt ceiling was increased 2 years ago in 1993 to $4.9 trillion. Today—today our debt, subject to the limit, is $4.77 trillion. We are going to hit the cap of $4.9 trillion in September or October. So this House is going to have to decide, do we want to vote to increase the debt limit again.

Several of us, Congressman CHRIS SHAYS, myself, about 20 others, are saying look, if we are going to vote to increase the debt limit, should we not have something solid to get us on a glide path to assure that we are going to have a balanced budget sometime in the next 4 to 7 years? And I think the answer is yes.

So I think we need to send a strong signal to the President of the United States, look, unless we are on that glide path, unless we have got a law, a reconciliation bill, a balanced budget amendment, or something that can somehow guarantee to the American people that we are not going to pick their pockets any more, we are not going to vote to increase the debt limit.

So we are sending that message to the President. We are also sending a letter signed by about 25 of us to the majority leader in the Senate, to the Speaker of the U.S. House, saying look, do not plan on our vote to increase again the debt ceiling of the U.S. Government unless we have got the kind of firm, absolute, tough legislation signed by the President that helps make sure we are going to get there.

Mr. KINGSTON. If the gentleman will yield, I want to ask you, because you are a distinguished member of the Committee on the Budget: Now, on the tax increase decrease, can we decrease taxes and balance the budget? Are we being hypocrites?

Mr. SMITH of Michigan. The gentleman has as good an answer as I do, so I will let you complete the answer. My part of the answer would be that most economists that appeared before our Committee on the Budget agreed that increasing taxes is not the way to balance the budget if we want to stimulate job growth in this country. And as everybody knows, or should know, 2 years ago in 1993, what this Congress did with the different majority is they increased taxes a record $252 billion over the 5 years of that budget.

Our conference met and decided that if we wanted to stimulate job growth and savings and cap investment in this country, then we should offset that $252 billion tax increase with some kind of tax decrease. That is what we did. This tax decrease is totally paid for out of spending cuts and it is going to stimulate the economy.

Mr. KINGSTON. Now, as I recall, one of your statistics was that 87 percent of the people who benefit from the tax reduction make a combined income of $75,000 or less, 87 percent of the American people. Is that true?

Mr. SMITH of Michigan. Yes, that is true. I wonder if this is not good. I mean, probably people do not understand, the other side, when they say this is tax cuts for the rich. But see, what they are saying is by taking a $500 tax credit per child, the person that is making the $50,000 or the $100,000 or the $150,000 is in a higher tax bracket, therefore that $500 tax credit is worth more, therefore these are tax credits for the rich.

Everybody should understand where this rhetoric comes from when they say tax breaks for the rich. Some people say well, we are reducing the taxes that corporations pay because we are allowing them to deduct the cost of buying new machinery and equipment to put better tools in the hands of our workers to be more competitive.

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You can call that tax breaks for the rich but what it is trying to do is encourage capital investment and job formation.

Mr. KINGSTON. Is it not true that if the economic growth is 1 percent over the projected growth rate of 2.1 percent over the next 7 years, because of economic growth, we will reduce the deficit $640 billion because of increased revenues because businesses expand, they create jobs, more revenue comes into the Federal budget?

Mr. SMITH of Michigan. You are such an excellent person to have a colloquy with because you know all the statistics and all the figures.

Mr. KINGSTON. Is the gentleman suggesting some of these questions are staged? I am highly offended.

Mr. SMITH of Michigan. It is interesting to note that when CBO comes up with their cost figures, when we have anything to stimulate the economy and job growth, they do not take that into consideration in deciding how much it is going to cost. So if it is a tax decrease, regardless of how business and industry and jobs react to that to bring in ultimately more revenues, they consider it flat. It is a nondynamic scoring.

But you are so correct, if something we do encourages businesses to be a little more competitive and to allow them to expand, then it is going to bring in so much more revenues to totally offset everything and balance our budget much quicker.

MEDICARE

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under the Speaker's announced policy of January 4, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I would like to spend my time today talking about Medicare. In light of what some of the previous speakers said today, I would point out that I am not really interested in the issue of whether or not we call the changes that the Republicans have talked about in their budget as cuts or modifications or whatever. I am satisfied to call them changes.

The bottom line is, the Republicans in their budget proposals, both in the Senate as well as in this House, have suggested some major changes that are going to have major impacts on the Medicare program. Some of the previous speakers suggested today that perhaps seniors are not worried about it or that perhaps Democrats are making them worried unnecessarily.

Let me tell you the reality is seniors are worried, and they are not worried because of anything that the Democrats have said to them. They are worried because they hear that some of these changes that are coming in the proposed Republican budget are going to have a major impact on Medicare, on Medicaid, which is also of importance to seniors, as well as on Social Security, which as you know was previously said to be off the table.

I guess I was a little concerned when I heard the previous speaker, the gentleman from Georgia [Mr. KINGSTON], mention his mom. I guess it is that we are getting close to Mother's Day now. Different speakers talked about their moms. The gentleman from Georgia specifically said that in his case his mother or his family, I guess, was not really that worried about the Federal Government and Federal programs, that he felt that it was increasingly important for us to sort of not depend on Federal programs or forget about these Federal programs.

The bottom line is, when you talk about these three Federal programs that I mentioned, Medicare, Medicaid, and Social Security, these are Federal programs that a lot of people in this country do depend on. They are watching very carefully, in my opinion, what we do here in the next few weeks or the next few months that might impact on those programs.

If I could just use my own mom for an example, and I do not usually do that but, since it has already been stated by some of the others, she called me up just a couple of days ago and she was very worried. She just turned 65 a few weeks ago, is now eligible for Medicare for the first time, relied on the fact that when she became of age that she was going to have the benefits of Medicare. And now all of a sudden, when she first feels that she can take advantage of the program that she and my dad have been paying into all these years, realizes that there may be some major changes and she will not be able to benefit from what she expected in the program.

This is of major concern to seniors. This is not something that is abstract. This is something that the average person is concerned about.

In my district, when we held a number of forums for senior citizens during the April 3 weeks that were in the district, when we were not voting in Washington, I heard over and over again from senior citizens in my district, which is not a very poor district. I consider my congressional district very much the average. I have some wealthy seniors. I have poor seniors and most of my seniors are simply middle class. But they are very scared. When they hear about the changes in Medicare that might make them have to pay more out of their pocket for a copayment or a higher deductible before they get benefits or changes that might limit their options in terms of whether or not they go to a particular doctor or hospital, these are things they are concerned about.

When they hear about Medicaid changes that might impact their ability to get long-term care, they are very concerned. And they are particularly concerned about what they consider a broken promise on the part of the Republicans when the budget, when the House Republican budget proposals talk about a change in the Consumer Price Index that will actually lower the COLA. Seniors worry about that COLA, that cost-of-living adjustment.

Mr. Speaker, many of them budget, and their budget depends on every dollar that they receive on a monthly basis from Social Security. And when you talk about changing the Consumer Price Index so that the amount of the COLA is reduced, that extra few dollars a month or annually that they receive makes a big difference to them.

What I wanted to do today was to basically go through some of the suggested changes that are being discussed by the Republicans in the budget that affect Medicare. I think many have heard the last few days that the Senate Republican plan would pare about $250 billion from projected spending on Medicare and that the House plan ups that ante, if you will, to $270 billion.

What does all this mean? What do these cuts or changes or modifications mean? How do the Republicans propose to go about implementing that? What does it mean for the average person?

Well, we heard today, or at least I heard for the first time today that there was some detailed recommendations, about three dozen recommendations that were made on the House side by Republicans on the House Committee on the Budget to slow the growth of Federal Medicare cost; in other words, to implement these so-called cuts or changes. And those proposals, I understand, have been put forward by a task force from some of the Republican Members, which was made available today, that was actually sent to the chairman of my Subcommittee on Health and Environment of the Committee on Commerce.

I would like to go through some of those proposals by reference to an article that was in the New York Times today that sort of summarized some of them. If I could read from the New York Times article, it says that Republicans on the House Committee on the Budget recommended three dozen ways to slow the growth of Federal Medicare costs. They include higher premium deductibles and copayment for beneficiaries and strong new incentives for them to join health maintenance organizations—we call them HMO's—which provide comprehensive care in return for a fixed monthly fee.

The gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget, said the Republican proposals would expand health care choices for the elderly. But a Mr. Corey, who is the director of Federal affairs for the AARP, the American Association of Retired Persons, said the Republicans were creating a coercive environment in which Medicare beneficiaries will be herded into managed care and out of traditional fee-for-service arrangements.

Under one of the leading options, Medicare beneficiaries would receive Federal vouchers worth a fixed amount, around $5,100 a year, to enroll in an HMO or other private health plan. They would have to use their own money to make up the difference if the cost exceeded the amount of vouchers, but they could keep most of the savings if they chose less expensive plans.

Now, this voucher proposal is just one of the proposals that has been put forth by Republicans on the House Committee on the Budget to try to cut back, if you will, on Medicare.

I would like to go through some of these and some of the others that are mentioned. When you talk about a voucher worth $5,100 to enroll in an HMO or other private health care plan, again, you have to make up your own money for the difference.

One of the things that a lot of seniors are worried about is that right now Medicare is largely a fee-for-service program, which means that you can go out to the doctor of your choice or to the hospital of your choice, if you happen to live in an area where there are a number of hospitals, and that doctor or hospital performs a service and then they send a bill and Medicare pays for it on what we call a fee-for-service basis. The idea is choice. You have your own choice of doctors.

Seniors traditionally had their choice of doctors both when they were working and now as part of the Medicare Program. In many parts of the country, including my own, the seniors do not feel that the HMO's or managed care systems are as good or do not include some of the physicians or hospitals that they may want to go to. But now all of a sudden under this proposal, if it is implemented, they would not have a choice. They basically get a voucher for $5,100 and they can find an HMO that will take them, or they can find another private health plan that operates on the traditional fee-for-service basis.

But think about it a minute. Most of these managed care systems or other private health care plans that operate on a fee-for-service basis are not going to be particularly interested in someone who is older, who might have disabilities, who might have some previous condition that is going to make them a high risk individual. How likely is it that they are going to be able to find a plan that satisfies them for that $5,100?

Ultimately, many of them are going to have to basically take that additional money out of their pocket if they have it to pay for a plan. And I have to tell you, and I think most people understand that a lot of seniors simply do not have the money. So this idea of the voucher is a serious change, that is being talked about, that would have a major implication and for many seniors might result in them not having health care at all.

The next proposal that comes from the Republicans on the Committee on the Budget, and again reading now from the New York Times summary, the Republicans also recommend a stiff financial penalty for new Medicare beneficiaries who refuse to join HMO's. Beginning in 1999, all new enrollees choosing Medicare fee for service would pay a premium $20 higher than that of current Medicare beneficiaries one of the Republican recommendations says. The premium is now $46 a month.

So basically what they are saying is that if you enter, for example—this is not until 1999, but I will use my mom as an example again; she just entered the system within the last month. But let us say she was entering in 1999. If she basically decides that she does not want to go to an HMO or managed care system that limits the doctors or the hospitals, then she has to pay more to continue in a fee-for-service system out of her own pocket.

The amount that they are talking about here, $20 higher than that of the current beneficiaries, which is now $46 a month, is significant. But I would maintain that as time goes on, that differential between what the senior is going to be charged if they enter the managed care system versus the fee-for-service system will grow. And the greatest fear that many of the seniors have in my district, the greatest fear that they have is that ultimately, if they are given a choice, which is not really a choice, between a managed care HMO and a fee-for-service system, that if the cost of the fee for service becomes so prohibitive that they cannot pay for it, they are essentially forced into an HMO or managed care system. That is what we are talking about here with this second Republican recommendation.

Ultimately the cost of the fee-for-service system would be so expensive that seniors would be forced into an HMO where they would not, given the choice, have their choice of doctors or even hospitals in many cases.

The third proposal that comes from the House Republican budget group task force is they would reduce payments to doctors and hospitals, especially teaching hospitals and those that serve large numbers of low-income patients. Well, this is what I would call a reduction in the reimbursement rate. Many of you know that in terms of Medicare, a rate is established to pay for doctors or hospitals by Medicare, and that is what they get reimbursed for the different services that are provided.

Some people and some of you, my own seniors, have said to me: So what, the doctors get a lot of money. The hospitals make too much money. So you reduce their reimbursement rate. What do I care, maybe it is good.

The bottom line is maybe it is not good, because many hospitals, particularly those who have a high number of seniors, as is the case with my district in New Jersey, are basically dependent on Medicare reimbursement and are just basically managing with the budget they have, because they have so many senior citizens or they have so many poor people.

If you reduce the reimbursement rate to hospitals, some hospitals will simply close. Others will not be able to provide the level of service or the quality of service that they are providing now. What happens if you reduce the reimbursement rate to doctors? Some may say "So what, the doctors make too much money". The reality is that doctors do not have to take Medicare patients. If the reimbursement rate becomes significantly lower or does not increase as much as it should to keep up with inflation, then a lot of doctors will just say "I'm not going to take Medicare patients." Seniors have already complained to me about how, in many cases, they cannot find a doctor who will take Medicare. If more doctors do not take Medicare, fewer doctors are going to be available to senior citizens.

"The fourth thing that was recommended by the Republicans on the House Committee on the Budget," and again I am reading from the New York Times article, "was to double the amount that beneficiaries must pay for doctors' services before Medicare coverage begins. This is the deductible."

The annual deductible, now $100, would be raised to $200 and then increased automatically to keep pace with the growth of the program. The deductible has been raised only three times in the 30-year history of Medicare.

Here we get to the real nub of the question. This option increased the deductible. Of course, everyone knows what that means. The deductible goes up, the senior has to pay more out of pocket before they are actually able to take advantage of Medicare. It may sound nice, but most or many seniors simply cannot afford it. What they will do is they will simply forego care, because they know that that care will be less than the deductible that they have to pay out, the last thing in the world that we could possibly want.

The fifth thing that was mentioned by this Republican Committee on the Budget, or by Members recommending how to deal with Medicare, is to "increase the monthly $46 premium by $5 in each of the next 4 years, and then by $6 in 2000 and in each of the following 2 years." I assume that what we are talking about here probably is the part B premium that seniors pay for doctors, so again, we are talking about an increased amount of money out of seniors' pockets if they can afford it.

There are two more options that I wanted to talk about today that have been suggested by the Republicans on the Committee on the Budget to deal with these changes they have suggested in Medicare. This next one says that "They would charge higher premiums for beneficiaries with incomes exceeding $70,000 a year. The premium would more than triple, to $164 a month for individuals with more than $95,000 a year, and couples with more than $115,000."

Here we are talking about means testing. I think many of you know that historically, and certainly when the Medicare program was started under President Lyndon Johnson, that Medicare was not going to be income-based. You paid into it. When you reached the age of 65, you took advantage of it. It did not matter what your income was, it was not meant to be a welfare program. It was for all senior citizens.

Now we are talking, under this proposal, of turning Medicare basically into an income-based program, I will call it a welfare program, and basically reneging on the contract that was made with those Americans, that was made 30 years ago by the President then and this Congress, that this was not going to be an income-based program.

Some may say "So what? Changing times, we have to change the reality of things." Let me assure you that in those States, and I will use my State as an example, which have a very high cost of living, some of these income categories that are being used, for example, $70,000 a year, I would maintain that as time goes on we will see that level be reduced. If it is now 70, it will go to 60, then to 50, then to 30.

Think about people who live in States where the cost of living is very high. These arbitrary numbers that are going to be used, in my opinion, are going to make a lot of people who can really ill afford it, based on this means testing plan, have to pay out of their pocket more money for their health care, when they happen to be senior citizens. It goes against the contract that was made with seniors by this original enacting legislation, and ultimately, I think it will have more and more impact on middle-class seniors.

The last thing, and there are many others, I am only citing 6 but I think there are something like 35 recommendations that were put forward by these 4 members of the Committee on the Budget in the letter they sent to the chairman of my Subcommittee on Health and Commerce, but the seventh and last one that I want to mention says "They will charge patients for a portion of the cost of home health care provided to elderly people residing in their homes. Republicans said such a change would discourage overuse of home health services."

Again, one of the most serious problems we face now is the need for long-term care for seniors. I think everyone knows that if you can provide seniors with home-based health care, where someone comes into the home to help them get out of bed, to help them clean up, or to help them with the various disabilities that they have, that is a very cheap, preventive way of dealing with health care problems that face the elderly, much better than having to go to the hospital and the costs entailed with a hospital, or a nursing home, or other kinds of institutions.

Why in the world would we want to discourage home health care or build in an extra charge for home health care? All that is going to do is discourage seniors from using home health care, or not use it at all if they cannot afford it, and the ultimate cost of that is that people become institutionalized and it costs even more money to the Federal Government.

Mr. Speaker, the point I am trying to make here today is very simple. Whether we call it a cut, whether we call it a modification, whatever we call it, of the changes that are being discussed by the House Republicans on the Committee on the Budget, and they are going to be coming before this Congress, this House, next week, they are major changes in the Medicare Program. They have a direct impact on seniors.

The bottom line is that they are probably going to result in a lot more money that seniors are going to have to pay out of their pocket, and if they cannot afford it, which many cannot, they are simply not going to have the quality and level of services, or in some cases, may not have any health care at all.

I do not think, Mr. Speaker, that the costs of balancing the budget should be so heavily forced on the elderly within this country. We all know that we have to balance the budget, and I certainly advocate that, but this budget, this budget resolution that is being proposed depends too much on hurting and making it more difficult for seniors, particularly with regard to their health care needs. That is not the way to go about balancing the budget.

Mr. Speaker, I wanted to talk a little bit about some of the Medicaid cuts and respond a little bit to some of the statements that were made about President Clinton's health care proposal.

Mr. Speaker, I talked initially about the Medicare Program. I want to also talk a little bit about the Medicaid cuts or changes that are being discussed. Before I do that, though, I want just to take 5 minutes or less to just give some statements that have been made by some of the associations that deal with senior citizens about what these Medicare and Medicaid cuts or changes are going to mean for the elderly.

I just want to highlight a few of these things, because sometimes I feel if I make a statement, maybe some people will believe it, but it comes from some of the associations that represent senior citizens, perhaps it will be more believable.

The American Association of Retired Persons, which, of course, has been, I guess, the leading opponent of some of these changes, they have said that Medicare was hardly discussed in the last election, and there was certainly no mandate from the electorate to change the system. I think that is obvious. This is not something that was part of any political discussion that I know of in terms of anyone running for office last year.

"Medicare cuts would mean that over the next 5 years, older Americans would pay at least $2,000 more out of pocket than they would pay under current law, and over the next 7 years they would pay $3,489 more out of pocket. The total number of Medicaid beneficiaries who would use long-term care services could reach $1.7 million in the year 2000." That is from the AARP.

The National Council of Senior Citizens says "The levels of the cuts in Medicare contemplated by the Senate and House Budget Committees will not just devastate the finances of millions of older citizens, but more importantly, they will devastate the hopes for a secure and healthy old age for all Americans."

The Older Women's League says:

> We receive hundreds of letters from women who are already forced to choose between paying for food and rent and buying much needed medicine that is not covered by their Medicare. Substantial cuts in Medicare will literally take food out of the mouths of these older women.

I could not agree with that more. When I have my forums in my district, the overwhelming majority of the seniors who show up are women. Most of the people that are particularly scared are women. Many of them are just making ends meet. If you talk about additional deductibles or copayments or out-of-pocket expenses, they are making choices between food and rent and needed medical care.

Last, Mr. Speaker, and I mention it because I happen to be a Roman Catholic, the Catholic Health Association says that "Budget cuts of such magnitude in Medicare and Medicaid would attack the very fiber of these programs, and in fact, decimate them." As I think many know, Catholic Charities is one of many nonprofits that provides medical care to people who do not otherwise have it, and anyone who has visited a Catholic Charities knows that a lot of the people, really significant numbers of the people that are serviced by them are senior citizens, as well as children.

I would like to now go into Medicaid, which I guess has not gotten as much attention as the proposed changes in Medicare, but the Medicaid program, which is the program for poor people in this country, mostly people who are receiving some sort of welfare of assistance, is also severely cut, some would say more severely challenged, in terms of the amount of money that is going to be available over their next few years than Medicare under this Republican budget proposal.

A lot of people think that Medicaid is just, you know, a program for people under 65, and that somehow seniors do not take advantage of Medicaid because they are covered by Medicare. The reality is that for many seniors who do not have the assets to pay for long-term health care, if they are poor enough, or if they become poor because they have to spend money on health care, Medicaid ends up financing much of their long-term care, particularly nursing home care, as well as home health care, because that is not provided or covered by Medicare.

The cuts in Medicaid will also severely impact seniors who need long-term care. I don't think anybody needs to be reminded of the nursing home crisis we have in this country. Again, if you significantly cut back on the amount of money that is available, I would argue that the quality of care is certainly going to decrease.

Medicaid is basically a combined Federal-State health insurance program, primarily for poor women and children, the blind, and the disabled. It is the largest provider of long-term care coverage for the elderly and the disabled. Two-thirds of the costs of the Medicaid Program go to provide both acute and long-term care to the blind, the disabled, and the elderly.

Most Medicaid beneficiaries are children, and children have the lowest rate of health insurance in the country. so therefore, being without Medicaid insurance among children would be catastrophic. The cuts proposed in the Medicaid Program are massive. They are substantially larger than the total annual Federal costs of the Medicaid Program. The elderly and disabled will bear the brunt of these cuts, because that is where most of the money is spent.

Many senior citizens who have spent their life savings on long-term care are enrolled in the Medicaid Program, which assures that their long-term care can continue. With the proposed Medicaid cuts, these seniors will either be forced out of absolutely vital long-term care, or their families will have to pick up the costs of maintaining care. These cuts amount to a huge hidden tax increase on the families of those who need or may need long-term care.

Where are we shifting these costs? We are shifting these costs to the families that have to care, in many cases, for the elderly. We are going to shift these costs to the States, because some States will decide that they cannot let people just go without health care, particularly seniors, so they will have to kick in their tax dollars, ultimately resulting in higher costs and taxes on the State level, or ultimately, also, the burden goes to the local communities and the local property taxpayers. Because Medicaid costs are shared with the States, cuts of the magnitude that are being talked about here will force States to bear even larger Medicaid costs, leading to substantial increases in State taxes. If States are unable to meet that, people will lose coverage. The uninsurance rate, particularly among children, will explode, forcing up costs for everyone else. Cost shifting will get much worse.

I think we have to understand that the Medicaid Program has basically brought primary and preventive care to people who would not otherwise get health care, and without the Medicaid Program, or with some of the changes that are being proposed, we are going to see a lot of people who are poor simply not getting coverage.

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I am happy to yield to the gentleman from West Virginia.

Mr. WISE. I just want to thank the gentleman, not only for the special order, but making the point on Medicaid, because so much is focused, and rightly so, on the cuts in Medicare, which is basically health care for the senior citizen. Medicaid, 50 percent of Medicaid dollars go to senior citizens, basically for nursing homes.

I do not think that a lot of people appreciate the fact that there is no nursing home care under Medicare. Medicare does not provide for the long-term nursing home care that so many families require, so they have to turn, instead, middle-income families, turn instead to Medicaid.

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The average family, this was a few years ago, but the statistic was that if somebody had to pay the cost out of pocket of a nursing home for their loved one, the average family would be impoverished in 13 weeks.

Medicaid is what has kept many, many middle-income families able first to meet the responsibility to their loved one and at the same time to avoid bankruptcy.

Cutting back on this program, as well, goes right at the heart of not only providing health care but I think also middle-income families.

Mr. PALLONE. I appreciate what the gentleman from West Virginia said and it is very true.

The average cost of a nursing home now, the last I looked, was something like $30,000 to $40,000 a year, at least in my area. It might be less elsewhere. How many middle-income people can afford that?

Essentially what they do as you described is that they will pay private maybe for a year or two, depending on how much money they have, and then will go on Medicaid because they won't have any money left. They will end up being in a nursing home paid for by Medicaid a lot longer than that year or two that they happen to be paying out of their pocket.

I don't particularly like that spend-down system that exists right now, but the bottom line is it depends heavily on Medicaid.

From the information that I actually had here before me, the bottom line is that most of the Medicaid dollars actually are going to pay for programs like that for the elderly.

We are talking about middle-income people, if you will, that become impoverished because of the cost of nursing home care. I appreciate those comments.

The last thing that I wanted to talk about today, and again this is partially in response to some of my Republican colleagues who spoke earlier today, and were somewhat critical, I thought, of President Clinton and his response to the issue of changes in Medicare that have been proposed by the Republicans on the budget committees.

The reason that I have to take issue with some of the statements that were made is because the President's position has been very clear for several years now. It is essentially that changes in Medicare and any savings that could be achieved in Medicare costs basically should only be made in the context of an overall health care reform.

I totally agree with that premise that the President has put forth. The idea is, and he basically expounded on it the last year or two when he put forth his health care reform proposals, is that in the overall context of health care reform, we could probably save some money on Medicare costs, but at the same time we would expand Medicare to provide more services.

The President actually talked about expanding Medicare to cover prescription drugs, to cover certain long-term care in certain circumstances.

His idea was not to cut or modify Medicare and take that money and use it for other things. His idea was that the Medicare dollars that are saved would be used to expand Medicare, particularly for preventative services like prescription drugs, like long-term care for the elderly, and to try to basically save some money as part of the overall reform that he was making for all Americans.

I think it is very, very unfair for some of the Republicans to suggest that somehow the President is not being responsive on the Medicare issue. He has been, he was, and when he was, he did not receive cooperation from the Republicans.

I just wanted to highlight that if I could by a letter that was sent to Speaker GINGRICH I believe last week from Leon Panetta, the Chief of Staff for President Clinton, and just to read a couple of paragraphs if I could:

> Last year, the President spoke directly to the nation about the need to reform our

> health care system and made clear that further federal health savings needed to take place in the context of serious health care reform. In December 1994, the President wrote the Congressional leadership and made clear that he would work with Republicans to control Health care spending in the context of serious health care reform. The President repeated this offer in his 1995 State of the Union speech.
>
> The President has long stated that making significant cuts in Medicare and Medicaid outside the context of health care reform will not work. Such dramatic cuts could lead to less coverage and lower quality, much higher costs to poor and middle income Medicare recipients who cannot afford them, a coercive Medicare program, and cost-shifting that could lead to a hidden tax on the health premiums of average Americans. That is why it is essential to deal with the Medicare Trust Fund in the context of health care reform that protects the integrity of the program, expands not reduces coverage, and protects choice as well as quality and affordability.

I could not agree more with what the President suggests, that whenever changes we make and whatever costs are saved in Medicare have to be looked at in the context of overall health care reform.

Incidentally and importantly for me because I happen to live in the State of New Jersey and represent part of New Jersey, there was an editorial in the Star Ledger, New Jersey's largest daily, on May 3 that basically criticized the Republican budget proposals and was critical of the fact that the Republicans did not want to deal with Medicare in the context of overall health care reform.

Mr. Speaker, if I could just read parts of this because I think it is so telling in terms of the debate we are about to engage in:

The editorial is entitled, "Messin' With Medicare." About halfway down it says:

> The Republicans say President Clinton wants to hold Medicare reform "hostage" to a broader plan for national health care reform.
>
> Which would be the wise thing to do.
>
> You can't mess with Medicare without affecting other parts of health care and spending, certainly not in New Jersey where Medicare spends $5.2 billion a year on 1.1 million beneficiaries, ninth highest in both categories. Consider the proposal to raise the age of eligibility for Medicare to 70 so the program can save about five years on each persons' medical bills.

I did not even mention that. That is another option, I suppose, that you just raise the age before you get Medicare benefits.

> That means shifting some of the $5.2 billion to employer-paid health plans to cover all the years Medicare doesn't. If not, retirees will either have to pay their own way or go without coverage and care as they enter the stage of life when they are likely to need both most. Think of how many would come of age for Medicare just in time for the program to pay the consequences of years of government neglect of problems they've had since they were young but which went untreated for lack of health care insurance.
>
> Hospitals and doctors can treat them during those years and try to recover their own cost by dropping it into everybody else's bill.

If I could just interject. What the Star Ledger editorial is saying, that if you make these changes, cost shiftings are going to occur essentially for everyone else in the private sector.

> Private insurance is switching to managed care. Health maintenance organizations and other insurance plans send their members to the doctors and hospitals which give big discounts, discounts that leave no margin to cover what Medicare does not.
>
> Shifting senior citizens into managed care is another reform proposal. The HMOs say they can do more for less because they hunt for discounts and manage how many tests and procedures and hospitalizations are ordered.
>
> If the U.S. government doesn't have enough muscle to force prices down through Medicare, it's hard to imagine a private plan that would at least not without cutting benefits drastically.
>
> We face the prospect that Washington may give seniors the "choice" of switching to ill-defined managed care or staying with traditional Medicare at an increased out-of-pocket cost too onerous to make it a real choice.

That is really what my seniors are most afraid of which is, are they going to be given the option of some kind of managed care system which basically is ill-defined and which does not provide the coverage that they need, or, which is more likely, they are going to be staying in Medicare and paying more and more out of their own pocket in order to continue as part of the program.

Of course that really begs the ultimate question, which is, if you are not in a position because you are too poor or lower middle class that you simply can't pay those additional out-of-pocket costs that are the consequence of these Republicans proposals, you are going to go without medical care or preventative care, get sicker and not be cared for. That, I think, is the ultimate result of these Republican proposals.

I hope that as we go into the debate over the next week or so that this comes out and that the American public is able to realize what these changes, if you will, in the Medicare program that the Republicans are talking about really mean. I think the changes are major and I think we have to do whatever we can in this House to prevent them from becoming law.

THE FEDERAL BUDGET

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 60 minutes.

Mr. WISE. Mr. Speaker, special orders are kind of interesting. What are they about? I am sure the public looks and they see that there is an empty hall.

The benefit of special orders, that is what we are in right now, is it gives Members on both sides of the aisle, the aisle being the central aisle down the middle, it gives Members, Republican and Democrat, on both sides of the aisle a chance to lay out a little more in detail, to expound more fully on what they think is important, just as Mr. PALLONE before me laid out some of his concerns about some of the budget proposals that have come forward.

Often on the floor of the House, where we are limited by how long we can speak, whether it is 3 minutes or 5 minutes, where there is the hurly-burly of debate, it is difficult to get out in a reasoned way what it is that you really want to say. That is why many on both sides of the aisle take this opportunity.

I take this opportunity because I want to speak about the budget. I want to speak about what I think ought to be in the budget. I want to respectfully disagree with the budget that has been presented by the Republican side, but also lay out an alternative, to lay out my budget, and I want to say this is my budget, not endorsed necessarily by anyone.

I think some important points need to be made. In developing a budget, and particularly a balanced budget, and everyone agrees on the need for balance in the budget. We balance a budget in our families, in our homes, in our businesses, in State and local governments.

But in balancing a budget, what is the goal? The goal I think for the country is not simply to be able to point with pride and say we have got a balanced budget. It is to be able to say we have a balanced budget in the context of a healthy economy because we take the steps necessary for a healthy economy.

Yes, we believe that most of the time that means there is a balanced budget. But there are times in the Federal Government, not true necessarily in other budgets, but there are times in the Federal Government where it is necessary to run an imbalance, in times of recession when people are being laid off.

As businesses balance their budgets by laying off, that is the time when the Federal Government must come in and pick up the slack. Otherwise, the recession only worsens.

A balanced budget is important, yes; healthy economy, though, is the goal. Let's talk about it in terms of healthy economy.

My concern is that if we adhere to a 7-year proposal, that is, "Thou shalt balance the budget in 7 years regardless of the consequences," then I am concerned about what that means for the economy, because it may be more of a blow than the economy can handle.

I would have to have a movie made this summer about the proceedings that went on here titled "Honey, I Shrank the Budget and I Blew Up the Economy," because that is not what this is about. This is about building a healthy economy.

First of all I want to respond very quickly to the Medicare arguments, pro and con, and then move into other aspects of the budget.

I note with interest the statements made about how there are no cuts in Medicare, and I think that argument has gone back and forth a lot. Let the record show that it was last year that this administration, the Clinton administration, brought forward a plan for reforming Medicare in the context of overall health care reform, and that was almost universally disowned by those on the other side. Now they say, "Well, we've got this great plan and we want you to be involved."

We are saying it has to be done in the context of overall health care reform. It also has to be done in the context of something else. If you are asking seniors to pay more out of pocket for restructuring the health care plan, then I think it is not too much to ask that that actually go toward Medicare, that that actually go toward deficit reduction, but that it not go for a tax break for the very wealthiest in our country.

It is ironic that the amount that would come out of Medicare, roughly $300 billion over 7 years, is almost the amount that was voted by this House or voted by the Members of the majority party for a tax break, 51 percent of those benefits going to those earning over $100,000 a year.

Incidentally, in West Virginia where the bulk of the income level is $20,000 and below, that segment of the population would get only 4 percent of that tax cut benefits, while those over $100,000 got 51 percent. That is a clear disparity.

It is interesting because in my town meetings, 18 of them which I held across the State during the last couple of months, in my town meetings even upper income people were saying "We don't need a tax cut, particularly one that gives us a tax break. What we are interested in is more deficit reduction and more balancing the budget."

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So that is one of the main sticking points on Medicare, do not go cutting Medicare to give a tax break for the upper income.

But let us talk now about the budget and the economy.

The goal as I say is for a balanced budget, but in the context of a healthy economy. What is it that makes a healthy economy? Growth makes a healthy economy, and if you have two businesses side by side and both of them have a debt problem, they have too much debt, and the United States has too much debt, and they take steps to cut that, where is it, Mr. Speaker, you would want to invest, in the company that cuts everything across the board regardless of how much business it creates, or would you want to invest in the company that is going to make sensible cuts, but at the same time is going to beef up those provisions by bringing growth to that business and help it to grow out of some of its problems?

I think we ought to put the debt of the United States in context. We have a debt problem, and I think it is looming as a serious problem; it is not a crisis. And let us look at some statistics.

First of all, the debt, that total amount that the United States has rung up, has increased dramatically in the past 12 years. It has gone from roughly $1 trillion, took about 200 years to get to about this level, $1 trillion, and in the last 12 to 15 years it has now grown to $4.5 trillion. And I know I am not in scale with my high air chart, Mr. Speaker, but the debt is somewhere around $4.5 trillion. That is a lot of money obviously. But let us put it in the context of history.

Following World War II this country's debt was about 125 percent of its gross domestic product. In other words, everything this country did in a year's time in business and sales and what not, the debt was about 125 percent. We worked that debt down steadily over the next four decades to roughly 35 percent of our gross domestic product for 1 year's economy.

It has now gone up, yes, it is true, to around 65 to 70 percent, but this is, incidentally, about the same level that almost every other major industrialized nation is carrying of debt in relation to its gross domestic product. So we have a problem and the trend line is up and leveling off. But we do not have a crisis. But we need to reverse that trend.

Why do we need to reverse that trend? The debt takes time to pay off. But more importantly, it is the interest on the debt that we pay every year that is growing. That is what is important.

Roughly the interest on the debt is somewhere around $300 billion, this year roughly 15 percent of our total Federal budget. That is $300 billion that is not going for education, it is not going for defense, it is not going for anything except to repay past consumption. So that needs to come down. But let us bring it down in a reasonable way.

The deficit is the yearly amount that this Government spends over what it takes in; if you take in this much and you spend that much. Let us look at the deficit in relation to our economy. Three or four years ago this country's deficit was about 6 percent of its gross domestic product. Because of the steps taken in the 1993 budget plan, hotly disputed, I might add, because of that it came from 6 percent and it is on a trend line to be cut in half, and it is on course right now to be around 2.5 to 3 percent of our gross domestic product. So, over a 5-year time the deficit in relation to our overall economy has been cut in half. That is not good enough. It has to keep going down, but we have to acknowledge the progress that has been made and it has been made in a solid and stable way and incidently the economy, despite the predictions of those who opposed that program only 2 years ago, passed by one or two votes as I recall here in the House, the economy instead of going in the tank as was proposed has only grown instead.

Now, what does that mean for future deficit reduction? My feeling is we need to continue that glide path but that we need to make sure that several things are built in. First, that it is a gentle glide path and not an abrupt one. Second, that is builds in growth. The reality is if you are talking about paying off a debt of $4.5 trillion, if you are talking about eliminating a deficit of $170 billion this year, or $200 billion on average, then you are talking about the need to be able to grow and the economy must grow, and you must make sure the steps you take bring growth and not retrenchment.

So that deficit is what needs to be focused on, so I would urge that instead of a 7-year time plan with some pretty draconian cuts that it be spread out to 10 years to 12 years. Why 10 to 12? Rule of thumb. It took you 10, 12 years to get into this predicament. I think it is going to take logically 10 to 12 to get out.

But I noticed most private sector bankruptcy proceedings or chapter 11 proceedings, if you put forward a reasonable repayment plan for the creditors over a number of years, then everyone breathes a lot easier, the creditors loosen up, you are beginning to pay off your debt in a logical way and everybody is happy and that business still continues to go on.

So, I am not wedded to a 7-year plan. I am not wedded for another reason. Here we get a bit, Mr. Speaker, here I have been known to be able to cause whole crowds' eyes to glaze over when I start explaining capital budgeting, but let me try. All of us believe that the family budget and a Federal budget should be treated the same, that you should balance. There is a difference. And the family budget and the Federal budget are much the same in that they both must set priorities. Families sit around the table every month and decide how much for utilities, how much for food, how much for school, how much for health care, and so on.

Families know something. Families know they also have to borrow to grow. That is why my wife and I have a mortgage on our house. We cannot afford to pay for a house in 1 year. We have to mortgage over 20 to 30 years. That is why we buy a car on a payment plan. We cannot afford to pay for a car in 1 year. We pay for it over several years. That is why I worked my way through college and had to borrow to get through college, and that is why my children will probably see the same, but we look at the borrowing for the house, the car, and the education as a necessary expense that has long-term benefits and over time helps us grow. It appreciates in value and adds to our value.

So, families know that, and they do that.

The Federal Government does not account for those long-term investments that way. When you build a mile of road, you build a Federal building, you buy aircraft carriers, those things that have long-term value, the Federal Government shows them being paid for in that 1 year. It does not spread the cost out over the lifetime of the asset. It pays for it in that 1 year, so that in turn balloons up what most businesses and families know would be a much lesser expense because they would spread the cost out over the lifetime of that asset. There is no capital budgeting. That is what it is called. There is no capital budgeting in the Federal budget.

There is in every State and city government, and business and family budget. The State of West Virginia, for instance, has a balanced budget, but the State of West Virginia, as almost every State with possibly the exception of one State, the State of West Virginia and 48 other States at least all borrow money for their highways and in some cases for water, sewer, and other long-term investments. The Federal Government is not able to show it that way. So I would put this country on a capital budget for those long-term items.

But the family also does something else. The family budget shows that debt service. The Federal Government borrows, but it does not know whether it is borrowing a dollar for gasoline for a Federal vehicle or a dollar for a mile of road. That needs to change.

So, growth must be, must clearly be built into this.

I would urge several things in preparing a budget. First of all, I would urge that there be a longer phase-in period. Second, I would suggest there be capital budgeting, that the Federal Government be able to invest and encourage investment just like every business, every State, every city, every family does, and to have for those items that are long-term you can borrow for those and show it as such for those items that are day-to-day consumption, your payroll, materials, those kinds of things you pay for them, and you balance your budget for those.

Third is, I urge growth policies. My concern about the budget that will be on the floor next week is it discourages growth;, it does not encourage it. If you believe balancing the budget in and of itself will bring you growth, then fine, and you are happy as a hog in slop, but the fact of the matter is the statistics are pretty clear, it does not. If you look at studies you find interestingly enough at times when we have the closest to balanced budgets our economy sometimes is in the worst shape, and vice versa. Many are wringing their hands about the deficit today, but they are not pointing out that the stock market is at an all-time high, that employment has been running along at a fairly consistent pace, and the Federal Reserve has clamped down seven times already on the economy in the past year trying to restrain inflation because they felt the economy was growing too fast. So I think there is a real need to recognize growth policies.

I would urge under that heading there are several programs not to be cut that are proposed to be cut. Student loans. The present proposal is to cut the student loan program $33 billion over 7 years. I do not know about others in the Chamber. I think I do, but I know that many of us got our education through student loan programs. And indeed, the best investment that the Federal Government can make is to make sure that someone gets a higher education. If someone graduates from college, the Department of Labor estimates their income today by graduating from college is 60 percent higher over their lifetime than simply graduating from high school. That incidentally has changed in the last 10 years from being just 30 percent higher to doubling, so the power of a college education or higher education is there.

Incidentally, speaking from the most businesslike Federal Government standpoint, that is good news for the Federal Government, because that means they pay more taxes. It is good news for the economy because they are more active in the economy, generating more revenue and so on.

The person who goes to college today may be the employer, the business creator, the business grower of tomorrow.

Please leave student loans alone.

I would leave intact other growth programs. The Economic Development Administration, almost every industrial park probably in our country, certainly in my State, has EDA money in it. That is what provides the linchpin that brings together the deal, the private sector, it provides the water, the sewer, sometimes the shell building, technical feasibility studies. We just broke ground on a major development in the eastern panhandle of West Virginia. It is estimated that the EDA grant which I believe was $2 million will generate 357 jobs. I costed that out. In addition to the other Federal grants involved it was around $7,883 per job created. The estimated income those workers will be making, that will be repaid to the Federal Government in 4 years. Real estate developers will tell you if they can get their money back in 4 years, that is a heck of a great investment, and now those people will be generating money for the economy and also paying taxes for 40 years after that.

So whether it is the Economic Development Administration, the Appalachian Regional Commission, so many of the other important growth-producing infrastructure creating entities, I would urge that those be retained.

We just had a debate on the floor today about, and unfortunately it passed, cutting $700 million from the State revolving fund. What does that mean, Mr. Speaker? That is the money that goes to build water and sewer projects for all of our communities; $100 billion need out there. This Government comes up with at best $2 billion a year, and that just got cut. It does not make any sense to me, because water and sewer is how we grow.

The third area is transportation, Mr. Speaker. I would hope that the money not be cut for the highway trust fund and the aviation trust fund. We need to be growing roads and improving our roads and our infrastructure and our mass transit, not retrenching. There is a reason Mr. Speaker, people talk about the economic miracle of Japan; there are a lot of reasons. One of them is this: Japan has half the economy of the United States or roughly 60 percent of the economy, half the population, and yet spends more in real dollars than the United States does in its infrastructure, and so clearly we can learn from that.

I would support targeted tax cuts, Mr. Speaker, tax cuts that actually go to create growth, not tax cuts handed out just to hand out tax cuts, because it is a great bumper sticker, but tax cuts that go to create growth, limited and targeted capital gains cuts, targeted investment tax credits that actually provide incentives for small businesses to buy the equipment that helps them to expand their capacity and productivity.

Targeted tax cuts that encourage the development of municipal and private water and sewer systems and those other areas that help us grow. Many of those incidentally were removed in the 1986 tax act. I think it is time to revisit that. So there is much that can be done for growth, Mr. Speaker.

Finally, Mr. Speaker, as I am getting close to the end, let me say that it is a laudable effort that all make to cut the Federal deficit. That has to be done. As I mentioned, I do not make light of the deficit, because what the deficit represents is the interest that is being paid on the national debt.

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And that debt is too high, and the interest is too high, and it robs us of other areas, if you are going to spend money that could be better spent. Not a dollar of that goes to education or goes to any other useful application.

So I do not quarrel with the need to reduce the deficit. I do quarrel with the idea that you can willy-nilly cut your way to Nirvana, that you can willy-nilly cut your way to a balanced budget, and particularly doing it in 7 years, particularly doing it with the type of arcane and antiquated and ineffective accounting system that the Federal Government has.

It is like we are trying to play a game by rules that are four or five decades old, and we know they are not any good, and we know they are artificial, and we know they do not produce the most logical outcome, but, by golly, they are the rules, those are the rules we are going to play by even if it has a bad outcome.

So, cutting your way completely to a balanced budget, particularly in 7 years, I believe can create incredible problems for the economy. And so I would urge that growth be an important initiative in that.

I don't think you reach growth by cutting the very programs that create growth, and so I hope that there will be time eventually to look at those growth areas and to be putting a growth agenda forward.

I understand this budget is going to pass next week, I guess, on the floor of this House. The votes are here. It will be muscled through. It will pass.

But my thought, though, is that after it passes, then we can have some calmer reflection in the country as well as this Congress, and that we can be talking about a true growth initiative that moves this country forward. You get balanced budgets by having a strong economy, and so as we work towards that balanced budget goal, I think at the same time we have to recognize what the ultimate goal is, and that is the strength of this economy.

In closing, Mr. Speaker, I do want to address one concern that has been raised. Some have said, "Where is your alternative, Democrats? Where is your alternative?" "We have a budget we just reported out of the Committee on the Budget," say the Republican leadership, "and where is the Democratic alternative?"

Ladies and gentleman, the Democrats have been putting their alternative out there on the line. I get partisan at this point, Mr. Speaker. The Democrats have been putting their alternative out on the line for the past few years. We are the ones who passed without any help from the other party, passed a deficit reduction plan that reduced the deficit $500 billion over 5 years, took the deficit from being almost 6 percent of gross domestic product to less than 3 percent of gross domestic product in 5 years. We are the party that put out a comprehensive health care plan that last year was attacked by this side because it restricted choice, the freedom-to-choose provider. It had too much managed care. This year they come and say the greatest thing since sliced bread is managed care. That is how they would seek to reduce the deficit.

I would say Democrats have been there. Incidentally, we are going to continue to be there. I am going to be putting forth my growth agenda. I am going to be putting forward my balanced-budget alternatives. Others of us are working to put these forward. My hope is eventually this center aisle can be replaced by people working on both sides of it, working together, crossing over to work for a true growth agenda and to work for what I know everyone in this Chamber agrees on and across the country, the need for policies that truly put this country on the road to a healthy economy, in so doing, a balanced budget as well.

I also think it is important that these special orders at the end of the day following legislative business be taken and be recognized for what they are, not addresses to the Congress per se, but addresses to more fully expound the thoughts each Member has and to try and shape the policy discussion, very important policy discussion that is taking place here over the next couple of weeks.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members to revise and extend their remarks and include extraneous material:)

Mr. GEPHARDT, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mr. DEFAZIO, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. LIPINSKI, for 5 minutes, today.
Mr. UNDERWOOD, for 5 minutes, today.
Mr. PALLONE, for 60 minutes, today.
Mr. WISE, for 60 minutes, today.

(The following Members (at the request of Mr. KINGSTON) to revise and extend their remarks and include extraneous material:)

Mrs. ROUKEMA, for 5 minutes, today.
Mr. KINGSTON, for 5 minutes, today.

(The following Member (at the request of Mr. PALLONE) to revise and extend his remarks and include extraneous material:)

Mr. POSHARD, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. BONIOR.
Ms. WOOLSEY in two instances.
Mr. ENGEL in two instances.
Mr. FOGLIETTA.
Mr. PAYNE of New Jersey.
Mr. BARCIA.
Mr. DOOLEY in two instances.
Mr. KENNEDY of Rhode Island.

(The following Members (at the request of Mr. KINGSTON) and to include extraneous matter:)

Mr. GANSKE.
Mr. FOLEY.
Mr. RAMSTAD.
Mr. SENSENBRENNER.
Mr. HOKE in two instances.

(The following Members (at the request of Mr. WISE) and to include extraneous matter:)

Mr. LEWIS of Kentucky.
Mrs. ROUKEMA.
Mr. KIM.
Mr. DORNAN.
Mr. POSHARD.
Mr. REGULA.
Mr. CAMP.
Mr. SANDERS.
Mr. KANJORSKI in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 510. An act to extend the authorization for certain programs under the Native American Programs Act of 1974, and for other purposes; to the Committee on Economic and Educational Opportunities.

ADJOURNMENT

Mr. WISE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 4 minutes p.m.), under its previous order, the House adjourned until Monday, May 15, 1995, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

864. A letter from the Deputy Secretary of Defense, transmitting a report and recommendations of the task force on discrimination and sexual harassment dated May 1995, Volume I, pursuant to Public Law 103-337, section 532; to the Committee on National Security.

865. A letter from the Secretary of Defense, transmitting certification that the detail of 58 DOD personnel to other Federal agencies, under the DOD Counterdrug Detail Program, are in the national security interest of the United States, pursuant to Public Law 103-337, section 1011; to the Committee on National Security.

866. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the accession of Denmark to the project to establish an organization for CALS within NATO (Transmittal No. 6-95), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

867. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning a cooperative counterterrorism research and development effort

with Canada (Transmittal No. 7-95), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

868. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to the United States Arab Emirates (Transmittal No. DTC-25-95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

869. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to French Guiana/Australia (Transmittal No. DTC-26-95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

870. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. D-95 which relates to enhancements or upgrades from the level of sensitivity of technology or capability described in section 36(b)(1) AECA certification 93-15 of 28 May 1993, pursuant to 22 U.S.C. 2776(b)(5); to the Committee on International Relations.

871. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a draft of proposed legislation to improve the administration of the National Park Service, and for other purposes; to the Committee on Resources.

872. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to clarify the eligibility of certain minors for burial in national cemeteries; to the Committee on Veterans' Affairs.

873. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to restrict payment of a clothing allowance to incarcerated veterans and to create a presumption of permanent and total disability for pension purposes for certain veterans who are patients in a nursing home; to the Committee on Veterans' Affairs.

874. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to change the name of Servicemen's Group Life Insurance program to Servicemembers' Group Life Insurance, to merge the Retired Reservists' Servicemembers' Group Life Insurance program into the Veterans' Group Life Insurance program, to extend Veterans' Group Life Insurance coverage to members of the Ready Reserve of a uniformed service who retire with less than 20 years of service, to permit an insured to convert a Veterans' Group Life Insurance policy to an individual policy of life insurance with a commercial insurance company at any time, and to permit an insured to convert a Servicemembers' Group Life Insurance policy to an individual policy of life insurance with a commercial company upon separation from service; to the Committee on Veterans' Affairs.

875. A letter from the Secretary of Commerce, transmitting notification that certain conditions for the conservation and management of swordfish within the International Commission for the Conservation of Atlantic Tunas have been met and the annual reports to Congress on this subject are no longer required; jointly, to the Committees on Resources and International Relations.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DORNAN:

H.R. 1623. A bill to amend the Public Health Service Act to repeal family planning programs under title X of the Act; to the Committee on Commerce.

H.R. 1624. A bill to modify the jurisdiction of the Federal courts with respect to abortion; to the Committee on the Judiciary.

H.R. 1625. A bill to protect the right to life of each born and preborn human person in existence at fertilization; to the Committee on the Judiciary.

By Mr. FOLEY:

H.R. 1626. A bill to provide for the adjustment in the rate of duty for tomatoes imported from Mexico to take into account changes in the value of Mexican currency with respect to the United States dollar, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Mr. BLILEY (for himself, Mr. Towns, Mr. Roberts, Mr. de la Garza, Mr. Emerson, Mr. Condit, Mr. Bilirakis, Mr. Gunderson, Mr. Stenholm, Mr. Combest, Mr. Montgomery, Mr. Allard, Mr. Young of Alaska, Mr. Johnson of South Dakota, Mr. Walker, Mr. Dooley, Mr. Fields of Texas, Mr. Hall of Texas, Mr. Barrett of Nebraska, Mrs. Thurman, Mr. Hastert, Mr. Pomeroy, Mr. Wolf, Mr. Bishop, Mr. Stump, Mrs. Lincoln, Mr. Everett, Mr. Paxon, Mr. Goodlatte, Mr. Doolittle, Mr. Canady, Mr. Pombo, Mr. Kingston, Mr. Walsh, Mr. Hoekstra, Mr. Baker of Louisiana, Mr. Calvert, Mr. Smith of Michigan, Mr. Cox, Mr. Crapo, Mr. Lucas, Mr. Lewis of Kentucky, Mr. Shadegg, Mr. Hostettler, Mrs. Chenoweth, Mr. Hutchinson, Mr. Chambliss, Mr. Latham, Mr. LaHood, Mr. Taylor of North Carolina, Mr. Bereuter, Mr. Whitfield, Mr. Nethercutt, Mr. Boucher, Mr. Oxley, Mr. Skeen, Mr. Boehner, Mr. Stupak, Mr. Thornberry, Mr. Bryant of Tennessee, Mr. Hastings of Washington, Mr. Poshard, Mr. Burr, Mr. Sensenbrenner, Mr. Talent, Ms. Danner, Mr. Hefley, Mr. Orton, Mr. Upton, Mr. Bilbray, Mr. Foley, Mr. McCrery, Mr. Cooley, Mr. McHugh, Mr. Ganske, Mr. Ewing, Mr. Holden, Mr. Manzullo, Mr. Hayworth, Mr. Chrysler, Mr. Gillmor, Mr. Metcalf, Mrs. Seastrand, Mr. Minge, Mr. Dickey, Mr. Norwood, Mr. Duncan, Mr. Barton of Texas, Mr. Gordon, Mr. Schaefer, Mr. Clinger, Mr. Moorhead, Mr. Radanovich, Mr. Hancock, Mr. Rose, Mr. Buyer, and Mr. Quillen):

H.R. 1627. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act, and for other purposes; Titles I–III referred to the Commitee on Agriculture; Title IV, referred to the Committee on Commerce.

By Mr. HOKE:

H.R. 1628. A bill to establish a Defense Nuclear Program Agency to carry out all defense nuclear programs matters; to the Committee on National Security.

By Mr. SANDERS (for himself, Ms. Norton, and Mr. Owens):

H.R. 1629. A bill to amend the Internal Revenue Code of 1986 with respect to treatment of corporations, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Banking and Financial Services, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHAEFER (for himself, Mr. Skaggs, Mr. Allard, Mr. Hefley, Mr. McInnis, and Mrs. Schroeder):

H.R. 1630. A bill to exclude from gross income certain disability benefits received by former police officers or firefighters; to the Committee on Ways and Means.

By Mrs. SEASTRAND (for herself, Mr. Baker of California, Mr. Bilbray, Mr. Calvert, Mr. Doolittle, Mr. Herger, Mr. Hunter, Mr. Moorhead, Mr. Pombo, Mr. Radanovich, Mr. Riggs, Mr. Rohrabacher, and Mr. Skeen):

H.R. 1631. A bill to encourage the development of the commercial space industry by establishing State-run spaceports, and for other purposes; to the Committee on Science, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS (for herself, Mr. Montgomery, Mr. Clyburn, Mr. Mascara, and Mr. Evans):

H.R. 1632. A bill to amend title 38, United States Code, to extend certain veterans housing provisions, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 1633. A bill to amend chapter 43 of title 38, United States Code, to make technical corrections in the employment and reemployment rights of members of the uniformed services, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS (for herself, Mr. Clyburn, and Mr. Evans):

H.R. 1634. A bill to increase the monthly rate for amounts payable for veterans education under the Montgomery GI Bill; to the Committee on Veterans' Affairs, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

80. By the SPEAKER. Memorial of the Legislature of the State of New Hampshire, relative to recommendations of the Northern Forest Lands Council; to the Committee on Agriculture.

81. Also, memorial of the General Assembly of the State of Indiana, relative to the titling of rebuilt and salvaged motor vehicles; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 38: Mr. BRYANT of Tennessee, Mr. EVERETT, Mr. NEY, Mr. JEFFERSON, Mr. WYNN, Mr. CRANE, Mr. TORRICELLI, Mr. LOBIONDO, and Mrs. MINK of Hawaii.

H.R. 103: Mr. MENENDEZ and Mr. CLYBURN.

H.R. 109: Mr. LUTHER and Mr. SCHIFF.

H.R. 209: Mr. DELAY and Mr. BARTON of Texas.

H.R. 248: Mr. LEWIS of Georgia.

H.R. 303: Mr. TORRICELLI and Mr. CLYBURN.

H.R. 373: Mr. BACHUS, Mr. YOUNG of Alaska, Mr. DOOLITTLE, Mr. HUNTER, Mr. MCKEON, Mr. SCHAEFER, Mr. GOSS, Mr. COLLINS of Georgia, Mr. DEAL of Georgia, Mr. LINDER, Mr. CRANE, Mr. HASTERT, Mr. ROBERTS, Mr. BUNNING of Kentucky, Mr. LEWIS of Kentucky, Mr. BAKER of Louisiana, Mr. HAYES, Mr. TAUZIN, Mr. BARTLETT of Maryland, Mr. CAMP, Mr. MONTGOMERY, Mr. HANCOCK, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. JONES, Mr. COOLEY, Mr. KASICH, Mr. MCDADE, Mr. SPENCE, Mr. COMBEST, Mr. STENHOLM, Mr. WILSON, Mr. CHAPMAN, and Mr. TAYLOR of North Carolina.

H.R. 375: Mr. CHAPMAN, Mr. COX, and Mr. YOUNG of Alaska.

H.R. 390: Mr. MOORHEAD.

H.R. 442: Mr. BARRETT of Wisconsin.

H.R. 463: Mr. HINCHEY.

H.R. 468: Mr. SANDERS, Mr. CLYBURN, Mrs. ROUKEMA, Mrs. VUCANOVICH, Mr. CALVERT, and Mr. BAKER of Louisiana.

H.R. 530: Mr. HAYWORTH, Mr. SENSENBRENNER, Mr. CUNNINGHAM, Mr. PASTOR, Mr. COLLINS of Georgia, Mr. CLINGER, and Mr. NEY.

H.R. 556: Mr. PASTOR.

H.R. 557: Mr. PASTOR.

H.R. 638: Mr. GUTIERREZ and Mr. OLVER.

H.R. 736: Mr. HERGER, Mr. MCKEON, Mrs. SEASTRAND, Mrs. KELLY, and Mr. LIPINSKI.

H.R. 759: Mr. CALVERT.

H.R. 783: Mr. BILIRAKIS.

H.R. 820: Mr. BILIRAKIS, Mr. SAWYER, Mr. JACOBS, Mr. WICKER, and Mr. STEARNS.

H.R. 852: Mr. ROSE, Mr. LEWIS of Georgia, Mr. OLVER, and Mr. TOWNS.

H.R. 930: Mrs. CUBIN.

H.R. 939: Mr. SMITH of New Jersey.

H.R. 987: Mr. PARKER and Mr. HUTCHINSON.

H.R. 997: Mr. PAYNE of Virginia, Mr. FUNDERBURK, and Mr. CRAPO.

H.R. 1021: Mr. HAMILTON.

H.R. 1023: Mr. JACOBS.

H.R. 1034: Mr. JONES, Mr. BAKER of California, Mr. MCHUGH, Mr. BOEHLERT, Mr. HOEKSTRA, Mr. BARRETT of Wisconsin, Mr. LAHOOD, Mr. LIGHTFOOT, Mr. FAWELL, Mr. LOBIONDO, Mr. BATEMAN, Ms. PRYCE, Mr. SHAYS, Mr. FORBES, Mr. MOORHEAD, Ms. LOWEY, Ms. MOLINARI, Mr. EHLERS, Mr. MINGE, Mr. TAYLOR of North Carolina, Mr. HOSTETTLER, and Mr. SOUDER.

H.R. 1045: Mr. DUNCAN.

H.R. 1090: Mr. GORDON and Mr. SANDERS.

H.R. 1114: Mr. BARTLETT of Maryland and Mr. BAKER of Louisiana.

H.R. 1124: Mr. FROST and Mr. JACOBS.

H.R. 1169: Ms. LOWEY.

H.R. 1184: Mrs. FOWLER and Mr. DUNCAN.

H.R. 1210: Ms. DANNER.

H.R. 1222: Mr. KLECZKA.

H.R. 1229: Mr. GENE GREEN of Texas.

H.R. 1370: Mr. CHAPMAN and Mr. HALL of Texas.

H.R. 1387: Ms. NORTON, Mr. FATTAH, Mr. LIPINSKI, and Ms. VELAZQUEZ.

H.R. 1418: Mr. STEARNS.

H.R. 1422: Mr. KLECZKA and Mr. CALVERT.

H.R. 1442: Mr. POSHARD, Mr. BISHOP, Mr. LUTHER, Mr. HEFLEY, and Mr. TORRES.

H.R. 1445: Mr. SENSENBRENNER.

H.R. 1448: Mr. MCHUGH.

H.R. 1514: Mr. MCCRERY, Mr. BARTLETT of Maryland, and Ms. PRYCE.

H.R. 1547: Mr. STARK and, Mr. GENE GREEN of Texas.

H.R. 1552: Mr. BARR, Mr. HASTINGS of Florida, Mr. SENSENBRENNER, Mr. VOLKMER, Mr. STUMP, Mr. DEFAZIO, Mr. ROTH, Mr. BURR, Mr. NEY, Mr. BALLENGER, Mr. POSHARD, Mr. BURTON of Indiana, Mr. FUNDERBURK, Mr. HEINEMAN, Mr. THORNBERRY, Mr. GORDON, Mr. HOKE, Mr. HUNTER, Mr. GUTKNECHT, Ms. DANNER, Mr. ROSE, Mr. CREMEANS, Ms. ESHOO, Mr. BOEHNER, and Mr. WICKER.

H.R. 1559: Mr. CALVERT, Mr. FILNER, Mr. JACOBS, and Ms. KAPTUR.

H.R. 1578: Mr. BROWN of California.

H.J. Res. 79: Ms. BROWN of Florida and Mr. SHAW.

H. Con. Res. 23: Mr. BALDACCI, Mr. GUTIERREZ, Mr. ACKERMAN, Mr. MOLLOHAN, Mr. PAYNE of Virginia, Mr. TORRES, and Mr. BENTSEN.

H. Con. Res. 31: Mr. ACKERMAN.

H. Con. Res. 62: Mr. BONIOR, Mr. CONYERS, Mr. FOGLIETTA, Ms. LOWEY, Mr. MARTINEZ, and Ms. PELOSI.

PETITIONS, ETC.

Under clause 1 of rule XXII,

21. The SPEAKER presented a petition of the Chairman, State Transportation Board, Atlanta, GA, relative to matters relating to transportation; which was referred to the Committee on Transportation and Infrastructure.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. CHAPMAN on H.R. 125: None.

Petition 2 by Mr. STOCKMAN on H. Res. 111: None.

Petition 3 by Mr. VOLKMER on H.R. 920: None.

Petition 4 by Mr. BRYANT on H. Res. 127: Karen L. Thurman, Lloyd Doggett, Andrew Jacobs, Jr., and Thomas M. Barrett.

SENATE—*Friday, May 12, 1995*

(Legislative day of Monday, May 1, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Lord God, You are infinite, eternal, unchangeable, and the source of wisdom, holiness, goodness, and truth. Today we want to hold together two Biblical admonitions. We are told that the fear of the Lord is the beginning of wisdom but also that we are not to fear. Help us to distinguish between the humble awe and wonder that opens us to the gift of Your guidance, and the negative panic that so often grips our souls.

Give us a profound reverence in Your presence that keeps us on the knees of our hearts. May we never presume that we are adequate for a day's challenges until we have received Your strength and vision. Give us the confidence that comes from trust in Your reliability and resourcefulness. You never let us down and constantly lift us up.

Lord, liberate us from all minor fears that haunt us: the fear of hidden memories, the fear of imagined failure, and the fear of what is ahead. We may not know what the future holds, but we do know that You hold the future. In the name of Him whose constant watchword is "Fear not, I am with you!" Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. THOMAS. Mr. President, this morning the leader time has been reserved. The Senate will immediately resume consideration of S. 534, the solid waste disposal bill.

Senators should be aware that rollcall votes will occur this morning at 10 o'clock on invoking cloture on the substitute amendment to the solid waste bill.

As a reminder, Senators will have until 10 o'clock this morning to file any second-degree amendments to the substitute. Further amendments are expected to the bill, therefore, additional rollcall votes are anticipated throughout today's session of the Senate.

The majority leader has indicated that the Senate may also be asked to turn to consideration of H.R. 483, the Medicare select bill.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The PRESIDING OFFICER (Mr. THOMAS). The Senate will resume consideration of S. 534.

The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I ask unanimous consent that I be permitted to make an announcement concerning hearings without regard to the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL PENSION REVIEW HEARINGS

Mr. STEVENS. Mr. President, several months ago there was an expression of interest in the subject of congressional pension reform raised by my good friend from Nevada, Senator BRYAN. His concern about the subject, which was raised here on the floor, was supported by the majority leader, and there was concurrence that it would be appropriate to schedule hearings later in the year on this subject.

Mr. President, to address the concern raised by Senator BRYAN and the majority leader, I wish to announce that the Subcommittee on Post Office and Civil Service, which I chair, has scheduled hearings on Federal pension plans for Monday, May 15, and Monday, May 22, at 2 p.m. They will be held in room 342 of the Dirksen Building.

The May 15 hearing will be devoted to the mechanics of Federal pension plans, including their application to Congress, and a review of proposals for modifying congressional pension coverage. The May 22 hearing will be a broad discussion of Federal plans, and will include a comparison with private sector pension plans. GAO will review the considerable research which they have compiled in this area.

There are several goals to these hearings which include taking a close look at congressional pension coverage; assessing the merits of the differential between this coverage and standard Federal pension coverage; and reviewing the Federal pension systems to determine if changes need to be made which would enhance the current plans, and also protect the financial soundness of these systems.

I thank the Chair for the opportunity to announce these hearings.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 10 o'clock having arrived, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the pending committee substitute amendment to S. 534, the solid waste disposal bill

John H. Chafee, Bob Dole, Bob Smith, Jim Jeffords, Hank Brown, Kit Bond, Orrin Hatch, Spencer Abraham, Jon Kyl, Larry E. Craig, Kay Bailey Hutchison, Trent Lott, R.F. Bennett, Pete V. Domenici, Dirk Kempthorne, Jesse Helms.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the pending committee substitute amendment to S. 534, the solid waste disposal bill, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Virginia [Mr. WARNER] are necessarily absent.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 50, nays 47, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—50

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
DeWine
Dole
Domenici
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond

NAYS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
D'Amato
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NOT VOTING—3

Pell
Specter
Warner

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. CHAFEE. Mr. President, many people have asked what is going to happen for the remainder of the day. What we would very much like to do is get these amendments disposed of as quickly as possible. I know that many people have plans. We would like to see how many amendments there are around here. I think most of the players are here. If people could tell us who has an amendment, then we could figure where we go from here.

Now, who has an amendment? All right. Senator COATS. We are conscious of his. Senator GORTON. We are conscious of his. That is the same one as Senator MURRAY's, right?

Mr. GORTON. That is correct.

Mr. CHAFEE. Who else? Senator DORGAN has an amendment. I hope people will speak up because we would like to close out the amendments, if possible, if we can get an agreement. Senator BOXER, I am sure, has one. We are not seeking a big list. I know Senator BOXER has an amendment. Senator D'AMATO.

Mr. D'AMATO. I may have some very comprehensive, exhaustive amendments. I hope I do not have to offer them.

Mr. CHAFEE. We hope you do not, too. If you can check with your Cloakroom and see, we will do the same. We want to press this along and hopefully finish today. We know a lot of people have engagements.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I have a very brief statement with regard to the legislation. If you are looking for a few moments of free time, I could do that.

Mr. CHAFEE. If the Senator could withhold for a minute.

Mr. MURKOWSKI. Sure.

Mr. CHAFEE. Is Senator DORGAN ready to go?

This would involve a rollcall vote on Senator DORGAN's amendment, if he proceeds with it.

Mr. MURKOWSKI. My statement is very short and is on the bill.

Mr. CHAFEE. Mr. President, I ask if we could give 30 seconds or 1 minute to the Senator from Alaska to make a statement, and then if I could have the floor again, we will return to Senator DORGAN's amendment.

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI] is recognized.

AMENDMENT NO. 861

Mr. MURKOWSKI. Mr. President, I want to thank Senator CHAFEE, and Senator BAUCUS, the floor managers; Senator SMITH, the subcommittee chairman; and Senator KEMPTHORNE for accepting my amendment last night which extends the efforts of Senator KEMPTHORNE, who amended the interstate waste disposal act to provide for practicable solid waste regulations that take into account the remote nature of Alaska Native villages—that is, relief from covering landfills, controlling access to landfills by an operator, et cetera—to cover all Alaska villages.

This provision is not a blanket exemption from all landfill standards for these facilities; rather, the governor of Alaska will have flexibility to set appropriate standards based on local conditions.

My amendment provides for workable solid waste regulations for all Alaska villages. The problems faced by Native village landfills are the same as those faced by other small, remote villages; both need regulatory relief.

I have a list of Alaskan villages not classified as "Native villages" under the Alaska Native Claims Settlement Act. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NON-ANSCA VILLAGES

Paxson.
Seward.
Chicken.
Seward.
Skwentna.
Healy.
Kupreanof.
Tok.
Elfin Cove.
Siana.
Central.
Medfra.
Wiseman.
Houston.
Willow.
Tonsina.
Northway Junction.
Tenakee Springs.
Circle Hot Springs.
Gustavus.
Coffman Cove.
Ft. Glenn.
Talkeetna.
McCarth.
Kenny Lake.
Livengood.
Pelican.

PROBLEM

Mr. MURKOWSKI. Landfills in remote areas of Alaska do not have the resources to comply with Federal solid waste management regulations. Many communities have no local government at all, or operate all community services on an annual budget of $25,000 to $80,000. If landfills close, the result will be illegal dumping on the lands, or into the rivers, because no other alternatives exist.

Unlike areas in the lower 48 States, if Alaska's village landfills are forced to close for economic reasons, the waste often cannot be disposed of in regional facilities because the necessary transportation infrastructure simply does not exist. Many villages are accessible only by aircraft, or in some cases, seasonal water transportation. Alaska is different from the lower 48 where distances may be great, but communities are connected by road to regional landfills.

Mr. CHAFEE. If Senator DORGAN is ready to go, can we get a time agreement?

Mr. DORGAN. Mr. President, I have no objection to a time agreement. If I might offer the amendment, I will make some remarks, and then we will talk about a time agreement.

Mr. CHAFEE. What about 20 minutes equally divided?

Mr. DORGAN. Let me offer the amendment first and make a few remarks. It is not my intent to prolong it.

The PRESIDING OFFICER. Does the Senator from Rhode Island yield for that purpose?

Mr. CHAFEE. Yes.

AMENDMENT NO. 914

(Purpose: To amend the definition of "municipal solid waste" to include industrial waste regardless of whether the industrial waste is physically and chemically identical to other municipal solid waste)

Mr. DORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 914.

The amendment is as follows:

On page 49, line 16, insert the following after "thereof)" and before the period: "and any solid waste generated by an industrial facility"

On page 50, strike line 22 and all that follows through page 51, line 2.

Mr. DORGAN. Mr. President, I have an amendment at the desk. My amendment is not particularly complicated, although it might be controversial. My amendment would change this legislation so that the bill includes all solid waste generated by an industrial facility with respect to the definition of waste addressed in this legislation.

Currently, this legislation addresses municipal waste. That is, waste that is generated by the general public or from a residential, commercial, institutional, or industrial source consisting of certain kinds of materials. That is what constitutes the definition of municipal waste in the bill.

In my judgment, this legislation moves in the right direction in the sense that it gives the States the opportunity to control, to some extent, their own destiny. At the present time, the interstate commerce clause prevents States from having any say at all when somebody decides to load train loads of waste in one jurisdiction and move it to another jurisdiction. The folks who live in the second jurisdiction have no right to say no. They have no right to say, "You can't do that to our neighborhood. You can't bring this waste to our area, because we don't want it." There is no right for them to do that under current law.

This legislation, under certain circumstances, gives the States the opportunity to say no, to decide when they do not want to have additional kinds of municipal waste deposited in their landfills or their waste disposal areas.

The definition of municipal waste in the bill, unfortunately, limits the opportunity for the States to make their views known on the subject of most waste that is moving around the country. Currently, there are 15 million tons of municipal solid waste exported nationwide across borders; 47 States and the District of Columbia, the Canadian Provinces of Ontario and British Columbia, and Mexico exported some portion of their municipal solid waste for disposal in the contiguous United States in 1992; 44 States import some municipal solid waste for disposal; 4 States export more than 1 million tons of municipal solid waste.

But S. 534 applies only to municipal solid waste and does not restrict interstate transportation of industrial waste to the extent that it can be restricted under this bill if the States decided they wanted to try to restrict it. I simply ask the question: Why not include industrial waste? Why would we limit this only to municipal waste? It does not make any sense to me.

The bulk of the waste that is being transported between States is industrial waste. For example, we have a landfill in North Dakota which receives industrial waste. That landfill, Echo Mountain in Sawyer, ND, imports metal grindings, paint waste, water treatment sludge, building demolition material, contaminated soil, liquid and solid waste associated with car manufacturing. None of which would be covered under this legislation in its present form.

The question is, if you are going to give the Governor or you are going to give the State the opportunity to say to those who would bring a stream of waste into their area the right to say no, why would you give them that right with only a small part of the waste? Why not all of the waste? Why not all of the waste including industrial waste?

That is the proposition I offer in this amendment. The amendment is very simple. With only one line change, my amendment changes the definition of waste so that the bill's provisions would include industrial waste. It is not difficult for anyone to understand. The impact of it is very clear. The impact of it gives the States more rights, and, I think, moves in the direction that is intended in this legislation.

So I start on this issue believing that a problem we have in this country with respect to waste disposal is the stream of waste moving back and forth across borders and the corporations in this country whose business it is to try to find places to put waste. I happen to think that smaller, less populous States who may not want to have an enormous amount of waste transported in for profit, ought to have the right to say, "No, thank you, that is not what we want for our future. We have the right to determine our own future, and this is not what we want."

The committee brings a bill to the floor that says that is the right of the States with respect to one category of waste—municipal. But then they say by omission it is not the right of the States with respect to the broad category of other waste, especially industrial. I say why the inconsistency? If States' rights include the opportunity to say no with respect to the import of municipal waste, why not the same right with respect to industrial waste?

Mr. President, I know that this is a controversial amendment. I know that we will hear that this legislation is a carefully crafted balance and if anything should upset the balance, the whole thing falls. We hear that on every bill that comes to the floor. It is like a loose thread on a $20 suit, you pull the thread and the arm falls off. We hear that every time there is a bill on the floor of the Senate.

All I am interested in doing is to say that if the philosophy by which this bill is being brought to the floor makes any sense at all, namely that is the States should have the right to say no to the waste flow coming into their States of municipal waste, then that philosophy holds true with respect to industrial waste as well.

I hope that both managers of this bill will stand up and immediately accept this amendment and thank me for offering it and say that it improves this bill immensely, and I will leave the floor a very happy person.

Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, can we get a time agreement? Will the distinguished Senator agree to 20 minutes equally divided, and if we do not use it, fine?

Mr. DORGAN. That is fine with me, Mr. President.

Mr. CHAFEE. Mr. President, I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, the Senator was quite right when he said this was a carefully crafted bill. What it is, it is a balance between the exporters and the importers, and the exporters and the importers have agreed—are very close to agreement now—on dealing with municipal solid waste. If you throw a new equation into it, a new element into the equation, such as how many different kinds of wastes are there—oh, there is hazardous waste and there is industrial waste and there is construction and demolition debris—all of these things. We have become experts on waste around here. But we do not know what the volumes are, for example, of this industrial waste that the Senator is talking about. Suppose that added into the numbers that were exported or imported and affected how much the quotas could be that come into each State. This whole bill, clearly, would just drop down. If we want a killer amendment, this is it, Mr. President.

I respect the earnestness of the Senator who offered it, and if he wants to come around sometime later in future years and say now we have worked it out with municipal solid waste, with the import and export restrictions and the volumes and how much there can be in future years and so-called ratchets, that is fine, but not today. We have enough problems with this legislation without adding this element into it.

So I very much hope that my colleagues will reject the amendment.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from North Dakota somewhat sarcastically says—it is not his intention, obviously—that his amendment will not sink the bill as he suggests the managers of the bill will say. The fact is this amendment will sink this bill. The reason is because there is so much construction, demolition material, there is so much sludge, there is so much wastewater treatment, there is so much of this in interstate commerce today.

Many States want to ship this material to another State to help, frankly, with Superfund cleanup or to deal with their waste in a way that makes good sense to their own State, and vice versa. It works both ways. Every State in the Nation ships this material out of State. Every State does and every State receives some.

So if this amendment were to be adopted, the general commerce today of the interstate shipment of construction and demolition material generally, and the other material that is covered by the Senator's amendment, would be severely disrupted and stopped. What then happens?

It is not going to happen because Senators are going to stand up and filibuster this bill because they know that they represent interests in their States who want to be able to ship material through interstate commerce.

It is true that we have to have a balance here. On the one hand, people want to ship waste whenever they want to ship it. The free market system.

On the other hand, governments, particularly State governments and local municipalities, want to protect themselves. They want to enact laws to protect themselves against the free market.

It is the tension that always exists. It is what we try to do around here; namely, we try to find a balance between those two tensions. There is also another tension here, another balance we have to try to pursue. That is between States and the Federal Government.

Our national motto is "e pluribus unum," one out of many. We are many States. We are 50 States. We are not 50 nations. We are 50 States. We are one nation, the Federal system. We are trying to figure out how to craft that balance.

Mr. President, it reminds me very much of something a very wise person said not too many years ago. That is, all of American political thought can be summed up in two sentences. No. 1, get the government off my back; No. 2, there ought to be a law about that.

That is what we are facing here. That is what this question comes down to. Get the government off my back, the opponents of the amendment said, because they want to be able to ship this material to different States, and have interstate commerce. There ought to be a law about that, is what Senators say.

Mr. President, we carefully considered this question in the committee, and we decided that with respect to municipal waste, which is more easily accounted for and which really bothers communities more than industrial waste, that we should set up a system with certain restrictions and certain guidelines. States, under certain circumstances, can restrict the amount of municipal waste that comes into their States. That is what we are doing.

Industrial waste is a whole different category. As I said, and the Senator from Rhode Island said, we really cannot account for it and do not know how much it is. Frankly, I do not see why the Senator from North Dakota is getting so worked up about this, because industrial waste is not really the problem that most States have. It is municipal waste, and also, it is hazardous waste. Hazardous waste is accounted for in an entirely different category and not the subject of this bill.

Mr. President, to sum up, I understand the concerns of the Senator from North Dakota, but it is true that if this amendment passes, there can be a lot of Senators going to come to the floor and say, wait a minute, we are not for this bill. We will vote against this whole bill.

Then what will happen? Then the citizens of North Dakota are not going to be able to limit the imports of out-of-State municipal garbage otherwise coming into North Dakota. That is because the Supreme Court said North Dakota cannot do that unless this bill passes.

I think the Senator from North Dakota and all Senators want this bill to pass so that States are able to limit municipal trash coming into their own States.

For those reasons and the fundamental reason, just to make it crystal clear, if this amendment is adopted, Senators will come to the floor, and they will be against this bill because it restricts commerce way too much. No bill. And then nobody wins, everybody loses.

I therefore urge the Senate not to adopt this amendment.

Mr. DORGAN. Mr. President, I was right. It is not that I have a crystal ball over here, but I guess the argument is that whether or not this is a good idea if the Senate would adopt this, it will sink the bill. I do not know first hand of the flotation properties of this bill or who constructed it or how long it might float.

I do know that this is a pretty good idea to say if it is a good idea that the Governors ought to have the right to say no on the importation of municipal waste, there is no reason to prevent them from doing the same on industrial waste. If it is a good idea to give the States the opportunity to make their own judgment about some of these things, why is it a good idea to limit it to the smallest part of the waste that is moving around?

Let me tell the Senators as an example, North Dakota imported 73,000 tons of municipal solid waste and 150,000 tons of industrial waste.

Now, if we are saying the Governor or the State ought to have the right to say, "No," under certain circumstances, to a small part of the waste that is moving in, but does not have a similar right with respect to the larger part, I do not understand that. I do not think that holds up philosophically.

The other part of the argument apparently is the claim that industrial waste cannot be included in this bill because there is too much of it. The claim is that if the bill includes industrial waste, we will get a lot of people upset. They will come over here and filibuster, and we do not get a bill.

If industrial waste cannot be included because there is too much of it, I guess that makes my case. If there is too much industrial waste moving between States, that is especially what we ought to be dealing with here on the floor of the Senate.

My own sense is that the opposition to this is not consistent. I feel strongly that if we are going to do this with respect to municipal waste, we also ought to do it with respect to industrial waste, and be consistent. We should decide that States ought to have the right.

It was said a few minutes ago that the mood is "get government off our backs." I understand that mood. But there is another mood out there by some people who say, "I don't want garbage in my backyard. I don't want people to bring garbage into the areas where I have grown up."

This bill gives them the right to reject that in limited circumstances, but does not give them the similar right in the broader circumstances with respect to industrial waste.

I appreciate being called earnest, at least, and I do hope that whether it is on this piece of legislation or at some point in the future, the discussion about waste and its movement in our country that there will be an opportunity for people in the States to make their own judgment about industrial waste as well. If not now, then at some point in the future.

Mr. President I shall not take further time. This is very clear.

I yield back my time, and I ask that we have the yeas and nays on my legislation, or if the Senator from Rhode Island has different objectives.

Mr. CHAFEE. Mr. President, what I really hope is that the Senator will withdraw his amendment. As the Senator knows, we have had no hearings on this. We have arrived at the tonnage limitations that affect importing States and exporting limits.

We have had them agree to this very carefully, through a lot of laborious negotiations. If we add all the tonnage that comes with so-called industrial waste, and nobody knows how to define "industrial waste," then we truly have upset the apple cart.

What can we promise the Senator? I think he has a legitimate request that in the committee we would consider how to handle—I suppose we could get into municipal waste, into construction, demolition debris, also, and maybe that is something we ought to look at in the future.

I do not want to say we will do it immediately if we agree to it. We have a pretty full agenda in that committee.

I say to the Senator that I would agree to having some hearings in the future. I am not saying this calendar year, because this calendar year is really just taken up with all kinds of challenges in the committee including endangered species, Superfund, clean water, plus the other things we have on the agenda.

Mr. DORGAN. Mr. President, this amendment is not a surprise. We have been sending information over to the committee for a couple of years. I filed a bill on this during the last session of Congress, and I have talked to the committee about it.

I certainly respect the views of the two managers of the bill, the Senator from Rhode Island and the Senator from Montana, but I would very much like a vote on my amendment.

Mr. BAUCUS. Mr. President, there is another point here which I think is quite relevant. Very little is known about industrial waste. Much more is known about municipal waste. That is why we in the committee decided the limits we came up with.

I think it is very, very dangerous to legislate in ignorance. Very dangerous. This body is, I might say, pretty much ignorant when it comes to industrial waste. We do not know the numbers. We did not know the volumes. We do not know enough about the practice, very little about the practice. I think it would be very, very dangerous for this body to legislate in ignorance. We may do that sometimes around here, and we may do it with some frequency around here, but it does not justify it.

For that reason, too, I think it is important that this amendment not be adopted here. There is time to deal with this. There is no huge outcry. My office is not inundated. I daresay the offices of other Senators are not inundated with letters from people at home saying do something about industrial waste.

That is not the cry. What we hear is, "Do something about municipal waste. Do something about garbage." This is not garbage in the traditional sense of the term. This is industrial waste.

In addition, I might underline an earlier point I made. That is, a lot of generators, waste generators around the country, want to avoid Superfund sites, causing industrial waste to go to a site which will then become a Superfund site, so they send the material to sites that have the best environmental technology. Those sites are not always in that same State. Often, they are in adjacent States. So generators want to send material to the site that has the best environmental technology to avoid that site being a Superfund site.

If we were, today, to put more restrictions in, that would make it more difficult for generators of industrial waste to send that material to an environmentally safe site.

For example, I have a letter from the Associated General Contractors of America and a letter from the National Association of Manufacturers, which I would like to put in the RECORD. They basically make the same point opposing this.

I ask unanimous consent to have the letters printed in the RECORD.

There being no objection, the letters were order to be printed in the RECORD, as follows:

THE ASSOCIATED GENERAL
CONTRACTORS OF AMERICA,
Washington, DC, September 30, 1994.

Hon. MAX BAUCUS,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On Wednesday, September 28, the House passed H.R. 4779, the State and Local Government Interstate Waste Control Act of 1994 and it is now pending in the Senate. We understand the Senate will soon consider this legislation and may attempt to broaden the coverage beyond municipal solid waste to include industrial wastes. The Associated General Contractors of America opposes this expansion.

Industrial wastes, particularly from construction projects, are fundamentally different from municipal solid wastes. There are specific regulatory programs requiring proper treatment, storage and disposal of wastes generated by industry using specialized methods at specialized facilities. (The Resource Conservation and Recovery Act of 1976 is one such program.) Not all States have adequate capability to manage industrial wastes. Given the potential of liability under Superfund, generators of industrial waste have great incentive to fully and properly dispose of these wastes. To limit the transfer of industrial wastes may limit the contractor from disposing of the waste at the most environmentally protective facility available, regardless of location. Restrictions on the interstate movement of industrial wastes under this amendment would force contractors to seek management of wastes at facilities that may not meet the most stringent environmental standards.

For these reasons, AGC urges you to oppose any effort to place restrictions on the interstate movement of industrial waste. Thank you for your consideration.

Sincerely,

HEIDI H. STIRRUP,
Director,
Congressional Relations, Environment.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, September 30, 1994.

Hon. Max Baucus,
U.S. Senate,
Washington, DC.

DEAR SENATOR BAUCUS: The National Association of Manufacturers (NAM) has learned that the Senate will soon consider legislation addressing the interstate movement of municipal solid waste (MSW). The NAM strongly opposes broadening the bill to include industrial and other wastes.

The NAM believes manufacturers need the maximum flexibility in determining the destination of wastes to disposal facilities and that barriers—such as bans on interstate shipment of waste—would prove detrimental to that flexibility.

Many industrial and hazardous wastes require specialized treatment for their proper management. Due to the high cost of building these specialized treatment and disposal facilities, adequate capability does not exist in all states. Generators of industrial wastes must be allowed to safeguard against Superfund liability by sending waste to the highest technology, most environmentally protective facilities available, regardless of their location. Industrial waste generators often incur great cost to ship their waste to a specialized facility so that they can isolate their waste, and therefore their liability, at one location, rather than multiple locations throughout the country. Restrictions on the interstate movement of industrial waste under this bill could cause artificially inflated waste management costs and undue financial burden to manufacturing companies that are implementing waste minimization and recycling programs. Such restrictions also would have an adverse impact on the environment if responsible waste generators are forced to utilize facilities that are ill-equipped to handle their particular types of waste. If companies generating waste are to remain financially liable for the disposal of their waste, then it is critical that the scope of the pending legislation be limited to MSW.

For the above reasons, the NAM urges you and your colleagues to oppose any effort to place restrictions on the interstate movement of industrial waste. Thank you for your consideration of our position. Please do not hesitate to contact Theresa Knieriemen Larson of our staff at (202) 637-3175 if you have any questions.

Sincerely,

RICHARD SEIBERT, JR.

Mr. BAUCUS. Mr. President, for that reason, and the basic one that if this is adopted, I do not know what the prospects of the bill will be, I urge that this amendment be defeated.

If there is no Senator seeking time, I move to table the amendment and ask for the yeas and nays.

Mr. DORGAN. Mr. President, I have one additional comment to make, but I prefer to close this debate, if I might. Are there other people on the floor wishing to speak?

The PRESIDING OFFICER. The Chair observes the time has expired for the Senator from Rhode Island. Would the Senator like to yield some of his time to the Senator from New Hampshire? The Senator has 6 minutes remaining.

Mr. CHAFEE. Mr. President, I wonder if we could agree to give the Senator from New Hampshire 2 minutes?

Mr. DORGAN. I have no objection.

Mrs. BOXER. Reserving the right to object, would that add time to the debate? There are some who cannot see a delay in time. I am sorry.

Mr. DORGAN. I yield to the Senator from New Hampshire 2 minutes of my time. I have no interest in prolonging this.

Mr. SMITH. I appreciate that action of the Senator from North Dakota. I am speaking against his amendment, so I would say that is a very generous action.

I say with the greatest respect to the Senator from North Dakota, this is really a killer amendment. We do not know how much industrial waste is shipped nationwide. We have no idea. We have no idea how this amendment is going to affect our national system of disposing of this material. Every State, nationwide, ships industrial waste. There is the potential to adversely affect every single State in the Union. We had a very careful agreement on export and import ratchets in this bill, very carefully crafted. This is going to adversely affect the whole amendment. We just have no idea what the impact would be.

So my concern is that it opens the door to other restrictions on exports, such as incinerator ash, sludges, hazardous waste, asbestos—who knows? That is my main concern. We have not had any hearings. It is just a new issue that is suddenly injected into the debate here, so I strongly urge the amendment be defeated.

I thank my colleague and yield the remainder of my time to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me reiterate something, and then I will be glad to go to a vote.

The real reason here is that there is too much industrial waste. That is, if you strip away all the arguments, the issue comes down to the claim that there is too much of it so we should not include it. The managers claim that we can only get an agreement on the limited amount, namely municipal waste. The big corporate interests do not want industrial waste included. I understand that. But if you are in a neighborhood or region and folks are bringing industrial waste in by the train car loads, unit train after unit train, it seems to me if Congress says on this little area called municipal waste, you have a right to say something about that, but upon the bigger area of industrial waste, sorry, you do not have any rights, that does not make any sense to me. I think it is philosophically inconsistent.

I understand. I think highly of both managers of this bill. They have done a lot of hard work on this. But this is not a surprise to anybody. We had a hearing in Bismarck, ND, on this very issue under the jurisdiction of the Commerce Committee a couple of years ago. I submitted legislation in the last session of Congress dealing with industrial waste. I have been in touch with the committee on it over time. So this is not a surprise. It is not that we are ignorant about industrial waste. I know how much industrial waste goes into North Dakota versus municipal waste; twice as much industrial as municipal. And if you say the State has a right to say no to municipal but you do not have a right to say no to something twice as big, you have taken away the opportunity for the State to say no on the quantity. That is important to us.

That is the reason I offer my amendment. And I would like a record vote on it.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BAUCUS. Mr. President, I move to table the amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment No. 914. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Virginia [Mr. WARNER] are necessarily absent.

Mr. FORD. I announce that the Senator from Georgia [Mr. NUNN] and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

The PRESIDING OFFICER (Mr. COVERDELL). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 17, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—79

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bond
Boxer
Bradley
Brown
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Faircloth
Feinstein
Ford
Frist
Gorton
Graham
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Packwood
Pressler
Pryor
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond

NAYS—17

Bingaman
Breaux
Bryan
Byrd
Conrad
Daschle
Dorgan
Exon
Feingold
Glenn
Gramm
Harkin
Hollings
Leahy
Levin
Reid
Wellstone

NOT VOTING—4

Nunn
Pell
Specter
Warner

So the motion to lay on the table the amendment (No. 914) was agreed to.

Mr. DOLE. Mr. President, I wanted to indicate to my colleagues that we are going to continue voting throughout the day. We are going to try to finish this bill. We will have votes on Monday, and we will have votes next Friday. And we will file cloture again this afternoon on this bill. I hope it can be finished today, but we have to complete our work around here, and we are not moving very quickly. So there will be votes throughout the day.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. We are anxious for people with amendments to bring them up. I think Senator DEWINE had an amendment. Let us see what his decision is on that. But we are pressing for these folks to bring forward their amendments. If they are going to offer them, fine. If they are not going to offer them, would they tell us.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CUTS IN MEDICARE

Mr. AKAKA. Mr. President, earlier this week House and Senate Republicans unveiled their respective 7-year budget resolutions. The promise of the House resolution—a balanced budget by the year 2002 and tax cuts for wealthy Americans—is being championed by several prominent Senate Republicans. Although the Senate budget resolution contains a Boxer amendment that expresses the sense of Congress that 90 percent of the benefits of potential tax cuts go to the middle class, I have every expectation that the Republican bill will be a windfall for the wealthy. Moreover, the details on how the savings would be achieved are sketchy and are left for authorizing and appropriating committees.

The Senate Budget Committee resolution assumes a $256 billion cut in

Medicare spending over 7 years, but provides no guidelines to the Senate Finance Committee on how these savings will be achieved. This proposed cut is by far the largest Medicare cut in history, and the adverse impact on beneficiaries and providers is clear.

If Medicare cuts of this magnitude are approved, the Department of Health and Human Services estimates that senior citizens' out-of-pocket expenses will increase by $900 a year or a total of $3,500 over the 7 years. As 83 percent of Medicare benefits go to beneficiaries with incomes of $25,000 or less, it is obvious who will be hurt by these cuts, yet the budget remains silent on how it will be done.

In addition, cuts to providers would have serious ramifications on overall health care costs as cuts in provider reimbursement are often passed along to other payers. Provider cuts could also have a potentially devastating impact on urban safety-net hospitals which already bear a disproportionate share of the Nation's growing burden of uncompensated care. These reductions in Medicare payments could also endanger access to care in rural areas. Nearly 10 million Medicare beneficiaries—25 percent of the total—live in rural areas. There is often only a single hospital in their county. Significant cuts in Medicare have the potential of causing rural hospitals to close or increase the number of providers that refuse to treat Medicare beneficiaries.

I was appalled to hear that during markup of the resolution, the Senate Budget Committee, on a party-line vote, rejected two proposals to restore funding to Medicare in lieu of providing tax cuts. Obviously, this massive cut in Medicare funding would be unnecessary if Republicans did not have to pay for a tax cut for wealthy citizens.

We must work to ensure that any effort to extend the solvency of the Medicare trust fund does not put Medicare beneficiaries at risk. And we must protect the program for future enrollees. I support President Clinton's view that the Medicare trust fund must be resolved in the context of health care reform.

Mr. President, without comprehensive health care reform, significant cuts in Medicare and Medicaid will seriously harm beneficiaries and the total health care system as costs will be shifted onto families and businesses. Only by focusing on the entire health care delivery system will we be able to address issues within Medicare and preserve access for Medicare beneficiaries and underserved populations.

Let me close on this point. While we have heard Members on the other side of the aisle promise to protect Social Security, the GOP budget reaches balance by the year 2002, only by including the Social Security trust funds in the budget calculations.

While I fully recognize the critical need to ensure long-term stability in the Medicare Program and support efforts to balance our budget, I am opposed to using arbitrary cuts in the Medicare Program to finance a tax break for wealthy Americans. I look forward to working with my colleagues on addressing these important issues.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

THE BOTTLE BILL AMENDMENT

Mr. HATFIELD. Mr. President, as the Senate discusses the difficult issue of solid waste management, I would like to point out to my colleagues that 10 States have achieved great success by implementing some form of beverage container deposit system. My home State of Oregon, for example, has had remarkable success with its own bottle bill for over 20 years. Consequently, I am offering the National Beverage Container Reuse and Recycling Act as an amendment to the interstate waste bill.

So often, States serve as laboratories for what later emerge as successful national policies. The State of Oregon and other bottle-bill States have proven that deposit programs are an effective method to deal with beverage containers, which make up the single largest component of waste systems. According to the General Accounting Office, deposit-law States, which account for only 18 percent of the population, recycle 65 percent of all glass and 98 percent of all PET plastic nationwide. That means 82 percent of the population is recycling less than 25 percent of our Nation's beverage container waste.

The amendment I have placed before the Senate today will accomplish national objectives to meet our Nation's massive waste management difficulties. A national deposit system will reduce solid waste and litter, save natural resources and energy, and create a much needed partnership between consumers, industry, and local governments for the betterment of our communities.

As someone who grew up during the Great Depression, I am constantly reminded of the throw-away ethic that has emerged so prominently in this country. In this regard, Oregon's deposit system serves a much greater role than merely cleaning up littered highways, saving energy and resources, or reducing the waste flowing into our teeming landfills. The bottle bill acts as a tutor. It is a constant reminder of the conservation ethic that is an essential component of any plan to see this country out of its various crises. Each time a consumer returns a can for deposit, the conservation ethic is reaffirmed, and hopefully the consumer will then reapply this ethic in other areas.

As many of my colleagues know, I have a 20-year history on this issue and have been greatly enthused by developments in recent years in promoting the establishment of a national bottle bill. The amendment I filed today is identical to the legislation I introduced last Congress. Although this bill has historically been referred to the Senate Commerce Committee, in recent years significant actions on this measure have come in the Senate Environment and Public Works Committee and the Energy and Natural Resources Committee.

Senator JEFFORDS offered the bill as an amendment to the Resource Conservation and Recovery Act [RCRA] in the Environment and Public Works Committee during the 102d Congress. Even though this attempt failed by a vote of 6 to 10 it was a monumental step forward. Additionally, during that same Congress a hearing was held in the Senate Energy and Natural Resources Committee on the energy conservation implications of beverage container recycling as outlined in that session's bottle bill, S. 2335.

I regret that I continually have come to the Senate floor to force the Senate to take action on this matter, but that seems to be the only effective procedure for moving forward on this bill. For example, during the 1992 Presidential campaign, candidate Bill Clinton declared his support for a national bottle bill. However, once he took office he and a Democratic-controlled Congress were surprisingly silent on the issue in the 103d Congress. Consequently, here I am again offering the Beverage Container Reuse and Recycling Act as an amendment on the Senate floor.

Mr. President, this is an active approach to dealing with solid waste before it becomes waste. It is widely acknowledged that recycling is the wave of the future and this amendment will facilitate the recycling of beverage containers. I firmly believe the time has come for Congress to follow the wise lead of these States and encourage deposit systems on a national level. I strongly urge my colleagues to fully examine the benefits of a national beverage container deposit system and to adopt this amendment.

BOTTLE BILL

Mr. JEFFORDS. Mr. President, a national deposit law is a commonsense, proven method to increase recycling, to save energy, to create jobs, and to decrease waste generation. The experience of 10 States, including Oregon and Vermont, attest to the success of a deposit law or a bottle bill as it is commonly called.

Bottle bills work. These laws have been successful in every State that has one. Recycling rates of over 70 percent have been achieved for beverage containers in the bottle bill States. The rate is over 90 percent in Vermont. Furthermore, jobs have been created by this legislation, not lost, and a majority of Americans support a national deposit law.

There is a misconception in some people's minds that deposit legislation is not compatible with curbside recycling programs. Nothing could be further from the truth. Nine of the 10 States with deposit laws have vibrant curbside recycling programs.

Mr. President, both Senator HATFIELD and I have been working on this issue for more than 20 years. In both of our States, curbside recycling programs are working in tandem with beverage container deposit systems. In today's world, we must make every effort to conserve precious natural resources and reduce our use of energy. I ask my colleagues to support this measure and thank the managers for considering our amendment.

Mr. HATFIELD. Mr. President, I have an amendment at the desk I would like to make a few remarks about. For over two decades, my State of Oregon, and about the same period of time the State of Vermont, have had on the books and in practice what we call the bottle bill. When you buy soft drinks and beer in my State, whether they are in the can or the bottle, you pay a deposit. That deposit becomes an incentive for people to return those bottles and cans rather than dumping them in the garbage and adding to the problem of trash and refuse in this country.

We have found it to be highly successful. At first there was a great deal of concern expressed by merchants about the additional costs of administering this program. There was a great deal of discussion about the possibility of labor being impacted. We have demonstrated, along with a modification or variation on a theme in a few other States, an effective measure to reduce litter and to recycle the glass from the bottles and the metal from the cans.

I have offered this at a national level for over 20 years and it is very interesting that the beer industry opposes it very strongly. My good friend, the former Senator from Wisconsin, Gaylord Nelson, was the founder of Earth Day. However, every time I introduced the bottle bill, this great environmentalist would be the first to stand and oppose it because it was the beer industry that opposed it in his State. We had the same thing from the soft drink industry; they opposed it.

Now we find there is no longer solid opposition. Joe Coors, of the Coors Breweries, has swung around. I think Hamm's beer—of course Blitz-Weinhard, in our State—is supportive of the proposal. Now one of the largest growing beer producers in the State of Oregon are microbreweries. There is no longer the solid phalanx of opposition.

I have asked, I suppose 100 times, for a hearing. And I have not been able to get a hearing on this bill.

We had a sponsor at one time many years ago, not the Senator from Massachusetts but a Congressman from Massachusetts, and he was urged and persuaded to get off the bill because of the opposition of organized labor in his State. That has been true across this country. There is a lot of misunderstanding on the part of organized labor and others, that this is somehow going to add to their costs or, that it is a beautification issue, not a recycling, refuse, or trash issue. It is all of them.

I had intended to raise the bottle bill as an amendment to this bill from the floor. I rarely raise amendments that have not had hearings. I am a traditionalist, and believe that issues of this kind should go through a hearing process through the committees of jurisdiction. However, I have had private conversation with the chairman of this committee, Senator CHAFEE. I wanted to say to Senator CHAFEE I am not trying to hold up this bill. I support it and I would like to see it enacted into law. Nevertheless, I feel just as strongly about trying to get some kind of a hearing to move the bottle bill through the Congress at some point during my lifetime.

So I would yield to the chairman of the committee at this moment, if he would like to make any comment or give me some assurance of a hearing?

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to pay tribute to the senior Senator from Oregon. He has been persistent in this measure. I do not recall that we ever had a hearing in the committee. But I do recall we had a vote in the committee. As I recall, Senator JEFFORDS, then a member of the committee, raised it so we did have a vote in the committee on it.

Mr. HATFIELD. Right.

Mr. CHAFEE. The vote failed. However, the Senator has been very gracious in his handling of this subject. I would be glad to arrange a hearing for his legislation in our committee.

I just say this, if he could give us a little time? We are chock-a-block in that committee right now. But in due course I certainly will work in a hearing.

Mr. HATFIELD. I appreciate the Senator's commitment and that satisfies my request.

Mr. CHAFEE. Let me say briefly, this. In my State I have always been a supporter of the bottle bill.

But then it turns out that in our recycling efforts, the thing that makes the recycling effort go is the fact that the recycling center is able to earn money from the aluminum cans. It is the big money earner for the recycling center and helps carry everything else.

So in our State, we will not want a bottle bill where you would make a deposit and bring it back to the central place and get your refund because that would deprive our recycling centers of this constant flow of very valuable income. But that may be a unique situation.

Mr. HATFIELD. Mr. President, if the Senator will yield, this was a valid issue, as the Senator described it in his State. However, concerns expressed by other States that there is competition between deposits and other recycling programs have been shown to be overstated. We have had studies, and I will be very happy to produce the records of those studies, indicating that this is not a valid concern, and that instead of being a possible deterrent to the ongoing efforts of recycling, it has become an incentive.

So there should not be this sense of competition between a bill of this kind, in which an individual can return a beverage container to the grocery store and get a refund, or other programs where container are returned to recycling centers. We have recycling centers in our State, as well as this deposit law. I would be happy to refer to those studies in more detail at a hearing.

Mr. President, with that assurance, I see the Senator from Massachusetts. I do not know if he wants to get the floor on this issue. If not, Mr. President, I will not call up my amendment on the desk. I thank the Senator for his assurance and look forward to a hearing on this subject.

Mr. CHAFEE. I thank the Senator very much.

Mr. KERRY. Mr. President, unless somebody is about to propose an amendment or wants to proceed, I would like to proceed as if in morning business for a few minutes.

Mr. CHAFEE. Mr. President, I wonder if the Senator will withhold. We have a couple of amendments we can accept. We can dispose of them. They will take very little time.

AMENDMENT NO. 1070

(Purpose: To include in the definition of "out-of-State municipal waste" waste that is generated outside the United States)

Mr. CHAFEE. Mr. President, on behalf of Senator LEVIN and Senator ABRAHAM, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. LEVIN, for himself, and Mr. ABRAHAM, proposes an amendment numbered 1070.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 49, strike lines 1 through 8 and insert:

(3) The term "out-of-State municipal solid waste" means, with respect to any State, municipal solid waste generated outside of the State. Unless the President determines it is inconsistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States. Notwithstanding any other provision of law, generators of municipal solid waste outside the United States shall possess no greater right of access to disposal facilities in a State than United States generators of municipal solid waste outside of that State.

Mr. BAUCUS. Mr. President, our side has reviewed this amendment and we find it acceptable.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1070) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1071

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. WARNER, proposes an amendment numbered 1071.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65, line 6, insert "or related landfill reclamation" after "services."

Mr. BAUCUS. Mr. President, we have reviewed this amendment, as well, and also urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1071) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. I thank the Senator from Massachusetts. If he wants to proceed, this is a good time to do it.

ORDER OF PROCEDURE

Mr. KERRY. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER (Mr. CRAIG). Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. KERRY. Mr. President, last night the Budget Committee, in the wee hours, passed the budget resolution for the U.S. Senate on which we will shortly go to work. There are many, many questionable choices within that resolution. There will be a time, a very fixed time obviously, a minimum number of hours that we have to debate it here on the floor, with a finality for that debate, and it is predetermined. But I would like to just talk for a moment, if I can, about a couple of aspects of that budget as we frame the debate about where we are going in this country.

First, I would like to call the attention of my colleagues to one provision that is in this budget that this Senator finds profoundly disturbing, and that I hope other colleagues will think hard about before we ratify it in the course of the budget process.

A lot of things are being proposed in America today under the banner of deficit reduction. I think there is a unanimity here that we obviously have to reduce the deficit. We are going to be bankrupt if we do not. We cannot continue down the road that we are going on. But there also ought to be an application of common sense to the choices that we make as we do that. Reducing the deficit does not predicate that we simply come in with a machete or a pickax and chop away at things that make sense, while simultaneously leaving out there the things that do not make sense.

One of the items that has fallen under the budget committee's ideological approach to this issue is the Presidential campaign fund. For whatever reasons—I can give you the descriptions that are given, but I think the agenda is considerably different—the committee has chosen to eliminate the mechanism by which Americans for the years since Watergate have funded Presidential elections. That method is to have a checkoff on your tax form with which you decide to give money to the Presidential election fund. It is a voluntary mechanism in America. But it has been a most important mechanism by which we have freed Presidential politics from the demeaning process of requiring our candidates to raise hundreds of millions of dollars from special interests all across this country.

It has worked, Mr. President. The system has worked. President Ronald Reagan used it. President George Bush used it. I believe President Bush in the course of his career as a Vice President and as a President, used something in the order of $200 million in order to run for the highest Federal office in this land.

The majority leader, ROBERT DOLE, has used it in the past. Other Presidential candidates in this Senate have used it, Republican and Democrat alike. No one has suggested that system is wrong, corrupt, not working, or not freeing the Presidential process from the rather terrifying money chase that we in the U.S. Senate have to go through. Yet, this Budget Committee, in an effort to try to whack away at the deficit, is going to do away with this campaign financing mechanism.

Mr. President, for the life of me I don't understand why—but I understand the argument that will be made. The argument will be the soft, easy, political sloganeering arguments that, "Gee, politicians should not be getting welfare." It sounds really catchy. And the American taxpayer should not necessarily be paying. That is the argument you are going to hear. But I will bet you that four members of the Republican caucus who are running for President are prepared, in a matter of weeks, to ask for that money and will take it and will use it.

Now, it seems to me, Mr. President, if we cannot remember the lessons of Watergate and remember the degree to which this country felt a revulsion at what happened during that period of time, when stacks of cash and enormous sums of money were changing hands in an effort to try to curry favor and votes in America, if we do not remember that lesson, then we have not learned much about what was wrong with American politics in the course of the last years.

So I hope that before we just accept what the Budget Committee has done, Members will think hard about what is really good for this country in the context of political campaign finance reform. This Senate has twice passed campaign finance reform in the last years. We passed it in 1992, and the House passed it, but President Bush vetoed it. We then passed it again in 1994, but it died mostly because the House of Representatives did not want to take it up.

The bottom line, I think all colleagues will agree, is that we saw a period of scandal in America that brought reform, and it would be irrational now in the face of the extraordinary impact of money in American politics to suddenly take away our capacity to free both of our candidates, or any major party candidate, from having to go out and raise these extraordinary sums of money which most Americans have come to agree distort the American political process.

That is not the only issue raised in this budget, and we will have ample time in the days ahead to discuss it.

Mr. President, I see that the majority leader is in the Chamber. I do not know if he had an announcement or a procedure.

Mr. DOLE. Announcement. I would like to get back on the bill.

Mr. KERRY. Mr. President, let me just say to the majority leader, I had asked if there were any amendments. There were no amendments, and I allowed whatever amendments were there to be done before speaking. If there is an amendment that is ready to go forward, I am not trying to delay the process or hold up the Senate, but I thought I would call attention to this issue in the absence of that.

Mr. DOLE. I do not have any problem with that.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. If the Senator will yield.

Mr. KERRY. I would like to retain the right to the floor, but I will yield.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. I have just seen a list of amendments—10, 12, 13, 14 amendments. I do not know why people are not here offering the amendments. We are going to be here today, and we are going to vote today, if we have to have Sergeant at Arms votes. People who wish to offer their amendments better come to the floor and offer their amendments. We want to finish this bill.

I do not have any problem with the Senator speaking, because, as the Senator from Massachusetts said, there is nobody here to offer an amendment. But I say to my colleagues who have amendments, if you are going to offer them, come to the floor and offer your amendments. We have two managers here who do want to do business. They were here late last night. They were here early this morning. So I hope we can accommodate Senator BAUCUS and Senator CHAFEE and others who have primary responsibility for this legislation. It is important legislation. We ought to finish it, and I hope that by 4 or 5 o'clock we will be finished with the bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the majority leader.

LOOKING AT THE FEDERAL BUDGET

Mr. KERRY. Mr. President, I would like to say to my colleagues that the last time I looked at the Federal budget, which has been many times in the last few days, I did not notice that spending was increasing significantly in the discretionary domestic side of the budget. I did not notice that Americans were coming up to any of us and saying to us, Senator, we have too much drug treatment in America; we ought to cut it so fewer addicts can get treatment.

I did not notice that a lot of people were coming up and saying, it is already easy enough for me to send my kid to school, so why not cut the tax deduction to send our kids to college and make it harder for us to send our kids to school.

I did not notice people were suggesting that our train system is comparable to the Japanese or the Germans or the French, and therefore we ought to be reducing the investment in our railroads.

I did not notice that our colleges and universities were so fat with money that their laboratories, which are 20 and 30 years old in many cases, are state of the art and so they do not need additional Federal funding to increase the science capacity or research of America.

I could run down a long list of things that I do not think Americans are asking us to cut, but, Mr. President, we are cutting them. We are cutting them. And I respectfully suggest we are cutting out of this country the guts of our ability to be able to remain a great country and guarantee that our kids, who are increasingly growing up in a vacuum, are going to have the best education system in the world, the kind of opportunity that we have promised through these years.

We had a period of know-nothingism in America once before, and I am not sure that we are venturing close to a new period of sort of put your head in the sand and pretend—pretend that a 15-year-old kid who has an abusive parent or a drug addict parent and whose other parent is absent, pretend that that kid, who is already at risk and dropped out of school, is somehow suddenly going to be saved by cutting access to the YMCA, YWCA, the Boys and Girls Clubs, Youth Builds, the City Years, the AmeriCorps of this country.

That is what we are doing. The one part of the budget that is increasing is entitlements. It is the only part of the Federal budget that is really increasing in real dollars. And the truth is that you are not going to solve that problem just by whacking away at a fixed amount of money when more and more Americans are turning 65, more and more Americans are living longer, and more and more Americans have a right to expect that they are going to get quality medical care.

What will happen if we just lop off several hundred billion out of Medicare? Sure, we will cut out some waste. And, yes, some good entrepreneurs will respond and there will be an increase in managed care and HMO's, and so forth. But you will take the guts out of teaching hospitals. You will take the guts out of research and development. And those things that have provided the United States with the most extraordinary advanced technology and medical care in the world will suddenly begin to diminish, just like deferred maintenance on a building. Sure, we can cut the maintenance today, and we have been doing that, I might add, in many different sectors. But 5 and 10 years from now, after 10 years of cuts and deferred maintenance, the buildings begin to crumble, the bridges begin to fall down, the sewer systems fall apart, the water treatment facilities are not there.

Mr. President, we have to stop and recognize that there are three deficits in this country. There is a fiscal deficit, but there is also an investment deficit, and there is a spiritual deficit. And we are not going to address the investment deficit, which is critical to dealing with the spiritual deficit, unless we treat all three of them simultaneously. And all this budget that we will be presented does is deal with the fiscal deficit.

What do I mean when I say an investment deficit? Well, Mr. President, let me give you one example: railroads. The United States is ranked 34th in the world in our investment in our railroads. We are just behind Ecuador and Bolivia and just ahead of Bangladesh. And there are only seven countries I think with railroads that are behind us—34th in the world.

Now, I can tell you that in Boston, in New England, along most of the eastern seaboard and much of the west coast now, and in other parts of this country, rail transportation is essential to moving millions of people to their jobs, taking the burden off of our highways, and yet, we are disinvesting in those railroads, Mr. President.

France has its TGF, Japan has a bullet train. And instead of thinking about how we are going to provide millions of jobs for Americans building an adequate transportation system, we are disinvesting.

No country on this planet has a railroad system that does not have a subsidy. There is not a country in the world that does not subsidize its railroad system. And yet the House of Representatives has zeroed out—zeroed out—money for support of railroads.

Now I can give you dozens of other examples like that. Global climate change. We do not know all the answers. We know that there is a phenomenon taking place. We do not have a complete understanding of it. We need to have an understanding of it, because the consequences could be cataclysmic. And yet we are cutting that research.

The Coast Guard, the admiral in charge of the Coast Guard told me they have a $600 million capital expenditure requirement just to keep their ships running properly to stay current with the demand—Cuba, Haiti, fishing enforcement, drug trafficking. But, Mr. President, we are not providing that money. We have cut significantly the amount that they need.

Science and research. There is not a public university in this country that is not struggling to have the capacity to be able to raise the standards of learning for our children. And yet, we are going to have a harder time than ever before in providing the wherewithal for those universities and for those entities to carry on to meet that high standard.

Mr. President, there are so many examples like this that it defies the imagination.

The last time I looked, this was a very rich country. And not only is it a very rich country, but it is a country that is increasingly seeing a huge division growing between those who have and those who do not.

From 1940 to 1950 to 1960 to 1970, Americans all grew simultaneously, at every sector of American society. If you were at the lowest quintile of earnings in America, your income grew in 10 years by 138 percent. If you were in the next two quintiles from 1940 to 1980, for 40 years, if you were in those middle two quintiles, you grew at 98, 99 percent over a 10-year period. And if you were in the top quintile, Mr. President, you grew at about 98 percent.

In the last 12 years in America, the bottom quintile went down 18 percent, the next quintile went down 4 percent, and the top quintile went up 105 percent.

Now, while income has become tougher and tougher for the average American to earn, they have been witnessing the phenomenon of globalization and technology, where more and more the labor of human hands and hearts is not applied to work. You have automation, robotics, artificial intelligence, and technology advancements which are what provide most of the productivity increases of this country.

It is very clear that America is not going to compete, by and large, except for niches here and there with low-wage, low-scale jobs. Increasingly, Americans are being forced into low-wage, low-scale service sector jobs. And we are not increasing the manufacturing base of this country in a way that creates the high value-added jobs that allows an American to earn more money and be able to move up the ladder.

That, Mr. President, accounts for most of the anger that we feel in America today; that, coupled with the accompanying disintegration of families and communities.

Now that gets you to the spiritual deficit.

Mr. President, in 1965, our colleague, PAT MOYNIHAN, warned us about what happens in America when children are having children out of wedlock—children born into a single-person family. In 1965, Senator MOYNIHAN told us of a 27-percent-out-of-wedlock birth rate in the inner city. He was accused of being a racist. Most of America put its head in the sand and did not pay much attention.

Today that 27 percent is 80 percent. Thirty-six percent of all American children are born out of wedlock.

And I ask my colleagues how they think they are going to deal with a 15- or 16-year-old kid who has already dropped out of high school, who does not relate to their home, who has no organized religion, who does not have in his or her life any of the normal ingredients of teaching values—family, church, synagogue, school—how are you going to reach that 15-year-old in order to prevent that 15-year-old from becoming the next inhabitant of a $50,000-a-year jail cell?

I am not proposing to my colleagues that Government ought to do it or that Government is the solution. But I do know that Government can make a difference in helping to create a framework which will allow those kids to have a shot. And that framework can be the support that we give to nonprofit entities, the support that we give to a boys club, a girls club, support we give to the Youth Builds, the AmeriCorps and other efforts that try to intervene where there has been such a total failure otherwise.

As I listen to my colleagues in the House and elsewhere, they say, "Well, it is the family's responsibility. Cut it off and people are going to have to take care of themselves."

The problem is, Mr. President, that this country already has a track record of doing that. In the 1920's, 1930's, 1860's, 1870's and 1880's, we saw what happened when everybody was left to their own devices. That is when we had sweatshops. That is when we had slums and squalor. That is when we had no ability to cure half of these things.

The truth is, Mr. President, that over the course of the last years, in the last 40 years, particularly, in America, we have learned that some of these interventions truly make a difference in the lives of our communities and of our kids.

I respectfully suggest that the U.S. Senate, the House, the Congress, the country, are on their way to creating a clash unlike any we have ever known before in this country.

The summer job money has been cut. Let me ask you: What are those kids going to do this summer in the heat of New York City or Los Angeles or Detroit or Chicago or Boston when they have no job? The Government said, "We don't care. We're taking the money away. Go fend for yourself."

But we all know that the economy, historically, carries 6 percent unemployment or more. So even though we, the leadership, know that America is going to have at least 6 percent of its country unemployed, are we still going to say, "Go take care of yourself," and cut them off? What are they going to do?

So I think, Mr. President, we are heading for a cropper. I remember the 1960's, when I came back from Vietnam. I can remember people out in the streets with guns. I remember cars being overturned. I remember bombs. I remember firestorms of automobiles burning. I respectfully suggest that we better stop and think carefully about the consequences of the steps we take and the choices we make.

Those children that PAT MOYNIHAN talked about in 1965 turned 15 and 16 in 1980. All you have to do is go and look at the increase of juvenile violence in America in 1980, and you can begin to project what those children born today in the 80-percent category are going to do in the year 2010 when they turn 15 and 16.

The increase of murder among juveniles is up 250, 260 percent. There were 29,000 juveniles murdered in America in the last 10 years, and 4,000 juveniles are currently under arrest charged with murder. The highest level of murders in America today are juveniles between the ages of 14 and 25 who are murdering other juveniles between the ages of 14 and 25.

I absolutely guarantee you, it is inescapable, unavoidable, incontrovertible that if you have a kid born today in a country that is providing less work, in a country where information and education are more important to your ability to work than ever before, in a country where it will be harder for these kids to get that education, not easier, there is an absolute predictability to what those kids will be like 15 and 16 years from today.

Mr. President, I used to prosecute some of those kids. I used to be a prosecutor, and I talked to some of them back then. It was OK, you could have a conversation and you could learn something about what they felt and about their anger. In the last 2 years, I have spent time going to some of the at-risk programs that we are now running, which are the last link between these kids and total loss. I have never, ever in my life heard such a level of anger that is without explanation. They cannot explain it to you. They do not know where it is coming from. But you can hear those kids talk about being runaways in Florida or New York, about how they left their families at age 10, 11, 12.

Mr. President, do you know that the median age of handgun ownership, or gun ownership, in America today, the median age of first-time gun ownership is 12½ years old?

So as we think about the budget choices that we are going to face over the course of this next 1½ or 2 weeks, it is my prayer that we are not going to put our heads in the sand and ignore the other two deficits this country faces: The investment deficit and the spiritual deficit.

In the end, I have no question that Government is not even the right entity to deal with the spiritual or attempt to. But Government needs to understand the connection with those entities that should be doing it, or can be doing it, and their capacity to do it, in the world that we are creating.

Government needs to be an empowerer of the local community to reach these children. For example, in Brockton, MA, there is a Boys and Girls Club, but only 10 percent of the kids in that community get access to that club. Simple question: What happens to the other 90 percent of those kids? They are out on the streets, nobody is there, there is no connection.

That is our responsibility, it seems to me, to try to empower the communities to be able to help create the civic reaction that will begin to deal with these children. And the ultimate response will come from churches and synagogues, spiritual organizations, nonprofit agencies, schools, and parents, but you have to have a place to begin. You have to start somewhere. It seems to me, that if you have a kid sitting in front of you who is 12 or 13 years old and they are already dabbling in drugs, and they are already in trouble at home, and they are already disconnected to the school, we have a fundamental choice: Are we going to turn our back on that kid and cut that kid off, or are we going to try to channel that child toward some group or organization that will bring the child in, embrace the child with a notion that the child has a stake in the community and the community cares? I think this budget is draconian with respect to those efforts. I am not sure how in the next days, given the choices we have, we are going to fix it.

Mr. President, none of what I am saying should be interpreted to mask over the deficit that we do face on the fiscal side. I am prepared to make tough choices about cuts that we ought to make and even reordering priorities to try to balance the budget, which I think we ought to do. But nobody has ever convinced me of why we absolutely have to do that in 6 years versus 8 or versus 10 years. Nobody has convinced me that there is some economic virtue in picking a target date that is so arbitrary that may wind up cutting capacity to meet other needs that we have.

One other point, Mr. President. Increasingly in America, we are seeing the cash economy of this country grow. It is now, I am told, about a $600 billion economy. That means that we are losing annually about $100 billion of revenue because people just choose not to pay taxes. In fact, as a nation, we have gone from voluntary compliance in our income tax of 96 percent down to 81 percent. Each loss of a point of voluntary compliance is the loss of $5 billion of revenue. So your good taxpaying, hard-working family that is earning $25,000, $30,000 a year and paying their taxes is slugging it out to make ends meet, to pay for fire, police, schools, roads, everything we do, while an increasing number of American citizens are getting away with not paying their taxes.

We have a choice. I read in the newspaper the other day that we are going to have a new thing called a lifestyle audit, and people in America are now going to be able to anticipate the IRS jumping into their driveways and asking them why there is a certain kind of car in their driveway, how they manage to go ski somewhere, what their vacation style is, why they eat at certain restaurants, and that is the way we are going to supposedly enforce the Tax Code. I do not think Americans are going to tolerate an IRS gestapo-like entity of people intrusively moving into their lives.

So, Mr. President, if we are really going to make this system work and recapture that cash economy, we have to talk about changing the tax structure of this country and moving away from a dependency on income and into consumption where it is the only place that you can begin to shift to a reflection of what the cash transaction is while simultaneously, I think, increasing people's savings and moving in a new direction.

Mr. President, I see that the manager of the bill is on his feet. If he has an amendment, I am prepared to conclude.

Mr. CHAFEE. Yes, Mr. President, we have a couple of amendments we would like to have accepted, then the Senator is free to continue.

Mr. KERRY. Mr. President, what I would like to do—the Senator from Wisconsin has been waiting patiently. I talked longer than I told him I intended to—I will just conclude my comments. I will have more to say on this in the course of the next weeks. But I believe we are at a crossroads, and I think that the choices that I have outlined are only a few of the choices. But we cannot look at the needs of this country exclusively in terms of an arbitrary approach to the deficit reduction. We have to look at the other two deficits that the Nation faces.

There is such a thing as investment, and there is such a thing as a return on investment, and there is such a thing as multiples of return on investment. I think that most people in the Senate understand that. The question is whether or not we are going to make those wise judgments.

I thank my colleague from Wisconsin for his patience, and I thank the distinguished managers for their courtesy. I yield the floor.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 1072

(Purpose: To require the Administrator of the Environmental Protection Agency to conduct a study to determine the quantity of hazardous waste that is being transported across State lines and the ultimate disposition of the transported waste)

Mr. CHAFEE. Mr. President, I send an amendment to the desk on behalf of Senator BREAUX and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. BREAUX, proposes an amendment numbered 1072.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . STUDY OF INTERSTATE HAZARDOUS WASTE TRANSPORT.

(a) DEFINITION OF HAZARDOUS WASTE.—In this section, the term "hazardous waste" has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

(1) the quantity of hazardous waste that is being transported across State lines; and

(2) the ultimate disposition of the transported waste.

Mr. BAUCUS. Mr. President, we have examined the amendment and find it acceptable.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1072) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1073

(Purpose: To require the Administrator of the Environmental Protection Agency to conduct a study to determine the quantity of sludge (including sewage sludge) that is being transported across State lines and the ultimate disposition of the transported sludge)

Mr. CHAFEE. Mr. President, I send an amendment to the desk on behalf of Senator BREAUX and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. BREAUX, proposes an amendment numbered 1073.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . STUDY OF INTERSTATE SLUDGE TRANSPORT.

(a) DEFINITIONS.—In this section:

(1) SEWAGE SLUDGE.—The term "sewage sludge"—

(A) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

(B) includes—

(i) domestic septage;

(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

(iii) material derived from sewage sludge (as otherwise defined in this paragraph); but

(C) does not include—

(i) ash generated during the firing of sewage sludge (as otherwise defined in this paragraph) in a sewage sludge incinerator; or

(ii) grit or screenings generated during preliminary treatment of domestic sewage in a treatment works.

(2) SLUDGE.—The term "sludge" has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

(1) the quantity of sludge (including sewage sludge) that is being transported across State lines; and

(2) the ultimate disposition of the transported sludge.

Mr. BAUCUS. Mr. President, this amendment also is acceptable.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1073) was agreed to.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RESOLUTION AND MEDICARE

Mr. FEINGOLD. Mr. President, I appreciate the comments of the junior Senator from Massachusetts with regard to the question of including the Presidential checkoff for campaigns in the budget resolution. It is an important program for our elections being free and fair in this country, and it does not belong in the budget resolution. I intend to comment on that more as we get into the budget resolution itself. I am grateful to the junior Senator from Massachusetts for those remarks and for his constant dedication to try to do something about this really awful system of financing campaigns that we have in this country.

Mr. President, I rise at this time to offer a few comments on the debate that really does belong as part of the budget resolution, and that is the debate that has been taking place about Medicare. I would like to share my own perspective on the direction we ought to pursue.

As we consider the budget resolution, presumably starting next week, this will be one of the two or three most central issues that we debate. As the Senator from Nebraska [Mr. KERREY] noted on the floor last week, the Medicare debate has been obviously politicized in quick order. That should not surprise us given the nature of the program and especially how it is viewed by millions of Americans. It is a valued program. The presence of the White House Conference on Aging last week certainly had an impact on what was said, and said by Members of both parties.

Mr. President, the White House conference also gave me an opportunity—a great opportunity—to talk to many of the leading aging activists from Wisconsin on the issue. I found their thoughts interesting. I think Wisconsin has one of the best groups of advocates for sound and compassionate policies for the elderly in the country. They always give the straight view. They tell me not only what is good for the elderly but what is good for society as a whole, including their children and grandchildren.

In a meeting I had with most of the Wisconsin delegates to the White House Conference on Aging, there was a clear consensus that some changes do need to be made to Medicare. But there was also agreement, Mr. President, that those changes to Medicare have to be done in a certain way. We need to "cut smart," not "cut mean," as we look to keep the Medicare hospital insurance fund solvent and reduce the pressure on the Federal deficit.

It bears emphasizing that there are these two features with respect to the Medicare problem—both the solvency of Medicare and the impact of Medicare on the Federal budget deficit.

As every Medicare beneficiary knows, there are two parts to Medicare called part A and part B. Part A is what is formally known as hospital insurance. It pays some of the costs of hospitalization, certain related inpatient care, as well as skilled nursing facility care and home health care. I should add—and I have always been somewhat distressed by this—it does not cover chronic or long-term care in that part of the program. Other than copayments and deductibles, part A services are paid from the hospital insurance trust fund, which itself is funded from payroll taxes.

Mr. President, it is this hospital insurance trust fund that is in jeopardy, and it is expected to be insolvent by the year 2002. The other part of the program, part B, is the supplementary medical insurance program that covers doctors' fees, most outpatient, and some other related services. Part B is partially funded by the monthly premiums that beneficiaries pay, but most of the part B program is funded from the Federal budget.

Mr. President, some are characterizing the cuts they expect to propose to Medicare as being needed to keep Medicare solvent. That portrayal is entirely misleading, as, of course, it is meant to be; for though some changes are needed to keep the hospital insurance fund solvent, that trust fund is not the whole story. Medicare is also slated for cuts as part of the broader effort to reduce the deficit, possibly leading to a balanced budget.

So let us be clear within this body and to all Americans, the goal here of those who want to cut Medicare drastically is not just to make the fund solvent, they want to use a lot of those billions of dollars to deal with our national deficit problem.

Mr. President, I make this point because I fear that the political spin doctors who have chosen to depict Medicare cuts as being apart and separate from the rest of the budget are really doing a great disservice to the cause of deficit reduction itself. And there is no other issue I care more about or work harder on than reducing the Federal deficit.

In an effort to minimize the political fallout that surely will come from cuts to Medicare, I fear they may undermine any chance for a real budget package that will achieve the consensus it must have if we are going to make the politically tough decisions needed to actually balance the Federal budget.

Mr. President, my message is that we have to be honest with the American people on what is really going on with Medicare. Medicare clearly does have an impact on the budget. Part of the reason cuts are being proposed in that area does stem from our Federal budget deficit, and rightly so. Medicare does have to be on the table as we look at the budget. I will say, Mr. President, Medicare is not Social Security. It has to be considered along with other areas of Federal spending. In fact, I have sponsored legislation that has included some specific, targeted Medicare cuts.

Medicare cuts were part of the 82-point plan to reduce the Federal deficit that I used and created during my campaign for the U.S. Senate in 1992.

More importantly, I have voted for legislation that contained significant, but specific, targeted cuts to Medicare twice during the 103d Congress. The reconciliation legislation we passed as part of the President's deficit-reduction package included nearly $60 billion in Medicare cuts. This is not some new idea. It is not as if Medicare has not already, in effect, given at the office. It has already been hit to the tune of $60 billion just 2 years ago.

Mr. President, I also voted for, and was pleased to be a cosponsor of, the bipartisan Kerrey-Brown deficit reduction package. It also included significant, specific Medicare cuts on top of the $60 billion that was included in the President's deficit reduction package.

Yes, Mr. President, I am willing again to vote for certain Medicare cuts if they are appropriate and do not cut at the heart of the health care of the people who need Medicare.

But while Medicare needs to be on the table as we search for ways to reduce the deficit, we have to ensure that any changes make sense both within the context of the Medicare program itself and in the broader context of our entire Federal budget. For just as Medicare clearly has an impact on the Federal deficit, Medicare beneficiaries and Medicare providers should not be asked to fund other political or policy priorities apart from the goal of reducing the Federal deficit.

So I am concerned, Mr. President, that those who argue the loudest for a balanced budget tend to be the people who are the first to demand massive tax cuts and not decreases but increases in Federal spending. I do not think the use of Medicare cuts to do those two things is appropriate in the context of this budget resolution.

Mr. President, I want to be one of the people on this floor to say that neither political party is blameless in this regard. Both Republicans and Democrats have argued for increased defense spending and for tax cuts at the same time they are out here promising a balanced budget and saying that their top priority is a balanced budget amendment.

We cannot argue that changes to Medicare are needed to lower the deficit and then devote our very scarce resources to tax cuts and defense increases.

Again, Mr. President, I am willing to support certain further cuts to Medicare to bring the Medicare trust fund into balance, and even, where appropriate, to help reduce the Federal budget deficit.

That is not something I would say about Social Security. I will say it about Medicare. I am not willing to support cuts to Medicare, however, to fund an irresponsible tax cut and increase our bloated defense budget.

Looking to the Medicare Program for cuts will be hard enough. It would be far better to be making changes to Medicare as part of comprehensive health care reform. In my view, Mr. President, that would be my first choice as the health care reform debate illustrated powerfully last year.

The cost-shifting takes place because of Medicare, and Medicare mushrooms health care costs. Making changes to Medicare unilaterally as we apparently will do in this budget this year, outside of comprehensive reforms to the entire health care system, I am afraid invites even more of the cost-shifting.

I am afraid, though, Mr. President, to be realistic, there is no sign that comprehensive health care reform will be before the Senate in the 104th Congress. That complicates the job of finding savings in Medicare and limits what to expect in the way of potential savings.

Nevertheless, Mr. President, I want to say today and be specific that there are changes in Medicare that can and should be made. For example, we could consider making some changes to the Medicare home health care benefit.

For example, I am willing to consider requiring a modest copayment on those home health services as long as adequate provision is made for those with lower incomes. Proposals I have seen for 20 percent copayment may be too high. Maybe they are looking at a 5-or-10-percent copayment, making sure that those who cannot afford it are taken care of. It could at least be on the table.

Moreover, Mr. President—again to be specific, not just talking in the abstract about Medicare cuts—let me acknowledge that some have suggested that we might move to have a prospective payment system for home health care providers under which Medicare would reimburse services on a per episode basis. Some say that would not harm people and would be more efficient and save money. Given the dramatic rise in the number of visits per person served on the Medicare home health benefit in recent years, such a change might make sense. It certainly is something we should examine.

Mr. President, I want to also remind my colleagues that a great deal of the increase in the utilization we see in the Medicare home health care benefit has been the direct result of previous policy changes to Medicare that were also supposed to create savings. It did not work that way, in part, because of changes to Medicare patients who are being discharged from hospitals quicker and sicker than they used to be. In many cases, Medicare policies have just moved the site of care from the hospital to the home, with the resulting increase in home health care benefit utilization.

I am pleased that much of the care can be given in the home, but we have to be realistic about the cause and effect resulting from Medicare changes. It should serve as a caution to all as we seek to find savings in Medicare, we should not just make a cut here and find out we are paying the same or more through Medicare at another location. That does not accomplish anything either for Medicare, the people who benefit from it, or for the goal of reducing the Federal deficit.

Mr. President, in other areas there may again be more room for modifications, to the way, for example, we make payments to hospitals for capital-related costs of inpatient service. Some have argued that those capital-related rates reflect erroneous inflation forecasts, and adjustments ought to be made to account for the errors.

This sounds like the kind of specific cut in Medicare that does not go to the heart of Medicare, does not harm the individual's ability to get the care they need, but the inefficiency and excesses of the way the system is set up. These should be at the top of our list, not at the bottom.

During last year's health care reform debate, this kind of modification was considered. I think it deserves review again.

Mr. President, one change that must be a high priority also, is to ask wealthier beneficiaries to shoulder more of the cost of part B services, relieving taxpayers of some of the subsidy they are now providing, which amounts to about 75 percent of the full value of the Medicare part B premium.

I proposed that in 1992 as part of my deficit reduction proposal, and I recall the comments made by the majority leader that those with higher incomes ought to be asked to pay a little more for part B services. So that should be on the table.

We should also consider making changes to eliminate so-called formula-driven overpayments for hospital outpatient services. The Medicare part B copayment of 20 percent is intended to lower the cost of Medicare to taxpayers on a dollar-for-dollar basis. For every dollar of copayment made by a beneficiary, Medicare's own liability is supposed to drop by $1. It is my understanding there are anomalies in the Medicare reimbursement formula for certain outpatient hospital service. The result, Mr. President, is that the liability to Medicare is just greater than it should be.

So we are talking here about real ways to save dollars to achieve our deficit reduction goals without scaring the people in this country who need the basic Medicare services, like the possible changes to inpatient capital-related payment rates. This matter was debated during the health care reform debate last session. We did not get it done. We did not get these cuts implemented. We could be getting the benefit and savings of those today if we had acted then instead of waiting until now.

Some suggested we change the formula-driven overpayments. Again, I want the specific ideas on the table for the people of this Congress and for the whole country to examine.

Mr. President, I am willing to consider proposals that provide incentives to seniors to select managed care alternatives. There are other changes that I would certainly be willing to consider.

Mr. President, I do want to say a few other things about changes that do not make sense. Some we should not be doing. For example, shifting Medicare costs on the backs of those with very low income not only unfairly burdens those least able to bear additional costs, but, again, to the extent it swells Medicaid costs, all it will do is transfer the tax burden from the Federal taxpayers to the State taxpayers.

Of course, that is a convenient result for our Federal budget writers, but not an improvement for the taxpayers back home in Wisconsin or Minnesota.

Mr. President, I mentioned the Kerrey-Brown package as legislation which I supported and which also contains specific and significant Medicare cuts. As I have noted before on this floor, the process, Mr. President, the process by which Senator KERREY of Nebraska and Senator BROWN of Colorado and others put together this package was, to me, a model of bipartisan cooperation.

We did not hear much about it during the 1994 campaign. People assumed that everything that happens out here is partisan. But that is not what I have found. There are people in this body who do want to get together on a bipartisan basis to solve the deficit problem. They have done it. They have put a lot of time into it. They are willing to do it again.

For my part, I came away from that process greatly encouraged that there were Senators on both sides of the aisle who were willing to band together to find some common ground in reducing the deficit, even if it meant bucking the partisan political rhetoric of their respective parties.

Mr. President, I believe that in this 104th Congress we can achieve that kind of bipartisanship again, and I want to signal today as we move into next week of the budget resolution, that I am not only ready but very eager to participate in that bipartisan effort. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAMS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent to be allowed to go forward as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING A COURAGEOUS YOUNG GIRL, AND CARING COMMUNITY

Mr. KEMPTHORNE. Mr. President, I would like to spend just a moment talking about a courageous young girl in my hometown of Boise, ID.

Nine-year-old Susie Hamilton, a bright, vivacious, and loving girl suffers from a rare and deadly form of leukemia. She has been in and out of hospitals in Boise, Salt Lake City, and Seattle for the past 8 months. A bone marrow transplant is her last hope for life.

Mr. President, Susie is blessed with two outstanding parents who are leaders in the community. Her father, Steve, is a Boise Fire Department battalion chief, dedicated to saving lives. I have worked with him personally on a variety of projects. Her mother, Becky, works at Boise Cascade Corp. Both have spent many long hours away from their jobs to tend to Susie's needs.

There have been some rough times for Susie, Steve, and Becky. I would like to read from a newspaper column by Tim Woodward in the Idaho Statesman, who wrote about this family:

> Leukemia alone is bad enough, but there were other heartbreaks. When a match was found for a donor after hundreds of tests, the donor turned out to have hepatitis. Susie got it through a transfusion. Last month, she had to have a lung removed. When a doctor praised her courage, she whispered, "What choice, do I have? I want to live."

The community has responded, raising over $12,000 to offset medical bills. Today there is a silent auction at Susie's school to raise money. Boise firefighters have switched shifts so Steve can spend time with Susie. Boise Cascade has given Becky as much time off as she needs, and has even given the family use of the corporate jet to fly to Seattle.

This ribbon I am wearing, Mr. President, is just one more sign of the community's willingness to rally around their neighbor. Members of the police and fire departments, sheriff's department, workers at Boise Cascade, Susie's classmates and teachers, employees at city hall, and others in Boise are wearing these ribbons to show their support for the family.

I would like to read this letter I just received from Susie's grandmother, Barbara Dennett:

> My Granddaughter, Susie, was diagnosed with adult leukemia in October of 1994 and since then has endured prolonged hospitalization for chemotherapy and several surgery's in Salt Lake. Susie is now in Seattle undergoing preparations for a bone-marrow transplant. This is her only chance to overcome the leukemia—her only hope for survival.
>
> After searching for 8 months for a bone marrow match, isn't it ironic that on this 50th anniversary of World War II's death and horror, a German soldier will be the donor to save the life of a little 9 year old girl in America. I believe this to be a noteworthy occasion.
>
> This soldier was scheduled to go out on maneuvers, which would delay the bone marrow transplant 15 more days, but chose to make himself available for the draw instead stating he did not wish for her to suffer a minute longer than necessary. His bone marrow will be hand delivered from Germany to Seattle. Hand carried, the transplant will begin the minute it arrives.
>
> Thank you for your time and consideration in seeing that President Clinton receives this information. When I told Susie, that every one was praying for her all over the world, she ask "even the President of the United States?" How could I answer with anything other than "yes, even the President". A card or call from him would go a long way in helping her believe that we are all telling her the truth when we say that there is always hope that she will be well again and a bright future lies ahead.

Mr. President, I ask unanimous consent to enter this letter into the RECORD. I also ask unanimous consent that the newspaper article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPECIAL 9-YEAR-OLD TOUCHES A CITY'S HEART

(By Tim Woodward)

If you've seen a Boise firefighter lately, you may have noticed he was wearing a purple ribbon on his uniform.

They're wearing purple at City Hall, too. The mayor, city council members and other office workers all have purple ribbons pinned to their clothing.

Purple ribbons dot lapels at the Boise Cascade Corp., the Ada County Sheriff's Department, Life Care Center, hospitals, doctors' offices, Highlands School.

The ribbons are symbols of support for a kid who has had more bad luck than any 9-year-old deserves. Susie Hamilton has a rare and deadly form of leukemia. She has been out of hospitals nine days in the past eight months. A bone marrow transplant is her last hope for life.

Steve Hamilton, Susie's father, is a battalion chief with the Boise Fire Department. Hamilton has dedicated his life to saving lives. Now his fellow firefighters are helping him in the fight to save his daughter's life.

When Susie got sick, the firefighters donated shifts so her father could be with her. When she needed a marrow donor, the firefighters raised $4,000 and added 527 names to the donor registry.

Susie's mother, Becky Hamilton, works at Boise Cascade. The company not only extended her leave time, it flew the family to Seattle in a corporate jet when Susie needed to see a specialist there.

On May 12, the fire department, Boise Cascade employees, the sheriff's department, Highlands School and civic groups will sponsor a silent auction to raise money for medical expenses. Businesses have donated raft trips, airplane rides, bicycles and other prizes. The auction will be at Highlands, Susie's school.

"Everywhere we go, whether it's the hospital in Salt Lake or the one in Seattle, the people we work with are just amazed at the support network we have in Boise," Steve Hamilton said. "They say it's unheard of in this day and age to have that kind of community involvement."

So far, Boiseans have donated more than $12,000 to the Susie Hamilton Leukemia Account (200 N. 4th St. Boise, ID 83702). Velma Morrison dropped by last week with a check for $2,500.

One of Susie's grandmothers helped her write a children's book. "Lillie the Laughing Giraffe Loses Her Spots and That's No Laughing Matter" will go on sale May 12. Boise's Legendary Publishing Co. donated its services. All of the proceeds will be used for Susie's medical expenses.

"Boise is known as the City of Trees, but to me it's the city of love," Susie said. ". . . I've learned a lot about love and friendship and caring since I got sick. I want to thank everyone who has helped me—my friends, my family and people I'll never get a chance to meet."

Leukemia alone is bad enough, but there were other heartbreaks. When a match was found for a donor after hundreds of tests, the donor turned out to have hepatitis. Susie got it through a transfusion.

Last month, she had to have a lung removed. When a doctor praised her courage, she whispered, "What choice do I have? I want to live."

The search for a donor was worldwide. The winner: a soldier in the German army. The transplant will be May 10, in Seattle.

Hundreds of people will be thinking about a brave little girl that day.

They'll be saying prayers, wearing purple ribbons, hoping a miracle will save a life that has touched a city's heart.

Mr. KEMPTHORNE. I have good news today, Mr. President. Susie Hamilton underwent 15 hours of surgery yesterday at the Fred Hutchinson Cancer Center in Seattle, receiving the bone marrow from that German soldier. I am pleased to say early reports are positive, and the prognosis is good.

Mr. President, I will be sending a ribbon just like this to the White House today so that President Clinton can affirm to Susie through correspondence that everyone is praying for her speedy and thorough recovery so that we can all affirm that there is always hope where there is prayer, and that truly people all over the world are praying for Susie, and to acknowledge the support of the community of Boise and all of Susie's friends as they rally around a neighbor, which I think is the spirit that does bring about not only hope but the positive results that we want.

Mr. President, I thank you. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I further ask unanimous consent that I might proceed now as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

VICTIMS' RIGHTS

Mr. DEWINE. Mr. President, today, I want to continue my discussion on the crime bill that I intend to introduce in the Senate next week.

As I have pointed out in previous speeches on this issue, there are really two fundamental issues that we always need to address when we look at the question of a crime bill, when we look at whether it is a good crime bill or whether it is not, when we look at whether it gets the job done or not. The first question is: What is the proper role of the Federal Government in fighting crime in this country, understanding that 90 to 95 percent of all criminal prosecution is not done at the Federal level, but rather done at the local level, the State level, the county level? What is the role of the Federal Government?

The second question we always have to ask is, despite all the rhetoric: What really works in the area of law enforcement? What really matters? And, conversely, what does not matter?

On Wednesday of this week, I discussed these issues with specific reference to crimefighting technology. The conclusion I reached was that we have an outstanding technological base in this country that will do a great deal to help us catch criminals.

Mr. President, technology does, in fact, matter.

However, we do need the Federal Government to be more proactive in this area, more proactive in getting the States on line with this technology and giving the States the assets they need to get that job done.

Having a terrific national criminal records system or huge DNA data base for convicted sex offenders in Washington, DC, is great—but it will not do much good for the police officer in Lucas County, Hamilton County, and Franklin County, OH, or if other jurisdictions across this country cannot tap into it, cannot get the information out or, conversely, cannot put the information in.

Mr. President, crime occurs locally. So we have to make sure the crimefighting resources—such as high-tech data bases—are, in fact, available to local law enforcement. And one of the principal provisions of the bill that I will introduce next week does just that, drives that home to the thousands, tens of thousands of local law enforcement agencies scattered throughout our 50 States.

Mr. President, on Thursday of this week, I discussed a second issue—what we have to do to get armed career criminals off our streets. At that time, I talked specifically about a program called Project Triggerlock that targeted gun criminals for Federal prosecution.

Mr. President, Project Triggerlock worked. It got 15,000—15,000—armed career criminals off the streets in just 18 months. But, incredibly, the Clinton administration abolished this program. My legislation, Mr. President, would bring back Project Triggerlock, and toughen the laws on gun crimes in many other significant ways. It is clear, if we are going to be tough on crime and do things that really matter, we have to get armed career criminals off our streets.

Today, I would like to turn to a third provision of my crime bill, a third issue, and it is an issue that is near and dear to my heart as a former county prosecuting attorney, and that is the people that we many times forget in our criminal justice system, the victims of crime.

Today, I would like to talk about that component of my crime legislation. I would like to discuss some of the measures I think we ought to take in the area of victims' rights.

The late Hubert Humphrey said, in a much admired and much quoted comment:

> The moral test of Government is how that Government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy, and the handicapped.

What the former Vice President and former U.S. Senator said, what he was talking about was the fundamental role of Government to protect the weak, to protect those citizens who could not protect themselves. That is why, I submit, Mr. President, I think victims of crime belong on that list, as well.

For too long, victims have been forgotten by our judicial system. From start to finish, the legal system can be a terrible ordeal for the victims—a bureaucratic nightmare that seems to and, in fact, does many times, go on and on and on.

In our Constitution, we have all kinds of protections for the rights of defendants, as well we should. We try to make sure that they have every possible chance—and that is good—because we do not know if the defendants are guilty. We want to know if they have justice. That is why we bend over backward to be fair to anyone accused of crime.

Mr. President, in the process, I believe that many times we have forgotten the victims of crime.

Over the last few decades, we have made some progress in this area. We have made some progress in recognizing the rights of victims. When I was a county prosecutor in the 1970's, I saw too many crime victims, people who had already been hurt, hurt a second time by a callous legal system. That is why I did everything that I could to protect the rights of those victims.

Today, the legal process, in spite of changes, in spite of reforms, in spite of progress that we have made, is still too brutal on the victims. Our bottom line has to be this: To be victimized once by a crime is already once too often. To be victimized yet again by an uncaring judicial system is totally, totally unacceptable.

There are some measures we should take as part of this year's crime legislation to continue the process of making the legal system treat crime victims with greater fairness and with greater consideration. Let me talk about a few of these.

No. 1, let us make sure that crime does not pay. Today, a Federal trial court may—may—order restitution for crimes. I think that in every case they should order restitution for crimes. I think we should mandate full restitution in all Federal criminal cases.

No. 2, let us stop the brutalization of victims in our courts. Under current law, lawyers are not allowed to present evidence that they know is false. That is a basic tenet of judicial ethics for lawyers. Every law student learns that early on. But what defense lawyers can do under our current system is this: If they have a crime victim on the stand, a crime victim whom they know is telling the truth, defense lawyers are still allowed to make it look like that witness is lying. Defense lawyers can do this even though they know the witness is telling the truth. My legislation would prohibit this practice.

No. 3, let us make the trial process more fair to the victims. Under the Constitution, a defendant has the right, if he so chooses, not to testify in his own defense. This is a very important constitutional right. It is imperative that we always protect this. This right has a consequence, a consequence that is both unintended and, I submit, undesirable.

There are cases in which the defense team decides not to put the defendant on the stand, which is fine, and then, though, attacks the victim's character and the victim when that victim, himself or herself, takes the stand and testifies. In effect, the defense lawyers put the victim on trial while at the same time being able to shield the defendant from questions about that defendant's own character.

I think it is time to end the free ride for these defendants. Let us simply say to the defendants and let us say to the defendants' lawyers this: If you, the accused or a lawyer, want to attack the character of a victim, then you can expect the prosecutor to call your character into question. It is only fair. It is only right. It is only just.

No. 4, let us make people who are accused of sexual assault be tested for HIV. If you, or one of your loved ones, was the victim of a sexual assault today, it is very difficult to find out if the attacker has HIV, and in today's society, is that not something that the victim should know? Is that not something that the court system should help the victim to determine?

Last year, the Senate version of the crime bill did have a provision mandating HIV testing of persons arrested for sexual assault. The Clinton administration supported this provision. But in the other body, for some reason, it was dropped.

My legislation would change that. My legislation would put that back in. My legislation would force the HIV testing of these defendants and the disclosure of the testing results to the victims of crime.

No. 5, a fifth way to make our system more fair and more just to the victims of crime, let us make the jury, the whole jury system, a level playing field. The O.J. Simpson trial has focused America's attention on the process of the selection of a jury. How do we make sure that the jury is a fair panel?

Mr. President, under today's Federal laws, prosecutors can challenge six potential jurors without giving cause, what in the courtroom they call "cause." Six jurors can be knocked off without giving any reason. Defense lawyers, however, can challenge 10 without giving a reason. These are called generally peremptory challenges where each side can excuse a juror without giving a reason.

I think that we should give victims an impartial trial, jury, and a fair shake. To do that, I think we need to give both the prosecution and the defense simply the same number of peremptory challenges. It only seems right, and it only seems fair.

Mr. President, all the provisions I have discussed today to protect victims have a common theme. In our judicial system, we cannot condone the revictimization of crime victims. Our system is and must be impartial. It must be impartial between the prosecution and the defense, all the while recognizing the presumption of innocence on behalf of the defendant.

There is no reason that the presumption of the defendant's innocence should be construed in such a way that it condones heartless treatment of crime victims. The criminal law embodies some of the truly fundamental values of our society. One of these values is that we should console those who have been hurt. We should not victimize them further.

A number of years ago when I was a county prosecuting attorney, I would see the victims of murder and other violent crimes. I would interview people who had been abused, assaulted, and raped. I learned a lot from talking to these innocent people. I learned that we have to make the crime victim a full participant, not a forgotten person, in the criminal justice system.

The proposals I have just outlined would help us make some progress in turning the criminal justice system into a more victim-friendly enterprise. It is long past time that we stop treating the victims like they are criminals and the criminals like they are victims.

My legislation is an attempt to move the concerns of crime victims toward center stage in our Federal criminal justice policy.

Next week, I will continue my series of speeches on the crime bill that I intend to introduce next week. On Monday, I will explain what I think we ought to do to get more police officers on the streets, particularly to get more police officers on the streets where the crime is the highest, because if there is one thing that we know, it is this: Law enforcement officers who are well trained and who are deployed correctly on our streets will, in fact, reduce crime. That is a fact. That is the truth. I will talk more about this next week.

Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

MORATORIUM ON REGULATIONS

Mr. CHAFEE. Mr. President, in March of this year, just 2 months ago, this Senate considered a bill that would have imposed an across-the-board moratorium on the issuance of new major regulations. That across-the-board moratorium would have extended from last November's election up until the end of this year, the end of 1995. It would have encompassed all of 1995 and the last several months of 1994.

That bill came up before the Senate, and it was overwhelmingly rejected by this Senate. Instead, on this across-the-board moratorium, the Senate adopted a substitute amendment which was offered by the Senator from Oklahoma and the Senator from Nevada. And that provided for a 45-day review of major new rules coming up before the new rules by the Congress. This 45-day review was agreed to by this Senate 100–0. Any time you can get a vote of 100–0, it is considered favorable; overwhelming is an understatement.

Before that bill was sent over to the House and to the conference of House and Senate Members, many of us here in the Senate made clear that if the conference report came back with an across-the-board moratorium, we would oppose it. We do not want these across the board moratoriums. We wanted the situation that was proposed by the Senator from Oklahoma which, principally, was for a 45-day review.

I want the Senate to know, as I indicated during the earlier debate, that I will oppose the conference report if it includes provisions of the type that I outlined, namely the restoration of these broad moratoriums that this bill had.

Now, yesterday, a Member of the House released a list of the rules that they have targeted in the House. They are not satisfied with a 45-day review.

They have targeted some 30 rules—12 of them are EPA rules; 4 of them are worker safety rules to be issued by OSHA; 10 of the rules relate to food and drug safety. Almost all of the rules on the list that are targeted by the House are there to protect public health, worker safety, and the environment.

I notice that the occupant of the chair is the distinguished Senator from Minnesota. One of the rules that is targeted deals with the Great Lakes clean water quality guidance. I do not know the position of the occupant of the Chair on this. I suspect that most of the Senators from those States—Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin—are interested in the quality of the water in those Great Lakes.

The EPA has proposed an initiative dealing with that situation. The EPA has estimated a proposal that could cost from $80 to $500 million annually. This has to do with the cleanliness of those lakes. This is one of the rules that has been targeted by the House Members, one that would be subject to an extensive moratorium.

There are a host of others, Mr. President. One of them I will describe. It is a rule promulgated under the Safe Drinking Water Act. It would reduce the levels of so-called disinfection byproducts in drinking water. These are the chemicals that form when water is chlorinated, as is done in most communities. It is chlorinated to kill bacteria and other organisms. The chlorine, in some instances, combines with other substances in the water to form new chemicals, such as chloroform, that may cause significant cancer risks for those using the water.

A recent article in the American Journal of Public Health indicated that up to 10,000—not 1,000, but 10,000—cases of cancer per year may be attributable to these chemicals in our water. EPA has been working on a rule to reduce this health risk.

Did EPA just conceive this rule as a bunch of bureaucrats sitting down at EPA headquarters? This is what they did. They convened a regulatory negotiation involving all of the parties that had an interest. The drinking water suppliers, the States, the cities, public health organizations—a very broad group worked for 2 years on this rule. With one exception, this broad range of interests all signed an agreement at the end of the process supporting the proposed rule. The proposed rule reflects a significant consensus across virtually the entire community of interests involved in drinking water. Now, under the House proposal this would be targeted; it would be suspended, you could not have the rule. You could not have the rule until some indefinite period—until certainly perhaps the end of this calendar year, and probably into the future likewise. Why should they do that? I am opposed to that type of action by the House of Representatives.

A second item on the list is a petition that EPA approved last December. It was a petition submitted by 13 States from the northeast—my State involved likewise—asking that cars with pollution controls such as those used in California also be sold in the Northeast to reduce our air pollution problems. This was not an EPA proposal. In fact, EPA was reluctant to approve this petition. It was required by the Clean Air Act because 13 States had made the request.

I was under the impression that many of those who support these regulatory reform efforts want to return more responsibility to the States. They say, "We believe in the States and States rights." Here we have a proposal that was made by the States that is targeted on this House list as being suspended.

Now, a third item on this list is the Federal implementation plan for California that was promulgated in February. EPA was ordered by the courts to produce this plan when California failed to come up with its own program. The EPA program has been controversial in California and Governor Wilson has asked that it be suspended. And this list would target it for suspension.

But this EPA clean air plan for California has already been overturned. The supplemental appropriation for the Defense Department enacted earlier this year already repealed the California plan, including this item on this list of 30 rules to be killed must be an error, because Congress has already acted to repeal this rule. I bring this item to the attention of the Senate to make that point. Where specific measures, including rules that are required by the courts because of laws enacted by the Congress, go too far, we should take action to correct the excess. We have done that in several cases. We do not need an across-the-board moratorium, as mandated by the House in the legislation it passed and suggested for this conference.

Another item on this list is also from the Clean Air Act. It is the employee trip reduction program that requires large employers in most severe nonattainment areas to work with their employees to reduce the number of vehicle trips each day. In other words, this is a way, in nonattainment areas of the country where they have not attained the clean air requirements, goals, that large employers would work with their employees to reduce the number of vehicle trips. Six hundred employees, six hundred cars—is that necessary, or is there another way of doing it? EPA has not issued, nor is it about to, any rule implementing this requirement of the act. So there is no rule to suspend.

This is a requirement of the Clean Air Act that guides States in the development of their own implementation plans. It is carried out by the States without Federal regulation. This is an example where a mechanism called a regulatory moratorium, such as the House is suggesting, is being used to reach into the Clean Air Act and knock out a specific policy that some in the House apparently do not like.

I am not here to defend the employee trip reduction program. In fact, earlier this year I asked EPA Administrator Carol Browner to look for other approaches to the problem of the increasing number of vehicle trips and miles that are traveled that we might substitute for this measure in the Clean Air Act. I am not arguing policy grounds one way or the other. My point is that in the guise of regulatory moratorium, some in the House are seeking to repeal the provision of the Clean Air Act that is not even implemented through Federal rulemaking. This proposal is not to freeze a rule. There is no rule to freeze. This is a proposal to change the law.

This list reflects an attack on 30 specific policies that some Members of the House would like to see reversed. These policies are intended to protect public health, worker safety, and the environment. I am familiar with the rules on the list that would come from EPA. They cannot be characterized as rules written by out-of-control bureaucrats without regard for cost or risk reduction. To the extent that rulemakings are actually involved, they have all been subject to cost-benefit analysis under existing regulatory review requirements. In some cases the rules have either been painstakingly developed in consultation with State or local governments are actually written by the States themselves.

Mr. President, the House is no longer proposing a regulatory moratorium. What we have here is a fishing expedition. They have thrown out a long list of policies they want killed to see how many the Senate will take in the name of compromise to get a bill. I hope our Senate conferees will not engage the House in this discussion.

Mr. President, the Senate voted overwhelmingly to reject an across-the-board moratorium on new rules. I trust the Senate conferees will not allow the conference to produce a bill that makes 30 specific changes in law without hearings, without debate in either body on the specific policies, and without the opportunity for Members to exercise their rights to offer amendments and have votes on the substantive questions at stake. That would be an extraordinary abuse of the standards that are to be observed by a conference committee between the House and the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEWINE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous-consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, let me state to my colleagues who are wondering about votes today, we believe we may have a unanimous-consent agreement. If it is approved, there will be no additional votes today. We should have word on that, hopefully, in the next few minutes. I know many of my colleagues have other things to do so we will try to keep everybody apprised.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1074

(Purpose: To promote local and regional planning for effective solid waste collection and disposal and for reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies)

Mr. CHAFEE. Mr. President, I send an amendment to the desk on behalf of Senator MCCONNELL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. MCCONNELL, proposes an amendment numbered 1074.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following:

TITLE —STATE OR REGIONAL SOLID WASTE PLANS

SEC. 01. FINDING.

Section 1002(a) of the Solid Waste Disposal Act (42 U.S.C. 6901(a)) is amended—

(1) by striking the period at the end of paragraph (4) and inserting "; and"; and

(2) by adding at the end the following:

"(5) that the Nation's improved standard of living has resulted in an increase in the amount of solid waste generated per capita, and the Nation has not given adequate consideration to solid waste reduction strategies.".

SEC. 02. OBJECTIVE OF SOLID WASTE DISPOSAL ACT.

Section 1003(a) of the Solid Waste Disposal Act (42 U.S.C. 6902(a)) is amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by adding at the end the following:

"(12) promoting local and regional planning for—

"(A) effective solid waste collection and disposal; and

"(B) reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies.".

SEC. 03. NATIONAL POLICY.

Section 1003(b) of the Solid Waste Disposal Act (42 U.S.C. 6902(b)) is amended by inserting "solid waste and" after "generation of".

SEC. 04. OBJECTIVE OF SUBTITLE D OF SOLID WASTE DISPOSAL ACT.

Section 4001 of the Solid Waste Disposal Act (42 U.S.C. 6941) is amended by inserting "promote local and regional planning for effective solid waste collection and disposal and for reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies, and" after "objectives of this subtitle are to".

SEC. 05. DISCRETIONARY STATE PLAN PROVISIONS.

Section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended by adding at the end the following:

"(e) DISCRETIONARY PLAN PROVISIONS RELATING TO SOLID WASTE REDUCTION GOALS, LOCAL AND REGIONAL PLANS, AND ISSUANCE OF SOLID WASTE MANAGEMENT PERMITS.—Except as provided in section 4011(a)(4), a State plan submitted under this subtitle may include, at the option of the State, provisions for—

"(1) establishment of a State per capita solid waste reduction goal, consistent with the goals and objectives of this subtitle; and

"(2) establishment of a program that ensures that local and regional plans are consistent with State plans and are developed in accordance with sections 4004, 4005, and 4006.".

SEC. 06. PROCEDURE FOR DEVELOPMENT AND IMPLEMENTATION OF STATE PLANS.

Section 4006(b) of the Solid Waste Disposal Act (42 U.S.C. 6946(b)) is amended by inserting "and discretionary plan provisions" after "minimum requirements".

Mr. MCCONNELL. Mr. President, I rise today to offer an amendment to help States get a handle on their local waste flows and to ensure that States are not precluded from establishing regional solid waste reduction plans. Next year, the subtitle D regulations affecting landfills will go into effect. These new regulations will force States to closely reevaluate their disposal needs and develop their own comprehensive plans on how they might implement the more stringent regulations.

Kentucky has already taken the initiative in establishing one of the most comprehensive solid waste reduction plans of any State. The Kentucky plan mandates that regional and local authorities establish a waste collection and disposal plan as well as regional waste reduction strategies. These efforts have proven effective in stopping illegal dumping, increasing recycling, and reducing the overall need for landfill space.

Unfortunately, without Federal legislation these plans are open to constitutional challenge. Mr. President, where does that leave us? How can States effectively meet the goals of reducing waste flows, increasing recycling, and improving landfill standards if they are prohibited from establishing an effective waste management plan?

Those of us who have been involved in the interstate waste issue know, this legislation is necessitated by the commerce clause of the Constitution. A number of State and local initiatives that attempted to deal with solid waste issues have wound up in court, and eventually been struck down based on this provision of the Constitution. Consequently, it is virtually impossible for a State to effectively deal with their own waste flows without a specific delegation of Congress' plenary commerce power.

In every Congress since 1990 there has been an attempt to provide States the authority to keep the interstate flow of solid waste in check. Over the past 6 years, I have fought hard with Senator COATS to ensure that States like Kentucky and Indiana do not become dumping grounds for those States that have refused to control their own waste flows.

Mr. President, my amendment will correct this by authorizing States to establish a comprehensive plan for waste reduction. This is essential if communities are to get a handle on their own waste flows through plans that promote local planning and are consistent with the objectives of subtitle D, of the Solid Waste Disposal Act passed by Congress in 1991.

Gone will be the days of open dumps and multitudes of cheap landfills when the new standards are implemented in 1996. These standards will mandate liners, leachate collection and treatment, groundwater and gas monitoring, and new corrective action. The EPA has estimated that nearly half of the Nation's 6,000 landfills will close. In Kentucky, new landfill standards have already gone into effect and the number of landfills has declined dramatically from 29 to just 6. Mr. President, these new regulations will compel many States to rethink their disposal needs and how they should plan for the future.

Many States may find they do not have an effective plan for disposing of their waste. States will need to establish a plan for consolidation, reduction, and recycling programs mandated by the Resource Conservation and Recovery Act. Again, my amendment will help States plan for the inevitable and protect already established plans from legal challenge.

Mr. President, this amendment will not eliminate existing host community agreements, nor will it ban the interstate flow of waste. In fact, in Kentucky a special landfill was recently authorized to accept waste from out-of-State. A number of Kentucky counties continue to ship and accept nominal amounts of waste from our neighboring States of West Virginia, Ohio, Indiana, and Illinois. My amendment will not disturb these arrangements.

Mr. President, my amendment is entirely consistent with the export reduction strategies contained in this bill.

I have worked with the officials of the Kentucky Department of Natural Resources and Environmental Protection Cabinet and officials in Magoffin County to ensure that State and regional waste plans are protected in this legislation. I am appreciative of their assistance.

Today, Congress will clarify whether States have the authority to establish their own plan for the disposal of waste. Only with the explicit delegation of this authority can States be certain that they are acting within a constitutional framework.

I would like to thank the managers of this bill for accepting this amendment.

Mr. CHAFEE. Mr. President, I congratulate Senator MCCONNELL for the work he has done in connection with solid waste. It is a subject he has been interested in for a good number of years.

Kentucky is a State that has established one of the most comprehensive solid waste reduction plans of any State and the Senator was very conscious of that in his dealing with the legislation before us.

Mr. President, I again congratulate the distinguished Senator from Kentucky, Senator MCCONNELL, for the work he has done.

Mr. BAUCUS. Mr. President, we have reviewed the amendment on our side and urge its adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1074) was agreed to.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL HIGHWAY SYSTEM AND NATIONAL SPEED LIMIT

Mr. BAUCUS. Mr. President, this week, the Senate Environment and Public Works Committee reported out a bill to designate the National Highway System or NHS. I want to congratulate the chairman of the committee on his leadership.

While some provisions in the bill cause me some concern, there is one feature that I would like to highlight today.

The National Highway System authorization bill repeals the national maximum speed limit. This is a commonsense feature. Repeal removes the threat of Federal highway dollar sanctions if a State does not post its roads at a 55- or 65-mile-per-hour speed limit.

The current standard of 55 or 65 miles per hour may make sense in some States—especially in urban, congested areas. However, for big, sparsely populated States like Montana, it may make sense to change that standard. And there is no need for Washington to decide for us.

Mr. President, the point is that the States should have the ability to set their own speed limits. The citizens in each State should have a say in these decisions without the threat of a Federal highway fund sanction.

I spend a lot of time walking the roads in Montana. I have walked from Livingston to Bozeman along I–90; down Route 93 from Missoula to Hamilton; up from Butte along the road to Missoula; and this summer I hope to spend a lot of time on the Hi-Line.

And I can tell you first-hand, those are easy roads to walk and they are easy roads to drive. They do not get a lot of traffic. People stop and talk. I can wave to every other driver as he or she goes by. And we should not treat these roads as if they have bumper-to-bumper New York traffic.

We made at least a start by letting States raise the limit to 65 on rural roads. But a Montana driver could drive very safely on many of our roads at a higher speed. Montana should be able to set its own speed limit without threatening our highway money.

So, Mr. President, among all the things the NHS bill does—tucked in amongst the big construction projects, new technology, increased competitiveness, and new jobs—is something that is pretty small, but which does a lot to make life easier and Government more sensible.

It is just plain, simple common sense. Thank you, Mr. President.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1075

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. BAUCUS, proposes an amendment numbered 1075.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete from page 34, line 5 through page 35, line 2 and replace with the following:

"(3)(A) Except as provided in paragraph (4), any State that imported more than 750,000 tons of out-of-State municipal solid waste in 1993 may establish a limit under this paragraph on the amount of out-of-State municipal solid waste received for disposal at landfills and incinerators in the importing State as follows:

"(i) In calendar year 1996, 95 percent of the amount exported to the State in calendar year 1993.

"(ii) In calendar years 1997 through 2002, 95 percent of the amount exported to the State in the previous year.

"(iii) In calendar year 2003, and each succeeding year, the limit shall be 65 percent of the amount exported in 1993.

"(iv) No exporting State shall be required under this subparagraph to reduce its exports to any importing State below the proportionate amount established herein.".

On page 36, line 12, add "and the Governor of the importing State may only apply subparagraph (A) or (B) but not both" after "facilities".

On page 38, line 2, after "year" insert ", and the amount of waste that was received pursuant to host community agreements or permits authorizing receipt of out-of-State municipal solid waste".

On page 38, line 3, delete "July 1" and insert "May 1".

On page 38, delete from line 17 through page 39, line 6 and replace with the following:

"(C) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste.".

On page 35, line 20, strike "800,000", replace with "750,000".

On page 35, line 22, strike "600,000", replace with "550,000".

On page 52, strike line 6, insert the following: "sources outside the State.

"(g) IMPLEMENTATION AND ENFORCEMENT.—Any State may adopt such laws and regulations, not inconsistent with this section, as are necessary to implement and enforce this section, including provisions for penalties.".

Mr. CHAFEE. Mr. President, this managers' amendment that I have sent to the desk is the result of laborious and lengthy negotiations involving the distinguished Senator from Indiana, who spent so much time in connection with this legislation, and the distinguished Senator from New York, and many other Senators who have an interest in this legislation.

So I urge its adoption.

Mr. BAUCUS. Mr. President, we have examined the amendment. It is my understanding that various Senators, particularly the Senator from Pennsylvania, as well as the delegation from Illinois, who had some questions in the last final moments, have now found their objections are no longer such as to prevent the Senate from passing this bill. They no longer have those objections.

With those assurances, Mr. President, I urge the passage of the bill.

I want to particularly thank the Senator from Indiana, Senator COATS. Senator COATS labored in the vineyards in this issue for years and years, and I highly commend him for his efforts to limit out-of-State garbage from coming into his State of Indiana. I also want to compliment the chairman of the committee.

Last year, we almost passed this bill—within an eyelash of passing it. I compliment the chairman of the committee for helping make passage a virtual reality here today.

Many other Senators worked very hard trying to get the right balance, basically, between those States who want to limit trash coming into their States and those States that still do export a lot of trash.

Now, the exporting States, particularly New York and New Jersey, I think, are to be commended for taking significant action to reduce the amount of exports to those States to put less pressure on importing States.

Nevertheless, I think it is very important that the importing States—including my State of Montana—have the ability to say "no" to out-of-State trash. It is very important we have that.

I compliment, again, the Senator from Indiana as well as the Senator from New York [Mr. D'AMATO]. I urge the adoption of this amendment.

Mr. COATS. Mr. President, the Senator from Montana commended me for laboring in the vineyards for so many years. It did not seem like I was in the vineyards—more like the town dump.

I want to thank the chairman, Senator CHAFEE, for his work this year with me and with the coalition in fashioning this legislation, in particular this amendment that is being sent to the desk. It is the culmination of a lot of years, of a lot of work, by a lot of people.

As the Senator from Montana said, it is critical that States that are unwilling recipients of out-of-State waste have a say as to whether or not they receive this waste.

The Senator from Montana has worked tirelessly to help Members accomplish this effort. I would say to the Senator from Rhode Island, what a difference a year makes. We are here, together, working together on fashioning what I think is very appropriate legislation. I want to thank him, along with Senator SMITH, Senator D'AMATO, and others, for helping to put this amendment together. I urge its adoption.

Mr. CHAFEE. Mr. President, again I would like to say that the reason we have this legislation is really because of the steady, persistent tenacity of the Senator from Indiana.

I can assure the world that everybody in Indiana should feel very, very grateful for the work that Senator COATS has done in connection with this legislation. I can also assert that when the definition of "bulldog" is given, there is no one the tenacity shown by a bulldog more appropriately fits than Senator COATS. He has pressed this issue to its fullest. I congratulate him.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

So, the amendment (No. 1075) was agreed to.

Mr. BAUCUS. I move to reconsider the vote.

Mr. COATS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I would like to take this opportunity to thank the distinguished Senator from Montana for his patience and help in all these measures; not only this one we are dealing with right now, but the whole series of them. His suggestions have been excellent. I want to express my personal appreciation, but I know that everyone in the Senate is indebted to him for his hard work in seeing we get these agreements.

AMENDMENT NO. 1076

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. D'AMATO, proposes an amendment numbered 1076.

The amendment is as follows:

Page 64, line 2, insert the following as letter (f) and reletter subsequent paragraphs accordingly—

(f) STATE-AUTHORIZED SERVICES AND LOCAL PLAN ADOPTION.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

(1) had been authorized by State statute which specifically named the political subdivision to exercise flow control authority and had implemented the authority through a law, ordinance, regulation, contract, or other legally binding provision; and

(2) had adopted a local solid waste management plan pursuant to State statute and was required by State statute to adopt such plan in order to submit a complete permit application to construct a new solid waste management facility proposed in such plan; and

(3) had presented for sale revenue or general obligation bond to provide for the site selection, permitting, or acquisition for construction of new facilities identified and proposed in its local solid waste management plan; and

(4) includes a municipality or municipalities required by State law to adopt a local law or ordinance to require that solid waste which has been left for collection shall be separated into recyclable, reusable or other components for which economic markets exist; and

(5) is in a State that has aggressively pursued closure of substandard municipal landfills, both by regulatory action and under statute designed to protect deep flow recharge areas in countries where potable water supplies are derived from sole source aquifers.

Mr. BAUCUS. Mr. President, we examined this amendment and we urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So, the amendment (No. 1076) was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1077

Mr. COATS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], proposes an amendment numbered 1077.

Mr. COATS. Mr. President, I ask unanimous consent further reading be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, between lines 10 and 11 insert the following:

"SEC. 102. NEEDS DETERMINATION.

"The Governor of a State may accept, deny or modify an application for a municipal solid waste management facility permit if—

"(1) it is done in a manner that is not inconsistent with the provisions of this section;

"(2) a State law enacted in 1990 and a regulation adopted by the governor in 1991 specifically requires the permit applicant to demonstrate that there is a local or regional need within the state for the facility; and

"(3) the permit applicant fails to demonstrate that there is a local or regional need within the State for the facility.".

Mr. CHAFEE. Mr. President, this amendment is thoroughly agreeable to the Members on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So, the amendment (No. 1077) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. COATS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent to be allowed to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT CLINTON'S ACCOMPLISHMENTS IN MOSCOW AND KIEV

Mr. JOHNSTON. Mr. President, in my judgment, there have been a number of premature pronouncements about the outcome of the President's trips to Moscow and Kiev that I believe are one-sided and unfair. Many important achievements have been overlooked and ignored, and important foundations have been laid for success on more contentious issues in the future.

It is far too early to know what the ultimate outcome will be on the very contentious issue of the proposed Russian sale of nuclear reactors to Iran. The President began the process of engaging the Russians seriously on the serious global security implications of such a sale by sharing information with the Russians which they will not assess and debate. The Russians have not closed the door to reconsideration of this issue; the President kept it open through persuasive argument which we hope, when fully evaluated by the Russian side, will lead to the Russians decided to cancel this sale.

Lost in the coverage of the reactor sale was an important victory in the resolution of a number of outstanding issues regarding Russia's closing down arms sales to Iran. The Vice President and Chernomyrdnin will draw up the final agreement on this very important issue, which will permit Russia to join in with other States as a founding member of the post-COCOM regime. Key sticking points on biological weapons cooperation, notably the Russian agreement to begin visits to biological weapons factories on August 1, 1995, were resolved and the United States and Russia also issued a joint statement on principles on theater missile defense systems and their relationship to the ABM Treaty. Yeltsin also reaffirmed strong support for START II ratification.

In large part because of the President's personal effort, Russia recommitted herself to being part of the evolving European security landscape. Yeltsin agreed to drop his opposition to moving forward with Russia's Partnership for Peace Membership and agreed to proceed with implementation of its program before the end of this month. Yeltsin also indicated agreement with plans to launch an expanded Russia-NATO dialog at the May NAC.

These are all significant developments, developments which will give us a more secure and more peaceful world.

My own view is that the President's decision not just to visit Moscow but to travel on to Kiev was also very important and underscores the policy of the United States of supporting all the newly independent States, not just Russia.

Fortunately, we have excellent relations with Ukraine now, and because of the groundwork that President Clinton and his delegation laid we can expect to see expanded trade, investment, and commercial relations in the future. None of these changes happen overnight, and they will never occur unless a strong and positive foundation is carefully laid. President Clinton's visit laid just such a foundation.

In addition, President Clinton and President Kuchma entered into an excellent exchange of views on how the United States and Ukraine can cooperate to shape a stable, undivided Europe in the future. As many have reflected on the events in Europe 50 years ago, I believe we all know and understand how critically important this is to world peace and to a peaceful future for the United States.

I applaud President Clinton for undertaking this trip at this time. He has reached out to the people of Russia and to the people of Ukraine at a critical time in the evolution of their political systems, and I believe through his visits with political leaders from throughout the Russian political spectrum and with students at Moscow University spoke up clearly, firmly, and loudly for democracy, free elections, and reform.

Fifty years ago, it would have been unthinkable for an American President to travel to Moscow, speak to students about democracy, free elections, economic and political reform, and have that message broadcast throughout Russia by Russian radio. This unthinkable event happened earlier this week. I am confident that this message was not lost on the Russian people, and I hope it will not be lost here, for I believe this shows concretely how far our relationship has evolved and how much each step we have taken has meant in the long run toward real and meaningful change.

I believe the steps President Clinton took in Moscow and Kiev will result in more permanent, lasting changes in the future, and I congratulate him for tackling the many difficult and daunting problems which he took on straightforwardly. Ultimately, I believe the record will reflect that significant progress was achieved in many areas because of the foundation which President Clinton laid this week.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I am pleased that the Senate has turned to this critical environmental issue and I urge my colleagues to support this legislation, the Interstate Transportation of Municipal Solid Waste Act of 1995. Congress came very close to enacting similar legislation in 1994, and I am hopeful that we will achieve closure on the interstate waste and flow control issues shortly. I commend my colleagues JOHN CHAFEE, BOB SMITH, and DAN COATS for their dedicated effort in bringing this bill to the floor at this early date.

It is high time that the largest trash exporting States bite the bullet and take substantial steps towards self-sufficiency for waste disposal. This legislation would provide much-needed relief to Pennsylvania, which is by far the largest importer of out-of-State waste in the Nation. According to the Pennsylvania Department of Environmental Resources, 3.9 million tons of out-of-State municipal solid waste entered Pennsylvania in 1993, and 4.3 million tons of out-of-state municipal solid waste entered Pennsylvania during 1994. Most of this trash came from other States in the Northeast; in 1994, New York and New Jersey were responsible for 3.8 million of the 4.3 million tons imported into Pennsylvania, representing 88 percent of the total. New York alone sent 2.3 million tons of municipal solid waste into Pennsylvania last year.

This legislation would go a long way toward resolving the landfill problems facing Pennsylvania, Indiana, and similar waste importing States. I am personally familiar with the anxiety that the landfill crisis provokes in local communities. On several occasions, I have met with county officials, environmental groups, and residents of northeastern Pennsylvania to discuss the solid waste issue. I came away from those meetings impressed by the deep concerns expressed by the area's residents.

Recognizing the recurrent problem of landfill capacity in Pennsylvania's 67 counties, since 1989 I have pushed to resolve the interstate waste crisis. In 1989 and 1991, I joined my late colleague, Senator John Heinz, to introduce the Solid Waste Disposal Act Amendments Act, which would have provided incentives for States to devise realistic long-term plans for handling solid waste disposal.

I also supported the Interstate Transportation of Municipal Waste Act of 1992, which passed the Senate by an 89–2 vote in July, 1992. That bill would have allowed a Governor, at the request of a local government, to prohibit the disposal of out-of-State municipal waste in any landfill or incinerator within its jurisdiction. The House failed to take action on that bill, leaving it to this Congress to act on this issue.

At the beginning of the 103d Congress, I joined Senator COATS in trying to build on our near success the previous year and joined 16 of our colleagues to introduce bipartisan interstate waste legislation (S. 439). That bill, which was introduced on February 25, 1993, was modeled on the waste legislation which had passed the Senate in July 1992 by an overwhelming margin. I was pleased that many of the concepts contained in the Coats-Specter bill were relied upon in S. 2345, the bill unanimously reported out by the Environment and Public Works Committee last August and again in the bill being considered by the Senate today. Last year's bill provided legal authority to every State to restrict out-of-State municipal solid waste and was approved in the Senate by voice vote on September 30, 1994. A modified version of that bill, which included both interstate and flow control provisions, was received by the Senate on the last day of the 103d Congress, but was not considered on the floor.

On March 22, 1995, I joined Senator COATS and other colleagues in introducing S. 589, which parallels the Coats-Specter bill from the 103d Congress (S. 439). The legislation we are considering today builds upon the legislation that passed the Senate by voice vote in 1994 and the bills I have worked on with Senator COATS in 1993 and 1995. I am confident that S. 534 will empower States to deal with their solid waste more effectively because it would provide every State with significant new authority to restrict imports of out-of-State municipal solid waste.

Some may wonder why there is a need for Federal legislation to empower States to restrict cross-border flows of garbage. Simply put, Pennsylvania and other States that were in the forefront of solid waste management have ended up as the dumping ground for States that have been unwilling to enact and enforce realistic long-term waste management plans. Although I am advised that these States are making some progress, some continue to ship increasing amounts of waste to Pennsylvania landfills.

This legislation will lead to significant reductions in the amounts of out-of-State waste imported into Pennsylvania and other States. Let me explain how this will be accomplished. First, the legislation allows a Governor to unilaterally freeze out-of-State waste at 1993 levels at landfills and incinerators that received waste in 1993. In addition, an import State ratchet provides that a Governor may restrict waste imported from any one State in excess of 1.4 million tons in 1996, down to 550,000 tons in 2002 and thereafter. I was pleased that this provision has been carried over from last year's bill and is even more restrictive on out-of-State trash. This provision provides a concrete incentive for the largest exporting States to get a handle on their solid waste management immediately.

It is important to note that title I of this legislation explicitly protects State contract law and protects host community agreements. It also authorizes restrictions on waste imported from Canada if doing so is found by the President to be consistent with NAFTA and GATT.

Mr. President, I am also pleased to support S. 534 because it contains provisions addressing the issue of waste flow control authority, an issue of vital importance to Pennsylvania's counties.

During the 103d Congress, we encountered a new issue with respect to municipal solid waste—the issue of waste flow control authority. As a result, today we are also considering legislation which would restore local authority to control the flow of municipal solid waste.

On May 16, 1994, the Supreme Court held—6-3—in Carbone versus Clarkstown that a flow control ordinance, which requires all solid waste to be processed at a designated waste management facility, violates the commerce clause of the United States Constitution. In striking down the Clarkstown ordinance, the Court stated that the ordinance discriminated against interstate commerce by allowing only the favored operator to process waste that is within the town's limits.

As a result of the Court's decision, flow control ordinances in Pennsylvania and other States are considered unconstitutional. Therefore, it is necessary for Congress to enact legislation providing clear authorization for local governments to utilize waste flow control.

I have met with county commissioners who have made clear that this issue is vitally important to the local governments in Pennsylvania. As further evidence of the need for congressional action, I would note the numerous phone calls and letters my office has received from individual Pennsylvania counties and municipal solid waste authorities that support waste flow control legislation. The County Commissioners Association of Pennsylvania has pointed out that since 1988, flow control has been the primary tool used by 65 of the 67 Pennsylvania counties to enforce solid waste plans and meet waste reduction/recycling goals or mandates. Many Pennsylvania jurisdictions have spent a considerable amount of public funds on disposal facilities, including upgraded sanitary landfills, state-of-the-art resources recovery facilities, and co-composting facilities. In the absence of flow control authority, many of these worthwhile projects could be jeopardized. There is also a very real concern that as a result of the Carbone decision, prompt congressional action is necessary to ensure that local communities may meet their debt service obligations related to the issuance of revenue bonds for the construction of their solid waste management facilities.

I believe that this bill will protect the ability of municipalities to plan effectively for the management of their municipal solid waste while also guaranteeing that market forces will still provide opportunities for enterprising companies in the waste management industry.

In conclusion, this legislation makes sense because in the absence of Federal legislation to empower States to restrict cross-border flows of waste, Pennsylvania and other States inevitably become dumping grounds for States that haven't shown the fortitude to enact realistic long-term waste management plans. Further, by restoring flow control authority, this legislation protects Pennsylvania and its component local jurisdictions, which have promulgated comprehensive solid waste management plans and established state-of-the-art facilities to handle waste generated within the Commonwealth.

I yield the floor.

AMENDMENT NO. 869

Mr. CAMPBELL. Mr. President, possibly the most important provision of this legislation for my State is in restoring the opportunity for small community or county landfills to be exempt from the ground water monitoring requirements of RCRA, if they meet certain conditions.

Under the bill a community landfill can be exempt from monitoring if it can demonstrate four things: that it takes in no more than 20 tons of waste per day, that there is no evidence of ground water contamination, that it is in an area that receives less than 25 inches of precipitation, and that it has no practical landfill alternative.

The problem we have in Colorado and, I suspect, throughout the West, is that we have many landfills that pose zero threat to ground water but they may be taking in more than the bill's limit of 20 tons of trash per day.

My amendment does two things: First, it codifies an existing regulation under which a landfill operator may file a no-migration petition with the State; if the petition is approved, the landfill operator becomes exempt from the ground water monitoring requirements.

And second, my amendment directs the Administrator to publish within 6 months an explanatory, or guidance, document by which small towns and counties will be able to easily and directly take advantage of this opportunity.

Since the implementation of RCRA, about a third of the landfills in Colorado have closed. Towns and counties have spent millions developing new landfills that comply with the subtitle D requirements, in spite of the fact that in most of Colorado there is practically zero threat of leaching dangerous substances from landfills into ground water.

Dozens of landfills in Colorado are situated more than 100 feet above the water table; the intervening layers are often composed of shale and clay, making it impossible for materials to leach downward. Under the existing subtitle D landfill rules these landfills must be lined with an impermeable liner; to then require that these communities spend an additional $15,000 per year or so to test the ground water is an extreme form of overkill.

Mr. President, the EPA understands that these conditions exist and to their credit the agency conceived of and adopted this no migration petition process. All that my amendment does is to codify this opportunity, an opportunity that has already stood the full test of rulemaking, and to push EPA to make the program available in our rural counties.

Mr. President, I want to particularly thank the distinguished chairman, Senator CHAFEE, and the distinguished ranking member, Senator BAUCUS, for working with me on this important amendment to our western counties.

COMMENDING FORMER PRESIDENT BUSH

Mr. CHAFEE. Mr. President, I want to commend former President Bush for the courageous stand he has taken in canceling his National Rifle Association membership based upon the improper language that was used in a solicitation letter by the National Rifle Association.

I previously have spoken on this floor about the intemperate language that was used in that letter. It is no excuse to say, "Well, fundraising letters are not always accurate. There was a little bit of hyperbole here, and it went a little bit overboard, but perhaps otherwise it was all right."

I think to describe members of law enforcement organizations of the United States as "jack-booted thugs" and individuals wearing "nazi bucket helmets" who randomly shoot civilians is just totally improper.

So, Mr. President, I commend former President Bush. I think what he did was the right thing. I hope it sends a sobering note to the National Rifle Association to watch its language, particularly language it sends out in solicitations, or in whatever manner in which they dispense such language.

I congratulate the former President for his actions.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. CHAFEE. Mr. President, we are ending the long, long trail toward passage of S. 534.

In order to accomplish crossing that goal line, I ask unanimous consent that, except for the following amendments, no other first-degree amendments be in order after the close of business, and that these first-degree amendments be subject to relevant second-degree amendments and limited to one-half of the time allocated for each first-degree amendment. The excepted amendments are: Murray-Gorton, Feinstein, Levin, Domenici, and Kempthorne.

I further ask unanimous consent that when the Senate resumes the bill on Tuesday at 9:30 a.m., Senator MURRAY be recognized to offer an amendment on which there will be a time limit of 1 hour to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEINSTEIN AMENDMENT

Mr. CHAFEE. Mr. President, I further ask unanimous consent that following the disposition of the Murray amendment, Senator FEINSTEIN be recognized to offer her amendment on which there be 30 minutes to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEVIN AMENDMENT

Mr. CHAFEE. Mr. President, I further ask unanimous consent that following the disposition of the Feinstein amendment, Senator LEVIN be recognized to offer an amendment, relative to expansion, on which there be 30 minutes for debate to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

DOMENICI AMENDMENT

Mr. CHAFEE. Mr. President, I further ask unanimous consent that following the disposition of the Levin amendment, Senator DOMENICI be recognized to offer an amendment relative to title III, on which there be 30 minutes for debate to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

KEMPTHORNE AMENDMENT

Mr. CHAFEE. Mr. President, I further ask unanimous consent that following the disposition of the Domenici amendment, Senator KEMPTHORNE be recognized to offer an amendment, which is clarifying in nature, on which there be 30 minutes for debate to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. CHAFEE. Mr. President, after checking with the leadership, I am free to announce there will be no further rollcall votes today.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that there be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE MOSCOW SUMMIT

Mr. DOLE. Mr. President, I want to congratulate the President for his successful summit in Kiev. Under President Kuchma, Ukraine has become a model for the States of the former Soviet Union. Agreement to disband nuclear weapons; free market economic reforms; free and fair elections; open investment climate. President Clinton's visit was a timely show of support to the deserving people of Ukraine. I expect the Congress to show our support for Ukraine's political success.

There has been a lot said in the media about reaction to the Moscow summit. I have expressed my disappointment at the results of the Moscow summit. As I said yesterday, this is not partisan politics—it is a judgment based on the facts. I note that today's New York Times carries a headline, "Iran relieved on Yeltsin deal." If Iran is relieved at the results of the summit, all of us have cause for concern. Secretary Christopher, in particular, has led the administration's efforts to prevent nuclear technology from reaching Iran. I hope to work with him over the coming months in support of that important goal.

The reality is, however, that there was great controversy over President Clinton's decision to attend V–E Day ceremonies in Moscow and not in other capitals. The President made his decision, and the President decided to add to the V–E Day ceremonies with a substantive summit. Now, in the aftermath of the summit, Judgments are being made about what was achieved. I happen to share the view of Henry Kissinger, that a tremendous opportunity was missed on this overseas trip. I also agree with Dr. Kissinger that "NATO expansion requires a decision, not a study." As he points out, the current drift in United States policy could leave us with the worst of all worlds—the disintegration of Western unity with a still-anxious Russia.

In the past few days, other distinguished writers have expressed their views on what was achieved at the

Moscow summit, particularly by Bill Safire and Charles Krauthammer. These articles deserve careful reading by my colleagues as we continue our assessment of the Moscow summit.

I ask unanimous consent the articles by Safire, Krauthammer, and the article by former Secretary Kissinger be printed in the RECORD following my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, May 11, 1995]

NADIR OF SUMMITS

(By William Safire)

WASHINGTON.—Bill Clinton represented American interests poorly in Moscow.

On the sale of Russian nuclear plants to Iran, he was taken in by—or participated in—a trick.

One month ago, to create a "concession" to the naïve American President, Boris Yeltsin's atomic energy chief upped the ante, letting C.I.A. ears hear him consider adding centrifuges to the deal with Teheran. That outrageous act would be like selling mullahs the means to make a bomb right away, instead of in a few years with nuclear plants alone.

It was a ploy. While brushing aside a Clinton plea to withhold nuclear facilities from Iran, Mr. Yeltsin grandly agreed not to add the centrifuges. Clinton said he was "deeply impressed" by this marvelous restraint, then failed to make a strong case against the plants on TV; Warren Christopher spun the centrifuge ploy as "great progress."

Score a second victory for Yeltsin's generals on the 1990 Conventional Forces in Europe Treaty. This was the agreement to limit Russian troops, tanks and artillery near the West from Norway to Turkey.

But the heroes of Chechnya want to put a new 58th Russian Army in the Caucasus to dominate its freed republics, much as Russia now runs Georgia, Moldova and Belarus. This would menace Turkey as well, but apparently nobody told Tansu Ciller during her recent visit to the White House that Mr. Clinton would say "We are supporting the Russian position" in blithely changing a treaty ratified by the U.S. Senate.

The third defeat suffered by our absorbent President in this nadir of summits was about Chechnya. With the American next to him, Yeltsin brazenly told the world press "there is no armed activity" in that bloodied republic. "The armed forces are not involved there. Today the Ministry of the Interior simply seizes the weapons still in the hands of some small armed criminal gangs."

As he was mouthing this baldfaced lie, the Russian Army was intensifying its shelling of rebel positions southeast of Grozny, following its Mylai-style massacre of unarmed civilians in Samashki one month ago. The Clinton response was to shut up. In his long, prepared speech later, he devoted two quick sentences to "this terrible tragedy" that could "erode support for Russia."

Americans could well feel humiliated by their President's acquiescence in the lying in his presence, and by his failure to respond to that personal insult by broadcasting the truth. Many Russians were hoping he would express the dismay felt by the rest of the world at the brutality of the generals supporting the unpopular Yeltsin. But he hardly went through the motions.

Watching on TV in his Duma office, reformer Grigory Yavlinsky said "not enough" when Clinton touched ever-so-lightly on the continuing Chechnyan slaughter. And when Clinton praised Yeltsin for promising elections on time, as if that were proof of his democratic spirit. Yavlinsky said: "But we always had elections on time. The question is what kind of elections—how open, how fair, how financed, how counted, how supervised."

We do not yet know if Mr. Clinton gave away our right to deploy regional defenses against ballistic missiles; if so, that would score this summit Yelsin 4, Clinton 0. And the individual meetings we hoped he would have with opposition leaders degenerated into a breakfast group photo-op.

The White House spinmeisters will say: but we got Yeltsin to join the Partnership for Peace, didn't we?

C'mon: the PfP will go pfft at noon on Jan. 20, 1997. If the paper "partnership" is a fig leaf to cover the necessary eastward expansion of NATO, it fools nobody; but if Yeltsin's plucking of the fig leaf means Russia expects to be invited to join NATO, there goes the neighborhood—NATO would lose all meaning as a deterrent to future Russian empire-rebuilding.

Summits do not always yield mutual concessions; conflicting political interests are rarely ameliorated by displays of cordiality. But a sign of an American President's seriousness and maturity in the conduct of foreign policy is the willingness to admit intractability. We saw that so clearly in Reagan's cold expression saying goodbye to Gorbachev in Iceland.

Bill Clinton and his anxious aides are pretending this summit was a success when they know it was a flop. They would gain more respect by reporting reality.

[From the Washington Post, May 12, 1995]

THE PUSHOVER PRESIDENCY

(By Charles Krauthammer)

We will not be satisfied by anything other than the end of the [Russia-Iran] nuclear program.—Secretary of State Warren Christopher, May 4.

And what, pray tell, is the penalty for denying satisfaction to this American secretary of state?

Christopher and his boss have said a dozen times how important it is to the United States that Russia cancel its deal to sell nuclear technology to Iran. This is an issue on which the president has promised "to be quite aggressive." Evidently, he considers pleading and cajoling forms of aggression. After weeks of both—and after rewarding the Russians by celebrating V–E Day in Moscow—Clinton returns home empty-handed. The Russians offered him a couple laughable fig leaves (such as canceling a gas centrifuge sale to Iran, the chief purpose of which was to give them something to cancel), but never budged on the nuclear reactor deal.

It is bad enough to have no clout in foreign policy. Why make a point of advertising it?

The Russians have not just rejected American entreaties. They have been contemptuous of them. On Feb. 6, for example, a Russian foreign ministry official charged that "Washington is more concerned with removing its competitors than about protecting international security"—not just rejecting the U.S. position on Iran but implying that our motives are entirely fraudulent as well.

The Japanese, as is their wont, have been more polite but no less determined in brushing off the United States. On Tuesday, having cut off our own trade with Iran, we asked Japan to follow suit. The timing was curious: Asking the Japanese to follow our lead at some economic sacrifice just as we are declaring a trade war on them. The response was predictable: The foreign ministry spokesman said Japan would study the U.S. policy taking into consideration its own "policy of securing a stable supply of petroleum." Translation: fat chance.

What did we expect? It is bad enough to have an ineffectual foreign policy. It is worse to highlight that ineffectiveness by inviting repeated public rebuff. Our Iranian diplomacy is only the latest example. The tone was set with Christopher's first trip to Europe in 1993, when he presented his ideas on Bosnia as if he were at some Aspen conference. He insisted on nothing and got nothing. The allies can tell when Big Brother is serious and when he is not. They pointedly went their own way.

A year later he traveled to China waving a human rights agenda. He was treated scandalously. Dissidents were arrested while he was in Beijing, just to rub it in. Two months later, Clinton lifted the threat of sanctions against China. The point was made for all to see: There is no penalty for stiffing this administration.

Yet another demonstration of administration weakness was offered this year by North Korea. Abjectly capitulating to North Korean war threats, Clinton went from declaring that North Korea would not be allowed to acquire any nuclear weapons to heralding an agreement under which North Korea might begin to dismantle its facilities for building more bombs a decade from now—and is rewarded by the United States with a nine-year supply of free oil, two free $2 billion nuclear reactors (the same type, incidentally, that the Russians are selling Tehran) and the opening of trade and diplomatic relations.

Meanwhile, North Korea's bomb-building machinery is Scotch-taped shut. It threatens weekly to remove the tape and restart the program if we do not jump through yet more diplomatic hoops. We jump.

Has there ever been a president who commanded less respect abroad, less fear, less compliance than Bill Clinton? Jimmy Carter, maybe. But, to be fair, he was leading a country in full psychological retreat from Vietnam. He was holding no cards.

Clinton, on the other hand, leads the sole remaining superpower, fresh from victory in the Cold War, unchallenged by any Great Power for the first time in 50 years, in command of the world's dominant military force—and finds himself unable to be taken seriously by even the most minor world actors.

Why? Partly, presidential inattention to and lack of interest in foreign affairs. Partly, Warren Christopher's natural inclination to find consensus rather than assert interests. His repeated trips to Syria, for example, begging a terrorist state (by the State Department's own definition) to accept the most generous territorial concessions it has ever been offered, are an embarrassment. But for a secretary of state who sees his job as splitting differences rather than knocking heads, it seems perfectly natural.

The most important source of American diplomatic weakness, however, is a president who so discounts the domestic political impact of foreign policy that he will expend no political capital—risk no popularity—on behalf of any of his solemnly declared foreign policy goals. None on Bosnia. None (at least intentionally) on Somalia. None on North Korea. None on China. None on NATO expansion. None on Russia.

The only issue on which the president has shown himself muscular is international economics: negotiating free trade agreements, opening markets, winning foreign contracts. Not since Calvin Coolidge have we had a president who so firmly believes that the business of America—at least in foreign policy—is business. Take away a narrow economic interest in foreign affairs, and you have a president who would rather be golfing.

[From the Washington Post, May 12, 1995]

FOR U.S. LEADERSHIP, A MOMENT MISSED

(By Henry Kissinger)

President Clinton's attendance at the V-E Day celebration in Moscow aroused ambivalent emotions. No doubt Soviet sacrifices contributed decisively to victory over the Nazi dictatorship. But it is also true that the Nazi-Soviet Pact had made the war possible; that Stalin had divided Eastern Europe with Hitler; that he then supplied the Nazi war machine until the Soviet Union was attacked; and that upon victory, he occupied Eastern Europe, launching four decades of Cold War.

The Yeltsin-Clinton summit, moreover, took place at a moment of extraordinary uncertainty in U.S.-Russian relations. There are disagreements over Chechnya, nuclear sales to Iran and NATO expansion—all issues deserving high-level attention. The question remains whether V-E Day celebrations, with the presence of so many other heads of state, was the most auspicious occasion for addressing these controversies. Even more fundamentally, the visit to Moscow reveals the lack of balance in the priorities of the administration's foreign policy.

If any European city deserved to be singled out by America for an Allied remembrance, it was London. Capital of the nation that steadfastly resisted Nazi aggression from the beginning, it became America's most reliable ally, both in the war and in the Cold War that followed. No better occasion is likely to arise to celebrate Great Britain's unique contribution to the cause of freedom or to express America's appreciation for two generations of steadfast cooperation.

That the moment was not seized—even as a stop on the way to Moscow—was no mere oversight. One of the curious attributes of the leaders who grew up during the Vietnam protest movements is that their obsession with transcending the categories of the Cold War imprisons them in the debates of the Cold War period. One of their articles of faith seems to be that the Communist (or Soviet) menace was overdrawn, indeed that the Cold War cold have been most effectively ended—if it need ever have been waged—by reassuring Russia rather than confronting it.

In that spirit, Deputy Secretary of State Strobe Talbott, the principal architect of Washington's European policy, argued in Time magazine as late as 1990 that the doves had never been the threat it had been cracked up to be. Western policy had been at best irrelevant when it had not actually delayed the Soviet collapse. Thus Cold War attitudes and institutions, including the North Atlantic Treaty Organization, needed to change their character.

This indeed has been the rationale behind the administration's Partnership for Peace proposal, which, whatever the rhetoric to the contrary, transforms NATO from an alliance into an instrument of collective security akin to the United Nations, thereby depriving North Atlantic relations of their special character.

While these attitudes are not uniformly held throughout the administration, they are sufficiently powerful to explain the solicitude shown to Yeltsin's personality and Moscow's sensitivities compared with the tone deafness exhibited toward West European—and especially British—concerns. Washington-Moscow relations are treated as the keystone of America's European, if not global, policy.

A good illustration is the administration's attitude toward NATO expansion. Senior officials have claimed that the issue is when to expand NATO, not whether to. They have also indicated that they would go along with Yeltsin's request that NATO expansion proceed slowly and that Russia's eventual membership in NATO not be foreclosed.

Briefings prior to Clinton's Moscow trip put the "when" at five years and left open the possibility of a "reformed" Russia joining the alliance. The long hiatus guarantees that the issue of NATO expansion will continue to fester, while Moscow will be encouraged to pressure the NATO allies and the nations of Eastern Europe. At the same time, there is not one of Russia's western neighbors seeking to join NATO that would not regard offering Russia membership as the wolf's being asked to guard the lambs.

So long as the cohesion of the Atlantic Alliance is not given anything like the priority the administration attaches to placating Moscow, Russia will find ways to avoid the key challenge presented to it by the collapse of its empire: whether it can be satisfied to live as a normal state within non-imperial borders—even though it comprises 11 time zones and huge resources. A country of such size and possessing some 20,000 nuclear weapons should not need additional territory to feel secure. A Russia that abandons imperial pretensions would soon deflect concerns from the field of security to political and economic cooperation, for example the European security conference or the G-7.

From this point of view, how much better it would have been for Clinton to stop in London—even on the way to Moscow—and use the occasion of its V-E Day celebration to outline a new vision of the North Atlantic relationship, something his administration has so far refused to do.

A new initiative is needed above all to restore a sense of direction to American foreign policy. It has become axiomatic that the next phase of international relations will be shaped by a limited number of power centers: the United States, Europe, Russia, Japan, China and possibly India and Brazil. Theoretically it is possible for the United States to conduct its policy purely on the basis of national interest, not unlike what Great Britain in the 19th century termed the policy of "splendid isolation." This would require a careful assessment of rewards and penalties for each region of the world and a balancing of them to produce actions most compatible with America's national interest. In the abstract, such a policy should be tenable because, on the face of it, all the major actors enumerated above have greater conflicts with each other than with the United States.

But in fact the United States lacks a tradition of a foreign policy based entirely on the national interest. There is little bureaucratic skill in so cold-bloodedly equilibrating rewards and penalties on a global basis. A country founded by peoples who had turned their backs on inherited tradition and who believed in the universal application of the values of their society cannot simply abandon the Wilsonianism that has dominated 20th-century American foreign policy.

Though I believe the time has come for America to develop a concept of the national interest and apply it in a balance-of-power context, this will work only if we reduce the regions for this kind of foreign policy as much as possible and extend the areas where a more cooperative—even Wilsonian—approach is feasible.

Russia is as yet too inchoate and unformed to function as the anchor of American foreign policy. The two regions where moral consensus can undergird cooperative relationship are the Western Hemisphere and the North Atlantic or area. In both, the key countries have, to all practical purposes, forsworn the use of force in their relations with each other. In each, institutions already exist capable of serving as building blocks of a cooperative world order: NAFTA and Mercosur in the Western Hemisphere, NATO and the European Union in the Atlantic region. But while the Clinton administration has put forward an imaginative vision for the Western Hemisphere, it has failed to do so for the North Atlantic area, in part because of the intellectual legacy described earlier.

Unless America assumes a real leadership role, the nations bordering the North Atlantic will gradually drift apart. America will become increasingly marginalized; the two sides of the Atlantic will grow more conscious of their rivalries than of their common purposes.

I strongly favor NATO expansion. The current policy of carrying water on both shoulders, of hinting at expansion to Western and Central Europe while trying to placate Russia with prospects of a protracted delay—of which the Moscow summit is a prime example—is likely to accelerate the disintegration of Western unity without reassuring Russia. NATO expansion requires a decision, not a study.

Nevertheless, by itself it will not create a new sense of Atlantic community. Security can no longer be the principal unifying bond of the Atlantic nations because, fortunately, there no longer exists a unifying threat. Common purposes, not common fears, must provide the cohesion in the new era in which economic and social issues are becoming dominant.

The time has come to put into effect a North Atlantic Free Trade Area for manufactured goods and services, with negotiations regarding agriculture to follow. Such a grouping would accelerate the movement toward the principle of free trade to which the members of the World Trade Organization have committed themselves. In the meantime, it would foster cooperation among the nations of the North Atlantic. In a world with massive growth in Asia, with ethnic conflicts and religious fundamentalism, the Western democracies cannot afford their historical proclivities to national or regional rivalries.

The conditions are propitious. Labor standards and wage scales on the two sides of the Atlantic and environmental concerns are comparable. Prime Minister John Major of Great Britain and Foreign Minister Klaus Kinkel of Germany have expressed their interest in such a project. A major American initiative would be received as was Gen. George Marshall's speech for European recovery and would almost surely produce a creative response.

In time, NAFTA and the North Atlantic Free Trade Area could be merged, and new consultative machinery in the political and social fields could emerge between the Western Hemisphere and the European Union. As Russia's economy develops and its policy becomes more national, associate membership for it in such a free trade area would be a distinct possibility—much more so than in NATO.

America should return as quickly as possible to what it has traditionally done best: to put forward its vision for how the nations of the North Atlantic can create a new world worthy of their democratic principles.

HONORING FREEWAY WATCH

Mr. HATCH. Mr. President, I rise to recognize the exemplary service the Freeway Watch Program provides to my home State in preventing freeway tragedy, promoting public safety, and enhancing law enforcement efficiency.

Freeway Watch enhances highway safety by helping the Utah Highway Patrol and other law enforcement agencies identify and remove impaired drivers from Utah's highways. This program trains private citizens who have cellular telephones on how to identify possible drunk or drugged drivers and how to report these drivers to law enforcement agencies. In the 3 months that troopers have been giving classes, more than 1,400 Utahns have been trained in this program.

This program was organized after the tragic death of a Utah teenager. Highland High School student Sean Adkins was helping his friend change a flat tire in the emergency lane of a Salt Lake Interstate on March 1, 1994, when a man with nine prior DUI convictions hit and killed Sean.

The friends who were with Sean that night asked the investigating trooper, Jeff Peterson, what they could do to help combat drunken drivers. Jeff later discussed this conversation with his wife Suzanne. Wanting passionately to make a difference in the war against drunken drivers, Suzanne Peterson teamed up with her friend, Dr. Carol Clark who is executive director of the Utah Science Center Authority, to implement Freeway Watch.

Freeway Watch has brought together many aspects of the business community, law enforcement agencies, and citizen organizations to promote public safety and help law enforcement function more efficiently at no additional taxpayer expense. KSL Radio and Television, US West Cellular, the Utah Highway Patrol, Middlekauff Lincoln Mercury, Les Olson & Co., the Alcohol Policy Coalition, and the Salt Lake County Chapter of MADD have all helped sponsor this program and make it a success.

Mr. President, I bring this program to your attention because I believe that this is an excellent example of the private and public sector working together for the good of our community. It has always been my sincere belief that when a community bonds together, and works for the welfare of all, great things will be accomplished. Many local citizens have demonstrated hard work, initiative, and true community service, and I want to publicly recognize them and sincerely thank them for their exemplary efforts to make the roads in the great State of Utah a safer place for all.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, May 11, the Federal debt stood at $4,856,339,258,780.63. On a per capita basis, every man, woman, and child in America owes $18,434.75 as his or her share of that debt.

CONGRATULATING ANGALENA RHUE

Mr. HOLLINGS. Mr. President, I rise to congratulate Angalena Rhue on winning the 1995 President's Service Award, the Nation's highest honor for volunteers. President Clinton presented Ms. Rhue this outstanding award on April 27 for her unselfish commitment to helping hundreds of Charleston area kids stay off drugs.

Angalena Rhue is special in her pursuit because she knows what drug addictions can do to a person. Just 6 years ago, this same woman was a crack cocaine addict. Now, not only has she conquered her addiction, but she has developed a program, ITEC—Infiltrate the Enemy Camp, to ensure that today's youth don't fall prey to the same mistakes.

Angalena is quite a self-starter. What began as a small project in her own community in Summerville has now expanded into three counties to serve low-income children ages 4 through 19. The program builds self-esteem and stresses the importance of staying in school and staying off drugs. ITEC offers afterschool tutoring to children, assistance in job searches, and requires parents to attend sessions to learn positive reinforcement techniques.

Mr. President, I hear a lot of talk about what we, as citizens of the United States, can do to have a positive impact on the next generation, the children of today. I offer Angalena Rhue as a shining example. She has taken what could have been a negative experience, her drug addiction, and turned it into something positive for the children of South Carolina. She will have an immeasurable impact on our society. Through her efforts more children will turn away from drugs and continue their education.

It gives me great pleasure to join the President of the United States in recognizing a fellow South Carolinian for being 1 of 18 volunteers awarded this prestigious honor for truly making a difference in this country.

Recently, the State in South Carolina's capital city, Columbia, recognized Angalena Rhue for her award. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the State, Friday, Apr. 28, 1995]

CLINTON AWARDS SOUTH CAROLINA WOMAN FOR VOLUNTEER WORK

(By Charles Pope)

WASHINGTON.—Six years ago, Angalena Rhue of Summerville was addicted to crack cocaine, caught in a spiral that was dragging her downward.

Thursday, the 38-year-old Rhue was at the White House, receiving an award from President Clinton for not only turning her own life around, but the lives of hundreds of low-income kids in the Charleston area.

Rhue was one of 18 Americans to be awarded the President's Service Award, the nation's highest honor for those who "engage in voluntary community service addressing unmet human needs."

Rhue was selected from 3,000 nominees for founding ITEC—Infiltrate the Enemy Camp. ITEC provides tutoring and assistance to children and parents living in low-income housing projects. What began as a small effort in the Haven Oaks apartments in Summerville after Rhue kicked drugs, has now expanded to four locations in three counties, serving more than 400 children from age 4 through 19.

"It's exciting, it's overwhelming. I thought I was going to faint," said an effervescent Rhue after receiving her silver medallion in a sunsplashed Rose Garden ceremony.

"When we first see these kids, there's a sense of helplessness, and apathy. But now these kids are soaring and there's no holding them back."

In the hourlong ceremony, Clinton praised the volunteers whose work becomes even more important in a time of national crisis.

"Just over a week ago we were reminded that there are those who want to see our nation torn apart," Clinton said. "But amid the grief and the destruction we have also seen how quickly the overwhelming majority of Americans come together to help each other to rebuild and to make this country stronger.

"Today we'll hear stories of ordinary Americans doing extraordinary things.

"They repair our parks and keep our young people out of gangs. They come from all corners of the nation. They are diverse in age and background. Yet they are united by something larger than all of us—the simple desire to fulfill the promise of American life," the President said before awarding the 18 medals.

Rhue's home-grown program is based on restoring self-esteem to children who have few role models and little parental guidance. Her programs require the children to read each day, help them with their homework, provide help finding jobs and reinforce the need to stay in school and avoid drugs.

"I want to save the whole would from drugs," said Rhue, whose job is made easier by her natural affinity to children, her endless energy and her personal experiences.

Rhue also requires parents to attend at least four sessions a year so they can learn how to reinforce the gains their children are making. She also combats verbal abuse that parents direct to their children and instructs parents how to work with teachers so that children get the most out of school.

Rhue's crusade started when she realized she could help and when children started showing up at her doorstep. The manager of her apartment complex soon offered the club house and before the first year ended, 37 kids were coming each day.

Relying on her own instincts, a talent for attracting donations, volunteers and help from such quarters as Clemson Extension

Service and the College of Charleston, her programs have spread to low-income housing projects in North Charleston, the City of Charleston and Moncks Corner. Those four centers serve more than 400 children. Officials in Orangeburg, Columbia and other municipalities in South Carolina have asked her about the program.

And on Thursday, Hillary Clinton told Rhue she would like to come see the program in person.

When Rhue awakes today, she will be able to celebrate her presidential award, and more importantly, an anniversary. Six years ago today, she weaned herself from cocaine.

REPORT OF THE DISTRICT OF COLUMBIA'S 1995 SUPPLEMENTAL BUDGET AND RESCISSIONS OF AUTHORITY REQUEST ACT OF 1995—MESSAGE FROM THE PRESIDENT—PM 48

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Appropriations.

To the Congress of the United States:

In accordance with section 446 of the District of Columbia Self-Government and Governmental Reorganization Act, I am transmitting the District of Columbia's 1995 Supplemental Budget and Rescissions of Authority Request Act of 1995. This transmittal does not represent an endorsement of the contents of the District's budget.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 12, 1995*.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on May 12, 1995, she had presented to the President of the United States, the following enrolled bill:

S. 244. An act to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-911. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of DC Act 11-40, adopted by the Council on April 4, 1995; to the Committee on Governmental Affairs.

EC-912. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of DC Act 11-41, adopted by the Council on April 4, 1995; to the Committee on Governmental Affairs.

EC-913. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of DC Act 11-39, adopted by the Council on April 4, 1995; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, with amendments:

S. 141. A bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes (Rept. No. 104-80).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. D'AMATO (for himself and Mr. DODD):

S. 799. A bill to amend the Federal Deposit Insurance Act to exclude certain bank products from the definition of a deposit; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO (for himself and Mr. DODD):

S. 799. A bill to amend the Federal Deposit Insurance Act to exclude certain bank products from the definition of a deposit; to the Committee on Banking, Housing, and Urban Affairs.

THE BANK INSURANCE FUND AND DEPOSITOR PROTECTION ACT OF 1995

• Mr. D'AMATO. Mr. President, today I am introducing the Bank Insurance Fund and Depositor Protection Act of 1995 with my distinguished colleague from Connecticut, Senator DODD. This bill, which is substantially similar to S. 2548, the bill that Senator DODD and I introduced last October, makes an essential change to the definition of a "deposit" contained in the Federal Deposit Insurance Act. Companion legislation was introduced in the House of Representatives last Wednesday. The House bill, H.R. 1574, was introduced by Representative ROUKEMA and received bipartisan cosponsorship from Representatives MCCOLLUM, VENTO, and KANJORSKI.

This amendment to the Federal Deposit Insurance Act is necessary to address a recent development in the banking industry—the so-called retirement CD. This product, which is essentially a deferred annuity, is offered and underwritten by banks. Senator DODD and I, along with several other Banking Committee members, raised a number of concerns about the retirement CD in a letter to the FDIC and the Comptroller of the Currency last year. Nevertheless, the Comptroller of the Currency and the FDIC have permitted the offering of this investment vehicle, with FDIC insurance protection. In light of this, Congress must act to clarify the law.

Mr. President, we are talking about banks, with little or no annuity underwriting experience, guided simply by computer software, assuming the underwriting risk that is attendant to this insured hybrid investment vehicle. This is not an empty concern—at least three federally insured banks have taken advantage of this breach in the regulatory scheme and are offering this investment vehicle. Allegedly, a number of other federally insured banks are getting ready to do so. And what will happen if these institutions cannot properly manage the underwriting risk? If any of these banks mismanage this risk and fail, the only guaranteed insurer will be the FDIC insurance fund, and ultimately, perhaps, the American taxpayer.

Mr. President, the IRS recently issued a proposed regulation pertaining to the retirement CD's tax-deferred status. Nevertheless, banks may still offer this product, and the integrity of the bank insurance fund must be protected. The fund must not be used as a safety net for untested and uncertain investment vehicles. And that's exactly the risk that this legislation will protect against. This bill precludes the extension of FDIC insurance protection to this bank-underwritten investment vehicle. Nothing more and nothing less. I have carefully considered the arguments offered in support of this product and I remain extremely concerned about the threat this product could pose to the bank insurance fund.

Mr. President, this bill will protect the bank insurance fund against potential losses that are attributable to any retirement CD that has been underwritten by any bank since last October. This bill retains the effective date employed last Congress in S. 2548—October 6, 1994. This effective date is justified, since both industry and the regulators were put on notice of congressional concerns well before that time. Further, this effective date has been retained in fairness to those institutions that deferred to congressional concerns and did not pursue the marketing of this investment product.

Mr. President, this bill was drafted with the intention of avoiding any undesired effects on standard deposit products that banks commonly offer today. For instance, qualified plans and individual retirement accounts are not intended to be covered by this legislation, to the extent that they do not generate depository institution liabilities that constitute annuity contracts. This is the case even if the depository institution liability has tax-deferred status under section 72 of the Internal Revenue Code.

Mr. President, this bill is being introduced in order to provide further congressional guidance as to the appropriate scope and operation of Federal banking law and the proper use of Federal deposit insurance. This bill makes sense in terms of bank insurance fund protection, safe-and-sound banking practices, and ultimately, taxpayer protection. The bank insurance fund exists to protect the ordinary depositor—it should not be used to give bank-offered financial products a competitive marketing edge. Competitive innovations should always be welcomed, but not the misuse of Federal deposit insurance. I hope my colleagues will support this legislation.•

• Mr. DODD. Mr. President, I am pleased to join with my good friend, Senator D'AMATO to reintroduce important legislation we sponsored last year, the Bank Insurance Fund and Depositor Protection Act of 1995.

This short and simple piece of legislation would prohibit Federal deposit insurance coverage for the so-called retirement CD—a financial product that emerged a little over a year ago from a small corner of the retail banking world. This first of its kind product was cleverly constructed to receive both the benefits of Federal deposit insurance and tax deferral.

Mr. President, as it is currently structured, the retirement should not be insured by the Federal Deposit Insurance Corporation. The retirement CD raises significant policy issues related to consumer protection, safety and soundness, regulatory control, and competitive equity. I believe that if we continue to allow it to proliferate as it is currently structured, the retirement CD could have a tremendously negative impact on consumer confidence in our financial institutions and on the stability of our deposit insurance system.

The policy rationale for eliminating Federal deposit insurance for this product is just as compelling as it was when we last introduced this legislation. There are now a handful of financial institutions actively offering the retirement CD. More are planning to start selling the product in the near future.

I understand that in addition to the Blackfeet National Bank, which first offered the retirement CD, the First National Bank of Sante Fe, NM, and the National Bank of the Commonwealth in Pennsylvania are other insured depository institutions offering the retirement CD. Other institutions have signed licensing agreements to sell the retirement CD or are carefully considering offering it soon.

One year ago, the banking regulators sanctioned the sale of the retirement CD. In separate letters dated May 12, 1994, the Office of the Comptroller of the Currency [OCC] and the Federal Deposit Insurance Corporation [FDIC], stated they had no objection to the sale of the CD by Blackfeet National Bank in Browning, MT.

However, on April 6, 1995, the Internal Revenue Service issued a proposed regulation which effectively eliminates the tax deferral feature of the retirement CD. If this proposed rule becomes final, it will substantially eliminate the most attractive feature of the retirement CD, leaving it essentially with only the characteristics of a regular certificate of deposit. While I applaud the IRS action, their rule is not yet final, and the product may still be sold—although I would hope only with full disclosure to consumers of the pending IRS rule.

Most of my concerns about the retirement CD are described in detail in a June 20, 1994 letter that I and several of my Banking Committee colleagues sent to the OCC and the FDIC.

I will not reiterate all the concerns described in that letter, but will briefly mention a couple of the more troubling issues that arise in connection with the retirement CD.

First, there is enormous potential for customer confusion about the retirement CD's terms and conditions. This product is not a plain vanilla certificate of deposit. It is not a simple annuity. It is a complex newfangled hybrid that has both CD and annuity features.

The retirement CD pays a fixed rate of interest up to 5 years, after which the rate is adjusted at the sole discretion of the bank. This rate is never supposed to fall below 3 percent. Interest ceases to be posted upon maturity. The customer may withdraw up to two-thirds of the balance at maturity, and the remainder will be disbursed in fixed periodic payments for life, incorporating the imputed interest rate.

Consumers must understand that the interest rate is set at the sole discretion of the bank. While there is a 3-percent floor during the period when interest accrues, there is no similar threshold during the payout phase. This raises the prospect that a customer may not know what the imputed rate is tied to, and that the bank could offer a fixed payout at an extremely unfavorable rate.

Second, a consumer must understand that this retirement CD, unlike traditional certificates of deposit, contains a component that is not FDIC insured. FDIC insurance only applies to the balance that is not withdrawn at maturity, less the full dollar amount of any payments received. If a bank that issues a retirement CD fails at a point when the customer had already received the full value of the account through lump-sum distribution and monthly payments, the FDIC would neither insure nor continue to pay the monthly payments for the rest of the customer's life. This is the case despite the fact that the promotional material claims to guarantee payments for life.

Mr. President, at the time they approved the sale of the retirement CD, the regulators expressed many of the concerns I have about the likelihood of customer confusion, the existence of misleading marketing information, and the impact of this product on bank safety and soundness. They outlined these concerns in their respective no objection letters I referred to earlier. However, the regulators chose not to prevent Blackfeet from going forward with the issuance of the retirement CD, as long as the bank complied with a lengthy list of conditions.

Mr. President, I think this was ill-advised. There continues to be strong evidence of substantial customer confusion regarding the insurance status of non-deposit investment products like mutual funds and annuity products being sold by banks and other insured depository institutions. These products are much less complex than the retirement CD. The regulators themselves have helped to collect compelling evidence about the ongoing problem of customer confusion. At a time when we are wrestling with how to eliminate this problem, I find it difficult to understand why the regulators gave their stamp of approval to the sale of this new complex product which can only make a bad situation worse.

Mr. President, for this and many other reasons, the retirement CD as it's currently structured should not be offered by banks to the public. The legislation we are introducing today will exclude the retirement CD from the definition of a deposit under the Federal Deposit Insurance Act. The Retirement CD will therefore not be covered by Federal deposit insurance.

The legislation does not prohibit banks from offering the retirement CD. It simply denies the product deposit status under the Federal Deposit Insurance Act.

The legislation is not intended to eliminate existing levels of deposit insurance coverage to deposit accounts established in connection with certain individual retirement accounts, Keogh plans, eligible deferred compensation plans, pension plans or similar employee benefit plans which may be maintained at an insured depository institution. This legislation eliminates Federal deposit insurance coverage for products which expose the issuing insured depository institution, and ultimately the deposit insurance funds, to liabilities that are annuity contracts and are tax deferred under section 72 of the Internal Revenue Code of 1986.

The provisions of this act do not apply to any liability which is not an annuity contract, whether or not tax deferred under section 72 of the Internal Revenue Code. For example, a liability other than an annuity contract which is part of an individual retirement account would not be affected by the provisions of this act even though the tax liability is deferred under section 72 of the Internal Revenue Code of 1986 because section 408(D) of the code incorporates section 72 only by reference.

Mr. President, the retirement CD may be cleverly packaged. It may be a tempting new business opportunity for the banking industry. But because it raises serious public policy concerns that have not been fully explored, it must not receive the protection of the Federal safety net. I hope that the Banking Committee will be able to closely examine this matter soon either separately or in the context of financial services modernization.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, June 20, 1994.

HON. EUGENE LUDWIG,
Comptroller of the Currency, Office of the Comptroller of the Currency, Washington, DC.

HON. ANDREW C. HOVE,
Acting Chairman, Federal Deposit Insurance Corporation, Washington, DC.

DEAR MR. LUDWIG AND CHAIRMAN HOVE: We are following with great interest and concern the efforts of the Blackfeet National Bank ("Blackfeet") of Browning, Montana to offer to the general public a new "Retirement CD." We are disappointed that the OCC and the FDIC, by separate correspondence dated May 12, 1994, have in effect sanctioned, with certain conditions, plans to market and offer this Retirement CD investment product.

We are very troubled that the OCC and FDIC would react favorably to a product with such enormous ramifications for the banking system, the Bank Insurance Fund, the insurance industry—and, most importantly, for the consumers of financial products—without consultation with Congress and without requesting more specific commitments and information from American Deposit Corp. or Blackfeet.

The Retirement CD product raises a number of significant concerns which we have detailed below. We strongly believe these matters need to be thoroughly addressed by the regulators and Congress before this investment product is offered to the public.

1. CONSUMER PROTECTION ISSUES

The OCC and FDIC letters clearly indicate that both regulators have rather significant reservations about the consumer-protection implications of the Retirement CD. Both letters contain suggestions or conditions aimed at ensuring customer understanding and adequate disclosure. This insured deposit product combines features of both certificates of deposit and annuities, and it is enormously complex. Consumers may not fully comprehend how it works, the interest rate structure or the extent of FDIC insurance coverage.

The Retirement CD will pay a fixed rate of interest for up to five years, after which the rate becomes adjustable until the agreed-upon maturity date. The only assurance given to the consumers with respect to this variable interest rate is that it will be at least 3 percent. Upon maturity, the customer may withdraw up to two-thirds of the account balance, and the remainder of the account will be dispersed for life in fixed payments. These periodic payments incorporate an imputed interest rate. The consumer must understand that the interest rate, during much of the accumulation period (prior to the agreed-upon maturity date) and all of the payout phase, will be determined at the sole discretion of the bank. Furthermore, as we understand this product during the payout phase, there will be no minimum imputed interest rate, similar to the three percent floor in the accumulation phase. This raises an ominous prospect: that a customer will not know exactly what the "imputed" rate is keyed to and that the bank could offer a fixed payout at an extremely unfavorable rate.

As we understand the product, FDIC insurance would only apply to the balance (principal plus accrued interest) that was not withdrawn on the date of maturity, less the full dollar amount of any payments received during the pay-out period. Therefore, a customer would have to understand that if the bank were to fail at a point when the customer had already received the full value of the account through lump-sum distribution and monthly payments, the FDIC would neither insure, nor continue to pay, the monthly payments for the rest of the customer's life.

The OCC and the FDIC have expressed consumer protection concerns with respect to depository institution sales of uninsured non-deposit investment products, such as mutual fund shares. There is evidence that banking consumers do not always understand the simple fact that some of the products that banks offer are not FDIC-insured. With respect to the Retirement CD, we are concerned that consumers will not be able to fully-understand that a product that is called a "certificate of deposit"—a traditional insured deposit product—contains a component that is not FDIC-insured (although we understand that the promotional materials misleadingly "guarantee" payments for life).

Even the regulators seem somewhat uncertain about how the Retirement CD works. The respective letters from the OCC and the FDIC differ in their descriptions of one of the most important basic terms of the product—mainly, at what point the payout is agreed to. The OCC letter states, "*[o]n the maturity date* the customer will select from various options for repayment" (p. 2, emphasis added). The FDIC letter states, "*[u]pon opening the account*, the customer also chooses his/her payout options" (p. 1-2, emphasis added). If the regulators are confused, certainly the potential for consumer confusion is enormous.

We must ask this question: "Do the regulators honestly believe that this product—that contains variable interest rates, certain tax benefits, and partial FDIC-insured deposit status—will not create substantially greater confusion than non-deposit investment products?"

2. REGULATORY ISSUES

Annuities are currently subject to state regulations enforced by state insurance officials. It is unclear if state insurance regulatory requirements will apply to the Retirement CD. Both customers and the bank should know this. If state regulations do not apply, it should be determined whether banks and bank regulators currently have the ability or resources to safeguard these accounts, and what policies and procedures are necessary to train bank personnel about annuities and about appropriate sales practices.

3. SAFETY AND SOUNDNESS ISSUES

Blackfeet and other banks that may offer the Retirement CD clearly will be acting as an underwriter of what is essentially an annuity. Although clever lawyering has gained this annuity product designation as a "deposit", it poses much greater risk to the bank than a traditional deposit. National banks will be assuming an unprecedented and inappropriate risk as a result of having to make a fixed payout for the life of a customer. Ultimately, these payments could exceed the consumer's balance on deposit at maturity. While the OCC suggests that Blackfeet's business plan should indicate how it will manage the risk associated with the annuity payment, the OCC requires no specific showing that the bank has the capability to quantify or manage this long-term liability of unknown proportions.

This "deposit" is structured so that at the date of maturity, the bank must determine the fixed lifetime payout for the customer using a complex and not entirely-discernible process to achieve a proper rate of return. The Congress has opted not to authorize banks to assume the type of risk Blackfeet would assume in offering the Retirement CD, The OCC and the FDIC seem willing to disregard this consistent record of Congressional reluctance to allow federally-insured depository institutions to engage in such high-risk activities. The OCC and FDIC also seem too willing to take it on faith that a small national bank (armed with a software program) will have the business acumen and operational know-how to handle the risk of underwriting this annuity product.

4. COMPETITIVE EQUALITY ISSUES

The proliferation of the Retirement CD will produce an unfair competitive advantage for banks. It is reasonable to expect that consumers will be drawn to a tax-deferred annuity that also offers federal deposit insurance. By allowing national banks to underwrite, market and sell a tax-deferred annuity that is FDIC-insured, the FDIC is granting a substantial competitive advantage over similar annuity products that do not come with a government guarantee.

In expanding future opportunities for all financial service providers and consumers, the Federal government's goal should be to encourage competition on a free and fair basis. Balance sheet strength, customer service and other market-determined characteristics, not market-distorting government guarantees, should determine success. Given the recent savings and loan crisis, and the regulators' concerns over the abuse of deposit insurance, it would seem ill-advised to extend the reach of the federal safety net to a product that raises so many regulatory, competitive and consumer protection concerns.

The OCC and the FDIC have made it very clear that when given the opportunity, they will usually take the most expansive and creative view of bank powers under current law. We strongly support the view that, to the maximum extent possible, an explicit statutory mandate must exist before the regulators authorize expanded powers for banks, or any other financial intermediaries. For this reason, we continue to support comprehensive modernization of our entire financial system. Until this can be accomplished by Congress, we urge the OCC and FDIC to balance the proclivity to expand bank powers through regulatory channels against the legitimate public policy concerns of consumer protection, safety and soundness, and competitive equality. Products that raise serious public policy concerns deserve great scrutiny, regardless of how cleverly they are packaged or how attractive they may be to the banking industry. The Retirement CD is clearly one such product.

We do not share your view that this product, as it is currently structured, is an appropriate product for national banks to offer to retail customers. Therefore, we are developing, and will soon introduce, legislation to prohibit the sale of this investment product. Pending consideration of this legislation by Congress, we urge the OCC and the FDIC to reconsider their respective positions on the Retirement CD.

Sincerely,

CHRISTOPHER J. DODD,
RICHARD H. BRYAN,
ALFONSE M. D'AMATO,
LAUCH FAIRCLOTH.●

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. REID, the names of the Senator from Oklahoma [Mr. INHOFE] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 44, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

S. 388

At the request of Ms. SNOWE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 388, a bill to amend title 23, United States Code, to eliminate the penalties for noncompliance by States with a program requiring the use of motorcycle helmets, and for other purposes.

S. 534

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 534, a bill to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes.

S. 585

At the request of Mr. SHELBY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 585, a bill to protect the rights of small entities subject to investigative or enforcement action by agencies, and for other purposes.

AMENDMENTS SUBMITTED

THE INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT OF 1995

D'AMATO AMENDMENTS NOS. 878–913

(Ordered to lie on the table.)

Mr. D'AMATO submitted 36 amendments intended to be proposed by him to the bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes; as follows:

AMENDMENT NO. 878

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,001 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 879

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,002 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 880

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,003 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 881

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more

than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,004 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 882

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,005 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 883

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,006 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 884

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,007 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 885

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,008 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 886

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,009 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 887

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,010 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 888

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,011 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 889

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,012 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 890

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,013 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 891

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,014 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 892

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,015 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 893

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,016 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 894

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,017 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 895

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,018 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 896

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,019 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 897

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,020 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 898

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,021 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 899

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,022 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 900

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,023 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 901

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,024 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 902

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,051 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 903

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,052 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 904

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,053 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 905

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,054 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,400,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 906

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,055 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 907

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,056 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 908

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,057 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 909

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,058 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 910

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,059 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 911

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,060 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 912

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,061 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 913

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,062 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

DORGAN AMENDMENT NO. 914

Mr. DORGAN proposed an amendment to the bill S. 534, supra; as follows:

On page 49, line 16, insert the following after "thereof" and before the period: "and any solid waste generated by an industrial facility"

On page 50, strike line 22 and all that follows through page 51, line 2.

D'AMATO AMENDMENT NOS. 915–1069

(Ordered to lie on the table.)

Mr. D'AMATO submitted 155 amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT No. 915

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,063 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 916

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,064 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 917

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,065 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 918

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,066 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 919

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,067 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 920

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,068 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 921

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,069 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 922

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,070 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 923

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,075 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 924

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,026 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 925

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,027 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 926

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,028 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 927

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,029 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 928

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,030 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 929

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,031 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 930

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,032 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 931

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,033 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 932

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,034 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 933

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,035 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 934

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,036 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 935

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,037 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 936

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,038 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 937

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,039 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 938

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,040 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 939

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,041 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 940

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,042 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 941

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter;

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,043 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 942

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,044 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 943

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,045 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 944

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,046 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 945

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,047 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 946

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,048 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 947

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3.600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,049 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 948

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,050 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 949

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more

than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,505,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,405,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,305,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,205,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,105,000 tons.

(VI) In calendar year 2001, 1,005,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 905,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 950

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,510,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,410,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,310,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,210,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,110,000 tons.

(VI) In calendar year 2001, 1,010,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 910,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 951

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,515,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,415,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,315,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,215,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,115,000 tons.

(VI) In calendar year 2001, 1,015,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 915,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 952

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,520,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,420,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,320,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,220,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,120,000 tons.

(VI) In calendar year 2001, 1,020,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 920,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 953

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,525,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,425,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,325,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,225,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,125,000 tons.

(VI) In calendar year 2001, 1,025,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 925,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 954

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,530,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,430,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,330,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,230,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,130,000 tons.

(VI) In calendar year 2001, 1,030,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 930,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 955

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,535,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,435,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,335,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,235,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,135,000 tons.

(VI) In calendar year 2001, 1,035,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 935,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 956

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,540,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,440,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,340,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,240,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,140,000 tons.

(VI) In calendar year 2001, 1,040,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 940,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 957

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,545,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,445,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,345,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,245,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,145,000 tons.

(VI) In calendar year 2001, 1,045,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 945,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 958

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,550,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,450,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,350,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,250,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,150,000 tons.

(VI) In calendar year 2001, 1,050,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 950,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 959

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,555,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,455,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,355,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,255,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,155,000 tons.

(VI) In calendar year 2001, 1,055,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 955,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 960

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,560,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,460,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,360,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,260,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,160,000 tons.

(VI) In calendar year 2001, 1,060,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 960,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 961

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,565,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,465,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,365,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,265,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,165,000 tons.

(VI) In calendar year 2001, 1,065,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 965,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 962

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,570,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,470,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,370,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,270,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,170,000 tons.

(VI) In calendar year 2001, 1,070,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 970,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 963

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,575,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,475,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,375,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,275,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,175,000 tons.

(VI) In calendar year 2001, 1,075,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 975,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 964

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,580,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,480,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,380,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,280,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,180,000 tons.

(VI) In calendar year 2001, 1,080,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 980,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 965

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,585,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,485,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,385,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,285,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,185,000 tons.

(VI) In calendar year 2001, 1,085,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 985,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 966

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter:

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,590,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,490,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,390,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,290,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,190,000 tons.

(VI) In calendar year 2001, 1,090,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 990,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 967

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that is not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,595,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,495,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,395,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,295,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,195,000 tons.

(VI) In calendar year 2001, 1,095,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 995,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 968

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,500,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,100,000 tons.

(VI) In calendar year 2001, 900,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 700,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT No. 969

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,605,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,105,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,605,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,105,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,855,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,505,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,405,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,305,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,205,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,105,000 tons.

(VI) In calendar year 2001, 905,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 705,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,605,000 tons in 1996;
(ii) 3,105,000 tons in 1997;
(iii) 3,105,000 tons in 1998;
(iv) 2,605,000 tons in 1999;
(v) 2,605,000 tons in 2000;
(vi) 2,105,000 tons in 2001;
(vii) 2,105,000 tons in 2002;
(viii) 1,855,000 tons in 2003; and
(ix) 1,855,000 tons in each calendar year after 2003.

AMENDMENT No. 970

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,610,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,110,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,610,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,110,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,860,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,510,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,410,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,310,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,210,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,110,000 tons.

(VI) In calendar year 2001, 910,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 710,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,610,000 tons in 1996;

(ii) 3,110,000 tons in 1997;

(iii) 3,110,000 tons in 1998;

(iv) 2,610,000 tons in 1999;

(v) 2,610,000 tons in 2000;

(vi) 2,110,000 tons in 2001;

(vii) 2,110,000 tons in 2002;

(viii) 1,860,000 tons in 2003; and

(ix) 1,860,000 tons in each calendar year after 2003.

AMENDMENT NO. 971

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,615,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,115,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,615,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,115,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,865,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,515,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,415,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,315,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,215,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,115,000 tons.

(VI) In calendar year 2001, 915,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 715,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,615,000 tons in 1996;

(ii) 3,115,000 tons in 1997;

(iii) 3,115,000 tons in 1998;

(iv) 2,615,000 tons in 1999;

(v) 2,615,000 tons in 2000;

(vi) 2,115,000 tons in 2001;

(vii) 2,115,000 tons in 2002;

(viii) 1,865,000 tons in 2003; and

(ix) 1,865,000 tons in each calendar year after 2003.

AMENDMENT NO. 972

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,620,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,120,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,620,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,120,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,870,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,520,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,420,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,320,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,220,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,120,000 tons.

(VI) In calendar year 2001, 920,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 720,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,620,000 tons in 1996;

(ii) 3,120,000 tons in 1997;

(iii) 3,120,000 tons in 1998;

(iv) 2,620,000 tons in 1999;

(v) 2,620,000 tons in 2000;

(vi) 2,120,000 tons in 2001;

(vii) 2,120,000 tons in 2002;

(viii) 1,870,000 tons in 2003; and

(ix) 1,870,000 tons in each calendar year after 2003.

AMENDMENT NO. 973

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,625,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,125,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,625,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,125,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,875,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,525,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,425,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,325,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,225,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,125,000 tons.

(VI) In calendar year 2001, 925,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 725,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,625,000 tons in 1996;

(ii) 3,125,000 tons in 1997;

(iii) 3,125,000 tons in 1998;

(iv) 2,625,000 tons in 1999;

(v) 2,625,000 tons in 2000;

(vi) 2,125,000 tons in 2001;

(vii) 2,125,000 tons in 2002;

(viii) 1,875,000 tons in 2003; and

(ix) 1,875,000 tons in each calendar year after 2003.

AMENDMENT NO. 974

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,630,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,130,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,630,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,130,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,880,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,530,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,430,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,330,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,230,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,130,000 tons.

(VI) In calendar year 2001, 930,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 730,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,630,000 tons in 1996;

(ii) 3,130,000 tons in 1997;

(iii) 3,130,000 tons in 1998;

(iv) 2,630,000 tons in 1999;

(v) 2,630,000 tons in 2000;

(vi) 2,130,000 tons in 2001;

(vii) 2,130,000 tons in 2002;

(viii) 1,880,000 tons in 2003; and

(ix) 1,880,000 tons in each calendar year after 2003.

AMENDMENT NO. 975

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,635,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,135,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,635,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,135,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,885,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,535,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,435,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,335,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,235,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,135,000 tons.

(VI) In calendar year 2001, 935,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 735,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,635,000 tons in 1996;
(ii) 3,135,000 tons in 1997;
(iii) 3,135,000 tons in 1998;
(iv) 2,635,000 tons in 1999;
(v) 2,635,000 tons in 2000;
(vi) 2,135,000 tons in 2001;
(vii) 2,135,000 tons in 2002;
(viii) 1,885,000 tons in 2003; and
(ix) 1,885,000 tons in each calendar year after 2003.

AMENDMENT NO. 976

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,640,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,140,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,640,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,140,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,890,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,540,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,440,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,340,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,240,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,140,000 tons.

(VI) In calendar year 2001, 940,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 740,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,640,000 tons in 1996;
(ii) 3,140,000 tons in 1997;
(iii) 3,140,000 tons in 1998;
(iv) 2,640,000 tons in 1999;
(v) 2,640,000 tons in 2000;
(vi) 2,140,000 tons in 2001;
(vii) 2,140,000 tons in 2002;
(viii) 1,890,000 tons in 2003; and
(ix) 1,890,000 tons in each calendar year after 2003.

AMENDMENT NO. 977

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,645,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,145,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,645,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,145,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,895,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,545,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,445,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,340,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,240,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,145,000 tons.

(VI) In calendar year 2001, 945,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 745,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,645,000 tons in 1996;
(ii) 3,145,000 tons in 1997;
(iii) 3,145,000 tons in 1998;
(iv) 2,645,000 tons in 1999;
(v) 2,645,000 tons in 2000;
(vi) 2,145,000 tons in 2001;
(vii) 2,145,000 tons in 2002;
(viii) 1,895,000 tons in 2003; and
(ix) 1,895,000 tons in each calendar year after 2003.

AMENDMENT NO. 978

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,650,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,150,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,650,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,150,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,900,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,550,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,450,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,350,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,250,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,150,000 tons.

(VI) In calendar year 2001, 950,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 750,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,650,000 tons in 1996;
(ii) 3,150,000 tons in 1997;
(iii) 3,150,000 tons in 1998;
(iv) 2,650,000 tons in 1999;
(v) 2,650,000 tons in 2000;
(vi) 2,150,000 tons in 2001;
(vii) 2,150,000 tons in 2002;
(viii) 1,900,000 tons in 2003; and
(ix) 1,900,000 tons in each calendar year after 2003.

AMENDMENT NO. 979

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,655,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,155,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,655,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,155,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,905,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,555,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,455,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,355,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,255,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,155,000 tons.

(VI) In calendar year 2001, 955,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 755,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,655,000 tons in 1996;
(ii) 3,155,000 tons in 1997;
(iii) 3,155,000 tons in 1998;
(iv) 2,655,000 tons in 1999;
(v) 2,655,000 tons in 2000;
(vi) 2,155,000 tons in 2001;
(vii) 2,155,000 tons in 2002;
(viii) 1,905,000 tons in 2003; and
(ix) 1,905,000 tons in each calendar year after 2003.

AMENDMENT NO. 980

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,660,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,160,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,660,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,160,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,910,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,560,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,460,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,360,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,260,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,160,000 tons.

(VI) In calendar year 2001, 960,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 760,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,660,000 tons in 1996;

(ii) 3,160,000 tons in 1997;

(iii) 3,160,000 tons in 1998;

(iv) 2,660,000 tons in 1999;

(v) 2,660,000 tons in 2000;

(vi) 2,160,000 tons in 2001;

(vii) 2,160,000 tons in 2002;

(viii) 1,910,000 tons in 2003; and

(ix) 1,910,000 tons in each calendar year after 2003.

AMENDMENT NO. 981

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,665,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,165,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,665,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,165,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,915,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,565,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,465,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,365,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,265,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,165,000 tons.

(VI) In calendar year 2001, 965,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 765,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,665,000 tons in 1996;

(ii) 3,165,000 tons in 1997;

(iii) 3,165,000 tons in 1998;

(iv) 2,665,000 tons in 1999;

(v) 2,665,000 tons in 2000;

(vi) 2,165,000 tons in 2001;

(vii) 2,165,000 tons in 2002;

(viii) 1,915,000 tons in 2003; and

(ix) 1,915,000 tons in each calendar year after 2003.

AMENDMENT NO. 982

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,670,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,170,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,670,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,170,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,920,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,570,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,470,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,370,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,270,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,170,000 tons.

(VI) In calendar year 2001, 970,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 770,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,670,000 tons in 1996;

(ii) 3,170,000 tons in 1997;

(iii) 3,170,000 tons in 1998;

(iv) 2,670,000 tons in 1999;

(v) 2,670,000 tons in 2000;

(vi) 2,170,000 tons in 2001;

(vii) 2,170,000 tons in 2002;

(viii) 1,920,000 tons in 2003; and

(ix) 1,920,000 tons in each calendar year after 2003.

AMENDMENT NO. 983

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,675,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,175,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,675,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,175,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,925,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,575,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,475,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,375,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,275,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,175,000 tons.

(VI) In calendar year 2001, 975,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 775,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,675,000 tons in 1996;

(ii) 3,175,000 tons in 1997;

(iii) 3,175,000 tons in 1998;

(iv) 2,675,000 tons in 1999;

(v) 2,675,000 tons in 2000;

(vi) 2,175,000 tons in 2001;

(vii) 2,175,000 tons in 2002;

(viii) 1,925,000 tons in 2003; and

(ix) 1,925,000 tons in each calendar year after 2003.

AMENDMENT NO. 984

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,680,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,180,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,680,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,180,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,930,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,580,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,480,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,380,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,280,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,180,000 tons.

(VI) In calendar year 2001, 980,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 780,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,680,000 tons in 1996;

(ii) 3,180,000 tons in 1997;

(iii) 3,180,000 tons in 1998;

(iv) 2,680,000 tons in 1999;

(v) 2,680,000 tons in 2000;

(vi) 2,180,000 tons in 2001;

(vii) 2,180,000 tons in 2002;

(viii) 1,930,000 tons in 2003; and

(ix) 1,930,000 tons in each calendar year after 2003.

AMENDMENT NO. 985

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,685,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,185,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,685,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,185,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,935,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,585,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,485,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,385,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,285,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,185,000 tons.

(VI) In calendar year 2001, 985,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 785,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,685,000 tons in 1996;
(ii) 3,185,000 tons in 1997;
(iii) 3,185,000 tons in 1998;
(iv) 2,685,000 tons in 1999;
(v) 2,685,000 tons in 2000;
(vi) 2,185,000 tons in 2001;
(vii) 2,185,000 tons in 2002;
(viii) 1,935,000 tons in 2003; and
(ix) 1,935,000 tons in each calendar year after 2003.

Amendment No. 986

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,690,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,190,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,690,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,190,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,940,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,590,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,490,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,390,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,290,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,190,000 tons.

(VI) In calendar year 2001, 990,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 790,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,690,000 tons in 1996;
(ii) 3,190,000 tons in 1997;
(iii) 3,190,000 tons in 1998;
(iv) 2,690,000 tons in 1999;
(v) 2,690,000 tons in 2000;
(vi) 2,190,000 tons in 2001;
(vii) 2,190,000 tons in 2002;
(viii) 1,940,000 tons in 2003; and
(ix) 1,940,000 tons in each calendar year after 2003.

Amendment No. 987

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,695,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,195,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,695,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,195,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,945,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,595,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,495,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,395,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,295,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,195,000 tons.

(VI) In calendar year 2001, 995,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 795,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,695,000 tons in 1996;
(ii) 3,195,000 tons in 1997;
(iii) 3,195,000 tons in 1998;
(iv) 2,695,000 tons in 1999;
(v) 2,695,000 tons in 2000;
(vi) 2,195,000 tons in 2001;
(vii) 2,195,000 tons in 2002;
(viii) 1,945,000 tons in 2003; and
(ix) 1,945,000 tons in each calendar year after 2003.

Amendment No. 988

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,700,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,200,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,700,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,200,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,950,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,700,000 tons in 1996;
(ii) 3,200,000 tons in 1997;
(iii) 3,200,000 tons in 1998;
(iv) 2,700,000 tons in 1999;
(v) 2,700,000 tons in 2000;
(vi) 2,200,000 tons in 2001;
(vii) 2,200,000 tons in 2002;
(viii) 1,950,000 tons in 2003; and
(ix) 1,950,000 tons in each calendar year after 2003.

Amendment No. 989

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,705,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,205,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 1,705,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,205,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,955,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,705,000 tons in 1996;
(ii) 3,205,000 tons in 1997;
(iii) 3,205,000 tons in 1998;
(iv) 2,705,000 tons in 1999;
(v) 2,705,000 tons in 2000;
(vi) 2,205,000 tons in 2001;
(vii) 2,205,000 tons in 2002;
(viii) 1,955,000 tons in 2003; and
(ix) 1,955,000 tons in each calendar year after 2003.

Amendment No. 990

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,710,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,210,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,702,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,210,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,960,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,710,000 tons in 1996;

(ii) 3,210,000 tons in 1997;
(iii) 3,210,000 tons in 1998;
(iv) 2,710,000 tons in 1999;
(v) 2,710,000 tons in 2000;
(vi) 2,210,000 tons in 2001;
(vii) 2,210,000 tons in 2002;
(viii) 1,960,000 tons in 2003; and
(ix) 1,960,000 tons in each calendar year after 2003.

Amendment No. 991

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,715,000 tons of municipal solid waste in calendar year 1996;
(ii) 3,215,000 tons of municipal solid waste in each of calendar years 1997 and 1998;
(iii) 2,715,000 tons of municipal solid waste in each of calendar years 1999 and 2000;
(iv) 2,215,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and
(v) 1,965,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.
(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.
(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.
(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.
(V) In calendar year 2000, 1,000,000 tons.
(VI) In calendar year 2001, 800,000 tons.
(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,715,000 tons in 1996;
(ii) 3,215,000 tons in 1997;
(iii) 3,215,000 tons in 1998;
(iv) 2,715,000 tons in 1999;
(v) 2,715,000 tons in 2000;
(vi) 2,215,000 tons in 2001;
(vii) 2,215,000 tons in 2002;
(viii) 1,965,000 tons in 2003; and
(ix) 1,965,000 tons in each calendar year after 2003.

Amendment No. 992

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,720,000 tons of municipal solid waste in calendar year 1996;
(ii) 3,220,000 tons of municipal solid waste in each of calendar years 1997 and 1998;
(iii) 2,720,000 tons of municipal solid waste in each of calendar years 1999 and 2000;
(iv) 2,220,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and
(v) 1,970,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.
(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.
(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.
(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.
(V) In calendar year 2000, 1,000,000 tons.
(VI) In calendar year 2001, 800,000 tons.
(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,720,000 tons in 1996;
(ii) 3,220,000 tons in 1997;
(iii) 3,220,000 tons in 1998;
(iv) 2,720,000 tons in 1999;
(v) 2,720,000 tons in 2000;
(vi) 2,220,000 tons in 2001;
(vii) 2,220,000 tons in 2002;
(viii) 1,970,000 tons in 2003; and
(ix) 1,970,000 tons in each calendar year after 2003.

Amendment No. 993

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,725,000 tons of municipal solid waste in calendar year 1996;
(ii) 3,225,000 tons of municipal solid waste in each of calendar years 1997 and 1998;
(iii) 2,725,000 tons of municipal solid waste in each of calendar years 1999 and 2000;
(iv) 2,225,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and
(v) 1,975,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.
(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.
(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.
(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.
(V) In calendar year 2000, 1,000,000 tons.
(VI) In calendar year 2001, 800,000 tons.
(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,725,000 tons in 1996;
(ii) 3,225,000 tons in 1997;
(iii) 3,225,000 tons in 1998;
(iv) 2,725,000 tons in 1999;
(v) 2,725,000 tons in 2000;
(vi) 2,225,000 tons in 2001;
(vii) 2,225,000 tons in 2002;
(viii) 1,975,000 tons in 2003; and
(ix) 1,975,000 tons in each calendar year after 2003.

Amendment No. 994

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,730,000 tons of municipal solid waste in calendar year 1996;
(ii) 3,230,000 tons of municipal solid waste in each of calendar years 1997 and 1998;
(iii) 2,230,000 tons of municipal solid waste in each of calendar years 1999 and 2000;
(iv) 2,230,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and
(v) 1,980,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.
(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.
(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.
(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.
(V) In calendar year 2000, 1,000,000 tons.
(VI) In calendar year 2001, 800,000 tons.
(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,730,000 tons in 1996;
(ii) 3,230,000 tons in 1997;
(iii) 3,230,000 tons in 1998;
(iv) 2,730,000 tons in 1999;
(v) 2,730,000 tons in 2000;
(vi) 2,230,000 tons in 2001;
(vii) 2,230,000 tons in 2002;
(viii) 1,980,000 tons in 2003; and
(ix) 1,980,000 tons in each calendar year after 2003.

Amendment No. 995

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,735,000 tons of municipal solid waste in calendar year 1996;
(ii) 3,235,000 tons of municipal solid waste in each of calendar years 1997 and 1998;
(iii) 2,735,000 tons of municipal solid waste in each of calendar years 1999 and 2000;
(iv) 2,235,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and
(v) 1,985,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.
(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.
(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.
(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.
(V) In calendar year 2000, 1,000,000 tons.
(VI) In calendar year 2001, 800,000 tons.
(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,735,000 tons in 1996;
(ii) 3,235,000 tons in 1997;
(iii) 3,235,000 tons in 1998;
(iv) 2,735,000 tons in 1999;
(v) 2,735,000 tons in 2000;
(vi) 2,235,000 tons in 2001;
(vii) 2,235,000 tons in 2002;
(viii) 1,985,000 tons in 2003; and
(ix) 1,985,000 tons in each calendar year after 2003.

AMENDMENT NO. 996

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,076 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 997

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,077 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 998

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,078 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 999

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,079 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1000

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,080 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1001

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,081 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1002

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,082 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1003

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,083 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1004

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,084 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1005

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,085 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002, or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1006

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more

than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,086 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1007

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,087 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1008

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,088 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1010

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,089 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1009

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,090 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1011

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,091 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1012

In page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,092 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1013

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,093 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1014

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,094 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1015

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,095 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1016

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,096 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1017

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,097 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,400,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1018

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,098 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,060 tons in each calendar year after 2003.

AMENDMENT NO. 1019

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,099 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1020

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,100 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1021

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,500 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1022

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,501 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1023

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,502 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1024

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,503 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1025

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,504 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1026

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,505 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1027

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,506 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1028

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,507 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1029

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,508 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1030

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,509 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1031

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,510 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1032

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,511 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1033

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,512 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1034

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,513 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1035

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,514 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1036

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,515 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1037

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,516 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1038

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,517 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1039

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,518 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1040

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,519 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1041

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,520 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;
(ii) 3,100,000 tons in 1997;
(iii) 3,100,000 tons in 1998;
(iv) 2,600,000 tons in 1999;
(v) 2,600,000 tons in 2000;
(vi) 2,100,000 tons in 2001;
(vii) 2,100,000 tons in 2002;
(viii) 1,850,000 tons in 2003; and
(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1042

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,521 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1043

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,522 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1044

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,523 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1045

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,524 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1046

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,525 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

AMENDMENT NO. 1047

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,526 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1048

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,527 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1049

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter;

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,528 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1050

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,600,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,100,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,600,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,100,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,850,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,529 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,000,000 tons.

(VI) In calendar year 2001, 800,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,600,000 tons in 1996;

(ii) 3,100,000 tons in 1997;

(iii) 3,100,000 tons in 1998;

(iv) 2,600,000 tons in 1999;

(v) 2,600,000 tons in 2000;

(vi) 2,100,000 tons in 2001;

(vii) 2,100,000 tons in 2002;

(viii) 1,850,000 tons in 2003; and

(ix) 1,850,000 tons in each calendar year after 2003.

Amendment No. 1051

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,505,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,005,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,505,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,005,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,755,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,305,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,205,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,105,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,005,000 tons.

(VI) In calendar year 2001, 805,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 605,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,505,000 tons in 1996;

(ii) 3,005,000 tons in 1997;

(iii) 3,005,000 tons in 1998;

(iv) 2,505,000 tons in 1999;

(v) 2,505,000 tons in 2000;

(vi) 2,005,000 tons in 2001;

(vii) 2,005,000 tons in 2002;

(viii) 1,755,000 tons in 2003; and

(ix) 1,755,000 tons in each calendar year after 2003.

Amendment No. 1052

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,510,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,010,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,510,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,010,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,760,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,410,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,310,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,210,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,110,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,010,000 tons.

(VI) In calendar year 2001, 810,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 610,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,510,000 tons in 1996;

(ii) 3,010,000 tons in 1997;

(iii) 3,010,000 tons in 1998;

(iv) 2,510,000 tons in 1999;

(v) 2,510,000 tons in 2000;

(vi) 2,010,000 tons in 2001;

(vii) 2,010,000 tons in 2002;

(viii) 1,760,000 tons in 2003; and

(ix) 1,760,000 tons in each calendar year after 2003.

Amendment No. 1053

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,515,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,015,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,515,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,015,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,765,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,415,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,315,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,215,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,115,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,015,000 tons.

(VI) In calendar year 2001, 815,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 615,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,515,000 tons in 1996;
(ii) 3,015,000 tons in 1997;
(iii) 3,015,000 tons in 1998;
(iv) 2,515,000 tons in 1999;
(v) 2,515,000 tons in 2000;
(vi) 2,015,000 tons in 2001;
(vii) 2,015,000 tons in 2002;
(viii) 1,765,000 tons in 2003; and
(ix) 1,765,000 tons in each calendar year after 2003.

Amendment No. 1054

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,520,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,020,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,520,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,020,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,770,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,420,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,320,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,220,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,120,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,020,000 tons.

(VI) In calendar year 2001, 820,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 620,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,520,000 tons in 1996;
(ii) 3,020,000 tons in 1997;
(iii) 3,020,000 tons in 1998;
(iv) 2,520,000 tons in 1999;
(v) 2,520,000 tons in 2000;
(vi) 2,020,000 tons in 2001;
(vii) 2,020,000 tons in 2002;
(viii) 1,770,000 tons in 2003; and
(ix) 1,770,000 tons in each calendar year after 2003.

Amendment No. 1055

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,525,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,025,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,525,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,025,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,775,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,425,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,325,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,225,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,125,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,025,000 tons.

(VI) In calendar year 2001, 825,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 625,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,525,000 tons in 1996;
(ii) 3,025,000 tons in 1997;
(iii) 3,025,000 tons in 1998;
(iv) 2,525,000 tons in 1999;
(v) 2,525,000 tons in 2000;
(vi) 2,025,000 tons in 2001;
(vii) 2,025,000 tons in 2002;
(viii) 1,775,000 tons in 2003; and
(ix) 1,775,000 tons in each calendar year after 2003.

Amendment No. 1056

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,530,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,030,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,530,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,030,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,780,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,430,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,330,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,230,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,130,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,030,000 tons.

(VI) In calendar year 2001, 830,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 630,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,530,000 tons in 1996;
(ii) 3,030,000 tons in 1997;
(iii) 3,030,000 tons in 1998;
(iv) 2,530,000 tons in 1999;
(v) 2,530,000 tons in 2000;
(vi) 2,030,000 tons in 2001;
(vii) 2,030,000 tons in 2002;
(viii) 1,780,000 tons in 2003; and
(ix) 1,780,000 tons in each calendar year after 2003.

Amendment No. 1057

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,535,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,035,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,535,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,035,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,785,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,435,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,335,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,235,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,135,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,035,000 tons.

(VI) In calendar year 2001, 835,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 635,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,535,000 tons in 1996;
(ii) 3,035,000 tons in 1997;
(iii) 3,035,000 tons in 1998;
(iv) 2,535,000 tons in 1999;
(v) 2,535,000 tons in 2000;
(vi) 2,035,000 tons in 2001;
(vii) 2,035,000 tons in 2002;
(viii) 1,785,000 tons in 2003; and
(ix) 1,785,000 tons in each calendar year after 2003.

Amendment No. 1058

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,540,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,040,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,540,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,040,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,790,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,440,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,340,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,240,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,140,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,040,000 tons.

(VI) In calendar year 2001, 840,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 640,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,540,000 tons in 1996;
(ii) 3,040,000 tons in 1997;
(iii) 3,040,000 tons in 1998;
(iv) 2,540,000 tons in 1999;
(v) 2,540,000 tons in 2000;
(vi) 2,040,000 tons in 2001;
(vii) 2,040,000 tons in 2002;
(viii) 1,790,000 tons in 2003; and
(ix) 1,790,000 tons in each calendar year after 2003.

AMENDMENT NO. 1059

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,545,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,045,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,545,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,045,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,795,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,445,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,345,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,245,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,145,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,045,000 tons.

(VI) In calendar year 2001, 845,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 645,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,545,000 tons in 1996;
(ii) 3,045,000 tons in 1997;
(iii) 3,045,000 tons in 1998;
(iv) 2,545,000 tons in 1999;
(v) 2,545,000 tons in 2000;
(vi) 2,045,000 tons in 2001;
(vii) 2,045,000 tons in 2002;
(viii) 1,795,000 tons in 2003; and
(ix) 1,795,000 tons in each calendar year after 2003.

AMENDMENT NO. 1060

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,550,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,050,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,550,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,050,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,800,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,450,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,350,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,250,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,150,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,050,000 tons.

(VI) In calendar year 2001, 850,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 650,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,550,000 tons in 1996;
(ii) 3,050,000 tons in 1997;
(iii) 3,050,000 tons in 1998;
(iv) 2,550,000 tons in 1999;
(v) 2,550,000 tons in 2000;
(vi) 2,050,000 tons in 2001;
(vii) 2,050,000 tons in 2002;
(viii) 1,800,000 tons in 2003; and
(ix) 1,800,000 tons in each calendar year after 2003.

AMENDMENT NO. 1061

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,555,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,055,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,555,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,055,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,805,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,455,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,355,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,255,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,155,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,055,000 tons.

(VI) In calendar year 2001, 855,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 655,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,555,000 tons in 1996;
(ii) 3,055,000 tons in 1997;
(iii) 3,055,000 tons in 1998;
(iv) 2,555,000 tons in 1999;
(v) 2,555,000 tons in 2000;
(vi) 2,055,000 tons in 2001;
(vii) 2,055,000 tons in 2002;
(viii) 1,805,000 tons in 2003; and
(ix) 1,805,000 tons in each calendar year after 2003.

AMENDMENT NO. 1062

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,560,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,060,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,560,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,060,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,810,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,460,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,360,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,260,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,160,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,060,000 tons.

(VI) In calendar year 2001, 860,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 660,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,560,000 tons in 1996;
(ii) 3,060,000 tons in 1997;
(iii) 3,060,000 tons in 1998;
(iv) 2,260,000 tons in 1999;
(v) 2,260,000 tons in 2000;
(vi) 2,060,000 tons in 2001;
(vii) 2,060,000 tons in 2002;
(viii) 1,860,000 tons in 2003; and
(ix) 1,860,000 tons in each calendar year after 2003.

AMENDMENT NO. 1063

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,565,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,065,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,565,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,065,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,815,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more

than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,465,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,365,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,265,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,165,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,065,000 tons.

(VI) In calendar year 2001, 865,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 665,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,565,000 tons in 1996;
(ii) 3,065,000 tons in 1997;
(iii) 3,065,000 tons in 1998;
(iv) 2,265,000 tons in 1999;
(v) 2,265,000 tons in 2000;
(vi) 2,065,000 tons in 2001;
(vii) 2,065,000 tons in 2002;
(viii) 1,865,000 tons in 2003; and
(ix) 1,865,000 tons in each calendar year after 2003.

Amendment No. 1064

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,570,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,070,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,570,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,070,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,820,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,470,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,370,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,270,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,170,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,070,000 tons.

(VI) In calendar year 2001, 870,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 670,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,570,000 tons in 1996;
(ii) 3,070,000 tons in 1997;
(iii) 3,070,000 tons in 1998;
(iv) 2,270,000 tons in 1999;
(v) 2,270,000 tons in 2000;
(vi) 2,070,000 tons in 2001;
(vii) 2,070,000 tons in 2002;
(viii) 1,870,000 tons in 2003; and
(ix) 1,870,000 tons in each calendar year after 2003.

Amendment No. 1065

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,575,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,075,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,575,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,075,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,825,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,475,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,375,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,275,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,175,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,075,000 tons.

(VI) In calendar year 2001, 875,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 675,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,575,000 tons in 1996;
(ii) 3,075,000 tons in 1997;
(iii) 3,075,000 tons in 1998;
(iv) 2,275,000 tons in 1999;
(v) 2,275,000 tons in 2000;
(vi) 2,075,000 tons in 2001;
(vii) 2,075,000 tons in 2002;
(viii) 1,875,000 tons in 2003; and
(ix) 1,875,000 tons in each calendar year after 2003.

Amendment No. 1066

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,580,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,080,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,580,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,080,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,830,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,480,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,380,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,280,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,180,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,080,000 tons.

(VI) In calendar year 2001, 880,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 680,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,580,000 tons in 1996;
(ii) 3,080,000 tons in 1997;
(iii) 3,080,000 tons in 1998;
(iv) 2,280,000 tons in 1999;
(v) 2,280,000 tons in 2000;
(vi) 2,080,000 tons in 2001;
(vii) 2,080,000 tons in 2002;
(viii) 1,880,000 tons in 2003; and
(ix) 1,880,000 tons in each calendar year after 2003.

Amendment No. 1067

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,585,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,085,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,585,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,085,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,835,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,485,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,385,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,285,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,185,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,085,000 tons.

(VI) In calendar year 2001, 885,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 685,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,585,000 tons in 1996;
(ii) 3,085,000 tons in 1997;
(iii) 3,085,000 tons in 1998;
(iv) 2,285,000 tons in 1999;
(v) 2,285,000 tons in 2000;
(vi) 2,085,000 tons in 2001;
(vii) 2,085,000 tons in 2002;
(viii) 1,885,000 tons in 2003; and
(ix) 1,885,000 tons in each calendar year after 2003.

Amendment No. 1068

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,590,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,090,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,590,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,090,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,840,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,490,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,390,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,290,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,190,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,090,000 tons.

(VI) In calendar year 2001, 890,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 690,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,590,000 tons in 1996;
(ii) 3,090,000 tons in 1997;
(iii) 3,090,000 tons in 1998;
(iv) 2,290,000 tons in 1999;
(v) 2,290,000 tons in 2000;
(vi) 2,090,000 tons in 2001;
(vii) 2,090,000 tons in 2002;
(viii) 1,890,000 tons in 2003; and
(ix) 1,890,000 tons in each calendar year after 2003.

AMENDMENT NO. 1069

On page 34, delete line 18 through page 35, line 2, delete all and replace with the following:

(i) 3,595,000 tons of municipal solid waste in calendar year 1996;

(ii) 3,095,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

(iii) 2,595,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

(iv) 2,095,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

(v) 1,845,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

(I) In calendar year 1996, the greater of 1,495,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

(II) In calendar year 1997, the greater of 1,395,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

(III) In calendar year 1998, the greater of 1,295,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

(IV) In calendar year 1999, the greater of 1,195,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

(V) In calendar year 2000, 1,095,000 tons.

(VI) In calendar year 2001, 895,000 tons.

(VII) In calendar year 2002 or any calendar year thereafter, 695,000 tons.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,595,000 tons in 1996;
(ii) 3,095,000 tons in 1997;
(iii) 3,095,000 tons in 1998;
(iv) 2,295,000 tons in 1999;
(v) 2,295,000 tons in 2000;
(vi) 2,095,000 tons in 2001;
(vii) 2,095,000 tons in 2002;
(viii) 1,895,000 tons in 2003; and
(ix) 1,895,000 tons in each calendar year after 2003.

LEVIN (AND ABRAHAM) AMENDMENT NO. 1070

Mr. CHAFEE (for Mr. LEVIN for himself and Mr. ABRAHAM) proposed an amendment to the bill S. 534, supra; as follows:

On page 49, strike lines 1 through 8 and insert:

"(3) The term 'out-of-state municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. Unless the President determines it is inconsistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States. Notwithstanding any other provision of law, generators of municipal solid waste outside the United States shall possess no greater right of access to disposal facilities in a State than United States generators of municipal solid waste outside of that State.

Mr. LEVIN. Mr. President, I am pleased that the managers of the bill will be able to accept my amendment clarifying what constitutes out-of-State municipal solid waste, cosponsored by Senator ABRAHAM.

S. 534, as reported by the committee, in title I, section (f)(3) on page 49, defines out-of-State municipal solid waste as municipal solid waste [MSW] generated outside of the State. That is pretty clear and unambiguous. There should not be court battles over that definition. If MSW generated in Ohio comes to Michigan for disposal it should be treated as out-of-State MSW, and vice versa. If MSW generated in Canada or any other country comes to Michigan for disposal, it should be treated as out-of-State MSW. That seems pretty clear, too.

But, unfortunately, the bill goes further and muddies the clarity of the definition. The next sentence suggests that waste generated outside the country should somehow be treated differently, in a special category. It suggests that out-of-country waste is only included in the definition of out-of-State municipal solid waste if the President makes a determination that including it will be consistent with NAFTA and GATT. So, if this bill became law, it would seem to require an affirmative determination of consistency by the President before Michigan, and other States receiving out-of-country waste, could actually control this MSW generated outside of their States.

This amendment reverses the presumption in the bill. The bill will now presume that the term "out-of-State municipal solid waste" includes out-of-country waste, unless the President makes a determination that such a definition is inconsistent with our trade agreements and treaty obligations. And, the amendment ensures that out-of-country generators of municipal solid waste will not be treated any better than U.S. generators of such waste when it comes to access to disposal in a State.

Mr. President, waste is waste. If our States and local governments are to adequately manage MSW, all waste must be treated equally. Waste originating in a foreign country is a problem in my home State of Michigan.

The last thing that we should do is give foreign waste any kind of preference. My amendment prevents that from happening.

WARNER AMENDMENT NO. 1071

Mr. CHAFEE (for Mr. WARNER) proposed an amendment to the bill S. 534, supra; as follows:

On page 65, line 6 insert "or related landfill reclamation" after "services."

BREAUX AMENDMENTS NOS. 1072–1073

Mr. CHAFEE (for Mr. BREAUX) proposed two amendments to the bill S. 534, supra; as follows:

AMENDMENT NO. 1072

At the appropriate place, insert the following:

SEC. . STUDY OF INTERSTATE HAZARDOUS WASTE TRANSPORT.

(a) DEFINITION OF HAZARDOUS WASTE.—In this section, the term "hazardous waste" has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

(1) the quality of hazardous waste that is being transported across State lines; and

(2) the ultimate disposition of the transported waste.

AMENDMENT NO. 1073

At the appropriate place, insert the following:

SEC. . STUDY OF INTERSTATE SLUDGE TRANSPORT.

(a) DEFINITIONS.—In this section:

(1) SEWAGE SLUDGE.—The term "sewage sludge"—

(A) means solid semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

(B) includes—

(i) domestic septage;

(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

(iii) material derived from sewage sludge (as otherwise defined in this paragraph); but

(C) does not include—

(i) ash generated during the firing of sewage sludge (as otherwise defined in this paragraph) in a sewage sludge incinerator; or

(ii) grit or screenings generated during preliminary treatment of domestic sewage in a treatment works.

(2) SLUDGE.—The term "sludge" has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

(1) the quantity of sludge (including sewage sludge) that is being transported across State lines; and

(2) the ultimate disposition of the transported sludge.

McCONNELL AMENDMENT NO. 1074

Mr. CHAFEE (for Mr. McCONNELL) proposed an amendment to the bill S. 534, supra; as follows:

At the end of the amendment add the following:

TITLE —STATE OR REGIONAL SOLID WASTE PLANS

SEC. 01. FINDING.

Section 1002(a) of the Solid Waste Disposal Act (42 U.S.C. 6901(a)) is amended—

(1) by striking the period at the end of paragraph (4) and inserting "; and"; and

(2) by adding at the end the following:

"(5) that the Nation's improved standard of living has resulted in an increase in the amount of solid waste generated per capita, and the Nation has not given adequate consideration to solid waste reduction strategies.".

SEC. 02. OBJECTIVE OF SOLID WASTE DISPOSAL ACT.

Section 1003(a) of the Solid Waste Disposal Act (42 U.S.C. 6902(a)) is amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by adding at the end the following:

"(12) promoting local and regional planning for—

"(A) effective solid waste collection and disposal; and

"(B) reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies.".

SEC. 03. NATIONAL POLICY.

Section 1003(b) of the Solid Waste Disposal Act (42 U.S.C. 6902(b)) is amended by inserting "solid waste and" after "generation of".

SEC. 04. OBJECTIVE OF SUBTITLE D OF SOLID WASTE DISPOSAL ACT.

Section 4001 of the Solid Waste Disposal Act (42 U.S.C. 6941) is amended by inserting "promote local and regional planning for effective solid waste collection and disposal and for reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies, and" after "objectives of this subtitle are to".

SEC. 05. DISCRETIONARY STATE PLAN PROVISIONS.

Section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended by adding at the end the following:

"(e) DISCRETIONARY PLAN PROVISIONS RELATING TO SOLID WASTE REDUCTION GOALS, LOCAL AND REGIONAL PLANS, AND ISSUANCE OF SOLID WASTE MANAGEMENT PERMITS.—Except as provided in section 4011(a)(4), a State plan submitted under this subtitle may include, at the option of the State, provisions for—

"(1) establishment of a State per capita solid waste reduction goal, consistent with the goals and objectives of this subtitle; and

"(2) establishment of a program that ensures that local and regional plans are consistent with State plans and are developed in accordance with sections 4004, 4005, and 4006.".

SEC. 06. PROCEDURE FOR DEVELOPMENT AND IMPLEMENTATION OF STATE PLANS.

Section 4006(b) of the Solid Waste Disposal Act (42 U.S.C. 6946(b)) is amended by inserting "and discretionary plan provisions" after "minimum requirements".

CHAFEE (AND BAUCUS) AMENDMENT NO. 1075

Mr. CHAFEE (for himself and Mr. BAUCUS) proposed an amendment to the bill S. 534, supra; as follows:

Delete from page 34, line 5 though page 35, line 2, and replace with the following:

"(3)(A) Except as provided in paragraph (4), any State that imported more than 750,000 tons of out-of-State municipal solid waste in 1993 may establish a limit under this paragraph on the amount of out-of-State municipal solid waste received for disposal at landfills and incinerators in the importing state as follows:

"(i) In calendar year 1996, 95 percent of the amount exported to the State in calendar year 1993;

"(ii) In calendar years 1997 through 2002, 95 percent of the amount exported to the State in the previous year;

"(iii) In calendar year 2003, and each succeeding year, the limit shall be 65% of the amount exported in 1993.

"(iv) No exporting State shall be required under this subparagraph to reduce its exports to any importing state below the proportionate amount established herein."

On page 36, line 12, add "and the Governor of the importing State may only apply subparagraph (A) or (B) but not both" after "facilities".

On page 38, line 2, after "year" insert ", and the amount of waste that was received pursuant to host community agreements or permits authorizing receipt of out-of-state municipal solid waste".

On page 38, line 3, delete "July 1" and insert "May 1".

On page 38, delete from line 17 through page 39, line 6, and replace with the following:

"(C) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste."

On page 35, line 20, strike "800,000", replace with "750,000".

On page 35, line 22, strike "600,000", replace with "550,000".

On page 52, strike line 6, insert the following: "sources outside the state.

"(g) IMPLEMENTATION AND ENFORCEMENT.—Any State may adopt such laws and regulations, not inconsistent with this section, as are necessary to implement and enforce this section, including provisions for penalties.".

D'AMATO AMENDMENT NO. 1076

Mr. CHAFEE (for Mr. D'AMATO) proposed an amendment to the bill, S. 534, supra; as follows:

Page 64, line 3, insert the following as letter (f) and reletter subsequent paragraphs accordingly:

(f) STATE-AUTHORIZED SERVICES AND LOCAL PLAN ADOPTION.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

(1) had been authorized by State statute which specifically named the political subdivision to exercise flow control authority and had implemented the authority through a law, ordinance, regulation, contract, or other legally binding provision; and

(2) had adopted a local solid waste management plan pursuant to State statute and was required by State statute to adopt such plan in order to submit a complete permit application to construct a new solid waste management facility proposed in such plan; and

(3) had presented for sale a revenue or general obligation bond to provide for the site selection, permitting, or acquisition for construction of new facilities identified and proposed in its local solid waste management plan; and

(4) includes a municipality or municipalities required by the State law to adopt a local law or ordinance to require that solid waste which has been left for collection shall be separated into recyclable, reusable or other components for which economic markets exist; and

(5) is in a State that has aggressively pursued closure of substandard municipal landfills, both by regulatory action and under statute designed to protect deep flow recharge areas in countries where potable water supplies are derived from sole source aquifers.

COATS AMENDMENT NO. 1077

Mr. COATS proposed an amendment to the bill, S. 534, supra; as follows:

On page 52, between lines 10 and 11 insert the following:

"SEC. 102. NEEDS DETERMINATION.

The Governor of a State may accept, deny or modify an application for a municipal solid waste management facility permit if—

"(1) it is done in a manner that is not inconsistent with the provisions of this section;

"(2) a State law enacted in 1990 and a regulation adopted by the Governor in 1991 specifically requires the permit applicant to demonstrate that there is a local or regional need within the State for the facility; and

"(3) the permit applicant fails to demonstrate that there is a local or regional need within the State for the facility.".

ADDITIONAL STATEMENTS

CONSUMER PRODUCTS SAFETY COMMISSION CUTBACKS A THREAT

• Mr. BREAUX. Mr. President, on behalf of my colleague, Senator JOHNSTON and myself, I ask that an article printed in the New Orleans Times-Picayune be printed in the CONGRESSIONAL RECORD.

We found the discussion of the U.S. Consumer Product Safety Commission very interesting and wanted to share these informative comments with our colleagues.

The article follows:

CUTBACKS TO CPSC THREATEN US ALL

Today in Washington, D.C., the U.S. Consumer Product Safety Commission is conducting a conference titled "Safety Sells." The one-day event features business executives who will "highlight product safety as an emerging business trend."

In a press release describing the event, the commission said executives from Toys R Us, Hasbro Inc., Proctor & Gamble Co. and Volvo "will discuss how they have improved their competitive positions by selling safety."

In the case of Volvo, that's certainly true. Its promotions appeal to the growing number of car buyers, who intelligently shop for safer cars, armed with Consumer Reports or the "Car Book," by Jack Gillis.

But toys? There are no books or magazines that list the safe ones and the dangerous ones to avoid. And the steady infusion of imported toys, made in countries that do not have safety standards as rigid as ours, routinely pass undetected through customs, filling the marketplace with unsafe products for children.

We're talking about toys with excessive amounts of lead or small parts that can choke children, bunk beds that fall apart, etc. Their existence is why a significant portion of this column is routinely given to warning readers about recalls.

Imported toys can be bought cheaply and sold at huge profits. And even if there's a recall, the companies know that most buyers will never find out about it and, therefore, their profits will remain high.

One of our best defenses against unsafe products is the U.S. Consumer Product Safety Commission, the only federal agency that identifies and acts on a wide range of product safety hazards, from toys to bikes to household products.

Unfortunately, the current trend for "less government interference" could seriously undermine the commission's much-needed work if it results in additional cutbacks to this important consumer watchdog. If that were to happen, the only beneficiary would be the corporations that profit from unsafe products.

During the Reagan administration, the commission's budget and staff were cut in half. Then, as now, it operates on a $42-million annual budget—not much for a major federal agency that addresses the hazards in our lives. Consider these facts from the commission:

Unintentional injury is the leading cause of death among people under 45 years old and is the fourth leading cause of death in the nation.

More children die from injuries than from diseases.

There are 21,700 deaths and 28.6 million injuries each year related to consumer products under commission jurisdiction.

The deaths, injuries and property damage associated with consumer products cost the nation about $200 billion annually. Consumer product injuries account for one out of every six hospital days in this country.

The commission is the only agency addressing product safety and health hazards for more than 15,000 consumer products.

What's more, the money used to support the commission gives an excellent return. Every dangerous product removed from the marketplace prevents an increase in the national health care bill.

On the local level, I have nothing but high praises for Sonny Sturdivant and Sidney Englander, the CPSC field inspectors, who are invaluable sources of help for this column and to the residents in this area.

If potential cutbacks to the commission worry you, as it does me, you may want to contact your representatives in Washington and let your feelings be known.●

COMMEMORATING THE 47TH ANNIVERSARY OF ISRAEL'S INDEPENDENCE

● Mr. BRADLEY. Mr. President, I rise today to mark a joyous event, the founding of the State of Israel on May 14, 1948. From its near-miraculous beginnings as a country born in strife, Israel enters its 48th year a prosperous and vigorous democracy.

With the hyperinflation of the 1980's a distant memory, Israel enjoys stable economic growth with moderate inflation. Israel's economic problems are now the challenges of any developed country—generating and distributing wealth. As the circle of peace in the region expands, Israel will find itself well-placed to be a major regional economic power.

Israel has renewed itself as the homeland of the Jewish people by successfully managing its latest "aliyah," the absorption of Jews from the Soviet Union and its successor states. Both the infusion of new blood, and the national effort to welcome and absorb over half a million new citizens has reinvigorated the nation, while educating a new generation on the special responsibilities and benefits of life in Israel.

Among the greatest of those responsibilities and benefits is the nurturing of a democracy that is the envy, not only of the Middle East, but of the world. To an extent perhaps matched only by the United States, Israel has welded diverse peoples into a democratic society. Israel understands the lesson so eloquently taught by former Jerusalem mayor Teddy Kollek that democracy is more than elections. Democracy is a way of thinking, a way of acting and, most of all, a way of treating one's neighbor. The world has much to learn from Israel's successful experiment in representative democracy in an often harsh environment.

Israel marks its 47th birthday closer to lasting peace than ever before. As a result of the warm peace with Jordan, Israelis are finally visiting the legendary red rocks at Petra. As a result of the multilateral peace negotiations, Israel is normalizing relations with Arab states in North Africa and the Persian Gulf.

Israel is also inching closer to peace with its Palestinian and Syrian neighbors. However, as Israelis above all peoples understand, peace never comes cheaply, and Israel is facing a historic challenge as it tries to conclude genuine peace in the face of terrorism.

All of us grieve with Israel every time another terrorist atrocity is perpetrated. All of us pray with Israel that the leaders and peoples of the Middle East, and those of us who support them, will find the wisdom to steer a path through the shoals of violence to a lasting peace.

The United States Government and individual Americans have an important role to play in supporting Israel, its people, and its leadership, in making the hard decisions necessary for peace. I am proud of the record of the United States Senate in providing unstinting support of Israel, and I will be proud to continue that record.

I am particularly proud of the contributions of citizens of my own State of New Jersey to Israel's development. These are people like Miles Lerman, active in fundraising and philanthropy for Israel, and the man most responsible for the Holocaust Museum in Washington, who form the unshakable foundation of America's unwavering support for Israel.

Israel today is 47 years strong. I know I speak for the people of New Jersey, and the United States, when I wish her peace and continued prosperity.●

ORDER OF PROCEDURE

Mr. CHAFEE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING 1995 SPECIAL OLYMPICS TORCH RELAY THROUGH CAPITOL GROUNDS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 64, just received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 64) authorizing the 1995 Special Olympics torch relay to be run through the Capitol Grounds.

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

So the concurrent resolution (H. Con. Res. 64) was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the motion to reconsider be laid upon the table and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, MAY 15, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Monday, May 15, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, at 9:30 a.m. on Monday morning, it will be the intention of the majority leader to turn to the consideration of calendar No. 101, S. 395, relative to Alaska power.

For the information of all Senators, an agreement was reached with respect to final consideration of S. 534, the Solid Waste Disposal Act, which will precipitate a rollcall vote as early as 10:30 a.m. on Tuesday, May 15. Additional votes are expected prior to our scheduled 12:30 recess on Tuesday.

I think it is fair to say rollcall votes can be expected on Monday also. So I alert all Senators that on Monday we expect to have votes. We would like to finish S. 395 on that day. And the vote could be on that date, on Monday, with respect to the motion to proceed to the bill or amendments relative to the Alaska Power Administration bill.

ORDER FOR ADJOURNMENT

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that after I conclude my remarks, the Senate stand in adjournment under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. DOLE. Mr. President, in January 1961, Dwight Eisenhower gave his last speech as President to the American people.

And in those remarks, Ike offered some advice which should be remembered by all of us in the Senate—and all Americans—as the Federal budget moves to the top of our agenda in the coming weeks.

Eisenhower said, and I quote:

> As we peer into society's future, we must avoid the impulse to live only for today, plundering for our own ease and convenience the precious resources of tomorrow. We cannot mortgage the material assets of our grandchildren without risking the loss also of their political and spiritual heritage. We want democracy to survive for all generations to come, and not to become the insolvent phantom of tomorrow.

It has now been over 34 years ago since President Eisenhower spoke those words. And as everyone here knows, they are words that have been tragically ignored. When Ike left the White House, our national debt stood at approximately $248 million—$248 million. Today, it is $4.8 trillion. And it continues to grow by $355,000 each and every minute—that is $482 million a day—far more than our entire debt in 1961.

There can be no getting around the fact, Mr. President, that America is at a crossroads, and we face a choice.

Down one road is the status quo.

It is a road that means living for today, plundering the resources of tomorrow.

It is a road that means we continue to mortgage the assets of our children and grandchildren.

It is a road that sentences our country to the future that Eisenhower foresaw—a future as an insolvent phantom.

This is a very easy road to take, because it involves no tough decisions, and no leadership of any kind.

And it is the road recommended by President Clinton, and by many of my friends on the other side of the aisle.

Down the other road is change.

A road that means reversing the spending patterns of the last three decades.

A road that means reducing the rate of growth of Government spending.

A road that allows Congress to rein in the Federal Government, and to return power to the States and more importantly to the people.

It is a road that will be very bumpy, because it will require some tough, tough, tough decisions.

It is a road that requires leadership—leadership that House and Senate Republican majorities are willing to provide.

It is a road that we must take, because it is a road that will result in a stronger America for our children and our grandchildren.

And thanks to the courage and hard work of Chairman DOMENICI, and his fellow Republicans on the Senate Budget Committee, we now have a map which will help guide us down this road.

In developing a historic budget that slows the growth in Federal spending from 5 to 3 percent a year, and that achieves a balanced budget within 7 years, Senator DOMENICI and the Budget Committee deserve the gratitude of all Americans.

The Domenici budget reflects our commitment to the American people to rein in the Federal bureaucracy. It eliminates more than 140 Federal departments, agencies, and programs—including the Department of Commerce. In doing so, it moves power out of Washington, and back to the people, where it belongs.

The Domenici budget reflects our commitment to keep Americans safe. It maintains funding for the FBI, the DEA, the INS, and for crime-control initiatives that aid police on the front lines in the war against crime.

The Domenici budget reflects our commitment to protect Social Security, and to preserve, improve, and protect Medicare.

And it reflects our commitment to maintain a safety net for those in true need, by funding WIC, School Lunch and Breakfast Programs, Head Start, child care, and efforts to track down deadbeat dads.

Senator DOMENICI should also be congratulated for keeping the majority members together in defeating Democrat amendments to raise taxes, cut defense, or spend more money.

Is the Budget Committee proposal perfect? Of course not. Every Senator—including this one—could find some program they thought needed more money, or others that needed less. But it is a historic document that truly sets America in the right direction.

And I might add that, according to this morning's newspapers, the world agrees with that statement. These press reports suggest that because of speculation we actually might do more than we have in the past to cut the deficit, the dollar staged its biggest 1-day rally in nearly 4 years.

Apparently, this news slipped by the Clinton administration. Despite the Vice President's promise a few months ago that—and I quote: "We think the task of balancing the budget is one that we have to actually take responsibility for ourselves," notwithstanding that quote, the White House has chosen to abdicate a leadership role in reducing our deficit.

The budget they proposed earlier this year, is one that would give us deficits of $300 billion for as far as the eye can see.

Mr. President, the new Republican Congress promised to make the tough decisions. We promised to fight the status quo. We promised to stand for real change. We promised to balance the budget. And as this budget proves, we are keeping our promises.

And make no mistake about it, at the same time we are balancing the budget, we will also keep our promise to provide real tax relief to America's families.

Let me close, Mr. President, by warning the American people that in the coming weeks, President Clinton and his administration will be trotting out the same old scare tactics they tried before last November's election.

We will hear them say that Republicans are heartless. We will hear them say that Republicans want to help the rich, and harm those in need. We will hear them say that we are targeting children and seniors. We will see them throw a lot of rocks at Republicans. But I am afraid what we will not see from them is leadership.

While they engage in class warfare, the Republican Congress will continue to declare war against the deficit. And with the support of the American people, it is a war that we will win.

ADJOURNMENT UNTIL 9:30 A.M., MONDAY, MAY 15, 1995

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment.

There being no objection, the Senate, at 4:24 p.m., adjourned until Monday, May 15, 1995, at 9:30 a.m.

EXTENSIONS OF REMARKS

THE 50TH ANNIVERSARY OF V–E DAY

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. HOKE. Mr. Speaker, just a few days ago we celebrated the 50th anniversary of V–E Day, signifying the defeat of Nazi Germany. But as we celebrate the end of the Second World War we must remember that we are approaching another milestone, the 50th anniversary of the birth of the nuclear age.

On July 16, 1945, at Alamogordo, NM, a small group of scientists and soldiers witnessed the detonation of a primitive implosion "Fat Man" type bomb. This was the Trinity test, the first nuclear weapons test ever conducted.

In the decades since the Trinity test we have seen the other great powers—the Soviet Union, China, Great Britain, and France—develop and deploy nuclear weapons. During the cold war the Soviet Union, with its ability to turn America into a nuclear wasteland, was the singular threat to the United States.

However, the collapse of the Soviet Union and the end of the cold war has not seen the end of the nuclear threat against the United States. Indeed, although the threat of a massive nuclear attack on the United States has receded, the possibility of one or more nuclear weapons being used against American military forces overseas or even on an American city has grown significantly.

We as a nation have only a limited number of recourses to stem the growing worldwide nuclear threat. First, we must act aggressively to stem the proliferation of nuclear weapons and ballistic missile technology. This entails not only seeking the extension of passive international agreements such as the Nuclear Non-Proliferation Treaty, but for the negotiation and rigid enforcement of international nuclear and missile technology control regimes.

Further, we must act to isolate and defang those nations that through their possession of or attempts to gain nuclear and missile technology pose serious threats to international peace.

We absolutely must develop and deploy a ballistic missile defense system that will not only protect American troops overseas but that will also protect the American people in their homes and at their workplaces from the threat of a nuclear attack with ballistic missiles. Indeed, I have personally urged Secretary of Defense William Perry to make ballistic missile defense the highest priority within the defense budget.

But most importantly, the United States must maintain its nuclear deterrent. To date, no nation has been able to ignore the possibility of its destruction by an American retaliation triggered by the use of nuclear weapons against the United States or its allies.

Of course, the size of America's nuclear deterrent can and will shrink as the strategic arms reduction treaties are fully complied with. But while the START treaties have called for significantly lower nuclear arsenals for the United States and Russia, they cannot and do not pretend to put the nuclear genie back in the bottle.

Even with fewer nuclear weapons the United States must maintain the integrity of its nuclear deterrent and must maintain the ability to modernize and replace its existing nuclear weapons systems as they age. Since 1977 the Department of Energy has been responsible for safeguarding these capabilities, but under the current administration it has failed to adequately meet the minimum requirements of maintaining the operational readiness of our nuclear weapons stockpile.

Nuclear testing has been instrumental to the United States' nuclear deterrent by: first, testing or verifying new scientific principals and theoretical calculations; second, proving the engineering, fabrication and integration of components; and third, obtaining information on the effects of weapons for scientific and military purposes. The Clinton administration has unilaterally extended a moratorium on nuclear weapons testing and ceased nuclear weapons research and development, thus allowing a level of uncertainty to creep into the safety, reliability, and performance of our nuclear weapons.

The administration established the Stockpile Stewardship Program to explore means other than nuclear testing—such as by computer modeling—to maintain confidence in the safety, reliability, and performance of nuclear weapons, and to ensure that the United States' capability to produce nuclear weapons will not disappear. While the Stockpile Stewardship Program may eventually produce useful results, it is a highly risky strategy because much of the program is based upon the development of advanced computer and other technologies that may not be achieved.

Furthermore, according to senior officials within the Energy and Defense Departments, the research conducted under the Stockpile Stewardship Program is underfunded by at least $400 million annually. This funding deficiency is seriously eroding the United States' ability to maintain the complex scientific and industrial base necessary to maintain a safe and reliable nuclear deterrent. The lack of new design work means that no new systems will be available to replace older weapons systems, and that maintaining the irreplaceable base of specialized scientists and technicians which make up the weapon design team will become difficult, if not impossible.

Thus, I am introducing legislation today that calls for the termination of the Department of Energy's oversight of the United States' defense-related nuclear infrastructure and establishes a civilian-controlled Department of Defense associated agency—the Defense Nuclear Programs Agency [DNPA].

The DNPA will assume responsibility for all national security functions of the Department of Energy, including defense, nonproliferation, and defense-related environmental management programs. The DNPA will also assume direct oversight of the defense and nondefense functions and budgets of the Lawrence Livermore, Los Alamos, and Sandia National Laboratories. In addition, several Defense Department functions will be transferred to the DNPA.

The Administrator of the DNPA, who must be a civilian, will function under the direction of the Secretary of Defense, and will also serve as the principal advisor to the President and the Secretary of Defense on defense nuclear programs matters. This structure will ensure continued civilian control and management of the nuclear weapons infrastructure, and will also ensure that this infrastructure and the armed services have a more efficient and responsive relationship.

This legislation fully conforms with the 104th Congress' desire to eliminate the Department of Energy by terminating DOE's management of defense nuclear programs and establishing an organization that will ensure that the United States' nuclear deterrent remains effective.

HONORING MSGR. JOHN J. DOHERTY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. ENGEL. Mr. Speaker, 1995 makes two major milestones in the life of Msgr. John Doherty. On January 27, he celebrated his 15th anniversary in the priesthood and on June 25, he will celebrate his farewell mass at Saint Gabriel's Parish, located in my congressional district.

What stands out most about Monsignor Doherty is not only his commitment to his faith but his commitment to his community. The Monsignor was a founding member and for 14 years, a member of the board of directors of the Northwest Bronx Community and Clergy Coalition, a neighborhood activist group, credited with the rehabilitation of the Bronx, restoring financial reinvestment by banks and insurance companies and the rebuilding of scores of homes and apartment houses in the north Bronx.

Monsignor Doherty has been the recipient of the Riverdalian of the Year Award from the Riverdale Community Council, the Good Neighbor Award from Neighborhood House as well as numerous citations from the New York State Legislature and the New York City Council. Monsignor Doherty also honored us by offering the opening prayer for a session of the U.S. House of Representatives.

I join with the people of the Bronx in honoring Msgr. John Doherty and thank him for his years of service.

FRANK SCHUBERT HONORED FOR CONTRIBUTIONS TO LABOR

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Mr. Frank Schubert, a labor leader in northeastern Pennsylvania. Mr. Schubert will be honored by the Northeast Alliance of AFL–CIO Retirees on May 11, 1995 for his outstanding contributions to labor.

Since 1974, Frank has been director of District Council 87 of Pennsylvania's largest AFL–CIO public employee and health care worker's labor union, the American Federation of State, County and Municipal Employees or AFSCME.

AFSCME District Council 87 represents more than 5,000 public employees and health care workers in northeastern Pennsylvania. Mr. Schubert has served on the negotiations committee and the statewide safety committee since 1975. Frank also serves on the advisory committee of the Greater Wilkes-Barre Central Labor council.

Frank is a member of the board of trustees of the Pennsylvania Public Employees Benefits Trust fund and a past labor representative on the Pennsylvania Health Care Cost Containment committee.

Mr. Schubert's leadership in the labor movement has been evident during the 8 years that he served as a vice-president of the Pennsylvania AFL–CIO, and as a member of the executive committee of the Scranton Lackawanna Labor Management Committee. Also, for 8 years, he served as an executive board member of the greater Scranton Central Labor Council. He served as trustee of the Pennsylvania Public Employees Health and Welfare fund, and a trustee of the AFSCME Health and Welfare fund. Prior to his present position, Schubert was an AFSCME international staff representative.

Mr. Speaker, the accomplishments listed here are a testament to the dedication this man has shown to the members of the AFSCME and the causes of the labor movement.

I join with his friends, family and the community in thanking Frank Schubert for his leadership and am proud to commend him on a job well done.

TRIBUTE TO PANAMAX

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Ms. WOOLSEY. Mr. Speaker, I rise today to recognize and celebrate the 20th anniversary of Panamax of San Rafael. Panamax, the country's foremost designer and manufacturer of power protection equipment, is deserving of special congressional recognition. What started out as a one-room, single-employee operation has become a multimillion-dollar enterprise that provides employment opportunities to over 100 individuals. Panamax has been a strong supporter of small business and has a record of hiring employees from the Sixth Congressional District.

Panamax has earned a reputation for innovation and service to producers and users of a wide variety of high-technology equipment. The company has developed an important niche in the area of devices that provide protection from power surges and spikes. It also provides a complete guaranty on every unit produced.

Panamax has strongly supported international trade and has substantially expanded its trade with Canada, Mexico, and other Latin America countries. The company is currently preparing to expand further to the Pacific Rim countries.

Mr. Speaker, it is my great pleasure to pay tribute and congratulate Panamax as they mark two decades of service. I am very proud to be representing such a fine company in Congress. I extend my best wishes to Henry Moody, and the Panamax family, for continued success in the years to come.

A TRIBUTE TO PHIL MAROOT

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. DOOLEY. Mr. Speaker, I rise today to recognize and honor K. Phillip Maroot, of my hometown of Hanford, CA, who is being honored today by the Hanford Chamber of Commerce as its 1994 Distinguished Citizen for his many years of service to his community.

Phil Maroot is an attorney who has practiced in Hanford for more than 30 years, first as a Kings County assistant district attorney, then in private practice, where he is a partner in the law firm of Maroot, Hardcastle, Hatherly. While Phil has developed a successful law practice, he has contributed countless hours to improving his community.

Phil has been very involved with our local schools, serving on the Hanford Elementary School District board of trustees, on the Hanford High School District budget and curriculum committee, and as president of the College of the Sequoias Foundation.

Phil's community service has also extended to serving as president of the Rotary Club of Hanford, vice president of the Hanford chapter of the American Cancer Society, president of the Kings County Bar Association, and board member for the Kings County Salvation Army.

Phil has long been active in the Hanford Chamber of Commerce, serving a term as president, and also chairing task forces on the restoration of Hanford's 100-year-old courthouse and the carousel in Courthouse Park. For the past 8 years, he has chaired the Visitor Agency advisory board, where he is also chairman of its downtown hotel development project.

Phil Maroot's Kings County roots run deep. Born in Corcoran, Phil is the son of the late John Maroot, a former member of the Kings County board of supervisors. He graduated from Corcoran High School, where he was student body president, earned his bachelor's degree at Pomona College, and graduated from Stanford Law School in 1957. Upon graduation, he served as an Army officer before joining the Kings County district attorney's office in 1964.

Phil's wife, Jeannette, is the owner of Carlson-Wagonlit United Travel Agency in Hanford. The Maroots raised two children, Greg an Becky.

Phil Maroot's long and varied record of service to his community has truly earned him the title "Distinguished Citizen."

Please join me, Mr. Speaker and my colleagues, in honoring Phil Maroot.

ILLEGAL IMMIGRATION

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mrs. ROUKEMA. Mr. Speaker, I rise to call attention to last night's "48 Hours" broadcast on CBS regarding immigration.

If any of us had any doubts about the blight of illegal immigration that is plaguing this Nation, they were most certainly set aside by last night's well-documented television coverage. This program clearly illustrated that our borders are quite obviously no longer under control. Instead, immigration is out of control in this country. We are already at a point of crisis and the problem grows daily. I cannot understand why the American people—the legitimate, legal, native-born or legally naturalized American people—are not in revolt over this issue. Illegal immigration takes jobs away from Americans, takes additional taxes out of American pockets, crowds American schools and hospitals, and contributes to the crime that makes Americans afraid to walk their own streets. We may not have an all out revolt just yet, but I believe that anger over this issue was one of the factor's in last fall's election results. We in Congress should take heed because we have been derelict in our responsibility on this issue.

Last night's program cited many examples of the costs of illegal immigration. I will repeat but a few of them here:

Despite all our attempts to be certain that illegal immigrants are excluded from employment, there are loopholes in our laws that permit U.S. companies to fire American workers and replace them with temporary foreign workers. Corporate downsizing is one thing but firing American citizens in order to replace them with foreigners willing to work for a lower wage is another. I was particularly shocked to learn that a New Jersey company, the AIG insurance company in Livingston, has participated in this practice.

For two centuries, our Constitution has guaranteed citizenship to anyone born on our soil. But illegal immigrants have found a way to abuse this right: Pregnant women cross the border into the United States as illegals, give birth to a child and then claim the right to immigrate legally based on the citizenship of that child. Some 40 percent of children born in

California are now born to parents who are illegal aliens. This is an outrageous abuse not only of our Constitution and legal system, but of the innocence of childhood as well. This end-run around the Constitution was not the intent of the Founding Fathers and we must find a way to stop it. The birth of these children not only circumvents our law, but results in huge medical costs for the hospital care of the mothers and their children. These costs are not covered by insurance and ultimately drive up the cost of insurance premiums for American citizens.

Education is another issue involving the children of illegal immigrants. When illegal aliens are enrolled in public schools, costs go up but tax revenue does not—illegal parents don't pay taxes. This results in overcrowding of schools and, ultimately, higher taxes for taxpaying citizens. In some border communities, as many as 40 percent of school enrollments come from illegal aliens.

Crossing our borders illegally is not the only crime committed by some illegal aliens. Thousands turn out to be criminals come to prey on American citizens. This not only increases fear and reduces safety, but runs up exorbitant costs when these criminals are caught, convicted, and housed in U.S. prisons.

The Immigration and Naturalization Service has been hampered by incompetence, inefficiency, and indifference. The inability of this agency to do its job has become common knowledge, to the point that it is no longer a serious deterrent to attempts to illegally enter our country. The INS must be improved and we must do our part by ensuring that it is adequately staffed and funded and has the legal tools it needs to do its job.

Illegal immigrants may be the lawbreakers in this equation, but U.S. employers are often their accomplices, turning a blind eye and deaf ear to the issue. Employers have not taken seriously their responsibility to determine that would-be workers are, in fact, legal U.S. citizens, and to not only reject illegals but report them to the authorities. An immigration task force headed by Barbara Jordan recently concluded that a national identification card may be the only answer here. Such an idea is supported even by a broad spectrum of opinion, liberal to conservative.

These costs of illegal immigration add up very quickly. How can we balance the budget or make difficult cuts in worthy programs when this illegal activity is allowed to continue unchecked at such expense? As a member of the Congressional Task Force on Immigration Reform, I call on the House leadership to make this a priority of the House of 104th Congress. We must focus the spotlight on this national scandal and see that it is ended, not next year, next month, or next week, or even tomorrow, but today. There can be no more excuses, no more delays.

THANK YOU, FRANK RECHSTEINER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. BARCIA. Mr. Speaker, people who generously and graciously give of themselves time and time again are most deserving of our gratitude. Mr. Frank Rechsteiner of Bay City, MI, is one such individual. He is being honored on May 31 by the Boys and Girls Clubs of Bay County, Inc., for his 25 years of service to this outstanding organization as an officer and a member of its board of directors with the awarding of its 1995 Helping Hand Award. This seventh annual Night to Remember will truly be a special one.

Frank was born in the Bay City area, in the town of Kawkawlin, which also gave us the 1993 recipient of this prestigious award, our former colleague and my predecessor, Bob Traxler. He graduated from Bay City Handy High School and continued to apply himself as a most capable individual, rising to his current position of president and CEO of Rechsteiner Trenching.

Frank's love for youth is very easy to understand. As the father of four children, MaryAnn, Michael, Matthew, and Marc, he knows personally how precious children are, and how vital careful upbringing is for their adult lives. He and his wife RoseMarie can be proud of their success as parents.

His devotion to his community includes his service on the 4–H board of directors, and his efforts as director of the Bay County Fair and Youth Exposition. As a member of the Bay City Lions Club, St. Maria Goretti Church, the Ancient Accepted Scottish Rites, and as a Noble of the Mystic Shrine Elf Khurafeh Temple, he has exemplified what it means to be involved for the betterment of his friends and neighbors.

Frank Rechsteiner is also known for supporting many organizations and individuals, including myself with his legendary pancake breakfasts. Frank doesn't say "no" when asked to help. He asks "how" and "when." That is one reason why he continues to serve today as the vice president of the Boys and Girls Club Foundation.

Mr. Speaker, we all know that our communities can be a little better, and problems easier to solve if we take the time to become involved. Some have the best of intentions, but never get involved. Frank Rechsteiner has the best of intentions and the best of involvement. He is a model to us all.

I urge you and all of our colleagues to join me in congratulating Frank Rechsteiner for his well-deserved Helping Hand Award from the Boys and Girls Clubs of Bay County.

TRIBUTE TO OUR LADY OF REDEMPTION CHURCH AND BISHOP NICHOLAS J. SAMRA

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. BONIOR. Mr. Speaker, this coming weekend Our Lady of Redemption Church in my home State of Michigan, is celebrating its 75th anniversary. In addition, their interim pastor, Bishop Nicholas J. Samra, is celebrating his 25th anniversary as a priest.

From the very beginning, the founders of Our Lady of Redemption Church were committed to seeing the emotional, educational, and spiritual needs of the Melkite community fulfilled. These Christian immigrants from Syria and Lebanon had been attracted to the growing opportunity of Detroit since before the turn of the century. However, not until 1920 did these faithful Melkites receive their own priest. In that year Bishop Michael Gallagher of the Roman Catholic Church requested Melkite Patriarch Dimitri Cadi to send a priest for the 2000-member Melkite community within his diocese. Since that time the Melkite community has grown to become a vital part of the Detroit metropolitan area.

Originally in Detroit, the church moved to Warren to accommodate the changing demographics of the community. This weekend, in addition to celebrating the past, the members of Our Lady of Redemption Church are proudly looking toward the future. The success of this vibrant community has enabled them to begin the construction of a new church on the current grounds. The groundbreaking ceremony will take place this weekend along with the other festivities.

The Diamond Anniversary of the founding of the church is a proud milestone. Likewise, so is the Silver Anniversary of the ordination of Bishop Samra. As the community prepares to celebrate these historic anniversaries, I applaud the Melkite community for its rich contributions to the tapestry that makes up American life in Michigan. I commend the congregation for their work and faith and urge my colleagues to join with me in wishing congratulations to all the members of Our Lady of Redemption Church. May their next 75 years be a continued fruitful ministry.

TRIBUTE TO ALLEN C. MARTIN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. PAYNE of New Jersey. Mr. Speaker, on March 31, 1995, a distinguished public servant, Mr. Allen C. Martin, retired from his position as undersheriff in the Union County Sheriff's Office. Mr. Martin, a lifelong resident of Elizabeth, had a 37-year career in law enforcement which was distinguished by his decency, commitment to the principles of justice, and his concern for his community.

Mr. Martin began his law enforcement career in 1953 when he joined the Elizabeth Police Department, where he was assigned to the Elizabeth Port area. In 1962, Mr. Martin joined the New Jersey Department of Corrections as a corrections officer. In 1968 he transferred to the Union County Sheriff's Office where he served as a sheriff's officer assigned to the warrant squad.

In 1978, Ralph Froehlich, a man who has since distinguished himself with his service and commitment to the ideals of justice, was elected sheriff of Union County. Sheriff Froehlich appointed Mr. Martin as undersheriff and placed him in charge of the process unit and warrant squad. Undersheriff Martin computerized the office and increased its capacity.

Councilman Martin has four grown children, a loving wife, and he continued to be active in his church and several social and political organizations, including the NAACP.

Mr. Speaker, I urge my colleagues to join with me in paying tribute to a fine American, a family man, and a devoted public servant, Mr. Allen C. Martin.

SAFE BOATING WEEK

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. RAMSTAD. Mr. Speaker, I rise today to commend the Minnetonka Power Squadron for its sponsorship of Safe Boating Week, which is May 20–27.

I also want to highly applaud the Minnetonka Power Squadron's continuing efforts to make boating a safe summertime activity.

Minnesota is known worldwide for our more than 10,000 lakes. Each year, millions of Minnesotans and people from all over the country flock to these lakes to fish, water ski, canoe, or just beat the heat.

As we enjoy these activities, however, we must never forget the importance of boating safety. Carelessness or recklessness in boating can cause property damage and, even worse, result in serious injury or death.

During Safe Boating Week, the Minnetonka Power Squadron conducts many classes and public awareness activities to promote the importance of boating safety.

This yearly reminder of safe, proper boating techniques, and simple precautions—such as carrying life preservers—should be observed by all boaters throughout the boating season.

Mr. Speaker, it is my hope that all boaters—in Minnesota and across the country—will take the time to review safe boating precautions and exercise these practices all season long. I thank and applaud the Minnetonka Power Squadron for showing us how to enjoy boating safely.

SALUTE TO REV. DR. WILLIAM T. KENNEDY, JR.

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to honor Rev. Dr. William T. Kennedy, Jr., the pastor of Grace United Methodist Church in Philadelphia, on the occasion of his retirement.

Reverend Kennedy is completing 25 years of service in the ministry, 10 years of which have been at the Grace United Methodist Church in West Oak Lane. Reverend Kennedy has also served at Wesley A.M.E. Zion in South Philadelphia and at Tioga United Methodist in North Philadelphia. Reverend Kennedy has also had a distinguished career in education, teaching sociology, theology, and preaching at Eastern College, the Eastern Baptist Seminary, Lutheran Seminary, and at Drew University.

In addition to his work in the ministry and teaching, Reverend Kennedy has participated in numerous civic activities. He has served as the chairman of the Philadelphia A.M.E. Zion Ministers Conference, the chairman of the Housing Committee at the Waterbury Development Corp., and as chairman of the Waterbury Human Relations Commission. Reverend Kennedy has also participated in a multitude of other community service organizations too numerous to name here.

Reverend Kennedy has been a selfless contributor to his work and community throughout his lifetime. I hope my colleagues will join me in recognizing Rev. William T. Kennedy, Jr. as he celebrates his retirement. I wish him the best of luck in his future endeavors.

DEVALUATION OF THE MEXICAN PESO

HON. MARK ADAM FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. FOLEY. Mr. Speaker, today I am introducing legislation to alleviate the dislocation of a specific sector of the Florida economy due to the devaluation of the peso. While this legislation is designed only to relieve the problems experienced by the winter tomato industry in south Florida, it is my belief that the underlying intent of the legislation should be considered to be applied to all areas of trade within the North American Free-Trade Agreement [NAFTA].

Let me outline some ideas about NAFTA preamble of the agreement—the governments of the United States, Canada, and Mexico resolved to: First, create an expanded and secure market for the goods and services produced in their territories; second, reduce distortions to trade; third, ensure a predictable commercial framework for business planning and investment; and fourth, promote sustainable development.

And finally, the second objective of NAFTA is to: "Promote conditions of fair competition in the free trade area."

When the Mexican peso underwent the devaluation beginning in December 1994—these objectives were tossed out the window. The administration's only response was a multi-billion-dollar bailout of the Mexican currency with American taxpayer dollars. However what the administration failed to address was the impact of this devaluation of the peso on our vitally important domestic industries. Nobody knows for certain about the overall effect, but let me outline the effect on an industry that is important to my home State of Florida.

Florida's tomato industry generates an estimated $650 million in economic activity, and employs more than 2,000 workers. However, over the past 2 years, Mexico's share of the United States winter tomato market has nearly doubled. A devaluation of the Mexican currency has caused a massive export of Mexican tomatoes to the United States markets where a stronger, more stable currency is the real objective.

During the winter season, Florida produces about 95 percent of the fresh market tomatoes grown in the United States, with the only competition coming from Mexico. As the attached chart shows, the volume of Mexican tomato imports has dramatically increased over the past year due to the devaluation of the peso.

How has this affected the bottom line of tomato producers in Florida? They have seen the prices for their tomatoes decline from $15 for a 25 pound carton to only $5 from the period of January 30 to February 15 of this year. This steady decline in prices can clearly be attributable to the search for stable U.S. dollars.

Mr. Speaker, it is my belief that the recent peso devaluation undermines the basis for the establishment of tariffs and more than eclipses the tariffs negotiated to help transition the Florida tomato industry into a free-trade agreement during the 10-year phase out period for tomatoes.

Therefore, today I am introducing legislation to link the tariff of tomatoes to the devaluation of the Mexican peso. This is a simple solution that would multiply the tariff on tomatoes by an equal percentage of the peso devaluation thereby establishing a fair and stable climate for trade between Mexico and the United States.

Furthermore, this legislation directs the Secretary of Agriculture to determine the nature and extent of harm done to the domestic industry and take actions to remedy such harm. Mr. Speaker, in 1990, there were 230 tomato growers in Florida, today, there are less than 100 with the threat of dumping from Mexico occurring every year.

Finally, this legislation takes steps to ensure that Mexican tomatoes entering the United States meet the same standards established by the United States Department of Agriculture for domestic tomatoes. The Department has been far too lax in allowing in Mexican tomatoes which do not meet the same United States standards.

While some may argue that this legislation will violate the NAFTA, I dispute this most vehemently. NAFTA was to establish clear and stable rules of trade between the United States and Mexico. This legislation would ensure that to be the case by reducing any distortions to trade due to the devaluation of the peso. I urge my colleagues to carefully examine the impact of the devaluation of the peso on all industries around the country and determine if this would be a workable solution for other sectors of the economy.

FLORIDA VEGETABLE REPORT FEDERAL-STATE MARKET NEWS USDA AND FDACS TOMATO SHIPMENTS 1993–94 AND 1994–95

[1,000 25-lb Cartons]

Shipments through	1994–95		Shipments through	1993–94	
	Florida	Mexico		Florida	Mexico
1/29/95	12,942	11,635	1/30/94	16,374	11,061
1/30/95	75	292	1/31/94	172	271
1/31/95	97	292	2/01/94	232	195
2/01/95	143	352	2/02/94	242	245
2/02/95	132	346	2/03/94	206	206
2/03/95	95	336	2/04/94	142	193
2/04/95	93	339	2/05/94	242	223
2/05/95	48	6	2/06/94	104	6
Total	13,625	13,598		17,714	12,400
2/06/95	84	423	2/07/94	162	220
2/07/95	164	384	2/08/94	326	258
2/08/95	154	420	2/09/94	282	308
2/09/95	94	448	2/10/94	234	268
2/10/95	134	525	2/11/94	218	273
2/11/95	108	609	2/12/94	284	268
2/12/95	49	8	2/13/94	129	2
Total	14,412	16,415		19,349	13,997

FLORIDA VEGETABLE REPORT FEDERAL-STATE MARKET NEWS USDA AND FDACS TOMATO SHIPMENTS 1993–94 AND 1994–95—Continued

[1,000 25-lb Cartons]

Shipments through	1994–95		Shipments through	1993–94	
	Florida	Mexico		Florida	Mexico
2/13/95	76	768	2/14/94	179	378
Total	14,488	17,183	....	19,528	14,375

THE RIVER BEND NEIGHBORHOOD ASSOCIATION, NEIGHBORHOOD FINANCIAL CORPORATION AND THE PRINCIPAL FINANCIAL GROUP

HON. GREG GANSKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. GANSKE. Mr. Speaker, I rise today to commend the River Bend Neighborhood Association, Neighborhood Financial Corporation and the Principal Financial Group. This partnership has been recognized for its achievements in creating and implementing a comprehensive neighborhood action plan. The partnership is one of six partnerships in the United States which will receive Social Compact's 1995 Outstanding Community Investment Award.

I had the pleasure and the privilege of visiting River Bend this past weekend. In the 6 years since the partnership began, this community which was once comprised of drug dealers, prostitutes, and decaying and abandoned houses has become a neighborhood of homes and families. Residents are no longer afraid to walk down neighborhood streets and 161 homes have been salvaged or reconstructed. Crime is down. Pride is up.

Our country should follow River Bend's lead. This neighborhood is a prime example of how people can help themselves. River Bend was given a helping hand by the financial services industry, the city of Des Moines, and Polk County—not a handout by the Federal Government.

I encourage more neighborhoods in our Nation to strive to accomplish the level of excellence which River Bend has achieved.

RHODE ISLAND GENERAL ASSEMBLY URGES SUPPORT OF SMALL BUSINESS ADMINISTRATION

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. KENNEDY of Rhode Island. Mr. Speaker, recently the general assembly in my State of Rhode Island passed a resolution urging the Congress to support the 7(a) and 504 programs of the Small Business Administration.

In my age when thousands of jobs are being created by small businesses, and thousands of people are finding new career opportunities as entrepreneurs, it is more important than ever to support these two important programs. We turn back on America's future when we fail to support these two initiatives.

In the upcoming budget debate I hope my colleagues will listen to and heed the wisdom contained in this resolution which reads as follows:

> Whereas, the U.S. Small Business Administration was created in 1953 by President Dwight D. Eisenhower to foster the growth of small entrepreneurs, and
>
> Whereas, our Nation's economic prosperity is linked directly to the health of the small business community, and
>
> Whereas, the Rhode Island business community is comprised of over 97 percent small businesses, and
>
> Whereas, small businesses have grown 49 percent since 1982, they employ 54 percent of the American work force, account for 50 percent of the gross domestic product, and account for 71 percent in new job growth in 1993, and
>
> Whereas, the Small Business Administration's (SBA) 504 and 7(a) financing programs are a public/private partnership that leverages private dollars and allows for continued access to capital for Rhode Island's small business community, and
>
> Whereas, SBA's technical resources including the Small Business Development Center at Bryant College and the Service Corps of Retired Executives provide much needed counselling to the Rhode Island small business community, and
>
> Whereas, the Rhode Island SBA District Office has approved over 800 loans totalling $160.5 million in guarantee and 504 financing to the Rhode Island small business community from October 1992 to present, and
>
> Whereas, this financial assistance has played a vital role in reviving the Rhode Island economy; now be it
>
> *Resolved*, That the General Assembly of the State of Rhode Island and Providence Plantations hereby respectfully requests the United States Congress to financially support the U.S. Small Business Administration and its 7(a) and 504 financing programs, as well as its education/training and advocacy programs, and be it further
>
> *Resolved*, That the Secretary of State be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the Speaker of the U.S. House of Representatives and the President of the United States Senate, and to the Rhode Island Delegation in the Congress of the United States.

HONORING ROBERT E. MILLS

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. KIM. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to one of California's outstanding citizens, Robert E. Mills on the 40th anniversary of his company, Associated Engineers.

Robert E. "Bob" Mills, a registered engineer, founded the private consulting firm of Associated Engineers in 1955. Mr. Mills, using his acumen and entrepreneurial skills, expanded the company to include all aspects of construction management, civil engineering, and survey work. This work included general civil infrastructure design and construction for industrial, commercial and residential developers, counties and municipalities, flood control districts, school districts, public and private water agencies, and State and Federal highway departments. In his ongoing pursuit of excellence Mr. Mills invented the Cutaline, an asphalt cutter which consists of a circular wheel on a special arm which is conected to a road grader. The Cutaline does in 1 hour what it would take 3 men, 2 days to do.

As one who believes in the value of community service, Bob has served the community as chairman of the San Bernardino County Flood Control District Zone I Advisory Committee, chairman of economic development for the Upland Chamber of Commerce for 9 years, the board of directors for the California Council of Civil Engineers and Land Surveyors, chairman of the grading committee, which instituted changes in the State of California Uniform Building Code, the American Red Cross, the Upland Kiwanis Club, the United Fund, YMCA, and on the board of trustees of the Congregational Church in Ontario.

I commend Bob on his outstanding and worthwhile achievements and congratulate him on 40 successful years of Associated Engineers.

EUGENE AND EARL BLACK—91 YEARS OF COMBINED, DEDICATED SERVICE

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. POSHARD. Mr. Speaker, I rise today to pay special tribute to two brothers who have, for over four decades, made a tremendous contribution to their communities. Eugene and Earl Black have served their friends and neighbors throughout southern Illinois as ministers for a combined 91 years. Both Eugene and Earl will retire on June 30, 1995.

Eugene Black has ministered to the needs of his neighbors in small, rural communities throughout southern Illinois for 49 years. He has been the pastor at the First United Methodist Church in Herrin, IL, since 1989 and will step down the last day of June to start what promises to be a rewarding retirement in Mattoon. Eugene plans to continue in his retirement as an interim pastor, help his sons, Phillip and Paul, with home repairs, and travel.

Earl Black also found his life's calling in service to the church. For 42 years he has ministered to the needs of the people of southern Illinois, and currently serves as the minister of the First United Methodist Church of Marion. Earl plans to retire near Metropolis, where he anticipates a retirement full of singing with the gospel quartet, auctioneering in the community, and working in his machine shop.

Serving the needs of congregations for over 40 years has been a rewarding experience that neither brother would wish to change. Being called upon to aid in a families time of joy or sorrow is a great responsibility, and both Eugene and Earl shoulder the task with graciousness and humility. Seldom in life are people destined for careers in which they are able to directly touch the lives of those with whom they come in contact, but Eugene and

Earl have done this, and I commend them for dedicating their lives for the benefit of others. They have enjoyed careers of inspiration and divine purpose, and it is with regret that their friends see them retire.

Mr. Speaker, Earl and Eugene Black have committed their lives to helping others enjoy a special moment, or endure a time of anguish, and I am proud to represent them in Congress. They have touched the lives of countless people, and I urge my colleagues to join with me in saluting these outstanding brothers.

THE PLIGHT OF THE ROMANIAN MOLDOVANS

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. HOKE. Mr. Speaker, we all know that the central and eastern European revolutions of 1989–91 marked a historic event in the European struggle for freedom, democracy, and sovereign independence after so many years of Communist rule. The revolutionary period, however, was chaotic and difficult for the ethnic minorities long held in check by Soviet imperialism and repression. The suffering was also experienced by the ethnic minorities in the Republics of the former Soviet Union.

The history of the Romanian Moldovans is one of such suffering peoples. Upon the declaration of independence by Moldova in August 1991, cordial relations were established with the neighboring country of Romania. From that time forward, much has seemingly gone wrong in that fragile region.

I am inserting into the CONGRESSIONAL RECORD some interesting information that has been brought to my attention regarding the plight of the Romanian Moldovans. I know this will be of great interest to you and I hope you will have the opportunity to read this report:

MOLDOVA AND THE CASE OF ILIE ILASCU—BACKGROUND TO THE PROBLEM

Elie Wiesel, an Auschwitz survivor, once said that forgetting the victims is like killing them a second time.

Indeed, oppressors and oppressing states often insist on forgetting the past for the sake of a new start. It is particularly convenient for them because the past can be extended from yesterday to whatever date suits their interests.

In this case, Russia wants to forget Soviet Union's brutal past and injustices and to start with perestroika. Moscow conveniently ignores that Bessarabia or western Moldova was annexed from Romania in 1940 following the Nazi-Soviet secret pact signed in Moscow by Ribbentrop and Molotov in 1939.

Hundreds of thousands of Romanian Moldavians were deported, imprisoned, or summarily executed. Hundreds of thousands of families were split, uprooted, displaced, never to meet again. Hundreds of thousands of Russians and Ukrainians were brought in to reorganize and supervise the new republic of Moldova.

The former Romanian province was territorially mutilated and its borders redrawn. While the northern and southern regions of the new republic were granted to Ukraine, a small piece of land on the left bank of the Dnestr River was given to Moldova. This area was highly russified and its capital, Tiraspol, served for a very long time as a center of Soviet Marxism and Russian nationalism. In fact, Tiraspol was a spring board for Party activists to jump to power in the capital of Moldova, Chisinau, or to other Soviet places.

While imposing Marxism as a new political form of social organization, Moscow also demanded strictly that the indigenous population calls itself Moldavian rather than Romanian. And to make a modicum of distinction within an otherwise undivisible nationality, Moscow forced Moldova to adapt the Russian alphabet instead of the Latin script used by Romanians. For a while, the ploy worked, but only as long as the people was brutally suppressed.

Perestroika, nevertheless, brought along freedom of expression and of political organization. Hundreds of thousands of Moldavians gathered on many occasions in Chisinau to reclaim their history, their language, the right to be themselves, their Romaian nationality. Some of the first acts the Moldavians did, were to declare again their Romanian identity and to reimpose from within the Latin alphabet. And the Romanian tricolor was flying again everywhere.

Eventually, Perestroika caused, at least in theory, the dissolution of the former Soviet Union and it made possible wide spread declarations of independence.

Moldova too declared its independence on August 27, 1991 and a euphoric state followed. It also adopted the Romanian national anthem, it eased control at the Romanian border, while union with the old country appeared imminent. And in the avant-garde of this struggle for national recognition was the Moldavian Popular Front. But the initial enthusiasm was soon replaced by the harsh realities imposed again from the center. Moscow would not give up its empire.

First, the small Gagauz minority of Moldova was pushed by the Russians to declare its independence. When this move failed, the Tiraspol Russians declared their own separate Dnestr Republic and vowed to rebuild communism and a new Soviet Union around it. The new Marxist republic readopted the former Soviet system and began to hire mercenaries to fight against Moldova. Confronted with dismemberment, Moldova formed an army made mostly of volunteers and in 1992 the two sides were poised for war.

Moscow followed with great interest the events and manipulated the war to make sure that Moldova would not be allowed to rejoin Romania. Whenever the war turned sour for the Dnestr Republic, the 14th Russian Army located in Tiraspol openly intervened to its defense. It also armed to the teeth Cossack and Russian volunteers from all over USSR to fight against Moldova.

Within a few months, the war turned very ugly. Many Romanians from the Tiraspol area under the new Dnestr Republic were arrested, disappeared, or were murdered in a barbarous manner. Several Romanians were mutilated, skinned, or nailed to crosses.

At the same time and in order to beat Moldova into submission, Russia stopped the supply of energy and raw materials, resulting in freezing temperatures during the winter and industrial idleness. What Moscow wanted was to bring Moldova back into the newly formed CIS, to alienate it at any price from Romania, and to make its people accept the misnomer of "Moldavian."

At the beginning, the new leaders in Chisinau resisted and fought the trend, but later a new group of pro-Moscow individuals gave in to the Russian demands.

It was at the beginning of the war of 1992 that the Dnestr authorities arrested the leaders of the local Moldavian Popular Front and started a shameful process which lasts to this day. The case is now known as "The Tiraspol Five," and it has acquired international attention.

THE "TIRASPOL FIVE"

On June 2, 1992, a group of five members of the Tiraspol Branch of Moldova's Popular Front was arrested on false accusations of "terrorist acts against the Soviet Power." They were Ilie Ilascu, president of the local branch of the Front, Alexandru Lesco, Tudor Petrov-Popa, Andrei Ivantoc, and Petre Godiac. A sixth person who was arrested at the same time, Valery Garbuz, had been infiltrated by the local secret police into the organization in order to testify against the group.

It should be mentioned that at the time of the arrest, the Tiraspol branch of the Popular Front was working legally and openly within the laws of Moldova. By contrast, the authorities of the Dnestr Republic that arrested them were illegitimate and did not represent any legal state.

At first, the group was detained at the headquarter of the 14th Russian Army in Tiraspol, raising additional questions about the status of this Army. Initially, some 20 persons were detained, but most of them were freed when they retracted their pro-Romanian stand. As a matter of fact, the most insistent demand of the investigators was that they give up their claim to be Romanians and accept instead their regional identification as Moldavians.

In spite of the unbearable conditions to which the victims were subjected, no one confessed to any crimes, but this did not change anything. During the investigations, Ilascu was visited unexpectedly by the ministers of security of both Moldova and the Dnestr Republic, making him think that the two entities acted in unison. On at least one occasion, the two security ministers left Ilascu's cell together, making fun of him.

As Ilascu mentioned in a letter, the defenders were visited by people from Romania, Switzerland, Italy, Poland, and even from the United States. But never by any official of Moldova. During this ordeal, Ilascu states, they were kept alive only because the international press took an interest in them.

When the trial began, the entire evidence against the defenders was based on the false testimony of Valery Garbuz. And in order to scare them and influence the judge, numerous local communists were brought in to chant "death to the terrorists." To complete the picture, the defenders were kept in an iron cage, and the trial was staged in a local factory. It was a reminder of the Stalinist trials of the 1930's.

Kept under such conditions, members of the Ilascu group came to the conclusion that their arrest and subsequent trial was orchestrated by the Tiraspol Russians with the support of certain circles in Moscow. And, according to Ilascu, the Dnestr authorities also had the cooperation of the new leaders of Moldova who wanted to annihilate the opposition.

The most prominent among the new leaders of Moldova are President Mircea Snegur, Prime Minister Andrei Sangheli, and Speaker of the Parliament Petru Luchinski. All three of them are former secretaries of the Moldavian Communist Party. Apparently, they are also under Moscow's pressure and threats. Under such circumstances, the independence of Moldova is far from being real.

Moldova is only independent of Romania, which is exactly what Moscow wanted. And to make sure of achieving their goal, the Russians planned the 1992 Denstr War and the dismemberment and federalization of the small republic. Allegedly, Moscow also threatened that if Bucharest insisted on claiming Moldova, they would transform Romania into a second Yugoslavia.

Thus, the true goal of the arrest of the Tiraspol group of the long public trial, and of the convictions, seems to be threefold:

To intimidate and demoralize the Romanian majority of Moldova;

To cover up the murders perpetrated by the very authorities of the Dnestr Republic during the summer of 1992;

And to kill any desire or aspiration of the Moldovan Romanians to unite with Romania.

Although imprisoned, in February 1993 Ilie Ilascu was elected to the Moldavian Parliament. This enraged his captors even more. In December 1993, he was sentenced to death while his colleagues received long prison convictions. In spite of his sentence, Ilascu shouted: "Long live Romania. You can kill us, but you cannot defeat us."

As of the end of January 1995, when President Mircea Snegur came to an official visit to Washington, Ilie Ilascu and his group were still in prison, tortured continuously and dying a slow agonizing death. (See Appendices)

RECENT MOLDAVIAN VISITS TO WASHINGTON

While visiting Washington, President Snegur painted Moldova as a young but democratic republic struggling to reform politically and to create a free market economy. He insisted that he wanted to integrate his republic into the European organisms, but also to keep close relations with Russia and CIS. (The question is how can one serve two masters?)

During the same period of time a prominent member of the opposition and a leading member of the Moldavian Parliament, Vasile Nedelciuc, was also in Washington for the National Breakfast Prayer.

Meeting several congressmen, Nedelciuc spoke on behalf of the democratic opposition of Moldova and raised a number of questions. He insisted that the opposition supports fully the idea of integration with Europe and greets with enthusiasm good relations with the United States.

On the other hand, he underlined that closer relations with Russia and the CIS bloc could prevent the process of democratization and integration with Europe and especially with the mother country of Romania. He also insisted, as President Snegur did, that the presence of the 14th Russian Army headquartered in Tiraspol represents a big threat. This army and its huge arsenal should be withdrawn from Moldova as soon as possible.

With regard to the much needed and appreciated American aid, Nedelciuc insisted that most of it goes to state enterprises or state structures, and very little is used to encourage private businesses.

He stressed that the reforms did not touch that countryside, where former Soviet state and collective farms have not been disbanded and their chairmen oppose any changes.

He underlined that the opposition has no access to radio and television which remain exclusively in the hands of the new government and its party.

He also said that the government has abusively fired from administrative positions most people who belonged to the opposition. Among them there were several freely elected mayors.

He stressed that most of the visiting US governmental delegations, and even the personnel of the American Embassy in Chisinau, avoid to meet the opposition. A dialogue with the opposition would be beneficial to all parties.

He insisted that educators, teachers, men and women of art and letters of Moldova, are again persecuted for declaring openly their Romanian language, culture, and identity. Renowned poet and writer, Grigore Vieru, for example, repeatedly received telephone threats. In this light, Nedelciuc . . . pleaded that the recent Appeal of Moldova's educators be distributed in the West and their cause be known and defended (See attached Appeal)

With regard to Ilie Ilascu and his group, Vasile Nedelciuc stressed that their unending ordeal is an insult to the entire Romanian nation and to the concept of independence of Moldova. President Snegur also promised to intervene on his behalf. As Eli Wiesel put it, to forget them is killing them a second time around.

The United States has granted Moldova over two hundred million dollars as assistance. This year Moldova is scheduled to receive twenty-two million dollars. This is our taxpayers' money. It is unacceptable to help Moldova while the government persecutes its majority and at the same time it is unable or unwilling to free its own citizens from prison.

Peter Lucaci, National President, Union & League, R.S.A., Inc.

Rt. Rev. Bishop Nathaniel Popp, Romanian Orthodox Episcopate of America.

Archibishop Victorin, Romanian Orthodox Archdiocese in America and Canada.

(Archmandrite) J. Michael Botean, Apostolic Administrator, sede vacante, Roman Catholic Diocese.

Dr. Nicholas Dima, Union & League, Washington Representative.

APPENDIX I

Statement by Ilie Ilascu addressed to the Prosecutor of the Tiraspol Court on December 11, 1993, after being sentenced to death (summary).

"The undersigned Ilie Ilascu was illegally and brutally arrested by the anticonstitutional authorities of the so-called Moldavian Dnestr Republic on June 2, 1992, at four AM at my home address on Pacii Str. Nr. 50/1. apt. 1, Tiraspol.

"The arrest was conducted by Vladimir Ivanovici Gorbov, a lieutenent colonel of Moldova's Ministry of Security, who was secretly dispatched for this mission from Chistinau. His mission was:

1. To join the security authority of the Dnestr Republic pretending that he was a political refugee from Moldova.

2. To collect compromising information for the liquidation of the Tiraspol branch of Moldova's Popular Front, considered an organization opposed to the communist regimes in Chisinau and Tiraspol.

In view of his mission, Gorbov arrived in Tiraspol in February 1992 and shortly after in March, he was already a member of the Dnestr security department. A few month later, he became deputy Minister of the Dnestr Republic's Security Ministry.

The arrest of the Tiraspol Five was coordinated with V.I. Garbuz, a former militia captain and a known police informer, who had been infiltrated into the local branch of the Popular Front. Before my arrest, the local militia planted in my apartment arms and ammunitions of which I had no knowledge.

For months, I was investigated by Gorbov, who applied the most brutal methods: beatings, intimidations, threats, lies, starvation, isolation, psychological pressures, and several mocked executions.

He told me, for example, that my younger daughter was kidnapped and that my wife had lost her sanity. Gorbov and Shevtsov also asked me continuously to confess, to deny my position, and to sign false statements already written by them. They tried to make me sign confessions that I was a CIA agent as far back as 1989, and that I also was a Romanian secret agent trained to execute terrorist activities in Moldova.

When I totally refused, they beat me to a pulp. Later, they tried to make me sign confessions that I had been a paid agent of Moldova's Security Ministry trained to carry out terrorist activities in the territory of the Dnestr Republic, which I also rejected as ridiculous.

Mr. Prosecutor, I also want to stress that during the night, Gorbov called his con in Chisinau several times. In the silence of the night I could hear that he received from him secret information regarding the evolution of the Dnestr War. (This should be construed as plain treason).

He also bragged frankly about dozens of members of the Popular Front whom he had killed with is own hand at Benderi during the height of the war in the summer of 1992.

Interestingly, after accomplishing his mission, Gorbov disappeared from Tiraspol and returned to Chisinau, where allegedly he had retired to live in . . . peace and honor.

In view of that Mr. Prosecutor, I demand that Gorbov, my investigator and accuser here in Tiraspol, be himself arrested and tried for his crimes. Ilie Ilascu, December 11, 1993.

APPENDIX II

Letter by Ilie Ilascu from Death Row

My cell is made exclusively of iron and cement, and it does not have any ventilation. The windows have three rows of bars and are covered by a metal sheet. There is no light and no fresh air. I have been kept alone and have not been taken out since February.

My kidney problems have aggravated. Many times I can no longer stand the pain. I also have acute pains on the right side of the body in the abdominal, liver, and lung areas. It has now been two years since I could no longer control my left cheek, which shakes very often. My eyes itch continuously, and following the 1992 beatings, I lost two teeth while a third one was broken. Above the right knee, I have an area that is now completely numb. My migraines are continuous, and there are times when I can no longer get up alone.

The cell has never been heated, and I have been continuously starved. Mircea Sengur has not allowed anybody to help me. Not even the Red Cross has been allowed to visit.

I will resist as long as God will keep me alive.—Ilie Ilascu, September 25, 1994.

APPEAL

To the Parliamentary Assembly of the Council of Europe, European Commission on Human Rights, the Committee on Relations With European Non-Member Countries

The present Appeal is a document adopted at a protest meeting, held on January 20, 1995 in Chisinau (Moldova), which was attended by over 400 people representing 29 educational, research and cultural institutions.

We, the participants to the meeting, fully support the efforts directed at obtaining Republic of Moldova's membership in the Council of Europe, since, to our strong belief, this prestigious international body can give some additional guarantees to the irreversibility of democratic changes that occurred in our society during the last years.

It's precisely the concern for the fate of democratic gains of 1989-90 that made the people gather at this meeting.

The issue under discussion might seem pretty insignificant to anyone but those who know how skillfully and hypocritically it had been manipulated by the totalitarian regime. It deals with the term "Moldovan language"—a term invented by Stalin for the sake of building a "Berlin wall" between it and Rumanian language, and culture in general (for this purpose "Moldovan language" was even given the Russian alphabet). That proved to be one of the most powerful instruments of uprooting the ethnic identity of the Rumanian population of Bessarabia and of depriving it of its cultural values. The most progressive and honest scientists from both the Republic of Moldova and Russia could never accepted this falsehood.

That is why the issues of language and its alphabet have become pivots in the general democratic demands of 1989. As a result, the Academy of Sciences officially recognized—and the first democratic Parliament confirmed—that there is only one literary Eastern Romance language—Rumanian, Moldovan being just one of its sub-dialects (spoken also in Rumanian Moldova). In the general bliss of those years it seemed that there is no way back to the old political manipulations.

In this context one can understand the frustration related to the return of the false term "Moldovan language", a term the actual majority party succeeded to introduce in the Constitution (Article 13.1). By the way, the Academy, when consulted by the Parliament on the issue, reaffirmed its previous opinion and was thus ignored by the latter.

Things wouldn't be so dramatic, if people didn't know what the implications of this "minor" untruth would be to the study of history, literature, etc., but most of all to the MORALITY of the whole society. This would mean another spiritual isolation, i.e. our further distancing from the ideals of European integration.

Even more troublesome is the direct pressure on behalf of the Government upon the teaching staff of the educational institutions not to use the term Rumanian language. Threats are already being heard towards those specialists who do not accept the linguistic and historical untruth. Teachers feel humiliated by the fact that, after they have enjoyed the freedom of telling the truth, they are forced to perpetuate old propagandistic lies and find it immoral.

We, the participants to the meeting, protest against the above mentioned facts, qualifying them as violations of our human and professional rights. These are also violations of the students' right to education in their native literary language (and not just a sub-dialect of it), on the basis of scientific truth.

We also express our protest against the inaccessibility of state radio and TV (the only ones in Moldova) not only to the opposition parties, but also to the researchers, teachers, university professors that have different opinions from those stated officially.

We appeal to the high authority of the Council of Europe for support in the hope that it will not disregard these cases of encroachment on our professional liberty and human dignity.

Anticipating the membership of the Republic of Moldova in the Council of Europe, we are eager to work towards the democratization of our society and towards achieving the noble goals of this European forum.

With our highest consideration,

Timofei Melnic, Chief of the Department of Rumanian Literature, State University, Chairman of the Meeting.

Address: str. Miron Costin 15/2, ap. 125, Chisinau, Republic of Moldova, Tel. (3732) 32-25-22.

Ion Vicol, Researcher, State University of Moldova, Secretary of the Meeting.

HONORING SAMUEL BEA, JR.

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. ENGEL. Mr. Speaker, a long-time community leader and activist, Samuel Bea, Jr., is retiring as district manager of Community Board No. 12 in the Bronx after serving 18 years in the post.

Sam's commitment to the residents of the Northeast Bronx cannot be matched. He brought to the position of district manager exceptional management skills and knowledge of people and issues which were the key to his many successes in trying to improve the quality of life for his constituents.

His past experience includes serving as director of Community Services, Westchester Community Opportunity Program, Inc., executive director, Mount Vernon Community Action Group, project administrator, Harlem Hospital Comprehensive Alcoholism Program, deputy executive, associate director, OJT director, Urban League of Westchester, manpower coordinator, Yonkers, NY, and director, Neighborhood Youth Corps, Greensburg, NY.

Everything that Sam Bea has done in his professional life has been devoted toward helping people. And though he retirees from being district manager, I am sure his commitment to helping people will continue.

I join with Sam's family, friends, and colleagues in wishing him the best in the years ahead and thank him for all he has done.

DANVILLE ROTARY HONORED ON 75TH ANNIVERSARY

HON. PAUL E. KANJORKSI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the Rotary Club of Danville, PA which is celebrating the 75th anniversary of its founding. I am pleased to have been invited to participate in the anniversary dinner on May 13 and to have this opportunity to bring the history of the club to the attention of my colleagues.

Founded in 1905, by Paul Harris in Chicago, the Rotary has been an institution in America ever since. The first Rotary meeting consisted of Paul Harris and three other businessmen. Out of that meeting came the idea to form a men's club representing local business and the professions. Weekly meetings were held, in turn, at each member's place of business. This is how the organization came to be called Rotary.

The purpose as defined by its founder was to undertake civic functions of value to the community. Mr. Harris was successful in his endeavor. Now known as Rotary International, the organization has grown to more than 25,000 clubs, in 172 countries, with membership well over a million and a quarter. In 1988, Rotary opened its membership to women.

Fifteen years after Paul Harris founded Rotary, the Danville Rotary Club was organized and given its charter, No. 651. This club has served the community with dedication ever since. The club boasts three District Governors from its ranks from 1938 to 1993. The club joined with Bloomsburg and Berwick to found the Columbia-Montour Boy Scout Council in 1924. Boy Scout Camp Lavigne was named in honor of Jack Lavigne, a charter member of the Danville Rotary.

Over the years, the club has sponsored a children's clinic, the student exchange program, Cub Pack 36, Crop Walk, Danville Community Center, Thomas Beaver Library, Edith Buckley Brown A.L.S. Foundation at Geisinger Medical Center, to name just a few of the club's beneficiaries. "Service Above Self", the motto of Rotary International, is the tradition of the Danville Club.

Mr. Speaker, I am extremely proud of the strong and active influence of the Danville Rotary throughout my District. I am especially pleased to join with the Danville community in congratulating Danville Rotary on its 75th anniversary. We thank you for your dedication to your community, and for helping make Rotary synonymous with service.

TRIBUTE TO NANCY HUDSON AND NANCY KNOBLE

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Ms. WOOLSEY. Mr. Speaker, I rise today to honor two brave and very dedicated women, Nancy Hudson and Nancy Knoble, who are deserving of special congressional recognition for their efforts to call international attention to the battle against breast cancer. They are very positive role models for other women faced with this same situation.

The two Nancy's recently participated in a successful climbing expedition of the 23,085-foot Mount Aconcagua in Argentina in which 16 breast cancer survivors took part. They should be commended for their participation in this novel effort, organized by Breast Cancer Fund of San Francisco, to raise money for research and treatment of breast cancer. The two were recently recognized by the White House for their efforts during the Clinton administration's Medicare Mammography Awareness Campaign. I know that their enthusiastic response to fighting this disease in such an active manner helps to motivate others to redouble their efforts against this deadly disease, as well as the example they set and hope they give to other cancer survivors.

Mr. Speaker, it is my great pleasure to pay tribute to Nancy and Nancy for their extraordinary efforts. I am very proud to be representing these two remarkable women in Congress. I extend my heartfelt congratulations and deep appreciation to Nancy Hudson and Nancy Knoble for their tremendous achievements.

A TRIBUTE TO JERALD R. BUTCHERT

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. DOOLEY. Mr. Speaker, I rise today to recognize and honor Jerald R. Butchert, a personal friend of mine and a man who has worked tirelessly to make the San Joaquin Valley the most fertile agricultural land on Earth. Jerry is retiring May 31 as general manager of the Westlands Water District.

For the past 18 years, Jerry has been general manager of the Nation's largest agricultural water district, a district which approximately equals the State of Rhode Island in area.

Jerry has built a career on the prudent management of water, and has helped build Westlands into one of the most impressive water-delivery systems in the world.

Jerry was a key participant in the negotiations that led to the Reclamation Reform Act of 1982, legislation which forever changed the face of the Westlands' farming operations, and created new opportunities for young landowners and farmers. He also led the district's ongoing negotiations with the Federal Government on the need for adequate drainage service.

More recently, Jerry was active in discussions that led to the historic Bay-Delta agreement, an agreement that helped bring stability to the Delta and to California's agricultural water supply. He is currently playing an important role in efforts to reform the 1992 Central Valley Project Improvement Act.

A civil engineering graduate of Fresno State College, Jerry began his career as an engineer for the Fresno Irrigation District. He later served as the executive officer of the Eel River Water Council, and as the legislative representative in Washington, DC for the Metropolitan Water District of Southern California.

He has continued to be active in water organizations throughout his career, serving as a director of the National Water Resources Association, the Central Valley Project Water Association, and the San Luis and Delta-Mendota Water Authority. He is a member of the Drainage Oversight Committee of the San Joaquin Valley Drainage Program, the Association of California Water Agencies, and the American Society of Civil Engineers.

Jerry and his wife, Carrie Lou, have four children and five grandchildren.

Mr. Speaker, Jerry Butchert has a long record of achievement in his career. He has earned our honor and respect in his retirement. Mr. Speaker, please join me and my colleagues in recognizing by good friend, Jerry Butchert.

THE RIGHT TO LIFE ACT OF 1995

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. DORNAN. Mr. Speaker, I am privileged to introduce the Right to Life Act of 1995 because I must do what I can for our society to instill respect for human life and stop the current culture of death. The Supreme Court in *Roe* v. *Wade* laid out the blueprint for this legislation. It is simple, reasonable, and just, and provides that the right to life guaranteed by the Constitution is vested in each human being at fertilization.

We Members of the House know that for each of the past 22 years following *Roe* v. *Wade*, an estimated 1,500,000 preborn children have been institutionally killed throughout Federal enclaves and the States. More than 33,000,000 innocents have been slaughtered, pregnant mothers traumatized, and fathers denied paternity. As would be expected from this loss of respect for the value of dignity of human life, euthanasia followed the soaring abortion rate. And then street violence invaded the lives of all Americans at a frightening pace.

And so, Mr. Speaker, I must ask America: "How did this tragedy occur in our beautiful Land of the Free?" Well, in a word, apathy. We took it for granted that America was good and just. But, evil worked from within, and persuaded our Supreme Court to make catastrophic errors of judgment, fact and law in *Roe* v. *Wade*, by which the Court authorized the killing of innocents. It is the same evil which we suffered when society permitted the personhood of a slave to be less than the personhood of a slave owner. Now the right to life of a preborn person is less, according to the Court, than that of a born child.

The Right to Life Act confronts and overcomes the abortion plague spawned by *Roe* v. *Wade*. It assures that we will no longer violate the basic human right to life. We will provide equal care and protection for the right to life for both a pregnant mother and her preborn child.

As an American, I cannot live side-by-side with abortion and euthanasia as if it were not evil to kill a baby or the aged or sick. As a public official, I cannot sit by as if America cannot stop notorious violations of human rights in our country.

For centuries, America was held hostage to the great controversy over the absolute evil of slavery. Now, for 22 years too long, America has been held hostage in this great controversy and conflict over the absolute evil of abortion.

Where are the bodies of the 4,000 or more problem preborn babies intentionally killed each day in America? The press and media show us photos of starving children in foreign lands and urge us to get food to the hungry. We saw the dead and barely alive victims of Hitler's death camps which sickened us 50 years ago. Today we still remember and memorialize the worst evils of World War II.

No longer should there be a cover-up of the death of even one preborn baby. We must look squarely at the abortion tragedy and pray that America will be moved finally with reason and compassion to save preborn babies, their mothers and fathers, and our society.

RECOMMENDATIONS OF THE 16TH DISTRICT STUDENT CONGRESSIONAL COUNCIL

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. REGULA. Mr. Speaker, every year I sponsor a student congressional council in the 16th District of Ohio. High school students are selected to participate and are assigned issues of national importance to research and debate. This year the students were told to formulate their own "Contract With America."

The students spent many weeks researching and discussing the annual topic. They conclude the project by holding a mock Congress. On this final day the students debate and vote on their contract proposals.

The students considered over 30 pieces of legislation. I am proud to insert the following proposals which passed their student legislature into the CONGRESSIONAL RECORD:

The participating high schools are: Alliance, Central Catholic, Glen Oak, Fairless, Fredericktown, Hillsdale, Hoover, Louisville, Marlington, Minerva, Northwestern, R.G. Drage, Tuslaw, and West Holmes.

WELFARE REFORM

It is clear that the current welfare system is slowly destroying the very fabric of our society. The current system encourages both irresponsible behavior and fraud. In an attempt to save the American society by strengthening the American family, encouraging responsibility, and eliminating unnecessary illegal behavior, I urge the passing of this bill.

A bill to establish guidelines for the Aid to Families with Dependent Children program.

In order to quality for and receive Aid to Families payments all applicants and recipients must be at least 18 years of age, a legal citizen of the United States, and either possess a high school diploma, have passed the Graduation Equivalency Test, or currently be enrolled in a course of study leading to a GED test.

All applicants or recipients whom the State determines to be addicted to alcohol or any type of drug shall be required to participate in and successfully complete an addiction treatment program. Those applicants and recipients whom the State determines to be addicted to alcohol or any type of drug shall also be subject to random alcohol and/or drug testing.

All guardians of children whose parent(s) are currently incarcerated shall continue to receive ADFC payments for the care of these children.

All States shall have the power to require recipients of AFDC payments to perform community service, providing that they offer child care to those whom they determine need it.

All unwed mothers must establish paternity in order to receive AFDC payments. Once paternity is established, AFDC benefits will not increase for those women who are currently on welfare who give birth to additional children.

All fathers that fail to pay child support shall not be eligible to receive AFDC payments, however, job training and placement assistance shall be offered to these men.

All States shall be required to terminate AFDC payments to recipients who have received these payments for at least three years. All States shall have the power, however, to end these AFDC payments after one year, providing that they offer a job training and assistance program to their recipients.

All State-provided job training and placement assistance programs shall be funded through block grants, comprised of the savings generated by denying AFDC benefits to those under the age of 18. All State-provided child care to recipients of AFDC payments may also be funded through these block grants, or States may provide the position of child care administrator as a community service opportunity to those recipients whom must complete a State determined requirement of community service.

STRICTER LEGISLATION REGARDING PERSONS ON TRIAL, PUNISHMENTS, AND THEIR APPEALS

A bill to have a stricter legislation regarding trials, punishments and appeals of accused persons. If a person is accused of committing a felony, they should be tried as an adult regardless of their age when they committed the crime. There should be stricter psychiatric evaluations for accused persons claiming temporary insanity. Useless questioning or the use of irrelevant evidence should be abolished. There should be stricter punishments for criminals convicted of crimes involving guns, drugs, and other serious felonies. Any criminal convicted of any 3 felonies will be locked up in prison for the rest of their life. Life sentences should be served for the remainder of the criminal's life. We should cut back on jail privileges for the white collar criminals, such as tennis courts, exercise rooms, swimming pools, etc. A convicted criminal should only be allowed to receive two appeals. By doing this, it will eliminate the use of tax payers' funding of useless court trials. If released, the criminal must pay court fees.

MANDATORY RAILROAD CROSSING WARNING LIGHT AND GATE PLACEMENT AND REPAIR

This bill would impose mandatory placement of lights and gates at all railroad crossings in use and require immediate repair of all faulty gates and lights.

A bill to create gates and lights for all railroads in use.

Sec. 1. The federal government will allocate funds from Department of Transportation to state governments for the building of railroad crossings that are in use.

Sec. 2. All faulty gates and lights must be repaired immediately. Gates and lights that are not working or are being repaired must have signs posted to notify this to drivers.

Sec. 3. If a railroad crossing does not have gates or lights then trains must reduce their speed to 25 m.p.h. through the crossing until the installation of gates and lights is complete.

Sec. 4. If a state does not comply with this bill all federal funding for highways will be cut off for that state.

TRIBUTE TO COL. CECIL G. FOSTER, U.S.A.F.

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize an outstanding individual, originally from Michigan, on the occasion of his homecoming to serve as Parade Marshall of the Midland Memorial Day Parade. Col. Cecil Foster has dedicated his life to the service of his country and his community, and is an inspiration to the many people whose lives he has touched.

Shortly after his graduation from Midland High School in 1943, Cecil answered the call of his country and enlisted in the Army Air Forces. This was the beginning of a long and distinguished career in the U.S. military. During this time, his services were recognized as he was awarded the Silver Star with one Oak Leaf Cluster, the Distinguished Flying Cross with two Oak Leaf Clusters, and the Air Force Commendation Medal.

Cecil immediately requested pilot training, and through dedication and hard work, he earned his wings in 1948. After resigning his commission in 1950, he hardly had time to settle into civilian life before the onset of the Korean War. The outbreak of hostilities in Korea once again summoned Cecil's unwavering patriotism. He was recalled to active duty in August 1951 and assigned to the 16th Fighter Interceptor Squadron, where his brave service to our Nation in the name of democracy earned him a promotion to Captain.

Cecil's military career continued into the era of the Vietnam War. Promoted to Lieutenant Colonel, he assumed command of the 390th Tactical Fighter Squadron in DaNang in 1968.

During Cecil's tours in South Korea and South Vietnam, he logged over 200 combat sorties, including the confirmed downing of 9 MiG–15's. He remained on active duty until 1975, and retired with over 5,000 flying hours.

Mr. Speaker, Colonel Foster has demonstrated dedication, patriotism and bravery in service to his country that is unparalled in America's history books. He is one of the few, unique individuals whose actions still represent the ideals upon which this Nation was founded. I know you will join me in welcoming Midland's "native son" home to Michigan on this special occasion.

INTRODUCTION OF COME HOME, CORPORATE AMERICA BILL

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. SANDERS. Mr. Speaker, did you know that investment by U.S.-based multinational corporations abroad rose by 7.2 percent to a total of $716.2 billion in 1993 and increased at an even faster rate in the first half of 1994?

Stop and think about the jobs and economic growth that would have been generated here in the United States of America if that investment capital had been plowed into rebuilding our Nation instead of boosting offshore competition and production.

It is time for Uncle Sam to help redirect much more of our Nation's limited investment capital into providing good-paying jobs for Americans here at home.

The best place to start is by eliminating various special interest tax breaks and subsidies that reward U.S. companies for investing abroad rather than in the United States and that add tens of billions to our Federal deficit every year. Currently Federal tax and spending policies actually favor overseas investment by U.S.-based multinational corporations in many ways, instead of rewarding domestic investment and job creation.

That is why I have been joined by other members of the Progressive Caucus in sponsoring comprehensive legislation—The Come Home, Corporate America Bill—to cut the corporate welfare for U.S.-based multinational corporations that are busy hollowing out our Nation's production base, exporting good-paying U.S. Jobs, and bilking the American taxpayer all at the same time.

My bill will cut the Federal deficit by $252 billion over the next 5 years by wiping out assorted special interest tax loopholes and subsidies that have been handed out year after year to U.S.-based multinational corporations. These are the same companies that have turned their backs on millions of American working families whose hard work and personal allegiance has been instrumental in building these Fortune 500-type companies into economic powerhouses.

Specifically, my bill will achieve major deficit reduction by cutting the following multinational corporate welfare:

Abolishing the foreign tax credit;

Eliminating tax deferral of income from controlled foreign corporations;

Cracking down on transfer pricing, whereby multinational corporations arbitrarily allocate computed income among their operations in different countries;

Eliminating special tax break that allows companies to exclude 15 percent of their export income generated from special subsidiaries often created merely to claim and process the break;

Repealing tax exemption from U.S. taxes for employees of multinational corporations regardless of whether or not that income is subject to foreign taxation. Companies often equalize tax liabilities so that their employees' after-tax income is the same, thus allowing the company to pad their profits;

Abolishing the Overseas Private Investment Corporation [OPIC] which obligates the American taxpayer to insure and underwrite political risk insurance for companies to invest in scores of foreign countries;

Cutting below-market loan subsidies and fees provided by the Export-Import Bank for foreign purchasers to buy from U.S. companies;

Eliminating tax loopholes allowing earnings stripping and intrafirm transfers that allow companies to inflate their deductible expenses;

Abolishing exemption for foreign investors to avoid paying capital gains tax on the sale of their stock in U.S. corporations; and

Repealing the exemption that allows foreign investors to avoid paying taxes on interest received on bonds issued in the United States.

1995 FINANCIAL STATEMENT

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 1995

Mr. SENSENBRENNER. Mr. Speaker, through the following statement, I am making my financial net worth as of March 31, 1995, a matter of public record. I have filed similar statements for each of the 15 preceding years I have served in the Congress.

ASSETS

REAL PROPERTY

Single family residence at 609 Ft. Williams Parkway, City of Alexandria, Virginia, at assessed valuation. (Assessed at $635,700) Ratio of assessed to market value: 100% (Encumbered)—$635,700.00.

Condominium at N76 W14726 North Point Drive, Village of Menomonee Falls, Waukesha County, Wisconsin, at assessor's estimated market value. (Unencumbered)—$94,900.00.

Undivided 25/44ths interest in single family residence at N52 W32654 Maple Lane, Village of Chenequa, Waukesha County, Wisconsin, at 25/44ths of assessor's estimated market value of $461,000—$261,931.81.

Total real property—$975,211.36.

Common and preferred stock	Number of shares	Dollar per share	Value
Firstar Corp	676	29.50	$19,942.00
American Telephone & Telegraph	521.475	51.75	26,986.33
Ameritech	358.295	41.25	14,779.67
Bell Atlantic Corp	236.642	52.88	12,512.45
Bell South Corp	268.1234	59.50	15,953.34
NYNEX, Inc	253.226	39.50	10,002.43
Pacific Telesis, Inc	148	30.25	4,477.00
Southwest Bell, Inc	358.345	42.00	15,050.49
U.S. West, Inc	249.205	40.13	9,999.35
Tenneco Corp	769.56	47.13	36,265.52
Newell Corp	1,676	25.50	42,738.00
General Mills, Inc	1,440	59.63	85,860.00
Kellogg Corp	1,600	58.38	93,400.00
Dunn & Bradstreet, Inc	2,500	52.63	131,562.50
Halliburton Company	1,000	36.63	36,625.00
Kimberly-Clark Corp	29,084	52.00	1,512,368.00
Minnesota Mining & Manufacturing	1,000	58.13	58,125.00
Exxon Corp	2,432	66.63	162,032.00
Amoco Corp	1,362	63.63	86,657.25
Eastman Kodak	1,080	53.25	57,510.00
General Electric Co	2,600	54.00	140,400.00
General Motors Corp	304	44.00	13,376.00
Merck & Co., Inc	15,639	42.63	666,612.38
Warner Lambert Co	1,134	78.25	88,735.50
Sears Roebuck & Co	200	53.38	10,675.00
Ogden Corp	910	20.13	18,313.75
Sandusky Voting Trust	26	90.00	2,340.00
Monsanto Corporation	1,672	80.25	134,178.00
E.I. DuPont de Nemours Corp	600	60.50	36,300.00
Wisconsin Energy Corp	1,022	27.13	27,721.75
Abbott Laboratories, Inc	6,100	35.75	218,075.00
Bank One Corp	2,843	28.50	81,025.50
Unisys, Inc. Preferred	100	39.00	3,900.00
Benton County Mining Company	333		
Houston Industries	150	38.13	5,718.75
Pacific Gas & Electric	175	24.88	4,353.13
Eastman Chemical Co	270	55.63	15,018.75
Dean Whitter Discover	78	40.75	3,178.50
Airtouch Common	148	27.25	4,033.00
Total			$3,906,801.32

Life insurance policies	Face value	Surrender value
Northwestern Mutual #4378000	$12,000.00	$29,187.08
Northwestern Mutual #4574061	30,000.00	69,802.27
Massachusetts Mutual #4116575	10,000.00	5,825.64
Massachusetts Mutual #4228344	100,000.00	123,229.94
Old Line Life Ins. #5–1607059L	175,000.00	22,253.78
Total		250,298.71

Bank and savings & loan accounts	Balance
Bank One, Milwaukee, N.A., checking account	$1,668.94
Bank One, Milwaukee, N.A., preferred savings	3,611.16
Bank One, Milwaukee, N.A., regular savings	735.87
M&I Lake Country Bank, Hartland, WI, checking account	2,788.62
M&I Lake Country Bank, Hartland, WI, savings	607.65
Burke & Herbert Bank, Alexandria, VA, checking account	650.03
Firstar, FSB, Butler, WI, IRA accounts	49,164.09
Total	59,226.36

Miscellaneous	Value
1985 Pontiac 6000 automobile—blue book retail value	$2,000.00
1991 Buick Century automobile—blue book retail value	7,650.00
Office furniture & equipment (estimated)	1,000.00
Furniture, clothing & personal property (estimated)	130,000.00
Stamp collection (estimated)	40,000.00
Interest in Wisconsin retirement fund	52,357.17
Deposits in Congressional Retirement Fund	107,770.83
Deposits in Federal Thrift Savings Plan	60,246.54
Traveller's checks	6,350.00
20 ft. Manitou pontoon boat and 35 hp Force outboard motor (estimated)	5,000.00
17 ft. Boston Whaler boat and 70 hp Johnson outboard motor (estimated)	7,000.00
Total	419,383.54
Total assets	5,610,921.29

LIABILITIES

Nations Bank Mortgage Company, Louisville, KY, on Alexandria, VA, residence, Loan #39758–77—$154,345.34.

Miscellaneous charge accounts (estimated)—$2,000.00.

Total liabilities—$156,345.34.

Net worth—$5,454,575.95.

STATEMENT OF 1994 TAXES PAID

Federal income tax—$98,580.00.

Wisconsin income tax—$21,514.00.

Menomonee Falls, WI, property tax—$2,370.73.

Chenequa, WI, property tax—$12,769.43.

Alexandria, VA, property tax—$6,970.88.

I further declare that I am trustee of a trust established under the will of my late father, Frank James Sensenbrenner, Sr., for the benefit of my sister, Margaret A. Sensenbrenner, and of my two sons, F. James Sensenbrenner, III, and Robert Alan Sensenbrenner. I am further the direct beneficiary of two trusts, but have no control over the assets of either trust. My wife, Cheryl Warren Sensenbrenner, and I are trustees of separate trusts established for the benefit of each son under the Uniform Gifts to Minors Act. Also, I am neither an officer nor a director of any corporation organized under the laws of the State of Wisconsin or of any other state or foreign country.

F. JAMES SENSENBRENNER, JR.,
Member of Congress.

SENATE—*Monday, May 15, 1995*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The Senate will be led in prayer by the Senate Chaplain, Dr. Lloyd John Ogilvie.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, whom to know is life's ultimate purpose, whom to serve is our deepest joy, and whom to trust is our only lasting peace, we commit to You the work of this Senate. You have made praise the secret of opening our minds and hearts to You, the key to unlocking the mysteries of Your will, and the source of turning difficulties into opportunities. When we praise You for even life's tight places and trying people, we are strangely liberated. You have made praise the highest form of commitment of our needs.

So we begin this week with praise to You for the blessings we could neither deserve or earn and for the problems in which You will reveal Your supernatural guidance and power.

We dedicate this week to be one in which we constantly give You praise in all things, especially the perplexities that force us to seek You and Your limitless grace. In Your Holy Name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT—MOTION TO PROCEED

Mr. DOLE. Mr. President, it will be my intention momentarily to move to proceed to consideration of S. 395, the Alaska Power Administration bill. I understand there are objections to proceeding to the bill at this time. Therefore, Members should be aware that rollcall votes are possible this morning and throughout the day.

Mr. President, I move to proceed to consideration of S. 395, Calendar 111, the Alaska Power Administration bill.

The PRESIDING OFFICER (Mr. BROWN). The question is on the motion. Is there objection?

Mrs. MURRAY. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I do object to moving to this bill at this time, although I understand the underlying bill has much in it that is important. I do not want to keep us from moving toward that. Section 2 of this bill is extremely important, critical. It has been under the jurisdiction of the Banking Committee for the last several years that I know of that I have been here. It has not been debated in that committee and I believe it should go back to that committee to be looked at.

It is an extremely important section that allows the lifting of the ban on oil for Alaska exports. It has tremendous impact to the west coast, and particularly to my State of Washington, as well as Oregon and California, and is a measure that should see much more light of day, particularly in the Banking Committee, before it is debated on this floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES OF MEXICO

Mr. KYL. Mr. President, I rise to introduce to you and to especially welcome representatives from the Mexican Senate and House of Representatives who met with us in Tucson this last weekend as the delegation of the United States-Mexico Interparliamentary Conference.

It is my honor to present these ladies and gentlemen to you. I ask unanimous consent that each of their names be printed in the proceedings of the U.S. Senate, along with a copy of the joint communique, a communique that came out of that conference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEXICAN DELEGATION LIST

SENATORS

Senador Fernando Ortiz Arana, President (State of Queretaro—PRI).

Senador Jose Murat (State of Oaxaca—PRI).

Senador Guadalupe Gomez Maganda (State of Guerrero—PRI).

Senador Guillermo Hopkins Gamez (State of Sonora—PRI).

Senador Jose Luis Soberanes Reyes (State of Sinaloa—PRI).

Senador Fernando Solana Morales (State of Distrito Federal—PRI).

Senador Eloy Cantu Segovia (State of Nuevo Leon—PRI).

Senador Carlos Sales Gutierrez (State of Campeche—PRI).

Senador Gabriel Jimenez Remus (State of Jalisco—PAN).

Senador Luis Felipe Bravo Mena (State of Mexico—PAN).

Senador Jose Angel Conchello Davila (State of Distrito Federal—PAN).

Senador Jose Ramon Medina Padilla (State of Zacatecas—PAN).

Senador Hector Sanchez Lopez (State of Oaxaca—PRD).

Senador Guillermo Del Rio Ortegon (State of Campeche—PRD).

REPRESENTATIVES

Diputado Augusto Gomez Villanueva, Co-President (State of Aguascalientes—PRI).

Diputado Carlos Aceves Del Olmo (State of Distrito Federal—PRI).

Diputado Samuel Palma Cesar (State of Morelos—PRI).

Diputado Marco Antonio Davila Montesinos (State of Tamaulipas—PRI).

Diputado Victor M. Rubio Y Ragazzoni (State of Distrito Federal—PRI).

Diputado Rosario Guerra Diaz (State of Distrito Federal—PRI).

Diputado Carlos Flores Vizcarra (State of Distrito Federal—PRI).

Diputado Pindaro Uriostegui Miranda (State of Guerrero—PRI).

Diputado Ricardo Garcia Cervantes (State of Baja California—PAN).

Diputado Guillermo Lujan Pena (State of Chihuahua—PAN).

Diputado Miguel Hernandez Labastida (State of Distrito Federal—PAN).

Diputado Alejandro Diaz Perez Duarte (State of Distrito Federal—PAN).

Diputado Jesus Ortega Martinez.

Diputado Pedro Ettiene Llano (PRD).

Diputado Joaquin Vela Gonzalez (State of Aguascaliente—PT).

JOINT COMMUNIQUE, 34TH MEETING OF THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP, TUCSON, ARIZONA, MAY 13, 1995

At the conclusion of the 34th Interparliamentary Meeting between the Congresses of the United States of America and Mexico, held from May 12–15, 1995, in the city of Tucson, Arizona, the participating delegations determined by mutual accord to make known the scope of their discussions through this joint communique.

The Delegations recognized that ties between their peoples and governments are based on mutual respect and open communication, which form the foundation of good relations. The Delegations agreed to emphasize the importance of the active role that each Congress must play in strengthening a framework of understanding and joint endeavors. The discussions in Tucson were cordial, comprehensive, and candid, aimed at exchanging views on five principal subjects, expanding mutual understanding, and advancing a positive, practical agenda for improving relations across the board.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

NAFTA AND HEMISPHERIC FREE TRADE

The Delegations discussed the expansion of economic relations among Canada, Mexico, and the United States under the North American Free Trade Agreement. The Delegations discussed ideas for the acceleration of tariff phase-out periods and the complete implementation of NAFTA and committed themselves to encourage the timely consideration of initiatives to expand free trade in the Americas.

ECONOMIC STABILIZATION

The Delegations discussed current economic conditions and measures established in Mexico's economic adjustment program and stressed that both countries have an interest in the complete and early recovery of the Mexican economy. In particular, the Delegations recognized that both Congresses will continue to review implementation, within their respective constitutional authorities, of the economic stabilization package being carried out under the "U.S.-Mexico Framework Agreement" and accompanying accords signed on February 21, 1995.

BORDER COOPERATION

The discussions in Tucson provided ample opportunity for the exchange of views on expanding border cooperation, including issues of tourism, customs, safe border crossing, health, and environment. The Delegations committed themselves to following through on initiatives to improve the quality of life of persons who live and work in communities along the 2,000-mile U.S.-Mexico border and to facilitate the growing commerce through regional ports. In addition, problems of port security and border crossings in violation of the law were discussed.

IMMIGRATION

The Delegations recognized the need to respect the fundamental human rights of all persons, as well as the sovereign right of all states to make autonomous decisions regarding domestic social programs and their territorial integrity, in accordance with the constitution of each country. When considering this issue, the Delegations agreed on the importance of utilizing the consultative mechanisms established in the U.S.-Mexico Binational Commission and other appropriate channels.

COMBATTING ILLEGAL DRUGS

In the strongest possible terms, the Delegations agreed that combatting illegal drugs is a priority for both countries. The Delegations acknowledged that current bilateral anti-drug cooperation is unprecedented in its scope and intensity, and that both governments must redouble their efforts and commit the necessary resources in order to strictly apply the law to criminals and to attack the drug problem more effectively in all its manifestations, including production, trafficking, and consumption. The Delegations agreed on the need to strengthen actions to fight organized crime, money-laundering, and corruption through cooperation and with absolute respect for the sovereignty of each country.

FOLLOW-UP MECHANISMS

The Delegations agreed to consider establishing special congressional working groups on bilateral issues, including a process to develop specific recommendations and follow-up actions for future interparliamentary meetings. They also agreed to consider holding a United States-Mexico-Canada Interparliamentary Meeting in the future.

CONCLUSION

The Mexican Delegation expressed its satisfaction for the atmosphere of frank, open, and candid dialogue that prevailed at the discussions in Tucson. The Mexican legislators thanked their U.S. colleagues for their hospitality and extended their best wishes to the people of the United States. The United States Delegation extended their thanks to their Mexican counterparts and best wishes to the Mexican people.

Senator FERNANDO ORTIZ ARANA,
Chairman, Mexican State Delegation.
Deputy AUGUSTO GOMEZ VILLANUEVA,
Chairman, Mexican Chamber of Deputies Delegation.
Senator JON KYL,
Chairman, U.S. Senate Delegation.
Representative JIM KOLBE,
Chairman, U.S. House Delegation.

Mr. KYL. Mr. President, this conference, which was the 34th meeting of the United States and Mexican parliamentarians, covered a wide range of topics. It focused in two general areas: On the economic and political issues.

On the economic issues, matters that were discussed included the implementation of NAFTA and other hemispheric free-trade issues, the issues regarding economic stabilization for the Mexican economy, border cooperation in a whole variety of different ways, problems relating to immigration and, most important, combating illegal drugs.

I might note just in that regard that the communique notes in the strongest possible terms, the delegates believe that both countries need to work even more closely together to solve this problem that is so critical to both of our countries.

We also included in the communique follow-up mechanisms that would enable us to continue our work together as parliamentarians, including the possibility that we would meet with our Canadian counterparts as well in a three-part kind of meeting.

Mr. President, the key, I think, to this meeting was a recognition that perhaps more than any other time in history, the Congresses of our two countries have changed dramatically. We are aware of the fact that for the first time in 40 years, the Republican Party now controls both Houses of the U.S. Congress, and that is creating great changes in our legislative policy.

By the same token, the Congress in Mexico is undergoing substantial change as well. In addition to the fact that you have four different parties in the Congress, the parliamentarians who met this weekend all noted that the role that the Congress is playing in Mexico is a much more active and robust role than has been true in years past. Therefore, the areas of cooperation between the two Congresses take on an even greater importance as both of our countries face the next few years and going into the next century.

So, Mr. President, it is with a great deal of pride and with a degree of humility that I appear with these members of the House and Senate of Mexico and present them to you and, again, express my very strong sense that this kind of meeting is critical to the future of our two countries which share a 2,000-mile-long border and have a very bright future together. We treat that border as an opportunity, and I think that was the keyword in the entire conference, was the opportunity that is presented by the working together of our two countries.

Mr. President, now we have the privilege of going to the White House and meeting with President Clinton. We know that that meeting will be fruitful as well. I note finally that there were seven Senators from the United States who attended that meeting, as well as both Ambassadors from the United States and Mexico. Therefore, it was a most productive conference.

Thank you, Mr. President.

The PRESIDING OFFICER. The Chamber is honored by the visit of our colleagues and friends. You are most welcome in this Chamber. We appreciate your visit very much.

Mr. KYL. Thank you, Mr. President

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mrs. MURRAY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAMS. Mr. President, again, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Minnesota is recognized.

MINNESOTA TAX FREEDOM DAY

Mr. GRAMS. Mr. President, yesterday, on May 14, 1995, Minnesotans marked two annual occasions: one that millions of families look forward to each year, and one that millions of Minnesota taxpayers await with a mixture of anger and frustration.

First and foremost, of course, was Mother's Day, the day we all honor our mothers for the love and support they have given us.

The second, less well-known but equally significant event was Minnesota Tax Freedom Day, the day Minnesotans quit working to pay taxes at the Federal, State, and local levels of government and begin working for themselves. Every dollar my constituents have earned so far this year has gone to pay taxes. For a total of 134 days, Minnesotans have been working for the government; 85 of these days were spent paying off Federal taxes, while the remaining 49 days were spent paying off State and local taxes.

Tax Freedom Day comes much later in the year to Minnesota than it does to the Nation at large, which means Minnesotans spend longer than most Americans working to pay off their tax bills.

For the average American taxpayer, Tax Freedom Day is on May 6, but Minnesotans must work more than a week longer for Uncle Sam and his cousins at the State and local levels.

My constituents are encumbered with the sixth highest tax rate in the country. The only States whose Tax Freedom Days come after Minnesota's are Connecticut and New York, who both mark Tax Freedom Day on May 24; Washington, DC, and New Jersey, on May 18; and Hawaii, on May 17.

For 2 years, the tax load borne by Minnesotans has remained constant, and Tax Freedom Day has fallen on the same day, May 14. But sadly, a lot has changed since President Clinton's 1993 budget package.

In 1993, Tax Freedom Day in Minnesota was May 9. In effect, the tax increases imposed in President Clinton's 1993 budget have forced Minnesotans to work an additional 5 days just to pay off those new taxes.

These 5 days could have been spent on a family vacation, but there is no time for fun when you are working to pay off the Government's spending splurges.

The average per capita income of Minnesota is $24,403, 36.6 percent of which goes to pay taxes.

Translated into dollar terms, the average annual tax bill for every Minnesota taxpayer this year will be $8,926, or over one-third of their hard-earned income.

Americans face a veritable cornucopia of tax burdens in their day-to-day lives, overflowing with the income taxes and payroll taxes which represent the largest component of the average American's tax bill.

In addition to these more visible taxes, the cost of nearly all goods and services are inflated by sales and excise taxes. There are property taxes, estate and other business taxes, and let us not forget the corporate income taxes which are passed along to consumers and employees in the form of higher prices and lower wages.

The perverse thing about our current progressive income tax system is that as national income increases, the tax burden increases along with it, more than proportionally. As a result, economic contractions tend to reduce American's tax burden while economic expansions tend to increase it.

It makes no sense that taxpayers should be penalized for robust economic growth by extracting more money from their paychecks.

This is why I support tax cuts—real tax cuts—that help American families keep more of what they earn. The $500 per child tax credit goes a long way toward that end. Middle-class families could save more, or they could spend more—they would be given the freedom to do whatever they want with their money because it belongs to them.

We may never see Tax Freedom Day coincide with New Year's Day or even Valentine's Day, but let us face it: We are about to begin debate on a new budget resolution, one that can counteract the onerous effects of Clinton's package of tax hikes 2 years ago. Let us not miss this opportunity to offer tax relief to America's families. Let us ensure that Tax Freedom Day comes a lot earlier next year than it did last year.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 395

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that at 12 o'clock noon the Senate turn to the consideration of calendar 101, S. 395 regarding the Alaska Power Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

THE BUDGET

Mr. PRESSLER. Mr. President, there has been much discussion about the budget of the United States that will be brought to this floor by Senator DOMENICI and the Budget Committee soon. I believe strongly we must do something in this country or Medicare will go broke and our country will go broke. That is the alternative on one side. The alternative on the other side is to do something about it.

Those are two rather grim alternatives. Because if we continue down the road with a $4.8 trillion debt in a $6.9 trillion economy, our money will soon become worthless. We are already seeing signs of this: the decline in the value of the dollar, particularly the unexplained collapse of the dollar against the yen and against the German mark. So something is wrong in our economy. In fact, I predict that at some point in the next 5 or 10 years we will have a cataclysmic event, economically speaking, in our country if we do not do something now about the Federal deficit.

We also have learned that Medicare will go broke by the year 2002 unless something is done. I have been a champion of senior citizens. I would ask our senior citizens, would we rather have a Medicare system that is broke, or would we rather have one that is solvent even though we may have to make certain changes? So that is where we stand as a country, basically, with this budget coming to the floor. It is a historic turning point in our country's history. We have to make a decision as to whether or not we are going to face up to the facts.

We had a debate on this Senate floor about the balanced budget amendment recently. The Democrats pointed out that our side of the aisle had no plan. They said, what is your plan to balance the budget? We do have a plan. It is the Domenici plan that will come to this floor. It has a lot of cuts; some cuts I do not personally agree with, but I am going to support the Domenici budget plan, generally speaking, because in part it is the only game in town.

The Democrats do not have a plan. Yet, they are criticizing our plan. That is unfortunate. The Democrats have the White House. They are supposed to provide leadership in this area also. But they do not want to. So it is our burden in the Republican majority to provide commonsense leadership, to take the hits, to make the tough votes.

Mr. President, one of the newspapers in South Dakota this morning reported that the Federal Government—the Treasury—released how much my State would suffer if some of the budget cuts were made. I say to my fellow South Dakotans, that is the oldest trick in the book by the Federal bureaucracy. They release how much people are going to suffer, and how much money is going to be lost. They do not say that they might have to reduce the number of bureaucrats in Washington or at the Denver regional headquarters. They do not say that they are counting as part of the budget impact the elimination of bureaucrats and regulators whose work may involve South Dakota, but actually live in Washington, DC, or Denver. They merely say, "Your State is going to be hurt this much," and, "Senator, if you vote to cut us, you are hurting your State." Those numbers that are released in such a timely fashion show how skillful the Federal bureaucracy is at trying to protect themselves by politically hurting Senators and Congressmen who vote for cuts in the budget.

So I urge all South Dakotans, and all Americans, to take a close look at exactly what they are talking about.

In conclusion, Mr. President, on the budget, we face a very painful choice. On the one hand, we can go broke as a nation and see the value of the dollar decline and leave a great debt for future generations. We also can keep spending in Medicare at the same level without making changes and have it go broke by the year 2002.

On the other hand, we can take a responsible course. We can follow the outline of PETE DOMENICI's budget, which he is bringing to this floor.

The Republicans in the Senate have a plan. The Democrats do not. They are criticizing our plan. That is fine. We will take the criticism. But I want to say to the people in my State and to this country that I hope they give us the understanding and the credit for taking leadership, for taking the tough votes we will soon take, because the other side is merely throwing rocks at us as we are trying to climb up the hill.

Let us remember that our country is at a historic point. We could choose to go bankrupt, with a $4 trillion debt this year. With many programs such as Medicare going broke, we can keep doing what we are doing, and if so, it is going to lead to a cataclysmic event. Or we can take some tough medicine, and take some tough votes.

In the next 6 months, I believe that I will be casting the toughest votes of my Senate career. I ask for the understanding of my constituents because it is not easy. I would rather be voting to give everybody everything. It must have been fun to be a Senator in the 1960's, when you could vote for amendments without having any budget offset. Now, with every amendment we have, if we add something to the budget, we have to say where we are taking it from. We have to state under the budget rules what this is going to do to the Federal budget.

So the whole tone of the next 6 months in this Chamber is going to be a very difficult one. We are going to see Senators struggle in their votes. It is going to be easier to demagog and to say let us wait until next year, or delay it 3 or 5 years. But the time has come to stand up and be counted. I believe that we can do a great deal for the future of the United States if we do so.

Mr. President, I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. BRYAN. Mr. President, I ask unanimous consent to speak for a period not to exceed 10 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I thank the Chair.

PRAIRIE ISLAND DRY CASK

Mr. BRYAN. Mr. President, I would like to bring to the attention of my colleagues a little noticed, but I think significant, event that occurred last week.

Last Thursday, Northern States Power transferred spent nuclear fuel from its reactor pool at Prairie Island into a new dry storage cask located at the reactor site.

Prairie Island, near Red Wing, MN, is the location of two of Northern States Power's three nuclear power reactors.

Licensed to operate starting in 1973 and 1974 respectively, Prairie Island 1 and Prairie Island 2 share a spent fuel storage pool.

Today, 20 years into the 40-year licensed life of the reactors, the pool is filling up.

Northern States Power needed to find more storage for the waste generated at Prairie Island. Fortunately, licensed technology, dry cask storage, was available which would allow the utility to move the oldest spent fuel assemblies out of the pool.

NSP proposed to locate the casks at the reactor site.

Thursday's announcement of final NRC approval to load the casks is the final chapter in a prolonged political and public relations effort by NSP to resolve until the year 2002 its Prairie Island waste problem.

The public outcry that erupted after NSP proposed to expand on-site storage is every utility executive's nightmare, and led to the perception of the Prairie Island situation as the poster child of the nuclear power industry's current propaganda campaign for interim storage of high-level nuclear waste in Nevada.

In spite of the obvious solution available to NSP, on-site dry casks, the Prairie Island situation has, for several years now, been held up as the prime example of why Congress must immediately reopen the Nuclear Waste Policy Act to speed up progress on moving high-level nuclear waste to Nevada.

Twenty percent of the Nation's electricity power supply, we have been told, is at risk if Congress does not act soon.

Reactors will shut down, cities will go dark, and electricity rates will skyrocket, if Congress does not take the waste off the hands of the utilities soon—according to the nuclear power industry. The nuclear power industry's shameless campaign to get the Federal Government to take responsibility for its waste is not new.

In 1980, at the same time Congress was considering options for the permanent disposal of high-level waste, the nuclear power industry was pushing for away-from-reactor storage, or AFR.

Without a Federal AFR facility, according to the industry, reactors would begin closing by 1983.

Of course, no Federal AFR was built, and no reactors closed for lack of storage.

Besides creating the misleading impression of a crisis, of impending doom, the nuclear power propaganda campaign has always sought to create the impression that there is only one solution, one option for avoiding the supposedly catastrophic consequences of reactor shutdowns: move the high-level nuclear waste to Nevada. That is the only proposal that is offered.

First, we as a State were targeted for a permanent repository.

That program is an acknowledged failure.

Now we are targeted for interim storage.

For the nuclear power industry, that means 100 years, subject to renewal. That amounts to de facto permanent storage.

According to the nuclear power industry, interim storage in Nevada is the only salvation for the future of nuclear power.

Nevadans have made it crystal clear that we want no part of the nuclear power industry's solution to its waste problem. Nuclear waste is not welcome in Nevada.

Nevertheless, the nuclear power industry, and its surrogate for this matter, the Department of Energy, has been relentless in its efforts to force Nevadans to bear the health and safety risks of solving a problem we had no role in creating.

Mr. President, there are solutions to the nuclear waste storage problem that do not include Nevada. Last weeks events at Prairie Island make that abundantly clear.

For all their propaganda, and all their complaining to Congress, the nuclear utilities find a way to handle their waste, and keep reactors open and running.

The CEO of Northern States Power, John Howard, has said "Resolution of interim storage for spent nuclear fuel from our country's commercial power plants has reached crisis proportions."

Mr. Howard's assessment—that interim storage of nuclear waste is an impending crisis, and, thus, Congress must act to move this waste to Nevada as soon as possible—is a common theme in the nuclear power industry.

As the Prairie Island situation demonstrates, however, the crisis scenario is simply not true from a technical or scientific perspective.

Of course, I do not expect many of my colleagues will hear much about the resolution of the supposed crisis at Prairie Island.

The resolution of the Prairie Island waste situation simply does not track with the contrived crisis scenario developed by the nuclear power industry and its lobbyists.

To admit that nuclear utilities can find ways to take care of their own waste would shatter the carefully constructed fiction that interim storage in Nevada is the only possible alternative to shutting down the reactors.

It should be acknowledged that Northern States Power paid a price for the approval of additional storage at Prairie Island.

The debate over increased storage was intense, and many are still not happy.

NSP was forced to make concessions, such as building more renewable energy sources.

Other utilities are not anxious to go through what NSP went through.

The unfortunate fact for nuclear utilities is that nuclear power, and nuclear waste, are not popular.

The public relations and political problems associated with expanding storage capacity at reactors is an inescapable cost of nuclear power.

Northern States Power also paid a financial price for expanding storage at Prairie Island.

As other utilities do the same, especially after the 1998 goal for operation of a permanent repository included in the 1982 Nuclear Waste Policy Act, some action ought to be taken to provide some relief to the ratepayers who have paid in the first instance into the nuclear waste fund and who are not receiving the storage at that fund which they contemplated would be operational by the year 1998.

I might say parenthetically, as the distinguished occupant of the chair knows, under no scenario, under absolutely none, will a facility be opened by the year 1998.

So I believe as a matter of fairness that ratepayers are entitled to some relief in terms of payment into the nuclear waste fund.

I have reintroduced in this Congress, as I have on previous occasions, legislation which this year bears the number of S. 429 which will provide a credit against nuclear waste fund contributions for utilities forced to build onsite storage after 1998.

Under S. 429, ratepayers will not be financially penalized for the misguided and mismanaged efforts of the nuclear power industry and the Department of Energy to build a permanent repository in Nevada.

I urge my colleagues to reject the nuclear power industry's newest assault on the people of Nevada, and support S. 429.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I understand there are two bills due their second reading.

MEASURE PLACED ON THE CALENDAR—S. 761

The PRESIDING OFFICER. The clerk will read the first bill by title.

The assistant legislative clerk read as follows:

A bill (S. 761) to improve the ability of the United States to respond to the international terrorist threat.

Mr. COCHRAN. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. That bill will be placed on the calendar.

MEASURE PLACED ON THE CALENDAR—S. 790

The PRESIDING OFFICER. The clerk will report the second bill by title.

The assistant legislative clerk read as follows:

A bill (S. 790) to provide for the modification or elimination of Federal reporting requirements.

Mr. COCHRAN. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

DISASTERS

Mr. COCHRAN. Mr. President, last Friday, President Clinton declared a major disaster for the State of Mississippi, due to damage resulting from severe storms, flooding, and related problems, weather problems that occurred on May 8 and during the days following. This declaration is deeply appreciated by the people of Mississippi and the State of Mississippi because very severe damage has occurred in our State as all of us know who had an opportunity to watch television and read about the devastating floods that occurred all across the gulf coast, from New Orleans to Mobile and beyond. Included in this area of severe weather damage was my State of Mississippi. All of the coast counties and some of those counties that are more inland received severe damage.

This declaration makes it possible now for the Federal Emergency Management Agency, led by James Lee Witt, to provide private, individual assistance to those disaster victims who qualify under Federal legislation. The letter also states that additional public assistance may be added at a later date.

It is my understanding that the Governor's office and his staff are working with Federal agents at this time in Mississippi, to try to ensure that all possible assistance, emergency and otherwise, is made available to these disaster victims. I commend the Governor and his staff for the fine work they are doing.

Mr. President, I ask unanimous consent a copy of the President's letter to our Governor, Kirk Fordice, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, May 12, 1995.

HON. KIRK FORDICE,
Governor of Mississippi,
State Capitol, Jackson, MS.

DEAR GOVERNOR FORDICE: As requested, I have declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act) for the State of Mississippi due to damage resulting from severe storms, tornadoes, and flooding on May 8, 1995, and continuing. I have authorized Federal relief and recovery assistance in the affected area.

Individual Assistance will be provided. Public Assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs in the designated areas.

The Federal Emergency Management Agency (FEMA) will coordinate Federal assistance efforts and designate specific areas eligible for such assistance. The Federal Coordinating Officer will be Mr. Michael J. Polny of FEMA. He will consult with you and assist in the execution of the FEMA-State Disaster Assistance Agreement governing the expenditure of Federal funds.

Sincerely,

BILL CLINTON.

Mr. COCHRAN. Mr. President, this also brings to mind legislation that I introduced recently to bring under the purview of the Public Safety Officers Benefits Act the employees of FEMA, the Federal Emergency Management Agency, as well as employees of State and local emergency management and civil defense agencies.

Senators may not realize this, but State and local police officers, firefighters, State and local rescue squads and ambulance crews, Federal law enforcement officers and firefighters, are all covered under the Public Safety Officers Benefits Act, which provides death benefits and permanent disability benefits for those who are injured with some traumatic injury while in the line of duty.

Excluded under this act are those who work for civil defense agencies and the employees of the Federal Emergency Management Agency. This had been brought to my attention a few years ago, and during the confirmation hearings in our Governmental Affairs Committee of James Lee Witt, the current FEMA Director, I asked him his reaction to legislation that would expand coverage of this act and his responses were very favorable.

I introduced the legislation. It was not adopted in the last Congress, but I have recently reintroduced the bill and it is now pending in the Senate as S. 791. I hope Senators will take a look at this bill and consider cosponsoring the legislation, or supporting its passage.

I am today sending a letter to all Senators, inviting their attention to this legislation and the circumstances of it. The enactment of this bill will provide these civil defense employees and emergency management employees with the same kind of assurance that others who are similarly employed will have, should death or disabling injury result from the performance of their duty. Their families would receive survivor benefits, and they could be made eligible for disability benefits.

Mr. President, I ask unanimous consent a copy of my "Dear Colleague" letter to which I have referred be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 15, 1995.

DEAR COLLEAGUE: I recently introduced S. 791, a bill to extend coverage under the Public Safety Officers Benefits Act to employees of the Federal Emergency Management Agency (FEMA) and employees of State and local emergency management and civil defense agencies.

The Public Safety Officers Benefits Act provides benefits to the eligible survivors of a public safety officer whose death is the direct result of a traumatic injury sustained in the line of duty. The Act also provides benefits to those officers who are permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty.

The Act now covers State and local law enforcement officers and fire fighters, Federal law enforcement officers and fire fighters, and Federal, State, and local rescue squads and ambulance crews. However, an employee of a State or local emergency management or civil defense agency, or an employee of FEMA who is killed or permanently disabled performing his or her duty in responding to a disaster is not covered under the Act.

Enactment of S. 791 will remedy this situation by extending the Act to those employees. This will ensure that the survivors and family members of an employee killed in the line of duty will receive benefits and that an employee permanently and totally disabled as a result of injury sustained in the line of duty will also receive disability benefits of the Act.

During his confirmation hearing in the last Congress, FEMA Director James Lee Witt said that emergency management and civil defense employees put their lives on the line just about every time they respond to an event. Enactment of this legislation will provide them with some assurance that, should death or disabling injury result from the performance of their duty, their families will receive survivor benefits or they will receive disability benefits.

If you would like to cosponsor this bill, please have your staff contact Michael Loesch at 4-7412.

Sincerely,

THAD COCHRAN,
U.S. Senator.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 395, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Marketing Administration, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[TITLE I

[SECTION 101. SHORT TITLE.

[This title may be cited as the "Alaska Power Administration Sale Act".

[SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

[(a) The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this Act as "Snettisham") to the State of Alaska in accordance with the terms of this Act and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the Department of Energy and the Alaska Power Authority.

[(b) The Secretary of Energy is authorized and directed to sell the Eklutna Hydroelectric Project (referred to in this Act as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this Act as "Eklutna Purchasers"), in accordance with the terms of this Act and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Department of Energy and the Eklutna Purchasers.

[(c) The heads of other Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized and directed by this Act.

[(d) The Secretary of Energy shall deposit sale proceeds in the Treasury of the United States to the credit of miscellaneous receipts.

[(e) There are authorized to be appropriated such sums as may be necessary to prepare or acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy to the purchasers of the asset to be sold.

[SEC. 103. EXEMPTION.

[(a)(1) After the sales authorized by this Act occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a et. seq.).

[(2) The exemption provided by paragraph (1) does not affect the Memorandum of Agreement entered into between the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

[(3) Nothing in this Act or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

[(b)(1) The United States District Court for the District of Alaska has jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

[(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than ninety days after the date of which the Program is adopted by the Governor of Alaska, or be barred.

[(3) An action seeking review of implementation of the Program shall be brought not later than ninety days after the challenged act implementing the program, or be barred.

[(c) With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

[(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

[(A) at no cost to the Eklutna Purchasers;

[(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

[(C) sufficient for the operation, maintenance, repair, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including land selected by the State of Alaska.

[(2) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued uses of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with current law.

[(3) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selection of, those lands are invalid or relinquished.

[(4) With respect only to approximately eight hundred and fifty-three acres of Eklutna lands identified in paragraphs 1. a., b., and c. of exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey, to the State, improved lands under the selection entitlements in section 6(a) of the Act of July 7, 1958 (Public Law 85-508), and the North Anchorage Land Agreement of January 31, 1983. The conveyance is subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

[(d) With respect to the approximately two thousand six hundred and seventy-one acres of Snettisham lands identified in paragraphs 1. a. and b. of Exhibit A of the Snettisham Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlement in section 6(a) of the Act of July 7, 1958 (Public Law 85-508).

[(e) Not later than one year after both of the sales authorized in section 2 have occurred, as measured by the transaction dates stipulated in the purchase agreements, the Secretary of Energy shall—

[(1) complete the business of, and close out, the Alaska Power Administration;

[(2) prepare and submit to Congress a report documenting the sales; and

[(3) return unused balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

[(f) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined by the Secretary of Energy, when all Eklutna assets have been conveyed to the Eklutna Purchasers.

[(g) Section 204 of the Flood Control Act of 1962 (Public Law 87-874; 76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, when all Snettisham assets have been conveyed to the State of Alaska.

[(h) As of the later of the two dates determined in subsection (f) and (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152 (a)) is amended—

[(1) in paragraph (1)—

[(A) by striking out subparagraph (C); and

[(B) by redesignating subparagraphs (D), (E) and (F) as subparagraphs (C), (D), and (E) respectively;

[(2) in paragraph (2), by striking out "the Bonneville Power Administration, and the Alaska Power Administration" and inserting in lieu thereof "and the Bonneville Power Administration".

[(i) The Act of August 9, 1955 (69 Stat. 618), concerning water resources investigation in Alaska, is repealed.

[(j) The sales of Eklutna and Snettisham under this Act are not considered a disposal of Federal surplus property under the following provisions of section 203 of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 484) and section 13 of the Surplus Property Act of 1944 (50 U.S.C. app. 1622).]

TITLE I

SECTION 101. SHORT TITLE.

This title may be cited as the "Alaska Power Administration Asset Sale and Termination Act".

SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

(a) The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this Act as "Snettisham") to the State of Alaska in accordance with the terms of this Act and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Alaska Power Authority and the Authority successors.

(b) The Secretary of Energy is authorized and directed to sell the Eklutna Hydroelectric Project (referred to in this Act as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this Act as "Eklutna Purchasers"), in accordance with the terms of this Act and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Eklutna Purchasers.

(c) The heads of other Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized and directed by this Act.

(d) Proceeds from the sales required by this title shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

(e) There are authorized to be appropriated such sums as may be necessary to prepare, survey and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchaser.

SEC. 103. EXEMPTION AND OTHER PROVISIONS.

(a)(1) After the sales authorized by this Act occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a et seq.) as amended.

(2) The exemption provided by paragraph (1) does not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

(3) Nothing in this title or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

(b)(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than ninety days after the date of which the Program is adopted by the Governor of Alaska, or be barred.

(3) An action seeking review of implementation of the Program shall be brought not later than ninety days after the challenged act implementing the Program, or be barred.

(c) With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

(A) at no cost to the Eklutna Purchasers;

(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

(2) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with existing law.

(3) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

(4) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85-508, 72 Stat. 339, as amended), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

(d) With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85-508, 72 Stat. 339, as amended).

(e) Not later than one year after both of the sales authorized in section 102 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration;

(2) submit to Congress a report documenting the sales; and

(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(f) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined by the Secretary of Energy, that all Eklutna assets have been conveyed to the Eklutna Purchasers.

(g) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, that all Snettisham assets have been conveyed to the State of Alaska.

(h) As of the later of the two dates determined in subsection (f) and (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152 (a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively; and

(2) in paragraph (2) by striking out "and the Alaska Power Administration" and by inserting "and" after "Southwestern Power Administration,".

(i) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

(j) The sales of Eklutna and Snettisham under this title are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1994, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622).

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as "Trans-Alaska Pipeline Amendment Act of 1995".

SEC. 202. TAPS ACT AMENDMENTS.

Section 203 of the Act entitled the "Trans-Alaska Pipeline Authorization Act," as amended (43 U.S.C. 1652), is amended by inserting the following new subsection (f):

"(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

"(1) Subject to paragraphs (2) and (3), notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over a right-of-way granted pursuant to this section may be exported.

"(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the

International Emergency Oil Sharing Plan of the International Energy Agency, the oil shall be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.".

SEC. 203. SECURITY OF SUPPLY.

Section 410 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 594) is amended to read as follows: "The Congress reaffirms that the crude oil on the North Slope of Alaska is an important part of the Nation's oil resources, and that the benefits of such crude oil should be equitably shared, directly or indirectly, by all regions of the country. The President shall use any authority he may have to ensure an equitable allocation of available North Slope and other crude oil resources and petroleum products among all regions and all of the several States.".

SEC. 204. ANNUAL REPORT.

Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following: "In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration District 5 have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.".

SEC. 205. GAO REPORT.

The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

SEC. 206. EFFECTIVE DATE.

This [Act] *title* and the amendments made by it shall take effect on the date of enactment.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, the Senator from Washington and I have been in discussion. It is my understanding that the Senator from Washington has agreed to taking up the debate on the bill at this time.

I ask the Chair for unanimous consent that the committee amendment be adopted and considered to be the original text for further amendment.

The PRESIDING OFFICER. Is there objection?

Mrs. MURRAY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MURKOWSKI. Mr. President, in view of the objection, it would be my intent to announce to the body that I would move to table. I want to accommodate my friend from Washington, but I will suggest that at 2:30 I will move to table the committee amendment at that hour.

Mr. President, let me begin with my opening statement relative to S. 395.

Mr. President, on February 13, the senior Senator, Senator STEVENS, and I introduced Senate bill 395. Title I of this bill provides for the sale of the Alaska Power Administration—known as the APA—the assets of that and the termination of the Alaska Power Administration once the sale occurs.

Further, title II would allow exports of Alaska's North Slope oil, referred to as ANS crude oil, when carried only on U.S.-flag vessels. It is my understanding that Senator FEINSTEIN and Senator KYL later cosponsored S. 395.

On March 1 the committee heard testimony from the administration, from the Lieutenant Governor of Alaska, the State of California, the California independent producers, maritime labor, and other proponents of Senate bill 395. The administration testified in support of lifting the Alaska North Slope crude oil export ban, and they indicated that the bill should be amended to provide for an appropriate environmental review to allow the Secretary of Commerce to prevent anticompetitive behavior by exporters and to establish a licensing system. And then on March 15, after agreeing to work with the administration on these concerns prior to bringing the bill to the floor, the committee adopted Senate bill 395 by an overwhelming vote. The vote on that was 14 to 4. So it was truly bipartisan support relative to the merits of S. 395.

Further, Mr. President, Senator JOHNSTON and I were pleased to offer a committee substitute. We propose that now as in the original bill. Title I would provide for the sale of the assets of the Alaska Power Administration and title II would authorize exports of Alaska North Slope crude carried on American flag vessels with changes to satisfy some Members and administration concerns.

Title I of S. 395 provides for the sale of the Alaska Power Administration's assets and the termination of the Alaska Power Administration once the sale is completed.

Further, I am pleased to state that the Department of Energy has testified in support of the Alaska Power Administration's asset sale and agency termination.

In addition, on April 7, 1995, the administration submitted legislation to Congress substantially similar to title I of S. 395. The transmittal letter says:

> This legislation, which is proposed in the President's FY 1996 budget, is part of the administration's ongoing effort to reinvent the Federal Government.

The Alaska Power Administration is quite unique among the Federal power marketing administrations. First, unlike the other Federal power marketing administrations, the Alaska Power Administration owns its power-generating facilities, which consist of two hydroelectric projects.

Second, these single-purpose hydroelectric projects were not built as a result of the water resource management plan as is the case or was the case with most other Federal hydroelectric dams. Instead, they were built to promote economic development and the establishment of essential industries.

Third, the Alaska Power Administration operates entirely in one State, the State of Alaska.

Fourth, the Alaska Power Administration was never intended to remain indefinitely under Government control. That is specifically recognized in the Eklutna national project authorizing legislation. The Alaska Power Administration owns two hydroelectric projects, one near Juneau at Snettisham and the other near Anchorage at Eklutna. Snettisham is a 78-megawatt project located 45 miles from Juneau to the south. It has been Juneau's main power supply since 1975, accounting for up to 80 percent of its electric power. Eklutna is a 30-megawatt project located 34 miles northeast of Anchorage. It has served the Anchorage and Matanuska valleys since about 1955 and accounts for 5 percent of its electric power supply.

The Alaska Power Administration's assets will be sold pursuant to the 1989 purchase agreement between the Department of Energy and the purchasers. Snettisham will be sold to the State of Alaska. Eklutna will be sold jointly to the municipality of Anchorage, Chugach Electric Association, and the Matanuska Electric Association.

For both, the sale price is determined under an agreed upon formula. It is the net present value of the remaining debt service payments that the Treasury would receive if the Federal Government had retained ownership of the two projects. The proceeds from the sale are currently estimated to be about $85 million. However, the actual sales price will vary with the interest rate at the time of purchase.

S. 395, in a separate formula agreement, provided for the full protection of the fish and wildlife in the area. The purchasers, the State of Alaska, the U.S. Department of Commerce, U.S. Marine Fisheries, and the U.S. Department of the Interior, have jointly entered into a formal binding agreement providing for postsale protection, mitigation and enhancement of fish and wildlife resources affected by Eklutna and Snettisham. The agreement makes that legally enforceable.

As a result of the formal agreement, the Department of Energy, the Department of the Interior, and the Department of Commerce will all argue that the two hydroelectric projects warrant exemption from FERC licensing under the Federal Power Act. The August 7, 1991 purchase agreement states in part that

> The National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and the State agree that the following mechanism to develop and implement measures to protect and mitigate damages, to enhance fish and wildlife, including related spawning grounds and habitat, obviate the Eklutna purchaser and the EAE to obtain licenses.

This agreed upon exemption from the Federal Power Act's requirements to obtain a FERC license will save the purchasers and their customers as much as $1 million in licensing costs for each project plus thousands of dollars in annual fees.

The Alaska Power Administration has 34 people located in my State of Alaska. The purchasers of the two projects have pledged to hire as many of these as possible. For those who do not receive offers of employment, the Department of Energy has pledged that it will offer employment to any remaining Alaska Power Administration employees although the DOE jobs are expected to be in other States.

Let me turn to title II, Mr. President, the Trans-Alaska Pipeline Amendment Act of 1995.

Title II of S. 395 would at long last allow exports of Alaska's North Slope crude oil when carried on U.S.-flag vessels. This legislation will finally allow my State to market its major product in the global marketplace and let the marketplace determine its ultimate usage. The export restrictions were first enacted shortly after the commencement of the 1973 Arab-Israel war and the first Arab oil boycott. At that time, many people believed that the enactment of the export restrictions would enhance our Nation's energy security. Indeed, following the major oil shock of 1979, Congress effectively imposed a ban on exports.

Well, Mr. President, much has changed since then. In part, due to conservation efforts and shift to other fuel sources, total U.S. petroleum demand in 1993 actually was lower than in 1978. However, in the last 2 years, our consumption of oil has significantly increased and our productive capacity has declined. Our dependence on foreign oil sources has now gone up. We now produce almost 3 billion barrels a day less than we did in 1973. Employment in the oil and gas production industry has fallen by more than 400,000 jobs since 1982. Production on the North Slope has now entered a period of sustained decline. Throughput in the Trans-Alaska pipeline has dropped from 2.2 million barrels a day in 1989 to about 1.5 million barrels a day currently. In California, small independent producers have been forced to abandon wells or defer further investments to increase production. By precluding the market from operating normally, the export ban has had the unintended effect of discouraging, discouraging, Mr. President, oil production in California and Alaska. Lifting the ban on Alaska North Slope crude oil exports is the first step, the first step toward stopping the decline of this Nation's oil production. ANS oil exports will increase our oil production capacity by opening new reserves to production. This is oil production that our country can count on if it needs it. With an efficient market brought about by exports, we would not have this increased production and resultant increase in energy security. With this market distortion eliminated, producers will make substantial investments, will make investments in California, they will make investments on the marginal field on the North Slope that will lead to additional production. Every barrel of additional oil produced in California and on the North Slope is one less that would have to be imported from the Mideast or elsewhere in the world.

In an effort to quantify the likely production response and to evaluate benefits and costs of Alaska oil exports, the Department of Energy has concluded a very comprehensive study last year on the matter. In its June 1994 report, the department concluded "Alaska oil exports would boost production in Alaska as well as California by approximately 100,000 to 110,000 barrels per day by the end of the century." The study also concluded ANS exports could create up to 25,000 jobs. These are new jobs that will be created in California and to a lesser degree Alaska. Now, Mr. President, some Senators have expressed concern that lifting the ANS oil export ban will jeopardize the supply of ANS crude on the west coast. This is just simply not the case. Washington and California are and will remain the natural markets for ANS crude. Washington and California ports are the closest to Alaska and the ANS crude will continue to be supplied to those refineries. The economics simply dictate that as the closest point from Alaska and the closest point to significant distribution capability because of the populations in those areas near those west coast refineries.

Furthermore, the only major refinery that opposes lifting the ban is one that has a 5-year contract with British Petroleum to keep their refinery supplied. It is my understanding there is still approximately 4 years left on that contract, so there is no immediate suggestion that this or any other refinery is about to have its operation jeopardized by this action.

Further, the lifting of the oil export ban would relieve pressure that forces some of the ANS crude oil down to Panama, where it is unloaded, transported across Panama via a pipeline, and then reloaded onto vessels to take it to the gulf coast. It simply makes no economic sense to handle the oil that many times and transport it that long distance. That oil is the oil we are talking about, the available oil from 75,000 to 200,000 barrels a day that would be exported. The market in our opinion should determine the price and destination of the ANS crude oil.

Mr. President, there has been a long concern in the domestic maritime community that lifting this ban would force the scrapping of the independent tanker fleet—these are U.S.-flag vessels that make up the significant portion of the U.S. maritime fleet under the American flag—and this lifting of the ban would destroy employment opportunities for merchant mariners who remain a vital contributor to our national security.

In recognition of this concern, the proposed legislation before this body would require, and I emphasize require, the use of U.S.-flag vessels to carry the available oil that would be exported. This is not the first time the law was changed. Some would suggest that this is an issue of precedent, but it is not. The law was changed to allow the export of ANS crude oil in 1988 when Congress passed legislation to implement the United States-Canadian Free-Trade Agreement.

It agreed at that time to allow the 50,000 barrels a day of ANS crude to be exported to and subject to the oil being carried on Jones Act, that is U.S.-flag, vessels.

Mr. President, we have been trying to lift the oil export ban for some time. In the past, maritime unions opposed our efforts because they believed it would increase job losses in that industry. Last year, the maritime unions came to the realization that their unions were facing virtual extinction if Alaska oil production continued to decline; in other words, there would be no oil to haul and, as a consequence, no ships to man. So they initiated support for lifting the ban to help both Alaska and California production if—and I want to emphasize this—if it were transported on U.S.-flag vessels with U.S. crews.

Mr. President, this current ban no longer makes economic sense. For far too long, it has hurt the citizens of my State. It has severely damaged the California oil and gas industry and has precluded the market from functioning normally. In other words, you have a free market out there. It should function as a free market. If this ban is left in place any longer, there is no question that it will further discourage energy production. It will destroy jobs in California, or the prospects for jobs, as well as in my State of Alaska, and it will ultimately be the end of our seafaring mariners, the independent U.S. tanker fleet and, as a consequence, the shipbuilding sector of our Nation because, under the current law, these vessels are required to be built in U.S. shipyards. And, clearly, if there is no oil to haul, you are not going to need any ships, regardless of the mandate that they be U.S. vessels with U.S. crews.

I am sure we are going to hear from some of our colleagues today expressing concerns that prices will go up, gas prices, gasoline prices, on the west coast, if exports of ANS oil are authorized.

Well, Mr. President, there is no indication that this is the case. The Department of Energy carefully studied this issue and concluded that consumers would not see a discernible increase in the price at the gas pump. The DOE showed that west coast refineries enjoy the widest refiner gross profit margins in the country. Some would ask: Why? Well, we will get into that later on in the debate, I am sure.

In other words, the west coast refineries have been able to buy crude oil for less per barrel than anywhere else in the country because of the proximity of the refiners to the origin of the oil in Alaska, yet they are selling the gasoline or other refined products for more than anywhere else in the country.

In 1993, the refiners' gross margin on the west coast was more than $4 higher than the U.S. average, according to the Department of Energy. Wholesale gasoline prices in California are consistently 3 or 4 cents higher than in New York, despite the fact that California refiners are purchasing cheaper crude than the foreign crude oil shipped into the east coast. One wonders why.

Another concern we will probably hear today is ANS oil exports will create environmental hazards, including increased chances of oilspills. However, the DOE study has taken that into consideration and found that exports of Alaskan oil will actually decrease tanker traffic in U.S. waters. And this is the simple reality. Furthermore, any tankers exporting ANS oil exported from Alaska will proceed some 200 miles off our coast and stay 200 miles or more off our coast while proceeding overseas. In other words, this oil, a small amount, in excess, will move from the Port of Valdez and go straight across the ocean, we assume, to refiners in perhaps Japan, Korea, and Taiwan, as opposed to this oil going down to the west coast of Alaska, the west coast of British Columbia, the west coast of the State of Washington, the State of California, and Oregon, as well.

So to suggest that there is an increase in environmental hazards of oil spills is simply not true because we are simply not moving this oil down the west coast. It is much safer, as a matter of fact, to transport it across the ocean than down the west coast of the United States.

It is interesting to point out, Mr. President, that this oil, this excess oil, would ordinarily have gone all the way down the west coast beyond California and into the pipeline at the Pacific isthmus in Panama, where it would have been unloaded, gone across Panama in the pipeline, and then again reloaded on smaller United States-flag vessels to be delivered to the refineries in the gulf coast. The economics of this double handling is the reason this is no longer a viable alternative and why we have this excess oil on the west coast.

Now there are other concerns that exporting ANS crude will decrease work for the U.S. shipyards. However, in my opinion, it will have the reverse effect, simply because more tankers will be needed to trade, it will be necessary to bring a few more ships out. The lay-up fleet will provide significantly more jobs in the maritime market. The reason for that is you are moving the oil further and when you move it further, it takes more time and, as a consequence, you need more ships.

Now, the question that somehow this will result in tankers being repaired overseas if the ban is lifted, I think bears some examination. Because if Alaska crude oil production continues to decline, in part because of the depressed prices caused by the export ban, there will be more tankers put in lay-up and unavailable for repair. And I would further advise the Chair that, as far as the threat of tankers being lifted overseas, there is a 50-percent surcharge that must be paid to the U.S. Government for tankers that are lifted in foreign yards.

So, Mr. President, the reality is that it simply makes no sense to continue this ban at this time. And the lifting of the ban will, in my opinion, increase jobs, certainly increase domestic oil production without any cost to the country. It will be of great benefit to the country.

Mr. President, I would like to refer a little bit to a little of the history relative to this matter and try and put into perspective the situation in the State of Alaska as it exists today.

We are all aware that Alaska was a pretty good bargain when we purchased it from Russia and we paid a favorable price for it.

But, you know, we are a little unique in having come into the Nation of States in 1959. We have a population of some 560,000 people spread out over a vast area roughly one-fifth the size of the United States. Until a few years ago, we had four time zones in our State; now we have three, simply to make it simpler living in Alaska. We have some 33,000 miles of coastline.

We have a unique ownership of our land. We have 365 million acres. But if you look at the ownership of that land, you find that the Federal Government still owns over 65 percent of that land. Our State of Alaska, the State government itself, has about 28 percent. The native people, the aboriginal people of our State, have some 12 percent, and the private ownership in our State is somewhere in the area of 3 to 4 percent.

Our State has been producing nearly 25 percent of the Nation's total crude oil for the last 16 or 17 years. That production was as high as 2 million barrels a day. Now it is about 1.6 million barrels a day.

Coming into the Union in 1959 with the State of Hawaii, while we had camaraderie and a friendship, we in many ways did not have much in common. We were a large land mass federally owned; Hawaii, a much smaller island land area.

We were separated by the Nation of Canada from the continental United States and, as a consequence, as we began to develop, a rather curious set of circumstances came about. We found ourselves subject to pretty much the whims of the Federal Government with regard to development, because the wealth and resources of our State, unlike many other States, were not controlled by private individuals or private groups in residence. We found ourselves subject to outside ownership and outside control.

So, as we look at Alaska today, we really have to look at what constitutes the ownership of our resources, what contributes to our economy, where they are domiciled, where our jobs come from in relationship to the development of those resources.

As we look at who owns Alaska today, setting aside the 65-percent Federal Government ownership, and identify our industries, we first look at our oil industry and find that our oil industry, which is such a significant factor, is not an Alaska-based industry. It is based in Texas, it is based in California, it is based in England, as a consequence of large international companies and not independents domiciled in our State.

Our second-largest industry, fishing, for all practical purposes, is controlled by interests out of the State of Washington, primarily in Seattle, and Japan, where a large percentage of the ownership is concentrated. Very little of our fishing industry, as far as the processing is concerned, is domiciled with ownership in our State. We have a significant number of fishing vessels in our State, but many of the fishing vessels that fish in our State are domiciled in other States.

Timber, which is our third-largest industry, is primarily controlled by the Japanese and interests in the State of Oregon and, to a lesser degree, in the State of Washington.

Mining, which is a tremendous resource potential for Alaska, is primarily situated in British Columbia, in England, and in Utah.

Our airlines, Mr. President, our largest carrier, Alaska Airlines, is domiciled in the Washington State area in Seattle. We are serviced by Delta, Northwest, United. As a consequence, the point I am making is virtually everything that comes in or goes out of Alaska goes through the State of Washington. Even our shipping, and virtually everything we use in our State, comes through the State of Washington. Sea-Land is associated in the Seattle area, yet it is a New Jersey corporation. Tote, which is a carrier that brings two to three ships a week in Alaska, is also domiciled in the State of Washington. Previous to that, the State was dependent on transportation by Alaska Steamship Co.

Some of the more senior Members will undoubtedly recall the ongoing debate that occurred for many years between the late Senator Gruening and the Alaska Steamship Co. which he claimed had a vice grip on Alaska, its transportation system and, as a consequence, controlled, to some degree, the level of Alaska development.

As we look at everything we consume in Alaska—virtually everything—our foodstuffs, our beverages, our mattresses, our light bulbs, our toilet paper, everything comes up through the State of Washington.

We find many of our oil rigs or activities on the North Slope relative to oil and gas production are fabricated in the State of Louisiana and brought up. We have our own transportation system, a ferry system, which sails out of Bellingham, WA, to Alaska. It has been estimated that as much as 20 percent of all the economic activity in the State of Washington is directly associated with activities in Alaska. So one can say anything that happens in Alaska stimulating the economy also has a multiplying factor on the State of Washington. Even our oil tankers that haul oil go to shipyards, not in Alaska, but shipyards in Portland and San Diego, and those ships are not crewed with Alaskan crews, but rely on crews supplied from Washington, Oregon, and California.

Our cruise ships that come up to our State during the summer months sail out of Vancouver, BC, where they are supplied and crewed. They are owned by Florida and British interests.

So as we look at Alaska coming into the Union after all the rest of the States have established their land patterns, and so forth, we found that we had a rather curious set of circumstances. We have the reality that we are dependent, in a sense, for supply by our States to the south. The benefits are primarily concentrated in the State of Washington.

I think perhaps a little further history is appropriate as we look back on how some of these policies developed, and it is fair to say that back in the twenties there was a fear from the State of Washington, the Seattle area, that perhaps Vancouver, BC, or Prince Rupert, BC, might begin to supply the frontier country of Alaska. To ensure this profitable business activity generated through the State of Washington was not lost, there was an action by the Washington State delegation. That delegation was basically responsible for getting the Jones Act passed.

This was a rather interesting piece of legislation that said that goods and services that moved between two U.S. ports had to go in U.S. vessels with U.S. crews, built in U.S. shipyards. This action basically eliminated the British Columbia supplying Alaska goods originating in the United States and carrying them to ports in Alaska.

The question is, Who was Jones? You may have guessed it. He was a U.S. Senator from the State of Washington. He served in this body 23 years, from 1909 to 1932. Some would say, why, he was doing his job, as some of the opponents today of this legislation can certainly justify, but we have to question, if you will, in Alaska that we were theoretically at that time denied an opportunity to let the market dictate the transportation modes to our State.

I wonder how the Senator from Alaska would be treated today if I were up here suggesting Washington and Oregon not be allowed to export their timber products to the markets of the world or that Boeing would not be allowed to sell their airplanes outside the United States or perhaps people in the State of Washington have to eat all their own delicious apples. This is a part of the issue as some of us in Alaska see it.

Our Washington State opponents say oil export of Alaska's surplus oil that has been on the west coast, formerly went through the Panama Canal, would harm Washington State because the excess oil on the west coast would not make it favorable for one of their major independent refiners in that area to be able to buy this oil at perhaps a favorable price that is pending.

They say the refinery jobs are threatened. I really think this argument has no foundation in reality. As I stated earlier, this refinery in question has 5-year contracts and 4 years remaining with British Petroleum to supply the amount of oil that it needs to that refinery. Perhaps we will get into refinery returns a little later in the debate. But it is fair to say the consumers of Washington State are not benefiting by the abnormally high rate of return on investment in comparison to the refining industry as a whole in this area.

In other words, the profits are not necessarily passed on to the consumer. That is really a case for the Washington delegation to address. But it certainly appears that way from the information supplied us by the Department of Energy, which I will make a part of the RECORD at a later date.

Further production of Alaska oil will always find its natural markets in the nearest area where there is a refining concentration simply because of the costs of transportation; and that equates to the existing refineries on the west coast, which are the closest source of Alaskan oil.

Oregon's opposition is a little different. Washington State does not have, as I understand it, shipyards with the capacity of lifting many of the larger U.S.-flag tankers. Several years ago, the Portland area, on the basis of the assumption that there would be perhaps more oil produced in Alaska, floated a public bond issue and bought a large dry dock from the Columbia River and solicited business of hauling out and dry-docking Alaskan tankers that were in the Alaskan trade as well as other commercial shipping.

As we look at the merits of the volume of oil, a quarter of all U.S. production, except a small amount, goes to the Virgin Islands—I might add, in foreign vessels—that is exempt, and it goes in in these U.S. tankers moved down from Alaska to ports in Washington, California, and Panama. The Oregon delegation fears that some of this excess oil that used to move through the Panama Canal, now with the proposed legislation that would allow it to move into foreign markets, the free market, even though it would still have to move in U.S. ships with U.S. crews, these ships might be dry-docked in foreign shipyards, even though there is a more, I think, protective piece of legislation in place that addresses this. As I have said before, this requires U.S. owners to pay a 50-percent penalty to the U.S. Government on top of the foreign shipyard bill.

So what we have here is understandable sensitivity. But not much is said by our Oregon neighbors as to where their shipyard was built. It was built in Japan. That is obviously a question that they saw fit to purchase that yard there rather than build it in the United States. Unfortunately, that shipyard has had its ups and downs. It has been out of work from time to time. And in making some inquiries, we found that most of the tanker traffic that used to be repaired in Portland is now being repaired in San Diego because we can only assume that yard appears to be more competitive, even though, at our urging, the tanker industry has contracted for the repair of two tankers in the Portland yard recently, and we will continue to support that yard as much as possible.

I hope that we can address the concerns of the Oregon delegation because we are quite sensitive to the fact that they floated a bond issue and those bonds are still being retired, and without an adequate volume of business, the ability to retire those bonds is questionable. So we want to assist in every way possible, and we are working with the Oregon delegation at this time to try to work out some accord.

I do not want to mislead the President about the real issue. There is an effort to stop Alaska from exporting its excess oil, and I wanted the RECORD to reflect on the real story and the reasons why.

Now, the issue of why excess oil on the west coast needs relief now deserves a brief, expanded explanation. When we were at an all-time high of our production—some 2 million barrels a day—we simply had to move this excess oil because the west coast refineries could not consume it; the markets were not big enough. So a pipeline was built, and it was very interesting. I went down for the opening of it. It was built by the Government of Panama in partnership with Northfield Industries, which is an east coast firm, and Chicago Bridge & Iron. It was built to move the excess oil, so the oil would go down from Valdez to the Pacific isthmus in U.S.-flag vessels, unloaded, and moved in the pipeline. I might add, that pipeline was simply a cat trail in the jungle, and the pipe, for the most part, was on the surface. But it did the job.

In any event, once the oil was unloaded, the Pacific isthmus went through the pipeline, reloaded on U.S. small ships and was taken into the Houston refineries in the Gulf of Mexico. Well, as one can easily ascertain, the economics of that double handling is no longer efficient. As a consequence, they can bring in oil in the gulf and Houston refineries from South and Central America, offshore Louisiana, and Mexico as well, so they are not interested in taking the volumes of the United States oil which is no longer competitive in that market. That is the reason we have this excess on the west coast today.

Now, letting the Pacific rim market absorb the excess oil also deserves a brief explanation. First of all, we are not talking about very much oil. The excess is estimated to be somewhere between 75,000 to 200,000 barrels per day. The rest of our 1.6 million acres is consumed on the west coast refineries and will continue to be. So if one looks at the economics of this excess oil, it is a pretty tough set of facts, because it will have to compete on some rather difficult terms. I ask the Chair to just compare the costs of marketplaces such as Korea, Japan, and Taiwan, to take the oil from Alaska, shipped in United States-crewed tankers that operate at obviously much higher costs, when those same countries can bring in oil much cheaper in foreign tankers than they can bring in oil from the Mideast.

So there you have an analysis of the economics associated with the merits of getting some of this excess oil off the west coast. But the real concern is the stimulation of oil production in California and bringing on the small producers that have been down for some time. And once this excess is removed, you have the capability of this relatively large volume of small producers being able to bring their oil in because of the close proximity and reduced transportation costs associated with bringing that oil into the California refiners.

So there you have the real issue before this debate. Alaskans, of course, are sensitive to the significance of sovereignty as it applies to what a State produces in the free market system, having the capability of making a determination of just where those resources will be utilized.

Furthermore, Mr. President, I have some more detail that I would like to present to substantiate our concerns over this legislation. I think the best way to do it is to go into some detail relative to the background associated with the support for this legislation.

Last year, for the first time, imports met more than half of our domestic consumption because the domestic production has drastically declined. By precluding the market from operating, the export ban has had an unintended effect of discouraging further energy production.

With this market disorientation eliminated, producers would make substantial investments in California and the North Slope that would lead to additional production.

Every barrel of additional oil produced in California and on the North Slope is one less than would have to be imported from the Middle East or elsewhere in the world. As I have said before, Mr. President, Washington and California are the natural markets for crude. Washington and California ports are closest to Alaska, and the ANS crude will continue to be supplied to their refiners.

It simply no longer makes economic sense to handle the oil as many times and transport it the long distance that has previously been the disposition of that oil on the west coast of the United States. That is the oil that we are talking about. That is the excess.

Let me refer to a report from the Department of Energy that addresses this issue. Lifting the Alaska crude oil export ban would, one, add as much as $180 million in tax revenue to the U.S. Treasury by the year 2000. It would allow California to earn as much as $230 million during the same period. It would increase U.S. employment, U.S. jobs, by some 11,000 to 16,000 jobs by 1995 and 25,000 new jobs by the year 2000. It would preserve as many as 3,300 maritime jobs. It would increase American oil production by as much as 110,000 barrels a day by the year 2000. It would add 200 to 400 million barrels to Alaska's oil reserve.

Now, Mr. President, these are not figures that have been put together by the Senator from Alaska. These are figures released by the Department of Energy.

Mr. President, as we address further consideration of the issues covering Alaska's oil export, I think we have to again rely on the credibility of the information. I was very pleased that the Department of Energy did such an exhaustive study relative to this issue, before the administration took a position.

I am pleased to say that the President of the United States supports this legislation because this legislation is good for America. It is good for America because it decreases our dependence on foreign imports. By so doing, we basically keep our dollars home and keep our jobs home.

As a consequence, Mr. President, we find that this report by the Department of Energy, in substantiating our efforts, keeps America in a position of ensuring that we can, through the incentives offered by this legislation, keep our production again flowing from marginal wells that previously have not been capable of being competitive in the marketplace.

I am told that several fields in Alaska adjacent to Prudhoe Bay that are currently marginal at this time would be brought into production. When one begins to add up all the benefits of this, why, clearly, it benefits the maritime industry as well.

As a consequence, Mr. President, I note that the maritime unions, without exception, support this legislation. As a consequence, they are urging Members to evaluate the merits of the legislation before this body.

I have already addressed at some length the issue of increased oil production. I want to talk very briefly now as to the position of the administration in supporting the lifting of the North Slope crude oil export ban. Inasmuch as their indication that the bill, as proposed, should be amended to provide for an appropriate environmental review, now the question of an environmental review would be to allow the Secretary of Commerce to address anticompetitive behavior by exporters, and to establish a licensing system of some kind.

We have addressed those concerns in the committee amendment. Before making his national interest determination, the President would be required, under this legislation, to complete an appropriate environmental review.

In making his national interest determination, the President could impose conditions other than a volume limitation. The Secretary of Commerce then would be required to issue any rules necessary to implement the President's affirmative national interest determination within some 30 days.

If the Secretary later found that anticompetitive activity by an exporter had caused sustained material oil shortages or sustained prices significantly above the world level, and that the shortages or high prices caused sustained material job losses, he could recommend appropriate action by the President against the exporter, including modifications of the authority to export.

Under Senate bill 395, the President would retain his authority to later block exports in an emergency. In addition, Israel and other countries, pursuant to an international oil sharing plan, would be exempted from the United States-flag requirement. The compromise also would retain a requirement of an annual report by the President on the ability of the refiners to acquire crude oil, and a GAO report assessing the impact of ANS exports on consumers, independent refiners, shipbuilders, and ship repair yards.

Now, Mr. President, let me be specific on some of the principal benefits. The principal benefit, of course, is increased oil production. The Department of Energy, as I have stated, projects Alaska and California production will increase by 100,000 to 110,000 barrels per day by the end of the decade. Thus, by the end of this decade, exports would stimulate an additional 36.5 million to 40 million barrels per year.

And it would create energy sector jobs. Specifically, some 25,000 jobs on the west coast, as well as an undetermined number in Alaska. Revenues for the Federal Government, according to the Congressional Budget Office scoring, raising $55 million to $59 million over 5 years. It would raise State revenues.

Using different assumptions, the Department of Energy concluded that the ANS exports would generate up to $1.8 billion in revenues for California and Alaska by the end of the decade.

It would decrease net import dependence. It would reduce, as I stated, tanker movements by stimulating onshore production in California. Enactment of the bill would actually reduce tanker movements off the California coast, and it would preserve repair opportunities by helping preserve the independent fleet that otherwise would be laid up for scrap.

The bill would provide shipyard repair work for shipyards in Portland, California, and others, that would be lost with the death of the fleet.

So, the importance of continued production from Alaska is absolutely vital to the continuity of America's merchant marine. And the fact that this legislation would provide relief for the excess oil speaks for itself.

Let me now draw your attention to some charts that I think explain this in detail, so we will have a little better understanding of just what the issues are before us. This is the area in Alaska. I wonder if I could have the staff provide me with a pointer, if there might be one available at this time, so I can continue my presentation? I think it will be a little more beneficial to have it.

What we have here is a chart that depicts in detail the disposition of Alaska's north shore crude oil.

Let me give this to my associate over here and perhaps he can point out where the oil begins, the production area in Prudhoe Bay, which went into production in the 1970's. An 800-mile pipeline was built across the breadth of Alaska. At that time that pipeline was one of the engineering wonders of the world. It was first estimated to cost somewhere in the area of $900 million. By the time it was completed, it was somewhere in the area of $7 to $8 billion. There are numerous pump stations along the 800 miles of pipeline. The terminus is the Port of Valdez, and that port handles 25 percent of the total crude oil that is produced in the United States.

Let us look at the destination of this oil. Alaska, my State, consumes 70,000 barrels a day in three relatively small refineries. That oil is used in our State for jet fuel, for heating oil, diesel, gasoline, and other purposes.

Then, first of all we ship from Valdez to our neighboring State of Hawaii directly, in U.S.-flag vessels, some 60,000 barrels per day. That is utilized in the refinery outside of Honolulu.

The second route is a rather curious one. This was by congressional action, where we authorized a small amount of oil to go in foreign-flag vessels to the Virgin Islands, to the refinery at St. Croix, that is the Amerada Hess refinery in the Virgin Islands which is currently under U.S. flag, obviously, but is not considered a U.S. port in the interpretation of the Jones Act. Some 90,000 barrels of oil go that great distance around Cape Horn, the southern point of land of South America.

Then we go to the next half circle. This is the oil we are talking about allowing free market flow, to be exported. This is oil that moves down to Panama. The reason it moves to Panama is, simply, these tankers cannot go through the Panama Canal, so they built a pipeline across Panama, and it goes to the gulf coast.

As a consequence of developments in Colombia, which is down below, developments in Venezuela and other areas, including Mexico, the economics of moving this Alaskan oil this great distance, unloading it, moving it across the pipeline and loading it again, and taking it into the gulf coast, when other oil is available, as I have stated, from Central America, South America, and Mexico to the gulf coast—it is simply no longer competitive. So we have this excess of some 75,000 to 200,000 barrels a day.

Let us look at where this oil goes, remaining, in the larger areas. The State of Washington receives some 440,000 barrels per day from Alaska. A good portion of Washington—I would say somewhere in the area of 95 percent of Washington's consumption is Alaskan oil—as it should be because of the proximity.

The rest of the west coast, down in California where we have, in the San Francisco area and Los Angeles area, large accumulations of refined product. I am told California is currently consuming about 770,000 thousand barrels a day. I am very pleased to note the Senator from California, Senator FEINSTEIN, is with me on this legislation to allow this export, because she and other Californians recognize the significant impact of relieving this excess, what it would do to stimulate the small operators, and for the creation of new jobs.

So that is where the oil goes. I just want to make one more point. As Alaska oil declines, the obvious alternative is for these areas to look toward imported oil. That imported oil would not be in U.S.-flag vessels. It would come in, in foreign vessels, as some of it currently does to California and, to a smaller extent, the State of Washington. So that is where the oil goes. It goes in U.S.-flag vessels.

What we are talking about, if this legislation is approved by this body, and we do move that surplus out, is a chart very similar to the this one, although you will note there is no oil moving through the Panama Canal. We should have included the Virgin Islands as continuing to receive their oil, which they will.

But the point is the west coast—Washington, Oregon, California—clearly are going to receive the same amount of oil. Hawaii will receive the same amount of oil. And this excess that previously went down here is going to be available in the Pacific rim. We have no idea what the dictate will be, other than it will have to go in U.S.-flag vessels and we have reason to believe that those countries have an interest in this oil because of its viscosity and it will be acceptable in the marketplace.

Mr. FRIST assumed the chair.

Mr. MURKOWSKI. Let us see what we have next. These are some rather interesting charts. I talked some time ago about refined gasolines and the price relative to the east coast and west coast. Of course, the east coast is dependent on oil coming in from various places around the world. Virtually no Alaskan oil comes on the east coast. It is oil that comes from Central America, Venezuela, the Mideast, and other places. What we have is the average wholesale price of unleaded regular gas from California versus New York.

We notice in 1985, California was slightly higher than New York; in 1986 the margin was again substantially higher, 4 cents a gallon; in 1987 it equalized; in 1988 it equalized. Then, in 1989 we found that New York was higher. In 1990 we found New York was higher. In 1991 we found New York was higher.

One would expect the east coast to have higher costs simply because of longer transportation to market, bringing that oil in through the Mideast and other areas.

Then, in 1992 we saw a rather curious change. In 1992, we saw New York at 66 and California at 69.

When I say California, I am talking about the entire west coast average as opposed to a specific State. When we are talking about New York, we are talking about the entire east coast.

In 1993, we saw a differential gain where it was more expensive on the west coast than on the east coast. In 1994, again we saw 57 compared to 60.

So the point is that California was higher in the wholesale price of unleaded regular gasoline. When one considers that we have had a surplus of oil on the west coast, during that time that we have close proximity from the standpoint of Alaskan oil coming down to the refiners, one may begin to question why that is the case.

This chart attempts to compare—unfortunately, we could not get more current figures than 1993—the refiner growth margins in 1992 dollars per barrel. This chart was a consequence of information that was provided us by the Department of Energy. It lists PADD V average, which are the distributors of the west coast U.S. refiners. It shows their growth margins vis-a-vis the U.S. average. As one can see, the west coast gross profit margin per refiner is rather interesting in comparison to the rest of the country. I have no hesitation to point out that the business community is entitled to what the traffic will bear. But it is interesting to see comparisons of one part of the country vis-a-vis another.

This chart actually belonged to the one earlier when we were comparing New York and California or the east coast vis-a-vis the west coast. But as you can see, the spread lengthened over here in 1992 when California wholesale price exceeded that of the east coast price. Maybe we will have a chart that will give us a little further explanation.

I would like to defer a little bit to address a concern that we have in Alaska. It is evident as we address future years. Clearly, you can see the projections of Alaskan North Slope production. We are here in 1995, and we are somewhere around 1.6 million barrels per day. That production, if you will look at the light gray, continues to decline. So this shows how, if we can significantly reduce the decline in the Trans-Alaska Pipeline oil production, the pipeline will be economically viable for a longer period of time. That is what we are talking about here, trying to bring this margin of reserves on line and provide more jobs and import less oil, all of which I think everyone would agree makes good sense and is in the national interest of our Nation.

We have had discussions that would suggest that Alaska North Slope exports will increase consumer prices at the gas pump. The reality dictates otherwise. The Department of Energy I think carefully studied the issue and found that the consumers would not see any discernible increase in the price at the gas pump. The Department of Energy showed that the west coast refiners, as I have shown on the chart—this is the Department of Energy talking—enjoyed the widest refiner growth margin in the country. West coast refiners are buying crude oil for less per barrel than anywhere in the country. Yet, they are selling their gasoline and other refined products for more than anywhere else in the country. Wholesale gasoline prices, as I have said, in California are consistently 3 or 4 cents higher than in New York.

Some say that energy production will not go up, that Alaska North Slope exports will not increase oil production in California and Alaska. Again, I would defer to the Department of Energy report which carefully studied the issue and concluded that oil production would increase by 100,000 to 110,000 barrels per day by the end of the decade. Both California independents and British Petroleum testified on March 1 that they expect substantial production increases in California and Alaska.

Some believe that there will be an increase in oil spills if ANS crude is exported. The reality is that the DOE carefully studied the issue and found that the exports will actually reduce tanker traffic in U.S. waters, especially in California as a result of the increased on-shore production.

Furthermore, any tankers exporting ANS oil exported from Alaska will proceed as I have said to cross the ocean and not along the shore.

Mr. President, I think the Senator from Alaska—I would be happy to yield to the Senator from Alaska, if I may retain my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mrs. MURRAY. Mr. President, parliamentary inquiry: Does that take a unanimous-consent?

Mr. STEVENS. Will the Senator use the microphone, please, so we might hear what she is saying?

The PRESIDING OFFICER. Unanimous consent is required.

Is there objection?

Mrs. MURRAY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Alaska has the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the President.

I am saddened to see the opposition that is coming to the proposal to deal with the distribution of Alaska's oil in the fashion that we are facing right now. I am one of the few Senators who was here at the time the original Mondale amendment passed that restricts the export of Alaskan oil. I remember commenting on it at the time that I did not think we would ever sell Alaskan oil to Japan. At that time, we were working on a theory that would have established a crude stream internationally so that Alaskan oil would not be sold to Japan but it would be delivered to Japan, the Saudi Arabian oil would not be sold to our east coast but it would be delivered to our east coast, that we would reduce the transportation distance for tankers on the oceans of the world by establishing a crude stream theory, that the crude oil would be delivered to the closest port where it could be utilized, and the sales would take place through arrangements that were made throughout the world with accommodation being made to every producer for the savings on transportation. We were never allowed to establish that concept for a lot of reasons.

Just as we still have in place in Alaska the Jones Act that restricts transportation to Alaska of all goods and services from Seattle and other places in American-built ships, we are the only place in the United States where the export of oil is prohibited, and it is only prohibited really as far as the oil that is transported in the Alaskan oil pipeline. I have always said it was unconstitutional. I would invite anyone to read the Constitution. It is not constitutional to require that the products of one State be exported only through the ports of another State, and that is exactly what happens to Alaskan oil. Alaskan oil goes to the west coast; it goes to Washington; it goes to Oregon and California, and it is refined there and then the products are exported. They do not consume our oil. It is amazing to see this kind of reaction. I wonder what would happen if we said that the corn produced in Iowa can only be exported through a Chicago exporter. This is the same kind of restriction. It makes no sense.

Interestingly enough, the author of the amendment that originally led to this prohibition is now the United States Ambassador to Japan, and he is seeking the removal of the prohibition, as I understand it. We come to the time now where the question is whether there can be an exception made for the export of Alaskan oil in U.S.-made vessels, U.S.-manned vessels, entirely in accordance with the current situation, and have some of the surplus oil that has been developed on the west coast be exported.

At the time we passed this amendment, the projections were that what was then known as district 5, the west coast, would be short of oil during this period. To the contrary, because of other imports that are coming into the west coast, there is a surplus of oil in southern California and along the west coast in general. It now appears it would be to the best advantage of our Nation if there is this authority to export a portion of the oil that comes through the oil pipeline.

Mind you, Mr. President, that will not apply to any oil discovered in Alaska that is now transported through the Trans-Alaska oil pipeline. It was one of the conditions we had to agree to at the time we got the Trans-Alaska Pipeline, authorized by one vote, I might add. It was the vote of the then Vice President which broke the tie that developed when we considered the Alaskan oil pipeline amendment to the Right-of-Way Act, when that act was originally passed.

I find myself in the strange position of wondering why, after so many years, we still have this opposition to Alaskan oil production. It is a strange thing that the area of the country that has benefited most, more than Alaska has ever benefited—Seattle, WA, and Washington State have benefited more from Alaskan oil production than we have in terms of jobs and in terms of basic income—it does seem to me it is an odd thing that there is opposition to having it go where market forces would take it. I wish we could go back to the concept of the crude stream that we were working on at that time. It still makes no sense to me to see Middle Eastern oil go around the horn or through other mechanisms to get to the Far East, travel all that distance on the oceans by tanker, and have Alaskan oil reverse that and go down the west coast and through the pipeline and up into the east coast of the United States.

That is the system which was brought about by the Mondale amendment that prohibited the export of oil from the United States that had been transported by the Trans-Alaska oil pipeline. I do think it is time we recognize that is an unconstitutional restriction on the export of oil from Alaska only, and remove the obstruction to the export of that amount that would be exported in American-flag vessels.

Now, Alaskans do support the concept of American-flag vessels. That is, we like the idea that the American-flag vessels are the vessels that come to the Prince William Sound to receive Alaska's oil for transport. This is a period of time, I think, when we have to recognize that the maldistribution has led to a strange pricing system on the west coast and clearly it will be in the best interests of the United States if we modify this law now.

I was most pleased to see the vote on this bill, the amendment to this bill, as it came from the Energy Committee, and I congratulate my colleague and good friend, Senator MURKOWSKI, for the work he has done in shepherding this amendment through the committee and to the floor. This was really the subject of the bill that Senator MURKOWSKI and I introduced. S. 395 was introduced in February of this year, and the bill has, for all intents and purposes, been added to the bill which deals with the subject of the Alaska Power Administration sale. This is an amendment that I think is timely, as I said. We are now in a situation where the pricing of oil is changing drastically. I am sure we have all read the forecasts that are coming now. There is no question that the concepts of the projections that were made in the 1960's when we considered this Alaska oil pipeline originally have not now been proven accurate.

I do believe that conditions have changed. They have really improved to a great extent. In 1978, world crude reserves were estimated to be 649 billion barrels. But last year, the reserves that had been proven reached 1,009 billion barrels. That is a 55-percent increase in the world's known reserves of oil.

As a consequence, prices have reflected that increase in reserves. The oil price has dropped. If you put it on a deflator basis and carry it through from the times we were debating this basic Mondale amendment, oil prices are substantially lower than they were then, even at today's nominal values.

I do believe the Senate ought to take note that even the Washington Post reported last year gasoline has never been cheaper than it has this year compared with what people pay for other goods and services. In other words, the distribution system for oil has changed with the discovery of reservoirs for production of oil throughout the world. We have maintained a protection against a sudden shortage or stoppage such as we had at the time we had the Arab oil embargo. We now have a strategic petroleum reserve that has about 600 million barrels of oil. We have other reserves under the control of the Federal Government. There is no reason for us to have a prohibition against the export of Alaskan oil based upon a worldwide shortage of reserves.

That is also what was talked about back at the time the Mondale amendment was approved. We thought we were running out of oil and oil was so finite it would not meet the demand of the industrial economies over the period ahead, so there was a necessity, they felt, to maintain the oil to be produced from Alaska's North Slope for U.S. markets.

Those U.S. markets have been satisfied now, many of them, for years, from oil from outside the United States at a much lower price than any oil is produced in the United States. And that is why we are buying it from overseas.

I do not support the concept that we should not have a basic oil and gas industry in this country to produce oil and to meet our needs. I do think we should do everything we can to stimulate that industry so it has the productive capability to meet our needs and to continue, along with the strategic petroleum reserve, to meet our needs even in times of crisis or embargoes against our purchase from offshore.

There is no question that the production of Alaskan oil has changed the overall structure of oil pricing for the great benefit of the United States, as a matter of fact. We have had considerable impact on the pricing from abroad, and I think that will continue.

This is not a bill to bring about the total export of all production of Alaskan oil. It is to allow exports on the basis of them being transported out of the United States by American-flag vessels at considerable cost difference to the prices paid for transportation by foreign producers of oil that are bringing oil into the United States.

I think that at this time right now, when we need to spur the creation of jobs in the United States, this is a good way to do it. If Congress approves this oil export legislation, we believe it will spur the creation of new jobs, spur energy production, and raise revenues for both the Federal and local governments.

Small, independent, and other oil producers, maritime labor, and independent tanker owners hope Congress will enact this bill as quickly as possible, because they have told us just that. It will create jobs. It will give an incentive to additional energy production and raise Federal and State revenues and enhance our basic economic security.

I think that energy security is a subject we ought to explore sometime. This is part of that concept of spurring the economy to go further into exploration and discovery of oil. In particular, I think it will spur the restoration of the stripper oil wells in the southwestern part of the United States. The Department of Energy has concluded that if we do export a portion of Alaskan oil, it would result in a substantial net increase in U.S. employment, stimulating about 25,000 new jobs by the end of the decade.

As we review this bill, I hope people from throughout the country will understand that approving it will mean that Congress has taken action to preserve the independent tanker fleet and to maintain the thousands of skilled maritime industry jobs that will be required as we go into this new phase of distribution of Alaskan oil, and it will be done at no cost to the taxpayers. This is a segment of the American merchant marine. They face a bleak future unless there is a stimulus to export some of this oil. The Alaska North Slope exports will help solidify the demand for this tanker fleet.

The act of Congress making these exports possible, the Department of Energy has concluded, would raise royalty revenues for the Federal Government and tax and royalty revenues for the States of Alaska and California. Federal revenues are projected to increase by $99 billion to $180 billion in terms of 1992 dollars between 1994 and the year 2000. The Congressional Budget Office [CBO], has told us that this legislation will raise a net revenue of $55 million. It is a revenue-sound proposal.

By lifting this ban, Congress will, as I said, restore demand in California and in the Southwest region of the United States. The Department of Energy projects that oil production will increase by at least 100,000 barrels per day by the end of the decade in that part of the country. That is because the independents face a squeeze in terms of the price, due to the fact that there was an excessive amount of oil in southern California, in particular. And the stripper wells, the small producing wells, have gone out of production.

We believe that, by giving an incentive to produce, it will bring these new jobs and will give us the chance to have a signal from Washington that we believe enhanced drilling activity should take place in that part of the country and create new jobs in the area.

There is very little, if any, impact of this proposal on the east coast or the gulf coast of the United States. The oil has been going through the Panama Canal pipeline, the oil that would be exported, and there, too, the markets that the Alaskan oil goes to now have a surplus of oil due to the increase of imports in the United States from the Middle East and other parts of the world.

My point, Mr. President, is that this is a different oil world than we had when we considered the Alaska oil pipeline amendments in the 1970's. There is a much greater reserve of oil worldwide, a proven reserve, and there is a much different distribution pattern. The effect of the current distribution pattern is we have created surpluses on the west coast where, at the time, we had projected that there would have been a shortage if it were not possible to limit Alaska's oil production to distribution to south 48 demand only.

The administration has supported this bill. The Senate Energy and Natural Resources Committee is in support of this legislation. I think we should act on it as soon as possible.

The difficulty that I have, really, with the bill is it should have happened a long time ago. We have tried at times to remove this prohibition. As the Senate knows, over the years, we had a series of votes on the subject, and always the opposition came from the same source.

I hope that the Senate now, with new information, with support of the Energy Department, with the administration's overall support of the legislation, with the concept of American industry now understanding what it means to them—we now have support from the west coast industries; we have support from the independent tanker operators; we have support from the maritime unions; we have support from the maritime industry in general; and we certainly have support from people who understand what this will mean in terms of restoring jobs along the west coast, as I said, an estimated 25,000 jobs—will support this legislation.

This bill also has the sale of the regional Power Marketing Administration, as originally proposed, strangely enough, about the same period of time that the Alaskan oil pipeline amendments were adopted, as offered by Senator Mondale, which restricted the export of oil transported through the pipeline. The administration at that time recommended that the Alaska power authority be sold.

We still are working toward getting that approved. The sale of these assets will generate between $1.6 and $4.9 billion in terms of the Department's sale of the regional power marketing administrations. We now have Alaska's marketing agency, a portion of a national plan, and I am hopeful that the Congress will approve the national plan, which will go ahead with the recommendations I originally made to the Senate in behalf of the administration in 1973.

I think that this will reduce, by the way, the responsibilities of the Department of Energy. There will be a substantial reduction in cost to the taxpayers to maintain these regional power marketing administrations, and it makes sense for us to do this now, to take advantage of the circumstances that exist throughout our country and take the Federal Government out of the business of running regional power marketing administrations.

On permitting export of Alaskan crude, there has been this glut that has been created on the west coast. It keeps the crude oil price artificially low. It has meant, as I said, the small stripper wells, even some of the medium-sized operators, have gone out of business. They have had no incentive to develop new reserves or to really reach out in wildcat areas of great promise.

We believe the Mondale amendment has brought about a dependence upon the southwestern area of the United States on cheap oil that comes about because of the cost of transporting that oil beyond California down to Panama through the Panama Canal pipeline, onto another tanker and taken up to a market someplace in the south 48 States in the eastern part of our country.

The result of that long trip for the Alaskan oil to reach a market, under the prohibition against export, cannot be sold except in the United States, is that the sales have been taking place in California far below the market price of oil. It has established, as I said, a glut of oil on the west coast. It has kept the prices there so low that they have lost their own industry. We now feel that the California people understand that the result has not been good for that State nor for the Nation. We need the ability to produce from the areas that have capability of producing oil in times of crisis when there is a stoppage, when there is a shortage, and this bill before us now will give us that incentive.

The Department study that was released in June 1994—I am sure my colleague has talked about it already—has indicated that this will be the case. It has been tested in many places. I do not see anyone discounting the study that was made by the Department of Energy that led to the conclusion that it was in the national interest to pass this bill. There are a few local spots where there is a willingness to prevent the enactment of legislation in the national interest because of some special or private interest on their part. That was an interest that was created, in my judgment, by an unconstitutional provision to begin with, one that should be eliminated. If I had my way it would be a bill to eliminate it altogether.

But this legislation will give authority to export under specific conditions. It is a concept that would be consistent with the American merchant marine concept of requiring that our oil be exported in American-flag, American-crewed, American-built vessels. I do believe there is a great benefit to the American people as a whole. It is a step that should have been taken a long time ago.

It is an interesting thing, I think, to go back and examine some of the history of Alaska's oil industry, Mr. President. When we were seeking statehood, there were a great many people who opposed statehood for Alaska because they said such a vast area could not afford self-government. And so a series of people made suggestions as to how we might be able to finance our own future, and one of them was to increase the amount of land that Alaska received as compared to other States.

The State received from the Federal domain section 16 and 34 out of every township. They had to wait until those townships were surveyed, and we find the strange situation that California still is waiting for a substantial amount of its land, and Utah also and Nevada, because the lands have never been surveyed. When we looked at the situation for Alaska, when we realized people were willing to allow Alaska to have a greater land grant, and we did obtain a greater land grant, Mr. President. Congress approved the transfer of 103.5 million acres to Alaska out of our

375 million acres. What we did, however, is we permitted Alaska to select its land from vacant, unappropriated, unreserved lands, and the net result was that we had the opportunity to decide the lands we wanted for our future.

The difficulty developed in what we call (D)(2), section 17(D)(2) of the Alaska Statehood Act required us to have a study of the portions of our State that should be set aside in the national interest. We then proceeded to produce what is known to us as ANILCA, Alaska National Interest Lands Conservation Act.

That lands act restricted our right to the lands we could have and required a substantial portion of Alaska to be set aside in national withdrawals and no longer available to us for selection.

In the process, unfortunately, we have gone back to, again, a real delay factor in the surveying of lands that we have selected. The last time I had an estimate, it would be 2050 before all of the lands we have selected are surveyed and the native lands, Congress subsequently passed an act which confers on Alaska Natives a substantial amount of land, almost 45 million acres of land, in satisfaction of claims against the United States for the taking of their lands at the time Alaska was acquired from Russia.

The reason I mention these delays, Mr. President, is that we have a series of sedimentary basins in Alaska that are capable of producing oil or gas. Only three of them have been drilled so far. I believe there are 17 of them—I think 15 of them are onshore—that are capable, these areas are capable of producing oil and gas. This bill before us has nothing to do with additional exploration or use of Federal lands, but if you just look at the lands that the State of Alaska has, the lands that the native people have a right to under legislation that has been passed by Congress previously, the great difficulty that we have is establishing a mechanism for transport of that oil to market, and beyond that establishing a demand for it.

As long as there is a surplus of oil on the west coast, I do not perceive that there will be a demand for development of the oil and gas capability of the State of Alaska lands or Alaska Native lands. But I do believe that if we can have a bill such as this passed and have that glut be removed and restore the incentive to the industry to explore for and develop oil in the promising areas of the west that are not on Federal lands, they are not in any way restricted by Federal Government policy, then I think we will have a different future for our State.

That was the intent of the people who brought about the amendments to the Alaska Statehood Act to increase the amount of land to be given to our State. I think that our State, in surveying the lands that we would select, tried to select the lands that had potential resource value.

However, that resource value is really not predictable now because of this glut of oil. No one really wants to put money into developing oil and gas opportunities on Alaska State or Native lands so long as there is an existing restriction on the export of oil produced in those slopes.

Incidentally, that oil is produced from State lands. Many people think the oil is from Federal lands. The State of Alaska owns the land from which the Prudhoe Bay oil field is produced. We view it as an unconstitutional restriction on our State's powers to have this restriction against the export of oil produced from lands owned by the State of Alaska.

Again, one of the things that makes us so interested in this legislation is the future viability of the lands that we own. Those lands are valuable for oil and gas, and I do believe we will see the day, when this bill passes, that the independent oil industry will come to Alaska and start inventorying these potentials because of the fact that there will be a potential increase in demand for the oil and gas from our State.

We are in a very strange circumstance here, apparently, and that is that we want to try to get this bill to a vote. I, particularly, very much would like to see that.

Mr. President, I am having a little discussion with staff as to the accuracy of a comment I made. My memory is that it was the Mondale amendment. My staff says the amendment that was finally enacted by the Congress at the time was the Jackson amendment—the amendment that was finally adopted by the Senate in July 1973. They are right. But I am also right that it was Senator Mondale that raised the subject. I had a debate at length with him at the time, and his amendment was subsequently modified by the former Senator from Washington. It was the Jackson amendment that finally passed. The initiative for the restriction on the export of Alaskan oil originated with Senator Mondale. I have, since that time, called it the Mondale amendment. If I have offended anyone by having so referred to it, I am sorry about that. But there is no question that we discussed at length with Senator Mondale the proposal to restrict the export of oil. I do recall at the time that in order to offset Senator Mondale's proposal, I introduced an amendment which would have prohibited the export of oil from any State in the Union, which I think would be within the constitutional powers of Congress. I did not pursue that, and although Senator Jackson opposed the basic Alaska pipeline amendment, he was the one that did offer the amendment that was adopted. It was the amendment that currently is in the law as far as the exporting of Alaskan oil. I hope those on my staff are satisfied.

I see my colleague is back. I might say to him, Mr. President, that I do hope that the bill will pass. And as I have said in the Senator's absence, I believe as chairman of the Energy Committee, you have done a great service for the country, for California, and for our State in bringing this subject to the floor in a positive way. I hope other Members of the Senate will address the report he has presented and show the support that we have for the concept now. I do hope that there is an overwhelming vote in support of the bill that we have before us to bring about both the sale of the power administration, as well as to enable the export of Alaskan oil under the circumstances described in the bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI], is recognized.

Mr. MURKOWSKI. I thank my senior colleague from Alaska regarding his comments on this very vital issue, which is important not only to our State but to the Nation as well.

Mr. THOMAS. Will the Senator yield for a question?

Mr. MURKOWSKI. I am happy to yield without losing my right to the floor.

Mr. THOMAS. I have a couple of questions that refer to both aspects of the bill.

First, the power marketing agency. It is my understanding that there is a uniqueness to this power marketing agency; for example, the Western Area Power Administration that is in the West, in that instance, it serves a number of States and different municipalities in a great many uses. It also does not have the generating facility but simply the distribution facility. So it is my understanding that in this bill the Alaska Power Authority is substantially different in composition, is that correct?

Mr. MURKOWSKI. The Senator from Wyoming is correct. These two power marketing associations are separate. They are not connected. The distance between Snettisham and Juneau and Anchorage is 600, 700 miles, so they are not dependent on one another. The provision for the sale—unlike other Federal marketing administrations, the Alaska Power Administration owns its power-generating facilities and hydroelectric projects. It was never contemplated that these two relatively small projects remain under Federal determination. It was the considered opinion that once they were up and operating, the contribution to utilize the tremendous hydro potential, even though it is a very small percentage, that they be disposed of, and as a consequence, we have been working with the administration in the State of Alaska to achieve this. We feel that the support base is there and, of course, the fact that the Department of Energy and the administration support this, I think, is evidence that we have a constructive proposal here.

Mr. THOMAS. I thank the Senator. With respect to the oil export portion, I recall the hearings that we had in the Energy Committee. I ask the Senator if it is not true that we had substantial testimony, not only from Members of Congress from the California delegation, but also representatives of the private sector that dealt with this whole business of seeking to develop and encourage the domestic oil market, as is the case in Wyoming. We have been very much affected by that. There have been nearly half a million jobs lost in the domestic oil industry over the past 10 years. We now have, of course, the highest imports that we have had for a very long time—the highest ever, I believe. And the testimony, as I recall, was that the opportunity to export some of the oil from Alaska would strengthen the domestic oil industry, which would result, I think, in more jobs not only in Alaska but perhaps in other parts of the country as well.

There was testimony about the assistance to the oil production aspect to the California economy, as well, of course, as providing an opportunity to strengthen the domestic industry as a matter of national security. That seemed to me to be the tenor of the testimony. I ask the Senator if that is the impression that he had?

Mr. MURKOWSKI. Mr. President, yes, the Senator from Wyoming is correct. As I recall specifically, the Department recommended in their Department of Energy report to the U.S. Treasury that by the year 2000 that would be approximately $180 million in tax revenue to the Treasury and there would be an increase of employment by some 11,000 to 16,000 U.S. jobs immediately, and by the year 2000, 25,000 jobs.

I think that was evident in the base of support that was evident when the vote came out of the committee, 14 to 4. The Senator from Wyoming will recall, Senator DOMENICI, Senator NICKLES, Senator CRAIG, Senator THOMAS, Senator KYL, Senator GRAHAM, Senator JEFFORDS, Senator BURNS, Senator CAMPBELL, Senator JOHNSTON, Senator FORD, Senator BRADLEY, and Senator BINGAMAN voted to vote out of committee the issue of the oil export relief, as well as the proposal on the Alaska power authority. I think the jobs issue was well covered in that report.

Mr. President, I would like to refer to an article that appeared on February 22, and it appeared in the Seattle Times. I think it was an editorial or an op-ed. It was a column, in any event. It suggests a number of reasons why it might not be in the national interest to continue the restrictions on the export of Alaska's North Slope crude oil.

I feel that the facts as confirmed by the U.S. Department of Energy report, the General Accounting Office, and other objective sources show that the export of ANS crude oil on what has been agreed upon, that is U.S.-flagged and U.S.-crewed vessels would, indeed, create jobs, increase our energy production, and as a consequence our national security, and increase Federal and State revenues.

Now, in that particular column there was a reference to the Senator from Washington that suggested that exports would "not meet the statutory test designed to protect broader national interests." Further, exports would "seriously hurt consumers, jobs, and the environment in our own State."

Again, I would refer to the comprehensive June 1994 study by the Department of Energy which concluded that exporting ANS crude oil on U.S.-flagged vessels would, one, again add as much as $180 million in tax revenue to the U.S. Treasury by the year 2000; two, increase U.S. employment by 11,000 to 16,000 jobs immediately and by 25,000 jobs by the year 2000; third, preserve as many as 3,300 maritime jobs; fourth, increase American oil production by as much as 110,000 barrels a day by the year 2000; fifth, probably decrease crude oil tanker movement in U.S. waters; sixth, have minimal or nonexistent effect on prices to consumers, since the benefit of the current subsidy to west coast refiners from exports is not shared with consumers of refined products.

Now, the statement in the article indicated and was referenced to the Senator from Washington that "over the years Alaska North Slope crude oil has fueled Washington State. Ninety percent of our crude oil comes from the North Slope and our refineries are operating at 90 percent capacity. Today this secure supply of oil faces a threat."

The fact is, if exports are permitted, the Pacific Northwest will continue to be the closest market for ANS crude. Given the low cost of transporting oil to Puget Sound, there is no economic reason why any oil now going there be in jeopardy.

Even the Coalition To Keep Alaskan Oil, which is a rather interesting organization—it is an oil refinery-sponsored group, just a few refiners are supporting it now—is opposed to exports. They admitted in a paper last year that if exports were permitted, only the ANS crude oil surplus to the west coast requirements would be exported.

Excess west coast oil formerly went to Panama and was transported across the isthmus for transfer to smaller United States tankers that moved the oil to gulf coast refineries. That process, which involved dual handling of the oil, is now prohibitively expensive given the low world price of oil.

Now, the article further attributes to the Senator from Washington that the North Slope has given us a reliable oil supply. Carried aboard U.S.-flagged vessels, the ships employ Washingtonians as crew members, and "the tankers, that transport Alaskan oil are repaired in the Pacific Northwest. If export restrictions are lifted, this work will go overseas. We could lose 5,000 jobs within our own region and $160 million in annual employment income. This is more than half of the maritime industry's total west coast employment."

That is not the case. The fact is that exports will aid substantially the maritime industry, and all North Slope crude oil would continue to be carried aboard U.S.-flagged vessels with American crews. Labor leaders representing 50,000 members have written the President supporting exports, stating that "ANS exports will create jobs, help maintain our merchant marine and encourage energy production."

Estimates of job losses are completely unsupported. Further, most of the U.S.-flagged tankers are lifted for repairs in yards currently in San Diego and, to some extent, Portland. The Portland shipyard being built in Japan and floated to Portland, portions of that yard have been facing financial problems.

I understand there is a competitive posture between Portland and San Diego. We have encouraged that consideration be given to the Portland bids. As a consequence, it is my understanding that there are two ships that are currently under contract to be repaired in the Portland yard.

Further, the article attributes the Senator from Washington saying,

> More than 2,000 jobs at refineries, and Anacortes, Bellingham, and Takoma would be lost. Ninety percent of Alaskan oil is consumed by west coast refiners, and these refiners go into refineries as attributed to the Atlantic Richfield Company, Texaco Company, and Shell, plus independents such as Tosco and a smaller refinery, Summit Oil. Six of these refineries are in our State, the State of Washington, competing against foreign barges willing to pay premium prices. Industry experts predict our refineries will shut down or be forced to pay a premium price to keep their Alaskan supply or to purchase substitute foreign crude.

That argument just is not based on fact. The facts, the hard, cold facts, are that two of the refiners mentioned support exports—that is ARCO and British Petroleum—and we have evidence of that, which will be entered into the RECORD. And for Texaco, which has not taken a position on the issue, supply will be sure. In fact Tosco, one of the refiners, has a supply agreement with British Petroleum that offers, in Tosco's own words, "a reliable, economic supply of Alaska North Slope crude oil for the next 5 years," although it is my understanding there are some 4 years to go on that contractual agreement. Foreign buyers have no reason to pay premium prices for Alaska crude, because they can get their crude oil elsewhere. As stated above, even export opponents have admitted at world prices for Alaska crude oil now going to Puget Sound, it will not be exported.

Some independent refiners have opposed exports because the market distortion created by the current restrictions allow these refiners to enjoy, according to the Department of Energy, "the largest gross refining margins in the world."

No credible evidence supports the assertion that, "If forced to compete in a world market like everyone else in the United States, any refiner would have to lay off workers."

Again, I remind my colleagues, one refiner in question, Tosco, already has a long-term contractual supply.

Further attributed to the article, the Senator from Washington states:

> Tosco alone has predicted a $1 per gallon increase if exports are permitted.

The fact is, the Department of Energy has concluded that the "economic benefits of export could be achieved without increasing prices either in California or in the Nation as a whole, and that the current subsidy to west coast refiners from exports is not shared with consumers of refined products."

The refiner, Tosco, in their 1994 quarterly report to the U.S. Securities and Exchange Commission stated that:

> At the Ferndale refinery in Washington, refining margins average $4.66 per barrel; retail margins continue to be strong, averaging 11 cents per gallon on sales of some 2.4 million gallons per day.

Tosco, of course, may be worried about losing this price advantage, but that will not hurt consumers or the national interest. It will continue to allow this firm to reap profits, which they are entitled to. But they are certainly not passing on any savings to the consumer.

It is kind of interesting to note why Washington State has some of the highest gasoline prices in the country while the refiners, including Tosco, have the highest profit margins between the price paid for crude oil and the amount at which they sell their refined product or gasoline. In the sense these refiners are closest to the point of the Alaska oil coming down from Valdez, these refiners are those that have the shortest shipping distance; as a consequence, the least transportation costs. But one might conclude the consumers in the State of Washington are certainly not recipients of the transportation advantage that is enjoyed by the geographic location of the proximity of the refiners to the Alaska oil supply at Valdez.

Further reference in the article by the Senator from Washington:

> Since the Arab oil embargoes of the seventies, our reliance on foreign oil has not diminished and the arguments for retaining [that is, the oil export restrictions] remain strong.

The fact is that exporting Alaska's North Slope—ANS—crude would increase U.S. energy security by stimulating additional production, estimated by the Department of Energy at 100,000 to 110,000 barrels per day. This will reduce U.S. net oil imports.

The United States has already removed restrictions in place in the 1970's on petroleum product exports and on the price and allocation of oil, thus improving the efficiency of the market. Exports from every State other than Alaska are allowed if certain regulatory requirements are met. The effective ban on ANS exports is unique and discriminatory.

Further, the article makes reference to comments from the Senator from Washington:

> With 99 percent of Alaska's crude coming through Puget Sound and 94 percent of this carried on U.S. tankers, foreign replacement oil would not only be more costly, but would be carried on more environmentally risky tankers. The U.S. Coast Guard rates as high-risk one-half of the current foreign tanker fleet that carries crude oil through Puget Sound.

The fact is, there is simply no basis to assert that the Pacific Northwest will need to import oil to replace ANS crude for the reasons already listed, or that foreign-flag tankers in Puget Sound waters are environmentally risky.

In fact, the Department of Energy has concluded that exports would "probably decrease crude oil tanker movement in U.S. waters." Further, virtually all the oil coming into Vancouver, BC, comes in through the Straits of San Juan, adjacent to the State of Washington and British Columbia, and it comes in foreign tankers. So there is a high concentration of foreign tanker activity already coming into the San Juan area, and some of its goes into Puget Sound as well.

Another contention is that British Petroleum Corp. would also save money by having its tankers built and repaired in foreign countries. The fact is that British Petroleum uses and would continue to use U.S.-flag, U.S.-built, U.S.-crewed tankers to carry Alaska crude because, Mr. President, they are a foreign corporation and cannot own U.S. vessels. It would make no economic sense for British Petroleum, or any other exporter, to reflag foreign-built tonnage to carry Alaska crude, when abundant U.S.-flag, foreign-built tonnage is already in existence in the trade.

The ban on the exports of Alaska North Slope crude oil simply makes no sense. Reality dictates that it creates an inefficient market that breeds extraordinary returns for a few special interests. And some of these, unfortunately, do not seem to be inclined to pass the benefits along to the consumers. Meanwhile, maritime and oil industry jobs would be lost to this destructive trade restriction.

I am sure the Senator from Washington does not begrudge the fact that Alaska might benefit from lifting the ban, any more than the fact that Alaskans recognize activity in Alaska is very beneficial to the State of Washington. I would again suggest, even on this issue, what is good for Alaska is good for the State of Washington.

Our States are too close and too intertwined to believe that restrictions on each other's commerce will be good for one at the expense of the other.

Mr. President, there are some other items that I want to bring to your attention; that is, some of the charges relative to what the passage of this legislation would do.

Some have made the argument that as part of the original deal in 1973 to authorize construction of the pipeline, Congress saw fit to ban the ANS exports. Again, I think it is important to note that is not totally accurate. Congress did not ban exports in 1973. Instead, for the first time, it restricted all domestically produced crude oil, including ANS oil, to the same general export restrictions. At the committee's hearing on March 1, Senator STEVENS, one of the few Senators still sitting in this body today who actually cast a vote in 1973, confirmed that there had been no such deal.

Mr. President, there is a question of increased foreign oil reliance. The argument is made that by exporting ANS oil, we will increase our dependence on the Mideast and other foreign sources of oil. The reply to that is quite simple. The Department of Energy concluded that enactment of the legislation will decrease our net dependence on imports by spurring additional domestic energy production.

We have heard the concern expressed from time to time about the potential that refinery workers would lose their jobs because refiners would have to pay more for crude oil. Yet, again in response, the Department of Energy concluded that independent refiners on the west coast have such high gross operating margins that they will be able to absorb any increased crude oil acquisition costs without significant job losses. And as the chart that I previously showed, based on the figures at hand, clearly there is justification to understand that is indeed the case.

There is a question of lost work to foreign yards that would provide repairs. The argument has been made that once exports are authorized, the tankers in the Alaska oil grid will all be repaired in those subsidized foreign shipyards permitting domestic ship repair yards to be no longer economic.

Tankers in the Alaskan oil trade are free to go abroad for repairs today. They rarely do, however, because foreign repairs are subject to a 50-percent ad valorem duty. One might wonder about some of our restrictive and protectionist types of legislation. This is one of them. A recent court decision, the Texaco Marine decision, will ensure that U.S. Customs will aggressively enforce collection of that 50-percent duty, as they should. Some suggested that customs is not doing it adequately. I certainly see no reason why customs should not actively enforce the law.

Furthermore, every tanker that is scrapped as a result of the declining ANS production is one less tanker that will ever come in for need of repair. By spurring energy production, the bill will actually increase repair opportunities for U.S. shipyards. As long as U.S. shipyards, such as the Port of Portland, San Diego, and others, remain competitive, they should expect to do most of the repair work on the fleet simply because the vessels are traversing the waters of the west coast.

An argument has been made that ANS exports will destroy the shipbuilding sector opportunity to build 1,200 to 1,500 120,000-dead-weight-ton tankers over the next 5 years. After this charge was made at the committees hearings, the leading trade association for the tanker industry advised us that not one of its members had a vessel under construction and not one planned any new building with so many vessels sitting.

Furthermore, there have been suggestions that there has been some violation of GATT or OECD. The argument has been made that the U.S.-flag requirement is an unprecedented extension of cargo preference and violates our international obligation under GATT and GATT's standstill agreement and the OECD code. The reply to that is that the U.S. Trade Representative formally advised the committee that the U.S.-flag requirement did not violate our internal obligations. In adopting the United States-Canada Free-Trade Agreement, Congress specifically required the use of so-called Jones Act vessels to carry Alaska oil exports to Canada. No foreign government currently complained at that time.

There has been some concern that the U.S.-flag requirement violates the Treaty of Friendship. That is the FCN, commerce and navigation with many nations. The reply to that is that just this past week the administration testified again that the U.S.-flag requirement does not violate any of our international obligations. The FCN treaties permit measures in furtherance of our national security such as preserving a militarily useful tanker fleet.

California offshore production. There has been an argument that exports will encourage or increase pressure for California offshore production. I reply to that that the Department of Energy concluded that the California offshore production will not increase because State moratoriums are effectively in place. They simply block any further development. At the committee's March 1 hearing the witnesses representing the State of California especially rejected the argument saying that the moratoriums in effect ban further offshore development.

Mr. President, let me enter into the RECORD at this time a letter from our U.S. Trade Representative, Mr. Kantor, to Senator BENNETT JOHNSTON, dated March 9, 1955.

DEAR SENATOR JOHNSTON: This replies to your letter of March 2, 1995, requesting information on the implications of cargo preference provisions of Senate bill 395 on our obligations under the World Trade Organization and the Organization of Economic Cooperation and Development, OECD.

Specifically, you asked if the legislation violates any trade agreements, the potential legal and practical affects of a challenge as well as its effect on the ongoing negotiations on maritime in Geneva.

As to WTO violation, I can state categorically that Senate bill 395, as currently drafted, does not present a legal problem.

Further, we do not believe that the legislation will violate our obligations under the OECD's code of liberalization of current invisible operations or its companion common principles of shipping policy. However, the OECD does not have a mechanism for the settlement of disputes and its associations and the rights of retaliation.

While parties to the OECD are obligated to defend practices that are not consistent with the codes, the OECD process does not contain a dispute mechanism with possible retaliation rights. The OECD shipbuilding agreement, by contrast, does contain specific dispute settlement mechanisms although the agreement does not address flag or crew issues.

Your letter requests guidance on the implications of Senate bill 395 on the GATT's ministerial decision on negotiations of maritime transport service . . . which is the document that guides the current negotiations on maritime and the WTO. The maritime decision contains a political commitment by each participant not to adopt restrictive measures that would improve its "negotiating position" during the negotiations which expire in 1996.

This political commitment is generally referred to as a "peace clause." Actions inconsistent with the "peace clause" or any other aspect of the maritime decision cannot give rise to a dispute under the WTO since such decisions are not legally binding obligations.

There are, of course, potential implications for violating the "peace clause" by adopting new restrictive measures during the course of the negotiations. These implications could include changes in the willingness of other parties to negotiate seriously to remove maritime restrictions that might lead to certain parties simply abandoning the negotiating table. But the maritime decision does not provide the opportunity for retaliation.

Our view is that the U.S.-flag preference provisions of Senate bill 395 do not measurably increase the level of preference for U.S.-flag carriers and actually present opportunities for foreign flag vessels to carry more oil to the United States in light of the potentially new market opportunities resulting from enactment of S. 395. Thus, it would be very difficult for foreign parties to make a credible case that the U.S. has "improved its negotiating position" as a result of S. 395.

For reasons I have explained, we are certain that the U.S.-flag preference does not present legal problems for us under the WTO. However, in the event any U.S. measure were found to violate our obligations, WTO does not have authority to require alterations to affect statutes. That remains the sovereign decision of the country affected by an adverse panel ruling. A losing party in such a dispute may alter its law to conform to its WTO obligations to pay compensation or accept retaliation by the prevailing party.

Finally, we agree with you that it would not be appropriate to include a requirement that ANS export in U.S.-built vessels.

I trust this information is of assistance to you. Please do not hesitate to contact me.

Sincerely,

MICKEY KANTOR.

VOTE ON MOTION TO TABLE COMMITTEE AMENDMENT BEGINNING ON PAGE 1, LINE 3

Mr. MURKOWSKI. Mr. President, the hour of 2:30 has come, and I would move to table the first committee amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Texas [Mr. GRAMM], the Senator from Texas [Mrs. HUTCHISON], the Senator from Oklahoma [Mr. INHOFE], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Nebraska [Mr. EXON], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Georgia [Mr. NUNN], and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

The PRESIDING OFFICER (Mr. KYL). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 80, nays 6, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—80

Abraham
Akaka
Ashcroft
Bennett
Bingaman
Bond
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Cochran

Cohen
Conrad
Coverdell
Craig
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kohl
Kyl
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—6

Biden
Boxer
Byrd
D'Amato
Feingold
Murray

NOT VOTING—14

Baucus
Bradley
Exon
Faircloth
Gramm
Hutchison
Inhofe
Jeffords
Kerry
Lautenberg
Moseley-Braun
Nunn
Specter
Wellstone

So the motion to table the amendment was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, what is the pending business?

COMMITTEE AMENDMENT ON PAGE 17, LINE 10

The PRESIDING OFFICER. The question now before the Senate is the second committee amendment.

Mr. MURKOWSKI. Mr. President, we have had an extended discussion on the matter of the sale of the Alaska Power Marketing Association, as well as the proposal to allow the export of surplus oil on the west coast of the United States.

During the course of the day, the Senate came in at 9:30 a.m. and a proposal was to take up the bill. There was an objection to moving to the bill from my friend from the State of Washington. As a consequence, from approximately 9:30 a.m. until noon, the Senator from Washington had a quorum call in effect, and I had hoped that we could hear the particular position of the Senator from the State of Washington.

Unfortunately, that was not the case. There was an agreement to move to the bill at 12 o'clock, and it is now 3 o'clock. The amendment that we just tabled is significant and I think was an expression of the attitude of the Senate toward this. Mr. President, furthermore, the majority leader tried to accommodate Members.

Mr. President, in view of some of the changes——

Mr. BOND. Will the Senator yield?

Mr. MURKOWSKI. Yes.

Mr. BOND. Mr. President, may I address a question to the manager and sponsor of this legislation? The Banking Committee's Subcommittee on International Finance has jurisdiction which looks remarkably as though it may be appropriate to this measure.

While I am in general support of the position of my distinguished friend from Alaska, I would like to have an explanation for this body as to the jurisdiction and what he feels is the appropriate committee referral. Might I ask that question of the Senator from Alaska?

Mr. MURKOWSKI. Mr. President, I will be happy to respond. It is my understanding the Senator from Missouri is a subcommittee chairman of the Banking Committee. The question of jurisdiction has been addressed by him in the subcommittee context, and I wonder, for the RECORD, if he could give us some background with regard to the manner in which they have studied that.

Is it not, indeed, the fact that that particular jurisdiction under the Banking Committee, as well as other prohibitions on the export of Alaska oil, such as the Mineral Leasing Act, the Export Administration Act, and others, were presented in such a way, once the proposal was made with the substantiation falling to include the sale of the two generating plants in Alaska, that the Chair ruled that it was appropriate that it be under the jurisdiction of the Energy and Natural Resources Committee, and it is my understanding that ruling of the Chair still stands.

I ask the Chair if there is any reference to anything to the contrary to that?

I am sorry; I guess the Chair was preoccupied. But the issue that we have before us is the jurisdiction potentially of the Banking Committee, and the Alaska oil export ban is not in the jurisdiction of the Senate Banking Committee because the Alaska oil export originated in the Trans-Alaska Pipeline Authorization Act, the bill that is strictly within the jurisdiction of the Energy Committee.

The Energy Policy and Conservation Act, which is EPCA, includes a provision that generally restricts crude oil exports. This bill is also within the jurisdiction of the Energy Committee. The bill was introduced but did not reference the Export Administration Act.

Furthermore, the Export Administration Act expired, so it no longer governs the export of Alaskan crude oil. And that is the understanding of the Senator from Alaska with regard to the jurisdiction of this matter before the Senate being referred to the Energy and Natural Resources Committee.

Mr. BOND. Mr. President, let me thank the Senator from Alaska. We will have further discussions on that. I appreciate the discussion he has conducted and the ruling of the Chair. I think we are going to do some further investigation of that matter. At this point, I appreciate very much his stating his views. We will continue to review that and work at the staff level to assure there is no problem.

Mrs. FEINSTEIN. Mr. President, I wonder if the Senator from Alaska will yield for a question.

Mr. MURKOWSKI. The Senator is happy to yield for a question from the Senator from California.

Mrs. FEINSTEIN. I want to commend the two Senators from Alaska for their work on this measure. I also want to thank them for seeking my support. Early on in the discussions, because of concerns, I took the time to discuss this with virtually all of the parties involved. In a meeting in my office in September of last year, one of those parties was British Petroleum. British Petroleum would be a major supplier or purveyor of Alaskan crude.

One of the concerns that I had was that we not create jobs somewhere else and take jobs from our people, specifically the merchant marine. The two authors have been good enough to see to it that the legislation reflects that the oil must be transported on American-flag and American-crewed vessels and has secured that as a part of the legislation. There is another part to this, and that is American-built vessels. But because of a GATT problem, it is not possible to put this in the legislation.

In September, I received a letter and I would like to quickly read this letter and ask the Senator directly the question. The letter is addressed to me and it says:

> Further to discussions with you held September 30, 1994, if the ban on Alaska exports is lifted, BP will commit now and in the future to use only U.S.-built, U.S.-flag, U.S.-crewed ships for such exports. We will supplement or replace ships required to transport Alaskan crude oil with the U.S.-built ships as existing ships are phased out under the provisions in the Oil Pollution Act of 1990.
>
> I hope that this commitment satisfies your request that Alaska oil exports be carried on U.S.-built, U.S.-flag ships, manned by U.S. crews.
>
> Yours, sincerely,
>
> STEVEN BENZ,
> *President,*
> *BP Oil Shipping Company, USA.*

My question to the Senator from Alaska is: Is this agreement still in effect?

Mr. MURKOWSKI. In response to the Senator from California, it is my understanding, Mr. President, that indeed it is still in effect. I should point out, however, as I know the Senator from California is aware, British Petroleum, being a foreign corporation, cannot own U.S.-flag, U.S.-documented vessels. So British Petroleum contracts with private U.S. owners that own the

U.S. vessels. It is my understanding that since they basically—in the sense of having a long-term charter agreement—have dictated this position that they will move BP's oil and, for that matter, all the other oil that would flow between Alaska and any other American port in a U.S.-flag vessel. But BP itself is precluded by our maritime laws from owning the vessel outright.

Mrs. FEINSTEIN. I appreciate that, Mr. President. It is very important to me that this U.S.-flag and crewed and, to the extent we can, built ships be used. I take this commitment from BP, however they are going to do it, that the oil that they transport will be in U.S.-flagged, crewed, and built vessels. I thank them for that.

I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

BP OIL, INC.,
Cleveland, OH, September 30, 1994.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: Further to discussions with you held September 30, 1994, if the ban on Alaska exports is lifted, BP will commit now and in the future to use only U.S.-built, U.S.-flag, U.S.-crewed ships for such exports. We will supplement or replace ships required to transport Alaskan crude oil with U.S.-built ships as existing ships are phased out under the provisions in the Oil Pollution Act of 1990.

I hope that this commitment satisfies your request that Alaska oil exports be carried on U.S.-built, U.S.-flag ships, manned by U.S. crews.

Yours sincerely,

STEVEN BENZ,
President, BP Oil Shipping Co., USA.

Mrs. FEINSTEIN. I would like to ask the Senator from Alaska another question. It is essentially about jobs. After looking at this very carefully and talking with independent oil producers and the Department of Energy, I believe that this legislation will, as the Senators from Alaska have stated on the floor earlier, be helpful in producing jobs in the State of California.

The Department of Energy has some very generous estimates in their report. I am not sure I believe the totality of this, but suffice it to say that they predict 5,000 to 15,000 new jobs very quickly and as many as 10,000 to 25,000 jobs by the decade end, most of which they identify as taking place in Kern County, CA.

I ask the Senator from Alaska if he concurs with this energy observation and would he agree that this would be job-producing for the State of California?

Mr. MURKOWSKI. Mr. President, in reply to the Senator, it is my understanding that the Department of Energy has done an exhaustive analysis and agrees that significant job creation would be initiated primarily as a consequence of small, independent stripper producers that currently are having a difficult time maintaining production because of the excess oil on the west coast that would be removed if indeed this legislation becomes law, and that would stimulate production, investment and, of course, initiate numerous new jobs. And the proximity of that oil to the California refiners is such that it would reduce transportation costs as opposed to bringing the oil down—I am not suggesting that California production would increase to the point where it would replace Alaska oil, but it would stimulate that margin of production and cannot compete with the excess oil that is on the west coast today.

I am very pleased that my friend from California recognizes that the mix of utilization of oil in the California refineries is both Alaskan as well as Californian, as well as some imported oil. But there is no question about the merits of the job creation and margin and operations coming back on line. I think that is why this legislation was so unanimously supported by the California independent oil producers, who have worked very hard on this legislation.

Mrs. FEINSTEIN. I thank the Senator. I have one last question, and I would like to place a statement in the RECORD. One of the refineries is located right in my area and, of course, that is Tosco in the San Francisco Bay area. Among the parties that I discussed this with, Tosco was one of them. It is clear that they had some reservations about the legislation. I did discuss this with the Senator from Alaska, and I know he mentioned this earlier on the floor. I would like him, if he would, to repeat it. It is my understanding that Tosco has been assured reasonable supplies of oil even with this agreement in place. I would very much welcome the Senator's response to this in the affirmative or negative, whichever it may be.

Mr. MURKOWSKI. Mr. President, responding to my colleague from California, with regard to Tosco, I am referring to the 1993 PADD IV refinery slate, which is the latest one I have indicating the origin of oil from the Tosco refinery at Martinez, CA, which is, I think, the question posed by the Senator from California.

The capacity of that refinery is 148,000 barrels a day. That 148,000 comes from the following origins: 56,000 barrels a day comes down from my State of Alaska; 75,000 barrels a day of that refinery's capacity comes from California, that is produced locally in California; 18,000 barrels a day of that refinery's utilization is imported oil.

So a little more, 75,000 California, 56,000 from Alaska, 18,000 are imported, and there is another Tosco refinery, Ferndale, which is, I think, of interest to the Senator from Washington. The Ferndale refinery capacity is about 89,000, currently operating at 71,000; 64,000 come down from Alaska, 7,000 are imported—none comes from California, which I am sure is not a surprise.

The point of the question of my friends from California, Washington and California, are certainly the natural markets for ANS crude. Washington and California ports are closest to Alaska as the origin of crude oil, and the ANS will continue to supply those refineries simply because of the proximity and the lower transportation costs.

Mrs. FEINSTEIN. I thank the Senator.

It is also my understanding, Senator, that this bill specifies that the President shall determine on an annual basis whether independent refiners in the Western United States are able to secure adequate supplies of crude, and if not, he can so indicate and make further recommendations to the Congress; is this not correct?

Mr. MURKOWSKI. The Senator from California is absolutely correct. That is in the bill.

Mrs. FEINSTEIN. I thank the Senator. I yield the floor.

Mr. MURKOWSKI. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the second committee amendment.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to adopt the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment on page 13, line 10 was agreed to.

AMENDMENT NO. 1078

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], proposes an amendment numbered 1078.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the text of title II and insert the following text:

TITLE II

SEC. 201. SHORT TITLE.

This Title may be cited as "Trans-Alaska Pipeline Amendment Act of 1995".

SEC. 202. TAPS ACT AMENDMENTS.

Section 203 of the Act entitled the "Trans-Alaska Pipeline Authorization Act," as amended (43 U.S.C. 1652), is amended by inserting the following new subsection (f):

(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

(1) Subject to paragraphs (2) through (6), of this subsection and notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over right-of-way granted pursuant to this section may be exported after October 31, 1995

unless the President finds that exportation of this oil is not in the national interest. In evaluating whether the proposed exportation is in the national interest, the President—

(A) shall determine whether the proposed exportation would diminish the total quantity or quality of petroleum available to the United States; and

(B) shall conduct and complete an appropriate environmental review of the proposed exportation, including consideration of appropriate measures to mitigate any potential adverse effect on the environment, within four months after the date of enactment of this subsection.

The President shall make his national interest determination within five months after the date of enactment of this subsection or 30 days after completion of the environmental review, whichever is earlier. The President may make his determination subject to such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that the exportation is consistent with the national interest.

(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to this section, shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.

(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

(5) If the Secretary of Commerce finds that anticompetitive activity by a person exporting crude oil under authority of this subsection has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused sustained material adverse employment effects in the United States, the Secretary of Commerce may recommend to the President appropriate action against such person, which may include modification of the authorization to export crude oil.

(6) Administrative action with respect to an authorization under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

SEC. 203. ANNUAL REPORT.

Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following:

"in the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration for Defense District V have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.".

SEC. 204. GAO REPORT.

The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

SEC. 205. EFFECTIVE DATE.

This Title and the amendments made by it shall take effect on the date of enactment.

Mr. MURKOWSKI. Mr. President, this is an act entitled Trans-Alaska Pipeline Authorization Act, as amended (43 U.S.C. 1652), is amended with the new subsection, "Exports of Alaskan North Slope Oil."

I believe the Chair has the amendment.

What we have attempted to do here by this amendment, as reported by the committee, S. 395 would immediately authorize ANS exports carried in U.S.-flagged vessels.

When the administration testified in support of lifting the Alaska North Slope crude oil export ban, they indicated the bill should be amended, one, to provide appropriate environmental review; and second, to allow the Secretary of Commerce to recommend action against anticompetitive behavior by exporters, and to establish a licensing system.

Mr. President, if no one seeks recognition, I propose the question be put to the floor.

Mrs. BOXER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there an objection?

Mr. MURKOWSKI. I do not believe a quorum call is in order.

Mrs. BOXER. Mr. President, I asked for a quorum call.

Mr. SARBANES addressed the chair.

The PRESIDING OFFICER. The Senator from Alaska had the floor.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, will the Presiding Officer please tell me what the pending business is.

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from Alaska.

Mr. MURKOWSKI. I call for the question.

The PRESIDING OFFICER. The question is on the amendment.

Mrs. BOXER. Mr. President, I cannot hear the Senator from Alaska.

Mr. MURKOWSKI. The Senator from Alaska calls for the question.

Mr. SARBANES addressed the chair.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. SARBANES. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The parliamentary situation is the amendment of the Senator from Alaska is on the floor.

Mr. SARBANES. Pending?

The PRESIDING OFFICER. It is pending and open for debate.

Mr. MURKOWSKI. Mr. President, I would like to try to reach a conclusion, as I know my colleagues would, relative to this matter. We have had an opportunity coming in at 9:30 this morning whereby we were in a quorum call until 12 noon, and the Senator from Washington had asked that we be placed in that quorum until such time and she was graciously kind to advise me that we could go on the bill at 12 noon.

Since the quorum call was placed by the Senator from Washington, I anticipated she would have an opportunity to speak at that time on the merits of the bill or the motion to proceed. I did not attempt to call off the quorum and she did not choose to speak.

In all fairness, since that time I have held the floor, along with my senior Senator, Senator STEVENS. In order to try and resolve this, I had hoped we could get a vote on the question—get the vote today and resolve this matter. It is of great interest to my State, and I know it is of great interest to the State of Alaska, to my colleague, Senator JOHNSTON, as well as Senator STEVENS, because we anticipate attaching as part of this Senator JOHNSTON's interest in deep water drilling.

Last week, the majority tried to accommodate Members by offering to bring this bill up at 1 p.m. today, but it is my understanding, and I would be happy to be corrected, that there was an objection from the Senator from Washington. So we had to come in at 9:30 a.m. to work out a motion to proceed.

As I indicated initially, the Senator from Washington would not allow any agreement on getting to the bill. Then the Senator from Washington agreed to letting the bill come up at 12 noon. Then again at noon, unfortunately, the Senator from Washington objected to the first committee amendment being adopted. The Senator also let it be known that if we put in a quorum call she would object to dispensing with it, and as a consequence, she did. And that, I believe, was when Senator GRAMS wished to make a statement as if in morning business.

We were then forced to hold the floor—I was somewhat reluctant, and I am sure somewhat repetitious in doing so—so we could get a vote at 2:30. Now we still have objections and it is my understanding now that the objection has been dropped on the second committee amendment.

I would like to—perhaps we would find it expedient—without losing my right to the floor, to ask the Chair whether the Senator from Washington would inform the Senate what her intentions might be on the legislation that is pending? Specifically, I ask, does the Senator plan to offer any amendments? If so, could she inform us what those amendments might be so we can review them?

Mrs. MURRAY. Mr. President, I will be happy to respond to the questions of the Senator from Alaska. I did come to the floor this morning at 9:30 and did object to the motion to proceed. We then did work out an agreement that the bill would begin to be debated at noon.

At that time, I was here on the floor and ready to debate and was not able to say anything until the 2:30 rollcall vote. Since that time, obviously, there has been an exchange among several Senators.

I do have a statement I want to make. I do have a great deal of information I want to submit for the RECORD, and I want to be able to bring my side out on this argument. I know there are a number of other Senators who also wish to present their points of view on this. The Senator from California, Senator BOXER, does, and I know the Senator from Oregon, Senator HATFIELD, has a statement. Several other Senators have indicated to me that they would like the opportunity to debate this bill.

I also have been told there are a number of amendments that people wish to bring forward on this bill.

Mr. MURKOWSKI. If I may respond? I am quite aware there are at least two Senators who are on the floor now. I am most willing and anxious to hear from them, as well as to hear from the Senator from Washington.

So the Senator is not indicating one way or another whether there are amendments which she may be offering that we could review during the time under which she and others may speak.

I wondered if she has amendments, if the Senator from Washington has amendments?

Mr. FORD. Mr. President, point of information.

Mr. MURKOWSKI. Sure.

Mr. FORD. Parliamentary inquiry?

The PRESIDING OFFICER. Does the Senator from Alaska yield for that purpose?

Mr. MURKOWSKI. I am happy to yield without losing my right to the floor.

Mr. FORD. Does the Senator from Washington retain her own right to make her own statement and to offer all amendments without trying to reveal that in advance, and not being able to get the floor?

Mr. MURKOWSKI. If I may respond?

Mr. FORD. I asked the Chair a question.

The PRESIDING OFFICER. Senators may make any statement when they have the floor.

Mr. FORD. So it is not a requirement, then, that she reveal what amendments she would like to have entered? She may have a dozen and reduce it to six?

The PRESIDING OFFICER. A Senator may make any statements when that Senator has the floor.

Mr. MURKOWSKI. I thank my friend from Kentucky. My purpose in making the inquiry was simply to try to determine whether the Senator from Washington would require the Senator to invoke cloture on the measure.

Mr. FORD. That is your prerogative. That is your prerogative.

Mr. MURKOWSKI. Does the Senator care to indicate that? It would be appreciated, simply from the standpoint of expediting the process.

If not, that is certainly the right of the Senator from Washington.

Mrs. MURRAY. Is the Senator from Alaska asking me that question?

The PRESIDING OFFICER. Does the Senator from Alaska yield to the Senator from Washington?

Mr. MURKOWSKI. No. I respectfully ask my friend from Washington if it is anticipated that the Senator from Washington would require the Senate to invoke cloture on this measure. Might that be her intention?

Mrs. MURRAY. Let me just respond. Again, I was here at 9:30 this morning to object to proceeding to the bill because of the jurisdictional questions I had about whether the bill should have gone to Banking, which I sit on, which does oversee the Export Administration Act. It did not go through that committee, and that is why I voiced those objections.

I then later agreed to go at noon. But I have not had an opportunity to speak to the bill. I intend to do that. I know other Senators do.

I also know there are amendments out there. I cannot give a specific number, or any time, and it will be up to the Senator from Alaska what he determines to do in terms of cloture.

Mr. MURKOWSKI. Evidently, it is understood—I certainly anticipated the Senator from Washington, inasmuch as she initiated the quorum call this morning, I assumed she would speak during that time until noon. But that is her right and I respect that right.

I look forward to hearing her statement and that of my other colleagues at this time.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. MURKOWSKI. The Senator yields the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleagues. I do know Senator HATFIELD from Oregon is going to return to the floor and wants to make a statement, and I will speak until he does get here.

Mr. President, I do rise today to oppose S. 395, which is a bill that, in part, allows the export of Alaskan North Slope crude oil. This issue, at first glance, may appear very simple. Lifting the ban on North Slope oil exports would increase sales and enhance revenues for many Alaskans. However, that additional income for a few of our citizens must be weighed against the concerns of the rest of the Nation.

Job loss, price increases, dependence on foreign oil, and increased environmental risks are all issues that Congress must review—must review—before placing the needs of one State above the concerns of many.

When Congress agreed to develop Alaska's North Slope—ANS—crude oil resources 20 years ago, it prohibited exports of this oil unless the President and Congress find that exports serve national economic and energy security, and other interests. Those conditions were a direct response to the economic chaos and long gas lines created by the Arab oil embargoes of the 1970's.

Since then, our reliance on foreign oil has not diminished. The arguments for retaining the restrictions remain strong. Over the years, Alaska North Slope crude oil has fueled the west coast. Mr. President, 90 percent—90 percent—of Washington State's crude oil comes from the North Slope, and our refineries are operating at 90 percent capacity. The existence of export restrictions has created an extensive transportation, refining, and shipyard infrastructure in our region.

The North Slope has given us a reliable oil supply, carried aboard U.S.-flag vessels. Ships employ Washingtonians in crew and support positions, as well as in ports and ship repair yards.

Today, this secure supply of oil faces a very serious threat. The State of Alaska and British Petroleum, the principal producer of ANS crude, are mounting a major effort to permit ANS exports. They want to remove the statutory restrictions. Removal of these restrictions will enrich both the State of Alaska's coffers and BP's pockets. But it would seriously hurt consumers, jobs, and the environment in this region.

The tankers that transport Alaska oil are repaired on the west coast. If export restrictions are lifted, this work will go overseas. We could lose 5,000 jobs within our own region, and $160 million in annual employment income. This is more than half of the marine industry's total west coast employment.

For shipyards, Alaska's crude oil exports would result in the loss of $270 million a year. More than 2,000 jobs at refineries in my State would be lost.

In addition, the Pacific Northwest would forego most of the $93 million in annual Federal, State, and local tax payments made by these workers and facilities. Mr. President, 90 percent of Alaskan oil is consumed by west coast refineries owned by Atlantic Richfield, Texaco, and Shell, plus independents such as Tosco and U.S. Oil.

Six of these refineries are in my home State of Washington. Competing against foreign buyers willing to pay premium prices, industry experts predict our refineries either will shut down or be forced to pay a premium price to keep their Alaskan supply, or to purchase substitute foreign crude.

Major oil companies may be able to absorb much of the price increase. But the independents, that own 25 percent of the processing capacity in the Pacific Northwest, will not. They cannot compete with the majors by selling their petroleum products at higher prices. As many as 2,500 people could lose their jobs along with the losses of $100 million in annual payroll income and $500 million in annual tax payments.

My concern for our environment makes the case for export restrictions even more compelling. Congress opened Alaska's North Slope for development only after it imposed strict conditions to protect that region's fragile environment. Moreover, Washington State and other west coast States also enacted laws and regulations to assure the transportation and processing of this oil is done in a manner that will not injure our environment.

With 99 percent of Alaska crude coming through Puget Sound and 94 percent of this carried on U.S. tankers, foreign replacement oil would not only be more costly but would be carried on more environmentally risky tankers. The U.S. Coast Guard rates as high-risk one-half of the current foreign tanker fleet that carries crude through Puget Sound.

Our coastal waters would face an added threat: Increased pollution risks from offshore transfers of crude oil from large foreign tankers to smaller ships that can actually deliver the oil to our six refineries.

Exporting ANS crude on less expensive foreign vessels would lower transportation costs for British Petroleum and raise their profits. It would also raise revenue for the State of Alaska because the State's ANS royalty payment is based on the wellhead price, minus transportation costs. BP would also save money by having its tankers built and repaired in foreign countries. In short, North Slope's oil exports would benefit British Petroleum and increase the Treasury of the State of Alaska, but they are clearly not in the interest of the people I represent.

Moreover, I do not believe exports would meet the statutory tests designed to protect broader national interests. When I weigh the benefits to Alaska and BP against these very serious risks, exports make little sense to me. For the sake of our workers and their families, our environment and our energy security, I urge my colleagues to listen and oppose this bill and any other efforts to lift the export restrictions.

Mr. President, I want to read into the RECORD some of the editorials that have been written in the last several months regarding this bill and the lifting of the Alaska oil ban. The first one comes in the Seattle Times, and it is dated March 3 of this year, 1995.

KEEP ALASKA OIL BAN

The export ban on Alaskan crude oil has served this country well as a domestic source of valuable petroleum. Contrary to the Clinton administration's desires, this is not the time to overturn the ban, nor the time to imply that over-dependence on foreign oil supplies is over.

Oil from the North Slope of Alaska was drilled, pumped and shipped south as part of a massive enterprise intended to tap into a huge domestic reserve. The 800-mile Alyeska pipeline delivers oil to the port of Valdez, Alaska, but it came at enormous cost and large environmental and cultural questions. The most immediate beneficiaries are the residents of Alaska, who receive yearly Permanent Fund checks for the treasure they are sharing with the rest of the country.

Alaska's representatives are all in favor of ending the ban—probably because higher prices could give their state $1.6 billion more in royalties in just four more years. But while Alaskans rightly share in the profits from oil, those North Slope holes have since the beginning been considered a national resource.

Although nothing in the Alaskan oil equation has changed, the political requirements of Southern California have apparently been heard in the Clinton White House.

California refineries are full of Alaskan oil; exporting the oil to its likely buyer, Japan, would stimulate California's own oil fields. Although Department of Energy officials testified motorists would see very little price change at the pump, the very premise of stimulating one region's fields by exporting oil from another region has inherent price risks.

There is something smelly about a plan that sends Alaskan oil abroad when the resource should be carefully used at home. The only reason the U.S. imports foreign oil is to meet domestic consumption. Depleting our own resources because some refineries have too much oil goes against the original argument for opening the fields.

Shipping Alaska's oil abroad carries a new set of environmental questions for the Pacific Northwest as new maritime routes would be opened. That's not the most serious question about dropping the oil ban, but simply another in the long list of unnecessary actions that would result from a misguided White House political strategy.

In addition, the Portland Oregonian, on February 26, 1995, printed this editorial:

[From the Portland Oregonian, Feb. 26, 1995]

KEEP ALASKA'S OIL HERE—LIFTING BAN ON OIL EXPORTS WOULD RAISE PRICES HERE, HURT PORT'S SHIP BUSINESS, INCREASE U.S. DEPENDENCY ON FOREIGN OIL

Congress should sink a bill to remove the 21-year-old ban on exporting Alaskan North Slope crude oil.

Instead of lifting the ban, Congress should support legislation introduced by Northwest Sons, Patty Murray, D-Wash., and Mark O. Hatfield, R-Ore., to extend the export restrictions in the Export Administration Act.

Removing the restrictions that limit the sale of Alaska's oil to domestic markets is being promoted with wildly optimistic promises. Proponents include BP America, Alaska's largest oil producer, independent West Coast oil producers, five maritime unions, the U.S. Department of Energy and the states of Alaska and California.

They say lifting the ban on Alaskan oil exports would stimulate production of at least 100,000 barrels of oil per day and create up to 25,000 jobs, primarily in Alaska and California, while not causing an increase in the cost of motor fuel prices on the West Coast.

Those projections are very questionable. An Energy Department study completed last summer suggested that lifting the ban would create 11,000 to 16,000 jobs (not 25,000). That study also ignored potential job losses in the West Coast ship-supply industry. And it didn't address the potential threat to the economic vitality of the nation's domestic tanker fleet.

Here's a more realistic appraisal of the likely outcome of lifting the ban on exports of Alaskan oil:

West coast gasoline prices would rise. The ban has depressed West Coast crude oil prices by an estimated $2 a barrel because Alaska oil is forced onto a surplus market here.

West Coast oil refiners have enjoyed the world's largest gross margins because of the Alaskan crude's low price. If that oil is withdrawn and exported, don't expect the refiners to swallow their increased costs for replacement crude. They'll surely pass it on to motorists. If the total cost were passed through, it could result in a 7-cent-a-gallon increase at the pump.

Ship repair and maintenance work at the Port of Portland will all but disappear. Proponents of lifting the oil-export ban say it would stimulate shipyard work on the West Coast. Not so, say Port of Portland officials. They say their contractors believe the lifting the ban would kill the shipyard business. Alaska tankers account for about 70 percent of the work now, but Port of Portland officials believe that tanker operators would do most of their maintenance work in Japan and Korea once the ban was lifted.

U.S. dependency on foreign oil would increase markedly, because replacement of much of the Alaskan North Slope crude oil would come from overseas producers.

This comes at a time when U.S. dependency on foreign sources of oil is at an all-time high. About half of the U.S. daily consumption of 17.7 million barrels of oil comes from foreign sources. That's substantially greater dependency than this nation endured before the 1973 oil embargo or during the Persian Gulf War. And government officials predict that imports will represent 59 percent of consumption by 2010.

Lifting the ban on exporting Alaskan crude would add to this dependency and make the nation even more vulnerable to international disruptions.

The gain in maritime jobs is not worth the cost to this nation's security and the adverse effect that foreign-oil dependency has had on foreign policy.

Hatfield and Murray need other Northwest members of Congress to rally behind their leadership on Alaskan oil policy.

Finally, I will read an editorial from The Bellingham Herald called: "Our View."

[From the Bellingham Herald, Mar. 19, 1995]

OUR VIEW—DON'T EXPORT NORTH SLOPE CRUDE OIL

Energy: Using the domestic oil ourselves reduces dependency on foreign supplies, protects jobs.

U.S. Sen. Frank Murkowski, R-Alaska, has introduced a bill to lift the export ban on crude oil from Alaska's North Slope oil fields. Sen. Patty Murray, D-Wash, has introduced a rival bill that would continue the ban.

Murray's bill better protects the best interests, not only of Whatcom County and other regions on the Pacific Northwest where North Slope oil creates thousands of jobs, but of the nation.

It makes little sense to propose exporting more domestic oil when we already depend so heavily on imported oil to meet needs and demands at home.

Murkowski maintains that lifting the ban would net Alaska an additional $700 million from increased oil sales and create as many as 25,000 new jobs there by 2000.

Murray claims that it would cost about 2,000 refinery and ship-repair jobs in Washington, Oregon and California.

Competing regional interests aside, Congress should look at what's in the nation's best interest.

If the export ban were lifted, foreign vessels could be used to transport the crude oil to other nations. That might pose additional environmental risks as well as eliminate American jobs.

Nations such as China are developing industrial and technological-based economies and need more oil. The pressure to cash in on supplying it is intense. Just last week, the Clinton administration had to pressure Conoco to abandon a plan to help Iran develop two large offshore oil fields.

Best that we stay focused on what's in our nation's best interest regarding North Slope crude oil and use it ourselves.

Mr. President, I think all three of those editorials very clearly point out that it is in the Nation's best interests to defeat the proposal that is before the Senate now. It is in the Nation's best interest to do so.

I am going to respond to some of the points that were made by my colleague, Senator MURKOWSKI, earlier particularly because he mentioned some with which I have to disagree.

He mentioned that the unions support the bill as he has presented it.

I would like to read for the Senate who opposes the bill the Senator from Alaska has presented to us:

Communication Workers of America; Industrial Union Department, AFL-CIO; Inland Boatmen's International Union; Longshoremen's and Warehousemen's Union, International; National Farmers Organization; National Farmers Union; Oil, Chemical and Atomic Workers; Steelworkers of America, United; Sailors' Union of the Pacific; United Auto Workers; Citizen Action; Consumer Energy Council of America; American Independent Refiners Association; Huntway Refining Co.; Indian Powerine LP; Kern Oil & Refining; Pacific Refining Co.; Tosco Refining Co.; U.S. Oil & Refining; Western Independent Refiners Association; WITCO Refining Corp.; Atlantic Marine; CBI Industries, Inc., Celeron Corp.; COSCOL Marine Co.; Pacific-Texas Pipeline Co.; Penn-Attransco.

The list goes on opposing this bill: Avondale Industries; Dillingham Ship Repair; National Steel & Shipbuilding Co.; Northville Industries; Port of Astoria, OR; Port of Portland, OR; Shipbuilders Council of America.

Mr. President, these are just a few of the people, including labor unions, who stand strong in opposition to lifting the ban on Alaskan oil. I think some of the unions that have written to me have very clearly defined why they oppose this bill. I again do this because I heard my colleague from Alaska say that unions support this legislation.

Let me read one from the International Association of Machinists and Aerospace Workers written to Mr. Robert Georgine, president of AFL-CIO.

DEAR MR. GEORGINE: I understand that an amendment may be offered * * * to the maritime reform bill that would eliminate restrictions on the export of Alaska oil. We are told Senator Stevens is planning to offer the change when the Senate Commerce Committee takes up the measure.

Our organization strongly opposes this amendment. Exporting Alaska crude oil across the Pacific would place 500 to 800 jobs at the Portland Ship Yard at extreme risk because the ships used to export the oil would be repaired in foreign ship yards, rather than here at home as they are today. The jobs of more local subcontractors also would be threatened as well as several thousand refinery jobs on the West Coast.

The proponents of exporting Alaskan oil are the State of Alaska, which stands to gain increased severance tax revenues from these exports, and British Petroleum, the major producer of Alaskan North Slope oil. The losers in this proposal are U.S. workers, U.S. energy security, and U.S. business.

As you know, the restrictions on the export of this oil have enjoyed strong bipartisan support over the past 20 years. The last time an effort was made to remove the export ban, the effort lost on a 70 to 20 vote.

We strongly oppose this amendment and urge you to do whatever you can to assure that it is not added to the maritime reform bill.

Mr. President, I have a number of letters from other unions: Sailors Union of the Pacific, Boydoco Oil & Atomic Workers, Metal Trade Union, and their message is one and the same, that union members stand strongly in opposition to the legislation that is in front of us.

Another point that my colleague from Alaska made was that the Department of Energy study supported his language in this bill. I want all of my colleagues to understand that the Department of Energy study addressed the concerns of Alaska and California.

I, too, read that report in its entirety, and it does not address the issues that are important to Washington State, to Oregon, and indeed to the rest of the Nation. It is written in perspective as to what will be good for Alaska and California. I think it is very important to point out that the Clinton administration is not in support as was earlier indicated by my colleague from Alaska. The Clinton administration is not in support as the language stands in front of us right now. They believe that several important concerns need to be addressed, including job protection and environmental issues, before they are willing to endorse it, despite the DOE study. So I remind my colleagues this is not supported by the Clinton administration at this time. They have said that they have very serious concerns and are not supporting it as it is presently drafted.

I also would like to point out the environmental concerns because I can speak for the jobs in my State, and certainly the Senator from Oregon, Senator HATFIELD, will speak in terms of jobs from Portland. But the issue that has not been spoken to here is the issue of environmental concern.

I heard my colleague from Alaska say earlier this morning that this bill in front of us is the first step in increasing domestic oil production. I fear, and I feel many of my colleagues fear, that the second step will be lifting the ban on oil drilling off the coast of Alaska, in the Arctic National Wildlife Refuge. ANWR has been a debate on this floor for many years. Allowing oil drilling there has been debated and defeated many times. Many of us fear that this is, as my colleague from Alaska said, the first step, and the second step will be drilling off the Arctic National Wildlife Refuge. And I know most of my colleagues do not want to see that occur. I think that is a real concern particularly since the budget that was passed out of the Budget Committee last week has an assumption in it that in order to get to the balanced budget one of the things we are going to do is allow oil drilling off Alaska. That is how we are going to balance the budget.

So it is a very real concern. We do not need to pass the first step here in this legislation and pass the second step in the Budget Committee, and I will oppose that as adamantly as I oppose the bill in front of us.

I do want to read to this body a letter from the Wilderness Society, Sierra Club, Friends of the Earth, Natural Resources Defense Council, Alaska Wilderness League, and the American Oceans Campaign, because I think it very clearly states for all of us what our environmental concerns should be.

This was written last year, June 23, 1994.

DEAR SENATOR: The Senate will soon be asked to consider an amendment to the Export Administration Act to end the ban on the export of North Slope Alaskan crude oil. We urge you to oppose lifting the export ban for the following environmental reasons:

Ending the oil export ban would increase development pressure for sensitive areas like the Arctic National Wildlife Refuge. It is also likely to increase pressure for oil development in fragile areas off the shores of

Alaska and California. The expanded development pressure would result from expanded markets, increases in the wellhead price of oil per barrel, and faster depletion of North Slope fields. It is a serious concern that lifting the ban could give nations like Japan a vested interest in our natural resource decisions in Alaska. As long as sensitive areas like the Arctic Refuge and sensitive areas offshore California and Alaska are still not permanently protected from oil and gas development, lifting the export ban is a dangerous idea.

Ending the ban is nonsense energy policy. It would be a dramatic reversal of a national policy we thought Congress had long ago resolved. Lifting the oil export ban is inconsistent with any attempt at conservation of domestic oil for domestic use.

No environmental analysis has been done on ending the ban. Lifting the ban would open the door to tankers nearly twice as large. More traffic in Prince William Sound would pose greater risks from spills. Changed tanker routes would make Kodiak Island and the fisheries of the Bering Sea more vulnerable to chronic and disastrous spills.

Ending the oil export ban could increase the flow through the aging and poorly-maintained Trans-Alaska Pipeline. A major audit recently conducted by the Bureau of Land Management said that the pipeline system poses imminent threats to public and worker safety and the environment. Until the government ensures that the more than 10,000 safety problems with the pipeline are repaired, and that the ballast water treatment and air pollution problems at the Valdez marine terminal are resolved, the Congress should not take actions that could increase the environmental and safety risks.

Lifting the oil export ban would increase oil imports into the United States. Because refineries aren't set up to refine the heavier oil produced in California, the Alaska shortfall would be made up by imports which more closely match the Alaska oil density. This means that more foreign-flagged tankers, with less stringent manning standards than U.S. flagged tankers, would be calling on West Coast ports. Because increased imports would be necessary to replace the oil that could now be exported to the Far East, our trade balance would not improve and at the same time we would have less control over our U.S. domestic oil supplies.

Ending the oil export ban breaks the promise Congress made to the American People over 20 years ago. At that time, Congress sacrificed Arctic wilderness and put Prince William Sound at risk of tanker spills, but said that the North Slope oil was only to go to U.S. markets. In 1973, Vice President Spiro Agnew went to the Senate floor to cast the tie-breaking vote which ended the intense debate over approval of the Trans-Alaska Pipeline. The oil export ban was a crucial part of the deal Congress brokered. Congress chose to override pending legal challenges to the pipeline, proclaiming the environmental impact statement to be adequate even though the major issue of risks to the marine environment from tankers was poorly considered.

If Congress breaks the deal now and lifts the oil export ban, foreign oil companies like British Petroleum would reap the largest benefits, and the American consumers would be the biggest losers. It would be ironic for Congress to unravel this deal at the same time as Alaskan jurors found Exxon reckless and as 10,000 fishermen and Native residents finally have their day in court.

We urge you to oppose lifting the ban on exports of North Slope crude oil.

Again, that is signed by the Wilderness Society, National Resources Defense Council, Friends of the Earth, Sierra Club, Alaska Wilderness League, and American Oceans Campaign.

I think this letter very clearly points out to all of us that this is a major step and can put a lot of us at risk and our environment at risk that many of us care about.

It is not a step that should be taken willy-nilly on a Monday, when people are not prepared to think about the long-term, serious consequences. That is why I came to the floor this morning at 9:30 to protest moving to this bill, because it has not gone through the Banking Committee where the Export Administration Act has had jurisdiction over this for a long time.

I do believe we have to look much more carefully at all of the conditions that are put forth in this and all of the consequences that many of us will have to suffer for a long time to come if the Senate, in its haste to get legislation passed, does so without considering the consequences to many of us.

Mr. President, I would also like to read into the RECORD a statement by the Wilderness Society and the Alaska Wilderness League that I think points to what the environmental impacts of ending the ban on Alaska North Slope crude oil exports will cause.

"The Department of Energy's claims about environmental impacts are misleading," which refers back to the DOE study.

DOE hastily included 2 pages of "environmental implications" in its report on the economics of ending the oil export ban which were not supported by any analysis or factual substantiation. The Administration has failed to carry out comprehensive environmental analysis required by the National Environmental Policy Act.

Ending the oil export ban would increase development pressure for sensitive areas like the Arctic National Wildlife Refuge. It is also likely to increase pressure for oil development in fragile areas off the shores of Alaska and California. If the 20-year export ban is lifted, its effects will be long lasting. Expanded development pressure as projected by DOE would result in faster depletion of domestic oil resources. It is naive at best to believe that the oil industry won't battle to gain access to these "off-limits" areas when economic and political factors are right. As long as these sensitive areas are still not permanently protected from oil and gas development, lifting the export ban is a dangerous idea.

Environmental and safety problems plaguing the Trans-Alaska Pipeline System (TAPS) should be fixed before considering lifting the ban. It is true that the same old TAPS infrastructure will continue to be used for exported oil, and increased flow due to the new markets would increase the risks. According to a major audit recently done for the Bureau of Land Management, "the pipeline system poses imminent threats to public and worker safety and the environment." More than 10,000 problems were identified, including "massive violations of the National Electrical Code." The ballast water treatment plant at the Valdez terminal is currently inadequate to handle large volumes of the ballast water which must be removed from cargo tanks before they are filled with oil, and bigger tankers may call at the port if the ban is lifted.

The oil industry should not be rewarded with higher profits from shipping North Slope oil at the same time it is requesting exemptions from environmental laws. Alyeska, which runs the pipeline for British Petroleum and the other oil company owners, has for years avoided limiting air pollution caused by fumes that are released during tanker loading and recently requested a 12-year delay in meeting air pollution standards for the nation's largest tanker terminal at Valdez. Already, air emissions account annually for over 45,000 tons of pollutants such as cancer-causing benzene, and the terminal is the largest source of volatile organic compounds in the nation.

Exports will expose new areas of U.S. coastlines in Alaska to increased risk of oil spills. Changed tanker routes would put Kodiak Island, the Aleutian chain, and the rich fisheries of the Bering Sea at greatly increased risk of chronic and disastrous oil spills. Tankers would still travel through Prince William Sound, placing it at high risk from new spills even as this area still suffers from the effects of the Exxon Valdez. Dumping of the segregated ballast water picked up from foreign ports could introduce exotic organisms that have serious environmental consequences. Lifting the ban would open the door to tankers twice as large.

Serious risks to California's coastal environment have been ignored. Increased imports to California replacing North Slope crude shipments would involve much larger foreign tankers. Because of port and draft restrictions at the refineries, there would be increased risks of oil spills because there would need to be lightering, the transfer of oil from the larger tankers to smaller vessels which bring it into port, and therefore an increased number of times cargo is offloaded. The lightering would be conducted by foreign vessels which are less fully exposed to liability claims under OPA–90 than U.S. companies. Increased refining of California heavy crude would result in increased foreign tanker traffic in California waters to export the byproducts such as residual oil which would be produced in excess of California demand.

Lifting the ban will not help the U.S. meet its commitments to reduce Greenhouse Gas emissions. DOE states thermal enhanced oil recovery in California would increase such emissions, but dismisses the amounts as trivial. However, DOE energy policy should be to achieve further reductions, not to justify increases, in order to fulfill U.S. obligations under the U.N. Framework Convention on Climate Change and to achieve President Clinton's goals in the Climate Action Plan to reduce emissions to 1990 levels by the year 2000.

Mr. President, these are just some of the environmental concerns that we have before us, but they seriously point out the questions that all of us should be asking and have answers to before this ban on oil is lifted from Alaska's North Slope.

Certainly I heard my colleague from Alaska speak this morning about a DOE report and referred to it a number of times as what the basis should be that we vote on, the current amendment before us.

As I indicated earlier, the administration is not supportive of the language as we currently see it before us on the floor because they do have concerns still about jobs and environmental impact. But I want to read to this body a letter from someone who agrees with me on the DOE report. He happens to be a former adviser to the Governor of Alaska. So he is from that region; he is a former adviser to the Governor.

His name is Richard Fineberg, and he lives in Alaska. He says:

> Re Exporting Alaska North Slope Crude Oil.
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> DEAR SECRETARY O'LEARY: I read with great interest and disappointment your department's report, "Exporting Alaska North Slope Crude Oil." As a former advisor to the Governor of Alaska on oil and gas issues who subsequently prepared several reports for the Alaska State Legislature on North Slope economic issues, I had hoped that your report would answer many important questions about Alaskan oil development. I was disappointed because the report's conclusions appear to be critically dependent on buried, dubious or false assumptions that undercut the validity of the report's conclusions.

Again, I remind the body I am reading from a letter of Richard Fineberg, who is former adviser to the Governor of Alaska. These are his words, not mine:

> . . . dubious or false assumptions that undercut the validity of the report's conclusions. For example:
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> The report asserts that Alaska would gain $700 million to $1.6 billion in revenues between 1994 and 2000 if the ban were lifted, and that under low-price scenarios most of that gain would come in 1994–96. Having prepared numerous reports on North Slope profits, production prospects and Alaska revenues since leaving my position in the governor's office in 1989, I must say that these poorly explained estimates appear to be highly implausible. Moreover, 1994 is nearly two-thirds over and if the ban were lifted, ANS sellers and refiners would then require some time to revise contracts, arrange shipments and reconfigure their refinery outputs. With most of 1994 gone, how much of this theoretical amount remains to be captured and how much is already lost to history? I cannot make that calculation because I read the report from cover to cover but could never discover the bases for the $700 to $1.6 billion estimate.

Again, this is someone who is an expert on Alaskan export of oil.

He goes on to say:

> Although there is a known, fixed relationship between federal income taxes and state revenues on ANS production at the DOE study prices, the DOE report inexplicably estimates federal gains to be well outside that predictable range, at $99 to $188 million. This leads me to believe the DOE report either omitted federal income taxes or did not account for them correctly. In either event, it would appear that producer gains (and, consequently, jobs) may have been over-stated because federal tax effects were not considered, and that federal gains may have been understated. This is precisely the kind of ambiguity that would lead a careful reader to view with great skepticism the conclusions of the DOE report.
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> Regarding incremental North Slope production that might result from lifting the ban, your authors note that "If exports of ANS crude oil raise crude oil prices or save on costs of shipping and handling, the resulting revenues may be invested in oil production-related projects in the geographical areas where the new profits are made. This is particularly true for small companies, but less so for the major integrated companies." (Report, page E–1.) In a footnote, the report states that "The large ANS producers made it clear in our interviews that they . . . would not necessarily reinvest in Alaska the incremental revenues made as a result of exporting ANS oil." The same section presents increased production rates resulting from the "reasonable" assumption "that all incremental revenues for the remaining producers' share is invested in ANS crude production activities that add to reserves" (major producers Arco and Exxon—45% of ANS production—are factored out because their oil is transferred rather than sold, leaving BP as the remaining major producer). Because major producer BP owns 91% of the remaining production, by its own terms the report's key assumption on reinvestment is clearly not reasonable.
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> The report notes that data "imply that reserve additions in the range of 200 to 400 million barrels could be produced by the investment resulting from exports of . . . ANS crude. Buy comparison, [c]urrent reserves at Endicott and Point McIntyre, major secondary fields on the North Slope, are 262 and 356 million barrels respectively." (Report, at p. 12 and p. 50). For some reason, the report makes no reference to the largest major secondary field on the North Slope, Kuparuk, whose remaining reserves are three times that of the two fields named in the report. Is there a reason for this? The report's second Kuparuk omission referred the reader again to Appendix E—the same place at which the dubious assumptions noted above are supposed to be demonstrated; nothing in that appendix told me whether Kuparuk was included or excluded from your analysis, or why it was omitted from the text.
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> I am limiting myself here to clearly demonstrable examples because time is short; some in your department seem to be rushing toward a decision on BP's behalf. I write, therefore, to make sure that you are aware that the DOE report released June 30 appears to be laced with significant technical defects. These shortcomings make it difficult for me to accept the conclusions one must adopt to assume the economic benefits your report claims the United States will realize from lifting the ban. The reader is asked to believe that California refinery acquisition costs can go up without affecting consumer gasoline prices, and that ANS will realize a premium in Japan because its product slate matches Japan's needs. While I am not prepared to state that such heroic assumptions are invalid, it is my opinion that this report fails to demonstrate them. These assumptions are contradicted by the Coalition to Keep Alaska Oil's June 1994 report, "Consequences of Exporting Alaska North Slope Crude Oil." I do not presume to know who is correct. But I must tell you that the latter report is strikingly accurate in those areas with which I am familiar. More important, the challenging report is much less dependent on the kind of Herculean and undocumented assumptions required to reach the conclusions in the DOE report.

I will continue reading and remind my colleagues that I am reading from a letter directly about the DOE's study that has been referenced throughout speech of the Senator from Alaska and kept referring to it. I wanted someone who is an expert from Alaska to respond to that. I will read the last of this letter:

> The latter report also sets up the background of raising environmental concerns that are casually dismissed by the DOE report: In particular, California supply ports, pipelines, refinery storage facilities and refinery operations appear to be at risk. And, as my colleague Dr. Riki Ott of Cordova, Alaska, has previously advised you, the DOE report also dismisses serious environmental concerns in Alaska concerning the integrity of the Alaska pipeline and marine transportation delivery system. As a long-time Alaskan, I share Dr. Ott's interests in the environmental issues the DOE report fails to address. But it is the manifest shortcomings in the DOE economic analysis that lead me to ask you to base your decision on better data than the report you released June 30.
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> In sum, I do not believe your department's report provides sound bases for its fundamental conclusions and recommendations. In view of the undiscussed problems associated with lifting the export ban and the absence of convincing support for taking this action, I oppose lifting the ban at this time and request that you address the implications of the DOE report's serious defects before making your decision.

It is signed Richard Fineberg.

Again, I would like my colleagues to know that the arguments in favor of lifting the ban have referenced a report from DOE that I have just read a letter from, an expert from Alaska who says that a lot of the assumptions are incorrect. In addition, the Clinton administration itself does not support the language that is in front of us because it still does not address many of their environmental and job issues.

I also heard my colleague from Alaska speak about the jobs that would be brought if this legislation is passed. I believe he referenced the number 25,000. From the perspective of the State of Washington, we have many people employed in our independent refineries. I know Senator HATFIELD from Oregon will be out here in a few minutes to talk about jobs in his State of Oregon. But while he is on his way, I want to share with my colleagues an article called "Alaskan Oil Exports Will Eliminate U.S. Shipyard Jobs."

There has been some question on whether or not jobs would be eliminated in the United States if this oil ban is lifted. I want to read this study to you by the Portland shipyard Port of Portland:

> The recommendation of the Department of Energy study on Alaskan—to lift the twenty-year-old restriction on the exports of that would a eliminate hundreds of shipyard jobs. First, it will cause a severe reduction in the U.S. flag tanker fleet. DOE—

This refers back to the report.

> assumes that exported oil will be carried on Jones Act ships, but Senators proposing that the ban be lifted would only require that the oil be carried on U.S. flagships, not on Jones Act ships. This means they need not be repaired in U.S. yards. This means lost of jobs in our shipyards here in the United States.

Mr. President, I note the presence of my colleague, Senator HATFIELD, on the floor. He is a cosponsor of legislation I introduced earlier. I will yield the floor at this time for him to make his remarks.

Mr. HATFIELD. Mr. President, I thank my colleague from Washington State, Senator MURRAY.

Mr. President, first of all, I want to say we have collaborated on this as between Washington State and Oregon, on the basis of the impact it has on the Northwest, outside of Alaska. I am happy to say, too, that we have been working with Senator MURKOWSKI's staff and we are hoping that we can resolve the problem we have as it impacts upon the Port of Portland. I will address that at a later moment.

First of all, I would like to distinguish between title I of this bill and title II. Title I of this bill provides for the sale of the Alaska Power Administration. I support the sale of the Alaska Power Administration, but I do have strong objections to provisions in this bill which seek to alter, in a fundamental way, a longstanding agreement relating to the Alaskan North Slope crude oil.

Mr. President, for over 20 years, Congress has maintained a ban on the export of crude oil from the North Slope of Alaska transported via the Trans-Alaska Pipeline. This agreement, which is based primarily on national energy security, has given rise to many investments and business expectations. The legislation now before the Senate, sponsored by my good friend from Alaska, the distinguished chairman of the Energy and Natural Resources Committee, would lift this export limitation, thus allowing unlimited export of oil from Alaska.

While I understand and respect the motives of the Senator from Alaska, I must oppose his efforts in this case. I believe it is indisputably in the national interest to maintain our precious remaining supplies of crude oil for domestic use only. To export our Alaska reserves, which account for a quarter of current U.S. consumption, at a time when our reliance on unstable supplies of foreign oil is again in excess of 50 percent, would be damaging to the already fragile energy security situation of the United States.

Again, I want to emphasize that over 50 percent of our consumption is dependent upon foreign imports, and from a very fragile part of the world, geopolitically speaking—the Mideast.

I have long supported the restricting of Alaska North Slope production for domestic use only. Beginning in 1979, I sponsored legislation in several sessions of Congress to extend these restrictions. Each time this issue has come before Congress, these restrictions have been extended with strong bipartisan support. In fact, each time Congress has strengthened the restrictions with respect to Alaska and has added similar restrictions to the export of oil produced in any part of the United States, including offshore oil and oil contained in the strategic petroleum reserve.

I am also aware that sectors of the refining and maritime industries have made substantial investments based on the assurances of Congress that this ban would remain in effect. It would be manifestly unfair to upset these reasonable expectations at this stage.

I should also point out, in order to complete the legislative picture, that Senate bill 414, which I have sponsored with Senator MURRAY, is currently pending before the Banking Committee. Our bill would extend the current export restrictions and is therefore directly contrary to the provisions in the bill presently before the Senate. The Senator from Alaska also has a bill, Senate bill 70, which would also lift the export restriction, and it is also pending before the Banking Committee. I am troubled that the Senator from New York, the distinguished chairman of the Banking Committee, is not present to express his views on these matters before his committee.

In 1973, shortly after the beginning of the Arab-Israeli war and the first oil embargo, Congress adopted the Trans-Alaska Pipeline Authorization Act. And this legislation authorized a construction of a pipeline to move oil from lands belonging to the State of Alaska on the North Slope to a Port at Valdez. The act also amended the Mineral Leasing Act to put in place an export restriction on all oil carried over Federal rights-of-way. Under this provision, exports were only if the President determined exports would be in the national interest, would not diminish the total quantity or quality of oil in the United States and would be done under the licensing provisions of the Export Administration Act of 1969.

A second major oil shock took place in 1979. At that time, in section 7(d) of the Export Administration Act, Congress effectively banned oil exports from the Alaskan North Slope. Congress further tightened section 7(d) in 1985. No rollcall votes have taken place in the Senate since 1984, when this body tabled an amendment offered by my friend from Alaska, Mr. MURKOWSKI, which would have allowed a limited amount of exports at 200,000 barrels per day on U.S. vessels, and the amendment was tabled on a vote of 70–20.

Since the first Alaska oil export restrictions were enacted in 1973, they have provided enduring benefits for our Nation. I speak as someone who has been in the Senate since this ban was put in place and has watched it function. As a result of this policy, we now have an efficient transportation infrastructure to move crude oil from Alaska to the lower 48 States and Hawaii. In addition, these restrictions have helped limit our reliance on OPEC and unstable Persian Gulf oil supplies. They have also allowed us to enhance our domestic merchant marine that continues to help supply the essential oil requirements of our domestic economy and our military.

I have also been in this body long enough to learn quite a few history lessons. And it troubles me that despite two major oil crises and the Persian Gulf war, we continue to senselessly rely on foreign oil as a major energy source. U.S. oil imports now exceed half of our daily oil requirement. Government and private estimates now predict that by the year 2010, foreign oil imports will exceed 60 percent. I consider these levels to be worthy of serious concern. The Clinton administration appears to be aware of the gravity of the situation, but I have not been impressed with the administration's proposals designed to address this growing problem.

It is my belief that permitting the export of any Alaskan North Slope crude would only exacerbate our already serious problem of reliance on foreign oil. By allowing the export of Alaskan oil to Japan and other Pacific rim countries, we would further increase our dependency on Middle Eastern oil, something I strongly believe—and history supports my belief—puts the lives of United States troops at risk. Exporting this oil could have the effect of increasing consumer petroleum costs on the west cost and threatening the vitality of our domestic tanker fleet. Moreover, Alaskan oil exports would cause job losses in the maritime and related ship-supply industries on the west coast. I see no sound policy reason for the Nation to accept these costs.

Our ability to withstand future energy crises will certainly be tested if we fail to take the appropriate steps now to protect our own energy resources. Keeping this important domestic energy source for domestic use only will affirm the policy of keeping this country on the right path toward energy security.

During the 1973 trans-Alaska pipeline authorization debate, and during the numerous debates on exports since the ban was originally put in place, a fundamental issue for me and a majority of Senators has been this Nation's energy security. The Senate spent weeks debating the merits of allowing the construction of the trans-Alaska pipeline and one of the primary concerns and points of debate was how this precious domestic supply was to be used to improve the energy security of the United States.

Remarks at the time by Senator Taft give a sense of the direction of the debate.

> It has been stated several times that oil from the Alaskan North Slope will not be shipped to the Midwest. It has also been stated—and feared by many—that a surplus of

> crude oil on our west coast will result in the export of this fuel to other countries. It is understandable that Americans would question this action when we are so desperately in need of oil in this country. It is also essential that we not be forced to rely too heavily upon oil from Middle Eastern nations who have stated their intentions to play politics with oil to influence foreign politics.

Recall that in 1973, we were in the midst of an oil embargo and our heavy reliance on foreign oil turned very quickly into an economic crisis and a national security emergency. So I think it is fair to say that the Members of the Senate at that time were very much aware of the dangers of too great a reliance on foreign sources of oil. The Members of the Senate at that time knew, better than probably any other class of Senators since the attack on Pearl Harbor, that oil is an important national, as well as natural, resource. Because of its ability to influence the events of nations, oil differs fundamentally from more benign, local commodities.

In 1973, the Senate was very much divided over whether to allow the construction of the trans-Alaska pipeline, and I recall Vice President Agnew casting the tie-breaking vote on final passage. However, the Senate was very clear about one thing: If approval was to be given for the pipeline, any oil transported through that pipeline was to be for domestic consumption only. The oil was not to be sold to foreign countries. The oil was to enhance the energy security of this Nation by reducing our reliance on foreign imports.

It is clear that we have yet to learn our lesson. This fact is illustrated well by the national oil consumption and supply figures released each year by the American Petroleum Institute. API's reports over the past decade show that domestic oil production has continued to decline, while domestic oil demand has continued to increase by thousands of barrels of oil a day.

In 1970, U.S. crude oil production hit its all-time peak of 9.6 million barrels per day. By 1973, the year of the Arab oil embargo, United States production had fallen to 9.2 million barrels per day. Today, the United States produces about 6.6 million barrels per day, a 28-percent decline since 1973 and a 31-percent decline since 1970. Less crude oil is produced by the United States today than was produced 40 years ago in 1955.

According to projections by DOE's Energy Information Administration, U.S. crude production will continue to decline over the next decade, to 5.4 million barrels per day by the year 2000, 5.2 million barrels per day by the year 2005. The Department of Energy reports that the United States produced 5.2 million barrels per day in 1950. To add some perspective to that number, in 1950, there were 40 million cars on America's highways; today there are 143 million.

This widening gap between domestic production and demand is being filled by an increasing stream of foreign oil imports. In fact, in 1991, the same year this Nation sent its young men and women to war in the Persian Gulf to protect an unstable supply of foreign oil, imports amounted to approximately 45.6 percent of America's domestic oil consumption. That event should have shaken this Nation into a renewed commitment to energy conservation and convinced us to reduce our dangerous reliance on foreign oil. However, our reliance on foreign oil imports has increased from 45.6 percent at the time of the Persian Gulf war to approximately 54 percent today. Experts predict a steady increase, approaching 60 percent, in the coming years.

This significant reliance on foreign sources of oil merits our serious concern and our most thoughtful judgment. Shipping domestic supplies to foreign markets in order to stimulate otherwise marginal U.S. production is not, in my view, a prudent way for us to address the long-term energy security of this Nation. Promoters of the trans-Alaska pipeline disavowed any desire to ever export oil from the pipeline, and if my memory serves me correctly, the senior Senator from Alaska sponsored an amendment to outlaw exports.

In 1973, those arguing that we should export our domestic oil supplies did not prevail because exporting our domestic supplies was not in the national interest. Those arguing for exports are no more persuasive today. Exporting our finite domestic oil supplies is not a prudent method of decreasing our reliance on foreign oil. It was not prudent in 1973. It is not prudent today. It is reverse logic of a very dangerous sort.

By the passage of the 1992 National Energy Act, we now have many of the tools necessary to establish a sound national energy policy. But make no mistake: We have a long way to go to achieve energy independence and energy security in this country. We must commit ourselves to partnership, to consensus, and to cooperation if we are to move our Nation into the role of world leader on numerous energy fronts, including in reducing fossil fuel use and increasing renewable energy technology.

Maintaining the current requirement that Alaskan North Slope crude oil is to be used for domestic purposes only is a vital part of a rational energy policy for this country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I have tried to outline my position in a general sense and then, in the historic context, the development of this legislation.

I would like to turn now from the general to the specific. The Senator from California, a while ago on the floor, was raising the questions about the impact upon jobs and upon the local economy—in California and other west coast cities. I would like to further that discourse by referring to my own State of Oregon, and its relationship to Washington State, because the Port of Portland serves both sides of the Columbia River and the employees of the Port of Portland, many of them, traverse the bridge between the two States and their full-time employment is in the State of Oregon. We have a lot of exchange between Vancouver, WA, and Oregon, the city of Portland.

Based upon the export restriction policy established by Congress in 1973, an infrastructure has been developed to transport, refine, and deliver massive amounts of domestic crude oil to American consumers. In the State of Washington, refineries were built by integrated oil companies and independent refiners to process Alaskan crude. The infrastructure required to receive this type of crude oil and deliver it to marketers was also developed. In my own State of Oregon, facilities were built or expanded to repair the dozens of Jones Act tankers that carry this oil. In the State of California, refineries were built or expanded, a new pipeline from Long Beach to Texas was built, and shipyards were expanded to build and repair tankers in the Alaskan trade. A pipeline was built across Panama to provide for the more efficient transportation to gulf coast ports of Alaskan crude that could not be consumed on the west coast. Jones Act oil tankers were built to transport the oil to end-use markets. Each of these infrastructure investments was encouraged by Congress as part of its central policy objective: increased energy security through the domestic use of this important oil supply.

This relates to another point that I mentioned earlier in my remarks, and upon which I shall now expand. This point is less related to energy policy and more related to fairness.

In direct reliance on this act of Congress that put the export restriction in place, and on the enthusiastic encouragement of the Federal Government, the citizens of Portland, OR, undertook a major investment. They voted to tax themselves $84 million to fund a major expansion of the Portland Ship Repair Yard. This expansion program included acquisition of the largest floating dry dock on the west coast. This dry dock is specially designed for the large oil tankers that haul oil from the Trans-Alaska Pipeline. These vessels are known as the Alaskan North Slope very large crude carriers [VLCC's].

Of the $84 million initially borrowed to complete the facility, $50 million remains to be paid. It is very likely that this facility, which accounts for 500 to 800 family wage jobs, will not continue to be viable if the bill currently before the Senate passes and the export ban is lifted. Exports will provide ship owners with a greater economic incentive to have ships repaired in the low-cost East Asian shipyards.

Mr. President, $84 million is a great deal of money to taxpayers in Portland. This was not an investment based on a Federal handout, but rather, it was a city of moderate means putting its own credit and ingenuity on the line to invest in a facility of integral importance to a stated Federal objective. It took a great deal of courage for Portlanders to make that investment. But it was not a blind venture. It was based on a great deal of encouragement by Federal officials that such a facility was a necessary part of the long-term plan for the Alaska Pipeline trade.

Let me share some of the rhetoric of the time. I believe it is helpful in understanding why the citizens of Portland made this significant investment and why it would be highly unfair to abruptly change the rules at this point.

After it became apparent that the oil would be used for domestic purposes only, proponents of constructing the pipeline made a very strong case for the benefits such a pipeline would have for the U.S. maritime industry, and in particular their expectation that the various components of the maritime industry would play a vital role in accomplishing the broad national objectives that construction of a trans-Alaska pipeline was designed to achieve.

Commerce Secretary Maurice H. Stans was in the forefront of Nixon administration officials in advocating approval of the pipeline. In addressing the Seafarers International Union of North America in June 1973, Secretary Stans said the pipeline would help revive U.S. maritime strength. A trans-Canada pipeline was an option being seriously considered at that time, and Secretary Stans argued to the group that a pipeline across Canada would "eliminate all the great maritime opportunities that the Alaska line would provide." The Seafarers agreed and approved resolutions endorsing the trans-Alaska route and another resolution re-endorsing the Jones Act.

Andrew Gibson, Assistant Secretary of Commerce for Maritime Affairs, visited Portland, OR, in May 1973, and made the following remarks to the Propeller Club, a group of maritime interests:

> We have estimated that with the completion of the Alaska Pipeline, a fleet of approximately 30 new U.S. tankers would be added to the American merchant marine to transport the oil from southern Alaska to the West Coast. The construction of these vessels at an estimated cost of $1 billion would give an added stimulus to our shipbuilding industry and would provide approximately 48,000 man-years of work in the U.S. shipyards and allied industries. Manning and maintaining these vessels would create many additional permanent maritime jobs, while the estimated annual operating and maintenance cost of $30 million would provide added employment in the related service industries.

The debates in Congress added further substance to the understanding that the maritime industry was being called upon to play an important role in the success of the trans-Alaska pipeline. The assumption that this supply was for domestic use only is pervasive. Congressman YOUNG made the case in the House:

> In the maritime industry, 35 tankers will be employed in the fleet required for transporting the oil to the west coast ports. Twenty-seven of these ships remain to be constructed. It has been estimated by the Maritime Administration that the construction of these ships will create 73,500 man-years of labor in shipyards and supporting industries. Maintenance of the fleet will generate 770 permanent jobs in the Nation's shipyards.

In the Senate, Senator STEVENS made a similar statement:

> The trans-Alaska pipeline will particularly aid several vital American industries which are currently depressed. For example, the American maritime and shipbuilding industry will be helped greatly. Alaskan oil must be carried in American-bottom ships under the Jones Act. At least 27 new tankers must be constructed; 73,480 man-years of shipyard employment will be created; 3,800 permanent jobs will be created to run and maintain this new, modern tanker fleet. This will result in more than $1.0 billion for America's shipbuilding industry. This is an industry that has, for some time, been at a competitive disadvantage because of lower costs from foreign competition.

As I read these statements, I can well understand why the citizens of Portland believed they were being given assurances that there would be continuity if they stepped forward to participate in this new venture of national importance. To now lift the export restriction and ask the taxpayers of Portland to take a $50 million loss on a shipyard that is now of questionable utility is imposing a great unfairness. This is an unfairness that I cannot allow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. Mr. President, I inquire of the chair and also the floor managers. What is the pending business of the Senate? I would like to make some comments on bill S. 395.

The PRESIDING OFFICER. The pending question is the Murkowski amendment 1078 to S. 395.

Mr. BREAUX. Mr. President, is it in order for me to engage in debate on the pending legislation at the present time?

The PRESIDING OFFICER. It is.

Mr. BREAUX. Mr. President, with that understanding, I would like to make some comments on S. 395.

Mr. President, I rise in support of the provision included in S. 395 which would lift the ban on the export of the Alaskan North Slope crude oil so long as such oil is carried on U.S.-flag vessels.

This amendment would reduce our trade imbalance and raise $99 to $180 million in revenues for the U.S. Treasury. It would also create an additional 10,000 to 25,000 new jobs and would certainly spur domestic energy production.

In 1973, Mr. President, shortly after the first Arab oil boycott, Congress adopted this ban, and since then the domestic and world energy markets have dramatically and significantly changed. Today, the export ban diminishes our energy security because it artificially depresses wellhead prices on the west coast, making it uneconomic for domestic oil producers to invest in marginal operations.

Mr. President, a Department of Energy study confirms that lifting the ban on Alaskan crude oil would improve domestic energy security by encouraging domestic exploration activities. DOE estimates that domestic production will increase between 100,000 and 110,000 barrels a day if the ban is lifted.

In addition to increasing domestic production, this bill will also help to stabilize the decline in the size and vitality of the domestic merchant marine.

By authorizing the exports of Alaskan oil on U.S.-flag vessels, we can help preserve a vital element of our domestic merchant marine, and we can do so without subsidies from the American taxpayer and without measurably increasing any risk to the environment.

Mr. President, in 1990, Congress overwhelmingly supported enactment of the Oil Pollution Act. That legislation ultimately will require all oceangoing tankers plying our waters to be built or rebuilt with a double hull. It already ensures that American flag and foreign flag tankers will continue to be subject to the same strict safety requirements. And since December 28 of last year, it has imposed substantial financial responsibility requirements for all tankers entering U.S. waters.

Last year, the Department of Energy conducted an extensive study of the likely effects, including likely environmental implications, of changing the current law. The Department, and I quote:

> Found no plausible evidence of any direct negative environmental impact from lifting the ANS export ban.

By and large, Mr. President, the same U.S.-built, U.S.-owned, and U.S.-crewed vessels that carry Alaskan oil to market today will continue to carry the crude to market tomorrow with a change in policy. The same skilled merchant mariners will continue to man the vessels. Current Department of Defense and Department of Transportation projections indicate that we are facing a critical shortage of trained mariners capable of manning the ready reserve force. This bill will help ensure that we will continue to have a reservoir of capably trained mariners sufficient to man our reserve fleet in time of national emergency. And our Nation will continue to have access to a fleet of environmentally safe and militarily useful vessels that otherwise are destined to be converted into razor blades.

By enacting this bipartisan legislation, we can help ensure the continued existence of the largest segment of our domestic merchant marine. Let us demonstrate again that we can work together to help promote our energy security, our national security, and at the same time preserve jobs.

Mr. President and my colleagues, I will just add a couple of remarks and point out that again this ban was enacted at a time when this country literally was on its knees from the standpoint of energy requirements. The Middle Eastern oil nations had banded together to form cartels which restricted amounts of oil being exported to the United States in particular.

We all remember the long lines that occurred in the 1970's when people had to wait in line to buy gasoline for their automobiles and vehicles. Everyone in America wanted Congress to do something about it. One of the things that we did was to say, all right, we are not going to allow any of the Alaska North Slope oil exported to other countries. We are going to keep it right here.

Mr. President, I think we probably acted with some degree of haste in taking that action and in thinking that by doing so we were somehow going to increase the domestic production. I think in reality we should all understand that oil is a commodity which can be traded all over the world; that, indeed, many ships that are plying the oceans filled with oil are sent to different ports in the middle of a voyage depending on the need because the price is better in one area or the need is greater in another area or for whatever economic determination that is made.

So the point is that oil is traded on the world market according to need and price. If we can, indeed, take some of the crude oil in Alaska and sell it at a better price in overseas markets, we should be allowed to do that. The price return will allow greater domestic production in areas of the United States where that production can occur.

I am a Senator from the State of Louisiana. I have nothing to do with oil, of course, that is produced in Alaska. But I think this is good policy for my State, for the State of Alaska, and indeed for all of the States in the United States. I think it will increase production, and it will not do damage to any part of our Nation. It is good economic energy policy for the future of our country.

Mr. President and my colleagues, I hope we would move on this. It should be relatively noncontroversial. I know some Members have legitimate concerns, and they will be heard, but I think we should move forward, debate the issue, vote on this legislation, and ultimately we should adopt it as good energy policy.

Having said that, Mr. President, seeing no one else seeking recognition at the moment, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I further ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORE POLICE ON THE STREETS

Mr. DEWINE. Mr. President, I rise this afternoon to continue my discussion of the crime bill that I intend to introduce this Wednesday.

As I previously pointed out, there are really two basic questions that we need to address in the area of crime whenever we try to determine whether a crime bill is good or whether it is not good, whether it does the job or whether it does not do the job.

The first question is: What is the proper role of the Federal Government in fighting crime in this country? The second is: What really works in law enforcement? What matters? What does not matter?

Last Wednesday, I discussed these issues with specific reference to crimefighting technology. The conclusion I reached was that we have an outstanding technology base in this country that does a great deal and will continue to do a great deal to help us catch criminals.

Technology, Mr. President, does in fact matter. But we need the Federal Government to be more proactive, more proactive in getting the States on line with this technology. Having a terrific national criminal record system or a huge DNA database or an automated fingerprint system or huge DNA database for convicted sex offenders in Washington, DC, is great; it is nice. But it will not do much good if the police officer in Hamilton, OH, or Middletown, OH, or Cleveland, OH, cannot tap into it, cannot put the information in, and cannot get the information back out.

My legislation would bring these local police departments on line. It would help them to contribute to and benefit from the emerging nationwide crimefighting database.

On this past Thursday, I discussed what we have to do to get armed career criminals off the streets, those who terrorize us, terrorize their fellow citizens with a gun. I talked about a program called Project Triggerlock that targeted gun criminals for Federal prosecution. My legislation would bring back Project Triggerlock and toughen the laws on gun crimes in many other significant ways. We have to get these armed criminals off the streets.

On Friday, I talked about the long neglected needs of crime victims. In too many ways, our legal system treats criminals like victims and victims like criminals. We have to stop that. My legislation contains a number of provisions that would make the system much more receptive to the rights and the needs of crime victims.

Today, I would like to turn to another item. I would like to talk about what we can do to put more police officers on the street, and to put more police officers into our highest crime areas. Make no mistake, the evidence is clear, putting a police officer on a street corner in a dangerous neighborhood will reduce crime. We are looking for what really works, and putting police officers on the streets is a proven strategy that works. It is a plain fact, if you put a police officer on the street, crime will go down.

The President is right in this respect, and he is to be commended for understanding that there is, in fact, a direct or actually inverse relationship between the number of law enforcement officers who are deployed correctly in the neighborhood and the amount of crime that exists in that neighborhood.

That is why the President last year asked for $8.8 billion in Federal funding for police officers. We do need more police; he is correct. Police officers deployed correctly matter. They do make a difference.

But, Mr. President, I believe that we can improve on President Clinton's plan, and there are three major shortcomings I believe that exist in the President's plan that we ought to address in the Senate. Let me list them:

First, the administration's plan spreads the $8.8 billion far too thin. It does not target the funding for police officers to the most crime-ridden areas where the funding is most needed. Instead, it spends money on extra police officers even—even—in extremely low-crime areas. That just does not make sense.

Second, the administration is not paying for the full cost of the extra police officers. The Clinton proposal pays for only 75 percent of the police officers and asks local communities to come up with the remaining 25 percent.

Third, the Clinton plan provides the money for only—only, Mr. President—3 years.

I think that these problems I have just listed with the Clinton administration proposal can be fixed fairly easily. As part of the comprehensive crime legislation I intend to introduce on Wednesday, I will be including my proposals on how we should fix these problems, and here is what I propose:

First, I propose to pay for the police officers and to pay for them in full, 100 percent. Under my proposal, we will send $5 billion over a period of time to the local communities for new police officers. Those police officers will be fully funded 100 percent, not just 75 percent, as envisioned in the Clinton plan.

Second, we will fund these police officers for 5 years; 5 years, not 3 years, as envisioned by the Clinton proposal.

Third, and probably most significant, my proposal will target these funds where they are needed the most. Under the Clinton plan, really crime-threatened communities are deprived of the full contingent of police officers they really need. For example, under the administration proposal, a high-crime community, such as Chicago, has received 300 police officers so far, and those 300 are not even fully funded. They are funded at 75 percent. My legislation would put 2,100 new police officers on the streets of Chicago and would pay for them in full.

I can cite example after example. Let me just give one from my home State. Youngstown, OH, is another city with a very serious crime problem. Under the Clinton plan, it has received a total of 10 new police officers. I think, however, to make a real difference in a crime area, we need to do better than that. Under the formula that is contained in the bill that I will introduce on Wednesday, there would be a total of 58 new police officers on the streets of Youngstown. We would go from 10 under the Clinton plan to 58 under my plan, and the way we are able to do that is because we are targeting the money to go to the areas where the crime is the worst. It only makes sense that when we are dealing with scarce Federal dollars, those Federal dollars should be targeted specifically to the areas where our citizens are most in danger.

My proposal would put the dollars for police officers where police officers are needed the most. We are targeting the 250 most crime-infested cities in America. We will succeed in getting those police officers on the street. In a community brutalized by rampant crime, the police officer is truly an ambassador of law and order. The police officer is a living, breathing confirmation of America's resolve to defend civilization from those who want to turn our country into a wasteland of stealing, raping, and killing.

The police officer is a soldier of justice, and like any other soldier, the police officer, to be most effective, needs to be sent where the enemy is. The enemy is anyone who does a drive-by shooting or rapes someone or commits any other kind of brutal act.

Mr. President, anyone who watches TV or reads the papers knows where the enemy really is. My bill would make sure that the police officers are deployed where they are needed the most. My bill would pay for them in full.

This is what it will take. This is what it will take if we are serious about taking back our streets.

The American people are, quite frankly, losing patience with violent crime. They are losing patience with the syndrome that my distinguished colleague, the senior Senator from New York, calls defining deviancy down.

There is a consensus out here, Mr. President, that we will not allow our country to become a place where violent crime is considered normal. I think that putting these police officers on the street—and paying for them in full—will be a major symbol of our national resolve.

My legislation, Mr. President, would spend $5 billion on these police officers, target them where they are needed the most, and pay for these police officers in full.

The Clinton administration plan included $8.8 billion as partial payment for police officers, with their deployment of police officers being spread throughout the country and spread among many, many areas where crime is not that serious.

Tomorrow, Mr. President, I will discuss what we can do with this extra $3.8 billion, and specifically how we can use block grants to give local communities the flexibility they need to use that $3.8 billion as effectively as possible. And then on Wednesday of this week, Mr. President, I will be introducing my comprehensive crime bill.

Mr. President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

TERMINATION OF THE HELIUM AND OTHER PROGRAMS

Mr. FEINGOLD. Mr. President, I want to take a few moments to praise both the House and Senate Budget Committees for including in their budget assumptions termination of a relatively small program, the helium reserve program. The Budget Committee materials assume a $27 million savings over 5 years from termination of the helium reserve program.

As the budget debate unfolds in the House and Senate in the coming week, there will certainly be considerable debate over programs of enormous magnitude—programs with budget outlays in the billions, not millions. Although the Budget Committee materials assume a $27 million savings from termination of the helium reserve program, the actual savings will be significantly higher as the Federal Government sells off the existing helium reserve over a period of time that will not disrupt the private helium market, as well as terminates the program itself. The Federal Government is currently stockpiling enough helium to meet its needs for the next 80 to 100 years. In order to make sure that the taxpayers get a fair price for this helium, the reserve needs to be sold over a period of time to make sure that we do not inadvertently cause the entire market price for helium to fall needlessly. CBO has estimated that we can, at current market prices, eventually recover between $1 and $1.6 billion by this sale.

It is not just the current $27 million in savings but a long-term savings by in effect privatizing this area of our Government.

I introduced legislation, S. 45, to terminate this program on the first day of the 104th Congress. I am pleased to report that this legislation has gained bipartisan support and that it has been cosponsored by the Senator from Iowa [Mr. HARKIN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Vermont [Mr. LEAHY], the Senator from Nevada [Mr. REID], the Senator from Arizona [Mr. KYL], the Senator from Arkansas [Mr. BUMPERS], the Senator from Colorado [Mr. CAMPBELL], and the Senator from South Dakota [Mr. DASCHLE]. On May 1, 1995, the Senator from Wyoming [Mr. THOMAS] introduced similar legislation to terminate the program, joined by the Senator from Idaho [Mr. CRAIG], the Senator from Minnesota [Mr. GRAMS], the Senator from North Carolina [Mr. HELMS], the Senator from Virginia [Mr. WARNER], and the Senator from Alaska [Mr. MURKOWSKI]. Thus, 15 Members of the Senate, 8 Republicans and 7 Democrats have sponsored legislation to terminate the program. Moreover, President Clinton on January 24, highlighted termination of the helium program in his State of the Union Address as an example of the kind of Federal spending that could no longer be justified.

Mr. President, I have previously spoken on the Senate floor about why termination of the Helium Reserve Program is particularly appropriate today in light of the growth of a private helium industry which can more than adequately supply the needs of the Federal Government for this product.

The Helium Reserve Program, like many programs which are the target of today's deficit reduction efforts, began decades ago when there was a reason for the Federal Government to become involved in this area. In the case of helium, the program dates back to the time of President Woodrow Wilson. The Helium Act of 1925 was enacted at a time when observation balloons were thought to have strategic merit. It was expanded under the Eisenhower administration when blimps were being used to spot enemy submarines in the Atlantic and to meet the needs of the fledgling space program. Since that time, however, a private domestic helium industry has developed and as of 1995, 90 percent of the helium produced in this country does come from private operations.

Now, Mr. President, it is time to terminate the Federal helium program. With the kind of bipartisan support that is now behind this effort, this would seem like a relatively easy task to accomplish during this budget cycle.

I hope it will be, but I am not overly confident, given the history of this program and similar programs. Even with the endorsement of both Budget Committees, bipartisan support in Congress, and the backing of the administration, terminating any Federal program, large or small, is never easy.

The Helium Reserve Program was targeted for termination by the Reagan administration, by the Bush administration, and now the Clinton administration. Nonetheless, it survived. The Washington Post, in an article published February 7, 1995, entitled "Odorless, Colorless—and Hard To Kill" outlined the history of efforts to terminate the helium program and describe it as a "tale of yet another federal government program that has had more than nine lives." Perhaps 1995 will be the year that these efforts succeed. I certainly intend to work to see that happens.

But I think we need to look at the survival of these kinds of programs in a broader context.

In the last Congress, we terminated another program, the Wool and Mohair Subsidy Program, that was started in 1954 when wool was considered to be a strategic material. The program lived on and on long after the original purpose had ended.

Unfortunately, even though this was a relatively small but important piece in the President's overall $500 billion deficit reduction plan, I have just learned that there may be yet another attempt to try and revive this program now that we finally finished it off. I certainly hope that does not happen.

I have 2,000–3,000 sheep growers in Wisconsin who did not like it when I introduced legislation in the last Congress to terminate this program, but I also know that many of them recognized that it was difficult to continue that subsidy in light of our deficit problems. I also worked with this industry to get legislation enacted during the 103d Congress to enable them, working together, to set up a producer-funded promotion board to help increase sales in the marketplace for their product. I believe that it is very important as we terminate Federal spending programs that we do it in a way that is sensitive to the needs of the communities and individuals who have been dependent to some degree on continuation of these programs.

So that process appeared to have worked. We cut the subsidy, but we worked together to find a way to, through producer supported programs, promote the product. They made them less dependent on the Federal Government and yet we were able to move forward for their product. But we have to end many of these programs if we are going to make meaningful progress in reducing the deficit and achieving a balanced budget.

Mr. President, as one former President once said, "Not all spending initiatives were designed to be immortal." At least I hope they were not. Yet, we have all learned in one way or another how difficult it is to terminate a Federal spending program.

I recall during the last Congress a debate over whether a NASA program originally entitled SETI—Search for Extraterrestrial Intelligence—which had been terminated had been revived under a new name. That is another demonstration of how difficult it is to actually end any Federal program. I recently had an interesting experience in attempting to terminate a program in my own State—Project ELF, a cold war relic that I believe no longer serves any significant strategic purpose.

The Senate recently voted unanimously to terminate Project ELF as part of the DOD rescission bill. The program survived, somehow, in conference, however, on the grounds that some new purpose justified its continuation. I am not satisfied that there is a meaningful reason for continuing to spend millions of dollars each year—in this case, about $16 million each year—on this program.

I am just going to have to continue my efforts to try to eliminate that, although I thought we finally had it in the Senate.

During the debate over the balanced budget amendment, I discovered that another program that is high on many deficit-reduction lists, the Tennessee Valley Authority, was going to receive special protection.

The Senate committee report on the balanced budget amendment created what could be called constitutional pork by singling out TVA as a program that would somehow not be affected by the proposed amendment, while everything else would be. I add that the House Budget Committee has assumed termination of TVA as part of its budget resolution.

I believe this is the direction we should be headed with regard to the program which has a long and significant history, going back to 1933 when it was first created. Mr. President, 60 years later we have to question whether the Federal Government should continue to operate and fund this particular program.

In this regard, I have introduced legislation, S. 43, to phase out funding for TVA and thereby reduce the deficit by about $600 million over 5 years. I know that this legislation and termination of Federal funding for TVA will again be strongly opposed by those who benefit from the program, and this, too, will be a hard fight.

Mr. President, I mention these various programs that in total amount come to millions—not billions—each year because I think they illustrate one of the problems that confronts Congress as we attempt to reduce the Federal deficit. The cumulative total spending on so many of these smaller programs does add up to significant budget cost. Each one standing alone may not be an overwhelming burden on the taxpayers, but taken together, they are a major part of the problem.

Yet, Mr. President, my experience in the past 2 years has indicated that it takes almost as much effort to rein in spending on these relatively small programs as it does to tackle the big-ticket programs. The advocates for the smaller programs work just as hard to preserve them, and they are often quite effective in those efforts.

Mr. President, I think we all know that reducing the Federal deficit and achieving a balanced budget will take a great deal of discipline and hard work. I am delighted that both of the Budget Committees have identified the Helium Reserve Program as being appropriate for termination in this budget cycle, and I am prepared to work with other Members of the Senate again on a bipartisan basis to enact legislation that closes down this outdated program in a manner that will help reduce the Federal deficit.

Mr. President, I realize there is a lot of partisan rhetoric that goes with any budget resolution. This one is no exception. I want to again take this opportunity, as I did Friday with regard to appropriate Medicare cuts, to signal my desire to work with the majority party to find the cuts that will actually lead to that balanced budget by the year 2002 and to make sure as we do it that we look at both the small and the big programs so we balance the budget not only for the year 2002, but that we can achieve a virtually permanent practice that is not existent here, which is to have a permanent commitment to have a balanced Federal budget into the future. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on Calendar No. 101, S. 395, Alaska Power Administration bill.

Frank H. Murkowski, Hank Brown, Jon Kyl, Conrad Burns, Thad Cochran, Larry Pressler, Pete V. Domenici, Strom Thurmond, Ted Stevens, Trent Lott, Rod Grams, Dirk Kempthorne, Craig Thomas, Bill Frist, Dan Coats, Orrin Hatch.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL, 1995

Mr. D'AMATO. Mr. President, I rise today to honor the men and women who gave their lives so that we may be protected.

Aware of the dangers that face them every day, law enforcement officers carry out their duties to protect the lives of others. Too often, their own lives are lost. Unfortunately, this year, 298 additional names will be carved into the National Law Enforcement Officers Memorial, here in Washington, DC. It is only fitting that on this day I pay tribute to several New York law enforcement officers who died in the line of duty.

On March 15, 1994, Officer Sean McDonald was brutally slain while on duty in the 44th Precinct in New York. His murder occurred as he attempted to save two people from a robbery attempt. In a few short moments, with a series of gunshots, these ruthless cowards stole the life of a dedicated police officer, husband, and father.

In a similar incident on May 20 of 1994, a perpetrator fatally shot Investigator Ricky J. Parisian, a devoted officer in Oneonta, NY. Investigator Parisian's life was abruptly ended when the robber he was struggling with shot him. He was 34 years old.

Several other names will also be added to the memorial. The names to be added include law enforcement officers who were also killed in the line of duty in 1994. These officers include: Police Officer Nicholas DeMutis of the New York City Police Department who was killed on January 25, Police Officer Jose Perez of the New York City Police Department who was killed on April 27, Police Officer John J. Venus of the Suffolk County Police Department who was killed on November 20, and Police Officer Raymond R. Cannon, Jr., of the New York City Police Department who was killed in December 1994.

The memorial will also hold the names of officers who died in the line of duty before 1994 but were not listed until this year, including: Police Officer John Cahill of the Haverstraw Village Police Department, Police Officer Francis J. Donato, Jr., of the New York State Park Police, Police Officer John Bauer of the Cheektowaga Police Department, and Sgt. David C. Pettigrew of the Freeport Police Department.

On this day of remembrance, I would like to recognize the heroic service of officers across the United States who risk their lives each and every day, in every city, county, and State in this country, so that we may live in safety.

The National Law Enforcement Officer Memorial was dedicated in 1991 and presently holds 1,293 names. This memorial is a way to express our Nation's appreciation of law enforcement officers and their efforts to fight crime and protect our families.

This year's memorial observation is also an opportunity for this Congress to renew our pledge to make our communities safer. By passing legislation that will require tougher sentences for convicted criminals, this Congress can do its part. If law enforcement officers can patrol our streets, risking their lives, then the least we can do is make sure that these criminals are not back on the streets before they have fully served their time.

HONORING DANIEL S. MOHAN, HERO OF THE YEAR

Mr. ASHCROFT. Mr. President, today I rise to honor a Missourian who has distinguished himself through his bravery beyond the call of duty and earned the National Association of Letter Carriers' Central Region Hero of the Year Award. Daniel S. Mohan is a letter carrier from St. Claire, MO, who took actions well beyond trudging through rain, sleet, snow, and dark of night to complete his appointed rounds.

Daniel Mohan was driving on his postal route in St. Claire when he heard shots. Soon after, a woman ran screaming from her house and fell wounded on her driveway, the victim of three gunshot wounds, including one to the face. Mr. Mohan raced from his truck and pulled the victim to safety behind his postal vehicle located across the street as her assailant was coming out of the house in pursuit. Daniel's presence at the scene discouraged the gunman who returned to the house and surrendered to authorities soon after. The victim of the shooting was later treated at a local hospital's intensive care unit, and continues to undergo reconstructive surgery. But as Tom Yoder, Police Chief of Saint Claire acknowledged, this woman would not be alive if not for the valiant efforts of Daniel Mohan.

For his efforts, Daniel Mohan has been honored by the National Association of Letter Carriers as its Central Region Hero of the Year. In a time when we hear of events of violence going on in public view without a single person acting to stop egregious actions, Daniel Mohan's bravery and self-sacrifice is truly a model to be followed.

Edmund Burke said, "The only thing necessary for the triumph of evil is for good men to do nothing." Mr. President, it is my hope that the heroic actions of this Missourian would become the norm, not the exception when we speak of how we as Americans should act toward our neighbors.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, more than 3 years ago I began making daily reports to the Senate making a matter of record the exact Federal debt as of close of business the previous day. In the instances of my Monday reports, the information related to the close of business the previous Friday.

As of the close of business Friday, May 12, the exact Federal debt stood at $4,859,130,274.89, meaning that on a per capita basis, every man, woman, and child in America owes $18,445.34 as his or her share of the Federal debt.

It is important to note, Mr. President, that the United States had an opportunity to begin controlling the Federal debt by implementing a balanced budget amendment to the U.S. Constitution. Unfortunately, the Senate did not succeed in its first opportunity to control this debt—but there will be another chance during the 104th Congress.

POST-CLOSURE OF MILITARY BASES

Mr. PRYOR. Mr. President, on March 16, 1995, the Defense Base Closure and Realignment Commission conducted a hearing to explore the Federal Government's response to the economic trauma of military base closings. This hearing on so-called post-closure matters was extremely useful in assessing the challenges facing communities that will lose a base this year, and I applaud the Commission's able Chairman, former U.S. Senator Alan Dixon, for his leadership in this regard.

At the request of Chairman Dixon, I am submitting into the CONGRESSIONAL RECORD various documents outlining the positions of several community organizations concerning recommended improvements to the process of closing and redeveloping military bases.

Mr. President, I ask unanimous consent that information supplied by the U.S. Conference of Mayors, the National Association of Installation Developers, the National Association of Counties, and others, along with a copy of my statement at the March 16 hearing, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DAVID PRYOR BEFORE THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION, MARCH 16, 1995

Mr. Chairman and distinguished members of this Commission, I appreciate the opportunity to testify before the 1995 Base Closure Commission on the important subject of redeveloping closed military installations.

First, I applaud this Commission and its Chairman for having the vision and courage to address an issue that previous Commissions declined to confront; the issue of helping local communities rebound from the economic trauma of losing a military base.

By also focusing on so-called post-closure matters, some may feel that this Commission is straying too far from its nest. I, however, disagree with this notion. This Commission can fulfill its base closure responsibilities while at the same time, fulfilling its moral responsibilities by recommending ways to assist those who will be devastated by your actions and findings.

Distinguished Commissioners, we are about to complete our fourth and final base closure round. We have learned many lessons from the first three. The most obvious lesson is that base closings hurt.

Mr. Chairman, like yourself, I am personally aware of the pain caused by base closure announcements. The 1991 Commission closed Eaker Air Force Base, a B-52 SAC base located in Mississippi County, Arkansas. They also took away a majority of the work at Ft. Chaffee near Ft. Smith, Arkansas. Now this Commission must determine whether to close Ft. Chaffee, as the Army has recommended, and whether to close Red River Army Depot, located in the town of Texarkana on the Arkansas-Texas border.

For many cities where military bases are located, the military is the largest employer and the loss of a base can cause an economic tailspin. Such would be the case at Red River Army Depot, which accounts for 10 percent of the local economy in Texarkana.

To be certain, base closings are painful.

The first three base closure rounds have also taught us that the task of replacing lost military jobs through the civilian redevelopment of closing bases is difficult, costly, and often slow in producing good results.

However, finding a new use for an old base is a worthwhile endeavor, and like it or not, it is an effort that involves the federal government.

Since we began closing obsolete military installations in 1988, we have struggled over the appropriate role of the federal government in the closure, cleanup, and redevelopment of these bases.

I must admit that our original approach to post-closure matters failed miserably. In the 1988 and 1991 base closure rounds, the federal government, including this very commission, took a "hands-off" approach. The results were disastrous.

Job creation was virtually non-existent. Closure costs skyrocketed. Communities threw up their hands in frustration over the government's refusal to provide help when help was needed. When this process began in the late 1980's, the federal government was the primary obstacle to a quick recovery, due to our hands-off approach.

I believe that instead of standing in the way of progress, government should form partnerships with local communities and work together with shared resources and know-how to replace lost military jobs.

We should not turn a cold shoulder to the people who helped us win the Cold War. Base closure communities deserve much more than a simple "thank you".

Fortunately, on July 2, 1993, President Clinton announced that the federal government would reverse its policy and begin pursuing partnerships with communities.

The President's five-point plan for helping communities included giving them greater access to base property, fast-track environmental cleanup, transition coordinators at every base to help cut through the red tape, larger federal grants for economic development, and bolder job retraining and transition services for those who lose their jobs.

After the five-point plan was offered, it became clear that several changes in law would be necessary to fulfill the President's vision. As a result, the Senate Democratic Task Force on Defense Reinvestment, which I chaired, developed the necessary legislation during the summer of 1993.

The resulting legislation, commonly referred to as the Pryor Amendment, was accepted as an amendment to H.R. 2401, the Fiscal Year 1994 Department of Defense Authorization Act, and signed into law by the President later that year.

The Pryor Amendment ratified the President's five-point plan by making major changes to the base closure laws that would provide communities with desperately needed assistance. A summary of this legislation will be submitted for the record with my prepared remarks.

The primary contribution of the Pryor Amendment is its recognition that the land and property on closing bases can be a catalyst for future development and economic growth. Our legislation gives the Secretary of Defense authority to transfer or lease base properties to communities below fair market value or, in some cases, for free.

Communities nationwide are currently using this legislation to enhance their chances for economic revival. Just last week, the U.S. Air Force recently conveyed 600 acres of land at Norton Air Force Base in San Bernardino, California at a reduced price. This land transfer will create 1,000 jobs immediately due to expansions in local manufacturing. I am also aware that the government of Taiwan wants to open a foreign trade center at Norton, creating almost 4,000 new American jobs.

I am pleased that communities like Norton are taking advantage of the government's renewed willingness to help beat swords into plowshares.

In 1994, our Senate task force was successful in passing legislation in Congress to exempt closed military bases from the Stewart B. McKinney Homeless Assistance Act.

The task force had been notified that some homeless assistance groups were trying to acquire base property through the McKinney Act even though local communities had already agreed to using the property for other purposes.

This disruption was truly counterproductive and an unintended consequence of the McKinney Act.

Due primarily to the leadership of Senator Nunn and Senator Feinstein, we formed a consensus for passing legislation to exempt closed bases from the McKinney Act. Our bill, the Base Closure Community Redevelopment and Homelessness Assistance Act of 1994, established a new process for addressing local homeless needs in a way that is supportive of local redevelopment efforts.

I am proud to say that this legislation was supported by base closure community groups and homeless assistance groups, Democrats and Republicans. It was signed into law by the President late last year.

Each of these initiatives—the President's five-point plan for increased federal funds and assistance, the Pryor Amendment, and the McKinney Act exemption—represent a decisive shift in the government's response to base closings.

The good news for communities that will lose bases in this round is that the federal government is now ready and willing to help you beat swords into plowshares. We are much better prepared now to meet these challenges than we were in 1988 when the base closure process began. I applaud the Clinton Administration for its vision in this regard.

At the request of this commission, I have devised a few brief recommendations for communities that lose a base in this round.

First, begin planning early for the future. Communities that have found the most success are those that embarked on an early, aggressive effort to find civilian uses for their base.

For example, when England Air Force Base in Alexandria, Louisiana was recommended for closure in 1991, the community formed two committees. One led the fight to keep the base open, the other committee, which operated largely in secret, was laying the foundation for bringing in new business.

To date, England has created almost 1,000 new jobs on base, due mostly to the J.B. Hunt trucking company's decision to train truck drivers on the old runways.

I encourage local communities to follow England's example. If any of the towns with bases on the 1995 list chose to begin planning early, Congress has given the Department of Defense the authority to provide grants for such purposes. Also, last year Congress passed legislation prohibiting this commission from penalizing towns that chose to begin planning for redevelopment even as they are fighting to keep their bases open.

I also encourage communities to speak with one voice. Each of the federal programs I have outlined are designed to help communities help themselves, but it is difficult to help communities that are not unified.

For example, George Air Force Base in Southern California was closed in 1988 and immediately thereafter two nearby cities engaged in a power struggle over who was entitled to federal aid and future revenue from the base. A legal battle ensued and the matter was fought in the courts for almost five years. Businesses interested in locating on base went elsewhere. Today there is little to show for their efforts at George except missed opportunities and lost hope.

The government can do little to help communities unless they speak with one voice.

I have also been asked to make recommendations to this Commission on ways to improve the government's response to base closings.

First, the federal government should continue vigorously pursuing partnerships with local communities.

Every government employee, top to bottom, must be fully committed to forming successful partnerships.

While I am convinced that the top levels of government are committed, I question whether this cooperative spirit is alive at the working level.

Although we have made substantial improvements, local communities are still frustrated by the service they often receive.

Every day, government officials and community leaders must choose between working together hand-in-hand or engaging in hand-to-hand combat. I believe this Commission could explore ways to improve the cooperative spirit. Let me suggest a few.

First, find ways to remove the "government knows best" mentality. In most cases, government attorneys and government bureaucrats are making key decisions on private sector development issues with little or no consultation with local experts who know their region best. We must remember that communities are in the best position to inform us of responsible ways for government to contribute.

Second, the Commission could explore ways to make government more nimble, capable of making decisions quicker and delivering services more rapidly.

The interim leasing process exemplifies the dangers of moving too slowly. Currently, the military services are taking about 6 months to complete a lease agreement. This is entirely too long. Without a lease, businesses interested in locating on base go elsewhere. We should explore ways to speed up the leasing process and the delivery of other important services.

One suggestion for making government more nimble is to empower the workers in the field. Give them more flexibility and greater authority to make decisions on the spot.

The commission could explore this and other ways for speeding up decisions and results.

Finally, we must not undo the tremendous progress we have worked so hard to achieve. Specifically, I urge this Commission to caution Congress against cutting funds for base closure assistance programs, especially environmental cleanup, planning grants, and EDA grants for infrastructure improvements.

Although Congress has provided the necessary funds in recent years, this year these monies are at risk.

If Congress cuts base closure assistance funds, communities would experience paralysis. Economic development would suffer and the cost of closing bases would skyrocket. Such funding cuts would be counterproductive, and I hope this commission will see the merits of fully funding these base closure assistance programs.

Again, I applaud Chairman Dixon and this commission for accepting its moral responsibility and exploring ways to help communities rebound from the economic pain of base closures. I thank the commission for the opportunity to give testimony at today's hearing.

THE U.S. CONFERENCE OF MAYORS,
Washington, DC, February 27, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: With the pending BRAC 1995 process, meeting the challenge of defense conversion is a high priority for the nation. While we recognize the administration's need to downsize the Department of Defense's base structure, arming cities with the tools they need to combat the negative impact of this downsizing is equally important.

In 1993, you announced a five-point plan to ease the impact of military base closings on local communities. Following your announcement, the United States Conference of Mayors began a series of steps to assist communities responding to the challenges of a military base closures. These steps included appointing a Mayors' Task Force on Military Base Closings and Economic Adjustments, and holding two national meetings to help solicit ideas to improve the process and ease the difficult transition following a military base closing.

Copies of our recommendations are being delivered today to the BRAC Commission, to all members of your Cabinet, and to the leadership in both the House and Senate. These recommendations are being released today to coincide with the list of base closings which is expected to be released tomorrow.

As co-chairs of the Mayors' Military Base Closing and Economic Adjustments Task Force, which represents mayors of cities that are currently trying to convert former defense facilities to private uses, we would like to demonstrate that defense conversion can happen. However, in the absence of the reforms we have proposed, we are concerned that successful conversion will never truly be achieved. It is our hope that you will actively support these recommendations, which are necessary to ensure that "defense conversion" is no longer a buzz word, but a reality.

Respectfully,

SUSAN GOLDING,
Mayor, San Diego, Task Force Co-chair.
EDWARD RENDELL,
Mayor, Philadelphia, Task Force Co-chair.

A NATIONAL ACTION PLAN ON MILITARY BASE CLOSINGS

RECOMMENDATIONS FROM THE MAYORS' TASK FORCE ON MILITARY BASE CLOSINGS AND ECONOMIC ADJUSTMENTS TO THE PRESIDENT OF THE UNITED STATES AND THE 104TH CONGRESS

Foreword

At the U.S. Conference of Mayors Annual Meetings in Portland, Oregon, June 11, 1995, the Conference adopted two resolutions regarding military base closings. Following our Annual Meeting, Conference of Mayors President, Knoxville Mayor Victor Ashe, appointed a Task Force for Military Base Closings and Economic Adjustments. Mayors Susan Golding of San Diego and Edward Rendell of Philadelphia were appointed co-chairs of this Task Force.

With the help of a grant from the Economic Development Administration of the U.S. Department of Commerce, the Conference of Mayors held two meetings to assist mayors in preparing for the next round of base closings scheduled to be announced in February 1995. Approximately 150 communities were represented at the two meetings. The first was held in San Diego on December 8–9, 1994 and the second was held in Washington on January 24, 1995 in conjunction with the conference of Mayors Winter Meeting.

The attached recommendations are an outgrowth of those meetings, as are the quotes that appear in the margins.

On behalf of our officers, members, and staff; we think those mayors and city representatives who attended the two meetings, and especially appreciate the tremendous assistance given to us by the Economic Development Administration and the Office of Economic Adjustment at the U.S. Department of Defense. Without their help, this historic Conference initiative would not have gone forward.

In addition, I would like to thank our co-chairs, Mayors Golding and Rendell, for their outstanding leadership on the Task Force.

We also recognize Mayor Jerry Abramson of Louisville, past president of the Conference of Mayors, for making this issue of base closing a priority for the mayors last year, as well as current President Victor Ashe who recognized the importance of this issue and kept military base closings a top priority for the mayors, even though he had no military bases in his community.

Michael Kaiser, our Conference Staff Director, deserves special thanks for his determination and hard work in following through to make our first past-Cold War initiative on base closings and economic adjustments a success for our members as we confront the challenges of economic conversion in the year ahead.

J. THOMAS COCHRAN,
Executive Director.

RESOLUTION ON BASE CLOSINGS

Whereas, the United States Conference of Mayors has formed a military base closing and economic adjustment task force, and

Whereas, this task force has held two meetings in San Diego, California and Washington, DC to help mayors effectively deal with the consequences of military base closings, and

Whereas, mayors attended these two task force meetings in San Diego December 8–9, 1994 and in Washington January 24, 1995 in conjunction with the Conference of Mayors Winter Meeting, Now, therefore, be it

Resolved, mayors call for several actions necessary to ease the impact of base closings on various communities to return the land to economically productive civilian use, including:

Providing and continuing federal funding for communities affected by defense downsizing, including,but not limited to, the support of the Economic Development Administration (EDA) and the Office of Economic Adjustment (OEA);

Streamlining the process for transfer and clean-up of military facilities scheduled for closure; and

Securing local control of decision-making relating to infrastructure and resources; be it further

Resolved, The United States Conference of Mayors will issue a formal report to the White House and Congress prior to the next round of base closings scheduled to begin March 1st to address these actions.

RECOMMENDATIONS FROM THE MAYORS' TASK FORCE ON MILITARY BASE CLOSINGS AND ECONOMIC ADJUSTMENTS

RECOMMENDATION 1: SPEED AND IMPROVE FUNDING FOR AFFECTED COMMUNITIES

Mayors ask that the federal government respond to a base closing as the would to any *natural* disaster. Mayors call for federal agencies to respond as quickly as FEMA (Federal Emergency Management Agency) to assist communities affected by base closings. Financial and technical support should be given immediately upon designation of a base closing. This impact aid should be awarded without excessive paperwork or time delays.

RECOMMENDATION 2: ELIMINATE HUD APPROVAL OF LOCAL COMPLIANCE WITH THE MCKINNEY ACT (I.E., THE BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE ACT OF 1994)

Under the Base Closure Community Redevelopment and Homeless Assistance Act, cities must work with homeless assistance providers and local redevelopment authorities to develop a local reuse plan for surplus federal properties. The Department of Housing and Urban Development (HUD) must then approve the plan, and the Development of Defense (DOD) then acts in accordance with HUD approval. Mayors believe that the requirements of this statute, particularly the requirement of HUD approval, essentially represents another unfunded federal mandate. How facilities are reused should be entirely a local decision.

RECOMMENDATION 3: STREAMLINE THE PROCESS FOR TRANSFERRING TITLE AND CONTROL OF MILITARY BASE PROPERTY TO LOCAL GOVERNMENTS

As a result of the President's five-point plan and emphasis on community input, there have been tremendous improvements in the property transfer process. However, much more needs to be done.

Because existing efforts have not been effective, mayors call for the President to appoint an official Ombudsman at the National Economic Council in the White House, who can respond in a timely fashion, impose coordination and communications between federal agencies, and cut the red tape to facilitate property transfer and economic development of military bases.

Additionally, mayors call for a revision clause for properties considered for public benefit. In many cases, the property was given freely by the local community to the federal government when the bases were first built. This property therefore should be given back to the local community, not sold back.

RECOMMENDATION 4: DEFINE WHAT CONSTITUTES A "REUSE PLAN"

There are different points of view among federal agencies about what constitutes a reuse plan. For example, current law requires that a reuse plan be completed within nine months. But this time is not sufficient if the definition of a reuse plan includes environmental impact studies and related documentation.

The law should recognize the variety and differences among military bases. A standard nine month period may be appropriate for smaller bases, but it is not enough time for larger bases where multiple jurisdictions are involved or where environmental contaminants are more difficult to identify. A range therefore (e.g., 6–12 months) should be considered rather than a standard nine months for all bases.

RECOMMENDATION 5: QUALIFY MILITARY BASES FOR AUTOMATIC CONSIDERATION AS ENTERPRISE ZONES

If bases were automatically designated as "Enterprise Zones," it would give cities many advantages to undertake economic development projects. For example, special enterprise zone designation for military bases would allow communities to use tax credits for hiring out-of-work federal employees.

RECOMMENDATION 6: ELIMINATE THE REQUIREMENT THAT MILITARY BASE CONVERSIONS COMPLY WITH DUPLICATIVE STATE AND FEDERAL ENVIRONMENTAL REGULATIONS

Mayors call for better coordination between state and federal governments to eliminate the needless duplication of efforts required for environmental compliance. The cost and time involved in trying to comply with both federal and state regulations are enormous. Many of these regulations are duplicative. The federal government should agree to find compliance with state regulations that are substantially equivalent, provided that the state agrees to meet federal timetables and provide a single point of contact.

RECOMMENDATION 7: CLARIFY NATIVE AMERICAN PARTICIPATION IN THE REUSE PLAN

The law remains unclear regarding which entities of the federal government have the authority to make claims on behalf of Native American Tribes. Some communities have spent months on reuse plans, only to have them stopped at the last minute by claims from the Department of Interior. Mayors call for better coordination among the armed services and the Bureau of Indian Affairs (BIA) within the Department of Interior to clarify the rights of Native Americans with regard to military bases.

RECOMMENDATION 8: EXEMPTION/EXTENSION OF MILITARY BASE CONVERSION FROM UNIFORM BUILDING CODES, UNIFORM FIRE CODES AND THE AMERICANS WITH DISABILITIES ACT COMPLIANCE

Although all mayors feel compliance with federal and local laws is important, immediate compliance with many federal building codes is simply impossible. Most military properties are not up to code. Unless the federal government is willing pay to bring these properties up to code, mayors ask that the time for compliance be lengthened, or that compliance be left to the discretion of the local governments which are responsible for enforcing these codes.

RECOMMENDATION 9: CLARIFY OWNERSHIP RIGHTS TO AIR EMISSION CREDITS UPON CLOSURE OF A MILITARY BASE

All air emission credits should be classified as a local asset under the law, especially in those cities where strict air emission limits exist. The federal government should provide for prompt transfer of any credits formerly used by the military in connection with base property.

RECOMMENDATION 10: REQUIRE THE FEDERAL GOVERNMENT TO PAY FOR THE REMOVAL OF FUNCTIONALLY AND ECONOMICALLY OBSOLETE STRUCTURES AND FIXTURES ON CLOSED MILITARY BASES

As noted in Recommendation #8, many buildings on military bases do not meet building codes. In many cases it would cost more to fix us these buildings than it would to tear them down. Mayors ask that the federal government provide the funding to remove all obsolete structures and fixtures from closed military bases. Further, that these anticipated costs be considered among the criteria used by the Base Realignment and Closure Commission (BRAC) to determine whether or not a particular base should be closed.

RECOMMENDATION 11: ENACT LEGISLATION TO PERMIT DUAL USE OF BASES

Although the law makes reference to dual use capability (i.e., military and civilian use of base properties simultaneously), the reality is that dual use is largely left to the discretion of the local base commander. Mayors call for clarification and consistency from the Department of Defense to permit dual use activities on all military bases and that a prescribed method be established for communities to actively present a dual use plan for those facilities considered to be surplus by the military.

RECOMMENDATION 12: EDUCATE BOND RATERS AND INSURERS REGARDING THE ACTUAL IMPACT OF CLOSED MILITARY BASES ON BOND RATINGS

There is a deep lack of understanding among bond raters and insurers with regard to the impact of base closings on local communities. Although this is not a federal concern, the mayors would like the federal government to be aware that they plan to send a delegation to Wall Street to meet with bond raters and insurers to help reduce the misunderstandings that result in lower bond ratings and difficulties for cities to obtain the necessary insurance coverage following a base closing.

RECOMMENDATION 13: OPEN THE FEDERAL APPRAISAL PROCESS

Many communities have had the experience of not knowing how the federal appraisal of base properties was made, and have had no chance to react to it, challenge it, or offer an appraisal of their own. Since the property appraisal process has a tremendous impact on the local community, this process needs to include more local involvement. More importantly, this process needs to emphasize the exchange of properties for local conversion to promote private sector participation (i.e., in cases where the local government retains ownership and then leases these properties to the private sector).

RECOMMENDATION 14: PRESERVE FINANCIAL AND TECHNICAL SUPPORT FOR COMMUNITIES AFFECTED BY PREVIOUS BASE CLOSURE PROCESSES (1988, 1991, 1993)

Mayors unanimously support the involvement of the Economic Development Administration (EDA) at the U.S. Department of Commerce and the Office of Economic Adjustment (OEA) at the U.S. Department of Defense in assisting those communities affected by military base closings and defense industry downsizing. The majors call for the continued support of these agencies and for increased funding, commensurate with the impact of the 1995 BRAC round, and any subsequent rounds.

Additionally, mayors call for special consideration to be given to those communities hard hit by previous BRAC rounds and ask that the 1995 BRAC decisions take into account the cummulative economic impact on these communities. Whenever possible, the federal government should consider relocating other federal agencies/programs to these affected communities.

RECOMMENDATION 15: CLARIFICATION OF THE DEFINITION OF MILITARY BASES

Military bases should be clearly defined under the law (i.e., what constitutes a military reservation for the purposes of BRAC). In addition, mayors ask that GOCO (Government Owned Contract Operated), munitions and other defense related facilities be considered for inclusion under the BRAC law, should the BRAC law be extended beyond 1995. (Note: Currently these properties are evaluated under GSA and other federal rules and regulations.)

RECOMMENDATION 16: MAKE FURTHER REVISIONS/REVIEW OF THE PRYOR AMENDMENTS

The local reuse authority should have the right to reserve—prior to any non-Department of Defense screening—all or part of a base for an economic development conveyance application. This application could occur prior to or during the planning process, but should not have to wait until the plan is completed.

RECOMMENDATION 17: ADDRESS HAZARDOUS WASTE CLEANUP OF BASES

There is no question that the federal government is responsible and liable for cleanup of military bases. However, it is clear that the federal government greatly underestimated the cost of cleanup. Since communities cannot develop sites until they are cleaned up, it is recommended that the Federal government either allocate more money for cleanup or change the regulations for military bases. The federal government must adhere to a timetable for clean up, just as it imposes timetables on local governments and private contractors. Furthermore, communities in all States should be allowed to separate clean parcels of land from dirty parcels to allow economic development plans to move forward.

RECOMMENDATION 18: GIVE CONSIDERATION TO LOCAL JOB CREATION

Many of the jobs created by a base closure are in the area of environmental cleanup, base security, utility improvements, and the demolition of buildings. Priority should be given to local residents for these jobs/contracts. Also, special job training should be made available locally to ensure that federal employees who served the nation so well for so many years receive every possible opportunity we can give them, especially since many of these people are just a few years away from receiving retirement benefits.

RECOMMENDATION 19: PRIORITY FOR PUBLIC BENEFIT TRANSFER

Every piece of property should be considered for Public Benefit Transfer/Economic Development Conveyance (EDC) before the federal government begins selling to the highest bidder. As soon as a piece of property is identified for an EDC, a community should be allowed to approach local financial lending institutions to give interested parties quick access to these properties.

RECOMMENDATION 20: PROVIDE TITLE INSURANCE FOR FEDERAL PROPERTY

Mayors recommend that the federal government provide title insurance for all federal properties. Given the hazards and unknowns about federal properties, particularly from an environmental point of view, it is not going to do a city any good to have title to these properties, and then attempt to turn around and convey them—whether that be to a non-profit or private outfit—only to find out that they cannot get the title insured.

THE AMERICAN COUNTY PLATFORM AND RESOLUTIONS 1994-1995—COMMUNITY AND ECONOMIC DEVELOPMENT

(From the NACO National Association of Counties)

2.5 CHALLENGES AND LOCAL IMPACTS OF BASE CLOSURE

The adverse economic impacts of military base closures are devastating for small or rural communities and metropolitan areas. Base activities of ten play a dominant role in local and regional economies. Many communities have witnessed the departure of 10 to 30 percent of their population as a result of a base closure. Economic downturns and slow economic growth over the past several years have hurt the ability of large and small communities to adjust to base closures, particularly when they must grapple with the cumulative effects of cuts in other federal programs. For an impacted community of any size, the transition of a closing military base to civilian use is a long, difficult and costly process.

Job Loss. The most immediate impact felt by a base closure community is the loss of both military and civilian jobs at the base, followed by secondary jobs, particularly retail and service positions in the surrounding community. These job losses then lead to population loss as people leave the area in search of new jobs. The Department of Defense (DOD) often does not allow local businesses to provide environmental testing and cleanup services that would create jobs in communities in which bases are closed.

Eroding Tax Base. Local sales and income tax revenues decline as population and incomes drop, and the decline in real estate values reduces property tax revenues. This erosion of the tax base reduces the ability of local governments to provide needed services—job training, job search assistance, health services, substance abuse counseling, domestic violence prevention, and possibly welfare assistance—just as the need for them increases.

Increased Local Government Costs. Local governments can incur substantial long-term costs as a result of a base closure within their jurisdiction. These costs include maintenance of roads, buildings and other infrastructure and provisions for police and fire protection on the base. These services may be provided by a caretaker force until the base property is transferred, but the local government will have to provide services to the area after transfer. It is important for local governments/reuse entities to have the opportunity to provide caretaker services which would provide continuity and enhance transition to re-use. Large portions of base property are often available for public benefit transfer for aviation, education, health care, public recreation and historic preservation. Organizations that receive base property for these purposes are typically tax-exempt and pay no property taxes to offset the costs of local government services.

Substandard Buildings and Infrastructure. Many buildings and much of the physical infrastructure, such as streets and utility lines, on military bases do not meet the requirements of the uniform building, electrical and other codes that set the national standard for what is required for civilian use. Unless the federal government assures that transferred facilities are in good working order and comply with applicable federal, state and local codes, including the Americans with Disabilities Act, local governments will face burdensome maintenance and renovation costs as they assume jurisdiction over closed bases.

Declining Real Estate Values. In response to the loss of job opportunities and the drop in population, real estate values decline, particularly in residential real estate. There often is a sudden surplus of housing and a deficit of people who want to live in the area. This decline in real estate values can be exacerbated by the presence of vacant military housing on the base which is perceived as adding to the supply of housing. The value of commercial and industrial real estate also declines. Building space on the base may represent more than a ten year supply for the local community. Owners have less incentive to invest in their property as real estate values decrease. As a result, local governments will likely encounter new hazards throughout their community from under maintained and abandoned property.

Adverse Impact on Local Banks. Often large numbers of small multi-family units exist around military bases. When the military withdraws, the units are empty, and owners cannot pay their mortgages. Local banks have indicated a willingness to restructure loans. However, examiners from the Comptroller of the Currency will reclassify these loans as non-performing. Regulatory relief is needed during the transitional period to allow an orderly restructuring of these loans.

Strong, proactive support from the President is vitally needed to assist in conversion and reuse efforts. Active leadership on the part of the Secretary of Defense and the service secretaries is critical. The administration needs to look for ways to expedite reuse, reduce delays, and cut costs to closure communities.

2.5.1 Federal Oversight of Base Closures—Efficient conversion of closed bases to productive civilian uses will require the coordinated efforts of several departments of the Federal Government. Conflicting missions within DoD and among other federal departments and agencies have slowed the base reuse process and added to the difficulties reuse communities face. Congress and DOD have made unrealistic estimates of the profits that the Federal Government will receive from reuse of closed installations. As a result, the conversion process is delayed, because base commanders are often forced to make economically unrealistic demands in the sale or lease of base facilities.

An Assistant Secretary of Defense should be appointed in DoD whose primary responsibilities are to ensure rapid conversion of facilities and economic development which enhance local economies and the nation's development as a whole. This senior official must have the authority and responsibility to administer base closure activities for the three branches of the military and coordinate actions taken by federal departments and agencies which impact conversions. It is critical that this person have the confidence and support of the president. This official should foster an intergovernmental partnership through continuing dialogue with the affected communities.

A new working group should be formed or modification made in the membership of the Economic Adjustment Commission to meet with the Office of Economic Adjustment. Counties, redevelopment districts, states and cities should have representatives on this working group, and pertinent federal departments and agencies should participate. These include Labor, Commerce, Treasury, Health and Human Service, the Office of Management and Budget, Housing and Urban Development, the Environmental Protection Agency and Small Business Administration.

The base closure commission should have greater geographic representation and representatives from local government.

The Secretary of Defense should provide clear orders to all commanders on installations designated for closure that their primary mission shall be facilitating swift civilian reuse of the installation while minimizing adverse impacts on the community in which the facility is located.

2.5.2 Economic Adjustment Assistance—To maximize the fiscal benefit of base closure, the Federal Government must assist in the rehabilitation of substandard base facilities and provide creative financing terms to purchasers or developers of closed bases. In addition, DOD must recognize that many facilities, such as airfields, will lose substantial value if they are used and unmaintained or if key equipment is taken from the facility for use elsewhere.

Economic adjustment assistance, from the Officer of Economic Adjustment or the President's Economic Adjustment Committee, is absolutely necessary. Such funding should not be limited to reuse planning, but should also be available for special projects on a discretionary basis and for preparing strategic marketing plans, including development, printing and distribution of marketing materials. Funds currently available for planning are inadequate. The cost of preparing general and specific land use plans, while different throughout the United States, exceeds, in every instance, the amount of funds available for reuse planning from the Office of Economic Adjustment.

"Bridge funding" to enable communities to assume responsibility for large airfields and other military facilities with civilian uses should continue for several years after closure, until the facilities can begin to generate revenue. To preserve taxpayers' investment in these assets, facilities should be maintained, and equipment that is essential for their functioning should remain intact for long-term economic development following conversion.

To assist with economic stimulus, the federal government (and state governments) should enter into joint marketing agreements with local governments to promote development of these properties.

Continued support for projects related to base closure through the Economic Development Administration remains important. Affected local governments should be eligible for federal dollars which can be used for local priorities, including making loans or grants to businesses that utilize former bases. Any loan repayments should go into a revolving loan fund for use by local governments in financing additional conversion activities.

DoD must explore alternative methods to finance the transfer of bases out of federal ownership and the development of new, productive uses on the property. Financing often can be provided without expense to the federal government merely by extending the time period during which an installment purchase of a facility must be paid. Coordinating the disposition and reuse plans with funding available through other federal departments, such as Labor and Transportation, will allow the federal government to obtain a greater overall, long term value for closed bases while mitigating adverse local impacts.

Legislation is needed to allow economic development activities to qualify as a public benefit transfer. The cost of appraisals should qualify for these funds.

The federal statute which prohibits those who acquire federal property from disposing of it at a profit should be modified, possibly with the federal government sharing a portion of the profit.

Allow local reuse authorities to issue tax-exempt industrial development bonds, to serve as business incentives and provide financial support to local closure authorities during the conversion phase.

Closing military bases should be made foreign trade zones and federal enterprise zones with the associated tax advantages and investment credits to enable them to attract private investment. Distressed base closure communities should not have to compete for zone designation with other distressed communities. If authorizing legislation limits the number of zones, then base closure sites should be designated in addition to designations for other areas.

Any national infrastructure financing programs should set aside funds for infrastructure improvements on former military installations. Bases slated for closure often have substandard and poorly maintained streets, sewers and other utility systems. Infrastructure improvement costs can create insurmountable obstacles to reuse of bases. Conversely, without infrastructure improvements, the federal government will face increasingly costly maintenance costs after base closure.

Local contractors should have preference in providing environmental remediation. Local government/reuse entities should have preference in providing interim management and caretaker services.

2.5.3 Property Transfer—It is imperative to design and implement a review and transfer process that is consistent among the operating branches within DoD. This needs to be responsive to community reuse objectives and provide prompt transfer of property to accomplish early economic recovery.

There has been only one transfer of a major base property pursuant to the 1988 or 1991 base closure laws, out of 200 eligible properties. Only interim leases have been approved, most of which have been limited to one year, and all of which can be canceled with a 30 day notice. This has been one of the greatest obstacles to local planning and development. It is difficult to recruit private businesses to locate on a base when the local governing entity can only offer a one year lease.

The pace at which leases are approved is too slow. There have been instances where lease applications have been delayed for more than nine months. DoD should process interim lease applications within 60 days as required by law.

DoD should act swiftly to implement PL. 102–426. This bill requires prompt identification and transfer of uncontaminated parcels of base property. "Parcelization" of bases with contamination on them has been held up by the Superfund law which forbids the transfer of federal property on the Superfund list until the contamination has been remediated. The law clarifies that uncontaminated parcels of bases on the Superfund list may be transferred before cleanup of contaminated parcels has been completed.

Negotiated sales of base property should require congressional review only if valued at $1 million or more. Current law requires congressional review for sales worth $100,000 or more.

The McKinney Homeless Assistance Act requires that all federal property, including closing bases, be made available to providers for the homeless. The enormous number and size of public properties on bases were not envisioned when this act was drafted. In order to eliminate any possibility of delay to reuse efforts which result from the ongoing nature of making federal property available to the homeless, legislation should be introduced which limits the screening period for McKinney Act uses on closed bases to the same screening period as federal agencies.

Key "person property" items such as machinery, equipment, and rolling stock should also be made available to assist in local economic recovery.

DoD should reexamine the policy which precludes the demolition of buildings prior to transferring bases. Many buildings are unusable because, for example, they contain asbestos, or do not comply with the Americans with Disabilities Act and state and local building codes.

Interim agreements should give local governments preference in exercising police powers and rendering caretaker services. The federal government should reimburse local governments for maintenance costs.

2.5.4. Indemification—The threat of catastrophic liability for environmental contamination has seriously dampened efforts to attract private businesses to locate on closed military bases, and directly threatens local governments with potential liability. Reuse of facilities will often require public and private financing for infrastructure, buildings and business operations. Local governments and businesses will not find lenders willing to invest in construction of new facilities on closed bases unless lenders are assured that the federal government will be responsible for damages arising from toxic contamination caused by DoD. Indemnification is a waiver of sovereign immunity that places the federal government in the same position as any other owner of contaminated property. By waiving its sovereign immunity rights, the federal government will enhance the value of its property by making new investment possible.

DoD should expeditiously develop policy or regulations to permit interim leasing without demanding waiver of rights to indemnification against environmental liability.

2.5.5. Environmental Cleanup—Environmental contamination on bases must be cleaned to a standard that not only protects human health, but also permit reuse of the facility in accordance with locally generated, legally defensible land use plans without the local agencies or private sector having to incur additional cleanup costs in order to reuse the facility. Local jurisdictions must have the opportunity to be active participants in all phases of environmental cleanup, including evaluation of site conditions and selection and implementation of remediation programs. The timetable for environmental impact statements, parcelization, and prioritization should be coordinated with civilian reuse plans.

Federal cleanup programs should provide training and employment of local residents to help mitigate the loss of jobs caused by base closure. Use of local contractors should improve compliance with local and state as well as federal standards. Funding for environmental cleanup at closing bases should continue at levels that support timely transfer and conversion.

2.5.6 Fair Market Value—Legislation is needed to enable DoD to transfer closing base property to local interests at no cost, reduced cost, or through flexible payment methods according to local conditions. Congress and DoD have made unrealistic estimates for profits the federal government will receive from reuse of closed installations. As a result, the conversion process is delayed, because base commanders are often forced to make economically unrealistic demands in the sale or lease of base facilities.

Currently, leases and sales of base property are required to be at "fair market value" even in cases where the purchasing community provided the original land to the military at no cost. This requirement hurts the ability of communities to attract new private sector jobs and investments and increases the financial burden on the base closure community.

The time period over which local governments must amortize loans to purchase these facilities is too short. Flexible payment methods could include installation sales with payment commencing after reuse operations have begun to show a positive cash flow. Alternatively, a Federal Finance Bank could be authorized to purchase federally guaranteed bonds to be issued by communities for local acquisition of closing base facilities with minimal down payments and at low interest rates.

The basis of market value is reuse. Highest and best reuse must be physically possible, appropriately supported, financially feasible, produce the highest monetary return or serve a public or institutional purpose. The appraisal of military bases is complex and challenging. The above definition of highest and best use allows considerable flexibility. A preappraisal agreement between the parties of negotiation would bridge a communication gap in the appraisal process. Areas of agreement may be (1) reuse assumptions, (2) existing physical conditions (including infrastructure), (3) community building code standards required for reuse, and (4) conversion funding resources. Properly communicated, realistic professional differences of opinion can bring about positive insight and assist in identifying the best alternatives and resolving issues. On the other hand, values based on limited knowledge, unrealistic assumptions, or simply widely different reuse considerations can cause communication gaps and negotiation roadblocks. A professional appraisal report that appropriately and realistically addresses existing physical, functional and market conditions and recognizes the gap (costs) between these existing conditions and the ultimate reuse is a valuable resource to assist in disposition/acquisition negotiations. To understand an appraiser's opinion of value, all premises, assumptions, and projections that directed the appraiser should be stated.

The appraisal process tends to inflate the value of sites by failing to consider certain factors. For example, the fair market value of an interim lease will go down after the base closes and the available supply of building space skyrockets. The federal government, however, uses the pre closure figure for the value. The government also should consider the cost of holding and maintaining real estate when evaluating the present value of base property. For example, if a base could be sold today for $1.5 million, or four years from now for $10 million, which is the better deal for the federal government if the annual caretaker cost of the property is $2.5 million? A discounted cash flow analysis should be used.

Local entities and the military should do joint appraisals. At a minimum the federal government should share appraisal instructions with localities so there is a common basis in assigning value to the cost of such things as asbestos removal and correcting building code violations. Appraisers should be instructed to value land based on uses that are consistent with locally developed land use plans even if the appraiser concludes that such use is not technically "higher and best use". As background, the "higher and best use" standard is appropriate in circumstances in which land use plans have not been modified for a long time and the appraiser concludes that there is a realistic chance of obtaining local government approval of more intensive uses of the site. Local government will be involved in the reuse plans of any closed base and they will rezone the base in the context of an overall strategy to mitigate the adverse impact of the closure. It is inappropriate, in that context, for an appraiser to step in and suggest that the community or a business cooperating with the community pay a higher price because the appraiser believes that there are other uses to which the land could be put.

2.5.7 Job Retraining—The Economic Dislocation and Worker Adjustment Act (EDWAA) administered under Title III of the Job Training Partnership Act currently serves displaced workers including those displaced due to defense downsizing. JTPA programs should continue to be utilized as the framework of any new comprehensive retraining program for dislocated workers.

The current EDWAA program would be greatly enhanced by making several changes at the state and federal level:

The administration should continue to target discretionary job training funds to those areas in which military bases have been closed or are in the process of closure.

The current application process for receiving these funds should be streamlined. Eliminating the lengthy delays in this process would increase the ability of local service providers to administer this program to dislocated military and civilian personnel on a timely basis.

Local entities should be given increased flexibility in the types of retraining programs they deem appropriate to operate and be able to bypass the current maze of approvals necessary at the state and federal level.

[From the National Commission for Economic Conversion & Disarmament]

COMMISSION CALLS FOR MORE BASE CLOSURES AND ADVANCE PLANNING IN CURRENT ROUND

A SMALLER FOURTH ROUND?

On January 24, Defense Secretary William Perry announced that the next and fourth round of base closings "will not be as large as the last one." This represents a sharp change from previous plans to make the next round larger than the previous three combined.

Secretary Perry claims the closure process is being slowed by the rising costs of base closure and the current shortage of funds. Yet "postponing closures only means the likelihood of greater closure costs in the future," said ECD Executive Director Greg Bischak, Ph.D., "and the delay of savings that could be realized from these closures."

Driving the base closure process is the goal of saving money while bringing the base structure in line with the Administration's force structure plans. These intentions have come up against the political pressures provided by the '96 elections as well as short-term budgetary pressures—because it takes money to make money through the base closure process. Yet "closing fewer bases now will only exacerbate the current mismatch between an extravagant base structure and a smaller force structure," said Dr. Bischak. "The far-flung base structure of the Armed Services is still not scaled to the reduced threats of the post-Cold War world. The taxpayer still pays too much and more downsizing needs to be done."

FORCE STRUCTURE REDUCTIONS SHOULD SHAPE CURRENT ROUND

In the last three rounds of base closures, over 70 major bases were selected for closure. The majority of the 20 bases targeted for closure in 1988 in the first round were Army bases. During the 1990 round the Air Force closed 13 and the Navy nine major installations. In the 1993 round the Navy was targeted for the bulk of the closures.

Planned reductions in the 1995 round will likely focus on downsizing bases home to heavy armor, bomber wings, Air National Guard tactical air wings and Navy air maintenance depots and ship repair facilities. A number of DoD laboratories sited on bases may be affected by the base closure round.

"Additional force structure reductions are also possible without compromising this nation's security," said Dr. Bischak. This would permit additional base closures, for additional savings. According to Commission estimates, over $3.5 billion could be saved from the defense budget on an annual basis by closing unneeded additional bases.

ADVANCE PLANNING IS NEEDED

Efforts to keep bases off the final list constitute the predominant strategy of communities facing possible closure. According to Bischak, "In past base closure rounds, a 'Save the Base' impulse led communities across the nation to spend millions of dollars to save bases while not spending a dime on promoting conversion." In the last round of closures, Charleston, South Carolina spent over a million dollars to protect five installations, but managed to save only the local Navy hospital. California mounted a full-court press costing the state millions of dollars. Already this year San Antonio has commitments worth $250,000 to save Brooks Air Force Lab, Kelly Air Force Base and other local facilities. Oklahoma has raised $200,000 to save Tinker Air Force Base and Utah has already spent $300,000 to protect Hill Air Force Base and plans to spend another $300,000 before the final decision is made.

A Commission report by Catherine Hill with James Raffel, "Military Base Closures in the 1990s: Lessons for Redevelopment," concludes from a review of past base closure experiences that communities doing the most advance planning reap the greatest returns in jobs and economic opportunity. Those communities on the hit list in this round of closures should take advantage of protection offered by the FY95 Defense Authorization Act which allows communities to do advance planning without prejudicing them for closure in the decision-making process.

BASE CLOSURE CONVERSION-RELATED PROGRAMS

[Dollars in millions]

Department	Fiscal year—		Change	Percent
	1995 appro.	1996 request		
Defense Department:				
Military Personnel Assistance	$985	$1,146	$161	16
Community Assistance (OEA)[1]	39	59	20	51
Base Closure Implementation	2,809	3,897	1,088	39
Environmental Restoration	2,298	2,087	−211	−9
Commerce Department:				
EDA Defense Conversion	120	120		
Labor Department:				
Dislocated Defense Worker Assistance[2]	178	178		
Grand total	6,429	7,487	1,058	16

[1] Does not include JROTC or National Guard youth programs.

[2] Numbers based on White House, National Economic Council estimates of dollars going to defense workers from general dislocated workers assistance funds (Title III, JTPA; FY95 appropriation for this program was $1.3 billion; FY96 request is $1.4 billion).

BASE CLOSURE CONVERSION-RELATED FUNDING

In addition to legal protection for advance planning, funds are available for communities affected by proposed base closures that wish to pursue planning for economic development, worker retraining, and facility conversion. DoD was appropriated $2.8 billion for base closure implementation for FY95. The $2.3 billion appropriated for environmental restoration of Defense Department facilities may be the most important investment, because toxic contamination remains the greatest obstacle to base redevelopment. According to Bischak, "Up-front investments are required to enable rapid and environmentally responsible economic development."

In addition, the assistance provided by the Defense Department's Office of Economic Adjustment (OEA) is invaluable in providing technical assistance and grants to communities seeking to do advance planning. The implementation of communities' conversion planning is made possible by grants from the Economic Development Administration within the Commerce Department. These grants provide substantial funds for a range of services including: infrastructure development, technology initiatives, revolving loan funds and other economic development strategies. These funds are of vital importance because they leverage private sector and local public sector dollars for targeted investments to alleviate the sudden economic dislocation caused by base closures.

Funds from the Labor Department's Dislocated Worker Program and the Defense Department's Military Personnel Transition Assistance Program round out the palette of available assistance for communities and workers facing base closures. Both defense industry workers and employees of closed bases are eligible for assistance under the $178 million going to dislocated defense worker retraining, and active duty personnel and civilian base employees are eligible for military transition assistance.

SUCCESSFUL CONVERSION MODELS

Communities at risk should look to successful models of conversion for instruction and encouragement. Both past and current bases possess assets of considerable potential use to the surrounding communities. Reuse is largely conditioned by the nature of the facilities on the base. Such facilities may include airfields, hospitals, or clinics, child care facilities, stores, theaters, recreational facilities and housing. Successful base reuse usually results from a community's ability to identify the comparative advantages of its regional economy and connect its base redevelopment effort to them.

Urban base reuse is generally easier than rural base reuse given a city's economic diversification and demand for the real estate and services that a redeveloped base might provide. As an example, the transformation of McCoy Air Force Base in Orlando into an air cargo transport hub brought about the employment of 6,000 people, easily compensating for the loss of 395 jobs.

Rural base reuse can also be successful given the proper planning. Presque Isle, closed in 1961, was located in an isolated rural location. However, the local leadership was able to transform the base into an economically diverse center by planning strategically, inviting outside companies to the site and prorating rent to the number of new jobs created. 1,302 jobs were created with new industrial tenants including Indian Head Plywood, Arrostook Shoe Company, International Paper, Converse Rubber Company, Northeast Publishing and a vocational training school.

Industrial parks are a popular option for base reuse. However, communities should be conscious of the wide variety of other possible projects. Air Force bases and naval air stations remain clear candidates for new municipal or regional airports and air cargo hubs. Redevelopment of former bases as schools has been a successful model with 47 bases closed in the 1960s and 1970s now having schools on them. And while using bases for low-income and homeless housing does not raise money through sale, it does achieve other important national objectives while allowing local governments to acquire the property at little or no cost. Other government uses are also possible, including administrative facilities, hospitals, postal distributions centers and offices, rehabilitation centers and prisons. Often, bases are large enough to accommodate public services and private developments under a "mixed-use" strategy.

INGREDIENTS OF SUCCESSFUL BASE CONVERSION

(1) Advance Planning; Communities should take full advantage of the protection provided by the law as well as the assistance provided by the Office of Economic Adjustment in the Defense Department to plan for base reuse before a closure occurs. They must evaluate the comparative advantages of alternative civilian purposes and the means of linking these economic development strategies with retraining options.

(2) The programs responsible for funding advance planning, economic development and retraining must all be funded sufficiently to provide adequate resources to support the base closure process.

(3) These programs, spread out over the Departments of Defense, Commerce and Labor, must be coordinated so that they can deliver comprehensive services efficiently.

(4) Cleanup funding should come from the DoD budget to discourage further pollution. The *Federal Facilities Compliance Act* and the federal agreements signed by the DoD, the EPA and State governments give State officials authority to enforce hazardous waste laws by levying fines and exacting other penalties on the Federal Government for lack of compliance with environmental regulations. Governor Pete Wilson of California recognized this right in a recent letter to Defense Secretary Perry stating, "California expects DOD to comply with the federal/state cleanup agreements it has signed at California military bases. DOD is contractually obligated to seek sufficient funding to permit environmental work to proceed according to the schedule contained in those agreements. California will not hesitate to assert its right under those agreements to seek fines, penalties and judicial orders compelling DOD to conduct required environmental work."

(5) There are many stakeholders in base reuse development. Local, state and federal government officials, private developers, universities, and local citizens and citizens groups all have a valuable role to play. No single party should be excluded or allowed to dominate the process. An active government role is essential to ensure that in instances where reuse is feasible, conversion plans carefully weigh the interests of private developers and the community's social and economic needs.

Since the bases are government property, the opportunity to use these former bases for public purposes should not be overlooked. A concreted planning effort, informed by an understanding of the differences among bases, is essential. With federal leadership and local activism, the downsizing of the military base structure could produce a host of assets to spur new economic development in communities across the nation.

OREGON RECIPIENTS OF OUTSTANDING COMMUNITY INVESTMENT AWARDS

Mr. HATFIELD. Mr. President, as Congress begins the difficult task of confronting our Federal deficit and addressing the needs of our less-developed communities, we must focus on innovative ideas to meet these needs. Bureaucracy has often failed to provide successful solutions, making the formation of public-private partnerships necessary to jointly aid neighborhoods. Successful community development must be locally specialized. Attempts by Congress to write a Federal prescription for our Nation's underdeveloped communities will not succeed unless these strategies are sensitive to the diverse needs of those localities.

One organization is making a difference in developing communities by providing localized, market-guided assistance. The Social Compact is a coalition of hundreds of leaders from the financial services and community development industries who have combined their forces to strengthen America's at-risk neighborhoods, both urban and rural. Firmly grounded in John Locke's thesis of a covenant between members of society and the community from which one has prospered, emphasizing commonalities rather than accentuating differences, the Social Compact advocates a voluntary call to action, mobilizing institutions to invest their unique capabilities in neighborhood self-empowerment partnerships.

The Social Compact each year recognizes participating partnerships for their achievements in community development. I am pleased to announce that two partnerships in Oregon, the Portland Community Reinvestment Initiatives partnered with the U.S. Bank of Oregon, and the Northeast Community Development Corp. partnered with First Interstate Bank of Oregon, each received the Social Compact's 1995 Outstanding Community Investment Award.

Portland Community Reinvestment Initiatives and U.S. Bank of Oregon were recognized for their efforts in reclaiming 350 properties located in some of Portland's most vulnerable areas. This pioneering response to an unprecedented affordable housing crisis in northeast Portland has given residents the opportunity to become homeowners and improve the supply of quality, affordable rental properties as a permanent community asset. Portland Community Reinvestment Initiatives was created by the city of Portland in an effort to provide a long-term remedy for large scale foreclosures facing northeast Portland. U.S. Bank of Oregon stepped forward with a pioneering financing solution. The outcome of this teamwork resulted in one-third of the homes being purchased by lower-income families and the remaining units are being rehabilitated into affordable rentals.

The Northeast Community Development Corp. and First Interstate Bank of Oregon were recognized for developing a comprehensive program to provide the opportunity for homeownership for 250 Portland families, reclaiming 4 vulnerable inner northeast Portland neighborhoods. Initially funded by a Federal Nehemiah Housing Opportunity grant, the Northeast Community Development Corp. original aim was to construct and renovate 250 single-family homes that would later provide first-time home ownership opportunities for lower and moderate-income families.

First Interstate took the lead in the project by providing construction financing, grant funding, and a line of credit for the development of the first five demonstration homes. First Interstate provided additional assistance by organizing a consortium of six local leaders to commit $1.9 million in construction financing and first-time homebuyer programs for potential borrowers. As a result of this private-public teamwork, property values are rising in targeted areas, crime is decreasing, and residents have a renewed sense of pride in their neighborhood.

The ethic of civic responsibility and the spirit of community are fundamental principles which have guided our country's evolution. The award recipients from Oregon are stellar examples of these virtues in our modern times. They should serve as reminders of what can be accomplished when government acts locally in a creative alliance with the private sector.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The following measures were read the second time and placed on the calendar:

S. 761. A bill to improve the ability of the United States to respond to the international terrorist threat.

S. 790. A bill to provide for the modification or elimination of Federal reporting requirements.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 625. A bill to amend the Land Remote Sensing Policy Act of 1992 (Rept. No. 104–81).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Con. Res. 13. An original concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 (Rept. No. 104–82).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 800. A bill to provide for hearing care services by audiologists to Federal civilian employees; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. 801. A bill to extend the deadline under the Federal Power Act applicable to the construction of two hydroelectric projects in North Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS:

S. 802. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel ROYAL AFFAIRE; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN:

S. 803. A bill to amend the Defense Base Closure and Realignment Act of 1990 in order to revise the process for disposal of property located at installations closed under that Act pursuant to the 1995 base closure round; to the Committee on Armed Services.

By Mr. BRADLEY:

S. 804. A bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products, and to use a portion of the resulting revenues to fund a trust fund for tobacco diversification, and for other purposes; to the Committee on Finance.

By Mr. SIMPSON:

S. 805. A bill to improve the rural electrification programs under the Rural Electrification Act of 1936, to improve Federal rural development programs administered by the Department of Agriculture, to provide for exclusive State jurisdiction over retail electric service areas, to prohibit certain practices in the restraint of trade, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI:

S. Con. Res. 13. An original concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002; from the Committee on the Budget; place on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN:

S. 800. A bill to provide for hearing care services by audiologists to Federal civilian employees; to the Committee on Governmental Affairs.

THE HEARING CARE FOR FEDERAL EMPLOYEES ACT

Mr. COCHRAN. Mr. President, today I am introducing legislation to include audiology services in the Federal Employee Health Benefits Program [FEHBP].

This bill would amend the statute governing the Federal Employees Health Benefits Program by requiring FEHBP insurance carriers to guarantee direct access to, and reimbursement for, audiologist-provided hearing care services when hearing care is covered under a FEHBP plan.

The statute governing FEHBP, title 5, United States Code, section 8902(k)(1), allows direct access to services provided by optometrists, clinical psychologists and nurse midwives, yet fails to allow direct access to services provided by audiologists in FEHBP plans covering hearing care services.

The legislation I am introducing today would remedy this situation by permitting direct access to audiology services in FEHBP plans covering hearing care services. This measure will not increase health care costs since it would not mandate any new insurance benefits. On the contrary, the bill should reduce costs of hearing care by facilitating direct access to health care providers who are uniquely qualified to diagnose the extent and causes of hearing impairment.

I hope my colleagues will carefully consider this legislation and join me in support of its enactment.

By Mr. HOLLINGS:

S. 802. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Royal Affaire;* to the Committee on Commerce, Science, and Transportation.

TRADING PRIVILEGES LEGISLATION

• Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct the vessel *Royal Affaire*, official No. 649292, to be accorded coastwise trading privileges and to be issued a certificate of documentation under section 12103 of title 46, United States Code.

The *Royal Affaire* was constructed in Auckland, New Zealand, in 1980. The vessel, a sailboat, is 76.3 feet in length, 20.3 feet in breadth, and 8.8 feet in depth and is self-propelled.

The vessel was purchased by Homer C. Burrous of Charleston, SC, in 1989 for approximately $900,000, with the intention of chartering the vessel for cruises in and out of St. Thomas and other foreign ports in the Caribbean. Since purchasing the vessel in 1989, the owner has had the vessel refitted in a U.S. shipyard at a cost of over $800,000. Mr. Burrous would like to utilize the vessel to conduct coastal cruises. However, because the vessel was built in New Zealand, it does not meet the requirements for a coastwise license endorsement in the United States.

The owner of the *Royal Affaire* is seeking a waiver of the existing law because he wishes to use the vessel for coastal cruises. His desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If he is granted this waiver, it is his intention to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Royal Affaire* to engage in the coastwise trade and fisheries of the United States.•

By Mr. McCAIN:

S. 803. A bill to amend the Defense Base Closure and Realignment Act of 1990 in order to revise the process for disposal of property located at installations closed under that act pursuant to the 1995 base closure round; to the Committee on Armed Services.

THE BASE TRANSITION ACCELERATION ACT

• Mr. McCAIN. Mr. President, today I am introducing legislation that will finally ensure that fairness and discipline are exercised during the conveyance and land transfer portion of the 1995 BRAC round. The Base Transition Acceleration Act will do three things: eliminate the ability of special interests, under the existing process, to impose endless delays and reap unfair benefits; appropriately place control of the redevelopment process in the hands of the communities affected by the BRAC; and speed the economic recovery of those communities adversely impacted by the closing of a military installation in their midst.

Mr. President, the end of the cold war provided a unique opportunity for this Nation to safely down-size our Armed Forces. Doing so required the execution of a two-phase plan; first, reduce the numbers of military personnel; and then, slash infrastructure to a level appropriate for the new size of the force. Toward that end, since 1986 we have reduced our military force structure by nearly 40 percent. Infrastructure, however, has been trimmed by only about 15 percent.

We asked the services to reduce their numbers, they succeeded. We attempted to create an apolitical mechanism through which excess infrastructure might be designated for closure; we failed, failed for two reasons—Government redtape and interference from special interest groups.

Since 1988, a new Federal bureaucracy has grown up around the base closure process. Interagency squabbles and turf battles among DOD, EPA, Interior, HHS, GSA, and many other entities have caused excessive delays in Federal screening, issuance of conflicting and unhelpful regulations, and inordinately intrusive review of redevelopment proposals. The result has been increased costs to the Federal Government and communities alike—including costs to DOD to maintain idle military facilities in caretaker status.

The Base Transition Acceleration Act legislation eliminates this excessive Federal regulation. The legislation strictly limits the timeframe for Federal property screening and empowers a single agency, DOD, to quickly and effectively manage the process. At the same time, it removes the Federal Government from the process of formulating redevelopment plans and places that responsibility within the purview of the communities themselves.

Unfortunately, the problems associated with the BRAC process are not limited to those created between the Federal agencies. Each additional hand that enters the process brings further complication and added time. With every new round of the BRAC, more new hands enter the process. A cottage industry of consultants has evolved and flourished since 1988 when the first round of base closures were ordered. Special interests are inserting themselves with increasing frequency into the military property disposal process.

Each of these competing interests has sought the assistance of their elected representatives or their sponsor agency, and in most cases received it. The result should come as a surprise to on one; this ostensibly apolitical process has become excessively politicized. This proposed legislation takes great strides to correct this problem and to restore fairness to the community redevelopment process.

Over the past year or so, I, along with most other Members of the Senate, have talked extensively with constituents who are deeply troubled by the current round of base closing deliberations. Their anxiety is certainly not difficult to understand. The reasons for their concern are, however, dramatically different from those expressed in earlier rounds.

During the first three rounds, community concerns tended to center around the simple question of whether a base in their community would be ordered closed. This time, the issues are far more complex. Not only do our constituents ask whether the base will close, they now ask other, more difficult questions. They want to know how to avoid a prolonged transition period. They want to know whether to hire consultants. They want to know how to handle special interest groups. They want to know how to deal with the bloated base closure bureaucracy. Most of all, they want to know when they will be able to get their lives back on track.

These questions represent valid concerns—concerns based in horrific example after horrific example of costly and lengthy legal and political battles among Federal, State, and local governments, special interest groups, and community members.

Mr. President, the simple fact remains—until a reuse decision is made and property is conveyed to the new owners for redevelopment, the affected community suffers economically and emotionally.

This legislation is simple and straightforward. It will significantly reduce the need for communities to employ expensive consulting firms because it will eliminate the redtape of excessive regulations for closing military bases. It will allow DOD to quickly realize the savings from relinquishing excess military infrastructure. And most importantly, it will relieve the economic stress on local communities and allow them to quickly redevelop these former bases in the manner best suited to the community's needs.•

By Mr. BRADLEY:

S. 804. A bill to amend the Internal Revenue Code of 1986 to increase the excise taxes and tobacco products, and to use a portion of the resulting revenues to fund a trust fund for tobacco diversification, and for other purposes; to the Committee on Finance.

THE TOBACCO CONSUMPTION REDUCTION AND HEALTH IMPROVEMENT ACT OF 1995

Mr. BRADLEY. Mr. President, I came to the floor this afternoon to submit a revised version of my bill to increase the Federal excise tax on tobacco products. My original bill would take the current tax level for all types of tobacco products and multiply it by 5.167. This would raise the tax on a pack of cigarettes from 24 cents a pack to $1.24 a pack. My revised bill goes one step further to help Americans—particularly children and teenagers—achieve a tobacco-free future.

Mr. President, I have been on this floor many times talking about the dangers of tobacco use. I have repeatedly stated that tobacco use kills well over 400,000 Americans every year—more than alcohol, heroin, crack, automobile and airplane accidents, homicides, suicides, and AIDS combined. And I have sought to bring attention to the fact that each year a growing number of teenagers start smoking, despite the fact that selling cigarettes to minors is illegal. Virtually all new users of tobacco are teenagers or younger, and every 30 seconds a child in the United States smokes for the first time.

Yet there is another aspect of the tobacco story which has not received much attention on the floor of this body. Generally, when people think about the dangers of tobacco use, they think about cigarettes. They think about the lung cancer, the emphysema, and the heart disease which cigarettes cause in those who use them. And they realize that these health impacts are not limited to those who actually smoke the cigarettes. Rather, environmental tobacco smoke—smoke from other people's cigarettes—causes tens of thousands of deaths each year.

But as grave as the impacts of cigarette smoking are, they are only part of the story of the death and destruction which tobacco products wreak on our society. There is another, less well-known yet still devastating side to the tobacco story. And that is the tale of smokeless tobacco products.

The use of smokeless tobacco—namely snuff and chew—is skyrocketing in the United States. Between 1986 and 1990, sales of snuff grew by close to 50 percent. This increase follows several decades of decline in sales and use. Part of this increase can be attributed to increased social pressures placed on smokers, due largely to concerns about second-hand smoke. And part of it has been fueled by perception that smokeless products are a safe alternative to smoking.

But the belief that snuff and chew are safe is absolutely false. Let me state this very clearly: smokeless tobacco can kill you. It kills in different ways than cigarettes do, but it kills nonetheless. Smokeless tobacco causes mouth cancer. It causes gum cancer. It causes throat cancer. These are just a few of the oral problems smokeless tobacco can cause. And the threat of developing these diseases, and of dying of them, is very real. Long-term snuff users are 50 times more likely to develop gum cancer and four times more likely to develop mouth cancer than nonusers. Nearly 30,000 new cases of oral cancer are diagnosed each year in the United States. Half of those people are dead within 5 years.

Smokeless tobacco products are also highly addictive. A typical dose of snuff contains two to three times as much nicotine, the addictive substance in tobacco, as a single cigarette. Because of these health risks, snuff is banned in a growing number of countries, including the United Kingdom, France, Spain, Belgium, Holland, Germany, Denmark, Australia, and New Zealand.

Despite these health risks, the use of smokeless tobacco is skyrocketing in the United States. So who are these new smokeless users—those individuals who are heading down a path of addiction, cancer, and death? For the most part, they are children. The average age of new smokeless users is 9½ years old. Two-thirds of smokeless users start their habit before they are even 12 years old. It is now estimated that 3 million Americans under age 21 use smokeless tobacco, including 1 out of every 5 high school males.

Why is this happening? A large part of the explanation lies in the tobacco companies' aggressive marketing toward youth. But another part of the explanation is the cost of smokeless tobacco relative to cigarettes. Despite its dangers, smokeless tobacco is taxed at only about one-tenth the rate of cigarettes, making it a cheap alternative to cigarettes. And since kids are the most price-sensitive of all tobacco users, it is not surprising that they are turning to smokeless tobacco in ever growing numbers.

My bill proposes to remove this price incentive for kids and adults to use smokeless tobacco. It does this by setting the Federal excise tax on tins of snuff and pouches of chew at the exact same dollar amount as on a pack of cigarettes. This means that the Federal taxes on these smokeless products will increase from their current level of less than 3 cents per container to $1.24 per container. In the previous version of my bill, I would have increased the tax on smokeless products by a factor of 5. While this is a significant increase, it is not enough to eliminate the incentive for cigarette smokers to switch rather than quit, or to discourage kids from ever starting the tobacco habit.

Mr. President, I have spoken earlier this session about the many benefits which would be achieved by increasing the Federal tobacco tax. It will save billions of dollars in health care costs, not only for the Federal Government but for private insurers and citizens across the country. It will save countless lives. It will decrease unnecessary suffering. And it will discourage millions of children and teenagers from ever becoming addicted to tobacco.

These changes to my earlier bill will make these benefits even more pronounced. Smokeless tobacco must no longer be seen as a safe and cheap alternative to cigarettes. Raising the excise tax will discourage children and teenagers from ever starting to use smokeless tobacco, and it will discourage adults from considering smokeless as a safe alternative to quitting tobacco use entirely.

Mr. President, my tobacco tax bill, and the changes I am adding to it, are good health policy. They are good economic policy. And they are key to helping our children and teenagers achieve a tobacco-free future. I urge my colleagues to join me in support of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tobacco Consumption Reduction and Health Improvement Act of 1995".

SEC. 2. INCREASE IN TAXES ON TOBACCO PRODUCTS.

(a) IN GENERAL.—

(1) CIGARS.—Subsection (a) of section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax on cigars) is amended—

(A) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 and 1992)" in paragraph (1) and inserting "$5.8125 per thousand"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) LARGE CIGARS.—On cigars weighing more than 3 pounds per thousand, a tax equal to 65.875 percent of the price for which sold but not more than $155 per thousand."

(2) CIGARETTES.—Subsection (b) of section 5701 of such Code (relating to rate of tax on cigarettes) is amended—

(A) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 and 1992)" in paragraph (1) and inserting "$62 per thousand"; and

(B) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 and 1992)" in paragraph (2) and inserting "$130.20 per thousand".

(3) CIGARETTE PAPERS.—Subsection (c) of section 5701 of such Code (relating to rate of tax on cigarette papers) is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "3.875 cents".

(4) CIGARETTE TUBES.—Subsection (d) of section 5701 of such Code (relating to rate of tax on cigarette tubes) is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "7.75 cents".

(5) SNUFF.—Paragraph (1) of section 5701(e) of such Code (relating to rate of tax on smokeless tobacco) is amended by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" and inserting "$16.53".

(6) CHEWING TOBACCO.—Paragraph (2) of section 5701(e) of such Code is amended by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" and inserting "$6.61".

(7) PIPE TOBACCO.—Subsection (f) of section 5701 of such Code (relating to rate of tax on pipe tobacco) is amended by striking "67.5 cents (56.25 cents on chewing tobacco removed during 1991 or 1992)" and inserting "$3.4875".

(8) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco removed after December 31, 1995.

(b) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following rew subsection:

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $20.67 per pound (and a proportionate tax at the like rate on all fractional parts of a pound)."

(2) ROLL-YOUR-OWN TOBACCO.—Section 5702 of such Code (relating to definitions) is amended by adding at the end the following new subsection:

"(p) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes."

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (c) of section 5702 of such Code is amended by striking "and pipe tobacco" and inserting "pipe tobacco, and roll-your-own tobacco".

(B) Subsection (d) of section 5702 of such Code is amended—

(i) in the material preceding paragraph (1), by striking "or pipe tobacco" and inserting "pipe tobacco, or roll-your-own tobacco", and

(ii) by striking paragraph (1) and inserting the following new paragraph:

"(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and".

(C) The chapter heading for chapter 52 of such Code is amended to read as follows:

"CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES".

(D) The table of chapters for subtitle E of such Code is amended by striking the item relating to chapter 52 and inserting the following new item:

"CHAPTER 52. Tobacco products and cigarette papers and tubes."

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to roll-your-own tobacco removed (as defined in section 5702(p) of the Internal Revenue Code of 1986, as added by this subsection) after December 31, 1995.

(B) TRANSITIONAL RULE.—Any person who—

(i) on the date of the enactment of this Act is engaged in business as a manufacturer of roll-your-own tobacco or as an importer of tobacco products or cigarette papers and tubes, and

(ii) before January 1, 1996, submits an application under subchapter B of chapter 52 of such Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

(c) FLOOR STOCKS.—

(1) IMPOSITION OF TAX.—On cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco manufactured in or imported into the United States which is removed before January 1, 1996, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARS.—On cigars, weighing not more than 3 pounds per thousand, $4.6875 per thousand.

(B) LARGE CIGARS.—On cigars, weighing more than 3 pounds per thousand, a tax equal to 53.125 percent of the price for which sold, but not more than $125 per thousand.

(C) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $50 per thousand.

(D) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $105 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(E) CIGARETTE PAPERS.—On cigarette papers, 3.125 cents for each 50 papers or fractional part thereof; except that, if cigarette papers measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette paper.

(F) CIGARETTE TUBES.—On cigarette tubes, 6.25 cents for each 50 tubes or fractional part thereof; except that, if cigarette tubes measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.

(G) SNUFF.—On snuff, $16.17 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(H) CHEWING TOBACCO.—On chewing tobacco, $6.49 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(I) PIPE TOBACCO.—On pipe tobacco, $2.8125 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(J) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, $20.67 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco on January 1, 1996, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1986 and shall be due and payable on February 15, 1996, in the same manner as the tax imposed under such section is payable with respect to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco removed on January 1, 1996.

(3) DEFINITIONS.—For purposes of this subsection, the terms "cigar", "cigarette", "cigarette paper", "cigarette tubes", "snuff", "chewing tobacco", "pipe tobacco", and "roll-your-own tobacco" shall have the meaning given to such terms by subsections (a), (b), (e), and (g), paragraphs (2) and (3) of subsection (n), and subsections (o) and (p) of section 5702 of the Internal Revenue Code of 1986, respectively.

(4) EXCEPTION FOR RETAIL STOCKS.—The taxes imposed by paragraph (1) shall not apply to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco in retail stocks held on January 1, 1996, at the place where intended to be sold at retail.

(5) FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (19 U.S.C. 81a et seq.) or any other provision of law—

(A) cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco—

(i) on which taxes imposed by Federal law are determined, or customs duties are liquidated, by a customs officer pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1996, and

(ii) which are entered into the customs territory of the United States on or after January 1, 1996, from a foreign trade zone, and

(B) cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco which—

(i) are placed under the supervision of a customs officer pursuant to the provisions of the second proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1996, and

(ii) are entered into the customs territory of the United States on or after January 1, 1996, from a foreign trade zone,

shall be subject to the tax imposed by paragraph (1) and such cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco shall, for purposes of paragraph (1), be treated as being held on January 1, 1996, for sale.

(d) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9512. TOBACCO CONVERSION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Tobacco Conversion Trust Fund' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—The Secretary shall transfer to the Trust Fund an amount equivalent to 3 percent of the net increase in revenues received in the Treasury attributable to the amendments made to section 5701 by subsections (a) and (b) of section 2 and the provisions contained in section 2(c) of the Tobacco Consumption Reduction and Health Improvement Act of 1995, as estimated by the Secretary.

"(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—Amounts in the Trust Fund shall be available to the Secretary of Agriculture, as provided by appropriation Acts, for making expenditures for purposes of—

"(1) providing assistance to farmers in converting from tobacco to other crops and improving the access of such farmers to markets for other crops, and

"(2) providing grants or loans to communities, and persons involved in the production or manufacture of tobacco or tobacco products, to support economic diversification plans that provide economic alternatives to tobacco to such communities and persons.

The assistance referred to in paragraph (1) may include government purchase of tobacco allotments for purposes of retiring such allotments from allotment holders and farmers who choose to terminate their involvement in tobacco production."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following new item:

"Sec. 9512. Tobacco Conversion Trust Fund."

By Mr. SIMPSON:

S. 805. A bill to improve the rural electrification programs under the Rural Electrification Act of 1936, to improve Federal rural development programs administered by the Department of Agriculture, to provide for exclusive State jurisdiction over retail electric service areas, to prohibit certain practices in the restraint of trade, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

RURAL ELECTRIC LEGISLATION

Mr. SIMPSON. Mr. President, today I am introducing legislation that will improve the Nation's Rural Electric Program by putting some common sense back into the way we use taxpayers' money to fund rural electric and rural development loans. The Rural Electrification and Rural Economic Development Improvement Act of 1995 would amend a law that clearly has not evolved in step with the industry.

The fact is, the growth of our Nation's population has greatly changed—and continues to change—the nature of electric service areas. People are moving into previously underpopulated areas and our current statutes do not address that growth. There was once a widespread need for Government incentives in order to provide "affordable" electric service to consumers in many areas, but that need too, has changed.

Many areas of our country which are no longer rural are still being served by Government-subsidized utilities, even though commercial utilities are willing to provide the service. The result is a current policy which puts the U.S. Government right into the fray. We end up with a policy that subsidizes one competitor over another and we charge the bill to the taxpayers. That terrible market distortion is the product of an outdated rural electric policy that must be changed.

Since I arrived in the Senate in 1978, I have watched the current REA system transfer billions of dollars in interest subsidies from taxpayers to rural electric borrowers. Today, many of those borrowers are perfectly capable of competing in the open-market without Government subsidies.

Certainly not all of the borrowers can compete. There are, indeed, many troubled cooperatives that need assistance. That is why the objective of this bill is to pare down the bloated system so that we can continue to fund hardship loans. Nobody wants to pass legislation that will push electric rates through the roof. I certainly do not, and that will not happen with this bill.

My aim is to get the healthy borrowers "off the dole" so we can focus scarce funds on the hardship cases. That should be very clear from the beginning. I do not propose eliminating the Rural Utilities Service [RUS] or the subsidized loan program. But we should target assistance to the co-ops that really are incapable of providing affordable electric service in an open market. And we should offer healthy borrowers a nonpunitive road to the free market. Indeed, that is something many of them need.

There are a great number of co-ops out there—both distributors and power suppliers—that are locked in to high cost Government loans. On top of that, many of those distributors are stuck with expensive power supply contracts. The co-ops cannot shop around because they are loaded down with Government-financed debt they cannot afford to privatize. So they must continue on—unable to openly compete—forced to purchase more expensive power and to offset it with Government interest subsidies, while their neighbors, the profit-driven corporations, become more efficient and more competitive.

I trust my colleagues will agree that we should make every effort to get the "biggest bang for our buck." That has been one of the catch phrases of this Congress. And it applies to every Government program, not just the Rural Utilities Service. This week, members of the Budget Committee are confronting the difficult choices essential to balancing the budget by 2002. This means they must identify over $30 billion in cuts each year, for 7 years, more than 10 times the painful cuts we just passed in the rescissions bill. Everyone had best be prepared to take their lumps as we debate reductions in agricultural research, the arts, education, transportation and a host of other important areas—this electric program should not be exempted.

The overall size of the program is staggering. Current outstanding loans exceed $20 billion for distribution cooperatives—they call them "discos"—they danced through $20 billion and over $40 billion for power supply co-ops—the generation and transmission facilities, or G&T's. This is a behemoth of a Government business. The legislation I am introducing would save taxpayers millions of dollars on interest subsidies alone without repealing the program.

As I say often; borrowers that really need loans should like this bill. Under current law, some of them must wait years to get loans because available funds are allocated on a "first-come, first-served" basis and there is not enough to go around. According to the latest rural electric survey there is a $405 million loan backlog this year. That will increase to more than $500 million next year and we still do not allow the RUS to prioritize the money, if you are in the back of the line, you just have to wait.

And please hear this. The system is clogged because any entity that has ever received an REA-approved loan remains eligible for rural electric loans—forever. Hear that. It is a deal. It is "once a borrower always a borrower" and there is no end in sight. Even if a co-op is fully able to obtain market-rate credit elsewhere, it can keep coming right back to suckle at the teat of the Federal treasury's low-interest loan program again and again, even sometimes when they have not paid up on the previous one. That is not appropriate and it is not fair and it is not just. My bill would subject RUS borrowers to the very same "credit elsewhere" test that all other agricultural borrowers must face.

For example, under current law, the Farmer's Home Administration can only give a loan to a farmer who is unable to obtain "reasonable credit elsewhere." Farmer's Home is "the lender of last resort." But RUS is instead a "lender of first resort." If Congress is serious about privatizing unnecessary Government lending, then we must put a realistic means-test on RUS loans.

Some of the co-ops will tell you they already have a means-test, but let me tell you what that is. In 1992, we limited cheap Government financing for the really wealthy co-ops to 70 percent of their total debt-load. That is not a means-test. There is a big difference between 70 percent and a "credit elsewhere" test.

I believe we should retain the current three-tiered financing system that includes hardship loans, direct loans and guaranteed loans. I believe that applicants should only receive such assistance when they cannot get "credit elsewhere." Then, they can come to the Government either for low-interest hardship loans, "at-cost" direct loans or a Government guarantee of up to 90 percent.

Under my legislation, the RUS would review the borrower's books every 2 years. If a borrower's circumstances have improved they would then be allowed to prepay their Government loans, without penalty, in order to move into the commercial credit market.

The budget savings in the legislation would come from a reduction in interest subsidies and administrative costs. In fiscal year 1995, the 5 percent hardship loan subsidy cost the taxpayers $10 million, but "municipal rate" direct loans cost over $46 million. On top of that, we spent $30 million on administration. Those interest subsidies provided $74 million in hardship loans and $536 million in direct loans from the revolving fund.

My proposal would save over $60 million by using the treasury interest rate for non-hardship direct loans. With direct loans at treasury rate interest, we would save over $60 million next year. Some of that money would go to increasing the appropriation for hardship loans to $25 million, which should more than double the availability of truly necessary loans.

The National Rural Electric Cooperative Association—the NRECA—will surely mobilize to fight this bill. Oh, you bet they will. Its representatives will come to the hill saying that this legislation is going to destroy their industry, it will be a tragic portrait right straight out of "The Grapes of Wrath." But I say that this bill will not cause rural America to wither up and die. Those images are an absolute fiction.

The reality is that the REA has accomplished its mission in many areas of our country. Proof of that lies in the simple fact that competition exists for electric service in many co-op territories. I would ask again, why should the Government continue to subsidize electric loans when private industry is ready and willing to provide reasonable service?

The NRECA will also say that their competitors are trying to gobble up their choice customers. I have heard that one. To that, I would suggest that healthy co-ops should take advantage of this bill and privatize their debt. Investors are out there who want to put money into the co-ops because many of them have rapidly growing residential service areas that are a great investment. Those co-ops should be going head-to-head with their competitors on an even playing field.

On the issue of annexation and territorial predation, I believe the leading role should be played by the State public service commissions. When there are difficult—perhaps even ancestral—disputes over territorial rights, State regulatory commissions are far better suited to make appropriate determinations than is the Federal Government. Local decisions should be made at the local level.

The NRECA will also point a finger at tax incentives that are enjoyed by their profit-driven competitors. They will call that an unfair advantage. But these electric co-ops do not pay any Federal income taxes. They claim they do, indirectly, and that is true. When a cooperative distributes dividends to its members, the members must pay tax on that income. But any "Joe Citizen" who owns stock in a power company must also pay income tax on the dividends.

The argument that investor-owned utilities have an unfair tax advantage is senseless. If the co-ops really want the same tax incentives, then we would have to start taxing them. I do not think they want that.

Another very important part of the bill would improve the delivery of rural development funds, specifically low-interest "water and waste disposal" loans. We want to ensure that priority here is being given to nonprofit organizations whose projects are included in a local, regional, or statewide development plan. This would assist in the coordination of rural development efforts and it is consistent with the desire to eliminate duplicative spending.

Another item that needs correction is a provision that—since 1987—has allowed electric borrowers to invest up to 15 percent of their total plant value in rural development projects without RUS approval—and without regard to their Federal debt status.

The problem with this is that a co-op which is receiving interest subsidies on its Federal debt could actually invest any excess capital—up to 15 percent of its plant value—in "rural development projects." In theory, the taxpayers subsidize the RUS loans so that borrowers can plug low-interest funds into rural development. But a 1992 USDA inspector general's report uncovered a different picture. Of the more than $8 billion that had been invested by electric borrowers, less than 1 percent actually went to rural development investments.

The inspector general found a disturbing trend in which borrowers took their Government interest subsidies right to "market-rate Wall Street" and invested hundreds of millions of dollars not in rural development, but in mutual funds. My bill would reduce that limitation to 3 percent. I believe excess capital should be used to pay off taxpayer-subsidized debt before it is used to enrich the cooperatives.

Mr. President, I come from a State that has been magnificently served by the REA over the years. One of the first national directors of REA was one J.C. "Kid" Nichols, a Wyoming businessman who was a dear and lifelong friend of mine. He was there when the agency first embarked upon its mission in this country, a mission to bring electricity and lights to rural America. It was a stunning thing to see.

But if we are to better the lot of rural Americans—and we all know that rural America can use some real help—we need to be honest about how far we have come to where we are and how we can change where we are going. And change we must—with responsibility and with courage. The task we face is great because we have to deal with a massive national debt, an ever-dwindling Federal trough, and the wants of voracious voters.

The rural electric program is a microcosm of everything that is right—and wrong—with our country. On the one hand, the REA wired our homes for sound and light. It surely did that for the folks near my hometown of Cody, WY. And it changed the lives of rural people forever. On the other hand, we have allowed the program to grow so big and so far-reaching that we have lost sight of why it was created in the first place: it was to give rural Americans what the rest of the country had—electric power. Mr. President, that mission has been accomplished and the country has changed. Why does this program plod along—year after year—untouched by all sensibility and reason?

I have often said you show me where we need power lines in rural America today, and I will be right here to appropriate and assist in getting the money to do that in every way, discussing density, discussing all the geographical aspects, all the rest. But I have been watching this issue like a hawk for a lot of years.

I am pleased to offer this bill. I believe that it will save the integrity of the program. I will say it again. Congress must take its deficit cutting task seriously, and this legislation would be an important part of that.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 805

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Electrification and Rural Economic Development Improvement Act of 1995".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Rural Electrification Administration was created to facilitate the electrification of rural America by providing low-interest loans to electric cooperative associations and other entities for the purpose of constructing and improving rural electric systems;

(2) more than 99 percent of the residents in rural areas of the United States now have affordable and reliable electric service;

(3) a large volume of loans, at subsidized interest rates, continue to be made under the Rural Electrification Act of 1936 to electric cooperative borrowers who could obtain financing at reasonable rates and terms from a source other than the Federal Government and these borrowers have become significant and successful participants in an increasingly competitive electric utility industry;

(4) the Federal Government should make electric loans only to entities that cannot otherwise obtain funding at reasonable rates and terms;

(5) the Rural Electrification Act of 1936 authorizes low-interest and zero-interest loans and grants to be made to borrowers under the Act for the purpose of rural economic development;

(6) these rural economic development programs do not provide benefits to most rural Americans since the majority of these residents receive electric utility service from entities that do not receive financing under the Rural Electrification Act of 1963;

(7) borrowers under the Rural Electrification Act of 1936 are directly eligible for some rural development programs under the Consolidated Farm and Rural Development Act of 1972;

(8) the limited funds made available each year for all rural economic development programs should not favor these individuals who reside in rural areas that are served by borrowers under the Rural Electrification Act of 1936; and

(9) borrowers under the Rural Electrification Act of 1936 should not have a competitive advantage in serving customers in rural areas of the United States.

TITLE I—IMPROVEMENTS TO THE RURAL ELECTRIFICATION LOAN PROGRAMS

SEC. 101. REFERENCES TO THE RURAL ELECTRIFICATION ACT OF 1936.

As used in this title, the term "the Act" shall mean "the Rural Electrification Act of 1936" (7 U.S.C. 901 et seq.).

SEC. 102. CONFORMING AMENDMENT.

The Act is amended by striking "TITLE I—RURAL ELECTRIFICATION" immediately prior to section 1 (7 U.S.C. 901).

SEC. 103. OBJECTIVE OF THE ACT; INVESTIGATIONS AND REPORTS.

Effective October 1, 1995, section 2 of the Act (7 U.S.C. 902) is amended to read as follows:

"SEC. 2. OBJECTIVE OF THE ACT; INVESTIGATIONS AND REPORTS.

"(a) The objective of this Act is to authorize and empower the Secretary to make loans for the purposes of (1) furnishing and improving electric energy services in rural areas of the several States and Territories of the United States, (2) assisting rural electric borrowers to implement demand side management practices, energy conservation programs, and on-grid and off-grid renewable energy systems, and (3) furnishing and improving telephone service in such areas.

"(b) The Secretary may make, or cause to be made, studies, investigations, and reports concerning the availability of adequate electric and telephone services in rural areas of the United States and its Territories and to publish and disseminate information with respect thereto.".

SEC. 104. APPLICATION OF STATE LAWS OR ORDINANCES CONCERNING ELECTRIC SERVICE.

The Act is amended by adding, after section 2 (7 U.S.C. 902), the following new sections:

"SEC. 2A. STATE REGULATION OF ELECTRIC UTILITY SERVICE.

"Nothing contained in this Act shall be construed to deprive any State commission, board, or other agency of jurisdiction, under any State law, now or hereafter effective, to regulate electric service.

"SEC. 2B. APPLICATION OF STATE LAW.

"(a) Nothing in this Act is intended to prevent a State or political subdivision thereof from enacting and enforcing a law or ordinance concerning the curtailment, limitation, or geographic area of service provided by an electric borrower under this Act if such law or ordinance provides for the just compensation of the borrower for any condemnation, forfeiture, or involuntary sale of a facility, property, right, or franchise of the borrower that secures a loan made under this Act. Any such condemnation, forfeiture, or involuntary sale shall not be construed as interfering with the purposes of this Act.

"(b)(1) Not later than 30 days after a borrower receives such compensation, the Secretary shall require the borrower to use the proceeds of such compensation to prepay, without penalty, all or any portion of the outstanding balance on any loan that was made or guaranteed under this Act for which the Secretary holds a mortgage to, or other security interest in, the facility, property, right, or franchise for which the compensation was provided.

"(2) The Secretary shall also permit the borrower to use any proceeds of such compensation, in excess of the amount needed to prepay a loan under paragraph (1), to prepay, without penalty, all or any portion of any other loan of the borrower made under this Act.".

SEC. 105. REPEAL OF AUTHORITY FOR TREASURY LOANS.

Section 3 of the Act (7 U.S.C. 903) is repealed.

SEC. 106. REPEAL OF AUTHORIZATION FOR 2 PERCENT INTEREST RATE ELECTRIC LOANS.

Section 4 of the Act (7 U.S.C. 904) is repealed.

SEC. 107. REPEAL OF AUTHORIZATION FOR 2 PERCENT ELECTRICAL AND PLUMBING EQUIPMENT LOANS.

Section 5 of the Act (7 U.S.C. 905) is repealed.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS; REPEAL OF REQUIREMENT FOR TESTIMONY; FEES FOR NON-FINANCIAL ASSISTANCE AND SERVICES.

Section 6 of the Act (7 U.S.C. 906) is amended to read as follows:

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS: USER FEES FOR NON-FINANCIAL ASSISTANCE AND SERVICES.

"(a)(1) Except as provided for in paragraph (2), there are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such funds as necessary for the purpose of administering this Act and for the purpose of making the studies, investigations, publications, and reports provided for in section 2.

"(2) For each of the fiscal years 1996 through 2000, the amount authorized to be appropriated under paragraph (1), or otherwise made available pursuant to this Act, for the purpose of administering the rural electric program, shall not exceed $15,000,000.

"(b)(1) Effective October 1, 1995, the Secretary shall establish a schedule of fees to be charged for non-financial assistance and services provided by the Secretary to loan applicants, borrowers, and others pursuant to this Act. Such assistance and services shall include, but not be limited to, those relating to accounting, personnel training, engineering, management, auditing, data processing and information system support, duplication of documents, consolidations, and compliance with the provisions of other Federal laws or State laws.

"(2) In establishing the schedule of fees under paragraph (1), the Secretary shall ensure that the amount of each fee shall be sufficient to cover the reasonable cost of the assistance or service provided, as determined by the Secretary.

"(3) The recipient of any non-financial service or assistance provided by the Secretary shall pay to the Secretary the amount of the fee as established in the fee schedule for such service or assistance at such time as the Secretary may require. All fees paid to the Secretary pursuant to this subsection shall be deposited in the Treasury and shall be available to the Secretary, without fiscal year limitation, to pay the cost of providing such non-financial assistance and services pursuant to this Act.".

SEC. 109. CONFORMING AMENDMENTS.

Section 7 of the Act (7 U.S.C. 907) is amended by—

(a) in the first sentence, striking out "from the sums authorized in section 3 of this Act", and inserting in lieu thereof "from funds made available for the purposes of this Act"; and

(b) in the second sentence, by striking out "No borrower of funds under sections 4 or 201" and inserting in lieu thereof "No borrower liable for the repayment of any telephone loan made under section 201, and, except as otherwise provided for in section 2B or any other provision of this Act, no borrower who is liable on any rural electric loan made under this Act".

SEC. 110. REPEAL OF OBSOLETE PROVISION RELATING TO TRANSFER OF CERTAIN FUNCTIONS.

(a) Section 8 of the Act (7 U.S.C. 908) is repealed.

(b) Any action made pursuant to section 8 prior to its repeal by subsection (a) shall remain valid and in effect unless otherwise revoked.

SEC. 111. EXPENDITURES FOR PERSONAL SERVICES, SUPPLIES, AND EQUIPMENT.

Section 11 of the Act (7 U.S.C. 911) is amended by adding after "from sums appropriated pursuant to section 6" the following: "or from funds otherwise made available for the purposes of administering this Act".

SEC. 112. PAYMENT DEFERRAL AUTHORITY.

Section 12 of the Act (7 U.S.C. 912) is amended to read as follows:

"SEC. 12. EXTENSION OF TIME FOR REPAYMENT OF LOANS.—The Secretary may extend the payment of interest or principal of any loan made under this Act if the Secretary determines that the borrower is experiencing a financial hardship. Any payment of interest or principal shall not be extended for more than 5 years after the date on which such was originally due, and interest shall accrue on the amount of any such payment at the rate of interest on the underlying loan, which interest shall become due and payable at the same time as the payment for which the extension was made.".

SEC. 113. DEFINITION OF RURAL AREA.

Section 13 of the Act (7 U.S.C. 913) is amended by adding at the end thereof the following: "Any determination with respect to whether an area is a rural area, under the preceding sentence, shall be made at the time the application is filed, and, under no circumstances, shall any previous determination that the area was rural for the purposes of this Act be used to make such determination.".

SEC. 114. GENERAL PROHIBITIONS; ORIGINATION FEES; USE OF CONSULTANTS.

Section 18 of the Act (7 U.S.C. 918) is amended by—

(a) in subsection (a), striking out "reduce any loan or loan advance" and inserting in lieu thereof "reduce any rural telephone loan or loan advance";

(b) in subsection (b), after "connection with any", inserting "telephone"; and

(c) striking out subsection (c).

SEC. 115. AUTHORIZATION OF LOANS TO RURAL ELECTRIC PROVIDERS.

Effective October 1, 1995, the Act is amended by adding after section 18 (7 U.S.C. 918), a new Title I as follows:

"TITLE I—RURAL ELECTRIFICATION LOANS.

"SEC. 101. LIMITATION ON AUTHORITY TO MAKE, INSURE, AND GUARANTEE ELECTRIC LOANS.—No electric loan shall be made, insured, or guaranteed, under this Act after September 30, 1995, except as authorized in sections 102 and 103.

"SEC. 102. DIRECT ELECTRIC LOANS.—(a) The Secretary is authorized and empowered to make loans to corporations, States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts, and cooperative, nonprofit, or limited-dividend associations, organized under the laws of any State or Territory of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing of electric energy to persons in rural areas and for furnishing and improving electric service to persons in rural areas, including assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems.

"(b) Loans made under this section shall be on such terms and conditions relating to the expenditure of the money loaned and the security therefore as the Secretary shall determine.

"(c)(1) The Secretary shall prioritize the making of loans authorized by this section to ensure that eligible applicants with the greatest need for Federal assistance shall have the highest priority for available loan funds.

"(2) In establishing such priorities, the Secretary shall consider the following indicators of need:

"(A) The net income before interest of the applicant;

"(B) The weighted average of per capita personal income for the area served or to be served by the applicant;

"(C) The weighted average unemployment rate of the area served or to be served by the applicant;

"(D) An average annual rate of growth in the total kilowatt hour sales of the applicant during the five year period preceding the date on which the application is made;

"(E) The rate of disparity, measured as the difference between the residential rate of the applicant and the average residential rate in the State for all electric utilities, including utilities that are not borrowers under this Act;

"(F) The rate level, measured by the average revenue per kilowatt hour that is sold by the applicant to residential and farm consumers;

"(G) The cost of power per kilowatt hour purchased or generated by the applicant;

"(H) The total kilowatt hour sales per mile of distribution and transmission line, excluding large commercial and industrial consumers and sales for resale; and

"(I) The value of distribution and transmission plants in service per kilowatt hours of electricity sold.

"(d)(1)(A) The Secretary shall not make any loan under this section if the Secretary determines that the applicant is capable of producing net income before interest of more than 500 percent of the interest requirements on all of the outstanding and proposed loans of the applicant for which the final maturity is greater than one year.

"(B) If the Secretary determines that the applicant is capable of producing net income before interest of more than 200 percent of the interest requirement of all of the outstanding and proposed loans of the applicant for which the final maturity is greater than one year, the Secretary shall require the applicant to secure at least 10 percent of the total financing required for the proposed project with a loan from a commercial, cooperative, or other legally organized non-governmental lending institution, which loan may not be guaranteed under section 103.

"(2) The Secretary shall not make a loan under this section unless the Secretary determines that the applicant is capable of producing income sufficient to repay the loan in accordance to its terms within the agreed time, pay interest on the loan as it becomes due, and repay all other outstanding and proposed indebtedness of the applicant, together with any interest thereon, as payments become due.

"(3)(A) The Secretary shall not make any loan under this section unless the Secretary determines that the applicant is unable to obtain all or any part of the funds needed by the applicant elsewhere, including from (i) general funds of the applicant that are in excess of an amount needed for a reasonable reserve, or (ii) loans (with or without a guarantee under section 103) from commercial, cooperative, or other legally organized lending institutions at reasonable rates and terms for loans for similar purposes and periods of time.

"(B) The Secretary shall require the applicant to certify in writing that the applicant is unable to obtain sufficient credit elsewhere to finance all or any part of the actual needs of the applicant at reasonable rates and terms, taking into consideration prevailing rates for loans and obligations for similar purposes and periods of time.

"(4) The Secretary shall not make a loan under this section unless the Secretary determines that the security for the loan will be adequate to ensure full payment of the loan.

"(5) The Secretary shall not make any loan under this section unless the applicant has agreed to comply with the requirements of the graduation program established under section 105.

"(6) The Secretary shall not make any loan under this section unless all additional requirements of section 104 have been met.

"(e) The term of each loan made under this section shall be determined by the Secretary and shall not exceed 35 years, or the expected useful life of the assets being financed, whichever is less.

"(f)(1) Except as provided for in paragraph (2), the rate of interest on loans under this section shall be equal to the then current costs of money to the Government of the United States for obligations of comparable maturity.

"(2)(A) If the Secretary determines that the applicant is not capable of producing net income before interest of more than 200 percent of the interest requirements on all of the outstanding and proposed loans of the applicant for which the final maturity is greater than one year, the rate of interest on the loan shall be the rate established under paragraph (1) but not more than 5 percent per year, except as provided under subparagraph (B).

"(B) For any loan whose term is 10 years or more and whose interest rate is limited to 5 percent per year under subparagraph (A), the Secretary shall review the financial status of the borrower every 2 years, and, if the Secretary determines that the borrower is capable of producing net income before interest of more than 200 percent of the interest requirements on all of the outstanding and proposed loans of the applicant for which the final maturity is greater than one year, the 5 percent limitation shall no longer apply to the loan and the rate for the remaining term of the loan shall be the original rate established under paragraph (1).

"(g) The Secretary shall charge a loan origination fee of one percent of the amount of the loan if the Secretary determines that the applicant is capable of producing net income before interest of more than 200 percent of the interest requirements on all of the outstanding and proposed loans of the applicant for which the final maturity is greater than one year.

"(h) The Secretary may provide a borrower the right to make payment in full on a loan made under this section in advance of final maturity on terms consistent with those provided for commercial loans for similar purposes and maturities.

"SEC. 103. GUARANTEES OF ELECTRIC LOANS FROM NON-GOVERNMENTAL SOURCES OF CREDIT' LIEN ACCOMMODATIONS.—(a)(1) To the extent set out in Paragraph (2), the Secretary is authorized and empowered, to guarantee loans that are made by commercial, cooperative, or other legally-organized non-governmental lending institutions to any entity, and for any purpose, described in section 102(a).

"(2) The Secretary shall guarantee only the payment of that portion of the principal of the loan, and that portion of the interest thereon, that the lender requires as a condition for making the loan. The amount of any such guarantee shall not exceed 90 percent of the principal of the loan and the interest thereon.

"(3) The Secretary shall not guarantee any loan to an entity that the Secretary determines is capable of producing income before interest of more than 600 percent of the interest requirements on all of the outstanding and proposed loans of the entity for which the final maturity is greater than one year.

"(4) The Secretary shall impose such fees and charges to cover the administrative expense related to any guarantee made under this section as the Secretary determines reasonable.

"(5) Any contract of guarantee executed by the Secretary under this section shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder of the guarantee had actual knowledge at the time it become a holder.

"(6) The Secretary shall not guarantee any loan under this section unless all additional requirements of section 104 have been met.

"(b) In order to encourage non-governmental lenders to make loans to eligible entities, or to provide a greater portion of the credit needs of an applicant for a loan under section 102, the Secretary is authorized to share the Government's lien on the loan applicant's or borrower's assets or to subordinate the Government's lien on the property to be financed by the lender. The Secretary shall not offer such accommodation or subordination unless the Secretary determines that the security for all loans made or guaranteed under this Act, the payment of which the borrower is liable, will remain reasonably adequate.

"SEC. 104. ADDITIONAL REQUIREMENTS AND PROVISIONS RELATING TO LOANS AND GUARANTEES.—(a) The Secretary shall not make any loan under section 102 or guarantee any loan under section 103—

"(1) if all or any part of the loan to be made or guaranteed will be used to expand the service territory of the applicant or borrower, as the case may be, into an area in which consumers are being served by another utility;

"(2) if the applicant or the borrower, as the case may be, has not agreed to follow generally accepted accounting procedures and management practices;

"(3) if the applicant or borrower, as the case may be, is prohibited by a charter, bylaw, statute, or regulation, or is otherwise prohibited, from disposing of any or all of the property of the applicant or borrower by a vote greater than a majority of the membership of the applicant or borrower voting in person or by proxy; and

"(4) if the applicant or borrower fails to agree to provide to the Secretary a complete and current set of all residential, commercial, or industrial tariffs or rate schedules, power sale agreement, and transmission agreements, and any subsequent changes made thereto, and any additional power sale and transmission agreements entered into by the borrower, during the term of the loan; any such tariffs, schedules, and agreements provided to the Secretary shall be deemed public information and shall be made available within 10 working days of receipt of a verbal, written or electronically transmitted request reasonably describing the information sought.

"(b) The Secretary shall ensure that funds shall not be advanced under any loan made section 102 or guaranteed under section 103 unless the approval of any State or Federal agency required with respect to the project to be financed by the loan, or its financing, has been obtained and remains in effect.

"(c) If the Secretary determines that the level of general funds of an applicant or borrower is in excess of that needed for a reasonable reserve, the Secretary shall reduce (A) the amount of the loan request in the case of an applicant under section 102, (B) the amount of any advance on a loan made under section 102, or (C) the amount of any guarantee under section 103.

"(d) Loans may be made under section 102, or guaranteed under section 103, only to the extent that electrical service to consumers in rural areas will be provided or improved by the facility being financed.

"SEC. 105. GRADUATION PROGRAM.—(a) The Secretary shall establish a program under which at least once every 2 years each loan made under section 102 shall be reviewed to determine whether the borrower (1) is able to repay all or any part of the loan with general funds in excess of that needed for a reasonable reserve, or (2) may be able to obtain credit from a commercial, cooperative, or other legally organized non-governmental lending institution in an amount sufficient to meet all or any part of the credit needs of the borrower at reasonable rates and terms, taking into consideration prevailing rates for loans and obligations for similar purposes and periods of time.

"(b)(1) To the extent that the Secretary determines that the borrower is able to repay all or any part of the loan from general funds, the borrower shall make payment in full or in part on the loan, without penalty, at such time as the Secretary may require prior to the final maturity date of the loan.

"(2) If the Secretary determines that the borrower may be able to meet all or any part of its credit needs from other lenders, with or without a loan guarantee under section 103, the borrower shall be required to—

"(A) apply for and accept credit from such lenders, and purchase any stock necessary in connection with the loan if the source is a cooperative lending institution; and

"(B) use the proceeds of such credit to make payment, in full or in part, without penalty, on any loan made to the borrower under section 102 at such time as the Secretary may require prior to the final maturity date of such loan.

"SEC. 106. FAILURE TO COMPLY WITH THE ACT.—If a borrower of a loan made under section 102 fails to comply with any provision of this Act, or any agreement between the borrower and the Secretary made pursuant thereto, including, but not limited to, the provisions of section 104(a)(6) and section 105, the amount outstanding on the loan shall become due and payable upon receipt of a written notice of such failure issued by the Secretary to the borrower. Such notice shall be given to the borrower as soon as possible after such failure to comply with the Act occurs.

"SEC. 107. LIMITATION ON AUTHORIZATION FOR APPROPRIATIONS.—In the case of each fiscal year 1996 through 2000, there are authorized to be appropriated to the Secretary for the cost, as defined in Section 502 of the Congressional Budget Act of 1974, of loans made and guaranteed under this title, $25,000,000.".

SEC. 116. CONFORMING AMENDMENT.

Section 201 of the Act (7 U.S.C. 921) is amended, in the first sentence, by—

(a) striking out "section 3 of"; and

(b) striking out "as are provided in section 4 of this Act" and inserting "as was provided in section 4 of this Act prior to its repeal.".

SEC. 117. RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND.

Section 301 of the Act (7 U.S.C. 931) is amended by—

(a) redesignating subsection (a) as subsection (b);

(b) adding a new subsection (a) as follows:

"(a) The provisions of this title shall be applicable only to rural electric loans made prior to October 1, 1995, and to rural telephone loans."; and

(c) in subsection (b), as redesignated,

(1) in paragraph (1), striking out "under sections 4, 5, and 201 of this Act" and inserting in lieu thereof "under sections 4 and 5, prior to their repeal, and section 201 of this Act";

(2) in paragraph (2), striking out "under sections 4, 5, and 201" and inserting in lieu thereof "under sections 4 and 5, prior to their repeal, and section 201 of this Act"; and

(3) in paragraph (3)—

(A) striking out "notwithstanding section 3(a) of title I"; and

(B) striking out "held under titles I and II of this Act" and inserting in lieu thereof "held under sections 2 through 18 of this Act, prior to the amendments made thereto by the "Rural Electrification and Rural Economic Development Improvement Act of 1995, and title II of this Act".

SEC. 118. CONFORMING AMENDMENTS.

Section 302 of the Act (7 U.S.C. 932) is amended by—

(a) in subsection (a), striking out "under sections 4, 5, and 201 of this Act" and inserting in lieu thereof "under sections 4 and 5, prior to their repeal, and section 201 of this Act"; and

(b) in subsection (b)—

(1) in paragraph (1), striking our "under sections 4, 5, and 201 of this Act" and inserting in lieu thereof "under sections 4 and 5, prior to their repeal, and section 201 of this Act"; and

(2) in paragraph (2), adding after "pursuant to section 3(a) of this Act" the following: "prior to its repeal".

SEC. 119. COST OF MONEY RATES FOR CERTAIN ELECTRIC BORROWERS.

Section 305(c)(2) of the Act (7 U.S.C. 935(c)(2)) is amended to read as follows:

"(2) COST OF MONEY LOANS.—

"The Secretary shall make insured electric loans, to the extent of qualifying applications, to eligible applicants that do not meet the requirements for hardship loans under paragraph (1) at the rate of interest equal to then current cost of money to the Government of the United States for loans of similar maturity.".

SEC. 120. LIMITATION OF TERMS OF LOANS.

Section 305(c) of the Act (7 U.S.C. 935(c)) is amended by adding at the end thereof a new paragraph (4) as follows:

"(4) LIMITATION ON TERMS OF LOANS.—

"The term of any loan made under this subsection may not exceed the expected useful life of the assets being financed or 35 years, whichever is less.".

SEC. 121. ACCOMMODATION AND SUBORDINATION OF LIENS TO ASSIST CERTAIN BORROWERS IN ACQUIRING CREDIT AFTER OCTOBER 1, 1996.

Effective October 1, 1995, section 306 of the Act (7 U.S.C. 936) is amended by—

(a) Adding "(a)" before the first sentence; and

(b) Adding at the end thereof a new subsection (b) as follows:

"(b) In order to assist borrowers with outstanding electric loans made under this Act prior to October 1, 1995, who are not eligible for loans under section 102 to meet their further credit needs from commercial, cooperative, or other legally organized lending institutions, the Secretary is authorized to share the Government's lien on the borrower's assets or to subordinate the Government's lien on the property to be financed by the lender to the extent that the Secretary determines that the security for all loans of the borrower made or guaranteed under this Act will remain reasonably adequate.".

SEC. 122. REPEAL OF AUTHORIZATION TO REFINANCE FEDERAL FINANCING BANK LOANS.

Section 306C of the Act (7 U.S.C. 936c) is repealed.

SEC. 123. REPEAL OF REQUIREMENT FOR SPECIAL TREATMENT OF CERTAIN ELECTRIC BORROWERS.

Section 306E of the Act (7 U.S.C. 936e) is repealed.

SEC. 124. REPEAL OF 30 PERCENT LIMITATION ON REQUIRED FINANCING FROM OTHER SOURCES.

Section 307 of the Act (7 U.S.C. 937) is amended by striking out the last sentence thereof.

SEC. 125. REPEAL OF AUTHORIZATION TO REFINANCE CERTAIN RURAL DEVELOPMENT LOANS.

Section 310 of the Act (7 U.S.C. 940) is repealed.

SEC. 126. USE OF FUNDS.

Section 312 of the Act (7 U.S.C. 940b) is repealed.

SEC. 127. REPEAL OF CUSHION OF CREDIT PAYMENTS PROGRAM.

Section 313 of the Act (7 U.S.C. 940c) is repealed.

SEC. 128. REPEAL OF CERTAIN AUTHORIZATIONS FOR APPROPRIATIONS.

Section 314 of the Act (7 U.S.C. 940d) is amended in subsection (b) by—

(a) striking out paragraphs (1) and (2); and

(b) renumbering paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

TITLE II—PRESERVATION OF EXCLUSIVE STATE JURISDICTION OVER RETAIL ELECTRIC SERVICE TERRITORIES.

SEC. 201. AMENDMENT TO THE FEDERAL POWER ACT OF 1935.

Section 201 of the Federal Power Act of 1935 (16 U.S.C. 824) is amended by adding at the end thereof the following new subsection:

"(h) EXCLUSIVE STATE JURISDICTION OVER ALLOCATION OF RETAIL ELECTRIC SERVICE TERRITORIES.—

"Notwithstanding any other provision of law, the regulation and allocation of service territories or service areas to providers of electric service shall be subject only to State law and shall not be subject to the requirements of this Act, or any other provision of Federal law. No Executive agency (as defined in section 105 of title 5, United States Code) shall have authority to preempt or interfere with the operation of any law of a State or a political subdivision of a State relating to a service territory or service area allocation to providers of electric service.".

TITLE III—IMPROVEMENTS TO THE DELIVERY OF RURAL DEVELOPMENT PROGRAMS

SEC. 301. ELIGIBILITY FOR WATER AND WASTE LOAN AND GRANT PROGRAMS.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by—

(1) in subsection (a) of section 306 (7 U.S.C. 1926(a)), striking out the second sentence; and

(2) in section 365 (7 U.S.C. 2008), striking out subsection (h).

SEC. 302. REGULATIONS UNDER SECTION 370 OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

If the Secretary of Agriculture has not issued final or interim final regulations to ensure compliance with the provisions of section 370(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008e) on or before September 30, 1995, the Secretary shall not make any loan, loan advance, or grant for rural development purposes under any provision of such Act or any loan, loan advance, or grant under any provision of the Rural Electrification Act of 1936 until such regulations are issued.

SEC. 303. ADMINISTRATION OF RURAL DEVELOPMENT PROGRAMS.

The Consolidated Farm and Rural Development Act of 1972 (7 U.S.C. 1921 et seq.) is amended by adding at the end therefore the following new section:

"SEC. 372. ADMINISTRATION OF RURAL DEVELOPMENT PROGRAMS.

"Notwithstanding any other provision of law, in administering all rural development programs and activities, other than rural development programs relating to rural businesses and industry development, the Secretary shall give priority, in the awarding of all loans and grants (including, but not limited to, grants and loans provided under Title V of the Rural Electrification Act of 1936), to rural development projects that are included in a local, regional, or State-wide development plan and the Secretary shall give the highest priority to public bodies and nonprofit entities that operate on a nonprofit basis.".

SEC. 304. EQUAL ACCESS TO FEDERAL RURAL DEVELOPMENT FUNDS.

Section 502 of the Rural Electrification Act of 1936 (7 U.S.C. 950aa–1) is amended—

(a) in paragraph (1) of subsection (b)—

(1) in the first sentence, by striking out "Borrowers under this Act" and inserting in

lieu thereof "Borrowers under this Act and all nonprofit entities"; and

(2) by striking out the second sentence.

(b) in section (b), by adding at the end thereof the following new paragraph:

"(4) PREFERENCE FOR NONPROFIT ENTITIES.—In reviewing applications for assistance, the Secretary shall give the highest priority to those applications and preapplications submitted by nonprofit entities that operate on a nonprofit basis."; and

(c) in subsection (e), by striking out the second sentence.

SEC. 305. ELIMINATION OF DUPLICATIVE PROGRAMS.

Section 2322 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1) is repealed.

ADDITIONAL COSPONSORS

S. 158

At the request of Mr. BREAUX, his name was added as a cosponsor of S. 158, a bill to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf in the Gulf of Mexico, and for other purposes.

S. 256

At the request of Mr. DOLE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 494

At the request of Mr. KYL, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 494, a bill to balance the Federal budget by fiscal year 2002 through the establishment of Federal spending limits.

S. 650

At the request of Mr. SHELBY, the names of the Senator from New Hampshire [Mr. GREGG], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. LOTT], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. SIMON, the names of the Senator from Missouri [Mr. ASHCROFT] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Concurrent Resolution 3, a concurrent resolution relative to Taiwan and the United Nations.

AMENDMENTS SUBMITTED

THE ALASKA POWER ADMINISTRATION SALE ACT TRANS-ALASKA PIPELINE AMENDMENT ACT OF 1995

MURKOWSKI AMENDMENT NO. 1078

Mr. MURKOWSKI proposed an amendment to the bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and for other purposes; as follows:

Strike the text of Title II and insert the following text:

TITLE II

SEC. 201. SHORT TITLE.

This Title may be cited as "Trans-Alaska Pipeline Amendment Act of 1995".

SEC. 202. TAPS ACT AMENDMENTS.

Section 203 of the Act entitled the "Trans-Alaska Pipeline Authorization Act," as amended (43 U.S.C. 1652), is amended by inserting the following new subsection (f):

(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

(1) Subject to paragraphs (2) through (6), of this subsection and notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over right-of-way granted pursuant to this section may be exported after October 31, 1995 unless the President finds that exportation of this oil is not in the national interest. In evaluating whether the proposed exportation is in the national interest, the President—

(A) shall determine whether the proposed exportation would diminish the total quantity or quality of petroleum available to the United States; and

(B) shall conduct and complete an appropriate environmental review of the proposed exportation, including consideration of appropriate measures to mitigate any potential adverse effect on the environment, within four months after the date of enactment of this subsection.

The President shall make his national interest determination within five months after the date of enactment of this subsection or 30 days after completion of the environmental review, whichever is earlier. The President may make his determination subject to such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that the exportation is consistent with the national interest.

(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to this section, shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.

(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

(5) If the Secretary of Commerce finds that anticompetitive activity by a person exporting crude oil under authority of this subsection has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused sustained material adverse employment effects in the United States, the Secretary of Commerce may recommend to the President appropriate action against such person, which may include modification of the authorization to export crude oil.

(6) Administrative action with respect to an authorization under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

SEC. 203. ANNUAL REPORT.

Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following:

"In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration for Defense District V have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.".

SEC. 204. GAO REPORT.

The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, *shall* provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

SEC. 205. EFFECTIVE DATE.

This title and the amendments made by it shall take effect on the date of enactment.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public two time changes with respect to hearings which have previously been scheduled before the Committee on Energy and Natural Resources.

First, the hearing scheduled on Thursday, May 25, before the full committee regarding S. 638, the Insular Development Act of 1995, will begin at 9:30 a.m. instead of 2 p.m., as previously scheduled.

Second, the hearing scheduled on Thursday, May 25, before the Subcommittee on Forests and Public Land

Management regarding property line disputes with the Nez Perce Indian Reservation in Idaho will begin at 2 p.m. instead of 9:30 a.m., as previously scheduled.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be permitted to meet on Monday, May 15, beginning at 2 p.m. in room SD–215, to conduct a hearing on the Caribbean basin initiative.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL AND READINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittees on Personnel and Readiness of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Monday, May 15, 1995, in open session, to receive testimony regarding Department of Defense military family housing issues in review of S. 727, the National Defense Authorization Act for fiscal year 1996, and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Post Office and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, May 15, 1995, to review Federal pension reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IRANIAN NUCLEAR PLANS

• Mr. D'AMATO. Mr. President, I rise today to comment on an interview that appeared in the New York Times, on Sunday, May 14, 1995, entitled, "Iran Says It Plans 10 Nuclear Plants But No Atom Arms."

I must say that the interview is quite candid in as much as we have the Director of Iran's Atomic Energy Organization, Reza Amrollahi, stating that his nation intends to build as many as 10 nuclear reactors throughout the country. What we have is an Iranian official publicly stating the number of reactors Iran wants to build, as well as confirming that Iran is buying two more Chinese reactors, in addition to the Russian reactors they intend to purchase. This is remarkable and scary.

Mr. President, this interview only confirms what I have been saying all along. The terrorist regime in Iran is bent on aggression and will not stop. It is bad enough that they are abusing the human rights of the Iranian people and hijacking their rich history, but they are sacrificing the Iranian people's welfare in return for a headlong drive for nuclear armament. This is all very unfortunate for the abused Iranian people and dangerous for the world. I hope that Iranians remember what their corrupt government did to them.

Mr. President, I ask that the text of the above-mentioned article be printed in the RECORD.

[From the New York Times, May 14, 1995]

IRAN SAYS IT PLANS 10 NUCLEAR PLANTS BUT NO ATOM ARMS

(By Elaine Sciolino)

TEHERAN, IRAN, May 13—Iran's top nuclear official said today that his country intended to build about 10 nuclear power plants in the next two decades, but denied charges by the United States that Iran is trying to develop nuclear weapons.

The official, Reza Amrollahi, also said that last year he signed a formal contract with China for two nuclear power reactors and that Chinese experts had completed a feasibility study and had begun to draw up blueprints and engineering reports for a site in southern Iran.

Iran has already made a "down payment" for the project, which will cost $800 million to $900 million and involve training by Chinese experts, said Mr. Amrollahi, director of Iran's Atomic Energy Organization.

Although the United States has doubted that China is capable of building the reactors on its own because the original model included parts from Germany and Japan, Mr. Amrollahi said the Chinese now believed that they had successfully duplicated the technology.

The United States has led a global campaign to prevent Iran from receiving any nuclear technology because of its suspected weapons program. Mr. Amrollahi's statements suggest that the agreement with China is much further along than was previously known, and that Iran is planning a vast long-range nuclear energy program. They seem certain to strengthen the conviction both within the Clinton Administration and Congress that Iran is determined to become a nuclear power.

In addition to its oil reserves Iran has the second largest natural gas reserves in the world, and natural gas is much cheaper to develop than nuclear energy. That makes American officials suspicious that Iran wants nuclear power as part of a weapons program.

In a clear attempt to answer charges that Iran is developing nuclear weapons, Mr. Amrollahi made his remarks in a two-and-a-half-hour interview at his agency's new six-story building. It is part of a sprawling complex in central Teheran that includes a small nuclear research reactor built for Iran by the United States in the late 1960's, when the monarchy was in power and the relationship with Washington was close. Officials offered a brief tour of the complex, including a visit to two radio isotope laboratories for medical research, although they did not allow a tour of the reactor.

"In case we get enough money, in case we have enough trained people, we have a plan to take 20 years to get 20 percent of our energy from nuclear," Mr. Amrollahi said. Asked whether that could mean about 10 reactors, he said, "Something like that."

If Russia completes two reactor projects in Iran, and China builds two, it would mean that the Iranian Government intends to build six more throughout the country.

At the summit meeting in Moscow this week, President Clinton tried without success to persuade President Boris N. Yeltsin to abandon an ambitious nuclear energy project with Iran, arguing that its Islamic Government had embarked on a crash nuclear weapons program and that even peaceful nuclear cooperation was dangerous. Secretary of State Warren Christopher was similarly rebuffed when he made the same point to China's Foreign Minister, Qian Quichen, in New York last month.

Mr. Amrollahi reiterated that Iran had already invested $6 billion in the project—which is subject to international inspection and safeguards—and wanted to finish it. He said the contract with Moscow consists of a $780 million deal in which Russia will complete one of two reactors that a German firm was building at the southern port city of Bushehr before the project was halted after the 1979 revolution. If that project goes well, Russia will finish the second reactor.

The United States opposes the project in part because it will give Iran access to expertise, technology and training it would not otherwise have.

Mr. Amrollahi said that 150 Russian nuclear experts were already working at the site and that 500 would eventually be based there; a much smaller number of Iranians will be trained in Russia on how to operate the plant, he added. "Training people is part of that nuclear power plan," he said. "I don't know why they make such a hot fudge of it."

Mr. Amrollahi denied reports that Iran had negotiated—or even discussed—a plan to buy a gas centrifuge from Russia that could have rapidly enriched uranium to bomb-grade quality. "This was a diplomatically made cake," he said of reports from Washington about the existence of a separate, albeit tentative agreement with Russia.

Russia has agreed to supply the enriched uranium needed to operate the plant it will finish, he said. Asked whether Iran was pursuing a program to enrich uranium, at first he said, "Not now," but added quickly: "No. Not forever. Not. No. Not at all."

Asked why Iran simply doesn't use natural gas for fuel, Mr. Amrollahi said, "natural gas is one of the best fuels, and many countries at the moment need it. So we think it is better to sell it." Like many of Iran's nuclear specialists, Mr. Amrollahi has been educated and trained in the West. He holds a master's degree in electrical engineering from the University of Texas and a doctorate in physics from the University of Paris.

He briefly worked for the Belgian Government in nuclear safety in the 1970's. He has headed Iran's nuclear program for 15 years, and spoke with precision when discussing Iran's official nuclear reactor and research sites in Iran. But the United States and Germany have amassed substantial evidence that Iran is secretly buying components and technology from abroad that they claim are not necessary for nuclear energy development or research and can only be useful in a determined weapons program.

American and German intelligence officials believe that Mr. Amrollahi controls only part of Iran's nuclear program and that Iran has created a parallel program through the military that is largely responsible for purchases of nuclear related items. According to this view, the Defense Ministry Organization inside the Defense Ministry uses front organizations like the Sharif University of Technology in Teheran to help buy nuclear-related equipment.

On the basis of reports by Germany's foreign intelligence agency in 1992 and 1993 that Sharif was involved in secret nuclear activities, Germany began to reject all requests for equipment by the university. Early last year, the German agency said that the university's physics research center was involved in buying technology that could be used in making weapons, including nuclear-related materials.

Mr. Amrollahi strongly denied the claim that he was not fully in charge. "I am responsible for the atomic energy of Iran," he said, "Believe it, we don't have any other institutions or departments that pay attention to nuclear issues."

Mr. Amrollahi also denied reports that Iran secretly has been buying nuclear technology and equipment from abroad, noting that the International Atomic Energy Agency, which is responsible for monitoring nuclear programs around the world, turned up nothing suspicious during a visit to Sharif University.

But the nuclear chief was unfamiliar with intelligence reports about Iran's nuclear-related overtures abroad and asked for copies of news clippings describing the details.

Asked, for example, about a report that Iran tried unsuccessfully to buy cylinders of fluorine for Sharif University in 1991, Mr. Amrollahi said, "Wrong. I deny it totally." Asked about a report that Sharif University approached the German firm Thyssen in 1991 for specialized magnets he replied, "No, we never did."

Asked whether Sharif University tried to buy balancing machines from another German firm in 1991, he replied, "You can go and ask Sharif University."

Asked about a seizure by Italian authorities of high technology ultrasonic equipment that could be used in nuclear reactor testing in the Italian port of Bari last January, he replied, "Believe it, that's wrong, totally."

Asked about an earlier seizure by Italian customs of eight steam condensers destined for Iran in 1993, he said, "I don't know really. I don't know. It's totally wrong."

Mr. Amrollahi also denied a recent charge by Mr. Christopher, based on American intelligence reports, that Iran tried to buy enriched uranium from Kazakhstan in 1992. Other senior American officials in Washington said that Iran sent a purchasing team to Kazakhstan three years ago, but that it came home empty-handed.

The visit contributed to a decision by the Pentagon last year to secretly airlift 500 kilograms of bomb-grade uranium from Kazakhstan's nuclear fabrication plant for safe storage in the United States.

"We didn't send any team," Mr. Amrollahi said. "Definitely not. What is the use of enriched uranium for? The Russians do have many, many nuclear weapons but they couldn't use them. I think the bomb age is over. We don't think we need a nuclear weapon."•

TRIBUTE TO DON COLLINS

• Mr. KERRY. Mr. President, it is with great sadness that I note the death of Donald L. Collins after a brief but fierce battle with cancer. At the time of his death last February, Mr. Collins was Deputy Federal Insurance Administrator of the Federal Emergency Management Agency [FEMA] in Washington, DC. That position of leadership capped a remarkable career in Federal service of more than 20 years. It is a genuine honor to commend to my colleagues in the Senate the life and service of Don Collins.

Don had many remarkable achievements in his Federal career that I would like to touch on briefly. But perhaps, for anyone who ever met him, Don Collins' most memorable qualities were his deep, unabashed love for his Catholic faith, his genuine compassion for others, and his quick sense of humor that could disarm and charm any opponent. For Don, there were never any strangers, never any enemies—even after the most heated debate. He was available to everyone, at any time. While Don always assumed the lion's share of the work for every project, he still always had time for everyone on his staff. There was never a closed door to his employees at the Federal Insurance Administration [FIA] or to the public he served. His love and caring were contagious. Don had, in the words of his brother, long arms—always ready to draw people to himself, no matter how different their point of view.

Don loved and respected the law as well—which he demonstrated by always molding policy interpretations for the National Flood Insurance Program [NFIP] to comply with the intentions of Congress for that program. His regard and respect for law were developed early as he worked his way through undergraduate school at Fordham University in New York City and law school at night. He completed his juris doctor at Saint John's University, also in New York. He was admitted to practice in the following courts: the courts of the State of New York, District of Columbia Court of Appeals; U.S. Circuit Court of Appeals, Second Circuit; U.S. District Court of the Eastern District of New York; U.S. District Court for the Southern District of New York; and U.S. Court of Military Appeals (DC).

Marking another dimension of this charming, approachable, funny man were the awards he received to commemorate a textbook Federal career. In 1991, Don Collins received the Presidential Rank Award-Meritorious Executive, Senior Executive Service. That award recognized in part his lasting contributions and service to the Federal Insurance Administration, especially for his efforts to shape and implement the NFIP program. In that connection, Mr. Collins played a major role in framing the public policy debate about how to reduce the public's losses from floods, which resulted in the enactment of the Flood Disaster Protection Act of 1973. That legislation redirected the Nation toward a more prudent course in flood loss reduction. From 1990 to 1994, he worked closely with the White House and congressional leaders to shape the NFIP Reform Act of 1994 which strengthens the NFIP and provides lenders with the tools needed to comply with legal requirements for flood insurance.

Over the years, Don Collins also helped foster a close working relationship with the insurance industry. His integrity and disarming personality were largely responsible for the good will enjoyed by the program with its industry partners. He developed and administered the entire claims and underwriting systems in support of the NFIP and developed all NFIP policy forms and the agents' manuals. Similarly, he developed all flood insurance regulations and was central to the development of all significant policies governing the NFIP.

In sum, Don Collins was a model Federal executive. More than that, Don Collins was an exemplary person. He was a man of deep faith, a loving husband and father, a person dedicated to his community, and a manager who set the standard for excellence at the Federal Insurance Administration and the National Flood Insurance Program. When my staff and I worked with Don on NFIP legislation over the course of 2 years, his knowledge, diligence, good humor, grace, and personal warmth were always present, and prevented a series of difficult negotiations from becoming unpleasant and onerous. None who worked with him will forget him. Indeed, he will be appreciated and fondly remembered by all.•

THE COLUMBIA GORGE INTERPRETIVE CENTER

• Mr. GORTON. Mr. President, it is my privilege to recognize the grand opening of the Columbia Gorge Interpretive Center in Stevenson, WA on Wednesday, May 17, 1995. The grand opening celebration will start at 10:30 a.m. with the award-winning Stevenson High School Band and choir, and conclude with Nelson Moses of the Wishram Tribe and members of his family giving a native American blessing to the project.

The Interpretive Center is dedicated to preserving the natural and cultural history of the magnificent Columbia River Gorge. Exhibits and displays will educate, entertain and inform adults and children alike. As they tour the center they will see the First Peoples and Harvesting Resources galleries and the multi-media Creation Theatre, which shows the cataclysmic events that shaped the gorge. They will also learn about the people who built the communities of the gorge—pioneers, missionaries, riverboat captains, soldiers, dam-builders and all the rest—in all, a wonderful cast of characters.

Other exhibits feature natural resources, dams and other developments on the river. This center encourage Washingtonians to consider their role in the stewardship of the mighty Columbia River, one of our great natural wonders.•

THE IMPORTANCE OF THE LEGAL SERVICES CORPORATION

• Mr. SIMON. Mr. President, I am extremely concerned that in the rush to shrink the size of the Federal Government, Congress may eliminate or severely limit the services provided by many important programs. One such program, which gives low-income individuals a fighting chance, is the Legal Services Corporation [LSC]. Established by an act of Congress in 1974, the LSC provides grants to local agencies that in turn offer legal services to the poor. In its 20 plus years in existence, the LSC has provided funding for legal services to tens of thousands of low-income Americans in areas ranging from inner-cities to native American reservations.

The U.S. District Court for the Northern District of Illinois recently issued a resolution supporting the continued funding of the LSC. This resolution is significant because it comes from those who administer justice in our courts, and who have first-hand knowledge of the benefits of legal services. The resolution asserts that the LSC is essential to providing equal opportunities for justice for all Americans.

I applaud the action taken by the justices in the Northern District of Illinois, and ask that the text of the resolution be printed in the RECORD.

The resolution follows:

RESOLUTION

This court, the United States District Court for the Northern District of Illinois, understands that there are proposals before Congress to restrict or eliminate funding for the Legal Services Corporation and to transfer to the states the responsibility for providing legal assistance to low-income persons and families. In Illinois, at least, the likelihood that such assistance would be provided by the state, given its present and prospective fiscal difficulties, is remote, and the restriction or elimination of federal funding would, in all probability, lead to a corresponding restriction or to the elimination of legal assistance. We believe such a decision would have a major adverse impact upon the administration of equal justice.

This court is aware that many low-income persons and families in Illinois have no means to obtain redress except through the five federally-supported legal services programs in this state. The Legal Assistance Foundation of Chicago alone represented over 38,000 low-income persons and families in 1994, primarily by counseling or by working the matter out with other parties without resort to governmental agencies or to the courts. These matters included resolution of landlord-tenant disputes, the provision of public benefits, providing representation in marriage dissolution matters including assisting in obtaining adequate child support, obtaining orders of protection for victims of domestic violence, enforcing consumer protection laws, assisting in employment and housing discrimination matters, assisting working low-income people in obtaining unemployment insurance benefits, and assisting migrant workers, the disabled and crime victims. In many instances LAFC enlists the aid of private attorneys, who provide services at minimal compensation. Many of these matters involve enforcement of federal law, either constitutional rights or, more commonly, statutes duly enacted by Congress. Their enforcement requires adequate representation, and that representation will not be available without federally supported legal assistance.

Also of particular concern to this court is the Federal Court Prison Litigation Project, through which LAFC provides necessary training and support. Private counsel, through the district's trial bar, accept appointment as counsel in prisoner cases without expectation of compensation. Having counsel is of great benefit not only to the plaintiffs but also to the defendants and the court, as that representation is helpful in separating meritorious claims from non-meritorious claims at an earlier stage and in facilitating orderly progression of the litigation. LAFC provides training, consultation, research assistance and a data and materials bank. We believe that few private counsel would be willing to participate in that program if those services were not available.

Now, therefore, be it *Resolved*, That the United States District Court for the Northern District of Illinois supports the continuation of the federally funded legal services program as essential to the administration of equal justice.•

HONORING MORTON GOULD

• Mr. D'AMATO. Mr. President, I would like to express my sincere congratulations today to a great artist and a great man, Morton Gould. Considering Mr. Gould's numerous lifetime achievements in music, he is well deserving of the high honor that has been presented to him, the 1994 Pulitzer Prize for music composition.

Born in Richmond Hill, NY, on December 10, 1913, Mr. Gould's music career began at age 6 with his first published piece, a waltz, appropriately titled "Just Six." At age 8, Mr. Gould entered the Institute of Musical Arts in New York City on scholarship and continued studying and playing music until his teens. After having to leave school for financial reasons and working for a while as a pianist for vaudeville acts, he landed a job as a pianist for the Radio City Music Hall. By the time he was 21, Mr. Gould was introducing his work through conducting and arranging a weekly series of orchestra radio programs for the Mutual Radio Network.

Mr. Gould's unique blend of music, resonating of jazz, folk, hymns, spirituals, gospel, and Latin-American, reflects the lyrical cross-section of America that makes his work so well loved. Some of his more popular works include: "Latin-American Symphonette"; "Spirituals for Orchestra"; "Tap Dance Concerto"; "Jekyll and Hyde Variations"; "American Salute and Derivations for Clarinet and Band" written for the late Benny Goodman. "Pavanne," from Gould's "Second Symphonette" has become one of the most widely performed instrumental standards.

During his distinguished career he has composed works for Broadway musicals, dance, ballet, film, and television. His work has been commissioned by symphony orchestras, the Library of Congress, the Chamber Music Society of Lincoln Center, the New York City Ballet, and the American Ballet Theatre. His compositions have been performed around the world by many great conductors of today as well as those of the past, including the great talents of Arturo Toscanini, Leopold Stokowski, Artur Rodzinski, Dimitri Mitopoulos, and Fritz Reiner.

While Mr. Gould's work has spanned the greater part of this century, he has always managed to remain contemporary. Beginning with LP's, his multitude of works have made their way into each new recording medium, including the new digital recording technology which he was one of the first to use as early as 1978.

As an artist himself, Mr. Gould has long fought to protect the rights of all musical creators. Since 1935, he has been a member of the American Society of Composers, Authors and Publishers, the oldest performing rights organizations in the world. He has also served on the organization's board of directors since 1959 and from 1986–94, he was its president.

His many awards include a Grammy and a number of Grammy nominations; the 1983 Gold Baton Award, presented by the American Symphony Orchestra League; the 1985 Medal of Honor for Music from the National Arts Club; 1986 election to the American Academy of Arts and Letters; and the National Music Council's Golden Eagle Award. And in December 1994, Mr. Gould was presented with a lifetime achievement award by the Kennedy Center.

Last March 10, 11, and 12, Mstislav Rostropovich conducted the National Symphony Orchestra of Washington, DC, in the world premier of Mr. Gould's "Stringmusic," for which he received the Pulitzer Prize. This extraordinary piece was commissioned by the Hechinger Foundation in honor of Mr. Rostropovich's last season as musical director of the National Symphony Orchestra and to honor Mr. Gould's 80th birthday.

As a fellow New Yorker and fellow American, I salute Mr. Gould's accomplishments and contributions through his music which have given so much to us all and forever enriched our lives.•

COMMEMORATING THE ESTABLISHMENT OF THE PADOVANO COLLECTION AT THE UNIVERSITY OF NOTRE DAME

• Mr. BRADLEY. Mr. President, I rise today in recognition of the lifetime achievements of my constituent, Dr.

Anthony T. Padovano, who has bequeathed his personal papers to the archives of the Theodore Hesburgh Memorial Library at the University of Notre Dame.

A leader in the post-Vatican-II Catholic reform movement and chairman of the literature program at Ramapo College of New Jersey, Dr. Padovano has dedicated over 30 years to the study and advancement of the Catholic Church. Ordained a Catholic priest in 1959, Dr. Padovano was closely associated with the Vatican II Ecumenical Council which met from 1962 to 1965. During this time, he emerged as an advocate for the ordination of married men and women, more democratic and participatory church discussion, significant church involvement in issues of social justice, and greater interreligious harmony.

Throughout the 1960's and early 1970's, Dr. Padovano authored key letters for the National Council of Catholic Bishops and taught systematic theology at Gregorian University's Seminary until he married in 1974. Unable to remain at the seminary, but still able to follow his religious calling, Dr. Padovano became involved in the founding of Ramapo College and its mission of interdisciplinary learning as a professor of American literature and religious studies.

A professor, award-winning author, and reform leader, Dr. Padovano continues his study of morality and ethics in our society. As founder and president of CORPUS, National Association for a Married Priesthood, and vice president of the International Federation of Married Catholic Priests, Dr. Padovano continues to address the most controversial issues confronting the Catholic Church.

The Padovano collection carries with it 30 years of scholarship, authorship, and independent thought which will guide students of theology, the Catholic Church and its reform movement in their quest for greater understanding. I am honored to pay tribute, on behalf of New Jersey and the Nation, to Dr. Padovano, his scholarship and his generous gift to the University of Notre Dame.•

HONORING DR. JAN MOOR-JANKOWSKI

• Mr. D'AMATO. Mr. President, at this time I would like to pay tribute to an outstanding professor at New York University by the name of Jan Moor-Jankowski. Dr. Moor-Jankowski, a world renowned research physician and trailblazer on scientific first amendment rights, has been unanimously elected to the late Dr. Linus Pauling's chair at the French National Academy of Medicine, Division of Biologic Sciences.

The origins of the French Academy of Medicine extend to the Royal Academies of the 18th century. The Academy provides a forum for medical debates and advises the French Government on health-related matters. Louis Pasteur was one of its notable members. A limited number of distinguished non-French scientists are elected to provide representation of the worldwide scientific community. An election is for lifetime and only occurs when a chair is vacated.

Election to the Academy is one of France's highest and rarest honors, reserved for the most respected scientist in the world. At the time of his election, Nobel Prize winner Dr. Pauling was virtually a household name thanks to his groundbreaking theories on the effects of vitamins on cancer and other diseases. Like Dr. Pauling, Dr. Moor-Jankowski was chosen from a list of highly regarded candidates as the sole U.S. citizen to be honored with membership on the biological sciences board of the Academy.

For example, this latest award is only the last in a string of scientific honors bestowed on Dr. Moor-Jankowski. In 1994, he was given the William J. Brennan, Jr. Defense of Freedom Award by the Libel Defense Resource Center. In addition, in 1984, Dr. Moor-Jankowski was made a Knight of the French Order "Ordre National de Merite" for World War II resistance and scientific achievements. Other medals and awards from Israel, the U.S.S.R., Italy, and Switzerland have punctuated his career.

Dr. Moor-Jankowski is an alumnus of the Swiss universities of Fribourg and Berne. He began his career at the University of Geneva where his research interests in the study of polymorphic phenotypic expressions of the genetic substrate of man led to his discovery of clinically silent hemophilia B, and of the significant genetic drift of blood group frequencies in the inhabitants of the highest Alpine villages. During subsequent research at Cambridge University, Dr. Moor-Jankowski discovered the polymorphism of allotypes of serum proteins in mice and monkeys.

For the past 30 years, Dr. Moor-Jankowski's laboratory, LEMSIP, has been participating in international collaborative studies leading to the development of the first tests for and vaccines against various forms of infectious hepatitis, and since 1987, in collaboration with Institute Pasteur, Paris, in the development of the first vaccines against AIDS.

He also serves as Director of the World Health Organization Collaborating Center for Hematology of Primate Animals, and is editor-in-chief of the Journal of Medical Primatology.

Again I would like to take this time to honor an outstanding New York resident who has devoted his life to enhancing the quality of life in this country and toward solving world health problems. We wish him continued success in all future endeavors.•

TRIBUTE TO PETE BARBUTTI

• Mr. REID. Mr. President, I rise today to recognize Pete Barbutti, whose talent, warmth, and generosity is deeply admired and appreciated throughout Las Vegas. I rise to pay tribute to Pete, a classic entertainer who helped make Las Vegas the entertainment capital of the world.

Born in Scranton, PA, Pete Barbutti began his entertainment career at the young age of 11. At once, his musical genius on the accordion and percussion was apparent. By high school, it was no wonder he was voted "Most Popular Boy" and "Class Clown" for Pete was truly liked by all.

After serving as assistant conductor in the Army Reserves, Pete brought his musician-comic flair to Las Vegas, where he formed his own group, a music-vocal-comedy quartet called the Millionaires. The group quickly became the favorite of many Las Vegas strip celebrities.

Pete has worked with the best in entertainment including Steve Allen, Nat King Cole, Henry Mancini, and Frank Sinatra. Today, he maintains high visibility by working clubs, conventions, and fairs throughout the United States and Canada, and is famous for his hundreds of appearances on television talk shows. He has received countless awards including Las Vegas Entertainer of the Year and the Artistic Achievement Award from the American Federation of Musicians.

Aside from his performing brilliance, Pete should be recognized for his philanthropic contributions. He played a key role in the success of the Take a Senior to Lunch program and has donated numerous hours helping seniors of the Las Vegas community.

I extend my deepest appreciation to Pete Barbutti for graciously sharing his talent at the 1995 Senior Fair, and for the many smiles he has brought to Nevadans.•

AUTHORITY FOR COMMITTEE TO REPORT

Mr. LOTT. Mr. President, I do have some unanimous consent requests now. I am advised that they have all been provided to the Democratic leadership and have their approval.

I ask unanimous consent that the Budget Committee have until 10 p.m. tonight to file their report to accompany the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, MAY 16, 1995

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. on Tuesday, May 16, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then immediately resume consideration of S. 534, the Solid Waste Disposal Act, under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I now ask unanimous consent that the Senate stand in recess between the hours of 12:30 and 2:15 for the weekly policy luncheons to meet; further, that notwithstanding the recess of the Senate on Tuesday, all Members have until 2:30 p.m. to file any first-degree amendments to S. 395.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, under the agreement reached on Friday of last week the Senate will resume consideration of S. 534, the solid waste disposal bill, at 9:30 tomorrow morning. Senators should be aware that rollcall votes are anticipated as early as 10:30, on or in relation to any of the remaining amendments to the bill.

Following the disposition of the solid waste bill tomorrow, the Senate will resume consideration of S. 395, the Alaska Power Administration bill. A cloture motion was filed on that measure today, so all Members will have until 2:30 p.m. on Tuesday to file any first-degree amendments to the bill.

Rollcall votes can be expected into the evening on Tuesday in order to make progress on S. 395.

Mr. President, I observe no Senators on the floor still wishing recognition but I understand Senator SIMPSON will be arriving shortly. So I ask that no further business come before the Senate other than that of Senator SIMPSON, who will speak as in morning business, I believe, and I ask the Senate stand in recess under the previous order after that statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, are we in a period of morning business at this point?

The PRESIDING OFFICER. The Senator may speak as if in morning business.

Mr. SIMPSON. I will be very short. I understand that you are ready to adjourn for the evening.

(The remarks of Mr. SIMPSON pertaining to the introduction of S. 805 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SIMPSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed for not to exceed 5 minutes, notwithstanding the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTITERRORISM LEGISLATION

Mr. DOLE. Mr. President, I want to join today with President Clinton and with all of America in honoring the 157 law enforcement officers who were killed last year in the line of duty. These brave men and women paid the ultimate sacrifice so that all Americans may continue to live in freedom and peace today, and every day, our thoughts and prayers are with the victims and their families.

Unfortunately, President Clinton could not resist the temptation to score some political points when he chose today's memorial ceremony to criticize congressional efforts to enact meaningful antiterrorism legislation. In his remarks, the President claimed he sees "disturbing signs of the old politics of diversion and delay." And just yesterday, the White House Chief of Staff made the untenable statement that antiterrorism legislation is not moving in Congress "because there is this diversion going on to try to create attention on the Waco incident." Mr. Panetta even went so far as to describe as "despicable" the idea that congressional oversight should be brought to bear on the Waco tragedy.

I know there has been a lot of talk recently about paranoia. But, judging by these remarks, it appears that the paranoia bug has infected the White House. Contrary to what President Clinton may believe, there is no hidden conspiracy on the Hill to divert or delay consideration of antiterrorism legislation. And Mr. Panetta may be disappointed to learn that we have not concocted a secret plot to focus attention on Waco as a means of diverting attention from the administration's own antiterrorism plan.

Just look at the record: We have had 3 days of hearings, including hearings on the administration's controversial proposal to amend the Posse Comitatus Act. We have introduced comprehensive legislation that incorporates many of the administration's own antiterrorism proposals. And we continue to press ahead. In fact, my staff has been meeting regularly, even today, with White House and Justice Department officials to review—and perhaps improve—all of the various antiterrorism proposals that are now on the table.

So, as we move ahead on an ambitious legislative agenda here in the Senate, including an historic plan to balance the Federal budget by the year 2002, I hope the President and his Chief of Staff would show some restraint and patience.

Yes, we will give the administration's proposal every consideration. Yes, we will pass tough antiterrorism legislation. But our resolve to confront the terrorist threat must also be tempered with wisdom and restraint. What we do this year must withstand the test of time. After all, nothing less than our constitutional liberties are at stake.

One would think and hope that the President of the United States would understand this simple, but immensely important, point.

Mr. President, we have indicated to the President we would try to have a bill on his desk by the end of this month. That is still our hope. There have been a lot of delays, but we believe we can meet that challenge.

But I must say, we want to be very careful and not do something based on the emotion of the moment. We want to take a look at this legislation a year from now, 2 years from now, 5 years from now, to make certain we have not trampled on someone's constitutional rights, some group or some individual, down the road.

I think it is very important that we move prudently and we will do that, as we indicated and promised the American people.

I hoped the President would be working with us, instead of taking shots at us based on misinformation. I assume somebody gave him bad information; otherwise, I am certain he would not make a statement like that.

I yield the floor.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 9:30 a.m., Tuesday, May 16, 1995.

Thereupon, at 6:15 p.m., the Senate recessed until Tuesday, May 16, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 15, 1995:

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE U.S. INFORMATION AGENCY

FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS STATED, AND FOR THE OTHER APPOINTMENTS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR; AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JUDITH A. FUTCH, OF VIRGINIA
GEORGE ADAMS MOORE, JR., OF MARYLAND

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

WILLIAM CARROLL CRADDOCK III, OF WASHINGTON
PATRICK C. FLEURET, OF CALIFORNIA
SHANE MAC CARTHY, OF VIRGINIA
NIMALKA S. WIJESOORIYA, OF CONNECTICUT

U.S. INFORMATION AGENCY

MARILYN E. HULBERT, OF FLORIDA
MARY ANNE KRUGER, OF WASHINGTON

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

BELINDA K. BARRINGTON, OF ARIZONA
STEVEN H. BERNSTEIN, OF VIRGINIA
THOMAS ARTHUR DAILEY, OF CONNECTICUT
HERBERT D. HAMBY, OF CALIFORNIA
LINDA LOU KELLEY, OF VIRGINIA
BOBBIE ELAINE MYERS, OF CALIFORNIA
LAWRENCE ERLING PAULSON, OF WASHINGTON
THOMAS HILL PIERCE, OF VIRGINIA
JOHN R. POWER, OF VIRGINIA
JOHN THOMAS RIFENBARK, OF MISSOURI
DEV P. SEN, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

RICHARD T. DRENNAN, OF MARYLAND
MARK A. DRIES, OF VIRGINIA
HUGH J. MAGINNIS, OF FLORIDA
MELINDA D. SALLYARDS, OF FLORIDA

AGENCY FOR INTERNATIONAL DEVELOPMENT

LISA ROSE FRANCHETT, OF CALIFORNIA
MICHAEL J. KAISER, OF NEW JERSEY
KIM MARI KERTSON, OF WASHINGTON
PETER C. KOECHLEY, OF COLORADO
JOAN CLAYTON LARCOM, OF CALIFORNIA
SCOTT S. NICHOLS, OF VIRGINIA
MARY E. NORRIS, OF OHIO
JOHN MICHAEL SULLIVAN, OF ILLINOIS
ALVERA SWEET, OF KANSAS
TUNG THANH TU, OF TEXAS
JIMMIE O. WHITE, OF CALIFORNIA
DAVID P. YOUNG, OF VIRGINIA

FOR REAPPOINTMENT IN THE FOREIGN SERVICE AS A FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

MICHAEL J. HONNOLD, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

U.S. INFORMATION AGENCY

MARCIA P. BOSSHARDT, OF TEXAS
MELISSA GARTH FORD, OF CALIFORNIA
SUSAN HEBERT-CLEARY, OF NEW YORK
RICHARD W. HUCKABY, OF SOUTH CAROLINA
REBECCA J. IDLER, OF PENNSYLVANIA
LISA C. KENNEDY, OF CALIFORNIA
PETER GEORGE PINESS, OF VIRGINIA
EMILIA A. PUMA, OF CALIFORNIA
JO DELL SHIELDS, OF PENNSYLVANIA
KATHERINE VAN DE VATE, OF TENNESSEE
KAREN L. WILLIAMS, OF MISSOURI

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ERIC M. ALEXANDER, OF NEW MEXICO
KEITH MIMS ANDERTON, OF ALABAMA
MICHAEL A. BARKIN, OF FLORIDA
LEONARD E. BOLLEN, JR., OF VIRGINIA
JAMES A. CAROUSO, OF ARIZONA
JONATHAN JAMES CARPENTER, OF CALIFORNIA
BENJAMIN CHANG, OF VIRGINIA
JINHEE CHOI, OF TEXAS
GREGORY A. CRAWFORD, OF FLORIDA
RICHARD DEAN CUMMINS, OF VIRGINIA
ALANNA CUNNINGHAM, OF NEW YORK
WILLARD L. ELLEDGE, JR., OF FLORIDA
DORIS A. ELLENBERGER, OF VIRGINIA
MARK R. EVANS, OF VIRGINIA
MITCHELL L. FERGUSON, OF CALIFORNIA
TROY DAMIAN FITRELL, OF THE DISTRICT OF COLUMBIA
SHAWN ERIC FLATT, OF MISSOURI
MARTINA FLINTROP, OF VIRGINIA
MARC FORINO, OF VIRGINIA
STEVEN B. FOX, OF NEW YORK
JOSEPH GALLAZZI, OF FLORIDA
MIGUEL A. GRANADOS, OF VIRGINIA
KENT M. HARRINGTON, OF VIRGINIA
NATHAN V. HOLT, JR., OF FLORIDA
MELISSA ANNE HUDSON, OF TEXAS
SANDRA J. INGRAM, OF OHIO
BEN E. JOHNSON, OF VIRGINIA
ISTVAN S. KALNOKY, OF VIRGINIA
BRIAN J. KELLEY, OF VIRGINIA
RAYMOND J. KENGOTT, OF FLORIDA
MICHEL MARY KWIATKOWSKI, OF NEW YORK
STEPHAN A. LANG, OF MISSOURI
BENJAMIN WARD MOELING, OF CONNECTICUT
ERIC F. MOLLER, OF VIRGINIA
MARK DAVID MOODY, OF MISSOURI
STANLEY M. MOSKOWITZ, OF VIRGINIA
MIREMBE NANTONGO, OF VIRGINIA
CHERYL L. NORMAN, OF TEXAS
J. MARTIN O'MEARA, OF VIRGINIA
GREGORY C. PAYTOSH, OF VIRGINIA
LINDA M. PERKINS, OF MARYLAND
JAMES ALLEN PLOTTS, OF CALIFORNIA
ALEJANDRO M. PUIG, OF PUERTO RICO
CHRISTOPHER TODD ROBINSON, OF PENNSYLVANIA
WILLIAM SCOFIELD ROWLAND, OF GEORGIA
MICHAEL E. SALZMAN, OF VIRGINIA
DAVID V. SCOTT, OF UTAH
REBECCA J. SHOLL, OF VIRGINIA
BRIAN WESLEY SHUKAN, OF MASSACHUSETTS
DON L. SIMPSON, OF TEXAS
BARBARA L. SINEGAL, OF VIRGINIA
KEITH L. STEPP, OF VIRGINIA
STEVEN W. STORMOEN, OF VIRGINIA
J. FRANK SUMMERS, OF VIRGINIA
ANDREW CHESTER WILSON, OF WASHINGTON
JOY ONA YAMAMOTO, OF CALIFORNIA

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. GEORGE R. CHRISTMAS xxx-xx-x...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. PAUL K. VAN RIPER xxx-xx-x...

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. CHARLES E. WILHELM xxx-xx-x...

HOUSE OF REPRESENTATIVES—*Monday, May 15, 1995*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. FUNDERBURK].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 15, 1995.

I hereby designate the Honorable DAVID FUNDERBURK to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. MICA] for 5 minutes.

SETTING THE RECORD STRAIGHT

Mr. MICA. Thank you, Mr. Speaker.

Mr. Speaker, I come before the House this morning to set the record straight, to provide you, Mr. Speaker, and my colleagues, with correct information on statements that have been made about comments that I made on the floor in the regulatory reform debate which took place recently in the House of Representatives during our debate on the Contract With America, and specifically on the regulatory reform issues that came before this Congress.

In this Congress and during the past Congress, I have been an outspoken critic of the manner and conduct of the regulatory process at the Federal level. Quite frankly, I came here several years ago believing that the regulatory edicts and mandates sent out by the Federal Government had overreached their bounds, had imposed undue burdens and costs on our citizens, on our local governments, on business and industry, and were eating at the very fabric of productivity and competitiveness in this country.

During the debate on the question of regulatory reform, I stood at that podium and I talked about several instances of what I considered excess regulation and regulatory overkill.

I used several examples, and two of the examples I used were actually from my local dentist, who when I was in his dental chair and in his dental office had told me several years ago about some of the excesses of certain Federal departments and agencies, and how he felt imposed upon by those agencies and how he was constricted by those agencies, and at least felt the pressures of those agencies on his practice and on his professional conduct.

So I made those comments in the regulatory reform debate in the House, and shortly thereafter "ABC News" and Peter Jennings and company made a little series, and I wanted to report to the House on that series, and also on the response. The people of the United States and Congress tuned into the "ABC News" and heard a certain response, and I never got an opportunity. You know, they interview you for, in this case, about an hour of tape, and then they take little segments out, and then they put on the national news those segments.

Interestingly enough, and as Paul Harvey said, there is a little bit more. Here is the rest of the story. I want to present that to the House this morning.

Let me quote from the National Review, and I did not prompt their doing this piece or I did not ask them to look into this matter. It just appeared, and some of my constituents sent it to me. But let me quote exactly from it. I will read it.

> Hot on the heels of the GOP's capture of Congress, ABC World News Tonight has unveiled a new segment, "For the Record," designed to ferret out congressmen who engage in exaggeration, false statistics, misleading anecdotes, and other evils. The inaugural segment focused on Representative John Mica (R., Fla.), who alleged that certain Occupational Safety and Health Administration regulations forbid kids to take pulled teeth home from the dentist, and that others compel dentists to keep logs for possession and disposal of white-out. Wild congressional exaggeration, right? Actually, OSHA's Blood Borne Pathogen Standard labels bodily tissues as biohazards. Teeth are considered tissue, and technically must therefore be placed in a red bag and picked up by a licensed disposer. Furthermore, because certain brands of white-out contain toluene, OSHA requires that Manufacturers Safety Data Sheets be kept in office files. Dr. Edward Stein, a health scientist at OSHA, says that white-out's levels of toluene are far below those which concern OSHA and that the requirement does not pertain to offices with fewer than 10 people. However, he concedes that if an individual in an office with fewer than 10 people filed a complaint about white-out, OSHA would be free to investigate. As for the teeth? A dentist in the Northeast refused to return a tooth to a 6-year-old boy because he was concerned about the health regulation. OSHA's unofficial position is that this was unnecessary. However, the regulation does require such action. For the Record.

In conclusion, this story by National Review does set the record straight, and that is, my colleagues, the rest of the story.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 12 noon.

Accordingly (at 10 o'clock and 37 minutes a.m.), the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. FUNDERBURK] at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us always, gracious God, to use our words as instruments of information and understanding, as agents of communication and contact, so that our expressions bring us together and allow us to share in our common heritage and our collective concerns. Remind us that we should choose our words wisely for we know that comments clearly stated and given for the purpose of knowledge can promote harmony and mutual assurance and can lead all people to greater respect and reverence toward one another. Bless us and all Your people, O God, this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT]

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

> H. Con. Res. 64. Concurrent resolution authorizing the 1995 Special Olympics Torch Relay to the run through the Capitol Grounds.

VETERANS BENEFITS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, check this out. Military bases are closing all over America. Veterans benefits are being cut. Veterans cost-of-living allowances are being cut. Veterans outpatient clinics are being closed. Veterans pensions are being slashed.

Think about that. What bothers me is our Government is going to provide 25,000 dollars' worth of vouchers to buy houses for Russian soldiers. Beam me up. Maybe I missed something down here. We have got veterans literally sleeping on steel grates, trying to find an opportunity to get a job, but we are giving $160 million to Russia so that these Russian troops coming back from the Baltics will be able to find a place to live. If they cannot, we, the American taxpayer, will build them a house for $25,000.

Ladies and gentlemen, is there any reason why we are bankrupt? America has the best government that Russia ever had and that most of these other countries ever had. While we are going south, they are all doing well with our tax dollars.

I say it is time to send some of these American gurus who made this decision over to Siberia, let them freeze their buns a little bit over there and maybe it will get them a house back here in America.

(Mr. TRAFICANT asked and was given permission to proceed out of order for 3 minutes.)

H.R. 390

Mr. TRAFICANT. Mr. Speaker, since no one else is here at this point, H.R. 390 is a bill that would change the burden of proof in the tax case. Right now, if you go to a tax court on a civil case, the IRS can lien your house, take your bank account, take your parakeet, take your rubber duckie, and you have to prove you are innocent because you are considered guilty in that court.

H.R. 390 says, first of all, whenever a taxpayer goes to court in America there is one standard, and that is an American is innocent until proven guilty, and I shall switch and the American taxpayer shall be deemed innocent as well.

Second of all, you have 10 days where the IRS has to let you know what problem you have with your tax form. Cite the position of the regulation or the statute, in which your tax report has some problems. And finally, before they can take your house, take your car, take your bank account, they have to present facts to a court of law and have a court order to do so.

I think it is time, my colleagues. If innocent until proven guilty worked for the Son of Sam and Jeffrey Dahmer, how is it that grandma and grandpa, mom and dad or American taxpayers are guilty and a court must prove them innocent? Let us get on with our business. I am asking whoever is in the Congress who may be watching this to cosponsor H.R. 390 and have the Committee on Ways and Means bring the bill out.

The American people should be treated at least as well as a common murderer in a tax court.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 6 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. YOUNG of Alaska) at 12 o'clock and 23 minutes p.m.

MORE FOREIGN AID CUTS URGED

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, America's foreign policy structure needs to be overhauled. The current system is a relic of the cold war. It is duplicative and inefficient, and its foreign aid programs are a disaster.

Despite billions of dollars, those we have given aid to are mired in poverty. In fact, we have done these countries more harm than good by promoting socialist economic and agricultural programs. Of the 15 countries receiving the most U.S. aid, the Heritage Foundation's freedom index rates 12 as "mostly unfree," 1 has a repressed economy, and 2 are rated "mostly free."

A foreign aid program which supposedly buys the good will of foreign leaders while they ruin their own countries cannot be tolerated. If it is to be handed out it must promote free market reforms. Also a majority of the countries receiving U.S. aid consistently vote against us at the U.N. Foreign aid must be tied to America's interests. Is it not about time we had an American desk at the State Department.

At a time we are talking about cutting back on housing, student aid, and farming programs it is not fair to cut foreign policy programs by only $1 billion each year for the next 5 years as the International Relations Committee bill does. It is not enough. Streamlining the State Department's bureaucracy both here and abroad is vital. Let us tell the American people that we are serious about setting new priorities for American foreign policy. Let us cut the fat at Foggy Bottom.

WHO WILL BE HURT BY CUTS TO MEDICARE AND MEDICAID?

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. PALLONE. Mr. Speaker, I would like to use my 1 minute to quote some sections of a Star Ledger editorial which was in the Star Ledger, New Jersey's largest circulation daily, on Thursday, May 11. It says:

> The Republicans have offered a budget resolution that does it all, reduces the deficit, balances the budget, and saves Medicare from bankruptcy—a piece of work crafted of smoke and mirrors. The only thing they do not tell you is how to cut $256 billion from Medicare and $175 from Medicaid, or who is going to get hurt if and when the cuts are made.
>
> You cannot make up that kind of money by switching everybody in Medicare and Medicaid to managed care insurance.
>
> You cannot make it up by cutting fees to doctors and hospitals, unless you want to see the old and the poor turned away.
>
> Medicare is getting all the attention because it is the program for the elderly, a stronger political lobby than people on Medicaid, the program for the poor.
>
> No one bothers to mention that Medicaid clients are mainly women and their children, or that the biggest bite from that budget provides the only hope most of us will have of keeping our mothers and fathers in nursing homes without our families going bankrupt.
>
> Many of the same Republicans who ranted last year that a national health care program would result in health care rationing are among the crowd now calling for the kind of budget cuts which could very well mean rationing for the elderly and the poor. Shows what a difference a year and an election can make.

Mr. Speaker, I include this whole editorial for the RECORD:

[From the Star-Ledger, May 11, 1995]

MEDICARE'S CUTTING EDGE

Why did Willie Sutton rob banks? Because that's where the money is, he said.

Why are Medicare and Medicaid scheduled to take the biggest blow in the budget cutting proposed by congressional Republicans? Same reason. Same crime.

The Republicans have offered a budget resolution that does it all, reduces the deficit, balances the budget and saves Medicare from bankruptcy—a piece of work crafted of smoke and mirrors. All you have to do is trim a bit from this, a bit from that and a whole bunch from Medicare and Medicaid over the next few years and voila!

The only thing they don't tell you is how to cut $256 billion from Medicare and $175 billion from Medicaid or who is going to get hurt if and when the cuts are made.

You cannot make up that kind of money by switching everybody in Medicare and Medicaid to managed care insurance. The best managed care plans are not holding health care increases down to the point that would have to be matched in order to reap the savings the Republican budget resolution promises.

You cannot make it up by cutting fees to doctors and hospitals, unless you want to see the old and the poor turned away.

Medicare is getting all the attention because it is the program for the elderly, a stronger political lobby than people on Medicaid, the program for the poor.

No one bothers to mention that Medicaid clients are mainly women and their children or that the biggest bite from that budget provides the only hope most of us will have of keeping our mothers and fathers in nursing homes without our families going bankrupt.

Many of the same Republicans who ranted last year that a national health care program would result in health care rationing are among the crowd now calling for the kind of budget cuts which could very well mean rationing for the elderly and the poor. Shows what a difference a year and an election can make.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FUNDERBURK). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and neas are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed will be taken after debate is concluded on all motions to suspend the rules, but not before 5 p.m. today.

GREENS CREEK LAND EXCHANGE ACT OF 1995

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1266) to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Greens Creek Land Exchange Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation act established the Admiralty Island National Monument and sections 503 and 504 of that Act provided special provisions under which the Greens Creek Claims would be developed. The provisions supplemented the general mining laws under which these claims were staked.

(2) The Kennecott Greens Creek Mining Company, Inc., currently holds title to the Greens Creek Claims, and the area surrounding these claims has further mineral potential which is yet unexplored.

(3) Negotiations between the United States Forest Service and the Kennecott Greens Creek Mining Company, Inc., have resulted in an agreement by which the area surrounding the Greens Creek Claims could be explored and developed under terms and conditions consistent with the protection of the values of the Admiralty Island National Monument.

(4) The full effectuation of the Agreement, by its terms, requires the approval and ratification by Congress.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "Agreement" means the document entitled the "Greens Creek Land Exchange Agreement" executed on December 14, 1994, by the Under Secretary of Agriculture for Natural Resources and Environment on behalf of the United States and the Kennecott Greens Creek Mining Company and Kennecott Corporation;

(2) the term "ANILCA" means the Alaska National Interest Lands Conservation Act, Public Law 96-487 (94 Stat. 2371);

(3) the term "conservation system unit" has tne same meaning as defined in section 102(4) of ANILCA;

(4) the term "Green Creek Claims" means those patented mining claims of Kennecott Greens Creek Mining Company within the Monument recognized pursuant to section 504 of ANILCA;

(5) the term "KGCMC" means the Kennecott Greens Creek Mining Company, Inc., a Delaware corporation;

(6) the term "Monument" means the Admiralty Island National Monument in the State of Alaska established by section 503 of ANILCA;

(7) the term "Royalty" means Net Island Receipts Royalty as that latter term in defined in Exhibit C to the Agreement; and

(8) the term "Secretary" means the Secretary of Agriculture.

SEC. 4. RATIFICATION OF THE AGREEMENT.

The Agreement is hereby ratified and confirmed as to the duties and obligations of the United States and its agencies, and KGCMC and Kennecott Corporation, as a matter of Federal law. The agreement may be modified or amended, without further action by the Congress, upon written agreement of all parties thereto and with notification in writing being made to the appropriate committees of the Congress.

SEC. 5. IMPLEMENTATION OF THE AGREEMENT.

(a) LAND ACQUISITION.—Without diminishment of any other land acquisition authority of the Secretary in Alaska and in furtherance of the purposes of the Agreement, the Secretary is authorized to acquire lands and interests in land within conservation system units in the Tongass National Forest, and any land or interest in land so acquired shall be administered by the Secretary as part of the National Forest System and any conservation system unit in which it is located. Priority shall be given to acquisition of non-Federal lands within the Monument.

(b) ACQUISITION FUNDING.—There is hereby established in the Treasury of the United States an account entitled the "Greens Creek Land Exchange Account" into which shall be deposited the first $5,000,000 in royalties received by the United States under part 6 of the Agreement after the distribution of the amounts pursuant to subsection (c) of this section. Such moneys in the special account in the Treasury may, to the extent provided in appropriations Acts, be used for land acquisition pursuant to subsection (a) of this section.

(c) TWENTY-FIVE PERCENT FUND.—All royalties paid to the United States under the Agreement shall be subject to the 25 percent distribution provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) relating to payments for roads and schools.

(d) MINERAL DEVELOPMENT.—Notwithstanding any provision of ANILCA to the contrary, the lands and interests in lands being conveyed to KGCMC pursuant to the Agreement shall be available for mining and related activities subject to and in accordance with the terms of the Agreement and conveyances made thereunder.

(e) ADMINISTRATION.—The Secretary of Agriculture is authorized to implement and administer the rights and obligations of the Federal Government under the Agreement, including monitoring the Government's interests relating to extralateral rights, collecting royalties, and conducting audits. The Secretary may enter into cooperative arrangements with other Federal agencies for the performance of any Federal rights or obligations under the Agreement or this Act.

(f) REVERSIONS.—Before reversion to the United States of KGCMC properties located on Admiralty Island, KGCMC shall reclaim the surface disturbed in accordance with an approved plan of operations and applicable laws and regulations. Upon reversion to the United States of KGCMC properties located on Admiralty, those properties located within the Monument shall become part of the Monument and those properties lying outside the Monument shall be managed as part of the Tongass National Forest.

(g) SAVINGS PROVISIONS.—Implementation of the Agreement in accordance with this Act shall not be deemed a major Federal action significantly affecting the quality of the human environment, nor shall implementation require further consideration pursuant to the National Historic Preservation Act, title VIII of ANILCA, or any other law.

SEC. 6. RECISION RIGHTS.

Within 60 days of the enactment of this Act, KGCMC and Kennecott Corporation shall have a right to rescind all rights under the Agreement and this Act. Recision shall be effected by a duly authorized resolution of the Board of Directors of either KGCMC or Kennecott Corporation and delivered to the Chief of the Forest Service at the Chief's principal office in Washington, District of Columbia. In the event of a recision, the status quo ante provisions of the Agreement shall apply.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes, and the gentleman from Hawaii [Mr. ABERCROMBIE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

First of all, Mr. Speaker, let me thank the gentleman from Hawaii [Mr.

ABERCROMBIE] for his work and cooperation on this bill.

Mr. Speaker, I am pleased to rise in support of the Greens Creek Land Exchange Act of 1995.

This act will approve a land exchange agreement between the U.S. Forest Service and Kennecott Greens Creek Mining Co. ("Kennecott"). These lands surround the Greens Creek Mine, a zinc-lead-silver-gold mine, located on Admiralty Island in southeast Alaska. The land exchange agreement is the product of a nearly 10-year-long negotiation between the two parties.

Under the Greens Creek Land Exchange Agreement, Kennecott receives the right to mine mineral deposits on about 7,500 acres of land, located in Admiralty Island National Monument. In return, Kennecott will: First, pay a royalty to the Federal Government on any production from these lands, and second, purchase and donate to the U.S. Forest Service 1 million dollars' worth of inholdings located within the Admiralty National Monument—an amount of land equal in value to the land received under the agreement.

The royalty is based on the value received from 1 sales after deduction of shipping, smelting, and refining charges. The royalty has two tiers depending on the value of the ore. When metal prices are average or better, the royalty will be 3 percent, and at low metal prices, the royalty will be three-quarters of 1 percent. This two-tier royalty will encourage the Greens Creek Mine to continue operation in times of low metal prices.

This land exchange will help promote sound economic and environmentally responsible resource development, support land consolidation in conservation system units within the Tongass National Forest, and raise revenues for the Federal Government.

Mr. Speaker, I urge an "aye" vote on H.R. 1266 and thank GEORGE MILLER for his leadership in the effort to approve this land exchange agreement. I look forward to the successful completion of the Greens Creek land exchange and hope that it will help provide new economic opportunities for those who live in southeast Alaska.

Mr. Speaker, I include for the RECORD the text of the Greens Creek Land Exchange Agreement:

AGREEMENT

This Agreement, by and between Kennecott Greens Creek Mining Company, Inc., a Delaware corporation ("KGCMC") and The United States of America, by and through the U.S.D.A. Forest Service ("USFS"), dated , 1994.

Whereas, on December 2, 1980, Congress established the Admiralty Island National Monument (the "Monument") by enactment of the Alaska National Interest Lands Conservation Act ("ANILCA") (P.L. 96-487):

Whereas, the Monument was established as part of the Tongass National Forest for the purpose of protecting objects of ecological, cultural, geological, historical, prehistorical and scientific interest, in particular its wildlife and supporting habitats;

Whereas, Congress designated approximately nine hundred thousand acres of the Monument as wilderness under ANILCA;

Whereas approximately 17,000 acres of the Monument was designated as non-wilderness to permit the development of a silver, lead, zinc and gold deposit;

Whereas, KGCMC, as manager of the Greens Creek Joint Venture ("GCJV") has developed the Greens Creek Mine (the "Mine") on 17 claims which were located prior to the establishment of the Monument (the "Existing Claims");

Whereas, operation of the Greens Creek Mine, which is located approximately 15 miles from Juneau, Alaska, can produce 450,000 tons of ore per year and contribute over 265 jobs to the local economy of Southeast Alaska;

Whereas, KGCMC hopes that the life of the Mine and the jobs it provides can be extended by further exploration and development of subsurface lands within the non-wilderness portion of the Monument adjacent to the Existing Claims;

Whereas, such development can occur without significant adverse environmental effects by utilizing existing facilities of the mine for the most part and minimizing surface disturbance on Monument lands;

Whereas, further exploration and potential development of the Mine can be accomplished without significant impact to the Monument and its purposes;

Whereas, KGCMC has proposed a land exchange to acquire rights to explore and mine adjacent subsurface lands in return for conveyance to the United States, through the USFS, of important private inholdings located within the Monument and/or other Conservation System Units within the Tongass National Forest, the assignment to the United States of a royalty interest in the returns from any future development from mining the lands acquired by KGCMC through the exchange, and a restrictive covenant and future interest in the Existing Claims, Mill Site #1 (MS 2514), and other lands held by KGCMC located on Admiralty Island;

Whereas, the result of such land exchange would include consolidation of Federal land ownership in the Monument Wilderness in return for the right through title to explore and mine the subsurface lands adjacent to the Mine within the existing non-wilderness area of the Monument, in an environmentally sound manner.

Whereas, the accomplishment of such land exchange for the purposes of Conservation System Unit consolidation and for the purpose of permitting further exploration and development of the Greens Creek Mine is in the pubic interest under the terms of Section 1302(h) of ANILCA; and

Whereas, this land exchange is being accomplished under the land exchange authority of Section 1302(h) of ANILCA:

Now, therefore, the parties to this Agreement agree as follows:

1. *General Description of the Exchange.* The USFS agrees to exchange the mineral estate, subject to a future interest and other provisions of this Agreement, in 7500 acres, more or less, of subsurface public land (the "Exchange Properties") delineated on a map and description title "KGCMC Exchange Properties" dated March 26, 1993, designated Exhibit A of this Agreement. KGCMC agrees to exchange in return: i) title, or alternatively, funds to acquire title, to private inholdings ("Exchange Inholdings") totalling no less than $1,000,000 in fair market value from lands located within Admiralty Island National Monument and, if necessary, other Conservation System Units within the Tongass National Forest, from a list titled "KGCMC Exchange Inholdings" dated November 6, 1993, designated Exhibit B hereto; ii) a royalty interest in "Net Island Receipts" realized from the sale of minerals that may be mined from the Exchange Properties, (excluding those minerals which are property of KGCMC by operation of extralateral rights); and iii) a restrictive covenant and future interest in the Existing Claims, Millsite #1 (MS 2514), and any other lands held by KGCMC located on Admiralty Island. The specific interests to be exchanged and terms and conditions thereto are described elsewhere in this Agreement.

2. *Effective Date.* This Agreement shall become effective upon its execution by both parties and approval by Act of Congress. The effective date of this Agreement shall be the date of enactment of Federal legislation approving this exchange.

3. *Termination.* In the event the exchange closing described in Section 4.A is not completed within seven years from the effective date of this Agreement, this Agreement shall terminate and become null and void upon expiration of seven years from the effective date. The terms of this Agreement shall otherwise be incorporated in the conveyances completed pursuant to this Agreement. Both parties state their intent to exert reasonable best efforts to complete the exchange closing as soon as practicable in advance of seven years from the effective date.

4. *Exchange Details.*

A. there shall be a single exchange closing. At the closing, the following conveyance shall occur:

(i)(a) the United States shall receive fee title via general warranty deeds to the surface and subsurface estate of Exchange Inholdings totalling no less than $1,000,000 in fair market value, subject only to any reservations, exceptions, or conditions approved prior to closing by the USFS. Upon conveyance, each Exchange Inholding shall become and be managed by the USFS as part of the Conservation System Unit having exterior boundaries within which the Inholding is located.

(b) In the event that the Congress enacts legislation establishing a special fund in the Treasury for the deposit of monies to be available until expended, without further appropriation, for the acquisition by the Forest Service of lands and interests in lands within the exterior boundaries of Admiralty Island National Monument or other Conservation System Units within the Tongass National Forest, KGCMC shall, in lieu of the conveyances described in (i)(a), pay to the United States the sum of $1,100,000 at the closing, for deposit in said fund. Monies from said fund shall be available for the purchase of lands and interests in lands and related administrative costs.

(ii) KGCMC shall receive title to the entire interest of the United States in the form of a patent upon completion, at KGCMC expense, of a survey meeting Bureau of Land Management standards, to the Exchange Properties, comprising the subsurface mineral estate of the lands described in Exhibit A, along with rights appurtenant to such estate identical to those provided for an "unperfected claim" as defined in section 504 of ANILCA (16 U.S.C. 432 note) once patent to the minerals of such claim is conveyed by the United States. Provided, the Exchange Properties conveyance shall specifically reserve the restrictive covenant and future interest in the United States as described in

Section 8, and shall specifically except extralateral rights as described in Section 4.B;

The Exchange Properties conveyance shall furthermore be specifically subject to:

a. valid existing rights;

b. the covenants described in Sections 4.C. and 4.D;

c. the Net Island Receipts interest described in Section 6 and Exhibit C hereto; including but not limited to the right of USFS to enter and inspect the Exchange Properties as provided in Exhibit C hereto;

d. a coextensive right of USFS to enter and inspect the Exchange Properties to monitor compliance with Sections 4.B and 4.C;

The Exchange Properties conveyance shall be furthermore subject only to any other exceptions, reservations, or conditions approved prior to closing by KGCMC.

B. The parties expressly agree that no extralateral rights for the Exchange Properties shall be conveyed under the terms of this Agreement. This Agreement shall not enlarge nor diminish any extralateral rights which KGCMC may now have or in the future establish with respect to its existing claims.

C. The parties expressly agree that no minerals extracted from the Exchange Properties other than hardrock and metalliferous minerals available for location and patent under the general mining laws of the United States (30 U.S.C. 21–53 *et seq.*) may be sold for commercial purposes. Any other mineral or mineral material on the Exchange Properties may be extracted and utilized by KGCMC in the exploration, development, mining and beneficiation process of Existing Claims and Exchange Properties for hard rock and metalliferous minerals, without payment to the United States.

D. Use and occupancy by KGCMC, its successors, or assigns of the surface overlying the Exchange Properties shall be limited as follows:

(1) Use and occupancy of the surface estate overlying the Exchange Properties shall be minimized to the maximum extent practicable, including but not limited to consolidating facilities and operations to the maximum extent practicable with facilities and operations related to the existing Greens Creek Mine, and reclamation in accordance with applicable law and regulation.

(2) There shall be no use or occupancy of the surface estate overlying the Exchange Properties until the operator, as defined in the regulations referenced herein, has applied for and received approval of a plan of operations, including reclamation, in accordance with the provisions of 36 CFR 228.80 and 36 CFR 228, Subpart A in effect on the effective date of this Agreement.

(3) There shall be no use or occupancy of the surface estate overlying the Exchange Properties for purposes of open pit, hydraulic, or other surface mining, or smelting operations.

(4) Neither the existence of privately owned minerals nor any provision of this Agreement shall be construed to preclude the United States and its assigns, including the general public, from occupancy or use of the surface estate overlying the Exchange Properties. The USFS shall as appropriate impose reasonable restrictions upon public occupancy and use for purposes of avoiding conflict with KGCMC operations, to protect public safety, or for other purposes. This provision shall not be construed to alter respective tort liability, if any, between USFS and KGCMC or other entities under applicable law.

E. Evidence of title to Exchange Inholdings shall be in a form acceptable to and in conformance with standards of the Attorney General of the United States.

F. USFS shall bear its own attorney fees, costs of document preparation for conveyance of the Exchange Properties to KGCMC, and costs of recording documents conveying Exchange Inholdings and other property interests to the United States. KGCMC shall bear all other closing costs, including abstract of title or title insurance, transfer taxes, brokerage fees, its attorney fees and recording costs. KGCMC shall also bear the cost of survey required for issuance of patent to the Exchange Properties and any survey required by the United States to complete conveyance of any Exchange Inholdings to the United States. Provided, if USFS completes the acquisition of Exchange Inholdings pursuant to Section 4.A(i)(b), the USFS shall bear all closing costs for the Exchange Inholdings. All costs borne by KGCMC pursuant to this paragraph shall not be credited against the $1,000,000, Net Island Receipts interest, or other consideration owing to the United States under this Agreement. The provisions of Public Law No. 91–646 shall not apply to this Agreement. KGCMC shall not be construed as an agent of the United States in acquiring Exchange Inholdings or otherwise under this Agreement.

G. The USFS agrees to cooperate with KGCMC in attempting to effect the transactions contemplated herein as tax free exchanges pursuant to Section 1031 of the I.R.C. (26 U.S.C. 1031 *et seq.*), but expressly disclaims any jurisdiction to determine or influence Internal Revenue Service determinations of the tax consequences of any transactions.

5. *Valuation of Exchange Inholdings.*

A. Attached as Exhibit B of this Agreement is a list of the properties which the USFS lists as qualified for conveyance as Exchange Inholdings. KGCMC shall be permitted to acquire and designate any such properties as Exchange Inholdings and convey or cause to be conveyed to the USFS such properties as is necessary to effect the Exchange. No particular lands are required to be conveyed, and there is no priority for these potential Exchange Inholdings except as described in Section C below.

B. The fair market value of each Exchange Inholding shall be the lesser of the actual amount paid for the Inholding by KGCMC, excluding closing costs borne by KGCMC described in Section 4.E above, or the fair market value adjusted to the effective date of this Agreement, determined by an appraisal. The appraisal for each Exchange Inholding shall be completed by KGCMC at its own expense and the appraisal report provided to USFS no sooner than 1 year and no later than 60 days in advance of closing for the Inholding concerned, for review and approval. Said appraisal shall be completed according to the then current Uniform Appraisal Standards for Federal Land Acquisitions. In the event KGCMC is not able to acquire Exchange Inholdings totalling exactly $1,000,000 in fair market value, KGCMC shall be obligated without further consideration to convey and bear the expense of acquiring any additional Exchange Inholding required to bring the total fair market value of the Exchange Inholdings conveyed to at least $1,000,000.

C. Exhibit B is divided into two parts: Part A lists lands located within Admiralty Island National Monument. Part B lists lands located within other Conservation System Units within the Tongass National Forest. KGCMC shall use reasonable efforts to acquire lands from the Part A list when available at fair market value and only acquire lands from the Part B list upon a determination by the USFS that lands from the Part A list are not available at fair market value after such reasonable efforts. KGCMC shall otherwise consult and cooperate with USFS in identifying opportunities of acquisition at fair market value of particular lands listed in Exhibit B, and use reasonable efforts to acquire such lands.

6. *Net Island Receipts Royalty Interest*—The Parties agree that the United States shall receive a percentage of the Net Island Receipts from mineral production from the Exchange Properties as described in Exhibit C of this Agreement. The United States shall be provided reasonable access by KGCMC to the Exchange Properties and any books, records, documents, and mineral samples, to audit the payment of the Net Island Receipts interest as provided in Exhibit C.

7. *Existing Extralateral Rights*—This Agreement, including the grant of the Net Island Receipts interest described in paragraph 6 and Exhibit C shall not enlarge or diminish any rights KGCMC may now have or in the future establish to minerals lying with the Exchange Properties through application of extralateral rights extending from KGCMC's Existing Claims. The Net Island Receipts interest to be granted to the United States under this agreement shall not burden, nor entitle the United States to any monies realized by KGCMC from the sale of concentrates or other mineral products from ores, the title to which belongs to KGCMC by operation of extralateral rights extending from KGCMC's existing claims and property interests.

8. *Restrictive Covenant and Future Interest in the United States.*

A. KGCMC shall grant the United States a restrictive covenant and future interest in (i) the Existing Claims; (ii) Millsite #1 (MS 2514); and (iii) the Exchange Properties, and the right to a future interest in (iv) the "Future Acquired Lands," defined as follows: any lands on Admiralty Island to which KGCMC, its successors, or assigns acquires title after the effective date of this agreement and prior to the vesting of title in the United States as defined in Section 8.B. occurs, excepting Exchange Inholdings conveyed to the United States pursuant to this Agreement. The grant shall be effected by: (1) a conveyance by deed regarding the Existing Claims and Millsite; (ii) a reservation and/or exception in the conveyance from the United States regarding the Exchange Properties; and (iii) a contractual right to conveyance by deed upon KGCMC acquiring title, regarding the Future Acquired Lands. KGCMC shall grant the restrictive covenant and future interest and rights thereto described herein at the exchange closing.

B. The terms of the restrictive covenant and future interest to be granted to the United States in Section 8.A. are as follows:

(1) Restrictive Covenant: Use of the subject lands by KGCMC, its successors, and assigns shall be limited solely to bona fide good faith mineral exploration, development, and production activities, including reclamation work. This covenant shall run with the land until such time as the vesting of title to the United States occurs.

(2) Future interest: Right of Reentry: The United States shall have a right to reenter and take title and possession to all right, title, and interest in the subject lands upon the following, whichever occurs earlier:

(a) abandonment by KGCMC, its successors, or assigns, of all bona fide good faith mineral exploration, development, and production activities, including reclamation work, on each and all of i) the Existing Claims; ii) Millsite #1 (MS 2514); iii) the Exchange Properties; and iv) the Future Acquired Lands. Complete cessation for ten consecutive years of all bona fide good faith mineral exploration, development, and production activities, including reclamation work, on all the lands listed in i) through iv) herein, shall be conclusively deemed to constitute abandonment, without prejudice to abandonment occurring otherwise.

(b) January 1, 2045; if as of December 1, 2044, KGCMC, its successors, or assigns are not engaged in bona fide good faith mineral exploration, production, or production activities, including reclamation work, on any of the lands listed in (i) through (iv) in (a) above.

(c) January 1, 2095, irrespective of any ongoing activities and subject to the right of reentry occurring sooner based upon abandonment as described in (a) above.

The right of reentry and all other terms herein shall not in any way relieve KGCMC, its successors, or assigns of obligations described in Section 9 [indemnity] of other obligation otherwise applicable.

9. *Hazardous Waste and other Indemnity*. KGCMC, Kennecott Corporation, and their successors and assigns shall indemnify, defend and hold harmless the United States, its various agencies and employees, from any damage, loss, claim, fines, penalties, and costs whatsoever arising in any way and at any time from any use, occupancy or activities, past, present or future (provided said use, occupancy, or activities occur no later than the time at which title reverts to the United States), by any entity, on the Exchange Inholdings, Existing Claims, Millsite #1 (MS 2514) and other property in which a restrictive covenant and future interest is granted to the United States under this Agreement, specifically including, but not limited to: (a) those activities by which hazardous substances, hazardous materials, or wastes of any kind were generated, released, stored, used, or otherwise disposed on the described property or facility thereon, and (b) any response or natural resource damage actions conducted pursuant to any federal, state, or local environmental law, regulation, or rule, and related in any manner to said hazardous substances, hazardous materials, or wastes.

10. *Disclaimer of Value Warranty*. The parties expressly disclaim any warranty of value for any of the lands or interests exchanged under this Agreement. It is expressly recognized by the parties that potential revenues or proceeds from any of the lands or interests exchanged herein are purely speculative.

11. *Loss or Damage Prior to Conveyance*. Both parties agree not to do, or suffer others to do, any act prior to the conveyance described in this Agreement by which the value of the real property herein identified for exchange may be diminished or further encumbered. In the event any such loss or damage occurs from any cause, including acts of God, to the real property herein identified for exchange before execution of deed, the party who is grantee under this Agreement as to that property shall not be obligated to accept title to said property, and an equitable adjustment in the consideration shall be made at the option of said party. Information obtained from exploratory drilling or other acts otherwise authorized shall not be construed as diminishing or further encumbering the identified property, for purposes of this Agreement.

12. *Status Quo Ante*. In the event this Agreement becomes null and void prior to the completion of the exchange closing by operation of its terms or by order of a court of competent jurisdiction, the parties shall return to their status and rights prior to execution of the Agreement.

13. *Notices*—Notices required to be delivered under this Agreement shall be delivered in writing by U.S. mail, hand delivery with return receipt, or fax with confirmation as follows:

KGCMC

General Manager
Kennecott Greens Creek Mining Co.
3000 Vintage Park Road
Juneau, Alaska 99801

General Counsel
Kennecott Corporation
10 East South Temple
Salt Lake City, Utah 84113

U.S. Forest Service

Regional Forester
Region 10
P.O. Box 21628
Juneau, Alaska 99802–1628

14. *Signatures for Execution*. The signers shall be: (i) for Kennecott Corporation and Kennecott Greens Creek Mining Company, respectively, the authorized officer for the Corporation and for the Company; and (ii) for the United States of America, Department of Agriculture, Forest Service, the USDA Assistant Secretary for Natural Resources and Environment.

15. *Counterparts*. This Agreement may be signed in separate counterparts by the parties which, when each have so signed, shall be deemed a single Agreement.

16. *Entirety of Agreement*. This instrument and attachments embody the whole Agreement of the parties. The Exhibits referenced herein are attached hereto and incorporated by reference as part of this Agreement. There are no promises, terms, conditions, or obligations other that those contained herein. This Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties.

17. *Modification*. This Agreement may be modified only upon written Agreement of the parties thereto and after notification in writing to the appropriate committees of the U.S. Congress.

18. *Clerical and Typographical Errors*. Clerical and typographical errors contained herein may be corrected upon notice to the Parties. Unless such errors are deemed substantive by either party within ten (10) days notice, corrections may be made without formal ratification by the Parties. In the event the delineation of a boundary upon a map included in an exhibit to this Agreement conflicts with a textual description of the boundary included in the exhibit, the map boundary shall control, subject to correction of errors in map boundaries under this section.

19. *Covenant Not to Sue*. The parties to this Agreement mutually covenant not to sue each other challenging the legal authority of either to enter into their Agreement or to effectuate any terms herein. Either party may enforce the covenants, terms, and conditions of this Agreement in a court of competent jurisdiction.

20. *Officials Not to Benefit*. No Member of Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom unless it is made with a corporation for its general benefit (18 U.S.C. 431, 433).

Third Party Beneficiaries. This agreement is not intended, and shall not be construed, to create any third party beneficiary. Nothing in this Agreement shall be construed as creating any rights of enforcement by any person or entity that is not a party to this Agreement.

Successors and Assigns.

A. This Agreement shall be effective and binding upon each party and any successors or assigns thereto. The parties shall have the right to assign, transfer, convey, lease, sell or alienate any of their rights under this Agreement. The Parties further acknowledge that a transfer from KGCMC to Greens Creek Joint Venture, operating as a joint venture, is expressly permissible upon written notice to the USFS. An assignment, transfer conveyance, lease, sale or other alienation of rights, however, shall not release a party from its duties under this Agreement, except that an agency of the United States shall be released from its duties if the transfer is to a successor agency.

B. An assignment, transfer, conveyance, lease, sale or alienation shall not release any of the covenants or conditions which run with the land imposed by this Agreement. The covenants and conditions contained in this Agreement shall be construed as running with the land unless they are clearly intended as personal to a party to this Agreement. The parties may contract for the disposition or utilization of any rights granted by this Agreement.

23. *Equal Value and Public Interest Determination*. The Parties recognize the impossibility of precisely valuing the respective considerations flowing between the United States and GCJV pursuant to this Agreement. In accordance with Section 1302(h) of ANILCA, the USFS Regional Forester, Region 10, pursuant to authority delegated by the Secretary of Agriculture, has determined that although the mutual consideration flowing between the Parties may be unequal, it is in the public interest to consummate this exchange. This paragraph shall be construed as a finding by the Secretary that the public interest values of the interests in land exchanged pursuant hereto are equal.

In Witness Whereof, Kennecott Corporation, Kennecott Greens Creek Mining Company, and the USDA Assistant Secretary for Natural Resources and Environment, acting for and on behalf of the United States Department of Agriculture, has executed this Agreement.

United States Department of Agriculture
By:
Assistant Secretary for Natural Resources and Environment
Date:

Kennecott Greens Creek Mining Company
By:
Its:
Date:

Kennecott Corporation
By:
Its:
Date:

EXHIBIT B—PART A

KGCMC EXCHANGE INHOLDINGS—ADMIRALTY ISLAND NATIONAL MONUMENT

Tract	Acres	Location	Legal description	USGS quad
USS 796	7.88	Wheeler Creek	T44S, R65E, CRM	JUN A–3.
(406906)				
USS 1058	54.04	Hood Bay	T52S, R68E, CRM	SIT B–2.
USS 1159	71.47	Wheeler Creek	T44S, R65E, CRM	JUN A–3.
(938822) (Homestead Entry No. 85)				
Fraction of HES 85 totaling approx. 22 acres subdivided as:				
Tract A	4.965			
Tract B	4.965			
Tract C	4.965			
Tract D east part	0.366			
Tract D west part	1.5			
Tract E Lot 1	2.48			
Tract E Lot 2	2,48			
Fraction of HES 85 totaling approx. 16 acres				
Fraction of HES 85 totaling approx. 33 acres				
USS 1351	134.53	Mole Harbor	T49S, R70E, CRM	SIT C–1.
Tract A	3.44			
Tract B	131.09			
USS 1480	10.24	Hood Bay	T52S, R69E, Sec7	SIT B–2.
(T&M Pat. 1027446)				
USS 1575	14.63	Gambier Bay	T51S, R71E, CRM	SUM B–6.
Tract A	3.905			
Tract B	4.069			
Tract C	2.544			
Tract D	2.239			
Tract E	1.875			
USS 1984	32.59	Pybus Bay	T53S, R71E, CRM.	SIT B–1.
(1061484)				
Parcel 1&2	21.50			
Parcel 3	11.09			
USS 2412:				
Lot 16	3.51	Hood Bay	T52S, R68E, Sec12.	SIT B–2.
Tract A	1.981			
Tract B & C	1.528			
USS 2412:				
Lot 21	4.55	Hood Bay	T52S, R68E, Sec12.	SIT B–2.
(Homesite Pat. 1126506)				
Lot 23	5.00	Hood Bay	T52S, R68E, Sec12.	SIT B–2.
(Homesite Pat. 1130390)				
USS 2413:				
Lot 28	3.90	Hood Bay	T52S, R69E, CRM	SIT B–2.
Lots 30–37	23.1	Hood Bay	T52S, R69E, CRM	SIT B–2.
(PLO 774)				
PLO's 593, 774, 5156 & 5188 totaling:	612.63	Hood Bay	T52S, R68E, CRM T52S, R69E, Sec 7.	SIT B–2.
USS 10438:				
Lot 1	3.98	Hood Bay	T52S, R68E, CRM	SIT B–2.
Lot 2	22.59	Hood Bay	T52S, R68E, CRM	SIT B–2.
USS 10444	100.0	Hood Bay	T52S, R68E, CRM	SIT B–2.
USS 10459	60.0	Chaik Bay	T52S, R69E, CRM	SIT B–2.
MS 312	132.67	Kanalku Bay	T50S, R68E, CRM	SIT B–2.
MS 1032	82.28	Greens Creek	T43S, R66E, CRM Sec. 31 & 32	JUN A–2. JUN A–3.
1152018	18.00	Murder Cove	T56S, R68E, CRM	SIT A–2.
Fraction	16.00			
Fraction	2.00			
AA–7741	158.04	Mitchell Bay	T50S, R68E, SEC 12.	SIT C–2.
Native Allot.				
Patent No. 50–93–0148				
Native Allot.	104.48	Favorite Bay	T51S, R68E	SIT B–2.

The above list of private holdings within Admiralty Island National Monument are considered desirable for acquisition. Data is from the USDA Forest Service, R-10 data files and State of Alaska, Juneau District Recorders Office. The listing is considered to be approximately 95% complete as of the date of this agreement. Parcels to be considered under this exchange shall also include holdings conveyed into private ownership subsequent to the date of this agreement. The parcels are listed in numerical order without any regard as to priority or availability for acquisition.

EXHIBIT B—PART B

KGCMC EXCHANGE INHOLDINGS—OTHER CONSERVATION SYSTEM UNITS

Tract	Acres
Misty Fiords National Monument/Wilderness:	
MS 2267	647.12
USS 1663	10.08
USS 1980	14.00
USS 287	34.53
USS 1342	5.00
USS 2975	79.87
USS 2662	4.96
USS 2667	84.07
USS 1445	65.25

KGCMC EXCHANGE INHOLDINGS—OTHER CONSERVATION SYSTEM UNITS—Continued

Tract	Acres	
USS 2629	28.13	
USS 2320	116.77	
USS 2740	124.19	
IC 1072	12.75	
IC 1424	11.40	
IC 1188	19.20	
IC 929	4.65	
Subtotal	1,261.87	
South Prince of Wales Wilderness:		
USS 310	13.75	
IC 1107	33.20	
IC 1115	3.10	
Subtotal	50.05	
Peterson Creek/Duncan Salt Chuck Wilderness:		
MS 652	78.16	
USS 310	7.75	
Subtotal	85.91	
Stikine-LaConte Wilderness:		
USS 1023	160.00	
USS 2358	4.93	
Pat'd Land	159.63	Lot 172, W1/2NW, N1/2NWSE, S–26, T60S, R82E.
Pat'd Land	151.35	S1/2/2NWSE, W1/2SWSE, Lots 374, S–26; N1/2NENW, S–35, T60S, R82E.
Pat'd Land	141.65	Lots 1 & 3, S1/2SENE, S–31; Lot 4, S1/2SWNW, S–32, T60S, R82E.
Pat'd Land	135.39	Section 11, T61S, R83E.

KGCMC EXCHANGE INHOLDINGS—OTHER CONSERVATION SYSTEM UNITS—Continued

Tract	Acres	
Pat'd Land	114.38	Section 14, T61S, R83E.
Pat'd Land	157.76	Section 2, T61S, R83E; Section 31, T60S, R83E.
Subtotal	1,025.09	
West-Chichagof/Yakobi Wilderness:		
MS 2257	15.00	
MS 1574	201.64	
MS 965A	39.96	
MS 1587	32.84	
MS 1046 & 1453	35.79	
MS 1046	7.35	
MS 1460	33.53	
MS 936	23.56	
MS 1047	13.75	
MS 864	42.82	
MS 1576	12.34	
MS 1575	12.62	
MS 1461	4.77	
MS 1594	35.39	
MS 1498	16.66	
MS 1502 A & B	162.42	
MS 1504	19.81	
MS 957A	13.38	
MS 1497	1.17	
USS 1476	12.70	
Subtotal	737.50	
Chuck River Wilderness:		
MS 791	35.43	
MS 964	55.02	
MS 42	9.87	

KGCMC EXCHANGE INHOLDINGS—OTHER CONSERVATION SYSTEM UNITS—Continued

Tract	Acres
MS 1085	62.47
MS 577	154.46
MS 37, 38 & 39	55.45
USS 1509	40.22
USS 1940	37.66
USS 3082	4.51
MS 424	12.96
MS 525A	25.55
MS 267 A & B; 268 A & B; 269; 270.	63.98
MS 579 A & B	111.85
MS 40 & 41	28.00
USS 2845	3.78
Subtotal	701.21

The above list of private holdings within Conservation System Units on the Tongass National Forest are considered desirable for acquisition. Data is from the USDA Forest Service, R–10 data files and State of Alaska, Juneau District Recorders Office. The listing is considered to be approximately 95% complete as of the date of this agreement. Parcels to be considered under this exchange shall also include holdings conveyed into private ownership subsequent to the date of this agreement. The parcels are listed in random order without any regard as to priority or availability for acquisition.

EXHIBIT C—NET ISLAND RECEIPTS ROYALTY

A. DEFINITION OF NET ISLAND RECEIPTS

"Net Island Receipts (NIR)" shall be any excess of "Revenues Received (RR)" over "Allowable Deductions (AD)" for any calendar year. Net Island Receipts shall be calculated using the following formula: NIR = RR − AD.

Where:

NIR = Net Island Receipts for the calendar year (in dollars);

RR = Revenues received during the calendar year, as defined in Section D. below (in dollars);

AD = Allowable deductions incurred during the calendar year, as defined in Section D. below (in dollars);

B. ROYALTY CALCULATION

The dollar amount of the royalty payable to the Interest Holder shall be calculated using the following formula: Royalty = (X) (NIR).

Where (X) = three percent (3%) of NIR when NIR exceeds $120/ton, and three-fourths of one percent (0.75%) when NIR is equal to or less than $120/ton. Provided, the $120/ton threshold shall be adjusted annually according to the Gross Domestic Product Implicit Price Deflator, until the sooner of the following dates, whichever occurs earlier:

(1) the date 20 years subsequent to the date upon which mining operations commence at the Greens Creek Mine, whether or not operations include the Exchange Properties; or

(2) the date 30 years subsequent to the effective date of the Agreement.

C. PAYMENTS OF ROYALTY

The payor shall deliver to the Interest Holder a payment equal to the percentage, as set forth in section B. above, of all NIR realized by the Payor during any calendar year (January 1–December 31), within thirty days after the end of said calendar year, together with a copy of the accounting made in connection with such payment. All payments of royalty to the Interest Holder shall be subject to adjustment, including interest on any such adjustment at the rate provided by 31 U.S.C. 3717, on March 31.

D. OTHER DEFINITIONS

1. "Exchange Properties" shall mean the "Exchange Properties" described by Exhibit A of the Agreement.

2. "Payor" shall mean KGCMC, its successors and assigns.

3. "Interest Holder" shall mean United States of America, pursuant to the terms of the Agreement.

4. "Revenues Received (RR)" shall mean the payments received or credited from the sale of ores or products produced from ores mined from the Exchange Properties at the point of sale before subtracting the Allowable Deductions (AD). Sales to affiliates of KGCMC shall be valued at the fair market value of the products sold. Any credits or payments received from a buyer by KGCMC shall be credited as RR.

5. "Allowable Deductions" shall mean the following actual costs incurred by Payor: costs of all transportation and insurance for ores or products produced from ores mined from the Exchange Properties, between KGCMC Admiralty Island loading facilities and the point of delivery of said ores or products, smelting and/or refining charges, treatment charges, penalties, umpire charges, independent representative charges and all charges by purchasers of said ores or products.

E. ACCOUNTING MATTERS

All Revenues Received (RR) and Allowable Deductions (AD) shall be determined in accordance with generally accepted accounting principles and practices consistently applied. RR and AD shall be determined by the accrual method.

F. COSTS OF COMMON FACILITIES

Where any AD are incurred in conjunction with like costs for mineral products from other Properties controlled by the Payor, such costs shall be fairly allocated and apportioned in accordance with generally accepted practices in the mining industry.

G. AUDIT AND DISPUTES

1. The Interest Holder, upon written notice, shall have the right to have an independent firm of certified public accountants or utilize its own personnel at its own cost to audit the records that relate to the calculation of the NIR royalty within 24 months after receipt of a payment described in Section C of this Exhibit.

2. The Interest Holder shall be deemed to have waived any right it may have had to object to a payment made for any calender year, unless it provides notice in writing of such objection within 25 months after receipt of final payment for the calendar year. The parties may elect to submit the dispute to a mutually acceptable certified public accountant, or firm of certified public accountants, for a binding resolution thereof.

H. GENERAL

1. Unless otherwise specified, capitalized terms used herein shall have the same meaning as given to them in the Agreement.

2. Accurate records of tonnage, volume of products, analyses of products, weight, moisture, assays of pay metal content and other records related to the computation of the NIR royalty hereunder shall be kept by the Payor.

3. Up to four times per year, the Interest Holder or its authorized representative on not less than five (5) business days written notice to the Payor, may enter upon all portions of the Exchange Properties for the purpose of inspecting the Exchange Properties, all improvements thereto and operations thereon, and may inspect and copy all records and data pertaining to the computation of the NIR royalty, including without limitation such records and data which are maintained electronically. The Interest Holder or its authorized representative in exercising entry and inspection rights may not unreasonably hinder operations on or pertaining to the Exchange Properties. This provision does not diminish any other independent right which the Interest Holder may have to enter and inspect Payor's properties, records or data.

4. All notices or communications hereunder shall be made and effective in accordance with the provisions of the Agreement.

5. The NIR royalty interest shall be a real property interest that runs with the Exchange Properties and shall be applicable to any person who processes and sells products from the Exchange Properties.

6. All information and data provided to the Interest holder shall be treated as confidential by the USFS and disclosed to other parties only to the extent, if any, required by law.

7. The Payor shall have the right to commingle ore and minerals from the Exchange Properties with ore from other lands and properties; provided, however, that the Payor shall calculate from representative samples the average grade of the ore and shall weigh (or calculate by volume) the ore before commingling. If concentrates are produced from the commingled ores by the Payor, the Payor shall also calculate from representative samples the average recovery percentage for all concentrates produced during the calendar year. In obtaining representative samples, calculating the average grade of the ore, and calculating average recovery percentages the Payor shall use procedures accepted in the mining and metallurgical industry suitable for the type of mining and processing activity being conducted.

Mr. Speaker, I reserve the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, good morning and aloha, and good morning and aloha to my good friend and most excellent chairman, the gentleman from Alaska [Mr. YOUNG].

Both the chairman, the gentleman from Alaska [Mr. YOUNG], and the ranking member, the gentleman from California [Mr. MILLER], introduced this bill, a hallmark of bipartisan cooperation dearly to be cherished and assiduously sought after in legislation to come. In my view, Mr. Speaker, and in the view of the gentleman from California [Mr. MILLER], H.R. 1266 provides for a beneficial resolution, both for the economy and the environment of southeast Alaska.

Mr. Speaker, the Committee on Resources has a long history of concern for the management of Admiralty Island National Monument.

☐ 1230

While the wilderness and wildlife values of Admiralty Island are very special, responsible operation of the Greens Creek Mine is not necessarily compatible with the conservation purposes for which the monument was established. This legislation would allow Greens Creek to explore 7,500 acres of nonwilderness lands adjacent to the existing mine, allowing mine operations to expand with relatively little surface disturbance.

By virtue of the agreement negotiated between the Forest Service and Kennecott, the environment will benefit both in the short term through $1.1 million of land acquisition from willing sellers, and in the long term when mining operations cease and the lands revert back to the Forest Service.

In addition, the bill creates a land acquisition account to be funded by the first $5 million of royalties collected for further land purchases in the Tongass National Forest, with priority to non-Federal lands within the national monument.

Pursuant to the terms of the agreement, if Greens Creek fails to purchase and deliver title to $1.1 million worth of lands acceptable to the Forest Service, the land exchange will not be consummated.

Mr. Speaker, it is important to consider this agreement in the context of efforts to reform the mining law of 1872. The notion that those of us who favor modernizing the mining laws are opposed to the mining industry in this country is simply false. My support of this legislation, which is likely to significantly enhance the economics and life of the Greens Creek Mine, should put that falsehood to rest.

This legislation does set an important precedent that the Government should receive a royalty share for the development of public lands. At the same time, I do not consider the 3-percent net royalty negotiated in this agreement as universally applicable for purposes of mining reform.

I recognize there were concessions from both sides in the negotiating process and I am reluctant to rewrite the deal. On balance, however, I applaud both Kennecott and the Forest Service for their efforts, and I ask Members to support the bill.

May I add personally, Mr. Speaker, again my congratulations to the gentleman from Alaska [Mr. YOUNG], the chairman, and the appreciation of all the members on the minority side for his openness and, as always, his willingness to be cooperative with us.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I could only echo what the gentleman just said. There is a way we can work on many of these issues and solve the problem if we seek to do so.

The gentleman from Hawaii has always been able to work with me on his issues especially in his great State. We have a great deal in common. We hope to solve some of his problems with the Hawaiian natives which we have also solved in Alaska. I do compliment him.

I may suggest to the gentleman from California [Mr. MILLER], the ranking member, we ought to let the gentleman from Hawaii [Mr. ABERCROMBIE] manage these bills more often.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FUNDERBURK). The question is on the motion offered by the gentleman from Alaska [Mr. YOUNG] that the House suspend the rules and pass the bill, H.R. 1266, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on H.R. 1266, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

CRONYISM INVOLVED IN REPUBLICAN BUDGET PROPOSAL

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Ms. FURSE. Mr. Speaker, can this really be true? The 1996 budget before us cuts school lunches, makes Medicare more expensive, guts environmental protection, all in the name of balancing the budget, but the biggest item of all is not touched. In fact, it is increased. The millions of Americans who thought that the end of the cold war meant the end of huge Pentagon budgets will be sadly disappointed.

For years, when thoughtful people said that the waste in the Pentagon was enormous, we were criticized for not being strong on defense. But, of course, we were right all along.

An article in Sunday's Washington Post states, "Each year the Department of Defense inadvertently pays contractors millions of dollars that it does not owe."

"In addition," the article says, "the department has spent $15 billion"—and I repeat, $15 billion—"it cannot account for over the last decade."

Why are we cutting education, nutrition, health care, and environmental protection, but increasing Pentagon spending? Could it possibly be that defense contractors make huge contributions? But children, seniors, endangered species, they do not.

This is not an issue of security. This is an issue of cronoyism.

Mr. Speaker, the article referred to is as follows:

[From the Washington Post, May 14, 1995]

LOSING CONTROL—DEFENSE DEPARTMENT—BILLIONS GO ASTRAY, OFTEN WITHOUT A TRACE

(By Dana Priest)

Each year, the Defense Department inadvertently pays contractors hundreds of millions of dollars that it does not owe them, and much of the money is never returned.

In addition, the department has spent $15 billion it cannot account for over the past decade.

And Pentagon purchasing agents appear to have overdrawn government checking accounts by at least $7 billion in payment for goods and services since the mid-1980s, with little or no accountability.

Unlike the infamous $7,600 coffee pot and $600 toilet seat pricing scandals of years past, these problems, and many more, are the result of poor recordkeeping and lax accounting practices that for years have characterized the way the Defense Department keeps track of the money—$260 billion this year—that it receives from Congress.

According to a series of investigations by the Department's inspector general and the General Accounting Office, and ongoing work by Pentagon Comptroller John J. Hamre, the department's systems of paying contractors and employees are so antiquated and error-prone that it sometimes is difficult to tell whether a payment has been made, whether it is correct, or even what it paid for.

Just how much money does the poor accounting waste?

Former deputy defense secretary and new CIA Director John M. Deutch wouldn't hazard a guess. "Lots," he scribbled recently on a reporter's notebook in response to a question.

For months after he took the job as chairman of the Joint Chiefs of Staff in late 1993, Gen. John Shalikashvili received paychecks for the wrong amount. In the last year and a half, Comptroller Hamre counted six problems with his own pay.

A paper-based system in which items frequently are misplaced or lost and computers that often cannot talk to each other are part of the problem. But there are other major systemic weaknesses. A lack of basic accounting procedures—such as matching invoices and payment records, or keeping track of money spent on a given piece of equipment from one year to the next—has made it impossible to determine how billions of dollars have been spent by each of the service branches.

In addition, Hamre explained, tracking the money has been nearly impossible because 300 different program directors—the Air Force F-16 fighter program director, the commanding officer of an aircraft carrier, the head of a maintenance depot, for example—have had separate checkbooks, each one free to write checks without regard to the balance in the Pentagon's central registry.

The U.S. Treasury has always paid the bills, even when there was no money in a given project's account, because it assumes any error was unintentional and someday would be corrected, said Pentagon officials and inspector general investigators.

"There's this huge pot of money over there in the Treasury that you can keep drawing down," said the Deputy Inspector General Derek J. Vander Schaaf. "As long as your [overall] checkbook's good," he said, meaning the Treasury, "nobody screams."

The problems were created over several decades and made worse during the 1980s Reagan administration defense buildup during the latter days of the Cold War, when there was little political will to scrutinize the record sums being spent.

Today, however, even ardent defense hawks have become disturbed over the mismanaged flow of funds. Some Republicans who looked deeply into the matter are suggesting a freeze on military spending until the Pentagon's corroded payment system can be permanently fixed.

"The defense budget is in financial chaos," said Sen. Charles E. Grassley (R-Iowa), who is advocating a freeze. "The foundation of the defense budget is built on sand."

A Senate Armed Services subcommittee is scheduled to hold a hearing on the problems Tuesday. It will be chaired by Sen. John Glenn (Ohio), a Democrat, who was authorized by Republicans to conduct it because of his long-standing interest in the subject.

Among the problems detailed by the Defense Department, the Pentagon inspector general and the GAO:

Of the 36 Pentagon departments audited by the inspector general (IG) in the last year, 28 used "records in such terrible condition" as to make their annual financial statements—an accounting of money collected and money spent—utterly worthless, said Vander Schaaf.

Financial officials cannot account for $14.7 billion in "unmatched disbursements," checks written for equipment and services purchased by all military units within the last decade. This means that accountants know only that a certain amount of money was spent on the overall F-16 jet account, for example, but not how much was spent on F-16 landing gear or pilot manuals because they cannot find a purchase order from the government to match the check.

"You don't know what you're really paying for," Vander Schaaf said.

The $14.7 billion represents "hardcore problems" where department accountants have tried but failed to find the records. "We could be paying for something we don't need or want," said Russell Rau, the IG's director of financial management.

In the last eight years, various military offices appear to have ordered $7 billion worth of goods and services in excess of the amount Congress has given to them to spend. These "negative unliquidated obligations" may indicate that a bill has been paid twice or mistakenly charged to the wrong account because bookkeepers at hundreds of maintenance depots, weapons program offices and military bases did not keep track of payments they made, said Vander Schaaf.

Of the $7 billion "the government has no idea how much of this balance is still owed," Rau said.

Hamre has threatened to take part of the $7 billion out of the military services' current operating budget if they cannot find documentation for the expenditures by June 1.

Every year the Defense Department pays private contractors at least $500 million it does not owe them, according to Vander Schaaf. The GAO believes the figure is closer to $750 million.

The payment system is in such bad shape that the Pentagon relies on contractors to catch erroneously calculated checks and return them. Many of the overpayments are due to errors made on a paper-based system in which haried clerks are judged by how quickly they make payments. And because there is no adequate way to track the amount of periodic payments made on a contract, businesses often are paid twice for the work they have done.

Defense Department finance officials believe they are recouping about 75 percent of the overpayments, although they admit they have no way of knowing exactly how much is being overpaid.

Today, after an 18-month struggle by Hamre to turn the situation around, the department still has 19 payroll systems and 200 different contracting systems.

Hamre, who wins praise from Republicans and Democrats for his efforts, has undertaken a major consolidateion of payroll and contracting offices. He has opened more than 100 investigations into whether individual program managers or service agencies violated the law by using money appropriated for one program for something else or for paying contracts that exceeded their budget.

He has frozen 23 major accounts and has stopped payment to 1,200 contractors whose records are particularly troublesome. In July, clerks will be prohibited from making payments over $5 million to any contractor "unless a valid accounting record" of the contract can be found. By October, the amount drops to $1 million, which means it will affect thousands more contracts.

According to Hamre and Rau, a number of cases are under investigation for possible violations of the Anti-Deficeincy Act, the law that governs how congressionally appropriated money must be spent. Penalties range from disciplinary job action to criminal prosecution. Investigators are trying to determine:

Why there is an unauthorized expenditure of around $1 billion on the Mark 50 torpedo, and the Standard and Phoenix missiles. Hamre and Rau suspect that Navy officials used money appropriated for other items or wrote checks on empty accounts to pay contracts from 1988 and 1992.

Whether Air Force officials used money from various weapons programs to build a golf course at Wright-Patterson Air Force Base in Ohio beginning in 1987.

What happened when some programs ran out of money. "There are some [cases] in the Air Force now that really stink," Hamre said. When money for the Advanced Cruise Missile ran out, Air Force officials simply terminated the existing contract and rewrote another, more expensive one the following day, Pentagon investigators recently concluded. In order to pay for cost overruns associated with the new C-17 cargo plane, contract officials simply reclassified $101 million in development costs as production costs.

Hamre said the services allowed such money mingling to go on partly because of the complexity of the yearly congressional appropriations process. "People want to find an easier way to get the job done," he said. "They are trying to get some flexibility in a very cumbersome system."

But, he added, some services also have resisted correcting problems and punishing wrongdoers. "I'm very frustrated by it," he said. "In the past, they just waited until people retired. It was the old boy network covering for people."

The Defense Department is unlike any government agency in scope and size. It sends out $35 million an hour in checks for military and civilian employees from its main financing office in Columbus, Ohio. And it buys everything from toothbrushes to nuclear submarines; about $380 billion flows within the various military purchasing bureaucracies and out to the private sector each year.

It takes at least 100 paper transactions among dozens of organizations to buy a complex weapons system. Some supply contracts have 2,000 line items and, because of the congressional appropriations process, must be paid for by money from several different pots.

Fixing the problems without throwing the entire system into chaos, Hamre said, "is like changing the tire on a car while you're driving 60 miles per hour."

But some argue it has never been more important to make the fixes quickly.

"Here we are in a period of reduced spending, it's critically important today that we get a bigger bang for the buck," said Sen. William V. Roth Jr. (R-Del.), chairman of the Government Affairs Committee, where many of the current problems were first revealed. "We've got to put pressure on to expedite it. At best, it will take too long."

But in the world of Defense Department financing, time is not always a solution, as one small example illustrates.

In 1991, because of a computer programming error, the department's finance and accounting service centers erroneously paid thousands of Desert Storm reservists $80 million they were not owed. When officials realized the mistake, they began to send letters to service members to recoup the overpayments. Many veterans complained to Congress, which then prohibited the Pentagon from collecting any overpayment of less than $2,500 and made it give back money collected from people who received less than that amount.

To comply, the Defense Finance and Accounting Service (DFAS) payment centers in Cleveland, Denver, Indianapolis and Kansas City created new computer programs to cancel the debts and issue refunds. But they did not adequately test the new programs, IG and GAO investigators found.

As a result, the appropriate debts were not canceled, and improper amounts of refunds were issued, often to the wrong service member. The DFAS center in Denver, for example, canceled $295,000 that service members owed it for travel advances. In all, the botched effort to follow Congress's direction cost taxpayers an additional $15 million, Pentagon officials said.

"It isn't possible now" to recoup the money, Hamre said. "We can't reconstruct the records. We admit were really, really bad. We won't do it again." The IG's office has agreed that it would be too costly to reconstruct the records and recoup the loss.

As he often does when he testifies about these matters on Capitol Hill, Hamre confessed to the Senate Armed Services Committee recently: "We've made a lot of progress. Boy, we've got a long way to go."

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 36 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1243

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WELLER] at 12 o'clock and 43 minutes p.m.

PROVIDING FOR CONSIDERATION OF H.R. 614, THE NEW LONDON NATIONAL FISH HATCHERY CONVEYANCE ACT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 146 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 146

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 614) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. The bill and the amendment recommended by the Committee on Resources now printed in the bill shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 146 is the rule for the consideration of H.R. 614, a bill to convey the New London National Fish Hatchery to the State of Minnesota.

This is an open rule. It provides for 1 hour of general debate, to be divided between the chairman and ranking minority member of the Resources Committee. After general debate, the bill will be considered for amendment under the 5-minute rule. The bill and the amendment recommended by the Committee on Resources now printed in the bill shall be considered as read. Finally, the rule provides for a motion to recommit.

This underlying bill will convey the New London Fish Hatchery to the State of Minnesota, which has been operating the hatchery since 1983 when the Federal Government decided to discontinue operations. Minnesota assumed operations to ensure that the State's fish stocking program would continue into the future. The hatchery plays an important role in the walleye and muskie stocking program.

To date, Minnesota has spent nearly $800,000 on operations, maintenance, and improvement of the facility and has a strong interest in making certain capital improvements on the facility, but without ownership, they are, understandably, reluctant to do so. This bill would transfer all right, title, and interest in the hatchery so that the State may make those improvements. Should the State discontinue operations, ownership returns to the United States with the understanding that the facility be returned to the Federal Government in equal or better condition than it was at the time of transfer.

This rule provides for fair, open debate and is brought up under an open rule at the request of the chairman. Some Members may wonder why this bill is coming up under an open rule rather than coming up on the suspension calendar.

During consideration of the bill by the Subcommittee on Fisheries, Wildlife and Oceans, two amendments were offered by members of that subcommittee. While the first amendment was adopted, the second amendment was rejected by voice vote. This rule will allow that amendment to be brought up on the floor for consideration by the full House.

The amendment, offered by the gentleman from California [Mr. MILLER], would require the State of Minnesota to pay the Federal Government the fair market value for the fish hatchery facility at the time of transfer. Since amendments cannot be offered under suspension of the rules, Congressman Miller would have been prohibited from offering his amendment on the floor. This open rule will protect the right of Members to bring important issues to the floor by allowing that amendment, and any others, to be offered on the floor for consideration by the full House.

Mr. Speaker, I urge my colleagues to adopt this rule. It provides for fair consideration of a bill that is very important to the people of Minnesota, and at the same time it protects the rights of Members to offer amendments for consideration by the full House.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an open rule, which the Committee on Rules reported for a noncontroversial bill. We support the rule, and we urge our colleagues to approve it today.

The Committee on Rules heard testimony last week about the noncontroversial nature of H.R. 614, which transfers ownership, without reimbursement, of the New London Fish Hatchery to the State of Minnesota. We were told that the State of Minnesota wants to preserve this property and is willing to make improvements and implement long-term plans if it can assume ownership.

This is just one of several fish hatcheries, formerly operated by the Federal Government, that the Fish and Wildlife Service plans to transfer to States, all without reimbursement to the United States for the land, equipment, and buildings at the hatchery sites.

The gentleman from California [Mr. MILLER] may offer an amendment to the bill that would require the State of Minnesota to pay the Federal Government the fair market value of the property.

Under this rule, the amendment is in order, as is any other germane amendment. Our colleagues will be able to hear Mr. MILLER'S arguments for requiring an appraisal of this and the other fish hatcheries being transferred to States that are evidently using them, very successfully, for State recreational purposes. His amendment will also require the State to pay the Federal Government the fair market value of the property.

Mr. Speaker, again, we support this open rule and urge our colleagues to approve it today.

Mrs. WALDHOLTZ. Mr. Speaker, we have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 584, CONVEYANCE OF THE FAIRPORT NATIONAL FISH HATCHERY TO THE STATE OF IOWA

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 145 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 145

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 584) to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. WELLER). The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 145 is a very simple resolution. The proposed rule is an open rule providing for 1 hour of general debate equally divided between the chairman and ranking minority member of the Committee on Resources.

After general debate the bill shall be considered as read for amendment under the 5-minute rule. At the conclusion of consideration of the bill for amendment the committee shall rise and report the bill to the House with such amendments as may have been adopted.

Finally, Mr. Speaker, the rule provides one motion to recommit.

Mr. Speaker, the chairman of the Committee on Resources, Mr. YOUNG, requested an open rule for this legislation. The open rule was reported out of the Committee on Rules by voice vote. Under the proposed rule each Member has an opportunity to have their concerns addressed, debated, and ultimately voted up or down by this body.

Once again, Mr. Speaker, the underlying legislation directs the Secretary of the Interior to convey a Federal fish hatchery, this time located in the State of Iowa in Fairport, IA. For the last 22 years the State of Iowa has operated the facility. And at this point in time the State would like to upgrade the facility, but is unable to justify the expense of the improvements without having legal title to the property.

H.R. 584 would transfer ownership of the hatchery and immediate property and buildings to the State of Iowa. The bill is supported by both the State of Iowa and the U.S. Fish and Wildlife Service, and it was reported out of the Committee on Resources by voice vote.

Once again, Mr. Speaker, this rule provides for any amendments to be brought up. We understand that a similar amendment to the preceding legislation that was just discussed may be offered, but under the open rule all Members will have the opportunity to have their voices aired, discussed, and voted on.

Mr. Speaker, I urge my colleagues to support this open rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is, as the gentlewomen pointed out, an open rule for a noncontroversial bill. We support the rule, and we urge our colleagues to do the same.

We also support the objective of the bill, H.R. 584, to convey the fish hatchery to the State of Iowa, which has been operating it for several years now.

We do have some concerns about transferring this property to the State of Iowa, which has been using the hatchery very successfully for State recreational purposes, without reimbursement. The gentleman from California [Mr. MILLER], who is the ranking member on the Resources Committee and its former chairman, may offer an amendment to the bill that we think deserves the attention of our colleagues.

Mr. MILLER raised several important points in his dissenting views on this bill. He questioned the give-away of Federal assets to the State of Iowa without reimbursement to the Federal taxpayers for their investment, especially since no one knows the true value of the property—there has been no appraisal of the buildings and land since 1983.

His amendment would require an updated appraisal of this property that has a choice location and a commercial potential that could result in significant revenue for the United States. Mr. MILLER'S amendment would also require payment of fair market value by the State to reimburse Federal taxpayers for their investment.

Under this open rule, Mr. MILLER and any other Member may offer germane amendments such as this one.

Again, we urge our colleagues to approve this rule for the bill conveying ownership of the Fairport Fish Hatchery to the State of Iowa.

Mr. Speaker, I yield back the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, we have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 535, THE CORNING NATIONAL FISH HATCHERY CONVEYANCE ACT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 144 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 144

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 535) to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. The bill and the amendment recommended by the Committee on Resources now printed in the bill shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 144 is another open rule providing for the consideration of H.R. 535, legislation directing the Secretary of the Interior to convey Corning National Fish Hatchery to the State of Arkansas.

Specifically, this rule provides 1 hour of general debate equally divided and controlled by the chairman and the ranking member of the Committee on Resources. After general debate is completed, the bill will be considered for amendment under the 5-minute rule. The bill and the amendment recommended by the Resources Committee now printed in the bill shall be considered as read. Finally, the rule provides one motion to recommit.

Mr. Speaker, House Resolution 144 will permit the House to consider legislation sponsored by our colleague, Representative BLANCH LAMBERT LINCOLN, to convey the Corning National Fish Hatchery, which is located in Corning, AR, to the State of Arkansas.

As will be described in more detail later, the State of Arkansas assumed control of the fish hatchery from the U.S. Fish and Wildlife Service in 1983, when it was closed as a result of Federal budget cuts. Currently, no Federal funds are being used to operate or maintain the hatchery. It is my understanding that the State is now interested in making capital improvements to the facility, in addition to long-term plans for its use. However, the State is hesitant to do so without first obtaining title to the property.

H.R. 535 would facilitate the transfer to the State of Arkansas of all right, title, and interest of the United States in and to the property of the Corning Fish Hatchery. An amendment adopted during subcommittee consideration of the bill would ensure that these rights and interests will revert to the United States if the property is used for any purpose other than fishery resources management.

Mr. Speaker, let me take just a moment to respond to those who might question why we are considering this legislation under a rule at all, rather than under suspension of the rules. As our colleagues know, suspension of the rules is an effective tool for considering relatively noncontroversial legislation in an expedited manner. Debate is limited to just 40 minutes, and bills considered under suspension are unamendable on the floor of the House.

During our Rules Committee hearing on the bill last week, we discussed the possibility of at least two amendments to H.R. 535, including one to be offered by the sponsor of the bill, and one by the ranking minority member of the Resources Committee requiring the State of Arkansas to pay the Federal Government the fair market value of the Corning facility at the time of transfer. Under suspension, any such floor amendments would be prohibited. Under this open rule, however, an open amendment process is guaranteed. Any Member can be heard on any germane amendment to the bill at the appropriate time.

Mr. Speaker, H.R. 535 was favorably reported out of the Committee on Resources by voice vote, as was this rule by the Rules Committee. In fact, the Committee on Rules reported this resolution unanimously, without a single "nay" vote. I urge my colleagues to support this very open rule, and continue the spirit of openness and thoughtful debate that has enhanced the overall deliberative process in the House this year.

Mr. Speaker, I am including for the RECORD this chart that shows what rules have been offered in the 104th Congress and the 103d Congress.

The chart follows:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of May 12, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	27	77
Modified Closed [3]	49	47	8	23
Closed [4]	9	9	0	0
Totals:	104	100	32	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of May 12, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: v.v. (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1158	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. Speaker, I reserve the balance of my time.

☐ 1300

Mr. BEILENSON. Mr. Speaker, I thank the gentlewoman from Utah [Mrs. WALDHOLTZ] for yielding the customary ½ hour of debate time to me.

Mr. Speaker, I yield myself such time as I man consume.

Mr. Speaker, this is an open rule, as the gentlewoman has stated.

The Committee on Rules reported the rule for this basically noncontroversial bill. We support the rule. We urge our colleagues to approve it today.

The gentlewoman from Arkansas [Mrs. LINCOLN] appeared before our committee last week to support the open rule for this bill, a bill which she herself originally introduced. She reminded us of similar legislation passed last year under suspension of the rules and of the noncontroversial nature of the measure.

We also appreciated her testimony. The State of Arkansas wants to preserve this property and is willing to make improvements and implement long-term plans if it can assume ownership.

The State of Arkansas, along with several other States, is evidently operating these hatcheries with a good deal of success for recreational purposes. The Fish and Wildlife Service plans to transfer several other excess properties to other States, all without reimbursement. The gentleman from California [Mr. MILLER] may again offer an amendment to the bill which would require the State of Arkansas to pay the Federal Government the fair market value of the property.

Mr. Speaker, again, we support this open rule and urge our colleagues to approve it today.

Also, Mr. Speaker, I am inserting extraneous material at this point in the RECORD.

The material referred to follows:

Floor Procedure in the 104th Congress; Compiled by the Rules Committee Democrats

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on suspension calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) of rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments..	5D; 26R
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute..	1D
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time..	1D
H.R. 655	Hydrogen Future Act	H. Res 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery of the State of Iowa	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.

*Contract Bills, 67% restrictive; 33% open. **All legislation, 59% restrictive; 41% open. ***Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was on the table.

ELIMINATING NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL FROM THE GOALS 2000: EDUCATE AMERICA ACT

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1045) to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF THE NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.

(a) REPEALS.—Subsection (b) of section 241, sections 211 through 218 of Part B of title II, and section 316 of the Goals 2000: Educate America Act (20 U.S.C. 5841 et seq.) are repealed.

(b) AMENDMENTS TO GOALS 2000: EDUCATE AMERICA ACT.—

(1) Section 201(3) of the Goals 2000: Educate America Act (20 U.S.C. 5812(3)) is amended by striking all that follows after "opportunity-to-learn standards" and inserting a period.

(2) Section 203(a) of such Act (20 U.S.C. 5823(a)) is amended by striking paragraphs (3) and (4) and by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.

(3) Section 204(a)(2) of such Act (20 U.S.C. 5824) is amended by striking "described in section 213(f)".

(4) Section 219 of such Act (20 U.S.C. 5849) is amended—

(A) in subsection (a)(1) by striking "consistent with the provisions of section 213(c),"; and

(B) by striking subsection (b) and inserting the following:

"(b) APPLICATIONS.—Each consortium that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.".

(5) Section 220(a) of such Act (20 U.S.C. 5850(a)) is amended by striking "to be used" and all that follows through "by the Council".

(6) Section 221(a) of such Act (20 U.S.C. 5851(a)) is amended—

(A) in paragraph (1)—

(i) subparagraph (A), by striking "and the Council"; and

(ii) by striking subparagraphs (B) and (C) and redesignating subparagraph (D) as subparagraph (B); and

(B) in paragraph (2), by striking "and the Council, as appropriate,".

(7) Section 308(b)(2)(A) of such Act (20 U.S.C. 5888(b)(2)(A)) is amended by striking "including—" and all that follows through the end of clause (ii) and inserting "including through consortia of States".

(8) Section 314(a)(6) of such Act (20 U.S.C. 5894(a)(6)) is amended by striking ", if—" and all that follows through "(B)" and inserting "if".

(9) Section 315 of such Act (20 U.S.C. 5895) is amended in subsection (b)—

(A) paragraph (1)(A), by striking "paragraph (4) of this subsection" and inserting "paragraph (3)";

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(D) in subparagraph (B) of paragraph (3) (as redesignated), by striking "paragraph (5)," and inserting "paragraph (4),"; and

(E) in paragraph (4) (as redesignated), by striking "paragraph (4)" each place it appears and inserting "paragraph (3)".

(c) NATIONAL SKILL STANDARDS ACT OF 1994.—

(1) Section 503 of the National Skill Standards Act of 1994 (20 U.S.C. 5933) is amended—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking "28" and inserting "(27)";

(II) by striking subparagraph (D); and

(III) by redesignating subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively;

(ii) in paragraphs (2), (3), and (5), by striking "subparagraphs (E), (F), and (G)" each place it appears and inserting "subparagraphs (D), (E), and (F)";

(iii) in paragraph (2), by striking "subparagraph (G)" and inserting "subparagraph (F)";

(iv) in paragraph (4), by striking "(C), and (D)" and inserting "and (C)"; and

(v) in the matter preceding subparagraph (A) of paragraph (5), by striking "subparagraph (E), (F), or (G)" and inserting "subparagraphs (D), (E), or (F)"; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking "subparagraph (E)" and inserting "subparagraph (D)"; and

(ii) in paragraph (2), by striking "subparagraphs (E), (F), and (G)" and inserting "subparagraphs (D), (E), and (F)".

(2) Section 504 of such Act (20 U.S.C. 5934) is amended—

(A) by striking subsection (f); and

(B) by redesignating subsection (g) as subsection (f).

(d) AMENDMENT TO ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 14701(b)(1)(B)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8941(b)(1)(B)(v)) is amended—

(1) by inserting "and" before "the National Education Goals Panel"; and

(2) by striking ", and the National Education Statistics and Improvement Council".

(d) AMENDMENT TO GENERAL EDUCATION PROVISIONS ACT.—Section 428 of the General Education Provisions Act (20 U.S.C. 1228b), as amended by section 237 of the Improving America's Schools Act of 1994 (Public Law 103–382), is amended by striking "the National Education Standards and Improvement Council,".

SEC. 2. TECHNICAL AND COINFORMING AMENDMENTS.

The table of contents for the Goals 2000: Educate America Act is amended, in the items relating to title II, by striking the items relating to sections 211 through 218 of part B of such title and the item relating to section 316.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would announce in advance that the floor prep statement put out by my side of the aisle is incorrect on this particular issue.

Mr. Speaker, today we are considering H.R. 1045, a bill to repeal the National Education Standards and Improvement Council [NESIC]. This legislation has bipartisan support and I hope that when we pass this legislation today, the other body will take it up immediately and send it to the President for his signature.

The National Education Standards and Improvement Council [NESIC] created by Goals 2000 is a Presidentially appointed council that has the mission of reviewing and certifying national education standards and State education standards that are voluntarily submitted. Because decisions about educating our children are primarily decided at the local level by parents, teachers and students, NESIC, commonly referred to as a "national school board," has generated great controversy about continued local control of education.

The distance between standards and curriculum is not very great. Currently, there is a prohibition on the Federal Government dictating curriculum to States and school districts and there is good reason to be wary of Federal involvement in certifying education standards. The seriously flawed and justifiably controversial history standards illustrate how the standards-setting process can go awry and point out the dangers of having a Presidentially appointed unaccountable body certifying education standards.

However, I want to make it very clear, academic standards based reform remains one of the most promising strategies for improving education for all children in our Nation. Academic standards are a statement of learning outcomes. What children need to know and be able to do. I think parents want to know what their children actually learned rather than that they spent 180 days in school and earned a carnegie unit. There must be rigorous academic standards and not vague and fuzzy attempts to shape students' attitudes and values, matters that should be left to parents. The most important standards development must take place in our local communities and school districts. However, Federal certification of these standards is not necessary for this process to be effective or constructive.

While I recognize that many of my colleagues would like to go much further in limiting Federal involvement in education, I want to assure them that they will have the opportunity as our committee considers broader education reform legislation. By enacting this legislation today, it is my hope that this will put a stop to an unwarranted Federal intrusion into education while preserving education standards development by States and local school districts. To do less will certainly hamper any hope of the United States doing well in a very competitive world.

We must develop voluntary national and international standards in the academic subject areas and develop voluntary assessment tools to determine whether the standards are met. Teachers must then be prepared to teach to these higher standards.

I, therefore, urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of this compromise.

I also want to thank my committee chairman and friend, BILL GOODLING, for his efforts. We have a long history of bipartisan cooperation in our committee and that, in large measure, is due to the influence of our committee chairman.

As someone who has served on this committee for 18 years, I want to underscore my own belief that education is a State responsibility, a local function, and an important Federal concern.

That is an appropriate balance which has deep roots in our Nation's history.

Our Nation is in the midst of a period of profound change. We are facing economic challenges from our global competitors that make it absolutely imperative that our children achieve to the highest possible academic standards. We are now a highly mobile society. People do not always live and work in the communities in which they were born. And, rarely does the employment base stay the same. Business and industry respond to the demands of the marketplace and so must our schools. We owe that to the children.

Mr. Speaker, reform of our system of public education is one of the most critical tasks we face. We made a good deal of progress in the last Congress. I believe the bill we have before us today will preserve that progress while it meets the consideration of those who felt some concern.

Again, my thanks to my committee chairman GOODLING and I would also like to acknowledge the hard work of your staff, particularly John Barth, Sally Lovejoy, Vic Klatt, and Jomarie St. Martin. And our staff Sara Davis, Broderick Johnson, and Dr. June Harris.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GOODLING] that the House suspend the rules and pass the bill, H.R. 1045, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1045, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

BROKEN PROMISES TO THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes as the minority whip.

Mr. BONIOR. Mr. Speaker, I rise this afternoon to express my deep concern over the proposed Republican budget cuts in Social Security and in Medicare and Medicaid. What is quite disturbing to me about these cuts is that they are broken promises to the American people, to our seniors who have labored so hard in this country to provide for this great Nation of ours, and what is equally disturbing about these cuts, which will cost the seniors, the Medicare cuts, will cost the seniors in the year 2002, 7 years from now, $1,000 a year.

What is additionally so disturbing is that in the same budget proposal are tax cuts for the wealthiest people in our society. Over 50 percent of the tax cuts; it is a $100 billion tax cut over 10 years, over 50 percent of those tax cuts go to people making over $100,000 a year.

There is something called the alternative minimum tax, and for those of you who are not familiar with that, back in the early 1980's we found that major corporations, in fact, 130 of the top 250 corporations in America, were paying no taxes at all between 1981 and 1985, during at least 1 year, no taxes. And it was, the rest, the burden was picked up by everyone else. So we decided to change that law. Even Ronald Reagan agreed that it was embarrassing, and it was an outrage. We changed the law that required major corporations to pay at least something, a minimal tax.

Well, under the tax proposal we passed last month under the Contract With America, the Republicans got rid of that minimum tax, and now we are back to where we were, where we will have major corporations not contributing their fair share to the tax burden on the American people. So what you have in this tax bill is getting rid of the alternative minimum tax, you have got 50 percent of the benefits going to the top virtually 1 percent, so if you are making $230,000 a year, you are going to get $11,000 in tax breaks.

We think the tax cut is weighted very too heavily to benefit the wealthiest people in our society. And to give you an example of that, I should talk to you about one provision we had on the floor about a month and a half ago that would allow billionaires in our society, and millionaires, very few billionaires, but there are some, to avoid paying taxes if they renounce their American citizenship. We tried to close that loophole on the floor of the House. Republicans defended it all. All but 5 Republicans voted to keep that loophole for the wealthiest people in our society. You might say. "Well who does that?" About 24 people. You know what the cost to us as a country is over 10 years as lost revenue because of that? $3.6 billion.

So they have got this tax bill that benefits primarily the wealthiest people in our society, and they have got this budget bill that will hit the most vulnerable people in our society, our young people and our older people, and when it comes to Medicare, they take a giant whack out of the disposable income of our senior citizens.

Let me just tell you exactly what they do. The Republicans in Congress are proposing a new budget that will mean serious cuts. It will even cut back COLA increases. Over the next 7 years, Medicare will be cut by 25 percent. Medicaid, which provides the only long-term care many seniors now have access to at all, will be cut by 30 percent. Social Security COLA's will be cut by 0.6 percent a year starting in 1999. For the average senior citizen, this will mean higher out-of-pocket expenses, fewer benefits, less choice of doctors. It will mean higher Medicare premiums, higher deductibles, higher copayments.

By the year 2002, Medicare costs will increase over $1,000, as I said, for every senior citizen. Social security COLA's will be $240 less for every senior. Cuts in Medicaid will mean 2.9 million Americans will lose long-term care.

When we talk about Medicaid, it is not only the poor in this country, but we are talking about a program that provides, I believe, about 40 percent of long-term care for our seniors in this country. 2.9 million Americans will lose long-term care, and these cuts will not pay for fixing the Medicare system. Instead they will go into a tax package that provides tax breaks for the wealthiest people in the country and allows some of our wealthiest corporations, as I said, to pay no tax at all. That is not fair. It is not right. It is a broken promise to the American people.

These cuts in Medicare and Medicaid and Social Security are not just going to affect senior citizens. Now, how is the average working family going to pay for additional costs of caring for their parents and grandparents? How will they pay for the rising costs of long-term care, prescription drugs, home health care, and hospital bills? How are the middle-aged children of these elderly people in our society, how are they going to maintain these increased costs for their parents and their grandparents? And if they have kids who may want to move up in our society through the education system and get a college education and if their kids are on student loans, those kids, in fact, will, in fact, be hit hard because under the same budget proposal the costs of a student going to college who is on student loans now, we call them Stafford loans, but they are better known as student loans around the country, in Michigan, that student will pay an extra $4,000.

□ 1315

So, they are getting squeezed on each end. If you got kids, and you got elderly parents, you are going to get hit on both ends.

Mr. Speaker, it was 50 years ago last week that Americans defeated Nazi Germany in World War II, and all over America we celebrated that day by remembering the brave men and women on both the battlefront and the home front who led our country to victory, and, looking at pictures of our parents and our grandparents from back then, they were so young, and they were so full of life, it is hard to believe that they would ever grow old. But they have, Mr. Speaker.

The generation that beat Hitler, built our economy, raised our families, are now America's senior citizens, and today many of them are living on fixed incomes. Their Social Security is the only thing many older Americans have each month to pay their rent, to pay their heating bills, to pay for their food, for medicine and doctor bills, and for most of them it is not easy. They have to struggle to make ends meet. Those of us who go home each weekend in our district meet them constantly. We know of the struggle they have to go through.

But today, instead of trying to make life easier and more fulfilling for them, Mr. Speaker, Republicans in Congress are trying to make their lives harder. In their budget proposal House Republicans have not only proposed cutting Social Security by $240 a person, they are also asking every senior to pay an additional $3,500 for Medicare.

Now, as I have said, Medicare, of course, is the system we have in this country for health insurance for our senior citizens. We did not have that before 1965. You did not have Medicare, and, as a result, many seniors, when they got into their senior years, had no health insurance and fell directly into poverty. Social Security adopted by Franklin Roosevelt, a Democrat, in 1935; Medicare, adopted in the administration of a Democratic President, Lyndon Johnson, and a Democratic Congress; changed the lives of tens of millions of American seniors and kept them out of poverty in their senior years.

After sending out press releases after press releases bragging about how they were going to leave Social Security and Medicare alone, House Republicans have broken that promise, and they have targeted our seniors, and the worst part, Mr. Speaker, they are not being asked to sacrifice to balance the budget, or to cut the deficit, or to make the Medicare system even stronger. The Republicans, as I said, are cutting Medicare and Social Security for one reason and one reason only, to pay for tax breaks, over 50 percent of which go to the wealthiest people in our society. And if you look at the numbers, they nearly match up. Their Medicare cuts equaled the tax breaks, what the Wall Street Journal called the biggest tax bonanza in years for the upper-income Americans. It is not me saying it, but the Wall Street Journal. The voice of the wealthy in this country said it was the biggest tax savings bonanza in years for upper-income Americans, and, under the Republican plan, we are going to take more money from seniors whose average income is $17,000 a year so we can give a $20,000 tax break to families earning over $250,000 a year.

Does that sound fair to you? Is that what this country is all about? Is that what this last election was all about? Is that what our parents fought for and sacrificed for in the greatest battle for democracy in human decency that the world has even seen? I do not think so.

Last week the New York Times revealed in an article by Robert Pear, in a confidential memo, something that every American should read. It was circulated. This memo was circulating among House Republicans, a memo detailing where some of these Medicare cuts will come from. Among other things, it recommended doubling the annual deductible, increasing the monthly premium by 50 percent, charging patients for a portion of home health care, and the list goes on, and on, and on, and this just does not affect seniors. You know, as I said earlier, where is the average working family going to come up with the money to pay for this?

Well, Mr. Speaker, in the past week we have seen Republican after Republican come to this floor and try to convince us that nobody is going to be hurt by these cuts, and they bring out charts, and they throw numbers around, and they talk about limiting growth on projected spending, and they try to tell us how a cut really is not a cut.

But, you know, none of this Washington bureaucratic talk means much to a constituent of mine, Iris Doyle who I have known for a long time. Iris Doyle is a proud senior citizen who lives in my district. For 16 years she taught a class on U.S. citizenship. She literally spent her life helping people gain access to the American dream, and to this day she still has a framed copy of the Declaration of Independence hanging on her wall. But the times have not been easy for Iris. Eleven years ago her husband died, 3 years after that her only son died, and during the time of their illnesses she was sick herself; she had cancer. For 18 months she endured chemotherapy treatment after chemotherapy, and she says, "Thank god. Thanks to the wonders of modern medicine the cancer is in remission."

In order to pay off their hospital bills which totaled over $12,000, she literally had to sell her house. Then more bad luck hit. She came down with Legionnaire disease which forced her to stop working. Today she lives on a monthly Social Security check totaling about $550, and a small school pension kicks in in another 134 months. Out of that small amount of money she has to pay for everything, rent, and food, and medicine, and heat, and transportation, and clothing, as well as her medical bills which thankfully, are not as high as they could be. Now twice a year she sees an oncologist for cancer, but Medicare does not cover the cost of the visit because she does not quite meet the annual deductible. So her oncologist let her set a payment plan. Every 6 months she pays about a $75 bill. And you know what? She struggles to make that payment.

Now you tell Iris these Medicare cuts are not going hurt anybody. Tell Iris that a 50-percent increase in Medicare premiums is nothing. Tell her that she can afford these cuts. Because, if you do, she will probably tell you what she told me. She said, "You know, DAVID, it's unfortunate that when you get in the later years of your life, when you've taught kids, and you have to worry about things like this, but I don't think those people in Washington know what they're doing to people," and then she said, "I don't think they care."

Mr. Speaker, I think she is right. I do not think my friends, many of my friends in this institution, realize what these cuts are going to do to these people, particularly my friends on the other side of the aisle. But I do know one thing. This is not what the American people voted for last November. We did not vote to cut Medicare in order to pay for tax breaks for the privileged few. Our parents and our grandparents stood by America in times of war and peace, and we must stand by them today. That is the sacred promise that we made on Medicare, and I believe it is time we lived up to that promise.

We will be engaged in a very vociferous debate for the remainder of this week, and I daresay for the remainder of this Congress, on this very issue. The cuts that have been put forward by the Republicans in the House, in the Senate, will devastate millions of people in this country, not only seniors, but their children who must care for them in their later years. This is an unconscionable act in light of the outrageously inappropriate, unfair, unequal tax cut that the Republicans have put forward for the wealthiest few in our society.

I do not know how to get this message across to the American people except to talk to them at home and to talk to them on the floor of the House of Representatives. There was an interesting piece today in the Washington Post on the front page about how a large majority of people in this country today do not read the newspaper, do not watch the national news, and only pick up their news from talk radio and, occasionally, from tabloid television, and so in many instances miss the news, and those are the very people that will be hurt by what the Republicans are trying to do to Social Security, to Medicare, and to Medicaid.

Now I can only say to my colleagues that this is in my almost 20 years in this institution, or 19 years in this institution and 4 years as an elected official in Michigan, the most inequitable and the most egregions acts of unkindness in terms of a budget that I have ever seen. I assume people will become outraged. I know the AARP issued a report on Friday detailing the effects of these cuts. I know the Hospital Association is concerned because what there cuts really mean in addition is that many of our hospitals are going to close around the country.

I know our seniors are going to be concerned because, if they have a doctor that they like to go to, basically what this plan does is move them into a managed care system where they will not have the choice of the doctor they want unless they pay an even higher premium that I have quoted on the floor this afternoon. So, you are losing choice of doctor, you are paying more out of your pocket, all in order to save $300 billion over 7 years, $300 billion that will be used to pay for this tax cut that will go to the wealthiest people in our society.

I do not think I have seen in my years of public service anything as bold and as inequitable as this tradeoff. It is right there for everyone to see, and people will have to make up their minds whether this is what they had in mind when they voted on November 8, 1994.

The American family is squeezed today. Since 1979, 98 percent of all new income growth in the country went to the top 20 percent of households in America. The other 80 percent stayed even or went down, and most of them went down. We are seeing a bifurcation in our society today of wealth and people who cannot make it, and it is tearing this country apart, and it is having more of an effect on this Nation than just pure buying power or economics.

□ 1330

It is making people lose faith in the system. It is making people feel hopeless. It is what drives gangs to violence in inner cities and militias to violence in rural areas. We have to get back to the time in our country and our society and in this institution where there is some basis of equity and fairness and justice. The rich cannot have it all, and that is the direction we are going. This latest assault on seniors is a rollback not only of the New Deal of Franklin Roosevelt or the Fair Deal of Harry Truman or the programs of the Great Society of Lyndon Johnson, it is a rollback to the days when we were indeed a society of extreme wealth and people struggling to make ends meet.

We bridged a lot of that gap. We made America a place of promise for virtually 80 percent of our population after the Second World War. And this latest budget is a rollback.

So I would say to my senior friends particularly who are watching, but also to my friends and colleagues from the country who approximate my age, 50, that these cuts will take a terrible, terrible toll, a psychological toll, a financial toll, and a spiritual toll, on the Nation.

I urge my colleagues in this body to reject this budget when we vote on it on Thursday of this week. Send it back to the Committee on the Budget. Let us have hearings on it. This was rolled out at midnight, by the way. Nobody saw it. Democrats did not see this until 1 o'clock in the morning, and they rolled it out a few days later on votes.

The American people need to see what is in this budget, and when they get a load of what has happened, to students, to our seniors, to Social Security. There was a promise made by the Speaker, Mr. GINGRICH, sitting up directly behind me, that they would not touch Social Security, and they have. They have cut COLA's, and it will affect every senior in this country hundreds, if not thousands, of dollars.

They said they would not monkey with Medicare, but they have. They have. It should not be surprising that they have. The majority leader, Mr. ARMEY, when he first ran for Congress, ran against Social Security. He does not really think we ought to have it, he thinks we can devise a better system, we should get rid of it. Back in 1986, Speaker GINGRICH hedged Medicare and the payments on Medicare against additional defense spending.

There are no friends of Social Security or Medicare, or few friends, I should say, on this side of the aisle. There are some. I do not mean to impugn the motives and actions of all of the Members on the Republican side of the aisle, because there are some who do care for these. But, for the most part, they will be voting in lockstep on Thursday to implement these cuts.

So I would just like to conclude, Mr. Speaker, by urging each and every one of my colleagues to look at the Robert Pear piece in the New York Times which outlines the memo that talks about the additional cuts in Social Security, the additional deductibles on Medicare, the additional premium increases, and also to look at the AARP report with respect to the same issue.

One final comment on choice, because I know it is so important, because so many of our seniors rely on a certain doctor for their care. They have confidence in that doctor. They should know that with this new system that we are about to embark on, if it becomes law, that choice will be taken away. Or you can keep it if you want, but you are going to have to pay an even higher premium, an even higher premium than I have talked about here on the floor this afternoon.

RECESS

The SPEAKER pro tempore. Without prejudice to the resumption of legislative business, pursuant to clause 12 of rule I, the Chair declares the House in recess until 5 p.m.

Accordingly (at 1 o'clock and 36 minutes p.m.), the House stood in recess until 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WELLER] at 5 o'clock p.m.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1114

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1114.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1120

Mr. RAMSTAD. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 1120.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PERSONAL EXPLANATION

Mr. HANCOCK. Mr. Speaker, for the first time in over 6 years, I was out of town on personal business last Thursday and Friday, and missed a portion of the rollcall votes on H.R. 961. I ask that the RECORD reflect that had I been present, I would have voted in the following manner: "No" on rollcall votes 321, 322, 323, 324, 325, and 328; and "aye" on rollcall votes 326, 327, and 329.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 2 minutes p.m.), the House adjourned subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WELLER] at 6 o'clock and 3 minutes p.m.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO SIT TOMORROW, TUESDAY, MAY 16, 1995, DURING 5-MINUTE RULE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the Committee on International Relations and its subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole under the 5-minute rule.

It is my understanding the minority has been consulted and there is no objection to this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

CLEAN WATER AMENDMENTS OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 140 and rule XXIII the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 961.

□ 1804

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act, with Mr. MCINNIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, May 12, 1995, the amendment offered by the gentleman from Texas [Mr. DE LA GARZA] had been disposed of, and title VIII was open at any point.

Are there any amendments to title VIII?

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT:

Strike title VIII of the bill (page 239, line 3, through page 322, line 22) and insert the following:

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wetlands and Watershed Management Act of 1995".

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares the following:

(1) Wetlands perform a number of valuable functions needed to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including—

(A) reducing pollutants (including nutrients, sediment, and toxics) from nonpoint and point sources;

(B) storing, conveying, and purifying flood and storm waters;

(C) reducing both bank erosion and wave and storm damage to adjacent lands and trapping sediment from upland sources;

(D) providing habitat and food sources for a broad range of commercial and recreational fish, shellfish, and migratory wildlife species (including waterfowl and endangered species); and

(E) providing a broad range of recreational values for canoeing, boating, birding, and nature study and observation.

(2) Original wetlands in the contiguous United States have been reduced by an estimated 50 percent and continue to disappear at a rate of 200,000 to 300,000 acres a year. Many of these original wetlands have also been altered or partially degraded, reducing their ecological value.

(3) Wetlands are highly sensitive to changes in water regimes and are, therefore, susceptible to degradation by fills, drainage, grading, water extractions, and other activities within their watersheds which affect the quantity, quality, and flow of surface and ground waters. Protection and management of wetlands, therefore, should be integrated with management of water systems on a watershed basis. A watershed protection and management perspective is also needed to understand and reverse the gradual, continued destruction of wetlands that occurs due to cumulative impacts.

(4) Wetlands constitute an estimated 5 percent of the Nation's surface area. Because much of this land is in private ownership wetlands protection and management strategies must take into consideration private property rights and the need for economic development and growth. This can be best accomplished in the context of a cooperative and coordinated Federal, State, and local strategy for data gathering, planning, management, and restoration with an emphasis on advance planning of wetlands in watershed contexts.

(b) PURPOSES.—The purposes of this Act are—

(1) to help create a coordinated national wetland management effort with efficient use of scarce Federal, State, and local financial and manpower resources to protect wetland functions and values and reduce natural hazard losses;

(2) to help reverse the trend of wetland loss in a fair, efficient, and cost-effective manner;

(3) to reduce inconsistencies and duplication in Federal, State, and local wetland management efforts and encourage integrated permitting at the Federal, State, and local levels;

(4) to increase technical assistance, cooperative training, and educational opportunities for States, local governments, and private landowners;

(5) to help integrate wetland protection and management with other water resource management programs on a watershed basis such as flood control, storm water management, allocation of water supply, protection of fish and wildlife, and point and nonpoint source pollution control;

(6) to increase regionalization of wetland delineation and management policies within a framework of national policies through advance planning of wetland areas, programmatic general permits and other approaches and the tailoring of policies to ecosystem and land use needs to reflect significant watershed variance in wetland resources;

(7) to address the cumulative loss of wetland resources;

(8) to increase the certainty and predictability of planning and regulatory policies for private landowners;

(9) to help achieve no overall net loss and net gain of the remaining wetland base of the United States through watershed-based restoration strategies involving all levels of government;

(10) to restore and create wetlands in order to increase the quality and quantity of the wetland resources and by so doing to restore and maintain the quality and quantity of the waters of the United States; and

(11) to provide mechanisms for joint State, Federal, and local development and testing of approaches to better protect wetland resources such as mitigation banking.

SEC. 803. STATE, LOCAL, AND LANDOWNER TECHNICAL ASSISTANCE AND COOPERATIVE TRAINING.

(a) STATE AND LOCAL TECHNICAL ASSISTANCE.—Upon request, the Administrator or the Secretary of the Army, as appropriate, shall provide technical assistance to State and local governments in the development and implementation of State and local government permitting programs under sections 404(e) and 404(h) of the Federal Water Pollution Control Act, State wetland conservation plans under section 805, and regional or local wetland management plans under section 805.

(b) COOPERATIVE TRAINING.—The Administrator and the Secretary, in cooperation with the Coordinating Committee established pursuant to section 804, shall conduct training courses for States and local governments involving wetland delineation, utilization of wetlands in nonpoint pollution control, wetland and stream restoration, wetland planning, wetland evaluation, mitigation banking, and other subjects deemed appropriate by the Administrator or Secretary.

(c) PRIVATE LANDOWNER TECHNICAL ASSISTANCE.—The Administrator and Secretary shall, in cooperation with the Coordination Committee, and appropriate Federal agencies develop and provide to private landowners guidebooks, pamphlets, or other materials and technical assistance to help them in identifying and evaluating wetlands, developing integrated wetland management plans for their lands consistent with the goals of this Act and the Federal Water Pollution Control Act, and restoring wetlands.

SEC. 804. FEDERAL, STATE, AND LOCAL GOVERNMENT COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a Federal, State, and Local Government Wetlands Coordinating Committee (hereinafter in this section referred to as the "Committee").

(b) FUNCTIONS.—The Committee shall—

(1) help coordinate Federal, State, and local wetland planning, regulatory, and restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower and resources at all levels of government;

(2) provide comments to the Secretary of the Army or Administrator in adopting regulatory, policy, program, or technical guidance affecting wetland systems;

(3) help develop and field test, national policies prior to implementation such as wetland, delineation, classification of wetlands, methods for sequencing wetland mitigation responses, the utilization of mitigation banks;

(4) help develop and carry out joint technical assistance and cooperative training programs as provided in section 803;

(5) help develop criteria and implementation strategies for facilitating State conservation plans and strategies, local and regional wetland planning, wetland restoration and creation, and State and local permitting programs pursuant to section 404(e) or 404(g) of the Federal Water Pollution Control Act; and

(6) help develop a national strategy for the restoration of wetland ecosystems pursuant to section 6 of this Act.

(c) MEMBERSHIP.—The Committee shall be composed of 18 members as follows:

(1) The Administrator or the designee of the Administrator.

(2) The Secretary or the designee of the Secretary.

(3) The Director of the United States Fish and Wildlife Service or the designee of the Director.

(4) The Chief of the Natural Resources Conservation Service or the designee of the Chief.

(5) The Undersecretary for Oceans and Atmosphere or the designee of the Under Secretary.

(6) One individual appointed by the Administrator who will represent the National Governor's Association.

(7) One individual appointed by the Administrator who will represent the National Association of Counties.

(8) One individual appointed by the Administrator who will represent the National League of Cities.

(9) One State wetland expert from each of the 10 regions of the Environmental Protection Agency. Each member to be appointed under this paragraph shall be jointly appointed by the Governors of the States within the Environmental Protection Agency's region. If the Governors from a region cannot agree on such a representative, they will each submit a nomination to the Administrator and the Administrator will select a representative from such region.

(d) TERMS.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

(e) VACANCIES.—A vacancy in the Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

(f) PAY.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) COCHAIRPERSONS.—The Administrator and one member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) (selected by such members) shall serve as cochairpersons of the Committee.

(h) QUORUM.—Two-thirds of the members of the Committee shall constitute a quorum but a lesser number may hold meetings.

(i) MEETINGS.—The Committee shall hold its first meeting not later than 120 days after the date of the enactment of this Act. The Committee shall meet at least twice each year thereafter. Meetings will be opened to the public.

SEC. 805. STATE AND LOCAL WETLAND CONSERVATION PLANS AND STRATEGIES; GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.

(a) STATE WETLAND CONSERVATION PLANS AND STRATEGIES.—Subject to the requirements of this section, the Administrator shall make grants to States and tribes to assist in the development and implementation of wetland conservation plans and strategies. More specific goals for such conservation plans and strategies may include:

(1) Inventorying State wetland resources, identifying individual and cumulative losses, identifying State and local programs applying to wetland resources, determining gaps in such programs, and making recommendations for filling those gaps.

(2) Developing and coordinating existing State, local, and regional programs for wetland management and protection on a watershed basis.

(3) Increasing the consistency of Federal, State, and local wetland definitions, delineation, and permitting approaches.

(4) Mapping and characterizing wetland resources on a watershed basis.

(5) Identifying sites with wetland restoration or creation potential.

(6) Establishing management strategies for reducing causes of wetland degradation and restoring wetlands on a watershed basis.

(7) Assisting regional and local governments prepare watershed plans for areas with a high percentage of lands classified as wetlands or otherwise in need of special management.

(8) Establishing and implementing State or local permitting programs under section 404(e) or 404(h) of the Federal Water Pollution Control Act.

(b) REGIONAL AND LOCAL WETLAND PLANNING, REGULATION, AND MANAGEMENT PROGRAMS.—Subject to the requirements of this section, the Administrator shall make grants to States which will, in turn, use this funding to make grants to regional and local governments to assist them in adopting and implementing wetland and watershed management programs consistent with goals stated in section 101 of the Federal Water Pollution Control Act and section 802 of this Act. Such plans shall be integrated with (where appropriate) or coordinated with planning efforts pursuant to section 319 of the Federal Water Pollution Control Act. Such programs shall, at a minimum, involve the inventory of wetland resources and the adoption of plans and policies to help achieve the goal of no net loss of wetland resources on a watershed basis. Other goals may include, but are not limited to:

(1) Integration of wetland planning and management with broader water resource and land use planning and management, including flood control, water supply, storm water management, and control of point and nonpoint source pollution.

(2) Adoption of measures to increase consistency in Federal, State, and local wetland definitions, delineation, and permitting approaches.

(3) Establishment of management strategies for restoring wetlands on a watershed basis.

(c) GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.—Subject to the requirements of this section, the Administrator may make grants to States which assist the Federal Government in the implementation of the section 404 Federal Water Pollution Control program through State assumption of permitting pursuant to sections 404(g) and 404(h) of such Act through State permitting through a State programmatic general permit pursuant to section 404(e) of such Act or through monitoring and enforcement activities. In order to be eligible to receive a grant under this section a State shall provide assurances satisfactory to the Administrator that amounts received by the State in grants under this section will be used to issue regulatory permits or to enforce regulations consistent with the overall goals of section 802 and the standards and procedures of section 404(g) or 404(e) of this Act.

(d) MAXIMUM AMOUNT.—No State may receive more than $500,000 in total grants under subsections (a), (b), and (c) in any fiscal year and more than $300,000 in grants for subsection (a), (b), or (c), individually.

(e) FEDERAL SHARE.—The Federal share of the cost of activities carried out using amounts made available in grants under this section shall not exceed 75 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 806. NATIONAL COOPERATIVE WETLAND ECOSYSTEM RESTORATION STRATEGY.

(a) DEVELOPMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in cooperation with other Federal agencies, State, and local governments, and representatives of the private sector, shall initiate the development of a National Cooperative Wetland Ecosystem Restoration Strategy.

(b) GOALS.—The goal of the National Cooperative Wetland Ecosystem Restoration Strategy shall be to restore damaged and degraded wetland and riparian ecosystems consistent with the goals of the Water Pollution Control Amendments and the goals of section 802, and the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

(c) FUNCTIONS.—The National Cooperative Wetland Ecosystem Restoration Strategy shall—

(1) be designed to help coordinate and promote restoration efforts by Federal, State, regional, and local governments and the private sector, including efforts authorized by the Coastal Wetlands Planning, Protection, and Restoration Act, the North American Waterfowl Management Plan, the Wetlands Reserve Program, and the wetland restoration efforts on Federal, State, local, and private lands;

(2) involve the Federal, State, and local Wetlands Coordination Committee established pursuant to section 804;

(3) inventory and evaluate existing restoration efforts and make suggestions for the establishment of new watershed specific efforts consistent with existing Federal programs and State, regional, and local wetland protection and management efforts;

(4) evaluate the role presently being played by wetland restoration in both regulatory and nonregulatory contexts and the relative success of wetland restoration in these contexts;

(5) develop criteria for identifying wetland restoration sites on a watershed basis, procedures for wetlands restoration, and ecological criteria for wetlands restoration; and

(6) identify regulatory obstacles to wetlands ecosystem restoration and recommend methods to reduce such obstacles.

SEC. 807. PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

(a) PERMIT MONITORING AND TRACKING.—Section 404(a) (33 U.S.C. 1344) is amended by adding at the end thereof the following: "The Secretary shall, in cooperation with the Administrator, establish a permit monitoring and tracking programs on a watershed basis to monitor the cumulative impact of individual and general permits issued under this section. This program shall determine the impact of permitted activities in relationship to the no net loss goal. Results shall be reported biannually to Congress.".

(b) ISSUANCE OF GENERAL PERMITS.—Paragraph (1) of section 404(e) is amended by inserting "local," before "State, regional, or nationwide basis" in the first sentence.

(c) REVOCATION OR MODIFICATION OF GENERAL PERMITS.—Paragraph (2) of section 404(e) is amended by striking the period at the end and inserting "or a State or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State or local programmatic general permits.".

(d) PROGRAMMATIC GENERAL PERMITS.—Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(3) PROGRAMMATIC GENERAL PERMITS.—Consistent with the following requirements, the Secretary may, after notice and opportunity for public comment, issue State or local programmatic general permits for the purpose of avoiding unnecessary duplication of regulations by State, regional, and local regulatory programs:

"(A) The Secretary may issue a programmatic general permit based on a State, regional, or local government regulatory program if that general permit includes adequate safeguards to ensure that the State, regional, or local program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the environment, including all waters of the United States, and for Federal interests, as is provided by this section and by the Federal permitting program pursuant to section 404(a). Such safeguards shall include provisions whereby the Corps District Engineer and the Regional Administrators or Directors of the Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Marine Fisheries Service (where appropriate), shall have an opportunity to review permit applications submitted to the State, regional, or local regulatory agency which would have more than minimal individual or cumulative adverse impacts on the environment, attempt to resolve any environmental concern or protect any Federal interest at issue, and, if such concern is not adequately addressed by the State, local, or regional agency, require the processing of an individual Federal permit under this section for the specific proposed activity. The Secretary shall ensure that the District Engineer will utilize this authority to protect all Federal interests including, but not limited to, national security, navigation, flood control, Federal endangered or threatened species, Federal interests under the Wild and Scenic Rivers Act, special aquatic sites of national importance, and other interests of overriding national importance. Any programmatic general permit issued under this subsection shall be consistent with the guidelines promulgated to implement subsection (b)(1).

"(B) In addition to the requirements of subparagraph (A), the Secretary shall not promulgate any local or regional programmatic general permit based on a local or regional government's regulatory program unless the responsible unit of government has also adopted a wetland and watershed management plan and is administering regulations to implement this plan. The watershed management plan shall include—

"(i) the designation of a local or regional regulatory agency which shall be responsible for issuing permits under the plan and for making reports every 2 years on implementation of the plan and on the losses and gains in functions and acres of wetland within the watershed plan area;

"(ii) mapping of—

"(I) the boundary of the plan area;

"(II) all wetlands and waters within the plan area as well as other areas proposed for protection under the plan; and

"(III) proposed wetland restoration or creation sites with a description of their intended functions upon completion and the time required for completion;

"(iii) a description of the regulatory policies and standards applicable to all wetlands and waters within the plan areas and all activities which may affect these wetlands and waters that will assure, at a minimum, no net loss of the functions and acres of wetlands within the plan area; and

"(iv) demonstration that the regulatory agency has the legal authority and scientific monitoring capability to carry out the proposed plan including the issuance, monitoring, and enforcement of permits in compliance with the plan.".

(e) GRANDFATHER OF EXISTING GENERAL PERMITS.—Section 404(e) is further amended by adding at the end the following:

"(4) GRANDFATHER OF EXISTING GENERAL PERMITS.—General permits in effect on day before the date of the enactment of the Wetlands and Watershed Management Act of 1995 shall remain in effect until otherwise modified by the Secretary.".

(f) DISCHARGES NOT REQUIRING A PERMIT.—Section 404(f) (33 U.S.C. 1344(f)) is amended by striking the subsection designation and paragraph (1) and inserting the following:

"(f) EXEMPTIONS.—

"(1) ACTIVITIES NOT REQUIRING PERMIT.—

"(A) IN GENERAL.—Activities are exempt from the requirements of this section and are not prohibited by or otherwise subject to regulation under this section or section 301 or 402 of this Act (except effluent standards or prohibitions under section 307 of this Act) if such activities—

"(i) result from normal farming, silviculture, aquaculture, and ranching activities and practices, including but not limited to plowing, seeding, cultivating, haying, grazing, normal maintenance activities, minor drainage, burning of vegetation in connection with such activities, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

"(ii) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs (where such maintenance involves periodic water level drawdowns) which provide water predominantly to public drinking water systems, groins, riprap, breakwaters, utility distribution and transmission lines, causeways, and bridge abutments or approaches, and transportation structures;

"(iii) are for the purpose of construction or maintenance of farm, stock or aquaculture ponds, wastewater retention facilities (including dikes and berms) that are used by concentrated animal feeding operations, or irrigation canals and ditches or the maintenance or reconstruction of drainage ditches and tile lines (including resloping of drainage ditches to control bank erosion);

"(iv) are for the purpose of construction of temporary sedimentation basins on a construction site, or the construction of any upland dredged material disposal area, which does not include placement of fill material into the navigable waters;

"(v) are for the purpose of construction or maintenance of farm roads or forest roads, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the waters are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

"(vi) are undertaken on farmed wetlands, except that any change in use of such land for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to the requirements of this section to the extent that such farmed wetlands are 'wetlands' under this section;

"(vii) are undertaken in incidentally created wetlands, unless such incidentally created wetlands have exhibited wetlands functions and values for more than 5 years in which case activities undertaken in such wetlands shall be subject to the requirements of this section; and

"(viii) are for the purpose of preserving and enhancing aviation safety or are undertaken in order to prevent an airport hazard.".

(g) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—Section 404(f) is further amended by adding the following:

"(3) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—

"(A) IN GENERAL.—For purposes of this section, the following shall not be considered navigable waters:

"(i) Irrigation ditches excavated in uplands.

"(ii) Artificially irrigated areas which would revert to uplands if the irrigation ceased.

"(iii) Artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and which are used exclusively for stock watering, irrigation, or rice growing.

"(iv) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons.

"(v) Temporary, water filled depressions created in uplands incidental to construction activity.

"(vi) Pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

"(vii) Artificial stormwater detention areas and artificial sewage treatment areas which are not modified natural waters.

"(B) DEMONSTRATION REQUIRED.—Subparagraph (A) shall not apply to a particular water body unless the person desiring to discharge dredged or fill material in that water body is able to demonstrate that the water body qualifies under subparagraph (A) for exemption from regulation under this section.".

SEC. 808. TECHNICAL ASSISTANCE TO PRIVATE LANDOWNERS, CODIFICATION OF REGULATIONS AND POLICIES.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(u)(1) The Secretary and the Administrator shall in cooperation with the United States Fish and Wildlife Service, Natural Resources Conservation Service, and National Marine Fisheries Service provide technical assistance to private landowners in delineation of wetlands and the planning and management of their wetlands. This assistance shall include—

"(A) the delineation of wetland boundaries within 90 days (providing on the ground conditions allow) of a request for such delineation for a project with a proposed individual permit application under this section and a total assessed value of less than $15,000; and

"(B) the provision of technical assistance to owners of wetlands in the preparation of wetland management plans for their lands to protect and restore wetlands and meet other goals of this Act, including control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

"(2) The Secretary shall prepare, update on a biannual basis, and make available to the public for purchase at cost, an indexed publication containing all Federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities in wetland areas pursuant to section 404(a). The Secretary and the Administrator shall also prepare and distribute brochures and pamphlets for the public addressing—

"(A) the delineation of wetlands,

"(B) wetland permitting requirements; and

"(C) wetland restoration and other matters considered relevant.".

SEC. 809. DELINEATION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(v) Delineation.—

"(1) In general.—The United States Army Corps of Engineers, the United States Environmental Protection Agency, and other Federal agencies shall use the 1987 Corps of Engineers Manual for the Delineation of Jurisdictional Wetlands pursuant to this section until a new manual has been prepared and formally adopted by the Corps and the Environmental Protection Agency with input from the United States Fish and Wildlife Service, Natural Resources, Natural Resources Conservation Service, and other relevant agencies and adopted after field testing, hearing, and public comment. Any new manual shall take into account the conclusions of the National Academy of Sciences panel concerning the delineation of wetlands. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, shall develop materials and conduct training courses for consultants, State, and local governments, and landowners explaining the use of the Corps 1987 wetland manual in the delineation of wetland areas. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, may also, in cooperation with the States, develop supplemental criteria and procedures for identification of regional wetland types. Such criteria and procedures may include supplemental plant and soil lists and supplementary technical criteria pertaining to wetland hydrology, soils, and vegetation.

"(2) Agricultural lands.—

"(A) Delineation by secretary of agriculture.—For purposes of this section, wetlands located on agricultural lands and associated nonagricultural lands shall be delineated solely by the Secretary of Agriculture in accordance with section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)).

"(B) Exemption of lands exempted under food security act.—Any area of agricultural land or any discharge related to the land determined to be exempt from the requirements of subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall also be exempt from the requirements of this section for such period of time as those lands are used as agricultural lands.

"(C) Effect of appeal determination pursuant to food security act.—Any area of agricultural land or any discharge related to the land determined to be exempt pursuant to an appeal taken pursuant to subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall be exempt under this section for such period of time as those lands are used as agricultural lands.".

SEC. 810. FAST TRACK FOR MINOR PERMITS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(w)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations to explore the review and practice of individual permits for minor activities. Minor activities include activities of 1 acre or less in size which also have minor direct, secondary, or cumulative impacts.

"(2) Permit applications for minor permits shall ordinarily be processed within 60 days of the receipt of completed application.

"(3) The Secretary shall establish fast-track field teams or other procedures in the individual offices sufficient to expedite the processing of the individual permits involving minor activities.".

SEC. 811. COMPENSATORY MITIGATION.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(x) General Requirements.—(1) Each permit issued under this section that results in loss of wetland functions or acreage shall require compensatory mitigation. The preferred sequence of mitigation options is as set forth in subparagraph (A) and (C). However, the Secretary shall have sufficient flexibility to approve practical options that provide the most protection to the resource—

"(A) measures shall first be undertaken by the permittee to avoid any adverse effects on wetlands caused by activities authorized by the permit.

"(B) measures shall be undertaken by the permittee to minimize any such adverse effects that cannot be avoided;

"(C) measures shall then be undertaken by the permittee to compensate for adverse impacts on wetland functions, values, and acreage;

"(D) where compensatory mitigation is used, preference shall be given to in-kind restoration on the same water body and within the same local watershed;

"(E) where on-site and in-kind compensatory mitigation are impossible, impractical, would fail to work in the circumstances, or would not make ecological sense, off-site and/or out-of-kind compensatory mitigation may be permitted within the watershed including participation in cooperative mitigation ventures or mitigation banks as provided in section 404(y).

"(2) The Secretary in consultation with the Administrator shall ensure that compensable mitigation by a permitee—

"(A) is a specific, enforceable condition of the permit for which it is required;

"(B) will meet defined success criteria; and

"(C) is monitored to ensure compliance with the conditions of the permit and to determine the effectiveness of the mitigation in compensating for the adverse effects for which it is required.".

SEC. 812. COOPERATIVE MITIGATION VENTURES AND MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(y)(1) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Administrator shall jointly issue rules for a system of cooperative mitigation ventures and wetland banks. Such rules shall, at the minimum, address the following topics:

"(A) Mitigation banks and cooperative ventures may be used on a watershed basis to compensate for unavoidable wetland losses which cannot be compensated on-site due to inadequate hydrologic conditions, excessive sedimentation, water pollution, or other problems. Mitigation banks and cooperative ventures may also be used to improve the potential success of compensatory mitigation through the use of larger projects, by locating projects in areas in more favorable short-term and long-term hydrology and proximity to other wetlands and waters, and by helping to ensure short-term and long-term project protection, monitoring, and maintenance.

"(B) Parties who may establish mitigation banks and cooperative mitigation ventures for use in specific context and for particular types of wetlands may include government agencies, nonprofits, and private individuals.

"(C) Surveys and inventories on a watershed basis of potential mitigation sites throughout a region or State shall ordinarily be required prior to the establishment of mitigation banks and cooperative ventures pursuant to this section.

"(D) Mitigation banks and cooperative mitigation ventures shall be used in a manner consistent with the sequencing requirements to mitigate unavoidable wetland impacts. Impacts should be mitigated within the watershed and water body if possible with on-site mitigation preferable as set forth in section 404(x).

"(E) The long-term security of ownership interests of wetlands and uplands on which projects are conducted shall be insured to protect the wetlands values associated with those wetlands and uplands;

"(F) Methods shall be specified to determine debits by evaluating wetland functions, values, and acreages at the sites of proposed permits for discharges or alternations pursuant to subsections (a), (c), and (g) and methods to be used to determine credits based upon functions, values, and acreages at the times of mitigation banks and cooperative mitigation ventures.

"(G) Geographic restrictions on the use of banks and cooperative mitigation ventures shall be specified. In general, mitigation banks or cooperative ventures shall be located on the same water body as impacted wetlands. If this is not possible or practical, banks or ventures shall be located as near as possible to impacted projects with preference given to the same watershed where the impact is occurring.

"(H) Compensation ratios for restoration, creation, enhancement, and preservation reflecting and overall goal of no net loss of function and the status of scientific knowledge with regard to compensation for individual wetlands, risks, costs, and other relevant factors shall be specified. A minimum restoration compensation ratio of 1:1 shall be required for restoration of lost acreage with larger compensation ratios for wetland creation, enhancement and preservation.

"(I) Fees to be charged for participation in a bank or cooperative mitigation venture shall be based upon the costs of replacing lost functions and acreage on-site and off-site; the risks of project failure, the costs of long-term maintenance, monitoring, and protection, and other relevant factors.

"(J) Responsibilities for long-term monitoring, maintenance, and protection shall be specified.

"(K) Public review of proposals for mitigation banks and cooperative mitigation ventures through one or more public hearings shall be provided.

"(2) The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for creating and implementing mitigation banks and cooperative ventures and for evaluating alternative approaches for mitigation banks and cooperative mitigation ventures as a means of contributing to the goals established by section 101(a)(8) or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403). The Secretary shall also monitor and evaluate existing banks and cooperative ventures and establish a number of such banks and cooperative ventures to test and demonstrate:

"(A) The technical feasibility of compensation for lost on-site values through off-site cooperative mitigation ventures and mitigation banks.

"(B) Techniques for evaluating lost wetland functions and values at sites for which permits are sought pursuant to section 404(a) and techniques for determining appropriate credits and debits at the sites of cooperative mitigation ventures and mitigation banks.

"(C) The adequacy of alternative institutional arrangements for establishing and administering mitigation banks and cooperative mitigation ventures.

"(D) The appropriate geographical locations of bank or cooperative mitigation ventures in compensation for lost functions and values.

"(E) Mechanisms for ensuring short-term and long-term project monitoring and maintenance.

"(F) Techniques and incentives for involving private individuals in establishing and implementing mitigation banks and cooperative mitigation ventures.

Not later than 3 years after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report evaluating mitigation banks and cooperative ventures. The Secretary shall also, within this time period, prepare educational materials and conduct training programs with regard to the use of mitigation banks and cooperative ventures.".

SEC. 813. WETLANDS MONITORING AND RESEARCH.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(z) The Secretary, in cooperation with the Administrator, the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and appropriate State and local government entities, shall initiate, with opportunity for public notice and comment, a research program of wetlands and watershed management. The purposes of the research program shall include, but not be limited—

"(1) to study the functions, values and management needs of altered, artificial, and managed wetland systems including lands that were converted to production of commodity crops prior to December 23, 1985, and report to Congress within 2 years of the date of the enactment of this subsection;

"(2) to study techniques for managing and restoring wetlands within a watershed context;

"(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

"(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.".

SEC. 814. ADMINISTRATIVE APPEALS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(aa) ADMINISTRATIVE APPEALS.—

"(1) REGULATIONS ESTABLISHING PROCEDURES.—Not later than 1 year after the date of the enactment of the Wetlands and Watershed Management Act of 1995, the Secretary shall, after providing notice and opportunity for public comment, issue regulations establishing procedures pursuant to which—

"(A) a landowner may appeal a determination of regulatory jurisdiction under this section with respect to a parcel of the landowner's property;

"(B) a landowner may appeal a wetlands classification under this section with respect to a parcel of the landowner's property;

"(C) any person may appeal a determination that the proposed activity on the landowner's property is not exempt under subsection (f);

"(D) a landowner may appeal a determination that an activity on the landowner's property does not qualify under a general permit issued under this section;

"(E) an applicant for a permit under this section may appeal a determination made pursuant to this section to deny issuance of the permit or to impose a requirement under the permit; and

"(F) a landowner or any other person required to restore or otherwise alter a parcel of property pursuant to an order issued under this section may appeal such order.

"(2) DEADLINE FOR FILING APPEAL.—An appeal brought pursuant to this subsection shall be filed not later than 30 days after the date on which the decision or action on which the appeal is based occurs.

"(3) DEADLINE FOR DECISION.—An appeal brought pursuant to this subsection shall be decided not later than 90 days after the date on which the appeal is filed.

"(4) PARTICIPATION IN APPEALS PROCESS.—Any person who participated in the public comment process concerning a decision or action that is the subject of an appeal brought pursuant to this subsection may participate in such appeal with respect to those issues raised in the person's written public comments.

"(5) DECISIONMAKER.—An appeal brought pursuant to this subsection shall be heard and decided by an appropriate and impartial official of the Federal Government, other than the official who made the determination or carried out the action that is the subject of the appeal.

"(6) STAY OF PENALTIES AND MITIGATION.—A landowner or any other person who has filed an appeal under this subsection shall not be required to pay a penalty or perform mitigation or restoration assessed under this section or section 309 until after the appeal has been decided.".

SEC. 815. CRANBERRY PRODUCTION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(bb) CRANBERRY PRODUCTION.—Activities associated with expansion, improvement, or modification of existing cranberry production operations shall be deemed in compliance, for purposes of sections 309 and 505, with section 301, if—

"(1) the activity does not result in the modification of more than 10 acres of wetlands per operator per year and the modified wetlands (other than where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

"(2) the activity is required by any State or Federal water quality program.".

SEC. 816. STATE CLASSIFICATION SYSTEMS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(cc) STATE CLASSIFICATION SYSTEMS.—

"(1) GUIDELINES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, in consultation with the Administrator, the Secretary of Agriculture, and the Director of the United States Fish and Wildlife Service, shall establish guidelines to aid States and Indian tribes in establishing classification systems for the planning, managing, and regulating of wetlands.

"(2) ESTABLISHMENT.—In accordance with the guidelines established under paragraph (1), a State or Indian tribe may establish a wetlands classification system for lands of the State or Indian tribe and may submit such classification system to the Secretary for approval. Upon approval, the Secretary shall use such classification system in making permit determinations and establishing mitigation requirements for lands of the State or Indian tribe under this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect a State with an approved program under subsection (h) or a State with a wetlands classification system in effect on the date of the enactment of this subsection.".

SEC. 817. AGRICULTURAL LANDS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(dd) AGRICULTURAL LANDS.—

"(1) PERMIT AUTHORITY.—The Secretary of Agriculture is authorized to issue permits under this section for any activity subject to permitting under this section that is carried out on agricultural land (other than agricultural land subject to sections 1221–1223 of the Food Security Act of 1985 (16 U.S.C. 3821–3823)). Any activity allowed by the Secretary of Agriculture under such sections 1221–1223 shall be treated as having a permit issued under this section and no individual request for or granting of a permit shall be required under this section.

"(2) MITIGATION.—Any mitigation approved by the Secretary of Agriculture for agricultural lands shall be accepted by the Secretary as mitigation under this section.".

SEC. 818. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(26) The term 'wetland' means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

"(27) The term 'discharge of dredged or fill material' means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

"(28) The term 'mitigation bank' shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

"(29) The term 'cooperative mitigation ventures' shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.

"(30) The term 'normal farming, silviculture, aquaculture and ranching activities' means normal practices identified as such by the Secretary of Agriculture, in consultation with the Cooperative Extension Service for each State and the land grant university system and agricultural colleges of the State, taking into account existing practices and such other practices as may be identified in consultation with the affected industry or community.

"(31) The term 'agricultural land' means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, nonindustrial forest land, an area that supports a water dependent crop (including cranberries, taro, watercress, or rice), and any other land used to produce or support the production of an annual or perennial crop (including forage or hay), aquaculture product, nursery product, or wetland crop or the production of livestock.".

Conform the table of contents of the bill accordingly.

Mr. BOEHLERT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, it is unfortunate what is now happening, because both cloakrooms have indicated that there will be no votes this evening, and consequently Members understandably have remained in their districts or with their families. At a time when we have scheduled debate on one of the most sensitive environmental issues not just of the day or the week or the month, of the year, but probably of this generation. We are talking about the Clean Water Act amendments, the Clean Water Act of 1972, which history demonstrates has been one of the most successful pieces of environmental legislation in history.

What we should have, what the American people are entitled to, is spirited debate, give and take. Those who have problems with the Clean Water Act amendments should have the opportunity to present those problems on the floor. Those who have proposed solutions, and I am among that group, should be able to offer their proposed solution.

But the problem is, because of the change from last Thursday, when we were told we would go into session today at 5 o'clock, and then we would have votes on the Suspension Calendar, then we would proceed with this very important debate, and people had every right to expect that the People's House would take up one of the most serious issues of this Congress and we would have good attendance, we would have good participation, and we would go about the people's business in a responsible manner.

But as I say, the cloakrooms have advised Members that no votes are intended this evening. So we have here a few die-hard, spirited individuals.

The gentleman from Alaska [Mr. YOUNG] always can be there and counted on, the gentleman from Louisiana [Mr. HAYES], the gentleman from California [Mr. MINETA], a few Members who are here because they really care. The Members who are not here really care too. This is not to fault them. We have been working at a hectic pace since the first of the year, since January 4. This House has done outstanding work for the first 100 days of this historic 104th Congress. We have dealt with a balanced budget amendment, we have dealt with welfare reform and a line-item veto, the list goes on and on. This House has been responsive, has been dealing in a serious manner with serious issues.

Now we have another serious issue that deserves that serious attention. But unfortunately we are going to have to carry over until tomorrow, so that the Members can come back from their districts, their meetings, and their families and participate as they should, as they want to participate.

The amendment I am offering is designed to streamline current law while continuing to safeguard vital wetlands. It is in full the National Governors' Association language on wetland protection. Let me repeat this: My amendment is the National Governors' Association language on wetland protection.

Now that deserves special emphasis, because I think one of the messages of November 8, 1994, is that the American people are saying to us, loudly and clearly, that Washington is not the source of all wisdom. They want those of us who have special responsibility here in our Nation's Capital to reach out across America, to deal with State and local governments in a responsible manner, and to ask of them input and guidance as we develop national policy that will apply in like manner to all, and we have done that.

This amendment, the Boehlert wetlands amendment, contains the National Governors' Association language in full. And it is identical to the proposal I made as parts of last Wednesday's substitute. Let me point that out once again. It is identical in language as it deals with wetlands to the proposal I made as part of last Wednesday's substitute, which earned 184 votes.

There would have been more. People said to me well, you have a very comprehensive package, I like certain component parts, particularly as you deal with wetlands, but I cannot accept the entire package. One hundred eighty-four did, and boy did we defy the odds. People said, "BOEHLERT, you are not going to get more than 100 votes; it's a done deal." We got 184, and there are more waiting, there are more waiting, because they have been listening to America. They have been reading editorial comment across this Nation. And they recognize that we have a special responsibility.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 5 additional minutes.)

Mr. BOEHLERT. I want to emphasize that we start from the same premises as the drafters of H.R. 961 did. Keep in mind, I am privileged to serve as chairman of the Subcommittee on Water Resources and the Environment. I have been through the entire deliberations. I have chaired seven hearings, six in Washington, DC, to which we brought experts from all over the country, and one specifically geared to nonpoint-source pollution in upstate New York. Seven hearings, experts from all over America, from all walks of life came before us. So we start as the drafters of H.R. 961, the committee bill, did, with the same premise. We want to remove redtape, to increase local control, to address the legitimate concerns of farmers and other property owners, but unlike H.R. 961, we have managed to accomplish those goals without allowing the wholesale elimination of more than half of our Nation's wetlands.

During last week's debate opponents of the National Governors' Association wetlands proposal often mischaracterized it, so let me lay it out right at the outset how this amendment, the National Governors' Association proposal, would reform current law.

First, our amendment recognizes the needs of farmers. Agriculture is vital to the American economy, and we recognize it.

Our amendment not only includes each and every agriculture exemption granted by H.R. 961, the committee bill, but it also adds an additional exception for the repair of tiles.

Second, our amendment increases local control, very important. Not everything coming from Washington, not all of the decisionmaking coming from Washington. We say we are partners with State and local governments and we want to increase local control.

Our amendment makes it easier and faster for States to become the permitting authority for their wetlands.

Third, our amendment does not create any new regulating entity. The coordinating committee that was referred to in last week's debate is an advisory body that includes State and local representatives as well as Federal officials. State, local, Federal, serving on an advisory panel.

Fourth, our amendment speeds the regulatory process, and boy is this long overdue. We provide a fast-track permitting process that would require decisions involving wetlands of 1 acre or less within 60 days, 2 months, no longer.

Fifth, our amendment provides a reasonable appeals process. You have to have an appeals process. If you do not like the decision, where do you go for an appeal? We provide a mechanism for that. In fact we have exactly the same administrative appeal provisions as the committee bill, H.R. 961.

These are real reforms, reforms the Nation's Governors have requested.

What neither the Governors nor the public have requested is the wholesale elimination of wetlands; what neither the Governors nor the public have requested is a bill that cavalierly ignores the findings of science; what neither the Governors nor the public have requested is a wetland regime that threatens our tourism and fishing industries and increases the likelihood of flooding.

A lot has been said these past few days about the last elections. To my knowledge, the public did not vote for dirty water, did not vote for environmental destruction, did not vote for the end of any sense of common good.

□ 1815

What the public did vote for is a reduction in the size of the Federal Government, an end to overreaching regulation, and a reversion of local control.

We have responded to that vote in this amendment. I will not belabor this. We have been through it many, many times.

But H.R. 961 poses a false choice between regulatory reform and environmental protection. Both are possible simultaneously. Both are accomplished in this moderate, sensible, bipartisan amendment that would codify the National Governors' Association proposal.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let us make it clear for the record: There is no National Governors' Association support for this legislation. There has not been, and there is none today.

I would like to go through what the gentleman has just stated. What is wrong with the amendment? In the amendment there is no reform to wetlands delineation criteria. That is a fact. There is no recognition of different wetland values in the processing of permits. That is a fact. There is no compensation of property owners for devaluation of the properties. I want to stress that again. The one thing that has driven this amendment process and the bill process has been this Government is under attack today imposing their thoughts and their wisdom upon the private property holders without compensation. That is not in the amendment. It, in fact, does not compensate the private property landholders at all.

It, in fact, does not reform the wetlands program at all. It adds to the existing programs that exist today which become so burdensome. It has serious implications regarding Federal land use and planning regarding nonpoint sources, which reminds me, I just received a letter from the American Farm Bureau Federation strongly opposing this amendment, in fact, all amendments to the bill that is truly a clean water bill; H.R. 961 creates true ecological clean water policy.

And I can also suggest that is not the only one, that says this amendment that is being offered today is totally wrong. We can go all the way through this list of about 16 other different groups that are not manufacturing groups that strongly oppose this, most of them agricultural groups.

The amendments were written by and for wetlands by regulatory bureaucrats. I want to stress that. This amendment was written by regulatory bureaucrats. It was not written by the gentleman from New York. It was written by this individual bureaucratic group that insists that their position is the right position. And, in fact, this amendment guts the reforms of H.R. 961 that we tried to achieve. Now, that is what is wrong with the amendment.

Now, I also, if I may say, Mr. Chairman, we were notified last Thursday that if anyone wishes to debate this issue should be on the floor tonight. We were also notified it followed that any votes would be taken upon suspension of the rules. There were no votes today, because no one asked for them. I want to clear that up for the record.

Let us go over what H.R. 961 really does in section 404. It represents a long overdue reform of the troubled wetlands regulatory section of the 404 program. The regulatory burdens are currently excessive, and costs in time and money too often do not result in significant environmental benefits.

Title VIII, modeled after the earlier version of H.R. 1330, and by the way, 6 sponsors of that bill are now Governors of States, 6 sponsors of the original bill 2 years ago are now Governors of States, the major reforms made by H.R. 961 include wetlands must be clarified based on relative value and to be regulated accordingly. Wetlands must have a reasonable relationship to water. No longer any 10,000-foot mountains can be considered wetlands, nor that sloping hills around Juneau can no longer be considered wetlands, and we cannot build a school.

A property owner must be compensated for regulatory action that significantly devalues his property, and that is the Supreme Court decision and is what should be put into law. Property owners are allowed to appeal agency decisions. States are encouraged to share the responsibility in implementing the program. Permit requirements are routine; for routine and minor activities are eliminated.

Mr. Chairman, this, as it is written, is a good bill. Now, the gentleman from New York had an opportunity in the committee to offer his amendment to the committee and was defeated overwhelmingly by a bipartisan effort because I have heard that word used here today. In fact, 13 of the 26 Democrats voted against his amendment, plus I believe, of our side, only 4 were voted on his side of the amendment.

One of the weaknesses of this system is we have amendments after public hearing offered in the committee process, soundly defeated, and yet people are allowed to bring them to the floor, bring them to the floor and discuss them supposedly after they have been decided in the committee they do not have great worth or value. I am suggesting, very frankly, this is a mischievous amendment to destroy something that is very crucial to this bill.

And, last, it is hard for me to keep away from it, that the amendment offered by the gentleman from New York neglects to acknowledge the right of private property owners and the right of States that own land and the rights of the individual American native that acquired the lands from this Congress. He now tells those people that were given land by this body that their land is of no value, because they, the bureaucrats, have decided it is a wetland.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Alaska. Mr. Chairman, their land has no longer any value because the Government has decided it is wetland. If anything I have heard enough about the Government today, in the last 3 or 4 weeks, if you wonder why there is an unrest out there, and it does exist today, regardless of what our President says or what I hear from certain Members on this floor of the House, is because of the heavy-handedness and the lack of recognition of this Congress that the individual rights of a person or a select group of individuals who were given property by this Congress has to be protected, yet we do not recognize that.

I am going to suggest to the gentleman from New York you have got to go out and walk in their moccasins; he ought to be able to look at their land, and say, "We gave it to you, but we are going to take it back because I think it is wetland. For the good of the environment, we are going to protect it." I say to the gentleman from New York that is absolutely immoral and wrong. We have an opportunity in the original bill, as passed out of this committee as a good bill, to protect those wetlands, and those are the good wetlands that will be protected, but if, in fact, in the national interest they are that valuable, that individual shall be compensated.

This amendment should be voted down, turned down overwhelmingly.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I thank the distinguished ranking member. I would like to respond to my distinguished colleague from Alaska because he made several points that need to be addressed.

First of all, he said this is not the National Governors' Association language; it is written by some bureaucrat someplace.

Let me point out here that I will submit at the proper time for the RECORD a letter from the National Governors' Association. Let me read a couple of excerpts.

Mr. YOUNG of Alaska. If the gentleman will yield, what is the date of the letter?

Mr. BOEHLERT. The letter is March 28. The gentleman from California has the time. He has yielded some time to me, and I am going to respond to that.

The letter is addressed to me:

> We have been greatly encouraged by your willingness, as well as that of Representative Shuster and others in the bipartisan group, to include States in the development of H.R. 961.

Very important that we be inclusive.

> We support the intent of this bill to provide substantially greater flexibility for States and local governments in our efforts to protect water. We support the water resources and environmental subcommittee in its efforts to expeditiously move this comprehensive legislation reforming the Clean Water Act. We have not yet completed our review of all provisions of the bill. However, as you know, the provisions on wetlands are not consistent with the recommendation of the National Governors. We raised concerns over this issue in our March 22 letter to Representative Shuster. In response to your request, we enclose an alternative approach to wetlands reform, developed by the Association of State Wetlands Managers based on National Governors' Association policy recommendations.

Now, this is very important. The Boehlert amendment, the pending amendment, word for word contains every singe word and phrase of the National governors' Association recommendations, plus we had some exemptions that we feel are very important for agriculture.

The second point the gentleman from Alaska made, that there were votes last Thursday and it was announced to all that we would be considering this matter Monday evening. He is absolutely right. he is right more often than he is wrong. But he fails to tell what Paul Harvey wants us all to know, the rest of the story, and the rest of the story is simply this: Last Thursday we had every expectation we would return to Washington on Monday and we would have a spirited debate and votes, which is an incentive for people to come back, when suddenly we announced there are not going to be any votes.

What does the typical Member of Congress do? Continues with the responsibilities at home in the district, meeting with business people and schoolchildren and going to hospitals and spending a little time with their families. I understand that. This is a family-friendly Congress. No votes scheduled tonight. So we do not have widespread attendance here. I understand that. So does my distinguished colleague from Alaska.

Next, I would like to point out that he says that there was a vote in the committee. And why are we revisiting this subject here when we have already spoken to the subject in the committee? Well, I read the Constitution. There is nothing in the Constitution about committees, although they are very important, but there is a lot in the Constitution about the House of Representatives, which serves as the representative body for all 250 million Americans and all 50 States. The committees work their will, and I was very much a part of that process, as was my distinguished colleague from Alaska. We acted on that bill in committee.

Now we bring it to the full House for open consideration, and that is what we are doing right now.

I thank my distinguished ranking minority member, the gentleman from California [Mr. MINETA], for yielding to me.

Mr. MINETA. Mr. Chairman, I thank our fine colleague from New York for his clarifying statement and for his clarity on this amendment as it relates to the wetlands.

Mr. Chairman, I rise to support the Boehlert amendment. While I do not believe that the amendment will solve all of the issues which confront the section 404 program, I believe that it is infinitely preferable to the existing provisions in H.R. 961, and it will assist in the goal of greatly encouraging State participation in the wetlands program.

Throughout this debate, I have been told consistently that this is not a bill written by polluters or for polluters. No, I have been told that this bill represents a wide range of interests, and that it is designed to be consistent with the wishes of State and local governments, and not just the regulated business community. I have been told that this is not a bill written by special interests because so much of the bill represents the wishes of the States. I have been told that we have to listen to the people in the States who are actually running the program to know what the new Clean Water Act should look like.

The Boehlert amendment listens to the States. The Boehlert amendment reflects the preferred position of the National Governors Association. The Boehlert amendment is the position of the people in the States who actually administer wetlands programs. If reflects the product of the Association of State Wetlands Managers.

The CHAIRMAN. The time of the gentleman from California [Mr. MINETA] has expired.

(By unanimous consent, Mr. MINETA was allowed to proceed for 5 additional minutes.)

Mr. MINETA. Mr. Chairman, the States want a workable program with increased State participation. The States have testified in favor of a wetlands program based upon science. The National Academy of Sciences study says that hydrology, vegetation, and soils must all be considered in order to accurately assess what is or is not a wetland. H.R. 961, in contrast, imposes a very simplistic test which considers only one aspect of hydrology, namely surface inundation, and ignores not only vegetation and soils, but also other aspects of hydrology such as soil saturation.

Mr. Chairman, the States are not interested in creating huge new loopholes in the wetlands program, they are interested in preserving wetlands resources, and the Boehlert amendment reflects that.

The States are not interested in convoluted interpretations of the fifth amendment and similar amendments in State constitutions, and States remain opposed to the takings provisions in the wetlands program in H.R. 961. And the Boehlert amendment reflects that.

The States are not interested in expensive and arbitrary wetlands classification schemes, and they have not proposed one. In fact, the State wetlands managers have opposed the classification system of H.R. 961. The States recognize that there are infinitely better ways to evaluate wetlands and use scarce government resources.

The recent report of the National Academy of Sciences concludes that it simply is not within the state of the art to do a nationwide prior classification study establishing relative values of wetlands in very different regions. The underlying bill requires exactly what the NAS says is not feasible.

The committee has continually been told that this provision or that provision should be supported because it has wide, bipartisan support. Well, the Boehlert amendment has wide, bipartisan support among the Governors and the environmental leaders of our State governments.

In fact, the States have indicated that States would not take a greater role in assuming wetlands permitting responsibilities should H.R. 961 become law. And, the two States which have assumed the wetlands program would likely return it.

If you are supportive of the wishes of the States, support the Boehlert amendment. If you are supportive of special interests over the needs of the States do not support the amendment. But if this amendment fails, you will have defined your allegiance as not to the States, but to those who would weaken wetlands protection and shamelessly raid the Treasury.

Support the Boehlert amendment.

□ 1830

Mr. WAMP. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York [Mr. BOEHLERT].

Mr. Chairman, I very reluctantly rise in opposition to my distinguished chairman's amendment. He was gracious enough to ask me to serve as the vice chairman of the Subcommittee on Water Resources through which this legislation moved. But today this is a litmus test issue, I believe, on whether or not we are going to stand for any more Government regulation.

The people spoke clearly last year. They believe they are overregulated, overtaxed, overlitigated, and I rise in grave concern tonight.

Just last week our friends in the Senate said to the American people they were going to retreat from litigation reform. The folks back home tell me, "Do not retreat from regulatory reform, do not retreat from litigation reform," and today I bring my colleagues an elaborate chart on the wetland process. I mean this is unbelievable.

We are here to try to bring the pendulum and the balance of regulations back to the middle, and I am showing my colleagues a chart of exactly how complicated it is to actually get a permit for a wetland in our country. This is a chart which actually shows how mischievous it can be for our Federal bureaucrats to slow the progress and actually take away, over time, the constitutional rights of our citizens.

I say to my colleagues, Let's say that you inherited a piece of property, and then you determine that maybe one-tenth of one acre of this multiacre site may happen to be lower than the threshold of the water table, and it's determined to be a wetland. So, first you have to go and demonstrate, through this elaborate process, that, yes, in fact it's a wetland, and that's not easy to do, to determine whether or not you even have a wetland. Then you have to make a decision through these regulatory processes exactly what kind of a wetland it is, and that's a whole other process, takes weeks, costs a lot of money. Now you're ready to apply for a permit for your wetland, and then they say, "Wait a second, wait a second here now. Have you been to the Corps of Engineers? How about the Environmental Protection Agency? How about the Fish and Wildlife folks? And what about all those State and local agencies?" In my home State you also have to go to the Tennessee Valley Authority.

I say to my colleagues, By this time you're about to give up. It's taken weeks and months, and you spent countless moneys trying to determine whether or not in fact this property is yours or whether this property belongs to the Federal Government. I mean after all don't we live in the United States of America where we have a clear definition in the Constitution of what belongs to us and what belongs to the Government? This is a complex maze, and you have to get through it.

The Boehlert amendment was conceived by good folks with good intentions, but let me tell my colleagues this. It costs more money than what we have today, and it adds to the bureaucracy over and above the level of bureaucracy that we have today. Wetlands, unlike point-source and nonpoint-source pollution, which I understand whey we need a balance of regulation with respect to point-source and nonpoint-source pollution. We need some regulations.

Wetlands in many parts of this country are nonsensical. Our legislative initiatives in the past have led to a system of frustration. The American people are not achieving justice through the regulation of wetlands. Many people's constitutionally guaranteed private property rights have been usurped by a Federal Government gone amuck. All we are asking by reforming the Clean Water Act here in 1995 is that we return to common sense.

The chairman's mark with respect to wetlands, which we are here to pass, H.R. 961, addresses wetlands in a sensible, reasonable, rational approach. The Boehlert amendment gives us more Federal Government. Our party, I am grateful to say, the Republican Party, is big enough for the gentleman from New York [Mr. BOEHLERT] and his vice chairman, myself, to debate this issue and very much disagree, and I am glad that we have a party big enough to have these differing opinions.

But I take the side of the constitutionalists, the Framers, those that guaranteed private property rights, those who said, "Beware of the Federal Government becoming too big and too powerful. Over time it can creep up on you. You don't even know it's happening," and here we are in 1995 saying wetlands is a constitutional question.

I am going to side with those who framed this Constitution, those who own the private property across this country. Let us clean this mess up. Let us give the power back to the citizenry. Let us take this bureaucratic system and reduce it to something that is reasonable.

I urge our colleagues to vote against this amendment.

Mr. VENTO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I want to commend the gentleman from New York for offering this amendment, for demonstrating the type of courage in his party, I say a party that many adhere to and take on the label of conservative, but I have yet to find some conservationists or as many conservationists that call themselves conservatives as I would like to. I would be happy to yield to one that I think can and probably does wear that label.

Mr. BOEHLERT. Mr. Chairman, I would ask the pages if they would return to the easel with that very dramatic permit process chart because I would like to use it for a moment. All the work that went into the preparation of this chart, I do not want it to go to waste.

Let me tell my distinguished vice chairman from Tennessee I could not agree more with him. The American people are overtaxed and overregulated, and this is exactly, this convoluted maze is exactly, why we need the Boehlert amendment, because we want to change the permitting process. We want to give more control, more authority, to State governments. We want to bring them into the process, and he talks about the problem people in Tennessee have, people around the country, with, as my colleagues know, pieces of land one-eighth acre. I could not agree more with him; he is absolutely right.

That is why the Boehlert amendment provides the fast-track provisions for all property across this country of 1 acre or less. The permitting process would take no longer than 60 days, the clock would start running, and, boy, the American public is entitled to a swift and complete answer from the Government, and it would be provided under the Boehlert amendment.

I would also like to point out one last thing, and then I will sit down. Over 90 percent of the permits applied for are approved, over 90 percent. There is only a small fraction that causes some problems and causes some delays.

Mr. VENTO. Mr. Chairman, I thank the gentleman from New York [Mr. BOEHLERT] for his advocacy of this position. I just suggest to my colleagues:

Can we have a strong national environmental policy with a weak role for the Federal Government?

The fact of the matter is that the types of confrontation that my colleagues and the type of conflicts that they have repeatedly tried to demonstrate in terms of the Federal and

State governments and local governments is, I think, more based on myth, and anecdotes, and what I call cockamamie stories, than it is based on, in fact, on fact. To most of the people that we represent, the distinction between the Federal Government and its role in the State governments and our local governments is almost one that is seamless. In fact, it is based more on cooperation than collaboration and very much an interdependency in order to accomplish this.

Can, in fact, the Mississippi River be protected only in Minnesota? I think not. I think that when we are talking about the environment, we are talking about natural resources, we are almost inherently talking about issues that do not respect the boundaries.

The legislation before us frankly reneges, it retreats, in terms of clean water. We stand up here and talk about the progresses that have been made in 25 years, and in the next breath, then there is an effort to try and destroy that.

I see the evidence right in my own State. I suggest most of my colleagues see it in their own States, but all of a sudden the de facto policies in terms with regards to wetlands are no longer satisfactory. Those de facto policies, because of development, because of pressure, because of what is going on in regard to progress and because of what we are learning, we have the obligation not just to do what was good enough in 1960 or 1970. We have an obligation to bring to the front the best and the finest and the information, the knowledge, the new knowledge, that has been acquired and to put that into policy and law.

Is it uncomfortable? Is it difficult? Is it tough? I say to my colleagues, "You bet," and we have compounded that problem by cutting back during the 1980's and the 1990's on the number of land use planners and managers that we have that are trying to accomplish that task. There is a breakdown of communication, and there are those that are obviously promoting their own interests, and their interests are to walk away from the Federal Government's commitment to renege on this important issue of wetland preservation.

These wetlands are absolutely essential in terms of our communities. I say to my colleagues, "If you care about a clean water supply, if you care about the aquifers, if you care about the groundwater supply, if you care about erosion of the land and flooding, if you care about the natural resources and the type of biosphere or the type of biodiversity that occurs in that environment, then you have to care about these wetlands."

Mr. Chairman, how we solve these problems will set the benchmark, not just for today, but for many decades to come in terms of if we are going to take and march forward with progress with regards to wetlands or if we are going to renege and abandon this particular fight.

This legislation that comes before us takes 60 to 80 percent of the lands that have wetland protection, sets up a three-tier scheme, and then turns around and says, "If a county has more than 20 percent of the wetlands in it, then you deny that. Then you pull the rug out from under it, and you don't do it."

This is not a scientific approach. This might be a good political solution, but this represents political expediency, not a good solution to the problem, and I hope that the chairman and those that have the votes, maybe, on these issues will begin to pay attention to some of the facts. We have an obligation to stand on the shoulders of those that came before us and did the tough work, that did the sweat, blood and tears, to make these laws work, not to abandon them, and that is what this legislation does, and that is why my colleagues should support, at the very least, the Boehlert amendment.

Mr. Speaker, I rise in support of the Boehlert amendment to H.R. 961, to strike the bill's wetlands provisions and replace them with language based on a proposal by the National Governors' Association. The amendment is far from perfect, but a great improvement on the basic measure being advanced by the majority party in Congress today. I credit the gentleman Mr. BOEHLERT for standing up to others in this body for this amendment.

The bill H.R. 961, as proposed, eliminates 60 to 80 percent of the Nation's remaining wetlands from protection using scientifically indefensible definitions, H.R. 961 arbitrarily divides the surviving wetlands into three categories, intended to correspond to high, medium, and low value wetlands. This policy flies in the face of sound science and defies even common sense. Worse still, the measure then withdraws protection from even the high value wetlands when such land is concentrated above a certain amount in a county.

The Boehlert amendment recognizes that there have been problems with the wetlands permitting process, but unlike the current wetland provisions in H.R. 961 which greatly weaken wetland protection, the Boehlert amendment streamlines the permitting process without leaving millions of acres of wetlands unprotected. The proposed amendment utilizes recommendations made by the National Governor's Association to simplify and expedite the wetlands permitting process without establishing an overburdened paperwork classification system. This amendment gives States the flexibility they need to manage their wetlands and offers technical assistance to private landowners at the same time affording sound management and conservation of our Nation's wetlands.

I think most of us realize how important wetlands are for water quality, flood control, and wildlife. Dismantling wetland protection will have serious long-term ramifications—as we all should understand, every action has a consequence, what we do on one parcel of land, indeed affects another. What has been missing from this wetlands debate is an acknowledgment that regulations are motivated by a desire for a healthier and safer society. They are promulgated to empower people and policy in protection of private lands and citizens. Congress should continually strive to make these work better, not tear them down for special interest concerns and short-term goals.

On May 9, the National Academy of Sciences issued a report which confirmed that there is absolutely no scientific justification for the wetland provision currently in H.R. 961. This should not have come as a surprise. The authors of this measure, H.R. 961, were and are responding as a purely political gesture to developers, industry, and a small but vocal number of property owners who feel that their property rights have been violated. This is shortsighted, arrogant, and irresponsible. We should use sound science to make environmental policy and not fall prey to the politics of the moment and legislation by anecdote.

John Chaconas, now the celebrated citizen from St. Amant, LA pretty well sums the situation up in his statement:

> I believe wetland regulations can and do work well * * * Property rights are essential. Like most Americans I believe my property rights do not extend to harming the property of my neighbors. What is wrong here is not wetland policy gone awry, but the arrogant belief that some can do whatever they want with their property and all others be damned.

Even opponents of wetland protection might agree that the National Academy of Sciences [NAS] study is not just any study. In 1992, Congress commissioned the NAS to complete a study which would resolve the confusion surrounding wetlands science. This project was intended to be the definitive study of wetlands functions and values, ultimately answering the question, What is a wetland?

While it is true that this study only defines functional wetlands and it is up to Congress to decide what a jurisdictional wetlands should be, it is beneficial to take what this study tells us to heart. The NAS study verifies that the wetlands regulations dictated under H.R. 961 are without merit. Furthermore, the committee leadership chose to move forward without the benefit of this study. Today, they only have themselves to blame for the careless and haphazard policy measure, H.R. 961, that they bring to the House floor.

Sound wetland policy; hydrology, must consider the nature of re-charge areas for ground water and aquifer replenishment. Often the affects of such modification does not become apparent for decades. Furthermore, these wetlands provide areas and regions for water purification, filtering out and slowing down runoff, holding back harmful erosion, breaking down the pollutants and nutrients, providing aerobic and anaerobic action. To naturally clean the surface waters before they concentrate in rivers, lakes, and our oceans.

Today we can no longer depend upon de facto protection, rather we must establish a State-Federal partnership, a cooperative effort not one of confrontation—the relationship is seamless but can we have a sound, natural national environmental policy.

Certainly sound science and sound judgment based on a reasonable approach to the role of the Federal and State government is the basis of good policy. Set the politics aside and support the Boehlert amendment to H.R. 961.

Mr. EMERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman and my colleagues, I rise in very strong opposition to the amendment offered by the gentleman from New York [Mr. BOEHLERT]. I truly believe the gentleman from New York has offered his amendment in very good faith. But I do not know about the terrain of upstate New York. I have not been there. But I have certainly been in the terrain of southern Missouri, in that area bordering the Mississippi River, and I think I do know a true, pristine wetland from a mud puddle.

☐ 1645

Now, the problem is most mud puddles are being classified these days as wetlands.

Now, the Boehlert amendment has been cited as being the recommendation of the National Governors Association, and it may well have the blessing of the National Governors Association. But everyone in reality knows that this amendment was written or consulted by the Association of State Wetlands Managers in consultation with environmental groups. A lot of people report to Governors, but that does not mean that the Governors all know the intimate details of what they are signing off on here.

The fact of the matter is, and it is a fact, and the gentleman from New York and the gentleman from Maryland probably know this, that the word "wetlands" does not appear in the main provisions of the 1972 Clean Water Act, and that the word appears only once in a parenthetical phrase in 9 U.S. Code annotated pages of the current section 404 text.

I can tell you that over the last 15 years, as I have traveled around my district hearing the problems of farmers and small landowners related to wetlands, I have been challenged, "How can you hold us accountable to these wetlands definitions, when in fact there really isn't such a thing in the basic law? It is all a matter of regulation that has come to us through the rulings of four different agencies of the Government, all of which are in conflict one with the other?"

There was a point in time through the delineation manual that they got more together than apart, but the fact of the matter is, most people who are being regulated about wetlands are being regulated essentially at the whim of four different agencies who do not in fact have their common purpose always in focus before them.

This amendment does not streamline or reform the 404 program, but it adds new regulatory requirements to the existing law. The emphasis is on restoring wetlands and watershed management, and not on reform. The claims of reform mask the real intent of this amendment.

I am afraid this amendment also aggravates the existing multi-agency mismanagement by creating yet another bureaucracy, a new bureaucracy, to oversee the program. This new committee headed by the EPA would include four other Federal agency heads, representatives from three additional organizations, and 10 State wetlands experts, hand picked by the EPA.

This is adding gross insult to injury, to exacerbate an already indefensible and ill-advised policy of our Government. We have got to reform the current process and the current regulations, and we have got to do that by law, which the basic bill here does. This amendment would create new roles for regulators and land use planners at every level, but virtually no role for the regulated public or the private property owner.

I have a letter here that is signed by a number of different organizations, but when I give you the names of some of them, you will recognize them as organizations representing people who would be confronted on a daily basis with wetland law and regulation.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(On request of Mr. SHUSTER, and by unanimous consent, Mr. EMERSON was allowed to proceed for 2 additional minutes.)

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I want to compliment the gentleman for his statement. If there is anything that we need to do in this clean water bill, it is reform wetlands and eliminate, at least reduce, the horror stories which the American people have told us up to the thousands. I compliment the gentleman for pointing out that indeed rather than reforming wetlands, this actually incredibly creates a new bureaucracy, a new committee headed by the EPA, which includes four other Federal agencies, representatives from three additional organizations, and 10 so-called State wetland experts, picked by whom? Picked by the EPA.

I compliment the gentleman for focusing on this. If there is anything that needs reforming and real reform, it is the wetlands provision. The gentleman has been a leader in this area, and through your knowledge and your persuasiveness, I think we have a good opportunity of making some real reform, and I would emphasize that the amendment we have before us now completely guts any chance of reform of this troubled wetlands regulatory program.

So I join with the gentleman in attempting to defeat this amendment so that we can have real wetlands reform.

Mr. EMERSON. Mr. Chairman, reclaiming my time, I thank the gentleman. If I still have some time, I will not read the entire letter, but it is a letter in strong opposition to the Boehlert amendment urging that we keep the language of the bill. Among those organizations registering in strong opposition, and that is their word, "strong," are the American Farm Bureau Federation, the American Soybean Association, the National Association of Wheat Growers.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(By unanimous consent, Mr. EMERSON was allowed to proceed for 1 additional minute.)

Mr. EMERSON. Mr. Chairman, the Wheat Growers, the Cattlemen's Association, the Corn Growers, the Cotton Council, National Council of Farmer Cooperatives, National Water Resources Association, United Fresh Fruit and Vegetable Association, and on and on and on. Those are just some representative groups. I might also say, the gentleman from Minnesota [Mr. VENTO] made a little talk about conservationists and saying the fact of the matter is on the Republican side there are not many conservationists.

Most of the Members on the Republican side are conservationists, and the conservationist point of view is represented by the text of H.R. 961. I might say with due deference and respect to everyone, that it is the elitist preservationist point of view that is represented by the Boehlert amendment. It is by the Government regulators. They are the ones who are supporting the Boehlert amendment, and not the people who have to live with these onerous laws everyday.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(On request of Mr. BOEHLERT, and by unanimous consent, Mr. EMERSON was allowed to proceed for 2 additional minutes.)

Mr. EMERSON. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I want to thank the gentleman from Missouri for yielding and for the very fine work he has contributed to the work of the full Committee on Transportation and Infrastructure.

A couple of things I want to point out: First, the Boehlert amendment includes the same exemptions for agriculture as the committee bill. One of the reasons why it does is that the gentleman from Missouri has been so persuasive, so we have included those same exemptions as the committee bill. Plus we have added an exemption in response to a concern expressed by our colleague, the gentleman from Iowa [Mr. LATHAM] to deal with repair and construction of tiles on agriculture land.

I would also point out this convoluted committee that creates so much concern is an advisory committee. What we do is reach out to the States, to the Governors, and to local governments and say we are going to work with you, Federal, State, and local government, but we are shifting the decisionmaking authority from Washington to the States.

Two States right now have performed in an exemplary manner: One is New Jersey and the other is Michigan. I think more States should follow their lead. I could not agree more with the gentleman from Missouri. Washington is not the source of all wisdom, and agriculture is important, and both of those facts are recognized in the Boehlert amendment.

I thank the gentleman for his generosity.

Mr. EMERSON. I thank the gentleman for asking for the additional time. I would only reply to the gentleman that the signers of this letter, and I refer to them, I do not agree with your amendment for the reasons that I have stated, but these are the people who live with the current regulations and would live with your law, were your substitute, your amendment, to prevail.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(By unanimous consent, Mr. EMERSON was allowed to proceed for 2 additional minutes.)

Mr. EMERSON. Mr. Chairman, these people are not just a bunch of dumb farmers, a term I hear thrown around. These are people who have obviously looked at your amendment and, because of their vast experience going back over a number of years, have some means, intellectually, of gauging the effect of your amendment.

They say there has been a lot of misinformation circulated regarding the Boehlert wetlands amendment. It is being portrayed as being 70 percent of the text of H.R. 961 and as being friendly to agriculture. It is in fact neither. The Boehlert substitute, and it goes on to say other things, will have serious negative impact on agriculture and small landowners. It substitutes the use of, and I know you are going to say this is to the substitute and not to the amendment, however, let me say to the gentleman, substitutes, perpetuates, perpetuates the use of the 1987 manual and greatly expands the reach and the complexity of wetlands regulation. The 1987 manual is in fact a very large part of the current regulatory mess.

I will be delighted to yield to the gentleman.

Mr. BOEHLERT. Mr. Chairman, I am glad the gentleman read the substitute. What you are referring to is an amendment, a broad-based amendment considered last week by the House. We earned 184 votes. We did not get the majority, but we earned 184. I would assume all of those would stay with us as we go on with the wetlands. But when you more narrowly look at the wetlands issue, as we have done in this specific amendment, and when you specifically address the needs of agriculture, and I am proud to serve as chairman of the northeast agriculture caucus, I am very mindful that our farmers are among our best stewards of our land, and I wanted to work with them and not against them.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(By unanimous consent, Mr. EMERSON was allowed to proceed for 1 additional minute.)

Mr. EMERSON. Mr. Chairman, I understand what the gentleman has just said. However, I want to point out, there are references to the Boehlert substitute and the Boehlert amendment. In the interest of time I was not reading the entire letter in its context. But inasmuch as the letter is dated today, May 15, there is no question that they are referring to your amendment, and not to the substitute that we acted upon last week. For everyone who may be concerned about the interests of agriculture and small land owners and other people who are subject to onerous land use regulation, without reference to law, it is mostly a matter of regulation and not law. I urge your most serious consideration and opposition to, and a vote against the Boehlert amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words in support of the Boehlert amendment.

Mr. Chairman, I rise also in support of the Boehlert amendment, and would like to point out that one of the major reasons why I do support it and why I think it should pass is because of the support by the National Governors Association. Their support is there primarily because of concerns that States have about the impact of the committee mark, of the bill itself, on the various State wetlands programs.

One of the main points that I would like to get across today is the fact that the Boehlert amendment helps the States. The Boehlert amendment is the one that the States generally prefer because of their concern they have about their existing programs.

As the gentleman from New York [Mr. BOEHLERT] mentioned, my own State of New Jersey is particularly concerned because we do have an excellent program approved by the Federal Government. Many States have developed wetlands protection programs that mimic the framework of the Federal program developed under the Clean Water Act. Each of the States committed large amounts of time and resources working with Federal officials and the public to develop and win approval for their programs.

All that could be wasted if the Federal wetlands program is scrapped by H.R. 961. Every State law and regulation will have to be revisited and revised for a lower standard of protection. I know some will say what is to stop the States from doing something on their own under the committee mark? The pressure will build, I believe, for States to change their programs.

With regard to the definition of the wetlands, the new definition contained in this bill contributes to elimination of protection for up to 80 percent of wetlands currently protected. In my home State of New Jersey, the definition contained in this bill would eliminate virtually all of New Jersey's wetlands from regulatory protection. The proposed definition is the same unanimously ejected across the Nation when proposed by the EPA in 1991 because it has no scientific basis and would be administratively burdensome to implement.

□ 1900

Now, with regard to preclassification, preparing wetland maps suitable for the proposed classification system, not including functional assessment, would cost an estimated $500 million in the lower 48 States. In New Jersey, our current mapping effort would be rendered worthless under H.R. 961, a waste of $3.4 million that has already been spent.

If you look at the takings issue, and again the Boehlert amendment basically changes that considerably, the Congressional Budget Office estimates that the cost of buying all high value wetlands in the lower 48 States would cost between $10 and $45 billion. Although I do not have specifies for the State of New Jersey, price estimates on six properties for which the New Jersey DEP has information range from $590,000 for a 9.4-acre parcel in Morris County to $2.6 million for a 67-acre property in Ocean County.

Beyond that, the takings provisions in the bill imply that any public benefit that may result from wetlands regulation is secondary to the onerous restraints it places on the private property owner. As was mentioned before, in my home State, 94 percent of permit applications are approved. So if you think about it, if there are so many approved, why is it such a negative impact on property owners?

Mitigation. I am very concerned that the committee mark relies too greatly on mitigation to replace wetlands protection. A number of State studies have shown that there are limits to the effectiveness of mitigation because of the limited knowledge of the inherent values of wetlands. It is an ecological mistake to rely on mitigation to replace wetlands protections, in my opinion.

I would really like to stress more than anything else the effect of this bill on State programs. This bill, I believe, would ultimately destroy New Jersey's wetland program and all the important gains that have been made since the program was implemented in 1988. The bill eliminates incentives for States to take their own initiatives to implement a wetlands program. As I mentioned, pressure will exist on States to change their laws to reflect the weak provisions of the bill.

Ultimately, I think that is going to cause conflict, uncertainty and a lot of delay at the State level.

By contrast with the bill, the Boehlert amendment would essentially, which has been developed by the National Governors Association, would provide incentives for States to assume authority over wetlands regulation through increased delegation from the EPA. This is exactly what happened in New Jersey. This is what we want to see if we want the States to take a larger role.

It also sets up this coordinating committee of Federal, State and local officials to help develop and field test national wetlands policies and strategies. Again, recognizing that there need to be some changes in the program.

But the amendment does not include any provisions like those in the bill establishing the new requirements to compensate landowners for losses in property value resulting from the Federal regulation. Again, the substitute or, I should say, the amendment in this case would actually eliminate those provisions and the costs that would be incurred because of it.

So I would urge my colleagues to support the Boehlert amendment.

I would also like to enter into the record an editorial that was in the Sunday New York Times, this Sunday, May 14, that basically talks about the bill and why the bill, the wetlands provisions of the bill essentially do not make sense.

They cite, of course, the report from the National Academy of Sciences. And essentially, Mr. Chairman, the reason why the New York Times takes the position that it does is because they feel that the existing bill, existing statute, I should say, the current law strikes a sensible balance between conservation and the need for economic growth. I do not think we should change that.

Mr. Chairman, I include for the RECORD the article to which I just referred.

Mr. KIM. Mr. Chairman, I move to strike the requisite number of words.

[From the New York Times, May 14, 1995]

POLITICS AND SCIENCE IN THE HOUSE

Unless its members have an attack of good sense, the House of Representatives will shortly reverse two decades of struggle to preserve the nation's valuable but diminishing wetlands. If it does so, it will be sacrificing sound science to political expediency and corporate lobbying. It will also be committing an act of supreme mischief against America's environment.

Early this week the House will vote on a bill concocted by a group of anti-regulatory Republicans and their conservative Democratic allies. The bill would cripple many of the basic protections provided by the Clean Water Act of 1972. This act has been regarded by experts in both parties as a major environmental success story, not least because it has rescued one-third of America's lakes and streams from terminal decline.

There is much in this retrograde bill to dislike, but the most controversial of its "reforms" would establish a new and far narrower definition of what constitutes a wetland. Scientists now estimate that there are just over 100 million acres of wetlands remaining in the 48 contiguous states, doing what wetlands do so well: filtering pollutants, providing habitat for wildlife and nourishing organisms essential to the food chain. The bill's narrower definition would make at least half of this irreplaceable acreage available to developers, farmers and industry, mainly the oil and gas companies.

This is a fool's tradeoff. We would lose natural areas the country desperately needs in exchange for development areas the economy can do without. Yet the tradeoff is hardly surprising since the bill was drafted in tandem with special interests that would love to get their hands on land that is properly off limits under existing Federal regulations.

Equally unsurprising, though terribly disappointing, is that the bill's sponsors did not have the courage or wisdom to wait for and acknowledge the results of a National Academy of Sciences report on what is admittedly a combustible issue. The report was ordered by Congress itself two years ago to provide a credible scientific basis for regulating wetlands, thus removing the issue from politics. But in matters of the environment, the hallmark of this new Congress is to place servility to special interests ahead of science.

The report, released last week, does not directly address the House bill. Even so, it is a convincing indictment, making clear that the bill's assumptions have no basis in research or theory.

To take only one example, the bill says a wetland would not be eligible for Federal protection unless it is saturated by water at the surface for 21 consecutive days during the growing season—the warmer and drier months of the year. The academy says a far more accurate definition would involve saturation over shorter periods, saturation in the root zone of plants rather than at the surface, and saturation that occurs during the fall and winter.

The 21-day test is the same definition that Dan Quayle's Competitiveness Council tried unsuccessfully to foist on the Environmental Protection Agency in the waning days of the Bush Administration. At the time, Federal scientists warned that Mr. Quayle's definition would leave half the nation's wetlands unprotected, including a big chunk of the Everglades, the bottomland hardwood forests in the South, the wetlands along most Western trout streams and nearly every "prairie pothole" used by migratory birds. This disastrous scenario is almost certain to play out if the House bill is approved. Taken together, its provisions are even more threatening than anything Mr. Quayle had in mind.

The academy describes the existing regulatory system as "scientifically sound and effective in most respects." What it is really saying is that the nation has already struck a sensible balance between the imperatives of conservation and the need for economic growth. That balance has taken years to achieve, and the House would be reckless to disturb it.

Mr. KIM. Mr. Chairman, I rise in opposition to the Boehlert amendment, because it deletes section 803 of H.R. 961.

This deletion will have a tremendous impact on California. Section 803 exempts maintenance of flood control channels and drinking water reservoirs from the wetlands permit requirement.

During the committee markup I pushed for the flood control exemption and I offered the drinking water reservoir exemption. Our committee had a full debate on these issues. My amendment was unanimously approved and the bill passed 42 to 16.

Now the Boehlert amendment strikes these out and that's why I can't support this amendment.

Let me tell you why the flood control and drinking water reservoir issues are so important not only to California, but also the entire Nation.

First, flood control channels require periodic maintenance. They have to be clear and free of obstructions and debris otherwise water will back up and flood all over the place during storms.

Under current law, flood control agencies must obtain wetland permits to clear vegetation out of a channel with mechanized equipment. It's OK if you clear it by hand, but you can't use power equipment or a bulldozer without a permit.

The problem is that it takes months to get a wetlands permit out of the Federal Government. And if you've ever lived in California, you know that when it rains, it pours. There is simply no time to get a Federal permit.

Let me give you one example of a major problem we had in Ventura County, CA, during the 1992 floods.

Ventura County tried for months—unsuccessfully—to obtain a wetlands permit to clear vegetation from a flood control channel. When torrential rains finally came, it took two Congressmen and Governor Wilson to secure an emergency wetlands permit.

The county sent bulldozers into the channel during the storm just a few hours before the flood hit. While that area was saved, other communities were devastated.

Because of problems like these, I made sure H.R. 961 specifically exempted flood control channels.

The second point I made in committee was to amend the bill to exempt maintenance activities in drinking water reservoirs. The problem is that when water levels are low, vegetation grows on the edges and inside the reservoir. Then the water rises again, the vegetation is obviously submerged and the Government calls it a wetland and requires a permit.

Come on, that's not a wetland.

Without my amendment, each time you lower the water level of a drinking water reservoir to clear the vegetation from the sides—or make structural repairs—you must obtain a wetlands permit.

Once again, under current law it's OK to do it by hand, but not with a machine.

In California, water districts have to hire small armies of manual laborers to clean out reservoirs. That's ridiculous.

Again, these two concerns, the timely maintenance of flood control facilities and drinking water reservoirs, are particularly important to California.

These concerns were well addressed during the full committee markup session, and our committee approved them unanimously.

It's sad this amendment strikes out these two important, already approved provisions.

I urge my colleagues to defeat this amendment.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. KIM. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, the gentleman from California raised some legitimate concerns. We are sort of feverishly checking through these.

Mr. KIM. Check section 803, which was deleted by this amendment.

Mr. BOEHLERT. Mr. Chairman, if the gentleman will continue to yield, I want to read from the exemption section of my substitute: "exemptions are for the purpose of maintenance, including emergency reconstruction of recently damaged parts of currently serviceable structures, such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs, where such maintenance involves periodic water drawdowns which provide water predominantly to public drinking water systems, groins, riprap, breakwaters."

The point is, you have a legitimate concern and we have addressed it in the Boehlert amendment. I wanted to share that language with you so I think that perhaps you might be supportive of the Boehlert amendment.

Mr. KIM. I would like to see that.

Ms. DELAURO. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Boehlert amendment.

Mr. Chairman, I rise in strong support of the Boehlert amendment to protect the wetlands that are vital both to our environment and to our economy.

Wetlands are life-sustaining filters of our natural world—they remove pollutants from our water and provide critical habitats for fish, plants, and other wildlife.

I believe we must maintain strong protections for our wetlands. Like many of my colleagues, I also believe we need to expedite the wetlands permitting process and provide more consistency. This amendment does that.

But the bill before us is much too extreme. Rather than fix wetlands regulations it guts them entirely. This bill puts at risk as much as 80 percent of all wetlands in this country. In my home State of Connecticut, more than half the wetlands would be endangered under this bill. More than 97,000 acres of Connecticut's wetlands could be lost.

This is bad environmental policy and it is bad economic policy. I know this firsthand from the experience with Long Island Sound in my district and State.

Wetlands serve to filter out nutrients and toxics that otherwise would end up in Long Island Sound. Our current policies have allowed us to successfully restore more than 1,500 acres of critical tidal wetlands along Long Island Sound. The result is cleaner water in the sound and a substantial reduction in beach closings along the sound in Connecticut, from 292 in 1991 to 174 in 1993.

Wetlands are also vital to the fisheries industry that is so important to my home State of Connecticut. Connecticut is second only to Louisiana in oyster farming. This industry depends on wetlands to provide necessary food and habitat for spawning. In Connecticut, oyster farming is responsible for more than 400 jobs and contributes $200 million to the economy annually. The destruction or degradation of our wetlands would have a devastating impact on this industry.

Wetlands are a precious commodity. I urge my colleagues to protect this valuable resource and support the Boehlert amendment.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what I would like to do is show a few illustrations to my colleagues in the Chamber this evening that show some contradictions to the, I guess, to some of the testimony we have heard here.

First, I want to offer a perspective to the Clean Water Act to the Members of the House and the American people. That is, this is an act to clean America's water. Usually when we look at lakes, rivers, streams, we have no sense of the small amount of water that we actually have for the purposes of human consumption. If you took all the water on the planet and put it into a 1-gallon jug, you would see that you would have less than a teaspoon of that gallon of water for use and purposes that we as human beings need it.

So water, regardless of what the planet looks like, is a very scarce resource.

I would like to refer to this chart here showing the complexity of the permitting process under the existing Clean Water Act regulations.

The complexity of the process that someone has to go through to get an individual permit is rather complex. I have to admit to my colleagues that a general permit is extremely, or actually well over 95 percent of all people who apply for general permits get them with no problem at all. They do not have to go through this lengthy process.

What I would like to tell you that is in the Boehlert amendment, and I would encourage everybody to do this, is to pick up the Boehlert amendment and turn to pages 22 to 24 and see how pages 22 to 24 just about completely eliminate much of the complexity in the permitting process by a whole series of exemptions.

What I would like to do is go back to the reason we have a Clean Water Act. I want everybody to look at this picture. This was not an untypical picture of pollution coming out of a pipe like this 20 years ago. I know we are debating wetlands. We are not debating nonpoint or we are not debating point pollution, which is what this was.

□ 1915

What the Clean Water Act did over the many years was to eliminate problems like this. Problems of point source pollution, which the Clean Water Act has eliminated over the last 20 years, the point source pollution caused problems such as this. We are trying to get rid of this. We do not want to bring this back. We are dealing with wetlands, we are dealing with a much more complicated situation than point source pollution, we are dealing with nonpoint source pollution, and we do not want our rivers to look like this. The Clean Water Act, to show you its success, and to show you that same picture, has cleaned up that river.

We all recognize there are problems with the complexity of getting a permit, or there are too many agencies involved in getting the permit. These kinds of things can be eliminated and they can be solved.

Mr. Chairman, what I would like to explain, and one of my problems with the existing bill, is if we want our rivers to look like this, the Clean Water Act up to this point has adhered to a large extent to science. We do not want to get rid of the science. I will hold this picture up.

Mr. Chairman, if we abide by the regulations that are in the act or in the bill before us now, this particular picture, which everyone in here would agree is wet, this particular picture would not be considered a wetland. It would not be protected. The reason for that is, it is a little complex, it deals with science.

The existing bill calls for 21 consecutive days' saturation at the surface, which this meets. It calls for hydric soil, which this meets. Also, it calls for an obligate wetland species which is not present here, because in a few weeks after this picture was taken this begins to dry out. It begins to dry out because the forest here, it is a forested wetland, begins to take up the moisture.

Rather than getting into, like I said, some of the science here which is a little too complex, one of the major problems with the bill before us is that it excuses, it eliminates, it has nothing to do with science and the criteria on which we base what a wetland is. If we want clean water, we have to get, I admit, rid of some of the regulations, which this amendment does, but we have to hold onto the science.

I want to give one other example, and I will do this for the farmers and people that live in urban areas. If Members will bear with me just for a moment, I am going to draw another picture.

This is the land. On the left side of the picture, we are going to see corn. When farmers put fertilizer and a bunch of other things on their fields, there is a certain amount of nitrogen that goes through the soil that is not taken up by the corn.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. GILCHREST] has expired.

(By unanimous consent, Mr. GILCHREST was allowed to proceed for 1 additional minute.)

Mr. GILCHREST. Mr. Chairman, when the nitrogen goes through the soil, some of it is taken up by the corn, but much stays in the soil and will go down into the groundwater.

On the other side we might have an urban area, on the other side of that cornfield. The urban area has a problem with stormwater runoff. Let us say in the middle of these two places you have a forested wetland. That forested wetland could have been the picture that I showed you that does not meet the criteria, but what a forested wetland does, what all wetlands do, as the groundwater moves underneath it, it takes up that nitrogen, purifies the water, adds to the quality of it, so people do not have to worry about drinking water that is polluted. Wetlands filter out well over 90 percent of the pollution. Forested wetlands are some of the most important. Wetlands have different characteristics from one part of the country to the other.

My time is up, Mr. Chairman. I strongly urge my colleagues to support the Boehlert substitute.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Boehlert amendment. The Boehlert amendment will protect our Nation's wetlands by replacing H.R. 961's faulty wetlands provisions with reasonable reforms.

Mr. Chairman, I represent the Santa Rosa Plain, in Sonoma County, CA, which is covered by more than 5,000 acres of seasonable wetlands. These wetlands are a valuable part of the area's ecosystem and provide habitat for endangered plant and animal species.

Unfortunately, the wetlands of the Santa Rosa Plain were being destroyed, often due to inappropriate development. Therefore, in Santa Rosa, local, State, and Federal agencies under the guidance of the Corp of Engineers began working with the Sonoma County environmental and business communities to help craft a preservation plan for the Santa Rosa Plain. This plan is close to completion.

When it is complete, it will determine what parts of the plain can be developed and what parts must be preserved. Once the plan is completed, wetlands on the plain will no longer be destroyed, and developers will know which areas are safe to develop, thereby eliminating costly delays.

Mr. Chairman, the Santa Rosa preservation plan is an example of how Federal agencies, in cooperation with local entities, can implement the Clean Water Act to successfully protect precious wetlands while permitting appropriate development. Mr. Chairman, I believe Congress should continue to support cooperation like this. The bill we are considering today, however, H.R. 961, will do just the opposite.

H.R. 961 guts wetlands protections. It ensures that the Santa Rosa Plain preservation plan will be useless, and thousands of acres of precious wetlands in my district and around the Nation will be lost forever.

Mr. Chairman, the Boehlert amendment is a sensible alternative which streamlines regulations without destroying our Nation's wetlands. I urge my colleagues to support the Boehlert amendment and preserve the wetlands of the Santa Rosa Plain and the wetlands of the Nation.

Mr. HERGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. The regulations and policies which have been promulgated under section 404 of the Clean Water Act have evolved into an impenetrable maze of conflicting and confusing rules, restrictions, and enforcement measures that are wreaking havoc throughout the country, and particularly in my northern California district.

These sprawling and invasive regulations come not from one but three different government agencies, each pushing a different agenda, and each operating according to its own prescribed set of rules.

Mr. Chairman, this morass of regulations has moved far beyond the simple protection of our Nation's wetlands. What once were reasonable and necessary laws and regulations have been taken to ridiculous extremes. The promotion of wise stewardship has changed into an all-out effort to further preservationists' agendas. Regulations based on cooperation between policymakers and property owners has been replaced with intimidating and heavy-handed enforcement measures which devalue property and disregard rights guaranteed by the Constitution.

Mr. Chairman, I cannot see how this amendment, which creates more bureaucracy, rather than removing it, can help the situation. The family farms, small family owned businesses, and rural communities in our country do not need more committees and studies. What they do need is relief from the oppressive and extremist-driven bureaucracies and regulations which are driving them into the ground.

They need a reasonable definition of wetland that does not require the same degree of protection and mitigation for seasonal puddles that is given to legitimate habitat. They need policies that require the Federal Government to compensate them when it devalues their property. They need to be assured that preserving the livelihoods of families is at least as important as preserving habitat.

Mr. Chairman, title VIII of H.R. 961 will unscramble the regulatory maze under section 404, and begin to bring common sense back to our wetlands laws. It will consolidate confusing and conflicting jurisdictions into one regulatory body. It will begin to reverse the preservationists' extremism that is relentlessly chipping away at private property rights. It will remove the confusion and fear that is intimidating property owners who are unable to understand, much less adhere to the law. It will require the Government to pay property owners when it devalues their land.

In short, Mr. Chairman, title VIII requires Federal bureaucrats to protect people as well as habitat, and bring our current law back within the parameters of the Constitution. Mr. Chairman, we do not need more regulation, we just need more common sense. I strongly urge my colleagues to join me in voting no on the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman, Mr. Chairman, because I could not agree more with the gentleman about the excess of bureaucracy and regulations in Washington. That is precisely why we crafted the Boehlert amendment in the manner in which we did. We do not create a huge new bureaucracy. What we do do is create an advisory committee, composed of a representative from the National Governors Association, the National League of Cities, and the National Association of Counties. What we want to do is bring these people in in an advisory capacity.

Second, we agree with you that there have been loose definitions of what a wetland really is. That is why we tried very hard to delay action until we had the benefit of the National Academy of

Sciences report, which was just released last week. The National Academy of Sciences report really says in the committee bill the basis for defining wetlands has no scientific basis whatsoever. It is by the seat of their pants.

What we are trying to do is have good science define wetlands. I am not mad at the scientists of America. I want to use them to the best advantage, and have common sense prevail, as the gentleman wishes, too. I thank the gentleman.

Mr. HERGER. Mr. Chairman, I would like to comment to the gentleman from New York, who is the author of the amendment. I have 10 counties in my rural 36,000 square mile district, with unemployment as high as 20 percent in some of them.

The CHAIRMAN. The time of the gentleman from California [Mr. HERGER] has expired.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Frist, Mr. Chairman, let me set the record straight. The scientific report that was just issued to define wetlands did not say to this Congress "You should necessarily protect every wetland as we scientifically define it." It did not. What it said is: "What we are going to give you is a reference definition. Then you make the policy decisions as to which of these so-called wetlands, by scientific definitions, to protect."

The point is the Academy said: "This is our reference definition of what a wetland is. That means that is what you use as a reference, what you are going to use as a reference, to see which of these you want to protect, which you want to protect more strongly, which deserve more or less protection."

Let me also put the thing in perspective. What we are debating right now is an amendment that was contained in the substitute which this House already turned down last week, an amendment that deals with the part of that substitute that would, in fact, delete, almost, the wetland reforms that are in the bill, and substitute, instead, a package of language that the House would have to adopt if they adopted this amendment, authored by those who have opposed property rights in this body, and who want every wetland, as defined by those scientists, to be subjected to the kinds of protection current law does under the 1987 manual.

Let me tell the Members what is wrong with that. First, what is wrong with that is if we do not in this bill, as the bill currently does, begin to define wetlands on the basis of which wetlands are truly functional, which really makes sense protecting with this heavy hand of Federal regulation, and define instead those that have some limited functional value, and those which have no real functional value whatsoever, such as an isolated wetland inside an urban area, if we do not do that in this bill, we are left with the status quo. We are left with laws and regulations built around what some scientists declare to be a wetland, which may not even resemble a wetland in your home State and in your home county.

Second, Mr. Chairman, if we adopt this amendment, we completely undo, we completely reverse, what this House has done with 72 Democrats and almost, the great majority, I guess 90 percent, of the Republicans earlier this year in the 100 days in defining the right of private property owners to compensation when the Government regulates their lands values away.

□ 1930

I want to take a brief minute to reacquaint Members with that issue.

In the case of Florida Rock, a case that started in 1978 when the Corps issued a cease and desist order upon the plaintiff not to use his property, a case that is still in court, that was again decided in the court of appeals, I think, for the second or third time, and has now been remanded to the Court of Claims for the second or third time, the court said in that case, in answer to the defendant's complaint, the U.S. Government, the defendant argued that, well, using this property, this activity, would eliminate wetlands protection within the valuable habitat and food chain resources.

The court said,

> Defendant's argument stands our traditional concepts of private property rights on their head. It is impossible to use one's property in society without having some impact, positive or adverse, on others. Courts do not view the public's interest in environmental and aesthetic values as a servitude upon all private property, but as a public benefit that is widely shared and therefore must be paid for by all.

In short, the Government in protecting wetlands in America, which is indeed a good and worthy goal, cannot create a servitude on your or my property for the public good without compensating us. That is what the court said, that is what the bill does, that is what gets eliminated by this amendment.

The court cited a list of other laws that protect the environment where Congress has already specified that some sort of compensation must be given: the Wilderness Act, the National Trail Systems Act, the Wild and Scenic Rivers Act, and the Water Bank Act.

Here is a quote from the court of appeals in the Florida Rock case:

> What these regulatory schemes have in common is that in each case the property owner's interest has been considered and accommodated, not sacrificed on the alter of public interest. By contrast, the regulatory scheme pursuant to which plaintiff's land was rendered economically useless"—the wetlands laws—"provides for no accommodation whatsoever of plaintiff's right to use and enjoy its property.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 3 additional minutes.)

Mr. TAUZIN. I want to take you quickly through a real case, too, the Bowles decision.

Here is a fellow who bought a lot in a subdivision, specifically lot 29 of Treasure Island Subdivision, Brazoria County, TX. None of his neighbors applied for nor did they require a Corps of Engineers permit to build their House.

This fellow had that property, I think, for about 10 years, and litigated 10 years in court for the right to build on the property ought to be compensated.

The Corps of Engineers in his case, because he checked to see whether he needed a Corps of Engineers permit, said, "No, you can't build on that property."

This was a $70,000 lot, pretty expensive waterfront lot. All of his neighbors are building on that property all this while. The Corps says, "You can't build on it. We think it's a wetland." Not you and I, not the people of the United States defining what a wetland is and what is going to be regulated in Congress. What the Corps of Engineers said a wetland was.

The Corps said, "You can't use the property." Then they said, "If you sue us for compensation we're willing to pay you what it's now worth, $4,500."

Our Justice Department litigated that case for 10 years. Mr. Bowles, I should add, was one of the good guys. He was on the conservation committee. He was in the nature conservancy in Texas. But he was denied the right to build on his property, specifically the right to get a permit to put a septic tank in so he could build his house.

Ten years later, the court of appeals finally said he was due in the Court of Claims compensation equal to the value of his lot before the Government took away the use of that property, the $70,000 he was taken, that was stolen from him when the Corps of Engineers said you can no longer build on this property.

The court rendered in his favor and said, "This case presents in sharp relief the difficulty that current takings law forces upon both the Federal Government and the private citizen. The Government here had little guidance from the law. The citizen likewise had little more precedential guidance than faith in the justice of his cause," and I might add a 10-year trip in the court of appeals and the Court of Claims.

What this amendment does that we are debating today is to tell Mr. Bowles, and everyone like him, "If you don't like the way the Federal Government treats your property, if you don't like the way the Corps of Engineers defines a wetland, if you don't like the way they regulate the use of your property away, well, you go to court and settle it over the next 10 years if you can afford it. If you can't afford it, I'm sorry, you don't get justice in America."

That is what this amendment does, because it takes away the private property rights compensation provisions of this wetlands reform.

Let me say it again. The bill does two things critical that the amendment destroys. The one thing it does, it gives some guidance in law as to what wetlands are truly going to be protected all the way and which ones are going to be protected somewhat and which ones are truly not worthy of the kind of functional protection that Mr. Bowles was subjected to when he could not build on his residential lot.

Second, it provides compensation. This amendment destroys both of those reforms. It ought to be rejected just as the substitute was earlier rejected.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(On request of Mr. BOEHLERT, and by unanimous consent, Mr. TAUZIN was allowed to proceed for 3 additional minutes.)

Mr. TAUZIN. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank my distinguished colleague for yielding. I always enjoy listening to him. He is very eloquent. But I would remind my colleague that if you refer to a peach as a banana and keep referring to a peach as a banana, it does not make a peach a banana.

Mr. TAUZIN. I am certainly glad we had that conversation today.

Mr. BOEHLERT. The fact of the matter is this House has spoken on the issue of takings and on the issue of private property rights. That matter is now before the Senate. What is resolved between the House and the Senate will apply to this matter, and you know it.

Mr. TAUZIN. Reclaiming my time, Mr. Chairman, you cannot say that.

Mr. BOEHLERT. I just did.

Mr. TAUZIN. Well, you said it but you cannot really mean it. The President of the United States stood up on Earth Day and in effect said, "I don't care what's in the private property rights bill that's over in the Senate right now, how it's completed, what ti says, what's in it, I'm going to vote "no" on it by vetoing it."

That bill has already been vetoed by the President in a speech he made on Earth Day. If we are going to protect private property rights, we now have to do it in the bills where it pertains, in the wetlands reform bill and in the endangered species reform bill. That is our only chance of giving compensation to landowners.

Mr. BOEHLERT. If the gentleman will further yield, my puzzlement is, what do the opponents have against good science? We have finally received a long-awaited report, 2 years in the making, over $1 million in expenditure to develop this report. Incidentally, the prominent scientists that participated were not paid. They produced a report that was released to the American people last week, "Wetlands, Characteristics and Boundaries."

Among other things, they point out something that you have done repeatedly, that there are different wetlands in different areas of the country. If I may read for just a moment from an excerpt on a report,

> The United States contains many different kinds of wetlands, from the cypress swamps of Florida to the peatlands of northern Minnesota and from mountainous headwaters to tidal salt marshes. The differences among wetlands in various parts of the country account for much of the difficulty in wetlands delineation.
>
> Wetlands regulation—a source of considerable friction between private landowners and the Federal Government—is needlessly complicated by multiple definitions, field manuals and agency responsibilities. The use of a single regulatory definition, a single manual to identify wetlands—

Keeping in mind the geographic differences—

> And, even more ambitiously, the consolidation of regulatory authority within a single Federal agency would improve the regulation of wetlands substantially.

Mr. TAUZIN. Reclaiming my time, the gentleman has made his point. Let me counter that point.

First of all, it is a single definition of wetlands that cause the problem. It is the definition designed by the agencies with the scientists telling them what they think scientifically a wetland is which has caused these problems in America. It is 5 or 6 agencies meeting behind closed doors that produced the last manual that sent this country into a tizzy.

It is time for policymakers now to make a decision in this Congress as to which wetlands deserve how much protection. That has long been overdue.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Let me make a point. If you will look at the very last conclusion in that manual, in the scientific report, you will see that the scientists very carefully said,

> We're not telling you what kind of policy to make on wetlands. We're not telling you whether to protect all wetlands the same way because they are different. We're not telling you that our definition of wetlands should be a legal policy definition. What we've written for you is a reference definition. You take our definition and you define from it which wetlands you need full protection for, which wetlands are you going to treat differently in what region of the country.

That is what the bill does, I should say to my friend. My friend destroys that class A, class B, class C determination as we have in the bill, substitutes a single definition again, which has caused us so much problems, and then destroys the compensation provision by saying in effect that that is out of the bill.

I can say to my friend again, if you truly oppose property rights, I understand that, that is a fair debate, we have had it a couple of times, but that is what your amendment does. It takes property rights out of the bill. If you truly like the system where Federal bureaucrats and their scientists are making policy for America, they will love your amendment and I know you support it.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(On request of Mr. GILCHREST, and by unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. I yield to the gentleman from Maryland.

Mr. GILCHREST. I have one quick question for the gentleman from Louisiana, one question about the Florida Rock case.

It is a situation where the gentleman bought a parcel of land for about $3,000 an acre. It was going to be a type of gravel pit. If he could have sold it for this type of gravel pit, he could have gotten $10,000 an acre for it, but since it was delineated as a wetland, the value was reduced so he could only get $6,000 an acre for it.

My question is, since it is delineated as a wetland and protected as a wetland, if it was not preserved as a wetland and he did use it and it diminished the value of someone else's property downstream, who would have paid for the devaluation of the property owner downstream?

Mr. TAUZIN. I will be happy to answer the question. There is law in all of our jurisdictions, I know in my State, I assume in Maryland, that provides if I use my property and damage my neighbor, I am answerable to him, I am answerable to him in the State court for my damages. That is current law.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Mr. Chairman, the current law says that if you do something to your property to damage your neighbor, you have got to pay for that. The bill on property takings that we wrote makes it clear that the only time you get compensated is when the use that has been denied you is not a zoning use prohibited, is not a nuisance use prohibited but only a use that is designed to protect environmental wetlands.

Second, let me say to my friend, I am not saying the law should not protect the wetlands in the Florida Rock case. Maybe they should have been protected. All I am saying is that if they are protected and the use of that property is denied the owner as in Florida Rock, that he ought not to have to spend from 1968 to 1995 trying to get an answer as to what he should be compensated for.

Mr. GILCHREST. If the gentleman will yield further, I think if you destroy those kinds of wetlands, a number of people whose property would be devalued because their ground water would be contaminated, the vast number of people who would have their property devalued, there is not enough money in America to pay for all that property.

Mr. TAUZIN. Reclaiming my time, if the use is one that damages your neighbor, you don't get compensated under the bill, and you know it.

Mr. PAXON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to engage in a colloquy with the chairman of the Transportation and Infrastructure Committee regarding the definition of concentrated animal feeding operations [CAFO's].

A recent Second Circuit Court of Appeals decision, C.A.R.E. v. Southview Farm, broadly interpreted and—in my view—misconstrued the definition of CAFO's. In particular, the court confused the difference between feedlots and areas that do not involve growing operations and misinterpreted the terms "lot," "facility," and "area of confinement."

The result is that certain agricultural operations, such as dairy operations, could be improperly considered as CAFO's and therefore point sources.

Is my understanding correct that the chairman intends that the term "CAFO's" and the term "concentrated animal feedlot" do not include farming operations where crops, vegetation forage growth or post harvest residues are sustained in the normal growing season over any portion of the farming operation?

□ 1945

Mr. SHUSTER. Will the gentleman yield?

Mr. PAXON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the gentleman is absolutely correct. Several of the H.R. 961 provisions, particularly section 503, refer precisely to concentrated animal feed operations. As the primary sponsor of this legislation, I can assure the gentleman that at no time did we intend that the terms of the act and the accompanying regulations be construed as broadly.

Mr. PAXON. Mr. Chairman, I thank the gentleman for this clarification, for his overall efforts to ensure a proper balance between environmental regulation and agricultural operations.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield for a question?

Mr. PAXON. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I want to thank the gentleman for bringing up that issue which does not directly affect the wetlands debates on the Boehlert amendment, but I want the gentleman to know that I strongly support the position taken by the gentleman from New York, and I strongly support the language in the committee report referred to by the chairman of the full committee, the gentleman from Pennsylvania [Mr. SHUSTER].

We have addressed the special concerns of agriculture in America and the committee bill does that. The wetlands provision that I am introducing and we are debating right now contains the same exemptions as does the committee bill, plus we add a new exemption for repair and construction of tiles which are so very important to agriculture.

So I thank the gentleman from New York.

Mr. PAXON. I thank the gentleman for his support and again the chairman of the committee for his very helpful efforts in clarifying this matter.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, listening to the debate one would draw the conclusion not only by inference but by express statement by the opposition that this really is a battle about those who care about clean water versus those who do not.

I am here to reject that characterization, Mr. Chairman. In fact, wetlands and the environment are very important to me, and I know of no Member in this House to whom they are not important. So let us all stipulate that we are for the environment, as well as for the American flag, motherhood, and apple pie. Those are all good things; we are all for them.

What this battle is really about, and I cannot think of a better crystallization of the difference between the old Congress, the belief in bigger, more powerful Federal agencies and, in essence, a bigger, better, more powerful Federal Government, versus a smaller, more accountable Federal Government. That is what the debate is really about with this Clean Water Act, Mr. Chairman.

You know, we ought to stop and ask ourselves: Where does the U.S. Congress derive the authority to regulate wetlands, for example? It comes from the U.S. Constitution, from the so-called commerce clause, which happily is finally starting to be properly interpreted after 60 years of abuse by the Congress and the Supreme Court, and in the Perez decision decided recently we finally got a reasonable definition of the limits of the power of Congress under the commerce clause. Those things which Congress seeks to regulate under the commerce clause have to bear some reasonable relation to the clause.

Mr. Chairman, this is a battle between those who support a bigger Federal Government versus those who support a smaller and more accountable Federal Government. It is really a battle between those who want to empower bureaucrats with vast discretionary authority versus those who believe elected officials ought to be making our policy in the U.S. Congress. It is really a battle between arbitrary administrative rulings versus good science. Ironically enough, I say to the gentleman from New York, we believe in good science. That is why H.R. 961, as reported by the committee to the floor, is here. It embodies good science, and we believe very deeply in good science.

Let me just mention why the Boehlert amendment is flawed, in my opinion. No. 1, it strikes all the property rights provisions out of the bill, including the right to compensation for property owners whose land is devalued by more than 20 percent due to the Federal wetlands regulations. No. 2, it eliminates the three-tier classification system created by the bill which is designed to give greatest priority to those wetlands that are in most need of protection. No. 3, it retains the current expansive definition of wetlands. Indeed, under the Boehlert amendment, and this is true under present law, this is deemed to be a water of the United States. Is that not ludicrous? This picture is north of Stockton, CA; yes, this is a wetland according to existing law and according to what it will be if the gentleman's amendment should be enacted.

H.R. 961 was produced with an aim to ending this kind of administrative abuse.

Also, this Boehlert amendment removes the provisions that streamline the current highly bureaucratic system for wetlands permitting, giving four agencies the power to veto wetlands permit applications. The committee bill makes the Corps of Engineers the sole agency with the power to grant or to refuse a permit.

So, those are the reasons why I think this is an undesirable amendment. If you believe in Big Government, if you believe in bureaucrats, if you believe in arbitrariness, keep the status quo, because it works great. The only ones who are disadvantaged by it are those who happen to own property by the sweat of their brow and cannot get through the permit process. And we heard from the gentleman from Minnesota, I think who said this, maybe the gentleman from New York: 90 percent of all of these Corps of Engineers permits are granted. What that figure fails to mention is the number of people that dropped out.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has expired.

(On request of Mr. GILCHREST, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 2 additional minutes.)

Mr. DOOLITTLE. Ninety percent, the figure was 90 percent of the permits are granted by the Corps of Engineers. It ignores the fact that a huge number of people fell out of that statistic, those who tried and just gave up. They did not have the 2 years or 4 years or 5 years or as in the case of Chico, I will tell you about the 16 years to get through the process. They gave up and they were not counted, because it did not count in that statistic. So it is a very misleading statistic. I just throw that out; it is very misleading.

I chaired the wetlands task force for the Resources Committee. We went around the country and held various hearings. Let me just tell you briefly what we found out. We heard from Bob Wilson, a man who owns property in Idaho. He went through with his permit, the corps came out, they had extensive negotiations. The corps finally granted his permit to build a house. He built a very expensive, about a half-million-dollar house, and then, incredibly, a corps field official came along and discovered quote unquote that the hydrology had changed on this particular land and what was once an upland when the house was built was now a wetland, and demands were being made for him to do something about it.

Well, he went through the process again and that managed to get it straightened out, probably because the corps was too embarrassed to actually be willing to take that case forward and expose it to the harsh light of public review.

Pastor Enns, pastor of a church in Chico, CA, known as the Pleasant Valley Assembly of God, this is a 500-member congregation, all of its contributions are received voluntarily.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(By unanimous consent, Mr. DOOLITTLE was allowed to proceed for 3 additional minutes.)

Mr. DOOLITTLE. This gentleman began the process of building his church. Sixteen years later, $300,000 of his congregation's money down the drain and there is no church, and 25 percent of it has been roped off as a wetland.

These people are not in the business of development. They are trying to build a church.

The Sares Regis Corp., they are in the business of development, and they are in Mr. POMBO's district, in the northern end of it. They have about a 1,200-acre parcel of land. In 1988 the first application was made for a permit. We are in 1995 today. Seven years later they have still not done anything with it because the different agencies keep upping the ante. First they wanted 15 percent of the land set aside because it contained features like this right here, and then it went up to 25 percent, and they finally agreed to 25 percent. A demand was made for more, and they agreed to 30 percent, and that is not enough. Thirty percent, in fact it was more than 30 percent, it was nearly one-third of their land, 356 acres with a development value of $30 million, and that was not enough to satisfy the Federal bureaucrat. That is an abuse, Mr. Chairman. And that is what this bill is designed to correct amongst other things.

I want to tell you about Mrs. Cline. Nancy Cline, Sonoma, CA, bought land, 350 acres of land, been in farming continuously since 1930. One year the owner of the land, in fact the next to the last year the former owners of the land grazed cattle. These folks tried to farm their land and the bureaucrats showed up and they said, "You can't do that, you need a permit, you are filling a wetland." They said, "What do you mean. It has been farmed since 1930. I am sorry." They threatened them with $25,000-a-day civil fines and actually at one point threatened if they did not give in to criminally indict them. They had to hire an attorney to defend themselves. They went around, and I would love to read you this but my time is running out, I will tell you the FBI and EPA went door to door to the neighbors and interviewed the neighbors. What is these people's religion? Do they have a temper? What are they like?

George Washington said power is not reason, it is not eloquence, it is force, and like fire it is a dangerous servant and a fearful master. And I would submit to you that we uncovered many examples of the heavy hand of government, naked force.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Maryland to ask his question.

Mr. GILCHREST. One comment and one quick question. The comment is we want to get rid of the bureaucracy that creates the kind of horror stories.

The CHAIRMAN. The time of the gentleman from California has again expired.

(On request of Mr. GILCHREST and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. DOOLITTLE. I yield to the gentleman from Maryland.

Mr. GILCHREST. The other thing is I really wish some of the Corps and EPA people from California could come to Maryland and see how we work out our problems, and we really do work the problems out in apparently a much simpler manner than it is done in some of the Western States, but looking at the picture I would like to ask, it really looks like there is some farming activity being done there. It looks like tractor tires and the field has just been plowed up. I would like to ask the gentleman if that is a farming area. Then it is now without either one of the bills exempt from regulatory jurisdiction of the Corps as far as wetlands is concerned because of the prior converted cropland; also the Corps allows people to farm wetlands if they have been farming wetlands.

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. POMBO. I can explain what is going on in this picture. It is grazing land, which the Corps does not consider agriculture. So they cannot.

In California under current law what is happening right now, grazing is not agriculture. Therefore they cannot plow that up. That is what they are doing right now.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(On request of Mr. SHUSTER, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I just cannot let pass the statement by my good friend from Maryland about how wonderful everything is in Maryland. My congressional district borders Maryland, and I can tell you in western Maryland there are hundreds of people who are furious about the environmental Gestapo which is there and which is attempting to tell them how to live their lives and what to do with their land beyond all reason. So things might be well on the Eastern Shore, my good friend, but in the neck of the woods I come from which borders on western Maryland there is outrage at what this environmental Gestapo is doing.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from New York.

Mr. BOEHLERT. I want to allay the gentleman's concerns, because the Boehlert amendment provides a specific exemption for grazing land, so I say to the gentleman from California [Mr. POMBO] and the gentleman from California [Mr. DOOLITTLE], I want you to know we addressed your concern.

Let me tell you who is outraged. The American people are outraged by the prospect of eliminating 60 percent to 80 percent of our Nation's wetlands.

□ 2000

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(By unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. DOOLITTLE. Mr. Chairman, I ask for an additional minute to reply because this is not the whole story. I need to reply.

Let me just say here that in our part of the State there is a lot of land like this and there are a lot of people like this that would like to grow houses, not farms, on it or not grazing, and they owned the property, and under your amendment you are not going to let them do that because this is going to be classified as a wetland for which a permit must be granted, must be required, in order to do anything, and your amendment does not let good science prevail, because you do not see the framework for the classification, A, B, or C.

I heard you read from the report. Let me just say we make the policy that the Secretary is to promulgate, a classification system, A, B, or C, according to the most ecologically significant land in that order. That is where the good science is going to come, helping us determine whether it is A, B, or C.

Mr. BOEHLERT. If the gentleman will yield further, there is nothing, nothing, absolutely nothing, let me repeat, nothing in the committee bill that refers to science.

What are we afraid of? We spent $1 million in 2 years to hear a report from the National Academy of Sciences, and we are ignoring it.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. HAYES, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. HAYES. Will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Louisiana.

Mr. HAYES. I have a letter addressed to me today where numerous agricultural groups, including the Farm Bureau, American Feed Industries, American Meat Institute, Sheep Industry Association, Soybean Association, and others, are all in opposition by name to the Boehlert amendment.

My question to the gentleman would be: If the agricultural provisions are supposedly taken care of, then do I have 50 or so incompetent agricultural organizations, or do I have a continued inability of some to recognize that they are not helping farmers but hurting them under either the current situation or the proposed amendment?

Mr. BOEHLERT. If the gentleman will yield, let me stress, on page 21 of the Boehlert amendment, there is a whole list of exemptions for agriculture. Given the choice, we understand human nature, given the choice of no regulation or some regulation, what are people going to choose? Obviously, no regulation. But the fact of the matter is there are 250 million Americans from coast to coast who are concerned about drinking water, who are concerned about flooding, who are concerned about tourism and fishing, who are concerned about so many things that are ignored.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. SHUSTER, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. I ask for the time for me to respond to my good friend.

I cannot let pass, and I am sure my good friend does not mean, really mean, no regulation. To suggest our bill provides no regulation is obviously false. Our bill provides substantial regulation.

What it does do, it sets up three categories of wetlands, A, B, and C. So, for my good friend, I know in the hyperbole of the moment, to talk about no regulation, I am sure he does not mean that, and our bill does provide regulation. It simply does not, and I plead guilty, it does not provide the onerous, heavy-handed regulation that the gentleman's amendment provides.

Mr. BOEHLERT. If the gentleman will yield further, because it is the gentleman's time, the fact of the matter is this is not my opinion. It is prominent scientists. The 17 scientists who developed the Academy of Sciences report on wetlands estimate 60 percent of our Nation's wetlands will be lost if we adopt the committee bill.

I agree with the chairman; I have the highest regard for the chairman.

That is why we are trying to incorporate in our amendment special exemptions for agriculture, and we are trying to address the needs of Governors and State and local governments.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. SHUSTER, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. I wish to respond to the last statement.

I believe what the report says is not that 60 percent of wetlands will be lost, but rather that 60 percent of the wetlands will be unregulated by the Federal Government. There is a vast difference, and indeed I am informed by several people that even the 60 percent figure is something that is not substantiated. So there is a vast difference between wetlands being lost and wetlands not being regulated by the Federal Government.

Mr. HAYES. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Louisiana.

Mr. HAYES. Under no instance in the report is there a reference to this loss. It has been thrown around on this House floor as if it is somewhere scientifically written. It is specifically never covered in that report. It does a disservice to the chairman to make that reference. But if so, would the gentleman give us a page number in which such a percentage or reference is made?

Mr. SHUSTER. And I would say further, under our bill, if the gentleman's State wishes to impose more stringent wetlands regulations, the gentleman's State may do so.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. BOEHLERT, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. DOOLITTLE. I yield to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. I thank the gentleman very much. I appreciate that.

The gentleman from Louisiana [Mr. HAYES], I would like to point out that the estimate of 60 percent loss of the Nation's wetlands comes from William M. Lewis, Jr., Chair, who is professor and Chair of the department of environmental population at the University of Colorado. That statement was made at the public briefing provided for Members of Congress, their staff, and the news media. I was there. A limited number of Members of Congress, a lot more staff, and a lot of media, and that is why the media has picked up on this 60 percent loss of wetlands, because it comes from the Chair of the committee, a very distinguished scientist. I have no idea if he is a Republican or a Democrat or a green or a brown or whatever he is, but I know he is concerned about our environment.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. SHUSTER, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. I ask for the additional minute to quote what Dr. Lewis actually said. I have in front of me, during the question and answer session of the briefing, Dr. Lewis, previously referred to, was asked, "What percentage of wetlands currently under the jurisdiction of the 404 program would be deregulated?" Deregulated, not eliminated, deregulated, after the 21 consecutive day requirements were enacted. His first response was, and I quote, "I don't know." When prompted further, he said, "I guess the amount would be in the tens of percent, 20, 30, maybe 40 percent." End of story.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. HAYES, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 2 additional minutes.)

Mr. HAYES. If the gentleman would yield further and give me a moment to ask a question of the chairman, who was it who made that inquiry?

Mr. SHUSTER. If the gentleman will yield, I understand it was the gentleman from New York [Mr. BOEHLERT] that made the inquiry.

Mr. HAYES. The gentleman from New York [Mr. BOEHLERT] made the inquiry; it is not secondhand. I hope he would recall it.

Mr. SHUSTER. That makes this story even better. Thank you.

Mr. DOOLITTLE. Let me make my statement.

Mr. BOEHLERT. We are up to 40 percent. We are getting closer.

Mr. DOOLITTLE. I would just like to point out here: What in the world are we afraid of? We are not talking about plowing over all the Nation's wetlands by this bill. We are saying the Federal Government has gone too far in trying to assert its jurisdiction. We are going to, as the new Congress, make a correction in the course. The State of Maryland or any other State, if they feel that the policy should be different, is free to take that policy. But under the U.S. Constitution, in our view, our jurisdiction needs to be cut back. This bill provides a policy that assures protection to wetlands that uses a classification system, A, B, or C. It assures reason, balance, and flexibility, which we have none of under the present system, where all we have is the naked hand of Government, $25,000-a-day civil fines, being threatened by Federal agencies, and if they fail at that, they will threaten to indict you, as they did Mrs. Cline.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Maryland.

Mr. GILCHREST. The gentleman from California said, "What are we afraid of?" Why do we not use the classification or the delineation criteria from the National Academy of Sciences, which I think we all, after looking at it, would have some sense that is a good classification, and then we can use their criteria in this bill, and then we can regulate or not regulate, whatever we want to.

Mr. DOOLITTLE. Reclaiming my time, we are going to do that. We have got A, B, and C. We, the elected officials, set that up. Then we are going to use the science that is in that report because the Secretary is the one that makes those determinations, and he is going to specify in the regulations what are the criteria for A, B, and C.

Mr. EWING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find this debate very interesting tonight and believe that maybe it is time that a voice from the Midwest is heard on this problem.

We have heard a lot from the South and from the West about the problems with the wetlands, but I want to say that I strongly oppose the amendment to H.R. 961 on wetlands. This amendment would strip out the provisions of this bill in title VIII, reject sensible wetlands policy reforms which have been crafted in this bill, and replace the language with a much more workable form of regulation for our wetlands. In fact, the House rejected the bureaucratic language of the sponsor of this amendment as part of the Saxton substitute.

For many years, farmers and businessmen and landowners have struggled and wasted millions of dollars on lawyers' fees, trying to make sense out of the current wetlands permitting process. Critics of the wetlands provision in H.R. 961 make it sound as though the current section 404 of wetlands delineation process is an orderly, scientifically sound process. Anybody outside of Washington, DC, who has tried to obtain a section 404 permit knows the present system is a bureaucratic morass, subject to the whims of EPA, the U.S. Corps of Engineers, Fish and Wildlife Service, and the bureaucrats of the Federal Government.

In fact, when I was visiting in what is now the consolidated Farm Service agency in my home county, I asked them how they established wetlands in my home county. "Oh," they said, "We got out some maps, and we sat there, and that is the way we decided what was wetlands," in this highly developed agricultural county, and, of course, if anybody came in, they probably made some adjustments. But most people did not even know about the delineation.

So, when we talk about the loss of wetlands, what we really have to do is establish what were and are and is truly wetlands because it was not done in a very scientific way.

And if the present system is not bad enough, this amendment directs the EPA to establish a wetlands coordinating committee. The committee is to develop a national wetlands strategy and recommend new, new regulations to the EPA and the Army Corps, among other things.

My colleagues, issuing additional wetlands regulations and creating new bureaucracy is absolutely ludicrous. Have the proponents of this amendment not learned anything from the November election? I would also hope that Members will not be fooled by the rhetoric of the supporters of this amendment.

The Boehlert amendment does not embrace sound science. Its primary purpose is to keep the current, unworkable Federal wetlands policy in place, the net effect of which is to keep property off limits to acceptable alternative uses.

Simply stated, if you want to preserve and expand the present section 404 permitting bureaucracy, then you should support the Boehlert amendment. But if you want to replace the current wetlands permitting with clear, sound public policy, then you would reject this amendment.

It is no accident that American agriculture supports title VIII of H.R. 961 as is. Farmers are sick and tired of the Federal bureaucrats determining that mandate drainage ditches are navigable waters of the United States, are sick and tired of Federal bureaucrats walking onto their farms and determining that ag areas are wetlands. If agriculture is to receive major reductions in programs, there must be corresponding relief from meaningless, useless, and inappropriate Government regulations, such as the current wetlands situation.

Anybody who listened to voters last November knows that the citizens are absolutely fed up with big Government and bureaucratic arrogance. The voters are demanding smaller and more sensible government.

Agricultural people know what true wetlands are. Agricultural people are certainly interested in preserving true wetlands because they know the benefits. We do not want to destroy wetlands, but we do not want to be encumbered by wetlands designations for property that is not wetlands.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. EWING] has expired.

(By unanimous consent, Mr. EWING was allowed to proceed for 2 additional minutes.)

Mr. EWING. Mr. Chairman, I believe, as do most, that the provisions of H.R. 961, as is, will do what is a reasonable job of defining our wetlands.

I do not question the proponents of this amendment are well intended, but you have provisions under this bill through different State legislatures to enact if additional regulations are needed.

Finally, Members of this body who support the restoration of personal property rights contained in this amendment, in this bill, should support the wetlands language of 961 and vote against the Boehlert amendment.

In closing, I would urge Members to join the chairman and vote for fair, clear wetlands delineation as currently in this bill.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. EWING. I yield to the gentleman from New York.

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Mr. BOEHLERT. I do not want to point out a misstatement. I think it was inadvertent. The Federal, State and local government coordinating committee, contrary to what was alleged, does not have any regulatory authority. It serves in an advisory capacity only. Why did we create it? To reduce duplication, to resolve potential conflicts and to efficiently allocate manpower and resources at all levels of government.

Mr. EWING. To whom will they be reporting?

Mr. BOEHLERT. We include representatives from the National Governors' Association, the National League of Cities, the National Association of Counties, in an advisory capacity. In effect, what we say is, "Come let us reason together."

Mr. HAYES. Mr. Chairman, will the gentleman yield?

Mr. EWING. I yield to the gentleman from Louisiana.

Mr. HAYES. Would the gentleman accept an amendment to his amendment stating that it has no regulatory power whatsoever?

Mr. BOEHLERT. I would be more than happy to.

Mr. HAYES. Then I will be delighted to make that tomorrow.

Mr. EWING. Reclaiming my time, the purpose of the committee is then—will have no influence on regulations?

Mr. BOEHLERT. It is there to serve in an advisory capacity.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. EWING] has expired.

(On request of Mr. SHUSTER and by unanimous consent, Mr. EWING was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. EWING. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. This so-called advisory committee was made up of 18 people. Ten of the 18, a majority, will be handpicked by the EPA, so the people the EPA picks will recommend to the EPA what kind of regulations to impose upon the American people.

Does the gentleman begin to get the drift of who is going to be calling the shots here? It is the same old regulatory crowd, the same old environmental gestapos, that is who, and that is why we should defeat this amendment.

Mr. EWING. Reclaiming my time, the chairman has adequately and very accurately stated just the reason that we cannot stand any more committees. We cannot stand any more of this regulatory overkill that we have had in America, and an 18-member committee, with 10 of them appointed by the EPA, bodes very, very bad for regulatory relief.

Mr. BOEHLERT. Mr. Chairman, would the gentleman yield?

Mr. EWING. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, this committee will serve without compensation. This committee will serve——

Mr. EWING. Reclaiming the balance of my time, I think that is totally irrelevant to whether this committee is going to be another bureaucratic agency.

Mr. SHUSTER. That means they will be committed fanatics.

Mr. EWING. Absolutely.

I yield back the balance of my time.

Mr. POMBO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that this debate has been very interesting for a number of reasons, and I think that, if we look at what the debate has centered upon, I know earlier in testimony they talked about clean water, and one of the things that they brought up was a picture of a polluted stream.

As my colleagues know, we are all against water pollution, we are all in favor of clean water. And that is not what the debate is about. What the debate centers upon is whether or not the U.S. Congress will make the tough decisions.

For a number of years, actually since the Clean Water Act was passed and they somehow found wetlands within it, Congress has refused to make the tough decisions, the policy decisions. Therefore, all of the decisions governing wetlands have been made by regulators, bureaucrats, and by the courts.

And I say to the gentleman from New York, Mr. BOEHLERT, you talked about using good science. Well, I strongly believe that we need to use good science and that that should be the basis for our environmental decisions. But I also believe that it is our obligation and responsibility to make tough policy decisions.

One of the problems in this picture was brought up earlier. One of the problems that we have out west is wetlands that look like this, that have nothing to do with—we cannot tell from this picture, but there is no inlet or outlet from this wetland. It is a mud puddle. It is a hole in the ground. It is a low place.

Now I say to my colleague, "You have said that you know in your amendment that grazing is agriculture and would be exempted from the regulations of the permitting process." I will tell my colleague one thing that happened in my district in an area that looked exactly like this. It was grazing land, and had been for many, many generations, and for those of my colleagues that do not know, cattle business has not been so great lately, and the gentleman decided that he would be better off trying to farm the land in order to try to make a profit off of it, and he wanted to plant vineyards on it. And they told him he could not plant vineyards on it because of wetlands like this that were on the property, and he said, "But agriculture is exempt from it. Under current law, agriculture is exempt."

And they said, "Well, no, because you are converting from one agricultural use to another. Therefore, you are changing the use of the land from grazing to vineyards."

So I say to my colleague, "Even under your language that you bring out, I don't believe that the bureaucrats would take that as an answer for it."

So, what he told him was,

> Okay; I'll stay out of the wetlands. I won't plant any vineyards in the wetlands. I'll just plant them on the sides of the hills, and I'll contour the hills and just stay completely away from them. I'm putting in a drip irrigation system so there won't be any runoff.

The answer came back, "No, you can't do that because you will change the drainage on the land from what is currently there, and you can't do that."

So he was struck with an unprofitable piece of property because the cattle business is not real good right now. He was stuck with an unprofitable piece of property that he could not make any money off of, that he could pay the mortgage on and pay the property taxes on, but he could not make any money off it because they were restricting what agricultural use.

Now, notice I have not talked about development of any kind, not about building a single home on any of this. It is one agricultural use to another, and, under the current definition, they are saying, "You can't do that. You can't change from one agricultural use to another, and they are restricting his ability."

Mr. Chairman, that is why I believe that the property rights provisions in the chairman's bill are so important, because right now we have the regulators and bureaucrats running out there who, at no cost to them, at no downside to them whatsoever, and actually an upside because they just expanded greatly their jurisdiction by taking a wetlands that looked like this, they expanded greatly their jurisdiction by taking a wetlands that looked like this, they expanded greatly their jurisdiction. Therefore, they need more employees, a bigger budget, more pickups, more helicopters so they can go out and search their land and look for these valuable wetlands that look like this. They expanded their agencies because they expanded their jurisdiction, and because of that property rights and the takings part——

The CHAIRMAN. The time of the gentleman from California [Mr. POMBO] has expired.

(By unanimous consent, Mr. POMBO was allowed to proceed for 4 additional minutes.)

Mr. POMBO. If there is a cost to the agency, if there is a cost associated with taking this person's livelihood away from them, taking their property away from them, all of a sudden wetlands like this, they will no longer put those kinds of restrictions on them.

Now, we all know, as my colleagues know, I went around the country as part of the wetlands task force and had the opportunity to see wetlands that I have never seen before. My entire district, except for the tops of the hills that my colleagues see here, is considered a wetland, my entire district, because of the idea that, if the water rises to within 18 inches of the surface, that that makes it a wetland, and that was, in mind's eye, what a wetland was all about, and this was land that people farmed, that they had been farming for 4 or 5, 6 generations, and they only time it ever got wet was when it rained or when they irrigated.

Now, when I went to Louisiana, I saw wetlands; I mean they had water on the ground, 18 inches of water, 2 feet of water, standing on the ground. Now, I can understand, OK that is wetlands, but why is this a wetlands?

I say to my colleague, now, if you don't have property rights protection in there, there is no book to stop the agency from getting out of control. In your amendment you talk about going back to the 1987 delineation manual and sticking to that until we get something better. You define wetlands in your definitions of your amendment as land that supports aquatic vegetation or wetlands-type vegetation. That is your definition of a wetland.

I say to my colleague, now, on your way home tonight, or when you come in in the morning, because it's going to be dark here, go by just 395, make a right, go down about a mile, and you'll see a sign that says the future site of the Fairmount Hotel, and it's an acre or two of land that has toolies, that has sitting water on it, that looks, by every definition, as a wetland, but this is land that's been developed for a long time that we tore down an old building. They're putting up a new one.

I say to my colleagues, I mean you have got to have something more to it than that. You've got to define the difference between the wetlands I saw in Louisiana and this. You've got to define the difference between what the value of these wetlands are to the environment. You don't do that; that's what we're trying to fix.

Mr. Chairman, we are trying to stop the agencies from going out, and running amok, and trying to do this type of thing. That is what has to stop. I say to my colleague, your amendment to this bill doesn't do that, and I understand the importance of wetlands in different parts of the country. I heard the people in North Carolina talk about the importance of wetlands to their area. I heard the people in Louisiana talk about the fishermen, talk about the importance of wetlands to their livelihood. I heard the people in Vancouver talk about the importance of wetlands to their livelihood, but there is a big difference between the wetlands that they talk about and the wetlands that look like this. They are not the same thing.

Mr. BOEHLERT. Mr. Chairman, would the gentleman yield?

Mr. POMBO. I yield to the gentleman from New York.

Mr. BOEHLERT. I would like to read one section, section 818, definitions. The term "wetland" means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and that, under normal circumstances, do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

Mr. POMBO. OK. Now, does the gentleman understand his definition because I am going to ask the gentleman a question about that?

The CHAIRMAN. The time of the gentleman from California [Mr. POMBO] has expired.

(By unanimous consent, Mr. POMBO was allowed to proceed for 3 additional minutes.)

Mr. POMBO. I say to the gentleman, If you understand your definition of what is in your amendment, if I had a broken water pipe, and the land was sufficiently saturated so that it would support the kind of vegetation that is in a wetland, would that not fit your definition?

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from New York.

Mr. BOEHLERT. No, it would not, because that was manmade, and it is frequency that the gentleman is ignoring. That was a one-time occurrence.

Mr. POMBO. Reclaiming my time, I have read the gentleman's amendment. Reclaiming my time, the gentleman's definition states that it is land that is saturated enough so that it will sustain aquatic vegetation.

Mr. BOEHLERT. But the gentleman is forgetting the frequency part of the definition. That is important.

Mr. POMBO. Yes, if the land is wet long enough, it will support that kind of vegetation.

In my house in California, across the street they have a cattle trough, and it runs over all the time because it comes out of a spring and it supports aquatic vegetation. It has got toolies down the cattle pasture. It is saturated long enough to fit the gentleman's definition, and it is not a wetland, and that is the kind of stuff we are trying to stop. I say to the gentleman, You don't allow us to do that. You're getting back into the original reason that the Clean Water Act was passed. We wanted to stop polluted rivers. We wanted to stop polluted rivers.

Now, somewhere along the line they decided that we were going to regulate wetlands under the Clean Water Act, and there is a reason to protect wetlands. We all understand that. Any of us that have done our homework understands the reason to protect wetlands, real wetlands. But there is a big difference between differing types of wetlands. I say to the gentleman, What you have in your home State is not the same as what I have in my district.

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What Mr. HAYES has in Louisiana is not the same as what is in my district. You are not giving us the ability to differentiate between those. You are throwing it back to the bureaucrats, throwing it back to the regulators and telling them you are going to make the decision. You are avoiding making the tough policy decisions that have to be made. Let us give it to the bureaucrats.

One of the things that has frustrated me the most about serving in this body is that we intentionally draft legislation to be as vague as possible so that we can always blame it on the regulators. We can always blame it on the bureaucrats. It is always their fault. It is never our fault.

Unless we start making changes like this bill has in it, we will never correct these problems. Make the tough decisions.

Mr. SHUSTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HAYWORTH) having assumed the chair, Mr. MCINNIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 961) to amend the Federal Water Pollution Control Act, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON THE BUDGET TO FILE REPORT ON CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1996

Mr. EHLERS. Mr. Speaker, I ask unanimous consent that the Committee on the Budget have until midnight tonight to file its report on the concurrent resolution on the budget for fiscal year 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HAYWORTH). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MEDICARE AND THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, our Republican colleagues tell us they want to fix Medicare. But I find it curious that fixing Medicare was never a Republican priority until they needed to pay for a $345 billion tax break for the wealthy.

Even now the Republicans have failed to put forth a concrete plan that will ensure the long-term solvency of Medicare without compromising health care costs and quality for our Nation's seniors. All the Republicans have put forward is a proposal to cut Medicare by $285 billion. This plan is all cuts and no reform.

This convenient discovery of a Medicare crisis is nothing but a smokescreen for the real Republican goal: They want to use Medicare as a piggy bank for their tax giveaway to the wealthiest 1 percent of the taxpayers.

The GOP budget takes away $1,060 in Medicare benefits from seniors on fixed incomes to pay for a $20,000 a year windfall to those Americans making over $350,000. Courageous? Hardly.

And, what of the Republican plan for reform? While the Republicans don't mind being specific about tax giveaways and Medicare cuts, they've taken a Let's Make a Deal approach to Medicare reform. They've given us door No. 1, door No. 2, and door No. 3, but they want to pass the buck on who makes the painful choices.

Regardless, it's clear that seniors will be stuck with the booby prizes. Secret documents from the House Budget Committee show that the Republican plan would force seniors to pay more in deductibles, premiums, and copayments.

According to House budget committee documents, options the GOP has proposed would:

Increase the deductible that beneficiaries must pay for doctors' services before Medicare coverage begins. The annual deductible, now $100, would be raised to $150.

Nearly double the monthly $46 premium to $84 by the year 2002. That would be an increase of $456 a year for seniors—just in increased monthly premiums.

Charge co-payments of 20 percent for home health care and laboratory tests.

Republicans call these extra costs for seniors part of the fair shared sacrifice needed to balance the budget. But there's nothing fair and nothing shared about this sacrifice. All the sacrifice will come from seniors, many on fixed incomes who simply can't afford these extra costs. And the benefits go primarily to the wealthy in the form of tax cuts.

It's no wonder that Republican Representative GEORGE RADANOVICH of California said the following: "If we had come out with this budget as our Contract, they wouldn't have voted us in."

Amazingly, while some Republicans are honest enough to admit that balancing the budget will be painful, Speaker GINGRICH claims that $283 billion in Medicare cuts will be painless. The Speaker wants to have it both ways: He claims that the Republican plan saves money and balances the budget, and in the same breath he also claims that this plan increases Medicare spending. These claims beg a simple question: If the Republicans aren't cutting Medicare, then where are the savings?

True, overall Medicare spending in the year 2002 will be more than it is today. But the spending level in the Republican plan falls woefully short of keeping pace with health care inflation or with increased enrollment in the program. The consequence of the Republican plan will be reduced benefits, higher costs, or both. Republicans know this is the case and it's time to come clean with the American people.

These drastic cuts in Medicare have come as a surprise to many Americans. Even to many Americans who voted in the new Republican majority in 1994. Remember the GOP "Contract With America"? Medicare cuts weren't included in the Republican blueprint.

But now that the Republicans have given away all the goodies of the Contract in the first 100 days, they need to find someone to pay for them. And seniors on Medicare are a convenient target. That's what this is all about.

Promises made, promises kept—that's been the Republican rallying call of late. But it seems that Republicans have forgotten our solemn promises to America's seniors.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT), on May 15 and 16, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. UNDERWOOD, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. DELAURO) and to include extraneous matter:)

Ms. PELOSI.
Ms. SLAUGHTER.
Mr. KANJORSKI in two instances.
Mr. POSHARD.
Mr. KENNEDY of Rhode Island.
Mr. VOLKMER.
Mr. RUSH in two instances.
Mrs. MALONEY.
Mrs. MEEK of Florida.
Mr. JOHNSON of South Dakota.
Mr. GEPHARDT.
Mr. GEJDENSON.

(The following Members (at the request of Mr. EHLERS) and to include extraneous matter:)

Mr. BLILEY.
Mr. RAMSTAD.
Mr. BEREUTER.
Mr. HOUGHTON.
Mrs. KELLY.
Mr. DAVIS.
Mrs. MORELLA.
Mr. CRANE.
Mr. FLANAGAN.

ADJOURNMENT

Mr. MCINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until Tuesday, May 16, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

876. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to authorize the Department of Energy to sell Eklutna and Snettisham projects administered by the Alaska Power Administration, and for other purposes; jointly, to the Committees on Resources, Commerce, Ways and Means, the Judiciary, Transportation and Infrastructure, Government Reform and Oversight, and the Budget.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. H.R. 1590. A bill to require the Trustees of the Medicare trust funds to report recommendations on resolving projected financial imbalance in Medicare trust funds (Rept. 104–119, Pt. 1). Ordered to be printed.

Mr. KASICH: Committee on the Budget. House Concurrent Resolution 67. Resolution setting forth the congressional budget for the U.S. Government for fiscal years, 1996, 1997, 1998, 1999, 2000, 2001, and 2002 (Rept. 104–120). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GEPHARDT (by request):

H.R. 1635. A bill to combat domestic terrorism; to the Committee on the Judiciary, and in addition to the Committees on Banking and Financial Services, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLILEY (for himself, Mr. McIntosh, Mr. Condit, and Mr. Stenholm):

H.R. 1636. A bill to provide a more complete accounting of national expenditures and the corresponding benefits of Federal regulatory programs through issuance of an accounting statement and associated report every 2 years, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. CRANE:

H.R. 1637. A bill to amend the Internal Revenue Code of 1986 to repeal the requirement that a taxpayer must receive a ruling from the Secretary of the Treasury in order to determine the deduction for contributions to a reserve for nuclear decommissioning costs, and for other purposes; to the Committee on Ways and Means.

By Mr. DORNAN:

H.R. 1638. A bill to amend the Immigration and Nationality Act to provide that petitioners for immigration classification on the basis of immediate relative status to a citizen shall be required to pay only one fee when such petitioners are filed at the same time; to the Committee on the Judiciary.

By Mr. FRANK of Massachusetts:

H.R. 1639. A bill to amend the Ethics in Government Act of 1978 with respect to honoraria, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Government Reform and Oversight, House Oversight, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida (for himself and Mr. Riggs):

H.R. 1640. A bill to provide a low-income school choice demonstration program; to the Committee on Economic and Educational Opportunities.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Mr. Frazer, Mr. Underwood, and Mr. Ward.

H.R. 66: Ms. Woolsey.

H.R. 70: Mr. Faleomavaega.

H.R. 359: Mr. Hall of Texas, Mr. Fox, Mr. Stenholm, and Mrs. Lincoln.

H.R. 399: Mr. Greenwood and Mr. Clyburn.

H.R. 407: Mr. Roemer.

H.R. 427: Mr. Sensenbrenner, Mr. McHugh, Mr. Laughlin, Mr. Barton of Texas, Mr. Bono, and Mr. Hancock.

H.R. 433: Mr. Gallegly.

H.R. 526: Mr. Heineman, Mr. Funderburk, Mr. Coble, and Mr. Bartlett of Maryland.

H.R. 534: Mr. Frank of Massachusetts, Mr. Engel, Mr. Franks of Connecticut, Mr. Costello, Mr. Brewster, Mr. Cardin, Mr. Hoke, Mr. Torkildsen, Mr. Hyde, Mr. Crane, Mr. Traficant, Ms. Furse, Mr. Bateman, Mr. Coyne, Mr. Oberstar, Mr. Petri, and Mr. Visclosky.

H.R. 580: Ms. Pryce, Mr. Baker of Louisiana, and Mr. Ward.

H.R. 592: Mr. Hefley.

H.R. 713: Mr. Menendez.

H.R. 731: Mrs. Meek of Florida, Miss Collins of Michigan, Mr. Laughlin, and Mr. Bryant of Texas.

H.R. 783: Mr. Jacobs, Mr. Radanovich, Mr. Browder, Mr. Stenholm, and Mr. Quillen.

H.R. 803: Mr. Taylor of North Carolina, Mr. Kennedy of Rhode Island, and Mr. Markey.

H.R. 899: Mr. McCrery, Mr. Hayes, Mr. Zimmer, Mr. Camp, Mr. McCollum, and Mr. Scarborough.

H.R. 927: Mr. McCollum, Mr. Royce, Mr. Dornan, Mr. Calvert, Mr. Shaw, Mr. Gutierrez, and Mr. Duncan.

H.R. 957: Mr. Gilman.

H.R. 1118: Mr. McCrery.

H.R. 1161: Mr. Jacobs.

H.R. 1242: Mr. Latham, Mr. Hobson, and Mr. Tate.

H.R. 1362: Mr. McIntosh, Mr. Moran, Mr. Canady, Mr. Bateman, Mr. Myers of Indiana, and Mr. Quillen.

H.R. 1425: Mr. Torres.

H.R. 1448: Mr. Taylor of Mississippi and Mr. Montgomery.

H.R. 1486: Mr. Radanovich.

H.R. 1490: Mr. Ackerman, Mrs. Schroeder, and Mr. Dornan.

H.R. 1533: Mr. Wamp, Mr. Bono, Mr. Calvert, and Mr. Hefley.

H.R. 1560: Mr. Barrett of Wisconsin, Mr. Coleman, Mr. Conyers, Mr. Durbin, Mr. Serrano, and Mr. Watt of North Carolina.

H.R. 1566: Mr. Neal of Massachusetts.

H.R. 1594: Mr. LoBiondo, Mr. English of Pennsylvania, Mr. Knollenberg, and Mr. Emerson.

H. Con. Res. 35: Mr. Calvert.

H. Con. Res. 42: Mr. Solomon, Mr. Matsui, Mr. Holden, and Mr. Blute.

H. Con. Res. 50: Mr. Holden and Mr. Andrews.

H. Res. 30: Mr. Sanford, Ms. Norton, Mr. Hansen, Mr. Wicker, Mr. Fattah, Mr. Hoyer, Mr. Castle, Mr. Condit, and Ms. McKinney.

H. Res. 138: Mr. Baker of California, Mr. Gutknecht, Mr. Shadegg, Mr. Neumann, Mr. Doolittle, Mr. Upton, Mr. Miller of Florida, Mr. Stearns, Mr. Burton of Indiana, Mr. Bryant of Tennessee, Mr. Zimmer, Mr. Inglis of South Carolina, Mr. Fox, Mr. Ewing, Mr. Chrysler, Mr. Thornberry, Mr. Foley, Mr. Tiahrt, Mr. Stockman, Mr. Chabot, Mr. Metcalf, and Mr. Jones.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1114: Mr. Royce.

H.R. 1120: Mr. Ramstad.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 961

OFFERED BY: MR. RIGGS

AMENDMENT No. 66: On page 276, strike lines 3 through 7 and insert in lieu thereof the following:

"ponds, wastewater retention or management facilities (including dikes and berms, and related structures) that are used by concentrated animal feeding operations or advanced treatment municipal wastewater reuse operations, or irrigation canals and ditches or the maintenance of drainage ditches;".

EXTENSIONS OF REMARKS

POLICE OFFICERS' MEMORIAL

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. RAMSTAD. Mr. Speaker, today is National Peace Officers Memorial Day, a day dedicated to the 13,814 peace officers who have given their lives to protect their communities.

Two years ago I stood in the well of this House to share my grief over the death of a friend of mine, Minneapolis Police Officer Jerry Haaf, who was slain in the line of duty.

At the time, I was haunted by thoughts of another cop friend, J.W. Anderson of the Wayzata Police Department, who was killed in 1982.

The names of these two brave cops are now inscribed on the walls of the National Law Enforcement Officers Memorial, located just a few blocks from here.

Tragically, Jerry and J.W. were just 2 of 17 Twin Cities area police officers who were slain during the line of duty since 1970. Mr. Speaker, because we must never forget their ultimate sacrifice, I want to share these names:

James Sackett, St. Paul; Roger Rosengren, Ramsey County; Inno Suek, Minneapolis; Joseph Pudick, Minneapolis; Howard Johnson, Roseville; George Partridge, Jr., Minneapolis; Curtis Ramsdell, Columbia Heights; David Mack, Minneapolis; Michael Cassman, Minneapolis; Richard Miller, Minneapolis; Bruce Russell, Roseville; Richard Walton, Oakdale; James Anderson, Wayzata; John Scanlon, Robbinsdale; and Jerry Haaf, Minneapolis.

Mr. Speaker, with great sadness I report that two new names will be added to the list of Twin Cities police officers on the walls of the National Law Enforcement Officers Memorial. Just last year, two of St. Paul's finest police officers, Ron Ryan, Jr., and Tim Jones, were slain in the line of duty on the same day. Like all Minnesotans, that tragic day will live in my memory forever.

On Friday, August 26, 1994, Minnesotans were celebrating the first week of the State fair. I was at the State fair in St. Paul early that day, fresh back from Washington.

On the way to the fairgrounds that morning, reports started trickling in about what would soon become forever etched in Minnesotans' memories as one of the worst days in State history for our brave law enforcement officers. Just a few blocks away from the fair, a brave St. Paul police officer, a rookie, Ron Ryan Jr., the son of another St. Paul cop, was answering a routine call about a man sleeping in a car in the parking lot of Sacred Heart Church on Hope Street.

It was the last call he would ever take in a far too brief but decorated career in law enforcement. Witnesses report that Officer Ryan walked up to the car at about 7 a.m., shined his flashlight inside, then walked away. Then the man in the car shot Officer Ryan many times in the back, got out of his car and walked over to Ryan, who lay dying on the ground. He turned him over, went through his pockets, seized Officer Ryan's gun and fled. By 8:30 a.m. 26-year-old Officer Ryan was pronounced dead.

This early-morning shooting set off a massive manhunt. St. Paul Police Officer Tim Jones, a 16-year veteran of the force, had the day off. But when he heard about the slaying of his fellow officer, Jones volunteered to join the manhunt.

Officer Jones and his canine partner, Laser, had become nationally renowned for their law enforcement efforts. At about 10:40 a.m., it appears that Laser tracked down the suspect, who then shot both Officer Jones and Laser to death. It is a sad irony that Officer Jones was shot by the gun that the suspect had taken from Officer Ryan.

Officer Jones had dedicated his life to law enforcement, especially the St. Paul department's canine program. He spent hour after hour, virtually all his free time, working with Laser and other officers in the canine program. Officer Jones and Laser were inseparable in life as they were in their tragic death.

In spite of this tragedy, we can still hope that the war against crime can be won because of the commitment of law enforcement professionals like Officers Ryan and Jones. We have newfound appreciation and respect for the skills, bravery, and dedication of officers like Officers Ryan and Jones. Every day, men and women in law enforcement serve on the frontlines and put the safety of the community ahead of their own lives.

I hope every visitor to our Nation's Capital will visit the Law Enforcement Officers' Memorial at Judiciary Square. Seeing the names carved in the walls will help people realize what cops and their families risk every day they put on the badge.

Mr. Speaker, we honor the dead like Officers Ron Ryan, Jr., and Tim Jones by respecting the living. Today we honor these two Minnesota officers and law enforcement officials everywhere by thanking their families for their sacrifice and sharing their grief.

I also hope the members of this body will honor the memory of slain officers through our actions on this floor. Let us continue to promote policies that help the brave men and women in law enforcement prevent the tragedy of crime and violence.

TRIBUTE TO THE CENTENARIANS OF THE WASHINGTON AND JANE SMITH HOME

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. RUSH. Mr. Speaker, it is my great pleasure to rise today to offer my sincerest congratulations to five truly wonderful women, who on Tuesday, the 16th of May, will receive special recognition from the Social Security Administration for having reached the extraordinary age of 100 years old.

The recipients of this special honor are Ms. Edith Gutridge, Ms. Margaret Van Huben, Ms. Margaret Byrne, Ms. Anna Conner, and Ms. Ruth Kennedy. Each of these distinguished ladies have touched so many people over the years, and they are to be applauded for their achievements over the past century.

I wish to extend to each of them my best wishes on this wonderful occasion, and am proud and honored to enter these words of commendation into the RECORD.

HOGO DECIUTIIS HONORED FOR LIFETIME OF SERVICE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the sad passing of Hugo DeCiutiis: A great American, a life-long educator, and community activist.

Mr. DeCiutiis grew up in Manhattan's Lower East Side until the outbreak of World War II, when he dutifully joined the 8th Army Air Force in England. After the war, Hugo returned home to continue his education; an ongoing pursuit that was destined to encompass the rest of his life.

With help from the GI bill, he graduated from City College of New York, Brooklyn College and Adelphi University with three different masters degrees in chemistry, earth science, and education. Convinced that there could be no higher calling than passing his knowledge on to future generations, Mr. DeCiutiis spent the next 32 years in the classroom, teaching chemistry and science at W.T. Clarke High School in Westbury, Long Island.

Mr. DeCiutiis' passion and devotion to education did not stop at the classroom door. He was an extremely active member of the Westbury School Board, where he distinguished himself as a tireless advocate for funding for public education. He will always be remembered for his efforts to achieve equitable State funding in public schools.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

As a former school teacher, I have the highest degree of respect for those who choose to make education their life's work. Mr. DcCiutiis' accomplishments in the field of education exemplify what it means to be to be a teacher, and like all good teachers, he never stopped trying to become a an ever better educator.

In addition to his direct involvement with education, Mr. DeCiutiis' was also devoted to the betterment of the entire community. He was a tutor at the Family Services Association of Hempstead, a member of the Westbury Historical Society, NAACP, Central Westbury Civic Association, LIFE—Learning is for Everyone—and co-founded the summer day camp GIFT—Great Ideas For Tomorrow—at the Lutheran High School in Brookville.

Mr. Speaker, I would ask that my colleagues join me in saluting Hugo DeCiutiis, and extend our sympathy to his children and family. His life represents the best of American values, and his tireless dedication to educational achievement and public service are an example to us all. Mr. DeCiutiis understood that one person can make a difference in the lives of others, and with that simple tenant, he has left a legacy that we should all hope to emulate.

NUCLEAR DECOMMISSIONING COSTS SIMPLIFICATION ACT OF 1995

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. CRANE. Mr. Speaker, one of the issues that the voters expect this Congress to address relates to the elimination of unnecessary and burdensome Federal requirements and regulations. In that spirit, I am today introducing legislation, the Nuclear Decommissioning Costs Simplification Act of 1995, which will take one small and reasonable step toward simplifying our Tax Code.

Under current law, section 468A of the Internal Revenue Code permits a utility to elect a deduction for the amount of payments made to a nuclear decommissioning reserve fund. The fund must be dedicated exclusively for the payment of costs associated with decommissioning a nuclear power reactor. The amount of the deductible payment for a particular tax year is limited to the lesser of: first, the nuclear decommissioning cost included in the taxpayer's cost of service for ratemaking purposes or, second, the so-called ruling amount as determined by the Internal Revenue Service [IRS]. In order to claim a deduction, the taxpayer must submit a detailed application to the IRS which sets forth the computation of the ruling amount.

It has been indicated to me that the process required by section 468A is the only provision of the Internal Revenue Code in which a deduction is made conditional upon pre-approval by the Secretary of the Treasury. Moreover, preparation of each ruling request costs utilities thousands of dollars in legal and other fees in addition to the $3,000 user fee imposed for filing the ruling request. In many cases, utilities have more than one reactor, in which case the utility must absorb the preparation costs and pay the filing fee several times in a single year. For example, a taxpayer with four reactors that contributes to four reserve funds would incur costs in excess of $50,000 to submit four ruling requests.

Mr. Speaker, perhaps this unique pre-clearance procedure would be necessary if there was a particular risk of fraud, abuse, or miscalculation. However, there is no evidence that any such risk exists or ever has existed for that matter. Nevertheless, the pre-clearance requirement lives on in the Internal Revenue Code. The time has come to recognize that the process that utilities go through to comply with section 468A is entirely computational, and presents no unusual set of circumstances requiring the abandonment of the normal rule that taxpayers take deductions subject to a subsequent audit.

The Nuclear Decommissioning Costs Simplification Act of 1995 is truly a simplification proposal. The bill, if enacted, would modify section 468A by striking the requirement that the taxpayer must request and receive a schedule of ruling amounts from the Secretary of the Treasury as a condition to claiming a deduction for payments to the nuclear decommissioning reserve fund. The bill would not result in larger deductions because the current substantive rule limiting the deduction would remain in place. The proposal simply would have the effect of treating the deduction for amounts paid into the fund in the same manner as other deductions are treated and if, on audit, the IRS determines that an excess amount was deducted by the utility, additional tax payments, interest, and penalties would be imposed.

Mr. Speaker, this reform may not be as dramatic as some others that we have debated in the House this year, but it is no less worthy. The bill I am introducing today is narrowly targeted to relieve utilities of a regulatory requirement that long ago outlived its usefulness. It will neither create a tax loophole nor compromise safety, but it will strike a small blow for sensible deregulation. I am hopeful that this legislation will be considered in the context of tax legislation this year, and I urge my colleagues to support this effort.

TRIBUTE TO PAT SCHNEIDER

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. DAVIS. Mr. Speaker, I rise today to pay tribute to one of Fairfax County, VA's outstanding public school teachers, Mrs. Pat Schneider.

When the executive of a company retires, special dinners, gold watches, and high accolades are the order of the day. However, when some of our public servants retire, few seem to notice.

In Fairfax County, one our school teachers, after teaching for almost 35 years, is retiring at the end of this school year. For 23 years, Mosby Woods Elementary has been the benefit of Mrs. Pat Schneider's excellent teaching skills. Like most teachers, Mrs. Schneider has worn many hats beyond that of the classroom teacher. Before the 1994 school year and the formal addition of a vice principal, Mrs. Schneider would step in as acting principal when needed. Involved with many extracurricular activities, Mrs. Schneider is best remembered as the teacher sponsor of the Student Council Association.

How does a teacher know if he or she has effectively reached their classroom constituents? Of course, test and papers will reflect the academic aspects of successful teaching. However, beyond reaching a child's mind, the best teachers will also touch a child's heart. Mrs. Schneider's success in reaching the hearts of her students is quite evident as former students are always dropping by her classroom to say "hi" and grab a quick hug or word of encouragement.

As Fairfax County loses a teacher of excellence and Mosby Woods a dear friend and colleague, there are no gold watches or black tie dinners but her community offers her a heart felt "thank you," and I know my colleagues join me in honoring her years of service to our kids and thank her for leaving her community a better place for her efforts.

CHICAGO'S NORTHWEST ASSOCIATION OF REALTORS FIGHTS TO PROTECT THE HOME MORTGAGE INTEREST DEDUCTION

HON. MICHAEL PATRICK FLANAGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. FLANAGAN. Mr. Speaker, a home purchase is the largest investment most American families will ever make. American homeowners take pride in their properties and contribute to their communities. Real estate and housing comprise the engine that drives America's economy, accounting for 15 percent of the gross domestic product.

The home mortgage interest deduction on the homeowner's Federal income tax return has proven to be a strong incentive to invest in the American dream of home ownership. The home mortgage interest deduction is a continuous, many decades old tax equalization provision allowed by the Federal Government to home owning American citizens. Eliminating, or further limiting, within the current Federal Tax Code, the home mortgage interest deduction will surely result in a sharp decline in property values and American homeowners experiencing a significant drop in the value of their homes. Eliminating, or further limiting, within the current Federal Tax Code, the home mortgage interest deduction will create a likelihood of a regional or national housing recession.

Depressed housing and real estate markets would result in reduced local tax revenues and less money for our communities to perform such basic services as schools, sanitation, police protection, and firefighting. Depressed housing and real estate markets would quickly result in the need for higher local property taxes. Eliminating, or further limiting, within the Federal Tax Code, the home mortgage interest deduction will result in fewer people buying homes and the destabilization of the foundation of our local communities.

The efforts of the officers, directors, staff and members of Chicagoland's Northwest Association of REALTORS to protect, within the framework of the current Federal Tax Code, the sanctity and integrity of the many decades old home mortgage interest deduction is hereby duly noted. I urge my colleagues in the House and Senate to take no legislative action that would result, under the current Federal Tax Code, in either further limiting, or eliminating, the home mortgage interest deduction afforded to American homeowners.

SCREENING FOR COLORECTAL CANCER: THE PATIENT AND THE PHYSICIAN'S RIGHT TO CHOOSE

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Ms. SLAUGHTER. Mr. Speaker, I rise today to discuss the Colorectal Cancer Screening Act of 1995, and why I became a cosponsor of this legislation. The bill, H.R. 1046, is intended to establish the basis for a comprehensive colorectal cancer screening program in the United States. The bill is designed, however, to leave the important decision about how to screen for colorectal cancer where it belongs—with the patient and his or her physician, not the Federal Government.

Colorectal cancer screening is, as the saying goes, "an idea whose time has come." A number of recent medical studies confirm that the best way to reduce the mortality rate for colorectal cancer is to ensure that more of the approximately 60 million Americans between the ages of 50 and 75 follow the recommendations of the American Cancer Society and be screened every 3 to 5 years for early signs of precancerous polyps in the colorectal area. About 150,000 new cases of colorectal cancer are diagnosed in the United States each year, and more then 60,000 Americans will die from this disease. Thousands of these deaths could be prevented by catching the disease at the earliest possible stage through screening.

The Colorectal Cancer Screening Act of 1995 amends the Social Security Act to include coverage for periodic colorectal cancer screening as a covered benefit under the Medicare Program. This will ensure coverage for screening individuals over the age of 65, and hopefully will lead private health care plans to establish screening programs that start at age 50.

Equally important, the Colorectal Cancer Screening Act of 1995 does not force the Federal Government into the physician-patient relationship with regard to the decision on how to screen for colorectal cancer. The bill permits a number of current screening procedures to be used, and establishes a mechanism through which new technologies can be included as they are developed and can be provided within the reimbursement levels set pursuant to the legislation.

It is critical that we leave the decision on how to screen to the physician and the patient for a number of reasons. First, with regards to current technologies, the medical literature indicates that colorectal cancer screening can be accomplished with a number of different procedures, each of which has distinct advantages and disadvantages. For example, screening with sigmoidoscopy is generally seen as more convenient than the other procedures because it can be performed by a general physician during a comprehensive physical, and costs about $125 to $200. The clear disadvantage of sigmoidoscopy, however, is that it reaches only one-half of the colon and, therefore, is incapable of finding about 50 percent of the cancers and precancerous polyps. As a result, it is impossible for a physician to tell a patient who has been screened with sigmoidoscopy that they do not have colon cancer or precancerous polyps in their colon.

By contrast, the barium sulfate enema examination and colonoscopy are capable of examining the entire colon and can detect between 90 and 95 percent of the polyps and lesions. The disadvantages of these procedures are cost—barium enema charges are about $200 to $350, and colonoscopy charges commonly exceed $1,000—and convenience. In addition, the risks of perforation from colonoscopy are about 10 times greater than for the barium sulfate examination. The Colorectal Cancer Screening Act of 1995 keeps the Federal Government out of the process of deciding which procedure is right for each patient.

The other critical reason to leave individual screening decisions to physicians and patients is that it allows for the development of new technologies. For example, a number of research centers in the United States are working on a new technology for colorectal cancer screening that uses computers to create a virtual reality image of the colon and colorectal area from a single 45-second CAT scan. It has the potential to make colorectal cancer screening more cost-effective, and more accepted by patients than the current alternatives. Unlike other proposals for colorectal cancer screening, the Colorectal Cancer Screening Act of 1995 encourages research and development on these new technologies because it provides a mechanism to have the procedures covered under Medicare when it is ready for patient use.

In conclusion, medical research has provided the evidence to make clear that it is time for the United States to develop a program for colorectal cancer screening. Today, less than 1 percent of all Americans over the age of 65 have ever been screened for colorectal cancer. That has to change.

The goal of the Colorectal Cancer Screening Act of 1995, H.R. 1046, is to cut by 50 percent the number of Americans who die of colorectal cancer—30,000 lives. Including colorectal cancer screening as a covered benefit under Medicare will establish the beginning of a program that can accomplish this goal. I urge my colleagues to examine this legislation, and hope that you will join me as a cosponsor of the bill.

TRIBUTE TO JACK V. CAPPITELLI, JR. AND ROBIN S. SCHWARTZ

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to offer my sincere congratulations to Mr. Jack V. Cappitelli, Jr., and Ms. Robin C. Schwartz. Jack and Robin were wed on Sunday, May 14 in Montclair, NJ.

Jack, who is formerly of Old Bridge, NJ, is the son of Mr. Jack Cappitelli, Sr. and his wife, Mrs. Theresa Cappitelli. From Old Bridge he moved on to enroll at Rutgers University where he graduated in 1990. He went on to study medicine at the New Jersey University of Medicine and Dentistry. Today, Mr. Cappitelli is contributing his services to his local community as a resident physician at the Robert Wood Johnson Hospital in New Brunswick, NJ.

Robin grew up in Cedar Grove, NJ, and is the daughter of Mr. and Mrs. Theodore Schwartz. She graduated from New York University in May 1992 with a masters degree in urban planning. She now serves as a municipal credit analyst at Moody's Investor Service in New York City.

As Jack and Robin begin their new life together I sincerely hope that their years are filled with happiness. I know that they must be excited to begin a journey hand in hand—partners in life. I ask all my colleagues to join me in congratulating Jack, Robin, and both their families while wishing them the best for a long and prosperous life together.

COMMUNITY PSYCHIATRIC CLINIC CELEBRATES 60 YEARS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mrs. MORELLA. Mr. Speaker, on May 17 I will have the honor of participating in the Gala 60th Anniversary Celebration of the Community Psychiatric Clinic [CPC]. The clinic has been a leader in providing high quality mental health services in Montgomery County since its founding in 1935. It remains dedicated to serving those who are most vulnerable among us—abused children, low-income single mothers, immigrant families, and emotionally troubled adolescents.

CPC was founded in 1935 by concerned citizens who recognized the need to bring health services out of metropolitan areas and into the community, to serve people where and when they need help. The inspiration behind this small group of local citizens was a politically active and socially aware suffragist, Lavinia Engle, who became one of Montgomery County's most admired citizens, and who is being honored with a posthumous award by CPC tonight.

The clinic began in then-rural outreaches of Montgomery County in a small office above a bank in Rockville. Services were available 1 day a month and the clinic's initial budget was

$50. In its 60th year, CPC is a $3.6 million agency that will serve more than 4,500 individuals this year.

While these numbers are striking, what is most significant is that CPC has grown in response to the very special needs of our country's population, in particular, the needs of those without a powerful voice of their own. Many of the economic and social changes of the last decade have been particularly felt by women and children and the growing elderly population in our community. As early as the 1960's, CPC had developed an adolescent "drop-in" program. Redl House, a residential facility for troubled boys aged 8 to 12, began in 1982, and Camp Greentree, a therapeutic summer program for 80 emotionally disabled children, will celebrate its 25th anniversary this year.

CPC's commitment to the community continues. Recognizing the emotional strains on many needy families and the difficulties they often face in accessing services, CPC has begun offering school-based programs. Through its outreach efforts, the clinic continues to work with all families in crisis, including adults in work-training programs and elderly persons and their families.

It is with great pride that I join in honoring CPC after 60 years of service. CPC is an example of our community at its best, founded by local citizens, sustained by a dedicated staff and board, and forging new directions through a continued commitment to those in need. I look forward to CPC's next decades, knowing that the clinic will continue to set the pace in responding to the increasingly demanding and complex human needs of the future.

TRIBUTE TO THE CENTENARIANS OF THE WEDGEWOOD PAVILION NURSING HOME

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. RUSH. Mr. Speaker, it is my great pleasure to rise today to offer my sincerest congratulations to three truly wonderful seniors, who on Tuesday, the 16th of May, will receive special recognition from the Social Security Administration for having reached the extraordinary age of 100 years old.

The recipients of this special honor are Mr. Frank Howard, Ms. Mary Simmons, and Ms. Bertha Williams. Each of these distinguished centenarians have touched so many people over the years, and they are to be applauded for their achievements over the past century.

I wish to extend to each of them my best wishes on this wonderful occasion, and am proud and honored to enter these words of commendation into the RECORD.

"A PATTERN OF SLIGHTS TO OUR STRONGEST ALLIES"

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. BEREUTER. Mr. Speaker, as leader of the free world, the United States has been ably joined in our foreign policy pursuits by a number of steadfast friends and allies. Nations such as France and, in particular, Great Britain, have stood by the United States when others remained silent. While international relations have changed dramatically with the end of the cold war, we should understand that we cannot, we must not, take these relationships for granted. Indeed, in the post-cold-war era, the United States can ill afford to slight our friends and allies when a wide range of challenges to our economic and security interests abroad cannot be effectively confronted unilaterally.

Two actions, in particular, have recently frayed the strong ties binding the United States with Great Britain—our staunchest ally in Western Europe. To the consternation of the British Government, the Clinton administration first granted visas to members of the Irish Republican Army and then invited IRA leader Gerry Adams to the White House. Moreover, relations between the United States and its West European allies have been seriously strained as a result of failed efforts to quell the conflict on the Balkan Peninsula. There have been occasions when the Clinton administration proposed major initiatives in Bosnia-Hercegovina without consulting our European allies—nations that have thousands of troops on the ground. Such affronts to our best friends, whether intended or not, are actions that do little but to undermine our long-standing relations with these nations.

Mr. Speaker, this Member would point out that the most recent slight to our European allies occurred during the 50th anniversary of the Allied victory in Europe. As noted in the May 9, 1995, Omaha World Herald editorial entitled "Clinton's Affront to England, France," President Clinton's decision not to participate in the English and French V–E ceremonies was a shabby way to acknowledge those allies that did so much not only to halt Nazi aggression in World War II but to protect the free world during the cold war era. This Member commends this editorial to his colleagues.

[From the Omaha World Herald, May 9, 1995]

CLINTON'S AFFRONT TO ENGLAND, FRANCE

President Clinton showed little loyalty to America's staunchest World War II allies and even less to the lessons of history when he chose to commemorate the 50th anniversary of V–E Day in Moscow rather than with other Allied leaders in more appropriate cities.

Clinton sent Vice President Al Gore to represent the United States in London, Paris and Berlin. This was a shabby way to acknowledge the allies that did so much to save the Free World, allies that after the war formed the Atlantic Alliance to protect freedom in the decades since.

Russian President Boris Yeltsin deserves criticism, too. Yeltsin, whose position as head of the Russian nation is far from solid, was unwilling to celebrate V–E Day outside of Moscow. Yeltsin should not have forced Clinton into such a choice.

Just as the "Big Three" leaders of World II, Franklin Roosevelt, Winston Churchill and Josef Stalin, met together during the war, so today's American, British and Russian leaders should have stood together on the 50th anniversary of V–E Day.

Yeltsin should not have set up such a situation, and Clinton should not have allowed himself to be manipulated so cynically with a schoolyard me-or-them ultimatum.

Certainly, the Soviets paid dearly in blood and treasure in order to defeat Germany on the Eastern Front. And yes, this was integral to the Allied victory. Moscow, however, embraced virtue only out of necessity.

Despite Allied efforts to enlist the Soviets, Stalin initially signed a nonaggression pact with Germany. Only when Hitler violated that pact by invading the Soviet Union did Stalin come to his senses.

Through it all—betrayal by Stalin, the fall of France, the blitz, the darkest days of the war—England and her people refused to waver. In his ultimately unsuccessful plea that the Vichy government not give in to the Nazis, Churchill reminded everyone of how much was at stake in the war against Hitler:

> "If we can stand up to him, all Europe, may be freed and the life of the world may move forward into broad, sunlit uplands. But if we fail, the whole world, including the United States and all that we have known and cared for, will sink into the abyss of a new dark age."

Clinton chose not to honor this rich and moving legacy during the commemoration of V–E Day. It was an affront to the people of England and the people of France.

HEATHER WILLIS, VOICE OF DEMOCRACY WINNER

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. VOLKMER. Mr. Speaker, I rise today to honor a high school senior from Bowling Green, MO—Heather Willis. Heather has been named a national winner in the 1995 Voice of Democracy Program and the recipient of the Robert A. Stock Memorial Scholarship. The Voice of Democracy program is sponsored each year by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary, asking high school seniors to write and record a 3–5 minute essay on a patriotic subject.

I believe that Heather's essay, "My Vision of America," is an excellent example of what we hope our children are learning in school: An understanding of the principles on which this country was founded and the realization that we all have a part to play in its continued greatness.

I feel that Heather, the daughter of two school principals—Keith and Charlene Willis, has clearly demonstrated a maturity beyond her years. She's hoping to attend Missouri University-Columbia to pursue a career in either law or journalism, and I am sure she will excel in either field.

I urge my colleagues to take a few minutes to read this very thoughtful essay.

MY VISION FOR AMERICA

It was a single candle that lit mine, and in the chain of events, I lit another until finally the room was filled with illuminated faces.

Many of you have seen it at a candlelight service. A dark room lit by the flame of one candle, the light growing brighter and brighter as the flame is passed.

It always amazes me that the instigation of one small spark, one small idea, one person, can make such a difference in a chain of events. If one did not start such an event, would anything be accomplished?

The United States of America is considered to be one of the most powerful and influential nations in the world. It has been constructed in this fashion because of the power given to its people.

Out of all the people who started this nation, there stood out among them a number of sparks that passed on the flame of a dream.

A man, who would not allow our country to be suppressed under England's rein, led a convention of independence. His ideas struck many others and together, the land we call home was granted independence.

A president who believed a nation should stick together. A president who said, "With malice toward none, With charity for all." A president who freed a race, helped make our country what it is today.

A song writer, who watched the flag of our nation withstand the firing of guns and the storms of the sky believed that the nation this flag represented had to be just as strong. He wrote what today brings thousands of Americans to tears, what today unites a nation. Something as simple as a song.

The hopes and dreams of our nation have solely depended on a people to make them reality. We have the power to make or break our nation. Our forefathers have handed us the torch—it is our turn to pass it on.

Where do we start? We start with me—we start with you.

A dream is a wonderful thing to have, that is unless it stays just that—a dream.

What is that man had not pursued his dream for independence? What if that president had not pursued his vision? What if?

My vision, and hopefully yours, is that we as families, as communities, as a nation, as a people, start working together as a unit. We, as a people, need to understand that as long as we have dreams, there is always room for reality—but if we keep fighting each other there will never be peace. If the notes were never written, there would never have been a song.

You and I are the future of this nation—let's not let it down. We need to look deep within ourselves and believe that as one person, we have the power to make a difference.

Our late president John F. Kennedy once said that "One person can make a difference . . . and each of us must try."

I challenge you to take your hopes and dreams for this nation and ignite the imagination of those around you. Your ideas may fan a flame and America will brighten. The light will grow because of you.

One writer has observed that: Rosa Parks was just one person. She said one word. She said it on December 1, 1955. She said it to a bus driver. The word was no. She said one word and a nation blushed. One word and a world talked. One woman said one word and 17,000 people walked.

Yes, "One person can make a difference . . . and each of us must try."

My vision is to illuminate a nation—one step at a time. In order to start this fire, I need you, my neighbor, to pass on the flame. America needs you to pass the flame. We, the citizens of the most powerful nation in the world, must become an international source of light, each person holding the flames of a dream, and then we as a nation can set a world on fire.

WEST VALLEY ACHIEVES SAFETY MILESTONE

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. HOUGHTON. Mr. Speaker, I'd like to extend my congratulations to the workers at the West Valley demonstration project in the 31st District of New York. They have completed 1 full year—over 2 million work hours—without losing 1 day due to a work related accident.

The West Valley demonstration project, created in 1980, is addressing both a local and national need for radioactive waste management technology.

At the project, the Department of Energy is developing and implementing technology to safely solidify the liquid high-level radioactive waste that is currently stored at the site.

When the project started in 1982, a team of 50 employees began building the team that has developed, installed, tested, and is now preparing for fully remote operation of a unique vitrification system.

By 1996, the system will begin solidifying the liquid high-level waste at the site into durable, solid glass suitable for safe storage and disposal.

West Valley's safety and technology achievements are a real tribute to western New York workers, and their dedication to quality and performance.

I join many others in congratulating the employees of the West Valley demonstration project for a job will done.

TRIBUTE TO LEE J. KAUPER, DIRECTOR OF THE FRANKLIN DELANO ROOSEVELT VETERANS HOSPITAL

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mrs. KELLY. Mr. Speaker, I rise today to pay tribute to Lee J. Kauper—a resident of the 19th Congressional District—who will soon be retiring from his post as the director of the Franklin Delano Roosevelt Veterans Hospital in Montrose, NY. His contributions to those in and around his facility have been seemingly limitless.

Appointed director of the veterans hospital on June 2, 1991, he has promoted an active and innovative agenda. The Westchester County facility provides tertiary psychiatric care and primary medical services in conjunction with long-term care and substance abuse treatment. The 800-bed facility is the fifth largest public employer in the country with more than 1,400 full-time staff. And in excess of 70,000 outpatient visits are logged each year.

He has dedicated the better portion of his life to the service of his country, first as a member of our Nation's military and then later on as an administrator caring for our Nation's veterans.

Aside from these personal accomplishments, Mr. Kauper is an active member of his community—a member of the Peekskill Rotary Club, vice chair of the Federal Executive Board, a board member of the Combined Federal Campaign, a board member of the Peekskill Chamber of Commerce, a member of the Northern Metropolitan Hospital Association, a member of the American Legion Advisory Board, and the list goes on and on.

The America we all know and love is typified by the spirit of dedication to the preservation of the community. The idea of individual sacrifice has long been ingrained in our national identity, and its individuals such as Mr. Kauper, who so ably maintains this tradition.

Both the patients and staff of the Franklin Delano Roosevelt Veterans Hospital and the people of Westchester County have a great deal to be thankful for in having people such as Mr. Kauper preserving this ideal. In this spirit Mr. Speaker, I urge my colleagues to join me in offering my personal congratulations and heartfelt thanks to Mr. Kauper, not just as Members of Congress but as members of one community—America. Mr. Speaker, on behalf of the friends, colleagues, and admirers of Lee Kauper, I hereby express my heartfelt appreciation for his years of service and recognize the joyous occasion of his retirement.

IN MEMORY OF ELIZABETH GLASER

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Ms. PELOSI. Mr. Speaker, Sunday was Mother's Day. I rise to honor the memory of Elizabeth Glaser, a brave and loving mother who led national efforts to call attention to pediatric AIDS.

Elizabeth went door to door in Congress to make the case for increased funding for pediatric AIDS research. Her moving speech at the Democratic Convention in New York inspired the Nation. Her relentless advocacy led to major increases in funding for pediatric AIDS research and congressional attention to pediatric AIDS prevention and patient care concerns.

Thursday, May 11, Members of Congress, administration officials, and pediatric AIDS advocates appeared before the Commerce Committee to present views on preventing HIV transmission from mothers to newborns. The hearing highlighted all that Elizabeth accomplished through her work. The focus of the hearing was to find ways to implement remarkable research findings from the National Institutes of Health [NIH] where researchers developed medical treatments to reduce from 25 to 8 percent the number of newborns infected by their mothers during pregnancy and delivery.

Elizabeth Glaser's advocacy had led to this research that will give thousands of infants the opportunity for a healthy life. We lost Elizabeth to AIDS last December. But her legacy is with us and is cause for honoring her memory on Mother's Day.

H.R. ——, THE REGULATORY ACCOUNTING ACT OF 1995

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. BLILEY. Mr. Speaker, today I am introducing H.R. ——, the Regulatory Accounting Act of 1995. The Regulatory Accounting Act of 1995 provides an important tool to understand the magnitude and impact of Federal regulatory programs on our economy. Currently, the executive branch and Congress devote a great deal of time and effort to prepare and debate the annual budget of the Federal Government. This budget determines how much money the Federal Government will collect and where it will spend the money. The budget for fiscal year 1995 is approximately $1.5 trillion.

The Federal budget, however, fails to take into account the full impact of Federal programs on the U.S. economy. The Federal Government also imposes tremendous costs on the private sector, State and local governments and, ultimately, the public through ever-increasing Federal regulations. Some recent estimates place the compliance costs from Federal regulatory programs at over $600 billion annually and project substantial growth even without new legislation. This amounts to $6,000 per year per family. The costs are often hidden in increased prices for goods and services, loss of international competitiveness in the global economy, lack of investment in private sector job growth, and pressure on the ability of State and local governments to fund essential services, such as crime prevention and education.

The benefits of Federal programs are no doubt substantial. Lack of accountability and regulatory reform, however, has left many Federal programs inefficient or marginally productive. Unlike the private sector, where freedom of contract and free market competition drive price and quality, Federal programs are only accountable through the political process. Moreover, historically, both Congress and the executive branch have driven growth in Federal regulatory programs, creating layer upon layer of bureaucracy at great cost and with diminishing returns for the American people. If Congress and the executive branch do not take concrete steps to reform these programs, the United States will surely decline in the world economy. Consequently, the quality of life for our children will also decline.

The Regulatory Accounting Act of 1995 is an important management tool to evaluate the cumulative impacts of regulatory programs through an accounting of national expenditures and statements of corresponding benefits for each regulatory program. The cumulative impact of regulatory costs must be debated at the same level that taxing and spending are debated; after all, they are all driven from the same two sources—the private sector and the American people. Rule-by-rule evaluations are insufficient to capture cumulative impacts or manage national expenditures. Moreover, a national debate that focuses solely on the $1.5 trillion Federal budget without accounting for the additional $600 billion in annual regulatory costs is an incomplete and uninformed debate that leads to poor national policy and management of resources.

What is needed is an accounting tool that allows the Federal Government to fully understand the cumulative impact of Federal programs. The Regulatory Accounting Act would provide such a tool. The bill requires the President to provide an accounting statement every 2 years respecting the costs of regulation to the private sector and State and local governments, and Federal Government costs by program or program element. The President would also provide quantitative or qualitative statements of corresponding benefits. Such an accounting offers the opportunity for comprehensive analyses of impacts on our economy through an associated report. The bill also provides for input from the public and opportunities to identify areas for regulatory reform.

The legislation changes no regulatory standard or program. It will, however, provide vital information to Congress and the executive branch so they may fulfill their obligation to ensure wise expenditure of limited national economic resources in all regulatory programs.

SALUTE TO THE UNIVERSITY OF SOUTH DAKOTA'S DISASTER MENTAL HEALTH INSTITUTE

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, I would like to take this opportunity to commend the University of South Dakota for taking part in an effort to assist children with their pain and fear over the horrible and cruel bombing of the Oklahoma City Federal Building. This monstrous act, which killed and injured so many of our fellow citizens and brought sadness to so many Americans, has also scared and altered the innocent minds of our children. In contrast to this heinous act of cruelty, countless men and women all over our country have unselfishly given their time and prayers to those affected by bombing, and I am particularly proud of the University of South Dakota's efforts to comfort and ease the pain of children who feel unsafe as a result of the Oklahoma City bombing.

The University's Disaster Mental Health Institute has teamed up with the American Red Cross, the American Psychological Association, AT&T, and other health professionals from the region to operate the Children Heal Hotline, a 5-day nationwide crisis telephone line for children. I am extremely proud of USD's efforts to pull America together in order to help our children and I think the establishment of the crisis line for children is an excellent example of how people and organizations all over our country have come together to do what ever possible to offer assistance to our fellow citizens who are victims of the tragedy which took place in Oklahoma City.

The Disaster Mental Health Institute at USD has reached out and helped countless South Dakotans deal with the floods and related difficulties associated with the floods of the past years and I am pleased that other Americans will benefits from the great work done at the Institute. It is organizations like USD, and their efforts, which give us hope for our future, and restore our faith in mankind. I ask my colleagues to join me in recognizing and saluting the University of South Dakota for their outstanding service and devotion to our children.

TRIBUTE TO STANLEY G. TATE AND THE FLORIDA PREPAID COLLEGE PROGRAM: COLLEGE EDUCATION FUNDING MODEL FOR THE NATION

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mrs. MEEK of Florida. Mr. Speaker, in 1987, the Florida Legislature created the Florida Prepaid Postsecondary Education Expense Program to allow families to prepay college tuition and housing expenses for their children at a lower rate than the projected costs at the time of enrollment.

As a member of the Florida State Senate, I strongly supported this innovative program to help parents assure quality college educations for their children.

A driving force behind the program, and a key reason for its outstanding success, is the chairman of the board of the Florida Prepaid Postsecondary Education Expense Program, Stanley G. Tate. Mr. Tate has worked tirelessly in the legislature, in our Dade County community, and in our State to make this program the model for the Nation that it is today. His guidance, expertise and energy has helped make the program what it is today.

As of this year, the Florida Prepaid College Program has a surplus of $106 million—which continues to increase—with net assets in excess of $1 billion. Over 325,000 contracts have been sold, assuring Florida youngsters fully paid tuition when they are ready to go to college. Once again, the program has been declared actuarially sound by its auditors.

Of particular importance to me is the steps that are being taken to increase awareness of and participation in the program in minority communities throughout the State. Advertising in minority markets has been increased, and minority participation is at its highest level ever. In addition, the Florida Prepaid College Foundation's Project STARS [Scholarship Tuition for At-Risk Students] has received matching funding of $1 million from the State of Florida to provide college scholarships for economically disadvantaged students. The $1 million will be combined with $1 million in private sector donations to provide 950 scholarships for such students throughout the State.

Mr. Speaker, I salute the Florida Prepaid Postsecondary Education Expense Board and commend this excellent program to my colleagues for their consideration.

PERSONAL EXPLANATION

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. WATTS of Oklahoma. Mr. Speaker, on rollcall Nos. 324 and 328, I missed these votes on May 12 due to some important business in the District. I would have voted "no" on rollcall vote No. 324 and "yes" on rollcall vote No. 328.

THE ANTITERRORISM AMENDMENTS ACT OF 1995

HON. RICHARD A GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. GEPHARDT. Mr. Speaker, today I am pleased to introduce the President's antiterrorism legislation in the House, to help ensure that America never endures the kind of tragedy which shook Oklahoma City on April 19.

What happened in Oklahoma City was an unforgivable act of cold-blooded cowardice. There is no posture or principle which justifies the ruthless killing of innocent children. There is no cause or commitment which excuses such random death and destruction.

We must do more than merely convicting those responsible for this horrific act of violence, and bringing them to swift and certain punishment. We must serve warning to all who would use extremist means to advance their extremist ideas: We will use the full force of our laws to find them, to punish them, and to rid our society of their hateful acts. And when those laws aren't enough, we'll write tough new laws to rein in their wanton bloodshed and terrorism.

That is why this legislation is so important. It will help our law enforcement agencies root out terrorism more quickly and effectively, to help make the atrocities of Oklahoma City a closed chapter in our Nation's history.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 16, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 17

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings to examine the National Academy of Public Administration's study on the Environmental Protection Agency.

SD–G50

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the National Park Service, Department of the Interior.

SD–192

Armed Services

To hold hearings on the national security implications of U.S. ratification of the Strategic Arms Reduction Treaty (START II).

SR–222

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

Finance

To continue hearings on the fiscal solvency of Medicare and the status of the program's delivery of health care services, focusing on methods to preserve and improve the Medicare program.

SD–215

10:00 a.m.

Foreign Relations

Business meeting, to mark up proposed legislation to authorize funds for and to reorganize the State Department.

SD–419

Governmental Affairs

To hold hearings to examine proposals to reorganize the Executive Branch.

SD–342

Joint Economic

To hold hearings to examine the use of the flat tax, focusing on the potential for economic growth.

SD–106

10:30 a.m.

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Legal Services Corporation.

SD–116

2:00 p.m.

Armed Services

Acquisition and Technology Subcommittee

To resume hearings on S. 727, to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, and to prescribe military personnel strengths for fiscal year 1996, focusing on dual-use technology programs.

SR–232A

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

2:30 p.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on environmental programs.

SD–192

MAY 18

9:30 a.m.

Energy and Natural Resources

To hold hearings to examine the administration of timber contracts in the Tongass National Forest and administration of the Tongass Timber Reform Act of 1990.

SD–366

Finance

To resume hearings to examine various flax tax proposals.

SD–215

Governmental Affairs

To continue hearings to examine proposals to reorganize the Executive Branch.

SD–342

Rules and Administration

To resume hearings to examine management guidelines for the future of the Smithsonian Institution.

SD–106

Small Business

To hold hearings to examine the Small Business Administration's 7(a) business loan program.

SD–628

Indian Affairs

To hold oversight hearings on the recommendations of the Joint Department of the Interior/Bureau of Indian Affairs/Tribal Task Force on Reorganization of the Bureau of Indian Affairs.

SR–485

Joint Economic

To hold hearings to examine issues relating to economically-targeted investments.

2226 Rayburn Building

10:00 a.m.

Foreign Relations

Business meeting, to mark up proposed legislation authorizing funds for foreign assistance programs.

SD–419

Judiciary

Business meeting, to consider pending calendar business.

SD–226

10:30 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs.

SH–216

1:00 p.m.

Armed Services

SeaPower Subcommittee

To resume hearings on S. 727, authorizing funds for fiscal year 1996 for military activities of the Department of Defense and the future years defense program, focusing on the Marine Corps modernization programs and current operations.

SR–232A

2:00 p.m.

Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Institutes of Health, Department of Health and Human Services.
SD–138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Treasury Department, and the Federal Election Commission.
SD–192

Energy and Natural Resources
Energy Production and Regulation Subcommittee
To hold hearings on proposed legislation to extend the deadlines of certain hydroelectric projects, including S.283, S.468, S.543, S.547, S.549, S.552, S.595, and S.611.
SD–366

3:00 p.m.

Armed Services
Strategic Forces Subcommittee
To resume hearings on S. 727, to authorize funds for fiscal year 1996 for military activities of the Department of Defense and the future years defense program, focusing on bomber force issues.
SR–222

MAY 19

9:30 a.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Housing and Urban Development.
SD–192

Labor and Human Resources
Education, Arts and Humanities Subcommittee
To hold hearings to examine adult education programs.
SD–430

MAY 22

2:00 p.m.

Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Architect of the Capitol, and the Government Printing Office.
SD–116

Governmental Affairs
Post Office and Civil Service Subcommittee
To resume hearings on Federal pension reform, focusing on how Federal pension plans compare to private sector plans.
SD–342

MAY 23

9:30 a.m.

Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on Federal nutrition programs.
SR–328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on financial management.
SD–192

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on NASA's Space Station Program.
SR–253

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 620, to direct the Secretary of the Interior to convey, upon request, certain property in Federal reclamation projects to beneficiaries of the projects and to set forth a distribution scheme for revenues from reclamation project lands.
SD–366

Indian Affairs
To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.
SR–485

2:30 p.m.

Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings to review the Department of the Interior's programs, policies and budget implications on the reintroduction of wolves in and around Yellowstone National Park.
SD–366

MAY 24

9:30 a.m.

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Fish and Wildlife Service, Department of the Interior.
SD–192

Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine international aviation policy.
SR–253

Governmental Affairs
Oversight of Government Management and The District of Columbia Subcommittee
To hold oversight hearings on aviation safety.
SD–342

10:00 a.m.

Agriculture, Nutrition, and Forestry
Research, Nutrition, and General Legislation Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on research and the future of U.S. agriculture.
SR–328A

MAY 25

9:30 a.m.

Energy and Natural Resources
To hold hearings on S. 638, to authorize funds for United States insular areas.
SD–366

10:00 a.m.

Agriculture, Nutrition, and Forestry
Marketing, Inspection, and Product Promotion Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on Federal farm export programs.
SR–328A

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for military construction programs of the Department of Defense, focusing on Army and certain Defense agencies.
SD–192

Finance
Social Security and Family Policy Subcommittee
To hold hearings to examine the financial and business practices of the American Association of Retired Persons (AARP).
SD–215

2:00 p.m.

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on property line disputes within the Nez Perce Indian Reservation in Idaho.
SD–366

MAY 26

10:00 a.m.

Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the General Accounting Office, and the Office of Technology Assessment.
SD–116

JUNE 6

9:30 a.m.

Agriculture, Nutrition, and Forestry
Forestry, Conservation, and Rural Revitalization Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on resource conservation.
SR–328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on intelligence programs.
S–407, Capitol

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Interior.
SD–138

Energy and Natural Resources
Energy Production and Regulation Subcommittee
To hold hearings on S. 708, to repeal section 210 of the Public Utility Regulatory Policies Act of 1978.
SD–366

2:00 p.m.

Joint Printing
To hold oversight hearings on the activities of the Government Printing Office (GPO).
1310 Longworth Building

JUNE 7

9:30 a.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Service and the Selective Service System.
SD–192

10:00 a.m.
Judiciary
Youth Violence Subcommittee
To hold hearings to examine the welfare system's effect on youth violence.
SD-226

JUNE 13

9:30 a.m.
Agriculture, Nutrition, and Forestry
Production and Price Competitiveness Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.
SR-328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on health programs.
SD-192

JUNE 15

9:30 a.m.
Agriculture, Nutrition, and Forestry
Production and Price Competitiveness Subcommittee
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.
SR-328A

JUNE 20

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on counternarcotic programs.
SD-192

JUNE 27

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense.
SD-192

SENATE—*Tuesday, May 16, 1995*

(Legislative day of Monday, May 15, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, whose dwelling place is the heart that longs for Your presence and the mind that humbly seeks Your truth, we eagerly ask for Your guidance for the work of this day. We confess anything that would hinder the flow of Your spirit in and through us. In our personal lives, heal any broken or strained relationships that would drain off creative energies. Lift our burdens and resolve our worries. Then give us a fresh experience of Your amazing grace that will set us free to live with freedom and joy.

Now Lord, we are ready to work with great confidence fortified by the steady supply of Your strength. Give us the courage to do what we already know of Your will, so that You will give us more for the specific challenges of this day. In the debate of crucial issues, help us to listen attentively to each other. May we never think we have an exclusive corner on the truth. Enable us to be open to aspects of the truth You will provide through the voices of those who may differ with us. Our dominant desire is for Your best in the contemporary unfolding of the American dream. Lead on, O King Eternal, Sovereign of this land. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. CHAFEE. Mr. President, the leader time has been reserved, and the Senate will immediately resume consideration of S. 534, the solid waste disposal bill. We will proceed under the provisions of the consent agreement reached on Friday. Senators should be aware that rollcall votes are expected this morning, possibly as early as 10:30 a.m., on or in relation to the amendments to the solid waste disposal bill.

Following the disposition of the solid waste bill, the Senate will resume consideration of S. 395, the Alaska Power Administration bill. A cloture motion was filed on that measure yesterday, and Senators will have until 2:30 p.m. this afternoon to file first-degree amendments to S. 395.

The Senate will recess between the hours of 12:30 p.m. and 2:15 p.m. for the weekly policy luncheons to meet.

Under the previous order, Mr. President, the Senator from Washington, Senator MURRAY, has an amendment and she has 1 hour on that equally divided in the usual form.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The PRESIDING OFFICER (Mr. CAMPBELL). The Senate will now resume consideration of S. 534, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington is recognized to offer an amendment, on which there will be 1 hour equally divided. The Senator from Washington is recognized.

AMENDMENT NO. 1079

Mrs. MURRAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself and Mr. GORTON, proposes an amendment numbered 1079.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Title II, following section (f) State Solid Waste District Authority, add the following section (g) and reletter all the following subsections accordingly:

"(g) STATE MANDATED SOLID WASTE MANAGEMENT PLANNING.—A political subdivision of a State may exercise flow control authority for municipal solid waste, and for voluntarily relinquished recyclable material that is generated within its jurisdiction, if State legislation enacted prior to January 1, 1990 mandated the political subdivision to plan for the management of solid waste generated within its jurisdiction, and if prior to January 1, 1990 the State delegated to its political subdivisions the authority to establish a system of solid waste handling, and if prior to May 15, 1994:

"(1) the political subdivision has, in accordance with the plan adopted pursuant to such State mandate, obligated itself through contract (including a contract to repay a debt) to utilize existing solid waste facilities or an existing system of solid waste facilities; and

(2) the political subdivision is currently undertaking a recycling program in accordance with its adopted waste management plan to meet the State's solid waste reduction goal of fifty percent; and

(3) significant financial commitments have been made, or, bonds have been issued, a major portion of which, were used for the construction of solid waste management facilities.

On page 65, line 10, strike "or (e)" and insert "(e) or (f)."

Mr. CHAFEE. Mr. President, I wonder if the Senator will yield for a quick question. It is my understanding that this amendment she filed is the same as the one she previously circulated, except the previous one had in it additional waste besides solid waste. I think it had construction debris; is that correct?

Mrs. MURRAY. Mr. President, the amendment that I sent to the desk is slightly modified and has been worked out with the committee.

The PRESIDING OFFICER. The Senator may proceed.

Mrs. MURRAY. Mr. President, this morning I rise with my colleague from Washington, Senator GORTON, to offer an amendment to the Interstate Transportation of Municipal Solid Waste Act of 1995.

Let me begin by saying that I appreciate the attempts the managers of this bill have made to accommodate the wide array of waste management systems there are around the country. My colleagues from Connecticut, Florida, Virginia, Delaware, and most recently, from Vermont have found ways to amend this legislation so that the uniqueness of their local systems is recognized within the scope of this legislation. Senator GORTON and I want to ensure that Washington's communities have the same latitude to continue progressively implementing solid waste management systems.

Washington's municipal solid waste management system is a good one. All municipal waste systems comply with the States' comprehensive waste management plan. This plan delegates authority over solid waste management to the State's counties, cities, and towns. These entities, in turn, manage public systems or contract with private industries to handle all municipal solid waste and recycling.

The specifics of each system differ, from county to county, and from county to city, and from city to town; but

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

all share the common elements of minimizing costs and adhering to the State's mandated recycling goals.

In Washington, according to our State plan, local governments manage solid waste, including recyclables, by way of an integrated system of facilities. The city of Seattle, King County, Spokane County, Snohomish County, Clark County, and Okanogan County, and other jurisdictions use flow control authority in their systems. In this arrangement, the interplay between county ordinances, town and city ordinances, health district regulations, local agreements, and private contracts all play a role.

Although the Supreme Court's decision sent a new wave of insecurity about the future rippling through the public sectors of waste management, Washington State actually began thinking about these issues long ago. We have set a progressive waste management agenda for ourselves that has been nationally heralded and emulated.

In 1989, while I was a State senator, we embraced the growing crisis over solid waste management when we passed the Waste Not Washington Act. Among other things, this plan established the statewide goal of 50 percent recycling. Now, we have the lowest cost recycling systems in the country and the lowest cost disposal systems in the Pacific Northwest.

In Washington State, we are on the cutting edge of recycling. Let me give a few examples of what this means in terms of the waste stream. Statewide, we recycle 56 percent of all newspaper, 57 percent of high grade paper, 52 percent of cardboard, 50 percent of all yard waste, and about 73 percent of all metals.

The city of Seattle's residential recycling rate was 48 percent in 1993. The commercial recycling rate was 45 percent. Eighty-three percent of all newspapers are recycled in Seattle, as is 70 percent of all cardboard, 77 percent of all high grade paper, 68 percent mixed paper, 70 percent of all aluminum, and over 50 percent of all glass recycled.

Curbside programs are currently available to over 70 percent of Washington State's population; and in urban counties and cities, there is almost 100 percent available curbside recycling. The city of Seattle has had a curbside recycling program since 1987.

Not only does Washington State exceed current national standards, it is well beyond the targets of this bill.

The ways we got there were by allowing local communities the flexibility to establish the waste systems they needed. In the future, attaining our recycling goal of 50 percent will depend on the ability to continue managing our waste systems as well as we do now.

Our amendment is for Washington. It would ensure that Washington's counties, towns, and cities will be able to meet the commitments they made when they understood that flow control was a legitimate power.

Millions of dollars' worth of bonds, issued for facility development, could be defaulted upon if Washington's local communities lose the ability to service their waste management debts due to the loss of flexibility to guarantee a reliable waste stream.

In Washington, many communities have issued municipal bonds to pay for the construction of solid waste facilities. These bonds are outstanding. The committee's substitute only partially protects the commitments in communities like these.

In Snohomish County, for instance, improvements to the system were financed through a combination of revenue bonds and general obligation bonds. These debts were assumed with the expectation that solid waste revenues would be used to service them. As of 1995, Snohomish County has issued $26.7 million in general obligation bonds, scheduled to be paid back by 2007. As the bill is currently written, only the revenue bonds of Snohomish could be paid back.

The burdens of these debts will fall on the users of the system—the taxpayers. As we at the Federal level of Government are shifting more and more financial responsibility on local governments, restricting the ability of local governments to manage their solid waste systems is not a good solution.

As it is written, this bill steps all over the jurisdictions of our local authorities. It will raise taxes. It will ruin one of the most effective recycling programs in the Nation, and it will throw many communities in our State into financial jeopardy. This one-size-fits-all approach will not work.

Our amendment is within the scope of this bill—it only grandfathers existing systems and facilities. We do not ask for any extension of the sunset of flow control.

I encourage the passage of this amendment, and in turn, the passage of this legislation.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, I am puzzled, perhaps even bewildered at the necessity to speak here on behalf of an amendment for my State and Senator MURRAY's—an amendment designed under the parameters of a bill simply to allow the continuation of a flow control regime in our State which may very well have been the most successful of any State in the United States of America in reducing the amount of solid waste which is not recycled.

This bill, of course, responds to a decision of the U.S. Supreme Court. That decision invalidated flow control regimes all across America on the grounds that a State or municipality which directed or funneled the flow of its waste materials violated the dormant provisions of the interstate commerce clause. That is to say, States and local communities could not impact interstate commerce by flow control regimes in the absence of authority from the Congress of the United States. The Supreme Court, of course, invited the Congress to legislate in this area, and that is precisely what this bill does.

The bill attempts to recognize the fact that many States already have flow control regimes. And while it wishes to move them out of those present regimes toward a greater degree of competition in the private sector, it nonetheless recognizes many, but not all, existing obligations. And that is the defect which leads to this amendment.

While the bill recognizes and grandfathers for an extended period of time of up to 30 years regimes for single facilities financed by revenue bonds, it does not exempt systems of facilities financed in whole or in part by general obligation bonds. Beginning long before this bill was thought of, that was the method adopted by the State of Washington's system of facilities, generally speaking, financed by general obligation bonds; that is, bonds which were a call or a lien on taxpayers through the property that they own in particular counties.

So all Senator MURRAY and I propose to do is to provide a narrowly defined fix by defining the nature of the State statute that covers, in a way, only the State of Washington and allow the continuation of its present regime for roughly the same period of time that it has allowed for other States in this bill.

Nothing, Mr. President, could be more reasonable. One size does not fit all when we are legislating in a field which the States have occupied. One size certainly does not fit all when we are dealing with a State that has been as progressive and as successful with its flow control regime as has the State of Washington.

Now, at one level this debate has already taken place. It took place last Thursday at the beginning of the discussion of this bill with the amendment proposed by the two Senators from Vermont for a special circumstance found in Vermont. This body accepted that Vermont amendment by a relatively close rollcall vote.

This proposal is considerably narrower than that proposed by the two Senators from Vermont, because theirs talked about prospective systems not in existence at the present time; ours talks about existing systems which are in place, in operation, and have already been financed.

Ours requires that significant financial commitments have been made or bonds have been issued, a major portion of which were used for the construction of solid waste facilities—a much more specific definition than that in the Vermont amendment. Nor can we come up with a single exception for a single county. Our counties and cities have been given fairly broad discretion in this field, and different metropolitan counties in the State of Washington have had subtle but distinct differences in the way in which they exercise flow control requirements.

But I can say, Mr. President, that for those who feel that this should be a competitive field, not single-source contracts, that is exactly what the State of Washington does. The management of our solid waste is conducted on a competitive bid basis.

So, Mr. President, we, the two Senators from Washington, are here simply to request the right to continue to do what we have already been doing so successfully—to pay off our bonds and to be subject to the provisions of this bill under essentially the same circumstances as are allowed other States, States to which the members of the committee paid some attention in drafting the bill in the first place.

Mr. President, just as this was appropriate for those that were included in the bill in the first place on single State bases, those which have been added without controversy, that which was added by the amendment of the Senators from Vermont, we wish not to have the Federal Government interfere with us, to tell us that everything we have done in the past is wrong, that in spite of the success of our program, I am sorry, we do not fit into the exceptions and therefore we cannot have one.

Mr. President, we should be allowed to have this exception. We should be allowed to continue a regime which has worked so successfully in our State in the past.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to make the record clear right from the very beginning that this is not a case of the Federal Government interfering in the affairs of any State. The current law of the United States that is defined by the Constitution and the Supreme Court is that you cannot have flow control. That is not the EPA or the Environment Committee or anybody else saying that. The Federal Government is not interfering. The law of the land is that they cannot have flow control in the State of Washington or anywhere in the United States. So we came forward with this legislation.

Why are we here? We are here because of the Carbone decision just a year ago. In that decision, they said having flow control interferes with the commerce clause. However, the Congress of the United States can make arrangements in its acts and they can do something about the so-called flow control. And we have.

We realize that there are lots of communities across the country—or several, anyway—that were caught. They had flow control and they had committed money for a facility that bonded indebtedness or general obligation bonds and that facility was dependent upon the municipal solid waste that would come to it, pursuant to flow control that had been enacted.

So we are taking care of that. Indeed there is one county in Washington that appears to fall within that category. That does not satisfy the folks from Washington. Indeed, it is not restricted to the State of Washington.

I suppose the argument could be made, "Well, under the act, when certain things have to be enacted, it is solely Washington," but there is no restriction solely to Washington. We do not know how many other areas in the country might qualify under this. They are saying, "We never had flow control. However, we would like to be given that privilege for the future. And we do not even have to have had bonded indebtedness."

Indeed, if we read the amendment, it says "Bonds have been issued or significant financial commitments have been made." Actually, it is the other way around—"Significant financial commitments have been made or bonds have been issued."

Now, what does it mean by "Significant financial commitments have been made?" They spent some money on some trucks, for example. But they want that to qualify them to have an exception to the Constitution of the United States.

Where do we draw the line? Clearly, this is a place that does not qualify, it does not even come close to qualifying now, under the rules that we have set forth, after a lot of deliberation.

Now, they have pointed out that they have had wonderful success in recycling. That is great. They did not need flow control for that because they never had it. In some communities, yes. But they did not have it in these other communities, and they had the successes of the recycling that the Senator from Washington, Senator MURRAY pointed out.

Mr. President, this just goes too far. Clearly, if this amendment prevails we might as well say all across the country, forget the Constitution. We make an exception to it—not an exception. We just say in the whole Nation of the United States we can have flow control. California is next up.

Mr. President, I just think it is very unfortunate that they are pursuing this amendment. After long discussions we worked out what seemed to me to be a fair compromise. It took care of the specific situation where they had flow control but they had some commitments, general obligation bonds, have made a commitment, but this is not similar to that.

Mr. President, I hope very much that the amendment would not be accepted.

Mr. GORTON. Mr. President, I am truly puzzled. The Senator from Rhode Island says we ought to be satisfied because 1 county out of 39 in the State of Washington might possibly qualify under a general bill that he has written to continue its present system.

The Senator from Rhode Island says, "They say the Constitution be damned, we just want to go ahead." He is entirely correct when he says that a decision of the U.S. Supreme Court stated that under the dormant reading of the interstate commerce clause, flow control regimes all across the United States were invalid.

That same Supreme Court decision asked the Congress if it wished to do so to legislate in this area, pointing out that it could grant States full authority if it wished to do so, to continue forever all of their existing or any future regime.

Now, the Senator from Rhode Island has done that. He is passing legislation which under certain circumstances States can exercise flow control regimes. One might ask, why does he not just simply allow it to the full extent that the Constitution would allow it, but he has not. He wants a certain pattern, but he has made exceptions to that certain pattern and we would like such an exception.

Ours is all retrospective. Unless financial obligations have been undertaken or bonds sold, unless there is a system in place by a State statute that is some 5 years old or more, the exception does not apply. It does not apply in any other State, Mr. President.

Why should a community be penalized because it had enough money to pay for these facilities in cash? Why should it be penalized if it pays for them by general obligation bonds which cover other facilities as well, rather than a specific revenue bond for one specific facility?

Now, Mr. President, this committee did not have to bring a bill out on this subject at all. It could just have told the country that it had to live with this Supreme Court decision. The committee decided that the Supreme Court decision mandated legislation. The legislation does have differences from one State to another. This body has adopted an amendment for Vermont which is infinitely broader than the amendment proposed for the State of Washington.

Why in the world these people sitting here in this body have to tell the State of Washington, "Sorry, you did it wrong and we are not going to let you do it anymore," is simply beyond the understanding of this Senator.

Mr. CHAFEE. Mr. President, several times the Senator has said he is puzzled.

First of all, with regard to Vermont, there are exceptions in the Vermont situation, and I might point out that this Senator, nor the committee, did not support the Vermont amendment.

Was it adopted? Yes, by a vote, over the objections of this Senator and others who are managing the bill.

To take a whole State such as Washington that has never had flow control—they are seeking something they never had—talk about puzzlement. I wish the Senator from Washington would explain why he needs flow control.

Why is he here? Because they had this remarkable record as recited of the recycling and they have achieved all of that without flow control.

Now, once again, why did we bring this bill to the floor? The Senator says, why did they bring it up? We brought it up to take care of those communities that were truly hurt by the Carbone decision. Those communities had enacted flow control, had issued bonds, usually revenue bonds, to pay for either an incinerator or very carefully planned landfill. They wanted to pay it off, and they are planning to pay off their bonds through the flow control that required all the trash within the municipality or the county—wherever it is—to come to a central place.

That is not the situation with the Senator and the State of Washington at all.

If there are explanations that are needed here, I think they are needed from the Senator, or the prime sponsor of the amendment, if she would say what they need these for. They had all these wonderful recycling achievements without flow control, so now they are in here asking for an exception to an entire State.

By the way, in all fairness, there is some difference between the population of Vermont, which is relatively modest, and the population of the State of Washington and what this will trigger, should this amendment be adopted.

Mr. President, I suggest during these pauses that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, let me again stress in no way does the State of Washington in the proposed amendment come close to meeting the exceptions that were provided for in this legislation. First, they do not have flow control; and, second, under the amendment as submitted it does not require there be outstanding bonded indebtedness.

The Senator from Washington has frequently mentioned to us they have general obligation bonds, but that is not what this amendment says. This amendment says, "significant financial commitments have been made." That could be the community had spent some money, as I say, on some trucks, to haul garbage. So it does not even come close to the criteria that we have set forth in the bill and I just think it is a vast overreaching.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH. Mr. President, I rise in opposition to the Murray-Gorton amendment. We worked on it hard to try to craft a compromise to accommodate as many people as possible on this legislation. The amendment of Senators GORTON and MURRAY would simply open up the current provisions under S. 534 and would allow prospective flow control for areas that currently do not have flow control, and some areas that do flow control but do not have bonds and currently need to be paid off.

The whole spirit of the compromise worked out so carefully as we put this legislation together was we would not do things prospectively, that the intent here was to protect those people who had made financial commitments. Most specifically, they had let bonds or contracts that would require substantial losses possibly, conceivably, to the investment. That was the purpose. We were not trying to pass a bill here that would open up the whole interstate commerce issue again and allow States to prospectively implement flow control anywhere or any time for whatever reason, no matter how small the cost, whether it be the purchase of a truck or some minor item of cost.

Local flow control laws are by their very nature monopolistic and they are anticompetitive. I have stated numerous times during the course of this debate that I personally do not favor flow control, but in working with my colleagues I tried to help out some of the States that had very, very significant financial commitments, most specifically bonds, or in the case of a State like New Jersey, where they had an entire system for flow control and we wanted to try to accommodate them, we put a grandfather clause in here that would say that all flow control would be by the boards after 30 years. That was to allow for any bonds that may have been let to run out and then it would be entirely the free market system.

This amendment just flies in the face of the entire bill, the entire compromise. It is very important that my colleagues understand that if you support the free enterprise system and want to see less flow control in the future—not more—then you would be opposed to this amendment.

The Supreme Court ruled last year that these types of flow control laws are a violation of the commerce clause of the Constitution. Yet, it can be argued that governments that issued bonds—and the key here is bonds—to build facilities in reliance on flow control should be allowed to continue flow control only until these bonds are repaid. After this, the free market should prevail.

The purist argument would be they knew what they were doing when they let the bonds, and the free market ought to prevail anyway. Frankly, that is my position. But in an effort to compromise on this, Senator CHAFEE and I and others agreed that we would allow this grandfather, that it would be restrictive, that it would not be an open-ended grandfather that would simply allow prospectively anybody to think, "Well, I might have an opportunity in 10 years to implement flow control and, you know, we might want to sign a contract, or we might want to let a bond, or prospectively, we may want to do it in 10 years." That is not the intent of this legislation. It would not be in the best interests of those who want to see flow control restricted rather than increased.

So the key here is that this amendment vastly expands the universe of communities that would be allowed the flow control—I mean vastly. This is not just Washington State. This is an open end that is going to allow flow control, and it would be flow control allowed not on the basis of financial need, not on the basis of financial commitments, not at all; just maybe we will have some financial commitments, or maybe in the future we would like to pass a bond, or maybe we would like to sign a contract, or maybe we would like to build a facility sometime in the future. That defeats the entire purpose of the legislation. I cannot emphasize that strongly enough.

This amendment goes beyond the principles that only those facilities that incurred bonded indebtedness should be grandfathered and instead it grants flow control authority to a large universe of local governments who are simply implementing a State solid waste management plan.

Again, I go back to the hearing that we held in the subcommittee on flow control when we heard from New Jersey and other units which were affected by this. We heard that bond holders were going to be harmed and even some of us felt that they knew what they were doing or should have known what they were doing when they let the bonds and invested in the bonds. We decided, be that as it may, to be as fair as possible, we were going to allow the grandfather to kick in. A 30-year period gives everybody a chance to recoup any losses that they might have as a result of investments in the bonds. That was a compromise. It was very carefully struck. It was not my position. It was not the position of Senator LAUTENBERG or others on the committee who supported flow control. But it was a compromise. As compromises are, you give a little bit and you take a little bit. And that is the way it works.

But now to say we are down to the end, or very close to where we want to have a vote on this bill, to say now we are going to open this whole thing up prospectively to any locality or any community whatsoever anywhere which may want to have flow control is basically undoing the bill.

It is an anti-free-market amendment. It opens up flow control to a variety of communities that currently do not practice it, and it will shut out private companies that could meet the solid waste disposal needs of these areas. What we are hoping will happen in States like Washington and other States is that the free market will kick in; that over the next 30 years as we grandfather those who are currently implementing flow control, we will see the free market kick in in States like this where there is no flow control now, and it will work and it will work very well, and the free market frankly usually works, if not always works.

So I think that is the approach we ought to take. To just now come in with an anti-free-market amendment is a serious mistake. Recent studies indicate that flow control jurisdictions charge, on average, 40 percent higher rates than non-flow-control jurisdictions—40 percent higher.

This amendment goes against the spirit of the bill, the intent of the bill, and it should be defeated.

Flow control is not necessary for recycling, according to a recent EPA report called "Report to Congress—Flow Controls and Municipal Solid Waste":

> There are no data showing that flow controls are essential for the development of new solid waste capacity or for the long-term achievement of State and local goals for source reduction, reuse, and recycling.

That is a quote from that report. Thus, even the EPA has demonstrated that there is no need for flow control to meet State recycling goals.

The bottom line, as has been said before, my colleagues, is that this is a killer amendment. It kills the bill. It guts the bill. It makes the bill totally worthless, and it should not be passed.

I hope my colleagues will think very carefully and weigh this very carefully before the vote.

I call attention to item three in the amendment, which says significant financial commitments have been made. What is a "significant financial commitment"? Is it a few dollars, $10, $15, or $20? Maybe it is a fee to buy a license or a permit. We are not talking about that. We want to limit future flow control in this legislation. We want it to end in 30 years. We do not want it to begin in States that do not have it. We are just allowing the exception or the grandfather in the States that do.

So, Mr. President, with the greatest respect to my colleagues who have offered the amendment, it is ill advised. It will hurt what we are trying to do in this compromise, and frankly if this is passed, this could lead to the very defeat of the flow control bill, which will hurt those people, those very people out there, the bond holders who are sitting there now worried about whether or not they are going to get relief. And if the bill is defeated or somehow taken down because of this, then those people are not going to get relief.

So I hope this amendment will be defeated.

Mr. President, at this time, I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, who has control of the time, and how much time is remaining?

The PRESIDING OFFICER. Five minutes for the Senator from Rhode Island; 14 minutes for the Senator from Washington.

Mr. BAUCUS. Mr. President, I assume I have the time of the Senator from Rhode Island. I yield myself a few minutes.

Mr. President, it is with some reluctance that I oppose the Murray-Gorton amendment. I have the highest regard for the Senators from Washington, both Senator MURRAY and Senator GORTON. They are trying to protect their State.

I must reject their amendment and oppose it, Mr. President, very simply because the approach that they are coming up with to meet the conditions in their State is much too broad, is much too general, and it goes much, much beyond the intent of the bill.

The intent of the bill is to protect those communities which, essentially, prior to a certain date—May 15, 1994—had flow control either by regulation or by ordinance or by State law. It is not, frankly, to protect those communities which did not have any kind of flow control; that is, that had not designated certain sites where trash would go.

The amendment offered by the Senators from Washington essentially says that flow control is OK if there had been a plan, a general plan to deal with trash in the State of Washington. The amendment by the Senators from Washington does not say that there was in some case flow control but rather, essentially, there is a waste management plan. For that reason it is much, much too broad. It is very unfair to other States, frankly, who would like to do the same thing.

If this amendment passes, there is a good argument it should apply to every other State in the Nation. And if it applies to every other State in the Nation then we might as well pull down this bill. Because the compromise that has been reached, one between free enterprise hauling the trash according to the wishes of different communities and trash haulers across State lines, combined with the other, that municipalities control their own trash, that compromise would fall apart. There would be no compromise. We would have no bill.

I, therefore, suggest to the Senators from Washington that if the amendment is rejected—and I very much hope it is rejected—that they, the Senators from Washington, work in conference, and the conferees come up with a generic approach to address the kinds of problems that are raised by the Senators from Washington.

This is a very complicated matter. I wish I could support the amendment offered by the Senators from Washington, but, in good faith, I cannot. And I cannot because it goes way, way beyond the compromise reached in the bill. It is way beyond the provision we adopted to deal with the situation in the State of Vermont just a few days ago.

And I must say that if this amendment passes, every other Senator can stand up on this floor and very legitimately say, "Well, gee, it should apply to my State." And if that is the case, the bill falls apart and it will not pass. I guarantee it will not pass. I guarantee there are going to be Senators whose other points of view will stand up on the floor and prevent its passage.

Basically, Mr. President, I believe, for those reasons, that the amendment should be soundly rejected and we can work in conference to come up with a solution that might deal with some of these problems, if not all.

Mr. President, if a community does not need flow control, I think we should let the private market work and not just rely on Government regulation. This amendment is a Government regulation amendment which basically says we want more Government on your backs, we want more regulation, we want more control. I think that there are a good number of people in this country, particularly this body, that might have some reservations about adding more control, more regulations, more laws on the backs of the American people.

Mr. President, I reserve the remainder of our time on this side.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, again, as I have stated, I am completely puzzled by the nature of the argument of those a committee and on a committee staff, who worked in a committee without a Member from the State affected by this amendment and who presume to know much more about the desires of the people of the State represented by Senator MURRAY and myself than they themselves do, and who continue to use language such as "prospective" and "wide open" and "applicable to everyone."

Well, Mr. President, we have offered to make a specific reference to the revised code of Washington, if they want to make certain that this applies only to the State of Washington. They are not interested, because, of course, such an amendment would be useless. The description we have in here now is single State in nature. We have offered to put in "continue to exercise flow control" in this amendment, but they are not interested because they know that this is not a prospective amendment as it is.

Mr. President, this requires the State to have had a law before the year 1990 and it requires the plans to have been in existence in particular communities before May 15, 1994. Now, what is prospective about that?

These are existing plans. These are existing systems of facilities in one single State.

Now, if the bill is dead because one single State is permitted to continue to do what it wishes to do, it is already dead by reason of the Vermont amendment last week, which is much more broad and is prospective and does allow that State to go forward with plans in the future.

The answer, Mr. President, is that this is just something that this committee did not consider and does not want to consider now.

Senator MURRAY and I are asking for the continuation of an existing system in various counties of our State which has resulted, I believe, in more recycling and less disposal of solid waste perhaps than any other State in the United States of America. That is all we are asking for.

It is not prospective. It does not allow new counties and new communities even in our State who already had these ordinances and these obligations underway a year ago yesterday, May 15, 1994, to do so at some time in the future. It is State-specific and it is system facilities-specific. That is all there is to it. And there is no reason in the world for this amendment to be turned down.

Mr. BAUCUS addressed the chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I do not want to get into an argument with my good friend, the Senator from Washington. But the fact is, the committee very directly considered these points, contrary to the statement of the Senator from Washington. Second, contrary to the statement of the Senator from Washington, the amendment is prospective.

He talks about a solid waste plan. Mr. President, a plan is so general. We are not talking about plans in this bill. We are talking about whether a specific flow control ordinance passed, and if a specific indebtedness was created. We are talking about a specific contract where people are obligated. That is what we are talking about.

We are not talking about providing flow control authority if a State only has a solid waste plan. But that is what this amendment does. It would allow a State to use flow control if the State has a solid waste plan even if the State has not relied on flow control in the past. Washington only has only a general solid waste plan. If Washington was a lot more specific, and had relied on flow control in the past then Washington would be covered. The problem is Washington is not specific as a general plan, and that is why this is prospective.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I join my colleague, Senator GORTON, in being perplexed at the reasons for not accepting this amendment. I go back to the fact that my colleagues from Connecticut, Florida, Virginia, Delaware, and Vermont have come to the committee with specific concerns from their States that have been worked out to this point in this debate and in this bill. The concerns from Washington State are just as needy.

I was in our State senate back in 1989 when we passed the Waste Not Washington Act. We were ahead of this country in how to deal with our waste management. It is a very effective piece of legislation. We do not want it undermined now by actions on this Senate floor.

We have offered to the committee words that will deal with their concerns about being prospective. We have offered to put in language that makes it Washington State specific • by referencing the Waste Not Washington Act. I assure my colleagues there is no intent to open loopholes. The intent is to allow the waste management in our State of Washington to work well, as it is currently doing.

I invite any of my colleagues to my hometown of Seattle and to take a look at the curbside recycling program that exists there. We recycle everything. We put out our pop bottles. We put out our plastic. We put out our newspaper. We separate our paper into different colors. It is done on every street in the city of Seattle. We do not want to see it undermined. People are very proud of that program there.

I think it is absolutely critical that this Senate does not go on record undermining a very progressive recycling program in the State of Washington. I assure you that I did not know the rest of the Nation was so far behind us until I moved here 2½-years ago, and my children said, "What is with the garbage cans here that are so full?" They could not believe what was not recycled here on this coast.

I encourage all of my colleagues to take a look at this legislation, to allow Washington State to continue to be progressive, to be an example for the rest of the Nation, and to not undermine us by exempting us within the legislation that is before us. Our amendment very simply allows the State of Washington to continue doing what it is doing. I ask and encourage all of our colleagues to allow local control to exist on this very serious problem in my home State of Washington.

I thank the Chair.

The PRESIDING OFFICER. The time of the opposition has expired.

Mr. SMITH. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Do the Senators from Washington yield back their time?

Mr. GORTON. Not quite yet. How much time is remaining to the Senator from Washington?

The PRESIDING OFFICER. Eight minutes.

Mr. GORTON. I would like to speak for perhaps 2 of those minutes, Mr. President, I say to the Senator from New Hampshire, and then I think his motion will be in order.

My colleague from Washington reminds me of my own experience. I, too, live in the city of Seattle. I hear a great deal about monopolies and competition and the like. I can assure my colleagues I pay much less for a much more efficient system at home than I do in the District of Columbia by a long shot.

What we are saying is that if we had a plan that was in place a year ago on which there is a contract—not some amorphous future plan, Mr. President. The municipality not only had to have a plan a year ago; it had to obligate itself by a contract—it has to be undertaking this process right now. It has to be in place. It is not in the future. And it has to have cost money.

Now, somehow or another we are criticized because some of our communities were wise enough and responsible enough to pay for these major facilities out of cash, that they did not have to bond, but for some reason or other to this committee that is a terrible thing.

A responsible municipality which has paid for these facilities already cannot recover for them. Now, that is another part of the absurdity of this amendment. This is State specific, Mr. President. It is not prospective. It deals only with things that are already in place. And it is in pursuance of a system which has worked very well and very effectively and should be allowed to be continued. It is not as broad as amendments which are already a part of this bill for other States.

Mr. President, with the permission of the other Senator from Washington, I will yield back the remainder of our time.

Mr. SMITH. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Oklahoma [Mr. INHOFE] is necessarily absent.

The PRESIDING OFFICER (Mr. THOMAS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—54

Abraham
Ashcroft
Baucus
Biden
Bingaman
Bond
Bradley
Brown
Burns
Campbell
Chafee
Coats
Cohen
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Faircloth
Frist
Gramm
Grams
Gregg
Hatch
Hatfield
Heflin
Hutchison
Kassebaum
Kempthorne
Kerrey
Kyl
Lautenberg
Lieberman
Lugar
McCain
McConnell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Reid
Robb
Roth
Santorum
Simpson
Smith
Snowe
Specter
Thomas
Thurmond
Warner

NAYS—45

Akaka
Bennett
Boxer
Breaux
Bryan
Bumpers
Byrd
Cochran
Conrad
Daschle
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Grassley
Harkin
Helms
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerry
Kohl
Leahy
Levin
Lott
Mack
Mikulski
Moseley-Braun
Murray
Nickles
Pryor
Rockefeller
Sarbanes
Shelby
Simon
Stevens
Thompson
Wellstone

NOT VOTING—1

Inhofe

So the motion to table the amendment (No. 1079) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. FEINSTEIN. Mr. President, I would like to express my deep dismay over the defeat of the Murray-Gorton amendment.

Frankly, it was my intention if the Murray-Gorton amendment were successful, to move an amendment which would be a slight change to take California's situation into consideration.

I cannot help but note that there have been a number of specific amendments to deal with a number of States. Nine States have received some preferential treatment in this bill. For my State, and I speak for Senator BOXER, as well, California has a unique situation.

We have a State law which mandates a 50-percent reduction in solid waste by the year 2000. How can a State do that if it does not have some flow control over its waste?

Eight local governments in my State, based on last year's bill, made agreements and incurred debts totaling $125 million which are unaddressed by this bill. Those counties are very concerned.

The California Association of Counties had asked that if the Gorton-Murray amendment were successful, an amendment be introduced based on that amendment which would clarify certain gray areas in the bill. The gray areas are contracts and franchises that have been consummated after the grandfather date, but based on last year's bill.

I very much regret that these issues are not taken into consideration, particularly by a Congress that is very concerned about States' rights.

I, for one, and Senator BOXER as well, will have to vote against this bill, based on the fact that we believe our State is seriously disadvantaged by it. I yield the floor.

Mr. CHAFEE. Mr. President, I gather from what the Senator said she, therefore, will not proceed with the amendment?

We had a reserve amendment slot for the Senators from California, and I gather the Senators will not proceed on that.

Mrs. FEINSTEIN. If I could have a couple of minutes to think about this I would appreciate it.

Mr. BAUCUS. Mr. President, what is the regular order?

The PRESIDING OFFICER. The bill is open to amendment.

AMENDMENT NO. 1083

Mr. CHAFEE. Mr. President, I send an amendment to the desk on behalf of Senator KEMPTHORNE, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. KEMPTHORNE, proposes an amendment numbered 1083.

Mr. CHAFEE. Mr. President, I ask unanimous consent further reading be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, line 5, after the word "agreements", insert the words, "or permits authorizing receipt of out-of-State municipal solid waste".

One page 45, lines 15 and 16, after the word, "tax", strike the words, "assessed against or voluntarily"; on lines 16 and 17, after the word, "subdivision", insert the following: ", or to the extent that the amount of the surcharge is offset by voluntarily agreed payments to a State or its political subdivision".

Mr. CHAFEE. Mr. President, this is a technical amendment that has been cleared with the other side.

Mr. BAUCUS. Mr. President, the Senator is correct.

We have reviewed this amendment and we find it acceptable.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CHAFEE. All time is yielded back.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1083) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, here is the situation now.

We have two more amendments that were provided for, and then we would hope be able to go to final passage. One is the Levin amendment and the other is the Domenici amendment. We are working on both of those.

Mr. BAUCUS. Mr. President, it is my understanding that the Levin amendment is withdrawn and Senator LEVIN will not offer his amendment.

Mr. CHAFEE. All right, that takes care of that.

I received word that the Senator from California will withdraw the so-called Boxer amendment.

Mr. BAUCUS. Mr. President, if the Senator will yield, that is my understanding.

Mrs. FEINSTEIN. Mr. President, that is correct.

Mr. CHAFEE. Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I understand the distinguished managers of the bill are in the process of working on what may come next. While that is going on, I ask unanimous consent I be permitted to speak in morning business. I assure the distinguished managers when they reach a point where they want to interrupt, I will yield.

The PRESIDING OFFICER. Without objection, it is so ordered.

IS AMERICA GOING TO LEAD?

Mr. LEAHY. Mr. President, there is an important question hanging over us like Damocles' sword today. It will loom over us as we consider the budget. It will confront us directly as we debate the reorganization of our foreign affairs agencies. The question is "Is America going to lead?"

This is not a question that keeps people awake at night anymore. After all, people ask, "We won the cold war, didn't we? There is no longer any real threat to America's security, is there?"

Mr. President, there have been few times in history when the United States can less afford to be complacent. The world today is anything but a predictable, peaceful place. While we are fortunate that the military threat to our security has receded, it is more true today than ever that American prosperity is linked to conditions in the rest of the world.

Millions of American jobs depend upon persuading other countries to open their borders to U.S. exports, and helping them raise their incomes so they can afford to buy our exports. Ensuring that we have clean air and clean water depends upon international action to protect the environment. Keeping Americans healthy depends on joint action to fight the spread of infectious diseases in other countries. Imagine if we are unable to contain the recent outbreak of a deadly virus in Zaire—very quickly you would see Senators clamoring for more aid to stop it from reaching our shores.

Stemming the flow of illegal immigrants and refugees to the United States depends on promoting democracy and economic development in the countries from which the refugees are fleeing. These are just a few examples of why we continue to have an enormous stake in what happens in the rest of the world.

Fortunately, the United States, the only remaining superpower with the largest economy and the most powerful military, can influence what happens in the rest of the world.

But influence is not automatic. It requires effort, and it costs money.

Perhaps most important, the United States needs to maintain its leadership in and its financial contributions to the international organizations that make critical contributions to promoting peace, trade, and economic development. Organizations like the United Nations, the World Trade Organization, the International Monetary Fund and the World Bank, to name a few. These organizations are the glue that holds our international system together. They may not always act in precisely the way we would like, but they are dedicated to spreading the values that Americans hold dear—freedom, democracy, free enterprise, and competition.

The American people also want to help alleviate the suffering of people facing starvation or other calamities, like refugees fleeing genocide in Rwanda, or the hundreds of thousands of victims of landmines—the people who are injured and killed every 15 minutes around the clock, around the world, from the 80 to 100 million antipersonnel landmines spread in 60 to 65 countries.

Finally Mr. President, the polls show that most Americans believe we should help developing countries and countries making the transition from communism to democracy and market economics. It is through this aid that we fight poverty, that we stabilize population growth, that we educate people who have never known anything except tyranny in the basics of representative government, and that we encourage countries to open their economics to trade and competition.

We do these things, not out of a sense of altruism, but because it is in our national interest. Yet, in the rush to reduce Federal spending, some are dismissing spending on international affairs as a luxury we cannot afford, or even a waste.

The United States cannot pay these costs alone, but no one is asking us to. The United States now ranks 21st among donors in the percentage of national income that it devotes to development assistance. Twenty-first. Right behind Ireland. We are not even the largest donor in terms of dollar amount anymore. Japan, which has a keen sense of what is in its national interest, has passed us. They passed the United States in this area. Do you think Japan is doing this out of a sense of altruism? Ha. They do it because they know it creates jobs and it helps their economy.

Six years ago, when I became chairman of the Foreign Operation Subcommittee, the foreign operations budget was $14.6 billion. We cut that budget by 6.5 percent, not even taking into account inflation, while the remainder of the discretionary spending in the Federal budget increased by 4.8 percent. Those cuts were a calculated response to the end of the cold war. Foreign aid today is substantially less than it was during the Reagan and Bush administrations. Our entire foreign aid program, including funding for the Eximbank and foreign military financing and other activities that have as much to do with promoting U.S. exports as with helping other countries, today accounts for less than 1 percent of the total Federal budget.

We must recognize that there is a limit to how far we can cut our budget for international affairs, and still maintain our leadership position in the world. Just when many people thought U.S. influence was reaching new heights, we are seeing the ability of the United States to influence world events eroding.

This budget proposal amounts to a classic example of penny-wise and pound-foolish. Our allies are scratching their heads, wondering why the United States, with the opportunity to exercise influence in the world more cheaply than ever before, is turning its back and walking away.

We are inviting whoever else wants to—friend or foe—to step into the vacuum and pursue their interests at our expense.

Mr. President, the United States stands as a beacon of liberty and hope for people throughout the world. But we should be more than a beacon. A beacon is passive. We should be proactive, reaching out to defend our interests and to help our less fortunate neighbors. We should continue to invest in the world. We should continue to lead.

If there is going to be a leader for democracy, if there is going to be a leader for economic development, if there is going to be a leader for human rights, if there is going to be a leader setting the goal, as an American I prefer that it be our country. And as a U.S. Senator I know of no country better suited to do that.

Mr. President, I want to say a few words about Republican proposals to reform the U.S. foreign affairs agencies. Senator HELMS, the distinguished chairman of the Senate Foreign Relations Committee, has launched a broad proposal to reform foreign policymaking in the Federal Government. This proposal includes provisions for completely restructuring the way we administer our foreign aid programs. Senator HELMS asserts that U.S. foreign policymaking has become so decentralized that it no longer serves the national interest. He proposes to merge most foreign affairs functions into the Department of State.

As the former chairman and now ranking Democrat on the Foreign Operations Subcommittee, I have had some opportunity to be involved in the U.S. Government's conduct of foreign policy, and I have some thoughts about Senator HELMS' proposal.

While I have long advocated better coordination among the executive branch agencies in foreign policymaking, I believe Senator HELMS' proposal would result in U.S. national interests being less well, not better, served.

Why is the Foreign Agricultural Service administered by the Department of Agriculture and not by the State Department? Because farmers know they can count on USDA to represent their interests better than the Department of State and all experiences have proven that.

Why, 15 years ago, did we take the commercial function away from the State Department and create a Foreign Commercial Service in the Department of Commerce? It was because State had for years neglected export promotion, sacrificed export interests to its foreign policy priorities, and treated its commercial officers as second-class employees. It was because the American business community was clamoring for something better, knowing that if we could increase our exports we would increase jobs here in the United States.

The reason we have separate foreign service bureaucracies is that many of our foreign policy interests are actually domestic policy interests that are best pursued abroad by technical experts from domestic policy agencies, not by foreign policy generalists from the State Department. I do not know about farmers from other States, but I can tell you that Vermont farmers are not at all anxious to see the State Department expand its influence over U.S. foreign agricultural policy. They fear that shifting power from domestic agencies to the State Department will not strengthen representation of United States interests in United States policy but rather will strengthen representation of French interests and Argentine interests and Russian interests.

Let me focus on the specific question of restructuring America's foreign assistance program. I have been advocating reform of our foreign aid program ever since the fall of the Berlin Wall, so I welcome this opportunity for discussion of this issue.

Senator HELMS says that our foreign aid program should further our national interests. I absolutely agree. I do not know of anyone who disagrees.

But I do not agree with his definition of the problem. The problem is not that the Agency for International Development is ignoring America's national interests. The problem is that since 1961 when the Foreign Assistance Act was enacted, much of our foreign aid was allocated to winning allies in the fight against communism.

All you had to do was say, "I am anti-Communist, pro-American," no matter what kind of a dictator you were, money flowed to you.

Billions went to right-wing dictatorships with little or no commitment to democracy or improving the living conditions of their people, or even allowing business competition. Much of that aid failed by the standards we apply today. But it is unfair and disingenuous to judge AID's effectiveness today against the failures of the past when our goals were fundamentally different.

AID needs a new legislative mandate. We meet to get rid of cold war priorities and replace them with priorities for the 21st century.

The Secretary of State has full authority under statute to give policy direction to AID, and the State Department influences AID's activities every day. If AID's projects deviate from State Department policy, it is not because AID is out of control, it is because the people at State are not paying enough attention to what AID is proposing to do.

Senator HELMS also does not give sufficient credit to the Clinton administration for its efforts to improve AID performance. Over the past 2 years, we have seen dramatic progress at the Agency for International Development and the Treasury and State Departments in redefining our foreign aid priorities and focusing resources where they can achieve the most in advancing U.S. interests abroad, in spite of the constraints of an obsolete Foreign Assistance Act.

AID Administrator Brian Atwood has made extensive changes at AID. He initiated an agency-wide streamlining effort that has resulted in the closure of 27 missions and a reduction of 1,200 staff. He is installing state-of-the-art data processing systems that link headquarters in Washington with project officers in the field in real time. This will ensure that information available at one end of the management pipeline is also available at the other, increasing efficiency and improving decisionmaking.

Mr. Atwood has decentralized decisionmaking so the people closest to problems have a full opportunity to design solutions. AID is improving its performance because, for the first time since the mid-1980's, it has hands-on leadership that is committed to making our foreign aid programs effective.

Can AID improve its management performance further? Yes. But would the State Department do better? I doubt it. I believe that abolishing AID and asking regional assistant secretaries at the State Department to manage its functions would be a serious mistake. These assistant secretaries are chosen for their expertise in broad foreign policy. Many do not have experience managing money and programs. And they are overworked now trying to deal with the daily emergencies and complexities of our political relationships with countries in their regions.

Even former Secretary of State Lawrence Eagleburger, a Republican whom I respect and whose counsel I have sought, expressed doubt about this proposal in his testimony before the Foreign Relations Committee on March 23. "The State Department is not well suited, either by historical experience or current bureaucratic culture, to assume many of these new responsibilities," Secretary Eagleburger said. And he was trying to be supportive of the Helms proposal.

I would put the matter a little less delicately: The State Department's specialty is making policy; it has never and probably never will manage programs well. Secretary Eagleburger offered the hope that, with every careful selection of Under Secretaries, it might do better. I am reluctant to trade a bureaucracy that is doing reasonably well and getting better at delivering foreign aid for one that has no competence on the outside chance that it might get better. If we disperse responsibility for foreign aid among assistant secretaries of State, I bet that we will start hearing more stories about misguided and failed projects, not fewer, and more questions about why we have foreign aid, not fewer.

AID today is performing a wide array of tasks that enjoy overwhelming support among the American people:

Every year, AID manages programs worth a billion dollars aimed at protecting the Earth's environment. Does protecting the Earth's forests, oceans, and atmosphere matter to us? Does it further our foreign policy interests? A century from now we are not going to have any foreign policy if we do not join with other countries today to protect the environment.

Every year, AID manages hundreds of millions of dollars in international health programs. Is this money wasted? We might as well ask whether AIDS and tuberculosis are infectious.

Every year, AID commits a large part of its budget to promoting free markets and democratic development in countries where the United States has important interests. This is not diplomacy. It is hands-on assistance that requires people with special expertise on the ground who can get the job done. Working with foreign governments and private organizations on the nuts and bolts of solving real problems. That is what AID does.

Mr. President, we have a strong need to rewrite the Foreign Assistance Act to redefine the framework for foreign aid. AID can continue to downsize and improve its efficiency. But we should not abolish an agency that is aggressively adapting itself to the changed world we live in and to the shrinking foreign aid budget.

Let me close with this, a personal observation.

I have served here during the administrations of President Ford, President Reagan, President Bush, and President Clinton. Each one of those, each President, Republican and Democrat alike, has come to Members of the Congress, Republican and Democrat alike, and sought bipartisan support on foreign policy. We follow the dictates of Senator Vandenberg that politics end at the water's edge.

We have had some major debates on this floor, and we have had major debates in the Cabinet room of the White House. But we have come together. We have observed a number of things, not the least of which is that the President of the United States is our chief foreign policy spokesperson.

Throughout all of my years in the Senate, it has been an unwritten rule that, when the President of the United States is abroad, when he is making foreign policy or conducting foreign policy, he receives support at home. If we disagree with him, we wait until he gets home and we tell him so. I am concerned, when the President of the United States recently went abroad for meetings in Russia and Ukraine, that many would not wait until he came back but had to take to the floors of the House and the Senate to criticize what he was doing. I think that is wrong. We never did that with President Bush. We never did that with President Reagan. We never did that with President Carter. We never did that with President Ford. And we never did that before I was here, to my knowledge, with other Presidents. It is wrong. It gives the wrong signal. It does not mean that we passively agree with everything and anything that any President says. Of course not. We wait until he at least gets back to the country to tell him so. We do not undermine him or say things here in this country that almost guarantees that he cannot be successful in the other country.

Frankly, Mr. President, the President of the United States and the President of Russia ought to meet on a regular basis every year concerning the nuclear warheads of both sides. We should not set as a standard that the only time they can meet is if they come back with some enormous agreement. As a practical matter, that guarantees failure. They have to meet with or without agreement because there is too much at stake, and we ought to take the lessons of those Congresses in the past to at least let the President come home before we tell him we disagree with him. Let us not have foreign leaders when he is meeting with them see a cacophony of criticism coming, often from those who are not really fully informed of what is going on.

Mr. President, I thank my distinguished colleagues for allowing me to have this time.

I yield the floor.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. BAUCUS. Mr. President, we have now reached a point where the Senate is about to give our small towns the right to say no. I hope the House will follow suit quickly so that we can send the bill to the President this year.

We have debated this bill extensively. We have heard a lot of statistics. We have heard a lot about policy. So I would like to use a small example to remind the Senate of why this is so important.

Miles City, MT, is a small prairie town of 8,500 people on the Yellowstone River. Not too long ago, its people faced the prospect of what was probably a Noah's flood of garbage imports. A garbage entrepreneur from Minneapolis came out to look them over. He had a rather remarkable plan: Empty coal trains run out of Minneapolis. Each one of them has about 110 cars—open-roofed cars, 50 feet long, 10 feet wide, 11 feet high. He wanted to fill them to the brim with garbage and bring all that garbage to Miles City and dump it in Miles City. Think of it. A giant garbage snake over a mile long ripening in the sun for anywhere up to 5 days on the run out of Minneapolis, shedding rotten food, broken glass, and used diapers into the Yellowstone River at every bend in the track, steaming into town on a hot summer day with as much trash in one single trip as Miles City throws out in a whole year.

It is crazy; it is humiliating; and Miles City should have the right to say no. So far, the people of Miles City and their representatives in the Montana Legislature have been able to stop these plans. But, with no disrespect to the legislature, it is a weak reed.

Every time waste companies have challenged State laws restricting out-of-State waste, the State laws have been overturned by the courts. So we cannot rely on State legislatures. We need a Federal law. Without congressional action, according to the Supreme Court, neither the people of Montana nor of any other State can stop these garbage trains.

Some interstate movement of garbage makes sense. In Montana, two towns have made arrangements to share landfills with western North Dakota towns and some trash from Wyoming areas of Yellowstone Park is disposed in Montana. These arrangements save money for the communities involved and shared regional landfills can be a policy that makes sense. But it only makes sense when the communities involved agree to it. No place should become an unwilling dumping ground. Nobody should have to take garbage they do not want from another community— not Miles City, not anybody.

This bill is a very good start, and I strongly support it. But like any other bill, it is not perfect. In particular, I am concerned that it would allow waste to be imported until a community gets wise to it and has to say no.

I believe we should take a good-neighbor approach. Waste from big cities should not be allowed into our communities until the people agree to accept it. I do not want the people of Miles City to wake up one morning with a garbage train in the station. I want the garbage broker to come to town first and ask the people's permission before using the community as a trash dump. That is just common courtesy.

I hope we can move in that direction as the bill goes ahead, and for now I urge the Senate's support for this critical new law.

Finally, Mr. President, I wish to congratulate the Senators who have worked so very hard over the years in finally developing a balanced bill. Senator COATS from Indiana has been a bulldog, and Senators LAUTENBERG and SMITH, and our new chairman, Senator CHAFEE, have worked tirelessly. Brokering the agreements that brought the bill to this point was not easy, but they met the challenge.

In closing, let us stand up for small towns and give them the right to protect their people from unwanted trash.

I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RATIFICATION OF THE LAW OF THE SEA CONVENTION WILL PROMOTE THE ECONOMIC INTERESTS OF THE UNITED STATES

Mr. PELL. Mr. President, the Law of the Sea Convention entered into force on November 16, 1994, and was transmitted to the Senate for its advice and consent on October 6, 1994 [Treaty Document 103-39]. On this occasion I applauded the President's transmittal of this historic treaty and spoke to the ways in which it will protect the economic, environmental, scientific, and most importantly, the national security interests of the United States (CONGRESSIONAL RECORD, Vol. 140, No. 144, p. 14467). On March 14, 1995 I addressed the importance of ratification of the Convention to the fishery interests of the United States (CONGRESSIONAL RECORD, Vol. 141, No. 47, p. 3862). Today I would like to address how ratification of the convention will best serve U.S. economic interests.

The Third U.N. Conference on the Law of the Sea was initiated as early as 1973 by the United States and the U.S.S.R. to protect navigation rights and freedoms, at a time where coastal States were claiming excessive areas of jurisdiction. Most of the provisions of the convention have long been supported by the United States, and at the conclusion of the law of the sea negotiations in 1982, the Reagan administration indicated that it was fully satisfied with, and supported the entire convention, except for the deep seabed mining part. The recently negotiated part XI implementation agreement, which is also before the Senate [Treaty Document 103-39] addressed all the reservations that the United States and other industrialized countries had. I will speak to the deep seabed mining issues in a forthcoming statement.

The convention directly promotes United States economic interests in many areas: It provides the U.S. with exclusive rights over marine living resources within our 200 miles exclusive economic zone; exclusive rights over mineral, oil and gas resources over a wide continental shelf that is recognized internationally; the right for our communication industry to place its cables on the sea floor and the continental shelves of other countries without cost; a much greater certainty with regard to marine scientific research, and a groundbreaking regime for the protection of the marine environment. With regard to national security, the Department of Defense has repeatedly expressed its strong support for the ratification of the convention because public order of the oceans is best established by a universally accepted Law of the Sea Treaty that is in the U.S. national interest.

The extension by other nations of their national claims were not always limited to matters of resources use but also represented a potential threat to our interests as a major maritime nation in the freedom of commercial and military navigation and overflight. The United States is both a maritime power and a coastal Stage and, as such, it benefits fully from the perfect balance that the convention strikes. It gives extensive rights to States over the resources located within their EEZ's, but also recognizes the need to maintain freedom of navigation on the high seas, through archipelagic waters thanks to the concept of transit passage and even through the territorial seas of other States based upon the principle of innocent passage.

Mr. President, seaborne commerce represents 80 percent of trade among nations and is a lifeline for U.S. imports and exports. Ninety-five percent of U.S. export and import trade tonnage moves by sea. With continuing economic liberalization occurring globally, exports are likely to continue to grow as a percentage of our economic output. In addition, on some sectors, such as oil, our dependence on imports will continue to grow. Thus our economic well being—economic growth and jobs—will increasingly depend on foreign trade. Without the stability and uniformity in rules provided by the convention,we would see an increase in the cost of transport and a corresponding reduction of the economic benefit currently realized from an increasingly large part of our economy.

Consequently, the United States would stand to lose a great deal if it was no longer assured of the freedom of navigation: trade would be impaired, ports communities would be impacted and our whole maritime industry could be put in jeopardy. The convention addresses these concerns and failure of the United States to ratify would impose a tremendous burden on this industry.

Within its EEZ, the United States has exclusive rights over its living marine resources. Foreign fleets fishing in our waters can be controlled or even excluded, and our regional management councils are in a position to adopt the best management plans available for each of the fisheries on which our industries depend. The settlement of disputes provisions of the convention do not apply to the measures taken by the coastal State within its EEZ. Consequently, the United States has discretionary powers for determining the allowable catch, its harvesting capacity, the allocation of surpluses to other States and the terms and conditions established in its conservation and management measures.

The provisions of the convention generally reflect current U.S. policy with respect to marine living resources management, conservation and exploitation. As such, they incur little new U.S. obligation, commitment, or encumbrance. The U.S. Fishery Conservation and Management Act of 1976, commonly referred to as the Magnuson Act, was crafted to parallel closely most of the law of the sea's provisions for living resources. But the convention also ensures that some of the stricter measures that the U.S. has adopted, precautionary in nature, are also incumbent on other States, in their EEZ's and, more importantly, on the high seas. As such, some measure of increased stability in international living marine resources policy can be anticipated as a beneficial aspect of U.S. participation of the law of the sea regime.

The convention also provides a jurisdictional framework for the negotiation of a new regime for straddling stocks and highly migratory fish stocks on the high seas. A conference is currently under way at the United Nations to establish such a regime, and I am happy to note that at the last session, held a few weeks ago in New York, the U.S. delegation expressed its satisfaction at the progress already achieved. The negotiators involved are cautiously optimistic that an agreement will be reached by the end of this year, which should help prevent the kind of incidents that recently pitched Canada and the European Union in the latest case of gunboat diplomacy. The convention will provide both the basis and the framework for this new agreement.

Representatives of the oil and gas industry served as active advisers to the U.S. Government throughout its negotiation of the convention. In 1973 the National Petroleum Council published a detailed analysis of industry objectives in relation to this treaty, all of which have been achieved. The National Petroleum Council determined that it was important to its industry that the convention reflect the following principles:

Confirmation of coastal State control of the continental shelf and its resources to a distance of 200 nautical miles, and beyond to the edge of the continental shelf;

Establishment of a continental shelf commission to advice States in delimiting their continental shelves in order to promote greater certainty and uniformity regarding resources ownership;

A constructive mechanism for the settlement of disputes;

And guarantees that the principles of freedom of navigation essential to the movement of tankers and other commercial vessels will not be undercut by the extension of coastal State jurisdiction.

Working in close coordination with our offshore oil and gas industry, our negotiators successfully obtained convention provisions that serve U.S. interests both in regards to development of energy resources off our coasts as well as the interests of our nationals operating abroad. The convention goes further than the Truman Proclamation, in which our country asserted our rights over oil and gas resources on the continental shelf, because it specifies the outer limits of the area.

This new certainty is very important for our oil and gas industry because offshore development is enormously capital intensive and security of tenure is the key. The convention's standards and procedures avoid uncertainty and disagreement over the maximum seaward extent of our jurisdiction. The resulting clarity advances both our resource management and commercial interests, as well as our interest in stabilizing claims to maritime jurisdiction by other States.

At the same time, the convention ensures the protection of the marine environment in relation to pollution, including the allocation of enforcement responsibility between flag, port, and coastal States. It here again strikes the right balance between the need to ensure the development of the oil and gas industries and greater certainty that the environment is adequately protected.

The convention also provides significant benefits to the communication industry. As we know, our country is a proud leader in the technology and communication revolution. In that respect, we depend upon ships to carefully lay fiber optic cables on the sea floor. When these cables are broken, U.S. companies and consumers incur huge repair costs. For example, one such cable, connecting the United States and Japan, can carry up to 1 million simultaneous telephone calls and is valued at over a billion dollars. As one of our major growth industries, telecommunication firms have ambitious plans for replacing existing coaxial cable on our ocean floor and expanding the existing cable network globally.

Our telecommunication industry had long suffered from the poor legal protection afforded to cables laid on the seabed. The Geneva Convention on the High Seas of 1958 provided that the laying of cables and pipelines is a high seas freedom, and that coastal States may not impede laying or maintenance of cables on the continental shelf. Yet it did not contain clear provisions designed to prevent mariners from working dangerously close to cables.

The Convention on the Law of the Sea incorporates the language and principles of the 1958 Geneva Convention. Most important, it also goes further in providing that States are to make it a punishable offense, not only to break a cable, but to engage in conduct likely to result in such breaking or injury. For the first time, cable owners and enforcement authorities are able to act to prevent cable breaks from occurring. Consequently, the protection afforded submarine cables is substantially increased by the convention.

Mr. President, the negotiations on this new "Constitution for the Oceans" took more than 9 years, and when the first version, open for signature in 1982, did not meet all our concerns, the Democratic and Republican administrations refused to sign it. It was only after 12 more years of negotiations that all the concerns of the United States were addressed. Significant U.S. economic interests are now protected by this convention and we now need to reap the benefits of these long years of negotiations.

President Clinton said it best in his transmittal letter to the Senate, "Early adherence by the United States to the Convention and the Agreement is important to maintain a stable legal regime for all uses of the sea, which cover 70 percent of the surface of the globe. Maintenance of such stability is vital to U.S. national security and economic strength."

I strongly agree and look forward to the Senate giving its advice and consent to this historic convention during the 104th Congress.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, in a minute or so, I am going to send an amendment to the desk. But so as to not waste time, let me take a few minutes to talk before it is submitted.

First of all, I understand the managers of this bill want to get it finished today, and I gather the leader wants to do it quickly. I want to be cooperative. Essentially, I am not going to say a great deal, other than, first, I compliment Senator KEMPTHORNE on language in this bill that I call commonsense language that relates to small and arid landfills. They are relieved of some very expensive monitoring, and I compliment the Senator for that.

Second, I would like to go a little further, because I want to add a little more common sense. I think common sense, with reference to regulatory processes, was part of the last election. You do not hear me come to the floor trying to second-guess what the election was about. But I am convinced that as to people regulated, be it cities, counties, tiny communities, small business people, the election was about common sense.

So I am going to send an amendment to the desk which would allow States to promulgate their own regulations with regard to small landfills, provided that those regulations are sufficient to protect human health and environment.

In my amendment, small landfills are those which receive 20 tons or less of municipal waste per day based upon an annual average. Such landfills, as the occupant of the chair, the former Governor of a great State would know, serve very small communities. In my State of New Mexico alone there are 50 such small community landfills. Let me suggest that they are not next door to anything. Those landfills are out in a huge, huge open space surrounded, in most instances, by hundreds, if not thousands, of acres of unused land, public or private.

So we are not talking about these small landfills in my 50 small communities as, per se, bothering anyone. The question is, are they safe? Do they protect the health and environment? Frankly, I believe that our States are sufficiently different, and that States ought to be able to determine the regulations that these small landfill operators, small communities, must comply with in order to meet the standards of our law. I believe States are totally capable of drafting the regulations for safe and healthy small landfills in rural America and in rural New Mexico.

According to the Environmental Protection Agency, these small landfills make up 50 percent of the total number of landfills and contribute only 2 percent in terms of the total cumulative waste—2 percent.

Now, I realize that some argue that EPA does give States flexibility with regard to landfill management, and I assume the managers might even say that they believe it has already been done. I also know, however, that my State's environment department has not experienced this purported flexibility on EPA's part.

Frankly, I believe we ought to make it clear that the Environmental Protection Agency shall give this authority to the States to draw up their own regulations with reference to small community landfills so long as the regulation adequately protects human health and the environment. That is very simple.

I have seen small communities attend meetings for 3 years in New Mexico. They are looking for a regional landfill, I say to Senator SMITH, and they are going to meetings for 3 years, trying to figure out how to have this big regional landfill and how this little small town can buy into that. And it is not getting done yet. The little towns are worried about it, and they are out telling their 100 citizens, or 300, what they might have to pay, what they might have to do. And many of them are not even cities, as the occupant of the chair knows. They are villages. They are less than municipalities, many of them.

So I believe common sense says as to those small, but very important, community landfills that we ought to make it mandatory that they can be operated pursuant to State regulations in terms of their adequacy.

With that I yield the floor. I hope I have not taken too much time. I hope the managers will accept this amendment, and I yield the floor.

AMENDMENT NO. 1092

(Purpose: To revise guidelines and criteria for the Resource Conservation and Recovery Act)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. KEMPTHORNE, and Mr. SMITH, proposes an amendment numbered 1092..

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 69, line 22, strike "".".

On page 69, between lines 22 and 23, insert the following new provision:

"(5) FURTHER REVISIONS OF GUIDELINES AND CRITERIA.—Not later than April 9, 1997, the Administrator shall promulgate revisions to the guidelines and criteria promulgated under this subchapter to allow states to promulgate alternate design, operating, landfill gas monitor, financial assurance, and closure requirements for landfills which receive 20 tons or less of municipal solid waste per day based on an annual average, provided that such alternate requirements are sufficient to protect human health and the environment.".

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I would like to compliment the Senator from

New Mexico. I think his amendment is helpful. I intend to support it. It provides additional flexibility for the States to more closely tailor their own individual problems. One-size-fits-all Federal regulations do not always work. Many times they do not work. I think the Senator has hit on an area here that improves the bill. It would be helpful, certainly, for very small communities in very remote areas, which we find everywhere in almost every State in the country.

One area the Senator did not mention which would have a positive impact on his amendment is many rural areas used to burn their garbage, a lot of it. Of course, when it is burned and not buried, we do not have the methane buildup. So this would give those communities great flexibility because you do not need to monitor where you did not bury and you did burn.

So I think that is another dimension which is really attractive and, frankly, the main reason I support this amendment.

So this Senator will be voting for the amendment, and I congratulate the Senator on his amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from New Mexico is attempting to address the concerns of small communities, a concern which we all share. Under the bill before us, and according to pursuant regulations, generally the State of New Mexico can already now do what this amendment asks EPA in to do. That is quite clear.

The Senator from New Mexico thinks there is some ambiguity, and I respect the Senator's view there might be some ambiguity, although we checked with the EPA and checked the regulations and today they can do already what New Mexico wants to do.

I am in a bit of an awkward position because the State of Montana, frankly, sent me a letter expressing their reservations about this amendment. Their reservations generally revolve around the following point; namely, that when the landfill regulations went into effect in 1991, States acted pursuant to these regulations. And under these regulations virtually all authority was delegated to the States—43 States have approved plans, the State of Montana is one, the State of New Mexico is another—and they began to plan.

One of the goals under each of the State plans is to not only be sure small, local communities are able to develop their landfills in a commonsense way, but also to consolidate landfills where, in the opinion of the State, it makes sense.

So the State of Montana is saying this is probably not a great problem, this amendment. However it is changing horses in the middle of the stream. It has the effect of changing regulations after 1991. The State of Montana is doing fine with the 1991 regulations, and they are also working with some communities, small communities, to keep their landfills open but consolidating other landfills because you need volume to make landfills economically feasible. This amendment might have the effect of disrupting those States' efforts to try to get some consolidation.

It is not a major point. I do not mean to raise it in any serious degree, but it is a consideration I think all States have when they are adopting their plans. I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, on the Domenici amendment there appears to be no further debate. I support the amendment and also want to say the views of the Senator from Montana were certainly worthy of consideration. We are ready to go forward with this amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent Senator KEMPTHORNE and Senator SMITH be shown as original cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the floor managers. With regard to the ambiguity as to whether States are currently given adequate flexiblity over their regulation of small landfills, I might say to my friend from Montana we received a call the day before yesterday from New Mexico's environmental department asking us to do this. They, and I, are still convinced that this amendment will help States with their small landfill problems. But I very much appreciate clarifying this, and I thank my friend for that.

I yield the floor.

The PRESIDING OFFICER. Is all time yielded back? All the time has been yielded back.

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1092) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STATES' AUTHORITY

Mr. KEMPTHORNE. Mr. President, I would like to take this opportunity to clarify the meaning of language contained in title I of S. 534, regarding the Governors' authority to ban interstate waste shipments. Section 4011(a)(4)(A) limits that authority when its exercise would "result in a violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste."

During the committee markup on this title, the chairman of the committee and I engaged in a colloquy in the business meeting of the Environment and Public Works Committee on March 23, 1995, regarding the meaning of this provision in the case of a host community agreement that contains no tonnage limitation. The chairman agreed with me that where there is no specified tonnage amount in a host community agreement, a Governor's ban of interstate waste shipments to a facility covered by such an agreement would be in violation, or inconsistent with, the terms of the host community agreement.

Mr. President, I would like to ask the distinguished chairman of the committee whether this colloquy still reflects the committee's understanding about how the 4011(a)(4)(A) limitation should be interpreted when a host community agreement contains no specified tonnage amount?

Mr. CHAFEE. The Senator from Idaho is correct. Where a host community agreement contains no specified tonnage, a Governor's use of his authority to ban interstate waste shipments would be in violation of, or inconsistent with, the terms of the host community agreement.

Mr. KEMPTHORNE. If a Governor imposes a cap at 1993 tonnage levels on waste received, affecting a facility with a host community agreement that does not have a tonnage limitation, would the cap be considered to be inconsistent with the host community agreement?

Mr. CHAFEE. The Senator is correct, a cap would be inconsistent with such an agreement.

Mr. KEMPTHORNE. Does the provision, as interpreted, apply only prospectively, or is it intended to cover host community agreements entered into, or permits issued by a State, both before and after enactment of section 4011?

Mr. CHAFEE. The provision applies both retroactively and prospectively to those host community agreements that were in effect before and after the date of enactment.

Mr. KEMPTHORNE. Has anything happened during the course of this floor debate on the bill to change this understanding as to the interpretation of this provision, section 4011(a)(4)(A)?

Mr. CHAFEE. No. But it is this Senator's view that this colloquy confirming our understanding of section 4011(a)(4)(A), as previously set forth in the committee business meeting, does not apply to amendment 1077, an amendment that was offered by Senator COATS and only affects the State of Indiana.

Mr. KEMPTHORNE. Thank you, Mr. President.

Mr. SIMPSON. We are once again trying to pass legislation dealing with the export of solid waste from one State to another. This issue has become a concern because some of the large Northeastern States have been shipping large amounts of garbage to States such as Indiana, Pennsylvania, and Virginia for disposal. This waste is being exported in part because the cost of disposing of this waste in another State, even after figuring in shipping costs, is less than the cost of disposal in the home State.

We find that high population States such as New Jersey and New York have been running short of landfill capacity. That has been caused by a shortage of usable land and more importantly because State and local governments have not been building new landfill capacity or new incinerators. Local citizens in these area have opposed such efforts. This is a classic example of the "not in my back yard" or "NIMBY" principle. The citizens in States generating the waste oppose the construction of new incinerators. With proper environmental controls incinerators may be one of the best methods of disposal. Heat energy can be recovered from burning trash and we do not end up with the huge volume that must be buried in a landfill. Without local disposal options the next option becomes shipping trash somewhere else and disposing of it in a neighbors back yard. Now the folks who have been receiving trash from out of State are finding their landfill capacity being used up by citizens who live hundreds of miles away. They are saying "not in my backyard either" and I can understand their frustration.

The people of Wyoming do not want trash being brought in from other States in large quantities because others will not make the tough political decisions needed to expand landfill capacity or to build incinerators. Wyoming is the largest coal producing State in the Nation. We have large open pit coal mines. We had a proposal floating around in my State at one time to bring empty coal train cars back into the State loaded with garbage to be dumped in the old open pit mines. Someone thought that was a marvelous idea. The people of Wyoming did not think it was a marvelous idea though. There was a hue and cry across the land when that trial balloon was floated. The opposition to this proposal was vocal and near unanimous. So I am pleased that we are granting Governors authority to limit the importation of waste from out of State. I understand the issue with the commerce clause. But we do need to ensure that some States will not just take the easy way out and send their problems down the road to someone else. This is not about interstate commerce—this is about States and counties failing to face up to their own problems and responsibilities.

We see some of the same issue when dealing with low level nuclear waste. We have set up a system of compacts where States join together and make group decisions about where to locate low level waste disposal sites. Every State generates low level waste and it must be disposed of in a thoughtful manner. But the State compact system does not work well for interstate trash because there are just a few States with huge volumes of waste and no place to put it. So we are letting individual States limit or accept out of State waste as they see fit.

I trust that this legislation will ensure that the exporting States will take a more constructive approach to this problem in the future. Citizens of every State must recognize that as consumers they are responsible for the waste they generate and they must bite the bullet and deal with it locally.

I trust we can get this bill through conference and to the President in a timely fashion. We came very close last year to getting it done but the bill died the last day of the session. Senator CHAFEE and Senator SMITH have done yeoman work on this bill and I commend them for their efforts and I look forward to the passage of this important legislation.

Ms. SNOWE. Mr. President, I rise in support of the bill, S. 534, as amended.

Let me first thank Senator CHAFEE, the chairman of the full Environment and Public Works Committee, and Senator SMITH, the chairman of the subcommittee, for their assistance to Senator COHEN and me on several amendments of great importance to the people of Maine. We offered three amendments to this bill, and all of them have been accepted, for which I am very grateful. The amendments relate to put-or-pay contracts, the term "original facility" on page 58 of the bill, and to the "substantial construction" requirement on page 56.

I would also like to thank the ranking members of the full committee and the subcommittee, Senator BAUCUS and Senator LAUTENBERG, for their cooperation and acceptance of our amendments.

And finally, I would like to thank my colleague from Maine, Senator COHEN, for working with me on these amendments on behalf of the State of Maine.

Mr. President, Maine has had a keen interest in the issue of flow control since the U.S. Supreme Court issued its ruling in C&A Carbone, Inc. versus Town of Clarkstown, New York almost 1 year ago today, on May 15, 1994. That ruling, which invalidated municipal solid waste flow control ordinances across the country, threatened to unravel the painstakingly crafted waste management systems of local governments in Maine and many other States. Over 200 municipalities in my State made expensive investments in modern waste-to-energy facilities based on the assumption that flow control authority would be available to them. As a result of the Carbone decision, they now fear for their future financial well-being.

S. 534 focuses primarily on municipalities that issued bonds to pay for the construction and operation of designated waste management facilities like waste-to-energy plants. These municipalities relied on flow control ordinances to meet their financial obligations and to repay the bonds. The bill contains a grandfather provision that allows these communities to continue using flow control as long as they enacted their original flow control ordinances and designated their waste management facilities before May 15, 1994.

At first glance, the bill's grandfather provision would appear to protect the communities associated with the Regional Waste Systems waste-to-energy plant in Portland, ME, and the Mid-Maine Waste Action Corp. plant in Auburn, ME. These municipalities banded together in the 1980's to construct the facilities, and they issued bonds to pay for that construction. Flow control ordinances were enacted to guarantee delivery of sufficient amounts of waste to the facilities. But separate provisions in the bill would unintentionally and unfairly exclude many of these communities, and Senator COHEN and I offered amendments to rectify these problems.

The first problem relates to the bill's use of the term "original facility" when it defines the duration of the flow control authority available to qualified political subdivisions in the future. Title II, subsection (b)(4)(C) allows qualified municipalities to continue using flow control through the end of the remaining useful life of the original waste management facilities that had been designated. The problem with the term "original facility" is that it could be interpreted to exclude facilities that had been the subject of the original designation by a group of municipalities, but that had also been overhauled prior to the Carbone decision.

The MMWAC facility in Auburn, ME, is one facility that could have been unintentionally excluded from S. 534's grandfather provisions by this language. Due to significant deficiencies, the MMWAC plant, which had been constructed in 1988, was temporarily shut down in 1990, and subsequently overhauled. The plant resumed operations in 1992, and it has functioned well since that time. Under the original language of the bill, a party could have argued that because of the renovations, MMWAC could not be considered an original facility, and therefore flow control would not be available to its member municipalities through the plant's remaining useful life.

The amendment that I offered with Senator COHEN, and which has been accepted, deletes the word "original," and ensures that municipalities whose designated waste management facilities were in operation as of May 15, 1994, will be able to continue using flow control through the remaining useful life of the facility.

Another problem in S. 534 relates to the 'substantial construction" requirement found in title II, subsection (b)(1)(B). This provision States that qualified municipalities would only be able to use flow control if the ordinance or legally binding provision in existence before Carbone had been enacted or signed before "substantial construction" of the designated facility had been completed. Unfortunately, more than 61 municipalities in Maine had enacted flow control ordinances or legally binding provisions after the substantial construction of their designated facilities had been completed.

Even more problematic, this provision requires the "substantial contruction" to have been completed after the "effective date" of the ordinance or provision, rather than the date of enactment. As a result of this language, most of the municipalities in Maine that would otherwise qualify for S. 534's grandfather provision would be denied the bill's protection. Municipalities in Tennessee, Michigan, and other States would be similarly affected.

In recognition of the unintentional problems that this language poses for so many otherwise qualified municipalities, I joined Senators COHEN, SMITH, and THOMPSON in offering an amendment to strike this language. As I noted earlier, that amendment has been accepted by the managers of the bill.

The last amendment that Senator COHEN and I offered relates to put-or-pay contracts. Municipalities that signed put-or-pay contracts with designated facilities prior to Carbone, but that did not enact flow control ordinances before that date, do not qualify for flow control authority in S. 534 as written. Under a put-or-pay contract, a municipality agrees to deliver a specified amount of waste to the designated waste management facility every month. If the muncipality cannot deliver the required amount of waste, then it must pay the facility for the waste that was not delivered.

In Maine, 160 communities in the sparsely populated central, eastern, and northern parts of the State determined that the put-or-pay approach was the best one for them, and they signed contracts with the Penobscot Energy Recovery Corp. [PERC] in Orrington, a $100 million waste-to-energy plant.

These cities and towns signed long-term contracts with PERC in response to the same policy signals from the Federal and State governments as communities that actually issued bonds to pay for municipally-owned facilities. The difference is that the PERC towns chose a somewhat different route. They decided to sign put-or-pay contracts with a privately owned waste-to-energy plant that was created in response to a request for proposals from these communities.

The original contracts, which were 30-years long and set a tipping fee at $10 a ton, were signed in 1988. Due to financial difficulties that threatened the plant in 1989, however, the contracts were renegotiated.

The new contracts increased the tipping fee fourfold, to $42 a ton. The municipalities agreed to sacrifice in the short-term and pay such a large fee increase for two reasons: to finance essential capital improvements to the plant to help it run more efficiently; and to ensure a stable tipping fee over the life of the contract.

In addition, the new contracts not only required each municipality to deliver a specified amount of waste, but they included a kind of aggregate put-or-pay provision which allows the PERC facility to void the existing contracts if the total amount of waste from all member communities declines below a specified minimum tonnage. Finally, the new contracts provided that the cities and towns that signed would receive 50 percent of any distributable profits earned by the plant.

After signing the contracts, some of the larger cities in this region of Maine like Waterville, and Bangor—cities that have a council form of government—enacted flow control ordinances to ensure that they could deliver the minimum amount of waste specified in the contract. But most of the 160 towns are very small, and they rely on town meetings for public decisionmaking. As anyone familiar with the town meeting form of government knows, the meetings are held infrequently, and the towns generally do not vote on measures unless they must be addressed at that particular time.

Consequently, after signing the put-or-pay contracts, a lot of the Maine towns deferred passage of flow control ordinances in the hope that they could deliver the required amount of waste without having to go through the process of formally enacting a flow control ordinance. But these towns always believed that, if necessary, they could resort to flow control to guarantee delivery of the amount of waste specified in their contracts. If they had known that flow control would not be an option, most, if not all, of them would not have signed these contracts. The Carbone decision eliminated the flow control option, changing the rules in the middle of the game, and leaving these communities vulnerable to significant financial hardship if they being to have trouble delivering the amount of waste required in their contracts.

Without flow control, these towns may not only find it more difficult to meet their individual contractual obligations, however. They could fail to meet their aggregate tonnage requirements as well, giving PERC's owners the right to void all 160 of the contracts and to initiate a new round of negotiations.

The current contract provide stable tipping fees and terms for the member municipalities. And it allows them to receive half the profits generated by the facility—which is only reasonable since the communities have paid for necessary capital improvements through the higher tipping fees negotiated in 1989 and 1990.

These cities and towns cannot afford to lose this arrangement. Because they are dispersed across a large, rural region, and because nearly all of the local landfills have had to close due to Federal and State mandates, the PERC waste-to-energy plant is the only real waste disposal option for most of the 160 towns. Under a renegotiation, these towns, tucked away in the far northeastern corner of the United States, will find themselves facing what amounts to a waste disposal monopoly.

Needless to say, in such a weak negotiating position, the towns could see their waste disposal costs rise sharply, despite having already invested so much money to make the plant viable. And they could lose the opportunity to get a return on the substantial investment that they made in this facility through the higher tipping fees negotiated in 1990.

Mr. President, this elaborate but workable waste disposal system for central, northern, and eastern Maine was predicated on the understanding that flow control would be available to all participating communities. Since flow control was overturned by Carbone, the communities of the region have been placed in a very vulnerable position, one which they would not have placed themselves in had flow control not been an option.

In order to avoid substantial financial hardship in the future, put-or-pay communities that signed contracts before Carbone must retain the authority to enact flow control ordinances if they need to. The net effect of the Carbone decision on these communities is not dramatically different from the decision's effect on other communities that actually issued bonds for their own facilities. In both cases, a court decision leaves the communities dangerously exposed to financial hardship. In both cases, the communities designed new waste systems in response to Federal and State policies that encouraged them to do so. And in both cases, the systems were predicated on access to flow control. Considering these similarities, the put-or-pay communities do not deserve to be treated differently and excluded from the flow control grandfather in S. 534.

The amendment offered by Senator COHEN and I simply clarifies that the term "legally binding provision" in title II, subsection (b) of the bill, includes put-or-pay agreements of the kind negotiated in Maine. As a result of this clarification, the municipalities that have contracted with the PERC facility will continue to have access to flow control, and their intricate but successful waste management system will remain intact. I am very pleased that the managers of the bill agreed to accept this important amendment.

Mr. President, with these amendments, S. 534 treats all deserving municipalities equitably, without creating loopholes for other municipalities that did not rely on flow control before the Carbone decision. The bill as amended restores fairness for local governments that acted and invested in good faith, according to the rules that existed before May 15, 1994,

Senators CHAFEE, SMITH, BAUCUS, and LAUTENBERG deserve credit for crafting a reasonable and balanced compromise bill, and I am happy to announce my support for it.

Mr. DOLE. Mr. President, over the past several years the Senate has discussed the issue of interstate trash and has passed two interstate trash bills. The provisions contained within those bills were the result of significant efforts and provided authorization for an integrated approach to interstate trash control. The bill before us today accomplishes similar goals, but also addresses flow control and reinstates the ground water monitoring exemption for small landfills.

I commend the efforts of Senator COATS who has worked so hard for the past several years to pass such a bill. Senator CHAFEE, Senator SMITH, and others have all worked extensively on this legislation. I believe the authority granted to Governors provides the right flexibility, with local community participation being an important part of this legislation. While I remain concerned about long term implications of the flow control provisions, I believe the committee sought to achieve a balance that provides security for existing flow control authorities while providing for a competitive marketplace in the future.

Public and private authorities need to work together in a free market system to address waste management concerns. Congress should only work to assist these decisions, not impede sound environment practices, by providing flexibility to State and local governments to their waste management needs.

Mr. GLENN. Mr. President, I rise today in support of passage of the Interstate Transportation of Municipal Solid Waste Act of 1995. Although I support more stringent restrictions on waste imports, I believe that this legislation is a necessary tool for Ohio and other importing States for implementation of their solid waste management plans.

The accumulation of solid waste in municipal landfills is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials today. According to the Ohio Environmental Protection Agency [OEPA], all the landfills in Ohio could be full by the year 2000. For several years, I have supported and voted for measures to stem the tide of interstate waste, and I commend my colleague, Senator COATS, for his perseverance on this important issue. In 1992, I voted for the Interstate Transportation of Municipal Waste Act which passed the Senate on a vote of 89-2. In 1993, I was an original cosponsor of legislation to restrict imported waste. I am pleased that the Senate is again acting to address this issue, and it is my hope that this year these restrictions will be enacted into law.

Mr. President, Ohio currently receives about 1.7 million tons of municipal solid waste annually from other States. As old landfills are closed or reach capacity, Ohio has reached the point where 28 of the 88 counties have no landfill, and 35 have 5 years or less capacity remaining. Clearly, my State cannot implement its environmental objectives and deal with thousands of tons of imported trash at the same time.

The increasing flood of waste imports from out-of-State is a serious threat to the health and safety of Ohioans and to the environment in my State and the other States that receive vast quantities of imported waste. Ohio has taken strong and effective actions to reduce its waste generation and to recycle waste. However, my State's efforts are being overwhelmed by trash from other States.

Mr. President, this bill takes several steps that will reduce the amount of out-of-State waste coming into Ohio and other States. The bill will allow Governors to immediately freeze out-of-State waste at 1993 levels at facilities that received imported waste in 1993. In addition, the bill contains strengthened authority to impose an import control, or ratchet, on out-of-State waste. I worked with my colleagues from the other largest importing States—Michigan, Pennsylvania, and Indiana—to make this ratchet more effective by placing tougher limitations on waste exports.

This legislation also contains provisions to restore local authority to control the flow of municipal solid waste. Many county commissioners and solid waste district managers have expressed concerns to me about the need for flow control authority to enforce solid waste planning goals as well as recycling mandates. Although this bill does not accommodate each individual situation in Ohio, it is a strong statement about the necessity of local flow control authority, and I will continue to work through the House-Senate Conference to ensure that Ohio's specific needs are met.

Mr. President, a national solution to the problem of interstate waste is long overdue. We must act decisively, and we must act now to avert a national crisis in solid waste disposal. I urge my colleagues to join me in supporting this legislation.

Mr. LEVIN. Mr. President, the Senate is about to pass S. 534, the Interstate Transportation of Municipal Solid Waste Act of 1995. I am pleased that the Senate is moving early in this session toward resolving this important matter.

This bill is a positive step in the right direction. It has been much improved during the amendment process on the floor, particularly with respect to the provisions on flow control authority. The bill now more clearly provides counties in Michigan with the ability to protect investments they have made in recycling and waste reduction programs, or disposal facilities, using their previously existing authority to control the out-flow of municipal solid waste and recyclables from their jurisdiction.

Several amendments, in particular, should alleviate local government concerns about the effects of the Supreme Court's Carbone decision. These amendments provide the Grand Traverse, Clinton, and other Michigan counties, should be able to continue to use flow control to generate revenue to fund waste management programs, including recycling. And, Kent County, MI, is more clearly grandfathered to continue to exercise its flow control authority.

The bill also provides States and local governments with the ability to control the importation of municipal solid waste into their jurisdiction. At the request of local governments, Governors would be able to half the shipment of waste to disposal facilities in their States that did not receive out-of-State waste in 1993. Governors will be able to freeze shipments of waste to landfills and incinerators at 1993 levels. And, Governors would also be authorized to gradually limit imports of waste from States that did not reduce the amounts of waste they exported.

I offered an amendment to clarify that the definition of "out-of-State municipal solid waste" should include out-of-country waste, because of Michigan's experience with Canadian waste. I also supported another amendment that authorized the EPA to conduct a study of solid waste management issues associated with increased border movement of waste due to NAFTA.

Mr. President, I would prefer that the Senate's's bill include a requirement that halted all waste imports until such time as a host community agreement could be negotiated between a local government and a waste exporter. Such an agreement would specify the quantities out-of-State municipal solid waste that would be acceptable to the local government for disposal in their jurisdiction.

Also, construction and demolition debris has been a problem at Michigan disposal facilities for some time. I would hope that the conferees could find a way to include this waste in the definition of municipal solid waste or otherwise provide local governments with some measure of control over its disposal. I cosponsored Senator DEWINE's amendment to do this, but the amendment was ultimately not offered because of the threat of a filibuster for States that export large quantities of this waste.

Michigan is a net importer of municipal solid waste [MSW]. We receive MSW from sources all over the country and Canada. For many years, Michigan had a model comprehensive solid waste management and planning system that provided for long-term local waste disposal needs. Starting with the Fort Gratiot Sanitary Landfill case in 1992 and subsequent Supreme Court decisions, this system was thrown into disarray. These decisions jeopardized good-faith investments made by State and local governments in programs and facilities to manage municipal waste in an environmentally sound, cost-effective manner.

Congress should act quickly and explicitly to put municipal solid waste disposal decisions back into the hands of the people most directly affected by them and best suited to make them—the taxpayers of the municipalities that generate the waste and the States.

Mr. McCONNELL. Mr. President, I rise today in support for the passage of S. 534, the Interstate Transportation of Solid Waste Act of 1995. This legislation is long overdue. For too long States like Kentucky have been forced to deal with the uncontrollable flows of out-of-State waste. I do not need to remind my colleagues of the garbage barge in 1987 that sailed up and down the east coast looking for a place to deposit its foul load. It came to symbolize our Nation's burgeoning solid waste problem.

Since then, States and communities have attempted to manage their own waste flows, but were helpless to stop the flow of out-of-State waste. For the past 6 years, I have worked to provide States the authority to control the waste being sent to their State. Finally, we have a bill that allows States to say no to out-of-State trash.

It is particularly troubling to think that there are States and localities that have either been unwilling or unable to dispose of their own garbage in a responsible manner, forcing it on States like Kentucky. The disposal of garbage is truly a local concern and should be handled that way. I do not believe States should be forced to share valuable landfill space with out-of-State waste they do not want.

Gone are the days of open dumps and multitudes of cheap landfills. in 1996, new landfill standards will be implemented mandating liners, leachate collection and treatment and ground water monitoring. The EPA has estimated that nearly half of the Nation's 6,000 landfills will be closed. This will obviously force many States to rethink their disposal needs. Therefore, it is critical that States are provided the authority to control out-of-State garbage.

Last week, I offered an amendment that was accepted to protect the authority of States and regional authorities to develop and implement comprehensive waste reduction strategies in an effort to conserve costly landfill space.

For the past 6 years, I have worked hard to ensure that States and localities are given the discretion to manage their own waste and to protect themselves from becoming a dumping ground for those States that take the position of "out of State, out of mind." I refuse to allow Kentucky to become a garbage colony.

In 1990, I introduced S. 2691, a bill to give States the ability to fight long-haul dumping by charging higher fees for disposal of waste coming from other States. This bill passed the Senate with 68 votes.

During the 102d Congress, I introduced S. 197 to once again provide States the authority to impose a fee differential for out-of-State waste. In 1992, Senator COATS and I joined forced and produced comprehensive legislation to provide States the authority to regulate waste. That same year, the Senate passed an interstate waste bill by an overwhelming vote of 88–2. Unfortunately, the bill died in the House.

During the 103d Congress, I joined with Senators COATS and Boren in introducing S. 439. Although the Senate didn't act until late in the session, Congress came extremely close to passing an interstate waste bill. Again, the House stalled long enough to effectively kill the bill on the last day of the session.

I am encouraged by the quick action taken by the committee under the leadership of Senator SMITH and the chairman, Senator CHAFEE to address the problem of interstate waste. I am hopeful that the House will work expeditiously to pass their own interstate waste bill so that we can finally give States the authority to control out-of-State waste and protect their own landfill space.

I urge my colleagues to join me in support of this legislation.

Mr. BRADLEY. Mr. President, today, for the third time, the Senate is attempting to resolve the many difficult issues that are involved with municipal solid waste flows. For the third time in the last 6 years, I have worked with my colleague on the Environment Committee, Senator LAUTENBERG, to defend our home State of New Jersey and the many ways in which we handle, recycle, or dispose of the tons of municipal solid waste produced every year.

Last Congress, we were within a single vote of resolving this issue. All of the relevant parties hammered out a bill that was as fair as it could be to those States that are called waste exporters and those States that are waste importers—actually, most states are both. It responded to the needs of States that tried to manage solid waste flows within their boundaries. It tried to balance the contradictory impulses to create a more competitive waste market or to impose more restrictions on waste flow.

It was not a great bill. But it was a pretty fair bill. And it was as least reasonably consistent. When the bill now before us was first reported to the Senate floor, it was a poor facsimile of last year's effort. Yet, fortunately, the bill's managers were willing to work with Senator LAUTENBERG, State officials, and myself to guarantee New Jersey the security we needed to move forward on this most contentious issue.

Mr. President, this is not the easiest bill to support. Title I of this bill will be restrictive of interstate trade. It will give Governors and citizens the real ability to slow and ultimately stop the flow of municipal solid waste from State to State. Fundamentally, these actions are anticompetitive. They will result in more expensive waste disposal for many Americans and American businesses.

Title II, however, has quite a different purpose. Title II responds to recent legal decisions that, if left standing, would greatly reduce the ability of a State to manage waste flows within its own borders. Because of this title II, as modified on the Senate floor, New Jersey will be able to continue its efforts to control and reduce the municipal waste flow.

For years, many States have anticipated the need to manage internally waste flows, exactly because of the pressures for and against exports, as well as environmental concerns. In my State, we started very early to close inadequate landfills and waste facilities. Early on, we realized that to do the job of waste disposal right was neither cheap nor easy. New Jersey responded with State law setting up a broad program of environmentally progressive waste facilities.

These facilities were not and are not cheap. Many counties in my State were essentially compelled to build facilities that they probably—or certainly—would not have built otherwise. Now these counties depend on mandated trash flows for revenue. Unfortunately, without some legislative redress, these revenues are at risk for many facilities. Additionally, the potential financial collapse of authorized waste facilities would certainly make it far less likely—perhaps exceedingly unlikely—that my State ever develops a truly comprehensive waste management plan again.

I have heard the arguments that, in a world of competition, we do not need to allow States flow-control authority. Trash would end up in the lowest cost facilities that meet the appropriate environmental requirements. Consumers and businesses would save money and the environment could be protected in this world. But title I obliterates any hope of truly competitive markets in solid waste. Once title I is adopted, trash is transformed from an issue of commerce to an issue of baldfaced politics. In such a world, my State has to have effective flow-control authority and that authority is provided in title II of this bill.

In the best of all worlds, frankly, we probably would not be passing any bill. We would simply recognize that trash represents goods in commerce; that a bag of potato chips which moves freely from State to State is not mysteriously transformed once the chips are eaten. But all of my experience dealing with the interstate waste issue confirms to me that we are not living in that world now. I have seen political commercials run attacking my State. I have seen demagoguery. And I have seen efforts that were far more restrictive of interstate waste flows pass this body with overwhelming support.

Mr. President, I have come to conclude that this bill does protect my State and will give us the flexibility we need to resolve these waste flow issues. To be truthful, I am not wild about this bill. However, it can be the basis for a resolution of this matter and it is a compromise that I will support, notwithstanding my obvious reservations.

FLOW CONTROL AND INTERSTATE WASTE

Mrs. BOXER. I voted against final passage of S. 534, which amends the Solid Waste Disposal Act, because the final bill does not adequately address the needs of many California cities and counties which have incurred debt to achieve California's ambitious integrated waste management requirements.

From the beginning, I have had concerns about the impact of this bill on California. California requires its communities to meet stringent recycling and waste reduction goals—a 25-percent reduction by the beginning of this year and 50 percent by the turn of the century. To meet these goals, California communities must aggressively manage their municipal solid waste.

However, California communities do not use statutory flow control authority, as do communities in many other States. Instead, California communities rely on contracts with private companies to ensure that their waste goes to a designated recycling plant or other facility. Consequently, the California League of Cities and the California State Association of Counties asked me to try to amend the bill to ensure that it would not restrict their ability to employ these contractual agreements.

I worked with my colleagues on the Environment and Public Works Committee, and with Senator FEINSTEIN in the full Senate, to try to amend the bill to address the needs of California cities and counties. Unfortunately, our efforts failed. I understand that the bill moving through the House of Representatives may be more favorable to interests of California cities and counties. If that is the case, and this bill is amended in conference to address some of my concerns, I will reconsider my position when the Senate votes on a conference report.

Mr. DODD. Mr. President, I would like to offer my support for S. 534, as amended, and to discuss the importance of flow control to the State of Connecticut.

I want to thank the chairman, Senator CHAFEE, and ranking member, Senator BAUCUS, of the Environment and Public Works Committee for moving forward with this important legislation.

The bill, as crafted by Senators SMITH and CHAFEE, was much narrower than the compromise legislation agreed to at the end of the 103d Congress. The bill before us today, S. 534, seeks to protect only public debt incurred by municipalities to construct waste disposal facilities. Flow control authority would apply to those communities that were operating or constructing their own disposal facilities, or had contracted for such disposal prior to the May 1994, Carbone decision. There is to be absolutely no prospective flow control—flow control authority would cease 30 years after enactment of the legislation.

Unfortunately not all Connecticut mnnicipalities and public service authorities were protected by the original language in S. 534. Therefore, Senator LIEBERMAN and I offered amendments at the committee markup and on the floor of this body. The Senate agreed to our amendments which contained technical changes and small provisions intended to address situations unique to Connecticut.

It is my belief that State and local governments and State-created entities have a vested interest in how solid waste produced within their borders is transported and disposed. Flow control is the backbone of Connecticut's integrated waste management plan. Localities made significant capital investments to construct waste disposal facilities. Approximately 86 percent of Connecticut's waste is disposed of in these state-of-the-art facilities. The State, and ultimately the taxpayers, are backing nearly $500 million in bonds that were used to finance the construction of regional waste disposal centers and recycling transfer stations. Profits from the facilities, used to pay off the bonds, were to be ensured by flow control authority. Without the ability to direct waste to appropriate facilities, these revenue bonds would be in jeopardy.

Again, I thank the managers of this bill for working with staff to understand and incorporate the needs of individual States. If this legislation passes today, I am confident that Connecticut municipalities and localities around the Nation will be able to administer their solid waste management systems in environmentally sound and fiscally responsible manners. Therefore, I hope my fellow Senators will support this bill and I urge the House of Representatives to take up this measure in a timely manner.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I might inquire of the Chair as to what vote it would be proper to request the yeas and nays on. At what stage in what vote?

The PRESIDING OFFICER. On final passage.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER. Without objection, the committee substitute is agreed to.

So the committee substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the junior Senator from Indiana will be here in a few minutes and would like to make a statement on the bill. That would be the only business in connection with this legislation.

So I ask unanimous consent that at the hour of 2:15 today, the Senate proceed to a vote on final passage of S. 534, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I would like to take this opportunity to thank the staff on both sides of the aisle for their work on this bill. The Senate has been grappling with these issues for several years. They are very contentious. They are very arcane. They are hard to understand and in many respects they are totally confusing.

But, nonetheless, I believe we came out with a bill that is balanced on the interstate portion of the bill. The bill in effect is divided into three sections, the first being the interstate part. It is very difficult balancing the views of the importing States, those who have garbage shipped into them, and those who are the exporting States who do not want to be cut from exporting their trash. We tried to wrestle with that. I hope and I believe we have been successful.

I hope that the package we put together will resolve many of the differences that have prevented a solution to the interstate waste.

The flow control dilemma has been a separate one. We have had several votes in connection with that, not leaving everybody happy, but hopefully this will resolve itself in the months and years to come.

I want to thank the staffs of Senator D'AMATO and Senator COATS who labored hard to develop the compromise on title I, the interstate portion of the bill. I would like to thank Jim McCarthy of the Congressional Research Service, George Hall of the EPA, and Tim Trushel of the Senate Legislative Counsel's office for their work in facilitating passage.

On our side of the aisle, the staff, I want to thank John Grzebian and Steve Shimberg, and Jeff Merrifield who worked so hard on this.

Senator D'AMATO's office, Peter Phipps; Senator COATS' office, Sharon Soderstrom and Melissa Murrell.

Of course, we are deeply indebted for the splendid work of the ranking member of the committee, the senior Senator from Montana who has always been helpful and knowledgeable on these difficult issues. I want to pay my respects to him for the splendid work he has done, and to Cliff Rothenstein and Tom Sliter and Scott Slesinger also.

So, Mr. President, we are winding up a long and contentious period. If all goes well, this will be approved at 2:15 this afternoon.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I will be brief because we have been so long on this bill—it has been 6 years—so that we do not prolong the agony and get it passed, and very much hope the House also passes a similar bill so that we can deal with this in this Congress finally.

To follow up on the points of the Senator from Rhode Island, the chairman of the committee, JOHN CHAFEE, it is the staff around here that does the work. All Senators know that. They work very, very hard, long, long hours, know the details, know the substance, and are not frankly sufficiently complimented I think for all the work they do.

Mr. President, I think that the most noble human endeavor is service. It is service to friends, it is service to families, to the church, to the community, to the State, and the Nation—service.

Some of us who spend our lives in public service get all of the attention and the thanks for a lot of what we do. I must say we get a lot of a contention and criticism for what we allegedly do and do not do as well. But it is the staff, it is the people around here who do the work who get no attention, who do not get thanked who really deserve it for all the work they do. And to again give the names because these are the people who did most of the work on the majority side, John Grzebian, who was very, very diligent, very helpful. We had many late-night meetings back in the cloakrooms trying to work this out, and John is particularly helpful. Steve Shimberg, staff director for the committee, we have known Steve for many years, those of us who have been on the committee. He is very knowledgeable, very gracious, very helpful; and also Jeff Merrifield who is a bit new to this but nevertheless very, very competent, very diligent, as everyone on the staff working.

On the minority side, Tom Sliter, who is the minority staff director, very gracious, and knowledgeable. I have worked with Tom for many years. I know no one who is more competent. Tom is very effective and very knowledgeable and substantive; that is, not acrimonious, not bitter, and not nasty but very, very solid and very gracious.

The same with Cliff Rothenstein. I frankly do not know anybody not only on Capitol Hill but in this town who knows more about this subject than Cliff. That is because Cliff has been working on it for 6 years. Cliff is bound to know this subject very well, and does, and frankly when we got to a lot of the parts of the amendments we were trying to work out, it was Cliff who was able to provide the solution or the idea of bringing it together.

Mike Evans, who is the minority chief counsel, has also worked on this issue for several years. Mike's knowledge of the issue and his advice was very helpful throughout the course of this bill.

Scott Slesinger works for Senator LAUTENBERG, the ranking minority member of the relevant subcommittee. Scott, too, has added a lot of advice all along every stage of this bill.

We compliment the Senators here on the floor very often. I will not at this point again compliment all the Senators. I have done so many times on this bill. But I want to at this time highlight the staff, and those are the key staff that have worked very diligently. I think all should pause for a moment and reflect to thank them for all of their effort.

Thank you, Mr. President.

Mr. CHAFEE. Mr. President, the senior Senator from New Hampshire is the chairman of the subcommittee that dealt with this legislation and has done wonderful service here on the floor despite demands on his time with very difficult matters that came up simultaneously.

So I want to pay tribute to Senator SMITH for his very, very helpful support on this entire legislation, for his knowledge of it, and the fact that he moved along so swiftly in the subcommittee. We would not be here but for Senator SMITH taking charge of that subcommittee and determining that this bill was going to come to the floor in due order and in short order.

So we are very grateful to Senator SMITH for what he has done and appreciate it and look forward to continued working with Senator SMITH as his committee has a series of other bills that will be coming, including the great big Superfund bill, which is a real challenge.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I would like to thank Senator CHAFEE first of all for his very fine remarks. It has been a delight to work with the chairman of the Environment and Public Works Committee on this legislation. He several months ago said we want to try to get the flow control bill and the interstate waste matter brought up. And I took it seriously. We were able to do that. It has been a delight to work with him and his staff as we brought this bill here to the floor for a close, hopefully. It has been a long haul.

We tried to accommodate a number of Senators. I had a long list of some 27 or 28 Senators I think that we were able to accommodate that had specific concerns. I know there were some who we were not able to accommodate because we felt it would essentially violate the spirit and intent of the legislation that we brought forth.

But particularly the majority staff, John Grzebian, Steve Shimberg, and Jeff Merrifield who were really right there doing a lot of work, most of the work I guess behind the scenes to work on these amendments and get the compromise language agreed to. Certainly, Cliff Rothenstein and Tom Sliter and Scott Slesinger on the minority staff; and Peter Phipps of Senator D'AMATO's staff and Melissa Murrell of Senator COATS' staff were all particularly helpful, and as were others.

I think we ended up with essentially a good bill. There are some things I would not have put in it, and Senator CHAFEE would not have put in it. There are certain things we wish we had put in. But the bottom line is that this legislation is a compromise. We tried to accommodate those who brought up concerns that you had not thought of or maybe did not realize that needed to be put in there. And they come up with these ideas, and we tried to work them out.

I think it deals essentially with the issue of flow control. It takes care of those people who made investments, who stood a grave risk had we not passed this legislation. It does grandfather the flow control authority so that it is not a permanent anticompetitive piece of legislation. It does grandfather it. So we went to great lengths to reach a compromise.

Again, I want to thank Senator CHAFEE for his leadership. It has really been a pleasure to work with him in the position of subcommittee chairman. He has been 100 percent cooperative every step of the way personally and at the staff level. As the Senator said, last week I had a number of conflicts. I had three separate subcommittees to chair at the same time, two on Superfund, which is another priority item in our subcommittee, and Senator CHAFEE was willing to step in and participate almost fulltime on the floor debate and the management of the bill, for which I am very grateful.

Mr. President, at this point, I will yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, Yogi Berra said, "It ain't over 'til it's over." We are not through yet, but it is awful close; we are in the bottom of the ninth on this issue I have been working on for 6 years.

I thank the Senator from Rhode Island [Mr. CHAFEE] and the Senator from New Hampshire [Mr. SMITH] and Senator BAUCUS, who is not in the Chamber right now, and others who have joined with me in this effort that started out as a lonely vigil and now has turned into nearly a consensus effort.

Senator D'AMATO was willing to sit down at the table and negotiate a very difficult problem for his State with those of us who had difficult problems for our States. I believe we reached, last Friday afternoon, a satisfactory resolution of that concern.

We have every reason to believe there will be favorable treatment of this in the House. It has been stopped there before. I believe we are as close to success there as we have ever been and we can resolve whatever differences may exist between the House and Senate and put this on the President's desk, and finally give the States and communities we represent a basis for dealing with their own environmental problems but not having to solve everybody else's environmental problems—the ability to say that is all we can take, or we cannot take anymore, or you are going to have to find a way to dispose of that in your own State. We are doing our share; you do your share.

We are that far away, and I am optimistic we are going to finally complete this effort. A lot of people have participated in it, and I thank them for their efforts. I am looking forward to finally putting this issue to rest and then moving on to other concerns before the Senate.

Mr. President, with that, I yield the floor.

HARRISBURG, PA, FLOW CONTROL ISSUE

Mr. SPECTER. Mr. President, I wish to enter into a brief discussion with the distinguished chairman of the subcommittee, the sponsor of this legislation. The city of Harrisburg owns and operates a municipally financed resource recovery facility that was originally constructed in 1972. Harrisburg has issued $40 million in outstanding revenue bonds and has had a flow control ordinance in place for several years. The facility is required, however, to undergo a substantial retrofit pursuant to the Clean Air Act, which will necessitate the issuance of an additional $150 million in bonds and a new waste stream from nearby counties which have not previously flow controlled to the Harrisburg facility. It would appear to me that the existence of outstanding bonds and the unfunded mandate on Harrisburg under the Clean Air Act would justify the extension of flow control authority to the counties that would want to send waste to the Harrisburg facility in the future.

Would the distinguished chairman be willing to look closely at this issue as this legislation goes forward?

Mr. SMITH. Mr. President, as the Senator from Pennsylvania knows, this legislation provides flow control authority which is predicated on meeting debt obligations. The issuance of new debt at a facility that has operated since 1972 and that would require expanded flow control authority is not one that the committee has had the opportunity to examine in any detail at this time. I would be glad to work with the Senator from Pennsylvania as the bill goes forward and to determine whether the Harrisburg facility is or should be covered by this legislation.

Mr. SPECTER. I thank my colleague from New Hampshire.

Mr. CHAFEE. Mr. President, I share all of the views set forth by the distinguished Senator from Indiana. We have all been struggling with this issue for many years, nobody as hard as he has and with more tenacity. As he indicated, we are this close. I think he said we are in the bottom of the ninth. I hope we complete the game, and I know we will. Then, of course, comes what the House does and then the conference with the House. But all of that we will pursue with great vigor.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAMS).

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the bill having been read the third, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 94, nays 6, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—94

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Ford
Frist
Glenn
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—6

Boxer
Brown
Feinstein
Gorton
Kyl
Murray

So the bill (S. 534), as amended, was passed, as follows:

S. 534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Transportation of Municipal Solid Waste Act of 1995".

TITLE I—INTERSTATE WASTE

SEC. 101. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

(a) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"SEC. 4011. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

"(a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) Except as provided in paragraph (4), immediately upon the date of enactment of this section if requested in writing by an affected local government, a Governor may prohibit the disposal of out-of-State municipal solid waste in any landfill or incinerator that is not covered by the exceptions provided in subsection (b) and that is subject to the jurisdiction of the Governor and the affected local government.

"(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(C) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to or greater than the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

"(3)(A) Except as provided in paragraph (4), any State that imported more than 750,000 tons of out-of-State municipal solid waste in 1993 may establish a limit under this paragraph on the amount of out-of-State municipal solid waste received for disposal at landfills and incinerators in the importing State as follows:

"(i) In calendar year 1996, 95 percent of the amount exported to the State in calendar year 1993.

"(ii) In calendar years 1997 through 2002, 95 percent of the amount exported to the State in the previous year.

"(iii) In calendar year 2003, and each succeeding year, the limit shall be 65 percent of the amount exported in 1993.

"(iv) No exporting State shall be required under this subparagraph to reduce its exports to any importing State below the proportionate amount established herein.

"(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste more than the following amounts of municipal solid waste:

"(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

"(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

"(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

"(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

"(V) In calendar year 2000, 1,000,000 tons.

"(VI) In calendar year 2001, 750,000 tons.

"(VII) In calendar year 2002 or any calendar year thereafter, 550,000 tons.

"(ii) The Governor of an importing State may take action to restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

"(I) the Governor of the importing State has notified the Governor of the exporting State and the Administrator, 12 months prior to taking any such action, of the importing State's intention to impose the requirements of this section;

"(II) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to taking any such action; and

"(III) the restrictions imposed by the Governor of the importing State are uniform at all facilities and the Governor of the importing State may only apply subparagraph (A) or (B) but not both.

"(C) The authority provided by subparagraphs (A) and (B) shall apply for as long as a State exceeds the permissible levels as determined by the Administrator under paragraph (6)(C).

"(4)(A) A Governor may not exercise the authority granted under this section if such action would result in the violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste.

"(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

"(5) Any limitation imposed by a Governor under paragraph (2) or (3)—

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin and all such limitations shall be applied to all States in violation of paragraph (3).

"(6) ANNUAL STATE REPORT.—

"(A) IN GENERAL.—Within 90 days after enactment of this section and on April 1 of each year thereafter the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the affected local government and to the Governor of the State in which the landfill or incinerator is located, information specifying the amount and State of origin of out-of-State municipal solid waste received for disposal during the preceding calendar year, and the amount of waste that was received pursuant to host community agreements or permits authorizing receipt of out-of-State municipal solid waste. Within 120 days after enactment of this section and on May 1 of each year thereafter each State shall publish and make available to the Administrator, the Governor of the State of origin and the public, a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding calendar year.

"(B) CONTENTS.—Each submission referred to in this section shall be such as would result in criminal penalties in case of false or misleading information. Such information shall include the amount of waste received, the State of origin, the identity of the generator, the date of the shipment, and the type of out-of-State municipal solid waste. States making submissions referred to in this section to the Administrator shall notice these submissions for public review and comment at the State level before submitting them to the Administrator.

"(C) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste. The list for any calendar year shall be published by June 1 of the following calendar year.

For purposes of developing the list required in this section, the Administrator shall be responsible for collating and publishing only that information provided to the Administrator by States pursuant to this section. The Administrator shall not be required to gather additional data over and above that provided by the States pursuant to this section, nor to verify data provided by the States pursuant to this section, nor to arbitrate or otherwise entertain or resolve disputes between States or other parties concerning interstate movements of municipal solid waste. Any actions by the Administrator under this section shall be final and not subject to judicial review.

"(D) SAVINGS PROVISION.—Nothing in this subsection shall be construed to preempt any State requirement that requires more frequent reporting of information.

"(7) Any affected local government that intends to submit a request under paragraph (1) or take formal action to enter into a host community agreement after the date of enactment of this subsection shall, prior to taking such action—

"(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

"(B) publish notice of the action in a newspaper of general circulation at least 30 days before taking such action;

"(C) provide an opportunity for public comment; and

"(D) following notice and comment, take formal action on any proposed request or action at a public meeting.

"(8) Any owner or operator seeking a host community agreement after the date of enactment of this subsection shall provide to the affected local government the following information, which shall be made available to the public from the affected local government:

"(A) A brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantities to be handled.

"(B) A map of the facility site that indicates the location of the facility in relation to the local road system and topographical and hydrological features and any buffer zones and facility units to be acquired by the owner or operator of the facility.

"(C) A description of the existing environmental conditions at the site, and any violations of applicable laws or regulations.

"(D) A description of environmental controls to be utilized at the facility.

"(E) A description of the site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

"(F) A list of all required Federal, State, and local permits.

"(G) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner and operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective measures taken as a result of the proceedings.

"(H) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

"(b) Exceptions to Authority To Prohibit Out-of-State Municipal Solid Waste.—(1) The authority to prohibit the disposal of out-of-State municipal solid waste provided under subsection (a)(1) shall not apply to landfills and incinerators in operation on the date of enactment of this section that—

"(A) received during calendar year 1993 documented shipments of out-of-State municipal solid waste; and

"(B)(i) in the case of landfills, are in compliance with all applicable Federal and State laws and regulations relating to operation, design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action; or

"(ii) in the case of incinerators, are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429) and applicable State laws and regulations relating to facility design and operations.

"(2) A Governor may not prohibit the disposal of out-of-State municipal solid waste pursuant to subsection (a)(1) at facilities described in this subsection that are not in compliance with applicable Federal and State laws and regulations unless disposal of municipal solid waste generated within the State at such facilities is also prohibited.

"(c) Additional Authority To Limit Out-of-State Municipal Solid Waste.—(1) In any case in which an affected local government is considering entering into, or has entered into, a host community agreement and the disposal or incineration of out-of-State municipal solid waste under such agreement would preclude the use of municipal solid waste management capacity described in paragraph (2), the Governor of the State in which the affected local government is located may prohibit the execution of such host community agreement with respect to that capacity.

"(2) The municipal solid waste management capacity referred to in paragraph (1) is that capacity—

"(A) that is permitted under Federal or State law;

"(B) that is identified under the State plan; and

"(C) for which a legally binding commitment between the owner or operator and another party has been made for its use for disposal or incineration of municipal solid waste generated within the region (identified under section 4006(a)) in which the local government is located.

"(d) Cost Recovery Surcharge.—

"(1) Authority.—A State described in paragraph (2) may adopt a law and impose and collect a cost recovery charge on the processing or disposal of out-of-State municipal solid waste in the State in accordance with this subsection.

"(2) Applicability.—The authority to impose a cost recovery surcharge under this subsection applies to any State that on or before April 3, 1994, imposed and collected a special fee on the processing or disposal of out-of-State municipal solid waste pursuant to a State law.

"(3) Limitation.—No such State may impose or collect a cost recovery surcharge from a facility on any out-of-State municipal solid waste that is being received at the facility under 1 or more contracts entered into after April 3, 1994, and before the date of enactment of this section.

"(4) Amount of surcharge.—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (6) and in no event may exceed $1.00 per ton of waste.

"(5) Use of surcharge collected.—All cost recovery surcharges collected by a State covered by this subsection shall be used to fund those solid waste management programs administered by the State or its political subdivision that incur costs for which the surcharge is collected.

"(6) Conditions.—(A) Subject to subparagraphs (B) and (C), a State covered by this subsection may impose and collect a cost recovery surcharge on the processing or disposal within the State of out-of-State municipal solid waste if—

"(i) the State demonstrates a cost to the State arising from the processing or disposal within the State of a volume of municipal solid waste from a source outside the State;

"(ii) the surcharge is based on those costs to the State demonstrated under clause (i) that, if not paid for through the surcharge, would otherwise have to be paid or subsidized by the State; and

"(iii) the surcharge is compensatory and is not discriminatory.

"(B) In no event shall a cost recovery surcharge be imposed by a State to the extent that the cost for which recovery is sought is otherwise paid, recovered, or offset by any other fee or tax paid to the State or its political subdivision or to the extent that the amount of the surcharge is offset by voluntarily agreed payments to a State or its political subdivision in connection with the generation, transportation, treatment, processing, or disposal of solid waste.

"(C) The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A)(iii).

"(7) Definitions.—As used in this subsection:

"(A) The term 'costs' means the costs incurred by the State for the implementation of its laws governing the processing or disposal of municipal solid waste, limited to the issuance of new permits and renewal of or modification of permits, inspection and compliance monitoring, enforcement, and costs associated with technical assistance, data management, and collection of fees.

"(B) The term 'processing' means any activity to reduce the volume of solid waste or alter its chemical, biological or physical state, through processes such as thermal treatment, bailing, composting, crushing, shredding, separation, or compaction.

"(e) Savings Clause.—Nothing in this section shall be interpreted or construed—

"(1) to have any effect on State law relating to contracts; or

"(2) to affect the authority of any State or local government to protect public health and the environment through laws, regulations, and permits, including the authority to limit the total amount of municipal solid waste that landfill or incinerator owners or operators within the jurisdiction of a State may accept during a prescribed period: *Provided*, That such limitations do not discriminate between in-State and out-of-State municipal solid waste, except to the extent authorized by this section.

"(f) Definitions.—As used in this section:

"(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means—

"(i) the public body created by State law with responsibility to plan for municipal solid waste management, a majority of the members of which are elected officials, for the area in which the facility is located or proposed to be located; or

"(ii) the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located.

"(B)(i) Within 90 days after the date of enactment of this section, a Governor may designate and publish notice of which entity listed in clause (i) or (ii) of subparagraph (A) shall serve as the affected local government for actions taken under this section and after publication of such notice.

"(ii) If a Governor fails to make and publish notice of such a designation, the affected local government shall be the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

"(C) For purposes of host community agreements entered into before the date of publication of the notice, the term means either a public body described in subparagraph (A)(i) or the elected officials of any of the public bodies described in subparagraph (A)(ii).

"(2) Host community agreement.—The term 'host community agreement' means a written, legally binding document or documents executed by duly authorized officials of the affected local government that specifically authorizes a landfill or incinerator to receive municipal solid waste generated out of State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State waste is also included.

"(3) The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. Unless the President determines it is inconsistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States. Notwithstanding any other provision of law, generators of municipal solid waste outside the United States shall possess no greater right of access to disposal facilities in a State than United States generators of municipal solid waste outside of that State.

"(4) The term 'municipal solid waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company in which the generator of the waste has an ownership interest;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.

"(6) The terms 'specifically authorized' and 'specifically authorizes' refer to an explicit authorization, contained in a host community agreement or permit, to import waste from outside the State. Such authorization may include a reference to a fixed radius surrounding the landfill or incinerator that includes an area outside the State or a reference to any place of origin, reference to specific places outside the State, or use of such phrases as 'regardless of origin' or 'outside the State'. The language for such authorization may vary as long as it clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from sources outside the State.

"(g) IMPLEMENTATION AND ENFORCEMENT.—Any State may adopt such laws and regulations, not inconsistent with this section, as are necessary to implement and enforce this section, including provisions for penalties.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal solid waste.".

SEC. 102. NEEDS DETERMINATION.

The Governor of a State may accept, deny or modify an application for a municipal solid waste management facility permit if—

(1) it is done in a manner that is not inconsistent with the provisions of this section;

(2) a State law enacted in 1990 and a regulation adopted by the governor in 1991 specifically requires the permit applicant to demonstrate that there is a local or regional need within the State for the facility; and

(3) the permit applicant fails to demonstrate that there is a local or regional need within the State for the facility.

TITLE II—FLOW CONTROL

SEC. 201. SHORT TITLE.

This title may be cited as the "Municipal Solid Waste Flow Control Act of 1995".

SEC. 202. STATE AND LOCAL GOVERNMENT CONTROL OF MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.), as amended by section 101, is amended by adding after section 4011 the following new section:

"SEC. 4012. STATE AND LOCAL GOVERNMENT CONTROL OF MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL.

"(a) DEFINITIONS.—In this section:

"(1) DESIGNATE; DESIGNATION.—The terms 'designate' and 'designation' refer to an authorization by a State, political subdivision, or public service authority, and the act of a State, political subdivision, or public service authority in requiring or contractually committing, that all or any portion of the municipal solid waste or recyclable material that is generated within the boundaries of the State, political subdivision, or public service authority be delivered to waste management facilities or facilities for recyclable material or a public service authority identified by the State, political subdivision, or public service authority.

"(2) FLOW CONTROL AUTHORITY.—The term 'flow control authority' means the authority to control the movement of municipal solid waste or voluntarily relinquished recyclable material and direct such solid waste or voluntarily relinquished recyclable material to a designated waste management facility or facility for recyclable material.

"(3) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means—

"(A) solid waste generated by the general public or from a residential, commercial, institutional, or industrial source, consisting of paper, wood, yard waste, plastics, leather, rubber, and other combustible material and noncombustible material such as metal and glass, including residue remaining after recyclable material has been separated from waste destined for disposal, and including waste material removed from a septic tank, septage pit, or cesspool (other than from portable toilets); but

"(B) does not include—

"(i) waste identified or listed as a hazardous waste under section 3001 of this Act or waste regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

"(ii) waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604, 9606) or any corrective action taken under this Act;

"(iii) medical waste listed in section 11002;

"(iv) industrial waste generated by manufacturing or industrial processes, including waste generated during scrap processing and scrap recycling;

"(v) recyclable material; or

"(vi) sludge.

"(4) PUBLIC SERVICE AUTHORITY.—The term 'public service authority' means—

"(A) an authority or authorities created pursuant to State legislation to provide individually or in combination solid waste management services to political subdivisions;

"(B) other body created pursuant to State law; or

"(C) an authority that was issued a certificate of incorporation by a State corporation commission established by a State constitution.

"(5) PUT OR PAY AGREEMENT.—(A) The term 'put or pay agreement' means an agreement that obligates or otherwise requires a State or political subdivision to—

"(i) deliver a minimum quantity of municipal solid waste to a waste management facility; and

"(ii) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

"(B) For purposes of the authority conferred by subsections (b) and (c), the term 'legally binding provision of the State or political subdivision' includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988 and that requires an aggregate tonnage to be delivered to the facility during each operating year by the political subdivisions which have entered put or pay agreements designating that waste management facility.

"(C) The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for all purposes of this title.

"(6) RECYCLABLE MATERIAL.—The term 'recyclable material' means material that has been separated from waste otherwise destined for disposal (at the source of the waste or at a processing facility) or has been managed separately from waste destined for disposal, for the purpose of recycling, reclamation, composting of organic material such as food and yard waste, or reuse (other than for the purpose of incineration).

"(7) WASTE MANAGEMENT FACILITY.—The term 'waste management facility' means a facility that collects, separates, stores, transports, transfers, treats, processes, combusts, or disposes of municipal solid waste.

"(b) AUTHORITY.—

"(1) IN GENERAL.—Each State, political subdivision of a State, and public service authority may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction by directing the municipal solid waste or recyclable material to a waste management facility or facility for recyclable material, if such flow control authority—

"(A)(i) had been exercised prior to May 15, 1994, and was being implemented on May 15, 1994, pursuant to a law, ordinance, regulation, or other legally binding provision of the State or political subdivision; or

"(ii) had been exercised prior to May 15, 1994, but implementation of such law, ordinance, regulation, or other legally binding provision of the State or political subdivision was prevented by an injunction, temporary restraining order, or other court action, or was suspended by the voluntary decision of the State or political subdivision because of the existence of such court action;

"(B) has been implemented by designating before May 15, 1994, the particular waste management facilities or public service authority to which the municipal solid waste or recyclable material is to be delivered, which facilities were in operation as of May 15, 1994, or were in operation prior to May 15, 1994 and were temporarily inoperative on May 15, 1994.

"(2) LIMITATION.—The authority of this section extends only to the specific classes or categories of municipal solid waste to which flow control authority requiring a movement to a waste management facility was actually applied on or before May 15, 1994 (or, in the case of a State, political subdivision, or public service authority that qualifies under subsection (c), to the specific classes or categories of municipal solid waste for which the State, political subdivision, or public service authority prior to May 15, 1994, had committed to the designation of a waste management facility).

"(3) LACK OF CLEAR IDENTIFICATION.—With regard to facilities granted flow control authority under subsection (c), if the specific classes or categories of municipal solid waste are not clearly identified, the authority of this section shall apply only to municipal solid waste generated by households.

"(4) DURATION OF AUTHORITY.—With respect to each designated waste management facility, the authority of this section shall be effective until the later of—

"(A) the end of the remaining life of a contract between the State, political subdivision, or public service authority and any other person regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994);

"(B) completion of the schedule for payment of the capital costs of the facility concerned (as in effect May 15, 1994); or

"(C) the end of the remaining useful life of the facility (as in existence on the date of enactment of this section), as that remaining life may be extended by—

"(i) retrofitting of equipment or the making of other significant modifications to meet applicable environmental requirements or safety requirements;

"(ii) routine repair or scheduled replacement of equipment or components that does not add to the capacity of a waste management facility; or

"(iii) expansion of the facility on land that is—

"(I) legally or equitably owned, or under option to purchase or lease, by the owner or operator of the facility; and

"(II) covered by the permit for the facility (as in effect May 15, 1994).

"(5) ADDITIONAL AUTHORITY.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph applies to a State or political subdivision of a State that, on or before January 1, 1984—

"(i) adopted regulations under State law that required the transportation to, and management or disposal at, waste management facilities in the State, of—

"(I) all solid waste from residential, commercial, institutional, or industrial sources (as defined under State law); and

"(II) recyclable material voluntarily relinquished by the owner or generator of the recyclable material; and

"(ii) as of January 1, 1984, had implemented those regulations in the case of every political subdivision of the State.

"(B) AUTHORITY.—Notwithstanding anything to the contrary in this section (including subsection (m)), a State or political subdivision of a State described in subparagraph (A) may continue to exercise flow control authority (including designation of waste management facilities in the State that meet the requirements of subsection (c)) for all classes and categories of solid waste that were subject to flow control on January 1, 1984.

"(6) FLOW CONTROL ORDINANCE.—Notwithstanding anything to the contrary in this section, but subject to subsection (m), any political subdivision which adopted a flow control ordinance in November 1991, and designated facilities to receive municipal solid waste prior to April 1, 1992, may exercise flow control authority until the end of the remaining life of all contracts between the political subdivision and any other persons regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994). Such authority shall extend only to the specific classes or categories of municipal solid waste to which flow control authority was actually applied on or before May 15, 1994. The authority under this subsection shall be exercised in accordance with section 4012(b)(4).

"(c) COMMITMENT TO CONSTRUCTION.—

"(1) IN GENERAL.—Notwithstanding subsection (b)(1) (A) and (B), any political subdivision of a State may exercise flow control authority under subsection (b), if—

"(A)(i) the law, ordinance, regulation, or other legally binding provision specifically provides for flow control authority for municipal solid waste generated within its boundaries; and

"(ii) such authority was exercised prior to May 15, 1995, and was being implemented on May 15, 1994.

"(B) prior to May 15, 1994, the political subdivision committed to the designation of the particular waste management facilities or public service authority to which municipal solid waste is to be transported or at which municipal solid waste is to be disposed of under that law, ordinance, regulation, plan, or legally binding provision.

"(2) FACTORS DEMONSTRATING COMMITMENT.—A commitment to the designation of waste management facilities or public service authority is demonstrated by 1 or more of the following factors:

"(A) CONSTRUCTION PERMITS.—All permits required for the substantial construction of the facility were obtained prior to May 15, 1994.

"(B) CONTRACTS.—All contracts for the substantial construction of the facility were in effect prior to May 15, 1994.

"(C) REVENUE BONDS.—Prior to May 15, 1994, revenue bonds were presented for sale to specifically provide revenue for the construction of the facility.

"(D) CONSTRUCTION AND OPERATING PERMITS.—The State or political subdivision submitted to the appropriate regulatory agency or agencies, on or before May 15, 1994, substantially complete permit applications for the construction and operation of the facility.

"(d) FORMATION OF SOLID WASTE MANAGEMENT DISTRICT TO PURCHASE AND OPERATE EXISTING FACILITY.—Notwithstanding subsection (b)(1) (A) and (B), a solid waste management district that was formed by a number of political subdivisions for the purpose of purchasing and operating a facility owned by 1 of the political subdivisions may exercise flow control authority under subsection (b) if—

"(1) the facility was fully licensed and in operation prior to May 15, 1994;

"(2) prior to April 1, 1994, substantial negotiations and preparation of documents for the formation of the district and purchase of the facility were completed;

"(3) prior to May 15, 1994, at least 80 percent of the political subdivisions that were to participate in the solid waste management district had adopted ordinances committing the political subdivisions to participation and the remaining political subdivisions adopted such ordinances within 2 months after that date; and

"(3) the financing was completed, the acquisition was made, and the facility was placed under operation by the solid waste management district by September 21, 1994.

"(e) CONSTRUCTED AND OPERATED.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

"(1) prior to May 15, 1994, the political subdivision—

"(A) contracted with a public service authority or with its operator to deliver or cause to be delivered to the public service authority substantially all of the disposable municipal solid waste that is generated or collected by or is within or under the control of the political subdivision, in order to support revenue bonds issued by and in the name of the public service authority or on its behalf by a State entity for waste management facilities; or

"(B) entered into contracts with a public service authority or its operator to deliver or cause to be delivered to the public service authority substantially all of the disposable municipal solid waste that is generated or collected by or within the control of the political subdivision, which imposed flow control pursuant to a law, ordinance, regulation, or other legally binding provision and where outstanding revenue bonds were issued in the name of public service authorities for waste management facilities; and

"(2) prior to May 15, 1994, the public service authority—

"(A) issued the revenue bonds or had issued on its behalf by a State entity for the construction of municipal solid waste facilities to which the political subdivision's municipal solid waste is transferred or disposed; and

"(B) commenced operation of the facilities.

The authority under this subsection shall be exercised in accordance with section 4012(b)(4).

"(f) STATE-MANDATED DISPOSAL SERVICES.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

"(1) was responsible under State law for providing for the operation of solid waste facilities to serve the disposal needs of all incorporated and unincorporated areas of the county;

"(2) is required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent;

"(3) has been authorized by State statute to exercise flow control authority and had implemented the authority through the adoption or execution of a law, ordinance, regulation, contract, or other legally binding provision;

"(4) had incurred, or caused a public service authority to incur, significant financial expenditures to comply with State law and to repay outstanding bonds that were issued specifically for the construction of solid waste management facilities to which the political subdivision's waste is to be delivered; and

"(5) the authority under this subsection shall be exercised in accordance with section 4012(b)(4).

"(g) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district or a political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

"(1) the solid waste district, political subdivision or municipality within said district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2005, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

"(2) prior to May 15, 1994, the solid waste district, political subdivision or municipality within said district—

"(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid wastes within its jurisdiction;

"(B) was authorized by State statute (enacted prior to January 1, 1992) to exercise flow control authority, and subsequently adopted or sought to exercise the authority through a law, ordinance, regulation, regulatory proceeding, contract, franchise, or other legally binding provision; and

"(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994.

(h) STATE-AUTHORIZED SERVICES AND LOCAL PLAN ADOPTION.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

(1) had been authorized by State statute which specifically named the political subdivision to exercise flow control authority and had implemented the authority through a law, ordinance, regulation, contract, or other legally binding provision; and

(2) had adopted a local solid waste management plan pursuant to State statute and was required by State statute to adopt such plan in order to submit a complete permit application to construct a new solid waste management facility proposed in such plan; and

(3) had presented for sale a revenue or general obligation bond to provide for the site selection, permitting, or acquisition for construction of new facilities identified and proposed in its local solid waste management plan; and

(4) includes a municipality or municipalities required by State law to adopt a local law or ordinance to require that solid waste which has been left for collection shall be separated into recyclable, reusable or other components for which economic markets exist; and

(5) is in a State that has aggressively pursued closure of substandard municipal landfills, both by regulatory action and under statute designed to protect deep flow recharge areas in counties where potable water supplies are derived from sole source aquifers.

"(i) RETAINED AUTHORITY.—

"(1) REQUEST.—On the request of a generator of municipal solid waste affected by this section, a State or political subdivision may authorize the diversion of all or a portion of the solid waste generated by the generator making the request to an alternative solid waste treatment or disposal facility, if the purpose of the request is to provide a higher level of protection for human health and the environment or reduce potential future liability of the generator under Federal or State law for the management of such waste, unless the State or political subdivision determines that the facility to which the municipal solid waste is proposed to be diverted does not provide a higher level of protection for human health and the environment or does not reduce the potential future liability of the generator under Federal or State law for the management of such waste.

"(2) CONTENTS.—A request under paragraph (1) shall include information on the environmental suitability of the proposed alternative treatment or disposal facility and method, compared to that of the designated facility and method.

"(j) LIMITATIONS ON REVENUE.—A State or political subdivision may exercise flow control authority under subsection (b), (c), (d), or (e) only if the State or political subdivision certifies that the use of any of its revenues derived from the exercise of that authority will be used for solid waste management services or related landfill reclamation.

"(k) REASONABLE REGULATION OF COMMERCE.—A law, ordinance, regulation, or other legally binding provision or official act of a State or political subdivision, as described in subsection (b), (c), (d), or (e), that implements flow control authority in compliance with this section shall be considered to be a reasonable regulation of commerce retroactive to its date of enactment or effective date and shall not be considered to be an undue burden on or otherwise considered as impairing, restraining, or discriminating against interstate commerce.

"(l) EFFECT ON EXISTING LAWS AND CONTRACTS.—

"(1) ENVIRONMENTAL LAWS.—Nothing in this section shall be construed to have any effect on any other law relating to the protection of human health and the environment or the management of municipal solid waste or recyclable material.

"(2) STATE LAW.—Nothing in this section shall be construed to authorize a political subdivision of a State to exercise the flow control authority granted by this section in a manner that is inconsistent with State law.

"(3) OWNERSHIP OF RECYCLABLE MATERIAL.—Nothing in this section—

"(A) authorizes a State or political subdivision of a State to require a generator or owner of recyclable material to transfer recyclable material to the State or political subdivision; or

"(B) prohibits a generator or owner of recyclable material from selling, purchasing, accepting, conveying, or transporting recyclable material for the purpose of transformation or remanufacture into usable or marketable material, unless the generator or owner voluntarily made the recyclable material available to the State or political subdivision and relinquished any right to, or ownership of, the recyclable material.

"(m) REPEAL.—(1) Notwithstanding any provision of this title, authority to flow control by directing municipal solid waste or recyclable materials to a waste management facility shall terminate on the date that is 30 years after the date of enactment of this Act.

"(2) This section and the item relating to this section in the table of contents for subtitle D of the Solid Waste Disposal Act are repealed effective as of the date that is 30 years after the date of enactment of this Act.

"(n) TITLE NOT APPLICABLE TO LISTED FACILITIES.—Notwithstanding any other provision of this title, the authority to exercise flow control shall not apply to any facility that—

"(1) on the date of enactment of this Act, is listed on the National Priorities List under the Comprehensive Environmental, Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.); or

"(2) as of May 15, 1994, was the subject of a pending proposal by the Administrator of the Environmental Protection Agency to be listed on the National Priorities List.".

SEC. 203. TABLE OF CONTENTS AMENDMENT.

The table of contents for subtitle D in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901), as amended by section 101(b), is amended by adding after the item relating to section 4011 the following new item:

"Sec. 4012. State and local government control of movement of municipal solid waste and recyclable material.".

TITLE III—GROUND WATER MONITORING

SEC. 301. GROUND WATER MONITORING.

(a) AMENDMENT OF SOLID WASTE DISPOSAL ACT.—Section 4010(c) of the Solid Waste Disposal Act (42 U.S.C. 6949a(c)) is amended—

(1) by striking "CRITERIA.—Not later" and inserting the following: "CRITERIA.—

"(1) IN GENERAL.—Not later"; and

(2) by adding at the end the following new paragraph:

"(2) ADDITIONAL REVISIONS.—Subject to paragraph (2), the requirements of the criteria described in paragraph (1) relating to ground water monitoring shall not apply to an owner or operator of a new municipal solid waste landfill unit, an existing municipal solid waste landfill unit, or a lateral expansion of a municipal solid waste landfill unit, that disposes of less than 20 tons of municipal solid waste daily, based on an annual average, if—

"(A) there is no evidence of ground water contamination from the municipal solid waste landfill unit or expansion; and

"(B) the municipal solid waste landfill unit or expansion serves—

"(i) a community that experiences an annual interruption of at least 3 consecutive months of surface transportation that prevents access to a regional waste management facility; or

"(ii) a community that has no practicable waste management alternative and the landfill unit is located in an area that annually receives less than or equal to 25 inches of precipitation.

"(3) PROTECTION OF GROUND WATER RESOURCES.—

"(A) MONITORING REQUIREMENT.—A State may require ground water monitoring of a solid waste landfill unit that would otherwise be exempt under paragraph (2) if necessary to protect ground water resources and ensure compliance with a State ground water protection plan, where applicable.

"(B) METHODS.—If a State requires ground water monitoring of a solid waste landfill unit under subparagraph (A), the State may allow the use of a method other than the use of ground water monitoring wells to detect a release of contamination from the unit.

"(C) CORRECTIVE ACTION.—If a State finds a release from a solid waste landfill unit, the State shall require corrective action as appropriate.

"(4) ALASKA NATIVE VILLAGES.—Upon certification by the Governor of the State of Alaska that application of the requirements of the criteria described in paragraph (1) to a solid waste landfill unit of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (16 U.S.C. 1602)) or unit that is located in or near a small, remote Alaska village would be infeasible, or would not be cost-effective, or is otherwise inappropriate because of the remote location of the unit, the State may exempt the unit from some or all of those requirements. This subsection shall apply only to solid waste landfill units that dispose of less than 20 tons of municipal solid waste daily, based on an annual average.

"(5) NO-MIGRATION EXEMPTION.—

"(A) IN GENERAL.—Ground water monitoring requirements may be suspended by the Director of an approved State for a landfill operator if the operator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost aquifer during the active life of the unit and the post-closure care period.

"(B) CERTIFICATION.—A demonstration under subparagraph (A) shall—

"(i) be certified by a qualified groundwater scientist and approved by the Director of an approved State.

"(C) GUIDANCE.—Not later than 6 months after the date of enactment of this paragraph, the Administrator shall issue a guidance document to facilitate small community use of the no migration exemption under this paragraph.

"(6) FURTHER REVISIONS OF GUIDELINES AND CRITERIA.—Not later than April 9, 1997, the Administrator shall promulgate revisions to the guidelines and criteria promulgated under this subchapter to allow States to promulgate alternate design, operating, landfill gas monitoring, financial assurance, and closure requirements for landfills which receive 20 tons or less of municipal solid waste per day based on an annual average: *Provided* That such alternate requirements are sufficient to protect human health and the environment.".

(b) REINSTATEMENT OF REGULATORY EXEMPTION.—It is the intent of section 4010(c)(2) of the Solid Waste Disposal Act, as added by subsection (a), to immediately reinstate subpart E of part 258 of title 40, Code of Federal Regulations, as added by the final rule published at 56 Federal Register 50798 on October 9, 1991.

TITLE IV—STATE OR REGIONAL SOLID WASTE PLANS

SEC. 401. FINDING.

Section 1002(a) of the Solid Waste Disposal Act (42 U.S.C. 6901(a)) is amended—

(1) by striking the period at the end of paragraph (4) and inserting "; and"; and

(2) by adding at the end the following:

"(5) that the Nation's improved standard of living has resulted in an increase in the amount of solid waste generated per capita, and the Nation has not given adequate consideration to solid waste reduction strategies.".

SEC. 402. OBJECTIVE OF SOLID WASTE DISPOSAL ACT.

Section 1003(a) of the Solid Waste Disposal Act (42 U.S.C. 6902(a)) is amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by adding at the end the following:

"(12) promoting local and regional planning for—

"(A) effective solid waste collection and disposal; and

"(B) reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies.".

SEC. 403. NATIONAL POLICY.

Section 1003(b) of the Solid Waste Disposal Act (42 U.S.C. 6902(b)) is amended by inserting "solid waste and" after "generation of".

SEC. 404. OBJECTIVE OF SUBTITLE D OF SOLID WASTE DISPOSAL ACT.

Section 4001 of the Solid Waste Disposal Act (42 U.S.C. 6941) is amended by inserting "promote local and regional planning for effective solid waste collection and disposal and for reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies, and" after "objectives of this subtitle are to".

SEC. 405. DISCRETIONARY STATE PLAN PROVISIONS.

Section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended by adding at the end the following:

"(e) DISCRETIONARY PLAN PROVISIONS RELATING TO SOLID WASTE REDUCTION GOALS, LOCAL AND REGIONAL PLANS, AND ISSUANCE OF SOLID WASTE MANAGEMENT PERMITS.—Except as provided in section 4011(a)(4), a State plan submitted under this subtitle may include, at the option of the State, provisions for—

"(1) establishment of a State per capita solid waste reduction goal, consistent with the goals and objectives of this subtitle; and

"(2) establishment of a program that ensures that local and regional plans are consistent with State plans and are developed in accordance with sections 4004, 4005, and 4006.".

SEC. 406. PROCEDURE FOR DEVELOPMENT AND IMPLEMENTATION OF STATE PLANS.

Section 4006(b) of the Solid Waste Disposal Act (42 U.S.C. 6946(b)) is amended by inserting "and discretionary plan provisions" after "minimum requirements".

TITLE V—GENERAL PROVISIONS

SEC. 501. BORDER STUDIES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term "maquiladora" means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term "solid waste" has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—

(1) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH NORTH AMERICAN FREE TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator is authorized to conduct a study of solid waste management issues associated with increased border use resulting from the implementation of the North American Free Trade Agreement.

(2) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH UNITED STATES-CANADA FREE-TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator may conduct a similar study focused on border traffic of solid waste resulting from the implementation of the United States-Canada Free-Trade Agreement, with respect to the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—A study conducted under this section shall provide for the following:

(1) A study of planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border involved.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) In the case of the study described in subsection (b)(1), research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) In the case of the study described in subsection (b)(1), a determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992–1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region involved, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region involved, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In conducting a study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and, in the case of the study described in subsection (b)(1), census data prepared by the Government of Mexico.

(2) In the case of the study described in subsection (b)(1), information from the United States Customs Service of the Department of the Treasury concerning solid waste transported across the border between the United States and Mexico, and the method of transportation of the waste.

(3) In the case of the study described in subsection (b)(1), information concerning the type and volume of materials used in maquiladoras.

(4)(A) Immigration data prepared by the Immigration and Naturalization Service of the Department of Justice.

(B) In the case of the study described in subsection (b)(1), immigration data prepared by the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region involved where solid waste is treated, stored, or disposed of.

(7) In the case of the study described in subsection (b)(1), a profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) With respect to reviewing the study described in subsection (b)(1), States and political subdivisions of States (including municipalities and counties) in the region of the border between the United States and Mexico.

(2) The heads of other Federal agencies (including the Secretary of the Interior, the

Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and with respect to reviewing the study described in subsection (b)(1), equivalent officials of the Government of Mexico.

(f) REPORTS TO CONGRESS.—On completion of the studies under this section, the Administrator shall, not later than 2 years after the date of enactment of this Act, submit to the appropriate committees of Congress reports that summarize the findings of the studies and propose methods by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) BORDER STUDY DELAY.—The conduct of the study described in subsection (b)(2) shall not delay or otherwise affect completion of the study described in subsection (b)(1).

(h) FUNDING.—If any funding needed to conduct the studies required by this section is not otherwise available, the President may transfer to the Administrator, for use in conducting the studies, any funds that have been appropriated to the President under section 533 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3473) that are in excess of the amount needed to carry out that section. States that wish to participate in study will be asked to contribute to the costs of the study. The terms of the cost share shall be negotiated between the Environmental Protection Agency and the State.".

SEC. 502. STUDY OF INTERSTATE HAZARDOUS WASTE TRANSPORT.

(a) DEFINITION OF HAZARDOUS WASTE.—In this section, the term "hazardous waste" has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

(1) the quantity of hazardous waste that is being transported across State lines; and

(2) the ultimate disposition of the transported waste.

SEC. 503. STUDY OF INTERSTATE SLUDGE TRANSPORT.

(a) DEFINITIONS.—In this section:

(1) SEWAGE SLUDGE.—The term "sewage sludge"—

(A) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

(B) includes—

(i) domestic septage;

(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

(iii) material derived from sewage sludge (as otherwise defined in this paragraph); but

(C) does not include—

(i) ash generated during the firing of sewage sludge (as otherwise defined in this paragraph) in a sewage sludge incinerator; or

(ii) grit or screenings generated during preliminary treatment of domestic sewage in a treatment works.

(2) SLUDGE.—The term "sludge" has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

(1) the quantity of sludge (including sewage sludge) that is being transported across State lines; and

(2) the ultimate disposition of the transported sludge.

Mr. DOLE. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT

The PRESIDING OFFICER. The Senate will now resume the pending business, S. 395, which the clerk will report.

A bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Marketing Administration, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Murkowski amendment No. 1078, to authorize exports of Alaskan North Slope crude oil.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I appreciate the Chair calling up the pending legislation. I have been in conversations with the Senator from Washington with regard to concerns that she has expressed, and I am told that there are some amendments that the Senator from Washington is interested in pursuing. I have not had an opportunity to review the amendments, but I intend to take this opportunity as soon as possible and have our staffs attempt to resolve the concerns of the Senator from Washington, and it would be my intent to attempt to do this with dispatch.

Mr. President, currently the staffs are pursuing an evaluation. I want to ask the Chair the pending business before the Senate.

The PRESIDING OFFICER. The pending business is S. 395 and the Senator's amendment No. 1078.

Mr. MURKOWSKI. Have the yeas and nays been ordered?

The PRESIDING OFFICER. Not on the amendment.

Mr. MURKOWSKI. I thank the Chair. I wonder if the Senator from Washington would entertain, for a moment, an opportunity, so that we may try to accommodate the amendments, and if there is any objection if I suggest the absence of a quorum, and after we have had a chance to talk, ask that the quorum call be rescinded so that we may move into the bill.

I think there is one other Senator who is coming who wishes to speak with regard to an amendment that is pending on our side. I do not see that Senator here at this time. So rather than to take up this time that could be used in negotiating the amendments of the Senator from Washington, if there is no objection, I will suggest the absence of a quorum.

Mrs. MURRAY. I will not object. I want it to be noted that there are several Senators I need to check with, but we can go ahead and go into a quorum call and discuss this.

Mr. MURKOWSKI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I further ask unanimous consent that I be able to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

A CRIME BILL

Mr. DEWINE. Mr. President, I rise today to continue my discussion of the crime bill that I intend to introduce tomorrow. As I pointed out, there are really two basic issues that we always need to address when we look at a crime bill. First, what is the proper role of the Federal Government in fighting crime in this country, understanding that over 95 percent of all criminal prosecutions really are done at the local level? The second question we always have to ask is, what really works? What matters? What makes a difference?

Last Wednesday I discussed these issues with specific reference to crimefighting technology. We have an outstanding technology base in this country, a technology base that will do a great deal to help us catch criminals. But, quite frankly and candidly, we must expand this base. Technology does in fact matter, but we need the Federal Government to be more proactive in getting the States on line with this technology.

Having a terrific national criminal record system or huge DNA data base, or an automated fingerprint data base in Washington, DC, is good. But it will not really do the job if the police officer in Henry County, Trumbull County, Greene County, Clark County, OH, cannot tap into it; if they cannot get into it, put their own information in and get the information back out.

What my legislation does is drive the money down to the local community to help build this database system from the ground up. My legislation would help bring these local police departments on line. It would help them contribute to and benefit from this emerging nationwide crimefighting database.

Mr. President, on Thursday I discussed another aspect of my bill. I discussed what we have to do to get armed career criminals off our streets, to get them locked up and away from our children and our families. I talked about a program called Project Trigger Lock that targeted criminals who use guns and targeted them in the Federal court and prosecuted them in Federal court. My legislation would bring back "Project Trigger Lock." Further, it would toughen the laws against criminals who use guns.

We have to lock up armed career criminals. If we are trying to figure out what works and what does not work, if we are trying to figure out what is important and what is not important, what priority the U.S. Attorney General should place on different types of crime, what the priority of U.S. attorneys scattered throughout this country should be, I cannot think of anything more important than going after repeat violent offenders who use a gun in the commission of a felony.

Mr. President, the third area of the bill that I talked about on Friday has to do with crime victims. Quite frankly, in too many ways our criminal justice system has treated criminals like they are victims and victims like they are criminals. My legislation contains a number of provisions that would make the system more receptive to the rights and claims of crime victims.

Another area: On Monday I turned to another provision of my bill. I talked about what we had to do to get more police officers on the streets, and particularly how we had to get police officers into crime-infested areas and how we had to target the finite tax dollars that we have so that we spend these dollars and that we put these police officers in areas where it would make the most difference, because the simple fact is when you put police officers on the street, when they are deployed correctly, crime does go down. My legislation reflects this plain fact. My bill over a 5-year period of time will spend $5 billion on putting police officers on the street. But my bill would target the money to America's most crime-threatened communities.

Further, my bill, unlike the bill that passed last year, unlike the President's bill, would pay the full cost of these police officers and would pay them for not just 3 years, not just put them out for 3 years, but would do that for 5 years. We target the money to the highest crime areas in the country, the 250 highest crime areas. We pay for the police officers to go in there, and we fully pay for them not at 75 percent but at 100 percent a year and we do it for 5 years instead of 3 years.

Today I would like to discuss another part of my crime bill. That is the need for local flexibility in fighting crime. As I pointed out, 90 to 95 percent of the criminal prosecutions in this country do not take place at the Federal level. Rather, they take place at the State and local level, in communities throughout this country. Crime is a local community problem. The late Speaker of the House, "Tip" O'Neill, used to say that all politics is local. It would not be too much of an exaggeration to say the same is true of crime, that all crime is local—just about anyway. I think that any Federal crime legislation to be truly effective has to take this basic fact into account.

Mr. President, this is a historic year. From welfare to health care America today is conducting a fundamental debate on the issue of which level of government is in fact best suited to undertake which responsibilities. What we are frankly seeing this year is a thorough reexamination of the meaning of federalism. This historic debate offers a terrific opportunity to rethink the role of Government and to make our Government work better.

Mr. President, I think in this historic year when we are having this fundamental debate about federalism, the proper role of the Federal Government, the State government and the local government, I think it would be a terrible shame if we did not extend this debate to the issue of crime. We will never have a better opportunity than the present to focus our national attention on crime as a fundamentally local problem; that is, the problem to be dealt with at the local level by local authorities. For this reason my crime legislation applies to the principle of local flexibility, local flexibility to this fight against crime.

Yesterday I talked a little bit about my objections to some of the provisions of the President's plan to put police officers on the street. Specifically, I pointed out that the President's scattershot approach sent police officers, frankly, in too many directions. Some of these places did not need extra police nearly as much as some other communities. The result of this approach, the Clinton approach, is to put too few police officers where the police are the most needed. That is why in my crime legislation we spend $5 billion for police but we target that money. Whereas the Clinton administration spends $8.8 billion, we spend only $5 billion, but we target that money and we target it into the 250 communities in this country where the crime rate is the highest. We do it on a statistical basis, and we do it on a basis that I think makes eminent common sense.

I am convinced that by targeting the extra police only to extremely high-crime areas, we can accomplish a lot more with this $5 billion over 5 years than the President can accomplish with his $8.8 billion over a 5-year period.

The $3.8 billion that is left over, along with an additional $3.2 billion in uncommitted funds provided under my legislation, would be turned over to local communities to use as they see fit. Let me stop at this point and make a point that I hope is clear. But I want to make sure that my colleagues understand this. Our bill does not spend any more money. Our bill takes the basic $30 billion that we have been debating now for the last several years and spends it differently, spends it, I think, more appropriately.

The dollar figures I am talking about to my colleagues in the Senate today I indicate is not one penny more than was indicated under any of the other bills that have been introduced or indicated under the President's plan.

Let me talk a little bit about this discretionary money that we are talking about.

I have worked at the local level. I have worked as an assistant county prosecutor. I have worked as the elected county prosecutor of my home county, worked at the Federal level as a Member of the House of Representatives and as a Member of the U.S. Senate. I have been in the Ohio State Senate, and I have served as Lieutenant Governor. I have had occasion to compare the efficiency and effectiveness at all levels of government. To be honest, a sheriff or county prosecutor, chief of police, or county commissioner in my home county or your home county, Mr. President, and many of the home counties of our other colleagues know a lot more about how crime money should be spent than does the President of the United States, the U.S. Attorney General or this Senator or this body.

Under the proposal contained in my crime legislation, local government officials will get Federal money, and what they do with it will be up to them. They will be able to spend that money based on local needs, local concerns, local priorities.

Yesterday, I discussed my proposal to pay for extra police officers in the highest crime areas in America. The 250 most crime-infested areas in America are eligible under my bill for police funding. Other areas, areas that are not included in the list of the 250 worst crime areas, may decide, if they wish, that they need extra police officers. If that is the case, they may choose to spend the dollars they get from this $7 billion local flexibility fund to pay for the extra police officers. My bill allows them that flexibility. They can use the money to hire, train, and employ these police officers, maybe put them out on the street. They can use it to pay overtime for police officers that they already have which, frankly, may, depending on the jurisdiction and the economics involved, be the best use of the funds. Or they can use it to buy extra technology that is already covered in this bill. They can use it to beef up school security, either by deploying extra police or adding measures like metal detectors. They can use it to establish and run crime-prevention programs like Neighborhood Watch and citizen patrol programs and programs to combat domestic violence and juvenile crime. They can use it to establish early intervention and prevention programs for juveniles to reduce or eliminate crime.

There was a vigorous debate last year about the issue of crime prevention. One thing I have learned in my years in local law enforcement is that even more than most programs crime prevention programs really have to be grown locally to be effective.

When you travel Ohio, as I have done, or Minnesota, or Wisconsin, and you look at crime prevention programs, I suspect in other States you find what I have found in Ohio, and that is the quality of those programs depends upon the local people. It depends on who is running the program, the dedication of that particular individual. This is not something that Washington can take a cookie cutter and duplicate, replicate across the country. They have to be grown locally.

It is clear that we have to go after those also who have chosen a life of crime. We have to apprehend them. We have to convict them. But we also have to reach out to the young people who are at risk in this country. We have to reach out to them before—before—they embark on a life of crime.

The best ideas on how to do this are not in Washington, DC, surprisingly. It is not with Government bureaucrats, in Washington. It is, rather, locally. Government bureaucrats in Washington, Mr. President, do not know the kids in Greene County, OH. Do you know who does? The people in Greene County—Jerry Irwin, our county sheriff; the county prosecuting attorney, Bill Schenck. I could go on and on. That is why I wish to empower people such as County Sheriff Jerry Irwin, or County Prosecutor Bill Schenck through this proposal.

Mr. President, to mandate a prevention program from Washington, DC, is absurd. Let us trust the people on the ground, the local law enforcers who know the young people in their communities.

In conclusion, Mr. President, let me say there is a basic insight that the American people imparted to all of us last November. I hope we heard the message. That message was fairly simple and basic, that Government is best which is closest to the people.

I have worked to incorporate this basic principle into the legislation that I will be introducing tomorrow.

At this time, I yield the floor.

ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1078 WITHDRAWN

Mr. MURKOWSKI. Mr. President, I withdraw my amendment No. 1078 at this time.

The PRESIDING OFFICER. The Senator has that right and the amendment is so withdrawn.

The amendment (No. 1078) was withdrawn.

AMENDMENT NO. 1101

(Purpose: To provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf in the Gulf of Mexico, and for other purposes)

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mr. MURKOWSKI, and Mr. BREAUX, proposes an amendment numbered 1101.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following as a new Title III:

"TITLE III: OUTER CONTINENTAL SHELF DEEP WATER ROYALTY RELIEF

SEC. 301.—This Title may be referred to as the "Outer Continental Shelf Deep Water Royalty Relief Act".

SEC. 302. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.—Section 8(a) of the Outer Continental Shelf Lands Act, (43 U.S.C. 1337(a)(3)), is amended by striking paragraph (3) in its entirety and inserting the following:

"(3)(A) The Secretary may, in order to—

"(i) promote development or increased production on producing or non-producing leases; or

"(ii) encourage production of marginal resources on producing or non-producing leases; through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

"(B)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

"(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv) (aa), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400–800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Administrative Procedures Act, 5 U.S.C. Sec. 702, only for actions filed within 30 days of the Secretary's determination or redetermination.

"(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

"(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

"(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

"(iv) For purposes of this subparagraph, the term 'new production' is—

"(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

"(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

"(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year."

SEC. 303. NEW LEASES.—

Section 8 (a)(1) of the Outer Continental Shelf Lands Act, as amended, (43 U.S.C. 1337(a)(1)) is amended as follows:

(1) Redesignate section 8(a)(1)(H) as section 8(a)(1)(I); and

(2) Add a new section 8(a)(1)(H) as follows:

"(H) cash bonus bid with royalty at no less than 12 and ½ per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary. Such suspensions may vary based on the price of production from the lease."

SEC. 304. LEASE SALES.—For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within five years of the date of enactment of this title, shall use the bidding system authorized in Section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this title, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

SEC. 305. REGULATIONS.—The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this title within 180 days after the enactment of this Act.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Senator MURKOWSKI be added as a cosponsor to this amendment, and that David Applegate, a fellow of the Energy and Natural Resources Committee, be given privileges of the floor during pendency of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. I ask unanimous consent that Senator BREAUX be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, gross oil imports to the United States today are over 50 percent, and they are scheduled to be over 60 percent by the year 2010. For this reason, in February of this year, President Clinton announced the President's finding that the Nation's growing reliance on imports of crude oil and refined petroleum products threaten the Nation's security because of the increased vulnerability of U.S. oil supply disruptions.

This being the problem, how do we solve it at a time of growing deficits, at a time of money shortage, at a time when we have no money to apply to any kind of energy technology? The way we do it, Mr. President, is by this amendment, which provides that with respect to existing leases in the Gulf of Mexico in over 200 meters of water, where the development expenses are very, very great and where wells otherwise would not be drilled unless given some incentive, there be a discretionary incentive given for both existing leases and new leases according to a carefully worked out formula, worked out with the Department of the Interior.

Mr. President, when I say it is discretionary, it is discretionary in that the Secretary of the Interior must analyze all of these leases and with respect to any lease which he determines would otherwise be drilled, there is no incentive given, there is no royalty holiday given. It is only with respect to those leases that would not otherwise be drilled, either existing or future leases, that this amendment would provide that incentive.

So it is for this reason this amendment has been scored as costing zero by CBO and, as a matter of fact, it would make money for the American taxpayer and for the budget because, obviously, if you have a lease that otherwise would not be drilled, which is drilled, it has positive economic impact from the salaries paid to the workers by the oil company to drill the well, and if oil is found, then there is royalty to be paid even with the royalty holiday because the royalty holiday is not complete.

This was worked out last year with the Secretary of the Interior. It took us a long time to work out the formulas, the amount of the incentive. The Secretary of the Interior wanted the amount of the incentive to be sufficient but not too much. That took a lot of negotiating. The whole matter of negotiation took a long period of time. After working it out last year, we introduced the legislation this year as S. 158. The administration has testified on this in an affirmative way. It is a piece of legislation that is going to make money for the Treasury and is going to help our energy balance.

According to the Department of the Interior, it should bring on at least two new fields with approximately 150 million barrels of oil equivalent from existing leases and it significantly improves the economics of 10 to 12 possible and probable fields.

As we know, Mr. President, the OCS in the Gulf of Mexico has been the United States' most promising region for new discoveries. In 1993, 98 percent of new crude oilfields and 76 percent of new gasfields discovered in the United States were in the Gulf of Mexico.

So, Mr. President, this is a way to offset that $46 billion of deficits which is attributable to net energy imports. It is 40 percent of the total U.S. merchandise deficit of $116 billion. For this reason, Mr. President, I think this is an excellent amendment backed by the administration which will help our energy balance a great deal.

Mr. President, I ask unanimous consent that a letter from Bob Armstrong, Assistant Secretary of the Interior, backing this amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 16, 1995.

Hon. J. BENNETT JOHNSTON,
Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: I understand that you intend to offer an amendment to S. 395 to provide Outer Continental Shelf (OCS) deep water royalty relief to leases in the Central and Western Gulf of Mexico.

We support this amendment and believe it is consistent with the Administration's objectives with respect to OCS exploration and development in the Gulf of Mexico. The deep water areas of the Gulf contain some of the most promising exploration targets in the United States, but industry confronts substantial economic and technological challenges in bringing them into production. The responsible and orderly development of these resources is truly in the national interest.

The Office of Management and Budget has advised that it has no objection to the presentation of these views from the standpoint of the Administration's program.

Sincerely,

BOB ARMSTRONG,
Assistant Secretary.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I rise today to support the measure before us lifting the 22-year-old export restrictions on domestic crude oil produced on Alaska's North Slope.

I commend my distinguished colleague from Alaska, the chairman of the Energy and Natural Resources Committee, for bringing this legislation to the floor.

Clearly, the time has come for Congress to repeal an outdated law that no longer serves its intended purpose. When the export restrictions on Alaskan crude oil were originally enacted, many people believed that the legislation would enhance our long-term energy security.

Today, however, we know that restricting the export of Alaskan crude oil has actually weakened our Nation by undermining our initiative to explore and develop new energy resources, and that is keeping us ever more dependent on foreign oil imports.

Some 77 percent of this country's energy consumption is supplied by the oil and gas industry. Yet, the Department of Energy projects that crude oil production will continue to decline over the next decade.

Last year, our Nation imported over half our domestic oil requirements. By the year 2005, the United States will be nearly 70 percent dependent on imported oil—not because consumption is on the rise, but because domestic production continues to fall.

Every drop of oil that is produced by somebody else eventually adds up to a flood of lost U.S. jobs. Three hundred thousand oil-related jobs have been lost in the United States since 1985—the steepest decline in U.S. history.

With oil production decreasing by 2¼ million barrels every day, more job losses are surely ahead.

Of course, decreased production means that revenues are down as well—down, in fact, by more than $50 billion in the last decade.

To add insult to injury, the U.S. petroleum industry has been forced to look beyond American borders when it comes to oil production. We are now putting 65 percent of our exploration and production dollars into projects overseas, at a loss to the U.S. economy of $16 billion annually.

Within the last few years, Congress has consistently rejected regulatory policies that foolishly try to constrain and control the natural flow of goods and services. But there is much more that Congress can do to improve the climate for domestic oil production.

To that end, S. 395 seeks to replace a failed energy policy with a new strategy based on free-market principles.

I am not suggesting that S. 395 will solve this Nation's oil production woes, but it will have a positive, lasting impact.

Nearly every region of the country stands to benefit from lifting the export restrictions on Alaskan crude oil. First and foremost, it would mean new U.S. jobs.

The Department of Energy estimates that if the export restrictions on Alaskan crude oil are lifted, as many as 16,000 new jobs would be created immediately. Up to 25,000 new jobs are likely by the end of the decade.

Lifting the export restrictions would increase oil production in California and Alaska by as much as 110,000 barrels per day.

This legislation will stimulate oil exploration and development in the oilfields of Alaska and California, boosting the economy along the west coast and enhancing our national long-term energy strategy.

The bill also ensures that the U.S. merchant marine will maintain its traditional role of transporting Alaskan crude oil. This provision protects existing U.S. jobs by requiring that exported Alaskan crude oil be carried on American-crewed, American-flag tankers.

Mr. President, history has taught us that free markets—not protectionism—make our Nation more secure. With this lesson in mind, I strongly urge my colleagues to join in the bipartisan effort to lift the ban on exports of Alaskan crude oil.

Thank you very much, Mr. President. I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, unless there is no other Senator seeking recognition, I ask that the amendment pending by the Senator from Louisiana be agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1101) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I congratulate the chairman of the committee, the Senator from Alaska, on his good work on the Alaska North Slope bill, the underlying bill. It is an excellent bill. It will give much more efficiency to our production and sale of crude oil, and I think that it is definitely in the interest of the United States. Now that we have the merchant marine problem worked out, I think it will be in the interest of everyone and I urge all Senators to adopt the underlying bill.

I thank the Senator for his help on this deep water bill.

Mr. MURKOWSKI. Mr. President, I appreciate the comments of my good friend from Louisiana, and he is my friend. I have had the pleasure of working with him for some 15 years. A significant portion of that time he was chairman of the Energy and Natural Resources Committee. I work with him now, and I think the amendment just adopted is going to be a significant stimulus to ensuring that we are less dependent on imported oil by enhancing exploration and, hopefully, development in areas that otherwise might prove economically prohibitive to the industry.

With the amendment just adopted by the Senator from Louisiana, why, we have enhanced our industry's ability to be competitive in the production of oil. I commend him for his effort and that of his staff, and I am very pleased that we adopted the amendment.

Mr. JOHNSTON. Mr. President, what is the pending business?

AMENDMENT NO. 1102

Mr. MURKOWSKI. Mr. President, if I may, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 1102.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike Title I and insert in lieu thereof a new Title I.

"TITLE I

"SEC. 101. SHORT TITLE.

"This title may be cited as the "Alaska Power Administration Asset Sale and Termination Act".

"SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

"(a) The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this Act as "Snettisham") to the State of Alaska in accordance with the terms of this Act and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Alaska Power Authority and the Authority's successors.

"(b) The Secretary of Energy is authorized and directed to sell the Eklutna Hydroelectric Project (referred to in this Act as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this Act as "Eklutna Purchasers"), in accordance with the terms of this Act and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Alaska Power Administration of the Unites States Department of Energy and the Eklutna Purchasers.

"(c) The heads of other Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized and directed by this Act.

"(d) Proceeds from the sales required by this title shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

"(e) There are authorized to be appropriated such sums as may be necessary to prepare, survey, and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchaser.

"SEC. 103. EXEMPTION AND OTHER PROVISIONS.

"(a)(1) After the sales authorized by this Act occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a et seq.) as amended.

"(2) The exemption provided by paragraph (1) does not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

"(3) Nothing in this title or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the memorandum of Agreement.

"(b)(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

"(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than ninety days after the date on which the Program is adopted by the Governor of Alaska, or be barred.

"(3) An action seeking review of implementation of the Program shall be brought not later than ninety days after the challenged act implementing the Program, or be barred.

"(c) With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

"(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

"(A) at no cost to the Eklutna Purchasers;

"(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

"(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

"(2) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with existing law.

"(3) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

"(4) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85–508, 72 Stat. 339, as amended), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

"(d) With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85–508, 72 Stat. 339, as amended).

"(e) Not later than one year after both of the sales authorized in section 102 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

"(1) complete the business of, and close out, the Alaska Power Administration;

"(2) submit to Congress a report documenting the sales; and

"(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

"(f) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined by the Secretary of Energy, that all Eklutna assets have been conveyed to the Eklunta Purchasers.

"(g) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, that all Snettisham assets have been conveyed to the State of Alaska.

"(h) As of the later of the two dates determined in subsection (f) and (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

"(1) in paragraph (i)—

"(A) by striking subparagraph (C); and

"(B) by redesignating subparagraphs (D), (E), and

"(F) as subparagraphs (C), (D), and (E) respectively; and

"(2) in paragraph (2) by striking out "and the Alaska Power Administration" and by inserting "and" after "Southwestern Power Administration,".

"(i) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

"(j) The sales of Eklutna and Snettisham under this title are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622).

"(k) The sales authorized in this title shall occur not later than 1 year after the date of enactment of legislation defining 'first use' of Snettisham for purposes of section 147(d) of the Internal Revenue Code of 1986, to be considered to occur pursuant to acquisition of the property by or on behalf of the State of Alaska.".

Mr. MURKOWSKI. Mr. President, this is an amendment with regard to technical language associated with title I.

AMENDMENT NO. 1103 TO AMENDMENT NO. 1102

(Purpose: To make clear that the authorization of sale of hydroelectric projects under section 102 has no relevance to any proposal to sell any other hydroelectric project or the power marketing administrations)

Mr. JOHNSTON. Mr. President, on behalf of Senator DASCHLE, I send an amendment to the desk, which is a second-degree amendment to this existing amendment. This amendment states in its entirety as follows:

Congress declares that—

(1) the circumstances that justify authorization by Congress of the sale of hydroelectric projects under section 102 are unique to those projects and do not pertain to other hydroelectric projects or to the power marketing administrations of the 48 contiguous States; and

(2) accordingly, the enactment of section 102 should not be understood as lending any support to any proposal to sell any other hydroelectric project or the power marketing administrations.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. DASCHLE, proposes an amendment numbered 1103 to amendment No. 1102.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment insert the following:

SEC. . DECLARATION CONCERNING OTHER HYDROELECTRIC PROJECTS AND THE POWER MARKETING ADMINISTRATIONS.

Congress declares that—

(1) the circumstances that justify authorization by Congress of the sale of hydroelectric projects under section 102 are unique to those projects and do not pertain to other hydroelectric projects or to the power marketing administrations in the 48 contiguous States; and

(2) accordingly, the enactment of section 102 should not be understood as lending support to any proposal to sell any other hydroelectric project or the power marketing administration.

Mr. DASCHLE. Mr. President, I offer an amendment to S. 395, the Alaska

Power Administration Sale Act, to make explicit that this legislation does not in any way set a precedent for the sale of any other Federal power marketing administrations.

My colleague from Alaska makes a strong case for the sale of the Alaska Power Administration. As I understand the situation, the congressional delegation and the Governor of Alaska support the sale, and the proposal enjoys broad public support.

As we concentrate on this bill and this sale, it is important to keep in mind that there is a broader discussion taking place in the Congress over the sale of other Federal power administrations, and the case for those sales is by no means as clear cut as that in Alaska.

While the privatization of the Alaska PMA is supported in Alaska, there is strong public opposition to the sale of PMA's located in the lower 48 States. Moreover, the sale of the Alaska PMA involves a relatively small sum of money, only $83 million. This is a manageable investment for the State. It ensures that Alaskans will be able to purchase the PMA assets and that the purchase will not cause rates to rise substantially.

This is not the case with the proposed sale of PMA's in the lower 48 States, where far greater sums of money are at stake and where the sale likely would lead to significant rate increases.

In South Dakota, the Western Area Power Administration, which markets power from the main stem dams along the Missouri River, has ensured a consistent and affordable supply of electricity. The program is being run on a sound financial basis, as it recovers all expenses relating to its annual operation and the initial construction expenses, with interest. Under the current system, rates are set at the lowest possible cost, consistent with sound business principles, and to ensure that these financial objectives are met.

If this power marketing administration is sold, then it is likely that rates will increase substantially. The assets could well be purchased by out-of-State financial interests, who likely will set rates to maximize profit. Electric rates for existing Federal power customers will rise as a result. South Dakotans and customers from other States served by power marketing administrations will pay higher costs for power, and much of that money will go to the out-of-State financial interests who bankroll these purchases.

The Western Area Power Administration is a program that works. It provides affordable power to states like South Dakota, and it does so without any subsidy. The Federal Government gets a return on its investment. In short, it is an unquestioned success. It is a program that we should hold up as an example of how the Federal Government can work for the people and the national economy.

In conclusion, Mr. President, the sale of the Alaska Power Administration should not be viewed as a precedent for the sale of other power administrations. The situation in Alaska is unique. It is very different from the situation with the other PMA's, such as Western, where there is strong public opposition to the sale and where Senators are on record opposing the sale. I have received well over 10,000 letters in opposition to this sale and 2 in favor of it. And while sheer numbers can never determine the merits of any program, I am inclined to believe that people generally know what is best for themselves.

Given the almost certain rate increases that would accompany the sale of the Western Area Power Administration and others in the lower 48, and the potential for out-of-State ownership and, thus, the export of State resources, it is not a policy that I can support. I hope that my colleagues will be willing to recognize that the Alaska sale does not set any sort of precedent for the sale of other power marketing administrations, and support my amendment.

Mr. JOHNSTON. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1103) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, what is the pending business, if I may inquire of the Chair?

The PRESIDING OFFICER. The first-degree amendment No. 1102.

Mr. MURKOWSKI. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment No. 1102, as amended.

The amendment (No. 1102), as amended, was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1104

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 1104.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the text of title II and insert the following text:

"TITLE II

"SEC. 201. SHORT TITLE.

"This title may be cited as 'Trans-Alaska Pipeline Amendment Act of 1995'.

"SEC. 202. TAPS ACT AMENDMENTS.

"Section 203 of the Act entitled the 'Trans-Alaska Pipeline Authorization Act,' as amended (43 U.S.C. 1652), is amended by inserting the following new subsection (f):

"(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

"(1) Subject to paragraphs (2) through (6), of this subsection and notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over right-of-way granted pursuant to this section may be exported after October 31, 1995 unless the President finds that exportation of this oil is not in the national interest. In evaluating whether the proposed exportation is in the national interest, the President—

"(A) shall determine whether the proposed exportation would diminish the total quantity or quality of petroleum available to the United States; and

"(B) shall conduct and complete an appropriate environmental review of the proposed exportation, including consideration of appropriate measures to mitigate any potential adverse effect on the environment, within four months after the date of enactment of this subsection.

"The President shall make his national interest determination within five months after the date of enactment of this subsection or 30 days after completion of the environmental review, whichever is earlier. The President may make his determination subject to such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that the exportation is consistent with the national interest.

"(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to this section, shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.".

"(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

"(5) If the Secretary of Commerce finds that anticompetitive activity by a person exporting crude oil under authority of this subsection has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused sustained material adverse employment effects in the United States, the Secretary of Commerce may recommend to the President appropriate action against such person, which may include modification of the authorization to export crude oil.

"(6) Administrative action with respect to an authorization under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

"SEC. 203. ANNUAL REPORT.

"Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following:

"In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration for Defense District V have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.".

"SEC. 204. GAO REPORT.

"The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

"SEC. 205. EFFECTIVE DATE.

"This title and the amendments made by it shall take effect on the date of enactment.".

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1105 TO AMENDMENT NO. 1104

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for Mr. HATFIELD, proposes an amendment numbered 1105 to amendment No. 1104.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following new section:

SEC. 206. RETIREMENT OF CERTAIN COSTS INCURRED FOR THE CONSTRUCTION OF NON-FEDERAL PUBLICLY OWNED SHIPYARDS.

(a) IN GENERAL.—The Secretary of Energy shall—

(1) deposit proceeds of sales out of the Naval Petroleum Reserve in a special account in amounts sufficient to make payments under subsections (b) and (c); and

(2) out of the account described in paragraph (1), provide, in accordance with subsections (b) and (c), financial assistance to a port authority that—

(A) manages a non-Federal publicly owned shipyard on the United States west coast that is capable of handling very large crude carrier tankers; and

(B) has obligations outstanding as of May 15, 1995, that were issued on June 1, 1977, and are related to the acquisition of non-Federal publicly owned dry docks that were originally financed through public bonds.

(b) ACQUISITION AND REFURBISHMENT OF INFRASTRUCTURE.—The Secretary shall provide, for acquisition of infrastructure and refurbishment of existing infrastructure, $10,000,000 in fiscal year 1996.

(c) RETIREMENT OF OBLIGATIONS.—The Secretary shall provide, for retirement of obligations outstanding as of May 15, 1995, that were issued on June 1, 1977, and are related to the acquisition of non-Federal publicly owned dry docks that were originally financed through public bonds—

(1) $6,000,000 in fiscal year 1996;
(2) $13,000,000 in fiscal year 1997;
(3) $10,000,000 in fiscal year 1998;
(4) $8,000,000 in fiscal year 1999;
(5) $6,000,000 in fiscal year 2000;
(6) $3,500,000 in fiscal year 2001; and
(7) $3,500,000 in fiscal year 2002.

Mr. MURKOWSKI. Mr. President, I am offering this amendment on behalf of Senator HATFIELD and respectfully urge its adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1105) was agreed to.

Mr. MURKOWSKI. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. SNOWE). Without objection, it is so ordered.

Mr. DORGAN. Madam President, I ask unanimous consent that I be allowed to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. DORGAN. In the next several days, we will have on the floor of the Senate a budget resolution. This has been much discussed and anticipated because we have had substantial debate here in the Senate and in the House of Representatives and in the country as a whole about the need to deal with this country's fiscal policy problems. No one, I think, will deny that our country is off track in fiscal policy. We spend more than we have. We routinely charge the balance to our children and grandchildren, and we must change priorities and fiscal policy to balance the Federal budget.

The Federal budget that we deal with and the budget resolution coming from the Budget Committee is a critically important document. A hundred years from now, if historians then could look back 100 years and view us, they could evaluate our priorities by what we spent our money on. They can look at our Federal Government and look at a $1.5 trillion budget and determine what was important to us by how we spent our money. What did we hold dear? What did we treasure, value, and what kind of investments did we think were important? That is what they will be able to tell about us. That is what is in the budget resolution. It represents our priorities, values, and what we think is important for our country.

A lot of people view this as just politics, just the same old thing, Republican versus Democrat. It is not that at all. It is much, much more important than that. It is the establishment of a set of principles by which we determine how we spend the public's money. I recall a story in the Washington Post, I believe, once where two people were quoted from Congress and one said—speaking of some other dispute—"This has degenerated into an argument about principle." I thought to myself, I hope so. That is what this is all about. That is what the budget resolution ought to be about.

I was at the White House this morning with a group of my colleagues meeting with President Clinton. He made a point about the budget resolution that I happen to agree with, which is that his problem with the budget resolution that is going to come to the floor of the Senate is that the priorities in that budget resolution do not match the needs of the country.

The budget resolution from the House of Representatives calls for a very large tax cut. The benefits of the tax cut will largely go to the wealthiest in America. If you take a look at who benefits from the tax break by the House of Representatives, the numbers show up like this: If you are a family earning under $30,000 a year, you get a tax break of $120. If you are a family over $200,000 a year in income, you get a tax break of around $11,000. It is pretty clear who benefits from that kind of policy.

In order to pay for a very expensive tax break, the bulk of which goes to the most affluent Americans, what do you have to cut in spending to do it? Well, they cut Medicare. They make it more expensive for someone to go to college. They cut education. They make it more difficult for the elderly to get health care. They cut earned-income tax benefits for the working poor, which means higher taxes for the working poor.

I happen to think those priorities do not match what our needs are. My own view is we ought not at this point have a tax cut. I would like to see everybody pay far less taxes than they now pay. But the first obligation, I think, for our country, is to balance the Federal budget.

I give credit to the budget resolution and those who framed it because it includes some recommendations that I support. There is a part of the budget recommendation that comes to the floor of the Senate that I think makes eminent good sense, and I support it. I say congratulations. I sent 800 billion dollars' worth of spending cut recommendations to the Budget Committee. I believe in this. We need to balance the Federal budget, and not with smoke and mirrors but with real spending cuts in real ways. And, yes, also in some areas with real revenue. But I believe in some areas you must balance the Federal budget.

I do not believe, however, with the kind of deficits we have, the way to start balancing the Federal budget is to first start talking about tax cuts. I understand the Senate budget resolution does not specifically prescribe tax cuts, but I also understand it specifically sets aside $170 billion to be sent to the Finance Committee specifically for cuts. So this budget resolution, like the House resolution, will accomplish the same things. It will cut taxes. And it will pay for that tax cut by providing less for Medicare, by cutting the earned-income tax credit and therefore raising taxes on low-income working families, and by slashing spending for education, especially the education money available to help young people go to college.

I think those priorities are wrong. There must be spending cuts in a whole range of areas. Will we have to limit the rate of growth in Medicare and Medicaid? Yes, I believe we will, in the context of reforming the whole health care system in some reasonable way, without limiting people's choice. But the fact is you cannot continue seeing skyrocketing health care costs across the country without some interruption. The Federal budget cannot stand that, the family budget cannot stand that, nor can a business budget stand that. So we must respond to that problem.

But we ought not, under any condition, decide to take several hundreds of billions of dollars out of Medicare and Medicaid, both of them, and do that at least in part so we can give a very big tax cut to some of the wealthiest Americans. That makes no sense at all.

I would say, on the issue of education, to the extent anything is important in our country, we must decide as a country to invest so our kids can go to school. Investing in education for our children is an investment in this country's future. It yields dividends of enormous importance to the future of this country.

So, when we decide we are going to make a trade here and we are going to do classic trickle-down economics, and that means we do not have enough money to provide for financial help for somebody going to college, that is a trade that in my judgment injures our country's economy.

Some people say this is new, that this is reform. This is not new. There is nothing new about this. This is 15 years old and it is 50 years old. It is: run an election, win, write a contract, give tax breaks for the rich, and have the rest of us pay for it somehow, with less medical care and less help for their kids to go to school and higher taxes for the working poor. That is not new. That is Herbert Hoover.

We have been through this before. Trickle-down economics—that is the notion where you pour the money in at the top somehow and, if you make the top generous enough or affluent enough, somehow it all trickles down and rains on everybody else in America.

Another Member who served in this body many, many years ago described trickle-down economics. He said it is the concept that if you feed the horse some hay, sometime down the road the sparrows will have something to eat—trickle-down economics. That is not a notion that I think makes sense for the economy engine of this country. Our goal is not to make the comfortable more comfortable. It is to provide working people in this country with something to make a good living: jobs, opportunities, education. That is what drives the American economy. It is not trickle-down economics, it is percolate-up economics.

I think what we ought to do when we bring this budget resolution to the floor of the Senate, I would like to see on a bipartisan basis for all of us to do something very serious and very quickly. I would like to see us decide immediately. The first test is to decide to balance the budget using spending cuts. Do that. Debate about the priorities, what are the values here, what are the things we hold dear, what should we invest in, what about our children—go through that debate. Set the tax cuts aside and say, let us not do tax cuts. Let us just deep six all that stuff. And then let us do honest, real spending cuts and balance the Federal budget.

Then, when we have done that, we have rolled up our sleeves and done the honest work, then we can turn to the other issues. But I think it is wrong to engage in a political exercise and balance the budget by beginning with a very large tax cut for the affluent, which means we must take more from Medicare for the elderly, more from programs to help those who want to go to school, more from the working poor by scaling back the earned-income tax credit, and so on. That, in my judgment, is not the right way for this country to proceed.

I noted some columnists have said the Democrats in the Chamber do not seem to be as ambitious in dealing with the budget deficit as some others. I do not think we need to take great instruction from columnists about our interest in deficit reduction. Those of us who, in 1993, voted on the floor of this Senate for $500 billion of deficit reduction, some of which was very unpopular, all of which was pretty controversial—those of us who were willing to do that without any help at all, not even one accidental vote from the other side of the aisle, do not need lectures about deficit reduction.

I believe in deficit reduction. I am glad I voted for it in 1993. I will vote for much more deficit reduction offered by either side of the aisle. If it is responsible cutting of what represents excesses in the Federal budget, count me in and sign me up because I am willing to do it.

Also, as I said, I sent $800 billion in deficit reduction recommendations to the Budget Committee, mostly spending cuts, some additional revenue increases, saying: Here is a jump start on how we ought to do this.

Much of that is in the mark that will come to the floor by Senator DOMENICI. And I will support those portions of the budget. But I do believe the broader priorities, especially the priorities these days in something called the Contract With America, are priorities that I do not share. We must, it seems to me, understand how to provide decent health care for our elderly in this country and we must understand and make a commitment to provide health care for those in America who are disadvantaged and who are poor.

That is not something we ought to debate much about. Yes, we can debate about how to control costs or how to bring down the rate of increase. But we ought not trade off the health care needs of the elderly or the health care needs of the American poor with tax cuts for the most affluent Americans. That is not a trade that makes sense for this country.

I hope in the coming week, when we resolve this budget issue, that we will on a bipartisan basis decide, in a serious, sober, thoughtful, reflective way, to honestly cut Federal spending where we are spending too much; honestly put this country back on track toward a balanced budget, and do that first by spending cuts and not talk about, again, tax cuts for the most affluent Americans.

Madam President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1106 TO AMENDMENT NO. 1104

Mrs. MURRAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator from Washington intend to amend the Murkowski amendment?

Mr. MURKOWSKI. I believe it is the intention of the Senator from Washington to propose an amendment to the Murkowski amendment. Is that the intention of the Senator from Washington?

Mrs. MURRAY. That is correct.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 1106 to Murkowski amendment No. 1104.

Mrs. MURRAY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment add the following new section:

Title VI of the Oil Pollution Act of 1990 (Pub. L. 101-380; 104 Stat. 554) is amended by adding at the end thereof the following new section:

"SEC. 6005. TOWING VESSEL REQUIRED.

"(a) IN GENERAL.—In addition to the requirements for response plans for vessels established in section 311(j) of the Federal Water Pollution Control Act, as amended by this Act, a response plan for a vessel operating within the boundaries of the Olympic Coast National Marine Sanctuary or the Strait of Juan de Fuca shall provide for a towing vessel to be able to provide assistance to such vessel within six hours of a request for assistance. The towing vessel shall be capable of—

"(1) towing the vessel to which the response plan applies;

"(2) initial firefighting and oilspill response efforts; and

"(3) coordinating with other vessels and responsible authorities to coordinate oilspill response, firefighting, and marine salvage efforts.

"(b) EFFECTIVE DATE.—The Secretary of Transportation shall promulgate a final rule to implement this section by September 1, 1995.".

Mrs. MURRAY. Mr. President, I thank the Chair.

We have been working this afternoon with the Senators from Alaska on the bill before us. One of our main concerns has been the environmental issues in Puget Sound in my home State of Washington.

I appreciate all of the work that the Senator from Alaska has done in helping to meet one of our concerns on this bill.

The amendment in front of us requires that a vessel be in Puget Sound that is paid for by the industry so we can assure that the vessels which come into Puget Sound are escorted through the Straits of Juan de Fuca.

I thank the Senator from Alaska and his committee for all their work on this and urge its adoption.

Mr. MURKOWSKI. May I respond, Mr. President?

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I appreciate the cooperative effort as evidenced by the Senator from Washington. It has been a pleasure working with her staff, and we do accept the amendment.

I think it is a tribute to the Senator from the State of Washington for addressing obviously an environmental need, and I feel confident that her contribution by this amendment will ensure a greater degree of safety associated with the movement of oil from my State to her refinery. As a consequence, we are pleased to accept the amendment.

Mrs. MURRAY. One of my main concerns is vessel safety. I want to make certain all vessels transporting oil through the strait of Juan de Fuca or Olympic Coast Marine Sanctuary are properly escorted.

Under my amendment, the Oil Pollution Control Act would be modified to require response plans for such vessels to provide emergency response within at least 6 hours. This would be a vast improvement over the status quo.

However, my State including the Office of Marine Safety, conservation groups, and the Makah Indian nation, would like to see an even shorter response time.

It is my understanding that under this amendment, the State and other parties would have the flexibility to negotiate an arrangement that would ensure a response time of 4 hours or fewer. Specifically, the State would be able to arrange stationing an emergency response tug boat at Neah Bay.

If the State, tribe, and tanker operators agree, the Coast Guard under my amendment, should modify the response plans accordingly.

Does the chairman concur in this interpretation?

Mr. MURKOWSKI. Yes, I have reviewed the language and agree.

The PRESIDING OFFICER. Are there others who want to be heard? If not, the question is on agreeing to the amendment No. 1106.

So the amendment (No. 1106) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1107 TO AMENDMENT NO. 1104

Mrs. MURRAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 1107 to amendment No. 1104.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, of the pending amendment, insert after line 12 the following:

(C) shall consider after consultation with the Attorney General and Secretary of Commerce whether anticompetitive activity by a person exporting crude oil under authority of this subsection is likely to cause sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels for independent refiners that would cause sustained material adverse employment effects in the United States.

On page 3, insert after line 12 after the word "implementation;": "including any licensing requirements and conditions,".

On page 4, line 2, after "President" insert "who may take".

On page 4, line 3, after "modification" insert "or revocation".

Mrs. MURRAY. Mr. President, as you know, I have very strong reservations about the exports of Alaskan North Slope oil. I am concerned about jobs in my State, the price of oil to consumers across our Nation, and the environmental impact lifting this ban may produce. However, after a day of negotiation, I am pleased to offer several amendments en bloc to the bill that the chairman has agreed to. These en bloc amendments will ensure a full review of export impacts.

They mandate that the President, along with the Attorney General and the Department of Commerce, will review environmental impacts, consumer price increases, and anticompetitive practices that would hurt independent refineries and shipyards who employ thousands in my region.

I believe we have come far to negotiate this agreement that now speaks first for the people of the Pacific Northwest before the exporting of this oil begins.

I thank the chairman for his work in moving toward this amendment.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, it is my understanding we had an opportunity to review the amendment and, indeed, the amendment is in order, as suggested by the Senator from Washington. I am well aware of her concern for her own economic activity associated with Alaskan oil.

We find the amendment satisfactory. I am pleased to accept it at this time. It does meet with satisfaction the terms and conditions which we agreed to mutually.

The PRESIDING OFFICER. Are there other Senators who want to be heard concerning this amendment? If not, the question is on agreeing to the amendment No. 1107 to amendment No. 1104.

The amendment (No. 1107) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. MURRAY. Mr. President, I thank the Chair and the chairman of the committee who has worked diligently with me this afternoon. One of my main concerns regarding this proposal to export ANS relates to the supply of Alaskan crude to the Tosco refinery at Ferndale. As I understand it, Tosco has 3 years and 8 months remaining on a supply agreement with BP. I want assurance that BP will honor the contract.

I have asked BP to provide me with that assurance, and today I received a letter from the president of BP Oil Shipping Co., Steve Benz, promising to honor the existing contract with Tosco's refinery at Ferndale.

Mr. President, I ask unanimous consent to print a copy of the letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BP AMERICA, INC.,
May 16, 1995.

Hon. PATTY MURRAY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MURRAY: I am sensitive to your concerns regarding the supply agreement for Alaska North Slope crude oil that BP has with the TOSCO refinery at Ferndale, Washington. While we are under a strict confidentiality agreement with respect to the details of that arrangement, I want to give you my assurance that BP will fully honor the terms and conditions of our current supply agreement with TOSCO for the Ferndale, Washington refinery. This guarantees that BP will be a supplier of Alaska North Slope crude oil to the TOSCO Ferndale refinery through 1998.

I hope that this letter satisfies any remaining concerns you may have regarding security of supply to TOSCO.

Sincerely,

STEVE BENZ,
President, BP Oil Shipping.

Mrs. MURRAY. Mr. President, I also ask the distinguished chairman of the Energy Committee if he can also assure me that he will do everything in his power to assure that adequate supplies of Alaskan North Slope crude continue to be made available to the Tosco refinery.

Mr. MURKOWSKI. Mr. President, I fully understand and appreciate the concern of the Senator from Washington in this area. I can assure you, based on information that I have from British Petroleum and others, a security of supply to the Northwest independent refiners will not be a problem.

I can assure the Senator, if there are supply disruptions, I will personally work with her and other Members of the Washington delegation to address that problem to the very best of my ability.

Mrs. MURRAY. Mr. President, I thank the Senator from Alaska and would just like to notify him that I am working on one more statement for the RECORD, a few more words to say, and I appreciate all of the work and help he has been in working toward this agreement.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Oregon.

Mrs. MURRAY. I withhold that request.

Mr. HATFIELD. Mr. President, I just would like to express my gratitude to the chairman of the committee, the Senator from Alaska [Mr. MURKOWSKI]. I suppose Mr. MURKOWSKI's diligence and perseverance again proves the old adage that, if you stick with a problem or an issue, you get it resolved with patience and forbearance. Certainly, the Senator has demonstrated both those qualities.

I also want to express my appreciation for the staff. I do not know an issue I have dealt with for a period of time that has not incorporated more staff than this one, and they have all been most cooperative. Staff of committee, personal office staff people, staff of my colleagues, like the Senator from Washington State—all of the staff—really, again, demonstrated the superiority of our professional staff people, both in the offices and on the committees as well.

So I would like to thank the Senator for his cooperation in resolving one of my problems.

Mr. MURKOWSKI. If I can respond to my friend from Oregon, his particular reference to patience is one that I have had an opportunity to observe, as the Senator from Oregon has displayed this as chairman of the Appropriations Committee, both as ranking member and as chairman, for as long as I have been in this body, some 15 years. And he has accumulated an extraordinary ability in negotiation, using both his historical interest of this body as well as a history of many of our Presidents and his patience and oftentimes humor in moving along problems and has led me to view him with admiration and respect. I am particularly appreciative of his comments today.

Mr. President, I am not sure. If I may make an inquiry of the Senator from Washington, is it her intention to make another statement, or are we perhaps waiting? I did not hear the last reference.

Mrs. MURRAY. I am waiting to clear a colloquy with the Senator's staff which should be done very shortly.

Mr. MURKOWSKI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I wonder whether I might ask my colleague from Alaska a question. I am assuming that my colleague intends to go to a vote very soon, is that correct?

Mr. MURKOWSKI. The Senator from Minnesota is correct. I anticipate that we are within 3 or 4 minutes of calling for third reading and a recorded vote.

Mr. WELLSTONE. I wonder whether I could simply take a minute to speak before the final vote. My colleague has the floor, so I will wait until he is done.

Mr. MURKOWSKI. I am sure it will be more than a minute or a couple of minutes, but I will yield for that purpose.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I just had a chance to come to the floor now, and I had anticipated that this debate could go on through tomorrow. I understand that, for a variety of different reasons, we are going to go to final vote. I want to go on record—and I will have a more complete statement—I believe that this piece of legislation is misguided. I am in profound disagreement with it. The particular problem I have is that now when we open up the exporting of the oil, I think we get back to all of the ways in which we as a nation still are so dependent upon the imports.

I worry about this being essentially the first step toward opening up oil drilling at Arctic National Wildlife Refuge. I want to simply say that I think, for some very basic important environmental reasons, this piece of legislation is mistaken. I also have some concerns about the basic environmental safety reasons that have to do with the shipping of this oil across the sea. I do not know exactly what protection has been built in. All in all, I think it is a mistake. I have to say to you, Mr. President, that my only regret is that I was at another meeting dealing with a piece of legislation that I have been working on for a couple of years.

So I was not able to be here during some of the debate and now do not really have time to lay out on the floor a full statement or be involved in a full debate.

I hope colleagues will vote against this. I hope colleagues will vote against this, I think, on very solid environmental grounds. I hope colleagues will vote against this understanding that I think this is the first step toward opening up ANWR. We went through this last Congress. It was very contentious. Maybe it was the Congress before, when I first came to the Senate. We actually had a filibuster against oil drilling in the Arctic National Wildlife Refuge. I think that is where we are heading with this legislation. I think it is part of the effort to get there.

I have appreciation for my colleague from Alaska on a personal level. I know him to be incredibly hard working, and he cares fiercely about his State. I am in profound disagreement with this. I hope we will have some strong "no" votes.

I yield the floor.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, it is my intent to advise Senators that we will be calling for a rollcall vote and I will be calling for third reading.

I do want to thank my friend from the State of Washington, Senator MURRAY, for her concern over the aspects affecting her State with regard to the oil that comes down from my State of Alaska.

I also want to thank Senator BOXER for her questions and concerns reflected in colloquy.

I want to thank Senator JOHNSTON for his contribution and concern, and particularly with reference to the inclusion of deep water royalty, which is part of this legislation which I think will benefit—certainly lessening our dependence on imported oil and, as a consequence, relieve substantially our balance of payments by developing our own domestic supply which is so well supported in the Gulf of Mexico and the State of Louisiana and others.

I want to thank my senior colleague, Senator STEVENS. Certainly, Senator HATFIELD has been most cooperative. I am also very sensitive to his concern regarding his shipyard, as well as concern for the shipyards in California. Senator FEINSTEIN has also been very cooperative.

I want to recognize the staff of Senator JOHNSTON, our own staff, Gregg Renkes, Andrew Lundquist, Gary Ellsworth, Jim Beirne, Howard Useem, Mike Poling, and others.

If I may just for a moment reflect on a little bit of how I look at this legislation as an Alaskan and how my constituents view it. I think it marks another advance in the policies made by the Federal Government to Alaska when we accepted the statehood compact back in 1959. Thirty-six years is a long time to wait for the action that is about to be taken today. I think it is certainly historically significant for Alaska, if this legislation carries.

We have done some significant things. We have authorized the sale of the Alaska Power Administration, the Eklutna hydro project, to the municipality of Anchorage. That has been 40 years in the making. It was first proposed back in 1955. It has been 7 years under the stewardship of Senator STEVENS and myself.

The sale of the Snettisham hydro project to the State of Alaska, and the Alaska Power Administration, of course, is also authorized. That has been pending for over 10 years.

It is my hope, Mr. President, that my colleagues will join me in acting favorably on this bill. This action by the Senate, if it is passed, will ultimately—assuming that it receives the support of the House of Representatives—allow the export of Alaskan oil.

That is the oil that is excess currently on the west coast, oil that used to go through the Panama Canal. This action, I might add, is supported by the administration and the President and with the concurrence of this body and, hopefully, the House of Representatives.

Now for the very first time Alaskan oil can look forward to a truly free market. While perhaps we Alaskans are still not free from the Federal yoke, some of the load has been lifted from the shoulders of Alaska, if this passes today. And perhaps this marks a favorable sign for the time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1104) was agreed to.

Mr. HATFIELD. Mr. President, the Senate is now considering an amendment to provide for payment of a certain sum generated by this legislation to retire the debt incurred by citizens of the city of Portland, OR, to construct the largest floating drydock on the west coast. On June 1, 1977, Portland taxpayers financed this investment based in large part on the commitment made to keep this Alaska North Slope oil supply for domestic production oil only.

Alaska oil exploration and the congressional commitment to the prohibition on the export of Alaska North Slope crude oil were crucial factors in Portland's decision to expand its publicly owned maritime repair facility. No drydocks on the west coast were large enough to handle the new Alaskan oil ships either in operation or under construction. Unless this infrastructure deficiency was remedied, these vessels would have had to be repaired in foreign shipyards and U.S. jobs would be lost.

Based on the Federal assurances that this oil was for domestic use only and the encouragement by Federal officials for Portland to step forward to be part of the infrastructure team required to move this oil from the end of the Trans-Alaskan Pipeline to the lower 48 States, local voters in Portland strongly supported the expansion of the Portland Ship Repair Yard to accommodate these very large oil carrying vessels and approved an $84 million bond measure. My amendment is intended to cover the remaining debt on these bonds dated June 1, 1977. After that significant investment, drydock 4 came on line, adding a vital component to the stated Federal plan for transporting Alaskan oil to domestic markets. Maintaining a ban on the export of this production was an integral part of the agreement to allow construction of the Trans-Alaska Pipeline, and the citizens of Portland reasonably relied upon this agreement.

The bill before us today would reverse this 22-year-old commitment, to the great detriment of the substantial investments made by the citizens of Portland, OR. If the damaging impact on the Portland Ship Repair Yard of exporting Trans-Alaska Pipeline crude oil has not been made perfectly clear prior to this date, I would like to share with my colleagues an article that appeared in the Portland Oregonian today. The article reports that Todd Pacific Shipyards Corp. has withdrawn its application to become the sole contractor at the Portland Ship Repair Yard. One of the primary concerns noted by Todd in announcing its withdrawal was congressional action to lift the Alaska oil export ban.

My amendment seeks to address the unfairness lifting the ban would impose on the taxpayers of Portland. The amendment would require payments from the naval petroleum reserve, a primary beneficiary of the increased revenues that the Congressional Budget Office has judged will result from this legislation. These payments would go toward retirement of the $50 million in outstanding bonded debt incurred by the taxpayers of Portland to acquire Drydock No. 4. An additional $10 million would be made available to improve the shipyard to meet the new market conditions in the maritime industry that will result from the repeal of this longstanding export ban. This amendment is consistent with the pay-as-you-go budget rules currently in force.

This amendment will keep faith with the citizens of Portland in the face of this dramatic change in Federal policy to allow Alaskan oil exports. I thank the Senator from Alaska and others for working with me to achieve this important provision to ensure the taxpayers of Portland are treated fairly.

Mrs. BOXER. Mr. President, section 202 of the substitute amendment to S. 395 requires that the administration complete an appropriate environmental review. Does this mean that National Environmental Policy Act applies to this bill.

Mr. MURKOWSKI. Yes, the Senator is correct, the National Environmental Policy Act applies to this bill.

Section 202 specifically provides that the President "shall conduct and complete an appropriate environmental review" of a proposed exportation.

In addition he must consider appropriate measures to mitigate any potential adverse effect on the environment.

There is no waiver, repeal, or change to any Federal, State, or local environmental law, rule or regulation, including the National Environmental Policy Act.

There will be full compliance with all applicable environmental provisions.

Mrs. BOXER. Another matter that concerns me is the recent audit that was performed on the Trans-Alaska Pipeline by BLM that raised several concerns about maintenance and management of the pipeline. Is the Bureau of Land Management in fact following through with the oversight of the repairs and maintenance of TAPS, and as the chairman of the Energy Committee, how are you going to ensure that in fact the concerns raised by the audit in fact will be addressed.

Mr. MURKOWSKI. In testimony before the House Subcommittee on Oversight and Investigations, on November 10, 1993, the chief executives representing the three major owners of the Trans-Alaska Pipeline System [TAPS] made specific commitments to correct the problems identified by the various audits of TAPS. Richard Olver of BP stated, ". . . I commit to you today to provide the necessary human resources that are required to put this plan into place and to back that up about [sic] all the necessary and appropriate financial resources."

The owners have reaffirmed this commitment on several occasions as demonstrated by the number of human and financial resources they have provided Alyeska since those hearings. This commitment was reaffirmed again in meetings that Alyeska and the TAPS owners had just last week with various Congressmen, Senators, and staff in Washington, DC.

The most apparent example of the owners' commitment is the $220 million spent to address audit findings in 1994 with an additional $80 million being spent on findings this year. By the end of 1995, 85 to 90 percent of the audit findings will have been addressed. By December 1996 all but a handful of the audit items will have been resolved. Plans are in hand to address outstanding long lead issues, that is, control systems.

Furthermore BLM has continual and direct oversight of TAPS as a condition of the right-of-way. BLM can in fact shut down the pipeline if the oil producers violate the right-of-way agreement and the violations lead to an imminent threat to the Trans-Alaska Pipeline.

When these repairs required by the audit are completed at the end of 1996, as the chairman of the Energy and Natural Resources, I will request the BLM to report to the Senate Energy and Natural Resources Committee on whether the concerns raised by the audit have been adequately addressed.

Mr. DOLE. Mr. President, I would like to commend the Senators from Alaska, Senator MURKOWSKI and Senator STEVENS, for their work on the bill before us today. This bill accomplishes many good things for the State of Alaska and is the culmination of years of work by both these Senators on behalf of their State.

I am pleased, after many years of effort, that the restrictions on the export of Alaskan oil will be lifted. This legislation represents an effort to provide for new economic opportunities for the people of Alaska. New job opportunities will be created which will strengthen industries directly and indirectly related to this effort. The bill also provides for a review of the effects of the export sales on consumers, shippers, and other domestic oil producers. We need to continue to look for ways to assist domestic oil production and ensure that our efforts for production only work to benefit consumers and our domestic industry. This legislation shows what can be accomplished when individuals share common goals for a strong economy.

In addition, authorization for the sale of the Alaskan Power Administration is a positive step forward for the State of Alaska. I believe there is a need to continue to look at opportunities such as this, where Federal Government activities can be better accomplished on the State, local, or private level.

I am pleased to join with my colleagues in support of this legislation.

KEEPING THE ALASKAN NORTH SLOPE OIL BAN—U.S. DEPENDENCE ON FOREIGN OIL

Mr. D'AMATO. Mr. President, I have the greatest respect for the Senator from Alaska and I honor his diligent effort to do what is in the best interests of his great State. I must however oppose this legislation for the reason that I strongly believe it would be damaging to U.S. jobs and national security.

Mr. President, 22 years ago, the Trans-Alaska Pipeline Authorization Act of 1973 permitted the building of a pipeline from the North Slope producing fields to Valdez. Through an amendment to section 28 of the Mineral Leasing Act, Congress placed strict prohibitions on exporting Alaskan oil due to the energy crisis.

Mr. President, in 1992, this Senate addressed the Nation's overreliance on foreign oil and voted 94 to 4 to reduce the Nation's dependence on imported oil in order to provide for the energy security of the Nation. I have always opposed lifting the Alaskan North Slope [ANS] oil export ban for two reasons: national energy security and the protection of U.S. jobs.

Mr. President, since 1973 when the ban was enacted, things have dramatically changed—for the worse in terms of our energy dependence. The situation is not improving. During the early 1970's, the United States imported roughly 22 percent of our total oil consumption; in 1990, imported oil accounted for 39 percent of our oil consumption. The Energy Information Administration recently forecasted that our dependence on foreign oil will exceed 60 percent by the year 2010. Considering the current situation in the Middle East, specifically with regard to Iran, our Nation's continued reliance on foreign oil constitutes a serious threat to our national security as well as to our economy.

Mr. President, Iran is a terrorist regime intent on aggression in the gulf. In the past few weeks reports have surfaced suggesting that the regime is stationing more troops, Hawk missiles, and chemical weapons in the Straits of Hormuz. Mr. President, this represents a major threat to the flow of oil to the West. It is clear to all, that the disruption of the flow of oil could be devastating.

It is because of the nature of the Iranian threat that I introduced two pieces of legislation, S. 277 and S. 630, which effectively place a total United States trade embargo on Iran, in the case of the first bill, and a global embargo in the second bill. The President's recent Executive order effectively implements my first bill and is a positive step toward cutting off Iran, but we have more to do.

When we conduct business with Iran, we are subsidizing Iran's terrorist activities with hard currency. Because of this, we have to cut off our purchases of Iranian crude. Because of the nature of the Iranian, Iraqi, and Libyan regimes, we are currently closed out of 10 percent of the world's oil production by Iran, Iraq, and Libya. Iran's actions in the Middle East may result in a further reduction in our access to oil from this region. The volatile Middle East situation only makes our country's supply of domestically produced oil more essential.

Mr. President, not only is our heavy dependence on foreign oil dangerous but it also damages our economy. Boone Pickens, president of Mesa, Inc., of Dallas, TX, testified before the Committee on Foreign Relations, on March 27, 1995, that,

> The two oil shocks of the 1970's reduced U.S. gross national product by 3.5 percent, increased unemployment by 2 percent, increased interest rates by 2-3 percent, and added 3 percent to the general rate of inflation.

He added that,

> Taken together, the combined impact of these effects on the U.S. economy in the decade following the 1973 Arab oil boycott totaled $1.5 trillion!

Mr. President, lifting the ANS oil export ban would not only export oil, it would also export U.S. jobs. Current statutory restrictions on oil exports result in the employment of U.S.-built, U.S.-manned vessels—that is Jones Act tankers—to transport most ANS crude. Under U.S. law, Jones Act tankers must be built in the United States and manned with American crews. However, if ANS exports were allowed, the oil would probably be transported to the Far East on U.S.-flag, non-Jones Act ships. U.S.-flag vessels can be foreign-built and transferred to U.S. registry. Foreign subsidies make it cheaper to build ships abroad than in U.S. yards with American workers.

The consequences of Alaska oil exports to the Jones Act tanker fleet would be devastating. ANS exports would result in approximately 20 Jones Act tankers being scrapped and roughly 651 seagoing jobs lost. Against this structural collapse, there would be a modest offset of about 225 new American seagoing jobs on six foreign-built very large crude carriers operating under the U.S. flag from Alaska to Japan in export service.

The most significant development in the likely ANS export proposal would be the ability to transport Alaska oil on foreign built tankers. This change would accomplish a longstanding objective of North Slope producers who want to avoid replacing their Jones Act fleets in the United States due to the higher costs of domestic construction. If such export authority were granted, ever-increasing volumes of Alaska oil would be carried to the Far East on foreign built bottoms, thereby eliminating the need to construct replacement tonnage in U.S. yards. Prospective employment losses resulting from ANS exports are estimated to be 7,500 U.S. shipbuilding and allied industry jobs.

Mr. President, exporting ANS crude oil would also be catastrophic to the west coast ship repair business. Negative consequences are certain to result because foreign sales of Alaska oil will: First, reduce the overall size of the ANS fleet as well as the number of vessels that must be repaired; and second, make it economically attractive for all U.S. tankships employed in Alaska oil service to have repairs done in less expensive yards located in the Far East.

A study concluded that removing the statutory restrictions on the export of Alaska North Slope crude oil will cause the loss of 10,000 U.S. jobs in the maritime shipyard sector alone. Thus, exporting ANS crude will result in measurable harm to this important sector at the very time domestic shipyards are attempting to make the difficult transit from Navy to commercial construction.

The U.S. ban on ANS oil exports was done to ease the country's dependence on foreign oil. Today, however, the United States is more dependent on foreign oil than in 1973. Lifting this ban would only serve to increase our vulnerability to blackmail by Iran, who could use oil to hold the United States and the world hostage. Moreover, the United States can ill-afford to ship United States produced oil elsewhere when we are trying to compensate for the loss of Iranian, Iraqi, and Libyan oil. Lifting the ban would export thousands of jobs to foreign countries. It is imperative that we keep the ban on ANS oil exports for the sake of U.S. jobs and our national security.

For these reasons, I must respectfully disagree with the honorable Senator from Alaska and oppose his legislation, S. 395.

Mr. WELLSTONE. Mr. President, I rise today to express my concern—my profound concern and disquiet—about what appears to be a campaign to rush a bill through the Senate, and by so doing deprive this body—and the American people—of a full and sober accounting of what this bill would do.

Of course, I am referring to Senate bill 395, the Alaska Power Administration Asset Sale and Termination Act. And right there in the title—"Asset Sale"—we have what this bill is all about. Let me be blunt; this bill is about one thing: Selling off as much of America's strategic natural resources as fast as we can in the interest of chasing a quick buck.

I understand there are important issues in this bill that deserve discussion—and I have been prepared to have that discussion here on the Senate floor. It should be a complete and thorough discussion and clearly we are not in a position to do that now.

Mr. President, the Senate is about to begin work on one of the most critically important tasks that it has—that is the debate over the budget. The Sunday talk shows and newspaper opinion columns recently have been filled with news about the budget—the programs that may get cut, the poor and underserved who will suffer under those cuts, how much the rich would get even richer under certain tax-cut proposals. I am reasonably sure that all my colleagues, like myself, are spending most of their time these days in preparation for the budget debate—and well they should.

That is precisely why, Mr. President, I am puzzled—and troubled—that the majority leader should at this particular moment have brought Senate bill 395 up for consideration. It is not like the Senate has not been working steadily—for example, as soon as we finished up what was a rigorous debate on product liability reform, we turned to the important matter of interstate waste disposal which we have just reached agreement on. And it's not as if this bill were one that could be easily or quickly disposed of—for it should not.

Mr. President, I may wonder out loud about the timing of bringing this bill up at this time. With the media and most Member's attention focused on more important matters—the Nation's budget—is now the time to move on a bill that will send American oil overseas? Because that is exactly what this bill will do—by lifting the long held ban on exporting Alaskan oil, it will allow the oil companies to take American oil and sell it to the highest bidder overseas.

Is now the time to move on a bill that will increase pressure to open up one of the only remaining pristine wilderness areas in the United States—the Arctic National Wildlife Refuge—to big oil and gas drilling? Because that is exactly what this bill will do—it will deplete our national oil reserves by sending American oil to other countries, and increase the pressure to open up the ANWR. The distinguished Senator from Alaska and bill author Senator MURKOWSKI admitted as much when he told the Anchorage Daily News on February 20 of this year that if we do not open up the ANWR, "the oil on the West Coast is going to come from Colombia and it is going to come in on foreign vessels." And even yesterday on the floor, my distinguished colleague again said that lifting the export ban will increase pressure to open up new potential fields for drilling.

Mr. President, is now the time to move on a bill that could make the United States even more dependent on foreign oil? At a time when this country is importing record amounts of oil, is now the time to move on a bill that would likely increase our oil imports? Does that sound like a long-term strategy to make the United States more secure, more prepared, more energy-independent? I do not think so.

Mr. President, what is being asked for here is a special exemption just for the State of Alaska. By law, no State—let me repeat, no State—may export oil unless it is found to be in the national interest to do so. Is exporting Alaskan oil in the Nation's best interest? On this matter I prefer to recall the words of my distinguished colleague, the senior Senator from Alaska [Mr. STEVENS]. In response to a question, Senator STEVENS on the floor of this body on July 12, 1973, said: "I will assure the Senator from New Hampshire that so long as I am in the Senate, I will oppose the sale of Alaska's oil to Japan." The position of the distinguished Senator from Alaska was correct then, and it is correct now.

Mrs. FEINSTEIN. Mr. President, I rise to speak in support of S. 395, title II, which would allow for the first time the export of Alaska North Slope crude oil to foreign markets.

Mr. President, I have struggled long and hard over this bill. Constituents from my State have mixed views on the benefits of exporting ANS crude oil abroad.

After discussing this bill with all affected parties and weighing the pros and cons, I am convinced that this legislation, as now drafted, satisfies the problems that have been identified and, on balance, presents a win-win solution.

Let me briefly go over the concerns I have had, including the possible impacts on jobs, on crude oil supplies for the west coast, and on the environment.

JOBS

First, for this legislation to be a success, it must not eliminate jobs in one place while adding them somewhere else. That is why I support its requirement that any ANS crude exported abroad must be carried in American-flagged and American-crewed ships. Otherwise, crude oil that now comes to American refineries in American ships would instead be going to overseas refineries in foreign ships.

But I am also concerned that the ships carrying this crude be built in American yards. While I understand why such a requirement cannot be included in this bill, I have received assurances from BP America, the company that is most likely to be exporting the crude overseas, that it is committed to building any new ships needed for this trade in American yards. I received the following letter from BP America on this issue:

SEPTEMBER 30, 1994.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: Further to discussions with you held September 30, 1994, if the ban on Alaska exports is lifted, BP will commit now and in the future to use only U.S.-built, U.S.-flagged, U.S.-crewed ships for such exports. We will supplement or replace ships required to transport Alaskan crude oil with U.S.-built ships as existing ships are phased out under the provisions in the Oil Pollution Act of 1990.

I hope that this commitment satisfies your request that Alaska oil exports be carried on U.S.-built, U.S.-flag ships, manned by U.S. crews.

Yours sincerely,

STEVEN BENZ,
President,
BP Oil Shipping Company, USA.

OIL SUPPLIES

Second, the loss of ANS crude oil supplies from the west coast of the United States must not create a situation where gasoline prices at the pump go up in our Western States, or where our western refineries that now depend on this crude oil supply must close their doors because they are unable to replace it at a reasonable cost.

This bill specifies that the President shall determine on an annual basis whether independent refiners in the Western United States are able to secure adequate supplies of crude. If not, he is to make recommendations to Congress. Further, the bill requires that the GAO conduct a broader assessment of the impacts of the export of ANS crude after 5 years, including gasoline prices at the pump, and make any recommendations necessary.

ENVIRONMENTAL IMPACT

Third, I have been concerned that passage of this legislation could increase pressure for drilling in the Arctic National Wildlife Refuge and off the west coast of the United States. The administration has assured me that it will oppose such drilling, and that this is an issue that is totally separate from whether or not ANS crude should be exported.

BENEFITS

Now, Mr. President, let me turn to the dramatic benefits the export of ANS crude offers. The current law provides that all ANS crude be shipped to American refineries. This creates an artificial surplus in crude oil supplies on the west coast, which depresses the price that refineries are willing to pay for alternative sources of supply, such as the heavy crude oil pumped in Kern County, CA.

Independent oil producers in Kern County have laid off thousands of workers over the past decade, and shut down many wells. Eliminating the federally mandated oil glut on the west coast will raise the price paid for Kern County crude and make its production viable once again. The Department of Energy estimates that this will generate from 5,000 to 15,000 new jobs very quickly, with as many as 10,000 to 25,000 by decade end, most of which will be in Kern County.

As you know, Mr. President, California still has not joined the rest of the United States in a full recovery from the recession of 1990. Unemployment has remained particularly high in California's Central Valley, caused in part by dramatic fluctuations in annual rainfall, but also by the steady decline in employment and production in the Kern County fields.

So, in conclusion, Mr. President, I am pleased to state my support for this legislation, which will provide net positive benefits to our merchant marine, our independent oil producers, and the companies pumping ANS crude, while providing protection through periodic evaluation of its impacts for our shipyards and our independent refiners.

Mr. MURKOWSKI. Mr. President, I ask that the bill be read for the third time.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MURKOWSKI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—74

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
Daschle
DeWine
Dole
Domenici
Dorgan
Faircloth
Feinstein
Ford
Frist
Glenn
Gramm
Grams
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kyl
Leahy
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—25

Akaka
Boxer
Bradley
Bumpers
Byrd
D'Amato
Dodd
Exon
Feingold
Gorton
Graham
Harkin
Hatfield
Kerry
Kohl
Lautenberg
Levin
Lieberman
Moseley-Braun
Murray
Reid
Rockefeller
Sarbanes
Simon
Wellstone

NOT VOTING—1

Biden

So the bill (S. 395), as amended, was passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

The title was amended so as to read:

To authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MODIFICATION OF AMENDMENT NO. 1105

Mr. MURKOWSKI. Mr. President, I would ask unanimous consent that amendment 1105 previously adopted by the Senate be modified to conform to the language which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification is as follows:

At the end of amendment No. 1104, add the following new section:

SEC. . RETIREMENT OF CERTAIN COSTS INCURRED FOR THE CONSTRUCTION OF NON-FEDERAL PUBLICLY OWNED SHIPYARDS.

(a) IN GENERAL.—The Secretary of Energy shall—

(1) deposit proceeds of sales out of the Naval Petroleum Reserve in a special account in amounts sufficient to make payments under subsections (b) and (c); and

(2) out of the account described in paragraph (1), provide, in accordance with subsections (b) and (c), financial assistance to a port authority that—

(A) manages a non-Federal publicly owned shipyard on the United States west coast that is capable of handling very large crude carrier tankers; and

(B) has obligations outstanding as of May 15, 1995, that were dated as of June 1, 1977, and are related to the acquisition of non-Federal publicly owned dry docks that were originally financed through public bonds.

(b) ACQUISITION AND REFURBISHMENT OF INFRASTRUCTURE.—The Secretary shall provide, for acquisition of infrastructure and refurbishment of existing infrastructure, $10,000,000 in fiscal year 1996.

(c) RETIREMENT OF OBLIGATIONS.—The Secretary shall provide, for retirement of obligations outstanding as of May 15, 1995, that were dated as of June 1, 1977, and are related to the acquisition of non-Federal publicly owned dry docks that were originally financed through public bonds—

(1) $6,000,000 in fiscal year 1996;
(2) $13,000,000 in fiscal year 1997;
(3) $10,000,000 in fiscal year 1998;
(4) $8,000,000 in fiscal year 1999;
(5) $6,000,000 in fiscal year 2000;
(6) $3,500,000 in fiscal year 2001; and
(7) $3,500,000 in fiscal year 2002.

MORNING BUSINESS

Mr. MURKOWSKI. Mr. President, I believe there has been a request for a brief period of morning business. I would so ask unanimous consent that Senators wishing to speak in morning business be allowed to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVILIAN MARKSMANSHIP PROGRAM SHOULD BE TERMINATED

Mr. LAUTENBERG. Mr. President, I rise to bring to my colleague's attention a copy of a letter I recently received from the Department of Defense regarding the Civilian Marksmanship Program.

The letter from Under Secretary of the Army Joe Reeder responds to a letter I sent recently to Defense Secretary Perry about the Civilian Marksmanship Program. It confirms my longstanding belief that the time has come for the Congress to terminate this program once and for all. The letter says "* * * the Army gets no direct benefit from the program" and that there is "* * * no discernible link" between the program and our Nation's military readiness. It goes on to say, "Last year and again last week, DOD repeatedly has conveyed to Congress that, while it will continue to administer the program as directed by Congress, it will also continue to support legislation ending the program."

This letter, Mr. President, is not a plea to the Congress to save a program that enhances our military readiness and national security. To the contrary. It is an invitation to terminate the program. I ask unanimous consent that a copy of the letter be printed in the CONGRESSIONAL RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. LAUTENBERG. Mr. President, recent press reports indicate that members of extremist militia groups in this country, which may pose a threat to public safety, may be gaining access to military bases and receiving weapons, ammunition, and training at Army facilities under the auspices of the Civilian Marksmanship Program. In one article, I learned that the leader of the Michigan-based militia group told ABC's "Prime Time Live" that he had access to U.S. military bases in Michigan for the purpose of training through this program. In another article, I learned that members of the Competitive Sportsman club were asked to leave Camp Grayling base when they showed up wearing Southern Michigan Militia patches. The American people have a right to know that their tax dollars are not being used to train people who may pose a threat to law abiding citizens and to peace and order in this country. The Defense Department should either investigate these allegations or call on another branch of the U.S. Government to do so.

In the meantime, Mr. President, the Civilian Marksmanship Program should be terminated. My colleagues know that I have long believed the Civilian Marksmanship Program is a low-priority program and is an egregious example of waste in Government. The program promotes rifle training for civilians through a system of affiliated clubs and other organizations, and sponsors shooting competitions. As part of these activities, the program donates, loans, and sells weapons, ammunition, and other shooting supplies. The Department of Defense has provided me with a State-by-State breakdown listing of 1,146 member clubs that participate in this program, which I will make available to any of my colleagues who wish to read it.

The program was first established in 1903, at a time when civilian marksmanship training was believed to be important for military preparedness. Yet the Pentagon says it supports legislation to terminate it and that there is "no discernible link" between military readiness and the Civilian Marksmanship Program. As Army officials told the GAO, no Army requirements exist for civilians trained in marksmanship, and no system is in place to track program-trained personnel. In a March 15, 1994, hearing in the Senate Defense Appropriations Subcommittee, Army Secretary West stated that national security objectives will be met with or without the Civilian Marksmanship Program.

In essence, the Civilian Marksmanship Program has provided a taxpayer subsidy for recreational shooting. In light of the budget deficit we face and the military needs we ought to address, this simply is not a justifiable use of scarce resources. After all, defense dollars are not used to subsidize other sports. They ought not be used to subsidize a shooting program which has no relationship to military needs and requirements.

Additionally, the program puts the U.S. Government in the role of selling weapons and ammunition to civilians. There is no shortage of guns and ammunition available in this country through the private sector. I do not believe the U.S. Government needs to be involved in putting more guns on the street in this country.

Mr. President, Senators FEINSTEIN, LEVIN, SIMON, and I recently introduced a bill, S. 757, to terminate the Civilian Marksmanship Program. I urge my colleagues to read the letter from Under Secretary Reeder and approve that bill without delay.

EXHIBIT 1

UNDER SECRETARY OF THE ARMY,
Washington, DC, May 11, 1995.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: The Secretary of Defense, the Honorable William J. Perry, has asked me on behalf of the Army, which serves as the executive agent for the Civilian Marksmanship Program (CMP), to respond to your letter regarding your concerns about the CMP.

The CMP was established by Congress in 1903 to develop marksmanship skills throughout our nation from which the armed forces could draw when needed for rapid mobilization. To this end, the CMP supported creation of rifle clubs throughout the country. There are 1,146 member clubs (the current listing at Tab A is an update from all previous reports on clubs).

Over time the mission of the CMP changed. Now, the current focus of the CMP is weapons safety, familiarization and the sport of marksmanship. The CMP is apolitical, and provides no instruction in military skills.

In FY 1994, the CMP spent $2.483 million of appropriated funds; $2.544 million are budgeted for FY 1995. The Army has requested no appropriated funding for the CMP in FY 1996, because the Army gets no direct benefit from the program. The FY 1996/1997 Biennial Budget Estimates submitted to Congress documents the request for no funds in FY 96. Last year and again last week, DOD repeatedly has conveyed to Congress that, while it will continue to administer the program as directed by Congress, it will also continue to support legislation ending this program. I have enclosed a copy of the recent OSD, General Counsel, response (Tab B) to The Honorable Floyd Spence, Chairman, House National Security Committee, and Ranking Minority Member Ron Dellums reiterating, ". . . no discernible link" between military readiness and the CMP.

DOD shares your concern that the CMP not inadvertently become involved with groups or individuals who may intend to harm federal or non-federal employees. To my knowledge the CMP has never endorsed the involvement of militia groups or extremists in any context. Before club status is granted, three adults responsible for the formation of the club must submit a DD Form 398-2 (Personnel Security Questionnaire) and pass a background investigation performed by the National Agency Check and Investigative Center. If Congress continues to direct that this program be implemented, we will continue to follow these procedures.

Section 4309, Title 10, United States Code, provides that all ranges built in whole or in part with Federal funds may be used by persons capable of bearing arms. Under this legislation, the CMP and other organizations may request the use of military ranges and are generally granted such use provided they comply with range and installation rules. They must not interfere with scheduled military training and their intended use must not pose a safety hazard. If we have any indication of misuse, we will take appropriate corrective action.

Thank you for your interest in this program. I hope this information addresses your concerns.

Sincerely,

JOE R. REEDER.

MINOR CROP PROTECTION ASSISTANCE ACT

Mrs. MURRAY. Mr. President, today I rise to join my colleagues as a cosponsor of the Minor Crop Protection Assistance Act. This legislation will provide much needed relief to the food and horticultural industries so important to the economy of my State and the Nation.

This purpose of this legislation is simple: It is all about economics. This legislation seeks to provide some relief to producers of minor crops who face the imminent threat of losing access to vital, and safe crop protection tools due to market forces. Currently, registration of pesticides under the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA] with EPA is an intensive process, involving as many as 120 data requirements. Chemical manufacturers are forced to make the decision to cancel, or not reregister, crop protection tools for use on minor crops because the resulting sales revenues will not support the high costs of reregistration. The result is that many safe minor crop protection chemicals have been dropped from production, despite the essential role they play for our minor crop growers.

The production of the minor commodities, as they are called, is in fact of major importance to Washington State. In Washington, 90 percent of our agricultural industry is in minor crops. Most notable are hops, apples, small fruits, vegetables, and hay. Washington alone produces 77 percent of all commercially consumed hops in the United States. Hops growers have five pesticides available to them, and four of these are in danger of being lost due to the high cost of reregistration. If only one pesticide is available, pests will quickly develop their resistance and this compound will become obsolete as a tool for crop protection. Another example comes from the hay producers in Washington. The hay we grow makes up one-third of the world's hay market. We export 75 percent of our product. One particular pesticide which is essential to the growth cycle is in danger of not being reregistered. If it goes, with it will go our global market share.

This purpose of this bill is not an issue of public health or public safety, this is an issue of economics. It is designed to preserve safe minor use pesticides and to encourage the development of environmentally sound pest management tools. We need to provide the economic incentive for pesticide manufacturers to pursue the costly reregistration of products with limited market potential.

The Environmental Protection Agency and the U.S. Department of Agriculture recognize this situation. They have worked with a coalition of minor crop producers and my colleagues, Senator LUGAR and Senator INOUYE, on this legislation. Accordingly, this bill streamlines the registration and reregistration process, and provides new incentives to the pesticide industry to pursue minor crop registrations. Most importantly, this bill reinforces EPA's authority to deny reregistration of minor use pesticides out of concern for public safety. In the Administrator's judgment, if a pesticide puts the public at too great a risk, the incentives for development, registration, or reregistration can be revoked.

A safe food supply is very important to me. Minor crops, which in large part are fruits and vegetables, are staples in the diets of infants and children, and they also receive large applications of pesticides. In its 1993 report, "Pesticides in the Diets of Infants and Children," the National Academy of Sciences found that current pesticide standards may be inadequate to protect infants and children from pesticide exposure and recommends policies to increase protection.

While this legislation addresses a market issue, it leaves us with the responsibility of addressing the complex issue of food safety and the adequacy of the current pesticide regulatory system. In no way are we relieved of dealing with pesticide issues in a comprehensive manner.

I am very interested in promoting the development of newer, safer pesticides, and encouraging farmers to decrease their use of dangerous pesticides. Our efforts in this bill should go hand in hand with incentive-based approaches that encourage integrated pest management, and even organic production practices. I look forward to working with my colleagues to address the shortcomings of our current pesticide regulatory system, and to encourage innovative approaches for the future.

TRIBUTE TO MASSIMO SANTEUSANIO

Mr. KERRY. Mr. President, I would like to acknowledge a ceremony which was held yesterday in Boston to honor Mr. Massimo Santeusanio.

Mr. Santeusanio recently celebrated his 100th birthday and the ceremony is to honor not only this extraordinary event but his service during World War I. He is to this day an inspiration to those Americans who appreciate the unselfish sacrifices made in defense of freedom and liberty. During this Memorial Day period, I would like to express our country's gratitude to all World War I veterans through Massimo Santeusanio.

WELFARE REFORM

Mr. PELL. Mr. President, I have today received a copy of a resolution passed by the Rhode Island House of Representatives, outlining the devastating consequences that H.R. 4, the Personal Responsibility Act, would have on the State of Rhode Island if it becomes law.

This resolution, introduced by Rhode Island State Representatives Benoit, Sherlock, Williams, Kellner, and Bumpus, articulates far better than I can the great damage that this legislation would do to the neediest of Rhode Island families.

As the welfare debate begins in earnest in the Senate, I hope that my colleagues will bear in mind the strong opposition of many in my State to this proposal, and will heed in particular the part of the Rhode Island House of Representatives' resolution which urges us to "Put children first by working for humane welfare reform that provides for all citizens in need during difficult economic times, that supports effective return-to-work programs, and that recognizes that the care given to our Nation's children is a shared Federal-State responsibility. * * *''

I ask unanimous consent that the resolution passed by the Rhode Island House of Representatives on May 10, 1995, be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION

Whereas, under the provisions of the Personal Responsibility Act (H.R. 4), Aid to Families with Dependent Children would be replaced by the Temporary Family Assistance Block Grant, and the entitlement program which guarantees benefits to all children who qualify would be eliminated. Under the proposed block grant financing formula, Rhode Island would receive $54 million less in federal funds over the next five years, and an estimated 25,000 children would be denied benefits; and

Whereas, while the Personal Responsibility Act purports to return control to the states, the block grant legislation, in reality, contains many federal prohibitions limiting states' freedom that would deny eligibility to several categories of children and families; and

Whereas, the Personal Responsibility Act would virtually eliminate cash assistance to 21% of the disabled children currently in the SSI program, and $27 million less in federal funds would be available to Rhode Island over the next five years; and

Whereas, all child nutrition programs would be replaced by two block grants; federal funding would be reduced by 10%; federal nutrition standards would be repealed; eligibility for food stamps would be sharply curtailed by federal restrictions with the result that Rhode Island would receive a combined total of $127 million less in federal funding over the next five years; and

Whereas, funding for several major child protection programs would be sharply reduced and replaced by a block grant, and Rhode Island would receive $15 million less in federal funding over the next five years, sharply reducing funds for adoption assistance, foster care, and the computerization of the state's abuse and neglect tracking system; and

Whereas, essential child care programs that enable low-income families to work would lose their entitlement status; Rhode Island would receive $8 million less in federal funding over the next five years and $2.4 million less by the year 2000, thereby resulting in 1,570 fewer children receiving assistance; and

Whereas, most legal immigrants would be ineligible for most programs, leading to a loss in federal aid to Rhode Island of $72 million over the next five years; now, therefore, be it

Resolved, That this House of Representatives of the State of Rhode Island and Providence Plantations hereby respectfully requests that the Rhode Island Congressional delegation:

1. Oppose the Personal Responsibility Act (H.R. 4) as passed by the United States House of Representatives; and

2. Put children first by working for humane welfare reform that provides for all citizens in need during difficult economic times, that supports effective return-to-work programs, and that recognizes that the care given to our nation's children is a shared federal-state responsibility; and be it further

Resolved, That the Secretary of State be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the members of the Rhode Island Congressional Delegation.

NORWEST BANK OF COLORADO AND ATLANTIS COMMUNITY, INC.

Mr. CAMPBELL. Mr. President, I want to say a few words of congratulation to the people who work for Norwest Bank of Colorado and Atlantis Community, Inc.

Atlantis Community is the largest home health care agency in Colorado, with an outstanding record of service to and advocacy for disabled individuals. With Norwest Bank, Atlantis developed a unique program to help lower income disabled people achieve an American dream: the dream of owning a home.

Atlantis and Norwest pioneered the Disability Community Homeownership Program to help provide home mortgage financing to disabled people. This program features 15- to 30-year first mortgage loans with no down payment, no closing costs, below market interest rates, and other advantages to qualified home buyers. In 1993, Norwest set aside $2.5 million for loans to the disabled community. Norwest now has over $6 million in home loans to 100 people with disabilities, who could not avail themselves of existing lending programs.

Atlantis teamed with Norwest to help build awareness of this program among the disabled community. In addition, Atlantis offers financial counseling and money management services specifically tailored to meet the needs of disabled people. The interest in these services was so high, Atlantis and Norwest decided to expand it to a consumer loan program for buying and modifying vehicles, improving disabled access to homes, and other purposes.

In recognition of these community-oriented efforts, Atlantis and Norwest received nominations for the Social Compact Outstanding Community Investment Award. Social Compact is a coalition of hundreds of leaders from the financial services and community development industries, coming together to strengthen American communities through neighborhood partnerships.

I congratulate Atlantis and Norwest for their nominations for this award, and I applaud their initiative for turning community concerns into concrete results.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID ''YES''

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let us do that little pop quiz once more. You remember—one question, one answer:

Question: How many million dollars are in $1 trillion? While you are arriving at an answer, bear in mind that it was the U.S. Congress that ran up the Federal debt that now exceeds $4.8 trillion.

To be exact, as of the close of business Monday, May 15, the exact Federal debt—down to the penny—stood at $4,881,377,281,278.42. This means that every man, woman, and child in America now owes $18,529.79 computed on a per capita basis. Which, I might add, is an increase of $22 million over the weekend.

Mr. President, back to the pop quiz: How many million in a trillion? There are a million, million in a trillion.

MEXICO IS A LENINIST STATE

Mr. MOYNIHAN. Mr. President, in late January I came to the floor to speak of our relations with Mexico in the context of the new North American Free-Trade Agreement. My remarks appeared in the RECORD under the heading ''Free Trade With an Unfree Society.'' I returned to a theme which I had stated on a number of occasions since NAFTA was first proposed during the administration of President Bush. I had been an enthusiastic supporter of the free-trade agreement with Canada, but was troubled by the thought of a similar arrangement with Mexico, and for the most elemental reason. I argued that the political and legal arrangements of the United States and Canada being essentially symmetrical, the vast involvement in one another's affairs, the partial ceding of sovereignty implicit in such an agreement would provide quite manageable. There would be no political loss and considerable economic gain. Optimality, as an economist might say. By contrast, I feared that our political and legal institutions were anything but symmetrical with those of Mexico. Mexico, I said, was a Leninist state.

I had hoped for some response to this statement from the executive branch, but there was little. Indeed, apart from a gracious note from our distinguished Treasury Secretary, Robert E. Rubin, there was none. In any event, we were then, in January, caught up in an intense effort to save Mexico from defaulting on its foreign debt. This was the first of what I fear will be a sequence of such crises, and it seemed gratuitous to press the argument in that atmosphere. But now the first crisis has eased, thanks in large measure to what Alexander Hamilton, our first Secretary of the Treasury, termed ''energy in the executive,'' now embodied in his successor, Secretary Rubin. And so I would take this quiet morning to return to the subject.

I would begin by calling attention to an essay by William Pfaff, which appeared in the International Herald Tribune on March 16. Mr. Pfaff, who writes from Paris, is a foreign policy analyst of unexampled range, depth, and experience. He would be such if he lived in Utica, but living abroad gives him a singular perspective on American affairs. His essay begins with this simple, chilling analogy.

The commitment the United States now has made to Mexico bears a distinct resemblance to the commitment it made to Vietnam during the late 1950s and the early 1960s, when the troubles in that country were only beginning.

That was war and this is peace. Nonetheless now, as then, with as little reflection and a simplistic ideology, Washington has taken on responsibility for the fortunes of another nation that it scarcely knows and fails to understand.

In Mexico this American assumption of responsibility is primarily economic, but Mexico's economic plight is inseparable from the political crisis afflicting the eleven-decade-long dictatorship in Mexico of the PRI, or Institutional Revolutionary Party, historically the vehicle of Mexican nationalism—and of resistance to American exploitation of Mexican oil resources.

Washington has demanded, and last Friday was given, Mexico's promise of a program of economic austerity with distressing implications for millions of Mexicans, who only weeks ago were being told that their country's membership in NAFTA assured rising prosperity for them and their country. One aspect of the new arrangement is that a major part of Mexico's future oil revenues is pledged against the new American and international loan guarantees.

Even without the debt crisis a national upheaval is under way in Mexico which not even the Mexicans can be sure they can solve. Washington's commitment to a solution is an engagement with the uncontrollable and unforeseeable.

In my January statement I was unapologetic about discussing government in the abstract. I allowed as how Speaker GINGRICH, by encouraging us to read or re-read The Federalist, was directing us to just such abstractions, which very much engaged the Founders of the Nation. They ransacked history for different ideal types of government for lessons to be learned and contrasts to be made with the new American Republic which they had set about constructing. Here, then, is a definition of Leninism from the "Harper Dictionary of Modern Thought." The capitalized words are employed in the original for purposes of cross reference:

Leninism. The term refers to the version of MARXIST thought which accepts the validity of the major theoretical contributions made by Lenin to revolutionary Marxism. These contributions fall into two main groups. Central to the first was the conception of the revolutionary party as the vanguard of the PROLETARIAT. The workers, if left to their own devices, would concentrate on purely economic issues and not attain full political CLASS consciousness, and therefore the revolutionary seizure of power needed the leadership of committed Marxist ACTIVISTS to provide the appropriate theoretical and tactical guidelines. The role of the party was thus to be a "vanguard" in the revolutionary struggle which would culminate in the overthrow of the CAPITALIST STATE and the establishment of a DICTATORSHIP OF THE PROLETARIAT under the HEGEMONY of the party.

The second major theoretical contribution made by Lenin was to draw the political consequences from an analysis of CAPITALISM as both international and imperialist. The phenomenon of IMPERIALISM divided the world between advanced industrial nations and the colonies they were exploiting. This situation was inherently unstable and led to war between capitalist nations thus creating favorable conditions for REVOLUTION. For Lenin, the "weakest link" in the capitalist chain was to be found in UNDERDEVELOPED regions of the world economy such as Russia where the indigenous BOURGEOISIE was comparatively weak, but where there had been enough INDUSTRIALIZATION to create a class-conscious proletariat. The idea of world-wide SOCIALIST revolution beginning in relatively backward countries led to the inclusion of the peasantry as important revolutionary actors affording essential support to the proletariat in establishing a socialist order. Such socialist revolutions in underdeveloped countries would exacerbate the contradictions inherent in advanced capitalist economies and thus lead to the advent of socialism on a world scale.

As compared with the ideas of Marx and Engels, Leninism gives more emphasis to the leading role of the party, to backward or semi-colonial countries as the initial site of revolution, and to the peasantry as potential revolutionary agents. With the success of the BOLSHEVIK revolution in 1917, Leninism became the dominant version of Marxism and the official IDEOLOGY of the Soviet Union. Lenin's analysis of imperialism and his idea of the "weakest link" also made his version of Marxism appealing to emerging ELITES in the THIRD WORLD. In the West, however, while Leninist principles are maintained by the small Trotskyist parties, many adherents of eurocommunism have begun to ask how far Leninist ideas reflected specifically Russian circumstances and should therefore be modified to fit the conditions of advanced capitalist societies.

Clearly, Leninst doctrine and Soviet example had considerable appeal to the revolutionary leaders and intellectuals who came to power in Mexico in the 1920's. It happens this was a time of artistic energy, perhaps especially in mural paintings of Diego Rivera, Jose Clemente Orozco, and David Alfonso Siquieros. To this day one can see on the walls of the Government buildings of Mexico City vast scenes of revolutionary tumult. Amid a sea of yellow sombreros and silver machetes there is sure to be found an incongruously bearded Lenin turned out in a starched collar and black necktie. That, and of course, swarms of red flags.

If the Soviet experiment attracted sympathizers, even adherents, in the United States in those years, I would hazard that public opinion would have shown even greater sympathy for the goings-on in Mexico. A wonderful encounter came at the time of the construction of Rockefeller Center in New York City in the early years of the Great Depression. Diego Rivera was commissioned to paint a fresco for the lobby of the central RCA building, as it then was. Word got out that it would include not only red flags, but Lenin himself. Nelson A. Rockefeller, who was managing the enterprise, demurred. Much hullabaloo followed, leading in turn to the classic poem by E.B. White of the New Yorker, "I Paint What I See," describing an imagined encounter between the youthful scion of great wealth and the revolutionary artist. Here are passages.

"Whose is that head that I see on my wall?"
Said John D.'s grandson Nelson.
"Is it anyone's head whom we know, at all?
"A Rensselaer, or a Saltonstall?
"Is it Franklin D.? Is it Mordaunt Hall?
"Or is it the head of a Russian?"

* * * * *

"For twenty-one thousand conservative bucks
"You painted a radical. I say shucks,

* * * * *

"For this, as you know, is a public hall
"And the people want doves, or a tree in fall,
"And though your art I dislike to hamper,
"I owe a little to God and Gramper,
"And after all,
"It's my wall. . ."
"We'll see if it is," said Rivera.

As I noted in January, it was no accident that when Leon Trotsky fled the Soviet Union, having lost out to Stalin in the struggle to succeed Lenin, he did not settle in Paris, where failed revolutionaries were supposed to go. He went to Mexico City, where he set up in considerable style, surrounded often as not by American acolytes.

Two things are to be said about the coming to power of the Institutional Revolutionary Party in 1929. First—the great English historian Sir John Plumb has made this point—it was a blessing for the Mexican people who for decades had lived through indescribably bloody and agonizing turmoil. Of a sudden, stability was achieved. Sir John makes the point that revolutions are easy; it is the onset of stability that is rare in human experience. The second point is that nothing like the Leninist terror followed the coming to power of the PRI. Diplomatic relations with the Papacy—severed since 1867 when Benito Juárez implemented strict controls of church power—became particularly hostile in 1926 during the rule of Plutarco Elías Calles, who would later organize the PRI. His strict enforcement of the anticlerical provisions of the Constitution sparked the Cristero rebellion which lasted 3 years. The Mexican Government and the church reached a modus vivendi in 1929 and after that Catholicism, the religion of the people, was not generally speaking suppressed. But do not fail to take note of Graham Greene's "The Power and The Glory."

Even so, one party control, and the corruption that so quickly follows, settled on the Republic of Mexico. The forthcoming 1994–95 edition of "Freedom in the World," the authoritative annual survey published by Freedom House, states:

> Since its founding in 1929, the PRI has dominated the state through a top-down corporatist structure that is authoritarian in nature and held together through co-operation, patronage, corruption and, when all else fails, repression. The formal business of government takes place secretly and with little legal foundation.

I correct Leninist practice, the party controlled not only the State, but all the private institutions that might seem to be arrayed against the State, most importantly the trade unions. The Department of State reports in the Country Reports on Human Rights Practices for 1994:

> The largest trade union central is the Confederation of Mexican Workers (CTM), organizationally part of the ruling PRI. CTM's major rival centrals and nearly all the 34 smaller confederations, federations, and unions in the Labor Congress (CT) are also allied with the ruling PRI.

Of late, however, the Leninist state in Mexico appears to have entered a time of troubles, possibly of disintegration. As William Pfaff, writes, "a national upheaval is underway." Let us turn to Tim Golden's account of the May Day celebrations in Mexico City this year.

> DEFIANT WORKERS IN MEXICO PROTEST GOVERNMENT POLICIES.
>
> MAY DAY DEMONSTRATION IN CAPITAL'S CENTER
>
> Defying the pro-Government union leaders who have dominated Mexican labor since the 1930's, independent unions and leftist political groups turned the celebration of Labor Day today into an outpouring of anger at the economic policies of President Ernesto Zedillo.
>
> The limited political strength of the independent labor movement was evident in the colonial central square of this capital, where the biggest of more than a dozen protests around the country drew only about one-fifth of the 350,000 demonstrators that organizers had predicted. But for the first time in decades, May Day's main political act was something other than a loyal tribute to the Government and its long-ruling Institutional Revolutionary party.
>
> Leaders of the pro-Government unions had canceled their traditional parade through the square weeks ago, apparently out of fear that they would be unable to control the critics in their ranks.

Trade union subservience to the PRI has been a settled fact for half a century. As I noted in January, this hardly escaped the notice of the American labor movement. Perhaps more recently the party seems to have begun parceling out hugely profitable state enterprises or resources to favored business leaders, who have evidently become fabulously wealthy. A dacha outside Moscow is one thing; $25 million a plate fundraising dinners in the Presidential palace are surely another.

Such enormities, such contrasts can never be stable, and in Mexico the system is obviously under strain, as Pfaff observes.

On March 23, 1994, Luis Donaldo Colosio, the Presidential candidate of the PRI, was assassinated in Tijuana. One Mario Aburto Martinez was arrested at the scene, convicted, and sentenced to 45 years in prison. The administration of Carlos Salinas de Gortari, who had chosen Colosio as his successor, maintained that the assassination was the work of this lone gunman. However, on February 25, 1995, the new Mexican Attorney General Antonio Lozano Gracia announced the arrest of a second suspected gunman, Othon Cortes Vazquez, a PRI security guard.

A second political assassination occurred on September 28, 1994, when Jose Francisco Ruiz Massieu, the Secretary-General of the PRI was killed in Mexico City. On February 28, 1995, Attorney General Lozano Gracia announced the arrest of Raul Salinas de Gortari, the brother of former President Salinas, in connection with Ruiz Massieu's assassination. The investigation into the Ruiz Massieu assassination had previously been carried out by the victim's brother, Mario, who was soon after arrested in the Newark, NJ airport with $46,000 in undeclared cash. The Mexican Attorney General has since located $10 million in United States bank accounts linked to Mario Ruiz Massieu which he apparently obtained while in charge of Mexico's counternarcotics program.

Add a further twist to the tale. Former President Salinas whom the United States supported as our candidate to be the first president of the World Trade Organization until this story was revealed, is now living in the United States in virtual exile.

And now another political murder would seem to have occurred. On May 10 the former Jalisco State Attorney General, Leobardo Larios, who previously had been responsible for investigating the 1993 killing of Cardinal Juan Jesus Posadas Ocampo, was assassinated in Guadalajara. At the time of Cardinal Posadas Ocampo's assassination, the first official explanation of the killing was that the Cardinal had been accidentally killed in the cross-fire between two rival drug cartels. However when the autopsy later revealed that the Cardinal had been shot 14 times at close range, Leobardo Larios postulated that the Cardinal had been mistaken for the leader of a local drug ring, despite the fact that the Cardinal was wearing his clerical garb.

Revelations such as these are familiar. Power in Mexico has resided within the PRI and on occasion arguments within the party settled by murder. These features of Leninist totalitarianism appeared early in the Soviet state. In "Political Succession in the USSR" (1965), Myron Rush explains,

> [W]hile Lenin still ruled, he exercised his power through both the Party and the government. In the Party, formally, he had no special position but was simply a member of the Politburo along with six others; he headed the government, however, as Chairman of the Council of People's Commissars. He governed through the state apparatus directly, through the Party apparatus indirectly. * * * The Party, as the embodiment of the Revolutionary will, decided overall policy.

After Lenin's death, no one person was in a position to consolidate power.

The ensuing power struggle was waged for control of the party, not for control of the Government. At the time of Lenin's death there were six other members of the Politburo, the chief deliberative body in the party for the formation of policy, including Stalin and Trotsky. By 1929 Joseph Stalin had managed to expel the other five surviving members of the Politburo and secure unchallenged leadership of the party, and by extension of the state. Stalin did not take a political title until May 7, 1941, when he became the formal head of the Government as chairman of the Council of People's Commissars. Mexico continues to maintain the Leninist model of having the President fulfill the official role of head of state, while controlling the party without formal title, though the party and the Government appear to be moving apart somewhat. Much of what happened of late in Mexico echoes an earlier time of change and violence. But there is much that promises a new era altogether.

On May 23, 1991, as we in the Senate debated granting fast-track authority to enable the administration to negotiate the North American Free-Trade Agreement, I took to the floor to explain my opposition. I began, "Mr. President, for some months now, I have made the point to the administration that Mexico does not have an independent judiciary." This was, and I fear still is, a matter of seeming small interest to our Department of State. But observe. It has become a matter of considerable interest to the rulers of Mexico. On May 12, 1994, the first ever Presidential debate took place between Ernesto Zedioll Ponce de Leon, the PRI candidate who succeeded the assassinated Colosio, and his opponents from the National Action Party [PAN] and the Party of the Democratic Revolution [PDR]. During the debate Diego Fernandez de Cevallos of the National Action Party charged that Zedillo does not get a passing grade in democracy. If elected, Mr. Fernandez de Cevallos promised to form a plural government. In turn, Zedillo used the debate to announce his intentions to establish a truly independent judiciary. The CIA Foreign Broadcast Information Service records him as saying, "I am proposing the total reformation of our judicial system. This must be a deep-rooted reform, starting virtually from ground zero, because we need a justice system that will function for the Mexican people."

Once elected, President Zedillo in one stroke cleared the bench of all 21 sitting supreme court justices. These judges had been appointed for life. Like most things in Mexico, while the constitution provides for an independent judiciary, reality is something quite different. Appointments to the court are made by the President and approved by the Senate; in which 95 of the 128 Senators belong to the PRI. Again, Freedom House is instructive:

> The judiciary is subordinate to the president, underscoring the lack of a rule of law. Supreme Court judges are appointed by the executive and rubber-stamped by the Senate. The court is prohibited from enforcing political and labor rights, and from reviewing the constitutionality of laws. Overall, the judiciary system is weak, politicized and riddled with corruption.

And yet, and yet, very possibly President Zedillo means to change this. And to change much else. The North American Free-Trade Agreement surely indicated a desire by Mexican elites to begin to put the institutions of the Leninist state behind them; indeed, to throw in with the liberal democratic states that appear to have prevailed in that epic struggle of the 20th century. Pfaff writes:

> The new president, Ernesto Zedillo, a product of the PRI system, is attempting to reform the party and the way it has perpetuated itself in power. For the first time crimes committed within the party leadership are being exposed to public view, investigated and given the promise of prosecution.

It may be the United States can help. More to the point, we have no choice but to try to help. We have made a huge commitment to this relationship. There is no point arguing whether we should have done so. We did. And in no time at all we began to realize this. The Mexican currency crisis appears to have been the direct result of overspending on imported consumer goods, which the ruling party determined would help with yet another Presidential election, this time when there was serious opposition. Perhaps not least because in a North American free-trade zone it is taken as normal for elections to involve more than one party! My argument is to a somewhat different point. I have been here on the Senate floor talking about the nature of the Mexican state for half a decade. Apart, as noted earlier, from a generous note from the Secretary of the Treasury, I have never had the least indication from the executive branch that anyone had the least idea what I was talking about. In my remarks in January, I noted that the American labor movement had no such difficulty. From the time of Samuel Gompers, who in 1924 had to be brought across the Rio Grande so that he might die on American soil, American labor has followed events in Mexico with clear understanding of the threat a Leninist state poses to a free labor movement. Can the Nation ever adequately express our debt to the leaders of the A.F. of L. and later the AFL–CIO, for their international activism through all those years of the cold war? But the Department of State? To my knowledge, there has been little or no interest at all in any of this.

The President has just returned from Moscow, where the great transition from totalitarianism is underway, to what purpose and what end we do not know. But surely, we know that it matters to us. Surely, the Department of State has focused attention on the matter; has proposed policies, responses. The same intelligent, patient, persistent attention needs to be paid to the transition in Mexico. There is, perhaps, not that much America can do, especially given our long history of aggression against Mexico, and the consequent suspicion of our motives. But surely we can let it be known that we have some inkling what they are going through. There are small "d" democrats in Mexico who need to know this. If there is anything we have learned from this hideous century is that it makes all the difference when those who resist totalitarian regimes know that there are those abroad who know of their resistance. I do not wish to suggest that Mexico is in any way to be compared with, shall we say, East Germany. But still, it is not Denmark and those who would see it change need to know that we are with them. At the same time, we need to be very careful about the commitments we take on. It is perhaps a heartless thing to say of so rare a thinker as William Pfaff, but I hope this time, for once, he does not prove to be prescient. But this can only happen if we attend to what he foresees.

The financial crisis has eased. We are free to think anew and act anew. There was at least one such moment in our involvement with Vietnam. We missed it.

SOUTH DAKOTA FLOODS

Mr. PRESSLER. Mr. President, once again, Mother Nature's fury is challenging the spirit and perseverance of South Dakotans. For the past several weeks, persistent rains have brought flooding conditions to much of the State for the third straight year. As a result, 38 counties already have been declared disaster areas. More counties may be added in the days ahead. Just by way of comparison, in July 1993, 33 counties were disaster areas due to the heavy rainfall and flooding that made front page headlines nationwide.

Flooding has made vital roads and bridges impassable, placing the assurance of basic services at risk. Rivers and streams overflowing their banks have wreaked havoc in urban and rural areas across South Dakota—basements, fields, and roads are inundated with water. Damage to public and private property threatens the well-being of farmers, small business men and women, families, and individuals.

On Monday, Gov. Bill Janklow requested that the President declare the State a disaster area and provide Federal emergency assistance in excess of $16 million. The devastation appears already to have surpassed that caused by the so-called Great Flood of 1993. Some areas of the State already are experiencing their wettest springs in history with 3 weeks remaining in the season.

An end does not appear to be in sight. National Weather Service reports indicate heavy precipitation will continue through the end of this month and maybe into this summer. If this is the case, South Dakota once again may resemble the Great Lake of the Midwest.

South Dakotans clearly are experiencing hard times. The Governor's office has informed me that the State is using all the resources it can to assist those in need. Federal help is critical. As South Dakota's senior Senator, I intend to do all I can to ensure that the President and our Federal agencies respond to South Dakota's disaster needs swiftly and diligently. The people of South Dakota deserve and should expect no less from their Government.

I already have written to the President, the Federal Emergency Management Agency [FEMA], and the Small Business Administration [SBA], and the Federal Highway Administration, alerting them of South Dakota's urgent situation and urging quick approval of the Governor's aid request.

I also invited the Administrator of the Federal Highway Administration, Rodney Slater, to personally assess the damage of our flood-damaged roads and bridges and to give immediate consideration to a request from the State for assistance. Having endured $1.2 million of damage to roads and bridges last year, additional damage to roads and bridges makes FHWA assistance even more critical this year.

Administrator Slater for some time has planned to survey damaged roads and bridges in South Dakota. Unfortunately, he has not scheduled a visit. Now is as good a time as any for him to see just how serious the situation is.

South Dakotans have no time to waste. The Federal Government should act, and act fast. South Dakota deserves the same response other areas of the Nation receive in times of need. I intend to see that this action is taken.

What kind of action can be taken at the Federal level? Plenty. In fact, a number of initiatives can be taken without a Presidential disaster declaration—initiatives that are critical to South Dakota farmers and ranchers. First and foremost, the Department of Agriculture and the Federal Crop Insurance Corporation must provide far greater flexibility in the administration of the Crop Insurance Program to South Dakota farmers.

The Crop Insurance Program, which has replaced disaster payments as the central means for emergency relief, is predicated on the planting of crops. However, as we all know, the clear problem caused by the recent rain and floods for crop farmers is that they are unable to plant. Consider the percentage of crops planted, as of May 8, 1995, as compared to the 5-year average: corn—1 percent, 5-year average—19 percent; spring wheat—17 percent, 5-year average—89 percent; oats—12 percent, 5-year average—85 percent; barley—6 percent, 5-year average—84 percent.

I already have written to Agriculture Secretary Glickman, urging administrative flexibility for the Crop Insurance Program. Specifically the Secretary needs to take the following steps:

First, provide prevent planting coverage on crops that producers paid premiums on. If a producer was unable to plant the insured crop by the final planting date, crop insurance should pay the prevented planted indemnity and permit the producers to plant any subsequent crop possible and insure that crop.

Second, provide crop insurance coverage for producers who aerial seed this year's crop. With the degree of wet conditions occurring in South Dakota, aerial seeding needs to be considered a usual practice.

Third, withhold penalties against producers by permitting prevented planting coverage even if a producer enters the 0/92 program.

Fourth, release Conservation Reserve Program [CRP] acres for haying and grazing.

Fifth, extend immediately the May 15 deadline for calving on CRP acres. I am pleased that Secretary Glickman has responded to this request, and has extended the deadline.

Sixth, permit the following crops to be planted this year without the loss of farm program benefits: millet, soybeans, buckwheat, sunflowers.

FEMA, SBA, and the FHWA also should be equally responsive, fair, and flexible to the needs of South Dakotans should the Governor request Federal assistance.

The need for equitable treatment in response to disasters is very important to me. In recent years, I have been very critical of what I believe to be the apparent discriminatory administration of Federal emergency assistance. It seems that disaster aid is always quick in coming to States and localities with major media markets and big electoral votes. However, whether you are from Humboldt, CA, or Humboldt, SD, a disaster is a disaster—a lost home, business, or income due to Mother Nature is hard for all Americans, regardless of where they live. Thus, treatment of these disasters should be fair.

Once again, the wrath of Mother Nature is challenging the people of our great State. Times are tough, but I know South Dakotans will persevere. The pioneer spirit and sense of community within all South Dakotans will rise to the occasion. In the last few days, my wife Harriet and I have talked to a number of our friends in South Dakota. We have heard the difficulties they have faced. Our hearts and our prayers are with them—the farmers, ranchers, business men and women, and the families impacted by the flooding. I intend to do all I can to ensure that the Federal Government stands side-by-side with all South Dakotans during this difficult time. The President can begin this effort by approving Governor Janklow's request and send assistance where needed. I urge him to do so without delay. Again, the people of South Dakota should expect and deserve no less.

CELEBRATION OF THE LIFE OF ED ROBERTS

Mr. HARKIN. Mr. President, it was with profound sadness that I learned of Ed's death. On March 14, 1995, not only did the world lose one of our most dynamic and forceful advocates for the rights and empowerment of people with disabilities; on that day, I lost a friend and confidant.

Ed Roberts was a kid who lived for baseball when he contracted polio at age 14. He became severely disabled almost overnight, needing large equipment and assistance simply to breathe. Ed overheard the doctor tell his mother that it would be better if he died because he was going to be a vegetable. He decided right then that if he was going to be a vegetable, he would be an artichoke: prickly on the outside with a tender heart.

A lot of people told Ed there were a lot of things he could not do.

They told him he could not graduate from high school because he could not pass PE or driver's education, so he had to argue with and convince his principal to change these requirements because they were not fair.

They told Ed he could not attend the University of California at Berkeley because they had never had a student in a wheelchair, one who used a respirator, or one who slept in an iron lung. Ed fought all that too, and convinced the university to admit him. "Helpless Cripple Goes to College" was one of the headlines marking Ed's entrance to college.

They made him live in the infirmary. But Ed was not helpless. By the time Ed left UC Berkeley, he and fellow student activists who called themselves the Rolling Quads had organized funding to begin transforming the campus into a model of physical accessibility for students with disabilities.

As Ed said, "We realized that we could change some things, and the first thing we can do is change our own attitudes toward ourselves, be proud of who we were and what we were and go out and change it for others and for ourselves * * * that liberated me when I realized that I can help others. It made me a lot freer to help myself."

Ed went on to graduate school in political science and taught at UC Berkeley for several years. One of Ed's deans once told him, "Oh, you'll finish your Ph.D and then you'll live in a nursing home." But Ed knew otherwise. He told that dean, "No, that's not the plan. We're here to change that whole idea." And at his memorial service, a representative from the university described him as "bringing the honor of being the right kind of troublemaker here at Cal." Today, over 800 students with many kinds of disabilities attend UC-Berkeley where there are scholarships in his name for undergraduate, graduate, and postdoctoral students with disabilities.

After his university years, Ed went on to establish the first Center for Independent Living in the country. Where was it was located? Where else? Berkeley. Today there are over 300 independent living centers all across the country. Independent living is a philosophy which defines independence as full inclusion of people with disabilities in all aspects of community life. Ed lived this philosophy, and he helped others live it as well. His colleague Doug Martin, ADA and 504 compliance officer for UCLA, recently described Ed during the CIL years when he said, "He believed in us before we believed in ourselves."

Ed's philosophy of independent living, and his ability to get the money and the people behind it changed our lives. It changed the lives of millions of people in this country and abroad—people with disabilities, their families, their friends and many others who began to see the universality of his approach. As Ed put it, "I'm paralyzed from the neck down, but I'm completely in control of my own life. I can make decisions about what I want."

Early on, they told Ed he was unable to be rehabilitated. However, this rehab failure went on to become director of the California State Department of Vocational Rehabilitation. You see, Ed loved to turn barriers upside down, rendering each one a challenge in his own slalom course toward empowerment and independence. And by the end of his tenure in Sacramento, Ed knew he wanted to be a full-time rabble-rouser. Ed told his friend Stephen Hofman, "I don't want to work. It prevents you from raising hell, and I like to raise a lot of hell * * * After all, if raising hell doesn't work, the only solution is to raise even more hell, and then, they give up!"

As Joe Shapiro wrote in U.S. News & World Report the week after Ed died, "He knew that it was the paternalism of others, more than his own disability that held him back."

In 1984, Ed was awarded a MacArthur Genius Fellowship, which he used to live on as he started The World Institute on Disability, a disability policy think tank located in Oakland, CA. Ed testified before committees in Congress numerous times, and many of us grew to know him well. But Ed was not content to be a solo rabble-rouser. He wanted to join forces, debate the issues, hammer out policy and see it implemented in his lifetime. WID was the crucible Ed fashioned with his colleagues for stoking fires and building community.

Ed's vision was exemplified in the way he lived his own life, but he also very much believed in empowering others. As one of his colleagues at WID said, "Part of his star quality was that he always talked about 'we'. He always would come up and say 'we've got to do that,' 'we need people,' 'we need to work on this together,' 'we can make this happen.'" Ed blew people's minds when he took to the streets of Moscow in his motorized chair in 1993. There, he has become a symbol of freedom, a household word to millions of people with disabilities.

But Ed was more than a civil rights hero. He was a man with heart, a man whose love and sense of humor were tools just as powerful as his keen mind and his passion for justice. Ed always took the time to find out how you were doing.

He took the time to encourage young students with disabilities to study public policy.

He took time to talk with personal assistants about the powerlessness of being underpaid.

He took the time to visit other respirator users in the hospital when they were despairing over living independent lives.

He took the time to stop on the street and talk with homeless people, people with disabilities that the "system" has forsaken.

He took the time to laugh, to have an adventure, and always to eat a good meal!

Ed did just about everything a person could dream of doing. He got married. He fathered a son—his absolute pride and joy. Ed swam with the dolphins, practiced karate, was almost eaten by a shark, threw tremendous dinner parties, and travelled all over the world. As WID vice president and one of Ed's former proteges, Debby Kaplan said recently, "He had a determined exuberance for life."

We are all fortunate to live in this world which Ed so deeply touched, so richly celebrated.

Mr. President, I yield the floor.

MESSAGES FROM THE HOUSE

At 11:58 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1045. An act to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes.

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURES READ THE FIRST TIME

The following measure was read the first time:

H.R. 1045. An act to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 454. A bill to reform the health care liability system and improve health care quality through the establishment of quality assurance programs, and for other purposes (Rept. No. 104–83).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATFIELD:

S. 806. A bill to amend the Public Health Service Act to provide grants to entities in rural areas that design and implement innovative approaches to improve the availability and quality of health care in such rural areas, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 807. A bill to amend the Internal Revenue Code of 1986 to provide that individuals who have attained age 59 1/2 may contribute to individual retirement accounts without regard to their compensation; to the Committee on Finance.

By Mr. BREAUX:

S. 808. A bill to extend the deadline for the conversion of the vessel M/V TWIN DRILL, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself, Mr. HELMS, and Mr. BRADLEY):

S. 809. A bill to amend the Trade Act of 1974 to limit the eligibility for treatment under the generalized system of preferences in the case of countries that support international acts of terrorism, and for other purposes; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 810. A bill to direct the Secretary of the Interior to remove from the Coastal Barrier Resources System a tract of land in South Carolina that was added to the System without notice to the county in which the tract is located, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 806. A bill to amend the Public Health Service Act to provide grants to entities in rural areas that design and implement innovative approaches to improve the availability and quality of health care in such rural areas, and for other purposes; to the Committee on Finance.

THE RURAL HEALTH IMPROVEMENT ACT OF 1995

• Mr. HATFIELD. Mr. President, during the last several years, Americans have heard a lot about the need to reform our health care system. Health care costs are soaring out of control—far outpacing the rate of inflation—and nearly 38 million Americans are without health care insurance. Solutions for reform are complex and will go through much debate and consensus building before implemented on a national level.

While local and regional health care systems have rushed to consolidate and integrate their services and resources over the last decade, rural entities, due to their shortage of physicians, the vulnerability of their hospitals, their geographical and technical isolation, and the demographics of their patient populations, have been largely unable to adjust in a similar way. As public concern over the national health care crisis grows and legislative bodies and policymaking agencies scramble to devise and implement far-reaching health care reform, the special health care needs of rural America must not be neglected.

Today I am reintroducing the Rural Health Improvement Act because I feel, given the current direction of the health care reform debate, that it provides an essential transition into comprehensive health care reform. Now, more than ever, health providers in rural communities are joining with their urban counterparts to create networks to assure that health care is accessible in rural areas. There are a number of obstacles, however, that create a disincentive for providers to participate in these efforts. I believe that the legislation that I am introducing today will remove these obstacles and help rural communities position themselves for comprehensive health care reform.

Mr. President, the Rural Health Improvement Act will help our rural communities in the following ways. First, this legislation provides grants to allow rural and urban providers to develop rural health extension networks to facilitate the delivery of health care in rural communities. It allows existing networks such as area health education centers to compete for these grants in order to prevent needless duplication and to assure that successful programs will have the ability to expand their capabilities. The goal of the rural health extension networks grant is to facilitate resource sharing within the network by providing education and training for health care providers in rural areas, creating linkages between rural and urban providers through the use of telecommunications and other consultative projects, and assisting rural providers in developing cooperative approaches to health care delivery.

Second, my bill provides grants for the creation of rural managed care cooperatives which will enhance the economic viability of health care providers in rural areas. The idea of health cooperatives in rural areas is not new. In 1929, the first health maintenance organization in the United States was developed in rural Elk City, OK, by the Farmers' Cooperative. Since 1929, there have been several attempts to create rural health cooperatives, however, they have suffered because they lacked sufficient startup support. My bill provides this startup support.

These cooperatives will be made up of health providers of all types including, but not limited to, hospitals, physicians, rural health clinics, nurse practitioners, physician assistants, and public health departments. By establishing an effective case management and reimbursement system designed to support the financial needs of rural hospitals and health care systems, cooperatives will provide an effective framework for negotiating contracts with payers and assuring a defined level of quality. The cooperatives will also help rural practitioners with a portion of their payments on malpractice premiums.

Due to the concerns about possible antitrust problems that might arise in the formation of the rural health extension networks and the rural managed care cooperatives, the bill includes language which would protect providers who participate in these entities from antitrust law. This exemption from antitrust law should facilitate the development of network and cooperatives in rural areas.

Third, the bill allows the Secretary of Health and Human Services to award competitive grants to develop and implement mental health outreach programs in rural areas. The bill emphasizes the needs of the elderly and children in rural areas. Grant recipients are encouraged to form relationships with rural managed care cooperatives to enhance the delivery of these services.

Fourth, my bill provides stipend grants under the Area Health Education Centers [AHEC] Program to health care providers and trainees in rural communities as an incentive to provide health care services in those areas. While the stipends envisioned in this legislation will not completely relieve the financial burden young providers face, especially physicians, it is my hope that they will provide enough of an incentive to attract and retain health care providers in rural areas.

It has been 20 years since the AHEC Program was enacted and we now have a network of 48 AHEC Programs in 38 States. In my own State of Oregon, we have an excellent statewide AHEC program with five centers now operating to meet the challenges of both rural and urban areas. State studies have shown that AHEC's have an excellent record in addressing the primary health care profession needs of underserved areas. In fact, since AHEC's inception more than 1.5 million students, residents, and preceptors have been trained in medicine, allied health, dentistry, nursing, and pharmacy.

Finally, this year I have included a nonrefundable tax credit for qualified providers in rural and underserved areas. This tax credit is similar to the tax credit proposed in health care reform legislation last session. Under this provision qualified providers will be eligible for a tax credit if they serve in rural or underserved areas for 5 years. A similar tax credit program in Oregon has enjoyed great success. In a recent survey by the Oregon Office of Rural Health, rural providers indicated that the Oregon Tax Credit Program is the most important program offered that keeps them practicing in rural areas.

Mr. President, our rural communities are facing a crisis in health care delivery. Nationwide, 141 rural community hospitals closed between 1989 and 1993. In Oregon, five rural hospitals have closed since 1986 and several other rural facilities are threatened with imminent closure. These hospitals simply cannot compete with their urban counterparts. I believe my legislation will give rural health care providers the tools to build rural health care delivery systems which meet the health needs of their communities. This is the first step in developing an infrastructure of providers who will support and sustain comprehensive health care reform and provide health care access for all Americans.

I'd like to take a moment to thank the National Rural Health Care Association, the Oregon Office of Rural Health, the Oregon Association of Hospitals, the Oregon Medical Association, the Oregon Nurses Association, and the Oregon AHEC Program Office for their support in developing this innovative legislation.

I urge my colleagues to take a careful look at this bill and consider it as a transition into comprehensive health care reform that can help our rural communities now.•

By Mr. BREAUX:

S. 808. A bill to extend the deadline for the conversion of the vessel M/V *Twin Drill*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

M/V TWIN DRILL LEGISLATION

• Mr. BREAUX. Mr. President, I am introducing a bill today to extend the deadline for the completion of the conversion of the vessel M/V *Twin Drill*. This vessel is what is known as a SWATH or small waterplane area twin hull vessel of advanced design that provides for an unusually smooth operating platform. This vessel currently undergoing initial conversion in Louisiana to ready her for a complete conversion to a U.S.-flag day cruise service.

Under terms of section 601(d) of Public Law 103–206 the M/V *Twin Drill* was granted full coastwise privileges provided that the cost of major conversion work on the vessel in a U.S. shipyard was more than three times the purchase value of the vessel. Furthermore, the owners were required to commit to build a new vessel entirely within a U.S. shipyard. These requirements were to have been completed by certain dates. A number of delays resulted from the discovery of additional work that was necessary because of unknown conditions on the vessel slowed the project to the point where it will now be impossible to complete the conversion by the statutory deadline.

Given the significant investment to date, and the progress already made, it is only reasonable that we provide some additional time for this shipyard work to be completed. This will cost the Government nothing, but it will mean immediate jobs at the shipyard and long-term employment opportunities onboard the *Twin Drill*. Failure to act would also mean foregone job opportunities in the construction and operation of the new vessel as well. A similar provision was passed by the House of Representatives last fall as part of the Coast Guard authorization legislation which we were not able to act on before the end of the last session. It is time we finish the job and I urge my colleagues to support this legislation.•

By Mr. LAUTENBERG (for himself, Mr. HELMS, and Mr. BRADLEY):

S. 809. A bill to amend the Trade Act of 1974 to limit the eligibility for treatment under the generalized system of preferences in the case of countries that support international acts of terrorism, and for other purposes; to the Committee on Finance.

THE TRADE ACT OF 1974 AMENDMENT ACT OF 1995

• Mr. LAUTENBERG. Mr. President, I introduce a bill that would make our Nation's Generalized System of Preferences Development Program conform with out foreign aid program when it comes to eliminating benefits for countries that sponsor terrorism. I am pleased that Senators HELMS and BRADLEY are original cosponsors of this legislation.

Under this bill, a country would automatically lose its GSP benefits once the Secretary of State makes a determination under the Export Administration Act of 1979 that "the government of that country has repeatedly provided support for acts of international terrorism." Under the Foreign Assistance Act of 1961, once the Secretary makes this determination and a country is added to the State Department's so-called "terrorism list," it is no longer eligible to receive foreign assistance from the United States. Likewise, state sponsors of terrorism should be precluded from importing products into this country duty free under the GSP Program.

But they are not.

Syria is a case in point. Syria was designated by the State Department as a state-sponsor of terrorism on December 29, 1979, which made it ineligible to receive foreign assistance. Nonetheless, Syria continued to import products into the United States duty free under the GSP Program until August 16, 1992. At that time, Syria's eligibility was suspended due to concerns about workers' rights—not a concern about terrorism.

Technically, the GSP law prohibits the President from designating a country GSP eligible "if such country aids or abets, by granting sanctuary from prosecution to any individual or group which has committed an act of international terrorism." But the law did nothing to prohibit Syria, a country our Government already recognized as a state-sponsor of terrorism, from benefiting from the United States Government's GSP Development Program. That is why I am proposing a change in the law.

Mr. President, once the Secretary of State determines that a country sponsors terrorism it ought to automatically lose its GSP benefits, just as it loses its foreign assistance. There is no sensible rationale for barring foreign assistance for state sponsors of terrorism while providing GSP benefits to those same state sponsors of terrorism. Like foreign aid, GSP is a benefit, not a right. It is development program with goals that are similar to those of the foreign aid program. Both programs ought to be governed by the same terrorism standard.

When it comes to fighting terrorism, our Government needs to speak with one voice. We need to make it crystal clear that the benefits of American friendship are not provided to countries that, by their presence on the terrorist list, have been found to have a consistent pattern of state support for terrorism.

Mr. President, by making the GSP Program conform with the foreign aid program when it comes to providing benefits to countries that support terrorism, this bill would add an important element of consistency to our antiterrorism foreign policy.

I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON DESIGNATION AS BENEFICIARY DEVELOPING COUNTRY.

Section 502(b)(6) of the Trade Act of 1974 (19) U.S.C. 2462(b)(6)) is amended to read as follows:

"(6) if—

"(A) such country aids or abets, by granting sanctuary from prosecution to any individual or group which committed an act of international terrorism, or

"(B) the Secretary of State makes a determination with respect to such country under section 6(j)(1)(A) of the Export Administration Act of 1979; and".●

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 810. A bill to direct the Secretary of the Interior to remove from the Coastal Barrier Resources System a tract of land in South Carolina that was added to the System without notice to the county in which the tract is located, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COASTAL BARRIER RESOURCES SYSTEM FAIRNESS ACT OF 1995

Mr. HOLLINGS. Mr. President, I rise today to introduce the Coastal Barrier Resources System Fairness Act of 1995. The bill is aimed at correcting a mistake in the Coastal Barrier Resource System. Without this correction, a portion of Colleton County, SC, will remain in the Coastal Barrier Resources System even though the county never had an opportunity to voice their objection to their inclusion.

In 1980 Congress directed the Secretary of the Interior to study and propose a Coastal Barrier Resources System. The aim was to create a system made up of relatively undeveloped lowlying coastal lands which, because of their susceptibility to flooding, would not be eligible for Federal flood insurance. Practically speaking, to be included in the CBRS means you can't sell or develop your property.

Soon after the passage of the 1980 act, the Department of the Interior created a study group charged with promulgating an inventory of coastal properties—properties to be included in the CBRS. By the end of 1988, the study group had completed its work and the Department of the Interior submitted the CBRS proposal to Congress.

This proposed inventory was the culmination of 8 years work and included suggestions made during two public comment periods. The first public comments were made following the release of an initial draft inventory in 1985. Additional comments were made following the release of a second draft in the spring of 1987. The Department of the Interior received numerous comments on these draft inventories and incorporated many in their final report to Congress. This final report was the basis for the Coastal Barrier Resources System adopted in 1990.

I recite this history because without an understanding of it, Mr. President, one can't understand the intent of my legislation.

While the Department of the Interior was drafting this proposed system, a strip of coastal South Carolina was being annexed by Colleton County from Charleston County. Unfortunately, this annexation occurred in 1987 in the midst of the 1987 CBRA comment period. Unfortunately, the notice of this second draft inventory was not received by Colleton County. The county never received any notice. It appears, the draft inventory was provided to Charleston County, not Colleton County. In fact, the maps currently on file at the Department of the Interior, still, incorrectly show this tract in Charleston County—not Colleton County. Thus, the citizens of Colleton County, never having had an opportunity to comment on these proposed changes, now find this tract included in the CBRS. And for all practical purposes off limits for development.

This bill corrects that mistake. It rights that wrong. It does not drastically redraft the Coastal Barrier Resources System nor withdraw any lands included in the 1985 draft. The bill simply returns a small portion of Edisto Island, SC, to its 1985 status.

I urge my colleagues to support this bill.

ADDITIONAL COSPONSORS

S. 426

At the request of Mr. SARBANES, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 426, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 457

At the request of Mr. SIMON, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

S. 495

At the request of Mrs. KASSEBAUM, the name of the Senator from Maine

[Ms. SNOWE] was added as a cosponsor of S. 495, a bill to amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes.

S. 507

At the request of Mr. PRESSLER, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 507, a bill to amend title 18 of the United States Code regarding false identification documents, and for other purposes.

S. 578

At the request of Mr. D'AMATO, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 578, a bill to limit assistance for Turkey under the Foreign Assistance Act of 1961 and the Arms Export Control Act until that country complies with certain human rights standards.

S. 633

At the request of Mr. PRYOR, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 633, a bill to amend the Federal Deposit Insurance Act to provide certain consumer protections if a depository institution engages in the sale of nondeposit investment products, and for other purposes.

S. 641

At the request of Mrs. KASSEBAUM, the names of the Senator from Colorado [Mr. CAMPBELL], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 667

At the request of Mr. BRYAN, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 667, a bill to amend the Securities Exchange Act of 1934 in order to reform the conduct of private securities litigation, to provide for financial fraud detection and disclosure, and for other purposes.

S. 681

At the request of Mr. HELMS, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 681, a bill to provide for the imposition of sanctions against Colombia with respect to illegal drugs and drug trafficking.

S. 770

At the request of Mr. DOLE, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 770, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

S. 794

At the request of Mr. LUGAR, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from Arizona [Mr. KYL] were added as cosponsors of S. 794, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to facilitate the minor use of a pesticide, and for other purposes.

S. 805

At the request of Mr. SIMPSON, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 805, a bill to improve the rural electrification programs under the Rural Electrification Act of 1936, to improve Federal rural development programs administered by the Department of Agriculture, to provide for exclusive State jurisdiction over retail electric service areas, to prohibit certain practices in the restraint of trade, and for other purposes.

SENATE JOINT RESOLUTION 26

At the request of Mr. SIMPSON, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of Senate Joint Resolution 26, a joint resolution designating April 9, 1995, and April 9, 1996, as "National Former Prisoner of War Recognition Day."

AMENDMENTS SUBMITTED

THE SOLID WASTE DISPOSAL ACT OF 1995

MURRAY (AND GORTON) AMENDMENT NO. 1079

Mrs. MURRAY (for herself and Mr. GORTON) proposed an amendment to the bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes; as follows:

Title II, following section (f) State Solid Waste District Authority, add the following section (g) and reletter all the following subsections accordingly:

"(g) STATE MANDATED SOLID WASTE MANAGEMENT PLANNING.—A political subdivision of a State may exercise flow control authority for municipal solid waste, and for voluntarily relinquished recyclable material that is generated within its jurisdiction, if State legislation enacted prior to January 1, 1990 mandated the political subdivision to plan for the management of solid waste generated within its jurisdiction, and if prior to January 1, 1990 the State delegated to its political subdivisions the authority to establish a system of solid waste handling, and if prior to May 15, 1994:

"(1) the political subdivision had, in accordance with the plan adopted pursuant to such State mandate, obligated itself through contract (including a contract to repay a debt) to utilize existing solid waste facilities or an existing system of solid waste facilities; and

"(2) the political subdivision is currently undertaking a recycling program in accordance with its adopted waste management plan to meet the State's solid waste reduction goal of fifty percent; and

"(3) significant financial commitments have been made, or bonds have been issued, a major portion of which, were used for the construction of solid waste management facilities."

On page 65, line 10, strike "or (e)" and insert "(e) or (f)."

THE ALASKA POWER ADMINISTRATION SALE ACT TRANS-ALASKA PIPELINE AMENDMENT ACT OF 1995

MURKOWSKI AMENDMENTS NOS. 1080–1082

Mr. MURKOWSKI proposed three amendments to the bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and for other purposes; as follows:

AMENDMENT NO. 1080

Strike title I and insert in lieu thereof a new title I:

"TITLE I

"SEC. 101. SHORT TITLE.

"This title may be cited as the "Alaska Power Administration Asset Sale and Termination Act".

"SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

"(a) The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this Act as "Snettisham") to the State of Alaska in accordance with the terms of this Act and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Alaska Power Authority and the Authority's successors.

"(b) The Secretary of Energy is authorized and directed to sell the Eklutna Hydroelectric Project (referred to in this Act as "Eklutna") to the Municipality of Anchorage doing business as Municipal light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this Act as "Eklutna Purchasers"), in accordance with the terms of this Act and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Eklutna Purchasers.

"(c) The heads of other Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized and directed by this Act.

"(d) Proceeds from the sales required by this title shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

"(e) There are authorized to be appropriated such sums as may be necessary to prepare, survey, and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchaser.

"SEC. 103. EXEMPTION AND OTHER PROVISIONS.

"(a)(1) After the sales authorized by this Act occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a et seq.) as amended.

"(2) The exemption provided by paragraph (1) does not affect the Memorandum of Agreement entered into among the State of

Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

"(3) Nothing in this title or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

"(b)(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

"(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than ninety days after the date on which the Program is adopted by the Governor of Alaska, or be barred.

"(3) An action seeking review of implementation of the Program shall be brought not later than ninety days after the challenged act implementing the Program, or be barred.

"(c) With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

"(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

"(A) at no cost to the Eklutna Purchasers;

"(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

"(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

"(2) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with existing law.

"(3) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

"(4) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85-508, 72 Stat. 339, as amended), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

"(d) With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85-508, 72 Stat. 339, as amended).

"(e) Not later than one year after both of the sales authorized in section 102 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

"(1) complete the business of, and close out, the Alaska Power Administration;

"(2) submit to Congress a report documenting the sales; and

"(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

"(f) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined by the Secretary of Energy, that all Eklutna assets have been conveyed to the Eklutna Purchasers.

"(g) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, that all Snettisham assets have been conveyed to the State of Alaska.

"(h) As of the later of the two dates determined in subsection (f) and (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

"(1) in paragraph (1)—

"(A) by striking subparagraph (C); and

"(B) by redesignating subparagraphs (D), (E), and

"(F) as subparagraphs (C), (D), and (E) respectively; and

"(2) in paragraph (2) by striking out "and the Alaska Power Administration" and by inserting "and" after "Southwestern Power Administration,".

"(i) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

"(j) The sales of Eklutna and Snettisham under this title are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622).

"(k) The sales authorized in this title shall occur not later than 1 year after the date of enactment of legislation defining 'first use' of Snettisham for purposes of section 147(d) of the Internal Revenue Code of 1986, to be considered to occur pursuant to acquisition of the property by or on behalf of the State of Alaska.".

AMENDMENT No. 1081

Strike the text of title II and insert the following text:

"TITLE II

"SEC. 201. SHORT TITLE.

"This title may be cited as "Trans-Alaska Pipeline Amendment Act of 1995".

"SEC. 202. TAPS ACT AMENDMENTS.

"Section 203 of the Act entitled the 'Trans-Alaska Pipeline Authorization Act,' as amended (43 U.S.C. 1652), is amended by inserting the following new subsection (f):

"(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

"(1) Subject to paragraphs (2) through (6), of this subsection and notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over right-of-way granted pursuant to this section may be exported after October 31, 1995 unless the President finds that exportation of this oil is not in the national interest. In evaluating whether the proposed exportation is in the national interest, the President—

"(A) shall determine whether the proposed exportation would diminish the total quantity or quality of petroleum available to the United States; and

"(B) shall conduct and complete an appropriate environmental review of the proposed exportation, including consideration of appropriate measures to mitigate any potential adverse effect on the environment, within four months after the date of enactment of this subsection.

"The President shall make his national interest determination within five months after the date of enactment of this subsection or 30 days after completion of the environmental review, whichever is earlier. The President may make his determination subject to such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that the exportation is consistent with the national interest.

"(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to this section, shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.".

"(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

"(5) If the Secretary of Commerce finds that anticompetitive activity by a person exporting crude oil under authority of this subsection has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused sustained material adverse employment effects in the United States, the Secretary of Commerce may recommend to the President appropriate action against such person, which may include modification of the authorization to export crude oil.

"(6) Administrative action with respect to an authorization under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

"SEC. 203. ANNUAL REPORT.

"Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following:

"In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration for Defense District V have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.".

"SEC. 204. GAO REPORT.

"The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

"SEC. 205. EFFECTIVE DATE.

"This title and the amendments made by it shall take effect on the date of enactment.".

AMENDMENT NO. 1082

"TITLE II

"SEC. 201. SHORT TITLE.

"This title may be cited as 'Trans-Alaska Pipeline Amendment Act of 1995'.

"SEC. 202. TAPS ACT AMENDMENTS.

"Section 203 of the Act entitled the 'Trans-Alaska Pipeline Authorization Act,' as amended (43 U.S.C. 1652), is amended by inserting the following new subsection (f):

"(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

"(1) Subject to paragraphs (2) through (6), of this subsection and notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over right-of-way granted pursuant to this section may be exported after October 31, 1995 unless the President finds that exportation of this oil is not in the national interest. In evaluating whether the proposed exportation is in the national interest, the President—

"(A) shall determine whether the proposed exportation would diminish the total quantity or quality of petroleum available to the United States; and

"(B) shall conduct and complete an appropriate environmental review of the proposed exportation, including consideration of appropriate measures to mitigate any potential adverse effect on the environment, within six months after the date of enactment of this subsection.

The President shall make his national interest determination within five months after the date of enactment of this subsection or 30 days after completion of the environmental review, whichever is earlier. The President may make his determination subject to such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that the exportation is consistent with the national interest.

"(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to this section, shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.".

"(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

"(5) If the Secretary of Commerce finds that anticompetitive activity by a person exporting crude oil under authority of this subsection has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused sustained material adverse employment effects in the United States, the Secretary of Commerce may recommend to the President appropriate action against such person, which may include modification of the authorization to export crude oil.

"(6) Administrative action with respect to an authorization under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

"SEC. 203. ANNUAL REPORT.

"Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following:

"In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration for Defense District V have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.".

"SEC. 204. GAO REPORT.

"The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

"SEC. 205. EFFECTIVE DATE.

"This title and the amendments made by it shall take effect on the date of enactment.".

THE SOLID WASTE DISPOSAL ACT OF 1995

KEMPTHORNE AMENDMENT NO. 1083

Mr. CHAFEE (for Mr. KEMPTHORNE) proposed an amendment to the bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes; as follows:

On page 35, line 5, after the word, "agreements", insert the words, "or permits authorizing receipt of out-of-State municipal solid waste".

On page 45, lines 15 and 16, after the word, "tax", strike the words, "assessed against or voluntarily"; on lines 16 and 17, after the word, "subdivision", insert the following: ", or to the extent that the amount of the surcharge is offset by voluntarily agreed payments to a State or its political subdivision".

THE ALASKA POWER ADMINISTRATION SALE ACT TRANS-ALASKA PIPELINE AMENDMENT ACT OF 1995

MURRAY AMENDMENTS NOS. 1084–1091

(Ordered to lie on the table.)

Mrs. MURRAY submitted eight amendments intended to be proposed by her to the bill S. 395, supra; as follows:

AMENDMENT NO. 1084

On page 17, strike lines 9 through 11 and insert the following:

SEC. 9. LICENSES AUTHORIZING EXPORTS.

Any license that is required under any law authorizing an export of Alaskan North Slope oil under section 203(f) of the Trans-Alaska Pipeline Authorization Act, as added by section 202, shall not be made effective as of any date that is earlier than January 1, 1997.

AMENDMENT NO. 1085

On page 14, strike line 15 and all that follows through page 17.

AMENDMENT NO. 1086

At the appropriate place, insert the following:

SEC. . OIL POLLUTION PREVENTION AND EMERGENCY TOWING AND RESCUE VESSEL.

(a) IN GENERAL.—The Secretary of Transportation shall purchase, by not later than January 1, 1996, and cause to be refurbished, equipped, crewed, and placed in operation by the Coast Guard, by not later than July 1, 1996, a vessel to be used for oil spill prevention and protection of the Olympic Coast National Marine Sanctuary and for emergency towing and rescue operations in the Strait of Juan de Fuca and the adjacent Pacific coast.

(b) PAYMENT OUT OF THE OIL SPILL LIABILITY TRUST FUND.—The Secretary of Transportation shall pay, out of the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986—

(1) not more than $10,000,000 for the purchase, refurbishment, and equipping of the vessel under subsection (a); and

(2) not more than $5,000,000 for the maintenance and operation of the vessel for a period of 5 years.

(c) CAPABILITIES.—The vessel provided under subsection (a) shall be capable of providing—

(1) emergency towing service to a vessel of up to 265,000 deadweight tons;

(2) initial oil spill response, a platform for initial salvage assessment, marine fire fighting response and support, and intervention support for the Coordinated Vessel Traffic Service; and

(3) enforcement support for the Department of Fisheries and National Oceanic and Atmospheric Agency.

AMENDMENT NO. 1087

On page 15, between lines 5 and 6 insert the following:

"(2)(A) No license that is required under any law authorizing an export of oil under this subsection may be granted unless the Secretary of Commerce, based on advice from the Attorney General, makes and publishes a finding that the export will not have an anticompetitive effect that is likely to harm independent refiners or consumers.

"(B) A license described in subparagraph (A) shall have a duration of not longer than 1 year, and any renewal or extension of such a license shall be based on a new finding made and published in accordance with subparagraph (A).

"(C) A license described in subparagraph (A) shall be revoked if the Secretary of Commerce determines, based on advice from the Attorney General, that the finding on which the license is based is no longer valid.

AMENDMENT NO. 1088

On page 15, between lines 5 and 6 insert the following:

"(2) The total average daily volume of exports allowed under this subsection in any calendar year shall be limited to the portion of the oil delivered through the trans-Alaska oil pipeline system that—

"(A) is owned by the State of Alaska; or

"(B) is in excess of the following amounts:

"(i) 1,600,000 barrels per calendar day in 1995.

"(ii) 1,500,000 barrels per calendar day in 1996.

"(iii) 1,400,000 barrels per calendar day in 1997.

"(v) 1,600,000 barrels per calendar day in 1998.

"(vi) Such an amount per calendar day in any year after 1998 as the President determines to be in the national interest.

AMENDMENT NO. 1089

On page 15, strike lines 6 through 16 and insert the following:

"(2)(A) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, and subject to subparagraph (B), oil exported under this subsection shall be transported by a vessel documented under the laws of the United States that is eligible to engage in the coastwise trade.

"(B) A vessel shall not be eligible to transport oil under this subsection if, during a voyage on which such oil is transported, any repair on the vessel is performed in a foreign shipyard other than an emergency repair that is necessary in order to allow the vessel to complete the voyage safely.

"(3) Any license that is required under any law authorizing an export of Alaskan North Slope oil under this subsection shall not be made effective as of any date that is earlier than January 1, 1997.

AMENDMENT NO. 1090

At the appropriate place, add the following new title:

TITLE ___—JUSTICE FOR WARDS COVE WORKERS ACT

SEC. ___. APPLICATION OF CIVIL RIGHTS PROTECTIONS.

(a) SHORT TITLE.—This title may be cited as the "Justice for Wards Cove Workers Act".

(b) AMENDMENTS.—Section 402 of the Civil Rights Act of 1991 (42 U.S.C. 1981 note) is amended—

(1) in subsection (a) by striking "(a) IN GENERAL.—"; and

(2) by striking subsection (b).

(c) APPLICATION AND CONSTRUCTION.—

(1) APPLICATION.—For purposes of determining the application of the amendments made by the Civil Rights Act of 1991, such amendments shall apply to a case that was subject to section 402(b) of the Civil Rights Act of 1991 (as in effect on the day before the date of enactment of this Act) in the same manner and to the same extent as such amendments apply to any case brought under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) that was not subject to section 402(b) of the Civil Rights Act of 1991.

(2) CONSTRUCTION.—Nothing in this title shall be construed to alter, or shall be considered to be evidence of, congressional intent regarding the application of such amendments to any case that was not subject to section 402(b) of the Civil Rights Act of 1991.

AMENDMENT NO. 1091

At the end of the bill, add the following:

TITLE III—UNITED STATES CRUISE VESSELS

SEC. 301. SHORT TITLE.

This title may be cited as the "United States Cruise Vessel Development Act of 1995".

SEC. 302. PURPOSE.

The purpose of this title is to promote construction and operation of United States flag cruise vessels in the United States.

SEC. 303. COASTWISE TRANSPORTATION OF PASSENGERS.

Section 8 of the Act entitled "An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes", approved June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), is amended to read as follows:

"SEC. 8. COASTWISE TRANSPORTATION OF PASSENGERS.

"(a) IN GENERAL.—Except as otherwise provided by law, a vessel may transport passengers in coastwise trade only if—

"(1) the vessel is owned by a person that is—

"(A) an individual who is a citizen of the United States; or

"(B) a corporation, partnership, or association that is a citizen of the United States under section 2(a) of the Shipping Act, 1916 (46 App. U.S.C. 802(a));

"(2) the vessel meets the requirements of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883); and

"(3) for a vessel that is at least 5 net tons, the vessel is issued a certificate of documentation under chapter 121 of title 46, United States Code, with a coastwise endorsement.

"(b) EXCEPTION FOR VESSEL UNDER DEMISE CHARTER.—

"(1) IN GENERAL.—Subsection (a)(1) does not apply to a cruise vessel operating under a demise charter that—

"(A) has a term of at least 18 months; and

"(B) is to a person described in subsection (a)(1).

"(2) EXTENSION OF PERIOD FOR OPERATION.—A cruise vessel authorized to operate in coastwise trade under paragraph (1) based on a demise charter described in paragraph (1) may operate in that coastwise trade during a period following the termination of the charter of not more than 6 months, if the operation—

"(A) is approved by the Secretary; and

"(B) is in accordance with such terms as may be prescribed by the Secretary for that approval.

"(c) EXCEPTION FOR VESSEL TO BE REFLAGGED.—

"(1) EXCEPTION.—Subsection (a)(2) and section 12106(a)(2)(A) of title 46, United States Code, do not apply to a cruise vessel if—

"(A) the vessel—

"(i) is not documented under chapter 121 of title 46, United States Code, on the date of enactment of the United States Cruise Vessel Development Act of 1995; and

"(ii) is not less than 5 years old and not more than 15 years old on the first date that the vessel is documented under that chapter after that date of enactment; and

"(B) the owner or charterer of the vessel has entered into a contract for the construction in the United States of another cruise vessel that has a total berth or stateroom capacity that is at least 80 percent of the capacity of the cruise vessel.

"(2) TERMINATION OF AUTHORITY TO OPERATE.—Paragraph (1) does not apply to a vessel after the date that is 18 months after the date on which a certificate of documentation with a coastwise endorsement is first issued for the vessel after the date of enactment of the United States Cruise Vessel Development Act of 1995 if, before the end of that 18-month period, the keel of another vessel has not been laid, or another vessel is not at a similar stage of construction, under a contract required for the vessel under paragraph (1)(B).

"(3) EXTENSION OF PERIOD BEFORE TERMINATION.—The Secretary of Transportation may extend the 18-month period under paragraph (2) for an additional period of not to exceed 6 months for good cause shown.

"(d) LIMITATION ON OPERATIONS.—A person (including a related person with respect to that person) who owns or charters a cruise vessel operating in coastwise trade under subsection (b) or (c) under a coastwise endorsement may not operate any vessel between—

"(1) any 2 ports served by another cruise vessel that transports passengers in coastwise trade under subsection (a) on the date the Secretary issues the coastwise endorsement; or

"(2) any of the islands of Hawaii.

"(e) PENALTIES.—

"(1) CIVIL PENALTY.—A person operating a vessel in violation of this section shall be liable to the United States Government for a civil penalty of $1,000 for each passenger transported in violation of this section.

"(2) FORFEITURE.—A vessel operated in knowing violation of this section, and its equipment, shall be liable to seizure by and forfeiture to the United States Government.

"(3) DISQUALIFICATION FROM COASTWISE TRADE.—A person that is required to enter into a construction contract under subsection (c)(1)(B) with respect to a cruise vessel (including any related person with respect to that person) may not own or operate any vessel in coastwise trade after the period applicable under subsection (c)(2) with respect to the cruise vessel, if before the end of that period a keel is not laid and a similar stage of construction is not reached under such a contract.

"(f) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

"(1) COASTWISE TRADE.—The term 'coastwise trade' includes transportation of a passenger between points in the United States, either directly or by way of a foreign port.

"(2) CRUISE VESSEL.—The term 'cruise vessel' means a vessel that—

"(A) is at least 10,000 gross tons (as measured under chapter 143 of title 46, United States Code);

"(B) has berth or stateroom accommodations for at least 200 passengers; and

"(C) is not a ferry.

"(3) RELATED PERSON.—The term 'related person' means, with respect to a person—

"(A) a holding company, subsidiary, affiliate, or association of the person; and

"(B) an officer, director, or agent of the person or of an entity referred to in subparagraph (A).".

SEC. 304. CONSTRUCTION STANDARDS.

Section 3309 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A vessel described in paragraph (3) is deemed to comply with this part and part C of this subtitle.

"(2) The Secretary shall issue a certificate of inspection under subsection (a) to a vessel described in paragraph (3).

"(3) A vessel is described in this paragraph if—

"(A) the vessel meets the standards and conditions for the issuance of a control verification certificate to a foreign vessel embarking passengers in the United States;

"(B) a coastwise endorsement is issued for the vessel under section 12106 after the date of enactment of the United States Cruise Vessel Development Act of 1995; and

"(C) the vessel is authorized to engage in coastwise trade by reason of subsection (c) of section 8 of the Act entitled 'An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes', approved June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289).".

SEC. 305. CITIZENSHIP FOR PURPOSES OF DOCUMENTATION.

Section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), is amended—

(1) in subsection (a) by inserting "other than primarily in the transport of passengers," after "the coastwise trade"; and

(2) by adding at the end the following new subsection:

"(e) For purposes of determining citizenship under subsection (a) with respect to operation of a vessel primarily in the transport of passengers in coastwise trade, the controlling interest in a partnership or association that owns the vessel shall not be deemed to be owned by citizens of the United States unless a majority interest in the partnership or association is owned by citizens of the United States free from any trust or fiduciary obligation in favor of any person that is not a citizen of the United States.".

SEC. 306. AMENDMENT TO TITLE XI OF THE MERCHANT MARINE ACT, 1936.

Section 1101(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(b)) is amended by striking "passenger cargo" and inserting "passenger, cargo,".

SEC. 307. PERMITS FOR VESSELS ENTERING UNITS OF NATIONAL PARK SYSTEM.

(a) PRIORITY.—Notwithstanding any other provision of law, the Secretary of the Interior may not permit a person to operate a vessel in any unit of the National Park System except in accordance with the following priority:

(1) First, any person that—

(A) will operate a vessel that is documented under the laws of, and the home port of which is located in, the United States; or

(B) holds rights to provide visitor services under section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(a)).

(2) Second, any person that will operate a vessel that—

(A) is documented under the laws of a foreign country, and

(B) on the date of the enactment of this Act is permitted to be operated by the person in the unit.

(3) Third, any person that will operate a vessel other than a vessel described in paragraph (1) or (2).

(b) REVOCATION OF PERMITS FOR FOREIGN-DOCUMENTED VESSELS.—The Secretary of the Interior shall revoke or refuse to renew permission granted by the Secretary for the operation of a vessel documented under the laws of a foreign country in a unit of the National Park System, if—

(1) a person requests permission to operate a vessel documented under the laws of the United States in that unit; and

(2) the permission may not be granted because of a limit on the number of permits that may be issued for that operation.

(c) RESTRICTIONS ON REVOCATION OF PERMITS.—The Secretary of the Interior may not revoke or refuse to renew permission under subsection (b) for any person holding rights to provide visitor services under section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(a)).

(d) RETURN OF PERMITS.—Any person whose permission to provide visitors services in a unit of the National Park System has been revoked or not renewed under subsection (b) shall have the right of first refusal to a permit to provide visitors services in that unit of the National Park System that becomes available when the conditions described in subsection (b) no longer apply. Such right shall be limited to the number of permits which are revoked or not renewed.

DOMENICI (AND OTHERS) AMENDMENT NO. 1092

Mr. DOMENICI (for himself, Mr. KEMPTHORNE, and Mr. SMITH) proposed an amendment to the bill S. 534, supra; as follows:

On page 69, line 22, strike " "."

On page 69, between lines 22 and 23, insert the following new provision:

"(5) FURTHER REVISIONS OF GUIDELINES AND CRITERIA.—Not later than April 9, 1997, the Administrator shall promulgate revisions to the guidelines and criteria promulgated under this subchapter to allow states to promulgate alternate design, operating, landfill gas monitor, financial assurance, and closure requirements for landfills which receive 20 tons or less of municipal solid waste per day based on an annual average, provided that such alternate requirements are sufficient to protect human health and the environment.".

HATFIELD AMENDMENT NO. 1093

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill S. 395, supra; as follows:

At the appropriate place in title II, add the following new section:

SEC. . RETIREMENT OF CERTAIN COSTS INCURRED FOR THE CONSTRUCTION OF NON-FEDERAL PUBLICLY OWNED SHIPYARDS.

(a) IN GENERAL.—The Secretary of Energy shall—

(1) deposit proceeds of sales out of the Naval Petroleum Reserve in a special account in amounts sufficient to make payments under subsections (b) and (c); and

(2) out of the account described in paragraph (1), provide, in accordance with subsections (b) and (c), financial assistance to a port authority that—

(A) manages a non-Federal publicly owned shipyard on the United States west coast that is capable of handling very large crude carrier tankers; and

(B) has obligations outstanding as of May 15, 1995, that were issued on June 1, 1977, and are related to the acquisition of non-Federal publicly owned dry docks that were originally financed through public bonds.

(b) ACQUISITION AND REFURBISHMENT OF INFRASTRUCTURE.—The Secretary shall provide, for acquisition of infrastructure and refurbishment of existing infrastructure, $10,000,000 in fiscal year 1996.

(c) RETIREMENT OF OBLIGATIONS.—The Secretary shall provide, for retirement of obligations outstanding as of May 15, 1995, that were issued on June 1, 1977, and are related to the acquisition of non-Federal publicly owned dry docks that were originally financed through public bonds—

(1) $6,000,000 in fiscal year 1996;
(2) $13,000,000 in fiscal year 1997;
(3) $10,000,000 in fiscal year 1998;
(4) $8,000,000 in fiscal year 1999;
(5) $6,000,000 in fiscal year 2000;
(6) $3,500,000 in fiscal year 2001; and
(7) $3,500,000 in fiscal year 2002.

DASCHLE (AND OTHERS) AMENDMENT NO. 1094

(Ordered to lie on the table.)

Mr. DASCHLE (for himself, Mr. BAUCUS, Mr. WELLSTONE, and Mr. DORGAN) submitted an amendment intended to be proposed by them to the bill S. 395, supra; as follows:

On page 14, between lines 14 and 15 insert the following:

SEC. 104. DECLARATION CONCERNING OTHER HYDROELECTRIC PROJECTS AND THE POWER MARKETING ADMINISTRATIONS.

Congress declares that—

(1) the circumstances that justify authorization by Congress of the sale of hydroelectric projects under section 102 are unique to those projects and do not pertain to other hydroelectric projects or to the power marketing administrations in the 48 contiguous States; and

(2) accordingly, the enactment of section 102 should not be understood as lending support to any proposal to sell any other hydroelectric project or the power marketing administrations.

HARKIN (AND AKAKA) AMENDMENT NO. 1095

(Ordered to lie on the table.)

Mr. HARKIN (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by them to the bill S. 395, supra; as follows:

At the appropriate place, insert the following:

TITLE III

SECTION 301. SHORT TITLE.

This Act may be cited as the "Hydrogen Future Act of 1995".

SEC. 302. FINDINGS.

Congress finds that—

(1) fossil fuels, the main energy source of the present, have provided this country with tremendous supply but are limited;

(2) additional research, development, and demonstration are needed to encourage private sector investment in development of new and better energy sources and enabling technologies;

(3) hydrogen holds tremendous promise as a fuel because it can be extracted from water and can be burned much more cleanly than conventional fuels;

(4) hydrogen production efficiency is a major technical barrier to society's collectively benefiting from 1 of the great energy carriers of the future;

(5) an aggressive, results-oriented, multiyear research initiative on efficient hydrogen fuel production and use should be maintained; and

(6) the current Federal effort to develop hydrogen as a fuel is inadequate.

SEC. 303. PURPOSES.

The purposes of this Act are—

(1) to provide for a research, development, and demonstration program leading to the production, storage, transport, and use of hydrogen for industrial, residential, transportation, and utility applications; and

(2) to provide advice from academia and the private sector in the implementation of the Department of Energy's hydrogen research, development, and demonstration program to ensure that economic benefits of the program accrue to the United States.

SEC. 304. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—The term "Department" means the Department of Energy.

(2) SECRETARY.—The term "Secretary" means the Secretary of Energy.

SEC. 305. RESEARCH AND DEVELOPMENT.

(a) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Pursuant to this section, the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401 et seq.), and section 2026 of the Energy Policy Act of 1992 (42 U.S.C. 13436), and in accordance with the purposes of this Act, the Secretary shall conduct a hydrogen energy research, development, and demonstration program relating to production, storage, transportation, and use of hydrogen, with the goal of enabling the private sector to demonstrate the feasibility of using hydrogen for industrial, residential, transportation, and utility applications.

(2) PRIORITIES.—In establishing priorities for Federal funding under this section, the Secretary shall survey private sector hydrogen activities and take steps to ensure that activities under this section do not displace or compete with the privately funded hydrogen activities of the United States industry.

(b) SCHEDULE.—

(1) SOLICITATION.—Not later than 180 days after the date of the enactment of an Act providing appropriations for programs authorized by this Act, the Secretary shall solicit proposals from all interested parties for research and development activities authorized under this section.

(2) DEPARTMENT FACILITY.—The Secretary may consider, on a competitive basis, a proposal from a contractor that manages and operates a department facility under contract with the Department, and the contractor may perform the work at that facility or any other facility.

(3) AWARD.—Not later than 180 days after proposals are submitted, if the Secretary identifies 1 or more proposals that are worthy of Federal assistance, the Secretary shall award financial assistance under this section competitively, using peer review of proposals with appropriate protection of proprietary information.

(c) COST SHARING.—

(1) RESEARCH.—

(A) IN GENERAL.—In the case of a research proposal, the Secretary shall require a commitment from non-Federal sources of at least 25 percent of the cost of the program.

(B) BASIC OR FUNDAMENTAL NATURE.—The Secretary may reduce or eliminate the non-Federal requirement under subparagraph (A) if the Secretary determines that the research and development are of such a purely basic or fundamental nature that a non-Federal commitment is not obtainable.

(2) DEVELOPMENT AND DEMONSTRATION.—

(A) IN GENERAL.—In the case of a development or demonstration proposal, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs that directly and specifically relate to the program.

(B) TECHNOLOGICAL RISKS.—The Secretary may reduce the non-Federal requirement under subparagraph (A) if the Secretary determines that—

(i) the reduction is necessary and appropriate considering the technological risks involved in the project; and

(ii) the reduction serves the purpose and goals of this Act.

(3) NATURE OF NON-FEDERAL COMMITMENT.—In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary shall include cash and the fair market value of, personnel, services, equipment, and other resources.

(d) CONSULTATION AND CERTIFICATIONS.—Before financial assistance is provided under this section or the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401 et seq.)—

(1) the Secretary shall determine, in consultation with the United States Trade Representative and the Secretary of Commerce, that the terms and conditions under which financial assistance is provided are consistent with the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreement Act (19 U.S.C. 3511(d)(12)); and

(2) an industry participant shall be required to certify that—

(A) the participant has made reasonable efforts to obtain non-Federal funding for the entire cost of the project; and

(B) full non-Federal funding could not be reasonably obtained.

(e) DUPLICATION OF PROGRAMS.—The Secretary shall not carry out any activity under this section that unnecessarily duplicates an activity carried out by another government agency or the private sector.

SEC. 306. TECHNOLOGY TRANSFER.

(a) EXCHANGE.—The Secretary shall foster the exchange of generic, nonproprietary information and technology developed pursuant to section 5 among industry, academia, and government agencies.

(b) ECONOMIC BENEFITS.—The Secretary shall ensure that economic benefits of the exchange of information and technology will accrue to the United States economy.

SEC. 307. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary shall transmit to Congress a detailed report on the status and progress of the Department's hydrogen research and development program.

(b) CONTENTS.—A report under subsection (a) shall include—

(1) an analysis of the effectiveness of the program, to be prepared and submitted by the Hydrogen Technical Advisory Panel established under section 108 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12407); and

(2) recommendations of the Panel for any improvements in the program that are if needed, including recommendations for additional legislation.

SEC. 308. COORDINATION AND CONSULTATION.

(a) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall—

(1) coordinate all hydrogen research and development activities in the Department with the activities of other Federal agencies, including the Department of Defense, the Department of Transportation, and the National Aeronautics and Space Administration, that are engaged in similar research and development; and

(2) pursue opportunities for cooperation with those Federal entities.

(b) CONSULTATION.—The Secretary shall consult with the Hydrogen Technical Advisory Panel established under section 108 of the Spark M. Matsunaga Hydrogen Research, development, and Demonstration Act of 1990 (42 U.S.C. 12407) as necessary in carrying out this Act.

SEC. 309. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) $25,000,000 for fiscal year 1996;

(2) $35,000,000 for fiscal year 1997; and

(3) $40,000,000 for fiscal year 1998.

JOHNSTON AMENDMENT NO. 1096

(Ordered to lie on the table.)

Mr. JOHNSTON submitted an amendment intended to be proposed by him to the bill S. 395, supra; as follows:

Insert the following new title III:

TITLE III—OUTER CONTINENTAL SHELF DEEP WATER ROYALTY RELIEF

SEC. 301.—This title may be referred to as the "Outer Continental Shelf Deep Water Royalty Relief Act".

SEC. 302. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.—Section 8(a) of the Outer Continental Shelf Lands Act, (43 U.S.C. 1337(a)(3)), is amended by striking paragraph (3) in its entirety and inserting the following:

"(3)(A) The Secretary may, in order to—

"(i) promote development or increased production on producing or non-producing leases; or

"(ii) encourage production of marginal resources on producing or non-producing leases; through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

"(B)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

"(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv) (aa), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400–800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Administrative Procedures Act, 5 U.S.C. Sec. 702, only for action filed within 30 days of the Secretary's determination or redetermination.

"(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

"(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

"(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

"(iv) For purposes of this subparagraph, the term 'new production' is—

"(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

"(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

"(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for Light Sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year."

SEC. 303. NEW LEASES—

Section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended, (43 U.S.C. 1337 (a)(1)) is amended as follows:

(1) Redesignate section 8(a)(1)(H) as section 8(a)(1)(I); and

(2) Add a new section 8(a)(1)(H) as follows:

"(H) cash bonus bid with royalty at no less than 12 and ½ per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary. Such suspensions may vary based on the price of production from the lease."

SEC. 304. LEASE SALES.—For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within five years of the date of enactment of this title, shall use the bidding system authorized in Section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this title, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

SEC. 305. REGULATIONS.—The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this title within 180 days after the enactment of this Act.

BOXER AMENDMENTS NOS. 1097–1100

(Ordered to lie on the table.)

Mrs. BOXER submitted four amendments to the bill S. 395, supra; as follows:

AMENDMENT NO. 1097

On page 15, line 5, strike "exported," and insert: "exported, except that no crude oil from any oil exploration and development effort, or from any established oil well within the current borders of the Arctic National Wildlife Refuge shall be transported or delivered through the Trans-Alaska Pipeline System under any circumstances,"

AMENDMENT NO. 1098

On page 15, line 5, strike "exported." and insert: "exported, unless the President has determined that such export would not be consistent with the requirements of the National Environmental Policy Act of 1970."

AMENDMENT NO. 1099

On page 15, line 5, strike "exported." and insert: "exported, except that in no case shall the total average daily volume of exports allowed under this section in any calendar year exceed the amount by which the total average daily volume of oil delivered through the Trans-Alaska Pipeline System during the preceding calendar year exceeded 1.35 million barrels per calendar year."

AMENDMENT NO. 1100

On page 15 between lines 22 and 23, insert the following:

"(4) There shall be no exports of Alaskan North Slope oil until the Secretary of the Department of Interior certifies to the Congress full compliance by Alyeska Pipeline Service Company with the Trans-Alaska Pipeline right-of-way ageement. This certification shall also include a full accounting that all problems identified in the 1993 and subsequent audits conducted on behalf of the Bureau of Land Management, including but not limited to monitoring, compliance with applicable codes and standards, quality assurance and inspection program, electrical systems integrity, and other nonconforming items have been corrected. Another audit conducted by an independent accounting firm shall be required in 12 months following such certification and thereafter, audits shall be required every 5 years."

JOHNSTON (AND OTHERS) AMENDMENT NO. 1101

Mr. JOHNSTON (for himself, Mr. MURKOWSKI, and Mr. BREAUX) proposed an amendment to the bill S. 395, supra; as follows:

At the appropriate place in the bill, insert the following as a new title III:

TITLE III—OUTER CONTINENTAL SHELF DEEP WATER ROYALTY RELIEF

SEC. 301. This title may be referred to as the "Outer Continental Shelf Deep Water Royalty Relief Act".

SEC. 302. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.—Section 8(a) of the Outer Continental Shelf Lands Act, (43 U.S.C. 1337 (a)(3)), is amended by striking paragraph (3) in its entirety and inserting the following:

"(3)(A) The Secretary may, in order to—

"(i) promote development or increased production on producing or non-producing leases; or

"(ii) encourage production of marginal resources on producing or non-producing leases;

through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

"(B)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

"(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv) (aa), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400-800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Administrative Procedures Act, 5 U.S.C. Sec. 702, only for actions filed within 30 days of the Secretary's determination or redetermination.

"(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

"(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

"(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

"(iv) For purposes of this subparagraph, the term 'new production' is—

"(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

"(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

"(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for Light Sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year."

SEC. 303. NEW LEASES—

Section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended, (43 U.S.C. 1337(a)(1) is amended as follows:

(1) Redesignate section 8(a)(1)(H) as section 8(a)(1)(I); and

(2) Add a new section 8(a)(1)(H) as follows:

"(H) cash bonus bid with royalty at no less than 12 and ½ per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary. Such suspensions may vary based on the price of production from the lease."

SEC. 304. LEASE SALES.—For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within five years of the date of enactment of this title, shall use the bidding system authorized in Section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this title, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

SEC. 305. REGULATIONS.—The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this tile within 180 days after the enactment of this Act.

MURKOWSKI AMENDMENT NO. 1102

Mr. MURKOWSKI proposed an amendment to the bill S. 395, supra; as follows:

Strike title I and insert in lieu thereof a new title I:

"TITLE I

"SEC. 101. SHORT TITLE.

"This title may be cited as the "Alaska Power Administration Asset Sale and Termination Act".

"SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

"(a) The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this Act as "Snettisham") to the State of Alaska in accordance with the terms of this Act and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Alaska Power Authority and the Authority's successors.

"(b) The Secretary of Energy is authorized and directed to sell the Eklutna Hydroelectric Project (referred to in this Act as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this Act as "Eklutna Purchasers"), in accordance with the terms of this Act and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Eklutna Purchasers.

"(c) The heads of other Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized and directed by this Act.

"(d) Proceeds from the sales required by this title shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

"(e) There are authorized to be appropriated such sums as may be necessary to prepare, survey, and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchaser.

"SEC. 103. EXEMPTION AND OTHER PROVISIONS.

"(a)(1) After the sales authorized by this Act occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a et seq.) as amended.

"(2) The exemption provided by paragraph (1) does not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

"(3) Nothing in this title or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

"(b)(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

"(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than ninety days after the date on which the Program is adopted by the Governor of Alaska, or be barred.

"(3) An action seeking review of implementation of the Program shall be brought not later than ninety days after the challenged act implementing the Program, or be barred.

"(c) With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

"(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

"(A) at no cost to the Eklutna Purchasers;

"(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

"(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

"(2) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with existing law.

"(3) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

"(4) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85-508, 72 Stat. 339, as amended), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

"(d) With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85-508, 72 Stat. 339, as amended).

"(e) Not later than one year after both of the sales authorized in section 102 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

"(1) complete the business of, and close out, the Alaska Power Administration;

"(2) submit to Congress a report documenting the sales; and

"(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

"(f) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined by the Secretary of Energy, that all Eklutna assets have been conveyed to the Eklutna Purchasers.

"(g) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, that all Snettisham assets have been conveyed to the State of Alaska.

"(h) As of the later of the two dates determined in subsections (f) and (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

"(1) in paragraph (1)—

"(A) by striking subparagraph (C); and

"(B) by redesignating subparagraphs (D), (E), and "(F) as subparagraphs (C), (D), and (E) respectively; and

"(2) in paragraph (2) by striking out "and the Alaska Power Administration" and by inserting "and" after "Southwestern Power Administration,".

"(i) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

"(j) The sales of Eklutna and Snettisham under this title are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622).

"(k) The sales authorized in this title shall occur not later than 1 year after the date of enactment of legislation defining 'first use" of Snettisham for purposes of section 147(d) of the Internal Revenue Code of 1986, to be considered to occur pursuant to acquisition of the property by or on behalf of the State of Alaska.".

DASCHLE AMENDMENT NO. 1103

Mr. JOHNSTON (for Mr. DASCHLE) proposed an amendment to amendment No. 1102 proposed by Mr. MURKOWSKI the bill S. 395, supra; as follows:

At the end of the pending amendment insert the following:

SEC. . DECLARATION CONCERNING OTHER HYDROELECTRIC PROJECTS AND THE POWER MARKETING ADMINISTRATIONS.

Congress declares that—

(1) the circumstances that justify authorization by Congress of the sale of hydroelectric projects under section 102 are unique to those projects and do not pertain to other hydroelectric projects or to the power marketing administrations in the 48 contiguous States; and

(2) accordingly, the enactment of section 102 should not be understood as lending support to any proposal to sell any other hydroelectric project or the power marketing administrations.

MURKOWSKI AMENDMENT NO. 1104

Mr. MURKOWSKI proposed an amendment to the bill S. 395, supra; as follows:

Strike the text of Title II and insert the following text:

"TITLE II

"SEC. 201. SHORT TITLE.

"This Title may be cited as "Trans-Alaska Pipeline Amendment Act of 1995".

"SEC. 202. TAPS ACT AMENDMENTS.

"Section 203 of the Act entitled the "Trans-Alaska Pipeline Authorization Act," as amended (43 U.S.C. 1652), is amended by inserting the following new subsection (f):

"(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

"(1) Subject to paragraphs (2) through (6), of this subsection and notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over right-of-way granted pursuant to this section may be exported after October 31, 1995 unless the President finds that exportation of this oil is not in the national interest. In evaluating whether the proposed exportation is in the national interest, the President—

"(A) shall determine whether the proposed exportation would diminish the total quantity or quality of petroleum available to the United States; and

"(B) shall conduct and complete an appropriate environmental review of the proposed exportation, including consideration of appropriate measures to mitigate any potential adverse effect on the environment, within four months after the date of enactment of this subsection.

"The President shall make his national interest determination within five months after the date of enactment of this subsection or 30 days after completion of the environmental review, whichever is earlier. The President may make his determination subject to such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that the exportation is consistent with the national interest.

"(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to this section, shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.".

"(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

"(5) If the Secretary of Commerce finds that anticompetitive activity by a person exporting crude oil under authority of this subsection has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused sustained material adverse employment effects in the United States, the Secretary of Commerce may recommend to the President appropriate action against such person, which may include modification of the authorization to export crude oil.

"(6) Administrative action with respect to an authorization under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

"SEC. 203. ANNUAL REPORT.

"Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following:

"In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration for Defense District V have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.".

"SEC 204. GAO REPORT.

"The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

"SEC. 205. EFFECTIVE DATE.

"This title and the amendments made by it shall take effect on the date of enactment.".

HATFIELD AMENDMENT NO. 1105

Mr. MURKOWSKI (for Mr. HATFIELD) proposed an amendment to amendment No. 1104 proposed by Mr. MURKOWSKI to the bill the bill S. 395, supra; as follows:

At the end of the amendment add the following new section:

SEC. 206. RETIREMENT OF CERTAIN COSTS INCURRED FOR THE CONSTRUCTION OF NON-FEDERAL PUBLICLY OWNED SHIPYARDS.

(a) IN GENERAL.—The Secretary of Energy shall—

(1) deposit proceeds of sales out of the Naval Petroleum Reserve in a special account in amounts sufficient to make payments under subsections (b) and (c); and

(2) out of the account described in paragraph (1), provide, in accordance with subsections (b) and (c), financial assistance to a port authority that

(A) manages a non-Federal publicly owned shipyard on the United States west coast that is capable of handling very large crude carrier tankers; and

(B) has obligations outstanding as of May 15, 1995, that were issued on June 1, 1977, and are related to the acquisition of non-Federal publicly owned dry docks that were originally financed through public bonds.

(b) ACQUISITION AND REFURBISHMENT OF INFRASTRUCTURE.—The Secretary shall provide, for acquisition of infrastructure and refurbishment of existing infrastructure, $10,000,000 in fiscal year 1996.

(c) RETIREMENT OF OBLIGATIONS.—The Secretary shall provide, for retirement of obligations outstanding as of May 15, 1995, that were issued on June 1, 1977, and are related to the acquisition of non-Federal publicly owned dry docks that were originally financed through public bonds—

(1) $6,000,000 in fiscal year 1996;
(2) $13,000,000 in fiscal year 1997;
(3) $10,000,000 in fiscal year 1998;
(4) $8,000,000 in fiscal year 1999;
(5) $6,000,000 in fiscal year 2000;
(6) $3,500,000 in fiscal year 2001; and
(7) $3,500,000 in fiscal year 2002.

MURRAY AMENDMENT NO. 1106

Mrs. MURRAY proposed an amendment to amendment No. 1104 proposed by Mr. MURKOWSKI to the bill S. 395, supra; as follows:

At the end of the pending amendment add the following new section:

Title VI of the Oil Pollution Act of 1990 (Pub. L. 101-380; 104 Stat. 554) is amended by adding at the end thereof the following new section:

"SEC. 6005. TOWING VESSEL REQUIRED.

(a) IN GENERAL.—In addition to the requirements for response plans for vessels established in section 311(j) of the Federal Water Pollution Control Act, as amended by this Act, a response plan for a vessel operating within the boundaries of the Olympic Coast National Marine Sanctuary or the strait of Juan de Fuca shall provide for a towing vessel to be able to provide assistance to such vessel within six hours or a request for assistance. The towing vessel shall be capable of—

(1) towing the vessel to which the response plan applies;

(2) initial firefighting and oilspill response efforts; and

(3) coordinating with other vessels and responsible authorities to coordinate oilspill response, firefighting; and marine salvage efforts.

"(b) EFFECTIVE DATE.—The Secretary of Transportation shall promulgate a final rule to implement this section by September 1, 1995.".

MURRAY AMENDMENT NO. 1107

Mrs. MURRAY proposed an amendment to amendment No. 1104 proposed by Mr. MURKOWSKI to the bill S. 395, supra; as follows:

On page 2, insert after line 12, of the pending amendment the following:

(C) shall consider after consultation with the Attorney General and Secretary of Commerce whether anticompetitive activity by a person exporting crude oil under authority of this subsection is likely to cause sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels for independent refiners that would cause sustained material adverse employment effects in the United States.

On page 3, insert after line 12 after the word "implementation;": "including any licensing requirements and conditions,".

On page 4, line 2 after "President" insert "who may take".

On page 4, line 3 after "modification" insert "or revocation".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. STEVENS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, May 18, 1995, at 9:30 a.m., to receive testimony on the Smithsonian Institution: Management Guidelines for the Future.

For further information concerning this hearing, please contract Christine Ciccone of the committee staff on 224-5647.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. NICKLES. Mr. President, I would like to announce for the information of the Senate that the hearing scheduled before the Subcommittee on Energy Production and Regulation will also include S. 801, a bill to extend the deadline under the Federal Power Act applicable to the construction of two hydroelectric projects in North Carolina, and for other purposes.

The hearing will be held on Thursday, May 18, 1995 at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, May 16, 1995 at 9:30 a.m., in SR–332, to discuss rural development and credit.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, May 16, 1995 session of the Senate for the purpose of conducting an oversight hearing on NASA's space shuttle and reusable launch vehicle program at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, May 16, 1995, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to review Nuclear Regulatory Commission licensing activities with regard to the Department of Energy's civilian nuclear waste disposal program and other matters within the jurisdiction of the Nuclear Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet on Tuesday, May 16, 1995, beginning at 9:30 a.m. in room SD–215, to conduct a hearing on Medicare solvency.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DISABILITY POLICY

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Disability Policy of the Committee on Labor and Human Resources be authorized to meet for a hearing on the Individuals with Disabilities Education Act, during the session of the Senate on Tuesday, May 16, 1995 at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 9 a.m. on Tuesday, May 16, 1995, in open session, to receive testimony on Department of Defense Financial Management in Review of S. 727, the National Defense Authorization Act for Fiscal Year 1996, and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Tuesday, May 16, 1995, in open session, to receive testimony on the requirements for continued production of nuclear submarines, submarine industrial base issues, procurement strategy, and associated funding in review of S. 727, the Defense Authorization Act for Fiscal Year 1996 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet on Tuesday, May 16, 1995 at 2 p.m. in closed/open session to receive testimony on the Department of Energy weapons activities, nonproliferation and national security programs in review of S. 727, the National Defense Authorization Act for Fiscal Year 1996 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

KOREA—BOTH SIDES OF THE LINE

• Mr. INOUYE. Mr. President, I would like to share with my colleagues and all Americans a poem, "Korea—Both Sides of the Line," written by Mr. Ernst E. Banfield, a former sergeant in the United States Marine Corps who served in the Korean conflict. I believe Mr. Banfield's poem poignantly depicts our Nation's commitment to this conflict, and ask that it be printed in the RECORD.

The poem follows:

KOREA—BOTH SIDES OF THE LINE

It's over now or so some may say.
Will silence prevail while some turn to prayer?
Some will cheer, others a disbelief will share.
Is it true no bugles will sound this day?
We had our differences, Army . . . Navy . . . Marines
But we stood or fell together blood red,
All feeling anger, pain and warm tears when our brothers bled,
Knowing for them this day there would be no future dreams.
We made the landing and headed north,
Most with our inner thoughts and a touch of fear.
Some will swagger while their hearts ache for loved ones dear,
But now's the time to put it aside and prove our worth.
We were all of one purpose that brief space in time,
And I'll always remember my brothers and sisters.
Yes, you heard right when I said, "Sisters",
For the women were there too, doing their share to hold the line.
It's long past time to mourn our fallen comrades I say,
But praise is overdue for the sacrifice they made.
Forgive me, my friends, for the long delay, and may a wreath in honor of you be laid,
And finally a lasting tribute is dedicated to all this day.
For freedoms sake, let this valiant band
Remember how we prevailed, . . . Both sides of the line.•

HONORING MAJ. GEN. RONALD E. BROOKS

• Mr. LUGAR. Mr. President, I rise today to honor the accomplishments of Maj. Gen. Ronald E. Brooks. General Brooks' patriotism and service to our country have been impressive. America should be proud of his dedication and hard work around the world. I would like to elaborate a moment on General Brooks' tremendous career, which he will complete this fall.

General Brooks grew up in Tennessee and began his military service in the Reserve Officers Training Corps at East Tennessee State University. In 1961, he earned the bachelor of science degree in business administration from that institution and was commissioned in the U.S. Army. He later earned the master of business administration degree from Butler University. General Brooks has also studied at the Army War College and the U.S. Army Command and General Staff College.

General Brooks has a military record of distinction. Beginning as a platoon leader in the 2d Infantry Division, General Brooks rose steadily in a number of administrative positions. In addition to service throughout the United States, he has served as commander of the transfer and reception station in Puerto Rico, and as an adjutant general in Vietnam and in Europe. The culmination of his distinguished work came in 1990, when he assumed command of the U.S. Army Soldier Support Center at Fort Benjamin Harrison in Indiana.

Mr. President, I am pleased today to pay tribute to a great American. General Brooks stands as a symbol of American military achievement, and it is my privilege to salute his life and work.•

CHILDREN ARE THE VICTIMS OF NATIONAL POLICIES

• Mr. SIMON. Mr. President, Abigail Trafford of the Washington Post wrote a commentary recently that I ask be printed in the RECORD at the end of my remarks. She writes that we as a Nation care immensely when tragedies involving individual children come to our attention, but we fail to care enough for children who are hurt by our national policies.

A recent example of this is our national sense of outrage and compassion regarding the children killed in the Oklahoma City bombing. We were all rightfully outraged that innocent children were killed in this senseless act of violence. But we cannot and should not accept the fact that millions of innocent children do not have adequate health care, which results in the premature death and disability of many, many children. Perhaps if we were able to put a face on every single child who suffers from lack of access to health care, we would have a national policy that ensures all children would have their health care needs met.

There are important reasons why we need to act soon. A report released a few months ago by the Employee Benefit Research Institute shows that between 1992 and 1993, the number of uninsured people increased 17.8 percent to 40.9 million. The most alarming finding, however, is that children account for the largest proportion of the increase in the number of the uninsured. In 1993, 11.1 million children did not have health care coverage.

In addition, if the enormous cuts in the Medicaid Program that have been proposed by some of my colleagues are enacted, there will be a tremendous increase in the number of uninsured children. That is because Medicaid currently provides health care coverage to approximately 13.5 million children whose families could not otherwise afford to take their children to a doctor.

To address this problem, I will introduce legislation next month to ensure that all children, beginning with children under 7, and pregnant women have affordable coverage for comprehensive, high-quality health care. My proposed maximizes State flexibility while ensuring full accountability for results, and relies on the private sector to deliver the highest quality care at the lowest price.

If you agree that we need to protect our children, I welcome your interest and urge you to help me develop a proposal that all of us can support. Dr. Birt Harvey of the Stanford University Medical School states in Ms. Trafford's article, "We care about children as individuals. We don't care about them as a nation." I hope we can work together to change that.

The article follows:

[Washington Post, May 9, 1995]

WE LOVE THE CHILD, BUT WHAT ABOUT THE CHILDREN?

(By Abigail Trafford)

It was the baby in the firefighter's arms—little Baylee Almon covered with dust and blood—who became the symbol of the nation's agony in the Oklahoma City bombing. Long after rubble from the bombing is cleared, we remember Baylee and the others in the doomed day-care center.

Suffer the children.

We are a nation that loves children. Obsesses about children. The child in pain, the child in triumph—we hang on every detail. We open our hearts—and our pocketbooks—to help a high-profile child in need. Children are our conscience.

Or are they?

You would certainly think so from the way we respond to children in the news. We have a track record for turning the child in the public spotlight into a metaphor of what kind of people we are and who we care about most.

We held our breath when Jessica, the 18-month-old toddler of Midland, Tex., was buried for 2½ days in an abandoned well in 1987. And cheered when she was hauled out by a crane into the glare of television lights and cameras.

We agonized over David, the boy in the bubble. Born with a rare immune disease, he died in 1984 after spending most of his 12 years of life inside a sterile plastic cage that kept him away from common germs—and away from human touch.

And last year, we grieved for Michael, 3, and Alexander, 14 months, the two boys of Susan Smith, the young South Carolina mother who confessed to sending her sons to a water grave.

Suffer the children.

Every child who makes the news taps into the public's huge reservoir of concern for children in trouble, for children who are victims. But this outpouring of anguish and generosity usually stops with the high-profile case.

The fact is that as a nation we neglect our children, particularly the ones who are sick and poor. That was the conclusion of a 1991 bipartisan national commission on children. ". . . at every age, among all races and income groups, and in communities nationwide, many children are in jeopardy," stated the commission in its executive summary. "If we measure success not just by how well most children do, but by how poorly some fare, America falls far short."

Advocates for children like to point out that the United States is the only industrialized country that doesn't have a national policy to support children. While a patchwork of government and private programs help certain groups of children, there is no comprehensive commitment to the young the way there is to the elderly. As Sara Rosenbaum, co-director of the George Washington University Center for Health Policy Research, explains: "Children are the most vulnerable segment of society. They don't have the clout that other population groups have. If children are falling apart, it has tremendous consequences for the nation."

To be sure, the prime responsibility for the health and safety of children rests with the family. But some families cannot provide the basic supports. The needs, according to the bipartisan report, involve many aspects of children's lives including housing, education and protection from abuse.

One of the biggest needs is health insurance. An increasing number of children do not have health coverage from private or public sources. There is no national health plan for children that automatically covers them as the Medicare program does for the elderly.

"We care about children as individuals. We don't care about them as a nation," says Birt Harvey, professor emeritus at the Stanford University Medical School and past president of the American Academy of Pediatrics.

"It's a crisis of conscience and it's a crisis of consciousness," adds Susan S. Aronson, clinical professor of pediatrics at the Medical College of Pennsylvania and Hahnemann University. "We've lost our perspective as a society that we are responsible for children."

Statistics tell the dismal story. Since 1991, the number of uninsured children has risen from 9.5 million to 11.1 million in 1993, according to an analysis by the Employee Benefit Research Institute. The percentage of uninsured children has also increased and of the additional 1.1 million Americans who have recently lost health coverage, more than 920,000 are children. This increase occurred despite expanded coverage of children under Medicaid.

What's more, private coverage of children has declined. The largest jump in uninsured children took place in families where the father was working for a small firm with fewer than 10 employees, researchers found.

Three basic options to cover all children and pregnant women have been circulating in the backwaters of the nation's capital for some years: provide subsidies for the uninsured to purchase health coverage, create a Medicare type program for children, and open up Medicaid to more families. While there is a general consensus that all children ought to have access to basic medical services, there is not a lot of agreement on how to get there. And right now there's very little apparent interest in Congress or the Clinton administration to do much of anything. As Harvey observes: "It doesn't seem like a high priority—it doesn't seem like a priority at all."

Suffer the children.•

RETIREMENT OF DEPUTY CHIEF JOHN F. MORIARTY

• Mr. LIEBERMAN. Mr. President, I rise today to honor Deputy Chief John F. Moriarty on his retirement from 50 years of service to the Stamford Police Department in Stamford, CT, where he was honored on April 29, 1995. Deputy Chief Moriarty was born and raised in Stamford, CT. Jack's career began as a special constable with the former town police department on June 15, 1944, and he served in this capacity until his appointment as a regular police officer 5 years later on November 17, 1949.

Jack Moriarty served during the consolidation of the city of Stamford and the town of Stamford Police Departments into what has now become the Stamford Police Department. During his long and honorable tenure, he served with 8 police chiefs, 13 mayors and 1 first selectman. His dedication, intelligence, and foresight to duty, all contributed to Jack's many promotions throughout the years, including sergeant, lieutenant, captain, and ultimately deputy chief in November 1981. His final assignment was as commanding officer, administration and support services, where he served with distinction until his retirement on December 30, 1994.

Jack continues to reside in Stamford, and is a life long member of Saint Mary's Roman Catholic Church where he is one of the two lay trustees and a member and past president of the church's Holy Name Society. He also has a membership to an assorted selection of groups including the Knights of Columbus, Saint Augustine Council No. 41, the board of directors of Saint Camillus Health Center, Stamford Police Association, Inc., and the Police Association of Connecticut. He and his beloved wife Jean, have four children and seven grandchildren, all with Irish first names. Jack's work and commitment to helping those in need has been an inspiration to those who know him. I salute Deputy Chief John Moriarty on his retirement for his never-ending energy and steadfast devotion to the Stamford Police Department.•

NATIONAL POLICE WEEK

• Mrs. BOXER. Mr. President, this week is National Police Week, 7 days we set aside to honor the men and women who put themselves in harm's way—every day—so that our neighborhoods and communities can be safer places to live.

National Police Week was proclaimed by President John F. Kennedy in 1963. On the first day of this important week, designated as Peace Officer Memorial Day, we pay tribute to the brave officers killed in the line of duty. At a special ceremony yesterday in our Nation's Capital, the names of those men and women who gave their lives in 1994 were engraved into a memorial and candles were lit in their honor. Our hearts go out to the families and loved ones of those who made the ultimate sacrifice to protect and preserve our way of life.

This year, in addition to offering our deep gratitude, we should give our police officers a helping hand. While we have won some important victories in the war on crime—through the passage last year of the crime bill and legislation to keep guns off the streets—we still have a long way to go.

We know that our streets will not be safe as long as our police officers are outgunned and outnumbered. Last year, 13 California police officers were killed in the line of duty. Seven California officers have died in the line of duty in the first 4½ months of 1995. They gave their lives to protect ours. Knowing they put themselves at such great risk every day, we cannot in good conscience send a single officer out on the street without doing everything possible to give them the tools they need to protect us.

I urge everyone to take a stand for the safety of our Nation's peace officers. Call upon your legislators to continue to enact tough crime measures, and to oppose any weakening of the crime bill or the assault weapons ban. Do it to honor the brave men and women who help keep our streets safe, and do it for your community and those you love.

I ask that a list of the brave California peace officers killed in the line of duty in 1994 be printed at this point in the RECORD.

The list follows:

IN MEMORIUM

Officer Clarence W. Dean, Los Angeles Police Department.

Captain Michael W. Tracy, Palos Verdes Estates Police Department.

Sergeant Vernon T. Vanderpool, Palos Verdes Estates Police Department.

Officer Christy Lynne Hamilton, Los Angeles Police Department.

Group Supervisor Arnold C. Garcia, Los Angeles County Probation Department.

Reserve Officer Ted H. Brassinga, Palo Alto Police Department.

Officer William E. Lehn, Fresno Police Department.

Officer Miquel T. Soto, Oakland Police Department.

Officer Richard A. Maxwell, California Highway Patrol, Bakersfield.

Officer Charles D. Heim, Los Angeles Police Department.

Officer Michael A. Osornio, La Habra Police Department.

Officer James L. Guelff, San Francisco Police Department.

Officer Thomas B. Worley, Los Angeles County Safety Police.•

ORDER OF PROCEDURE

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I have a number of unanimous consent requests. These have been cleared with the leadership on the other side of the aisle.

UNANIMOUS-CONSENT AGREEMENT—WHITEWATER RESOLUTION

Mr. LOTT. Mr. President, I ask unanimous consent that at 10:30 a.m. on Wednesday, May 17, the Senate turn to the consideration of a resolution to be offered by Senator D'AMATO establishing a special committee to conduct an investigation involving the Whitewater, and it be considered under the following time agreement: 2 hours, to be equally divided between the chairman and the ranking minority member of the Banking Committee; that no amendments or motions be in order; and that, following the conclusion or yielding back of time, the Senate proceed to vote on the resolution without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate go into executive session and immediately proceed to the consideration of Executive Calendar Nos. 31, 113, 115, and 116, en bloc; I further ask unanimous consent that the nominations be confirmed en bloc; that the motions to reconsider be laid upon the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD; and that the President be immediately notified of the Senate's actions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and agreed to en bloc are as follows:

INTERNATIONAL BANKS

Robert E. Rubin, of New York, to be United States Governor of the International Monetary Fund for a term of five years; United States Governor of the International Bank for Reconstruction and Development for a term of five years; United States Governor of the Inter-American Development Bank for a term of five years; United States Governor of the African Development Bank for a term of five years; United States Governor of the Asian Development Bank; United States Governor of the African Development Fund; United States Governor of the European Bank for Reconstruction and Development.

INTER-AMERICAN DEVELOPMENT BANK

Lawrence Harrington, of Tennessee, to be United States Alternate Executive Director of the Inter-American Development Bank.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The following officer, NOAA, for appointment to the grade of Rear Admiral (0-8), while serving in a position of importance and responsibility as Director, Office of NOAA Corps Operations, National Oceanic and Atmospheric Administration, under the provisions of Title 33, United States Code, Section 853u:

Rear Adm. William L. Stubblefield, NOAA

EXECUTIVE OFFICE OF THE PRESIDENT

Jeffrey M. Lang, of Maryland, to be Deputy United States Trade Representative, with the rank of Ambassador.

TREATY WITH PANAMA ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS—TREATY DOCUMENT 102-15

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the following treaty on the Executive Calendar: Calendar No. 3, Treaty Document 102-15.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask unanimous consent that the treaty be considered as having been passed through its various parliamentary stages up to and including the presentation of resolution of ratification; that the two committee provisos be considered and agreed to, and no other provisos, reservations, or understandings be in order; that any statements be printed in the CONGRESSIONAL RECORD as if read; that when the resolution of ratification is agreed to, the motion to reconsider be laid upon the table; that the President be notified of the Senate's action; and that following disposition of the treaty, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask for a division vote on the resolution of ratification.

The PRESIDING OFFICER. All those in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

In the opinion of the Chair, on a division, two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification is as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and the Republic of Panama On Mutual Assistance in Criminal Matters, With Annexes and Appendices, signed at Panama on April 11, 1991. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

Nothing in this Treaty requires or authorizes legislation, or other action, by the United States of America prohibited by the Constitution of the United States as interpreted by the United States.

Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in or facilitates the production or distribution of illegal drugs.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

MEASURE READ FOR THE FIRST TIME—H.R. 1045

Mr. LOTT. Mr. President, I inquire of the Chair if H.R. 1045 has arrived from the House of Representatives.

The PRESIDING OFFICER. The Senator will be advised it has.

Mr. LOTT. I, therefore, ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1045) to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes.

Mr. LOTT. Mr. President, I now ask for its second reading, and I object to that second reading.

The PRESIDING OFFICER. Objection is heard. The bill will have a second reading on the next legislative day.

ORDERS FOR WEDNESDAY, MAY 17, 1995

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:45 a.m. on Wednesday, May 17, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each, except for the following: Senator FAIRCLOTH for 15 minutes and Senator DORGAN for 30 minutes.

I further ask unanimous consent that at the hour of 10:30 a.m., the Senate begin consideration of the Senate resolution regarding Whitewater, under the provisions of the previous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, tomorrow morning the Senate will begin consideration of the Whitewater resolution under a 2-hour time limitation. It may also be the intention of the majority leader to turn to the consideration of H.R. 483, the Medicare select bill. Senators should, therefore, be aware that rollcall votes can be expected throughout the day on Wednesday.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:25 p.m., recessed until 9:45 a.m., Wednesday, May 17, 1995.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 16, 1995:

INTERNATIONAL BANKS

ROBERT E. RUBIN, OF NEW YORK, TO BE U.S. GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE ASIAN DEVELOPMENT BANK; U.S. GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; U.S. GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

INTER-AMERICAN DEVELOPMENT BANK

LAWRENCE HARRINGTON, OF TENNESSEE, TO BE U.S. ALTERNATE EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK.

EXECUTIVE OFFICE OF THE PRESIDENT

JEFFREY M. LANG, OF MARYLAND, TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

THE FOLLOWING OFFICER, NOAA, FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (0-8), WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DIRECTOR, OFFICE OF NOAA CORPS OPERATIONS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED STATES CODE, SECTION 853U:

REAR ADM. WILLIAM L. STUBBLEFIELD, NOAA.

HOUSE OF REPRESENTATIVES—*Tuesday, May 16, 1995*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. RADANOVICH].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 15, 1995.

I hereby designate the Honorable GEORGE P. RADANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to 5 minutes, but in no event shall debate continue beyond 9:50 a.m.

The Chair recognizes the gentlewoman from Colorado [Mrs. SCHROEDER] for 5 minutes.

AMERICANS ARE GETTING SMART ABOUT THE BUDGET

Mrs. SCHROEDER. Mr. Speaker, I am very proud to take the floor today to talk about how fortunate we are that the American people are so smart. I mean, as we go into this budget debate, there are a lot of people who think they were not paying attention. But when you look at the polls today, let me tell you, they were paying attention. They figured it out, and they do not like it.

Sixty percent of Americans in the polls released today reject both the Senate and the House Republican budgets. Now, why do they do this?

Well, we have heard over and over again that they should be very happy because the cuts are going to be distributed across America, and that the Democrats are terrible people because they are inciting class warfare and they are doing all sorts of things like that.

Well, OK, so now the American people have figured out, yes, the cuts really are distributed across the entire economic gambit of Americans. But it is for middle- and low-income people. They are cutting programs, such as cuts in Medicare, cuts in school lunches, cuts in student loans, cuts in all sorts of programs that have helped them, that have helped them get up.

Now, what do the rich people get in the line of cuts? They get tax cuts. Would you know, they have all figured out that tax cuts are a whole lot better than program cuts. And guess who comes out on the short end of those cuts?

Well, once again, it is the middle class who is going to come out on the short end of those cuts. We are having to cut like mad so people over $200,000 a year are going to get these phenomenal tax breaks. I think that is totally unfair. But it is not just what I think, now the American people are beginning to agree.

If you look at student loans, for example, in my State of Colorado there are almost 90,000 people on student loans. So they are saying the minute they get them they should start paying interest. It is absolutely no different than when you get a car, except when you get a car, you get the car. You get to use it right away. So it makes sense to start paying interest right away, because you are using the car right away.

When you are going to school, you cannot use that education until you get to the end of the schooling and you get diploma in hand. That is why we have not charged people interest until they had diploma in hand. That is like having the real car.

So when they try to tell you this is the same, it is not the same at all. And it is going to end up causing people to borrow even more money to pay interest on the money that they previously borrowed.

I think it is outrageous that these young kids are having to graduate from school owing so much money. No wonder they do not dare get married before they are 40. I mean, the next thing we are going to have to do is figure out how octogenarians can be fertile or nobody in the middle class is going to be able to afford a family until they are in their eighties at this rate.

I think American families have figured this out, and that is why the polling numbers today are very different. The average American family feels like a squirrel in one of those wheels. They run and they run and they run, and they run harder and harder and harder every year. And you know what? At the end of the year, they are even more exhausted than they were the year before, their tongue is hanging out, and they never get out of the bottom of the wheel.

If they are suddenly going to have to deal with cuts in their parents' Medicare so that they have got to start picking that up and helping them out to the tune of about $1,000 extra a year, if their kids are going to get double whammied with interest from the time they take the loan out so they are going to have to borrow even more, if all of these things come crushing in on them and they see many programs in schools that have enriched the schools through science, nutrition standards, and so forth being cut, guess what? They are going to have to run even faster, and they are still not going to get out of the bottom of the wheel. But meanwhile, those equal cuts that went to the rich means they are going to get $20,000 more in their pocket per year.

That is not a fair deal. I was accused of being a socialist on this floor the other day by a Member, and I must say what I want to say is the other side in their budget is socialism for the rich. No one has ever seen socialism for the rich. But this is a whole new Republican program, socialism for the rich so they can get richer. Those are the cuts that help them.

Well, I am not that kind of socialist, I can tell you, and I will make it very, very clear over and over again. That is not my program. I think Government is there to help people who need help, to teach them to fish, to get them on their legs and get them going, and I think the time has come and the American people have figured it out.

WE HAVE TO MAKE RESPONSIBLE CHOICES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Arizona [Mr. HAYWORTH] is recognized during morning business for 3 minutes.

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to the words of my colleague from Colorado, and would propose to offer to the American people, Mr. Speaker, that we see another sterling, yes, even a textbook example of why there is a new minority in the Congress of the United States on that side of the aisle. It is fascinating to listen to this almost instant revisionism of history, socialism for the wealthy.

Well, that is a very interesting point of view, and I guess in terms of playground name calling, that certainly may have some validity in a nonsensical sort of way. One analog that does pertain, however, is the notion of the American family being put into a cage. The American family has been enslaved, but it has been enslaved by those proponents of big Government who believe that always there must be tax increases, that always people need to take out their wallets and give more and more money to Washington. And the facts speak for themselves.

Mr. Speaker, it is a well-known fact that in 1948 the average American family sent 3 percent of its income, the average American family of four paid 3 percent of its income in taxes to the Federal Government. And yet by 1994, on the heels of the largest tax increase in American history, the average American family paid 24.5 percent of its income in taxes to the Federal Government. And this was not class warfare, this is virtually everybody, with a quantum leap in what they had to pay to the Federal Government. And now, fresh on the heels of a nonsensical, dishonest school lunch scare program, the new minority, the guardians of the old order, are trying to scare seniors and students.

The fact is that we are not taking away student loans of the new majority, but it is also the fact if we do nothing, if we allow the status quo to persist, there may not be university systems, there may not be a constitutional Republic in 5 to 10 years to have a worthy educational system to begin with.

To those who would always use the scare tactics about school lunches and claim cuts when there are increases, let me simply say this: The fact is we have to make responsible choices. The fact is that even in increasing funding or changing the method of supplying funding to give the money to people on the front lines, we are transforming what is done. We are making programs more effective to ensure that we may save them. And no clearer tactic or example can we see than in the realm of Medicare, where in fact my colleague, the preceding speaker, the gentlewoman from Colorado, tried to scare seniors and claim there are cuts.

Friends, we are making rash on America reasonable increases to save the Medicare Program. We are not making cuts. That is what we must do: make responsible choices, not come in and carp and complain and hope against hope that somehow in November 1996, the voters of America will return to a bankrupt policy of always and constant growth of Government.

GUAM COMMONWEALTH

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning business for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, I rise today to call attention to the lack of action on the part of the administration in fulfilling its responsibility to the people of Guam in appointing a special representative for the Guam Commonwealth.

The special representative would complete the discussions that were initiated in 1993 with the Guam Commission on Self-Determination on the issues that the Guam Commonwealth Act raises in defining a new relationship between the Federal Government and the people of Guam. Congress has deferred its action on the Guam Commonwealth Act, H.R. 1056, until the discussions with the administration's special representative are completed. However, it is impossible to complete the Commonwealth discussions when there is no one to discuss these issues with. A dialog, by definition, requires two parties.

Mr. I. Michael Heyman, the special representative who began these discussions with Guam in December 1993, announced his intention to resign on February 7 of this year. We have been waiting patiently for the administration to name a successor to Mr. Heyman. It is now 95 days later, and we are still waiting. There have been hints, rumors, and meetings, but no appointment. There have been assurances that issue this is receiving the highest attention, but still no appointment. In short, there has been a lot of activity, but no action.

Mr. Speaker, the Guam Commission on Self-Determination and I have been extremely patient with the administration, but our patience is wearing thin. We can understand their wanting to find the right person for this job, but we question this excruciating and time-consuming scrutiny worthy of a Supreme Court nomination. In an administration not known for its speed in filling vacancies, we fear that the search for Guam's special representative is setting a new speed record, one that we are not particularly fond of holding. We'd rather leave the distinction of longest vacancy in the administration not filled to other more worthy contenders.

Mr. Speaker, the quest to establish a new self-governing Commonwealth for the people of Guam is of paramount importance to us, and is also important to the national interest. A prosperous, new Commonwealth of Guam, possessing the economic tools to secure a good future, will serve the interests of the United States in the western Pacific and the Far East into the 21st century. But none of this can happen if we don't conclude the ongoing discussions between Guam and the administration. These discussions must come to some conclusion so that Congress would have a better sense of how the important issues of self-governance can be resolved.

I, therefore, call on the administration to name a special representative for Guam Commonwealth, and to resume the important discussions that have been delayed for the past 3 months. And I again remind the administration that time is running short to complete this process within a timeframe that allows the 104th Congress to also begin its important review of the Guam Commonwealth Act.

FISCAL YEAR 1996 BUDGET RESOLUTION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Colorado [Mr. ALLARD] is recognized during morning business for 5 minutes.

Mr. ALLARD. Mr. Speaker, I am very proud of the budget that the Republicans on the House Budget Committee have produced.

It produces a balanced budget in 2002—just as we promised.

This will be the first balanced budget in 33 years. That is right, 1969 was the last year the Federal Government balanced its books.

As a member of the Budget Committee, I can say we have worked tirelessly since January to produce a plan that is fair and honest.

The plan has the unanimous support of the committee Republicans, as well as Democrat MIKE PARKER of Mississippi. Opponents are already attacking this plan, and distorting what it really does. That is why I want to get out the facts.

To those who oppose this plan I say, what is your alternative? Where's the Beef? How would you balance the budget?

The President's plan produces $200 billion deficits as far as the eye can see. He never balances the budget.

Now, let us talk about this budget. First, as we promised, Social Security is off the table.

Second, we freeze defense, and make clear that defense spending will continue to undergo the kind of scrutiny of other aspects of the budget.

Third, we reduce all discretionary spending, including foreign aid.

We abolish three Cabinet agencies: Commerce, Energy, and Education.

This plan also eliminates 283 programs, 14 agencies, and 68 commissions.

Overall this budget simply slows the growth in spending to just over 2 percent a year. The difference is that under current forecasts we grow over 5 percent a year.

This plan is not perfect. But it is far superior to other options, and far superior to doing nothing. This is the best plan that has been put on the table in years. It produces a balanced budget. It is a budget for our children.

Now let me talk about health care. This is important because it will be the source of much distortion in the coming days.

First, we do not cut Medicare or Medicaid, both grow under our plan. Let us look at this chart. It shows why we have to slow the rate of growth in Medicare and Medicaid. Both programs are growing at over 10 percent a year.

The rest of the Government is growing at much slower rates. This is not sustainable.

In fact, the Medicare Trustees Report, released in April, and signed by three members of the President's Cabinet, says that Medicare will go broke in 7 years if we do nothing. That is why we slow the growth in both programs.

Let me focus on Medicare. We slow the growth to 5 percent a year. This means we will increase Medicare spending over 7 years, from $4,700 per beneficiary today to $6,300 per beneficiary in 2002. This preserves the solvency of Medicare.

Now, enough statistics. Why are we doing this? Why is a balanced budget so important for our children and grandchildren?

Alan Greenspan, Chairman of the Federal Reserve, summed it up very well when he testified before the Budget Committee earlier this year.

Let us go down the list on the chart.

If we balance the Budget:

One, our children will have a higher standard of living than their parents.

Two, there will be improvement in the purchasing power of incomes.

Three, a rise in productivity.

Four, reduction in inflation.

Five, strengthening of financial markets.

Six, acceleration of long-term economic growth.

And most important, seven, a significant drop in long term interest rates.

Now, what does all this mean to American families. It means a higher standard of living.

It means families will pay less for their home mortgage because of lower interest rates.

It means more families will be able to afford college for their children.

It means lower car payments.

This week's Time magazine has an excellent article on this topic.

It explains how balancing the budget can help revive the American dream.

The article talks about how lower deficits mean lower interest rates, and therefore more job creation by U.S. business. The article provides one very specific example of a young couple who are considering a new home.

Under a mortgage rate of 8 percent, they would pay $734 a month on a $100,000 mortgage. If interest rates are 1 percent lower, this payment is cut to $665.

This would save $28,000 over the life of the mortgage. This would be enough to put one of their future children through a year of college.

Similarly, I have been using the example of farmers, because there are reductions in agriculture subsidies in this budget.

However, it is estimated that a 1.5-percent reduction in interest rates would save the farm sector over $10 billion in interest payments on their debt over 5 years. This more than offsets the reduction.

These are examples of what it means to balance the budget. This is not just an exercise in accounting. It really matters. It will make a difference in the lives of every American. It will particularly, make a difference in the lives of our children and grandchildren.

I urge my colleagues to join me in supporting the first balanced budget in 33 years.

A CRISIS OF LEADERSHIP

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized during morning business for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, good morning. It comes to mind, as I have seen the week's last activities, that there is a crisis of leadership amongst those who would claim themselves bearers of the Constitution and members of the National Rifle Association. Interestingly enough, it is because of this Constitution that we allow those who have certain ideas to gather together.

But yet as we gathered to acknowledge and honor our mothers, on this past Sunday, Mother's Day—nurturers to a one, those who love children, promote peace, and work to comfort their young ones, we are bombarded with newspaper articles evidencing the self-righteousness of an organization who would be so irresponsible to send letters out claiming that Federal law enforcement officers are just "boot-wearing thugs." And, yes, they have the sheer audacity to claim that the former President of the United States of America, George Bush, should reconsider his membership in the NRA.

I simply say to that Texan and my neighbor, George Bush, thank you for having the integrity and leadership to recognize that sometimes we simply have to stand for what is right. How appalled I was to see in the Houston Chronicle a letter to the President from the NRA suggesting that he just wait and see what proposed hearings on Waco might bring about, then he would realize how right the NRA was.

I simply say to the National Rifle Association, the Constitution reigns. I keep it close to me. You have a right to organize and associate. The first amendment protects your free speech. But it does not give you the privilege of crying "fire" in a crowded theater, of fostering hatred and antagonisms against people who are designated to uphold the law.

As an African-American, I know full well the abuses that can come about through excessive government. But I also know how Federal officers went into the deep South and protected those young students going into universities who would foster segregation. I do know that there are heroes and heroines in our law enforcement officers. I support them and they support us everyday. If there is abuse, I simply say to you we do have to stand up against such abuse, and I will tell you that good law enforcement officers likewise do the same.

We have a task force in the House to rid us of the assault weapons ban. How frivolous and ridiculous. Not only are they opposing the assault weapon's ban, but they are going into your neighborhoods and telling you laws to prevent guns in schools are illegal. That is part of the proposed legislation. Not only is the task force saying that, but gun safety and responsible legislation, some of which I passed as a council member, preventing young children from getting guns, the task force will be taking the Federal Government into your homes to intrude by saying those laws to protect your children are illegal. How ridiculous.

Then my Republican colleagues want to come forward and suggest that we have hearings on Waco. I say fair enough. As a member of the Committee on the Judiciary, I am willing to own up and look at issues that affect the American people. At the same time, let me say to you, where are they on the issue of hearings on the militia? For Waco is absolutely no excuse for Oklahoma City. And I will stand here in the well of the House and claim to you that those lives that were lost, over 160 lives, children, hard working individuals, the devastation to Oklahoma City and the State of Oklahoma, the fear that has been perpetrated on the American people, is absolutely no excuse for Waco.

And I feel for the people of Waco. Friends of mine that I loved were lost at Waco. But this is a crisis of leadership. It is ludicrous. And this fascination with guns is not propelled by the Constitution of the United States. A concealed weapons law being discussed in Texas is not called for.

Oh, yes, we have the right to have a militia to protect the security of this country, and we should not infringe upon your right to safely own guns. But to perpetrate violence, to have children trying to understand why adults are calling law enforcement officers just boot-wearing thugs? And putting it in print is not called for.

I call upon this Congress to be responsible. Vote against the repealing of the assault weapons ban. We have lived freely without the perpetration of mass gun warfare in this Nation. Let us not have a crisis of leadership.

Former President Bush, I thank you, and I ask you, the American people, to keep your voices raised high. President Clinton, I thank you for your opposition to this kind of talk because this is not a political issue. It is a question of security and life and liberty. It is a question of our children. It is a question of responsible speech. It is a question of integrity. And I maintain, have hearings on the militia now. Understand that gun warfare is not called for in this Nation, and let us wrap ourselves in the Constitution, yes, for freedom and liberty, but for safety and the future of this Nation.

COMMENTS ON THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. HOKE] is recognized during morning business for 5 minutes.

Mr. HOKE. Mr. Speaker, I have some charts that I wanted to share with you this morning that talk about the budget, because we are going to be talking about the budget all week and are going to be passing for the first time since 1969 a balanced budget resolution. It will show a very important number at the end of the year 2002. It is a small number, it is a round number, it is the zero number, and that is going to be the amount of the deficit in 2002.

I want to show you this chart to begin with because I think it pretty well delineates where the problems are with the budget that we have to get control of. This is essentially the President's budget here. What you see is projections from 1995 to 2002. You will see the two accounts that are increasing or projected to increase twice as fast as any others, and those are Medicare and Medicaid, the medical accounts. Ten percent for Medicare, 10.3 percent for Medicaid. What about Social Security? Five point three percent.

One of the arguments that you are going to hear this week from the other side repeatedly is that well, we cannot possibly slow the rate of growth of health care spending, Medicare and Medicaid, because of the demographics, more people coming into the system, and because of inflation. Your numbers do not take that into account.

The fact is that Social Security takes that exactly and precisely into account, and, as you can see, the Social Security number increases at 5.3 percent per year. That is in the projected budget. This is our number, this is the President's number, this is current law. This is the say that it is, because we are not touching Social Security in this budget.

Yet, adding the same new seniors, because you qualify for Medicare at the same time you qualify for Social Security, and taking into account a cost of living adjustment, a COLA, and that does not even reflect the small adjustment we are projecting is going to take place in CPI, you can see that clearly Social Security does not run out of control, but Medicare and Medicaid do. So this is where the problem is with the Federal budget. This is where the challenge is in getting it under control.

The other here, which is everything else, is at 4.1 percent. If we move that down to about a 2-percent rate of growth, we win. Winning means winning for our children, it means winning for the future of this country, and winning for the next generation.

Let us look at the trust fund itself. This is the part A trust fund, Medicare. Empty in 2002. You can see, according to the projections, if we do not change things, this is where we will be in 2002. There will not be any money in that trust fund account.

I think better than the graphic illustration of it is exactly what the Medicare trustees concluded on April 3, 1995. This is under the worst case scenario. They said, "The fund is projected to be exhausted in 2001."

Now, who said this? Is this a partisan statement by Republicans who are trying to fearmonger so that senior citizens are worried they will not have Medicare to look forward to? Is that who is saying this? Is this created by Citizens Against Government Waste or the AARP? Has this been created by the Heritage Foundation or Cato Institute? Is it an interest group?

No, it is not. It is the trustees, the President's trustees, the trustees that must be appointed to guard the assets, to safeguard the future of the Medicare trust fund. Robert Rubin, Robert Reich, Donna Shalala, three members of the President's Cabinet. The fund is projected to be exhausted in 2001.

So what do we do? What is our solution? What we say is we are going to increase spending from $158 billion in 1995 to $258 billion in 2002. We are going to increase spending at the same rate of growth that Social Security is increasing, is growing. In other words, the same rate of growth that a very similar program that is a Federal program is increasing at, 5 or so percent. That is what we are increasing Medicare. That is not just on a gross basis, but also on a per capita basis, from $4,700 to $6,300 per recipient in the budget we are going to pass this week. It increases about 5 percent per year, the same amount as Social Security.

I bring this to your attention because what you are going to hear from the other side this week is a repeated chorus, a litany, over and over and over again, that we are cutting Medicare and that this is going to hurt seniors. These are the facts. Keep the facts in mind.

A SMALLER, LESS-INTRUSIVE GOVERNMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Arkansas [Mr. HUTCHINSON] is recognized during morning business for 5 minutes.

Mr. HUTCHINSON. Mr. Speaker, the House Committee on the Budget under the very capable leadership of JOHN KASICH is to be commended and congratulated for producing for us and for the Nation a credible balanced budget plan. As the budget plan was released last week amid the howls of those who would defend the status quo, one could almost sense a collective nationwide sigh as it sank into the American people that at long last there is a Congress that is dead serious about balancing the budget and confronting our debt problem.

The litany numbers had become all too familiar to millions of Americans: Seventeen percent of Federal revenues for interest on the debt; $200 billion deficits as far as the eye can see, $1 trillion of new debt in the next 5 years. We will pay more on interest than on national defense by 1997. The impending bankruptcy of Medicare is spelled out by President Clinton's own trustees; $18,000 in debt assumed by every new baby born in America.

But there is a glimmer of hope in America this week as we prepare to vote on this budget plan. Oh, it is mixed with a lot of skepticism. Twenty-five years of deficit spending breeds a lot of skepticism.

But there is a feeling that maybe, just maybe, this Congress means business. Under the GOP budget plan there will be a smaller, less intrusive and more efficient Government. It forces us to do what scores of corporations have had to do, and that is downsize and eliminate wasteful spending. It terminates 283 programs. As I talked about the budget in my district this past weekend, it was that line that received the most applause, above all others, 283 programs eliminated. It eliminates 14 agencies and 68 commissions. It makes real cuts in discretionary spending. And the squealing has already begun. We will hear from the "Prince of Wails" over and over this week as the defenders of the past wail "You can't do this."

Sure, there are provisions in the budget I wish were not there. But that is the beauty of it. Nothing is excluded. Everyone will feel the squeeze. While Federal spending increases each year under the plan, it increases at a slower rate to allow revenues to catch up with spending, or, as William Safire wrote yesterday of the civil war general, who instructed a gunner to "elevate them sights a little lower."

Under the plan, power and money are shifted back to the States and local communities. In welfare, Medicaid, nutrition programs, and job training, there is consolidation, elimination of needless duplication, and block granting to the States.

The budget plan would save Medicare from bankruptcy. On April 3d of this year, the Medicare trustees, three of whom are Clinton administration appointees, sounded the alarm with their warning that Medicare part A would run out of money in 2001. this budget plan puts a tourniquet on Medicare to stop the hemorrhaging while a task force develops long-term solutions. Meanwhile, the President has been unwilling to assist in finding those solutions. Here again, expect the fear mongers and the scare tacticians to be out in force.

Under the Committee on the Budget assumption, spending on every Medicare beneficiary would actually increase, from an average of $4,684 now to almost $6,300 in the year 2002.

But I believe that the most important feature of this budget plan is the tax relief for the hard-pressed American family. This budget plan provides for the full $500 per child tax credit. It provides for our correction of the marriage penalty. It allows the implementing of the adoption tax credit and the elder care credited. It allows for the raising of the earnings limit on Social Security recipients. These very meaningful pro-family policies will only be a reality if we pass the House GOP budget plan.

It was Alan Greenspan who, in pointing out some of the benefits that would happen if we balanced the budget, said if our economy was not constrained by Federal deficits, the balanced budget would mean a lower interest rate, higher productivity, improved purchasing power, reduced inflation, and accelerated long-term economic growth. Paul Johnson, the noted historian, asserts that the legitimization of envy is that which a stable society should fear the most. And there are going to be repeated efforts to legitimize envy by pitting one group of Americans against another group of Americans.

I think Thomas Jefferson, one of our Founding Fathers, said it best when he said, "To preserve our independence, we must not let our rulers load us with public debt. We must make our choice between economy and liberty, or confusion and servitude."

That is the choice that this Congress will face this week. I believe that most Americans know in their guts, most Americans know instinctively, that balancing the budget is the right thing to do, and we must do it for our children and for our grandchildren.

PRESERVING MEDICARE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. FOX] is recognized during morning business for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, my colleague that just spoke certainly has eloquently expressed the importance of making sure we preserve, protect, and make sure we continue Medicare as we know it here in the United States.

Medicare provides an important source of health security for 32 million of our Nation's senior citizens and 4 million disabled persons. But Medicare spending has been rising 10 to 11 percent a year, and if costs continue to soar, everyone will have to pay more.

Medicare can be preserved, protected, and improved while increasing its spending, but at a slower rate of growth. Last year in its annual report, the Social Security and Medicare board of trustees projected that part A trust fund, the hospital insurance trust fund, starts going broke in 1996. Next year the Medicare part A trust fund will spend $1 billion more than it takes in. The trustees who included Labor Secretary Robert Reich, Health and Human Services Secretary Donna Shalala, and then-Treasury Secretary Lloyd Bentsen, all members of the Clinton Cabinet, concluded that the Federal hospital insurance trust fund, which pays inpatient hospital expense, will be able to pay for only about 7 years, and is severely out of financial balance in the long range.

Again, Just last month, the trustees, including now-Treasury Secretary Robert Rubin, replacing Bentsen, issued an equally gloomy forecast, which indicated that the part A trust fund would be bankrupt by 2002.

The trustees have called for prompt, effective, and decisive action to save the fund from insolvency.

Despite recommendation of this Presidential commission and the disclosure by his own Cabinet officials, President Clinton has failed to act on Medicare. What is more, the financial pressure on Medicare will only grow when baby boomers start to retire.

Our efforts to protect Medicare from bankruptcy and to balance the budget by the year 2002 are taking place simultaneously. It is crucial that the American people understand that Medicare has to be reformed, irrespective of the budget deficit. Even if we had a zero deficit today, we would still have to take action that is prevention for Medicare's bankruptcy. It is a fact if Medicare goes bankrupt by law, no payments can be made for hospital care for Medicare beneficiaries or from any other trust fund paid services.

Just a few weeks ago it was not well known about this impending disaster because the Clinton administration had swept it under the rug. As Medicare travels the road toward bankruptcy, President Clinton has been AWOL, absent without leadership. He has even refused to participate in a bipartisan effort to save Medicare. Not until the Republicans stepped forward to talk openly and honestly about the Medicare crisis was anybody aware of the extent of the problem.

Republicans believe we owe it to our senior citizens to save Medicare from bankruptcy. House Republicans have determined to save Medicare by using new approaches, new management, and new technologies, to improve it, preserve it, and protect it. Congress has an unprecedented opportunity to want to take a fundament reform of the Medicare Program. Action on Medicare will run parallel to and occur during the same period as action on the budget.

One of the steps we will be taking is to create a Medicare preservation task force to look at the various proposals and determine what steps need to be taken to eliminate fraud and abuse in the system, and to make sure it is more efficient.

One of the other creative thoughts on the system is to make sure that we give our senior citizens incentive to cure the system by paying them 25 percent of any waste or fraud that they can find in their own bills. It would be one way to strengthen and empower our senior citizens in making sure a better system is improved.

House Republicans will increase Medicare spending, from $4,700 per retiree today to $6,300 per retiree by 2002. That is a 34-percent increase in Medicare spending per retiree. There is no proposed cut in Medicare. We will preserve the current Medicare system for seniors. No one will be forced into the system. But at the same time we need to develop a new series of choices so senior citizens can control their own destiny.

We want to enter into a dialog with the people and to make sure Medicare, that is important to all of our seniors, is, in fact, preserved.

We as a nation must undertake this effort to continue the dialog, to work together for change, and to make sure that both sides of the aisle are working to make sure that Medicare is preserved, protected, and, in fact, is even stronger in years ahead.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 42 minutes a.m.), the House stood in recess until 10 o'clock a.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 10 o'clock a.m.

PRAYER

The Chaplain Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, for the spiritual virtues that are the gift of Your hand and the promise of Your word. For faith to reach beyond the usual barriers of time and space, we offer our thanksgiving; for hope to see Your assurances and to claim Your promises, we offer our praise; for love to know fulfillment of all our endeavors and to relate to others in freedom and trust, we offer our adoration. May these gifts, gracious God, be on our lips and written in our hearts that we will be filled with Your gifts and enjoy Your peace that passes all human understanding. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. There will be 15 1-minutes on each side.

AN ABSENCE OF LEADERSHIP FROM THE WHITE HOUSE

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, Thomas Jefferson said, "We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves." And yet——

At the end of Friday, the national debt stood at $4,859,130,968,274 and 89 cents, an increase of roughly $2.3 billion from the day before.

The debt burden for each individual American, including those babies born over the weekend, now stands at $18,537 and 2 cents.

In the time it takes me to finish this short 1-minute speech, the national debt will have increased by another $1,597,222 and 20 cents.

Despite the financial and moral imperative to act, President Clinton has failed to demonstrate even the slightest interest in this matter.

It has been 75 days since we challenged the President to present his plan to balance the budget and 19 days since we asked him to help us help fix Medicare.

In the absence of leadership from the White House, Republicans have offered a blueprint to balance the budget by 2002 so that our children will have a future free from debt and a standard of living better than our own.

Mr. President, where is your plan. We are still waiting.

MEDICARE TAX CUT

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, the Republicans have now unveiled their slash-for-cash budget.

The Republicans will slash Medicare by nearly $300 billion to get the cash for a tax cut of that same amount.

How?

It's simple.

If you are a senior citizen, you will just have to cough up about $3,500 in out-of-pocket costs to pay for Medicare cuts.

Then, the top 1 percent of the wealthiest American families can rake in over $20,000 each in tax cuts.

See? Simple. Slash for cash.

In fact, the Republicans could make the whole process much simpler.

With this handy envelope.

Elderly Americans—those who guided us out of a depression and through a world war, those who educated us, fed us and led us—you just put your money in here.

Then send if off to the wealthy, in care of the Republican Party, here inside the beltway.

But, look at the bright side.

If the Republicans are feeling generous, maybe they will kick in for the stamps so that you seniors can send in your money.

NO WHITE HOUSE LEADERSHIP ON SAVING MEDICARE

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, this January, Mexico was near bankruptcy, and the Clinton administration mounted a furious effort to save it.

He might have been misguided or wrong. But at least he had the courage to be a leader.

Where is the President now that Medicare is on the same path to bankruptcy as Mexico?

He has made no proposals to save Medicare, even though his own Cabinet officials say it is going bankrupt.

He is not even willing to negotiate with Republicans who are trying to save it.

Mr. Speaker, the President is willing to save Mexico, but not the millions of senior citizens who rely on Medicare.

THE BUDGET

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute.)

Mrs. SCHROEDER. Mr. Speaker, we have now seen a new kind of socialism introduced in this new budget. It is called socialism for the rich. You cut the middle class so you can cut the richest's taxes. Yes, everybody gets cuts, but there is a big difference between a tax cut that equals $20,000 a year for people making over $200,000 a year and the cuts that are going to come to the middle class, which means the average family is going to be straining to help mom and dad pay the additional Medicare costs, the kids paying additional student loan costs, kids paying additional school lunch costs.

I do not think this is fair. I think the polls today show the Americans have figured it out. They do not think it is fair either. Let us go after some of those pet rocks in the budget that will put this budget in balance. We need it in balance, but not on the backs of the middle class so the fat cats can get one more tax break.

HISTORY

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute.)

Mrs. SEASTRAND. Mr. Speaker, we are on the verge of making history. For the first time since my 25-year-old son was born, Congress actually has a plan to balance the Federal budget. We made a promise to balance the budget and protect Social Security. We kept that promise. We made a promise to save Medicare from bankruptcy, and we are keeping that promise to preserve, protect and improve Medicare. This week we will vote on our plan to balance the budget and save the future for our children.

While we are making history, where is President Clinton? He is defending the status quo over change and defending big government over local solutions. That is not leadership, and that is ignoring a crisis and turning your back on the next generation.

We have several choices: savings Medicare or allowing the problem to become a crisis; giving the next generation the family farm or simply handing them the mortgage; putting the Federal Government on a sensible diet or allowing big government to eat Twinkies off the taxpayer's plate.

Mr. Speaker, I urge my colleagues to consider history this week and vote with me to provide opportunity for the next generation.

THE EPA AND SAN DIEGO

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, check this out. A Mexican spokesman said, Mexico has no money to honor NAFTA, and Uncle Sam will have to clean up the pollution on the border. Now that means that millions of gallons of raw sewage from Tijuana will contaminate the beaches of San Diego. It also means that San Diego will have to come up with $16,000,000 to build the treatment plant because Mexico was supposed to but they cannot. But the EPA says, in any regard, no one is going to build a treatment plant down there because you will endanger the habitat of the pocket mouse.

Beam me up. People in San Diego are swimming in raw fecal matter, and the EPA is worried about the pocket mouse. Ladies and gentlemen, why don't we let Mickey Mouse take care of the pocket mouse and EPA take care of the American people like they are supposed to.

I say maybe it is time we enforce NAFTA and also pass the clean water bill. It is a commonsense bill.

A BALANCED BUDGET

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, this week the House of Representatives will make history. For a quarter century Government has been the problem rather than the solution. Government policies have squandered our children's future, stagnated our workers' wages, assaulted our families' values and eroded our citizens' freedoms.

This week, once again the people will govern. We will vote on a program to transform the Federal Government by making it work for the people. Our plan will balance the budget for the first time in 25 years by making Government responsible.

Our balanced budget restores our children's American dream by ending the practice of squandering the children's inheritance on big government. It returns power to the people by ending the micromanagement of intrusive Washington bureaucrats. It prepares for the future by saving programs that would otherwise go bankrupt like Medicare. It restores democracy by making government officials public servants. The people of America want a balanced budget.

MEDICARE AND THE REPUBLICAN BUDGET

(Mr. HINCHEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINCHEY. Mr. Speaker, Speaker GINGRICH and the House Republicans are pulling a fast one on senior citizens by drastically cutting Medicare and using savings to fund a $350 billion tax cut for the wealthy. The Gingrich-Kasich budget plan will cut health care services for 37 million seniors receiving Medicare benefits.

Under this plan, Medicare growth will not keep pace with the rising cost of health care, the growth in the number of beneficiaries and the inflation rate.

The result of these cuts will be an additional cost to Medicare recipients of $1,000 a year—out of their own pocket—by 2002. To inflict these costs on seniors living on fixed incomes is inhumane.

Where I come from, a person is only as good as their word. The U.S. Government has made a covenant with senior citizens and I implore my colleagues to make sure the Congress honors Medicare promises.

By breaking this promise of a healthier life for tax cuts for the wealthy will mean turning our back on senior citizens and working American families.

By slashing Medicare to pay for tax cuts for the wealthy, Speaker GINGRICH is ensuring that the wealthy get a gold mine while senior citizens get the shaft.

URGING SUPPORT FOR A BALANCED BUDGET

(Mr. RADANOVICH asked and was given permission to address the House for 1 minute.)

Mr. RADANOVICH. Mr. Speaker, President Clinton claims he wants a Government that is lean but not mean. Today the Federal Government is big and mean. It takes 1 of every 4 dollars the average family earns. That is mean. The average family has to spend more to pay for the cost of Government than on anything else.

Big government is not just mean to our families. It is nasty to our children. This year the Federal deficit will skyrocket to $176 billion. The debt will explode to $4.7 trillion. That is $75,000 of debt for every family of four. Families beware—the Democratic leadership does not help you—they thrive on you.

There is a better, leaner way, and we are voting on it this week. It is our balanced budget and it puts the big, mean old system on a diet. Our balanced budget ends deficits by 2002, returns power, control, and money to families and restores the American Dream to our children.

I urge my colleagues to vote for leaner, not meaner, Government. Support our balanced budget.

REPUBLICANS AND MEDICARE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the public is not fooled by the Republican shell game.

They oppose Republican plans to pay for a tax break for the privileged few by cutting Medicare.

Today's Washington Post tells us that 56 percent of the people are opposed to the Republican plan to cut Medicare. They are not fooled by Republican claims of fixing Medicare. The public is on to the Republican scam of using Medicare as a piggy bank to pay for their tax breaks for the privileged few.

Rather than wiping out billions of dollars in tax cuts for large corporations, Republicans chose to slash support for the old and the sick.

The Republican chairman of the House Ways and Means Committee says he will not touch the billions of dollars of tax breaks for wealthy corporate special interests.

Mr. Speaker, let us go after the billions in corporate tax breaks before we stick a "sick tax" on our parents and grandparents.

MEDICARE GOING BROKE

(Mr. RIGGS asked and was given permission to address the House for 1 minute.)

Mr. RIGGS. Mr. Speaker, let me just respond to the previous speaker by pointing out the Washington Post also says, in a column entitled Which Budget, referring to the lack of any proposal from the House Democrats, "Democrat complaints about Republican budget plans have a hollow and unpersuasive ring."

Mr. Speaker, the silence of those on the other side of the aisle about Medicare is deafening. All we hear from them is more distortions, more hot air, no solutions. But do not take our word for it about the condition of the Medicare trust fund. Take the word of the Medicare trustees who said in their April 3 report, and I quote, "the present financing schedule for Medicare is sufficient to ensure the payment of benefits only over the next few years."

The bottom line? The fund is projected to be exhausted in 2001. This conclusion was reached by three of the President's own Cabinet Secretaries who also double as Medicare trustees: Secretaries Rubin, Reich, and Shalala.

Mr. Speaker, the American people are tired of this evasion. They are tired of the posturing. They sent us here to Washington to handle the Nation's problems, not to avoid them. Republicans are providing leadership while the White House and the House Democrats are providing scare tactics and class warfare demagoguery.

PAIN FOR SENIOR CITIZENS

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, what the Republicans really want to do over the next six years is privatize and eliminate Medicare. A couple of weeks ago I saw Speaker

GINGRICH on TV saying the cuts in the budget were going to be large but painless. Painless for whom, I wonder, Not painless for seniors and not painless for children.

The cuts in the budget are certainly not painless for the seniors in my district or across the United States. In fact, the Republican majority has proposed to slow growth or, as most of us would say, dramatically cut billions from Medicare over the next 7 years.

The Republican cuts would result in an increase in copayments, deductibles, and premiums for senior citizens in Houston, TX and across the country. The budget plan is a broken promise to working families and their parents.

The Republican majority has promised us they would balance the budget without devastating families and senior citizens. That is one promise they cannot say they kept. While I understand and promote the need for a balanced budget, there is a right way and a wrong way to do it. Balancing the budget on the backs of senior citizens while you give tax breaks is not what the American people want or hopefully the Republican majority would want.

BASIC MATH

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend is remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, I spent 24 years of my life as a teacher, and I thought for a few moments today we might go back to school.

Here, as you might remember from kindergarten, is a number line. What we were supposed to learn from that was that 3 is greater than 2 and 6 is greater than 4. But apparently some of us are slow learners.

As you will see from this next graph, these are the numbers for Medicare payments per recipient. On a scale that is uninterrupted so it is not distorted, as a result of the Republican plan to balance the budget. Please notice that we are now spending $4,700 per recipient in Medicare. By the year 2002, that will increase to $6,300. That is bigger than, larger than $4,700.

Let us see if we have got it right now: $6,300 is bigger than $4,700. So Republicans are not cutting Medicare.

HANG TOUGH ON AUTO TRADE SANCTIONS

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Ms. KAPTUR. Mr. Speaker, at this very moment our United States trade ambassador is announcing proposed trade sanctions against Japan for its unfair trade practices. After a decade, the executive branch of our Government has taken seriously Congress' mandate to open Japan's auto market.

Imposing penalties on Japan has my full support. In the weeks ahead, as Democratic cochair of the auto caucus here, I urge United States representative Mickey Kantor to hang tough for America and fight as hard as he can to increase our access to Japan's market. If this Nation were to achieve auto trade equity with Japan we could build 100 new factories in this country, each employing 5,000 people. That is how big the gap really is.

The United States has trade balances with every other major trading partner in the world but for Japan. So for Japan, the time has come.

□ 1200

TOP 10 TACTICS OF THE NEW MINORITY IN THE POSTCONTRACT PERIOD

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, from the home office in Scottsdale, AZ—here are the top 10 tactics of the new minority in the postcontract period.

No. 10. Change the name of "Medicare" to "Mediscare";

No. 9. Hire Freddy Krueger as the new liberal Democrat spokesman;

No. 8. Get Leon Panetta to take likeability lessons;

No. 7. Set up a new political action committee—the "Whine producers"—w-h-i-n-e;

No. 6. Insist that it is relevant to carp, complain, and sit on the sidelines instead of offering policy alternatives;

No. 5. Put an ostrich ranch here on the Hill to mimic the practice of putting heads in the sand to hide from problems;

No. 4. Insist that a bigger Federal Government is the only way to meet any challenge;

No. 3. Get the Department of Education to change the name of "addition" to "subtraction";

No. 2. Revise history to say the credibility gap was a good thing;

And the No. 1 postcontract tactic of the new minority—grouse, grouch, grumble, and mumble—do anything but cooperate.

SIMPLE ARITHMETIC: TAX BREAKS FOR THE WEALTHY PROVIDED BY BUDGET CUTS

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, and people back in the Ninth District, those who I talked to while I was out there, it is flim-flam time. You heard the Republicans on the other side say they are not cutting Medicare. CBO says they are cutting Medicare. They say the increase they give is far below the level that is estimated that is needed to maintain the current level of Medicare benefits required under current law. They say "Yes, we are increasing it," but what about all the other people, for current beneficiaries, they say, "What about all the other people that are coming?"

Mr. Speaker, if you take the tax break, the big tax break out of the budget, out of their budget, there is no need to cut Medicare one penny. There is no need to cut student loans, there is no need to cut agriculture and veterans' benefits, there is no need to do those things. They are doing it in order to give tax breaks to the wealthy.

It is very simple arithmetic. We had a gentleman there talk about classrooms. Yes, do the arithmetic. Take the tax break for the wealthy out of the budget and see what that equals. That equals more than the Medicare cuts for the elderly and the agriculture cuts and the student loan cuts.

IT IS TIME TO BALANCE THE BUDGET

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, once again I think we can see clearly that Medicare spending goes up from $4,700 per recipient up to $6,300 per recipient. It is not a cut, it is as simple as the figures right here.

Mr. Speaker, in 1969 Neil Armstrong set foot on the moon. Joe Namath predicted a Jets victory in Superbowl III and my home State, Ohio State, won the Rose Bowl. In 1969, that was the last time that Congress passed a balanced budget.

Today, 26 years later, the Republican majority is trying to repeat history. We have submitted a historic plan to once again balance the Federal budget. For the past 26 years, Congress let the Federal budgets grow and grow and grow. The social spending programs of the sixties ballooned and blossomed. They raised taxes, but they could not kick the spending habit. It is time, finally, that we balance this budget. We begin this week.

THE BOLD REPUBLICAN BUDGET

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, we have seen the charts, but there is one line they do not have on the charts, where they say that there is an increase because it goes up to $6,300 by the year 2002. They do not have the chart that shows where there is a $1,000 cut for every senior citizen beyond what their expenses would be. They do not have the chart that shows the increased co-pays for senior citizens. They do not have the chart that shows the increased deductibility. They do not have the chart that shows the increased insurance premiums, not only for senior citizens, but for all insurance premium payers. They do not have those charts, because they do not want to show them to you.

The fact of the matter is cutting Medicare goes for a tax cut for the upper income. Mr. Speaker, I have heard a lot of talk about how bold this budget is. Congratulating the Republican leadership for being bold by presenting this budget is like congratulating Lizzie Borden for being on the cutting edge.

BEING RELEVANT VERSUS BEING CONSIDERED RELEVANT

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, it has come to my attention that some politicians are only concerned about being considered relevant rather than being relevant.

According to Webster's dictionary, relevant is having significant and demonstrable bearing on the matter at hand.

Relevant is improving the standard of living for our children. That means ridding ourselves of deficits.

Relevant is having significant and demonstrable bearing on the deficits that are mortgaging our childrens' futures. That means balancing the budget.

Relevant is having significant and demonstrable bearing on the impending bankruptcy of Medicare. That means fixing the problem now.

Relevant is having significant and demonstrable bearing on the spiralling cost of entitlement. That means controlling the growth in the programs, such as Medicaid.

Relevant is having significant and demonstrable bearing on the bloated Federal bureaucracy intruding in the average citizens life. That means eliminate entire agencies and departments.

Relevant is doing what is right by our seniors and our children.

MEMBERS NEED TO STAND UP AND OPPOSE THE REPUBLICAN BUDGET PLAN

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, Medicare is being cut in the Republican budget proposal, make no mistake about it. They are reducing the projected spending level, which means higher co-pays, reduced benefits, and reduced services. Why? Why are they doing this? To pay for a tax break for the wealthy. It is a cut in Medicare to pay for a tax break for the wealthy. If there were no tax break in this bill, there would be no need for the reduction in projected spending in Medicare in this budget.

Mr. Speaker, we need to stand up and oppose this plan.

COME HOME, DEMOCRATS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the Democratic Party that once inspired our Nation by proclaiming "We have nothing to fear but fear itself" today has nothing to offer but fear.

The same party that once rallied Americans from the depths of the Depression today ignores the decline wrought by exploding Federal deficits. The same party whose leaders once warned of the dangers of welfare dole today defends a welfare state that traps the poor in dependency and despair. And the same party that marshalled the free world in the fight against Nazis today silently ignores an economic Dunkirk in Medicare.

There is an alternative for Democrats to this defense of the status quo. And it is well within the Democratic Party tradition. Our balanced balanced budget upholds the tradition of Jefferson by ending the practice of saddling future generations with debt. It affirms the tradition of Roosevelt by providing for a strong, effective government that prepares for the future. And it celebrates the tradition of Kennedy by spurring growth through tax relief.

Come home Democratics: Restore the American dream and the proud tradition of America's oldest party by supporting our balanced budget.

THE REPUBLICAN BUDGET IS A BAD IDEA

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, this week we can see what the Republican majority is all about: tax breaks for the wealthy, tax loopholes for special interests, increases in military spending. How to pay for those tax loopholes, how to pay for those special interest tax breaks, how to pay for military spending increases? By cutting student loans for middle class families, by cutting veterans' benefits, by cutting Medicare.

Nearly 37 million senior citizens will pay more out of pocket costs, will suffer a reduction in benefits, and will lose their right to choose their doctor. Cuts in Medicare, veterans, students, to pay for tax breaks for the rich. Mr. Speaker, I am a deficit hawk. I voted for the balanced budget amendment, but the Republican budget is a bad idea.

THE AMERICAN PEOPLE ARE READY FOR REAL ACTION ON THE DEBT

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, during the district work period and subsequently, many of us have had town meetings and conversations with the good people we were elected to serve. One message that has come through loud and clear is that the American people want Congress to work together to solve the great problems facing this great Nation. They know that the Medicare trust fund is going bankrupt. They understand that the burgeoning debt will destroy our children's economic future.

As Churchill reminded us, the American people did not cross the oceans, ford the streams, traverse the mountains, and deal with the droughts and pestilence because they are made of sugar candy. The American people are tough. They are ready for real solutions, but they will not accept simply lining up every day and yapping like a bunch of toy poodles while the debt balloons and Medicare goes bankrupt. The American people want real action. The American people are ready.

THE REPUBLICAN BUDGET WILL CUT MEDICARE AND NEEDED SERVICES TO STUDENTS AND THE ELDERLY WHILE GIVING TAX BREAKS TO THE RICH

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, we have looked at the charts and we have looked at the graphs. They keep talking about the fact that "We are increasing Medicare, we are not decreasing Medicare." It is like a friend of mine who made $100 a week back in 1960 saying he got a raise because he makes $150 now. You have to adjust for inflation, you have to adjust for more people going into the system. This is not an increase. In fact, it is a very large decrease.

In my area in southwestern Pennsylvania, if this Republican proposal to cut Medicare this much goes through, our hospitals tell us that half of the hospitals in southwestern Pennsylvania will close. Many of those hospitals get 60 percent of their money from Medicare reimbursements, because 1 in 5 residents in southwestern Pennsylvania are on Medicare.

Mr. Speaker, this is a budget that would in fact also cut student loans by $19 billion, that is an average of $5,000 a year, by charging interest to students while they are in college. We do not want to give them an education so they can get a better job, and when they get older, we want to take their Medicare away; also, so we can give $20,000 tax breaks every year to the richest 1 million Americans. Unfair, Mr. Speaker.

CONGRESS MUST AVOID RECKLESS BUDGET CUTS IN AGRICULTURE

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NETHERCUTT. Mr. Speaker, America is faced with a continuing dilemma: maintaining adequate food supply at reasonable prices for consumers while providing incentives for farmers to grow the crops needed in the country.

In 1980, food became a weapon of foreign policy with the imposition of the infamous Russian grain embargo. That embargo created huge crop surpluses and the result was massive commodity price declines. By 1981 farmers were looking to the Government for relief, because the Government-imposed embargo created the problem. Our Government then became the only market for farm products because foreign competitors filled the void created by restrictions on U.S. exports. Now, many of these countries have captured a great portion of former U.S. markets.

American farmers continue to face unfair pricing practices from the Australian Wheat Board and the Canadian Wheat Board. European Union farmers receive approximately $40 billion in government subsidies. American farmers can compete with foreign farmers, but not with foreign governments. Reckless budget cuts to agriculture will leave us farther behind in the effort to develop a free market for American agriculture.

REPUBLICANS TO REGULAR FOLKS: DROP DEAD

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, the Republicans have delivered their budget message, and what it says to regular, hard-working Americans is, in the words of a great headline: "drop dead."

The Republican message is that regular folks will get a lot less help to improve the schools that their kids attend; and when those kids get to college, there will be a whole lot less help to pay for it, and if they get student loans, they will pay much higher interest on those loans. For instance, they want to kill school improvement funds and totally eliminate library funding.

They would kill funds that help our schools provide special services to poor kids. They also would kill funds that allow college students to work off some of their loans through worthwhile community service—meaning that students and communities alike get hurt.

The Republican message is that if your town needs help to provide affordable housing, forget it. And if your town uses block grants to provide essential services, your town will get a 25-percent cut. In fact, the rule seems to be, if it is help for any kind of public service or public improvement, there will be a cut of at least 25-percent, and often a total wipeout.

The Republican message is, if you are sick or old or poor, or have to ride the bus to work, you will get less service or help and pay much more for what you do get.

The Republican message to regular folks is that no matter how hard you work, you will pay more and get less for every kind of public service, and you will get less help to educate yourself or your kids, and by the way, if you are hoping for some neighborhood improvements and your town needs help to finance the effort, forget that too.

At the same time the Republicans are saying they will give a tax break to the rich.

So if you are an ordinary, hard-working American citizen, the Republican message is that your life is about to get harder. The poor will be poorer, the ordinary will be harder pressed, and those who are struggling to help themselves will have to struggle harder.

The Republicans do not come right out and say it, but their message could not be plainer: They want the well-off to get better off, and the rest of us can pay for it.

ADMINISTRATION CHARGED WITH USING SCARE TACTICS, DISHONEST CLICHES IN BUDGET DEBATE

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, for several weeks, Democrats have attempted to use shameless scare tactics to dismiss the Republican plan to balance the budget. Americans see through this sham.

In recent days, administration officials Tyson and Panetta have suggested the budget does not really need to be balanced by the year 2002. Americans know better.

The Democrats are not fooling anybody. Even the Washington Post acknowledges that the Democrats' complaints are "hollow and unpersuasive." The Post calls the Clinton administration budget "weak and directionless." In fact, the Post urges the Democrats to "stop playing it cute," and the President to "lead on this issue."

It is disconcerting that the President of the United States would abandon the American people in this manner, but he has. He refused to submit a balanced budget. Thus challenge should be tackled in a bipartisan fashion with input from the Congress and the President. Unfortunately, the President has chosen not to contribute and House Democrats offer nothing but dishonest cliches.

URGING JAPAN TO OPEN MARKETS TO AUTO PARTS IMPORTS

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, the United States Trade Representative has just announced tariffs, 100-percent tariffs on 13 luxury automobiles made in Japan. One of them is the Infinity Q45. This chart shows what our problem is. That car sells for $85,000 in Japan, $54,000 in the United States. It is the same car. They have to ship it here, insure it in its shipping. How does that happen?

Mr. Speaker, the reason is the Japanese shelter, they protect their home market. They do not let competition in, so they can charge their consumers anything they want, and then sell the care lower in the United States, taking the profits in Japan to try to get market share in the United States. They are keeping auto parts out made in the United States that sell for one-third or one-fourth. We say to Japan "Open your markets. That is the issue. Open your markets. Compete. The United States is ready to compete. Won't you let us? It is about time."

DEMOCRATS ARE DISINTERESTED IN SAVING MEDICARE, BUT ONLY USE THE ISSUE TO WAGE CLASS WARFARE

(Mr. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRISTENSEN. Mr. Speaker, it is clear by the statements by President Clinton and most other liberal Democrats over the last week that they are not interested in saving Medicare. They did not propose any alternative, they did not propose any plan. Instead, they want to use the imminent insolvency of Medicare as an opportunity to wage class warfare.

Let me quote the trustees' report, the trustees appointed by President Clinton: They said:

> The HI Trust Fund does not meet the trustees' short-range test of financial adequacy. The fund is projected to be exhausted in the year 2001, 6 years from the present.

For our final math lesson for the day, when we increase Medicare from $4,700 a year for medical benefits received by a senior citizen to $6,300 a year for medical benefits received per senior citizen, that is an increase; $4,700 this year, $6,300 in the year 2002. That is an increase. No matter what the liberal left tells us, we are increasing Medicare.

□ 1040

REQUIRING MEDICARE TRUST FUND TRUSTEES TO REPORT CERTAIN FINANCIAL RECOMMENDATIONS

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1590) to require the Trustees of the Medicare trust funds to report recommendations on resolving projected financial imbalance in Medicare trust funds.

The Clerk read as follows:

H.R. 1590

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRUSTEES' CONCLUSIONS REGARDING FINANCIAL STATUS OF MEDICARE TRUST FUNDS.

(a) HI TRUST FUND.—The 1995 annual report of the Board of Trustees of the Federal Hospital Insurance Trust Fund, submitted on April 3, 1995, contains the following conclusions respecting the financial status of such Trust Fund:

(1) Under the Trustees' intermediate assumptions, the present financing schedule for the hospital insurance program is sufficient to ensure the payment of benefits only over the next 7 years.

(2) Under present law, hospital insurance program costs are expected to far exceed revenues over the 75-year long-range period under any reasonable set of assumptions.

(3) As a result, the hospital insurance program is severely out of financial balance and the Trustees believe that the Congress must take timely action to establish long-term financial stability for the program.

(b) SMI TRUST FUND.—The 1995 annual report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund, submitted on April 3, 1995, contains the following conclusions respecting the financial status of such Trust Fund:

(1) Although the supplementary medical insurance program is currently actuarially sound, the Trustees note with great concern the past and projected rapid growth in the cost of the program.

(2) In spite of the evidence of somewhat slower growth rates in the recent past, overall, the past growth rates have been rapid, and the future growth rates are projected to increase above those of the recent past.

(3) Growth rates have been so rapid that outlays of the program have increased 53 percent in aggregate and 40 percent per enrollee in the last 5 years.

(4) For the same time period, the program grew 19 percent faster than the economy despite recent efforts to control the costs of the program.

SEC. 2. RECOMMENDATIONS ON RESOLVING PROJECTED FINANCIAL IMBALANCE IN MEDICARE TRUST FUNDS.

(a) REPORT.—Not later than June 30, 1995, the Board of Trustees of the Federal Hospital Insurance Trust Fund and the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund shall submit to the Congress recommendations for specific program legislation designed solely—

(1) to control medicare hospital insurance program costs and to address the projected financial imbalance in the Federal Hospital Insurance Trust Fund in both the short-range and long-range; and

(2) to more effectively control medicare supplementary medical insurance costs.

(b) USE OF INTERMEDIATE ASSUMPTIONS.—The Boards of Trustees shall use the intermediate assumptions described in the 1995 annual reports of such Boards in making recommendations under subsection (a).

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Pursuant to the rule, the gentleman from California [Mr. THOMAS] will be recognized for 20 minutes, and the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before us today is H.R. 1590, a bill which would have the Board of Trustees for the Federal Hospital Insurance and Supplementary Medical Insurance trust funds submit specific recommendations on how to resolve the financial crisis facing Medicare in a reasonable timeframe.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was hoping the gentleman from Texas [Mr. ARCHER] would be here on this one because I was going to sympathize with him. This bill is not even worth the time of Congress to take up. This is a waste of time and a waste of money and a waste of effort. If you want a report like they are asking for in this, you can write the folks a letter down there and for 32 cents you can mail it to them or if it is official business, I guess it is, you can mail it under the frank and get the same response.

I thought this might be for real until I went home this weekend and one of my neighbors showed me the slick letter from the Republican National Committee in which they lay all this plot out that must have gone to the printer long before it ever became public up here, unless they send that slick magazine by the fax system. This is all laid out in the Republican national publication that is sent to all the wealthy folks in my congressional district seeking more contributions, in which they try to scare them to death by saying the Medicare system is going broke.

I was here and voted for Medicare and it had a life expectancy of a year then in the trust fund and it has never had a long life expectancy in the trust fund and a part of that is the trustees' way of telling Congress, "Well, don't be generous with the Medicare benefits because the system's always going broke."

Well, now it is only going to take 7 more years for it to go broke. That is a great improvement over past estimates which have been as low as 2 years and 3 years and one time it got up to 5 years. It has gotten a little further out sometimes or other during the economic cycles.

Yes, the Medicare system needs changes, incremental changes, but it is not going broke and I think that message ought to go out of here, and to be sending this bill through Congress to reinforce what the Republican National Committee is putting out is a travesty upon the Congress, it is a travesty upon the system, and it is a travesty to get the same information for a 32-cent letter to the trustees.

When you ask the trustees what is to go wrong with this program, you are asking the wrong people. You should be asking the people who have something to do with controlling the cost of expenditures in this program. They are the ones that are the experts in this area. The trustees are to just receive the money, put it in the bank and account for it and issue this annual report. They do not participate in the running of the program.

I am sorry that we are wasting this time here. I hope my Democratic colleagues will realize that this is a political ploy, not a real piece of legislation, will give it the kind of treatment it ought to have and, that is, vote "no" on it and let's let this thing go.

I am sorry we are costing the American public as much money as we are debating this senseless subject of asking for this trustees' report, but that is the way business is conducted around here now.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, we believe, is very important in moving us along in the process of saving Medicare so that the moneys will be there to pay the bills.

As we learned in our Committee on Ways and Means hearing on the status of the Medicare trust funds 2 weeks ago, the trust fund for part A is out of balance and heading to bankruptcy. Part B spending is increasing at an unsustainable rate, 12 percent per year.

We heard testimony expressing a sense of urgency about the condition of Medicare, an urgency which was also clearly reflected in the April 3 reports of the trustees for both parts A and part B of Medicare.

This Congress must recognize the crisis which the Medicare trustees have identified and we must act to preserve Medicare. However, first it is important to seek the most knowledgeable advice in considering a resolution for the problems facing the program. Congress should have the guidance of the administration and its Medicare trustees who have the responsibility for overseeing the entire program.

Those trustees are unquestionably in the best position considering their understanding of the Medicare program and the analytical resources at their disposal to provide guidance to the Congress as we begin this process to preserve the program.

When one reviews their combined education and training and experience in Government service and in the private sector, it is clear that they are uniquely qualified to rapidly provide us with recommendations and assistance.

Prior to his appointment as Secretary of the Treasury, the managing trustee, Secretary Robert Rubin, was responsible for overseeing the administration's domestic and international economic policymaking process. Last fall the President appointed him to co-chair the President's health care reform initiative.

Secretary Shalala is currently responsible for the Medicare program and has at her disposal literally thousands of Government employees responsible for the health entitlement programs and health policy generally. She was, as chancellor of the University of Wisconsin, responsible for the oversight of a 488-bed teaching and research hospital and she had a major role in shaping the President's health care reform policy.

Commissioner Chater also has considerable experience in health care and health care policy. She holds undergraduate and graduate degrees in nursing and she was appointed by the Governor of Texas, Ann Richards, in 1991, to chair the State's health policy task force.

Secretary Reich is an economist and former professor of economics. He along with the other trustees had a key role in development of the President's health care reform initiative which contained significant reductions in the growth of the Medicare program.

H.R. 1590 would have these trustees build on their important work on the Medicare actuarial reports to provide us with suggested solutions to the financial crisis that they have identified. I am confident that as they deliberated over the financial concerns of Medicare, they felt duty bound to begin to develop a strategy to avoid the collapse that their report predicts.

I believe the American people expect their political leaders to face up to the major issues of the day in a bipartisan manner and with the executive and legislative branches working together. This legislation provides for such an approach to solving Medicare's financial problems because the 4 trustees I have described serve at the highest levels of the current administration. Their guidance will lay a useful base for the Congress to join with the President to craft a solution that assures Medicare coverage for this generation and the next.

I urge my colleagues to approve this bill so that we can get on with the important work at hand on a bipartisan, collegial basis.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. GEPHARDT], the Democratic leader.

Mr. GEPHARDT. Mr. Speaker, I rise today to urge my colleagues to defeat this bill, to say no to this cynical strategy to force the Medicare trustees to figure out how to pay for tax cuts for the privileged few. Make no mistake about it, that is what the Republicans are trying to do with this bill. They produce a budget that reduces taxes for the wealthiest Americans, giving the richest 1 million Americans a $20,000 tax giveaway each year.

To fill that gaping budget hole, they want to carve almost exactly the same amount out of Medicare, taking money away from struggling seniors and their families to line the pockets of those who already have it made.

Americans have known for years that Republicans are no friends of Medicare. After all, many Republicans voted against the very creation of the program. Year after year when concerns have been raised about the solvency of the Medicare trust fund, about our ability to preserve Medicare benefits, not just for today's seniors but for future generations, Democrats have acted and Republicans have barely lifted a finger to help.

So why can they not just be honest about it? Why can Republicans not just say we want to cut Medicare and we want to give the money to the wealthiest Americans? If that is what they believe, they should have the courage to stand up and be proud of those beliefs.

Instead, they want to hide behind the Medicare trustees, to ask a group of overseers to make their deep and dangerous Medicare cuts. But we are talking about Medicare trustees, not tax cut trustees. To ask them to fund the Republican giveaways for the wealthy is to degrade their very purpose, to make them pawns to an extremist agenda. It is wrong and we should not stand for it.

Republicans claim to be concerned about the solvency of the trust fund. They say that they want to save Medicare. But if that were true, why would they have refused to help Democrats improve Medicare year after year until they needed a way to pay for tax breaks for the privileged few?

And why would they propose tax breaks that are far deeper than any that would be needed to ensure the solvency of the trust fund, following the time-honored Republican maxim, give tax breaks first, then ask questions later.

Mr. Speaker, I don't need a commission or a political fig leaf to tell me what these cuts would do to America's working families. In my State of Missouri, seniors would see their benefits slashed by $873 a year by the year 2002. A story on the front page of today's New York Times says there is simply no way to make these cuts, the largest Medicare cuts in history, without, and I quote, real pain.

The Times even quotes a Republican health policy expert as saying, and I quote, some of the providers will probably not survive the pressure. In other words, hospitals will close or cut services, not just for seniors but for everybody.

Last week's Washington Post quotes confidential Republican memos that show very clearly that under their plan Medicare deductibles will go up, premiums will increase, charges the Republicans continue to deny.

We need to talk openly and honestly about improving Medicare and making the trust fund solvent but not as a way to pay for tax breaks for the privileged few. Medicare is a trust fund. It is not a slush fund. It is about health care, not stealth agendas. This bill is nothing more than a political ploy and frankly while I do not agree with very much of the Republican agenda, I never expected them to try to hide from their own agenda.

Reject this bill. Throw away the fig leaf, and then let's have a real debate about Medicare based on policy, not on tax breaks for the privileged few.

Mr. ARCHER. Mr. Speaker, I yield 3½ minutes to the gentleman from California [Mr. THOMAS], the respected chairman of the Subcommittee on Health of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I want to thank the minority leader for a wonderful speech as he leaves the floor because it is not a speech for this particular bill at this particular time. It is an excellent political speech for some time in the future, perhaps. Today we have on the floor H.R. 1590. What it does is ask the trustees to tell us what their suggestions are as to how to save the trust fund. Last week, the full Committee on Ways and Means met and the trustees presented their report. In the conclusion, the trustees said that experience to date suggests that the prospective payment system has worked but extension of this payment system to other providers could provide another 5 to 10 years before the fund is depleted.

We are asking them to give us the specifics on their recommendation, on their conclusion of their report.

In addition, the report goes on to say, to facilitate this effort, the trustees further recommend legislation. They go on to suggest legislation in their report.

The minority leader was feeling very good about talking about tax cuts and Medicare. That is simply oil and water on the floor this morning. The bill says to report back, submit to the Congress recommendations for specific program legislation designed solely—solely—

one, to control Medicare hospital insurance program costs and to address the projected financial imbalance in the Federal hospital insurance trust fund in both the short and long range, and to more effectively control Medicare supplementary medical insurance costs—period.

That is what H.R. 1590 asks for. On the committee hearing, we asked the Secretary to provide some suggestions. She said she would be providing none. Had the administration been willing to cooperate and address the shortfall of funds in an openhanded, working together method, we would not be here on the floor asking this House to pass H.R. 1590. We must require the trustees to provide us with what they hinted at as one of the sources for changes.

As the minority leader attempted to raise the specter of partisanship in trying to solve the health care funding program for our seniors, I just would suggest that perhaps he and a few other Democrats look at health affairs, winter 1994, and an article by Guy King.

Who was Guy King? Guy King was the chief actuary of the Health Care Financing Administration from 1978 until July 1994, and played a significant role in developing the cost estimates for the Clinton administration's health care reform proposal.

One of the chief architects of the President's health care reform proposal said, "Even President Clinton's proposed health care reform legislation, with its ambitious and highly controversial cuts in the Medicare Program, would have had only a minor effect on the deepening financial crisis of Medicare part A, hypothetically extending the life of the program by only a couple of years at most."

The program has been in trouble for several years, the President's proposal would have bought only a couple of years, with all due respect to my friend from Florida, the trustees say this program is in trouble. Regardless of the arguments of making it a partisan argument, the seniors expect and deserve solutions to make sure that Medicare is sound.

Who else but the trustees of the program should be asked, what are your ideas to make the program sound?

Pass H.R. 1590.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, this bill is nothing more than a sham and a public relations gesture to mask the fact that Republicans are proposing $283 billion in Medicare cuts to pay for tax cuts to the well-off.

If Republicans care so much about Medicare, why did they not wait for policy recommendations before proposing Medicare cuts? This is a classic case of slash first and ask questions later.

The fact that cuts are proposed before getting advice is the smoking gun that proves that the Republican's real intent is to cut Medicare regardless of any objective recommendation.

We know why they have to cut Medicare. Medicare is the only place where Republicans can find enough money to pay for their Contract on America.

If Republicans care so much about Medicare, why did they take $87 billion in earmarked funds out of the Medicare trust fund to pay for tax cuts to wealthy seniors?

What makes this bill so obviously a sham is that the Medicare trustees who are being required by this bill to provide policy advice on the Medicare trust fund have absolutely no authority or basis for making policy recommendations. They are not Medicare experts or health policy experts. They are accounting fiduciaries.

But the Republicans did not go to the policy arms of Congress for recommendations. They went to the entity least able to provide recommendations and not designed to engage in policy functions.

They were afraid that the policy experts would tell them that they cannot slash Medicare without terrible consequences for Medicare beneficiaries, their families, and the health care delivery system.

They were afraid the policy experts would tell them that they have to expand coverage for everyone if Medicare is to be really safe.

They were afraid the people who know what they are talking about would tell them that Medicare savings need to be kept in the health care delivery system to improve coverage for seniors and their families.

Mr. Speaker, Republicans just discovered the trust fund problem while Democrats have worked successfully for decades to incrementally improve and extend the trust fund viability each year, often against the backdrop of Republican opposition.

The Nation that we suddenly need a 30-year solution by June 30 from an entity totally unsuited to the assignment does not even pass the straight face test.

We will address the trust fund problem as we always have. But we will address it outside the context of tax cuts and budget politics. We will address Medicare and the trust fund in the context of health policy, not arbitrary budget targets.

We will address the trust fund in the context of health reform that keeps our entire health care system stable, not according to campaign manifestos that Republicans never dreamed they would actually have to use to govern.

But we will never be able to give the American people confidence in the government, if Republicans continue to substitute ridiculous gimmicks like this bill for substantive approaches to health security for senior citizens and every American.

□ 1100

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. ENGLISH], a respected member of the Committee on Ways and Means.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I rise in support of H.R. 1590, a bill to require the Medicare trustees to submit to Congress real legislative recommendations that will keep Medicare from going broke.

Mr. Speaker, prior to taking office, in my previous career, I served as a public trustee of a major municipal pension system, and in that pension system I felt I had the fiduciary responsibility to preserve that system by recommending certain courses of action.

Unfortunately, the Medicare trustees currently have no legal obligation, notwithstanding their moral obligation, to use their expertise to guide Congress in preserving Medicare.

The trustees have told us notwithstanding what you have heard on the floor today unambiguously that the Medicare part A fund will go bankrupt by 2002.

Now we need the trustees to give us real options on how we can continue to grow Medicare at a rate where we can preserve it for future generations, and also protect the benefits of senior citizens.

The Clinton trustees, Donna Shalala, Robert Reich, Robert Rubin, Shirley Chater, have so far refused to offer Congress any real options. This bill would make them do it. Let us vote for it.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, every Member of this body knows that Medicare needs reform. But Medicare reform is a heat-seeking missile, and the purpose of this bill is to have Republicans avoid taking any heat. It is a last-minute idea to get someone else to make massive cuts in Medicare that are going to hurt seniors.

It cannot be done in 30 days in a reasonable fashion. It stops the trustees from looking at health care reform as it should be, in a systematic way. It is a mistake. It is going to be bad for the Nation's older people.

I urge my colleagues to vote against it.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Texas, Mr. SAM JOHNSON, another respected member of the Committee on Ways and Means.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today in support of this bill to require the Medicare Board of Trustees to make recommendations on resolving the financial crisis in Medicare. They reported on April 3 that the Medicare trust fund is going to be bankrupt at the latest by the year 2002. If nothing is done, this trust fund is going to go bankrupt and there will be no Medicare.

Clearly, this is not something that we can choose to address. It is something we must address.

Medicare is not simply a budget issue and should not be used merely to score political points. Our Nation's seniors deserve better than that.

Everyone, the Congress, the President, and his Cabinet must fulfill the duties of their offices by acknowledging the problem and offering solutions. So far the White House and Democrat congressional leadership have chosen to ignore the crisis in Medicare, and that is why this bill is necessary.

I hope the administration is listening. By refusing to address Medicare, they jeopardize the entire system. Americans say help us save Medicare. Vote "yes" on this bill.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. WAXMAN], a real expert in medical care.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman very much for yielding time to me.

Mr. Speaker, this debate has nothing to do with the saving of the Medicare part A trust fund. The Republicans are looking for huge cuts in Medicare, $283 billion over 7 years, far beyond any amount that is going to be needed reasonably to extend the solvency of the part A trust fund.

What is really going on here is that the Republicans' pollsters have told them if they are going to come out and cut Medicare to this extent the American people will not stand for it, so instead they have developed this ruse about the Medicare trust fund. It is very much like what went on in Vietnam. We burn down a village in order to save people. They want to burn down Medicare in order to save the part A trust fund.

I must say this is hypocritical. This trustee group that looks at the part A side is not the proper organization to give us the proposals for the massive cuts the Republicans are urging upon us. And we are being told that they can do it in 30 days, which is impossible.

And third, they are being told to come up with proposals for these kinds of reductions in Medicare far beyond what is needed to save the trust fund. But they cannot look at the whole health care system. They cannot look at the impact of these massive cuts, not just on the elderly, but on average working Americans who are going to lose their health insurance as well.

Mr. Speaker, I urge defeat of this proposal. I urge defeat of the budget that calls for these Medicare cuts, and I urge defeat of all of those who are going to go to the polls next year saying they saved Medicare by cutting it and gutting it.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. CHRISTENSEN], a valued member of the Committee on Ways and Means.

Mr. CHRISTENSEN. Mr. Speaker, Medicare is going broke, there is no doubt about that. The trustees of the Medicare trust fund, including four Clinton appointees, announced beginning next year that Medicare will spend more than it takes in. By 2002 it will be completely bankrupt. If this happens, no one in America will have Medicare, no one.

What did the Clinton appointees say? On page 13 they said under present law there is no authority to pay hospital insurance benefits if the assets of the HI trust fund are depleted.

On page 3 they said under all of the sets of assumptions, the trust fund is projected to become exhausted even before the major demographic shift begins. That is before the baby boomers hit.

What did President Clinton say? That is even harder to find, because he did not say anything. He did not say anything in the State of the Union Address, he did not even mention it in his budget. I think he has taken a walk on this issue.

I believe that the Republican leadership is dedicated to reforming, preserving, and improving Medicare. I believe the board of trustees should do the very same thing.

H.R. 1590 will simply require the board of trustees to give us their input on how to solve the Medicare crisis. It is as simple as that.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN], another real expert in medical care.

Mr. LEVIN. Mr. Speaker, I think there is a problem that we face with Medicare, but here is what this bill says: We Republicans will be general; you Democrats be specific. The Republicans are saying we will supply the sugar deficit reduction, you provide the medicine.

That is bad politics and bad policy. I say to the Republicans, say what you mean. All you talk about is generalities, setting up a commission.

Are higher part B premiums likely under your proposal, a deductible increase, a coinsurance for home health, a coinsurance for skilled nursing, et cetera?

This document that you have brought here is nothing but a smokescreen. It is an effort to try to avoid the responsibility that you have to be specific.

I urge that we vote against this because you are trying to default in your obligations and shift it to somebody else, and that will not work.

Mr. THOMAS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. BILIRAKIS], chairman of the Subcommittee on Health and Environment of the Committee on Commerce.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of this legislation. As a Member of Congress who represents one of the largest concentrations of older Americans in the United States, I am quite troubled by the 1995 Annual Report of the Board of Trustees of the Federal Hospital Insurance and Supplementary Medical Insurance Trust Funds. In their 1995 report, as has already been reported here many times. The trustees urged Congress to examine the Medicare Program because both trust funds are facing serious financial problems in both the short-term and the long-term.

The trustees expressed deep concern about the growth of the program's costs, especially given the past and projected costs of the program. The trustees also urged Congress to control the costs of the Medicare Program through legislation as part of "broad-based health care reform" because they indicated that "prompt, effective, and decisive action is necessary," using their words.

Mr. Speaker, the Medicare hospital insurance trust fund is financially out of balance, but spending growth by the supplementary medical insurance [SMI] part B trust fund also is a concern because the rate of growth is unsustainable. The cost growth directly affects Medicare beneficiary part B premiums as well as general revenues from which the largest share of SMI costs are financed.

Mr. Speaker, I think we all have to maybe look in the mirror and ask ourselves a question. Are we all truly concerned about saving Medicare or will we continue to use it as political demagogery as is done by some election after election. Maybe the fear is that if we solve the Medicare problem, it will not any longer be available for demagogery.

Considering the serious nature of this matter, the Congress in a bipartisan way, and I have not heard much bipartisanship here this morning, in a bipartisan way, and the White House must work together. We must protect current and future Medicare beneficiaries from the looming financial crisis.

The trustees have evaluated very carefully the Medicare program in great detail. They now must follow through. We have to basically mandate that they follow through with their recommendations to the Congress for legislative reform, and that is what this legislation is all about. It is a step in the right direction and will enable us to find solutions to the Medicare crisis.

For this important reason, I urge my colleagues to support this bill.

Mr. GIBBONS. Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan [Mr. BONIOR], the distinguished assistant Democratic leader.

Mr. BONIOR. Mr. Speaker, I thank my colleagues for yielding me this time.

Mr. Speaker, Republicans do not seem to understand, Medicare is a trust fund, a trust fund, not a slush fund, a trust between the people and their Government.

In their budget Republicans propose cutting Medicare by $288 billion in order to pay for tax breaks for the wealthiest few in our society, but they refuse to say exactly where these cuts will come from. Instead, they are trying to get someone else to do their dirty work.

First they tried to pass it off on the President, and that did not work. Then they tried to pass it off on House Democrats, and that did not work. So now they are trying to pass it off on the Medicare trustees' board.

There is not a single senior citizen representative who sits on this board, not one, and we all know what is going on here, Mr. Speaker.

□ 1115

Republicans have what the New York Times calls a secret plan to cut Medicare. That means higher deductibles, higher premiums, more copays for lab tests, for home health care, for skilled nursing care, and importantly, less choice of doctor for every senior citizen in America.

How are they going to do this? Well, in this resolution they are trying to hide behind the unelected board that does not have one senior representative sitting on it.

Let us be honest what is happening here: Their cuts in Medicare are not going to fix the Medicare system. If that is what they wanted to do, they would just do it. Senior citizens are going to pay $1,000 a year to give tax breaks to the wealthiest people and the wealthiest corporations in America. That is what their Medicare proposal does outlined in their memo. That is not fair. The American people know it is not fair.

Republicans cannot hide behind this meaningless resolution. I urge my colleagues to vote "no" on this resolution.

Mr. THOMAS. Mr. Speaker, I yield 1½ minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I rise in strong support of H.R. 1590, and I commend the chairman, the gentleman from Texas [Mr. ARCHER] and the chairman of the subcommittee, the gentleman from California [Mr. THOMAS] for their foresight in soliciting the views of the Medicare trustees on how we should address this problem.

We have heard from at least a couple of speakers on the other side a very cute phrase, "It is a trust fund, not a slush fund." The fact of the matter is, Mr. Speaker, the trustees have said their trust fund, our trust fund, the seniors' trust fund, is going broke. It is bankrupt. They will not legally be able to make any payments out of it if we do not do something to fix it.

In fact, they said very clearly in their report, "Medicare program is clearly unsustainable in its present form." And they said, "We strongly recommend the crisis presented by the financial condition of the Medicare trust funds be urgently addressed on a comprehensive basis." They are the fiduciary trustees. They are in a position to know something about the problems. They are in a position to make recommendations.

I think it is ironic that the detractors of this legislation argue that it is a political gimmick. Nobody argues it is going bankrupt. We cannot ignore it. We have to do something. We need to act now.

The Congress has a historic opportunity to do something about it. The trustees are in a position to help us, tell us what to do about it, make those recommendations. We should solicit their advice. Does it not make sense to hear from the experts, the fiduciary experts responsible for this trust fund?

We should vote "yes" on H.R. 1590.

Mr. THOMAS. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I thank the chairman for yielding me this time.

Prior to coming here to the U.S. Congress, I was a practicing physician in Florida. I, indeed, took care of a lot of Medicare patients. Fully half of my clinical practice was in taking care of Medicare patients, and I got to see firsthand the tremendous value to those people of having this program, particularly those low-income seniors who always were very comforted by the knowledge they could have access to good quality medical care under this program.

Unfortunately today, the way things stand, this program stands the real possibility of going bankrupt, and we, as Republicans, are proposing that we save the Medicare Program. We are not cutting anything. What we want to do is control the growth of the program.

Today in America, the Government spends $4,600 per senior citizen, and we are talking about allowing that program to grow to about $6,300 per senior.

But our colleagues on the other side of the aisle and the President, they propose no program, but just to let this program grow to the extent that it would cost $8,600 per senior citizen, and we are seeing we need to look at this program in a way to save it, to help our seniors to continue to have the quality access to medical care that they demand, that they deserve, and the Republicans are ready to act.

We are asking for some serious input from the trustees of the Medicare Program, and I support this bill, and I urge all of my colleagues to vote for it.

Mr. GIBBONS. Mr. Speaker, I yield the remainder of my time to the gentleman from California [Mr. STARK] who, I think, knows more about this program than any Member of Congress, House or Senate.

Mr. STARK. Mr. Speaker, I want to thank the distinguished ranking member for that eloquent introduction.

It is obvious that there are some people on the other side of the aisle who think they know more about this bill and about the Medicare program, but if this bill were not such a cheap, cynical effort to manipulate public opinion, I would be tempted to ignore it. It is not needed, and it accomplishes nothing, and nothing that cannot be done now without legislation.

It is technically flawed. It asks the wrong people to render opinions on issues that are not within their jurisdiction or their area of expertise or their mandate. At best, this is suggesting that the dog ate the homework. It is a prime example of Washington run amok, wasting everybody's time, money and creating unnecessary bureaucratic mishmaw when the majority is blindly casting about for someone else to fulfill its responsibility. They really have a responsibility to propose a budget along with the details that are necessary to meet the fairy tale requirements in their budget. No amount of effort to shift the responsibility to someone else is going to hide the basic fact that the Republican Party is intellectually bankrupt. It is offering us a flimsy outline of a radical fairy tale world populated by rich, white suburban lawyers and MBA's, a world without aging or poverty, with education by osmosis, and beggars on white stallions. Oh, to be a young Republican and naive.

Mr. DEUTSCH. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Florida.

Mr. DEUTSCH. Mr. Speaker, I wish to highlight a question to the distinguished chairman. Last year the facts regarding the program were the same, and in your subcommittee, I was curious about the Republican Members of the Republican leadership in terms of their response to the attempts with the program last year.

Mr. STARK. Reclaiming my time, the gentleman raises a very good question. Last year we had a health reform bill. We laid out specific Medicare savings. It would have reduced Medicare spending by about $168 billion over 7 years and improved the status of the trust fund, and we did not wait for the President's proposals, nor did we rely on alarming statements about the status of the trust fund, nor did we try and scare the seniors. We worked, and we came up with a balanced, fair, health reform plan that provided coverage for all Americans, and every one of the Republicans on the subcommittee and the full committee voted against those cuts. They turned their back on the medical trust fund last year when they had a chance to help seniors and other Americans who did not have health care. Where were they then? They took a walk.

And now they are still taking a walk. They still have not figured out what to do, and they are asking us to buy into this cockamammie plan.

The gentleman rises a great issue. Every Republican on the committee voted against bringing these savings. Ironically, the only action taken thus far by the other side for the solvency of the trust fund is to give seniors, rich seniors, a tax cut, and take it out of the trust fund, to take $87 billion over 10 years and give it to the richest seniors and cut the money out of the Medicare part A trust fund. That is the only thing they have come up with so far.

Why not do what the chairman of the Committee on the Budget has done and let the committee work its will, come out with details, show us what they are planning to do, as our minority leader and as our distinguished whip showed us in their comments just a moment ago, that they plan to cut the poorest of the Medicare beneficiaries, to increase their co-pays, to deny them choice of doctors and plans, to give them vouchers that will not work?

I urge you to show the emperor-Speaker has no clothes and vote "no" on this silly bill.

Mr. THOMAS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the gentleman from California is quite right. Last year the attempts to adjust the Medicare program were contained in an ill-conceived, comprehensive national health care program that had three things wrong with it: A majority of the Democrats did not support it, a majority of the Republicans did not support it, and a majority of the American people did not support it.

I will also say, in his attempt to reach for rhetoric, I am personally embarrassed for the gentleman from California to say the members of the board of trustees of the HI trust fund and the supplemental Medicare insurance trust fund do not have any knowledge about how to fix the program. Perhaps the gentleman, in his wisdom, forgot that one of the trustees was the Secretary of the Treasury, Mr. Rubin. Perhaps he forgot one of the trustees was the Secretary of Health and Human Services who oversees the entire Medicare program. She is one of the trustees. Perhaps the gentleman, in his rhetorical splendor, forgot that Shirley F. Chater, Commissioner of Social Security, is one of the trustees. Those are all President Clinton's appointees who are charged with running the program, besides statutorily being trustees of the trust fund. They have responsibility.

In their report they suggested in a general way legislative changes. Read the conclusion of the trustees' report. They said generally we should take programs that are in effect and extend them to other areas. What H.R. 1590 asks is to be specific in the recommendations that those trustees made, including the Secretary of Health and Human Services.

In addition, there has been great weight placed on linking fixing Medicare with tax cuts and arguing that our attempt to fix Medicare is because we want to spend it on taxes. Where were you folks a couple of months ago when the House of Representatives voted out tax cuts that were fully funded? Was a piece of Medicare funding used for those tax cuts? Yes. What was it? The only Medicare cuts suggested by President Clinton in his fiscal year 1996 budget. They totaled a munificent $10 billion, and they were extenders of current limitations. That is all the Democrats have offered from the Clinton administration. We accepted those and included them in the fully funded tax cuts.

What is in front of us is the bankruptcy of Medicare. Listen carefully: "Today Medicaid and Medicare are going up at 3 times the rate of inflation. We propose to let it go up at 2 times the rate of inflation. Today Medicare beneficiaries get $4,700. In 2002, we propose $6,300." That is going up, that is not going down. Who said, "Today Medicaid and Medicare are going up at 3 times the rate of inflation. We propose to let it go up at 2 times the rate of inflation?" President Clinton 2 years ago.

How interesting when you see an opportunity to make political hay with seniors. You refuse to give responsible suggestions for change.

H.R. 1590 is a responsible suggestion for change, and we urge its passage.

Mr. COLEMAN. Mr. Speaker, I rise in strong opposition to H.R. 1590, a bill to require the Trustees of the Medicare Trust Fund to report recommendations on resolving projected financial imbalances in the Medicare Trust Fund. I want to see the initiation of genuine efforts to save the trust fund, and to overhaul our health care system. This bill is merely a fig leaf for the Republican budget plan of providing tax cuts for the wealthy.

I think that the Republicans are entitled to propose tax cuts. I think that they are entitled to propose cuts in programs to pay for their tax cuts. But I do not see any reason that they should then be entitled to pass the buck when it comes to actually achieving those cuts.

If they want to provide billions of dollars in tax cuts for the wealthy, that is their prerogative. But they need to demonstrate the courage of their convictions. They need to illustrate their proposed cuts in Medicare by telling health care providers that their reimbursement rates will fall. They need to be able to look the elderly in the face and tell them that their out-of-pocket costs are going to increase $1,060 by the year 2002.

Or they need to drop the idea of providing a massive tax cut to the wealthy. If they are willing to do this, I think we would all be willing to search for ways to extend the longevity and the viability of the Medicare trust fund.

H.R. 1590 was rushed through Committee without hearings or public input. No effort was made to garner bipartisan support, and I will not support the bill now. I hope that the next time my colleagues on the other side of the aisle introduce the issue of reforming the Medicare Trust Fund, they do so with greater integrity of purpose. This bill should not be tied to their tax package for the wealthy. The issue is too important.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and pass the bill, H.R. 1590.

The question was taken.

Mr. GIBBONS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 247, nays 170, not voting 17, as follows:

[Roll No. 330]

YEAS—247

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis

McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—170

Abercrombie
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Towns
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—17

Ackerman
Barcia
Berman
Collins (IL)
Coyne
Flake
Foglietta
Ford
Hobson
Istook
Kleczka
Lipinski
Peterson (FL)
Reynolds
Rogers
Torres
Tucker

□ 1148

Mr. KANJORSKI changed his vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 995

Mr. ALLARD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 995.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Colorado?

There was no objection.

PERMISSION FOR ALL COMMITTEES AND SUBCOMMITTEES TO SIT TODAY AND BALANCE OF THE WEEK DURING 5-MINUTE RULE

Mr. ARMEY. Mr. Speaker, I offer a privileged motion.

The Clerk read as follows:

Mr. ARMEY moves, pursuant to clause 2 of rule XI, that all the standing committees and subcommittees of the House be permitted to sit today and the balance of the week while the House is meeting in the Committee of the Whole House under the 5-minute rule.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARMEY] is recognized for 1 hour.

PARLIAMENTARY INQUIRY

Mr. BONIOR. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BONIOR. May I inquire as to whether the minority will get the customary 30 minutes under this motion that we have historically been entitled to and have received?

The SPEAKER pro tempore. The Chair indicates that this is the prerogative of the majority leader.

The Chair recognizes the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, we have important work that we are trying to finish on the floor today. It has taken us longer than many of us thought would be necessary because we have tried to be as accommodating as we can to so many Members that have been interested in the Clean Water Act.

Nevertheless, it is necessary for this motion to be voted on, and I really do not think it is all that controversial a matter.

Mr. Speaker, for the purposes of debate only, I yield 15 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion may not be all that controversial on the gentleman from Texas' [Mr. ARMEY] side of the Chamber, but it certainly is controversial on our side. Let me just make this point. No. 1, I would have hoped we would have gotten the customary 30 minutes for debate, half of the time that is allotted under the motion that the gentleman from Texas makes. But given that we are not, let me make some points with respect to what the majority is trying to do to the minority.

Mr. Speaker, for the first few months of this Congress, we have had a process of consultation between the majority and the minority with respect to the issue of committee meetings during the 5-minute rule. And in almost every case, with few exceptions, we have been able to agree on this issue. But today the Republicans have gone too far. Today they are proposing a blanket waiver of the rule for an entire week, the very week that this House will be debating an historic budget resolution on this floor.

Under this motion, Mr. Speaker, Members will be tied up in committees, they will be voting on unrelated bills while the budget is being considered on the floor of the House. Why are they doing this? Why are they taking Members away from the action of the year, this budget, and placing them in committees to listen to hearings, to mark up other bills when the most important piece of legislation we could be doing this year will be on the floor?

Well, I guess, Mr. Speaker, if I were defending this budget resolution, which by the way in a poll in the Washington Post today we saw 60 percent of the American people indicated they were opposed to this resolution, a resolution that devastates Medicare and Medicaid and education and the proper investments we need in this country, I would not want a lot of debate either. I would not want a lot of debate either.

We just finished a resolution that deals with the question of Medicare, $300 billion cuts in Medicare in order to give a tax cut to the wealthiest few in our society. The point here is that every Member in this body should be available on the floor to participate in this historic debate.

That is why they want Members to be tied up in committee, Mr. Speaker, because they are concerned that the membership will rebel against what is clearly in the eyes of the American people and those who have watched this process one-sided, one-sided on behalf of the wealthiest people in our society; tax breaks, if you make $230,000 a year, get a $20,000 tax break. If you are a senior who is struggling, like Iris Doyle who I represent in my district, who lives under Social Security, and a small pension she has, if you are living on a small pension, on Social Security, you are going to be paying an extra $1,000 by the year 2002 under this proposal.

We want to speak out on that, and we want to speak out with all our voices. We do not want one, two, or three, or four people on the floor while we debate this bill. We think every Member of this institution ought to be here. This is an historic bill.

I was here in 1981 when we did the budget and we did the tax cuts. This is every bit, probably more significant in the impact it will have on Americans. There is a provision in here that is going to cost my students in Michigan an extra $4,000 a year to go to college because of what they are doing to student loans, not to speak of all the other educational cuts.

Every Member on this floor ought to be here.

Mr. Speaker, you cannot hide the facts from the American people, and this heavy-handed motion that is before us today to take Members away from this institution, this floor, will not help.

Now, the first problem is occurring today in the Committee on Commerce, and I am going to yield in a second to the gentleman from Michigan [Mr. DINGELL] to outline that problem, but it is not just the Committee on Commerce. This motion allows all House committees to hold markups for the rest of the week as I pointed out. On Wednesday we begin voting on this budget. On Thursday we hopefully will finish it and vote on it.

Why can we not allow Members to be in one place at one time to focus in on one issue, in fact the most important issue we will have to deal with probably in this session, debating this, in my view, an outrageous Republican budget resolution?

I think we know why: because it is indefensible.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, the House is going to make a decision on the budget for 7 years. Every year between now and the year 2002 is going to be affected by the actions that are going to be taken on the House floor. We are going to deal with policy. We are going to deal with economics. We are going to deal with interest rates.

Mr. Speaker, we are going to deal with employment. We are going to deal with Social Security. We are going to deal with economic issues. We are going to deal with the level of Federal expenditures. We are going to affect the rights and concerns of every American, from the very young to the very oldest and from the unborn to the dead.

I think to have these kinds of discussions and these kinds of decisions made while the committees and the subcommittees are marking up important matters, but matters nowhere near as important as that which we will be discussing today, is absolutely wrong. I would tell my colleagues that this resolution should not be agreed to for that reason.

I will also point out something else: This is one example of high-handedness.

□ 1200

Another example of high-handedness we will be seeing in the Committee on Commerce very shortly. A member has been added to that committee without a word of consultation with the leadership on this side of the aisle. Very shortly, without any consultation with the leadership on this side of the aisle within the committee, members will be having their concerns and their interests in the structure of the committees and subcommittees of the Committee on Commerce rearranged.

It is an interesting game that the Republican leadership is playing. What it says is that any time the Republican leadership chooses, they can change the composition of the teams on the field. If they do not like playing football with 11 men, they can put 12 or 13 men on the field, simply because they changed the rules, without adding another member on this side of the aisle.

That is an example of arrogance, high-handedness, and quite honestly, a series of practices which are totally inconsistent with the traditions and practices of this House, where the business, when the Democrats were in the majority, was always done in consultation with the minority, and when we were always exquisitely careful, both on the leadership level in the House and on the leadership level in the committee, to consult and to afford the Republicans full opportunity to be fairly treated and to be heard before actions affecting the structure of committees, subcommittees, and of the House, was taken.

Mr. Speaker, I urge my colleagues to rise up against heavy-handedness, high-handedness, and arrogance on the part of my Republican colleagues in connection with two matters: First, consideration of the budget resolution; and second, the structuring of committees and subcommittees.

Mr. BONIOR. Mr. Speaker, let me just buttress the arguments made by my colleague, the gentleman from Michigan.

Republicans have put a new member of their party onto the Committee on Commerce. We are entitled to another member on that committee. However, when our requests are made, they are met with silence. There is no response given to us. Business as usual.

That is what we have here, business as usual. They pass a resolution on the first day of the session on committee ratios, saying that we can only have two full committees, yet they have 38 Members that serve on more than two committees. That question needs to be addressed, and we intend to address it in due time.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I want to thank the gentleman from Michigan, the minority whip, for raising this issue.

I want to say to my colleagues that not only is it a question of members of one committee deciding to participate in debate on the floor on the budget or on the Clean Water Act or other measures, but we also have the situation where members of the Committee on Resources will be engaged in markup on the bill while at the same time their committee will be engaged in offering bills on the floor of the House under the current schedule.

That disenfranchises members of the committee from one of those two debates. They cannot participate and represent their constituent views in committee, or they cannot participate on the floor and represent their constituent views on those bills presented on this floor.

The same holds true for each and every member. This disenfranchises Republicans and Democrats alike, because if we have to go to committee to participate, we cannot be heard on the budget debate, we cannot be heard on the clean water debate. These are major, controversial, important actions, taken by this Congress.

I think the minority whip has it about right, that they seek to submarine this debate. The reports are coming in from the precincts. The American people are terribly upset by what the Republicans are doing to Medicare, what they are doing to student loans, and as we saw, what they were doing to student nutrition.

The fact of the matter is, the public does not like this plan, so what is their proposal? To disenfranchise Members of Congress from participating in this debate, from echoing the views of their constituents back home, and to try to keep them locked up in committee activity that is nowhere near as urgent or as important as the budget debate and or the clean water debate.

Mr. Speaker, I thank the gentleman for raising this issue.

Mr. BONIOR. I thank my colleague for his remarks, Mr. Speaker. He is right on target.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, let me make clear we are not talking about abstractions here. Last week, Mr. Speaker, we had in the Committee on Banking and Financial Services the single silliest day in the history, I believe, of the House of Representatives.

We voted in the Committee on Banking and Financial Services the week before to pass out a deregulation bill, but while we were having the rollcall on that bill, a rollcall was in progress on the floor of the House, because the committee was meeting simultaneously with the floor proceedings.

In fact, the chairman, an honorable man, trying to do his best under a set of silly rules, had called a rollcall on an amendment, and he announced that there would be a rollcall right after that on the bill. Many members, mostly Republicans who voted first on the amendment, did not hear that, so they left. They came to the floor.

As a result, last week, all the members of the Committee on Banking and Financial Services interrupted what we were doing, those who had gotten the notice, and we sat in the Committee on Banking and Financial Services and we pretended to vote on the banking bill. The only reason we had that meeting to vote on the banking bill was that the week before we had a simultaneous rollcall in committee and a rollcall on the floor. Some of the Republican Members were distressed because, having left to vote on the floor rollcall, they missed the rollcall in committee. That is what we are inviting when we have simultaneous rollcalls on both levels, we get this kind of problem.

Mr. Speaker, it was the Republicans who insisted that the chairman of the committee have this phony meeting. We all sat there, it was like a play, and we all voted. It was the silliest waste of time ever. Why? Because of this kind of tactic.

Therefore, what we have here is that the Republicans took power in January and announced this wonderful contract and all these rules changes, but we should have checked the warranty on the contract, because apparently, on the rules changes, it was good only until inconvenient. I have never seen people profess good intentions, as they define them, and so little live up to them as we have seen here.

The kind of burlesque that we had in the Committee on Banking and Financial Services last week, where we had a rollcall vote, a solemn rollcall vote solely because some Republican Members had missed the previous rollcall vote because there was another rollcall vote going on was silly, but what the Republican leadership wants to do is to create the circumstances in which that silliness will recur.

Mr. BONIOR. Mr. Speaker, to conclude, let me just ask my friends and colleagues today, please do not put themselves in the situation where they are not here defending the interests of their constituents by being away, by being at another markup, by being at another hearing, on the most important piece of legislation that we will consider perhaps this year, the budget of the United States of America, that will have serious consequences for seniors, for students, for middle-aged children who have to support seniors; an important bill.

Let us not play Casper the Ghost and have people participating in one or two different places at the same time. Let the sunshine pour through these Chambers so every Member can be here, can participate, and can be a full participant in the democratic process.

Mr. Speaker, I urge my colleagues to vote against this motion, and to give themselves the affordability and the comfort of being able to participate in the budget debate.

Mr. Speaker, I yield back the balance of my time.

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if I can just take a moment to put back into perspective a point that has been stretched beyond belief, what we are doing here is asking the Members to vote to enable the committees to sit during the 5-minute rule while we continue to work on the Clean Water Act.

In particular, the work that we want to see continue in committees while we are on the Clean Water Act on the floor is the hearings of the Committee on Commerce on telecommunications, which has been the only objection that has been raised.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker pro tempore [Mr. BARRETT of Nebraska] announced that the ayes appeared to have it.

Mr. BONIOR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 235, nays 181, not voting 18, as follows:

[Roll No. 331]

YEAS—235

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—181

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren

Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—18

Ackerman
Berman
Boucher
Collins (IL)
Cooley
Cox
Coyne
Evans
Franks (NJ)
Hoyer
Istook
Johnston
Kleczka
Lipinski
Peterson (FL)
Porter
Torricelli
Tucker

□ 1227

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on H.R. 1590, the bill previously considered.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 4, LINE-ITEM VETO ACT

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–121) on the resolution (H. Res. 147) providing for consideration of the bill (S. 4) to grant the power to the President to reduce budget authority, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 219, REGULATORY TRANSITION ACT OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–122) on the resolution (H. Res. 148) providing for consideration of the bill (S. 219) to improve the economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ESTABLISHING TIME LIMITATIONS FOR CONSIDERATION OF ADDITIONAL AMENDMENTS TO H.R. 961, CLEAN WATER AMENDMENTS OF 1995

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that on the clean water bill which we will be considering in the next few moments that we establish time limits as follows:

In title VIII on wetlands:

One hour on the Boehlert substitute to title VIII; 30 minutes on the Gilchrest amendment to delete wetland delineation; and 20 minutes on all other amendments which will be considered, excluding title X for which no time limit will be set, and specifically the amendments to which I refer, which will have 20-minute time limits, are as follows:

The Gilchrest-Dingell amendment on migratory waterfowl; the Frelinghuysen amendment on delegated programs; the Wyden amendment to prohibit compensation; the Minge amendment with regard to permits for the Department of Agriculture; the Riggs amendment on certain wastewater treatment facilities; the Taylor amendment to require consideration of beneficial uses of dredged material; the Pallone amendment, which will be two amendments en bloc; and the Franks amendment to limit changes in title IX, with the time to be equally divided by the proponent and opponent of the amendments.

□ 1230

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Pennsylvania?

Mr. MINETA. Mr. Speaker, reserving the right to object, I would like to inquire of the chairman of the committee, as he has just outlined, from what I can garner on this, that takes us up to roughly 6 hours and 40 minutes, if we have votes on all of the 10 amendments being offered, plus the 1 hour on the Boehlert, 30 minutes on the Gilchrest and 20 minutes, altogether that takes us a total, including voting, of 6 hours 40 minutes. Even if we start right now that would take us to 7:10 this evening.

I am wondering, given the request being made here, my preference right now is to just agree to the 1 hour on the Boehlert substitute, or to then have a time agreement through completion of our work in the Committee on the Whole. That would then take us through the completion of title X as well.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I would say to my good friend that would be my preference also, but we have not been able to work out an agreement on title X at this point. We are still attempting to work out an agreement on title X, so at this point we only have agreement up to through title IX.

I would also point out to my friend that some of the amendments I believe will be accepted, so we should not have recorded votes and will not take a full 20 minutes. And I would hope that even on some of the contentious amendments, we will not use the full time.

Mr. MINETA. Mr. Speaker, further reserving my right to object, it seems to me that without some idea about what is happening, what is going to happen in title X, I would have some reservations on the time limitation that is being outlined here. I am wondering, pending our being able to complete that discussion, could we just agree to the 1 hour on the Boehlert substitute for the time being?

Mr. SHUSTER. Until the conclusion of the 1 hour consideration, I have no problem. What about Gilchrest as well, to include Boehlert and Gilchrest?

Mr. MINETA. Thirty minutes on the gentleman from Maryland [Mr. GILCHREST], that would be fine with me.

Mr. SHUSTER. Mr. Speaker, I revise my unanimous consent request to include only the first two amendments, the Boehlert amendment for 1 hour and the Gilchrest amendment for 30 minutes.

The SPEAKER pro tempore. Is it the Chair's understanding that would include other amendments thereto?

Mr. SHUSTER. Mr. Speaker, I would expect to make a unanimous-consent request on the remaining amendments at the conclusion of either Boehlert or Gilchrest, but my unanimous-consent request at this point is only for the Boehlert and the Gilchrest amendments and the amendments thereto.

Mr. MINETA. Further reserving the right to object, Mr. Speaker, let me yield to our colleague, the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman for yielding. It is my understanding that title X will in effect act as an amendment to a previous amendment brought to the floor and passed relative to the Coastal Zone Management Act.

If the new title is accepted and is voted affirmatively, I would like to reserve the right, if that is the necessary language, to offer a substitute to the bill, which would in effect amend title X. I understand that I have the right to do that under the current rule, and I would like to affirm that that is in fact the case and that nothing being done here would abridge that right.

Mr. SHUSTER. Mr. Speaker, if the gentleman will yield, I would say to my friend nothing would abridge that right. This does not deal with title X at all and my friend would be protected.

Mr. SAXTON. I thank the gentleman.

Mr. MINETA. Mr. Speaker, again, based on the 1 hour for the Boehlert substitute and the 30 minutes on the Gilchrest amendment, I have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. It is the understanding of the Chair the distinguished gentleman from Pennsylvania wants to pursue the unanimous consent request?

Mr. SHUSTER. The Chair is correct.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CLEAN WATER AMENDMENTS OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 140 and rule XXIII the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 961.

□ 1235

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act, with Mr. MCINNIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, May 15, 1995, pending was the amendment offered by the gentleman from New York [Mr. BOEHLERT].

Under the order of the House of today, there is 1 hour of debate remaining on the amendment and any amendments thereto, equally divided between the gentleman from New York [Mr. BOEHLERT] and the gentleman from Pennsylvania [Mr. SHUSTER].

The chair recognizes the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. BORSKI], the ranking member of the Subcommittee on Water Resources and the Environment.

Mr. BORSKI. Mr. Chairman, we have heard a lot about how the States know this program better than anyone else.

This amendment would strike title VIII of the bill and substitute the Wetlands and Watershed Management Act of 1995 proposed by the National Governors Association.

This is the proposal of the Nation's Governors on wetlands.

This amendment is similar to the amendment that I offered in committee and identical to the wetlands language in the Saxton substitute that was offered last week.

It is clear that the States do not like what this bill proposes for the wetlands program.

Here is why: The bill will eliminate protection for 60 to 80 percent of the existing wetlands.

In my State of Pennsylvania, 40 percent of all wetlands will be removed from protection, including more than 150,000 acres of floodplain wetlands that protect the Chesapeake Bay from polluted runoff.

In New Jersey, 35 to 50 percent of all wetlands would lose protection.

In Delaware, more than 50 percent of the wetlands would lose protection.

H.R. 961 decides, without regard to science, what wetlands will be protected and which will not.

There are serious problems with the administration of the wetlands permitting program, but H.R. 961, by eliminating protection for so many wetlands, does not solve them.

The National Governors Association has proposed a fast-track system for minor permits and an advisory committee from all levels of government to reduce duplication and overregulation.

On March 7, Mr. Chairman, the Association of State Wetland Managers pleaded with the Transportation and Infrastructure Committee not to adopt the language in title VIII.

Their testimony said H.R. 961 will create a program,

> That will result in massive Federal budget requirements, lead to environmental degradation and result in bureaucratic quibbling. Please do not create a new wetland regulatory program that is not fundable, not implementable, and not acceptable to the States.

The State association predicted that the 2 States, New Jersey and Michigan, that currently have assumed the section 404 program and the 13 that issue programmatic general permits will give back their programs if title VIII is adopted as written.

This amendment also includes the same exemptions for agricultural uses and the same expanded role for the Department of Agriculture that were included in the Boehlert-Roemer-Saxton substitute that we considered on Wednesday.

The Agriculture Department would have the sole authority to perform delineation of agricultural lands.

I urge my colleagues to take this opportunity on this amendment to show that we really do want to listen to the voice of the States.

Vote for this amendment, vote with the National Governors Association and back up all the words about a new partnership with the States.

I urge Members to vote for the Boehlert National Governors Association amendment.

Mr. SHUSTER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Texas [Mr. DELAY], the distinguished majority whip.

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding me this time and I appreciate all the hard work the gentleman and his committee have done.

Mr. Chairman, I rise in opposition to the Boehlert amendment. Like the Saxton-Boehlert substitute amendment which was soundly defeated, this amendment seeks to undermine everything this House accomplished during the first 100 days of this session to promote regulatory reform and property rights.

First, it strikes all property rights provisions, including the right to compensation for property owners whose land is devalued by more than 30 percent due to Federal wetlands regulations. These provisions are identical to provisions in H.R. 925, the Private Property Protection Act, which the House passed on March 3 with 277 votes, including 72 Democrats.

My colleagues, let us not reverse the strides we made so recently for the rights of private property owners when it comes to wetlands regulations.

Second, it eliminates the three-tier classification system created by the bill which is designed to give greatest priority to those wetlands that are in most need of protection. This flies in the face of common sense. Every wetland is not the same. The current expansive definition of a wetland is the root of the overregulation so onerous to this country's municipalities. Only by making critical distinctions will we ensure sensible conservation and a healthy future for our local and national economies.

And third, it removes provisions that streamline the current highly bureaucratic system for wetlands permitting, giving four agencies the power to veto a wetlands permit application. This is sheer and utter nonsense. I spoke last week about Lake Jackson's current difficulties in the permitting process. I can only imagine the cost in time, money, and effort the city would expend in merely getting through the submission process if this amendment were adopted.

The American people have been crying out for relief from the intrusiveness of Government, and applauded heartily when the House voted overwhelmingly to give it to them. We cannot go back on the contract we made with America to bring sound science and common sense to the regulatory process, as well as to take into account the rights of property owners. I strongly urge a "no" vote on the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me this time and compliment our colleague, the gentleman from New York [Mr. BOEHLERT], for the leadership he has demonstrated so vigorously and intensively on behalf of clean water and particularly, in the case, on the wetlands issue.

Mr. Chairman, our Nation was rich in wetlands when the settlement of America began. But civilization took its harsh toll: agriculture, highways, railroads, cities, suburbs, exurbs, flood control, destroying the wetlands along our Nation's major riverways and our coastal waterways. All in the interest of progress and without concern for an understanding of the enormous power and strength of the wetlands as a filtering device, preventing sediment from getting into the streams, preventing pollution from getting into our major waterways, estuaries, and lakes.

By the time I was elected to Congress in the mid-1970's, the lower 48 States had been diminished in wetlands by half. Our migratory waterfowl have declined in numbers over the years, and few are here in the Chamber today who can remember, but all of us surely should have studied the dust bowl days of the 1930's caused, not by drying up of the rains, but by man's thoughtless and senseless use and overuse of the land, draining the wetland-rich prairie pothole region of America's midsection.

One-third of our endangered and threatened species are sheltered by wetlands.

□ 1245

Coastal wetlands are the nursery and spawning grounds for half to 90 percent of the Nation's fish catch. Wetlands protect against floods. They recharge our groundwater. They filter pollution. They store water for recycling. They are a buffer against erosion.

We used to call them swamps and bogs and worse and drained them, dredged them and filled them in, then dug them up to grow crops on them and put housing on them and pave them over. We cannot do that any longer.

We are today at the point where I am reminded of the commons of medieval England where herdsmen were accustomed to bringing as many of their sheep as possible to graze on the commons pasture. They overgrazed and overused it and war and disease reduced the commons to a place of filth and destruction, and the carrying capacity declined, and so did the commonality of civilization until the people realized that they needed to restore the commons and build it back.

The tragedy of the commons is a story about mankind's determination to populate the planet to death and develop it to death. One farmer can benefit by putting one more sheep on the commons even though each time they do so they degrade it. That is what we are doing to the wetlands, putting more and more pressure on them, degrading and destroying these irreplaceable storehouses of water.

Let us work together to learn the lesson of the commons and let it not be the epitaph for our generation that we permitted the destruction of our commons, the nation's wetlands. Please support the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the issue of wetlands is a tremendously difficult issue. I think both sides have done a good job of actually trying to improve a piece of legislation that has had some difficulty in the area of the definition of wetlands.

But I learned something, and that is development is forever. I saw a man at Rehoboth Beach, DE, one day. He said, "Mike, have you ever seen a shopping center converted into a park?" The answer, of course, is "No," and I would ask, "Have you ever seen a wetland which has been used for some other use ever converted back to a wetland?" And the answer to that is also, "No."

Sometimes we talk about substitute wetlands. The bottom line is once you lose them, they are lost forever.

There are some problems, I think, with the present legislation. There are costly delays and vague regulations. The farmers and homeowners do properly, I think, complain about wetland permit decisions and the time it takes to get them. The availability of general permits for projects having minimal impact on wetlands should be expanded, and I believe the Boehlert amendment addresses each of these very, very well.

The amendment adopts the National Governors' Association proposal on wetlands. The Governors' proposal would help coordinate protection efforts in the most efficient use of States' scare resources and minimize inconsistency between State, Federal, and local programs.

Wetlands management should be integrated with other resource management programs, and I cannot stress that enough, such as flood control, allocation of water supply, protection of fish and wildlife and storm water and nonpoint source pollution control. Wetlands delineation criteria and management policy should recognize the significant regional and even State variants of wetlands, and land use regulations are traditionally a State and local function, and decisions on wetlands management should be made at the local level.

They really differ. They differ from my State of Delaware than from California or Texas or Maine. They differ all over the United States of America, and we should give that authority back to the States and the Governors where we can, and I believe that made a lot of sense when they came up with that particular program which addressed all of these issues.

In addition to that, the Boehlert amendment implements a fast track permitting process for minor and general wetlands permits that is absolutely needed in America and provides technical assistance.

For all of these reasons, I would encourage each and every one of us to consider this amendment. Look very carefully at it.

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Iowa [Mr. LATHAM].

Mr. LATHAM. Mr. Chairman, I thank the chairman for yielding me this time.

I rise today in strong opposition to the amendment to title 8 offered by my good friend, the gentleman from New York [Mr. BOEHLERT].

First of all, let me say that everyone who will speak against this amendment today shares a commitment to protecting genuine wetlands. The key issue, as I hope to demonstrate in a moment, is how broadly a wetland is defined. Because if you are a bureaucrat with the EPA or other Federal agency, wetland does not mean something is a pond or a bog or a swamp or a marsh. In fact, over the last 8 years, we have seen areas defined as wetlands where water never actually stands or where there is a low spot in a cornfield, and regulators, in their never ending search for more control, have stretched laws designed to affect navigable waters so that they can regulate farmland in north central Iowa that is at least 100 miles from any navigable water. That is how the environmental extremists come up with their astonishing claims about wetlands being left unprotected by this bill.

In the ideal world the overwhelming majority of Americans currently live in areas that could be defined as wetlands. If you define everything as a wetland, no matter how against common sense that definition may be, you can pretty much give yourself the right to regulate what every American does with his or her property.

Property owners and the general public no longer know what a wetland is. They expect to see a swamp or marsh or bog, only to be told by regulators that land that is usually dry is a wetland or that a set spot in a field of corn is wetland. This abuse has gone on far too long.

The current guidelines can allow an area to be called a wetland even if water never stands on it or even if the surface on the ground is never saturated.

As these photographs will demonstrate, the term "wetland" no longer means what the everyday commonsense interpretation suggests or what Congress envisioned as the limits of Federal regulatory jurisdiction.

The first photo is what we would all believe would be a wetland, obviously saturated, a pond. The problem today with the definition is that this land up here is also considered to be a wetland, far beyond the scope and definition of what should be considered. These photographs also show this is land under cultivation. The regulators can now say it is a wetland or have determined to be a wetland even though they have been in production for years and years. You can see obviously this land has been or is slightly damp, but in a couple of days in north central Iowa this will be dry. It has been under production probably for well over 100 years, generation after generation, and now a Federal regulator is coming in and telling this farmer he can no longer farm that land, and it has totally gone out of control.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. LATHAM. I yield to the gentleman from Maryland.

Mr. GILCHREST. It is my understanding that prior to converted cropland, any land converted to cropland prior to 1985 does not fall under jurisdiction of wetlands by any Federal agency. There are also a number of farms and ag areas around the country that can continue to farm wetlands even though they still function as a wetland. They can continue to do that

Mr. LATHAM. Reclaiming my time, if that is the case, then why are there Federal regulators out today in prior converted agricultural lands defining that as wetlands, changing the use those people have? This is a very important point, a point that has to be gotten through to many of you people who continually think that agricultural land or that somehow we are abusing the wetlands. These lands are in production. They have continued to be. A lot of the tile in here was hand dug and today regulators are saying they are not.

Mr. GILCHREST. If the gentleman will continue to yield, the confusion on that, the Boehlert amendment completely eliminates that.

Mr. LATHAM. I understand that. By your definition, you will continue to have regulators out there defining that as wetlands. You certainly will, by your definition.

Mr. GILCHREST. No, we will not.

Mr. LATHAM. We will need a clear and defined definition of wetlands. I think it is very interesting that many of the proponents of this amendment who want to make it supposedly easier for agriculture also voted in the Lipinski amendment to take away 56 percent of the funds for the State of Iowa to comply with your regulations. Tell me the justice in that.

I think it is time that we finally brought some common sense back into the argument, and for people to put the dollars that go to the States like Iowa and then say that they are trying to help us is absolutely ludicrous.

I strongly oppose this amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I would just like to make three very quick, and, I hope, succinct points. I came to this House and served for a number of years on the Merchant Marine and Fisheries Committee, and while I was there, I found myself taking part in debates similar to this where we were making policy decisions based on a number of factors, and after a couple of years of serving there and weighing those factors, I came to the conclusion that we did not pay a lot of attention to science, and this debate today points out that back in those days that I thought I was right I can prove that, in fact, I was right, because, as a matter of fact, the National Academy of Sciences does not agree in any way, shape, or form with the definition of wetlands as it occurs today in H.R. 961.

One of the major thrusts of the Boehlert amendment is that it changes that definition so that it is in concert with what we think is a good definition based on science.

Second, H.R. 961, as it currently stands, would allow for destruction of well over half of the Nation's wetlands, and those of us who recognize the value of wetlands in terms of the life cycle, in terms of its use to slow down floodwater and act as a filter for pollutants which enter our waters upstream, recognize that it would be a disaster to permit an opportunity to destroy more than half of the Nation's wetlands.

And, third, let me point out that the debate that just occurred between my friend from Maryland and my friend from Iowa, I think, is ample evidence that we ought to listen to what the Governors say, because my friend from Maryland perceives wetlands as being one thing, and my friend from Iowa, a different State with a different structure, land structure, perceives wetlands as something quite different. And the Boehlert amendment adopts the National Governors Association proposals on wetlands reform, part of which is to give the States more say in defining and carrying out the wetlands programs.

So I wholeheartedly and strongly support the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I rise in opposition to the Boehlert amendment.

This amendment adds even more uncertainty and bureaucracy to the regulatory process we are already enveloped in.

You see, it gives the Government an even bigger hammer to penalize landowners and ignores the fact that law-abiding citizens have been charged with fines and sent to prison for trying to be good stewards of the land.

The most egregious aspect of this amendment is that it ignores private property rights.

I would like to thank the chairman of the Committee on Transportation and Infrastructure for working with me to include the Chenoweth provision in this bill before us today, a provision with would require the Federal Government to receive written permission from private property owners when going on their land for the purpose of mapping wetlands. It is important to keep the Federal Government in check, and I believe the notification provision I recommended will ensure that the mapping process is carried out in accordance with our constitutional rights.

It is time for fairness, and it is time for sanity, and it is time for reason in this program.

Title 8 of H.R. 961 recognizes that. That is why I urge my colleagues to oppose the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, will the gentlewoman yield?

Mrs. CHENOWETH. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I thank the gentlewoman, because I want to congratulate her. This is her first amendment on a major piece of transportation legislation. Your involvement has really been significant, and I want to congratulate you and thank you very much for your participation.

Mr. BOEHLERT. Mr. Chairman, I yield such time as she may consume to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA], a leader in the environmental movement.

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of the Boehlert amendment, and I would like to address some specifics rather than the generalities.

This wetlands proposal is not about some abstract ideas of beauty or maybe even idealists' idea of wildlife, but it has many direct economic impacts, and I want to concentrate on them.

□ 1300

After all, wetlands do act as Mother Nature's sponges when water levels rise, when we are talking about rivers rising for floods, hurricanes, or whatever the case may be, and the wetlands help fight shoreline erosion in States like New Jersey. This is essential for protecting our beaches. They help purify the water tables by serving as filters and also for toxic pollutants from man-made runoffs.

When we look at the whole committee bill, of course we take a serious setback from a 20-year effort, and it is a big step backward. The committee bill offers a very narrow definition of wetlands, and that is wrong to do. While we may find that their definition is feasible in some areas of the country, in New Jersey it would do serious damage to all of our pioneering efforts.

New Jersey, remember, is a densely populated State, and so we have to have a system under the law that will apply to all States, not a one-size-fits-all situation. In New Jersey we would be very, very concerned that it would be a huge setback for all the efforts that Governors in both parties have persevered on and pioneered on. The Boehlert amendment would adopt, and I want to stress this for all those, particularly on my side of the aisle, that revere block grants and Governors' proposals; I want to stress that the Boehlert amendment adopts the National Governors Association wetlands proposal in order to replace the committee's wetlands language. Here the Governors are right, and we should listen to them and act upon their advice.

The Boehlert amendment is not one size fits all. What is good for Alaska is not good for New Jersey or maybe even for Louisiana's protection. Vote yes on the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, last evening I spoke about the severe problems with the present policies that we have on wetlands. This bill makes some badly needed reforms, and the Boehlert amendment would take us in the opposite direction. It would not be helpful to the real concerns that we have.

I spoke last evening of Nancy Klein. She and her husband bought 350 acres in Sonoma, intended to farm that. It has been farmed continuously every year since 1930. In 1989, the owner of the land raised cattle instead of farming. When the Kleins, with their five children, tried to begin their farming, they were informed by the Corps of Engineers that they could not do that, and they were threatened with $25,000 a day fines and were actually at one point, for most of 1994, criminally investigated.

Mr. Chairman, I would like to read from the letter that she wrote. It is really prepared testimony that she gave to the task force on wetlands of the Committee on Resources which I chaired, and we had a hearing, and she came and offered this. This volume of testimony will be printed and available for all to see in a couple of weeks, but just quoting from her letter:

> The FBI and EPA interrogated neighbors, acquaintances and strangers. They asked about our religion, whether we were intelligent, did we have tempers. They asked how we treat our children. Our property was surveyed by military Blackhawk helicopters. Their cars monitored our home and our children's school. They accused Fred of paying neighbors to lie. The FBI actually told one terrified neighbor that this investigation was top secret with national security implications. The community reeled, as did we. Our personal papers were subpoenaed; the grant jury was convened. We spent thousands of additional dollars to hire more attorneys. The Justice Department told our attorneys that, unless we would plead guilty and surrender our land, they would seek a criminal indictment of both Fred and me. According to one government attorney I was to be included because I had written a letter to the editor of a local paper, in their opinion, quote unquote, publicly undermining the authority of the Army Corps.

Mr. Chairman, the present law has allowed for this kind of abuse, tremendous abuse by the Federal Government in the area of wetlands regulation. The bill that we are supporting, coming out of the committee, provides for a good definition of wetlands, a classification system that uses good science to determine which wetlands are the most valued, those that get the greatest protection through this classification system, A, B or C. For that reason I urge defeat of the Boehlert amendment and support of the committee bill.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MINETA], the ranking minority member of the committee.

Mr. MINETA. Mr. Chairman, no issue has so defined the controversy of Clean Water Act reauthorization as has wetlands. We have now debated issues back and forth for 5 days on this floor and countless hours in our committee rooms.

There is general agreement on one thing—the wetlands program is in need of reform. However, I strongly disagree with those who would gut the wetlands program to the point that 60–80 percent of the Nation's wetlands are no longer subject to any portion of the wetlands protection program.

I have listened to passionate arguments on both sides of the issue. Some of my California colleagues were quite emphatic in that we must reduce the scope of Federal regulatory jurisdiction. I would remind my colleagues, however, that California has already lost over 90 percent of its historic wetlands, including some of its most valuable wetlands. I do not believe that we can now acquiesce in the potential loss of the majority of the small number of wetlands which remain.

The issue is whether we will reform the wetlands program to make it more efficient, reasonable and user-friendly; or, will this House choose to use the wetlands program shortcomings as an excuse to undo most of the protections in the Clean Water Act for wetlands.

The Boehlert amendment removes small, incidental, and manmade wetlands from the regulatory program. H.R. 961 removes 60–80 percent of wetlands from the program by creating an arbitrary, inflexible definition of wetlands. And it does so in the face of, and contrary to, the just released study of the National Academy of Sciences on wetlands.

The Boehlert amendment addresses the issue of differing values of wetlands by directing that regionalization be considered in delineating wetlands. H.R. 961 creates an expensive and infeasible nationwide classification scheme which the National Academy of Sciences stated is beyond the state of the art to accomplish.

The Boehlert amendment protects the rights of the property owners in this country by adhering to the rights under the fifth amendment which have served citizens well for over 200 years. When property has been taken for public use, the Constitution will guarantee compensation. H.R. 961 adopts the unsound takings provisions which are opposed by the States and which will cost the Government tens of billions of taxpayer dollars—billions of dollars when we are trying to balance the budget. H.R. 961 ignores the rights of the commercial fishermen who harvest over $10 billion annually, ignores the rights of waterfowl hunters who spend over $300 million annually, and ignores the rights of recreational users of wetlands who spend nearly $10 billion annually.

The Boehlert amendment will fix the wetlands problem. H.R. 961 would destroy wetlands protection and raid the Treasury. Most people do not want that. Support the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I rise in opposition to the Boehlert amendment and in support of the committee bill, and I believe that one of the most important points that needs to be made on this legislation is that the Boehlert amendment effectively strips out the private property rights protection that was included in the committee bill, and I want to explain why that is so important, that we include the protection of private property rights.

The fifth amendment of the Constitution, which was passed for one reason, to protect private property rights, stated, "nor shall property be taken for public use without just compensation," and for 200 years we operated quite effectively with that protection under the fifth amendment of the Constitution.

Twenty years ago, Mr. Chairman, this body began to pass legislation which increased the regulatory might and the regulatory power of the Federal Government dramatically, to the point where in the past 10 years people have began to lose their private property to the regulation of the Federal Government without compensation.

Now, if the Federal Government were to come in, and take someone's property to build a project, a dam, a road, a highway, to take their property to put in a park, they would be required under current law and under current practice to pay for that without any questions asked. I say to my colleagues, they're taking your property; they should pay for that. But if they were to come in and use a regulation like wetlands, section 404, the Clean Water Act, and they effectively took away all use or value of someone's property, under current practice and under the guise of some of my colleagues here they would not have to pay for that property even though they took away the value of the property, they took away the use of the property, they took away the ability for someone to continue to make their mortgage payments and to pay their property taxes. It is OK because it is all in the name of the Clean Water Act and preserving wetlands. Well, that is wrong.

When we passed the takings legislation through this House, I felt that was an important first step in protecting private property, but the second step in protecting private property is including that protection in the Clean Water Act, the Endangered Species Act and other regulatory issues that we take up under the House. It is extremely important.

Mr. Chairman, I just want to tell my colleagues, if you voted for private property rights protection as part of the takings legislation and regulatory reform through this House, you have got to support private property rights and vote against the Boehlert amendment because effectively it strips——

The CHAIRMAN. The time of the gentleman from California [Mr. POMBO] has expired.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, preceding speakers have provided plenty of examples of extreme and arrogant actions by EPA, and certainly it is true that we are here in part to reform the Clean Air Act because EPA has been high-handed and was abusive of the people of America. But let us do it right. If we adopt the Boehlert amendment, we will be adopting the recommendations of the Governors themselves as to how to make the Clean Water Act effective and citizen friendly. We will adopt all of the exemptions from the wetlands permitting found in the underlying bill, normal farming, ranching, plowing, seeding, grazing, repairs of dams and levees and so on. We will also be adopting expanded use of general permits. We will be adopting a fast track permitting process for minor and general permits for people seeking to fill or drain a wetland area in one acre or less. Those folks will have an answer in 60 days. We will be providing landowners with an effective appeals process using the very same language in the underlying bill, and we will be giving the Secretary of Agriculture total control over agricultural wetlands issues as in the underlying bill.

This is a good, modest, logical amendment, but it does a couple of things that the underlying bill does not do that are terribly important to Connecticut. It provides, for instance, grants for technical assistance to small towns. Our towns have wetland commissions, and they are dealing very well with the permit process, but they need better information. They fear the classification system. They fear the classification system will do to my people what some of the arrogant EPA bureaucrats have done to people in other parts of the country. They fear the classification system with deny them the right in a State with lots of wetlands and very dependent on groundwater, will deny them the right to determine best use of properties within their boundaries.

Mr. Chairman, I urge support for the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

□ 1350

Mrs. MORELLA. Mr. Chairman, I rise in strong support of the Boehlert wetlands amendment. This amendment will be our last opportunity in this bill to reform our Nation's wetlands programs by providing the States with the flexibility they need to manage their wetlands.

As other speakers have mentioned, this amendment incorporates the National Governors Association's wetlands proposal and is identical to the wetlands provisions included in the earlier substitute. This amendment streamlines the permitting process without endangering millions of acres of wetlands.

Protection of wetlands is crucial to both the protection of our wildlife and the maintenance of our water quality. Wetlands are vital biological filters, removing sediments and pollutants that would otherwise suffocate our waters. Over half of the Nation's wetlands have disappeared since the time of Columbus. Recognizing the importance of this resource, President Bush pledged "no net loss of wetlands" during his administration.

Sadly, we are falling short of even this modest and reasonable goal. During the 1980's, despite the scientific recognition of the value of wetlands, our own Chesapeake Bay lost wetlands at the rate of 8 acres a day. No resource can long endure such depredation.

The Boehlert wetlands amendment adopts the National Governors Association proposal and deserves our support. Vote "Yes" on the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is the property rights vote, 1995. This amendment strikes property rights from the wetlands bill.

Now, just a few short weeks ago 205 Republicans and 72 Democrats voted in favor of property rights compensation to landowners in wetlands regulations. Today is a real test. We are going to see today whether 205 Republicans who signed a contract promising to assist American landowners in their property rights battles with the Federal Government in wetlands regulations are ready to keep that contract, or whether they just signed a piece of paper. We are going to see whether 72 Democrats who voted for their farmers, for their homeowners, for the landowners of America who have been regulated to death under this wetlands regulation, that nobody ever passed into law, that regulators simply built upon, one regulation after the other, we are going to find out whether 72 Democrats really believe in private property rights, or whether they just vote for it one day and vote against it another day.

If there is one thing people in America are sick and tired of, it is the old politics as usual. Vote for something one day and claim you were for it, and vote against it another day when it really counts. Well, today it really counts. Today it really counts.

The President of the United States has declared on Earth Day before a throng of his environmental friends that he intends to veto the property rights bill we passed just a few short weeks ago. That bill is on its way to death, and it has not even been considered by the Senate.

This bill today is your chance to say you really meant it when you voted for property rights just a few weeks ago. This is your chance to put property rights in the wetlands bill, where it belongs. So make sure that when the Government takes people's property by regulation, that it does what the Constitution says it ought to do, that it pays them fair and just compensation. That is simple. There is no way around this.

In just a few short minutes this debate will end and people will come from their offices back to this Chamber, and we will find out whether 205 Republicans really meant it when they signed a contract in favor of property rights, and whether 72 Democrats really meant it when they voted for property rights. We will find out today if they are prepared to vote "No" on this Boehlert amendment, and stand up for Americans who deserve and are entitled to be compensated when regulations take away the use and value of their property.

Mr. Chairman, there is the day of reckoning. There will be other smaller amendments offered on the property rights issue, but this is the big one. This is the property rights vote of 1995. This vote and the one that will come on endangered species when we finally take up the reform of the Endangered Species Act, will really tell Americans how you stand on this issue central to this debate. If you believe, as I do, that regulations to protect wetlands are certainly important and regulations to protect endangered species are certainly important, but so are people, so land and rights, so are property rights, so are jobs, so is the economy in this country, and there ought to be a balance, that when the Government regulates people's land in such a way that they cannot use it anymore or their use is heavily restricted, if you believe as I believe, as most in America I think believe, then this is your chance to vote no on the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I rise in support of the Boehlert amendment. People who are listening to this debate who do not own land may wonder what difference it makes whether we have wetlands or how many of them. What it boils down to is this: These wetlands act as filters for our underground water supply that we all rely on. When the wetland system, the natural system, fails, we have to step in at great expense to build filtration plants to make sure that the water we drink is pure.

As taxpayers, we have a vested interest in helping mother nature do her job, because it is very expensive to build filtration systems to try to make up for mistakes which we have made. That is why this is an important debate. In my part of the world, in the Midwest, where there is a lot of row crop farming, there is a lot of concern about wetlands.

I have to concede the critics are right. The administration of the wetlands program is far from exemplary and should be improved. The Boehlert amendment does that. The Boehlert amendment is a much more sensible choice than the alternative. He follows the National Governors Association, gives to the Department of Agriculture the power to delineate what a wetland is, and sensible farming practices are allowed. I think we should support this amendment as a commonsense approach to help the environment and to reduce the tax burden which all families will face if our wetlands fail.

Let me close by saying this: I have listened to this debate over the last 2 days. The references to "gestapos" and "heavy handed tactics by the Federal agencies" fuel the gross national paranoia which we see so much of in this country. I beg my colleagues on both sides of the aisle to temper their rhetoric and realize that some people who have violence in their heart listen for these code words. We have an important debate here that does not have to reach that level.

Mr. SHUSTER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Kansas [Mr. ROBERTS], the distinguished chairman of the Committee on Agriculture.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, there is no paranoia here and in the remarks that I want to make, no code words, no hint of violence; it is just straight facts. And the straight facts are these: The House defeated this amendment last week as part of a substitute to the committee bill. It should be defeated in regard to this time around as well.

This amendment does nothing to solve the problems farmers and ranchers are having as they attempt to go about their daily lives, subject to the constant hassle, and that is a real word, of Federal wetlands regulators.

The problem with this amendment is this: It keeps the 1987 Army corps manual. That manual is the big part of the whole problem. It continues in effect something called a memorandum of agreement between the Department of Agriculture, the EPA, the Fish and Wildlife Service and the corps. Too many agencies in the wetlands soup. And that document is the source of a lot of possible mischief, even though the President and the administration has hailed it as the problem solver for farmers and ranchers.

I think it is time to understand that conserving wetlands is the goal. That is the goal, not conserving Federal rules and regulations.

The Boehlert amendment expands the permitting program with monitoring and tracking systems. It sets up all sorts of coordinating committees and ecosystem restoration programs. We have already seen the first hints of ecosystem management in the proposed regulations that were published by the Forest Service. Nobody knows what an ecosystem is, much less how one should be managed.

The gentleman from Louisiana [Mr. TAUZIN] last week pointed out to Members that the new definition of dredging and filling contained in the amendment would make cutting grasslands on a wet spot to be a violation of the Clean Water Act. That is exactly the kind of problem we have had before.

Now, under the Boehlert amendment the regulators, the corps, the EPA, the Fish and Wildlife Service and the Natural Resource Conservation Service at the USDA, the old SGS, we changed the name, they would be given carte blanche authority to develop supplemental delineation standards for different regions of the country, add to plant and soil lists and supplement hydrology standards. This will all be done through the regulatory process. The same manual, the same regulatory process, the same hassle, and the same problem for ranchers and farmers. What is needed is a clear policy of where the Congress wants the regulators to take the wetlands legislation.

Mr. Chairman, I urge the defeat of the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to make a comment very briefly about the previous speaker. There really are all the exemptions that a farmer would ever want in order to continue farming and certainly preserve vital land contained in the Boehlert amendment.

What I want to talk about briefly here, this is the map of the United States, and I unfortunately had to omit Alaska and Hawaii, but I have a great strong feeling for those two illustrious States, but at the top of the map of the United States, who benefits from wetlands? I wanted to ask the question first, what do wetlands do? What is the function of a wetland?

Well, wetlands purify water, they prevent flooding, they ensure wildlife habitat, and they ensure that fish in coastal regions, whether it is a tidal estuary or fresh water estuary, will continue to be able to reproduce.

Who would benefit from pure water, from an area that will not flood, from wildlife habitat and all the diversity that goes along with that, and abundant fish? Who benefits? Whose property that is near those areas would be increased in value? I would say that everybody in the United States will benefit from a preservation program that ensures the quality of America's wetlands.

Now, this thick book here is the 1991 field testing manual of the changes in wetlands delineation criteria. It was proven to be unworkable. The Bush administration set it aside. This particular manual was very restrictive, and everybody agreed that we would lose 50 percent of our wetlands if we used this manual. Now we are using a bill that is even more restrictive on wetlands, so we can conclude that we will lose about 60 percent of our wetlands across the United States.

What I want to do is read from the illustrious text of the National Academy of Sciences study on wetlands. I am on page 29. We are going to deal with water quality and flooding and so on. Here is a quote. "As wetland acreage declines within a watershed, functional capacity such as maintenance of water quality begins to become impaired."

Right out of the text. If we lose wetlands acreage, water quality in those particular areas decline.

Now, I want to give some examples. I am not targeting anybody in particular, but just some examples. This is also found in the new NAS study on page 30, if you want to look it up. California has lost since 1780, 91 percent of its wetlands. As a direct result of those wetlands lost, you have 220 animals and 600 plant species that are threatened or endangered.

Since 1955, according to the NAS study, the mallard population is down 35 percent, pintails are down 50 percent. Forty-one fish species have become extinct in this century as a result of lost wetlands. Twenty-eight percent of fresh water species have seriously been reduced. Prairie potholes are very important for migrating waterfowl. Floods in New Orleans, the Midwest, California, and many other areas have been mainly to a large extent caused as a result of where people build. And if you build on a wetlands, the water is going to go someplace else.

I wanted to put up one other map. I want to say something about whether this should be State regulated or the Federal Government should work in harmony with the States and with the local communities. If each State can do what they wanted, look what will happen to the Chesapeake Bay. Up here you see Washington, DC, which is not a part of Maryland. We could have real strict controls over our wetlands, and you can see the silt that is washed out of the Potomac River into the Chesapeake Bay.

□ 1330

A little further, I have great respect for the State of Virginia, you see in the James River, right here, more silt coming into the Chesapeake Bay.

I urge my colleagues to vote for the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. EHLERS]. I am pleased to have this distinguished scientist supporting the Boehlert amendment.

Mr. EHLERS. Mr. Chairman, I thank the gentleman for yielding time to me.

I also want to begin by expressing my appreciation to the gentleman from Pennsylvania, the chairman of the committee, for his effort to rewrite the Clean Water Act, which certainly needs revision. I appreciate his efforts and, by and large, appreciate the result of what came out of committee. At the same time, I did vote against the bill coming out of committee and primarily did that for just one reason; that was the wetlands section.

I believe that in our effort to revise what I call the regulatory overburden that we have with wetlands, we must not lose sight of our primary objective, and that is to try to maintain viable wetlands in the United States.

I come from a State that has its own wetlands law. I believe it is the only State in the Union that does, and it is one of only two that is delegated total authority by the EPA. We have a lot of experience with wetlands. Michigan has a lot of wetlands and they are very important to us. We have regulated them well.

I am concerned about what the bill does to the regulation of wetlands, but even more I am concerned about what happens to the actual standards that are in the bill, not about the effort to reduce regulation. I admire that effort to reduce regulation and I think it is excellent. But we have to be careful that we do not relax the standards to the point that we begin to lose viable wetlands.

You may ask, why am I concerned about this since I am from Michigan and we already have our own law? I am concerned on behalf of Michiganites, but I am also concerned with others throughout the United States. For example, we have a tremendous population of hunters in our State and many who come from other States to hunt waterfowl. Without proper maintenance of migratory waterfowl flyway wetlands, we will not have an adequate population of waterfowl to satisfy the needs and desires of those in the sporting professions who hunt waterfowl.

Similarly we need to maintain wetlands so we can maintain pure water in our Nation.

My plea then is to reduce regulation but not to reduce standards. I urge support for the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. HAYES].

Mr. HAYES. Mr. Chairman, a little over two decades ago our predecessors stood in this well and argued the Clean Water Act. Must have been a tough philosophical stance to be in favor of clean water and by implication, I suppose, against dirty water. Not one word of that debate was uttered regarding wetlands, because an obscure section buried in the bill became the vehicle by which bureaucrats and regulators could add onto a dredge and fill bill, meaning most of the Mississippi River, and a lawsuit in 1978, an appearance in the Senate and then three delineation manuals elevating an obscure paragraph to a national debate, a national debate that by our opponents in this, with the offer of their amendment, would have not one EPA but now four Federal agencies able to veto each and every permit request in America. I do not know the definition of streamlining, but that is not it.

I have heard a great deal about science. The science that is lacking in this debate is psychiatry, because only a study of psychiatry could tell me why in Grand Junction, CO, at 11,000 feet above sea level, I have got a wetland, the jurisdictional waters of the United States, on the side of a mountain. Only a psychiatrist could explain to me why the ducks and geese apparently who travel around the country are so much better at delineating wetlands than five Federal agencies. At least they can figure out where to land. They have never landed in the parking lot at the Sands Hotel which, by the way, has been declared the jurisdictional waters of the United States of America.

You can either decide that what occurred since 1972 was that those who could care less about clean water but cared about land use made the conclusion that you cannot pass a bill in this House that will regulate people's land and zone it nationally, but you can get to it if you call it a wetland. And if it escapes from there, you can get to it if you claim it has an endangered species and you can terrify people by putting criminal sanctions in the Clean Water Act and send them to prison for not complying with regulations that no sane person in so many instances would be able to understand applied to their property.

In a few minutes, we are going to vote, we are going to vote on the distinction between the rights of individuals and the arrogance and power of government.

Mr. BOEHLERT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as we have come to the close of this debate on wetlands, I just want to be sure that everyone understands exactly what this amendment would do. This amendment adopts the National Governors Association proposal on wetlands reform word for word. And this amendment gives the Secretary of Agriculture sole control over all agricultural wetlands.

We have had a spirited debate and sometimes people get carried away a little bit with the spirit and say some things that just are not accurate. So I need to correct some misstatements about this amendment.

It has been alleged that this amendment protects the status quo. The fact is this amendment would rewrite the wetlands provisions of the Clean Water Act and dramatically reduce the burden of Federal regulation. It has been alleged that this amendment gives Federal bureaucrats unbridled authority. The fact is this amendment would reduce Federal control over wetlands and give more authority to the States. That is why the National Governors Association promoted this proposal.

It has been alleged that this amendment is insensitive to the need of farmers. The fact is this amendment contains each and every agriculture exemption contained in the committee bill, plus an additional exemption for the repair and reconstruction of tiles requested by midwestern farmers.

It has been alleged that this amendment creates new bureaucracies. The fact is this amendment would create no additional bureaucracies whatsoever, just a local/State/Federal advisory panel uncompensated. This amendment would reduce the bureaucracy overseeing agriculture wetlands, giving the Department of Agriculture sole jurisdiction.

Now let us get down to some specific cases that came up over the past few days in debate. We heard about someone who had to go through a convoluted approval process to use a wetland that was only one-eighth of an acre. What this amendment would actually do would provide fast-track authority that would require a response within 60 days for wetlands permits of 1 acre or less.

We heard that grazing land was being classified as wetlands. What this amendment would do is exempt all grazing and ranching lands from this section 404 wetlands permitting process.

We heard about wetlands created by a leaky pipe or a feeding trough. What this amendment would actually do is exempt incidentally created wetlands from regulation.

We heard that the maintenance of flood control channels would be regulated under this amendment. What this amendment actually would do is exempt the maintenance and reconstruction of flood control channels.

So many of the stories we have heard about this amendment are simply fiction. They are in the long American tradition of tall tales, and the regulators and regulations they allege to be part of this amendment are about as real as Paul Bunyan and his blue ox.

Let me tell you something about the committee bill. The committee bill would create an expensive new Federal bureaucracy. Thousands of new Federal bureaucrats will have to be employed under H.R. 961 at a cost of over $1 billion.

H.R. 961 would avoid the findings of science. The report of the National Academy of Sciences is not even being used as a reference. It is being totally ignored. Why are we afraid of science?

Most importantly, H.R. 961 would allow the destruction of more than half the Nation's wetlands. That destruction could cost the Nation billions and billions of dollars in lost tourism, in fishing, and flood control.

I will say again, we are offering a moderate sensible bipartisan amendment, language presented to us by the National Governors Association, the same language that was in last week's substitute.

This amendment should have the support of everyone who believes that we can reform environmental legislation without eliminating its safeguards, and that we can protect the environment without unduly burdening the citizenry.

I operate under the assumption that we did not inherit the Earth from our ancestors. We are borrowing it from our children. We owe them an accounting of our stewardship. The American people should have as a birthright clean air, pure water, dedicated public officials.

I thank my colleagues for their patience. I thank the chairman of the committee. I thank all who have participated in this very important debate. What we are about is the future of America, the next generation. Let us give them clean water.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise in support of the Boehlert amendment.

I want to address a matter that has been of great concern to me throughout much of the wetlands debate. That is the issue of legislation by anecdote.

I am deeply troubled by some of the stories that have been recited during floor debate last night and today, and throughout consideration of amendments to the wetlands title of the Clean Water Act.

My concern prompted me to direct my staff to look into the anecdotes that have been raised as examples of the problems with wetlands program. To the extent that the anecdotes are accurate, as a few of them may be, they must be addressed legislatively. I am as troubled as anyone by the flaws in the program, such as permitting delays.

But I am also gravely concerned about the use by Members of this distinguished body of anecdotes that are not accurate, in order to influence the legislation. Using anecdotes that so exaggerate the actual events is irresponsible and dangerous, and does a great disservice to this body, to our constituents, and to the people whose experiences get distorted to serve political ends.

If there is a problem with the wetlands title, let's fix it. If there is a need to illustrate the problem through examples, by all means let's do so, if the examples are accurate. Frankly, if an experience has to be grossly exaggerated because the undistorted truth does not demonstrate the existence of a problem, then I must question the seriousness of the problem.

For example: We were told that the court awarded Mr. Harold Bowles only $4,500 for the taking of his property. The real story is that he was awarded $55,000 plus interest for the taking of his property.

We were told that wetlands regulations precluded construction of a new school in Juneau, AK. The rest of the story includes that members of the local community raised several serious concerns about the proposed location for construction of the school, and the city failed to evaluate the availability of alternative sites what would not destroy wetlands, as required under the law, even though there was at least one alternative that had broad community support, lower costs, and less environmental impact.

We were told about the case of Nancy Cline. What we were not told is that by filling approximately 100 acres of wetlands, the Clines damaged adjacent property owned by their neighbor.

We were told that a church could not be built in California due to wetlands regulation. What we were not told is that the Corps of Engineers assisted the group in redesigning their project so that it would impact less than an acre of wetlands and be exempt from the requirement for an individual permit. With the corps' assistance, the Church was authorized to proceed, but proceeded to drain a vernal pool without authorization, destroying the wetland.

A Member letter circulated to Members of the House stated that the Clean Water Act never mentions the word "wetlands." That is not so: I am aware of at least five instances where the word "wetlands" appears in the Clean Water Act, in sections 119, 120, 208 (twice) and 404.

It is not my intention to consume our precious debate time by arguing over the details of anecdotes. But, nor can I listen to what I know are inaccurate statements without calling attention to them.

Finally, in the face of all of these negative anecdotes about the impacts of wetlands regulation, I would like to share some examples of the many instances where wetlands regulation protects citizens from property damage from flooding and other causes.

In the case of Mr. John Pozsgai, who was convicted by a jury on 40 counts of knowingly filling wetlands without a Clean Water Act permit, neighbors had flooded basements and other property damage from the filling.

In the case of Mr. Ray Hendley in Georgia, neighboring homeowners began experiencing flooding problems after Mr. Hendley built houses on illegally filled wetlands.

These are just a few of many examples of the important role that wetlands regulation plays in protecting the property and livelihood of everyday citizens.

I urge my colleagues to refrain from the irresponsible use of anecdotes, and to support the Boehlert amendment.

Mr. SHUSTER. Mr. Chairman, I yield myself the balance of my time.

Make no mistake about it, my colleagues, this Boehlert amendment guts the wetlands section of our legislation. Make no mistake about it, this Boehlert amendment does not reform wetlands but actually adds new procedures and new controls to the existing program which has been a nightmare.

This amendment we have before us creates an 18-member bureaucracy chaired by EPA. And guess who appoints 10 of the 18 mechanics? A majority? The EPA. And what is the purpose of this EPA-controlled new bureaucracy? To "help coordinate regulatory programs," to "help develop criteria and strategies, to help develop national policies on delineation, classification and mitigation." We have had about all the help we can stand from the bureaucrats at EPA, and we do not need an additional bureaucracy to give the American people more help.

This amendment before us is so bad that it actually expands the list of regulatory activities by adding new categories. It mandates—get this—it mandates the use of the 1987 wetlands manual, which we have heard so much criticism about.

It pretends to include exemptions from permits but it allows the regulators, the bureaucrats to deny those exemptions.

Now, we have heard it said how wonderful this amendment is for agriculture. Then why, why, I must ask, is virtually every agricultural organization in America in writing opposed to this amendment? Well, they are opposed to it because they realize it is more regulation, not less regulation.

We have heard the claim that this amendment will fast track permit processing. Yes, but—and this is the big but—the so-called fast track is limited to "minor activities affecting one acre or less." And guess who determines whether it is a minor activity or not? You have got it right. It is the bureaucrats who will determine what the definition of minor is.

We have heard from some of our good friends in New Jersey, Michigan, and Maryland supporting this amendment because it is so important to their State. I say to my good friends from New Jersey and Maryland and Michigan and any other state, if they would like to have more stringent wetlands regulations, then adopt them in your State. There is nothing in our legislation that stops them from imposing stricter wetlands. They are free to do it. But what is good for New Jersey may not be good for Idaho.

So let us have a little common sense here. Let us say that the States know something. And let us say there can be flexibility.

Members can impose whatever wetlands they care to impose upon their State, but do not try to stuff it down the throats of the rest of the American people. We have heard a lot about good science, and about the National Academy of Sciences. We have heard the claim that 60 percent of the wetlands will be lost, and we have said the National Academy of Sciences says that.

Do they really? During a question-and-answer session at a briefing, the chairman, Dr. William Lewis of the committee that wrote the report, was asked, "What percentage of wetlands currently under the jurisdiction of the program would be deregulated" under our bill? Do Members know what his first response was? It was, and I quote, "I don't know."

Then he was pushed further for an answer. By the way, the person asking the question was my good friend, the gentleman from New York [Mr. BOEHLERT], who was pushing this, and when pushed further, he said, and I quote, "I guess the amount would be in the tens of percent; 20, 30, maybe 40 percent."

Mr. Chairman, I would respectfully suggest it is highly irresponsible for the chairman of the committee, no doubt a scientist, to guess on such an important issue, then to have that wild guess taken and turned here on this floor into something right out of the New Testament.

The last part of his answer, "40 percent," differs from the first part by a 100 percent margin of error. Is that good science, that margin of error? I think not.

We have also been told how the National Governors Association supports the Boehlert amendment. What are the facts? The facts are the only record in which a subcommittee of that organization went on record was the National Governors Association's wetlands policy. In 1992, 3 years ago, they voted in support of the kind of Boehlert amendment we have before us. It was not the Governors themselves.

Today, indeed, we have different Governors, and the Governors have already said they are going to reconsider their position, so I say vote down the Boehlert amendment, do not gut this bill.

Mr. CHAMBLISS. Mr. Chairman, today we will vote on an amendment to the clean water bill which will severely weaken the wetlands reform contained in this bill.

H.R. 961 is a renewed investment and commitment in our Nation's clean water infrastructure. It reinstates the basic constitutional right to obtain compensation for takings. This bill unamended, will allow farmers and landowners to seek a determination of whether a wetland exists on their property.

My farmers and landowners in the Eighth District of Georgia are in desperate need of relief from the overburdensome and heavily regulated Federal wetlands policy. H.R. 961, unamended, will give eighth district farmers and landowners in towns like Ashburn and Enigma the relief they need. The Republicans have promised the American people that the status quo will no longer be the norm. Unfortunately, this amendment does nothing to change the status quo. We have a responsibility to protect the environment, yet do so without over-regulating the farmers and businesses that drive our economy. I urge my colleagues to vote "no" against any amendment which weakens wetlands reform.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BOEHLERT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOEHLERT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 242, not voting 7, as follows:

[Roll No. 332]

AYES—185

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Castle
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
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Hall (OH)
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Hastings (FL)
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Johnson (CT)
Johnson, E. B.
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Watt (NC)
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NOES—242

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Johnson, Sam
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Kasich
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Taylor (NC)
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Thomas
Thornberry
Tiahrt
Traficant
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Vucanovich
Waldholtz
Walker
Walsh
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Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Young (AK)
Zeliff

NOT VOTING—7

Berman
Bryant (TX)
Collins (IL)
Gephardt
Kleczka
Klink
Lipinski

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Messrs. COOLEY, BAESLER, BONILLA, ROEMER, and POMEROY changed their vote from "aye" to "no."

Messrs. PASTOR, HASTINGS of Florida, and OLVER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GILCHREST

Mr. GILCHREST. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GILCHREST: Page 309, strike lines 8 through 12.

Page 309, line 13, strike "(10)" and insert "(9)".

Page 312, line 10, strike "(11)" and insert "(10)".

Mr. GILCHREST. Mr. Chairman, it occasionally happens that rather small provisions of bills which very few people know about have a tremendous impact.

This amendment seeks to strike such a provision which will have a significant effect on hunters and other people who enjoy migratory birds.

The gentleman from Michigan and the gentleman from Pennsylvania, who are both members of the Migratory Bird Commission, are coauthors of this amendment.

Mr. Chairman, I yield to my friend the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON of Pennsylvania. Mr. Chairman, I rise in strong support of this amendment.

Mr. Chairman, the gentleman from Michigan [Mr. DINGELL] and I serve as the House Members on the Migratory Bird Commission and as such we work on ways to preserve in a voluntary way the wetlands of this National and North America that are important to waterfowl.

Over the past several decades that this program has existed, we have in fact preserved 7 million acres of wetlands through the North American Wetlands Conservation Fund and 4 million acres through the Migratory Bird Commission funding. All of that has been done voluntarily.

This amendment allows us to continue to recognize those lands that are important for the development and the growth of waterfowl in this country. It is a good bipartisan amendment. I applaud my colleague for offering it. I applaud my colleague, the gentleman from Michigan [Mr. DINGELL], for joining in support of this amendment.

Mr. Chairman, I include my statement in support of the amendment as follows:

Mr. Chairman, I rise today to offer this amendment with my colleagues, Mr. GILCHREST and Mr. DINGELL. This provision in H.R. 961—which will deny Federal protection for wetlands that are solely used by migratory birds—is not only unnecessary but dangerous for the future of our Nation's migratory birds.

As members of the Migratory Bird Conservation Commission, Mr. DINGELL and I have witnessed first hand the role wetlands protection plays in the recovery and protection of our Nation's migratory birds. Through the use of primarily duck stamp monies together with other proceeds, the commission has provided for the acquisition and enhancement of waterfowl habitat through the National Wildlife Refuge System.

However, the wildlife refuges alone cannot provide sufficient habitat to support the millions of waterfowl which annually migrate across America. As a result, thanks to the effort of my friend, Mr. DINGELL, the North American wetlands conservation fund was created. NAWCF is truly one of the most cost effective wetlands preservation initiatives in existence. It operates as a private-public partnership, with Federal grant monies being matched, often times at rates as high as 4 to 1.

Mr. Chairman, H.R. 4308, a bill to re-authorize and expand the North American wetlands fund, passed the House by a vote of 368 to 5 last year. Almost every single one of our colleagues recognized the need to preserve our Nation's wetlands in order to protect important migratory bird populations. The provision on page 309 of H.R. 961 which eliminates protection of wetlands which are solely used by migratory birds will halt the progress we have achieved through the work of the Migratory Bird Commission.

We must take into consideration that even after passage of the North American wetlands conservation fund, much more still needs to be done. Recent estimates of North America's breeding duck population is 18 percent below the average of the last 40 years. For certain species, the numbers are far worse. Mallard populations, for example, are down 20 percent and the North Pintail population has declined by half. Other migratory species have suffered as well. Populations of Franklin Gulls, Black Terns, and Soras all have declined significantly since the early 1950's. It is clear we cannot roll back the clock in preserving these species.

Mr. Chairman, the migratory bird provision in H.R. 961 not only puts at risk our migratory bird populations, but contradicts case law on this subject. As Mr. DINGELL has stated, the U.S. Court of Appeals, Seventh District, has specifically ruled in Hoffman Homes versus Administrator, U.S. Environmental Protection Agency, that EPA is within its jurisdiction to view migratory birds as a connection between wetlands and interstate commerce. Proponents to H.R. 961 will argue that this case gives the EPA carte blanche to run rough shod over private landowners. Not true. In fact, the court ruled in favor of Hoffman, citing the EPA's inability to provide substantial evidence of migratory bird use. So you can see, the burden is on EPA to prove the wetlands is essential to migratory bird populations.

In addition, I would like to bring to the attention of my colleagues—especially those who are most concerned with the economic impact on our citizens with regard to the laws we pass—exactly the impact H.R. 961, in its current form, will have on our hunting and tourism industry. In 1991, $3.6 billion was spent on hunting migratory birds such as waterfowl and shore birds, $15.9 billion was spent on nonconsumptive uses of migratory birds. Together, they contribute almost $20 billion to our Nation's economy.

I urge my colleagues to support the Dingell-Weldon-Gilchrest amendment to H.R. 961. Last year you showed your support for our migratory birds. If you have constituents in your district who like to hunt, trap, or observe migratory birds, I urge you to show your support again this year.

Mr. GILCHREST. Mr. Chairman, I yield myself such time as I may consume, and I yield to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding to me. My comments will be brief.

Mr. Chairman, I want to commend the distinguished gentleman from Maryland and my dear friend, the gentleman from Pennsylvania [Mr. WELDON], who serves so ably with me on the Migratory Bird Commission for their fine leadership on this matter.

This is a good amendment. I want to thank my friends, the chairman of the committee and also the ranking minority member and the other members of the committee who have been accommodating to us on this.

This will make possible the conservation of a very precious natural resource much loved by millions of Americans, by duck hunters, by nonhunters and by ordinary citizens who enjoy it.

I am grateful to the gentleman for the leadership he has shown. I thank my good friend from Pennsylvania. I urge the amendment be adopted.

Mr. GILCHREST. Mr. Chairman, I yield to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the Gilchrest-Dingell amendment. I also applaud his tenacity in working to improve the wetlands provisions of this bill.

The Gilchrest-Dingell amendment would delete from the bill another of the arbitrary limitations which have been included to reduce the protection which is afforded wetlands, regardless of the value of the wetland. Without this amendment, the bill will deny protection to virtually all isolated wetlands—the very wetlands which are so valuable to migratory waterfowl, and which can serve a variety of valuable functions such as groundwater recharge and flood control.

As we all know, the Federal Government is one of limited powers. Often, the basis of the Federal Government's authority to regulate an activity is the commerce clause of the Constitution. In the case of isolated wetlands which do not cross State boundaries, the presence of migratory birds has been a sufficient nexus to interstate commerce so as to justify a Federal interest in the wetland.

If H.R. 961 is allowed to proceed in its current form, there will be no Federal jurisdiction over isolated wetlands. The mere fact that a wetland is isolated should not make it automatically less protected than one which is directly linked to the otherwise navigable waters of the United States. I remind my colleagues that in the debate on the original Clean Water Act in 1972, the subject of the breadth of its coverage was specifically debated, and the decision was that the act should have the broadest application possible. This amendment defeats that original purpose with no concern for water quality or other impacts.

Mr. Chairman, the Gilchrest-Dingell amendment will allow the wetlands program of the Clean Water Act to exercise its jurisdiction as allowed by the Constitution. Anything less is yet another attempt to assure the continuing loss of our Nation's valuable wetland resources.

Support the Gilchrest-Dingell amendment and leave the constitutional interpretation of the Clean Water Act alone.

Mr. GILCHREST. Mr. Chairman, I yield to the distinguished gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the committee.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think this is an excellent amendment, and I urge its adoption.

Mr. GILCHREST. I thank the chairman of the committee.

Mr. Chairman, I urge support of the Gilchrest-Dingell amendment.

Mr. LUTHER. Mr. Chairman, I believe H.R. 961, as presently drafted, goes too far. The bill, as reported out of committee, contains a provision which states that water or wetlands would no longer be subject to Federal protection solely because they are used by migratory birds. That provision will open thousands of wetlands used by migratory birds to destruction.

As any one of the thousands of sportsmen and women from Minnesota can tell you, protection of isolated wetlands is important for the continued, stable growth of our migratory waterfowl. The wetlands which this amendment seeks to protect are particularly important for certain species of waterfowl, including mallards, teal, and pintails—whose numbers are critically low.

I was born and raised on a farm in Minnesota, near a principal breeding area for waterfowl in the United States. I come from a family of hunters, and have fond memories of the time we spent, enjoying the sport, and absorbing the beauty of Minnesota. If this amendment is not accepted and isolated wetlands are left unprotected, future generations may not be able to experience the recreational opportunities so many of us have had, and the gains we have made in replenishing our wildlife population over the past several years could be lost forever.

During our recent district work period I held many listening sessions and the message my constituents gave me was clear: Cut back on Federal over-regulation and micromanagement, but do not roll back essential protections for our most vital natural resources. Mr. Chairman, there is a legitimate role for the Federal Government to play in protecting isolated wetlands for the benefit of all Americans. I therefore urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland [Mr. GILCHREST].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GILCHREST

Mr. GILCHREST. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GILCHREST: Page 243, strike line 9 and all that follows through line 7 on page 249 and insert the following:

"(c) WETLANDS CLASSIFICATION.—The Secretary shall issue regulations for the classification of wetlands to the extent practicable based on the best available science. Requirements of this title based on the classification of wetlands as type A, type B, or type C wetlands shall not become effective until regulations are issued under this subsection.

Page 282, line 11, strike "subparagraphs (B) and (C)" and insert "subparagraph (B)".

Page 282, strike line 12 and all that follows through line 22 on page 283.

Page 283, strike line 23 and all that follows through "any" on line 25 and insert the following:

"(B) NORMAL CIRCUMSTANCES.—Any

Page 311, line 17, strike "section," and insert "section and".

Page 311, lines 18 through 20, strike ", and no exception shall be available under subsection (g)(1)(B),".

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Maryland [Mr. GILCHREST] and a Member opposed will each be recognized for 15 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is extremely straightforward. It seeks to strike the bill's provisions for delineation and classification of wetlands. These are the provisions with which the National Academy of Sciences disagreed most strongly and they are the provisions which have driven the Association of State Wetlands Managers to oppose the bill.

The provisions in question require that wetlands be inundated for 21 consecutive days in the growing season, that they meet a very strict vegetation requirement, and that they have hydric soils present.

Under such a definition, an acre of land could be a swamp from October to March, saturated the first 20 days of the growing season and the last 20 days of the growing season, and not meet the hydrology requirement. It could be a swamp year round but not display the right sort of vegetation and not be considered a wetland. Or a landowner could simply wait for a drought year when very few acres will display wetland hydrology and again not have the parcel considered a wetland.

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Now I know that many of us have been eager for a statutory definition of what constitutes a wetland. But H.R. 961 contains a definition which is clearly wrong—it's definition will only protect a fraction of acres that function as wetlands in the United States. The National Academy of Sciences could not assign any scientific justification, let me say that one more time. The National Academy of Sciences could not assign any scientific justification to the wetlands definition contained in H.R. 961.

Where did the committee get this definition, you might ask? Well, the definition is almost identical to the proposed 1991 manual revisions, but a little stricter. Those revisions were a complete disaster during field testing, with the inter-agency team calling them "technically unsound" and urging that the manual be adopted. This definition was such an utter failure that the Bush administration had to abandon its own proposal.

Now I've heard that States could provide higher levels of protection for wetlands than what is provided under the bill. With all due respect, the nutrients and toxics in surrounding States very often cause a tremendous amount of problems in my State, which borders on the Chesapeake Bay. Until we can make waterways respect State boundaries, wetlands are going to remain an interstate matter. Mr. Chairman, every time farmers from States bordering my State put down fertilizer in a non-best-management practice, they hurt watermen in the State of Maryland, and nobody's going to talk about compensating the State of Maryland fisherman, although if we adopt this bill I think we should gain that debate.

My amendment also strikes the wetlands classification system in the bill. Obviously, we would like to say that this wetland is more important than that wetland, but according to the National Academy of Sciences, we do not have the science right now to make that determination. This bill blindly subscribes to the wetter is better theory, but the National Academy of Sciences essentially says, and we all want to deal with science and we have the report, the National Academy of Sciences report right here, it says we cannot do that.

Under my amendment the Army Corps of Engineers would be required to publish regulations for wetland classification when sufficient science is available. This replaces the bill's requirements that classification systems be implemented whether the science is available or not. If we go along with this bill, we are going to determine what is a wetland without science. Is that OK? I do not think so.

Let me take a minute about what this amendment does not do. It does not change any of the bill's provisions about permitting. It does not change the compensation provisions. It does not remove any of the six pages of exempted activities. All this amendment does is remove the two provisions that the National Academy of Sciences say are unworkable and unscientific.

My friends from Louisiana, and they are my friends, from Louisiana will argue that Congress should decide which wetlands to regulate, and obviously that is our duty. But in delineating wetlands, literally drawing lines around wetlands, we should use an appropriate scientific definition of wetlands. Once we have delineated those wetlands, we may decide not to regulate them, and indeed, H.R. 961 contains about 80 other pages which deregulate various wetlands. But at the very least, let us keep a little science in the question of wetlands delineation.

Most of the groups who oppose title VIII of the bill, the Governors, the State legislators, the fishermen, among others, oppose this provision more than any other. And while I cannot say they would support it with this provision gone, that means we take out the delineation criteria, and we inject it with science, at the very least it would temper their opposition. That means we would have support of the National Governors Association, we would have the support of fishermen, we would have the support of people who truly want clean water, who want to prevent flooding, who want wildlife habitat, who want a whole range of things that improve the quality of our lives.

Last week the gentleman from New Jersey [Mr. ZIMMER] told a story which I hope everyone heard. He talked about how a certain State legislature voted to change pi. Remember in eighth grade in your math class. It was not apple pie, it was a mathematical equation, the circumference for circles. The definition of what is a functional wetland is every bit as scientific as pi. If we have to deregulate wetlands, this bill does that. But at the very least, for delineation purposes, let us keep a scientific definition of wetlands in place.

Let us talk some sense about what we do today for tomorrow's children.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] will control the opposition to the amendment and is recognized for 15 minutes.

Mr. SHUSTER. Mr. Chairman, I ask unanimous consent to temporarily yield the control of that time to the distinguished gentleman from Missouri [Mr. EMERSON].

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. EMERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES. Mr. Chairman, this is the study that has been referenced here before of the National Academy of Sciences, and my copy says advance copy, not for public release, before Tuesday, May 9, 1995, eastern standard time; in other words, right after I can take advantage of it for news purposes, but too late for anyone to go through it and criticize it. It is also interesting when you turn a few pages, I find out the academy was doing a lot of nonscientific things, unless of course you mean political science. One of the things they did was make sure they noted on page 2 that this was paid for by the EPA and then later after nearly 3 years of work and a mere 19 months late, they concluded what we should base science on an EPA delineation manual. That must have been a tough and rigorous decision. They also had to do so under some terrible circumstances. They were forced to travel to Sedona, Vicksburg, over to Maryland, over to Florida, over to North Dakota, all around the country spending our tax dollars on field hearings. But most interestingly of all, it required four different EPA folks to travel with them to Arizona to tell them what a wetland was. And you wonder why people are having problems. It required four Fish and Wildlife Service members from Washington to go to North Dakota, and then most importantly, of course, I wonder how long was the determination that Raphael Lopez of San Diego would do the cover art of drawing a crane for $1,500.

I do not believe we need to have waited the 19 months to get a report that merely said Federal agencies have the leverage to have scientists who are misled by regulator after regulator after regulator affect what should be a scientific process, which is why I have letters now from different environmental consultants across the Nation telling me that their participation was constantly interrupted not by the scientists but by regulators, that the questions came from regulators, that the regulators were leading the panel talking about how you actually implement the manual.

Both scientists and regulators need to go back to the field, back to talk to landowners and find out what policy should be.

Mr. GILCHREST. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] has 13 minutes remaining and the gentleman from Maryland [Mr. GILCHREST] has 9 minutes remaining.

Mr. GILCHREST. Mr. Chairman, I yield 1 minute to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I thank the gentleman for yielding time to me. I commend my Republican colleague from Maryland for this excellent amendment. I rise in strong support. We do need a workable and scientific description of wetlands.

I want to speak on behalf of the oldest industry in this country, our commercial fishing industry. That industry contributes more than $111 billion annually and provides jobs for 1½ million Americans.

This fishing industry will be put in jeopardy by H.R. 961. More than 75 percent of fish and shellfish species rely on wetlands for some portion of their cycle. Yet, H.R. 961 would allow more than half of all wetlands to go unprotected by simply redefining them as dry land.

It is for these reasons that the Pacific Coast Federation of Fishermen's Associations, that is the largest organization of fishermen and fisherwomen in the entire length of the west coast, why they have come out in opposition of H.R. 961.

If Members care about the future of America's fishing industry or if they just like to eat fish, I urge they vote yes on the Gilchrest amendment.

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Kansas [Mr. ROBERTS], chairman of the Committee on Agriculture.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding the time. I would like to engage in a colloquy that is very important to the agricultural sector and would ask the distinguished chairman the following question: In the chairman's en bloc amendment that was agreed to earlier there is a section beginning on line 20, page 284, that grandfathers wetlands delineations made by the Secretary of Agriculture under the 1985 Food Security Act—1985 FS Act—as amended, if those delineations were administratively final upon enactment of this legislation. I appreciate the Transportation Committee's willingness to amend the committee bill as reported to incorporate this provision in the law. It is very important to American farmers and ranchers; however, I note that there appears to be a difference between the term "delineation" as used in the clean water amendments and the term as used in the Food Security Act of 1985.

Under the terms of the 1985 Food Security Act, as first enacted, the term "delineation" was not used. However, in the period 1986 through 1990 several thousand administrative determinations were made by the Secretary exempting persons from the program ineligibility provisions of section 1221 of the Food Security Act of 1985. In the 1990 amendments to section 1222 of the Food Security Act of 1985, made by the Food, Agriculture, Conservation, and Trade Act of 1990—FACT Act of 1990—the concept of delineation was first introduced in the Food Security Act. The Secretary of Agriculture under section 122 amended by the FACT Act of 1990 included an on-site visit to make a delineation determination, if the landowner requests such an on-site visit.

In addition, section 1222(a)(4) of the 1985 Food Security Act requires the Secretary to provide a process for the periodic review and update of the delineations, but a landowner may not be adversely affected by any actions the owner may have taken based on an earlier wetland determination made by the Secretary of Agriculture.

Chairman SHUSTER, I assume it was your intent by grandfathering delineations of the Secretary of Agriculture that were final upon enactment of this bill to mean that administrative determinations made by the Secretary of Agriculture under the Food Security Act would also be grandfathered. In other words, the term delineation as used in the clean water amendments of 1995 is meant to include the administrative finality of determinations as that term is used in section 1222 of the 1985 Food Security Act, as amended.

Mr. SHUSTER. If the gentleman will yield, I would answer by saying that he is correct, the committee intends for a wetland delineation made under the Clean Water Act as we are amending it today would provide finality of determinations made by the Secretary of Agriculture under the Food Security Act.

Mr. ROBERTS. I thank the gentleman for his clarification. And I would only add at this time, Mr. Chairman, that I would also like to rise in opposition to the Gilchrest amendment.

Now the Gilchrest amendment, in the eyes of the sometimes powerful House Committee on Agriculture and its members, would provide authority to the Federal regulatory community to decide what classifications will be used for various functions and values of wetlands. The gentleman from Louisiana [Mr. HAYES] has already spoken to that. I associate myself with his remarks. And to some of these regulators, quite frankly, every wet spot is a valuable wetland. That is the problem. That is the problem with the gentleman's amendment. They will use a seat-of-the-pants science to determine wetlands. I would imagine they would go out in the field, sit down on the ground, and if their pants get damp, why then it would be a wetland.

The Gilchrest amendment eliminates the statutory wetlands delineation process of H.R. 961 which requires land to actually be wet for a significant part of the growing season. The committee bill requires some water-loving plants to be found on the ground.

The gentleman from Maryland [Mr. GILCHREST] would eliminate that requirement. He would eliminate the requirements for how hydric soils are delineated.

In short, I would tell my colleagues that the Gilchrest amendment guts the committee's well-reasoned, commonsense approach and replaces it with a program ruled by those who write the rules, EPA and Fish and Wildlife. That is part of the problem.

We do not need this amendment. The gentleman's intent is good, his leadership is good, he is a fine Member but we should oppose his amendment. Let us get on with the adoption of H.R. 961 and defeat this amendment.

Mr. GILCHREST. Mr. Chairman, I want to make a comment to my good friend the gentleman from Kansas that the reason America's agriculture is as advanced as it is today is because we use good science. We do not want to reverse ourselves and go back to a Third-World-nation status not using the best available knowledge to pursue the agricultural industry.

Mr. Chairman, I yield 2 minutes to my good friend the gentleman from California [Mr. WAXMAN].

☐ 1430

Mr. WAXMAN. Mr. Chairman, this issue that we have before us is not a new one. The Competitiveness Council under Vice President Quayle tried to define, redefine, wetlands in very much the same way that H.R. 961 does, and at that time Governor Wilson from the State of California did a very smart thing. He asked State officials to assess the impact of this new definition on California.

He wrote, because he was so alarmed, on December 13, 1991, to President Bush to protest the wetlands definition of the Competitiveness Council, essentially the same definition in this bill. And he said, "This would cause irreparable damage to the State's natural resource base." He found that definition we are considering today would eliminate half of California's wetlands. In southern California, the State biologists found the coastal wetlands would be reduced by 75 percent. Half of San Francisco's bay tidal marshes, which are essential habitats for numerous fish species, would also lose protection.

He asked that we have a National Academy of Sciences study, and that report is now before us, and now this study is being ignored.

For years we have heard opponents of environmental protection in this body talk about the need for sound science. When we passed H.R. 9 earlier this year, legislation that rolls back 25 years of environmental protection, we were told that we were acting in the name of sound science. When we debated a whole host of bills, opponents of environmental protection gave impassioned and eloquent lectures on the need for sound science.

In my remarks in the RECORD I am going to quote back some of the statements made by our colleagues. Apparently many Members want sound science only if it matches their political views.

What we have today is a new political correctness that has captured this House.

The National Academy of Sciences, our Nation's premier scientific organization, has completed a rigorous and comprehensive analysis and concluded that H.R. 961 does not reflect good science. The bill's sponsors react to this news not by amending their bill and accepting the Gilchrest amendment but by denouncing the National Academy of Sciences.

The message is clear. This Congress will accept sound science only if the science fits its political agenda. I think that is wrong, and that is why I am going to vote for the Gilchrest amendment.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise in opposition to the Gilchrest amendment, and I want to talk a little bit about wetlands delineation.

Ordinary people no longer know what a wetland is. They expect to see a swamp or a marsh, only to be told by regulators that land that is usually dry is a wetland, or that a field of corn is a wetland. It is really time to get the water back into wetlands.

The current guidelines can allow an area to be called a wetland even if water never stands on it or even if the surface of the ground is never saturated. For Federal regulation under the Clean Water Act there should be a real influence of water as well as the presence of wetland vegetation and soils before property comes under regulatory control. Some say this approach is unscientific.

Well, the scientists have had 20 years to decide this, and there is still no clear, understandable, agreed upon approach. We have heard a lot of rhetoric.

The gentleman from California was just talking about the National Academy of Sciences study which was released on Tuesday, and while I am personally more than a little suspicious of their timing and of consideration for the NAS's political motivations in releasing this report to coincide with the debate here in the House of the Clean

Water Act, I am glad to see them finally come forward with a report.

But let me try to dispel some of the distortions and unfounded allegations that occurred regarding the bill's delineations provisions. Some of the self-serving special interest groups backed by environmental extremists have claimed the bill is going to result in anywhere from 50 to 60 to 80 percent reduction in the amount of private property that is regulated as so-called wetlands. There is no scientific basis other than their own self-interest and political motivations to make such claims.

We should be dealing with the truth; the truth is that nobody knows the extent of wetlands in this Nation, even under the existing rules. The truth is that our bill requires that there be a reasonable relationship, a reasonable relationship between water and Federal regulation under the Clean Water Act. We have obtained information on how our bill would affect the extent of Federal jurisdiction in the Florida Everglades but we believe that this would be helpful, because the liberal extremists claimed our bill would remove the Everglades from Federal jurisdiction. The consultants found that our bill would actually result in an increase in jurisdiction and not a decrease.

This increase will certainly not occur in every case throughout the country, but it serves as a helpful example of just how desperate some of the opponents of this bill have become.

Mr. GILCHREST. Mr. Chairman, I yield myself such time as I may consume.

If I could, I would like to quickly respond to the gentleman from Missouri. Approximately 66 percent of the 1989 wetlands acreage at interagency test sites would have failed the proposed 1991 criteria comments of the Missouri River Division.

Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I rise to strongly support the Gilchrest amendment. I would hate to believe that the long awaited National Academy of Sciences study has not gotten here just in time. A million dollars is what we put down to get somebody objective to look at this problem.

The reduction in wetland acres, my colleagues, is awesome.

This is a radical change based on ignorance.

Indeed, the provisions that are objectionable are based on discredited provisions of the 1991 manual. How can we use a 1991 manual that failed field testing and not a state-of-the-art study?

In this area, we are spending tax dollars to restore wetlands. Let the Amy Corps of Engineers use the NAS study, the only study with any integrity, to develop delineation criteria. The wetlands title before us is an act of ignorance.

Please, support the Gilchrest amendment.

Mr. GILCHREST. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I am pleased to support my colleague's amendment.

The Gilchrest amendment would strike the classification provisions of the wetlands title, and replace them with a requirement that any wetlands classification regulations be based on the best available science. It also strikes the arbitrary restrictions on delineation of wetlands which are contrary to the findings of the National Academy of Sciences.

The Gilchrest amendment is an opportunity to correct one of the inconsistencies of H.R. 961. The sponsors of the bill are fond of stating how environmental decisions need to be based upon sound science and the best information available. Yet, when it comes to the issue of what is a wetland, the bill ignores science and creates its own arbitrary and unscientific definition of what is a wetland. This is particularly troubling in light of the recently released report of the National Academy of Sciences.

The bill includes an absolute standard for wetlands hydrology of 21 days of inundation. Yet, the Academy says that Federal regulation should reflect regional differences. If the Gilchrest amendment is adopted, the wetlands program will have the flexibility to acknowledge the differences in wetlands which occur in this country.

H.R. 961 is often a contradiction in terms. The use of accurate scientific information is only to be used when the polluter believes that it would be to the polluter's benefit.

The bill requires States and EPA to spend millions to develop new test species to determine water quality violations, even when EPA says that such expenditures are not necessary. Yet there will be no risk assessment when determining whether increased amounts of toxics will be released into the water because industry says that such expenditures are not necessary.

The National Academy of Sciences says that there should be flexibility in the regional determination of what is a wetland, yet the bill insists that there must be standing water at the surface for 21 days—a requirement that will leave parts of the Everglades out of the wetlands program. The result is that the bill ignores science when it is in the interest of the polluter to do so.

It is time to bring some common sense and supportable facts to the wetlands debate. Support the Gilchrest amendment and allow the wetlands program to protect true wetlands.

Mr. GILCHREST. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, I rise in support of the Gilchrest amendment. This is a straightforward amendment which simply replaces what are artificial definitions in H.R. 961, with a reliance on the best available science.

We have repeatedly heard, the Republicans have said repeatedly, they want to rely on sound science in reforming our environmental laws and other areas within the Congress. The Speaker himself, Speaker GINGRICH himself, has endorsed this principle. Yet here we have a case where the National Academy of Sciences, a nonpartisan, reliable and highly respected body, has assembled a panel, a very broad and diverse panel, which has studied for 2 years the issue of how to identify a wetland, and they have found there is absolutely no scientific justification for the wetlands provisions and the wetlands definitions in this legislation, H.R. 961.

So if you support using sound science in regulatory decisions, then you must support the Gilchrest amendment, and anything less would be sheer hypocrisy.

Mr. GILCHREST. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. BORSKI], a member of the committee.

Mr. BORSKI. Mr. Chairman, I support the amendment offered by the gentleman from Maryland to eliminate the delineation requirements and to require that classification of wetlands be based on the best available science.

What could be more common sense than to require that a technical subject such as classification of wetlands be required to be based on science?

It makes no sense to set up a classification that has nothing to do with scientific findings.

Just last week, the National Academy of Sciences at the request of Congress, issued its report on wetlands which shatters the entire foundation of title VIII of H.R. 961.

Title VIII defines wetlands without any regard to science. It doesn't just ignore scientific findings—it flies directly in the face of science.

Supporters of title VIII say this decision is not a scientific decision—it is a policy decision.

But policy must be based on the best information possible. H.R. 961 has ignored this information.

It is true that we in Congress should make the policy determinations. But we cannot, as a matter of policy, determine what is a wetland and what is not.

H.R. 961 attempts to define wetlands despite the scientific finds. We might as well attempt to define the color of the sky or the grass.

We cannot do that. What we can do, based on a scientific definition of wetlands, is determine whether we want to protect those wetlands.

H.R. 961 has determined that it will withdraw protection from 60 to 80 percent of the Nation's wetlands.

That is a policy decision but it is the wrong policy decision.

I compliment the gentleman from Maryland for attempting to make sure that our national wetlands policy is based on the best available science.

Mr. Chairman, I urge support for the amendment.

Mr. GILCHREST. Mr. Chairman, I yield myself the remainder of my time.

My last couple of comments will deal with who benefits from wetlands. The people who benefit from wetlands are those people who want clean water, those people who want floods prevented in their neighborhoods and in their regions, those people who understand the esthetic value, the appeal and the quality of life when it comes to habitat for wildlife, those people who feel a sense of closeness to nature, to the economic value of the coastal fisheries. All Americans benefit from sound wetlands policy.

I urge my colleagues to support this amendment.

Mr. SHUSTER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, make no mistake about it, just as the previous amendment which we disposed of overwhelmingly gutted the wetlands provision of this bill, so does this provision as well. This is simply another gutting amendment. It is gutting amendment, because it eliminates all efforts to require that wetlands have a closer relationship to water.

Now, this argument that the approach in the bill is not scientific is baloney. The approach in the bill is just as scientific as the much more rigid approach taken by my good friend from Maryland. Indeed, the amendment we have before us now eliminates all the requirements requiring that a degree of regulation has got to match the relative value of the wetlands. That is what we say in the bill.

We say it has got to be under water 21 days. They say 15 days. Which is more scientific? One is as scientific as the other.

In fact, very interesting, when we keep hearing about all of this science and the importance of it, I refer again to the very, very important point that the chairman of the National Academy of Sciences Committee, when asked how many wetlands would be affected by our legislation, his response was, "I don't know." And when pushed finally, he said, "Well, maybe in the 10 percent, or 20, or 30 or 40." That is science? "I don't know," and then, "Maybe 10 percent, maybe 20 percent, maybe 30 percent, 40 percent." Some science.

☐ 1445

So the science we provide in our bill is every bit as accurate. In fact we require rulemaking by the Army Corps of Engineers to define and determine which category of wetland the various wetlands fall under. And I would emphasize again: If you do not like what the bill does, if your State does not like what the bill does, your State can impose tougher wetlands regulations. We do not inhibit the States from imposing their own regulations. What we do through is sat that the State of New Jersey cannot force the State of Idaho to adopt the provisions that the State of New Jersey seems to think are important for that state.

And yes, we have heard about the Governors' Association supporting their wetlands provision. Well, I have a letter sent to us today from the vice-chairman of the Governors' Association National Resources Committee in which he says the National Resources Committee will be reviewing its current policy at its annual meeting in July. Since many new Governors have joined the NGA this year, we believe it is important to examine all the current policies to determine if the sitting Governors are in agreement with what was passed by this subcommittee 3 years ago, and he goes on to say, and this is important, I quote, H.R. 961, our bill, does provide States with flexibility to regulate wetlands in accordance with State needs. So it is important to realize that the National Governors' Association, which has come out in support of our overall bill, in fact in expressing their reservations about this particular amendment that we have before us.

My colleagues, this is simply another gutting amendment. It should be defeated.

I will close by referring to two examples of what would be a wetland if this amendment were to be adopted by friend from Maryland.

Riverside, CA, a picture of a desert. Well, this desert wants to be the site of a public flash control project. It was delineated as waters of the United States, waters of the United States, a desert. That is a wetland under the amendment we have before us. And in Phoenix, AZ, a picture of another desert. Yes, this property was declared, quote, water of the United States for regulatory purposes, a desert. That is a wetland.

Let us bring common sense to wetlands. Let us, just as we overwhelmingly did on the last amendment, let us defeat this amendment so we can have real wetland reform in the interest of America and in the interest of sound environment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland [Mr. GILCHREST].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GILCHREST. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 247, not voting 7, as follows:

[Roll No. 333]

AYES—180

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bereuter
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clay
Clyburn
Collins (MI)
Conyers
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Ehlers
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gekas
Gibbons
Gilchrest
Gilman
Gonzalez
Goss
Green
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hinchey
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kingston
Klink
Klug
Kolbe
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Mascara
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (FL)
Porter
Pryce
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Rivers
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Stark
Stokes
Studds
Stupak
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Walker
Waters
Watt (NC)
Waxman
Weldon (PA)
White
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—247

Allard
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Emerson
English
Ensign
Everett
Ewing
Fazio
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Frisa
Frost
Funderburk
Gallegly
Ganske
Geren
Gillmor

Goodlatte
Goodling
Gordon
Graham
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kim
King
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Longley
Lucas
Manzullo
Martinez
Matsui
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Royce
Salmon
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)
Zeliff

NOT VOTING—7

Archer
Berman
Collins (IL)
DeLay
Gephardt
Kleczka
Lipinski

□ 1508

Mr. INGLIS of South Carolina and Mr. WHITFIELD changed their vote from "aye" to "no."

Messrs. SERRANO, GONZALEZ, and TORRES changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. COOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage in a colloquy with the chairman concerning a matter that is of great importance to me and to my constituents.

A question has arisen as to whether the issuance of livestock grazing permits is subject to State certification under section 401 of the Clean Water Act.

It is my understanding that under current law section 401 only applies where a conveyance of some sort is involved in the discharge. That conveyance may be, but is not necessarily, a point source.

My interest is in clarifying that section 401 does not apply to a Federal lease or permit to authorize livestock grazing on lands owned or under the control of the United States, unless there is a conveyance from which pollutants are or may be discharged. Recent litigation in the district court in Oregon has increased the need to clarify the intent and scope of section 401.

Is it the chairman's understanding that section 401 State certification would not apply absent a conveyance?

Mr. SHUSTER. If the gentleman will yield, the gentleman is exactly correct. The answer is yes. Section 401 would generally not apply to grazing permits. Where there is no point source or other conveyance such as a pipe or ditch. The State certification provision under section 401 should not apply.

I thank the gentleman for raising this issue so that many people in farming and the ranching communities concerned about this issue may have some clarification.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. COOLEY. I yield to the gentleman from California.

Mr. MINETA. I thank the gentleman for yielding.

Mr. Chairman, I would agree with the chairman that section 401 was not intended to apply to discharges that do not involve some sort of conveyance.

Mr. COOLEY. Mr. Chairman, I thank the chairman and ranking minority member. Based upon this clarification of existing law, I will not insist on offering an amendment at this time.

AMENDMENT OFFERED BY MR. MINGE

Mr. MINGE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MINGE: Page 274, after line 19, add the following:

"(10) MITIGATION OF AGRICULTURAL LANDS.—Any mitigation requirement approved by the Secretary under this section for agricultural lands shall be developed in consultation with the Secretary of Agriculture."

Mr. MINGE. Mr. Chairman, this amendment is a pale substitute for an amendment that was printed in the RECORD last week and reported in the House action reports. My goal with these amendments to the Clean Water Act has been to simplify the process for the public.

Tragically, farmers, ranchers, and other landowners have had to go from agency to agency asking for clarification, seeking permits, and making sure action that they plan to take in using their own land does not violate the law. Three Federal departments, one major Federal agency, and a handful of State and local agencies are involved in this process.

Regulatory reform ought to at a minimum include simplification, one-stop shopping. Answers ought to be prompt, understandable, and consistent. The frustration, the delay, and the expense inherent in the present way that we go about making decisions regarding wetlands is a tragic story. It is done as much to drive the demand for regulatory reform as any other factor.

Mr. Chairman, it is my goal to coordinate this convoluted multi-agency process for dealing with wetlands. In consulting with the chair of the committee, I understand that the amendment as revised is acceptable.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. MINGE. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I do rise in support of the revised amendment. It is consistent with the overall theme of the bill, and I urge its support.

Mr. MINGE. Mr. Chairman, reclaiming my time, I would like to also point out that the amendment as offered deals with the topic of mitigation, and it is extremely important that we not set up a process under the Clean Water Act that has a framework for mitigation that is incompatible with swampbuster, which is a part of the Food Security Act of 1985.

□ 1515

Landowners who comply with the requirements of one Federal law should not find that it is impossible to comply with the requirements of another Federal law because the laws are inconsistent. Instead, we should make sure that these laws work together to achieve a common goal.

Landowners should not have to go to two different Federal departments and satisfy each with respect to what is involved in mitigation. Instead, they should be able to deal with one Federal agency. And the benefit of this amendment is to require that the Secretary of the Army and the Secretary of Agriculture work together, that the Secretary of the Army will consult with respect to mitigation procedures and their development with the Secretary of Agriculture.

I am optimistic that I will be able to pursue the rest of the amendments that I had intended to offer in the context of the 1995 farm bill. I look forward to working with the chair of this committee and the chair of the Committee on Agriculture and other officials in trying to develop a consistent, comprehensive Federal one-stop-shopping process for landowners in America.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do this simply to announce that we have just passed 28 hours of debate on this bill, three times the amount of time spent on the original act. And I urge support for the amendment that is now before us.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. MINGE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RIGGS: On page 276, strike lines 3 through 7 and insert in lieu thereof the following: "ponds, wastewater retention or management facilities (including dikes and berms, and related structures) that are used by concentrated animal feeding operations or advanced treatment municipal wastewater reuse operations, or irrigation canals and ditches or the maintenance of drainage ditches;".

Mr. RIGGS. Mr. Chairman, I do believe that this will go quickly and that my amendment is of a noncontroversial nature, having cleared it with the ranking minority member as well as, of course, the chairman of the full committee.

Mr. Chairman, this amendment is a companion to one I offered earlier to title IV, dealing with antibacksliding provisions of the Clean Water Act.

The present proposal would amend language in section 404, as modified by the committee. It adds wastewater reuse operations to the list of activities that are exempt from the section 404 permit process if advanced treatment practices are followed. Applicable water quality standards would, of course, still have to be met.

One of the purposes of H.R. 961, as expressed in the committee report, is to encourage communities to utilize alternative treatment systems such as constructed wetlands. This amendment encourages wastewater reuse in agriculture and wetlands by providing relief to municipalities from the unintended consequences of current law.

Section 404, as presently written, fails to recognize the net environmental benefits that can be provided by wastewater reuse. Without my amendment, more wastewater will be disposed of into the ocean or local rivers.

Years of studies have shown that advanced-treated wastewater can be used without adverse effects in wetlands to restore habitat and remove nutrients that would harm rivers and oceans—but not wetlands. Existing regulations and policies that are based on section 404 leave the decision about whether to allow restoration of wetlands with reclaimed wastewater to bureaucrats.

In northern California and elsewhere, projects that provide the dual benefit of wetland restoration and water quality improvement have been arbitrarily and systematically prevented.

Mr. Chairman, my amendment, together with other provisions of H.R. 961, would help reverse the counterproductive and unintended impact of section 404. By granting relief from the permitting process to municipal wastewater facilities that utilize advanced treatment practices, the effect of the amendment will be to encourage cities to use properly treated wastewater to restore degraded wetlands and create new wetlands—precisely what the Clean Water Act should be encouraging, not discouraging.

I urge approval of the amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield.

Mr. RIGGS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, we have examined this amendment. It is a good one and we urge its support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. RIGGS].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman, I offer two amendments, printed in the RECORD as amendments No. 42 and No. 43.

The CHAIRMAN. The Clerk will designate the amendments.

Amendments offered by Mr. PALLONE: Amendment No. 42. Page 240, line 23, after the semicolon insert "and".

Page 241, line 5, strike the semicolon and all that follows through the period on line 9 and insert a period.

Page 242, line 4, after the semicolon insert "and".

Page 242, line 7, strike the semicolon and all that follows through the period on line 11 and insert a period.

Page 276, line 10, strike the comma and all that follows through the comma on line 11.

Page 292, line 17, after the semicolon insert "and".

Page 292, strike lines 18 through 20.

Page 292, line 21, strike "(G)" and insert "(F)".

Page 292, strike line 24, and all that follows through line 6 on page 294.

Page 294, line 7, strike "(3)" and insert "(2)".

Page 295, line 3, strike "(4)" and insert "(3)".

Page 295, line 16, strike "(5)" and insert "(4)".

Page 315, strike lines 11 through 15.

Page 315, line 16, strike "(K)" and insert "(J)".

Page 315, line 19, strike "(L)" and insert "(K)".

Page 315, line 21, strike "(M)" and insert "(L)".

Page 316, line 14, strike "(N)" and insert "(M)".

Amendment No. 43: Strike title IX of the bill (pages 323 through 326).

Mr. PALLONE. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PALLONE. Mr. Chairman, my amendments strike the bill's provisions which reassign certain regulatory authority over ocean dumping and navigational dredging permits from the EPA to the Army Corps of Engineers. Under existing law, ocean dumping of dredged material currently falls for the most part under the jurisdiction of the Marine Protection Research and Sanctuaries Act. Under that act, the EPA sets up criteria for reviewing and evaluating permit applications, the EPA designates recommended sites and times for dumping. The Secretary of the Army Corps makes permit decisions on the dumping of dredged materials using the EPA criteria and siting recommendations.

The EPA has veto power over the Army Corps' permitting decisions and the EPA grants permit waivers to the Army Corps.

Under H.R. 961, the committee mark, the corps would be responsible for all ocean dumping permit decisions. The corps would set up criteria for reviewing and evaluating permit applications. The Army Corps would designate recommended sites and times for dumping, and the Army Corps would grant its own permit waivers.

The corps only has to consult with the EPA before issuing a permit, and the EPA no longer has veto power.

And most importantly, H.R. 961 requires that "the least costly environmentally acceptable disposal alternative will be selected."

The problem with removing the EPA from the dredging process is essentially that the corps has engineering and dredging expertise but not expertise in environmental management, science, protection and conservation. The Army Corps in my opinion should not be the lead agency to develop plans that are supposed to ensure protection of the marine environment and human health. Keeping the Army Corps environmental authority will jeopardize our oceans, allowing them to be exposed to dioxins like PCB's and other cancer causing pollutants.

Removing the EPA also creates a conflict of interest in my opinion for the Army Corps because under H.R. 961 the corps would grant its own permits, select its own sites and even grant its own waivers.

If I could just read a selection from a paper that my own State of New Jersey department of environmental protection put forward, they say:

> The amendments contained in H.R. 961 will affect dredging in New Jersey in several ways. The elimination of the U.S. Environmental Protection Agency from their oversight role in dredging operations will put the Army Corps of Engineers, the agency charged with keeping navigation channels open, in the role of both permitting and enforcing their own operations. This creates a perceived if not an actual conflict of interest in the management of dredging operations. While there would be definite value to consolidating the process in one agency, the environmental protection value of the permits is best managed by the EPA. Perhaps this conflict would better then be resolved by eliminating the corps from the process instead of the EPA.

Last week, Mr. Chairman, the EPA released its toxicity results from the mud dump site which is off the coast of my district in New Jersey and showed that sediments there do not meet ocean dumping criteria. I maintain that these sediments are another indication of what will happen if the EPA is removed from the dredging process.

Also, I would like to stress this problem with requiring the least costly disposal alternative which is what H.R. 961 does. Waste disposal should not be predicated on what is cheapest but on what methods best ensure that human environmental health are not jeopardized. The least costly disposal alternative is always ocean disposal, but it should not be the one that we choose.

I would also like to mention that in my own State of New Jersey, our Governor, who happens to be a Republican, has been in the forefront of saying that contaminated dredged material should not be disposed of offshore, and I think that her efforts will be undercut by having the Army Corps solely administer the dredging disposal permitting process as opposed to the EPA.

My amendment returns the dredging process to the status quo, gives the interagency working group on the dredging process the latitude to implement its recommendations. In December 1994, after a couple years, the EPA and the Army Corps together came up with an action plan that basically seeks to deal with dredging in a cooperative way and move the permitting process forward and streamline it pursuant to existing law with the two agencies working together. Let these two agencies work together, continue under the current law. They have devised an action plan that will do well without having to change the basic underlying statute.

Mr. Chairman, H.R. 961 would change the way that dredging is done in America. It would break the partnership that currently exists between the EPA and the Army Corps, handing over authority of every dredging activity solely to the corps. If H.R. 961 passes, America's oceans could be exposed to toxics like PCB's dioxin and other cancer causing pollutants. That is why I am asking for support of my amendment to strike the dredging provisions in H.R. 961. I think the action plan that both the EPA and the corps have put together is the right way to go. Let us not gut this legislation.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word, and I rise in strong opposition to this amendment.

Mr. Chairman, this amendment would delete the reforms that are achieved in this bill for our Nation's navigational dredging program. Our country's ports and harbors are a vital link not only to interstate commerce but to global commerce, the national economy and very importantly, the creation of jobs.

Under implementation of the current law, necessary dredging activities, even though the vast majority are environmentally sound, are subject to excessive delay and to interagency disputes.

Our bill addresses the problem by streamlining the regulatory requirements applicable to navigational dredging without sacrificing the environment. And it places a single agency, the Corps of Engineers, which certainly has been criticized here today for being too environmental, places the Corps of Engineers solely in charge of running the program so we have an environmentally sensitive agency in charge. It does not share, therefore, the responsibility with other agencies, creating needless interagency disputes.

Without these reforms, our balance of trade will continue to suffer and jobs will be lost. I urge defeat of this amendment.

Mr. COBLE. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding to me.

Mr. Chairman, representatives of our Nation's ports, including those in North Carolina, support the committee's inclusion of title VIII and IX in H.R. 961. Title VIII and IX modifies the regulatory provisions of the Ocean Dumping Act to transfer from the Administrator of the Environmental Protection Agency to the Secretary of the Army the responsibility for navigational dredging. If enacted, the U.S. Army Corps of Engineers would be the lead Federal agency for: First, issuing ocean dumping permits for dredged material; second, designating dumping sites; and third, developing permit criteria.

Consolidation of the management of navigational dredging in the U.S. Army Corps of Engineers will make this task more efficient, without compromising the environment. The corps is well-versed in the relevant Federal environmental statutes as well as the delicate art of dredging. Since the Chief of Engineers wears both hats, it makes sense to reassign this responsibility to the corps.

As my colleagues understand, commercial navigational is critical to our economy and the maintenance of our Nation's ports is necessary to enhance commerce within—and throughout our States—and to boost U.S. exports. We must streamline the dredging process to eliminate unnecessary delays in this process.

During committee consideration of H.R. 961, I supported the Franks amendment to reduce EPA's role in the permitting process for navigational dredging. The committee overwhelmingly approved this streamlining amendment.

Mr. Chairman, I urge my colleagues to accept the Franks amendment to this title which clarifies that the corps only gains jurisdiction over dredge material. I commend the gentleman from New Jersey for offering this amendment.

On the other hand, I must object to the amendment being offered to title VIII and IX by another of our colleagues from New Jersey, Congressman FRANK PALLONE, which would strike all of this title. As I have outlined, the committee and our constituents have argued for the efficiency and common sense which title IX provides.

Mr. Chairman, I urge my colleagues to vote for the Franks amendment and against the Pallone amendment. I yield back the balance of my time.

□ 1530

Mr. SHUSTER. Mr. Chairman, I yield back the balance of my time, and I urge a "no" vote on this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey [Mr. PALLONE].

The amendments were rejected.

Mr. CRANE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the Committee on Transportation and Infrastructure, in a colloquy so I might clarify my understanding of a provision in title VIII. Specifically, I refer to page 311, line 16 of the bill, which makes reference to previously-denied permits. I have provided the chairman with a copy of the specific language.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I am happy to engage the gentleman from Illinois in a colloquy.

Mr. CRANE. Mr. Chairman, let me preface my remarks by regrettably stating that regardless of the understanding I hope to reach in this colloquy regarding this provision, I do not support this provision, and believe it is inconsistent with the intent and goals of the legislation.

However, for clarification purposes, I would ask the chairman of the committee to confirm my understanding of how this provision would apply to a party that has applied twice for a section 404 permit and has been denied a permit both times by the Corps of Engineers. If the party applying for the permit litigates the second permit denial and is successful in court in overturning the Corps of Engineers' second permit denial, will the party be able to file another permit application, or have their permit application reconsidered under this provision?

Mr. SHUSTER. If the gentleman will continue to yield, Mr. Chairman, I would reply that the gentleman is correct. Should the party be successful in court in overturning the corps' decision in such a circumstance, it could do one of the following: First, have their permit application reconsidered, second, amend their permit application, or third, reapply to the corps for a permit.

Mr. CRANE. Mr. Chairman, I thank the gentleman profoundly.

AMENDMENT OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TAYLOR of Mississippi: Page 292, line 20, strike "and".

Page 292, after line 20; insert the following: (G) standards and procedures that, to the maximum extent practicable and economically feasible, require the creation of wetlands and other environmentally beneficial uses of dredged or fill material associated with navigational dredging; and

Page 292, line 21, strike "(G)" and insert "(H)".

Mr. TAYLOR of Mississippi. Mr. Chairman, for many decades the Corps of Engineers, being like all of us, were creatures of habit in that when they dredged, they would take the spoils and throw it to the nearest possible place without much regard for the effects on the environment, whether they were destroying an oyster reef, whether they were filling in a marsh, whether they were destroying a swamp. To their credit, the corps has now gone in another direction, and perhaps to an extreme.

Just recently in south Mississippi a 7-mile pipeline was constructed to remove the dredged material from Biloxi Bay and pump it farther inland. In another instance, what is known to be toxic dredged materials in the harbor at Pass Christian is being hauled inland, but in not every instance, as the gentleman from New Jersey [Mr. PALLONE] has pointed out, is the dredge material polluted. In many instances it is virgin bottom, it is not polluted, and it can be used for other things.

I think the Corps of Engineers would be very wise to consider a third alternative other than ocean dumping, other than hauling the material inland. That would be to create coastal marshes or wetlands with the dredged material. This would do three very valuable things. No. 1, it would create wetlands. As we all know, we have lost about half the wetlands in this country in the past 100 years.

No. 2, it would save money, because in most instances it would be the cheapest way to dispose of the dredged material, the closest to the channels that are being dredged. No. 3, in States like Louisiana and my home State of Mississippi, we are losing some very valuable property to coastal erosion. There is a national historic landmark, the lighthouse at Rhode Island, MS, that is soon to wash into the sea if something is not done to prevent the erosion of that island.

Last, Mr. Chairman, it would create wildlife habitat. Therefore, I have spoken to both the majority and minority on this matter. We are asking, but not directing, the Corps of Engineers that whenever practicable, to take this dredged material and consider the use of it for creating wetlands and marshes with this dredged material, rather than, A, hauling it inland, or B, dragging it out to the middle of the ocean.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I think the gentleman's amendment is an excellent environmental contribution to the bill, and I accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi [Mr. TAYLOR].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRELINGHUYSEN

Mr. FRELINGHUYSEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRELINGHUYSEN: In the matter proposed to be inserted as section 404(l) of the Federal Water Pollution Control Act by section 803 of the bill (as amended by Mr. Shuster's amendment) strike paragraph (8) and insert the following:

(8) TREATMENT OF EXISTING PROBLEMS.—Any State which has received approval to administer a program pursuant to this subsection before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall not be required to reapply for approval and shall be permitted to continue administering such program.

Mr. FRELINGHUYSEN. First, Mr. Chairman, I would like to thank the gentleman from Pennsylvania [Mr. SHUSTER], the chairman, for adding language to his en bloc amendment to address the concerns of New Jersey and Michigan regarding their current operation of wetlands permitting under the section 404 program of the current Clean Water Act. What I am offering now is simply a perfecting amendment.

Unfortunately, part of the language that was included in the en bloc amendment contradicts the goal of States rights. I believe that the language in the amendment en bloc goes too far. As the chairman rightly stated in his opening remarks on this bill, his goal is to provide the States with maximum flexibility in wetlands permitting, and to encourage them to take leadership roles. New Jersey is currently doing just that. This amendment simply allows two States that have already assumed the responsibility of permitting wetlands to keep their current programs without going through another lengthy procedure, and without having the final decision thrown into the political arena. It gives my Govenror the choice to either accept the new delineation process, or keep intact the current program. The argument is simple. The gentleman from Pennsylvania [Mr. SHUSTER] was right in his opening statement on the bill. Let the States decide. Give them the option. These two States have gone through several years of the lengthy assumption process. Let us not penalize them for doing the right thing and for taking the initiative in creating programs that actually do work. I urge adoption of this amendment, coauthored by the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. SHUSTER. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I oppose this amendment because if any part of our legislation that is now on the books is broken, it is the disastrous 404 wetlands program. We are simply saying that the two States which have adopted their own program in conformity with the Federal program should not hide behind a Federal program which is now being changed. The States will have the total freedom to adopt whatever State law they want to adopt for their own wetlands program, but they should not be able to continue to use, in effect hide behind, a Federal program which is being changed here.

Mr. Chairman, it is of great importance, I think, to recognize that a State may want to assume management of the program. That is what the political process is all about at the State level. That is why we have worked hard to make State assumptions more attractive and more flexible in the bill.

In fact, the committee's amendment in the nature of a substitute included a modification specifically designed to allow the opportunity for a State to petition the Secretary for deviations from the requirement of this bill. This allows for the real possibility that States could tailor their Federal delegated program, but does so within the context of a deliberate, open decision process that would allow for input from all affected parties.

Mr. Chairman, we tried to strike a balance between total, unconstrained delegation of programs and the need to achieve some degree of reform, even in States with federally delegated programs. This bill already does that. This amendment simply goes too far. Therefore, Mr. Chairman I would say the State may adopt their own State law. They should not hide behind a Federal law which no longer is going to exist. For that reason, we should defeat this amendment.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am pleased to rise in support of the Frelinghuysen amendment. Two States, New Jersey and Michigan, have assumed responsibility for administering the section 404 wetlands program. Those States should be encouraged to retain the program, and other States should be encouraged to participate as well. The Frelinghuysen amendment respects the rights of Michigan and New Jersey to continue to operate their wetlands program as they are today. My chairman has repeatedly asked this House to respect State flexibility, because States know how to best protect State interests. The Frelinghuysen amendment respects their efforts and the interests of the State, and should be supported.

Mr. Chairman, I rise in strong support of this amendment.

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Frelinghuysen amendment. I, too, look at this as a States' rights issue. As has been pointed out by the gentleman from New Jersey [Mr. FRELINGHUYSEN] and the gentleman from California [Mr. MINETA], we have a unique problem. My home State of Michigan has been administering its own wetlands program for some 15 years. We are not trying to hide behind a Federal program, we are trying to maintain the program that we have which works. I do not believe in every facet of this program. In fact, I believe that Michigan and New Jersey should look to the gentleman here as a road map to some reform. However, I believe that the Governor, the Governors of given States, should have maximum flexibility to govern the transition from the current program to a new and better one. This amendment will simply give the Governor that flexibility by allowing him to either continue the current program, adopt the new Federal guidelines, or work with the Secretary of the Army to craft a hybrid approach that uses the best from both plans. This is consistent, I believe, with the current philosophy here in Washington, and certainly with this Congress, to give States the specific flexibility to do what is best for the particular State.

Mr. Chairman, I would like to express my appreciation to the gentleman from Pennsylvania [Mr. SHUSTER], the chairman. He was very generous in his time. We did spend a great deal of time in trying to work out an agreement. Although we could not reach that agreement, I sincerely thank him for his courtesy and his generosity in terms of time, effort, and consideration. I do urge, however, the adoption of the amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also rise in support of the Frelinghuysen amendment. In 1993, New Jersey became the second State to assume regulatory authority of its wetlands program, and I believe the State assumption streamlines the permit process while ensuring environmental protection of wetlands. Under current law, States like New Jersey adopt their own wetlands programs to be implemented in place of the Federal program if that program is at least as stringent as the Federal program. Under H.R. 961, New Jersey would be forced to apply to the Army Corps of Engineers in order to continue to implement its own wetlands program. This application would take place in about a year and a half, when New Jersey's program next comes up for review. To receive additional approval, most likely New Jersey would have to severely weaken its existing program in order to comply with the demands for the new title VIII wetlands program, such as the classification and delineation that we have already discussed in this House today and the previous day.

The new wetlands program, under H.R. 961, I believe, will destroy New Jersey's existing program and all the important gains that have been made since the program was implemented in 1988. Unlike current law, which allows a State to administer its own program with limited oversight by the Federal Government, H.R. 961 says the States administering their own programs have to submit notices to the corps for permit applications. Again, this erases the greatest benefit of assumption, elimination of the duplicative Federal review process, and this severely weakens the incentive for New Jersey to reapply for assumption of its wetlands program. Eventually, I think New Jersey and Michigan would probably just simply go along with the new Federal program if we do not have the Frelinghuysen amendment. The Frelinghuysen amendment allows our States to maintain the existing programs, and exempts them permanently from having to apply for corps approval of their programs.

This would protect the gains that these two States have already made in wetlands protection. It would give New Jersey the latitude to have State law as stringent or more stringent than Federal law, and it would negate the message, most important, Mr. Chairman, that H.R. 961 currently sends, and that is that those States that actively work to make progress in environmental protection and compliance with the Clean Water Act made a mistake in doing so because their efforts would be wasted because of the changes, and the drastic changes, that are being proposed under H.R. 961.

☐ 1545

Mr. Chairman, I urge adoption of the Frelinghuysen amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. FRELINGHUYSEN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRELINGHUYSEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 181, noes 243, not voting 10, as follows:

[Roll No. 334]

AYES—181

Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Boehlert
Bonior
Bono
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Camp
Cardin
Castle
Chapman
Chrysler
Clay
Clement
Clyburn
Collins (MI)
Conyers
Costello
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Durbin
Ehlers
Ehrlich
Engel
Ensign
Eshoo
Evans
Farr
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gibbons
Gilchrest
Gordon
Greenwood
Gutierrez
Gutknecht
Harman
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Horn
Houghton
Hoyer
Jackson-Lee
Johnson (CT)
Johnson, E. B.
Johnston
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Knollenberg
Lantos
Lazio
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moran
Morella
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Porter
Portman
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Saxton
Scarborough
Schroeder
Schumer
Scott
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Wise
Wolf
Woolsey
Wyden
Yates
Zimmer

NOES—243

Abercrombie
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Fowler
Frank (MA)
Franks (CT)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gonzalez

Goodlatte
Goodling
Goss
Graham
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kim
King
Kingston
Klink
Klug
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Longley
Lucas
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Poshard
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sawyer
Schaefer
Schiff
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Traficant
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Young (AK)
Young (FL)
Zeliff

NOT VOTING—10

Berman
Boucher
Collins (IL)
Fattah
Gephardt
Gilman
Jacobs
Kleczka
Lipinski
Wynn

☐ 1605

Messrs. CALLAHAN, HASTERT, KASICH, and GONZALEZ changed their vote from "aye" to "no."

Mr. DEFAZIO changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Chairman, I regret that my being involved in an event on the Senate side prevented me from voting on rollcall No. 334. Had I been able to vote, I would have voted "yea."

PERSONAL EXPLANATION

Mr. WYNN. Mr. Chairman, I was unavoidably detained during rollcall vote No. 334. Had I been present, I would have voted "yea."

Mr. SHUSTER. Mr. Chairman, I move to strike the last word for the purposes of a colloquy, and I yield to my good friend, the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, currently the Army Corps of Engineers and the Environmental Protection Agency regulations for implementing section 404(f) exemptions for agricultural and related activities require that an activity "must be part of an 'established' or 'ongoing' farming, silviculture or ranching operation".

Mr. Chairman, what is the gentleman's intent in amending section 404(f) with respect to these exemptions? Under the amended section 404(f), will it be permissible to change from one exempted agriculturally related activity to another without triggering the permit requirements?

Mr. SHUSTER. Yes, the gentleman is absolutely correct. Changing from one exempted agricultural activity, such as grazing, to another exempted agricultural activity, such as plowing, will not cause the exemption to end. Furthermore, there is no requirement that the exempted activity be established or ongoing as the regulations currently require.

In fact, I emphasize to my good friend, the gentleman from California that this is one of the significant differences between current law and what we are doing in this reform. Under current law the bureaucrats can and have used the exemption process to say that when you move from one agricultural activity to another process you are not exempt, and that is what we fix in this legislation.

Mr. HERGER. Mr. Chairman, I thank the gentleman from Pennsylvania.

AMENDMENT OFFERED BY MR. WYDEN

Mr. WYDEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WYDEN: Page 251, after line 2, insert the following:

"(C) PREVENTION OF REDUCTION IN FAIR MARKET VALUE OF PRIVATE HOMES—No compensation shall be made under this section with respect to an agency action that prevents or restricts any activity that is likely to result in a total reduction in the fair market value of one or more private homes of $10,000 or more.

Page 315, after line 15, insert the following:

"(K) PRIVATE HOME.—The term 'private home' means any owner occupied dwelling, including any multi-family dwelling and any condominium.

Page 315, line 16, strike "(K)" and insert "(L)".

Page 315, line 19, strike "(L)" and insert "(M)".

Page 315, line 21, strike "(M)" and insert "(N)".

Page 316, line 14, strike "(N)" and insert "(O)".

Mr. WYDEN. Mr. Chairman, this is a straightforward amendment to protect the rights of private homeowners whose property values would be reduced by $10,000 or more when a developer fills in a wetland.

Right now the bill creates a double standard. There are one set, a generous set of rules for protecting the rights of those who want to develop property, and a far weaker set of rules for the neighboring homeowners who live nearby. If we do not vote to correct this double standard, Members will find citizens coming up to them and asking, Why did you vote to lower the property value of my house?

Here is why Members are going to get that question: By voting for this bill there are going to be more wetlands filled. Wetlands help limit flooding by acting as a huge sponge that can soak up water and rainfall. When a wetland is filled, the excess water has to find someplace to go, and that could be the basement or the backyard of the homeowners living downstream from the development.

That is why Members are going to get asked, if we do not vote to correct the double standard in this bill, why they have been willing to go along with reducing the value of their neighbor's house under this bill.

In addition, for those who are concerned about the deficit issues in this bill, this amendment should also be appealing. A 1992 congressional budget analysis estimated the cost of compensating wetland owners for not developing their property could be as high as $10 to $15 billion. The entire corps regulatory budget is in the millions.

Let us make sure that we recognize that those who develop property in our country deserve fair treatment. But let us also recognize that the homeowners who live next door to wetlands that are going to be filled under this legislation also deserve fair treatment.

Vote to give those homeowners a fair shake by supporting this amendment.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I am happy to yield to my friend, the gentleman from Illinois.

Mr. DURBIN. Mr. Chairman, I want to make sure I understand the gentleman's amendment. Is the gentleman saying if I happen to have my home next to wetland and the developer goes on that wetland under this bill and somehow fills it in with a landfill or whatever so he can build a subdivision or building of some sort, as a result my property, my basement floods or something happens to my property, that I have a right to recover for my loss?

Mr. WYDEN. What I am saying is the standard to protect you as a homeowner is far weaker than the standard that protects the developer. The developer, for example, gets compensated if their property value is just diminished as a result of the activity that this bill addresses. You, as a homeowner, do not get any concern under this bill if your property value is reduced. You actually have to have the flooding in your basement before there is any consideration.

Mr. DURBIN. If the gentleman will yield, if a person is really in favor of property rights, then they would be in favor of those property rights lost because a wetland is filled inasmuch as they would be if they had land that had wetlands on it, would they not?

Mr. WYDEN. Not only is the gentleman correct, but let us remember there are many more homeowners situated in the fashion the gentleman has described than there are those who want to develop property. There are 65 million private homeowners in this country. They enjoy the benefit of environmental laws. Certainly not all of them obviously live next door to a wetland, but there are many, many more homeowners like the ones the gentleman's question addresses than there are those who want to develop property.

Mr. DURBIN. I would say to the gentleman I have heard many speeches around here about property rights. This is an eminently sensible and fair amendment, and I assume we will pass it by voice vote, and I support the gentleman's amendment.

Mr. WYDEN. I thank the gentleman.

Mr. SHUSTER. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, while the intent of this amendment may not be completely clear, it appears to be totally unnecessary, duplicative, and indeed, the source of much litigation. If the intent of the amendment is to protect other property owners from being harmed by the issuance of a wetland permit provisions already contained in H.R. 961 more than adequately do that. I refer specifically to page 250, which is clear.

I would also point out that this amendment by my good friend from Oregon is essentially the same amendment he offered during the private property rights debate a few months ago, and at that time his amendment was overwhelmingly defeated, 165 to 260. Section 803(b) of our legislation expressly prohibits the payments of compensation if the activity requiring a wetlands permit would harm another property owner. It is very clear. The private property rights protection also prohibits the payment of compensation for any activity that would be considered a nuisance under the applicable State law or is inconsistent with the local zoning law.

□ 1615

These two provisions make it perfectly clear that no one has the right to take actions on their property that would damage somebody else's property.

Now, if my good friend in his amendment is attempting to assure that adjoining property owners are not to be flooded or directly harmed, his amendment is not needed. However, I suspect the case really, given my good friend's strong opposition to property rights legislation, is that he is trying to establish a bureaucratic out for compensation in every case, and I must oppose it.

The property rights provision in this bill, exactly like those contained in H.R. 961, requires that a direct link be established between the action requiring a permit and the harm to another's property. The absence of this link would allow neighbors who just do not want to see development on another piece of property to undermine the constitutional rights of the property owner. That is not right. It is not American, and we should not let it happen.

The other limitation to this amendment is that, if in the mind of some bureaucrat, some mythical reduction in property values might occur, hundreds, even thousands, of miles away, then they could escape the compensation requirements of this act. Again, this is not what this country is all about.

The amendment is sufficiently vague that it will almost certainly result in mountains of litigation. It is a lawyer's paradise. We need to protect property rights, not to provide more work for lawyers.

I urge the defeat of this amendment.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment.

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Oregon, the author of the amendment.

Mr. WYDEN. I thank the gentleman for yielding.

I would just like to respond, if I might, to my friend from Pennsylvania.

First, let me tell my colleagues that this amendment is far narrower in terms of protecting the rights of homeowners than any similar issue ever discussed on the floor. We have stipulated, for example, that there must be damage to the adjoining homeowners of $10,000 or more.

Second, and I want the Members to understand exactly what the double standard is which no more favorably treats developers than it does homeowners, in the bill, the developer is compensated if their property value is merely diminished. The neighboring homeowner has to meet a higher standard which requires actual physical damage such as the flooding to their basement. So there clearly is a double standard here.

I share the view of the gentleman from Pennsylvania that a developer deserves a fair shake. Certainly there are takings in our country, and developers warrant fair treatment. Let us as we finally move toward the closing of this bill produce some balance and say the millions and millions of homeowners who live next door to these developments have some rights as well. They should not just have to go out and take their chances in some local court.

This bill says that the developer gets a fair shake at the Federal level. Let us make sure that the adjoining homeowner gets a fair shake at the Federal level as well.

Mr. MINETA. Mr. Chairman, I am pleased to support the amendment offered by our colleague from Oregon. While it certainly does not cure the ills of the takings provisions which are in the bill, it does make an important point.

Throughout the takings debate, the proponents of the legislation always frame the argument in the context of the individual property owner against the Government. They are never willing to acknowledge that often the rationale for regulation is the protection of the property rights of others. The amendment specifically acknowledges this.

The U.S. Treasury, and the taxpayer, should not be expected to compensate an individual who has been denied the opportunity to take an action which results in the diminution of the property right of another taxpayer. It would be the greatest of ironies to the taxpayer for an individual, through his or her taxes, to pay compensation to a neighboring property owner for an action which caused a diminution in the individuals own property.

Whether the bill's sponsors will agree or not, what we are really taking about in the whole takings debate is whether there is a public interest in the action taken—whether the various interests of property owners are correctly balanced one against the other. When one owner bears a disproportionate burden, a taking has occurred and the Constitution provides a right to compensation.

The bill has severely tilted an otherwise level playing field in the favor of the owner who seeks not to be regulated. The Wyden amendment is an attempt to assure that some sense of fairness to the taxpayer is preserved, and that the relative rights of property owners everywhere are recognized.

The amendment makes sense, it creates the proper balance of property rights, and it deserves our support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. WYDEN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WYDEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 270, not voting 6, as follows:

[Roll No. 335]

AYES—158

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn

Coleman
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Durbin
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gilchrest
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Porter
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schroeder
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—270

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—6

Berman
Collins (IL)
Gephardt
Kleczka
Lipinski
Maloney

□ 1642

Messrs. FOLEY, SMITH of New Jersey, and GEKAS changed their vote from "aye" to "no."

Mr. POMEROY and Mr. MOLLOHAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Ms. MOLINARI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at this point I would like to engage the chairman of the full Committee on Transportation and Infrastructure in a colloquy.

Mr. Chairman, on page 247 of H.R. 961, the Committee on Transportation and Infrastructure classified that type C wetlands include, and I quote, wetlands within industrial, commercial or residential complexes or other intensely developed areas that do not serve significant wetlands functions; is that correct?

Mr. SHUSTER. Mr. Chairman, will the gentlewoman yield?

Ms. MOLINARI. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Yes, the gentlewoman from New York is correct.

Ms. MOLINARI. Is it also correct that such wetlands are not classified as type C merely because they are located in developed or urban areas?

Mr. SHUSTER. The gentlewoman from New York [Ms. MOLINARI] is absolutely correct. In fact, the committee specifically recognizes in the report many valuable wetlands are located in or adjacent to urban centers or other developed sites. Any wetlands which serve significant wetlands functions as a result of such location would not automatically be classified as type C wetlands.

□ 1645

The CHAIRMAN. Are there further amendments to title VIII? If not, the Clerk will designate title IX.

The text of title IX is as follows:

TITLE IX—NAVIGATIONAL DREDGING

SEC. 901. REFERENCES TO ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.).

SEC. 902. OCEAN DUMPING PERMITS.

(a) ISSUANCE OF PERMITS.—Section 102 (33 U.S.C. 1412) is amended—

(1) in the section heading by striking "ENVIRONMENTAL PROTECTION AGENCY"; and

(2) in subsection (a)—

(A) by striking "Administrator" each place it appears and inserting "Secretary";

(B) by striking paragraph (G) and redesignating paragraphs (A), (B), (C), (D), (E), (F), (H), and (I) as paragraphs (1) through (8), respectively;

(C) in paragraph (4), as so redesignated, by redesignating subparagraphs (i) through (iii) as subparagraphs (A) through (C), respectively; and

(D) by striking the first and second sentences following the indented paragraphs.

(b) CATEGORIES OF PERMITS.—Section 102(b) (33 U.S.C. 1412(b)) is amended by striking "Administrator" and inserting "Secretary".

(c) DESIGNATION OF SITES.—Section 102(c) (33 U.S.C. 1412(c)) is amended—

(1) by striking "Administrator" each place it appears and inserting "Secretary"; and

(2) in paragraph (3) by striking "Secretary" each place it appears and inserting "Administrator".

(d) SPECIAL RULES.—Section 102(d) and 102(e) (33 U.S.C. 1412(d) and 1412(e)) are amended by striking "Administrator" each place it appears and inserting "Secretary".

SEC. 903. DREDGED MATERIAL PERMITS.

(a) DISPOSAL SITES.—Section 103 (33 U.S.C. 1413) is amended—

(1) in the section heading by striking "CORPS OF ENGINEERS" and inserting "DREDGED MATERIAL"; and

(2) in subsection (b)—

(A) by striking "by the Administrator" each place it appears;

(B) by striking ", with the concurrence of the Administrator,"; and

(C) in paragraph (3) by striking "Administrator" and inserting "Secretary".

(b) CONSULTATION WITH THE ADMINISTRATOR.—Section 103(c) (33 U.S.C. 1413(c)) is amended to read as follows:

"(c) CONSULTATION WITH THE ADMINISTRATOR.—Prior to issuing a permit to any person under this section the Secretary shall first consult with the Administrator.".

(c) WAIVERS.—Section 103(d) (33 U.S.C. 1413(d)) is amended by striking "request a waiver" and all that follows through the period at the end and inserting "grant a waiver.".

SEC. 904. PERMIT CONDITIONS.

Section 104 (33 U.S.C. 1414) is amended—

(1) by striking "Administrator or the Secretary, as the case may be," each place it appears and inserting "Secretary";

(2) in subsection (a) by inserting a comma before "after consultation";

(3) in subsection (h)—

(A) by striking "Administrator of the Environmental Protection Agency" and inserting "Secretary"; and

(B) in the last sentence by striking "Administrator determines" and inserting "Secretary determines"; and

(4) in subsection (i)—

(A) by striking "Administrator" each place it appears and inserting "Secretary";

(B) in paragraph (3) by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure"; and

(C) in paragraph (4)(D) by striking "of the Environmental Protection Agency".

SEC. 905. SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES.

Section 104A (33 U.S.C. 1414a) is amended by striking "Administrator" each place it appears and inserting "Secretary".

SEC. 906. REFERENCES TO ADMINISTRATOR.

With respect to any function transferred from the Administrator to the Secretary of the Army by an amendment made by this title and exercised after the effective date of such transfer, reference in any Federal law to the Administrator shall be considered to refer to the Secretary of the Army.

The CHAIRMAN. Are there any amendments to title IX?

AMENDMENT OFFERED BY MR. FRANKS OF NEW JERSEY

Mr. FRANKS of New Jersey. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRANKS of New Jersey: Page 323, strike line 1 and all that follows through line 23 on page 326 and insert the following:

TITLE IX—NAVIGATIONAL DREDGING

SEC. 901. REFERENCES TO ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.).

SEC. 902. ENVIRONMENTAL PROTECTION AGENCY PERMITS.

Section 102(c) (33 U.S.C. 1412(c)) is amended—

(1) in the first sentence of paragraph (3) by striking "the Administrator, in conjunction with the Secretary" and inserting "the Secretary, in conjunction with the Administrator,"; and

(2) in the second sentence of paragraph (3) by striking "the Administrator and the Secretary" and inserting "the Secretary and the Administrator".

SEC. 903. CORPS OF ENGINEERS PERMITS.

(a) DISPOSAL SITES.—Section 103(b) (33 U.S.C. 1413(b)) is amended—

(1) in the matter preceding paragraph (1) by striking ", with the concurrence of the Administrator,"; and

(2) in paragraph (3) by striking "Administrator" and inserting "Secretary".

(b) CONSULTATION WITH THE ADMINISTRATOR.—Section 103(c) (33 U.S.C. 1413(c)) is amended to read as follows:

"(c) CONSULTATION WITH THE ADMINISTRATOR.—Prior to issuing a permit to any person under this section, the Secretary shall first consult with the Administrator.".

SEC. 904. PENALTIES.

Section 105 (33 U.S.C. 1415) is amended—

(1) in the first sentence by inserting "or, with respect to violations of section 103, the Secretary" before the period at the end;

(2) in the fourth, fifth, and sixth sentences by inserting "or the Secretary, as the case may be," after "Administrator" each place it appears; and

(3) in subsection (g)(2)(C) by inserting "or the Secretary, as the case may be," after "the Administrator" the first place it appears.

SEC. 905. ANNUAL REPORT.

Section 112 (33 U.S.C. 1421) is amended by striking "with the concurrence of the Administrator".

SEC. 906. REFERENCE TO COMMITTEE.

Section 104(i)(3) (33 U.S.C. 1414(i)(3)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

Conform the table of contents of the bill accordingly.

Mr. FRANKS of New Jersey. Mr. Chairman, over the course of the last 2½ years I have worked with a bipartisan group of Members to help resolve what has increasingly become a pressing environmental and economic concern, not only to my home Port of New York and New Jersey, but to commerce throughout this great Nation. In short, Mr. Chairman, the continuing silting up of our harbors and waterways threatens to strangle our ability to move American products at home and abroad.

Nearly 67 percent of American exports by dollar value reach their foreign destination by ships that are loaded at our Nation's network of ports. Fully 10 percent of this ocean-borne cargo by value leaves the Port of New York and New Jersey, the third busiest port in the Nation, and the largest container port on the east coast, handling over 38 million tons of cargo a year. In my region, 180,000 people depend on the continuing operation of this port for their employment, and the port contributes over $20 billion a year to the region's economy.

If the safe and timely dredging of my port and ports around the country is thwarted, people lose jobs and the potential grows for an environmental disaster to occur. In committee, I worked with the gentleman from Pennsylvania, Chairman SHUSTER, to craft language that would help streamline the dredging permit process in this country. Since that time, Mr. Chairman, I have worked to refine the text of that amendment contained in title IX to more clearly address the crisis at hand.

My amendment would grant the Army Corps additional jurisdiction over dredged material permits and leave the Environmental Protection Agency in charge of the disposal of solid waste, sewage sludge, incinerator residue, or other materials as in current law.

In addition, my amendment ensures that the EPA will establish and apply the baseline criteria for reviewing and evaluating ocean dumping permit applications for all materials. Moreover, the amendment now ensures that the opportunity for public comment to both the Army Corps and the EPA is retained.

I appreciate all of the assistance that I have received from Chairman SHUSTER and his staff as I have drafted this amendment, as well as the substantial input we have received from environmental, port, business, and labor interests. I urge my colleagues to support this amendment that will help both protect the environment and promote the economic viability of our Nation's ports.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. FRANKS of New Jersey. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I want to compliment the gentleman for the leadership he has provided in this. I strongly support his amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I also rise in support of the Franks amendment. I have to say that, as I guess was clear from my previous amendment, I do believe that it is a mistake as the bill goes to reassign certain regulatory authority over ocean dumping of dredge materials from the EPA to the Army Corps of Engineers. I also believe that the problem that the gentleman from New Jersey, my colleague, is trying to address, is best addressed by the interagency working group that has been worked out between the corps and the EPA, which I think ultimately would streamline the dredging process, the permitting process, without the need for changing the underlying law of the Clean Water Act or the Ocean Dumping Act.

However, I have to commend the gentleman from New Jersey, my colleague, Mr. FRANKS, because this amendment does put the EPA back in charge of certain things and goes far toward, I believe, reasserting the EPA's authority over environmental concerns that relate to ocean dumping, as well as dredging.

As Mr. FRANKS mentioned, the amendment puts the EPA back in charge of ocean dumping permits for material other than dredge material. It puts the EPA back in charge of establishing criteria for reviewing and evaluating permit applications, and gives waiver authority back to the EPA for dredger permits. So clearly there is significant progress here in terms of trying to put back the EPA and having them cooperate with the corps in the whole process of dredging, as well as other forms of ocean dumping.

I would point out unfortunately though, that the amendment would still give disposal siting and monitoring authority to the corps and still requires that the least costly disposal alternative be selected. Overall, this is certainly an improving amendment that does address many of the concerns that I discussed before. I would urge support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. FRANKS].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PETRI: Page 326, after line 23, add the following:

TITLE X—ADDITIONAL PROVISIONS

SEC. 1001. COASTAL NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—Section 6217(a)(1) of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) by striking "shall" the first place it appears and inserting "may"; and

(2) by striking "the Secretary and".

(b) PROGRAM SUBMISSION, APPROVAL, AND IMPLEMENTATION.—Section 6217(c) of such Act is amended—

(1) in paragraph (1)—

(A) by striking "the Secretary and the Administrator shall jointly" and inserting "the Administrator shall"; and

(B) by striking "The program" and all that follows through the period at the end of the paragraph and inserting "The program shall be approved if the Administrator determines that the program meets the requirements of this section."; and

(2) in paragraph (3)—

(A) by striking "If the Secretary" and inserting "If the Administrator";

(B) by striking "the Secretary shall withhold" and inserting "the Administrator shall direct the Secretary to withhold"; and

(C) by striking "The Secretary shall make" and inserting "The Administrator shall direct the Secretary to make".

(c) FINANICAL ASSISTANCE.—Section 6217(f) of such Act as amended—

(1) in paragraph (1)—

(A) by striking "the Secretary, in consultation with the Administrator," and inserting "the Administrator"; and

(B) by inserting "and implementing" after "developing";

(2) in paragraph (2) by inserting "and implementing" after "developing"; and

(3) in paragraph (4)—

(A) by striking "the Secretary" each place it appears and inserting "the Administrator";

(B) by striking ", in consultation with the Administrator,"; and

(C) by inserting "and implementing" after "preparing".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 6217(h)(2) of such Act is amended—

(1) in subparagraph (A) by striking ", other than for providing in the form of grants under subsection (f)"; and

(2) in subparagraph (B) by striking "the Secretary" and inserting "the Administrator".

Conform the table of contents of the bill accordingly.

Mr. PETRI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. PETRI. Mr. Chairman, this amendment, which I am offering with Representative TAUZIN, makes certain additional revisions, as requested by the States, to the coastal nonpoint pollution program under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990.

First, this amendment keeps in law the coastal zone program, as we voted last week, but provides that it is up to each State to determine whether to participate in the program.

While the National Oceanic and Atmospheric Administration will still play a role, the amendment provides the EPA will be the lead agency in administering the program, and it makes Federal grants available for implementation of coastal zone programs in addition to simply development of the plans.

Mr. Chairman, last week, we went back and forth as to who and what groups were supporting what position.

Let me be clear—we have worked with the National Governors' Association and the State water pollution control officials in drafting these improvements to the program. The amendments to the 6217 program made by Chairman BOEHLERT's amendment last week were necessary and positive and we do not change any of that language, but further improvements can be made to the program.

This amendment gives flexibility to the Governors in determining how to address coastal pollution. But the amendment also keeps in place the 6217 program so that States which want to continue to move forward with programs—those States which have found it to be successful for their State—may continue to pursue the 6217 program.

This amendment would allow a State to opt out of the program if it wishes. But I would point out that the State will still have to address nonpoint source pollution through the Clean Water Act section 319 nonpoint source program. Again, States that want to continue under the coastal zone program are fully able to do so. Let me note that, in essence, participation in section 6217 already is voluntary. If a State has a management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, then it must submit a nonpoint program under section 6217.

But it is up to a coastal State to determine whether to participate in the basic coastal zone management program in the first place. A State currently can simply withdraw from the entire program if it wishes and section 6217 does not apply. My own State of Wisconsin is currently considering doing just that.

This amendment streamlines the program so that States will deal with only one agency. That agency will be the EPA—which is, after all, the Federal agency with the expertise in nonpoint source pollution. However, NOAA will continue to be involved in the program.

As we have heard repeatedly, a constant source of frustration for those trying to implement programs is when various Federal agencies administer a single program, and we correct that here.

As we heard last week, some States are about ready to submit their programs and so this amendment makes Federal funds eligible for the next phase—that of implementation. Currently, Federal grants may be used only for development of programs.

The revisions made to the program through the Boehlert amendment last week are very necessary and do improve the program. These are further improvements to section 6217, as requested by the States.

I urge the House to adopt this amendment to provide needed flexibility to ensure that States can develop effective coastal nonpoint programs.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding. I join him in offering this amendment.

I want to point out to the House again, this amendment does not repeal or even undercut the Boehlert amendment nor the CZM program. It simply does what the gentleman from New York [Mr. BOEHLERT] said he wanted to do, give the States a choice to either use that program or in fact work with section 319 of the clean water bill.

It, second, harmonizes those two sections by allowing the coordination of management under the EPA, and it does a very good thing I think the gentleman from New York [Mr. BOEHLERT] would like. It allows the funds for the program that can only be used right now to plan the CZM nonpoint source pollution program, to be used to implement that plan. So it really extends and further implements the plans if the States want to in fact go forward with them.

In short, it allows for State option to either use a CZM program or to in fact use section 319 and to operate their program accordingly.

I want the House to know the first thing I received when we began talking about this amendment was a notice from Mr. KANJORSKI, head of our program in Louisiana, saying this is exactly what the State of Louisiana would like. I suspect that more States would prefer doing exactly this, giving the States the flexibility to use one or the other programs, to harmonize them under one agency and to use the funds not only to plan, but to actually implement those plans.

Mr. Chairman, I commend the gentleman for the amendment and join him in offering it, and urge its adoption by the House.

Mr. PETRI. Reclaiming my time, I would point out that our Governor, Tommy Thompson, has felt this is of extreme importance to the State of Wisconsin, too, and they want the flexibility, not whether or not to have a program, but to administer it with the EPA.

Mr. SAXTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I find myself in the very difficult position of having to oppose the amendment offered by the gentleman from Wisconsin [Mr. PETRI]. As we suggested over the last several days, modifications to the amendment could have been made to shore up some of the problem areas, but were not. As a matter of fact, when the debate of this issue started a few minutes ago, we were still off the floor trying to understand how we could arrive at those agreements. Unfortunately, we were unable to do so.

Mr. Chairman, I am afraid I must say that this amendment, while it is true it does not touch the language of the Boehlert amendment, does do violence to the CZMA Program, in that it essentially takes away the motivation that is currently in the current law to provide for those aspects that encourage people to be in the program.

As a matter of fact, I have before me a memorandum from the Coastal States Organization which I would like to quote directly from, because the Coastal States Organization very much opposes the Tauzin-Petri amendment. They say that they have reviewed this amendment and determined that it is not consistent with either the policy of the National Governors' Association or with the Coastal States Organization.

In regards to the revised version of Tauzin-Petri they say the following: The revised version has the same problems as the original version in that the amendment would allow States to operate out of CZMA section 6217, contrary to what we have heard from some of the proponents of Tauzin-Petri amendment. Allowing States to operate out of the program does not serve the purpose of additional flexibility to the States. Rather, it will put increased pressure on the States by those who would have the States opt out, namely, causers of pollution, polluters, to opt out of CZARA 6217 in favor of the 319 program which holds little prospect of improving water.

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This is the statement brought to us today, May 16, by Kerry Kehoe of the Coastal States Organization. In the interest of the integrity of CZMA as it relates to nonpoint source pollution, this is simply a revote, this is nothing more than a revote of the amendment that we voted last week.

In addition, the proposed amendment deletes the enforceable policy requirements from CZARA. As you are aware, NOAA and the EPA have recently agreed to longstanding policies which this apparently also deletes.

Mr. Chairman, it is with reluctance but with a sense of determination that this revote on the amendment that was offered last week, which has the same effect, and that is to gut the CZMA nonpoint pollution program, must be defeated.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman for his leadership on this issue. I want him to know and my colleagues to know that we are still working at a fever pitch to preserve the basic integrity of the program and yet have some basis for accommodation.

So the debate will continue and I am with my colleague 100 percent, but the negotiations are ongoing. I think we are about this close, because I could not agree more with the distinguished chairman, that we have to preserve the basic integrity of the program.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I am informed by staff that the amendment that we have introduced does not delete the enforceability provisions. I just wanted to correct the record so far as that is concerned and also assure both my colleagues that should this amendment be adopted, we would be eager to continue working with the gentleman as the bill moved forward through conference and so on to work out any problems. We are not trying to do anything to hurt the Coastal Zone Program. What we are tying to do is give States the opportunity to deal with one Federal agency, if that makes sense.

Mr. SAXTON. We can certainly agree on that point, Mr. Chairman. We can certainly agree. I think there are three items that are contentious. We can certainly agree on two, the one the gentleman just mentioned, whether this is a program and whether this is a program that is administered through the EPA or NOAA, but the ability of States who have internal political pressure to opt out of the program or to fail to opt into the program is something that is very contentious and something that we have not and cannot agree to.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me correct perhaps a statement that I am sure was not made on purpose. We are not revoting the Boehlert amendment. The Boehlert amendment was an amendment designed in fact to place the coastal zone management nonpoint source pollution back in the bill. It had been repealed by the original bill. This amendment does not take it back out. In fact, it says, any State that wants to can, in fact, implement that coastal zone nonpoint source pollution program, just as they would without this amendment.

The only thing this amendment does is say to States, which want to use a section 319, with the enforceability provision still in the bill, they have to do the nonpoint source program but they do it under section 319 instead of under this new reinvented wheel program. It gives the States the flexibility.

It does exactly what the gentleman from New York [Mr. BOEHLERT], I think, said he wanted to do, and that is give the States the real chance to run their program the way we intended.

If, in fact, if, in fact, the purpose of the Boehlert amendment was to represent the will of the States, as it was presented on the floor of the House, then this is a perfecting amendment. This makes it very clear that the States make the choice. The States have the option.

I want to point out to you that the existing coastal zone management program was indeed a voluntary program. It involved land use decisions which had been traditionally and correctly reserved for the States. It was not a program where the Federal Government came in and dictated the coastal zone boundaries, nor was it a program where the Federal Government dictated land use decisions within that coastal zone boundary.

The amendment we offer preserves that voluntary State-managed program under CZM. It gives a certain amount of assurance that there will be coordination in the program, because it says that now one agency, the EPA, rather than two agencies, NOAA on the one hand, EPA on the other hand, are managing two very similar programs that might collide with one another.

Lastly, it aids in the success of nonpoint source pollution control in that it allows the moneys that are available to be used in implementing the program not just planning. I think most Americans are rather fed up with the notion that so much Federal money gets spent on studies and planning and so little actually is used to accomplish the good that a program is designed to accomplish.

To that end, this amendment makes sure that money can be used to actually carry out the program, not just to plan it.

So for those very good three reasons: First, the States ought to have the flexibility to coordinate the programs as the States feel work best in their own State, particularly when you consider that CZM has always been a State-run voluntary program; second, that coordination under a single Federal agency makes sense, why have two different agencies running two programs at a parallel that might in fact and generally do collide running, run into conflicts with one another; and third, why not provide, as we do in this amendment, that moneys available under the program can in fact be used to implement it, not just to plan and keep planning and keep planning ad infinitum and wasting Federal and local resources in planning processes when we could be using it to actually begin controlling nonpoint source pollution in the coastal zone.

I urge the Members of the House, again, to consider, we are not repealing the Boehlert amendment, not at all. We are saying that Boehlert amendment stands. The CZM Program stands. If your State wants to implement it as the Fed wants you to do, you can go right ahead. It simply says that a State like Louisiana, which wants to coordinate its 319 programs with the CZM nonsource program, can do so and further that it can use the money to implement the program and it will be coordinated by only one Federal agency, not a pair of agencies which are often in conflict. That makes sense.

If this session of Congress is about rationalizing programs, ending duplication, creating flexibility for those on the local level who implement the programs, this amendment, the Petri-Tauzin amendment is exactly the way to make the Boehlert amendment work well.

I will say it again, either you really meant what you said when you said that you were trying to represent the will of the States in this point of view or you did not. if you really meant to represent the will of the States, this amendment perfects that. It gives the States the flexibility, the option to make the decisions that best suit the CZM Program in a given State, a program that has always been voluntary, always been State-run, always been defined by State law and regulated, and managed by State managers.

If you believe that, if that is the purpose of the original Boehlert amendment, this amendment strengthens it, makes it clearer that States do have that option. If your State wants to run it the way it is currently run, you have full authority to do so under this amendment. If your State is one like mine that wants to coordinate it under section 319, this amendment gives you that power.

I urge the Members to adopt this amendment.

Mr. GOODLATTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment. I commend the gentleman from Wisconsin and the gentleman from Louisiana for this effort. This corrects what I think is a serious defect in the bill created by the earlier Boehlert amendment which takes away the kind of flexibility that the States need to have in dealing with nonpoint-source pollution problems.

The State of Virginia that I represent is a very diverse State. It has very diverse types of geography in different parts of the State. And it is the State itself and the State agencies and the elected officials in the State of Virginia that best understand the competing needs of different parts of the State.

The State of Virginia borders a great deal of the Chesapeake Bay, and we very much value and treasure the Chesapeake Bay, but we also understand the needs of those in other parts of the State. And it is far more appropriate for the State to be able to take the lead in deciding this and not have to work with two competing different Government agencies, Federal Government agencies dictating to the State of Virginia how to handle a wide variety of land use issues that take place all across the State.

I commend the gentleman from Louisiana and the gentleman from Wisconsin. I strongly urge this as a very good amendment which will correct a problem that exists in the bill.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for his statement. I want to point out that when I was a young State legislator, many years ago, that I managed a CZM bill through the Louisiana Legislature. I remember all the promises that were made then, that the State would always run its program, define its boundaries, decide land use practices. In fact it was always going to be a State-run program.

This amendment perfects the Boehlert amendment to make sure that process is kept, that each State runs its program in the way that makes sense, that it is coordinated properly, and that moneys can be used to carry out the intent of the Boehlert amendment.

I commend the gentleman for his support and urge other Members to do the same thing.

Mr. GOODLATTE. Reclaiming my time, I thank the gentleman and I concur in his statement. I think that it is definitely the case and so often overlooked here that nobody has a greater incentive to make sure that the waters and lands of the State of Virginia, the State of Louisiana, the State of Wisconsin, and every other State than those people who live in the States. This is clearly an issue of States rights and States' opportunity to have the flexibility to handle this problem themselves.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have heard an interesting interpretation of this supposedly de minimis amendment. There are a couple of things I find disturbing. Obviously on lines 8 and 9 we strike the word shall and replace it with may, and on page 4 we go to elimination of requirement of enforceable mechanisms.

So in fact this does become——

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I think the gentleman is reading a previous amendment.

Mr. DEFAZIO. Is there another version?

Mr. SHUSTER. Yes.

Mr. DEFAZIO. So you are working on another version as we speak?

Mr. SHUSTER. No. The Petri amendment before us is another version from the earlier version which the gentleman is referring to.

Mr. DEFAZIO. There is some confusion on this side of the aisle then regarding exactly what it is we are voting on at the moment. I heard the issue of States——

Mr. SHUSTER. The amendment was submitted at the desk. We could ask the desk to provide it to the gentleman.

Mr. DEFAZIO. Mr. Chairman, what we have been hearing here is, we still, I still see a line 7 and 8, shall and may. So that part has not changed. This was just handed to me. And then I guess perhaps you took out the enforcement part. So enforcement is still in, but it is now, we are going to enforce something that you may do or you may choose.

The problem I have here is water pollution does not really follow State boundaries. I heard a lot of talk about States rights here. But water pollution does not rather strictly adhere to States' boundaries.

And many of the bodies of water we are talking about in this bill deregulating happen to affect more than one State. In my region, we border California and Washington. We have upstate concerns, upstream concerns with Idaho, Montana, another country even, dealing with the Columbia River. So I have a concern when we begin to move major mechanisms we have to deal with precious coastal estuaries, fragile estuaries, extraordinarily valuable resources in terms of shellfish where we have had shellfish beds close, spawning grounds for our endangered salmon. And we are going to go to something that says, you may, you may, if you so choose, comply.

Well, certainly, I do not believe my neighboring State of Washington or California is going to do anything to our detriment, but on the other hand I would be a lot more comfortable if we were applying a uniform Federal standard in this bill and not weakening that standard.

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Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Wisconsin.

Mr. PETRI. I thank the gentleman for yielding.

Mr. Chairman, I am informed by the staff that the national estuary program formed for the specific purpose of protection across State lines is not affected by this. We have the national estuary program, we have the nonpoint source program, and then we have an additional coastal thing. We are just saying we do not really need three programs to accomplish what the gentleman is trying to do.

Mr. Chairman, what the gentleman is saying is absolutely right, we do need to have comprehensive watershed based approaches that follow the real world, rather than political jurisdiction of lines, and we have it, and it is not affected by this amendment. It is the national estuary program.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for his clarification. It certainly sounds better than the way it was described by some of the earlier speakers in terms of this portion of the bill.

However, I guess I will go back to a problem I have had throughout the bill, which is in a number of critical cases we have seen the bill essentially written, rewritten, and amendments sort of mutating as we go along in this process, and no capability of really explaining them.

Some might remember my debate over the section 401, hydropower licensing, last Thursday night, where the authors of the substitute amendment could not explain it. They could not explain the laws they were referencing, and what principles would still apply.

Mr. Chairman, our water resources are too precious, just too precious, to have either outside influences, polluters, or to have others writing on the back of the napkin and rewriting these laws. This should be a more deliberate process.

Certainly, in this case, I thank the gentleman for his clarification. It seems that they have substantially amended the original version and improved it, but I think that this is not the first instance during the consideration of this bill where we have had this problem. I think it should be instructive to the chairman and others that this is not the best way for such an important piece of legislation to be rushed through the House. I do not see a rush. The Clean Water Act has been working substantially across the country, working well. It is one of the few success stories that we can all point to in terms of Federal enforcement. We should modify it carefully and deliberately, where there has been excess, but where it has been a success, we should build and improve upon it. Our water resources are too precious, our progress has been so hard won, that we should not go backward.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, again, the way I understand the amendment now, in its latest version, basically it is saying that this coastal nonpoint source pollution program on the part of the State would be enforceable, but is still voluntary. That is really the crux of the matter, is that the program would be voluntary, whereas the Boehlert amendment, again, when the Boehlert amendment was passed, it essentially kept the existing mandatory nature of the program.

I was listening to the gentleman from Louisiana and what he said about flexibility. States have always had flexibility with regard to implementing the program, because they can devise ways in which the program is effective or not. Different States may devise different ways of dealing with land use or agricultural runoff or some of the other things that might impact on coastal nonpoint source pollution.

The bottom line is that the current law requires that there be a nationwide program, and that States have to put a program in place. If the Petri-Tauzin amendment passes, those States could voluntarily decide not to have a coastal nonpoint source program. That is the problem. Nonpoint source pollution of the Nation's unique and precious coastal waters is real and serious. It is causing significant economic harm.

Mr. Chairman, commercial recreational fisheries are being shut down due to runoff pollution, beaches are being closed, habitat is being degraded. Coastal States report that about a third of their estuarine waters are impaired and a third are threatened. Nonpoint source problems are responsible for half of all instances of coastal water-quality degradation. The bottom line is that coastal nonpoint source pollution must be abated now. By passing the Boehlert amendment last week, the House fully indicated it does not want to weaken coastal programs controlling nonpoint source pollution, but the Petri-Tauzin amendment would do just that.

Mr. Chairman, I think it is very important, even though I know we are not amending, we are not just totally repealing the Boehlert amendment, but what we are doing is making the program voluntary, and even if States, if States want to do it and they want to enforce it, that is fine, but I am afraid that many States will simply not have a program, and that is why we should oppose this amendment.

Mr. LAUGHLIN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I heard the last speaker discuss this as a voluntary program. As I understand the Petri-Tauzin amendment, it tells the State they have a choice. It does not make it mandatory. It says to States "You have got to do it under one act or another act. You cannot just say 'I don't want to do it.'"

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. LAUGHLIN. I am delighted to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, it is my understanding that we have worked out a compromise now. It is my understanding that the gentleman from Wisconsin [Mr. PETRI] is going to ask unanimous consent to withdraw his amendment and to offer the compromise that has been worked out. If my friend would yield the balance of his time, we might be able to finish this bill tonight.

Mr. LAUGHLIN. Mr. Chairman, if it is considered good judgment to stop talking and accept the agreement, I will use good judgment.

Mr. PETRI. Mr. Chairman, I ask unanimous consent to withdraw the pending amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr PETRI: Page 362, after line 23, add the following:

TITLE X—ADDITIONAL PROVISIONS

SEC. 1001. COASTAL NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—Section 6217(a)(1) of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) by striking "shall" the first place it appears and inserting "may"; and

(2) by striking "the Secretary and".

(3) After the first sentence, insert the following sentence: "Notwithstanding the preceding sentence, if the Administrator determines, in consultation with the State, such program is needed to supplement the program under section 319 of the Clean Water Act as it relates to the Coastal Zone, the State shall prepare and submit such program."

(b) PROGRAM SUBMISSION, APPROVAL, AND IMPLEMENTATION.—Section 6217(c) of such Act is amended—

(1) in paragraph (1)—

(A) by striking "the Secretary and the Administrator shall jointly" and inserting "the Administrator shall"; and

(B) by striking "The program" and all that follows through the period at the end of the paragraph and inserting "The program shall be approved if the Administrator determines that the program meets the requirements of this section"; and

(2) in paragraph (3)—

(A) by striking "If the Secretary" and inserting "If the Administrator";

(B) by striking "the Secretary shall withhold" and inserting "the Administrator shall direct the Secretary to withhold"; and

(C) by striking "The Secretary shall make" and inserting "The Administrator shall direct the Secretary to make".

(c) FINANCIAL ASSISTANCE.—Section 6217(f) of such Act is amended—

(1) in paragraph (1)—

(A) by striking "the Secretary, in consultation with the Administrator," and inserting "the Administrator"; and

(B) by inserting "and implementing" after "developing";

(2) in paragraph (2) by inserting "and implementing" after "developing"; and

(3) in paragraph (4)—

(A) by striking "the Secretary" each place it appears and inserting "the Administrator";

(B) by striking ", in consultation with the Administrator,"; and

(C) by inserting "and implementing" after "preparing".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 6217(h)(2) of such Act is amended—

(1) in subparagraph (A) by striking ", other than for providing in the form of grants under subsection (f)"; and

(2) in subparagraph (B) by striking "the Secretary" and inserting "the Administrator".

Conform the table of contents of the bill accordingly.

Mr. PETRI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. MINETA. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MINETA. Mr. Chairman, do we have a copy of the amendment? We are not aware of what the gentleman is referring to.

The CHAIRMAN. The Clerk is preparing copies.

The gentleman from Wisconsin [Mr. PETRI] is recognized for 5 minutes in support of his amendment.

Mr. PETRI. Mr. Chairman, I would just attempt to summarize the language that has been worked out.

Mr. Chairman, we will have to, I think, continue working on this problem in conference. Frankly, like any compromise, it is not fully acceptable to me, and I will have to check with my State administrators and others, but in the spirit of comity and to try to move this process forward and get this bill acted on tonight, we have, I think, reached an agreement which provides that after discussions and consultation between the EPA and the various States, the administrator of EPA would determine whether a State's plan, as far as coastal nonpoint source runoff, was adequate or not, and if it was adequate, then they would move forward.

It would not be at the discretion or election of the Governor or of the State, it would be at the discretion or election of the EPA, so there would be national standards there, but we would gain the opportunity of being able to actually spend money on cleaning up the environment instead of on planning, as is required in the law now, and we think that is important. We are trying to clean up the environment, not write plans. Plans are tools, not the objective.

Second, we would have the opportunity of dealing with the EPA, potentially, rather than with a multiplicity of Federal agencies, and that is important in terms of simplicity.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from New Jersey.

Mr. SAXTON. First of all, Mr. Chairman, let me thank all parties for their cooperation over the last 3 or 4 days. The gentleman from New York [Mr. BOEHLERT] and I have worked together with the gentleman's very cooperative staff to arrive at an agreement, which, as the gentleman from Wisconsin [Mr. PETRI] points out correctly, is not perfect.

However, we believe it does move in the right direction and solve some of our problems, particularly relative to the ability to opt out of the program. It does provide that the EPA Administrator has the power to review and to, subsequent to the review, require a CZMA program that would have to do with nonpoint coastal pollution.

The State would then be required to adopt programs that would bring their CZMA nonpoint coastal pollution program to quality water standards, and while this is not perfect, certainly it is something that we believe at this late stage in negotiations we can live with.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I want to echo what my colleague from New Jersey says. The important thing is this protects the basic integrity of the coastal zone program, critically important to 30 States, the Great Lakes States, and the Gulf of Mexico States.

These are tough issues, but we have worked together and we have come out with, I think, a reasonable compromise. Let me add, Mr. Chairman, while we are about this, all of us are up here and we are highly visible, but the professional staff, and they are that, very professional, whether they are proponents or opponents of any one section or the bill in its entirety, have worked very hard for a long period of time. I think we all owe them a debt of gratitude.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Louisiana.

Mr. TAUZIN. As I understand, Mr. Chairman, the compromise goes to literally ensure that when the States have made their selection, and actually put together their plans, that EPA has some say as to whether or not that plan is adequate, and actually addresses the problem.

I think that is a workable compromise, but I, like the gentleman, reserve the right to continue to work with the gentleman through the conference to make sure that we have this thing tied down properly, where the balance is respective between the States and the Federal Government.

Mr. PETRI. Reclaiming my time, I would urge all of my colleagues to support the amendment as it is before the House.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. PETRI].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. PORTMAN. Mr. Chairman, I rise today to address the Clean Water Act legislation. After careful examination of the committee bill, H.R. 961, and the Boehlert substitute, I have decided to support H.R. 961 on final passage. Though I do not agree with every provision, I believe it is an improvement on current law and addresses many of the specific problems that my constituents have identified in the Clear Water Act. It makes the Clean Water Act more flexible and less prescriptive and addresses a number of regulatory issues of concern to me.

The Clean Water Act is widely regarded as one of the Nation's most successful environmental laws in terms of cleaning up dirty water. I am pleased at the level of cleanup in Ohio generally and in my district specifically. One beneficiary has been the Little Miami River, Ohio's first State and national scenic river, which runs through my district. Although the Little Miami is considered to be an exceptional warmwater habitat, it has one of the highest volumes of treated sewage pumped into it. The water quality has improved over the last decade in part because fewer pollutants are being discharged from these treatment plants along the river. And this is in part due to the Clean Water Act. However, problems with the act itself persist.

H.R. 961 works to address some of the problems that the Ohio EPA recently identified regarding the cleanliness of the Little Miami River. One of the major threats to the Little Miami includes increased stormwater runoff. In 1987, Congress charged the EPA with implementing a specific permit program for stormwater discharges from industrial sources and municipalities. The permit program has resulted in the creation of one of the most burdensome unfunded Federal mandates in history. It has been brought to my attention time and time again by local governments. I have been told, for example, that a permit application alone can cost over $600,000 to prepare. Compliance costs could be in the billions by requiring stormwater to meet fishable and swimmable quality standards without taking into account the sudden, short-term nature of storms. The EPA's own estimate of costs to municipalities to comply with the current stormwater permitting requirements of the Clean Water Act is between $3.4 and $5.3 billion annually.

It is evident that these wet-weather flows are not amenable to traditional end-of-pipe, command and control regulatory approaches. Attempts to impose these controls on wet-weather flows have led to regulations that require results that are only achievable at an enormous cost. Accordingly, the current law has been unable to effectively address the problems with this type of pollution.

H.R. 961 would essentially convert the current stormwater permit program into a nonpoint source management-type program. Nonpoint source discharges include stormwater and runoff from farm fields, streets, and other areas. The new bill requires States to develop stormwater management programs within 4 years and to meet the goal of attainment of water quality standards for stormwater within 15 years of program approval. To meet that goal, States have the flexibility to target receiving waters and sources of stormwater discharges. State controls begin with pollution prevention plans and may proceed to general and site-specific permits as determined to be necessary by the State.

By returning this program to the States, Ohio can adopt a program that will best eliminate stormwater pollution. Currently, a one-size-fits-all approach exists, which in many cases does not provide the best solutions for communities along the Little Miami River and every other river in Ohio. Flexibility is necessary to achieve the greatest environmental benefits from scarce resources. I believe that States working with local communities are simply better equipped to address these problems.

Regarding the larger problem of nonpoint source pollution, the bill adds to and improves upon current law. Nonpoint source pollution is believed to account for more than half of all remaining pollution nationwide. Although Congress attempted to address nonpoint source pollution in 1987, there is more that Congress can and should do. For example, H.R. 961 provides grants for preparing reports and management programs in addition to grants for implementing programs—under current law. These are new Federal grants to address specific problems. The share of a project which may be funded by grants is also increased from 60 to 75 percent. Finally, it requires States to resubmit management programs every 5 years. Should a State fail to submit a program, the EPA is directed to prepare and implement one for the State.

I do want to note that I am disappointed that the House adopted an amendment to strike a provision in the bill that would have authorized $500 million annually for a new State revolving loan fund program to reduce nonpoint source pollution. I opposed this amendment when it was considered by the House. I believe these funds would have helped to reduce some of the problems that we are currently facing with nonpoint source pollution.

In addition, H.R. 961 works to eliminate many of the unfunded mandates that exist in current law. These provisions are in the spirit of H.R. 5, the unfunded mandates bill I sponsored that are overwhelmingly approved by the House and Senate earlier this year and signed into law by the President.

During the debate in the House earlier this year on unfunded Federal mandates (H.R. 5), the Clean Water Act was mentioned again and again as imposing particularly burdensome mandates on State and local governments. Because H.R. 5 did not address retroactively the impact of mandates that are currently in effect and does not apply to reauthorizations until next year, Congress did not have the opportunity to strike any mandates in the Clean Water Act. H.R. 961 gives us that opportunity.

Among other things, H.R. 961 gets at the mandate problem by authorizing increased funding for several important clean water programs. For example, grants for State revolving funds would be authorized at $2.5 billion annually for the next 5 years, compared with the current appropriation of $1.2 billion. This is a significant clean water financial burden that is lifted from the shoulders of States.

H.R. 961 also includes two provisions that I supported in the Contract With America—cost-benefit analysis and takings. H.R. 961 inserts greater consideration of cost into the Clean Water Act. Current law does not expressly include analysis of cost effectiveness of water quality standards. In the past decade, the cost to our citizens of complying with environmental regulations has risen dramatically. It is estimated that each household spends $1,500 per year on environmental protection. Approximately one-third of these costs are attributable to the Clean Water Act. Although many regulations perform a valuable function, the cost of some regulations simply outweighs the benefits. With resources of this magnitude being obligated to protect our Nation's water quality, it is extremely important that policymakers have information that is based on sound scientific analyses of potential risks to public health and the environment. In addition, the costs of proposed Clean Water Act regulations must be weighed against their benefits before they are promulgated. Through cost-benefit and risk analysis, H.R. 961 helps to eliminate problematic regulations and focus our limited resources on the most-pressing environmental problems.

I also support the concept of takings which is part of H.R. 961. The current wetlands program has resulted in serious infringements on private property rights. It is estimated that 75 percent of wetlands in the United States are located on private property. H.R. 961 requires the Government to compensate individuals for an amount equivalent to the diminution in value if a Federal agency diminishes the fair market value of property by 20 percent or more. Twenty percent may be too low, but the concept is sound. If the diminution is more than 50 percent, the Federal Government is required to buy the affected portion of the property.

I have only touched on some of the highlights of H.R. 961. Although H.R. 961 is not a perfect bill, I believe it will lead to improved water policy in the United States in a responsible and efficient and more flexible manner, and will help maintain the high quality of our Nation's water as we move into the next century.

Ms. ESHOO. I rise in strong opposition to H.R. 961, the so-called Clean Amendments of 1995.

When Republicans talked about a rising tide lifting all boats, they did not say how polluted the tide water would be. Yet enactment of this legislation would repeal or weaken key sections of one of the most successful environmental laws on the books.

I have fought hard in the past to strengthen the Clean Water Act to further protect our coasts and fragile estuaries. This bill does nothing to strengthen current law—indeed, it is harmful in a number of ways. It deregulates 50 percent of existing wetlands, repeals the coastal zone nonpoint pollution program, removes secondary treatment requirements in certain ocean waters, eliminates storm water permit requirements, and exempts point-source dischargers.

In a recent editorial, the San Francisco Chronicle called it the Polluters Revenge Act of 1995, claiming it was written by the very interests the law was intended to regulate. If the people of this country were at the table when it was drafted, we would have a completely different bill. The American people want to be able to drink and swim in clean water and H.R. 961 does nothing to achieve these goals.

In sum, the bill reverses more than 20 years of progress in fighting water pollution. I urge my colleagues to oppose what should be called the Dirty Water Amendments of 1995.

Mr. LEVIN. Mr. Chairman, I rise in opposition to H.R. 961. This bill does not deserve the title its authors have given it. Unfortunately, H.R. 961 is no Clean Water Act.

It is a cornucopia of special interest loopholes, waivers, and exemptions that weaken the Clean Water Act at a time when we should be strengthening it.

We should be building on the two decades of progress we have made cleaning up our Nation's lakes, rivers, and streams. Instead of making the Clean Water Act work better for the American people, H.R. 961 makes it easier for polluters to pollute.

The Clean Water Act is not a perfect law. Any statute of this scope and complexity will never be immune from shortcomings. As we had the experience of implementing the Clean Water Act, certain problems have come to the surface. Even if action on these problems is overdue, this cannot be an excuse for steps that threaten to undermine our Nation's commitment to clean water.

Where there are problems, we should correct them. For example, most of us agree that existing wetlands regulation are needlessly burdensome and in need of reform. But H.R. 961 is not about reform. Instead of fixing the wetlands provisions, H.R. 961 redefines most wetlands out of existence.

I am particularly concerned about the effect this bill would have on the Great Lakes. My State of Michigan has the toughest pollution standards in the region. For 6 years, the States in our region have been working on a bipartisan basis with the Environmental Protection Agency on the Great Lakes Initiative [GLI].

The GLI is a program established in 1990 to ensure that all States within the Great Lakes basin have uniform water quality standards. The Great Lakes Initiative is a carefully balanced compromise that has been subjected to extensive scientific scrutiny and rigorous cost-benefit analysis. It incorporates significant State flexibility. Wide consultation with effected industries and the public led to significant revisions and lower costs.

H.R. 961 undermines the fundamental purpose of the Great Lakes Initiative by giving

States more discretion to ignore the Federal requirement for strong, uniform standards. Without uniform rules, Great Lakes States, like Michigan, with strong environmental standards will continue to lose jobs to neighbors with looser standards. We should not water down this critical program.

The Clean Water Act has the strong support of the American people. Today we are debating an extreme bill that would turn back the clock on two decades of environmental progress. H.R. 961 deserves to be defeated.

Mr. MARKEY. Mr. Chairman, I rise in strong opposition to H.R. 961, the so-called Clean Water Act of 1995. The bill's proponents would have us believe that it simply reauthorizes the original Clean Water Act, with, perhaps, a bit of fine-tuning. I hope that the American people can see clearly that this bill goes far beyond fine-tuning, would bring to a screeching halt further improvements in our water quality, and would allow for backsliding on the important progress we have already made toward cleaner water.

The original Clean Water Act, enacted in 1972 to clean up our Nation's badly polluted rivers, lakes, and harbors, is one of the most successful environmental laws on the books today. But all that is about to change. With H.R. 961, the new Republican majority in Congress would gut the current law, rolling back water quality standards, allowing industries to pollute more, not less, and leaving taxpayers to foot the bill to clean up the mess.

While the bill purports to respond to some mysterious mandate from the people for regulatory reform, recent polls have shown that 76 percent of Americans think clean water laws need to be strengthened, not weakened. It is clear that H.R. 961 responds to industry interests, not the people's mandate.

H.R. 961 will result in backsliding on water quality, by letting industries seek waivers allowing them to dump toxics and other wastes to municipal wastewater treatment plants not allowed under current law. To preserve the same level of water quality, these toxics would have to be removed at the treatment facility, at the taxpayer's expense. In addition, H.R. 961 lets States downgrade the designated use of a body of water, so that a lake or river could be subject to a lower standard of water quality than it is today. Finally, the bill will allow industrial polluters to undertake vaguely defined pollution prevention activities instead of complying with the water quality standards in current law.

H.R. 961 devastates our wetlands protection program. Under this bill, which includes a new and highly unscientific method of defining and classifying wetlands, two-thirds of our Nation's wetlands would be defined right out of existence. And many of the remaining wetlands will receive less protection than under current law. Finally, the Government will have to pay landowners to preserve wetlands on their property, even when protection of the wetland increases the overall value of the property. Again, the taxpayer pays. Wetlands are important because they filter and purify water, act as sponges during storms to reduce flood damage, and provide valuable ecosystems for many plant and animal species. We already have lost more than half our Nation's wetlands; we must provide adequate protection for the wetlands that remain.

H.R. 961 fails to make progress in the one area where progress is needed most. Polluted run-off from farms, industrial facilities, and city streets—called non-point source pollution—is the most important source of water pollution remaining today. H.R. 961 tells States to develop programs to make reasonable further progress toward bringing the non-point source pollution problem under control but does not require such programs to be enforced. In addition, the bill allows for delays, possibly of as long as nearly two decades, in the implementation of the voluntary initiatives. This provision could have a devastating impact on our multi-billion dollar fishing and tourism industries. In New England, our fishermen already are suffering due to declining stocks, and are currently seeking disaster relief. H.R. 961 will only exacerbate the difficulties faced by our fishermen.

We must not allow the Clean Water Act to be gutted. It is an extremely important and successful statute that has been largely responsible for cleaning up many of our Nation's waters. In Boston, we once had the notoriety of having the filthiest harbor in America. Thanks to the Clean Water Act, and an enormous commitment on the part of Massachusetts residents, the Boston Harbor is cleaner now than it has been in decades. Surely we cannot go back to the dirty water days after all that we have contributed to get to where we are now.

Many of us can still remember the days when open pipes led into our streams and lakes, spewing forth all kinds of toxics and pollutants. In most communities, those days are gone because of the Clean Water Act. But the job is not done. Unfortunately, over 40 percent of our Nation's waters are still not fishable or swimmable. We must continue working to enforce tough clean water standards to protect the health and safety of every American. As the tragic 1993 Cryptosporidium outbreak in Milwaukee plainly demonstrated, our water is not yet too clean, we do not have too many wetlands, and our fish are not too safe to eat.

I strongly urge my colleagues to vote "no" on H.R. 961 and say "yes" to clean water.

Mr. SHUSTER. Mr. Chairman, as we continue to debate H.R. 961, there is a need to clarify some of the bill's provisions.

One of the provisions, included in my en bloc amendments, modifies the goals contained in section 101 of the Clean Water Act. It clarifies that the act should not unnecessarily restrict outdoor recreational activity and other socially beneficial activities. A related provision in title VIII of the bill addresses outdoor recreational activities.

The amendments I am submitting to H.R. 961 included in the chairman's amendments will clarify, among other things, that the Clean Water Act is intended by Congress to benefit society and not unreasonably restrict outdoor recreational activity.

It has come to my attention that several lawsuits have recently been brought claiming that certain recreational activities conducted around water require permitting under the Clean Water Act. These lawsuits have become an invitation to judicially expand the Clean Water Act beyond what Congress originally enacted. These lawsuits may be a sham effort to shut down rightful outdoor recreation, specifically hunting and the shooting sports. The Clean Water Act was not designed to require NPDES permits under section 402 or wetlands dredge and fill permits under section 404 as a condition of enjoying our traditional outdoor recreational activities. My amendment makes clear that the act was not intended to be abused in the manner employed in certain lawsuits.

Another regulatory provision relates to waste treatment systems for concentrated animal feeding operations [CAFO's]. Section 401 clarifies that an existing CAFO that uses a natural topographic impoundment or structure on the effective date of this act, which is not hydrologically connected to any other waters of the United States, as a waste treatment system or wastewater retention facility may, for purposes of this act, continue to use that natural topographic feature for waste storage regardless of its size, capacity, or previous use.

Some of H.R. 961's funding provisions need additional clarification, as well. The bill does not specify any set-asides or allocations off the top for section 106 moneys. Our intent however, is that one-half of 1 percent or $500,000—whichever is greater—should be allocated to the Association of State and Interstate Water Pollution Control Administrators for assistance in administering programs for the prevention, reduction, and elimination of pollution and to serve as the State liaison forum with the U.S. Environmental Protection Agency on policy development.

Administration of the funding provided in section 102(d) also needs clarification. Section 102(d) of H.R. 961 authorizes the Administrator of the EPA to make grants to the States for planning, design, and construction of publicly owned treatment works in rural communities of 3,000 people or less which are severely economically disadvantage. The committee report states the committee's intention to work closely with the Administrator to develop appropriate criteria regarding severely economically disadvantaged. I wish to clarify that the committee considers eligible communities as those having a per capita income of no more than 80 percent of the national average and an unemployment rate of 1 percent or more above the national average.

Mr. Chairman, I insert the following communication for the RECORD:

MAY 16, 1995.

Hon. BUD SHUSTER,
Chairman.
Hon. NORM MINETA,
Ranking Minority Member, Committee on Transportation and Infrastructure, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR GENTLEMEN: We write this letter in response to the debate on H.R. 961 that took place last Thursday evening, May 9, 1995, in which Representative Laughlin offered a substitute amendment to that offered by Representative Emerson regarding section 401 of the Clean Water Act.

It is indeed unfortunate that we were not given the opportunity to review the amendment prior to its introduction, as we believe that our input may have proved valuable in the ensuing discussion.

We wish to state now for the record that we believe states should have the authority to determine the quality of the waters within the state. As we have consistently maintained, we do not believe any amendments to section 401 are warranted; and we cannot support the amendment to section 401 that was adopted last Thursday evening.

The adopted amendment would have the following adverse repercussions;

The amendment takes from states the authority to determine the water quality of state waters, and improperly gives such authority to the Federal Energy Regulatory Commission (FERC) for hydroelectric projects located within the state.

The amendment reverses PUD No. 1 of Jefferson County v. State of Washington Department of Ecology, otherwise known as the Tacoma case, in which the Supreme Court affirmed that section 401 authorizes states to impose conditions in water quality certifications to ensure that discharges from federally licensed activities comply with state law.

The amendment causes inequities between state licensed activities which must comply with state law, and hydroelectric projects which FERC may exempt from state law.

The amendment will likely spawn significant litigation regarding its implementation and how agencies are to interpret presumptions of validity.

In sum, we believe that section 401 strikes the appropriate balance between state and federal authority over state water quality, and that no amendment to section 401 is necessary. We thank you for the opportunity to share our views with you.

Sincerely,

Governor Mike Lowry, Chair, Committee on Natural Resources, National Governors' Association.

Governor Michael O. Leavitt, Chair, Western Governors' Association.

Tom Udall, Attorney General of New Mexico.

Governor Terry E. Branstad, Vice Chair, Committee on Natural Resources, National Governors' Association.

Governor E. Benjamin Nelson, Vice Chair, Western Governors' Association.

Christine O. Gregoire, Attorney General of Washington.

Mr. GEJDENSON. Mr. Chairman, I rise in strong opposition to H.R. 961, the Clean Water Amendments of 1995. I believe this title is a misnomer as this bill will dramatically undermine the progress we have made over the past 20 years in cleaning up the Nation's waters, improving public health, and furthering economic development. I urge my colleagues to vote against this measure to send a strong signal that the House will not turn back the clock on environmental protection.

The Clean Water Act, signed into law in 1972, is arguably our most successful environmental protection statute. When it was passed more than two decades ago, the majority of our waters were off-limits to swimming and fishing, toxic pollutants and sewage were discharged almost at will, and in extreme cases, certain bodies of water were so fouled that they actually caught fire. Many communities nationwide were not served by sewage treatment plants and many that were had antiquated systems which failed to protect public health. Companies were able to discharge toxic pollutants, including some which cause cancer, directly into our rivers, lakes, and streams. Finally, wetlands were being filled in and drained at a rate of approximately 450,000 acres per year with subsequent adverse impacts on fish, wildlife, and bird populations, water quality, and flood control.

Over the past 23 years we have made tremendous progress in addressing these and other water quality issues. Nearly twice as many people are served by modern sewage treatment plants today than in 1972. Annually 900 million tons of sewage are not discharged into our lakes, streams, and rivers. Under the State Revolving Fund program and a previous grant program, the Federal Government has invested $66 billion in sewage treatment plant construction and upgrades. Investment in sewage treatment has made fundamental improvements in public health for millions of American citizens. More than 1 billion pounds of toxic pollutants are removed yearly from waters discharged by companies and other entities which utilize them.

Twice as many bodies of water meet their designated uses today than prior to the passage of the act. These water quality improvements have expanded recreational opportunities, opened multimillion-dollar shellfish beds to harvest, and brought tourists back to communities along our coasts. Finally, the Clean Water Act has helped to cut wetland losses almost in half. Currently, the lower 48 States have about 10 percent of the wetlands that existed in the late 1700's. While wetlands have a "bad rap" in this body, which I believe is completely unfounded and used for political expediency, they provide vital habitat to a myriad of fish, wildlife, and bird species, improve water quality by filtering out organic and nonorganic contaminants, and serve valuable flood control functions without the need for costly levees, dikes, and dams.

While we have made tremendous progress over the past two decades, problems remain. More than one-third of our waters do not meet their designated uses. Thousands of miles of rivers and acres of lakes are off-limits to swimming and fishing. Sewage treatment facilities in many communities remain inadequate and often discharge raw sewage directing into our waterways during storms. Pathogens in sewage poses a serious threat to public health. Ineffective sewage treatment also results in excessive nutrients being added to our waters which cause algae blooms, deplete oxygen content, and adversely affect shell- and fin-fish and marine habitat. Nonpoint source pollution accounts for at least half of our remaining water pollution problems. Wetlands continue to disappear at rate of 250,000 acres per year. As a result, certain migratory bird populations and species of fish have suffered and flooding has been exacerbated. In fact, some believe that the devastating flooding in the Midwest in 1993 could have been mitigated if wetlands had not been filled or drained to grow crops or for sites for housing developments. The bottom line is that we have a long way to go and should not be passing legislation which will turn the clock back to the 1960's.

I have numerous concerns with H.R. 961 and will touch on the most significant ones. I am especially concerned about the effects this bill will have on water quality in coastal communities. My district borders Long Island Sound, which is a vital economic and environmental resource for my State of Connecticut. Connecticut has invested tens of millions of dollars in cleaning up the sound in an effort to improve public health, fisheries, tourism, and quality of life for our residents. The Environmental Protection Agency [EPA], New York and Connecticut have spent the past 10 years and $11 million conducting a comprehensive study of the problems facing the sound. Last fall, the agency and the States approved a comprehensive conservation and management plan [CCMP] which sets forth a schedule to implement specific measures for remediating water quality problems and restoring the sound to health status. H.R. 961 threatens to completely undermine these efforts and investments.

It would repeal section 6217 of the Omnibus Budget Reconciliation Act of 1990 which requires coastal States to develop enforceable programs to control nonpoint discharges which impair coastal waters. Nonpoint source contamination is the greatest threat to our coastal waters and is partially responsible for thousands of beach closures each year and contaminated shellfish and finfish populations. Beach closures and shell- and fin-fish bans cost local economies millions of dollars each year when tourists can't go to the beach and fish products can't be harvested and sold. Connecticut is the second leading producer of oysters in the United States with annual sales between $40 and $50 million and tourism pumps nearly $4 billion into my State's economy. Repealing section 6217 does not make good environmental or economic sense for my State or any other coastal State.

The assistant commissioner of Connecticut's Department of Environmental Protection [DEP] has written me to express his strong opposition to the committee's action. While he admits section 6217 is not perfect, he firmly believes that repeal is completely counterproductive. The committee's action is even more egregious when one considers that the Coastal States Organization submitted a proposal to reform section 6217 to the committee. The CSO proposal represented a compromise developed by the States, but was cast aside by the committee. Without a program which approximates section 6217, Connecticut's efforts to reduce nonpoint contamination of Long Island Sound will be seriously undermined.

Unfortunately, the outlook for the sound gets bleaker when one considers the provisions of section 309 relating to secondary treatment. According to the EPA, secondary treatment, which removes oxygen-depleting nutrients as well as toxic contaminants from wastewater, has played a substantial role in improving water quality across the Nation over the last 20 years. Secondary treatment is especially important for communities along Long Island Sound because it is plagued by severe hypoxia during the summer months. Hypoxia is a state of low dissolved oxygen in the water which adversely affects fish populations and marine habitat. The best way to eliminate hypoxia is to reduce the input of excess nutrients, such as nitrogen and phosphorous. Secondary treatment is one of the most effective methods of reducing nutrient loading.

Connecticut has 84 treatment plants, all of which employ secondary treatment. In fact, 25 plants, or about 25 percent of the total, employ advanced treatment to reduce nitrogen loading more dramatically. Under section 309 of H.R. 961, coastal or other communities with fewer than 20,000 residents would be exempt from secondary treatment requirements if a treatment works will provide an adequate level of protection to receiving waters. The bill does not define "adequate level" and I am very concerned that this exemption will seriously undermine our efforts to improve water quality in the sound.

In Connecticut, 52 plants could be allowed to discontinue secondary treatment under this section. This would bring little, if any, savings to the ratepayers because these plants currently utilize secondary treatment technology. At the same time, it will exacerbate hypoxia which will adversely affect the fishing, aquaculture, and tourism industries. These effects will cost my State millions of dollars in the short term and many millions more over the long run because Long Island Sound cleanup will become more costly. This provision is bad for the environment, the economy, and taxpayers in my State.

I am also concerned about the effects of loosening pretreatment standards for the discharge of toxic pollutants to publicly owned treatment works [POTW]. The Clean Water Act establishes uniform national requirements that certain highly toxic pollutants, which cannot be effectively treated by POTW's or which adversely affect the operation of such works, must be treated by those entities discharging them to reduce their negative impacts prior to releasing wastewaters containing these contaminants to the POTW. This requirement guarantees that every community will receive a similar level of protection from toxic pollutants.

Under H.R. 961, uniform requirements would be replaced by a system which would allow individual treatment works to reduce pretreatment standards if those standards drive up administrative costs. This would create a hodge-podge of standards within States and watersheds and undermine rational water pollution control policy. Furthermore, this provision shifts the costs of controlling toxic pollutants from entities producing those pollutants to the ratepayers at the POTW. It is very likely that these toxics will ultimately adversely affect the operations of the POTW and the ratepayers will be left with the bill.

While nonpoint source pollution is responsible for at least one-half of our remaining water pollution problems, H.R. 961 fails to tackle this important issue. The provisions of section 319 effectively postpone the date of compliance with nonpoint source controls for 15 years. Moreover, compliance may never have to be achieved because the section provides yearly extensions of compliance deadlines for every year that Congress fails to appropriate every dollar authorized by this section. While I believe that Congress should do its level best to provide funding to States to assist with compliance, it is unreasonable to provide extensions if Congress falls $1 short of the authorized level. I believe this provision is even more unreasonable when one considers that Congress has done a relatively good job in providing States with substantial funding to improve water quality. This provision renders compliance deadlines meaningless.

The risk assessment and cost-benefit analysis portions of this bill are tilted toward polluters and will undermine public health. Federal agencies will be required to conduct lengthy and unproven risk assessment reviews of virtually every regulatory action which could cost more than $25 million. These reviews will add substantial layers of bureaucracy and delay timely action to address health concerns. In addition, the cost-benefit portion of the bill is weighted toward assessing the economic and social costs of complying with a requirement but makes no mention of assessing the benefits to society from environmental protection. Moreover, the bill does not provide an exemption from these onerous requirements to allow the EPA to respond quickly to an imminent threat to public health or the environment. These provisions are merely an attempt to gut environmental protection through backdoor maneuvers.

Finally, the wetlands portion of the bill will open much of our remaining wetlands to uncontrolled filling, draining, and development. If these provisions are enacted, many species of fish and wildlife will be pushed toward extinction, water quality will suffer, and flooding will worsen. As a result, the American people will be forced to pay more for clean water, flood insurance premiums will increase, and our quality of life will suffer.

In spite of all the talk by my Republican colleagues about the need to use "good science" when developing environmental regulations, this portion of the bill has no connection to good science whatsoever. The bill proposes to designate wetlands as class A, B, or C with class A receiving the highest degree of protection, class B less protection, and class C could be developed at will. The criteria to be used to classify wetlands is arbitrary as well. For example, the Secretary of the Army can only designate a portion of land as class A wetlands if it consists of 10 or more contiguous acres of land and there is unlikely to be any other overriding public use for that land. Wetlands should receive protection based on the ecological value and not because protection is convenient because someone doesn't believe the land can be developed under any circumstances. Moreover, the bill stipulates that no more than 20 percent of the wetlands classified by the Secretary may be classified as class A. This is a baseless cutoff designed to subjugate ecological considerations to the desire of developers to have unrestricted access to as much land as possible.

In addition, the protections for class A and B wetlands can be weakened considerably under the bill if they are not economically practicable or if the wetlands are located in a State with substantial conserved wetlands. The exemption based on a State having wetlands conserved by the Federal Government completely disregards the fact that wetlands serve important local functions which are completely separate from the benefits provided by wetlands clear across the State. Once again, short-term economic considerations are given precedence while the long-term interests of the majority of Americans are pushed aside.

Finally, development can take place in class C wetlands without a permit. The skewed classification requirements of this bill work to winnow as many acres of wetlands toward class C designation as possible. This bill falsely assumes that small wetlands or those that are in highly developed areas serve no significant function. This couldn't be further from the truth. In fact, small wetlands in developed areas provide critical habitat for birds, ducks, and wildlife, help to recharge the groundwater, and act to purify runoff from surrounding areas. These wetlands should receive a high degree of protection rather than be opened up to unchecked development. Moreover, 18 different activities, including building logging roads, clearing rights-of-way, and just about any infrastructure project whatsoever in a State with substantial conserved wetlands, are specifically exempt from any restrictions governing activities in wetlands.

Mr. Chairman, H.R. 961 should be defeated for the reasons I have enumerated here and many others. Most significantly, this is a bad bill for the people of my State who would see years of hard work and tens of millions of dollars literally go down the drain. The Connecticut River would once again be fouled by sewage and our efforts to restore Long Island Sound would be dealt a tremendous blow. The costs of cleaning up pollution would be transferred from polluters to the American public. Public health will be compromised, recreation opportunities lost, and the economic growth will be stymied in countless communities nationwide. I urge my colleagues to vote against H.R. 961.

Mr. SANDERS. Mr. Chairman, this bill will reverse the significant progress we have made under the Clean Water Act. For the first time in 25 years, our water is expected to become dirtier instead of cleaner. We may well be returning to a time when our rivers catch fire, we cannot swim and fish in our lakes, and human health is jeopardized by toxic chemicals in our water.

It is no secret that the House Republican leadership worked hand in hand with the chemical companies and other special interests to draft a bill littered with loopholes for polluters and developers. The bill includes a myriad of exemptions and waivers for industry which will significantly increase water pollution. It also removes approximately 50 percent of wetlands—which provide a natural water filtering system—from Federal protection. It is deeply disturbing that the attack on the environment that was so prevalent in the Contract With America has now reached into environmental successes like the Clean Water Act.

I am pleased that this bill reauthorizes funds for the State revolving loan fund that helps towns, like rural towns in my State of Vermont, upgrade their sewage treatment facilities. It also authorizes funds to help these same towns clean up agricultural pesticide runoff. Unfortunately, in today's environment of cutbacks I am seriously concerned that these needed funds will not become a reality. I strongly urge the appropriators to fully fund these programs so that small rural towns can meet their environmental responsibilities.

I am deeply disappointed that the House rejected an amendment which included these important authorizations and linked them with meaningful relief from unnecessarily burdensome regulations. Instead the House is considering a bill that gives industry free rein to pollute our waterways and developers the right to develop our ecologically important wetlands.

Mr. BUYER. Mr. Chairman, I rise to support the bipartisan committee-passed version of H.R. 961.

One message that the American public has made clear—one message that this Congress has seen fit to heed in passing several pieces of legislation this year—has been the fact that this Nation has entered an era in which new approaches and local flexibility are needed to provide lasting solutions to our Nation's greatest problems.

Mr. Chairman, this bill continues the great traditions of the leaders of the Republican Party who made the protection of the environment and natural resources a top priority—Presidents such as Teddy Roosevelt and Richard Nixon. This bill not only reaffirms the importance of the 1972 Clean Water Act and preserves its successes, it significantly updates that historic legislation to meet the water quality needs and circumstances of this Nation in 1995 and beyond.

As many members have explained throughout this debate, our State and local communities are now well-equipped, and in most cases, better equipped, to devise and implement solutions to the expensive point source and nonpoint source pollution problems within their communities. H.R. 961, as it stands now, gives the State and local governments the flexibility and authority they need to implement those solutions. Solutions, mind you, that will improve our communities' water quality both more quickly and at less cost.

Let me share a couple of examples of particular problems in my district which will greatly benefit from passage of the committee-passed H.R. 961. In a rural town in my district, Francesville, IN, a major wastewater treatment facility construction project which will greatly improve the quality of water for tens of thousands of people along the watershed, was delayed. This delay lasted more than 2 years due to a concern that the plant would interfere with less than 1 acre of a man-made pit which environmental officials had determined to be a wetland.

Another example in my backyard illustrates how small communities throughout Indiana are struggling to meet complex Federal requirements which are financially prohibitive. H.R. 961 seeks to loosen these types of regulatory constraints on small communities which have the effect of actually hindering their ability to improve their water quality. My hometown of Buffalo, IN, which has a population of 250 is undertaking a sewer system construction which will improve the water quality on the Tippecanoe River and Lakes Shafer and Freeman. Unfortunately, they've been bitten by these same regulatory restrictions that hinder their ability to use new and innovative technology like constructed wetlands treatment facilities. The impact could not only be the delays they now face in construction, but local sewer bills could soar from a projected $35 per month to reach $90 per month.

As if that isn't clear enough, I have another example of the impact of current law and enforcement on municipalities and small communities. Approximately 5,000 people reside in Rensselaer, IN. They have a $3.5 million sewer treatment facility serving their community. The city of Rensselaer was informed by regulators that they are not in compliance and must conduct combined sewer overflow [CSO] monitoring. They learned that it was estimated to cost each person in the town $1,000 per year. This translates into nearly $5 million in costs to implement this CSO Program, nearly twice the amount it costs to build the entire sewer treatment facility, all just to monitor and not treat the water.

My final story shows the inability of the Federal Government, without clear definitions and political accountability, to provide simple, effective, and cost-efficient solutions to the situations families, farmers, businesses, and communities face. A Cass County farmer in my district had less than one-quarter of an acre of ground in the middle of a farm field determined as a wetland. Despite the fact that he could potentially have profited only $20 annually from farming the area, Federal regulators slapped him with over $300,000 in fines and lost benefits. Yet, as if it isn't enough, under the current law, he could have sold this land to any number of retailers, such as Wal-Mart, who could have paved this wetland and made it part of a parking lot without any penalties or fines whatsoever.

Mr. Chairman, I would like to reiterate that these are not isolated instances. We must continue and follow up on the bipartisan message which was sent to not only State and local governments, but also the Federal regulators. We must encourage flexible, commonsense rationality to our regulatory policies.

For instance, title VIII of H.R. 961 establishes a new Federal wetlands policy by replacing the current section 404 of CWA with comprehensive new language to regulate the discharge of dredge and fill materials into U.S. waters and wetlands, as well as the drainage, channelization, and excavation of wetlands. For the first time in legislation, this bill establishes a procedure for both classifying and delineating wetlands, directing the Secretary of the Army to issue classification regulations and delineation rules within 1 year of enactment. It outlines application procedures for persons seeking to undertake activities in wetlands, as well as property owners who seek a determination of whether a wetland exists on their property, and provides for judicial review. Thus, H.R. 961 provides for greater certainty and expedited procedures to applicants. This provision is comparable to legislation I cosponsored last year to address wetlands issues.

This bill modifies the list of exempt activities in order to clarify the intent of Congress where agency and court decisions have resulted in broader regulations than intended. H.R. 961 includes the following to those activities already exempted by the act: First, maintenance and emergency reconstruction of facilities for flood control, water supply, reservoirs, utility lines, and transportation structures; second, farming activities such as constructing stock ponds, irrigation canals, and drainage ditches; third, activities to enhance aviation safety, such as clearing vegetation that obscures a control tower's view of the runway approach; and fourth, activities that are consistent with a State-approved land management plan approved by the Army Secretary, as well as a few other limited activities.

It is also extremely important to note that H.R. 961 is consistent with the provisions bipartisanly passed by this Congress under H.R. 925. In doing so, this bill requires that property owners who have their property value diminished by 20 percent or more as a result of a Federal agency wetlands management action must be compensated by the Government for that amount.

H.R. 961 provides not only flexibility with the reiteration of regulatory reforms and just compensation, but it also authorizes billions of additional dollars for State and local governments to prioritize solutions and utilize advanced technologies. I support the commonsense bipartisan solution H.R. 961 provides.

Mr. DEAL of Georgia. Mr. Chairman, I rise today in support of H.R. 961, The Clean Water Amendments of 1995, a commonsense approach to improving our Nation's water.

Since last summer, I have been part of the bipartisan effort to improve upon the existing Clean Water Program. I felt back then, as I do today, that we must give States and localities greater flexibility and responsibility to deal with water quality matters.

H.R. 961 is a sharp departure from the current Federal, top-down approach to one that gives State and local water quality officials more flexibility and resources to address local problems. It recognizes that we have entered a new era of pollution control which requires new and innovative approaches to deal with pollution control, not rigid Federal standards. This is why the bill is supported by representatives from State and local government officials including the National Governor's Association, the Association of Water Pollution Control Administrators, the Association of Metropolitan Sewerage Agencies, the U.S. Conference of Mayors, National Association of Counties, and National League of Cities.

This bill provides for much needed reforms in the wetlands area. It addresses horror stories like the one in Muncie, IN, where an 80-year-old farmer who had farmed his land all his life, like his grandfather and father before him, accidently broke a water pipe and flooded his field. The Government informed him he could no longer farm his land because it was a wetland. H.R. 961 sets forth a clear and workable plan for American agriculture while protecting our most critical wetlands.

It also addresses the problems in our Nation's stormwater program. The current permit process is costly for local communities that on the average must spend over $600,000 simply to complete the required application process. H.R. 961 reforms this broken system by giving States more regulatory flexibility to deal with stormwater problems.

H.R. 961 provides for unprecedented levels of funding to address water quality challenges. It includes $15 billion for State revolving loan funds, $1 billion for State nonpoint programs, $750 million for State program grants, and $250 million for unsewered and rural areas.

In short, I believe the bill prepares us for a third decade of clean water. It provides for commonsense reform while ensuring we have clean water. I urge my colleagues to vote for H.R. 961.

Mr. SCHAEFER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas [Mr. LAUGHLIN].

This amendment is intended to resolve a potentially serious conflict between two Federal statutes: the Federal Power Act, which gives the Federal Energy Regulatory Commission [FERC] the authority to regulate hydroelectric generation facilities; and the Clean Water Act, which regulates water quality related to such facilities.

Being from the West, I have always been a strong supporter of States' rights. State and local governments, in my opinion, generally have a better perspective on local needs and desires than the bureaucrats in Washington do. So I generally have a fairly negative view of measures which would take away from the power of the States.

This amendment takes on this very difficult issue in the conflict between the Clean Water Act and the Federal Power Act. The current situation is not a positive one, with an unclear division of final decisionmaking.

As chairman of the Energy and Power Subcommittee, it is clear to me that a clear decisionmaking process is needed. The electric power generated by a hydro project can often serve several States, over several hundred miles of transmission lines. Clearly, it is the role and the responsibility of the Federal Government to ensure that this interstate system works efficiently and reliably.

Under the Federal Power Act, the Federal Energy Regulatory Commission is tasked with this role. It makes sense that, as with any other issue affecting FERC licensing, Clean Water Act decisions would also be subject to a process by which FERC would exercise its authorities in a consistent manner.

This amendment, I believe, accomplishes this objective. It retains a strong role for State involvement. I could not support the amendment if I thought the case were otherwise. It also clears up the current fog which exists between FERC and the States, and comports Clean Water Act decisions with the clear intent of the Federal Power Act. I urge the adoption of the amendment.

Mr. SHUSTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WALKER) having assumed the chair, Mr. MCINNIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 961) to amend the Federal Water Pollution Control Act, pursuant to House Resolution 140, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BONIOR

Mr. BONIOR. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BONIOR. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BONIOR moves to recommit the bill to the Committee on Transportation and Infrastructure with instructions to report it back to the House promptly with the following changes:

With standards for the discharge of industrial pollution into water no move lax than those which exist today;

With water pollution prevention and control protections no less than those which exist today for public water supplies which are used for drinking;

With a report on this bill by the Congressional Budget Office which complies with section 101 of Public Law 104-4, the "Unfunded Mandates Reform Act of 1995", as such section would otherwise be in effect on January 1, 1996.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes in support of his motion to recommit.

Mr. BONIOR. Mr. Speaker, the American people want us to make this Government work better.

But they do not want us to turn back 20 years of progress on clean water.

They do not want us to turn back 20 years of progress on safe drinking water.

But that is exactly what this bill before us today does. There is a reason why the Baltimore Sun calls this bill "the Polluters Protection Act."

Because it stops 20 years of progress dead in its tracks.

How do you think the American people would feel if they knew that this bill allowed raw sewage to be dumped just 1 mile off our shores?

How do you think they'd feel if they knew that this bill weakens the safeguards we've put in place to make sure our drinking water is safe?

How do you think they'd feel if they knew—as USA Today pointed out just yesterday—that this bill "dramatically eases requirements on industrial waste, urban runoff, and sewage treatment * * * and permits more waivers for pouring pollution into lakes and rivers."

Mr. Speaker, have we all forgotten Milwaukee?

Have we all forgotten the 100 people who died in 1993—and the 400,000 people who got sick—when a deadly toxin called cryptosperidium infiltrated Milwaukee's drinking water?

Do we want to go back to the days of Love Canal—and poisoned fish, when Lake Erie was dead—and the Cuyahoga River was so polluted it actually caught on fire?

I'm certain the American people don't want to go back. And they can't seem to understand why we'd pass a bill that makes it easier to pollute the water we all need to survive.

Why? Because a few corporations oppose the safeguards we have now?

Because a few special interests oppose the tough anti-pollution protections on the books now?

Is that any reason to put safe drinking water at risk?

Let me ask this: Does anybody really believe these people are looking out for the public interest and public safety first?

This bill is the ultimate example of putting the fox in charge of the hen house. Not only does it let the polluters off the hook—it actually let them write the bill.

I have here a memo, a copy of a memo that the committee itself sent out to lobbyists and special interests. A memo inviting them to help write the bill.

It says, and I quote, "we encourage you to work together to identify outstanding issues and to formulate your proposals for addressing them." The following groups have agreed to take the lead for this front work.

Do you think these people had the public interest in mind?

Mr. Speaker, I think we can do a lot better. And that's what this motion to recommit is all about.

This motion insists on three things:

First, that we keep environmental standards strong and don't allow rollbacks for industrial polluters;

Second, that we keep drinking water safe;

And third, that in improving the Clean Water Act, we don't pass along any costs to the States that we don't pay for first.

In other words, we're simply asking that the Clean Water Act be allowed to live up to its name—and build on the progress we've made the past 20 years.

Today, over 60 percent of our waterways are clean—and drinking water is safe.

But we've still got a lot of work left to do—and we can't afford to turn the clock back now.

We can never forget—that in the end—even though we have many differences as Americans;

We all drink the same water;

We all swim in the same lakes;

We all depend on the same water to cook with, to clean with, and to bathe in.

And we all have an interest in seeing our water remain safe and clean.

But I would remind all of you here today: we may not win this vote on the motion to recommit—and we may not win the vote on final passage.

But this is a defining issue for our Nation.

And I am confident that we will have more than enough votes today to sustain a Presidential veto.

In the end, this vote comes down to one simple question: Whose side are you on? Are you on the side of the special interests—or are you on the side of the American people?

Are you on the side of clean water for ourselves and for the future—or do you want to roll the clock back? That's the question.

I urge my colleagues: vote "yes" on the motion to recommit. Vote "no" on final passage.

□ 1730

Mr. SHUSTER. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, what we have heard on this motion to recommit is simply nothing more than the same old delaying tactics. This motion if it were adopted would gut the bill. What we have heard here now is nothing more than the same old scare tactics. In fact, I was somewhat astonished to hear our friend in the well refer to the Milwaukee tragedy as an example of something that presumably the bureaucrats could have prevented or could prevent in the future if we were somehow to adopt the big-government bill that they would prefer.

As we all know, the tragedy in Milwaukee occurred because of wildlife in the stream, because of deer polluting the water, and so I can see apparently if we follow through my good friend's suggestion to its logical conclusion that we will have bureaucrats from EPA out there in Wisconsin with lassos lassoing the deer to keep them out of the stream. It obviously simply does not wash. This whole idea that they somehow through more government and more command control from the top on down can somehow correct these problems does not wash. Indeed, we have before us an historic environmental bill, a sound environmental bill, a balanced environmental bill.

I would point out to my friends that as we have worked through over 30 hours of debate on this historic legislation, we have defended the committee position with overwhelming votes. We have reformed the wetlands and we have defeated the weakening amendments by 50, 60, 70, 80 votes. We have reformed stormwater. We have defeated the weakening amendments by 60, 70, 80 votes. We have provided a workable nonpoint source program. And, yes, we have provided flexibility to the States and to the localities. We have created a situation where a city like San Diego will not have to spend $3 billion needlessly which is what the EPA was attempting to force the city of San Diego to do even though the California EPA and an eminent group of scientists said that it was unnecessary for San Diego.

Mr. Speaker, these are the kinds of reforms and improvements which have been made in this historic legislation. Yes, we have also provided substantial funding. Not as much as many of us would like to see, but substantial funding so we can continue with this very successful program.

As we move along to conference, we certainly continue to have an open mind. If there are other suggestions and as we sit down with Members of the other body for further improvements to this legislation, we certainly will be able to address those issues and we will do our very best to do so.

I know some Members have concerns about the formula. You have my commitment to work in conference to fix the formula.

Mr. Speaker, I would urge my colleagues, they can proudly and proenvironmentally vote "yes" on final passage, vote "no" on this motion to recommit. Vote "yes" on final passage to pass this historic clean water legislation.

The SPEAKER pro tempore (Mr. WALKER). The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BONIOR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 169, nays 256, not voting 9, as follows:

[Roll No. 336]

YEAS—169

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gilchrest
Gonzalez
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Skelton
Slaughter
Smith (MI)
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Thornton
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—256

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—9

Berman
Collins (IL)
Gephardt
Goodling
Hilliard
Hunter
Kleczka
Lipinski
Peterson (MN)

☐ 1756

Messrs. HOLDEN, TAYLOR of Mississippi, and CONYERS changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. CAMP). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SHUSTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 240, nays 185, not voting 9, as follows:

[Roll No. 337]

YEAS—240

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bono
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Gordon
Graham
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Pickett
Pombo
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts
Rogers
Rohrabacher
Rose
Roth
Royce
Salmon
Scarborough
Schaefer
Schiff
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)
Zeliff

NAYS—185

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Durbin
Ehlers
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frelinghuysen
Frost
Furse
Gejdenson
Gibbons
Gilchrest
Gilman
Gonzalez
Goss
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klug
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
Lincoln
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pomeroy
Porter
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Watt (NC)
Waxman
Weldon (PA)
Williams
Wise
Wolf
Wyden
Wynn
Yates
Zimmer

NOT VOTING—9

Berman
Brewster
Collins (IL)
Gephardt
Goodling
Kleczka
Lipinski
Waters
Woolsey

☐ 1814

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. WATERS. Mr. Speaker, May 16, during consideration of final passage of the Clean Water Act Reform Act, H.R. 961, I was outside the building and inadvertently missed the vote. Had I been present, I would have voted "Nay."

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I regret my unavoidable absence for rollcall votes Nos. 336 and 337, relating to H.R. 961, the Clean Water Act Amendments. I had to cast an important vote in a Pennsylvania primary election and could not remain in Washington.

Had I been present, I would have voted "Nay" on rollcall vote No. 336 and "Aye" on roll call vote No. 337.

PERSONAL EXPLANATION

Ms. WOOLSEY. Mr. Speaker, I was present and voted no on rollcall vote No. 337, final passage of H.R. 961, the Federal Water Pollution Control Act amendments. Unfortunately, due to a technical difficulty, my vote was not recorded.

I ask that the RECORD be clear that I voted on opposition to final passage of H.R. 961.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to insert extraneous material in the RECORD, on H.R. 961, the bill just passed.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 961, CLEAN WATER AMENDMENTS OF 1995

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 961, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 961.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

☐ 1815

CONFERENCE REPORT ON H.R. 1158, EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DISASTER ASSISTANCE AND RESCISSIONS, FISCAL YEAR 1995

Mr. LIVINGSTON submitted the following conference report and statement on the bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-124)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1158) "making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide emergency supplemental appropriations for additional disaster assistance, for anti-terrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I—SUPPLEMENTALS AND RESCISSIONS

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

(TRANSFER OF FUNDS)

Funds made available under this heading in Public Law 103-330 and subsequently transferred to "Nutrition Initiatives" are transferred to the Agricultural Research Service.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for salaries and expenses of the Food Safety and Inspection Service, $9,082,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the Agricultural Stabilization and Conservation Service, $5,000,000.

COMMODITY CREDIT CORPORATION FUND

FOOD FOR PROGRESS

Notwithstanding any other provision of law, no funds of the Commodity Credit Corporation in excess of $50,000,000 for fiscal year 1995 (exclusive of the cost of commodities in the fiscal year) may be used to carry out the Food for Progress Act of 1985 (7 U.S.C. 1736o) with respect to commodities made available under section 416(b) of the Agricultural Act of 1949: Provided, That of this amount not more than $20,000,000 may be used without regard to section 110(g) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(g)). The additional costs resulting from this provision shall be financed from funds credited to the Corporation pursuant to section 426 of Public Law 103-465.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

The second paragraph under this heading in Public Law 103-330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": Provided, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 per centum per year".

FOOD AND NUTRITION SERVICE

COMMODITY SUPPLEMENTAL FOOD PROGRAM

The paragraph under this heading in Public Law 103-330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": Provided further, That twenty per centum of any Commodity Supplemental Food Program funds carried over from fiscal year 1994 shall be available for administrative costs of the program".

GENERAL PROVISION

Section 715 of Public Law 103-330 is amended by deleting "$85,500,000" and by inserting "$110,000,000". The additional costs resulting from this provision shall be financed from funds credited to the Commodity Credit Corporation pursuant to section 426 of Public Law 103-465.

OFFICE OF THE SECRETARY

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $31,000 are rescinded: Provided, That none of the funds made available to the Department of Agriculture may be used to carry out activities under 7 U.S.C. 2257 without prior notification to the Committees on Appropriations.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $1,500,000 are rescinded.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330 and other Acts, $1,400,000 are rescinded: Provided, That of balances available within this account, $12,678,000 shall be available for a grant to Iowa State University for the construction of the National Swine Research Center.

COOPERATIVE STATE RESEARCH SERVICE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $1,051,000 are rescinded, including $524,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i(c)); and $527,000 for necessary expenses of Cooperative State Research Service activities: Provided, That the amount of "$9,917,000" available under this heading in Public Law 103-330 (108 Stat. 2441) for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890, is amended to read "$9,207,000".

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330 and other Acts, $2,184,000 are rescinded.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $2,000,000 are rescinded.

RURAL DEVELOPMENT ADMINISTRATION AND FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $15,500,000 for the cost of section 515 rental housing loans are rescinded.

LOCAL TECHNICAL ASSISTANCE AND PLANNING GRANTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $1,750,000 are rescinded.

ALCOHOL FUELS CREDIT GUARANTEE PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 102-341, $9,000,000 are rescinded.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $1,500,000 for the cost of 5 per centum rural telephone loans are rescinded.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

(RESCISSION)

Of the funds made available under this heading in Public Law 103-111, $20,000,000 are rescinded.

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $40,000,000 for commodities supplied in connection with dispositions abroad, pursuant to title III of the Agricultural Trade Development and Assistance Act of 1954, as amended, are rescinded.

CHAPTER II

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

RELATED AGENCIES

NATIONAL BANKRUPTCY REVIEW COMMISSION

(TRANSFER OF FUNDS)

For the National Bankruptcy Review Commission as authorized by Public Law 103-394, $1,000,000 shall be made available until expended, to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

UNITED STATES INFORMATION AGENCY

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations", $7,290,000, for transfer to the Board for International Broadcasting to remain available until expended.

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

DRUG COURTS

(RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103-317, $22,100,000 are rescinded.

OUNCE OF PREVENTION COUNCIL

Under this heading in Public Law 103–317, after the word "grants", insert the following: "and administrative expenses". After the word "expended", insert the following: ": Provided, That the Council is authorized to accept, hold, administer, and use gifts, both real and personal, for the purpose of aiding or facilitating the work of the Council".

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances in the Working Capital Fund, $5,500,000 are rescinded.

LEGAL ACTIVITIES

ASSETS FORFEITURE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $28,037,000 are rescinded.

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $17,000,000 are rescinded.

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $16,300,000 are rescinded.

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $30,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $24,200,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the unobligated balances available under this heading, $15,000,000 are rescinded.

GOES SATELLITE CONTINGENCY FUND

(RESCISSION)

Of the unobligated balances available under this heading, $2,500,000 are rescinded.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,750,000 are rescinded.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, and from offsetting collections available in the revolving fund, $1,000,000 are rescinded.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

INFORMATION INFRASTRUCTURE GRANTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,000,000 are rescinded.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSIONS)

Of the funds made available under this heading in Public Laws 103–75 and 102–368, $5,250,000 are rescinded.

In addition, of the funds made available under this heading in Public Law 103–317, $25,000,000 are rescinded.

THE JUDICIARY

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $9,500,000 are rescinded.

FEES OF JURORS AND COMMISSIONERS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

RELATED AGENCIES

SMALL BUSINESS ADMINISTRATION

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $6,000,000 are rescinded: Provided, That funds appropriated for grants to the National Center for Genome Resources in Public Law 103–121 and Public Law 103–317 shall be available to provide consulting assistance, information, and related services, and shall be available for other purposes, notwithstanding the limitations in said public laws.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

Public Law 104–6 is amended by adding after the word "rescinded" in the paragraph under the heading "Legal Services Corporation, Payment to the Legal Services Corporation, (Rescission)" the following: ", of which $4,802,000 are from funds made available for basic field programs; $523,000 are from funds made available for Native American programs; $1,071,000 are from funds made available for migrant programs; $709,000 are from funds made available for law school clinics; $31,000 are from funds made available for supplemental field programs; $159,000 are from funds made available for regional training centers; $2,691,000 are from funds made available for national support; $2,212,000 are from funds made available for State support; $785,000 are from funds made available for client initiatives; $160,000 are from funds made available for the Clearinghouse; $73,000 are from funds made available for computer assisted legal research regional centers; and $1,784,000 are from funds made available for Corporation management and administration".

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $2,250,000 are rescinded.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the unobligated balances available under this heading, $30,000,000 are rescinded.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $14,617,000 are rescinded.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,000,000 are rescinded, of which $2,500,000 are from funds made available for activities related to the implementation of the Chemical Weapons Convention.

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

From unobligated balances available under this heading, $2,000,000 are rescinded.

UNITED STATES INFORMATION AGENCY

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading, $16,000,000 are rescinded.

RADIO FREE ASIA

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

CHAPTER III

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $10,000,000 are rescinded.

CONSTRUCTION, GENERAL

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $60,000,000 are rescinded.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

OPERATION AND MAINTENANCE

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $74,000,000 are rescinded.

ATOMIC ENERGY DEFENSE ACTIVITIES

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–316, and prior years' Energy and Water Development Appropriations Acts, $15,000,000 are rescinded.

DEPARTMENTAL ADMINISTRATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $20,000,000 are rescinded.

POWER MARKETING ADMINISTRATIONS

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $30,000,000 are rescinded.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $5,000,000 are rescinded.

CHAPTER IV

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RESTRUCTURING

DEBT RELIEF FOR JORDAN

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, as amended, of modifying direct loans to Jordan issued by the Export-Import Bank or by the Agency for International Development or by the Department of Defense, or for the cost of modifying: (1) concessional loans authorized under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, and (2) credits owed by Jordan to the Commodity Credit Corporation, as a result of the Corporation's status as a guarantor of credits in connection with export sales to Jordan; as authorized under subsection (a) under the heading, "Debt Relief for Jordan", in title VI of Public Law 103–306, $275,000,000.

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306, $15,000,000 are rescinded.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts, $41,300,000 are rescinded.

POPULATION, DEVELOPMENT ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts, $19,000,000 are rescinded.

DEVELOPMENT FUND FOR AFRICA

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts, $21,000,000 are rescinded.

DEBT RESTRUCTURING UNDER THE ENTERPRISE FOR THE AMERICAS INITIATIVE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–391, $2,400,000 are rescinded.

ECONOMIC SUPPORT FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–87 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts (excluding funds earmarked or otherwise made available to the Camp David countries), $25,000,000 are rescinded.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts, $2,000,000 are rescinded.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts for programs or projects to or through the government of Russia, $25,000,000 are rescinded.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

PEACEKEEPING OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306, $3,000,000 are rescinded.

EXPORT ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–87 and Public Law 103–306 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts, $4,000,000 are rescinded.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $70,000 are rescinded, to be derived from amounts available for developing and finalizing Roswell Resource Management Plan/Environmental Impact Statement and the Carlsbad Resource Management Plan Amendment/Environmental Impact Statement: Provided, That none of the funds made available in such Act or any other appropriations Act may be used for finalizing or implementing either such plan.

CONSTRUCTION AND ACCESS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, and Public Law 103–381, $900,000 are rescinded.

PAYMENTS IN LIEU OF TAXES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $2,500,000 are rescinded.

LAND ACQUISITION

(RESCISSION)

Of the funds available under this heading in Public Law 103–381, Public Law 103–121, and Public Law 100–446, $1,497,000 are rescinded.

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading or the heading Construction and Anadromous Fish in Public Law 103–332, Public Law 103–211, Public Law 103–138, Public Law 103–75, Public Law 102–381, Public Law 102–154, Public Law 102–368, Public Law 101–512, Public Law 101–121, Public Law 100–446, and Public Law 100–202, $12,415,000 are rescinded.

LAND ACQUISITION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, and any unobligated balances from funds appropriated under this heading in prior years, $1,076,000 are rescinded.

NATIONAL BIOLOGICAL SURVEY

RESEARCH, INVENTORIES, AND SURVEYS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, and Public Law 103–138, $14,549,000 are rescinded.

NATIONAL PARK SERVICE

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332 and any unobligated balances from funds appropriated under this heading in prior years, $20,890,000 are rescinded.

URBAN PARK AND RECREATION FUND

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $7,480,000 are rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

(RESCISSION)

Of the funds available under this heading in Public Law 103–332 and any unobligated balances from funds appropriated under this heading in prior years, $13,634,000 are rescinded.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $514,000 are rescinded.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $4,850,000 are rescinded: Provided, That the first proviso under this heading in Public Law 103–332 is amended by striking "$330,111,000" and inserting in lieu thereof "$329,361,000".

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332 and any unobligated balances from funds appropriated under this heading in prior years, $9,571,000 are rescinded.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,700,000 are rescinded.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,938,000 are rescinded.

TRUST TERRITORY OF THE PACIFIC ISLANDS

(RESCISSION)

Of the funds available under this heading in Public Law 99–591, $32,139,000 are rescinded.

COMPACT OF FREE ASSOCIATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,000,000 are rescinded.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $6,000,000 are rescinded.

STATE AND PRIVATE FORESTRY

(RESCISSION)

Of the funds available under this heading in Public Law 103–332 and Public Law 103–138, $7,800,000 are rescinded.

INTERNATIONAL FORESTRY

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $2,000,000 are rescinded.

NATIONAL FOREST SYSTEM

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,650,000, are rescinded

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and Public Law 103–381, $6,072,000 are rescinded: Provided, That the first proviso under this heading in Public Law 103–332 is amended by striking "1994" and inserting in lieu thereof "1995".

LAND ACQUISITION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and Public Law 102–381, $1,429,000 are rescinded: Provided, That the Chief of the Forest Service shall not initiate any new purchases of private land in Washington County, Ohio and Lawrence County, Ohio during fiscal year 1995.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $18,100,000 are rescinded.

ENERGY CONSERVATION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, $35,928,000 are rescinded and of the funds available under this heading in Public Law 103–138 $13,700,000 are rescinded.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $2,000,000 are rescinded.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

(RESCISSION)

Of the funds available under this heading in Public Law 102–381 and Public Law 103–138, $1,000,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 102–154, Public Law 102–381, Public Law 102–138, and Public Law 103–332, $11,512,000 are rescinded.

NATIONAL GALLERY OF ART

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $407,000 are rescinded.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

CONSTRUCTION

(RESCISSION)

Of the available balances under this heading, $3,000,000 are rescinded.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,000,000 are rescinded.

NATIONAL EDUCATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

GENERAL PROVISIONS

SEC. 501. No funds available in any appropriations Act may be used by the Department of the Interior, including but not limited to the United States Fish and Wildlife Service and the National Biological Service, to search for the Alabama sturgeon in the Alabama River, the Cahaba River, the Tombigbee River or the Tennessee-Tombigbee Waterway in Alabama or Mississippi.

SEC. 502. (a) No funds available to the Forest Service may be used to implement Habitat Conservation Areas in the Tongass National Forest for species which have not been declared threatened or endangered pursuant to the Endangered Species Act, except that with respect to goshawks the Forest Service may impose interim Goshawk Habitat Conservation Areas not to exceed 300 acres per active nest consistent with the guidelines utilized in national forests in the continental United States.

(b) The Secretary shall notify Congress within 30 days of any timber sales which may be delayed or canceled due to the Goshawk Habitat Conservation Areas described in subsection (a).

SEC. 503. (a) As provided in subsection (b), an environmental impact statement prepared pursuant to the National Environmental Policy Act of a subsistence evaluation prepared pursuant to the Alaska National Interest Lands Conservation Act for a timber sale or offering to one party shall be deemed sufficient if the Forest Service sells the timber to an alternate buyer.

(b) The provision of this section shall apply to the timber specified in the Final Supplement to 1981–86 and 1986–90 Operating Period EIS ("1989 SEIS"), November 1989; in the North and East Kuiu Final Environmental Impact Statement, January 1993; in the Southeast Chichagof Project Area Final Environmental Impact Statement, September 1992; and in the Kelp Bay Environmental Impact Statement, February 1992, and supplemental evaluations related thereto.

SEC. 504. (a) SCHEDULE FOR NEPA COMPLIANCE.—Each National Forest System unit shall establish and adhere to a schedule for the completion of National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analysis and decisions on all allotments within the National Forest System unit for which NEPA analysis is needed. The schedule shall provide that not more than 20 percent of the allotments shall undergo NEPA analysis and decisions through fiscal year 1996.

(b) REISSUANCE PENDING NEPA COMPLIANCE.—Notwithstanding any other law, term grazing permits which expire or are waived before the NEPA analysis and decision pursuant to the schedule developed by individual Forest Service System units, shall be issued on the same terms and conditions and for the full term of the expired or waived permit. Upon completion of the scheduled NEPA analysis and decision for the allotment, the terms and conditions of existing grazing permits may be modified or re-issued, if necessary to conform to such NEPA analysis.

(c) EXPIRED PERMITS.—This section shall only apply if a new term grazing permit has not been issued to replace an expired or waived term grazing permit solely because the analysis required by NEPA and other applicable laws has not been completed and also shall include permits that expired or were waived in 1994 and 1995 before the date of enactment of this Act.

CHAPTER VI

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,399,115,000 are rescinded, including $10,000,000 for necessary expenses of construction, rehabilitation, and acquisition of new Job Corps centers, $12,500,000 for the School-to-Work Opportunities Act, $4,293,000 for section 401 of the Job Training Partnership Act, $5,743,000 for section 402 of such Act, $3,861,000 for service delivery areas under section 101(a)(4)(A)(iii) of such Act, $98,000,000 for carrying out title II, part A of such Act, $272,010,000 for carrying out title II, part C of such Act, $2,223,000 for the National Commission for Employment Policy and $500,000 for the National Occupational Information Coordinating Committee: Provided, That service delivery areas may transfer up to 50 percent of the amounts allocated for program years 1994 and 1995 between the title II–B and title II–C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

(RESCISSIONS)

Of the funds made available in the first paragraph under this heading in Public Law 103–333, $11,263,000 are rescinded.

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $3,177,000 are rescinded.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $20,000,000 are rescinded, and amounts which may be expended from the Employment Security Administration account in the Unemployment Trust Fund are reduced from $3,269,097,000 to $3,201,397,000.

Bureau of Labor Statistics

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $700,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Health Resources and Services

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $41,350,000 are rescinded.

Centers for Disease Control and Prevention

Disease Control, Research, and Training

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,300,000 are rescinded.

National Institutes of Health

National Center for Research Resources

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for extramural facilities construction grants, $10,000,000 are rescinded.

Buildings and Facilities

(RESCISSION)

Of the available balances under this heading, $60,000,000 are rescinded.

Assistant Secretary for Health

Office of the Assistant Secretary for Health

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,400,000 are rescinded.

Agency for Health Care Policy and Research

Health Care Policy and Research

(RESCISSION)

Of the Federal funds made available under this heading in Public Law 103–333, $3,132,000 are rescinded.

Health Care Financing Administration

Program Management

(RESCISSION)

Funds made available under this heading in Public Law 103–333 are reduced from $2,207,135,000 to $2,187,435,000, and funds transferred to this account as authorized by section 201(g) of the Social Security Act are reduced to the same amount.

Administration for Children and Families

Job Opportunities and Basic Skills

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, there is rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(E) of the Social Security Act (as amended by Public Law 100–485) is amended by adding before the "and": "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,300,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),".

Low Income Home Energy Assistance

(RESCISSION)

Of the funds made available in the third paragraph under this heading in Public Law 103–333, $319,204,000 are rescinded: Provided, That of the funds made available in the fourth paragraph under this heading in Public Law 103–333, $300,000,000 shall remain available until September 30, 1996.

State Legalization Impact-Assistance Grants

(RESCISSION)

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $2,000,000 are rescinded.

Community Services Block Grant

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–333, $13,387,000 are rescinded.

Of the funds made available under this heading in Public Law 103–333 and reserved by the Secretary pursuant to section 674(a)(1) of the Community Services Block Grant Act, $1,900,000 are rescinded.

Child Care and Development Block Grant

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $8,400,000 are rescinded.

Children and Families Services Programs

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 to be derived from the Violent Crime Reduction Trust Fund, $25,900,000 are rescinded for carrying out the Community Schools Youth Services and Supervision Grant Program Act of 1994.

Administration on Aging

Aging Services Programs

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $899,000 are rescinded.

Office of the Secretary

Policy Research

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $4,018,000 are rescinded.

DEPARTMENT OF EDUCATION

Education Reform

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $104,030,000 are rescinded, including $70,000,000 from funds made available for State and local education systemic improvement, and $21,530,000 from funds made available for Federal activities under the Goals 2000: Educate America Act; and $12,500,000 from funds made available under the School-to-Work Opportunities Act, including $9,375,000 for National programs and $3,125,000 for State grants and local partnerships.

Education for the Disadvantaged

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $4,606,000 are rescinded from part E, section 1501 of the Elementary and Secondary Education Act.

School Improvement Programs

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $402,940,000 are rescinded as follows: from the Elementary and Secondary Education Act, title II–B, $69,000,000, title IV, $235,981,000, title V–C, $16,000,000, title IX–B, $3,000,000, title X–D, $1,500,000, title X–G, $1,185,000, section 10602, $1,399,000, title XII, $35,000,000, and title XIII–A, $14,900,000; from the Higher Education Act, section 596, $13,875,000; and from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000.

Bilingual and Immigrant Education

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $38,500,000 are rescinded from funding for title VII–A of the Elementary and Secondary Education Act.

Vocational and Adult Education

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $90,607,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and III–B, $43,888,000 and from title IV–A, IV–B and IV–C, $23,434,000; from the Adult Education Act, part B–7, $7,787,000 and part C, section 371, $6,000,000; and from the Stewart B. McKinney Homeless Assistance Act, $9,498,000.

Student Financial Assistance

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $85,000,000 are rescinded from funding for the Higher Education Act, title IV, including $65,000,000 from part A–1 and $20,000,000 from part H–1: Provided, That of the funds remaining under this heading from Public Law 103–333, $6,178,680,000 shall be for part A–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $54,672,000 are rescinded as follows: from amounts available for Public Law 99–498, $500,000; the Higher Education Act, title IV–A, chapter 5, $496,000, title IV–A–2, chapter 1, $11,200,000, title V–C, subparts 1 and 3, $16,175,000, title IX–B, $10,100,000, title IX–C, $942,000, title IX-E, $3,520,000, title IX–G, $1,698,000, title X–D, $2,920,000, and title XI–A, $3,000,000; Public Law 102–325, $1,000,000; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990, $3,121,000: Provided, That in carrying out title IX–B, the remaining appropriations shall not be available for awards for doctoral study: Provided further, That the funds remaining for Public Law 99–498 shall be available only for native Alaskans.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,800,000 are rescinded.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $264,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $30,925,000 are rescinded as follows: from the Elementary and Secondary Education Act, title III–A, $17,500,000, title III–B, $5,000,000, title III–D, $1,125,000, title X–B, $4,600,000 and title XIII–B, $2,700,000: Provided, That of the amount made available under this heading in Public Law 103–333, for title III–B, $8,000,000 shall be reserved for additional projects that competed in the most recent competition for state-wide fiber-optics projects.

RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $37,000,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $55,000,000 are rescinded.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $7,000,000 are rescinded.

GENERAL PROVISIONS

FEDERAL DIRECT STUDENT LOAN PROGRAM

SEC. 601. Section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended—

(1) by striking "$345,000,000" and inserting "$284,000,000"; and

(2) by striking "$2,500,000,000" and inserting "$2,439,000,000".

SEC. 602. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Occupational Safety and Health Administration to promulgate or issue any proposed or final standard or guideline regarding ergonomic protection. Nothing in this section shall be construed to limit the Occupational Safety and Health Administration from conducting any peer-reviewed risk assessment activity regarding ergonomics, including conducting peer reviews of the scientific basis for establishing any standard or guideline, direct or contracted research, or other activity necessary to fully establish the scientific basis for promulgating any standard or guideline or ergonomic protection.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payments to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, $133,600.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $460,000 are rescinded.

JOINT COMMITTEE ON PRINTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $238,137 are rescinded.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $650,000 are rescinded.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $187,000 are rescinded.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDING AND GROUNDS

SENATE OFFICE BUILDINGS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $850,000 are rescinded.

CAPITOL POWER PLANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $1,650,000 are rescinded.

ADMINISTRATIVE PROVISION

SEC. 701. Section 319 of the Legislative Branch Appropriations Act, 1990 (40 U.S.C. 162–1) is amended—

(1) by striking out "Office" each place it appears and inserting in lieu thereof "office";

(2) in the second sentence of subsection (a)(2), by striking out "Commission" and inserting in lieu thereof "commission"; and

(3) in subparagraph (D) of paragraph (2) of subsection (a), by striking out "Administration" and all that follows through the end of the subparagraph, and inserting in lieu thereof "Oversight of the House of Representatives, the Committee on Rules and Administration of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate.".

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $5,000,000 are rescinded.

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $600,000 are rescinded.

BOTANIC GARDEN

SALARIES AND EXPENSES

(RESCISSION AND TRANSFER OF FUNDS)

Of the funds made available until expended by transfer under this heading in Public Law 103–283, $4,000,000 are rescinded.

Of the funds made available until expended by transfer under this heading in Public Law 103–283, $3,000,000 shall be transferred to the appropriation "Architect of the Capitol, Capitol Buildings and Grounds, Capitol Complex Security Enhancements", and shall remain available until expended.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $150,000 are rescinded.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $100,000 are rescinded.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $2,617,000 are rescinded.

ADMINISTRATIVE PROVISION

SEC. 702. The General Accounting Office may for such employees as it deems appropriate authorize a payment to employees who voluntarily separate before October 1, 1995, whether by retirement or resignation, which payment shall be paid in accordance with the provisions of section 5597(d) of title 5, United States Code.

CHAPTER VIII

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

WORKING CAPITAL FUND

(RESCISSION)

The obligation authority under this heading in Public Law 103–331 is hereby reduced by $6,000,000.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the funds made available under this heading, $5,300,000 are rescinded: Provided, That the Secretary shall not enter into any contracts for "Small Community Air Service" beyond September 30, 1995, which require compensation fixed and determined under subchapter II of chapter 417 of Title 49, United States Code (49 U.S.C. 41731–42) payable by the Department of Transportation.

COAST GUARD

OPERATING EXPENSES

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $4,300,000 are rescinded.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(RESCISSION)

Of the available balances under this heading, $35,314,000 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

(RESCISSION)

Of the available balances under this heading, $2,500,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(RESCISSION)

Of the available balances under this heading, $1,000,000 are rescinded.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $24,850,000 are rescinded.

RESEARCH ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $7,500,000 are rescinded.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this account, $2,094,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

(RESCISSION OF CONTRACT AUTHORIZATION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $54,550,000.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSIONS OF CONTRACT AUTHORIZATION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $132,190,000, of which $27,640,000 shall be deducted from amounts made available for the Applied Research and Technology Program authorized under section 307(e) of title 23, United States Code, and $50,000,000 shall be deducted from the amounts available for the Congestion Pricing Pilot Program authorized under section 1002(b) of Public Law 102–240, and $54,550,000 shall be deducted from the limitation on General Operating Expenses: Provided, That the amounts deducted from the aforementioned programs are rescinded.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–211, $100,000,000 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

(TRANSFER OF FUNDS)

Section 341 of Public Law 103–331 is amended by deleting "and received from the Delaware and Hudson Railroad," after "amended,".

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

(RESCISSION)

Of the available balances under this heading, $9,707,000 are rescinded.

NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available balances of contract authority under this heading, $250,000,000 are rescinded.

FEDERAL TRANSIT ADMINISTRATION

TRANSIT PLANNING AND RESEARCH

(RESCISSION)

Of the available balances under this heading, $7,000,000 are rescinded.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSIONS OF CONTRACT AUTHORIZATION)

Notwithstanding section 313 of Public Law 103–331, the obligation limitations under this heading in the following Department of Transportation and Related Agencies Appropriations Acts are reduced by the following amounts:

Public Law 102–143, $31,681,500, to be distributed as follows:

(a) $1,281,500 is rescinded from amounts made available for replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities: Provided, That the foregoing reduction shall be distributed according to the reductions identified in Senate Report 104–17, for which the obligation limitation in Public Law 102–143 was applied; and

(b) $30,400,000 is rescinded from accounts made available for new fixed guideway systems, to be distributed as follows:

$1,000,000, Cleveland Dual Hub Corridor Project;

$465,000, Kansas City-South LRT Project;

$950,000, San Diego Mid-Coast Extension Project;

$17,100,000, Hawthorne-Warwick Commuter Rail Project;

$375,000 New York Staten Island Midtown Ferry Project;

$4,000,000, San Jose-Gilory Commuter Rail Project;

$1,620,000, Seattle-Tacoma Commuter Rail Project; and

$4,890,000, Detroit LRT Project.

Public Law 101–516, $2,230,000, to be distributed as follows:

(a) $2,230,000 is rescinded from amounts made available for new fixed guideway systems, for the Cleveland Dual Hub Corridor Project.

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For an additional amount for liquidation of obligations incurred in carrying out 49 U.S.C. 5338(b), $350,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

GENERAL PROVISIONS

(INCLUDING RESCISSIONS)

SEC. 801. Of the funds provided in Public Law 103–331 for the Department of Transportation working capital fund (WCF), $6,000,000 are rescinded, which limits fiscal year 1995 WCF obligational authority for elements of the Department of Transportation funded in Public Law 103–331 to no more than $87,000,000.

SEC. 802. Of the total budgetary resources available to the Department of Transportation (excluding the Maritime Administration) during fiscal year 1995 for civilian and military compensation and benefits and other administrative expenses, $15,000,000 are permanently canceled.

SEC. 803. Section 326 of Public Law 103–122 is hereby amended to delete the words "no previous Acts" each time they appear in that section.

CHAPTER IX

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(TRANSFER OF FUNDS)

Of the funds made available for the Federal Buildings Fund in Public Law 103–329, $5,000,000 shall be made available by the General Services Administration to implement an agreement between the Food and Drug Administration and another entity for space, equipment and facilities related to seafood research.

OFFICE OF PERSONNEL MANAGEMENT

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE BENEFITS

For an additional amount for "Government payment for annuitants, employee life insurance," $9,000,000 to remain available until expended.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

In the paragraph under this heading in Public Law 103–329, delete "of which not less than $6,443,000 and 85 full-time equivalent positions shall be available for enforcement activities;".

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $100,000 are rescinded.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $11,000,000, to remain available until September 30, 1996.

In the paragraph under this heading in Public Law 103–329, delete "first-aid and emergency" and insert "short-term" before "medical services".

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

(RESCISSION)

Of the funds made available for construction at the Davis-Monthan Training Center under Public Law 103–123, $5,000,000 are rescinded. Of the funds made available for construction at the Davis-Monthan Training Center under Public Law 103–329, $6,000,000 are rescinded: Provided, That $1,000,000 of the remaining funds made available under Public Law 103–123 shall be used to initiate design and construction of a Burn Building at the Training Center in Glynco, Georgia.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $160,000 are rescinded.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–123, $1,500,000 are rescinded.

UNITED STATES MINT

SALARIES AND EXPENSES

In the paragraph under this heading in Public Law 103–329, insert "not to exceed" after "of which".

INTERNAL REVENUE SERVICE

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $1,490,000 are rescinded.

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

In the paragraph under this heading in Public Law 103–329, in section 3, after "$119,000,000", insert "annually".

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $171,000 are rescinded.

FEDERAL DRUG CONTROL PROGRAMS

SPECIAL FORFEITURE FUND

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For activities authorized by Public Law 100–690, an additional amount of $13,200,000, to remain available until expended for transfer to the United States Customs Service, "Salaries and expenses" for carrying out border enforcement activities: Provided, That of the funds made available under this heading in Public Law 103–329, $13,200,000 are rescinded.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON THE AVAILABILITY OF REVENUE

(RESCISSION)

Of the funds made available under this heading in Public Laws 101–136, 101–509, 102–27, 102–141, 102–393, 103–123, 103–329, $580,412,000 are rescinded from the following projects in the following amounts:

Arizona:

Bullhead City, a grant to the Federal Aviation Administration for a runway protection zone, $2,200,000

Lukeville, commercial lot expansion, $1,219,000

Nogales, U.S. Border Patrol Sector, headquarters, $2,000,000

Phoenix, U.S. Courthouse, $12,137,000

San Luis, primary lane expansion and administrative office space, $3,496,000

Sierra Vista, U.S. Magistrates office, $1,000,000

California:

Menlo Park, United States Geological Survey, Office laboratory building, $790,000

San Francisco, Federal Office Building, $9,701,000

District of Columbia:

Central and West heating plants, $5,000,000

Corps of Engineers, headquarters, $37,618,000

General Services Administration, Southeast Federal Center, headquarters, $25,000,000
U.S. Secret Service, headquarters, $9,316,000
Florida:
Tampa, U.S. Courthouse, $5,994,000
Georgia:
Albany, U.S. Courthouse, $87,000
Atlanta, Centers for Disease Control, site acquisition and improvement, $25,890,000
Atlanta, Centers for Disease Control, $14,110,000
Hawaii:
University of Hawaii-Hilo, Consolidation, $12,000,000
Illinois:
Chicago, Social Security Administration District Office, $2,130,000
Chicago, Federal Center, $29,753,000
Chicago, John C. Kluczynski, Jr., Federal building, $13,414,000
Maryland:
Avondale, De LaSalle building, $16,671,000
Montgomery County, FDA consolidation, $228,000,000
Woodlawn, SSA East High-Low building, $17,292,000
Massachusetts:
Boston, Federal building-U.S. Courthouse, $4,076,000
Nevada:
Reno, Federal building-U.S. Courthouse, $1,465,000
New Hampshire:
Concord, Federal building-U.S. Courthouse, $3,519,000
New Jersey:
Newark, parking facility, $8,500,000
New Mexico:
Santa Teresa, Border Station, $4,004,000
North Dakota:
Fargo, Federal building-U.S. Courthouse, $1,371,000
Ohio:
Steubenville, U.S. Courthouse, $2,820,000
Oregon:
Portland, U.S. Courthouse, $5,000,000
Pennsylvania:
Philadelphia, Veterans Administration, $1,276,000
Texas:
Ysleta, site acquisition and construction, $1,727,000
United States Virgin Islands:
Charlotte Amalie, St. Thomas, U.S. Courthouse Annex, $2,184,000
Washington:
Seattle, U.S. Courthouse, $10,949,000
Walla Walla, Corps of Engineers building, $2,800,000
West Virginia:
Wheeling, Federal building and U.S. Courthouse, $28,303,000
Nationwide:
Chlorofluorocarbons program, $12,300,000
Energy program, $15,300,000

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $1,396,000 are rescinded.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $3,140,000 are rescinded.

GENERAL PROVISIONS

Sec. 901. Section 5545a of title 5, United States Code, is amended—

(1) in subsection (a)(2)—

(A) in the matter before subparagraph (A) by striking "is required to" and inserting in lieu thereof "who is required to"; and

(B) by inserting "and" immediately after subparagraph (E)(v); and

(2) by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other provision of this section, any Office of Inspector General which employs fewer than 5 criminal investigators may elect not to cover such criminal investigators under this section.".

SEC. 902. (a) Section 5545a of title 5, United States Code is amended by inserting at the appropriate place the following new subsection.

"(i) The provisions of subsections (a)–(h) providing for availability pay shall apply to a pilot employed by the United States Customs Service who is a law enforcement officer as defined under section 5541(3). For the purposes of this section, section 5542(d) of this title, and section 13(a) (16) and (b) (30) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213 (a) (16) (b) (30)), such pilot shall be deemed to be a criminal investigator as defined in this section. The Office of Personnel Management may prescribe regulations to carry out this subsection.".

(b) The amendment made by subsection (a) of this section shall take effect on the first day of the first applicable pay period which begins on or after the 30th day following the date of enactment of this Act.

SEC. 903. Section 528 of Public Law 103–329 is amended by adding at the end a new proviso: "Provided further, That the amount set forth therefor in the budget estimates may be exceeded by no more than 5 percent in the event of emergency requirements.".

CHAPTER X

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster Relief" for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $3,350,000,000, to remain available until expended: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $3,350,000,000, to become available on October 1, 1995, and remain available until expended: Provided, That such amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL FLOOD INSURANCE FUND

(TRANSFER OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Reform Act of 1994, an additional amount not to exceed $331,000 shall be transferred as needed to the "Salaries and expenses" appropriation for flood mitigation and flood insurance operations, and an additional amount not to exceed $5,000,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood mitigation expenses pursuant to the National Flood Insurance Reform Act of 1994.

CORPORATIONS

FEDERAL DEPOSIT INSURANCE CORPORATION

BANK ENTERPRISE ACT

For an additional amount for eligible activities authorized under the bank Enterprise Act of 1991 (as enacted as subtitle C of title II of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242)), $36,000,000, to remain available until expended. Notwithstanding any other provision of law, for purposes of administering the requirements of the Bank Enterprise Act, the Chairman of the Federal Deposit Insurance Corporation shall have all powers and rights of the Community Enterprise Assessment Credit Board under section 233 of the Bank Enterprise Act of 1991.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $50,000,000 are rescinded: Provided, That section 509 of the general provisions carried in title V of Public Law 103–327 regarding personnel compensation and benefits expenditures shall not apply to the funds provided under this heading in such Act.

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MAJOR PROJECTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and prior years, $31,000,000 are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $50,000,000 are rescinded.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, $5,031,400,000 are rescinded: Provided, That of the total rescinded under this heading, $700,600,000 shall be from amounts earmarked for development or acquisition costs of public housing (including $80,000,000 of funds for public housing for Indian families), except that such rescission shall not apply to funds for priority replacement housing for units demolished or disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937, as amended (hereinafter referred to as "the Act")) from the existing public housing inventory, as determined by the Secretary, or to funds related to litigation settlements or court orders, and the Secretary shall not be required to make any remaining funds available pursuant to section 213(d)((1)(A) of the Housing and Community Development Act of 1974 and notwithstanding any other provision of law, the Secretary may recapture unobligated funds for development or acquisition costs of public housing (including public housing for Indians) irrespective of the length of time funds have been reserved or of any time extension previously granted by the Secretary; $1,956,000,000 shall be from amounts earmarked for new incremental rental subsidy contracts under the section 8 existing housing certificate program (42 U.S.C.

1437(f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), excluding $300,000,000 previously made available for the Economic Development Initiative (EDI), and the remaining authority for such purposes shall be only for units necessary to provide housing assistance for residents to be relocated from existing Federally subsidized or assisted housing, for replacement housing for units demolished or disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the public housing inventory, for funds related to litigation settlements or court orders, for amendments to contracts to permit continued assistance to participating families, or to enable public housing authorities to implement "mixed population" plans for developments housing primarily elderly residents; $815,000,000 shall be from amounts earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937, and the Secretary shall take actions necessary to assure that such rescission is distributed among public housing authorities, as if such rescission occurred prior to the commencement of the fiscal year; $22,000,000 shall be from amounts earmarked for special purpose grants; $148,300,000 shall be from amounts earmarked for loan management set-asides; $15,000,000 shall be from amounts earmarked for the family unification program; $30,000,000 shall be from amounts earmarked for the housing opportunities for persons with AIDS program; $34,200,000 shall be from amounts earmarked for lease adjustments; $39,000,000 shall be from amounts previously made available under this head in Public Law 103–327, and previous Acts, which are recaptured (in addition to other sums which are, or may be recaptured); $70,000,000 shall be from amounts earmarked for section 8 counseling; $50,000,000 shall be from amounts earmarked for service coordinators; $66,000,000 shall be from amounts earmarked for family investment centers; $85,300,000 shall be from amounts earmarked for the lead-based paint hazard reduction program; and $1,000,000,000 shall be from funds available for all new incremental units [including funds previously reserved or obligated and recaptured for the development or acquisition costs of public housing (including public housing for Indian families), incremental rental subsidy contracts under the section 8 existing housing certificate program (42 U.S.C. 1437f), and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o))] and non-incremental, unreserved balances: Provided further, That the Secretary shall submit to the appropriate committees of the Congress a detailed operating plan of proposed funding levels for activities under this account within 30 days of enactment of this Act, and such funding levels shall not be subject to pre-existing earmarks or set-asides, notwithstanding any other provision of law.

(DEFERRAL)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, $405,900,000 of amounts earmarked for the preservation of low-income housing programs (excluding $17,000,000 previously earmarked, plus an additional $5,000,000, for preservation technical assistance grant funds pursuant to section 253 of the Housing and Community Development Act of 1987, as amended) shall not become available for obligation until September 30, 1995: Provided, That, notwithstanding any other provision of law, pending the availability of such funds, the Department of Housing and Urban Development may suspend further processing of applications.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, and in prior years, $1,177,000,000 are rescinded: Provided, That renewals of expiring section 8 contracts with funds provided under this heading in Public Law 103–327, and in prior years, may be for a term of two years. In renewing an annual contributions contract with a public housing agency administering the tenant-based existing housing certificate program (42 U.S.C. 1437f) or the housing voucher program under section 8(o) (42 U.S.C. 1437f(o)) of the United States Housing Act of 1937, as amended, the Secretary shall take into account the amount in the project reserve under the contract being renewed in determining the amount of budget authority to obligate under the renewed contract (the total amount available in all such project reserves is estimated to be $427,000,000) and the Secretary may determine not to apply section 8(o)(6)(B) of the Act to renewals of housing vouchers during the remainder of fiscal year 1995.

YOUTHBUILD PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $10,000,000 are rescinded.

HOUSING COUNSELING ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $38,000,000 are rescinded.

FLEXIBLE SUBSIDY FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, and excess rental changes, collections and other amount in the fund, $8,000,000 are rescinded.

NEHEMIAH HOUSING OPPORTUNITIES FUND

(RESCISSION)

Of the funds transferred to this revolving fund in prior years, $10,500,000 are rescinded.

HOMELESS ASSISTANCE

HOMELESS ASSISTANCE GRANTS

(DEFERRAL)

Of the funds made available under this heading in Public Law 103–327, $297,000,000 shall not become available for obligation until September 30, 1995.

ADMINISTRATIVE PROVISIONS

SEC. 1001. (a) Section 14 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(q)(1) Notwithstanding any other provision of law, a public housing agency may use modernization assistance provided under section 14 for any eligible activity related to public housing which is currently authorized by this Act or applicable appropriations Acts for a public housing agency, including the demolition of existing units, for replacement housing, modernization activities related to the public housing portion of housing developments held in partnership, or cooperation with non-public housing entities, and for temporary relocation assistance, provided that the assistance provided to the public housing agency under section 14 is principally used for the physical improvement or replacement of public housing and for associated management improvements, except as otherwise approved by the Secretary, and provided the public housing agency consults with the appropriate local government officials (or Indian tribal officials) and with tenants of the public housing developments. The public housing agency shall establish procedures for consultation with local government officials and tenants, and shall follow applicable regulatory procedures as determined by the Secretary.

"(2) The authorization provided under this subsection shall not extend to the use of public housing modernization assistance for public housing operating assistance.".

(b) Subsection (a) shall be effective for assistance appropriated on or before the effective date of this Act.

SEC. 1002. (a) Section 18 of the United States Housing Act of 1937 is amended by—

(1) inserting "and" at the end of subsection (b)(1);

(2) striking all that follows after "Act" in subsection (b)(2) and inserting in lieu thereof the following: ", and the public housing agency provides for the payment of the relocation expenses of each tenant to be displaced, ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act and shall not commence demolition or disposition of any unit until the tenant of the unit is relocated.";

(3) striking subsection (b)(3);

(4) striking "(1)" in subsection (c);

(5) striking subsection (c)(2);

(6) inserting before the period at the end of subsection (d) the following: ", provided that nothing in this section shall prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving the living conditions of or providing more efficient services to its tenants";

(7) striking "under section (b)(3)(A)" in each place it occurs in subsection (e);

(8) redesignating existing subsection (f) as subsection (g); and

(9) inserting a new subsection (f) as follows:

"(f) Notwithstanding any other provision of law, replacement housing units for public housing units demolished may be build on the original public housing site or in the same neighborhood if the number of such replacement units is significantly fewer than the number of units demolished."

(b) Section 304(g) of the United States Housing Act of 1937 is hereby repealed.

(c) Section 5(h) of the United States Housing Act of 1937 is amended by striking the last sentence.

(d) Subsections (a), (b), and (c) shall be effective for plans for the demolition, disposition or conversion to homeownership of public housing approved by the Secretary on or before September 30, 1995, provided that no application for replacement housing submitted by a public housing agency to implement a final order of a court issued, or a settlement approved by a court, before enactment of this Act, shall be affected by such amendments.

SEC. 1003. Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection:

"(z) TERMINATION OF SECTION 8 CONTRACTS AND REUSE OF RECAPTURED BUDGET AUTHORITY.—

"(1) GENERAL AUTHORITY.—The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of termination of a housing assistance payments contract (other than a contract for tenant-based assistance) only for one or more of the following:

"(A) TENANT-BASED ASSISTANCE.—Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

"(B) PROJECT-BASED ASSISTANCE.—Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.

"(2) Families occupying units formerly assisted under terminated contract.—Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

"(3) Effective date.—This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995.".

INDEPENDENT AGENCIES

Chemical Safety and Hazard Investigation Board

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $500,000 are rescinded.

Community Development Financial Institutions

Community Development Financial Institutions Fund

PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $124,000,000 are rescinded.

Corporation for National and Community Service

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $210,000,000 are rescinded: Provided, That none of the funds remaining for obligation during fiscal year 1995 may be used for national awards to Federal agencies.

Environmental Protection Agency

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $14,635,000 are rescinded.

ABATEMENT, CONTROL, AND COMPLIANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $9,806,805 are rescinded: Provided, That notwithstanding any other provision of law, the Environmental Protection Agency shall not be required to site a computer to support the regional acid deposition monitoring program in the Bay City, Michigan, vicinity.

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and Public Law 102–139 for the Center for Ecology Research and Training, $83,000,000 are rescinded.

HAZARDOUS SUBSTANCE SUPERFUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $100,000,000 are rescinded.

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and Public Law 103–124, $1,302,200,000 are rescinded: Provided, That $1,299,000,000 of this amount is to be derived from amounts appropriated for State revolving funds and $3,200,000 is to be derived from amounts appropriated for making grants for the construction of wastewater treatment facilities specified in House Report 103–715.

Administrative Provisions

Sec. 1004. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency to require any State to comply with the requirement of section 182 of the Clean Air Act by adopting or implementing a test-only or IM240 enhanced vehicle inspection and maintenance program, except that EPA may approve such a program if a State chooses to submit one to meet that requirement.

Sec. 1005. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency to impose or enforce any requirement that a State implement trip reduction measures to reduce vehicular emissions. Section 304 of the Clean Air Act (42 U.S.C. 7604) shall not apply with respect to any such requirement during the period beginning on the date of the enactment of this Act and ending September 30, 1995.

Sec. 1006. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency for listing or to list any additional facilities on the National Priorities List established by section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended (42 U.S.C. 9605), unless the Administrator receives a written request to propose for listing or to list a facility from the governor of the State in which the facility is located, or unless legislation to reauthorize CERCLA is enacted.

Sec. 1007. None of the funds made available in any Appropriations Act for fiscal year 1995 shall be spent by the Environmental Protection Agency to disapprove a state implementation plan (SIP) revision solely on the basis of the Agency's regulatory 50 percent discount for alternative test-and-repair inspection and maintenance programs. Notwithstanding any other provision of EPA's regulatory requirements, the EPA shall assign up to 100 percent credit when such State has provided data for the proposed inspection and maintenance system that demonstrates evidence that such credits are appropriate. The Environmental Protection Agency shall complete and present a technical assessment of the State's demonstration within 45 days after submittal by the State.

National Aeronautics and Space Administration

SCIENCE, AERONAUTICS AND TECHNOLOGY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under "Research and Development" in prior years, $52,000,000 are rescinded.

CONSTRUCTION OF FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389, for the Consortium for International Earth Science Information Network, $27,000,000 are rescinded; and of any unobligated balances from funds appropriated under this heading in prior years, $7,000,000 are rescinded.

MISSION SUPPORT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $32,000,000 are rescinded.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

(RESCISSION)

Of the available balances under this heading in previous fiscal years $20,000,000 are rescinded.

Administrative Provisions

(INCLUDING TRANSFER OF FUNDS)

Sec. 1008. The Administrator shall acquire, for no more than $35,000,000, a certain parcel of land, together with existing facilities, located on the site of the property referred to as the Clear Lake Development Facility, Clear Lake, Texas. The land and facilities in question comprise approximately 13 acres and include a Light Manufacturing Facility, an Avionics Development Facility, and an Assembly and Test Building which shall be modified for use as a Neutral Buoyancy Laboratory in support of human space flight activities.

Sec. 1009. Notwithstanding any other provision of law or regulation, the National Aeronautics and Space Administration (NASA) shall convey, without reimbursement, to the State of Mississippi, all rights, title and interest of the United States in the property known as the Yellow Creek Facility and consisting of approximately 1,200 acres near the city of Iuka, Mississippi, including all improvements thereon and also including any personal property owned by NASA that is currently located on-site and which the State of Mississippi requires to facilitate the transfer: Provided, That appropriated funds shall be used to effect this conveyance: Provided further, That $10,000,000 in appropriated funds otherwise available to NASA shall be transferred to the State of Mississippi to be used in the transition of the facility: Provided further, That each Federal agency with prior contact to the site shall remain responsible for any and all environmental remediation made necessary as a result of its activities on the site: Provided further, That in consideration of this conveyance, NASA may require such other terms and conditions as the Administrator deems appropriate to protect the interests of the United States: Provided further, That the conveyance of the site and the transfer of the funds to the State of Mississippi shall occur not later than thirty days from the date of enactment of this Act.

National Science Foundation

ACADEMIC RESEARCH INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $131,867,000 are rescinded.

CORPORATIONS

Federal Deposit Insurance Corporation

FDIC AFFORDABLE HOUSING PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $11,281,034 are rescinded.

TITLE II—GENERAL PROVISIONS

SEC. 2001. EMERGENCY SALVAGE TIMBER SALE PROGRAM.

(a) Definitions.—For purposes of this section:

(1) The term "appropriate committees of Congress" means the Committee on Resources, the Committee on Agriculture, and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources, the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations of the Senate.

(2) The term "emergency period" means the period beginning on the date of the enactment of this section and ending on September 30, 1997.

(3) The term "salvage timber sale" means a timber sale for which an important reason for entry includes the removal of disease- or insect-infested trees, dead, damaged, or down trees, or trees affected by fire or imminently susceptible to fire or insect attack. Such term also includes the removal of associated trees or trees lacking

the characteristics of a healthy and viable ecosystem for the purpose of ecosystem improvement or rehabilitation, except that any such sale must include an identifiable salvage component of trees described in the first sentence.

(4) The term "Secretary concerned" means—

(A) the Secretary of Agriculture, with respect to lands within the National Forest System; and

(B) the Secretary of the Interior, with respect to Federal lands under the jurisdiction of the Bureau of Land Management.

(b) COMPLETION OF SALVAGE TIMBER SALES.—

(1) SALVAGE TIMBER SALES.—Using the expedited procedures provided in subsection (c), the Secretary concerned shall prepare, advertise, offer, and award contracts during the emergency period for salvage timber sales from Federal lands described in subsection (a)(4). During the emergency period, the Secretary concerned is to achieve, to the maximum extent feasible, a salvage timber sale volume level above the programmed level to reduce the backlogged volume of salvage timber. The preparation, advertisement, offering, and awarding of such contracts shall be performed notwithstanding any other provision of law, including a law under the authority of which any judicial order may be outstanding on or after the date of the enactment of this Act.

(2) USE OF SALVAGE SALE FUNDS.—To conduct salvage timber sales under this subsection, the Secretary concerned may use salvage sale funds otherwise available to the Secretary concerned.

(3) SALES IN PREPARATION.—Any salvage timber sale in preparation on the date of the enactment of this Act shall be subject to the provisions of this section.

(c) EXPEDITED PROCEDURES FOR EMERGENCY SALVAGE TIMBER SALES.—

(1) SALE DOCUMENTATION.—

(A) PREPARATION.—For each salvage timber sale conducted under subsection (b), the Secretary concerned shall prepare a document that combines an environmental assessment under section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(E)) (including regulations implementing such section) and a biological evaluation under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) and other applicable Federal law and implementing regulations. At the sole discretion of the Secretary concerned and to the extent the Secretary concerned considers appropriate and feasible, the document prepared under this paragraph must consider the environmental effects of the salvage timber sale and consider the effect, if any, on threatened or endangered species.

(B) USE OF EXISTING MATERIALS.—In lieu of preparing a new document under this paragraph, the Secretary concerned may use a document prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) before the date of the enactment of this Act, a biological evaluation written before such date, or information collected for such a document or evaluation if the document, evaluation, or information applies to the Federal lands covered by the proposed sale.

(C) SCOPE AND CONTENT.—The scope and content of the documentation and information prepared, considered, and relied on under this paragraph is at the sole discretion of the Secretary concerned.

(2) REPORTING REQUIREMENTS.—Not later than August 30, 1995, the Secretary concerned shall submit a report to the appropriate committees of Congress on the implementation of this section. The report shall be updated and resubmitted to the appropriate committees of Congress every six months thereafter until the completion of all salvage timber sales conducted under subsection (b). Each report shall contain the following:

(A) The volume of salvage timber sales sold and harvested, as of the date of the report, for each National Forest and each district of the Bureau of Land Management.

(B) The available salvage volume contained in each National Forest and each district of the Bureau of Land Management.

(C) A plan and schedule for an enhanced salvage timber sale program for fiscal years 1995, 1996, and 1997 using the authority provided by this section for salvage timber sales.

(D) A description of any needed resources and personnel, including personnel reassignments, required to conduct an enhanced salvage timber sale program through fiscal year 1997.

(E) A statement of the intentions of the Secretary concerned with respect to the salvage timber sale volume levels specified in the joint explanatory statement of managers accompanying the conference report on this Act.

(3) ADVANCEMENT OF SALES AUTHORIZED.—The Secretary concerned may begin salvage timber sales under subsection (b) intended for a subsequent fiscal year before the start of such fiscal year if the Secretary concerned determines that performance of such salvage timber sales will not interfere with salvage timber sales intended for a preceding fiscal year.

(4) DECISIONS.—The Secretary concerned shall design and select the specific salvage timber sales to be offered under subsection (b) on the basis of the analysis contained in the document or documents prepared pursuant to paragraph (1) to achieve, to the maximum extent feasible, a salvage timber sale volume level above the program level.

(5) SALE PREPARATION.—

(A) USE OF AVAILABLE AUTHORITIES.—The Secretary concerned shall make use of all available authority, including the employment of private contractors and the use of expedited fire contracting procedures, to prepare and advertise salvage timber sales under subsection (b).

(B) EXEMPTIONS.—The preparation, solicitation, and award of salvage timber sales under subsection (b) shall be exempt from—

(i) the requirements of the Competition in Contracting Act (41 U.S.C. 253 et seq.) and the implementing regulations in the Federal Acquisition Regulation issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) and any departmental acquisition regulations; and

(ii) the notice and publication requirements in section 18 of such Act (41 U.S.C. 416) and 8(e) of the Small Business Act (15 U.S.C. 637(e)) and the implementing regulations in the Federal Acquisition Regulations and any departmental acquisition regulations.

(C) INCENTIVE PAYMENT RECIPIENTS; REPORT.—The provisions of section 3(d)(1) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 5 U.S.C. 5597 note) shall not apply to any former employee of the Secretary concerned who received a voluntary separation incentive payment authorized by such Act and accepts employment pursuant to this paragraph. The Director of the Office of Personnel Management and the Secretary concerned shall provide a summary report to the appropriate committees of Congress, the Committee on Government Reform and Oversight of the House of Representatives, and the Committee on Governmental Affairs of the Senate regarding the number of incentive payment recipients who were rehired, their terms of reemployment, their job classifications, and an explanation, in the judgment of the agencies involved of how such reemployment without repayment of the incentive payments received is consistent with the original waiver provisions of such Act. This report shall not be conducted in a manner that would delay the rehiring of any former employees under this paragraph, or affect the normal confidentiality of Federal employees.

(6) COST CONSIDERATIONS.—Salvage timber sales undertaken pursuant to this section shall not be precluded because the costs of such activities are likely to exceed the revenues derived from such activities.

(7) EFFECT OF SALVAGE SALES.—The Secretary concerned shall not substitute salvage timber sales conducted under subsection (b) for planned non-salvage timber sales.

(8) REFORESTATION OF SALVAGE TIMBER SALE PARCELS.—The Secretary concerned shall plan and implement reforestation of each parcel of land harvested under a salvage timber sale conducted under subsection (b) as expeditiously as possible after completion of the harvest on the parcel, but in no case later than any applicable restocking period required by law or regulation.

(9) EFFECT ON JUDICIAL DECISIONS.—The Secretary concerned may conduct salvage timber sales under subsection (b) notwithstanding any decision, restraining order, or injunction issued by a United States court before the date of the enactment of this section.

(d) DIRECTION TO COMPLETE TIMBER SALES ON LANDS COVERED BY OPTION 9.—Notwithstanding any other law (including a law under the authority of which any judicial order may be outstanding on or after the date of enactment of this Act), the Secretary concerned shall expeditiously prepare, offer, and award timber sale contracts on Federal lands described in the "Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl", signed by the Secretary of the Interior and the Secretary of Agriculture on April 13, 1994. The Secretary concerned may conduct timber sales under this subsection notwithstanding any decision, restraining order, or injunction issued by a United States court before the date of the enactment of this section. The issuance of any regulation pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) to ease or reduce restrictions on non-Federal lands within the range of the northern spotted owl shall be deemed to satisfy the requirements of section 102(2c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2c)), given the analysis included in the Final Supplemental Impact Statement on the Management of the Habitat for Late Successional and Old Growth Forest Related Species Within the Range of the Northern Spotted Owl, prepared by the Secretary of Agriculture and the Secretary of the Interior in 1994, which is, or may be, incorporated by reference in the administrative record of any such regulation. The issuance of any such regulation pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) shall not require the preparation of an environmental impact statement under section 102(2c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2c)).

(e) ADMINISTRATIVE REVIEW.—Salvage timber sales conducted under subsection (b), timber sales conducted under subsection (d), and any decision of the Secretary concerned in connection with such sales, shall not be subject to administrative review.

(f) JUDICIAL REVIEW.—

(1) PLACE AND TIME OF FILING.—A salvage timber sale to be conducted under subsection (b), and a timber sale to be conducted under subsection (d), shall be subject to judicial review only in the United States district court for the district in which the affected Federal lands are located. Any challenge to such sale must be filed in such district court within 15 days after the date of initial advertisement of the challenged sale. The Secretary concerned may not agree to, and a court may not grant, a waiver of the requirements of this paragraph.

(2) EFFECT OF FILING ON AGENCY ACTION.—For 45 days after the date of the filing of a challenge to a salvage timber sale to be conducted

under subsection (b) or a timber sale to be conducted under subsection (d), the Secretary concerned shall take no action to award the challenged sale.

(3) PROHIBITION ON RESTRAINING ORDERS, PRELIMINARY INJUNCTIONS, AND RELIEF PENDING REVIEW.—No restraining order, preliminary injunction, or injunction pending appeal shall be issued by any court of the United States with respect to any decision to prepare, advertise, offer, award, or operate a salvage timber sale pursuant to subsection (b) or any decision to prepare, advertise, offer, award, or operate a timber sale pursuant to subsection (d). Section 705 of title 5, United States Code, shall not apply to any challenge to such a sale.

(4) STANDARD OF REVIEW.—The courts shall have authority to enjoin permanently, order modification of, or void an individual salvage timber sale if it is determined by a review of the record that the decision to prepare, advertise, offer, award, or operate such sale was arbitrary and capricious or otherwise not in accordance with applicable law (other than those laws specified in subsection (i)).

(5) TIME FOR DECISION.—Civil actions filed under this subsection shall be assigned for hearing at the earliest possible date. The court shall render its final decision relative to any challenge within 45 days from the date such challenge is brought, unless the court determines that a longer period of time is required to satisfy the requirement of the United States Constitution. In order to reach a decision within 45 days, the district court may assign all or part of any such case or cases to one or more Special Masters, for prompt review and recommendations to the court.

(6) PROCEDURES.—Notwithstanding any other provision of law, the court may set rules governing the procedures of any proceeding brought under this subsection which set page limits on briefs and time limits on filing briefs and motions and other actions which are shorter than the limits specified in the Federal rules of civil or appellate procedure.

(7) APPEAL.—Any appeal from the final decision of a district court in an action brought pursuant to this subsection shall be filed not later than 30 days after the date of decision.

(g) EXCLUSION OF CERTAIN FEDERAL LANDS.—

(1) EXCLUSION.—The Secretary concerned may not select, authorize, or undertake any salvage timber sale under subsection (b) with respect to lands described in paragraph (2).

(2) DESCRIPTION OF EXCLUDED LANDS.—The lands referred to in paragraph (1) are as follows:

(A) Any area on Federal lands included in the National Wilderness Preservation System.

(B) Any roadless area on Federal lands designated by Congress for wilderness study in Colorado or Montana.

(C) Any roadless area on Federal lands recommended by the Forest Service or Bureau of Land Management for wilderness designation in its most recent land management plan in effect as of the date of the enactment of this Act.

(D) Any area on Federal lands on which timber harvesting for any purpose is prohibited by statute.

(h) RULEMAKING.—The Secretary concerned is not required to issue formal rules under section 553 of title 5, United States Code, to implement this section or carry out the authorities provided by this section.

(i) EFFECT ON OTHER LAWS.—The documents and procedures required by this section for the preparation, advertisement, offering, awarding, and operation of any salvage timber sale subject to subsection (b) and any timber sale under subsection (d) shall be deemed to satisfy the requirements of all applicable Federal laws (and regulations implementing such laws) including but not limited to the following:

(1) The Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

(2) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(3) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(5) The National Forest Management Act of 1976 (16 U.S.C. 472a et seq.).

(6) The Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.).

(7) Other Federal environmental and natural resource laws.

(j) EXPIRATION DATE.—The authority provided by subsections (b) and (d) shall expire on September 30, 1997. The terms and conditions of this section shall continue in effect with respect to salvage timber sale contracts offered under subsection (b) and timber sale contracts offered under subsection (d) until the completion of performance of the contracts.

(k) AWARD AND RELEASE OF PREVIOUSLY OFFERED AND UNAWARDED TIMBER SALE CONTRACTS.—

(1) AWARD AND RELEASE REQUIRED.—Notwithstanding any other provision of law, within 30 days after the date of the enactment of this Act, the Secretary concerned shall act to award, release, and permit to be completed in fiscal years 1995 and 1996, with no change in originally advertised terms, volumes, and bid prices, all timber sale contracts offered or awarded before that date in any unit of the National Forest System or district of the Bureau of Land Management subject to section 318 of Public Law 101–121 (103 Stat. 745). The return of the bid bond of the high bidder shall not alter the responsibility of the Secretary concerned to comply with this paragraph.

(2) THREATENED OR ENDANGERED BIRD SPECIES.—No sale unit shall be released or completed under this subsection if any threatened or endangered bird species is known to be nesting within the acreage that is the subject of the sale unit.

(3) ALTERNATIVE OFFER IN CASE OF DELAY.—If for any reason a sale cannot be released and completed under the terms of this subsection within 45 days after the date of the enactment of this Act, the Secretary concerned shall provide the purchaser an equal volume of timber, of like kind and value, which shall be subject to the terms of the original contract and shall not count against current allowable sale quantities.

(l) EFFECT ON PLANS, POLICIES, AND ACTIVITIES.—Compliance with this section shall not require or permit any revisions, amendment, consultation, supplementation, or other administrative action in or for any land management plan, standard, guideline, policy, regional guide, or multi-forest plan because of implementation or impacts, site-specific or cumulative, of activities authorized or required by this section. No project decision shall be required to be halted or changed by such documents or guidance, implementation, or impacts.

SEC. 2002. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

SEC. 2003. Upon the enactment of this Act, the director of the Office of Management and Budget shall make downward adjustments in the discretionary spending limits (new budget authority and outlays) specified in section 601(a)(2) of the Congressional Budget Act of 1974 for each of the fiscal years 1995 through 1998 by the aggregate amount of estimated reductions in new budget authority and outlays for discretionary programs resulting from the provisions of this Act (other than emergency appropriations) for such fiscal year, as calculated by the Director.

PROHIBITION ON USE OF SAVINGS TO OFFSET DEFICIT INCREASES RESULTING FROM DIRECT SPENDING OR RECEIPTS LEGISLATION

SEC. 2004. Reductions in outlays, and reductions in the discretionary spending limits specified in section 601(a)(2) of the Congressional Budget Act of 1974, resulting from the enactment of this Act shall not be taken into account for purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 2005. July 27 of each year until the year 2003 is designated as "National Korean War Veterans Armistice Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities, and to urge the departments and agencies of the United States and interested organization, groups, and individuals to fly the American flag at halfstaff on July 27 of each year until the year 2003 in honor of the Americans who died as a result of their service in Korea.

DENIAL OF USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES

SEC. 2006. (a) IN GENERAL.—None of the funds made available in this Act may be used to provide any direct benefit or assistance to any individual in the United States when it is made known to the Federal entity or official to which the funds are made available that—

(1) the individual is not lawfully within the United States; and

(2) the benefit or assistance to be provided is other than search and rescue; emergency medical care; emergency mass care; emergency shelter; clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services; warning of further risks or hazards; dissemination of public information and assistance regarding health and safety measures; provision of food, water, medicine, and other essential needs, including movement of supplies or persons; or reduction of immediate threats to life, property, and public health and safety.

(b) ACTIONS TO DETERMINE LAWFUL STATUS.—Each Federal entity or official receiving funds under this Act shall take reasonable actions to determine whether any individual who is seeking any benefit or assistance subject to the limitation established in subsection (a) is lawfully within the United States.

(c) NONDISCRIMINATION.—In the case of any filing, inquiry, or adjudication of an application for any benefit or assistance subject to the limitation established in subsection (a), no Federal entity or official (or their agent) may discriminate against any individual on the basis of race, color, religion, sex, age, or disability.

TITLE III

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

ANTI-TERRORISM INITIATIVES

OKLAHOMA CITY RECOVERY

CHAPTER I

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

COUNTERTERRORISM FUND

There is hereby established the Counterterrorism Fund which shall remain available without fiscal year limitation. For necessary expenses, as determined by the Attorney General, $34,220,000, to remain available until expended, is appropriated to the

Counterterrorism Fund to reimburse any Department of Justice organization for the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as the result of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City or any domestic or international terrorism event: Provided, That funds from this appropriation also may be used to reimburse the appropriation account of any Department of Justice agency engaged in, or providing support to, countering, investigating or prosecuting domestic or international terrorism, including payment of rewards in connection with these activities and to conduct a terrorism threat assessment of Federal agencies and their facilities: Provided further, That any amount obligated from appropriations under this heading may be used under the authorities available to the organization reimbursed from this appropriation: Provided further, That amounts in excess of the $10,555,000 made available for extraordinary expenses incurred in the Oklahoma City bombing for fiscal year 1995, shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with Section 605 of Public Law 103–317: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount of expenses resulting from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City and other anti-terrorism efforts, $2,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for expenses resulting from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City and other anti-terrorism efforts, including the establishment of a Domestic Counter-terrorism Center, $77,140,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

GENERAL PROVISIONS

SEC. 3001. Any funds made available to the Attorney General heretofore or hereafter in any Act shall not be subject to the spending limitations contained in 18 U.S.C., sections 3059 and 3072: Provided, That any reward of $100,000 or more, up to a maximum of $2,000,000, may not be made without the personal approval of the President or the Attorney General, and such approval may not be delegated.

SEC. 3002. Funds made available under this Act for this Title for the Department of Justice are subject to the standard notification procedures contained in Section 605 of Public Law 103–317.

THE JUDICIARY

COURT OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

COURT SECURITY

For an additional amount for "Court Security" to enhance security of judges and support personnel, $16,640,000, to remain available until expended, to be expended directly or transferred to the United States Marshals Service; Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

CHAPTER II

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for emergency expenses of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, and antiterrorism efforts, including the President's antiterrorism initiative, $34,823,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for the Federal response to the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, $1,100,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for emergency expenses of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, and other anti-terrorism efforts, including the President's antiterrorism initiative, $6,675,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for emergency expenses resulting from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, $1,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The aggregate limitation on Federal Buildings Fund obligations established under this heading in Public Law 103–329 (as otherwise reduced pursuant to this Act) is hereby increased by $66,800,000, of which $40,400,000 shall remain available until expended for necessary expenses of real property management and related activities (including planning, design, construction, demolition, restoration, repairs, alterations, acquisition, installment acquisition payments, rental of space, building operations, maintenance, protection, moving of governmental agencies, and other activities) in response to the April 19, 1995, terrorist bombing attack at the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma.

In carrying out such activities, the Administrator of General Services may (among other actions) exchange, sell, lease, donate, or otherwise dispose of the site of the Alfred P. Murrah Federal Building (or a portion thereof) to the State of Oklahoma, to the City of Oklahoma City, or to any Oklahoma public trust that has the City of Oklahoma City as its beneficiary and is designated by the City to receive such property. Any such disposal shall not be subject to (1) the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.); (2) the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); or (3) any other Federal law establishing requirements or procedures for the disposal of Federal property: Provided, That these funds shall not be available for expenses in connection with the construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for required expenses in connection with the development of a proposed prospectus: Provided further, That for additional amounts, to remain available until expended and to be deposited into the Federal Buildings Fund, for emergency expenses resulting from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City: for "Construction", Oklahoma, Oklahoma City, Alfred P. Murrah Federal Building, Demolition, $2,300,000;' for "Minor Repairs and Alterations", $3,300,000; for "Rental of Space", $8,300,000, to be used to lease, furnish, and equip replacement space; and for "Buildings Operations", $12,500,000: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER III

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for emergency expenses resulting from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, $3,200,000, to remain available through September 30, 1996: Provided, That the entire amount is *designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $3,523,000, to increase Federal, State and local preparedness for mitigating and responding to the consequences of terrorism: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For an additional amount for "Emergency Management Planning and Assistance", $3,477,000, to increase federal, state and local preparedness for mitigating and responding to the consequences of terrorism: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

This Act may be cited as the "Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995".

And amend the title of the bill to read as follows:

Making emergency supplemental appropriations for additional disaster assistance, for anti-terrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

And the Senate agree to the same.

Bob Livingston,
John T. Myers,
Ralph Regula,
Jerry Lewis,
John Edward Porter,
Hal Rogers,
Joe Skeen,
Frank R. Wolf,
Tom DeLay,
Barbara F. Vucanovich,
Jim Lightfoot,
S. Callahan,
Ron Packard,
Managers on the Part of the House.

Mark O. Hatfield,
Ted Stevens,
Thad Cochran,
Arlen Specter,
Pete V. Domenici,
P. Gramm,
C.S. Bond,
Slade Gorton,
Mitch McConnell,
Connie Mack,
Conrad Burns,
Richard Shelby,
Jim Jeffords,
Judd Gregg,
R.F. Bennett,
Robert C. Byrd,
D.K. Inouye,
E.F. Hollings,
J. Bennett Johnston,
Patrick J. Leahy,
Dale Bumpers,
Barbara A. Mikulski,
Harry Reid,
Bob Kerrey,
Herb Kohl,
Patty Murray,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House in the report accompanying H.R. 1158 (H. Rept. 104–70) and the report accompanying H.R. 1159 (H. Rept. 104–71) which is not changed by the report of the Senate (S. Rept. 104–17), and Senate Report language which is not changed by the conference are approved by the committee of conference. The statement of the managers while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

ENACTING CLAUSE

The conference agreement contains an amended enacting clause that reflects the inclusion of emergency supplemental appropriations for recovery operations in response to the tragedy that occurred at Oklahoma City and for anti-terrorism initiatives. Neither the House nor Senate bills included these purposes in their respective enacting clauses.

TITLE I—SUPPLEMENTALS AND RESCISSIONS

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

The conference agreement transfers $2,218,000 back to the Agricultural Research Service as proposed by the Senate. These funds were appropriated to the Agricultural Research Service and subsequently transferred to a new account, "Nutrition Initiatives," established by the Department. The Food and Nutrition Service can continue to fund "Nutrition Initiatives" from funds made available to the Service, such as those for Dietary Guidelines. The House bill contained no similar provision.

FOOD SAFETY AND INSPECTION SERVICE

The conference agreement provides a supplemental appropriation of $9,082,000 for the Food Safety and Inspection Service as proposed by the Senate instead of $9,048,000 as proposed by the House.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

The conference agreement provides a supplemental appropriation of $5,000,000 for Agricultural Stabilization and Conservation Service, Salaries and Expenses instead of $10,000,000 as proposed by the House. The Senate bill contained no similar provision.

COMMODITY CREDIT CORPORATION FUND

FOOD FOR PROGRESS

The conference agreement includes language raising the limit from $30,000,000 to $50,000,000 on transport and other non-commodity funds available from the Commodity Credit Corporation to facilitate donations of commodities under the Food for Progress Program. Both the House and the Senate bills contained similar provisions.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

The conference agreement includes language to eliminate the interest cap on the Treasury rate telephone loan program as proposed by the Senate. The House bill contained no similar provision.

FOOD AND NUTRITION SERVICE

COMMODITY SUPPLEMENTAL FOOD PROGRAM

The conference agreement includes language allowing 20 percent of funds carried over from fiscal year 1994 to be available for administrative costs of the Commodity Supplemental Food Program as proposed by the Senate. The House bill contained no similar provision.

GENERAL PROVISIONS

MARKET PROMOTION PROGRAM

The conference agreement includes language permitting the operation of the Market Promotion Program at a level not to exceed $110,000,000 as proposed by the Senate. The House bill contained no similar provision.

DELINEATION OF WETLANDS

The conference agreement deletes Senate language prohibiting the Department from making wetland delineations through December 31, 1995, unless the owner or operator of the land requests such a determination. On April 6, 1996, the Secretary of Agriculture announced that the Department would make wetland delineations and certifications only on request of the landowner until Congress completes action on the 1995 Farm Bill and the National Academy of Sciences completes work on a wetlands study. The conferees strongly support this position and direct the Secretary to enforce his policy until the 1995 Farm Bill is enacted into law.

OFFICE OF THE SECRETARY

The conference agreement rescinds $31,000 from the Office of the Secretary as proposed by both the House and the Senate. The conference agreement also includes language limiting the use of the Secretary's transfer authority without prior notification to the Committees on Appropriations as proposed by both the House and the Senate.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

The conference agreement rescinds $1,500,000 from Alternative Agricultural Research and Commercialization instead of $3,000,000 as proposed by the House. The Senate bill contained no similar provision.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

The conference agreement rescinds $1,400,000 from Agricultural Research Service, Buildings and Facilities instead of $12,678,000 as proposed by the House and $1,500,000 as proposed by the Senate. The amount rescinded is to be taken from unobligated balances of the U.S. Salinity Laboratory in Riverside, California, and other miscellaneous projects. The House bill proposed rescinding $12,678,000 from amounts appropriated for the National Swine Research Facility in Ames, Iowa. The conference agreement provides that the $12,678,000 for the National Swine Research Facility be provided as a grant to Iowa State University to construct that facility at Ames, Iowa. The conferees direct the Agricultural Research Service to convey ownership to Iowa State University. The conferees are aware of the interest and need for important swine research; however, financial constraints require difficult choices. The conferees expect that any future costs of operation associated with that facility be provided by sources other than the federal government. Iowa State University should work in collaboration with the industry to cover research and additional construction costs or to offset these costs through the consolidation of federal research activities.

COOPERATIVE STATE RESEARCH SERVICE

The conference agreement rescinds $1,051,000 from the Cooperative State Research Service as proposed by the House instead of $958,000 as proposed by the Senate. The conference agreement rescinds $524,000 from the Oregon/Massachusetts/Pennsylvania biotechnology project; $434,000 from the American Indian Initiative of the Arid Lands Development Fund; and $93,000 from the Potato Tariff and Trade Association. The conference agreement also makes a technical correction to Public Law 103-330 for the 1890 capacity building grants program as proposed by both the House and the Senate.

BUILDINGS AND FACILITIES

The conference agreement rescinds $2,184,000 from Cooperative State Research Service, Buildings and Facilities instead of $20,994,000 as proposed by the House. The Senate bill contained no similar provision. The conference agreement rescinds funds from projects at Minot State University, North Dakota—$280,000; Cornell University, New York—$143,000; and the University of Idaho—$1,761,000. The conferees note that continuation of feasibility studies and/or planning or construction funds in fiscal year 1995 do not signal potential for continued funding. The conferees expect a thorough review and significant changes to the criteria for future consideration of any funding. Universities should be aware that potential future restrictions on subcommittee allocations make future funding in doubt.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

BUILDINGS AND FACILITIES

The conference agreement rescinds $2,000,000 from Animal and Plant Health Inspection Service, Buildings and Facilities instead of $6,000,000 as proposed by the Senate. The amount rescinded is to be taken from unobligated balances. The House bill contained no similar provision.

RURAL DEVELOPMENT ADMINISTRATION AND FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

The conference agreement rescinds $15,500,000 from the section 515 Rural Rental Housing Program instead of $115,500,000 as proposed by the House. The Senate bill contained no similar provision. The conferees agree that available funds should be used to rehabilitate projects in need of repair.

LOCAL TECHNICAL ASSISTANCE AND PLANNING GRANTS

The conference agreement rescinds $1,750,000 from Local Technical Assistance and Planning Grants as proposed by both the House and the Senate.

ALCOHOL FUELS CREDIT GUARANTEE PROGRAM ACCOUNT

The conference agreement rescinds $9,000,000 from the Alcohol Fuels Credit Guarantee Program Account as proposed by both the House and the Senate.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

The conference agreement rescinds $1,500,000 from the Rural Electrification and Telephone Loans Program Account for 5 percent telephone loans as proposed by the Senate instead of $3,000,000 as proposed by the House.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

The conference agreement rescinds $20,000,000 from the Special Supplemental Food Program for Women, Infants, and Children (WIC) instead of $25,000,000 as proposed by the House. The Senate bill contained no similar provision.

The conference agreement also deletes Senate language allowing $10,000,000 of WIC administrative funds to be available for grants to state agencies to promote immunization. The conferees are aware of studies, such as the Chicago WIC Study, that show a direct link between increased immunizations among low-income children and immunization screening at WIC clinics. In fiscal year 1994, the average monthly participation of infants and children under the age of five in the WIC program was five million. Providing immunization screening and incentives for this population would result in future health care savings to both states and the federal government. The conferees direct the Department to provide a report to the House and Senate authorizing and Appropriations Committees that outlines legislative changes needed to allow state WIC agencies to provide incentives to participants to increase immunization activities by July 31, 1995. The conferees also expect the Department to provide assistance to state agencies interested in obtaining Center for Disease Control and Prevention grants for immunization support activities.

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 PROGRAM ACCOUNT

TITLE III—COMMODITY GRANTS

The conference agreement rescinds $40,000,000 from the Public Law 480 title III Program Account. The House bill proposed a rescission of $20,000,000 from title III—Commodity Grants. The Senate bill proposed rescissions of $43,865,000 from title I—Credit Sales, $6,135,000 from Ocean Freight Differential, and $92,500,000 from title III—Commodity Grants.

CHAPTER II

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

RELATED AGENCIES

NATIONAL BANKRUPTCY REVIEW COMMISSION

(TRANSFER OF FUNDS)

The conference agreement includes the transfer of $1,000,000 from the Department of Justice Working Capital Fund to the National Bankruptcy Review Commission. The Senate bill included a transfer of $1,500,000 from the Working Capital Fund for the National Bankruptcy Review Commission, as proposed by the Administration. The House bill did not provide funds to the National Bankruptcy Review Commission, but rescinded $1,500,000 in unobligated balances from the Working Capital Fund.

Given the obvious constraints on the Committees' resources in fiscal year 1996, the conferees urge the Commission to explore ways to accomplish its mission within the amounts provided.

UNITED STATES INFORMATION AGENCY

INTERNATIONAL BROADCASTING OPERATIONS

The conference agreement includes a supplemental appropriation of $7,290,000, the amount requested by the Administration, to be provided to Radio Free Europe/Radio Liberty (RFE/RL) to make up for currency exchange losses, as proposed by the House. The Senate proposed a rescission of $27,710,000 from International Broadcasting Operations, which includes RFE/RL and the Voice of America (VOA).

International broadcasting programs are in the middle of a major downsizing and reorganization mandated by the 1994 authorization bill, the United States International Broadcasting Act of 1994. As it is being implemented, the total savings of the reorganization over the four-year period 1994–1997 will exceed $400 million. The rescission proposed by the Senate would make it impossible to complete that action, and, in fact, in the words of the Director of the United States Information Agency, "will throw both VOA and RFE/RL into a complete state of chaos for the remainder of FY 1995, with ramifications extending well beyond."

RFE/RL has already been severely impacted by the fall of the dollar against the German mark, totaling potentially $24 million, which is the reason for the supplemental recommendation by the conferees, to at least partially offset the costs of the exchange losses.

In lieu of the Senate passed rescission of International Broadcasting funds, the conferees have agreed to rescind $28,000,000 from other USIA broadcasting and exchange programs, which are set forth under the rescissions portion of this chapter.

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

DRUG COURTS

The conference agreement includes a rescission of $22,100,000 from the Drug Courts program, instead of $27,750,000 as proposed by the House and $17,100,000 as proposed by the Senate.

OUNCE OF PREVENTION COUNCIL

The conference agreement includes language requested by the Administration which allows funds appropriated for grants by the Ounce of Prevention Council in Public Law 103-317 to also be available for administrative expenses of the Council. The language also allows the Council to accept, hold, administer and use gifts, both real and personal, for the purpose of facilitating its work. This language was included in both the House and Senate versions of the bill.

The conference agreement does not include the rescission of $1,000,000 from this account as proposed by the Senate.

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

The conference agreement includes a rescission totaling $5,500,000 from unobligated balances available in the Working Capital fund, instead of $1,500,000 as proposed by the House and $5,000,000 as proposed by the Senate. The conferees have also agreed to the transfer of $1,000,000 from the Working Capital Fund for necessary expenses of the National Bankruptcy Review Commission, instead of $1,500,000 as proposed by the Senate.

LEGAL ACTIVITIES

ASSETS FORFEITURE FUND

The conference agreement includes a rescission of $5,000,000 from the Assets Forfeiture Fund as proposed by the Senate. The

House bill contained no provision on this matter.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

The conference agreement includes a rescission of $1,000,000 from the Immigration and Naturalization Service as proposed by both the House and the Senate.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

The conference agreement includes a rescission of $28,037,000 as proposed by the Administration, not included in either the House or Senate bills, to partially offset the antiterrorism supplemental included in a separate title. These funds represent balances the Bureau of Prisons has indicated are not necessary and will expire at the end of this fiscal year due to adjustments in the schedule of new facility activations.

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

The conference agreement includes a rescission of $17,000,000 from the National Institute of Standards and Technology (NIST) internal research account, instead of $16,500,000 as proposed by the House, and $19,500,000 as proposed by the Senate. The conferees expect NIST and the Department of Commerce to submit a reprogramming notification, under the Committee's standard reprogramming procedures, indicating the proposed distribution of this reduction by research category in accordance with the guidance given in the House and Senate reports accompanying this bill.

INDUSTRIAL TECHNOLOGY SERVICES

The conference agreement includes a rescission of $16,300,000 from the NIST Industrial Technology Services account for Manufacturing Extension Partnership (MEP) Program and the Quality Program, instead of $27,100,000 as proposed by the House and $3,100,000 as proposed by the Senate.

CONSTRUCTION OF RESEARCH FACILITIES

The conference agreement includes a rescission of $30,000,000 from unobligated balances available in the NIST Construction account as proposed by the Senate. The House bill included no provision on this matter.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

The conference agreement includes a rescission of $24,200,000 from the National Oceanic and Atmospheric Administration (NOAA), instead of $37,000,000 as proposed by the House and $23,100,000 as proposed by the Senate. The distribution of this rescission is as follows:

National Undersea Research Program (NURP)	−$3,500,000
Coastal Ocean Program	−3,000,000
High Performance Computing	−1,000,000
Climate and Global Change	−14,000,000
Aircraft Services (Doppler Radar)	−2,700,000

The conferees expect NOAA to submit a notification under the Committees' standard reprogramming procedures, informing the Committees of the proposed distribution by activity of the rescissions provided for the NURP and Coastal Ocean programs.

The conferees direct the National Marine and Fisheries Service (NMFS) to immediately convene a team of experts to scientifically peer review and examine all the information available on its March 14, 1995, Sea Turtle, Shrimp Fishery Emergency Response Plan (ERP) and the NMFS and NOAA Sea Turtle Conservation Restrictions Applicable to Shrimp Trawling Activities announced in the May 3, 1995 Federal Register. The conferees direct that individuals with appropriate scientific expertise nominated by the shrimp fishing industry and the conservation community be part of the peer process and team.

The conferees also direct NMFS to immediately seek detailed recommendations and analysis from affected shrimp industry members and the conservation community on its March 14, 1995 restrictions, including a detailed assessment of the economic impact on the affected shrimp fishing industry. The Assistant Administrator shall convene immediate meetings with representatives of such groups to review and develop such recommendations.

The conferees direct NMFS to work with the shrimp fishing industry to revise its March 14, 1995 Emergency Response Plan and its May 3, 1995 restrictions to include the results of the scientific peer review and the alternatives for lessening the economic impact on the shrimp fishing industry. These alternatives may include exemptions to using turtle excluder devices (TEDs) in smaller try nets. NMFS is directed to publish for public comment and input only the revised plans for the May 14, 1995 Emergency Response Plan and the May 3, 1995 restrictions by June 30, 1995. The conferees direct NMFS and the Department of Commerce not to implement any shrimp fishery closures, that may result from the March 14, 1995 ERP, prior to September 30, 1995.

Due to the urgency of this situation, the conferees intend that the scientific peer review process and the meetings between NMFS and the affected industry and conservation groups will be exempt from Federal Advisory Committee Act (FACA) requirements.

CONSTRUCTION

The conference agreement rescinds $15,000,000 from the NOAA Construction account, as proposed by the Senate. The House bill contained no provision on this matter. The conferees intend that this rescission be distributed as follows: $9,000,000 from unobligated balances for the replacement of the Tiburon laboratory and $6,000,000 from unobligated balances designated for above standard costs at the Boulder laboratory.

GOES SATELLITE CONTINGENCY FUND

The conferees have included a rescission of $2,500,000 from the remaining balances in the GOES Contingency Fund, as proposed by the Senate. The House bill contained no provision on this matter.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

The conference agreement includes a rescission of $1,750,000 from the Under Secretary for Technology/Office of Technology Policy account, instead of $3,300,000 as proposed by the House. The Senate bill includes no provision on this matter.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

The conference agreement includes a rescission of $1,000,000 from the NTIS Revolving Fund, including appropriated amounts and offsetting collections received into the Fund. The House bill rescinded $4,000,000 of appropriated amounts from this account, and the Senate bill a rescission of $7,600,000 of appropriated amounts.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

INFORMATION INFRASTRUCTURE

The conference agreement includes a rescission of $4,000,000 from the National Telecommunications and Information Administration (NTIA) Information Infrastructure Grant program. The House bill included a rescission of $30,000,000 from this account. The Senate bill included no provision on this matter. An additional rescission of $15,000,000 from this account was included in the conference agreement on H.R. 889 (Public Law 104-6).

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

The conference agreement includes a rescission totaling $30,250,000 from the Economic Development Assistance Programs account under the Economic Development Administration. This amount includes $5,250,000 in remaining balances from prior year emergency appropriations for Hurricanes Andrew and Iniki and the Midwest floods, and $25,000,000 from amounts in fiscal year 1995 that were set aside for the proposed Competitive Communities program, which was never approved by Congress. The $25,000,000 rescission should be distributed proportionately to the categories which served as the source of the original reprogramming proposal—Defense Conversion and traditional title XI grants. The conferees note that more than $2,000,000 in unobligated balances related to the emergency supplements for Hurricanes Andrew and Iniki and the Midwest floods will remain available for projects currently in the funding pipeline.

The House bill included a rescission totaling $45,084,000 under this heading, of which $37,584,000 was from prior year emergency appropriations and $7,500,000 was from the other prior year projects. Most of these funds have since been obligated. The Senate rescissions totaled $47,384,000, of which $7,384,000 was from prior year emergency appropriations and $40,000,000 was from funds made available to EDA for fiscal year 1995.

Although EDA's proposed Competitive Communities program was denied by the Congress, the conferees are disturbed by recent actions that appear to pursue the Competitive Communities proposal. The conferees note that the cornerstone of the Competitive Communities proposal was to provide single grant-loans to private industries. The conferees also note that the Congress specially rejected this policy change when the Competitive Communities proposal was denied. The conferees understand that while single purpose grant-loans have been awarded by EDA in the past, these types of grants had been the exception rather than the rule: between 1982 and 1992, only 18 single grant-loans were awarded. In the last two years, however 8, single grant-loans have been awarded. The conferees believe that this dramatic increase in the number of single grant-loans awarded represent a major policy change away from the traditional Title IX programs—a change of which the Appropriations Committees were not apprised. The conferees strongly disagree with this policy shift, and expect EDA to continue to give highest priority to the traditional and more flexible Title IX programs: multi-purpose revolving loan funds, infrastructure and technical assistance. The conferees strongly encourage EDA to use remaining unobligated

Title IX funds for traditional Title IX programs.

THE JUDICIARY

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

The conference agreement includes a rescission of $1,000,000 from amounts provided in fiscal year 1995 for the U.S. Court of International trade, as proposed by the Senate. The House bill contained no provision on this matter. This amount has been identified as excess by the Court, and will have no impact on its operations.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

The conference agreement includes a rescission totaling $9,500,000 from the Judiciary's Defender Services account. The House bill included a rescission of $1,100,000 from this account, and the Senate bill rescinded $4,100,000. The conferees have agreed to the Senate level, plus the additional $5,400,000 proposed by the Judiciary as an offset to the anti-terrorism supplemental included in a separate title in this bill.

FEES OF JURORS AND COMMISSIONERS

The conference agreement includes a rescission of $5,000,000 from the Judiciary's Fees of Jurors and Commissioners account. This rescission was not included in either the House or Senate version of the bill, but was proposed by the Judiciary as an offset to the anti-terrorism supplemental request which is addressed in another title in this bill.

RELATED AGENCIES

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes no rescission under this heading. Both the House and Senate versions of the bill included a rescission of $15,000,000 from the Small Business Administration's tree planting program, but this rescission was included in the conference agreement on H.R. 889 (Public Law 104-6) and is no longer available.

BUSINESS LOANS PROGRAM ACCOUNT

The conference agreement includes a rescission of $6,000,000 from the Small Business Administration's Business Loans Program Account, instead of $15,000,000 as proposed by the Senate. The House bill contained no provision on this matter.

The conferees intend that the rescission of $6,000,000 be applied as follows: $4,000,000 from the subsidy amounts available under the Microloan program, and $2,000,000 from other loan programs referenced in the Senate report.

The conference agreement also includes language clarifying the availability of funds provided to the SBA in fiscal year 1994 and fiscal year 1995 for the National Center for Genome Resources.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

The conference agreement includes language not in either bill that delineates reductions to the Legal Services Corporation included in a prior rescission of funds and provides no further rescission. The House bill included a rescission of $5,849,000. The Senate bill contained no provision on this matter. The conferees note that a $15,000,000 rescission to the Corporation was included in Public Law 104-6.

The conference agreement includes language, not in either bill, allocating the reductions contained in Public Law 104-6. The conferees believe that any reductions should be taken out of lower priority programs, in order to minimize the impact on the basic field programs which provide direct legal assistance of individuals and are the central mission of the Corporation. The reductions delineated are based on: (1) reductions of the unanticipated carryover balances by program; (2) reductions of the supplemental and specialized delivery programs, which are in addition to the basic field programs, to their Fiscal Year 1994 levels; (3) reductions of support programs, which do not provide direct legal assistance to individuals, to their Fiscal year 1993 levels; and (4) reductions of Corporation management and grant administration to the Fiscal Year 1994 levels.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

The conference agreement includes a rescission of $2,250,000 from Diplomatic and Consular Programs of the Department of State. The House bill included a rescission of $2,000,000, and the Senate bill included a rescission of $2,500,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

The conference agreement includes a rescission of $30,000,000 from unobligated balances in the State Department's overseas construction and maintenance account, as proposed by the Senate. The House Bill included a rescission of $23,000,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

The conference agreement includes a rescission of $14,617,000 from the International Peacekeeping Activities account, which funds the payment of assessed costs of United Nations peacekeeping operations, as proposed by both the House and the Senate. Of this amount, $1,216,000 is rescinded from the amount previously appropriated for the United Nations Operation in Somalia and $13,401,000 is rescinded from the amount previously provided for the United Nation's Mission for the Referendum in Western Sahara.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

The conference agreement includes a rescission of $4,000,000, of which $2,500,000 is rescinded from the amount appropriated for the implementation of the Chemical Weapons Conventions, and $1,500,000 is rescinded as a general administrative reduction. The House proposed a rescission of $3,000,000, of which $2,000,000 was from the Chemical Weapons Convention, and $1,000,000 was a general administrative reduction. The Senate proposed a rescission of $4,000,000, of which $2,000,000 was from the Chemical Weapons Convention, and $2,000,000 was a general administrative reduction.

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

The conference agreement includes a rescission of $2,000,000 from unobligated funds available for a canceled project, the Israel Relay station, as proposed by both the House and the Senate.

UNITED STATES INFORMATION AGENCY

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

The conference agreement includes a rescission of $5,000,000 from the United States Information Agency's exchange programs, as proposed by both the House and the Senate. The conferees direct USIA to submit its proposal to carry out this rescission through the normal reprogramming procedures prior to implementing specific program reductions.

RADIO CONSTRUCTION

The conference agreement includes a rescission of $16,000,000 from unobligated balances in USIA's Radio Construction account. Both the House and the Senate had proposed a rescission of $6,000,000.

RADIO FREE ASIA

The conference agreement includes a rescission of $5,000,000 of the $10,000,000 appropriated in fiscal year 1995 for Radio Free Asia, instead of $6,000,000, as proposed by the Senate. The House bill had no similar provision.

None of the fiscal year 1995 appropriation for Radio Free Asia has been spent or obligated. Under the authorizing legislation, the United States International Broadcasting Act of 1994, no funds can be spent on Radio Free Asia until a new Broadcasting Board of Governors is in place and has submitted a detailed plan within 90 days for the establishment and operation of Radio Free Asia. As of this point, the full Board has not been nominated, let alone confirmed, and obviously, no plan has been submitted. Since the fiscal year is more than half over, and the likelihood of the full appropriation being obligated this year is remote, the conferees have agreed to rescind one-half of the appropriation for this fiscal year.

CHAPTER III

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

The conference agreement includes a rescission of $10,000,000 as proposed by the House and the Senate.

CONSTRUCTION, GENERAL

The conference agreement includes a rescission of $60,000,000 as proposed by the Senate instead of $40,000,000 as proposed by the House.

Columbia River Juvenile Fish Mitigation, Oregon and Washington.—The conferees reiterate language regarding the juvenile fish mitigation program and surface collection bypass systems contained in Senate Report 103-291 and agreed to in the statement of the managers accompanying Public Law 103-316, the Energy and Water Development Appropriations Act, 1995. The conferees expect the Corps of Engineers to move forward aggressively to test and install project modifications that improve the effectiveness and efficiency of bypass systems. One modification, identified by both Federal and private engineers, is baffled or slotted spillway gates. Experience from non-Federal Columbia River dams indicates that slotted spillway gates could improve fish passage efficiency and reduce dissolved gas saturation levels, as well as the cost of the fish spill program. A larger percentage of juvenile fish could be passed through the project using significantly less water than would occur with existing, unmodified spillways.

The conferees direct the Corps to begin work immediately to design, construct and test spillway gate modifications at The Dalles and on one other project by next spring. The Corps is encouraged to use private sector engineering firms and any other available means to accelerate the work, as necessary, to assist in completing this effort early in 1996. The Corps shall report to the Committees on Appropriations on the progress of this effort by August 15, 1995.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

OPERATION AND MAINTENANCE

The conference agreement includes a rescission of $10,000,000 as proposed by the House and the Senate.

DEPARTMENT OF ENERGY

GENERAL APPLICATION OF RESCISSIONS

The conferees direct that the reductions be applied as broadly as possible without targeting, disproportionately affecting or terminating any single project or activity, including congressional directives and priorities. Reductions should be taken against low priority, noncritical activities to the greatest extent possible, and the Department should use this as an opportunity to review and reduce uncosted balances remaining in many program areas.

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

The conference agreement rescinds $74,000,000 for Energy Supply, Research and Development Activities instead of $116,500,000 as proposed by the House and $71,500,000 as proposed by the Senate. Differences between the House and Senate recommendations are explained below.

Solar and Renewable Energy.—The conferees agree to rescind $30,000,000 instead of $35,000,000 as proposed by the House and $25,000,000 as proposed by the Senate. The conferees direct that renewable energy programs that are being cost-shared with U.S. industry for research and development and commercialization collaboratives and technology validation be preserved, to the extent possible, so that program downsizing will not adversely affect the industry co-investors in U.S. programs. Also, reductions should be applied, to the extent possible, to increases provided in fiscal year 1995 over the fiscal year 1994 levels including the global climate change programs in order to preserve needed research priorities.

Environmental, Safety and Health.—The conference agreement includes a rescission of $6,000,000 as proposed by the House and the Senate.

Biological and Environmental Research.—The conferees agree to rescind $10,000,000 instead of $15,000,000 as proposed by the House and $5,000,000 as proposed by the Senate.

Fusion Energy.—The conferees agree to rescind $7,500,000 instead of $15,000,000 as proposed by the Senate. The House had proposed no rescission for this program. The conferees direct that the fiscal year 1995 rescission be taken evenly from every component of the program, domestic and international, and that no program or project should be held harmless.

Basic Energy Sciences.—The conference agreement rescinds $5,000,000 as proposed by the House and the Senate.

Advanced Neutron Source.—The conference agreement rescinds $7,500,000 as proposed by the House and the Senate.

Energy Oversight, Research Analysis & University Support.—The conference agreement rescinds $8,000,000 as proposed by the House and the Senate.

Environmental Restoration and Waste Management (Nondefense).—The conferees have proposed no rescission for this program as proposed by the Senate instead of $45,000,000 as proposed by the House.

ATOMIC ENERGY DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

The conferees have proposed no rescission for this program instead of $28,000,000 as proposed by the House and $13,000,000 as proposed by the Senate.

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

The conference agreement rescinds $15,000,000 from the security investigation program as proposed by the Senate. The House had proposed no rescission for this program.

DEPARTMENTAL ADMINISTRATION

The conference agreement includes a rescission of $20,000,000 as proposed by the House and the Senate.

POWER MARKETING ADMINISTRATIONS

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE

WESTERN AREA POWER ADMINISTRATION

The conference agreement rescinds $30,000,000 as proposed by the Senate. The House had proposed no rescission for this program.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

The conference agreement includes a rescission of $10,000,000 as proposed by the House and the Senate.

TENNESSEE VALLEY AUTHORITY

The conference agreement includes a rescission of $5,000,000 as proposed by the House and the Senate.

CHAPTER IV

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RESTRUCTURING

DEBT RELIEF FOR JORDAN

The conference agreement provides new budget authority of $275,000,000 for "Debt relief for Jordan", the same as the budget request. The House had proposed an appropriation of $50,000,000 for this purpose to cover debt owed by Jordan for direct loans issued by the Department of Defense, the Agency for International Development, and the Export-Import Bank. The Senate amendment would have provided new budget authority of $275,000,000 to cover debt owed by Jordan for direct loans issued by these agencies as well as by the Department of Agriculture's P.L. 480 program and by the Commodity Credit Corporation. However, the Senate amendment would have limited obligations in fiscal year 1995 to $50,000,000. The conference agreement does not contain any such limitation on obligations.

RESCISSIONS

The House bill contained rescissions totaling $191,575,000 from specific appropriations accounts. The Senate amendment had proposed a general rescission of $125,000,000 from any unearmarked and unobligated balances of funds provided in Public Law 103–87 and Public Law 103-306. The conference agreement contains rescissions from specific appropriations accounts totaling $157,700,000, as described below.

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

The conference agreement rescinds $15,000,000 from funds appropriated in Public Law 103-306 for "International organizations and programs". The House bill proposed a rescission of $25,000,000 from this account. The Senate amendment did not contain a provision on this matter.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE FUND

The conference agreement rescinds $41,300,000 from "Development assistance fund". The House bill had proposed a rescission of $45,500,000 from this account. The Senate amendment did not contain a provision on this matter.

POPULATION, DEVELOPMENT ASSISTANCE

The conference agreement rescinds $19,000,000 from "Population, development assistance". The House bill had proposed a rescission of $9,000,000 from this account. The Senate amendment did not contain a provision on this matter.

DEVELOPMENT FUND FOR AFRICA

The conference agreement rescinds $21,000,000 from "Development fund for Africa". Neither the House bill nor the Senate amendment addressed this matter.

DEBT RESTRUCTURING UNDER THE ENTERPRISE FOR THE AMERICAS INITIATIVE

The conference agreement rescinds $2,400,000 from "Debt restructuring under the Enterprise for the Americas Initiative", the same as recommended in the House bill. The Senate amendment did not contain a provision on this matter.

ECONOMIC SUPPORT FUND

The conference agreement rescinds $25,000,000 from "Economic Support Fund". The House bill had proposed total rescissions of $42,975,000, including $7,500,000 from funds provided in Public Law 103–306; $20,000,000 from funds provided in Public Law 103–87; and $15,475,000 from funds provided in Public law 102–391 and prior appropriations acts, including earmarked funds. The conference agreement does not rescind funds earmarked for Camp David countries. The Senate amendment did not contain a provision on this matter.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

The conference agreement rescinds $2,000,000 from "Operating expenses of the Agency for International Development". The House bill had proposed a rescission of $5,000,000 from this account. The Senate amendment did not contain a provision on this matter.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

The conference agreement rescinds $25,000,000 from funds provided in this account and allocated for the Russian government. The House bill proposed total rescissions of $47,700,000, including $17,500,000 from funds provided in Public Law 103–306 and $30,200,000 from funds provided in Public Laws 103–87 and 102–391. The House bill did not limit these rescissions to funds allocated for the Russian government. The Senate amendment did not contain a provision on this matter.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

PEACEKEEPING OPERATIONS

The conference agreement rescinds $3,000,000 from "Peacekeeping operations". The House bill had proposed a rescission of $4,500,000 from this account. The Senate amendment did not contain a provision on this matter.

EXPORT ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

The conference agreement rescinds $4,000,000 from "Trade and Development Agency". The House bill had proposed a rescission of $4,500,000 from this account. The Senate amendment did not contain a provision on this matter.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

The conference agreement rescinds $70,000 from Management of Lands and Resources to be derived from amounts available for developing and finalizing the Roswell Resource Management Plan/Environmental Impact Statement and the Carlsbad Resource Management Plan Amendment/Environmental Impact Statement, and places a moratorium on the implementation of such plans. This provision was identical in the House and Senate bills.

CONSTRUCTION AND ACCESS

The conference agreement rescinds $900,000 from Construction and Access, instead of $4,500,000 as proposed by the House and $2,100,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Campbell Creek Environmental Education Center, AK	−$3,500,000	−$2,100,000	−$900,000
Yaquina Head Ecological Interpretive Center, OR	−1,000,000		
Total	−4,500,000	−2,100,000	−900,000

PAYMENTS IN LIEU OF TAXES

The conference agreement rescinds $2,500,000 from Payments in Lieu of Taxes instead of $5,000,000 as proposed by the House and $0 as proposed by the Senate.

LAND ACQUISITION

The conference agreement rescinds $1,497,000 from Land Acquisition as proposed by the Senate, instead of $1,997,000 as proposed by the House. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Organ Mountains, NM	−$500,000		
Oregon City, OR	−728,000	−728,000	−728,000
Pariette Wetlands, UT	−185,000	−185,000	−185,000
Warner Lake, OR	−584,000	−584,000	−584,000
Total	−1,997,000	−1,497,000	−1,497,000

UNITED STATES FISH AND WILDLIFE SERVICE

RESEARCH MANAGEMENT

The conference agreement includes no rescission from Resource Management as proposed by the Senate, instead of $2,000,000 for endangered species listing activities as proposed by the House. The 1995 Defense Supplemental Appropriations Act, Public Law 104–6, contained a rescission of $1,500,000 for activities involving the listing of endangered species and the designation of critical habitat, and prohibited the Fish and Wildlife Service from using other funds to make final listings or critical habitat designations.

CONSTRUCTION

The conference agreement rescinds $12,415,000 from Construction, instead of $14,390,000 as proposed by the House and $13,215,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Confrence agreement
Alaska Maritime NWR, refuge facilities	−$1,100,000	−$1,100,000	−$1,100,000
Crab Orchard NWR, IL dam repairs completed	−51,000	−51,000	−51,000
Flint Hills NWR, KS, office/visitor center renovations	−649,000	−649,000	−649,000
Flood Damage Repair, Upper Mississippi		−800,000	−800,000
Grays Harbor NWR, WA, Bowerman Basin trails	−349,000	−174,000	−174,000
Hatchie NWR, TN, handicapped fishing access	−485,000	−485,000	−485,000
Hurricane Andrew relief funds completed	−66,000	−66,000	−66,000
J. Clark Salyer NWR, ND, dam and bridge completed		−30,000	−30,000
Kenai NWR, AK, Skilak loop campground	−4,097,000	−2,697,000	−1,897,000
Lake Ilo NWR, ND, dam completed	−1,146,000	−966,000	−966,000
Little River NWR, OK, headquarters	−2,500,000	−2,500,000	−2,500,000
Lower Suwannee NWR, FL, bridge completed	−20,000	−20,000	−20,000
Lower Suwannee NWR, FL, facility completed	−139,000	−139,000	−139,000
Mark Twain NWR, Il, Brussels/Wapello, boat ramp	−408,000	−408,000	−408,000
Stillwater NWR, NV, water delivery system	−1,200,000	−1,200,000	−1,200,000
Stone Lakes NWR, CA, water supply	−293,000	−43,000	−43,000
Tensas NWR, LA, public use access road	−150,000	−140,000	−150,000
Tishimingo NWR, OK, administrative office	−422,000	−422,000	−422,000
Trempealeau NWR, WI, Lower Barrier Dike comp	−33,000	−33,000	−33,000
Upper Mississippi NWR, MN, repair public access	−959,000	−959,000	−949,000
Upper Mississippi NWR, NM, boat ramps	−319,000	−319,000	−319,000
White River NWR, AR, Essex Bayou bridge comp	−4,000	−4,000	−4,0001m,s
Total	−14,390,000	−13,215,000	−12,415,000

LAND ACQUISITION

The conference agreement rescinds $1,076,000 from Land Acquisition, instead of $7,345,000 as proposed by the House and $3,893,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Anahuac NWR,TX		−$309,000	−$278,000
Canaan Valley NWR, WV	−$500,000		
EB Forsythe NWR, NJ	−2,800,000	−1,152,000	−140,000
Grays Harbor NWR, WA	−749,000		
Great Meadows NWR, MA	−352,000	−331,000	−331,000
James Campbell NWR, HI		−704,000	
Lake Umbagog NWR, ME, NH	−2,250,000	−430,000	
Moapa Valley NWR, NV		−327,000	−327,000
Petit Manan NWR, ME	−461,000	−423,000	
Walnut Creek NWR, IA	−233,000	−217,000	
Total	−7,345,000	−3,893,000	−1,076,000

NATIONAL BIOLOGICAL SURVEY

RESEARCH, INVENTORIES, AND SURVEYS

The conference agreement rescinds $14,549,000 from Research, Inventories, and Surveys, instead of $16,680,000 as proposed by the House and $12,544,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Research	−$8,660,000	−$849,000	−$849,000
Inventory and Monitoring	−3,350,000	−1,200,000	−2,200,000
Information Transfer	−1,870,000	−620,000	−1,200,000
Cooperative Research Units	−1,450,000		
Facilities Operation and Maintenance	−750,000		
Administration	−600,000	−175,000	−600,000
Unobligated carryover from 1994		−9,700,000	−9,700,000
Total	−16,680,000	−12,544,000	−14,549,000

The conference agreement does not identify specific program cuts for the research, inventory and monitoring, and information transfer activities.

The managers recognize that rescissions at this time of year have significant impacts on agency programs, facilities, and personnel. Future budgets are unlikely to allow for restoration of the funds proposed for rescission, thus, lower priority areas should be the focus of fiscal year 1995 adjustments. The agency should try to avoid facility closures in this fiscal year. But, in preparing for action on the fiscal year 1996 budget, the National Biological Service should review all programs and facilities in light of the need for possible future reductions, closures, or consolidations.

NATIONAL PARK SERVICE

CONSTRUCTION

The conference agreement rescinds $20,890,000 from Construction, instead of $22,831,000 as provided by the House and $25,970,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Bering Land Bridge NPP, Employee housing, AK		−$264,000	
Big South Fork NRA, Reconstruct Lodge & Fac., TN		−271,000	−$271,000
Blue Ridge Parkway (Admin.), NC		−905,000	
Blue Ridge Parkway (Fisher Peak), VA	−$4,900,000	−4,900,000	−4,900,000
Chamizal NM, TX	−1,200,000	−1,200,000	−1,200,000
Chickamauga-Chattanooga NMP, GA	−1,900,000	−1,900,000	−1,900,000
Cuyahoga Valley NRA, OH	−200,000		−200,000
Cuyahoga Valley NRA, Boston Store, OH		−1,734,000	
Cuyahoga Valley NRA, OH, Remove Abandoned Structures		−259,000	
Gates of the Arctic NPP, Employee Bunkhouse, AK		−778,000	−778,000
Glacier Bay NPP, Employee Housing, AK		−800,000	−800,000
Grand Canyon NP, AZ	−2,000,000	−2,000,000	−2,000,000
Indiana Dunes, Phase I Goodfellow Camp, IN		−788,000	
Lincoln Research Center, IL	−5,100,000	−5,100,000	−5,100,000
Lowell Historic Preservation Commission, MA	−1,773,000		−388,000
Lowell NHP, Rehab. Kirk St. Agent's house, MA		−849,000	−435,000
Maine Acadian Culture (Tech. assistance), ME	−995,000	−995,000	−995,000
Monocacy NB (Gambrill), MD	−863,000	−1,473,000	−1,473,000
National Trail Center, IA	−3,700,000		
Steamtown NHS, PA		−1,002,000	−250,000
Ulysses S. Grant NHS, (structure rehab.), MO		−552,000	
Vicksburg NB (tech. assistance), MS	−200,000	−200,000	−200,000
Total	−22,831,000	−25,970,000	−20,890,000

Bill language has been included to specify that the rescission applies to fiscal year 1995 and prior year funds.

URBAN PARK AND RECREATION FUND

The conference agreement rescinds $7,480,000 from the Urban Park and Recreation Fund as proposed by both the House and the Senate. This will eliminate the program in fiscal year 1995.

While the program's goal of providing incentives for cities to improve their recreational opportunities is of value, the managers believe that, given the size of the federal deficit, programs of this nature are appropriately left to State and local governments.

LAND ACQUISITION AND STATE ASSISTANCE

The conference agreement rescinds $13,634,000 from Land Acquisition and State Assistance, instead of $16,509,000 as proposed by the House and $9,983,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Acadia NP, ME	−$1,000,000	−$667,000	−$363,000
Alaska Exchange, AK		−100,000	−100,000
Allegheny Portage NHS, PA		−365,000	−365,000
Antietam NB, MD	−1,400,000	−700,000	−1,100,000
Big South Fork NRA, TN, KY	−500,000	−500,000	−500,000
Biscayne NP, FL		−393,000	
Black Canyon of the Gunnison NM, CO		−93,000	−93,000
Chaco Culture NHP, NM	−271,000		
Colonial NHP, VA		−13,000	−13,000
Congaree Swamp NM, SC	−100,000	−100,000	−100,000
C&O Canal NHP, MD, WV, DC	−205,000		−100,000
Denial NPP, AK	−4,800,000	−1,000,000	−4,800,000
Fire Island NS, NY	−300,000	−300,000	−300,000
Ft. Raleigh NHS, NC	−372,000	−372,000	−56,000
Gulf Islands NS, FL, MS		−55,000	−55,000
Jefferson Expansion Memorial, IL	−700,000		
Lowell NHP, MA	−447,000	−447,000	−321,000
Natchez NHP, MS	−321,000		
North Cascades NP, WA		−31,000	−31,000
Obed River WSR, TN	−261,000	−261,000	−261,000
Palo Alto NB, TX	−494,000		
Petersburg NB, VA		−119,000	−119,000
Pictured Rocks NS, MI		−133,000	−133,000
Salem Maritime NHS, MA		−160,000	
Salt River NHP, VI	−3,000,000	−3,000,000	−3,000,000
San Antonio Missions NHP, TX	−424,000	−424,000	−424,000
Utah Land Exchanges, UT		−100,000	−100,000
Valley Forge NHP, PA	−1,300,000	−650,000	−1,300,000
Weir Farm NHS, CT	−614,000		
Total	−16,509,000	−9,983,000	−13,634,000

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

The conference agreement rescinds $514,000 from Royalty and Offshore Minerals Management for environmental studies, instead of $0 as proposed by the House and $814,000 as proposed by the Senate.

The managers expect the Service to initiate the Northeastern Gulf of Mexico circulation modeling study in fiscal year 1995 as planned. As in the past, the managers encourage the Service to concentrate its Outer Continental Shelf environmental study efforts in those areas where there is active leasing and production.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

The conference agreement rescinds $4,850,000 from Operation of Indian Programs, instead of $4,046,000 as proposed by the House and $11,350,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Indian Self-Determination Fund		−$2,000,000	−$2,000,000
Education-Forward Funding		−750,000	−750,000
Central Office Operations		−4,500,000	−500,000
Area Office Operations		−3,000,000	
Special Tribal Courts	−$1,463,000		
Indian Business Development Grants	−2,583,000		−500,000
Community Reservation Economic Development		−600,000	−600,000
Indian Rights Protection		−500,000	−500,000
Total	−$4,046,000	−11,350,000	−4,850,000

The $750,000 proposed for rescission from forward-funded education programs should be derived by reducing travel not related to student transportation. This decrease should be derived by taking a pro rata reduction to forward-funded Indian School Equalization Program (ISEP) formula funds.

CONSTRUCTION

The conference agreement rescinds $9,571,000 from Construction as proposed by the Senate, instead of $10,309,000 as proposed by the House. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Employee Housing	−$2,900,000	−$2,900,000	−$2,900,000
Contingency Funds	−4,000,000	−4,000,000	−4,000,000
Emergency Shelters	−2,000,000	−1,671,000	−1,671,000
Fish hatchery Rehab	−1,409,000		
General Reduction		1,000,000	
Education. Facility Improvement & Rehab			−500,000
Resource Management			−500,000
Total	−10,309,000	−9,571,000	−9,571,000

The conference agreement does not include a general reduction for construction, as proposed by the Senate, but has replaced that rescission with reductions of $500,000 for education facility improvement and rehabilitation and $500,000 for resource management.

Bill language has been included to specify that the rescission applies to fiscal year 1995 and prior year funds.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

The conference agreement rescinds $1,700,000 for the Indian Direct Loan Program Account, instead of $0 as proposed by the House and $1,900,000 as proposed by the Senate.

The $200,000 which has been restored is to cover the expert witness costs of the Red Lake Chippewa Tribe and Minnesota Chippewa Tribe.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

The conference agreement rescinds $1,938,000 from Administration of Territories, instead of $2,438,000 as proposed by the House and $1,900,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Disaster assistance	−$438,000		−$438,000
Maintenance assistance	−2,000,000	−$400,000	
Technical assistance		−750,000	−750,000
Insular Management		−750,000	−750,000
Total	−2,438,000	1,900,000	−1,938,000

TRUST TERRITORY OF THE PACIFIC ISLANDS

The conference agreement rescinds $32,139,000 from the Trust Territory of the Pacific Islands for government operations grants as proposed by both the House and the Senate.

COMPAT OF FREE ASSOCIATION

The conference agreement rescinds $1,000,000 from the Compact of Free Association as proposed by the Senate, instead of $0 as proposed by the House.

DEPARTMENTAL OFFICES

Office of the Secretary

SALARIES AND EXPENSES

The conference agreement includes no rescission for the Office of the Secretary as proposed by the House, instead of $150,000 for aircraft services as proposed by the Senate.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

The conference agreement rescinds $6,000,000 from Forest Research as proposed by both the House and the Senate.

STATE AND PRIVATE FORESTRY

The conference agreements rescinds $7,800,000 from State and Private Forestry for the Forest Legacy program, instead of $12,500,000 as proposed by the House and $6,250,000 as proposed by the Senate.

INTERNATIONAL FORESTRY

The conference agreements $2,000,000 from International Forestry, instead of $1,000,000 as proposed by the House and $3,000,000 as proposed by the Senate.

NATIONAL FOREST SYSTEM

The conference agreement rescinds $1,650,000 from the National Forest System, instead of $3,327,000 as proposed by the House and $0 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Recreation use, wilderness management	−500,000		−250,000
General Administration	−2,827,000		−1,400,000
Total	−3,327,000		−1,650,000

The managers are concerned that adequate public comments be provided on the environmental assessment for the proposed Inland Native Fish Strategy that will provide interim management for resident fish in the inland Rocky Mountains, and expect the Forest Service to hold extensive public hearings in the affected States to obtain complete public input on this issue.

CONSTRUCTION

The conference agreement rescinds $6,072,000 from Construction, instead of $4,919,000 as proposed by the House and $7,824,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Alabama NFs, Bankhead NF, Clear Creek campground	−$418,000	−$415,000	−$415,000
Arapaho-Roosevelt NF, CO, Boulder office	−50,000	−50,000	−50,000
Chequamegon NF, WI, Northern Great Lakes Visitors Center		−300,000	
Croatan NF, NC, Cedar Point & Flanders Beach campground		−599,000	
FA&O Change Orders/Claims Region 9		−100,000	−100,000
Florida NFs, Ocala NF, Salt Springs rehab	−599,000	−515,000	−515,000
Florida NFs, Ocala NF, Salt Springs roads		−457,000	
Hiawatha NF, MI, St. Ignace admin. site	−210,000		−210,000
Job Corps, Region 8, 3 Ranger Dist. Expansions		−413,000	
Kaibab NF, AZ, Chalender Ranger Station	−85,000		
Lake Tahoe Basin Mgt. Unit, CA, Supervisors Office		−486,000	−486,000
Lolo NF, MT, Seeley Lake warehouse	−239,000	−214,000	−214,000
Los Padres NF, CA, Arroyo Seco Rec. Site		−1,469,000	−1,469,000
Nebraska NF, Hudson-Meng, Prairie Center design	−231,000		
North Carolina NFs, NC, Cradle of Forestry		−500,000	
North Carolina NFs, NC, Uwharrie NF, Badin Lake campground	−399,000	−134,000	
Pike/San Isabel, CO: Twin Lakes Rec area rehab	−370,000	−330,000	−330,000
Routt NF, CO, Fish Creek Falls Rec. area	−77,000		
Routt NF, CO, Routt Office	−211,000	−161,000	−161,000
Sierra NF, CA, Huntington/Deer Creek		−309,000	−309,000
Sierra NF, CA, Huntington/Deer Creek Roads		−635,000	−635,000
Texas NF, Cagle campground	−238,000	−230,000	−230,000
Texas NF, Cagle campground roads		−114,000	−61,000
Toiyabe NF, NV, Carson Office Expansion	−360,000		
Tongass-Chatham NF, AK, Hoonah warehouse	−494,000		−494,000
Wasatch-Cache NF, UT, Salt Lake District Office	−351,000	−351,000	−351,000
White River: Maroon Valley rec area	−95,000	−42,000	−42,000
White River, CO: Redstone campground rehab	−492,000		
Total	−4,919,000	−7,824,000	−6,072,000

The managers agree that the Forest Service should reprogram $487,000 from the Croatan NF, NC, Cedar Point-Flanders Beach Campground to the North Carolina NFs, Cradle of Forestry to provide funding for the exhibits at this facility.

The conference agreement includes bill language, as proposed by the Senate, which corrects a reference in the fiscal year 1995 appropriation.

LAND ACQUISITION

The conference agreement rescinds $1,429,000 from Land Acquisition, instead of $3,974,000 as proposed by the House and $3,720,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Chattooga WSR	−$405,000		
Colorado Wilderness, CO	−300,000		−300,000
Green Mountain NF, VT	−1,600,000		
Osceola NF, FL		−400,000	−400,000
Pinhoti Trail, AL, trail acquisition	−257,000	−135,000	−135,000
Caribbean NF, PR		−163,000	
Rio Grande NF (Kit Carson), CO		−1,500,000	
Seneca Rocks, WV	−422,000		
Uwharrie NF, NC inholdings	−900,000	−621,000	−89,000
Wayne NF, OH	−90,000	−704,000	−308,000
Wisconsin NFs		−197,000	−197,000
Total	−3,974,000	−3,720,000	−1,429,000

The conference agreement modifies bill language proposed by the Senate which would prohibit the Forest Service from using available land acquisition funds to initiate new acquisitions of private lands within the Wayne National Forest. The managers expect the Forest Service to honor any existing commitment where the Service has signed an option to buy with the land owner.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

The conference agreement rescinds $18,100,000 from Fossil Energy Research and Development, instead of $18,650,000 as proposed by the House and, $20,750,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Natural Gas Research:			
Coal bed methane	−$1,250,000	−$1,250,000	−$1,250,000
Advanced computational technology	−3,500,000	−3,500,000	
Planar solids oxide fuel cells	−1,700,000	−1,700,000	−1,700,000
Prior Year Unobligated (offset)			−720,000
Gas to liquids	−1,000,000	−1,000,000	−1,000,000
Subtotal, Natural Gas Research	−7,450,000	−7,450,000	−4,670,000
Oil Research:			
Advanced computational technology	−1,500,000	−4,000,000	
Class 4 recovery field demonstration projects	−5,000,000	−1,000,000	−5,000,000
Subtotal, Oil Research	−6,500,000	−5,000,000	−5,000,000
Coal Research:			
Gasification project improvement facility, WV	−1,200,000		−1,200,000
Liquefaction research (indirect)	−2,000,000	−2,000,000	−150,000
Liquefaction research (direct)	−1,500,000	−1,500,000	−1,000,000
Prior Year Unobligated (offset)			−1,280,000
Mild Gasification project, IL		−4,800,000	−4,800,000
Subtotal, Coal Research	−4,700,000	−8,300,000	−8,430,000
Total, Fossil Energy Research & Development	−18,650,000	−20,750,000	−18,100,000

The managers expect that the funds remaining for the gasification product improvement facility in West Virginia and the mild gasification facility in Illinois, after necessary closeout costs, will be made available for high priority, in-house gasification research activities.

The managers have included a rescission of $2,000,000 which is an offset for funds which are available from unobligated prior year balances in the gas research ($720,000) and coal research ($1,280,000) programs. These reductions are taken to replace partially the fiscal year 1995 funds that were recommended for rescission by both the House and the Senate but which have been obligated by the Department since the original rescission recommendations were made.

NAVAL PETROLEUM AND OIL SHALE RESERVES

The conference agreement includes no rescission from the Naval Petroleum and Oil Shale Reserves, instead of $21,000,000 as proposed by the House and $11,000,000 as proposed by the Senate.

ENERGY CONSERVATION

The conference agreement rescinds $49,628,000 from Energy Conservation, instead of $59,928,000 as proposed by the House and $48,628,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Buildings:			
Federal Energy Management Program planning		−$1,000,000	−$1,000,000
Federal energy efficiency fund	−$5,000,000	−5,000,000	−5,000,000
Rebuild America (leaves $5.5 million for effort)	−2,500,000	−2,500,000	−2,500,000
Market pull partnerships in the areas of heating and cooling	−510,000	−510,000	−510,000
Codes and standards—State assistance		−1,000,000	−1,000,000
General Reduction		−1,000,000	
Subtotal, Buildings	−8,010,000	−11,010,000	−10,010,000
Industry:			
Steelmaking demonstration project (FY 1994 funding)	−13,700,000	−13,700,000	−13,700,000
Electric drives	−347,000	−347,000	−347,000
Climate-wise initiative (leaves $2.4 million for project)	−1,571,000	−1,571,000	−1,571,000
General Reduction		−3,000,000	
Subtotal, Industry	−15,618,000	−18,618,000	−15,618,000
Transportation:			
Fleet demonstration vehicle purchases	−20,000,000	−5,000,000	−10,000,000
Partnership for new generation vehicles initiative	−1,500,000	−1,500,000	−1,500,000
General Reduction		−1,000,000	
Alternative Fuels (excluding vehicle purchases)			−500,000
Electric and Hybrid Vehicles			−500,000
Subtotal, Transportation	−21,500,000	−7,500,000	−12,500,000
Technical and Financial Assistance:			
Weatherization assistance program	−14,800,000	−10,000,000	−11,500,000
General Reduction		−1,500,000	
Subtotal, Technical and Financial Assistance	−14,800,000	−11,500,000	−11,500,000
Total, Energy Conservation	−59,928,000	−48,628,000	−49,628,000

The conference agreement does not include a general reduction in transportation programs, as proposed by the Senate, but has replaced that rescission with reductions of $500,000 for alternative fuels activities, excluding Federal fleet purchases, and $500,000 for electric and hybrid vehicles.

The managers agree that the Department of Energy should ensure that all the remaining, available funds for Federal fleet vehicle purchases of alternatively fueled vehicles should be used for a well-balanced program which includes both original equipment manufactured vehicles and converted vehicles. The Department should concentrate its limited resources on getting these vehicles widely spread across all non-Defense Federal agencies. The long-term viability of the program depends on participation by all Federal agencies. The Department of Defense funds its own program for alternatively fueled vehicle purchases. The funds currently available to the Department of Energy should concentrate on the other agencies. None of the funds available from fiscal year 1995 or from prior year appropriations should be used for the purchase of alternatively fueled vehicles for the Department of Defense. Further, all Federal agencies should be encouraged to budget for future alternatively fueled vehicle purchases in their own budget requests.

The managers expect that the rescission for the weatherization assistance program should not interfere with the adoption of the new distribution formula. The new formula should be applied and this rescission should then be assessed against each State in the same proportion as the funds were distributed under the new formula.

The managers agree that the many new programs funded in fiscal year 1995 and proposed for funding in fiscal year 1996, through the climate change action plan, should not be protected at the expense of successful, ongoing programs.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

The conference agreement rescinds $2,000,000 from Indian Education as proposed by both the House and the Senate.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

The conference agreement rescinds $1,000,000 from Construction and Improvements, National Zoological Park as proposed by both the House and Senate.

CONSTRUCTION

The conference agreement rescinds $11,512,000 from Construction, instead of $31,012,000 as proposed by the House and $11,237,000 as proposed by the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Post Office Building renovation	−$1,700,000	−$1,700,000	−$1,700,000
Air and Space Extension	−3,900,000	−3,900,000	−3,900,000
Air and Space Extension planning	−375,000	—	−275,000
NMAI Cultural Center in Suitland, MD	−21,900,000	−2,500,000	−2,500,000
NMAI—Mail facility planning	−987,000	−987,000	−987,000
Alterations and Modifications Act. (delays 10 display projects)	−2,150,000	−2,150,000	−2,150,000
Total	−31,012,000	−11,237,000	−11,512,000

The managers have restored $19.4 million of the funds proposed for rescission by the House to begin construction of the National Museum of the American Indian Cultural Resources Center in Suitland, Maryland. This will bring the total federal contribution to date for this project to $27.8 million including all planning and design costs.

While the managers are sensitive of the need to provide for the adequate storage and conservation needs of the National Museum of the American Indian collection, the managers are concerned about the total operating and construction costs associated with the Custom House facility in New York, the Cultural Resource Center in Maryland and the proposed Mall Museum. The managers encourage the Smithsonian to seek nonFedeal funding to assist with the construction of the Suitland facility and further urge the Smithsonian to work with the House and Senate Appropriations Committees to reduce the scope and cost of the resource center.

The managers also direct the Smithsonian to develop additional cost scenarios for the proposed Mall facility, including downsizing the museum building and decreasing the amount of Federal appropriations.

The managers urge the Smithsonian to name an independent board to review the Institutions complete collections. The Smithsonian currently owns or leases 40 storage facilities to house the 138 million objects in its collections. Providing adequate and appropriate space for these collections emerges repeatedly as the most critical collections management priority. Because of the severe lack of adequate space, objects are stored in potentially dangerous conditions. In light of current budget constraints the managers believe it is prudent for the Smithsonian to begin to evaluate all its collections with a view towards possible downsizing of the collections as one means to address the storage problems.

Of the $375,000 currently available for planning of the National Air and Space Museum Extension, $275,000 is rescinded. The managers continue to have serious concerns regarding the federal government's ultimate responsibility for costs associated with the Smithsonian's involvement in this project. The managers understand that construction costs for this project will be financed through a combination of state and local funding, including bonds and an interest-fee loan. Prior to appropriating additional planning dollars for this project, the managers require more detailed information and binding commitments regarding the revised scope of the project and how it will be financed. Documentation of estimated operating costs will be necessary in order for the managers to make an informed decision on future funding. It is the managers intention that no federal funds will be appropriated for the construction of this facility.

NATIONAL GALLERY OF ART

REPAIR, RESTORATION, AND RENOVATION OF BUILDINGS

The conference agreement rescinds $407,000 from Repair, Restoration, and Renovation of Buildings as proposed by both the House and the Senate to eliminate the remaining funds for a proposed sculpture garden.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

CONSTRUCTION

The conference agreement rescinds $3,000,000 from Construction as proposed by both the House and the Senate.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

The conference agreement rescinds $1,000,000 from Salaries and Expenses as proposed by the Senate, instead of $2,300,000 as proposed by the House.

The managers agree that none of the funds available to the Center for outfitting space in the Federal Triangle Building or for other moving-related expenses may be used until the Center has fully delineated to the House and Senate Appropriations Committees the complete costs of the move and subsequent annual operating expenses. This information should be transmitted in writing to the Committee for approval using established reprogramming procedures.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

The conference agreement rescinds $5,000,000 from Grants and Administration as proposed by both the House and the Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Grants and Administration:			
Administration	−$1,000,000	−$1,000,000	−$1,000,000
Grants	−4,000,000	−4,000,000	−4,000,000
Total	−5,000,000	−5,000,000	−5,000,000

Of the $4,000,000 reduction in grants, the managers recommended that grants to individuals should be reduced to the extent practicable, excluding the National Heritage Fellowship Awards from any reductions.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

The conference agreement rescinds $5,000,000 from Grants and Administration as proposed by both the House and Senate. The managers agree to the following rescissions:

	House bill	Senate bill	Conference agreement
Grants and Administration:			
Administration	−$1,000,000	−$1,000,000	−$1,000,000
Grants	−4,000,000	−4,000,000	−4,000,000
Total	−5,000,000	−5,000,000	−5,000,000

GENERAL PROVISIONS

Section 501. The conference agreement includes language proposed by the Senate in Section 501 of the Senate bill which prohibits the Department of the Interior from expending funds to search for the Alabama sturgeon in the Alabama River, the Cahaba River, the Tombigbee River or the Tennessee-Tombigbee Waterway in Alabama or Mississippi. The House bill included no similar provision.

Section 502. The conference agreement includes language proposed by the Senate in Section 503 of the Senate bill which prohibits the Forest Service from expending funds to implement Habitat Conservation Areas (HCAs) in the Tongass NF, AK for unlisted species except in certain cases for goshawks, and requires Congressional notification of timber sales which may be delayed or canceled due to Goshawk HCAs. The House bill included no similar provision.

Section 503. The conference agreement includes language proposed by the Senate in Section 2011 of the Senate bill which deems sufficient certain environmental impact statements or subsistence evaluations prepared for a timber sale to one party if the Forest Service sells the timber to an alternate buyer. The House bill included no similar provision.

Section 504. The conference agreement modifies language proposed by the Senate in Section 2013 of the Senate bill which requires each Forest Service unit to establish and adhere to a schedule for completion of NEPA analyses for grazing permits and further addresses expired permits for grazing on Forest Service lands. The House bill included no similar provision.

The conference agreement deletes language proposed by the Senate in Section 502 of the Senate bill regarding access to Back Bay NWR, VA. The House bill included no similar provision. The managers understand that an agreement has been reached between the Fish and Wildlife Service and the State of Virginia regarding access to the refuge and False Cape State Park.

The conference agreement deletes language proposed by the Senate in Section 504 of the Senate bill relating to grazing permits. Section 504 of the conference agreement includes alternative language on grazing permits which modifies Section 2013 of the Senate bill. The House bill included no similar provision.

The conference agreement includes language under Title II relating to the salvage, Pacific Northwest forest plan, and Section 318 timber programs at the Forest Service and the Bureau of Land Management. Similar language was included in section 706 of the House bill and Section 2001 of the Senate bill.

CHAPTER VI

DEPARTMENTS OF LABOR HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

The conference agreement on Chapter VI includes a total of 45 program terminations in the Departments of Labor, Health and Human Services and Education. The following programs are terminated in fiscal year 1995:

Youth Fair Chance
Veterans Homeless Job Training
Rural Concentrated Employment Program
JTPA Capacity Building
National Commission for Employment Policy
National Center for the Workplace
Trauma Care Planning
Pacific Basin Initiative
Health Care Reform Data Analysis
New Rural Health Grants
Rural Housing
Farmworker Assistance
Demonstration Partnerships, CSBG
Crime Bill, Community Schools
Goals 2000, National Programs
School-to-Work, National Programs
Education for the Disadvantaged, Evaluations—Title I

Education Infrastructure
Dropout Demonstrations
Training in Early Childhood Education & Violence Counseling
Family & Community Endeavor Schools—Crime Bill
Vocational Education, Community-Based Organizations
Consumer and Homemaking Education
Vocational Education, Demonstrations
State Literacy Resource Centers
Literacy Training for Homeless Adults
State Postsecondary Review Entities
Native Hawaiian & Alaska Native Culture Arts
Student Financial Aid Database
National Academy of Science, Space & Technology
Douglas Teacher Scholarships
Olympic Scholarships
Teacher Corps
Harris Fellowships
Faculty Development Fellowships
College Housing Loans

The following programs are being phased out and will be terminated upon completion of current awards:

Pacific Basin Medical Officer Training
Law-related Education
Law School Clinical Experience
Eisenhower Leadership Program
National Science Scholarships
Javits Fellowships

The following programs are being terminated as categorical programs but funded under other line items in fiscal year 1995:

American Samoan Job Training
Microenterprise Grants
State Offices of Rural Health

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

Rescinds $1,399,115,000, instead of $2,284,132,000 as proposed by the House and $1,308,700,000 as proposed by the Senate and inserts language proposed by the Senate with respect to the transfer of funds between different parts of the Job Training Partnership Act. The conference agreement includes the following rescissions:

[In thousands of dollars]

	FY 1995 appropriation	House bill	Senate bill	Conference agreement
Adult job training	1,054,813	−33,000	−33,000	−98,000
Youth job training	398,682	−110,000	−272,010	−272,010
Summer youth employment (1995)	867,070	−867,070		
Summer youth employment (1996)	871,540	−871,540	−871,540	−871,540
Displaced worker program	1,296,000	−99,300	−35,600	−67,450
School-to-work	125,000	−12,500	−2,500	−12,500
Job corps construction	142,029	−10,000	−46,404	−10,000
Youth Fair Chance	24,785	−24,785	−24,785	−24,785
Native Americans job training	64,080	−6,408		−4,293
Migrants and seasonal farmworkers job training	85,710	−8,571		−5,743
JTPA pilots and demonstrations	35,522	−10,500	−6,236	−2,336
JTPA research and demonstration	12,196	−3,000	−3,000	−3,000
Veterans homeless job training	5,011	−5,011		−5,011
Rural concentrated employment programs	3,861	−3,861	−3,861	−3,861
American Samoans	5,000	−5,000		−5,000
Microenterprise grants	2,250	−2,250		−2,250
JTPA capacity building	6,000	−6,000	−6,000	−6,000
National Commission for Employment Policy	2,223	−2,223	−750	−2,223
National Occupational Information Coordinating Committee	6,000	−500	−421	−500
National Center for the Workplace	1,113	−1,113	−1,113	−1,113
National Skill Standards Board	6,000	−1,500	−1,500	−1,500

The conferees encourage the Labor Department to consider closing Job Corps centers with persistently poor performance to offset increased costs necessary in subsequent years to complete opening of new centers.

The conferees note that $184,788,000 of the 1995 summer youth funds were provided as an add-on in the fiscal 1995 bill, over the amount originally provided in fiscal year 1994. These supplemental funds are available July 1, 1995. Given the uncertainty over fiscal year 1996 appropriations due to extremely tight budget constraints, the Labor Department should not discourage project sponsors from reserving these funds for the 1996 summer program.

The conference agreement for JTPA pilots and demonstrations includes $1,400,000 for the Microenterprise Grants program and $2,500,000 for the American Samoan employment and training program. For microenterprise grants, the agreement is sufficient to fund continuation costs. For the American Samoan program, priority should be given to continuing activities of a State agency with a proven track record involving American Samoan job training.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Rescinds $14,440,000 as proposed in both the House and Senate bills.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

Rescinds $20,000,000 for one-stop career centers as proposed by the Senate, instead of $12,000,000 as proposed by the House, and reduces the limitation on trust funds by $67,700,000 as proposed by the Senate instead of $47,700,000 as proposed by the House.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

Deletes rescission of $2,487,000 proposed by the House. The Senate included no rescission for this account.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Deletes rescission of $19,572,000 proposed by the House. The Senate included no rescission for this account. The conference agreement includes bill language in section 602 under General Provisions related to the proposed ergonomics standards.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

Rescinds $700,000 instead of $1,100,000 as proposed by the Senate. The House included no rescission for this account.

GENERAL PROVISION

Inserts a general provision (section 602) that prohibits the Occupational Safety and Health Administration from promulgating or issuing any proposed or final standard or guideline with respect to ergonomic protection but permits the agency to conduct any peer-reviewed risk assessment activity regarding ergonomics.

Deletes a Department of Labor general provision proposed by the Senate that would have rescinded $8,975,000 throughout the Department for compliance assistance and enforcement activities. The House included no similar provision.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

The conference agreement includes a rescission of $41,350,000 in 1995 funding for health resources and services instead of $53,925,000 as proposed by the House and $42,071,000 as proposed by the Senate. The agreement allocates this rescission as shown on the following table:

[In thousands of dollars]

Program	FY 1995 appropriations	President's request	House bill	Senate bill	Conference agreement
Nat'l. Health Service Corps	125,148		−12,500		−4,938
State offices of rural health	3,875		−3,875		−3,875
Native Hawaiian health care	4,524		−3,300	−188	−188
Pacific Basin initiative	2,861	−15	−1,000	−393	−1,361
Organ transplantation	2,629			−1,250	
Health care facilities	15,000	−2,000	−15,000	−4,000	−5,000
Healthy Start	110,000		−10,000	−2,500	−5,000
Rural health outreach grants	27,029			−1,875	−938
Trauma care	4,793		−4,500	−4,500	−4,500
Rural research	13,176		−3,750	−3,750	−3,750
Health professions		−27,132		−23,615	−11,800
Area health education centers	24,625	−3,926		−1,000	−500

[In thousands of dollars]

Program	FY 1995 appropriations	President's request	House bill	Senate bill	Conference agreement
Health education training centers	3,709	−396		−396	−200
Geriatric education centers and training	9,092	−2,288		−2,288	−819
Rural health interdisc. training	3,981	−101		−101	−101
General dentistry	3,730	−1,877		−1,177	−200
Allied health	3,935	−1,683		−1,500	−355
Centers of excellence	23,481	−441		−707	−441
Exceptional fin. need scholarships	11,113	−778		−852	−571
Financial asst. for disadv. HP students	6,185	−492		−433	−290
Health careers opportunity program	26,668	−1,967		−1,967	−1,318
Faculty loan repayments	1,043	−132		−132	−88
Loans for disadv. students	8,472	−623		−679	−455
Scholarships for disadv. students	18,262	−1,323		−1,323	−886
Family medicine	47,194	−2,700		−2,700	−1,137
General internal med. and pediatrics	16,695	−192		−192	−192
Physician assistants	6,554	−1,210		−1,210	−590
Public health and preventive medicine	7,746	−469		−469	−200
Health administration	986	−8		−8	−8
Nursing special projects	10,401	−922		−922	−553
Nurse practitioners/midwives	16,943	−1,339		−1,339	−803
Advanced nurse educ.	12,253	−1,018		−1,018	−611
Nurse anesthetists	2,724	−250		−250	−150
Professional nurse traineeships	15,473	−1,072		−1,072	−643
Nursing disadv. assistance	3,693	−130		−130	−87
HP data systems	637	−89		−637	−89
Research on certain HP issues	1,113	−155		−1,113	−513
Podiatric medicine	615	−615			
Chiropractic grants	936	−936			

The conferees intend that the agency may use $3,000,000 of funds appropriated for the National Health Service Corps for State offices of rural health. The conferees intend that $3,000,000 of the funds rescinded come from field placements rather than recruitment activities.

The conferees intend that $300,000 of the Native Hawaiian health care funding shall be made available for the administrative grant and that of the funds remaining, priority shall be given to the health systems network and scholarship program in that order.

The conferees are agreed that the $1,500,000 in remaining funding for the Pacific Basin initiative is to be used only for the continuation costs of students currently receiving assistance in the medical officer training program. Upon completion of the training of the current cohort of students, the training program will be terminated. The conferees are agreed that the portion of the program which supports projects to build capacity and improve health services and systems is terminated.

The conferees encourage the agency to use the remaining funds in the rural health outreach program consistent with the priorities indicated in the 1995 appropriations bill reports.

The conferees intend that rural telemedicine initiatives continue to be given high priority in the rural research program.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

The conference agreement includes a rescission of $2,300,000 in 1995 funding for the Centers for Disease Control and Prevention instead of $8,883,000 as proposed by the House and $1,300,000 as proposed by the Senate. The agreement allocates this rescission as shown on the following table:

[In thousands of dollars]

Program	FY 1995 appropriations	President's request	House bill	Senate bill	Conference agreement
Infectious diseases	54,500		−2,800		
Injury control	45,000	1,300	−1,300	−1,300	−1,300
NIOSH	133,337		−4,783		−1,000

NATIONAL INSTITUTES OF HEALTH

NATIONAL CENTER FOR RESEARCH RESOURCES

The conference agreement includes a rescission of $10,000,000 in 1995 funding for extramural facility construction and renovation instead of $20,000,000 as proposed by the House. The Senate bill contained no similar provision. The conferees intend that $2,500,000 of the remaining $10,000,000 in funding be allocated to qualified regional primate centers as originally indicated in the 1995 appropriations bill conference report.

BUILDINGS AND FACILITIES

The conference agreement includes a rescission of $60,000,000 in fiscal year 1995 and prior year funds for intramural research construction projects that are no longer anticipated to be built. The House proposed a $50,000,000 rescission and the Senate proposed a $79,289,000 rescission.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Rescinds $1,400,000 as proposed by the House, instead of $2,320,000 as proposed by the Senate, thereby terminating all remaining unobligated funding for Health Care Reform Data Analysis. Funding for Streamlining activities was obligated prior to the meeting of the conferees, and no rescission is included for this program.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

The conference agreement includes a rescission of $3,132,000 as proposed by both the House and the Senate.

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

The conference agreement includes a rescission of $19,700,000 in 1995 trust funds instead of $28,200,000 as proposed by the House and $15,700,000 as proposed by the Senate. The agreement allocates this rescission as shown on the following table:

[In thousands of dollars]

Program	FY 1995 appropriation	President's request	House bill	Senate bill	Conference agreement
Research	56,146		−11,000	−11,000	−11,000
Insurance counseling	10,036		−5,500		−5,500
Rural hospital transition grants	17,584	−17,000	−8,500		
Essential access community hospitals	3,500	−3,000	−1,500	−3,000	−1,500
New rural health grants	1,737		−1,700	−1,700	−1,700

The conferees intend that rural telemedicine initiatives continue to be given high priority consistent with the 1995 appropriations reports.

SOCIAL SECURITY ADMINISTRATION

SUPPLEMENTAL SECURITY INCOME PROGRAM

Deletes language proposed by the Senate that would have rescinded $67,000,000 from this account. The House included no rescission for this account.

LIMITATION ON ADMINISTRATIVE EXPENSES

Deletes language proposed by the Senate that would have rescinded $88,283,000 from this account. The House included no rescission for this account. The conferees agree to defer without prejudice the Senate recommended reduction of automation investment funds, with the intent that this matter be addressed during consideration of the regular fiscal year 1996 Labor, Health & Human Services and Education appropriations bill.

ADMINISTRATION FOR CHILDREN AND FAMILIES

JOB OPPORTUNITIES AND BASIC SKILLS

Inserts a provision proposed by the Senate to rescind $330,000,000, the amount by which the 1995 appropriation for this account is estimated to exceed allowable State claims, and inserts language to amend Section 403 of the Social Security Act to reduce State entitlements in those cases where funds will not be utilized. The House included no similar provision for this account.

LOW INCOME HOME ENERGY ASSISTANCE

Rescinds $319,204,000, instead of $1,319,204,000 as proposed by the House. The Senate included no rescission for this account. The conference agreement includes a provision extending the availability of $300,000,000 of previously-appropriated emergency contingency funding, subject to submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985. The conferees intend that States give priority to using LIHEAP funds for heating assistance rather than cooling assistance.

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

Rescinds $2,000,000, instead of $6,000,000 as proposed by the Senate, from amounts appropriated for language and civics instruction. The House included no rescission for this account.

COMMUNITY SERVICES BLOCK GRANT

Rescinds $15,287,000, instead of $26,988,000 as proposed by the House and $12,888,000 as proposed by the Senate. The conference agreement includes the following rescissions:

[In thousands of dollars]

	FY 1995 appropriation	House bill	Senate bill	Conference agreement
Training and technical assistance	3,915		−1,900	−1,900
Rual housing	2,927	−2,927	−2,927	−2,927
Farmworker assistance	3,084	−3,084	−3,084	−3,084
Demonstration partnerships	7,977	−7,977	−4,977	−7,376

CHILD CARE AND DEVELOPMENT BLOCK GRANT

Rescinds $8,400,000 for the Child Care and Development Block Grant. Neither the House nor the Senate bills included a rescission for this account.

CHILDREN AND FAMILIES SERVICES PROGRAMS

Rescinds $25,900,000 from the Violent Crime Reduction Trust Fund as proposed by the House. The Senate included no rescission for this account.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

Deletes language proposed by the House that would have limited payments in 1995 for State administration for foster care under the Social Security Act to not more than 110 percent of the 1994 allocation for each State. The Senate included no similar provision.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

Rescinds $899,000 as proposed in both the House and Senate bills.

OFFICE OF THE SECRETARY

POLICY RESEARCH

Rescinds $4,018,000 as proposed by the Senate. The House included no rescission for this account.

DEPARTMENT OF EDUCATION

EDUCATION REFORM

Rescinds $104,030,000, instead of $186,030,000 as proposed by the House and $10,100,000 as proposed by the Senate. The Conference Agreement includes the following rescissions:

[In thousands or dollars]

Program	FY 1995 appropriation	President's request	House bill	Senate bill	Conference agreement
Goals 2000:					
State grants	371,870		−142,000	−6,300	−70,000
National programs	21,530		−21,530	−1,300	−21,530
Parental assistance	10,000		−10,000		
School-to-Work:					
State grants	115,625		−3,125	−1,771	−3,125
National programs	9,375		−9,375	−729	−9,375

EDUCATION FOR THE DISADVANTAGED

Rescinds $4,606,000, instead of $148,570,000 as proposed by the House and $7,900,000 as proposed by the Senate. The Conference Agreement includes the following rescissions:

[In thousands or dollars]

Program	FY 1995 appropriation	President's request	House bill	Senate bill	Conference agreement
Grants to LEA's	6,698,356		−140,300		
Evaluations	8,270		−8,270	−5,900	−4,606
Even Start	102,024			−2,000	

IMPACT AID

Deletes language included in the House bill that would have rescinded $16,293,000. The Senate included no similar provision.

SCHOOL IMPROVEMENT PROGRAMS

Rescinds $402,940,000 instead of $747,021,000 as proposed by the House and $122,417,000 as proposed by the Senate. The Conference Agreement includes the following rescissions:

[In thousands or dollars]

Program	FY 1995 appropriation	President's request	House bill	Senate bill	Conference agreement
Eisenhower professional development grants	320,298		−100,000	−69,000	−69,000
Safe and drug free schools	481,962		−471,952		−235,981
Education infrastructure [1]	35,000	−65,000	−100,000		−35,000
Arts in education	12,000			−1,500	−1,500
Law-related education	5,899	−5,899	−5,899	−1,630	−1,399
Training and advisory services	21,412			−7,412	
Dropout demonstrations	28,000	−28,000	−28,000	−2,000	−16,000
Ellender fellowships	4,185	−4,185	−4,185		−1,185
Education of native Hawaiians	12,000		−12,000	−1,000	−3,000
Training in early childhood education and violence counseling	13,875		−13,875	−13,875	−13,875
Comprehensive regional assistance centers	44,541			−14,900	−14,900
Family and community endeavor schools	11,100		−11,100	−11,100	−11,100

[1] P.L. 103–333 originally funded this program at $100,000,000. P.L. 104–6 rescinded $65,000,000 from this program, reducing the FY '95 funding level to $35,000,000.

For the Arts in Education program, the remaining funds will provide $4,996,000 for the Very Special Arts Program and $4,004,000 for the John F. Kennedy Center for the Performing Arts.

BILINGUAL AND IMMIGRANT EDUCATION

Rescinds $38,500,000 as proposed by the House instead of $34,580,000 as proposed by the Senate. The Conference Agreement includes the following rescissions:

[In thousands of dollars]

Program	FY 1995 appropriation	President's request	House bill	Senate bill	Conference agreement
Bilingual education	155,960		−38,500	−32,380	−38,500
Immigrant eduction	50,000			−2,200	

The conference agreement does not require termination of continuation grants. Instead, consistent with departmental regulations, the reduction would be taken entirely from the amount available for new awards.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

Deletes the House proposal to rescind $799,000. The Senate included no rescission for this account.

GALLAUDET UNIVERSITY

Deletes the House proposal to rescind $1,298,000. The Senate included no rescission for this account.

VOCATIONAL AND ADULT EDUCATION

Rescinds $90,607,000, instead of $119,544,000 as proposed by the House and $54,566,000 as proposed by the Senate. The Conference Agreement includes the following rescissions:

[In thousands of dollars]

Program	FY 1995 appropriation	President's request	House bill	Senate bill	Conference agreement
Community Based Organizations	9,479	−9,479	−9,479	−9,479	−9,479
Consumer and Homemaking Education	34,409	−34,409	−34,409	−34,409	−34,409
National Programs:					
Research	7,851		−7,851	−1,851	−1,000
Demonstrations	20,684		−20,684		−20,684
National Occupational Info. Coord. Committee	6,000		−6,000	−1,040	−1,750
State Literacy Resource Centers	7,787		−7,787	−7,787	−7,787
Workplace Literacy Partnerships	18,736		−18,736		−6,000
Literacy Train. for Homeless Adults	9,498		−9,498		−9,498
Literacy Program for Prisoners	5,100		−5,100		

STUDENT FINANCIAL ASSISTANCE

Rescinds $85,000,000, instead of $187,475,000 as proposed by the House and $10,000,000 as proposed by the Senate. The conference agreement includes the following rescissions:

[In thousands of dollars]

Program	FY 1995 appropriation	President's request	House bill	Senate bill	Conference agreement
Pell grants	6,243,680	0	−104,100	0	−65,000
State student incentive Grants	63,375	0	−63,375	0	0
State postsecondary Review entities	20,000	0	−20,000	−10,000	−20,000

A previous rescission of $35,000,000 from the fiscal year 1994 Pell Grant appropriation was enacted in Public Law 104–6.

HIGHER EDUCATION

Rescinds $54,672,000, instead of $102,246,000 as proposed by the House and $42,159,000 as proposed by the Senate. The conference agreement includes the following rescissions:

[In thousands of dollars]

Program	FY 1995 appropriation	President's request	House bill	Senate bill	Conference agreement
Native Hawaiian and Alaska Native Culture Arts	1,000	0	−1,000	0	−500
Eisenhower Leadership Program	4,000	−4,000	−4,000	−2,900	−2,920
Law School Clinical Experience	14,920	−14,920	−14,920	−2,888	−1,698
Urban Community Service Grants	13,000	0	−13,000	−500	−3,000
Student Financial Aid Database	496	0	−496	−496	−496
TRIO Program	463,000	0	−11,200	0	−11,200
National Early Intervention Scholarships and Partnerships	3,108	−3,108	−3,108	−600	0
Byrd Honors Scholarships	29,117	0	−9,823	−2,000	0
National Science Scholarships	4,424	0	−4,424	0	−1,121
National Academy of Science, Space and Technology	2,000	−2,000	−2,000	−2,000	−2,000
Douglas Teacher Scholarships	14,599	0	−14,300	−14,300	−14,300
Olympic Scholarships	1,000	−1,000	−1,000	−1,000	−1,000
Teacher Corps	1,875	−1,875	−1,875	−1,875	−1,875
Harris Fellowships	20,244	0	−10,100	−10,100	−10,100
Javits Fellowships	7,787	0	−7,500	0	−942
Faculty Development Fellowships	3,732	0	−3,500	−3,500	−3,520

The conference agreement includes a provision permitting all remaining funding for the Native Hawaiian Alaska Native Culture and Arts Development program to be awarded to a project in Alaska. The rescission for the Byrd Honors Scholarship program is less than proposed by the House and Senate bills because funds were obligated prior to the meeting of the conference. The rescission for the Law School Clinical program is less than provided in either the House or Senate bill due to new Departmental estimates which indicate the cost of non-competing continuations is greater than previously reported to the subcommittees. The conference agreement contains language proposed in the House bill prohibiting the expenditure of funds for doctoral degree study under the Harris program. The rescission for Faculty Development Scholarships is greater than provided in either the House of Senate bill due to revised Departmental estimates of unobligated balances in the program.

HOWARD UNIVERSITY

Rescinds $1,800,000 from the regular academic program as proposed by both the House and Senate. The conference agreement does not include a rescission for Howard University Construction. The House proposed a rescission of $2,500,000 for construction, and the Senate proposed a rescission of $1,500,000 for the same program.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

Inserts a provision as proposed by the House and Senate to repeal the authority to subsidize gross loans obligations. Rescinds $168,000 as proposed by the House and Senate, from amounts made available for direct loans. Rescinds $264,000, instead of $322,000 as proposed by the House and Senate, for administrative expenses. The conference agreement reduced rescissions for administration because the balance of 1995 funding was obligated prior to the meeting of the conference.

EDUCATION RESEARCH, STATISTICS AND IMPROVEMENT

Rescinds $30,925,000, instead of $55,250,000 as proposed by the House and $15,200,000 as proposed by the Senate. The Conference Agreement includes the following rescissions:

[In thousands of dollars]

Program	FY 1995 appropriation	President's request	House bill	Senate bill	Conference agreement
International Education Exchange	3,000		−3,000	−600	
Javits Gifted and Talended	9,521		−4,600	−4,600	−4,600
Education Telecom, Demos for Math	2,250		−2,250		−1,125
Star Schools	30,000		−30,000	−5,000	−5,000
Fund for the Improvement of Education	36,750		+20,000		
National Diffusion Network	14,480		2,700		−2,700
Ready to Learn TV	7,000		−2,700		
Technology in Education	40,000		−30,000	−5,000	−17,500

The conferees direct the Secretary to use $8,000 reserved in the bill for the Star Schools program to make new awards to the two highest rated applicants on the slate for the 1994 competition in this authority for statewide fiber optic projects that did not receive funding.

LIBRARIES

Deletes language included in the House bill that would have rescinded $26,716,000 and in the Senate bill that would have rescinded $2,916,000.

[In thousands of dollars]

Program	FY 1995 appropriation	President's request	House bill	Senate bill	Conference agreement
Public Library Construction	17,792		−15,300		
Library Education and Training	4,916	−4,916	−4,916	−2,916	
Research and Demonstration	6,500		−6,500		

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

Deletes language proposed by the Senate that would have rescinded $4,424,000. The House bill included no similar provision.

GENERAL PROVISION

FEDERAL DIRECT STUDENT LOAN PROGRAM

Inserts a provision to rescind $61,000,000, instead of $47,000,000 as proposed by the House and $95,000,000 as proposed by the Senate, from funds available under section 458(a) of the Higher Education Act for the administration of the William D. Ford Direct Loan Program. The conferees agree that this reduction should not adversely affect the Federal Family Education Loan Program and therefore direct the Department to continue to pay administrative cost allowances to all guaranty agencies consistent with its formally-stated policy for fiscal year 1995. The conferees direct the Department to notify the House and Senate Appropriations Subcommittees on Labor, Health & Human Services, and Education prior to exercising borrowing authority authorized by Section 458(a) of the Higher Education Act.

RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

Rescinds $37,000,000, instead of $47,000,000 as proposed by the House and $26,360,000 as proposed by the Senate, from funds available to the Corporation for Public Broadcasting in fiscal year 1996. The conference agreement rescinds $55,000,000, instead of $94,000,000 as proposed by the House and $29,360,000 as proposed by the Senate, from funds available to the Corporation for Public Broadcasting in fiscal year 1997. The conferees direct, to the maximum extent possible, that taxpayer funds made available to the Corporation for Public Broadcasting shall be used to fund public radio and television stations which serve rural, underserved and unserved areas.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

Rescinds $7,000,000 as proposed by the Senate, instead of $5,000,000 as proposed by the House.

STRIKER REPLACEMENTS

Deletes a general provision proposed by the House that would have prohibited the use of any funds in any appropriations act for fiscal year 1995 to issue, administer or enforce any executive order, or other rule or order, that prohibits Federal contracts with companies that hire permanent replacements for striking employees. The Senate included no similar provision.

Chapter VII.—Legislative Branch

HOUSE OF REPRESENTATIVES PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

The conference agreement appropriate $133,600 for payment to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, as proposed by the House and Senate.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

The conference agreement rescinds $460,000 of funds provided for salaries and expenses of the Joint Economic Committee, as proposed by the House and Senate.

JOINT COMMITTEE ON PRINTING

The conference agreement rescinds $238,137 of funds provided for salaries and expenses of the Joint Committee on Printing, as proposed by the Senate, instead of $418,000 and a provision which transferred the remaining balances, as proposed by the House.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

The conference agreement rescinds $650,000 of funds provided for the salaries and expenses of the Office of Technology Assessment, as proposed by the House and Senate.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

The conference agreement rescinds $187,000 of funds provided for the salaries and expenses of the Congressional Budget Office, as proposed by the House and Senate.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS—CAPITOL BUILDINGS

The Conferees agree not to rescind $2,500,000, as proposed by the House and deleted by the Senate, of Capitol buildings funds provided to the Architect of the Capitol for converting and maintaining property and facilities at Fort Meade, MD. for long term storage requirements of the Library of Congress and other legislative branch entities. The conferees agree with the language in the Senate report which directs the Architect of the Capitol and Library of Congress to obtain approval from the House and Senate Committees on Appropriations before proceeding with the obligation of funds. The conferees believe that the remote book storage and retrieval design must be cost effective and applicable to the stated purposes of the need for off-site book storage.

SENATE OFFICE BUILDINGS

The conference agreement rescinds $850,000 of funds provided for Senate office buildings, as proposed by the Senate.

CAPITOL POWER PLANT

The conference agreement rescinds $1,650,000 of funds provided for the Capitol power plant, as proposed by the Senate.

ADMINISTRATIVE PROVISION

The conferees have included an administrative provision which makes technical corrections to legislation which established a commission to recommend individuals to the President for appointment to the office of Architect of the Capitol, and adds the chairmen and ranking minority members of the House and Senate Committees on Appropriations.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

The conference agreement rescinds $5,000,000 of funds provided for Congressional printing and binding, as proposed by the Senate, instead of $3,000,000, as proposed by the House.

OFFICE OF THE SUPERINTENDENT OF DOCUMENTS SALARIES AND EXPENSES

The conference agreement rescinds $600,000 of funds provided for salaries and expenses of the Superintendent of Documents, as proposed by the House and Senate.

BOTANIC GARDEN

SALARIES AND EXPENSES

The conference agreement rescinds $4,000,000 of funds provided for salaries and expenses of the Botanic Garden, as proposed by the House, instead of $7,000,000, as proposed by the Senate. The Conference agreement also transfers $3,000,000 of Botanic Garden no-year funds to Capitol complex security enhancement within the account "Architect of the Capitol, Capitol Buildings and Grounds", as proposed by the House. These funds may not be expended unless approved by the House and Senate Committees on Appropriations.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

The conference agreement rescinds $150,000 of funds provided for salaries and expenses of the Library of Congress, as proposed by the House and Senate.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED SALARIES AND EXPENSES

The conference agreement rescinds $100,000 of funds provided for salaries and expenses of the Books for the Blind and Physically Handicapped program, as proposed by the House and Senate. These funds are available due to savings in equipment requirements.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

The conference agreement rescinds $2,617,000 of funds provided for salaries and expenses of the General Accounting Office, instead of $8,867,000 as proposed by the House and Senate. The conferees have also inserted a provision which authorizes a separation incentive to GAO employees who retire or voluntarily leave federal service before October 1, 1995. This authority has been requested by the agency to assist in carrying out staffing reductions. The conferees have been advised that the intent is to use this authority to help achieve a balance between necessary staffing realignments and the maintenance of organizational skills and capabilities.

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

The conference agreement deletes language proposed by the Senate, and not addressed in the House bill, which contained rescissions totalling $230,834,000. This matter was addressed in the Conference Report accompanying H.R. 889.

CHAPTER VII

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

Transportation Planning, Research, and Development

The conference agreement deletes the House provision to rescind $1,293,000 from transportation planning, research, and development. The Senate bill contained no similar rescission.

Working Capital Fund

The conference agreement lowers the fiscal year 1995 obligation limitation for the working capital fund by $6,000,000 and includes a general provision (Sec. 801) rescinding those funds, instead of lowering the obligation limitation by $8,000,000 as proposed by the House and $4,000,000 as proposed by the Senate.

Payments to Air Carriers

(Airport and Airway Trust Fund)

The conference agreement rescinds $5,300,000 in contract authority for payments to air carriers, as proposed by the Senate. The House bill contained no similar rescission. This rescission will have no effect on current air service contracts. The conference agreement also includes a provision proposed by the Senate that prohibits the Secretary of the Department of Transportation from entering into any contracts that extend beyond September 30, 1995, and deletes the proposed Senate provision that prohibited payments authorized under subchapter II of chapter 417, title 49, United States Code.

COAST GUARD

Operating Expenses

The conference agreement deletes the supplemental appropration of $28,197,000 for Coast Guard operating expenses proposed by the House. These funds were intended to cover the incremental costs associated with Haitian and Cuban migrant interdiction activities during 1994. Funding of $28,297,000 for these expenses was included in the Emergency Supplemental Appropriations and Rescissions Act for the Department of Defense (Public Law 104-6).

Operating Expenses

The conference agreement rescinds $4,300,000 in Coast Guard operating expenses instead of $6,440,000 as proposed by the House and $3,700,000 as proposed by the Senate. A comparison of the House and Senate proposals and the conference agreement follows:

	House bill	Senate bill	Conference agreement
General detail	−$2,000,000	−$2,000,0000	−$2,000,000
Ship spares	−1,000,000		
Ammunition/small arms	−200,000	−200,000	−200,000
Persian Gulf operations	−240,000		
Military rotations	−3,000,000	−1,500,000	−2,100,000
Total	−6,440,000	−3,700,000	−4,300,000

Military rotations.—The conferees agree with the Senate direction regarding allocation of the reduction in military rotation expenses.

Acquisition, Construction, and Improvements

The conference agreement rescinds $35,314,000 from "Acquisition, construction, and improvements" instead of $42,569,000 as proposed by the House and $34,298,000 as proposed by the Senate. A comparison of the House and Senate proposals and the conference agreement follows:

Year	Program	House bill	Senate bill	Conference agreement
1991	WLB service life extension program	−$2,700,000	−$1,100,000	−$1,100,000
	HH–65 LTS–101 engine replacement	−500,000		
	Cockpit voice and flight data recorders	−2,900,000		
	Station Burlington, Vermont	−361,000		−361,000
	Kodiak, Alaska fire station	−155,000		−155,000
	Marine safety information system	−1,655,000		
1992	Hurricane Andrew/Iniki supplemental	−4,400,000	−4,400,000	−4,400,000
	32 foot ports and waterways boats	−1,783,000	−1,783,000	−1,783,000
1993	Specific emitter identification system	−2,500,000	−2,500,000	−2,500,000
	Vessel traffic service system 2000	−1,000,000	−2,000,000	−1,000,000
	Systems to integrate/automate logistics	−2,500,000		−500,000
1994	San Pedro, CA medical/dental bldg	−4,000,000	−4,000,000	−4,000,000
	Vessel traffic service system 2000	−1,000,000		−1,000,000
	Aquadila, PR rinse rack/fuel farm	−6,300,000	−6,300,000	−6,300,000
	Cape May, NJ enlisted housing	−800,000	−800,000	−800,000
1995	New York, NY ANT/ET shops	−3,250,000	−3,250,000	−3,250,000
	Stalwart class conversion (T–GOS)	−3,750,000	−3,750,000	−3,750,000
	Survey and design, shore facilites	−1,415,000	−1,415,000	−1,415,000
	Polar icebreaker	−1,600,000		
	Seagoing buoy tender		−3,000,000	−3,000,000
	Total	−42,569,000	−34,298,000	−35,314,000

HH-65 LTS-101 engine replacement.—The conferees agree not to rescind funds for this project due to its impact on Coast Guard operational missions such as search and rescue. However, the conferees note that these funds were provided in fiscal year 1991 for proof of concept evaluation of possible reengining options for the HH-65 helicopter, due to severe reliability problems with the engine. That effort was later terminated when design changes improved the engine's performance. Since that time, the Coast Guard developed plans to use these funds for general purpose improvements to the existing LTS-101 engine gearbox. The conferees believe using funds for this new project constituted a significant change in the scope of a project, requiring Congressional approval through the formal reprogramming process.

Night vision goggles reprogramming.—The conferees approve the reprogramming of funds from the cockpit voice and flight data recorders program to the night vision goggles program, as proposed by the Senate. These funds are no longer needed for the original program, and will be used instead to accelerate installation of night vision capability in Coast Guard aircraft. This capability is particularly important for search and rescue, drug interdiction, and maritime law enforcement missions.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

The conference agreement rescinds $2,500,000 in "Environmental compliance and restoration" instead of $3,500,000 as proposed by the House and $400,000 as proposed by the Senate. According to the Coast Guard, as of March 31, 1995, this appropriation had a total unobligated balance of $20,198,103. The conference agreement rescinds 12.4 percent of this amount.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

The conference agreement rescinds $1,000,000 in operating expenses of the Federal Aviation Administration as proposed by the Senate. The House bill contained no similar rescission. The conference agreement deletes bill language proposed by the Senate repealing the set-aside in the Department of Transportation and Related Agencies Appropriations Act, 1995 for permanent change of station moves for air traffic controllers.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement rescinds $24,850,000 from "Facilities and equipment" instead of $69,825,000 as proposed by the House and $31,850,000 as proposed by the Senate. An additional rescission of $35,000,000 from this appropriation was contained in the recently-enacted Emergency Supplemental Appropriations and Rescissions Act for the Department of Defense (Public Law 104–6). This rescission had been included in the House version of H.R. 1158, which accounts for most of the difference between the House and Senate bills. A comparison of the House and Senate proposals and the conference agreement follows:

Year	Program	House bill	Senate bill	Conference agreement
1991	Establish airport surveillance radar	−$2,375,000		
	Southern California TRACON	−2,000,000	−$2,000,000	−$2,000,000
1993	Tower replacement (Newburgh, NY)	−850,000	−850,000	−850,000
	Tower replacement (Islip, NY)	−1,500,000	−1,500,000	−1,500,000
	Tower (Pullman/Moscow, WA/ID)	−3,500,000	−3,500,000	−3,500,000
	Air route surveillance radar leapfrog	−4,700,000	−2,000,000	−2,000,000
	Refurbish FPS–20 radars	−1,400,000		
1994	Instrument landing systems	−7,000,000	−7,000,000	−7,000,000
	Terminal radars—DBRITE system	−2,000,000		
	Radio control equipment	−2,000,000	−2,000,000	−2,000,000
1995	AAS (engineering)	−35,000,000		
	System engineering/development spt	−5,000,000	−5,000,000	−5,000,000
	Gulf of Mexico offshore program		−2,000,000	
	Tower/TRACON facilies imp.	−2,500,000	−1,000,000	−1,000,000
N/A	Airway science grants		−5,000,000	
	Total	−69,825,000	−31,850,000	−24,850,000

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement rescinds $7,500,000 in unobligated balances from the FAA research, engineering, and development appropriation, as proposed by both the House and the Senate. The conferees agree that none of the reduction is to be allocated to human factors research or safety research.

Grants-In-Aid for Airports

(Airport and Airway Trust Fund)

The conference agreement rescinds $2,094,000,000 in unused contract authority for grants-in-aid for airports, instead of $2,000,000,000 proposed by the Senate. The House bill contained no similar rescission. The agreement includes the rescission proposed by the Senate and, in addition, the $94,000,000 proposed for rescission in a Presidential message transmitted to the Congress on May 2, 1995. The entire amount of the rescission is above the obligation limitation placed on this appropriation by the Department of Transportation and Related Agencies Appropriations Act, 1995 and is therefore not available for obligation during fiscal year 1995.

FEDERAL HIGHWAY ADMINISTRATION

Limitation on General Operating Expenses

The fiscal year 1995 obligation limitation for general operating expenses for the Federal Highway Administration is reduced by $54,550,000, instead of $45,950,000 is proposed by the Senate and $42,500,000 as proposed by the House. The conference agreement includes the following program rescissions:

LGOE programs

	Conference agreement
Administrative expenses	−$2,000,000
Contract programs, research and development:	
Highway research and development	−8,000,000
ITS:	−40,300,000
Research and development	(−10,000,000)
Operational tests	(−17,950,000)
Commercial vehicle operations	(−1,000,000)
Automated highway system	(−1,250,000)
Advanced technology applications	(−6,100,000)
Priority corridors	(−2,000,000)
Program and system support	(−2,000,000)
Technology development	−1,000,000
Long-term pavement performance	−250,000
OJT/supportive services	−3,000,000

The conferees agree that the joint program officer should coordinate all ITS program activities and should have the flexibility to manage each of these reductions, notwithstanding where the funding may have been originally earmarked.

Federal-Aid Highways

(Limitation on Obligations)

(Highway Trust Fund)

The conference agreement includes the rescission of $132,190,000 in contract authority for the federal-aid highways program instead of $70,140,000 as proposed by the House and $123,590,000 as proposed by the Senate. The conference agreement provides for the rescission of the following programs:

	Conference agreement
Applied research and technology	−$27,640,000
Congestion pricing pilot program	−50,000,000
Limitation on general operating expenses	−54,550,000

The conferees have agreed to rescind $50,000,000 from the congestion pricing pilot program as proposed by the Senate. The House bill contained no similar rescission.

The conferees agree not to rescind $139,948,000 in contract authority for highway demonstration projects provided in Public Laws 97–424 and 100–17, as proposed by the Senate. The House bill contained no similar rescissions.

Ellis Island Bridge.—The conferees agree to make available for other parkways and park highways under the Federal Lands program the $15,000,000 set aside for the Ellis Island Bridge as proposed by the House.

Federal-Aid Highways

(Highway Trust Fund)

The conference agreement deletes the Senate provision to rescind $690,074 of contract authority from Public Law 100–17. The House bill contained no similar rescission.

Emergency Relief Program

(Highway Trust Fund)

The conferees agree to rescind $100,000,000 in emergency relief, instead of $50,000,000 as proposed by the Senate and $351,000,000 as proposed by the House.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Highway Traffic Safety Grants

(Highway Trust Fund)

The conference agreement deletes the Senate provision to rescind $20,000,000 in contract authority from the highway traffic safety grants program. The House bill contained no similar rescission.

FEDERAL RAILROAD ADMINISTRATION

Office of the Administrator

The conferees agree to include language permitting the Office of the Administrator to transfer recoveries received from section 511 loan guarantees. Both the House and the Senate bills included this provision.

Northeast Corridor Improvement Program

The conference agreement includes a rescission of $9,707,000 from the Northeast Corridor Improvement Program. The House and Senate bills contained identical provisions to rescind $7,768,000. The Department of Transportation identified an additional $1,939,000 of unobligated balances that are being held as a contingency for litigation in connection with station work done in the 1980s and not expected to be required in fiscal year 1995.

National Magnetic Levitation Prototype Development Program

(Highway Trust Fund)

The conference agreement rescinds $250,000,000 in contract authority for the national magnetic levitation (maglev) prototype development program as proposed by the Senate. The House bill contained no similar rescission. The maglev funds are not available for obligation due to annual obligation limitations.

FEDERAL TRANSIT ADMINISTRATION

Transit Planning and Research

The conferees agree to rescind $7,000,000 for transit planning and research, instead of $8,800,000 as proposed by the House. The Senate bill contained no similar rescission. The conferees direct the Federal Transit Administration to reduce expenditures for unnecessary and lower priority programs, such as "Coming and Going", other transit education programs and the transit ambassadors program, and to limit expenditures for "livable communities" to no more than $350,000 in fiscal year 1995.

The conferees reiterate their support for the important, ongoing planning and research activities included in the fiscal year

1995 Department of Transportation and Related Agencies Appropriations Act and direct the Federal Transit Administration to make available immediately the following amounts:

Advanced transportation systems and electric vehicle technology	$2,500,000
Inertial navigation technology for transit vehicles	500,000
Research on large circuit breakers and switch gear	750,000
Fuel cell transit bus program	2,500,000
Team transit	500,000
Criteria and cost-benefit studies	200,000

The conferees direct the Federal Transit Administration to allocate $1,000,000 of the funds made available for the Advanced Transportation Systems and Electric Vehicle Technology Program to the Advanced Lead-Acid Battery Consortium (ALABC). This is the second and final phase of funding for the consortium and will enable the ALABC to place prototype, advanced valve-regulated lead-acid batteries in electric bus facilities for inservice testing and demonstration.

Discretionary Grants

(Limitation on Obligations)

(Highway Trust Fund)

The conference agreement includes rescissions of $33,911,500 in unobligated balances from the Federal Transit Administration's discretionary grants, instead of $67,293,000 as proposed by the Senate and $131,651,000 as proposed by the House.

The conferees have agreed not to rescind any new start or bus funds that were made available in fiscal year 1993. Public Law 102–388 provided that such discretionary transit funds shall be available for obligation through the end of fiscal year 1995. The conferees also agreed not to rescind unallocated bus and bus facilities funds made available in fiscal year 1995.

The conference agreement rescinds, without prejudice, the following amounts made available before fiscal year 1993:

Section 3 new starts:	
Fiscal year 1991:	
Cleveland Dual Hub	−$2,230,000
Fiscal year 1992:	
Cleveland Dual Hub	−1,000,000
Kansas City-South LRT	−465,000
San Diego-Mid Coast	−950,000
NJ-Hawthorne-Warwick	−17,100,000
NY Staten Island—Midtown Ferry	−375,000
San Jose-Gilroy CR	−4,000,000
Seattle-Tacoma CR	−1,620,000
Detroit LRT	−4,890,000
Total, section 3 new starts	−32,630,000
Section 3 buses and bus facilities:	
Fiscal year 1992:	
Eureka Springs, AR	−31,500
San Francisco, CA	−1,250,000
Total, section 3 buses and bus facilities	−1,281,500
Grand total, section 3	−$33,911,500

Mass Transit Capital Fund

(Liquidation of Contract Authorization)

(Highway Trust Fund)

The conference agreement includes an appropriation of $350,000,000 in liquidating cash for mass transit capital programs. The Federal Transit Administration has identified a $350,000,000 shortfall in this account due to an increased pace of obligation and outlays this year and insufficient reestimates of liquidating cash in prior years. This appropriation does not score as new discretionary budget authority under the Budget Enforcement Act of 1990.

General Provisions

The conference agreement includes language (Section 801) that rescinds $6,000,000 from the working capital fund and limits the fiscal year 1995 obligational authority to no more than $87,000,000. The Senate proposed to rescind $4,000,000 and limit obligational authority to no more than $89,000,000. The House proposed to rescind $8,000,000 and limit obligational authority to no more than $85,000,000.

The conference agreement includes language (Section 802) that rescinds $15,000,000 for fiscal year 1995 civilian and military compensation and benefits and other administrative expenses, instead of $10,000,000 as proposed by the Senate and $20,000,000 as proposed by the House. In making this reduction, the conferees agree that the Department is to reduce each modal administration (except for the Maritime Administration) by an amount equal to its pro-rata share of staffing and administrative resources. Further, the Department is to report to the House and Senate Committees on Appropriations the amounts reduced, by account, not later than fifteen days after the enactment of this Act.

The conference agreement includes a technical correction (Section 803) to the fiscal year 1994 Department of Transportation and Related Agencies Appropriations Act (Public Law 103–122) regarding the availability of transit funds.

CHAPTER IX

INDEPENDENT AGENCIES

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Salaries and Expenses

The conferees deny $500,000 in supplemental funding for the Advisory Commission on Intergovernmental Relations (ACIR) as proposed by the Senate. The conferees agree that the Committees may entertain an increase in funding for ACIR should a FY 1996 budget amendment be submitted.

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

Christopher Columbus Research Center

The conferees included this provision which was in both the House and Senate passed bills. The available funds will be paid to the Christopher Columbus Research Center in Baltimore, Maryland, for space, equipment, and facilities related to seafood research.

OFFICE OF PERSONNEL MANAGEMENT

Government Payment for Annuitants, Employee Life Insurance Benefits

The conferees included this provision, which was requested by the President and which was in both the House and Senate passed bills. This will allow an additional $9,000,000 for the Government's contribution to basic life insurance premium payments for Federal retirees under 65 years of age. This is a technical adjustment in a mandatory program due to an inaccurate estimate on the part of the Administration.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

Salaries and Expenses

The conferees have agreed to eliminate FTE floors on certain Treasury activities, as proposed by the House and requested by the President.

The conferees agree with the Senate position that the $100,000 rescission to the Departmental Offices appropriation may be applied at the discretion of the Secretary.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Salaries and Expenses

The conferees agree to provide $11,000,000 to the Federal Law Enforcement Training Center to partially offset the cost of FY 1996 operations. This is consistent with the President's Budget, which proposes to transfer unobligated balances with FLETC construction to this account to offset FY 1996 appropriations. With this change, the conferees agree to regard the FY 1996 appropriation request to be $36,428,000, for a total program level of $47,228,000.

The conferees have agreed to allow FLETC to provide short-term medical services to students, as proposed by the House and requested by the President.

Acquisition, Construction, Improvements and Related Expenses

The conferees have agreed to terminate the construction of a permanent facility at Davis-Monthan Air Force Base and to rescind $11,000,000 to offset FLETC Salaries and Expenses in FY 1996.

FINANCIAL MANAGEMENT SERVICE

Salaries and Expenses

The conferees agree with the Senate position that the $160,000 rescission to the Financial Management Service appropriation may be applied at the discretion of the Commissioner.

BUREAU OF THE PUBLIC DEBT

Administering the Public Debt

The conferees agree to rescind $1,500,000. This rescission was included in both the House and Senate passed bills.

UNITED STATES MINT

Salaries and Expenses

The conferees included a provision which was requested by the President and included in both the House and Senate passed bills. This change will allow the Mint to use funds provided for facility improvements to be used for coin production if demand requires increased production.

INTERNAL REVENUE SERVICE

Information Systems

The conferees agree to rescind $1,490,000. This rescission was included in both the House and Senate passed bills.

The conferees have agreed with the Senate position to deny lowering the amount dedicated to Tax Systems Modernization from $650,000,000 to $640,000,000, as proposed by the House.

Administrative Provision

The conferees included a provision which was included in both the House and Senate passed bills. This provision allows the IRS to use up to $119,000,000 in fees collected annually for operations.

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

THE WHITE HOUSE OFFICE

Salaries and Expenses

The conferees agree with the Senate position that the $171,000 rescission to the White House Office appropriation may be applied at the discretion of the President.

FEDERAL DRUG CONTROL PROGRAMS

Special Forfeiture Fund

The conferees agree with the Senate's technical adjustment making $13,200,000 available for Customs interdiction activities through a General Fund appropriation. The conferees direct that all of these resources be used to fund "Operation Hardline", the Customs initiative directed at making ports of entry along the Southern border safer and narcotics smuggling more difficult.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

The conferees agree to rescind a total of $580,412,000 from the Federal Buildings Fund instead of $136,593,000 as proposed by the House and $1,894,840,000 as proposed by the Senate, as follows:

State	City	Project	Conference rescission
AZ	Phoenix	Federal Bldg.—Courthouse	$12,137,000
AZ	Lukeville	Border Station	1,219,000
AZ	San Luis	Border Station	3,496,000
AZ	Nogales	Border Patrol	2,000,000
AZ	Bullhead City	FAA—Grant	2,200,000
AZ	Sierra Vista	U.S. Magistrates Office	1,000,000
CA	Menlo Park	U.S. Geological Survey Bldg. 3	790,000
CA	San Francisco	Lease Purchase	9,701,000
DC	Washington	U.S. Secret Service	9,316,000
DC	Washington	Central & West Heating Plants	5,000,000
DC	Washington	Corps of Engineers	37,618,000
DC	Washington	GSA HQ	25,000,000
FL	Tampa	Courthouse	5,994,000
GA	Albany	Courthouse	87,000
GA	Atlanta	CDC Mercer Site	25,890,000
GA	Atlanta	CDC Mercer Bldg.	14,110,000
HI	Hilo	University of Hawaii—Grant	12,000,000
IL	Chicago	Federal Center	29,753,000
IL	Chicago	SSA District Office	2,130,000
IL	Chicago	J.C. Kluczynski FB	13,414,000
MA	Boston	Courthouse	4,076,000
MD	Mongtomery County	FDA Consolidation	228,000,000
MD	Woodlawn	SSA E. High-Low Bldg.	17,292,000
MD	Avondale	DeLaSalle Building	16,671,000
ND	Fargo	Federal Bldg.—Courthouse	1,371,000
NH	Concord	Federal Bldg.—Courthouse	3,519,000
NJ	Newark	Parking Facility	8,500,000
NM	Santa Teresa	Border Station	4,004,000
NV	Reno	Federal Bldg.—Courthouse	1,465,000
OH	Steubenville	Courthouse	2,820,000
OR	Portland	Courthouse	5,000,000
PA	Philadelphia	Veterans Administration	1,276,000
TX	El Paso	Ysleta, Border Station	1,727,000
VI	Charlotte Amalie	Courthouse Annex	2,184,000
WA	Seattle	Courthouse	10,949,000
WA	Walla Walla	Corps of Engineers Building	2,800,000
WV	Wheeling	Federal Bldg.—Courthouse	28,303,000
	CFC's		12,300,000
	Energy		15,300,000

Food and Drug Administration Consolidation

The conferees agree to rescind $228,000,000 in funds previously appropriated for the consolidation of the Food and Drug Administration (FDA), instead of no rescission as proposed by the House and $284,650,000 as proposed by the Senate. This rescission affects only the Montgomery County, Maryland phase of the FDA consolidation.

The conferees agree that this rescission should not prejudice future efforts at consolidation and restructuring in Montgomery County, Maryland. The conferees note that there is considerable congressional concern and interest in both the restructuring and the consolidation of FDA. The conferees support the concept of FDA consolidation in Montgomery County, Maryland, in accordance with Public Law 101–635, the FDA Revitalization Act of 1990, and Conference Report 102–919 to accompany the FY 1993 Treasury, Postal service, and General Government Appropriations Act, but believe that any future FDA restructuring may present opportunities for downsizing the next phase of FDA consolidation. The conferees urge FDA to work with the General Services Administration to create a more cost effective site and construction plan for this phase of consolidation in order that future consolidation may continue.

Tampa, Florida U.S. Courthouse

The conferees agree to rescind $5,994,000 from funds previously appropriated for the U.S. Courthouse in Tampa, Florida. This is the amount identified by the GSA during its Time Out and Review process.

While the conferees agree that this reduction should not affect the completion of the planned project, should additional funds be required, GSA should submit a reprogramming to the Committees on Appropriations of the House and Senate.

Operating Expenses

The conferees agree to no rescission from the Operating Expenses account as proposed by the Senate instead of $2,065,000 as proposed by the House.

The conferees are very pleased with the General Services Administration's (GSA's) rapid response to the tragic bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, and commend GSA employees for their efforts in this area. Additionally, the conferees note with pleasure that, in response to a request from the Committees on Appropriations, the GSA provided the conferees with timely and extensive information on the construction and repair and alternation projects considered for rescission in both the House and Senate-passed rescission packages.

Telecommuting Center

The funds previously specified in Public Law 103–329 for the flexiplace work telecommuting center project in Southern Maryland are to be transferred to the Charles County Community College to complete the establishment of the two additional telecommuting centers in Southern Maryland. This is in recognition of the results of the interim report to the Congress on Federal Interagency telecommuting Centers which show that the Southern Maryland project, developed and operated by the Charles County Community College, resulted in the highest utilization rate and lowest cost per user of any telecommuting demonstration project, and the demonstrated efficiencies of the private sector to accomplish and expand developmental projects in the most timely and cost effective manner.

FEDERAL ELECTION COMMISSION

Salaries and Expenses

The conferees agree to rescind $1,396,000 from FEC's salaries and expenses, instead of $2,792,000 as proposed by the House. The conferees also agree to the FEC's request to carry over $20,000 of FY 1994 unobligated balances for use in FY 1995. The conferees note that, since 1992, FEC has received an increase of 37 percent in its annual appropriations and that the total FY 1995 revised appropriations for FEC in the amount of $25,730,000 represents an increase of 9 percent over the FY 1994 appropriated level. Within this amount, the conferees expect FEC to fulfill its commitment, as expressed before the House Appropriations Committee on March 1, 1995, to spend not less than $972,000 on computer modernization and electronic filing initiatives in FY 1995. The conferees further direct the FEC to complete strategic plans, including both a requirements and cost-benefit analysis, on (1) internal ADP modernization efforts and (2) electronic filing and provide these plans to the House and Senate Committees on Appropriations no later than August 1, 1995.

MERIT SYSTEMS PROTECTION BOARD

Salaries and Expenses

The conferees agree with the report language detailed in the Senate Report accompanying H.R. 1158 and reiterate the intent of that language in this statement of the managers.

Congressional oversight and the work of the General Accounting Office have raised the conferees' concern over the direction, in recent years, of the U.S. Merit Systems Protection Board. In particular the conferees believe the statutory accountability and responsibility of the MSPB Chairman must be more adequately described to ensure the proper operation of the agency. Concern for the accountability of the MSPB Chairman to Congress necessitates the use of this vehicle to reiterate the intent of the statute.

The second sentence of the language at 5 USC 1203(a) and the first sentence of section

1204(j) shall be construed as the official named therein to include authorities of the predecessor official described at 5 USC 1104(a)(3) up to the word "except" in said paragraph and section 1104(a), paragraph (4) in its entirety prior to amendment by P.L. 94-454, Title II, sec. 201(a), October 13, 1978, 92 Stat. 1120. It is the intent of the conferees that this interpretation shall be used to expand only, and not derogate from, the authorities and responsibilities of the official named at 5 USC 1203(a) set forth in existing law.

OFFICE OF PERSONNEL MANAGEMENT

Salaries and Expenses

The conferees agree to rescind $3,140,000. This rescission was included in both the House and Senate passed bills. This rescission is from amounts appropriated in FY 1995 for OPM training and from its Office of International Affairs.

GENERAL PROVISIONS

Section 901. The conferees agree to changes affecting availability pay for criminal investigators in certain Offices of Inspectors General as proposed by the Senate. This was originally identified in the Senate bill as Section 2002.

Section 902. The conferees agree to extend Law Enforcement Availability Pay to Customs pilots. This was originally identified in the Senate bill as section 2005.

Section 903. The conferees have included a new general provision allowing agencies to exceed estimates of travel expenses in the event of emergency requirements.

The conferees agree to delete Section 2003 and Section 2004 of the Senate bill.

CHAPTER X

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

Disaster Relief

The conferees propose a supplemental appropriation for fiscal year 1995 of $3,350,000,000, a decrease of $2,010,000,000 below the House level and an increase of $1,450,000,000 above the Senate level. In his February 6, 1995 messages, the President requested $6,700,000,000 for disaster relief activities. When these additional 1995 funds are added to those funds provided in the Disaster Relief Contingency Fund, which becomes available for obligation on October 1, 1995, the conferees have met the President's request.

The conferees agree that the additional funds made available in fiscal year 1995 are more than sufficient to meet ongoing and anticipated disaster relief requirements well into fiscal year 1996, including the most recent disaster operations resulting from extraordinary rains and hail during May 1995 in Louisiana, as well as numerous other declared disasters in some 40 states.

While the conferees remain committed to adequately fund necessary disaster assistance, the mounting cost and number of declared disasters remains a difficult question which must be addressed. The conferees are further concerned that FEMA disaster assistance policies need to be applied fairly and consistently to all regions hit by disasters. Specific questions have been raised regarding FEMA policies for those disasters occurring as a result of or directly attributable to a previously identified preexisting condition. The conferees thus direct FEMA to report to Congress within 90 days of passage of this Act on, 1) its current policies in this regard; 2) how these policies were applied in making eligibility determinations in Lead, South Dakota and Ventura, California; and 3) its recommendations for appropriate policy changes in this area.

Disaster Relief Emergency Contingency Fund

The conferees propose a supplemental appropriation of $3,350,000,000 for a disaster relief emergency contingency fund, an increase of $3,350,000,000 above the level proposed by the House and a decrease of $1,450,000,000 below the level proposed by the Senate. This contingency fund will be available beginning October 1, 1995, and is provided once the President has made a specific request for a specific amount, and designates such amount as an emergency requirement pursuant to law. The conferees believe such a contingency fund will make it possible to continue mandated disaster relief requirements, such as ongoing obligations associated with the 1994 Northridge earthquake, while at the same time ensuring adequate Congressional oversight of these funds.

National Flood Insurance Fund

The conferees have proposed a transfer of $331,000 for administrative costs from the flood insurance fund to the "Salaries and Expenses" appropriation, and a transfer of $5,000,000 from the flood insurance fund to the "Emergency Management Planning and Assistance" appropriation. The House had included no such transfers in its bill while the Senate had proposed both items as requested in the President's February 6, 1995 messages. The conferees agree that these funds are needed to enable the Agency to initiate flood mitigation activities authorized by the National Flood Insurance Reform Act of 1994.

CORPORATIONS

FEDERAL DEPOSIT INSURANCE CORPORATION

BANK ENTERPRISE ACT

Provides $36,000,000 for eligible activities authorized under the Bank Enterprise Act (BEA) of 1991. The Senate's proposed rescission of $88,000,000 from the Community Development Financial Institutions Fund Account would have left approximately $36,000,000 to implement this new agency. Instead of creating a new agency such as CDFI, the conferees agree to accomplish the same goal of promoting community-based financial institutions through the incentive program authorized under the BEA. Under the original fiscal year 1995 appropriation of $125,000,000, approximately one-third would have been available for this same incentive program. The Chairman of the FDIC is granted authority to operate this activity as authorized by the BEA.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

Medical Care

Inserts language rescinding $50,000,000 of fiscal year 1995 medical care funds and exempting such funds from any restrictions on personnel compensation and benefits expenditures, instead of language rescinding $50,000,000 from medical care, reducing the funds earmarked for the equipment and land and structures object classifications by $20,000,000, and decreasing the funds restricted for personnel compensation and benefits by $30,000,000 as proposed by the Senate. The rescission is consistent with the Department's latest estimate of savings in fiscal year 1995 salary costs. The VA's fiscal year 1996 budget justifications estimated that $30,000,000 of the fiscal year 1995 appropriation restricted to salary costs would not be utilized for such purposes. The VA now estimates that $50,000,000 will be saved. The conferees have agreed to language that exempts all fiscal year 1995 medical care funds from personnel compensation and benefits restrictions in the event that salary savings are more than $50,000,000.

DEPARTMENTAL ADMINISTRATION

Construction, Major Projects

Rescinds $31,000,000 of major construction funds, instead of $50,000,000 as proposed by the Senate. The conferees agree that the rescission is to be taken from excess funds in the working reserve, and have reduced the amount proposed by the Senate based on the VA's latest estimate of available savings.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT HOUSING PROGRAMS

NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM

Rescinds $50,000,000 as proposed by the House and Senate.

Annual Contributions for Assisted Housing

Rescinds $5,031,400,000 from annual contributions for assisted housing, instead of $5,733,400,000 as proposed by the House and $3,721,289,000 as proposed by the Senate, including:

$700,600,000 from the development or acquisition cost of public housing from fiscal year 1995 and prior year unobligated balances, including $80,000,000 from public housing for Indian families;

$1,956,000,000 from rental assistance under the Section 8 existing housing certificate program and the housing voucher program, of which, $100,000,000 shall be from new programs and $350,000,000 from pension fund rental assistance as provided in Public Law 103-327. The remaining funding level will allow $300,000,000 for the Secretary's Economic Development Initiative, and in addition, public housing relocation and replacement needs, litigation settlements or court orders, amendments to continue assistance for participating families, and the implementation of "mixed population" plans for developments housing primarily elderly residents;

$815,000,000 from the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937, including $100,000,000 to eliminate funding for the Choice in Management initiative, as proposed by the Administration. If there are situations where housing authorities already have placed funds under contract which are now to be rescinded, the Department may use its authority under the current modernization statute (section 14(k)(1)) to provide funding for emergencies which must be repaid from future modernization allocations;

$22,000,000 from unobligated balances of special purpose grants;

$148,300,000 from funds earmarked for Loan Management Set-asides (LMSA);

$15,000,000 from Family Unification as proposed by the Administration;

$30,000,000 from housing opportunities for persons with AIDS (HOPWA) program, allowing program funding to match the President's FY 1995 request of $156,000,000;

$34,200,000 from amounts reserved for lease adjustments as proposed by the Administration;

$39,000,000 from recaptures as proposed by the Administration;

$70,000,000 from Section 8 counseling;

$50,000,000 from amounts set-aside for service coordinators, including Sections 674/675/676 and FSS funding;

$66,000,000 earmarked for Family Investment Centers;

$85,300,000 from the lead-based paint abatement program. The Administration proposed rescinding $80,000,000 from such funds; and

$1,000,000,000 from unspecified balances for incremental units, including unreserved and unobligated program amounts totaling $3,477,600,000, remaining Section 8 rental assistance totaling over $400,000,000, and miscellaneous recaptures of previously obligated funds, such as $1,506,600,000 available from public housing development funds. The Secretary is required to provide to the appropriate appropriations subcommittees of the House and Senate a detailed operating plan within 30 days of enactment to implement this reduction.

The conferees strongly support immediate changes in the Department's program policies to focus the use of available resources on activities which will yield a more efficient and competitive inventory of Federally subsidized low-income housing. Such measures include aggressive efforts to demolish failed housing developments and to provide local housing authorities greater flexibility to facilitate improvements in public housing. The conference agreement also focuses rescissions on funding activities such as new incremental units which, if obligated, would exacerbate budgetary shortfalls over the next several years.

The conference agreement provides a deferral of $405,900,000 of preservation funds until September 30, 1995 to allow authorizing committees ample time to reformulate this program. The House proposed rescinding $465,100,000 from the program activity while the President's budget request had proposed rescinding $150,000,000.

The conference agreement deletes a provision in the Senate-passed language which would have mandated continued processing of certain applications which met specific statutory deadlines. The conferees agree that the Department should have greater discretion in continuing such processing. It is the expectation of the conferees, however, that processing should not be suspended in cases where such an action would jeopardize on-going efforts to preserve these affordable housing units, particularly in cases where purchases by non-profits or by resident organizations are being developed.

Assistance for the Renewal of Expiring Section and Subsidy Contracts

Rescinds $1,177,000,000 of rental assistance for the renewal of expiring Section 8 subsidy contracts. The Senate had proposed the rescission of $1,050,000,000 from the Annual Contributions for Assisted Housing account and directed the Secretary to use excess Section 8 reserves of public housing authorities to make up this shortfall. The House proposed no rescission. In order to renew all expiring Section 8 subsidy contracts in fiscal year 1995, the conferees agree to shorten approximately one-half of fiscal year 1995 renewal contracts to two-year terms instead of three. In addition, the Secretary is directed to use an estimated $427,000,000 of Section 8 excess project reserves to fund remaining Section 8 contract renewal needs.

Payments for Operation of Low-Income Housing Projects

Rescinds no funding from this account as proposed by the Senate. The House had proposed a rescission of $404,000,000 from the program activity to bring it down to the President's request for fiscal year 1995. The conferees acknowledge the difficulty of implementing a reduction in this account mid-year, but also note that future reductions for this program activity are likely. Housing authorities, through more efficient management and implementation of uncoming reauthorization deregulation, must work diligently to prepare for possible lower funding levels in fiscal year 1996.

Severely Distressed Public Housing

Rescinds no funding from this account as proposed by the Senate. The House had proposed rescinding $523,000,000 from this account. While these funds are permitted to go forward, the conferees note that it is possible that this activity may not be funded in fiscal year 1996. Also, approximately three-fourths of the House rescission amount had been obligated by the time of conference and was unavailable for rescission.

Drug Elimination Grants for Low-Incoming House

Rescinds no funding from this account as proposed by the Senate. The House had proposed rescinding $32,000,000 from the program activity to return it to the fiscal year 1994 funding level of $265,000,000.

Youthbuild Program

Rescinds $10,000,000 from the Youthbuild program. The House had proposed rescinding $38,000,000 to return program activity to last year's funding level of $40,000,000 while the Senate had proposed no rescission.

Housing Counseling Assistance

Rescinds $38,000,000 as proposed by the House and Senate, returning this program activity to its fiscal year 1994 funding level of $12,000,000.

Flexible Subsidy Fund

Rescinds $8,000,000 as proposed by the House. The Senate had proposed no rescission for this program activity.

NEHEMIAH HOUSING OPPORTUNITIES FUND

Rescinds $10,500,000 of remaining unobligated balances from the Nehemiah Housing Opportunities Fund. The House had proposed rescinding $19,000,000 and the Senate $17,700,000 from this account.

HOMELESS ASSISTANCE

HOMELESS ASSISTANCE GRANTS

Defers the availability of $297,000,000 of homeless assistance grants until September 30, 1995 as proposed by the House. The Senate did not propose a similar provision. The remaining appropriation of $823,000,000 available for all of fiscal year 1995 would match the fiscal year 1994 program funding level.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

Rescinds no funds from this account as proposed by the Senate. The House had proposed la rescission of $349,200,000 from this program activity.

ADMINISTRATIVE PROVISIONS

The conference agreement includes modifications proposed by the Senate to the public housing modernization program to permit greater flexibility in the use of these funds. For example in places like Dallas, Houston, and Louisville, Federal modernization funds can help pay the cost of demolition of public housing that is beyond repair. This is the case in Houston, where the costs of demolishing Allen Parkway Village can be shifted from the city to the local PHA. The conferees agree to several technical changes that clarify that modernization funds are to be used only for public housing or the public housing portion of jointly-administered housing.

Both the House- and the Senate-passed bills including provisions to eliminate one-for-one replacement requirements for public housing demolition or disposition applications approved prior to September 30, 1995. The conferees agree to the Senate language amended to exclude housing required to be replaced because of a court order or litigation settlement. The House language included this provision. The Department is urged to approve as quickly as possible qualified applications for demolition or disposition.

The conferees agree to the Senate proposal allow public housing authorities to reuse certain recaptured Section 8 rental assistance. The House bill contained no comparable provision.

INDEPENDENT AGENCIES

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

Rescinds $500,000, as proposed by both the House and the Senate. This rescission terminates the Board before members have sworn the oath of office and prior to expenditure of any funds, and is consistent with the rescission and termination proposal made by the President in the February 6, 1995 messages.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

PROGRAM ACCOUNT

Rescinds $124,000,000 from this account as proposed by the House. The Senate has proposed a rescission of $88,000,000. In order to limit the growth of government and achieve the same goals, the conferees agree to provide $36,000,000 to the Federal Deposit Insurance Corporation to implement Bank Enterprise Act (BEA) incentives to promote community-based financial institutions.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

Rescinds $210,000,000 of National and Community Service Programs Operating Expenses funds, instead of $416,110,000 as proposed by the House and $105,000,000 as proposed by the Senate. This action will permit the Corporation to maintain the fiscal year 1994 funding level of $365,000,000 in the current fiscal year. The conferees have agreed to add language to prohibit the remaining fiscal year 1995 appropriation from being used for national awards to Federal agencies. This action is taken to increase program participation by traditional private voluntary organizations such as the Girl Scouts, the American Red Cross, and the Future Farmers of America.

ENVIRONMENTAL PROTECTION AGENCY

RESEARCH AND DEVELOPMENT

The conferees propose to rescind $14,635,000 of fiscal year 1995 appropriations, the same as proposed by the House and $5,000,000 more than that proposed by the Senate. In addition to the $3,635,000 proposed in the President's February 6, 1995 messages for academic training ($1,000,000), neurotoxicity research ($700,000), health effects research ($600,000), and procurement savings ($1,335,000), the conferees have proposed to rescind $6,000,000 of funds appropriated in fiscal year 1995 for the Environmental Monitoring and Assessment Program and $5,000,000 of unspecified reductions. The conferees expect the Agency to submit specific proposals, in a format consistent with normal reprogramming procedures, of where these unspecified reductions will occur within the research and development account.

ABATEMENT, CONTROL, AND COMPLIANCE

The conferees propose to rescind $9,806,805 of fiscal year 1995 appropriations, an increase of $5,000,000 over the level proposed by the House and the same as proposed by the Senate. In addition to the rescissions of $3,141,805 for termination of the Clean Lakes program and $1,665,000 for procurement savings as proposed in the President's February 6, 1995 messages, the conferees have proposed to rescind $5,000,000 from the Agency's "green" programs. The conferees agree that budget constraints require reduced spending in this area, and further agree that the agency should strongly consider the phase-out of those "green" programs, such as the "energy star buildings" program, which are essentially identical to programs already offered by private enterprise or by other Federal or State agencies.

Bill language has been included which stipulates that the Agency will not be required to site a supercomputer in the Bay City, Michigan vicinity as is required by current law.

BUILDINGS AND FACILITIES

The conferees propose to rescind $83,000,000 of prior year appropriations, an increase of $58,000,000 over the level proposed by the House, and the same as proposed by the Senate. These funds are derived from appropriations made in fiscal years 1992 and 1993 for the EPA Center for Ecology Research and Training, a new laboratory which would add to the Agency's existing 39 such facilities. This proposed rescission will terminate further activities associated with the lab's development before significant sums are expended. The conferees note that sufficient funds remain in the buildings and facilities account to cover expected necessary "close-out" costs associated with the lab site, and direct the Agency to provide the House and Senate Appropriations Committees a specific plan and schedule for such close-out within 60 days of passage of this Act.

HAZARDOUS SUBSTANCE SUPERFUND

The conferees propose to rescind $100,000,000 of fiscal year 1995 appropriations, an increase of $100,000,000 above the level proposed by the House and the same as proposed by the Senate. The conferees agree that while this proposed rescission is not expected to severely disrupt the program, it nevertheless will slow current program activities somewhat while the Congress works on reauthorizing and perhaps restructuring this expired program.

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

The conferees propose to rescind $1,302,200,000 of fiscal year 1995 and prior year appropriations, a decrease of $1,000,000 from the level proposed by the House and an increase of $60,105,000 above the level proposed by the Senate. Of the proposed $1,302,200,000 rescission, $1,299,000,000 had been appropriated in fiscal years 1994 and 1995 for distribution upon enactment of a safe drinking water state revolving fund. While this rescission should not be interpreted as opposition to the creation of such an SRF, the conferees acknowledge that fiscal realities make it difficult to provide large sums for programs which await authorization.

The remaining $3,200,000 rescission is derived from funds appropriated in fiscal year 1995 for specific wastewater infrastructure improvements, and has been recommended for rescission in the President's February 6, 1995 messages.

ADMINISTRATIVE PROVISIONS

The conferees adopted language included in the Senate bill which prevents the Agency from requiring that States adopt a centralized inspection and maintenance facility as part of their state implementation plan under the Clean Air Act, although the states retain the flexibility to adopt such a program should they desire.

The conferees adopted identical language included in both the House and Senate bills which provides that no funds can be expended by the Environmental Protection Agency to impose or enforce any requirement that a State implement a trip reduction plan as part of their state implementation plan. Additional new language which stipulates that Section 304 of the Clean Air Act (regarding citizen suits) does not apply in cases where States choose not to implement such a trip reduction plan was also adopted by the conferees.

The conferees adopted language contained in the Senate bill which prevents EPA from adding new sites to the National Priorities List during the balance of fiscal year 1995, unless such new site is specifically requested for listing by the Governor of the affected State, or unless Superfund legislation is reauthorized prior to the end of the fiscal year.

The conferees carefully considered a provision to impose a moratorium on EPA Clean Air Act deadlines for state attainment plans and permitting programs and considered mandating full credit for decentralized inspection and maintenance programs. This legislation was deferred pending a review of EPA's actions in reviewing and approving applications by states for up to 100 percent credit where such states have submitted evidence of an effective test-and-repair program. The conferees strongly agree that EPA should defer imposition of sanctions against any state which is preparing, or has submitted an application to EPA for up to 100 percent compliance credit for their test-and-repair inspection and maintenance program. The conferees agree that a demonstration for up to 100 percent compliance credit may be submitted by a state with their SIP revision, and that such demonstration may require two years or two full cycles to complete. EPA should exercise flexibility in reviewing and approving each state's plan in this regard.

EPA should seriously consider abandoning an inflexible standard that test-and-repair facilities are 50 percent as effective as test-only facilities and should grant test-and-repair programs the credit, up to 100 percent, based on scientific evidence and/or data that supports the determination of additional credits.

The conferees note that EPA issued regulations in November 1992 stating that in order to get more than 50 percent credit for a test-and-repair program, the state would have to demonstrate actual operating data that its program was more effective. States should be prepared to provide such data.

In complying with the prohibition on use of funds for disapproval of a state implementation plan, the conferees agree that it would apply only in the case where only a 50 percent discount was applied by the agency, and not at any other percentage discount which the Agency may apply or if the state implementation plan was not in compliance with law on a basis other than inspection and maintenance.

The conferees further agree that should EPA fail to demonstrate flexibility and reasonableness in responding to such state applications, further legislation will be enacted by Congress.

No language was included regarding the Agency's responsibilities for the California Federal Implementation Plan as the matter was resolved earlier in Public Law 104-6.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE, AERONAUTICS AND TECHNOLOGY

The conferees agree to rescind a total of $52,000,000 as proposed by the House and $68,000,000 as proposed by the Senate.

The conference agreement is as follows:

Earth Observing System ...	−$17,000,000
Hubble Telescope Mission	−5,000,000
Regional Ecosystem Supercomputer	−3,000,000
Hypersonics	−12,000,000
Life and Microgravity	−15,000,000.

The conferees agree to impose no rescission in the area of academics. The conferees agree that the recent expansion of NASA funded educational programs, that expand opportunities and enhance diversity in the NASA sponsored research and education community—especially for the minority institutions and for socially and economically disadvantaged and disabled students, historically underrepresented in the Agency's research and education programs—are meritorious and should be supported. The conferees, however, note that such rapid and cumulative growth through incrementally funded, multi-year commitments will be very difficult to sustain during a period when overall NASA funding and employment will be reduced. NASA should undertake a review of all academic programs which includes revisions of its multi-year program plan in anticipation of such funding constraints with careful attention to the balance between the proportion of NASA's dollars received by minority institutions of higher education and other institutions of higher education.

CONSTRUCTION OF FACILITIES

The conferees agree to a rescission of $34,000,000 in prior years appropriations for construction of facilities instead of $27,000,000 as proposed by the House and $76,000,000 as proposed by the Senate. The conference agreement includes rescission of $27,000,000 which was appropriated in fiscal year 1993 for construction of a facility for the Consortium for International Earth Science Information Network. In addition, the conference agreement includes rescission of $7,000,000 which was appropriated in prior years for construction of a Rocket Engine Test Facility at the Lewis Research Center.

MISSION SUPPORT

The conferees agree to rescind $32,000,000 of fiscal year 1995 funding instead of $1,000,000 as proposed by the House and $6,000,000 as proposed by the Senate. The conference agreement includes rescission of $1,000,000 for administrative aircraft, $10,000,000 for salaries and expenses (ROS), and $21,000,000 for salaries and expenses savings.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

The conferees agree to rescind $20,000,000 from funds made available for the replacement orbiter for the Challenger. The President had proposed a rescission of $10,000,000 in his message of May 2, 1995. After this rescission, $23,448,844 will remain for this purpose.

ADMINISTRATIVE PROVISIONS

Clear Lake Development Facility

The conferees agree to include an administrative provision which will enable the National Aeronautics and Space Administration to exercise an option to purchase the Clear Lake Development Facility, as modified for use as a Neutral Buoyancy Laboratory. The facility is currently being leased by NASA. It is the intention of the conferees that the cost of the facility as modified by the current owner (or contractor) and delivered completely modified to NASA, will be no more than $35,000,000.

Yellow Creek Facility, Mississippi

The federal government has a long history of involvement in Yellow Creek, located near Iuka, Mississippi. The site, originally purchased by the Tennessee Valley Authority for use as a nuclear energy plant, was subsequently transferred to NASA after the nuclear energy plant's cancellation. NASA intended to use Yellow Creek to build the Advanced Solid Rocket Motor (ASRM) and, after its cancellation, instead committed to use the site to build nozzles for the Redesigned Solid Rocket Motor (RSRM). On May 2, 1995, due to its current budgetary constraints, NASA terminated the RSRM nozzle production effort at Yellow Creek. The bill language included by the conferees on the transfer of the NASA Yellow Creek facility reflects the most recent commitment made by the NASA Administrator to the Governor of the State of Mississippi. The major investment by the State of Mississippi in facilities and infrastructure to support Yellow Creek, in excess of $100,000,000, is a key factor in NASA's agreement to turn the site over to the State of Mississippi. The main elements of the agreement reached between NASA and the State of Mississippi, which the conferees expect to be adhered to by the two parties, are as follows:

The Yellow Creek facility will be turned over to the appropriate agency of the State of Mississippi within 30 days of enactment of this Act. All of the NASA property on Yellow Creek which the State of Mississippi requires to facilitate the transfer of the site transfers with the site to the State, subject to the following exceptions anticipated by the conferees:

(1) Any property assigned to a NASA facility other than Yellow Creek prior to May 2, 1995, but located at Yellow Creek, will be returned to its assigned facility;

(2) Only those contracts for the sale of NASA property at Yellow Creek signed by both parties prior to May 2, 1995 shall be executed;

(3) Those items deemed to be in the "national security interest' of the federal government shall be retained by NASA. The national security clause shall be narrowly construed and shall apply only in a limited manner, consistent with established criteria relating to national security interests. This clause shall not be used to circumvent the intent of this Act, which is to transfer the site and all of its property, except as otherwise noted, to the State of Mississippi; and

(4) Other items of interest to NASA may be retained by NASA with the consent of the State of Mississippi.

It is the expectation of the conferees that all other NASA personal property will transfer to the State of Mississippi. The conferees further expect facilities on the site not subject to the above provisions, such as the environmental lab, to be left as is.

Any environmental remediation of Yellow Creek necessary as a result of the activities of governmental agencies, such as NASA, or quasi-governmental agencies, such as the Tennessee Valley Authority, will be the responsibility of the federal agency or quasi-federal agency, including any successors and interests.

Within thirty days of enactment of this Act, $10,000,000 will be transferred from NASA to the appropriate agency of the State of Mississippi.

The site's environmental permits will become the property of the State of Mississippi. NASA will provide all necessary assistance in transferring these permits to the State of Mississippi.

NATIONAL SCIENCE FOUNDATION

ACADEMIC RESEARCH INFRASTRUCTURE

Rescinds $131,867,000, as proposed by both the House and the Senate.

CORPORATIONS

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC AFFORDABLE HOUSING PROGRAM

Rescinds $11,281,034 from the FDIC Affordable Housing program as proposed by the House and Senate.

TITLE II—GENERAL PROVISIONS

EMERGENCY TIMBER SALVAGE

The managers have included bill language (section 2001) that directs the appropriate Secretary to prepare, advertise, offer, and award salvage timber sale contracts utilizing emergency processes and procedures provided in the bill.

The managers, in order to establish their expectation of performance have included salvage timber sale volume requirements in this statement. The managers have not included volume requirements directly in bill language but expect the Secretary concerned to reduce backlogged salvage volume and award additional salvage sale contracts to the maximum extend feasible. However, the managers underscore their intent that the salvage volume levels are not merely aspirational; each Secretary is expected to meet the volume levels specified herein.

The managers, in cooperation with the authorizing committees of jurisdiction, have agreed to monitor the USDA and BLM progress toward meeting the salvage levels set out herein. The committees of jurisdiction will carefully assess the reports to determine whether or not the agencies have met the salvage levels put forward in the statement of the managers. Depending on performance, the need for volume targets will be reevaluated in future appropriations bills, beginning in FY 1996.

Forest Health

The managers note that the emergency forest health situation from fire, insect infestation and disease has approached epidemic levels. As a result, the backlog of dead and dying trees in National Forests and other public lands is substantial.

In part, the severe risk of permanent damage to forest land necessitates removal of dead, dying, and salvage trees before greater damage occurs—including second phase fires which burn hotter and destroy land and streams. Once removal of salvage tress occurs, reforestation is required by the emergency salvage provision. Reforestation will facilitate regrowth of healthy forests that are less prone to fire damage, insect infestation, and disease.

Much of this salvage volume must be removed within one year or less for the timber of retain maximum economic value, and to prevent future disasters from fire that can permanently damage forest land, eradicate wildlife, and ruin aquatic habitat. Therefore, the managers have included bill language to provide all necessary tools to expedite environmental processes, streamline, administrative procedures, expedite judicial review, and give maximum flexibility to the Secretary concerned in order to provide salvage timber for jobs, to improve forest health, and prevent future forest fires.

The managers expect the agencies to implement available flexibility to achieve maximum returns and that agency personnel expeditiously process the environmental documentation needed to finalize emergency timber sales.

Volume Levels

The managers have carefully reviewed the materials submitted by the Departments concerning the capability of the Forest Service and Bureau of Land Management to respond to the emergency nature of the forest health situation. For the Forest Service, the documents submitted indicate that the total merchantable salvage volume (dead and dying trees) in national forests exceeds 18.25 BBF. The Forest Service identified 12.68 BBF of volume which is economically operable during the next two years, while still complying with basic forest land stewardship protection measures.

Of particular interest in the Forest Service's assessment that 6.75 BBF of volume could be available during the next three years using the expedited procedures of this section, without violating the substantive requirements of existing environmental laws. This volume estimate was developed by Forest Service line managers and biologists. The Forest Service reports that there is a significant margin of error (+/−25%) in these estimates, and it is reasonable to expect that the volumes may increase somewhat as on-the-ground implementation gets underway. Given the margin of error in the estimates, it appears the Forest Service could meet the salvage volumes in the House bill without sacrificing the substantive objectives of all environmental laws. The Senate bill contained no sale volumes.

The managers extended the provisions of this section through FY 1997, effectively making the program duration 2.5 years. Based on the capability statements by the Forest Service and similar representatives by the Bureau of Land Management, the managers expect that the procedures of this section will expedite the implementation of existing programmed salvage volumes and allow the Secretary of Agriculture to prepare, advertise, offer, and award contracts for an additional increment of salvage volume as follows: FY 1995—750 million board feet; FY 1996—1.5 billion board feet; FY 1997—1.5 billion board feet. These programmed levels for the Forest Service are contained in the attachment to the April 25, 1995, letter to the Chairman of the House Resources Committee. Similarly, the managers expect an emergency timber salvage program from the Secretary of the Interior as follows: FY 1995—115 million board feet; FY 1996—115 million board feet; FY 1997—115 million board feet. These numbers are within the range of achievement in an environmentally sound program. Each Secretary may exceed these salvage levels if field conditions demonstrate additional salvage opportunities.

The managers have directed periodic reporting on the agencies' progress in implementing the procedures of this section in order to reassess their expectation concerning achievement of specified salvage volumes and agency performance. The managers expect that the committees of jurisdiction will remain actively involved in the monitoring of the emergency salvage program.

Process

The managers intend that as the environmental processes are completed for individual sales, the Secretary concerned may choose among the completed combined documents to determine how sales should go forward.

The bill language provides a process for judicial review of emergency salvage sales by the Federal District Courts. The managers provided this mechanism for legitimate concerns with agency actions. Automatic stays for 45 days are required pending the final decision on review of the record by the district court within that time period. Due to the exigency of the emergency salvage situation administrative appeals are waived.

For emergency timber salvage sales, Option 9, and sales in Section 318 areas, the bill contains language which deems sufficient the documentation on which the sales are based, and significantly expedites legal actions and virtually eliminates dilatory legal challenges. Environmental documentation, analysis, testimony, and studies concerning each of these areas are exhaustive and the sufficiency language is provided so that sales can proceed.

The managers are aware of the high cost, time, and personnel commitment needed to mark salvage trees individually. The managers also recognize the requirement for federal agencies to designate timber authorized for cutting. Federal agencies are directed to determine the extent to which the use of designation by description is practical and are further directed to use the most effective method of designation to prepare salvage timber sales.

The emergency salvage provision clearly prohibits harvesting in National Wilderness Preservation System lands, roadless areas designated by Congress for wilderness study, and roadless areas recommended for wilderness designation in the most recent land management plan. Lands not specifically protected by the provision include prohibitions such as agency initiatives, timber sale screens, interim guidelines, settlement agreements, the CASPO Report, riparian areas covered by other initiatives, and any other area where the agencies restrict timber harvesting on their own accord.

The bill also allows all salvage sales proposals in development on the date of enactment of this Act to be immediately brought into conformity with this, the emergency salvage provision.

Reporting

The bill language directs the agencies to prepare a report by August 30, 1995, detailing the steps the agency is taking, and intends to take, to meet salvage timber sale volumes. The report shall also include a statement of the intention of the Secretary concerned with respect to the salvage volumes specified herein.

The managers will carefully review the Administration's implementation of the salvage program, and, if found to be inadequate, will employ such actions as deemed necessary. Such actions might include, but are not limited to, reallocation within budget categories or other prioritizations to be determined by the Congress.

Option 9

The managers have retained bill language added by the Senate that provides the Forest Service and Bureau of Land Management the authority to expedite timber sales allowed under the President's forest plan for the Pacific Northwest, commonly known as option 9. The managers are concerned that the administration has not made the necessary efforts to fulfill the commitment it made to the people of the region to achieve an annual harvest level of 1.1 billion board feet and have included bill language to assist the administration in this effort.

On December 21, 1994, the Federal District Court issued an opinion upholding option 9 as valid under all present environmental laws. The managers wish to make clear that the bill language does not independently validate option 9 and does not restrict pending or future challenges.

The managers have added bill language to eliminate the need for an additional environmental impact statement in order to speed up the issuance of a final 4(d) rule, which will provide expedited relief to thousands of nonfederal landowners in the region. The managers understand that the Secretary of the Interior is extending the comment period on the proposed Section 4(d) rule, and expect the Secretary to review carefully the extensive Special Emphasis Areas in Washington to assure regulatory relief for nonfederal lands, particularly in light of new owl population data on the Olympic Peninsula. As provided in bill language, the managers have agreed that no environmental impact statement will be required for the Section 4(d) rule notwithstanding the outcome of pending litigation over Option 9. Finally, nothing in this provision is intended to prejudice the outcome of pending litigation over Endangered Species Act Section 9 prohibitions.

Released Timber Sales

The bill releases all timber sales which were offered for sale beginning in fiscal year 1990 to the date of enactment which are located in any unit of the National Forest System or District of the Bureau of Land Management within the geographic area encompassed by Section 318 of the Fiscal Year 1990 Interior and Related Agencies Appropriations Act. Included are all sales offered, awarded, or unawarded, whether or not bids have subsequently been rejected by the offering agency, with no change in original terms, volumes, or bid prices. The sales will go forward regardless of whether the bid bond from the high bidder has been returned, provided it is resubmitted before the harvesting begins. The harvest of many of these sales was assumed under the President's Pacific Northwest forest plan, but their release has been held up in part by extended subsequent review by the U.S. Fish and Wildlife Service. The only limitation on release of these sales is in the case of any threatened or endangered bird species with a known nesting site in a sale unit. In this case, the Secretary must provide a substitute volume under the terms of subsection (k)(3).

FUNDS AVAILABILITY

The conference agreement retains a Senate provision (section 2002) restricting funds availability to the current fiscal year unless otherwise stated. The House bill contained no similar provision.

DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

The conferees agree to include a provision (section 2003) included in both the House and Senate bills that would reduce the discretionary spending limits by the savings resulting from this act for the fiscal years 1995 through 1998. The House bill also included an additional provision that would have made additional projected reductions by assuming that similar savings would be enacted in each of the next three fiscal years. The conferees recommend that spending limit adjustments for actions projected for the future should be made in appropriate legislative vehicles such as reconciliation bills. Also, the House bill included provisions that would appropriate the savings from the bill to a deficit reduction fund. By including the provision dealing with spending limit adjustments and the prohibition on the use of savings to offset tax cuts mentioned below, the intent of these House provisions is accommodated.

PROHIBITION ON USE OF SAVINGS TO OFFSET DEFICIT

INCREASES RESULTING FROM DIRECT SPENDING OR RECEIPTS LEGISLATION

The conference agreement includes a provision (section 2004) included in both the House and Senate versions of the bill that would preclude the savings in this bill from being used for any tax reductions or other similar direct spending or receipts legislation.

NATIONAL KOREAN WAR VETERANS ARMISTICE DAY

The conference agreement inserts language (section 2005), not contained in the House or Senate bill, which designates July 27 of each year, until the year 2003, as "National Korean War Veterans Armistice Day".

ASSISTANCE TO ILLEGAL IMMIGRANTS

The conference agreement includes an amended House provision (section 2006) that prohibits any individual who is not lawfully in the United States from receiving any direct benefit or assistance from funds in the bill except for emergency assistance. The conference agreement expands the provision to include direction that agencies should take reasonable steps in determining the lawful status of individuals seeking assistance. Also, a nondiscrimination clause has been added. The Senate bill did not include any provision on this subject.

This provision is essentially the same provision that was included in the initial emergency supplemental appropriations act that provided relief from the earthquake that hit the Los Angeles area in 1994 (Public Law 103–211). The conferees understand that this provision was implemented for that bill in a manner that did not delay non-emergency assistance to appropriate recipients. The conferees agree that this should be the situation for this bill.

SENSE OF THE SENATE REGARDING TAX AVOIDANCE

The conference agreement deletes a Senate provision that expressed the sense of the Senate that Congress should act as quickly as possible to preclude persons from avoiding taxes by relinquishing their citizenship. The House bill contained no similar provision.

FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES

The conference agreement deletes two Senate provisions that would have rescinded $342,500,000 for administrative and travel activities. The conferees agree that it is more appropriate to make rescissions in the regular accounts rather than making across the board rescissions.

IMPACT OF LEGISLATION ON CHILDREN

The conference agreement deletes a sense of the Congress provision included in the Senate version of the bill that Congress should not adopt any legislation that would increase the number of children who are hungry or homeless. The House bill contained no similar provision.

TITLE III

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

ANTI-TERRORISM INITIATIVES

OKLAHOMA CITY RECOVERY

Chapter I

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

After House and Senate consideration of this bill, the Administration requested emergency supplemental appropriations of

$71,455,000 for the Department of Justice and $10,400,000 for the Judiciary to address urgent needs arising from the Oklahoma City bombing and for enhanced anti-terrorism efforts. The conference agreement provides an emergency supplemental appropriation of $113,360,000 for the Department of Justice and $16,640,000 for the Judiciary for these purposes, an increase of $48,145,000. These funds are designated by the Congress as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended and amounts above the supplemental request are available as emergency spending only to the extent that the President also designates these funds as emergency requirements.

The conference agreement provides funding through fiscal year 1996 for the full anticipated costs of expenses related to the investigation and prosecution of persons responsible for the bombing as well as the full cost of funding new personnel for enhanced counterterrorism efforts. The conference agreement also provides for a more flexible mechanism for the Attorney General to reimburse Department of Justice law enforcement agencies and State and local expenses related to the Oklahoma City bombing by appropriating funds requested for these expenses to a new Counterterrorism Fund.

While awaiting the Administration's 1996 budget amendment, the conferees have attempted to anticipate and fully fund the requirements for enhanced counterterrorism activities in both 1995 and 1996. To the extent that the supplemental does not fully anticipate the total needs, the conferees expect that the Administration will forward the additional requirements expeditiously.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

Counterterrorism Fund

The conferees have established a new Fund within this appropriation account, under the control and direction of the Attorney General, to: (1) cover the extraordinary and contingency type costs that have been incurred and are expected to occur as a result of the Oklahoma City bombing and (2) to cover costs related to any potential or actual future domestic or international terrorism event. The conference agreement provides an appropriation of $34,220,000 for this account which will remain available until expended.

The conferees intend that the funds provided through the Counterterrorism Fund will be used to reestablish or rebuild offices or facilities of the Department of Justice that are destroyed or damaged as the result of a domestic or international terrorism event. For example, the Oklahoma Resident Office of the Drug Enforcement Administration was destroyed in the bombing of the Alfred P. Murrah Building. In addition, funds are provided for a threat assessment of all Federal office buildings.

The conference agreement allows for the payment of expenses of an extraordinary nature of Department of Justice agencies engaged in, or providing support to, countering, investigating, or prosecuting domestic or international terrorism. Therefore, funds are available to reimburse the Federal Bureau of Investigation, the United States Attorneys and the United States Marshals Service for expenses incurred in connection with the Oklahoma City bombing and may be used for further expenses related to this incident. Funds are also available to reimburse the Office of Justice Programs Justice Assistance account for Emergency Assistance payments to qualifying State or local law enforcement agencies.

The conference agreement allows this Fund to be used for the payment of rewards as outlined under language included in the General Provisions for the Department of Justice contained in this Act.

Because there may be necessary expenses that arise in such events that are not known at the present time, the conference agreement allows the Attorney General to make the determination on a case by case basis of such necessary expenses which may be covered by funds appropriated to this account. The Attorney General may also use these funds to engage in planning, and the execution of such plans, related to upcoming significant events which offer the potential of being targeted by domestic or international terrorists.

The conferees expect the Attorney General to notify the Committees on Appropriations of the House of Representatives and the Senate prior to the obligation of funds from this account, with the exception of the $10,555,000 requested by the Administration for anticipated 1995 costs of the Department of Justice related to the Oklahoma City bombing. The conferees understand the urgency of meeting these requirements and the need to reimburse these agencies for these expenses in a timely manner. To the extent that these expenses deviate from those requested by the Administration in the supplemental, the conferees expect the Attorney General to report any differences to the Committees on Appropriations of both the House and the Senate.

LEGAL ACTIVITIES

Salaries and Expenses, United States Attorneys

The conference agreement provides a $2,000,000 supplemental appropriation for the United States Attorneys. The amounts provided will remain available until expended and will provide for the establishment of a specialized team of attorneys for terrorism prosecution. The funds provided will support the full cost of hiring an additional 8 Assistant United States Attorneys and 4 support personnel.

The conference agreement also provides additional funds, as requested by the Administration, to support extraordinary expenses being incurred by the United States Attorneys from the establishment of a Command Center in Oklahoma City to support the investigation of persons involved in the Oklahoma bombing and future expenses related to the prosecution and trial of those arrested. The conferees intend that funds for these activities for the United States Attorneys will be provided under the newly established Counterterrorism Fund.

FEDERAL BUREAU OF INVESTIGATION

Salaries and Expenses

The conference agreement provides a $77,140,000 supplemental appropriation for the Federal Bureau of Investigation, to remain available until expended, for additional personnel and equipment to support expanded investigations of domestic and international terrorism activities.

The conference agreement provides $1,905,000 for the full cost of hiring 25 intelligence analysts to establish a Domestic Counter-terrorism Center to coordinate and centralize Federal, State, and local law enforcement efforts in response to major terrorist incidents and as a clearinghouse for all domestic and international terrorism information and intelligence.

In addition the conferees have provided $12,875,000 for the full cost of hiring 31 additional engineering and technical staff to support research and development of new techniques to replace existing intercept capabilities that are ineffective when used in an advanced digital communications environment and to enhance law enforcement capabilities to perform court-authorized voice and data interceptions.

The conferees provide $10,000,000 to modernize the FBI's Strategic Information Operations Center to provide the capability of addressing multiple sites and incidents concurrently and to support the centralized coordination of law enforcement for major incidents such as the Oklahoma City bombing.

The conference agreement provides $37,660,000 for the full cost of hiring 190 surveillance specialists and 143 support personnel, in lieu of one month's funding for 231 surveillance specialists and 169 support personnel. In addition, $8,700,000 is provided for the full cost of hiring 38 tactical operations staff and for equipment for enhanced counter-terrorism operations. Also provided is $5,000,000 to replace and upgrade laboratory equipment and provide Emergency Response Teams with proper equipment and tools for the collection and processing of crime scene evidence. The conferees also provided $1,000,000 for the development of an automated database to collect and analyze information regarding hostage/barricade situations.

The conference agreement does not include $5,600,000 for the design of three new facilities—a new FBI laboratory, a new National Law Enforcement Technical Support Center, and a new training facility—due to the need to assess the purpose and the long-term costs of these facilities in the regular appropriations process.

The conference agreement also provides additional funds, as requested by the Administration, to support extraordinary expenses being incurred by the Federal Bureau of Investigation to support the investigation of persons involved in the Oklahoma City bombing and the payment of rewards in connection with this investigation. The conferees intend that funds for these activities and future expenses of the Federal Bureau of Investigation related to this incident will be provided under the newly established Counterterrorism Fund.

General Provisions

Section 3001 of the conference agreement includes language that allows the Attorney General to provide a reward, up to a maximum of $2,000,000, to individuals assisting in the investigation and prosecution of terrorists. The Attorney General is currently limited to a maximum reward payment of $500,000.

Section 3002 of the conference agreement provides that funds made available in this Act are subject to the standard reprogramming procedures set forth in Section 605 of Public Law 103–317.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

Court Security

The conference agreement includes a supplemental appropriation of $16,640,000 for the Federal Judiciary's Court Security account compared to the Administration's request of $10,400,000. The amount provided will remain available until expended to cover the costs of enhanced security of judges and support personnel in response to the potential increased threat resulting from the recent bombing of the Federal building in Oklahoma City. The amount is provided as follows:

—$12,620,000 to cover the full costs of hiring an additional 250 new court security officers (CSOs) for existing court locations which currently have none and at locations which are currently below accepted standards. The Judiciary had requested funds to hire 400 CSOs for existing space, but the conferees felt that no more than 250 could be brought on so late in the fiscal year. The remainder of this request will be considered in the context of the fiscal year 1996 appropriations process.

—$2,120,000 for the full costs of hiring an additional 40 CSOs to operate and monitor new weapons/explosives screening equipment and x-ray machines for fifteen existing judiciary locations where no security equipment is currently in place.

—$4,900,000 for new and replacement security equipment, including upgrading equipment at existing facilities and purchase of x-ray machines and magnetometers for fifteen facilities which currently have no security equipment.

The amounts provided assume the reprogramming of $3,000,000 in available balances in this account as proposed in the Judiciary's supplemental request.

The conferees have not included the $2,000,000 requested for vehicle barriers to be placed at the entrance to parking garages at 50 metropolitan court facilities around the country. The conferees understand that the actual costs of placing these barriers at the 50 locations may be greater than the $2,000,000 requested and urge the Judiciary to work with the General Services Administration to identify the necessary resources for this proposal in the fiscal year 1996 budget.

Chapter II

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

Salaries and Expenses

As part of the Administration's supplemental request, $300,000 was included to hire 10 new employees to assist in oversight of the Department's anti-terrorism efforts. The conferees deny this request.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Salaries and Expenses

The conferees agree to provide $34,823,000, $18,616,000 above the $16,207,000 requested by the Administration, in order to offset immediate expenses associated with the aftermath and investigation of the Oklahoma City bombing, security upgrades in headquarters and field offices, and the enhancement of certain counter-terrorism capabilities.

The conferees provide $4,723,000 of the $4,923,000 requested to cover overtime, travel, communications and equipment associated with reestablishing ATF offices in Oklahoma City and to cover investigative expenses. The conferees deny the $200,000 request for the replacement of all basic office equipment and furniture lost in the explosion since these costs will be borne by the General Services Administration.

The conferees provide $3,000,000 to improve security in field offices, the same amount requested by the President.

The conferees agree to provide $7,000,000 for costs associated with the relocation of ATF headquarters, of which up to $300,000 may be used to provide temporary improvements to ATF's current headquarters, as needed.

The conferees provide $3,000,000 to fund the personnel costs of four new permanent National Response Teams (NRT), $3,300,000 for mobile response equipment and additional laboratory personnel, and $1,800,000 for additional intelligence analysts and explosives inspectors.

The conferees further note that ATF lacks sufficient resources to purchase certain critical pieces of equipment or to make other investments needed to effectively and efficiently pursue it mission. For that reason, the conferees agree to provide $12,000,000 to fund a number of items requested in the President's FY 1996 budget request: purchase of electronic surveillance equipment, weapons, protective gear and investigative vehicles; improvement of financial management information systems; and development of AFT's Integrated Collection System. These funds may also be used for costs associated with the relocation of the ATF laboratory.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Salaries and Expenses

The conferees agree to provide $1,100,000 and additional personnel as requested for the Federal Law Enforcement Training Center to enhance the anti-terrorism training component of basic courses, increase the number and quality of advanced training courses in anti-terrorism tactics, provide additional equipment for such training and train personnel.

UNITED STATES SECRET SERVICE

Salaries and Expenses

The conferees agree to provide $6,675,000 for the Secret Service, $2,800,000 above the amount requested by the President. The conferees have provided the additional funds for expenses related to the completion of the White House Access Control System ($1,800,000) and the purchase of Remote Delivery Site Equipment ($1,000,000).

UNITED STATES CUSTOMS SERVICE

Salaries and Expenses

The conferees agree to provide $1,000,000 of the $1,200,000 requested to relocate Customs offices, pay for temporary duty replacements, over the costs of permanent change of station moves and replacement vehicles, and purchase certain office equipment. The conferees deny the $200,000 request for the replacement of all basic office equipment and furniture lost in the explosion since these costs will be borne by the General Services Administration.

INTERNAL REVENUE SERVICE

Administration and Management

As part of the Administration's supplemental request, $1,000,000 was included to cover expenses for overtime, travel and supplies related to the investigation of the bombing. The conferees deny this request and instead have diverted these funds to the Secret Service for the purchase of additional White House security systems.

FINANCIAL CRIMES ENFORCEMENT NETWORK

Salaries and Expenses

The conferees have denied the President's request of $300,000 in emergency appropriations for the Financial Crimes Enforcement Network (FinCEN) and instead have diverted these funds to the Secret Service for the purchase of additional White House Security systems. The conferees note that any additional work accomplished by FinCEN as part of the Oklahoma City investigation should be done within existing resources.

INDEPENDENT AGENCY

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

Alfred P. Murrah Federal Building

The conferees have included a provision which provides additional funding related to the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma. The conferees, in response to the special needs created by the April 19, 1995, terrorist bombing attack at the Murrah Federal Building, have added $40,400,000 for expenses of real property management and related activities. This includes: planning, design, construction, demolition, restoration, repairs, alterations, acquisition, installment acquisition payments, rental of space, buildings operations, maintenance, protection, moving of governmental agencies and other activities.

The recommendation also provides that, in carrying out the foregoing activities, the Administrator of General Services may exchange, sell, lease, donate, or otherwise dispose of the site of the Murrah building to the State of Oklahoma, to Oklahoma City, or any political subdivision or agency of the State or city, and that such disposal shall not be subject to the Public Buildings Act of 1959, the Federal Property and Administrative Services Act of 1949, or any other Federal law establishing requirements or procedures for disposing of Federal property.

In recommending waivers of these laws, the conferees are responding to the extraordinary circumstances created by this tragic destruction of life and property and the realization that the work of replacement and recovery should not be unnecessarily encumbered by otherwise applicable provisions of law. Nevertheless, the conferees recommend the use of this waiver authority by the Administrator, at his discretion. This authority should only be used when circumstances dictate the clear necessity to do so. It is not intended that use of existing authority be precluded where consistent with and appropriate to serving the needs and purposes of this disposal action.

The conferees have also included a provision requiring prospectus approval of any major repair, alteration, lease, or construction project if the need for such a prospectus meets the requirements of the Public Buildings Act.

EMERGENCY REQUIREMENTS

As part of the Administration's supplemental request, a total of $26,400,000 was included for emergency requirements. The conferees agree with the request as follows:

Demolition/debris removal of the Alfred P. Murrah Federal Building	$2,300,000
Repair of other federal buildings	3,300,000
Replacement leases, furniture, and equipment	8,300,000
Nation-wide increased security in Federal buildings	12,500,000

Chapter III

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MANAGEMENT AND ADMINISTRATION

Salaries and Expenses

Provides $3,200,000 for emergency expenses resulting from the bombing of Alfred P. Murrah Federal Building in Oklahoma City as requested by the Administration. These funds will cover relocation costs for replacement employees, travel, overtime, replaced office equipment and supplies, and other expenses.

INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

Salaries and Expenses

The conferees propose a supplemental appropriation for fiscal year 1995 of $3,523,000. This amount, not included in either the

House or Senate bills, was requested by the President in his May 2, 1995 message to address urgent needs arising from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma. This amount will assist in providing additional security personnel as well as enhanced physical protection at all Agency field offices. Additionally, funds will be available for staff training and awareness of the terrorist threat and enhanced security management systems, for additional training and exercises associated with the Federal Response Plan, and for modifying and expanding the Federal Response Plan.

Emergency Management Planning and Assistance

The conferees propose a supplemental appropriation for fiscal year 1995 of $3,477,000. This amount, not included in either the House of Senate bills, was requested by the President in his May 2, 1995 message to address urgent needs arising from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma. This amount will provide for the development of new plans and procedures for an efficient response to a terrorist event under the Federal Response Plan, as well as for increased training and exercises associated with such a response for State and local emergency personnel.

CITATION

The conference agreement amends the Senate citation of the bill to reflect the inclusion of emergency supplemental appropriations for the anti-terrorism initiatives and for the recovery assistance for the tragedy that occurred at Oklahoma City. The House bill did not contain a citation.

The conference agreement amends the title of the bill to be compatible with the amended enacting clause and citation.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1995 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 budget estimates, and the House and Senate bills for 1995 follow:

Budget estimates of new (obligational) authority, fiscal year 1995	$6,432,382,195
House bill, fiscal year 1995	−11,745,362,239
Senate bill, fiscal year 1995	−8,511,234,450
Conference agreement, fiscal year 1995	−9,029,496,876
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1995	−15,461,879,071
House bill, fiscal year 1995	+2,715,865,363
Senate bill, fiscal year 1995	−518,262,426

BOB LIVINGSTON,
JOHN T. MYERS,
RALPH REGULA,
JERRY LEWIS,
JOHN EDWARD PORTER,
HAL ROGERS,
JOE SKEEN,
FRANK R. WOLF,
TOM DELAY,
BARBARA F. VUCANOVICH,
JIM LIGHTFOOT,
S. CALLAHAN,
RON PACKARD,
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
THAD COCHRAN,
ARLEN SPECTER,
PETE V. DOMENICI,
P. GRAMM,
C.S. BOND,
SLADE GORTON,
MITCH MCCONNELL,
CONNIE MACK,
CONRAD BURNS,
RICHARD SHELBY,
JIM JEFFORDS,
JUDD GREGG,
R.F. BENNETT,
ROBERT C. BYRD,
D.K. INOUYE,
E.F. HOLLINGS,
J. BENNETT JOHNSTON,
PATRICK J. LEAHY,
DALE BUMPERS,
BARBARA A. MIKULSKI,
HARRY REID,
BOB KERREY,
HERB KOHL,
PATTY MURRAY,
Managers on the Part of the Senate.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE CONGRESSIONAL RESOLUTION 67, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEARS 1996, 1997, 1998, 1999, 2000, 2001, AND 2002

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–125) on the resolution (H. Res. 149) providing for consideration of the concurrent resolution (H. Con. Res. 67) setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT AS MEMBERS OF THE BOARD OF VISITORS TO THE U.S. NAVAL ACADEMY

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 6968(a) of title 10, United States Code, the Chair announces the Speaker's appointment as members of the Board of Visitors to the U.S. Naval Academy the following Members of the House: Mr. SKEEN, of New Mexico; Mr. GILCHREST, of Maryland; Mr. HOYER, of Maryland; and Mr. MFUME, of Maryland.

There was no objection.

APPOINTMENT AS MEMBERS OF THE BOARD OF VISITORS TO THE U.S. MILITARY ACADEMY

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 4355(a) of title 10, United States Code, the Chair Announces the Speaker's appointment as members of the Board of Visitors to the U.S. Military Academy the following Members of the House: Mrs. KELLY of New York; Mr. TAYLOR, of North Carolina; Mr. HEFNER, of North Carolina; and Mr. LAUGHLIN, of Texas.

There was no objection.

APPOINTMENT OF MEMBERS TO THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 1505 of Public Law 99–498 (20 U.S.C. 4412), the Chair announces the Speaker's appointment to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development the following Members of the House: Mr. YOUNG of Alaska; and Mr. KILDEE of Michigan.

There was no objection.

APPOINTMENT AS MEMBERS OF THE BOARD OF TRUSTEES OF THE HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 5(b) of Public Law 93–642 (20 U.S.C. 2004(b)), the Chair announces the Speaker's appointment as members of the Board of Trustees of the Harry S. Truman Scholarship Foundation the following Members of the House: Mr. EMERSON of Missouri; and Mr. SKELTON of Missouri.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CLEAN WATER ACT AND THE GREAT LAKES INITIATIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I come to the well this evening to express my strong opposition to H.R. 961, the Clean Water Act amendments and why I urged its defeat. It steps back from the progress resulting from our Nation's commitment to clean water as a national treasure.

I represent a Great Lakes district along Lake Erie. Cumulatively, the Great Lakes contain 20 percent of all the fresh water on the face of the Earth. For those of us who remember when swimming or fishing in Lake Erie was hazardous to your health, the actions the House is taking to weaken Clean Water Act protections are backward-looking. I am astounded that anyone can fail to see the great progress we have made over the last 25 years to clean up our Nation's water. Today, after two decades, the job of cleaning up Lake Erie is one-half finished. Our progress is laudable, but the goal has not been achieved along our coast or on the Nation's other major waterways.

I can remember when the Cuyahoga River burned and when Lake Erie was declared dead. Some of our colleagues, Mr. Speaker, have apparently forgotten. We have made great strides toward renewing our water resources, but there is still a long way to go. In Ohio, 92 percent of our lakes and 60 percent of our rivers still cannot support fishing or swimming on a year-round basis. Some of our waters still cannot support aquatic life. Just last summer the city of Toledo found it necessary to pump fresh water into the Ottawa River just to restore some oxygen and flush out the polluted discharge from combined sewer overflows. The job of cleaning our waters is far from over. The task of cleaning up dozens of major toxic burial grounds leaching into our fresh water tributaries stands before us.

The aspect of H.R. 961 about which I am most concerned is the provision to make adherence to the standards of the Great Lakes initiative voluntary on the part of Great Lakes States. This initiative has been a model bipartisan effort to standardize water quality protections in the Great Lakes watershed. Over the last 6 years, Federal guidelines have been developed, which, under current law, the States have 2 years to implement. Under H.R. 961, adherence would be voluntary. States could choose which standards to implement or they could choose to unilaterally weaken certain standards.

This might possibly be an acceptable program for waters within a State's boundaries, but seven States and another country adjoin the Great Lakes. Allowing eight different sets of standards for these waters is irrational. As different States adopt differing water quality standards, their efforts may be defeated by a neighboring State's program. Voluntary compliance may even lead to a race to the bottom for water quality as each State offers weakened standards as an inducement to bring polluting industries into their State or to keep them there. Mexico's policy of competing for investment with lax environmental standards may find its counterpart in interstate or international economic rivalries on our northern border.

The Great Lakes comprise 95 percent of the fresh surface water in the United States. That is a resource too valuable to risk. Yet today we have restrictions on the consumption of fish from these waters because of mercury and PCB pollution. Lake St. Clair and the southern shore of Lake Erie were closed for the better part of the month of August last year because of fecal coliform contamination. The job is far from done in the Great Lakes. This is not the time to minimize our efforts.

Setting consistent water quality standards in the Great Lakes watershed is the only reasonable way to protect these waters. The only way to ensure consistent standards is through entities such as the Great Lakes initiative. It once was common to find fish with festering lesions and tumors coming out of Lake Erie. Today it is rare, but it still happens. There used to be a viable commercial fishing industry on the lakes. That industry rapidly diminished as warnings about eating Great Lakes fish increased. We can restore that industry if we continue to clean up the lakes. That won't happen if we can't assure consistent water quality standards for the Great Lakes Watershed. Let's not weaken the Great Lakes initiative.

The bill we have before us also takes other major steps backward. H.R. 961 allows for increases in toxin discharges into our waters, and it weakens public notification requirements when swimming or fishing is unsafe. It lets industry off the hook by weakening requirements for pretreatment of industrial toxins before they are discharged into municipal wastewater treatment systems.

H.R. 961 also dramatically undermines attention to wetland habitats—which play such an important role providing storage areas for flood waters and which naturally filter pollutants—by removing half of them from regulatory oversight. And the bill completely ignores the serious issue of nonpoint source pollution and how to reduce toxic runoff from farms, yards, streets, and parking lots.

Mr. Speaker, I would like to be able to vote for a clean water bill that aims at meeting the original goals of the Clean Water Act, to make all our Nation's waters fishable and swimmable. But I am not going to have that opportunity. H.R. 961 will actually reverse the progress we have made under current clean water law. This bill will expose our communities, our water-dependent industries, and our fishery resources to continued and increased degradation. I want to support legislation that strikes an appropriate balance between a healthy economy and healthy water.

UNLESS WE DO SOMETHING ABOUT IT, MEDICARE WILL BE BROKE BY 2002

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HORN] is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, as everyone in this Chamber knows, we have a crisis coming in America, and it is a crisis that needs the best solutions that we can find on a bipartisan basis, and that is the crisis that the trustees responsible for analyzing the hospital portion of the Medicare have recently noted. They said in their report the present financing schedule for the Medicare program is sufficient to ensure the payment of benefits only over the next 7 years.

Now this is not a group of Republicans or Libertarians or Independents trying to scare the people. These are three of the top Cabinet officers of the President of the United States, Robert Rubin, Secretary of the Treasury; Robert Reich, Secretary of Labor; Donna Shalala, Secretary of Health and Human Services. They concluded the Medicare fund is projected to be exhausted in 2001, just after the turn of the century. This is their April 3, 1995 report.

Now Medicare, as we know, in the projections from 1995 to 2002 has been predicted to grow at 10 percent per year, and Medicaid at 10.3. Note Social Security with COLA's is at 5.3, other entitlements at 4.1.

The reality is the trust fund for Medicare, unless we do something constructive about it, will be empty in 2002.

□ 1830

That is what the trustees, the agents of the President, have noted on page 13 of their 1995 report, House Document 104–56.

Unfortunately, the trustees identify the problem, but they have not given us the benefit of their wisdom, if any, on this subject, as to how we can avoid the disaster that is headed our way in 2002.

Now, the House Republicans have faced up to this matter. We have not heard a peep from the President, a peep from his three Cabinet officers, but the House Republicans have noted in 1995 the Medicare spending per recipient in the Republican budget will be $4,700. In 2002, it will be $6,300. It will go up just as Social Security is going up, at approximately 5 percent a year.

Now, a lot of nonsense has been uttered, some of it on this floor, designed to scare seniors. I happen to care very deeply about this program. Not only that I am in my sixties and understand what it means when you are without Medicare, but the fact that 30 years ago, in 1965, as assistant to the Republican whip of the Senate, Senator Kuchel of California, I was part of the drafting team that worked with the Johnson administration to get a bipartisan bill, Medicare, through the Senate.

We need to be sure in this Chamber that that hospital fund is sound. We need the administration to face up to this and provide some leadership, or at least give us some of their ideas. So far, as I said, the President's agents have stepped up to the plate, winced, and are back in the dugout. They should be asked, as we tried to do earlier today, to give us their recommendations. Unfortunately, they seem to lack the courage to recommend to the Congress appropriate courses of action. We on the Republican side would welcome that.

This is the type of thing that should not be partisan, and the President needs to assume some leadership and not just stay in the background, assuming that Republicans will trip over themselves or that those on the Democratic side that want to help us on a bipartisan basis will trip over themselves. We will not.

The fact is the people expect us to function in a sensible way to solve problems, and not just sit there, posturing politically, and hoping for the best in the next election. Those that do not step up to the plate, face up to this, they will not be around after the next election.

So I urge my colleagues who have had quite a bit of criticism in recent days on this subject, let us get down to work, roll up our shirt sleeves, and solve the problem. The Republican budget has an increase for Medicare spending per recipient as you can see, $4,700 in 1995, $6,300 in 2002. That is positive effort. We need more of it by more people in this Chamber.

EDUCATION ASSISTANCE VITAL FOR AMERICA

The SPEAKER pro tempore (Mr. CAMP). Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, today while we are all talking about the budget, I would like to talk some about growth, because the reality is that you do not cut your way out of this kind of deficit problem, $1.2 or $1.4 trillion worth of cuts, cutting every program 30 percent across the board. You certainly do not tax your way out of it. You are going to have to have a strong element of economic growth. My concern about this budget that will be on the floor today and tomorrow, the Republican budget out there for review, actually Wednesday and Thursday, is that what this budget does is it goes after growth.

Let me give you an example why. I hold here thousands of petition signatures of West Virginia college students and high school students, and I am willing to bet some parents, all who signed petitions circulated across our State in just the last couple of weeks urging Congress not to adopt the student loan cuts that are proposed in this budget. Whether it is West Virginia University, Shepherd College, Glenville, Fairmont State, University of Charleston, D&E, Davis and Elkins, you name it, 16 colleges and universities participate in this program, sending petitions under our own name, SAVE, Save America Via Education. They organized this effort themselves. They circulated the petitions, got up on Internet. The message is clear to Congress, thousands of people saying "Do not cut student loans."

Basically what is proposed to be cut is the Stafford Student Loan Program, the one that pays the interest while the student is in college and for 6 months thereafter.

Does it make much of a difference? It adds something like 20 to 50 percent to the lifetime cost of that loan. Many of these students somewhere along the road, and I visited many of the locations, said to me if that had been in effect I would not be able to be in college today; I would not be able to be in school today.

I have heard some say lightly, well, $21 a month, maybe that is all it is going to be. One CD, one music CD. Rubbish. For many people, $21 a month is a lot of money over a number of years. It is more in many cases, such as the nontraditional students, the mother who has put herself through a 4-year program, now getting an MBA, who said her daughter is now getting ready to enter undergraduate school, who told me how it would have been impossible at $21 more a month to have accomplished that.

Why is this so important? It is so important because, getting back to growth for a second, the opportunities created by a college education mean that our economy will grow at record levels. Those of you older than 40 or 50 remember the impact of the GI bill, when millions of veterans came home from the war and were able to get that education.

The Department of Labor estimates that everyone who finishes college on the average will have a 60-percent higher lifetime income than those that do not. This college education clearly is a ticket to success, not only for individuals, but also for our society.

There is also a problem with college classrooms. If you have less people able to attend college, and, incidentally, since 1979 the median income has gone up roughly 88 percent, I believe it is, while the tuition costs have gone up more than double that. So family income does not keep up with tuition income, which means these programs are more important. But there is also the very real fact that even those able to pay the full amount of tuition will find less students in school and therefore less classes available.

This is not a partisan issue. This is parents. It is teachers. It is students. It is anyone concerned about higher education. These thousands of students from across West Virginia have recognized clearly the impact this has.

Incidentally, it is not an interest loan deferral for all their lives; it is only for the time they are in school. they pay these loans back. But what the Federal Government does is to assist them in making sure they do not pay interest while they are actually in school.

So I would urge Members not to support this Republican proposal to cut student loans. While I am here, let me note I found of interest, it was just a month ago as I traveled the State when Republicans were asked about this. They said we have no intentions to do that. Today it is in the budget in a bigger way than I ever dreamed. I thought it was going to be $16 billion. It is 33 billion dollars' worth of cuts.

So to respond to those who signed these petitions, this battle is going to go on over the summer and fall, and we urge many more people to make their voices heard. If you want to talk about growth, growth in our children, growth in our society, growth in our economy, then we cannot be cutting the student loans. I would urge rejection of the budget for that reason alone.

HOUSE REPUBLICAN BUDGET PROPOSAL

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Missouri [Mr. CLAY] is recognized for 60 minutes as the designee of the minority leader.

Mr. CLAY. Mr. Speaker, I rise in strong opposition to the House Republican budget proposal.

There is a saying which goes "If you think education is hard, try ignorance." In today's budget-cutting frenzy, Republicans seem to be doing everything possible to establish ignorance as our national educational policy.

Recall that their assault on education started in the cafeteria, with their misguided, vicious attack on the School Lunch Program. With this latest volley, Republicans have now moved the battlelines into our Nation's classrooms, libraries, vocational training centers and, finally, to our college campuses.

The House Republican budget proposal would virtually obliterate the Federal role in education. It is a repudiation of this Nation's century-old bipartisan, national commitment to enhancing the educational opportunities of all of her citizens.

The House budget proposal is extremist and completely out of step with the views of the American people.

Moving into the classroom, Republicans would abolish or slash extremely popular and successful educational programs. Programs like Head Start, which they would reduce by $609 million in 1996, cutting off services to as many as 100,000 children a year.

The widely popular school-to-work initiatives that help the majority of high school graduates learn the technical skills they need to get good-paying jobs.

Republicans would eliminate across-the-board efforts in 47 States to improve reading and writing, to put computers into the classroom, and to improve academic standards through Goals 2000.

The budget proposal virtually eliminates the Safe-and-Drug-Free School Program—even though drug use is on the rise among schoolchildren.

Programs that target assistance to 700,000 at-risk, disadvantaged children would be abolished. Republican hostility to programs designed to lift disadvantaged children out of poverty through learning is completely at odds with our highest ideals, as well as decades of bipartisan congressional policy.

Having laid waste to the cafeterias and the classrooms, the Republicans move on. They would eliminate Federal support for public libraries—the main repositories of knowledge and wisdom in our society.

Their next target is higher education. Their proposed cuts in student aid are a dramatic departure from the national policy established by nearly every President and Congress since President Truman, the Republicans are endangering the American dream for millions of working-class families.

House Republicans recommend cutting student aid as one way to finance tax cuts for the rich. The elimination of the in-school interest subsidy will increase loan costs for close to 5 million students by as much as 20 to 50 percent. Total loan costs could rise as much as $5000 for each student borrower. Middle-class families are especially hit hard; the average family income of a student receiving the in-school interest subsidy is $35,000.

Just wait until middle-class families find out that Republicans want to make it harder for their kids to attend college. Just wait until they find out that Republicans are proposing a hidden multibillion-dollar tax on their kids—at the same time Republicans are cutting taxes for the rich.

Finally, the Republicans save their last attack for the Department of Education itself. Their proposal to eliminate the Department would leave the United States as one of the few industrialized countries in the world without a national department or ministry of education. The Republicans claim that their proposal is simply an attack on bureaucracy. It's much worse than that.

The elimination on the only national voice promoting educational excellence amounts to unilateral disarmament, leaving our children all too defenseless in a fiercely competitive world. We live in the information age; this is no time to cut back our commitment to quality education.

In one poll after another, a vast majority of the American people express overwhelming support for the Department of Education and a strong Federal role in education. In a Time/CNN poll just released this week, 77 percent of those polled oppose eliminating the Department. A Wall Street Journal poll from last January showed that 80 percent of Americans believe a Federal Department of Education is necessary.

There are ample reasons for this widespread public support. The Department is a positive force for education as well as equality. It provides one out of two college students with financial aid; it support local schools' efforts to strengthen the teaching of basic and advanced skills for 10 million disadvantaged students; and it provides information about what works in education to schools and communities in every State.

Mr. Speaker, this budget proposal is the most reprehensible and irresponsible assault on education by any political party in the history of this country. Republicans are sacrificing our children's future at the altar of tax cuts for the rich and privileged. If they are successful, ours will be the first generation in our lifetime to have intentionally left our children worse off.

This proposal is especially pathetic, coming the month we commemorate the sacrifices of a generation who fought 50 years ago to save our Nation from ignorance and destruction. Our generation should also reject ignorance. This Congress should reject the Republican budget proposal.

☐ 1845

Mr. Speaker, I yield to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentleman for yielding to me to join him in expression of absolute dismay at the results of the Republican deliberations with respect to the budget.

I understood when I came to the Congress this January that things would be different and that there would be a new Republican majority committed to the idea of balancing the budget by the year 2002. I understood that. I understood that we had to streamline government and perhaps sacrifice some of the programs in many of the areas of concern that the Congress has been involved in.

But never in my life did I dream that the Republicans would attack education as vigorously as they have in this budget resolution. I think the American people have been blind-sided about what this whole effort is about, thinking that simply being for a budget that is balanced, that somehow those things that they care about would be saved because the Republicans would share their same priorities and concerns.

I am here tonight to dispel the American public from such assumptions, because this budget resolution clearly and categorically expresses the new majority's intent to decimate Federal programs that have been put in place over the last 30 years.

I came to the Congress first in 1964, in an election which saw the election of Lyndon Johnson. And one of the wonderful things that we experienced in that first year was the final commitment of this Congress and this Nation because of the call by the American people that something had to be done about improving public education and making the idea of equal educational opportunity available to all of our children. So we enacted the Elementary and Secondary Education Act.

The premise of that legislation was to take the resources of the Federal Government and to make it available to the poor in our country, to the economically disadvantaged, to the people that lived in rural America, to those who were somehow unable to enjoy the fruits of this opportunity in America called public education.

That is what our commitment has been over the last 30 years, and we have improved it. We have expanded it. We have enlarged our commitment. And the reason for the ability of the Congress on a bipartisan basis to do this is that we shared the priority of this country in our children.

The new Republican majority comes here and says they pledge their commitment to families, to strengthen and embolden the families' opportunities for the future. What better way to do it than to strengthen our resolve as a nation that education will be our first priority, notwithstanding the cuts that have to come perhaps in other areas but to pronounce once and for all that, joined together with the Democrats, the Republicans will declare education cuts off limits.

That is what we are here tonight to plead with this House, that it embark upon deliberation of the budget resolution tomorrow, to reconsider this savage, unthinking reversal of 30 years of progress, of support for educational programs.

It has been devastating. Look at the list. I serve on the House Committee on the Budget. I was astounded when we were handed the budget resolution 30 minutes after we went into the committee to make these decisions. We sat there for 16 hours straight, until 2 a.m. in the morning, trying to argue logic and reason to the new majority, but they voted en bloc. I offered an amendment to restore the 26 billion dollars' worth of cuts and they rejected my efforts. I hope that the whole House will be different.

Let me just give you an example of some of the cuts that the Republicans are offering. Title I, which is the Elementary and Secondary Education Act that I spoke of that was enacted first in 1965, in an effort to try to balance educational opportunities all across the country, education is funded locally based upon real property taxes, and the communities that are having a difficult time, have large concentrations of poor people, people with low incomes cannot finance their local school education the same way that rich districts can. So we have this equalization going on between local school districts and the State.

But the Congress has laid over this whole pattern a simple edict; that is, educational opportunities must not be sacrificed. And so we enacted ESEA, title I. One of the major cuts that is being made to education is 663 million dollars' worth of cuts in this one area.

It is tragic. There are cuts in there for Head Start, which has been a very important program, which I thought had bipartisan support. Yet we see hundreds of millions of dollars cut from that program as well.

Safe and drug-free schools is being cut back over the 7-year period to the tune of about $3 billion. This is an important program. We understand that as each generation of children comes through our schools, that there are different kinds of problems, violence in the schools, drugs in the schools, and so this was the Congress' way of responding to it. We see cuts in bilingual education, cuts in the public libraries and, as the ranking member of our committee has noted, big cuts in the student financial aid program.

They will deny that these are cuts, but they are cuts. If they are funded as block grants, they will be cut. That is the pattern of the block grant phenomenon.

So I urge the people who may be listening to this program to contact the offices of their Congress people and put them on the spot so that they will be able to understand about the programs that they are interested in. I urge this House to pay careful attention to the debate that will start tomorrow and do not support this resolution if it contains the cuts in education as is currently outlined in the budget resolution.

I thank the gentleman for yielding to me.

Mr. CLAY. Mr. Speaker, I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding to me. I thank my ranking member, the gentleman from Missouri [Mr. CLAY] of the committee for taking this time.

I think we have reason to be deeply concerned about the cuts that are envisioned in the Republican budget that will be presented to the Congress tomorrow. And that is because it withdraws the historic level of support for education by the Federal Government of the efforts to better educate each generation of our children.

When I went to school, I was assured that the school that I attended and the programs that it offered would be sustained by an ongoing level of financial support that was steady and that could be counted upon. Today that is no longer true. But more importantly, just supplying money to education, the Federal Government has supplied leadership, and it has supplied leadership in trying to work on those programs that take young people as they graduate from high school, as they are in high school, and move them to the world of work. Yet that is being cut in this program.

What does that program mean? It means for some 70, 75 percent of young people who graduate from high school but do not plan to go on to higher education, that they will be able to transition, that they will be better able to take their place in the American economic system, a job that we do not do terribly well currently. Employers tell us that all of the time, that young people upon graduation are not fully prepared to transition from school to the American economic system. That means that they are less productive. That means that they are more expensive for employers, and we ought to make sure that that does not continue. The program designed to do that is in fact being cut.

Goals 2000, where we seek to obtain world-class standards of curriculum for the students of this country so that we can compete, so that our industries can compete, so that our students can compete on an international basis because every politician has gone home to his or her district and told these young students that they will not only be competing against their colleagues in school, against the people in their own city or their own State but they will be competing against the entire world, and if America is to succeed economically, it requires a highly educated, a highly trained work force that will be able to adapt to the work places of the future.

For that reason, we have got to have world class standards as children move through our education system so that they can take their place in that work force so they can provide the kind of economic dynamics that this nation needs to compete internationally.

Yet what we see, only a year or two in that program, programs started under President Bush, continued under President Clinton are now being cut and eliminated. That is not the way to the education future.

What is also rather startling in this budget proposal is that it continues an attack on children. In this instance, it continues an attack on almost every level of education being presented to children. In the Head Start Program, as my colleague from Hawaii pointed out, we see cuts where we know we have the ability to dramatically influence the future and the direction of that child's education program, those programs are being cut. We see programs at elementary and secondary education being cut.

And for those students who seek to go on to higher education, what do we learn in this budget? We learn that we are going to substantially increase the cost of that higher education, what for many young people and their families means either it is going to take much longer to get that education, the education is going to have to be stretched out, or they simply will not get as much of that education that they would have otherwise, when it was affordable.

Why are we doing that? We are doing that for the sole purpose, not of education policy. This is not driven by research. How can we have a better education system at the elementary and secondary level? This is not driven by research how we can have a better postsecondary education at the college level, at the technical school level. This is driven by the desire to provide tax cuts for the wealthiest people in this country in a disproportionate amount.

How do they secure the moneys to do that? They do that by cutting these programs. And the tragedy is, as these programs are cut from our elementary schools, from our middle schools, our junior high schools, our high schools, that most of these school districts, almost without exception anywhere in the country, whether they are urban or rural, whether they are suburban districts, will not have the ability and do not have the ability to make up for these cuts.

So what that means is, although the Federal dollars in total are not that great compared to what we spend in the Nation, they provide vital dollars that link together the educational efforts in our cities and in our rural areas. When those dollars are gone, there is very little opportunity, if any, in the district that I represent. Most of the schoolboards run an exact day-to-day operation trying to figure out how to pay for their programs, how to make the fiscal year work out and how to keep the quality of their programs up.

They are losing that battle. And now in the middle of that battle we hand them fewer resources to deal with that issue. What does that mean?

That means that children that would have had the opportunity of better trained teachers, of smaller class sizes, of better curriculums, of better technical materials and the availability of technology, computerization, and other programs will simply have that postponed or will go without. That means, in fact, that the education of the children of this Nation is going to suffer.

It need not be that way. If the Republicans would simply stop trying to provide these tax cuts to the wealthiest of their constituents and understand that we would be much better investing that money in the children of the future, in the students who are currently in school, to make them more productive, to make them more literal, to help them understand the fundamentals of reading and writing and computing and critical thinking and to put money into the training of their teachers, that is when we reap the bounty as a nation.

□ 1900

We do not reap the bounty as a nation by simply giving those who do not need a tax cut a tax cut for political purposes.

We ought to be very careful when this budget comes under consideration on the floor over the next 2 days in the House of Representatives. I would hope that the people that we would represent and those who serve on school boards and those who volunteer in the PTA and those who volunteer in the classrooms and those who teach our students would become engaged in this debate, because this debate is about more than money. This debate is about whether or not the Federal Government will continue to provide direction and provide technology and will provide expertise and will provide research and resources to better the education system in this country from what it is today for the next generation.

This is more than about money because it really is about the quality of that education. Because if we starve a system that is barely getting by in most localities today, if we withdraw these Federal dollars, quality is what will be compromised. It will come in the form of a larger class size, it will come in the form of the field trip postponed, it will come in the form of the computer not purchased, it will come in the form of the training for teachers that is postponed, but it will come in the form of reduced quality for our children.

Mr. Speaker, this generation owes the next generation more than that. We owe them better than what we are about to hand off in this budget.

There are many subjects and there are many concerns before us, with the cuts in Medicare, with the cuts in student loans, with the cuts in education, with the cuts in agricultural programs. But let us understand that when we lose the opportunity to educate the children of this Nation, very often that opportunity is lost forever. We ought not to be doing that. We certainly ought not to be doing that in the name of social progress or trying to kid the American people that they and their families and their children and their communities will be better off after these cuts in education are made because it simply is not so. It will not turn out to be so, and it diminishes the future and the horizons that these young people, who are capable of so much more than we are even asking of them today, it diminishes their futures and their horizons. They are entitled to more than that and they are entitled to better treatment than this Republican budget gives them that we will debate on the floor tomorrow.

I thank the gentleman for yielding and for taking this time.

Mr. CLAY. I thank the gentleman.

Mr. Speaker, I yield to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, I would like to thank the ranking member of the Committee on Economic and Educational Opportunities for setting up this special order so we can talk about the budget cuts that we will consider the next couple of days.

Mr. Speaker, I speak with a little different accent from some of my colleagues, but I learned in Texas, even though I live in an urban district, that you cannot eat your seed corn and expect to provide for your future and the Republican majority's budget is doing just that.

The budget is intended to move this country to a balanced budget and I agree, we should work toward that end and we started during my first 2 years here in Congress. However, I strongly disagree with the Republican majority's plans on how they go about balancing the budget. Education is one of the areas that a person can directly affect their income. In other words, education is our seed corn and this budget will eat that seed corn.

On the average, a college graduate earns just under $60,000 while a high school dropout earns just a little over $20,000 a year. Congress should not be deemphasizing education by cutting the Department of Education and by cutting the Department of Education or the education programs by billions of dollars. That is our seed corn in this country.

One program which will receive these cuts is the title I funding which is due to be cut which would not allow 700,000 disadvantaged youth to take part in extended classroom time. Title I education funds in Texas alone would be cut $66 million. That is our seed corn for these children.

The Republican majority claims to believe in the war on drugs while at the same time cutting the funding for the safe and drug-free schools, in Texas alone, $29 million.

Another area which the Republican majority claims they support is self-improvement. We all want to expand our horizons, yes, but in the Republican majority budget proposal, Perkins student loans are cut by $1.1 billion, for someone who wants to improve themselves, $1.1 billion in cuts.

Perkins loans provide low-interest loans to the 700,000 students who cannot afford to pay tuition while they attend schools, and we are talking about a loan.

If the Republican budget passes, we will be eating our seed corn.

One fact the Republican majority failed to take into account is that one out of every two college students today receives some type of Federal assistance to go to college. Not all students are headed for college but the Republican majority cuts programs such as bilingual education in our elementary and secondary education program and even adult literacy which moves the adult person through the process who may not be going on to college.

Congress should help all Americans to reach the highest point in education, not just to benefit that person because of their effort on building their self-esteem but for very selfish reasons, because a high school dropout earns a little over $20,000 but a college graduate earns just under $60,000. They bring additional tax revenue to our country to pay for the future. Again, our seed corn.

Congress can ensure revenues by maintaining an educational system that is the envy of the world because we educate everyone. We try to provide the education for everyone. Let's provide our Nation's future and provide education funding for everyone. Let's don't eat our seed corn.

Again, I thank the chairman, or the ranking member for that time. Hopefully after the 1996 elections, you will be chairman.

Mr. CLAY. I thank the gentleman.

Mr. Speaker, I yield to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I would like to also thank the ranking member of the Education Committee, the gentleman from Missouri, for putting together this special order and making it possible for some of us to express our concerns about this budget proposal that we see coming out of the new Republican majority.

Let me focus first if I may for a few moments on some of the greater picture here that we have to deal with.

First, we heard for several months that in this whole attempt to balance the budget and pass a balancing budget amendment, that no one would touch Social Security. Well, now we know that that was not true, because in the Republican budget proposal, there will be a cut of $24 billion between 1999 and the year 2002 that will cost the average Social Security recipient about $240 in the year 2002.

We were told that all this was necessary and we had to go about this because it was necessary to balance our books. Yet we now know that the Republican majority wishes to have a $353 billion tax cut which goes mostly to wealthy people. The greatest amount will go to those who earn incomes above $100,000 and principally those earning over $200,000. You could expect to get back about $20,000 if you are wealthy. If you are middle income, well, you get about 1/40 of what that wealthy person would get. Yet somehow we have to pay for that $353 billion tax cut.

How? We see it now in terms of education. About $20 billion now will be footed by new families that have kids that want to go to college because now when it comes to going to college, when it comes to getting that student loan, those students will be paying more money. It is a $20 billion tax cut for families with kids going on to college to pay for tax cuts mostly to wealthy people. What does that mean?

If you are in college right now and you take out a loan after this budget should pass, get ready to pay more for the interest because you would have to start paying interest the day you take out your loan, not 6 months after you graduate. The way it is done now, we subsidize it at the Federal level so that we do not somehow encumber a student's ability to go to school by saying, "You now have to start paying interest on that loan you have taken out. Get that education first, then you can do it." That is gone.

We are also going to charge our schools, our public schools, K through 12, moneys because we are going to cut off all sorts of programs including innovative programs that make it possible for us to reform the way we teach and provide innovative programs.

In Los Angeles, there is a program called LAMP, L.A. Metropolitan Project, which is a public-private partnership. We are getting $50 million in Los Angeles from the Annenberg Fund, a foundation which is giving $50 million for the L.A. Unified School District to come up with innovative ways to reform itself. It is a very large district. We are now seeking private dollars from the private sector to help match the $50 million grant and we are going to try to do what we can to get the local governments and the State and Federal governments to come in as well. But here in the cuts that are occurring to programs like Goals 2000 which we passed last year which is for the purpose of reforming and innovating, we cannot do it anymore because that money is gone.

Perhaps most curious of all that we are seeing being done with the budget is that while we are cutting education, cutting student loan grants and moneys for people to go on to college, cutting back for people for Medicare to the tune of $280 billion, while we are increasing the cost for Social Security recipients, we are increasing spending on defense.

This is a department that obviously we need to provide moneys for because we want to have national defense. But I do recall at some point that we did have $500 toilet seats coming from the Department of Defense. I do recall the millions of cost overruns that we saw in the Department of Defense. Yet no cuts. In fact, a $69 billion increase over the next 5 years. That does not seem to me to be a fair way to allocate the heavy cuts. If we are going to cut programs like education 30 percent, or in some cases 100 percent, why are we not doing a thing to touch the Department of Defense, the largest single program outside of Social Security?

Yet, we are going to touch Social Security, Medicare, our kids in school, our kids who wish to go to college. It makes no sense whatsoever.

When I take a look at the cuts that are occurring and I say to myself, why is it that we made so much of an effort at the Federal level to try to help our schools reform, when we know that the Federal Government helps schools to the tune of about 6 percent of all that is spent in our schools nationwide. Most of the money comes from the local school districts and the State governments. The Federal Government quite honestly has a very small role relative to the States. But 6 percent can still be quite a bit. Two percent of our Federal budget outlays go for education, just 2 percent. That 2 percent when you think about the gross domestic product, the entire productive capacity of the Nation per year is less than .5 percent of our GDP, goes to education. That is our commitment right now at the Federal level.

We are now being told that we should cut it out, if not entirely, by a dramatic and drastic amount. It makes no sense, because we would not have some of those gifted and talented student programs that we have now in schools, some of the bilingual education programs, the programs for the kids of Army personnel who are increasing the cost of those local school districts to run their schools, we would not have some of that support because those are programs that the States and local governments did not have. That is why the Federal Government is so important.

Why do we see this happening now? Mostly because we have to pay for tax cuts, $353 billion worth of tax cuts. You can lump all the cuts to education, all the cuts to higher education to colleges, you can lump that together with all the cuts to Medicare and add the cuts to Social Security and you still don't pay for the tax cut that goes mostly to wealthy people. A scary proposition we are hearing but that is the way it is.

I must say, Mr. Speaker, and to the gentleman from Missouri [Mr. CLAY], the ranking member who has made available this time, that that is not the way this country wished to go, whether it was in the election of 1994 or in previous years or today. I think if the people of America knew the truth, they would say this is not the way you balance a budget. You don't cut off the head to try to save the body. You try to make sure that you reform and you do it in a very rational way. This is not rational in any sense of the word. Reason has been thrown out the door.

I hope that what we do, I say to the gentleman from Missouri [Mr. CLAY] and the rest of the Members who are standing up here, is to somehow bring some sanity back to the debate.

I thank the gentleman for the time.

Mr. CLAY. Mr. Speaker, I yield to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I would like to associate myself with the remarks of all of the previous speakers who have covered the subject very well, and they, like myself, are shocked, outraged and I think all the American people should be shocked and outraged by the proposal in the Republican majority's budget for the liquidation, the elimination of the Department of Education, the eradication, total, of the Department of Education.

In 1995, in a year when we are facing tremendous global competition, we are proposing to do what no other industrialized, civilized nation has proposed to do and that is eliminate any kind of central guidance or central influence on education. Among industrialized nations, we are unique in terms of our lack of control at the top of education. We do not have a centralized control of education. We do not have a federalized system of education. The Federal Government plays a very minor role on the periphery, sort of, of education.

□ 1915

In Japan, the education ministry is centralized, runs education in all parts of Japan from the cradle to the grave. In France, a very highly centralized education ministry, Germany, Great Britain has begun to decentralize and try to do a little more of what we do in terms of giving more control over education to local boards and local areas.

We go to the other extreme. We have too little influence and too little participation in education. We have so little that, as you heard from the previous speaker, the Federal Government is only paying 6 percent of the total bill. At one point we were responsible for about 8 percent of the total spent on education in this country and now the Federal Government is paying only about 6 percent of the total education bill; that is State government, low already, and local government which pays for most of our education.

That is too little. That is extreme. We are proud, and I think we should always continue the tradition of local control of education, but local control would not be threatened if we move from the present 6 percent expenditure up to as much as 25 percent. If we were providing 25 percent of the resources for education and we would have a concomitant amount of influence, that means we still are only influencing the decisionmaking to the tune of 25 percent. Local control and State control would still be in charge of 75 percent of the decisionmaking. So it would not be an extreme. I think it would be a happy medium, happy medium between the two extremes. Some countries have gone to one extreme, too much centralization. We have too little, and now we are facing a proposal of totally eliminating the Federal Government. Our participation at this point is very important because despite the fact that we provide so little of the funding, the central direction and the guidance that has come from the Department of Education through the title I programs has been very important. The States, although they get very small proportions of the overall budget, they are quick to obey the rules and they are quick to follow the rules of the Federal Government in order to be able to qualify for those funds. And they are also influenced very much in the process toward the improvement of their education system.

We have had a history recently starting with Ronald Reagan when he appointed a commission to produce the report called "A Nation At Risk." The Federal Government began to realize that we are at a disadvantage in this very highly complex society. With all of the global competition that we have we were at a disadvantage with so little Federal participation.

So the movement toward increasing the Federal influence started with Ronald Reagan, "A Nation At Risk," and then George Bush came with America 2000. Of course President Clinton followed through with Goals 2000, which is really an adaptation of America 2000 still based on the six goals that were arrived at at the Governors' Conference which was convened by President Bush. We were moving in the right direction, and now we have a budget process that was set in motion with the majority Budget Committee that is like, you know, barbarians burning down the temple of our civilization, the American civilization. The pillars of the temple of the American civilization rest on an educated population, and to destroy the guidance and destroy the participation of the Federal Government in the process of education is a reckless and stupid act. It is a dangerous act.

We should be outraged. We should be not only shocked, but we should resolve that we will not let this happen in America.

The majority budget is not the only budget on the floor, however. We will have other considerations.

We have shown that we can meet some of the objectives that have been set out by the majority. They have insisted that the budget be balanced by the year 2002. We do not agree with that. And we do not think you have to be so hasty. We do not think you have to put America in a pressure cooker and force the issue of balancing the budget to the tune of billions of dollars being cut over a short period of time. We do not think Medicare should be cut. We do not think Medicaid should be drastically cut, and most people are not even talking about the drastic cuts that are being made for Medicaid, which is serving the poorest people in the country. We do not think all of that has to happen.

We offer an alternative. The Congressional Black Caucus alternative budget will be on the floor on Thursday, and it offers an alternative. We balance the budget by the year 2002. We meet that challenge, but we increase the budget for education. This budget boldly sets forth investments in the activities which keep our Nation prosperous at home and competitive in the global arena. Without hesitation, we have declared that education must be the Nation's No. 1 priority in 1995 and for the next 7 years. Though the amounts we have proposed are still not adequate, our budget alone has proposed substantial increases for education and other Function 500 activities like job training which is related to education. We have proposed to invest more than $27 billion over the 7-year period increasing the budget of education by 25 percent. We are going to increase the budget by 25 percent, and most important of all, we have rejected any notion that the Department of Education should be drastically and dangerously downsized and completely liquidated. This budget does that and it is balanced.

How is it balanced? Because if you set forth priorities, and you determine what we should spend money on, and you move forward to spend the money on those priorities, then you can get the money you need for that function by cutting other places where there is waste. So we have about 500 billion dollars' worth of cuts in existing programs. We cut the F-22 fighter plane, which is manufactured in Speaker GINGRICH's district, we cut that out completely. That saves $12 billion. We cut the *Seawolf* submarine; we do not need another *Seawolf* submarine. We make those cuts, and we also have almost $600 billion in the closing of corporate tax loopholes, and in the elimination of corporate welfare.

The American people do not know, the American people really would be shocked if they took a look at a chart which I have which shows that from 1943 to the present the share of the tax burden which is borne by corporations has gone from 39 percent to 11 percent in 1995.

At one point the share of the tax burden which is borne by corporations went as low as 9 percent, in 1990. So, from 39 percent of the tax burden it is now down to 11 percent. At the same time, the share of the burden has gone from 19 percent for individuals and families up to 44 percent. We presently have a situation where families are paying 44 percent of the tax burden while corporations are paying only 11 percent.

So one way we were able to maintain Medicare and Medicaid at the same level and also increase the budget for education was to close the corporate tax loopholes and to end corporate welfare, and by doing that we are able to get the money to go forward the priorities that America ought to be setting in the year 1995.

In the year 1995 we ought to be able to look forward to a nation which is a learning society, which is very much dependent on a highly educated population, not only in order to make our industries more competitive but in order to make our society more civil and our society more orderly.

Let me just close by indicating some of the individual items that the Congressional Black Caucus budget is able to fund in the area of education. We increase the funding for higher education title III assistance to historically black colleges by 20 percent. We increase the Federal TRIO programs for disadvantaged students by 12.5 percent. We increase funding for title I to $9.65 billion over 7 years. That amount would serve the total 100 percent of poor youngsters who are eligible for title I. We increase the funding for the education infrastructure, and that is an amount of money proposed by Senator CAROL MOSELEY-BRAUN of $600 million to help repair schools and new construction is some areas where safe schools are needed.

We provide an appropriation for family learning centers and libraries which has been authorized in legislation, but not funded. This would give ordinary citizens access to the information highway. Whether you can own a computer or not, your public library would be able to give you access to the information superhighway.

We increase funding for individuals with disabilities by up to 18 percent of the total cost. We increase funding for Head Start over the 7-year period, the budget cycle, we increase funding for Head Start to the point where every youngster who is eligible for Head Start would be able to get a place in the Head Start program, up to $8 billion is the total.

So we have compiled, we have provided a bold budget, but at the same time we have also laid out, made decisions about what the priorities should be, and the No. 1 priority is education.

Mr. CLAY. Mr. Speaker, in closing, first of all let me thank those who participated in this special order to bring about a fuller understanding for this Nation as to what these budget cuts will mean in the field of education.

This is not just a question of balancing our budget. This is an all-out war on knowledge that we are witnessing. It is comprehensive and it will affect education from preschool through graduate school. It is consistent with an overall plan to benefit the rich at the expense of the poor and the middle class.

The proposal that is being advanced is extreme, it is shortsighted, and it puts an end to the long-term tradition of bipartisan support for education.

The new leadership of this House did not attempt to sit down with the minority and effectuate a kind of program that would still preserve the most important features of education in this Nation.

In addition to the budget, the 1995 rescissions of the majority, if they become law, would eliminate funding for safe and drug-free schools, would eliminate Goals 2000, would eliminate funding to promote parent involvement in school improvement, would significantly reduce financial aid for deserving college students, and would eliminate a total of over $1.6 billion for fiscal year 1995 education funding.

If it passes, it will be a disaster, Mr. Speaker, for hundreds of thousands of students who want to and are qualified to and should be able to go to college. It will be a disaster, Mr. Speaker, for those who want to be in Head Start but will not be able to join. It will be a disaster for our school lunch programs where thousands and thousands and tens of thousands of our students will go to school hungry, will come home hungry because they cannot afford to pay for a lunch, and this Government has a responsibility, indeed an obligation, to be a party to addressing some of these major problems.

Mr. MARTINEZ. Mr. Speaker, after more than 12 years, I have ceased to be amazed at the shortsighted and inconsistent arguments made to position or posture ourselves in order to avoid the repercussions of doing the wrong thing.

On one hand, we are told that America needs a renewal of its basic values.

Well, one of the values instilled in children for as long as I can remember is the benefit of a good education—most of us know from personal experience, or the experience of friends and neighbors, that prior generations—usually from the middle- and low-income families, have always preached that the way to succeed is with a good education.

I guess this was a mistake—apparently education is only for the rich—because the way that some are treating college education opportunities, only the daughters and sons of the rich have any opportunity to attend college—and I mean the really rich.

My kids have done well in their careers and are now just beginning to send their children off to college—and finding that a year of college now costs as much as some homes—$25,000 just for tuition.

My kids were able to earn their tuition through summer jobs and part-time work at the local fast food restaurant—but not any more.

Now you have to have a graduate degree to be able to afford undergraduate tuition.

And the people in charge will now—with their slash and burn budget—only make it more and more difficult for the middle class to ever achieve what their parents found to be the normal possibility of a college education.

What has this country come to?

Twelve years of past policies supporting failed financial institutions and failed military hardware systems and failed trickle-down economic theories has led us from the wealthiest nation in the world to become potentially one of the poorest—with no prospect for recovery unless we stop some of the crazy changes that are taking place.

So, are we going to finally get our fiscal house in order? Balance the budget? Without touching Social Security? And without cutting a dime from defense spending?

Sound familiar?

It should. It is the 1982 Economic Reform Act of 1995.

A massive tax cut for our wealthiest campaign contributors paid for by eliminating the one tax break for the poor working stiff that even George Bush thought was a fantastic idea.

To sacrifice the earned income tax credit—the only possible reason the father of two could even consider taking a job at minimum wage rather than going on welfare—is absolutely ludicrous.

As my friend from Ohio keeps saying—beam me up.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentleman from Missouri?

There was no objection.

THE BUDGET AND THE CONTRACT WITH AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. CUNNINGHAM] is recognized for 60 minutes as the designee of the majority leader.

Mr. CUNNINGHAM. Mr. Speaker, I should be at a dinner tonight, but I thought it more important to set the record straight. First of all I heard tonight that Social Security was going to be touched. Social Security is not touched. Neither in the budget nor in the appropriation or the reconciliation package.

We have heard the rhetoric about the contract and how bad it was. But yet, the American people have embraced the Contract With America. And I have also heard tonight that the tax cuts are only for the wealthy.

Let me state the only way that we can beat rhetoric and/or basic lies is with facts, and I would like to present some of those facts, Mr. Speaker. And I will let you decide what is the truth and what is not.

In our package we gave the family tax credit for each child of $500. Is that for the rich? We have families from all walks of life with children. And the basic argument is do you want those dollars to go to the American people or do you want those dollars to be spent by the Government?

I would also ask you if an IRA for $2,000, that each family can save for their future, tax free, is for the rich? No, it is not.

I would also ask you in our contract we provide an IRA for a spouse, either a mother or a father at home who was not even working. You would be able to set aside $4,000 each year for a child. You can provide for a lot of education after 17 or 18 years on an interest-free loan.

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In our contract, we did away with the marriage penalty, to encourage families to come together, that if you filed jointly, that you have a tax incentive. We encourage that. For too many years we have penalized for people becoming families and filing that way.

In the Clinton tax-and-spend package in the early 1990's, he increased the Social Security tax on senior citizens. We have done away with that Social Security tax.

Capital gains reduction, Jack Kemp in the Wall Street Journal and the Union Tribune talks about retirement accounts, and that each American, whether you have a car or sell a home or what, that is real income and that is called capital gains. We took the fees and the items in which someone retires, $60,000 to $750,000, and everything that you own that you can pass on to your children, and yet the Clinton Democrats wanted to take that from 600 to 200,000 and then tax you at a very high rate. That is a redistribution of the wealth, Mr. Speaker.

The leadership's reply, the liberal leadership's reply, is an attempt to ignite an ugly class warfare system, and I repeat the facts, a $500 child break an IRA in which you can save for the future tax free, an IRA for a spouse at home tax free, savings, marriage penalty, reduction of Social Security tax. Those are not taxes for the rich.

Seventy-eight percent of the Contract With America's tax package goes to those that earn $75,000 or less. That is not the rich, Mr. Speaker.

Mr. Speaker, only 33 House Republicans voted for the George Bush tax increase. Not a single Republican, voted for the Clinton tax-and-spend package. As a matter of fact, it was so bad that they had to twist arms for 45 minutes and pass it by one vote when they were in the majority, and we only had 218 Members.

I look at what they have left us. Look at where each child today will owe $187,000 in tax liability. That is not a future that I want to leave to my children. We used to build a farm and pass it on to our children. Today, we are selling that farm and giving our children a mortgage.

I look at what the President said when he was going to have a $500 billion deficit reduction package. It was rhetoric. If you read in the recent Wall Street Journal, there was none, and President Clinton and the promise that he would reduce the deficit each year, in the budget that he just gave us before Congress, that budget increases the deficit by $300 billion a year. That is wrong, and that is for each of the next 5 years.

We take a look at the status of this country, Medicare is starting to go bankrupt this year. His own trustees' report of the Medicare account, Alice Rivlin, special adviser in the budget to the President, has started that Medicare will go bankrupt, and yet the other side of the aisle and the President are not engaging that issue, because there is a 1996 election.

The American people, Mr. Speaker, expect leadership. They want the President to take on and save Medicare. They want him to balance the budget, and they want welfare reform. But yet because of the 1996 election, there is no leadership. America is looking for that leadership, Mr. Speaker.

Look at each child born in 1995 again; $187,000? Do you want to leave that? We are spending nearly $1 billion a day on just the interest of the debt. What could we do in this country with $365 billion a year? Think about the other side of the aisle when they said we are hurting children. We can do a lot in education and law enforcement and the real things that we need to do with $365 billion a year. That again is just the interest, just the interest, and that interest is not going into U.S. banks, Mr. Speaker. It is going into foreign countries that hold those notes and receive American interest. That is wrong Mr. Speaker.

I look in just a few years ago, take a person that earns $20,000 a year. Let us say during the year they intend $25,000, and they have only made $20,000. Well, if they do not pay off the $5,000, they will have to pay the interest on that $5,000, and if they do not pay it the following year and they also increase sending to maybe $30,000 or $35,000 or $40,000, then they have to pay the interest on that. In just a few short years, they will owe $100,000, and they only make $25,000. That is the status of our Government, and that is the status quo of the liberal leadership and class warfare, and that is why our contract and the tax package is important, Mr. Speaker.

They talk about cruelty to education. Today because of the Federal Washington Bureaucracy, we only get 23 cents out of every dollar into the classroom. We had the superintendent of schools for DC schools clamoring because he has got 40-year-old classrooms. They want fiber-optics. They want computers in the classrooms. But where are the dollars going? What is cruel is this organization, this bureaucracy, is eating up all of the dollars. We want to block grant it and focus the money down to where we need it in the classroom. We need fiber-optics in classrooms. We need those televisions. But they are going to the Washington bureaucrats.

Mr. Speaker, the American people told me first when I was elected reduce Government spending. In 93 days we reduced spending by $277 billion. They said give the taxes back, and again, only 33 Republicans voted for the George Bush package; zero voted for Clinton's tax package. But yet we gave $189 billion back to the American people instead of letting the Government have it and keep it. We think the people can spend it better than the Government and less wasteful.

And at the same time, the third thing, Mr. Speaker, they said to do, was we want to reduce the deficit. We reduced the deficit by $91 billion, and that was only in 93 days. It is our Contract With America that the figure that we will arrive at in 2002 is a zero budget, balanced budget, and that is important.

The fourth thing they asked us to do, Mr. Speaker, is work together. I have heard the President and AL GORE and Panetta and even Members on the other side of the aisle say this was a mean contract. It was ill-spirited. If you look again, the only way to defeat rhetoric is with actual facts. I would like to submit for the RECORD the actual votes day by day, day by day on every item in the contract. The average vote on each item was 300 votes, Mr. Speaker, the most bipartisan Congress in the history of over 200 years of Congress. Let me read just a couple: Balanced budget, January 26, passed 300 to 132 votes, 72 Democrats; unfunded mandates passed 360 to 74, 130 Democrats voted with us; line-item veto passed 294 to 134, 74 Democrats; victims restitution, 201 Democrats voted with us; criminal alien deportation, 163; regulatory reform and relief, 186 Democrats voted with the contract.

And here is an item; I will read just those few. I would like to submit it, Mr. Speaker, for the RECORD, the most bipartisan Congress in over 200 years, and that is important, I think, to the American people. Mr. Speaker, I would like to also submit for the RECORD, I have an article here written by former Member, former Secretary of HUD, Jack Kemp, and the ex-Secretary wrote,

> More than 100 million Americans are investing often through mutual funds and pension and retirement accounts. Every time you hear the phrase "institutional investor" on the news, think of the pension fund of the Detroit or Buffalo auto worker of the retirement account of an older couple in Florida and a member of the American Association of Retired Persons, or the Fidelity Mutual Fund holding a young Californian in entrepreneur savings, managing the hopes and dreams and savings of pensions of America's huge middle class.

It is entitled "Capital Gains Fable and Fact." It goes through step by step, and Alan Greenspan in his testimony stated that capital gains would be one of the most significant indicators and founders of jobs in this country, and that is important.

Mr. Speaker, I include the article for the RECORD at this point.

CAPITAL GAINS FABLE AND FACT

(By Jack Kemp)

Forget the rich for a moment (I'll return to them later), a capital gains tax cut is the best thing Congress could do right now to help the middle class, the poor, and indeed, our nation's economy. Let's examine the ways:

The Financial Markets aren't a "playground of the rich." In the last 20 to 25 years the financial markets have become strong middle-class institutions. Well more than 100 million Americans are invested, most often through mutual funds and pension and retirement accounts. Every time you hear the phrase "institutional investor" on the news, think of the pension fund of a Detroit or Buffalo autoworker, the retirement account of an older couple in Florida and a member of the American Association of Retired Persons or the Fidelity mutual fund holding of a young California entrepreneur.

These "institutional investors" that so dominate the markets these days are managing the hopes, dreams, savings and pensions of America's huge middle class. They may not be directly subject to capital gains taxes, but the value of their assets is determined by the health of the markets. A cut in capital gains taxes would be a boon for our financial markets and for the middle class institutional funds, not to mention for the family or retiree cashing in a retirement account to purchase a home, pay for college or for family retirement needs.

Jobs. We live, as we are so often told, in a competitive world economy. American workers can only compete with low-wage foreign workers by being more productive, making it beneficial for employers to hire them, even at a higher wage. As any economist will tell you, the most important element in increasing worker productivity is capital investment (economists call it the capital-to-labor ratio). It was America's huge investment in new plant and equipment—and particularly new technologies—during the 1980s that gave American workers the productivity edge still held over both Asian and European workers. Yes, American workers are today the most productive in the world, but the world keeps changing, and our international competitors, particularly in East Asia, have zero or very low capital gains taxes. A capital gains tax cut would enable huge new investments in American capital formation and ensure the productivity edge of the American work force for decades to come.

Jobs. Through the 1980s, the American economy added almost 20 million net new jobs (since the tax increases of the early 1990s that rate has slowed significantly). Almost all that job increase came from small and medium-size companies. In other words, the Fortune 500 haven't added one net new job to the economy in the last 15 years. Often these small, growing employers were start-ups, perhaps a new high tech operation in Silicon Valley, but even more likely a

"Mom and Pop" operation providing a service to a local or regional market. Where did these new, small companies get the capital to open? Not from bank loans, but, often, from the realization of capital gains—by selling a house, or a previous small business, or mutual fund shares, and reinvesting it. Reinvesting, I would say in America's economic future.

Jobs. You only create new jobs in a growing economy, and perhaps the most vital elements to growth, the kind of quantum growth America saw in the 1980s, is entrepreneurial enterprise and development of technologies in the productive economy. Unless you believe government invents and applies technology better than the private sector (if you do, I suggest a trip to the former Soviet Union), what sense does it make for governments to be confiscating as much as 30 percent to 40 percent of an entrepreneur's capital, which he or she could otherwise reinvest in a business? (That's the 28 percent federal level plus the high local capital gains tax in states such as New York and California. If you count you inflation, as we must, capital gains taxes can often exceed 100 percent of net profits.) How many businesses have not been started, or have foundered, because they couldn't clear that capital gains hurdle? How many jobs have not been created?

Better jobs. According to the Herman Cain of the National Restaurant Association, 60 percent of all restaurant owners and managers today started as entry-level waiters and "hamburger flippers." At some point, they needed capital to invest in that new restaurant, or to buy that new franchise. Upward mobility is what America is all about, and the ability to access and accumulate capital—an ability undermined by the capital gains tax—is the stairway by which people move up.

This brings us to beyond the issue of the middle class and to the concerns of the low-income people of our nation. Everything said about jobs here goes more than double for them. To escape the trap of poverty, the poor need many things—better education and a resurrection of family structures among them. But essential to the mix are jobs, lots of well-paying jobs in a growing economy that provides opportunity up and down the scale, particularly in urban America, for minority men and women to get access to capital and entrepreneurial opportunity.

A dramatic capital gains tax cut has now passed the House and will come before the Senate, and the rhetoric of class warfare has never been so heated. But what may appear as good politics for the "soak the rich" crowd, is bad economics for America. As a nation, we must reject the notion of a divided America, with mutually antagonistic classes in a zero-sum game, and see our nation as a whole, rising together and leaving no one behind. Will a capital gains tax cut be good for the rich. Of course. But a capital gains cut is even more important for the middle class and for the poor. To the U.S. Senate, I say: Put aside the rhetoric of class warfare, pass the capital gains tax cut now, and give all of America a well-deserved boost. Soon after, we can look forward to a debate about a real flat, fair and simple postcard tax system for our nation as we prepare to enter the exciting world of the 21st century.

I also heard the rhetoric that we will be taking away the money from education. Mr. Speaker, when I went through college, I grew up in a little town of 2,113 people back in Shelbina, MO. We went to the Shelbina Bank. It was not a big bank, and my parents cosigned a loan for me to go to college, and they both worked, Mr. Speaker. We paid back, my parents paid back most of it so I could go to school. You know something, the Government did not pay the interest on that. It was a loan between the bank and myself so that I could go to college. I had to work. I had to work in restaurants, and my parents both worked to pay it off.

Today, the Government subsidizes the students' interest while they are going to school, either 1, 2, 3, 4, or however many years. They pay that interest; they did not mind, but they are doing it now. What we are asking students to do is we will provide a loan for a student who qualifies to go to college. That interest, you do not have to pay it while you are a student. But when you get a job, you will pay off that loan. The most that it will cost is about a buck, the size, the price, of a Big Gulp amount at 7-Eleven. All of those 1 dollars per day extra that a person would have to save and spend amounts to $12.5 billion, Mr. Speaker, $12.5 billion, and all we are asking the student to do is take the responsibility, a world that you do not hear much around this place, and pay off their loan.

Let us look at a case, very high borrowing, 9-year graduate student, worst case, student with 9 years of graduation, that borrowed a maximum amount of loan for all 4 years of undergraduate enrollment. The above loan shows that there is a savings to the Government of $16,015. That will be about $194 extra per month that that student will pay. That is at a rate of 2 percent.

Alan Greenspan has also said that if we balance the budget, interest rates will go down as low as 2 to 4 percent. Now, take 2 percent on a home, take 2 percent on a farm, I think, and I cannot remember the exact figures. I have got it in my notes. But a $75,000 mortgage, I believe, at an 8½ percent over a 30-year period, you will save about $56,000 with a 2-percent reduction, and Alan Greenspan said it could be even more. $56,000 will go a long way to pay for college students, for a house, for a car, and whatever.

And so the myth about that we are destroying college loans is just not true, Mr. Speaker.

We spent in this Government over the last 7 years $9.5 trillion. In balancing the budget, the Republicans are going to spend $11.5 trillion. Let me repeat that, 9.5 to 11.5, but what we are going to do is reduce the rate of growth of Federal spending, because if we do not, Mr. Speaker, America will become a second-class economic country.

The soundness of the dollar abroad will keep going down. Medicare will fail. We will not balance the budget. It will go out of control, and welfare reform and all the other reforms that we have put together will go down the tubes.

The coming debate is not just about the budget. It is about the American future, Mr. Speaker. It is about doing the right thing. It is about an opportunity to create the potential for prosperity, for safety, for a better life for virtually every American. It will take hard, systematic work, and real change. But it can be done, and it will improve the lives of our children, of our senior citizens, and every American.

What does it mean? People say, well, that is just rhetoric. How do you do the right thing? Mr. Speaker, let me go through what those items are. First, you have got to be truly compassionate by replacing the welfare state with an opportunity society. The Republican Governors came to us and said there are 366 welfare programs. They all have people that work in them. They all have facilities that have to be paid for. They all have overhead. They have rules and they have regulations. Different people qualify for those welfare programs. They are all so intermeshed that none of us, the Governors told us, we cannot track on who is getting what, and in many cases people are qualifying and receiving and abusing the system. So they asked us to block grant it. Let them use the programs individual to their State.

Look at what Governor Weld has done. Look at what Christie Frittman has done. Look at what in Wisconsin they have done with Tommy Thompson. Those are successes, Mr. Speaker, and we want to give the States and untie their lands to run the programs where they can actually help people.

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Governor Weld actually reduced taxes, reduced the welfare system, and he has got the majority of his people working. They are happier, they have responsibility, and they love it, and that is what we ought to free up the people to do.

Second, restoring freedom by ending the centralized bureaucratic micromanagement from Washington, DC. We need to return the power back to the States. A tax increase and government control is the one most powerful measure in which this body operates. I say to my colleagues, If you have the power and the control, you control votes. We do not want Washington to have that kind of power. We want to give it back to the States. We want to give that power back to the people, Mr. Speaker, because we feel that government does work best closest to the people.

I say to my colleagues, Ask anybody in your particular area. Ask them if they know where the dollars should go specifically better than the individuals that are servicing that program. They cannot.

Third, promoting prosperity, economic growth, take-home pay, by reducing taxes, reducing litigation and regulations. Go to any city, ask any Governor, ask any major, ask any official or any business person what they would like to do better business and be able to hire people. One is get rid of the liability and the litigation problems, the rules, and the regulations. We are going through the Clean Water Act, as we are right now, and reducing the tax burden and the overhead.

Next, creating an opportunity for every American by leading a transformation of an information age society. We double our knowledge, Mr. Speaker, every year. It used to take only 10 years ago 50 years to double that knowledge. Look at the schools, at what they need with the fiber optics and the computers we talk about, the libraries of high technology. We are putting out in an information age an enormous amount of information, but there is no one out there to receive it. We are understaffed. We are undermanned. That is where the government has got real investment that it can make in helping our students to make sure they are up to speed. If we do not prepare them for that, then Mr. Speaker, the age gap and the gap between those that have good jobs and those that do not will go.

I have a school in my district at Scripp Ranch. That school has got fiber optics. It has got a computer system. It has got a system to where the children, boys and girls, are swinging hammers in a trade, learning a vocational trade. They are building modular units, and they are designing those modular units on computers. On the other side of the aisle, those students that are college bound, the architecture and architecture design students are using those computers. They are designing those modular units. The students then sell those modular units and buy new equipment for the school, and guess what, Mr. Speaker? In the summer the unions in participation with public and private are participating with small business and private enterprise, and they are hiring those students in the summer, they are teaching them a vocational trade, and they are preparing them for college, and we think that is the way to go for our students in decreasing the bureaucratic rhetoric and the bureaucrats here in Washington, DC.

Next, create a safe financial future for our children, our retirement years, by balancing the budget, solving the crisis of Medicare and Social Security. And we have already talked about what the options would be. It is our moral responsibility. Look what happens if we do not save Medicare. I ask my colleagues, "Can you imagine—I do not use the term senior citizen, our chronologically gifted people can you imagine our chronologically gifted folks—having to pay 300 percent more premiums on Medicare?" That is cruelty. "Can you imagine that in a welfare system, having the system that we have today that is cruelty, can you imagine not balancing the budget and having our children owe $187,000 in taxes the day they're born in 1995?" That is cruelty, Mr. Speaker.

We have a moral responsibility, and we need the President to take the leadership in doing that. I say, "Don't turn away from it just because they're 1996. Go down in history as a leader not being AWOL." As a majority party, we must lead a new dialog, not through just dialog, but through change and public opinion.

A great man, Franklin Delano Roosevelt, in 1936 said, "Our generation has got a rendezvous with destiny." Mr. Speaker, we have a rendezvous with destiny. It can be one of a second rate power, of an economic power where our children are not safe in the streets, where the current welfare system exists, or we cannot.

Another great man that I heard spoken about tonight here, his name is Ronald Reagan, and he said, "We have every right to dream heroic dreams. The crisis we are facing today requires our best effort and our willingness to believe in ourselves and to believe in our capacity to perform great deeds, to believe that together with God's help we can and will resolve the problems which now confront us. After all, why shouldn't we believe that we are Americans?"

President Ronald Reagan had a good thought. It is our opportunity right now, by creating an opportunity society, by decentralizing American government, by creating economic growth and reestablishing American competitiveness and the American dream by leading the transformation of the information age, and balancing the budget, reducing the financial crisis in Medicare and in Social Security. To embrace change on this historic scale we must use an appropriate planning model, a vision, the strategies, the projects and the tactics, Mr. Speaker.

I would ask the gentleman from the other side of the aisle and there are many, Mr. Speaker. There are many of the Democrats on the other side of the aisle that embrace this. But I would ask, I would beg on my knees, that the Democratic leadership would get away from the 1996 election and help us achieve that vision.

What is our vision of the American future, and what does it mean? Every American is safe from violence and drugs. That is a novel item. Every willing person will be integrated into a world of work, prosperity and achievement, a healthy environment, and, trust me, Medicare is not standing alone by itself. If we are going to solve that problem, we need health care reform. The President is correct about that. We need the tort liability reform. We need the paperwork reduction. We need insurance grouping so more people can afford insurance. Most everyone has health care, Mr. Speaker. Not everyone has insurance, and we can do that and save the Medicare problem.

New technologies and approaches to create the fullest possible participation of every American with disabilities. I have a father in my district, Mr. Speaker. His son was paralyzed from the neck down. He went to the Medicare system, and he has got a whole garage full of equipment that he cannot use. He was so distraught that he started his own business on how to handle disabled children, what equipment do you use with sound activated doors, with computer systems, where someone cannot type, it can be sound activated, and, Mr. Speaker, I would advise you to use it because it is also spell-checked. As you verbalize into the computer, something all of us could use, not just someone that cannot type.

A pro-entrepreneur, pro-science technology. Our biotech industry, our medical industries, are the future. We are debating a wetlands and a Clean Water Act. We have biotech companies that are growing antipesticides out of DNA, and guess what? When the rains come and the DNA washes off the plant, it does not violate our rivers, or lakes and our oceans. We need to invest in that, Mr. Speaker.

Job opportunities for every American, but, yes, with low taxes and a balanced budget amendment. All around U.S. corporations are rethinking and engineering. They are doing; they are downsizing. But, as industry is downsizing and reorganizing, Government is growing bigger, and bigger, and bigger. That is why we have the current welfare state. That is why we are only getting 23 cents out of every buck down into the classroom, and we have to have a vision, but, yes, we have to listen, we have to learn, we have to help, and we have to lead.

I will not go through the improvements again, but they are important, and we have got to do that. The welfare state has failed, Mr. Speaker. It has failed the model of delivering goods, services to help the American people. It actually hurts the poor. I ask you, and I would ask every American, "Look at the current welfare system, the child abuse, the brutality, the drugs, the crime ridden Federal projects." The culture of violence is increasing. It permeates our inner souls in our inner cities. It denigrates our civilization.

In our committee we heard case after case of a welfare mother that has gotten off of welfare because she said, "Duke," she actually said Mr. Chairman, "the welfare system is addictive. It's easier to stay off welfare." But our own laws prevent us from helping that person. We take away her welfare check if she goes to work or a portion of it. She has to provide transportation and clothes. She has to provide babysitting for her child and child care. And then she says, "Well, I could actually lose my health care also, so I'm going to stay at home. A, I'm with my child, I make more money, so why should I get off?"

Well, in the contract what we do is, first of all, we go after the 34 billion, the deadbeat dads, in some cases deadbeat mothers, to bring that balance to those families. We also have where parents get together. We do not penalize them for the first 2 years. We let them get together. We do not take away that welfare check. But, yes, one of them has to work 30 hours a week, but yet we are encouraging families to get together. That is more compassionate, Mr. Speaker, than letting parents split up and children go without fathers and without mothers.

The culture of violence. The nonworking, nonproductive part of our society is a big factor in the deficit that we face each year. The human cost of the welfare state; poor Americans are trapped in unsafe housing, they are saddled with the rules that are antiwork, antifamily, and antiproperty. They are forced to have their children attend some public school monopolies, and I would ask any American to visit the D.C. schools. They are trying their best. I listened to the superintendent, but yet they need that investment into education, and the gentleman was right. We need to invest in education, but we also need to let the States have the power to wield their wealth and give the money to them in the block grants so that they can direct the money, not have Washington.

In the name of compassion we have funded a system that is cruel and destroys families. We need to change that. Welfare spending now exceeds, and listen to this, Mr. Speaker, welfare spending exceeds $305 billion per year, a total of $5 trillion since 1965, $305 billion a year in welfare, and look at what it has got us today, a failed state. But yet many of my colleagues on the other side of the aisle would just have us dump more money into those 366 programs to say, well, we need it for the children. Well, I would say to you, Mr. Speaker, it is cruel to keep the current welfare system. The $305 billion is three times the amount needed to raise all poor Americans above the poverty line, and that is in 1 year. We can just give the poor Americans money, and it would do more, except it would keep them on the welfare state and not encourage them to work.

Since 1965, the juvenile arrest rate for violent crimes has tripled, Mr. Speaker, and I think most Americans would agree it is the condition of what we gave them the welfare state as it exists today. Look at the Federal housing projects. You have heard the Speaker of the House state that no civilization can survive with 12-year-olds having babies, 15-year-olds killing each other, 17-year-olds dying of AIDS and 18-year-olds receiving diplomas that they cannot read. In this information age we are looking at taking right in the Library of Congress and putting it on CD Rom for about $45 million, and it would be expediential to reprint all of those books.

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And we are going to do that. But that also requires that American children can read and soak in some of that information. Furthermore, no civilization can survive with parents and grandparents cheating their children by refusing to balance the budget and live within their means.

The welfare state cheats the poor. The unbalanced budget cheats every child. The legacy we are leaving our children is moral and physically bankrupt, Mr. Speaker. But yet there are some on the other side of the aisle that would have us say, we are cutting, we are cutting.

Again I would like to state, in the last 7 years we spent $9.5 trillion. In the next 7 years we are going to plan to spend $11.5 trillion. That is a reduction to plan to spend $11.5 trillion. That is a reduction in the growth.

Transforming the welfare state into an opportunity society for the poor requires a shift from caretaking to caring; welfare reform that emphasizes work, family and opportunity, volunteerism and spiritual renewal; renewing the basic values of American civilization, tax incentives for work, not to stay on welfare; investment and entrepreneurship.

Look at what entrepreneurship—I watched a movie on TV late last night. It was called A Woman, I believe, A Woman of Means. I cannot remember the name of the movie, but it was basically about a woman that started off very, very poor. She had a child out of wedlock. She worked in the mills. She worked hour after hour and saved. She saved every penny, and finally she went up and bought a little store. She even made jellies. She made linens. She bought and opened up a little bigger store, and pretty soon she bought the store next to her. She worked night and day, and pretty soon that gentlewoman became a multimillionaire.

Many of which on the other side of the aisle would call the rich. But yet this woman had taken her life and worked and scraped and saved and done everything, employed thousands of people; but yet the Clinton administration would tax her. They would put OSHA on her back, put rules and regulations which would cause her to lay off people. We cannot continue to do that, Mr. Speaker, because growth is a very important factor in balancing the budget.

Reestablishing property ownership and full citizenship for the poor, look at Jack Kemp's original HOPE and HOME programs that many on both sides of the aisle embrace. Learning to focus on education, government protection of the poor against violence and drugs.

The second strategic improvement is restoring freedom by ending the centralized bureaucratic micromanagement by the Government in Washington. We only get 25 or 23 cents out of every buck into education. That is the wrong way to go.

The general rule for decisionmaking for local problems, local government is generally better than the national government, and the private sector is generally better than local government. Limit the State bureaucracies, and we should be trying to attempt to get as much money as we can down to the local level.

Mr. Speaker, the third strategic improvement is promoting economic growth and jobs and prosperity. Alan Greenspan said, if we balance the budget, and I quote, "you cannot imagine the wonderful things that will happen." The soundness of the dollar in America and abroad will be enhanced. Interest rates will go down by 2 percent. We will create millions of jobs.

So there is an important factor in growth, but yet those that would tell you to balance the budget, capital gains are only for the rich. I ask you, Mr. Speaker, look at it logically and I think you will find another axiom.

The American economy needs to grow within increasingly competitive world markets, to increase revenues so that the Federal Government budget can be balanced without raising the taxes. The more people you have working, the less taxes you have to pay from everybody, and the less taxes you have to put on business, and the more people they can hire, and the more people that can pay taxes. It is called macroeconomics, Mr. Speaker. To pay for the Social Security and Medicare in the 21st century, that is important also, Mr. Speaker.

At 1 percent less rate of growth, the current projection, what does it mean? Social Security goes into a deficit 13 years sooner by just a 1 percent less growth. At a 1 percent more growth, the Federal tax revenues are $716 billion greater, by just 1 percent. That is a great amount of money, Mr. Speaker, by any means.

In 7 years the difference between the high and the low economic growth productions means a $1.2 billion swing in the size of the Federal budget and the deficit.

Let me give you a classic example. High growth rates can be achieved and sustained on following the right policies, just as good health comes from good nutrition and exercise. Example: Japan, through the years of 1975 and

1993, 18 years without a recession, a 4.2 percent annual growth rate. And remember what we said, just a 1 percent interest growth rate would mean billions of dollars for the budget.

Yet we take a look at the United States, compared from 1973 through 1993, three recessions we have gone through in the United States during that period, a 2.6 percent instead of over a 4 percent annual growth rate, and it only gave us a 1 percent annual personal income increase.

Imagine if America had matched the Japanese in economic growth rate over that period of time. The real GDP would have been 1.8 trillion greater. Per capita income would have been, listen to this, Mr. Speaker, $8,955 per worker greater for just matching what the Japanese did.

Greater American competitiveness and increased economic growth requires a tax code that favors work, not Big Government, savings on investment, less litigation, less regulation and redtape, lean and effective bureaucracies, lifetime learning, entrepreneurial culture, sensible government investments in infrastructure, government research and development leading to corporate product development and marketing.

The fourth strategic improvement is leading the transformation to an information age. The speaker holds up a tube, a vacuum tube, a tube that you will fly home with if you are flying this weekend with the FAA. The United States is the largest producer of the vacuum tube. But yet government, by buying a computer chip, is worth a million vacuum tubes. And yet we need to step into the future and do that. But we are not. We have not been able to do that. Just think about the hundreds of thousands of dollars by switching to a computer chip instead of a vacuum tube in our government.

Over the last 15 years, the Ford Motor Co. has transformed itself through new technologies and new culture to qualify and through productivity. Today Ford produces the same number of cars, two and one half times the quality, with one half the work force. Consider what government could do if it could match that same standard. We could send half of us home, half of the staff home. I think many of the American people would support that, Mr. Speaker.

New breakthroughs do not fit into the traditional role of government. It is too hard to change, too long.

Let me tell you about a program and a change. We plan on merging or doing away with the Department of Education, eliminating HUD, eliminating the Department of Energy and eliminating the Department of Commerce. Eliminating the Department of Education is $4 billion every year that we could save. Eliminating HUD is $15 billion. Eliminating the Department of Energy is $20 billion. They say, how can you give a tax break and give the money back to the American people?

I heard Russia mentioned today and that we are spending too much money on defense. We gave the former Soviet Union a billion dollars to dismantle nuclear weapons. We gave them another $4 to $5 billion in nation building, Mr. Speaker. Last year Russia built five Typhoon nuclear class submarines, the Red October type class submarines. They built a Mig-35 which is superior to our F-15 and F-14 fighters. They have an AA-10 missile which is superior to our AMRAAM. They have a torpedo, an underwater torpedo that will go over 100 miles per hour. Yet we are giving them money so that they can fight a war in another country.

We need to invest at home, Mr. Speaker, and not send the money abroad. We need to increase our own economic model in this country. Create the jobs, balance the budget, solve the Medicare system, and work so that the babyboomers will have a retirement to look to.

Debt consumes America. Again, we are paying nearing nearly a billion dollars a day on just the interest.

The Clinton administration knows the crisis is coming. Social Security will face a cash deficit by the year 2013. The unified deficit will increase unless taxes are raised or benefits reduced, and it comes even earlier in 1999: Clinton's OMB Director Alice Rivlin on 10/94. But yet the President fails to provide a solution.

I ask the President to engage. Give us your plan to balance the budget, put away the 1996 elections. Give us your plan to save Medicare instead of the 1996 elections.

The Clinton debt numbers actually underestimate the problem because they fail to account for four additional powerful factors, Mr. Speaker. The taxpayers' burden is paying interest on the debt, the cost of higher interest rates caused by the Federal Government's borrowing, the imminent financial crisis in Medicare, if it is not saved, and the soon-retiring babyboomers and their effect on the Social Security trust fund.

Every citizen will have to pay a lot more in taxes and interest on the debt unless we solve the problem. Over the next 11 years, we will pay as much in taxes just to pay the interest on the debt as the entire debt that has ever existed.

The following Americans will pay a lot on interest to the debt which builds up over a time in their lives. Let us take Sally, in 1995, $187,150. Our spending today saddles our children with debt tomorrow. That is not a legacy that I wish to leave my children.

In 1997 we will pay more for the interest on the debt than we will pay for all of national defense. That is sad, Mr. Speaker, and that is on the interest. That is not on the principal. It does not go into our banks. It goes to foreign interests and foreign subsidies used against us in economic warfare such as Japan, such as China, such as Russia.

Budget deficits raise interest rates and cost everyone additional money. What a balanced budget will mean, I quote Federal Reserve chairman Alan Greenspan; I think real incomes and purchasing power of the real incomes will significantly improve what they look for in their children and they are doing better, and they will do better.

Alan Greenspan stated that most Americans feel that their children will do worse than they have in their present lifetimes. That is a sad commentary, Mr. Speaker.

I feel that we are doing the most important things that we have ever done in our lives. When we are only getting small amounts of dollars to the problems that we have, when this nation is headed for economic ruin and a second rate country economically and we are going to lose our health care systems, we have got to do something about it.

I feel proud to be able to take part in that. I ask my colleagues on the other side of the aisle, put away the rhetoric, put away the information that is coming out and join us and embrace it. We want to save this country for our children, because, again, if we do not, they are going to owe far more than we could ever pay: not a legacy that we want to leave for our children.

Mr. Speaker, I am going to close in just a second. I am going to basically state that in the future of this House and working with the Senate, with both sides of the aisle, whether we receive a balanced budget amendment or not, we are going to balance the budget in 2002.

The gentleman from Ohio [Mr. KASICH] of the Committee on the Budget has taken every single Member's information into account in our conference. The COLA's for retirements are back in. The items, the common goal and the common thread when it comes down to it, in the year 2002 we will have a balanced budget in this country, and what a great thing that will mean, Mr. Speaker.

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THE FEDERAL BUDGET

The SPEAKER pro tempore (Mr. CAMP). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 60 minutes as the designee of the minority leader.

Ms. JACKSON-LEE. Mr. Speaker, I rise today to clarify a budget process that has been caught up in much controversy and debate. I heard a colleague today at an earlier presentation suggest that we might do well to engage in dialog and turn ourselves away from this whole idea of debate and speak to the issues that I believe the American people can understand. Coming from the 18th District in Texas, the fourth largest city in the Nation, Houston, I am going to use as a backdrop to this discussion this evening as a reminder where our State already finds itself under the present rescissions bill that is yet to come back to the House but already evidences that our State will lose some $1.1 billion in needs of family nutrition, aid to dependent children, school nutrition, and Medicaid, that takes care of the many needs of our children and our senior citizens.

Interestingly, there is a sharp divide in the vision and the focus of this Nation. For in the debate and the discourse that we have heard, we have been told that the deficit will break the very backs of this country. Yet we find when we analyze the deficit and compare it to the GNP in this Nation compared with other western civilization nations, we have the smallest percentage of deficit of any other country.

This does not mean that we do not face up to our responsibilities and begin to confront the hard issues of deficit reduction. As a new Member of Congress, I have made that commitment because I have come from that kind of history. For local governments do not carry deficits from one fiscal year to the next. We know the hard response of being able to pay as you go.

I do want to clarify, however, that many of the local and State governments have a luxury that this country does not, and, that is, that they separate out their operating budget from the budget that deals with capital improvements, a consideration that I have raised as a possible direction for this Nation to take, ongoing debt versus immediate debt.

In any event as we begin to dialog about this deficit reduction and this budget resolution, which has been characterized as a resolution to solve the budget deficit by the year 2002. Juxtaposed to that representation is the inquiry of where the Democrats' budget proposal might be.

To clarify, it is the responsibility of the majority party in this House, of course, to present a budget. Certainly that was to have been done by April 15 and, of course, we did not receive such a resolution until last week. Not only did we not receive it until last week, about the second week in May, but we now are to address this resolution and find a common bond and resolution in a matter of less than 48 hours. This will be debated on the House floor tomorrow, Wednesday, and voted on before the end of this week. There will be Democratic proposals. There will be amendments that will be offered. And so the responsibility that is charged to those of us who are Democrats is being upheld. It is unfortunate that the tone of the debate is suggesting that one's responsibility has not been taken care of.

But the sharp divide over which direction this Nation should go causes me to rise this evening to say that clearly the Republican Party needed to take a couple of more months in order to strike a more effective chord of bipartisanship that would help to approach the deficit reduction that we all would like to have but, as well, create a vision of opportunity and challenge and success for this Nation.

Interestingly enough as we were being cajoled into thinking that life was all right in the late 1920's and the early 1930's under the leadership of the Republican Party as we moved into the deep recesses of depression, many people would have thought of a variety of ways to increase productivity and to get this country out of the depths of depression. It, however, took a creative Government under the leadership of Franklin Delano Roosevelt to both answer the question of debt but as well answer the question of productivity.

This country today is crying out for productivity. It is crying out for a need of jobs, for the engine to run corporate America to produce jobs, for the domestic energy industry to be refueled and retooled. It is crying out for those who would seek to bridge themselves out of dependence into independence an opportunity to do so. This budget does not speak to that. In fact, it undermines that.

While their proposal would provide for a balanced budget by the year 2002, it would abolish several vital Cabinet departments. Low and moderate income Americans and particularly children would be impacted. According to the new Washington Post/ABC News poll, if we are to be pundits of polls, my opinions are apparently shared by a majority of Americans. Sixty percent of poll respondents oppose abolishing the Education and Energy Departments and 56 percent oppose shutting down the Commerce Department, which, by the way, has been a most productive department that we have seen over the last couple of years creating billions of dollars in business opportunities for America's business, both small and large. And, of course, they oppose the cutting of the needs of those who rely upon Medicare and Medicaid.

I am further concerned about the budget resolution for several reasons. One reason is because it would negatively impact the Social Security System and the 43 million Social Security recipients nationwide.

The Republican leadership has pledged that Social Security would not be hurt by their budget, but we now know that they want to change the rules. They want to reduce annual cost-of-living increases that would in effect cut Social Security benefits by $24 billion between 1999 and 2002.

Let's put some faces to that, because obviously these are just numbers. But what happens to those citizens who totally rely upon their income and their support from Social Security? It is all right to say that in the years past, you would match pension benefits with Social Security benefits. Those were the good old days. It comes now full circle that many of our working citizens, who for many reasons believed that Social Security was a trust fund, although we recognize that it is one where you are now paying into it to pay for those who are on it at this point, still the concept is, I paid into Social Security with the belief that it would be there for me upon retirement. The tragedy of that, however, is that many of those individuals, and particularly those who are on SSI, the physically challenged, our children, have come to have that as the only source of support that they might need to carry on their life and to survive. That is the face of Social Security. So we can fix something without eliminating it.

Second, the budget resolution does not represent an adequate investment in human capital. We have spent an exercise over the last couple of weeks talking about welfare reform. I clearly challenged that, for I am committed to welfare reform and challenged the proposal that passed this House as welfare punishment, for it was inconsistent with the so-called results that were looked to. That is, by terminating people a certain period of time, there was some reason to that debate, that citizens should not be on welfare for their entire life, to break the cycle, but how much of a response do you get by terminating someone off a benefit that they may need? Not the able-bodied citizen or someone who can go out the next day and get a job but the person who truly has dependent children, did not finish their education, and has no skills.

If you are serious about welfare reform, then you would have several elements: Job training, child care, and some sort of incentive to your businesses to provide jobs for those individuals. None of that was included in the welfare proposal that was passed out of this House. Yet now we come full scale with a budget that would include several points that cut into my sense that there is any seriousness with the Republican Party on, one, their commitment to true welfare reform, and then to a realistic budget that responds to the deep diversity of this Nation; not necessarily poor to rich but all of those in between who may at some time in their life fall upon hard times, those individuals who may need Medicaid at some point, those individuals who may need a school lunch program or a school breakfast program at some point in their life, those who may need aid to dependent children at some time in their life. Much of this now in the rescissions package, which is rescinding back what was already authorized, is further being cut through the budget.

Let me just cite what is being cut out of the Republican budget as I talk about the human capital impact, putting faces to the impact of this budget resolution. Again, moving us far away from striking a bipartisan chord to move us toward deficit reduction and as well strike a positive vision for this Nation, one that captures the spirit of Franklin Delano Roosevelt, creating the productivity of this Nation to create jobs and opportunity.

First of all we cut Medicare under this budget by $283 billion over 7 years from 1996 to 2002. Falsely we are hearing that in fact Medicare will be increased to about $1.4 trillion approximately. This cut, however, which is a realistic aspect, and I would welcome a dialogue and a rebuttal of this particular point, it will add $1,060 to the out-of-pocket costs of seniors by the year 2002. It will cut Medicaid by $184 billion over the 7 years. Many of our indigent seniors rely upon that kind of health dollars to provide their health care for them. Clearly there is a singular voice saying, "Why do we not have health reform?" Of course, we have attempted that on many occasions. That might be the appropriate answer than rushing to judgment and making cuts that would burden those already burdened.

I have mentioned Social Security cuts and that would cut the average benefit over 1999 to 2002, this would bring the benefits cut to about $240 by the year 2002.

Of course all of this points to the Republican tax cut which loses revenue for this Nation of $353 billion over the next 7 years and gives the wealthiest families a tax cut of about $20,000 while giving middle-income families only about $555 in total tax relief.

I said that this was an opportunity to clarify the Republican budget, not a time so much to cite those who would offer their views. But I will say that many, many of the economists around this Nation have all had one voice in saying that this is the inappropriate time, the worst time to offer unneeded tax cuts.

We all wish to offer to the American people their fair share back from the Government. There is no doubt on that. But when you ask them a pointed question as to their desire for effective Federal services, efficient, downsized, responsible Federal services, they will answer you yes every time as opposed to a one-time tax cut that does nothing but add a burden to the Federal Government and reduce the revenue for much needed desires of reducing the deficit.

□ 2030

Of course ultimately this budget proposal will raise taxes on families by $17 billion between 1999 and 2002 by reducing the indexing of tax breaks, et cetera, and the personal exemption by 0.6 percent each year.

Let me add what else it will do. I supported the unfunded-mandates legislation, which means that you do not burden your States and local government with legislation of which they cannot pay for.

What happens, however, when the myriad of programs that have been effective and effectively utilized by State and local governments are no more and thereby they have to fill in the gap and pay for these with moneys that they do not have? That is, in fact, an unfunded mandate. There you have a budget resolution that has no vision and needs to be clarified and does not seek, if you will, or does not provide the results of which the proponents argue that it does.

Student loans. I received a very personal and very moving letter from a student from the University of Houston asking why would we in a time when we are encouraging our young people to be prepared for the technology of the 21st century, when today we find that most college students will come out of college with 70-percent loans and 30-percent scholarships or grants, contrary to some 10 or 15 years ago when it was quite the opposite, it was 70-percent scholarship and grants and possibly 30-percent loans, they come out already with a burden of some 70 percent in loans, looking for employment. We now have before us a proposal by the Republican Budget Committee, presented to the House, to cut student loans by $18.7 billion by charging students interest on their loans while they are still in school. This is a $5,000-per-student increase in the interest costs of the average loan.

What that simply means is for many students that will simply, and I can underline that word even more, deny them an opportunity for higher education.

We will also find that a great deal of the focus will be on domestic spending, they will cut a lot of our domestic spending as opposed to spreading the burden of these cuts around a whole source of individuals.

Defense spending increases by $69 billion above what has been asked for by the President's budget, thereby cutting domestic spending and adding to the defense budget without the full hearing as to whether or not that is truly needed.

I cannot imagine how in this high-tech economy moving into the 21st Century we would pull away from investing in human capital. I cannot imagine how we would present to the world economy ill-prepared students and ill-prepared citizens because of a lack of opportunities for education.

The GOP budget would make inexcusable cuts in educational and training programs over the next 7 years. The Goals 2000 program designed to assist local school districts, parents and students, and by the way have been touted by school districts around this Nation, will experience a $2.8 billion cut over this period. Again let me remind you we are talking again now about unfunded mandates because those programs have been effective in providing the even playing field in education for many of our primary and secondary students.

Title I grants which currently aid more than 700,000 disadvantaged school children would suffer cuts of $5.1 billion; in essence what happened is they take the programs that have the least number of individuals who can walk the halls and lobby Congresspersons, because either they are unable, they are disabled, or they are too young to speak and, so here we are, here we are looking at the budget cuts that are supposed to be reasonable and are supposed to put us moving forward in to the year 2000, and I can point to you time after time after time the cuts for children.

Bilingual education programs serving 650,000 children are particularly important to the State of Texas; that would be cut by $1.4 billion. Vocational education programs, the programs business leaders tell us will become increasingly critical for the competitiveness of the American work force, programs that assist 1 million noncollege-bound Americans gain skills they need to find good-paying jobs, would be cut by some $8.2 billion. That is very interesting, because what you find there is quite the contrary view being spoken by the CEO's of major corporations. They are concerned about the training of the work force for the 21st century. They are concerned that there will not be enough individuals well trained in technology to meet their employment needs.

What does that say in cutting the kind of training that is job-specific, which is vocational training, that many of our young people, sometimes returning adults, adults that are going back to school having been laid off through downsizing or the changing technology in their particular job or profession, to not have the opportunity to train in the best training for the jobs of the 21st century, so we will cut that.

Some would say well, let the private sector do it. That has typically not been the case in these kinds of vocational training opportunities. We have certainly been able to partnership with the private sector, but the Government has been an effective partner in that to provide the training for these individuals then to go into the work force, to be productive to allow us to be competitive and then for them to be taxpayers. We have just cut that cycle off in the most ill-conceived manner that I could imagine.

The safe and drug-free schools and communities program would be cut by $3.4 billion. Having met with two of my school districts, North Forest Independent School District and Houston Independent School District, I realize how important these programs can be to setting the tone and as well providing a violence-free atmosphere for our children to learn.

Just today I announced two of our schools in Houston that were cited for their drug-free and violence-free atmosphere, Principal Alice Brimberry of Link Elementary School and Theodore Merrill of Tidwell Elementary School with efforts to keep their schools drug free and violence free, and I would think they would be shuddering that these programs would not have the support that they have had in the past to go forward more than simply saying to your youngster, "Just say no," but actually allowing them to feel free. I wonder if you realize that in recent studies of elementary school students and middle-school students when questions were asked of them what did they view as their future or what did they hope for, some of them said merely to be alive or they wondered about whether they would grow up to be an adult.

It is the kind of influence that many of us could not fathom, that children worry about violence and surviving past a certain age, whether or not they will get to be an adult, whether or not they will get to be married or have children or live in a society where they feel safe. These are frightening answers, but it means that it is important for us to invest in human capital.

The Perkins student loan program which I mentioned earlier in the listing of the cuts, which makes low-interest loans to 700,000 students—how about this—would be totally eliminated.

Now I think we all can address the issue of ensuring that we pay for what we get. We want to ensure that students pay back their student loans, and every student I have seen on campus has those intentions. If we create a positive job market for that individual they will be glad to work and pay back their loans, but when you talk about eliminating the opportunity for these students coming from families who do not have the means for them to get a higher education, cutting off their very lifeline for being further productive citizens and taxpayers, and contributing to their desire to have a piece of the American dream, then you have no vision. And I would not remind many of you that where the people have no vision, they will perish.

With respect to Medicare, the proposal favors a reduction, as I said, of $283 billion over the amount that has been projected as necessary over the next 7 years. This cut would result in an additional $1,060 in out-of-pocket costs to seniors in 2002. With these proposed reductions in projected costs or growth, the Medicare Program would be reduced by 25 percent in 2002. Thus the annual growth in Medicare would go from 10 percent down to 5.4 percent.

However, the plan does not take into account the increase in the number of the elderly and the inflation in medical costs. During this period it is estimated that the State of Texas would lose $17.6 billion by the year 2002, and it is estimated that each beneficiary in Texas would be paying an additional $1,102 in costs.

The Medicare debate is one that I think causes us a great deal of concern, because many people ask the question what are the facts about the Medicare debate. I would simply say that the Medicare Program is a critical safety net for millions of seniors and disabled Americans. For nearly 30 years this program has enjoyed a high level of support from Americans of all ages. While I support careful and equitable revisions in this program which are necessary to secure its long-term stability, I am strongly opposed to harsh budgetary restraints and spending growth caps that will adversely affect our elderly citizens, and which are used to pay for tax cuts for the wealthy.

As we look to tighten our Federal financial belts during this budget process, let me remind my colleagues of Speaker GINGRICH's words, every penny saved in Medicare should go to Medicare.

Well, I wonder if that is actually the truth. And I would simply raise the question that I would hope that would be, in fact, where it would go. But everyone knows that each penny saved in Medicare will be used for a variety of other reasons. One, for the tax cuts that economists have said across this Nation we do not need.

This is an assault on the livelihood of this country's most vulnerable and its least able to support themselves, and I believe this is absolutely unacceptable.

If my Republican colleagues are calling for a 5-percent growth cap for this program, which translates into a program cut by $283 billion, the result will be an increase of out-of-pocket costs of $1,000 yearly for Medicare beneficiaries by 2002. What we have to recognize is that those who are the beneficiaries of Medicare are basically on retirement; their income levels are low. I am sure many of us have heard the stories about making decisions to buy prescription drugs verses nutritious food. For many of our seniors this is reality. This is something I face in my community on a regular basis. I try to put faces to statistics, and clearly there are seniors concerned about how they will survive.

This does not mean that they are selfish, that they are not concerned with, as I said earlier, about being more efficient on Medicare. But they wonder simply the basic question of how they will survive.

Such increases are virtually equal to cutting their Social Security benefits by the same amount. They will have to take that money to pay for the increase they need in their health care. As most Medicare beneficiaries must use their Social Security to pay for their out-of-pocket costs and expenses, and to aggravate the situation further the Republicans are proposing a 0.6 percent consumer price index reduction for 1999, which will reduce the average Social Security benefit by $240 per month below current law projections.

I thought they said Social Security was off the table. That was mentioned in a debate that we had. Clearly, it seems that it is not off the table. What it is, it is off and out of the pockets of senior citizens who will have to take money and use it elsewhere.

I refuse to pick up the newspaper and read of another senior citizen who has to make that choice between buying food and buying medicine. The GAO has recently reported that the Medicare Program could save over $3 billion during a 5-year period if their computer systems were upgraded to detect billing fraud. I ask the question if we are dialoging about a reasonable budget, and a reasonable method to reduce the deficit, where is the plan to provide a computer system that can detect fraud? There is not a senior who would not agree with you that we support getting rid of abuse, getting rid of fraud, and getting rid of the misuse of Medicare dollars.

Another option to consider is means testing for beneficiaries, and that is, as Senator SIMON has indicated, those individuals earning amounts $100,000 and above.

□ 2045

I would just simply ask the reasonable question: Could there not be some manner in which part of their health costs they could pay for? Again, a hard question. Sometimes hard answers. I would imagine you would get some individual who would say, "I should not pay for any of my cost," but reasonable men and women could agree that if your income reached a certain amount and you had the ability that you did not have catastrophic illness that took away all of your income, then we should look at ways of improving the medical care system so that individuals with a certain high income bracket might be able to provide for their own costs by paying for some of their own insurance.

We have not exhausted all options, nor have we properly opened this issue up for public debate. Savings of any kind add up and allow us more flexibility when dealing with a program that is facing insolvency.

The other point is that we are doing this in a vacuum. Where is the debate on health reform that would take into consideration improving Medicare and taking some of these efficiencies so that we would not talk about burdening seniors with the high cost of Medicare by the cuts that have been proposed by this budget resolution? Medicaid would experience a reduction of $184 billion.

You can see under the rescissions, and I am jumping back to the rescissions of which we have already gone through the House now and gone through the Senate now, in conference; we will be seeing it again. The State of Texas presently under the Republican rescissions package would lose some $753 million in Medicaid, mostly on the backs of our children and elderly.

Now. In this new budget proposal, $184 billion projected growth over the next 7 years, and to be converted into a block grant which would be a reduction of about 30 percent of this program which would add, if this stays as it is, to the burden of the State. Here we go again with an unfunded mandate.

Annual growth will be 4 percent instead of the current 10 percent. However, the proposal does not take into account the increase in the number of beneficiaries, and the projected increase in nursing home costs and prescription drugs.

Block grants have been touted as an attractive means of cutting costs. What block grants do not necessarily account for and creates a crisis, and again an unfunded mandate, is increased need. What happens with a block grant when a community has a downfall in the economy, a recession, a loss of an immense number of jobs, when individuals have to fall back on their family members for support and then the block granting for either Medicaid or, in this instance, school lunches or school breakfasts, run out and you have a community with express need and no money to pay for it? As plain as day, as clear as it is in front of you, it is an unfunded mandate, and clearly it is a burden on local government, but more importantly, it is people going without in a country that has been touted again as a country that cares, but more importantly, as one of the greatest nations in Western civilization.

Taxes would be raised on families by $17 billion between 1999 and 2002, as we have noted already, and again, that means that the least of those, when we are telling people we are giving them a tax cut, by this very budgeting process, we would wind up raising taxes ultimately on individuals, and so this would be more or less getting it in the back, if you will, because it would not provide any opportunities for these working people to find any kind of real benefit.

As we begin to look at how the burden will fall, let me clarify so that we do not get a sense that these programs I am talking about are programs that help those who will not help themselves, and for lack of a better term, one that emphasizes these are the deadbeats of our society, and so we do not want to particularly involve ourselves with those people, because they do not deserve us to be supportive. If we want to see who is being helped, let us look at the percentage of the elderly that rely on Social Security. Those who rely on it for 80 percent of their income, that is about 32 percent, so Social Security represents 80 percent of their income. Fifty-nine percent of them, it represents 50 percent of their income, a real hold, if you will, on many of our senior citizens in our Nation. Social Security is the backbone of their survival. Then if we want to look at what will happen under the Republican proposal for seniors and for individuals paying Medicare expenses, by the time we get to 2002, we would wind up with having to pay benefits or having to pay out of their pocket $3,075 to ensure that they get the coverage that they need.

Let us find out who uses Medicare. These individuals who are on Medicare, 51 percent of them are between the ages of 65 and 74 years. We are recognizing more of our citizens are living longer, and so their needs are there. You have got 29 percent who are between 75 to 84 years, then you have got a good 10 percent that are disabled, and you have got 10 percent who are 85 years and over. Share program expenditures by income of Medicare individuals or couples; I think this is very important. For some reason, as I indicated, we need to look at means testing for Medicare, and we can see that there are about 3 percent of the population that has Medicare that is making $50,000 and over. So we see that that is not a real large problem. The key comes in; the people who utilize Medicare we can see where their need is. Sixty-two percent of those make $15,000 or under. That is their income. And then some 21 percent make $15,000 to $25,000 a year. This is not a program that is going to people who can afford to throw away money.

I think that it would be extremely detrimental if we followed the Republican plan and cut into the vision of this country, which is to reward people who have worked hard and to reward people who have made a commitment by their tenacity and perseverance and their love of this country and then to undermine them in their later years.

In the State of Texas, we would find that we would lose a great deal of money, some $17 billion if this particular program was to go forward. I think that the vision is foggy, and it is particularly foggy, because I am in shock that a Republican majority would now want to posture themselves to cut into human capital in terms of education, in terms of Medicare and Medicaid and then to cut us off in terms of technology and the ability to advance and compete in a world market.

For their programs will cut into the science programs and research development in a very large way. The majority's budget resolution ignores the reality of our global economy and makes short-sighted cuts in critical areas.

From fiscal years 1996 to 2002, the GOP would cut $5.5 billion from the human space flight program. In fact, as the budget resolution was unveiled last week, it would almost double the cut already proposed for NASA. It would take $4.9 billion from space and aeronautics and technology research, and more than $1 billion from academic research infrastructure, like computer networking. The GOP budget would also cut several items of medical research.

Let me cite for you an interesting point that I have just learned, and I think it is an important point to acknowledge. As we provide health care dollars and we pay for our health needs, none of those dollars go for medical research. We see the tragedy that is going on with the virus in Zaire, and the inability to detect how to cure it. Medical research saves money. Medical research creates an opportunity to cure illnesses, and yet medical research is funded predominantly by Federal funds, and if we were to cut medical research, then we dictate for this Nation and for this world, and we submit them or submit all of us to the inability to find cures for illnesses or to improve the health condition of the Nation.

Medical research is important. Part of the budget cut and the budget resolution will negatively impact on medical research. And so it confuses me that this budget resolution seems to strike a chord of disharmony.

It pitches itself to a small 3 percent or more of the Nation, and it does not set a vision for moving us into the 21st century. That is why without consultation with local government, you can find some $6.5 billion being cut from the Community Development Block Grant, some $868 million being cut from the community development financial institutions, employment training, employment and training and social services. You are cutting Goals 2000 $2.8 billion, title I $5.1 billion. You are cutting safe and drug free schools $3.4 billion. You are cutting all of the housing programs that would include modernization of our public housing units. You are cutting the new construction of public housing units some $4 billion, eliminating construction of new public housing units, $13.4 billion, Legal Services Corporation, you are cutting $2.5 billion, and with a great emphasis on vocational training.

And so there is a mixed message here. There is a message that we have instructed and we have called upon America to stand up on our feet, to stop being dependent, to get off welfare, to stop the cycle of poverty, and yet we do great damage to our science and research. We do great damage to our vocational training, our secondary and primary education. We do great damage to our opportunities for local communities to go into their neighborhoods and provide economic and social advancement through the Community Development Block Grants. We take away the incentive for drug free and violence free schools. We intrude into the lives and the needs of our senior citizens and the physically challenged and the disabled by cutting Medicaid and Medicare, and then we want to carry on the debate to suggest that it is the other party that does not have a budget proposal and an answer.

Well, my cry and my call today is that reasonably we must come together looking for a bipartisan approach to what is a bipartisan problem. It is America's problem, and that is to acknowledge that we have a deficit.

Yet I would say in acknowledging that we have a deficit, truly we should acknowledge that we cannot break that deficit on the backs of those who are trying to stand up, and clearly I think the point should be made that if this budget is to represent a vision of a people, then in a bipartisan way those cuts must be spread evenly to provide the incentives for young people to go to college, to provide the incentive for businesses to grow and develop and certainly to be able to provide for those in their older years. The opposite of that is to ensure that working families will be able to face every day the question of how I will take care of my elderly parent. They will have to face every day the idea that their young person in their home, although they may have had a job during the summer, while they were in high school, they may have the potential for going to college, but with no work study, no grants, no loans, they just might not get there. I would like you to think what we would face if that was the case.

There is a time now for this to end, not so much in the resounding debate, but in solution, and that solution has to be do not hurt the State of Texas. It has to be do not hurt the many cities and towns and rural communities around this Nation. Let us put forth the budget resolution that clearly answers the needs of all people, answers the vision of this country, and that is that we can make a difference, cut the deficit, but be proud of the asset that we have in this Nation, and that asset is an investment in human capital.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ROGERS (at the request of Mr. ARMEY), until 12 noon today, on account of a death in the family.

Mr. KLECZKA (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of medical reasons.

Mr. LIPINSKI (at the request of Mr. GEPHARDT), for today, on account of family illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WYNN) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

Mr. WARD, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. HORN, for 5 minutes today, and May 17 and 18.

Mr. BURTON of Indiana, for 5 minutes, on May 17.

Mr. DIAZ-BALART, for 5 minutes, on May 17.

Mr. MARTINEZ, for 5 minutes, on May 17 and 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WYNN) and to include extraneous matter:)

Mr. OBERSTAR.

Mr. BORSKI.

Ms. NORTON.

Mr. RICHARDSON.

Mr. BONIOR.

Mr. LEVIN in three instances.

Mr. DELLUMS.

Mr. MOAKLEY.

Mr. STARK.

(The following Members (at the request of Mr. WALKER) and to include extraneous matter:)

Mr. CUNNINGHAM.

Mr. SOLOMON.

Mr. WELDON of Florida.

Mr. RIGGS.

Mr. METCALF.

Mrs. JOHNSON of Connecticut.

Mr. WICKER.

Mrs. MORELLA.

Mr. COMBEST.

Mr. MOORHEAD.

Mr. SHAW.

Mr. YOUNG of Alaska.

Mr. PORTMAN.

Mr. FIELDS of Texas.

Mr. BLILEY.

Mr. EMERSON.

(The following Members (at the request of Ms. JACKSON-LEE) and to include extraneous matter:)

Mr. BENTSEN.

Mr. LATOURETTE.

Ms. VELÁZQUEZ.

Mr. PASTOR.

Mr. BUYER.

Mr. ENGEL in two instances.

Mrs. LINCOLN.

☐ 2100

ADJOURNMENT

Ms. JACKSON-LEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock), the House adjourned until tomorrow, Wednesday, May 17, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

877. A letter from the Secretary of Education, transmitting a copy of the annual report of the Helen Keller National Center for Deaf-Blind Youths and Adults [HKNC] for the 1994 program year, pursuant to 29 U.S.C. 1903(b)(2); to the Committee on Economic and Educational Opportunities.

878. A letter from the Vice President for Government and Public Affairs, National Railroad Passenger Corporation, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GOSS: Committee on Rules. House Resolution 147. Resolution providing for consideration of the bill (S. 4) to grant the power to the President to reduce budget authority, and for other purposes (Rept. 104–121). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 148. Resolution providing for consideration of the bill (S. 219) to improve the economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes (Rept. 104–122). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1175. A bill to amend Public Law 89–454 to provide for the reauthorization of appropriations; with an amendment (Rept. 104–123). Referred to the Committee of the Whole House on the State of the Union.

Mr. LIVINGSTON: Committee of conference. Conference report on H.R. 1158. A bill making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes (Rept. 104–124). Ordered to be printed.

Mr. SOLOMON: Committee on Rules. House Resolution 149. Resolution providing for consideration of the concurrent resolution (H. Con. Res. 67) setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 (Rept. 104–125). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS:

H.R. 1641. A bill to supersede the modification of final judgment entered August 24, 1982, in the antitrust action styled United States versus Western Electric, Civil Action No. 82–0192, U.S. District Court for the District of Columbia; and for other purposes; to the Committee on the Judiciary.

By Mr. CRANE (for himself and Mr. RANGEL):

H.R. 1642. A bill to extend nondiscriminatory treatment—most-favored-nation treatment—to the products of Cambodia, and for other purposes; to the Committee on Ways and Means.

H.R. 1643. A bill to authorize the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Bulgaria; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 1644. A bill to amend the Internal Revenue Code of 1986 to repeal the special deduction for the living expenses of Members of Congress; to the Committee on Ways and Means.

By Mr. GILLMOR (for himself, Ms. KAPTUR, Mr. CUNNINGHAM, Mr. HOBSON, Mr. SAM JOHNSON of Texas, Mr. SCARBOROUGH, Mr. CRANE, Mr. CHABOT, Mrs. KELLY, Mr. NEY, Mr. COLLINS of Georgia, Mr. SANDERS, Mr. PORTMAN, Mr. LAZIO of New York, Mr. DELAY, and Mr. HOKE):

H.R. 1645. A bill to convert the Army program for the promotion of civilian marksmanship and the National Board for the Promotion of Rifle Practice into a nonappropriated fund instrumentality of the Department of Defense; to the Committee on National Security.

By Mr. LAUGHLIN (for himself, Mr. JEFFERSON, Mr. COLEMAN, Mr. FIELDS of Texas, Mr. HALL of Texas, Mr. PARKER, Mr. BREWSTER, Mr. HOBSON, Mr. HASTERT, Mr. DREIER, Mr. HAYES, Mr. DELAY, Mr. CONDIT, Mr. TALENT, Mr. KASICH, Mr. CRAMER, Mr. TANNER, Mr. PETERSON of Minnesota, Mr. TAYLOR of Mississippi, Mr. TAUZIN, Mrs. THURMAN, Mr. PETE GEREN of Texas, and Mr. CAMP):

H.R. 1646. A bill to revise and reform the statutes governing the organization and management of the reserve components of the Armed Forces; to the Committee on National Security.

By Ms. NORTON:

H.R. 1647. A bill to provide for nuclear disarmament and economic conversion in accordance with District of Columbia initiative measure No. 37 of 1993; to the Committee on National Security, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETERSON of Florida (for himself, Mrs. SCHROEDER, Mr. BISHOP, Mrs. FOWLER, Mr. JEFFERSON, and Mrs. THURMAN):

H.R. 1648. A bill to amend title 5, United States Code, to provide that five additional points be granted on the examination for entrance into the competitive service, to certain veterans who do not currently qualify for any such additional points; to the Committee on Government Reform and Oversight.

By Mr. RICHARDSON (for himself, Mrs. MORELLA, Ms. MOLINARI, Mr. KENNEDY of Massachusetts, Mr. MCDERMOTT, Ms. NORTON, Mr. FRAZER, Mr. BEREUTER, Mr. CONYERS, Mr. FROST, Ms. LOFGREN, Mr. ACKERMAN, Mr. SERRANO, Ms. DELAURO, Mr. GEJDENSON, Mr. MORAN, Ms. RIVERS, Mrs. KELLY, and Mr. JOHNSON of South Dakota):

H.R. 1649. A bill to amend the Public Health Service Act to provide for the prevention of fetal alcohol syndrome, and for other purposes; to the Committee on Commerce.

By Mr. ROMERO-BARCELO:

H.R. 1650. A bill to provide for the liquidation or reliquidation of certain entries in accordance with the results of an administration review by the International Trade Administration; to the Committee on Ways and Means.

By Mr. SHAW:

H.R. 1651. A bill to require the Prospective Payment Assessment Commission to develop separate applicable percentage increases to ensure that Medicare beneficiaries who receive services from Medicare dependent hospitals receive the same quality of care and access to services as Medicare beneficiaries in other hospitals, and for other purposes; to the Committee on Ways and Means.

By Mr. SHAYS:

H.R. 1652. A bill to amend the Internal Revenue Code of 1986 to provide that individuals who have attained age 59½ may contribute to individual retirement accounts without regard to their compensation; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 1653. A bill to prohibit the designation as a beneficiary developing country under the generalized system of preference any country that engages in certain actions regarding nuclear weapons, nuclear weapon components, and nuclear weapon design information; to the Committee on Ways and Means.

By Mr. SCHUMER:

H. Res. 150. Resolution concerning the possible imposition of tariffs by the United States on the importation of certain categories of motor vehicles from Japan and the potential impact on the prices of domestic goods for American consumers; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

82. The Speaker presented a memorial of the Senate of the State of Hawaii, relative to urging the Congress of the United States to support legislation to safeguard veterans' disability compensation and Social Security disability compensation from elimination, or taxation; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of the rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. QUINN.

H.R. 264: Ms. LOWEY.

H.R. 353: Mr. GOSS, Mr. OLVER, and Mr. FRANK of Massachusetts.

H.R. 359: Mr. CLYBURN.

H.R. 390: Mr. CALVERT and Mr. FUNDERBURK.

H.R. 580: Mr. FLAKE, Mr. HERGER, Mr. HINCHEY, and Mr. EVANS.

H.R. 661: Mr. SERRANO.

H.R. 700: Mrs. KELLY and Mrs. THURMAN.

H.R. 707: Mr. BLILEY and Ms. PRYCE.

H.R. 739: Mr. CHRISTENSEN, Mrs. KELLY, Mr. MANZULLO, and Mr. NORWOOD.

H.R. 757: Ms. MCCARTHY.

H.R. 789: Mr. GUTKNECHT. Mr. PAXON, and Mr. CONDIT.

H.R. 797: Mr. SERRANO, Mrs. CLAYTON, and Mr. MENENDEZ.

H.R. 842: Mr. HUNTER, Mr. PICKETT, Ms. MCCARTHY, Mr. MENENDEZ, Mr. FLANAGAN, Mr. CHAMBLISS, Mr. GRAHAM, Mr. FOLEY, Mr. PASTOR, Mr. SOLOMON, Mr. TAYLOR of Mississippi, Mrs. SCHROEDER, Mr. TOWNS, Mr. BILBRAY, Mr. BARTLETT of Maryland, Mr. BALLENGER, Mr. LEACH, Mr. ISTOOK, Mr. FORBES, Mr. MORAN, Mr. LOBIONDO, Mr. HASTINGS of Washington, Mr. WHITFIELD, and Mr. GUTKNECHT.

H.R. 844: Mr. HASTERT.

H.R. 893: Mr. TRAFICANT, Ms. NORTON, and Mr. MARTINEZ.

H.R. 895: Mr. DE LA GARZA.

H.R. 903: Mr. BEREUTER, Mr. SCOTT, and Ms. KAPTUR.

H.R. 911: Mr. MCCRERY.

H.R. 941: Mr. LAFALCE and Mrs. LOWEY.

H.R. 942: Ms. VELÁZQUEZ, Mr. SCHUMER, Mr. FOX, Mr. MCKEON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MFUME, and Mr. RANGEL.

H.R. 945: Mr. SCHIFF, Mr. PASTOR, Mr. CLINGER, Mr. BILIRAKIS, Mr. LEWIS of California, Mr. BUNNING of Kentucky, Mr. HUNTER, Ms. KAPTUR, Mr. TEJEDA, Mr. WARD, Mr. CALVERT, Ms. FURSE, Mr. GALLEGLY, Mr. MCHUGH, Mr. WOLF, Mr. SMITH of New Jersey, Mr. KIM, and Mr. CRANE.

H.R. 972: Mr. GORDON and Mr. BARR.

H.R. 1057: Mrs. MORELLA, Mr. TAYLOR of North Carolina, Mr. SMITH of New Jersey, Mr. SANFORD, Mr. BLUTE, Mr. CARDIN, Mr. FROST, Mrs. KELLY, Mr. DELLUMS, Mr. EVANS, and Mr. HASTINGS of Florida.

H.R. 1085: Mr. FRELINGHUYSEN, Mrs. KELLY, Mr. BROWDER, and Mr. ROGERS.

H.R. 1103: Mr. FAZIO of California and Mr. CRAPO.

H.R. 1110: Mr. INGLIS of South Carolina.

H.R. 1114: Mr. HANCOCK, Mr. THORNBERRY, Mr. CALLAHAN, and Mr. BURR.

H.R. 1147: Mr. DELLUMS.

H.R. 1172: Mr. TRAFICANT, Mr. PASTOR, Mr. BAKER of Louisiana, and Mr. FLANAGAN.

H.R. 1235: Mr. MENENDEZ and Mr. SERRANO.

H.R. 1242: Mr. TRAFICANT, Mr. MINGE, and Mr. COSTELLO.

H.R. 1256: Mr. LOWEY and Mr. EVANS.

H.R. 1299: Mr. HERGER.

H.R. 1333: Mr. POSHARD.

H.R. 1402: Mr. CONYERS and Mr. BROWN of California.

H.R. 1442: Mr. FOX, Mr. PETE GEREN of Texas, and Mr. HASTINGS of Florida.

H.R. 1460: Mr. OLVER, Mr. BAKER of Louisiana, and Mr. FRAZER.

H.R. 1507: Ms. PELOSI, Mr. HILLIARD, Mr. OWENS, Mrs. KENNELLY, Mr. GUTIERREZ, Mr. MINETA, Mr. BROWN of California, Mr. KILDEE, Mr. WYNN, Mr. GENE GREEN of Texas, Mr. TORRES, Mr. ABERCROMBIE, Mr. CONYERS, and Mr. DELLUMS.

H.R. 1559: Mr. BARRETT of Wisconsin and Mr. DEUTSCH.

H.R. 1593: Mr. EVANS.

H. Con. Res. 42: Mr. FOGLIETTA and Mr. LOBIONDO.

H. Con. Res. 50: Mr. POMBO and Mr. LOBIONDO.

H. Res. 122: Mr. KLINK and Mr. MOAKLEY.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 995: Mr. ALLARD.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H. CON. RES. 67

OFFERED BY MR. GEPHARDT

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 1. Strike all after the resolving clause and insert the following:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1996.

The Congress determines and declares that this resolution is the concurrent resolution on the budget for fiscal year 1996, including the appropriate budgetary levels for fiscal years 1997, 1998, 1999, 2000, 2001, and 2002, as required by section 301 of the Congressional Budget Act of 1974.

SEC. 2. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriated for the fiscal years beginning on October 1, 1995, October 1, 1996, October 1, 1997, October 1, 1998, October 1, 1999, October 1, 2000, and October 1, 2001:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1996: $1,043,412,000,000.
Fiscal year 1997: $1,083,818,000,000.
Fiscal year 1998: $1,136,201,000,000.
Fiscal year 1999: $1,191,632,000,000.
Fiscal year 2000: $1,253,089,000,000.
Fiscal year 2001: $1,322,134,000,000.
Fiscal year 2002: $1,397,102,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1996: $0.
Fiscal year 1997: $0.
Fiscal year 1998: $0.
Fiscal year 1999: $0.
Fiscal year 2000: $0.
Fiscal year 2001: $0.
Fiscal year 2002: $0.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1996: $103,800,000,000.
Fiscal year 1997: $109,000,000,000.
Fiscal year 1998: $114,900,000,000.
Fiscal year 1999: $120,700,000,000.
Fiscal year 2000: $126,900,000,000.
Fiscal year 2001: $133,600,000,000.
Fiscal year 2002: $140,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1996: $1,278,100,000,000.
Fiscal year 1997: $1,308,900,000,000.
Fiscal year 1998: $1,356,100,000,000.
Fiscal year 1999: $1,395,400,000,000.
Fiscal year 2000: $1,452,800,000,000.
Fiscal year 2001: $1,474,400,000,000.
Fiscal year 2002: $1,523,900,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1996: $1,279,800,000,000.
Fiscal year 1997: $1,305,800,000,000.
Fiscal year 1998: $1,334,700,000,000.
Fiscal year 1999: $1,377,200,000,000.
Fiscal year 2000: $1,430,300,000,000.
Fiscal year 2001: $1,459,800,000,000.
Fiscal year 2002: $1,506,100,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1996: $236,400,000,000.
Fiscal year 1997: $222,000,000,000.
Fiscal year 1998: $198,500,000,000.
Fiscal year 1999: $185,600,000,000.
Fiscal year 2000: $177,200,000,000.
Fiscal year 2001: $137,700,000,000.
Fiscal year 2002: $109,300,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1996: $5,195,000,000,000.
Fiscal year 1997: $5,516,100,000,000.
Fiscal year 1998: $5,809,800,000,000.
Fiscal year 1999: $6,099,700,000,000.
Fiscal year 2000: $6,374,300,000,000.
Fiscal year 2001: $6,614,400,000,000.
Fiscal year 2002: $6,806,100,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1995, October 1, 1996, October 1, 1997, October 1, 1998, October 1, 1999, October 1, 2000, and October 1, 2001 are as follows:

Fiscal year 1996:

(A) New direct loan obligations, $37,600,000,000.

(B) New primary loan guarantee commitments, $193,400,000,000.

Fiscal year 1997:

(A) New direct loan obligations, $40,200,000,000.

(B) New primary loan guarantee commitments, $187,900,000,000.

Fiscal year 1998:

(A) New direct loan obligations, $42,300,000,000.

(B) New primary loan guarantee commitments, $185,300,000,000.

Fiscal year 1999:

(A) New direct loan obligations, $45,700,000,000.

(B) New primary loan guarantee commitments, $183,300,000,000.

Fiscal year 2000:

(A) New direct loan obligations, $45,600,000,000.

(B) New primary loan guarantee commitments, $184,700,000,000.

Fiscal year 2001:

(A) New direct loan obligations, $45,800,000,000.

(B) New primary loan guarantee commitments, $186,100,000,000.

Fiscal year 2002:

(A) New direct loan obligations, $46,100,000,000.

(B) New primary loan guarantee commitments, $187,600,000,000.

SEC. 3. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, new primary loan guarantee commitments, and new secondary loan guarantee commitments for fiscal years 1996 through 2002 for each major functional category are:

(1) National Defense (050):

Fiscal year 1996:

(A) New budget authority, $257,700,000,000.

(B) Outlays, $261,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $253,300,000,000.

(B) Outlays, $257,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $259,600,000,000.

(B) Outlays, $254,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $266,200,000,000.

(B) Outlays, $259,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $275,900,000,000.

(B) Outlays, $267,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $275,900,000,000.

(B) Outlays, $273,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $281,300,000,000.

(B) Outlays, $276,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1996:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $17,000,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $13,700,000,000.

(B) Outlays, $15,100,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $11,300,000,000.

(B) Outlays, $13,300,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $9,700,000,000.

(B) Outlays, $11,500,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $10,500,000,000.

(B) Outlays, $10,000,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $12,000,000,000.

(B) Outlays, $11,100,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $12,000,000,000.

(B) Outlays, $10,700,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

(3) General Science, Space, and Technology (250):

Fiscal year 1996:

(A) New budget authority, $16,600,000,000.

(B) Outlays, $16,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $16,300,000,000.

(B) Outlays, $16,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $16,100,000,000.

(B) Outlays, $16,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $15,900,000,000.

(B) Outlays, $16,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $15,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $15,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $15,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1996:

(A) New budget authority, $2,900,000,000.

(B) Outlays, $2,700,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $2,100,000,000.

(B) Outlays, $1,400,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $4,500,000,000.

(B) Outlays, $3,800,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $4,900,000,000.

(B) Outlays, $3,800,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $4,100,000,000.

(B) Outlays, $2,800,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $4,100,000,000.

(B) Outlays, $2,900,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $4,00,000,000.

(B) Outlays, $2,900,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1996:

(A) New budget authority, $19,500,000,000.

(B) Outlays, $20,400,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $18,400,000,000.

(B) Outlays, $20,100,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $15,600,000,000.

(B) Outlays, $17,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $16,800,000,000.

(B) Outlays, $18,400,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $16,400,000,000.

(B) Outlays, $17,400,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $15,000,000,000.

(B) Outlays, $15,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $16,600,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1996:

(A) New budget authority, $13,600,000,000.

(B) Outlays, $12,300,000,000.

(C) New direct loan obligations, $11,500,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $13,200,000,000.

(B) Outlays, $11,800,000,000.

(C) New direct loan obligations, $11,500,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $12,900,000,000.

(B) Outlays, $11,800,000,000.

(C) New direct loan obligations, $10,900,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $12,600,000,000.

(B) Outlays, $11,400,000,000.

(C) New direct loan obligations, $11,600,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $12,700,000,000.

(B) Outlays, $11,600,000,000.

(C) New direct loan obligations, $11,400,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $11,400,000,000.

(B) Outlays, $10,400,000,000.

(C) New direct loan obligations, $11,100,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $11,100,000,000.

(B) Outlays, $10,100,000,000.

(C) New direct loan obligations, $10,900,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

(7) Commerce and Housing Credit (370):

Fiscal year 1996:

(A) New budget authority, $2,500,000,000.

(B) Outlays, $-7,000,000,000.

(C) New direct loan obligations, $1,900,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $1,600,000,000.

(B) Outlays, $-5,400,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $600,000,000.

(B) Outlays, $-7,100,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $100,000,000.

(B) Outlays, $-5,100,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $1,500,000,000.

(B) Outlays, $-3,900,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $500,000,000.

(B) Outlays, $-3,200,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $300,000,000.

(B) Outlays, $-3,300,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

(8) Transportation (400):

Fiscal year 1996:

(A) New budget authority, $38,500,000,000.

(B) Outlays, $40,000,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $41,200,000,000.

(B) Outlays, $35,500,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $42,300,000,000.

(B) Outlays, $34,300,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $43,300,000,000.

(B) Outlays, $35,000,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $44,500,000,000.

(B) Outlays, $35,100,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $44,300,000,000.

(B) Outlays, $35,200,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $44,100,000,000.

(B) Outlays, $35,300,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1996:

(A) New budget authority, $6,800,000,000.

(B) Outlays, $9,900,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $7,200,000,000.

(B) Outlays, $7,900,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $6,900,000,000.

(B) Outlays, $6,900,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $6,800,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $6,700,000,000.

(B) Outlays, $6,700,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $6,200,000,000.

(B) Outlays, $6,700,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $6,000,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1996:

(A) New budget authority, $53,300,000,000.

(B) Outlays, $53,700,000,000.

(C) New direct loan obligations, $13,600,000,000.

(D) New primary loan guarantee commitments, $16,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $53,200,000,000.

(B) Outlays, $53,200,000,000.

(C) New direct loan obligations, $16,300,000,000.

(D) New primary loan guarantee commitments, $15,900,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $52,300,000,000.

(B) Outlays, $51,900,000,000.

(C) New direct loan obligations, $19,100,000,000.

(D) New primary loan guarantee commitments, $15,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $53,600,000,000.

(B) Outlays, $52,700,000,000.

(C) New direct loan obligations, $21,800,000,000.

(D) New primary loan guarantee commitments, $14,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $53,800,000,000.

(B) Outlays, $53,000,000,000.

(C) New direct loan obligations, $21,900,000,000.

(D) New primary loan guarantee commitments, $15,000,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $53,500,000,000.

(B) Outlays, $52,800,000,000.

(C) New direct loan obligations, $22,000,000,000.

(D) New primary loan guarantee commitments, $15,800,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $54,500,000,000.

(B) Outlays, $53,600,000,000.

(C) New direct loan obligations, $22,200,000,000.

(D) New primary loan guarantee commitments, $16,600,000,000.

(E) New secondary loan guarantee commitments, $0.

(11) Health (550):

Fiscal year 1996:

(A) New budget authority, $124,500,000,000.

(B) Outlays, $124,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $130,600,000,000.

(B) Outlays, $130,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $138,500,000,000.

(B) Outlays, $139,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $146,500,000,000.

(B) Outlays, $146,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $153,400,000,000.

(B) Outlays, $153,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $159,500,000,000.

(B) Outlays, $159,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $166,400,000,000.

(B) Outlays, $166,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

(12) Medicare (570):

Fiscal year 1996:

(A) New budget authority, $171,900,000,000.

(B) Outlays, $169,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $182,900,000,000.

(B) Outlays, $181,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $198,300,000,000.

(B) Outlays, $196,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $215,300,000,000.

(B) Outlays, $212,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $235,900,000,000.

(B) Outlays, $234,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $254,400,000,000.

(B) Outlays, $252,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $277,900,000,000.

(B) Outlays, $275,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1996:

(A) New budget authority, $227,300,000,000.

(B) Outlays, $226,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $239,000,000,000.

(B) Outlays, $240,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $259,700,000,000.

(B) Outlays, $252,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $263,400,000,000.

(B) Outlays, $265,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $281,300,000,000.

(B) Outlays, $281,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $286,400,000,000.

(B) Outlays, $286,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $300,600,000,000.

(B) Outlays, $300,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1996:

(A) New budget authority, $5,900,000,000.

(B) Outlays, $8,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $8,000,000,000.

(B) Outlays, $10,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $8,800,000,000.

(B) Outlays, $11,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $8,100,000,000.

(B) Outlays, $10,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $6,800,000,000.

(B) Outlays, $9,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $5,100,000,000.

(B) Outlays, $7,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $3,400,000,000.

(B) Outlays, $5,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1996:

(A) New budget authority, $37,600,000,000.

(B) Outlays, $36,900,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $26,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $38,100,000,000.

(B) Outlays, $38,100,000,000.

(C) New direct loan obligations, $1,100,000,000.

(D) New primary loan guarantee commitments, $21,600,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $38,500,000,000.

(B) Outlays, $38,500,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $19,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $39,100,000,000.

(B) Outlays, $39,000,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $19,600,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $39,200,000,000.

(B) Outlays, $40,600,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $19,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $39,700,000,000.

(B) Outlays, $41,200,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $19,800,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $40,100,000,000.

(B) Outlays, $41,600,000,000.

(C) New direct loan obligations, $1,700,000,000.

(D) New primary loan guarantee commitments, $20,600,000,000.

(E) New secondary loan guarantee commitments, $0.

(16) Administration of Justice (750):

Fiscal year 1996:

(A) New budget authority, $17,300,000,000.

(B) Outlays, $16,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $17,900,000,000.

(B) Outlays, $18,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $18,400,000,000.

(B) Outlays, $19,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $19,200,000,000.

(B) Outlays, $20,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $19,000,000,000.

(B) Outlays, $20,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $18,400,000,000.

(B) Outlays, $19,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $18,100,000,000.

(B) Outlays, $19,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1996:

(A) New budget authority, $12,400,000,000.

(B) Outlays, $12,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $12,300,000,000.

(B) Outlays, $12,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $11,600,000,000.

(B) Outlays, $12,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $11,500,000,000.

(B) Outlays, $11,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $11,100,000,000.

(B) Outlays, $10,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $10,800,000,000.

(B) Outlays, $10,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $10,700,000,000.

(B) Outlays, $10,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1996:

(A) New budget authority, $296,000,000,000.

(B) Outlays, $296,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $302,800,000,000.

(B) Outlays, $302,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $304,600,000,000.

(B) Outlays, $304,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $307,700,000,000.

(B) Outlays, $307,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $310,500,000,000.

(B) Outlays, $310,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $309,300,000,000.

(B) Outlays, $309,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $311,100,000,000.

(B) Outlays, $311,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1996:

(A) New budget authority, $-8,600,000,000.

(B) Outlays, $-6,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $-8,400,000,000.

(B) Outlays, $-8,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $-7,300,000,000.

(B) Outlays, $-7,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, -$6,800,000,000.

(B) Outlays, -$7,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, -$5,700,000,000.

(B) Outlays, -$6,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, -$5,700,000,000.

(B) Outlays, -$6,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, -$5,700,000,000.

(B) Outlays, -$6,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1996:

(A) New budget authority, -$33,100,000,000.

(B) Outlays, -$32,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, -$33,800,000,000.

(B) Outlays, -$33,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, -$36,300,000,000.

(B) Outlays, -$35,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $-37,800,000,000.

(B) Outlays, $-38,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $-39,900,000,000.

(B) Outlays, $-41,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $-41,600,000,000.

(B) Outlays, $-41,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $-42,900,000,000.

(B) Outlays, $-42,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

SEC. 4. RECONCILIATION.

(a) Not later than September 14, 1995, the House committees named in subsections (b) through (o) of this section shall submit their recommendations to the House Budget Committee. After receiving those recommendations, the House Budget Committee shall report to the House a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

(b) The House Committee on Agriculture shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $1,120,000,000 in budget authority and $1,120,000,000 in outlays in fiscal year 1996, $2,530,000,000 in budget authority and $2,530,000,000 in outlays in fiscal year 1997, $2,650,000,000 in budget authority and $2,650,000,000 in outlays in fiscal year 1998, $2,810,000,000 in budget authority and $2,810,000,000 in outlays in fiscal year 1999, $2,650,000,000 in budget authority and $2,650,000,000 in outlays in fiscal year 2000, $2,700,000,000 in budget authority and $2,700,000,000 in outlays in fiscal year 2001, and $2,760,000,000 in budget authority and $2,760,000,000 in fiscal year 2002.

(c) The House Committee on Banking and Financial Services shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $910,000,000 in budget authority and $910,000,000 in outlays in fiscal year 1996, $930,000,000 in budget authority and $930,000,000 in outlays in fiscal year 1997, $950,000,000 in budget authority and $950,000,000 in outlays in fiscal year 1998, $1,030,000,000 in budget authority and $1,030,000,000 in outlays in fiscal year 1999, $1,050,000,000 in budget authority and $1,050,000,000 in outlays in fiscal year 2000, $1,070,000,000 in budget authority and $1,070,000,000 in outlays in fiscal year 2001, and $1,070,000,000 in budget authority and $1,070,000,000 in fiscal year 2002.

(d) The House Committee on Commerce shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $15,780,000,000 in budget authority and $15,650,000,000 in outlays in fiscal year 1996, $30,830,000,000 in budget authority and $30,830,000,000 in outlays in fiscal year 1997, $36,070,000,000 in budget authority and $36,080,000,000 in outlays in fiscal year 1998, $49,820,000,000 in budget authority and $50,010,000,000 in outlays in fiscal year 1999, $59,140,000,000 in budget authority and $59,140,000,000 in outlays in fiscal year 2000, $68,760,000,000 in budget authority and $68,760,000,000 in outlays in fiscal year 2001, and $82,480,000,000 in budget authority and $82,480,000,000 in fiscal year 2002.

(e) The House Committee on Economic and Educational Opportunities shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $460,000,000 in budget authority and $390,000,000 in outlays in fiscal year 1996, $770,000,000 in budget authority and $730,000,000 in outlays in fiscal year 1997, $800,000,000 in budget authority and $790,000,000 in outlays in fiscal year 1998, $830,000,000 in budget authority and $830,000,000 in outlays in fiscal year 1999, $880,000,000 in budget authority and $880,000,C90 in outlays in fiscal year 2000, $1,210,000,000 in budget authority and $1,200,000,000 in outlays in fiscal year 2001, and $1,290,000,000 in budget authority and $1,280,000,000 in fiscal year 2002.

(f) The House Committee on Government Reform and Oversight shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $280,000,000 in budget authority and $280,000,000 in outlays in fiscal year 1996, $570,000,000 in budget authority and $570,000,000 in outlays in fiscal year 1997, $890,000,000 in budget authority and $890,000,000 in outlays in fiscal year 1998, $1,220,000,000 in budget authority and $1,220,000,000 in outlays in fiscal year 1999, $1,810,000,000 in budget authority and $1,810,000,000 in outlays in fiscal year 2000, $840,000,000 in budget authority and $840,000,000 in outlays in fiscal year 2001, and $1,160,000,000 in budget authority and $1,160,000,000 in fiscal year 2002.

(g) The House Committee on International Relations shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $0 in budget authority and $0 in outlays in fiscal year 1996, $0 in budget authority and $0 in outlays in fiscal year 1997, $0 in budget authority and $0 in outlays in fiscal year 1998, $0 in budget authority and $0 in outlays in fiscal year 1999, $0 in budget authority and $0 in outlays in fiscal year 2000, $0 in budget authority and $0 in outlays in fiscal year 2001, and $0 in budget authority and $0 in fiscal year 2002.

(h) The House Committee on the Judiciary shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $120,000,000 in budget authority and $120,000,000 in outlays in fiscal year 1996, $130,000,000 in budget authority and $130,000,000 in outlays in fiscal year 1997, $140,000,000 in budget authority and $140,000,000 in outlays in fiscal year 1998, $270,000,000 in budget authority and $150,000,000 in outlays in fiscal year 1999, $270,000,000 in budget authority and $160,000,000 in outlays in fiscal year 2000, $280,000,000 in budget authority and $160,000,000 in outlays in fiscal year 2001, and $290,000,000 in budget authority and $170,000,000 in fiscal year 2002.

(i) The House Committee on National Security shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $0 in budget authority and $0 in outlays in fiscal year 1996, $0 in budget authority and $0 in outlays in fiscal year 1997, $0 in budget authority and $0 in outlays in fiscal year 1998, $0 in budget authority and $0 in outlays in fiscal year 1999, $0 in budget authority and $0 in outlays in fiscal year 2000, $0 in budget authority and $0 in outlays in fiscal year 2001, and $0 in budget authority and $0 in fiscal year 2002.

(j) The House Committee on Resources shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $60,000,000 in budget authority and $60,000,000 in outlays in fiscal year 1996, $80,000,000 in budget authority and $80,000,000 in outlays in fiscal year 1997, $2,330,000,000 in budget authority and $2,330,000,000 in outlays in fiscal year 1998, $1,090,000,000 in budget authority and $1,090,000,000 in outlays in fiscal year 1999, $290,000,000 in budget authority and $290,000,000 in outlays in fiscal year 2000, $3,970,000,000 in budget authority and $3,970,000,000 in outlays in fiscal year 2001, and $3,380,000,000 in budget authority and $3,380,000,000 in fiscal year 2002.

(k) The House Committee on Science shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $0 in budget authority and $0 in outlays in fiscal year 1996, $0 in budget authority and $0 in outlays in fiscal year 1997, $0 in budget authority and $0 in outlays in fiscal year 1998, $0 in budget authority and $0 in outlays in fiscal year 1999, $0 in budget authority and $0 in outlays in fiscal year 2000, $0 in budget authority and $0 in outlays in fiscal year 2001, and $0 in budget authority and $0 in fiscal year 2002.

(l) The House Committee on Small Business shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $0 in budget authority and $0 in outlays in fiscal year 1996, $0 in budget authority and $0 in outlays in fiscal year 1997, $0 in budget authority and $0 in outlays in fiscal year 1998, $0 in budget authority and $0 in outlays in fiscal year 1999, $0 in budget authority and $0 in outlays in fiscal year 2000, $0 in budget authority and $0 in outlays in fiscal year 2001, and $0 in budget authority and $0 in fiscal year 2002.

(m) The House Committee on Transportation and Infrastructure shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $550,000,000 in budget authority and $550,000,000 in outlays in fiscal year 1996, $550,000,000 in budget authority and $550,000,000 in outlays in fiscal year 1997, $550,000,000 in budget authority and $550,000,000 in outlays in fiscal year 1998, $610,000,000 in budget authority and $610,000,000 in outlays in fiscal year 1999, $620,000,000 in budget authority and $620,000,000 in outlays in fiscal year 2000, $620,000,000 in budget authority and $620,000,000 in outlays in fiscal year 2001, and $620,000,000 in budget authority and $620,000,000 in fiscal year 2002.

(n) The House Committee on Veterans' Affairs shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $300,000,000 in budget authority and $300,000,000 in outlays in fiscal year 1996, $300,000,000 in budget authority and $300,000,000 in outlays in fiscal year 1997, $400,000,000 in budget authority and $400,000,000 in outlays in fiscal year 1998, $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1999, $1,200,000,000 in budget authority and $1,200,000,000 in outlays in fiscal year 2000, $1,300,000,000 in budget authority and $1,300,000,000 in outlays in fiscal year 2001, and $1,500,000,000 in budget authority and $1,500,000,000 in fiscal year 2002.

(o) The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to reduce the deficit, as follows: $14,370,000,000 in fiscal year 1996, $27,550,000,000 in fiscal year 1997, $28,460,000,000 in fiscal year 1998, $35,960,000,000 in fiscal year 1999, $35,340,000,000 in fiscal year 2000, $42,320,000,000 in fiscal year 2001, and $50,220,000,000 in fiscal year 2002.

(p) For purposes of this section, the term "direct spending" has the meaning given to such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985 and the term "new budget authority" has the meaning given to such term in section 3(2) of the Congressional Budget and Impoundment Control Act of 1974.

SEC. 5. SENSE OF CONGRESS REGARDING TAX CUTS.

It is the sense of the Congress that changes in tax laws which stimulate private investment of savings should be enacted if the deficit reduction targets in this resolution are met.

SEC. 6. SENSE OF CONGRESS REGARDING EMERGENCIES.

It is the sense of the Congress that Congress should study alternative approaches to budgeting for emergencies, establishing regular procedures and funds for paying for emergencies.

SEC. 7. SENSE OF CONGRESS REGARDING DEBT REDUCTION.

It is the sense of the Congress that eliminating the deficit by producing a balanced budget is only the first step toward the ultimate goal of reducing and eventually eliminating the public debt.

SEC. 8. SENSE OF CONGRESS REGARDING TRUST FUND SURPLUSES.

Congress finds that all recent year Federal budgets, as well as both fiscal year 1996 budget resolutions reported out by the Budget Committees of the House of Representatives and the Senate, have masked the magnitude of annual deficits by counting various trust fund surpluses. Therefore, it is the sense of the Congress that upon reaching a balance in the Federal budget, the Government should move toward balance without consideration of trust fund surpluses.

SEC. 9. SENSE OF CONGRESS REGARDING LOCK-BOX.

(a) It is the sense of the Congress that:

(1) The current practice of reallocating for other spending purposes spending cuts made during floor consideration of appropriations bills should be ended.

(2) A "Deficit Reduction Lock-Box" should be established to collect these spending reductions.

(3) These spending reductions should be used for deficit or debt reduction.

(b) To facilitate Deficit Reduction Lock-Box compliance by the Committees on Appropriations, the Congressional Budget Office shall score all general appropriation measures and have such score card published in the Congressional Record.

SEC. 10. SENSE OF CONGRESS REGARDING FIREWALLS.

It is the sense of the Congress that the discretionary spending totals for defense, international, and domestic spending should be enforced through spending limits for each category with firewalls to prevent funds from being shifted between categories.

SEC. 11. SENSE OF CONGRESS REGARDING BUDGET ENFORCEMENT.

It is the sense of the Congress that, in order to ensure that a balanced budget is achieved by 2002 and remain in balance thereafter, strict enforcement should be enacted. Such language should—

(1) require the Federal Government to reach a balanced Federal budget by fiscal year 2002 and remain in balance thereafter;

(2) establish procedures for developing honest, accurate, and accepted budget estimates;

(3) require that the President propose annual budgets that would achieve a balanced Federal budget by fiscal year 2002 and for each year thereafter, use accurate assumptions;

(4) require the Committees on the Budget of the House of Representatives and Senate to report budget resolutions that achieve a balanced Federal budget by fiscal year 2002 and for each year thereafter, using accurate assumptions; [and]

(5) establish a comprehensive system of budgetary enforcement to ensure that the levels of discretionary spending, mandatory spending, and revenues in this resolution are met.

SEC. 12. INTERNAL REVENUE SERVICE COMPLIANCE INITIATIVE.

(a) ADJUSTMENTS.—(1) For purposes of points of order under the Congressional Budget Act of 1974 and concurrent resolutions on the budget—

(A) the discretionary spending limits under section 601(a)(2) of that Act (and those limits as cumulatively adjusted) for the current fiscal year and each outyear;

(B) the allocations to the Committee on Appropriations under sections 302(a) and 602(a) of that Act; and

(C) the appropriate budgetary aggregates in the most recently agreed to concurrent resolution on the budget,

shall be adjusted to reflect the amounts of additional new budget authority or additional outlays (as defined in paragraph (2)) reported by the Committee on Appropriations in appropriation Acts (or by the committee of conference on such legislation) for the Internal Revenue Service compliance initiative activities in any fiscal year, but not to exceed in any fiscal year $405,000,000 in new budget authority and $405,000,000 in outlays.

(2) As used in this section, the terms "additional new budget authority" or "additional outlays" shall mean, for any fiscal year, budget authority or outlays (as the case may be) in excess of the amounts requested for that fiscal year for the Internal Revenue Service in the President's Budget for fiscal year 1996.

(b) REVISED LIMITS, ALLOCATIONS, AND AGGREGATES.—Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate or the House of Representatives (as the case may be) shall submit to that chairman's respective House appropriately revised—

(1) discretionary spending limits under section 601(a)(2) of the Congressional Budget Act of 1974 (and those limits as cumulatively adjusted) for the current fiscal year and each outyear;

(2) allocations to the Committee on Appropriations under sections 302(a) and 602(a) of that Act; and

(3) appropriate budgetary aggregates in the most recently agreed to concurrent resolution on the budget,

to carry out this subsection. These revised discretionary spending limits, allocations, and aggregates shall be considered for purposes of congressional enforcement under that Act as the discretionary spending limits, allocations, and aggregates.

(c) REPORTING REVISED SUBALLOCATIONS.—The Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to sections 302(b)(1) and 602(b)(1) of the Congressional Budget Act of 1974 to carry out this section.

(d) CONTINGENCIES.—

(1) The Internal Revenue Service and the Department of the Treasury have certified that they are firmly committed to the principles of privacy, confidentiality, courtesy, and protection of taxpayer rights. To this

end, the Internal Revenue Service and the Department of the Treasury have explicitly committed to initiate and implement educational programs for any new employees hired as a result of the compliance initiative made possible by this section.

(2) This section shall not apply to any additional new budget authority or additional outlays unless—

(A) the chairmen of the Budget Committees certify, based upon information from the Congressional Budget Office, the General Accounting Office, and the Internal Revenue Service (as well as from any other sources they deem relevant), that such budget authority or outlays will not increase the total of the Federal budget deficits over the next five years; and

(B) any funds made available pursuant to such budget authority or outlays are available only for the purpose of carrying out Internal Revenue Service compliance initiative activities.

SEC. 13. SENSE OF CONGRESS REGARDING MEDICAID BLOCK GRANTS.

It is the Sense of Congress that Medicaid block grants should be distributed based on a formula that takes into account the proportion of individuals with income below the poverty level in each State.

H. CON. RES. 67

OFFERED BY: MR. PAYNE OF NEW JERSEY

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 2: Strike all after the resolving clause and insert the following:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1996.

The Congress determines and declares that this resolution is the concurrent resolution on the budget for fiscal year 1996, including the appropriate budgetary levels for fiscal years 1997, 1998, 1999, 2000, 2001, and 2002, as required by section 301 of the Congressional Budget Act of 1974.

SEC. 2. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1995, October 1, 1996, October 1, 1997, October 1, 1998, October 1, 1999, October 1, 2000, and October 1, 2001:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1996: $1,060,800,000,000.
Fiscal year 1997: $1,113,500,000,000.
Fiscal year 1998: $1,199,600,000,000.
Fiscal year 1999: $1,290,530,000,000.
Fiscal year 2000: $1,361,430,000,000.
Fiscal year 2001: $1,495,274,000,000.
Fiscal year 2002: $1,576,520,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1996: $17,800,000,000.
Fiscal year 1997: $30,000,000,000.
Fiscal year 1998: $64,600,000,000.
Fiscal year 1999: $103,130,000,000.
Fiscal year 2000: $115,930,000,000.
Fiscal year 2001: $183,774,000,000.
Fiscal year 2002: $195,520,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1996: $103,800,000,000.
Fiscal year 1997: $109,000,000,000.
Fiscal year 1998: $114,900,000,000.
Fiscal year 1999: $120,700,000,000.
Fiscal year 2000: $126,900,000,000.
Fiscal year 2001: $133,600,000,000.
Fiscal year 2002: $140,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1996: $1,305,645,000,000.
Fiscal year 1997: $1,351,766,000,000.
Fiscal year 1998: $1,418,293,000,000.
Fiscal year 1999: $1,477,601,000,000.
Fiscal year 2000: $1,554,772,000,000.
Fiscal year 2001: $1,635,012,000,000.
Fiscal year 2002: $1,705,270,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1996: $1,310,531,000,000.
Fiscal year 1997: $1,360,603,000,000.
Fiscal year 1998: $1,406,588,000,000.
Fiscal year 1999: $1,473,786,000,000.
Fiscal year 2000: $1,532,385,000,000.
Fiscal year 2001: $1,586,550,000,000.
Fiscal year 2002: $1,657,024,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1996: $249,731,000,000.
Fiscal year 1997: $247,103,000,000.
Fiscal year 1998: $206,988,000,000.
Fiscal year 1999: $183,256,000,000.
Fiscal year 2000: $170,955,000,000.
Fiscal year 2001: $99,830,000,000.
Fiscal year 2002: $80,504,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1996: $5,195,000,000,000.
Fiscal year 1997: $5,516,000,000,000.
Fiscal year 1998: $5,810,000,000,000.
Fiscal year 1999: $6,100,000,000,000.
Fiscal year 2000: $6,374,000,000,000.
Fiscal year 2001: $6,614,000,000,000.
Fiscal year 2002: $6,806,000,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1995, October 1, 1996, October 1, 1997, October 1, 1998, October 1, 1999, October 1, 2000, and October 1, 2001 are as follows:

Fiscal year 1996:

(A) New direct loan obligations, $37,600,000,000.

(B) New primary loan guarantee commitments, $193,400,000,000.

Fiscal year 1997:

(A) New direct loan obligations, $40,200,000,000.

(B) New primary loan guarantee commitments, $187,900,000,000.

Fiscal year 1998:

(A) New direct loan obligations, $42,300,000,000.

(B) New primary loan guarantee commitments, $185,300,000,000.

Fiscal year 1999:

(A) New direct loan obligations, $45,700,000,000.

(B) New primary loan guarantee commitments, $183,300,000,000.

Fiscal year 2000:

(A) New direct loan obligations, $45,800,000,000.

(B) New primary loan guarantee commitments, $184,700,000,000.

Fiscal year 2001:

(A) New direct loan obligations, $45,800,000,000.

(B) New primary loan guarantee commitments, $186,100,000,000.

Fiscal year 2002:

(A) New direct loan obligations, $46,100,000,000.

(B) New primary loan guarantee commitments, $187,600,000,000.

SEC. 3. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, new primary loan guarantee commitments, and new secondary loan guarantee commitments for fiscal years 1996 through 2002 for each major functional category are:

(1) National Defense (050):

Fiscal year 1996:

(A) New budget authority, $226,800,000,000.

(B) Outlays, $252,900,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $215,200,000,000.

(B) Outlays, $242,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $220,500,000,000.

(B) Outlays, $236,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $223,600,000,000.

(B) Outlays, $239,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $230,100,000,000.

(B) Outlays, $244,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $250,867,000,000.

(B) Outlays, $244,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $250,947,000,000.

(B) Outlays, $244,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(E) New secondary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1996:

(A) New budget authority, $18,462,000,000.

(B) Outlays, $17,689,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $18,629,000,000.

(B) Outlays, $17,540,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $19,106,000,000.

(B) Outlays, $18,248,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $19,420,000,000.

(B) Outlays, $18,752,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $22,140,000,000.

(B) Outlays, $19,596,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $21,951,000,000.

(B) Outlays, $19,596,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $21,955,000,000.

(B) Outlays, $19,596,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(E) New secondary loan guarantee commitments, $0.

(3) General Science, Space, and Technology (250):

Fiscal year 1996:

(A) New budget authority, $16,447,000,000.

(B) Outlays, $15,840,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $15,829,000,000.

(B) Outlays, $15,427,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $15,203,000,000.

(B) Outlays, $15,349,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $15,355,000,000.

(B) Outlays, $15,194,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $14,940,000,000.

(B) Outlays, $14,942,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $14,943,000,000.

(B) Outlays, $14,940,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $14,947,000,000.

(B) Outlays, $14,942,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1996:

(A) New budget authority, $4,654,000,000.

(B) Outlays, $3,941,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $3,314,000,000.

(B) Outlays, $3,645,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $3,131,000,000.

(B) Outlays, $2,424,000,000.

(C) New direct loan obligations, $1,200,000,000

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $3,744,000,000.

(B) Outlays, $3,099,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $3,559,000,000.

(B) Outlays, $2,475,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $3,672,000,000.

(B) Outlays, $2,540,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $3,750,000,000.

(B) Outlays, $2,585,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1996:

(A) New budget authority, $22,570,000,000.

(B) Outlays, $21,212,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $22,476,000,000.

(B) Outlays, $21,498,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $21,874,000,000.

(B) Outlays, $21,206,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $21,368,000,000.

(B) Outlays, $20,775,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $20,753,000,000.

(B) Outlays, $20,134,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $20,836,000,000.

(B) Outlays, $20,134,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $20,815,000,000.

(B) Outlays, $20,134,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1996:

(A) New budget authority, $13,713,000,000.

(B) Outlays, $12,309,000,000.

(C) New direct loan obligations, $11,500,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $12,598,000,000.

(B) Outlays, $11,247,000,000.

(C) New direct loan obligations, $11,500,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $11,144,000,000.

(B) Outlays, $9,993,000,000.

(C) New direct loan obligations, $10,900,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $9,936,000,000.

(B) Outlays, $8,718,000,000.

(C) New direct loan obligations, $11,600,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $9,207,000,000.

(B) Outlays, $8,060,000,000.

(C) New direct loan obligations, $11,400,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $8,953,000,000.

(B) Outlays, $8,066,000,000.

(C) New direct loan obligations, $11,100,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $8,960,000,000.

(B) Outlays, $8,072,000,000.

(C) New direct loan obligations, $10,900,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(E) New secondary loan guarantee commitments, $0.

(7) Commerce and Housing Credit (370):

Fiscal year 1996:

(A) New budget authority, $4,191,000,000.

(B) Outlays, minus $6,339,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $4,104,000,000.

(B) Outlays, −$4,016,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $3,631,000,000.

(B) Outlays, −$5,151,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $4,419,000,000.

(B) Outlays, −$2,927,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $6,504,000,000.

(B) Outlays, −$2,320,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $11,739,000,000.

(B) Outlays, −$1,381,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $12,420,000,000.

(B) Outlays, −$345,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(E) New secondary loan guarantee commitments, $0.

(8) Transportation (400):

Fiscal year 1996:

(A) New budget authority, $33,369,000,000.

(B) Outlays, $34,480,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $39,515,000,000.

(B) Outlays, $35,429,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $41,038,000,000.

(B) Outlays, $36,590,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $42,677,000,000.

(B) Outlays, $37,965,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $44,360,000,000.

(B) Outlays, $39,519,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $43,327,000,000.

(B) Outlays, $39,519,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $42,389,000,000.

(B) Outlays, $39,519,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1996:

(A) New budget authority, $10,780,000,000.

(B) Outlays, $12,325,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $10,749,000,000.

(B) Outlays, $12,540,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $11,181,000,000.

(B) Outlays, $12,599,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $11,658,000,000.

(B) Outlays, $13,226,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $12,062,000,000.

(B) Outlays, $12,486,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $13,374,000,000.

(B) Outlays, $12,573,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $13,468,000,000.

(B) Outlays, $12,661,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(E) New secondary loan guarantee commitments, $0.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1996:

(A) New budget authority, $61,801,000,000.

(B) Outlays, $59,939,000,000.

(C) New direct loan obligations, $13,600,000,000.

(D) New primary loan guarantee commitments, $16,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $62,853,000,000.

(B) Outlays, $62,114,000,000.

(C) New direct loan obligations, $16,300,000,000.

(D) New primary loan guarantee commitments, $15,900,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $64,937,000,000.

(B) Outlays, $62,732,000,000.

(C) New direct loan obligations, $19,100,000,000.

(D) New primary loan guarantee commitments, $15,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $67,323,000,000.

(B) Outlays, $64,894,000,000.

(C) New direct loan obligations, $21,800,000,000.

(D) New primary loan guarantee commitments, $14,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $69,809,000,000.

(B) Outlays, $67,238,000,000.

(C) New direct loan obligations, $21,900,000,000.

(D) New primary loan guarantee commitments, $15,000,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $71,016,000,000.

(B) Outlays, $68,366,000,000.

(C) New direct loan obligations, $22,000,000,000.

(D) New primary loan guarantee commitments, $15,800,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $73,011,000,000.

(B) Outlays, $70,366,000,000.

(C) New direct loan obligations, $22,200,000,000.

(D) New primary loan guarantee commitments, $16,600,000,000.

(E) New secondary loan guarantee commitments, $0.

(11) Health (550):

Fiscal year 1996:

(A) New budget authority, $128,956,000,000.

(B) Outlays, $127,946,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $140,941,000,000.

(B) Outlays, $140,282,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $154,227,000,000.

(B) Outlays, $153,746,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $168,335,000,000.

(B) Outlays, $167,729,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $183,031,000,000.

(B) Outlays, $182,276,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $198,841,000,000.

(B) Outlays, $198,036,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $215,541,000,000.

(B) Outlays, $214,736,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

(12) Medicare (570):

Fiscal year 1996:

(A) New budget authority, $184,200,000,000.

(B) Outlays, $181,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $202,300,000,000.

(B) Outlays, $200,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $221,100,000,000.

(B) Outlays, $219,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $243,500,000,000.

(B) Outlays, $241,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $266,400,000,000.

(B) Outlays, $264,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $292,600,000,000.

(B) Outlays, $290,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $321,500,000,000.

(B) Outlays, $319,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1996:

(A) New budget authority, $235,500,000,000.

(B) Outlays, $232,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $252,900,000,000.

(B) Outlays, $250,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $274,800,000,000.

(B) Outlays, $264,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $281,100,000,000.

(B) Outlays, $279,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $301,200,000,000.

(B) Outlays, $297,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $310,400,000,000.

(B) Outlays, $306,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $329,500,000,000.

(B) Outlays, $325,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1996:

(A) New budget authority, $5,894,000,000.

(B) Outlays, $8,593,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $8,030,000,000.

(B) Outlays, $10,763,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $8,795,000,000.

(B) Outlays, $11,512,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $9,561,000,000.

(B) Outlays, $11,921,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $10,529,000,000.

(B) Outlays, $466,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $11,022,000,000.

(B) Outlays, $584,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $11,667,000,000.

(B) Outlays, $734,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1996:

(A) New budget authority, $40,175,000,000.

(B) Outlays, $38,275,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $26,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $40,131,000,000.

(B) Outlays, $39,875,000,000.

(C) New direct loan obligations, $1,100,000,000.

(D) New primary loan guarantee commitments, $21,600,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $41,423,000,000.

(B) Outlays, $41,277,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $19,700,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $43,587,000,000.

(B) Outlays, $43,396,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $18,600,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $44,897,000,000.

(B) Outlays, $46,182,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $19,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $46,400,000,000.

(B) Outlays, $47,700,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $19,900,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $47,900,000,000.

(B) Outlays, $49,200,000,000.

(C) New direct loan obligations, $1,700,000,000.

(D) New primary loan guarantee commitments, $20,600,000,000.

(E) New secondary loan guarantee commitments, $0.

(16) Administration of Justice (750):

Fiscal year 1996:

(A) New budget authority, $20,182,000,000.

(B) Outlays, $19,711,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $20,869,000,000.

(B) Outlays, $20,430,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $21,788,000,000.

(B) Outlays, $21,455,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $22,768,000,000.

(B) Outlays, $22,215,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $23,371,000,000.

(B) Outlays, $23,015,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $23,323,000,000.

(B) Outlays, $23,015,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $23,400,000,000.

(B) Outlays, $23,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1996:

(A) New budget authority, $14,674,000,000.

(B) Outlays, $14,170,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $14,258,000,000.

(B) Outlays, $13,796,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $14,125,000,000.

(B) Outlays, $13,855,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $13,980,000,000.

(B) Outlays, $13,796,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $13,582,000,000.

(B) Outlays, $13,625,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $13,974,000,000.

(B) Outlays, $13,625,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $13,964,000,000.

(B) Outlays, $13,625,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1996:

(A) New budget authority, $295,828,000,000.

(B) Outlays, $295,828,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $304,289,000,000.

(B) Outlays, $304,289,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $308,696,000,000.

(B) Outlays, $308,696,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $314,655,000,000.

(B) Outlays, $314,655,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $319,862,000,000.

(B) Outlays, $319,862,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $320,646,000,000.

(B) Outlays, $320,646,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $323,331,000,000.

(B) Outlays, $323,331,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1996:

(A) New budget authority, $−1,258,000,000.

(B) Outlays, $−1,195,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $-1,258,000,000.

(B) Outlays, $-1,195,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $-1,258,000,000.

(B) Outlays, $-1,195,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $-1,258,000,000.

(B) Outlays, $-1,195,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $-1,258,000,000.

(B) Outlays, $-1,195,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $-1,258,000,000.

(B) Outlays, $-1,195,000,000

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $-1,258,000,000.

(B) Outlays, $-1,195,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1996:

(A) New budget authority, $-31,293,000,000.

(B) Outlays, $-31,293,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $-35,961,000,000.

(B) Outlays, $-35,961,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $-37,148,000,000.

(B) Outlays, $-37,148,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $-38,127,000,000.

(B) Outlays, $-38,127,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $-40,276,000,000.

(B) Outlays, $-40,276,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $-41,614,000,000.

(B) Outlays, $-41,614,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $-42,937,000,000.

(B) Outlays, $-42,937,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

SEC. 4. RECONCILIATION.

(a) Not later than September 1, 1995, the House committees named in subsections (b) through (o) of this section shall submit their recommendations to the House Budget Committee. After receiving those recommendations, the House Budget Committee shall report to the House a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

(b) The House Committee on Agriculture shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $2,250,000,000 in budget authority and $2,061,600,000 in outlays in fiscal year 1996, $2,250,000,000 in budget authority and $2,061,600,000 in outlays in fiscal year 1997, $2,250,000,000 in budget authority and $2,061,600,000 in outlays in fiscal year 1998, $2,250,000,000 in budget authority and $2,061,600,000 in outlays in fiscal year 1999, $2,250,000,000 in budget authority and $2,061,600,000 in outlays in fiscal year 2000, $2,250,000,000 in budget authority and $2,061,600,000 in outlays in fiscal year 2001, and $2,250,000,000 in budget authority and $2,061,600,000 in fiscal year 2002.

(d) The House Committee on Commerce shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $5,100,000,000 in budget authority and $5,100,000,000 in outlays in fiscal year 1996, $5,100,000,000 in budget authority and $5,100,000,000 in outlays in fiscal year 1997, $5,100,000,000 in budget authority and $5,100,000,000 in outlays in fiscal year 1998, $5,100,000,000 in budget authority and $5,100,000,000 in outlays in fiscal year 1999, $5,100,000,000 in budget authority and $5,100,000,000 in outlays in fiscal year 2000, $5,100,000,000 in budget authority and $5,100,000,000 in outlays in fiscal year 2001, and $5,100,000,000 in budget authority and $5,100,000,000 in fiscal year 2002.

(h) The House Committee on the Judiciary shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $43,000,000 in budget authority and $43,000,000 in outlays in fiscal year 1996, $43,000,000 in budget authority and $43,000,000 in outlays in fiscal year 1997, $43,000,000 in budget authority and $43,000,000 in outlays in fiscal year 1998, $43,000,000 in budget authority and $43,000,000 in outlays in fiscal year 1999, $43,000,000 in budget authority and $43,000,000 in outlays in fiscal year 2000, $43,000,000 in budget authority and $43,000,000 in outlays in fiscal year 2001, and $43,000,000 in budget authority and $43,000,000 in fiscal year 2002.

(j) The House Committee on Resources shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $1,250,000,000 in budget authority and $1,250,000,000 in outlays in fiscal year 1996, $1,250,000,000 in budget authority and $1,250,000,000 in outlays in fiscal year 1997, $1,250,000,000 in budget authority and $1,250,000,000 in outlays in fiscal year 1998, $1,250,000,000 in budget authority and $1,250,000,000 in outlays in fiscal year 1999, $1,250,000,000 in budget authority and $1,250,000,000 in outlays in fiscal year 2000, $1,250,000,000 in budget authority and $1,250,000,000 in outlays in fiscal year 2001, and $1,250,000,000 in budget authority and $1,250,000,000 in fiscal year 2002.

(l) The House Committee on Small Business shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $14,285,000 in budget authority and $14,285,000 in outlays in fiscal year 1996, $14,285,000 in budget authority and $14,285,000 in outlays in fiscal year 1997, $14,285,000 in budget authority and $14,285,000 in outlays in fiscal year 1998, $14,285,000 in budget authority and $14,285,000 in outlays in fiscal year 1999, $14,285,000 in budget authority and $14,285,000 in outlays in fiscal year 2000, $14,285,000 in budget authority and $14,285,000 in outlays in fiscal year 2001, and $14,285,000 in budget authority and $14,285,000 in fiscal year 2002.

(m) The House Committee on Transportation and Infrastructure shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce budget authority and outlays as follows: $1,340,000,000 in budget authority and $1,340,000,000 in outlays in fiscal year 1996, $1,336,000,000 in budget authority and $1,336,000,000 in outlays in fiscal year 1997, $1,336,000,000 in budget authority and $1,336,000,000 in outlays in fiscal year 1998, $1,336,000,000 in budget authority and $1,336,000,000 in outlays in fiscal year 1999, $1,336,000,000 in budget authority and $1,336,000,000 in outlays in fiscal year 2000, $1,336,000,000 in budget authority and $1,336,000,000 in outlays in fiscal year 2001, and $1,336,000,000 in budget authority and $1,336,000,000 in fiscal year 2002.

(o) The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to increase revenues, as follows: $17,800,000,000 in fiscal year 1996, $30,000,000,000 in fiscal year 1997, $64,600,000,000 in fiscal year 1998, $103,130,000,000 in fiscal year 1999, $115,930,000,000 in fiscal year 2000, $183,774,000,000 in fiscal year 2001, and $195,520,000,000 in fiscal year 2002.

(p) For purposes of this section, the term "direct spending" has the meaning given to such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985 and the term "new budget authority" has the meaning given to such term in section 3(2) of the Congressional Budget and Impoundment Control Act of 1974.

EXTENSIONS OF REMARKS

COMPREHENSIVE FETAL ALCOHOL SYNDROME PREVENTION ACT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mrs. MORELLA. Mr. Speaker, I am pleased to join Congressman BILL RICHARDSON, Congresswoman SUSAN MOLINARI, Congressman DOUG BEREUTER, and Congressman JOE KENNEDY in introducing legislation today promoting public awareness of fetal alcohol syndrome, one of this country's leading causes of irreversible physical and mental retardation.

Although the lower limit of safe alcohol consumption has not been documented, it is clearly evident that even small amounts of alcohol adversely affects the developing fetus. The unfortunate fact is that this condition is 100 percent preventable. Fetal alcohol syndrome and the varying effects of this alcohol-related condition is a national problem that can impact any woman and child, despite their socioeconomic or racial status. According to CDC statistics, it is a problem that has increased sixfold since 1979.

In 1981, because of the Surgeon General's concern for the dangers of drinking during pregnancy, alcoholic beverages were required to carry warning labels. Yet in a 1991 CDC survey of pregnant women, 13.4 percent were found to have had at least 30 alcoholic drinks in the previous month. Recent surveys have also shown that one out of every five mothers will continue to drink during their next pregnancy. Because of social stigma, many women deny engaging in risky behavior, to their physician, thereby increasing the difficulty for physicians to identify and provide appropriate counseling. With greater effectiveness in identification of FAS, it is estimated that a more accurate estimate of alcohol ingestion in pregnant women is 20 to 35 percent.

Each year more than 50,000 children are born with some degree of physical or mental deformity that can be directly related to maternal alcohol ingestion. Nearly 1 out of every 750 children are born with some degree of fetal alcohol effects each year. FAS experts believe that one-third to one-half of all children in existing special education programs today have been affected by alcohol in some way. The cost of institutionalization and health provisions for these children approximates nearly $1.4 million over the lifetime of a single child.

Mr. Speaker, the Fetal Alcohol Syndrome Research, Education, and Prevention Act that we are proposing provides for the evaluation of the existing research and prevention efforts, and the development of an educational curriculum for health professionals and the development of professional health standards with regard to FAS identification and treatment.

In addition, we are proposing a public-private collaborative effort to develop and implement an education awareness campaign on the effects of alcohol during pregnancy. The human and societal costs of this devastating problem are enormous. Let us join together to increase the public's awareness of alcohol-related birth defects.

TRIBUTE TO FERNDALE ADULT AND COMMUNITY EDUCATION PROGRAM'S 50TH ANNIVERSARY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. LEVIN. Mr. Speaker, I rise today to congratulate the Ferndale Adult and Community Education Program on the occasion of its 50th anniversary. At its inception in 1944, the program offered night classes at Lincoln High School in Ferndale, MI. Today the program has grown to include morning, afternoon, and evening classes at five centers and numerous other community sites.

The classes range from high school completion programs to teen parent programs, vocational training programs to preschool, latchkey and senior citizen programs. This wide variety of classes clearly involves the entire community, leaving no one out of continuing education.

In 1993–94 alone, the Ferndale Consortium served over 6,900 students in academic and vocational programs and an additional 3,500 in enrichment and community programs. The 414 members of the staff deserve our highest recognition, for without them this effort would not be possible.

The importance of community and adult education cannot go unrecognized. Without this cross-generational programming, our community would not be as strong as it is today.

My thanks and congratulations to the students, the staff, and the community of this milestone, with best wishes for continued success for the Ferndale Adult and Community Education programs.

HONORING TEMPLE BETH-EL OF CO-OP CITY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. ENGEL. Mr. Speaker, this year, one of the leading religious institutions in my district, Temple Beth-El of Co-Op City is celebrating its silver anniversary.

Temple Beth-El is one of the original religious institutions opened when Co-Op City was established over a quarter of a century ago. But, this temple takes its mission a step further. Its officers and members work not only on the religious needs of the community, but are active participants in the social and civic fabric of Co-Op City.

They are to be commended for their work. I join with all the residents of Co-Op City in wishing Temple Beth-El a very happy 25th birthday.

SALUTE TO INSPECTOR JOSEPH DUNNE

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Ms. VELÁZQUEZ. Mr. Speaker, I rise to commend and congratulate Inspector Joseph Dunne. Joseph Dunne is a former inspector of the 75th Precinct, who recently was transferred to the Internal Affairs Division, because of the exemplary work that he demonstrated in his short time at the helm.

In his short tenure, Joseph Dunne has gained the confidence of the residents of the East New York community residents who once lost faith in those that were supposed to protect and defend them. Since his arrival at the 75th Precinct, Joseph Dunne has led the charge for better police and community relations. For 2 consecutive years, East New York led the entire New York City in homicide rates, but in his short time at the 75th, Joseph Dunne has successfully advocated for more police presence, which has contributed to the vast decline in the murder rates in East New York. This is great news, and while I am mentioning the decline of homicide in the East New York community let me add that all other crimes have also declined during Joseph Dunne's tenure.

Joseph Dunne has demonstrated his devotion and commitment to East New York and its residents. I congratulate him and wish him well in his endeavors. Joseph Dunne's accomplishments, though they have not made their way into the news media, have made their way into the hearts of my constituents.

Therefore, Mr. Speaker, it is with great pride that I come to the floor of the U.S. House of Representatives to speak of Joseph Dunne and his work for a better East New York.

COAST GUARD REAUTHORIZATION ACT OF 1995

HON. STEVE C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. LATOURETTE. Mr. Speaker, when the House debated and passed the Coast Guard Reauthorization Act of 1995 on Tuesday of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

last week, the issue of Coast Guard inspection fees was raised by some of my colleagues on the Transportation and Infrastructure Committee. Although the amendment failed on a point of order, I wish to associate myself with the logical arguments made on the floor that day.

The Budget Reconciliation Act of 1990 requires that the Coast Guard impose user fees for some of its services. While I am in support of the concept, and recognize the importance of such an approach to assist in balancing the budget, the Coast Guard has gone off course with its fee schedule in terms of fairness and balance among different classes of boats.

The Coast Guard estimates it is charging $87 per hour for the inspection service. However, my colleague from Louisiana, Mr. TAUZIN, cited an example of a 1 hour inspection costing $545 under the current fee schedule. This is unacceptable. I believe in fee-for-service, but the fees must reflect the value of the services rendered. I fear that the burden of the current policy will fall disproportionately on small vessel owners and small businesses; those who can afford it the least. I am supportive of capping the inspection fees based on boat length to ensure fairness within the current system.

I also believe it is appropriate for the Coast Guard to consider a fee schedule that takes into account the seasonal nature of some commercial boating operations. For example, Rutherford's Cruise Line, which operates in my district from the Grand River on Lake Erie, only operates during summer months. Under the current system, Rutherford's would pay almost $2,400 to the Coast Guard to inspect three vessels. Small cruise line businesses on the Great Lakes have a limited season and short time in which to make their operation run in the black. The current annual fee requirement, which treats a vessel in Florida the same as one on the Great Lakes, is burdensome and economically unfair to boaters in the Great Lakes region.

I understand Mr. TAUZIN's amendment will be the subject of hearings before the Ways and Means Committee and the Transportation and Infrastructure Committee in the near future. I am supportive of finding a rational and fair approach to the inspection fee schedule that more closely approximates the true cost of the inspection process.

Recreational boating, including charter boat fishing, is an important part of the economy in my district. The 60 miles of Lake Erie shoreline I represent has seen a tremendous resurgence over the past 10 years due to a revitalized Great Lakes fishery. I am encouraged by the small businesses entrepreneurs, who are taking advantage of the opportunity to start new businesses and do not believe they should be punished with unreasonable inspection fees.

YVONNE AND ARVIS RICHARDSON CELEBRATE GOLDEN ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. SOLOMON. Mr. Speaker, as far as I'm concerned, there are two things which have made our Nation the greatest on Earth, our commitment to family and pride in country. It is my privilege today to pay tribute to a couple who together, have embodied these exceptional characteristics for 50 years now.

Upon the outbreak of World War II, these two young patriots lived far from one another. Yvonne grew up in Cohoes, NY, while Arvis was born in Salem, MO, and moved to St. Louis prior to the outbreak of war. Both of them responded to this impending national crisis like any great American would, they voluntarily enlisted in the military, Yvonne in the Navy Waves and Arvis in the U.S. Marine Corps. It was this love of Nation and service to country that brought the two of them together when their country needed them most.

Well, Mr. Speaker, we are all reminded of the fortunate ending of World War II, especially as we commemorate the 50th anniversaries of V–E and V–J days this year. However, there was another fortunate occurrence as a result of the end of this war. As he promised, Arvis returned when the fighting ceased to seek Yvonne's hand in marriage. On May 26, 1945, Arvis and Yvonne began their life together at Alameda Naval Base in California. Now 50 years later, as we commemorate the historic victory of democracy and freedom over tyranny and oppression, we can also rejoice in the happiness of the Richardson's whose marriage has stood the same test of time.

Yvonne and Arvis should be commended not only for their commitment to their Nation, but for their commitment to their family and one another. It is this commitment and understanding which laid the foundation for a solid family structure, pivotal to their success in raising their two children, Dennis and Peggy.

Mr. Speaker, I have always been one to judge people by their commitment to their family and children, and by what they return to their community. By this measure, Yvonne and Arvis are truly great Americans as evidenced by their clear devotion to family, and the American way of life. This May 28, family and friends will join them in commemorating their 50 years of happiness together. Mr. Speaker, I would ask that you and all Members join me now in paying tribute to two tremendous patriots and devoted family people, Yvonne Blair Richardson and Arvis Sanford Richardson of Waterford, NY.

KERNEL BLITZ AND PACMEDNET: MEDICAL TECHNOLOGY SUCCESS STORIES

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. CUNNINGHAM. Mr. Speaker, I would like to commend the men and women of our Defense Department's medical corps for the fine job they performed during the Marine Corps' annual Kernel Blitz combat exercise, held last month at Camp Pendleton, California. This exercise showed how military medical care is on the cutting edge of the latest automation technology, and Kernel Blitz demonstrated the integral role that this technology plays in supporting the troops. Our fighting forces deserve nothing less than the very best.

Last year, Congress and the Defense Department proposed a demonstration project known as the Pacific Medical Network [PACMEDNET] which utilized investments already made in the Defense Department's Composite Health Care System [CHCS] and expanded these attributes for effective wartime deployment. This technology was successfully used in Kernel Blitz and will take the Defense Department into the 21st century in both its peacetime and wartime medical missions.

Mr. Speaker, I wanted to share the following article from Federal Computer Week on how this investment in technology is improving emergency medical care for the Defense Department. This successful usage of CHCS technology is a simulated wartime exercise demonstrates that PACMEDNET is the future of battlefield medical care.

[From the Federal Computer Week, Apr. 10, 1995]

HOSPITAL SYSTEM SURVIVES FIRST BATTLEFIELD TRIAL

(BY BRAD BASS)

The Defense Department's $1.1 billion Composite Health Care System (CHCS) went into battle last week, and early reports said the system came through with the colors flying.

The Marine Corps' annual Kernel Blitz combat exercise, held at Camp Pendleton, Calif., last week, featured deployable medical information systems for the first time. The training mission linked hospital based CHCS to battlefield medical systems composed of smart cards, ruggedized handheld and laptop computers, and wireless communications. The expansion of CHCS to the battlefield stems from lessons learned in Operation Desert Storm and other hot spots, where Defense forces suffered from inadequate medical technology, said officials with both DOD and with CHCS contractor Science Applications International Corp.

"The fleet hospitals in Saudi Arabia had no automation," said Cmdr. Mel Baxter, director of development in the DOD CHCS program office.

"Things could have gone a whole lot better if they had these tools," Baxter said. The Air Force has already decided to put a version of CHCS in its base at Guantanamo Bay, Cuba, next month, Baxter said.

SIMULATED CASUALTIES

The Kernel Blitz system connected two ships—the USNS Mercy, a medical ship, and the USS Peleliu, both off the coast of Camp Pendleton—to forward surgical companies near the beach.

After the Marines simulated a full-scale landing operation using helicopters, tanks and armored personnel carriers, troops moving inland suffered about 200 simulated casualties, according to Steve Hudock, SAIC's director of CHCS deployment. Each soldier carried a CHCS Multitechnology Automated Reader Card, a smart card equipped with a 2K chip, a bar code and a photograph. Manufactured by 3G Inc., Williamsburg, Va., the cards contained basic medical information on the "injured" troops.

Field medics used SAIC's ruggedized SE-1415 Agilpac, a 486SX-based handheld computer purchased from the Army's Common Hardware/Software (CHS) contract, to translate data from smart cards into a format compatible with CHCS.

The Agilpacs then downloaded CHCS data onto the cards so that medical personnel at other locations would be aware of each patient's condition, medication or other essential information. The casualties were transported to the forward surgical companies, where smart card data was transferred to ruggedized laptops via SAIC's Tactical Communications Interface Module, a controller/signal processor designed for combat applications.

This module is also available on the CHS contract. Throughout the exercise, Marines used SAIC V2A1 LC Lightweight Computer Units, 23-pound, ruggedized laptops based on 32-bit, 486DX processors. These machines were purchased from the Army's LCU contract, held by SAIC.

Medical personnel were able to use the LCUs to check the CHCS database for further information on each patient. The laptops connected to CHCS nodes located on the Mercy and the Peleliu via portable satellite dishes or radio.

When patients were evacuated, the forward surgical companies transmitted patients' records to medical staff at the Peleliu and the Mercy to alert them that casualties were on the way and to provide information on the type of injuries and what caused them.

"The doctor has a more complete picture of his patient as opposed to being surprised when the helicopter arrives," Hudock said.

NO GLITCHES

Baxter said people involved in the exercise reported no glitches.

"The summary information rolled from one medical treatment facility to another," he said. "I think people were skeptical at first, but everybody said it is working great."

Baxter said the exercise represents a new phase in the CHCS program and battlefield medical automation in general. CHCS was initially designed as a system for pharmacists, lab technicians, radiologists, and other hospital-based clinicians. DOD officials, however, decided to expand the system into the battlefield rather than develop a separate system for tactical users.

HONORING TOM BOLACK

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. RICHARDSON. Mr. Speaker, each of us is blessed with the responsibility of representing thousands of hard working Americans back in our districts. Of course, some of our constituents distinguish themselves by excelling in a particular field whether it is business, public service, athletics, or a whole host of other specialties.

One of my most distinguishable constituents is celebrating his 77th birthday. Tom Bolack, whose life has been one giant success story, is still going strong. Over the years, he has excelled in politics, business, and ranching.

In 1942, this Kansas native had a vision of rich oil deposits in the San Juan Basin of New Mexico. His hunch was based on some self-taught geology basics. Experts called his dream a fool's dream. As Tom Bolack says, he followed his dream "to a pool of oil and gas that would quench the thirst of even my harshest critic, the geologist who declared he would drink every drop of oil I found in the Basin!"

Tom Bolack's reward for perseverance is his cherished home, his ranch, the B-Square, just outside Farmington, NM. It is 12,500 acres of agriculture, livestock, wildlife, and conservation and of course oil and gas.

Tom Bolack's political career began in the 1950's with his election to mayor of the city of Farmington. After serving as mayor, he pushed for construction of the Upper Colorado River Project. He helped secure Federal funding for one of the Southwest's greatest water engineering accomplishments, the Navajo Dam and Reservoir on the San Juan River.

After his lobbying days, Mayor Bolack ran for and was elected to the New Mexico State Legislature. In 1961, he became the first Republican Lieutenant Governor in 35 years. The following year, he was sworn into office as Governor and served out the remainder of Ed Mechem's term.

Governor Bolack retired from career politics after his 1962 service as Governor. But he has remained active in Republican circles over the last 30 years.

Governor Bolack has distinguished himself as an outstanding citizen who had a dream, pursued it and excelled in business, ranching, and politics. I urge my colleagues to join me in honoring former New Mexico Governor Tom Bolack as he celebrates his 77th birthday.

THE 50TH ANNIVERSARY OF THE POLISH AMERICAN CONGRESS

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. BORSKI. Mr. Speaker, I rise today to recognize the Polish American Congress, eastern Pennsylvania district, as it celebrates its 50th anniversary in Philadelphia this month.

Since its formation, the Polish American Congress has been an outstanding organization in southeastern Pennsylvania and continues to be a leading force in the unity of Pennsylvania and the fostering of Polish traditions and culture.

Over the last 50 years, the officers and members of the eastern Pennsylvania district have worked closely with the national organization in supporting its objectives. Members have proudly watched Poland gain her freedom from Communist Russia, and Polish Americans of all ages have supported cultural and educational events to demonstrate the pride in Polish heritage which will last for generations.

There have been many joyous moments in the 50-year history of the eastern Pennsylvania district. The organization has been instrumental in commemorating Pulaski Day and Polish Constitution Day in the Philadelphia region and has played an integral role in establishing the Thaddeus Kosciuszko House as a national historical memorial, so that tourists worldwide can appreciate the unique role this Polish patriot played in our Nation's history.

The Polish American Congress can also take special pride in sponsoring the Polish American Weekend at Penn's Landing, the largest ethnic event held along the riverfront in Philadelphia.

Mr. Speaker, as a Polish American and Congressman of the Pennsylvania's Third District, I am proud to represent the many dedicated people who have given so much of their time to keep the Polish spirit alive in the Philadelphia region.

THE NUCLEAR DISARMAMENT AND ECONOMIC CONVERSION ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Ms. NORTON. Mr. Speaker, in this time of budget rescissions and cutting of social programs, I am reintroducing a bill that would aid us in refocusing the debate on funding priorities. The Nuclear Disarmament and Economic Conversion Act, which is designed to take effect when all foreign countries possessing nuclear weapons enact and execute similar legal requirements, requires the United States to disable and dismantle its nuclear weapons and to refrain from replacing them with weapons of mass destruction. In addition, the bill proposes refocusing resources that are currently being used for nuclear programs to address human needs such as housing, health care, education, agriculture, and environmental restoration.

The Nuclear Disarmament and Economic Conversion Act is consistent with current U.S. policy and moves us to the next logical level by redirecting resources to essential domestic needs. The disarmament contemplated by this legislation is not unilateral on the part of the United States but requires multilateral cooperation to rid the world of nuclear weapons.

During the first 100 days of this Congress, many crucial programs were put on the chopping block—money for summer jobs for youth and future levels of funding for school lunches for our children. Yet, with the end of the cold war already making it into our children's text books, we have not yet refocused our priorities, nor reallocated our precious resources toward our most precious resource of all—our children. This act is a step toward that end.

TRIBUTE TO SENATOR JOHN S. STENNIS

HON. ROGER F. WICKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. WICKER. Mr. Speaker, it is my honor and pleasure to pay tribute to the life and service of Senator John C. Stennis, who passed away April 23, 1995.

Senator Stennis' life is the story of 20th century America. In 1901, he was born the son of farmers in the red clay hills of east Mississippi. He graduated from Mississippi A&M College, and received a law degree from the University of Virginia, earning the honor of Phi Betta Kappa.

He kept the promise of his youth and moved back to his hometown of DeKalb, MS, where he began an extraordinary 62-year career in public service which was unblemished by scandal, untainted by personal gain, and unquestioned in statesmanship. He served as a district attorney, State representative, and circuit judge.

Then, in 1947, he ran for the U.S. Senate to fill the unexpired term of Theodore Bilbo. In today's era of contracts and 100 and 500 day timetables, I often think of John Stennis' campaign promise from his first Senate campaign. He pledged to "plow a straight furrow right down to the end of my row." Senator Stennis kept that simple promise with the people of Mississippi and plowed a straight furrow in the U.S. Senate for 42 years.

He served during a time when many politicians grabbed headlines by fanning the flames of prejudice and preying on the fears of the vulnerable. However, Senator Stennis always took the high road with integrity and courage. He was the first Senate Democrat to stand up to the fear of McCarthyism and was crucial in bridging our country's racial divide in the 1960's.

He began his service in the Senate by working each day until the Senate recessed and then studying at the Library of Congress until it closed. He rose to serve as chairman of the Armed Services Committee for 12 years, becoming one of the most influential voices in our Nation's military affairs during the Vietnam war and for much of the cold war. Every weapons system used in the 1991 Desert Storm offensive was authorized and appropriated under the leadership of Senator Stennis.

He also served as chairman of the Appropriations Committee as well as the first chairman of the Senate's Select Committee on Standards and Conduct.

Widely respected for his integrity, diligence, and judgment he was called upon time and again to investigate sensitive political matters. It became routine to refer to him as the "Conscience of the Senate." To illustrate the bipartisan respect he engendered, President Nixon looked to John Stennis' reputation and integrity during the height of Watergate. When President Nixon refused to turn over Watergate tapes to a special prosecutor, he offered to have Senator Stennis listen to their content and verify President Nixon's summary.

Mississippians knew they had no greater friend in Washington. Senator Stennis brought economic development to my home of north Mississippi through the Tennessee-Tombigbee Waterway. In south Mississippi, he secured the State's largest employer, Ingall's shipyard, and brought about NASA's testing facility for rocket motors, the John C. Stennis Space Center.

Senator Stennis retired from the Senate in 1989, having served eight Presidents from President Truman to Reagan in a career in which he would rise to President pro tempore of the body he so revered. Upon his retirement, President Reagan announced that the Nation's newest nuclear powered aircraft carrier would be named the U.S.S. *John C. Stennis.* The U.S.S. *John C. Stennis* will join the ranks in December of the U.S.S. *Nimitz, Vinson, Eisenhower, Washington, Roosevelt,* and *Lincoln.*

After his retirement, Senator Stennis moved to the Mississippi State University campus from which he graduated in Starkville, the home of the John C. Stennis Institute of Government and the John C. Stennis Center of Public Service, created by Congress to train young leaders.

When asked in the twilight of his career how he would like to be remembered, with his characteristic humility he responded, "I haven't thought about that a whole lot. You couldn't give me a finer compliment than just to say 'He did his best.'" Senator Stennis' unyielding devotion to principle, character, and humility produced one of the greatest statesman of the 20th century. Senator Stennis did his best and for that my State of Mississippi and America will always be grateful.

LOW-INCOME SCHOOL CHOICE EDUCATION BILL

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. WELDON of Florida. Mr. Speaker, today I am introducing, with my good friend FRANK RIGGS, the Low-Income School Choice Demonstration Act of 1995.

Mr. Speaker, in some parts of this great country, the state of education continues to decay—despite throwing more money at the problem. The liberal solution is more money, more bureaucracy, more regulation, and greater Federal intrusion into our schools.

I, and my colleagues joining me on this bill, feel differently. We should focus on parental choices, deregulation of classrooms, the acquisition of essential skills and knowledge; and good, objective tests that tell us how our children are doing.

Education is subject to a great many debates and ideas. One of those ideas is allowing parents to choose the school their children attend. Some may say we shouldn't allow the parents to decide what school might best prepare their child for the world outside. But, I believe it is essential that we allow our parents to determine what is best for their children.

In an article from the Washington Post this past weekend, a high school student was very surprised to find out she had scored perfectly on her SAT test. This was despite knowing she had incorrectly answered at least two questions. How could this happen? Well, currently the College Board, the organization that administers the SAT, is recentering the scores to bring the average back up to 500 points. It is a sad commentary on the state of our Nation's educational system when we have to lower the standards of education in order for our students to score well on their college entrance tests. This must stop. We must better educate our children.

Breaking down old, outdated barriers and confronting the new paradigm of change and innovation has been the hallmark of this Congress. The first 100 days of this Congress brought a tremendous amount of change. The primary thrust of all the ideas that have been circulating is to reduce the role of Government and empower the American people to make their own decision about their lives. The Weldon-Riggs Low-Income School Choice Demonstration Act of 1995 is an innovative and creative way of changing the status quo in the debate about education reform and education choice for all Americans.

This demonstration project is a tiny step, but a step nonetheless, toward change and a better educational future for our most valuable asset, our children.

A good education is a key ingredient in ending the cycle of poverty that entraps so many of our Nation's children. This bill will liberate the parents of low-income children to choose a school that meets the educational needs of their children.

Improved education is essential for our Nation's economic vitality. Our increasingly competitive global economy demands a well-educated work force, and this bill will serve as a catalyst for improved education.

In 1986, almost 94 percent of high school seniors were unable to solve multistep mathematical problems or use basic algebra. In fact, a 1994 survey by the Carnegie Foundation found that few college professors feel U.S. undergraduates are prepared for higher education: only 20 percent of professors believe undergraduates have adequate written and oral communications skills and only 15 percent feel undergraduates are sufficiently skilled in math and qualitative reasoning.

As for literacy, most young Americans are functioning at rudimentary levels: enough to get through the day perhaps, but not enough to sustain a strong democracy, a competitive economy, and a vibrant culture. According to the U.S. Chamber of Commerce, functional illiteracy costs U.S. businesses $300 billion in lost productivity annually.

Our children need the opportunity to pursue a good education. If this educational opportunity is outside their school district, they should have the chance to take advantage of it and find their American dream through quality education.

Last November, the American people sent me and many others to Congress to change the way the Government works. School choice is one step toward changing the attitudes of the Federal Government regarding education.

Under the Weldon-Riggs education bill, the Secretary of Education would review applications from school districts around the Nation and select 10 to 20 school districts to participate in the school choice demonstration project. Children who are eligible for the Federal School Lunch Program could participate, and their parents would receive certificates to use at any public, private, or charter school in the area.

Two $5 million grants would be available to the most needy districts. They would be targeted to those communities with highest number of low-income children. The remaining grants would be in varying amounts up to $3 million.

Parents could use the money to send their children to public, including charter schools, or private, including sectarian, schools of their choice. The money could be used to pay reasonable transportation costs and would be limited to the average per child expenditure in the local public school.

The Weldon-Riggs school choice demonstration bill would cover 3 years, with an initial cost of just $30 million. Each participating school district must submit evaluation information to the Comptroller General for review. Data from the demonstration project would be studied after the 3-year period and a report would be submitted to Congress.

Earlier this year, Secretary Henry Cisneros of HUD said, "Low- and moderate-income families should have greater power to make decisions about their lives, and government should support their quest for self-sufficiency." This same principal should apply to education. These low-income families should have greater power to make decisions about their lives, that's what this bill does.

Mr. Speaker, I urge more of my colleagues to sign on in support of this demonstration project and put a little hope and innovation into our education system.

TRIBUTE TO JIM GRANT

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. LEVIN. Mr. Speaker, on May 17 the Overseas Development Council will honor James P. Grant. It will do so at a dinner in Washington to commemorate its 25th anniversary and will present awards to several who have chaired ODC. Jim Grant will be honored in memoriam.

If any word could characterize Jim Grant's distinguished career, and none adequately can, it might be dedication. Jim cared passionately about all the world's people and devoted his life to his dream of everyone on Earth having a real chance to enjoy its bounty.

Whether one knew Jim Grant during his early years in beginning to help others, his work in the U.S. Government trying to develop American assistance that would really matter to people in Third World nations, his days providing leadership as head of the ODC, or his glorious tenure as executive director of UNICEF, the conclusion was the same for so, so many of us. There was no one else quite like Jim—in his combination of imagination, enthusiasm, drive, perseverance, intelligence, and interpersonal skills.

He simply would never give up.

Jim Grant would understand the impetus in our Nation to focus on improving the opportunity for the millions of our citizens who have seen their standard of living stagnate over the last decade, and in many cases decline. At the same time he would not believe that, in doing so, our Nation would want to turn its back on the plight of millions elsewhere. He believed too much in the basic decency of the people of this country, and in this sense he was in all of his bones and in his fundamental attitude very much an archetypical American.

Literally, there are hundreds of thousands, if not millions, of children alive today because Jim Grant lived. Could anyone ask for more of his or her life?

Jim met more of the people he cared about than do most, but most of them he never met. But he could envisage them vividly, as if part of his own family, to whom he was so close and from whom sprang much of his humanity.

I had the privilege of working with Jim, also of seeing him preside over many a meeting. There was no one who could better stimulate a diverse group to work, sometimes struggle to a constructive conclusion—not infrequently the very one he had in mind from the very beginning. As the ODC notes his untimely death by commemorating his life, many who know him well join in and innumerable others who did not know him directly but benefited from his work would do so, if they could.

HONORING THE NEW YORK PUBLIC LIBRARY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. ENGEL. Mr. Speaker, the New York Public Library, one of the Nation's most treasured cultural institutions, and the only library in the world combining a preeminent research collection and a comprehensive system of neighborhood branch libraries, is celebrating its 100th birthday.

For 100 years, the New York Public Library has been a cornerstone of equal opportunity by providing free and open access to information without distinction based upon income, religion, nationality, or other human condition. The only criterion for admission is curiosity.

Through the 82 branch libraries and 4 research centers, the Library serves more than 10 million people each year. The research libraries, which include the Center for the Humanities, the Schomberg Center for Research in Black Culture, the Library for the Performing Arts, and the soon-to-be-opened Science, Industry, and Business Library, contain vast treasures which provide researchers, scholars, and students access to the accumulated wisdom of the world.

However, it is the neighborhood branches that are the cornerstone of many New York City neighborhoods. They provide a safe and inviting gathering place for the young, the elderly, and, in fact, for everyone to learn and enrich their lives. The branch libraries reach far beyond the traditional lending role usually associated with neighborhood libraries. The many branch libraries that are located in my congressional district play an extremely important role in the education and socialization of the residents of Bronx County.

I join with my constituents in recognizing the New York Public Library on the 100th anniversary of its founding.

TRIBUTE TO PETER CLENDENIN

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. BLILEY. Mr. Speaker, I rise today to commend and pay tribute to a good friend and servant to the people of the Commonwealth of Virginia, Mr. Peter Clendenin. On June 30 of this year, Peter will end more than 12 years of service as president of the Virginia Health Care Association, a nonprofit association that represents assisted living, nursing facility, and subacute care providers throughout the State of Virginia.

For the 3 years preceding his tenure at the Virginia Health Care Association, Peter served the Commonwealth as assistant secretary of human resources where he oversaw the development of the budgets for 15 State agencies responsible for implementing security, manpower development, mental health services, and rehabilitation services for the people of Virginia.

Peter began his service to the Commonwealth in 1975 as a senior legislative analyst with the Virginia Joint Legislative Audit and Review Commission where he worked for 4 years as project director of program evaluations.

Mr. Speaker, it gives me great pleasure to share with my colleagues the many contributions Peter Clendenin has made to the people and government of Virginia, and to wish him well on his future endeavors.

CONGRATULATORY REMARKS FOR MISS CHELSI SMITH, MISS UNIVERSE 1995

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. BENTSEN. Mr. Speaker, I rise today to recognize Miss Chelsi Smith who was crowned Miss Universe on May 12, 1995, in Namibia, South Africa. Miss Smith has become an inspirational figure to young people across the world.

Chelsi Smith represented the State of Texas at the Miss USA competition in 1995. Upon her award, she continued her duties in South Africa where she represented the United States of America in the Miss Universe competition. Of the 82 contestants Chelsi Smith, of Deer Park, TX, has become the sixth Miss USA to be honored with the title of Miss Universe.

Miss Smith, a 21-year-old woman, was raised in Deer Park, TX, were she graduated from Deer Park High School in 1991. She is a sophomore at San Jacinto Community College, were she intends to complete her studies in early childhood education after fulfilling her reign as Miss Universe.

Chelsi has worked to raise the awareness of racial issues and has served as a motivational spokesperson to the youth of America.

I congratulate Miss Chelsi Smith on her award of Miss Universe. I wish her well as she continues to represent the United States of America and the State of Texas. I am very proud that a fellow Texan has so well represented our Nation. It is with great pride that I extend my congratulations to Miss Smith for her important victory.

MARGARET MONTERO—LEADERSHIP IN THE PORTUGUESE-AMERICAN COMMUNITY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. STARK. Mr. Speaker, I rise today to recognize Mrs. Margaret Montero, the supreme president of the Associacao Protectora Uniao Madeirence do Estado da California [APUMEC] a fraternal organization in California's 13th Congressional District. On June 20, 1995, she will finish her term in office.

The APUMEC is a fraternal benefit society which was started in Oakland, CA, in 1913, by several men from the island of Madeira, Portugal. The purpose of the society is to assist any member who might be ill or in need. If a member passes away, the society provides assistance to the member's family. Since 1913, the society has grown in membership to nearly 2,000 members in several States. The APUMEC continues to provide these services and has expanded to provide others, such as the scholarship program which awards scholarships each year to qualified students.

Margaret Montero is currently the 70th supreme president of the APUMEC. She joined APUMEC Council No. 4 "Progresso" on February 4, 1967, and has served as an officer since 1970. She is the third member of her family to hold the office of supreme president. Margaret's late brother-in-law, José (Joe) J. Montero was supreme president from 1930 to 1932. Her daughter, Jackie Montero Flynn, served as supreme president from 1973 to 1974. She and her daughter are the first mother and daughter supreme presidents of the APUMEC.

Ms. Montero was born on May 28, 1915, in Honolulu, HA. She has been a resident of the bay area for over 60 years. She owned a business with her now deceased husband, Mr. Joaquim (Harry) Montero, to whom she was married for 45 years, and she still resides in the city of San Leandro, CA. She has one daughter, Jackie Montero Flynn, one stepson, John Lewis Montero; three grandson; and two great grandchildren.

Ms. Montero has also served as a member of many other community organizations, including the IDES, ISMM, SES, SPRSI, UPPEC, UPEC, the Brotherhood of St. Anthony, the Cabrillo Civic Clubs of California, and the ICDES. She is also a representative to the Portuguese Fraternal Benefit Societies of California.

Ms. Montero will finish her term on June 20, 1995. During her tenure as supreme president, she brought in a total of $575,000 in policies and over 85 new members to the society. This is a significant contribution to the organization. But perhaps even more significant is the tireless dedication she has brought to the APUMEC for the 28 years that she has participated in the organization.

Today, I want to congratulate Margaret Montero on her successful term as supreme president and recognize her for her commitment to the APUMEC and to the entire Portuguese community, I wish her much happiness in the years to come.

REAUTHORIZATION OF THE CLEAN WATER ACT

HON. BLANCHE LAMBERT LINCOLN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mrs. LINCOLN. Mr. Speaker, I rise today to express my disappointment with provisions added at the last minute to H.R. 961, the Clean Water Amendments of 1995. The bill made an honest effort to correct some of the problems with the current Act. However, while I supported some of the strong elements of the bill, including the wetlands and the private property provisions, I could not, with good conscience, support the final amended bill.

During consideration of H.R. 961, the House approved an amendment that altered the allocation formula under the State Revolving Fund [SRF]. Under this new formula, the less industrialized States, like Arkansas, received significantly less money than they currently receive. The base bill contained a more equitable approach in its treatment of the allocation formula, but the amendment adopted by the House gutted the original agreement reached by the committee.

Last year Arkansas received nearly $15 million under the SRF allocation. Under the amended bill, Arkansas would receive $8 million—a 42 percent reduction.

Arkansas has a well run SRF program, leveraging two times the amount of its SRF funding. Last year, Arkansas leveraged nearly $30 million from its $15 million allocation. The severe reduction in the amended bill not only reflects a $7 million reduction of federal obligated dollars, but it also adversely affects Arkansas' ability to leverage more funds. The bill's cut in fact represents a $14 million total loss in funds that could be used to finance much needed wastewater treatment plants and infrastructure needs throughout the State. With the many Federal requirements imposed on our communities, they need the capital to comply with these national mandates.

Again, there were many provisions in the bill that I support, including relief for farmers under the wetlands and nonpoint source sections and small system hardship loans. However, when this bill pits Arkansas against other States in fighting for essential funds, I could not abandon Arkansas' needs in developing its clean water infrastructure.

I hope that the chairman and other Members involved in the negotiations with the Senate will press on in their obligation to consider this equity issue during the conference and resolve this unacceptable situation for Arkansas and 28 other States that lost SRF funding under the new allocation scheme. I would like to have a bill that I could support on behalf of my farmers and my rural constituents.

IN MEMORY OF EDWARD V. ROBERTS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. DELLUMS. Mr. Speaker, it is with profound sadness that I rise to remember the late Edward V. Roberts, the father of the independent living movement and cofounder of the World Institute on Disability. Mr. Roberts passed from this life on March 14, 1995, at his home in Berkeley, CA, at the age of 56.

Mr. Roberts undeniably exemplified the epitome of what people with disabilities can accomplish with the right attitude, individual empowerment, and mutual support. The undefeatable Mr. Roberts laid the groundwork for disabled rights as he pursued his dream of liberation and education. His lifelong battle for the rights of the disabled began in high school when he vigorously challenged his school principal who balked at granting Roberts a diploma because the teenager had not completed the required physical education courses. Polio left Roberts a quadriplegic at age 14. Roberts, unable to move below the neck and dependent on an iron lung to breathe, was deemed "severely disabled" and "unemployable," according to a counselor at the California State Department of Rehabilitation. Convinced that he could defeat the odds, Roberts never accepted the idea that disabled people could not when the rest of society could. He pursued his educational objectives with this idea in mind. After winning the battle to obtain his high school diploma, Roberts went on to earn a bachelor's degree and a master's degree. He was the first severely disabled student to attend and be housed on campus at the University of California, Berkeley. While there, Mr. Roberts helped fellow students organize into a self-help group whose services included free counseling, off-campus housing referrals, and a repair crew whose expertise was wheelchairs. He also led the lobbying effort for dorm housing for the disabled and eventually secured Federal money to establish the first ever Physically Disabled Students Program at the university. This was just the beginning of Mr. Robert's legacy to people with disabilities.

Committed to increasing the freedom of people with disabilities to live and work like other people and in response to increased demands for the services provided under the auspices of the Disabled Student's Program, in 1972, Mr. Roberts helped found the Center for Independent Living in Berkeley. The program was the first of its kind to be designed, developed, organized and managed by and for the disabled to achieve the best quality life possible. It became a national model for people with disabilities because it documented and resolved some of the basic problems of people with disabilities attempting to live independently with such essentials as personal care, modified living space, transportation, and wheelchair-accessible ramps and curbs. While at the center, Roberts successfully campaigned for the removal of Federal laws that were designed to keep the disabled out of school and work environments. His ideas were turned into law in the Rehabilitation Act of 1973. There are now some 400 independent living centers throughout the United States based on the Berkeley model demonstrating independent living with accommodations. Once again, Mr. Roberts scored a permanent mark for the disabled, transforming the way everyone thinks and acts toward the disabled and paving the way for the integration of the disabled into all forms of society.

Mr. Robert's longtime efforts and visions received affirmation when Governor Jerry Brown appointed Roberts to head the California Department of Rehabilitation in 1975. Roberts was the first California State director of rehabilitation with a physical disability. His presence alone at the agency, the same agency that sided with the University of California in denying Roberts admittance to Berkeley because the school had never had a wheelchair-confined student who required a respirator and iron lung, helped many understand the needs of the disabled seeking independence. With a staff of more than 2,500 and budget of $140 million, Roberts implemented the independent living programs on the State level and established a national network of independent living centers. The independent living movement soon went national. Roberts' efforts to change disabled rights dramatically influenced policies that are in place today. Mr. Roberts was determined to change the whole system and move away from old ideas about the capabilities of the disabled.

In 1984, Mr. Roberts received a $225,000 MacArthur Foundation award. Using this grant, he cofounded the Oakland-based World Institute on Disability [WID], to carry the philosophy of independent living into the national arena. This organization, an influential think tank on disabled policy and research issues, is dedicated to eliminating handicappism through equity of opportunity, institutionalizing the full participation of the disabled within our society and ensuring economic parity for the disabled. Under Roberts, the organization conducted research and training on major policy issues, formulated new approaches to disabilities that are based on real-life emergencies and needs, began a disabled youth summer jobs and internship project, encouraged small businesses to identify barriers faced by the disabled and lobbied for small business loans for the disabled. His lobbying efforts gave rise to the Americans with Disabilities Act of 1990, section 504, and other important access laws for the disabled. Carrying his message of independent living, Mr. Roberts traveled worldwide pushing his message for disabled rights in Africa, Australia, Russia, El Salvador, and Japan, just to name a few.

Edward V. Roberts positively changed the perceptions of a whole society and revolutionized society's idea of what persons with disabilities could be. As a role model and leader with a vision, Roberts was committed to building an environment that supports the independence of people with disabilities. Roberts plotted his course early and never veered from his chartered path. He inaugurated a civil rights movement that changed the life of every disabled person and the structure of nearly every street and building in this Nation. Though there are no monuments to the man who launched the disabilities rights movement, we must recognize Mr. Roberts as the man who tried to build a dream that we all could share, now and in all generations to come. We will all morn this loss.

ALDRICH AMES SPY CASE

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. COMBEST. Mr. Speaker, on November 30, 1994, the Permanent Select Committee on Intelligence issued its report on the Aldrich Ames espionage case. Among the findings of that report was the fact that "the CIA failed to keep the oversight committees fully and currently informed" about the case "despite several instances of pointed questioning by Committee members. The lack of notification extended to the end: Neither the CIA nor the FBI advised the oversight committees of the investigation until shortly before Ames' arrest."

This chilling finding left unanswered the question as to why the oversight committees had not been kept informed, as the law requires: Was it a witting coverup or inadvertent? Although neither answer would be comforting, the Permanent Select Committee on Intelligence deemed it necessary to close out this unanswered question with regard to the Ames case.

Despite the heavy press of business the committee's staff and Members made this a priority at the outset of this Congress. After extensive work by the staff and a review by the committee, the committee voted unanimously on May 11, 1995, to release the following statement:

CONGRESSIONAL OVERSIGHT OF THE ALDRICH AMES SPY CASE

On February 21, 1994, Aldrich Ames was arrested and charged with violating U.S. espionage laws and spying for the former Government of the Soviet Union and the Government of Russia. Since that date, the Committee has conducted an aggressive inquiry to determine what went wrong in the Ames case and how to fix it. In November 1994, we issued an exhaustive report that had specific recommendations for remedial action. The Intelligence Community and the FBI have taken significant steps to address problems we highlighted in our report. The remedial actions have had a positive effect on counterintelligence issues.

One issue, in particular, surfaced during our inquiry that necessitated additional follow-up: that is, whether the CIA violated Section 502 of the National Security Act of 1947 and whether that violation was intentional. Section 502 requires that the Congress be informed of "all intelligence activities . . . including . . . any significant intelligence failure." At a full committee hearing on February 7, 1995, and in correspondence with this committee, Acting Director of Central Intelligence Admiral Studeman has stated that the CIA failed to meet this statutory obligation.

The CIA's admission of its violation of Section 502 led us to the next question, whether this failure was intentional. The Committee has interviewed a wide range of current and former CIA officials involved in the Ames case. We also reviewed the voluminous reporting that we have received on the Ames case. This examination produced no evidence that any former Director of Central Intelligence, Deputy Director of Central Intelligence, or Deputy Director for Operations made a decision to withhold information about the loss of Soviet assets in 1985 and 1986 and the resulting investigation from this Committee.

At lower levels of the CIA, where the counterintelligence investigation was being conducted, it appears that no one ever thought to bring this matter to the Committee's attention. Five Members of this Committee asked precisely the right questions about espionage problems at CIA during the CIA's own investigation: former Chairman Anthony Beilenson; two ranking Members, Representatives Henry Hyde and Bud Shuster; and two Committee members, Representative Dick Cheney and Larry Combest. At a minimum, what is clear is that, at certain levels, CIA officials did not understand the requirements of the law. The CIA is taking steps to ensure that all employees are aware of Section 502. Moreover, it is important to note that it is not the responsibility of the Committee "to ask the right questions." The onus lies with the Intelligence Community to be forthcoming vis-a-vis its oversight responsibilities.

The Committee is taking the following additional actions:

We have prepared a letter for the new DCI, John Deutch, drawing his attention to Section 502 and the transcript of the February 7, 1995 hearing. We are confident that the new DCI will be vigilant in ensuring that the mandates of Section 502 are followed. Notification is not merely a matter of law, but is also a matter of common sense. Senior CIA officials must bring matters to the attention of the Congress when there is any "significant intelligence failure." This raises the corollary issue of ensuring that all officers of the CIA understand that they will be held accountable for the management of their operations, as Admiral Studeman has already informed personnel of the CIA. The new DCI has also pledged to make accountability a focus of his management policies.

The Committee has a continuing interest in the Ames case. A full briefing on the results of the Intelligence Community's damage assessment will be received later this year. Following that briefing, the Committee will determine if there is additional legislative or other remedial action that is required.

The Committee will also continue to monitor the counterintelligence reforms that have been put in place by the CIA, the Intelligence Community and the FBI to ensure that there is no backsliding on this matter.

MEDICARE DEPENDENT HOSPITAL RELIEF ACT OF 1995

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday May 16, 1995

Mr. SHAW. Mr. Speaker, I rise today to introduce timely legislation that will allow Medicare dependent hospitals, defined as hospitals with Medicare patient loads of 60 percent or more, to be reimbursed more fairly under the Prospective Payment System [PPS]. These hospitals, both rural and urban, have significantly higher Medicare losses and lower overall Medicare margins than other hospitals. This disparity threatens the viability of these hospitals and the access to, and the quality of, care for Medicare beneficiaries.

This legislation, which I am introducing in conjunction with my good friend from Florida, Senator BOB GRAHAM, is titled the Medicare Dependent Hospital Relief Act of 1995. To remedy the problem facing Medicare dependent hospitals, this bill includes three main provisions. First, Medicare dependent hospitals will be statutorily defined as hospitals with Medicare patients loads representing 60 percent or more of total patient days. Second, each year the Prospective Payment Assessment Commission [ProPAC] will compute, and the Health Care Financing Administration [HCFA] will implement, separate PPS updates for Medicare dependent hospitals and other hospitals. The update for Medicare dependent hospitals will have to make the average Medicare loss for those hospitals equal to the average Medicare loss for all hospitals. The computation and implementation will be budget neutral, thus this bill will not create additional costs. Third, ProPAC's annual report to Congress will include recommendations to ensure that beneficiaries served by Medicare dependent hospitals retain the same access and quality of care as Medicare hospital patients nationwide.

The need for this legislation is simple. Between 1983 and 1988, Medicare phased in the PPS to replace cost-based reimbursements with prospective, or pre-determined, payments to contain costs and encourage efficiency. Various PPS adjustments have produced wide variations in hospital profits and losses from Medicare. Medicare dependent hospitals, as a group, have been at a distinct disadvantage. While hospitals on average lose 2.73 percent on their Medicare business, Medicare dependent hospitals lose much more: on average, those Medicare dependent hospitals with 60–64 percent Medicare loads lose 4.57 percent, while those with 65 percent or greater Medicare loads lose 5.45 percent. Medicare dependent hospitals have less ability to offset Medicare losses with payments from other payors because of their high Medicare patient loads. With such low margins, Medicare dependent hospitals are faced with only two choices: either close or reduce services. In either case, the ultimate losers will be the Medicare beneficiaries these hospitals serve.

I urge my colleagues to support this legislation and ask that this bill and these remarks be inserted into the RECORD.

H.R.—

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Dependent Hospital Relief Act of 1995".

SEC. 2. DEVELOPMENT OF SEPARATE APPLICABLE PERCENTAGE INCREASES FOR MEDICARE DEPENDENT HOSPITALS AND OTHER HOSPITALS BY THE PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

(a) DEVELOPMENT OF SEPARATE APPLICABLE PERCENTAGE INCREASES.—

(1) IN GENERAL.—The Prospective Payment Assessment Commission established under section 1886(e)(2) of the Social Security Act (42 U.S.C. 139ww(e)(2)) (in this section referred to as the "Commission") shall, in accordance with paragraph (2), develop for fiscal year 1997 and each fiscal year thereafter separate applicable percentage increases described in section 1886(b)(3)(B) of such Act (42 U.S.C. 1395ww(b)(3)(B)) for medicare dependent hospitals and subsection (d) hospitals which are not medicare dependent hospitals.

(2) EQUALIZATION OF MEDICARE MARGINS.—The Commission shall develop separate applicable percentage increases under paragraph (1) such that, if such factors were in effect, the estimated average annual medicare margins of all medicare dependent hospitals in furnishing inpatient hospital services to medicare beneficiaries in such fiscal year would be equal to the average annual medicare margins of all subsection (d) hospitals which are not medicare dependent hospitals in furnishing inpatient hospital services to medicare beneficiaries in such fiscal year.

BUDGET NEUTRALITY.—The Commission shall provide that the separate applicable percentage increases developed under paragraph (1) would, if in effect, not result in aggregate payments under section 1886 of the Social Security Act (42 U.S.C. 1395ww) to medicare dependent hospitals and subsection (d) hospitals which are not medicare dependent hospitals for the furnishing of inpatient hospital services in a fiscal year in excess of the aggregate payments under such section to such hospitals in such fiscal year if such factors were not in effect.

(b) REPORTS.—

(1) IN GENERAL.—Beginning in March 1996, the Commission shall, in each of the Commission's March reports to the Congress required under section 1886(e)(3) of the Social Security Act (42 U.S.C. 1395ww(e)(3)) include—

(A) the separate applicable percentage increases developed by the Commission under subsection (a)(1) for the upcoming fiscal year; and

(B) recommendations on methods to ensure that medicare beneficiaries who receive services furnished by medicare dependent hospitals have the same access and quality of care as medicare beneficiaries who are furnished services by subsection (d) hospitals which are not medicare dependent hospitals.

(2) ANNUAL REVIEW OF MEDICARE MARGINS.—The Commission shall develop the recommended methods under paragraph (1)(B) after annually reviewing the average medicare margins in medicare dependent hospitals and the impact of such medicare margins on the medicare dependent hospitals' overall profit margins.

SEC. 3. DEFINITIONS.

In this Act, the following definitions apply:

(1) MEDICARE BENEFICIARY.—The term "medicare beneficiary" means an individual who is entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(2) MEDICARE DEPENDENT HOSPITAL.—The term "medicare dependent hospital" means any subsection (d) hospital—

(A) that is not classified as a sole community hospital under section 1886(d)(5)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(D)); and

(B) for which not less than 60 percent of its inpatient days were attributable to medicare beneficiaries during 2 of the last 3 preceding fiscal years for which data is available.

(3) MEDICARE MARGIN.—

(A) IN GENERAL.—The term "medicare margin" means for a fiscal year the ratio expressed as a percentage equal to—

(i) the difference between all medicare revenues paid to a hospital for the operating costs of inpatient hospital services in a fiscal year and all medicare program eligible expenses for such operating costs for such fiscal year (as shown by each hospital's HCFA 2552 report submitted annually to the Health Care Financing Administration); divided by

(ii) all medicare revenues paid to the hospital for the operating costs of inpatient hospital services for such fiscal year.

(B) OPERATING COSTS OF INPATIENT HOSPITAL SERVICES.—The term "operating costs of inpatient hospital services" has the meaning given such term in section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)).

(4) SUBSECTION (d) HOSPITAL.—The term "subsection (d) hospital" has the meaning given such term in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)).

IN RECOGNITION OF THE SUCCESSFUL PARTNERSHIP BETWEEN ANCHORAGE NEIGHBORHOOD HOUSING SERVICES AND THE NATIONAL BANK OF ALASKA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. YOUNG of Alaska. Mr. Speaker, I would like to congratulate both the Anchorage Neighborhood Housing Services and the National Bank of Alaska for being nationally recognized by the Social Compact in its 1995 Outstanding Community Investment Awards program for their partnership achievement: the rehabilitation of a historic downtown property into a mixed-use rental and retail development. ANHS and NBA were selected from over 160 applicants from across the country for their highly effective and innovative community investment strategies.

The project, known as the Loussac-Sogn Limited Partnership, marked a series of firsts in Anchorage: National Bank of Alaska [NBA] was the first financial institution in Alaska to purchase historic and low-income housing tax credits, Loussac-Sogn was the first housing built downtown since 1980, and it was the first limited partnership between a nonprofit and financial institution to provide for the housing needs of low-income individuals.

The shortage of affordable housing in Anchorage is critical. Significant increases in number of low- and moderate-income residents and a concurrent loss of almost 1,000 substandard housing units between 1988 and 1990 created the severe shortage. A decline in per capita income caused by a shift in the economy from oil-based jobs to service jobs also contributed to the problem. The affordable housing available in the Loussac-Sogn Single Rental Occupancy [SRO] building is helping alleviate the situation.

Located in Anchorage's downtown business district, this historically significant, 42,000 square foot art moderne structure was rehabilitated and preserved according to national historic standards. The building will be placed on the National Historic Register in 1996. It includes retail businesses on the ground floor and 52 renovated and furnished single room occupancy housing units on the upper floors. Residents, very-low income adults, will stay at Loussac-Sogn as the first step in a continuum of housing provided by Anchorage Neighborhood Housing Services [ANHS]. Support services, provided through a case management system, will also help the residents more successfully bridge a transitional period before finding permanent, independent housing.

The project could not have been completed without NBA's leadership and participation throughout the process. They assisted with the complex acquisition of the land and building. The bank convinced the landowner that the creation of low-income housing would be within its purpose as a charitable organization, and then they negotiated with the building's owners to settle litigation so that it could sell the property to ANHS at a reasonable price. NBA also provided funds in acquisition and renovation equity and a construction loan with $1.55 million in financing through the Alaska Housing Finance Corporation. The additional financing needed to complete Loussac-Sogn was obtained through taxable bond financing and grants from the local historic preservation nonprofit, the Neighborhood Reinvestment Corporation, and the Federal Home Loan Bank of Seattle. NBA also stepped in with needed support when ANHS assumed the role of general contractor in order to address unexpected hazardous materials abatement requirements.

The Loussac-Sogn SRO is an asset and enhancement of downtown Anchorage. The residents take an active part in the community and focus on particular problems such as crime prevention. Thanks to Loussac-Sogn, businesses have learned about the positive effects of low-income housing.

TRIBUTE TO JESS DAMESWORTH

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. LEVIN. Mr. Speaker, it has become widely accepted in our Nation that when people become unemployed through no fault of their own, there should be a bridge for them and their family until a return to remunerative work.

It took considerable effort to weave that principle into America's economic fabric and it has taken constant effort to maintain it.

Jess Damesworth has been in the center of that endeavor. As unemployment compensation director for the United Automobile Workers for over a decade, he has devoted his high energy and substantial talents to his work. Thousands and thousands, inside and outside of the UAW, owe a debt of gratitude to Jess' dedication. He has worked with industry to make the system work more effectively.

On Thursday, May 18, a retirement dinner will be held to honor Jess' years of service. There will be words of praise from leadership and rank an file. Both will have witnessed the good efforts of Jess Damesworth. As someone who has been privileged to work with Jess over the last decade, I heartily join in the accolades to him.

CONGRATULATIONS TO DRUG-FREE SCHOOLS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. FIELDS of Texas. Mr. Speaker, I was pleased to learn that four schools located in my congressional district are recipients of this year's Drug Free Schools Award, presented annually by the U.S. Department of Education.

The four schools—Ehrhardt Elementary School, Strack Intermediate School, Dueitt Middle School, and Tomball Intermediate School—were among just 98 schools nationwide to be so recognized. Winning this award attests to the hard work and concern of the students, faculty and administrators of these four schools, as well as to the hard work and concern of the parents of the students attending those four schools.

In particular, I would like to congratulate Heather Maedgen, principal of Ehrhardt Elementary School in Klein; Gary Jones, principal of Strack Elementary School in Klein; Rosalind Keck, principal of Dueitt Middle School in Spring; and Dr. Lee Weeditz, principal of Tomball Intermediate School. Their leadership in eliminating drugs and alcohol from their schools, and in creating a positive learning environment, has inspired educators and students alike to work together for the common good.

America's Goals 2000—a series of educational goals to which President Bush committed our nation—includes a commitment that "by the year 2000 every school in the United States will be free of drugs, violence, and the unauthorized presence of firearms and alcohol, and will offer a disciplined environment conducive to learning."

Mr. Speaker, the four schools located in my congressional district that have received the Drug Free Schools Award are well on their way to achieving that goal of a drug-free, alcohol-free and nonviolent environment in which teachers can teach and students can learn. Again, I congratulate everyone associated with those schools—students, administrators, faculty members and parents—on this tremendous, and well-deserved honor.

Thank you, Mr. Speaker.

LET'S TALK ABOUT THE FACTS

HON. JACK METCALF

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. METCALF. Mr. Speaker, while discussing the massive Federal debt and annual budget deficits of over $200 billion at a recent town hall meeting in Oak Harbor, WA, I used a Member of the other body as an example of the old guard in Washington, DC. I criticized him for his opposition to the Balanced Budget Amendment, his reputation for securing questionable spending projects for West Virginia, and his unwillingness to cut wasteful Federal spending.

I then said in a light-hearted vein at the town hall meeting that because of this, the Member should be tarred and feathered. Historically, since the late 1800's, tarred and feathered has been a humorous reference, meaning community outrage at a person who violates the general good of the community. I have never, nor would I ever, seriously advocate mob violence toward anyone.

A more important note, in my mind, however, is the misinformation regarding a remark, made from the audience, that the Member should be shot. At the time of the comment I was speaking and thus did not hear nor was I aware of what had been said. Had I heard the statement at the time, I would have condemned it on the spot.

Political rhetoric is one thing, but threatening violence is quite another. I have always condemned senseless acts of violence and have worked to enact laws ensuring swift and sure punishment for those who break the law.

My comments were intended to illustrate the abuses of the old, outdated political process, certainly not to support the use of violence.

IN APPRECIATION OF THE COMMITMENT OF WILLIAM REES HARRIS TO THE SALISBURY VOLUNTEER AMBULANCE SERVICE

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is with great pride and appreciation that I rise today to commend Rees Harris, a lifelong resident of Salisbury, CT, for his generosity and leadership in forming the Salisbury Volunteer Ambulance Service in 1971.

Rees is known throughout the northwest corner of Connecticut for his vision of community life and his commitment to and support of programs that support the needs of the residents of the small towns, like Salisbury, that comprise the northwest corner. In 1971, through Rees' personal generosity, the Salisbury Volunteer Ambulance Service was established. Today, Rees will be honored by the board of trustees of the service in recognition of his dedication and compassion for his neighbors and for contributing to the quality of life they all enjoy.

In a small, tight-knit community such as Salisbury, many good deeds are accomplished, as neighbor helps neighbor in a quiet fashion. Rees is a humble man, a gentleman who has earned the respect of his peers for his unending concern for all those who call home the very special community of Salisbury, CT.

I know Rees finds deep, personal satisfaction through helping others, and on behalf of my Salisbury constituents, I express appreciation for his contributions to the lives of many and for strengthening the services and institutions on which the community relies.

TRIBUTE TO GILBERT MURRAY

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. RIGGS. Mr. Speaker, I rise today to pay homage to a very special person, who was recently taken away from us by a cowardly and desperate act. Gilbert Murray, president of the California Forestry Association, was killed on April 24, 1995, by a mail bomb at his office in Sacramento, CA.

Gil touched many lives, both professionally and personally. He dedicated his life to protecting the forests, which he learned to love as a child. He continued to explore and enjoy the outdoor world as an adult. He taught his family to love and appreciate nature in all its majestic forms—exploring mountain peaks, churning rivers, tropical reefs, snowclad hillsides, glaciers, and deep blue lakes.

Born on June 18, 1947, Gil spent most of his childhood in Southern California. After serving in the U.S. Marine Corps from 1967–70 in Vietnam, he returned to the United States to marry his childhood sweetheart, Connie.

Gil spent most of his professional life devoted to forestry issues. After graduating from the University of California at Berkeley in 1975 with a degree in forestry, he went to work as a dirt forester for Collins Pine Co. in Chester, CA. Through the years he worked in several organizations involved in forestry, eventually rising to the presidency of the California Forestry Association.

What is unique and special about Gil is the incredible amount of love and affection that his friends and family have for him. Devoted to his job, he never lost sight of the people around him. His family was always his first priority. Perhaps his young niece stated it best, "He was just the best person in the world."

Mr. Speaker, I hope all Members will join me in saluting Gilbert Murray and condemning his assassination. Gil was indeed a special person, and we can all best respect his life by advancing his ideals now that he is gone.

GOP SAVES MEDICARE

HON. STEPHEN E. BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. BUYER. Mr. Speaker, Medicare is in dire need of improvements. Medicare part A will go bankrupt by 2002; in just 7 years. Medicare part B, has already begun to lose money. Medicare is our forth largest Federal budget item, consuming 12 percent of the budget.

If the Medicare system is not reformed now, we may not have a program to reform in the very near future. Since 1992, Medicare has been paying out more money in claims than it has received in payroll taxes. These services must be run in a more responsible and fiscally prudent manner while maintaining Medicare's quality.

Medicare part A, the hospitalization insurance program, draws its revenue from a trust fund that currently contains $135 billion. This trust fund will begin losing money next year and will be insolvent by 2002. We must provide security to our seniors that there will be a safety net for their use if needed in 7 years.

Enrollees in Medicare part B, the program that finances outpatient medical treatment, will pay a premium of $46.10 a month and a deductible of $100 this year. In return they will receive benefits averaging nearly $2,400 per enrollee, with taxpayers subsidizing $1,800 per beneficiary. By 2002, that subsidy will reach $3,900 per individual. This subsidy will cost taxpayers $1.5 trillion over the next 20 years if the current course continues. The average one-earner Medicare couple will receive $126,700 more in benefits than they contributed over their working life.

In April, I completed another round of town meetings in the Fifth District of Indiana. The solvency of Medicare was a top concern. I heard a similar message from young and old alike from Kokomo to Winamac and from Logansport to Plymouth. Hoosiers don't want a quick fix that doesn't work. They don't want accounting gimmicks. They don't want political posturing. They want Congress to reform the system to ensure security for years to come. The solvency of Medicare is very real to Hoosier families and seniors.

House Republicans have proposed a budget plan that balances the Federal budget by 2002, without touching Social Security or raising taxes. This means that for the first time since 1969, our deficit by 2002 will be zero. Medicare spending is projected to increase from $178 billion in 1995 to $258 billion in 2002. That's a 45 percent increase over the next 7 years. What does this mean for the average Medicare recipient? In 1995, the average Medicare beneficiary will receive $4,684 in benefits which increase to $6,293 in 2002. Again, benefits increase—not decrease.

The Board of Trustees for the Medicare Trust Fund, appointed by President Clinton, have issued a report saying Medicare's short-term fiscal health requires either an immediate increase in payroll taxes of 44 percent or an immediate decrease in Medicare spending of 30 percent. Yet both of their proposals would only ensure solvency for 25 years. I support a less draconian approach such as reducing the growth of Medicare by just 5 percent a year. No tax increase nor enormous cuts. A 5 percent reduction in growth will provide for long term security of the Medicare program.

Because a centralized Government monopoly is inherently inefficient, wasteful, and too slow to adapt to new ideas and new solutions, we must transform Medicare. Every senior citizen should have more choices in health care and more control over their own lives, thus providing more security. a transformed Medicare system will provide better health care at lower cost with greater choice. Failure to transform Medicare will lead to cuts in services and financial crisis.

The President should be a leader, not a follower. The President's own Cabinet members, as trustees of the Medicare Trust Fund, have issued a report clearly stating that Medicare is in dire need of reform. President Clinton has been absent from this debate. Frankly, I am very disappointed that it will take Congressional legislation to bring the President into this discussion. I hope the President will take a seat at the table and help the Congress address this important issue. If not, the Congress clearly has the determination to do so without him. I support H.R. 1590.

Finally, the imminent crisis in Medicare funding is real and unavoidable. Responsible reform of Medicare is a top priority of this Congress. It should be everyone's purpose to reform and improve Medicare to provide the best possible service to its beneficiaries. I look forward to working with my constituents, my colleagues, and hopefully the President to find real solutions to improve these programs.

THE FEDERAL AVIATION ADMINISTRATION REFORM ACT OF 1995

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. OBERSTAR. Mr. Speaker, I am pleased to cosponsor H.R. 1392, the Federal Aviation Administration Reform Act of 1995, introduced by our colleague, JIM LIGHTFOOT. Congressman LIGHTFOOT's bill makes important reforms which will enhance FAA's ability to carry out its responsibilities, while preserving FAA's basic structure which has enabled the agency to become the world's finest. Although I have reservations about some provisions in the Lightfoot bill, overall it is a major contribution to our effort to reform the FAA.

I strongly support the provisions in H.R. 1392 which would take FAA out of the Department of Transportation and make FAA an independent agency. This reform has been supported by 10 of the 11 living former Administrators of FAA. The strong support of the former Administrators should be given great weight, in view of their distinguished careers in the military and private sector, and the fact that they served our a period of more than 30 years, under Presidents of both parties, from John F. Kennedy to George Bush.

As the former Administrators have pointed out, FAA's responsibilities to develop the aviation infrastructure and to ensure aviation safety and security are basically technical in nature. FAA's skilled professionals are well equipped to carry out these responsibilities, without second guessing from political appointees at the Department of Transportation.

I have observed DOT's oversight of FAA for many years. DOT's review often does little more than delay important decisions. In some instances, DOT overrules sound FAA decisions, on ideological grounds, or to gain short term public relations advantages.

I would also emphasize that all 11 of the living former Administrators strongly opposed a reform which is not in the Lightfoot bill, but has been proposed by the Department of Transportation; to split FAA into a quasi-public corporation, like the Postal Service, for air traffic control and a rump FAA to regulate the corporation and carry out FAA's other responsibilities. In hearings before the Aviation Subcommittee, Najeeb Halaby, FAA Administrators from 1961 to 1965, testified that: "Corporatizing part of the FAA could disintegrate the present comprehensive system of safety which has served the nation so well. It would result in potential serious conflict between the new corporation, the NTSB and the DOT/FAA. Since the proposed corporation would be a monopoly, it would not achieve the savings of free competition. Since it would be a federal corporation, the public would not consider that federal employees really had been reduced or true savings achieved. . ."

Administrator Halaby's statement was specifically endorsed by all 11 former Administrators.

The Lightfoot bill makes important reforms in the laws and regulations governing FAA's procurement of equipment and FAA's relationship with its skilled work force. FAA is now governed by burdensome procurement laws and regulations which have slowed FAA's program to modernize the air traffic control system. Equally burdensome laws and regulations on personnel have limited FAA's ability to recruit scientific and engineering professionals and to fully staff air traffic control facilities in high cost of living areas. The Lightfoot bill adopts a balanced approach to these problems by giving FAA flexibility to develop its own procurement and personnel systems, while retaining an opportunity for Congress to review these programs before they are implemented. Congress would also review the new personnel and procurement programs in the year 2002 when they would need to be reauthorized. The personnel and procurement reform programs developed under the Lightfoot bill would not only benefit FAA, but would also provide important data for reforming these processes for other Government agencies.

I am also supportive of the provision in the Lightfoot bill which gives the FAA Administrator a 7-year term in office. In recent years, Administrators have often served for 2 years or less. This is not enough time to ensure that needed reforms are implemented. The turnover in Administrators has caused reform to proceed by fits and starts, and prevented a sustained, consistent approach. Last year we passed legislation giving the Administrator a 5-year term in office. A 7-year term would be even better.

I have reservations about the provision in the Lightfoot bill to establish a panel to consider innovative financing mechanisms to ensure adequate funding for aviation infrastructure needs. We do not need a panel to discover that the basic problem is that the more than $5 billion a year generated by excise taxes on aviation system users, such as the 10 percent tax on airline passengers, is not being fully spent to develop the aviation infrastructure. The failure to fully spend these revenues is a breach of faith with aviation users. The taxes were imposed in 1970 for the purpose of financing the airport and airway trust fund which supports development of the air traffic control system and airports. In recent years, the user contributions have not been fully spent, but have been used to reduce the deficit in the general budget. The cumulative amount of taxes which has not been spent now totals more than $3 billion. A critical step in overcoming this problem is to pass H.R. 842, which would take the trust fund out of the budget process and permit all funds contributed by users to be spent for the intended purpose of developing our Nation's airports and air traffic control system.

Overall, I believe that the Lightfoot bill makes a major contribution to FAA Reform. I look forward to working with Congressman LIGHTFOOT and my colleagues on the Committee on Transportation and Infrastructure to develop an FAA reform bill which will ensure that we will continue to have the world's finest aviation system.

TRIBUTE TO MARGARET STANFILL MOORE ORIGINALLY OF HAYTI, MISSOURI

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. EMERSON. Mr. Speaker, I rise today to pay tribute to Margaret Stanfill Moore, whose outstanding service as a nurse in World War II provided an invaluable role in several key battles, including the liberation of Europe.

Margaret Stanfill Moore holds the distinct honor of being the first woman to set foot upon the beaches of Normandy on D-Day, June 6, 1944. She followed the first wave of Allied troops ashore and immediately began ministering to wounded soldiers and paratroopers. Her work was crucial to saving the lives of Americans and our Allied friends.

Not only did Lieutenant Stanfill heroically rush to the shores of Normandy, but she was also one of the first nurses on the scene in the North Africa campaign. After North Africa, she followed Allied troops into Sicily. Margaret bravely risked her life in some of the most important battles of World War II to save the lives of American and Allied troops.

I am proud to boast that lieutenant Stanfill is from Hayti in the Eighth District of Missouri. The daughter of Mrs. Ola Stanfill, Margaret Stanfill Moore is a graduate of Hayti High School, Class of 1930, where she was captain of the girls' basketball team and the county high school tennis singles champion. Following high school, Margaret entered Nurses Training at the Baptist Hospital in Memphis, TN. After spending a year in private practice, she joined the U.S. Army Nursing Corps.

It is with honor that I recognize Margaret Stanfill Moore for her invaluable and outstanding service to our country. There is no more honorable an occupation than saving the lives of wounded American soldiers. The veterans of World War II thank her, I thank her, and America thanks her.

END THE CUBAN EMBARGO

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. MOAKLEY. Mr. Speaker, I recently wrote to President Clinton urging him to immediately begin negotiations with the Government of Cuba aimed at lifting the economic embargo and normalizing relations.

For over three decades, we have tried to force Fidel Castro from power by maintaining a tight economic embargo on Cuba. But, that embargo has failed to hasten Mr. Castro's departure and has failed to fuel the type of internal pressures to advance the democratic reforms that so many of us want to see.

Instead, the embargo has encouraged and strengthened the sentiments of nationalism in Cuba, provoked an increase in immigration to the United States—and it has provided Mr. Castro with a perfect excuse to justify the failures of his system.

It is my hope that the Clinton administration will recognize the obvious failures of our current policy and change course.

I would like to call my colleagues' attention to a recent article written for the Boston Globe by Elizabeth Shannon entitled, "United States Should End Its Embargo Against Cuba." Ms. Shannon, who is a writer and administrator at Boston University, makes a compelling case for changing our policy.

[From the Boston Globe, May 4, 1995]

UNITED STATES SHOULD END ITS EMBARGO AGAINST CUBA

(By Elizabeth Shannon)

President Clinton's reversal of our Cuban refugee situation may be the administration's first step toward changing a policy which has been ill-advised and self-defeating throughout this century. To insist on continuing and expanding the harsh and illogical embargo against Cuba when an accord favorable to both countries could be reached is inconsistent with American self-interest. What good is it to have 11 million people near starvation or to create political chaos on a small island just 90 miles off our shores?

Whatever Fidel Castro is—guerrilla fighter, oppressive dictator, unrelenting windbag, nouveau capitalist—he is well aware of the failure of the Revolution and is groping for a way out, peering through the doors of private enterprise that are opening up to him and liking what he sees.

Through his own mismanagement and the loss of the $5 million annual subsidy from the Soviet Union, the infrastructure of Cuba is in shambles. The Spanish colonial mansions in Havana's suburbs are in bleak disrepair. Black smoke from oil wells pollutes the air. The few cars one sees are vintage American models, making the streets of Havana look like a set for a Bogart film. Engines rust on unused rail tracks, and buses have been replaced by ancient flatbed trucks with benches nailed to the floor to serve as public transportation.

Children beg on the streets of Havana. The only miracle left, hard to fathom, is the good nature and indomitable spirit of the Cuban people and their faith, slightly frayed, in "El Comandante."

Cuba is trying to deal with its economic crisis by participating in joint private enterprise projects, mainly with Canada, Mexico and Europe. It is also pouring money into tourism, which is growing at the rate of 20 percent annually.

There is still no free press, radio or television and one wonders about the literacy level when there are so few books to read. There are no young, would-be Fidels in the university; dissenters who still fear a knock on the door at night.

Nevertheless, there is an easing of some of the harsh, repressive social policies of the past two decades. The availability of educational opportunities and day care centers have made it possible for women to achieve goals not available to them in the pre-Castro days. Churches are open again after more than two decades. The repulsive policy of informing—on one's neighbors, friends, family—is becoming discredited.

The farmers' markets that are now allowed in the cities have eased the harsh deprivation of food supplies. Pork and fowl, beans, rice and vegetables are plentiful. The markets are crammed with shoppers, trading in dollars, the favored currency, instead of Cuban pesos.

But the Cuban people, adoring as many are toward their "Maximum Leader," are restive and eager for a better life.

A respected journalist who has lived in Cuba through the Revolution said to me recently: "Castro will change. He is, above all, a pragmatist and is keenly interested in how history will judge him. Of course, he must save face. Let him devise the words he will use to roll with the change. Democracy? People here aren't too interested in democracy. They are most interested in getting food on the table without having to stand in line for hours, in having things work, in good gasoline, new cars, a transportation system, electricity that doesn't work on whim."

Cubans want to talk business. And, ironically, it may be American businessmen rather than politicians and diplomats who change our Cuban policy. They are flocking to the island.

It would seem that these moves toward capitalism would make America happy and might even make Sen. Jesse Helms smile. But our reaction has been to tighten the embargo and punish those countries—our allies and friends—who do trade with Cuba, creating more ill-will.

What guides our current policy toward Cuba? It is a combination of inertia and our indefatigible desire to punish Castro, to bring him down, that feeds the inflammatory rhetoric of Helms and the implacable hatred toward Castro of members of the exile community, who are now threatening to shut down businesses in Miami in protest of Clinton's new policy. It does nothing to create a viable climate in which to bolster Cuba's waning economy into a stable, thriving and eventually capitalistic society.

If there is one lesson to be learned from the story of Vietnam, so sorely reopened by Robert McNamara's memoirs, it is to recognize the fatal miscalculation of foreign policy-makers who, so sure of their direction, don't read the road signs. Policies conceived in honest hope grow old and out-dated and, eventually, fatal. The theory that to make democracy work in Cuba we must "defeat Castro" and punish the Cuban people is flawed.

A European diplomat said to me in Havana: "Castro could probably defend Cuba against 100,000 American Marines. There is no way he could defend it against 100,000 American tourists!" This moment in Cuba's history is an opportunity for President Clinton to begin the process of negotiation. Perhaps Jimmy Carter could make a stopover in Havana when he is in the area.

ABOLISHING THE SUBMARINE PATENT

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1995

Mr. MOORHEAD. Mr. Speaker, recently, advertisements appeared in most of the newspapers in my 27th Congressional District, including the entire back page of the L.A. Times. These advertisements were purchased by a newly created group calling themselves Intellectual Property Creators. The adds were supporting the passage of H.R. 359, a bill introduced by my friend and colleague from California [Mr. ROHRABACHER] . The purpose of this type of lobbying is to bring pressure on me and the subcommittee I chair, to process this bill immediately. The bill, H.R. 359, is very controversial and of dubious merit. However, I have indicated that the subcommittee will hold a hearing on this issue next year.

The issue is the change in the U.S. patent law that occurred last year with the enactment of the GATT implementing legislation which will change current patent law by adopting a 20-year patent term measured from the application filing date to replace the current term of 17 years measured from the date of the issuance of the patent.

That commitment was made in substance in the GATT Uruguay round TRIPs agreement, as well as in 1994 bilateral executive agreement with Japan. A 20-year term has been an agreed-upon point in GATT for at least the past 4 years through Republican and Democratic administrations alike. This is common knowledge. The idea of the 20-year term is not new. A 20-year proposal almost identical to the present law was recommended for the United States by President Lyndon Johnson's Commission on the Patent System in 1966 and Secretary of Commerce Mosbacher's Commission on Patent Law Reform in 1992.

I did not vote in favor of the GATT implementing legislation for a number of reasons, none of which concerned the intellectual property provisions of GATT. To the contrary, I do know that the copyright and patent provisions of GATT are good for the United States and supported by every major national copyright, patent, and bar association that takes an interest in patent and copyright law, as well as the National Association of Manufacturers and the Pharmaceutical Research and Manufacturers of America.

Present law provides 17 years of protection for a patent upon the issuance of that patent. The new law provides 20 years of protection for a patent upon filing of a patent application. The average time to examine and issue a patent by the U.S. Patent Office in 1993 was 19.5 months. This is expected to be reduced further in 1995 to 18.9 months. As of this past September the time to dispose of a biotechnology application is 20.5 months. GATT will add an additional 36 months to cover this examination period.

The American Intellectual Property Law Association and the Intellectual Property Owners, both watchdogs over the U.S. Patent Office, agree with the Patent Office that the vast numbers of patent applicants will gain 1 to 1½ years under GATT.

The Judiciary Committee Subcommittee on Intellectual Property on which I have served for 18 years, has jurisdiction over the patent law and the Patent Office. Has the Judiciary Committee been asleep at the switch so that Japan and certain multinational companies could damage the U.S. patent system through the GATT Uruguay round agreement? The exact opposite is true. We have closely monitored the intellectual property negotiations contained in GATT since 1987. This past January, the Japanese Patent Commissioner agreed to make substantive changes in their law to benefit United States inventors in exchange for the Patent and Trademark Office recommending the 20-year term from filing—a change the United States wanted to make anyway.

The features of the Japanese patent system that create problems for United States businesses are:

One, they do not permit filing applications in the English-language;

Two, the time it takes to obtain a patent is much too long—5 to 7 years;

Three, they permit competitors to oppose the issuance of a patent before the patent grant. Thus, delaying the rights of U.S. businesses;

Four, they permit competitors who develop minor improvements to obtain compulsory licenses for basic technologies developed by U.S. businesses.

These are the Japanese practices that they have agreed to change to make it easier and more economical for United States investors to file in that country.

To further protect patent applicants the new law legislation would extend the 20-year term of a patent for up to 5 additional years to compensate when an applicant is involved in a proceeding to determine who is the first to invent or an appeal of an examiner's decision in a court proceeding. This protection will further ensure that the applicant will not suffer any loss of term.

In addition to these protections the new law adds an additional year for what is called a provisional patent application. This adds an additional year during which the applicant can develop claims and potentially seek investment for development of the invention. During this provisional year the inventor retains his right to an early filing date, but the 20-year terms doesn't start to run until the application is filed, which amounts to 21 years of effective patent term.

Our present term of 17 years measured from patent grant is being abused by a few inventors and is interfering with the patent system's objective of stimulating progress in technology. By filing successive continuing applications on the same invention, the original applications remain submerged in the Patent and Trademark Office in secrecy year after year. It's a legal means of intentional delays perpetrated by the inventor, until a company has grown up around or an existing company begins using the inventor's original idea. Once the patent is granted, sometimes as much as 20 years after filing, the inventor can demand significant licensing fees for continued use of the now patented process. This usually comes as a brutal surprise to companies who manufacturer in the United States both foreign and domestic. This is the practice that H.R. 359 would protect.

The longer an applicant can delay, the further into the future the patent monopoly will extend because the United States measures the term from date of grant rather than date of filing. All foreign countries have the safeguard of measuring the term from filing date.

The most extreme and successful abuse of our current patent system terms involves a fairly well-known U.S. inventor who may have helped pay for full page advertisements in leading U.S. newspapers in recent months opposing changes in U.S. patent law particularly the 20-year patent term in order to try and preserve this abusive practice. In other words, he supports the passage of H.R. 359.

The American Lawyer, May 1993, contained an article which explains how this inventor made millions of dollars by the use of a submarine patent. This is how it works:

In December 1956, the inventor files a patent application on a machine vision device.

Through a series of continuations he keeps his 1956 patent application, now divided into a number of separate applications, pending in secret in the Patent Office for decades.

Bar code scanning technology is developed throughout the world by many different inventors between 1956 and 1989. The uses of the technology run the gamut from supermarket checkout counters to automated automobile assembly lines.

As the technology is developed by others, he can amend his machine vision patent applications to bring them up-to-date with bar code scanning.

In 1989, his patents begin to issue. To the amazement of whole industries, these newly issued patents cover bar code scanning in widespread use throughout the United States. His patents will last into the next century.

In 1992, he collected $450 million in royalties from the Japanese and European automobile industries and in return he allows them to continue to operate their factories.

In 1992, Ford, general Motors, and Chrysler refuse to pay him a royalty so that their assembly lines can remain open. The Big three U.S. auto-makers have used bar code scanners extensively since 1960. The inventor has filed a patent infringement suit against all three companies.

The U.S. patent system is designed to cause inventors to disclose inventions to, as the U.S. Constitution says, "promote science and the useful arts." in return, patents provide inventors with a 17-year monopoly.

Submarine patent abusers do not disclose anything. Just the opposite. They deliberately keep their inventions secret. Then, after decades of delay, they cause the patents to issue so that can collect royalties from existing businesses. These submarine patents are intended to be a weapon against legitimate businesses.

In 1966 President Johnson's Commission on the Patent System recommended the 20-year patent term. Judge Simon Rifkind was the cochairman of that Commission and in 1967 he testified in the Senate in favor of the 20-year term and said:

> By this simple change, all of the motivations which today are organized in the direction of delay are redirected toward speed * * *. The harm that comes from our present system is very great. As long as that patent application lies in the Patent Office in secret it fails to make its contribution to the body of technological information that our society ought to have.

That criticism of our patent system was made over 25 years ago, it is still valid today. The 20-year term measured from filing would end this abuse.

The 20-year term in the GATT implementing legislation could reduce patent protection in a very small number of cases but in the vast majority of cases patent would be lengthened and in some cases as much as 2 years beyond the 17 years. The term for the rest of the cases would be around 17 years. The advantage of the 20-year term will be a longer patent term for most inventors, the abolition of the submarine patent, U.S. compliance with GATT and improvement of U.S. inventor rights in over 100 member countries.

The Subcommittee on Courts and Intellectual Property is faced with other pressing proposals that offer more promise for improving American patent, trademark and copyright laws to protect creativity and the genius of the American people. The patent term law taking effect on June 8, 1995 does not apply to any patents that have been granted in the past. Patent applications filed under the new law for the most part will not expire before the year 2015. So we have time to correct by legislation any injustice that may occur under the new law. The new law was promptly enacted by the Congress and signed by the President. I did not vote for it but I believe it should be given a chance to take effect.

When the subcommittee reaches H.R. 359 for a hearing next year, we will investigate whether anyone besides deliberate abusers of the patent system is likely to obtain shorter patent life under the new law. If any inventors are losing patent life through no fault of their own, we will consider appropriate corrective action.

SENATE—*Wednesday, May 17, 1995*

(Legislative day of Monday, May 15, 1995)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, You have shown us that You want to guide what we pray, so that You can grant us the desires of our hearts. We begin this day with King Solomon's response to Your question, "Ask! What shall I give you?" Then Solomon asked for what we desire for the work of this day. He confessed his own inadequacy and need for strength to grasp the challenges of being a leader. Then he asked for an "understanding heart." We are moved by the translation of the Hebrew words for "understanding heart," meaning a "hearing heart." Solomon wanted to hear both Your voice and the voice of the people expressing their needs, and be able to respond and speak to those needs out of the depth of wisdom that came from a heart tuned to Your spirit's supernatural power. May the response You gave to Solomon be the response You give to the women and men of this Senate who long to know and do Your will: "See, I have given You a wise and understanding heart." The heart of the matter is the heart: Your heart speaking to our hearts. Help us to listen, Lord. Amen.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Illinois.

(The remarks of Mr. SIMON pertaining to the introduction of S. 811 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Pennsylvania.

WHERE IS BILL?

Mr. SANTORUM. Mr. President, I appreciate the opportunity to talk about an issue that greatly disturbs me at a time when we are debating in this country how we are going to get to a balanced budget and what steps we need to take and the tough decisions in setting priorities about where Federal spending should go in the next 7 years.

We had a process that went through here in the Senate and over in the House that just came from the conference committee to cut $16 billion, $16 billion of funding that has been appropriated by this Congress over the past year or two—a truly minor downpayment on reducing the Federal budget deficit. It is about 1 percent of what we will spend this fiscal year. We are talking about cutting 1 percent, not just in this fiscal year but this fiscal year and the next combined. About $16 billion is what the rescission package will do.

I see the headline in the Washington Post, not the one I am particularly proud of, which is "Capitals Dismantled by Penguins," which I am happy to see that, but one which greatly disturbs me under that which is, "Clinton To Veto $16 Billion Rescissions Package." The President—who has presented a budget that is going to add almost $2 trillion to the national debt over the next 7 years, who refuses to come to the U.S. Congress and present a balanced budget, who says there is no problem in Medicare, who says that everything is just fine—now decides he cannot support cuts in spending. He cannot support cuts in spending: That $16 billion is too much. We just cannot do it. We cannot tighten our belt to do that.

So he is going to go to some group. I am sure he will wrap himself—I do not know, I did not read this completely—wrap himself with either a group of seniors or a group of children because that is what you do when you do not want to change things. You hide behind children or you hide behind seniors, and you say: "We cannot hurt these vulnerable in our society." But the fact of the matter is this is a drop in the bucket. These are spending cuts, many of which he advocated, to programs many of which do not work.

Sure there are some tough cuts in here, things I am uncomfortable with. We cut, in this bill, low-income home energy assistance, not this year which I am happy to see, but next year, by $300 million. I think that is a painful thing. But we have to share. We cannot do everything. We cannot continue to spend everything we are spending now. I think that is a good compromise.

There are other things in there that cause me some problems. They may be good programs but we have to be able to say we are going to tighten our belts a little bit. And here you have a President who is holding dialogs with himself about his relevancy, showing he is not going to be relevant to balancing the budget, he is going to stand in our way every step of the way to block any kind of reducing the size of Government or cutting spending here in Washington, DC.

Mr. President, $16 billion out of $1.6 trillion and we cannot do that. It is too tough. I think the American public should see this for what it is, a President who just wants to blame the other side for being mean and being cruel and offers nothing in return, who offers no balanced budget to this body, who says he is not for the balanced budget amendment to force us to get there, who says there is no problem in Medicare when it is going to go broke in 7 years. His own trustees say it is going to go broke in 7 years. Denial, denial, denial; no, no, no.

Where is the President? You know, we had the great debater from the State of Massachusetts, Senator KENNEDY, stand up and say, "Where is George? Where is George?"

Where is Bill? Where is Bill? Where is he going to be if we are going to balance this budget? Where is he going to be if we are going to put this country back on sound footing again? Is he going to continue to hide behind the status quo, to be the President who goes down defending this policy that has just continued to pile up debt after debt after debt?

Where is Bill? Where is he when it comes to setting this country back on the course of fiscal responsibility?

I will tell you where he is, hiding behind a group of people, vetoing legislation to get us back on the right track. We deserve better.

I yield the floor.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Under the previous order, the Senator from North Dakota [Mr. DORGAN] is recognized to speak for up to 30 minutes.

Mr. DORGAN. Mr. President, it is always entertaining to listen to the morning discussions on the floor of the Senate. I should not say always entertaining. It is at least occasionally entertaining. As to the question of "Where is Bill?"—which I assume really asks "Where is the President?"—he is at 1600 Pennsylvania Avenue. He was there yesterday. I assume he is there this morning, reachable by phone if someone really wants to visit with him about policy issues.

But I would say that at least yesterday, when some of us visited with the President about the budget issues, we talked about a lot of things. There is no disagreement, in my judgment, among those of us in the Senate or with the President or Members of the House of Representatives about the goal. We have a budget that is out of balance and it must be balanced. We must, it seems to me, develop a plan that is thoughtful, that establishes the right priorities, but especially in the end balances the budget.

It is interesting. I hear people stand up here on the floor of the House and bellow and crow about how they are the ones that have all the answers, they are the ones that know how to balance the budget, they are the ones with the guts, and they are the ones with a plan. What a bunch of nonsense. Add it all up, just back up and add it up, and you will find that there is not a nickel's worth of difference between Members on either side of the aisle, in the House or the Senate, about how much money they want to spend. Oh, there is a big difference in how they want to spend it. Some want to build more jet airplanes, jet fighters, and bombers, and build more missiles. Some want to stay as deep in debt as we are; that we ought to rebuild star wars right now. That is a proposal before us.

So they want to spend money, all right. Others of us want to make sure that a poor kid gets a hot lunch in the middle of the day at school, or that we have a Head Start that is fully funded, or a WIC Program that works, or health care available to the elderly when they need it. So there is a difference in how we want to spend money. There are differences in our priorities. But there is no difference in appetite.

Do not let anybody tell you different. Add up the priorities in the 1980's, and you will see that those who call themselves conservatives have an unending appetite to spend the public's money just on different things. This is evident even now. As tough as times are in this country, they are over pushing to cut back on the hot lunch program, and they have decided that it should no longer be an entitlement for a hot lunch for a poor kid in the middle of the day at school. But if a hot lunch for a poor kid in school is not an entitlement, they sure want to build star wars at a time when there is no longer a Soviet Union. That is the difference. There are differences in priorities.

No one should believe that there is not a grim determination on both sides of the political aisle in the House and the Senate this year to balance this Federal budget with a plan that gets there in a real and in an honest way. The quarrel is about priorities. It is a legitimate quarrel. We sometimes fight for and believe in different things. We come from different parts of the country. We represent often different ideologies. But the quarrel is not the goal. The destination is something that I think is well accepted. We must get to a balanced budget.

I sent earlier this month recommendations to the Senate Budget Committee totaling nearly $800 billion in spending cuts. I want to send them some more. There are plenty of spending cuts—some of them very aggressive, some of them controversial—that should be, could be, and I hope will be made in order to reach a balanced budget. I happen to think it is a priority as a goal.

But these days when we find ourselves in a circumstance where we are up to our necks in debt, spending more than we take in and charging the balance to our kids and grandkids, some say what we really need to do is to have a tax cut. They construct a middle-income tax cut. In fact, I was asked by a radio moderator the other day about what I think of the middle-income tax cut or the middle-class tax cut passed by the House of Representatives. I said, "Gee, which tax cut could you be referring to?" The middle-class tax cut passed by the House of Representatives provides, on average, a $124 tax cut for those families with incomes under $30,000 a year, and an $11,000 tax cut for those families with incomes over $200,000 a year. That is what they define in the House as middle income? They have been reading different math books than I have been reading, I guess.

I do not think a tax cut is advisable at the moment. I think the first job is to reduce the deficit, not to run over and curry favor with popular programs like tax cuts. But if we were going to have a tax cut, we ought to have a tax cut that benefits working families, not just the upper income families, not just the affluent in our country.

So I would like folks to take a look at this chart. This chart shows the kinds of priorities that some stand up here and bust their buttons about, calling them middle-class priorities. This tax cut is a tax cut that benefits disproportionately the most affluent in this country and gives a few pennies to the rest.

I do not happen to think we ought to have a tax cut at this point. I think we ought to keep our nose to the grindstone, cut spending, and use the revenues to reduce the Federal budget deficit. When we have that done, I will join others in this Chamber to propose a tax cut that then will be helpful to middle-income families. But to decide you ought to have a decrease first—let us go ahead and serve dessert at this meal first, which is a tax cut, because that is enormously popular—that has a ring to it that is only political, not substantive. That says let us curry favor, and not do the hard work of dealing with the deficit.

At the same time that some who propose a contract say let us have a tax cut that they call middle class but really, as you can see from the chart, benefits the most affluent in our country, they say we have a plan to cut Medicare. But they do not have a plan to protect health care for the elderly. They would just cut the dollars. More and more people are growing old in this country. Some months—most months, in fact—we have 200,000 Americans in 1 month become eligible for Medicare. Why? Because America is growing older.

So as more and more people become eligible for Medicare, to cut the funding without worrying about how an elderly person gets health care is hardly a priority I think which stands the test of good sense. And if you say to a country that faces real challenges in its future that the way to face them is to make it harder for a kid to go to college and cut back on money for student aid, then you are not in my judgment investing in our future.

Why do that? We do that at least in part because some want to give a big tax cut to the most affluent in America. Again, I do not quarrel with the goal. I think the goal of balancing the budget is a goal we must march toward and meet. That is our challenge, and that is our test. I think there is substantial room to quarrel about the priorities at this point. There is a right way to do this and a wrong way to do it. And the right way to do it is to understand that the economic engine in this country is the working family. You do not help the working family in this country by doing the kinds of things that they are talking about in this budget. That is the wrong way.

I would say that maybe 50 or 60 percent of the budget recommendations brought out by the Budget Committee make a lot of sense, and I would sign up immediately for them. I support a lot of those proposals. A lot of them are good. I give Senator DOMENICI and other members of the Budget Committee great credit for some of those provisions, and I will support them in a minute and vote for them. But I am just saying that in the Contract With America in the House and also in the Senate, there are some provisions that reflect in a traditional way the difference in priorities.

We believe in education. Let us invest in education and not withdraw the help for those who want to learn, those who want to produce, and those who want to go on to become citizens who will help build this country. Let us not withdraw health care assistance from the elderly and the poor who need it. Let us not increase taxes for the low-income working families, which is also a part of this budget proposal. But there are many other areas where we can cut, and cut significantly, and cut much more than is now proposed by the Senate Budget Committee recommendation.

So I hope when we get this to the floor, I hope you will not hear one word from any Member of the Senate who quarrels about the goal. We must balance the budget by 2002. It is doable. It is doable without the greatest of effort by Members of the Senate. But it ought to be done right away, investing in the right things still for this country, even as we cut those things we no longer need, those things that waste money and those things that are extravagant.

TRADE WITH JAPAN

Mr. DORGAN. Mr. President, I want to turn to one other very brief subject, and that is the issue of trade with Japan.

I intend to provide a discussion tomorrow at some greater length about our trade situation. But I noticed that the Trade Representative has announced potential sanctions in the future against Japanese trade with the United States if Japan does not open its market further to United States goods.

The fact is the trade situation in this country is serious. We talk a lot about the Federal budget deficit, but we have another deficit that is serious and troublesome. We have a trade deficit that is the most significant trade deficit in this country's history. The merchandise trade deficit last year was $166 billion, and I have a chart that shows our trade picture in this country. I would like to hold it up.

This chart shows with whom we have trade deficits and those with whom we have trade surpluses. We have almost no surpluses, and those countries with whom we have a surplus, it is a very, very minuscule surplus, but you will see what is happening with respect to deficits.

All of our major trading partners are countries with which we now have a trade deficit, and that now includes Mexico, for all those who said we were going to have all these new jobs and bountiful trade with Mexico. What a bunch of nonsense that was. We have turned a trade surplus with Mexico into a very significant trade deficit. Most experts suggest the deficit with Mexico will turn out to be anywhere from $12 to $16 billion. It was the last remaining major trading partner we had with which we have had a surplus, and we have turned that into a deficit, unfortunately, with NAFTA and the subsequent devaluation of the peso, and so on.

But you will see in this line a growing, escalating trade deficit with Japan even as the dollar was weakened against the yen, even when you would expect the trade circumstances to move in the other direction. Our trade deficit with Japan is unsustainable, and it is not fair. The Japanese expect their products to come into the American market unimpeded, and they do. We have a wide selection of brand names from Japan in virtually every area of consumer products. So they access our marketplace. And what happens when we try to access theirs? We find impediment after impediment after impediment, and we cannot get American goods in any significant quantity into the Japanese marketplace.

I have a very small chart I would like to show on auto parts and on cars and trucks, and I hope that this can be picked up. But this shows the percentage of auto parts by country, and I wish to show you the import share. The United Kingdom has 60 percent—60 percent of the auto parts in the United Kingdom are imports; 32 percent in the United States; 49 percent in France; 16 percent in Italy; 2.4 percent of the auto parts in Japan are imported—2.4 percent. All the rest are produced in Japan.

Now, is that an accident? No, it is not, because they keep auto parts out of Japan. You cannot get them in. They can move them to the United States, but we cannot move them to Japan.

How about cars and trucks? Mr. President, 4 percent of the cars and trucks sold in Japan are imports. And you look at the rest of the countries: 35 percent in Italy; 54 percent in the United Kingdom; 30 percent of the cars and trucks sold in the United States are imports; 4 percent of the cars and trucks sold in Japan are imports.

Now, is that because no one has figured out a way to sell in Japan? No. It is because Japan keeps them out. Japan has a one-way trade strategy that says we want Japanese producers to be able to sell in your markets, but when your producers want to sell in Japan, we want to keep them out.

This President, to his credit, has begun to stand up to other countries, including Japan, saying we are sick and tired of one-way trade relations. When we have these trade deficits, it means lost jobs in America—lost jobs, lost income, lost opportunity, and lost hope. The President is saying we expect and demand reciprocal trade policies. Japan, we want you to open your markets.

We are not saying we want to shut off access to Japanese goods in the United States. That is not the point. The United States has demonstrated for many, many years that we want our consumers to have the widest possible choice of goods, including goods from around the world. But it is long past the time when our country should accept a trade relationship that is unfair to our people, unfair to our country, unfair to our wage earners.

This President is saying to Japan, we are going to hold up a mirror. We treat you well. Our borders are open to you. You move your goods here in increasing quantities. We expect your borders to be open to us. We expect American producers and the product of American workers to have access to the consumers in Japan. And he is the first President for some long while to have the nerve to stand up and to have the nerve to confront the Japanese on these issues.

It is not just the Japanese. We also have to confront the Chinese, whose $30 billion trade surplus with the United States is growing at an alarming rate. We must be able to penetrate those markets and have fairness in the world and world trade.

Ambassador Kantor and the President, I know, are embarked on a nervous time, and I know it is very controversial. But I would say, whether it is a Republican or a Democratic administration, this country needs to stand up for its economic interests. It needs to stand up for jobs and opportunity here. I think President Clinton, in calling the Japanese on these trade policies, is beginning to do that on behalf of this country.

I do not want a trade war. A trade war will not benefit anyone. It will hurt the world. But by the same token, we cannot have a post-Second World War trade strategy which is essentially only a foreign policy by which we pay and everyone else wins. That is a strategy that continues to weaken our country. We ought to say our borders are open but yours must be, too. We believe in reciprocal trade policies. We believe in open trade and free trade, yes, but we, most importantly, insist on fair trade. It is long past the time when our country needs to stand for that. I am pleased that President Clinton is taking some action to confront the Japanese and now next it will be a number of other countries that treat us in exactly the same way.

Mr. President, with that, I yield the floor.

VETO OF THE RESCISSION BILL

Mr. GRAMM. Mr. President, President Clinton announced today that he is going to veto the rescission package. President Clinton is going to veto our effort to reduce Government spending by $16 billion. President Clinton, who continues to talk about deficits, is going to veto a bill that cuts more spending than any rescission bill in the history of this country.

Why is he going to do that? He is going to do it because he is committed politically to the special interest groups who stand to lose from our putting the Federal Government on a budget like everybody else. I think Bill Clinton should start representing the public interest and not the special interests that support the Democratic Party.

I think it is outrageous, when we are running a $175 billion deficit, when the deficit is heading toward $350 billion, and the President, to defend things the way they are in Washington, DC, is going to veto a bill that cuts 16 billion dollars' worth of Government spending.

The President should sign the rescission bill. He should join our effort to put the Federal Government on a budget like everybody else. Ultimately, we have to make a decision. Are we going to change the Government in order to bring back the American dream, put the Federal Government on a budget, let families keep more of what they earn, or are we going to continue to support business as usual in Washington, DC?

When Bill Clinton vetoes a $16 billion cut in Government spending to protect a few pet programs, he is putting the political interests of his administration and his party in front of the interests of the people of America. I do not think the American people are going to like it; I think they are going to react negatively to it; and I think they should.

President Clinton can stop us on the rescission bill. He can get Democrats to vote and sustain his veto. I think it is important that we pass the bill, that we challenge him, and that we try to override this outrageous veto. But for next year, beginning in October, we are going to be writing the appropriations bills, and so the President is not going to have the ability to veto bills unless he wants to shut down Federal departments.

I think we are fast coming to the moment of truth. Are we serious about dealing with Government spending? Are we serious about putting the Government on a budget like everybody else? Or are we committed to the same old special interest groups that have dominated American Government for 40 years?

By vetoing an effort to reduce Government spending to protect special interest programs, President Clinton is saying he is willing to protect business as usual in Washington. I think this is something that we have to fight because I think we are down to the basic principle on which the American people cast their votes in 1994, and I think they expect us to stand up, speak out, and fight for putting the Federal Government on a budget like everybody else.

I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

SPECIAL INTERESTS

Mr. PRYOR. Mr. President, I wonder if my friend from Texas would answer a question if I were to propose a question?

Mr. GRAMM. I might. I would like to hear it first.

Mr. PRYOR. Yes.

I read in the Washington Post this morning about the $5 million Republican fundraiser that was held last evening. I want to congratulate the Senator from Texas for putting this enormous fundraiser together. It may have been the largest of its kind in history.

I wonder if the Senator from Texas would be so kind as to answer this question of the Senator from Arkansas: Were there any special interests represented at this fundraiser?

Mr. GRAMM. Let me first respond by saying, I appreciate your generosity in suggesting that I might have put on such a grand fundraiser. In fact, I am no longer chairman of the Republican Senatorial Committee. I did attend. We had a lot of people there from all over America.

Mr. PRYOR. Were there any special interests there at the fundraiser?

Mr. GRAMM. Clearly, many of them were there. They came to the event. Each individual group represents a special interest.

But let me tell you the difference. What we told them we were going to do there is put the Federal Government on a budget. We were not promising to give anything away last night. We were promising to stand up for the vital interests of this Nation and, remarkably—maybe it is not true in your party, but in my party when you stand up and fight for America, there are people that are for you.

I am proud of the fact, as my colleague, I am sure, knows, that in the last election cycle, when I was chairman, the average contribution to the Democratic Senatorial Committee was 10 times as large as the average contribution to the Republican Senatorial Committee because we have grassroots support.

And, given the President's veto, given the President's veto of our effort to control spending, I can see why we have grassroots support and the Democratic Party does not.

Mr. PRYOR. Mr. President, I appreciate my friend from Texas and neighbor trying to answer that question.

I am going to ask him another question.

Were there grassroots supporters there at this $5 million fundraiser last evening?

Mr. GRAMM. They were from all over America. In fact, I saw a lot of them from Arkansas.

Mr. PRYOR. That is right.

And how much was each ticket for the fundraiser, if I might ask?

Mr. GRAMM. It varied, depending on whether it was individual money or whether it was——

Mr. PRYOR. Whether it was grassroots or special interest, is that the case?

Mr. GRAMM. No. It varied on whether it came out of your checking account or out of the checking account of your company or your organization.

You hold similar events every year, but, because the American people no longer support your agenda, your attendance is falling off. Ours is rising. But I do not feel sorry for you.

Mr. PRYOR. Oh, no, do not feel sorry for us yet. You know, we still have a few kicks left in the dog here.

But I would just like to ask my friend from Texas, the special interests you referred to that support President Clinton, would you please be so kind as to enumerate those special interests?

Mr. GRAMM. I certainly would.

The Legal Services Corp., the Corporation for Public Broadcasting, the broad-based coalition of people who are riding in the wagon as opposed to the people who are pulling the wagon in America.

Our objective is to try to put the Government on a budget, so we can let working people keep more of what they earn, so that we can have decisions made not by Washington but by American families.

See, we have this idea that Democrats rejected about 40 years ago, and that is families can do a better job of spending their own money than you do for them.

Now that sounds alien in Washington, DC, but in Little Rock, AR, people are beginning to think maybe that is the way we ought to do things.

Mr. DORGAN. I wonder if the Senator from Arkansas would yield to me?

Mr. PRYOR. I do not have the floor, actually.

Mr. GRAMM. I have to go to a hearing on Legal Services, to let them know the bad news.

The PRESIDING OFFICER. The Chair would say, the hour of 10:30 having arrived, morning business was to close.

Mr. PRYOR. Mr. President, seeing no other Senators desiring recognition, I ask unanimous consent that the Senator from North Dakota be allowed to proceed for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I was curious about the question asked by my colleague from Arkansas.

Our colleague, Senator GRAMM from Texas, said that at this fundraiser they were not giving anybody anything. I assume he forgot, probably, that in the vote in the House of Representatives on the Contract With America, just to name one little piece of that, they eliminated the alternative minimum tax for corporations.

You remember those stories in the old days about a big corporation that earned $3 billion in earned income, net profit, and paid zero in Federal income tax. Well, the Federal Government said they wanted to correct that, so they set up what was called an alternative minimum tax, so you could never zero it out, talking about the real big corporations now.

Well, in the House of Representatives, in the tax bill under the contract, they zero it out and they say, "No more alternative minimum tax. You big companies, you make $5 billion, it is all right if you pay zero in taxes." But at same time they do that, they say, "But we can give those companies"—incidentally, about 2,000 companies—"the equivalent of $2 million each in tax breaks. We can afford to do that, but we cannot afford to provide student aid, as we used to, so we will have to ask kids who are going to go to college who do not have any money to pay for it, we will make it harder for kids to go to college because we cannot afford investing in kids who go to college, as we used to, but we do have the money to provide the equivalent of a $2 million tax break for each of 2,000 corporations by saying to those corporations, You no longer have to worry about a little thing called the alternative minimum tax. You can zero it out, if you like."

I am guessing the Senator from Texas just forgot about that.

And there are a dozen more like it, little old things that I am sure folks would show up to show their appreciation for, but they are the kinds of things that represent priorities—the priorities that say we really believe in the big interests here, we really think the big interests need a lot more help because if we rain on big interests somehow it will all seep down to the little folks that are trying to send their kids to college. That is what I think has been forgotten in this equation and this discussion between the Senator from Texas and the Senator from Arkansas.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Under a previous order, the Senate will now proceed to the consideration of a resolution to be submitted the Senator from New York [Mr. D'AMATO].

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I have a resolution which I will shortly be sending to the desk. May I ask, what is the pending business?

The PRESIDING OFFICER. The pending business is the resolution to be considered by the Senator from New York.

Mr. D'AMATO. I believe we have agreed that there will be no more than 2 hours.

The PRESIDING OFFICER. That is correct, from the time you bring it up.

Mr. D'AMATO. Will the time start to run as of now?

The PRESIDING OFFICER. It is when the Senator submits the resolution to the desk.

ESTABLISHING A SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT CORP. AND OTHER MATTERS

Mr. D'AMATO. Mr. President, I send the resolution to the desk on behalf of myself and Senator DOLE—and I know others would like to join—and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 120) establishing a special committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corp., Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., the Arkansas Development Finance authority, and other related matters.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. D'AMATO. Mr. President, Whitewater is a very serious matter. Some questions raised by Whitewater go to the very heart of our democratic system of government. We must determine whether the public trust has been abused. We must ascertain whether purely private interests have been placed above the public trust. The American people have a right to know the full facts about Whitewater and related matters.

After the Banking Committee's hearings last year, many important questions still remain. The American people have a right and a need to know the answers to these questions.

Congress has the responsibility to serve as the public's watchdog. We would be derelict in our duties if we did not pursue these Whitewater questions. The Senate must proceed in an even-handed, impartial, and thorough manner. We have a constitutional responsibility to resolve these issues.

Mr. President, we now bring before the Senate a resolution that authorizes a special committee administered by the Banking Committee to continue the Whitewater inquiry that was started but not completed during the last Congress.

I thank my distinguished colleague, Senator SARBANES, for his hard work and cooperation in the preparation of this resolution. We have jointly prepared a resolution that is balanced and fair and that will allow the special committee to search for the truth. I am confident that Senator SARBANES and I will continue the Banking Committee's bipartisan approach to the Whitewater matter.

Mr. President, our pursuit of these questions must be and will be fair, straightforward, and responsible. The American people expect and deserve a thorough inquiry committed to the pursuit of truth. That is the American way.

Last summer, the Banking Committee met these vigorous requirements. Our examination of the Whitewater matter was impartial, balanced, and thorough. That is our goal in this Congress. I am confident that we will meet these goals.

During last summer's hearings, many facts were uncovered. We learned that certain top administration officials were not fully candid and forthcoming with the Congress. That is an undisputed fact. The public has a right to expect more from those in positions of trust. We also learned that senior Treasury Department and Clinton White House officials mishandled confidential law enforcement information concerning Madison Guaranty. That is another undisputed fact. Madison is now defunct; it is a defunct S&L at the heart of the Whitewater matter. The failure of this Arkansas S&L eventually cost American taxpayers more than $47 million.

Mr. President, the American people have a right to know the answers to many serious questions still remaining about Whitewater and related matters. We have a constitutional obligation to seek the answers to these questions. That is why I am offering this resolution today.

Now I will briefly outline some of the matters that this resolution authorizes the special committee to investigate. We will begin with the handling of the papers in deputy White House counsel Vince Foster's office following his death. Who searched Mr. Foster's office on the night of his death? What were they looking for? What happened to Mr. Foster's papers? Were any papers lost or destroyed? And who authorized the transfer of Mr. Foster's Whitewater file to a closet in the First Family's residence? The public has a right to the answers to these questions.

Mr. President, this resolution encourages the special committee to coordinate its activities with those of the independent counsel, Kenneth Starr. Senator SARBANES and I have met with the independent counsel. Judge Starr has indicated to us that he has no objection to the special committee's plan to inquire into the handling of Mr. Foster's papers. Senator SARBANES and I are committed to coordinating the committee's activities with those of the special counsel.

This resolution authorizes the special committee to pursue answers to other questions raised during the Banking Committee's hearings last year.

We will explore the scope and impact of the improper dissemination of confidential law enforcement information concerning Madison Guaranty. How widely did the Clinton administration officials communicate this confidential information? Did any high-ranking officials inform targets of criminal investigations? If so, did this impact any ongoing investigations? The public has a right to know the answers to these questions.

The special committee will also examine whether there were any improper contacts between the Clinton White House and the Justice Department regarding Madison Guaranty.

We know that Paula Casey, the U.S. attorney in Little Rock, declined to pursue criminal referrals involving Madison. That is an undisputed fact. We also know that Webster Hubbell, who has pleaded guilty to mail fraud and tax evasion, was the No. 3 official at the Justice Department at this critical time. This is another undisputed fact.

The committee will ascertain whether Mr. Hubbell contacted Paula Casey about Madison. And who else, if anyone, knew about these contacts with the U.S. attorney. The public has the right to know.

Mr. President, this resolution authorizes the special committee to explore whether the Resolution Trust Corporation and other officials in Washington tried to interfere improperly with RTC staff in Kansas City responsible for investigating wrongdoing at Madison. If such interference occurred, who authorized it, and why? The public deserves answers to these questions.

During last summer's hearings, the Banking Committee learned that the Treasury inspector general furnished the Clinton White House, at the White House counsel's request, transcripts of the inspector general's depositions. That is an undisputed fact.

The committee will now look into whether these deposition transcripts were used to coach administration witnesses before they appeared in front of the committee. That would be wrong. The public has a right to know if it happened.

All of these matters that I have discussed so far involve events that occurred after January 1993 when President Clinton took office. There are also serious questions regarding events that occurred in Arkansas in the 1980's when President Clinton was Governor. This resolution also authorizes the special committee to examine these matters. Some of these Arkansas matters are complex and will require the committee's close review of many thousands of pages of documents.

We will review the operations and regulations of Madison Guaranty. Did James McDougal, Madison's chairman and Governor Clinton's business partner, improperly divert Madison's funds to himself and others? Did any of this money find its way into the Whitewater real estate project in which McDougal and Governor Clinton were partners? Did McDougal misuse Madison funds to cover any losses the First Family suffered on their Whitewater investment? The public has a right to know the answers to these questions.

Mr. President, the resolution further authorizes the special committee to examine the Rose law firm's representation of both Madison and RTC, and senior partners at the Rose law firm, including Hillary Rodham Clinton, Webster Hubbell, and Vince Foster. The committee must ascertain whether the Rose law firm properly handled the RTC civil claims concerning Madison.

Did the firm have a conflict of interest, and did American taxpayers lose money in the process?

We will also examine Capital Management Services and its president, David Hale, a former Arkansas judge and Clinton appointee. Hale has publicly charged that the President pressured him to make Small Business Administration loans that were used to prop up Madison.

Did this happen? Did Hale also make improper Small Business Administration loans to current Arkansas Gov. Jim Guy Tucker?

Then there is the matter of the financing of the 1990 Arkansas gubernatorial campaign. We now know that the president of the Perry County Bank, Neal Ainley, has pleaded guilty to violating Federal laws in connection with the handling of certain large cash transactions for the Clinton campaign. Ainley claims he did so at the direction of campaign officials. The public has a right to know who authorized this activity and why.

Mr. President, this resolution will authorize the special committee to examine these and related matters. We will take every reasonable step to complete this inquiry promptly. We hope that the administration cooperates with us in this regard. But we also intend to be thorough and comprehensive.

This resolution provides $950,000 to fund the special committee through February 29, 1996. If additional money is needed, the special committee will make a recommendation not later than January 15, 1996, and the majority and minority will meet to determine the time for any vote.

Mr. President, we expect to hold public hearings into the handling of the papers of Vince Foster's office in late June or early July. We will continue our inquiry by subject matter until it is completed. In doing so, we will make every effort not to interfere with the independent counsel's criminal investigation.

Mr. President, the American people deserve to know the full facts about Whitewater and related matters. As I said at the outset, we will conduct this inquiry in a fair, evenhanded, and impartial manner.

That is what the American people want, expect, and deserve. I urge the approval of this resolution.

I see that my distinguished colleague and ranking member, Senator SARBANES, is here. We have allocated up to 2 hours, equally divided.

I yield the floor.

Mr. SARBANES. Mr. President, may I ask what the time situation is?

The PRESIDING OFFICER (Mrs. HUTCHISON). There are 2 hours, of which 15 minutes has already been used.

Mr. SARBANES. There is an hour now remaining on this side?

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. I thank the Chair.

Madam President, it is not my intention to use the entire hour. I hope at some point both sides might be able to yield back time and proceed to final consideration of the resolution.

Let me say at the outset that the resolution we are considering today, which authorizes a special committee to be administered by the Committee on Banking, Housing, and Urban Affairs, is really a carrying out of resolutions that were adopted last year by this body. I think it is important to consider this resolution in the context of those resolutions—actions taken by the Senate last year.

On March 17, 1994, a little over a year ago, the Senate adopted a resolution by a vote of 98–0 expressing the sense of the Senate that hearings should be held on all matters relating to Madison, to Whitewater, and to Capital Management.

Then, to carry out that resolution, at least in part, on June 21 of last year, the Senate agreed to Senate Resolution 229, which authorized hearings to be held into certain areas. Those hearings were done last summer. We had 6 days of public hearings. We had extensive analysis of documents that were provided to the inquiry committee in order to enable it to carry out its responsibilities.

Now, one of the things that was authorized to be looked into by the June 21 resolution was the handling of the Foster documents. That was later deferred, in response to a request from the independent counsel who contacted the committee and indicated that, given the nature of his inquiry, it would be preferable if the Committee did not go ahead with that hearing. Accordingly, we held off.

Now the distinguished chairman has indicated that it would be the first item which will be considered in the hearings that will now take place under the resolution we are considering here today.

So this resolution is in effect a continuation of our earlier work. It authorizes the completion of work specified in last year's resolution, as well as matters developed during and arising out of the hearings that were held last summer, and also a number of matters my colleague has enumerated that carry forth on the sense-of-the-Senate commitment last year to investigate all matters pertaining to Madison.

I want to go through some other aspects of this resolution, just to lay them out on the record. The chairman of the Banking Committee, Senator D'AMATO, has gone through a number of matters that have been provided for in this resolution to be examined by the special committee. The special committee, administered by the Banking Committee, shall consist of all of the members of the Banking Committee plus two members added from the Judiciary Committee. The chairman and ranking members of the Committee on the Judiciary, or their designees, will join with the members of the Banking Committee to constitute the special committee which will be administered by the Banking Committee. So it is essentially—or primarily, let me say—a Banking Committee activity, since most of the areas to be examined clearly fall under the jurisdiction of the Banking Committee. But we did add from the Judiciary Committee last year. A member came on in order to help carry out the inquiry. And there are some matters that are contained in the resolution, to be examined that, it could well be argued, are under the jurisdiction of the Judiciary Committee. So, to bring that together, we are bringing on two members from the Judiciary Committee, the chairman and ranking member or their designees. They will be designating someone else to handle this responsibility if they choose to do so, and I do not know at this point what Chairman HATCH and ranking member BIDEN intend to do in that regard. But obviously we will abide by their decision.

We have also provided in the resolution which is now before us, and which shortly will be adopted, for rules and procedures of this committee which essentially will be the rules and procedures of the Senate, the Standing Rules of the Senate, and the rules of procedure of the Committee on Banking, Housing, and Urban Affairs. That is, in effect, the rules framework, procedural framework within which we will operate. There are in the resolution sections that cover aspects of the process that the special committee will follow; these are matters it was deemed important that we spell out in the resolution how they were going to be dealt with. Those involve questions of subpoena powers, questions of how the hearings will be conducted—important questions about immunity. I want to underscore that because that is a matter we have had to address before.

We provide that to grant a witness immunity—I want to read this section because it is an important matter. The special committee has the power: "To grant a witness immunity under section 6002 and 6005" of title 18, United States Code, "provided that the independent counsel has not informed the special committee in writing that immunizing the witness would interfere with the ability of the independent counsel successfully to prosecute criminal violations."

We also provide for staffing of the committee. There is power to appoint special committee staff including consultants, assistance from the Senate legal counsel, assistance from the Comptroller General. There is a provision whereby the committee can draw on other Government agencies, Government personnel, and on other congressional staff. And we hope, through a combination of all of these sources, that we will have an adequate staff to carry out a proper inquiry and investigation.

There is also, of course, special provision for the protection of confidential information, since we will be interacting with the independent counsel and others and we think it is important to have such provisions.

Finally, the money asked for in this resolution, just under $1 million, $950,000, is to cover the salaries and other expenses of the special committee carrying out this inquiry, beginning on the date of the adoption of this resolution—I assume today—and ending February 29, 1996.

If it is judged that additional money is needed, that the inquiry needs to go forward and additional money is required in order to fund it, the special committee will recommend that. Of course there will have to be a further vote for the providing of additional moneys to the special committee.

Mr. President, let me just make a couple of further, more general observations. I have very quickly gone through the resolution and I think most of it is straightforward. I think Members of the Senate upon reviewing it will conclude that is the case. Many of the provisions are what one might call boilerplate for such an inquiry, and track previous provisions that have been used in various Senate resolutions establishing committees to carry out inquiries or investigations of the sort that is being authorized here.

I listened to the chairman with great interest and I was particularly encouraged by his very strong statement of the need to conduct impartial, balanced and thorough hearings, which is exactly what I think needs to be done. There are a lot of allegations that are swirling around and there are a lot of questions that are being raised. We see them from time to time raised in the press and in the media. And, of course, one could sit around all day long and conjure up one question after another. It is not difficult, it is very easy. It is not difficult just simply to say, "Well, suppose this happened or suppose that happened; or if this or if that." Of course, one of the purposes of these hearings is to get a good, tough-minded examination of these various allegations to see if there is anything to them. It needs to be appreciated, that it is very easy to make the allegations. Whether the allegations are in fact substantiated by the facts is a tougher question to determine, and that does require an impartial, balanced and thorough hearing. In fact, the President himself has said the best way to address these matters is to look at the facts candidly, and that is what I very much hope and expect that this committee will be able to do.

I do think last summer we conducted hearings that were perceived by all as being thorough and fair and impartial. We went at it, in effect, to find out what the facts were, to ascertain the truth. I think we pressed that issue in a resolute manner, and I would expect the special committee will do so in the case that is—in the instance that is before us.

These hearings will make an effort to get the facts out fully and impartially. We anticipate that the administration will cooperate with this effort. They certainly have indicated that is what they intend to do. Last year they made every document available that was requested, as I recall. I think I am correct in that statement. Now the time has come to move forward, to begin our hearings, to begin, in effect, to examine these various questions and allegations and ascertain with respect to each of them whether there is any factual grounding behind them or whether they simply raise questions that people can ask. And that, of course, is the purpose of the inquiry which we will be undertaking here with this provision of $950,000 to carry out this investigation in the period between now and February 29. The resolution provides that the special committee shall make every reasonable effort to complete, not later than February 1, 1996, the investigation, study, and hearings authorized by section 1.

This resolution does provide the basis for carrying out a full and proper, impartial, and balanced hearing.

I think our challenge now is to move ahead in carrying out our responsibilities in the special committee. It is a heavy burden to add to the responsibilities that Members already have but is one that obviously we are charged with responding to.

As I said, we adopted resolutions last year addressing this matter. This, in effect, carries forward on those resolutions. It is a continuation, in effect, of that work. But I hope that if we apply ourselves to it over the coming months, we will be able to work through all of these matters and, in effect, bring this issue to closure in the sense that the Members of the Senate and the American people know that the various questions have been raised and thoroughly examined, that it has been done with a great deal of balance and fairness and impartiality, and that these are what the facts are as a consequence of that investigation and inquiry.

Madam President, I yield the floor.

Madam President, I suggest the absence of a quorum. Will time be equally charged?

The PRESIDING OFFICER. Only by unanimous consent.

Mr. SARBANES. I ask unanimous consent to put in a quorum call and that the time be equally charged to both sides.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The time will be charged to both sides equally.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FAIRCLOTH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from North Carolina?

Mr. D'AMATO. I yield to the Senator from North Carolina whatever time he needs, Madam President.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Madam President, I want to begin my remarks by saying that I plan to enthusiastically support the Whitewater resolution.

I think it is a good resolution. I am concerned, however, that a few key things have been left out of it. Nevertheless, I think that before the hearings are over, we will wind up working them in.

Nothing in this resolution allows us to probe the circumstances surrounding the death of Vince Foster. When we held the hearings last year in the Senate, a key witness, Captain Hume, simply did not show up at the hearings the day he was supposed to be there. The hearings had been planned for months. Captain Hume was out of town that day. He was supposed to be there. Our ranking member at the time demanded that they bring him back for several days. But they did not bring him back. The hearings adjourned and we never heard from him. I do not think this was a thorough airing of the issues, and I think we need to do it again.

I understand that Mr. Starr is looking at this again. I hope that he will, given the miserable job that Mr. Fiske did of investigating.

Madam President, the Congress also needs to probe the $100,000 profit in the commodities market that came to Mrs. Clinton courtesy of Red Bond and Jim Blair, the general counsel of Tyson Foods. This is not mentioned in the resolution, and it should be.

Just recently, I discovered that a friend of the Clintons, Barbara Holum, was conveniently installed as acting head of the CFTC before the story of Mrs. Clinton's commodity trades broke.

There are many confusing issues. Now we find that Red Bond, who did the commodity trading, who is practically bankrupt, was able to pay off $7 million in back taxes just 2 months before the commodity trading story became public. To me, the evidence on this is just too much to believe that all of this is a coincidence.

Madam President, this resolution does not allow us to probe the failure of First American Savings & Loan in Illinois.

If you can believe this, Vince Foster and Mrs. Clinton were hired by the Federal Government to sue Dan Lasater. The same Dan Lasater that was a close friend of the Clintons. That is right, Mrs. Clinton was hired by the Federal Government to sue Dan Lasater in connection with the failure of First American Savings & Loan in Illinois. Mrs. Clinton participated in the decision to lower the amount of money the Government would recover from Dan Lasater from $3.3 million to $200,000, and we do not know yet what percentage of that went to her as attorney's fee because the records were sealed.

The Government spent over $100 billion to resolve the savings and loan crisis. With crooks like Dan Lasater involved and with Mrs. Clinton acting on behalf of the taxpayers, suing a friend, it is no wonder the cost was so high.

I want to again state my strong support—and I say this not necessarily in the language as we often use in the Senate—but of my good friend, fellow member of the Banking Committee and our chairman, ALFONSE D'AMATO. He truly is a good friend, and he has given us the leadership we need.

I hope, and I know that before this hearing is over, under his leadership, we will have probed all aspects of Whitewater in a fair manner so that the American people understand what happened, when it happened, and who knew it when it happened. I look forward to the hearings.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Madam President, I know of my good friend, Senator FAIRCLOTH's concern that there be ample scope to look into all of the matters that are relevant, and I share that concern. I think that this resolution very fairly embodies us with the authority—and I would refer to page 4.

As my friend raises, we did not attempt to spell out every single area. Page 4, line 12, says:

> Subsection 3. To conduct an investigation and public hearings into and study all matters that have any tendency to reveal the full facts about . . .

Then we go through all of the various areas. There are other Senators who are going to speak, but I believe it is important to summarize those areas. Senator SARBANES has. The fact is that we include the ability to look into the bond underwriting contracts between the Arkansas Development Finance Authority and Lasater & Co., and all of those activities to which my friend has referred. But there must be a connection, and if there is a connection, well, then, we will look into the area, and I will touch on these areas in more detail before our time is up.

So I share my friend's concern. This will be thorough. It will be thoughtful. And when subpoenas are issued—and I must tell you that the specific instance that he raises is troubling, that of a witness who failed to respond to a subpoena, especially one who works for the Government, who was given notice, and who gave the committee, either the majority or the minority or our staff, no reason to believe that he would not be there. That will not be tolerated. If we run into a situation like that, I can assure you, and I know that the ranking member shares this same concern, we want people to respond to subpoenas. We will not issue them frivolously.

I think in that case a subpoena might not have even been issued because we assumed that he was going to be there. So it is not a bad track record to have almost everybody respond, including even those who were not subpoenaed. But, we will remain vigilant in seeking this kind of cooperation.

I see that Senator BOND is in the Chamber, and he is on the Banking Committee and was an integral part of last year's hearings, and I yield to him 10 minutes from my time.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Madam President, I thank my good friend, my colleague from New York.

Madam President, as we begin the debate on this resolution authorizing a second round of Whitewater hearings, I thought it would be helpful to review why the Senate and the committee need these issues to be aired.

I wish to summarize for my colleagues some points that are particularly important to me and have come from my experience with the first round of hearings and also with the hearing back in February where we asked the questions that began some of the process in finding out what has gone on in the administration.

As most of the Nation now knows, Madison Guaranty was a Little Rock savings and loan which went belly-up at the cost of nearly $50 million, and was owned by James McDougal—the business partner of the Clintons' in the Whitewater real estate deal.

Madison Guaranty was the classic S&L story of insider dealing, reckless loan policies and ultimate failure with the U.S. taxpayers picking up the tab. It is a part of the $105 billion cost of the S&L debacle, and in that way is a story repeated in many communities around the country.

But one part of this case has made it famous—many of its borrowers, directors, and counsel were prominent figures in Arkansas politics and government.

The tangled web of Madison, Jim McDougal, and the Clintons has led to two sets of criminal referrals, an ongoing civil liability investigation by the RTC, a potential conflict of interest case for the First Lady's former law firm, a conviction of a Little Rock judge who improperly loaned SBA money to McDougal and Whitewater, several other recent guilty plea agreements and an ongoing investigation by independent counsel Starr.

Since these issues first came to light, I have said over and over that the American people have a right to know what happened to the millions of dollars lost, and we, in Congress, must fulfill our obligation and get the facts out into the open.

Last year the Senate was engaged in a lengthy struggle over what questions and areas the Banking Committee would be allowed to address as Whitewater-Madison hearings begin. Unfortunately, the Democratic leadership at that time did everything in their power to limit the scope of the hearings, and to block our efforts to get at the truth—particularly as it relates to what Clinton administration officials have done to control or interfere with investigations.

The questions we asked last year remain as relevant today as they did last May:

Did Whitewater Development Corp. benefit from taxpayers insuring of Madison Guaranty deposits?

Did any of Madison's federally insured funds go to benefit the Clinton campaigns?

Were the bank regulatory agencies operating in an impartial and independent manner as they handled Madison Guaranty?

How did the Resolution Trust Corporation handle the criminal referrals on Madison—both under the Bush administration as well as the Clinton administration?

How did the Resolution Trust Corporation and the FDIC handle potential civil claims against Madison—both under the Bush administration as well as the Clinton administration?

How did the Department of Justice handle the RTC criminal referrals it received, again both under the Bush administration and the Clinton administration?

What were the sources of funding and lending practices of Capital Management Services, and how did the SBA regulate and supervise it, particularly as it related to loans to Susan McDougal and her company, Master Marketing.

Full hearings on the Whitewater-Madison affair are needed so that all these questions can be fairly asked and answered. What happened in Arkansas, what happened in the 1992 Clinton campaign in their efforts to keep the lid on about the actions in Arkansas, and what has the administration done to manage the Madison-Whitewater issues since they took office.

If we are to finally get to the bottom of the story as to what happened with the criminal referrals, I believe that we need to start with the first criminal referral on Madison Guaranty which was already in the Justice Department awaiting action when the Clinton administration took office.

Remember, Madison Guaranty had failed in 1989 and had been first taken over by the FDIC, and then in August 1989 when Congress passed the S&L bailout bill the newly created RTC took over Madison.

The RTC's mission was to close down failed thrifts, sell the assets, pay off the depositors and then seek out criminal or civil wrongdoing that may have occurred. If they found criminal wrongdoing—fraud, or attempts to enrich, they referred their findings to the Department of Justice for further action.

If they found civil wrongdoing—for example, law firms or accounting firms who helped institutions stay open by providing misleading, incomplete or incorrect information to regulators or the S&L's board members—the RTC would pursue those cases.

Thus from August 1989 the RTC had Madison Guaranty on its plate. No action was taken by the RTC on potential civil claims, but several criminal referrals were developed. In one case Jim McDougal and two others were accused of fraud, but were acquitted, in another case a board member plead guilty to falsifying documents.

Then came March 1992 when the New York Times reported a series of potential misdealings in Madison Guaranty and spurred the RTC to take another look at the institution. This second look caused the first criminal referral to be sent to Justice in the fall of 1992, and it was this referral which awaited final action when the Clinton administration came into office in January 1993.

I give this brief history in order to put things into perspective. Last year, Senator SPECTER and I offered amendments to the Whitewater Committee resolution which would have allowed the Banking Committee to pick up story at this point, and follow the trail of the first referral as it made its way through the Government, and then to follow the trail of the second referral as it was developed throughout 1993, up to and including the improper contacts by Treasury officials with White House staff. This of course would entail questioning the RTC officials involved, Justice Department officials involved, as well as Treasury and White House staff.

Because we must remember that on the day that the Clinton administration officials walked in the door on January 21, 1993, a criminal referral on Madison Guaranty was sitting in the Department of Justice.

I for one still want to know:

How did the Department of Justice handle this referral?

Was the White House informed and if so when and by whom?

Who in Justice was assigned to monitor the Madison case, and what actions did they take?

And then, as we know now, just months after taking office, a second set of referrals was being developed—and it too was sent off to the Clinton Justice Department by RTC officials in Kansas City.

I want to know why the RTC decided to stay on the case. What happened to get a series of RTC officials reassigned and taken off the case? Is there a pattern of special treatment for politically sensitive cases? And again, how did the Department of Justice handle the second referral?

I want to know why did the Clinton appointed Little Rock U.S. attorney Paula Casey, along with Webb Hubbell, delay their recusals until after the decision not to prosecute Madison was made? I also want to know the details about Paula Casey and Webb Hubbell's phone contacts during the period when Casey was deciding what to do with the referrals, and did either one of them have any contact with the White House on the referrals at any time?

And now, just in the past weeks we have seen reported by the Associated Press that:

> Preparing for televised Whitewater hearings last summer, White House attorneys consulted confidential depositions from a Treasury investigation in an effort to reconcile differing accounts of administration officials who were about to testify.
>
> Former White House counsel Lloyd Cutler acknowledged this week that the depositions were used to identify discrepancies in the recollections of presidential aides before the congressional hearings.
>
> White House lawyers would then "confront" the aides with information they had obtained from the depositions without revealing the sources, he told The Associated Press.
>
> "If we found inconsistencies, we would go back to White House officials, and go back over testimony they gave us," Cutler explained. "and then we would say 'we have heard other reports.'"

This of course brings into play several other issues which I have been following since the close of the hearings last August. As we know now, confidential information was again turned over by Treasury to the White House—this time under the guise of a Treasury Department inspector general's investigation.

This calls into question not only the independence of the IG, but also the willingness of this administration to politicize what is supposed to be an internal watchdog.

It also calls into question the entire testimony offered by White House officials before the Senate Banking Committee—as they were given another heads up in order to best tailor their testimony to help the boss.

Last November I wrote to then Chairman Riegle and ranking member D'AMATO about what I had discovered. In my letter I stated:

> As you know, over these past several months I have continued my efforts to resolve outstanding questions which were raised during the Banking Committee's Whitewater hearings. Initially I became concerned upon discovering during our hearings that the Treasury Inspector General had turned over to the White House—at Lloyd Cutler's specific request—transcripts of all the testimony taken by the investigators a full week before the Office of Government Ethics (OGE) report was made public. At the time we learned this, several former Inspectors General expressed amazement at this unprecedented action. However, no further review of the incident was undertaken.
>
> During my investigation of this disclosure, I discovered that not only were the documents released to the White House at the specific request of White House Counsel Lloyd Cutler, but, in doing so, the Treasury turned over confidential RTC information to the White House.
>
> On Saturday, July 23, 1994, the Department of the Treasury gave the White House all of the sworn depositions of Treasury, White House, and RTC personnel. These depositions were unedited.
>
> According to the RTC, it was not until July 26 or 27 that the RTC became aware of the fact that RTC depositions had been provided to the White House.
>
> July 26, after reviewing the information provided by the Treasury I.G., Lloyd Cutler testified before the House Banking Committee.
>
> July 28 and 29, Counsel to the RTC Inspector General Patricia Black redacted all the Treasury, RTC, and White House depositions in order to remove confidential RTC information.
>
> July 31 the OGE report, with edited testimony, was provided to Congress and subsequently made public.
>
> Given that the focus of our hearings this past August was the improper transmittal of confidential information from the RTC to the White House regarding Madison Guaranty and the Clintons, I must tell you I am appalled that the same Treasury Department, acting under specific direction from Secretary Bentsen, would again provide nonpublic information about the Madison Guaranty case directly to the White House.
>
> In addition, I found it extraordinary that the White House, which was itself under investigation, would be given nonpublic information prior to Congressional hearings—particularly when Congress itself was not given the information.

And now of course we have discovered that Mr. Cutler and others used this information not only to assist in the drafting of Mr. Cutler's testimony—but to help White House staff with the inconsistencies in their own stories.

I find this entire episode just another example of the extraordinary lengths the White House was willing to go to keep the facts from Congress, keep the facts from the American people, and ultimately to protect the administration.

As I have said on this floor before, breaching the public trust is as serious an offense as committing a crime, or being found liable for financial penalties. Governments in free societies have a fundamental pact with the governed. In exchange for the powers and responsibilities which is given the Government, the people expect fairness, evenhanded justice, impartiality, and they held the innate belief that those in power can be trusted to be good stewards of their power.

Our form of democracy relies on checks and balances to keep too much power from ending up in just one place—and Congress, as the people's closest link to their Government has the responsibility to keep a sharp eye out for abuses and breaches of the people's trust.

Thus every Member of Congress takes an oath of office, to uphold the Constitution—and certainly part of that duty to be ever watchful for abuses of power. Interestingly, and not surprisingly, it nearly always falls to the party out of power to be the more diligent in watching out for abuses.

No one disputes this.

But one other fact should also be noted. As important it is for the general public to believe in and trust that their elected leaders are performing their jobs in an ethical, truthful, and fair manner—we, in Congress, must also believe that those in high positions of responsibility are telling us the truth. When we ask questions or make inquiries we must trust that administrations will tell the truth, will be honest, and that when we get an answer, it is a full and complete one.

Unfortunately, Madam President, it is this standard that inevitably some administration officials seem unable to comprehend.

Instead of cooperation and truthfulness we have seen evasions, omissions, misstatements, and possibly outright lies.

And the story of potential abuse of the public trust, the politicization of independent agencies and investigations, the use of confidential material for political gain—it only seems to get worse the deeper you look.

Madam President, the next rounds of hearings will go a long way toward clearing the air, and I commend the chairman of the Banking Committee for brining this matter back into the public eye.

I reserve the remainder of my time and I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Madam President, I yield 5 minutes to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 5 minutes.

Mr. DODD. Thank you, Madam President, and I thank my colleague from Maryland.

Madam President, let me begin these brief remarks by commending our colleagues from New York and Maryland for what I think is a very fair and balanced resolution. Obviously, matters such as this are a source of deep controversy and can get out of hand. The fact that they have presented us with a resolution that is balanced and fair is a credit to both the Senator from Maryland and the Senator from New York. Any discussion of this ought to begin with an expression of appreciation on the part of all of us in this body, particularly those of us who will serve on the special committee and who will be working during this calendar year to carry out the mandates and requirements of this resolution. Now I would like to make a few brief observations about the resolution.

As my colleagues know, Madam President, there was a vote by 98 to 0 on March 17 of last year to look into these matters, and what we are talking about here is a continuation of that process. This resolution is simply another step in a process designed to help the American public know the facts about Whitewater.

Second, I would like to point out, Madam President, that the President has fully cooperated in this process. We ought to commend him for this unprecedented level of cooperation.

Many of us recall other Presidents who, when confronted with similar situations, have clogged up the courts of this land, fighting everything along the way. This administration has not done that. In fact, the administration has been entirely forthcoming.

As we discuss these matters, it is important to make it clear that, unlike previous situations where there was a constant conflict between the executive branch and the legislative branch over documents and testimony, that has not been the case here. The administration has complied with every document request, answered every question that has been submitted to it, and I am confident is ready and willing to cooperate in this second stage of the proceeding.

I think that is an important point to make because, as we look down the road, there is the potential for a prolonged and nasty conflict between the executive and legislative branch.

Third, Madam President, I think last year's hearings, despite moments of passion and emotion, were credible and fair. I think it is important to point out and to state emphatically that it was the conclusion of the committee last year that there had been no violation of criminal statutes or ethical standards.

Of course, individual Members may have their own particular opinions on those matters, and certainly that is their right. But, as a conclusion of the committee, let me restate, Madam President, there were no violations of any criminal statute or any ethical standards. That was the conclusion of last year's hearings.

Now we are going to go to a second phase. I have listened to some who are suggesting that there must have been some wrongdoing, or, even worse, they have already reached the conclusion that there was wrongdoing. Quite simply, that is inappropriate. The purpose of the hearings is to determine whether there was wrongdoing—we must not prejudge the matter.

We do not want to end up appearing like that famous character from the West, Judge Roy Bean. Everyone will remember Judge Roy Bean. He used to say, "We'll hang 'em first and try 'em later."

Sometimes that can happen in congressional proceedings, and I know it is not the intention of anyone on the committee to have that be the case.

So let us avoid partisan wrangling and get the facts on the table. Now the presumption of innocence may not apply to congressional hearings in the same way as in our court system, but there ought to at least be an effort to fully consider matters, and let people have their say, before we reach any conclusions.

Last year, the Senate held thorough hearings, as I mentioned earlier. The committee heard from 30 witnesses, generating 2,600 pages of testimony; 38 witnesses were deposed, generating some 7,000 additional pages of testimony.

It is very difficult to sort through that much material and I want to thank the staff for the work they did. That was a herculean effort. Both the majority and minority staff had to work extremely long hours on this matter, Madam President, and they deserve our appreciation.

Obviously, Madam President, the Senate's integrity and credibility are at stake. The American public has a right to know the facts about Whitewater and the Senate has a constitutional obligation to see that they do.

Last year, the facts were presented fully and impartially. That must be our goal this year. The public, in my view, is fed up with the partisanship that seems to cloud every issue.

As we go through this process, I urge my colleagues to avoid that partisan pitfall. Because we are entering a presidential campaign cycle, that may be difficult for some. But we must all try. The President is sadly correct, and I suspect most of my colleagues, regardless of their political persuasion, would agree when he says that the politics of personal attack are alive and well. I agree with the President that the best way to put this matter behind us is to address the facts candidly.

Madam President, I ask for 2 additional minutes.

Mr. SARBANES. I yield whatever time the Senator requires.

Mr. DODD. I thank my colleague. I will wrap this up.

Madam President, the public wants us to present the facts impartially, come to our conclusions and then move on. And it bears repeating that after going through such a process last year, the Banking Committee concluded that there had been no violation of criminal statutes or ethical standards.

During this next stage, we must not get into political diversions and drag this thing out. The American people want us to get on with the business of creating jobs and expanding economic opportunity, of dealing with health care issues and education. They want us to tackle the hard problems that they face every day.

I think it was there sense of frustration with politics as usual, more than anything else, that created the changes in the Congress. We now have a Republican leadership, and every committee is chaired by that party. They now have an even greater responsibility to the public. They must elevate the good of the nation above politics and I hope that they will do so in proceeding with this matter.

Once again, I commend Senator D'AMATO and Senator SARBANES for putting together a fair resolution and for stating their determination to wrap this matter up by February of next year. I hope we can stick to that schedule and finish this job efficiently.

Finally, while the subject of the independent counsel statute is not the subject of this particular resolution, Madam President, I want to suggest that we revisit that legislation as soon as we can.

The idea of appointing an independent counsel was to keep politics out of these issues. Unfortunately, it seems that the statute may invite fishing expeditions. We need to be very careful about spending the taxpayers dollars in this way. Otherwise we will have some questionable expenditures. I was told the other day that someone was looking at a witnesses' grade school and high school transcripts. I hope that report is inaccurate because there is just no way to justify that kind of expenditure.

There is the potential for an independent counsel to run wild and we need to carefully monitor these matters. I caution those who would like to use independent counsels for political gain—regardless of whether it was a previous administration or this administration—that whatever goes around comes around. We would be well advised, in my view, to take a hard look at how some of these operations are being run.

Of course, Congress spends a great deal of money on these investigations. The Banking Committee spent about $400,000 last year, and this resolution authorizes another $950,000. But even that amount is only a fraction of what the independent counsel is spending. We are looking at almost $10 million spent by the independent counsel and that is just the beginning of it. That figure will go higher.

Of course, the Federal Government must investigate serious accusations of wrongdoing to maintain the public trust. But when it appears there are more Federal agents operating in Little Rock than there are in high-crime areas in certain parts of our country, then one ought to pause and look carefully at what we are doing.

Again, I know that the independent counsel statute is not the subject of this resolution. I do not want to inject a whole new subject of debate. But I think we ought to take another look at that law and make sure it is operating properly.

Again, I commend the chairman of the Banking Committee, my friend from New York, Senator D'AMATO, and my colleague and friend from Maryland, Senator SARBANES, for the fine job they have done in working out this resolution. We have a very difficult job in front of us. Hopefully, we will conduct our work thoroughly, fairly, and promptly, and in a manner that brings credit to this great body. I look forward to the effort.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, at this time, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. I yield to the Senator from Pennsylvania 10 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania has 10 minutes.

Mr. SPECTER. Madam President, I thank the distinguished chairman for yielding me this time. I support the resolution and commend the chairman and the ranking member of the Banking Committee for presenting a resolution which I understand will have wide bipartisan support.

I believe it is important to have a congressional inquiry on this in the broad terms which are described in the resolution. It is with some regret, I note, that it has taken us more than a year to get to this point. But it is better late than never, and these are matters where congressional oversight is important.

I recognize the sensitivity of a congressional inquiry on a matter which is being handled by an independent counsel, also known as the special prosecutor. But the functions are very, very different where you have an investigation which is handled through grand jury proceedings which are secret and which are directed at indictments. I know that field with some detail, having been a district attorney myself and having run grand jury investigations. That is very, very different from a congressional inquiry where we are inquiring into matters in the public record for the public to see what is going on in Government with a view to legislative changes.

The thrust and focus are entirely different between a grand jury investigation conducted by independent counsel and a congressional inquiry which will be handled through the Banking Committee. I am glad to see that the composition of the committee will be expanded to include the chairman and ranking member of the Judiciary Committee, or their designees.

Madam President, the issues involved here have long been a concern of many of us in this Chamber, and I refer to statements which I made last year dated March 17, June 9, June 16, and June 21. I will not incorporate them because that would unduly burden the RECORD, but a good many of my thoughts were expressed last year on the matter.

I was particularly concerned about issues involving the RTC as to their inclusion, which was not handled last year, and I am glad to see that the Resolution Trust Corporation is included in the scope of the inquiry which we are about to undertake.

This matter was one that I focused on when we had an oversight hearing on the Department of Justice on July 28 of last year, and I ask unanimous consent, Madam President, that a number of documents be printed in the RECORD which have not been made a part of the RECORD heretofore: My letter dated July 26, 1994, to Attorney General Reno; the attachment of a list of documents which I had wanted to inquire into during the proceedings before the Judiciary Committee; the response which was made by Robert Fiske, who was then independent counsel; and a portion of the transcript dated July 28, 1994, before the Senate Judiciary Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. I thank the Chair.

Madam President, these documents will show on their face concerns which were on the record and which were apparent from such documents: that there were considerable issues to be investigated in the RTC at that time. It is unfortunate, in a sense, that there has been the long delay, because we all know, as a matter of investigative procedure, that leads grow cold and witnesses' memories diminish and that the best investigation is a prompt investigation. But the time factor is something that cannot be altered at this time, and at least now we will have a congressional inquiry which will move forward into these very, very important matters.

I agree with the distinguished Senator from Connecticut when he talks about the presumption of innocence. I think that is indispensable as a matter of fairness to all concerned. But these are questions which need to be answered, and questions do not imply an answer of any sort; they raise issues which ought to be answered. We ought to let the chips fall where they may. And in a Government based on a Constitution which elevates the separation of powers among the Congress in article I, and the executive branch in article II, and the judiciary in article III, the congressional oversight function is a very, very important function. Now, finally, we will be in the context where we will be able to inquire into these matters and to find out what those answers are.

I am confident that there will be a fair, judicious, quality inquiry conducted by the committee, and this resolution is one which I think ought to be supported broadly by the U.S. Senate.

I thank the Chair and yield the floor.

EXHIBIT 1

U.S. SENATE, COMMMITTEE ON THE JUDICIARY,
WASHINGTON, DC, JULY 28, 1994

(The following is a partial transcript of the above proceedings)

Senator SPECTER. Thank you, Mr. Chairman. Attorney General Reno, as you know, I had intended to ask you questions about the handling by the Department of Justice in the matter involving David Hale in this oversight hearing, and I may be able to cover the principal points of my interest without undue specification, or at least undue specification from your point of view.

At the outset, I would like to put into the record my letter to you dated July 26, 1994, together with the chronology of events and all the attachments which I sent over to you, except for numbers 20 and 21. I may get into 20 and 21. I think the balance have been in the record in one form or another, and even if they haven't I think they are appropriate for the public record.

[The letter referred to follows:]

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 26, 1994.

Hon. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: I have just noted that you are scheduled to testify before the Judiciary Committee on Thursday, July 28, at 2:00 p.m. at an oversight hearing.

In that hearing I intend to ask questions on the Justice Department's role in investigations of Madison Guaranty and/or "Whitewater." While I have not had access to many of the relevant documents, I have seen a few and am alerting you to those documents which will formulate at least some of the basis for my questions.

Some of the documents are referred to in my floor statement on June 21. Other documents that I may refer to are listed on the attached index.

Sincerely,

ARLEN SPECTER.

Senator SPECTER. I would also want to put into the record the faxed letter from Robert Fiske, Independent Counsel, to me, dated July 27, 1994.

[The letter referred to follows:]

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE INDEPENDENT COUNSEL,
Little Rock, AR, July 27, 1994.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: The Department of Justice has sent over to me a copy of your letter of July 26, 1994 to Attorney General Reno, together with the index of documents enclosed with it.

It is apparent from a review of the documents on that index that they relate to the handling by the Department of Justice of a particular criminal referral from the RTC. Based upon interviews we have had with representatives from the Kansas City Field Office of the RTC, we are currently actively investigating this matter. Accordingly, I would respectfully request that you not go into this subject with the Attorney General at your hearing tomorrow since to do so might prejudice our ongoing investigation. (For similar reasons we request that you not go into the matter referenced by documents #20 and #21.)

We have made a similar request to both the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs which, as you know, are in the process of conducting Whitewater hearings. Both of those Committees have agreed not to go into this subject until we have completed our investigation.

Respectfully yours,

ROBERT B. FISKE, Jr.,
Independent Counsel.

Senator SPECTER. At the outset, I want to say for the record that I do not agree with the deference which the Congress has accorded the independent counsel because I believe that Congress has independent status, and at least equal status, if not more important status, on matters of public policy than the criminal prosecutions. But the Senate has decided otherwise as a political matter, in my opinion.

As I reviewed the charter of Mr. Fiske, it seemed to me that questions about oversight on what happened with David Hale were not within his charter, his charter being to investigate matters of possible criminal or civil wrongdoing. I am advised to the contrary on that, and we may get into that in some specificity.

So let me start in an effort to ask the questions in a generalized way, but candidly as they arise on David Hale's matter. I refer to a memorandum from RTC investigator Jean Lewis to Richard Iorio which quotes officials within the Department of Justice, which is why I ask you about this; specifically, Ms. Donna Henneman in the Office of Legal Counsel. Without making anything more specific as to the Hale matter, my question to you as a general matter is, any time a referral comes in to the Department of Justice that would make the Department look bad or has political ramifications, it goes to the Attorney General. Is that true?

Attorney General RENO. I don't know whether any time something comes in to the Department that would make the Department look bad it comes to the Attorney General.

Senator SPECTER. Well, if you don't know, who does, Attorney General Reno?

Attorney General RENO. I would suspect that each one of the 95,000 people who hear something that might make the Department look bad. I think your question is a little bit broad. I cannot answer it. As I have tried to say from the very beginning, when I appointed Mr. Fiske I tried to make sure that he was as independent as possible. I have continued to try to do that, and I think the worst thing that I could do would be to comment or talk about matters that he is pursuing. I should be happy, because I have great respect for the Senate and for you, at the conclusion of the matter to try to respond to anything, including the specifics.

Senator SPECTER. Well, I don't think that is sufficient, Attorney General Reno, because I think this is a legitimate matter for Judiciary Committee oversight, and we don't have very much of it. But I accept your point that my question was too general, so I will be specific.

The investigator, L. Jean Lewis, of RTC, had many conversations with representatives of the Department of Justice, as reflected in the number of the memoranda which I sent on to you. So if it is too general as to whether any time a referral comes in that would make the Department look bad or has political ramifications it goes to the Attorney General, I would ask you, were you personally informed about the referral from the RTC on the check kiting case involving Madison Guaranty?

Attorney General RENO. As I indicated to you, Senator, I made a determination when I appointed Mr. Fiske that I would not comment or make any comment. He has expressed to you that he would prefer that I not comment on the specific matters. I do not want to do anything that would impair has independence. I do think you have an oversight function with respect to the Department of Justice, and when it would be appropriate for me to comment I would look forward to the opportunity to do so.

Senator SPECTER. Well, tell me, Attorney General Reno, has would it impair Mr. Fiske's investigation or prosecution for you to answer a question as to whether you had personal knowledge of a referral to the Department of Justice?

Attorney General RENO. I can't tell you, sir, because I have tried to do everything in my power to make sure that Mr. Fiske's investigation is independent and I don't know what his investigation involves. Therefore, I am not going to say anything that could possibly interfere with his investigation.

Senator SPECTER. Well, my question to you is how could it possibly interfere with his investigation to answer a question as to when you had knowledge of a referral to the United States Department of Justice.

Attorney General RENO. I don't know, sir, because I am not going to take the chance of interfering with it. You would have to ask Mr. Fiske because I don't want to do anything at this time that would interfere or impair that investigation. I do not know the nature of the process of that investigation and it would be inappropriate for me to comment, but I do——

The CHAIRMAN. Put another way, Senator, how would it shed any light in this oversight if the Attorney General answered that question? What the hell difference does it make now?

Senator SPECTER. Well, the hell difference that it makes now is on an earlier question which I asked that whenever there is a matter with political ramifications that it goes to the Attorney General—and I asked that question in its broadest terms and was told that it was too general, so that is when I came back to the specific question.

The CHAIRMAN. Let me ask the question the other way to the Senator. Mr. Fiske's investigation in this matter is likely to be wrapped up. He has been moving expeditiously. Does it matter to the Senator whether or not the Attorney General speaks to this issue today or in two weeks or a month, or whenever it is when Mr. Fiske settles this part of his investigation? I don't know when he is going to settle that, but I mean he has been moving very rapidly.

In terms of oversight for next year's budget and last year's actions, it seems to me the Senator would have plenty of time to ask these questions as it would impact on the outcome of the Senator's view as to what the Attorney General should or shouldn't do in the future.

Senator SPECTER. Well, I would be glad to respond to the chairman. It does make a difference to me, and it makes a difference to me because this is an oversight hearing and the request to the committee chairman to have oversight on these matters was declined. There has been a charter which is very, very narrow before the Banking Committee, and this does not involve, to my knowledge, a matter which is within the charter of Mr. Fiske until when I sent a letter to the Attorney General, I suddenly find a reply from Mr. Fiske.

I had two detailed conversations with Mr. Fiske, the thrust of which—and I would be glad to detail them—led me to the conclusion that there was absolutely no interference with the criminal prosecution, a subject that I have had some experience with.

So when I asked the Attorney General a question as to when she has knowledge of a referral, I can't conceive that it interferes with an investigation, and that is why I am asking an experienced prosecutor who is now the Attorney General how could it conceivably interfere with a pending investigation.

Attorney General RENO. An experienced prosecutor, Senator, doesn't comment about something that she doesn't know about. I don't know about the details of Mr. Fiske's investigation. But if Mr. Fiske doesn't have any problem with it, what I would suggest that we do is prepare the questions, submit them to Mr. Fiske. If he has no objection to my answering them, then we will try to answer them because I honor your oversight function and I would want to be able to honor that and to not interfere with Mr. Fiske's investigation.

Senator SPECTER. Attorney General Reno, I did not say that Mr. Fiske did not have a problem. He specifically told me that he would like the field to be totally left alone. What I said to you was that after talking to Mr. Fiske, I had no doubt that these questions were appropriate, in my judgment, on oversight by the Judiciary Committee.

Let me ask you this, Attorney General Reno. In terms of the charter that Mr. Fiske has about investigating matters which may involve a violation of the criminal or civil law, is the handling by the Department of Justice of David Hale's matter something that falls within that charter?

Attorney General RENO. I have tried to, again, let Mr. Fiske define that based on the charter that we described so that I would not in any way impair his independence.

Senator SPECTER. Well, do you have any interest in whether any current employees of the Department of Justice are subject to an investigation which might be within Mr. Fiske's charter for possible criminal wrongdoings?

Attorney General RENO. Yes.

Senator SPECTER. Well, if that were so, would you have a duty as the head of the Department of Justice to take some action on those matters before a long investigation was concluded?

Attorney General RENO. It depends on what they are, sir.

Senator SPECTER. Well, suppose they were obstruction of justice?

Attorney General RENO. It depends on the nature of the facts and the circumstances, sir

Senator SPECTER. Well, do you know anything about that on the Hale matter?

Attorney General RENO. Again, sir, I can't comment on the Hale matter.

Senator SPECTER. I am not asking you to comment on the Hale matter. I am asking you whether you know anything about the Hale matter.

Attorney General RENO. That would be commenting, sir, and what I would suggest, if we want to pursue this, is that you pose the questions and then let's see whether Mr. Fiske thinks that they would in any way interfere with the investigation. I am delighted to answer them if they don't interfere.

Senator SPECTER. Well, I am not going to follow the way you would like me to proceed. I make a judgment as to what I think a Senator ought to do by way of oversight, and if you have a concern about that I am prepared to discuss it with you, but I am not prepared to take your instruction or your suggestion.

The question that I pose on an investigation by Mr. Fiske as independent counsel within his charter to investigate crimes, obstruction of justice, within the Department of Justice is not something which bears on anything which could conceivably implicate the underlying facts on what David Hale is doing.

Is Ms. Paula Casey—I understand that she is, but can you confirm for me that she is still the United States attorney?

Attorney General RENO. Yes, sir, she is.

Senator SPECTER. Is she the subject of a criminal investigation by Mr. Fiske?

Attorney General RENO. You would have to talk to Mr. Fiske.

Senator SPECTER. Do you know whether or not she is the subject of a criminal investigation by Mr. Fiske?

Attorney General RENO. You would have to talk to Mr. Fiske. I have avoided having anything to do with Mr. Fiske's investigation in terms of any information that he may have so that I do not impair his independence.

Senator SPECTER. Would you continue a United States attorney operating actively if that United States attorney were the subject of a criminal investigation?

Attorney General RENO. It would depend on the circumstances.

Senator SPECTER. Well, under what circumstances would you terminate such an attorney?

Attorney General RENO. It would depend on the circumstances. Again, you get into a situation of hypotheticals and it is far better that we look at the actual facts, and I would be happy at the appropriate time to do that with you.

Senator SPECTER. Well, Attorney General Reno, I consider your responses, as I see them, totally unsatisfactory, and I consider them totally unsatisfactory because I am not asking you anything about a pending investigation. I am asking you questions as to what came to your knowledge as the Attorney General of the United States Department of Justice.

I am asking you questions about what you know and about what your policy would be if there were charges of criminal wrongdoing, and I don't ask these questions in a vacuum or for no purpose. I ask these questions in the context of having initiated an inquiry on oversight on something which is outside the charter of the independent counsel.

The CHAIRMAN. In your opinion, Senator, right, is that correct? In your opinion?

Senator SPECTER. Everything I say is in my opinion. You can add that to everything. I don't speak for anybody but myself, but I do speak independently for myself.

I took a look at an extensive series of correspondence which has gotten to the Department of Justice and gotten to the FBI and gotten to the United States attorney's office and gotten to the executive office and gotten to the Office of Legal Counsel, according to these documents, which I sent to you as soon as I knew there would be this hearing so you would have an opportunity to review them. I promptly advised the chairman as to what I intended to do there would be no surprises about it.

The CHAIRMAN. That is correct.

Senator SPECTER. When I pursue the matter and find I have a telephone call and a letter from the independent counsel, I call him and then I am told that it is within his charter, that there is an investigation which is underway for obstruction of justice.

As I review the facts of this matter, I am struck with wonderment as to how officials in the United States attorney's office decline to have immunity granted to David Hale, and then independent counsel comes in and in a short time has a grant of immunity. Then officials in the United States attorney's office in Little Rock recuse themselves in a later matter, and I wonder how can they recuse themselves in a later matter without having recused themselves in an earlier matter, given their relationship to subjects of the investigation.

I ran a big office myself as a prosecutor, and if I had any reason to believe anybody in my office had any problem, I wouldn't wait for anybody to cleanse it totally and thoroughly and immediately. I do not believe that the charter to the independent counsel takes away any of the authority or the responsibility of the Attorney General to act in that circumstance.

In my opinion—everything I say is in my opinion—the questions which I have asked you are entirely appropriate questions, and I give some additional background because I think these are matters which ought to be answered, and I intend to pursue them and I don't intend to wait.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

General, I think you have answered totally appropriately, in my opinion. I think were you to do otherwise, in light of Mr. Fiske's comments, you would be excoriated by Mr. Fiske and anyone else. I guarantee you, you would have an article saying that you have interfered if you went in and, quote, "cleansed," were there a need to cleanse. You would be accused of whitewashing to avoid Mr. Fiske being able to fully look at the matter.

You are answering, in my opinion, totally appropriately, and you have done what I don't know many others have been willing to do. You have said to this committee, without having to have some big show on the floor, that when Mr. Fiske says he is finished with this phase of the investigation you will come back and you will answer questions. It seems to me you are being totally appropriate, but that is why there are Democrats and Republicans, chocolate and vanilla, good and bad, right and wrong, different points of view. Our opinions are different.

I respect this man. He did notify me. Stick to your guns, don't answer his questions, in my opinion.

Senator SPECTER. If I might have just one sentence?

The CHAIRMAN. Yes. You may have more than one sentence.

Senator SPECTER. I don't think this matter has anything to do with good and bad or chocolate and vanilla.

The CHAIRMAN. Well, it may not have to do with good and bad, but it has to do with what one considers to be the appropriate way for you to respond. I think you are responding appropriately because I think you are in the ultimate catch-22 position. At the request of all of us in the Senate, you appointed a Republican named Fiske. Now, the Republican named Fiske tells you, please don't respond to anything having to do with this. You are being asked to respond to something having to do with this, and if you respond or don't respond, you are in deep trouble in the minds of whoever wants to view you as being in trouble. I think you are doing just fine. My view is worth no more, probably a little less in this circumstance, than the Senator from Pennsylvania's, but good job, General.

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1. RTC Chronology of Criminal Investigation.

2. Letter of September 1, 1992 from L. Richard Iorio (RTC-KC) to Steve Irons (FBI) transmitting criminal referral.

3. Letter of September 1, 1992 from L. Richard Iorio (RTC-KC) to Charles A. Banks (DOJ) transmitting criminal referral.

4. RTC Internal Memorandum, May 3, 1993. Background remarks and conversation with AUSA Bob Roddey's Office re: Madison Guaranty Savings referral.

5. RTC Internal Memorandum, May 19, 1993. Additional conversation with Office of Legal Counsel for U.S. Attorney's U.S. Justice Department, Washington, D.C. No record of Madison criminal referral at Washington DOJ.

6. RTC-KC E-Mail, May 19, 1993. Madison matter forwarded to Donna Henneman in "Legal Counsel." Referral submitted to that office "because of the political ramifications and political motivations."

7. RTC-KC E-Mail, May 26, 1993. Follow-up call from Donna Henneman (DOJ). RTC advised by an FBI agent in Little Rock that it was a "very solid case of check kiting, and was highly prosecutable." Henneman was growing increasingly frustrated by the situation, because she had seen the information, knew that it had come in, and couldn't understand why she was having such a hard time tracking where the referral and exhibits had gone.

8. RTC-KC E-Mail, June 8, 1993. Conversation with Donna Henneman (DOJ). Madison Referral has reappeared on her desk. Criminal Division has sent memo to Doug Frazier (in Depty. Atty. General Heyman's office) advising him that there was "no identifiable basis for recusal of the U.S. Attorney in the Eastern District of Arkansas." Referral sent to Frazier for review and final decision.

9. RTC-KC E-Mail, June 23, 1993. Conversation with Donna Henneman (DOJ). Package returned from Frazier. Frazier appointed U.S. Attorney in Florida.

10. RTC-KC E-Mail, June 23, 1993. Further conversation with Donna Henneman (DOJ). Spoke with Doug Frazier. Decision made to return the referral back to the Arkansas U.S. Attorney. No basis for recusal.

11. RTC-KC E-Mail, June 29, 1993. Source indicates Madison referral has been returned to Little Rock. Acting U.S. Attorney will not act on referral. It is being held until U.S. Attorney designee Paula Casey takes office.

12. RTC-KC E-Mail, September 23, 1993. Conversation with Donna Henneman (DOJ). Washington DOJ would like to be copied on all future transmittal letters concerning Madison referrals with an additional one paragraph summary of the content of the referrals with the transmittal letters, so that Henneman will be aware of those with "sensitivity issues."

13. RTC-KC E-Mail, September 29, 1993. Conversation with Donna Henneman (DOJ). DOJ would like copies of all future Madison referrals sent to Washington in addition to sending to U.S. Attorney in Little Rock. Henneman will confirm this in writing.

14. RTC-KC E-Mail, September 29, 1993. Conversation with Donna Henneman (DOJ). Washington DOJ withdrawing request for referrals to be sent directly to Washington, but would still like copies of transmittal letters with addendum summary paragraph.

15. RTC-KC E-Mail, October 27, 1993. Conversation with Donna Henneman (DOJ). Inquiry on whether declination letter had arrived from Little Rock U.S. Attorney.

16. Letter of October 27, 1993 from Paula J. Casey (U.S. Attorney) to L. Jean Lewis (RTC). Declination letter on the Madison referral.

17. Letter of November 1, 1993 from L. Jean Lewis (RTC) to Paris J. Casey (U.S. Attorney). Confirmation of declination letter and the stipulation from October 27th letter that the matter was concluded prior to the beginning of Paula Casey's tenure and that the RTC had never been advised of such result. Chronology of correspondence between RTC and DOJ.

18. RTC-KC E-Mail, November 15, 1993. Transmittal of white paper outlining chronology of events related to 1992 Madison referral. Challenges news article indicating that decision to decline Madison referral had been prior to Paula Casey's appointment.

19. RTC-KC E-Mail with attachment, January 6, 1994. Discussion of contact with reporter.

20. Letter of September 15, 1993 from Randy Coleman (David Hale Attorney) to Paula Casey. Coleman has been trying to negotiate a plea and senses that Casey is reluctant because of "political senitivity."

21. Letter of September 20, 1993 from Randy Coleman to Michael Johnson. Reiterates interest in plea negotiations, offering David Hale's information and willingness to participate in undercover activities.

Mr. SARBANES. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from Maryland has 31 minutes; the Senator from New York has 20 minutes.

Mr. SARBANES. Mr. President, I yield 10 minutes to the Senator from Arkansas, Senator PRYOR.

Mr. PRYOR. Mr. President, we have come to a point in this debate when we are about to vote on this particular resolution. If I might, I would like to talk for a few moments about the public's right to know, as the distinguished chairman of the Banking Committee from New York has made reference to.

He says the public has a right to know what happened in the Whitewater matter. The public has a right to know who did what, when, and whatever. I can assure you that the Senator from Arkansas does not disagree.

But I think also the public has a right to know something else. I think the public has a right to know in this case exactly how much money of the taxpayers' dollars we are spending in the so-called Whitewater matter. I think the public has a right to know that with this resolution, if it passes and if the funding goes through—and we all assume it will—the Senate alone will have spent, up through January or maybe February of next year, in the Whitewater matter $1.350 million of Senate money to investigate this matter. I do not have available the amount of money the House of Representatives has spent and will spend in the future. And we do not know exactly how much the cost of the independent counsel will be. But here are some figures I might throw out for the RECORD at this time. To the best of our knowledge, Mr. President, thus far, as of August 31, 1994, the independent counsel, Mr. Starr and Mr. Fiske, combined, spent $1.879 million. Projected funding for the independent counsel for the 1995 fiscal year is $6.3 million, which is a subtotal of $8.129 million, and a total, adding all the figures up, Mr. President, for both the Senate and the independent counsel to investigate so-called Whitewater, comes to almost $10 million in taxpayers' dollars.

Mr. President, I think there is something else the public has a right to know. I think the public has a right to know that this White House, this President, this First Lady, this administration, has never one time been accused of lack of cooperation. In fact, our President has pointed out, as one of our colleagues has already mentioned, that to be candid and truthful in this matter is going to be the quickest and best way to get to the bottom of it.

In the first round of hearings last summer, the committee heard from 30 witnesses generating 2,600 pages of testimony, deposing 38 witnesses, generating 7,000 pages of testimony.

The administration has produced thousands of pages of documents for committee review. This administration has complied with every document request. They have answered every question posed to it. The administration is ready and willing to cooperate on this second round of hearings and it bears emphasis, I think, that after the long days of hearings and pages of documents reviewed, that the Banking Committee concluded at the end of this hearing, in phase 1, that there had been no violation of a criminal statute and no violation of an ethical standard.

Mr. President, I think, too, it needs to be added that at no time during any of these investigations or any of these hearings, whether it be in Little Rock or Washington, the Banking Committee or the special counsel, wherever, to the best of our knowledge, not one witness, not one person has taken the fifth amendment.

I think that this speaks loudly and clearly about this administration's position, wanting to get on with the important business of our country.

Mr. President, let me compliment our friend, Senator SARBANES, for working out what I think—and going forward with—is a fairly reasonable proposal in trying to attack this problem and to set up these hearings. I think that there are some things, however, that I must state that I do not feel are fair. I do not feel that it is fair for one of the members of the committee, as he did earlier in this debate, to come to the floor and say what should have been within the scope of this hearing and then start talking about those particular issues as if to condemn them, even though they are not in the scope of these particular hearings.

Mr. President, I think for a Senator to come to the floor who is a member of the Banking Committee and to make a statement like he knows for a fact, or he has knowledge that Kenneth Starr, the special counsel, is now going to reinvestigate the death of Vince Foster, I think the public has a right to know how that particular Senator from North Carolina has knowledge of this so-called fact, Mr. President. I think the Senator from North Carolina needs to explain how he knows Mr. Kenneth Starr is now looking or relooking at the death of Vincent Foster.

Mr. President, we hope that these hearings will be fair. We hope they will be soon. We hope that they will be done in a very efficient manner. I am just hoping above all, Mr. President, that in this hearing, these issues are not going to be bogged down in the political morass that we have seen some other hearings conclude with. I would like to say, also, Mr. President, that I think for us to go back to the 1990 Governor's campaign, I think is stretching it a bit. I do not know what that has to do with Whitewater. I think some of my colleagues would like to see us investigate Bill Clinton when he was the attorney general of Arkansas. Maybe we would like to go back to look at his campaign of 1974 when he ran for the U.S. Congress and was defeated. There might be some who have no limits on how far back in time we should go.

I hope we can keep our eye on the ball. I am hoping, Mr. President, that we can keep our eye focused on the issue of Whitewater and the particular mission under which carefully this resolution has basically pointed out would be the scope of this particular hearing.

I am also concerned that one of our colleagues has referred to the "the miserable job of Mr. Fiske." Those remarks were made earlier on this floor. Of course, they refer to Mr. Fiske, who was allegedly fired from this investigation as special counsel because he was not finding out enough, bringing forward enough, to satisfy some of our colleagues.

Mr. President, I will conclude once again, as I have done other times on this floor, by quoting a note that Vince Foster wrote. It is his last note. It was his last sentence in this note, when he said "Here"—reference to Washington—"ruining people is considered sport." Those were the words written by the late Vincent Foster.

I am hoping, Mr. President, that when this investigation begins, every person involved with that investigation, from top to bottom, will realize these are human beings; they have families; they have hopes and desires; they have beliefs; and they have reputations. Hopefully, we will not treat lightly those reputations, and hopefully we will make certain that the character and the nature of these hearings seek fairness and justice.

I yield the floor.

Mr. SARBANES. Mr. President, I yield such time as he may consume to the minority leader.

Mr. DASCHLE. Mr. President, I thank the ranking member. Let me say, I did not have the opportunity to hear all of his remarks, but let me commend the distinguished Senator from Arkansas for what I have heard him say. Let me associate myself with each and every one of his words. He speaks from the heart, and he certainly speaks for all Members in representing what we hope will be the ultimate goal of this committee as we begin this ever once more.

This resolution provides a sum of $950,000 for the purpose of completing the work on the Whitewater matter. I think it needs to be emphasized again, as we consider the funding, that this resolution includes every issue related to Whitewater that has any credence whatever. There ought not be any question about its work, its scope, and the effort undertaken after today by the Banking Committee.

The funding will expire on February 29 of next year. It is an adequate amount to fund and an ample allowance of time to permit comprehensive and thorough hearings, while providing also for the completion of this issue.

In the 103d Congress, the Senate voted on March 17, 1994, on a bipartisan vote of 8 to 0, to authorize hearings on the Whitewater matter. Senate Resolution 229, adopted in June of last year, authorized a first round of hearings which were subsequently held by the Banking Committee.

The new resolution creates a special committee, administered by the Banking Committee, to conduct the final round of these hearings. The committee will be comprised of the full membership the Banking Committee, with the addition of one Republican and one Democratic member of the Judiciary Committee.

Chairman D'AMATO will also chair this special committee. Senator SARBANES will serve as the ranking member.

Last year, the Banking Committee heard from a substantial number of witnesses and took thousands of pages of testimony. Last year's hearings were thorough, fair, and bipartisan. They are the model which this year's hearings must emulate.

The majority, which conducted the hearings last year, were fair and judicious in their approach. The new majority in this Senate has the obligation to follow that record in exactly the same manner.

It is important to be thorough and comprehensive, because the American people have a right to know all the facts about this matter; but it is equally important that hearings be fair and responsible. We must all strive to remember and draw the distinction between an unproven allegation and a known, verifiable fact.

What is at stake is the integrity and credibility of the U.S. Senate. The last Senate recognized this by voting unanimously to authorize hearings when questions were raised that deserved examination. This Senate should follow that example.

The Senate has the constitutional obligation to see that the facts are brought out. It has the moral obligation to do so fully and impartially. If we do less, we risk reinforcing the unfortunate impression that Senators care more about partisanship than about conducting the Nation's business in the best interests of all the people.

The President has said that in an era of attack politics, the best way to put this matter behind America is to address the facts candidly. He is entirely right.

The administration cooperated fully and extensively with hearings last year and stands ready to do so again this year. Last year, the President ordered his administration to cooperate and all parties did so. Every document request was honored. Every question raised by the committee was answered.

Americans have the right to know the facts of Whitewater. But Americans care about other matters which are also on the Senate agenda a great deal more than they do about this.

Americans are now facing a budget which seeks to dramatically alter Medicare and student aid programs, as well as virtually every other thing the Government does. They are anxious about the future, because so many millions of Americans are either Medicare enrollees or have parents who are Medicare enrollees. They are anxious to see the Senate begin the debate over the budget soon.

Americans expect the Senate to devote the bulk of our efforts to the issues that are of most importance to the majority of American people. I agree. That should be our priority. Today, no issue is more critical than resolving the budget debate.

Mr. President, I urge prompt action on this resolution. I hope it allows for completion of this matter with fairness and impartiality, so that Senators can focus their attention on the issues that deserve it most, the problems facing the American people.

I thank the ranking member for yielding.

Mr. D'AMATO. Mr. President, I did not mean to unduly delay acting on this resolution, because I think most things that have been said summarize where we are at, what we are attempting to do, and the scope of the investigation and the manner in which we hope to conduct it.

I think is important to point out that what one of my colleagues, the Senator from North Carolina, Senator FAIRCLOTH, pointed out is a matter of public record. That is that Judge Starr is reexamining all matters reviewed by Special Counsel Fiske, including Vincent Foster's death.

I think he alluded to that, and I think he did so in that context. That is not an area we intend to revisit unless there are some very special circumstances, which I certainly do not envision. However, I think we have to at least put it in that context.

As it relates to what the committee did and did not find last year, I think it is important to note that the Republican minority did make findings on the three major areas where there were questions of misconduct and malfeasance. I will not attempt to enunciate all of them now, but that was a very strong finding.

I would also like to point out that the majority made some findings and recommendations as it related to the need to indicate very clearly that before Congress, all executive branch members and others who testified are "required to be fully candid and forthcoming," and testify "truthfully, accurately, and completely."

The committee recommends that the President issue an Executive order reinforcing this obligation and setting forth procedures requiring the prompt correction, amplification and/or supplementation of congressional testimony to ensure that it is accurate, thorough and completely responsive.

Why did they do that? Without going through the entire history, it was because it was clear and evident—and, by the way, we have sent to Mr. Fiske and to his successor, Mr. Starr, those areas, we being the Republicans on the committee, the minority—that those areas of concern, that, at the very least, there was testimony that was disingenuous, if not outright false. And that is being reviewed.

So, to say that there were no findings of any wrongdoing, that everything was OK, or to imply that there was nothing wrong, is simply an oversimplification and is not an accurate or fair representation of the situation.

Now, I do not intend, nor is it my job and duty, to defend the work of the special counsel. The special counsel was appointed because the Attorney General concluded that it was necessary. It was not this Congress. I thought it was. I believe it was. There were leading Democrats who spoke to the necessity—Senator MOYNIHAN, Senator BRADLEY, and others—as it relates to dealing with this. But as it relates to the expenditures of money, let us look at the record.

This committee, I think, has been very judicious. The Democratic leadership working with Republicans last year authorized $400,000. We only spent $300,000. This year we have set $950,000. I hope we spend less than that. We have been very judicious in using taxpayers' money. So to date we have spent $300,000. Although that is not an inconsequential sum, we have been extremely judicious.

With regard to the expenditures and what has taken place with the special counsel, let me just indicate, first, that David Hale pleaded guilty. He was a municipal judge and has made some extremely serious allegations. The special counsel is reviewing his allegations with respect to why he made certain loans that were illegal or inappropriate, who asked him to do so, and so forth.

Webster Hubbell, the third ranking official in the Attorney General's office, pleaded guilty to charges that emanated, again, from this investigation.

Neil Ainley, president of the Perry County Bank, where large sums of money, $180,000, were taken out to fund campaign activities, pleaded guilty.

Chris Wade, a real estate agent who was the sales agent for Whitewater Development, pleaded guilty in a bankruptcy matter. Robert Palmer, last December, a Little Rock real estate appraiser, pleaded guilty to conspiracy charges relating to backdating and falsifying appraisals for Madison Guaranty.

I make these remarks because I do not believe that it is fair to leave the impression that this has just been a big waste of time and that there was no wrongdoing. Five individuals, at this early and preliminary stage of these investigations, have already pleaded guilty, some in very high, responsible positions. That is the work of the special counsel. He has to defend the appropriateness of the expenditures which he makes.

However, I think for the record it is fair to reflect that several individuals have pleaded guilty to various charges. As it relates to our work, I am going to reiterate that I believe this committee has properly set forth the venue, the scope and the way in which it intends to move forward in a bipartisan manner to find out the truth and get the facts. Was there an attempt to impede legitimate investigations undertaken at RTC? Why were certain people taken off the case? Why were certain RTC investigators disciplined? Why was information about confidential criminal referrals made public? Was there a failure to go forward? These are legitimate questions. There may be appropriate reasons. But, then again, we might discover inappropriate action.

So these areas are within the scope. We are not going to attempt to dig up something that does not appear to be really connection to the matters that we have set forth. And it is our hope, depending upon the schedule of the special counsel as he goes through the materials, that we can wind this up sooner rather than later, and conduct the business of the people in a manner which reflects credibly on our constitutional obligations as Senators.

Mr. President, I am prepared to yield the remainder of my time. My colleague may have something to do. I am prepared to vote on the resolution.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I will take just a couple of minutes, I say to my distinguished colleague from New York.

First of all, I want to underscore the positive and constructive way in which the chairman of the Banking Committee and members of his staff interacted with us in trying to address the question of working out a resolution that we would bring to the floor of the Senate. Obviously, it is not an easy thing to do, and Members of the Senate have differing views about this matter. But I do think we were able to, in the end, work out a rational approach to this inquiry and investigation, which I indicated in a sense had been committed to last year.

Obviously, you always have to work out carefully the scope questions, which has been done in this resolution, because the scope could be infinite, in a sense, if you leave it to people's imagination. So there were candidates for scope that I think went beyond the horizon, and they are not included. But we have tried to, in effect, put a focus here.

In fact, some of the questions the distinguished Senator from New York just raised, that he felt emerged out of the previous hearings—and he made reference to last year's minority statement in the report—have in fact been spelled out here as matters that could be looked into under this resolution.

There were other candidates, of course, that were not included. We have tried to be rational here. We have tried to be reasonable. The matters specified herein have been the outcome of that process.

Second, I want to say the resolution has been put together in a way that presumes that the two sides will work together cooperatively in carrying out the inquiry, that the staffs will interact in that fashion, that material will be generally available and so on. We are trying to get an inquiry here in which everyone is joined in trying to find out what the facts are. A lot of questions are raised, and will be looked into. If you did not raise questions, you would not have an inquiry, so I recognize that. But our job, I think, is to probe the factual matter behind those issues.

I was interested that my colleague earlier used the word "allegations," and that is what it is until you actually get the facts that sustain it. And that is the process we are going to engage in. Some things, you know, when you finally examine them, turn out to be fairly innocent. At least I think. We had this point about Captain Hume, who did not appear when he was supposed to be a witness.

Well, what happened—obviously there was a slip-up, but I think that is what it was, a slip-up. Captain Hume was deposed. He had over 300 pages of deposition testimony. Apparently at his deposition he said he was about to take a—go on a vacation. After that the hearing date was set. Everyone sort of assumed that Captain Hume could be brought back in for the hearing. A subpoena, I do not think, was issued for him.

Mr. D'AMATO. I do not think it was issued.

Mr. SARBANES. I do not think it was issued for him so he did not, as it were, ignore a subpoena. And he went on a hunting and fishing trip and could not be located, is what happened.

In the end, I think it was judged that given we had 300 pages worth of deposition it was not worth having another hearing simply to bring Captain Hume in. I mean it is a small matter, but I only mention it to show that sometimes when you really examine the facts you discover that something that looked amiss at first has a very simple, plausible, and reasonable explanation for it.

We expect, as I understand it, now to move forward with this. I know that the chairman and his staff will be talking with our staff to begin to plan the first set of hearings which I think will probably be in the next month or so, and then we can proceed from there as we schedule other matters which have been stipulated here in the resolution as being within the scope of the inquiry which this special committee will now undertake.

But I do again want to underscore the, I think, responsible way in which the chairman and members of the staff have worked with us in order to try to frame a resolution which we could bring to the floor of the Senate today which I think carries forward the legitimate requirements imposed upon us in terms of carrying out an investigation without straying beyond what most people regard as reasonable bounds.

Mr. President, with that, I made my statement. I see the distinguished Senator from Arkansas, and I would like to yield time to him.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. Ten minutes.

Mr. SARBANES. Mr. President, I yield 4 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank the distinguished Senator from Maryland for yielding.

Mr. President, when I was a student in law school I remember studying criminal law. There never had been a lawyer in my family. So I knew nothing about any kind of law. But I remember the professor about the second day said, "Remember, the presumption of innocence is the hallmark of our system of criminal jurisprudence." It is not presumption of guilt.

I asked the question, "Should I defend somebody if they came into my office and told me they were guilty?"

He said that will be a personal call, but you bear one thing in mind. That person may not know whether he or she is guilty under the law. They may think they are and are not.

I am going to vote for this resolution. I have no objection whatever to a fair, open hearing giving everybody a chance to answer the questions of this committee. But I have heard some names thrown around here this morning.

Mr. President, in cases like this, all you have to do is throw out a name. Oftentimes you have destroyed a person or at least destroyed their reputation. And there has been entirely too much of that surrounding this case.

So let me admonish my friends in the U.S. Senate, and especially on this special committee, lawyers and nonlawyers, to ask yourself when you are making some of these speeches and you are throwing out names, why did not this happen, why did not that happen? Well, hindsight is a wonderful thing. But ask yourself when you are throwing names around and wondering whether or not you are destroying that person, a perfectly innocent person for life, you ask yourself this question: "How would you like to be in that somebody's shoes and hear your name bandied around on the floor of the Senate which carries with it the connotation of some wrongdoing or some guilt?"

I hope the Members of this body will rise above that sort of thing, and when they say something and use some of these names in regard to this hearing, make awfully sure they are not destroying some innocent person needlessly and wrongfully.

I look forward to the hearings. I look forward to the people having an opportunity to say what they want to say and answer the questions of the Members of this committee. But for God's sakes do not prejudge everybody that is going to be called as a witness before they get there and have an opportunity to answer the questions.

I yield the floor.

Mr. SARBANES. Mr. President, I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished chairman for yielding me 2 minutes. I had not planned to speak again. But the distinguished chairman of the committee made reference to three or four individuals who have either pled guilty or have been indicted, et cetera. I would like to talk about some of those.

Neil Ainley worked with a bank in Perryville about 50 miles from Little Rock. He pled guilty to four counts, but not one of those counts related to Whitewater; not even close to Whitewater. One was his so-called failure to file with the Internal Revenue Service a withdrawal of cash for the 1990 Clinton campaign; nothing whatsoever to do with Whitewater.

The second individual the distinguished chairman mentioned is Chris Wade. If I am not mistaken, Chris Wade was a real estate broker I believe in Mountain Home near the Whitewater development area. Chris Wade, subsequent to these many years of dealing with the lots at Whitewater, filed bankruptcy; not related to Whitewater in any way. But in the bankruptcy filing he failed to disclose either an asset or a debt. I do not know all the facts but this matter is unrelated, totally unrelated to Whitewater; no relationship whatsoever to the President and Mrs. Clinton. But yet the prosecution has now had him plead guilty.

The third person referred to was Webb Hubbell. We know that case. Webb Hubbell has pled guilty. It is a sad day. He is a good friend. But it was nothing that related to Whitewater Development Corp., absolutely nothing that related to Madison Guaranty, nothing whatsoever. Web Hubbell pled guilty to overbilling his clients; nothing to do with the RTC, nothing to do with Whitewater; totally irrelevant.

If we continue spreading this dragnet out further, if we go after every person that has ever had contact with Bill Clinton or Hillary Clinton or James McDougal or whatever, if they have ever made a phone call to them, if they have ever borrowed money or given them a campaign contribution, Lord only knows how long this investigation is going to go. It will go beyond the year 2000.

I just hope that our colleagues on the Banking Committee will realize that we must focus this investigation as it relates to Whitewater and to its original mission.

Mr. President, I thank the distinguished Senator, ranking member, and the distinguished chairman for yielding me this time.

I yield the floor.

Mr. SARBANES. Mr. President, I am prepared to yield back time.

Mr. D'AMATO. Mr. President, we yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded, the question is on agreeing to the resolution.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—96

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—3

Bingaman
Glenn
Simon

NOT VOTING—1

Kennedy

So the resolution (S. Res. 120) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 812 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, it has been our hope that we could work out some agreement on H.R. 483, the so-called Medicare Select bill. I know Senator ROCKEFELLER has some concerns about it. What we would like to do is bring the bill up, and if anybody has amendments, they can offer the amendments and see if we cannot complete action. It is a program that expires on June 30. I am not an expert on the program itself. I think Senators PACKWOOD and CHAFEE will be happy to manage the bill. I will not do that.

I would like to ask unanimous consent that we turn to the consideration of H.R. 483, the Medicare Select bill, but I am not going to make that request yet.

Is the Senator from West Virginia prepared to object to that?

Mr. ROCKEFELLER. I am afraid I will have to.

UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to consideration H.R. 483 under the following time agreement: 1 hour on the bill to be equally divided between the chairman and ranking member of the Finance Committee, with one amendment to be offered by Senator ROCKEFELLER relative to Medicare, 1 hour for debate to be equally divided in the usual form, and that no motion to table be in order; further, that following disposition of the Rockefeller amendment, the bill be advanced to third reading and that final passage occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER. I do object.

The PRESIDING OFFICER. Objection is heard.

EXTENDED USE OF MEDICARE SELECTED POLICIES—MOTION TO PROCEED

Mr. DOLE. In light of the objection, I move to proceed to the consideration of H.R. 483.

The PRESIDING OFFICER. The question is on the motion to proceed.

Is there debate on the motion?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, this is not one of the most broadly understood issues. But it is a very important one, Medicare Select. There are, I guess, two issues that concern me. One—and this is less important, but nevertheless important to me—is the area of process. I had written Senator DOLE, the majority leader, a number of months ago asking for a hearing on the subject of Medicare Select. I was told in a letter back from the majority leader that we would have hearings on Medicare, obviously, and that Medicare Select would be a part of those hearings. The Finance Committee has not had any hearings on Medicare Select and, therefore, that constitutes a problem.

Second, there is a study on Medicare Select which is going to be completed by the end of the summer, and it is not a frivolous study or a frivolous problem. It is a serious problem involving seniors and Medicare supplementary insurance. Currently, 15 States are participating in the 3½-year experimental Medicare Select Program. This bill would expand Medicare Select to all 50 States for 5 years.

One of the States that has Medicare Select is, in fact, the State of Florida. I cosponsored legislation sponsored by Senator GRAHAM that would temporarily expand Medicare Select for another year. So this is not just a question of those States that have Medicare Select wanting to continue to expand it, or to make it permanent, or whatever. We have genuine concerns.

There are other issues involved. One of the conclusions of the preliminary evaluation of this study which I have been referring to, which will be completed at the end of the summer—and that is why I hoped we could wait until that time, this being the first year of a 2-year session—was that about half of the savings in the form of cheaper MediGap premiums for beneficiaries came about as a result of discounting payments to hospitals.

Now, theoretically, if seniors are having their care actually managed, the Medicare Program would realize savings from the lower use of health care services.

If, in fact, the savings are merely the result of hospital discounting arrangements, the Medicare Program is not going to benefit at all financially. Again, that is not an overwhelming factor, but a very important factor in view of the overall Medicare cuts we are looking at this year.

CBO, in fact, scored the expansion of the Medicare Select Program as budget neutral, not as saving or costing Medicare, but budget neutral. They said it does not cost and it does not save the Medicare Program any dollars at all.

Now, my colleagues and friends on the other side talk about expanding choice and restructuring Medicare by getting more seniors into managed care in general. Yet Medicare Select, one of the managed care options already available under the Medicare Program in at least 15 States, does not save the Medicare Program money.

So far, therefore, claims from the other side on the so-called magic of the marketplace does not seem to be doing anything to save costs for Medicare. That is the point I am trying to make. Many people believe that managed care is not going to save the amount of money that some people think it is because the elements of managed care are not enough. There is the cost of technology and more people getting older faster—that number is increasing very fast.

The Consumers Union testified before the House Commerce Health Subcommittee that:

> Lawmakers should not make permanent a managed care form of insurance to plug gaps in Medicare coverage because of very serious questions about the supplemental's plan deceptive pricing practices and its effectiveness at holding down health care costs. We should not make this program permanent and expand it to other States until we know that it is really a good deal for the customers.

That is all I am saying. I am simply requesting that the study which will be ready by the end of the summer, which is already in progress, which has already issued a beginning report, be allowed to be completed, that we see if, in fact, it is good for consumers, before we take any further steps.

Consumers Union has raised concerns that because of insurance underwriting practices, seniors may be locked into Medicare Select managed care policies and be unable to purchase another MediGap policy.

We looked at MediGap 5 years ago, in 1990. We passed legislation on MediGap. It was very good legislation and it cut down on abuses and consumer confusion. Seniors, for the most part, do have Medicare supplemental policies. Sometimes they use it to help pay part of their premiums. Sometimes they use it to get more services that Medicare does not offer. But it is very, very important.

HCFA, the Health Care Financing Administration, has voiced a concern about a lack of quality assurance requirements for Medicare Select managed products.

Medicare HMO's are required to have an active quality assurance committee headed by a physician that gathers and analyzes data and works for continuous quality improvement. That is important. There is no comparable requirement for Medicare Select managed care products.

Medicare HMO's are required to provide data on such indicators as waiting times for appointments in urgent care, telephone access to HMO, both during and after hours. There is no comparable requirement for Medicare Select managed care products.

Understand, I am not condemning Medicare Select. Fifteen States are using it. Some of those States want it to be made permanent. Some are less happy about it, but this bill is a major expansion. Therefore, it is something that we need to look at closely.

To go from 15 to 50 without the benefit of at least the study Congress ordered so that we could make an orderly decision about this, just does not seem to me to make sense. It is for that reason that I am here talking, hoping that we can do something about it.

If Medicare Select managed care is to be made permanent as a Medicare option, beneficiaries should be guaranteed the same level of assurance on issues of quality, issues of access, and, for example, grievance rights, as they have already in other Medicare managed care options. That seems sensible. Do the 15 have it? Do all of them have it? Do none of them have it? We need to know.

A preliminary analysis of the Medicare Select experiment that was completed last year by the Research Triangle Institute concluded that from Medicare's perspective, unless Medicare Select reduces use or directs use to providers that cost Medicare less money, it offers little benefit to Medicare.

The preliminary case study also indicates:

> Aggressive case management and restriction of networks to the more efficient providers in the communities are rare. Thus, it appears unlikely that Medicare Select will result in claims cost savings for HCFA.

Now, Mr. President, I do not think that these concerns mean that we should end the Medicare Select Program. I want to be very certain on that. I think that experimentation—State experimentation—is tremendously important. I believe in it.

However, I do think that several serious issues have been raised about the Medicare Select Program, and as a result I have grave reservations about extending this program to all 50 States—that would be 35 more States—in 5 years.

Instead, to avoid any potential disruption in those States that currently are participating in the Medicare Select experiment, we ought to extend their programs so that they do not have to stop enrolling new people on June 30, 1995.

Now, that is an important point to make. We have a drop dead date we are facing rather quickly. They cannot take new enrollees unless we extend the current States that have the programs, which I am very much for doing, so that we can learn more from those programs.

I would sincerely hope that before expanding it beyond those States that now have it, we take a much closer look at the Medicare Select Program in the committee of jurisdiction, which is the Finance Committee.

Then I go back again to the process question. I asked the majority leader by letter if he would hold hearings on this subject. He answered me earlier, some months ago, that we would hold general Medicare hearings in the Finance Committee, and Medicare Select would be part of those hearings.

They have not been part of those hearings. They have not been even mentioned in these hearings. That is important to me because I think that process and the knowledge that one gains from that is tremendously important.

I find it somewhat disturbing that my friends on the other side of the aisle who want to cut Medicare by $256 billion to balance the budget and pay for tax cuts, and who talk on a daily basis about restructuring Medicare, will not even take the time to consider a final evaluation of the Medicare Select Program. Congress mandated that this study be done. This was not somebody's whim. It was a congressionally mandated study. The Federal Government has already paid for this study to be done. But my colleagues are apparently not willing to wait a couple of months to consider the results of that congressionally mandated study.

In some ways it seems to me that we are here more because the Senate is looking for something to do. I do not think this is the right way to handle the problem of the Medicare Select Program. This came up suddenly and here we are with it.

I want to make it very clear why I have objected to the idea of the Senate simply rubberstamping a bill passed by the other body. There is absolutely no reason for us to be using up the time of the Senate on this at this time. If the majority leader would simply give the committee of jurisdiction the chance to review the legislation and the study through something as basic as a hearing or a partial hearing or a subcommittee hearing, then we could work out a course of action based on a responsible process and careful thought about the substance which I have raised, which is very much in question. The Senate should, I think, not acquiesce to a cavalier way of doing business, and that is what concerns me.

The majority leader wants the Senate to rubberstamp a bill that would turn a limited demonstration program, called Medicare Select, into an open-ended national program. I am very concerned about an attempt to pass legislation affecting the Medicare Program without having it carefully considered by anyone in the Senate.

I ask my colleagues, who are not present on the floor with the exception of the distinguished Presiding Officer, how many of them can really tell me much about the Medicare Select Program? How many could give me one short paragraph on what the Medicare Select Program is? I would daresay it is probably six people; probably six people. And here we are at a moment when there is not much else to do, awaiting the budget resolution, but with some time to kill, and we are about to expand into a national program something which is being experimented with locally, by the States.

If anything is clear these days, the Senate should know what it is doing when it changes Medicare. We are about to enter into a major debate on Medicare as it concerns the budget resolution. So anything that has the word Medicare in it, we ought to be precise, knowledgeable, and informed rather than having an hour's discussion and then a vote of some sort, affecting profoundly what happens in this country. Medicare affects 33 million people—36 million to 37 million people when you add on end-stage renal disease and the disabled, as well as those over 65. It has enormous consequences. It has enormous consequences.

As we learned during the MediGap debates, it is very hard, often, for seniors to resist buying policies which are constantly offered to them. That was what the MediGap legislation was about. It was to discipline this proliferation of policies to ensure folks could not prey on seniors who could not necessarily understand all the small print, or even read the small print in the policy. So this is about protecting seniors; about not misleading seniors; about making sure that seniors get the quality assurances that are verbally offered to them by those who would sell Medicare Select.

It just seems to me that if we are about to talk about a $256 billion cut in Medicare, we really ought to know what we are talking about when we do anything about Medicare, much less add on a new program, whether it costs or not.

Just yesterday Dr. June O'Neal, who is the new head of CBO, the Congression Budget Office, and whom I had not seen before, testified before the Finance Committee that quality—hear this, "The quality will suffer under the Medicare Program if we enact Medicare cuts of $256 billion."

She said that seniors will have to pay more to get the same level of quality that they are currently receiving under Medicare. And I think this is a very serious consequence. In fact, by the year 2002, I think they will be paying $900 more per year and I think on an aggregate basis they will be paying close to $3,500 more between now and the year 2002. When you consider the fact that only a very tiny proportion of Medicare recipients have incomes of higher than $50,000 a year and that the enormous majority of them are way down at $15,000 or $10,000 or below, in that area, something like that becomes an enormous consideration. An additional $3,500? They already spend over 20 percent of their income on health care.

In fact, we had an interesting minidebate yesterday on whether or not the cuts in Medicare will in fact cut Social Security for seniors. Of course, if that were to be the case, that would be a kind of third-rail item on the American scene because cutting into Social Security is something we have all decided not to do. We came up with the judgment, not so much during the hearing but after the hearing, that because of the increases in premiums, et cetera, in copayments, seniors will have to pay for more costs for Medicare, that in effect their COLA increases under Social Security in many cases will be wiped out entirely.

Will seniors see that as a cut in Social Security? I think it is quite possible they will. Because it is interesting—I would not have guessed this, I say to the Presiding Officer—that Social Security and Medicare are looked upon, in many ways, as the same by the people of this country and by the seniors of this country. That whereas we said before "Do not cut Social Security," people look upon Medicare as the same sort of a sacred contract, so to speak, that the American Government and the American people have with each other, and not another incidental program.

So I think this is a very serious problem. The Health Care Finance Administration, HCFA, has voiced a concern about lack of Medicare Select quality assurance requirements. HCFA is not a radical organization. It is a big organization, 4,000 people, who in fact are very expert. Nobody knows they exist but they do, and they do all kinds of complicated work. They are expressing concern about Medicare Select quality assurance requirements, that they do not exist in this legislation and they do exist for other managed care options. As I said, Medicare HMO's are required by law to have active quality assurance committees.

So I think there is lot at question here, and I just hope we could work this out. I had suggested a variety of alternatives, options; that we could take the States that now have Medicare and extend those for a year and a half or 2 years. Some people say if you extend it for a year, that does not really give the managed care company that is interested in looking at Medicare much incentive to move ahead. It sounds like a year-by-year basis. Maybe we could do it for longer than that. Maybe we could add on some more States, add on four or five more States and allow that to happen.

But to take the entire country and open it up to Medicare Select when a study which has already raised questions is still out there and questions have been raised by health care experts in HCFA about insurance problems, plus the fact that it is Medicare, which is probably the most sensitive subject that could be discussed on the floor of this Chamber, we ought to be careful. That is why I am not for going ahead at the present time with expanding this the way the majority leader seems to want to do.

I will have more comments. But I do not see anybody at this point who wishes to say anything. So I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I note the presence of the distinguished Senator from Rhode Island on the floor. I know he wants to speak. I will not take long. I talked a moment ago about the concerns of the consumer groups and the Medicare Select Program. One of their concerns is called attained age rating. Just as insurance companies charge older people more for insurance in the under 65 market, MediGap insurers charge older seniors more for their MediGap policies as they grow older. In the under 65 market, insurers claim that age rating is a sound business practice because older people use more health care services and because older people are better off financially than those who are 20 years old or younger. This argument does not work at all for those who are over 65 years old. In that important market, 85-year-olds are generally, as I hope we all know, a lot poorer than 65-year-olds.

Another question that has been raised is the so-called one time open enrollment period. When we worked in the Finance Committee—I know the Senator from Rhode Island worked very hard on that also—on the MediGap legislation in 1990, we required insurers to have a one-time, 6-month open enrollment period when seniors first turned 65 so that they would have 6 months to simply enroll. During this 6-month period, an insurer under the MediGap Program is not allowed to deny insurance to any senior based upon their health status. That is an enormous statement in the health insurance industry. It is an enormous statement. They are not allowed during those first 6 months to make any health status judgments and thus say no to people. Consumer groups have raised a concern that if seniors sign up with a Medicare Select managed care product and decide that they do not like that product, they may be unable to buy a MediGap policy later because the open enrollment period would have gone by, especially, of course, if their health status is poor.

I want to just add those things.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

PRIVILEGE OF THE FLOOR

Mr. CHAFEE. Mr. President, I know the distinguished Senator from North Carolina is waiting to give a brief statement, and then I would like to speak. Let me discuss it with the Senator from Oregon.

But meanwhile, I ask unanimous consent that privileges of the floor be granted to a member of my staff, Douglas Guerdat during today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Thank you.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

(The remarks of Mr. HELMS pertaining to the submission of S. Con. Res. 14 are located in today's RECORD under Submission of Concurrent and Senate Resolutions.)

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, let me make a few comments on the so-called Medicare Select policies and explain first what they are.

Medicare does not cover all medical expenses. So a popular policy that is sold in this country is called MediGap. You can buy it. It is voluntary. You do not have to buy it. You can buy it. It basically fills in the holes that Medicare does not cover. There are different kinds of MediGap policies. You can get some that are more expansive and with more coverage than others and they cost a bit more. But I emphasize they are voluntary.

Medicare Select is a particular form of MediGap policy. It is one of the most popular policies that are around. It is about 40 percent less expensive than other policies. It exists now in 15 States. You have to have Federal permission to sell it. The authority to issue these policies expires on June 30 of this year.

The House has passed a bill—let me check my figures—I think 408 to 14, to extend Medicare Select to the rest of the Nation. This is hardly a partisan issue with that kind of a vote. And if we, frankly, get a vote on it in the Senate, it is going to pass probably 80–20 or 90–10, unless I am mistaken. So do not let anybody be of the impression this a Republican-Democrat issue. This has overwhelming support.

The National Association of Insurance Commissioners is one group that supports it, and they monitor complaints about insurance policies throughout the Nation. There are about 500,000 people enrolled in just these 15 States in Medicare Select, and of those 500,000 policies, in 1994, all of the insurance commissioners in those 15 States had 9 complaints—9—in comparison with 967 complaints against other types of MediGap policies, nonselect MediGap policies.

We passed this in the Senate 5 years ago. We were awaiting a report. The report was due in January. It is not going to be out until next January now. It is late. It is not going to come.

And again, Medicare Select has overwhelming support. I am going to read just a list of the groups that support expanding this to the 50 States: The American Group Practice Association, the American Hospital Association, the American Managed Care and Review Association, the Association of Public Pension and Welfare Plans, Blue Cross and Blue Shield Association, California Association of Hospitals and Health Systems, the Federation of American Health Systems, the Group Health Association of America, the Health Insurance Association of America, the Medical Group Management Association, the National Association of Insurance

Commissioners, the National Conference of State Legislatures, and the National Governors' Association.

Now, Mr. President, you are not going to get a much better group than that in terms of breadth and philosophical support. Our problem is that this apparently is going to face an objection to coming up and apparently a filibuster. I have no question but what the filibuster is going to be broken and going to be broken overwhelmingly. We will get the 60 votes. But one of the problems the leader faces, of course, is that once we are on to a bill and once cloture has been invoked, you cannot go to anything else. You can pull it down. And he would like to get onto the budget bill.

I say again, this is the middle of May. The authority for these programs runs out next month. This Congress goes on recess in about 10 days. And so unless we act now, these people who like these policies, to which there is almost no complaint, will be faced with rising premiums because they cannot be sold to anyone else.

So I hope that the leader will be successful in bringing this bill up, that we would have a short debate. I will be happy to agree to a time limit on amendments or a time limit on the bill and get to final passage. I will emphasize again it passed 408 to 14 in the House of Representatives.

I thank the Chair.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I see the distinguished Senator from West Virginia in the Chamber. I would be glad to pose him some questions if he is available to respond.

As the chairman of our committee just pointed out, we are talking about Medicare Select. But what is Medicare Select, anyway?

Medicare Select is the name of a type of MediGap policy. It is something that seniors can buy to cover their Medicare deductibles and copayments.

Medicare Select is a type of MediGap policy that permits managed care; that is, a managed care MediGap policy. That is what it is.

What was the problem in getting this plan started and why the restrictions? Why could not the insurance companies offer Medicare Select if they wanted to? Because when MediGap legislation was originally passed in the House of Representatives, there were some objections to Medicare Select. A Representative from California did not believe in managed care. Consequently seniors were not able to have these plans.

Well, finally, after patiently working at this several years ago in late evening sessions, we arranged that there would be 15 States that could try this and see how it worked out. And so 15 States have done it, and as the chairman of our committee pointed out, it has worked very well. The trouble is that the option of these 15 States to offer this policy ends June 30; which is what—a month and a half from now.

As the chairman pointed out, there is now a danger that we cannot extend Medicare Select because of having to deal with the budget, and so forth, and then all these people who have these MediGap policies—and, indeed, it is a MediGap policy—will not be able to buy it or renew it.

Indeed, there is question about enrollments right now: Should a senior enroll in a MediGap policy that has this managed care plan or should I not? What happens if the plan is going to disappear?

Our point is not only should we extend Medicare Select but should we also make it permanent.

But what about the rest of the States? Why should not seniors in other States have this option? In my State, for example, why should not my citizens have the option of buying a MediGap policy that is $25 to $27 less per month, depending on the situation, than they are paying for other MediGap policies?

Mr. ROCKEFELLER. Will the Senator yield?

Mr. CHAFEE. Let me just finish. The Senator is objecting to that. What I find puzzling is the Senator, a distinguished member of the Finance Committee, has twice voted in the Senate Finance Committee and twice on the floor to pass a permanent 50-State extension of legislation that is before us. What has changed?

Mr. ROCKEFELLER. What has changed, I say to the distinguished Senator from Rhode Island, is that I had correspondence with the majority leader of the Senate, a letter that I ask unanimous consent to have printed in the RECORD, and also the majority leader's response to this Senator.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC. March 21, 1995.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: As ranking member of the Finance Subcommittee on Medicare, Long-Term Care, and Health Insurance that you chair, I would like to propose a hearing on the Medicare SELECT program for oversight and an education on its results so far.

As you know, Congress approved a 3-year, 15-state Medicare SELECT demonstration project as part of the Omnibus Reconciliation Act of 1990. Medicare SELECT offers seniors less expensive MediGap premiums in exchange for receiving their health care services from a selected network of health care providers. Under current law, Medicare SELECT's authorization—which was extended temporarily last October—is due to expire on June 30, 1995, unless Congress takes further action.

Personally, I would support extending this program for another six months to maintain program continuity, with a strong interest in avoiding the program's disruption while allowing Finance Committee members an opportunity to fully examine the knowledge available so far on the SELECT demonstration. A temporary extension would give the Subcommittee an opportunity to have a full hearing on the Medicare SELECT program that would include results of a formal evaluation of the demonstration project.

It is my understanding that preliminary results of an evaluation study that is being performed by Research Triangle Institute will be ready by the end of the summer. Information that will be available includes data gathered from insurer and beneficiary surveys, as well as claims analyses that will examine the impact of SELECT enrollment on the use and costs of Medicare services. Therefore, I believe it would not be appropriate or prudent to extend this program on a permanent basis to all 50 states until Finance Committee members have the most up-to-date information on which to base future legislative action.

Thank you in advance for your attention to this matter, and I hope to work with you on this issue. Mary Ella Payne is the contact on my staff.

Sincerely,

JOHN D. ROCKEFELLER IV.

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC. April 3, 1995.

Hon. JOHN D. ROCKEFELLER IV,
U.S. Senate,
Washington, DC.

DEAR JAY: Thank you for your letter regarding the Medicare Select Program. I agree with you that this issue deserves careful consideration, particularly if Congress intends to extend the program permanently.

I know that the Chairman plans to hold extensive hearings at the full committee level on the Medicare program—it's costs, it's benefits, and what changes need to be made to improve it. I have been assured by the Chairman that through this process we will take a close look at Medicare Select, as we will all parts of the Medicare program.

The Committee will obviously have its work cut out for it this year. I look forward to working with you as we debate some very important and complex issues.

Sincerely,

BOB DOLE.

Mr. ROCKEFELLER. I wrote the majority leader on March 21, and I said this problem is going to be coming up. We know there is a deadline. I am fully aware of that. He wrote back on April 3, and he told me, "I agree with you that this issue deserves careful consideration, particularly if Congress intends to extend the program permanently. I know that the chairman," that being Senator PACKWOOD, "plans to hold extensive hearings at the full committee level on the Medicare Program." And, "We will take a close look at Medicare Select, as we will all parts of the Medicare Program."

What I would say to my friend from Rhode Island is that we have not done that. In the meantime, Congress mandated a study to be done, and the study is in the process of being done. The study has also already raised several questions. Other groups raised other questions about quality, about being able to buy other MediGap policies. So there are a number of questions that needed to be answered. I wished to do all of this somewhat earlier, and I was given the promise that we would do this somewhat earlier. It is just that the promise was not fulfilled.

I should say also that a number of questions have been raised which have somewhat changed the atmosphere in the last several months. Before the Senator came to the floor, I talked about questions which had been raised by a number of groups—pricing games, MediGap availability, illusory costs, and things of that sort. The Senator from West Virginia wants to be sure.

Mr. CHAFEE. Well, the Senator from West Virginia may wish to be assured, but I do not know how far we have to go. The National Association of Insurance Commissioners supports the extension of this program. We just had the list of those who were supporting Medicare Select read by the chairman of our committee. You can go on and on and find reasons not to do something.

But we are really in a very, very difficult situation here. This program expires in 30 days from now or 45 days from now. It seems to me we ought to get on and extend it, and not only extend it but let the other States in on it.

Some mention was made about the Consumers Union's concerns about Medicare Select. But the fact of the matter is the Consumers Union's problems that were raised apply to all MediGap policies, not focused in on Medicare Select.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. ROCKEFELLER. Mr. President, obviously, we need to work this out. The time problem is not, in fact, a constraint on those States which currently have Medicare Select because I already said I would be perfectly happy to go ahead and extend them.

The question is: How can we, looking at some of these complaints about not being able to change MediGap policies, discrimination of various sorts, how can we arrive at some kind of compromise which gives consumer protection for these Medicare beneficiaries that would choose Medicare Select? How can we give them some kind of consumer protection over and above what is contemplated in the law that the Senator from Rhode Island wants to get passed right away?

Would the Senator be willing to discuss those matters, if not publicly, privately?

Mr. CHAFEE. Mr. President, the Senator says we have to wrestle with these problems. Who says there is a problem?

Let me just touch on one matter that the Senator raised, and that is the so-called attained-age rating, with a suggestion that Medicare Select, this type of managed care policy, MediGap policy, has this attained-age rating.

Well, the fact is that the attained-age rating is permitted under current MediGap law. It is not restricted. The attained age is not something peculiar to Medicare Select. That is permitted under the current MediGap law.

And so while it is true that most MediGap policies and most Medicare Select policies do not use the attained-age method, I do not see why you focus in and say that is something peculiar to MediGap or Medicare Select, because it is not.

Mr. ROCKEFELLER. The Senator from West Virginia did not say it was peculiar, but I said it was a problem as far as the Medicare extension is concerned. Whether it applies to more MediGap policies is not, at the moment, of concern to me. I want to make sure that, in Medicare Select, we can.

HCFA has concerns about quality and concerns about access. They are not a frivolous organization.

I just think we have a chance to try to find an accommodation, hopefully in a quorum call, in which we could address some of the consumer concerns and perhaps also accommodate the Senator from Rhode Island, the majority leader, and the Senator from Oregon in the process, since I am, obviously, very well aware of where the votes are in the situation. I just want to do the best I can to build in consumer protection for a program which is young, which is actually only in 14 States, and is not at all in all 50 States.

Mr. CHAFEE. Mr. President, I do not concede that there are all these problems or that there are these problems. It seems to me what the Senator from West Virginia is doing is applying a higher standard to the Medicare Select, these managed care MediGap policies, than he is to the regular MediGap policies. I do not think that is fair. I do not think it is fair to say, "No, in Medicare Select, you cannot have attained age," whereas it is permitted in the other MediGap policies.

The suggestion here is that we ought to have hearings on this. Well, I cannot speak for what the majority leader said, but all I do know is that the Senate has passed a permanent extension of this proposal twice in the past 4 years. It was included in every major health reform proposal last year, including Senator Mitchell's, Senator DOLE's and Senator PACKWOOD's bill, and in the mainstream coalition bill. All of them had Medicare Select in them. So it is not that we are coming up against some unknown item here that we better be terribly cautious of. As I say, it has been out in these States. In 15 States, it is authorized. I cannot challenge the Senator's information when he says it is actually in practice, I believe he said, in 14 States.

All I know is that I think it is a good option that is less expensive and that we ought to give all the citizens a chance at it. And the citizens from my State would like a chance at this. If they do not want to use it, that is their business. But if they have a right to choose a MediGap policy that is less expensive than the current ones, I think they ought to have it and not be prevented from doing so because this Congress refuses to extend Medicare Select to all the States.

Again, no one is more thoughtful and compassionate in this Senate than the Senator from West Virginia, so I am not sure why he takes this particular position. Because, as we mentioned before, this passed in the House 408 to 14. You could hardly get a motherhood resolution passed by that amount.

Mr. ROCKEFELLER. If the Senator will yield, I think one could practically rewrite the Constitution in the House of Representatives by that vote in the current climate.

If the Senator would further yield, he talked about standards being higher for Medicare Select than for other MediGap things. I think high standards are important and I know the Senator from Rhode Island does, too. I want to see the Senator from Rhode Island and his State be able to have this program if that is what the State and the Senator wants.

I think the time crisis that the Senator refers to can be handled in 60 seconds. That can be changed in 60 seconds.

My point is that for 2 months I have suggested extending the program to the 14 States with the program already in effect. What I am really suggesting now is that we first look at the evaluation of the program before we open the door to all the other States. What I am really suggesting is that, if we could perhaps suggest the absence of a quorum, we could work something out on this.

Mr. CHAFEE. Mr. President, our staff asked the Health Care Financing Administration [HCFA] for suggested changes. Any problems? What do you think we ought to do? They did not have any. They had no suggestions for us.

Maybe the Senator from West Virginia can find, what we cannot find, any documented quality problem with this program. Now, some beneficiary somewhere may object, I am sure they have, just like they have objected to a host of other MediGap policies.

But, as I say, this has received a favorable report by the Consumers Union and by Consumers Report magazine and by the State insurance commissioners.

So, I do not have anything particular to offer. I would be glad to talk with the Senator from West Virginia. Whatever ideas we have, we would have to transmit them. Obviously, I would have to speak to the chairman of the Finance Committee, whom I do not see on the floor here.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. The Senator from Rhode Island made mention of no particular problems being raised by HCFA. I think that raises, therefore, this very important point. Because, in fact, Donna Shalala has written to the Honorable BILL ARCHER, chairman of the Committee on Ways and Means, on March 7 of this year.

And one paragraph says:

> The case study portion of the Medicare Select evaluation has already raised a number of questions about the Medicare Select demonstration.

That is from HCFA.

> As managed care options under Medicare are expanded, we want to ensure that our beneficiaries are guaranteed choice and appropriate consumer protections.

That is precisely what the Senator from West Virginia was asking for.

Donna Shalala goes on:

> In addition, many of the select plans consist solely of discounting arrangements to hospitals.

The Senator from West Virginia mentioned that at the beginning.

Donna Shalala goes on:

> We would be concerned if the discounting arrangements under Medicare Select were to be expanded to Medicare supplementary insurance part B services. Discounting arrangements, particularly for part B services, may spur providers to compensate for lost revenues through increased service volume. Consequently, we are concerned that such an expansion would lead to increased utilization of part B services rather than contribute to the efficiency of the part B program through managed care.

Then she says:

> We would, therefore, oppose such a change.

There is honest and open debate on this matter. I am still willing to talk with the Senator from Rhode Island. I think we can work something out. Again, I, unfortunately, can count the votes, but the Senator would like to have some consumer protection in this, and I think the Secretary of HHS would, too. I think, frankly, George Mitchell, in his bill, had open enrollment and major insurance reforms, and the Senator from Rhode Island knows that well.

The Mitchell bill, in fact, did not propose to make Medicare Select permanent in the absence of coordinated open enrollment.

So I think there is room to work something out here, Mr. President, because I think everybody is talking with good will on both sides on this matter.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the problem here is—I know the Senator is concerned about this—but the points he raises affect not Medicare Select but affect the whole MediGap range. In other words, when he says he is interested in open enrollment, there is no open enrollment now in the MediGap policies. He is saying he wants it for Medicare Select. But that means you want it presumably for all of MediGap.

Now, that is a very big separate issue that can come up any time. You do not have to tag it on to a Medicare Select policy which, as I say, is just one of a whole series of MediGap policies.

If the Senator wants to do that, that is changing the rules for the whole series of policies that are issued under MediGap.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. CHAFEE. I will make one other point, if I might, and that is, as you recall, when I said my staff spoke to the Health Care Financing Administration, what I said was they asked for suggested changes and none came back. In the letter the Senator quoted from Secretary Shalala, he mentioned somewhere in there concerns about expansion into the part B plan. We do not do that. There is no expansion into that in this Medicare Select.

So I will be glad to talk with the Senator. If he would like, we can suggest the absence of a quorum and have a little chat here.

Mr. ROCKEFELLER. The Senator from West Virginia would like to do that, but if I might add one more thing, that is, the Senator is right about part B, and the Senator from West Virginia just got carried away and read too much of a paragraph, which was a mistake on the part of the Senator from West Virginia.

Donna Shalala, on the other hand, is referring to the Medicare Select evaluation. She is referring to the Medicare Select evaluation in this letter which she wrote back on March 7, which should have been available to all of us.

Bruce Vladeck, in his testimony on February 15 in front of the House Committee on Energy and Commerce, raised a major concern with the adequacy of beneficiary protections under Medicare Select.

If that is not HCFA speaking, I do not know what is. Bruce Vladeck said:

> There is no requirement for States to review the actual operations of the Select plans once they are approved to assure that quality and access standards are being met.

He does not like that. He is worried about that, and he says:

> We feel strongly that beneficiaries should not have to worry about the quality and access provisions on their Medicare choices. We look forward to working with the subcommittee * * *

And then Bruce Vladeck, the head of HCFA, said:

> Our second concern is whether Medicare Select will make any contribution to increasing the efficiency of the Medicare program.

I think that goes off into another area. It is the consumer protection area, I say to my friend from Rhode Island, which concerns me the most.

I might suggest the absence of a quorum in order for some conversation to go on.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the Medicare Select is a demonstration program. Evaluation will not be completed until December 1995. While the demonstration program technically expires on June 30, the regulations governing the program clearly state that insurers must continue their coverage of current enrollees, even if no extension is approved.

There is no overwhelming urgency to pass this legislation. I do favor a temporary extension, and I am prepared to support such an extension today. But I have a number of concerns about permanent extension of the Medicare Select Program.

First, extension of Medicare Select should be considered in the context of a whole range of managed care options we might wish to make available to Medicare beneficiaries. There is a great deal of interest on both sides of the aisle in expanding choice. The administration is working on development of a PPO option. Before we make the Medicare Select Program permanent, we should understand its impact and balance it against other options.

Second, Medicare Select raises significant concerns about beneficiary protections. HHS has stated concerns about quality oversight. Most important, Medicare Select requires enrollees to receive their care from a limited set of providers. This may be perfectly acceptable to younger, healthier, enrollees. As beneficiaries age and become sicker, however, they may find themselves dissatisfied with providers in the select network. They can find themselves permanently locked out of regular MediGap coverage, with no ability to buy a policy to protect themselves from the costs that Medicare does not cover.

This seems to me to be an excessive denial of choice that we should not enshrine in permanent legislation without more consideration.

These concerns have been raised by Consumers Union and other consumer advocates. Consumers Union, Families USA, and the National Council of Senior Citizens all are on record as opposing this legislation. These concerns are serious and they deserve to be addressed.

We must always be especially concerned about the frailest and the most vulnerable elderly. We want to provide options that improve the choices available, not limit them. We want to provide benefits and services that seniors need, not deprive them of necessary care. We should move with great care in considering a measure that might have that affect.

It is not my intention to terminate the Medicare Select demonstration or put it out of business. I would be willing to support the short-term extension of the program or a permanent program if these concerns are considered and addressed.

It is ironic that this particular Medicare issue should surface just a day before we are to consider a budget resolution which would strike a mighty blow at the integrity of the Medicare Program as a whole and at the retirement security of senior citizens it was designed to secure.

This budget plan proposes to break America's compact with the elderly, and all to pay for an undeserved and unneeded tax cut for the wealthiest Americans.

The cuts in Medicare are unprecedented: $256 billion over the next 7 years. By the time the plan is fully phased in, the average senior is likely to pay $900 more a year in Medicare premium and out-of-pocket costs.

An elderly couple would have to pay $1,800 and, over the life of the budget, would face $6,400 in additional costs. Part B premiums, which are deducted right out of the Social Security check, will rise to almost $100 a month at a cost of an additional $1,700 over the life of the budget plan.

The typical senior needing home health services will have to pay an additional $1,200 per year. Someone sick enough to use the full home care benefit will have to pay $3,200. The fundamental unfairness of this proposal leaps out from a few simple facts.

Because of gaps in Medicare, senior citizens already pay too much for the health care they need. The average senior pays an astounding one-fifth of their total pretax income to purchase health care, more than they paid before Medicare was even enacted. Lower income older seniors pay even more.

Medicare does not cover prescription drugs. Its coverage of home health care and nursing home care is limited. Unlike virtually all private insurance policies, it does not have a cap on out-of-pocket costs. It does not cover eye care or foot care or dental care.

Yet this budget plan heaps additional medical costs on every senior citizen, while the Republican tax bill that has already passed the House, gives a tax cut of $20,000 to people making more than $350,000 a year.

I ask any of our colleagues to travel to any senior citizens' home in their State and have a visit with retirees. Ask the retirees by a show of hands how many pay $50 a month or more for prescription drugs. Anywhere from 25 percent to 50 percent of the hands will go up in the air. Ask them how many pay $25 a month or more for prescription drugs, and the spontaneous groan in the audience will be enormous. It is an expression that they are astounded that we do not understand that they are paying at least $25 a month or more and now 80 percent to 90 percent of the hands go into the air.

What has been the cost of the prescription drugs over recent years? They have been rising at more than double, sometimes even triple, the Consumer Price Index.

Look also at the profits of the major pharmaceutical companies. It is an interesting fact that they are some of the most profitable companies in America, while at the same time the cost of prescription drugs, which are absolutely essential in order to relieve suffering or to even live life in many instances, is going right up through the roof.

Now, that is a real issue for the seniors. That is an issue that we ought to be debating out here this afternoon. That is an issue of prime concern to every senior citizen.

I daresay, if any Member of the Senate went to a group of senior citizens and asked them this afternoon, "What do they want the U.S. Senate to be focusing on? The issue of prescription drugs or Medicare Select?" Ninety-nine percent would say, "Look after the problems that we are facing with prescription drugs." "Look after the problems we are facing in terms of dental care and eye care." Look around the room and count the number of senior citizens who are wearing glasses. Look around the room at the numbers who need help and assistance with dental care. Look around the room at the number of seniors who need the care of a podiatrist.

Our seniors think the U.S. Senate ought to be focusing on Medicare here this afternoon. But we should not focus solely on Medicare Select, until we have a full and complete evaluation of that program, which has the potential of some very important adverse effects, as well as some potentially beneficial effects.

We ought to insist that we have all of the facts before we move forward on a program that will unquestionably mean enormous profits to some companies and industries. It will perhaps give at least the appearance of security to some of our senior citizens for a period of time, but that security will be illusory unless it is carefully crafted and there are built-in kinds of protections which are not evidenced in the proposal that we are reviewing or considering this afternoon.

It is interesting, Mr. President, to compare the generous benefits that the authors of the Senate resolution enjoy under our Federal Employees Health Benefit Program plan available to every Member of Congress to the less adequate benefits provided for Medicare.

We are going to find out that while the measure we will be debating here in the U.S. Senate cuts back on protections for our senior citizens, we sure are not cutting back on the protections for any of the Members in the U.S. Senate. That is an interesting irony.

We heard so much in the early part of the year about how we will make sure that every law that we pass in the Congress is going to be applicable to the Members of Congress. Remember those speeches? We heard them from morning until eveningtime here in the Senate. And it is right that we do that. But how interesting that we do not say we are going to provide for the American people all the benefits that we have here in the U.S. Senate.

If we wanted to, we could give to the American people the kind of health benefits that we have, by extending the Federal Employees Health Benefit Program. Many of us have supported this in the past; many of us fought last year to try to make this available. FEHBP affects 10 million Americans. We have 40 million Americans who do not have health care coverage, and 16 million of those who are children. We could do very well if we just provided the extension of the Federal Employees Health Benefit Program to all Americans. But, again, we are not debating that issue here. We are not involved in that debate here on the floor of the U.S. Senate.

We are talking about the Medicare Select issue, a very narrow, very defined issue. We will be debating, tomorrow, and perhaps the day after tomorrow, and for a series of tomorrows, the proposed cuts that are coming in Medicare, in the budget proposal, that will not be utilized for health care reform as we tried to do last year. We tried to provide some prescription drug benefit. We tried to provide some home care. We tried to provide some community-based care. We tried to provide some additional protections for our elderly.

But no, this year we are going to go ahead and cut the Medicare Program to set aside a little kitty of $170 billion that can be used someday in the future for tax cuts for the rich. Take benefits away from the seniors in the Medicare Program, raise their copayments, raise their premiums, raise their deductibles, raise all of their costs so that we can put over here a little saving account that can be drawn down to allow tax cuts for the wealthiest individuals.

That is what we will be debating. And it is also amazing to me that we will have a time constraint on this issue that is going to affect the quality of life for our senior citizens in such a dramatic way. We do not have that time restraint this afternoon, when we are debating Medicare Select, but we will have it when that budget bill is called up.

It is important that we put some of these measures into proportion. This issue, Medicare Select, is being pressed this afternoon. We are on the eve of what will be a very important debate, not only here on the floor of the U.S. Senate but across this countryside; whether or not we want to say to our senior citizens we are going to cut your benefits so we can use those savings, those cuts, those resources that we have captured from you to give a tax cut to the wealthiest individuals.

Maybe that is what the election was about last November. It certainly was not about that in my State of Massachusetts. People will say, out here on the Senate floor: They voted for change. Is this the kind of change that the people voted for, Mr. President, $256 billion in Medicare cuts so we can provide $170 billion for tax reductions for the wealthiest individuals? Is that what the election was about last fall?

I do not believe so. And I think that is why all of us are seeing, in our own States, that those who are paying increasing attention to what we are debating and what we are acting on, are going to be so concerned by this particular budget proposal.

Sure we have to get some savings in Medicare. Sure we have to have some reductions in expenditures. But what we did last year, when we proposed comprehensive health care reform, was to try to bring about the kinds of changes that over the long term are going to provide important quality health protections for our senior citizens, and second, to get a handle on health care costs. We need to get a handle not only on Medicare and Medicaid costs but also on the total health care system, since Medicare costs are only 15 percent of total national health expenditures. The notion that we can deal with escalating health care costs by cutting Medicare alone, shows a fundamental lack of understanding of the basic elements of the health care debate.

Medicare provides no coverage at all for outpatient prescription drugs, but they are fully covered under the most popular plan in the Federal Employees Health Benefit Program. The combined deductible for doctor and hospital services under the average Blue Cross and Blue Shield plan is $350; for Medicare the combined deductible is $816. Blue Cross and Blue Shield covers unlimited hospital days with no copayments; under Medicare, seniors face $179 per day copayments after 60 days; $358 after 90 days. After 150 days Medicare pays nothing at all.

Compare the differences between what our seniors are facing and what the Members of the U.S. Senate are facing. Medicare covers a few preventive services but does not cover screenings for heart disease, for prostate cancer, for other cancer tests—all FEHBP benefits. Dental services are covered for Members of Congress. We have them for Members of Congress—not for the Medicare recipients. Members of Congress are protected against skyrocketing out-of-pocket costs by a cap on their total liability. There is no cap on how much a senior citizen has to pay for Medicare copayments on deductibles.

Members of Congress earn $133,600 a year. The average senior's income is $17,750. For the limited Medicare benefits seniors receive they pay $46.10 a month, but for their comprehensive insurance coverage Members of Congress will pay a grand total of $44.05 a month. Seniors actually pay $2 more out of incomes about an eighth as large.

Is that something for our seniors to hear about as we are going to be considering a program that is going to cut their programs even more—and yet not affecting the Members of Congress at all? We have had this debate, some of us, for a number of years. Let us just give to the American people what we give to the Members of Congress. But we are not doing that, not with Medicare. We are being told to go ahead and provide additional burdens on the senior citizens that are not being asked of the Members of Congress.

No wonder people wonder what this is about. Is this the change that we voted for? I would love to ask a group of citizens in any State, is this the change you voted for last November? For further cuts on the Medicare benefits, increasing copayments, increasing deductibles to the tune of $256 billion, taking $170 billion of it and reserving it over here for tax cuts? Is that what the American people wanted as the change? Or did they believe in what we have as Members of the U.S. Senate, and what more than 9 million other Americans have, the Federal employees? Surely they were thinking when they voted, "OK, if it is good enough for the Members of Congress it ought to be good enough for all Americans, young and old alike?"

This debate is going to be important in these next several days. I hope and urge our seniors to watch this debate and listen carefully. Listen carefully to those who are making recommendations to cut Medicare. Listen to their responses to the challenges about equity to our seniors.

This President has indicated he will listen. He will listen to proposals to cut Medicare if they are about total health care reform. This means that we are going to do something for our seniors that is going to enhance the quality of health care in such areas as prevention, home care, and community-based systems. It means making a difference by reducing deductibles or making payments for pharmaceuticals so seniors will not be distressed every time they take much-needed prescription drugs; so they do not need to decide whether they can afford to go down and get that prescription for $50, $75, $100 per month, when they do not have enough food on their table or heat in their home? We will have the chance to debate that. We welcome the opportunity to do so.

The authors of the budget resolution do not seem to understand how limited the incomes of senior citizens are. Because of their budget, millions of senior citizens will be forced to go without the health care they need. Millions more will have to choose between food on the table, adequate heat in the winter, paying the rent, or medical care. This budget resolution is cruel. It is unjust. Senior citizens have earned their Medicare payments. They have paid for them, and they deserve them.

Medicare cuts in this resolution harm more than senior citizens. These proposals will strike a body blow to the quality of American medicine by damaging hospitals and other health care institutions that depend upon Medicare. These institutions provide essential care for Americans of all ages, not just senior citizens. And progress in medical research and training of health professionals depends upon their financial stability. The academic health centers, the public hospitals, and the rural hospitals will bear especially heavy burdens. As representatives of the academic health centers that are the guarantors of excellence in health care in America said of this budget, "Every American's quality of life will suffer as a result," because there will be less funding to support the best health professional education and training to the young people of this country, and there will be a diminution in support for the research that is associated with the great medical centers in this country.

In addition, massive Medicare cuts will inevitably impose a hidden tax on workers and businesses, who will face increased costs and higher insurance premiums as physicians and hospitals shift even more costs to the nonelderly. According to the recent statistics, Medicare now pays only 68 percent of what the private sector pays for comparable physician services; for hospital care, the figure is 69 percent. The proposed Republican cuts will widen this already ominous gap.

The impact of these cuts on local communities will be astounding. In my State of Massachusetts we have 123 hospitals. Historically, one of the best and most efficient hospitals has in Barnstable County, not far from my home on Cape Cod. But it has had increasing difficulty serving its patients in recent years. What changed? The doctors have not changed. The nurses have not changed. The ability to get the good kind of equipment has not changed. The training that they went through has not changed. What has changed? The percentage of Medicare beneficiaries being attended to in that hospital changed.

In my State of Massachusetts, any hospital that gets close to 55 and 67 percent Medicare is headed for bankruptcy because of the reimbursement rates. What are we doing? Do you know what happens? Hospitals must cut back on the nurses; they cut back on their outreach programs in the community to work with children; they cut back on their training programs; they cut back, as much as they regret it, on the quality of care people get—not just for the elderly people, but for all the people being served.

What happens locally? Communities raise local taxes to try to assist hospitals, or they appeal to the State house and try to get additional resources. They try to get the revenues from someplace. Either localities accept a decline in health care quality or they have to raise additional resources locally or at the State level. Maybe some other States are experiencing generous surpluses, but you are not going to find many that are in our region of the country.

Financial cutbacks that have occurred in the past have made it difficult for hospitals to provide the excellent services they are used to providing, and the kinds of cutbacks being discussed by the Republicans now will only exacerbate this problem.

The right way to slow Medicare cost growth is in the context of a broad health reform program that will slow health inflation and in the economy as a whole. That is the way to bring Federal health care costs under control without cutting benefits or shifting costs to the working families.

In the context of a broad reform, the special needs of the academic health centers, the rural hospitals, and inner-city hospitals can also be addressed. Unilateral Medicare cuts alone, by contrast, could destroy the availability and the quality of care for the young and old alike.

The President said that he is willing to work for a bipartisan reform of the health care system, but our friends on the other side have said no. The only bipartisan shift they seem to be interested in is the kind that says, "Join us in slashing Medicare." That is not the kind of bipartisanship the American people want.

The authors of the budget resolution claim to protect Social Security while making draconian cuts in Medicare. But the distinction is a false one because Medicare is part of Social Security. Like Social Security, it is a compact between the Government and the people that says, "Pay into the trust fund during your working years and we will guarantee decent health care in your old age." This Republican budget breaks that compact.

As the ceremonies on V-E Day this past week remind us, today's senior citizens have stood by America in war and in peace, and America must stand by them now. The senior citizens have worked hard. They brought us out of the Depression. They fought in the Second World War. Their sons fought in the Korean war, and the Vietnam War. They have sacrificed greatly to advance the interests of their children. They played by the rules.

If this country is the great country that all of us believe that it is, it is really a tribute to the senior citizens. They have contributed to Medicare. They have earned their Medicare benefits. And they deserve to have them.

This Republican budget proposes to take those benefits away, and it should be rejected.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNITED STATES EMBASSY IN ISRAEL

Mr. SPECTER. Mr. President, I have sought recognition this afternoon to respond to those who have raised an issue about the current efforts to have the United States Embassy moved to Jerusalem, the capital of Israel, instead of its current location in Tel Aviv.

There have been some suggestions that we are motivated for political purposes in 1995 to raise this issue. The history of these efforts conclusively refutes that contention. A bill was introduced on October 1, 1983, S. 2031, cosponsored at that time by 50 United States Senators, which sought to have the United States Embassy and the residence of the American Ambassador to Israel hereafter be located in the city of Jerusalem.

That resolution was referred to committee and was not called for a vote, but it was later noted that in addition to the 50 U.S. Senators, there were 227 Members of the House of Representatives who joined in endorsing that transfer of the U.S. Embassy from Tel Aviv to Jerusalem.

Then on March 26, 1990, Senate Concurrent Resolution 106 was introduced, which called for the recognition of Jerusalem as the capital of Israel, and that resolution was passed in the Senate by a voice vote.

Then, following those actions, on February 24, 1995, a letter was sent to Secretary of State Warren Christopher signed by 92 U.S. Senators evidencing strong bipartisan support, again calling for the moving of the U.S. Embassy from Tel Aviv to Jerusalem.

Mr. President, I was an original cosponsor of S. 2031 which was introduced back on October 31, 1983; supported Senate Concurrent Resolution 106 back in 1990; and joined in the letter of February 24, 1995, evidencing my consistent support for this program.

Recently, the Prime Minister of Israel, Yitzhak Rabin, was in Washington, and the issue was raised as to whether or not action by the Congress of the United States in calling for the removal of the Embassy from Tel Aviv to Jerusalem would be an impediment to the peace process which is ongoing at the present time because obviously we do not wish to interfere with the peace process. At that time, Prime Minister Rabin responded that it was a matter for U.S. Congressmen, Senators and Representatives, to express themselves as they saw fit. He did not appear perturbed that action in this way would be an impediment to the peace process in the Mideast.

The negotiators of Israel and the PLO are scheduled, as I understand it, to take up the status of Jerusalem approximately a year from now. I think there is no doubt about the Israeli position that Jerusalem is an undivided city, and certainly I think there is no doubt in the Congress of the United States about Jerusalem being an undivided city and it being the judgment of Israel as to where its capital should be. The tradition is, the unbroken tradition is that the embassies are located in the capital city, and it is a fundamental matter therefore that the United States Embassy and the Ambassador's residence ought to be located in the capital of Israel just as the Embassy and Ambassador's residence are located in the capital city of every nation with the host nation determining where its capital should be.

We have to make decisions on matters of this sort, Mr. President, as we see it. There is no doubt about the strong relationship between the United States and Israel, but judgments need to be made by Senators and Congressmen as to what we think is appropriate. Many of us have joined over the years in urging that the Embassy be moved to Jerusalem, and I think that the record is consistent over such a long period of time that there is no appropriate way someone could make a claim that it is a matter for political purposes.

The distinguished majority leader, Senator DOLE, has been singled out in a number of newspaper editorials, others of us less prominent than the majority leader have not been so identified, but I am confident that all of us in exercising our judgment in calling for the location of the U.S. Embassy to be in Jerusalem instead of Tel Aviv are doing it because we think it is the appropriate course of conduct, and no one, no fairminded person, can say that when the record goes back to 1983 in the endorsement of this resolution, there could be any political motivation. I think that ought to be considered and the record ought to be set straight on this issue.

CONTRACT WITH THE AMERICAN FAMILY

Mr. SPECTER. Mr. President, I have sought recognition to comment on the proposed Contract With the American Family which was the subject of an early morning "Good Morning America" telecast where Ralph Reed, Jr., appeared as the spokesman in favor of the Contract With the American Family, and I was invited to appear and did appear in expressing my personal views on that subject.

It is my view, Mr. President, that we have the fundamental contract which governs the relationship of Americans with their Government, U.S. citizens with their Government, and the relationships among U.S. citizens, and that basic contract is called the Constitution of the United States. It is a document which has served this country very, very well since 1787. And there is appended to the U.S. Constitution a Bill of Rights which has served this country very well since 1791.

The first amendment of that Bill of Rights provides for freedom of religion, which is the very basis of our American society—freedom of religion, freedom of the press, freedom of speech, freedom of assembly, freedom to petition our Government.

The United States was founded by the Pilgrims who came to this country in the early 1600's, coming for religious freedom. And if I may on a personal note, Mr. President, say that my parents came to this country in the early 1900's for the same reason.

When the so-called Contract With the American Family calls for a constitutional amendment involving freedom of religion and the first amendment, I believe it is not well placed. I believe that the Jeffersonian wall of separation of church and state is firmly established for the benefit of America, and I think it is most unwise to have an amendment to the first amendment freedom of religion, which is what is called for by this newly drafted Contract With the American Family.

When Mr. Ralph Reed, Jr., speaks on behalf of that contract, and when his mentor, Rev. Pat Robertson, speaks on the subject, Reverend Robertson makes the statement that there is no constitutional doctrine of separation of church and state, that it is a lie of the left, I believe that is directly contrary to the Constitution itself, to the intent of the Founding Fathers. Certainly this is not ARLEN SPECTER's statement. This is the statement of Thomas Jefferson, articulating the doctrine of separation of church and state.

When Mr. Ralph Reed, Jr., articulates a need to change the law of the land as articulated by the Supreme Court of the United States in Casey versus Planned Parenthood and Roe versus Wade, which held on a constitutional basis that a woman has a right to choose, there again we are looking for constitutional change, which I submit is unwise and is unwarranted.

There are some parts of the proposals which I think are fine. When they call for an attack on criminals and in support of benefits for victims, I heartily endorse that and have done that for many years since my days as an assistant district attorney, through the DA of Philadelphia, through my service in this body with special reference to the Judiciary Committee.

When they call to crack down on pornography as it relates to children, there is no doubt that the Supreme Court of the United States has set a very rigid standard and we should do all we can to enforce that standard. There, again, is something I have done personally over the years in the district attorney's office in Philadelphia and here in the U.S. Senate.

And when there is a call to have women who are homemakers have available to them the same opportunities for individual retirement accounts, I say that is just and right.

We have a contract with America in the Constitution which has served this country so well. And in the House of Representatives there has been a Contract With America which has been adopted in large measure in the House and has been adopted to some extent in the Senate and is under further consideration and I think will be adopted with few significant changes.

But if every group comes forward to insist, Mr. President, on their own view of what there should be in the relationship between the Government and its citizens, among its citizens, then I suggest to you that we are going to be a very, very fragmented society, and that it is not wise to have any one group seek to determine the social mores of this country.

This country is strong because it is a melting pot. It is strong because we recognize diversity. America is strong because we do not break into individual groups and have one group seek to impose its ideas on any other group.

So when an idea comes forward that there ought to be an amendment to the Constitution, I say no. When the idea comes forward that there ought to be a change in the first amendment's freedom-of-religion provision, I say no. When the idea comes forward that there ought to be a change in the Constitution as it has been interpreted by the Supreme Court of the United States on a woman's right to choose, I say no.

It is time, Mr. President, in America for unifying actions, not for divisive actions. One Contract With America from the Congress elected by the people of the United States is sufficient. What we really need to do is rely on the basic contract with America, and that is the Constitution of the United States.

Mr. President, in the absence of any other Senator on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. DOLE. Mr. President, let me indicate to my colleagues that there is an effort underway to come to some agreement on H.R. 483, the Medicare Select bill. Hopefully, we can reach an agreement and pass the bill, maybe with one or two agreed upon amendments. If we can do it by voice vote, there would not be any additional votes today. We do not have that agreement yet. As soon as we do, I will notify my colleagues. Senator CHAFEE has been working with Senator ROCKEFELLER and others. Hopefully, we will be able to advise our colleagues in 10, 20 minutes.

I yield to the Senator from Rhode Island.

Mr. CHAFEE. The majority leader is exactly right. We are working now with staffs trying to see if we cannot come to an agreement on the problems raised by the Senator from West Virginia, Senator ROCKEFELLER. Everything seems to take longer than anybody thinks around here. So I would say in the next half-hour, I hope, we can have some information on whether indeed there would be the necessity for a vote.

Mr. DOLE. I think everything else that we can take up has been taken up. There is only one nomination on the calendar. There is no other legislation that we can take up at this time.

Tomorrow we will start on the budget. I understand the Democrats will have a caucus at 10:30 in the morning and, hopefully, they will allow us to start on the budget at noon tomorrow. Otherwise, we would have to wait until tomorrow evening to start on the budget. There are 50 hours of debate. Of course, it is more than just 50 hours.

We did indicate to and promise the President that we would try to complete the antiterrorist legislation before Memorial Day. So we would have to finish the budget by next Wednesday night. I think we will need probably a couple of days on the antiterrorism legislation and then there would be the Memorial Day recess, which could be the last recess of the year, but I hope not.

Unless we can work out some accommodation on some of these major bills, the Senate will have no alternative but to stay here for a considerable period of time during what might have been the August recess. If we can start on the budget tomorrow—the House should pass their budget tomorrow. We will start on ours tomorrow and have votes on tomorrow and on Friday and on Monday. If I were Members, I would be back on Monday; if there is ever a Monday on which there will be votes, it will be this Monday on the budget, and on Tuesday and, hopefully, we can complete action on Wednesday. The final legislation would be the antiterrorism legislation.

So I suggest that we complete action on this bill, and if we can do it without votes, we will do it. If not, Members should not leave until they have some final notice.

Mr. WELLSTONE. Mr. President, I want the majority leader to know—and I will share this amendment—I have one amendment which I think may be noncontroversial. I can limit it to 10 minutes. I would like to at least show it to colleagues on the other side of the aisle. It is on the Medicare Select.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A VETO OF THE RESCISSION BILL

Mr. DOLE. Mr. President, I was just reading a wire story here. I find it hard to believe that the House and Senate have just completed action on a rescission bill which would save about $16.4 billion—actually savings around $9 billion, because of the $16.4 billion there is additional money for disaster assistance in Oklahoma City and other programs. I am a little bit bewildered because the President indicates if we send this bill to him—it will be back from the House this week and we will take it up next week—that he will veto it. I am puzzled because the President has said we ought to reduce spending. So we finally get a little reduction in spending and at his first opportunity, he says: No, no; I am not going to sign it. I am going to veto it. And at the very time he is suggesting that he is not going to do anything on the budget, not going to offer any budget of his own. We will have a vote on the President's budget. He is just going to be a spectator and not participate in trying to reduce the deficit.

So it seems to me the President had a golden opportunity here to exercise some leadership and demonstrate to the American people that he wants to reduce Federal spending, but he struck out. He does not want to reduce Federal spending.

So what does he do? He tries to blame Republicans. We have cut too many programs or we have done this or done that. It seems to me the President ought to carefully review what he said today and indicate to the Congress that he will sign this rescission package. It is not easy to save money around here. The taxpayers wonder why we do not do more and this is a good example. We have been working on this rescission bill for weeks and weeks and months, in many cases in a bipartisan way, and before it even goes to the President he says he is going to veto it.

So I think he has missed a golden opportunity and I know he will try to figure out some way to blame Republicans. But we cut programs that were not high priority and in addition we added spending for the disaster in Oklahoma City and other programs the President had requested.

So, Mr. President, if you have an opportunity to look at it one more time, I suggest maybe you might want to reverse your position. Because if you are not willing to even save $9 billion in Federal spending, we are talking about many, many, many, many times that much in the budget resolution we are going to start debating here tomorrow.

If this is any indication of the leadership in the White House, it is probably a forgone conclusion that the President will veto anything we send him on the budget process.

So I would hope that this is not an indication of the trend. I think they have blown a very good opportunity here to demonstrate to the American people that if they are serious about cutting spending, serious about reining in the Government, serious about cutting back on some of the Federal Government which the American people are tired of paying for, but unfortunately it appears the President of the United States does not want to cut anything—"Don't touch anything, don't do this, or don't do that"—he will sit on the sidelines and he will watch the Republicans as we try to bring the budget into balance between now and the year 2002.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JEFFORDS). Without objection, it is so ordered.

EXTENDED USE OF MEDICARE SELECTED POLICIES

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 92, H.R. 483, regarding Medicare Select, and it be considered under the following time agreement: 10 minutes on the bill, to be equally divided between the chairman and ranking minority member of the Finance Committee; that one amendment be in order to be offered by Senators PACKWOOD, CHAFEE, ROCKEFELLER, and KENNEDY, on which there will be 10 minutes for debate equally divided in the usual form; and that following the conclusion of time, that the amendment—namely, the Packwood-Chafee-Rockefeller-Kennedy amendment—be agreed to; and that the bill be read a third time and passed and that the motions to reconsider be laid upon the table all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. CHAFEE. Mr. President, since this has been agreed to, I am authorized to say there will be no further rollcall votes today.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare Select policies to be offered in all States, and for other purposes.

The Senate proceeded to consider the bill.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Senator DOLE be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, the Committee on Finance is hereby giving a commitment to the distinguished Senator from West Virginia, Senator ROCKEFELLER, that there will be a hearing on Medicare Select once the Department of Health and Human Services submits its report on this program.

What we are doing is extending Medicare Select to all 50 States for 18 months. This will continue unless the Secretary of Health and Human Services determines one of the following: That beneficiaries do not save dollars compared to other MediGap policies or that there are additional expenditures under Medicare or that access to quality care is diminished.

Mr. President, there will be a GAO study on whether or not beneficiaries have a problem getting coverage under another MediGap policy if they wish to change policies and recommendations if there are problems.

Mr. President, that is the arrangement here.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Is the Senator from Rhode Island finished?

Mr. CHAFEE. I am.

Mr. ROCKEFELLER. Mr. President, I want to thank the Senator from Rhode Island and to say that I agree with what he said and concur in the amendment and do gladly accept it, as it were, and consider it good.

What this will do, I think, is what was wanted on both sides of the aisle, which is ideally what we strive for around here and rarely achieve. I had been reluctant to see the 14 States expanded to 50; the other side of the aisle wanted to see the 50. I did not have strong feelings about the 50 until I understood more about what the study, which is going on now, will show. I also wanted to make sure that if people leave Medicare Select and want to go to another MediGap Program, that they are not precluded from being able to join another program because of preexisting conditions, which, of course, most older people have.

It seems to me this is a good compromise. This would allow all 50 States to go into this, if they chose to do so. There would be a period of about a year and a half that would take place. Some people will say the insurance industry does not want to do that because a year and a half is not enough time. There are 450,000 people in this program now, so it must be sufficiently interesting to the insurance companies.

I am pleased that there will be hearings on this. That was a part of my original understanding with Senator DOLE. Senator DOLE, who is chairman of the Medicare Subcommittee that I am ranking member on, so to speak, he and I have agreed we will work out, along with others who want to be involved—modifications to Medicare Select if the study and the experience show that that should take place. I think that is entirely proper and fair.

The GAO study itself, I think, is important because it would analyze the problems that seniors are having in switching MediGap policies. When we talk about MediGap policies, not everybody necessarily tunes in on that, but that is incredibly important. Most seniors have MediGap policies to make up for deficiencies in Medicare. These policies are very important to seniors, and that is why all of this be done properly.

So, from my point of view, the compromise is a good one. It was carried out in honorable and good fashion between the Senator from Rhode Island, Senator CHAFEE, Senator PACKWOOD, and, obviously, the majority leader and myself, and Senator KENNEDY. I think it is a good compromise. I yield back the remainder of my time.

Mr. CHAFEE. I know the distinguished Senator from Texas wants to speak briefly on this, and if she needs a few minutes of extra time, I presume the Senator from West Virginia will be agreeable to that.

AMENDMENT NO. 1108

(Purpose: To extend the period for offering Medicare Select policies for 2 years)

Mr. CHAFEE. Mr. President, I send now to the desk an amendment in the nature of a substitute, which is sponsored by Senators PACKWOOD, CHAFEE, DOLE—does Senator HUTCHISON wish to be listed likewise?

Mrs. HUTCHISON. Thank you.

Mr. CHAFEE. Senator HUTCHISON, Senator ROCKEFELLER, and Senator KENNEDY, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. PACKWOOD, for himself, Mr. CHAFEE, Mr. DOLE, Mrs. HUTCHISON, Mr. ROCKEFELLER, Mr. KENNEDY, and Mr. GORTON, proposes an amendment numbered 1108.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PERMITTING MEDICARE SELECT POLICIES TO BE OFFERED IN ALL STATES FOR AN EXTENDED PERIOD.

Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990, as amended by section 172(a) of the Social Security Act Amendments of 1994, is amended to read as follows:

"(c) EFFECTIVE DATE.—(1) The amendments made by this section shall only apply—

(A) in 15 States (as determined by the Secretary of Health and Human Services) and such other States as elect such amendments to apply to them, and

"(B) subject to paragraph (2), during the 5 year period beginning with 1992.

"(2)(A) The Secretary of Health and Human Services shall conduct a study that compares the health care costs, quality of care, and access to services under medicare select policies with that under other medicare supplemental policies. The study shall be based on surveys of appropriate age-adjusted sample populations. The study shall be completed by June 30, 1996.

"(B) The Secretary shall determine during 1996 whether the amendments made by this section shall remain in effect beyond the 5 year period described in paragraph (1)(B). Such amendments shall remain in effect beyond such period unless the Secretary determines (based on the results of the study under subparagraph (A)) that—

"(i) such amendments have not resulted in savings of premiums costs to those enrolled in medicare select policies (in comparison to their enrollment in medicare supplemental policies that are not medicare select policies and that provide comparable coverage),

"(ii) there have been significant additional expenditures under the medicare program as a result of such amendments, or

"(iii) access to and quality of care has been significantly diminished as a result of such amendments.

(3) GAO study:

The GAO shall study and report to Congress, no later than June 10, 1996, on options for modifying the MediGap market to make sure that continuously insured beneficiaries are able to switch plans without medical underwriting or new pre-existing condition exclusions. In preparing such options, the GAO shall determine if there are problems under the current system and the impact of each option on the cost and availability of insurance, with particular reference to the special problems that may arise for enrollees in Medicare Select plans.".

Mr. CHAFEE. Mr. President, just in summary then, what we have done is, First, we have promised that in the Finance Committee we will have a hearing on Medicare Select once the HHS report comes in; second, this legislation extends Medicare Select to all 50 States, the 15 that have it now plus any others that want to come in over the next 18 months, and that it will continue indefinitely, beyond the 18 months unless the Secretary of HHS determines that the beneficiaries do not save money compared to other MediGap policies or there are additional expenditures by the Government under Medicare, or access to or quality of care is diminished. Finally, there will be a GAO study on whether or not the beneficiaries have a problem getting coverage under another MediGap policy, if they wish to change policies. Furthermore, the GAO would make recommendations if there are problems.

So, Mr. President, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I yield whatever time I have.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I do want to be a cosponsor of this substitute because I think this is one of the important positive things that we can do for health care reform. This was brought to my attention by Congresswoman JOHNSON last year when we were afraid that this option for our seniors in the 15 States using it might be lost in the shuffle, and I called Senator CHAFEE and we worked to try to make sure that this was extended. I am very pleased that Senators ROCKEFELLER and CHAFEE have now come to an accommodation to not only extend it for the 50 States but to allow all people in all 50 States on Medicare to have the option of selecting Medicare Select.

Medicare Select is health reform that works. Since I have been in the Senate, we have spent more time discussing the problems in our health care system than about the models of achievement in the industry. What about the reform that has accomplished savings in health care? Medicare Select is a program we should encourage and promote, not to let die.

Medicare Select gives seniors an option to save money. In Texas, more than 8,000 seniors are enrolled in Medicare Select plans and save an average of 15 to 20 percent of the cost of Medicare supplemental plans. This is a significant savings for those on a fixed income. Nationwide, 400,000 people participate in this program in 15 States. If we allowed this program to expire at the end of this year, seniors would be hit with higher premiums.

Medicare Select policies are highly rated by Consumer Reports magazine. In its August 1994 issue, Consumer Reports included 8 Medicare Select policies in the top 15 best value MediGap products nationwide. In fact, almost every health care reform bill introduced in this body last year contained a permanent extension of this program to 50 States.

The need to extend Medicare Select Program is critical. If this program were allowed to expire, premiums could substantially increase for the current Medicare Select enrollees and, more importantly, would limit options for new Medicare beneficiaries. With the recent report by the trustees of the Medicare trust fund telling us of the dire straits of the Medicare Program, it would be unthinkable to start eliminating cost-effective options for providing care to the Medicare beneficiaries.

I appreciate Senator CHAFEE's and Senator ROCKEFELLER's leadership on this. I think they are taking exactly the right approach. I am glad to be a cosponsor of this substitute. When we talk about improving health care, here is one of the key ways we can do it so that we can provide options for all 50 States for our seniors to have the ability to add to their standard Medicare plan options that they would want at an affordable price.

I hope we will adopt this quickly. I hope that the other seniors in the States not now covered will look into this option, because this is the way we can do what this Congress has been trying to do for 2 years, and that is to provide more cost-effective health care availability for our senior citizens. Thank you, Senators CHAFEE and ROCKEFELLER.

I yield the floor.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Texas for her kind comments. She has been a loyal supporter and active worker in connection with this Medicare Select effort. I congratulate her for what she has done.

Mrs. FEINSTEIN. Mr. President, I rise in support of Senate passage of the Medicare Select bill, H.R. 483, which as passed by the House would extend the current demonstration program beyond its June 30, 1995 cutoff date and expand it from 15 States to the entire Nation.

While it has thus far been just a small 3-year demonstration program, the Medicare Select Program has been a tremendous success in the 15 States where it is offered, especially in California.

Medicare Select provides supplementary insurance—for copayments, deductibles, and other out-of-pocket costs—for 100,000 California Medicare recipients (roughly 440,000 nationally).

Seniors enroll in the low-cost Medicare Select Program in exchange for participation in a loose-knit managed care plan.

This network of providers are used to cut premium costs by 10–37 percent over fee for service medigap products, which translates into savings on medigap premiums of up to $25 per month, or $300 per year.

In California, more than 2,200 new enrollees are being added per month, because the Medicare Select Program can provide low-cost, high-quality health benefits, while still retaining a high degree of choice over their physician.

There is no additional cost to the Federal Government.

However, under current law, no new Medicare recipients will be able to enroll in the program after July 1, 1995, when the demonstration program that was authorized in 1990 and extended for 6 months last year will end.

To make sure that select is continued in California, I joined Senator CHAFEE and others in introducing Medicare Select legislation earlier this year, and am pleased that the House was easily able to pass legislation that would extend the program for 5 years and expand it to all 50 States, with a bipartisan vote of 408 to 18.

This Medicare Select legislation should not be confused or dragged down with other, more contentious health care insurance reform issues. Certainly, there are problems with the current medigap insurance program that must be addressed. However, this is a simple, straightforward bill that should not be used for those purposes.

The Medicare Select Program is entirely voluntary, and should not be confused with programs and proposals that would require seniors to join HMO's to get their Medicare. No seniors are being forced or fooled into joining, Medicare Select seniors can still receive service outside their plans, and no insurers are being forced to sell this type of product.

In fact, Consumer Reports has listed Medicare Select products as among its highest rated values, and extension of the Medicare Select Program has been endorsed by the California Commissioner of Insurance as well as the National Association of Insurance Commissioners.

Certainly, managed Medicare programs like Medicare Select must be implemented carefully, in order to ensure that Medicare enrollees are appropriately informed of the benefits of this program, provided with high-quality services, and ensured access to highly trained physicians.

However, the matter at hand is straightforward, and the most important thing is that Medicare Select be extended. Therefore, I urge my colleagues to support the Medicare Select legislation.

Mr. KOHL. Mr. President, I rise in strong support of the Medicare Select Program. The bill we are considering extends Medicare Select for 5 years and allows all States to participate. Fifteen States are currently allowed to take part in this program which provides older Americans with a managed care alternative to supplement their Medicare benefits.

We have a strong managed care tradition in Wisconsin. Many seniors had managed care options during their employment and wish to maintain that choice of care as they retire. Medicare Select provides that opportunity and is very popular in my State.

Mr. President, if we do not act on this legislation, Medicare Select will terminate on June 30. Over 26,000 Medicare recipients in Wisconsin will face increased premiums and limited choices. 450,000 older Americans in the 15 States will be hit with higher costs if the program is not extended.

At a time when the majority party is pursuing a budget proposal that cuts Medicare by $256 billion—which would greatly increase out-of-pocket costs for older American's and ration care—we should not kill a program that currently saves money for older Americans and expands their options.

Detractors from this bill suggest that before we act, we should wait until a study being conducted for the Department of Health and Human Services is completed later this summer. Or will it be completed in December? No one seems to know when it will be ready. The fact is, Mr. President, the study was due this past January. What's the holdup?

There is one date that I am certain of—June 30, 1995—the date when Medicare Select will terminate.

I am eager to see the results of the study I just mentioned. I believe it will have important ramifications on the future of managed care and Medicare. But we must not hold Medicare Select beneficiaries hostage until a date uncertain.

During debate today, concerns have been raised about premium rating based on age and one-time open enrollment periods under medigap policies. I agree that these concerns should be addressed. However, these issues relate to all MediGap policies, not just Medicare Select. We should not single out those who benefit from Medicare Select in order to iron out differences in overall MediGap policy. We can and should review these issues under Medicare reform and broader health care reform legislation.

Medicare Select works for older people in Wisconsin. It saves beneficiaries from 20 to 30 percent in premium costs than under traditional medigap policies.

Medicare Select plans are subject to the same regulations as other medigap policies which are regulated by the States. Select plans must offer sufficient access, have an ongoing quality assurance program, and provide full disclosure of network requirements.

The program saves money for Medicare recipients, does not cost the Federal Government, and perhaps most importantly, provides many beneficiaries and providers their first exposure to managed care.

Mr. President, time is running out. I urge my colleagues to support and extend Medicare Select.

Mr. CHAFEE. Mr. President, I thank Senator ROCKEFELLER, the Senator from West Virginia, for all of his help. I am glad we were able to work this out. It looked a little sticky at first, but we have done it. I look forward to working with him on the Finance Committee as we have the hearings next fall or whenever the report comes in from HHS.

Mr. ROCKEFELLER. I yielded the remainder of my time, so if the Senator will yield.

Mr. CHAFEE. I yield. The Senator may take as much of my time as he wants.

Mr. ROCKEFELLER. There are two points I want to make that I think are very important to those who might be listening and who might be confused at this point. One is that we went from a 5-year extension to a year-and-a-half extension. Then, as the Senator from Rhode Island pointed out, the year-and-a-half extension would then become automatic unless the Secretary of HHS had objections or found problems or whatever. That means that basically—I do not want this to be taken the wrong way—Donna Shalala who is watching this closely—I do not think destructively but constructively—18 months would pass and she would still be there. So that for some of the colleagues who might be worried that this is an automatic extension, it is not, except as the merit allows that. I think that is a matter of great comfort to me, and it is another reason why I appreciate the Senator from Rhode Island. I thank him.

Mr. CHAFEE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 483), as amended, was passed.

H.R. 483

Resolved, That the bill from the House of Representatives (H.R. 483) entitled "An Act to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. PERMITTING MEDICARE SELECT POLICIES TO BE OFFERED IN ALL STATES FOR AN EXTENDED PERIOD.

Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990, as amended by section 172(a) of the Social Security Act Amendments of 1994, is amended to read as follows:

"(c) EFFECTIVE DATE.—(1) The amendments made by this section shall only apply—

"(A) in 15 States (as determined by the Secretary of Health and Human Services) and such other States as elect such amendments to apply to them, and

"(B) subject to paragraph (2), during the 5 year period beginning with 1992.

"(2)(A) The Secretary of Health and Human Services shall conduct a study that compares the health care costs, quality of care, and access to services under medicare select policies with that under other medicare supplemental policies. The study shall be based on surveys of appropriate age adjusted sample populations. The study shall be completed by June 30, 1996.

"(B) The Secretary shall determine during 1996 whether the amendments made by this section shall remain in effect beyond the 5 year period described in paragraph (1)(B). Such amendments shall remain in effect beyond such period unless the Secretary determines (based on the results of the study under subparagraph (A)) that—

"(i) such amendments have not resulted in savings of premiums costs to those enrolled in medicare select policies (in comparison to their enrollment in medicare supplemental policies that are not medicare select policies and that provide comparable coverage),

"(ii) there have been significant additional expenditures under the medicare program as a result of such amendments, or

"(iii) access to and quality of care has been significantly diminished as a result of such amendments.

"(3) The GAO shall study and report to Congress, no later than June 10, 1996, on options for modifying the Medigap market to make sure that continuously insured beneficiaries are able to switch plans without medical underwriting or new pre-existing conditions exclusions. In preparing such options, the GAO shall determine if there are problems under the current system and the impact of each option on the cost and availability of insurance, with particular reference to the special problems that may arise for enrollees in Medicare Select plans.".

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask that we now have a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. DEWINE] is recognized.

Mr. DEWINE. I thank the Chair.

(The remarks of Mr. DEWINE pertaining to the introduction of S. 816 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DEWINE. I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me thank our colleague from Ohio for his usual courtesy for giving me that little heads up so I can get ready to address the Senate.

AUTOMOTIVE TRADE NEGOTIATIONS

Mr. LEVIN. Mr. President, the purpose of the recently collapsed automotive trade negotiations between the United States and Japan and the administration's subsequent announcement to impose reciprocal restrictions on Japanese products and file an unfair trade complaint with the World Trade Organization is simple That purpose is to open Japan's closed and protected auto and auto parts markets.

Yesterday, the administration took an important step toward opening Japan's automotive market to American products by announcing the specific list of Japanese products to be sanctioned in retaliation for the unfair exclusion of American products from Japan. We have listened to 25 years of trade rhetoric from one administration after another promising to open Japan's automotive markets to United States products. Endless talks and endless negotiations have not produced results. Japan's markets remain almost totally closed, and we have lost huge numbers of jobs during this period.

I have a little chart here which shows the statements of American Presidents since 1971. Every President of both parties has had promises made to him and, in turn, has assured the American people that we are going to act to open up Japanese markets to American products.

President Nixon in 1971 said:

> Japan has accelerated its program of liberalizing its restrictions on imports.

When President Nixon said that, the deficit with Japan was $1.3 billion.

In 1974, President Ford said:

> The United States and Japan will negotiate to reduce tariff and other trade distortions.

By that time the trade deficit with Japan had grown to $2.8 billion.

In 1975, President Carter said:

> [W]e're trying to get the Japanese to buy spare parts and parts for assembly of their own automobiles in the U.S.

By that time the deficit had grown to $2.9 billion.

President Reagan in 1983 said:

> [W]e're encouraged by recent commitments to further open Japan's markets.

By that time the trade deficit had grown to $21.6 billion.

In 1991, President Bush issued a statement through the Vice President as follows. Vice President Quayle said:

> The President will take a direct message to the Prime Minister of Japan after the first of the year, saying that we don't anticipate continuing business as usual.

Well, by then the trade deficit was $43.4 billion. By now the trade deficit is over $60 billion.

So actions clearly are long overdue. The administration's decision to tell Japan to either open its markets or it will face concrete reciprocal restrictions is the right thing to do and can best be understood by showing that decision in a historical context of these three decades. When Japan has had total access to America's auto and auto parts markets while we have had no real access to Japan's automotive markets, decades of painful history and lost American jobs have proven that Japan will open its markets only when forced to do so.

The Japan Automobile Manufacturers Association, JAMA, of course, complains about the announced sanctions. In fact, the day after United States Trade Representative Mickey Kantor announced last week that we would take trade actions to open Japan's automotive markets to competition, JAMA put an ad in the Washington Post saying that managed trade does not work. I find it incredible that Japan can even mouth the words "managed trade" given the fact that they have the world's most managed economy and have had the world's most managed economy for decades. They are the undisputed world champions of managed trade. Their wall of protectionism against our auto parts and our automobiles has been built over 30 years.

JAMA's own general director, William Chandler Duncan, before becoming general director of JAMA, wrote a book. That book demonstrated just how Japan was able to stop the opening of its automobile market to the United States and to our automobiles, and that shutting us out of that market has been a three-decade-old conscious policy of the Japanese Government.

In 1973, Mr. Duncan published a book entitled "U.S.-Japan Automobile Diplomacy, A Study in Economic Confrontation." What a painful part of our history is set forth in that book. The book provides strong historical support for the administration's decision to pry open markets which have been discriminatorally closed to American products for three decades. William Duncan's book documents how Japan's automotive industry was protected from outside competition by the Government of Japan in order to protect their domestic auto industry.

As you are going to hear from some of the quotes that I have excerpted from this book, it is a demonstration of unfair trade policy at its worst. American negotiators suffering from Japan fatique have three decades of fruitless negotiation as a cause of that fatique. An American President has finally acted based on the certain belief that, unless we do as other countries and act to force open Japan's market with reciprocal treatment, that market will remain closed.

Mr. Duncan's book gives us a historical view of the years 1967 to 1971. It has only gotten worse.

Mr. President, I ask unanimous consent that selected quotations from the book entitled "U.S.-Japan Automobile Diplomacy, A Study in Economic Confrontation" by William Chandler Duncan be printed in the RECORD.

There being no objection, the materials was ordered to be printed in the RECORD, as follows:

SELECTED QUOTES FROM UNITED STATES-JAPAN AUTOMOBILE DIPLOMACY, A STUDY IN ECONOMIC CONFRONTATION

The period under discussion ranges from the opening of the U.S. diplomatic offensive in the fall of 1967 until the Japanese approval of the Mitsubishi-Chrysler joint venture in June 1971 where Chrysler was limited to 35 percent ownership of Mitsubishi over 3 years.

"The course of trade and capital liberalization was not a smooth one. It involved time-consuming consultations between government and industry, long-term schedules of decontrol, and complicated qualifications attached to concessions granted. This naturally lead to frustrations, if not bitterness, on the part of many American's anxious to share in rapidly expanding Japanese markets." [Introduction, page 16]

"Though this dispute was later attributed to a misunderstanding, it nevertheless clearly indicates the reluctance of the Japanese to negotiate as well as the type of frustration that was to plague the U.S. team continually." [page 4]

[January 1968] "It was natural, therefore, that the Americans would continue to emphasize the abolition of Japan's quantitative trade restrictions. Again the Japanese delegation would make no commitment beyond a vague statement to make a forward looking investigation." [page 6]

"While all the (Japanese) automobile companies indicated a concern over the possible consequences of capital liberalization the Toyota Motor Company was most adamant on the issue. In January (1968) they went as far as amending their articles of incorporation to the effect that no foreigner could sit on the board of directors of the company." [page 7]

[June–August 1968] "The Japanese concessions were so painfully slow in coming, and even then frustratingly offset with other types of market restrictions, that the American government never once gave the Japanese side an affirmative response." [page 15]

[March 1968, LDP mission to Washington] "Congressmen of both parties emphasized in particular the problems of iron and steel imports and the liberalization of automobile parts . . . . especially, Wilbur Mills, Chairman of the House Ways and Means Committee, pointing to the increase of Japanese made automobiles into America, countered by saying that if it is Japanese policy to promote free trade, it should liberalize the import of American automobiles." [page 17]

[June, 1968, USTR's response to Japan's trade opening proposal] "One example that is giving us great concern relates to one of our biggest export industries, and that is the automobile industry. Here the Japanese have clearly illegal restrictions . . . . This has been under bilateral discussion since the beginning of the year. We have finally told them (Japan) that unless they come up with a satisfactory solution in a very short period of time, we will invoke article 23 of the GATT to take them to court, which in turn will most likely give us the ability to retaliate against them." (Special Representative for Trade Negotiations, William M. Roth). [page 19]

"These proposals clearly indicate the continued Japanese determination to exclude foreign automobiles from their markets." [page 21]

[May 1968] "However, it is clear that MITI officials were unwilling to face the possibility of a fully owned Ford assembly plant in Japan." [page 22]

[August, 1968] "Though none of these initial efforts were realized, the considerable discussion generated by them point out the intensity with which many Japanese feared the entrance of the U.S. companies into Japan. Numerous articles and statements in the Japanese press maintained that a 'big three' advance would result in a wave of take-overs of Japanese firms." [page 24]

[Quote from Daiyamondo—Japanese newspaper] "If we liberalize within two years, it is certain that the second class makers will be bought out by foreign capital . . . Since their mission, if they invest, will be to maintain and increase that investment, Americans will surely come to manage it. In that case the Japanese will become slaves driven unmercifully by American capital." [Duncan's comment] "This gives an indication of the strength of feeling among those who advocated the so-called 'Jidosha Joi Ron.' 'Jidosha' means 'automobile' while 'joi Ron' refers to the 'expel-the-barbarian' movement of the mid-nineteenth century." [page 24]

[June 21, 1968, Prime Minister Sato] "Capital liberalization must be advanced according to present day international trends. There is no problem with Japanese shipbuilding, but capital liberalization for automobiles is still impossible even though their exports have been flourishing. Domestic production is a matter of great concern and allowing the improvement of national prosperity is essential. But we would like to promote foreign capital induction in a way that will advance Japan's technology." [page 24]

[July 20, 1968 debate between leaders of the major Japanese automobile firms over whether or not the industry was over protected]. "Keeping in mind the fact that the government has heretofore fostered the automobile industry as an essential industry, the industry will in the future endeavor to develop on a national basis." [Duncan's comment] "This latter point, known as the 'Hakone Declaration' is quite significant in that it was interpreted as a unanimous agreement by Japan's major auto manufacturers not to tie up with foreign capital." [page 28]

"Henry Ford II continued to be the most outspoken representative of the American industry: 'The U.S. Government never gets tough enough . . . if they (the Japanese) go far enough and start importing still more into this country, you'll see a lot of action in Congress.' " [page 32]

[Chairman of the Keidanren's Foreign Capital Problems Committee, Teizo Okamura] "If we continue to hold on like this (to an isolationist attitude) there is the possibility of escalating the 'yellow peril thesis.' Presently there has appeared a movement for voluntary restrictions on steel and synthetic textiles, but it is conceivable that against automobiles as well as voluntary restriction policy will appear requesting a limit of 200,000 cars a year." [page 32]

[February 21, letter from Automobile Manufacturers Association chairman Thomas Mann to acting assistant Secretary of State Joseph A. Greenwald]. ". . . The critical area of discrimination is the severely restrictive policies of Japan with reference to capital investment by the United States auto interests. This is a clear violation of the United States-Japan Treaty of Friendship Commerce and Navigation. The Department of State may wish to consider the advisability of again appraising the government of Japan with these views. At the same time its attention might be called to the consequences of a continuing denial to U.S. manufacturers of opportunities for trade and investment in Japan . . ." [page 35]

[Duncan's comment] "Though the contents of this letter revealed nothing new as far as the U.S. automobile industry's position was concerned, the U.S. Embassy in Tokyo took the unusual step of submitting the Mann letter directly to Kiyohiko Tsurumi, the Economic Affairs bureau Director of the Foreign ministry, a move which created considerable comment in Japan and underscored the dissatisfaction of the U.S. government as well as the auto industry with continued Japanese recalcitrance." [page 36]

[1971] "The automobile concessions, however, while designed to mitigate these growing pressures were, nevertheless, also a reflection of MITI's continuing efforts to insure that the Japanese automobile industry would be managed by Japanese citizens according to Japanese business practices." [page 43]

[October 1969] "The Japanese, however, resisted this (American) pressure (for further concessions), maintaining as before that they needed time to strengthen their industry so that it could remain competitive with the 'big three.' Their reasoning is reflected in a document attached to the cabinet announcement: . . . the actual situation of our country's automobile industry is weak when compared with the mammoth enterprises of the United States and Europe; thee are still considerable differential, in capital power, technical development ability, etc . . .. For this reason, it capital liberalization were to be carried out with the situation as it is now—there is strong danger that big disturbances would be created in the automobile industry, through the advance of foreign capital which has huge capital and enterprise power." [page 44]

[March 1970, letter from Thomas Mann of the American Automobile Manufacturers Association, to the State Department outlining the industry's objections to Japan's October (trade concessions) announcement] "In sum, the Japanese "concession" in the automotive sector, including the most recent decisions announced last October, have been keenly disappointing and, in our judgment, are incompatible with Japan's responsibilities as one of the world's great trading nations." [page 44]

[1971] "Additional pressure on the Japanese automobile industry came as a result of the dramatic increase in exports to the United States during this period." [page 46]

"In July (1971) Toyota Motor Sales vice president Kato revealed that Ambassador to the United States Shimoda had warned the automobile industry that if the rate of exports continued, the Japanese industry might expect either protectionist measures in Congress or antidumping measures such as had recently occurred with color television sets." [page 46]

"Throughout the negotiations the major Japanese automobile companies were recording substantial profits; their exports were expanding at a dramatic rate, and their sales in the United States were increasing during a time when total U.S. automobile sales were generally declining. Furthermore, they were setting up assembly plants and selling equipment abroad." [page 53]

"In short, when the Japanese spoke of reorganizing an industry they were referring to a government, or more specifically, a MITI policy of encouraging the amalgamation of designated industries into larger units so as to keep them competitive with foreign firms on the one hand, and secure from foreign acquisition on the other." [page 53]

"One of the most striking aspects of these negotiations, for example, was the strength of Japanese resistance to the intense pressure applied by the United States. By 1969 Japan's automobile industry was the world's second largest with rapidly expanding exports and foreign assembly operations; yet despite threats of a U.S. import surcharge, appeals to GATT, pressure from international institutions, and the implied consequences embodied in peripheral issues such as textiles, Okinawa, etc. the Japanese refused to allow the American automobile industry any more than a token position in their automobile market." [page 111]

"Since the prewar financial combines dissolved by the occupation have, in different forms, gradually reconstructed themselves, the Anti-Monopoly Law has become the center of one of the more significant controversies in Japan. . . . it did not discourage MITI from pushing for reorganization in the automobile industry, or, for that matter, in other industries as well." [page 113]

". . . given present day conditions, it is unlikely that an American firm will in the near future acquire significant management control of a Japanese automobile assembly operation." [page 114]

"The attempt of the American automobile industry to enter the Japanese market covered three and a half years (fall 1967–June 1971) of frustrating negotiation and contributed significantly to a growing uneasiness in Japanese-American relations." [page 115]

Mr. LEVIN. Mr. President, two-and-a-half decades later, the story is the same. William Duncan was hired to run JAMA, but his own book, written before he was hired by JAMA, is a dramatic reminder of Japan's determination to prevent us from having access to its markets.

Mr. President, I will just read three or four of those excerpts. Again, this is the man who wrote about what happened in the late 1960's and early 1970's, wrote about how Japan acted as a government and an industry to keep American products out of Japan in his book. He is now the director of the Japan Automobile Manufacturers Association, JAMA. But this is what he wrote prior to being hired as the director of JAMA.

In January 1968, this is what Mr. Duncan wrote:

> It was natural, therefore, that the Americans would continue to emphasize the abolition of Japan's quantitative trade restrictions. Again, the Japanese delegation would make no commitment beyond a vague statement to make a forward looking investigation.

That was 1968, January.

In June 1968, again quoting Mr. Duncan's book:

> These proposals clearly indicate the continued Japanese determination to exclude foreign automobiles from their markets.

Then in 1969, this is what Mr. Duncan said was going on:

> By 1969 Japan's automobile industry was the world's second largest with rapidly expanding exports in foreign assembly operations; yet despite threats of a U.S. import surcharge, appeals to GATT, pressure from international institutions, and the implied consequences embodied in peripheral issues such as textiles, Okinawa, etc., the Japanese refused to allow the American automobile industry any more than a token position in their automobile market.

Finally, from Mr. Duncan, the final quote that I will read here, although there are many more that will be in the RECORD, is the following:

> The attempt of the American automobile industry to enter the Japanese market covered three and a half years (the fall of 1967 through June of 1971) of frustrating negotiation and contributed significantly to a growing uneasiness in Japanese-American relations.

Mr. President, there is a long history here. It is written very clearly by the man who took a personal interest in that history at that time. Two and a half decades later, the story is the same, albeit worse. The trade deficit has grown by a about 40 times what it was in 1970.

Mr. Duncan was hired to run JAMA, but his own book written before he was hired by JAMA is a dramatic reminder of how Japan's determination to prevent us from having access to its markets worked. It worked to Japan's advantage. It worked to our disadvantage. It worked to the disadvantage of American workers who have lost jobs by the thousands because Japan has been allowed to maintain a protected market. We have tolerated it. It is long overdue that we stop tolerating it, and I am glad that the President finally took action to knock down that protectionist wall which has surrounded the Japanese automobile and auto parts market for now three decades.

Mr. President, I thank the Chair. I will yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. GORTON. Mr. President, an inquiry: Are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. GORTON. Is there a time limitation on speeches?

The PRESIDING OFFICER. No, there is not.

Mr. GORTON. Thank you, Mr. President.

THE PRESIDENT'S INTENTION TO VETO THE RESCISSIONS BILL

Mr. GORTON. This morning, Mr. President, the President of the United States, Bill Clinton, announced that he intended to veto the rescissions bill, a proposal to save some $16 billion of already appropriated money as a modest down payment on the tremendous fiscal crisis facing the United States today.

This announcement was both a surprise and, I believe, almost unprecedented because, Mr. President, I am informed by the chairman of the Senate Appropriations Committee, and can speak from my own personal knowledge as the chairman of one of the subcommittees of the Appropriations Committee, that there was no communication emanating from the White House and directed at the conference committee which has been in almost continuous session for some 2 weeks on this rescissions bill about the President's desires or about his bottom line.

Mr. President, this is in dramatic contrast with conference committees on appropriations bills in the past, in either the Reagan administration or the Bush administration, in which that contact between the White House and the Congress was constant and in which the bottom line of the President was always well and clearly known to members of the conference.

Here, by contrast, we had a situation in which the White House was almost totally silent with respect to its request about rescissions. The President still pays lip service to a $16 billion goal which must be seven or eight times larger than the goal of his original rescissions bill itself. But only after the deed is done, only when all that remains for the Congress is the formality of the approval of this conference committee report, do we hear, first, that it does not cut enough dollars from what the President describes as pork, and takes too much out of proposals which are of greater interest to him.

Mr. President, a few general remarks.

The President attacks spending on Federal courthouses, on the building of U.S. courthouses in various parts of the country.

Mr. President, I have no dog in this fight. Earlier, there was a courthouse in Seattle in one of these appropriations bills, but it is rescinded in this bill. So none of the so-called pork exists in my State.

And there is also criticism of a number of highway projects that were not rescinded. But note, Mr. President, I said "not rescinded." Every one of these projects which the President of the United States now describes as pork, he signed into law less than a year ago. Last year's appropriations bill for transportation, for the Treasury Department, for GSA, for the Post Office, was signed and hailed by the President. Those bills had every one of these projects contained in them and more besides, a significant number that are rescinded in this bill. So today we have described as pork proposals which the President hailed last year and proposals which spent more last year when he signed them than this year when some but not all have been rescinded.

What in the world could have happened to have changed the President's mind about specific projects in the course of 6 months, he does not tell us.

Mr. President, as recently as about 2 months ago, when the original rescissions debate had been completed in both the House of Representatives and here in the U.S. Senate, the President said of the Senate proposal,

> The bill passed 99 to 0 in the Senate, and I will sign the Senate bill if the House and Senate will send it to me. That's how we should be doing the business of America.

Mr. President, I think it is more than safe to say that the bill the President attacked today is considerably closer to the proposal passed by the Senate just a few weeks ago than those passed by the House of Representatives. In many of the very education and job training areas which the President now uses as an excuse to veto this bill, the Senate provision prevailed, lock, stock, and barrel, was accepted by the conferees. In several others, the compromise is considerably closer to the Senate provision than it is to the House provision, in some, it is 50–50, and maybe, in one or two, it is closer to the House provision.

But, Mr. President, a tiny handful—2, 3, 4 percent—of the dollar amount of rescissions fall into the categories which the President now criticizes.

And, Mr. President, one more repetition of my first point. Not a word about this 1, 2, 3, 4 percent of these rescissions being deal busters, being entirely unacceptable to the President, was communicated to the conference committee while it was in being.

Mr. President, is it not safe to say, overwhelmingly safe to say, that the President of the United States wanted to have something in this bill that could give him a political excuse for a veto? I regret to say that I believe that to be the case.

And one more not incidental point, Mr. President: there is a part of this bill that the President of the United States mentioned today which comes very close to home. I know the Presiding Officer will remember the debate on the floor of the Senate here on so-called timber language. That vote was very close in language, of which I was the author, and was substituted for much more stringent House language in the course of the debate here in the Senate. But even our milder language passed only by a narrow margin.

Briefly, the House of Representatives mandated a certain harvest level of salvage timber in all of the national forests of the United States. The Senate, in language which I wrote, did not mandate any harvest at all but simply freed this administration to carry out its own plans for salvage timber and its own plans for harvest in the forests of the Pacific Northwest under option 9.

In no way did the House language require President Clinton and his administration to do anything that it had not planned to do. It simply freed what the administration wants to do, consistent with its views of all the environmental laws from the constant blizzard of litigation to which it has been subjected over the last several years.

And in fact, as recently as a week ago, the new Secretary of Agriculture, who, of course, has the Forest Service under his jurisdiction, wrote a letter to the chairman of this conference committee, one of the few interventions by anyone in the administration with the work of the conference committee, and said, and I am quoting him:

> We believe that the Senate provision which directs the Secretary, acting through the Chief of the Forest Service, to "prepare, offer and award salvage timber sale contracts to the maximum extent feasible to reduce the backlog volume of salvage timber in the interior" offers a more responsible approach than was adopted by the House.

So a week ago this Senate timber provision was evidently acceptable to the administration. Now, Mr. President, the timber provision which is denominated by the President of the United States today as being a giveaway to big timber companies is the original Senate language amended only in minor details in a way that the administration itself asked us to amend it.

I repeat, Mr. President, what Mr. Clinton now criticizes is a set of provisions his own Secretary of Agriculture approved of by this language a week ago with minor changes that they suggested themselves. It is not the original House language.

Now, our Chief Executive is either ignorant of the rules which govern timber sales in the Forest Service or deliberately disingenuous when he begins, once again, the class warfare of big timber companies. Most of the big timber companies in the Pacific Northwest at least are not eligible to harvest Forest Service timber because they export some of the logs that they own from their own lands—the Plum Creeks, the Weyerhaeusers of this world are not a part of this process at all.

Who are these so-called big timber companies that will benefit from this? Let me read you a couple of letters that I have received in the course of the last month.

The first one is from Tom Mayr, of the Mayr Bros. Co. in Hoquiam, WA, a local mill in that community. I am quoting:

> Slade, you must realize that this amendment is the single most important piece of legislation in over 5 years to Mayr Brothers and many independent sawmills like ours. Congress and President Clinton have said that they would get us timber, but there hasn't been any significance sold since 1990 on the Olympic National Forest. Your amendment would realize four of our 318 timber sales with enough log volume to run the large log mill two shifts for 1 year. This would put 50 people back to work immediately.

Or another one from one of what apparently are these huge timber conglomerates, the Hurn Shingle Co. in Concrete, WA, and I quote:

> It is nice to see that there is some hope for our shake and shingle mill. We have not operated our mill, due to lack of raw materials, since December 1993. We only operated 12 weeks in 1993. So, as you and I both know, any help you can give us would be encouraging. These amendments are very important for our company, as a wood supply would be something that we have not had for a very long time.

These are typical responses, Mr. President, and it is that kind of small-town, independently owned company providing employment where it is not otherwise available that will be modest beneficiaries of the President's inadequate, in my view, option 9 and of the opportunity to harvest timber which has been partly destroyed by forest fires or by bug infestation all across the country and which, within a relatively short period of time, will rot to the point at which it is not worth anything from a commercial point of view but becomes magnificent kindling wood for future forest fires, fires like that which devastated the Northwest last summer.

So, Mr. President, we have a Chief Executive who criticizes timber provisions his own Secretary of Agriculture previously approved, who criticizes as pork spending on public buildings that he approved by his signature on appropriations bills last year, and who criticizes modest reductions in programs he likes about which he was entirely silent during the deliberations of the conference committee.

Mr. President, that is not the way in which a Chief Executive of this country should act. It is not responsible to the affected people. It is not responsive to his duty to help us to begin to work toward a balanced budget. It is not responsive in his relationships with this body or with the House of Representatives.

I regret this politicization of the process, and I have every hope that if we must begin this process over again, we say to the President, what we said this time we mean next time and if you want cooperation, if you want the additional money you have asked for for other programs, you need to be willing to work with the Congress and stick to your own word in the future.

This is an extremely disappointing message, not just to the Members of this body who have worked so hard on coming up with an important bill, but because of its destructive impact on a drive toward responsibility, fiscal prudence, and a change in the way in which politics is practiced in the United States.

We were selected last year, Mr. President—I know this is particularly true with respect to the Presiding Officer—because we were going to do things differently and keep our commitments. We have done so, and we are now frustrated in carrying out the people's will by this action.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO KAY RIORDAN STEUERWALD

Mr. PRESSLER. Mr. President, I wish to pay tribute to Kay Riordan Steuerwald, who passed away earlier this week in Rapid City after a lengthy battle with cancer. South Dakota has lost an outstanding citizen.

Kay was one of South Dakota's premier leaders in the tourism industry for many years. To her many friends in South Dakota and throughout the Nation, Kay's name always will be associated with Mount Rushmore. As president of the Mount Rushmore Mountain Co., Inc., Kay ran a first-rate, visitor-friendly concession operation at our Nation's shrine to democracy for 42 years until 1993. She attributed her success to an emphasis on good service and reasonable prices.

Kay also was a leader on the national level in tourism and national park concession circles. In the early 1980's, I recommended Kay's appointment to the U.S. Senate National Travel and Tourism Advisory Council. Through her position on that council and her leadership in numerous other organizations, Kay was an outspoken advocate for the tourism industry, which has tremendous economic impact in all States.

Kay provided an excellent role model for women seeking to become small business owners. This is a reflection of her business acumen and her adherence to the work ethic. She succeeded as a businesswoman during a period when for many years business was traditionally considered a man's world. Her first job was in the South Dakota Transportation Department in Pierre during the administration of Democratic Gov. Tom Berry in the 1930's. Her career as a business owner began with her purchase of a coffeeshop and subsequently a hotel in Martin, SD. In 1941, she left Martin to become manager of the State Game Lodge in Custer State Park. Ten years later, she began operating the concession at Mount Rushmore.

Over the years, Kay touched the lives either directly or indirectly of literally millions of visitors to Mount Rushmore. Countless individuals have fond memories of a wonderful dinner—topped off by a piece of the Mountain Co.'s famous strawberry pie—in the Buffalo Dining Room gazing out the windows at the priceless view of our four great Presidents on Mount Rushmore.

Kay was very active in many organizations and community activities. Too numerous to mention all of them, her civic involvement included the National Park Concessionaires, National Federation of Independent Businesses, South Dakota Tourism Advisory Board, National Park Foundation, South Dakota Historical Society, American Council of the Arts, South Dakota Cultural Heritage Center, South Dakota 4–H Foundation, and executive board of A Christian Ministry in the National Parks.

Having led a life full of accomplishments, Kay also received numerous awards over the years. She was one of the few women ever to be named an Honorary Park Ranger by the National Park Service. She was the first woman to receive the South Dakotan of the Year Distinguished Service Award from the University of South Dakota and was named South Dakota Small Business Person of the Year by the Small Business Administration in 1980. May 5, 1982, was designated as Kay Riordan Day by Gov. Bill Janklow. In 1985, Kay received South Dakota's prestigious Ben Black Elk Award for Tourism.

In addition to her philanthropic contributions to numerous civic projects, Kay also helped many people privately on an individual basis. She frequently took young people under her wings and assisted them with furthering their education or getting started in business. Kay was a strong patron of the arts, particularly for native American artists.

Those of us who knew Kay can recall our own special encounters with her. I recall Kay's gracious hospitality when my wife, Harriet, and I spent our honeymoon in the Black Hills in the early 1980's. Kay always made visitors feel welcome whenever they stopped by her business or her second-story office with the beautiful view of Mount Rushmore. Many lessons can be learned from Kay's perseverance in the business world, her strongly held personal convictions, and her courageous struggle with cancer these past few years.

South Dakota has lost a true pioneer. In business, in her community, and in her heart, Kay was a trailblazer. Harriet and I extend our sympathies to her husband, Charlie; her nephew, Jack; and all her family and friends.

RECOGNIZING RECIPIENTS OF THE GIRL SCOUT GOLD AWARD FROM THE STATE OF MARYLAND

Ms. MIKULSKI. Mr. President, each year an elite group of young women rise above the ranks of their peers and confront the challenge of attaining the Girl Scouts of the United States of America's highest rank in scouting, the Girl Scout Gold Award.

It is with great pleasure that I recognize and applaud young women from the State of Maryland who are this year's recipients of this most prestigious and time honored award.

These young women are to be commended on their extraordinary commitment and dedication to their families, their friends, their communities, and to the Girl Scouts of the United States of America.

The qualities of character, perseverance, and leadership which enabled them to reach this goal will also help them to meet the challenges of the future. They are our inspiration for today and our promise for tomorrow.

I am honored to ask my colleagues to join me in congratulating the recipients of this award from the State of Maryland. They are the best and the brightest and serve as an example of character and moral strength for us all to imitate and follow.

Finally, I wish to salute the families, Scout leaders, and the Girl Scouts of Central Maryland who have provided these young women with continued support and encouragement.

It is with great pride that I submit a list of this year's Girl Scout Gold Award recipients from the State of Maryland, and I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GIRL SCOUT GOLD AWARD RECIPIENTS

Keri Albright.
Laura Bopp.
Elizabeth Brousil.
Linda Chermock.
Christina Chillemi.
Christy Gordon.
Devon Grove.
Sarah Hoyt.
Jennifer Kehm.
Melissa Kowalczyk.
Julie Kowalewski.
Janet Kuba.
Kara Lundell.
Carole Madden.
Karen Malinowski.
Jodie Manning.
Kristy Manning.
Rebecca Milanoski.
Katie Owens.
Leslie Perkins.
Dana Phillips.
Patricia L. Potler.
Virginia-Marie Prevas.
Courtney Risch.
Kristen Repoli.
Nicole Richardson.
Danielle Rivera.
Jennifer Rutledge.
Sherry D. Servia.
Shannon Skidmore.
Catherine Smith.
Katherine E. Stephens.
Laura A. Vanbrunt.
Rachel Wright.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, the skyrocketing Federal debt which long ago soared into the stratosphere is in a category like the weather—everybody talks about it but almost nobody had undertaken the responsibility of trying to do anything about it until immediately following the elections last November.

When the 104th Congress convened in January, the House of Representatives approved a balanced budget amendment. In the Senate only 1 of the Senate's 54 Republicans opposed the balanced budget amendment; only 13 Democrats supported it. Thus, the balanced budget amendment failed by just one vote. There will be another vote later this year or next year.

As of the close of business yesterday, Tuesday, May 16, the Federal debt stood—down to the penny—at exactly $4,882,765,436,860.06 or $18,535.06 for every man, woman, and child on a per capita basis.

MESSAGES FROM THE HOUSE

At 2:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that pursuant to the provisions of section 4355(a) of title 10, United States Code, the Speaker appoints the following Members as members of the Board of Visitors to the United States Military Academy on the part of the House: Mrs. KELLY, Mr. TAYLOR of North Carolina, Mr. HEFNER, and Mr. LAUGHLIN.

The message further announced that pursuant to the provisions of section 6968(a) of title 10, United States Code, the Speaker appoints the following Members as members of the Board of Visitors to the United States Naval Academy on the part of the House: Mr. SKEEN, Mr. GILCHREST, Mr. HOYER, and Mr. MFUME.

The message also announced that pursuant to the provisions of section 5(b) of Public Law 93-642, the Speaker appoints the following Members as members of the Board of Trustees of the Harry S Truman Scholarship Foundation on the part of the House: Mr. EMERSON and Mr. SKELTON.

The message further announced that pursuant to the provisions of section 1505 of Public Law 99-498, the Speaker appoints the following Members as members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development on the part of the House: Mr. YOUNG of Alaska and Mr. KILDEE.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1995" (Rept. No. 104-84).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON (for himself, Mr. REID, Mr. MOYNIHAN, Mr. BRYAN, Mr. BROWN, Mr. CAMPBELL, Mr. MACK, Mr. GRAHAM, Mrs. BOXER, Mrs. FEINSTEIN, and Mr. ROBB):

S. 811. A bill to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 812. A bill to establish the South Carolina National Heritage Corridor, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI:

S. 813. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself, Mr. INOUYE, and Mr. DOMENICI):

S. 814. A bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes; to the Committee on Indian Affairs.

By Mr. HATCH:

S. 815. A bill to amend the Internal Revenue Code of 1986 to simplify the assessment and collection of the excise tax on arrows; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. STEVENS, Mr. ASHCROFT, Mr. HATCH, and Mr. THURMOND):

S. 816. A bill to provide equal protection for victims of crime, to facilitate the exchange of information between Federal and State law enforcement and investigation entities, to reform criminal procedure, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO (for himself and Mr. DOLE):

S. Res. 120. A resolution establishing a special committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters; considered and agreed to.

By Mr. FEINGOLD (for himself, Mrs. KASSEBAUM, Mr. HELMS, Mr. PELL, and Mr. SIMON):

S. Res. 121. A resolution in support of the Angola Peace Process; considered and agreed to.

By Mr. HELMS (for himself, Mr. CRAIG, Mr. COVERDELL, Mr. MACK, Mr. THOMAS, Mr. SMITH, and Mr. D'AMATO):

S. Con. Res. 14. A concurrent resolution urging the President to negotiate a new base rights agreement with the Government of Panama to permit United States Armed Forces to remain in Panama beyond December 31, 1999; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON (for himself, Mr. REID, Mr. MOYNIHAN, Mr. BRYAN, Mr. BROWN, Mr. CAMPBELL, Mr. MACK, Mr. GRAHAM, Mrs. BOXER, Mrs. FEINSTEIN, and Mr. ROBB):

S. 811. A bill to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes; to the Committee on Environment and Public Works.

THE WATER DESALINIZATION RESEARCH AND DEVELOPMENT ACT OF 1995

Mr. SIMON. Mr. President, I am introducing a bill today which is being cosponsored by Senator REID of Nevada, Senator MOYNIHAN of New York, Senator BRYAN of Nevada, Senator BROWN of Colorado, Senator NIGHTHORSE CAMPBELL of Colorado, Senator MACK of Florida, Senator GRAHAM of Florida, Senator BOXER of California, Senator FEINSTEIN of California, and Senator ROBB of Virginia.

It is legislation that has, frankly, passed this body twice but has gotten mired down not because of controversy but because of jurisdictional problems over in the other body. It is a bill that says we have to do more in the area of research on finding less expensive ways of converting salt water to fresh water.

I do not have a chart here of the world population and water supply, I regret to say. I will get that later when we are on the floor for discussion. But it would be dramatic. We have in the world today somewhere between 5.5 billion and 5.8 billion people. By the middle of the next century, when these pages will be around, in the middle of the next century, we will have around 10 billion people. The world population is going up like this. Our water supply is not going up. It is constant. You do not need to be an Einstein to recognize that we are headed for problems. This is not new.

On April 12, 1961, President John F. Kennedy was asked at a press conference what would be the great breakthrough he would like to see in his administration. He responded:

> We have made some exceptional scientific advances in the last decade. They are not as spectacular as the man in space or the first Sputnik, but they are important. I have said that I thought that if we could ever competitively, at a cheap rate, get fresh water from salt water, that it would be in the long-range interests of humanity which would really dwarf any other scientific accomplishments. I am hopeful that we will intensify our efforts in that area.

And for a short time after his Presidency, we were doing some things in this area, and then because there is not an immediate problem, interest diminished and research has diminished. Yet, we face some very serious problems. We know already about what is happening in California. The interesting thing is that the areas where we have severe water shortages frequently are right at the water's edge. California has problems. I was just reading about Tampa, FL, the other day. Virginia Beach, VA, has problems. These are areas right at the water's edge.

Our problems, frankly, Mr. President, are very minor compared to the problems in the rest of the world. If we can look at my next chart here, this is what is happening in terms of water shortages versus water scarcity. The nations in blue face water scarcity, and water shortage are the nations in red. You will see what is happening very clearly. When you talk about water scarcity, you are talking about nations where the average water consumption is dramatically less—less than half of what we consume in the United States per person in terms of water. They face very severe problems.

So those are the figures in blue, going from 7 nations in 1955 to 20 nations in 1990, and 34 nations are anticipated to have serious problems by the year 2025.

In the Middle East, it is very interesting that you had President Sadat, who was a giant in this century, saying, "Egypt will never go to war again for land. If we go to war, it will be for water." In the Middle East, also, both Prime Minister Rabin and King Hussein have said, "The potential for conflict in our area is because of water." The agreement that has been worked out between Jordan and Israel includes an agreement on water. It is just vital. Mauritania on the northern coast of Africa, when I was there a few years ago, was growing 8 percent of their own food. It is a desperately poor country right on the ocean. We do have a process of converting salt water to fresh water, inexpensive enough that we can use it for drinking water. But 85 percent of the water that we use is used for industrial and agricultural purposes. And it is not inexpensive enough to use for those purposes.

Spain is experiencing a drought right now. Spain has a number of desalination plants, but they face major long-term problems. Greece and Cyprus have a very similar situation. You can go through a whole series of countries. The Cape Verde islands are totally dependent on desalination, except for very, very minimal rain fall that they get. Egypt, right on the Mediterranean, has a mushrooming population. If the Presiding Officer has not had a chance to visit Egypt, I hope he will one of these years. You see that population in the capital city and you know people have to eat and they have to drink. Egypt is dependent on 2 percent of its land. Yet, it is right on the Mediterranean. It potentially can be a garden spot. We have to turn that around.

Senator REID joined me, I guess about 3 years ago, on a trip where we looked at some water spots, including the Aral Sea. We looked in Uzekistan. The Aral Sea was the fourth largest body of water in the world, and the Aral Sea, Mr. Khrushchev was told, "You can divert some of the water for cotton growing and it will eventually get back into the Aral Sea." And, in the old Soviet Union, when the boss said, "Do this," it was done. And the water began to recede.

Senator REID and I stood at the banks of the Aral Sea and looked down 50 or 75 feet to dry land. The dramatic scene there was because shipowners—of course, not shipowners, but the people who ran them; everything was owned by the Soviet Union—the people who ran the ships were told, "Just keep your ships there, the water will come back." The water did not come back. And you had this dramatic scene of ships sitting on dry land, 50 miles from where the water is.

It is a powerful thing. We have had headlines about oil shortages and gasoline shortages. Let me tell my colleagues, they are minor compared to the headlines we are going to have in another decade or two if we do not get ahold of this question of converting salt water to fresh water more inexpensively. What we are asking in this legislation that has now twice passed this body unanimously is that we devote some of our resources to this cause. It is extremely important. Water is absolutely essential for the survival of humanity.

UNICEF, the United Nations Children's Fund, tells us that 35,000 children worldwide die each day, the majority on the African Continent, either from hunger or disease caused either by lack of water or by contaminated water. I wrote to Secretary General Boutros Boutros-Ghali some time ago about what I am doing, and he wrote back:

> I am particularly pleased to hear of your interest in water issues and the legislation you are sponsoring on research on less costly desalinization methods. As you rightly point out, such concerns are uppermost in the minds of people in regions where fresh water is scarce, not least in my own part of the world. During my tenure as a Secretary General, I will do my utmost to promote international cooperation regarding this most crucial resource.

This may seem like something someone from Illinois or Oklahoma should not be that much interested in. It affects all of us. It affects the future stability of the world, and it affects us even very directly in terms of prices. When California does not get enough water, fruits, and vegetables from California are going to cost more in Oklahoma and in Illinois. But it is much more significant than that. If we do not find a less expensive way of converting salt water to fresh water, and more than 90 percent of the world's water is salt water, the world is headed for some very, very difficult times. I hope we will pass this legislation and do the responsible thing.

I have one more chart here showing what is happening in the United States alone. The United States, again, does not face problems anywhere near as severe as the rest of the world. But you see the water availability is the blue line and you see it going down like this. You see our population going up. It is clearly a problem that the United States has to face and the world has to face.

I am pleased to have bipartisan cosponsorship. I am pleased this body has passed this legislation before. I hope we will do it again, and I hope our friends in the House can get the jurisdictional problems solved and we can pass it over there. I believe it is genuinely noncontroversial and is clearly needed by this country and by the world.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Desalinization Research and Development Act of 1995".

SEC. 2. DECLARATION OF POLICY.

In view of the increasing shortage of usable surface and ground water in many parts of the United States and the world, it is the policy of the United States to—

(1) perform research to develop low-cost alternatives for desalinization of saline water and reclamation of nonusable nonsaline water to provide water of a quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses; and

(2) provide, through cooperative activities with local sponsors, desalinization and water reclamation processes and facilities that provide proof-of-concept demonstrations of advanced technologies for the purpose of developing and conserving the water resources of this Nation and the world.

SEC. 3. DEFINITIONS.

In this Act:

(1) DESALINIZATION.—The term "desalinization" means the use of any process or technique (by itself or in conjunction with other processes or techniques) for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from saline water.

(2) NONUSABLE NONSALINE WATER.—The term "nonusable nonsaline water" that is not saline water but, because it contains biological or other impurities, is not usable water.

(3) RECLAMATION.—The term "reclamation" means the use of any process or techniques (by itself or in conjunction with other processes or techniques) for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from nonusable nonsaline water.

(4) SALINE WATER.—The term "saline water" means sea water, brackish water, and other mineralized or chemically impaired water.

(5) SPONSOR.—The term "sponsor" means a local, State, or interstate agency responsible for the sale and delivery of usable water that has the legal and financial authority and capability to provide the financial and real property requirements needed for a desalinization or reclamation facility.

(6) UNITED STATES.—The term "United States" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(7) USABLE WATER.—The term "usable water" means water of a high quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses.

SEC. 4. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—In order to gain basic knowledge concerning the most efficient means by which usable water can be produced from saline or nonusable nonsaline water, the Secretary of the Interior, in consultation with the Secretary of the Army, shall conduct a basic research and development program under this section.

(b) CONTENTS OF PROGRAM.—For the basic research and development program, the Secretary of the Interior shall—

(1) conduct, encourage, and promote fundamental scientific research and basic studies to develop the best and most economical processes and methods for converting saline water and nonusable nonsaline water into usable water through research grants and contracts—

(A) to conduct research and technical development work;

(B) to make studies in order to ascertain the optimum mix of investment and operating costs;

(C) to determine the best designs for different conditions of operation; and

(D) to investigate increasing the economic efficiency of desalinization or reclamation processes by using the processes as dual-purpose co-facilities with other processes involving the use of water;

(2) study methods for the recovery of byproducts resulting from the desalinization or reclamation of water to offset the costs of treatment and to reduce the environmental impact from those byproducts; and

(3) prepare a management plan for conduct of the research and development program established under this section.

(c) COORDINATION WITH OTHER AGENCIES.—

(1) IN GENERAL.—The Secretary of the Interior shall conduct activities under this section in coordination with—

(A) the Department of Commerce, specifically with respect to marketing and international competition; and

(B)(i) the Departments of Defense, Agriculture, State, Health and Human Services, and Energy;

(ii) the Environmental Protection Agency;

(iii) the Agency for International Development; and

(iv) other concerned public and private entities.

(2) OTHER AGENCIES.—In addition to the agencies identified in paragraph (1), other interested agencies may furnish appropriate resources to the Secretary of the Interior to further the activities in which such other agencies are interested.

(d) AVAILABILITY OF RESEARCH.—All research sponsored or funded under this section shall be carried out in such a manner that information, products, processes, and other developments resulting from Federal expenditures or authorities shall (with exceptions necessary for national defense and the protection of patent rights) be available to the general public.

(e) RELATIONSHIP TO ANTITRUST LAWS.—Section 10 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5909) shall apply to the activities of persons in connection with grants and contracts made by the Secretary of the Interior under this section.

SEC. 5. DESALINIZATION DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of the Army shall jointly—

(1) conduct a desalinization development program; and

(2) in connection with the program, design and construct desalination facilities.

(b) SELECTION OF DESALINIZATION DEVELOPMENT FACILITIES.—

(1) APPLICATION.—A sponsor shall submit to the Secretary of the Interior and Secretary of the Army an application for the design and construction of a facility and certification that the sponsor will provide the required cost sharing.

(2) SELECTION.—Facilities shall be selected subject to availability of Federal funds.

(c) COST SHARING.—

(1) INITIAL COST.—The initial cost of a facility shall include—

(A) design costs;

(B) construction costs;

(C) lands, easements, and rights-of-way costs; and

(D) relocation costs.

(2) MINIMUM SPONSOR SHARE.—The sponsor for a facility under the desalinization development program shall pay, during construction, at least 25 percent of the initial cost of the facility, including providing all lands,

easements, and rights-of-way and performing all related necessary relocations.

(3) MAXIMUM FEDERAL SHARE.—The Secretary of the Interior and Secretary of the Army shall pay not more than $10,000,000 of the initial cost of a facility.

(d) OPERATION AND MAINTENANCE.—Operation, maintenance, repair, and rehabilitation of a desalinization facility shall be the responsibility of the sponsor of the facility.

(e) REVENUE.—All revenue generated from the sale of usable water from a desalinization facility shall be retained by the sponsor of the facility.

SEC. 6. MISCELLANEOUS AUTHORITIES.

In carrying out sections 5 and 6, the Secretary of the Interior and the Secretary of the Army may—

(1) accept technical and administrative assistance from a State or other public entities and from private persons in connection with research and development activities relating to desalinization and reclamation of water;

(2) enter into contracts or agreements stating the purpose for which the assistance is contributed and, in appropriate circumstances, providing for the sharing of costs between the Secretary and such entities or persons;

(3) make grants to educational and scientific institutions;

(4) contract with educational and scientific institutions and engineering and industrial firms;

(5) by competition or noncompetitive contract or any other means, engage the services of necessary personnel, industrial and engineering firms, and educational institutions;

(6) use the facilities and personnel of Federal, State, municipal, and private scientific laboratories;

(7) contract for or establish and operate facilities and tests to conduct research, testing, and development necessary for the purposes of this Act;

(8) acquire processes, data, inventions, patent applications, patents, licenses, lands, interests in lands and water, facilities, and other property by purchase, license, lease, or donation;

(9) assemble and maintain domestic and foreign scientific literature and issue pertinent bibliographical data;

(10) conduct inspections and evaluations of domestic and foreign facilities and cooperate and participate in their development;

(11) conduct and participate in regional, national, and international conferences relating to the desalinization of water;

(12) coordinate, correlate, and publish information which will advance the development of the desalinization of water; and

(13) cooperate with Federal, State, and municipal departments, agencies and instrumentalities, and with private persons, firms, educational institutions, and other organizations, including foreign governments, departments, agencies, companies, and instrumentalities, in effectuating the purposes of this Act.

SEC. 7. DESALINIZATION CONFERENCE.

(a) ESTABLISHMENT.—The President is requested to instruct the Administrator of the Agency for International Development to sponsor an international desalinization conference within 1 year after the date of enactment of this Act.

(b) PARTICIPANTS.—Participants in the conference under subsection (a) should include scientists, private industry experts, desalinization experts and operators, government officials from the nations that use and conduct research on desalinization, and government officials from nations that could benefit from low-cost desalinization technology (particularly nations in the developing world), and international financial institutions.

(c) PURPOSE.—The conference under subsection (a) shall—

(1) explore promising new technologies and methods to make affordable desalinization a reality in the near term; and

(2) propose a research agenda and a plan of action to guide longer-term development of practical desalinization applications.

(d) FUNDING.—

(1) AID FUNDS.—Funding for the conference under subsection (a) may come from operating or program funds of the Agency for International Development.

(2) OTHER NATIONS.—The Agency for International Development shall encourage financial and other support from other nations, including those that have desalinization technology and those that might benefit from such technology.

SEC. 8. REPORTS.

(a) IN GENERAL.—Not later than 1 year after following the date of enactment of this Act, and annually thereafter, the Secretary of the Interior, in consultation with the Secretary of the Army, shall prepare a report to the President and Congress concerning the administration of this Act.

(b) CONTENTS.—A report under subsection (a) shall describe—

(1) the actions taken by the Secretary of the Interior and the Secretary of the Army during the calendar year preceding the year in the report is submitted; and

(2) the actions planned for the following calendar year.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to carry out section 4—

(1) $5,000,000 for fiscal year 1996;

(2) $10,000,000 for fiscal year 1997; and

(3) such sums as are necessary for fiscal years 1998, 1999, and 2000.

(b) DESALINIZATION DEVELOPMENT PROGRAM.—There are authorized to be appropriated to carry out section 5 such sums as are necessary, up to a total of $50,000,000, for fiscal years 1996, 1997, 1998, 1999, and 2000, of which 50 percent shall be made available to the Department of the Interior and 50 percent shall be made available to the civil works program of the Army Corps of Engineers.

By Mr. THURMOND:

S. 812. A bill to establish the South Carolina National Heritage Corridor, and for other purposes; to the Committee on Energy and Natural Resources.

THE SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR ACT OF 1995

Mr. THURMOND. Mr. President, I rise today, along with Senator HOLLINGS, to introduce the South Carolina National Heritage Corridor Act of 1995. This legislation would establish a framework to help protect, conserve, and promote the natural, historical, cultural, and recreational resources of the region which have national significance. A companion bill, H.R. 1553, was introduced in the House of Representatives on May 3, 1995.

Specifically, this legislation would establish a national heritage corridor in South Carolina running from the western Piedmont down along the Savannah Valley toward Augusta, GA, then following the route of the old Charleston to Hamburg Railroad along the Ashley River Road to Charleston. This route contains 14 South Carolina counties: Oconee, Pickens, Anderson, Abbeville, Greenwood, McCormick, Edgefield, Aiken, Barnwell, Orangeburg, Bamberg, Dorchester, Colleton, and Charleston.

Further, this measure would establish a 23 member Commission, consisting of county representatives, South Carolina State officials, and Federal officials, including the Director of the National Park Service. It authorizes the Commission to oversee the development and implementation of a corridor management action plan. This plan will inventory the resources of the heritage corridor and discuss advisory standards for the use and promotion of those resources. Mr. President, let me emphasize that this legislation protects private property rights and will not interfere with local land use ordinances or plans.

The legislation requires the active participation of the Secretary of the Interior, who shall appoint Commission members, approve the corridor management action plan, provide assistance to the Commission, and report to Congress on the actions taken to carry out the act.

Finally, this legislation requires that the Federal cost share percentage, including annual operating expenses, may not exceed 50 percent. However, non-Federal matching funds may be not only cash, but also services or in-kind contributions.

Mr. President, the heritage corridor concept is a technique that has been used successfully in various parts of our Nation to promote historic preservation, natural resource protection, tourism, and economic revitalization for both urban and rural areas. Congress, recognizing that heritage corridors provide a flexible framework for governmental and private organizations to work together on a coordinated regional basis, has recognized and formally designated numerous heritage corridor areas throughout the Nation. Many more are in various stages of planning or development.

The initiative to develop the South Carolina National Heritage Corridor is an outgrowth of a grassroots effort in my home State to promote the history, culture, natural resources, and economy of the region. County visitor councils, historical societies, and other private and government entities are now participating in this project.

The corridor project was awarded a Federal grant for a demonstration project linking cultural and economic development. Another grant has been awarded to conduct a feasibility study and plan for the development and management of the corridor. That work is well underway and will be completed this year.

As a result of those planning efforts, the corridor project has conducted a thorough asset inventory and is exploring management and marketing alternatives. The enactment of this legislation, to provide for national recognition, will permit the heritage corridor project to broaden its efforts to preserve and promote the resources of the corridor and to expand tourism and economic development in the region.

Mr. President, I would like to describe some of the historic, cultural, and natural resources and sites of national significance which are contained in the South Carolina National Heritage Corridor. Let me begin by referencing correspondence between Dr. Rodger E. Stroup of the South Carolina State Museum and Ms. Joan Davis of the South Carolina Department of Parks, Recreation and Tourism. In his letter, Dr. Stroup describes the path of the corridor, noting many specific sites and areas of national significance. I ask unanimous consent that a copy of Dr. Stroup's correspondence be printed in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. In many respects, the heritage corridor forms a microcosm of the lower South and its history. In the upper region of the corridor, during the 1750's and 1760's, settlers and migrants came in search of rich lands. This area became a center of cotton and agricultural production. As westward lands opened up for settlement, it was a major jumping off point for migration during the antebellum years.

Significant events in the industrial and transportation history of the South took place in the corridor. Graniteville was the birthplace of the southern textile industry. It is the site of the first large-scale cotton mill in the South, built in 1845. This became one of the most important manufacturing centers in the pre-Civil-War South, a model for the textile industry. Located on one of the South's major cotton routes, it remains a textile center today. To accommodate the westward moving cotton crop, South Carolina merchants built the Charleston to Hamburg railroad, the longest railroad in the Nation in 1832. The corridor also contains precious natural resources. The Francis Beidler Forest contains the largest remaining virgin stand of bald cyprus and tupelo trees in the world. Additionally, the Cathedral Bay Heritage Wildlife Preserve contains unique geological features known as the Carolina Bays. These oval depressions in the earth, the origin of which remains a mystery, hold black water lakes. The significant riverine and estuarine systems of the ACE Basin form an ecologically diverse area which contains rare plants and serves as a wildlife and waterfowl habitat.

Finally, Mr. President, located within the corridor are numerous historical sites and national historic landmarks. For example, Middleton Place, on the banks of the Ashley River is an 18th century plantation and the site of America's oldest landscaped gardens. It has survived revolution, civil war, and natural disasters. It was home to Henry Middleton, President of the Continental Congress and his son, Arthur, a signer of the Declaration of Independence. Battlefields of both the Revolutionary War and of the Civil War are located in the corridor. Of great historical significance is the Burt-Stark House in Abbeville. At this site, less than a month after General Lee's surrender at Appomattox, the President of the Confederate States of America, Jefferson Davis, counseled with his generals on the conduct of the war. A decision was reached at this meeting to disband the Armies of the Confederacy.

Mr. President, these are just a few examples of the richness of this corridor. The corridor has much more to offer; much that reminds us of where we have been as a nation and where we are today. These and other attractions are representative of the merging of several cultures along the corridor—African, Caribbean, European, and native American. This legislation will assist the communities throughout the heritage corridor who are committed to the conservation and development of these assets.

Mr. President, the effort to establish a heritage corridor in South Carolina has broad support. The Governor of South Carolina, David Beasley, supports this endeavor. Various State agencies are working on this project, continuing the efforts which began under the direction of our former Governor, Carroll Campbell. I ask unanimous consent that a letter of support from Governor Beasley be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. THURMOND. Mr. President, I urge my colleagues to support this legislation. Further, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "South Carolina National Heritage Corridor Act of 1995".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the South Carolina National Heritage Corridor, more than 250 miles in length, possesses a wide diversity of significant rare plants, animals, and ecosystems, agricultural and timber lands, shellfish harvesting areas, historic sites and structures, and cultural and multicultural landscapes related to the past and current commerce, transportation, maritime, textile, agricultural, mining, cattle, pottery, and national defense industries of the region, which provide significant ecological, natural, tourism, recreational, timber management, educational, and economic benefits;

(2) there is a national interest in protecting, conserving, restoring, promoting, and interpreting the benefits of the Corridor for the residents of, and visitors to, the Corridor area;

(3) a primary responsibility for conserving, preserving, protecting, and promoting the benefits resides with the State of South Carolina and the units of local government having jurisdiction over the Corridor area; and

(4) in view of the longstanding Federal practice of assisting States in creating, protecting, conserving, preserving, and interpreting areas of significant natural and cultural importance, and in view of the national significance of the Corridor, the Federal Government has an interest in assisting the State of South Carolina, the units of local government of the State, and the private sector in fulfilling the responsibilities described in paragraph (3).

(b) PURPOSES.—The purposes of this Act are—

(1) to protect, preserve, conserve, restore, promote, and interpret the significant land and water resource values and functions of the Corridor;

(2) to encourage and support, through financial and technical assistance, the State of South Carolina, the units of local government of the State, and the private sector in the development of a management action plan for the Corridor to ensure coordinated public and private action in the Corridor area in a manner consistent with subsection (a);

(3) to provide, during the development of an integrated Corridor Management Action Plan, Federal financial and technical assistance for the protection, preservation, and conservation of land and water areas in the Corridor that are in danger of being adversely affected or destroyed;

(4) to encourage and assist the State of South Carolina and the units of local government of the State to identify the full range of public and private technical and financial assistance programs and services available to implement the Corridor Management Action Plan;

(5) to encourage adequate coordination of all government programs affecting the land and water resources of the Corridor; and

(6) to develop a management framework with the State of South Carolina and the units of local government of the State for—

(A) planning and implementing the Corridor Management Action Plan; and

(B) developing policies and programs that will preserve, conserve, protect, restore, enhance, and interpret the cultural, historical, natural, economic, recreational, and scenic resources of the Corridor.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term "Commission" means the South Carolina National Heritage Corridor Commission established by section 5.

(2) CORRIDOR.—The term "Corridor" means the South Carolina National Heritage Corridor established by section 4.

(3) CORRIDOR MANAGEMENT ACTION PLAN.—The term "Corridor Management Action

Plan" means the management action plan developed under section 7.

(4) GOVERNOR.—The term "Governor" means the Governor of the State of South Carolina.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established in the State of South Carolina the South Carolina National Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The boundaries of the Corridor are generally the boundaries of the western counties of the State of South Carolina, extending from the western Piedmont along the Savannah Valley to Augusta, Georgia, along the route of the old Southern Railroad, along the Ashley River to Charleston.

(2) INCLUDED COUNTIES.—The Corridor shall consist of the following counties of South Carolina, in part or in whole, as the Commission may specify on the recommendations of the units of local government within the Corridor area:

(A) Oconee.
(B) Pickens.
(C) Anderson.
(D) Abbeville.
(E) Greenwood.
(F) McCormick.
(G) Edgefield.
(H) Aiken.
(I) Barnwell.
(J) Orangeburg.
(K) Bamberg.
(L) Dorchester.
(M) Colleton.
(N) Charleston.

(3) DETAIL.—The boundaries shall be specified in detail in the Corridor Management Action Plan.

SEC. 5. SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the South Carolina National Heritage Corridor Commission.

(2) RESPONSIBILITIES.—The Commission shall assist Federal, State, and local authorities and the private sector in developing and implementing the Corrridor Management Action Plan.

(b) MEMBERSHIP.—The Commission shall be composed of 23 members, appointed by the Secretary as follows:

(1) One member shall be the Director of the National Park Service, or a delegate of the Director, who shall be a nonvoting member.

(2) Six members shall be appointed from among recommendations submitted by the Governor, as follows:

(A) One member shall represent the interests of the South Carolina Department of Parks, Recreation, and Tourism or a successor agency to the department.

(B) One member shall represent the South Carolina Department of Natural Resources or a successor agency to the department.

(C) One member shall represent the South Carolina Arts Commission or a successor agency of the Commission.

(D) One member shall represent the South Carolina Museum Commission or a successor agency to the Commission.

(E) One member shall represent the South Carolina State Historic Preservation Office or a successor agency to the office.

(F) One member shall represent the South Carolina Department of Commerce or a successor agency to the department.

(3) Fourteen members shall be appointed from among recommendations submitted by the county commissioners, of which 1 member shall be appointed from each of the counties of Oconee, Pickens, Anderson, Abbeville, Greenwood, McCormick, Edgefield, Aiken, Barnwell, Orangeburg, Bamberg, Dorchester, Colleton, and Charleston of the State of South Carolina. The recommendations submitted by each county shall be based on recommendations from community visitor councils located within the county.

(4) One member with knowledge and experience in the field of historic preservation shall be appointed from among recommendations submitted by the Director of the National Park Service.

(5) One member shall be appointed from among recommendations submitted by the South Carolina Downtown Development Association.

(c) PERIOD OF APPOINTMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), each member of the Commission shall be appointed to serve a term of 3 years and, on expiration of a term, may be reappointed to serve for 1 or more additional terms.

(2) LIMITED APPOINTMENTS.—The members appointed under subsection (b) (2), (4), and (5) shall be appointed to serve a term of 2 years and, on expiration of a term, may be reappointed to serve for 1 or more additional terms.

(d) INITIAL APPOINTMENTS.—The Secretary shall appoint the initial members of the Commission not later than 180 days after the date of enactment of this Act.

(e) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the initial appointment was made. A member of the Commission appointed to fill a vacancy shall serve for the remainder of the term for which the initial member was appointed. A member of the Commission appointed for a definite term may serve after the expiration of the term until a successor is appointed.

(f) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission. The Chairperson shall serve as Chairperson for the duration of the term for which the Chairperson was appointed.

(g) QUORUM.—A simple majority of Commission members shall constitute a quorum, but a lesser number may hold meetings. The affirmative vote of not less than 11 members of the Commission shall be required to approve the budget of the Commission.

(h) MEETINGS.—The Commission shall meet at least quarterly or at the call of the Chairperson or a majority of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code.

(i) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. Each member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to compensation received for service an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES.—The members of the Commission, when engaged in Commission business, shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently in the Government service under section 5703 of title 5, United States Code.

(j) STAFF.—

(1) IN GENERAL.—The Commission may, without regard to civil service laws (including regulations), appoint and fix the compensation of such staff members as are necessary to enable the Commission to carry out its duties. The Commission may appoint a Director and other officers as the Commission considers necessary or appropriate. The Commission may appoint to the staff such specialists as the Commission considers necessary or appropriate to carry out the duties of the Commission, including specialists in the areas of planning, community development, interpretive services, historic preservation, recreation, natural resources, commerce and industry, education, financing, and public relations.

(2) COMPENSATION.—The Commission may fix the compensation of the Director and other staff members without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that no staff member may receive pay in excess of the annual rate payable for grade level GS-15 of the General Schedule.

(k) EXPERTS AND CONSULTANTS.—Subject to such rules as the Commission may adopt, the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates determined by the Commission to be reasonable.

(l) DETAIL OF GOVERNMENT EMPLOYEES.—On request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission. The Commission may accept the services of personnel detailed from the State of South Carolina, or any political subdivision of the State, and may reimburse the State or political subdivision for the services.

(m) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide such administrative support services as the Commission may request, on a reimbursable basis.

SEC. 6. POWERS OF THE COMMISSION.

(a) PUBLIC MEETINGS.—The Commission may, for the purpose of carrying out this Act, hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may not issue subpoenas or exercise subpoena authority.

(b) BYLAWS.—The Commission may make such bylaws, rules, and regulations, consistent with this Act, as the Commission considers necessary to carry out its functions under this Act.

(c) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if authorized by the Commission, may take any action that the Commission is authorized to take under this section.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of the money to make a contribution in order to receive the money.

(f) RETENTION OF REVENUES.—The Commission may retain revenue from the sale or lease of any goods or services.

(g) GIFTS.—Notwithstanding any other law, the Commission may seek and accept gifts, bequests, and donations of funds, property, or services from private individuals, foundations, corporations, and other private entities, and from public entities for the purpose of carrying out its duties. For purposes of section 170(c) of the Internal Revenue Code of 1986, any donation to the Commission shall be considered to be a gift to the United States.

(h) Acquisition and Disposition of Real Property.—

(1) In general.—Except as provided in paragraphs (2) and (3), the Commission may not acquire real property or an interest in real property.

(2) Conditions for acquisition.—Subject to paragraph (3), the Commission may acquire real property or an interest in real property in the Corridor—

(A) by gift or devise;

(B) by purchase from a willing seller using donated or appropriated land acquisition funds; or

(C) by exchange.

(3) Conveyance.—Any real property or interest in real property acquired by the Commission shall be conveyed by the Commission to an appropriate public agency or private nonprofit organization, as determined by the Commission—

(A) as soon as practicable after the acquisition; and

(B) on the condition that the real property or interest in real property limits use of the property to uses that are consistent with this Act.

(4) Disposal of property.—The Commission may, with approval of the Secretary, sell any real property or interest in real property acquired pursuant to paragraph (2) (A) or (B) and retain the revenue from the sale.

(i) Technical Assistance.—For the purposes of implementing the Corridor Management Action Plan, the Commission may provide technical assistance to Federal agencies, the State of South Carolina, political subdivisions of the State, and persons (including corporations).

(j) Advisory Groups.—The Commission may establish public technical advisory groups to assist the Commission in carrying out the duties of the Commission with respect to the areas of economic development, historic preservation, natural resources, tourism, recreation and open space, and transportation. The Commission may establish such additional advisory groups as are necessary to carry out the duties of the Commission and ensure open communication with and assistance from interested persons (including organizations), the State of South Carolina, and political subdivisions of the State.

(k) Local Authority and Private Property Rights.—Nothing in this Act shall be construed to authorize the Commission to interfere with—

(1) the rights of any person with respect to private property; or

(2) any local land use ordinance or plan of the State of South Carolina or a political subdivision of the State.

SEC. 7. DUTIES OF THE COMMISSION.

(a) In General.—The Commission shall exercise powers authorized by section 6 to coordinate activities of Federal, State, and local governments and private businesses and organizations to further historic preservation, cultural conservation, natural area protection, soil conservation, timber management, and economic development in a manner consistent with this Act and in accordance with the Corridor Management Action Plan developed under subsection (b).

(b) Corridor Management Action Plan.—

(1) Period for development.—Not later than 18 months after the date on which the Commission conducts its first meeting, the Commission shall submit a Corridor Management Action Plan for the Corridor to the Secretary and to the Governor for review and approval.

(2) Plan requirements.—The Corridor Management Action Plan shall take into consideration State, county, and local plans existing on the date on which the Corridor Management Action Plan is prepared. The Corridor Management Action Plan shall—

(A) provide an inventory that includes any real property in the Corridor that should be conserved, protected, preserved, restored, managed, developed, or maintained because of the natural, cultural, historic, recreational, or scenic significance of the property;

(B) provide an analysis of then current and potential land uses within the Corridor that affect the character of the Corridor;

(C) determine the boundaries of the Corridor on the basis of the information collected pursuant to subparagraphs (A) and (B);

(D) recommend advisory standards and criteria applicable to the construction, preservation, restoration, alteration, and use of real property of natural, cultural, historic, recreational, or scenic significance within the Corridor;

(E) include a heritage interpretation plan to interpret the resources and values of the Corridor and provide for appropriate educational, recreational, and tourism opportunities and development of the Corridor;

(F) identify the full range of public and private technical and financial assistance programs available to implement the Corridor Management Action Plan and detail how appropriate Federal, State, and local programs may best be coordinated to promote the purposes of this Act; and

(G) contain a coordinated implementation plan that—

(i) specifies the activities of Federal, State, and local governments in relation to the Corridor; and

(ii) includes cost estimates, schedules, and a commitment of resources for the accomplishment of the implementation plan.

(c) Approval of Plan.—

(1) Approval by governor.—Not later than 60 days after receiving a Corridor Management Action Plan submitted by the Commission under subsection (b), the Governor shall approve or disapprove the Corridor Management Action Plan.

(2) Approval by secretary.—A Corridor Management Action Plan approved by the Governor under paragraph (1) shall be submitted to the Secretary for approval or disapproval. Not later than 30 days after receipt of the Corridor Management Action Plan, the Secretary shall approve or disapprove the Corridor Management Action Plan.

(3) Criteria for decision.—The Governor and the Secretary shall approve a Corridor Management Action Plan if—

(A) the Corridor Management Action Plan will adequately protect the significant natural, cultural, historic, recreational, and scenic resource values and functions of the Corridor;

(B) the Commission has afforded adequate opportunity for public involvement in the preparation of the Corridor Management Action Plan; and

(C) the Secretary and the Governor receive adequate assurances from appropriate officials of the State of South Carolina that the recommended implementation program identified in the Corridor Management Action Plan will be initiated within a reasonable time after the date of approval of the Corridor Management Action Plan.

(d) Disapproval of Plan.—

(1) In general.—If the Secretary or the Governor disapproves a Corridor Management Action Plan, the Secretary or the Governor, as the case may be, shall—

(A) advise the Commission in writing of the reasons for the disapproval; and

(B) recommend revisions to the Corridor Management Action Plan.

(2) Revision of disapproved plan.—Not later than 90 days after the receipt of a notice of disapproval under paragraph (1), the Commission shall revise and resubmit the Corridor Management Action Plan for approval in accordance with subsection (c).

(e) Implementation of Plan.—

(1) In general.—After the Secretary and the Governor review and approve a Corridor Management Action Plan, the Commission shall implement the Corridor Management Action Plan by taking appropriate steps to—

(A) conserve, protect, restore, preserve, and interpret the natural, cultural, and historic resources of the Corridor;

(B) promote the educational and recreational resources and opportunities with respect to the Corridor that are consistent with the resources of the Corridor; and

(C) support public and private efforts to achieve economic revitalization, in a manner consistent with the goals of the Corridor Management Action Plan.

(2) Steps.—The steps referred to in paragraph (1) may include—

(A) assisting State and local governmental entities and nonprofit organizations in planning and implementing programs, projects, or activities in a manner consistent with this Act, including visitor use facilities, tour routes, and exhibits;

(B) encouraging, by appropriate means, enhanced economic development in the Corridor in a manner consistent with the goals of the Corridor Management Action Plan; and

(C) promoting public awareness and appreciation for historical, cultural, natural, recreational, and scenic resources and associated values of the Corridor.

(f) Annual Reports.—

(1) Report of the commission.—As soon as practicable after the end of the first fiscal year in which the Commission is established, and annually thereafter, the Commission shall submit a report to the Secretary. The report shall describe, for the fiscal year that is the subject of the report—

(A) the expenses and income of the Commission; and

(B) a general description of the activities of the Commission.

(2) Report of the secretary.—As soon as practicable after the date on which the Commission submits a report to the Secretary under paragraph (1), the Secretary shall submit a report to Congress that includes—

(A) for the fiscal year that is the subject of the report—

(i) a description of the loans, grants, and technical assistance provided by the Secretary, and from other Federal and non-Federal sources, to carry out this Act; and

(ii) an analysis of the adequacy of actions taken to carry out this Act; and

(B) a statement of the amount of funds and number of personnel that the Secretary anticipates will be made available to carry out this Act for the fiscal year following the fiscal year that is the subject of the report.

SEC. 8. TERMINATION OF THE COMMISSION.

(a) Termination.—

(1) In general.—Except as provided in subsection (b), the Commission shall terminate

on the date that is 12 years after the date of enactment of this Act.

(2) TRANSFER OF PROPERTY.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), any property or funds of the Commission remaining upon the expiration of the Commission shall be transferred by the Commission to the Secretary, to a State or local government agency, to a private nonprofit organization referred to in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from income taxes under section 501(a) of the Internal Revenue Code of 1986, or to any combination of the foregoing.

(b) EXTENSIONS.—The Commission may be extended for a period of not more than 5 years beginning on the date referred to in subsection (a) if, not later than 180 days before that date—

(1) the Commission determines that an extension is necessary to carry out this Act;

(2) the Commission submits the proposed extension to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate before the termination date; and

(3) the Secretary and the Governor approve the extension.

SEC. 9. DUTIES OF THE SECRETARY.

(a) ASSISTANCE.—On request of the Commission, and subject to the availability of funds appropriated specifically for the purpose, or made available on a reimbursable basis, the Secretary shall provide administrative, technical, financial, development, and operations assistance. The assistance may include—

(1) general administrative support in planning, finance, personnel, procurement, property management, environmental and historical compliance, and land acquisition;

(2) personnel;

(3) office space and equipment;

(4) planning and design services for visitor use facilities, trails, interpretive exhibits, publications, signs, and natural resource management;

(5) development and construction assistance, including visitor use facilities, trails, river use and access facilities, scenic byways, signs, waysides, and rehabilitation of historic structures; and

(6) operations functions, including interpretation and visitor services, maintenance, and natural resource management services conducted within the boundaries of the Corridor.

(b) LOANS, GRANTS, AND COOPERATIVE AGREEMENTS.—For the purposes of assisting in the development and implementation of the Corridor Management Action Plan, the Secretary may, in consultation with the Commission, make loans and grants to, and enter into cooperative agreements with, the State of South Carolina (or a political subdivision of the State), private nonprofit organizations, corporations, or other persons.

(c) LAND TRANSFERS.—The Secretary may accept transfers of real property from the Commission within the boundaries of the Corridor as established in the Corridor Management Action Plan.

SEC. 10. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate those activities with the carrying out of those duties; and

(3) to the maximum extent practicable, conduct or support those activities in a manner that the Commission determines will not have an adverse effect on the Corridor.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary to carry out this Act.

(b) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the funding provided to the Commission to carry out this Act for any year may not exceed 50 percent of the total cost of—

(A) the expenditures of the Commission for administrative matters for that year;

(B) the expenditures of the Commission for the development and implementation of the Corridor Management Action Plan for that year; and

(C) the expenditures of the Commission for land acquisition for that year.

(2) NON-FEDERAL SHARE.—The non-Federal share of the expenditures described in paragraph (1) may be in the form of cash, services, or in-kind contributions, fairly valued.

Mr. HOLLINGS. Mr. President, I am privileged today to join with Senator THURMOND in introducing the South Carolina National Heritage Corridor Act of 1995. This act aims to protect, restore, and promote the South Carolina National Historic Corridor—a 200-mile-long, 14 county swath in the western part of the State, running along the Savannah River Valley from the foothills of the Piedmont to North Augusta, at which point it follows the route of the old Hamburg-to-Charleston railroad all the way to Charleston.

This act has several objectives. It would protect the significant land and water resources of the national heritage corridor. It would support, through financial and technical assistance, the State and local governments, as well as the private sector, in developing a management action plan for the corridor. And it would create a management framework to bring together the State and local governments to jointly develop policies and programs to conserve and enhance the cultural, natural, economic, recreational, and scenic resources of the corridor.

Mr. President, the historic corridor concept has been used by a variety of public and private groups across the Nation to encourage historic and natural preservation, and to promote tourism and economic revitalization. The approach has been used successfully in the Blackstone River Valley National Heritage Corridor in Rhode Island and Massachusetts, in the lower Eastern Shore of Maryland, in the Lackawanna River Valley in Pennsylvania, and elsewhere. The heritage corridor concept offers a flexible way for government and private organizations to work together to promote economic growth and job creation.

Mr. President, with industry concentrated in a limited number of urban areas, it is no secret that small, scenic, towns, and rural areas are looking to tourism as a means of strengthening and diversifying their declining economies. The heritage corridor concept offers an opportunity for many communities to work cooperatively and pool their resources in order to boost tourism.

The South Carolina Heritage Corridor originated with a tourism committee in the city of Abbeville, SC, and has grown to include 14 counties and over 40 towns and rural communities. This is a grassroots movement that has captured the imagination and enthusiasm of citizens across the western part of my State. The South Carolina Heritage Corridor is well conceived and holds tremendous promise for my State. I urge my colleagues' support for this important bill.

EXHIBIT 1

SOUTH CAROLINA STATE MUSEUM,
Columbia, SC.

JOAN DAVIS,
Community Development Division, S.C. Dept. of Parks, Recreation and Tourism, Columbia, SC.

DEAR JOAN: I am intrigued with the concept of developing a Heritage Corridor in fourteen counties along South Carolina's western boundary. Stretching from Charleston to the mountains the proposed corridor would take in all of the elements that have characterized South Carolina for the past three centuries.

Beginning in Charleston, one of the most cosmopolitan of American cities before 1860, the corridor follows the route of the old South Carolina Railroad through Colleton, Bamberg, Barnwell and into Aiken County. When completed in 1831 this was the longest railroad in the world. Prior to the civil War this area was dotted with cotton plantations, the predominant economic factor in the state's antebellum years. In Aiken's Horsecreek Valley the state's textile industry was born during the 1830's. Only a few miles away the Savannah River Site was the nation's supplier of plutonium for nuclear weapons during the Cold War years. From North August, the terminus of the old South Carolina Railroad, the proposed corridor follows the Savannah Valley to the foothills in Oconee County.

Also a major cotton producing area before 1860, Edgefield County was home to ten governors, a remarkable number for a small county. Beginning in the 1820's the production of alkaline glazed stoneware began in Edgefield and subsequently spread throughout the South. Originally produced as utilitarian storage ware, today Edgefield pottery is a highly prized collectible.

The corridor continues along the Savannah Valley through once prosperous cotton fields into Anderson County, a major center of the state's textile industry. Around Anderson one finds both traditional textile companies as well as a recent influx of major multinational corporations.

The last section of the corridor takes one to the foothills of the Appalachian Mountains. A journey through the proposed corridor encompasses all of South Carolina's past and present. From cosmopolitan Charleston in the 1700's with its wealthy merchants and rice planters to the challenges facing low income residents of the Appalachians, the corridor crosses not only the state's entire geography, but also encompasses all of the state's peoples.

Historic sites, natural resources, cultural diversity and modern manufacturing successes are all part of the proposed corridor. A visitor who journeys through the corridor certainly departs with an understanding of South Carolina's history and development, as well as an appreciation for the state's diverse geography and natural features.

This proposed corridor has several components of national significance. As the cotton culture spread through this area more and more planters became entrenched in defending slavery, contributing to the forces that lead to the Civil War. Leading proslavery advocates John C. Calhoun and James Henry Hammond lived in the corridor. As residences of the area their theories on states rights and slavery evolved from personal experiences.

After the war the development of the textile industry in the corridor changed the focus of South Carolina's economy from an agricultural to an industrial base, a phenomena which subsequently spread across the South. Finally, the location of the Savannah River Site in the center of the corridor reflects not only the Cold War strategy of the United States, but also the challenge of the cleanup facing all the nuclear production facilities across the country.

Sincerely,

RODGER E. STROUP, Ph.D.,
Director of Collections and Interpretation.

EXHIBIT 2

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR
Columbia, SC, April 5, 1995.

Hon. STROM THURMOND,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR: Developing the economies of the rural areas of our state requires that we employ creative non-traditional economic development methods. One such method is the application of a deliberate strategy to capitalize on the economic value of the rich cultural heritage and natural resources embodied in many of the rural areas of our state. Cultural or heritage tourism is one of the fastest growing trends in tourism. The resulting potential for job creation and tourism-related investment, if properly managed, can be a significant factor in the economic growth of these rural communities.

The proposed designation of a fourteen county region of our state as a South Carolina National Heritage Corridor represents a significant step forward in our efforts to recognize and capture this valuable economic resource. This is an area rich in cultural and natural resources with an important American story to tell. What happened along this corridor set in motion a style of socio-economic development that spread throughout the lower South and Southwest and eventually led to the industrialization of the region as well as war between the states. It tells the story of the development of agriculture, industry and transportation in the South.

The direct effort from the state level, I have designated the Department of Parks, Recreation and Tourism through its Community Development program, to be responsible for staffing this effort and providing a broad array of support for the South Carolina Heritage Corridor.

We all recognize the tremendous importance and long-range benefit of the initiative for South Carolina, and are particularly pleased that the proposed area includes your hometown of Edgefield.

Thank you for your assistance.

Sincerely,

DAVID M. BEASLEY,
Governor.

By Mr. MURKOWSKI:

S. 813. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; to the Committee on Energy and Natural Resources.

THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION AMENDMENT ACT

• Mr. MURKOWSKI. Mr. President, I introduced a bill, at the request of the administration, to amend the Pennsylvania Avenue Development Corporation Act of 1972, to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.

The bill, when enacted, would authorize appropriations for salaries and expenses for the Pennsylvania Avenue Development Corporation [PADC] for fiscal years 1996 and 1997. PADC is the agency which is responsible for the revitalization of the Pennsylvania area between the White House and the Capitol. Since PADC was created by an act of Congress in 1972, it has achieved notable success in transforming America's Main Street from "a scene of desolation," in the words of a Presidential commission formed in the late 1960's to study the condition of the avenue, to a great boulevard worthy of its role in the Nation's history and its place in the center of the Nation's Capital City.

PADC is a successful example of how Government can work in partnership with the private sector to achieve beneficial results for both. Since PADC's work began, it has spent $120 million in appropriations to build new parks, plazas, sidewalks, and other kinds of improvements to the public areas and attracted over $1.5 billion in private investment to the blocks on the north side of Pennsylvania Avenue. From the Willard Hotel to the Canadian Embassy, virtually every one of the buildings that one sees in walking or driving down the avenue from the Treasury Building to the Capitol has been constructed or restored since PADC began its block development program in 1978, guided by a master plan approved by Congress in 1975. Now over 20 privately funded office, retail, hotel, and residential structures border a public thoroughfare improved with seven parks and plazas and widened sidewalks.

With only a few blocks remaining uncommitted for development, PADC is close to finishing its master plan and is scheduled to terminate operation at the end of fiscal year 1997. The bill I am introducing, by request of the administration, will allow the PADC's 27-person staff to complete its original mission to economically revitalize and beautify Pennsylvania Avenue.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PENNSYLVANIA AVENUE
DEVELOPMENT CORPORATION,
Washington, DC, March 22, 1995.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes." A similar package has been transmitted to the Speaker of the House.

The draft bill would amend the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266, 40 U.S.C. 871, as amended) to authorize appropriations of $3,043,000 for fiscal year 1996 and such sums as may be necessary for fiscal year 1997 for the operating and administrative expenses of the Pennsylvania Avenue Development Corporation.

The draft bill is part of the Pennsylvania Avenue Development Corporation's legislative program for the 104th Congress. The Administration recommends the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

The Office of Management and Budget advises that there is no objection to the presentation of this legislation for consideration of Congress, and that enactment of the legislation would be in accord with the program of the President.

Sincerely,

RICHARD A. HAUSER,
Chairman.•

By Mr. MCCAIN (for himself, Mr. INOUYE, and Mr. DOMENICI):

S. 814. A bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes; to the Committee on Indian Affairs.

THE BUREAU OF INDIAN AFFAIRS REORGANIZATION ACT

• Mr. MCCAIN. Mr. President, I am pleased to introduce legislation to reorganize and restructure the Bureau of Indian Affairs. I am very pleased to be joined by Senators INOUYE and DOMENICI as original cosponsors of this legislation. This legislation is intended to stimulate discussion in the Congress and among the tribes on the reorganization of the Bureau of Indian Affairs.

Since 1834, the Congress, the administration, and the American Indian people have tried to reorganize and reform the Bureau of Indian Affairs. Like the crusades of history, with each change in administration the assembled bureaucrats have gone charging off in one direction or another, commissioning studies or writing reports on the BIA, downsizing, centralizing, or decentralizing, whatever the political whim of the day dictated. From the Meriam Report in 1929 to the joint tribal/BIA/DOI reorganization task force report, the Congress has commissioned report after report on how to reform the way this Nation deals with native Americans and their governments. Since the establishment of the BIA in 1824, there have been over 1,050 investigations, reports, commissions, and studies detailing how the BIA should be restructured, reorganized, or reformed. To measure the success of all of these efforts, one needs only to look at the statistics in the most recent census.

Nearly one of every three native Americans in this Nation is living in poverty. One-half of the families living on reservations are living in poverty. One-half of the Indian children under the age of six living on reservations are living in poverty. Unemployment on Indian reservations exceeds 25 percent. For every $100 earned by U.S. families, Indian families earn $62. The per capital income for an Indian living on the reservation is $4,478. There are approximately 90,000 Indian families who are homeless or underhoused. Nearly one in five Indian families living on the reservation are classified as severely overcrowded. One out of every five Indian homes lack complete plumbing facilities. These simple conveniences, that the rest of us take for granted, remain out of the grasp of many Indian families.

Since its creation in 1824, native Americans have relied on the Bureau of Indian Affairs as the principle agency of the Federal Government which is responsible for meeting this Nation's trust responsibility to American Indians and Alaska Natives. And yet based on its own studies and investigations, the Bureau of Indian Affairs has failed miserably in carrying out this Nation's solemn obligations to American Indians. If the health, social, and economic conditions on Indian reservations are the measure of our performance as the trustee for American Indians, then as a nation we have failed miserably.

It is time to change the way this Nation deals with American Indians. It is time to bring an end to the long and dismal history of the failures of the Federal Government to carry out its trust responsibilities to American Indians. It is time to break down the barriers to true tribal self-governance and self-determination by providing Indian tribes with the authority to design both the structure and function of its trustee, the Bureau of Indian Affairs. I remain convinced that we will not make significant improvements in the living conditions on most reservations without a major reform of the Bureau of Indian Affairs.

Today, I am introducing legislation which will provide Indian tribes with the authority to reorganize and restructure the Bureau of Indian Affairs at each level of the government. It provides Indian tribes with the ability to tailor the Bureau of Indian Affairs to meet their unique circumstances and needs. It will allow tribes to shape and redefine the trust relationship with the Federal Government.

This legislation is the culmination of over 4 years of work by Indian tribes, the administration, and the Congress. This bill reflects the recommendations of the joint tribal/BIA/DOI reorganization task force, which was established at the direction of former Interior Secretary Lujan. Over the course of 4 years, the task force held 22 meetings across all parts of Indian country to develop their recommendations for the reorganization of the Bureau of Indian Affairs. These recommendations fall into four general categories: Organizational reform, regulatory reform, education reform, and budget reform. The guiding principles established by the joint tribal/BIA/DOI reorganization task force are to decentralize decisionmaking of the Bureau of Indian Affairs, to provide maximum funding to Indian tribes for service delivery, to maintain the flexibility of the area/agency organizational design, to establish well-defined Federal and tribal roles at all levels of the bureaucracy, and to create a tribal-Federal consultation process to govern all aspects of the reorganization.

The legislation I am introducing closely adheres to the spirit and intent of the report of the joint tribal/BIA/DOI reorganization task force. This bill will provide for the reorganization of the BIA at the agency, area and central offices with savings attendant to such reorganization to be allocated to the tribes. It will provide for the transfer or delegation of decisionmaking authority to the tribe or the agency level of the BIA, consistent with the principles of self-governance and self-determination. The bill provides the authority to Indian tribes to develop, in negotiations with the Interior Department, reorganization plans for the area and agency offices of the Bureau of Indian Affairs. These plans may include a reorganization of BIA organizational structures, reallocation of personnel, delegations of secretarial authority, transfers of functions, waivers of regulations or other authorities, reordering of funding priorities, and the transfer of any savings realized by such reorganization directly to the tribes.

The bill also provides for the reorganization of the central office of the BIA so that Indian tribes from each area office can determine how the central office resources used to provide services to their area should be allocated. Tribes in each area of the BIA will be able to determine what services will be provided by the central office, what funds and authorities should be distributed or delegated to the area and agency offices and what funds and authorities should be distributed or delegated to the tribes themselves. Finally, the bill will require the Secretary to repeal the provisions of the BIA manual. Any provision of the BIA manual which are deemed necessary will have to be promulgated as regulations subject to review and comment. The bill will also provide for the establishment of a tribal task force to recommend regulatory reforms in title 25 of the Code of Federal Regulations.

The introduction of this legislation marks only the first step in carrying out the commitment made to Indian tribes when the joint tribal/BIA/DOI reorganization task force was first chartered. I remain committed to work with Indian tribes and the administration to realize the vision of those tribal leaders who met for hundreds of hours in developing recommendations to bring real and necessary change to the Bureau of Indian Affairs. I look forward to full and complete discussions with tribal leaders on this legislation and I urge all of our colleagues to join with us to ensure prompt enactment of legislation to reorganize the Bureau of Indian Affairs.

Mr. President, I ask unanimous consent that the full text of the bill and the accompanying section-by-section analysis appear in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, TABLE OF CONTENTS, AND DEFINITIONS.

(a) Short Title.—This Act may be cited as the "Bureau of Indian Affairs Reorganization Act of 1995".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title, definitions, and table of contents.

TITLE I—REORGANIZATION COMPACTS

Sec. 101. Reorganization of area offices.
Sec. 102. Reorganization of agency offices.
Sec. 103. Reorganization of central office.
Sec. 104. Savings provisions.
Sec. 105. Additional conforming amendments.
Sec. 106. Authorization of appropriations.
Sec. 107. Effective date.
Sec. 108. Separability.
Sec. 109. Suspension of certain administrative actions.
Sec. 110. Statutory construction.

TITLE II—AMENDMENT TO THE INDIAN SELF-DETERMINATION ACT

Sec. 201. Budget development.

TITLE III—REFORM OF THE REGULATIONS OF THE BUREAU OF INDIAN AFFAIRS

Sec. 301. BIA Manual.
Sec. 302. Task force.
Sec. 303. Authorization of appropriations.

(c) Definitions.—For purposes of this Act, the following definitions shall apply:

(1) Area office.—The term "area office" means 1 of the 12 area offices of the Bureau of Indian Affairs.

(2) Area office plan.—The term "area office plan" means a plan for the reorganization of an area office negotiated by the Secretary and Indian tribes pursuant to section 101.

(3) Agency office.—The term "agency office" means an agency office of the Bureau of Indian Affairs.

(4) Agency office plan.—The term "agency office plan" means a plan for the reorganization of an agency office negotiated by

the Secretary and Indian tribes pursuant to section 102.

(5) BIA MANUAL.—The term "BIA Manual" means the most recent edition of the Bureau of Indian Affairs Manual issued by the Department of the Interior.

(6) BUREAU.—The term "Bureau" means the Bureau of Indian Affairs.

(7) CENTRAL OFFICE.—The term "central office" means the central office of the Bureau, that is housed in the offices of the Department in Washington, D.C. and in Albuquerque, New Mexico.

(8) CENTRAL OFFICE PLAN.—The term "central office plan" means the plan for the reorganization of the central office negotiated by the Secretary and Indian tribes pursuant to section 103.

(9) DEPARTMENT.—The term "Department" means the Department of the Interior.

(10) DIRECTOR.—The term "Director" means, with respect to an area office, the Director of the area office.

(11) FUNCTION.—The term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(12) INDIAN TRIBE.—The term "Indian tribe" has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(13) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(14) SUPERINTENDENT.—The term "Superintendent" means the Superintendent of an agency office.

(15) TRIBAL PRIORITY ALLOCATION ACCOUNT.—The term "tribal priority allocation account", means an account so designated by the Bureau, with respect to which program priorities and funding levels are established by individual Indian tribes.

(16) TRIBAL RECURRING BASE FUNDING.—The term "tribal recurring base funding" means recurring base funding (as defined and determined by the Secretary) for the tribal priority allocation accounts of an Indian tribe allocated to a tribe by the Bureau.

TITLE I—REORGANIZATION COMPACTS

SEC. 101. REORGANIZATION OF AREA OFFICES.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this Act, the Secretary shall enter into negotiations with the Indian tribes served by each area office to prepare a reorganization plan for the area office.

(b) CONTENTS OF AREA OFFICE PLANS.—

(1) IN GENERAL.—Each area office plan that is prepared pursuant to this subsection shall provide for the organization of the area office covered under the plan. To the extent that the majority of Indian tribes served by the area office do not exercise the option to maintain current organizational structures, functions, or funding priorities pursuant to paragraph (2), the reorganization plan shall provide, with respect to the area office covered under the plan, for—

(A) the reorganization of the administrative structure of the area office;

(B) the reallocation of personnel (including determinations of office size and functions);

(C) the delegation of authority of the Secretary to the Director;

(D) transfers of functions;

(E) the specification of functions—

(i) retained by the Bureau; or

(ii) transferred to Indian tribes served by the area office;

(F) the issuance of waivers or other authorities by the Secretary so that functions and other responsibilities of the Secretary may be carried out by the area office or transferred to Indian tribes;

(G) the promulgation of revised regulations relating to the functions of the area office that are performed by the area office or transferred to Indian tribes;

(H) the reordering of funding priorities; and

(I) a formula for the transfer, to the tribal recurring base funding for each Indian tribe served by the area office, of unexpended balances of appropriations and other Federal funds made available to the area office in connection with any function transferred to Indian tribes pursuant to subparagraph (E)(ii).

(2) SHARE OF FUNDING.—An area office plan may include, for each Indian tribe served by the area office, a determination of the share of the Indian tribe of the funds used by the area office to carry out programs, services, functions and activities of the tribe (referred to in this subsection as the "tribal share").

(3) OPTION OF MAINTENANCE OF CURRENT STATUS.—At the option of a majority of the Indian tribes served by an area office, a reorganization plan may provide for the continuation of organizational structures, functions, or funding priorities of the area office that are substantially similar to those in effect at the time of the development of the area office plan.

(4) APPROVAL OF AREA OFFICE PLAN BY INDIAN TRIBES.—Upon completion of the negotiation of an area office plan, the Secretary shall submit the plan to the Indian tribes served by the area office for approval. If a majority of the Indian tribes approve the area office plan by a tribal resolution pursuant to the applicable procedures established by the Indian tribes, the Secretary shall enter into a reorganization compact pursuant to subsection (c).

(5) SINGLE TRIBE AREA OFFICE.—In an area office that serves only 1 Indian tribe, if the tribe elects to develop a reorganization plan for the area office, the Secretary shall enter into negotiations with the tribe to prepare a reorganization plan for the area office. Not later than 60 days after the date on which a reorganization plan referred to in the preceding sentence is approved by the Indian tribe, the Secretary shall enter into a reorganization compact with the tribe to carry out the area office plan.

(6) OPTION TO TAKE TRIBAL SHARE.—

(A) IN GENERAL.—If a majority of the Indian tribes served by an area office fail to approve an area office plan, an Indian tribe may elect to receive directly the tribal share of the Indian tribe.

(B) DETERMINATION OF TRIBAL SHARE.—If an Indian tribe elects to receive a tribal share under subparagraph (A), the Secretary shall enter into negotiations with the Indian tribe to determine the tribal share of the Indian tribe.

(C) AGREEMENT.—Upon the determination of a tribal share of an Indian tribe under subparagraph (B), the Secretary shall enter into an agreement with the Indian tribe for transferring directly to the Indian tribe an amount equal to the tribal share. The agreement shall include—

(i) a determination of the amount of residual Federal funds to be retained by the Secretary for the area office; and

(ii) the responsibilities of—

(I) the area office; and

(II) the Indian tribe.

(c) AREA OFFICE REORGANIZATION COMPACT.—

(1) IN GENERAL.—Not later than 60 days after the date on which a majority of the Indian tribes served by the area office that is the subject of a reorganization plan have approved the plan pursuant to subsection (b)(3), the Secretary shall enter into an area office reorganization compact with the Indian tribes to carry out the area office plan (referred to in this subsection as the "area office reorganization compact"). The Secretary may not implement the area office plan until such time as the Indian tribes have entered into an area office reorganization compact with the Secretary pursuant to this paragraph. If the Indian tribes do not enter into an area office reorganization compact with the Secretary pursuant to this paragraph, the organizational structure, functions, and funding priorities of the area office in effect at the time of the development of the area office plan shall remain in effect.

(2) PROHIBITION AGAINST CERTAIN LIMITATIONS.—With respect to an Indian tribe that is not a party to an area office reorganization compact entered into by the Secretary under this subsection, nothing in this section may limit or reduce the level of any service or funding that the Indian tribe is entitled to pursuant to applicable Federal law (including any contract that the Indian tribe is entitled to enter into pursuant to applicable Federal law).

SEC. 102. REORGANIZATION OF AGENCY OFFICES.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this Act, the Secretary, acting through the Superintendent (or a designee of the Superintendent) of each agency office, shall enter into negotiations with the Indian tribes served by each agency office to prepare an agency office plan for each agency office.

(b) CONTENTS OF AGENCY OFFICE PLANS.—

(1) IN GENERAL.—Each agency office plan that is prepared by the Secretary pursuant to this subsection shall provide for the organization of the agency office covered under the plan. To the extent that the majority of Indian tribes served by the agency office do not exercise the option to maintain current organizational structures, functions, or funding priorities pursuant to paragraph (2), the agency office plan shall provide, with respect to the agency office covered under the agency office plan, for—

(A) the reorganization of the administrative structure of the agency office;

(B) the reallocation of personnel (including determinations of office size and functions);

(C) the delegation of authority of the Secretary to the Superintendent;

(D) transfers of functions;

(E) the specification of functions—

(i) retained by the Bureau; or

(ii) transferred to Indian tribes served by the agency office;

(F) the issuance of waivers or other authorities by the Secretary so that functions and other responsibilities of the Secretary may be carried out by the agency office or transferred to Indian tribes;

(G) the promulgation of revised regulations relating to the functions of the agency office that are carried by the agency office or transferred to Indian tribes;

(H) the reordering of funding priorities; and

(I) a formula for the transfer, to the tribal recurring base funding for each Indian tribe served by the agency office, of unexpended balances of appropriations and other Federal funds made available to the agency office in connection with any function transferred to Indian tribes pursuant to subparagraph (E)(ii).

(2) SHARE OF FUNDING.—An agency office plan may include, for each Indian tribe served by the agency office, a determination of the share of the Indian tribe of the funds used by the agency office to carry out programs, services, functions and activities of the tribe (referred to in this subsection as the "tribal share").

(3) OPTION OF MAINTENANCE OF CURRENT STATUS.—At the option of a majority of the Indian tribes served by an agency office, an agency office plan may provide for the continuation of organizational structures, functions, or funding priorities of the agency office that are substantially similar to those in effect at the time of the development of the agency office plan.

(4) APPROVAL OF AGENCY OFFICE PLAN BY INDIAN TRIBES.—Upon completion of the negotiation of an agency office plan, the Secretary shall submit the agency office plan to the Indian tribes served by the agency office for approval. If a majority of the Indian tribes approve the agency office plan by a tribal resolution pursuant to the applicable procedures established by the Indian tribes, the Secretary shall enter into a reorganization compact pursuant to subsection (c).

(5) SINGLE TRIBE AGENCY OFFICE.—In an agency office that serves only 1 Indian tribe, if the tribe elects to develop a reorganization plan for the agency office, the Secretary shall enter into negotiations with the tribe to prepare a reorganization plan for the agency office. Not later than 60 days after the date on which a reorganization plan referred to in the preceding sentence is approved by the Indian tribe, the Secretary shall enter into a reorganization compact with the tribe to carry out the agency office plan.

(6) OPTION TO TAKE TRIBAL SHARE.—

(A) IN GENERAL.—If a majority of the Indian tribes served by an agency office fail to approve an agency office plan, an Indian tribe may elect to receive directly the tribal share of the Indian tribe.

(B) DETERMINATION OF TRIBAL SHARE.—If an Indian tribe elects to receive a tribal share under subparagraph (A), the Secretary shall enter into negotiations with the Indian tribe to determine the tribal share of the Indian tribe.

(C) AGREEMENT.—Upon the determination of a tribal share of an Indian tribe under subparagraph (B), the Secretary shall enter into an agreement with the Indian tribe for transferring directly to the Indian tribe an amount equal to the tribal share. The agreement shall include—

(i) a determination of the amount of residual Federal funds to be retained by the Secretary for the agency office; and

(ii) the responsibilities of—

(I) the agency office; and

(II) the Indian tribe.

(c) AGENCY OFFICE REORGANIZATION COMPACTS.—

(1) IN GENERAL.—Not later than 60 days after the date on which a majority of the Indian tribes served by the agency office that is the subject of an agency office plan have approved the agency office plan pursuant to subsection (b)(3), the Secretary shall enter into a reorganization compact with the Indian tribes to carry out the agency office plan (referred to in this subsection as the "agency office reorganization compact"). The Secretary may not implement the agency office plan until such time as the Indian tribes have entered into an agency office reorganization compact with the Secretary pursuant to this paragraph. If the Indian tribes do not enter into an agency office reorganization compact with the Secretary pursuant to this paragraph, the organizational structure, functions, and funding priorities of the agency office in effect at the time of the development of the agency office plan shall remain in effect.

(2) PROHIBITION AGAINST CERTAIN LIMITATIONS.—With respect to an Indian tribe that is not a party to an agency office reorganization compact entered into under this subsection, nothing in this section may limit or reduce the level of any service or funding that the Indian tribe is entitled to pursuant to applicable Federal law (including any contract that the Indian tribe is entitled to enter into pursuant to applicable Federal law).

(3) COORDINATION WITH AREA OFFICE PLANS.—Each agency office reorganization compact entered into by the Secretary under this subsection shall specify that in the event that the Secretary determines that the agency office reorganization compact is inconsistent with an area office reorganization compact entered into under section 101(c), the Secretary, in consultation with the Indian tribes that are parties to the compact, shall make such amendments to the agency office reorganization compact entered into under this subsection as are necessary to ensure consistency with the applicable area office plan.

SEC. 103. REORGANIZATION OF CENTRAL OFFICE.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this Act, the Secretary shall enter into negotiations with Indian tribes to develop a central office plan. In developing the plan, the Secretary shall enter into negotiations on an area-by-area basis with a representative from each of the Indian tribes in each area, to determine the appropriate allocation of personnel and funding made available to the central office to serve the area and agency offices and Indian tribes in each area office.

(b) CONTENT OF CENTRAL OFFICE PLAN.—

(1) IN GENERAL.—The central office plan shall provide for determinations by the Secretary, on the basis of the negotiations described in subparagraph (a), concerning—

(A) which portion of the funds made available to the Secretary for the central office shall—

(i) be used to support the area and agency offices in each area; and

(ii) be considered excess funds that may be allocated directly to Indian tribes in each area pursuant to a formula developed pursuant to paragraph (2)(J); and

(B) the allocation of the personnel of the central office to provide support to the area and agency offices.

(2) REALLOCATION OF FUNDS AND PERSONNEL.—In developing the central office plan, to the extent that the Secretary and the Indian tribes do not exercise the option to maintain current organizational structures, functions, or funding priorities, the central office plan shall provide, to the extent necessary to accommodate the determinations made under paragraph (1), for—

(A) the reorganization of the administrative structure of the central office;

(B) the reallocation of personnel (including determinations of office size and functions);

(C) the delegation of authority of the Secretary carried out through the central office to the Directors, Superintendents, or Indian tribes;

(D) transfers of functions;

(E) the specification of functions—

(i) retained by the central office; or

(ii) transferred to area offices, agency offices or Indian tribes;

(F) the issuance of waivers or other authorities by the Secretary so that functions and other responsibilities of the Secretary may be carried out by the central office or transferred to area offices, agency offices, or Indian tribes;

(G) the promulgation of revised regulations relating to the functions of the central office that are carried by the central office or transferred to area offices, agency offices, or Indian tribes;

(H) the reordering of funding priorities;

(I) allocation formulas to provide for the remaining services to be provided to the area and agency offices and Indian tribes by the central office; and

(J) with respect to the allocation of funds to the area and agency offices and Indian tribes in each area, a formula, negotiated with the tribal representatives identified in subsection (a), for the allocation to the Indian tribes of a portion of excess funds described in paragraph (1)(A)(ii).

(c) CENTRAL OFFICE REORGANIZATION COMPACTS.—

(1) IN GENERAL.—Not later than 60 days after the Secretary develops a central office plan pursuant to subsection (a), the Secretary shall, for each area office, enter into a central office reorganization compact with the Indian tribes in that area to implement the central office plan (referred to in this subsection as the "central office reorganization compact"). The Secretary may not implement the component of a central office plan relating to an area until such time as a majority of the Indian tribes in that area have entered into a central office reorganization compact. If a majority of the Indian tribes in an area do not enter into a central reorganization compact with the Secretary pursuant to this paragraph, the organizational structure, functions, and funding priorities of the central office relating to the area and agency offices and Indian tribes in that area and in effect at the time of the development of the central office plan shall remain in effect.

(2) COORDINATION WITH AREA AND AGENCY OFFICE PLANS.—Each central office reorganization compact entered into by the Secretary under this subsection shall specify that in the event the Secretary determines that a central office reorganization compact is inconsistent with a related area office reorganization compact entered into under section 101(c) or a related agency office reorganization compact entered into under section 102(c), the Secretary, in consultation with the Indian tribes that are parties to the central office reorganization compact, shall amend the compact to make such modifications as are necessary to ensure consistency with the applicable area or agency office plan.

SEC. 104. SAVINGS PROVISIONS.

(a) IN GENERAL.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of any function that is transferred to Indian tribes pursuant to a reorganization compact that the Secretary enters into pursuant to section 101, 102, or 103; and

(2) that are in effect on the effective date of the reorganization compact, or were final before the effective date of the reorganization compact and are to become effective on or after such date;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—

(1) IN GENERAL.—The provisions of a reorganization compact that the Secretary enters into pursuant to section 101, 102, or 103 shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Bureau at the time the reorganization compact takes effect, with respect to the functions transferred by the reorganization compact.

(2) CONTINUATION OF PROCEEDINGS.—The proceedings and applications referred to in paragraph (1) shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from such orders, and payments shall be made pursuant to such orders, as if the compact had not been entered into, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Bureau or by or against any individual in the official capacity of such individual as an officer of the Bureau shall abate by reason of the enactment of this title.

SEC. 105. ADDITIONAL CONFORMING AMENDMENTS.

(a) RECOMMENDED LEGISLATION.—After consultation with Indian tribes, the appropriate committees of the Congress and the Director of the Office of Management and Budget, the Secretary shall prepare and submit to the Congress recommended legislation containing technical and conforming amendments to reflect the changes made pursuant to this title.

(b) SUBMISSION TO THE CONGRESS.—Not later than 120 days after the effective date of this title, the Secretary shall submit to the Congress the recommended legislation referred to in subsection (a).

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 107. EFFECTIVE DATE.

This title shall take effect on the date of enactment of this Act.

SEC. 108. SEPARABILITY.

If a provision of this title or its application to any person or circumstance is held invalid, neither the remainder of this title nor the application of the provision to other persons or circumstances shall be affected.

SEC. 109. SUSPENSION OF CERTAIN ADMINISTRATIVE ACTIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, during the 2-year period beginning on the date of enactment of this Act, the Secretary shall suspend the implementation of all administrative activities that affect the Bureau of Indian Affairs associated with reinventing government, national performance review, or other downsizing initiatives.

(b) CONSIDERATION OF COMPACTS.—During the period specified in subsection (a), the reorganization compacts entered into under this title shall be deemed to satisfy the goals of the initiatives referred to in subsection (a).

SEC. 110. STATUTORY CONSTRUCTION.

Nothing in this title may be construed to alter or diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments.

TITLE II—AMENDMENT TO THE INDIAN SELF-DETERMINATION ACT

SEC. 201. BUDGET DEVELOPMENT.

The Indian Self-Determination Act (25 U.S.C. 450f et seq.), as amended by the Tribal Self-Governance Act of 1994, is amended by adding at the end the following new title:

"TITLE V—BUDGET DEVELOPMENT

"SEC. 501. PARTICIPATION OF INDIAN TRIBES IN THE DEVELOPMENT OF BUDGET REQUESTS.

"(a) BUDGET REQUESTS FOR THE BUREAU OF INDIAN AFFAIRS.—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this title, the Secretary of the Interior shall establish a program—

"(1) to provide information to Indian tribes concerning the development of budget requests for the Bureau of Indian Affairs that are submitted to the President by the Secretary of the Interior for inclusion in the annual budget of the President submitted to the Congress pursuant to section 1108 of title 31, United States Code; and

"(2) to ensure, to the maximum extent practicable, the participation by each Indian tribe in the development of the budget requests referred to in paragraph (1).

"(b) BUDGET REQUESTS FOR THE INDIAN HEALTH SERVICE.—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this title, the Secretary of Health and Human Services shall establish a program—

"(1) to provide information to Indian tribes concerning the development of budget requests by the Secretary of Health and Human Services for the Indian Health Service that are submitted to the President by the Secretary for inclusion in the annual budget referred to in subsection (a)(1); and

"(2) to ensure, to the maximum extent practicable, the participation by each Indian tribe in the development of the budget requests referred to in paragraph (1).

"(c) REQUIREMENTS FOR PROGRAMS.—

"(1) IN GENERAL.—Each program established under this section shall, to the maximum extent practicable—

"(A) provide for the estimation of—

"(i) the funds authorized to be appropriated on an annual basis for the benefit of Indians tribes; and

"(ii) for each Indian tribe, the portion of the funds described in clause (i) that will be provided for the benefit of the Indian tribe;

"(B) provide, for each Indian tribe—

"(i) the opportunity to establish priorities for using the estimated funds described in subparagraph (A)(ii); and

"(ii) flexibility in the design of tribal and Federal programs that receive Federal funds to best meet the needs of the community served by the Indian tribe; and

"(C) provide for the collection and dissemination of information that is necessary for effective planning, evaluation, and reporting by the Secretary of the Interior or the Secretary of Health and Human Services and Indian tribes concerning the comparative social and public health conditions of Indian communities (as defined and determined by the Secretary of the Interior and the Secretary of Health and Human Services) at local, regional, and national levels.

"(2) DUTIES OF THE SECRETARIES.—In carrying out the programs established under this section, the Secretary of the Interior and the Secretary of Health and Human Services shall—

"(A) use any information provided by Indian tribes concerning the priorities referred to in paragraph (1)(B);

"(B) support the creation of stable recurring base funding (as defined and determined by each such Secretary) for each Indian tribe;

"(C) seek to maintain stability in the planning and allocation of the amounts provided for in the budget of the Bureau of Indian Affairs and the Indian Health Service for Indian tribes; and

"(D) assess the Federal programs or assistance provided to each Indian tribe to determine—

"(i) the relative need for providing Federal funds to carry out each such program; and

"(ii) the amount of recurring base funding available to each Indian tribe to carry out each such program.

"(3) CONTRACTS, GRANTS, AND ANNUAL FUNDING AGREEMENTS.—To provide, to the maximum extent practicable, for the full participation by the governing bodies of Indian tribes on an effective government-to-government basis in carrying out the collection and sharing of information under this section, the Secretary of the Interior or the Secretary of Health and Human Services may—

"(A) enter into a self-determination contract with an Indian tribe or make a grant to an Indian tribe pursuant to section 102 or 103;

"(B) with respect to the Secretary of Health and Human Services, enter into a funding agreement with a participating Indian tribe pursuant to title III; and

"(C) with respect to the Secretary of the Interior, enter into a funding agreement with a participating Indian tribe pursuant to title IV.

"SEC. 502. ASSESSMENT METHODOLOGY.

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this title, the Secretary shall, in cooperation with Indian tribes, and in accordance with the negotiated rulemaking procedures under subchapter III of chapter 5 of title 5, United States Code, promulgate standardized assessment methodologies to be used in carrying out any budget determination for the Bureau of Indian Affairs concerning the levels of funding that are necessary to fund each program area (as defined and determined by the Secretary) of the Bureau.

"(b) PARTICIPATION BY INDIAN TRIBES.—In carrying out subsection (a), the Secretary shall take such action as may be necessary to ensure, to the maximum extent practicable, the direct and active participation of Indian tribes at the local, regional, and national levels in the negotiated rulemaking process specified in subchapter III of chapter 5 of title 5, United States Code.

"(c) COMMITTEE.—

"(1) COMPOSITION.—The negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out subsection (a) shall only be comprised of—

"(A) individuals who represent the Federal Government; and

"(B) individuals who represent Indian tribes.

"(2) REPRESENTATION BY INDIAN TRIBES.—A majority of the members of the committee referred to in paragraph (1) shall be individuals who represent Indian tribes.

"(d) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures carried out under this section in the same manner as the Secretary adapts, in accordance with section 407(c), the procedures carried out pursuant to section 407.

"SEC. 503. REPORTS TO THE CONGRESS.

"(a) REPORT ON BUDGET NEEDS.—Not later than the earliest date after the date of promulgation of the regulations under section 502 on which the Secretary of the Interior submits a budget request to the President for inclusion in the annual budget of the President submitted to the Congress pursuant to section 1108 of title 31, United States Code, and annually thereafter, the Secretary shall prepare and submit to the President a report that—

"(1) describes the standardized methodologies that are the subject of the regulations promulgated pursuant to section 502; and

"(2) includes—

"(A) for each program area of the Bureau of Indian Affairs, an assessment of the level of funding that is necessary to fund the program area; and

"(B) for each Indian tribe served by a program area referred to in paragraph (2)—

"(i) an assessment of the level of funding that is necessary for each Indian tribe served by the program area;

"(ii) the total amount of funding necessary to cover all program areas with respect to which the tribe receives services (as determined by taking the aggregate of the applicable amounts determined under paragraph (3)); and

"(iii) a breakdown, for each program area with respect to which the Indian tribe receives service, of the amount determined under clause (ii).

"SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this title.".

TITLE III—REFORM OF THE REGULATIONS OF THE BUREAU OF INDIAN AFFAIRS

SEC. 301. BIA MANUAL.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(1) conduct a review of all provisions of the BIA Manual;

(2) promulgate as proposed regulations those provisions of the BIA Manual that the Secretary deems necessary for the efficient implementation of the Federal functions retained by the Bureau under the reorganization compacts authorized by this Act; and

(3) revoke all provisions of the BIA Manual that are not promulgated as proposed regulations under paragraph (2).

(b) CONSULTATION WITH INDIAN TRIBES.—In carrying out subsection (a), the Secretary shall, to the maximum extent practicable, consult with Indian tribes in such manner as to provide for the full participation of Indian tribes.

SEC. 302. TASK FORCE.

(a) ESTABLISHMENT OF TASK FORCE.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a task force on regulatory reform (referred to in this section as the "task force").

(2) DUTIES.—The task force shall—

(A) review the regulations under title 25, Code of Federal Regulations; and

(B) make recommendations concerning the revision of the regulations.

(3) MEMBERSHIP.—The task force shall be composed of 16 members, including 12 members who are representatives of Indian tribes from each of the 12 areas served by area offices.

(4) INITIAL MEETING.—Not later than 60 days after the date on which all members of the task force have been appointed, the task force shall hold its first meeting.

(5) MEETINGS.—The task force shall meet at the call of the Chairperson.

(6) QUORUM.—A majority of the members of the task force shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON.—The task force shall select a Chairperson from among its members.

(b) REPORTS.—

(1) REPORTS TO SECRETARY.—The task force shall submit to the Secretary such reports as the Secretary determines to be appropriate.

(2) REPORTS TO THE CONGRESS AND TO INDIAN TRIBES.—In addition to submitting the reports described in paragraph (1), not later than 120 days after its initial meeting, the task force shall prepare, and submit to the Congress and to the governing body of each Indian tribe, a report that includes—

(A) the findings of the task force concerning the review conducted pursuant to subsection (a)(2)(A); and

(B) the recommendations described in subsection (a)(2)(B).

(c) POWERS OF THE TASK FORCE.—

(1) HEARINGS.—The task force may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the task force considers advisable to carry out the duties of the task force specified in subsection (a)(2).

(2) INFORMATION FROM FEDERAL AGENCIES.—The task force may secure directly from any Federal department or agency such information as the task force considers necessary to carry out the duties of the task force specified in subsection (a)(2).

(3) POSTAL SERVICES.—The task force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The task force may accept, use, and dispose of gifts or donations of services or property.

(d) TASK FORCE PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the task force who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the task force. All members of the task force who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the task force.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the task force may, without regard to the civil service laws, appoint and terminate such personnel as may be necessary to enable the task force to perform its duties.

(B) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the task force may procure temporary and intermittent service under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION OF TASK FORCE.—The task force shall terminate 30 days after the date on which the task force submits its reports to the Congress and to Indian tribes under subsection (b)(2).

(f) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—All of the activities of the task force conducted under this title shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

(g) PROHIBITION.—Beginning on the date of enactment of this Act, the Secretary may not—

(1) promulgate any unpublished regulation or agency guidance that affects Indian tribes; or

(2) impose any nonregulatory requirement that affects Indian tribes.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SECTION-BY-SECTION ANALYSIS

SECTION ONE

Section 1 cites the short title of the Act as the Bureau of Indian Affairs Reorganization Act of 1995. This section sets forth the table of contents for the Act and the definitions used in the Act.

Title I—Reorganization compacts

SECTION 101. REORGANIZATION COMPACTS

Section 101 of the Act provides that not later than 120 days after enactment, the Secretary shall enter into negotiations with the Indian tribes served by each area office of the BIA to prepare a reorganization plan for the area office.

Subsection (b) of this section provides that each area plan shall provide for the reorganization of the administrative structure of the area office, the reallocation of personnel, the delegation of secretarial authorities, the issuance of waivers of regulations and other authorities, the reordering of funding priorities, and specify which functions are retained by the BIA and which functions are transferred to the tribes. The area office plan shall include a formula for allocation of savings to the recurring base funding of the tribes. This subsection also provides that an area plan may include a determination of the share of funds used by the Area office to carry out programs, services, functions and activities of the tribe.

Paragraph (3) of this subsection provides that a majority of tribes in an area may elect to continue the existing organizational structures, functions, or funding priorities of the area office.

Paragraph (4) of this subsection provides that upon completion of the negotiation of an area office plan the Secretary shall submit the plan for approval by the Indian tribes in the area. If a majority of tribes approve the area office plan by tribal resolution the Secretary shall enter into a reorganization compact with the tribes.

Paragraph (5) of this subsection provides that for those area offices which serve only 1 Indian tribe, the Secretary shall enter into negotiations with the tribe to prepare a reorganization plan if the tribe elects to develop a reorganization plan for the area office. It further provides that within 60 days from the date the plan is approved, the Secretary shall enter into a reorganization compact with the tribe to carry out the reorganization plan.

Paragraph (6) of this subsection provides that an Indian tribe may elect to receive its tribal share of the funds used by the area office to carry out programs, services, functions, and activities directly from the Secretary. The agreement to receive the tribal share shall include a determination of the amount of residual funds to be retained by the Secretary for the area office and the respective responsibilities of the area office and the Indian tribe.

Subsection (c) provides that not later than 60 days from the date on which a majority of tribes in the area office have approved a reorganization plan, the Secretary shall enter into an area office reorganization compact with the Indian tribes to carry out the area office reorganization plan. The Secretary may not implement an area office reorganization plan until the tribes have entered into a reorganization compact with the Secretary. This subsection also provides that nothing in this section may limit or reduce the level of any service or funding for an Indian tribe that is not a party to a reorganization compact.

SECTION 102. REORGANIZATION OF AGENCY OFFICES

Subsection (a) provides that not later than 120 days after enactment, the Secretary acting through the Superintendent of each agency office, shall enter into negotiations with the Indian tribes served by each agency office to develop a reorganization plan for the agency office.

Subsection (b) provides that each agency office plan shall provide for the reorganization of the administrative structure of the agency office, the reallocation of personnel, the delegation of secretarial authorities, the issuance of waivers of regulations and other authorities, the reordering of funding priorities, and specify which functions are retained by the BIA and which functions are transferred to the Indian tribes. The agency office plan shall include a formula for allocation of savings to the recurring base funding of the tribes. This subsection also provides that an agency office plan may include a determination of the share of funds used by the agency office to carry out programs, services, functions and activities of the tribe.

Paragraph (3) of this subsection provides that a majority of tribes in an agency office may elect to continue the existing organizational structures, functions, or funding priorities of the agency office.

Paragraph (4) of this subsection provides that upon completion of the negotiation of an agency office plan the Secretary shall submit the agency plan to the tribes served by the agency for approval. If a majority of tribes approve the agency reorganization plan by tribal resolution, the Secretary shall enter into a reorganization compact with the tribes served by the agency.

Paragraph (5) of this subsection provides that for those agency offices which serve only 1 Indian tribe, the Secretary shall enter into negotiations with the tribe to prepare a reorganization plan if the tribe elects to develop a reorganization plan for the agency office. It further provides that within 60 days from the date the plan is approved, the Secretary shall enter into a reorganization compact with the tribe to carry out the reorganization plan.

Paragraph (6) of this subsection provides that an Indian tribe may elect to receive its tribal share of the funds used by the agency office to carry out programs, services, functions, and activities directly from the Secretary. The agreement to receive the tribal share shall include a determination of the amount of residual funds to be retained by the Secretary for the agency office and the respective responsibilities of the agency office and the Indian tribe.

Subsection (c) provides that not later than 60 days from the date on which a majority of tribes in the agency office have approved a reorganization plan, the Secretary shall enter into an agency office reorganization compact with the Indian tribes to carry out the agency office reorganization plan. The Secretary may not implement an agency office reorganization plan until the tribes have entered into a reorganization compact with the Secretary. This subsection also provides that nothing in this section may limit or reduce the level of any service or funding for an Indian tribe that is not a party to a reorganization compact. Finally, this subsection states that where the Secretary has determined that an agency office reorganization compact is inconsistent with an area office reorganization compact, the Secretary in consultation with the Indian tribes that are parties to the compact shall make such amendments to the agency office compact as are necessary to ensure consistency with the applicable area office plan.

SECTION 103. REORGANIZATION OF CENTRAL OFFICE

Section 103 provides that not later than 120 days from the date of enactment the Secretary shall enter into negotiations with Indian tribes to develop a central office reorganization plan. The Secretary shall enter into negotiations on an area by area basis with representatives from each tribe in the area in order to develop the central office plan. As part of these negotiations, the Secretary shall determine the appropriate allocation of personnel and funding made available to central office to serve the area and agency offices and the tribes in each area.

Subsection (b) provides that the central office plan shall contain a determination of funds and personnel used to support the area and agency offices in each area and those funds which may be allocated directly to Indian tribes pursuant to the formula developed under this section.

Paragraph (2) states that the central office reorganization plan shall provide for the reorganization of administrative structure of the central office, the reallocation of personnel, the delegation of secretarial authorities, the issuance of waivers of regulations and other authorities, the reordering of funding priorities, and specify which functions are retained by the BIA and which functions are transferred to the Indian tribes. The central office plan shall include an allocation formula to provide for the remaining services to be provided to the area and agency offices and the Indian tribes by the central office and a formula for allocation of savings to the recurring base funding of the tribes and to the area and agency offices.

Subsection (c) provides not later than 60 days after the Secretary develops a central office plan, the Secretary shall for each area office enter into a central office reorganization compact with the tribes in that area to implement the central office reorganization plan. The Secretary may not implement the component of a central office reorganization plan relating to an area until a majority of tribes in that area have entered into a central office reorganization compact with the Secretary. This subsection also provides that if a majority of Indian tribes in an area do not enter into a central office reorganization compact the existing organizational structure relating to that area shall remain in effect. Finally, this subsection states that where the Secretary has determined that a central office reorganization compact is inconsistent with a related area or agency office reorganization compact, the Secretary in consultation with the Indian tribes that are parties to the compact shall make such amendments as are necessary to ensure consistency with the applicable area or agency office plan.

SECTION 104. SAVINGS PROVISIONS

Subsection (a) states that all orders, determinations, rules, regulations, permits, agreements, grants, contracts, licenses, and other administrative actions that are in effect on the effective date of the reorganization compact shall continue in effect according to their terms until modified, terminated, superseded or set aside in accordance with law.

Subsection (b) states that the provisions of a reorganization compact shall not affect any proceedings, including any notices for proposed rulemaking, that are pending at the time the reorganization compact takes effect. These proceedings shall continue as if the compact had not been entered into and any orders issued in such proceedings shall continue in effect until modified, terminated or superseded by a duly authorized official, a court of competent jurisdiction, or by operation of law.

Subsection (c) states that no suit, action, or other proceeding commenced by or against the BIA or any official in the BIA shall abate by reason of enactment of this title.

SECTION 105. ADDITIONAL CONFORMING AMENDMENTS

Subsection (a) authorizes the Secretary to prepare and submit to the Congress, after consultation with the tribes, the Committees of jurisdiction in the Congress, and the OMB, recommended legislation containing technical and conforming amendments to reflect changes made pursuant to this title.

Subsection (b) requires the Secretary to submit such legislation to the Congress within 120 days of enactment of this title.

SECTION 106. AUTHORIZATION OF APPROPRIATIONS

Section 106 authorizes such sums as may be necessary to carry out this title to be appropriated.

SECTION 107. EFFECTIVE DATE

Section 107 states that this title shall take effect on the date of enactment.

SECTION 108. SEPARABILITY

Section 108 provides that if a provision of this title or its application is held invalid, neither the remainder of this title nor the application of the provision to other persons or circumstances shall be affected.

SECTION 109. SUSPENSION OF CERTAIN ADMINISTRATIVE ACTIONS

Section 109 provides that during the 2 year period beginning on the date of enactment the Secretary shall suspend the implementation of all administrative activities associated with reinventing government, the national performance review and other downsizing initiatives affecting the Bureau of Indian Affairs. It also states that during this 2 year period the reorganization compacts entered into under this title shall be deemed to satisfy the goals of reinventing government, the national performance review and other downsizing initiatives.

SECTION 110. STATUTORY CONSTRUCTION

Section 110 provides that nothing in this title may be construed to alter or diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments.

Title II—Amendment to the Indian Self-Determination Act

SECTION 201. BUDGET DEVELOPMENT

Section 201 amends the Indian Self-Determination Act (25 U.S.C. 450f et seq.) by adding the following new title:

Title V—Budget development

SECTION 501. PARTICIPATION OF INDIAN TRIBES IN THE DEVELOPMENT OF BUDGET REQUESTS

Subsection (a) of this section requires, within 120 days after enactment, the Secretary to establish a program to provide information to Indian tribes concerning the development of budget requests for the Bureau of Indian Affairs and to ensure that each Indian tribe participates to the maximum extent practicable in the development of the budget request for the Bureau of Indian Affairs.

Subsection (b) of this section requires, within 120 days after enactment, the Secretary of Health and Human Services to establish a program to provide information to Indian tribes concerning the development of budget for the Indian Health Service and to ensure that each Indian tribe participates to the maximum extent practicable in the development of the budget request for the Indian Health Service.

Subsection (c) of this section requires programs to the maximum extent practicable to develop an estimation of funds annually authorized to be appropriated for the benefit of Indian tribes, develop an estimation of individual tribal shares of the funds to be provided for the benefit of the Indian tribes, and to provide each tribe with an opportunity to establish individual tribal funding priorities. The program shall also collect and disseminate information necessary for effective planning and evaluation relating to the comparative social and public health conditions of Indian communities at the local, regional, and national levels.

Paragraph (2) of this subsection requires the Secretary of the Interior and the Secretary of Health and Human Services to support the creation of stable recurring base funding for each Indian tribe, to maintain stability in the planning and allocation of the IHS and BIA budgets to Indian tribes, to assess the Federal programs of assistance to Indian tribes to determine the relative need for providing Federal funds to carry out each such program and determine the amount of recurring base funding available to each Indian tribe to carry out each such program.

Paragraph (3) of this subsection authorizes the Secretary of the Interior and the Secretary of Health and Human Services to enter into self-determination contracts, self-governance compacts or make a grant to an Indian tribe to carry out the information collection and dissemination functions under this title.

SECTION 502. ASSESSMENT METHODOLOGY

Subsection (a) of this section requires the Secretary of the Interior within 180 days of enactment to promulgate standardized assessment methodologies to be used in carrying out any budget determination for the BIA concerning levels of funding that are necessary for each program area.

Subsection (b) of this section requires the Secretary to ensure the direct and active participation of Indian tribes at the local, regional and national levels in the negotiated rulemaking process established under this section.

Subsection (c) of this section provides that the negotiated rulemaking committee created under this section shall be comprised of individuals who represent the Federal Government and individuals who represent Indian tribes. A majority of the Committee shall be comprised of individuals who represent Indian tribes.

Subsection (d) of this section authorizes the Secretary to adapt the negotiated rulemaking procedures in accordance with section 407 of this Act.

SECTION 503. REPORTS TO THE CONGRESS

Subsection (a) provides that the Secretary shall annually prepare a report that describes the standardized methodologies and includes an assessment of the level of funding that is necessary to fund each program area of the Bureau of Indian Affairs. This report shall include an assessment for each Indian tribe of the level funding necessary for each Indian tribe to carry out each program area and an assessment of the total amount of funds needed to carry out all the programs areas with respect to which the tribe receives services.

SECTION 504. AUTHORIZATION OF APPROPRIATIONS

This section authorizes to be appropriated such sums as may be necessary to carry out this title.

Title III—Reform of the Regulations of the Bureau of Indian Affairs

SECTION 301. BIA MANUAL

Section 301 requires the Secretary not later than 180 days after enactment to conduct a review of all the provisions of the BIA manual and to promulgate as proposed regulations those provisions of the BIA manual that are deemed necessary and to revoke all provisions of the BIA manual that are not promulgated as proposed regulations. In carrying out this section, the Secretary shall consult with Indian tribes to the maximum extent practicable.

SECTION 302. TASK FORCE

Section 302 provides for the establishment of a Joint Tribal-Federal task force on regulatory reform. The task force shall be composed of 16 members, including 12 members who are representatives of Indian tribes from each of the 12 areas served by the BIA. The task force shall review the regulations under Title 25 of the Code of Federal Regulations and make recommendations concerning revision of the regulations. The task force shall submit reports to the Secretary as is deemed appropriate and shall not later than 120 days after its initial meeting submit a report to the Congress and the governing body of each Indian tribe that includes their findings and recommendations after reviewing Title 25 of the Code of Federal Regulations. The task force shall terminate 30 days after the date on which the task force submits its report to the Congress. This section also prohibits the Secretary from promulgating any unpublished regulation or agency guidance that affects Indian tribes and from imposing any nonregulatory requirement that affects Indian tribes.

SECTION 303. AUTHORIZATION OF APPROPRIATIONS

Section 303 authorizes to be appropriated such sums as may be necessary to carry out this title.•

• Mr. INOUYE. Mr. President, I join my esteemed colleague, the chairman of the Committee on Indian Affairs, Senator JOHN MCCAIN, in the sponsorship of a measure that is intended to initiate discussion in the Senate of the means by which the reorganization of the Bureau of Indian Affairs is to be accomplished.

Mr. President, I am aware that there is some concern amongst my colleagues that they have not sufficient time to review this measure prior to its introduction, and I want to assure these members that I too have questions about the mechanics of the proposed reorganization process, as well as the scope of the proposed reorganization—but I believe that it is important that we begin somewhere—and that we have a legislative vehicle that will engender discussion and consideration of the specifics or reorganization.

For instance, it will be important, I believe, that reorganization at the agency, area and central offices proceed in some orderly fasion—given the interdependency of the functions and responsibilities of each of these offices.

In the absence of some order—reorganization of agency offices prior to reorganization of area offices culminating in the reorganization of the central office, for instance, as one possible means—there will undoubtedly be a predictable chaos if reorganization plans and compacts that have significant impacts on other organizational units are attempted to be implemented—all at the same time.

Mr. President, I am also aware of the concern expressed by some members as to what impact the proposed reorganization may have on the Bureau's responsibilities in the areas of education, tribal justice systems, and other centrally administered programs.

But I believe that this discussion draft will, at a minimum, provide us with a framework for addressing these concerns, and I look forward to working with the chairman of the committee—our colleagues on the Indian Affairs Committee and the leaders of indian country—to refine this discussion draft into an effective instrument for the implementation of the recommendations of the joint Department of Interior, Bureau of Indian Affairs, and tribal task force on the reorganization of the Bureau of Indian Affairs.•

• Mr. DOMENICI. Mr. President, I am pleased today to join Chairman MCCAIN of the Senate Committee on Indian Affairs in sponsoring legislation to bring about many needed changes to the Bureau of Indian Affairs [BIA] of the U.S. Department of the Interior. It is a special honor for me to endorse the fine work of Wendell Chino, president of the Mescalero Apache Tribe of New Mexico. He has worked for decades to change the BIA. More recently, President Chino has focused his fine efforts through the BIA Reorganization Task Force for the last 4 years. As the elder statesman of Indian leaders, President

Wendell Chino's incisive and powerful voice has been heard about the continuing problems in the BIA. We are pleased to introduce legislation to help bring these recommendations to fruition.

Wendell has long been a vociferous and humorous critic of the infamous BIA. Wendell tells me that humor is necessary when you really want to cry. We have a special trust relationship with Indians in America, but far too often this trust has been neglected by a cumbersome bureaucracy.

As cosponsor of Chairman MCCAIN's excellent effort to launch an important debate, I am aligning myself with those who view the BIA as a detriment rather than a benefit to Indian people. I have spoken several times in Senate Budget and Indian Affairs Committee meetings this year about the need to meet our special trust and treaty obligations to the Indian people.

As a proponent of the largest budget reductions ever presented in the history of the Senate, I have maintained the need to keep our promises to the Indian people. This is not only good for Indians, it is good for America to know that her word is meaningful and can be relied upon.

When the Congress passes legislation and the President signs it, Americans should be able to know that they have been well represented and action will follow that is in line with the promises. Unfortunately, America's history has not been so sterling when it comes to its promises to Indian people. There are books, movies, and testimony to the many tragedies in our history with Indian people.

There have been some improvements in this century, but the violations continue. For example, as recently as 1962, the Congress and the President, in Public Law 87–483, promised to provide an irrigation system to the Navajo Tribe in exchange for water rights in the San Juan Chama water diversion project. The Navajos have kept their agreement about water rights, but the Federal Government is 20 years behind schedule in building the promised irrigation system.

I will not take the time to review other incidents here, I just want my colleagues to know that we are aware of the promises, and that we should do our part in promoting character counts in our own legislative activity. I believe the bill we are introducing today is in line with this goal.

Mr. President, I ask unanimous consent to print the leading themes of the executive summary of the joint tribal/BIA/Department of Interior advisory task force on the reorganization of the Bureau of Indian Affairs, August 1994, in the RECORD. This is for the benefit of my colleagues who may want to look at the parameters of the fine work of this task force, upon which Chairman MCCAIN has based our legislative effort. I refer my colleagues to Chairman MCCAIN's statement for a further explanation of the purposes of this legislation, and I urge my colleagues to review this exciting new thrust for the BIA.

On a closing note, I would like to add that my own bill, S. 346, cosponsored by Senator DANIEL INOUYE of the Senate Committee on Indian Affairs, is not included in the bill we are introducing today. It is my intention to offer S. 346, a bill to establish an Office of Indian Women and Families in the BIA, as an amendment during committee markup of this legislation. For the benefit of my colleagues, I ask unanimous consent that my "Dear Colleague" letter of February 22, 1995, be printed in the RECORD.

Finally, Mr. President, I would be remiss if I did not acknowledge the fine work of a former New Mexico Congressman who became Secretary of the Interior, Manuel Lujan. It was Secretary Lujan who appointed Wendell Chino and Eddie Brown as cochairs of the BIA reorganization task force.

It is my pleasure to join Senator MCCAIN in introducing this bill. It is an honest and good effort to reform, in significant and positive way, our trust relationship with the American Indian people.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, February 22, 1995.

DEAR COLLEAGUE: As we consider better ways to meet our treaty and statutory obligations to the Indian people of America through an improved Bureau of Indian Affairs, I would like you to keep Indian women and youth in mind. It is my belief that they are too often ignored in the Washington-based policy decisions that can have a most direct impact on their daily lives.

I am asking my Senate Colleagues to join me and the Vice Chairman of the Senate Committee on Indian Affairs, Senator Daniel K. Inouye, in sponsoring legislation to establish an Office of Indian Women and Families in the Bureau of Indian Affairs, U.S. Department of the Interior.

Indian women are most often at the very bottom of the economic ladder in America. They are the *poorest of the poor*. While the tide of public opinion is against adding virtually any new federal government employees, I believe it is time to directly address the concerns and problems of Indian women in the agency that is most responsible for their well-being.

In January of 1994, I held hearings in Window Rock, Arizona and in Rio Grande Pueblo country in Albuquerque, New Mexico. Hundreds of women and tribal leaders expressed their support for enacting this legislation. In the 103rd Congress, Senator McCain worked very hard to bring the problems of Indian child abuse to light. Many abusers were their BIA teachers.

Ramah Navajo District Judge Irene Toledo testified in Window Rock that "we do have a lot of children falling through the cracks." Elsie Redbird told us, "While American women come up against a 'glass ceiling,' Indian women have problems getting off the floor."

There are problems with gang violence, teen pregnancies and AIDS. Child care, domestic violence, poor housing conditions, and minimal economic opportunity are continuous problems on our nation's Indian reservations.

How would this new Office of Indian Women and Families help resolve these problems? The monitoring of participation rates and beneficial outcomes for Indian women and children in on-going programs of the BIA and other federal departments and agencies would be a critical first step.

Job opportunities outside the domestic or clerical levels are too rare for Indian women. Yet the BIA and the U.S. Department of Labor have little precise and current information about the unemployment or underemployment problems of Indian women.

Obviously, an Office of Indian Women and Families could not be expected to move on all fronts at once. In fact, our bill gives jobs and business development opportunities for Indian women the first priority. Without such a permanent office to advocate program and policy changes for them, I am afraid one of our most precious and yet most neglected federal responsibilities will continue to be a national shame.

Indian women and their families have little choice but to live at the mercy of some of the most perplexing bureaucratic mazes in our federal government. I believe this group of American Indians would benefit by a more systematic monitoring of their lifestyle problems, a more consistent effort on our part to improve their lives, and a more interactive approach that includes their active participation in resolving their own concerns.

I hope you will join in cosponsoring S. 346, a bill to establish an Office of Indian Women and Families in the Department of Interior. Joe Trujillo of my staff can be reached at 224–7086 if you have further comments or questions. Thank you for your interest in American Indian women and their families.

Sincerely yours,

PETE V. DOMENICI,
U.S. Senator.

LEADING THEMES OF REORGANIZATION

Tribes recognized that simply changing the organizational structure of the BIA would not result in a change in how well it could deliver on its responsibility. All aspects of the organization, systems and processes utilized by the BIA were reviewed. The BIA's mission needed to be clearly defined to guide its future directions. Four leading themes emerged early, and the Task Force organized its efforts around them:

Organization Reform: The organizational levels and functions needed to be clearly defined as to appropriate roles, with the operational roles moved as close as possible to where services were to be delivered. Accordingly, roles were recommended for Central Office, Areas and Agencies. Keeping in mind the differences between Areas, the Task Force recognized that the Tribes in each Area and Agency needed to be involved in the redesign of these organizations to meet their respective needs. Too much of the overall resources of the BIA were being dedicated to Central Office and Area functions. Tribes felt that these resources could be better utilized at the Tribe/Agency/school service delivery level.

Regulatory Reform: The authority by which BIA decisions were made had been eroded at the levels nearest Tribes. The Task Force recognized that laws, regulations and internal BIA policies needed to change to return decision making to the BIA organizational units closest to the client. In addition, many inherent Tribal authorities had been usurped. Laws, regulations and policies needed to be reviewed to remove obstacles to Tribes freely exercising authorities for decisions which were inherently Tribal.

Education Reform: The Task Force strongly felt that emphasis needed to be placed on education for the following reasons: (1) The failure to fully implement all provisions of P.L. 95-561. (2) The indefinite organizational status of education functions within the Bureau. (3) An assessment of the current level of education services within the Bureau. It was determined that a comprehensive plan was necessary to ensure maximum efficiency and effectiveness in education.

Budget Reform: The processes of planning, budgeting and reporting on budget needs were in serious need of reform. Throughout the first 20 years of implementation of the Self-Determination policy, Tribal participation in decisions regarding the designs of programs and the priorities for funding them had actually been diminished. Tribes felt that their needs were consistently understated or not reported to Congress at all. Though they had assumed management of about half of the budget resources under various Self-Determination Act awards, the BIA and others in the Federal government seemed to retain full control, and frequently disrupted the maintenance of funding and services. A new system of planning, budgeting and needs assessment was needed, and it needed to be based on the Federal policies of Indian Self-Determination and of dealing with Tribes on a government-to-government basis.●

By Mr. HATCH:

S. 815. A bill to amend the Internal Revenue Code of 1986 to simplify the assessment and collection of the excise tax on arrows; to the Committee on Finance.

SIMPLIFICATION OF IMPOSITION OF EXCISE TAX ON ARROWS

Mr. HATCH. Mr. President, I rise today to introduce legislation that would simplify the Internal Revenue Code regarding the imposition of the Federal excise tax on arrows.

Mr. President, this bill will benefit manufacturers, wholesalers, retailers, assemblers, and, most importantly, the consumers of archery equipment. In 1993, there were nearly 3 million licensed bow and arrow hunters in the United States, including 28,000 in my home State of Utah. These figures exclude the millions of individuals who enjoy archery as a hobby but do not hunt with a bow and arrows. Let me explain both the present status of this excise tax and why simplification is needed.

Under section 4161(b) of the Internal Revenue Code, an excise tax of 11 percent is imposed upon the sale by the manufacturer, producer, or importer of an arrow or an arrow's component parts and accessories. A complete arrow consists of various component parts, namely: a shaft, a point, a nock, and a vane. The arrow shaft is sold separately from the point, nock, and vane, which are attached to the shaft to make a complete arrow. The assembly of these parts into a finished arrow may take place at a wholesale manufacturing level, a distribution level, a retail level, or at the consumer level. Identifying the manufacturer for purposes of the excise tax is difficult because of the long distribution chain between the raw material supplier and the consumer. Under current law, anyone who manufactures arrows, or the various parts of arrows, may be required to collect the excise tax.

The current interpretation of the tax on arrows has resulted in a great deal of confusion among retailers as well as among IRS field agents enforcing the law. Currently, local shops are subject to different interpretations of what is taxable. Ultimately, the tax falls on the last person in the chain to materially change the article before it is sold to the consumer. Unfortunately, several members of this chain may fit the definition of a manufacturer, and each is liable for the tax unless certain registration requirements are met and exemption forms filed.

As you can see, Mr. President, the method for collecting the excise tax on arrows needs to be streamlined. My bill would change the imposition of the excise tax to fall on the component shafts, points, nocks, and vanes as they are manufactured, rather than on the aggregated value of the assembled arrow. This is a significant change, but one that will greatly simplify the administration of the tax. Under my bill, individual distributors, assemblers, and retail sellers of arrows or parts of arrows would no longer be responsible for collecting the excise tax. Only the manufacturers of these parts would bear the responsibility of the excise tax. Thus, identification of the manufacturer would be much simpler and clearer. Industry representatives, who support these changes, have indicated to me that this simplification should increase compliance and therefore enhance revenues. Enforcement by the IRS should also be much easier under this legislation.

Mr. President, the result of this bill is a narrowing of the collection base. Instead of having thousands of distributors, retailers, or custom arrow shops being potentially liable for the tax as under the current law, about 65 companies would be liable under the bill. This simplification would save the IRS a considerable amount of time and money in enforcing the tax. It also would free smaller dealers and stores from the burden of computing and remitting the excise tax.

The language in this bill accomplishes the needed simplification of this particular section of the Tax Code. One consequence of this change is the possibility that a higher excise tax rate may be needed to make the measure revenue neutral. The arrow manufacturing industry agrees that this simplification is not intended to decrease revenue to the Federal Government. I am working with the Joint Committee on Taxation to find a rate of tax that will make the end result revenue neutral. The bill, as introduced, Mr. President, includes an 11 percent tax rate, which is the same as under present law. It is my intention to adjust this rate, up or down, as needed, to keep this bill revenue neutral. I want to point out, however, that greater compliance should be achieved by having a much smaller number of entities responsible for the tax. This greater compliance, together with the savings realized from the reduced manpower requirements the IRS needs to enforce this tax, should combine to allow an equal or lesser tax rate than under current law. These factors should be considered when determining the revenue impact of this legislation.

Mr. President, the amount of revenue we are talking about is around $13 million a year. These revenues are, by law, required to go to the Pittman-Robertson fund, established by the Federal Aid to Wildlife Restoration Act. The proceeds of this fund go toward wildlife restoration and hunter education programs administered by the U.S. Fish and Wildlife Service. The bulk of this fund is, in turn, passed onto the States to fund their own wildlife programs.

Under current law, arrows made by native Americans are exempt from the Federal excise tax. The simplification bill I am introducing today would not remove or alter this exemption in any way.

In conclusion, Mr. President, I believe that today, more than ever, we need to be mindful of the many burdens we are placing on small businesses and consumers through numerous Federal mandates and burdensome tax compliance measures. Businesses and consumers nationwide spend billions of dollars each year on tax compliance. Consumers, of course, pay for this compliance through higher retail prices for goods and services. We all know this money could be put to more productive use. Even though this bill is small in comparison to the immense Tax Code, I think it is right on target in terms of helping us to achieve tax simplification.

Mr. President, this legislation is a beneficial modification to the Tax Code presented in a win-win framework. This bill has the support of the Archery Manufacturers and Merchants Association, which represents the majority of this industry. I hope this bill will be swiftly adopted, and I encourage my colleagues to support and cosponsor this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SIMPLIFICATION OF IMPOSITION OF EXCISE TAX ON ARROWS.

(a) IN GENERAL.—Subsection (b) of section 4161 of the Internal Revenue Code of 1986 (relating to imposition of tax) is amended to read as follows:

"(b) BOWS AND ARROWS, ETC.—

"(1) BOWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a draw weight of 10 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) PARTS AND ACCESSORIES.—There is hereby imposed upon the sale by the manufacturer, producer, or importer—

"(i) of any part of accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver suitable for use with arrows described in paragraph (2), a tax equivalent to 11 percent of the price for which so sold.

"(2) ARROWS.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any shaft, point, nock, or vane of a type used in the manufacture of any arrow which after its assembly—

"(A) measures 18 inches overall or more in length, or

"(B) measures less than 18 inches overall in length but is suitable for use with a bow described in paragraph (1)(A),

a tax equal to 11 percent of the price for which so sold.

"(3) COORDINATION WITH SUBSECTION (a).—No tax shall be imposed under this subsection with respect to any article taxable under subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

By Mr. DEWINE (for himself, Mr. STEVENS, Mr. ASHCROFT, Mr. HATCH, and Mr. THURMOND):

S. 816. A bill to provide equal protection for victims of crime, to facilitate the exchange of information between Federal and State law enforcement and investigation entities, to reform criminal procedure, and for other purposes; to the Committee on the Judiciary.

THE LOCAL LAW ENFORCEMENT ENHANCEMENT ACT

Mr. DEWINE. Mr. President, today I am introducing the Local Law Enforcement Enhancement Act for myself as well as Senator STEVENS and Senator ASHCROFT.

Mr. President, for the past week, beginning last Wednesday, I have discussed on the Senate floor different aspects of the bill that I am introducing this afternoon. I do not intend to go through every single provision of the bill again this afternoon. But I would like to highlight three or four of the principal areas of this bill.

I believe that when we look at any crime bill proposed in this Congress, we always have to ask several questions. The first is, what is the proper role of the Federal Government in an area that we all know and understand is primarily local. Ninety to 95 percent of all prosecutions are done at the State, county and local level, not the Federal level. So if we are going to have a national crime bill, what is that niche? What is the proper role of the Federal Government?

The second question I believe that we always have to ask is, what works? What can this Congress do in legislation, with Federal dollars, that will really make a difference?

The bill that I am introducing this afternoon is the product of my 20 years of being involved at different levels of Government, in law enforcement, being involved in this battle against crime. That certainly does not mean that I am an expert. I do not think we have any experts in this area.

However, I have seen it from every angle. I have seen it from the angle of a young county prosecuting attorney, a State senator who dealt with it on the State level and tried to write appropriate State laws, then on the House Judiciary Committee for 8 years, and then as Lieutenant Governor of Ohio, where my principal job was to oversee our anticrime effort.

This bill is a product of that experience, but also probably more importantly, it is the product of my listening and discussing the crime issues with the men and women in Ohio who are on the front line every single day, the police officers who have to deal with this problem—what works, what does not work.

One thing, Mr. President, that we know works, from our experience, is the tools of technology. My bill will take America from 19th-century technology in the anticrime area into the 21st century. It does it in a unique way. It does it by putting $1 billion—which is certainly a lot of money, but only a little over 3 percent of this total crime package that was passed last year, which my bill essentially is a rewrite of—a little over 3 percent of that total money over a 5-year period we spend on technology for the local communities, for the local States.

What I have been advised by law enforcement throughout Ohio and what I have been advised by the FBI is that while last year's crime bill went a long way to create the national databases that we need here in Washington and in the new facility that is being built in West Virginia, it will never be a complete system unless we grow the system locally.

I come from Greene County in Ohio, and the Xenia police department, when they put information into the system or try to get information back out, it is not only important for them to do it accurately and for that information to be in; it is not only important for the FBI to have the national database; but for it to really be successful and work for the local police department wherever that police department is, every other jurisdiction in the country has to do the same thing. Criminals move around, information moves around, and it has to be accurate.

What our bill does is put the money into the local communities. What are we talking about? We are talking about, basically, four national systems: a DNA system; a fingerprint system; a ballistic system, where we can compare the grooves, for example, on shells and bullets; and the fourth, of course, is to identify criminals.

This type of technology matters. It does, in fact, help to solve crimes. It matters when a police officer, at 3 o'clock in the morning, or a sheriff's deputy out on some dark road, has to pull someone over. It matters when that police officer activates his or her computer or calls back into the station to run that license plate. It matters that the information in that computer is accurate so that police officer knows as well as humanly possible who that person is before the apprehension has to be made, before that person is approached.

It matters when we have an investigation of a case and all the police have is an unknown fingerprint, and they have to try to figure out where that fingerprint came from. It matters under the technology that we have today: Take that unknown print and compare it with 4 or 5 million known prints of known criminals. It matters.

That is the type of thing that we can do with this new technology that we never would dream of being able to do without the computers. All this does, in fact, matter. This is a tool, a tool that will be relatively cheap in regard to the entire crime bill.

Let me make very clear, Mr. President, the crime bill that we are introducing today does not spend any more money. It basically accepts as given what this Congress has decided last year, and appears to be deciding again this year, and that is over the next 5 years, we will devote 30 billion Federal dollars, taxpayers' dollars, to the fight against crime.

The question that we have before Congress today is how best to spend that money, and can we improve upon what the Congress did last year? I believe that we can.

The first thing that matters is technology. Our bill provides that. It will make a difference. We will solve crimes. We will save lives.

Let me move now to the second area. The second thing that we know does, in fact, matter in law enforcement. It matters, Mr. President, if we can take violent criminals off the streets. If we can take violent criminals off the streets and lock them up and keep then locked up, we know they at least will not be continuing to commit crimes.

My bill reinstitutes a program that the Bush administration had in place for over a year and a half. It was called Project Triggerlock. The principle behind Project Triggerlock was very simple. The principle was that violent offenders who use a gun in the commission of a felony need to be targeted by all U.S. attorneys in this country. And in cooperation with local State prosecutors and county prosecutors, if they wish, then the U.S. attorney takes that case into Federal court, and under Federal law prosecutes that person. Then, when the person is convicted, they are housed courtesy of the Federal Government. That is a great assistance to law enforcement because in most cases, the Federal mandatory sentencing laws for violent offenders, particularly violent offenders who use a gun in the commission of a felony, is tougher than it is in most States. We have a great deterrent effect.

During the last administration, in an 18-month period of time, 15,000 violent career criminals were taken off the streets, prosecuted, locked up, and put away for a long, long time. That matters. That is what the people in law enforcement call a specific deterrent. That person is locked up and is going to be specifically deterred from committing another crime as long as they are, in fact, locked up.

Let me turn now, Mr. President, to the third thing that matters: Technology matters. Technology will solve crimes. It matters to lock up dangerous, violent people, particularly those who use a gun. The third thing that clearly matters that we have learned from experience, if a community deploys police officers into a high-crime area, and if they are deployed correctly—call it community policing, call it whatever—but if they are deployed correctly in the community, they will, in fact, reduce crime. There is an inverse relationship between the number of police officers put out on the street and the crime, the violent crime that occurs in a given area.

President Clinton was right in regard to that basic concept. He is to be congratulated for that. I think, though, that between the rhetoric and the details, something in last year's crime bill was lost. What was lost was a dedication of those tax dollars to be targeted to our most dangerous areas.

What my bill, the bill we introduce today, is doing, is to take a finite amount of money that we have, $5 billion, and target it to the 250 most dangerous places in this country to live, the 250 places in this country where according to the FBI's own statistics, the crime rate is the highest. We are not talking about writing bad checks. We are not talking about forgery. What we are talking about is rape, murder, armed robbery, and aggravated assault—the meanest, toughest crimes that there are. When we put that into the computer and run that and compare that then by factoring with regard to population, that is how we divided this money up.

We went further in our bill. Where the bill that was passed last year provided that this money would last for 3 years and that these police officers that the Clinton administration envisioned would be paid for 3 years, our bill pays for them for 5 full years.

In addition to that, our bill provides for full funding, at 100 percent, so the local community has no match. There is no money the local community has to put in. The Clinton bill is a 75-25-match, where the local community has to come up with 25 percent. There have been a number of communities that have had a problem with that, coming up with those dollars. In fact, in Ohio it is my understanding the city of Cincinnati, at least up until now, has not made a match to have any police officers come in under this program. So our bill targets the 250 communities in this country where the violent crime rate is the highest. Let me just give some examples of what this will actually mean. Let me just skip around the country.

In Detroit, MI, 96 police officers have been hired so far under the Clinton plan. Our bill provides, at full funding for 5 years the hiring of 747.

Dallas, TX, 70 police officers hired so far. Our bill provides for 604 police officers to be hired.

Atlanta, GA, 38 under the Clinton bill. Ours provides for 442.

Miami, FL, only six, according to the figures that we have come up with—only six so far in Miami. Yet our bill provides for 402.

St. Louis, 23 under the Clinton plan, 386 under our plan.

Chicago, 308 under the Clinton plan, under ours 2,219.

There will be some people who have already suggested to me that maybe what you are doing makes sense but it does not make political sense because you are not spreading these police officers in every community. And that is true, we are not doing that. But I think what the American people expect us to do and what we should do is to target those police officers in those areas of the country where they are most needed. Our bill provides money to be targeted. But we also provide, for those communities that are not in that top 250 where the crime rate is the highest, additional funds over and above what the Clinton administration bill provided. We add an additional $1.8 billion over 5 years. So those communities will have additional money, but not only additional money, they will have a great deal of flexibility so if they want to take that money and hire police officers or pay for overtime, they can do that as well.

We may say, would it not be better just to spread these police officers throughout the country? We talked about, particularly this year, the basic functions of Government. What should Government do? What should Government not do? What should the Federal Government not do? What should the State government do?

One of the basic functions of government, maybe the basic function of government—certainly the oldest function of government, going back thousands of years to the time when governments of some sort were originally formed, it may have been nothing more than a chieftain or a king or someone guaranteeing to provide safety for people—but the primary function of government is to protect people and to make a safe environment for them to live.

We have a crisis today in our inner cities. We have a crisis in many parts of our country. It is not totally, exclusively devoted to the inner cities, but the inner cities certainly provide an example of where crime is very, very high. I think we have a moral obligation to try as a country to address that problem. In 1987 the Justice Department estimated that 8 out of every 10 Americans will be victims of a violent crime at least once in their lifetime. Every year, one out of four households is victimized by a crime. An American is more likely to be injured by a violent crime than by a car accident.

So crime is a big problem and it is a big problem for all Americans. But the crime we are talking about, the violent crime, is really heavily concentrated in certain areas. Princeton Prof. John DeIulio reports that while Philadelphia—just as an example—while Philadelphia contains only 14 percent of the population of the State of Pennsylvania, it accounts for 42 percent of the entire State's crime—an unbelievable figure. What is happening to the children who live in these high-crime areas? They are living a life, frankly, that would be unimaginable for Americans of my parents' generation.

Over 25 percent of inner-city children growing up in this country think they are likely to be shot at some point in their life—25 percent, one-fourth of these children growing up. A male teenager growing up in an inner city is at least six times more likely to be a victim of violent crime than a male teenager growing up somewhere else in the country—six times. I do not think we can give up on these young people, these young Americans. They need hope and opportunity every bit as much as any other child in this country. They need a chance. And I believe putting more police in their neighborhoods is something we can do to start giving them that chance, the chance to live without constant fear for themselves and for their families.

Let us make no mistake about it, putting more police into those crime-infested areas, the most crime-ridden areas of our country, is not going to solve all the problems of those communities. We all know that and we all have an obligation to work on the other problems—welfare reform, jobs, making sure the schools in every neighborhood in this country are good schools so the children do in fact have a chance and opportunity. But no matter what we do with our schools, no matter what we do with welfare, no matter what we do with job creation, nothing positive can really take place as long as crime does exist.

So, having community policing, having law enforcement targeted to these areas, I believe, is clearly the right thing to do. I do not think it is fair to say to that child who, because of accident of birth, happens to be growing up in an area where he or she is six times more likely to be killed than a child in a suburb, I do not think it is fair to say to that child: We cannot do anything about it. We are, for political reasons, going to spread out these police officers, these new police men and women. We are going to spread them out throughout the country because for political reasons we think we can get more votes that way for a particular bill. I do not think that is right. I think the right thing to do is to target where these police men and women go, and that is what our bill does.

Our bill does many other things. I see my colleague from Michigan is on the floor, so I am not going to speak very much longer, let me advise him. But let me say in conclusion that this bill is aimed at doing things that matter, doing things that will make a difference, doing things that will get the job done. It is a very pragmatic bill, a very hardheaded bill. And it basically says this: If we as a Congress have made the decision, as apparently we have, that over the next 5 years we are going to spend $30 billion on this very, very important problem, then we should spend it correctly and we should listen to the men and women who are professionals, who can tell us how to spend it: More technology, more police officers deployed correctly, and finally, taking off the streets the violent repeat career criminals.

Let me conclude by saying that I want to thank the original cosponsors of this bill, Senator ASHCROFT, Senator STEVENS, and Senator HATCH, and ask for additional cosponsors. I look forward to working with the Members of the Senate as we take these ideas that I presented today, this past week, presented in this bill, take these ideas, incorporate them with other ideas of my colleagues to come up with a final bill this year, or next year, that will in fact make a difference and will save lives, that will reduce crime.

Mr. President, thank you very much. At this point, I yield the floor.

ADDITIONAL COSPONSORS

S. 338

At the request of Mr. DASCHLE, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 338, a bill to amend title 38, United States Code, to extend the period of eligibility for inpatient care for veterans exposed to toxic substances, radiation, or environmental hazards, to extend the period of eligibility for outpatient care for veterans exposed to such substances or hazards during service in the Persian Gulf, and to expand the eligibility of veterans exposed to toxic substances or radiation for outpatient care.

S. 389

At the request of Mr. JOHNSTON, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 389, a bill for the relief of Nguyen Quy An and his daughter, Nguyen Ngoc Kim Quy.

S. 433

At the request of Mr. KERRY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 433, a bill to regulate handgun ammunition, and for other purposes.

S. 619

At the request of Mr. SMITH, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 619, a bill to phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and certain other batteries, and for other purposes.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Maryland [Ms. MIKULSKI], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 689

At the request of Mrs. MURRAY, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 689, a bill to amend the Solid Waste Disposal Act regarding the use of organic sorbents in landfills, and for other purposes.

S. 770

At the request of Mr. DOLE, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alabama [Mr. HEFLIN], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 770, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

SENATE CONCURRENT RESOLUTION 14—RELATIVE TO THE PANAMA CANAL

Mr. HELMS (for himself, Mr. CRAIG, Mr. COVERDELL, Mr. MACK, Mr. THOMAS, Mr. SMITH, and Mr. D'AMATO) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 14

Whereas the Panama Canal is a vital strategic asset to the United States, its allies, and the world;

Whereas the Treaty on the Permanent Neutrality and Operation of the Panama Canal signed on September 7, 1977, provides that Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure;

Whereas such Treaty also provides that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal;

Whereas the United States instrument of ratification of such Treaty includes specific language that the two countries should consider negotiating future arrangements or agreements to maintain military forces necessary to fulfill the responsibility of the two countries of maintaining the neutrality of the Canal after 1999;

Whereas the Government of Panama, in the bilateral Protocol of Exchange of instruments of ratification, expressly "agreed upon" such arrangements or agreements;

Whereas the Navy depends upon the Panama Canal for rapid transit in times of emergency, as demonstrated during World War II, the Korean War, the Vietnam conflict, the Cuban Missile Crisis, and the Persian Gulf conflict;

Whereas drug trafficking and money laundering has proliferated in the Western Hemisphere since the Treaty on the Permanent Neutrality and Operation of the Panama Canal was signed on September 7, 1977, and such trafficking and laundering poses a grave threat to peace and security in the region;

Whereas certain facilities now utilized by the United States Armed Forces in Panama are critical to combat the trade in illegal drugs;

Whereas the United States and Panama share common policy goals such as strengthening democracy, expanding economic trade, and combating illegal narcotics throughout Latin America;

Whereas the Government of Panama has dissolved its military force and has maintained only a civilian police organization to defend the Panama Canal against aggression; and

Whereas certain public opinion polls in Panama suggest that many Panamanians desire a continued United States military presence in Panama: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the President should negotiate a new base rights agreement with the Government of Panama—

(A) to allow the stationing of United States Armed Forces in Panama beyond December 31, 1999, and

(B) to ensure that the United States will be able to act appropriately, consistent with the Panama Canal Treaty, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, and the resolutions of ratification thereto, for the purpose of assuring that the Panama Canal shall remain open, neutral, secure, and accessible; and

(2) the President should consult with the Congress throughout the negotiations described in paragraph (1).

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. HELMS. Mr. President, in a moment I shall send to the desk, a resolution urging the President to negotiate a new base rights agreement with the Government of Panama to permit the United States Armed Forces to remain in Panama beyond December 31, 1999. Senators CRAIG, COVERDELL, THOMAS, MACK, SMITH, and D'AMATO are principal cosponsors of the resolution, as are several other Senators who desire cosponsorship, and we will add those names this afternoon.

We feel strongly that it is in the United States strategic interest to maintain a military presence in Panama. Millions of Americans feel that the Senate allowed President Carter to give away the Panama Canal to the great detriment of the security of the United States, and it was indeed a perilous mistake.

But what is done is done; I am not here today to reopen the Panama Canal Treaty debate. That may come later. For the moment we seek only a simple base rights agreement—the kind of agreement we pursue with other countries in Europe and in Asia.

This resolution strongly advocates U.S. presence after the implementation of the existing canal treaties. We believe it to be obvious that a U.S. military presence offers the best means of protecting the canal and ensuring its neutrality.

Eighty percent of the Panamanians agree with that. The Panamanian Foreign Minister agrees with that.

If nothing is done, then the American flag will be lowered for the last time in Panama at noon on December 31, 1999, after having flown there for almost a century. Thus, absent any change in the matter, a historical and unique relationship between the United States and Panama will come to a close. The United States will withdraw completely its military presence from Panama, and this Senator is absolutely persuaded that should not happen.

In the Exchange of Instruments of the Ratification of the Panama Canal Treaties, a protocol—in "The Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal" [Neutrality Treaty]—makes clear that nothing in the treaties precludes Panama and the United States from agreeing to the stationing of United States military forces or the maintenance of defense sites in Panama after December 1999. Specifically, the Permanent Neutrality Treaty states:

Nothing in the treaty shall preclude the Republic of Panama and the United States of America from making, in accordance with their respective constitutional processes, any agreement or arrangement between the two countries to facilitate performance at any time after December 31, 1999, of their responsibilities to maintain the regime of neutrality established in the Treaty, including agreements or arrangements for the stationing of any United States military forces or the maintenance of defense sites after that date in the Republic of Panama that the Republic of Panama and the United States of America may deem necessary or appropriate.

Latin America is important to the United States, and vice versa. Every few years something dramatic happens in Latin America that has a direct impact on the United States, whether it be a security threat or a natural disaster. The United States needs a strategic military capability in the region, and maintaining United States military forces in Panama will give us the best option and capability.

Many Americans have the misleading impression that Latin America is as close and accessible as their back yard. While parts of Latin America are indeed only hours away, the vast majority of the region is not that easily or quickly accessible. Geographically, Europe is not even half the size of South America. Brazil is larger than the continental United States.

If total United States military withdrawal from Panama is allowed to happen, we will be left with no significant military presence in the region. Furthermore, it will be both politically difficult and enormously costly to reintroduce U.S. forces into the region.

Keeping United States forces in Panama promotes stable democracies and market economies throughout the region; also it helps support United States efforts to counter the flow of illegal drugs. Without question, then, United States forces offer the best protection and defense of the Panama Canal.

Although the United States is engaged in a draw-down of our forces both overseas and in the United States, we are, nevertheless, leaving more than 135,000 troops in Europe and almost 100,000 in the Pacific. Maintaining forces overseas is part of the military mission. Congress budgets for this.

By the end of this year, however, only 6,000 troops will remain in Panama. This number will continue to diminish. In other words, United States presence in all of Latin America is a mere drop in the bucket compared to our presence in other parts of the world.

A continued United States presence is also supported by the Panamanian people. Current polls in Panama indicate that more than 70 percent of Panamanians questioned want the United States to maintain a military presence in Panama.

Since a continued U.S. military presence is in the interests of both nations, it is the time to negotiate a new base rights agreement. The Panama Canal treaties provide for a continued United States military presence, and the Panamanian public overwhelmingly favors it. The United States Congress should strongly urge the President to begin negotiating a new base rights agreement to keep United States military forces in Panama.

Mr. President, I ask unanimous consent that a copy of the results of a recent public opinion poll commissioned by the U.S. Information Agency be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PANAMANIANS WANT U.S. TROOPS TO STAY

Most Panamanians still hold favorable views of the United States, despite political and economic frustrations since Operation "Just Cause" in 1989. Moreover, Panamanians continue to believe that some U.S. troops should remain in Panama after 1999, despite the Canal Treaty agreements on complete withdrawal.

KEY FINDINGS

In a September 1994 poll, large majorities expressed favorable opinions of the United States. Most thought the U.S. had "done much" to promote democracy and economic development in Panama.

An overwhelming majority rated the U.S.-Panama relationship as "good;" many called it "very" good. Many also thought the U.S. treated Panama with "dignity and respect," but opinion was more negative on U.S. efforts to understand Panamanian problems. And a large majority thought the U.S. expected Panama to cede to its wishes on important issues.

Better than eight in ten continued to believe that at least some U.S. troops should remain in Panama beyond 1999—with half endorsing the maintenance of present troop levels and one-third favoring reduced levels. The main reasons given for the extended U.S. military presence were "security reasons" and "employment opportunities."

Eight in ten or more also said it would be acceptable for U.S. troops to remain in Panama to provide security for the Canal, to continue the regional counter narcotics, fight, and to provide assistance in natural emergencies or for refugees. Better than six in ten thought it acceptable that the U.S. provide support for American military forces in other parts of the hemisphere from Panama bases.

In contrast to widespread doubts expressed in previous years, half the public thought the Panamanian government would be able to manage the canal well when it assumes full control in the year 2000.

OPINION OF THE UNITED STATES REMAINS VERY HIGH

Panamanians have faced a variety of political and economic frustrations since 1989 when General Manuel Noriega was removed from power. These appear to have had little effect on the favorable views most Panamanians have held of the United States.[1] In a September 1994 poll, eight in ten (82%)—across all regional and educational levels—

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[1] A USIA poll in mid-1990 found that 87 percent approved (77% "strongly") of the U.S. sending troops to remove Gen. Noriega and 75 percent considered the operation a "liberation" rather than an "invasion."

voiced favorable opinions of the United States. Half (47%) expressed "very" favorable views, while just over one in ten (14%) regarded the U.S. unfavorably. On two key U.S. initiatives:

Eight in ten (83%) agreed that the U.S. had "done much to promote democracy" in Panama. Six in ten were in strong agreement, perhaps influenced in part by the successful democratic elections in May.[2]

A similar majority (82%) also thought that the U.S. had "done much to promote the economic development" of Panama. Again, six in ten agreed strongly with the statement.

MOST JUDGE THE U.S.-PANAMA RELATIONSHIP AS GOOD

A great majority believed that relations between Panama and the United States were good (89%); four in ten (39%) felt they were "very" good. Seven in ten agreed (72%)—and half (48%) "strongly" agreed—that the U.S. treats Panama with "dignity and respect." (The university-educated were somewhat less likely to agree with this statement than Panamanians with less schooling.)

Public opinion was less favorable on two other aspects of the relationship:

Opinion was split about evenly on whether the U.S. tries to understand the problems facing Panama (44% said it does, 49% said it doesn't).

A large majority agreed (80%; 58% "strongly") that the U.S. expects Panama to "give in to its wishes in matters of importance to both countries." This perception apparently did not influence favorable opinions on other issues, however.

MOST STILL WANT SOME U.S. TROOPS TO REMAIN—

Panamanians continue to want a U.S. military presence in Panama beyond December, 1999, when the Torrijos-Carter Canal Treaties stipulate the withdrawal of all American troops. There has been virtually no change in public attitudes on this issue since 1991: Half the public (50%) said the U.S. should maintain "about the same number of troops it has now," while a third (35%) said the troop presence should remain in "reduced" form. Just one in ten (10%) preferred that all U.S. troops leave Panama. In general, the less-educated tended to support the status quo, while the university-educated were somewhat more likely to favor a reduced presence.

FOR SECURITY AND EMPLOYMENT REASONS

When those favoring a continued U.S. presence in Panama were asked why they thought the troops should stay, most mentioned either the security of the canal (46%) or employment opportunities generated by the U.S. base (34%). Political stability was mentioned by only a few (7%).

In addition, when asked if it would be "acceptable" for U.S. troops to remain in Panama for selected purposes, large majorities say yes to the following: to provide security for the canal (87%); to continue the fight against illegal drugs in the region (87%); to provide assistance in times of natural disasters or for refugees in Panama (81%); and to provide support for U.S. military forces in other parts of the hemisphere (64%).

Only the last purpose, "support for U.S. military forces in other parts," was considered "unacceptable" by significant minorities of the general public (27%) and the university-educated (40%).

CONFIDENCE INCREASES ON GOVERNMENT MANAGEMENT OF CANAL

Public confidence in the Panamanian government's ability to manage the canal when it assumes full control in 2000 appears to have increased in recent years: Half (51%) believed the government would manage the canal at least fairly well, while four in ten (42%) thought it would manage the canal badly. Interestingly, the university-educated were considerably more optimistic about the government's management capacity than the less-educated (62% to 45%). Polls in 1990 and 1992 had found that large majorities believed the Panamanian government was paying little or no attention to canal-management matters and that it would be best if the U.S. and Panama managed the canal together.

HOW THIS POLL WAS TAKEN

This public opinion survey was commissioned by USIA and conducted by CID-Gallup of Costa Rica. It is based on face-to-face interviews with 1200 adults aged 18 and over in all regions of Panama. Fieldwork took place September 8–18, 1994. Sample construction and fieldwork were performed by CID in accordance with USIA instructions. Questions were written by USIA in consultation with AID and USIS Panama. They were translated by the contractor, with final review by USIA.

The survey sample was selected by a modified probability method, and covered both urban and rural populations. When necessary, respondent selection was adjusted for age, sex, and education to more closely match estimated population profiles.

Ninety-five times out of one hundred, results from samples of this size will yield results which differ by no more than about 3 percentage points in either direction from what would have been obtained were it possible to interview everyone in the population. The comparison of smaller subgroups increases the margin of error. In addition, the practical difficulties of conducting any survey of public opinion may introduce other sources of error.

Additional information on methodology may be obtained from the analyst.

SENATE RESOLUTION 120—ESTABLISHING A SPECIAL COMMITTEE ADMINISTERED BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. D'AMATO (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 120

Resolved,

SECTION 1. ESTABLISHMENT OF SPECIAL COMMITTEE.

(a) ESTABLISHMENT.—There is established a special committee administered by the Committee on Banking, Housing, and Urban Affairs to be known as the "Special Committee to Investigate Whitewater Development Corporation and Related Matters" (hereafter in this resolution referred to as the "special committee").

(b) PURPOSES.—The purposes of the special committee are—

(1) to conduct an investigation and public hearings into, and study of, whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster following his death;

(2) to conduct an investigation and public hearings into, and study of, the following matters developed during, or arising out of, the investigation and public hearings concluded by the Committee on Banking, Housing, and Urban Affairs prior to the adoption of this resolution—

(A) whether any person has improperly handled confidential Resolution Trust Corporation (hereafter in this resolution referred to as the "RTC") information relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation, including whether any person has improperly communicated such information to individuals referenced therein;

(B) whether the White House has engaged in improper contacts with any other agency or department in the Government with regard to confidential RTC information relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation;

(C) whether the Department of Justice has improperly handled RTC criminal referrals relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation;

(D) whether RTC employees have been improperly importuned, prevented, restrained, or deterred in conducting investigations or making enforcement recommendations relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation; and

(E) whether the report issued by the Office of Government Ethics on July 31, 1994, or related transcripts of deposition testimony—

(i) were improperly released to White House officials or others prior to their testimony before the Committee on Banking, Housing, and Urban Affairs pursuant to Senate Resolution 229 (103d Congress); or

(ii) were used to communicate to White House officials or to others confidential RTC information relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation;

(3) to conduct an investigation and public hearings into, and study of, all matters that have any tendency to reveal the full facts about—

(A) the operations, solvency, and regulation of Madison Guaranty Savings and Loan Association, and any subsidiary, affiliate, or other entity owned or controlled by Madison Guaranty Savings and Loan Association;

(B) the activities, investments, and tax liability of Whitewater Development Corporation and, as related to Whitewater Development Corporation, of its officers, directors, and shareholders;

(C) the policies and practices of the RTC and the Federal banking agencies (as that term is defined in section 3 of the Federal Deposit Insurance Act) regarding the legal representation of such agencies with respect to Madison Guaranty Savings and Loan Association;

(D) the handling by the RTC, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Federal Savings and Loan Insurance Corporation of civil or administrative actions against parties regarding Madison Guaranty Savings and Loan Association;

(E) the sources of funding and the lending practices of Capital Management Services, Inc., and its supervision and regulation by the Small Business Administration, including any alleged diversion of funds to Whitewater Development Corporation;

(F) the bond underwriting contracts between Arkansas Development Finance Authority and Lasater & Company; and

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[2] The winner, Perez Balladares, was inaugurated just a week before interviewing for the poll began on September 8.

(G) the lending activities of Perry County Bank, Perryville, Arkansas, in connection with the 1990 Arkansas gubernatorial election;

(4) to make such findings of fact as are warranted and appropriate;

(5) to make such recommendations, including recommendations for legislative, administrative, or other actions, as the special committee may determine to be necessary or desirable; and

(6) to fulfill the constitutional oversight and informational functions of the Congress with respect to the matters described in this section.

SEC. 2. MEMBERSHIP AND ORGANIZATION OF THE SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The special committee shall consist of—

(A) the members of the Committee on Banking, Housing, and Urban Affairs; and

(B) the chairman and ranking member of the Committee on the Judiciary, or their designees from the Committee on the Judiciary.

(2) SENATE RULE XXV.—For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as the chairman or other member of the special committee shall not be taken into account.

(b) ORGANIZATION OF SPECIAL COMMITTEE.—

(1) CHAIRMAN.—The chairman of the Committee on Banking, Housing, and Urban Affairs shall serve as the chairman of the special committee (hereafter in this resolution referred to as the "chairman").

(2) RANKING MEMBER.—The ranking member of the Committee on Banking, Housing, and Urban Affairs shall serve as the ranking member of the special committee (hereafter in this resolution referred to as the "ranking member").

(3) QUORUM.—A majority of the members of the special committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate. A majority of the members of the special committee, or one-third of the members of the special committee if at least one member of the minority party is present, shall constitute a quorum for the conduct of other business. One member of the special committee shall constitute a quorum for the purpose of taking testimony.

(c) RULES AND PROCEDURES.—Except as otherwise specifically provided in this resolution, the special committee's investigation, study, and hearings shall be governed by the Standing Rules of the Senate and the Rules of Procedure of the Committee on Banking, Housing, and Urban Affairs. The special committee may adopt additional rules or procedures not inconsistent with this resolution or the Standing Rules of the Senate if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the special committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures shall become effective upon publication in the Congressional Record.

SEC. 3. STAFF OF THE SPECIAL COMMITTEE.

(a) APPOINTMENTS.—To assist the special committee in the investigation, study, and hearings authorized by this resolution, the chairman and the ranking member each may appoint special committee staff, including consultants.

(b) ASSISTANCE FROM THE SENATE LEGAL COUNSEL.—To assist the special committee in the investigation, study, and hearings authorized by this resolution, the Senate Legal Counsel and the Deputy Senate Legal Counsel shall work with and under the jurisdiction and authority of the special committee.

(c) ASSISTANCE FROM THE COMPTROLLER GENERAL.—The Comptroller General of the United States is requested to provide from the General Accounting Office whatever personnel or other appropriate assistance as may be required by the special committee, or by the chairman or the ranking member.

SEC. 4. PUBLIC ACTIVITIES OF THE SPECIAL COMMITTEE.

(a) IN GENERAL.—Consistent with the rights of persons subject to investigation and inquiry, the special committee shall make every effort to fulfill the right of the public and the Congress to know the essential facts and implications of the activities of officials of the United States Government and other persons and entities with respect to the matters under investigation and study, as described in section 1.

(b) DUTIES.—In furtherance of the right of the public and the Congress to know, the special committee—

(1) shall hold, as the chairman (in consultation with the ranking member) considers appropriate and in accordance with paragraph 5(b) of rule XXVI of the Standing Rules of the Senate, hearings on specific subjects, subject to consultation and coordination with the independent counsel appointed pursuant to chapter 40 of title 28, United States Code, in Division No. 94-1 (D.C. Cir. August 5, 1994) (hereafter in this resolution referred to as "the independent counsel");

(2) may make interim reports to the Senate as it considers appropriate; and

(3) shall make a final comprehensive public report to the Senate which contains—

(A) a description of all relevant factual determinations; and

(B) recommendations for legislation, if necessary.

SEC. 5. POWERS OF THE SPECIAL COMMITTEE.

(a) IN GENERAL.—The special committee shall do everything necessary and appropriate under the laws and the Constitution of the United States to conduct the investigation, study, and hearings authorized by section 1.

(b) EXERCISE OF AUTHORITY.—The special committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate and section 705 of the Ethics in Government Act of 1978, including the following:

(1) SUBPOENA POWERS.—To issue subpoenas or orders for the attendance of witnesses or for the production of documentary or physical evidence before the special committee. A subpoena or order may be authorized by the special committee or by the chairman with the agreement of the ranking member, and may be issued by the chairman or any other member of the special committee designated by the chairman, and may be served by any person designated by the chairman or the authorized member anywhere within or outside of the borders of the United States to the full extent permitted by law. The chairman, or any other member of the special committee, is authorized to administer oaths to any witnesses appearing before the special committee. If a return on a subpoena or order for the production of documentary or physical evidence is incomplete or accompanied by an objection, the chairman (in consultation with the ranking member) may convene a meeting or hearing to determine the adequacy of the return and to rule on the objection. At a meeting or hearing on such a return, one member of the special committee shall constitute a quorum. The special committee shall not initiate procedures leading to civil or criminal enforcement of a subpoena unless the person or entity to whom the subpoena is directed refuses to produce the required documentary or physical evidence after having been ordered and directed to do so.

(2) COMPENSATION AUTHORITY.—To employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as the special committee, or the chairman or the ranking member, considers necessary or appropriate.

(3) MEETINGS.—To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

(4) HEARINGS.—To hold hearings, take testimony under oath, and receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study. Unless the chairman and the ranking member otherwise agree, the questioning of a witness or a panel of witnesses at a hearing shall be limited to one initial 30-minute turn each for the chairman and the ranking member, or their designees, including majority and minority staff, and thereafter to 10-minute turns by each member of the special committee if 5 or more members are present, and to 15-minute turns by each member of the special committee if fewer than 5 members are present. A member may be permitted further questions of the witness or panel of witnesses, either by using time that another member then present at the hearing has yielded for that purpose during the yielding member's turn, or by using time allotted after all members have been given an opportunity to question the witness or panel of witnesses. At all times, unless the chairman and the ranking member otherwise agree, the questioning shall alternate back and forth between members of the majority party and members of the minority party. In their discretion, the chairman and the ranking member, respectively, may designate majority or minority staff to question a witness or a panel of witnesses at a hearing during time yielded by a member of the chairman's or the ranking member's party then present at the hearing for his or her turn.

(5) TESTIMONY OF WITNESSES.—To require by subpoena or order the attendance, as a witness before the special committee or at a deposition, of any person who may have knowledge or information concerning any of the matters that the special committee is authorized to investigate and study.

(6) IMMUNITY.—To grant a witness immunity under sections 6002 and 6005 of title 18, United States Code, provided that the independent counsel has not informed the special committee in writing that immunizing the witness would interfere with the ability of the independent counsel successfully to prosecute criminal violations. Not later than 10 days before the special committee seeks a Federal court order for a grant of immunity by the special committee, the Senate Legal Counsel shall cause to be delivered to the independent counsel a written request asking the independent counsel promptly to inform the special committee in writing if, in the judgment of the independent counsel, the grant of immunity would interfere with the ability of the independent counsel successfully to prosecute criminal violations. The Senate Legal Counsel's written request of the independent counsel required by this paragraph shall be in addition to all notice requirements set forth in sections 6002 and 6005 of title 18, United States Code.

(7) DEPOSITIONS.—To take depositions and other testimony under oath anywhere within

the United States, to issue orders that require witnesses to answer written interrogatories under oath, and to make application for the issuance of letters rogatory. All depositions shall be conducted jointly by majority and minority staff of the special committee. A witness at a deposition shall be examined upon oath administered by a member of the special committee or an individual authorized by local law to administer oaths, and a complete transcription or electronic recording of the deposition shall be made. Questions shall be propounded first by majority staff of the special committee and then by minority staff of the special committee. Any subsequent round of questioning shall proceed in the same order. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to answer on the basis of relevance or privilege, the special committee staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling on the objection from the chairman. If the chairman overrules the objection, the chairman may order and direct the witness to answer the question, but the special committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to answer after having been ordered and directed to answer.

(8) DELEGATIONS TO STAFF.—To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The special committee, or the chairman with the concurrence of the ranking member, may delegate to designated staff members of the special committee the power to issue deposition notices authorized pursuant to this paragraph.

(9) INFORMATION FROM OTHER SOURCES.—To require by subpoena or order—

(A) any department, agency, entity, officer, or employee of the United States Government;

(B) any person or entity purporting to act under color or authority of State or local law; or

(C) any private person, firm, corporation, partnership, or other organization;

to produce for consideration by the special committee or for use as evidence in the investigation, study, or hearings of the special committee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material relating to any of the matters or questions that the special committee is authorized to investigate and study which any such person or entity may possess or control.

(10) RECOMMENDATIONS TO THE SENATE.—To make to the Senate any recommendations, by report or resolution, including recommendations for criminal or civil enforcement, which the special committee may consider appropriate with respect to—

(A) the willful failure or refusal of any person to appear before it, or at a deposition, or to answer interrogatories, in compliance with a subpoena or order;

(B) the willful failure or refusal of any person to answer questions or give testimony during the appearance of that person as a witness before the special committee, or at a deposition, or in response to interrogatories; or

(C) the willful failure or refusal of—

(i) any officer or employee of the United States Government;

(ii) any person or entity purporting to act under color or authority of State or local law; or

(iii) any private person, partnership, firm, corporation, or organization;

to produce before the special committee, or at a deposition, or at any time or place designated by the committee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material in compliance with any subpoena or order.

(11) CONSULTANTS.—To procure the temporary or intermittent services of individual consultants, or organizations thereof.

(12) OTHER GOVERNMENT PERSONNEL.—To use, on a reimbursable basis and with the prior consent of the Government department or agency concerned, the services of the personnel of such department or agency.

(13) OTHER CONGRESSIONAL STAFF.—To use, with the prior consent of any member of the Senate or the chairman or the ranking member of any other Senate committee or the chairman or ranking member of any subcommittee of any committee of the Senate, the facilities or services of the appropriate members of the staff of such member of the Senate or other Senate committee or subcommittee, whenever the special committee or the chairman or the ranking member considers that such action is necessary or appropriate to enable the special committee to conduct the investigation, study, and hearings authorized by this resolution.

(14) ACCESS TO INFORMATION AND EVIDENCE.—To permit any members of the special committee, staff director, counsel, or other staff members or consultants designated by the chairman or the ranking member, access to any data, evidence, information, report, analysis, document, or paper—

(A) that relates to any of the matters or questions that the special committee is authorized to investigate or study under this resolution;

(B) that is in the custody or under the control of any department, agency, entity, officer, or employee of the United States Government, including those which have the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States without regard to the jurisdiction or authority of any other Senate committee or subcommittee; and

(C) that will assist the special committee to prepare for or conduct the investigation, study, and hearings authorized by this resolution.

(15) REPORTS OF VIOLATIONS OF LAW.—To report possible violations of any law to appropriate Federal, State, or local authorities.

(16) EXPENDITURES.—To expend, to the extent that the special committee determines necessary and appropriate, any money made available to the special committee by the Senate to carry out this resolution.

(17) TAX RETURN INFORMATION.—To inspect and receive, in accordance with the procedures set forth in sections 6103(f)(3) and 6104(a)(2) of the Internal Revenue Code of 1986, any tax return or tax return information, held by the Secretary of the Treasury, if access to the particular tax-related information sought is necessary to the ability of the special committee to carry out section 1(b)(3)(B).

SEC. 6. PROTECTION OF CONFIDENTIAL INFORMATION.

(a) NONDISCLOSURE.—No member of the special committee or the staff of the special committee shall disclose, in whole or in part or by way of summary, to any person other than another member of the special committee or other staff of the special committee, for any purpose or in connection with any proceeding, judicial or otherwise, any testimony taken, including the names of witnesses testifying, or material presented, in depositions or at closed hearings, or any confidential materials or information, unless authorized by the special committee or the chairman in concurrence with the ranking member.

(b) STAFF NONDISCLOSURE AGREEMENT.—All members of the staff of the special committee with access to confidential information within the control of the special committee shall, as a condition of employment, agree in writing to abide by the conditions of this section and any nondisclosure agreement promulgated by the special committee that is consistent with this section.

(c) SANCTIONS.—

(1) MEMBER SANCTIONS.—The case of any Senator who violates the security procedures of the special committee may be referred to the Select Committee on Ethics of the Senate for investigation and the imposition of sanctions in accordance with the rules of the Senate.

(2) STAFF SANCTIONS.—Any member of the staff of the special committee who violates the security procedures of the special committee shall immediately be subject to removal from office or employment with the special committee or such other sanction as may be provided in any rule issued by the special committee consistent with section 2(c).

(d) STAFF DEFINED.—For purposes of this section, the term "staff of the special committee" includes—

(1) all employees of the special committee;

(2) all staff designated by the members of the special committee to work on special committee business;

(3) all Senate staff assigned to special committee business pursuant to section 5(b)(13);

(4) all officers and employees of the Office of Senate Legal Counsel who are requested to work on special committee business; and

(5) all detailees and consultants to the special committee.

SEC. 7. RELATION TO OTHER INVESTIGATIONS.

(a) PURPOSES.—The purposes of this section are—

(1) to expedite the thorough conduct of the investigation, study, and hearings authorized by this resolution;

(2) to promote efficiency among all the various investigations underway in all branches of the United States Government; and

(3) to engender a high degree of confidence on the part of the public regarding the conduct of such investigation, study, and hearings.

(b) SPECIAL COMMITTEE ACTIONS.—To carry out the purposes stated in subsection (a), the special committee is encouraged—

(1) to obtain relevant information concerning the status of the investigation of the independent counsel, to assist in establishing a hearing schedule for the special committee; and

(2) to coordinate, to the extent practicable, the activities of the special committee with the investigation of the independent counsel.

SEC. 8. SALARIES AND EXPENSES.

A sum equal to not more than $950,000 for the period beginning on the date of adoption of this resolution and ending on February 29, 1996, shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations for payment of salaries and other expenses of the special committee under this resolution, which shall include not more than $750,000 for the procurement of the services of individual consultants or organizations thereof, in accordance with section 5(b)(11). Payment of expenses shall be disbursed upon vouchers approved by the chairman, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

SEC. 9. REPORTS; TERMINATION.

(a) COMPLETION OF DUTIES.—

(1) IN GENERAL.—The special committee shall make every reasonable effort to complete, not later than February 1, 1996, the investigation, study, and hearings authorized by section 1.

(2) EVALUATION OF PROGRESS.—The special committee shall evaluate the progress and status of the investigation, study, and hearings authorized by section 1 and, not later than January 15, 1996, make recommendations with respect to the authorization of additional funds for a period following February 29, 1996. If the special committee requests the authorization of additional funds for a period following February 29, 1996, the Majority Leader and the Democratic Leader shall meet and determine the appropriate timetable and procedures for the Senate to vote on any such request.

(b) FINAL REPORT.—

(1) SUBMISSION.—The special committee shall promptly submit a final public report to the Senate of the results of the investigation, study, and hearings conducted by the special committee pursuant to this resolution, together with its findings and any recommendations.

(2) CONFIDENTIAL INFORMATION.—The final report of the special committee may be accompanied by such confidential annexes as are necessary to protect confidential information.

(3) CONCLUSION OF BUSINESS.—After submission of its final report, the special committee shall promptly conclude its business and close out its affairs.

(c) RECORDS.—Upon the conclusion of the special committee's business and the closing out of its affairs, all records, files, documents, and other materials in the possession, custody, or control of the special committee shall remain under the control of the Committee on Banking, Housing, and Urban Affairs.

SEC. 10. COMMITTEE JURISDICTION AND RULE XXV.

The jurisdiction of the special committee is granted pursuant to this resolution, notwithstanding the provisions of paragraph 1 of rule XXV of the Standing Rules of the Senate relating to the jurisdiction of the standing committees of the Senate.

SENATE RESOLUTION 121—RELATING TO THE ANGOLA PEACE PROCESS

Mr. FEINGOLD (for himself, Mrs. KASSEBAUM, Mr. HELMS, Mr. PELL, and Mr. SIMON) submitted the following resolution; which was considered and agreed to:

S. RES. 121

Whereas Angola has suffered one of the most violent and longest-running civil wars;

Whereas the United States was actively engaged in the war in Angola, has provided more than $200 million in humanitarian assistance to Angola since 1992, and has been a key facilitator on the ongoing peace negotiations;

Whereas Angola is the last civil conflict in southern Africa, and regional leaders including South African President Nelson Mandela consider its resolution to be a top priority;

Whereas an enduring peace in Angola, a potentially wealthy country that is central to regional stability and economic development, is in the national interest of the United States;

Whereas the Government of Angola and National Union for the Total Independence of Angola (UNITA) entered into the Lusaka Protocol in November 1994 to secure a U.N.-supervised peace settlement;

Whereas the United Nations Security Council voted in February to send a U.N. peacekeeping mission to Angola to monitor and enforce the peace process, and more than 600 international monitors are deployed throughout the country;

Whereas continuing progress toward peace makes it more likely that further deployment of UNAVEM III will occur soon;

Whereas the meeting between President Eduardo dos Santos and Dr. Jonas Savimbi on May 6, 1995, at which both parties reiterated their commitment to the Lusaka Protocol, demonstrated that they possess the essential political will to resolve outstanding issues, and encouraged all who want peace in Angola;

Whereas achieving a lasting peace will require that all Angolans work together to overcome bitter legacies of war, which include a devastated infrastructure, millions of unexploded landmines, a profound distrust between the parties, weakened civil institutions, a crippled economy, and a generation of young Angolans who have never known a peaceful, civil society;

Whereas strong leadership is essential to ensure that the wealth of Angola, long spent on war, now is used to consolidate peace. Now therefore be it

Resolved That the Senate:

(1) Congratulates the people of Angola for the courageous and determined steps their leaders have taken in support of peace;

(2) Urges all parties in Angola to continue to strengthen their commitment to the Lusaka process, which constitutes the last, and best, chance for securing an enduring peace;

(3) Affirms that the United States will hold both Angolan parties responsible for abiding by their commitment to peace; and

(4) Calls upon the international community to remain actively engaged in support of national reconciliation, removal of landmines, economic development, and democratization in Angola.

Mr. FEINGOLD. Mr. President, today I am introducing a resolution, in conjunction with the distinguished Chair of the Subcommittee on African Affairs, as well as the chairman and ranking member of the Senate Foreign Relations Committee, and others, which congratulates the people of Angola for the courageous steps their leaders have taken recently in the name of peace and reconciliation in Angola. This has been an arduous and painful process, but the recent meeting between President dos Santos and Dr. Jonas Savimbi, in addition to the deployment of the U.N. operation, signifies a dramatic breakthrough which may unlock the door to peace in Angola.

As we all know, Angola has been engulfed in civil war ever since its independence from Portugal in 1975. It not only suffered vast dislocation and neglect following the colonial occupation, but also it became a classic superpower playground as Angola struggled to find its postcolonial identity. Throughout the 1970's and 1980's South Africa and Zaire launched frequent military incursions in support of the Government of Angola, while mercenaries from Europe and elsewhere helped the rebel forces of UNITA and Dr. Jonas Savimbi fight from the bush. 37,000 Cuban troops supported the government and the MPLA party, and their involvement sparked more independence wars in Namibia. The United States offered covert aid to UNITA in an effort to contain communism in Africa for "national security" purposes. In addition, there were secessionist threats from the northern, oil-rich province of Cabinda, which was, ironically, home to many U.S. oil companies throughout the war.

This war killed over 1 million people, and displaced and disabled millions more. Cities and fields are completely destroyed, and 9 to 20 million unexploded landmines, supplied by outside powers, lace the countryside. Beautiful coastal lands and mineral-rich areas not only lay undeveloped, but have been damaged and destroyed by warfare. Bitter war enmities between the MPLA and UNITA have created long-lasting rifts which will take at least a full generation to heal. Young boys, who from the age of 10 have been armed and fighting, are dislocated from their families. An entire people has never known civil society.

It was with the end of the cold war, the end of the United States-Soviet rivalry, that peace actually had a chance in Angola. When Congress prohibited military aid to Angola, Cuban troops withdrew, and South Africa began to change, negotiations were finally able to begin between the MPLA and UNITA. The peace process of 1991 resulted in the Bicesse accords, and led to elections. But then disputed returns, and militant attacks on the MPLA by Savimbi, destroyed the process.

By 1992, serious negotiations had begun again. Thanks to the relentless efforts of U.N. Special Representative Bedouin Beyh, United States Ambassador to Angola, Edward de Jarnette, and others—including South African Nelson Mandela—the Lusaka accords were finally concluded on November 5, 1994.

The accords secure a U.N. supervised peace settlement, which includes the deployment of 5,600 U.N. peacekeeping troops, as well as 350 military observers and 260 civilian police. It is intended to enable national reconciliation, demilitarization, economic development, and democratization of Angola. It will also enable the continued delivery of massive food lifts, which is keeping hundreds of thousands of people alive as the society builds a peacetime environment.

There have been some glitches in the peace process, and there have been many incidents we thought Angola would not survive. But the peace process made a big step last week when President dos Santos and Dr. Savimbi finally met face-to-face in Lusaka. They met for several hours, and in the end emerged as cooperative negotiators, both signing the Lusaka accords. They agreed to work as partners to resolve outstanding issues such as consolidation of the ceasefire, resolution of military control issues, demining operations, repair of infrastructure, acceleration of the arrival of UNAVEM troops, the retreat of Angolan soldiers, and the formation of a national unity government.

Finally, the two sides demonstrated that they have the political will necessary to reach a lasting and durable peace. This meeting was a long time in coming, and we in Congress should recognize what a milestone it is. For if Lusaka fails, Angola may lose its last opportunity for peace and prosperity. We have a lot to lose of that fails.

The resolution we are offering today congratulates the people of Angola for the courageous and determined steps their leaders have taken in support of peace. It also urges all parties in Angola to strengthen their commitment to the Lusaka process, and affirms American support for both parties to abide by their commitments. Finally, because we cannot and should not do this alone, it calls upon the international community to remain actively engaged with humanitarian, political, and economic support to make this process a success.

Angola is potentially a wealthy country with soil fertile enough to feed all of sub-Saharan Africa. It is also part of a region which has had economic and stunning political success in the past few years. As Africa seeks to put the cold war behind it, and as southern Africa consolidates into a powerhouse region, the process in Angola becomes all the more important. The meeting convened last week realized many of the gains made in recent months, and hopefully will set the process on a new course.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding an oversight hearing on Thursday, May 18, 1995, beginning at 9:30 a.m., in room 485 of the Russell Senate Office Building on the recommendations of the Joint DOI/BIA/Tribal Task Force on Reorganization of the Bureau of Indian Affairs.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT AND THE DISTRICT OF COLUMBIA

Mr. COHEN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, will hold a hearing on Wednesday, May 24, 1995, on Aviation Safety: Do Unapproved Parts Pose a Safety Risk? The hearing will be at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, May 17, 1995 at 9:30 a.m. in open session to receive testimony on the National Security Implications of the Strategic Arms Reduction Treaty—START II.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Wednesday, May 17, 1995, beginning at 9:30 a.m. in room SD-215, to conduct a hearing on Medicare solvency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

COMMITTEE ON FOREIGN RELATIONS

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 17, 1995, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, May 17, at 10 a.m., for a hearing on Executive Reorganization: An Overview of How To Do It.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INTELLIGENCE

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 17, 1995, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Subcommittee on Acquisition and Technology of the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, May 17, 1995, in open session, to receive testimony on dual use technology programs in review of S. 727, the National Defense Authorization Act for Fiscal Year 1996, and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HONG KONG

• Mr. THOMAS. Mr. President, I would like to address comments made in the last few weeks by two officials of the Government of the People's Republic of China regarding the United States and Hong Kong. First, as reported by Hong Kong radio and Nanhua Zaobao, Mr. Lu Ping, the Director of the PRC's Office of Hong Kong and Macau Affairs, told a delegation of American businessmen in Beijing that he believes there is a lack of understanding in the United States regarding Beijing's attitude towards Hong Kong. Second, Foreign Minister Qian is quoted in the April 24 issue of Beijing Review as stating that the United States has no interest in Hong Kong sufficient to justify the attention we pay to the area. I am dismayed that they have reached this conclusion for two reasons. First, because I believe that the United States is all too cognizant of Beijing's attitude towards the colony and has tried to make that cognizance known; and second, because it demonstrates to me that Beijing does not really understand what our concerns are.

At the outset, let me state that I do agree in part with Minister Qian. Before the scheduled revision in 1997, Hong Kong affairs are a matter of concern primarily to Great Britain and the PRC; after 1997, they become a matter of concern primarily to Beijing. It is not our intent to instruct either London or Beijing on how best to accomplish that reversion, or on what role Hong Kong should play as a reclaimed part of greater China after 1997.

This does not mean however, that I agree with what appears to be Minister Qian's correlative argument: that other countries therefore have absolutely no role whatsoever to play before or after 1997.

As I previously noted in a statement about Hong Kong on the floor on April 3, the United States is keenly following developments in Hong Kong. This interest has two principle sources. First, we have a tremendous stake in the future economic and political stability of

Hong Kong after reversion. Second, how the PRC handles this transition has far-reaching implications for our bilateral relations—and in some of China's multilateral relations which include us—in other important arenas. Let me address these in turn.

Our economic ties to the present Colony of Hong Kong are substantial. Hong Kong is our 13th largest trading partner—7th in terms of agricultural trade. In 1994, two-way merchandise trade topped $21 billion; U.S. exports accounted for over $11 billion. There are more than 1,000 United States firms with a presence in Hong Kong, of which about 370 have their regional headquarters there. At the beginning of 1994, United States direct investment in Hong Kong on a historical cost basis was approximately $10.5 billion.

This strong economic tie is facilitated—in fact, made possible—by Hong Kong's friendly business climate, a stable government, an independent judiciary firmly rooted in the rule of law, and a vibrantly free press. It is clearly a tie we have a very strong motive for maintaining in its present form. And thus, it is from this point of view that we take an active interest in Hong Kong affairs now, and will most likely continue to take in the post-1997 world. How faithfully the PRC adheres to the Sino-British Joint Declaration and the Basic Law is of importance to us because of the impact such adherence—or lack thereof—might have no these specific areas, and, in turn, on our economic stake.

These are the logical steps that our Chinese friends do not seem to follow. I think their failure is best illustrated by an article in the May 8 edition of the Hong Kong Chinese-language newspaper Wen Wei Po—a newspaper with close connections to the PRC. In commenting on a speech by the United States Consul General in Hong Kong, the newspaper reported:

> In his speech, Mr. Mueller said that the United States not only has tens of thousands of citizens, over 1,000 companies, and tens of billions of dollars of investments in Hong Kong, but also exports billions of dollars' worth of products to Hong Kong. These facts, he noted, show that maintaining and developing economic and trade relations with Hong Kong is conductive to safeguarding the common interests of Hong Kong and the United States, this being indeed the point Mr. Mueller was trying to make. *What is strange is that Mr. Mueller suddenly shifted from economic topics to topics such as democracy, the legal system, and human rights in Hong Kong* * * * . (emphasis added).

So, let me explain simply how desiring to safeguard our economic interests triggers a concomitant interest in those topics. If the PRC cannot or does not firmly establish and safeguard a local independent judiciary in Hong Kong after 1997, then businesses will become skittish, pull out of the area, and the economy will suffer. If the civil and human rights presently available to Hong Kong citizens are not safeguarded, and are instead limited to reflect those presently available to citizens on the mainland where the government is not known for its sterling democratic reputation, then businesses will become skittish, pull out of the area, and the economy will suffer. If the present orderly and stable bureaucracy is replaced by one such as that currently in vogue in provinces like Guangdong where family or party connections and a large amount of renminbi are more important than the rule of law, then businesses will become skittish, pull out of the area, and the economy will suffer.

We understand very well the PRC's verbal pronouncements that everything is fine and will remain so after 1997. But as I pointed out after the visit here of Lu Ping, to be credible and calming those pronouncements need to be backed-up with substantive actions. So far, in some areas, that has not been the case, and it this lack of substantive assurances that concerns us. Let me illustrate.

A free press is one of the elements essential to Hong Kong's future as a center of international trade and finance. China has spoken about maintaining freedom of the press, but we have seen growing signs of a move to chill the colony's traditionally raucous press—a press which has been quite even-handed at denouncing Beijing and London, but has denounced Beijing nonetheless. There have been declarations that the PRC will not allow Hong Kong to become a "nest of subversives"—which in the PRC's lexicon could well include free-minded members of the media. The PRC's Ministry of Public Security recently confirmed that it has been gathering information on Hong Kong citizens who are "against the Chinese government." The PRC also tried in secret Hong Kong reporter Xi Yang and sentenced him to 12 years in prison for "stealing state financial secrets"—a term which could include such simple figures as production levels of consumer goods, provincial GDP's, etc. Finally, there were the not-so-coincidental hostile actions taken by the PRC against the Beijing commercial establishments of Hong Kong publisher Jimmy Lai after Lai published an open letter critical of Li Peng.

A continuation of the present common law, independent judiciary is another element of Hong Kong's continuing economic success after 1997. Businesses feel secure if they know that any commercial dispute in which they may be involved will be determined using settled points of law adjudicated by jurists beyond the influence of local politics or influence. The PRC has promised a continuation of this system, but again their actions speak louder to us. Beijing has failed to endorse the Hong Kong Government's draft legislation designed to implement the Court of Final Appeal; failure to do so soon may leave the Hong Kong SAR without such a court for the critical period just after 1997. Moreover, China's past commitment to the rule of law has been very spotty at best. Although a signatory to the International Convention on Arbitration, the PRC has blatantly violated that accord by allowing a Shanghai firm to refuse to pay an arbitral award against it in favor of a U.S. concern named Revpower. China is a signatory to several agreements concerning intellectual property rights, but their compliance until lately was almost nonexistent. The terms of contracts in general in China appear to be binding on the foreign firm, and fungible as far as the Government is concerned—witness the recent unilateral breaking of McDonald's lease for a site on Tiananmen Square with which my colleagues are no doubt familiar.

Aside from our specific interest in these specific issues and the ramifications they will have for Hong Kong's future, how the PRC handles this transition also has implications in other non-Hong Kong specific arenas. How well the PRC keeps to their word will, I think, demonstrate their dependability as they seek to accede to the WTO and other similar organizations. Moreover, it will serve as an indicator as to whether the Chinese are serious about their own commitments to foreign investors, and will be a signal to those considering future investment.

Mr. President, on May 25 the Subcommittee on East Asian and Pacific Affairs, which I chair, will hold a hearing on this topic entitled "Hong Kong: Problems and Prospects for 1997." I look forward to hearing from several Hong Kong specialists about the present state of the transition, where the problem areas are, and what they think the prospects are for the continuation of the colony's present economic prosperity after 1997.

In closing, let me reiterate that we are not seeking to meddle in Great Britain and China's purely bilateral affairs. But, where the actions of either party might effect the business climate in Hong Kong—and thus international investment—I believe that we have a legitimate reason for showing interest, and the parties can be sure that we will. This is our message to Beijing.•

THOUGHTFUL HOMILY OF MOST REV. EDWARD M. EGAN

• Mr. LIEBERMAN. Mr. President, I recently came across a copy of a homily delivered last year by the Most Rev. Edward M. Egan, bishop of Bridgeport, that I believe is worthy of inclusion in the RECORD.

With so much debate of late about the quality of public discourse in this country, the words of Bishop Egan remind us of the need to be respectful of the heartfelt opinions of others, no matter how strongly we might disagree with their point of view.

The bishop's homily was delivered at the red Mass at Saint Matthew's Cathedral here in Washington on October 2, 1994. The red Mass is an annual Mass celebrated for people involved in the legal profession and the bishop urges lawyers, as "protectors of thought and its free expression," to do all they can to protect the speech of those who utter unpopular beliefs and to ensure that all people in our society are allowed to enter the national dialogue over the issues that govern our fate. Speaking to leaders of the legal community, including the Attorney General, and members of the Supreme Court, Bishop Egan cautioned that lawyers must "insist that the unapproved point of view be heard and explored."

Bishop Egan has provided wonderful leadership in his time in Connecticut in so many different ways. I am proud to consider him a friend. Whether my colleagues agree or disagree with all of Bishop Egan's words and examples regarding political correctness, I know they will find his homily to be eloquent and thought-providing. It is in that spirit that I ask that it be printed in the RECORD.

The homily follows:

HOMILY OF THE MOST REV. EDWARD M. EGAN, BISHOP OF BRIDGEPORT

Your Excellency, Archbishop Cacciavillan, Reverend Clergy, Members of the John Carroll Society, Distinguished Representatives of the Bench and Bar, and Friends All:

This past summer, in Canton in the South of China, I sat in a hotel restaurant with a Chinese tour-guide who spoke English quite well. He had brought a busload of tourists to a store that sold porcelain and silk; and once they were safely inside, he invited me to join him for a cup of tea.

He was forty-five years of age, he told me. In his youth he had dreamed of mastering the English language and French as well. However, in the second year of his university studies, the so-called Cultural Revolution had intervened.

His eyes flashed as he described that decade of madness in China. He and dozens of his fellow students had been forced to watch two of their professors killed in a public square by a government-inspired mob. He had stood at attention for hours on several occasions as thousands of books from the university library were destroyed in bonfires. And in due course, he had been taken to the West of China to labor for three years on collective farms, his whereabouts unknown to family and friends.

"What," I asked him, "were the leaders of the Cultural Revolution hoping to achieve with all of this?"

"They wanted the people to stop having unapproved thoughts," he replied. "They felt that the nation could prosper only if all were thinking in the same way—their way, the approved way."

He winced a bit as he offered this explanation but was clearly convinced that his analysis was correct. For he repeated it word for word as he stared into his empty teacup: "They felt that the nation could prosper only if all were thinking in the same way—their way, the approved way."

You and I, my dear friends, are privileged to live in a land in which the imposition of thought by government is rejected out of hand. And in no small measure we have the legal profession to thank for this blessing.

It was lawyers like Montesquieu and Montaigne who were crucial in developing the basic political ideas of our free society. Twenty-five of the fifty-six who signed the Declaration of Independence, with its cry for justice and equality, were practicing attorneys. Even more, the fundamental charters of our nation, such as the Constitution and the Bill of Rights, with their uncompromising commitments to freedom of thought, were largely the work of legal experts with names like Jefferson, Adams, Wilson, Jay, Wythe, and Marshall.

Still, there are in our country today rumblings in many quarters about thoughts that are approved and thoughts that are not. Thus, the expression, "politically correct," has become a staple in our vocabularies. Indeed, over the past year or two it has graduated to the level of a familiar abbreviation. Few there are who do not know the meaning of "p.c."

One is politically correct, we understand, when one agrees with the "important" newspapers, the "quoted" professors, the "best" commentators, the "most influential" personalities. Nor can there be any doubt that this understanding is operating with remarkable efficiency. From Atlantic to Pacific, the vast majority of adult Americans are able to identify with extraordinary ease and accuracy those ideas, positions, and thoughts which are today in our land "correct" or, if you prefer, "approved."

The Readings from Sacred Scripture in our Mass this morning remind us of two cases in point. The first of these Readings, from the Book of Genesis, is among the most familiar in all of Holy Writ. It speaks of the mind of the Divinity as regards the basics of the human condition. The male, we read, was from the time of creation not to be left alone. Rather, he was to be joined by a companion, a partner, a wife, so that together they might live out their years, two in fact but one in heart and love. And from that love was to result a miracle within the wife, a miracle before which every generation since creation has stood in awe.

In our time, however, the miracle has become as well a source of controversy. Simply put, the matter under discussion is this: May society stand idly by while a private party puts a violent end to the miracle?

Those who have embraced the "approved" thinking, the "correct" thinking, answer with a resounding "yes." The miracle, they allege, may be killed with impunity.

Others, however, dare to sing outside the chorus. Their reasoning should not be difficult to understand. The being within the mother, they note, gives strong indications of being a human being, a person with an inalienable right to live. Certainly, no one has ever been able to prove the contrary. Hence, they conclude, society has no choice but to fulfill its most fundamental duty as regards the being in question. It must protect it against attack.

There is no hint of religion in any of this unapproved thinking, though many religious people, for a multitude of religious reasons, support it. There is no mention of doctrine, dogma, sacred writings, or anything of the sort. At issue are only matters which are properly and strictly matters of the law: the meaning of personhood, the basic rights of individuals, the power of legal presumptions, and the most elementary and essential duties of society. These and nothing more.

Still, there is a tactic abroad in our land to characterize the unapproved thinking as exclusively religious and to refuse to allow it a fair hearing on this score. The tactic is clever, widespread, and effective. It should also be frightening to all who cherish the free and honorable exchange of ideas, positions, and thoughts—lawyers first and foremost.

The Gospel Reading, too, calls to mind a controversy of our time in which only certain thoughts appear to be approved.

The Lord, in the lovely account of Saint Luke, instructs His closest followers not to keep children from Him. "Let them come to Me, do not hinder them," He says, "for it is to such as these that the kingdom of God belongs."

Parents there are, to be sure, who would not be comfortable with having their children, the miracles of their love, accept such an invitation. And in this free land of ours their point of view is properly and vigorously protected. But other parents there are who firmly believe that the invitation of the Lord is most worthy, parents who wish their offspring to be educated according to the mind and will of the One Whom they call their God.

The thought of this second group is, of course, unapproved; and the tactic for dismissing it is well-known. All monies that governments collect to support schools, it is announced, must go only to those institutions in which every mention of the Divinity is outlawed. For otherwise, the state would be sustaining religion.

But when such a rule is implemented, the unapproved thinkers protest, is not irreligion being sustained? Why erect a wall only between religion and the state? Why not erect another, no less high, between the state and irreligion? Or more to the point: Why not simply concede to all parents equally the right to choose the schools of their children and to share in the funds gathered by society to support them.

The plea is somehow ruled out of order. The "important" newspapers, the "quoted" professors, the "best" commentators, the "most influential" personalities have spoken. It remains, it would seem, for lawyers to insist that the unapproved point of view be heard and explored. For they are uniquely positioned to do this as counselors, judges, writers, thinkers, and legislators; and what is more: they have a long and noble tradition in this land of respecting and defending thought, even when it is "unapproved."

But the second Reading of our Mass this morning, from the Epistle to the Hebrews, provides yet another reason for lawyers to address the aforementioned issues of unapproved thinking and any others that come to mind. That reason is, I confess, plainly and exquisitely religious. It is simply this: We are all children of the one Father in heaven; hence, we have no choice but to listen to one another with attention, concern, and love.

Many years ago I pastored a parish on the Southside of Chicago. The community was African-American. In fact, one of my parishioners often reminded me that I was very likely the only white voter in the precinct.

My closest adviser was a retired army major who spent many an evening chatting with me about life in the distressed neighborhoods of the Windy City.

"Father," he used to tell me, "we are never going to be the nation we should be as long as any of us are kept out of the national conversation. We've got to find some powerful folks to let us all in."

This morning, thanks to the very kind invitation of the Archbishop of Washington, James Cardinal Hickey, I have the honor to speak to just such "powerful folks." Over the past thirty years, we as a nation have learned that the Black community must be a respected participant in the "national conversation." We are every day becoming more aware that the same is true of the Hispanic community. I pray that now is the time for the religious community as well. And I pray too that lawyers will lead the way in this regard, not only because of their historic position as protectors of thought and its free expression but also, and especially, because they realize, indeed, embrace in faith, that we are all children of one God, sisters and brothers who need—and have a right—to be heard.●

TRIBUTE TO MR. DARWIN HINDMAN AND THE DOLPHIN DEFENDERS

● Mr. BOND. Mr. President, I rise today to pay special tribute to Mr. Darwin Hindman of Columbia, MO, and the Dolphin Defenders of St. Louis, MO. These outstanding Missourians are among 15 honorees nationwide to receive this year's Chevron-Times Mirror Magazines Conservation Award. This honor is being bestowed in recognition of the contributions made by Mr. Hindman and the Dolphin Defenders to environmental conservation and development. I congratulate them for their highly notable achievements and encourage their continued efforts to create balanced solutions to natural resources problems.

Mr. Darwin Hindman, Jr., the newly elected mayor of Columbia and president of Missouri Rails Trails Foundation, Inc., is one of five receiving the Citizen Volunteer Award. Mr. Hindman is responsible for establishing Katy Trail State Park along the north bank of the Missouri River. Through his public activism and fundraising efforts, Mr. Hindman successfully spearheaded creation of the Katy Trail that follows the historic Lewis and Clark expedition of 1804 to 1806. Mr. Hindman also was instrumental in developing the MKT Fitness/Nature Trail. Mr. Hindman and the foundation are working with the State and others to expand the Katy Trail, with the goal of extending it across the State.

The Dolphin Defenders of St. Louis is a group of more than 50 inner city children working to restore their neighborhood by improving the environment. Their name comes from the group's desire to mimic dolphin behavior of protecting each other from danger. The Dolphin Defenders revitalized a once trash laden vacant lot used by drug dealers and abusers into a beautiful environmental retreat now known as the Promised Land. The group has also recognized children surviving in violent communities by planting 31 trees on Arbor Day in Visitation Park. The Dolphin Defenders are one of five nonprofit organizations/public agencies to receive this year's Conservation Award. Moneys raised from the youth group's continuous collection and recycling of tires and glass bottles enable the Dolphin Defenders to pursue new environmental projects.

The honorees will be recognized at an awards dinner on May 17 in Washington, DC, and will receive a $2,000 award along with a bronze plaque acknowledging their achievements and continued efforts to enhance the environment. The awards program was established in 1954 by the late Ed Zern, a nationally recognized sportsman, humorist, author, and former columnist for Field & Stream. Nearly 900 individuals and organizations have received this award since its conception to honor individuals and groups who protect and enhance renewable natural resources.

My sincerest congratulations to Mr. Hindman and the Dolphin Defenders for their significant accomplishments and contributions to conservation and the environment.●

DEPARTMENT OF THE INTERIOR POSITIONS

● Mr. MURKOWSKI. Mr. President, on April 7, 1995, the Committee on Energy and Natural Resources filed the report to accompany S. 610, a bill to provide for a visitor center at the Civil War Battlefield of Corinth, MS.

At the time this report was filed, the Department of the Interior had not submitted its position regarding this measure. The committee has since received this communication from the Department of the Interior, and I ask that it be printed in the RECORD for the advice of the Senate.

The communication follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 10, 1995.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Legislation authorizing the construction of a visitor center at Corinth, Mississippi, S. 610, has been reported out of the Committee on Energy and Natural Resources. In addition to providing for a visitor center, which would be administered as part of Shiloh National Military Park, the bill authorizes the Secretary to mark sites associated with the Siege and Battle of Corinth National Historic Landmark.

On July 25, 1994, we testified before the House Subcommittee on National Parks, Forests, and Public Lands regarding the proposed visitor center at the Civil War Battlefield of Corinth. In our testimony we opposed construction of an interpretive center at Corinth. We believe such a facility is unnecessary given the presence of the National Park Service visitor center at nearby Shiloh Military Park. A visitor center at Corinth is particularly difficult to justify in light of current fiscal constraints. The cost estimate for the proposed 5,300-square-foot interpretive center is $6 million which includes the cost of development, operation and maintenance for 5 years.

We continue to oppose proposals to construct a visitor center at Corinth. The current legislation, S. 610, would give the National Park Service primary responsibility for interpreting the story of Corinth. We believe this responsibility rests more appropriately at the local level. It is not fiscally possible for the National Park Service to have interpretive centers at every significant site associated with the Civil War. We believe we can appropriately relate the story of the Civil War in this area from our current facilities at Shiloh National Military Park.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE T. FRAMPTON, Jr.,
Assistant Secretary for Fish and Wildlife and Parks.

Mr. MURKOWSKI. Mr. President, on April 7, 1995, the Committee on Energy and Natural Resources filed the report to accompany H.R. 400, a bill to provide for the exchange of lands within Gates of the Arctic National Park and Preserve.

At the time this report was filed, the Department of the Interior had not submitted its position regarding this measure. The committee has since received this communication from the Department of the Interior, and I ask that it be printed in the RECORD for the advice of the Senate.

The material follows:

U.S. DEPARTMENT OF THE INTERIOR,
Wasington, DC, April 26, 1995.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to express the Department of the Interior (Department) position on H.R. 400, "To provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes," as reported by the Committee on Energy and Natural Resources. The proposed legislation includes two titles which relate to Gates of the Arctic National Park (Title I) and the acquisition of subsurface rights from Koniag, Inc. (Title II) on the Alaska peninsula.

We strongly support Title I of H.R. 400, "Anaktuvuk Pass Land Exchange and Wilderness Redesignation," as approved by the Committee. Title I authorizes a land exchange involving the National Park Service (NPS), the Nunamiut Corporation and the Arctic Slope Regional Corporation concerning lands in and around Gates of the Arctic National Park and Preserve. The proposed exchange marks thousands of hours of work and over 10 years of negotiations among the affected parties. We believe the proposed exchange would resolve difficult land use issues, improve the management of the Park and benefit the people of Anaktuvuk Pass. Accordingly, the Alaska native community, the Department and private groups all supported the version of H.R. 400 that the House of Representatives passed unanimously on February 1, 1995.

As reported to the Senate, however, Title II of H.R. 400, "Alaska Peninsula Subsurface Consolidation," directs the Secretary of the Interior to acquire oil and gas rights and other subsurface interests on the Alaska peninsula from Koniag, Incorporated. We strongly oppose Title II for the following reasons. First, we do not believe that Koniag has valid selections to some of the lands that the proposed legislation would direct the

Secretary to acquire. Second, both the NPS and the U.S. Fish and Wildlife Service (FWS) consider the acquisition of Koniag's mineral interests to be an extremely low priority in terms of the missions of the two agencies. However, even if we were to disregard this factor, there is a third and most critical problem with the bill as currently drafted: we believe that the directed appraisal methodology would establish a significant negative precedent in terms of longstanding and widely accepted appraisal practices. In sum, we believe that the valuation and acquisition of these interests, as directed by Title II, do not serve the interests of the Department, the Federal Government or the public at large.

A more detailed statement of our objections follows:

1. Status of Koniag entitlements and selections has not yet been determined.—The Alaska Native Claims Settlement Act, as amended, authorizes Koniag to receive the rights to oil and gas and sand and gravel used in connection with exploration and development of the oil and gas to 343,000 acres. However, Koniag has selected approximately 465,158 acres of subsurface estate, an overselection of approximately 122,158 acres:

Alaska Peninsula NWR: 266,068 acres of subsurface selections.

Becharof NWR: 14,080 acres of subsurface selections.

Aniakchak NM and pres.: 185,010 acres of subsurface selections.

Total selections: 465,158 acres of subsurface estate.

Overselections: 122,158 acres of subsurface estate.

Title II does not resolve the issue of Koniag's overselections. It is our understanding that the map referenced in Section 201(8) includes all of Koniag's selections, but does not identify Koniag's 275,000 acre entitlement. The validity of certain Koniag selections is currently the subject of administrative litigation. On October 12, 1993, the Bureau of Land Management (BLM) rejected a portion of Koniag's selections. Koniag has appealed the BLM decision and the issue is currently before the Interior Board of Land Appeals.

Based on the above, we object to proposed legislation which would require the Federal Government to acquire property where the validity of certain selections is under appeal.

2. Federal land management agencies have determined that these properties have extremely low priority for acquisition by the Department.—It is our understanding that the proposed subsurface selections have been examined for their economic potential for oil and gas development. We also understand that test wells have been drilled in the area and that the results of the test drilling have not indicated commercially-viable oil and gas deposits. Therefore, we do not believe that the continued private ownership of oil and gas rights within the conservation system units of the Alaskan peninsula would pose a significant threat to refuge or park resources.

Title II envisions that the acquisition cost not exceed $300 per acre on average. If this average cost is met, the Federal Government would be required to provide $82.5 million in land assets for these low priority mineral interests. We believe that the market value of these interests, as determined by an approved appraisal, will not exceed a tiny fraction of this envisioned value.

3. Proposed appraisal methodology would establish a significant negative precedent for the standard appraisal process.—We strongly oppose several provisions of the bill which direct a specific appraisal methodology.

Section 202(b)(2) directs that the appraisal will be conducted according to the standards of the "Appraisal Foundation," and that the "risk adjusted discounted cash flow methodology" would be the sole method to establish value. This direction that the appraiser must utilize one single appraisal method violates broadly supported and adopted appraisal principles and would likely lead to inflated values for the subsurface rights at the expense of the taxpayer. This section, therefore, is inconsistent with the Appraisal Foundation standards referred to in the bill.

The Federal Government currently uses the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA), a product of the Interagency Land Acquisition Conference, which is chaired by the U.S. Department of Justice. Federal and State agencies use these standards to appraise lands for possible acquisition. Federal courts have upheld these uniform standards, which are based on fairness and equity. To support the uniform appraisal standards, the Appraisal Standards Board of the Appraisal Foundation has issued the Uniform Standards of Professional Appraisal Practices.

The uniform appraisal standards used by both public and private sectors establish three basic approaches to determine fair market value: sales comparison, income and cost approaches. The standards allow for all three approaches to be considered and weighted according to specified factors.

In the case of the Koniag subsurface selections, there is no proven mineral reserve, nor an established market. In these situations, the uniform standards do not favor the discounted cash flow methodology, as directed by Section 202(b)(2). In fact, the uniform standards specifically caution against using the discounted cash flow methodology in isolation. When appraising non-producing mineral interests, the market comparison approach is considered the fairest and most equitable appraisal method. Legislation that distorts this process will lead to inequitable transactions and set a harmful precedent that could seriously undermine future land exchanges in Alaska.

Congressional action mandating that only one of the several standard appraisal methodologies be used, particularly when that methodology may be totally inappropriate to the circumstances, would render meaningless the principles of fairness and equity that form the basis of the uniform appraisal standards. Such action could encourage land owners throughout the United States to demand that their lands be valued in ways that have not gained acceptance throughout the community of professional appraisers.

We also note one additional constraint in Title II that deviates from the standard appraisal practice. In contravention of appraisal ethics and standards, Section 202 of Title II would limit the appraised value to a cap of $300 an acre on average. Based on our desire to maintain the integrity of the appraisal process, we object to imposing a cap on the valuation process, just as we would oppose any artificial floor.

4. The mandated timetables would divert personnel and resources from other high priority acquisitions.—With the consent and approval of the Congress, both the NPS and the FWS are reducing the number of Federal employees in their respective regions and headquarters offices. The respective realty offices are also facing significant staff and budget reductions in order to meet downsizing and budget targets. The remaining realty staffs are currently working to reach agreements with landowners within the Kodiak National Wildlife Refuge, the Kantishna area of Denali National Park and many other areas in Alaska. Negotiating and implementing a priority land exchange would add to the current workload.

Based on the Department's experience in appraising subsurface rights, mineral appraisals require significant expenditures of staff time and appropriated funds to complete. Directing the realty offices to complete these appraisals within the 180 day time period would lead to significant delays in work on the other high priority activities to meet the terms of the proposed legislation.

5. Ability to execute appraisals within mandated timetable.—Section 202 of Title II would require an appraiser to submit an appraisal to the Secretary within 180 days after the selection of an appraiser. Given the complexity of the mineral appraisal process of such a large area, and putting aside the issue of the discounted cash flow method, this timetable would at best lead to a hastily prepared appraisal that would not accurately value the rights in question.

Because Title II could significantly harm the financial interests of the American taxpayer, would undermine the integrity of the standard appraisal process and would not enhance the protection of natural resources or improve land management, we strongly urge that the Senate not approve Title II. We continue to support passage of Title I of H.R. 400, to protect significant natural resources in Gates of the Arctic National Park.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE T. FRAMPTON, Jr.,
Assistant Secretary for Fish and Wildlife and Park.

Mr. MURKOWSKI. Mr. President, on March 29, 1995, the Committee on Energy and Natural Resources filed the report to accompany H.R. 694, the Minor Park Boundary Adjustments and Miscellaneous Park Amendments Act of 1995.

At the time this report was filed, the Department of the Interior had not submitted its position regarding this measure. The committee has since received this communication from the Department of the Interior, and I ask that it be printed in the RECORD for the advice of the Senate.

The communication follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 9, 1995.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Energy and Natural Resources favorably reported H.R. 694, the Minor Park Boundary Adjustments and Miscellaneous Park Amendments Act of 1995 on March 29. The National Park Service testified in support of this legislation when it was considered in the House, and recommended several amendments. We would like to provide our views on the substitute adopted by the Energy and Natural Resources Committee.

Sec. 105. Craters of the Moon. The National Park Service supports Section 105, which revises the boundaries of Craters of the Moon

National Monument. We prefer the language in the House version of H.R. 694 that authorizes the NPS to acquire "lands, water, and interests therein" on the land being included in the boundary adjustment. One of the primary reasons for the boundary adjustment is to protect the monument's potable water source and "waters" is not currently included in the Senate version of Section 105.

Sec. 108. New River Gorge, Sec. 109. Gauley River, and Sec. 110. Bluestone River. We have no objection to the boundary changes to existing units proposed in these sections. These sections would amend the boundaries by including uneconomical remnants, a large parcel proposed for donation, and two State parks. The addition of the State parks would not change the management of either State park.

Sec. 201. Advisory Commissions. This section would extend advisory commissions for Kaloko-Honokohau National Historical Park and Women's Rights National Historical Park. On February 10, 1993, the President issued Executive Order 12838, "Termination and Limitation of Federal Advisory Committees," ordering each agency to prepare a detailed review of all existing advisory committees. As a general policy, the Administration does not support provisions that would establish or reauthorize advisory commissions; however, with respect to Kaloko-Honokohau, given the limited extension requested and the unique circumstances in this case, the Administration has no objection to this short extension.

Sec. 203. Cumberland Gap National Historical Park. We recommend enactment of this section, which would clarify the authority of the Secretary of the Interior to acquire lands or interests in lands with appropriated funds. Passage of this section would enable the NPS to use monies in the Land and Water Conservation Fund for a specific parcel without necessitating an Act of Congress to authorize each purchase. We believe the proposed amendments would enable us to respond to conservation and recreation opportunities as they arise within the authorized area of the park.

Sec. 204. William O. Douglas Outdoor Classroom. The President's budget estimate for fiscal year 1996 for the NPS includes funds for the William O. Douglas Outdoor Classroom in the Santa Monica Mountains National Recreation Area. The classroom is a nonprofit organization, which operates an environmental and special multicultural program in the Los Angeles area that serves some 100,000 people annually, including many inner-city elementary school children. The language of this section would provide the authorization necessary for the classroom to receive funding and for the Secretary of the Interior to enter into cooperative agreements.

Sec. 206. Gauley Access, and Sec. 207. Visitor Center. We recommend that these sections be deleted from the bill. The public comment period on the Draft General Management Plan (GMP) for Gauley River NRA ended in November 1994. Those comments are guiding the completion of the final plan, which will address the issue of a visitor contact facility and will recommend locations for river access. We continue to maintain that the general management planning process should be the proper vehicle for determining the location of visitor facilities within Gauley River NRA. It is anticipated the plan will be released by the end of 1995.

Sec. 205, Miscellaneous Provisions, Sec. 208. Extension, and Sec. 209, Bluestone River Public Access. We support extending the provisions of the Wild and Scenic Rivers Act for a 5-year period for segments of the Bluestone and Meadow Rivers previously studied and determined eligible for wild and scenic river designation. The general provisions relating to cooperative agreements and remnant land for Bluestone River Public Access are acceptable to the Department. We recommend that any remnants purchased pursuant to Sec. 205 be automatically included within the boundary of that park unit. The costs of implementing the above sections, if amended as we have suggested, would be between $1.5 million and $2 million in additional land acquisition for the three existing NPS units.

Sec. 305. Volunteers in the Parks. The National Park Service increasingly relies on volunteers in many program areas and reaps many benefits from this program. We recommend the elimination of any cap on this appropriation as it would allow for any budgetary increases that may be adopted in future years.

Sec. 306. Cooperative Agreements for Research. The Senate version allows the NPS to enter into cooperative agreements with several entities, including "private conservation organizations." We prefer that this authority reflect similar language in 16 U.S.C. 753, which allows the Fish and Wildlife Service to establish Cooperative Research Units with "non-profit organizations." The House version deleted this authority completely.

Sec. 306. Carl Garner Cleanup Day. We have no objection to establishment of the Carl Garner Federal Lands Cleanup Day.

Sec. 307. Corinth Interpretive Center. In addition to providing for a visitor center, which would be administered as part of Shiloh National Military Park, this section authorizes the Secretary to mark sites associated with the Siege and Battle of Corinth National Historic Landmark.

We oppose construction of an interpretive center at Corinth. We believe such a facility is unnecessary given the presence of the National Park Service visitor center at nearby Shiloh Military Park. A visitor center at Corinth is particularly difficult to justify in light of current fiscal constraints. The cost estimate for the proposed 5,300-square-foot interpretive center is $6 million, which includes the cost of development, operation, and maintenance for 5 years.

We support each of the other sections not specifically mentioned in this letter. However, we note that the committee-reported bill does not include the extinguishment of a reservation for the Army Corps of Engineers to deposit dredging spoils at Fort Pulaski National Monument. We support the House provision eliminating this reservation as the reserved area contains two significant historic structures listed on the National Register of Historic Places and significant natural resource values. Extinguishment of this reservation would assure permanent protection of these values.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE T. FRAMPTON, JR.,
Assistant Secretary for
Fish and Wildlife and Parks.

Mr. MURKOWSKI. Mr. President, on April 7, 1995, the Committee on Energy and Natural Resources filed individual reports to accompany S. 115, Colonial Park land conveyance; S. 127, Women's Rights NHP amendments; S. 134, FDR Family land acquisition; S. 188, Great Falls Historic District; S. 197, Carl Garner Federal Lands Cleanup Day; S. 223, Sterling Forest land acquisition; S. 357, Kaloko-Honokohau advisory commission; S. 392, Dayton American Heritage amendment; S. 551, Hagerman Fossil Beds and Craters of the Moon boundary change; S. 587, Old Spanish Trail study; and S. 601, Blackstone Heritage Area revision.

At the time these reports were filed, the Department of the Interior had not submitted its position regarding these measures. The Committee has since received a communication from the Department of the Interior, regarding these bills, and I ask that it be printed in the RECORD for the advice of the Senate.

The communication follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 9, 1995.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Energy and Natural Resources recently reported several bills. The National Park Service testified in support of similar versions of many of these bills in the 103rd Congress. The following provides the National Park Service's position on most of the bills reported.

S. 115, COLONIAL (VA) PARK LAND CONVEYANCE

S. 115, which authorizes the Secretary of the Interior to acquire and convey certain lands or interests in lands to improve the management, protection, and administration of Colonial National Historical Park, was reported with an amendment to conform it to the bill approved by the committee last year. The amendment struck the provisions which would have allowed for the expansion of a specific area of Colonial Parkway and in turn would have permitted the acquisition of property immediately adjacent to the parkway. The property in question has been subdivided and development of such will result in a major visual intrusion to the parkway. The Department of the Interior/National Park Service strongly supported this section of S. 115. If a boundary expansion for this area of the Colonial Parkway is not enacted by Congress, the National Park Service will not be able to purchase this land and it will be developed.

We support the provisions of S. 115 that would allow the National Park Service to transfer the sewage systems to York County, Virginia. We urge the Senate to consider restoring the boundary adjustment and acquisition provisions struck by the committee on March 15, 1995, when S. 115 comes before the entire Senate for consideration.

S. 127, WOMEN'S RIGHTS NHP (NY) AMENDMENTS

S. 127, which would improve the administration of the Women's Rights National Historical Park in the State of New York, was reported from committee with the same amendments as in 1994. These amendments delineate the properties the National Park Service may acquire at Women's Rights NHP. A property is also removed from the park. The development/land acquisition ceiling is increased by $2 million to cover the expenses which will be incurred for the permitted expansion. The National Park Service has no objection to S. 127 as reported by the Senate Energy and Natural Resources Committee on March 15, 1995, and supports the legislation as amended.

S. 134, FDR FAMILY LAND (NY) ACQUISITION

S. 134, which would provide for the acquisition of certain lands formerly occupied by the Franklin D. Roosevelt family, was approved by the committee with the same amendments adopted in 1994. These amendments delineate specifically the properties the National Park Service may acquire at the Roosevelt Sites. Although we did not testify about specific lands, the amended language, which delineates the tracts, addresses the National Park Service's concerns for protecting property at the Roosevelt Sites. The National Park Service has no objection to S. 134 as reported by the Senate Energy and Natural Resources Committee on March 15, 1995, and supports the legislation as amended.

S. 188, GREAT FALLS (NJ) HISTORIC DISTRICT

S. 188, which would establish the Great Falls Historic District in the State of New Jersey, was approved by the committee with language similar to a bill reported from the committee in September 1994, requiring a 50 percent local match and limiting Federal funds. This language supports the National Park Service's position and belief that defining the maximum funding and requiring local participation through matching funds is appropriate and necessary to limiting National Park Service involvement in a site that is not a unit of the National Park System.

S. 197, CARL GARNER FEDERAL LANDS CLEANUP DAY

We have no objection to the enactment of S. 197, a bill that recognizes the contribution of Carl Garner to our Federal lands cleanup efforts. This is consistent with the position the Department took on this legislation when we testified before the Senate Subcommittee on Public Lands, National Parks and Forest in the 103rd Congress. Carl Garner originated this day, and we feel it is appropriate to include his name in the official title.

S. 223, STERLING FOREST (NY/NJ) LAND ACQUISITION

The National Park Service (NPS) supports S. 223, the "Sterling Forest Protection Act of 1995", as approved by the Senate Energy and Natural Resources Committee. In the 103rd Congress, the NPS had opposed the original Sterling Forest legislation that was introduced. A substitute was adopted and subsequently passed the Senate, which addressed the concerns of the NPS and the Department of the Interior. The bill just reported from the committee, S. 233, reflects our view that Department of Interior/National Park Service involvement in Sterling Forest be limited to areas adjacent to the Appalachian Trail.

S. 357, KALOKO-HONOKOHAU (HI) ADVISORY COMMISSION

S. 357 would extend the advisory commission for Kaloko-Honokohau National Historical Park. On February 10, 1993, the President issued Executive Order 12838, "Termination and Limitation of Federal Advisory Committees," ordering each agency to prepare a detailed review of all existing advisory committees. As a general policy, the Administration does not support provisions that would establish or reauthorize advisory commissions; however, given the unique circumstances in this case, the Administration has no objection to this short extension.

S. 392, DAYTON (OH) AMERICAN HERITAGE AMENDMENT

S. 392 will facilitate the appointment of the Dayton Aviation Heritage Commission. This bill will satisfy the Department of Justice's concern that the process for appointing commission members raises constitutional issues, limiting the Secretary's discretion to appoint members to the commission. These amendments will correct this issue and we support enactment of S. 392.

S. 551, HAGERMAN FOSSIL BEDS AND CRATERS OF THE MOON (ID) BOUNDARY CHANGE

The National Park Service supports S. 551, which would revise the boundaries of Hagerman Fossil Beds National Monument and Craters of the Moon National Monument. Similar legislation was unsuccessful in the past two Congresses. Passage of this legislation is critical to both parks. We recommend however that S. 551 incorporate language from the House version of H.R. 694 regarding Craters of the Moon National Monument. That language authorizes the NPS to acquire "lands, waters, and interests therein" for the area of the boundary adjustment. One of the primary reasons for the boundary adjustment is to protect the monument's potable water source and "waters" is not currently included in S. 551.

S. 587, OLD SPANISH TRAIL (CO/NM/NV/CA) STUDY

The National Park Service supports S. 587, which authorizes the study of the Old Spanish Trail for potential inclusion into the National Trails System as a national historic trail. The present language is not specific, however, as to whether national historic or national scenic trail status is sought. Because of the existing highway and other development along the trail we do not believe it would meet the national scenic trail criteria. We recommend the bill be amended to limit the study to national historic trail feasibility, which would greatly reduce study cost and time to complete the project. In addition, we recommend that the legislation be broadened to allow study of all components of the Old Spanish Trail, including the Dominguez-Escalante Trail, to assure a fair and complete assessment of the trail, and if designation is recommended, to allow inclusion of the trail's best components.

S. 601, BLACKSTONE (MA/RI) HERITAGE AREA REVISION

S. 601, would revise the boundaries of the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island. The bill approved by the Senate committee is the same bill reported by the committee in September 1994. The National Park Service supports S. 601, however, it does not address the Department of Justice's concern regarding appointments to Federal Advisory Committees. We will be happy to provide the committee draft language to resolve this concern. We hope the Senate will take this matter into consideration before it takes final action on S. 601.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE T. FRAMPTON, Jr.,
Assistant Secretary for Fish and Wildlife and Parks.●

ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT

The text of the bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Marketing Administration, and for other purposes, as passed by the Senate on Tuesday, May 16, 1995, is as follows:

S. 395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. SHORT TITLE.

This title may be cited as the "Alaska Power Administration Asset Sale and Termination Act".

SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

(a) The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this Act as "Snettisham") to the State of Alaska in accordance with the terms of this Act and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Alaska Power Authority and the Authority's successors.

(b) The Secretary of Energy is authorized and directed to sell the Eklutna Hydroelectric Project (referred to in this Act as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this Act as "Eklutna Purchasers"), in accordance with the terms of this Act and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Eklutna Purchasers.

(c) The heads of other Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized and directed by this Act.

(d) Proceeds from the sales required by this title shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

(e) There are authorized to be appropriated such sums as may be necessary to prepare, survey, and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchaser.

SEC. 103. EXEMPTION AND OTHER PROVISIONS.

(a)(1) After the sales authorized by this Act occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a et seq.) as amended.

(2) The exemption provided by paragraph (1) does not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

(3) Nothing in this title or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the memorandum of Agreement.

(b)(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of

the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than ninety days after the date on which the Program is adopted by the Governor of Alaska, or be barred.

(3) An action seeking review of implementation of the Program shall be brought not later than ninety days after the challenged act implementing the Program, or be barred.

(c) With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

(A) at no cost to the Eklutna Purchasers;

(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

(2) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with existing law.

(3) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

(4) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85–508, 72 Stat. 339, as amended), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

(d) With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85–508, 72 Stat. 339, as amended).

(e) Not later than one year after both of the sales authorized in section 102 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration;

(2) submit to Congress a report documenting the sales; and

(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(f) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined by the Secretary of Energy, that all Eklutna assets have been conveyed to the Eklunta Purchasers.

(g) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, that all Snettisham assets have been conveyed to the State of Alaska.

(h) As of the later of the two dates determined in subsections (f) and (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively; and

(2) in paragraph (2) by striking out "and the Alaska Power Administration" and by inserting "and" after "Southwestern Power Administration,".

(i) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

(j) The sales of Eklutna and Snettisham under this title are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622).

(k) The sales authorized in this title shall occur not later than 1 year after the date of enactment of legislation defining "first use" of Snettisham for purposes of section 147(d) of the Internal Revenue Code of 1986, to be considered to occur pursuant to acquisition of the property by or on behalf of the State of Alaska.

SEC. 104. DECLARATION CONCERNING OTHER HYDROELECTRIC PROJECTS AND THE POWER MARKETING ADMINISTRATIONS.

Congress declares that—

(1) the circumstances that justify authorization by Congress of the sale of hydroelectric projects under section 102 are unique to those projects and do not pertain to other hydroelectric projects or to the power marketing administrations in the 48 contiguous States; and

(2) accordingly, the enactment of section 102 should not be understood as lending support to any proposal to sell any other hydroelectric project or the power marketing administrations.

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as "Trans-Alaska Pipeline Amendment Act of 1995".

SEC. 202. TAPS ACT AMENDMENTS.

Section 203 of the Act entitled the "Trans-Alaska Pipeline Authorization Act", as amended (43 U.S.C. 1652), is amended by inserting the following new subsection (f):

"(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

"(1) Subject to paragraphs (2) through (6), of this subsection and notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over right-of-way granted pursuant to this section may be exported after October 31, 1995 unless the President finds that exportation of this oil is not in the national interest. In evaluating whether the proposed exportation is in the national interest, the President—

"(A) shall determine whether the proposed exportation would diminish the total quantity or quality of petroleum available to the United States;

"(B) shall conduct and complete an appropriate environmental review of the proposed exportation, including consideration of appropriate measures to mitigate any potential adverse effect on the environment, within four months after the date of enactment of this subsection; and

"(C) shall consider, after consultation with the Attorney General and Secretary of Commerce, whether anticompetitive activity by a person exporting crude oil under authority of this subsection is likely to cause sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels for independent refiners that would cause sustained material adverse employment effects in the United States.

The President shall make his national interest determination within five months after the date of enactment of this subsection or 30 days after completion of the environmental review, whichever is earlier. The President may make his determination subject to such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that the exportation is consistent with the national interest.

"(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to this section, shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.

"(4) The Secretary of Commerce shall issue any rules necessary for implementation, including any licensing requirements and conditions, of the President's national interest determination within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

"(5) If the Secretary of Commerce finds that anticompetitive activity by a person exporting crude oil under authority of this subsection has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused sustained material adverse employment effects in the United States, the Secretary of Commerce may recommend to the President who may take appropriate action against such person, which may include modification or revocation of the authorization to export crude oil.

"(6) Administrative action with respect to an authorization under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.".

SEC. 203. ANNUAL REPORT.

Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following:

"In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration for Defense District V have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.".

SEC. 204. GAO REPORT.

The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

SEC. 205. RETIREMENT OF CERTAIN COSTS INCURRED FOR THE CONSTRUCTION OF NON-FEDERAL PUBLICLY OWNED SHIPYARDS.

(a) IN GENERAL.—The Secretary of Energy shall—

(1) deposit proceeds of sales out of the Naval Petroleum Reserve in a special account in amounts sufficient to make payments under subsections (b) and (c); and

(2) out of the account described in paragraph (1), provide, in accordance with subsections (b) and (c), financial assistance to a port authority that—

(A) manages a non-Federal publicly owned shipyard on the United States west coast that is capable of handling very large crude carrier tankers; and

(B) has obligations outstanding as of May 15, 1995, that were dated as of June 1, 1977, and are related to the acquisition of non-Federal publicly owned dry docks that were originally financed through public bonds.

(b) ACQUISITION AND REFURBISHMENT OF INFRASTRUCTURE.—The Secretary shall provide, for acquisition of infrastructure and refurbishment of existing infrastructure, $10,000,000 in fiscal year 1996.

(c) RETIREMENT OF OBLIGATIONS.—The Secretary shall provide, for retirement of obligations outstanding as of May 15, 1995, that were dated as of June 1, 1977, and are related to the acquisition of non-Federal publicly owned dry docks that were originally financed through public bonds—

(1) $6,000,000 in fiscal year 1996;
(2) $13,000,000 in fiscal year 1997;
(3) $10,000,000 in fiscal year 1998;
(4) $8,000,000 in fiscal year 1999;
(5) $6,000,000 in fiscal year 2000;
(6) $3,500,000 in fiscal year 2001; and
(7) $3,500,000 in fiscal year 2002.

SEC. 206. OIL POLLUTION ACT OF 1990.

Title VI of the Oil Pollution Act of 1990 (Public Law 101-380; 104 Stat. 554) is amended by adding at the end thereof the following new section:

"SEC. 6005. TOWING VESSEL REQUIRED.

"(a) IN GENERAL.—In addition to the requirements for response plans for vessels established in section 311(j) of the Federal Water Pollution Control Act, as amended by this Act, a response plan for a vessel operating within the boundaries of the Olympic Coast National Marine Sanctuary or the Strait of Juan de Fuca shall provide for a towing vessel to be able to provide assistance to such vessel within six hours of a request for assistance. The towing vessel shall be capable of—

"(1) towing the vessel to which the response plan applies;

"(2) initial firefighting and oilspill response efforts; and

"(3) coordinating with other vessels and responsible authorities to coordinate oilspill response, firefighting, and marine salvage efforts.

"(b) EFFECTIVE DATE.—The Secretary of Transportation shall promulgate a final rule to implement this section by September 1, 1995.".

SEC. 207. EFFECTIVE DATE.

This title and the amendments made by it shall take effect on the date of enactment.

TITLE III

SEC. 301. SHORT TITLE.

This Title may be referred to as the "Outer Continental Shelf Deep Water Royalty Relief Act".

SEC. 302. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.

Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)), is amended by striking paragraph (3) in its entirety and inserting the following:

"(3)(A) The Secretary may, in order to—

"(i) promote development or increased production on producing or non-producing leases; or

"(ii) encourage production of marginal resources on producing or non-producing leases; through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

"(B)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

"(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(aa), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400-800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Administrative Procedures Act (5 U.S.C. 702), only for actions filed within 30 days of the Secretary's determination or redetermination.

"(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

"(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

"(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

"(iv) For purposes of this subparagraph, the term 'new production' is—

"(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

"(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

"(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.".

SEC. 303. NEW LEASES.

Section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337(a)(1)) is amended as follows:

(1) Redesignate section 8(a)(1)(H) as section 8(a)(1)(I); and

(2) Add a new section 8(a)(1)(H) as follows:

"(H) cash bonus bid with royalty at no less than 12 and ½ per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary. Such suspensions may vary based on the price of production from the lease.".

SEC. 304. LEASE SALES.

For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within five years of the date of enactment of this title, shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this title, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

SEC. 305. REGULATIONS.

The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this title within 180 days after the enactment of this Act.

SUPPORTING THE ANGOLA PEACE PROCESS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Senate Resolution 121, a resolution submitted earlier today by Senators FEINGOLD, KASSEBAUM, HELMS, PELL, and SIMON, regarding the Angola peace process, that the resolution and the preamble be agreed to, the motion to reconsider be laid on the table en bloc, and any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 121) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas Angola has suffered one of the most violent and longest-running civil wars;

Whereas the United States was actively engaged in the war in Angola, has provided more than $200 million in humanitarian assistance to Angola since 1992, and has been a key facilitator on the ongoing peace negotiations;

Whereas Angola is the last civil conflict in southern Africa, and regional leaders including South African President Nelson Mandela consider its resolution to be a top priority;

Whereas an enduring peace in Angola, a potentially wealthy country that is central to regional stability and economic development, is in the national interest of the United States;

Whereas the Government of Angola and National Union for the Total Independence of Angola (UNITA) entered into the Lusaka Protocol in November 1994 to secure a U.N.-supervised peace settlement;

Whereas the United Nations Security Council voted in February to send a U.N. peacekeeping mission to Angola to monitor and enforce the peace process, and more than 600 international monitors are deployed throughout the country;

Whereas continuing progress toward peace makes it more likely that further deployment of UNAVEM III will occur soon;

Whereas the meeting between President Eduardo dos Santos and Dr. Jonas Savimbi on May 6, 1995, at which both parties reiterated their commitment to the Lusaka Protocol, demonstrated that they possess the essential political will to resolve outstanding issues, and encouraged all who want peace in Angola;

Whereas achieving a lasting peace will require that all Angolans work together to overcome bitter legacies of war, which include a devastated infrastructure, millions of unexploded landmines, a profound distrust between the parties, weakened civil institutions, a crippled economy, and a generation of young Angolans who have never known a peaceful, civil society;

Whereas strong leadership is essential to ensure that the wealth of Angola, long spent on war, now is used to consolidate peace. Now, therefore, be it

Resolved, That the Senate:

(1) Congratulates the people of Angola for the courageous and determined steps their leaders have taken in support of peace;

(2) Urges all parties in Angola to continue to strengthen their commitment to the Lusaka process, which constitutes the last, and best, chance for securing an enduring peace;

(3) Affirms that the United States will hold both Angolan parties responsible for abiding by their commitment to peace; and

(4) Calls upon the international community to remain actively engaged in support of national reconciliation, removal of landmines, economic development, and democratization in Angola.

ORDERS FOR THURSDAY, MAY 18, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:15 a.m. on Thursday, May 18, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators to speak for up to 5 minutes each except for the following: Senator SPECTER, 45 minutes; Senator THOMAS, 20 minutes; Senator DORGAN, 20 minutes; Senator CAMPBELL, 15 minutes; Senator REID, 10 minutes; Senator SANTORUM, 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask unanimous consent that at the hour of 12 noon tomorrow the Senate begin consideration of Senate Concurrent Resolution 13, the concurrent budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, the Senate will begin consideration of the budget resolution tomorrow at noon, so I think Senators can expect rollcall votes throughout the day tomorrow, probably late into the evening, and again on Friday and, as I said earlier, on Monday. Because it is our desire to finish the budget resolution either on late Tuesday or Wednesday. And then if possible, take up the antiterrorism measure before the recess, which begins on Friday of next week. I just urge my colleagues, alert my colleagues there will be votes unless something happens I am not aware of on Friday and on Monday.

So, please plan your schedules accordingly.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:10 p.m., recessed until Thursday, May 18, 1995, at 9:15 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, May 17, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. UPTON].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 17, 1995.

I hereby designate the Honorable FRED UPTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we look at the myriad decisions of the day and the options that are before us and all people, we pray, almighty God, for the assurance that Your Word does give. We know of the uncertainty of every life and we are aware of how our plans go awry, and yet we know too of the confidence we can have in Your love that sustains into every day ahead. May Your strong Word, O God, that brought the world into being and breathed into us the very breath of life, give each person the faith and hope and love to live each day with fullness and with grace. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HOKE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOKE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 1, rule I, further proceedings on this motion will be postponed until later this afternoon.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. CHABOT] come forward and lead the House in the Pledge of Allegiance.

Mr. CHABOT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 32

Mr. MCNULTY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 32.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would announce that he will entertain 15 1-minutes on each side.

STILL NO PLAN FROM THE PRESIDENT TO BALANCE THE BUDGET

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, Thomas Jefferson said, "We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves." And yet as of yesterday, the national debt stood at $4,881,377,281,278.42, an increase of $22.2 billion.

At this rate, the national debt will have increased by another $15,448,819 in the time it takes me to finish this short 1-minute speech.

The debt burden for each individual American, including those babies born yesterday, now stands at $18,626.02, an $89 increase—again that is per person.

It has been 76 days since we challenged the President to present his plan to balance the budget and 20 days since we asked him to help us help fix Medicare.

In the absence of leadership from the White House, Republicans have offered a plan to balance the budget by 2002 so that our children will have a future free from debt and a standard of living better than our own.

Mr. Speaker, where is the President's plan? We are still waiting.

SAVING MEDICARE?

(Ms. RIVERS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. RIVERS. Mr. Speaker, I rise today to point out some inconsistencies in many of the arguments that we are hearing today. In the Republican budget, the line item that guts Medicare is called saving Medicare.

Make no mistake, Mr. Speaker, this is not about saving Medicare. This is about saving the Republican's political behind. They have made promises to the most financially secure people in this country, and they choose to pay for them by taking from our most vulnerable.

If this were about reform, we would have seen more action from the Republicans. Where were they in February 1994 when this issue came up? They did not have anything to say. Where were they when fundamental health care reform was being debated in this country? They were obstructionists. Where were they when the Danforth-Kerrey proposal came out? They had nothing to say. Where was this issue when they were writing their Contract With America? It was a nonstarter. And where were they in February of this year when the trustees' report came out again? Nowhere to be seen.

Mr. Speaker, it is only when they have to make good on the promises to the wealthy that they have turned to the services to our elderly to get the money. Shame, shame, shame.

SAVING MEDICARE

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, for the first time in 25 years Congress is actually offering a budget that will bring it into balance and deal with the Medicare crisis. As every Member in this Chamber knows, the Medicare trust fund begins to go bankrupt next year and will be completely insolvent in 7 years. As President Clinton's Medicare trustees said in their annual report, the trust fund: "* * * will be able to pay benefits for only about 7 years and is severely out of financial balance in the long range."

The report also says: "The trustees believe that prompt, effective, and decisive action is necessary."

Yesterday's Invester's Business Daily pointed out President Clinton's recent flip-flop on Medicare. And I quote the President:

> We propose to let it go up at two times the rate of inflation. That is not a Medicare or Medicaid cut. So when you hear all this business about cuts, let me caution you that that is not what is going on. We are going to have increases in Medicare and Medicaid, and a reduction in the rate of growth.

Mr. Speaker, where is the President now?

VOTE FOR A BALANCED BUDGET NOW

(Mr. PETE GEREN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETE GEREN of Texas. Mr. Speaker, a balanced budget is good for America. The status quo is bad. Bad for children, bad for seniors, bad for the middle class, and bad for the present and bad for the future.

The status quo means Medicare goes broke in 6 years, not cut by 5 percent, not cut by 7 percent, but goes broke. The status quo means financial ruin. That destroys our ability to defend ourselves, feed our children or meet our health care needs.

Folks, the status quo means we go broke. Tomorrow we have a choice between four balanced budgets. I urge my colleagues to pick one. A balanced budget is good for America, good for all Americans, young and old. The time is now.

WORK TOGETHER TO SAVE MEDICARE

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, let us go over it one more time. According to the President's own advisors, the Medicare Trust Fund will be bankrupt by the year 2002. Republicans have crafted a bill which will save Medicare.

Let me refer to this chart. In doing so, we have proposed that Federal spending on Medicare increase from $178 to $258 billion. Let me repeat that. Medicare will go up under the Republican plan. And what is the Democrat Medicare plan? Are they working tirelessly to save a system that their own leaders maintain is going bankrupt? Not a chance.

What they are doing is running, one after another, to the camera, the nearest camera, to proclaim that Republicans are cutting Medicare. It is not true.

Mr. Speaker, I would say to my Democrat friends that the American people are not going to fall for their distortions. But they might help. I think the American people are going to wonder why the Democrats are not helping to save Medicare. Let us work together to save Medicare.

THREE CHEERS FOR THE WHITE HOUSE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Hear, hear, Mr. Speaker. Three cheers for the White House, who has finally slapped Japan with a big time 100-percent tariff on luxury vehicles.

And guess what? Acura is a crying, Infiniti is now finite, Toyota is toasted, Nissan is nixed, Mazda is maxed, Mitsubishi is busted, and Lexus is nauseous. But in the words of Bob Dylan, how does it feel, Japan? Because you see, we here in America know that Lincoln had been shrinking, Cadillac had been lacking, and Chrysler was almost mort.

So think about it, Members. It is about time we used a 2 by 4 and open those markets. Open those markets in Japan if you want to straighten out the budget in America.

And one thing, Japan, think of this: When you hold your own trade program to your nosey, it doesn't smell too rosy, does it? In the words of Bob Dylan, how does it feel? Big time tariffs. I yield back the balance of these huge tariffs.

SOLUTION TO SAVE MEDICARE

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, here is the problem. The fund is projected to be exhausted in 2001. Signed by the Secretary of the Treasury, Secretary of Labor, Secretary of Health and Human Services. Medicare is going broke. Projected to be exhausted, 2001. Here is our solution.

We increase spending from $4,700 to $6,300 per capita, at the same time slowing the rate of growth from about 10.5 to 5.5 percent. We save Medicare, we balance the budget, and we preserve the blessings of liberty to ourselves and our posterity.

Here is the President's plan.

Let me go over this one more time. Here is the problem. The fund is going to be exhausted in 2001. Here is the solution. We are increasing spending while reducing the rate of growth. And here is the President's plan.

Yes, that is an ostrich.

PROPOSED CUTS TO MEDICARE AND MEDICAID TITLE

(Mr. BALDACCI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALDACCI. Mr. Speaker, some of our colleagues have proposed drastic cuts to the Medicare and Medicaid programs. Over the next 7 years, their budget would cut them by over $465 billion. At the same time, their budget proposes a tax break for the people that are earning over $250,000 and will cost more than $340 billion over the same period.

I have spoken to several people in my district who would be affected by these changes. The comment of one older gentleman struck me as particularly on target. He told me that he understood that the Medicare system is broken and needs to be fixed. All seniors ask of the Congress, he said, is that we make changes in a considered and rational way that will actually help to save the system.

Yes, we must slow the growth in Medicare and Medicaid spending. And yes, we must absolutely ensure the solvency of the Medicare Part A Trust Fund. America's seniors are willing to contribute their fair share to this effort.

However, we must not balance the budget on the backs of senior Americans. Nor should we ask our senior citizens to endure these cuts while we use the savings to pay for proposed tax breaks. As we repair the Medicare program, and attempt to slow its growth, we must do so in the broader context of health care reform to ensure that older Americans—and indeed all Americans—have access to quality, affordable health care.

TOP TEN

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, from the home office in Scottsdale, AZ, the President's top 10 excuses for not offering a credible balanced budget alternative: Ten, pollsters told me not to; nine, don't worry, be happy; eight, the flowers are blooming, the sun is shining—who can think about budgets in the spring; seven, what's a couple trillion dollars between friends?; six, distracted by the start of the baseball season; five, I've fallen and I can't get up; four, contract-fatigue; three, those darn Republicans have taken all the good ideas; two, when the going gets tough, stick your head in the sand.

And the President's No. 1 excuse for not offering his own credible balanced budget alternative: The dog ate my budget.

CALL A CUT A CUT

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, I am not sure whether to call this room the Hall of the House or the Casino of the Capitol because right now, the Republicans are playing a billion dollar shell game with Medicare.

The Republicans say they are increasing funding for Medicare over the next 7 years. What they really do is cut the amount needed to maintain the current level of services by $282 billion. That does not sound like much of an increase to me.

What this really means for the average senior citizen is that they will have to pay more out of their own pocket for health care. In fact, they will have to pay over $3,500 more out of their own pockets over the next 7 years.

Mr. Speaker, it is time for the Republicans to come clean. They have prided themselves on opening up government and being honest with the American people. If that is true, then they should be honest enough to call a cut a cut.

The American people, especially our senior citizens, will remember this act of dishonesty on November 5, 1996—election day.

□ 1015

WE MUST ACT NOW ON MEDICARE AND THE BUDGET

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, in the coming months we face two extraordinary battles—the battle to protect the future of our Nation's seniors and the battle to preserve the future of America's children.

We cannot fail in either of these battles. Our opponents will do everything they can to distort what we are trying to do. They will use fear tactics to scare innocent Americans into a false sense of security about the status quo.

The status quo is the enemy. If we do nothing Medicare will be bankrupt in 7 years. What would the Democrats have our seniors do then? By acting now we can save the Medicare system and offer security to our seniors.

If we do nothing about the budget, our children will pay more than $187,000 over the course of their lives just to pay for interest on the national debt. We must balance the budget now if we want to protect the American dream for our children.

Mr. Speaker, we must stand firm and deliver. The stakes are too high to do nothing.

REPUBLICANS AND MEDICARE

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, to say that the Republicans are saving Medicare is like saying Colonel Sanders is saving the lives of chickens. Republicans are cutting Medicare with their budget today. They are lowering the amount of money available. They know there will not be enough as the population grows of seniors needing Medicare and health care costs go up.

So as they talk about more money for Medicare, sure, they are tossing a 25-foot rope to someone 30-feet offshore drowning. They say that is compassion.

So why are the Republicans cutting Medicare and Social Security in their budget? It is simple. To give tax breaks to wealthy Americans. It is a tax break plan that even 100 Republicans wrote their leadership and said, please do not do this; it is unfair. But Speaker GINGRICH pushed it through, and now with this ironclad discipline, the Republicans will be voting for it today.

I hope America tunes into this debate. What is at stake is not only health care for seniors and their out-of-pocket costs, but for a lot of working families with senior parents and grandparents this debate gets right to your pocketbook.

A HISTORIC DAY

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, here we are. This is it. We are on the brink. For the first time since 1969, the U.S. House of Representatives will be passing a balanced budget amendment. This is a historic moment. This is significant. This is real.

We spend almost $20 billion each month on the interest alone on the national debt. It is the third largest item, third largest expenditure in our annual budget. In 2 years it will exceed all of military spending. This has got to be brought under control.

As my Democrat friend, the gentleman from Texas, Mr. PETE GEREN, said, who benefits from balancing the budget? Senior citizens, children, students, the disabled. If you want to do something for them, you have got to give them a tomorrow. If you are going to give them a tomorrow, you have to spend your money properly today.

This is not time for partisan rhetoric. This is not time for grandstanding. There are a lot of things you can criticize in this balanced budget amendment, but offer your own. This is the time to do it. This is a crucial crossroads for the United States of America.

THE REPUBLICAN BUDGET

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, country and western singer Jerry Reed must have had the Republican budget in mind when he sang, "She got the gold mine and I got the shaft."

The proposed budget which the Congress will vote on today will give the gold mine to wealthy special interests while America's elderly who depend upon Medicare and depend upon Social Security get the shaft.

The Republican budget cuts Medicare by $283 billion over 7 years, slashing Medicare spending by 25 percent. Out-of-pocket costs for seniors will increase by over $1,000 in 2002 and $3,500 over 7 years.

My constituents have not been asking me to raise the cost of their health care to provide tax breaks for the wealthy and to escalate cold war spending. The budget also cuts Medicaid by $180 billion over 7 years and cuts Social Security benefits by $24 billion between 1999 and 2002, all to pay for tax cuts for the rich.

Mr. Speaker, why are Republicans cutting Medicare to pay for tax cuts for the privileged few?

FISCAL YEAR 1996 BUDGET

(Mr. LAZIO of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAZIO of New York. Mr. Speaker, we are at a point where we are about to make history. We will soon vote on the budget resolution that contains a strong moral message. That message is that the status quo is unacceptable. A $4.7 trillion debt is unacceptable. Annual deficits close to $200 billion are unacceptable. And continuing to saddle our children with a mountain of debt they cannot afford to pay is unacceptable.

This budget proposal represents a historic change in the direction of our country. It moves us from a government that is too intrusive, wasteful and debt ridden to a smaller, more efficient government that costs less and is responsive to State and local needs. This budget is a gateway to the future presenting a new vision of government. It moves authority out of Washington and helps empower every individual American.

It cuts taxes for America's families, seniors, and small businesses. It restores hope. It promises opportunity for the next generation. It protects Social Security. It increases spending on Medicare by over $80 billion. And it saves it from bankruptcy. It will result in a higher net rate of savings and a higher standard of living for everyone. And should not everybody celebrate that?

Mr. Speaker, it is in the best interest that I strongly urge my House colleagues to support this resolution. It is for the children.

SAYING "NO" TO THE SOUND BITES AND PHOTO OPS

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, as you well know, posing for photo ops, listening to sound bites, and giving easy answers can be kind of addictive.

Sometimes, the sound-bite addict needs a little help in kicking the habit.

In this House, that Republican habit is to stand before the cameras and pretend that they are getting our budget in line without hurting working Americans.

That is why this House passed a rescission package that went easy on closing tax loopholes for the rich and eliminating Government bureaucracy and boondoggles.

But those rescission got tough on something.

They got tough on summer jobs and worker training, and they got tough on student loans and day care.

Well, these sound bite addicts are about to get some tough love.

It is called a veto pen.

I applaud President Clinton and his tough choice to say no to the sound bites, photo ops and easy answers that hurt our kids, hurt our students and punish working Americans.

And I encourage my friends on the other side of the aisle to kick their easy answer habit before it is too late for the American people.

THE REPUBLICANS WILL BALANCE THE BUDGET

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, the Democrats, scare-the-people campaign about draconian cuts by Republicans is just ridiculous. The Republican budget actually increases spending by 3 percent every year for the next 7 years, spending nearly $12 trillion more in the next 7 years than in the past.

When I was back in Dallas, my constituents put together three notebooks full of comments about ideas for reductions in Government spending. Do you know what they say? Balance the budget. So do not try to fool the American people into thinking that balancing the budget will hurt them. They know better. They know Government spends too much, and, most importantly, they know the consequences if we continue down the path that we are going on now.

They will also know, after tomorrow, that it is the Republicans who have taken the first major step toward balancing our budget.

THIS IS PUNISHMENT, NOT A BUDGET

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, what is wrong with the truth? It seems that many people are running in the opposite direction when we simply want to tell you the truth. This is not a budget, it is simply pure punishment.

Mr. Speaker, I rise this morning to report to you on the growing sentiments of my constituents in Houston, TX. Like other Texans and Americans nationwide, they are beginning to understand what the Republican budget proposals could really mean to their lives. I have no problem with telling them the truth, and they do not like it.

To pay for the huge tax cuts for the well-to-do, leaders of the other side of the aisle want to enact a $283 billion cut in Medicare, three times the size of the largest previous cut in history, and Medicaid will be cut approximately $182 million.

The lives of more than 2,000,000 Medicare seniors in Texas would be dramatically impacted, and by the year 2002 each Medicare senior in Texas would be asked to pay an additional $1,122 out-of-pocket expenses. Each would be forced to pay $4,000 more for fiscal years 1996 through 2002 to make up for these cuts. We want the future to be free for future generations but not on the backs of seniors and those most vulnerable.

Look at this, Mr. Speaker. Here the Republicans are cutting the dollars that the Association for Retired Citizens are about to use to help seniors find jobs. We need to do something better, Mr. Speaker.

Mr. Speaker, what's wrong with the truth? This is not a budget; this is punishment.

Mr. Speaker, I rise this morning to report to you on the growing sentiments of my constituents in Houston.

Like other Texans and Americans nationwide, they're beginning to understand what the Republican budget proposals could really mean to their lives, and they don't like it.

To pay for huge tax cuts for the well-to-do, leaders on the other side of the aisle want to enact a $283 billion cut in Medicare three times the size of the largest previous cut in history. Medicaid would be cut approximately $182 million.

The lives of more than 2-million Medicare seniors in Texas would be dramatically impacted.

By the year 2002, each Medicare senior in Texas would be asked to pay an additional $1,222 out-of-pocket dollars per year for their health coverage.

Each would be forced to pay nearly $4,000 dollars more, from fiscal years 1996 through 2002, to make up for GOP cuts.

Mr. Speaker, my colleagues on this side believe that a balanced budget is the correct goal, we want to free future generations from the burden of today's debt. We want to shrink the size of Government in a responsible manner that will not pull the rug out from under a steady, strong economy.

And we want to make Government more efficient and fair without breaking long-standing promises to the Nation's seniors or vulnerable children.

Mr. Speaker, we must and can do better.

VOTE TO BALANCE THE BUDGET

(Mr. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRISTENSEN. Mr. Speaker, let me remind my friend on the left that just spoke that punishment is saddling the future generation with the debt, if we fail to act, if we fail to pass a budget that balances over the next 5 to 7 years.

Punishment is failing to do something in the next few days that will get this country in the right direction fiscally. If we fail to act, the children of this country face $187,000 in interest alone if they were born tomorrow. A child born tomorrow would pay $187,000 in interest alone on this Nation's debt.

Tomorrow we have the opportunity to vote on a budget that will balance over the next 5 to 7 years. Tomorrow we have an opportunity to send this country in the right direction, to take it out of its financial abyss where the left-leaning liberals have taken it over the last 40 years.

Tomorrow we have an opportunity to take this country in the right direction. I ask my colleagues to consider very strongly where they want this country to go, a budget that is balanced or where it has been over the last 40 years.

REPUBLICAN BUSINESS AS USUAL

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I am a freshman. I voted for all of the reforms that we proposed, that were proposed on the 1st day of this session, especially the reform that required a three-fifths supermajority of this House to raise taxes. But now what do we see? We see the Republicans reverting to business as usual.

Since our income tax brackets are adjusted each year to reflect inflation, to keep people from being pushed into higher tax brackets simply due to that inflation, the arbitrary reduction in the Consumer Price Index by the Republicans will, in effect, increase taxes for millions of Americans. And it will do that without a three-fifths vote of this body, in direct violation of that rule that I supported.

I am deeply disappointed that we are seeing business as usual by the Republican majority.

□ 1030

HAVE THE CLINTON DEMOCRATS NO SHAME?

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, after watching the Clinton Democrats for the past few weeks, I have finally figured out what their strategy is. Since they have no solid ideas of their own, they have started on a fear campaign filled with illegitimate scare tactics designed to try derail any legislation Republicans offer. Have they no shame.

First it was the children. The Clinton Democrats said school lunch programs were being cut, when in fact funding was increasing. Now they are saying children will suffer if we try to balance the budget. I say what kind of future will our children have if we do not balance the budget. Have they no shame!

Next it is the college students. Clinton Democrats are scaring college students by playing fast and loose with the facts about school loans, when in reality a balanced budget will bring down interest rates by at least 2 percent, ultimately saving students money. Have they no shame.

And finally, the Clinton Democrats, in their eagerness to score political points, are using their distorted fear tactics to scare senior citizens. Republicans are working to save Medicare—Republicans repealed Clinton's tax increase on seniors. Republicans are protecting Social Security. Have the Clinton Democrats no shame.

THE CONTRACT'S CROWN JEWEL—TAX CUTS FOR THE RICH, BROKEN PROMISES TO SENIORS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO Mr. Speaker, today the bill comes due for the Republican's tax giveaway to the privileged few, and the primary bill payers are senior citizens who will be hit with $288 billion in cuts to Medicare.

The Speaker has called the Republican tax plan the crown jewel of the Contract With America.

It is a crown jewel all right—if you are a large corporation that may not have to pay any taxes at all—if you are a billionaire expatriate who gives up your citizenship to avoid paying taxes—if you are making more than $350,000 and you are going to walk away with a $20,000 tax break.

But if you are a senior citizen, get ready to pay up for that crown jewel. Your Medicare premiums and copayments are going up, and your benefits are being cut. Altogether the average senior should expect to pay $1,060 more in out-of-pocket expenses by the year 2002.

Make no mistake about it, the Republican budget plan robs Medicare to pay for tax cuts for the wealthiest Americans. To keep their promise to the rich, the Republicans must break our most sacred promise to America's seniors.

REPUBLICAN BUDGET PUTS GOVERNMENT ON A DIET AND RESTORES THE AMERICAN DREAM

(Mr. HOBSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, the Federal Government has not run up a $4.7 trillion debt because the American people pay too little taxes. The huge debt and deficits have exploded because the Federal Government is too big, spends too much of your money, and tells too many people what to do. It is big government, stupid!

Our balanced budget, for the first time in 25 years, solves this problem of oversized Government by reducing Government's size: It puts the bloated Federal Government on a diet. It eliminates the Federal deficit by trimming the size, power, intrusiveness, of the Federal Government.

Past attempts to reduce the deficit, like the Clinton tax increases, have failed because they have not addressed the deficit's root cause: oversized Government. Every dime they have collected in increased revenues has been spent on government gimmicks, spending schemes, and partisan pork. Every dollar saved in reductions in defense since 1985 has gone to feed the Government, not reduce the deficit.

Our balanced budget plan is different. Not only does our plan just say no to Clinton-style hikes. Our balanced budget actually includes tax relief for our families, small businesses, students, and seniors.

Our balanced budget finally solves the problem of too much Washington. It puts the Government on a diet, returns power to families, neighborhoods, and communities, and restores the American dream. I urge all my colleagues to support this plan for the future of our children.

WHY ARE REPUBLICANS GOUGING MEDICARE TO PAY FOR TAX CUTS FOR THE PRIVILEGED FEW?

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, why are Republicans gouging Medicare to pay for tax breaks for the privileged few? Why do they cut almost $300 billion in Medicare to senior citizens for tax breaks, of which only 1½ percent of those tax breaks go to families under $20,000? Incidentally, 50 percent goes to families over $100,000. Yet the Medicare cuts go to 100 percent of all senior citizens.

Why are Republicans cutting the student loan program to pay for tax breaks for the privileged few? Here are petitions signed by thousands of West Virginia high school and college students and parents asking Congress not to cut the student loan program, not to cut their future. We do not have to be Phi Beta Kappas to know that giving already wealthy Americans a tax break while denying students a chance just to be middle income simply is not fair.

Mr. Speaker, budgets reflect values. Slashing Medicare, cutting student loans, Americans want the budget balanced, but not on the backs of American values.

AMERICANS HAVE ENTERED A NEW ERA: THE AGE OF RESPONSIBILITY

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, I have discovered the difference between the Democrat and Republican Parties. The Democrat Party lives in constant fear that America is going to discover the truth. The Republican Party lives in constant fear that they will not.

The fact is, it is true that in 2 years, according to the Clinton budget, interest on the debt will exceed all defense spending. It is also true that in 7 years, according to Clinton's trust fund advisers, Medicare will be bankrupt and they will not be able to pay any bills for hospitals, any home health care.

Mr. Speaker, I think we have entered a new era. It is the age of responsibility. Americans are willing to take responsibility for their actions. They are asking us to take responsibility for our actions. It is true that we have put our children and grandchildren into 5 trillion dollars' worth of debt. The responsible thing is to try and pay that down and balance the budget. It is true that education is an abject failure. The responsible thing is to reform it, not to throw more money at it. It is true that Medicare must be reformed to be saved for future generations, not put more money into it.

A DARK COMEDY: CUTTING MEDICARE

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, why are the Republicans cutting Medicare in order to provide a tax break for the privileged few? Here is a quick preview of today's debate on the Republican budget of broken promises. If you like horror movies, stay tuned, because what the Republicans do to Medicare recipients is horrible. If you like mysteries, stay tuned, as we try to unravel the many ways that secret Republican task forces propose to hike the cost of Medicare.

Best of all, if you like comedy, do not tune into the comedy channel, tune in right here. Watch the Republicans try to explain how a cut is not a cut, how, if they propose to double the Medicare deductible, raise the premiums every month, even charge people $20 a month extra just to be able to see their own doctor, that that is not a cut. They do that with a straight face and call it reform. Horror, mystery, comedy; very dark comedy we will see today as the Republicans cut Medicare in order to provide a tax break for the privileged few.

A HISTORIC VOTE TO BALANCE THE FEDERAL DEFICIT

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I yield to the distinguished gentleman from Lakewood, OH [Mr. HOKE].

Mr. HOKE. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, tomorrow we are going to do something that is so historic, that is so extraordinary, that is so unique, that has not been done in 26 years. Tomorrow we are going to take a vote, and in fact, we will balance the Federal budget for the first time in 26 years.

What does it mean? What does it mean back in Cleveland? It means safer streets. It means more hope. It means greater opportunity. It means better education. It means more prosperity for our children, for our grandchildren. It means preserving this Nation for the next generation.

Mr. Speaker, we are going to hear so much bitterness from the other side, and it is a great tragedy of this period in American history that there is so much talent and there is so much intelligence and there is so much good feeling and belief, and yet all that can be offered is so much bitterness and defense of the status quo.

Tomorrow will be the most historic vote of this 104th Congress.

A BUDGET-BUSTING TAX GIVEAWAY PAID FOR BY OUR GRANDMOTHERS

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, the Republican budget has it backward. They propose cutting Social Security and Medicare benefits by over $2,500 per recipient through the year 2002 to pay for tax breaks to the privileged few. This means your grandmother's Social Security and Medicare benefits will shrink substantially. Her nursing home expenses will rise if she can even get in.

However, the money saved from these harsh cuts will not go to balance the budget. The money will go to pay for tax breaks to the wealthiest among us: The American billionaires who move to the Caribbean and take their money with them to escape paying taxes here; or the families earning $200,000 a year, who will be bestowed a $500 tax credit; or the foreign corporations who do business in this country and earn millions but do not pay a dime in taxes.

If the Republicans were serious, they would not balance the budget on the backs of our seniors to pander to the rich and powerful who can pay for lobbyists in this town. If the Republicans were serious, they would not have a budget-busting $360 billion tax giveaway paid for by our grandmothers.

REPUBLICANS USE MEDICARE TRUST FUND TO BANKROLL TAX CUTS FOR THE WEALTHY

(Mr. WAXMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAXMAN. Mr. Speaker, the Republicans say they want to save the Medicare Program, and they promised not to cut Social Security. What they are doing is using the Medicare trust fund to bankroll tax cuts for the wealthy.

Make no mistake about it, cuts in Medicare amount to cuts in Social Security. The typical Medicare beneficiary will spend 40 percent to 50 percent of the cost of living increases in Social Security for increases in the Medicare costs they will incur. Cuts in Medicare amount to cuts in Social Security. Social Security accounts for half or more of the annual incomes for a majority of elderly.

More than 30 percent of older Americans rely on Social Security for 80 percent or more of their income. The typical Medicare beneficiary by 2002 will see 40 to 50 percent of their Social Security COLA eaten up by increases in Medicare cost-sharing and premium.

They are not keeping their promises. Numbers do not lie. Listen to these numbers when you see these relatively well-off young Republican Members of the House tell us that seniors are going to be better off.

PLAYING WITH REALITY WILL CATCH UP WITH THE DEMOCRATS

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, I have listened to the 1-minutes this morning, and I do not usually make 1-minute speeches. However, I am perplexed by what I have heard. The Democrats have no budget plan of their own, none. They do not have one. They will not cooperate with any attempt to reform Medicare on a bipartisan basis. They stand here and rail about Republican cuts, cuts, cuts. There are not any cuts. To Democrats, restraining the rate of growth is a cut. The American public ought to know that. Such playing with reality will, indeed, catch up with them.

THE SEPARATE ENROLLMENT AND LINE-ITEM VETO ACT OF 1995

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that: First, it be in order to consider in the House a motion to take from the Speaker's table the bill (S. 4) to grant the power to the President to reduce budget authority, and for other purposes, to strike all after the enacting clause of the Senate bill, and to insert the text of H.R. 2 as passed by this House; second, that the motion be debatable for not to exceed 1 hour, to be equally divided and controlled among the chairman and ranking minority members of the Committee on Government Reform and Oversight and the Committee on Rules, and third, that the previous question be ordered on the motion to final adoption without intervening motion except for one motion to recommit.

The SPEAKER pro tempore (Mr. UPTON). Is there objection to the request of the gentleman from Pennsylvania?

Mr. WISE. Reserving the right to object, Mr. Speaker, I just want to know whether the distinguished chairman needed any more time to explain his request, for which purpose I would happily yield, although I think the gentleman got it all in.

Mr. Speaker, this is a normal process of the House. While I personally oppose the line-item veto bill, the gentleman's request is in order. I will withdraw my reservation of objection and will not object.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. CLINGER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CLINGER moves that the House take from the Speaker's table the bill (S. 4) to grant the power to the President to reduce budget authority, and for other purposes, strike all after the enacting clause of the Senate bill, and insert the text of H.R. 2, as passed by the House.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes; the gentleman from West Virginia [Mr. WISE] will be recognized for 15 minutes; the gentleman from Florida [Mr. GOSS] will be recognized for 15 minutes, and the gentleman from Ohio [Mr. HALL] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on February 6 of this year, this House passed H.R. 2, the Line-Item Veto Act, to give the President the power to restrain irresponsible Federal spending through a true line-item veto. On March 23, the Senate followed suit in passing S. 4, which I think we would all agree is a weaker bill, which nonetheless moves toward greater Federal spending control, so both of our bodies have gone on record as saying we encourage and desire to enact something that will act as a restraint on further Federal spending control.

□ 1045

Since that time, however, Mr. Speaker, both bills have been stalled really in parliamentary limbo awaiting further action in preparation for conference. That has been some several months now.

Because of the Senate's unusual handling of the House-passed bill, unfortunately neither body is currently in a position to request the needed conference and the legislation has been at a standstill, just literally in limbo.

My motion, Mr. Speaker, to take from the desk the Senate bill and insert in its place the House-passed language will break that legislative logjam and move us at least one step closer toward conference and the long-awaited enactment of the line-item veto. I say long-awaited by the President of the United States as well.

As we begin to debate the most sweeping budget reforms today that this body has ever considered and as we confront the reality of strict spending restraints in important Federal programs—and I think we all recognize that that is going to be the outcome—the need for an item veto assumes an even greater urgency. The President needs to be a partner in this effort. The enactment of strong item veto legislation will permit the President to eliminate wasteful pork and unjustified tax breaks, thus saving more important spending from unnecessary cuts.

Because H.R. 2, which we enacted here by an overwhelmingly bipartisan vote, provides the President with a bill he has really requested, he asked for the strongest possible line-item veto, and because this bill is an integral part of ongoing efforts to achieve greater fiscal responsibility, I would urge my colleagues' support for this motion to advance the legislative process and to once again make clear the House's very deep desire to move forward in giving the President what he has requested, the long-awaited line-veto item, the strongest one that we have, which is clearly the House version.

Mr. Speaker, I reserve the balance of my time.

Mr. WISE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the Committee on Government Reform and Oversight, I do not intend nor would she oppose this effort to attach the House-passed line-item veto bill to the Senate bill. The House passed the bill at the end of January and the Senate passed its version of the line-item veto on March 23.

If the Chair would indulge me, I have a question for the gentleman who is making this motion. Would the chairman be able to explain why there has been no effort to proceed to conference for the past 2 months and why the Senate did not attach their bill to H.R. 2 and request a conference?

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. As the gentleman knows, the other body works in mysterious ways its wonders to perform. I am not able to really divine their reasoning and the way they approach things. What we have known is that they have refused to really take action, the very action that you have requested. What we are trying to do with this motion is to force action on their part and move us that step closer.

Mr. WISE. I appreciate the gentleman's observation, and I think that you could have a whole Chamber of soothsayers trying to divine what the other body sometimes has in its mind.

I would note, Mr. Speaker, that it appears there may be an interest, or some might think that possibly the lack of action by the other body would indicate an interest in preventing the President from exercising line-item veto authority in the upcoming months, either on appropriation of tax bills.

I would expect that this is going to be a difficult conference. These are significantly different versions of the bills. One bill has a potential constitutional challenge, the bill that left the House. The Senate bill would require the enrollment of thousands of bills to pass appropriations in discrete line items requiring thousands of signatures and guaranteeing future Presidents an amazing case of writer's cramp as they deal with this as well as creating some significant amount of paperwork.

All that notwithstanding, Mr. Speaker, I have no objections to the gentleman's request.

Mr. GENE GREEN of Texas. Mr. Speaker, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. I thank the gentleman for yielding.

Mr. Speaker, I voted for line-item veto both in the committee and on this floor of the House this year. After serving 20 years as a legislator in Texas and living under the line-item veto, I have no fear about it. I think it has been oversold to an extent because in my 20 years as a legislator, I found out that it did not do as much for reducing the budget as it did for getting the attention of members of the legislative body, whether it be Members of Congress or the individual State legislature by the executive branch. Nevertheless, I support it because I think we can live with it and in the few times that we will actually see budget efforts impacted by it, it is good ammunition or a weapon in the arsenal to try to control spending.

I heard my colleague, the gentleman from West Virginia [Mr. WISE], mention the concern about why we did not make this motion on March 23 instead of 2 months later. Again as a supporter of the line-item veto, we might have been much further along with the conference committee and maybe even having the bill to the President's desk, although knowing the opposition to it and the product that came out of our body and the Senate and the problems that we may have in this conference. I am concerned that again this motion is a little over 2 months late in having an impact particularly on this year's appropriations.

But again I support the line-item veto and I would hope the conference committee would move as quickly as we can to again give the President the ability to do that.

Mr. WISE. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

I rise to join my friend, the distinguished chairman of the Committee on Government Reform and Oversight, in his motion to help us move forward on the important issue of granting the President an effective, workable, and tough line-item veto. It is fitting that we come to the floor to take the next step in this process on the day we begin consideration of a landmark budget resolution to bring our finances into balance by the year 2002. It should be clear to the American people by now that this 104th Congress—and the new Republican majority, with moderate Democrats—are absolutely committed to ending the fiscal insanity of rising deficits and ever-mounting national debt. A real line-item veto for the President is a powerful tool for fiscal accountability that will help ensure Congress stays on the right spending track, even beyond this current budget crisis. Although I commend our friends in the other body for their creative efforts in producing S. 4—I remain committed to the House-passed line-item veto as embodied in H.R. 2. H.R. 2 is the product of years of study and analysis. Modeled after the type of authority wielded by 43 of our Nation's Governors, it provides a workable framework for ensuring that low-priority, wasteful, and unnecessary spending can be lined out of big appropriations bills and conference reports. It places the onus on the Congress—requiring a two-thirds vote to spend money a President has identified for veto—and it establishes specific procedures to ensure that Members have recourse in the event a President abuses his power. The taxpayers are the winners in this Scenario—H.R. 2 shifts the bias in the process away from spending and toward saving. With all due respect to our friends in the other body, I am leery of the novel and untested approach they have adopted in S. 4. That measure, which introduces a completely new and different process of separate enrollment, will be both cumbersome and difficult to administer. Although it does preserve the crucial requirement that Congress come up with a two-thirds override to spend money the President wants to save, the subjective nature of deciding what constitutes an 'item' will likely be a major stumbling block to effective implementation of line-item veto authority. I urge my colleagues to support this motion.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while I do not oppose this motion, I rise to express my opposition to both the House and Senate versions of the line-item veto legislation. I remain extremely concerned over the provisions contained in both bills which will cause a major shift in responsibility and power from the legislative to the executive branch. We should be very cautious about bestowing the potential power of this legislation on the executive branch. The authors of our Constitution purposely preserved this delicate balance of power which has served the interests of our Nation quite well and we see no compelling reason to tamper with it at this time.

Under both enhanced rescission bills, the President's proposed rescissions or targeted tax benefit repeals would automatically take effect unless the Congress specifically passes a resolution disapproving this special message. Even if such a measure overturning the President's request is enacted, the President can then veto the disapproval which, in turn, would have to be overridden by two-thirds of both Houses. Effectively, the President could cancel any spending or tax benefits if he or she has the support of only one-third plus one Members of either House.

I also am suspicious on why we are pursuing this motion at this time. The bill passed the Senate on March 23 and has been held at the House desk since March 28—nearly 6 weeks. Why did we not pursue this matter at an earlier date? If the majority is anxious to have a line-item veto in place for the President, why was there not more of an effort made to put this mechanism in place for the Fiscal Year 95 appropriations bills?

Again, I oppose both the House and Senate line-item veto bills and will vote against them in their present form.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE], a very distinguished Member of this body and former Governor of Delaware.

Mr. CASTLE. Mr. Speaker, I think the gentleman for yielding me the time.

Mr. Speaker, I strongly support the motion to take S. 4 from the Speaker's desk and insert the text of H.R. 2, the Line-Item Veto Act passed by the House earlier this year.

The line-item veto should be enacted as soon as possible, and I believe that the line-item veto legislation approved by the House is stronger and more straightforward than the Senate's version.

H.R. 2 would give the President the power to eliminate all or any part of spending in an appropriations bill or any targeted tax provision in a tax bill. Congress would have to disapprove the President's cuts by passing a resolution of disapproval and then override a Presidential veto of that measure with two-thirds of the House and Senate.

The American people are tired of their tax dollars funding screw worm research, commemorating the Lawrence Welk birthplace, and many other questionable projects that benefit only a select few districts or States.

By themselves, these projects may not add up to much of the Federal budget, but they are a slap in the face to the American people who want their tax dollars spent wisely and in the best interests of the entire Nation.

They have asked the new Republican majority to stop needless pork barrel spending. The line-item veto will help do just that.

I am concerned that the Senate line-item veto bill, which would require the separate enrollment of each individual spending item as a separate bill, may be too cumbersome. We should indeed support Chairman CLINGER's effort to advance the process.

The line-item veto is not a magic solution to the budget deficit, but it is an effective tool which should be given to the President.

House Republicans believe reducing unneeded spending is so important that we are willing to give a Democratic President the authority to stop spending on special interest projects and end tax breaks for a select few.

My experience as governor of Delaware is that the line-item veto helps bring all parties—Republicans, Democrats, the Executive and legislators to the table to negotiate fiscally responsible spending bills that are in the best interest of the taxpayers.

The line-item veto will bring more openness and sunshine to the spending process. Believe me, the mere existence of line-item veto authority will make every Member of Congress take a harder look at every project and program. The red-face test will prevent many unnecessary projects from being added to spending bills in the first place.

I strongly support every effort to ensure that the House and Senate complete action on line-item veto legislation. President Clinton says he wants to cut spending. Let us give him the line-item veto and let him prove it.

Mr. WISE. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, I rise in support of this motion to send this issue to committee as fast as we can. I think it is important to have a conference committee to resolve the differences between the two Houses. I am a long-time supporter of the line-item veto. I am standing here today, though, because I am concerned with the process that is going on.

When I go to my home in Milwaukee and talk to my constituents, I proudly note that I am in support of the line-item veto, but then I caution my constituents. I tell them, Now you just wait and see what happens.

What is going to happen is that the Republicans in the Senate and the Republicans in the House will trip over each other not being able to reach an agreement in conference committee to give President Clinton the ability to line-item pork-barrel projects and special tax breaks for special interests. The reason they are going to do that is because even though for years they have been saying they want a line-item veto, they do not want to give President Clinton the line-item veto in the mistaken belief that he is not going to be President in 1996.

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I further go on to predict this conference committee will reach a resolution sometime shortly before the 1996 election. So make no mistake about what is going on here, we have Republican gridlock because the Republican leadership in the Senate does not want to give President Clinton the ability to get rid of pork-barrel spending and special interest tax breaks for the wealthy. It is clear and simple.

Majorities in both Houses have supported measures. The purpose of a conference is to mesh the two Houses together and get rid of the differences.

What we have right now is a downright refusal to even go to conference committee, and I think that that is wrong. It is gridlock that is created by the leadership in this House and in the Senate, who do not want President Clinton to have this important tool.

I think it is important for the American people to know what is going on here. I think we should give this tool to President Clinton as soon as we can, and that is why I am supporting the efforts of the gentleman from Pennsylvania [Mr. CLINGER].

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. BLUTE], the primary sponsor of this legislation, who I think will retort a little to one of the problems we just heard about.

Mr. BLUTE. Mr. Speaker, I want to thank my colleague for yielding me this time on this very important issue.

Just briefly to respond to my good friend from Wisconsin, there can be no doubt that this leadership on this side has pushed at every turn to give President Clinton the line-item veto and to give him the strongest possible line-item veto, and that is why we are here today, to move this process because we think it is important regardless of who is in power.

And, frankly, it contrasts sharply with what some of your Democratic colleagues in the Senate did when they voted against the balanced budget amendment because it was being proposed by a Republican majority, when the year before, when it had no chance to pass, six Members of that body voted for the balanced budget.

So I think we are being consistent. We want to give President Clinton a line-item veto, and today the House is taking action to provide the President a valuable tool necessary to curb wasteful Government spending.

As we enter the appropriations season, we are reminded of the wasteful pork projects that have been buried in public laws without the benefit of public scrutiny over the years. This Congress has the opportunity to end that practice.

On February 6, the House passed H.R. 2 by an overwhelming and bipartisan vote of 294 to 134. The other body, unfortunately, then disregarded that version and went on to pass probably the most cumbersome line-item veto legislation anyone could have created. The version of S. 4 that emerged from the other body would make unraveling the Gordian knot seem simple. Separate enrollment, as the other body calls its version, would create a litany of problems, not the least of which would be giving the President writers' cramp from signing thousands of bills Congress would be forced to send him. The House, on the other hand, produced a strong, workable bill which preserves the balance of power between the legislative and executive branches while providing the President with more flexibility by allowing a reduction of items.

By the end of this fiscal year, the Federal debt is estimated to be almost $5 trillion. That is why this week we will be working on a balanced budget amendment, and it is why we should give the President a line-item veto.

A child born today is immediately saddled with an expense of more than $187,000 over their lifetime just to pay interest on debt. My 21-month-old son has already been responsible, and will be made responsible, for more than $4,000 in interest payments, and he has not even reached his second birthday.

While the line item will not in and of itself balance the budget, the line-item veto will be an important tool the President can use as the country moves forward and toward a balanced budget in the year 2002. We cannot afford to lose a year in our fight against wasteful Federal spending and remove the Sword of Damocles from above our children's future.

Mr. Speaker, I urge my colleagues to give the President the line-item veto. Give him the strongest line-item veto possible. Do it this year. I urge my colleagues to support the chairman, the gentleman from Pennsylvania [Mr. CLINGER], and support this motion.

Mr. CLINGER. Mr. Speaker, I yield myself 30 seconds only to respond to the gentleman from Wisconsin to say that it is this gentleman's intention to go to conference and to negotiate in good faith to come up with the strongest possible line-item veto we can achieve. There are going to be no dilatory practices on my part, certainly, and I think I can speak for the Republican Members in this body. They are going to be very diligent in trying to reach a compromise.

Mr. BARRETT of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Wisconsin.

Mr. BARRETT of Wisconsin. Mr. Speaker, perhaps the gentleman can help me. Where is the problem? Is the Senate majority refusing to go to conference? Why is there even a refusal to come to the table to talk?

Mr. CLINGER. Reclaiming my time, I think there may be a combination of things; one of the things may well be the possibility of a filibuster to be waged on your side of the aisle. I think there are probably problems on both sides.

Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I will not even take a minute. But just continuing this colloquy, there is no question that there are Members in the other body who are unalterably opposed to any real and meaningful line-item veto legislation. They are both Democrat and Republican over there, and this Member happens to resent it very much.

I hope this body stands by its version. It is the only true line-item veto, and if and when we ever do go to conference, I want us to stick to our guns. We should not be enacting any kind of watered-down version, because that means we will never get around to really enacting a line-item veto. We will be deterred from that.

So I commend both the gentlemen for their reference.

Mr. WISE. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, again I am a relatively junior Member of the House. The chairman indicated there are problems with Democrats who do not like this bill. But to go to conference committee, is that not something that the leadership can do, the Republican leadership can do, from the Senate? And again I fail to see why the Republican leadership in the Senate is even refusing to come to the conference committee. Is that something that the Democrats in the Senate can stop?

Mr. SOLOMON. If the gentleman will yield, it is because of what is happening over there. There are some interpolitics being played. That is exactly why we are taking this action today. We are going to send our bill back over there. Then we will start negotiations both in public and out of public, if necessary, but we want to move this legislation, the real thing.

Mr. BARRETT of Wisconsin. I think the public should be aware that the problem is in the Senate with the leadership, I think, because now we are at the stage where the Republican leadership in the Senate should come to the conference committee to resolve the differences, and it is the Republican leadership in the Senate that is refusing to do so.

Mr. SOLOMON. In collusion with the Democrat leadership in the Senate, as well.

Mr. WISE. Mr. Speaker, I yield myself 15 seconds just to note that perhaps part of the problem is that the line-item veto would not apply to Presidential candidates, only to Presidents, and that might be part of the problem in the other body as well.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Speaker, I appreciate the gentleman yielding only because I came down here to talk about the line-item veto, an issue that is so near and dear to many of our hearts who have worked on this for so long.

As an original cosponsor of H.R. 2, the Line-Item Veto Act, I believe it offers a true, true line-item veto. It would allow, of course, the President to rescind all or any part of appropriated funds, require a majority of both Chambers to disapprove the President's rescissions, and, finally, require a two-thirds' vote of both Chambers to override that Presidential veto of the disapproved bill.

I think while we will talk about some politics almost each and every day in these Chambers, this is one issue where I think Republicans and Democrats alike can get behind to give the President of the United States, whichever party it happens to be, the line-item veto, and I think it is time this year.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

I would like to just comment that it seems to be that one of the concerns that we have got here is we have heard about this threat of a filibuster by Members of the other party, members of the minority in the Senate, and what we are trying to do here is to propel this whole issue forward into conference. So the purposes of the gentleman from Wisconsin, I hope, are going to be resolved by the actions we are taking here today. I hope he is comforted by that.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I should have mentioned the gentleman from New York [Mr. Quinn] has been a very active participant in the shaping of this legislation, and we really appreciate his major contributions, and I would just add that I think there has been a concern expressed on the other side that if an attempt was made to go to conference, that it would be subject to a filibuster, so I would repeat, I think there are problems over there that we need to deal with.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WISE. Mr. Speaker, I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Emerson). Pursuant to the order of the House, the previous question is ordered.

The question is on the motion offered by the gentleman from Pennsylvania [Mr. Clinger].

The motion was agreed to.

The text of the Senate bill, S. 4, is as follows:

S. 4

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "The Separate Enrollment and Line Item Veto Act of 1995".

SEC. 2. STRUCTURE OF LEGISLATION.

(a) Appropriations Legislation.—

(1) The Committee on Appropriations of either the House or the Senate shall not report an appropriation measure that fails to contain such level of detail on the allocation of an item of appropriation proposed by that House as is set forth in the committee report accompanying such bill.

(2) If an appropriation measure is reported to the House or Senate that fails to contain the level of detail on the allocation of an item of appropriation as required in paragraph (1), it shall not be in order in that House to consider such measure. If a point of order under this paragraph is sustained, the measure shall be recommitted to the Committee on Appropriations of that House.

(b) Authorization Legislation.—

(1) A committee of either the House or the Senate shall not report an authorization measure that contains new direct spending or new targeted tax benefits unless such measure presents each new direct spending or new targeted tax benefit as a separate item and the accompanying committee report for that measure shall contain such level of detail as is necessary to clearly identify the allocation of new direct spending or new targeted tax benefits.

(2) If an authorization measure is reported to the House or Senate that fails to comply with paragraph (1), it shall not be in order in that House to consider such measure. If a point of order under this paragraph is sustained, the measure shall be recommitted to the committee of jurisdiction of that House.

(c) Conference Reports.—

(1) A committee of conference to which is committed an appropriations measure shall not file a conference report in either House that fails to contain the level of detail on the allocation of an item of appropriation as is set forth in the statement of managers accompanying that report.

(2) A committee of conference to which is committed an authorization measure shall not file a conference report in either House unless such measure presents each direct spending or targeted tax benefit as a separate item and the statement of managers accompanying that report clearly identifies each such item.

(3) If a conference report is presented to the House or Senate that fails to comply with either paragraph (1) or (2), it shall not be in order in that House to consider such conference report. If a point of order under this paragraph is sustained in the House to first consider the conference report, the measure shall be deemed recommitted to the committee of conference.

SEC. 3. WAIVERS AND APPEALS.

Any provision of section 2 may be waived or suspended in the House or Senate only by an affirmative vote of three-fifths of the Members of that House duly chosen and sworn. An affirmative vote of three-fifths of the Members duly chosen and sworn shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under that section.

SEC. 4. SEPARATE ENROLLMENT.

(a)(1) Notwithstanding any other provision of law, when any appropriation or authorization measure first passes both Houses of Congress in the same form, the Secretary of the Senate (in the case of a measure originating in the Senate) or the Clerk of the House of Representatives (in the case of a measure originating in the House of Representatives) shall disaggregate the items as referenced in section 5(4) and assign each item a new bill number. Henceforth each item shall be treated as a separate bill to be considered under the following subsections. The remainder of the bill not so disaggregated shall constitute a separate bill and shall be considered with the other disaggregated bills pursuant to subsection (b).

(2) A bill that is required to be disaggregated into separate bills pursuant to subsection (a)—

(A) shall be disaggregated without substantive revision, and

(B) shall bear the designation of the measure of which it was an item prior to such disaggregation, together with such other designation as may be necessary to distinguish such measure from other measures disaggregated pursuant to paragraph (1) with respect to the same measure.

(b) The new bills resulting from the disaggregation described in paragraph (1) of subsection (a) shall be immediately placed on the appropriate calendar in the House of origination, and upon passage, placed on the appropriate calendar in the other House. They shall be the next order of business in each House and they shall be considered and voted on en bloc and shall not be subject to amendment. A motion to proceed to the bills shall be nondebatable. Debate in the House of Representatives or the Senate on the bills shall be limited to not more than 1 hour, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the bills is not in order, and it is not in order to move to reconsider the vote by which the bills are agreed to or disagreed to.

SEC. 5. DEFINITIONS.

For purposes of this Act:

(1) The term "appropriation measure" means any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(2) The term "authorization measure" means any measure other than an appropriations measure that contains a provision providing direct spending or targeted tax benefits.

(3) The term "direct spending" shall have the same meaning given to such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) The term "item" means—

(A) with respect to an appropriations measure—

(i) any numbered section,

(ii) any unnumbered paragraph, or

(iii) any allocation or suballocation of an appropriation, made in compliance with section 2(a), contained in a numbered section or an unnumbered paragraph but shall not include a provision which does not appropriate funds, direct the President to expend funds for any specific project, or create an express or implied obligation to expend funds and—

(i) rescinds or cancels existing budget authority;

(ii) only limits, conditions, or otherwise restricts the President's authority to spend otherwise appropriated funds; or

(iii) conditions on an item of appropriation not involving a positive allocation of funds by explicitly prohibiting the use of any funds; and

(B) with respect to an authorization measure—

(i) any numbered section, or

(ii) any unnumbered paragraph,

that contains new direct spending or a new targeted tax benefit presented and identified in conformance with section 2(b).

(5) The term "targeted tax benefit" means any provision:

(A) estimated by the Joint Committee on Taxation as losing revenue for any one of the three following periods—

(1) the first fiscal year covered by the most recently adopted concurrent resolution on the budget;

(2) the period of the 5 fiscal years covered by the most recently adopted concurrent resolution on the budget; or

(3) the period of the 5 fiscal years following the first 5 years covered by the most recently adopted concurrent resolution on the budget; and

(B) having the practical effect of providing more favorable tax treatment to a particular taxpayer or limited group of taxpayers when compared with other similarly situated taxpayers.

SEC. 6. JUDICIAL REVIEW.

(a) Expedited Review.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that a provision of this Act violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives or the Senate to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) Appeal to Supreme Court.—Notwithstanding any other provisions of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) Expedited Consideration.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

(d) Severability.—If any provision of this Act, or the application of such provision to any person or circumstance is held unconstitutional, the remainder of this Act and the application of the provisions of such Act to any person or circumstance shall not be affected thereby.

SEC. 7. TREATMENT OF EMERGENCY SPENDING.

(a) Emergency Appropriations.—Section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not adjust any discretionary spending limit under this clause for any statute that designates appropriations as emergency requirements if that statute contains an appropriation for any other matter, event, or occurrence, but that statute may contain rescissions of budget authority.".

(b) Emergency Legislation.—Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not designate any such amounts of new budget authority, outlays, or receipts as emergency requirements in the report required under subsection (d) if that statute contains any other provisions that are not so designated, but that statute may contain provisions that reduce direct spending.".

(c) New Point of Order.—Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"Sec. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(d) Conforming Amendment.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".

SEC. 8. SAVINGS FROM RESCISSION BILLS USED FOR DEFICIT REDUCTION.

(a) Not later than 45 days of continuous session after the President vetoes an appropriations measure or an authorization measure, the President shall—

(1) with respect to appropriations measures, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear by the amount by which the measure would have increased the deficit in each respective year;

(2) with respect to a repeal of direct spending, or a targeted tax benefit, reduce the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 by the amount by which the measure would have increased the deficit in each respective year.

(b) Exceptions.—

(1) This section shall not apply if the vetoed appropriations measure or authorization measure becomes law, over the objections of the President, before the President orders the reduction required by subsections (a)(1) or (a)(2).

(2) If the vetoed appropriations measure or authorization measure becomes law, over the objections of the President, after the President has ordered the reductions required by subsections (a)(1) or (a)(2), then the President shall restore the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 or the balances under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect the positions existing before the reduction ordered by the President in compliance with subsection (a).

SEC. 9. EVALUATION AND SUNSET OF TAX EXPENDITURES

(a) Legislation for Sunsetting Tax Expenditures.—The President shall submit legislation for the periodic review, reauthorization, and sunset of tax expenditures with his fiscal year 1997 budget.

(b) Budget Contents and Submission to Congress.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following paragraph:

"(30) beginning with fiscal year 1999, a Federal Government performance plan for measuring the overall effectiveness of tax expenditures, including a schedule for periodically assessing the effects of specific tax expenditures in achieving performance goals.".

(c) Pilot Projects.—Section 1118(c) of title 31, United States Code, is amended by—

(1) striking "and" after the semicolon in paragraph (2);

(2) redesignating paragraph (3) as paragraph (4); and

(3) adding after paragraph (2) the following:

"(3) describe the framework to be utilized by the Director of the Office of Management and Budget, after consultation with the Secretary of the Treasury, the Comptroller General of the United States, and the Joint Committee on Taxation, for undertaking periodic analyses of the effects of tax expenditures in achieving performance goals and the relationship between tax expenditures and spending programs; and".

(d) Congressional Budget Act.—Title IV of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following:

"TAX EXPENDITURES

"Sec. 409. It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that contains a tax expenditure unless the bill, joint resolution, amendment, motion, or conference report provides that the tax expenditure will terminate not later than 10 years after the date of enactment of the tax expenditure.".

SEC. 10. EFFECTIVE DATE.

The provisions of this Act shall apply to measures passed by the Congress beginning with the date of the enactment of this Act and ending on September 30, 2000.

The text of the bill, H.R. 2, which is inserted in lieu of S. 4, pursuant to the foregoing motion, is as follows:

H.R. 2

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

SEC. 2. LINE ITEM VETO AUTHORITY.

(a) In General.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of the dollar amount of any discretionary budget authority specified in an appropriation Act or conference report or joint explanatory statement accompanying a conference report on the Act, or veto any targeted tax benefit which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than

ten calendar days (not including Sundays) after the date of enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

(b) DEFICIT REDUCTION.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) SEPARATE MESSAGES.—The President shall submit a separate special message for each appropriation Act and for each revenue or reconciliation Act under this section.

(d) LIMITATION.—No special message submitted by the President under this section may change any prohibition or limitation of discretionary budget authority set forth in any appropriation Act.

(e) SPECIAL RULE FOR FISCAL YEAR 1995 APPROPRIATION MEASURES.—Notwithstanding subsection (a)(2), in the case of any unobligated discretionary budget authority provided by any appropriation Act for fiscal year 1995, the President may rescind all or part of that discretionary budget authority under the terms of this Act if the President notifies the Congress of such rescission by a special message not later than ten calendar days (not including Sundays) after the date of enactment of this Act.

SEC. 3. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Any amount of budget authority rescinded under this Act as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under this Act as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under this Act and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "rescission/receipts disapproval bill" means a bill or joint resolution which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this Act and—

(A) which does not have a preamble;

(B)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on ______", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on ______", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: "A bill disapproving the recommendations submitted by the President on ______", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term "appropriation Act" means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 5. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in this Act or vetoes any provision of law as provided in this Act, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to this Act;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under this Act shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under this Act shall be printed in the first issue of the Federal Register published after such transmittal.

(c) INTRODUCTION OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 2.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. No amendment to the bill is in order, except any Member may move to strike the disapproval of any rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the

House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this Act.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this Act.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under this Act.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 6. REPORTS OF THE GENERAL ACCOUNTING OFFICE.

Beginning on January 6, 1996, and at one-year intervals thereafter, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(6) A summary of the information provided by paragraphs (2), (3) and (5) for each of the ten fiscal years ending before the fiscal year during this calendar year.

SEC. 7. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this Act violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to give the President item veto authority over appropriation Acts and targeted tax benefits in revenue Acts."

A motion to reconsider was laid on the table.

House Resolution 147 was laid on the table.

REGULATORY TRANSITION ACT OF 1995

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that: First, it be in order to consider in the House a motion to take from the Speaker's table the Senate bill (S. 219) to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes, to strike all after the enacting clause of S. 219 and to insert in lieu the text of H.R. 450 as passed by the House;

Second, that the motion be debatable for not to exceed 1 hour, to be equally divided and controlled among chairmen and ranking minority members of the Committees on Government Reform and Oversight and the Judiciary; and

Third, that the previous question be ordered on the motion to final adoption without intervening motion except one motion to commit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. PETERSON of Minnesota. Mr. Speaker, reserving the right to object, I do so in order that the gentleman may explain his unanimous consent request.

I yield to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I have a motion at the desk at this point, if we may proceed.

The SPEAKER pro tempore. The gentleman has asked unanimous consent, the gentleman from Minnesota has reserved the right to object and has yielded to the gentleman from Pennsylvania.

Mr. PETERSON of Minnesota. Mr. Speaker, I would just like a further explanation.

Mr. CLINGER. Mr. Speaker, as part of the Contract With America, the House passed overwhelmingly, in a bipartisan fashion, H.R. 450, the Regulatory Transition Act of 1995, which imposes a temporary moratorium on the issuance of regulations. It provides a very necessary timeout on promulgation and implementation of regulations while Congress is in the process of deliberating long-overdue regulatory reforms.

So I think it would be helpful to review the bidding for just a moment. After 2 full days of debate on the House floor and numerous amendments, the final vote was 276 to 146. The House passed this bill February 24, 1995, and sent it to the Senate 2 days later. One month later, the Senate passed their version of the moratorium, which is, frankly, hard to characterize as a regulatory moratorium.

Mr. PETERSON of Minnesota. Mr. Speaker, I was just trying to figure it out, but apparently this is the normal procedure in the House, to link these two bills together.

So, Mr. Speaker, I withdraw my reservation of objection.

Mr. CLINGER. The objective is the same as what we just did in the last bill.

Mr. PETERSON of Minnesota. Mr. Speaker, I withdraw my reservation of objection and support the request of the gentleman from Pennsylvania.

The SPEAKER pro tempore. Is there objection to the request from the gentleman from Pennsylvania?

There was no objection.

MOTION OFFERED BY MR. CLINGER

Mr. CLINGER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CLINGER moves to take from the Speaker's table the bill (S. 219) to grant the power to the President to reduce budget authority, and for other purposes, strike all after the enacting clause of the Senate bill, and insert the text of H.R. 450 as passed by the House.

□ 1115

The SPEAKER pro tempore (Mr. EMERSON). Pursuant to order of the House, the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes, the gentleman from Minnesota [Mr. PETERSON] will be recognized for 15 minutes, the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 15 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since I have already delivered part of my remarks on the motion, I would just reiterate, the version that we are sending back to the Senate is a very different version than was enacted in the Senate. It is our position that the House bill is a very good piece of legislation that was crafted to ensure that the health and safety of our citizens is protected, while at the same time providing a necessary timeout from the burdens of regulation.

I think every Member of this body over time has heard from their constituents, small businessmen, individuals, communities, of the incredibly intolerable burden that is being imposed upon them by regulation. So there is a need for time for review and reflection while we pass and enact major regulatory reform which is in the process of moving its way forward.

Both the gentleman from Texas, Mr. DELAY, the distinguished majority whip, and the gentleman from Indiana, Chairman MCINTOSH, the chairman of the subcommittee of jurisdiction, authored H.R. 450 to provide this short-term moratorium to allow Congress and the administration to review regulations on the books and to determine whether they meet cost-benefit criteria, and, more importantly, whether they just plain make sense.

During hearings and debate on this bill we've heard story after story about regulatory overkill. Many regulations are unnecessary, duplicative, or conflicting. How many small businesses do we want to put out of business before we pass reforms?

Just yesterday, we heard from a group of small businessmen that again underscored this point. Regulations promulgated under the Clean Air Act require that this industry obtain a permit from the EPA or State EPA for each piece of new equipment that they buy or install for their plant, rather than being allowed to have a single permit for that plant. This is like inspecting a car and rather than requiring a single inspection you have to get a separate inspection for the doors, the windshield, the brakes, the trunk, and the list goes on and on. These businessmen want to protect the environment, but find themselves using enough paper to plant a new forest—with little or no environmental benefits gained. For each facility, 300 to 400 pages of paper have to be generated to meet both the EPA and State requirements—which are often duplicative and conflicting. I am told that it took a 150-page manual just to explain the regulation.

Mr. Speaker, H.R. 450 is a good bill. We cannot afford as a society to continue down the road we are marching. This bill provides us an opportunity for a timeout to review regulations. It is my sincere hope that after all this effort we would be able to craft a reasonable compromise with the Senate. Some assumed that we would pass the Senate version of the bill. That simply is not going to happen.

I urge my colleagues to support this motion and hope that the Senate will see fit to move this bill forward to conference in an expedited fashion. It is a bill that does not belong in Congress—it belongs on the President's desk.

Mr. Speaker, I reserve the balance of my time.

Mr. PETERSON of Minnesota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support the gentleman's motion. Earlier this year the House passed a bill to provide for a moratorium on new regulations pending the enactment of other regulatory reform bills that provide for cost-benefit analysis and risk assessment. I worked closely with the gentleman from Pennsylvania [Mr. CLINGER] and the gentleman from Indiana [Mr. MCINTOSH], the chairman of our subcommittee, and I supported this bill. I became convinced that we needed a time out on regulations and we needed a change in the way we deal with the regulatory process in this Government.

Subsequently, Mr. Speaker, the Senate passed its version of the moratorium legislation providing for a different approach, which is not all bad, which asks for a congressional review period for new regulations. In passing the bill, the Senate did not take its version and attach it to the House bill. Therefore, today's action is required as a first step towards trying to reach a compromise between the two versions.

As I reviewed regulations during the committee consideration of the bill, I found that in fact there are many regulations which Congress should look at more closely, and I think the moratorium bill would, in my opinion, force agencies to think twice before writing new regulations and to begin to do the cost-benefit analysis and risk assessment that the House has already passed and is pending in the Senate.

I do not think there is really a whole lot of need to repeat the debate in the House over this bill, since the motion of the gentleman today merely takes the House position and attaches it to the Senate bill. This is a standard procedure in the House for linking these two bills after the final passage in the House.

I support the gentleman's motion and hope that we are successful in bringing some sense to the other body and getting some consideration of our position.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I have no objection to the motion either. I do have a couple of questions, if I might address them to the distinguished chairman.

Am I correct that the piece of legislation that we are talking about here is the one that puts a total moratorium on any kind of Federal regulation, from any Federal agency, except for some of those key areas, like duck hunting, that were exempted here on the floor of the House by amendment?

Mr. CLINGER. There are a number of exceptions, as the gentleman knows, that are exempted from the provisions of the moratorium.

Mr. DOGGETT. Well, all of us are certainly opposed to unnecessary Federal regulations, and there are some silly ones out there. This particular proposal as it passed the House went so far, so extreme, so fast, that it was essentially rejected 100 to zip by the U.S. Senate, was it not, for an alternative approach?

Mr. CLINGER. I believe the gentleman is incorrect on that. This version was not considered by the other body.

Mr. DOGGETT. The Senate did not even bother to consider this approach. They took an alternative approach to trying to weed out regulations. Really the whole idea of a total moratorium is deader than a doornail in the Senate. You might as well put an RIP sign over it. It is gone. It is not going to happen.

Mr. CLINGER. If the gentleman would further yield, I would reject that concept. What we are trying to do, obviously, the Senate took a different approach from us. That is the whole purpose of a conference, is to sit down and negotiate those out. We think that our version is better, and we would hope to see the Senate version improved as a result of our conference.

Mr. DOGGETT. But 100 Members of the Senate, including all the Republicans, disagreed with the gentleman.

Mr. CLINGER. The matter has never come to a vote.

Mr. PETERSON of Minnesota. Mr. Speaker, reclaiming my time, I would agree with the gentleman from Pennsylvania, the chairman, that I do not think the Senate took a position on this.

I just want to say, some of us on this side of the aisle worked with the gentleman. I think as the bill was originally put together, these claims may have been valid. But I do not think it is valid with the bill as it passed the House.

We clearly gave the President the opportunity to deal with regulations that he felt were important to the imminent threat to the health and safety that might happen. We exempted routine administrative regulations. The claim cannot be made about this bill that it is going to stop all regulations for this moratorium period. That is not true. This does provide a mechanism that we think is reasonable to allow for regulations to go ahead that are necessary.

What we are trying to do with this moratorium is put a time out on regulations until we can get the other things in place so we can start bringing some commonsense, some cost-benefits and risk assessment to the regulatory process. We think that it is a reasonable approach.

As I say, I support what the chairman is doing, and I hope that we can get some of the elements of the moratorium bill into the final version when we finally do get to conference with the Senate.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the American people, through the election process, made sure in 1994 that this Congress would take a hard look at the impact of regulations on itself, the American people. We have known for a long time, and so have the American people, that the Congress passes a statute with good intentions, and then all of a sudden it is put into the hands of the agencies to implement that statute. And what happens? They issue regulations that seem absolutely foreign and almost contrary many times to the intent of the Congress.

So for decade after decade, these regulations impacted against the American people, and they had no recourse, nor did the Members of Congress, except to repeal or try to do something on the floor to deal with that problem by itself. That did not work. So now with the Contract With America, where we promised regulatory reform, we brought about a House vehicle which declared a moratorium which said let us stop, look and listen and see what has happened over the years with this regulatory process. Let us put a moratorium on it and now determine which way we should approach the new dawn, the new era, of how the Congress will make statutes and the regulators will react to that.

Well, that is a pretty good idea, we felt. But the Senate now goes the other way. The Senate in its proposal, the one which we hope to reject here today, says once we pass a statute we ought to be involved on every single regulation that the bureaucrats promulgate, which is almost an impossible task, because they build into their proposal a kind of legislative veto which requires the Congress to look at every single regulation as if it were a separate statute.

That is going to the extreme from the original position where the Congress had no control at all. Now it has to micromanage every single regulation. What we offer here in rejecting the Senate proposal and adopting our own language is an overview of the regulatory process, with the ability to some day be able to command the bureaus to look at it very closely, give us an analysis, try to determine the cost effectiveness, see what impact it will have on the American people, and then promulgate that regulation. That is what we are trying to do.

The Senate bill puts us all as micromanagers. The House bill is a reasonable approach to give the American people some safety valve from the oppressive hand of the regulators by allowing this stop, look and listen gap that we are proposing, and then a cost and effectiveness type of analysis oversight on regulations, which is sure to make life more comfortable for all Americans.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I am very pleased to yield 5 minutes to the gentleman from Indiana [Mr. McINTOSH], a principal author of the House version of the moratorium.

Mr. McINTOSH. Mr. Speaker, as the gentlemen from Pennsylvania, Mr. GEKAS and Mr. CLINGER, have pointed out, there are some fundamental differences between the House and the Senate version of this bill, and there are meritorious arguments in terms of actually putting a 45-day delay on regulations. But I think, unfortunately, the original text of S. 219 neglects some very serious problems that have come up in our regulatory process. When I go home to my district in Muncie and Anderson, IN, people talk to me and say, DAVID, we need to make sure that what you all have done in the House of Representatives continues to go forward and do not cave in to the forces back in Washington who are trying to derail your efforts to cut back on unnecessary regulations.

Our subcommittee held a field hearing in which we had dozens of people talk to us about regulatory problems that were crippling their businesses, causing the loss of jobs, and forcing our economy to be less competitive.

Specifically, since last November the Clinton administration has issued several hundred regulations, and there are 30 of them that our subcommittee has identified that create serious problems for our economy. I think it is important that we move from the abstract and look at what these real problems are and why we need to put a moratorium so that these regulations can be reviewed under the new cost-benefit and risk assessment standards.

□ 1130

One of them is the OSHA ergonomics rule, which has not been promulgated, but the Department of Labor has indicated that in spite of what this House may do, they intend to move forward with it. This could cost us $3.1 billion each year in unnecessary regulatory costs. There is the California Federal implementation plan, which would shut down many sectors of the California economy, would affect everything from flights going into Los Angeles Airport to lawnmowers, to people's jobs, will cost between $4 and $6 billion, with a possible job loss of 165,000 jobs in the State of California alone.

There is the Great Lakes clean water quality guidelines. I want to say, as somebody from a Great Lakes State, we all want to see clean water and we want to see the Great Lakes cleaned up. But this regulation will cost us jobs once again, approximately 33,000 jobs in the Midwest alone and another $2 billion in economic cost to the economy. There is the clean air permitting rule, which will cost billions of dollars in unnecessary red tape and get you exactly zero benefits in terms of additional clean air.

This regulation we do not need in the economy. It has been promulgated by the administration. It needs to be subject to the moratorium so it can go through the review process and be changed so that we do not tie our own hands behind our backs.

The list goes on and on. There are the endangered species listing where the Interior Department indicates that they have 4,000 new species they want to add to the list of endangered species, including the eastern wood rat, the Lake Huron locust and the pee clam. The problem with this is that it will cost us, once again, jobs. It will cause us to be impeded in our economy, and we need to have some common sense applied to these regulations.

Mr. Speaker, I have an entire list here that I would like to put into the RECORD of important serious rule makings that need to be put into the moratorium. Just yesterday Governor Larry

Lindsey of the Federal Reserve Board conducted a seminar with people who are working in the inner city to try to rebuild dilapidated housing so that poor people and middle income families can have a hope to own their own home. We asked them, what is your major problem with going forward in these efforts in the inner city? They said, Federal regulations.

They pointed to dozens of rules that make it harder, more costly for them to actually make these differences for people. And they asked us in Congress to move forward in cutting back on that unnecessary red tape.

Let us step back and look at the larger picture. I think what we have accomplished in the House of Representatives was a bipartisan vote, strong support on both sides of the aisle, definitely sent a message to the bureaucracies, it is not business as usual. We have to end the endless red tape and regulation that have been strangling our economy. And when I go home people tell me, we want to see this Congress go forward. We are worried that the other body is going to drag its feet and that you are not going to get these reforms through.

What we are doing today is sending a message. We cannot accept the status quo. We have to move these reforms forward. It is imperative that we implement them for the American people.

They are counting on this House of Representatives to change the way Washington operates, cut back on unnecessary red tape, and move forward with this moratorium, with the cost-benefit and risk assessment legislation, with protection for property rights, that fundamentally do change the way we do business here, making the Government, once again, responsive to the American people.

Mr. Speaker, I commend the gentleman's efforts in leading this forward and look forward to the efforts in moving it toward a conference so that we can go back home and report to the American people we have done what you sent us here to do.

Mr. PETERSON of Minnesota. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, my grandfather used to say common sense is not all that common. I think the previous speaker has shown why common sense is not always that common.

As I look at the regulatory reform issue, there are really three different camps in Congress. There is the camp that does not want to see any regulatory reform at all. That is a minority. I do not think there are many people here who believe that.

Then there is the camp that is basically along with the Senate and says, let us have true regulatory reform and let us allow Congress to look at those regulations that are too burdensome, that go too far, that contradict the intent of Congress.

The gentleman who spoke before went through a litany of regulations that he thinks go too far. I think we in Congress should address those issues. We should look at them right now and decide whether they have gone too far and, if they have, we should reverse the agency action.

Then there is the third camp. The third camp is interested in playing politics, and that is the version that has gone from the House of Representatives.

Picture yourself as the President of the United States. You are handed a bill that says for the next 11 months, your agencies, your executive agencies, the people that you have hired can no longer issue any regulations. I do not care if you are a Democrat, I do not care if you are Republican, I do not care if you are Ross Perot, you are going to say no. I am not going to tie the hands of my agencies. I am going to veto that bill.

And you would be crazy if you did not. If you are Republican or Democrat or Ross Perot, you would be crazy if you did not veto that bill. So let us just assume in the fantasy world, the Alice in Wonderland world that this bill got to President Clinton. He would veto it tomorrow.

So the previous speaker who talked about all these burdensome regulations that he is concerned about is not going to get anywhere. He will be able to play politics by saying all bureaucrats are bad, but he is not going to move forward with the goal of getting rid of regulations that are too burdensome to the American people.

I want to get rid of regulations that are too burdensome to the American people. The Senate has come up with a perfect vehicle for us to do that.

I come from the State of Wisconsin where we have legislative review of administrative rules. It works very, very well. If an agency goes too far, the legislature then will review those regulations, not all regulations, just the ones that it thinks are too burdensome and it will reverse the agency action. If we want to deal with this problem, that is how we deal with the problem. We do not take an absurd bill that is being passed only for political purposes, that every single person in this Chamber knows that the President would veto and try to move it forward. That does not accomplish anything. All it does is it scores political points.

What can we do? We can do what the Senate did. We can say that agencies pass rules, they come back here. That way the different concerns that were raised by burdensome regulation we can look at. At the same time, very good regulations, like the ones dealing Cryptosporidium from my area, if we did it that way, at the same time we would be able to have agencies move forward with Cryptosporidium research, E. coli bacteria research, rules on those and save people's lives, help American people and still stop the regulations that need to be stopped. Let us do the right thing and go along with the Senate.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY], the deputy majority leader, alias the whip.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding time to me and elevating me and promoting me. I appreciate bringing this bill to the floor.

Mr. Speaker, H.R. 450 has developed a very long history. In December 1994, the Republican leadership sent a letter to the President asking him to issue a moratorium on Federal regulations in order for the new Congress to institute these long-needed regulatory reforms. The President refused.

In January, I introduced H.R. 450, instituting that moratorium that the President refused to issue on his own. And in February, the House passed H.R. 450 with a very strong majority vote and sent it to the Senate for its consideration.

The Senate has chosen to take a different approach, passing a bill which allows Congress to review and disapprove regulations under an expedited procedure.

In light of the differences between those two bills, we are now sending H.R. 450 back to the Senate and encourage the Senate to work with us to come to an acceptable compromise.

H.R. 450 had very broad support from both Members and from the public at large. It responds to the serious cry from the American people to reduce the burden of government. This bill puts a hold on the incredible flow of regulation since November 20 so that the regulatory reforms passed by the Congress will apply to those regulations.

I might say to the previous speaker, most of the horror stories that he spoke about, Mr. Speaker, are taken care of with the health and safety exemption in our bill. Anything that has to do with health and safety, the President himself can exempt from the moratorium.

Actually, the bill itself puts the President in charge, even though he does not choose to be in charge. We give it all to the President, and there is a procedure set up whereby the President on his own initiative under certain conditions can exempt these, any regulations he deems necessary that affects the health and safety of the American people from the moratorium called for in this bill.

All the scare tactics, all the fear mongering that is going on about regulations and how we are going to kill children and throw the senior citizens out in the street are totally false, particularly if you have any confidence at all in this President, in his ability to use the bill to exempt certain regulations from the moratorium.

So I ask the Members to support striking the language of S. 219 and sending H.R. 450 to the Senate today so that we can get a bill to the President's desk soon.

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. GUTKNECHT], a very valued member of the committee.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of this motion this morning on H.R. 450. I think that I should respond just briefly to some of the comments made a few moments ago by the gentleman from Wisconsin.

I would remind him and other Members that this bill passed out of the House by almost a two-to-one margin, after 10 hours of open debate. There were lots of amendments offered. Some of those amendments were accepted. And I think to say that this is purely a political ploy, I think is a disservice to this entire House, because I think the gentleman from Pennsylvania [Mr. CLINGER] and the other members who worked so hard on this, particularly the gentleman from Indiana [Mr. MCINTOSH] of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs did an excellent job under open rules, allowing everyone to participate. and I think to say that this was not fair is really a disservice to all of us.

I think the message that should be going out from this Congress is that the status quo does not live here anymore. In fact, I am happy to be a member of the Committee on Government Reform and Oversight and the McIntosh subcommittee because one of the most troubling things that I heard coming to the Congress this year was that in the past this Congress has not lived up to its oversight responsibilities. I think this is one way of saying that we are not going to permit the agencies out there to just go off on their own and pass these rules ad infinitum.

We have had a number of field hearings. We have had a number of town meetings, I have. And at virtually every one of the town meetings I have had I have heard about the needless regulation that is coming out of Washington.

We had a hearing and the gentleman from Minnesota [Mr. PETERSON] joined us in Indianapolis about a month ago. And it was interesting because at that meeting we heard from the publisher of the largest newspaper in the State of Indiana and we heard from the president of the University of Indiana. And they were both saying, please do something about this regulatory burden that we have to live under.

I made the comment then and I would share it today that I think we finally have reached the critical mass because we have both the media and academia saying uncle. At all of our town meetings we hear from small business people and particularly farmers who are saying, we need a time out. And that is what really this bill is all about.

Let me just finally say that I think the message we are trying to send from this House today to our colleagues at the other end of the building, that you have dropped the ball and we are going to give you a chance to recover your fumble.

Mr. PETERSON of Minnesota. Mr. Speaker, I yield myself such time as I may consume.

As I said, I did not think we needed to debate this bill, but I think we need to clear up a couple of things.

The coalition and many other Democrats were proud to support this piece of legislation. I think that some of the claims that were made by some of my colleagues on this side of the aisle may have been valid as we looked at the original bill. But in our judgment it is not valid, and I really want to associate myself with the remarks of the previous two speakers, the gentleman from Minnesota [Mr. GUTKNECHT] and the gentleman from Texas [Mr. DELAY], in the final bill.

□ 1145

We have taken care of the concerns that people had about this bill. The President has the ability to exempt regulations that he feels need to go ahead. This claim that the agencies are going to be stopped dead from doing any regulatory process is not true. I think the gentleman from Texas [Mr. DELAY] said it very clearly. Unless we do not believe that the President of the United States is going to do the right thing, this bill is not the kind of extreme bill that some people have laid out.

I just want to make the point that many of us on this side of the aisle support this piece of legislation, and we ask people to look at the final product, because it is very different than the bill that was originally introduced.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Arizona [Mr. SHADEGG], a very valuable and hardworking member of the committee.

Mr. SHADEGG. Mr. Speaker, I rise in support of the motion to substitute the language of H.R. 450 for S. 219.

H.R. 450, the Regulatory Reform Transition Act, passed this body overwhelmingly. It is not an extreme measure.

In the debate in the other body on this measure, one of our colleagues said, and I quote, "Our system of government is working." With respect to the regulatory system in America, my colleague's claim could not be further from the truth. He is simply wrong. The regulatory burden we are imposing willy-nilly on American businesses and American citizens is in excess. It is doing severe damage to our economy, and it is time to stop it. We need to subject, Mr. Speaker, all regulations to a risk assessment and to a cost-benefit analysis. That is the substantive review we are seeking. That is what this legislation will do.

The time to begin subjecting new regulations to that type of analysis, cost-benefit and risk assessment, is now. That is what H.R. 450 will do. The moratorium simply says there will be a time out, and that we will have that time period during which to pass substantive regulatory review, reform, and then to subject those regulations now going through that process to that substantive review.

Mr. Speaker, I would like to respond to several remarks on the other side. Some of my colleagues have risen to say that this is an extreme measure, and that the Senate measure is a good alternative. That is simply incorrect, because the Senate measure is different. It does not achieve the same goal. I myself support the notion of legislative review of regulatory matters. If, indeed, a regulatory proceeding is extreme and the regulation should be suspended, that is fine. However, that is not what this legislation accomplishes. This legislation says it is known and indisputable in America that the regulatory system is out of control. That is not necessarily true only 90 or 100 or 120 days from now. The regulatory system is out of control now.

When we enact substantive review, which requires cost-benefit and risk assessment analysis, we ought to apply that to all of the regulations that are currently going through.

My colleague, the gentleman from Indiana [Mr. MCINTOSH], recognized there are thousands of regulations going through at this time. They should be subjected to this review. I urge support of the motion.

Mr. CLINGER. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Maryland [Mr. EHRLICH], a very thoughtful freshman member of our committee.

Mr. EHRLICH. Mr. Speaker, I also want to congratulate the chairman of the full committee, the chairman of the subcommittee, and the gentleman from Minnesota [Mr. PETERSON], for his great leadership on this issue.

Mr. Speaker, a new generation arrived in Congress this year. That generation promised to deliver with respect to the Contract With America. A critical part of that contract is regulatory reform. Mr. Speaker, we hear so much out there during election years that people are for the family and they are against crime and for the small business person in this country, but the fact is, Mr. Speaker, this is where the rubber meets the road on the floor of the House. Reg reform and H.R. 450 are truly where the rubber meets the road.

Mr. Speaker, when I was campaigning I would actually stop into strip shopping malls to talk to small business owners. I thought I would hear problems and concerns about the legal environment in the State of Maryland, or the unavailability of capital, or employee problems, but time and time again, by far the predominant concern I heard from the small business community was the burden of Federal regulation on small business.

Mr. Speaker, it is not radical in this day and age to say stop, which is what this bill does. It is not radical to look at what we have done, to inventory what we have done, to stop promulgating Federal regulations before we use good science, before we use cost-benefit analysis, and before we use risk assessment.

Mr. Speaker, it has already been said time and time again on this floor that exceptions apply within the context of this bill for emergency, health, and safety regulations. Mr. Speaker, the bottom line of H.R. 450, the bottom line to regulatory reform in this Congress, is returning a sense of common sense to the way we promulgate regulations in this country today. That is what H.R. 450 is all about. That is what the Contract With America is all about.

To my friend, the gentleman from Wisconsin, who characterized this bill as politics, to the extent that this majority, this majority, this nonpartisan majority is responding to consumers and the small business community in this country, that truly is politics in the best tradition of this House.

Mr. CLINGER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the point needs to be made very strongly that this is a bipartisan bill. This is not a partisan measure. This measure passed the House on February 24 by a vote of 276 to 146. There was a strong bipartisan support for that measure, as there has been for all of the measures dealing with regulatory reform.

It is very clear, I think, that the American people want regulatory reform. This is part of an overall piece, an overall package we are putting together to accomplish what the American people want. We need to go to conference. We need to get this bill enacted into law, and we need to send it to the President.

Mr. Speaker, I yield back the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume, simply to echo the sentiments of my colleague, the gentleman from Pennsylvania. What we are talking about here is dealing with regulations, not allowing regulations to deal with us. The House version allows us to deal with those regulations. The Senate version permits the regulatory process to overwhelm us, which it now does, and which we are trying to rectify.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. TATE].

Mr. TATE. Mr. Speaker, I, too, want to lend my support to this proposal as it passed the House, and I commend the chairman of the Committee on Government Reform and Oversight and the subcommittee chairman, the gentleman from Indiana [Mr. MCINTOSH].

Recently a survey from the National Federation of Independent Businesses went out and surveyed their membership as to what was their concern. Taxes and health care were a concern, but the No. 1 concern and threat to small business in this country is regulations.

I had my local Chamber of Commerce from Takoma here recently. They were talking about the issues that concern them, but the one that came up the most, whether they were in banking or they had a local grocery store or whatever, was regulations. One aspect of this particular bill that was added on in the amendatory process when we were on the floor, was the Tate amendment, which extended the moratorium for businesses that have 100 or less employees an additional 6 months, because those are the people that are the most affected when new regulations are passed. Those are the people that are on the margin, that may be in business or may not be in business based on a new regulation.

This is a sound bill, Mr. Speaker. It is really common sense. It is time that we pass some real regulatory relief. Once again, I commend this to the House, and look forward to a strong bipartisan support for this when it passes.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. PETERSON of Minnesota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I again want to commend the gentlemen for their good work, and hope that we can get this to conference, and talk some sense into the other body. Unfortunately, they appear to be somewhat in the capture of the bureaucracy and the status quo. Hopefully, if we cannot get the entire moratorium through, maybe we can get some specific items in the moratorium through on the Senate side. Again, I commend everyone and urge support of this motion.

Mr. Speaker, I have no further Members wishing to speak, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GOODLATTE). No one from the minority of the House Committee on the Judiciary having presented themselves to claim the time of that committee, the Chair assumes that time is also yielded back. All time has expired.

Pursuant to the order of the House, the previous question is ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. CLINGER].

The motion was agreed to.

The text of the Senate bill, S. 219, is as follows:

S. 219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—REGULATORY TRANSITION

SEC. 101. SHORT TITLE.

This title may be cited as the "Regulatory Transition Act of 1995".

SEC. 102. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the effectiveness of certain significant final rules is imposed in order to provide Congress an opportunity for review.

SEC. 103. MORATORIUM ON REGULATIONS; CONGRESSIONAL REVIEW.

(a) REPORTING AND REVIEW OF REGULATIONS.—

(1) REPORTING TO CONGRESS AND THE COMPTROLLER GENERAL.—

(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

(i) a copy of the rule;

(ii) a concise general statement relating to the rule; and

(iii) the proposed effective date of the rule.

(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

(i) a complete copy of the cost-benefit analysis of the rule, if any;

(ii) the agency's actions relevant to section 603, section 604, section 605, section 607, and section 609 of Public Law 96–354;

(iii) the agency's actions relevant to title II, section 202, section 203, section 204, and section 205 of Public Law 104–4; and

(iv) any other relevant information or requirements under any other Act and any relevant Executive Orders, such as Executive Order 12866.

(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

(2) REPORTING BY THE COMPTROLLER GENERAL.—

(A) The Comptroller General shall provide a report on each significant rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 104(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by subparagraph (B) (i) through (iv).

(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under paragraph (2)(A) of this section.

(3) EFFECTIVE DATE OF SIGNIFICANT RULES.—A significant rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

(A) the later of the date occurring 45 days after the date on which—

(i) the Congress receives the report submitted under paragraph (1); or

(ii) the rule is published in the Federal Register;

(B) if the Congress passes a joint resolution of disapproval described under section 104 relating to the rule, and the President signs a veto of such resolution, the earlier date—

(i) on which either House of Congress votes and fails to override the veto of the President; or

(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 104 is enacted).

(4) EFFECTIVE DATE FOR OTHER RULES.—Except for a significant rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

(5) FAILURE OF JOINT RESOLUTION OF DISAPPROVAL.—Notwithstanding the provisions of paragraph (3), the effective date of a rule shall not be delayed by operation of this title beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 104.

(b) TERMINATION OF DISAPPROVED RULEMAKING.—A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 104.

(c) PRESIDENTIAL WAIVER AUTHORITY.—

(1) PRESIDENTIAL DETERMINATIONS.—Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this title may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

(2) GROUNDS FOR DETERMINATIONS.—Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

(A) necessary because of an imminent threat to health or safety or other emergency;

(B) necessary for the enforcement of criminal laws; or

(C) necessary for national security.

(3) WAIVER NOT TO AFFECT CONGRESSIONAL DISAPPROVALS.—An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 104 or the effect of a joint resolution of disapproval under this section.

(d) TREATMENT OF RULES ISSUED AT END OF CONGRESS.—

(1) ADDITIONAL OPPORTUNITY FOR REVIEW.—In addition to the opportunity for review otherwise provided under this title, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 104 shall apply to such rule in the succeeding Congress.

(2) TREATMENT UNDER SECTION 104.—

(A) In applying section 104 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report must be submitted to Congress before a final rule can take effect.

(3) ACTUAL EFFECTIVE DATE NOT AFFECTED.—A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

(e) TREATMENT OF RULES ISSUED BEFORE THIS ACT.—

(1) OPPORTUNITY FOR CONGRESSIONAL REVIEW.—The provisions of section 104 shall apply to any significant rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on November 20, 1994, through the date on which this Act takes effect.

(2) TREATMENT UNDER SECTION 104.—In applying section 104 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of the enactment of this Act; and

(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(3) ACTUAL EFFECTIVE DATE NOT AFFECTED.—The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 104.

(f) NULLIFICATION OF RULES DISAPPROVED BY CONGRESS.—Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under section 104 shall be treated as though such rule had never taken effect.

(g) NO INFERENCE TO BE DRAWN WHERE RULES NOT DISAPPROVED.—If the Congress does not enact a joint resolution of disapproval under section 104, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

SEC. 104. CONGRESSIONAL DISAPPROVAL PROCEDURE.

(a) JOINT RESOLUTION DEFINED.—For purposes of this section, the term "joint resolution" means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 103(a) is received by Congress and ending 45 days thereafter, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.". (The blank spaces being appropriately filled in.)

(b) REFERRAL.—

(1) IN GENERAL.—A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

(2) SUBMISSION DATE.—For purposes of this subsection the term "submission or publication date" means the later of the date on which—

(A) the Congress receives the report submitted under section 103(a)(1); or

(B) the rule is published in the Federal Register.

(c) DISCHARGE.—If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) FLOOR CONSIDERATION.—

(1) IN GENERAL.—When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

(3) FINAL PASSAGE.—Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) TREATMENT IF OTHER HOUSE HAS ACTED.—If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(1) NONREFERRAL.—The resolution of the other House shall not be referred to a committee.

(2) FINAL PASSAGE.—With respect to a resolution described in subsection (a) of the House receiving the resolution—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(f) CONSTITUTIONAL AUTHORITY.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives,

respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 105. SPECIAL RULE ON STATUTORY, REGULATORY AND JUDICIAL DEADLINES.

(a) IN GENERAL.—In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of the enactment of a joint resolution under section 104, that deadline is extended until the date 12 months after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 103(a).

(b) DEADLINE DEFINED.—The term "deadline" means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

SEC. 106. DEFINITIONS.

For purposes of this title—

(1) FEDERAL AGENCY.—The term "Federal agency" means any "agency" as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) SIGNIFICANT RULE.—The term "significant rule"—

(A) means any final rule that the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds—

(i) has an annual effect on the economy of $100,000,000 or more or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(ii) creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency;

(iii) materially alters the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(iv) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

(B) does not include any agency action that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity relating to hunting, fishing, or camping.

(3) FINAL RULE.—The term "final rule" means any final rule or interim final rule. As used in this paragraph, "rule" has the meaning given such term by section 551 of title 5, United States Code, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

SEC. 107. JUDICIAL REVIEW.

No determination, finding, action, or omission under this title shall be subject to judicial review.

SEC. 108. APPLICABILITY; SEVERABILITY.

(a) APPLICABILITY.—This title shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this title, or the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this title, shall not be affected thereby.

SEC. 109. EXEMPTION FOR MONETARY POLICY.

Nothing in this title shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

SEC. 110. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

TITLE II—TERM GRAZING PERMITS

SEC. 201. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Secretary of Agriculture (referred to in this title as the "Secretary") administers the 191,000,000-acre National Forest System for multiple uses in accordance with Federal law;

(2) where suitable, one of the recognized multiple uses for National Forest System land is grazing by livestock;

(3) the Secretary authorizes grazing through the issuance of term grazing permits that have terms of not to exceed 10 years and that include terms and conditions necessary for the proper administration of National Forest System land and resources;

(4) as of the date of enactment of this Act, the Secretary has issued approximately 9,000 term grazing permits authorizing grazing on approximately 90,000,000 acres of National Forest System land;

(5) of the approximately 9,000 term grazing permits issued by the Secretary, approximately one-half have expired or will expire by the end of 1996;

(6) if the holder of an expiring term grazing permit has complied with the terms and conditions of the permit and remains eligible and qualified, that individual is considered to be a preferred applicant for a new term grazing permit in the event that the Secretary determines that grazing remains an appropriate use of the affected National Forest System land;

(7) in addition to the approximately 9,000 term grazing permits issued by the Secretary, it is estimated that as many as 1,600 term grazing permits may be waived by permit holders to the Secretary in favor of a purchaser of the permit holder's permitted livestock or base property by the end of 1996;

(8) to issue new term grazing permits, the Secretary must comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other laws;

(9) for a large percentage of the grazing permits that will expire or be waived to the Secretary by the end of 1996, the Secretary has devised a strategy that will result in compliance with the National Environmental Policy Act of 1969 and other applicable laws (including regulations) in a timely and efficient manner and enable the Secretary to issue new term grazing permits, where appropriate;

(10) for a small percentage of the grazing permits that will expire or be waived to the Secretary by the end of 1996, the strategy will not provide for the timely issuance of new term grazing permits; and

(11) in cases in which ranching operations involve the use of a term grazing permit issued by the Secretary, it is essential for new term grazing permits to be issued in a timely manner for financial and other reasons.

(b) PURPOSE.—The purpose of this title is to ensure that grazing continues without interruption on National Forest System land in a manner that provides long-term protection of the environment and improvement of National Forest System rangeland resources while also providing short-term certainty to holders of expiring term grazing permits and purchasers of a permit holder's permitted livestock or base property.

SEC. 202. DEFINITIONS.

In this title:

(1) EXPIRING TERM GRAZING PERMIT.—The term "expiring term grazing permit" means a term grazing permit—

(A) that expires in 1995 or 1996; or

(B) that expired in 1994 and was not replaced with a new term grazing permit solely because the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has not been completed.

(2) FINAL AGENCY ACTION.—The term "final agency action" means agency action with respect to which all available administrative remedies have been exhausted.

(3) TERM GRAZING PERMIT.—The term "term grazing permit means a term grazing permit or grazing agreement issued by the Secretary under section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752), section 19 of the Act entitled "An Act to facilitate and simplify the work of the Forest Service, and for other purposes", approved April 24, 1950 (commonly known as the "Granger-Thye Act") (16 U.S.C. 580*l*), or other law.

SEC. 203. ISSUANCE OF NEW TERM GRAZING PERMITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, regulation, policy, court order, or court sanctioned settlement agreement, the Secretary shall issue a new term grazing permit without regard to whether the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has been completed, or final agency action respecting the analysis has been taken—

(1) to the holder of an expiring term grazing permit; or

(2) to the purchaser of a term grazing permit holder's permitted livestock or base property if—

(A) between January 1, 1995, and December 1, 1996, the holder has waived the term grazing permit to the Secretary pursuant to section 222.3(c)(1)(iv) of title 36, Code of Federal Regulations; and

(B) the purchaser of the term grazing permit holder's permitted livestock or base property is eligible and qualified to hold a term grazing permit.

(b) TERMS AND CONDITIONS.—Except as provided in subsection (c)—

(1) a new term grazing permit under subsection (a)(1) shall contain the same terms and conditions as the expired term grazing permit; and

(2) a new term grazing permit under subsection (a)(2) shall contain the same terms and conditions as the waived permit.

(c) DURATION.—

(1) IN GENERAL.—A new term grazing permit under subsection (a) shall expire on the earlier of—

(A) the date that is 3 years after the date on which it is issued; or

(B) the date on which final agency action is taken with respect to the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws.

(2) FINAL ACTION IN LESS THAN 3 YEARS.—If final agency action is taken with respect to the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws before the date that is 3 years after the date on which a new term grazing permit is issued under subsection (a), the Secretary shall—

(A) cancel the new term grazing permit; and

(B) if appropriate, issue a term grazing permit for a term not to exceed 10 years under terms and conditions as are necessary for the proper administration of National Forest System rangeland resources.

(d) DATE OF ISSUANCE.—

(1) EXPIRATION ON OR BEFORE DATE OF ENACTMENT.—In the case of an expiring term grazing permit that has expired on or before the date of enactment of this Act, the Secretary shall issue a new term grazing permit under subsection (a)(1) not later than 15 days after the date of enactment of this Act.

(2) EXPIRATION AFTER DATE OF ENACTMENT.—In the case of an expiring term grazing permit that expires after the date of enactment of this Act, the Secretary shall issue a new term grazing permit under subsection (a)(1) on expiration of the expiring term grazing permit.

(3) WAIVED PERMITS.—In the case of a term grazing permit waived to the Secretary pursuant to section 222.3(c)(1)(iv) of title 36, Code of Federal Regulations, between January 1, 1995, and December 31, 1996, the Secretary shall issue a new term grazing permit under subsection (a)(2) not later than 60 days after the date on which the holder waives a term grazing permit to the Secretary.

SEC. 204. ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW.

The issuance of a new term grazing permit under section 203(a) shall not be subject to administrative appeal or judicial review.

SEC. 205. REPEAL.

This title is repealed effective as of January 1, 2001.

TITLE III—GENERAL PROVISION

SEC. 301. SENSE OF SENATE REGARDING AMERICAN CITIZENS HELD IN IRAQ.

(a) FINDINGS.—The Senate makes the following findings:

(1) On Saturday, March 25, 1995, an Iraqi court sentenced two Americans, William Barloon and David Daliberti, to eight years imprisonment for allegedly entering Iraq without permission.

(2) The two men were tried, convicted, and sentenced in what was reported to be a very brief period during that day with no other Americans present and with their only legal counsel having been appointed by the Government of Iraq.

(3) The Department of State has stated that the two Americans have committed no offense justifying imprisonment and has demanded that they be released immediately.

(4) This injustice worsens already strained relations between the United States and Iraq and makes resolution of differences with Iraq more difficult.

(b) SENSE OF SENATE.—The Senate strongly condemns the unjustified actions taken by the Government of Iraq against American citizens William Barloon and David Daliberti and urges their immediate release from prison and safe exit from Iraq. Further, the Senate urges the President of the United States to take all appropriate action to assure their prompt release and safe exit from Iraq.

The text of the bill, H.R. 450, which is inserted in lieu of S. 219, pursuant to the foregoing motion, is as follows:

H.R. 450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Transition Act of 1995".

SEC. 2. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations, including enactment of a new law or laws to require (1) that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights, and (2) for those Federal regulations that are subject to risk analysis and risk assessment that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures, will be promoted if a moratorium on new rulemaking actions is imposed and an inventory of such action is conducted.

SEC. 3. MORATORIUM ON REGULATIONS.

(a) MORATORIUM.—Until the end of the moratorium period, a Federal agency may not take any regulatory rulemaking action, unless an exception is provided under section 5. Beginning 30 days after the date of the enactment of this Act, the effectiveness of any regulatory rulemaking action taken or made effective during the moratorium period but before the date of the enactment shall be suspended until the end of the moratorium period, unless an exception is provided under section 5.

(b) INVENTORY OF RULEMAKINGS.—Not later than 30 days after the date of the enactment of this Act, the President shall conduct an inventory and publish in the Federal Register a list of all regulatory rulemaking actions covered by subsection (a) taken or made effective during the moratorium period but before the date of the enactment.

SEC. 4. SPECIAL RULE ON STATUTORY, REGULATORY, AND JUDICIAL DEADLINES.

(a) IN GENERAL.—Any deadline for, relating to, or involving any action dependent upon, any regulatory rulemaking actions authorized or required to be taken before the end of the moratorium period is extended for 5 months or until the end of the moratorium period, whichever is later.

(b) DEADLINE DEFINED.—The term "deadline" means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

(c) IDENTIFICATION OF POSTPONED DEADLINES.—Not later than 30 days after the date of the enactment of this Act, the President shall identify and publish in the Federal Register a list of deadlines covered by subsection (a).

SEC. 5. EMERGENCY EXCEPTIONS; EXCLUSIONS.

(a) EMERGENCY EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action if—

(1) the head of a Federal agency otherwise authorized to take the action submits a written request to the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget and submits a copy thereof to the appropriate committees of each House of the Congress;

(2) the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds in writing that a waiver for the action is (A) necessary because of an imminent threat to health or safety or other emergency, or (B) necessary for the enforcement of criminal laws; and

(3) the Federal agency head publishes the finding and waiver in the Federal Register.

(b) EXCLUSIONS.—The head of an agency shall publish in the Federal Register any action excluded because of a certification under section 6(3)(B).

(c) CIVIL RIGHTS EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action to establish or enforce any statutory rights against discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status except such rulemaking actions that establish, lead to, or otherwise rely on the use of a quota or preference based on age, race, religion, gender, national origin, or handicapped or disability status".

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) FEDERAL AGENCY.—The term "Federal agency" means any agency as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) MORATORIUM PERIOD.—The term "moratorium period" means the period of time—

(A) beginning November 20, 1994; and

(B) ending on the earlier of—

(i) the first date on which there have been enacted one or more laws that—

(I) require that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights; and

(II) for those Federal regulations that are subject to risk analysis and risk assessment, require that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures; or

(ii) December 31, 1995.

except that in the case of a regulatory rulemaking action with respect to determining that a species is an endangered species or a threatened species under section 4(a)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(1)) or designating critical habitat under section 4(a)(3) of that Act (16 U.S.C. 1533(a)(3)), the term means the period of time beginning on the date described in subparagraph (A) and ending on the earlier of the first date on which there has been enacted after the date of the enactment of this Act a law authorizing appropriations to carry out the Endangered Species Act of 1973, or December 31, 1996.

(3) REGULATORY RULEMAKING ACTION.—

(A) IN GENERAL.—The term "regulatory rulemaking action" means any rulemaking on any rule normally published in the Federal Register, including—

(i) the issuance of any substantive rule, interpretative rule, statement of agency policy, notice of inquiry, advance notice of proposed rulemaking, or notice of proposed rulemaking, and

(ii) any other action taken in the course of the process of rulemaking (except a cost benefit analysis or risk assessment, or both).

(B) EXCLUSIONS.—The term "regulatory rulemaking action" does not include—

(i) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to repealing, narrowing, or streamlining a rule, regulation, or administrative process or otherwise reducing regulatory burdens;

(ii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to matters relating to military or foreign affairs functions, statutes implementing international trade agreements, including all agency actions required by the Uruguay Round Agreements Act, or agency management, personnel, or public property, loans, grants, benefits, or contracts;

(iii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to a routine administrative function of the agency;

(iv) any agency action that—

(I) is taken by an agency that supervises and regulates insured depository institutions, affiliates of such institutions, credit unions, or government sponsored housing enterprises; and

(II) the head of the agency certifies would meet the standards for an exception or exclusion described in this Act; or

(v) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal revenue laws of the United States.

(4) RULE.—The term "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy. Such term does not include the approval or prescription, on a case-by-case or consolidated case basis, for the future of rates, wages, corporation, or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor, or of valuations, costs, or accounting, or practices bearing on any of the foregoing, nor does it include any action taken in connection with the safety of aviation or any action taken in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds. Such term also does not include the granting an application for a license, registration, or similar authority, granting or recognizing an exemption, granting a variance or petition for relief from a regulatory requirement, or other action relieving a restriction (including any agency which establishes, modifies, or conducts a regulatory program for a recreational or subsistence activity, including but not limited to hunting, fishing, and camping, if a Federal law prohibits the recreational or subsistence activity in the absence of the agency action) or taking any action necessary to permit new or improved applications of technology or allow the manufacture, distribution, sale, or use of a substance or product.

(5) RULEMAKING.—The term "rulemaking" means agency process for formulating, amending, or repealing a rule.

(6) LICENSE.—The term "license" means the whole or part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission.

(7) IMMINENT THREAT TO HEALTH OR SAFETY.—The term "imminent threat to health or safety" means the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property during the moratorium period.

SEC. 7. LIMITATION ON CIVIL ACTIONS.

No private right of action may be brought against any Federal agency for a violation of this Act. This prohibition shall not affect any private right of action or remedy otherwise available under any other law.

SEC. 8. RELATIONSHIP TO OTHER LAW; SEVERABILITY.

(a) APPLICABILITY.—This Act shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

SEC. 9. REGULATIONS TO AID BUSINESS COMPETITIVENESS.

Section 3(a) or 4(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) CONDITIONAL RELEASE OF TEXTILE IMPORTS.—A final rule published on December 2, 1994 (59 Fed. Reg. 61798), to provide for the conditional release by the Customs Service of textile imports suspected of being imported in violation of United States quotas.

(2) TEXTILE IMPORTS.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the import of textiles and apparel including section 334 of the Uruguay Round Agreements Act (P.L. 103–465), relating to textile rules of origin.

(3) CUSTOMS MODERNIZATION.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the customs modernization provisions contained in title VI of the North American Free Trade Agreement Implementation Act (P.L. 103–182).

(4) ACTIONS WITH RESPECT TO CHINA REGARDING INTELLECTUAL PROPERTY PROTECTION AND MARKET ACCESS.—A regulatory rulemaking action providing notice of a determination that the People's Republic of China's failure to enforce intellectual property rights and to provide market access is unreasonable and constitutes a burden or restriction on United States commerce, and a determination that trade action is appropriate and that sanctions are appropriate, taken under section 304(a)(1)(A)(ii), section 304(a)(1)(B), and section 301(b) of the Trade Act of 1974 and with respect to which a notice of determination was published on February 7, 1995 (60 Fed. Reg. 7230).

(5) TRANSFER OF SPECTRUM.—A regulatory rulemaking action by the Federal Communications Commission to transfer 50 megahertz of spectrum below 5 GHz from government use to private use, taken under the Omnibus Budget Reconciliation Act of 1993 and with respect to which notice of proposed rulemaking was published at 59 Federal Register 59393.

(6) PERSONAL COMMUNICATIONS SERVICES LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to establish criteria and procedures for issuing licenses utilizing competitive bidding procedures to provide personal communications services—

(A) taken under section 309(j) of the Communications Act and with respect to which a final rule was published on December 7, 1994 (59 Fed. Reg. 63210); or

(B) taken under sections 3(n) and 332 of the Communications Act and with respect to which a final rule was published on December 2, 1994 (59 Fed. Reg. 61828).

(7) WIDE-AREA SPECIALIZED MOBILE RADIO LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to provide for competitive bidding for wide-area specialized mobile radio licenses, taken under section 309(j) of the Communications Act and with respect to which a proposed rule was published on February 14, 1995 (60 Fed. Reg. 8341).

(8) IMPROVED TRADING OPPORTUNITIES FOR REGIONAL EXCHANGES.—A regulatory rulemaking action by the Securities and Exchange Commission to provide for increased competition among the stock exchanges, taken under the Unlisted Trading Privileges Act of 1994 and with respect to which proposed rulemaking was published on February 9, 1995 (60 Fed. Reg. 7718).

SEC. 10. DELAYING EFFECTIVE DATE OF RULES WITH RESPECT TO SMALL BUSINESSES.

(a) DELAY EFFECTIVENESS.—For any rule resulting from a regulatory rulemaking action that is suspended or prohibited by this Act, the effective date of the rule with respect to small businesses may not occur before six months after the end of the moratorium period.

(b) SMALL BUSINESS DEFINED.—In this section, the term "small business" means any business with 100 or fewer employees.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

House Resolution 148 was laid on the table.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question is on agreeing to the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHADEGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 372, nays 41, answered "present" 1, not voting 20, as follows:

[Roll No. 338]

YEAS—372

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Bilbray

Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Boucher
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fields (LA)
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek
Metcalf
Meyers
Mica
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—41

Abercrombie
Brown (CA)
Clay
Crane
Durbin
Fazio
Filner
Gephardt
Gibbons
Gillmor
Gutknecht
Hastings (FL)
Hefley
Hilliard
Hinchey
Jacobs
Kennedy (MA)
Levin
Lewis (GA)
Lowey
McNulty
Menendez
Mfume
Miller (CA)
Mineta
Pickett
Pombo
Rahall
Rush
Sabo
Schroeder
Scott
Shays
Stark
Stockman
Stokes
Taylor (MS)
Thompson
Volkmer
Waters
Yates

ANSWERED "PRESENT"—1

Harman

NOT VOTING—20

Bateman
Berman
Bono
Borski
Brown (FL)
Chapman
Collins (IL)
Davis
Dornan
Fattah
Flake
Hayes
Hoyer
Johnston
Kleczka
Lipinski
Pelosi
Riggs
Schumer
Vucanovich

☐ 1216

Messrs. WELDON of Pennsylvania, SERRANO, and WELDON of Florida changed their vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 67, CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1996

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 149 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 149

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the concurrent resolution (H. Con. Res. 67) setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002. The first reading of the concurrent resolution shall be dispensed with. All points of order against the concurrent resolution and against its consideration are waived. General debate shall be confined to the congressional budget and shall not exceed six hours (including one hour on the subject of economic goals and policies) equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. After general debate the concurrent resolution shall be considered for amendment under the five-minute rule. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. The concurrent resolution, as amended, shall be considered as read. No further amendment shall be in order except those designated in section 2 of this resolution. Each amendment may be offered only in the order designated, may be offered only by a Member designated, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendments designated in section 2 are waived except that the adoption of an amendment in the nature of a substitute shall constitute the conclusion of consideration of the concurrent resolution for amendment. After the conclusion of consideration of the concurrent resolution for amendment, and a final period of general debate, which shall not exceed ten minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, the Committee shall rise and report the concurrent resolution to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the concurrent resolution and amendments thereto to final adoption without intervening motion except amendments offered by the chairman of the Committee on the Budget pursuant to section 305(a)(5) of the Congressional Budget Act of 1974 to achieve mathematical consistency. The concurrent resolution shall not be subject to a demand for division of the question of its adoption.

SEC. 2. The following amendments are in order pursuant to the first section of this resolution:

(1) An amendment in the nature of a substitute by Representative Gephardt of Missouri printed not later than May 16, 1995, in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII, if proposing a Congressional budget in which total outlays for the fiscal year 2002 do not exceed total receipts for that fiscal year.

(2) An amendment in the nature of a substitute by Representative Neumann of Wisconsin or Representative Solomon of New York consisting of the text of House Concurrent Resolution 66.

(3) An amendment in the nature of a substitute by Representative Payne of New Jersey or Representative Owens of New York printed by Representative Payne on May 16, 1995, in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII.

(4) An amendment in the nature of a substitute by the minority leader or a designee printed by him not later than May 17, 1995, in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII, if proposing a Congressional budget based on a revised budget submission by the President to the Congress in which total outlays for the fiscal year 2002 do not exceed total receipts for that fiscal year.

SEC. 3. Rule XLIX shall not apply with respect to the adoption by the Congress of a conference report to accompany a concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I might consume. During consideration of the resolution all time yielded is for the purposes of debate only.

Mr. Speaker, today is a truly historic day in this Chamber and one that I personally have waited for for a long time, because this will be the first time that this Congress will actually debate how to balance a budget instead of whether we will balance the budget at all.

Why is this so? Because we have written the rules of this debate so that only four alternatives can be offered, and all four alternatives, ladies and gentlemen, balance the budget. Can you believe that? That, ladies and gentlemen, is truly historic. So much so that I am so excited I really can hardly stand it.

Mr. Speaker, let me get to the text of the rule itself, and Members should listen because it is a complicated, complex rule.

House Resolution 149 is a modified closed rule providing for the consideration of House Concurrent Resolution 67, the concurrent resolution on the budget for fiscal years 1996 through the year 2002. The rule provides for 6 hours of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, including 1 hour of debate on the so-called Humphrey-Hawkins legislation of economic goals and policies. All points of order are waived against the budget resolution and its consideration.

This rule provides for the adoption in the House and in the Committee of the Whole of an amendment printed in the Committee on Rules report relating to spending on agriculture programs, and for those Members who might not come from agricultural districts, they might listen to this too. This is a sense-of-Congress provision to reconsider spending reductions in fiscal years 1999 and 2000 if certain conditions are not met. This amendment is language worked out between the Committee on Agriculture chairman and the leadership to ensure that spending reductions for agricultural programs do not have an adverse impact on the farm economy, and that is very important.

This rule makes in order four amendments in the nature of substitutes, subject to 1 hour of debate each, and waives points of order against them, except that it does not allow for the consideration of subsequent substitutes if any one substitute is adopted.

Before I go any further, Mr. Speaker, this is the most important part of my statement, Mr. Speaker, that provision in the rule means quite simply that there are no free votes on this budget resolution coming up. The adoption of any substitute will bring the House to a vote on final adoption of the budget resolution as amended, immediately.

This is the old-fashioned amendment process, it is not a king-of-the-hill or so-called queen-of-the-hill process. The four substitutes in their order of consideration are important, because if any one of these pass, then the debate immediately ceases and we go right to final passage. The first substitute to be offered will be an amendment by Representative GEPHARDT printed in yesterday's CONGRESSIONAL RECORD which is the text of the so-called coalition budget. That is the first substitute before us.

Second, a substitute to be offered by Representatives NEUMANN and SOLOMON, that is myself, consisting of House Concurrent Resolution 66, which you all have before you. This achieves a balanced budget by the fiscal year 2000, that is within 5 years.

Third, a substitute by Representative PAYNE of New Jersey and Representative OWENS of my State of New York printed in yesterday's RECORD, that is the Black Caucus budget.

And fourth, and this is important, an amendment printed in the RECORD by today by the minority leader or his designee consisting of a revised Presidential budget, if it achieves a balanced budget by the year 2002. We give the President of the United States 7 years to bring our deficits into balance, and we are waiting with anticipation for the President to join in this debate and offer that amendment.

Following the disposition of amendments, the rule allows for an additional 10 minutes of debate divided between the chairman and ranking minority member of the Committee on the Budget. Finally, and this is also important to Members of the House, the rule suspends for 1 year the application of House Rule XLIX, the so-called Gephardt rule on the debt limit.

What that means is that this House will be forced to conduct a separate vote on raising the debt limit later this year rather than having it automatically adopted upon the adoption of the budget resolution's conference report. There is no free ride there, Mr. Speaker, we are going to have to put our name on the line.

This is a fair rule that provides ample opportunity for the major alternatives to be debated and voted on. While we did not make in order all of the amendments presented to the Committee on Rules, I think most objective observers, including the press, will agree we have allowed for the debate to be framed in a very fair and open manner that allows for the most serious alternatives having substantial support to be offered and voted on.

□ 1230

Mr. Speaker, let me say at the outset that I commend the minority leader, the gentleman from Missouri [Mr. GEPHARDT], for agreeing to offer a major substitute even though he does not support it, according to this morning's papers. It was not offered by him or by the majority of his caucus. Nevertheless, it is a Democrat position, and it will be interesting to see where the votes fall on that.

It was our feeling that, as important as the budget resolution is, and it clearly is one of the most defining acts of a political party, that the rule should allow for a leadership-backed alternative from both sides of the aisle. Where do we stand on the issues? That is what needs to be debated on this floor today.

In addition, we have given the President, as I said, an additional 2 days beyond our Monday deadline to submit a revised budget plan that would achieve a balanced budget.

Now, Members of the House, you may recall that back on May 9 I wrote to the President's chief of staff, Mr. Panetta, the former chairman of the Committee on the Budget, inviting him on behalf of the Republican leadership, to submit a balanced budget to the Committee on Rules by last Monday, and we would make it in order. Even though Mr. Clinton promised early in his Presidential campaign, and we have got the quotes from his campaign which we will read to you today during the debate, to balance the budget, his latest budget shows deficits remaining at the $200 billion mark into the next century. I ask you, what kind of balancing act is that? One trillion dollars added to the deficit over the next 7 years.

Now, we hear Mr. Panetta in this morning's paper and on "Good Morning, America," this morning criticizing us for establishing an arbitrary date of fiscal year 2002 for balancing the budget. And yet last January we voted on six constitutional amendments requiring balanced budgets, four by Democrats and two by Republicans. The Committee on Rules did not require that they provide for a balanced budget by 2002. We did not set any arbitrary date, and yet every one of those amendments that came to this floor, Democrat or Republican, did just that. Of the four Democrat substitutes, the Owens of New York Democrat substitute was supported by 62 Democrats. You ought to add up these numbers as I read them off to you. The Wise of West Virginia substitute, another Democrat substitute, was supported by 136 Democrats. The Conyers Democrat substitute was backed by 112 Democrats.

And then finally, the Gephardt/Bonior substitute was favored by 130 Democrats.

Moreover, on final passage of the constitutional amendment, 72 Democrats voted in favor of it, and the vote was 300 to 132. Nearly 70 percent of this House voted for that date certain—the year 2002.

Mr. Speaker, when you add up all the Democrats who supported one substitute or another and called for a balanced budget by 2002, you find that 187 Democrats, or 92 percent of those on their side of the aisle, voted for a balanced budget by fiscal year 2002.

That is what is on the floor today, and yet the President and his chief of staff would have us believe that there is something arbitrary, something unrealistic about setting a fiscal year 2002 deadline for balancing this budget.

Even the Senate minority leader has said the President is wrong on that account. That was Mr. DASCHLE over in the other body, on "Good Morning, America." Go and replay it back and see what he had to say.

Mr. Speaker, one of the Democrat Members suggested at our hearing yesterday that I smiled to myself when I consider how things have shifted in just the last year toward support for a real balanced budget in this Congress and in this country. Well, Mr. Speaker, I think I can say that I really am proud to smile publicly that we have come so far in such a short, short time. The American people have spoken, and we are listening, finally, to their cries to save this country and to save our children and to save our grandchildren from economic and financial ruin, because that is where we have been going.

We witnessed a tidal wave for change at the polls last November, and, Mr. Speaker, if we do not follow through by keeping our commitment to bringing this Government and this country back into the black, then we will drown in another tidal wave. It will be a tidal wave of red ink that will engulf us and future generations to come. It will destroy this Nation.

Last January, 187 Democrats and 228 Republicans voted for at least one of the constitutional amendments offered that called for balancing the budget by fiscal year 2002. That is a total of 415 Members out of 435 Members of this House. Think about that, 95 percent of the Members of this House of Representatives supporting a balanced budget.

Today that support for a lofty and noble goal confronts the reality of making the tough choices to achieve the goal of restoring this country to a condition of fiscal sanity, of soundness and stability. Members, we will have the good intentions of last January tested by our willingness, indeed by our intestinal and political fortitude, to vote for the balanced budget we said was needed 4 months ago. Today is your opportunity, Mr. Speaker and Members. We can either follow through on our commitment to setting things straight and right, or we can cave, we can crumble at the sound of Chicken Little clucking, he who would have us believe that the world is going to come to an end if we dare to do what the American people have to do, what business and industry have to do, and that is to live within our means.

Mr. Speaker, today is the defining moment for this Congress and this country as we face the 21st century. It is right around the corner. We may never have another moment like this if we cling to the past, if we deny our children, if we deny our grandchildren and those not even born yet a promising and prosperous future.

We must put an end to this terrible debt burden that is dragging us down and denying us the opportunity to confront the new century with renewed hope, with renewed opportunity.

Confronting and conquering great challenges is what this country is all about and what we as Representatives of the people should be all about. Let us not shrink from that challenge.

I want Members to support this rule. I want Members to support a balanced budget plan that will bring a brighter tomorrow, regardless of which one of these four balanced budgets comes to a final vote. That is the one we have got to vote for in the end. We have got to do it for America.

Mr. Speaker, I submit the following document for the RECORD:

DEBATE & AMENDMENTS ON HOUSE BUDGET RESOLUTIONS, 1989–1994

Year	Budget res.	Rule number	General debate time (hours)	Amendments allowed	Vote on rule	Total time consumed[1] (hours)
1989	H. Con. Res. 106	H. Res. 145[2]	5-hours (2 HH)	5 (3–D; 2–R)	Adopted: voice	12½
1990	H. Con. Res. 310	H. Res. 382[3]	6-hours (3 HH)	4 (1–D; 3–R)	Adopted: voice	13
1991	H. Con. Res. 121	H. Res. 123[4]	5-hours (2 HH)	4 (1–D; 3–R)	Adopted: 392–9	11
1992	H. Con. Res. 287	H. Res. 386[5]	3-hours (1 HH)	3 (1–D; 2–R)	Adopted: 239–182	13½
1993	H. Con. Res. 64	H. Res. 131	10-hours (4 HH)		Adopted: voice	16
		H. Res. 133[6]		4 (2–D; 2–R).	Adopted: 251–172	
1994	H. Con. Res. 218	H. Res. 384[7]	4-hours (1 HH)	5 (3–D; 2–R)	Adopted: 245–171	10

[1] Includes hour on rule, general debate time, and debate time on all amendments, but does not include time taken on rollcall votes and walking-around time.

[2] Of the 5 amendments, one was an amendment by the Chairman of the Budget Committee (30-minutes), followed by 4 substitutes under king-of-the-hill procedure: Dannemeyer (1-hr.); Dellums (3-hrs.); Kasich (1-hr.); Gephardt (1-hr.)

[3] General debate began on April 25th under a unanimous consent request agreed to on April 24th. Four substitute amendments were allowed under king-of-the-hill procedures: Kasich (1-hr.); Dannemeyer (1-hr.); Dellums (2-hrs.); and Frenzel (2-hrs.).

[4] Of the 4 amendments allowed, one was a perfecting amendment by Rep. Ford of Michigan (1-hr.), followed by 3 substitutes under king-of-the-hill: Dannemeyer (1-hr.); Kasich (1-hr): and Gradison (2-hrs.).

[5] Three substitutes were allowed under king-of-the-hill: Dannemeyer (30-mins.); Gradison (1-hr.); and Towns-Dellums (8-hrs.).

[6] Of the 10-hours of general debate, 2-hours were allocated to the Budget Committee; 4-hours for Humphrey-Hawkins; 2-hours to discuss the Mfume substitute; and 1-hour to discuss the Solomon substitute. This was followed by 4 substitutes under king-of-the-hill: Kasich (2-hrs.); Solomon (1-hr.); Mfume (1-hr.); and Sabo (identical to base resolution, 1-hr.).

[7] In addition to the hour on Humphrey-Hawkins, Reps. Kasich and Mfume each were given one hour of general debate to discuss their substitutes. Five substitutes were allowed under king-of-the-hill subject to one-hour of debate each, with the last being identical to the reported budget resolution.

Source: Rules Committee Calendars (Note: HH stands for Humphrey-Hawkins debate).

TIMING OF HOUSE BUDGET RESOLUTIONS, 1989–1994

Year	Budget res.	Date ordered reported	Date report filed	Date rule granted	Date House took-up BR	Days report available[1]
1989	H. Con. Res. 106	4/27/89	5/2/89	5/2/89	5/3/89	1
1990	H. Con. Res. 310	4/19/90	4/23/90	4/25/90	[2] 4/25/90	2
1991	H. Con. Res. 121	4/9/91	4/12/91	4/15/91	4/16/91	4
1992	H. Con. Res. 287	2/27/92	3/2/92	3/3/92	3/4/92	2
1993	H. Con. Res. 64	3/10/93	3/15/93	3/16/93	3/17/93	2
1994	H. Con. Res. 218	3/3/94	3/8/94	3/9/94	3/10/94	2

[1] Days of report availability assumes report was available on the day after it was filed and includes the day on which the budget resolution was taken up by the House.

[2] General debate begun by unanimous consent; rule was adopted the following day.

Sources: House Calendars; H.I.S.; Congressional Quarterly Almanacs.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the consideration of this budget resolution shows the American people that Republicans can offer balanced budgets. The debate we are beginning here in the House today is not whether we balance the Federal budget, but rather, how. And it is how Republicans want to balance the budget that should be the focus of our debate today.

Mr. Speaker, this proposal to balance the Federal budget contains $350 billion in tax cuts. These tax cuts will amount to $20,000 per person for the wealthiest 1 percent of Americans. At the same time this budget is handing the most fortunate in our society a sizeable tax break, the Republican budget is asking the rest of the country to swallow unnecessarily large cuts in programs such as Medicare and student loans.

In order to make these cuts and to finance this subsidy for the wealthiest of our citizens, Medicare recipients will pay an additional $1,000 a year more for their health care by the year 2002. When we think of that extra $1,000, we should remember that 83 percent of Medicare benefits go to seniors with incomes of $25,000 or less.

Not only will Medicare recipients pay more, hospitals will bear an unfair burden. The President and CEO of the Navarro Regional Hospital in my congressional district, Harvey Fishero, wrote to me this week to express his deep concerns about Medicare and Medicaid cuts envisioned in the Republican budget. He said, and I quote, "Medicare and Medicaid targets set by the Budget Committee are unacceptable, unsustainable and must be lowered. These reductions are much too severe and are implemented too fast for the Medicare system to handle." He says that by the year 2000, Medicare PPS operating margins would fall to −20.6 percent and hospitals would lose $1,300 in PPS payments for every Medicare recipient.

Republicans will try to deny that young Americans may be forced to forgo the dream of a college education because this budget will increase the costs of college loans. It is estimated that because of the elimination of the in-school interest subsidy envisioned in the Republican budget, students may pay up to $5,000 more for their college loans. And, when we think of recipients of guaranteed student loans, we should remember that the average family income of students receiving these subsidies is $35,000.

But, Mr. Speaker, the Republican budget is right here in black and white. Glib explanations of slowing growth and block grants and saving programs cannot explain away $350 billion in tax cuts. Those explanations cannot make what is printed on these pages go away. They cannot explain why this budget asks those who are least able to contribute the most.

Mr. Speaker, my Republican colleagues spent a good deal of their time in the Rules Committee yesterday asking for alternatives. They were asking for these alternatives while three alternatives had already been submitted for the committee's consideration. One of those alternatives, offered by the gentleman from New Jersey [Mr. PAYNE] and the gentleman from New York [Mr. OWENS], on behalf of the Congressional Black Caucus, was made in order by this resolution. Another, offered by the gentleman from Michigan [Mr. DINGELL], was not. Both of those proposals presented the committee with serious policy alternatives to the Republican budget.

A third alternative was also submitted to the Rules Committee, That proposal was developed on behalf of the conservative wing of the Democratic party by the gentleman from Utah [Mr. ORTON] and the gentleman from Texas [Mr. STENHOLM]. That proposal presented the committee with a very viable alternative to the Republican budget. The major difference between the Orton-Stenholm budget and the Republican budget goes back to the basic question of how do we balance the Federal budget. The Orton-Stenholm proposal recognizes that cutting taxes and balancing the budget might present a fundamental conflict. Yet, it seemed for much of the day yesterday this alternative would not be made in order.

This alternative will, however, be considered by the House. But it will be considered only because the Democratic leader, Mr. GEPHARDT will offer it, not because its authors were given the opportunity to offer their proposal in their own right. Mr. Speaker, it is quite clear that had Mr. GEPHARDT not agreed to put his name on this alternative, the House would have been denied the opportunity to consider a very responsible Democratic budget alternative.

Mr. Speaker, I have many requests for time today, so I will conclude. But, I must register my opposition to this rule. Mr. ORTON and Mr. STENHOLM have been shortchanged by this rule as has Mr. DINGELL. And, because they have been shortchanged, so have the American people. I believe the American people want and deserve better than what this resolution gives them.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from New York.

Mr. SOLOMON. I would just say I think the gentleman knows I have a good working relationship with the Democrat coalition. I have been negotiating with them several days. Much of what you said, though, just is not true because the gentleman does not know the details of the negotiations that went on. I assure you that we would have taken care of them. We just wanted the Democrat leadership to present an alternative that he would vote for. It will be interesting to see if he does.

I appreciate the gentleman yielding.

Mr. Speaker, I yield 4 minutes to the gentleman from Sanibel, FL [Mr. GOSS], one of the very distinguished members of the Committee on Rules; he has been invaluable in developing the balanced budget concept for many years on this floor, and he is one of the most respected Members.

Mr. GOSS. Mr. Speaker, I thank the distinguished chairman of the Committee on Rules for yielding me this time. I commend him for this extraordinarily fair rule on this vital issue, and, of course, I also have to commend him for his brilliant substitute with the gentleman from Wisconsin [Mr. NEUMANN] that we will be discussing.

By sticking to the announced parameters that the only substitutes allowed will be those that bring the budget into balance by 2002, this rule ensures that we move beyond the question of if we balance our books within 7 years to how we will reach that goal. And that is truly a remarkable turnabout from the years past.

Still, of course, we have the liberal naysayers who seem to prefer the status quo. The impact of the status quo is really letting the ship of state sail full speed ahead into the rocky cliffs of certain bankruptcy for certain programs, as we know, and, I believe, fiscal calamity for our children and grandchildren, and as a grandfather, that is not responsible.

□ 1245

As a grandfather, that is not responsible. I am still amazed that the President has refused to join this effort and has abdicated all responsibility for mapping out a strategy to bring our budget into balance within the specified period of time. This rule does offer the President a final chance, and it is fair. It is a place holder, in case he has a change of heart in this crucial issue and decides he was to be relevant to the debate after all.

In addition, this rule allows three other proposals to be offered under the standing procedure of the House, including a proposal I am proud to cosponsor offered by the gentleman from Wisconsin [Mr. NEUMANN] and the gentleman from New York [Mr. SOLOMON] that charts a path to a balanced budget within 5 years instead of 7.

Mr. Speaker, the bottom line is that doing nothing really is disaster. We have a moral responsibility in our country to bring this budget into balance. The mess we are in certainly did not come about overnight. It took decades to accumulate nearly $5 trillion in debt. By the way, that is still growing today, as we speak, under the Clinton budget. Cleaning up the mess will not be easy, but it must be done, and the first step lies, obviously, in balancing the annual budget.

I am proud of the extraordinary effort of the gentleman from Ohio, Chairman KASICH, and his Committee on the

Budget. They have demonstrated that we can indeed have a balanced budget by 2002. They have attacked waste and fraud; they have attacked abuse, reviewing every program in the Federal budget to set priorities.

I am gratified that they have included many of my discretionary spending suggestions totaling more than $30 billion it seems in savings over 5 years as we proceed through the processes. I would note to Members that they can review the rest of my list of 75 proposed cuts that save $275 billion over 5 years if there are specific discretionary cuts suggested in the Kasich budget they strongly oppose and they would like to replace them in months ahead.

Equally important, the Committee on the Budget has acted to save Medicare, a program headed for collapse, unless we do something. Again, doing nothing is disaster for Medicare. This is a program that is in fact going broke, part A.

Let it be clear to you: Under the budget blueprint before us today, per capita Medicare spending is set to increase by more than 33 percent in the next 7 years. Only in the minds of status quo Washington liberals would that be translated into a cut. I know the increase in Medicare is good for seniors. I am one. I am also a grandfather, as I said, and I think I have responsibility to both seniors and to my children and grandchildren.

Sure, it is going to get hot in this kitchen. But to my friends on the other side of the aisle who seem more interested in hot and hateful rhetoric about the rich and in the cool comfort of the status quo, I say if you cannot stand the heat, then find a door and exit the kitchen, and let those of us willing to take the risk, to meet the challenge, to get on with the recipe for saving the American dream for our children and grandchildren.

Vote for this rule, please, and for the Kasich balanced budget as well.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the ranking member and former chairman of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I thank my colleague for allowing me this time to speak.

Mr. Speaker, why are Republicans cutting Medicare to pay a tax break for the very, very rich? I cannot for the life of me figure it out why my Republican colleagues would want to give a big fat tax break to the very rich, so badly, that they would slash Medicare to the point that by the year 2002 every senior citizen will have to pay an additional $1,000 a year out of his pocket. But I did not sign that contract on America, Mr. Speaker, so there are things that I really do not understand about it.

But I am glad I did not, because this budget inspired by the contract will cut money from student loans, medical research, and LIHEAP. And, because of this budget, Boston teaching hospitals alone stand to lose over $700 million during the next 7 years, 20,000 Boston families will not have heat in the winter, and the cost of a college education will go up $5,000 per student.

Mr. Speaker, my Republican friends say that this budget represents tough choices. It does. But I ask, tough on whom? It certainly is not tough on anyone in this Chamber, and it is certainly not tough on anyone earning over $200,000 per year. But let me tell you who it is tough on. It is tough on those struggling families who will not be able to send their kids to college. It is tough on those American senior citizens who may have to go without heat in the winter and who will definitely be paying higher medical bills. And it is tough on the most vulnerable in our society.

Mr. Speaker, I urge my colleagues in the interests of seniors, in the interest of students, to oppose this Republican budget, and give up the idea of a tax break for the very, very rich. Let us come up with a real budget bill, Mr. Speaker, that does not harm the people who need help, and not help the people who do not need it.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from Atlanta, GA [Mr. LINDER], another very distinguished member of the Committee on Rules, who has been a real asset to this body since he came here.

Mr. LINDER. Mr. Speaker, I want to express my support for House Resolution 142, the rule which allows for the consideration of several balanced budget proposals. Only 7 months ago it would have been impossible to imagine debating a bill to actually balance the budget by the year 2002.

Under the rule the House will have a historic opportunity tomorrow to fully debate and consider four balanced budget resolutions. In fact, the rule allows for a fifth balanced budget proposal, one from the President of the United States. While I am pleased the rule provides him with that opportunity, it appears that the President has decided to forfeit any leadership on the issue of America's financial stability.

In February I watched as President Clinton and House and Senate Democrats refused to support the balanced budget amendment. I now realize that they are incapable of curbing their irresponsible spending habits, so they have decided to play politics with our Nation's future.

Americans understand the fiscal trouble the Nation is in and the tough measures required to fix the mess. We must do something about the deficit and the debt now. We are out of tomorrows. The debt and deficit costs all of us money in the form of higher taxes, higher interest rates, and a slower economy. Moreover, it is immoral for this generation to leave our children the bill for our excesses.

Our current financial crisis is as much a threat to our Nation's children and grandchildren as Nazi Germany and Imperial Japan were to children half a century ago. House Republicans have pledged to balance the budget in 7 years. The generation of World War II saved the world in less time, but we need a united front on this too.

The change in the size of the Federal Government we propose will affect all Americans in some way. If we are incapable of sticking together to get control of our fiscal affairs, America will collapse from within. America is capable of solving problems. I believe we will rally together to do it again. I believe the American people are up to this challenge.

All around us Americans are discovering better ways to do everything. Yet the Federal Government remains the least-changed institution in American society and the President and his party seem satisfied with that. In times of crisis, Americans pull together. We can no longer skirt the issue, although administration officials Tyson and Panetta have tried to.

As in World War II, we need the talents and skills of every individual. This notion is not too romantic for us to conceive that with the help of the American people, we will balance the budget, provide a safe and prosperous future for our children, and save our country.

The rule under discussion gives House Members the opportunity to vote on legislation to require the Federal Government to live under the same budget constraints that every American family lives under. We are running out of chances. We are running out of choices. I urge my colleagues to support the rule that will allow this historic debate.

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BEILENSON], a member of the committee.

Mr. BEILENSON. Mr. Speaker, I rise in opposition to the rule, and to the budget resolution, as reported by the Committee on the Budget.

Mr. Speaker, I rise to express my opposition to the rule, and to the budget resolution, as reported by the Budget Committee.

Mr. Speaker, we are opposing this rule because of our objections to the way the majority has treated the minority in developing this rule. There was no valid reason for the majority members of the Rules Committee to deny the gentleman from Texas [Mr. STENHOLM] and the gentleman from Utah [Mr. ORTON] the opportunity to present to the House, under their own names, a budget plan that they themselves authored.

The Stenholm-Orton plan, which under this rule would be offered by the minority leader, is a far more sensible and equitable alternative than the Budget Committee's plan. It offers a way of reaching the same goal as the Budget Committee's plan—a balanced budget in 7 years—through spending cuts that are much more modest and reasonable.

Among other things, the Stenholm-Orton alternative would cut Medicare by over $100 billion less over 7 years than the Budget Committee plan. In fact, it would cut all entitlement programs—programs that provide much-needed income for millions of Americans—by over $200 billion less than the Budget Committee's plan. And, it would provide $35 billion more for education and training, $11 billion more for health, and $60 billion less for defense than the Budget Committee's plan.

The Stenholm-Orton plan achieves the goal of a balanced budget in 7 years through less extreme cuts primarily by excluding the ill-advised, $350 billion tax cut that the Budget Committee plan includes—a tax cut which mostly benefits the very wealthiest Americans, and which is paid for by cutting benefits for the most vulnerable Americans—the poor, the elderly, and children.

As the Stenholm-Orton plan, and the other two plans that will be offered under this rule—the Payne-Owens substitute and the Neumann-Solomon substitute—demonstrate, there are different ways to reach a balanced budget over a 7-year time period. That is why few of us objected to the ground rules for this debate—that all substitutes offered as alternatives to the Budget Committee's plan would also need to achieve a balanced budget by 2002.

The question we have to ask in considering each alternative is: Does this plan provide a fair and equitable way to balance the budget?

The answer, in the case of the Budget Committee's plan, quite clearly, is no.

With its $350 billion tax cut, that benefits the wealthy, and its preservation of corporate tax breaks—and its extreme cuts in Medicare and in dozens of other programs which benefit average Americans, the Budget Committee's plan provides for a huge transfer of resources from the poor, from children, from the elderly, to the rich. It is a plan that hurts those who need the most help from Government, and helps those who needs it the least. In terms of social policy, it makes no sense whatsoever.

What is more, the claim that this budget favors children is debatable. It is true, of course, that it would be a good thing for our children to inherit less debt from us. But what kind of country are we leaving for them if we cut education and job training and highways and mass transit and environmental protection programs and energy research and development and health research and public broadcasting? What kind of opportunities will they have if college loans become unaffordable and vocational training unavailable?

Many people speak of the Federal Government these days as though it is completely disconnected from the American people when, in fact, our Government is a very important part of almost every American's life. Nearly everyone has a family member who is receiving Social Security and Medicare. Millions of middle-class American families depend on the Student Loan Program to educate their children. Millions of moderate-income working Americans depend on the earned income tax credit to make ends meet. Millions of Americans depend on support from the Federal Government through all kinds of programs.

We should be spending less on some of these programs, but it is wrong to cut them so that we can reduce taxes for wealthy Americans—those who have already reaped the greatest economic rewards in recent years. There should be shared sacrifice in our goal to reach a balanced budget; instead, if the Budget Committee's plan is adopted, there will be definite winners and losers. And, unfortunately, those who already have the most will be the winners; those with the least will be the losers.

Mr. Speaker, the Budget Committee's plan is flawed not only because it is unfair, but also because it also raises serious doubts about whether its promised reductions in deficits are achievable.

For one thing, by splitting the reconciliation process into two separate measures—one for Medicare cuts, which are to be reported by the Ways and Means and Commerce Committees by mid-September, and all other cuts, which are to be reported by the appropriate committees by mid-July—the Budget Committee plan increases the likelihood that the $282 billion in Medicare cuts required by the plan will not be achieved. The Republican leadership is likely to find that it is far more difficult to enact these extremely deep cuts in Medicare if they are not part of a larger deficit-reduction plan that applies to more than one group of Americans.

In addition, the Budget Committee plan relies on extremely optimistic economic assumptions to achieve a balanced budget by 2002. This is particularly true with respect to the plan's projected interest rates, which many nonpartisan economists have said are unrealistically low. The level of interest rates, of course, has a tremendous bearing on the amount the Federal Government will need to spend on interest payments on the national debt.

Mr. Speaker, again, we do not object to considering a plan to balance the budget over the next 7 years. In fact, many of us—particularly those of us who have spent many years struggling with the deficit problem—are very pleased that the debate, as many Members have pointed out recently, has moved from whether we should balance the budget over the 7 years, to how we should do it. The Republican leadership, and in particular, the chairman of the Budget Committee, the gentleman from Ohio [Mr. KASICH], deserves a great deal of credit for that change.

However, as I said earlier, we do object to the way in which the rule treats the Stenholm-Orton plan, and I urge a no vote on the rule for that reason. I also urge our colleagues to vote no on the Budget Committee's budget plan.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, this debate comes down to one very simple question: Do you think we should cut Medicare, Medicaid, and Social Security in order to pay for tax cuts for the privileged few?

In the next 2 days, we are going to see a lot of charts and numbers on this floor.

But this debate is not just about numbers. It is about people.

People like Margaret Leslie—who I have a picture of here today.

Today, Margaret is a lovely lady and proud senior citizen who lives in my district.

But 51 years ago she was known to her friends as "Margie the Riveter."

When she was young, she answered the call of this country—and helped build the B-20's that helped the Allies win World War II.

Like most people of her generation, today Margaret lives on Social Security.

After paying for her rent, her medicine, her Medicare premium, and her MediGap premium she's left with about $130 each month to pay for food, bills, heat, and everything else.

And she struggles to make ends meet.

But instead of trying to make Margaret's life easier today this Republican budget is going to make her life harder.

The budget before us today will take $240 out of Margaret's Social Security check.

And over the next 7 years, it will force her to pay an additional $3,500 for Medicare.

Not to balance the budget. Not to cut the deficit.

The Republicans are cutting Medicare for one reason and one reason only: To pay for tax breaks for the wealthiest people and the wealthiest corporations in our country.

The Wall Street Journal calls this plan the biggest tax-saving bonanza in years for upper income Americans. And if you're a wealthy corporation you might not have to pay any taxes at all.

The last time Republicans were in power, 130 of the top 250 corporations paid no taxes at all for at least 1 year. We changed that law, but this budget changes it right back.

Now did the Republicans target the $200 billion we dole out in corporate tax breaks each year? No.

Did the Republicans target billionaires who get $3.6 billion in tax breaks for renouncing their American citizenship? No.

Instead, they targeted senior citizens and working families. And don't just take my word for it.

Last week, the New York Times revealed the contents of a secret Republican memo.

Under the Republican plan Medicare deductibles will double, premiums will go up by 50 percent, copayments will increase, care will be rationed, and the choice of doctors will be limited.

Mr. Speaker, this won't just affect seniors.

How is the average working family going to pay for the cost of caring for their parents and their grandparents?

And don't come to this floor today and tell us you're trying to save the Medicare system. As Margaret Leslie says, "Republicans haven't cared about Medicare for 30 years. We're not about to believe you now."

Mr. Speaker, this debate is not just about numbers. It's about basic dignity.

People like Margaret Leslie stood by this country in time of war and peace. And we must stand by them today. That is the sacred promise we made on Medicare—and it's time we live up to that promise.

But this budget is a broken promise.

And at the end of the day, senior citizens and working families throughout this country will be asking one question: why are Republicans cutting Medicare and cutting Social Security in order to give tax breaks to the wealthiest people and the wealthiest corporations in this country?

I urge my colleagues to say no to this rule. And say no to this budget.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. DOGGETT. I read in the same paper, though, that Speaker GINGRICH promises that while these cuts are big, they will be painless. Will they be painless for Margaret Leslie?

Mr. BONIOR. Reclaiming my time, they clearly are not painless. People like Margaret Leslie who stood by the country in the time of war and peace deserve a much better break than what Speaker GINGRICH and the Republicans are offering in the way of higher deductibles and premiums in this particular bill.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I want to pay tribute to my dear friend, the chairman of the Committee on Rules, one of the most gentlemanly, courteous, gracious, and most well-liked Members of this body. He has always figures, however, how we could come up with closed rules which appear to be open rules.

Now, with all affection and all respect for my good friend, I had a little amendment which I appeared before the Committee on Rules with. I received the same gracious attention I always do up there, and I want the gentleman to know how grateful I am for both his friendship and the kind way he treated me.

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He did not treat me kindly enough because he did not allow the offering of the amendment. And the amendment offers a really good choice, something which the gentleman from New York and the Committee on Rules have denied this House again.

So I am compelled now to call my dear friend "closed rule Solomon" because he presents us these wonderful rules which in fact do not permit the House to have a fair exposition of the business before it or to engage in a proper discussion of all the important questions.

The amendment that I would have offered was specifically designed to address the problems associated with the policy direction that many in the House are moving with respect to block grants. It would have allowed the return of Medicaid and four welfare block grants to the States over a 5-year phaseout period. Better than $539 billion in savings would have been generated. I would have taken as a base text the language of my Republican colleagues' bill. It would have restored $282 billion. It would have permitted $18 billion to be returned to graduated student loans, and it would have allowed $50 billion to go to the middle-income people in forms of a tax cut which would have redistributed the moneys in a way which would not only have been fairer but could have contributed more greatly and speedily to the well-being of this country and to the assistance of the middle class.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. SOLOMON. I just want to tell the gentleman that there are two Democrat alternatives, two Republicans. The gentleman from Missouri [Mr. GEPHARDT] was given the choice between you and the other one. He could have made that choice. If the gentleman would see Mr. GEPHARDT, I think that would solve his problem.

Mr. DINGELL. Mr. Speaker, that is a very artful point that the gentleman makes. I want to commend his for it. As a dialectician, he has few peers. However, the hard fact of the matter is that to say we are going to give us two choices and give you two choices does not allow a real debate. All giving two choices is is it limits the choices before the House to four questions.

It does not allow us to specifically address whether or not we are, for example, cutting Medicare, which, in fact, we are. Nor does it allow us to properly address the cuts in Medicaid or student loans or school lunches or title I education funding or veterans' medical care or low-income heating assistance, all of which proposals are being savaged by the Republican budget. It does not give us time to debate them. It does not give the House an opportunity to consider amendments dealing with these different points.

I love the gentleman from New York. He is one of the finest men around here. I enjoy my little skirmishes with him up in the Committee on Rules more than I can say, but the hard fact of the matter is, even with his charm and skill, the distinguished gentleman from New York cannot deny that, in fact, this is a gag rule which is going to foreclose the House from proper consideration of some of the most important questions, not only for this year but for the 7 years which follow.

I again express my respect for my good friend, "closed rule SOLOMON."

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, why are the Republicans cutting Medicare to pay for a tax break for the rich? And two of the people who want to know more about this are in the Kierklewski family in Austin, TX. Louis is 94 years young; his son Ed is 62. They are among millions of American citizens who will suffer from the broken promises contained in this budget resolution. Louis and Ed were among 200 senior citizens and people that were concerned with them in Austin, TX, last Saturday who came together to express their great concern about the broken promises that are composed in this Republican budget.

Louis Kierklewski has devoted his life to hard work. He repaired looms in a textile factory until that job gave out. Then he went to work at the church as a janitor. And now all he has for economic sustenance is a $549 Social Security check and his Medicare. And he already has to spend out of that $195 just for prescriptions because Medicare, as important as it is, does not cover prescriptions.

And Ed—Ed worked 20 years defending this country in the U.S. Air Force. Now he is working as a custodian, moving toward retirement. And he and his wife are worried, and they have good reason to worry about this Republican budget.

The Republicans propose to double, and they did not bother telling us about this in the Committee on the Budget but we found out later through their secret memos, to double the deductible that Louis so going to have to pay and that in a couple years Ed is going to have to pay and then keep raising the deductible after they have doubled it year after year after year.

Now, if in fact Louis needs to go to the lab, he is going to have to pay extra money under the Republican plan. And if Ed decides that he needs home health care, he will have to pay extra money for that.

If Ed or Louis had the audacity to say, we want the same doctor we have always had, well, the Republicans are going to charge them $20 each per month to claim their own doctor. And meanwhile, their premiums will go up month after month, year after year under this Republican plan. That is why the AARP, the retired persons group, calls this Republican plan a sick tax on the most frail and vulnerable seniors in our society.

I guess the problem is that the Republicans had old Captain Crunch over there with the number crunchers at the Committee on the Budget, crunching away at the budget, but what they forgot about is that when you crunch numbers in a budget, sometimes you crunch human beings like Louis and Ed Kierklewski, the kind of people who built this into the greatest Nation in the world.

When the Republicans crunch the numbers this time they are really crushing every American who is dependent on Medicare or hopes to be in the future.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Speaker, today I rise in support of the rule, although I do so somewhat reluctantly.

When I joined with 23 of my conservative Democratic colleagues to form the coalition, I did so in an effort to help lift the debate on important issues before the House above petty partisan politics. So far this Congress, members of the coalition have succeeded in avoiding petty partisan maneuvering.

Congressmen ORTON, STENHOLM, BROWDER, PETERSON, and myself authored a budget proposal that we feel a majority of Americans will support. We feel it approaches a balanced budget in a more common sense, less painful approach than does the Kasich proposal.

However, when we went to the Rules Committee to ask that our proposal be allowed time on the floor, we were met by opposition. The Republican controlled committee, under pressure from their leadership, did not want to allow our proposal floor time. I do not know why—maybe they are worried that our proposal is the one that a majority of Congress, including Republicans, would support.

The Democratic leadership has risen above the partisan maneuvering and has allowed the coalition to offer our plan in the slot normally reserved for the minority leadership's proposal. As it turns out, this gesture by the Democratic leadership, was the only chance for our plan to be heard on the floor.

I am glad my party's leadership has chosen to rise above the petty partisan politics of today. I only hope that in the future, the Republican leadership will also choose to abandon the old ways of partisan maneuvering and provide equal opportunity for all voices to be heard.

Mr. Speaker, because of Leader GEPHARDT'S offer of floor time, I urge my colleagues to support this rule.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Columbus, OH [Ms. PRYCE]. She is one of the new members of the Committee on Rules and an outstanding Member of this body.

Ms. PRYCE. Mr. Speaker, I am pleased to rise in strong support of this rule. By adopting this rule, we will debate and then pass a plan to balance the Federal budget within 7 years. That statement could not have been made in this Chamber a year ago. But things have changed, and after the November elections there should be no question about the will of the American people.

They expect us to be courageous enough to make the difficult choices that some naysayers in this body have been avoiding for decades now.

But thinking in terms of the future is not always easy. There is comfort in the status quo and there are those who will use almost any tactic to preserve it. We have already seen this morning the Committee on the Budget's good work portrayed as attacks on seniors and children. We have heard actual increases in spending being called cuts. But despite these scare tactics and blatant misuse of the English language, I am confident that our seniors will appreciate the steps we are taking to preserve and protect and improve Medicare, a program which would be bankrupt in 7 short years if we do not act.

The plan crafted by the Committee on the Budget offers solutions no more complicated or profound than those employed every day by hard working, responsible families who play by the rules, pay the bills and make ends meet.

This is a fair and balanced rule. It calls for honest debate on four very different proposals to bring the budget into balance. Two Democratic ones and two Republican ones, and we are still holding things open for the President's plan. I hope we see it.

But I encourage every Member to watch this debate closely. Substitutes will be considered under the regular order of the House. Nothing fancy, nothing tricky. This rule was not designed to give political cover. Every vote counts.

So, Mr. Speaker, on this historic day, I urge my colleagues to adopt this reasonable rule and get on with the task ahead. Anything less would deprive America's children of their potential, the kind of safe and prosperous future they deserve.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, why are Republicans cutting Medicare to pay for tax breaks for the privileged few?

That's what my constituents Julius and Dottie Ruskin of West Haven, CT, who are pictured here, want to know.

The Republicans have promised tax giveaways to the most well-off in our society, and now they have to pay for those promises by taking away from the most vulnerable among us—senior citizens on Medicare like Julius and Dottie.

The Republicans claim that their budget plan demands fair shared sacrifice to balance the budget. But where's the sacrifice from people making more than $350,000, they get a $20,000 tax break under the Republican plan. Where's the sacrifice from all the beneficiaries of corporate welfare, the Republican chairman of the Ways and Means Committee refuses to close their special interest loopholes. The primary sacrifice demanded by the Republicans is from seniors like Julius and Dottie Ruskin who depend on Medicare.

This sacrifice isn't fair, and it isn't shared.

The Republican plan would cut Medicare by $288 billion. The average senior in Connecticut would pay $1,167 more a year in out-of-pocket expenses by the year 2002. The Republican plan means that the Ruskins will pay more every time they go to the doctor.

This plan will increase the annual deductible seniors must pay for doctor's services from $100 to $150. It will nearly double the monthly premium from $46 to $84 by the year 2002, an increase of $456 a year for seniors. It will add a 20-percent sick tax for home health care and laboratory tests.

Let me tell you about the Ruskins. Julius and Dottie live on Social Security and his Armstrong/Pirelli Tire Co. pension for a total annual income of about $14,000 per year. Just last month his doctor visits and medication costs totaled $10,000.

But their biggest concern is that the Republican plan may force them into an HMO and limit their choice of doctors. Julius sees six doctors, most of them specialists, and Dottie sees three doctors, and it is important to them to maintain these special relationships. The Republican plan threatens this trusted care that they now receive.

The Republicans may be keeping their promises to the privileged few. But they're breaking our Nation's historic promise to seniors like Julius and Dottie Ruskin.

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Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Ms. DELAURO. I am happy to yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, I notice that the former Republican Secretary of HEW has warned the Republicans not to go down in history as the party that destroyed Medicare. I wonder whether these cuts will destroy Medicare for this family.

Ms. DELAURO. For Dottie and Julius, their lives would be destroyed by the cuts that are in the Republican plan to cut Medicare. Make no bones about it, these are cuts and the Republicans need to face up to that.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while the photograph is still up there, I think the gentlewoman has our plan mixed up with the President's health care plan last year. That would have forced couples into HMO's; nor our plan. Second, that same couple now receive $400 in Medicare benefits. Under our plan it will go to $12,600. That is quite a difference. That couple is going to be lucky if our plan passes.

Mr. Speaker, I yield 2 minutes to the very distinguished and outstanding gentlewoman from Salt Lake City, UT [Mrs. WALDHOLTZ], a new member of the Committee on Rules.

Mrs. WALDHOLTZ. Mr. Speaker, today we begin the most critical debate this Congress will undertake. This debate is critical, it is about how to balance the Federal budget, not whether we are going to do it, and how to stop piling up debt for services and programs that we use now but that our children are going to have to pay for.

Mr. Speaker, I said how we balance the budget, not whether we balance the budget, because we have already had the easy part of this debate. Earlier this year, 300 Members of this House voted in favor of a balanced budget amendment, and we only need 218 votes to actually pass a balanced budget. It is easy to say we should balance the budget in the abstract. It takes courage and commitment, Mr. Speaker, to set priorities and make the difficult decisions that will actually balance this budget and preserve our Nation's future. In the next 48 hours, the American people will see who is willing to balance this budget and who is willing just to talk about it.

Mr. Speaker, as a member of the Committee on Rules, let me say I am very proud of the committee's decision to only allow out onto this floor budgets that balance in 7 years. This requirement was clearly communicated, not only to every Member of the House, but also to the President. I think it is very regrettable that the President chose not to participate in this critical turning point for our Nation, and did not provide us with a balanced budget that reflects his priorities and ideas as to how to end the financial calamity we face as a Nation.

However, this debate is not just about our children, as critical and important as that is. My parents are 75 years old. They just celebrated their golden wedding anniversary. Now, after a lifetime of work and sacrifice for their family and for their country, the Medicare trustees tell them that in 7 years there will be no money for their hospital care, no money for their home health care when they will need it the most.

This Republican budget plan will preserve and protect Medicare, not stand by and criticize and hope that no one holds us accountable when senior citizens lose their health care in 7 years.

Mr. Speaker, I am also proud of the fact that this rule does not use the old king-of-the-hill process used in prior Congresses that allowed Members to vote for amendments they knew would never become law, but that provided them political cover at home.

Mr. Speaker, this rule provides for a fair, honest debate on how we balance the budget. It is time to do it for our children, it is time to do it for our parents. I urge my colleagues to support this rule, and end decade of lack of responsibility and balance the budget.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I thank the gentleman from Texas for yielding time to me.

Mr. Speaker, this morning if Members watched "Good Morning America" or other news shows, they talked about American heroes in Oklahoma City, and our heart goes out to these wonderful men and women who sacrificed so much, and at many times put their own lives in peril, to help others.

I want to introduce Members to another American hero, a person who is listening to this debate today very carefully, a person who wants to know what this House of Representatives feels about Medicare and Medicaid.

The person I want to introduce Members to is Mr. Solon Blundell of Huntsville, AL. Here is an American hero. Mr. Blundell, 72 years old, spent 20 years caring for his mother-in-law who had suffered a series of strokes and was paralyzed. When he wanted to retire from his job as an engineer, he was forced to work an additional 4 years so he could have adequate funds and medical coverage to take care of his mother-in-law.

If fate had not dealt him that tough card alone, it turns out that his daughter Becky, suffering from Lou Gehrig's disease and now on a respirator, must depend on Medicaid to make sure that her medical bills are paid for. Mr. Blundell, in Huntsville, AL, and his wife are real heroes and heroines, working across America as so many seniors do to try to get by, to try to care for others.

Therefore, we have to ask ourselves this fundamental question. If these people need this basic program of Medicare to provide help for themselves and for others, why are the Republicans coming today to cut Medicare under the Republican budget resolution?

They will tell us they are going to spend more money in a few years on Medicare. That is true. What they do not tell us is that the actual cost of Medicare is going to go up even higher than the money they are providing. What they do not tell us is that more seniors will qualify for Medicare, and they will not have the funds to provide it.

What does it mean to Mr. Blundell and so many other families across America? It means more money out of pocket, it means more premiums, it means more coinsurance payments, it means the loss of some Medicare services. It leads to possible rationing. It could lead to eliminating his family's choice of the doctor that they want.

Is that the vision of America that we want to see? In this debate on a balanced budget, let us focus on why we are making these cuts. The reason the Republicans are cutting Medicare almost $300 billion is because they need almost $300 billion to pay for tax cuts for the wealthy.

Their plan that they put forward in this Chamber, which carried in large part by Republican votes, gave tax breaks to wealthy individuals making over $100,000 a year, and the most profitable corporations in America. To plug that hole in the Treasury, where do they turn? The program Mr. Blundell turns to every day to make sure that his mother-in-law and now his daughter have adequate medical care.

Mr. Speaker, I hope we will think twice. This debate is not about statistics, it is not about a toteboard running in the background, it is about real people and real American heroes.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I will take just a moment to correct the last speaker that suggested that benefits for Medicare would go down. Actually, under these proposals, individual, per person benefits increase from $4,700 per person to $6,300 per person, so I would like to clear that up.

I just want to compliment the Committee on Rules on turning out a rule that is going to go down in the history books, if we are successful, in getting on the glide path toward a balanced budget.

I was particularly concerned with what we have been living with for the last 16 years, the so-called Gephardt rule that says "Let us sort of sneakily hide a vote to increase the debt ceiling within the rule IL, that says 'When you finally pass a budget resolution, you automatically pass a bill that increases the debt ceiling to accommodate the next fiscal year.'" I think this is a great rule. Let us vote for it. Let us move on toward a balanced budget.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Jonesville, WI [Mr. NEUMANN], one of the freshmen Members of this body who has brought a great deal of experience from the private sector, especially about knowing how to balance a budget.

Mr. NEUMANN. Mr. Speaker, it has been a pleasure to sit her and watch some of the pictures that were brought down here from the other side of the aisle today, because when we talk about balancing the budget, this is really about the future of a nation. It is not about numbers, it is not about a lot of the things we hear the rhetoric about, it is about the future of a nation. It is about the responsibility of this 104th Congress to do what is right for the future of our country, both the senior citizens, the people that are currently in the work force, and for our children. That is really what it is all about.

I commend the Committee on Rules for bringing forth a balanced budget proposal, the Neumann-Solomon proposal, that will actually balance the budget in 5 years, with the family tax cuts fully implemented. It also does something that we did not hear much about out here in this Congress when I came. That is it also contains a detailed plan on how to go about paying off that awful $4.8 trillion debt. We do it over the next 30 years.

The third thing our plan does that is very significant is that it does not use the surplus funds collected in the Social Security system to reduce the deficit, or in balancing the budget. It is very significant for our senior citizens to know that we do have a proposal out here on the floor of the House to be voted on tomorrow that literally sets aside the surplus funds for the Social Security system, so the Social Security system is solvent to the year 2030.

Lastly, Mr. Speaker, this plan is very, very versatile, and will also allow a lot of input from both sides of the aisle, as well as the American people, in that it does not spell out specifically the reductions that are needed, but rather, lists the reductions that are needed to get to a balanced budget, and $70 billion in addition, so we can debate them over the course of the summer.

I urge my colleagues to do what is right for the future of our country: support the rule, support the Neumann-Solomon amendment tomorrow.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Morris, IL [Mr. WELLER], another distinguished Member of this body.

Mr. WELLER. Mr. Speaker, I rise in support of the rule and in support of living within our means. For over a generation, the tax-and-spend liberals who ran this Congress for over 40 years have stiffed our kids and our families with a massive national debt now totaling $4.8 trillion. That is $18,000 for every man, woman, and child in this room and throughout our country.

The tax-and-spend liberals in the Democratic Party have behaved like a drunk out on the town with someone else's credit card. The children are the ones who will suffer, because liberals always leave someone else to pay the tab.

This budget is our contract with our Nation's children. We will balance this budget to ensure that our children have a future free of debt and full of economic opportunity. We will balance the budget by cutting spending first. We will eliminate bureaucracy, wasteful spending, and programs that simply are not working. We will return power to families, communities, and States.

We are providing tax relief for families. It is time for leadership. It is time to live within our means. It is time to protect Medicare and protect Social Security. Republicans are keeping our promise. I rise in support of the rule.

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to a very distinguished Member, the gentleman from Ocala, FL [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I appreciate the opportunity to commend the gentleman from New York [Mr. SOLOMON] for this rule. I want to say one thing. Every term I have been here in Congress I have been trying to repeal the Gephardt rule which was put in in 1976, that says we can go ahead and increase the debt around here without a vote.

I see in this rule, the gentleman has taken the courageous step to go forward and say "no, sir, we are going to have to vote on increasing the debt." I commend the gentleman for that. I think all the Members in Congress should recognize that we have changed history in this matter. I would like to see the same action in the following years, as well as Congress in the future.

Mr. SOLOMON. Mr. Speaker, I would say to the gentleman from Florida, we have accomplished that because of him.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, in order to close, I yield my remaining time to the gentleman from Missouri [Mr. GEPHARDT].

The SPEAKER pro tempore. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 4 minutes.

Mr. GEPHARDT. Mr. Speaker, I rise today to urge Republicans and Democrats alike to defeat this rule, and give this Congress an honest and open debate about this Republican budget and its consequences for hardworking American families.

The fact is the Republicans want to force this budget through the Congress without adequate debate. This budget was produced in the Committee on the Budget, and a vote was had on it the same day, an unprecedented rush to bring it through the committee before anyone could even know what was in it. If this rule passes, we cannot even consider all of the Democratic alternatives to the Republican budget.

The gentleman from Michigan [Mr. DINGELL] has an alternative that he wanted to bring. It is not in order. The gentleman from Texas [Mr. STENHOLM] and the gentleman from Utah [Mr. ORTON] wanted to bring a budget. They were not allowed to do it. They were told they had to do it through me.

This is one of the most important changes in the budget we have ever had, and we are in such a rush to get it done before, I guess, anyone can find out really what is in it, that we are not having an open, small d, democratic process, which this country deserves.

The people deserve to know what is in this budget. We need to consider every alternative, because if the American people are given a moment to consider it, they will find the Republican budget is so much more reckless, so much more extreme than any budget that has come before, it really belongs in Guiness' Book of World Records.

□ 1330

The largest Medicare cuts in history, slashing seniors' benefits by more than $1,000 a year. And we can talk all day about what is a cut. I will tell you what is a cut. A cut is what a senior citizen has to face. They are going to face higher copays and higher deductibles and higher premiums to buy the health insurance they have under Medicare today.

Further than that, a back-door cut in Social Security, in the pension. Republicans took the oath. They made a hollow campaign promise to protect America's retirement program. What did they do? The promise is broken in this budget. There will be an annual cut in the cost of living escalator in Social Security.

We heard it was off the table. It is on the table. So I guess we are in a rush to get it done before anybody can find out what happened.

Social Security should not be on this budget. It was never expected to be in this budget. It is in this budget. People deserve to know about it before their Representatives have to vote on it.

Unprecedented cuts in student loans. The most important investment we will ever make in the future of this country is student loans. But yet we are going to have a cut that will shut millions of young people out of their ability to get an education.

Mr. Speaker, these programs are not waste, fraud, and abuse. They are the backbone of the American dream. They are counted on by millions of working families.

To make it worse, what is all this for? It is for a tax cut that lavishes the most on those who have the most. The million richest Americans walk away with a $20,000 average tax cut, while we are taking $1,000 out of the pockets of senior citizens, or we are adding $5,000 to the cost of a student loan.

These are not American values. This is a redistribution from the middle class of this country, and the people who are struggling to get into the middle class, to the people who have it made.

We all want to get rich. Everybody should be able to live the American dream, but this is not the way to do it. I urge Members to vote against this rule.

Let's have every alternative on the table. Let's have a longer debate than 6 hours over a budget that is going to decimate the middle class of this country to help the richest people in the country. It is wrong, and we need a full debate so the American people can see the wrongness of this decision.

Mr. SOLOMON. Mr. Speaker, we would be glad to make those amendments in order. If the President would give us his balanced budget, if the previous speaker would give us his balanced budget, we will put it on this floor. They have none. That is why it is not available.

Mr. Speaker, I yield the balance of our time to the gentleman from Claremont, CA [Mr. DREIER], a very distinguished member of the Committee on Rules.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman from California is recognized for 1½ minutes.

Mr. DREIER. Mr. Speaker, the sky is falling, the sky is falling. That is what we have been getting from the other side of the aisle. Only in Washington, DC., can an increase of from $4,700 to $6,300 for Medicare recipients over a 7-year period be labeled a Draconian cut. Nowhere else in the world would it possibly be considered that except on the floor of this Congress.

This is a very fair and balanced rule. Last year they gave us 4 hours for general debate. This year we are providing 6 hours of general debate, a 50-percent increase over the allotted time from last year.

Mr. Speaker, we have seen many of our colleagues come to the aisle over the past few minutes with pictures of individuals who they claim will be victimized by this budget. Yet virtually every single one of them who stood in the well on January 26 of this year voted in favor of one of the balanced budget amendments that would have, by the year 2002, brought us to a balanced budget. They talk about it and yet they will not recognize that we have to make some modifications without hurting those individuals if we are in fact going to get to a balanced budget.

Mr. Speaker, this is a very important vote. This is a very important time for us as a Congress to step up to the plate and do the responsible thing. We are not going to be hurting those students. We are not going to be hurting senior citizens. It is nothing but rhetoric. We have to look at the facts. As we proceed with the next 6 hours of general debate, we will be doing just that.

We are waiting for the Democrats' budget plan. A copy of it, in fact, is being held by the chairman of the Committee on Rules. It is empty. They are not stepping up to the plate. We are. We are simply encouraging them to join us so in a bipartisan way we should vote for the previous question, for this very fair and balanced rule, and move ahead toward our glide path of a balanced budget by the year 2002.

Mr. SOLOMON. Mr. Speaker, I move the previous resolution on the question.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 170, not voting 12, as follows:

[Roll No. 339]

YEAS—252

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Traficant
Upton
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—170

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Skaggs
Skelton
Slaughter
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—12

Berman
Bono
Chapman
Collins (IL)
Fattah
Flake
Hayes
Hoyer
Kleczka
Schumer
Vucanovich
Wilson

□ 1356

The Clerk announced the following pair:

On this vote:

Mr. Bono for, with Mrs. Collins of Illinois against.

Mr. BEVILL changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 255, noes 168, not voting 11, as follows:

[Roll No. 340]

AYES—255

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zimmer

NOES—168

Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—11

Abercrombie
Berman
Bono
Chapman
Collins (IL)
Flake
Hayes
Hoyer
Kleczka
Schumer
Zeliff

□ 1415

On this vote:

Mr. Beno for, with Mrs. Collins of Illinois against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1415

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO HAVE UNTIL MIDNIGHT MAY 18, 1995, TO FILE A REPORT ON H.R. 1561, THE AMERICAN OVERSEAS INTERESTS ACT

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that the Committee on International Relations have until Thursday, May 18, 1995, to file a report on H.R. 1561, the American Overseas Interests Act.

Mr. MORAN. Mr. Speaker, reserving the right to object, I have no objection if there are no further speakers.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York [Mr. GILMAN]?

There was no objection.

ANNOUNCEMENT ON AMENDMENT PROCESS FOR H.R. 1561, THE AMERICAN OVERSEAS INTERESTS ACT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, in relation to the last unanimous-consent request, I would like to announce to Members that the Committee on Rules has tentatively scheduled to meet this coming Monday to consider a rule for H.R. 1561, the American Overseas Interest Act, more commonly known as the State Department Foreign Assistance Authorization.

The bill was ordered reported by the Committee on International Relations on Monday of this week, and the report is expected to be filed tomorrow night according to the last unanimous-consent request. The House is expected to begin general debate and the amendment process next Tuesday. The rule will likely require that amendments be preprinted in the amendment section of the CONGRESSIONAL RECORD prior to their consideration.

Members should use the Office of Legislative Counsel to ensure their amendments are properly drafted to the amendment in the nature of a substitute recommended by the Committee on International Relations that will be made as base text for amendment purposes. A copy of the committee amendment in the nature of a substitute will be published in today's CONGRESSIONAL RECORD by the gentleman from New York [Mr. GILMAN], the chairman of the committee, for reference and drafting purposes. It will be available at the offices of the committee.

Since the rule will not be structured as far as the limiting of amendments is concerned, there is no need for Members to file their amendments with the Committee on Rules or to testify before us. If Members have any questions, they can contact Dave Lonie in our Committee on Rules at 57985.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, my question relates not to the immediate subject, but the prior subject of the rule on the budget. Let me just simply make sure I understand that rule in terms of the 6 hours of debate.

As I understand it, the first hour is 1 hour of general debate controlled by the chairman and myself. The second hour is reserved for the Joint Economic Committee, the time to be controlled by the Chair of the Joint Economic Committee and the gentleman from California [Mr. STARK], the ranking minority member. Then we revert to the general debate on the budget resolution.

Mr. SOLOMON. That is the normal procedure. it is what we have followed in the past. We will follow it this year as well.

Mr. SABO. The reason I ask, 2 years ago, we had a little disconnect. One side was on JEC for a period of time, and the other side was not. So the plan this year is the first hour would be budget debate, the second hour JEC debate, and then hours three through six general debate on the budget resolution.

Mr. SOLOMON. The chairman of the Committee on the Budget is nodding his head yes, that is correct.

CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1996

The SPEAKER pro tempore. Pursuant to House Resolution 149 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution, House Concurrent Resolution 67.

□ 1420

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 67) setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, with Mr. SENSENBRENNER in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN. Pursuant to the rule, the concurrent resolution is considered as having been read the first time.

Under the rule, debate shall be confined to the congressional budget and shall not exceed 6 hours, including 1 hour on the subject of economic goals and policies, equally divided and controlled by the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. SABO].

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have to confess, as I get ready to speak, I am nervous. I cannot remember the last time I was, frankly, this nervous or anxious. But I guess it is the way it needs to be, because, ladies and gentlemen, we are about to engage in a historic debate The House is about to consider a document that truly represents a bold, innovative, and some have called it, and frankly they are probably right, a revolutionary document and a vision for where America should go.

I have been amazed over the last couple weeks just walking through the hallways here. In fact, I just had a husband and wife grab me as I was getting ready to come in the door, and I do not know where they are from, I do not know what their names are, but you know what they said? "Thank you, Thank you, Mr. KASICH, and thank your team for what they are doing."

I am hearing it everywhere I go. I think the American people have, in fact, decided that we have this week a rendezvous with destiny, that, in fact, we cannot continue down the path of more deficits and more red ink, because in the guts of every mother and father in this country there is a sinking feeling that if in fact the politicians, the elected representatives of our country, do not stand up and do the right thing, their children will be at risk, their future will be called into question.

That is why when people have had some problems with some of the specifies in this proposal, they never stop like they did over the last several years and say vote it all down. They are saying "Maybe we can fix that. But, please, Congress, do not take your eye off the ball. Please work to save the country."

That is what we are hearing. And I got to tell you, when I was out here with the Contract for America, paying for the family tax credits, and let me say this, if there is anything beyond the balanced budget we ought to be emphasizing into the 21st century, if there is anything in this country we ought to be reinforcing, it is the American family. If there is anything that can provide a building block for superlatives for individuals in this Nation into the next century, it is the family, isn't it? It is the family structure that served this country well for 200 years, and the families are going to benefits under this.

The beautiful thing though is back when we were passing the contract, people said "You can't give us tax relief. You can't have growth incentives and balance the budget." And I said then, along with my wonderful budget team, and we speak as a team, I do not speak as JOHN KASICH, I speak as a leader of a group of wonderful men and women who are the tip of the spear in terms of this new American revolution, we said that we would come back here in May and we would lay a document down that would get us to zero, to balance this budget, and save the future. And that is precisely what we are doing today.

Isn't it wonderful? Isn't it wonderful in America that a group of elected officials are keeping their word? And you know why we are doing it? You know why we came together and we put this revolutionary document together? For two basic reasons. One is the next generation. This is about the children. This is about a growth society, an opportunity society, as our Speaker likes to say, that in a no growth economy the rich get richer and the poor get poorer.

But in a growing economy, and Alan Greenspan painted a picture for us, if we can balance the budget by 2002, if we can balance the budget, Alan Greenspan said we cannot begin to chart the kind of prosperity that we can have in America.

As the son of a mailman who got to be in the Congress and the chairman of the Committee on the Budget, how wonderful is it that in the United States of America, that every kid in America, using our system, can learn to fly. That is right, ladies and gentlemen, we can fly. That is right, ladies and gentlemen, we can fly. We can dream, and it is not about just dreams. It is about accomplishing those dreams.

That is why the Committee on the Budget and the Republicans in the House, along with our courageous colleague on the Committee on the Budget, the gentleman from Mississippi [Mr. PARKER], has said that we need to balance the budget to save the next generation, to provide for growth in our economy, for opportunity in America, and to preserve the greatest American legacy, and that is that your kids will be better off than you were.

You know what else it is about? It is about the pendulum. People try to describe this plan as radical. Let me actually tell you about the pendulum. For the last 20, 30, or 40 years, we have sent more power, we have sent more money, we have sent more control to the Federal Government. And over these last four decades the Federal Government has done a lot of wonderful things for Americans: Medicare, educational programs, elimination or an attempt to eliminate the terrible abuses in human rights in America.

But you know what Americans have been saying for about the last decade? And we have not been hearing them here in the Capitol. They spoke real loud and clear last November. You know what they are saying? Folks, we would like some of our power and some of our money and some of the control over our own lives back in our hands, because we can do it better in our neighborhoods dealing with our problems than the Government in Washington can.

Now, let me just show you what this plan calls for and how reasonable this program is. Over the last 7 years, the Federal Government spent $9.4 trillion. What is a trillion? Well, if you started a business when Christ was on Earth, if you lost $1 million a day 7 days a week, you would still have to lose $1 million a day 7 days a week for the next 700 years to get to $1 trillion. In the last 7 years we spent $9.4 trillion. We have a national debt approaching $5 trillion.

What does the Republican plan call for? The bipartisan plan, frankly, it is not just a Republican plan, it is a bipartisan plan thanks to the efforts of the gentleman from Mississippi [Mr. PARKER]. We are going to go from $9.4 to $11.9 trillion. Some people would have us grow to $13.3 trillion. I am going to tell you, you want to grow to $13.3 trillion? We are going to give the kids a dark tomorrow. But if you can restrain the growth in spending to this $11.9 trillion, we have a chance to preserve America.

Entitlements, take a second and talk about entitlement spending. Over the last 7 years, we spent $4.5 trillion on entitlements. If we do nothing, we will spend $7.7 trillion. And what does this bipartisan plan call for? Growing the entitlement programs from $4.5 to more than 6.4 trillion.

Medicare? Boy, we are hearing a lot of stuff about Medicare. Shame on those that want to scare people. Shame on those that want to scare people. We will go in Medicare from $924 billion to almost $1.6 trillion in spending for Medicare. If we go to $1.8 trillion the system goes bankrupt. What we are going to do is dramatically increase it, improve it, guarantee high customer satisfaction, and guarantee choice to our senior citizens.

□ 1430

So my colleagues, the question is, can we restrain ourselves, can we as Americans who do not want to mortgage the next generation, after all, we would not in our private lives ring up all the debt and pass it onto our kids, we should not do it with our country. If we can just grow at a $9.4 to $11.9 trillion increase, we can do it.

Let me just say to all of my colleagues, as I am about to close, you have got to examine your hearts. You have got to examine your conscience, because I am going to tell you, folks, there are things called windows of opportunity and we have it now. Why? Because the American people want this done. Why else? Because we have the leadership in the Congress that is willing to put their careers on the line for the next generation. And those two efforts together can allow us to pass a plan that will guarantee a renewed America.

In 1969, the last year that we balanced the budget in America, Neil Armstrong walked on the moon. Neil Armstrong came to this Chamber and presented this flag to the U.S. House of Representatives and the U.S. Senate in a joint session. One thousand nine hundred sixty-nine was the last year we balanced the budget. Walking on the moon for a kid from Ohio meant that Neil Armstrong really did learn to fly. And that day that he walked on the moon, we were all there with him, were we not? We were all there with him because it represented the hopes and the dreams and the goodness and meeting the challenges that America has been all about for these many 200 years.

Neil Armstrong gave us this flag. Today, 26 years later, we have a chance, when we vote on this resolution, to have one very big step for this House and one very giant leap for America. Pass the resolution.

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, members of the committee, first let me congratulate, as I did in committee, my colleague from Ohio. We are both participants and observers of this process. I congratulate him for getting the Republicans on the Committee on the Budget together. I assume when the 2 days of debate are over, he will have the votes and he will pass his resolution, which has required an exceptional amount or work by himself and the other majority members of the committee.

I have very fundamental disagreements with that resolution, but I watch your discipline and your hard work with admiration. So I congratulate you for putting a product together that is before this House today and really presents the opportunity for some very fundamental debate.

However, let me make one observation as an observer before I say some words as a critic. The question is whether your plan will achieve its stated goal. Let me simply say that we are not quarreling over a few numbers here and there, and we might find some that we might dispute. But I, frankly, think for you to succeed requires a significant amount of luck.

I think if this were a unicameral body of the Congress and this were the final product, it simply would not succeed. There are some things you have put into place and have put into law already. Your beginning assumption has been a big tax cut, which adds roughly $90 billion to the deficit in the year 2002.

You assume as a separate vote that you are going to make huge cuts in Medicare in a separate vote removed from the balance of the budget to come in September.

My friends, if that bill were before this House with those kinds of cuts in Medicare, with the numbers in your resolution, I would predict that such a bill would not pass this House.

The numbers are sort of interesting. The tax cut is $90 billion in the year 2002. The projected Medicare cuts are $86 billion. If that did not succeed, a whole series of other numbers that you use would come unraveled.

Mr. Chairman, that is merely an observation about the plan that is before us today. It would require significant luck to succeed. But that is not my fundamental objection.

Mr. Chairman, we have had two very fundamental things occur over the last 15–20 years in this country. For the last 20 years, we have had a revolution where income flows in this country. The very rich have gotten much richer, and the rest of the American public, who work hard, working families are struggling to get ahead, many with declining income.

We have also had, since 1981, an escalating Federal deficit. Two years ago we passed the President's program to make a significant dent in that deficit. Part of that program was asking the most affluent to pay a little more, and our Republican friends all said no. They all said if we passed that program, we would throw the country into a recession. The opposite happened. We have had unprecedented growth over the last 2 years. Unemployment is down. The economy is growing. The deficit went down.

But more is left to do, and we come to that now in this year 1995. Again, we have to reduce that deficit, but we face, again, a country where income continues to flow in increasing amounts to a very few and the bulk of the American people are left struggling.

We now have the Republican proposal on how to deal with the deficit. Who is asked to sacrifice? It is clear that people who depend on Medicare and Medicaid will be asked to sacrifice. And then in a series of incredible, numerous decisions, struggling Americans, who are working hard, working Americans, find their chances to move ahead, they will find those doors sometimes slammed shut; other cases, sort of gradually closed in a series of cut, after cut, after cut, whether it is students trying to go on to college, people seeking to get new training for jobs and retraining, whether it is a parent trying to put their child in a Head Start Program, cuts on them frozen.

The TRIO Program for kids, to get them to go through high school and into college, abolished. Low income seniors who have problems with fuel bills in cold parts of this country, program abolished. Child care reduced. Just one series, mass transit operating assistance reduced, a little tougher to get to the job, a little harder to get the training, a little harder to get to college, all cumulative on person after person. Cuts that are unrealistic in Medicare and Medicaid.

Why? To pass a tax cut to benefit primarily those who have also been rewarded most by our economy in the last 20 years. So struggling American working families, hoping for the kids to go to college, needing retraining, maybe needing some assistance with day care so they can work, worried about how they get to the job, maybe in rural U.S.A., maybe in urban areas, rural communities trying to develop economically, all seeing doors shut so we can pass a tax cut to benefit the most affluent in this country.

Mr. Chairman, these are the wrong priorities. We are told at times by people that we are talking about renewing American civilization. Mr. Chairman and Members, this plan does not represent the best of American values. It represents, in my judgment, some of the worst of American values. We can do better.

Mr. Chairman, to the majority I simply would say there are many months ahead. At some point, sometime before the year is over, you will be called on to move away from ideology, to practical reform that reduces our deficit in a fair and equitable manner. When you are ready to move away from ideology, we stand willing to help because the challenge is big.

So today, to the Members, I simply urge you to vote no when we come to final passage tomorrow.

Mr. Chairman, I reserve the balance of my time.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from Arizona [Mr. KOLBE], a member of both the Committee on Appropriations and the Committee on the Budget.

Mr. KOLBE. Mr. Chairman, I want to congratulate the chairman of the Committee on the Budget as well as the ranking member and particularly pay tribute to the ranking member for the decency with which he has comported himself and the members of his committee throughout this debate. It has been in the Committee on the Budget, it has been truly an outstanding debate. I appreciate that very much.

Mr. Chairman, we are at a historic crossroad. This is, as the chairman of the Committee on the Budget said, an historic moment in our time. The previous speaker just talked to us about this not being the right plan, that we can do better. I think in the course of this debate in the next day and a half we are entitled to ask, what is the alternative plan? If ours is not the right plan, what is their plan? Where is the President in this budget battle? I would say, a.w.o.l., absent without leadership.

Our bottom line is fairly simple, our bottom line is shown. It is too small I guess to see here, but on page 7 of the budget report, the last year, 2002, it is a plus. It is tiny, 0.6 billion, $600 million in the scheme of a $1.8 trillion budget that year. That is tiny, but it is everything. It is the first positive number we have seen in the budget since 1969.

This is another way of looking at it. All we are trying to do is get this line of what we spend here down to the red line of how much that we are taking in in revenues so that we have a balanced budget. Spending will go up. Spending will continue to increase but at a slower rate of growth. And we think that we can do that. Yes, there are tough choices here, but they are tough choices for the next generation.

□ 1445

Not long ago I was asked to come down for a little ceremony to one of the work sites in my place, the United Parcel Service, a company I really enjoy because they are hardworking people, they are really motivated.

At the end of this little ceremony where we had a presentation there, one of the delivery men came up to me and said "Mr. KOLBE, when you go back to Washington, would you just tell them that it is my money they are spending? It is my money. I have got three kids. I am struggling. It is my money they are spending, just keep that in mind."

Mr. Chairman, I hope in the course of the debate here the next 2 days that we will keep that simple idea in mind from one of the hardworking Americans that makes this country work, and what it is. It is their money. It is our money as taxpayers we are spending, and we ought to be remembering that in each of the parts of this debate.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I rise in opposition to this budget proposal. The Republicans' 100-day war on children marches on. Their assault began in the cafeteria, with the attack on the school lunch program. Republicans have now moved their war machine into our Nation's classrooms, libraries, and finally, to our college campuses.

The Republican budget before us would virtually obliterate the Federal role in education. Over $73 billion in education and training programs would be cut over the next 7 years. It is a repudiation of this Nation's longstanding bipartisan national commitment to educating all of her citizens. The Republicans would abolish or slash extremely successful education programs, programs like Head Start, which they would reduce by $209 million in 1966.

They would eliminate efforts in 47 States to improve reading and writing skills, to put computers into the classroom, and to improve academic standards through Goals 2000. Their budget proposal would virtually eliminate the safe-and-drug-free school program, even though drug use is on the rise among school children. It would jeopardize teacher training for 400,000 teachers.

Programs that target assistance to 700,000 at-risk disadvantaged children would also be abolished under this proposal. They show shameful hostility to programs designed to lift disadvantaged children out of poverty through learning.

Having spread their devastation to the cafeterias and the classrooms, they would eliminate Federal support for public libraries, would cut student aid by well over $18 billion, as one way to finance tax cuts for the rich and privileged. The elimination of the in-school interest subsidy would increase loan costs for close to 5 million students, adding as much as $5,000 to the total loan cost for each student who would take out a loan.

Middle-class families are especially hit hard. The Republicans want to make it harder for their kids to attend college, so they can finance the tax cut for the rich and the privileged.

Finally, Mr. Chairman, the Republican proposal to eliminate the Department of Education is myopic and reactionary. It would leave our country as one of the few industrialized nations in the world without a national commitment to education. Not only is this proposal dumb, it is unpopular. The vast majority of the American public supports the Department of Education, and a strong Federal role in education.

Mr. Chairman, this budget proposal is the most irresponsible assault on education by any political party in our history. We must reject this attack on education. We must reject this contract with ignorance. We must reject this Republican budget proposal, because it is being released 5 months prematurely. A turkey like this should surface somewhere around Thanksgiving.

Mr. KASICH. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. HOBSON], a very distinguished member and a dear friend of mine.

Mr. HOBSON. Mr. Chairman, I might point out that the previous speaker, the gentleman from Missouri [Mr. CLAY], voted for the Clinton tax increase, the biggest one in this country's history, and it costs his district $520 million in new taxes. It is also interesting to note that he voted against the balanced budget amendment. We should take that into context when we review his remarks.

Mr. Chairman, we are coming up on what I expect to be the most important vote of my career in this House. Today we meet the challenge of balancing the Federal books and restoring fiscal security for America's next generation.

Today we vote on, and I encourage my colleagues to vote for, the House Committee on the Budget resolution, and restore hope to that next generation. For 26 years, our Federal Government has spent more money than it has taken in, financing this debt by borrowing money. The legacy of chronic deficit spending is passed to our children as a $4.9 trillion national debt.

Staying on this track will undoubtedly bankrupt our Nation. This subject has particular meaning for me right now, because my 15-month-old granddaughter is in town visiting. When I think why we are balancing the budget, I think of Katie. A lot of grandfathers think that way. My other daughter is going to have another baby, so you think a little differently about the future when you become a grandfather. I think a lot of people can equate to that.

What this balanced budget is about, it will not allow her to have the same opportunity the rest of us have if we do not balance the budget. Putting the future of Katie and the other children in this country first is what balancing the Federal budget is all about. Protecting the next generation from a financial crisis means acting now in a decisive, responsible way.

The House Committee on the Budget's 1996 budget resolution does this by balancing the Federal budget by the year 2002. We also close the doors on several agencies that run up costs but fail to contribute meaningfully to our Nation's well-being. Those operations that are useful are transferred to other agencies or sent back to the States. The waste and duplication is eliminated.

Mr. Chairman, our budget also protects our children's future by preventing a crisis in Medicare, the health care system of our Nation's seniors. According to the Medicare trustees appointed by President Clinton, Medicare will run out of money in 7 years. Our budget resolution provides the structure needed to protect, preserve, and improve Medicare, and then it goes on to increase benefits to seniors from $4,816 for beneficiaries in 1995 to $6,376 in 2002. That is an impressive increase, by anyone's standards.

Our budget also increases overall Government spending by $1.2 trillion over the next 7 years. That should be plenty to do the things we need to do at the Federal level. Where we can, we send programs back to the States and local governments.

In total, this process of decentralization, together with the removal of duplication and waste, justifies eliminating 283 programs, 14 agencies, 68 commissions, and 3 departments: Energy, Commerce, and Education. This is just one path toward balancing the Federal books.

Over the next few months, the committees of jurisdiction will map out the details. The job of balancing the budget is a challenge we can meet. When we are done, we will have a healthier, stronger Nation in solid financial shape for our children to inherit. I invite everyone here to join us in this historic effort, and rise to the challenge at hand. Vote "yes" on the Committee on the Budget's 1996 resolution, and keep hope and opportunity alive for the next generation.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would remind all persons in the gallery that they are here as guests of the house, and that any manifestation of approval or disapproval of proceeding on the floor is in violation of the rules of the House.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the distinguished gentlewoman from Hawaii, Mrs. PATSY MINK.

Mrs. MINK of Hawaii. Mr. Chairman, I rise in strong opposition to the budget resolution. This resolution is being presented based upon policy assumptions which must be challenged. These assumptions are contained in the committee report. I hope that all of the Members will read it.

For my limited time in this part of the debate I want to direct attention to the egregious assumptions that are the basis for huge cuts in Function 500, which deals with education, training, and Head Start. The cuts contained in this budget resolution in Function 500 amount to $82 billion over a 7-year period.

Despite what has been said by the Republican majority about the resolution providing for a steady increase in spending, I want to alert Members to the fact that in Function 500, the current fiscal year 1995 budget authority is at $58 billion, and 7 years from now, it is $44 billion. This is a substantial cut in one of the most areas of Federal Government responsibility, which in the past has enjoyed large bipartisan majority support.

In the area of education alone, the cuts are particularly devastating. Despite the avowed pronouncements about being for family values, the Republicans in this budget resolution have disavowed their support for the most important goal of American families, which is quality education for their children, enriching their experiences in education, providing for science and math instruction, and help for those who are disadvantaged by poverty, by deficiencies in language, and assuring that higher education is available for all, regardless of age or economic circumstances.

Mr. Chairman, this budget resolution strikes a deep blow to the promise of America to improve educational opportunity for all. The cuts in education will hurt all school districts, most of whom cannot possibly make up for the huge losses in these funds.

I want to remind the Members of the House that if they support this resolution, they are voting for the elimination of President Bush's initiative called Goals 2000, which was implemented by President Clinton. This was an initiative that was promoted by the National Conference of Governors, and now it is being eliminated.

If Members vote for this resolution, they are cutting about $5 billion in the next 7 years in the Elementary-Secondary Education Act, passed some 30 years ago. The title that is being cut is the concentration grants. Everybody has been saying target the money to the most poor, to the neediest districts. That is precisely what we did last year, and this program is being eliminated.

If Members vote for this resolution, Federal funds to help schools prevent drug abuse in their schools, the very, very difficult issue which the Federal Government has put money in, and from which the schools have benefited enormously, $3 billion are being taken away.

If Members vote for this resolution, they will be cutting the Eisenhower Professional Development Program. All of us know that quality education is contingent on the quality of the teachers, and it would be absolutely criminal if we destroyed this program, which helps school districts provide for development of our teaching profession, allowing them to improve themselves and keeping up with the technological advancements in our society.

If Members vote for this budget resolution, they will be eliminating totally the bilingual education program. Think of the promises we have made to the young children who have come to this country with their families, whose only fault is that they are deficient in speaking and understanding English, and we are taking away from them the one chance they have to keep up with their classes and to get into this educational system so they can benefit and improve their lives.

All across America, Mr. Chairman, if Members vote for this budget resolution, they will be cutting the only Federal funds in libraries that have been in existence for decades. Our rural small libraries all benefit from the library program. This program is being eliminated totally. What a travesty on what support the Federal Government has been able to provide.

The last and probably most egregious cut that is proposed in this resolution, which if Members vote for they will be a party to, and that is to take away the interest subsidy of our young people and others aspiring to a higher education, wanting to better themselves. This is the American ideal. This is what we talk about when we say self-sufficiency: "Get in there and work to better yourselves." When they do, we have a Congress that is taking away that small subsidy which we have provided over the years.

Mr. Chairman, I urge a "no" vote on this resolution.

Mr. Chairman, I rise in opposition to the budget resolution which is being considered today. There are policy assumptions that must be challenged in this resolution. These assumptions are contained in the committee report. For my time in this part of the debate I want to direct attention to the egregious assumptions which are the basis for the huge cut in Function 500 which deals with education, worker training, foster care, aid to the disabled, and Head Start.

The cut contained in this budget resolution in Function 500 amounts to $82 billion over the 7-year period.

Current fiscal year 1995 budget authority for Function 500 is $58 billion. The 7th year allocation for Function 500 in fiscal year 2002 is $44 billion. This represents cuts in some of the most successful programs that have been in the past supported by large bipartisan majorities.

In the area of education alone, the cuts are particularly devastating. The avowed pronouncements about being for family values, the Republicans have disavowed their support for the most important goal of American families, which is quality education for their children, enriching experiences in education, promoting science and math, and help for those who are disadvantaged by poverty, by deficiencies in language, and assuring that higher education is available for all regardless of age or financial circumstance.

This budget resolution strikes a deep blow to the promise of America to improve educational opportunity for all. The cuts in education will hurt all school districts, most of whom cannot possibly make up for the loss of these supplemental funds.

President Bush's initiative, Goals 2000, joined by President Clinton in implementing them, will be eliminated. Remember this is an initiative joined in the Nation's leading Governors and goes to the heart of the national effort at education reform. The cuts are $2.8 billion over 7 years.

Elementary secondary education funds, Title I concentration grants, are eliminated. These funds concentrate and target schools with the highest concentration of poor children which is exactly what the Republicans have argued for in the past. This is one of the most egregious of all cuts. The cuts are $5.1 billion in 7 years.

Federal funds to help schools prevent drug abuse and violence in the highly regarded program called Safe and Drug Free Schools Program are also being cut. The loss of these funds so desperately needed to help schools deal with this problem is unconscionable. The cuts are $3.5 billion in 7 years.

The Eisenhower Professional Development Program is eliminated. We have always supported ways to improve the quality of teaching. Teaching is what schools are about. Schools have grave difficulty in providing funds needed to help in professional development to maintain education relevant to the challenging times in which we live. The cuts are $2.2 billion in 7 years.

Bilingual education is eliminated. To ignore the needs of students whose primary language is not English is to punish and retard their ability to learn. We give lip service to the ambition of immigrant children to achieve their goals and yet take away the help they need. The cuts are $1.4 billion in 7 years.

Libraries support which is a basic Federal help that has been available to the smallest of our libraries, in the most rural of our communities is to be cut. This is the most backward unthinking cut of all. Funds that are lost here, will not be made up by local funds, which are largely unavailable. The cut is $1 billion in 7 years.

Higher education loans—Stafford loans and direct loans—will no longer have an in-school interest subsidy. This is negative thinking. How can we believe that our Nation's future is in our children and at the same time cut back their higher educational opportunity? The cuts are $18.7 billion in the 7-year period.

Federal Trio programs for outreach to highly talented high school students to urge them to continue with their education is what enlarging opportunity means. Killing this highly successful initiative is to turn our back on talent. The cuts are $3.2 billion in 7 years.

The much heralded early childhood education program, Headstart, is cut by $1.5 billion over 7 years. It is frozen at fiscal year 1994 appropriation levels. It freezes our long hoped for full funding of this important program that has dramatically changed the future of the poorest of our children.

This budget is a travesty of immense proportions. All the talk about adopting these cuts for the future of children is totally wrong. It cripples our children's future. It casts a dark shadow over the future of thousands of our Nation's children. Instead of hope and opportunity, supported by the country as a whole in its Federal budget, our children will have to struggle to attain their goals on their own with their dreams shattered by politics which did not include them or consider their future.

Vote down this budget resolution. It punishes our children. It robs them of a brighter promise for their future.

Republicans who support the budget resolution also supported the balanced budget amendment by arguing that it would force the Federal Government to balance its budget just as families, businesses, and the States do. If this is so, why did the Republicans support a balanced budget amendment and now support a budget resolution that simply fails to make distinctions between operating and long-term investment costs in the Federal budget when families, businesses, and all 50 States make those very distinctions when they plan or structure their budgets?

For example, when a family purchases a home, the cost of this long-term investment is accounted for over the 15- or 30-year life of a mortgage. However, when the Federal Government decides to build, say, a submarine, also a long-term investment, the entire cost of the submarine is front-loaded in the first year's budget and shown as a debt in that year's budget.

If we establish a Federal capital budget, the Federal Government will have separate operating and capital budgets just like all the 50 States, and the Federal Government will be required to maintain a balanced operating budget and reflect its long-term debts in its capital budget, just like those States with balanced budget mandates such as my own State of Hawaii.

We cannot look at this budget without considering the immediate impact it will have on individuals and their families. This drastic move to severely cut our investment in our most important asset—our human capital—will have monumental consequences on programs which people depend upon everyday to help improve life for themselves and their families.

Americans want nothing more for their families than to provide their children with a better life, to be able to give them opportunities for education, employment, and economic achievement. I know this is what the people of Hawaii want over and above an effort to reach a zero budget deficit just for the sake of doing it, without regard to the impact it will have on our overall economy, our future, and most of all the lives of individuals.

Many programs which the people of Hawaii support and depend upon will be eliminated or severely reduced under this plan:

East-West Center—eliminated; Native Hawaiian Education Act—eliminated; Native Hawaiian Health Care Act—eliminated; Student loans—cut by $18.7 billion; Impact Aid—cut by $1.3 billion; Davis-Bacon Act—eliminated; Travel and Tourism Administration—eliminated; Legal Services Corporation—eliminated; National and Community Service [Americorps]—eliminated; Retired Senior Volunteer Corps [RSVP]—eliminated; National Endowment for the Art/Humanities—eliminated; Support for the Public Television—eliminated; National Biological Survey—eliminated; Head Start—cut by $1.5 billion over 7 years; Bilingual Education—eliminated; Library programs—eliminated; TRIO programs—eliminated; National Writing Project—eliminated; Homeless Assistance Grants—eliminated; Vocational Education/Adult Education/Job Training—block granted cut by 20 percent; Community Development Block Grant—eliminated; and U.S. Geological Survey—cut by $798 million over 7 years.

These are not programs which can be eliminated without a significant impact on the State of Hawaii. These programs help us invest in education and training of our workforce, provides jobs in highly technical and scientific fields of research, provides investment in infrastructure and housing to improve our rural and urban communities. Davis-Bacon helps to stabilize Hawaii's economy by preventing "fly-by-night" construction companies from the mainland from gaining an economic advantage over our local construction companies in getting Federal contracts.

This budget resolution must be voted down.

□ 1500

Mr. KOLBE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the previous speaker talked about the cuts in education. Let's be very clear what we are preserving here.

We are preserving the title I basic grants for disadvantaged students, the impact aid for "A" students, the special education, the vocational rehabilitation, the Pell grants, the historically black colleges grants, the campus basic aid, and then we are creating 5 new block grants. So let's just be clear what we are preserving here.

The issue about libraries. One percent of funding for libraries comes from the Federal Government.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER], the distinguished chairman of the Committee on Science and vice chairman of the Committee on the Budget.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, there used to be a tradition in this country that you bought the farm, paid off the mortgage, and gave the farm to the kids mortgage-free. The Federal Government for years has been now moving in a different direction, where what you do is buy the farm, sell off the assets, and hand the mortgage to the kids.

What we are hearing today is a debate between those people who want to make certain that we do not continue to hand the mortgage to the kids but rather begin the process of ending deficit spending and ultimately paying off the debt.

The surprising thing is that there is a bipartisan consensus around that idea. In January, fully 187 Democrats voted for one or another of balanced budgets that said to balance the budget by the year 2002.

That is right. We actually had people line up in January on the Democratic side, 187 of them, nearly three-fourths of their conference, and say they were for some kind of balanced budget that balanced the budget by the year 2002. Now we hear today that, well, maybe they were not really for that, that was just a political vote they had to cast.

I must say that when it came to final passage, many of them voted "no," including the gentlewoman who was just in the well, although she did vote for one of the balanced budgets. The amazing thing is that they have come to the floor today with no presentation of their own of how they would get to that balanced budget that they voted for by the year 2002.

When they have told us before how they will do these kinds of things, they raise taxes. The gentlewoman who just spoke, in her district she voted back in 1993 to raise taxes on her own district by $522 million in order to bring down the deficit.

Now we find out what they really did. In the President's budget that he brought forward earlier this year, deficits begin to go up again at the end of the 5-year period. Guess what? When you get out into the 7-year period that we assume in our budget, the deficits soar out of sight, despite the fact that they raise taxes, presumably to lower deficits.

The question here is whether or not we are going to do real things in order to get the Federal books in order. I believe we have the capacity to do some real things.

This budget does assume some things that many, many people in this House do not like. When you cut 283 programs, there are people who are tied to the special interests that back those programs, who simply do not want to do the cut of 283 programs. When you cut over 60 commissions, there are people who are tied to the special interests who love those commissions, who then come to the floor and argue for keeping them.

When you eliminate three departments, there are people who are tied to those three departments and the special interests who back those departments, who come here and defend those departments. When you eliminate a dozen and more agencies, there are people who are tied to the special interests who love those agencies, who come to the floor and defend it.

You are going to hear them all day long out here, defending the special interests that defend those agencies and saying that this is all in the name of helping the poor and the downtrodden. Nonsense.

Mr. Chairman, if you take a look at the reality of this, what you are supporting in the budgets that we have had over the last several years is huge bureaucracy. Vote for a balanced budget.

Mr. SABO. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, let me simply observe the explosion of the Federal deficit occurred when we passed the Republican program in 1981.

I hear this discussion of special interests. Let me remind this body that we have before us a tax proposal that would repeal the alternative minimum tax for the largest corporations in this country. To pay for that, we would repeal and make more difficult the getting of student loans by thousands and millions of students in this country.

Mr. Chairman, I yield 4½ minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, contrary to the claims of the majority, this is not a budget to protect our children's future. This budget is an assault on our children's future, and an assault on their grandparents as well.

It opens up tax loopholes for wealthy special interests, and slams the door on school cafeterias; college classrooms; and hospitals all over this Nation. If this budget represents the future of our children, then the future looks grim. It is no wonder Mr. KASICH says he is nervous.

Mr. Chairman, education is our future. Education, not reckless spending cuts, must be our Nation's No. 1 priority. The most glaring mistake in this budget is that it makes deep cuts in education to pay for a tax break for wealthy special interests.

Our children should be the most important special interest for this Congress, not the privileged few with influence over the Republican budget process.

It is too bad kids don't have powerful lobbyists here in Washington, because many of the education programs which are important to our children's future are being assaulted in this budget: Goals 2000 is eliminated; Head Start is cut dramatically; bilingual education is terminated; President Clinton's national service program will disappear school lunch and school breakfast is cut the entire Department of Education would be eliminated, clearly demonstrating to the American people the majority's lack of commitment to the future of our children.

This budget is not limited to attack on our young children, it also attacks low- and middle-income college students, and their families. On May 8, 1995, the New York Times called the Republican budget resolution "the strongest assault in recent years on student-aid programs."

Mr. Chairman, this assault makes a mockery of our Nation's core values—the opportunity to get a good education, and the opportunity to get ahead. Taking away the college loan interest subsidy, which the Government provides to students while they are in college, amounts to taking away the American dream from all but the privileged few. Nationwide, college costs will increase by an average of $5,000. Low- and middle-income students and their families just won't be able to foot this bill. In addition, these cuts in student aid threaten our future economic health and our global competitiveness. In a time when our country needs people who are more educated, not less, in order to compete in the global marketplace, this assault on our low- and middle-income families is also an assault on American's economic future.

Also, if we want to get people off welfare and into the work force, these cuts in education send us in the wrong direction. As a former welfare mother—able to work myself off welfare because I had a good education—I can tell you for sure that these cuts are just plain wrong.

Make no mistake about it, when Members of Congress cast their vote on this budget, they are providing their constituents with a clear "yes or no" answer to the following question: Should we take education and nutrition away from children; college aid away from students; and health care away from seniors in order to put money into the hands of wealthy special interests?

I beg my colleagues to answer with a resounding "no" by rejecting this budget.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from New

Jersey [Mr. FRANKS], a distinguished member of the Committee on the Budget.

Mr. FRANKS of New Jersey. Mr. Chairman, I yield to the gentleman from Kansas [Mr. BROWNBACK].

Mr. BROWNBACK. Mr. Chairman, I just noted the gentlewoman across the aisle was saying that there are no special lobbyists for the children, no powerful special lobbyists for the children back home. I know one man that is standing right here who is a powerful lobbyist for three young children in Kansas. I am here representing them, as many of my colleagues are. We are terribly concerned about them. That is why we are balancing the budget.

Mr. FRANKS of New Jersey. Mr. Chairman, this is the most expensive credit card in the history of the world. This card has been used by decades by politicians in Washington, DC, to buy things that we simply cannot afford.

In the process, we have accumulated deficit after deficit and piled up debt upon debt. The very children that we profess to be so deeply concerned about are the people who are being asked to pay off this enormous debt. The only answer to ending this deficit spending and to begin to pay down this enormous debt which is putting a burden on our children and on our families is to balance the budget.

Mr. Chairman, just like every American family who, when they have an important objective to meet, sit around the kitchen table and have to prioritize what is essential, identify what is important and talk about what they can do without, that great historic discussion begins for the first time in a generation right here right now.

Ladies and gentlemen, this is the time for a balanced budget.

Mr. SABO. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, one group of children that no Member here is lobbying for—and it is obvious we lobby for our own and our grandchildren—are the homeless children in the United States, numbering between 750,000 and 1 million on a daily basis. These are not children that caused the deficit. These are the children of parents who used to work and who do not anymore.

This program, which is very modest, has helped over 350,000 children since 1990. The number of homeless children not in school because of this program has dropped from 50 to 18 percent. Obviously it works.

A nation that believes that it is better to allow 750,000 to 1 million American children to grow up in shelters and on the streets and not to be in school has no reason to expect not to reap the whirlwind that growing up uneducated, unhealthy, and untrained will assure us. This program that costs so little and produces so much could only be eliminated by meanness.

It is a total transfer of the benefits for homeless children to the very rich who benefit from the tax cut.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Staten Island, NY [Ms. MOLINARI], a very hardworking member of the committee.

Ms. MOLINARI. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, let me just say what we have here today is a difference in definition between the two political parties as to the American dream.

The Democrats, as you hear, say it is OK to add to the deficit. Increase taxes, the Government will save the day Over the next 6 or 7 hours, we are going to hear from the other side, a picking out of small programs throughout this budget that we believe the country will absolutely fall apart if they are not continued to be funded.

What you will not hear in their American dream is how to balance the budget, how to restore economic equity to the next generation, how to positively bring back that vision of hope to Americans regardless of their age.

The Republicans, on the other hand, have defined the American dream, but we have gotten that definition from people who pay taxes throughout this country, who tell us to stop runaway spending, reduce the deficit, and balance the budget. "If you want to help our children, really help our children, let them grow up in an opportunity society that is debt-free."

That is how we discourage homeless children. That is how we increase educational opportunities. That is how me make sure that we in Washington do not define the American dream, but create an economy that allows the children and their parents throughout this Nation to feel, to dream, and to hope for a tomorrow that right now today, under the current Democrat spending plan of no new options, will lead them to one big dead end.

Mr. Chairman, I urge my colleagues and the people who are watching today to dare to dream the American dream and join in supporting the Republican budget.

Mr. SABO. Mr. Chairman, I yield myself 5 seconds.

The Republicans want to cut Medicare, Medicaid, education, and a host of programs to pay for a tax cut for the rich.

Mr. Chairman, I yield 2¾ minutes to the gentlewoman from Michigan [Ms. RIVERS], a distinguished new member of our committee who has been outstanding in her work.

Ms. RIVERS. Mr. Chairman, at the end of this month I will celebrate my 20th anniversary of graduation from high school. The next day I will celebrate my 20th anniversary of my marriage.

□ 1515

My husband and I got married the day after high school. I was 18; he was 17. At the time we were married we had few skills, little money, and a rough row to hoe. By the time we were 21 we had our second child. Today, 20 years later, I have an undergraduate degree, I have a law degree, and I represent my community in the people's House, the Congress of the United States.

What made the difference for me? What made the difference for me is what has made the difference for many, many Americans over the years, education, and an education was only available to me because there were student loans, because I could borrow money, because I could get a helping hand. It made all the difference. It still took me 15 years to get 7 years of education, but I would have been shut out had I not been able to ask for help.

And yet now we see a Republican plan that retreats from that position, that makes it harder to go to school, that makes it harder to get ahead.

Chairman KASICH mentioned the American dream. Mr. Chairman, I will tell you I have lived the American dream. I have done what countless others have done. I have worked hard, I have persevered. I have played by the rules, and now that I have walked through the doors of opportunity, I would like to see them kept open for others to follow.

I think it is a terrible hypocrisy for folks on the other side, particularly in the leadership, who have climbed the ladder and now wish to pull it up behind them. We need to say no to this budget and to make it clear that any retreat in student aid is unacceptable.

The CHAIRMAN. Let the Chair state that, before the time comes for the Joint Economic Committee's part of this debate, the gentleman from Ohio [Mr. KASICH] has 3½ minutes remaining, and the gentleman from Minnesota [Mr. SABO] has 3 minutes 10 seconds remaining.

Mr. KASICH. Mr. Chairman, I yield 30 seconds to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Just very quickly, Mr. Chairman, the previous speaker talked about the education of homeless children. What she is talking about is a program that funds an Office of Coordinator of Education for Homeless Children and Youth in the State educational agency. And in the functions of the Office of Coordinator, page after page of State plans, local education agency requirements. There is not one bit of program for homeless kids in here. It is a bureaucracy. It is a State agency, it is a coordinator. There are no programs in here.

Mr. SABO. Mr. Chairman, I yield 30 seconds to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Chairman, I just wanted to respond to the gentleman from Arizona [Mr. KOLBE], because I have a report on the homeless in his own district.

There are 64 children right now in Amphi High School. Three earned a 4.0 grade average in 1992, another 5 GPA's at 3.5 or better. Ninety percent have improved their grades since entering the program.

None of the students served by the McKinney grant dropped out of the school in the first semester. We believe the success of these students is due to our policy of encouraging perfect attendance and academic excellence, as well as to the support they receive from the independent living class.

Mr. SABO. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, if this resolution is adopted the Republicans are going to cut $4 billion every year for the next 7 years out of educational aid programs, and that is in addition, all up and down the line of education programs, and that is in addition to one of the biggest blows to education that you could make, and that is the $19 billion that is taken out of these in-school interest subsidies for our college students.

Who does that interest-subsidy removal hurt? Here is an example of someone in my district who depends on student aid. Her name is Theresa McGuire, a 34-year-old college student at North Adams State College in western Massachusetts. She is a single parent, the mother of a 7-year-old daughter. She left a low-paying, no-benefits, dead-end job to go back to school only when she knew she would be able to get that kind of financial aid. She now has a 4.0 grade point average. She is two semesters from her bachelor of arts. She is going to go on to graduate school. And she would manage to finish because she is almost finished anyway, but there are millions of others in positions like that who will not start or will find that their school is made considerably more expensive.

Mr. Chairman, why in the world would the Republicans focus on the getting-ahead opportunities for people like Theresa McGuire to pass a tax cut?

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut [Mr. SHAYS], a member of the Committee on the Budget.

Mr. SHAYS. I thank the gentleman for yielding time to me.

All my life I have wanted to serve in Government, whether it was as a civil servant or as an elected official, so it was a dream come true for me to have an opportunity to serve first as a State legislator and then as a Member of Congress.

When I was a State legislator and first elected I started to notice that Congress, unlike the States and unlike my State of Connecticut, could spend more than it raised. And I thought, well, they can do it but they will not. And I saw it happen one year, and I saw it happen another year, and I saw it happen another year. For 13 years I watched Congress spend more money than it raised. And I know who is hurt by that. It is all of the children who have to pay the bill.

So I saw my Congress spend more than it raised. And when I was in Congress, along with a number of others, I have been working and waiting for the opportunity to vote finally for a budget that will get our financial house in order.

Today I have this chance. I have waited 20 years for this day to get our financial house in order, and that is what we are doing and we are doing it fairly. We are going to take 7 years admittedly, but we are going to spend 19 percent more in the seventh year than we spend today. We are going to slow the growth in spending.

Only in Washington. I know no other place in the world, only in Washington is an increase in spending called a cut, only in Washington. Where else when you spend more do they call it a cut? I never found a place anywhere else but in Washington.

We are going to spend more. Admittedly domestic spending is going to go down, because we are going to downsize and we are going to reorganize it and provide better services in the process. International, foreign aid is going to go down; that is a cut. Defense spending is going to stay relatively the same.

But Medicare and Medicaid, they go up. Medicaid goes up 36 percent in the next 7 years, it goes up, it does not go down. I hear cuts. It goes up. It is $89 billion; it will be $121 billion. We are going to spend $33 billion more in the next 7 years than we spent in the last 7 years. That is a spending increase, maybe not as much as some people want, but it is not a cut.

But most importantly, we want to save Medicare. It is going bankrupt. We know from the President that in the next year it starts to go bankrupt and in 7 years it is bankrupt. We want to protect it and we want to improve it. We want to save Medicare. We are going to have a 45-percent increase in Medicare. That is a cut? Well, in Washington it might be, but nowhere else in the world.

We are going to spend $659 billion more in the next 7 years than in the last 7 years. Is that a cut? No. We are going to spend more. Only in Washington is an increase in spending called a cut, and I am fed up with it.

What we are doing today is we are having a sea of change. We are going to change the way Washington does things.

The CHAIRMAN. The gentleman from Minnesota [Mr. SABO] has 1 minute and 10 seconds remaining during this part of the debate.

Mr. SABO. Mr. Chairman, if the minority does not object, I would like to yield 1 minute and 30 seconds to the gentlewoman from New York [Ms. VELÁZQUEZ], and we will take the 24 seconds out of the next hour.

Mr. KASICH. I do not know if we can be that reasonable.

The CHAIRMAN. By the sufferance of the Chair the gentlewoman from New York is recognized for 1 minute and 30 seconds.

Ms. VELÁZQUEZ. Mr. Chairman, we have heard a lot of rhetoric from the new majority this year. When it comes to this budget, they outdo themselves. They talk about saving our children and grandchildren. What they do is the exact opposite. They take Federal dollars away from our children to be able to give huge tax breaks to the wealthiest families in this country.

With a $7 billion cut in education and training programs, this budget will deny thousands of children their chance for a decent education and a brighter future. The only ones who have a brighter future under this budget plan are the wealthiest families in this country. They will get over $281 billion in tax breaks under this budget. There is no bright future for our kids in this budget.

Saving our kids means giving them new books, building them new and safer schools.

Let us stop the rhetoric, Mr. Chairman, and speak to the truth. The only savings that is going on here is in the tax bill for the rich.

The CHAIRMAN. Pursuant to the agreement entered into prior to the House going into the Committee of the Whole, the next hour will be devoted to a debate controlled by the members of the Joint Economic Committee. Under the rule, however, that time is controlled by the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. SABO].

Mr. KASICH. Mr. Chairman, I ask unanimous consent to yield my 30 minutes to the gentleman from New Jersey [Mr. SAXTON] and that he be allowed to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SABO. Mr. Chairman, I yield 30 minutes to the gentleman from California [Mr. STARK], and I ask unanimous consent that he be allowed to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. The gentleman from New Jersey [Mr. SAXTON] will be recognized for 30 minutes, and the gentleman from California [Mr. STARK] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I yield 30 seconds to the gentleman from Arizona [Mr. KLOBE], a member of the Committee on the Budget.

Mr. KOLBE. Mr. Chairman, earlier the gentlewoman from New York [Ms. SLAUGHTER] was again talking about the office of coordinator of education for homeless children. Let me just read that sentence from the Department of Education's budget:

> This program provides formula grants to States to operate an Office of Coordinator of Education for Homeless Children and Youth and to develop and carry out a State plan for the education of homeless children.

The education comes out of Head Start, out of title I; it does not come out of this. We are talking about cutting out a bureaucracy. The tax cuts, we are going to be talking now about the tax part of this thing, go to take care of senior citizens and children, senior citizens and children, the next generation of Americans and that generation now which deserves our help, the senior citizens.

Mr. SAXTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of this hour of debate is to focus on the economic implications of the budget proposal before us. I believe that this debate today is truly a very historic debate, and to the extent that the Committee on the Budget has worked very diligently, I congratulate them on bringing us to this historic point. For the first time since the 1980's Congress is preparing to confront the tidal wave of red ink drowning our country's future. Listening to the prophets of doom, one comes away with the impression that balancing the budget is an exercise in group sacrifice, when in fact we believe it is just the opposite. Balance the budget is only painful if we accept the premise that every American is dependent upon the Federal Government. We reject that premise.

A true understanding of the economic rationale for balancing the budget is that by reducing spending we are freeing the economy from the burdens of the state. We are renewing the time-honored American values of independence, responsibility, and hard work.

However, we are faced with a dilemma. Do we once again attempt to balance the budget by hobbling the economy with higher taxes, or do we balance the budget in a manner consistent with economic prosperity? That is the big question, and I submit to my colleagues today that the American people told us last November to balance the budget in a way that makes the economy grow, and they told us to reduce taxes at the same time.

The American people understand that these two goals are consistent, and so it is essential for us to do both.

Why is it important to balance the budget with lower taxes? Because balanced budgets alone have limited power to unleash the competitive power of America's workers, which is the basis of our economic prosperity, not big Government.

□ 1530

The President and his administration have crowed about how wonderful this recovery has been. Let us take a minute to focus on the history of economic recoveries. Economic recoveries do what their name implies: They restore the economic performance of a poor economy to the economic performance of a good economy. Traditionally, during economic recoveries, productivity, incomes, and job growth are higher than the norm.

On the other hand, the current economic recovery has continued for several quarters. However, it has not created the prosperity of other economic recoveries. Far from it. In the first 3 years of the expansion of this recovery, real gross domestic product grew by less than half, less than half of the growth of GDPs in other recoveries. The Clinton recovery has been a failure in restoring productivity and in restoring incomes. Productivity grew by an average rate of about 3.1 percent in the two decades immediately following World War II. However, during the 1970's, productivity decreased alarmingly. Growth was again restored during the Reagan expansion. However, since President Reagan, productivity has declined to the level of the 1970's, which is totally unacceptable.

In the current recovery, productivity gains in the service sector, have, in fact, been negative. Incomes have also been flat in the current economic recovery. Real median income increases dropped in 1991, 1992, and 1993, unique, unique for a sustained expansion. The only other time in American history post-World War II when GDP grew and family incomes fell was in 1979 during the Carter administration.

The Clinton recovery also is not providing Americans with quality jobs. If real median family incomes are falling, this means that new jobs created by this recovery offer wages below the average.

What has the Clinton administration done to counter this trend? They have piled additional burdens on American families with higher taxes and more regulations. The major reason for stagnating incomes is that failure of the economy to provide adequate capital for a robust economy and robust economic growth. Net fixed investment ran about 5 percent of GDP in the 1980's, but has fallen to under 4 percent, 3.8 percent, to be more exact, today.

Economists have debated the reasons for the slowdown of investment, but they are almost unanimous in believing that it is the high taxes on capital income that is primarily responsible for lowering investment and subsequently lowering incomes.

When confronted with the positive steps made by the House with the Contract With America and now with this budget proposal, many of our friends across the aisle and down Pennsylvania Avenue have resorted to the timeworn class warfare arguments. The Secretary of Labor is a great example. Secretary Reich has labeled the problem of stagnating incomes the problems of the "anxious class." Unfortunately, the administration has not learned the lessons of the anxious class. The anxious class spoke in November 1994. They said they are afraid of a Government that takes a large portion of their income in taxes, a Government that spends money imprudently, a Government that regulates in capricious and cavalier manner, and they rejected it categorically.

The Clinton administration, in its economic report of the President, states that the economy cannot grow faster than 2.5 percent. Imagine, our administration, the current administration, stating to us that the economy cannot grow faster than 2.5 percent. They look at the experience of the 1970's and the early 1990's to buttress their claims that a faster growing economy will generate inflation. Real economic growth has stagnated in recent years. However, the postwar annual average of growth was 3.9 percent, almost 4 percent. The difference between the postwar real GDP rate of growth and the current real GDP rate of growth has been labeled by economists as the growth deficit.

I might point to this chart at this point and say that had growth continued as it should have, if taxes had been kept low and if regulations had been kept at a reasonable level, the red line indicates what GDP growth would be today, and, of course, the blue line represents what it actually is. Real economic growth has stagnated, and as we go through the postwar times and the 3.9 percent increase, if the economy had grown at the present postwar growth rate, the real GDP would be, and the difference here, of course, the deficit is $1.6 trillion.

Per capita GDP would be approximately $6,600 larger. A family of four, therefore, would have an annual income of and an additional $26,000. Pretty neat, it would have been.

Why can we not achieve the level of growth of the postwar years? Because the Government is taking too many resources away from the private sector to satisfy its ever-expanding appetite for more Government and the need for more tax dollars to support it. This is why balancing the budget is so important. It provides for the kind of economic growth that we need, and we must contain Government spending to get it.

Government spending is clearly a negative for economic growth. Economists now understand that, as the Government grows too large, it destroys the necessary incentives for a healthy economy. From Moscow, Russia, to Moscow, ID, and from Paris, France, to Paris, TX, people understand that the size of Government today is the Government which is the biggest impediment to economic prosperity.

The party of the status quo on the other side of the aisle who are content to take shots at our budget without producing a real one of their own are resisting the people's desire for smaller Government and a stronger economy. They are even resorting to the highly unusual arguments like that of Laura Tyson, President Clinton's head economic adviser, who has said any effort to reduce Government spending means a dollar in reduction in demand in the economy, so it increases the contractionary risk on the economy. That statement is incredible, and it is so incredible that she must have meant, I think, something else. Clearly, all economists understand that the Government does not create wealth out of thin air. Rather they tax citizens for the resources using Government programs. If the Government does not spend tax dollars, citizens will use them for other, more productive purposes. If the Government, on the other hand, takes our dollars, it will take them away from citizens and their desire to do more productive things with them.

Rest assured that citizens will use their dollars much more prudently than Government bureaucrats will use their tax dollars for them. Controlling Government spending, then, will be an ambitious gain for the economy. Private entrepreneurs will have more incentives to take risks, to create jobs and prosperity, but not the Government, and we will all benefit from the fruits of the labor of the private sector.

Historically, we can see the effects on lower Government spending. As the Government got larger, the economy's real rate of growth slowed. The process we are initiating today is a historic process to restore America to a high-wage, high-growth economy. We are truly at a crossroads.

What about those who say the Government has certain functions that private markets cannot undertake? Well, first, we have been deluded too often to accept the arguments that the Government must do this or that task. Private markets are much more efficient than Government processes.

And, second, these people are thinking only in the short run. If we take the long-run perspective, we can see that by maximizing economic growth, we will maximize Government revenues, and actually we have a chart here that shows what happens when taxes are kept down. We actually get more revenue and more Government revenue from growth than under the current flawed system.

What about those who say that Government has functions to undertake? Well, we agree that it does. But to balance the budget, we will have other benefits as the economy responds to our efforts. Increased economic growth will make it easier for us to reform the tax system, and we are hearing more and more from citizens who are angry with the current tax system. They find it capricious and difficult to understand.

Economic growth will allow a more reasoned approach to taxation.

The economy loses many of its best and brightest careers that simply interpret the Tax Code. All the efforts of accountants and lawyers to understand the tax system are lost to the economy. They do not bring more revenue to the Treasury. They do not generate goods and services to make Americans wealthier or richer or better off. Rather, correctly understood, the time and expense to prepare tax forms is another form of taxation that reduces economic wealth. Reducing the burdens of the tax system will make Americans wealthier because it will free up these revenues as well.

The new ethic must take hold with regard to taxation. A long time, too long, we have focused on the debate, with the debate, on the impact of taxation on the distribution at static losses, a term we hear inside the beltway a great deal. We have ignored the dynamic harm done to every American worker by excessively taxing capital. Taxation reform must recognize that the prime determinant of wage growth is capital investment. We cannot help Americans to economic prosperity without reforming the tax system.

Also, we cannot allow this opportunity to pass, and the key to future tax reform is reducing the size of Government today. That is what our budget does.

The American voter wants a healthy economy. The American voter wants lower taxes. The American voter wants a smaller Government. We must restrain spending to reduce the deficit.

We are not reducing spending because we are masochists. Rather, we are reducing spending to enlarge opportunities for all Americans to produce economic growth. Reducing Government, reducing Government spending is the most positive thing we can do for the American people, for older Americans, for future generations, and for today's children. It is a win-win strategy.

Mr. Chairman, I reserve the balance of my time.

Mr. STARK. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, this is the hour allotted to the Joint Economic Committee. I thought it was train schedules for the Metro here. But I am going to explain that, as we learned in agricultural economics, that chicken droppings and chicken salad come from the same place, but there is, indeed, a world of difference between them.

The budget resolution, as propounded by my Republican friends, really has nothing to do with economics. It has to do with a little accounting sleight-of-hand, perhaps some legislative legerdemain, but certainly not economics.

It does represent massive redistribution from the elderly to the rich. Programs that benefit average Americans are cut, reduced, squeezed, whatever you want to call it, to provide huge tax breaks for the wealthiest people among us. Cuts to finance those breaks are made across the board, children's programs, Medicaid earned income tax credit, a whole host of credits, to given tax cuts to the rich.

Today, however, I would like to focus on the proposed cuts in just one area. Guess what, Medicare. The resolution would require us to cut $283 billion out of the Medicare Program. That is a big chunk of cut.

Now, the Republicans would like to pretend, and this is interesting, this is what economists do all the time, they pretend something is what it ain't. The Republicans would like to pretend that these are not really cuts, just reductions in the rate of growth.

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Now, that argument is, in economic language, specious, misleading, and hypocritical. For the Social Security recipients, these proposals increase out-of-pocket costs while reducing availability and quality of medical services.

Now, the Republicans would make it sound as if Medicare costs rise over time because the program is growing, as if Congress is adding entitlements and new services, or paying higher reimbursement rates, or covering new categories of people. But none of those things are true. The truth is the Republican cuts would come out of the amount needed to keep benefits and rates at current levels. That is all.

In 2002 alone, payments for each senior will increase by over $1,000. That is economics that the seniors in my district understand. The increases in the Medicare premiums and deductibles seniors would pay are not even the whole story. These cuts that the Republicans are talking about would reduce seniors' access to health care and require new copayments for services such as lab tests, home health care, and skilled nursing facilities.

Seniors in California in my area would have to pay almost $1,500 more on the average for health care by the end of the 7th year. That is economics, ladies and gentlemen, that they can understand. Yet my Republican colleagues complain that the Government programs do not work.

The distinguished vice chairman of the Joint Economic Committee, the ranking Republican member, just said this is about independence, responsibility, and hard work. Hogs on ice are independent. There are a lot of responsible people out there, and certainly we all know about hard work after Speaker GINGRICH's 100 days.

But, these proposals do not illustrate any of that. They illustrate how you can destroy Government, if that is really what you want to do, and I submit that is what the Republicans are about. And these proposals illustrate how.

They take an effective program and cripple it. Last year much smaller Medicare cuts were proposed. The Republicans complained that any Medicare cuts, and that is the word you all used, you Republicans, you, would destroy the qualified and ability of care for seniors under the program. Given their objections to last year's proposed cuts, how can they possibly come back and justify larger cuts this year?

They have tried to hide their intentions about Medicare by claiming they are just trying to save the trust fund. Well, now, here is an economic term. The seniors will recognize that claim as baloney. That is Economics 102. The proposed Medicare cuts are much larger than are needed.

The only Republican proposal relating to Medicare so far that has passed this House actually makes the trust fund worse by repealing factions on high income elderly that were dedicated to the trust fund. That hardly seems like a good way to save the trust fund.

Last year, my colleagues on the Democratic side of the aisle proposed Medicare reforms that would have saved $168 billion over 7 years in the Medicare trust fund, and the Republicans, to the man and woman, voted against it. They argued that they wanted to support an amendment to strip the savings on the theory that they would ruin Medicare with the cuts. Now, if $168 billion was going to ruin it last year, $238 billion is going to knock the socks off it this year.

You have been treating, you Republicans, you, the specific details of that Medicare plan like it was the Stealth bomber plans, top secret. DORNAN could not have kept them more secret. They know that savings, you Republicans know, of the size that you are proposing, cannot be achieved without absolutely devastating the Medicare Program and placing new burdens on Social Security recipients.

No wonder you are nervous about revealing what you intend to do. But let me tell you, my friends on the other side of the aisle, here is a hint of what they have up their sleeves. Medical insurance, part B, that covers doctors payments, which is by the way financially solvent and does not need any cuts to maintain its solvency, the Republicans are planning to double the deductible that beneficiaries pay before Medicare reimburses them for their doctors bills. After doubling it, that is not enough, they are going to index it so that their payments do not keep up, but their co-pays keep up with inflation, and they go up every year, just to remind these seniors how tough they are when they raise the cost of Medicare every year for the next 7 years and on into the future. They plan to increase the premiums that Medicare enrollees must pay. And if that is not enough, they make the patients pay a bigger share of laboratory tests, home health care services, skilled nursing facilities, all those things that the seniors are going to need.

Here is the bottom line. Medicare patients will pay more upfront for their coverage, and if they get sick they are going to pay even more than that. No wonder you are not anxious to tell us what is hidden in that budget. These Medicare cuts will hurt. They will hurt beneficiaries, they will hurt the entire health care system, and ultimately hurt the economy. You knew I would get to it.

Our economy and society as a whole will be devastated. Hard-working Americans who paid Medicare taxes for years will find themselves without medical insurance they had been counting on. Confidence in that portion of Social Security will be undermined, and rightly so.

If you arbitrarily change a contract, renege on a deal, pull back on a promise to seniors that was made back in 1965, that we promised these workers, they will know you are reneging, they will know you are chintzy, they will know what your contract is. The health care system will suffer, especially in rural areas and inner cities. Hospitals will go bankrupt, rural health clinics and community health care centers will be forced to close, and medical care will be rationed and quality will decline. The overall economy will be harmed as those proposals slash Medicare and do nothing about rising health care costs, as the President has asked us to do.

We cannot continue to spend an ever increasing share of our national income, and that is an economic term, on health care. But cutting health insurance for seniors and the poor without reforming the system is unfair and unwise. And making these cuts in order to finance tax breaks for the wealthy just compounds the folly and exacerbates the existing divisions.

One more thing, just a word of advice. You are going to fix this by changing the CPI, aren't you? You are counting on that adjusting. Well, we have got a suggestion. If you really want to be tricky, and I see the good doctor sitting there, all we have to do is raise normal from 98.6 to 103 and we will save billions in Medicare. How would you like that? That makes about as much sense as the rest of this budget.

So I urge you to defeat the budget, save the seniors from the destruction of Medicare, and get on about the business of seeing this country build and grow as it has over the past several years.

Mr. SAXTON. Mr. Chairman, I yield 3½ minutes to the gentleman from Egan, IL, population 42 [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, this Republican budget is the first step toward balancing the budget and putting our Nation back on the path towards fiscal responsibility. We will reduce or eliminate programs that may sound nice on paper, but in reality throw away billions of hard-earned taxpayers' dollars every year. And we may eliminate some worthy programs for which there is simply no money, but without which this Nation can function.

We are approaching a national debt of $5 trillion, and each year we go into debt $200 billion more. This means $200 billion a year is added to the national debt. Today the tax rate for local, State, and Federal taxes is 50 percent. That means that a family with both husband and wife working, one spouse is working solely for taxes.

According to the Clinton administration's Office of Management and Budget, if we do not make dramatic changes in this country's fiscal policy, every child born after 1993 will pay between 84 and 94 percent of his or her income for local, State, and Federal taxes. That means out of an annual income of $30,000, a child will be left with only $1,800 to $2,100 after taxes each year on which to live. This is hardly the legacy we want to leave our children.

The findings of the Bipartisan Commission on Entitlements and Tax Reform show that absent policy changes, entitlement spending and interest on the national debt alone will consume all Federal revenues by the year 2012. That means no money for defense, no money for education, no money for roads and bridges, no money for law enforcement.

The Republicans propose a common sense solution to the deficit problem. Slow the growth of spending to about 2.2 percent a year so that revenues catch up with spending levels, which should occur by 2002. By reducing the deficit, the Nation will benefit in reduced interest rates, more employment, and a stronger economic climate.

The Medicare trustees, including those appointed by President Clinton, say that the Medicare Trust Fund will be out of money in 7 years. This means if something is not done to preserve Medicare by the year 2002, there will be no money to pay for seniors' medical expenses. To preserve and protect Medicare, the Republican budget puts it on a road towards fiscal responsibility and puts us on a glide path towards a balanced budget.

Mr. Chairman, I urge my colleagues to vote for the Republican budget.

Mr. STARK. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in support of the Democratic coalition substitute budget resolution, and in opposition to the Republican proposal.

I believe that the time has come to balance the budget. This is what my constituents want because they know that the economic futures of their children and grandchildren depend on it. They want us to balance the budget in a way that is both fair and effective, and this is what the Democratic substitute would do.

The Democratic substitute is fair because it asks everyone, regardless of age or circumstance in life, to share the sacrifice for the benefit of the common good. Unlike the Republican plan, it does not transfer funding for social programs, that benefit the old and poor, to subsidize tax cuts for the rich.

Further, the Democratic coalition substitute will work. I am an original cosponsor of this measure because it takes a rational and responsible approach to balancing the budget. Not only does it restore sane spending priorities by adding back funding for education, health, and economic development programs, it also achieves a budget surplus in 2002 that is $500 million higher than that proposed in Mr. KASICH'S plan. Less pain with more gain—Why? Because this alternative resolution reaffirms the logic of achieving a balanced budget one step at a time. This means holding off on enacting expensive tax cuts, which require slashing vital programs, until we are well on our way to ensuring a healthy national economy that can be enjoyed by generations to come.

I have serious concerns about the approach taken by the Republican budget resolution. For example, the proposed two-step reconciliation process would delay the consideration of painful spending cuts, until after politically popular tax cuts have been given away. If the Republican majority is truly serious about including tax cuts in their proposal, they should make sure they have the money to pay for these cuts up front, not after the fact. It seems the new Republican majority has forgotten the old Republican rallying cry—"Cut Spending First." Balancing the budget is like curing a cold, the longer you put off swallowing bad-tasting medicine, the longer it takes to return to good health.

In addition, the Republican budget backloads deficit reduction until after the year 2000, when the spending cuts kick in and interest rates decline. In fact, nearly two-thirds of the deficit reduction in the Republican plan occurs in the final 3 years. This is an approach that was tested in the early 1980's under President Reagan and failed. When it came time to make the difficult cuts, they did not materialize. Remember, the 1980's was the decade when the debt tripled under Republican control of the White House. Therefore, as far as the effectiveness of the approach to deficit reduction is concerned, I would say, "Been there, done that, let's not do it again."

Finally, I am pleased that the coalition substitute includes enforcement language. In January, I supported a constitutional amendment to balance the budget for the first time because I finally lost faith that the President and the Congress have the resolve to balance the budget without a constitutional mandate. While this initiative failed, I still believe that we need to hold our feet to the fire and enforce our budgetary decisions.

Earlier this year, I introduced the Balanced Budget Enforcement Act of 1995, H.R. 1516, along with our colleagues, Representatives STENHOLM, DOOLEY, BARRETT, MINGE, and POSHARD. This legislation, which I cosponsored in the 102d and 103d Congresses when introduced by our former colleagues, Leon Panetta and Tim Penny, respectively, would enact tough, new measures to reform the budget process and eliminate the Federal budget deficit by the year 2002. It would do so by setting spending caps and using across-the-board cuts if the targets, set and evaluated by a nonpartisan Board of Estimates, aren't met. Yesterday, I asked the Rules Committee to allow me to offer sense-of-Congress language endorsing the approach embodied in H.R. 1516 as an amendment to the budget resolution. Unfortunately, this request was denied. In any event, I believe that this legislation needs to become central to debate on budget process reform later this year.

In closing, Mr. Chairman, I believe that balancing the budget is our responsibility as Members of Congress. I have always supported a balanced budget, and the responsibility to achieve this is not one that I take lightly. Over the years, I have frequently taken the political road less traveled in the name of deficit reduction. When I am in northwest Indiana, I tell my constituents that I am opposed to cutting their taxes because it would undermine serious efforts to reduce the deficit. In March, I was one of only six Democrats to support the rescissions bill, H.R. 1158, because I believe we need to start making tough spending decisions now.

Mr. STARK. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as a fiscal conservative who believes that it is critical that we put our fiscal house in order, I cannot tell you how much fun it is to participate in this debate today on how we should be balancing the budget instead of debating whether or not we should be balancing the budget.

I want to congratulate the other side and the gentleman from Ohio, Chairman KASICH, for helping to make this debate possible and for bringing a budget to the House floor which tackles many of the tough choices that we have to face. I also want to congratulate the gentleman from New York [Mr. SOLOMON] and the gentleman from Wisconsin [Mr. NEUMANN] for the proposal to balance the budget in 5 years.

Unfortunately, I cannot support the committee resolution as it is before us today. This resolution allows us to postpone and possibly even avoid the tough choices that we must make.

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It calls for a very unusual process that allows us to make the politically popular and easy choices before we even consider the real spending cuts that are necessary to balance the budget. Even if we do not duck these tough choices, as this resolution allows us to do, the overwhelming majority of the spending cuts called for in this resolution will occur in the last 2 years.

I hope that the committee is right in its assumptions, but I am afraid that the savings that are supposed to occur in the last 2 years will not materialize and we will be left with a deficit that continues to drag down our economy.

Fortunately, Mr. Chairman, the House will have an opportunity to support a sensible and fiscally responsible alternative to the committee resolution when the coalition budget is offered as a substitute tomorrow. The coalition put together this alternative because the coalition members have long been committed to the goal of balancing the budget, but we believe that it must be done in a way that makes sense and will work.

The budget that we produced is a realistic proposal that does make sense. It achieves a balanced budget by the year 2002. It borrows $160 billion less than the committee resolution without making unreasonable cuts in vital programs. Unlike the committee resolution which backloads the deficit reduction in the last 2 years, the coalition budget cuts spending first and provides for a reasonable, level glide toward a balanced budget in the year 2002.

Mr. Chairman, if my colleagues have any reservations about the budget resolution before us today, I urge them to review the coalition budget carefully. I am confident that if they have done that, they will agree with me that the coalition budget is the most sensible alternative before the House and deserve the support of all Members.

Mr. STARK. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I rise in very strong opposition to the proposal presented by the Republican leadership. At a time when this country has a very large deficit and a $4.7 trillion national debt, it is vulgar. It is crass to be giving huge tax breaks to the wealthiest people in this country and to the largest corporations.

It is unacceptable that half the tax breaks in this proposal go to people making $100,000 a year or more and that the wealthiest 1 percent will receive more in tax breaks than the bottom 60 percent. It is pathetic that at a time when the richest 1 percent of the population own more wealth than the bottom 90 percent and when the upper 4 percent of earners make more money than do the bottom 50 percent of earners, that taxpayers making over $200,000 a year receive a tax break of $11,000 while those making less than $30,000 receive a tax cut of $124. And the rich get richer, and everyone else gets poorer.

Mr. Chairman, it is especially outrageous to be talking about tax increases for the rich when we all know that it was the huge tax breaks for the richest 1 percent in the 1980's that was a major cause of the explosion of the deficit during that period. As a result of tax breaks given to the wealthiest 1 percent, the Treasury Department lost over $1.5 trillion between 1981 and 1992, 1.5 trillion in tax breaks to the richest 1 percent during the 1980's. And guess what in the 1990's? They are coming back for more tax breaks for the very same people. Shame.

Mr. Chairman, I rise in very strong opposition to this budget proposal presented by the Republican leadership.

At a time when this country has a very large deficit and a $4.7 trillion national debt, it is vulgar and it is crass to be giving huge tax breaks to the wealthiest people in this country and to the largest corporations.

It is unacceptable that half the tax breaks in this proposal go to people making $100,000 a year or more, and that the wealthiest 1 percent will receive more in tax breaks than the bottom 60 percent. It is pathetic that at a time when the richest 1 percent own more wealth than do the bottom 90 percent, and when the upper 4 percent of earners make more money than do the bottom 51 percent—that taxpayers making over $200,000 a year receive a tax break of more than $11,000, while those making less than $30,000 would receive a tax cut of $124. And the rich get richer and everyone else gets poorer.

Mr. Chairman, it is especially outrageous to be talking about any tax increase for the rich when we all know that it was huge tax breaks for the richest 1 percent in the 1980's that was a major cause of the explosion of the deficit during that period. As a result of tax breaks given to the wealthiest 1 percent, the Treasury Department lost over $1.5 trillion between 1981 and 1992—which is approximately half of the national debt that was accumulated during that period. Given the fact that the tax breaks provided to the wealthiest 1 percent is largely responsible for the deficit, why in God's name would we give them more tax breaks now.

Mr. Chairman, this Republican budget cuts taxes for the rich and the largest corporations, spends $92 billion more on the military over 7 years, and then makes devastating cuts for the middle class, for working people, for the elderly, for students, and for the poor.

Senior Citizens: At a time when many of our seniors are finding it extremely difficult to pay for their health care needs the Republican House budget calls for, over a 7-year period, a $282 billion cut in Medicare and a $184 billion cut in Medicaid. The American Association of Retired Persons [AARP] estimates that this proposal means that the average Medicare beneficiary would pay over $3,500 more out-of-pocket over the next 7 years. Further, Social Security will be cut by $24 billion from 1999 to 2002 due to a six-tenths of 1 percent reduction in the COLA formulation. Also, the LIHEAP fuel assistance program will be eliminated, and there will be a major cut-back in senior citizen housing. Such excellent senior programs as the Foster Grandparents Program, and RSVP will also be eliminated.

Education: While college costs are soaring, and many middle class families are experiencing declining incomes, the budget reduces student loans by $33 billion. According to the administration, the Republican plan to eliminate Government-paid interest on student loans while the student is in school would cost 4 million undergraduates more than $3,000 each during the course of a 4-year college career.

Further, the Republican budget would eliminate or drastically reduce funding for such important educational programs including Goals 2000, the TRIO Program, title I, School-To-Work, student incentive grants, Head Start and Safe and Drug-Free Schools—among others. There is little question that not only will these cuts be harmful to education, but they will result in higher State and local taxes.

Veterans: The bill passed by the House Budget Committee would, over a 7-year period, reduce veterans programs by $8.3 billion. The Senate Budget Committee proposal would reduce veterans benefits by $15.1 billion. Among other cuts would be an increase in the prescription drug copayment from $2 to $8. The House bill would also reduce the COLA on veterans compensation. It would also eliminate the Veterans Employment Program under the Job Partnership Training Act, the Disabled Veterans Outreach Program, the Local Veterans Employment Representative Program, and the homeless veterans reintegration project.

Workers: At a time when millions of American workers have lost their jobs because many American companies are downsizing, or moving to Mexico, this budget not only cuts back significantly on job training programs, but it eliminates unemployment insurance extended benefits. That means that unemployed workers would not get assistance after 13 weeks.

The poor: While poverty is increasing and the United States continues to have the highest rate of childhood poverty in the industrialized world, the Republican proposal cuts back on food stamps, child nutrition programs, childcare, affordable housing, WIC, and assistance to the homeless.

Culture: At a time when television is filled with more and more violence and junk, this budget eliminates funding for the Corporation for Public Broadcasting. It also eliminates funding for the National Endowment for the Arts which has been so effective in providing seed money for many excellent projects.

Should the United States move toward a balanced budget and address its $4.7 trillion national debt? Yes. Should we, at the same time, be giving huge tax breaks to the top 4 percent of earners who make more money than do the bottom 50 percent? No. Should we balance the budget on the backs of the middle-class and working people who are already hurting, and who are experiencing a decline in their standard of living? Absolutely not.

Mr. STARK. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, could the gentleman from Minnesota [Mr. PETERSON] explain to me the difference between the budget program that you are suggesting and the one that the Republicans are proposing?

Mr. PETERSON of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Minnesota.

Mr. PETERSON of Minnesota. Yes, I can. What we do is we basically start with the Domenici budget but what we do is we eliminate the tax cut. We take that money and reallocate it to Medicare. We add $109 billion back to Medicare. We add $54 billion back to the Medicaid from the Kasich budget. We add back $5.6 billion in agriculture cuts. We restore the student loan cuts. We add $35 billion into the education area and, I believe, $11 billion into the area of health research.

Mr. STARK. You take that tax cut for the very rich and invest it in the bedrock of the American economy, in students and farmers and in the growing economy of our country.

Mr. PETERSON of Minnesota. That is exactly right.

Mr. STARK. Mr. Chairman, that sounds very good to me.

Mr. PETERSON of Minnesota. Mr. Chairman, if the gentleman will continue to yield, I think that is the right way to go.

Mr. SAXTON. Mr. Chairman, I yield 3½ minutes to the gentleman from Pontiac, IL [Mr. EWING], a member of the Committee on the Budget.

Mr. EWING. Mr. Chairman, I rise in support of the budget resolution.

Mr. Chairman, there is something in this budget for everyone to dislike. That is probably what makes it an excellent budget. For instance, I come from rural America, from agricultural land. For instance, the budget will cut $9 billion over 5 years from agricultural commodity programs alone. This comes on top of major reductions in agricultural expenditures over the last several years.

These cuts will be painful. They will be painful for producers, for American farmers, for agribusiness people, for those who share an interest and an investment in the great industrial agricultural-industrial business of this country, as we struggle to compete with heavily subsidized European agriculture.

But once again, those of us from farm country are willing to step up to the block and help reduce the deficit. The difference is this time the cuts that have been made will not go to additional Government spending, as they were in past administrations. They will go to deficit reduction. If every other program in the Federal budget had been cut, as agriculture has over the last few years by the Democratic controlled Congress, we would not be here today debating how to balance the budget. But that is history.

I am glad that this budget finally forces all segments of this Government to meet their responsibility in balancing the budget. For the first time we are going to start controlling Government expenditures and guarantee that the deficit will be zero by the year 2002.

This is real fiscal responsibility, the kind of Government management that the American people called for in the last election, not what the last speakers have been talking about, social spending increases. It is about time we tackled the issue. For the first time the budget reverses the tax and spend policy of the other side of the aisle. There is no telling how fast our economy can grow when we turn it loose and quit strangling it.

What are some of the things that will come out of a balanced budget? Well, let us first of all talk about tax relief. Tax relief is not just for the wealthy. I am certainly not wealthy. I do not expect one dime of tax relief, but there will be a lot of tax relief for American families. That is better than the Government taking the money from them and spending it for them. And you are opposed to giving the families of America tax relief. I really cannot believe that.

Chairman Greenspan has said, what would come out of a balanced budget? Probably a 2-percent reduction in the interest rate. Well, I tell you, if you know anything about business or the economy, you know that is going to create jobs.

I would rather give American agriculture a 2-percent cut in interest rates than a bigger subsidy, and job creation.

Mr. STARK. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, the caring majority budget of the congressional black caucus and the House progressive caucus is concerned about the jobs necessary to keep our economy a robust economy. Our priorities are clear: education, job training and job creation. And in the budget that we have prepared, which is a balanced budget, we provide for jobs, education and job training.

The budget boldly sets forth investments in the activities which will keep our Nation prosperous at home and competitive in the global arena. And we do this by providing, first of all, a tax cut for hard-working Americans.

Our tax cut does go to all families. It does not favor the rich and the privileged. We invest more than $27 billion also over a 7-year period in education and job training by increasing function 500 by 25 percent. We protect major job creating functions. Other functions such as transportation, public works, commerce and health care are protected despite the pressure to make huge cuts.

We ensure that current services are continued for both Medicaid and Medicare. Medicaid and Medicare are fully maintained. We supported the President's position that Medicare and Medicaid should not be touched until we have a comprehensive health reform program.

We oppose all of the attempts to erode Social Security, including the extensions which will continue the COLA and have no cuts in the COLA. We advocate a more sane defense budget, a defense budget which offers a peace dividend to the taxpayers. These taxpayers have diligently supported the burden of massive modern military costs for years and years. Now we have no more Evil Empire. The Soviet Union is gone. Why do we have to continue to shoulder a massive military burden?

So our biggest cut is in the area of defense. Our biggest cut is where the money is. We maintain that although defense industries do create jobs, study after study has shown that you can create two jobs for every defense job that is created. With the dollars you spend, you can create two nondefense jobs.

So if you wanted to create jobs, you can create many more by spending them in other places, including, by the way, health care. Health care provides an enormous amount of jobs although the business of health care is not to provide jobs; it is to take care of people, but health care is a labor intensive industry and it does provide jobs.

In order for us to accomplish all of this and still have a balanced budget and have a balanced budget with minimum pain on families and individuals, we have focused on the closing of corporate tax loopholes. We have attempted to end the lopsided tax burden which has been forced upon wage earners via the personal income tax. Corporations used to shoulder as much as 39 percent of the responsibility for Federal revenue. Now the corporations only shoulder a mere 11.2 percent of the burden, and we are saying that we would like in this budget we propose to increase it to a modest 15.9 percent of the total tax burden.

By the way, individuals shoulder 44 percent of the total tax burden. We would like to change that and in the process of changing that, you will generate. That is the policy key to a balanced budget. If you must have a balanced budget, and we do not think you need to balance the budget by the year 2002, but if you wanted to move toward balanced budgets, then the way to do it is to correct the imbalance.

I have a chart here which shows that in 1943, 39.8 percent of the revenue burden was carried by corporate income taxes. In 1982, that dropped all the way down to 8 percent, from 39.8 percent all the way down to 8 percent in 1982.

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During the Reagan years, from 1982 all the way to the end of his Presidency, it hovered around 8 and 9 percent of the total tax burden. It did not begin to back up until later on.

If Members want to balance the budget, let us let the American people in on the great secret. They as individuals, the American people as individuals and as families, are bearing a greater and greater percentage of the tax burden, while corporations have been allowed to get off with more and more. Therefore, we are closing tax loopholes. Who is there who would not want to stop multinational corporations from taking advantage of our tax system? We want to end the multinational corporation swindle, and we want to close other loopholes. We can balance the budget without cutting Medicare, Medicaid, and without inflicting undue pain on numerous Americans.

Mr. SAXTON. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Texas [Mr. THORNBERRY].

Mr. THORNBERRY. Mr. Chairman, there are, of course, many important issues we could debate with regard to this budget, including whether we will continue to saddle our children with debt, and whether an increase in the amount of money in a program, both totally and per beneficiary, is still going to be called a cut in Washington, DC.

Another important issue is the size of government, and how much government, both in taxing and spending, takes out of the economy. This is not just abstract political theory, but it is very practical about what really works to improve the lives of regular folks. It affects every person in this country.

We can see now the administration sees an economic slowdown coming and is ready to point the finger of blame at somebody else. As Stephen Moore pointed out in his book "government: America's Number One Growth Industry," the problem is very clear. He said:

> The reason that America finds itself on an economic downward spiral is that today,

> Washington, DC is taxing, spending, borrowing, mandating, decreeing, and regulating America to death. The private sector—businesses, entrepreneurs, investors, workers, and families—is slowly suffocating under the weight of a relentlessly expanding government.

Mr. Chairman, the resolution reported out by the Committee on the Budget and the Neumann budget are the first things in a very long time in this House that begin to deal with each of those things that Moore identifies. It deals with the taxing, spending, borrowing, mandating, decreeing, the regulating that is consuming so much of our national wealth.

If we look at the numbers, government at all levels consumes more than ever before. One study found about 42 percent of our national income is spent by government these days. Other facts about government are equally astonishing. Government at all levels spends about $24,000 for every household in America. With the $2.5 trillion that local, State, and Federal governments spend this year, you could buy all the farmland in the United States, plus all the assets of the Fortune 100 companies. There are more people working for the Government than are working for all the manufacturing industries combined.

The danger, I think, Mr. Chairman, is that we are on the verge of becoming what Margaret Thatcher called a nanny State, where the government takes too much from us to do too much for us. Even President Kennedy in 1962, in his address before the Economics Club of New York, said "The growth of the American economy in the 20th century demonstrates for all to see the power of freedom and the efficiency of free institutions." Yet those are the very things that have been under assault year after year as a result of the policies of this Government.

I think that for the first time in a long time, we are beginning to take power and responsibility away from Government, and give more power and more responsibility back to individuals. That is what is absolutely essential, in my view. We must also reduce the size of Government. The President is fond of pointing out how he is making drastic reductions in Federal employment, but if we look at the numbers and take out one department, the Department of Defense, we will find out that even President Clinton's target is some 40 percent more than the Federal work force at the time of President Kennedy.

Mr. Chairman, I think it is absolutely necessary that we stop adding debt to our children. It is also necessary that while we are straightening out the national budget, we straighten out the family budget as well.

Mr. STARK. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, the Republican budget says two things to the American public: Don't get sick and don't get old.

The Republican budget would cut Medicare by $280 billion over 7 years. To those who say this does not represent a real cut, I suggest they argue those semantics with senior citizens who will have to pay $1,000 more in extra Medicare premiums, deductibles, and copayments under the budget. I advise them to make that argument when seniors can not find a doctor to treat them because Medicare pays providers less and less. I will ask them to explain to my constituents why a Medicare cut three times bigger than any reduction ever enacted in the history of program does not represent real pain for senior citizens.

Let us not hide the facts. The Medicare cuts in the budget could decimate the only universal, portable health coverage we have in this country. When you combine these cuts with steep reductions in Medicaid's coverage for nursing homes, the budget offers seniors a bitter pill to swallow.

Some have said that these cuts are needed to save Medicare. America knows better. The same budget that cuts Medicare by $280 would also enact $345 billion in tax breaks for the wealthy. This is not a fair trade for our Nation's seniors.

Mr. Chairman, I have taken the tough votes to keep Medicare solvent and strong. In 1993, I voted to extend the solvency of Medicare by 3 years, and last year I voted in committee to extend the trust funds an additional 8 years. Both times not even one of my friends from the other side of the aisle joined with me in protecting Medicare.

I remain committed to ensuring the solvency of Medicare, but let's do this the right way. Senior citizens should not be forced to accept Medicare cuts to enact tax breaks for the wealthy.

Mr. SAXTON. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina [Mr. SANFORD].

Mr. SANFORD. Mr. Chairman, I was going to discuss the short-term outlook for the U.S. economy. Unfortunately, time will not permit much detail, but I would also like to address Laura D'Andrea Tyson's recent statement that budget cuts pose significant downside risks to our economy.

I think this shows an antiquated notion that the more Government spends, the better off our economy. This does not seem consistent with what we have seen over the last 30 years. It also does not recognize what Government fundamentally does: Government redistributes wealth, it does not create it.

There are three real threats in the near term to our economy. First would be the possibility that Congress does not act seriously on the budget deficit that is facing us; second, that Japan resolves the run-up of its currency to our detriment; and third, that a trade war ensues between America and Japan. Let us explore all three for just a few moments.

First, our Nation's budget deficit is the biggest threat to our economy. I think that for several reasons. First, if we were to look on relative terms, the ratio of public debt to gross domestic product that our Nation is facing right now is the highest that our Nation has ever faced. Second, a child born in America today will end up paying $187,000 in interest costs over the course of their lifetime, simply as their share of past Federal spending.

Third, it is simple math. The standard of living is directly driven by productivity, which is driven by investment, which is driven by savings. The larger the Government share of the economy, the smaller the personal savings will be, and there will be less money for investment.

The second near-term threat would be the international value of our currency. I think there are two grave dangers on this front. One is that almost anything that Japan does in the near term to correct its over-valued currency will hurt our economy.

At 75 yen to the dollar, Japan's gross domestic product [GDP] equals America's GDP. That clearly does not make sense. It is unsustainable, and will change. The only question is when.

Second, the risk of losing reserve currency status. If the Asian central banks were to use gold as a reserve asset instead of the dollar, or simply to decrease their dollar holdings, I think it would have very damaging consequences for the American economy.

Finally, I think the third risk facing us is the possibility of a trade war with Japan. I think we ultimately would be the ones most affected by this, because any escalation of global tariffs would especially hurt the largest trader in the world, which is the United States.

Specifically, I do not think that Japan is the problem. The problem facing our economy is a tax system that rewards consumption over savings and investment.

Mr. STARK. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Chairman, I think all of us in this Chamber and across the country agree that the American deficit has reached critical and, of course, historic proportions, and that the No. 1 task before this body is to determine the course of action that is necessary to bring us out of the deficit and address the debt that still lingers, and to do so forthrightly.

One of the tragedies we have faced in this country is that we have even masked the true size of the debt and deficit. We have used the Social Security cash flow surplus for that purpose. We need to have a budget that actually discloses the true size of the deficit, which would currently be approximately another $70 billion. Then we need to decide what course of action will indeed bring us out of this tragic situation.

I think that it may be idealistic, Pollyannaistic, to think we can get together and do this on a bipartisan basis, but we ought to. The American people are not looking for partisan answers. The American people are not asking what is the Democrat plan, what is the Republican plan, what is the President's plan. They are asking "What is a plan that will work for us? What is a plan that will allow us to continue to grow our economy, to invest in our children, to invest in education, and eliminate this millstone around the necks of our economy and those of us as individuals?"

I submit that a plan of this type has been submitted by the Democratic coalition.

Mr. STARK. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. STARK], is recognized for 2½ minutes.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Mississippi, and perhaps I could engage my distinguished ranking senior vice chairman in this colloquy for the minute or two remaining on our side.

Mr. TAYLOR of Mississippi. Mr. Chairman, let me begin by saying that I am very much in agreement with the fact that we have to balance the budget and balance it soon. I really resent, however, speaker after speaker coming to the podium telling people what a terrible Nation we have. This Nation saved the world from Hitler. This Nations saved the world from the imperial Japanese. This Nation saved the world from communism. This Nation saved the world, and all of it has a cost.

The gentleman from New Jersey [Mr. SAXTON], in his statements, said we would be much better off if we privatize everything. I am not in total disagreement that we ought to privatize some things. However, is it not realistic that the biggest expense to this Nation is the combined Medicare-Medicaid? The next biggest expense is national defense. The third largest expense is interest on the national debt.

I would ask the gentleman from New Jersey, which of those things would he privatize, because we have just gobbled up almost 70 percent of the budget.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from New Jersey to respond.

Mr. SAXTON. First of all, Mr. Chairman, it was the gentleman's assumption, or maybe he heard me say we would privatize everything. I do not recall saying that. I do not think I did. Obviously, I would not privatize national defense, nor does our budget pretend to do so. We do not privatize Medicare or Medicaid. As a matter of fact, it continues to grow under our program, as a very important part of our budget and our program. In fact, it grows from an average benefit of $4,600 per recipient to $6,300 per recipient.

□ 1630

Mr. STARK. The gentleman is close to being correct as he usually is.

Mr. SAXTON. We really do not propose to do the things that the gentleman has suggested.

Mr. STARK. Reclaiming my time, the gentleman is close to being accurate as he usually is on economic matters, but when it comes to discussing the privatization of Medicare, he is wrong.

The secret document wants to offer vouchers which will make it difficult for your parents and mine and the average elderly to purchase health care. It is a step toward privatization, perhaps dressed in some kind of economic clothes that neither of us understand if that is the case.

I want to thank the gentleman from Mississippi for bringing out that privatization is not the end all and be all to economic growth.

I would like to ask the distinguished gentleman from New York if the budget that is generally described as the Black Caucus budget is not a product of the same group that year after year has brought us a budget that has tried to be sensible about defense, has held back tax cuts to the very rich while concerning itself with children, with education, with investment and research for health care, with the things that have made this country great, indeed, the things that create wealth in this country only through Government.

If you could tell me where Lockheed or Martin Marietta gets any money to create wealth except through Uncle Sam, I think I miss my guess.

I ask the gentleman from New York [Mr. OWENS], is your budget balanced in the long run and if so how long?

Mr. OWENS. Mr. Chairman, if the gentleman will yield, our budget is balanced——

The CHAIRMAN. All time for the gentleman from California [Mr. STARK] has expired. The gentleman from New Jersey [Mr. SAXTON] has 2 minutes left.

Mr. SAXTON. Mr. Chairman, I yield the final 2 minutes of our time to the gentleman from Iowa [Mr. GANSKE], the doctor, who would like to discuss the subject that the gentleman from Mississippi [Mr. TAYLOR] brought up, Medicare and the Republican proposal to make it grow.

Mr. GANSKE. Mr. Speaker, there will be much talk about the Republican budget cutting Medicare and how Republicans do not care about Medicare recipients.

Well, I am a Republican and a physician and I care deeply about providing quality care for the elderly and about balancing the budget.

The Medicare trust fund will be broke in the year 2002. Here is the trustees' report. Let me read from page 13. "The Medicare program is clearly unsustainable in its present form."

Page 14. The trustees say, "We strongly recommend that the crisis presented by the financial condition of the Medicare Trust Funds be urgently addressed."

What is the option the Democrats are proposing? Should we let the system go bankrupt in 2002? If we do that, we will have to increase the Medicare tax from 2.9 to 9 percent. If we don't control over 10 percent annual increases in Medicare growth, it does not take a neurosurgeon to figure out that in 30 years we will be spending the entire Federal budget on health care.

As a member of the Subcommittee on Health and Environment of the Committee on Commerce, I look forward to working with my Democratic and Republican colleagues. It will take some short-term solutions and some long-term fundamental changes, but we need to look at this. But the facts of this report and the compounding of interest on our national debt mean that if we diet now, we will be healthier tomorrow. If we continue the status quo, we will have a heart attack tomorrow. Let me quote President Clinton.

President Clinton has said:

> Today, Medicaid and Medicare are going up at three times the rate of inflation. We propose to let it go up at two times the rate of inflation. That is not a Medicare or Medicaid cut. So, you know, only in Washington do people believe that no one can get by on twice the rate of inflation. So when you hear all this business about cuts, let me caution you that that is not what is going on. We are going to have increases in Medicare and Medicaid.

Mr. Chairman, I care about my Medicare patients, and I want to make sure they have Medicare.

The CHAIRMAN. All time yielded to the Joint Economic Committee has expired.

The gentleman from Ohio [Mr. KASICH] has 120 minutes of debate time remaining. The gentleman from Minnesota [Mr. SABO] has 119 minutes 40 seconds remaining.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, we want to kind of give Members a little background on how we put this together. As I pointed out earlier in the debate, we are going to go from $9.4 trillion spent over the last 7 years to $11.9 trillion. As you can tell, that is an increase in spending over the last 7 years, and if, in fact, we had stayed a course to the $13 trillion, folks, we would be very, very pessimistic about the long-term economic health of this country.

One of the things that we tried to do is to slow the growth of entitlement programs. Many people watching on

TV, and trying to figure out what is this all about, keep hearing about cuts in all these entitlements.

What you have to understand is in Washington if something does not go up as fast as somebody thinks it ought to go up, it is a cut.

I want to tell you an interesting, illustrative story about an interview I had with a reporter. The reporter said, "Well, Mr. KASICH, how do you define a cut and how do you define an increase?"

I said, "Well, let me put it to you in these terms, and you ought to take some notes on this. If, in fact, I get more money this year than I got last year, that is an increase, and if I get less money this year than I got last year, we are going to call that a cut, and if I get the same amount of money this year as I got last year, let's call that a freeze."

Now, I said, that is the way it works back in Westerville. A cut means less, an increase means more, and a freeze is a freeze.

In entitlement spending, we are going to go from $4.5 to $6.4 trillion. Folks, you can see the blocks. It is an increase.

Medicare is going to go from about $890 billion to $1.6 trillion. That is an increase.

What we have attempted to do in this budget is to slow the increase in many of these entitlement programs. In other words, when you take all the entitlement programs of the Federal Government over the next 7 years, we will have to design entitlement programs that will serve the public by spending almost $6.5 trillion.

When I go home and ask people, "Do you think we can design the entitlement programs to spend $6.5 trillion?" they say, "Well, yeah, but why are you spending $6.5 trillion? Why are you spending so much?"

Down here in Washington if you say you are spending $6.5 trillion, they say you are cutting somebody.

People tell me on buses, on airplanes, in the gymnasium, "JOHN, why can't we get the language right? Why can't we describe this appropriately?"

Mr. Chairman, what we are doing in these entitlement programs, except for agriculture, is that we are going to spend more, far more than what we spent over the last 7 years, but we have to do it because we have people in need and we are trying to redesign the programs.

In the case of Medicare, which we will discuss later, we are saving it. If we grow Medicare at the rate that it is currently going, it goes bankrupt. Medicare will go bankrupt. So what we are attempting to do is to study the experience in the private sector. Many companies were going bankrupt. They could not control their health care costs.

What we have done is, we have said that we are going to slow the growth in Medicare because if we do not, it will go bankrupt in 7 years. In fact, we will be able to go, under our plan, from $4,800 per recipient to $6,400 per percipient over the next 7 years. They call this a cut. $4,800 to $6,400, they say you are cutting spending.

The big chart shows that we are going to go from $924 billion to almost $1.6 trillion. They want to grow it to $1.8 trillion, which will bankrupt the system, and by us going from $924 billion to $1.5 trillion, they call that a cut.

If you are out in America and you are scratching your head about these numbers, you have a right to, because we are not cutting entitlements. We are growing entitlements at a somewhat slower rate.

In the area of discretionary spending, those are the nonentitlement programs. By the way, if we can control those entitlements, we will not be robbing from children's futures in this country.

Let me tell you about some of our programs here on the discretionary side: One hundred and sixty-three separate job training programs; 23 separate programs to prevent child abuse; 8 separate programs dealing with child care; 7 separate child nutrition programs; 42 separate programs to give health professionals education; 300 separate economic development agencies; 71 departments and agencies duplicating the function of Commerce. That is why we eliminate the Commerce Department. Nine agencies promoting trade.

All this excess, all this duplication and bureaucracy and excess, and guess what? You have to pay for it. It is not right that you are paying for those programs.

What we do is, we consolidate, we eliminate, we send some back to the States, we privatize others. What we do is, we slow the total growth in spending in this country to an increase of about $2 trillion.

Mr. Chairman, the simple fact of the matter is that by consolidating all those programs, by slowing the growth of entitlement programs, it is a modest program, ladies and gentlemen, we will save America. Just that simple.

If we do not do it, if we continue to grow at the current rate and let all the bureaucracy continue and let the entitlements shoot out through the roof, we are taking from the children, denying them a future.

I think we can live with this. You want to know something? So do the American people. That is why Members of Congress are getting such support for the plan that we present, and at this point we are going to give a little more detail to lay this out for you.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I appreciate the opportunity to address the House on the impact of this budget in the health area, particularly when it comes to Medicaid and Medicare.

Mr. Chairman, I want to point out to the previous speaker and others who these Medicare recipients are. They are not rich people. Over three-fourths of them have incomes less than $25,000. They are people who are dependent on their Social Security checks. Thirty percent of older Americans rely on Social Security for some 80 percent of their incomes. A majority of older Americans rely on Social Security for at least half of their income.

If this Republican budget is adopted, the typical Medicare beneficiary is going to see almost 50 percent of their Social Security cost-of-living increases eaten up by increased Medicare cost sharing and premiums by the year 2002. Two million Americans who are on the Medicare Program would lose their whole cost of living increase under Social Security simply to pay their additional Medicare costs as a result of this budget.

Are my Republican colleagues going to say to their constituents, that is not really a cut in their Social Security check? Are they going to argue then that even though the cost of living has gone up and their Social Security check has not, that they are not worse off?

There is something else about the Medicare beneficiaries that our Republican colleagues seem to forget. They are people who need a lot of health care. That is particularly true the older they get. When they get old and when they get sick, insurance companies do not seem to want them.

The fastest growing group of Medicare beneficiaries are people over 85 years of age, the disabled, and people with end stage renal disease. No wonder Medicare expenditures are growing. It costs money to be sick.

They also seem to forget that people on Medicare pay a lot for their health care right now. The average elderly household pays 12 percent of its income for health care right now, and that is over 3 times as much as younger families pay. They pay Medicare premiums and deductibles, Medigap premiums. They pay for prescription drugs which are not covered under Medicare, and they spend about $2,750 out of pocket right now. Yet this budget will require them to pay more.

□ 1645

A Medicare beneficiary will have to pay nearly $1,000 dollars more out of pocket for their Medicare services in 2002 and over the life of this budget. Medicare beneficiaries are going to help balance the budget by coughing up some $3,500 in extra dollars to pay for their Medicare services.

This budget is very bad news for these people. I urge its rejection.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Michigan [Ms. LYNN RIVERS], a distinguished member of our committee.

Ms. RIVERS. Mr. Chairman, throughout the course of the discussion today we have seen many attempts to explain away the concerns that are being raised about the cuts in Medicare and programs for children and students. We have seen a variety of facts and figures produced to explain why these issues really should not count. And we have been accused of using demagogery to make our point.

We have also heard over and over again about only in Washington can this happen or that happen and what the American people will support.

I decided that it was important not to speak as someone from Washington, but to let the American people speak themselves. This is a portion of the mail I have received on one of the cuts currently in the proposal which would eliminate home heating subsidies for older people and low-income people. This is what some folks in my district had to say about that.

One woman said,

> I feel sorry for all older people. Its too bad that we have to live so long.

Another person writes that they will not be able to pay for their necessities.

> For God's sake, please don't stop this. I am disabled senior citizen of 73. I only make $462 in Social Security and $16 a month in SSI. Seems like people on Capitol Hill really don't care about us poor people. They are trying to put us into homelessness or make us commit suicide.

A woman writes,

> The money I receive for my home heating credit helps me buy my pills for my heart and then I won't skip them. I can take my pills every day.

Another person writes,

> I have to cut back even further on my $546 monthly income. I'm 91 and use more heat than others. I just had a severe heart attack.

Another woman writes,

> People like myself, senior citizens, will suffer greatly. The winters in Michigan are very hard on disabled, old and the sick.

She is 97.

One senior writes,

> Being seniors you have to stay warm with less heat. As you get older, it gets colder.

Another person writes,

> We will have another drop in our living standard and the bottom is coming up fast. Please do not eliminate these services.

Another person writes,

> I will be facing another severe hardship on top of the present one. Can you imagine my wife and I getting $695 a month and paying $335 to our HAP alone. Buying our medicine and as little food as possible to survive and we cannot afford any luxuries whatsoever and are unable to pay our utility and other necessary bills. We did work hard all our lives and helped pay into the system. So please help us help ourselves. Just help us to survive the rest of our lives.

Last, someone writes,

> We come very short on our money during the winter. Our only source of income is my husband's Social Security disability. I think the Republicans have gone too far to help the rich.

Mr. Chairman, I would have to agree.

Mr. SABO. Mr. Chairman, I yield 4 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding time to me, and I thank the gentleman from Minnesota who has provided such leadership on our side on this.

This is about promises made and promises broken, and I think that we really have to look at the very core of what we are talking about. It must be confusing to people, because people are trying to make out like we are not for balancing the budget. Yes, we are. We worried about the deficit. We started this whole deficit reduction last year all by ourselves.

But the question is how do you balance the budget, and who do you cut in getting to balance that budget.

I want to ask you to show me one American family where they come to the table to put together their budget and they decide that they are going to cut the kids and they are going to cut the elderly and they are going to cut the infirm so they can give more money from the family budget to those who are doing really well already. As I said, that is socialism for the rich. That is the dysfunctional family. That is not American values, and yet, that is what we are doing in this budget that is in front of us.

I brought Stephanie Clark along. She is from Denver. Stephanie Clark is very excited. Because of student loans she is finally graduating this year from CU Denver and she had hoped to be able to go on to Americorps. Guess what? Americorps is going away, and student loans are going to be severely impacted.

This is our future. These are the people who want to learn how to fish; they do not want to be given a fish, but they need help to get there.

As we look at this budget and we see that we cannot get a commitment on cutting back a lot of the benefits that business had, even the $25 billion that they have in the budget to take it out of the tax pennies for the rich, guess what, the committee is saying they will not do it.

As we look at all of the other things that are in there that are not being touched, because there are big, powerful people protecting those pet rocks, the people we are going after are the Stephanie Clarks of Denver, we are going after the elderly on Medicare who thought they had a Contract With America already. And we are going after the most vulnerable.

I keep coming back to the same old thing. You do not attack your most vulnerable. Either we are a community or a bunch of isolated individuals, which I hope we are not, or we are a community of a country that reaches out and tries to help each other through some sort of shared ethic. That is what it is about.

Mr. WAXMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. Of course I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentlewoman for her statement which talks about Medicare. But there is Medicare and Medicaid and our poorest of the poor are on the Medicaid Program. In fact most of the people on Medicaid are children, but most of the money goes to the elderly in nursing homes. That program is going to be devastated, it is going to be devastated, it is going to be blockgranted and cut in the amount that will go to the States.

But I just recall hearing from Edna Ferris, who talked to us at a conference on Monday. She talked about how they struggled with her husband who had Alzheimer's, she tried to keep him home as long as she could. When she could not manage it anymore, she looked to the Medicaid Program to help pay for the nursing home costs, which can be $35,000 a year, and more, and she did not have that money. So she went on Medicaid and the Medicaid Program kept her from being impoverished, allowed her to keep some of their money so she could live at home. If she had no Medicaid to protect her, all of her resources would have gone to that nursing-home care, and maybe her husband would not have been able to get in the nursing home because they are not going to take somebody for free.

So these programs help the most vulnerable in our population, and we should not forget that.

Mrs. SCHROEDER. The gentleman is absolutely correct. I just did a talk radio show where I talked to a woman who had adopted three medically dependent children and desperately needed Medicaid to help her, and I pointed out that was cheaper than institutionalization.

Mr. KASICH. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. LAZIO], a distinguished member of the Committee on the Budget.

Mr. KOLBE. Mr. Chairman, will the gentleman yield?

Mr. LAZIO of New York. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding.

We have been looking at pictures here, and I just want to show this picture here. This is Ari Cowen. His father is one of our budget staff people. Ari is a 3-year-old. This to me is what this is all about. This is the young generation we are talking about saving America for and being sure that they have a balanced budget.

And just before we resumed this part of the debate I was back in the back talking to the pages, and I think of the young people like Abby Moon from Ohio and Vanessa Ruggles, Nick Ryan, Tammy Brewer, Nancy Brim from my own hometown, this is the young generation that we are talking about. This is what we are talking about saving America for. Let us not forget that.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. LAZIO of New York. I yield to the distinguished gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding.

The distinguished gentleman from California talked about Medicare. We want to save Medicare. We do not want it to go bankrupt. It starts to go bankrupt next year, and in 7 years it is bankrupt, and the Congressional Budget Office said in the next 3 years after we spend more on Medicare than they do, because their fund runs out, Medicare Part A. This is the Democratic plan to solve and resolve the Medicare trust fund problem. It is a blank sheet. That is their plan.

And the gentlewoman from Colorado talks about she wants to balance the budget. She voted against the balanced budget amendment. My only question is if she wants to balance the budget, when, and how.

Mr. LAZIO of New York. The gentleman is correct, that my colleagues on the other side, whom I respect and in many cases admire, have had plenty of opportunities to move toward a balanced budget. They had an opportunity to vote for a balanced budget amendment and voted against it because they said there were not enough specifics. Then they were given the specifics and they said these were the wrong specifics. Then I began to be lectured as a dad who has two small children, two preschool children, Molly and Kelsey. I do not have a picture of my children here. Maybe I should have brought one, but you know this blank easel next to me should be for all of the children we are trying to save here today.

These are two of the most important days that I think I will have in my service in Congress, and I believe deeply in what I am doing here. I believe deeply because I want to be able to go back and tuck my kids in bed at night and say to them they are going to have a better future, we are not going to pass the buck, we are not going to punt, we are not going to get involved in political demagoguery. We are going to do the right thing. Republicans know it and Democrats know it. The debt is out of control. It erodes the ability for the next generation to have hope. It erodes their ability to have a sense of opportunity. We are doing something about it right now.

I really invite my colleagues on the other side who are bent on name-calling and lecturing about compassion to reevaluate their sense of compassion. What compassion is there when we are spending today billions of dollars that the next generation has got to pay back. What compassion is it when we cannot provide an opportunity for the next generation, when they cannot go to school and they cannot find a job after they go to school because they are so burdened with debt that there are no jobs left.

So, I really beseech my colleagues on the other side, who I respect, do not lecture us about compassion, because I think it is misplaced.

Mr. Chairman, I rise today as a proud member of the House Budget Committee, but more importantly, I rise as the proud father of two young daughters, Molly and Kelsey. More than anything else in the world, I want to ensure that my two daughters have the opportunities that past generations of Americans have enjoyed and that they are not burdened by the shortsightedness of this body.

For reasons that my children, who are 2 and 3 years old, are still too young to realize, our actions today will have a profound effect on their future. America has always been known as the land of hope and opportunity. This is what I ask for my children and therefore ask my colleagues to think toward the future when they cast their votes on the budgets before the House.

As members of this body we have a moral imperative to pass this resolution and balance the budget. Without it our children will face uncertain futures in which they will face unimaginable obstacles. The late Senator J. William Fullbright once said, "A nation's budget is full of moral implications; it tells what a society cares about and what it does not care about; it tells what its values are." With this vote, we send a strong moral message that the status quo is unacceptable, a $4.8 trillion debt is unacceptable, annual deficits close to $200 billion are unacceptable, and it is unacceptable for Congress to continue running from these problems without consideration for America's future. This budget represents hope, opportunity, and a positive vision for the future.

The budget we reported from the Budget Committee last week represents a historic change in the direction our country is headed. It moves us from the path of increasing debt and inefficient, big centralized government toward a government that is smaller, more decentralized and efficient and a country that will be more productive, with a higher rate of net savings and a higher standard of living. It is a budget that outlines a positive future for our country, a future filled with hope and opportunity. We cannot continue on our current spending binge.

The public debt now totals almost $4.8 trillion—about $19,000 for every man, woman and child in the United States. A large part of our taxes go to the interest payments on this debt, $235 billion—$643 million per day—this year alone. Interest payments on the Federal debt are behind only Social Security and National Defense as the third largest single expenditure in this budget. By 1997, Americans could be paying more for the debt than for defense.

Without the spending changes in this budget, the national debt is projected to reach almost $7.5 trillion by the year 2005, with interest payments of $412 billion. Unless we control spending now, servicing the national debt will crowd out all other priorities in the Federal budget.

Last fall the American people made a choice and gave Republicans a majority in Congress. They did so because they did not want the status quo, they wanted responsible, positive change. Most of all, they wanted Congress to quit ducking the tough issues and to take action. This budget fulfills our promise to provide that positive, responsible change.

Unfortunately, when the President submitted his budget this year, he punted, ducking all the tough choices.

My friends on the other side of the aisle who opposed the constitutional amendment to balance the budget said they agreed with the goal, but they did not want to change the Constitution to force balanced budget. Faced with a budget that will be balanced, these same Democrats say they do not like it. It is now clear that Democrats who opposed the balanced budget amendment really opposed balanced budgets period.

Out budget tackles the tough issues head on. Our budget problems will not go away. In fact, each year we avoid making tough choices, they get even more difficult.

While the committee's budget is tough, it also is fair. Overall, Federal spending will continue to increase, but the rate of growth will slow to allow revenues to catch up. Every part of the country is affected. No group or program is unaffected. It affects our urban areas, as well as our rural areas.

The critics will say the public will not accept it. Those critics are wrong. The American people are prepared for change as long as they know it was fairly and thoughtfully arrived at by their elected representatives. They are willing to put up with these changes because they know in the long run the changes are necessary to ensure the American dream—that each generation will do better than their parents, that America will remain the land of hope and opportunity.

This budget plan will make this country stronger for our generation, and for generations to come. A balanced budget will produce lower interest rates, higher productivity, improved purchasing power, reduced inflation, and accelerated long-term growth. With this proposal, we are setting the stage for a higher standard of living for all of our children and our children's children.

Total government taxes per household, measured in 1990 dollars, were $18,500 in 1994, nearly three times their level in 1950. Federal taxes as a share of median income have risen from 5 percent in 1950 to 15 percent in 1970 to 24.5 percent in 1995. If taxes today were at the same level as they were in 1970, the average family would keep $4,000 a year more of their take-home pay.

Americans are paying for the debt in other ways. Government borrowing competes with the private sector in the credit markets, forcing interest rates higher. Interest rates would be 2 percentage points lower if the budget were balanced. That means a 30-year mortgage on a $150,000 home costs $74,000 more today over the life of the loan than it would if the budget were balanced. Auto and consumer loans also would be more affordable.

Balancing the budget and the accompanying 2 percent interest rate reduction would create 4.25 million more jobs over the next 10 years, and increase per capita income by 16.1 percent. The Congressional Budget Office says a balanced budget would redirect resources from consumption to investment, increasing the Nation's capital stock and national wealth.

Federal Reserve Chairman Alan Greenspan testified to the Budget Committee in March that the economic benefits of a balanced budget would be startling. "I think that productivity would accelerate," Greenspan said, "the inflation rate would be subdued . . . the general state of financial markets would be far more solid, and the underlying outlook would be generally improved for long-term economic growth. Real incomes . . . would significantly improve, long-term interest rates would fall significantly, and they [most Americans] would look forward to their children doing better than they."

The committee's budget is a gateway to a future filled with hope and opportunity. It presents a new vision of government. It begins to move authority out of Washington and will help empower every individual American. It gives the relief for America's families. It protects Social Security. It saves Medicare from bankruptcy, spends 80 billion more—almost 4 percent more while increasing per beneficiary Medicare spending from the current $4,700 to $6,400 per year.

By adopting the committee's budget today, we will have kept our word to the American people and met the challenge they placed before us. When I put my daughters to bed tomorrow night I will know that we have done the morally right thing and helped pave the way for prosperity for them and for all future generations.

Mr. SABO. Mr. Chairman, I yield 3 minutes and 30 seconds to the distinguished gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I just hung up the phone on Minnie Wilensky from Queens County. She cannot even watch this debate because she cannot afford cable. You can talk about big numbers and little numbers and how we have to raise it and cut it. All she knows is that her copayments are going to go up and her premiums are going to go up and she will not get a cost-of-living increase in Social Security. And Minnie Wilensky, who is making constant choices about whether she buys the chicken or whether she cannot buy the chicken, because she lives on $11,000 a year, I just want to tell you the story because it is not a number in your statistics. Minnie lives in Queens County and she knows it is going to cost her more and she is going to pay more for the choice of doctor and more premiums and more deductibles, and that is what she knows.

Day after day we have heard how the Republicans have kept their promises to the American people. One after another the Republicans told us that promises made are promises kept. Well, Mr. Chairman, today we learn that Republican promises made are Republican promises broken, a promise broken to a person like Minnie Wilensky from Queens County. Now, Speaker GINGRICH and the Republican majority promised that they would not cut her Social Security benefits, but they are going to cut her COLA. They promised not to cut her Medicare, but they are going to raise her fees that she is going to have to pay. What is the truth? What does the new budget say? The Republican budget does cut $24 billion from Social Security. Seniors who have worked hard their whole lives will lose hundreds of dollars in Social Security benefits. Social Security is a contract. The Republican majority has been saying that for years. They said they would not touch it. Well, they have, they have broken that contract into pieces. They are proposing the largest Medicare cut in history, close to $300 billion.

The bill will cost individual seniors over $1,000 more a year for Medicare benefits by the year 2002. How will this affect real people like Minnie Wilensky? She has a heart condition. She has glaucoma. She and so many other seniors in my district cannot afford what they are already paying in prescription copayments and deductibles. How are they possibly going to afford these increases?

As I mentioned, she lives on $11,600 a year. She was telling me, "I am grateful for what I have got, but I have to make choices. If I have to buy more medicine, I cannot buy the chicken. If I have to buy more in a grocery store, I have to constantly make those choices."

□ 1700

How can she possibly afford these increases? And she is also worried about her generation; she is worried about her grandchildren, not only her own generation. She worries that her grandchildren will not be able to afford to go to college. She told me that with the average increase of $5,000 which is proposed in this budget, they are not going to be able to go to college.

Mr. Chairman, the Republican budget breaks faith with the millions of American seniors, like Minnie Wilensky, who depend on Medicare and Social Security. This is how the Republicans kept their promise, cutting Medicare, cutting Social Security, cutting education.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. PARKER].

Mr. HOKE. Mr. Chairman, will the gentleman yield?

Mr. PARKER. I yield to the gentleman from Ohio.

Mr. HOKE. Mr. Chairman, I just wanted to say to the gentlewoman from New York, where did Minnie get this information about there is not going to be as much Medicare, their money is going to be cut, she is going to have to pay more? Where on Earth? Did you tell her this personally?

The other thing I would like to say, since you did not yield me any time, I will not yield you any now, but the other thing I wanted to say is simply this: You are complaining about a cut in Social Security that does not exist, and yet in 1993, you voted for the Clinton tax bill that actually did, in fact, cut Social Security by $26 billion. You cannot have it the both ways.

I thank the gentleman.

Mr. PARKER. Mr. Chairman, it will come as no surprise to anybody in this body that I rise to express my unbending and total support for the Kasich budget resolution reported by the House Committee on the Budget.

There is not a person in this body who does not have at the very core of their being the best interests of this Nation at heart. There is not a Member of this body on either side of the aisle who does not want this Nation to grow and to prosper and to achieve what it has always achieved, and that is being a world leader and standing for what is right.

The real question that we have is not whether we want what is best for this country, but how we can best achieve those goals. For a long time we have spent our time talking about programs and how much each of us cares about people. Politically, we all attack each other blindly.

For instance, in the past, it was not true when some Republicans attacked Democrats saying they were not patriotic for their stand on one issue or the other. It is equally untrue when Democrats point to Republicans and say they do not care. They do care. I think we all care.

But how do we get to that point where fiscal responsibility brings this Nation back into the mainstream? It would have been unheard of even a year ago for anyone to say that we would be moving toward a balanced budget by the year 2002.

I am in my fourth term and I had thought it would never happen. I had reached the point of believing it just could not happen. I think the key has been to have a date certain because it forces the issue. We are now in a situation where we must move to a date certain—2002—and the debate has shifted from not whether the budget should be in balance but how and what priorities should be established to get the budget in balance. That is a major shift in the thought processes that occur on Capitol Hill.

I want to express my appreciation to JOHN KASICH, chairman of the House Budget Committee, and all of the Republican members who invited me to work with them in developing this budget. There was a tremendous amount of give-and-take. And I believe we have developed a product that makes sense and puts us on that road. Granted, we have the Senate which has a different version. We have different versions here in the House. But I firmly believe that the path we are taking as members of the Budget Committee in passing out this piece of legislation is the correct path.

Now there are those that say, "Well, the cuts are so horrendous—draconian in nature." Please understand that the amount of money the Federal Government spends will continue to rise. Each year it will continue to increase. The Federal Government will spend more money next year than it will this year. It will spend more in 2002 than it has ever spent before. What we are trying to do is slow down the rate of growth.

I know that a lot of discussion has taken place on programs such as Medicare. But the system is going broke. Something must be done to change the direction of Medicare or it will not be there. And it is important for the American people to understand that everyone must participate.

One of the major arguments that I had on the committee with other members, those on the Republican side, is that they wanted to exempt Social Security. I have a problem with that. I believe that senior citizens care about this country as much as we do, and I believe that they be given the opportunity to participate—that everyone should be treated the same. But, the Republicans won that argument. Social Security is untouched in this budget.

I am not suggesting elimination or the cutting of Social Security. What I want them to do is to participate in an equal way in which everyone is treated the same. That is fairness. I believe that instead of us trying to scare people and put them in a position of being afraid that the money they have come to depend on will be cut out, that they need to look at this process from the standpoint of purchasing power and the economic stability of our Nation.

When Alan Greenspan came to our committee, he made the statement that not since World War I has our economy ever experienced the pluses of a balanced budget, that we have never experienced what the positive aspects can be for this Nation if we are at a balanced budget. We need to look to the future. We need to look and see exactly what the pluses are going to be for everybody. And it is just like my friend PETE GEREN has said, it is like finding the cure for cancer—but nobody wants to talk about the cure. All they want to do is talk about the chemotherapy you have to go through in order to get to wholeness.

Well, there is pain in this budget. No one with any common sense in this country has ever felt or ever said that we can resolve our financial situation and get back into a surplus without pain. We did not get into it overnight, and we are not going to get out of it overnight. And we all have to accept some responsibility for that. This is the first step on that road.

Many people have said they have a problem as far as the tax decrease. But 2 years ago, we had a tax increase that I voted against. I did not feel that we should go in that direction. I felt that we should cut spending first. I believe that we need to roll it back. The bill 2 years ago was a tax increase of $246 billion over 5 years. The tax cut that we have in this package is $281 billion over 7 years. I believe this tax cut will relieve some of the pain during readjustment. But more than that I believe that this budget puts in place a system where we are on the glide slope to a balanced budget, and that we can make a difference.

In the words of the ultimate Republican Abraham Lincoln, "There are few things wholly evil or wholly good. Almost everything, especially of Government policy, is an inseparable compound of the two, so that our best judgment of the preponderance between them is continually demanded."

Alan Greenspan said that all the talk about the next generation not having a better standard of living than the previous generation will be gone if we are on a line to a balanced budget. If successful, we will unleash the power of our economy, the most powerful now, the most powerful that has ever been in the history of the world. An economy that can do phenomenal astounding things. We have to release the restrictions placed on us by the deficit and the debt. If you look at fairness, everyone participates. It is a fair budget. It is a hard budget. But it has to be hard in order to make it work.

For a long time, there have been many of us who have been pushing for us to get out fiscal house in order. The amazing thing about it is that if we had done this 10 years ago, it would have been so much easier. We could have made the necessary changes—we did not do it. Many people blame Ronald Reagan and the early 1980's. That is, to some degree, true. There were problems back then—things were not handled right by either the Republicans or Democrats. But I think we need to go back further than that, back to the mid 1960's when we put entitlement programs on automatic pilot and Congress abdicated its responsibility.

Compound interest is a fascinating thing when we put all these entitlement programs on automatic pilot, we abdicated our responsibility. What happened was we just sat back and our debt reached a trillion dollars by the time we reached the 1980's. And when you start dealing with figures like that, you see growth that is devastating. Now we are approaching $5 trillion in debt.

We cannot sustain the debt that we have and the growth in deficit that we have. It cannot be sustained. And from a generational standpoint, when you look at our kids and our grandchildren, in order to maintain the programs that are in place, if the status quo exists, they are going to be paying from 75 to 84 percent of their salaries to the Federal Government just to maintain the programs that are there.

It has not worked. The status quo is destroying us. And just like when many Republicans believed we must throw more and more money at Defense, that wasn't the answer. We wasted a lot of money. The same is true of throwing more and more money at social programs, where a lot of them don't do any good. It is not working. We must change.

All of us care. All of us want to do what's right. All of us love this Nation. But I believe the real choice is whether we really want a balanced budget. Do we really want it? Are we willing to pay the price to get to that point? You will vote for any bill that you want. But, in the final analysis, the bill that has been reported out of the Budget Committee, is going to be the bill that is going to make it or not.

I believe it is going to make it this week. And if you really believe in a balanced budget, if you really believe that we must change the course of this Nation, if you really believe that we need fiscal responsibility to come back in and be an integral part of our decisionmaking, if you really believe we need to take the first step to let the American people know we are serious about this problem, then you must vote for this.

I know all the political arguments. I know a lot of people are going to be calling. I know that a lot of people are going to be upset. In fact, I think everyone is going to be upset before it is all over with. But it is about time. It is about time that everyone in this country got upset. It is about time that they realize we need to do something. It is about time they decided that they need to participate. The time has come. And I am very happy to be able to vote for this budget.

I am glad that I have been permitted to be here on this historic week, to participate in this process where we can actually make a difference—a true difference for this country where I can look at my children and say I had a part in changing the direction of this country. And I did not worry about the political ramifications and I did not worry about my political future—I did what I felt was necessary.

That is what I want each of you to do. I want you to search your heart and do what you feel is right. If you disagree, then disagree; you have every right to disagree. But if you are like me and you feel that the time is come to change the course of this Nation, I ask you to join me and proudly vote for this budget.

Earlier I quoted President Lincoln, let me close with these words from John F. Kennedy:

> . . . Democracy means much more than popular government and majority rule, much more than a system of political techniques to flatter or deceive powerful blocs of voters. . . . The true democracy, living and growing and inspiring, puts its faith in the people—faith that the people will not simply elect men who will represent their views ably and faithfully, but also elect men who will exercise their conscientious judgment—faith that the people will not condemn those whose devotion to principle leads them to unpopular courses, but will reward courage, respect honor and ultimately recognize right.

I ask each of you to please join with me. Let us pass the committee budget—it is the right thing to do.

□ 1715

Mr. SABO. Mr. Chairman, I yield 20 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I just think it is important for me to respond to the gentleman from Ohio who asked me how Minnie Wilensky from Queens County knew about the increase in the deductible, the increase and the copayment, and I think it is very important that we be honest in this debate. I say to the gentleman, page 5, page 18 of your budget, Mr. KASICH, talks about——

The CHAIRMAN. The time of the gentlewoman from New York [Mrs. LOWEY] has expired.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, the senior citizens in my district are in fundamental opposition to the Republican budget, and I rise to support them.

All is not well in America today. The wages of working people are stagnant. Corporations downsize or flee our shores altogether in search of cheap labor. Fewer workers have pensions to look forward to in old age and employers seek to squeeze employee health benefits.

Tragically, this budget does not address those fundamental problems. Instead, it would cut taxes for the rich, and—amazingly—it would pay for those tax cuts by cutting Medicare.

This Republican budget is an assault on the Medicare Program. We have a compact with our senior citizens. Between Social Security and Medicare, this country has reduced elderly poverty, tended to the sick, and assisted in long-term care for our mothers, our fathers, and our grandparents. With this budget, Mr. Chairman, all this could come to an end.

To our shock, this Republican budget would destroy years of trust between the Federal Government and seniors. The $283 billion in Medicare cuts would have several different consequences. Many costs that are currently paid by the Medicare Program would probably be shifted to Medicare beneficiaries in the form of higher premiums, deductions, and coinsurance payments, such as the proposed 20 percent home health coinsurance.

Let me share the story of my friend and constituent, Mrs. Pat Eastman. Mrs. Eastman is a World War II veteran. She is 82 years old and lives alone. Mrs. Eastman has numerous medical problems. While she is a veteran, she does not qualify for medical service through the VA because she is not 50 percent service-connected disabled. Mrs. Eastman has to pay someone to transport her back and forth to the VA for outpatient care. She has to pay a copayment for her medications. Recently, Mrs. Eastman was hospitalized for severe infections from Ecoli bacteria.

Since her discharge from the hospital, Mrs. Eastman has had to rely on the services of a visiting home nurse who comes to her home three times a week. Without these home health services, paid for by Medicare, Mrs. Eastman would have had to remain in the hospital or be transferred to a skilled nursing facility.

Mrs. Eastman has a long history of service to the Los Angeles community as well. She was a vote registrar. She sat on street corners and helped register people to vote. She continues to be a member of our California senior legislature. Pat Eastman has devoted her life to making her community and her country better.

It is estimated that approximately 3.8 million Medicare beneficiaries will use home health services, in 1996. Under current law, these services are covered by Medicare. If Republicans have their way, Mrs. Eastman and the other Medicare beneficiaries will have to pay an additional $900 out-of-pocket for home health services; this amount will rise to $1,200 in 2002. This 20-percent coinsurance will not save money or reduce Medicare costs. It will simply drive many Medicare beneficiaries into nursing homes because they will not be able to afford the home health services that would enable them to remain at home.

At age 82, after all the hoopla surrounding the 50th anniversary of V–E Day, this heroic World War II veteran should not be abandoned.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, these budgets are going to cut seniors, workers, farmers, pensions, economic development, community development, roads, bridges, highways, wastewater treatment plants, sewer projects, all in America. These budgets will still provide billions and billions of dollars for the defense of Japan, Germany, Europe, even money for Russia. There is not one penny, one penny in cuts, for either Israel or Egypt, not one penny. We have a budget in America, my colleagues, that will not touch Israel, will not touch Egypt, takes care of Japan and Germany, but no one in America is free from the ax.

I will have no part of it. I am going to vote "no" on every one of these budgets because to me they are not an American budget, and, by God, where is the Democrat Party?

Mr. Chairman, I say to my colleagues, "I don't blame the Republicans. I commend you for some discipline. But what you're disciplining is the American people. We shouldn't be closing bases in America. Close the bases overseas. We got troops falling out of chairs over there without arm rests. Bring them home. Let them cash their check in America."

I am not voting for any of this. None of this is worth my vote, and I think the Democrat Party better start working out a budget before we are a minority party for a damn long time.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Chairman, let me start out by saying that my perspective on this is a little bit different than a lot of the other Members here.

Earlier today, when I was back in my office working on this, I had a chance to watch some of the debate, and I heard some of the Members on the other side of the aisle come back and say, "Well, you voted to raise taxes that amount in your district time and time again." As one of the new Members here, obviously I was not here during the last bill, but let me go back to 1981, when I was a college student and we started down this road by spending too much money, not cutting spending, and cutting taxes primarily for the wealthy, and not being willing to pay for it. Yes, we ran up a $4 trillion debt, and that is not fair to the American people, but this budget is not fair either. We should balance the budget but not do it this way.

This is not fair. Just like 1981, Mr. Chairman, we are going to cut taxes for the wealthy, but now we are going to pay for it by cutting Medicare and Medicaid, and in particular cutting Medicare which people have paid for. We are going to change the rules on them. Many seniors are going to see themselves paying higher deductibles, higher premiums, higher co-payments. Over 2½ million Texans will pay more than $4,000 over the next few years for the same benefit. If that is not a cut, it certainly is a bad deal.

Seniors will definitely lose their choice under the Republican plan, the choice to choose their doctor. I do not think that is what they want. The Republican budget will also cut the Medicaid program by 184 billion over 7 years. This is a 30-percent cut that will not just hurt the poor, but it will hurt the children.

We heard a lot of talk about the children. My friend, the gentleman from New York [Mr. LAZIO], talked about his two children. I, too, have two young children who are preschoolers. Last Christmas my youngest daughter got sick. I rushed her to Texas Children's Hospital at 11 o'clock at night to see a doctor in an emergency room which is full of children from all walks of life in the Houston area. Texas Children's Hospital, which is the premier children's institution in the Southwest, funds 48 percent of their budget for Medicaid funds to pay for disproportionate care for neonatal costs, and this budget would cut it and would cut it across the board.

So we talk about the children and what we are doing to protect them, but we are going to cut the children under this budget, and we are going to cut it and use the money to pay for tax cuts for the wealthiest, and that is simply imprudent, and it is wrong.

This budget will not just cut seniors, but it will also cut the research that we do at our hospitals. How can we have a better health care system if we are willing to stop the research we do? How can we say we are going to provide better health care for Americans when we do not want to provide the dollars so we have residents so we can create more doctors? We have talked about the need for more primary care doctors, but we are not going to get them under this budget because we are going to cut the funding for it. That makes no sense whatsoever.

Let us balance the budget, yes. But let us do it fairly. This budget is not fair. It does not address the problems fairly. There is a tax cut for the wealthy which we cannot afford, and it makes the middle class pay for it.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise to denounce the Republican plan to pay for tax cuts for the wealthy by destroying Medicaid: our country's ultimate health care safety net.

To fund their $340 billion tax cut for the wealthiest Americans, Republicans intend to slash the Medicaid benefits of 32 million Americans, 65 percent of whom are children and the elderly.

Tragically, their proposals ignore the human costs.

Republicans say they are increasing the Medicaid budget by 4 percent. What they do not say is that this meager increase is insufficient to offset the rapid growth of the elderly, the young, and the alarming rise of health care costs.

Under their proposal, the youngest Americans will suffer grievously.

During 1988 to 1991, poor children receiving medicaid coverage increased from 54.3 to 63.6 percent. This trend is projected to continue upward into the 21st century.

At present, Medicaid offsets the loss of private health coverage during economic downturns, giving millions of children coverage when parents are laid off.

The Republicans budget proposal, however, makes no allowances for coverage during economic decline. Therefore, when parents lose their jobs children will suffer without health coverage.

Without sufficient Medicaid funding, more than 3.7 million senior citizens currently receiving health services from Medicaid will also suffer.

In my district families like Forest and Ruth Haver are concerned about their health care future.

The Havers, in their eighties, living on a fixed income, are worried that the cuts will make them unable to afford the health problems which have left Ruth homebound.

Steve, their only child and a local fire captain, is willing to do all he can financially.

He also worries whether that will be enough if his parents' benefits are cut.

The Medicaid safety net is vital to the health of older women, for it is women who bear the brunt of Republican cuts. Consider that: Women are 75 percent of all nursing home residents aged 65 and older and are more likely than men to have chronic disabling conditions; and, that women 75 or older have an average annual income of only $9,170—one-third the annual cost of most nursing homes.

To cap Medicaid spending at 4 percent, Republicans will leave millions of children, low-income elderly, and particularly women, without critical health services.

We must not sacrifice our Nation's children, seniors, and families to benefit the wealthy. I urge the defeat of the Republican budget resolution.

□ 1730

The CHAIRMAN. The Chair's math was in error. At the present time the gentleman from Minnesota [Mr. SABO] has 95 minutes remaining, and the gentleman from Ohio [Mr. KASICH] has 93.5 minutes remaining.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Florida [Mrs. MEEK], a member of the Committee on the Budget.

Mrs. MEEK of Florida. Mr. Chairman, I am new to the Committee on the Budget. I commend the integrity and demonstrated brilliance of our chairman, Mr. KASICH. I commend the coolness and calmness under duress of my ranking member, Mr. SABO. I do not care, I am calling this entire thing the Kasich manifesto. He is behind all of this. He is a brilliant man, but he has not been to some of the places I have been, Mr. Chairman. He has not had those experiences.

I have heard today about misplaced compassion. There is no such thing as misplaced compassion. He met a couple in the hall that thanked him for trying to balance the budget. But he has not heard from the old lady in North Miami who said to me not "Thank you, CARRIE MEEK," but "Why? Why is it that the budget has to be balanced on our backs?" I said, "Well, I voted against the balanced budget amendment because I felt it would be balanced on your backs."

Then as I talked to a young student who came here in a wheelchair to say to me "I need help," and he asked me also, why? I ask Mr. KASICH, why? Why do we have to balance the budget on the backs of these people?

I hear all the numbers. I hear all the rebuttals. I see all the charts. But it is one thing that they do not answer: Why is the budget being cut the way it is?

Yes, we will work toward a balanced budget. But does it have to be done on the backs of poor people for the benefit of the rich? I want to say to each one of you, you cannot block grant your responsibility. You can block grant a lot of other things, but you cannot block grant your responsibility. You cannot block grant a method of providing quality care for the poor and the elderly population.

You have poor folks back home. You also have elderly people back home who cannot pay for the care they are going to need in the nursing homes. These are your mothers, these are your fathers, these are your disabled children. So you cannot balance that through a block grant program.

I feel that this is a concern which Congress has to keep. You cannot abdicate that responsibility. You cannot pass it off to the States. This is your responsibility, to take care of the people who are being taken care of through Medicaid. There is no other way.

I want you to say no to this budget, because what this budget does is it forgets about certain beneficiaries, laboratory services and x ray services, immunization, prenatal and nursing home care. You are thinking you can block grant Medicaid. You cannot do it. You want to save $5 billion over the next 7 years or so. Over $180 billion in cuts have to be absorbed by the States. I wan to say to you, Mr. Chairman, and the admirable Mr. KASICH, it cannot be done.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from North Carolina [Mrs. MYRICK] a former mayor and a member of the Committee on the Budget.

Mrs. MYRICK. Mr. Chairman, we hear a lot about what is wrong with this budget, and I would like to talk a little bit about what is right with this budget.

Mr. Chairman, we feel that we have a moral responsibility to leave this world better than when we found it, and part of this is taking on that responsibility for our children's future and looking at what we are going to leave them. In putting together this budget, it was not just quickly put together. There is much thought that has gone into this. It has gone by line by line and program by program, agency by agency, and said is it necessary? Is there a better way to do it? Is it worth spending our children's future?

I came here because of six grandchildren. In addition, I look after a 92-year-old elderly lady who has no family who is in a nursing home. So I am very familiar with what people are going through. We are handling that in our own family right now.

But we are doing a lot of things that are necessary in my district, and people are telling me it is necessary, we want you to do it. And I want to talk a little bit about some of the things the changes that need to be done.

We are cutting foreign aid by $29 billion and eliminating a lot of wasteful programs. We are keeping our promise not to touch Social Security. There are not going to be any changes in Social Security coming up. We are block granting job training, because there are 163 different job training programs right now. It is very confusing. They do not all work. So we are finding how all this can work together and saying let us take the duplication out and really make it reach the people who need the job training.

We are eliminating some departments, Education, Commerce, and Energy, because there is a lot of wasteful bureaucratic structure there. There are over 71 duplicative programs in commerce throughout Government. That is ridiculous. It is a waste of money.

We also are terminating and privatizing 284 programs, 13 agencies, and 69 commissions. Sure, there are good changes, but it is a better way to spend our tax dollars. Privatizing is the way to go. We are privatizing General Services, Public Broadcasting, other things that can carry their weight only the open market, and looking for a better way to deliver the services.

We are stopping a lot of the Federal subsidies to business and industries, things they do not need Government help on. They do it themselves.

So the bottom line is, we are looking at this responsibly. We care about what is going to happen. We care about where our children and our grandchildren are going to end up. And we want to make Government work better, and let the people at home make their decisions and let them keep the money in their own pocket. They can spend it better than the Federal Government can.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, the Committee on the Budget proposal to slash Medicare will put thousands of Alabama senior citizens in jeopardy. Many of them already have to choose between paying for food and paying for medicine. This dilemma will only get worse.

The Committee on the Budget has proposed to carve huge holes in the safety net which many elderly people depend on. Those who are teetering on the edge are more likely to fall through the cracks under this proposal.

Ruby Swann, of Glencoe, AL, broke her leg a year ago and had to have a knee replacement this year. She is a widow, 76 years old, who lives on her Social Security. She told me people like her are just scared to death over this proposal, and I believe her.

Jessie Box, a 78-year-old widow from Etowah County, depends on her Social Security. She suffers with arthritis. She had a similar experience. These women are not alone, and under the House Committee on the Budget's proposal, the average Alabama beneficiary will pay about $3,561 more out-of-pocket over the next 7 years. Those who use home health care will pay an estimated $900 more for their services in 1996.

I have voted for every deficit reduction bill in recent history here in the House. But I will not vote for this bill, produced by the majority party, which will put the financial burden on those who can least afford it, our senior citizens. It is just not right, and my colleagues know it.

Mr. Chairman, I am strongly opposed to this, and I urge my colleagues to defeat this budget measure.

Mr. KASICH. Mr. Chairman, I yield 30 seconds to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. I would just like to point out to the gentleman that in Alabama, the amount of money it gets is $3 billion under our plan. By the year 2002 it will get $4.3 billion. I point out to the gentleman from Alabama that the per beneficiary amount is $4,800. Under our plan it goes to $6,361.

Mr. Chairman, only in this town do you call an increase in spending a cut.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from Texas [Mr. GEREN].

Mr. PETE GEREN of Texas. Mr. Chairman, I thank my friend for yielding.

The low point in my service as a Member of Congress was March 17, 1994, when the balanced-budget amendment went down by 18 votes. A dozen Members who cosponsored the balanced budget amendment were persuaded at the last minute to vote against it, and they did, and they brought it down.

It hit me that day that if a dozen Members were willing to suffer the embarrassment of voting against a bill that they had their name on, that they cosponsored, that forces behind deficit spending were so powerful that they would always win. The future would always lose. Political reality was that the status quo, the deficit, would always win. The arguments might change, but the results were always the same.

It hit me that day that what the cynics had always said was true, that everybody says they want a balanced budget, but no one is willing to do what it takes to get there. Everyone wants to go to heaven, nobody wants to die.

I concluded that we in Congress are doing nothing more than rearranging the deck chairs on the *Titanic*, and I wondered what we were doing here.

With those facts, it was simple and depressing arithmetic: The United States was going to go broke. Not now, not today, but later, and with certainty. Now little more than a year later we are going to pass a balanced budget. The cynics were wrong. We can do it. We will do it. The debate is not if, the debate is how.

My colleagues, this is a great day. I do not care if your greatest concern is education, transportation, defense, childhood nutrition, health care in general, Medicare specifically, the path we have been on is going to destroy it. There will not be less Medicare, there will be none. Eventually the debt on and the interest on it will destroy everything worthwhile that Government can do. That is simple arithmetic, and a year ago that seemed inevitable. Tomorrow we change course.

Who wins? All Americans. It is not the greedy versus the generous, men versus women, rich versus poor, young versus old, have versus have-nots. As some of my colleagues would characterize it, everybody wins. A balanced budget means a brighter today and it means a brighter tomorrow.

Is the coalition plan perfect? No. Is the Kasich plan perfect? No. There are differences in the two, but they agree on the most important point: They balance the budget. A year ago a balanced budget was a pipe dream. Tomorrow, thanks to some courageous Members, it is a reality.

Some of my colleagues attacked these balanced-budget provisions as mean-spirited and cruel. As compared to what? Mr. Chairman, the present course is cruel. The status quo is cruel. To beggar the future, to condemn future generations to financial ruin, is cruel, it is wrong.

Balancing the budget is tough, harder than I ever imagined it would be. But it is not cruel, it is good, it is fair, it is the right thing to do, and tomorrow we will do it.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Chairman, I rise in strong opposition to the Republican budget resolution.

Mr. Chairman, I rise in strong opposition to the Republican budget resolution for fiscal year 1996.

I am filled both with awe and with sadness today. I am indeed awed by the tenacity, the discipline, and the enthusiasm of my colleagues on the other side of the aisle. Their zeal and determination in their quest for a balanced budget must be admired.

But I am also saddened. Would that they were a bit more compassionate, less greedy, more even-handed, less protective of special interests in their budget.

Let us take a closer look at this budget they are proposing.

Cuts for students from preschool through college, cuts for veterans, cuts for seniors, cuts for arts and culture, cuts for farmers, cuts for the working poor, cuts for middle-income Americans. Cuts for everyone except the wealthy and special interests.

Take one example: It seems that veterans—yes, our Nations' veterans—have been singled out for cuts beyond those proposed for other major national programs. I fail to understand how we can repay the very people who fought for our country with massive cuts to the medical care and benefits they were promised. Veterans Secretary Jesse Brown estimates that this budget will eliminate treatment for 1 million veterans a year and will require the closure of almost 40 hospitals. And, maybe saddest of all, it will cut programs to help homeless veterans get back into jobs and productive lives.

Another example: Of the programs targeted for elimination, over half are in education—from the smallest Cabinet Department which receives only 2 percent of the Federal budget. In fact, the Department of Education itself is scheduled for elimination under this proposal. Do we care about our children? Don't we know that a good education is the key to a good life?

Several million students will lose access to educational opportunities beyond high school due to reductions in Federal scholarship and grant programs. And with the elimination of the in-school interest exemption, the debt burden for students with loans could rise 20 to 50 percent.

This resolution attempts to control Medicare spending when it is widely acknowledged that Medicare can only be fixed in the context of overall health care reform. If this budget resolution becomes law, the result will be higher premiums, higher co-pays, and higher deductibles for senior citizens under Medicare. Already, many seniors are choosing between food and medicine, heat and in-home nursing care. In addition, reducing the Federal Government's COLA formula is a back-door way of cutting Social Security benefits.

Lower- and middle-income Americans seem not to count in this budget. By contrast, the wealthiest Americans and corporations not only are spared the wrath but are rewarded with tax cuts.

We do not have to cut programs that are the heart of what our country stands for in order to balance the budget. I recently introduced legislation to close a glaring loophole for a few giant mutual life insurance companies. Do you know that these companies have been paying no tax on earnings from business activity since approximately 1986? My bill, cosponsored by Congresswoman HELEN CHENOWETH, would reduce the deficit and, at the same time, require no new funding, attack no one's programs, and raise no new taxes.

What it does is close a $2 billion loophole—that is $2 billion per year. Closing this loophole would require only that these companies pay their fair share—and, at the same time, the Nation's small insurance companies would be helped by our efforts and would receive significant tax relief.

I cannot in good conscience vote to slash money from the earned-income tax credit which says that if you work, you should not have to live in poverty. I cannot in good conscience vote to slash low-income heating subsidies, Head Start, college loans, veterans' health care—when $2 billion corporate loopholes exist.

If we pass this budget, we will be trading one deficit for another—we will produce a deficit of compassion, a deficit of spirit. As a country, we are losing our soul.

We will be telling our children, you don't matter. We will be telling our seniors, you don't matter. We will be telling students and veterans, you don't matter. We will be telling hard-working, middle-class Americans, you don't matter.

I would say to my fellow colleagues that we all do matter. I urge you to vote against this budget resolution.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Mr. Chairman, I was 1 of the 72 Democrats who supported the balanced budget amendment earlier this year. Then, as now, I firmly believed that we must put our fiscal house in order. We must control spending. We must reduce the deficit. If we do not, quite simply the quality of life of all citizens, rich, poor, it matters not, we are all in this together, we all lose.

Let me say again, unequivocally, that to preserve the American dream, we must balance the budget. But, as with all things, there is a right way and a wrong way. Today I rise in support of the alternative budget supported by my colleague from Texas, Mr. STENHOLM, and the gentleman from Utah, Mr. ORTON.

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A level-headed approach to deficit reduction, it requires sacrifices from everyone. Our friends on the other side have couched their arguments essentially without detail, looking only toward the end product, which is the balanced budget.

Well, now that we agree on the end, let us look at the means. The Democratic alternative balances the budget and reduces the national debt $160 billion lower than the Republican plan. In the process of balancing the budget, however, we restore funding to guaranteed student loans, areas of education, health research, and economic development.

So we can all agree on the benefits on deficit reduction for future generations. The Republican plan, however, would take and place that same generation at risk by cutting student loans, underfunding Head Start, abolishing the Department of Education, and cutting funding for immunization and child care.

Under the Democratic plan, everyone is asked to sacrifice, but we also recognize the need to invest in America and in our future.

The real choice tomorrow will not be between balancing the budget or continuing deficit spending. The choice will be how do we want to balance the budget.

I say we have a responsibility to act responsibly and to support the alternative budget proposed by the gentleman from Texas [Mr. STENHOLM] and the gentleman from Utah [Mr. ORTON].

Mr. KASICH. Mr. Chairman, I yield 2 minutes and 30 seconds to the distinguished gentleman from Cleveland, OH [Mr. HOKE], a member of the Committee on the Budget.

Mr. HOKE. Mr. Chairman, I thank the gentleman for yielding time to me.

We are going to spend $11.5 to $12 trillion over the next 5 years. I have never seen from the other side a glass more half empty than in the characterizations that we have heard about it. It is just, it is stunning. Let us talk about some of the positives.

Church bells should peal from all over this Nation tomorrow as we do something that has not been done in 26 years. This is a cause for a celebration. What does it mean? It means that our streets are going to be safer. It means that there are going to be greater opportunities for our children. It means that there will be more jobs. We are saving Medicare. We are preserving the blessings of liberty to ours and to our posterity. This is a time to celebrate.

I was asked by the chairman of this distinguished committee to head up the internatonal affairs function working group, and I want to report to this House and to the American people that we have done exactly what they wanted to do. We have done with foreign aid exactly what the American people have called on us to do for a long time, and that is to make some significant, significant realignments with respect to what we are doing.

We are talking about a reduction of $29 billion over 7 years from programs that are in the international functions. It means about a 22- to 23-percent reduction in spending in that area.

Let us talk specifically about some of the things that we are doing. We are reducing subsidies for the Export-Import Bank and for the Trade and Development Agency, and we are privatizing the Overseas Private Investment Corporation, that is OPIC. That is commonly known to many people as corporate subsidies or also known as corporate welfare.

We are ceasing supporting the International Development Agency, IDA. We are reforming the Multinational Development Bank. We are eliminating the United States Information Agency's cultural and educational exchanges, and we are terminating the overseas nonmilitary broadcasting.

We are also reforming and we are restructuring the State Department by absorbing ACDA, the Arms Control and Disarmament Agency and the Agency for International Development. We are completely revamping. In fact what we are doing with the State Department, we are doing exactly what the President's advisors had said to do, and then backed away from it the very last minute.

We are making the changes that America wants and we are doing it not just for this Congress but for the future generations, for the children.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, I thank the gentleman for yielding time to me and very ably leading the Committee on the Budget. My remarks will warrant no applause and certainly arouse not much interest other than simply some boredom. Because I come simply to tell the truth about Medicare, part A and part B.

When you get your form in the mail and senior citizens look at it, they see part A and part B. The hospital insurance program, part A, pays for in-patient hospital care and other related care for those age 65 and older and for the long-term disabled.

Hospital insurance is financed primarily by payroll taxes with the taxes paid by current workers and their employers used mainly to benefit current beneficiaries. Income not currently needed to pay benefits and related expenses is held in the HI Trust Fund. So those working today pay for those needing today.

Why is it in trouble? Interestingly enough, it is in trouble for a good reason. They are increasing the number of elderly, our elderly population is growing. What do the Republicans want to do? Cap the program at 5 percent growth when the number of beneficiaries are growing in proportion. What kind of a reasoned brainstorm is that?

In 1994, 32 million seniors and 4 million disabled cost $104.5 billion, only $95.3 billion was put in of 141 million workers. The real issue is that what the medical trustees have suggested is the reason we have some sort of short range financial inadequacy is because seniors are growing, elderly populations are growing. Let us fix Medicare, not cut it.

My constituent, Viola Smith, 71 years old, Houston resident, arthritic Medicare recipient has said, Please, do all that you can to stop the harsh cuts of the Medicare Program. I will not make it without my benefits.

Folks, this is smoke and mirrors. The reason why we are talking about financial instability is because our senior population is growing. If you cut $283 billion with a growing senior population, what sense does it make?

I am here simply to tell the truth. Let us fix Medicare and let us not break it.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, we are confronting here an interesting exercise in which relatively few choices exist with regard to the Members of this body. The measure before us, the base measure, is fiscally irresponsible in the extreme. It places the responsibility for drawing down the deficit squarely on the backs of the most vulnerable portions of our society: children, veterans, senior citizens.

Here are some of the cuts that are proposed: $280 billion reduction in Medicare. This will require senior citizens to pay an additional $1,060 in out-of-pocket expenses in the year 2002.

Earlier today a Member on the other side of the aisle asked how anyone could characterize Medicare cuts as being draconian. I would simply quote that the distinguished current chairman of the Committee on Commerce charged that these cuts in the last session were draconian. These reductions are, those reductions were two-thirds below those suggested today.

The resolution targets seniors by cutting senior citizens COLAs by $24 billion between fiscal year 1999 and the year 2002. This will reduce the average senior's benefits each year by about $240. The resolution before us also reduces Medicaid by about $184 billion. These changes will limit access to health care for many older Americans and threaten their financial security. They will also result in seniors being ejected from nursing homes.

It is clear that the Nation has to reduce the budget deficit. It is a threat to our long-term economic strength. However, attacking the most vulnerable, dealing with those who have concerns and who indeed are our future is unwise. Reducing the educational opportunities of our youngsters is perhaps one of the most foolish kinds of raids on good investment practices and good economic policies this country can make.

The benefits, however, that will be accrued from this proposal are those few in this country who already have plenty. Better than half the benefits in the $350 billion tax cut package that are before us in this legislation or will later come will go to Americans earning more than $100,000 a year.

During today's debate, my colleagues on the other side of the aisle have frequently asserted that the buildup of the national debt over the last 14 years is the fault of the Democrats. Nothing is further from the truth. An examination will show that my Republican colleagues and indeed Presidents Bush and Reagan submitted and supported budgets wildly out of balance, and they made inaccurate assumptions and included asterisks to indicate that there might be some savings appearing at some future time.

The Democratic Congress has cut every one of those budgets save one. Indeed the Congress saved some $49 billion that was suggested for expenditure by the prior administrations.

I urge my colleagues to reject this outrage.

Mr. Chairman, I rise today in opposition to House Concurrent Resolution 67, the budget resolution for fiscal year 1996.

This measure is fiscally irresponsible in the extreme. It places the responsibility for drawing down the deficit squarely on the backs of the most vulnerable in this Nation—children, veterans and seniors.

The harsh cuts that have been proposed include:

A $280 billion reduction in Medicare. This will require seniors to pay an additional $1,060 in out-of-pocket expenses in 2002.

Earlier today a Member on the other side of the aisle asked "How anyone could characterize the Medicare cuts being proposed as draconian?" I would remind him that the distinguished chairman of the Commerce Committee, the committee charged with making these cuts, characterized the Medicare savings included in the 1993 budget as draconian. These reductions were a full two-thirds below those being considered today.

The resolution also targets seniors by cutting Social Security COLAs by $24 billion between fiscal year 1999 and fiscal year 2002. This will decrease the average yearly benefit by $240.

The resolution before us also reduces Medicaid by $184 billion.

These changes will limit the access to health care for many older Americans and threaten their financial security. They will also result in seniors being knocked out of nursing homes.

We clearly must work to reduce the deficit which poses a threat to our long-term economic strength. However, as we work to prevent future generations from being saddled with enormous debt burdens, it is imperative that we proceed in a responsible and fair manner. The budget resolution that the majority has introduced clearly does not meet this standard.

As I mentioned the cuts in this resolution fall hardest on those who most deserve our support. Yet, the benefits are localized to the lucky few in this Nation who already have plenty. Better than half of the benefits of the $350 billion tax cut package that has been included go to Americans earning more than $100,000 a year.

During today's debate, my colleagues on the other side of the aisle have frequently asserted that the buildup in the national debt over the last 14 years is the fault of the Democrats. I believe an examination of recent history shows that the memories of my Republican colleagues, with respect to this matter, are very convenient.

For 12 years, Presidents Reagan and Bush submitted budget proposals with rosy economic scenarios, inaccurate assumptions and asterisks instead of savings. While both called for a balanced budget, both submitted budgets grossly out of balance and left it to Congress to cut their requests. Congress did so in every year save one. In fact, the Congress appropriated almost $30 billion less than both Presidents requested.

Now we are hearing that the administration is not committed to deficit reduction. This strikes me as peculiar indeed in light of the fact that our President, unlike his predecessors, had done more than just talk about deficit reduction.

Two years ago when the President came forward with a very successful budget plan, a Republican alternative was nowhere to be found. Instead we heard fearful cries that the Clinton budget would lead to nearterm economic calamity.

Our distinguished Speaker asserted that the budget plan would lead to a recession and actually increase the deficit.

And, our majority leader classified it as job-killer in the short run.

Despite the unwillingness of a single Republican to vote for the plan, it was passed and signed into law. The successes it has contributed to speak for themselves. Better than $700 billion in deficit reduction; the creation of close to 7 million jobs; and a tax cut for 20 million low-income working families. Yet, only the richest 2 percent have been asked to pay more in taxes.

Now we are being asked to consider a package that takes a completely different approach. An approach, which I might add mirrors the failed supply-side economic policies of the Reagan and Bush years.

It targets those who have been hurt most by trickle-down policies—the low-income and middle-class families of this Nation. Over the past 15 years this group has seen their annual incomes stagnate and in many cases decline. The wealthy however have enjoyed unprecedented gains.

Mr. Chairman, this Voodoo Economics II budget plan does not represent a constructive and sound proposal for bringing the deficit down further. I urge my colleagues to vote against the resolution.

Mr. KASICH. Mr. Chairman, I yield 30 seconds to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, only in Washington is an increase in spending a cut. In Michigan, to the gentleman that just spoke, we are going to spend 44 percent more in Medicare, the per beneficiary is going to go from $4,600 to $6,100. The gentlewoman before talked about it being a cut when we are increasing Medicare in Texas 53 percent. The per beneficiary is going to go from $5,000 to $6,600 per beneficiary.

Only in Washington is an increase in spending a cut.

Mr. KASICH. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN of Washington. Mr. Chairman, I rise in favor of the Kasich budget.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from the State of New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in qualified support of House Concurrent Resolution 67, the Budget Committee's version of a fiscal year 1996 budget resolution in this historic debate we are holding today.

For the first time in more than a generation, the House of Representatives is debating a series of budget resolutions that all share a common trait: the Federal Government's budget will be balanced by the year 2002.

The goal of a balanced budget is not an abstract exercise that some economists or "green-eyed shade types" thought up in their ivory tower.

It is an essential economic tool to get the savings and capital investment we desperately need for research and development, and new plant and equipment to rebuild the American economy; keep us competitive in the global economy and create the good jobs at good wages we need for this generation and those to come.

Obviously, the various budget plans we will consider this week have different funding priorities—but that is exactly what the democratic process is all about, and it is a tribute to the diligence of many Members of Congress that we have several different paths we can choose from in order to reach the goal of a balanced Federal budget.

Earlier this year, as I have repeatedly in the past, I voted in support of a balanced budget amendment to the Constitution. I did so because I believe that our country's long-term economic health demands that the Federal Government's fiscal house be put in order.

While the balanced budget amendment was narrowly defeated in the Senate, the need for Congress to do the right thing, and enact legislation that brings the budget into balance, remains as strong today as it was then.

President Clinton's own budget plan, which was released only 4 months ago, projects $200 billion annual budget deficits as far into the future as the eye can see.

This, despite his own successful efforts in 1993 to enact a $500 billion deficit reduction package on top of the $500 billion deficit reduction package that President Bush negotiated in 1990.

An objective analysis of this situation can lead to only one conclusion: our current budget is fundamentally and completely out-of-whack.

Our interest payments on the public debt, currently exceed $200 billion a year, and are projected to increase to a mind-boggling $310 billion within the next 4 years.

If nothing is done, our country is headed for a fiscal disaster.

At the same time, in order to avoid this calamity, balancing the budget will require everyone in the United States to share some of the sacrifice associated with reducing the Federal Government's projected increases in spending by roughly $1 trillion over the next 7 years.

While I recognize that the opponents of House Concurrent Resolution 67 can point to this detail or that detail as unacceptable, but the fact remains that the Budget Committee's plan does not give anyone a "free ride" as we struggle toward a balanced budget.

The defense budget will have to take its fair share of the necessary spending reductions. No department can be exempt.

The domestic discretionary budget, which provides funds for most Federal education, housing, environmental, and health programs, will have to make do with $190 billion less over the next 7 years than originally anticipated.

The non-health care entitlement programs, such as Federal employees' pensions, crop subsidies, and welfare programs to name just a few, are facing $220 billion less in funding than originally assumed.

And Medicare and Medicaid, the Federal health care programs for the elderly and low-income respectively, will be asked to make do with $470 billion in less spending than current budget trends allow for.

Without question, this area of savings raises the most concern, and I must state my healthy skepticism about how much can, or should, be accomplished in the near-term.

Some of the recommendations that have been discussed in recent weeks will be subject to intense analysis by this Member of Congress as the House Ways and Means Committee wrestles with the reconciliation instructions it will receive from this document.

But, absent some significant reform what will happen to the Medicare and Medicaid Programs?

Well, for the second year in a row, the trustees for the Medicare Program have concluded that the program will go bankrupt in 7 years if nothing is changed.

Clearly, strong action and bold leadership is needed to ensure that our elderly will be able to receive necessary medical treatment through the Medicare Program, and that Medicare will be there for many hard-working families who will become eligible for Medicare in the next 10 or 20 years.

I, for one, support the establishment of a bi-partisan blue ribbon medicare commission—modeled after the very successful Greenspan Commission on Social Security in the mid-1980s—to make recommendations for preserving and protecting this vital program, which the Congress should enact confident that there is not any hidden political agenda to the recommendations.

All too often, members have implied that there can be short-term "quick fixes" to the program's current structure. There are no easy, quick fixes here.

In talking about preserving and protecting Medicare's long-term solvency, let us do it right with the least amount of partisan wrangling as possible.

While the Budget Committee's plan does call for some dramatic changes to these programs, we must keep in mind that the alternative is completely unacceptable: a bankrupted Medicare Program that does not help the elderly and is not there for anyone else either.

With respect to the ongoing efforts to provide middle class families with some tax relief, I supported H.R. 1215 earlier this year because it contained many elements, such as expanded individual retirement accounts, capital gains tax relief, expanded capital investment deductions for small businesses, of a "Save and Invest in America Agenda", which I have long advocated.

Indeed, I was one of a small group of Republicans that petitioned our leadership to defer any tax reductions until we had certified that the budget was, in fact, going to be balanced. Unfortunately, these preconditions are not included in the Budget Committee's plan.

It is for this reason that I strongly prefer the budget plan drafted by the Budget Committee chairman in the other body, Senator PETE DOMENICI.

However, we must be mindful that the House Budget Committee's changes in the Tax Code do result in lower Federal revenues in the short-term, which in turn requires that the Congress cut spending further in order to offset these losses.

Currently, the Budget Committee plan provides for $350 in additional spending cuts over 7 years to compensate for the tax relief package.

Perhaps when the conference committee meets to reconcile the House and Senate budget resolutions, they can reach a compromise that provides needed "Save and Invest in America" tax changes without requiring almost $400 billion in additional spending cuts to compensate for them.

Nevertheless, I will vote in support of House passage for this measure because it is important to keep this process moving forward, notwithstanding these concerns.

In conclusion, Mr. Chairman, approving the Budget Committee's proposal represents the first step in our annual budget process. The 13 regular appropriations bills, combined with an omnibus budget reconciliation package, will be where the nitty-gritty details of this budget plan are hashed-out.

That process will not be without difficulty, but as we prepare to enact legislation that balances the Federal budget we should not kid ourselves into thinking that it will be easy to do. At the same time, we should acknowledge the terrible cost to our Nation if we do nothing.

Balancing the Federal budget is essential to protect our Nation's long-term financial health, and to ensure that the country our children and grandchildren inherit is as great as the one our parents gave us.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Chairman, I stand in strong support of this budget.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

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Mr. MENENDEZ. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, why are the Republicans proposing a cut of $282 billion to Medicare?

They tell us it is to save Medicare from bankruptcy. But nobody has asked why the plan to save Medicare is in the budget. Could we not save Medicare with another bill?

In fact, they tried it yesterday. Their solution was to vote on a bill that would ask the Medicare trustees to come up with a plan to save Medicare from bankruptcy. But if they are asking the trustees to come up with a plan, what is it that we are voting on today? Do they have a plan, or do they not?

It turns out that one of the trustees has already given an estimate of how much spending would have to be reduced in order to save Medicare from bankruptcy. Asked during testimony before the Senate Budget Committee how much it would take to make the fund solvent by 2002, public trustee Stanford G. Ross answered that it would take about $130 billion in cuts.

So again, why are the Republicans proposing a cut of $282 billion to Medicare?

What are their plans for the other $150 billion?

The answer is, they are giving it away through tax cuts to the wealthy.

Once again, they are cutting an extra $150 billion from Medicare to pay for tax cuts for the wealthy. This while some Republicans are busy telling seniors that Medicare isn't sacred, and that they should tighten their belts.

Mr. Chairman, my mother knows just what it means to have to tighten her belt. She has worked all her life, for years and years in a factory in New Jersey. Today, Medicare pays for her health care. What do such huge numbers in the Republican budget mean to her? Lower coverage, higher copayments, and higher out-of-pocket expenses overall. On average, over $1,000 a year more from her pocket.

My mother is lucky. If increased health care costs make it impossible to make ends meet, she has a family she can turn to for help.

But what happens to those seniors who do not? Do they just tighten their belts a little more?

Who are tightening their belts with this plan, Mr. Chairman? How does a capital gains tax cut tighten anyone's belt? The top 12 percent of earners in this country are going to share in over 75 percent of the benefits from that tax cut, thanks to the extra $150 billion seniors are forking over. That is what this budget is all about; seniors tightening their belts, while Wall Street wonders take their swollen checks to the bank.

Mr. Chairman, let me say to my Republican colleagues, they cannot tell my mother or any other senior citizen in New Jersey or in the Nation that this is not going to cost them one single dime more from their pocket. It is going to cost them very significantly, no matter what they read.

As it relates to the other thing they keep referring to, the 1993 deficit reduction vote, let me say that in my district, that meant over 50,000 families in my district got a tax cut, so they should keep reading their figures, but be honest to the seniors in this country. It is going to cost them more, and they are cutting in a manner that is disproportionate and unfair to people who have worked a lifetime. Vote against this budget.

Mr. KOLBE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. SMITH], a distinguished member of the Committee on the Budget and chairman of one of our task forces.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I think it is relevant to note that my colleague who just spoke voted for the Clinton tax hike of 1993, and it cost his district $431 million. I think it is also regrettable he voted against the balanced budget amendment.

Mr. Chairman, on the Committee on the Budget's way to balancing the budget in 7 years, and increasing the amount that Medicare beneficiaries are going to receive by 33 percent, we have also made Congress and Government tighten its belt first. For example, we have eliminated 3 unnecessary Cabinet departments, we have stopped 284 big Government programs, we have eliminated 69 wasteful commissions, and eliminated 13 agencies, as well. We have also eliminated the favorable pension treatment Members of Congress and congressional staff used to receive. We make permanent the one-third cut in congressional committee staff. We kept our promise. We made permanent a 15-percent cut in White House staff. We helped the President keep his promise.

Mr. Chairman, we also discarded needless bureaucracy. For example, we ended 69 unnecessary big Government commissions, including the Fasteners Advisory Commission, the Dance Advisory Panel, and we also reduced all Government agency overhead and indirect cost.

Mr. Chairman, the House has a historic opportunity we have not had in a quarter century. For the first time in 25 years, we can give our children a better future, restore the American dream, and end the slide in living standards. Finally, after too many unkept promises, too many tax increases, too many false starts, and too little will to do the right thing, Congress will keep its word. This week we have a real life proposal that restrains the growth in Government's budget to increase the size of the family's budget.

Since 1969, the last time our Federal budget was balanced, this Government has run up a $4.7 trillion debt. Our annual deficits of $176 billion plus raise interest rates by an average of 2 percent. That means our deficit costs the typical homeowner tens of thousands of dollars. It also slows growth, closes small businesses, and destroys jobs.

In 1950 the Government took $1 out of every $20 earned by the American family. Today it takes $1 out of every $4 our family has earned. The combination of local, State, and Federal taxes now consumes 40 percent of the typical family's income, an all-time record high. That is wrong. Remember, it is not the Government's money to take, it is the family's money to keep.

A lot of scare tactics and demagoguery are being used today. Some on the other side of the aisle have tried to frighten seniors, students, and others. These naysayers turn American against American, grandparent against grandchild, employer against employee, and retiree against worker, but the American people know better. The people who do the work, pay the taxes, raise the children, and care for the grandchildren will not be divided, one against another. It is not the worker versus the boss, or the young against the old, it is the working and earning class against the taxing and spending class.

This past November the working and earning class spoke loudly and clearly.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. OLVER], a member of the committee.

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, Republicans are cutting Medicare for 35 million American elder citizens and giving tax breaks to the wealthiest Americans and the most privileged Americans. This budget resolution includes, on the one hand, $280 billion in cuts in Medicare for elders, and on the other hand, $340 billion in tax cuts, mostly going to the richest Americans.

The cold numbers are almost too large to understand, but I met with Ruth Jackson on Monday. She lives in Holyoke, MA. She is 77 years old. She has diabetes. Her eyesight is too poor to be able to give her own insulin shots.

She has arthritis. she moves around poorly, with a walker. She lives in the smallest public housing unit available, and this grandmother is the rock on which two of her grandchildren, a grandson in fifth grade and a granddaughter in fifth grade, depend in their broken family. One of them actually lives with her every day. She lives on Social Security and has nothing else. She has a visiting nurse who comes in and provides her 7 days a week for 15 minutes or half an hour an insulin shot. She has 2 to 4 hours a day of personal care.

Mr. Chairman, this Republican resolution increases her Medicare costs by about $4,000, and cuts her home health care. She cannot live independently. She cannot be the stable base for her grandchildren if she is forced into a nursing home. There are millions of Americans 72, 77, 85, mostly surviving women who are like Ruth Jackson, one way or the other. They lose their personal care, housing, home heating, drugs under this resolution.

Mr. Chairman, the Republicans promised to give big tax cuts for the wealthiest Americans and the most privileged Americans, so they are keeping a promise that every American working person knows, that the rich are going to get richer under this deal. In fact, we all, deep in our hearts, understand that these Republican policies do in fact make the rich richer.

However, are we Americans willing to take hundreds of billions of dollars from our elders on Medicare, our most vulnerable and poorest elder citizens, our unemployed and our very poorest, whose only medical care comes from Medicaid, so that those richest Americans can have a tax cut, and therefore be a great deal richer? I hope not. I hope we will vote against this resolution, and vote for the coalition resolution in its place.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield 30 seconds to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I would like to point out to the gentleman that we are spending more money on Medicare. In Massachusetts, we will be spending 40 percent more in the next 7 years on Medicare. The amount per beneficiary is going to go up from $5,900 to $7,814. Only in Washington, only in Washington, when you spend more money, do people call it a cut. We are going to improve this system.

Mr. SABO. Mr. Chairman, I yield myself 3 minutes so I can ask the gentleman from Connecticut a question.

The CHAIRMAN. The gentleman from Minnesota [Mr. SABO] is recognized for 3 minutes.

Mr. SABO. Mr. Chairman, I am just curious. Clearly these Medicare cuts, whatever they are, in the gentleman's resolution are going to pay for a substantial tax cut, but I am just curious, he has not given me my Minnesota number. Give me my Minnesota number. Then I would like to hear the Connecticut number.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, let me just ask the gentleman, does he not understand when you are spending more money, you are spending more money?

Mr. SABO. I fully understand what the gentleman is saying.

Mr. SHAYS. I just need to know that that is the case.

Mr. SABO. I would just simply say to the gentleman, Mr. Chairman, I am amazed to hear how simple and easy it is going to be to modify the Medicare Program.

I am just curious, what is the number for Minnesota?

Mr. SHAYS. If the gentleman will continue to yield, in Minnesota the gentleman has an amount of money for Medicare now of $2 billion 429.

Mr. SABO. What is the per recipient number?

Mr. SHAYS. It will go up $3 billion 400. It will go up 40 percent.

Mr. SABO. Just so the gentleman knows my question, what is the per recipient number in Minnesota?

Mr. SHAYS. The per recipient number in Minnesota, given that they are getting 40 percent more in the next 7 years, it is presently $3,840. It goes up to $5,000 per beneficiary.

Mr. SABO. Mr. Chairman, I would ask the gentleman, what is the number in Connecticut?

Mr. SHAYS. If the gentleman will yield further, in Connecticut we are given from the Federal Government in Medicare $2.5 billion, and it goes up to $3.6 billion. That is a 40 percent increase. We are equal. Per beneficiary it is $5,135, and that will go up to $6,782 per beneficiary, per beneficiary.

Mr. SABO. Mr. Chairman, I am just curious how the gentleman from Connecticut is going to deal with this significant difference in cost between the State of Minnesota and the State of Connecticut. We provide good quality health care, substantially less, and what I hear is the recipients, the reimbursement in Connecticut is substantially higher than it is in Minnesota.

Mr. SHAYS. I want to make sure I understand the gentleman. The gentleman says in Minnesota he provides good health care. I think we do in Connecticut, as well. In both instances, we are getting 40 percent more in the next 7 years.

Mr. SABO. The gentleman from Connecticut is receiving, as I heard, over $1,000 more per recipient.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. REGULA], chairman of the Subcommittee on the Interior of the Committee on Appropriations.

Mr. REGULA. Mr. Chairman, let me preface my remarks by saying that I applaud the hard work that has gone into producing this budget resolution, a resolution that puts us on a path to a balanced budget. I want to particularly recognize my colleague from

Ohio, the chairman of the Budget Committee, Mr. KASICH, for his unwavering dedication to the balanced budget objective. He has never lost sight of the finish line and while I may not personally agree with all of the assumptions in this resolution I plan to support this budget because I too believe the goal of a balanced budget must be paramount. I would like to discuss one of the aspects of the proposed budget resolution that concerns me and that is the assumption that the functions of the Department of Energy should be phased out. Many of these functions are important to the future of this Nation. It is our responsibility to do these in the most cost-effective way possible.

The argument for phasing out the Department is based on the assumption that it was solely created to deal with an energy crisis the country experienced in the 1970's. The crisis no longer exists and therefore the rationale for the functions of the Department no longer exists.

It is unwise, for us as a nation, to be so complacent as to assume that another energy crisis is not only not a probability, but not even a possibility. Just 4 short years ago—in the action Desert Storm—we put over 400,000 American men and women into harms way to protect the availability of energy resources that we are once again taking for granted.

Much of the work the Department or its successor organizations is doing, in partnership with American industries, is the very reason we can hope to avoid a future energy crisis and, I would argue, that the money spent on those research, development, and demonstration projects is far more cost effective than putting American lives at risk to protect Persian Gulf oilfields.

A recent op-ed piece written by former President Reagan's Energy Secretary, Don Hodel, "Forebodings of Another Oil Shortage," put it starkly:

> America is sleepwalking into a disaster. Within the next two years, we will experience another oil shock.

According to the former secretary the threat of this crisis once again comes from the unstable Persian Gulf which currently supplies 44 percent of United States oil imports. The recent DOE annual energy outlook projects this figure rising to more than 65 percent by the year 2010. Saudi Arabia alone supplied almost 19 percent of the United States import market last year and provided over 25 percent as recently as 1992. The stability in that region is once again in question.

In February of this year the President concurred with the Department of Commerce's finding that the Nation's growing reliance on imports of crude oil and refined petroleum products threaten the Nation's security. In 1993 U.S. oil imports surpassed the 1977—a time of crisis—record level by 1.8 percent. The warning signs are clear and yet today we are sending signals that either we do not believe a crisis is a possibility or that energy is not a critical commodity.

My second point relates to the actual programs and mission of the Department or its successors and their impact on our international posture in terms of maintaining and improving our global competitiveness and our goal of continuing to grow the economy. To be truly strong, the American economy must be efficient, clean and fueled by stable and affordable supplies of energy. Assuring this supply and improving efficiencies and environmental performance of our energy resources is one of the important missions of our energy policy. Many of the energy programs are cost shared partnerships with U.S. industries that hold the key to achieving these goals.

Just last week I received a letter from one of the participants in just such a partnership. The company, a small one located in Cleveland, OH is attempting to develop and commercialize a process for the recovery of usable materials from salt cake, a waste produced by the aluminum industry. Commercialization of this technology would not only reduce the operating costs in the aluminum industry through reduced energy expenditures, but it would also eliminate the 550,000 tons of salt cake that are presently being landfilled in the U.S. each year. This small company is cost sharing in excess of 70 percent of the total project cost with the Department. As the President of this company concluded in his letter to me, this research is "critical to the development of new technologies by American companies such as ours."

Despite the fact that each of us is heavily reliant on energy in our daily lives, it is one of those luxuries that is easy to ignore as long as it is plentiful and reasonably priced. In the not too distant past, energy was an afterthought in economic planning. Today, energy is a principal factor in any business strategy and American businesses today are cognizant of the importance of energy in their bottom line and are constantly working to reduce energy costs to maintain or improve their competitiveness.

Transportation is one good example. It is a key industry and a key component in our overall energy equation, accounting for 27 percent of our total energy consumption and 66 percent of the total petroleum use. Moreover, 97 percent of the transportation sector's energy demands are satisfied by petroleum. Clearly to reduce our dependence on oil imports it is imperative that we change the transportation sector's energy demand patterns. The programs funded in my subcommittee's jurisdiction, in partnership with DOE are addressing that issue. These programs are projected to reduce oil imports by 2.3 million barrels a day by the year 2000 cresting a savings for drivers and a trade deficit reduction of $47 million per year.

Energy use is an environmental issue as well. The production and use of energy cause more environmental damage than any other human activity in the world today. Without significant changes in energy sources and consumption patterns, the problem will worsen. Without cleaner energy sources and technologies, worsening environmental problems can be expected to lead to regulatory actions that can severely hamper economic growth.

I have repeatedly said during my subcommittee's hearings that what the November election was about was not abolishing government, but making it work more efficiently and more effectively. I am persuaded that many Departments and Agencies a healthy dose of streamlining and downsizing and I am equally persuaded that they are getting the message. For example the Secretary or DOE recently announced a proposed $14 billion contribution to deficit reduction over the next 5 years. I applaud these initiatives and I am committed to working with the Agencies such as DOE or its successors to make those promised savings a reality.

I believe there are core, fundamental missions in the field of Energy. With respect to the programs I am most familiar with those missions involve promoting, in partnership with U.S. industries, fundamental science and technology advances which will help keep us competitive in a global economy and which provide the long-term basis for economic growth, job creation and improved quality of life; and enhancing our energy security by helping safeguard against energy supply disruptions and their associated threats to the United States.

These missions can be accomplished in streamlined Departments, and Agencies but may be lost in a costly realignment that could be necessitated by their complete dismantlement. Energy is the lifeblood of a strong expanding economy that is essential if we are to be successful in balancing the budget.

Public-private partnerships can do much to reduce the cost of government while maintaining our technological leadership and making our programs very cost effective.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. BROWNBACK], a very hard-working member of the committee.

Mr. BROWNBACK. Mr. Chairman, I would just like to make a couple of quick comments and then talk briefly about the agency elimination that we have been talking about in the overall budget package.

Mr. Chairman, I hear a lot of comments about, well, we are cutting taxes and that is wrong, we should not be cutting taxes, that the American people need to pay all this money into the Government.

I make the simple point, and I ask the American people that are watching and listening, do you know how long today you work to pay the taxes at all levels, Federal, State, local, all levels combined?

The answer is, you work until May 5. You just passed Tax Freedom Day that you work. I think if you get back a little bit of that, that is your money, and you are working hard enough and long enough for the Government.

The other thing I hear a lot is people saying, well, we are not spending enough on Government programs. Indeed, many of these programs are very good programs, very worthwhile programs. But I simply point out that around the turn of the century, the Federal Government as a percentage of this economy was roughly 3 percent of this economy. That is what it was. It was 3 percent. Now it is 23 percent of this overall economy.

Overall I would like to point out, we are eliminating in our budget package three Cabinet level agencies, or propose, Departments of Commerce, Energy, and Education. We are following a process and a procedure here.

This is not just a thing of, OK, we are going to go in and eliminate them completely and they are out of there, they are gone. We are thinking this through and asking the questions of how can we do this better? How can the American people get these services? We are going through a process of asking, can we localize these services, send it back to the State and local units of government?

Do we privatize? Are these services that can be done better in the private sector? Can we be more efficient by doing it there? Can we consolidate, within other Federal agencies and programs, services that are currently done somewhere else? We have 17 agencies doing trade promotion. Do we need that many of them? Can we consolidate?

What can we eliminate? What services and programs have done their job and it is time to move on, particularly at a time that we state clearly and unequivocally to the American people, we are broke.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Chairman, I would like to talk about Medicaid. I have a homemade chart up here dealing with where we are today, with where we will be in 7 years under the Republican program. I have entitled it "Unfunded Mandates."

The bottom line here is where the Republicans go today at $120 billion up to $150 billion. The next line, though, is growth plus inflation. We go up here, so we start out at 4 percent behind.

Let me draw another line here. This line here is Texas, New York, Florida, Arizona, and the growth States. The average growth State is between 10 and 13 percent. When you have block grants to these States to take care of Medicaid patients, this is a gross unfunded mandate. You are sticking the States worse than anything we have ever done.

Most people think Medicaid is for the indigent. Over half of the payments for Medicaid go to senior citizens for nursing homes, and when you are in these States in the South, this is an exploding figure.

The gentleman from Connecticut [Mr. SHAYS] can get up and give us any number he wants to, but that number will not anywhere match the figure that these growth States are going to have to pay from today until 2002. I think it is grossly unfair. I think it is a demagogical denial here of what you are doing to these States that have exploding populations, and they are going to go bankrupt before you ever talk about the Federal Government.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MILLER], a distinguished member of the Committee on the Budget and the Committee on Appropriations.

Mr. MILLER of Florida. Mr. Chairman, we have heard nothing but distortions and scare tactics coming from the Democrats about Medicare, but I am not surprised. The sad fact is they have no ideas of their own and no plan to restore Medicare to solvency. They have nothing left to do but misrepresent Republican plans to save Medicare from bankruptcy. That is bad news for America's seniors.

According to today's Washington Post, the Clinton White House and the congressional Democrats have made a conscious political decision to defend the status quo, to delay change and distort the facts. Like Nero was watching Rome, the Democrats are fiddling, polling, and politicking while the Medicare trust fund burns. That is just sad and it is dead flat wrong.

Here is the bottom line. The Republican budget resolution restores Medicare, saving the trust fund from bankruptcy. In 2002, Medicare spending will be $1,600 higher for each beneficiary under the Republican plan. Under the Democratic budget, in 2002 the Medicare fund goes bankrupt, zero, it is broke.

Don't be confused by the Democrats' distortions. Restoring Medicare has nothing to do with the tax provisions in the contract. Yes, we return a small portion of each working American's hard-earned tax dollars to the family budget, but with or without the tax cuts, Medicare will go bankrupt if we follow the Democrats' status quo plan.

That is not DAN MILLER speaking or NEWT GINGRICH speaking, this is the public trustees of the Medicare Program, including members of the President's own Cabinet.

Here is what the trustees say: "The Medicare Program is clearly unsustainable in its present form. It is now clear that Medicare reform needs to be addressed urgently."

One more time: There are two choices. Under the Republican budget resolution, in 2002 the Medicare spending will be $1,600 higher for each beneficiary, restoring the Medicare trust fund to solvency. Under the Clinton Democrat budget, in 2002 the Medicare trust fund goes bankrupt.

Let's save Medicare. Support the Republican budget resolution.

Ms. SLAUGHTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, why are the Republicans proposing to slash Medicare and Medicaid to pay for tax cuts benefiting America's most privileged?

Throughout the afternoon, we have seen abject efforts of denial of the cuts by the gentleman from Connecticut [Mr. SHAYS], the task force Chair, jumping up and citing increased funding and saying only in Washington could this be determined a cut. I have never heard a more blatant distortion on the floor of this House.

The fact of the matter is that the funding does not keep up with the increasing costs in health care. Let me cite a figure that might be of interest to the gentleman from Connecticut himself, because under the cuts proposed, in Connecticut each senior citizen will pay more out of pocket, $3,885 cumulatively through 2002, under the plan advanced. That to the seniors of Connecticut I would suggest is a real, real cut, one that hits right in the pocketbook. The Medicaid figures are even worse.

In the Republican cuts for Medicaid in the out years, they allow a 4 percent adjustment in Medicaid funding. There will be a 3-percent growth in enrollment in Medicaid, which means they allow the cost of medicine to go up 1 percent per year.

What do we know about Medicaid and medical inflation? It is rising at an amount dramatically higher than that, and it is going to rip benefits away from the children and the disabled and the elderly that depend on Medicaid funding.

This chart reveals what a vicious hit it will be to kids. An additional 6.7 million kids will lose their coverage under the Medicaid proposals advanced in the Republican budget. That to the gentleman I would suggest is a very real, a very meaningful cut to children.

For senior citizens it is equally devastating. Seniors receiving long-term care in nursing homes across this country will find the costs of their care rising much faster than the Medicaid payments to fund them. In fact, if you look over 5 years, an additional 1.7 million senior citizens requiring long-term care assistance will be deprived of Medicaid coverage under their plan. Those are real cuts.

You may in budget chicanery try to gloss over what you are doing to people, but let me tell you, you are taking coverage away from children and you are taking coverage away from senior citizens in nursing homes, and you are doing it primarily to pay for tax cuts for the rich.

Mr. Chairman, at this point in time I yield to the gentleman from Connecticut, if he would like to ask me any questions about North Dakota. Does the gentleman from Connecticut care to respond?

Mr. SHAYS. Mr. Chairman, I will be happy to use some of the gentleman's time to correct some of his comments.

Mr. POMEROY. If the gentleman does not have a question about North Dakota, I will reclaim my time.

The gentleman's own seniors in Connecticut will lose $3,800 under their proposal, a fact he ought to be aware of.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Chairman, this budget is not just about the Federal Government's fiscal strategy, the way we keep our books. It is about America's future. It is about creating job growth and opportunities for our kids and our grandkids, about making our communities a better place to live and work and raise our families. Certainly it is about our future prosperity and our future safety.

Mr. Chairman, 2 years ago in 1993, this House, this Chamber, passed a large tax increase, approximately $248 billion over the 5 years of the budget. The decision from our conference was, should we give some of that tax increase back, and should we do it in a way that is going to stimulate job growth? We did that. One of the elements was my neutral cost recovery bill, that allows businesses to deduct the cost of the tools and equipment they buy as a business expense.

Let me tell Members what economists say is going to result from that kind of Tax Code change. They say the GDP of this country will increase almost $3 trillion, it will increase 3 million jobs with an average salary increase of $3,540.

Mr. Chairman, as we look at how we are cutting this budget, everybody is going to realize some pain. I hear so much talk about criticizing the cuts. It is so much easier to tear down a house than it is to build a house. We are trying to build that house in a budget that is going to help future generations. I would hope all Members would contribute in a positive way to how they think we can improve this budget, not simply criticize every element of every cut, Mr. Chairman, as we look at transportation, as we look at the infrastructure we have built over the years.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, earlier this year, I visited school lunch programs in my district, and learned something which the authors of this budget obviously have not thought about. Because child after child said to me, "Congresswoman WOOLSEY, I can't concentrate when I'm hungry." "I can't learn when I'm hungry."

Obviously, first-and-second graders know better than the authors of this budget that, if you enter the classroom hungry, you will not be ready to learn.

During one of my visits, a teacher in Marin County—one of the most affluent counties in America—told me that, recently, she had a class lesson asking her 1st grade students what their top three wishes were, and why, the top wish of two-thirds of her students was for more food for their family, because they were hungry.

Well, get ready to have trouble concentrating and learning, and get ready to be hungry, because this budget cuts $19 billion form nutrition programs in order to pay for a tax break for wealthy special interests.

Members on the other side argue that taking $19 billion away from child nutrition programs is not a big deal, in fact, they claim they are not even cutting child nutrition programs, but simply reducing the rate of increase. We hear Republicans say over and over again that "only in Washington do people call a reduction in the rate of increase a cut."

Well, the children in Marin County, who wish for food for their families, would see it differently. They would say that only in Washington do people call "taking school lunches away from children a "reduction in the rate of increase."

I urge my colleagues to vote against this budget resolution.

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Mr. KASICH. Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. Mr. Chairman, I thank the distinguished chairman for yielding me this time.

I have been sitting here now for a couple of hours and I was waiting and wondering when the school lunch debate was going to come up. And you are absolutely right that only in Washington would we describe a 4½-percent increase each year for the next 5 years as a cut. It is unbelievable. We are increasing funding for the school lunch programs and we are calling it a cut.

But I think it is important as we take a look at what we are actually doing here. We are doing something that is important for the future of our children. This House has used this card for the last 25 years to build up a $4.7 trillion deficit for each of our kids. That is totally inappropriate. We need to get spending under control, and we are doing it. We put together a plan to get a balanced budget within 7 years. It is the right thing to do; it is the thing that we have to do for our kids.

What we are tying to do in this plan is we want to get the Federal Government away from so many things that happen in the private sector. It is not important to have a Federal bureaucrat between a child and their school lunch. It is not important to have a Federal bureaucrat between a landlord and their tenant. It is not important to have a Federal bureaucrat between a customer and a vendor. That is not the right place for the Federal Government to be. Those things happen very effectively and efficiently in the private sector. We reach out and we help those that need help. but we do not need to have Federal bureaucrats in all of these places, it is not the right way to go, it is not the right direction.

What we are doing in many of these areas is we are fixing programs that are broke. Job training, we are going at an area where, yes, we have to educate and train people.

This Congress has put together 153 different training programs, 153 different Federal bureaucracies of Federal bureaucrats between an individual who needs skills and an education process. It is absolutely ludicrous to have 153 programs. We are going to put that into four block grants. It is going to be efficient and much more effective than the system that we have today.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the proponents of this budget plan argue fervently that its end result—a balanced budget by the year 2002—will produce economic prosperity and better living standards for all Americans. It will not. What the plan will do is simply substitute for the budget deficit an investment deficit that will guarantee the long-term decay of our economy and our society.

I am most familiar with the impact of the Republican budget plan on the civilian research programs under the Science Committee's jurisdiction. The Republican plan would force those R&D programs to decline by almost $25 billion over the next 5 years. To put that number into perspective, public investment in civilian R&D programs in our committee's jurisdiction would fall 25 percent in absolute terms, or 35 percent in real dollars, in just a few years.

I have included along with my statement a budget table showing the effect of this budget plan on committee R&D programs.

The Budget Committee report accompanying this bill makes it very clear how these cuts should be absorbed. They would have us eliminate most civilian applied research and technology development and demonstration work at every Federal department and agency. Many worthwhile science programs would suffer huge cuts or be terminated and, inevitably, Federal research labs would also have to close.

The Republicans reason that massive public disinvestment in R&D is good for the country because the private sector will pick up the slack and make these investments on its own, provided they get the deregulation and the tax breaks the Republicans have promised. This reasoning is naive and foolish. Deregulation and tax relief have not succeeded in raising private R&D investment in the past, and there is no evidence that it will work in the future.

In fact, even with an R&D tax credit in place, the private sector has been reducing its long-term R&D investment over the last 10 years in response to global competition. A recent survey of corporate R&D investment conducted by the Industrial Research Institute shows that U.S. corporations have reduced their long-term R&D from 20 percent to 8 percent of their R&D spending in the last 10 years. The remaining 92 percent of their R&D spending goes to short-term applied research with immediate commercial application.

The private sector is reducing their long-term R&D investment. If the Government also withdraws support for long-term R&D, as this budget implies, the consequences will be devastating and irreversible. The R&D infrastructure of the United States will be devastated. The result will be fewer scientists and engineers, less innovation and declining competitiveness in world markets. I, for one, do not believe the American people want to throw away their future simply for shortsighted political considerations.

Mr. Chairman, time and again today, my colleagues have warned us that we must not pass on a legacy of debt to our children and grandchildren. I agree, but we are also obliged to undertake those essential investments in new knowledge and better educated human resources that will guarantee them a bright future. This budget fails to do that and breaks faith with future generations.

The chart referred to follows:

KASICH-WALKER BUDGET ASSUMPTIONS—CIVILIAN R&D PROGRAMS IN THE JURISDICTION OF THE HOUSE SCIENCE COMMITTEE

[Budget authority (BA) in millions of dollars]

Budget Function	Subcmte	Agency	Budget Assumptions	FY96–00 Change in BA[1]
250	Space	NASA	Cut Human Space Flight	−3,064
			Cut Science, Aeronautics, & Technology	−4,790
			Increase Mission Support	117
			Increase Inspector General	2
250	Basic Research	NSF	Eliminate social R&D	−583
			Cut academic infrastructure investment	−750
			Cut major research equipment investment	−479
			Cut S&E; Headquarters relocation	−75
			Cut education and human resources	−30
250	Energy & Envir	DOE	Prioritize General Science Activities	−270
270	Energy & Envir	DOE	Reduce Energy Supply R&D	−4,745
			Reduce Fossil Energy R&D	−1,595
			Reduce Energy Conservation Research	−1,960
			Eliminate clean coal technology program	−864
300	Energy & Envir	NOAA	Reduce Ops, Res, & Facilities	−1,369
300	Energy & Envir	EPA	Terminate environmental technology program	−325
			Reduce Office of R&D budget	−100
370	Technology	DOC	NIST—Increase intramural R&D	149
			NIST—Eliminate extramural R&D (ATP, MEP)	−2,625
			NIST—Increase construction funding	32
			Eliminate Technology Administration	−47
400	Technology	DOT	Eliminate Intelligent Vehicle R&D program	na
			Eliminate High Speed Rail R&D program	−100
400	Space	DOT	Rescind funds for NASA Wind Tunnel	−400
800	Basic Research	OTA	Eliminate OTA	−104
Total, Science Committee				−23,973

[1] FY1996 through FY2000 cumulative change in new BA relative to FY1995 budget freeze.

Source: House Budget Committee. Democratic staff of the House Science Committee.

COMMITTEE ON SCIENCE—SUBCOMMITTEE ALLOCATIONS

[Dollars in millions]

Subcommittee	Actual FY 95	Pres. FY 96	Walker FY 96	Walker FY 97	Walker FY 98	Walker FY 99	Walker FY 00
Space	$14,470	$14,267	$13,395	$13,130	$12,543	$12,043	$11,578
Basic Research	$3,325	$3,414	[1]$180	$3,199	$3,232	$3,270	$3,331
Technology	$1,421	$1,717	[2]$645	$350	$360	$371	$382
Energy/Envir.	$8,018	$8,579	$6,200	$5,841	$5,645	$5,464	$5,312
Totals	$27,233	$27,977	$23,620	$22,520	$21,780	$21,148	$20,603
Walker vs. FY95 (percent)			−13.3	−17.3	−20.0	−22.3	−24.3
Walker vs. Clinton FY96 (percent)			−15.6	−19.5	−22.2	−24.4	−26.4
Walker vs. Baseline[3] (percent)			−15.8	−22.1	−26.8	−31.0	−34.7

[1] Includes $26 million in authorized FEMA earthquake programs.
[2] Includes $302 million in authorized FAA R&D.
[3] Baseline assumes 3 percent annual inflation from 1995–2000.

Source: Chairman, House Committee on Science.

Mr. SABO. Mr. Chairman, I yield 30 seconds to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Chairman, this budget recommends that we eliminate the Department of Commerce. It just does not make sense in that we need to develop jobs in this country. If we are ever going to get to the point where we can develop jobs, we need the Department of Commerce. During the last 2 years the Department helped Americans secure $24.6 billion of foreign contracts, and for every dollar spent on the entire budgets of the Department it has returned $6 to the American economy. That is developing jobs, Mr. Chairman.

Mr. KASICH. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, the reason why we are calling for the elimination of the Commerce Department is its functions are performed in 71 other entities of the Government, and we think it makes more sense to consolidate that, save the bureaucracy, and give taxpayers some of their money back.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER], the distinguished chairman of the Committee on Science.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me the time.

I was interested in the discussion we just had on the cuts in the science budgets, and I think it is very important to understand what has happened over the last few years in the name of science. Much of what we have had in the science research budgets of this country have been in a State where many of them have been nothing but corporate welfare, and what we have done is done things in the name of R&D, in the name of science, and then found out that where they were going to was to the richest corporations in the country.

What we have attempted to do is prioritize science in this budget. We have attempted to protect the basic fundamental research of this country, and we have done so in the budget. In fact, basic research actually has a nominal increase over the 7-year period from $7.092 billion this year to $7.101 billion in 1996. This includes places like the National Science Foundation and a lot of programs in NASA and the Department of Energy.

But where we have the direct industrial and commercial subsidies, we eliminate those. What we are saying is let us have real research and development in this country; let us not subsidize our biggest corporations and call it R&D. And the fact is if you take a look at the chart, the corporate welfare sections of the budget are where we take the biggest hit.

Out of the total budget over the next several years, we are going to spend over $111 billion in the science areas. Out of $111 billion we ought to be able to get some quality science. The problem is we have not been getting quality science in too many instances. What we have been getting is big companies coming in and ripping off taxpayers' money in the name of things they wanted to do anyway. We cut that out. We just say no more. We are going to eliminate corporate welfare and concentrate on those things that the Federal Government can do best for the economy, the basic science and fundamental research.

So if you take a look at that, what you find is over the next several years we will go from $26 billion we are spending each year on some of these programs down nominally to about $23.7 billion. Two-thirds of the cuts, that is about 9.1 percent, about two-thirds of that entire cut comes out of corporate welfare cuts.

If the country wants to have real science I think that is exactly right, but the country does not want to do research and development and then find out that they did not get real research and development, and this is the example of exactly where we think we should go. We have prioritized science toward basic fundamental science.

Sure, we are going to have some applied science; we are going to do some developmental work and demonstration work. There is actually a line on which we can do the kind of research that this country needs. But we ought not be funding things that companies otherwise would do on their own.

And so this budget I think is a lean budget, but it is one that makes sense for science. It prioritizes science toward those kinds of things that science ought to be doing.

The Government is best at doing basic research, and that is where this budget puts its emphasis.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to my good friend and colleague, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the Republican budget resolution.

Mr. Chairman, I rise in strong opposition to the Republican budget proposal we have before us today. This is a measure which seeks to pay for the Republicans' tax cuts for wealthy individuals on the backs of those in need, children and the elderly, and at the expense of sound education, health and welfare benefits. We need to be concerned about the deficits, both the fiscal and human deficits, not just the bottom line.

I am deeply concerned about our budget deficit and throughout my career I have supported numerous efforts aimed at streamlining the Federal Government, reducing spending, eliminating waste and responsibly increasing revenues in an equitable way. Over the past 2 years, we have made steady progress in cutting the deficit with nearly $600 billion in deficit reduction over a 5-year schedule beginning in 1993. We passed the deficit reduction bill last year without a single Republican vote.

While I support reducing the deficit through cuts in some programs, the Republican budget proposal centers on cutting off programs which invest in the American people, while providing tax benefits to corporations and wealthy individuals. In the framework of this resolution, in seven years an extra $300 billion is added to the deficit due to tax cuts. That is the GOP way to solve the deficit. They say first things first, wealthy Americans need a tax break. Their promises made and kept are the tax cuts, of which 75 percent of the benefits go to corporations and investors. Other promises and policies receive short shrift under the GOP plan.

One of the most important investments our country can make is in education. Every dollar for education is an investment in our people in the future of this country and our national economy. The Republican approach for the education of the people of our Nation is mind-boggling. Their blueprint for the future not only abolishes the Department of Education, which would leave the U.S. as one of the few industrialized countries in the world without a national department or ministry of education, but proposes to make atrocious cuts which counter any pretense of deliberate consideration of public policy. This budget proposal calls for the elimination of about 130 Education department programs, including Goals: 2000 school reform programs, Chapter 1 Compensatory Education Concentration grants—which provide funding for areas with high levels of low-achieving children—and bilingual and immigrant education programs.

The proposal will eliminate funds used to make schools across the country safer and drug free and will dramatically increase costs for working families by charging all students interest on their loans while they are in school. These actions are not just thoughtless, they are policies ignorant of the problems and needs of American people today and tomorrow. At a time when jobs demand more preparation, cutting education funding is indeed a losing proposition. We need to support education as a budget priority and this bill before the House has it backward. We need smart people and smart hardware to face the future needs of our Nation. That won't happen with a negative and indifferent national policy.

This proposed budget pulls the rug out from under state and local governments, shifting responsibility away from the Federal Government for welfare and child nutrition and advocating deep cuts in community development, notably the Community Development Block Grant. The Republican answer is that cost burdens should be shifted to State and local governments and the non-profit sector, which are already operating on overload today. In other words, a trickle-down tax increase pushed upon the States.

A provision of the budget resolution which deeply concerns me is the proposal to zero out the funding for the Low-Income Home Energy Assistance Program, otherwise known as LIHEAP. As a Member from Minnesota, a State that works and strives to meet people's needs with a warm heart. Minnesota is one of the coldest States in the Nation, I am alarmed by the potential impact of this ill-advised action. In 1994, approximately 6.1 million households received aid to help cover heating costs nationwide. Nearly half of these households contain elderly or handicapped persons—often on fixed incomes—and about 80 percent earn less than $10,000 a year. Where are these people to turn when they no longer can afford to heat their homes? This pattern is repeated because of the tenuous situation that many poor face today.

The Republicans are cutting funds for programs which provide basic housing for Americans in dire need of assistance. They will reduce housing assistance for the elderly, for persons with disabilities, and for other low and moderate income families. They would eliminate funding for most preservation activities, and reduce funding for the operations and modernization of public housing. All of these proposals mean it will be more difficult for people to find decent, safe and affordable housing, in this time when affordable housing is dwindling, and the demand is growing. These proposals serve notice that the unique programs that are designed to take the necessary step for our most vulnerable citizens and to help working people help themselves, today are serving as targets for political pot-shots.

On the environmental front, in addition to cutting funds for sewage treatment, safe drinking water facilities, soil and water conservation programs and hazardous waste cleanup, the

Republican budget blueprint advocates allowing oil and gas exploration and drilling on the Arctic National Wildlife Refuge as a way to increase revenues. The Arctic Refuge coastal plain is a priceless and irreplaceable treasure. The fate of the coastal plain and its value to present and future generations as an undisturbed, fully-functioning ecosystem have been the subject of a complex and highly contested debate for more than a decade. The resolution of this debate must not be obscurely foreordained through a backdoor effort in the Federal budget process. It deserves full consideration in the glaring light of public scrutiny.

One of the biggest ironies in the budget resolution is the treatment of Medicare. In the absence of any real health care reforms, Republicans suggest simply slashing Medicare by $288 billion over the next 7 years. This is a 27 percent cut. This will mean fewer benefits, higher out-of-pocket costs for seniors, and less choice of doctors. For my home State, Minnesota, it has been projected that the Republican budget proposal will cost each senior an additional $3,557 over the 7-year period from 1996 to 2002. Nearly 83 percent of Medicare benefits go to seniors with incomes of $25,000 or less, and the proposed reductions would have a devastating effect on these people. Likewise, Medicaid funding, the only major Federal source of funding for long-term care, is cut 30 percent by the year 2002. Together Medicare and Medicaid cuts account for nearly a third of all savings in the bill. The GOP puts this in place without a clue of how this cut will be attained. Health care/Medicare doesn't exist in a vacuum. The GOP was quick to demagogue health care reform in 1993–1994. Now they seek no reform, only a Medicare cut that will result in a second-rate health care program for older Americans.

In the last Congress, the Republicans refused to support meaningful comprehensive health care reform, saying there was no crisis in health care so why make changes? Today they have conveniently discovered the Medicare Trustees Annual Report and tell us there is a crisis. Actually the 1995 report suggests an improvement over 1994. The GOP Congress is going to solve this health care crisis by cutting benefits to seniors and reimbursements to health care providers while providing a generous tax cut to wealthy Americans and a funding increase for defense. This is not the approach that will protect Medicare and the elderly and help rationalize and regularize the health care system.

The Medicare cuts are supposed to save the program from a projected revenue shortfall in 2002. However, the cut they want to take from Medicare to offset the loss of revenue resulting from the Republicans' tax cuts for wealthier Americans, is $353 billion over the next 7 years. Despite the political rhetoric, the main beneficiaries of these tax changes are the wealthiest members of our society and corporate America, with the wealthiest 1.1 million Americans receiving a $20,000 tax break. Further, the budget proposal includes a tax increase which could total as much as $42 billion, including $17 billion in personal tax increases which result from the 0.6 percent adjustment in the Consumer Price Index. The indexing of income tax rates and brackets are reduced for middle income Americans, not mind you in the tax package but hidden in this budget package, and Social Security benefits are cut with the same COLA sleight of hand. In fact $24 billion in just 3 years is picked from the pockets of Social Security recipients.

Even as student loans, housing, and Medicare are being cut, the Republican budget would increase budget authority for defense to $288 billion and defense outlays to over $280 billion by 2002—billions more than President Clinton has requested. These large spending increases for the Pentagon are questionable not only because we no longer face the threat of the cold war, but also because the Pentagon has admitted its finances are in complete disarray. In fact, the annual financial statements of 28 of the Pentagon's 36 departments are so riddled with flaws and inaccuracies that the GAO has declared them completely worthless. The Pentagon's own Deputy Inspector General recently stated that the Department of Defense pays private contractors $500 million dollars it does not owe them every year, and DOD cannot account for $15 billion it has spent over the past decade. Republicans apparently have no qualms about pouring billions more taxpayer dollars into a black hole at the Pentagon, even as they cut funds for cost-effective social programs which result in economic benefits in the future. I fail to understand why in this time of fiscal stringency that the Pentagon receives $60–$70 billion more.

Mr. Chairman, forging our economic priorities into the next century has been a focal point of the ongoing debate. I have grave concerns about the direction that this budget is taking. We ought to be offering hope by acknowledging the reality that the Federal Government must remain a partner for supporting the basic needs of our citizens, not abandonment. However, what I am seeing is an erosion in support for working families and an eradication of support for those who cannot make ends meet in order to give folks making $200,000 or more a tax break. Republican priorities do not signify political courage, as they would have us believe, but political pandering. Republican priorities are focused on change at the bottom line, producing enough money for the Republican tax breaks for well off Americans, not empowering families. I urge my colleagues to oppose this distorted GOP resolution. When the political reality meets the public outrage the tax breaks will stand, the tax cuts and programs and actions will falter; the secret plan to cut Medicare, a better kept secret than the Dead Sea scrolls, will evaporate in the public outrage at denying much-needed justified programs and responsibilities.

Mr. SABO. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I thank the distinguished gentleman from Minnesota for yielding time to me.

Mr. Chairman, I rise in strong opposition to the fiscal year 1996 Republican budget resolution. Before we vote today, I believe it is vitally important for the American people to understand just what this budget resolution really does, whose interests it really serves, and whose it abandons, whose taxes are cut on the one hand, and whose benefits are cut and eliminated on the other.

Simply stated, this resolution proposes a major reallocation of resources among the people of America. If you are a middle- or lower-income American, can lose big under this resolution. If you are a high-income American, you win big under this resolution.

First, the resolution would slash spending for discretionary programs by $635 billion over the next 7 years, cut Medicare by $288 billion, and reduce Medicaid by $187 billion. That takes money out of the pockets of average Americans.

And second, as if to add insult to injury, money taken out of the pockets of middle- and lower-income Americans is immediately used to pay for a tax cut for the wealthiest Americans.

□ 1845

Mr. Chairman, when put in this perspective, it should become clear that the proposal we are voting on today would literally take from the poor to give to the rich.

Let us talk about the spending cuts contained in the plan. The question is how seriously should they be taken? How seriously should we take those spending cuts? And the answer is very serious. Many vital programs will be eliminated if this budget resolution, the one we are voting on here today or tomorrow, is enacted, and many others will be cut as much as 40 and 50 percent.

Imagine the average American family for a moment, if you will, husband and wife, both working struggling to make ends meet, two or three children. How will they be affected by the cuts proposed in this resolution? Well, if the children in this family are receiving nutritional subsidies at school, they will see large cuts due to this resolution. For college-age children in the family, this resolution proposes to increase costs for a 4-year college loan by $5,000. If the father or mother relies on mass transit to get to and from work, this resolution will, at the least, cause the fare to go up, and in rural areas across America, certainly in my State and, I imagine, many others, may even eliminate mass transit service. If either parent should be laid off or lose his or her job, this resolution greatly reduces the resources available for additional job training, and if there is an elderly grandparent, this resolution will make cuts, real cuts, to programs which fund long-term care.

Believe me, Mr. Chairman, I could go on and on. And so while the Republican proposal may not impose a tax increase on middle-class America, it certainly eliminates many of the resources the average American family currently relies on and has available to it.

And where do those resources go? To pay for a tax cut for the wealthiest

Americans, Americans who do not need to take out loans to go to college, who do not depend on mass transit to go to work, who do not have children who rely on school lunches for their daily nutritional needs.

If fact, the tax cut which is proposed under this resolution will cost the American people close to $400 billion over 7 years, $700 billion over 10 years, and 51 percent of that tax cut goes to Americans making over $100,000 a year.

Mr. Chairman, where do those resources go? To pay for a tax cut for the wealthiest Americans. Americans who don't need to take out loans to go to college, who don't depend on mass transit to go to work, who don't have children who rely on school lunches for their daily nutritional needs.

In fact, the tax cut which is provided for under this resolution will cost the American people close to $400 billion over the next 7 years—$700 billion over the next 10 years. Fifty-one percent of the tax cuts in this Republican proposal will benefit those Americans making over $100,000 a year—with more than 20 percent going to the top 1 percent of families making over $350,000 a year.

Well, this completes the picture—a major shift in resources from the middle and lower income folks to wealthy America.

So each and every American must decide if this resolution—this Republican agenda—is in his/her own best interest. Someone will benefit from this proposal—it is just important to know who that someone is.

I urge my colleagues to vote "no" on this resolution.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, as a member of the Budget Committee I can say we worked tirelessly to produce a budget that is fair and equitable.

The result is a balanced budget in 2002—just as we promised.

To those who oppose this plan I say, what is your alternative?

Contrary to what many opponents would like to have you believe, the Republican budget is a very Senior friendly budget.

First, as we promised, Social Security is off the table. No cuts at all to Social Security.

This is the only area of the budget we exempt from cuts.

And with Medicare, we simply slow the growth to 5 percent a year.

This means we will increase Medicare spending over 7 years, from $4,700 per beneficiary today to $6,300 per beneficiary in 2002. This preserves the solvency of Medicare.

Now lets look at the rest of the budget. We freeze defense, and make clear that defense spending will continue to undergo the kind of scrutiny of other aspects of the budget.

Third, we reduce all discretionary spending, including foreign aid.

We abolish three Cabinet agencies: Commerce, Energy, and Education.

This plan also eliminates 283 programs, 14 agencies, and 68 commissions.

Overall this budget simply slows the growth in spending to just over 2 percent a year. The difference is that under current forecasts we grow over 5 percent a year.

Now, what does all this mean to American families. It means a higher standard of living.

It means families will pay less for their home mortgage because of lower interest rates. It means more families will be able to afford college for their children.

This week's Time magazine has an excellent article on this topic.

It explains how balancing the budget can help revive the American Dream.

The article talks about how lower deficits mean lower interest rates, and therefore more job creation by U.S. business.

The article provides one very specific example of a young couple who are considering a new home.

Under a mortgage rate of 8 percent, they would pay $734 a month on a $100,000 mortgage. If interest rates are 1 percent lower, this payment is cut to $665.

This would save $28,000 over the life of the mortgage. This would be enough to put one of their future children through a year of college.

Similarly, I have been using the example of farmers, because there are reductions in agriculture subsidies in this budget.

However, it is estimated that a 1.5-percent reduction in interest rates would save the farm sector over $10 billion in interest payments on their debate over 5 years. This more than offsets the reduction.

These are examples of what it means to balance the budget. This is not just an exercise in accounting. It really matters. It will make a difference in the lives of every American.

It will particularly, make a difference in the lives of our children and grandchildren. I urge my colleagues to join me in supporting the first balanced budget in 33 years.

Mr. Chairman, recently, I received a letter from a young father in Denver. He wrote on behalf of his 1-week-old daughter and asked that I address my response to her. His letter spoke of the massive debt she is inheriting. He spoke of how our generation is spending now, and hoping that later she, and the rest of our children and grandchildren will pay the bills.

> DEAR MR. ALLARD: Last week my daughter was born to my wife and I. As I understand it, she is now responsible for at least a $20,000 share of our national debt. As the recent commemoration of the fiftieth anniversary of D-Day demonstrates, our nation has long been mindful and thankful of the sacrifices born by past generations. Sacrifices which preserved and made possible the liberties and benefits of today. My daughter, in contrast, faces the opposite.
>
> Instead she must sacrifice in the future, to pay for the liberties and benefits of the past generation. I ask you this question because she will look to me for the answer: Which benefits enjoyed by past generations should she keep in mind as she toils to pay their costs? What entitlements, what projects enjoyed by your generation will make her sacrifice noble and worth it all? What should I tell her? What would you tell her?

In 2002, this child will be 7 years old. I hope by then we can guarantee her a balanced budget and secure future. Tomorrow this House will decide the answer.

Mr. Chairman, I rise in strong support of this historic budget document.

Throughout the process I had the privilege of heading up the Natural Resources—Science Task Force. I was joined in this effort by SAM BROWNBACK, and BOB WALKER.

This task force included Agriculture, Interior, Energy, and science programs. Obviously, many of the issues impact the West, including my constituents in Colorado.

This is a good budget for the West. Sure, we make a contribution to the reductions, but that is fair. I meet with constituents almost every weekend. They want a balanced budget and they are willing to do their part.

This is a balanced budget. Urban and rural areas are both called on to contribute.

The payoff will be substantial.

This budget produces a balanced budget in 2002—just as we promised.

This will be the first balanced budget in 33 years. That's right, 1969 was the last year the Federal Government balanced its books.

Let me go over the highlights of our working group's proposals:

AGRICULTURE

We phase down farm subsidies, this is already a declining baseline.

To offset we reduce regulation, this will be done in the Farm bill and elsewhere, we are also reducing the tax burden on farmers with the capital gains tax cut and estate tax relief.

I think it is very important to note that farmers will benefit greatly from a decline in interest rates that will result from this balanced budget.

It is estimated that a 1.5-percent reduction in interest rates means that farmers will save over $10 billion in interest payments on their debt over the next 5 years. This more than offsets any reduction in subsidies.

ENERGY

Both the Energy Department and the Commerce Department are eliminated.

The power marketing Administrations are privatized, but they are sold only to the preference power customers, giving more power to our constituents and protecting against any rate increase.

The naval petroleum reserves at Elk Hills are also sold, this is the 10th largest oil field in the country and there is no reason for the Federal Government to own it.

Reseach functions are privatized, and all nuclear cleanup activities will continue at current levels.

INTERIOR

There will be a moratorium on new Federal land purchases. We own enough land already. In many States out West, more than one-third of the land is owned by the Federal Government.

This map shows why we don't need to have the Federal Government buying more land.

As you can see, vast portions of the West are already owned by the Federal Government. All of the area colored in is owned by the Government.

These are a few examples of the highlights of our budget.

Make no mistake, we call on every aspect of the Federal budget to contribute to the savings in this budget. The only exception is Social Security, which we do not touch at all.

I ask my colleagues to support this historic budget.

MAY 9, 1995.

Memo

To: Arnie Christenson

Re: the balanced budget amendment and interest savings to farmers.

Attached is a very rough estimate of the impact of 1.5 percent reduction in interest rates on farmers costs.

In 1993, Farmers had $141.9 Billion in Outstanding Debt.

If we assume interest rates of 8 and 7 percent for long term and short term respectively then:

Net Savings from a 1.5 percent reduction: $2.13 billion or a 5 year very conservative estimate of savings of $10.65.

It is interesting to note the Agriculture Committee is debating over whether to save $12 billion or $9 billion or $5 billion.

If we don't balance the Federal budget then:

Interest rates won't go down by 1.5 percent and farmers will spend an additional $10.65 in interest cost over 5 years.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. INGLIS], a member of the Committee on the Budget.

Mr. INGLIS of South Carolina. Mr. Chairman, I find it very interesting the gentleman from West Virginia just talked about how it is going to cost the American people to give a tax cut. I really do not understand that statement. I wonder if he would like to describe it for us.

It is going to cost the American people to give them a tax cut? He says it is going to cost some hundreds of billions of dollars, but actually it is the other way around.

When the gentleman from West Virginia voted for the Clinton tax increase in 1993, he increased taxes in the State of West Virginia by $356 million, $356 million in increased taxes the people of West Virginia will pay as a result of the gentleman's vote in favor of the Clinton tax increase. That costs the American people money. That is a tax increase.

Mr. MOLLOHAN. Mr. Chairman, would the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Does the gentleman agree or disagree that over 51 percent of the tax cut in the Republican proposal will benefit those Americans making over $100,000 a year?

Mr. INGLIS of South Carolina. No. I do not agree.

Mr. MOLLOHAN. You do not agree that 51 percent of the tax cuts in the budget proposal benefit those persons making over $100,000 a year?

Mr. INGLIS of South Carolina. No; no, I do not.

Mr. MOLLOHAN. You disagree with that? Do you agree that more than 20 percent is going to the top 1 percent of American families?

Mr. INGLIS of South Carolina. Reclaiming my time, let me answer the gentleman. I really cannot figure out how you refer to our tax cut as a cost to the American people. We are allowing the American people to keep their money.

Mr. KASICH. Mr. Chairman, regular order.

The CHAIRMAN. Regular order has been demanded.

The Chair recognizes the gentleman from South Carolina.

Mr. INGLIS of South Carolina. It is a very important point. It is a very important difference between the philosophies that are represented here. The gentleman from West Virginia just described a tax cut as costing the American people money. This is a unique concept. In other words, he assumes that 100 percent of the American paycheck belongs to him, and the people who used to run this place, they assumed that he owns the paychecks of the people in the fourth District. I assume quite the opposite.

I would point out to you that in quite contradistinction to your approach, we believe the American people own their paychecks. And we should own only such sums as we need to run the government.

Mr. KASICH. Mr. Chairman, I yield myself 15 seconds to just point out the chart in the front shows that those people below $75,000 get 74 percent of the family tax credit. The figures, frankly, speak for themselves.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I submit my remarks at this point. I rise in strong support of reaching a balanced budget by the year 2002, under the solid work of the Committee on the Budget and the leadership of the gentleman from Ohio [Mr. KASICH].

Mr. Chairman, I rise to congratulate the Budget Committee for its fine work in putting together a budget resolution that for the first time in many years puts us on a path toward balancing the budget. I am pleased to support this resolution, because I believe it is imperative that Congress regain control over our spending practices and leave our children an economically strong America.

The process that we undertake today will not be easy. Indeed, the cuts that are going to be necessary to bring our budget into balance will be painful in some instances. And while I do not agree with every line item in the Budget Committee's resolution, and will fight hard in the weeks ahead to shape appropriations bills that meet our targets, I support it as a fair and honest document from which the House can start its deliberations on spending.

In 1993, gross interest payments equalled $293 billion, greater than the total outlays of the Federal Government in 1974. If we continue current policies into the next century, we will be forced to enact fully $500 billion in deficit reduction each year just to restrain the deficit to 3 percent of gross domestic product.

For too long, this Congress has chosen to continue the status quo, pushing this Nation further and further into debt and forcing the results of overspending today on the generations of tomorrow. The budget was last balanced in 1969, an entire generation ago. As representatives of the American people, we have no choice but to start on the course of fiscal responsibility. And that is what this budget resolution before us today sets out to do.

There are two areas on which I would like to focus my remarks today: Medicare and the Commerce Department.

I cannot stress how important it is to reform our Medicare system. This budget resolution addresses head-on the impending Medicare crisis facing senior constituents. We must take steps now to shore up Medicare financing and benefits to keep our Medicare promise to today's beneficiaries—seniors—who will need these health benefits 10 years from now.

Our friends on the other side of the aisle tell you that we are "cutting Medicare, slashing the benefits." This is simply not true. We will increase Medicare spending over the next 7 years by 45 percent. We will spend $1,500 more on each beneficiary 7 years from now. How can anyone call this a cut?

But keeping Medicare merely solvent is not all we must do. We will make Medicare work smarter, and serve seniors better, just as employers have been successful in bringing down costs and increasing quality and consumer satisfaction.

And we will let seniors choose how to use their Medicare dollars to join plans that cover prevention, that cover prescription drugs or home care, that provide benefits and individual senior desires.

This budget proposal for Medicare represents a tremendous challenge, but, it gives us a great opportunity as well.

Second, while I support the budget resolution's cuts in spending growth, I oppose eliminating support for U.S. exports, and the thousands of American jobs they create every year. Proposals in this budget to eliminate and cut trade and export enhancement programs, while well-intended, are shortsighted and ignore our dependence on U.S. exports as the fastest growing component of GDP, growing 2½ times faster than the overall economy. The continued globalization of business, and the global shift toward market-oriented economies will create substantial new opportunities for U.S. goods and services abroad. To access these markets, it is imperative that the United States maintain or create a Cabinet-level agency dedicated to coordinating these vital export and import finance and promotion programs. Eliminating the functions of the Commerce Department will certainly not enhance job growth in this fast-growing area of our economy, though many of the savings proposed in Commerce are thoughtful and meritorious.

Again, Mr. Chairman, I rise in support of House Congressional Resolution 67 and urge my colleagues to do the same.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from Kentucky [Mr. BUNNING], a member of both the Committee on the Budget and the Committee on Ways and Means.

Mr. BUNNING. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in strong support of the Republican budget resolution and urge my colleagues to support it as well.

We promised that we would produce a proposal that would lead to a balanced budget by the year 2002, and we did it. We promised the American people that we would produce a budget that provided them with much-needed tax relief, and we did it. And, finally, we promised that we would produce a budget that protects Social Security trust fund moneys and protects Social Security benefits, and we did it.

And as chairman of the Social Security Subcommittee, I am proud to say we are not going to touch those funds. Our budget fully preserves and protects Social Security.

Our budget assumes absolutely no changes, no changes of any kind in the Social Security program, no COLA cuts, no benefit cuts, no tax increases.

Unfortunately, there are those who prefer the status quo and who are willing to resort to all sorts of fearmongering and false statements designed to frighten our senior citizens. They used these tactics to help kill, at least temporarily, the balanced budget amendment in the Senate. They suggest that a balanced budget amendment would result in cuts in the Social Security benefits.

Our budget resolution today proves them exactly wrong. We can, and we will, balance the budget without damaging Social Security.

In fact, the majority proposal today would actually strengthen Social Security. As it stands now, the greatest single threat to the long-term solvency of the Social Security system is the continued runaway Federal spending. A balanced budget is the greatest guarantee possible that the promise of Social Security will be kept.

A balanced budget is the best long-term protection that we can offer for the Social Security trust funds, and our budget will put us on a realistic path to a balanced budget.

If you want to vote to preserve and strengthen Social Security, you can vote for the majority budget and feel very comfortable that you are doing the right thing. So do the right thing and support the majority's budget proposal.

Mr. SABO. Mr. Chairman, I yield such time as the may consume to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I rise in opposition to the Republican resolution.

Mr. Chairman, the $1.4 trillion budget plan, which the Republicans claim will reduce the deficit, represents a major assault on American families. Under their plan, our colleagues on the other side of the aisle have demonstrated a callous disregard for the most vulnerable in our society. The Republicans have launched an attack on those in the dawn of life—our children; those in the twilight of life—the elderly; and those who are in the shadow of life—the sick, the needy, and the handicapped.

The Republican budget threatens the quality of life for the vast majority of Americans. My congressional district and similar communities across the Nation cannot absorb budget cuts that take meals from our children; and health care and heating assistance from our elderly. We cannot enact a budget that forces hard-working families to choose between paying a mortgage or purchasing health care coverage for their children.

Mr. Chairman, Americans are tuned in to this important budget debate. I have received letters from directors of hospitals, community health care centers, and others. They offer concrete evidence regarding the enormous toll the Republican budget would take on our communities.

Just recently, I heard from two organizations in my congressional district regarding the budget cuts. These institutions are highly respected and noted for their service to the community. Mr. Richard B. Hogg who serves as senior vice president for financial management at Mount Sinai Hospital, shared with me his concern that the hospital's ability to continue to provide essential services will be severely threatened. Mr. Hogg states in his letter, "* * * to drastically cut the social and health care needs to those most in need is unconscionable."

The director of nursing at Health Hill Hospital, Loretta C. Pierce, expressed her concern regarding cuts to the Medicaid Program, and, in particular, the damage it poses to children's health. She writes, "Medicaid is more than a health care program for poor people * * * it is insurance for children with very special health care needs * * * even if their families have low or moderate incomes."

I want to commend Mount Sinai and Health Hill Hospitals for taking a leadership role in addressing these important issues. As a strong health advocate, I share their concern that the Republican budget cuts pose a threat to the health of our Nation.

Mr. Chairman, I rise today in strong opposition to House Concurrent Resolution 67, the budget resolution for fiscal year 1996. The Republicans' budget plan as proposed is outrageous and extremely harmful to America's families and working citizens.

If enacted, the $1.4 trillion budget will drastically slash everything from child nutrition services to assisted housing, to health care, to education. No one is safe. Everyone will suffer under this budget proposal.

Those most in need would be hardest hit, including nearly cuts to assisted housing for homeless, poor, disabled, and elderly Americans. In addition to abolishing the Department of Education, the Republican budget would also eliminate funding for TRIO and Howard University, one of the Nation's leading institutions of higher education. Funding would be severely slashed for financial aid, programs for the disadvantaged, and other elementary and secondary education initiatives.

Mr. Chairman, our Nation's most vulnerable citizens must not be forced to carry the weight of the Republicans' $360 billion tax cut for the wealthy on their backs. There is no compassion in this budget measure, and in fact, the drastic cuts in quality of life programs defy common sense.

The bill would cut Medicare by $288 billion and Medicaid by $187 billion. The cuts in these two health care programs alone would account for about one-third of the total reduction in spending. If the Medicare cuts become law, seniors would see 40 to 50 percent of their cost-of-living adjustment consumed by increases in their health care costs.

Mr. Chairman, I know the people of my district cannot carry this burden. The Republican budget would weaken the foundation of our economy and place our children's future at risk. House Concurrent Resolution 67 is blatantly irresponsible. On behalf of our Nation's children, working families, and the elderly, this bill must be defeated. I ask my colleagues to join me in voting against House Concurrent Resolution 67.

Mr. SABO. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I am happy to rise today in a moment that I did not think would ever come, that we would be debating not whether to balance the budget, but how to do it. I commend the chairman of the Committee on the Budget, the gentleman from Ohio [Mr. KASICH], my ex-chairman, the gentleman from Minnesota [Mr. SABO], and others who have demonstrated quite an amount of sincerity in their different approaches.

My chief regret today is that, I say to the gentleman from Ohio [Mr. KASICH], I have not been able to stand shoulder to shoulder with you in the argument today as we have in the past. But we have some sincere differences with the budget that you present today.

I sincerely believe that the cuts that you have proposed, cuts in the rate of increase that you have proposed in the Medicare and Medicaid area, are too severe for my rural district. I believe that sincerely. I believe that you believe that is not. But I think it is a big problem.

But that is not what I choose to talk about today. What I choose to talk about today is the misrepresentation that is occurring at home in my district, that is occurring by the so-called Americans for a Balanced Budget, who are circulating radio advertisements and other statements in which they say Congressmen who claim to support a balanced budget amendment and vote against the Kasich plan will lose all claim to the title of being pro-balanced budget, and also saying in this news release that the Democrats in Congress have not even offered a budget of their own.

Well, ladies and gentlemen, that is not a true statement. The Congressional Black Caucus has offered a budget, and the coalition has offered a budget that the gentleman from Missouri [Mr. GEPHARDT] will be proposing tomorrow.

Misrepresentation is occurring on all sides, and that should not be happening.

I wonder why our coalition budget is not credible when we cut spending $18.2 billion more in the first 2 years, in which you have to vote those cuts before you run for reelection. Why are we not credible?

I wish that you in your budget had done more up front than what you have done. We do. We propose the spending cuts now, not later.

It was interesting, when we debated in the Committee on the Budget, we were saying early on 7-year budget, you said you could not do it. You had to do it in a 5-year budget. Now we are saying we are going to do it in a 7-year budget, but you take $18 billion more spending in the first 2 years when we can not assume it.

I really worry about this one: Having been here in 1981, when we voted tax cuts, promising spending cuts that we never got to, here we go again. We are doing two reconciliations. We are going to reconcile the tax cuts. We are going to have the first reconciliation with the tax cuts and the so-called easier spending cuts, which there is no such thing. We are going to do that one first. Then we are going to postpone the tough spending cuts for September. We have been down that road before.

And the budget that we propose that will be voted on tomorrow, I submit to you, is more credible in another way, because we will have at the end of our 7 years in the coalition budget $160 billion less debt for those children and grandchildren that we have been talking about. Why does that make us less credible than you?

Let us conduct the debate in such a manner in which we recognize there is a difference of priorities. We will argue ours tomorrow. We think we have a better set, and we believe the American people also agree that we should cut spending first and then cut taxes after we have shown that we have got 218 votes, 51 votes, in the House and Senate, to do that which we say we are going to do.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. WOLF], a member of the Committee on Appropriations.

Mr. WOLF. Mr. Chairman, I rise in strong support of the budget. I think it is fair.

Let me take my hat off and pay special commendation to the gentleman from Ohio [Mr. KASICH], to his staff, and to the members of the Committee on the Budget.

In the Book of Esther in the Old Testament, they said Esther was sent just for a time just like this. Perhaps JOHN and the others on the Committee on the Budget have been sent for a time like this.

I have given the speech over and over in the last several years about my five children and how important it was to balance the budget. I have heard Members on both sides give the same speech.

I believe that the Kasich budget is fair. Clearly, we have to remember the poor, and I believe that we will remember the poor. But, clearly, this is the time, and if we do not do it now, will it be any easier, as the gentleman from Texas [Mr. STENHOLM] talked, next year or the year after? Clearly, it will not be.

We can argue about where we cut within the parameters of the budget, but, frankly, we cannot argue should we balance the budget, because we clearly should.

□ 1900

In closing, one of the leading newspapers in my district, the 10th District of Virginia, the Winchester Star, recently editorialized on the balanced budget effort with these words:

> And so at this time, perhaps it is best for us to draw upon the wisdom of pamphleteer Thomas Paine, who penned these immortal words in the darkest hours of the Revolution: "These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands it now, deserves the love and thanks of man and woman."
>
> For the GOP, which has presented the first balanced budget plan in a quarter-century, this is definitely no time for "summer soldiers." For a monumental battle, with significant ramifications for the future, will soon be enjoined.

I strongly urge Members on both sides to put aside our differences and, whatever we do, to make sure when we leave tomorrow night we have passed the balanced budget, not only for our generation but, more important, for future generations.

Mr. Chairman, I rise in support of the fiscal year 1996 budget resolution. I first want to congratulate Budget Committee Chairman JOHN KASICH for his yeoman work to bring the House to this point in its history today. This is truly a historic day. The people's house is poised to secure the financial future of this Nation and I want to be on record in support of leading this Nation to a balanced budget by the year 2002.

I recognize that there are differences of opinion on the direction we should take and the budget numbers we should use in reaching the goal of a balanced budget. But there should be no difference of opinion on the need for this Nation's financial house to be solvent; on the need to secure a prosperous future for our children, their children, and generations of Americans to come.

I believe this blueprint for a balanced Federal budget by the year 2002 will help secure that future and in so doing protect elderly citizens, protect middle-class Americans, and protect future generations.

There are many politically expedient statements being made today on what this budget does and does not do and about whom this budget hurts and helps. We have heard the statements that this budget callously targets the vulnerable and less fortunate in our society, that this budget cuts programs that benefit the poor and elderly to pay for tax cuts for the rich. My colleagues, that broken record some in this House keep spinning is becoming tired and worn rhetoric. I certainly would not be supporting any effort to balance the budget on the backs of the most needy of our citizens. Indeed, none of us would.

The American people are tired of the carping and sniping and rhetoric. They want action. They want this House to work together in a bipartisan way to reduce the Federal deficit, stop the hemorrhaging national debt, and balance this Nation's budget.

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> For the GOP, which has presented the first balanced budget plan in a quarter-century, this is definitely no time for 'summer soldiers.' For a monumental battle, with significant ramifications for the future, will soon be enjoined.

Mr. Chairman, I call on all our colleagues to not shrink from their responsibilities to the citizens of this Nation, to not be summer soldiers. I ask every member of this House to join in this historic opportunity to put this Nation on the right fiscal track and secure the financial future of America.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. LARGENT], a very distinguished freshman member of the Committee on the Budget.

Mr. LARGENT. Mr. Chairman, I would like to, first of all, commend the chairman of the Committee on the Budget. Some folks may not know that he has a reputation of throwing nickels around like manhole covers, and to the American taxpayers I say, "You should be pleased that a gentleman with such a reputation is the guardian of the Federal purse strings."

I also want to remind Members in this body and American taxpayers once again that over 300 Members in this Chamber voted for a balanced budget. 66 Senators voted for a balanced budget. 81 percent of all Americans believe that the Federal Government should balance their books.

Mr. Chairman, I think the attitude and the mood of the American citizens was best reflected by a farmer in central Oklahoma that I had a chance to visit with in January. When I asked him the question, "Should the Federal Government have to balance its books," he very pointedly and very briefly replied.

He said, "Well, I have to, and so should the Federal Government," and I could not agree any more.

I say to the gentleman from Ohio, Chairman KASICH, I would say to you that the greatest compliment that is paid to this budget document that you have laid down before us to bring us to a zero by the year 2002, an historic document, that the greatest compliment that has been paid to it has been the breath of rhetorical blabber about this particular budget because everybody is going to feel the pain. There is something there for everybody, and I think in that respect that it earns a great deal of credibility that we all have to earn.

As my dad told me, that it was belt-tightening time, believe me it is time to tighten the belt on the bloated belly of the Federal Government.

Finally, I just would like to quote a few statistics, and I am ever mindful of the fact that it was in Washington, DC, that the saying originated that figures lie and liars figure, and so I am careful when I throw around figures myself. But I would remind all of my colleagues that the tax cuts that are found within the Contract With America, that 70 percent of the taxpayers that will benefit from the capital gains tax cut are citizens who earned $50,000 or less, 70 percent of the people who benefit from capital gains earn less than $50,000, and families with children that earn $25,000 or less will totally wipe out any tax bill to the Federal Government.

Also, I would remind my colleagues that the chart that was up here earlier, that 74 percent of the beneficiaries of the family tax cut earn less, less than $75,000, and let me say to my colleagues, "You don't need a CPA to figure it out."

Mr. SABO. Mr. Chairman, I yield 2½ minutes to the distinguished gentlewoman from New York [Ms. SLAUGHTER], an active member of our Committee on the Budget.

Ms. SLAUGHTER. Mr. Chairman, this is Ruth Lowenguth. She lives in my district, is a constituent of mine. She is 83 years old.

Now, I know she does not like it, but we are hearty people in Rochester, and she is also testament to our extraordinary health care system there. But Ruth, like 80 percent of the Medicare home care health users, will be living on a fixed income of less than $15,000 a year. Three-quarters of the people in that category are over age 75, and two-thirds of them are elderly women.

Now, Mrs. Lowenguth has a small pension and a modest Social Security check, and she pays all health costs that are not covered by Medicare. That is only about half of the health care expenses. If she had to pay 20 percent more to get home health care, it would be an additional $1,200 a year for her. She cannot spend that money then on housing, or food, or prescription drugs, or other necessities. It is $1,200 that she and millions of other women on fixed incomes just cannot afford.

Why are they faced with this threat? Because Republicans want to cut Medicare to give a tax break to the very wealthy.

Another thing that is very concerning to me, Mr. Chairman, is the amount of money that I think we may be losing from women's health care, an initiative that is long overdue, and it is only 4 years old. We have been able to provide quite a bit of money that was never there before. Actually, it looks like quite a bit compared to zero for breast cancer research, and we have systematically tried to put more and more in. We cannot turn back on that commitment now because breast cancer kills one American woman every 12 minutes; more than 40,000 of them will die this year.

Mr. Chairman, all women are at risk of getting breast cancer. More than 70 percent have no known risk factor, and the incidence has doubled in the last 30 years, so much more research is needed. But it is not likely to happen. A 5-percent cut in funding for the National Institutes of Health would mean that research on breast cancer, ovarian cancer, cervical cancer, and a host of other diseases will be competing for scarce dollars, and we could lose ground on very important progress.

For the first time, mortality rates are declining among breast cancer. If this program stalls from lack of funding, what will my Republican colleagues say to the women who will be diagnosed during the 1990's?

Mr. Chairman, I urge all of my colleagues to think of the mothers, women, sisters, all their relatives back in their district, and think about this and vote "no."

Mr. KOLBE. Mr. Chairman, I yield 30 seconds to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I point out to the gracious gentlewoman from New York [Ms. SLAUGHTER] that Medicare spending in the great State of New York is now $14 billion. It is going to rise to $19 billion in the next 7 years, a 36-percent increase. The per-beneficiary cost is going to go from $5,312 to over $7,000 per beneficiary.

Mr. KOLBE. Mr. Chairman, I yield myself 30 seconds before yielding to the gentleman from New Hampshire.

Mr. Chairman, the gentlewoman just talked about the cuts in research in breast cancer and other kinds of NIH research. I think it is important to note that NIH has more than doubled in the last 10 years. The cut we are talking about is less than—only 5 percent, and it is impossible that every one of the programs she listed could be in jeopardy when we are talking about a 5-percent cut.

Mr. Chairman, we are making sure that the kind of research that we have been doing will be ongoing.

Mr. Chairman, I yield 2 minutes to the distinguished freshman gentleman from New Hampshire [Mr. BASS].

Mr. BASS. Mr. Chairman, I rise in strong support of the Kasich budget.

Mr. Chairman, I have been sitting here for the last 4½ hours listening to this debate, and I took up my pen and pencil and calculated that we have run up an additional debt of $168.89 million since this debate began. That is debt that will be paid by every existing taxpayer and every taxpayer who will come ahead of us. This is unacceptable.

Mr. Chairman, on November 8, the American people said that they had had enough of a Congress that holds its head high in arrogance and tells the people of America what they need and what they want and steals money out of their pockets and the pockets of their children to pay for programs, and then today we sit here talking about not whether we have a balanced budget, but how to balance the budget, and we hear the old guard, the keepers of the bureaucracy, the protectors of the old order, talk about the programs that they want to preserve, the programs that they want to protect, the programs that they know have not worked, the programs that have built bureaucracies in this country year after year after year.

I am a new Member of Congress, and I have stood by for the last 4 or 5 years and watched these chronic deficits rise year after year. What business do we think we have as Congressmen running these deficits for no reason? There is no war. There is no economic emergency. Even in the 1970's we were given excuses by the President and the majority at that time. It is time, and the American people have told us, to balance this budget and do it now, and that is what the Kasich budget does.

My colleagues, let history judge this Congress and its achievements, not on the hard choices that we all have to make, but by what our actions do for our children and our children's children.

Mr. SABO. Mr. Chairman, I yield myself 15 seconds.

Simple fact:

Over 76 percent of the dollar benefit of the capital gains tax change in the Republican proposal goes to people with incomes over $100,000 a year.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, why have the Republicans cut Medicare as they are doing here in this budget? Of course, it is to finance a tax break for the privileged few.

Now, June Cox is a woman in any district. I met with her and about 200 older Austin citizens last Saturday. They are concerned about seeing the budget balanced as much as anybody in this room, but they do not think we have to balance it with a sick tax on our seniors, and there is something else that I had hoped I would not have to show in the course of this debate. It is another picture, and I would like my colleagues to focus on it. This is it.

I say to my colleagues, If you'll look real closely at it, you will see through this time of the debate every single thing that our Republican colleagues have told us about, specifically what it is they're going to do in imposing new out-of-pocket costs on America's seniors. That is to say, if you look closely, you won't see the doubling of the deductible. That bothers Jean Cox, and, if you look closely, you won't see the new out-of-pocket expenses when Jean Cox's doctor tells her she has to go to the lab, and, if you look closely, you won't see the new out-of-pocket expenses that Jean Cox will have if she needs specialized nursing care. No, you won't even see the increase in the deductible, because only in Washington would someone have the audacity to come and tell the senior citizens of America that they're doing more, that they're spending trillions and millions and billions of dollars more to help them out. But they stop to think about it from the perspective of the senior citizen. Jean Cox doesn't have a lot of understanding about trillions and billions of dollars, but, you know, to her and those 200 people I talked to in Austin, $20 extra a month is a lot of money. Doubling the deductible is a lot of money, and that is why, when they go through their reams have charts and when they take all the luminaries and all the number-crunchers of the Republican Party and they put them altogether, they haven't come out with a chart that shows anything other than this.

Mr. Chairman, I challenge them. I say, come forward with your plan. Where is the plan. Where is the information for the American people as to what you're going to do to their out-of-pocket expenses in Texas, or Connecticut, or anyplace else, because we haven't heard one word. Ms. Cox and others who are watching, we haven't heard one word about what's going to happen to the out-of-pocket expenses of these seniors, and it's about time we hear something about it.

My colleagues, the basic difference, as we approach this debate, is that we Democrats believe that Medicare is reliant on a trust fund, not a slush fund, to pay for tax breaks for the rich.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would admonish Members to address their remarks to the Chair rather than to the TV audience or anyone else, as is required by the rules.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I was sitting in the Committee on the Budget when the gentleman from Texas spoke about a secret plan, and I began to look at this blank sheet, and I thought, well, this blank sheet is the President's balanced budget plan, and I thought, no, no, that is not what it is. It is his plan to save Medicare. It is blank. It goes bankrupt in 7 years. And we are going to save it, even if the gentleman from Texas does not want us to.

□ 1915

Now, the challenge that we have is that the gentleman makes up numbers. He says we are going to do all these things. What he does not realize is no, what we are going to do is allow beneficiaries choice, which they do not have now. We are going to allow the private sector to give them rebates, which they do not have now. Some beneficiaries will actually get money from Medicare because the private sector will be able to offer it to them.

We think it is incredible that we have allowed Medicare and Medicaid to rise at 10 percent when the private sector is rising at 4 percent. We would like to get Medicare and Medicaid into the 21st century and be able to provide choice. In Texas, Medicare is going to go up 50 percent. Only in Washington is an increase in spending called a cut.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. WALKER], vice chairman of the committee.

Mr. WALKER. Mr. Chairman, we have heard a lot of talk out here about tax cuts for the rich. Let us get the facts on the table. The fact is that 70 percent of all the taxpayers who are going to benefit from the capital gains tax cuts will have incomes of less than $50,000. Families with children earning less than $25,000 a year will have their entire Federal income tax liability eliminated by the $500 per child tax credit. Families of incomes of $30,000 will have 48 percent, or nearly half, of their Federal income tax liability ended. Seventy-four percent of the beneficiaries of the $500 per child tax credit will be families with incomes below $75,000.

There is a big difference between Republicans and Democrats. Democrats believe that if you make $25,000 a year, you are rich, and you ought to have your taxes increased. If you make $30,000 a year, you are rich, and you ought to have your taxes increased. That is what Democrats believe. When they talk about the rich here on the floor, they are talking about people making $25,000 and $30,000 a year, who they believe ought to be tax poor. We think they ought to have their taxes eliminated.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Chairman, I rise in strong opposition to the budget resolution.

Mr. Chairman, I rise in opposition to H. Con. Res. 67, the budget resolution, not because deep budget cuts have to be made, but because these budget cuts are being used to finance tax cuts for the wealthy on the backs of school children and the elderly.

Of all things to use to balance the budget, gutting educational programs and elderly health care should be the last thing this Nation should do.

The reversal of the national effort to improve our schools through Goals 2000, Improving America's Schools, School-to-Work, and other Department of Education programs in this budget would have serious consequences in school districts all across America. And I know that it would adversely affect efforts on Guam to raise the standards of our own schools. What happened to all those politicians who used to complain that Johnny can't read? Under this budget, poor Johnny still can't read, Johnny can't get a decent school lunch, Johnny will not be prepared to get a job, and Johnny's mom won't be able to pay her medical bills.

And if your name is Juan, the cuts are particularly egregious. The elimination of all bilingual education programs is especially mean-spirited. I, for one, do not believe this to be a budget cut, it is social engineering at its worst—and this, from conservatives who would decry any social engineering at all. It is trying to legislate that all schoolchildren who need help in language skills would be denied help because they are different, and their families are different. It is legislating that all kids should have been born speaking English, and its just too bad if they were unfortunate enough to have been born into a family that has preserved its own cultural heritage.

I also oppose the efforts to cut Medicare benefits for the elderly in order to balance a budget based on tax cuts for the wealthy. All the denial cannot erase the basic fact that this is exactly what this budget does.

Mr. Chairman, we all realize that tough decisions must be made. We just do not agree that the toughest part of balancing the budget would fall to the most vulnerable Americans, the schoolchildren and the elderly of this country. The lawyers and the wealthy are over represented in this Congress, but who will stand up for the children and the elderly?

Mr. SABO. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I rise in opposition to the budget that my colleagues on the other side of the aisle, the Republican side, are offering.

Now, a few minutes ago, the gentleman from Oklahoma said that it is time for America to tighten its belt. Now, surely there are many Americans who can tighten their belt, but I am here to talk for a moment about my constituent, Mrs. Arlene Farwell, who if she is asked to tighten here belt any more is going to find it pretty tough to breathe.

She is a senior, she is retired, she is disabled. Because of a bureaucratic snafu, she is paying more than $80 a month for her Medicare part B. And if the deductibles and the copayments and the premiums go up any more, she simply is going to have nowhere to turn. She put it really very well for me today when she said, "There is just too much month left at the end of the money."

So I say to my colleagues, Medicare badly needs reform, and all Members understand that. But there is a right way to do it and a wrong way to do it. And I would submit that cutting Medicare spending, as the Republican budget does, by 15 percent, without saying how you are going to do it and still protecting Mrs. Farwell, is the wrong way to go.

Now, many of my colleagues on the Republican side have some interesting theories about managed care. The irony is over a 20 year period, we have made many of those theories work. In Portland, OR, we have the highest percentage of managed care now in the country among seniors in our area. It is close to 50 percent. But you cannot turn the system around on a dime.

What is going to happen to the seniors of our country, and I have seen this again and again since my days as co-director of the Gray Panthers, when you theorize about Medicare, as the Republicans do, what happens in reality is the seniors get more copayments, more deductibles, more premiums, while everybody waits to see if the great theories are ever going to pan out.

So I offer to my colleagues on the other side of the aisle that if rescuing part A of the Medicare trust fund is really what you seek to do, let us honor the Speaker's pledge to deal with this outside the budget. If that is the principal concern of my colleagues on this side of the aisle, let us work together on a bipartisan basis to deal with this, as Speaker GINGRICH suggested, outside the budget.

I think there are many Members on both sides of the aisle who would like to take that route rather than the route my colleagues on the Republican side propose, which is to reduce Medicare spending 15 percent, try to turn this system around on a dime, and still protect seniors.

I would also offer to my colleagues, and we heard some testimony on this yesterday in the Subcommittee on Oversight and Investigation, that if you try to turn the system around on a dime and make the savings you are talking about overnight, what is going to happen is you are going to create juicy new opportunities for fraud and abuse.

If you do not believe that is going to happen, go talk to the people of south Florida, because when they tried to go to managed care overnight, when they tried some of the ideas that the Republicans are talking about advocating now, what happened was the sleazy ripoff artists, who are already exploiting the program, and we certainly agree on that, saw a great new opportunity, and instead of producing savings, we saw more waste, fraud and abuse. If you look at south Florida, you will see how it happened.

Mr. KOLBE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I want to respond to something the gentleman from Oregon said. The fact of the matter is that we tried to do exactly what the gentleman was talking about. We tried it on the floor yesterday, to get some recommendations to this body as to how we should solve the problem, and by a vote that unfortunately was a majority, but it was not enough to get the two-thirds on the suspension, this body rejected the idea we should ask the trustees who have the fiduciary responsibility for the trust fund to give us some recommendations about how we save it.

Mr. Chairman, I yield two minutes to the gentleman from California [Mr. RADANOVICH], a distinguished freshman member of the Committee on the Budget.

Mr. RADANOVICH. Mr. Chairman, in the election in 1994 the American public sent a strong message to Congress, and that was they wanted a smaller, less intrusive Federal Government.

Mr. Chairman, the 1996 budget resolution is a manifestation of that mandate. The Federal Government has gotten too large, and we have made it smaller and less intrusive by transferring power from Washington to the State and local level. We have also privatized many functions of Federal Government that frankly should never have been started here in the first place.

I believe the American people are willing and able to rise to this new level of expectation. The American public is not stupid. I think it is arrogant to assume that the people of this country are not capable of taking responsibility for themselves, for their families, and for their communities.

Mr. FAZIO of California. Mr. Chairman, I yield 3 minutes to the gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY. Mr. Chairman, why are Republicans cutting Medicare to pay for tax breaks for the privileged few? That's the question my constituents like Joan and Dale Hunt are asking. Republicans started by taking school lunches from children, and now they are going after our senior's Medicare. I am committed to balancing our budget by downsizing government, and by streamlining and eliminating Federal programs which have outlived their usefulness. I have not committed to balancing the budget by slashing funding in Medicare by $283 billion and Medicaid by $184 billion. We have a moral obligation with our seniors. Seniors who have worked hard all their lives, and through their sacrifice and toil, have made this the greatest Nation in the world now are finding out to their amazement that Republican promises to protect their entitlement were empty promises—and simply a ploy to provide a $353 billion dollar giveaway to the wealthy.

For our seniors, medical care out-of-pocket expenditures have ballooned to 21 percent of their disposable income. These two constituents, Joan and Dale Hunt of Raytown, have visited with me and have expressed their concerns with the Republican's proposed cuts in Medicare. The Hunts, in their early 70's, remain active in their church and continue to volunteer to make our community better. Dale was a meat-cutter at our local Kroger grocery store for 45 years, and Joan worked at numerous jobs to raise their son and to make ends meet. Last year they had $4,300 in out-of-pocket medical expenses. These two seniors, who have worked hard all their lives and played by the rules are realizing that their very subsistence is at stake. They have a very limited discretionary income and have been unable to buy needed medical supplies. The Hunts live on a fixed income and have put off buying hearing aids and glasses for Dale and needed dental work for Joan. They have instead fixed their furnace. Now with the Republican budget proposals the Hunts will pay $3,500 more for out-of-pocket expenses over the next 7 years. $3,500 dollars may not seem like very much. For the Hunts, glasses, hearing aids and dental work will again have to be put off, their budget will be faced with additional cuts; will they be able to fix their furnace the next time it breaks, and will they be able to buy the necessary medicines, or the necessary food to keep them healthy?

I am committed to making the difficult choices necessary to balance the Federal budget, but I will not be party to a balanced budget formula which gives tax breaks to those most advantaged, while slashing the programs of our parents—the seniors. Take your tax breaks off the table and we will work together to leave a legacy to our children we can be proud of, and not a legacy which impoverishes the elderly. I will not forget the Hunts whose love has endured. Joan has given up the notion of replacing her lost wedding band, and the Hunts have given up traveling to be with their son and grandchildren—they are luxuries they can no longer afford. We must not give up on the Hunts, and 36 million seniors like the Hunts who live on a day by day basis to meet their basic needs of food, medicine, and shelter. Is this the American dream promised by the Republicans? If hope is a number in the GOP budget math, I must declare that in my district, reality springs eternal—we can't make it on hope alone. Keep your promise and give up your tax breaks for the wealthy.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I thank the gentleman. I, with all sincerity, thank the gentlewoman from Missouri. It is important we keep our promises. I am looking at quote after quote where she says we need to balance the Federal budget, and that is what we are doing. This is our opportunity.

In Missouri, we give $3.7 billion to Missouri in Medicare funding. It is going to go up to $5.2 billion. It is an increase of 39 percent. The per beneficiary of individuals in Missouri get $4,493. That is going to go up to nearly $6,000, an increase per beneficiary. Cutting school lunch, it is going to go up 4.5 percent. It is an increase.

Only in Washington will the gentlewoman say that an increase in spending in Medicare, an increase in spending in school lunch, is a cut. Only in Washington.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. TIAHRT].

Mr. TIAHRT. Mr. Chairman, I did not realize this was poster day on the Potomac or I would have had these blown up. These are the most important constituents that one could have. These are my three children. This is Jessica and John and Luke, and it is their future that we are talking about today and the nurture of millions of other children and grandchildren in this country.

My daughter is 14. If we cannot balance the budget by 2002 and it takes us as long to get out of this debt as it did to get in it, she is going to be 53 years old. We have literally passed on the problems of this generation to the next.

Are we committed to balancing the budget? We are on this side of the aisle. We have a plan to eliminate the Department of Energy as a Cabinet-level position. This is a historical event because we have never eliminated a Cabinet-level department in the history of this country.

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But it is time to trade in this 1970's tax guzzler. And how did Secretary O'Leary and President Clinton respond? They said they are going to cut 14.1 billion over the next 5 years, but yet next year's budget has an increase of $337 million.

Even Vice President GORE, in his reinventing government group, has said that the largest part of the Department of Energy, the environmental management group, is missing 20 percent of their milestones. They are 40 percent inefficient. And he said that it is going to cost taxpayers $70 billion over the next 30 years if we do not do something about it.

Mr. Chairman, this must stop. We need to balance the budget. We need to honor our children's future. We need to turn the lights out at the Department of Energy.

Mr. FAZIO of California. Mr. Chairman, I yield 3½ minutes to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Chairman, I yield to the gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY. Mr. Chairman, I would like to point out that in the figures on Missouri which were discussed just briefly, the loss to Missouri in revenue would be $5.2 billion. That averages out to $3,004 per senior on their Medicaid cuts, Medicare cuts.

Mr. Chairman, I thank the gentleman for yielding to me. I thought this document from the Committee on the Budget would be helpful in clarifying the loss to my State and the loss to individual seniors.

Mr. BALDACCI. Mr. Chairman, there are approximately 199,000 Medicare recipients in the State of Maine; 21,000 of those recipients in Maine are at or below the poverty level. The question is not to balance the budget. The question is to balance the budget and offer $300 billion in tax breaks.

When you stop and think of the lady in Old Town, ME, that confronted me and said she could not afford her prescription drugs and she was forced to cut the tablets in half because she could not afford it, asking her to double the out-of-pocket expenses to have a $300 billion tax cut; talking to the elderly couple in Lewiston, ME, who are getting divorced because they cannot afford their prescription drugs, so they qualify for the Medicaid Program, which is being cut; telling that to these people beyond the charts that are being offered, those are the real people who these figures are impacting.

And then talking to the elderly in my State who are in nursing homes who because of new cost-effective regulations are being analyzed and at the age of 92 being told to leave nursing homes and to go into group homes, that is really what is going on out there.

I think when people get to be the age of 65, that we want to be very careful with how we handle their health care. Those are the people that have the Contract With America. Sixty years ago when Franklin Delano Roosevelt established those contracts of Social Security and then Medicare and Medicaid later on, those are the compacts that have given our seniors a lift up out of poverty so that they can live their life in dignity. Those are the people who really society will be judged by.

Mr. KOLBE. Mr. Chairman, I yield myself 30 seconds.

I would just like to point out to the gentleman from Maine that, when we talk about these cuts on senior citizens, he is right, of course, because the Republican budget proposal with all the tax cuts that we have provided will provide $154 million to the senior citizens only of the State of Maine in tax reductions. That is savings by changing the earnings test for senior citizens and of course the reduction in the income tax on Social Security benefits.

Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. METCALF].

Mr. METCALF. Mr. Chairman, we do have to balance the budget, and this plan that we have is a start toward balancing the budget by the year 2000 or 2002. Today, $1,000 per person, men, women, and children, $1,000 per person per year is spent in paying the interest on the debt. Imagine what your family would do with $1,000 per person.

In 1997, the interest on the debt will pass, it will pass defense. It will then be the largest single expenditure in the Federal budget. Paying perpetual interest on a permanent debt is an absolutely ridiculous way to use tax money.

I think that the way we should look at each expenditure is in this light: Is this expenditure important enough to borrow the money, because we do not have money anymore, we have debt; is it important enough to borrow the money and then force our children and grandchildren to reduce their standard of living enough to pay the interest on the debt for the rest of their natural lives? If it is that important, if each spending item is that important, then we should do it. And if it is not that important, we should have the courage and the ability to just say this is something we will not afford until after the budget is balanced.

Mr. FAZIO of California. Mr. Chairman, I yield 3½ minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I yield to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Chairman, as far as the tax cuts that are being provided, I was told by the majority staff on the Committee on Government Reform and Oversight that, if the unfunded mandate legislation was in fact effective, the tax cut would be the first issue that would go through that because in my State it is going to cost $370 million over that 10-year period in loss of revenues to my State, if the unfunded mandate legislation was in effect at the time that these tax cuts are being talked about.

Mrs. CLAYTON. Mr. Chairman, I also want to add that the billions that the majority wish to spend on the wealthy through a tax break is more than enough to spend for the Medicare Program. So indeed, if we had a problem, a part of that problem is being exacerbated by the additional cost that we have are having for the expense.

I want to bring to your attention people who do not understand big dollar tax breaks. There is a lady by the name of Carlene Neese. She is in North Carolina. She is the wife of an Alzheimer's patient who knows what it means to have assistance in her care. In fact, what she has is the home health program which comes once a week and additional help with that particular patient. As her husband gets to the end of his dreaded disease, she knows that that pain will be greater because she will have to bear that. She herself has no income. And without increased income, she would be paying more for her health care.

However, I want you to know, Mrs. Neese is not alone. She is typical of many people in my State. She is alone in the suffering that she must share. In fact, I had a mother of a 75-year-old Alzheimer's patient to wrote to say, You should just imagine what it is to spoon feed my mother and have her to take at least 2 minutes to chew that food to understand what that pain means and to know what it means, that stress on my family, that many of my family needs are going unmet.

I had a 75-year-old widow of an Army person who has served this Nation well, 75 years old. She said, I thank God that I have the ability to work. In the job she is working in now, she has worked there for the last 15 years. Really what she says, I hope that when I retire I will have enough resources to take care of myself without being a burden to my family.

I tell you, the majority plan does not allow for her to have that assurance. In fact, she is working extra time.

In fact, the question has to be raised, why is the majority giving such a big tax break while making the poor suffer? If you are to give such a big tax break, why do you not make it even? We want a balanced budget, but we need to balance our priorities. There are thousands and thousands of people who will pay extra because of this plan.

In my rural county, there are 13 hospitals that if this plan goes up, they will be paying big bucks.

Mr. Chairman, this is the wrong way to go. Balancing the budget is one thing, but balancing our priorities is right.

Mr. Chairman, the billions the majority wants to spend on a tax cut for the wealthy could fully pay for the reductions they want to make in the Medicare Program.

Why is the majority willing to sacrifice senior citizens to satisfy affluent citizens?

More important, what will this policy of helping the rich and hurting the less well off really mean for America?

The answer is—we don't know, and they don't know. We don't know and they don't know because the majority is yet to tell us—in detail—how the $283 billion reduction in Medicare spending, over the next 7 years, will occur.

But, we can make some reasonable assumptions based upon prior action.

We know that the reductions the majority proposes in Medicare and Medicaid are bigger than reductions in these programs at any other time in history.

We know that every hospital in the United States that serve Medicare patients—including the 13 hospitals that serve 28 rural counties in my congressional district—will lose money; big time; up to $1,300 for every Medicare patient served, over 5 years.

We know that, under the plan of the majority budget, senior citizens will pay $1,060 more for their health care costs by the year 2002.

Most can barely afford health care now.

Many will have to choose between heat and health, a warm coat or a trip to the doctor—and some may even have to choose between eating and health.

More than 8 out of every 10 seniors who receive Medicare benefits have incomes of $25,000 or less.

Mr. Chairman, we know that Carlene Neese, a 77-year-old woman from North Carolina, is the primary caregiver for her husband, who has suffered from Alzheimer's disease since 1986. He also has a Foley catheter.

We know that the home care the Neese family gets once a week to change the catheter, and the aide who comes out three times a week, is threatened by the majority's budget plan.

As Mr. Neese enters the end stages of his dreaded illness, the strain on Mrs. Neese will be obvious and perhaps overwhelming.

Mrs. Neese's dilemma is repeated again and again, throughout my congressional district.

There is a 75-year-old mother, also suffering from Alzheimer's disease.

Her daughter writes to me in her effort to secure some help with the care of her mother, "Imagine me giving Mom a spoonful of food and having her take 15 minutes to swallow."

The daughter goes on, "Other family commitments are putting a great strain on my household. Hurried meals, neglected laundry and [ignored] housekeeping," are typical in this family.

And then there is Beulah McDonald of Kinston, NC.

She is 72 years old. Her husband served this Nation in the military for two decades.

Ms. McDonald told me, "I have to work."

She gets a little Social Security and a small stipend from her husband's military retirement.

Now that she is over 65, with the limited amount she now gets from Medicare, and the deduction from the private insurance she must pay for—this 72-year-old woman, who has worked in her present job for 15 years—told me, "When I retire, I don't know how I will make it."

Beulah McDonald, who has done everything right in her life said finally, "Thank God, I am healthy enough to work."

With this budget plan, the majority is sacrificing senior citizens to satisfy affluent citizens.

They go too far.

The billions they want to spend on the wealthy could more than pay for the cuts they want to make in Medicare.

Mr. Chairman, let's balance the budget, but, let's balance our priorities first.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. FOX], a freshman Member.

Mr. FOX of Pennsylvania. Mr. Chairman, I want to note for the RECORD that for the citizens of North Carolina who are senior citizens, $805 million of tax reductions will take place as a result of what this Congress has already instituted.

I think we should note now for those who are listening from their offices or here on the floor that we already have in the 104th Congress made great strides for our senior citizens. First, we have lowered the senior citizens tax burdens by repealing over a 5-year period the Clinton tax increase on Social Security retirees.

Second, we have eliminated the penalties for working seniors. We have raised the $11,280 Social Security earnings limit to $30,000 over 5 years. Beyond that, we have also ensured access to long-term health care insurance by easing the financial drain on seniors and their families by making private long-term care insurance more readily available and allowing accelerated death benefits to be paid tax free. In addition, we have caring for parents at home by providing $500 tax credit to families who care for a dependent elderly at home.

Social Security we know in this Congress is off the table. We have said that and that is the case. Medicare will go bankrupt by 2002, if we do nothing. Therefore, we feel that Medicare must be preserved, protected, and improved.

What you will hear from the other side of the aisle is some false charges. False charge No. 1, you are cutting Medicare to pay for tax cuts for the rich. Wrong. The facts are clear. The Medicare trust fund is going bankrupt. You can pull out all the tax cuts from the Republican budget and Medicare still goes bankrupt in 2002. The Medicare trust fund is financed by payroll taxes and the Clinton administration itself has said that the trust funds will go bankrupt. The Republican budget will save Medicare from bankruptcy.

False charge No. 2, your plan for Medicare for the seniors will pay much, much more for fewer and fewer services under our plan. Wrong. A 40-percent increase in Medicare spending is not a slash. The Republican plan allows for a $1,600 per recipient increase in spending.

Therefore, I say vote for the budget.

Mr. FAZIO of California. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Arkansas [Mrs. LINCOLN].

Mrs. LINCOLN. Mr. Chairman, I yield to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I would like to make a correction and insert, according to the figures that we have on the budget side of the minority, the average senior citizen's income and cost of care over a 7-year period would be $3,000 and my State would have to pay an additional $6 billion over that same period of time. So your figures are certainly in contrast to mine, I want to add for the RECORD, so we have a balance of what the truth is here.

Mrs. LINCOLN. Mr. Chairman, I rise today to express my strong support for the Stenholm-Orton substitute to the budget resolution for fiscal year 1996 and I applaud our colleagues for their hard work. I am a strong supporter of a balanced budget and I applaud the progress that we make today toward eliminating the deficit. However, we must ensure fairness and equity in achieving a balanced budget. The American public is ready to tighten its belt as long as we all shoulder part of the load fairly. The coalition alternative budget is based on equity.

Our budget substitute would ease the burden on rural Americans. Our proposal restores $114 billion in Medicare spending, as well as $50 billion in Medicaid spending. Farmers would receive $12.9 billion more over the next 7 years under the Stenholm-Orton budget. We maintain our commitment to our country's future by restoring $35 billion in funding to education and training programs, and $18.7 billion in guaranteed student loans. We ease the burden on rural economic development. We also include the alternative welfare reform plan offered earlier this year by myself and others. And, most importantly, we would still achieve a balanced budget in 7 years with lower interest payments than under the leadership proposal.

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The Republican leadership's bill reserves the greatest amount of spending cuts for the last 2 years, that is what we leave for our children and our children's children, while the Stenholm-Orton substitute spreads out those cuts more evenly over the entire 7 years. This means lower national debt, and therefore less burden, on the future of America.

We also avoid the risk that future Congresses might not be willing to make the tough cuts. I am a strong supporter of tax relief, but in order to achieve it, the committee bill has come down too hard on agriculture, education, job training, and Medicare, among other things. We first need to ensure the future of our children and then give tax relief to ourselves.

Mr. Chairman, I urge my colleagues to support the Stenholm-Orton substitute, because it provides the most fair and equitable solution to achieve a balanced budget.

Mr. KOLBE. Mr. Chairman, I yield myself 1 minute, just to respond to the comments that were just made.

First, Mr. Chairman, we are hearing from one side that we do not have any plan at all. A blank piece of paper was held up. We do not have any plan, we cannot see what the Republicans are talking about on Medicare. Now we hear the specific figures of what the Medicare cuts are going to mean in terms of additional costs.

Which way is it? Do we know the specific dollars or do we not? Which way is it? I would point out the gentlewoman from Arkansas has been talking about the alternative budget proposal that they are going to have, but it does not include any of the tax relief for senior citizens; and for the State of Arkansas, our tax cuts would mean $257 million less taxes for senior citizens in the State of Arkansas.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON of Pennsylvania. Mr. Chairman, we have heard some case studies of families. I have one family we have not heard about yet that I would like to discuss. I would like to talk about Rosie Watson of Lake Providence, LA.

Rosie is a 45-year-old mother, common-law mother of seven kids. She has been able to get her doctor to declare that she is too stressed out to work, so she receives $343 a month in income from the taxpayers. Her husband, who weighs over 300 pounds, has been able to get his doctor to declare that he is unable to work, so he gets $343 a month.

They have seven kids. Rosie spent 17 years in getting all of her kids qualified as not working up to their age level in school. Guess what? The taxpayers are footing a check each month for all seven kids in an amount over $400.

Mr. Chairman, this one family gets $46,716 a year under their system, a system they do not want to change, that we are going to reform. Why have we not heard about that family, or the tens of thousands of families all across America who are abusing the taxpayers in this country?

Rosie was interviewed by the Baltimore Sun, who did this exposé. The reporter said "What do you do with the money?" She said, "I can tell you, each month I take $120 and give it to four of my kids," and her quote is "Being the age they is, and being out with their little girlfriends, they need that money to spend on them."

I do not have constituents in my district who can give their teenage kids $30 a month, let alone from the taxpayers. The Members want to keep the system intact? Our budget changes Supplemental Security Income and stop this abuse. Where are the examples on the other side, of the families who are ripping off the taxpayers? Where are the examples of what they have done to try to change the system for the past 40 years?

I can tell the Members, as the youngest of nine kids with an 84-year-old mother on Social Security and Medicare, I do not want to hurt her one bit. As a 7-year public school teacher who spent more time overseeing school lunches than anybody on the other side, I do not want the School Lunch Program cut, but stop the rhetoric when we are trying to solve the problem and be fair with the way we deal with people.

Once again, I ask my colleagues on the other side, where are the tens of thousands of stories about the Rosie Watsons ripping off $47,000 a year in taxpayers' money, who the Baltimore Sun has said will never get off the system? That is what we are trying to change, and we are going to do it, with or without your cooperation.

Mr. Chairman, I include for the RECORD the article from the Tampa Tribune to which I referred earlier:

[From the Tampa Tribune, Feb. 13, 1995]

HERE'S A GRAND LITTLE STORY TO STIR YOUR BLOOD ON A MONDAY MORNING

How does an unemployed family in Lake Providence, LA, qualify for $46,716 a year in tax-free cash from the federal government?

The Baltimore Sun, in a special report, details one woman's crusade to win disability benefits and gives a rare insight into a welfare system infuriatingly out of control.

Rosie Watson, the Sun reports, gets $343.50 a month in disability payments because a judge found her too stressed-out to work. Her common-law husband, at 386 pounds, was ruled too fat to work, so he gets $343.50 a month too.

Their seven children ages 13 to 22, have all failed to demonstrate "age-appropriate behavior," so each of them qualifies for payments of $458 a month. What the welfare world calls "crazy checks."

The Sun's description of Watson's persistent efforts over many years to convince social workers and judges that various members of her family are incapable of supporting themselves reveals serious flaws in the welfare system, flaws that account for the nation's increasingly hostile opinion of it.

"I got nothing to hide," the woman told the Sun, and allowed reporters to visit her in her modest home, even opened her Social Security records to them. The inescapable conclusion is that the problems lie with the system, not with people like Watson who, like good attorneys, endeavor to make their best case.

Watson's quest began in 1975 when she tried and failed to convince Social Security officials she couldn't work.

In 1978 she told officials that her second child, at age 4, was a threat to other children and should receive financial aid. They didn't buy it, but she kept up, applying again and again until, in 1984, Social Security officials agreed that he had behavior problems. A few years later she received a $10,000 check after it was decided he should have been declared disabled four years earlier.

In all, the family has received $37,000 in retroactive payments, part of $1.4 billion in retroactive checks mailed after the Supreme Court in 1990 gave children increased rights to disability payments.

After 15 years of relentless applications, Rosie Watson has had all her children put on disability payments. The youngest child, now 13, attends elementary school, where the principal complains that the quest for "crazy checks" is undermining academic standards. The children don't want to fail but perform poorly to please their parents, he says.

Not true, says Watson.

"I ain't never told any of them to act crazy and get some money," she said. "Social Security will send you to their own doctor. They're not fooled because those doctors read your mind. They know what you can do and not do."

The Sun discovered that one doctor found a Watson boy had "strong anti-social features in his personality and is volatile and explosive." And, "he said he does not want work."

Apparently, unless government rules are changed, he will never have to get a job.

Here is the Sun's description of what Mother Watson does with the $3,893 worth of monthly checks:

"As soon as she extracts the nine checks from the [post office] box, she cashes them. She gives the full amount to Sam, 21, and Cary, 22, the father of two children who have moved out of the house since being awarded benefits. The remainder is used for the other children and household expenses.

"Most of the money goes for the children to 'see that they have what's needed,' the woman says. "With what's left, I pay bills and buy food."

"One need is $120 allowances for George, David, 17, Willie, 18, and Danny, 19.

"Being the age they is and being out there with their little girlfriends, they need the money," she says.

The checks are sent because of a disability but there is no requirement that the money be spent to try to overcome that disability, the Sun reports. The family's medical needs are taken care of through Medicaid, the value of which the newspaper did not attempt to calculate.

The reporters had a little trouble determining exactly what Rosie Watson's disability is.

In 1974 she said she couldn't work because of high blood pressure, heart trouble and bad nerves, and was rejected. In 1975 she reported it was anemia, dizziness, nerves and bad kidneys, and was rejected. In 1976 she blamed low blood pressure and heart problems, was rejected and gave up for a while.

In 1984 she applied again complaining of stomach problems, epilepsy and sinus trouble. In 1985 the list included "female problems," and an examining doctor concluded: "This is a 34-year-old black female who had seven children under 12 years of age, and alcoholic husband and no money, who complains of insomnia, crying spells, depression."

She appealed that rejection to a judge who determined her unable to cope with the "stresses of any type of competitive employment," and the checks began to flow. Two years later, a judge ruled her husband disabled because he was obese.

The newspaper concludes that the Watson family likely will remain on welfare permanently, with the children moving directly onto the adult rolls.

What did Congress intend when it created such a program that rewards failure more richly than the competitive market can reward hard work?

What it got was places like Lake Providence, where "crazy checks" have become important parts of the town's culture and economy.

Mr. FAZIO of California. Mr. Chairman, I yield 3½ minutes to the gentleman from Michigan [Mr. LEVIN].

Mrs. LINCOLN. Mr. Chairman, will the gentleman yield?

Mr. LEVIN. I am glad to yield to the gentlewoman from Arkansas.

Mrs. LINCOLN. Mr. Chairman, to my friend on the other side, I think it is important to point out, especially for those watching, the tax break goes to the 13 percent of the top bracket of those in Arkansas. Most notably in my district, with an average income of less than $12,000, roughly, it is not quite a lot. Basically the gentleman is taking from those middle income and lower incomes in the Medicare divisions, where I have above 10 percent of the national average in the elderly.

I thank the gentleman.

Mr. LEVIN. Mr. Chairman, I would say to the gentleman from Pennsylvania, he should read the bill that the Democrats put together on welfare reform. We address the problems in SSI directly. We believe in reform. The issue is whether we want to be blind about it, and strike out wildly, or know what we are doing.

The problem with the Republican budget is this. I think for legislators there is a responsibility. If you propose, you should disclose, and you do not. You have this figure for Medicare, and do not tell the public what will be the consequences. In that sense, it is deceitful. Being bold and not abiding by the facts is foolishness, and it sells short America.

Mr. Chairman, in terms of Medicare, if we assume beneficiaries will pay 50 percent of these cuts, we end up with a cut or a cost for every senior of over $2,500 in Michigan. In Connecticut, it is $3,800. In Arizona, it is $3,300 is the average out of-pocket impact. If we say that there is not going to be any impact on beneficiaries, read the communication of the gentleman from Connecticut [Mr. SHAYS] which lays out the options. It is not in the budget resolution. It talks about the impact on seniors, and what kind of impact there might be in terms of deductibles, and in terms of copay.

Mr. Chairman, I want to go beyond, for a moment, the impact on seniors, and talk about the impact on health care generally, because again, you propose but you do not disclose. The letter of the gentleman from Connecticut [Mr. SHAYS] says one of the ways to make up this huge, huge cut in Medicare is to cut direct and indirect medical education in disproportionate share.

These are not only urban hospitals, these are suburban hospitals. The proposal here is to cut, or at least this is the suggestion, one of the 3 options, $6 billion in direct costs, $21 billion in indirect costs, and $28 billion in disproportionate share.

For the hospitals in the area I represent, the district and beyond it, for the University of Michigan, it is a major cut. For the Detroit Medical Center it is a major cut. For the suburban Beaumont Hospital, it is a major cut. This will affect health care across the board.

Be honest, tell people that it is not just a large number, but health care is going to be impacted for seniors, and also for the hospitals for whom Medicare has been a proxy in terms of residency programs and disproportionate shares.

There has been a lot of talk about the boldness, but boldness without honesty is recklessness. That is the trouble with this budget, it does not tell the public what is likely to happen. That is why I oppose the Republican majority proposal.

Mr. Chairman, we can do better. We must reform Medicare. We must make some changes, but we have to, as we leap, let America look into what will be the meaning of it. I therefore oppose the majority proposal.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. The mystery is over. Finally we have someone explaining how they made up their numbers. I am happy to know how the gentleman made up his numbers. He basically said if spending is going to decrease from 10 percent to an increase of 5 percent, he said beneficiaries are going to pay half of it, and providers are going to pay the other half.

The gentleman makes one astonishing assumption: his astonishing assumption is that the increase in spending for Medicare patients and Medicaid patients has to be 10 percent. Why does the gentleman make that assumption? Why do we make the assumption that Medicare and Medicaid can continue to go at 10 percent, when the private sector is going at 4 percent? We make it a very real assumption.

We are going to give beneficiaries new services. We are going to allow the private sector to offer a whole host of them. Beneficiaries are going to see their costs not increase to 10 percent. They will not have to pay these absurd increases that this side of the aisle has suggested.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. MARTINI], a freshman Member.

Mr. MARTINI. Mr. Chairman, over the last several days, and in anticipation of this historic vote, I have asked myself repeatedly, after all the debate is said and done, and I am sure those listening to this debate will ask the same thing, what is it that we are trying to do here in the House?

The answer, quite simply, is in voting for a balanced budget, we are bringing some discipline to a body which for too long has ignored the fundamental principle of fiscal responsibility. We are trying to bring accountability to a budget process run amok with neglect and abuse.

After years of overspending and piling up debt on the backs of our children, the budget we will vote on tomorrow will finally put us on a track toward erasing the Federal deficit and preserving the American dream for future generations.

Mr. Chairman, recently an auto mechanic in my district came up to me and reminded me of a television commercial of years ago, a very effective and albeit a very applicable commercial to this situation that we are debating here today. He recalled the image of the mechanic standing in the garage in his greasy coveralls, holding an oil filter, and warning all of us that we can take some remedial measures now at a very small cost, or pay him a much larger sum later at a far greater sacrifice.

Millions of Americans learned that simple lesson and the importance of that lesson early on when it comes to caring for their car engines. Similarly, the engine of government cannot long sustain years of neglect and abuse without, like the engine of your car, coming to a grinding halt.

Mr. Chairman, if we do as prior congresses have done all too long and avoid these much needed remedial steps, we will shortly be faced with a fiscal crisis of unsolvable proportions, with all the grave consequences related thereto.

Congress, I say, can no longer avoid its responsibilities. Our Nation faces a challenge, and this body has been elected to meet that challenge. We must, I say, vote for a balanced budget tomorrow.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from California [Mr. KIM].

Mr. KIM. Mr. Chairman, I have been listening to my colleagues on the other side of the aisle talk about how this budget proposal will hurt our children. They want us to believe that Government subsidies are the only way our children will succeed in life.

Let me share with the Members a little bit about my story. When I came to this country, I was dirt poor. I did not know about the Government subsidy programs, welfare, student loans, AFDC. Instead, I did it on my own. I worked full-time, and I went to college, with three children. It was not easy. It took hard work and sacrifice, but it can be done. I repeat, in America, it can be done without Government subsidy. You can get a decent education without the Government subsidy, I can tell you that.

Let us be realistic. Limiting the growth of Federal spending to 3 percent a year is not the end of the world. We are not eliminating all subsidy programs, for heaven's sakes. All we are doing is slowing down the growth of the out of control Government spending. In fact, Federal spending will still grow by $400 billion over 7 years under our plan anyway.

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Let us end this overblown rhetoric on this issue. Yes, we will be asking a few individuals to rely on themselves instead of the Government, but overall, most worthwhile Federal programs will continue to grow under the Republican budget plan.

And in the process, maybe we can restore the tradition of self-reliance in this country.

Mr. SABO. Mr. Chairman, I yield 6 minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I am delighted to yield to my friend, the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, I want to say to my good friend from Connecticut [Mr. SHAYS], I think there is an understanding that there has to be consideration of where Medicare is going, but what bothers me is your message is, and I have heard the Speaker say it to seniors, you are going to get more by our providing less money, and it is not true.

The document that the gentleman from Ohio [Mr. KASICH] put together, and you do not find in the budget resolution, provides for expanded Medicare coinsurance. It would cost seniors $44 billion over 7 years. And the direct medical and indirect medical education costs, this is what it would mean, and I will just take a second for hospitals in Michigan in my area, for Beaumont it would mean three-fifths would be cut per year, for the Detroit Medical Center about the same, $17 million, and there would be a like cut for the Ann Arbor Medical Center.

So tell the facts, tell the truth to the American public.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I am more than happy to yield to my friend, the gentleman from Connecticut, if he wishes to engage in debate.

Mr. SHAYS. Mr. Chairman, let me just say to the gentleman from Michigan I have tremendous respect for him and I know his question is very sincere. It is really an issue of whether you believe Medicare and Medicaid spending should and will continue to grow at 10 percent.

No, we do not think that we are going to improve service by providing less. We believe we can provide less by improving service.

Mr. LEVIN. Let me just respond.

Mr. FAZIO of California. I am happy to yield to the gentleman from Michigan.

Mr. LEVIN. If I may respond, do not just talk about 10 percent. Tell people what it means if you go less. Acknowledge in your letter that there would be cuts in indirect, direct medical education, a disproportionate share that comes to $50 billion or more for hospitals in suburban and urban areas, and tell the seniors that there may well be an increase in their coinsurance of $44 billion over 7 years. Do not just say you are cutting from 10 to 7. Tell people what it means to them, to them.

Mr. FAZIO of California. Billions, and trillions, and we talk about words that are jargon in the medical-industrial complex.

What I would really like to do is talk about the Hopkins family in my district. Mrs. Hopkins is 69 years old. She and her husband have been married for 40 years. He works part time at a McDonald's in order to make their Social Security payment go a little further. He has been doing that now for 5 years.

He worked for a small business that does not provide him any pension. He is now solely dependent on his work in his later years and his Social Security. That is all that they have to live on.

The good news is at the moment they do not have any copayments under Medicare, and they certainly could not afford them. They have a rental cost in the amount of $490 a month. They can barely pay that as it is. If they were to have to pay another $2,000, $1,000 for each of them on their Medicare, it would put them not in a precarious economic state, it would ruin them.

These are people who have worked all of their lives and do not deserve that kind of treatment. Mrs. Hopkins has a heart condition. She has asthma. She has arthritis. She has to pay for her own medicine. That is about $200 a month. She and her husband can barely afford that as it is, but they do not have a choice. Nobody else is going to pick up their prescription costs; they have to have their medication.

Mrs. Hopkins was telling me the other day she was required to go to the hospital. She is pleased that the ambulance and the hospital were paid for, but she said they asked me to pick up another $130 for 20 pills, and she does not know where she is going to come up with that money. Does she cut the food? She cannot cut her rent; she has to pay her electric bill. They have not bought clothing in a long time. There is not a place to go for extra money.

She said yesterday to me, "Leave our Medicare alone. We could not make it without Medicare. My last trip to the hospital just about broke us."

So Mr. Chairman, I have to ask how can we in good conscience lower the standard of living for people who are already struggling at the same time providing tax breaks which go, in my opinion, largely to people in our society who have had the best of the last 15 years, the top 20 percent who are doing well?

The gentleman from Oklahoma said do not worry America, we are spreading the pain. Well, I understand that there is a lot of pain being spread around. What I am frustrated about is the fact that there is not much spreading around of the gain.

This is all part of a totality here. As the gentlewoman from North Carolina said, if we did not have the tax cuts in this budget resolution, we would not need to be cutting the Hopkins' Medicare benefits. We can reform Medicare, we can take a comprehensive approach and help everyone whose costs have been going up in the health care field, but we are taking I think an approach which is unfair, which gives new meaning to the word mean-spirited. We had a gentleman from California send us a note on the Internet. He said the Republicans are giving new meaning to the word mean-spirited and they are doing it in the old-fashioned way, they are earning it.

Well, ladies and gentlemen, I hope people will think twice before they decide to vote for this budget resolution, because, in fact, it is the least fair I have seen in 16 years in this Congress.

Mr. KASICH. Mr. Chairman, I yield myself 3 minutes.

Let us spend just a second here talking about what we are trying to do with Medicare, and as I explained earlier to the people in the Chamber, we are going to go from $924 billion in spending over the last 7 years to almost $1.6 trillion. Now some people in the Congress would like us to spend $1.8 trillion. If we do that of course the system goes bankrupt and there will not be benefits for anybody.

In the private sector they were growing at enormous rates and guess what happened, guess what was happening to American businesses? They were going bankrupt, they were becoming less competitive. So guess what they did. They decided to use innovations, they decided to use creativity. And what were they able to achieve? They were able to achieve an increase in medical costs, yes, costs were still going up, but from double digits down to single digits, and what did they do in the process, they kept their companies from going bankrupt, they improved the quality of medical care for their employees, and they have high customer satisfaction. That is what happened.

Now where are we? We are growing at 10½ percent in Medicare. The program is going bankrupt. So what do we choose to do? We choose to go from $924 billion to almost $1.6 trillion in Medicare funding. And how are we going to have a Medicare Program at $1.6 trillion over the next 7 years? Well, we are going to study the private sector that has guaranteed choice, high quality, and high customer satisfaction. And guess what, we will keep the program from going bankrupt. And under our plan, of course, we will go from $4,800 behind each Medicare recipient to $6,400 behind each Medicare recipient, and guess what? We will maintain choice, we will have high quality, and we will save the system from going bankrupt.

Now those people that want to run around and talk about bankrupting the system, they are not just going to bankrupt the system of Medicare, they are going to bankrupt America.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Connecticut.

Mr. SHAYS. I would like to ask the gentleman, when it goes bankrupt, how are you able to pay the beneficiaries?

Mr. KASICH. Well, you cannot pay the beneficiaries anything, but if you want to scare people, you go out and throw all of these numbers around.

I am going to tell you the facts. If we do not get the program under control, it goes bankrupt. Not only does that program go bankrupt, but so does it threaten the long-term financial stability of this Nation. We have no right, we have no right to pile debt, red ink on the backs of our children. That is why we are going to do the responsible thing.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. I just wanted to ask the chairman of the committee, the Hippocratic Oath says when you are providing health care, do no harm first. Can the gentleman tell me why we decided to give the 13 percent of our elderly who are at the top of the income strata a tax break earlier this year, and encompass that in this budget by directly undermining the Medicare trust fund before we even began to talk about the crisis that seems to be suddenly consuming the majority?

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Ohio.

Mr. KASICH. The gentleman was so quick to punish people when he raised taxes on them. What we are attempting to do is to cancel out the huge tax increases and the big Government programs that you had.

And let me say to the gentleman we have a number of provisions in here that are designed to give people a better life, families a better life, Social Security recipients more earning power.

Mr. FAZIO of California. The gentleman has not really responded to my point. The point is you are undermining the Medicare trust fund and you are doing it in a way that advantages the very wealthiest seniors and asking all of the rest to pay another $1,000 a year.

Mr. SABO. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, let me simply say there are four reasons to vote against this bill.

The first is that it simply is not going to balance the budget. I have been here before. I remember in 1981 when we had a wizard by the name of Stockman. Now we have a different wizard, but the results are going to be the same.

Mr. Stockman told the Congress just follow Reagan's lead, you can have it all, baby, you can cut the taxes, you can double military spending, and you will still balance the budget in 4 years, and you know what, they only missed by a couple hundred billion dollars.

So then we had Gramm-Rudman No. 1, Gramm-Rudman No. 2, Gramm-Rudman No. 3, all multiyear promises, going to balance the budget, baby. And guess what happened? They missed three more times.

Now we are in here with the fifth multiyear promise. And do not take my word for it, read the Wall Street Journal, that well-known left-wing newspaper. And what do they talk about? They talk about the fact that this package is back-loaded, small tax cuts to begin, huge tax cuts in the out years. I guarantee you, you are not going to see a balanced budget if we swallow this prescription. You are going to see mountains of debt.

The second reason to vote against it, you have savage cuts to domestic programs. Do you really know what is going to happen to the National Institutes of Health and the people who rely on it for medical research when you cut it by 5 percent and then freeze it for 5 years? You erode the purchasing power of medical research by 25 percent.

What good is that going to do folks on Medicare and Medicaid, or any other citizen in this country who is looking to try to escape some of the most devastating illnesses in the world?

The third reason to vote against this is simply because you do have these devastating cuts in Medicare and Medicaid. Do you really believe the American public wants to see you make these kind of reductions so you can give big, fat tax cuts for people making between $75,000 and $200,000 a year? I do not think so.

I would simply say this to the gentleman from Ohio, yes, you have to repair the Medicare trust fund. And yes, in the context of health care reform you can talk about reductions that go at waste and fraud, but I tell you, if anybody thinks you can cut this much out of Medicare and Medicaid without seriously damaging seniors, you are smoking something that ain't legal. You just cannot do it.

The fourth point I would simply make is that all of these budget changes are going to make this country worse in terms of the equitable distribution of income growth. This chart shows that from 1950 to 1978 income growth in this country was shared across the income spectrum. Whether you were in the poorest fifth or richest fifth, you did pretty well.

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Everybody's income went up. Here is what has happened since then. Unless you belong in the top 20 percent of this society, you have barely kept up, and if you are in the middle and below, you have lost ground dramatically.

These budget cuts, these cuts in Medicare, these cuts in Medicaid, these tax cuts that give two-thirds of the tax benefits to people making more than $70,000, and 1 percent of the benefits to people making less than $20,000, will make that gap worse. That is typical Republican prescription in this country. People have come to expect the republican Party to support prescriptions that largely benefit the wealthy.

I hope that the Democratic Party will not follow suit, and I hope that well-meaning people on the Republican side will join us as well in opposing a plan which makes this situation much worse.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, as a small business owner and a father of nine children, I am concerned about the future of this Nation. For too long, Washington has mortgaged the dreams of our future generations.

For example, a child born today already owes $187,000 in interest payments on the $4.8 trillion national debt.

However, Mr. Chairman, today is the dawn of a new day in Washington. This is truly a historic occasion. For the first time in 26 years, this Congress is on the verge of enacting a plan to balance the Federal budget.

Mr. Chairman, this budget is about beginning to pay off our debts and restoring the American dream. It is about renewing hope for the next generation and about restoring prosperity to our communities and the economy.

Mr. Chairman, last fall we made a promise to the American people to bring the budget to balance. In this budget, we keep that promise.

Mr. Chairman, unlike my Democrat colleagues on the other side of the aisle, this is not an arcane meat ax budget. Last November, the American people asked us to streamline government and make it more efficient, and that is exactly what we are doing. Where we can, we send programs back to the States and local governments. We also attempt to eliminate redundant programs.

Under this budget, spending continues to grow, only it will grow at a slower rate. For example, over the next 7 years this budget pledges to spend an additional $1.2 trillion.

I urge my colleagues to vote "yes" on this budget.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding.

During the course of the debate this evening, we have heard from several speakers who talked about how we are going to make it impossible for people to go to school because we are going to cut off the in-school interest subsidy. That has been raised on several occasions.

Well, I think it is just worth noting here what we are talking about in terms of both the additional cost that a student will incur as a result of this interest subsidy not being given to them during the time they are in school versus how much that individual can expect to earn as a result of getting a college education.

Now, the chart that you have here shows these two figures. This is on average the amount, total amount, that a student will pay in addition, because we are simply saying you are not going to pay the interest while you are in school, we are just going to add it on and you will pay it when you graduate from school, and that will add a total, over the course of paying off that loan, on average $2,562. Some will pay more, some will pay less, but that is the average figure that they will pay. Over the course of a loan, it works out to somewhere around $35 to $40 a month, maybe a Big Mac a day or something like that, during the course of the month, not even that much, actually, on a Big Mac.

Here is what the student is going to earn as a result, additional; this is the added earnings that a college student can expect in the course of their lifetime by having a college degree, a 4-year, a bachelors degree, $525,000.

Do I think that it is unfair to ask the college student that is going to earn $525,000 to pay when they graduate that $2,562 additional interest rather than saying to the person who is out there, the young mother or the single parent who is working, scraping to keep her kids, take care of clothes, feed her kids, to the individual, is it fair to say that the student should be subsidized and that it should be paid for by the mother who is out there working, by the factory worker who is out there trying to keep his family together, by the senior citizen who is out there scraping to pay their taxes so that this individual who is not going to pay this while they are in school but is going to pay it out of their future earnings, do we think it is unfair that they should pay that amount against the $525,000 additional earnings that they are going to have because they have a college degree? I do not think so. And I do not think the American people think that.

It is curious the people over on the other side on the one hand want to give them a subsidy while they are in school so they can make lots of money, and then they want to tax them to death as soon as they finish college so they can be taxed to death, get them into those higher brackets and make them pay more.

Well, it is fair they should pay this subsidy after they graduate, because they are going to have higher earnings.

Mr. SABO. Mr. Chairman, I yield myself 30 seconds.

I would only suggest to my friend, the gentleman from Arizona, that when that person graduates from college and begins a teaching job, the salary is not very high, or if they are a social worker or if they are a preacher going to a rural community in this country, endless college graduates, they do not have that big chart of yours when they finish college. Eventually, we may deal with that income differential through progressive income tax, but when they leave college, that person is not having that.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Chairman, Medicare is a lifeline for 37 million Americans, providing them the health care they need that enables them to live longer without bankrupting them.

Prior to its enactment, seniors often went without help, causing medical complications that could have been prevented and additional costs that could have been avoided.

Now, the medical care 37 million Americans depend upon is in jeopardy due to the Republican budget plan that cut billions in Medicare to pay for tax cuts for millionaires. This Republican budget would fulfill a contract with the wealthy, but at the expense of breaking a contract with the elderly. This Republican budget plan would end seniors' choice in selecting their own hospitals and their own doctors.

This Republican plan would hurt working families who will have to cover the costs that their parents cannot for their medical bills. This Republican budget plan threatens to close more hospitals, particularly in rural and small towns across the country.

America is the world's richest country. We can afford to take care of health care for those who have made this country great.

I urge my colleagues to vote against the Republican budget plan.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding.

My friend from Illinois may not realize that under the Republican plan, Illinois will get $2.7 billion of additional dollars in the next 7 years. Their per beneficiary for Medicare is now $4,500. It will go to $6,000 per beneficiary, per beneficiary.

We are not cutting choice for seniors. We are going to change the system, allow them to keep what they have, if they want, but we really believe they are going to choose to be in programs that will provide them rebates and give them other opportunities, and in our plan we hope that we can allow seniors to police their bills and get 10 percent of whatever they find is a mistake.

We are going to open the options. We are not going to cut. Only in Washington, only in Washington is an increase in spending a cut.

Mr. KASICK. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. Mr. Chairman, well, I thank my good friend, the chairman of the Committee on the Budget, for yielding.

You know, folks, we have had about 4 hours of debate now, and we need a little bit of a break. We need to take a break from all the rhetoric and have a little bit of fun.

The folks listening and the folks here in the Chamber, we are going to have a little budget quiz at about halftime. I have got some questions for you for the 1996 budget debate quiz.

Question No. 1, here we go, let us start. You do not need a No. 2 pencil, just follow along, listen carefully, and then mark your answers.

The 1996 budget quiz: I will present a 5-year plan to balance the budget. Who said that? Is it A, Representative MARK NEUMANN, the budget we will be debating tomorrow, is it B, Senator PHIL GRAMM, candidate for President, fine Senator from Texas? No. It was, C, President Bill Clinton said, "I will present a 5-year plan to balance the budget." Anybody get that one right? It is a trick question, a trick question.

Here is question No. 2. Mark your answers. We think the task of balancing the budget is one that we have to actually take responsibility for ourselves and just do it. Who said that? Was it our fine chairman, JOHN KASICH from Ohio? It sounds like him, does it not? Is it B, Senator PETE DOMENICI, from the Senate Budget Committee? Maybe. No, wrong again. It was C, Vice President AL GORE said, "We think it is our responsibility to balance the budget." Have they taken responsibility? Does not sound like it to me.

Go on to the third one. Question No. 3, when we have a Medicare Program that will grow at 11 percent and a Medicaid Program that will grow at 16 percent next year, when neither the population nor the morbidity statistics affecting those population groups are growing anywhere like that, we know we can get savings. Who thought that we could get savings from the Medicare and Medicaid Programs? Was it the AARP? Probably not. Was it the American Hospital Association? That sounds like them. No, it was C, the First Lady, Hillary Rodham Clinton, as she testified before the Senate Committee on Finance. You did not get that one either? I can tell.

Well, we will go on to the final question. This is a tough one. Listen carefully to this. Today, Medicaid and Medicare are growing up at three times the rate of inflation. We propose to let it go up at two times the rate of inflation. That is not a Medicaid or Medicare cut. So when you hear all of this business about cuts, let me caution you that that is not what is going on.

Well, you probably heard a little bit about that today in the debate. So who do you think said that? Was it JOHN KASICH? Sounds like KASICH. Sounds a lot like KASICH. I have heard you say that, JOHN.

Is it B, Senator PETE DOMENICI? No, it was again, C, our President, Bill Clinton, who knew full well that allowing it to grow at a slower rate than what it currently is growing now is not a cut.

So as you listen to the rest of the debate, keep in mind our little 1996 budget debate quiz.

Mr. SABO. Mr. Chairman, I yield myself 1 minute simply to respond to the latest gentleman and his quiz.

The fact is the Republican proposal cuts Medicaid expenditures by substantially more than caseload and inflation. The cut is substantially deeper.

The same is true of Medicare. It is down less than 4 percent, 1 year, with over a 1 percent caseload, a much deeper cut than the President was suggesting in his answer to that question in the little game by the gentleman from Iowa [Mr. NUSSLE].

Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I would like to thank the ranking Member.

As for me, the only thing I can say about that little quiz was tricks are for kids.

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First, Mr. Chairman, I would like to reiterate the burning question in today's debate. Why are the Republicans cutting Medicare to give a tax break to the wealthy? First, my colleagues, let us be honest. This debate is not about whether we need a balanced budget to protect our children's future. The Black Caucus can offer a balanced budget from the progressive point of view by closing tax loopholes. On the conservative side, the Democratic Coalition offered frontloaded budget cuts to also get to a balanced budget. What they have in common, however, is that neither of these Democratic approaches gut Medicare to give a tax break to the wealthy.

Here are the facts. There are 37 million Medicare recipients 65 years or older. Their average income is $20,000 a year. The Republican plan cuts $283 billion from Medicare and will cost each Medicare recipient an additional $1,000 by the year 2002. This means larger copayments, higher deductibles, and the loss of choice of doctors. Meanwhile, on their side of the ledger in the Republican plan, 1.1 million Americans, wealthy Americans, will get over $20,000 in tax cuts. These people make over $200,000 a year. They will get a tax cut totaling $3.345 billion.

When we talk about Medicare cuts, the Republicans are quick to say, "Wait a minute. This isn't a cut. Seniors will actually get more money in the year 2002." Yes, but the problem is that more people will be eligible for Medicare, and the increased costs of services will mean that what they are providing is not enough to solve the problem. It is like throwing a 20-foot rope to a man who is drowning 30 feet from shore. It is not good enough to say, well the rope is longer than the 15-foot rope we threw to that other guy who was drowning.

It is also not good enough to say, well, somehow services will be cheaper, and people will be able to get them and have better choices because they never explain any of that. They just come before us with these miraculous cures.

Finally, Mr. Chairman, the Republicans tell us we have to do all this because the Medicare system is going to be insolvent. Well, last year we said, "If you want to reform Medicare, you need a comprehensive approach." They were not interested. Today we could go a long way toward solving the Medicare problem if we did not have to give a tax break for the wealthy.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from Arizona [Mr. SHADEGG], a member of the committee.

Mr. SHADEGG. Mr. Chairman, I think the debate today has been fascinating. It illustrates just how far out of touch all of this has become. The American people are screaming for change. They are fed up with a Federal Government that is too fat, and too bloated, and too out of control, and what we hear on the other side of the aisle is a litany of defense of the status quo: This program cannot be cut, that program cannot be cut, no change. They like things just as they are. Well, that is not what the American people asked for in the election on November 8, and that is not what we came here to deliver.

I just listened to my distinguished colleague from the other side who said that the Medicare Program in our plan cuts further than it ought to. Well, I would like to ask the question:

"Precisely what are the proposed changes in the Medicare plan under your balanced budget proposal?"

"Oh, you don't have a balanced budget proposal. I see; you have the Clinton proposal, which is grow. You have a proposal which says, 'Although the Medicare system will be bankrupt in less than 6 years, what we are going to do about it is play Chicken Little, or something of that sort, and bury our head in the sand and do nothing'."

Mr. Chairman, the American people deserve better than that. We have a Federal Government which is totally out of touch with the people it governs.

Let me cite some statistics for what we did and why we did it. The 1963 to 1993 comparison is what I would like to talk about. Since 1963, Mr. Chairman, the average weekly wages of a blue collar worker in America are up 398 percent. Average wages, blue collar worker, up 398 percent. The Consumer Price Index is up 458 percent. Let me contrast those numbers with the Federal Government. Federal Government receipts are up 1,024 percent. Federal Government expenditures are up 1,241 percent. The deficit, the problem that they would just as soon ignore, the deficit since 1963 is up a staggering, and listen to this number, 6,102 percent. I got to ask what would the deficit have had to increase for our friends on the other side to say we need to make some change? I don't know what it is; I am still waiting for their balanced budget plan.

Mr. Chairman, when the average worker's wages are up about 400 percent, but Government is up in its receipts 1,000 percent, its expenditures 1,200 percent, and its deficit 6,000 percent, it is time to act. It is time to act responsibly. It is time to bring the Government's budget into balance, and that is what this Republican budget does.

When I was in Prescott, AZ, at the field hearing and in Billings, MT, the American people said they were willing to participate as long as it was fair. This measure is fair. I urge its support.

Mr. SABO. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Chairman, I think the real issue here is not the concern, as the gentleman from Ohio [Mr. KASICH] suggested, of fiscal bankruptcy, but moral bankruptcy. The ranking member comes from an area of the country in which Hubert Humphrey came from, and he said that the test of a civilized society is how we treated those who are young and those who are old. I cannot understand all of this applause and, rah-rah. We cut education and Medicare programs.

The gentleman from Virginia [Mr. WOLF] quoted a little scripture. I guess one could say, "We'll forgive you because you know not what you do," but I think the gentleman does understand exactly what he is doing because with this same blade that he is cutting Medicare he is cutting taxes for the rich, and so I think that that would probably not be appropriate.

I serve on the board of Penn State University on the Subcommittee for the Hershey Medical School. I spent 10 years on the board of Temple, in our hospital in Philadelphia. Millions and millions of dollars of unreimbursed care, disproportionate share issues.

Mr. Chairman, I would invite Americans: "Don't listen to the rhetoric on the Republican side or the Democratic side. Call your neighborhood hospital. Call your doctor. You'll find out. Ask them what these cuts are really going to mean because, when you see somebody jump up and down, make all of these comments—KASICH, who says he is for a 6-year, 6-term, limit, is here in his 7 term, is telling us this is not going to hurt. I think the truth is clear, and people need to just reach out and touch, call their hospital, call their doctor, and ask them whether this is really going because it is."

In the final analysis, Mr. Chairman, the real concern for all of America has to be whether we are going to bankrupt ourselves as a country morally, if we are just going to allow seniors to fall by the wayside and not have the kind of care they are going to need.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, we are coming toward the close of this debate on general debate on the budget tonight, and I think it is time for us to just bring it back and do a little bit of focusing. We have had a lot of things said about various things. But I think a very clear, fundamental, philosophical difference has been demonstrated here tonight, and what I hear over and over again is from the Democratic side of the aisle, that the tax dollars the people pay belong to the Government. They are the Government's. They are this Congress' to use, to decide how they should be dispensed, about how they should be disbursed, about how people should use, what services people get.

I think Republicans have a different philosophy. The tax dollars belong to the people.

I am reminded again of what I said earlier this evening, that guy down at the UPS office, at their distribution center, who said, "Please go back there and tell them it's my money they're spending," and I think that is something we need to keep in mind.

Mr. Chairman, we believe that the taxes belong to the people and that we should take only what is essential, only what is essential for the services that people must have, and we should leave the rest with Americans. Most of all, Mr. Chairman, we should leave them with a balanced budget because what we have been doing for a generation and more, for my generation and more, is we have been borrowing from our children and from our grandchildren. We have been borrowing from the future to pay for the kind of spending, the spending desires, that we have, but we are not willing to pay for today.

So, Mr. Chairman, we say, "Don't take the taxes of people, and don't spend from the next generation. Balance the budget." That, my colleagues, is what we have here tonight. At the end of 7 years we have a budget that will be zero in deficit, and we have not seen that for a long time, since 1969. That is a long time since we have had a balanced budget, and I think it is high time that this Congress got its act together and balanced that budget, not for us, but for the future generations, for the future generations who will have to bear this increasingly heavy burden because we cannot control our appetite for spending.

Yes, the principles of this budget are relatively simple, the details are very difficult, and I will acknowledge that, and I will acknowledge that we will have differences over where that ought to be, but we ought to be willing to agree that we should get to a balanced budget, and what we do not have here tonight is any proposal coming from the Democratic leadership that gets us to a balanced budget. We do not have any proposal from the President of the United States to get us to a balanced budget. Much as that quiz said, and he said at the beginning of his term of office that he would do, that he would have a plan for a 5-year balanced budget; we do not see it.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Chairman, I rise in opposition to the budget resolution.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, just before the gentleman from Iowa [Mr. NUSSLE] spoke, and in 1991 he came here to the floor of the House with a bag on his head, and now he has showed he is a very good stand-up comic, but unfortunately the Republican plan is not very comical. In fact it is downright tragic, and the fact of the matter is that Medicare and Medicaid cuts count for nearly one-third of the savings in this bill. The bottom line is not how much money each State gets and the fact they might be an increase or a decrease. The bottom line is by the year 2002, Mr. Chairman, seniors in the United States will be getting less health care coverage and will be paying more in 2002. That is a fact. The fact of the matter is that any kind of increase does not make up for the fact that there will be more seniors in the program and does not make up for the rate of inflation.

So who is kidding who? A 25-percent cut in the Medicare Program by the year 2002 means to the seniors in America fewer benefits, much higher out-of-pocket costs for seniors and less choice of doctors, forcing seniors into HMO's.

Mr. Chairman, my mother who lives in south Florida is a good case in point, is petrified about having to be forced into an HMO. She lives off meager Social Security. There has been no pension since my dad died, and there have been millions and millions of senior citizens just like her, people who spent $300 and more a month on prescription drugs and get no help from the Medicare Program. What are these people supposed to do by the year 2002? Choose between food or choose between staying alive with medication?

The fact of the matter is that we are reducing this program, and seniors will have worse health care in this country.

And Social Security? The Republicans are cutting Social Security by $24 billion between 1999 and 2002 due to the cost of living changes.

So this is not very funny. This is life and death to most people.

□ 2045

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LAZIO].

Mr. LAZIO of New York. Mr. Chairman, I almost feel like I need to apologize to my colleagues for being so emotional when I spoke earlier in the day, but I speak from the heart because I think this is very much about my children and children across my community and across America. I want Members to take a look, both Republicans and Democrats, at two of my children, Molly and Kelsey, one 3 and one is almost 2.

I know many Members on both sides of the aisle have children and grandchildren and may differ on the ultimate issue. But I so believe in this budget, this mission of getting to a balanced budget, that I reluctantly invoke their name and introduce them to you. They are probably asleep right now while we are arguing about their future, but that is exactly what is at stake, whether we are going to make the tough calls to protect them and others across America like them.

I would like to quote Alan Greenspan, who has been appointed by both Republicans and Democrats and is respected by both sides of the aisle. The Federal Reserve Chairman said in testimony:

> I think that under a balanced budget, productivity would accelerate, the inflation rate would be subdued, the general state of financial markets would be far more solid, and the underlying outlook would be generally improved for long-term economic growth. Real incomes would significantly improve, long-term interest rates would fall significantly, and most Americans would look forward to their children doing better than they.

What better moral message do we have for America than that we are going to give our kids the opportunity to do better than we are doing today.

Mr. Chairman, I yield back the balance of my time.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, there are no fun and games in this budget for my constituents.

There is one sure way to understand the foolish, heartless, meat-ax document that passes for a budget resolution before us today. Folks who would begin by cutting their grandmothers' Medicare to fund tax cuts for the rich, would cut anyone, anytime, and anywhere.

Well, almost anyone. The Republicans have spared the rich, and they have spared defense. But they have sent a search and destroy mission out to get literally everyone else—especially the elderly and the poor—but also, most assuredly working people, middle-income families, students, kids, and Federal employees.

The Republican budget resolution reads like a Who's Who of the Most Needy and the Most Deserving. Take your pick. Does it make any sense in today's world to wipe out educational programs and summer jobs for disadvantaged children? How should African-Americans regard zeroing out Howard University, the flagship university of Black America? How can working Americans accept as champions Republicans who propose to completely eliminate additional unemployment benefits and training assistance to workers who lose their jobs—including the hundreds of thousands of NAFTA job-losers. And here's another of the many zeros in this budget—a zero for operating assistance for mass transit—hit the cities, suburbs and the environment at the same time.

Tell me what sense it makes to throw people off of welfare and at the same time cut $21 billion from Earned Income Tax Credit for working poor families? Who gains by freezing Head Start, making for a 26 percent loss? How many needy students will forego college because they have to pay $5,000 in interest on their loans while still in school?

This sampling, courtesy of the GOP, is not a cruel joke. Nobody laughed on Monday at my Seniors' Legislative Day. The figures told the story. Hurt everybody, but hurt seniors the most. Intentionally? Not exactly. Just go where the money is.

There are only hard ways out of our untenable deficit. You can't fix Medicare and Medicaid simply by cutting them. You can fix them only by fixing the sick system of which they are a part. Otherwise the system will simply shift the costs to other Americans.

The shift that is going to hurt Americans most is the earthquake shift of necessary costs from the Federal Government to States and localities. Much that the budget resolution eliminates still has to be done. The Federal Government with the broadest tax base may still find relief. But, watch for inevitable sales and property tax increases for States and localities.

Call it what you want. A cut by any other name is still a cut. When you fund Medicare and school lunches at less than the cost of inflation, that is a cut. When you fund foster care and housing for the elderly at less than the rapidly growing number of eligibles, that is a cut.

The Republicans are in a runaway truck with a driver drunk on cuts at the wheel. We must do something before this budget crashes, leaving human debris in its wake.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, we can be proud of this balanced budget effort. It takes us in the right direction. Last year the American people told us that the government is too big and it spends too much, and we have responded to that in this balanced budget document. Today, as we brought it forward, we heard a lot about tax cuts for the rich. The fact is that our capital gains tax cuts will give 70 percent of the benefits to families who make under $50,000. The fact is our child tax credit will totally eliminate taxes for people who make $25,000, and will cut by 48 percent the taxes that are paid by people making $30,000. Those are the rich that we hear about from the other side. It is $25,000 and $30,000 a year families who they regard as rich. Our Medicare program actually increases every year under our plan.

But the real choice is this: If you are a 65 year old person that is retiring this year and you expect to live 10 more years, and you can certainly expect to do that, in the last 3 years under their plan you will have no Medicare, because it will be bankrupt. Under our plan it will continue to increase every year.

The great British statesman Benjamin Disraeli one time said that men and nations move from bondage to faith, from faith to courage, from courage to freedom, from freedom to abundance, from abundance to complacency, from complacency to dependency, and from dependency back to bondage.

Our opponents today advocated the status quo. Theirs is a prescription for complacency and dependency. Our prescription begins with faith, hope if you will, but it is plan that leads us to freedom and abundance. The question before the House tonight and the question before the House tomorrow is whether we will have the courage to go the route of faith, courage, freedom, and abundance, for the sake of this generation, and all future generations.

Mr. SABO. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I support a balanced budget, and I support balancing the budget by the year 2002. The deficit has sapped this Nation's productive capacity, hindered job growth, and mortgaged our future.

The Republican resolution gets us to a balanced budget by 2002, but it takes a sharp detour on the long and difficult road to get there. That detour comes in the form of a 7-year $285 billion tax cut.

It is a tax cut that most Americans don't want, and that most economists don't think we need. It must be financed by deep spending reduction in programs that promote growth and serve the most vulnerable citizens among us.

Fortunately, we will have a choice tomorrow. A budget put forth by the Democratic Coalition, which I support, is direct. There are no detours and no backloaded spending cuts. It is a budget that contains plenty of tough choices and deep reductions in spending.

But it does not provide for any ill-conceived tax cuts. And because it doesn't, it is vastly different from the Republican budget.

Because there are no tax cuts, the Coalition's budget spends $112 billion more for Medicare than does the Republican budget; $6 billion more for Head Start, job training, and other education programs' $6 billion more for Community Development Block Grants, the Economic Development Administration, and other programs that promote economic growth and good jobs in our rural communities; and $11 billion more for child health care and immunization, rural health care, and research funding at NIH.

The Coalition's budget also preserves the Guaranteed Student Loan Program in its present form, which assures that thousands of young Americans will realize the dream of a college education.

And because the Coalition's budget doesn't take us down the road of immediate tax cuts, it not only balances the budget, but it also projects a total national debt that is $160 billion lower than under the Republican budget in the year 2002.

The choice is clear. For a budget that is balanced more fairly, with greater investment in education and good jobs for a better future for this country, I urge my colleagues—Democratic and Republicans—to vote for the Coalition Substitute and against the Republican budget.

The CHAIRMAN. The time remaining is 3¼ minutes for the gentleman from Minnesota [Mr. SABO], and 6½ minutes for the gentleman from Ohio [Mr. KASICH]. The gentleman from Ohio [Mr. KASICH] has the right to close the general debate.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, this is not fun and games, this is very serious business, and for any of us. on both sides of the aisle, we know that and do not need to be reminded of it. We are talking about saving this country, and we have different alternatives for doing that.

Mr. Chairman, I just hope we do not waste this opportunity. As I said in the beginning, I have waited 20 years for the opportunity to help this country get its financial house in order. This is our moment, and this is the moment we have to seize. We need to get our financial house in order for our children and our children's children. We need to slow the growth in spending.

Now, when we talk about Medicare, because it has come up continually and we continually hear Members talk about cuts in Medicare, the previous Member who spoke, the gentlewoman from the District of Columbia, talked about cuts in Medicare. And yet in our plan it goes up 45 percent in the next 7 years.

The gentleman before that from New York talked about cuts in Medicare, and yet it goes up 35 percent. The per beneficiary costs are going to go from $5,312 to $7,000. We are taking into consideration the increase in beneficiaries and we are providing more money.

In general, our plan goes from $178 to $259 billion. I keep saying it, because anywhere else this is an increase, but in Washington, among some on that side, it is a cut.

When we talk about what we are spending in Medicare, in the last 7 years we spent $925 billion. In the next 7 years we are going to spend $1.6 trillion on Medicare. In this city an increase in spending is called a cut. Only here.

The per beneficiary expenditure for all beneficiaries is going to go up from $48,000 to $63,000 per beneficiary. We are taking into consideration beneficiaries. Yes, it is not going to go up 10 percent, it is going to go up 5 percent. The reason it is going to go up 5 percent is the fund is projected to be exhausted in the year 2001 if it goes up 10 percent. If it goes up at 10 percent, it is exhausted, and if it is exhausted, we run out of money. If we run out of money, we cannot pay beneficiaries. In our plan CBO points out in the year 2002, 2003, and 2004, we provide more money for beneficiaries in Medicare than letting the plan go bankrupt. That is obvious, if it goes bankrupt. We want to change that.

The bottom line to this debate is we believe that Medicare recipients deserve choice. We believe they deserve the opportunity to have the same kind of plans their children and their children's children have. We believe if they want to join a plan that gives them a $1,000 rebate, who should they not be able to join that kind of plan? If they are given a plan that allows them to be part of an HMO and save money, why should they not be allowed? Under our present system, we do not allow it. If we think spending is going to go up at 10 percent, then you can say it is a cut. We know it is going to go up 5.

Mr. SABO. Mr. Chairman, I yield 1¾ minutes to the distinguished gentleman from California [Mr. TUCKER].

Mr. TUCKER. Mr. Chairman, the House Republican budget promises to balance the Federal budget by the year 2002. They say that this is the will of the American people. But at what cost must we do this and on whose backs? Mr. Chairman, I ask, is the Republican approach consistent with the will of the American people?

The House Republican budget promises to cut Medicare funding by $283 billion, education funding by $18.7 billion, and reduce the Social Security COLA in 1999 by 0.6 percent, so that they can balance the Federal budget and provide a huge tax cut to the rich. The Republicans' logic, they say, is that a huge tax break for the wealthiest Americans will be good for the country and allow savings to invariably trickle down to the rest of the Americans who live in the real world.

Now, where have we heard that one before? That is what got us into this budgetary imbalance in the first place. Well, thank God for the common sense of the American people. Thank God that they are not penny-wise and pound-foolish.

The Washington Post this week reported that 60 percent of the American people find that the Republican budget is objectionable, and 85 percent of Americans find that they are opposed to cuts in Medicare.

Mr. Chairman, I must say that the Republicans on November 8 thought that they had a mandate, but the American people have clarified that mandate. Hands off Medicare, Social Security, and education. Balance the budget, yes; but not on the backs of the least among us. I urge my colleagues to respond to the will of the American people and vote "no" on this budgetary boondoggle.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota [Mr. SABO] for the balance of his time, 1½ minutes.

Mr. SABO. Let me thank the Chair for his excellent job in presiding today.

Mr. Chairman, I yield 1½ minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the ranking member of the Committee on the Budget for yielding and for his leadership in representing the values of our great country on the Committee on the Budget.

Mr. Chairman, why are we cutting Medicare benefits in order to give a tax break to corporations and to the wealthiest Americans? Three and a half million senior citizens on Medicare in California want to know. One of them is Enola Maxwell, my constituent. Enola Maxwell is 75 years old. She has worked for 20 years as the executive director of the Potrero Hill Neighborhood House, serving the needs of senior citizens, inner-city youth, and providing job training for adults.

Enola wants to know, because recently she had a heart attack, and she said when you get older and this horrible thing happens to you, like a heart attack, you realize what a wonderful benefit Medicare is.

□ 2100

Medicare paid for Enola's convalescent care. Enola asks, why do the Republicans want to break their promise to millions of seniors like her. Why indeed? They have to do that, they have to do that in order to make the $300 billion off of seniors in order to pay for their $300 billion tax break for the wealthiest Americans; 37 million senior citizens will lose $900 a year in order to provide a $20,000 tax break for Americans in the highest bracket.

This simply is not fair. The winners in this deal are the corporations and the wealthiest Americans. The losers are the senior citizens. Vote no on the Republican budget.

Mr. KASICH. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Ohio [Mr. KASICH] is recognized for 3½ minutes.

Mr. KASICH. Mr. Chairman, I yield to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I know the gracious gentlewoman from California talked about cutting spending in California. I would just like to point out to her, they get $21 billion now and they will get $31 billion under the Republican plan in the next seven years. That is a 46 percent increase in Medicare. The per beneficiary goes up from $5,800 to $7,688. Only in Washington is an increase like this called a cut.

Mr. KASICH. Mr. Chairman, we come to the end of the debate tonight. I have to tell Members that we have been receiving phone calls from people trying to tell us how we can argue against those that have argued for the status quo. We hear you, America. We know you want us to do it.

The Committee on the Budget traveled across this great country. And do you know what people said? "Just do it." Just like that athletic commercial, just do it. And if you will do it, we will reward you.

I know it has been said that as we traveled around the country that people said, well, we do not need the tax cuts; we need to balance the budget first. A lot of people in the press say, We gotcha, that is what they told you.

No, that is not what they told us. What they told us was, we want to put America first. And if we have to give something up, including some tax relief from this big Government of ours, we are willing to do it. But the great news is, America, we can do both. Just like we told you we would, we can do both.

We can preserve, we can protect, we can improve, we can save Medicare from bankruptcy. We can slow the growth of entitlement programs and design much better programs for trillions of dollars of increase. We are going to get rid of needless bureaucracy.

I want to tell you why I keep going back to this lady in Chicago that I saw one day. I bought a hot dog, and they have got great hot dogs in Chicago. I am watching this lady clean the tables. And I bet she got up very, very early to go to work to make a little extra money for her family. And when we take money from that lady, when we take money from any of the working people of this country, it better be for the real thing. And what we are about doing is reinventing Government, downsizing the Federal Government, giving control and power and influence back to people where they live because they feel now and they know now they can do better than turning to the bureaucrat in Washington to solve their problems.

So tonight we are going to go home. We are going to think about this debate, the majority, the minority. We have had on our side two tremendous speakers from the Democrat party, the gentleman from Mississippi, Mr. PARKER, and the gentleman from Texas, Mr. PETE GEREN. Mr. PETE GEREN was as animated as I have ever seen him about the joy that he is experiencing about the fact that we are about to change history.

Tonight when we go to bed, forget about being Republicans and Democrats, think about making history, think about saving the future, think about the next generation and we will do the right thing.

Mr. BEREUTER. Mr. Chairman, this Member would like to express his support for the House Budget Committee-approved budget proposal. Congress must act now to adopt a plan to balance our Federal budget. If a balanced budget is not adopted, and current policy is maintained, our Nation's children will be left with a country that is fiscally bankrupt. A balanced budget will ensure that the next generation will inherit a future that is full of opportunity.

This Member shares the goals of the budget committee to eliminate the budget deficit by the year 2002. The budget proposal offers a road map to achieve this goal by providing illustrative savings recommendations to the Appropriations Committee and the various authorizing committees, demonstrating that the budget can be balanced. While this Member notes that these recommendations included in the budget proposal are nonbinding, the overall spending allocations are in fact real funding levels which must be adhered to by the Appropriations Committee.

This budget proposal offers a common sense approach that allows spending to continue to grow, yet at a slower rate. In fact, Federal spending grows about 3 percent annually under this budget proposal, rising from $1.588 trillion in fiscal year 1996 to $1.817 trillion in fiscal year 2002.

In addition, this Member would like to commend the House Budget Committee for recommending the termination of many wasteful Federal programs. However, this Member would like to state his concern regarding several of the programs suggested for termination or reduction. These suggestions should be reconsidered during the deliberations that will take place between now and the start of the new fiscal year. This Member's concerns with the recommendation of the House Budget Committee are as follows:

Sharp reductions in agricultural commodity support programs;

Sharp reductions in export promotion, credit and insurance programs. During the GATT subsidy phase-down period, this amounts to something close to a unilateral disarmament for our export base;

Elimination of such programs as the community development block grant, HOME, and the Indian Housing Loan Guarantee Program;

The elimination of several rural health programs;

Deep reductions in vocational education programs;

Termination of State student incentive grants;

Sale of the Western Area Power Administration;

Elimination of section 2 and section 3(b) impact aid programs;

Complete phase-out of Corporation for Public Broadcasting;

Total phasing out of the entire Amtrak operating budget.

In linking these concerns I would emphasis that alternative reductions in other programs and agencies would be supported by this Member to meet the budget targets. Having listed these objectives or concerns to the illustrative or suggested House Budget Committee recommendations, this Member is pleased to note that the rule contains clarifying language regarding reductions in agriculture programs. Included is a commitment to reexamine agricultural policy in 1999 and 2000 if there are certain negative consequences as a result of these reductions.

Mr. Chairman, the House Budget Committee proposal departs from the failed status quo: It offers bold leadership for a balanced budget by the year 2002. This proposal is an important step in the effort to secure a bright and prosperous future for our Nation's children.

Mr. SERRANO. Mr. Chairman, I rise in strong opposition to House Concurrent Resolution 67, the Republican leadership budget resolution for fiscal year 1996.

I believe the Members of this House are unanimous in agreeing that we must bring the Federal deficit under control. While there are differences over whether the budget must be in absolute balance or whether deficits, and surpluses, have a role in stabilizing the economy, getting the deficit down is a universal goal. We must reduce the amount of debt we leave to our children.

But there are legitimate questions about how fast to go, how steep a glideslope is fair or wise. The Rules Committee's requirement that all amendments produce a balanced budget by fiscal year 2002 limits the proposals this House may consider to those that slam the brakes on Federal spending. The result will be economic whiplash. The Republicans' budget, which must cut Federal spending deeply enough to finance tax cuts for corporations and the wealthy, would aggravate the whiplash; balancing the budget in 5 years as in the Solomon-Neumann substitute, would break the neck.

The most basic function of a compassionate society—of all its institutions, from its churches and charities to its national government—is to protect and nurture the most vulnerable of its people. It is unconscionable to force a balanced budget when it causes so much pain to so many in our population.

The only alternative to the Republicans' budget that is the slightest bit compassionate is the budget for the caring majority, to be offered by Mr. PAYNE and Mr. OWENS, but even that had to be developed within the artificial restraint of balancing the budget by fiscal year 2002.

Mr. Chairman, the priorities in the Republicans' budget are as wrong headed as the rest of their program this year.

We have talked about many of their misplaced priorities during House consideration of the Contract With America, when the House passed their bills to slash the social safety net, especially for our children, to disarm our crime fighters, to turn environmental policy over to the polluters, and to give tax cuts to corporations and the wealthy, among other things.

Then came the House-passed rescissions bill, cutting funds for training and employment, especially summer jobs for youth; for home energy assistance for the elderly and the poor; for disease prevention; for a whole range of education programs; and for basic housing assistance.

The Republicans' budget assumes all these cuts and changes and goes after the elderly as well. There would be cuts in Medicare spending that will require higher deductibles and copayments, less care, less choice of doctors. Medicaid would be a non-entitlement block grant, threatening both the programs that help keep the elderly and disabled in their own homes and the support that provides for their long-term care without impoverishing their entire families. And in a few years, the Republicans assume the Consumer Price Index will be adjusted, which will cut Social Security COLA's and increase indexed taxes.

There is a basic disconnect in the thinking behind the Republicans' budget. We must, they say, balance the budget to ensure our children's future. But what sort of future will they have if we cut spending for maternal and child health; freeze Head Start; cut day care; kill reforms and withdraw resources from elementary and secondary education—especially from disadvantaged and immigrant children; end Federal funding of libraries—the most basic unit of do-it-yourself, by-your-bootstraps self-improvement; make higher education more expensive if not put it entirely out of reach; shrink job-training programs? What kind of a future is this for our children?

Mr. Chairman, we have had hours of debate on this budget resolution and I think the issues are clear. I wish the arguments from our side would lead the Republicans to support a more compassionate Federal budget, but I know the votes aren't with us. But I urge my colleagues to think very hard about what this budget means. I will certainly oppose it and hope many of my colleagues will do the same.

Mr. PORTER. Mr. Chairman, today we are voting on one thing, a number that represents total outlays for fiscal year 1996. While the budget resolution in front of us is 79 pages long and charts a fiscal course for 7 years, the only binding element is the 602(a) number for next fiscal year.

The time for action on reducing our nation's deficit is now, and I commend our Budget Chairman and my friend, JOHN KASICH, for his leadership in producing a budget resolution that sets us on a glide path to a balanced budget by 2002. Without question, the deficit problem has reached crisis stage, and I believe that overall, Mr. KASICH's number is a realistic one which will impose the painful but not unbearable fiscal restraint we need if we are ever to regain a measure of control over our economic destiny.

However, there is a good deal behind the number that I do not agree with or support.

I do not agree with the tax cut passed by the House and assumed in this budget resolution. This tax cut will make it $354 billion harder to reach our goal of balancing the budget and simply comes at the wrong time. While I agree with some carefully targeted tax relief for business which will help the economy grow and provide necessary jobs such as reductions in capital gains, enacting a sweeping package of tax cuts such as this has the potential of overstimulating the economy and risking even higher interest rates. The Dominici budget resolution shows us how much more difficult the tax cuts make balancing the budget. Senator DOMINICI's plan, which does not assume tax cuts, not only balances the budget in 7 years but saves $200 billion in outlays which could be put toward a tax cut after the budget is balanced.

I believe that biomedical research must be one of Congress's highest priorities in allocating scarce federal funding. Federally supported biomedical research creates high-skill jobs, helps retain our country's worldwide leadership in biomedical research, and supports the biotechnology industry which generates economic growth and a positive balance of trade for our country.

In this respect, it is an investment that is quintessentially, Republican.

Research provides great hope for effectively treating, curing and eventually preventing disease and thereby saving our country billions of dollars in annual health care costs. The development of the polio vaccine alone, one of thousands of discoveries supported by NIH funding—in terms of health care savings—has more than paid for our country's five decades of investment in Federal biomedical research. For these reasons, the cuts for NIH designated in the budget package are, to me, extremely ill-advised.

Defense spending, in my opinion, is not sufficiently sharing in the burden of reducing our Federal deficit. While I believe that providing for our national defense and strengthening our troop readiness is essential, increasing the budget authority by $120 billion and the budget outlays by $75 billion cannot be justified in these times of fiscal restraint. We need to rid our defense budget of cold war relics which are no longer militarily relevant, such as the *Seawolf* submarine, and focus on meritorious defense initiatives that will provide for troop readiness and add to the quality of life for our military.

In addition, America's ability to influence the world and provide necessary leadership is at its zenith, and further cutting foreign assistance at this stage is the wrong answer. We have already reduced foreign assistance by one-third over the last 5 years. Further reductions in this area, which is less than 1 percent of our total budget, will undermine our leadership for American values of democracy, human rights and free market economies at the exact time when their advancement is most possible.

I think it would be particularly shortsighted for Congress to eliminate the Board for International Broadcasting and the Voice of America. These two agencies are among the best vehicles for enhancing our values worldwide. Radio Free Asia, a part of the BIB, sends a message of freedom and truth to people in repressive societies and helps these nations transition into free market democracies.

Finally, I support the elimination of departments' agencies, and programs that will assist the Government in becoming more efficient, however, I do not want to do so simply as a symbol. There should be real savings and efficiencies generated in this process.

While my differences with the resolution details are substantial, I think that JOHN KASICH and the Budget Committee deserve credit for having the courage to put us on track to getting our economic house in order.

Mr. KANJORSKI. Mr. Chairman, I rise today to express my strong opposition to the budget resolution before the Congress today. This is no time to be providing tax cuts to wealthy individuals and corporations while hurting the elderly, the children, and the working families of America.

We have heard for so long now the rhetoric of the Republican majority promote the false notion that their mission to dismantle the Federal Government is based on a mandate of the American people. My constituents, however, do not want to dismantle the Federal Government—they want smaller government that works better and is more efficient. The American people want wasteful functions and programs eliminated, they want programs that work to be left alone, and they want fairness and equity in the allocation of limited Federal resources.

The former Democratic majority had been working to meet this mandate for at least the 4 years prior to last November's elections. It passed historic deficit reduction legislation in 1990 and 1993 that set a course for a stable budget and massive deficit reduction. In 1990, the Democratic majority broke the partisan logjam that prevented unified deficit reduction action on the part of a Democratic Congress and Republican President. In 1993, despite not one Republican vote, the Democratic majority passed legislation that has brought our deficit down to its lowest level as a percent of the economy since 1979.

These successes, however, were understandably not enough for a public weary of politicians and the status quo. The American people said in last year's elections they want change faster than Democrats provided. It is my belief, therefore, that the new Republican majority had a tremendous opportunity to help enact much important and needed change.

Mr. Chairman, it now appears that such an opportunity is lost. It is lost because the Republican Majority not only targeted the wrong people and programs in their budget, but because the party is mired in an ideology that promotes getting rid of critical Federal programs and which demands tax cuts for the wealthy. This ideology is driving the Republican budget decisions to cut Medicare and Medicaid for the elderly, cut education for our children, cut job training for our workers, cut economic development for needy communities, and provide new tax loopholes to multinational corporations and individual millionaires and billionaires.

In this budget resolution, Republicans have chosen to target middle-class America without at least also targeting the hundreds of billions of dollars lost to this country from corporate welfare and tax loopholes which benefit the wealthy. Both liberal and conservative interest groups have recently put forth detailed and comprehensive studies of corporate welfare that should be eliminated. But most proposals have been completely ignored by this budget resolution.

Tax loopholes and corporate welfare are not the only things left untouched. The resolution also leaves in plae wasteful defense spending and international programs like the National Endowment for Democracy that have clearly outlived their usefulness in the post-cold war era.

The Republican majority is saying in this budget it wants a balanced budget by the year 2002 and provide tax cuts to the wealthy, to fulfill a campaign promise no matter what the cost. Republicans claim that they are not cutting Medicare and Medicaid, but they are saving a total of $475 billion in the two programs over 7 years. That amount of money can be saved only through program cuts. It is just that kind of doublespeak that has fostered the high level of cynicism and distrust of our Government.

The cost of this budget resolution is certainly tremendous. Cuts in Medicare and Medicaid could increase out-of-pocket costs to the elderly by as much as $1,000 per year. Business would be forced to cut health insurance to workers because of higher premiums from cost-shifting by medical care providers. More working families will be forced to drop health insurance altogether.

For hospitals who have a disproportionate amount of Medicare and Medicaid patients, many will be forced to close. In my district, there are a number of hospitals where the percentage of patients served by Medicare and Medicaid exceeds 60 percent. A full 61 percent of Palmerton Hospital patients, 69 percent of patients at Mercy Hospital in Nanticoke, and a staggering 84 percent of Shamokin Area Community Hospital patients are served by these programs. I do not think it is realistic to believe we can impose a 25 percent cut on these hospitals and have them still remain viable.

Many hospitals will be forced to shift costs to persons who have insurance because of these cuts. As a result, more small businesses will be forced to cut, or eliminate insurance altogether for employees. More and more working families will be forced to chose between buying insurance and paying rent. I already have more than 53,000 persons in my district without health insurance coverage. How many more of my constituents will lose health care coverage because of short-sighted Federal policies and inaction on health care reform?

Sadly, even with the largest budget cuts coming in the Medicare Program under the Republican plan we do not even know in what direction they want to take the program. Under normal budget processes, it would be the job of the Committee on Ways and Means to decide precisely how to make the necessary changes to the program to achieve savings. Yet the Republican leadership is trying to pass legislation that would require someone else to do their dirty work. They are trying to pass the buck to a group of unelected Medicare Trustees who never, until this Republican Congress, was thought to have the responsibility to make decisions on preserving the solvency of the Medicare trust fund.

In another critically important budget area, Republicans are proposing to eliminate most of the meager amounts this country spends directly on economic development. The budget proposes to eliminate two agencies that play a critical role in economic development—the Economic Development Administration [EDA] and the Appalachian Regional Commission [ARC]. We spend less on these two agencies combined than we do on one B–2 bomber.

What have these two agencies done recently for northeastern Pennsylvania? The EDA has provided money to help build new buildings in Nanticoke, Wilkes-Barre, and Hazleton, that serve as essential anchors for economic development and revival in these struggling towns. Substantial EDA assistance is in the pipeline for expansion of an industrial park in Luzerne County.

The EDA and the ARC help northeastern Pennsylvania and other regions of the country that are struggling to attract scarce private economic development assistance. Without this type of public assistance, smaller areas will either have to raise money themselves, which many cannot, or seek assistance from States, where budgets are already stretched thin. If we eliminate the EDA and the ARC, along with cutting community development block grants and local housing assistance, small economic markets will be at an even greater disadvantage tomorrow than they are today.

Instead of saving economic development funds from cuts, Republicans provide more tax cuts and loopholes to the wealthy. Billions of dollars in new tax writeoffs are being offered to rich corporations. People making more than $100,000 a year are being provided the opportunity to invest in tax-free retirement accounts and receive massive tax reductions on capital gains from the sale of stocks and bonds. In all, the wealthiest Americans will receive a tax break of $20,000 under the Republican tax proposals, while the average tax break for middle-income families will be only $555.

Mr. Chairman, that meager $555 will be offset by higher health insurance premiums resulting from Medicare cuts, higher nursing home costs resulting from Medicaid cuts, and higher property taxes resulting from cuts in education and economic development. Middle-income families are going to be net losers under this Republican budget resolution.

Mr. Chairman, this budget resolution is bad, plain and simple. I would urge the Republican majority to go back to the drawing board, forget campaign promises and tax cuts for the wealthy, and try and work with the President and Democratic minority to fashion a good deficit reduction budget resolution. I am confident that working together we can accomplish much more than we can working apart. We must forget partisan politics and get down to the business of doing what is best for our country.

Mr. COYNE. Mr. Chairman, I rise today in strong opposition to the House Republican Budget proposal that will cut Medicare by $288 billion over 7 years while giving $353 billion in tax breaks to America's wealthy.

The Republican proposed Medicare cuts will cost the average senior citizen in Pennsylvania $1034 in higher out-of-pocket costs when these cuts are fully implemented. The total cost to Pennsylvania seniors will be $3,570 over the next seven years. Low-income seniors struggling to pay the rent and put food on the table will be devastated by these increased costs.

Hitting seniors in Pennsylvania and across America with these huge increases in Medicare out-of-pocket expenses is simply mean-spirited. House Republicans are proposing Medicare cuts that are three times the size of any Medicare spending reduction ever before approved by Congress. These unjustified Medicare cuts far exceed what is needed to ensure the solvency of the Medicare hospital trust fund. Instead, House Republicans are driven to slash Medicare spending so that they can pay for $353 billion in tax cuts.

Millions of seniors will pay over $1000 in new out-of-pocket Medicare expenses while 1.1 million of America's wealthiest individuals will receive a $20,000 tax break. The average income of a senior receiving Medicare is roughly $17,000. By contrast, upper income Americans receiving this $20,000 tax break have an average income of $350,000. Republicans may cry that Democrats are engaging in class warfare by pointing out these facts but Americans need to know the truth about the Republican's misplaced priorities. It is the House Republicans in their budget plan that have chosen to wage warfare on America's seniors.

Raiding Medicare to pay for the Republican's Contract with America tax cut is an outrage. These unprecedented cuts in Medicare will threaten the quality of health care received by both seniors and working families as hospitals are forced to layoff health care providers and close facilities. These Medicare cuts will fall especially hard on the hospitals in the Pittsburgh area since this region ranks behind only Miami in having the largest percentage of seniors compared to the general population. Pittsburgh-area hospitals depended on Medicare to pay the medical bills for over 37 percent receiving in-patient care.

Mr. Chairman, America's contract to provide Social Security and Medicare to seniors and future retirees is far more important than any political contract used by Republicans during the last election. This is not what Americans voted for last November. Medicare was established by Democrats in the 1960's as a trust fund and not a slush fund. The House must reject this mean-spirited attack on the health benefits of America's seniors.

Mr. DIAZ-BALART. Mr. Chairman, I rise in support of the Kasich budget resolution and would like to applaud Chairman KASICH for his tremendous efforts and the work of his committee in developing the Republican budget resolution for fiscal year 1996. I applaud the chairman for his efforts in the arduous task of balancing the Federal budget by 2002. We all have a difficult road ahead of us in attacking the enormous Federal deficit, and although I have some differences in how I would achieve this deficit reduction, I certainly agree that we need to be fiscally responsible.

For the RECORD, I would like to submit the attached editorial which appeared in the Tuesday, May 16 Miami Herald. I call your attention to the lessons learned in Latin America, where inflation tamers in countries such as Argentina, Brazil, and Peru continue to win election or reelection. These leaders took steps to avoid impending national bankruptcy. A steadily increasing Federal debt in the United States would not only be destructive, the destruction that it would cause would be our responsibility if we do not act now. The sacrifice that will be required now is minimal when we compare it with what would be required later if we do not act.

We are not talking about the actual cutbacks in the size of the public sector and the recessionary increases in taxes that Latin American-style shock therapies after meltdowns have entailed.

If we act now, we need only reduce the rate of growth of the Federal Government. We are at a fork in the road of our national destiny. If we embark upon the road sought by those who want to maintain the status quo, if we adopt the position of the ostrich and continue to hide our head in the sand, as the administration has done by not submitting a budget that is balanced at any time in the future, we will be doing an extraordinary disservice to our children and to their children.

Again, thank you, Mr. Chairman, and I urge a "yea" vote on the Kasich budget resolution.

[From the Miami Hearld, May 16, 1995]

INFLATION-BUSTER WINS AGAIN

It used to be said of French voters that they kept their hearts on the left and their wallets on the right. The seesawing between heart and wallet tended to have a predictable outcome at election time: enough change to keep the romantic passion alive, but with the bottom line always firmly in control.

Argentine President Carlos Saul Menem's solid victory in Sunday's presidential elections confirms a significant Latin American variation on the French theme: Argentines' fearsome memories of inflation overrode their other concerns, including some traditional emotional hot-buttons. A late surge by challenger Jose Octavio Bordon not only failed to force a runoff, but actually shriveled as the election hour neared.

Throughout the hemisphere, it seems, inflation tamers keep winning elections and re-elections. It's a remarkable departure from common wisdom, which until recently maintained that the extreme fiscal severity of anti-inflation "shock therapy" would induce a backlash of desperate social protest.

That assumption was wrong. Once severe fiscal measure are implemented, Latin Americans have endured their high, recessionary price-tag with remarkable fortitude. Nowhere was this clearer than in Brazil's presidential election last year, where former finance minister Fernando Henrique Cardoso saw his poll ratings soar in proportion to the success of his anti-inflation *Plan Real*. His charismatic leftist rival could only watch in impotence as a once-handsome lead slipped away.

Inflation-taming has been so strongly endorsed by Latin American voters that it has even conferred a thick Teflon coating on the neo-liberals of the hard-money school. Both Peru's Alberto Fujimori and Mr. Menem have emerged relatively unscathed from embarrassing political accusations, largely because of their economic successes.

But post-inflation presidents are sure to face tougher terms. Having rewarded stability and fiscal discipline for a long, difficult spell, Latin American voters will soon take up once again their long-deferred hopes of growth, better income distribution, and honest government. The inflation-fighters' success thus far makes those hopes seem more realistic than before. Before long, though, it will become clear that politicians can keep voters hearts only by thickening their wallets.

The CHAIRMAN. All time for general debate has expired.

Mr. KOLBE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOX of Pennsylvania), having assumed the chair, Mr. SENSENBRENNER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 67) setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, had come to no resolution thereon.

(Mr. SABO asked and was given permission to proceed out of order for 1 minute.)

LEGISLATIVE PROGRAM

Mr. SABO. Mr. Speaker, I have asked unanimous consent to proceed out of order for a minute so I might inquire about plans for tomorrow.

I yield to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I would say to the gentleman from Minnesota, I have been here for 13 years. I have always wanted to stand here and explain what the next day's schedule is, but I do not quite know what it is. We come in at 9 a.m.

Mr. SABO. Mr. Speaker, I yield to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, it is the first time that the chairman of the Committee on the Budget has not had an answer.

I believe we come in at 9 a.m. We do recess immediately after morning business there for the former Members. And then we will resume, I presume, around 10 a.m. And we will go immediately to the three amendments, the Gephardt amendment is first, followed by the Neumann-Solomon amendment, the Black Caucus amendment. And if, of course, the President's budget with a zero deficit is printed in the CONGRESSIONAL RECORD, it would be made in order as a fourth amendment.

Mr. SABO. So the Black Caucus is the last amendment; Solomon is second?

Mr. KOLBE. Mr. Speaker, if the gentleman will continue to yield, that is correct. And we do expect a journal vote tomorrow.

Mr. SABO. At 9 a.m.

Mr. KOLBE. At 9 a.m., 10 a.m. The journal vote at around 10 a.m.

Mr. SABO. As it relates to the Solomon amendment, do I get the half hour in opposition to the Solomon amendment?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. SABO. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, someone does.

Mr. SABO. Someone does.

Mr. SOLOMON. It probably will be the gentleman, Mr. Speaker.

GENERAL LEAVE

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the concurrent budget resolution for fiscal year 1996, and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1158, EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DISASTER ASSISTANCE AND RESCISSIONS, FISCAL YEAR 1995

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–126) on the resolution (H. Res. 151) waiving points of order against the conference report to accompany the bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CRIME AND PROPOSED BUDGET CUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. STUPAK] is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, when U.S. Marshal Robert Forsyth of Augusta, GA was shot and killed in January 1794 while trying to serve court papers, he became the first peace officer in the United States to die in the line of duty. Since then about 13,500 police officers from all types of law enforcement fields have fallen in the line of duty.

My district in northern Michigan has been hard hit by the all-too-common tragedy of police officer slaying. In the Upper Peninsula, which has about 3 percent of Michigan's population, 18 police officers have died since the 1920's. In 1962, President Kennedy proclaimed that for 1 week in the month of May Americans would commemorate National Police Week. National Police Week honors the service related deaths of law enforcement officers.

As a former state trooper, as an Escanaba City police officer, this week has special meaning for me. And as a former police officer and now as a legislator, I am particularly concerned about recent Republican efforts to weaken legislation designed to reduce crime in America.

In 1994, Congress passed the toughest crime bill in this Nation's history. The President's crime bill has several very important elements designed to fight crime on our streets. Most importantly, the crime bill directs that additional police officers be put on the streets to fight crime, because there is no better crime fighting tool than police officers proactively patrolling our neighborhoods.

The President's plan to put 100,000 more police on America's streets represents the Federal Government's largest commitment ever to local law enforcement.

The President's COPS program is already working. Half of the Nation's law enforcement agencies from jurisdictions of all sizes throughout this country have already received grants to add 17,000 additional police officers. Unfortunately, the new Republican majority wants to turn back the clock by gutting the most effective element of last year's crime bill, the COPS program.

Not only do they want to scrap the President's plan to put 100,000 more police officers on the street, but they also intend to delete every single prevention program.

Additionally, the Republican budget measure that we debated here today proposes a $5 billion cut in the crime trust fund over the next 6 years. The measure directs that the justice assistance grant programs would be consolidated into a single block grant program. This plan will only serve to weaken our crimefighting ability by taking money away from law enforcement officers.

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Certainly there is much more Congress can and must do to reduce crime and violence in this country. Crime continues to be the number one concern for millions of working families. That is why it is imperative that Congress not gut the crime bill as a means of playing partisan politics.

Therefore, I say to my friends on this side of the aisle, I say to the Republicans, stop playing politics with the crime bill. Respect the men and women in law enforcement. Instead of providing them with a few encouraging words during National Police Week, give law enforcement the financial assistance they need to keep them secure in their jobs and to keep us all secure in our neighborhoods.

MISSISSIPPI AIR NATIONAL GUARD'S 186TH REFUELING GROUP RECEIVES HIGHEST INSPECTION RATING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to share with my colleagues the news that the Air National Guard's 186th Air Refueling Group in Meridian, MS, received an "outstanding" rating after completing an operational readiness inspection conducted by the Air Mobility Command [AMC].

This is the first time in the history of the Air Mobility Command that any unit has been given an "outstanding" rating, which was announced on May 11 by Lt. Gen. Malcolm Armstrong, commander of AMC's 21st Air Force.

The unit was required to deploy more than half of its 900 members for the week-long inspection At Fort Hood, Texas, along with nine KC–135 tanker aircraft. They lived and worked in a wartime scenario during the inspection. While deployed, the unit was subject to simulated conventional and chemical attack, terrorist activity and hostile threats while continuing to perform its mission of air-to-air refueling of military aircraft. The AMC inspection team, composed of active duty members based at Air Mobility Command headquarters, Scott Air Force Base, Illinois, tested the unit's capability under the same criteria used for inspecting active Air Force units. the exercises ran 24 hours a day while the unit was deployed.

Col. Frederick Feinstein, air commander of the 186th, said, "This was undoubtedly the finest display of professionalism and dedication that I have seen from any unit in almost 40 years of military service. Every Member of the unit had a job to do in this effort and each of them performed flawlessly."

I agree with Colonel Feinstein. This rating means the 186th was exceptional in all areas of inspection. That is almost unprecedented for any unit, active duty, National Guard or Reserve. It is a credit to the men and women who make up this unit. Their training and teamwork came together to put the 186th at the top of the class.

WE MUST PASS OUR BUDGET TOMORROW, TO SAVE AMERICA FROM A MASSIVE DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. BRYANT] is recognized for 5 minutes.

Mr. BRYANT of Tennessee. Mr. Speaker, I come here on this historic night of American history as someone who is concerned about a sound and stable future for this great country.

The massive overspending this Federal Government has done for the past few decades has finally caught up with us, and it's time we take action to stop this dangerous spending.

These deficits will cripple our future generations with a mountain of debt which they will be forced to pay if we do nothing to stop this out of control spending.

Now that Congress has finally realized this problem, it's time to commit ourselves to solving it.

We must eliminate these deficits and balance the budget in order to preserve a sound, financial future for ourselves, our children, and many generations to come.

The Kasich plan we will be voting on tomorrow to balance the budget is a realistic blueprint for a balanced budget.

If we care about the future of this country, we must begin to lay the foundation for a solid economy with this blueprint and use this map on the road to a balanced budget.

Recently, Mr. Speaker, I have heard many false and unfounded attacks coming from those who are apparently opposed to balancing the budget.

We heard these same attacks from the same people who fought H.R. 1215 and killed the balanced-budget amendment in the Senate.

Now, once again, they are saying we are going to balance the budget on the backs of senior citizens by cutting Medicare and Social Security.

And so I would like to set the record straight on exactly what we are going to do about Medicare and Social Security.

First, we're not touching Social Security to balance the budget. Period. That charge is simply untrue.

In fact, the only "cut" that Social Security will experience is a cut in the current administration's tax hike on Social Security benefits.

So I'm having a hard time comprehending the accusation that we're "cutting" Social Security when all we're really doing is providing tax relief for Social Security benefits.

Second, as everyone in this Chamber is well aware, Medicare is going to be bankrupt in 7 years.

I know everyone has heard this statement time and again recently, but it's certainly worth repeating.

For the second year in a row, the president's Medicare board of trustees has stated that under current spending projections, Medicare will be bankrupt in 7 short years.

There is no disputing this inescapable fact, and we are taking the lead to prevent that from happening with our budget.

We have committed ourselves to preventing that from happening by slowing down the rate of growth in Medicare, not by cutting it.

Medicare spending is actually going to increase by over $740 billion over the next 7 years.

Only in Washington, DC, can an increase in spending for a program still be considered a cut.

The dilemma this Congress faces tomorrow will set the tone for the future of this great Nation for many, many years to come.

We have arrived at a crossroads, and we must rise to this historical occasion armed with a vision for the well-being of our future generations whose hopes to realize the American dream are in the balance.

A vote against the majority's budget tomorrow will signify failure to uphold our responsibility to the millions of Americans who sent us here to get Washington out of their wallets.

Many millions of Americans are depending on us tomorrow to do the right thing to prevent their future from heading down the wrong road of massive debt.

We must not fail to deliver the American people a sound future.

We must pass our budget tomorrow.

EFFECTS OF THE PROPOSED BUDGET ON TAXES AND MEDICARE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 60 minutes as the designee of the majority leader.

Mr. GUTKNECHT. Mr. Chairman, I have listened and I assume most of the Members have listened today to the debate. I have found it particularly interesting, and I would like to share some of my time with the gentleman from Michigan [Mr. HOEKSTRA] tonight.

I would like to also share with the Members and those who may be watching at home, and I hope this is not an ethical violation because I get no residuals from this book, but this is a book that I read during the district work period that was written by my predecessor, Tim Penny. I commend it to all of the Members, and other people who are interested in the budget debate that is going on, because I think it is very instructive. He has an awful lot to say. I would like to share some of those things with the body tonight.

First of all, Mr. Speaker, after listening to some of the debate earlier today, I just wanted to talk a little bit, too, about one of the things we have heard so much about in the last 2 or 3 days, and that is the tax cuts for the wealthy.

I'm not particularly good in math, and I do not serve on the Committee on Ways and Means. I did serve on the Committee on Ways and Means when I was in the State legislature back in Minnesota, so I have a little bit of understanding.

However, based on what I do understand about the tax cuts that we passed earlier this year, about 75 percent, about three-quarters of the benefits of the family tax credit, will go to families earning $75,000 a year or less. Perhaps in some places of this great Nation people earning $75,000 are considered rich, but I do not think in most places families earning $75,000 and less are necessarily considered rich.

Another part of that tax cut proposal that I think is important that will ultimately lead to economic growth is the cut in the capital gains tax rate. Representing an awful lot of farmers and small businesses in my district, I think I do understand something about capital gains taxes. As a matter of fact, one of the things I really understand is that 44 percent of the people who get stuck with a capital gains tax are rich for one day during their life, the day they sell their farm or sell their business.

I do not think, back where I come from in Minnesota, when a farmer who has worked hard all of his life and sells his farm, does he really consider himself rich? Obviously, in economic terms, in real dollar terms, many people would say that when you sell a farm for half a million dollars or whatever the particular price of that farm, you would say that they are rich, but these are people who have worked hard, who have lived poor all of their lives, who have made their payments, who have paid their taxes, and all of a sudden, because on one particular day they sell an asset, they get stuck with a capital gains tax.

I think if people will think about that in those kinds of terms, I think they will look at this whole thing and say "Wait a second, we are not talking about tax cuts for the rich."

Second, I wanted to talk a little bit about Medicare tonight, because I think there has also been a good deal of misunderstanding and disinformation spread about what we are doing with Medicare. It has been alluded to earlier today, but I would call attention to the Members and folks around the country to an article that appeared, I believe, in today's Investors' Business Daily. In that, there is a quotation that just literally jumps off the page.

It says:

> Today, Medicaid and Medicare are going up at 3 times the rate of inflation. We propose to let it go up at 2 times the rate of inflation. That is not a Medicare or Medicaid cut. So when you hear all this business about cuts, let me caution you that this is not what is going on. We are going to have to increase Medicare and Medicaid at a reduced rate of growth.

Now, I did not say that, NEWT GINGRICH did not say that. That came from Bill Clinton. I think that is what we are doing. We are not talking about cutting Medicare, we are talking about reducing the rate of growth.

Mr. Speaker, I also served back in Minnesota on the Health and Human Services Committee in the State legislature. I remember just 2 years ago when we were talking about health care and how much health care costs were going up, everyone predicted that we were going to see double-digit increases in the cost of health care for the next 5 or 6 years.

In the private sector, and I visited during the district work period with a number of health care providers, with representatives of some of the biggest insurance companies and HMO's in the State of Minnesota, they assured me that what is happening in the private sector, because of some of the changes and reforms that are going on with more managed care and preferred provider networks, we are seeing health care costs virtually at or below the inflation rate. We are seeing health care costs going up at less than 3 percent in the State of Minnesota.

Using the mathematics that we have heard about today and the last several days, we could assume that some of the health care providers in the State of Minnesota could be saying "Compared to what we thought health care was going to go up, we are seeing a 7 to 8 percent cut, because we thought health care costs were going to go up by 10 percent, but because of market-based reforms that are happening without the Clinton health care reform plan, without a whole lot of Government intervention, we are seeing health care inflation rates going down by about one-third or less of what they were expected to be." So using the arithmetic and some of the rhetoric we have heard today, I think we could say that we have seen dramatic cuts in health care in Minnesota.

Somehow, providers, hospitals and others, are adjusting to this new system. My sense is that if we allow some real reform in health care, in the Medicare system, that we can easily live within the guidelines that have been proposed by the House Committee on the Budget.

I just want to say that by just assuming that this is going to go up by 10½ percent per year, if we assumed it was going to go up 16 percent per year, then obviously you could say that this is a 12-percent cut, or some other number. However, the truth of the matter is that we know that health care costs can be controlled by the private sector, because it is happening.

With that, Mr. Speaker, I will yield to the gentleman from Michigan [Mr. HOEKSTRA], who has some remarks perhaps to share with us.

Mr. HOEKSTRA. Perhaps we can get into a little bit of a dialog, because I think it is very instructive to understand what we are talking about with Medicare, Mr. Speaker, and also when we take a look at what we do with the rest of the budget. If we take a look at and listen to much of the rhetoric that has gone on during this 6 to 7 hours of debate that we had today, you would think that we were dramatically cutting the budget.

In reality, the standard that we are setting for the Federal Government to get to a balanced budget, you know, I came out of the private sector, and this is my third year here. The aggressive posture that we are going to take to get to a balanced budget is something that the private sector would look at and they would basically laugh at. They would say "This is an aggressive plan to get to a balanced budget under the dire circumstances that you are under right now? You have a $4.7 trillion debt. A child born this year, in their lifetime, if we do not change how we spend and tax, would have to pay what, $187,000 as their share of interest in the debt, and you are going to slow the growth of Federal Government to 3 percent per year?"

During the break I had an opportunity to go to a number of companies in my district. I listened to what they had done. You gave some examples about what they had done to control health care costs. I looked, and they explained to me what they had done to control product costs. There was a company in my district that, through participative management, employee involvement, creative thinking, new technology, new thinking about new ways to do things, for 12 years they have not had a price increase on their product, so they now are exporting around the world, because they have been able to control costs, not at a rate equal to inflation, but at a rate 3 or 4 percent below inflation, reducing costs every year, reducing actual costs.

There was another company in my district that made an electronic component. In the early 80's they were making it for $44. The Japanese came in and said "We have taken a look at this part and we can build it for $13." The company got together, they got together with the management and the employees, and today they are building it for less than what the Japanese quoted to them in the early 1980's, so they took a $44 part and they are now building it for less than $12.

Here we are in Washington, the only thing, the thing we are going to do is slow the growth to 3 percent. I really believe that much of what has been applied in the private sector can and should be applied to Washington, and that what we are looking at doing to balance the budget is not that unreasonable and is very, very doable.

I think we can do it like we did it with the Contract With America. The Contract With America said "We are going to do this within 100 days," and we did it within 93. I think if we energize Federal employees, build a partnership with State and local governments, build a partnership with people at the local level, and come together on this budget issue, we can improve performance, we can deliver a better solution to the American people, and we can balance the budget, and we can balance it quicker than 7 years if we focus and recognize that it has to be done.

□ 2130

Mr. GUTKNECHT. The private sector is a great example, and I have had the same story told to me around the district where people found themselves under competitive pressure. They have found a way to increase productivity or do something to reduce their costs. It has happened in big business and small business.

I have one particularly fairly large business in my district that was facing very competitive measures and in a difficult situation, and they went in and it was not easy but they found ways to produce their products at a much lower cost today than they had 3 or 4 years ago.

Incidentally, that same company has found ways to cut their health care costs. Now that has meant that, you know, perhaps there are fewer visits to the doctor, it may means some other things, it may mean managed care in some respects. I am not sure what all they have done, but the point is necessity is the mother of invention. That is the way the free enterprise system worked.

The problem in Washington is the solution to every problem seems to be more money, and the only way we can get control of the problem is with more money. But the truth of the matter is I think the American people are saying if we are talking about this program or that or another program that enough is enough; you have enough tax revenue, you are going to have to figure out how to make this thing work. And I think if we work together I think we can.

Mr. HOEKSTRA. If the gentleman will yield, we are really talking about the future of America. We are talking about security for seniors and we are talking about opportunities for our kids.

You know Alan Greenspan came in and said here was his vision of the benefits of balancing the budget: Children will have a higher standard of living than their parents, part of the American dream; there will be improvements in the purchasing power of everybody's incomes; there will be a rise in productivity, a reduction in inflation, strengthening of financial markets, acceleration of long-term economic growth, and a significant drop in long-term interest rates. This is going to benefit everybody in this country, just getting back to a basis where we have fiscal soundness, good fiscal policy, get to a balanced budget, and I think one of the goals and objectives which we had, which we put into the budget resolution during the debate in the Budget Committee is saying as we move to a balanced budget we cannot forget the fact that when we get to a balanced budget we need to develop a surplus, because balancing the budget is not good enough. We need to make the next step, which is developing a surplus and putting a plan in place to actually pay down the debt. The old American saying is what, we used to pay off the mortgage and give our children the farm. If Congress keeps going the way that it had been going, what we were going to do was sell the farm and give our kids the mortgage.

We are now, tomorrow, we are going to start that historic process that we are going to go through the next 6 months. We are going to put in a balanced budget plan for 7 years which is going to guide the authorizing and the appropriations committees so that by the end of this year we will have put a plan in place in May, and for the next 6 months we will manage our fiscal resources to hit that plan.

Mr. GUTKNECHT. The interesting thing to me, and you alluded to it, I was home this weekend and talked to some constituents and tried to explain essentially what the outline of the budget plan was going to be, and the people that I talked to said, you mean that is all there is. As a matter of fact, a few of them said we expected real cuts. We expected you to really cut programs and what you are talking about does not sound like the kind of cuts that we were expecting. As a matter of fact, I think my own sense is that the American people, at least out there in the great Midwest, are fully prepared for more, to shoulder more of the responsibility in terms of some of these reductions in spending than I think this budget is proposing. As a matter of fact, some I think may actually see this budget resolution as a bit too timid.

Mr. HOEKSTRA. Maybe too timid, but I think they will look at the policies in place and ask how are we changing decisionmaking here in Washington, moving more decisionmaking back to empowering the individuals. What is the $500-per-child tax credit? It is just a basic recognition that a family and parents are a better place to make decisions on how to spend that $500 than sending that money to Washington.

We are returning power and control to the States and localities, bringing decisionmaking back close to the problems, fine tuning the solutions for the specific problems within the graphic area.

My district is nine counties, it is a medium-sized district, but the problems in the southern part of the district or characteristics of the southern part of the district are very, very different than the northern part of the district. But what we are finding today is the decisions are all made here in Washington for a number of programs, whether it is school lunch, whether it is public housing, the decisions are made here in Washington. What we are trying to do is move decisions locally. We want to move a Federal bureaucrat from being between a child and a school lunch, let that decision be made at the local or State level. We want to move the Federal bureaucrat in Washington away from being the connecting point between a tenant and a landlord. Why is a Federal bureaucrat trying to make those arrangements? Same thing, we are proposing eliminating the Commerce Department. Why do we need a Federal bureaucrat in Washington being between a customer and a potential vendor? It does not make any sense. That is not a good use of our resource, so we are moving power back to States and localities. We are at the same time discarding needless bureaucracies, eliminating duplication and waste.

One area where we really are cutting, where the number is actually going to be less, it is a true cut, it is a cut as defined in the rest of America, and here in Washington now it also means a cut, is the foreign aid. That will be I think an absolute reduction of somewhere in the neighborhood of 30 or 35 percent.

We are reducing corporate subsidies. We are going after just about every area of the budget, except Social Security. We are promoting personal responsibility. The end result is we are all coming together in a plan to save the future and save the future for our kids.

Mr. GUTKNECHT. I went through a sales training program many years ago. I did not sell insurance, but it was actually designed for insurance salesmen, and I never forget the story they used to use, some of the salesmen used to use where they would bring with them a marble, it was a marble, a Ping-Pong ball, a baseball, and a bowling ball and they would tell potential customers, you know, if you buy your insurance now it will be like carrying around this marble. You can put it in your pocket and you will barely know it is there. But if you wait another 10 years and buy that insurance, it is going to be like carrying that ping-pong ball, and if you wait 10 years after that it is going to be more like carrying that baseball, and it gets real difficult to carry it around in your pocket. But if you wait until you are about ready for retirement, its going to be like carrying around that bowling ball. That is what we are talking in the Federal budget. The sooner we get started in solving the problem, the less pain in terms of solution. If we wait another 5 years, I think everybody knows, the American people know if we wait another 5 years, whether we are talking about Medicare or impending bankruptcy or whether we are talking about the growing national debt, if we wait another 5 years the problem is going to be just that much more difficult to solve, and so rather than having to carry around a ping-pong ball in your pockets we are going to have a bowling ball, and the weight of that ball is going to be hung around the necks of our children.

Mr. HOEKSTRA. We know what the statistics are. We know within 7 years Medicare will be bankrupt. We know if we do not change our spending priorities that by the year 2012 all the revenues we collect in taxes will be used to pay for two things: entitlements, and that thing that returns so much value to the country, interest on the debt. I mean that is just money that is gone away. You know, in 2012 we could be talking about student loans; there will not be any money for them. We can talk about building highways; there will not be any money. We talk about national defense; there will not be any money, unless, what? We ask the American people to share more of their income with us. What is it, the generational accounting which came out in the President's budget a year ago said if we continue at taxing and spending or spending at this rate, the next generation could see an effective tax rate of 84 percent. Which means that for young people going out and working, for anybody going out and working, 84 cents would come to Washington or, yes, and you would get to keep 16 cents of it for yourself, which means Tax Freedom Day would move to somewhere in November.

Mr. GUTKNECHT. Thanksgiving.

Mr. HOEKSTRA. At least we would have something else to be very thankful for, that we only had to work until Thanksgiving to pay the Government their share to keep the Government running and we could then work from Thanksgiving to the first of the year.

We need to be moving in the other direction of getting to the balanced budgets and paying the debt down.

Mr. GUTKNECHT. I was going to share one of the stories I tell a lot of folks. When I graduated, most people do not remember who the speaker was at their commencement address when they graduated from college, I do not remember his name, but I remember who it was and what he talked about that day. It was the director of the United States Census, and I graduated from college, I was 22 years old, graduated in 1973. I was born in 1951. And he said something interesting talking about demographics, and I think it is very important, I think the American people need to understand this. I was born in 1951, and he told us that day at our graduation that there were more kids born in 1951 than any other single year. He said, "You are the peak of the baby boomers, and that is going to be important as you go through your life, whether people are selling insurance or encyclopedias or automobiles," and you can see that reflected in the advertising. But I think we need to think about this as well. Those baby boomers are going to start retiring at about the year 2011 or 2012, and I think the American people need to be reminded that if we have a problem now with Medicare, if Medicare is on the verge of bankruptcy now, and will be insolvent by the year 2002, imagine, the people we are dealing with here are people who were born essentially during World War II, and the birth rate during World War II was incredibly low. Imagine what is going to happen to us when the baby boomers start to retire in the year 2010 and 2011, and that is why it is critical in my opinion we have real Medicare reform and begin the process this year. I think if we do we can guarantee Medicare will be there for baby boomers and beyond. If we do not, I think it is pretty certain it will not be. I think there is growing concern among people my age that the sins of our fathers are now being visited upon us and will ultimately be visited upon our children.

Mr. HOEKSTRA. The demographics do not work in your favor, but I think as we talk about reforming Medicare we are talking about putting in place a number of policies and practices that have already worked and are working in the private sector.

Medicare basically has not been reformed or enhanced or modified or had any creative thinking applied to it for the last the 20 to 25 years, and we are still allowing spending per beneficiary, spending per person receiving Medicare is going to increase by somewhere between 33 to 40 percent depending upon what State you are in, but on average we are spending $4,800 per person in 1995. We are allowing within this budget to be spending up to $6,400 on average per person by the year 2002. That gives us a lot of leeway to examine what is going on in the private sector, to reform and enhance Medicare to take a look at the discrepancies by State.

I think one of the speakers today made the comparison about what you spend per person on Medicare in Minnesota, which has a fabulous health care system, and compare it I think it was somewhere in the neighborhood of $3,000, going up to something like $5,000 compared to the expenditures in Connecticut, which was like $5,000 going up to somewhere near $6,000 to $7,000, and saying you know we can take a look and what we need to be doing is taking a look at the different programs in different States and say what are the dynamics in this State that are driving costs to this level and to be very efficient and effective, and there are some things in these areas that we can learn and transfer to the high-cost States because like I said, Minnesota, my area, I think we are at about two-thirds of the national average for many of the health care costs.

Ms. DELAURO. Mr. Speaker, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Speaker, representing Connecticut, I just wanted to correct the numbers that you just talked about with regard to Connecticut. There are over 503,906 Medicare enrollees in Connecticut, and in fact what would be the case is that they would pay $1,167 more in the year 2002 alone, and $3,885 more over the next 7 years. Overall, just so that the record will show, the State of Connecticut would lose $1.2 billion in Medicare funding in 2002 alone and $4.1 billion over 7 years.

So I just wanted to present that in terms of the record on this issue. I thank the gentleman.

Mr. GUTKNECHT. Reclaiming my time, and I think the gentleman over here said at the end of 7 years the program goes bankrupt, then we will not pay any benefits at all if we do not make any changes. I think that is the issue we are talking about, and all of this is built on assumptions. If you assume there can be no changes in all of this, this assumes there can be no changes in the way the Medicare system is managed.

Ms. DELAURO. You know, there is.

Mr. GUTKNECHT. Reclaiming my time, we assumed in the State of Minnesota a couple years ago that health care costs were going to continue to go up at double-digit inflation rates. Without any significant reform in the Federal level we have demonstrated that that was not necessarily the case.

□ 2145

That is the issue. The system can be reformed. Medicare, in my opinion, is the worst of all worlds. What you have is a fee-for-service system that cranks down fees. We have cost controls in a fee-for-service system. That is a prescription for disaster. That is why you see the Medicare system going up as fast as it is going without any changes.

I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. The fallacy of everything they are talking about is the fact they go out to the year 2002. Where they have all the figures they run up. The whole system collapses, and people end up with nothing, or, and this is what we suspect is really the agenda of the other side, they come back to the employers and the employees, and they say the whole system is collapsing, we now have to ante up. That is a 125-percent increase on both employers and employees at that point and a 300-percent increase in copayments for the beneficiary in order to maintain the system they now say we ought not touch, there ought not to be any change.

They are willing to risk bankruptcy of the Medicare system. That is what they have said all day long on the floor, that bankruptcy is an option, because they keep talking about figures that drive the system into bankruptcy.

I think most Americans looking at it think that bankrupting the Medicare system in order to serve political purposes is a tragedy. It just makes no sense whatsoever.

Mr. BONIOR. Mr. Speaker, will the gentleman yield.

Mr. GUTKNECHT. I yield to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. I thank my colleague for yielding.

I would just like to ask the gentleman from Pennsylvania, who on the floor, you just alleged that someone on this floor on our side of the aisle made a statement that we were for bankrupting Medicare. Who did that?

Mr. WALKER. If the gentleman will yield.

Mr. BONIOR. That is an outrageous statement. No one on this side of the aisle made that statement.

Mr. WALKER. You did not listen very carefully. What I said was all of the assumptions that were used on the floor today were predicated on the fact we only had to worry about the system out until 2002, and that all the figures you used that you call cuts in Medicare are, in fact, cuts off of a baseline that drives the system into bankruptcy, and so, therefore, my point is that the assumption that you are raising is that we can continue to spend at the present rates, which we know all know, according to the trustees' report, drives the system into bankruptcy, and so my point is that virtually your entire argument on your side today was predicated on the fact you are willing to allow the system to go bankrupt.

Mr. BONIOR. If the gentleman will yield on that point, I would like to respond.

Mr. GUTKNECHT. Let me respond. Let me just say again, we did not make this up. We did not write the report. And we read today in the paper this quote: "Today Medicaid and Medicare are going up at 3 times the rate of inflation." That is absolutely true. We propose to let it go up at 2 times the rate of inflation. That is not Medicare or Medicaid cut.

So, when you hear all of this about cuts, let me caution you that this is not what is going on. I did not say that. We did not say that. Although we are saying that that is what President Clinton said just last year. And so all of this scare-mongering that is going on over the Medicare issue, we believe, and I think you would agree, that this system can be reformed, we can control costs if we put the right incentives. It is happening in the private sector today. That is what this debate is about, and I think what the gentleman from Pennsylvania [Mr. WALKER] is saying, is some people are saying it cannot be reformed, it must be allowed to continue to grow at exponential rates and that ultimately it will just go bankrupt, and then we will figure out how to do something different.

But if we make the changes this year, we can avoid bankruptcy. We can protect, we can preserve, in fact, we believe you can improve the Medicare system, provide better care to the senior citizens, keep the system solvent and really have a system we can all be proud of. It is happening today in the private sector, and those who say it cannot happen in Medicaid and Medicare I think are arguing against the facts that are happening every day out in the private sector.

I yield to the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. I thank the gentleman for yielding.

What we have been doing for the last number of months, actually what we started doing in 1993, we came forward with a budget alternative, major conflict within our conference, but we said we wanted to stand for a budget alternative and we wanted to have a document out there that said that is who we are and what we stand for, and we presented a very credible alternative budget.

We did the same thing in 1994. And what both of those budgets did is they prepared us to be able to lead in 1995 to present a credible budget, to present a solid plan to get us to a balanced budget by the year 2002, to save the future for our kids, and we have a President who, running for election, promised that he would be driving toward a balanced budget, and we started the budget debate in the Committee on the Budget in 1995. What did we see, we saw more of the same, continuing $200 billion deficits, no plan to save Medicare, no plan to drive down the deficit. As a matter of fact, we saw exploding deficits as you went out 5, 6, and 7 years.

So what we have done is we have put together, we have put down on paper, we are out here saying we have a plan. Remember when people used to say, "Why don't those guys stand for anything?" For 3 years we have demonstrated, and now we are going to have the opportunity to drive a plan that does exactly what we have been talking about: Tax relief for families, a balanced budget. We do go through; you know, we eliminate three Cabinet departments. We eliminate the Energy Department, we eliminate the Commerce Department, we eliminated Education, areas where we do not think the Federal Government has a primary role in setting policy. We eliminate 284 programs.

In many cases, right now, and in the Economic and Educational Opportunities Committee, I think is a great example, we are going through a process right now where we have something like 153 different job training programs. Take a look at this from a consumer standpoint. You are an American citizen out there, and you are taking a look and saying, "I need some help to acquire new skills," recognizing that jobs are changing, technology is changing, "I need some help." You look at this, and you say, "Whoa, where do I go? There are 153 different programs? What little box do I fit into? Am I a displaced worker? Am I a senior? Am I somebody right out of school? Where is a box?" That does not work.

What we are doing is we are consolidating that back down into four block grants. The money goes back to the States so that for west Michigan they can design a training program in conjunction with the industry and the people in west Michigan and the local colleges to put together a program that works for west Michigan. They can go to Detroit, which has different problems, very different opportunities. They can develop a program for Detroit. They can build off of successes in Detroit. They can go to Minnesota, and the Governor there can put together a program.

What we have done is we have basically eliminated, you know, again we are eliminating that bureaucrat in Washington that is standing between an individual and that person's need to get new skills, to make them more employable in higher paying jobs.

Mr. GUTKNECHT. So much of what we have seen in the development of the bureaucratic welfare state and all the Federal programs, I think they all started with good intentions, the problem is they are all built on the basic premise the Federal Government knows best. I think what we are really seeing is the dabate between those people who believe the Federal Government is too big, spends too much, is too bureaucratic, has too many rules, and those who believe the status quo has to be defended.

What we have said from the very beginnning, and I think the American people said last November the status quo should not live there anymore, it is time for some real changed and to shake up Washington, and to that end, that is what we are going.

I want to just remind Members of some campaign promises a few years ago. One was to end welfare as we know it. The second was to balance the budget within 5 years. And the third was to provide a tax cut for the middle class.

You know, it has been amazing to me the harsh tone of some of the rhetoric around here over the last several weeks, because in many respects what we are really trying to do is to help President Clinton keep some of those campaign promises, because that is essentially what we are trying to do. And, frankly, we would expect a little more cooperation from 1600 Pennsylvania Avenue than we have had, because when you look at our program, it basically is to end welfare as we know it, to balance the budget. I personally would like to do it in 5 years. I am willing to live with 7. I plan to vote for the Neumann budget. I think it can be done, and to provide tax cuts for the middle class. We want to keep the economy going. We want to provide more hope, growth and opportunity in the private sector. Those are the things we really want.

I yield maybe for some last comments to the gentleman from Michigan [Mr. HOEKSTRA], and then we will finish up and give the other folks a chance at this.

Mr. HOEKSTRA. I think, you know, in summary, you said exactly what the key building blocks of what our plan are, much of which were outlined in the 1992 election campaign, where at one time they were part of President Clinton's agenda, tax relief, reforming welfare, and balancing the budget, three components of this plan.

The reason they are so important is what we talked about earlier. This is the type of plan that really puts America back on the right road. I mean it is going to mean 7 hard years of work just doing this plan. It does not mean we have implemented it. We now are going to have to hold our feet to the fire to actually go through and make the tough decisions each and every year to stick to this plan, but it is a wonderful start.

I think for you as a freshman, the first budget proposal that you are going to have an opportunity not only to vote on but the first one that you are going to have an opportunity to pass, because I do believe we will pass it tomorrow, I mean I think tomorrow will be a historic day where we actually now lay out that plan. We vote on it, and we will pass it, and we will pass it in a bipartisan way.

We are laying the long-term foundation for the contract with our children, saying this is the America that we want to leave you, one that is fiscally sound, one that will be on a road to balancing the budget and one that will also then enable us to start the discussion about how we are going to pay down the debt.

We are going to cut spending. We are returning power to families. We are protecting Social Security. We are preserving and protecting and improving Medicare, and the most important thing, not only do we have the right vision for what we want to accomplish, I believe that tomorrow and actually what we have done for the first 4½ months of this year, we have a vision for America, and now we are also providing the leadership to actually implement it.

We need much more than vision. I think, you know, we were talking about 1992. Anybody can have a vision. What you have to have is you have to have the courage and the demonstrated leadership and the capability to lead to make that vision a reality.

So now we are reaching for that vision. We are putting that vision in place for a balanced budget, for more economic opportunity, for a better future for our kids, and as we start moving there, we can actually start expanding our vision for even more improvement in America and a better future, so that I think that is a great way to start, and we could not have done it without 73 new freshmen here to join us, and thank you very much for all that you have contributed to help make these first 5 months such a historic opportunity not only for the House of Representatives but for all of America.

I thank the gentleman for yielding.

Mr. GUTKNECHT. I thank the gentleman from Michigan [Mr. HOEKSTRA].

I want to close with a few quotes, some of them from this book, which, as I say, I read during the district work period, and I found it very insightful and instructive.

I know that some of the Members around here will read this, and there are some things in it that are brutally honest, particularly by Washington standards, about the culture of Washington and some of the things that have happened, and part of the reason we have some of the problems in Washington we do have.

But let me just read one of the quotes that he opens chapter 3 with, and it is from Thomas Jefferson. He said:

> I, however, place the economy among the first and most important Republican virtues, and public debt as the greatest of the dangers to be feared, and to preserve their independence, we must not let our rulers load us with perpetual debt. We must make our election between economy and liberty or profusion and servitude.

I think Jefferson said it so well, and then Tim Penny goes on and begins his chapter with these sentences, and I think it really got to me. He said:

> This republic is entering its 219th year, and remains the most admired and copied form of government in the world. For 192 of 219 of those years, this government shared something that no longer exists, an ethic of frugality.

I think that is what we are really trying to put back in this government, an ethic of frugality.

If you few look at the back of the book, on the back page there is a quotation I paraphrase only slightly, from former Senator Paul Tsongas, from the State of Massachusetts, and I love this. He says, "When the inevitable consequences of massive debt are visited upon our children, they will ask us why and how it was allowed to happen. There will be no good reason to the why."

But I think the Members in this body will know how.

The Chinese philosopher, Lao Tsu, said, "The journey of a thousand leagues begins with a single step".

Tomorrow, as my colleague said, we have an opportunity, in fact I think we have an obligation to take the first giant step toward balancing this massive Federal budget and bringing this debt into line.

□ 2200

I think we owe it to ourselves, we owe it to our fellow citizens, but most importantly I think we owe it to our children and grandchildren. I think it is time for a little common sense here in Washington. I think it is time for us to begin the process of living up to our obligation, and I think it is time for us to balance the budget. I think the American people are way out in front of us, I think they expect no less, and I think tomorrow we will make good on that pledge and we will begin that process.

THE BUDGET VERSUS OUR SENIORS

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, I am delighted to be joined this evening by some very good friends, and we are going to talk about this budget, and we are going to talk about the Medicare system. I am joined by the gentlewoman from California [Ms. PELOSI], the gentlewoman from Connecticut [Ms. DELAURO], and the gentleman from Vermont [Mr. SANDERS].

Mr. Speaker, let me just answer—I want to answer my friends from the other side of the aisle when they were speaking, and I have the opportunity to do so now. They talked about the issue of the Medicare trust fund and about its bankruptcy. It should be duly noted that less than 2 months ago, on this very floor, every single Republican voted for a tax bill that took $87 billion out of that same Medicare trust fund in order to pay, in order to pay, for a tax break for the wealthiest people in our society, and that is what happened.

Now it is rather disturbing to hear them say that they are going to fix this. They were not for the Medicare program in 1965. They have not been for fixing it or doing anything about it since. In fact, the gentleman from Texas [Mr. ARMEY] and the gentleman from Georgia [Mr. GINGRICH], their leaders, have said repeatedly on occasions, recent occasions, that they wanted to change the nature of the system, and, by golly, they certainly are.

Let me, if I could, switch gears a little bit and talk about the people who are affected here.

Mr. Speaker, it was 50 years ago this week that America defeated Nazi Germany in World War II, and all over American and all over Europe we celebrated that day by remembering the brave men and women on both the battlefront and on the home front who led this country to victory.

As my colleagues know, looking at pictures of our parents and grandparents taken back then, they were so young, and they were so full of life, it is hard to believe that they would ever grow old. But they have.

The generation that beat Hitler, that built our economy, that raised our families, are now America's senior citizens, and today many of them are living on fixed incomes. Their Social Security check is the only thing that many older Americans have each month to pay their rent, to pay their heating bill, to pay for their food, and medicine and their doctor bills. For most of them it is not easy. They have to struggle to make ends meet.

But today, instead of trying to make it a little easier for them, to help them through a very difficult time in their life, the Republicans in the Congress are trying to make living very hard for them.

Mr. Speaker, as I said a little earlier, this comes down to one very, very basic and simple question: "Do you think we should cut Medicare, Medicaid, and Social Security in order to pay for tax cuts for the very privileged few?" In the next few days we are going to see a lot of charts and numbers on this floor, and we saw them today, but this debate is not just about numbers. It is about people, it is about people, people like this lady right here, Margaret Lesley, who I have a picture of.

Margaret is a proud senior citizen and a dear friend of mine who lives in my district. Fifty-one years ago she was known to her friends as Maggie the Riveter, and she was young, she answered the call of this country. She helped build the B–29's that helped the Allies win the Second World War.

Like most of her generation, Mr. Speaker, today Margaret lives on Social Security. After paying for her rent, and her medicine, and her Medicare premium, and her medigap premium, she is left at the end of the month with $130, and with that she has to pay for her food, her heat, the bills that she has, or perhaps some little extra that she desires, and she struggles mightily to make ends meet.

But instead of trying to make Margaret's life a little easier, this Republican budget is going to make it a heck of a lot harder. The budget before us today will take $240 out of Maragaret's Social Security check, and over the next 7 years it will take $3,500 out of her pocket to pay for Medicare, and then the last year that money will amount to over a thousand dollars.

Now they are not doing that to balance the budget or to cut the deficit. The Republicans are cutting Medicare for Margaret for one reason and one reason only, and that is to pay for tax breaks for the wealthiest people in our society and the wealthiest corporations in America.

Now something they did not show you on the other side of the aisle, but I will. It is a piece that was in the Wall Street Journal after we passed the tax bill. The Wall Street Journal said, and I quote, "The tax bill could mean a windfall for the well off," and then it goes on. "It could turn out to be the biggest tax savings bonanza in years for upper-income Americans." Boy, you bet it could turn out to be the biggest income savings because indeed that is exactly what is happening. And if you are a wealthy corporation, you do not have to pay any taxes at all.

The last time the Republicans were in power, in the early 1980's, if you looked at the 250 largest corporations in America, 130 of them paid no taxes for at least 1 year; in the early 1980's, no taxes at all. It was such an outrage that the people in this Chamber, Republicans and Democrats, even President Reagan, decided we would change it we would change it so they pay at least a minimum, and it became law. And now in the bill that we passed less than 2 months ago the Republicans have repealed the law, and now major corporations all over this country, the largest ones, will get away without paying any taxes at all, and you know who is going to have to pick up the rest.

Now did the Republicans target the 200 billion we dole out in corporate tax breaks ever year? We dole out over $200 billion in tax loopholes to the largest corporations in America. You want examples? A 4.3 billion every year in agricultural irrigation subsidies to the largest corporate farmers in America; 1.2 billion a year in mining subsidies to the mining companies for royalties on public lands. And it is endless. Do they do anything about that? No, they did not touch it, did not touch it. The gentleman from Texas [Mr. ARCHER], the chairman of the Committee on Ways and Means, would not have anything to do with it.

Now did the Republicans target the billionaires who give up their U.S. citizenship in order to avoid paying taxes? I know that sounds like who would do that? We have people who have done it, who have avoided paying taxes by giving up their U.S. citizenships, and they are very wealthy people, and the drain on the Treasury for those people over 10 years is about $3.6 billion I ask, "Can you imagine giving up your citizenship in order to avoid paying taxes?"

The country in which Margaret and others defended, these businesses, with the hard work of men and women in this country, provided for these millionaires and billionaires, and all of a sudden they do not want to make their fair share.

The Republicans could have gotten rid of that, and they said no. They argued and protected these people, except for five of them. Five Republicans said this is outrageous. The rest, 225 of them, stood up and said, "we're for you. No, indeed we will not touch your tax break." Instead they are targeting senior citizens like Margaret.

And just do not take my word for it. The New York Times revealed the contents of a secret memo that the Republicans circulated, and in that memo, under the Republican plan Medicare deductibles will double, premiums will go up to 50 percent, copayments will increase, care will be rationed, and the choice of doctors will be limited.

We just heard the gentleman from the Republican side of the aisle a few minutes ago talking about changing the Medicare system. What he was alluding to was this memo; what he was alluding to is, if you want to keep your own doctor that you have confidence in, it is going to probably cost you an extra $2,000 to $3,000 a year because you are going to have to pay an extra premium above the extra premium that they are going to charge you for that privilege.

Now, Mr. Speaker, my colleagues, this is not going to just affect senior citizens. How is the average working family going to pay for the cost of caring for their parents and grandparents? And I would tell my colleagues, "Don't come to the floor and tell us you're trying to save the Medicare system. As Margaret Lesley says, Republicans haven't cared about Medicare for 30 years, and we're not about to believe you now, and she was absolutely right, absolutely right."

I should tell Margaret the other bad news here and all the seniors in America. It is that there is a cut in your Social Security in their budget. Yes, it is going to cost Margaret hundreds, if not thousands, of dollars by the end of the decade because of what they will do to her cost of living.

Mr. Speaker, this debate is not just about numbers. It is about basic dignity. People like Margaret Lesley stood by this country in time of peace, and they stood by it in time of war, and it is important for us to stand by them today. That is a sacred promise that we made to Medicare, and it is time that we lived up to the promise. But this budget has broken that promise, and at the end of the day senior citizens and working families throughout this country will be asking one basic question, one question: Why are Republicans cutting Medicare, and cutting Medicaid, and cutting Social Security in order to give a tax break to the wealthiest people in our society?

We are talking about 1.1 million people in the United States that will be getting a $20,000 tax cut. These are people who make over $230,000 a year. That is the amount of money basically that the tax cut provides for these people that they are using to cut Medicare.

That is what this is all about, this debate. It is the shifting of the wealth of the country away from our seniors, away from middle working class families and shifting it all the way up to the top.

I say to my colleagues, people wonder why can't I make it? Since 1979, since 1979, 98 percent of all income growth in the U.S. has gone to the top 20 percent of the people. Ninety-eight percent; that means 80 percent are standing still or they are going down in their purchasing power. This budget assaults that proposition is a way that I haven't seen in my years in public life, and it seems to me that, as Members of this body who care about this program, and care about our elderly people, and care about people like Margaret who went on line when the country called in the 1940's, that it is time for us to stand up for them today.

Mr. Speaker, I would be delighted to engage my friends and colleagues and get their views on this. I know the gentlewoman from California [Ms. PELOSI] has also a similar experience, and I would yield to her for any comments she might have now.

□ 2215

Ms. PELOSI. I thank the gentleman for yielding and for his very important statement on what this budget debate is about. I think it is important to return to your point about the cut in Social Security, because while the cuts in Medicare are clear and obvious, it is also important for seniors to understand that with the increased copayment that they are going to have to pay and other out-of-pocket expenses, their Social Security benefits and any cost of living adjustment in their Social Security benefits will be eaten up by the increase in the Medicare out-of-pocket they will have to pay.

As you know, Mr. Whip, the Urban Institute projects that about 21 percent of seniors' income is spent on health care.

Mr. BONIOR. The highest of any group, as I understand it.

Mr. PELOSI. In our State of California, it is even higher. That is hard to believe, but it is. So seniors living on fixed incomes, with this being a big part of their budget and the highest of any Americans, what they have to pay for health care, the very idea that someone can say we are not touching Social Security, it is just like saying I am not going to touch your food budget, I am just going to double your rent. Where do you end up at the end of the day?

I think the point that you make about the impact on Social Security and the disposable income that seniors would have is a very important one for our seniors to know. Not only is this an attack on Medicare, but it is a backdoor attack on Social Security.

Mr. BONIOR. And they promised us they were not going to touch Social Security. They promised us that. Here they are on the floor attacking Social Security, attacking the COLAs of people who depend upon it. These are people who need medicine, who cannot get medicine because we do not have a prescription drug program in this country, who need long-term care and home health care, and we cannot get a decent proposal to add on to the Medicare system to deal with those particular problems.

They were successful, I regret to say, in deep-sixing some of the decent proposals we had for elderly with regard to providing them with prescription drug care, so they do not have to make the terrible choice between the medicine they need or the food or heat they need in their homes. They were responsible for making the terrible choice that these folks have now with regard to their long-term care and their home health care, that choice put before them, either that or not providing for their relatives, by killing basically health care last year.

Now they are back at it again. After the election they are here. Not only have they taken an assault on the seniors of this country by deep-sixing any health care reform, now they come here and they want to go after not only Medicare, but, as the gentlewoman from California states, Social Security.

I yield to my friend from Connecticut.

Ms. DELAURO. I think your point at the outset of your remarks bears repeating, which is that these are folks who for the last several days have been talking about saving the Medicare system, when they have not really cared much about the Medicare system at all. Just a few weeks ago, as you pointed out, they took $87 billion out of the trust fund over a 10-year period of time, without blinking an eye. They did not want to debate it, did not talk about it.

This was their crown jewel, their whole tax cut and their tax break plan. And now they are here trying to pull another fast one on the American public. And I think that they worked hard today on this floor to hoodwink the American people, and people that I represent, and they are here in this photograph with us tonight on this floor and here earlier today, Julius and Dottie, who are people who have served this Nation, and our Republican colleagues are trying to fool these folks into thinking they are not cutting their Medicare payments, and then backdoor them with their Social Security payments.

The fact is, the facts just speak for themselves. The article that you referred to, and they do not want to admit it, our Republican colleagues do not want to admit it, from the New York Times, which says they there are confidential documents from the House Committee on the Budget tht show that the Republicans are recommending changes that would increase the deductibles, that would increase premiums. The deductible increase would go from $100 to $150 in 1996, and more every single year after that, because that would rise with inflation. But what they do not want to do is to have the benefits rise with inflation. They refuse to do that, but the costs will rise with inflation.

Mr. BONIOR. How about the premiums? What are the premium rates?

Ms. DELAURO. The premiums will go up nearly double. They will go to $84 in the year 2002, and that means seniors will pay $456 more a year than they do today. It is really incredible. In Connecticut, in my state, you will see that the enrollees, Medicare enrollees, will pay an additional $1,167 every year, and, over 7 years, $3,800. They also put on, and I would just ask my colleagues to comment on this, a 20 percent sick tax on home health care and on laboratory tests. I do not know about you, but lots of the seniors that I know go for substantial laboratory tests. Certainly the Ruskins do. Julian and Dottie go for lots of laboratory tests. Imagine what that means in terms of having to have a 20 percent tax put on them for those tests.

The other point that our colleagues do not want to mention is the whole issue of choice and choice of doctors.

Mr. BONIOR. That is a big, big issue. I mean, how many of us here have relatives and parents who really depend upon a certain doctor for their services. And under this plan that the Republicans have, they are moving people into health maintenance organizations, managed care, HMO's, where you will not have a choice. And they may preserve a choice in the bill, but you are going to have to pay an extra, and I forgot what the memo said, but I think it is a substantial amount of money. We are talking an additional $1 or $2 thousand just in order to have that choice, I think.

So it really stretches what in fact these folks can indeed bear.

I yield to my friend from Vermont to join in on this, if he cares to.

Mr. SANDERS. Thank you very much. I did not bring any photographs of Vermonters with me, but I can tell you that I have attended many meetings at senior citizen centers throughout the State of Vermont, and I can tell you right now, and many people who are not senior citizens do not understand, oh, if somebody has Medicare, they have everything they need. No problem. They are fully covered. But you understand that with Medicare, people are paying sizeable premiums. Often they have to take out what is called Medigap insurance in addition to that. And despite that, Medicare does not cover prescription drugs.

So right now in the State of Vermont, many, many people say, "I have to make a choice between heating my home in the wintertime, it gets very cold in Vermont in the wintertime, or coming up with the money to pay my prescription drugs."

Now what will happen to those people if they are forced to pay larger premiums or more out-of-pocket expenses? God only knows, but it will certainly be a very terrible day for them.

I think the main point that I would like to make in this discussion, and you have already made the point, is that we all recognize that this country has a serious deficit and a serious national debt. Our Republican friends have not told us, however, how giving huge tax breaks to the wealthiest people in this country is going to move us forward toward balancing the budget.

What we are talking about is a tax bill in which half of the tax breaks go to people making $100,000 a year or more. Further, 25 percent of the tax breaks go to people making $200,000 a year or more, and the wealthiest 1 percent get more in tax breaks than the bottom 60 percent.

Mr. BONIOR. That is a staggering statistic. I think it bears repeating again, the last one.

Mr. SANDERS. Let's repeat it again. At a time when the rich are getting richer, when the middle class is shrinking, and poverty is increasing, the wealthiest 1 percent get more in tax breaks than do the bottom 60 percent.

There is another point that needs to be made, and I do not think it was covered very well this afternoon. And that is we should ask ourselves how did we get into the position of having a $4.7 trillion national debt? How did it happen? I think everybody in this room understands that in the 1980's the national debt took off. It went from $1 trillion to over $4 trillion.

What our friends in the Republican Party forgot to mention is that between 1981 and 1992, the wealthiest 1 percent of the population received $1.5 trillion in tax breaks. Let me say it again. Between 1981 and 1992, the wealthiest 1 percent of the population received $1.5 trillion in tax breaks. Between those tax breaks, between increased military spending, the country in fact ran up a large national debt.

It seems to me that the way you solve the problem is not to give more tax breaks to the people who are primarily responsible for causing the national debt in the first place, and it seems to me to be grossly unfair to be going after the working people and the low income people whose incomes have significantly declined over the last 18 years. So this continues the Robin Hood proposal in reverse. We take from working people and low income people and we give to the rich. I think that is the essence of what this proposal is about.

Ms. PELOSI. If the gentleman will yield on that point, it is very interesting to hear this debate, because as you say, it is very familiar. Increase defense spending, give tax breaks to the wealthiest Americans, and the benefits will trickle down. And here we are again, as Yogi Berra would say, it is deja vu all over again. What is interesting about it, and it is a real tribute to President Clinton, is this is the first year, the 1995 fiscal year budget we are in now, is the first time since the 1960's that we have a budget that has an operating surplus. President Clinton has saved $50 billion.

In other words, the revenues coming in are $50 billion more than what is being spent by the Federal Government, except we have to pay for the trickle-down economics of the eighties, a $240 to $250 billion interest on the national debt. So we consequently have a $190 to $200 billion deficit this year.

But President Clinton is the first President since the sixties to have a budget that takes in more money than it spends except for that interest. I think that is important to note, because our colleagues on the other side of the aisle in the Republican majority keep saying what is President Clinton doing. President Clinton is moving toward reducing the national deficit and the national debt.

Mr. BONIOR. When the President took office, the annual deficit was about $360 billion. After we passed our budget bill during the first term, the historic vote we had on this floor, that debt, annual debt, has been decreasing to the point of $165 billion. That is a $200 billion difference. We are on a glide path to getting there. But you cannot give tax breaks to the wealthiest people in our society, and ask people like Margaret and people from Connecticut and the lovely lady that you have next to you there.

Ms. PELOSI. Enola Maxwell.

Mr. BONIOR. From San Francisco. Why do not you tell us about her.

□ 2230

Ms. PELOSI. I talked earlier about her on the floor debate. This is Enola Maxwell. She is 75 years old. For 20 years she has been the executive director of the Petrillo Hill, serving meals to senior citizens, meeting the needs of inner city youths and helping with community services in that way.

Enola had a heart attack recently, and I read her statement earlier about what a comfort Medicare was in every possible way, the confidence that her benefits would be there.

She asked the question: "Why would the Republicans want to give a tax break to the wealthiest Americans and America's corporations, and have that tax break be paid for by reducing the Medicare benefits to America's senior citizens? That is breaking a promise to America's citizens."

Further to that point, I think it is important to focus on what it is they are proposing. In their restructuring options, they are talking about restructuring the traditional fee-for-service plan. The option lists 35 recommendations, which include increasing beneficiaries' out of pocket expenses, copayments, premiums, deductibles, and cutting payments to providers, hospitals, and doctors.

It is interesting on that point, because their own Members, the gentleman from Kentucky, JIM BUNNING on the Committee on Ways and Means, has said "Of course I think everybody, if they tell the truth, realizes we cannot keep cutting the reimbursement for doctors and hospitals without destroying the quality of health care. The savings aren't real anyway. The costs are just shifted out of the Government's budget into the private sector."

Then, in addition to that, their other options include "replace the current benefits with a voucher." Listen to this one. "Instead of receiving approved services, as needed, seniors would receive a fixed voucher amount to purchase their health insurance. Federal costs are limited by the amount of the voucher, although a catastrophic cap of $10,000 per beneficiary is recommended." Imagine that.

Mr. BONIOR. You can eat $10,000 up in a very, very short time.

Ms. PELOSI. Anyone who has been to the hospital knows that. Then they say "expand managed care options currently available. Increase beneficiaries' out of pocket." Increasing beneficiaries out of pocket is in every option, so people have to know that.

"In nonmanaged care settings, limit providers' benefits and enforce spending limits." AARP has said that seniors are being asked to: "Seniors are being asked to pay a 50 percent increase in Medicare part B." That was not AARP. AARP was saying that the Republican budget will mean an increase of $3,000 over the next 7 years for a Medicare beneficiary, $3,000 over the next 7 years. Where are these people going to get it, and why? To give a tax break to the corporations and the wealthiest Americans.

Mr. BONIOR. I yield to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. That is what I find so disingenuous about the arguments the Republicans have made all day today on the floor of the House. They talk about that there is—they talk about Medicare increasing, and that these out of pocket costs we are making up. Their plan does not keep up with inflation. It does not allow for increased enrollment in the program.

It is a very similar argument, if you will recall, that they made on the school lunch issue, where they said that they were going up 4½ percent, but in fact the program increases 6½ percent, so, by just very basic subtraction, you have a 2-percent shortfall.

It is their same argument here, but what in fact it is, and it is the height of hypocrisy, to claim that they are not making the cut. We have all listened to them on the floor of this House. They have argued over and over again, and you mentioned, my colleague, the gentlewoman from California, mentioned the defense budget. They have talked about the defense budget over and over again, that it is being cut, when you treat defense in the same way, in the very, very same way.

When the defense budget goes up, but not enough to keep up with the cost of a weapons system, the Republicans call it "a cut," over and over and over again. That is why they have called for an increase in this budget for defense. When the defense budget goes up, but not enough to maintain the same troop levels that we have, the Republicans call it a cut. Why is it that now, in this debate, when Medicare spending does not keep up with inflation, and it does not keep up with the health care costs, or the increase in enrollment, do they say this is not a cut? It is hypocrisy and it is disingenuous, and we have to keep getting this message out to the American public.

Mr. BONIOR. Because these people are not their constituencies.

Ms. DELAURO. That is right.

Mr. SANDERS. We have touched on the fact that these cuts will be devastating for Medicare recipients, they will be devastating for Medicaid recipients, they will be devastating for Social Security recipients.

Let us also mention, especially those of us from the cold weather States, that they propose to eliminate, cut completely, the fuel assistance program, LIHEAP, of which 40 percent of the recipients of senior citizens. That means in the State of Vermont or in the State of Michigan, when the weather gets pretty cold and we have low-income senior citizens who need help to pay their fuel bills, it is gone. What happens to those people?

We should also point out that such wonderful programs as RSVP are eliminated. The Foster Grandparent Program is eliminated. Also, we should understand that at a time when everybody in America understands that this Nation needs to be competitive in the global market, that we need to have the best educated work force in the world, major, major cuts in education.

What a stupid approach, cutting your nose off to spite your face. Among other things, what this Republican proposal does is cut student loans by $33 billion. In the State of Vermont right now we have thousands of families, and I have had hearings on this, people are working 50 or 60 hours a week to send their kids to college. The cost of college is going off the wall.

If we cut back on those student loans, there will be hundreds of thousands of young people all over America who will never have the opportunity to go to college. To do this in order to give tax breaks to the wealthiest people in America is very wrong.

Mr. BONIOR. Just on the student loan point, because I do not want to leave that without, I think, adding my own concerns here, all of us, I think, the gentlewoman from California [Ms. PELOSI], the gentlewoman from Connecticut [Ms. DELAURO], and myself, we have had hearings and forums in our districts where we have brought students in to talk to them. You are absolutely right, they being stretched because of the higher cost of tuition and housing. Fewer and fewer are going to college today because of that.

Along come the Republicans, and what do they want to do? They want to cut out student loan programs in this country. Basically, what they are basically doing away with is the interest subsidy program that we have, that if you take student loan out, you do not have to pay back until 6 months after you graduate. You do not have to pay on the interest. They are saying you have to start paying from the moment you take the loan out, and what that does is it adds to the debt load of these people, and it will cost them an additional, in my State, over $4,000 a year, and in some States over $5,000—excuse me, not a year, $4,000 over the value of the loan, $4,000 extra dollars. That is going to discourage literally millions of kids from going on.

Ms. PELOSI. If the gentleman will yield on that point, Ms. Maxwell works with inner city youth, that is just on this point, and some of us got together, Ms. DELAURO, the women Members of Congress, and we had a press conference last week right before Mother's Day on this very point, Medicare and student loans, saying that his was the anti-family Mother's Day gift of the Republicans to America's mothers, because if you are in your forties and fifties, and many of us in this body are, and many of the people in America are, you are worried about the health of your parents and you are worried about the education of your children, so these two issues are such anti-family initiatives on the part of Republicans, sandwiching in——

Mr. BONIOR. Squeezing people.

Ms. PELOSI. Squeezing middle-aged and middle-income people who certainly want their children to be interested, and now they cannot get the deferred interest, so it makes their options less desirable, and at the same time, being worried about trying to help their parents meet their health care needs. The whole thing is antifamily. That is what is so tragic about it all, because the Medicare issue is not about seniors only, it is about the whole family.

Mr. SANDERS. If the gentleman will yield, when we are talking about education, we are not just talking about student loans. Let us be clear about that. We are talking about massive cutbacks in virtually every Federal educational program: Goals 2000, the trio program, Title I, school-to-work, student incentive grants, Head Start. Is there any debate that Head Start has been enormously successful in allowing low-income kids to do better in school, to stay in school, to get a shot at life?

Mr. BONIOR. No debate at all, none at all. It has been hailed for its value.

Mr. SANDERS. Major cuts there, and cuts in the safe- and drug-free schools. Here you have schools all over America and in the State of Vermont working extremely hard to keep kids off of drugs, to keep kids in schools. These programs are working. They are going to be cut. What a wonderful idea to give up on these kids, let them turn to drugs, and then we spend tens of thousands of dollars keeping them in jail.

Mr. BONIOR. They are doing all of this, school-to-work, drug-free schools, student loans, and all the other programs that you talked about, Goals 2000, and they are doing that, they are cutting these programs, in order to give a tax cut to the wealthiest people in America, a tax break to those people who are making incredible amounts of money. We are talking about $200,000 a year.

Mr. SANDERS. If the gentleman will yield, here is another cut, and it really refers to his original statement, where he talked about a woman who, during World War II, worked in the assembly lines in order to defeat Hitler.

During World War II we had millions of men and women who not only worked in the assembly lines, they were fighting all over the world against fascism. This budget makes significant cuts in veterans' programs. The bill passed by the House Committee on the Budget would, over a 7-year period, reduce veterans' programs by $8.3 billion. The Senate Committee on the Budget, in fact, would reduce veterans' benefits by $15.1 billion.

Among other cuts would be an increase in the prescription drug copayment from $2 to $8. The House bill would also reduce the COLA on veterans' compensation. It would also eliminate the Veterans' Employment Program under the Job Partnership Training Act; the disabled outreach program. Boy, we are getting really tough.

Mr. BONIOR. The real tragedy of all this is that people are probably saying "We have to get control over this deficit. What are you going to do?" The problem is, they are doing this in order to provide tax cuts for the wealthiest people in our society, and they do not touch any of the corporate welfare.

There is over $225 billion worth of corporate welfare in our Federal budget. They leave it alone. They leave it alone. They do not touch it. Instead, they go after veterans, they go after education programs, they go after Margaret's Social Security and her Medicare.

Ms. DELAURO. We are talking about veterans and Medicare and veterans' programs, and I just want to make reference, I have talked about Julius and Dorothy Ruskin from West Haven, Connecticut, earlier today. I think what we are all doing when we talk about the people who are our constituents, and people who are our friends, as well, people that we know—these people are not just names, they are folks that we know—that they exemplify what is at stake in the whole debate here.

Let me just say that these are two wonderful people, Julius and Dottie. They have given a lifetime of service to this country. Just on the veterans' issue, and I say this to my colleague from Vermont, Julius was an anti-aircraft gunner on Iwo Jima during World War II. He received the Bronze Star for his service.

These two wonderful people met each other in New Haven shortly after he came back from the war, and then they were married 5 months later. Dottie worked as a bookkeeper all of her life. Julius worked for 26 years in the Pirelli and the Armstrong Tire Company; once again, wherever it was needed in our Nation's service to deal with that industry.

I will tell you what Julius has said, and I quote him, "These are not the golden years." They are dealing with taking Medicare, Social Security, veterans' benefits from these folks. It is unfair. These should be the golden years for Maggie and for Enola and for the Ruskins, but that is not the case.

I worry about, and I know that my colleagues here worry about that. Retirement today is often not golden at all. I think I remember my mother saying one time, she is 81 years old and relies on Social Security and on Medicare, that "These are not the golden years but the lead years," and I think this is what our colleagues on the other side of the aisle have tried to do to folks that we represent here tonight.

Mr. BONIOR. The argument they are making is, they are doing it for their kids and grandkids so we can get this budget deficit in order. What they do not tell you is, they are doing it for the wealthiest people in our society, giving them a tax break. They are doing it for the largest corporations and multinational corporations by making sure they do not pay taxes. They are doing it for large corporations by making sure they do not touch any of the tax loopholes or tax expenditures that are out there for them.

The thing that I think drives me to despair more than anything else is the fact, as my friend, the gentleman from Vermont, has just said, they have cut out—they have cut their nose off in front of themselves in terms of what is good for the country. It is the investment in our kids and in their education. It is the best thing we have done.

When Margaret and her peers and Julius and his peers came home from that war, this Congress provided them with the G.I. Bill of Rights. It was one of the best investments this Nation has ever seen. People got an education, they grew intellectually and they grew financially as the country grew through the fifties and sixties. Here we are in this budget, cutting back on that opportunity for young people in order to pay for tax cuts for the very wealthiest people and the largest multinational corporations.

□ 2245

Ms. PELOSI. If the gentleman will yield on that last point, because I think the arguments that our colleagues make about children and their futures, of course we are all interested in children, but it would ring a little truer if they were not putting forth a $300 billion tax break for the wealthiest Americans and the corporations. It is exactly the amount of money they have to cut out of Medicare to pay for that, and they had choices.

As you know, there was a debate in their caucus about whether the tax break should go up to $95,000 a year or to $200,000 a year, the tax break, $500 tax break per child, and it went all the way up to $200,000 a year tax break at the same time giving a tax break and cutting education for our children who need a boost.

But in addition to that, and the gentleman referred to this and I want to emphasize it again, the Wall Street Journal the other day said:

> Estimates vary on exactly how much the government gives up in revenue as a result of corporate tax breaks. But most budget experts say it exceeds $200 billion over 5 years. The House Budget Committee went as far as targeting a specific list of $25 billion in tax breaks over 7 years, but the plan collapsed last week after it was denounced by the chairman of the Ways and Means committee.

So, again they had another opportunity to make a little cut, almost a 10- or 11-percent cut in those tax breaks, and they rejected it again, instead choosing to cut benefits rather than tax breaks.

Mr. SANDERS. If the gentleman will yield, the gentlewoman from California points out that at a time when the wealthiest people and the largest corporations receive far more welfare than do the poor in terms of tax breaks and subsidies, when that corporate welfare is well documented they did not have the guts to go after those people, but they do have the guts to go after the children, after the homeless, after the elderly, after the veterans.

There is another area that has not gotten a whole lot of discussion.

Mr. BONIOR. There is a reason for that and I think we should talk about it.

Mr. SANDERS. Let us talk about it.

Mr. BONIOR. Because some of the people that we are talking about here today and some of the kids we are talking about do not have the high-powered lawyers and the lobbyists to represent them. The corporations do, the wealthiest people in this country do.

Special interests have had a dramatic impact on this debate and what is in this budget and if you ever doubted it, just look at the tax breaks and who they go to, just look at how they ignored the tax expenditures and loopholes for the wealthiest corporations in America and in the world, and just see what they did to our veterans, to our seniors, and to our kids.

Ms. DeLAURO. If the gentleman will yield, I think it is worth repeating just how outrageous it was what happened here a month ago with the repealing of the alternate minimum tax. And my colleagues from Michigan mentioned that. That was the tax put in by Ronald Reagan saying to the richest corporations in this Nation you have an obligation to pay taxes to this Nation. No one was complaining about that tax. Everyone felt it was fair and equitable, and the Republicans repealed it.

It is $16.9 billion over the next 5 years, which says that the richest corporations in this Nation have a zero tax obligation to this country, and it is wrong, and that should not happen because they do have the lobbyists and the special interests that represent them in this body today more than they have at any other time in the history of this Nation.

Mr. BONIOR. And they go after a program like School to Work, and the gentleman mentioned it. Most of our kids do not go on to college, they go to high school and they elect to get out in the work world and make a living, as many as three-quarters of them do. This School to Work Program matches kids in school with the work world and matches the business people who are out there and looking for good employees and puts them in contact with the kids in school, and they develop a bond and a relationship and schedule and work habits and education habits to match what is out in the country. It is a wonderful program modeled after something done in Germany that works very, very well. Everybody is pleased with it, the community I represent is pleased with it, the community college systems are just enthralled with the opportunity to work into that system, and of course the high schools which it affects most are thrilled about the promise this holds. And $60 billion you mentioned for the alternative minimum tax, this is like a drop in the bucket of that amount and they wiped it out.

Mr. SANDERS. If the gentleman will yield, let us recapitulate here: Huge tax breaks for the wealthiest individuals in America, doing away with corporate taxes for some of the largest and most profitable corporations in America, and savage cutbacks for the most vulnerable in this country.

I think unless one is very naive, I think we can understand why these things happen. And they happen for reasons like an event that took place in this city some 3 months ago, and I know my colleagues here remember the event. The Republican Party held a little fund raiser, just a little ordinary dinner that folks came to.

Mr. BONIOR. How much were the tickets?

Mr. SANDERS. I think $1,000 a plate with gratuities included, and they provided an extra cup of coffee for free.

Ms. DELAURO. I believe it was $50,000 a plate.

Mr. SANDERS. That was for another one; that was for the right-wing television network, but this was for poor folks, only $1,000 a plate. And I think at the end of that night they walked away with $11 million.

Now why would the largest corporations in America and the wealthiest people in this country contribute to the party? And they doing it because they believe in the Democratic spirit and they just wanted to get involved? Maybe, but I do not think so. I think that there are very smart people who made an investment. They invested in the Republican Party, and the last several months we have seen why they invested. It is a very good investment to buy a ticket for a thousand bucks at a dinner and find out your corporation does not have to pay anything in taxes, or if you are making $200,000 a year your are going to pay $11,000 less in taxes.

But, interestingly enough, the average working persons did not go to that dinner, and you know what the average working person got? Among many other devastating cuts, the Republican proposal cuts back, eliminates, not cuts back, eliminates unemployment insurance-extended benefits. Many areas all over this country where unemployment is very, very high, we have recessions, things get bad, what the Republicans proposal does is make it impossible for a worker to get unemployment after 13 weeks.

What do you do then? Well, how come they go cut and the rich got tax breaks? Maybe it has something to do that tens of millions of dollars that are now flooding into the Republican Party from some of the wealthiest people in America.

Mr. BONIOR. I thank my colleague.

Ms. PELOSI. I would like to talk about what this means in California in terms of giving these tax breaks to the wealthiest, cutting Medicare benefits to our seniors in California $3.6 million. Medicare beneficiaries will lose in the year 2002 alone, in that year alone $11.8 billion, in that 1 year alone. And between now and then the figure is $37.8 billion over 7 years.

That is devastating. That means they are paying more out of pocket for fewer services. This whole thing is about values. Who do we tax, what do we spend it on? That is the budget debate, and I do not think it is a statement of our country's values, and most people in the country's values to say we would rather give more tax breaks to people who have so much on the backs of our poorest folks.

I want to say something before you yield to Congresswoman DELAURO. She and Congressman DAVID OBEY have been the two champions, and there are others who work with you on protecting LIHEAP funding. ROSA, I do not want to get in ROSA DELAURO's way when somebody goes after LIHEAP. It is important to seniors and people in her State and she has been an incredible champion on that issue.

Ms. DELAURO. We have cold winters in Connecticut; you have them in Michigan and in Vermont.

Mr. BONIOR. We have a wonderful LIHEAP program in Michigan. The utility companies work very hard.

Ms. DELAURO. They do.

Mr. BONIOR. They are pleased with it and it helps literally tens of thousands of low-income seniors who would have no other way to pay their bills.

Ms. DELAURO. I just wanted to make a comment, and this was in the New York Times on May 2, it says let's separate the facts from the political claims and counterclaims.

> As a practical matter the Federal budget cannot be balanced the way the Republicans are talking about in 7 years as the Republicans promised without deep cuts in projected spending for Medicare.

They would like to hide this fact, but it is the case.

Cuts of this magnitude would raise the cost of health insurance to millions of retirees or reduce the services available to them. And a quote from Stanley Colender, director, Federal budget policy at Price Waterhouse, an accounting firm that said, "realistically there is no way to come close to balancing the budget without cutting Medicare, Medicare benefits." Our Republican colleagues are trying to hide the fact that they are cutting benefits for tax breaks. No one has suggested that there are not reforms to be made in Medicare, and we can do that. We can deal with the fraud in the system and we can do some other things, but they cut first and reform second.

I tell you, take a look at it and listen to what they are talking about, what has happened to our priorities in this country when the majority in this body is putting the whole issue of the corporate tax interests, those loopholes, those breaks ahead of the care and the health care needs of the people that we have talked about tonight and the people that we represent, people like Julius and Dottie Ruskin. I think that is the basic argument, what the Republicans have done, and they do not want to own up to it.

Mr. BONIOR. Somebody on this floor, I think it was DICK DURBIN who gave an eloquent speech this afternoon and he talked about a constituent who was I believe 72 years old and who gave so much to this country, and his work and his service to this country in time of war, and basically DICK was saying that this is really an American hero, and I think we would all agree this evening the four people we have talked about here specifically are really American heroes. They were there when their country needed them on the homefront as well as the battlefront. They have been pillars of their communities. They are wonderful people, lovely neighbors, and for us to treat them in their twilight years in such a shabby way in this budget I think speaks to what you said, Ms. PELOSI, in our values system. What is our values system? The budget is about our value system that expresses who we are, what we believe in, and what we are willing to stand up and fight for, and we saw today who they are willing to stand and fight for. They have fought for the wealthiest folks in our society at the expense of our veterans, at the expense of these four lovely people and the expense of our many young people who are trying to get an education to make a go of it.

So I thank my colleagues for participating tonight and I yield to them.

Ms. PELOSI. I would like to make one point, because I know the gentleman from Michigan [Mr. BONIOR] has been a leader in fighting for real health care reform in this body. Congresswoman DELAURO said we do have to make some reforms in the Medicare system. That does not mean we lessen the benefits and increase the copayments on the beneficiaries. But we do have to make some change in the delivery and the financing of health care reform. President Clinton had a proposal for real health care reform. We have to have that. That is the way we are going to stop the rising cost of health care entitlements and the impact on the national budget. We all want to be fiscally responsible, reduce the deficit, have Medicare and quality health care for all Americans. But we cannot do that the way the Republicans are proposing. And we want to keep our people healthy.

And just in closing I want to point out one other cut they are making, billions of dollars in cuts in the National Institutes of Health, where we do the breast cancer research, all kinds of prostate cancer research, AIDS research, you name it, any illness that you can name that has gotten attention: Alzheimer's, Parkinson's disease, the rest of it, so in every way that you would measure the health and well-being of a population, they have undermined and attacked in this.

□ 2300

And I hope the American people will respond appropriately.

I thank the gentleman.

Mr. SANDERS. If the gentleman would yield, I just very briefly say this: Today we heard from our Republican friends that they had a mandate. Let us not forget that in the November elections, 62 percent of the people did not vote, did not vote.

We can turn this around. We can win this fight. We can stop these devastating cuts and this transfer of wealth to the upper-income people. We can do it, but we cannot do it with Members of Congress alone. We are going to need the help of millions and millions of American citizens who are fighting hard to maintain their standard of living.

So if you do not think it is right that we give huge tax breaks to the rich and cut back on a zillion programs that affect the children and the old and working people and students, if you think that is wrong, we are going to need your help.

So let us stand up together and let us fight back. Let us get a little justice in America.

Ms. DELAURO. Just one comment. I was struck today by a letter that I was shown by another Michigander, the gentlewoman from Michigan [Ms. RIVERS] our colleague, and she showed me a letter that she received from a senior citizen in her district about the cuts, and it was a very poignant comment that this individual made.

Lynn showed it to me, and she said, "Read this." And the woman said, "Maybe I have lived too long." An indictment of our values and what this Nation and this country is all about when this woman writes and says, "Maybe I have lived too long," because, "you are cutting my Medicare, my Social Security," and we are providing tax breaks for the richest in this country. It was a sad commentary, and I think one that struck me very hard, and I think says a lot about what this debate is about.

Mr. BONIOR. Let me just end with a little story to follow up what BERNIE just said about getting involved.

I am always reminded of that story about Senator BILL BRADLEY, who was at a dinner one evening. The Senator was eating. The waiter came by and put a pat of butter on the bread plate. The Senator turned to the waiter and said, "Can I have two pats of butter, please?" The waiter said, "Sorry, one pat per person." On hearing this, the MC for the evening gets up and walks over to the waiter, and he said, "Maybe you do not know who this is. This is Senator BILL BRADLEY, NBA basketball star, Rhodes Scholar, maybe future President of the United States." The waiter turned to the MC and says, "Well, maybe you don't know who I am." And the MC says, "Well, in fact, I don't know who you are. Who are you?" The waiter said, "I am the guy who controls the butter."

Well, the point is that everybody controls a piece of the butter, a piece of the action, but you have got to make your voices known, and you have got to speak up and you have got to be clear and articulate and passionate about it, because when you are, then people like Margaret and the wonderful people we have talked about today will have the decent break in our society they were promised.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BONO (at the request of Mr. ARMEY) for today, on account of recovery from surgery.

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT) for today, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. PELOSI) to revise and extend their remarks and include extraneous material:)

Mr. STUPAK, for 5 minutes, today.
Mr. LIPINSKI, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mr. DEFAZIO, for 5 minutes, today.
Mr. BECERRA, for 5 minutes, today.
Mr. MONTGOMERY, for 5 minutes, today.

(The following Members (at the request of Mr. SOLOMON) to revise and extend their remarks and include extraneous material:)

Mr. NORWOOD, for 5 minutes, today.
Mr. BROWNBACK, for 5 minutes, today.
Mr. BRYANT of Tennessee, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

The following Members (at the request of Ms. PELOSI) and to include extraneous matter:

Mr. ACKERMAN.
Mr. STARK in two instances.
Mr. NEAL of Massachusetts.
Mr. COLEMAN.
Mr. JOHNSON of South Dakota.
Mrs. KENNELLY.
Mr. SCHUMER.
Mr. LIPINSKI.
Mr. ROSE.
Mrs. MALONEY in three instances.
Mr. STUPAK.
Ms. WATERS.
Mr. LAFALCE.
Mr. KANJORSKI.
Mr. BISHOP.
Ms. SLAUGHTER.
Mr. BONIOR.
Mr. COLEMAN.
Ms. FURSE.
Ms. VELÁZQUEZ.

(The following Members (at the request of Mr. SOLOMON) and to include extraneous matter:)

Mr. PACKARD.
Mr. MARTINI in two instances.
Mr. MOORHEAD.
Mr. SHAW in two instances.
Mrs. CHENOWETH.
Mr. SCHIFF in two instances.
Mr. SMITH of New Jersey.

ADJOURNMENT

Ms. DELAURO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, May 18, 1995, at 9 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized by various committees of the U.S. House of Representatives during the first quarter of 1995 in connection with official foreign travel, pursuant to Public Law 95-384, as well as the 1994 and first and second quarter 1995 reports of various miscellaneous groups, U.S. House of Representatives, concerning foreign currencies expended by them in connection with official foreign travel, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JANUARY 1 AND MARCH 31 1995.

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Thomas Foglietta	2/25	2/27		Haiti	456.00		1,036.95				1,492.95
Committee total					456.00		1,036.95				1,492.95
Surveys and Investigations staff:											
Joseph R. Fogarty	2/25	3/4	Italy		1,244.75		3,443.75			68.36	4,756.86
Michael O. Glynn	1/25	1/28	Cuba		468.13		476.00		46.50		990.63
Terrence E. Hobbs	2/25	3/4	Italy		1,244.75		3,443.75		79.56		4,768.06
Robert H. Pearre	2/17	2/26	Neth. Antilles		1,362.50		1,164.95		61.43		2,588.88
Robert J. Reitwiesner	2/25	3/1	Italy		573.25		2,285.75		59.56		2,918.56
R.W. Vandergrift	1/25	1/27	Cuba		413.50		476.00		8.69		898.19
T.P. Wyman	2/17	2/26	Neth. Antilles		1,350.00		1,071.95		410.96		2,832.91
H.C. Young	2/17	2/26	Neth. Antilles		1,362.50		1,071.95		102.31		2,536.76
Committee total					8,019.38		13,434.10		837.37		22,290.85

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BOB LIVINGSTON,
Chairman, Apr. 25, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JANUARY 1 AND MARCH 31, 1995.

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Douglas Bereuter	3/10	3/11	Haiti		150.00		(3)				150.00
Hon. Corrine Brown	3/10	3/11	Haiti		354.00		(3)				354.00
Hon. James Clyburn	3/10	3/11	Haiti		354.00		(3)				354.00
Hon. John Conyers	3/10	3/11	Haiti		150.00		(3)				150.00
Scott Feeney	2/17	2/20	Panama		328.00						328.00
Commercial airfare							331.95				331.95
Mark Gage	1/11	1/19	Russia		2,350.00						2,350.00
Commercial airfare							3,409.95				3,409.95
Richard Garon	3/10	3/11	Haiti		[4]254.00		(3)				254.00
Hon. Benjamin Gilman	3/10	3/11	Haiti		150.00		(3)				150.00
Hon. Earl Hilliard	3/10	3/11	Haiti		354.00		(3)				354.00
Hon. Maurice Hinchey	3/10	3/11	Haiti		354.00		(3)				354.00
Hon. Peter King	2/25	2/26	Ireland		[4]458.58						458.58
Commercial airfare							750.95				750.95
Willie Lobo	3/10	3/11	Haiti		354.00		(3)				354.00
Hon. Michael McNulty	3/10	3/11	Haiti		354.00		(3)				354.00
Hon. Robert Menendez	2/25	2/26	Ireland		558.00						558.00
Commercial airfare							750.95				750.95
Lester Munson	1/14	1/15	Kenya		1,000.00						1,000.00
	1/16	1/17	Rwanda		0.00						0.00
	1/18	1/18	Kenya		0.00						0.00
	1/19	1/21	Ethiopia		0.00						0.00
Commercial airfare							4,503.45				4,503.45
Roger Noriega	3/10	3/11	Haiti		354.00		(3)				354.00
Hon. Jack Reed	3/10	3/11	Haiti		150.00		(3)				150.00
Philip Remler	1/11	1/19	Russia		[4]2,100.00						2,100.00
Commercial airfare							3,409.95				3,409.95
Daniel Restrepo	2/17	2/20	Panama		328.00						328.00
Commercial airfare							331.95				331.95
	3/10	3/13	Haiti		568.00						568.00
Commercial airfare							326.95				326.95
Maurice Tamargo	1/14	1/15	Kenya		1,637.42						1,637.42
	1/16	1/17	Rwanda		0.00						0.00
	1/18	1/18	Kenya		0.00						0.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JANUARY 1 AND MARCH 31, 1995.—Continued

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
	1/19	1/21	Ethiopia		0.00						0.00
Commercial airfare							4,503.45				4,503.45
Bennie Thompson	3/10	3/11	Haiti		354.00		(3)				354.00
Maxine Waters	3/10	3/11	Haiti		150.00		(3)				150.00
Committee total					13,164.00		18,319.55				31,483.55

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

[4] Denotes refund of unused per diem.

BENJAMIN A. GILMAN,
Chairman, Apr. 28, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON NATIONAL SECURITY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JANUARY 1 AND MARCH 31, 1995.

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Norman Sisisky	2/3	2/5	Germany		492.00						492.00
Hon. Gene Taylor	2/17	2/20	Panama		467.00						467.00
Peter M. Steffes	2/17	2/20	Panama		467.00						467.00
Committee total					1,426.00						1,426.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FLOYD SPENCE,
Chairman, Apr. 24, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JANUARY 1 AND MARCH 31, 1995.

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John Finerty		3/2	United States				3,213.45				3,213.45
	3/3	3/6	Estonia		387.00				316.00		703.00
	3/6	3/7	United Kingdom		251.00						251.00
Janice Helwig		1/10	United States				2,322.85				2,322.85
	1/11	2/13	Austria		6,459.82				65.95		6,525.77
		2/27	United States				2,879.25				2,879.25
	2/28	4/14	Austria		7,571.89				197.29		7,769.18
											[3]854.81
Michael Ochs		1/31	United States				5,536.55				5,536.55
	2/1	2/2	Germany		214.00						214.00
	2/2	2/7	Kyrgyzstan		726.00				200.00		926.00
	2/7	2/9	Kazakhstan		458.99						458.00
Hon. Bill Richardson		3/16	United States				4,797.95				4,797.95
	3/17	3/19	Serbia-Montenegro		300.00						300.00
Dorothy Taft		1/10	United States				1,367.85				1,367.85
	1/11	1/15	Austria		538.00				41.00		579.00
Samuel Wise		1/10	United States				1,367.85				1,367.85
	1/11	1/14	Austria		437.00						437.00
Committee total					17,342.71		21,485.75		1,675.05		40,503.51

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Quarterly shared administrative costs for participation in the U.S. delegation to the OSCE (Vienna, Austria).

CHRISTOPHER SMITH,
Apr. 28, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, BRITISH AMERICAN PARLIAMENTARY GROUP, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JANUARY 1 AND DECEMBER 31, 1994.

Name of member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Tom Lantos	5/5	5/8	Bermuda		737.43		(3)				737.43
Austin Murphy	5/5	5/8	Bermuda		520.28		(3)				520.28
Hon. Sherwood Boehlert	5/5	5/8	Bermuda		719.33		(3)				719.33
Tom Lewis	5/5	5/8	Bermuda		727.88		(3)				727.88
Alex McMillian	5/5	5/8	Bermuda		688.23		(3)				688.23
Sherry Blankenship	5/5	5/8	Bermuda		703.11		(3)				703.11
John Mackey	5/5	5/8	Bermuda		780.86		(3)				780.86
Amy Thompson	5/5	5/8	Bermuda		639.00		(3)				639.30
Peter Abbruzzese	5/5	5/8	Bermuda		688.23		(3)				688.23
Commercial airfair	5/5	5/8	Bermuda		265.00		206.95				471.95
	5/5	5/8	Bermuda		102.20		[4]565.95				668.15

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, BRITISH AMERICAN PARLIAMENTARY GROUP, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JANUARY 1 AND DECEMBER 31, 1994.—Continued

Name of member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Delegation expenses: Representational	5/5	5/8	Bermuda						5,957.84		5,957.84
Committee total					6,571.85		772.90		5,957.84		13,302.59

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Purchased one-way ticket for Mr. Murphy.

LEE H. HAMILTON,
Apr. 28, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, NORTH ATLANTIC ASSEMBLY, DELEGATION TO FRANCE AND BELGIUM, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEBRUARY 17 AND FEBRUARY 22, 1995.

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Doug Bereuter	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Hon. Gerald Solomon	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Hon. Tom Bliley	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Hon. Jan Meyers	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Hon. Floyd Spence	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Hon. Marge Roukema	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Hon. Herb Bateman	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Hon. Paul Gillmor	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Hon. Cardiss Collins	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Hon. Bill Richardson	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Hon. Mike Parker	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Hon. Eliot Engel	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
John Herzberg	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Michael Ennis	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Jo Weber	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Martin Sletzinger	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Ron Lasch	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Marcia Smith	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Linda Pedigo	2/17	2/18	France		834.46						
	2/18	2/22	Belgium		606.00						1,440.46
Committee total					$27,368. 74						$27,368. 74

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DOUG BEREUTER,
Mar. 13, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, NORTH ATLANTIC ASSEMBLY, DELEGATION TO TURKEY AND THE BALTICS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APRIL 8 AND APRIL 15, 1995.

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Doug Bereuter	4/8	4/10	Turkey		350.00						350.00
	4/10	4/11	Macedonia		196.00						196.00
	4/11	4/12	Romania		298.00						298.00
	4/12	4/15	Latvia		756.00						756.00
Hon. Gerald Solomon	4/8	4/10	Turkey		350.00						350.00
	4/10	4/11	Macedonia		196.00						196.00
	4/11	4/12	Romania		298.00						298.00
	4/12	4/15	Latvia		756.00						756.00
Hon. Tom Bliley	4/8	4/10	Turkey		350.00						350.00
	4/10	4/11	Greece		202.00						202.00
Commercial airfare							1,011.15				1,011.15
John Herzberg	4/8	4/10	Turkey		350.00						350.00
	4/10	4/11	Greece		202.00						202.00
Commercial airfare							1,011.15				1,011.15
Michael Ennis	4/9	4/10	Greece		222.00						222.00
	4/10	4/11	Macedonia		206.00						206.00
	4/11	4/12	Romania		298.00						298.00
	4/12	4/15	Latvia		774.00						774.00
Commercial airfare							1,305.70				1,305.70
Kristi Walseth	4/9	4/10	Greece		222.00						222.00
	4/10	4/11	Macedonia		206.00						206.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, NORTH ATLANTIC ASSEMBLY, DELEGATION TO TURKEY AND THE BALTICS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APRIL 8 AND APRIL 15, 1995.—Continued

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
	4/11	4/12	Romania		298.00						298.00
	4/12	4/15	Latvia		774.00						774.00
Commercial airfare							1,305.70				1,305.70
Committee total					7,304,00		4,633.70				11,937.70

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DOUG BEREUTER,
Apr. 26, 1995.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

879. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend the Army National Guard Combat Readiness Reform Act of 1992 and to make certain provisions of such act applicable to the Selected Reserve of the Army, and for other purposes; to the Committee on National Security.

880. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a report on the Corporation's efforts to maximize the efficient utilization of the resources of the private sector, pursuant to 12 U.S.C. 1827; to the Committee on Banking and Financial Services.

881. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Australia (Transmittal No. DTC-23-95), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

882. A letter from the Chairman, Farm Credit System Insurance Corporation, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

883. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

884. A letter from the Chairman, Interstate Commerce Commission, transmitting the Commission's 108th annual report which summarizes its activities during fiscal year 1994, pursuant to Public Law 96-448, section 217(c)(1) (94 Stat. 1925); to the Committee on Transportation and Infrastructure.

885. A letter from the General Counsel of the Department's of the Treasury and Housing and Urban Development, transmitting a draft of proposed legislation entitled, "Federal Home Loan Bank System Restructuring and Modernization Act of 1995"; jointly, to the Committees on Banking and Financial Services and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DREIER: Committee on Rules. House Resolution 151. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes (Rept. 104-126). Referred to the House Calendar.

SUBSEQUENT ACTION ON A REPORTED BILL

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee of the Whole House on the State of the Union discharged, and referred to the Committee on Science for a period ending not later than June 30, 1995, H.R. 1175 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of the Committee on Science pursuant to clause 1(n), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CRANE (for himself and Mr. RANGEL):

H.R. 1654. A bill to renew the Generalized System of Preferences; to the Committee on Ways and Means.

By Mr. COMBEST:

H.R. 1655. A bill to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Ms. FURSE (for herself and Mr. NETHERCUTT):

H.R. 1656. A bill to provide for an increase in funding for the conduct and support of diabetes-related research by the National Institutes of Health; to the Committee on Commerce.

By Mr. GONZALEZ (by request):

H.R. 1657. A bill to restructure and modernize the Federal Home Loan Bank System; to the Committee on Banking and Financial Services.

By Mr. HUNTER:

H.R. 1658. A bill to enhance border security in the vicinity of San Diego, CA, through the construction and improvement of physical barriers at the U.S. border and through the forward deployment of Border Patrol agents to the border; to the Committee on the Judiciary.

By Mr. MOORHEAD (for himself and Mrs. SCHROEDER):

H.R. 1659. A bill to amend title 35, United States Code, to establish the Patent and Trademark Office as a Government corporation, and for other purposes; to the Committee on the Judiciary.

By Mr. NEAL of Massachusetts:

H.R. 1660. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty under the one-time exclusion of gain on the sale of a principal residence by an individual who has attained age 55; to the Committee on Ways and Means.

By Mr. SHAW:

H.R. 1661. A bill to permit partnership and S corporations to elect taxable years other than required years; to the Committee on Ways and Means.

By Mr. SHAW (for himself, Mrs. KENNELLY, Mr. MCCRERY, Mr. NEAL of Massachusetts, Mr. ZIMMER, Mrs. JOHNSON of Connecticut, Mr. GEPHARDT, Mr. GOSS, Mr. MOAKLEY, Mr. HUTCHINSON, Mr. TORKILDSEN, Mrs. MALONEY, Mr. RICHARDSON, Mr. HINCHEY, Mr. CLYBURN, and Mr. NADLER):

H.R. 1662. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Ways and Means.

By Mr. SKEEN (for himself, Mr. SCHAEFER, and Mr. CRAPO):

H.R. 1663. A bill to amend the Waste Isolation Pilot Plant Land Withdrawal Act; to the Committee on Commerce, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H.R. 1664. A bill to provide for demonstration projects to test whether enrollment in the supplemental security income program can be significantly increased by offering nonprofit organizations financial incentives to engage in outreach; to the Committee on Ways and Means.

H.R. 1665. A bill to amend the Social Security Act to provide for findings of presumptive disability under title II of such act in the same manner and to the same extent as is currently applicable under title XVI of such act; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 1666. A bill to amend the act of October 21, 1970, establishing the Sleeping Bear Dunes National Lakeshore to permit certain persons to continue to use and occupy certain areas within the lakeshore, and for other purposes; to the Committee on Resources.

By Mr. CALLAHAN (for himself, Mr. STUMP, Mr. EVERETT, and Mr. TRAFICANT):

H.J. Res. 88. Joint resolution proposing an amendment to the Constitution of the United States to provide that no person born in the United States be a U.S. citizen on account of birth in the United States unless a parent is a U.S. citizen at the time of the birth; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H. Con. Res. 68. Concurrent resolution expressing the sense of the Congress that Federal tax law should be clarified to allow a reasonable charitable tax deduction for the reasonable and necessary expenses of Alaska Native subsistence whaling captains; to the Committee on Ways and Means.

By Mr. TORRES:

H. Res. 152. Resolution expressing the sense of the House of Representatives that the President should develop a strategy to bring the United States back into active and full membership in the United Nations Educational, Scientific, and Cultural Organization; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

83. By the SPEAKER: Memorial of the House of Representatives of the State of Hawaii, relative to an integrated pest management control program to prevent the spread of the Brown Tree Snake; to the Committee on Agriculture.

84. Also, memorial of the House of Representatives of the State of Hawaii, relative to urging the U.S. Department of Agriculture to consider the effect of and exclude the State of Hawaii from Federal legislation that would have a detrimental impact on Hawaii's environment; to the Committee on Agriculture.

85. Also, memorial of the House of Representatives of the State of Hawaii, relative to urging the U.S. Department of Agriculture to exclude Hawaii from any Federal legislation that would create exceptions from the Honeybee Act of 1922, as amended; to the Committee on Agriculture.

86. Also, memorial of the House of Representatives of the State of Hawaii, relative to memorializing the Congress of the United States to propose and submit to the several States an amendment to the Constitution of the United States that would provide that no Federal tax shall be imposed for the period before the date of the enactment of the retroactive tax; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 70: Mr. DORNAN.

H.R. 72: Mr. McCOLLUM, Mr. HASTINGS of Florida, Mrs. THURMAN, and Mr. CANADY.

H.R. 73: Mr. McCOLLUM, Mr. HASTINGS of Florida, Mrs. THURMAN, and Mr. CANADY.

H.R. 89: Mr. KLUG.

H.R. 103: Mr. BONIOR, Mr. NADLER, and Mr. PETERSON of Minnesota.

H.R. 109: Mr. LEWIS of Kentucky, and Mr. HASTINGS of Florida.

H.R. 236: Mr. PAYNE of New Jersey.

H.R. 240: Mr. BEVILL and Mr. STUPAK.

H.R. 333: Mr. LEWIS of Georgia.

H.R. 353: Mr. HASTINGS of Florida and Mr. ROMERO-BARCELO.

H.R. 390: Mr. ANDREWS.

H.R. 399: Mr. VISCLOSKY and Mr. BOUCHER.

H.R. 468: Ms. RIVERS, Mr. STEARNS, and Mr. WATTS of Oklahoma.

H.R. 598: Mr. KANJORSKI, Mr. STOCKMAN, Mr. COBURN, Mr. WELDON of Florida, and Mr. PETERSON of Minnesota.

H.R. 677: Mr. COYNE, Mr. CHRISTENSEN, and Mr. GEJDENSON.

H.R. 682: Mr. HOSTETTLER.

H.R. 733: Ms. ESHOO and Mr. FARR.

H.R. 783: Mr. HASTINGS of Florida and Mr. BUYER.

H.R. 789: Mr. LoBIONDO.

H.R. 892: Mr. STUMP, Mr. ROHRABACHER, Mr. TAYLOR of North Carolina, Mr. HEFLEY, and Mrs. CHENOWETH.

H.R. 950: Mrs. MINK of Hawaii.

H.R. 966: Mrs. KELLY, Mr. FRAZER, Mr. EVANS, and Mr. FRANKS of New Jersey.

H.R. 969: Mr. JACOBS, Mr. MINETA, Mr. MEEHAN, Mrs. MORELLA, and Ms. VELAZQUEZ.

H.R. 972: Mr. CALLAHAN.

H.R. 973: Mr. CALLAHAN.

H.R. 1021: Mr. VISCLOSKY.

H.R. 1023: Mr. CUNNINGHAM and Mr. VISCLOSKY.

H.R. 1090: Mr. QUILLEN and Mr. STEARNS.

H.R. 1104: Mr. BROWNBACK, Mr. SMITH of Michigan, and Mr. CRAPO.

H.R. 1118: Mr. KINGSTON.

H.R. 1119: Mr. CALVERT, Mr. CAMP, and Mrs. MORELLA.

H.R. 1138: Mr. NEAL of Massachusetts and Mr. ENGLISH of Pennsylvania.

H.R. 1229: Ms. ESHOO and Ms. LOWEY.

H.R. 1242: Mr. SHADEGG, Mr. HOKE, Mr. JEFFERSON, and Mr. CRAMER.

H.R. 1272: Ms. LOWEY and Mr. MARTINEZ.

H.R. 1299: Mrs. JOHNSON of Connecticut, Mr. KLECZKA, and Mr. MORAN.

H.R. 1352: Mr. HASTINGS of Washington, Mr. FOLEY, Mr. GORDON, Mr. TAYLOR of North Carolina, Mr. EHLERS, Mr. CASTLE, Mr. UPTON, Mr. CHRYSLER, Ms. KAPTUR, Mr. SISISKY, Mr. NORWOOD, Mr. McDADE, Mr. WOLF, Ms. PRYCE, Mr. JACOBS, and Mr. HAYES.

H.R. 1385: Mr. FILNER.

H.R. 1448: Mr. PETE GEREN of Texas and Mr. MORAN.

H.R. 1540: Mr. HUNTER, Mr. ACKERMAN, Mrs. COLLINS of Illinois, Mrs. MYRICK, Mr. LIPINSKI, Mr. WOLF, Mr. WALSH, and Mr. HOLDEN.

H.R. 1542: Mr. WELLER, Mr. COSTELLO, Mr. POSHARD, and Mr. EVANS.

H.R. 1560: Mr. MARTINEZ and Mr. VISCLOSKY.

H.R. 1578: Mr. HASTINGS of Florida.

H.R. 1594: Mr. LINDER, Mr. ZIMMER, Mr. SHADEGG, Mr. WELDON of Pennsylvania, Mr. ARCHER, Mr. HAYWORTH, and Mr. HANCOCK.

H.R. 1627: Mr. HAYES and Mr. PETERSON of Minnesota.

H. Con. Res. 8: Mr. SAXTON.

H. Con. Res. 12: Ms. DUNN of Washington.

H. Con. Res. 63: Ms. DUNN of Washington and Mr. WELDON of Pennsylvania.

H. Con. Res. 66: Mr. HANCOCK, Mr. FORBES, Mr. CRANE, Mr. FUNDERBURK, Mr. FAWELL, Mr. NORWOOD, and Mr. BURR.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 32: Mr. McNULTY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1561

OFFERED BY: MR. GILMAN

(Committee Amendment in the Nature of a Substitute)

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Overseas Interests Act of 1995".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Consolidation of Foreign Affairs Agencies.

(2) Division B—Foreign Relations Authorizations.

(3) Division C—Foreign Assistance Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—CONSOLIDATION OF FOREIGN AFFAIRS AGENCIES

TITLE I—GENERAL PROVISIONS

Sec. 101. Short title.
Sec. 102. Congressional findings.
Sec. 103. Purposes.
Sec. 104. Definitions.

TITLE II—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

CHAPTER 1—GENERAL PROVISIONS

Sec. 201. Effective date.
Sec. 202. References in title.

CHAPTER 2—ABOLITION OF UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY AND TRANSFER OF FUNCTIONS TO SECRETARY OF STATE

Sec. 211. Abolition of United States Arms Control and Disarmament Agency.
Sec. 212. Transfer of functions to Secretary of State.

CHAPTER 3—REORGANIZATION OF DEPARTMENT OF STATE RELATING TO FUNCTIONS TRANSFERRED UNDER THIS TITLE

Sec. 221. Reorganization plan.
Sec. 222. Coordinator for arms control and disarmament.

CHAPTER 4—CONFORMING AMENDMENTS

Sec. 241. References.
Sec. 242. Repeal of establishment of agency.
Sec. 243. Repeal of positions and offices.
Sec. 244. Transfer of authorities and functions under the Arms Control and Disarmament Act to the Secretary of State.
Sec. 245. Conforming amendments.

TITLE III—UNITED STATES INFORMATION AGENCY

CHAPTER 1—GENERAL PROVISIONS

Sec. 301. Effective date.

CHAPTER 2—ABOLITION OF UNITED STATES INFORMATION AGENCY AND TRANSFER OF FUNCTIONS TO SECRETARY OF STATE

Sec. 311. Abolition of United States Information Agency.
Sec. 312. Transfer of functions to Secretary of State.

CHAPTER 3—REORGANIZATION OF DEPARTMENT OF STATE RELATING TO FUNCTIONS TRANSFERRED UNDER THIS TITLE

Sec. 321. Reorganization plan.
Sec. 322. Principal officers.

CHAPTER 4—CONFORMING AMENDMENTS

Sec. 341. References.
Sec. 342. Abolition of Office of Inspector General of the United States Information Agency and transfer of functions to Office of Inspector General of the Department of State.
Sec. 343. Amendments to title 5.
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DIVISION A—CONSOLIDATION OF FOREIGN AFFAIRS AGENCIES

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE.

This division may be cited as the "Foreign Affairs Agencies Consolidation Act of 1995".

SEC. 102. CONGRESSIONAL FINDINGS.

The Congress makes the following findings:

(1) With the end of the Cold War, the international challenges facing the United States have changed, but the fundamental national interests of the United States have not. The security, economic, and humanitarian interests of the United States require continued American engagement in international affairs. The leading role of the United States in world affairs will be as important in the twenty-first century as it has been in the twentieth.

(2) The United States budget deficit requires that the foreign as well as the domestic programs and activities of the United States be carefully reviewed for potential savings. Wherever possible, foreign programs and activities must be streamlined, managed more efficiently, and adapted to the requirements of the post-Cold War era.

(3) In order to downsize the foreign programs and activities of the United States without jeopardizing United States interests, strong and effective leadership will be required. As the official principally responsible for the conduct of foreign policy, the Secretary of State must have the authority to allocate efficiently the resources within the international affairs budget. As a first step in the downsizing process, the proliferation of foreign affairs agencies that occurred during the Cold War must be reversed, and the functions of these agencies must be restored to the Secretary of State.

(4) A streamlined and reorganized foreign affairs structure under the strengthened leadership of the Secretary of State can more effectively promote the international interests of the United States in the next century than the existing structure.

SEC. 103. PURPOSES.

The purposes of this division are—

(1) to consolidate and reinvent foreign affairs agencies of the United States within the Department of State;

(2) to provide for the reorganization of the Department of State to maximize the efficient use of resources, eliminate redundancy in functions, effect budget savings, and improve the management of the State Department;

(3) to strengthen—

(A) the coordination of United States foreign policy; and

(B) the leading role of the Secretary of State in the formulation and articulation of United States foreign policy; and

(4) to abolish, not later than March 1, 1997, the United States Arms Control and Disarmament Agency, the United States Information Agency, the International Development Cooperation Agency, and the Agency for International Development.

SEC. 104. DEFINITIONS.

The following terms have the following meaning for the purposes of this division:

(1) The term "AID" means the Agency for International Development.

(2) The term "ACDA" means the United States Arms Control and Disarmament Agency.

(3) The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee of Foreign Relations of the Senate.

(4) The term "Department" means the Department of State.

(5) The term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code.

(6) The term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(7) The term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(8) The term "Secretary" means the Secretary of State.

(9) The term "USIA" means the United States Information Agency.

TITLE II—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

CHAPTER 1—GENERAL PROVISIONS

SEC. 201. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title, and the amendments made by this title, shall take effect—

(1) March 1, 1997; or

(2) on such earlier date as the President shall determine to be appropriate and announce by notice published in the Federal Register, which date may be not earlier than 60 calendar days (excluding any day on which either House of Congress is not in session because of an adjournment sine die) after the President has submitted a reorganization plan to the appropriate congressional committees pursuant to section 221.

(b) REORGANIZATION PLAN.—Section 221 shall take effect on the date of enactment of this Act.

SEC. 202. REFERENCES IN TITLE.

Except as specifically provided in this title, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a provision, the reference shall be considered to be made to a provision of the Arms Control and Disarmament Act.

CHAPTER 2—ABOLITION OF UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY AND TRANSFER OF FUNCTIONS TO SECRETARY OF STATE

SEC. 211. ABOLITION OF UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.

The United States Arms Control and Disarmament Agency is abolished.

SEC. 212. TRANSFER OF FUNCTIONS TO SECRETARY OF STATE.

There are transferred to the Secretary of State all functions of the Director of the United States Arms Control and Disarmament Agency and all functions of the United States Arms Control and Disarmament Agency and any officer or component of such agency under any statute, reorganization plan, Executive order, or other provision of law before the effective date of this title, except as otherwise provided in this title.

CHAPTER 3—REORGANIZATION OF DEPARTMENT OF STATE RELATING TO FUNCTIONS TRANSFERRED UNDER THIS TITLE

SEC. 221. REORGANIZATION PLAN.

(a) SUBMISSION OF PLAN.—Not later than March 1, 1996, the President, in consultation with the Secretary and the Director of the Arms Control and Disarmament Agency, shall transmit to the appropriate congressional committees a reorganization plan providing for—

(1) the abolition of the Arms Control and Disarmament Agency in accordance with this title;

(2) the transfer to the Department of State of the functions and personnel of the Arms Control and Disarmament Agency consistent with the provisions of this title; and

(3) the consolidation, reorganization, and streamlining of the Department upon the transfer of functions under this title in order to carry out such functions.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall—

(1) identify the functions of the Arms Control and Disarmament Agency that will be transferred to the Department under the plan;

(2) identify the personnel and positions of the Agency (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred to the Department, separated from service with the Agency, or be eliminated under the plan, and set forth a schedule for such transfers, separations, and terminations;

(3) identify the personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and

detailees) that will be transferred within the Department, separated from service with the Department, or eliminated under the plan, and set forth a schedule for such transfers, separations, and terminations;

(4) specify the consolidations and reorganization of functions of the Department that will be required under the plan in order to permit the Department to carry out the functions transferred to the Department under the plan;

(5) specify the funds available to the Arms Control and Disarmament Agency that will be transferred to the Department as a result of the transfer of functions of the Agency to the Department;

(6) specify the proposed allocations within the Department of unexpended funds transferred in connection with the transfer of functions under the plan; and

(7) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of the Agency in connection with the transfer of the functions of the Agency to the Department.

(c) ASSISTANT SECRETARY POSITIONS.—The plan under subsection (a) shall provide for an appropriate number of Assistant Secretaries of State to carry out the functions transferred to the Department under this title.

SEC. 222. COORDINATOR FOR ARMS CONTROL AND DISARMAMENT.

(a) ESTABLISHMENT OF COORDINATOR FOR ARMS CONTROL AND DISARMAMENT.—Section 1(e) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)) is amended by adding after paragraph (4) the following new paragraph:

"(5) COORDINATOR FOR ARMS CONTROL AND DISARMAMENT.—

"(A) There shall be within the office of the Secretary of State a Coordinator for Arms Control and Disarmament (hereafter in this paragraph referred to as the "Coordinator" who shall be appointed by the President, by and with the advice and consent of the Senate. The Coordinator shall report directly to the Secretary of State.

"(B)(i) The Coordinator shall perform such duties and exercise such power as the Secretary of State shall prescribe.

"(ii) The Coordinator shall be responsible for arms control and disarmament matters. The Coordinator shall head the Bureau of Arms Control and Disarmament.

"(C) The Coordinator shall have the rank and status of Ambassador-at-Large. The Coordinator shall be compensated at the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5314 of title 5, United States Code, or, if the Coordinator is appointed from the Foreign Service, the annual rate of pay which the individual last received under the Foreign Service Schedule, whichever is greater.".

(b) PARTICIPATION IN MEETINGS OF NATIONAL SECURITY COUNCIL.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

"(i) The Coordinator for Arms Control and Disarmament may, in the role of advisor to the National Security Council on arms control and disarmament matters, and subject to the direction of the President, attend and participate in meetings of the National Security Council.".

(c) TRANSITION PROVISION.—The President may appoint the individual serving as Director of the Arms Control and Disarmament Agency on the day before the effective date of this title, or such other officials appointed by and with the advice and consent of the Senate and serving within the Department of State or the Arms Control and Disarmament Agency on the day before the effective date of this title as the President considers appropriate, to serve as the acting Coordinator for Arms Control and Disarmament until an individual is appointed to that office in accordance with section 1(e)(5) of the State Department Basic Authorities Act of 1956, as amended by this Act.

CHAPTER 4—CONFORMING AMENDMENTS

SEC. 241. REFERENCES.

Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Arms Control and Disarmament Agency or any other officer or employee of the United States Arms Control and Disarmament Agency shall be deemed to refer to the Secretary of State; and

(2) the United States Arms Control and Disarmament Agency shall be deemed to refer to the Department of State.

SEC. 242. REPEAL OF ESTABLISHMENT OF AGENCY.

Section 21 of the Arms Control and Disarmament Act (22 U.S.C. 2561; relating to the establishment of the agency) is repealed.

SEC. 243. REPEAL OF POSITIONS AND OFFICES.

The following sections of the Arms Control and Disarmament Act are repealed:

(1) Section 22 (22 U.S.C. 2562; relating to the Director).

(2) Section 23 (22 U.S.C. 2563; relating to the Deputy Director).

(3) Section 24 (22 U.S.C. 2564; relating to Assistant Directors).

(4) Section 25 (22 U.S.C. 2565; relating to bureaus, offices, and divisions).

(5) Section 50 (22 U.S.C 2593; relating to the ACDA Inspector General).

SEC. 244. TRANSFER OF AUTHORITIES AND FUNCTIONS UNDER THE ARMS CONTROL AND DISARMAMENT ACT TO THE SECRETARY OF STATE.

(a) IN GENERAL.—The Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) is amended—

(1) by striking "Agency" each place it appears and inserting "Department"; and

(2) by striking "Director" each place it appears and inserting "Secretary".

(b) PURPOSE.—Section 2 (22 U.S.C. 2551) is repealed.

(c) DEFINITIONS.—Section 3 (22 U.S.C. 2552) is amended by striking paragraph (c) and inserting the following:

"(c) The term 'Department' means the Department of State.

"(d) The term 'Secretary' means the Secretary of State.".

(d) SCIENTIFIC AND POLICY ADVISORY COMMITTEE.—Section 26(b) (22 U.S.C. 2566(b)) is amended by striking ", the Secretary of State, and the Director" and inserting "and the Secretary of State".

(e) PRESIDENTIAL SPECIAL REPRESENTATIVES.—Section 27 (22 U.S.C. 2567) is amended by striking ", acting through the Director".

(f) PROGRAM FOR VISITING SCHOLARS.—Section 28 (22 U.S.C. 2568) is amended—

(1) in the second sentence, by striking "Agency's activities" and inserting "Department's arms control, nonproliferation, and disarmament activities"; and

(2) in the fourth sentence, by striking ", and all former Directors of the Agency".

(g) POLICY FORMULATION.—Section 33(a) (22 U.S.C. 2573(a)) is amended by striking "shall prepare for the President, the Secretary of State," and inserting "shall prepare for the President".

(h) NEGOTIATION MANAGEMENT.—Section 34 (22 U.S.C. 2574) is amended—

(1) in subsection (a), by striking "the President and the Secretary of State" and inserting "the President"; and

(2) by striking subsection (b).

(i) VERIFICATION OF COMPLIANCE.—Section 37(d) (22 U.S.C. 2577(d)) is amended by striking "Director's designee" and inserting "Secretary's designee".

(j) GENERAL AUTHORITY.—Section 41 (22 U.S.C. 2581) is repealed.

(k) SECURITY REQUIREMENTS.—Section 45 (22 U.S.C. 2585) is amended by striking subsections (a), (b), and (d).

(l) USE OF FUNDS.—Section 48 (22 U.S.C. 2588) is repealed.

(m) ANNUAL REPORT.—Section 51(a) (22 U.S.C. 2593a(a)) is amended by striking "the Secretary of State,".

(n) REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS.—Section 53 (22 U.S.C. 2593c) is repealed.

(o) ON-SITE INSPECTION AGENCY.—Section 61 (22 U.S.C. 2595) is amended—

(1) in paragraph (1), by striking "United States Arms Control and Disarmament Agency" and inserting "Department of State"; and

(2) in paragraph (7), by striking "the United States Arms Control and Disarmament Agency and".

SEC. 245. CONFORMING AMENDMENTS.

(a) ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended—

(1) in section 36(b)(1)(D) (22 U.S.C. 2776(b)(1)(D)), by striking "Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and" and inserting "Secretary of State in consultation with";

(2) in section 38(a)(2) (22 U.S.C. 2778(a)(2))—

(A) in the first sentence, by striking "Director of the United States Arms Control and Disarmament Agency, taking into account the Director's" and inserting "Secretary of State, taking into account the Secretary's"; and

(B) in the second sentence, by striking "The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director" and inserting "The Secretary of State is authorized, whenever the Secretary";

(3) in section 42(a) (22 U.S.C. 2791(a))—

(A) in paragraph (1)(C), by striking "Director of the United States Arms Control and Disarmament Agency" and inserting "Secretary of State"; and

(B) in paragraph (2)—

(i) in the first sentence, by striking "Director of the United States Arms Control and Disarmament Agency" and inserting "Secretary of State"; and

(ii) in the second sentence, by striking "Director of the Arms Control and Disarmament Agency is authorized, whenever the Director" and inserting "Secretary of State, whenever the Secretary";

(4) in section 71(a) (22 U.S.C. 2797(a)), by striking ", the Director of the Arms Control and Disarmament Agency," and inserting ", Secretary of State,";

(5) in section 71(b)(1) (22 U.S.C. 2797(b)(1)), by striking "Director of the United States Arms Control and Disarmament Agency" and inserting "Secretary of State";

(6) in section 71(b)(2) (22 U.S.C. 2797(b)(2))—

(A) by striking "Director of the United States Arms Control and Disarmament Agency" and inserting "Secretary of State"; and

(B) by striking ", or the Director";

(7) in section 71(c) (22 U.S.C. 2797(c)), by striking "Director of the United States Arms

Control and Disarmament Agency," and inserting "Secretary of State"; and

(8) in section 73(d) (22 U.S.C. 2797(d)), by striking "Director of the United States Arms Control and Disarmament Agency" and inserting "Secretary of State".

(b) UNITED STATES INSTITUTE OF PEACE ACT.—Section 1706(b) of the United States Institute of Peace Act (22 U.S.C. 4605(b)) is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(3) in paragraph (4) (as redesignated by paragraph (2)), by striking "Eleven" and inserting "Twelve".

(c) THE ATOMIC ENERGY ACT OF 1954.—The Atomic Energy Act of 1954 is amended—

(1) in section 57 b. (42 U.S.C. 2077(b))—

(A) in the first sentence, by striking "the Arms Control and Disarmament Agency,", and

(B) in the second sentence, by striking "the Director of the Arms Control and Disarmament Agency,"; and

(2) in section 123 (42 U.S.C. 2153)—

(A) in subsection a. (in the text after paragraph (9)—

(i) by striking "and in consultation with the Director of the Arms Control and Disarmament Agency ('the Director')", and

(ii) by striking "and the Director" and inserting "and the Secretary of Defense",

(B) in subsection d., in the first proviso, by striking "Director of the Arms Control and Disarmament Agency" and inserting "Secretary of Defense", and

(C) in the first undesignated paragraph following subsection d., by striking "the Arms Control and Disarmament Agency,".

(d) THE NUCLEAR NON-PROLIFERATION ACT OF 1978.—The Nuclear Non-Proliferation Act of 1978 is amended—

(1) in section 4, by striking paragraph (2);

(2) in section 102, by striking "the Secretary of State, and the Director of the Arms Control and Disarmament Agency" and inserting "and the Secretary of State"; and

(3) in section 602(c), by striking "the Arms Control and Disarmament Agency,".

(e) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) in section 5313, by striking "Director of the United States Arms Control and Disarmament Agency.";

(2) in section 5314, by striking "Deputy Director of the United States Arms Control and Disarmament Agency."; and

(3) in section 5315, by striking "Assistant Directors, United States Arms Control and Disarmament Agency (4).".

TITLE III—UNITED STATES INFORMATION AGENCY

CHAPTER 1—GENERAL PROVISIONS

SEC. 301. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title, and the amendments made by this title, shall take effect—

(1) March 1, 1997; or

(2) on such earlier date as the President shall determine to be appropriate and announce by notice published in the Federal Register, which date may be not earlier than 60 calendar days (excluding any day on which either House of Congress is not in session because of an adjournment sine die) after the President has submitted a reorganization plan to the appropriate congressional committees pursuant to section 321.

(b) REORGANIZATION PLAN.—Section 321 shall take effect on the date of enactment of this Act.

CHAPTER 2—ABOLITION OF UNITED STATES INFORMATION AGENCY AND TRANSFER OF FUNCTIONS TO SECRETARY OF STATE

SEC. 311. ABOLITION OF UNITED STATES INFORMATION AGENCY.

The United States Information Agency is abolished.

SEC. 312. TRANSFER OF FUNCTIONS TO SECRETARY OF STATE.

There are transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any officer or component of such agency under any statute, reorganization plan, Executive order, or other provision of law before the effective date of this title, except as otherwise provided in this title.

CHAPTER 3—REORGANIZATION OF DEPARTMENT OF STATE RELATING TO FUNCTIONS TRANSFERRED UNDER THIS TITLE

SEC. 321. REORGANIZATION PLAN.

(a) SUBMISSION OF PLAN.—Not later than March 1, 1996, the President, in consultation with the Secretary and the Director of the United States Information Agency, shall transmit to the appropriate congressional committees a reorganization plan providing for—

(1) the abolition of the United States Information Agency in accordance with this title;

(2) the transfer to the Department of State of the functions and personnel of the United States Information Agency consistent with the provisions of this title; and

(3) the consolidation, reorganization, and streamlining of the Department upon the transfer of functions under this title in order to carry out such functions.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall—

(1) identify the functions of the United States Information Agency that will be transferred to the Department under the plan;

(2) identify the personnel and positions of the Agency (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred to the Department, separated from service with the Agency, or be eliminated under the plan, and set forth a schedule for such transfers, separations, and terminations;

(3) identify the personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred within the Department, separated from service with the Department, or eliminated under the plan, and set forth a schedule for such transfers, separations, and terminations;

(4) specify the consolidations and reorganization of functions of the Department that will be required under the plan in order to permit the Department to carry out the functions transferred to the Department under the plan;

(5) specify the funds available to the United States Information Agency that will be transferred to the Department as a result of the transfer of functions of the Agency to the Department;

(6) specify the proposed allocations within the Department of unexpended funds transferred in connection with the transfer of functions under the plan; and

(7) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of the Agency in connection with the transfer of the functions of the Agency to the Department.

(c) ASSISTANT SECRETARY POSITIONS.—The plan under subsection (a) shall provide for an appropriate number of Assistant Secretaries of State to carry out the functions transferred to the Department under this title.

SEC. 322. PRINCIPAL OFFICERS.

(a) UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.—

(1) ESTABLISHMENT.—Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b) is amended—

(A) by striking "There" and inserting the following:

"(1) IN GENERAL.—There"; and

(B) by adding at the end the following:

"(2) UNDER SECRETARY FOR PUBLIC DIPLOMACY.—There shall be in the Department of State an Under Secretary for Public Diplomacy who shall have responsibility to assist the Secretary and the Deputy Secretary in the formation and implementation of United States public diplomacy policies and activities, including international educational and cultural exchange programs, information, and international broadcasting.".

(2) TRANSITION PROVISION.—The President may appoint the individual serving as Director of the United States Information Agency on the day before the effective date of this title, or such other official appointed by and with the advice and consent of the Senate and serving within the Department of State or the United States Information Agency as the President considers appropriate, to serve as the acting Under Secretary for Public Diplomacy until an individual is appointed to that office in accordance with section (1)(b)(1) of the State Department Basic Authorities Act of 1956, as amended by this Act.

(b) ASSISTANT SECRETARIES.—

(1) ESTABLISHMENT.—Section 1(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)) is amended by adding after paragraph (2) the following:

"(3) ASSISTANT SECRETARY FOR ACADEMIC PROGRAMS AND CULTURAL EXCHANGES.—There shall be in the Department of State an Assistant Secretary for Academic Programs and Cultural Exchanges who shall report to the Under Secretary for Public Diplomacy.

"(4) ASSISTANT SECRETARY FOR INFORMATION, POLICY, AND PROGRAMS.—There shall be in the Department of State an Assistant Secretary for Information, Policy, and Programs who shall report to the Under Secretary for Public Diplomacy.".

(2) TRANSITION PROVISION.—The President may appoint such officials appointed by and with the advice and consent of the Senate and serving within the Department of State or the United States Information Agency as the President considers appropriate to serve as the acting Assistant Secretary for Academic Programs and Cultural Exchanges and to serve as the acting Assistant Secretary for Information, Policy, and Programs until individuals are appointed to those offices in accordance with section 1(c)(1) of the State Department Basic Authorities Act of 1956, as amended by this Act.

CHAPTER 4—CONFORMING AMENDMENTS

SEC. 341. REFERENCES.

Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Information Agency, the Director of the International Communication Agency, or any other officer or employee of the United States Information Agency shall be deemed to refer to the Secretary of State; and

(2) the United States Information Agency, USIA, or the International Communication

Agency shall be deemed to refer to the Department of State.

SEC. 342. ABOLITION OF OFFICE OF INSPECTOR GENERAL OF THE UNITED STATES INFORMATION AGENCY AND TRANSFER OF FUNCTIONS TO OFFICE OF INSPECTOR GENERAL OF THE DEPARTMENT OF STATE.

(a) ABOLITION OF OFFICE OF INSPECTOR GENERAL OF THE USIA.—

(1) The Office of Inspector General of the United States Information Agency is abolished.

(2) Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1) by striking ", the Office of Personnel Management or the United States Information Agency" and inserting "or the Office of Personnel Management"; and

(B) in paragraph (2) by striking "the United States Information Agency,".

(3) Section 5315 of title 5, United States Code, is amended by striking the following: "Inspector General, United States Information Agency.".

(b) FUNCTIONS OF OFFICE OF INSPECTOR GENERAL OF THE UNITED STATES INFORMATION AGENCY TRANSFERRED TO OFFICE OF INSPECTOR GENERAL OF THE DEPARTMENT OF STATE.—There are transferred to the Office of the Inspector General of the Department of State the functions that the Office of Inspector General of the United States Information Agency exercised before the effective date of this title (including all related functions of the Inspector General of the United States Information Agency).

(c) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—The Director of the Office of Management and Budget, in consultation with the Secretary of State, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this section.

SEC. 343. AMENDMENTS TO TITLE 5.

Title 5, United States Code, is amended—

(1) in section 5313, by striking "Director of the United States Information Agency.";

(2) in section 5315, by striking "Deputy Director of the United States Information Agency."; and

(3) in section 5316, by striking "Deputy Director, Policy and Plans, United States Information Agency." and striking "Associate Director (Policy and Plans), United States Information Agency.".

SEC. 344. AMENDMENTS TO UNITED STATES INFORMATION AND EDUCATIONAL EXCHANGE ACT OF 1948.

(a) IN GENERAL.—Except as otherwise provided in this section, the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.) is amended—

(1) by striking "United States Information Agency" each place it appears and inserting "Department of State";

(2) by striking "Director of the United States Information Agency" each place it appears and inserting "Secretary of State";

(3) by striking "Director" each place it appears and inserting "Secretary of State";

(4) by striking "USIA" each place it appears and inserting "Department of State"; and

(5) by striking "Agency" each place it appears and inserting "Department of State".

(b) SATELLITE AND TELEVISION BROADCASTS.—Section 505 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1464a) is amended—

(1) by striking "Director of the United States Information Agency" each of the four places it appears and inserting "Secretary of State";

(2) in subsection (b), by striking "To be effective, the United States Information Agency" and inserting "To be effective in carrying out this subsection, the Department of State";

(3) by striking "USIA–TV" each place it appears and inserting "DEPARTMENT OF STATE–TV"; and

(4) by striking subsection (e).

(c) UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.—Section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) is amended—

(1) in subsection (c)(1)—

(A) by striking "the Director of the United States Information Agency,"; and

(B) by striking "Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency" and inserting "Secretary of State or the Department of State, and shall appraise the effectiveness of the information, educational, and cultural policies and programs of the Department";

(2) in subsection (c)(2)—

(A) in the first sentence by striking "the Secretary of State, and the Director of the United States Information Agency" and inserting "and the Secretary of State";

(B) in the second sentence by striking "by the Agency" and inserting "by the Department of State"; and

(C) by striking "Director for effectuating the purposes of the Agency" and inserting "Secretary for effectuating the information, educational, and cultural functions of the Department";

(3) in subsection (c)(3), by striking "programs conducted by the Agency" and inserting "information, educational, and cultural programs conducted by the Department of State"; and

(4) in subsection (c)(4), by striking "Director of the United States Information Agency" and inserting "Secretary of State".

SEC. 345. AMENDMENTS TO THE MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961 (FULBRIGHT-HAYS ACT).

(a) IN GENERAL.—The Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.) is amended by striking "Director of the International Communication Agency" and "Director" each place either term appears and inserting "Secretary of State".

(b) REPEAL OF DEFUNCT ADVISORY COMMISSIONS.—Section 106 of such Act (22 U.S.C. 2456) is amended by striking subsection (c).

(c) BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS.—Section 112 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460) is amended—

(1) by striking the first sentence of subsection (a);

(2) by striking "Bureau" each place it appears and inserting "Department of State"; and

(3) by striking subsection (e).

SEC. 346. INTERNATIONAL BROADCASTING ACTIVITIES.

(a) IN GENERAL.—Title III of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended—

(1) in section 305(b)(1), by striking "Agency's" and inserting "Department's";

(2) in section 306, by striking ", acting through the Director of the United States Information Agency," and inserting ", acting through the Under Secretary of State for Public Diplomacy,";

(3) by striking "Director of the United States Information Agency" each place it appears and inserting "Secretary of State";

(4) by striking all references to "United States Information Agency" that were not stricken in paragraph (3) and inserting "Department of State";

(5) by striking "Bureau" each place it appears and inserting "Office"; and

(6) in section 305(a)(1), by striking "title," and inserting "title (including activities of the Voice of America previously carried out by the United States Information Agency),".

(b) CONFORMING AMENDMENT TO TITLE 5.—Section 5315 of title 5, United States Code, is amended by striking "Director of the International Broadcasting Bureau, the United States Information Agency" and inserting "Director of the International Broadcasting Office, the Department of State".

SEC. 347. TELEVISION BROADCASTING TO CUBA.

(a) AUTHORITY.—Section 243(a) of the Television Broadcasting to Cuba Act (as contained in part D of title II of Public Law 101–246) (22 U.S.C. 1465bb(a)) is amended by striking "United States Information Agency (hereafter in this part referred to as the 'Agency')" and inserting "Department of State (hereafter in this part referred to as the 'Department')".

(b) TELEVISION MARTI SERVICE.—Section 244 of such Act (22 U.S.C. 1465cc) is amended—

(1) in subsection (a)—

(A) by amending the first sentence to read as follows: "The Secretary of State shall administer within the Voice of America the Television Marti Service."; and

(B) in the third sentence, by striking "Director of the United States Information Agency" and inserting "Secretary of State";

(2) in subsection (b)—

(A) in the subsection heading, by striking "USIA" and inserting "DEPARTMENT OF STATE",

(B) by striking "Agency facilities" and inserting "Department facilities"; and

(C) by striking "United States Information Agency Television Service" and inserting "Department of State Television Service"; and

(3) in subsection (c)—

(A) by striking "USIA AUTHORITY.—The Agency" and inserting "SECRETARY OF STATE AUTHORITY.—The Secretary of State"; and

(B) by striking "Agency" the second place it appears and inserting "Secretary of State".

(c) ASSISTANCE FROM OTHER GOVERNMENT AGENCIES.—Section 246 of such Act (22 U.S.C. 1465dd) is amended—

(1) by striking "United States Information Agency" and inserting "Department of State"; and

(2) by striking "the Agency" and inserting "the Department".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 247(a) of such Act (22 U.S.C. 1465ee(a)) is repealed.

SEC. 348. RADIO BROADCASTING TO CUBA.

(a) FUNCTIONS OF THE DEPARTMENT OF STATE.—Section 3 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465a) is amended—

(1) in the section heading, by striking "UNITED STATES INFORMATION AGENCY" and inserting "DEPARTMENT OF STATE";

(2) in subsection (a), by striking "United States Information Agency (hereafter in this Act referred to as the 'Agency')" and inserting "Department of State (hereafter in this Act referred to as the 'Department')"; and

(3) in subsection (f), by striking "Director of the United States Information Agency" and inserting "Secretary of State".

(b) CUBA SERVICE.—Section 4 of such Act (22 U.S.C. 1465b) is amended—

(1) by amending the first sentence to read as follows: "The Secretary of State shall administer within the Voice of America the Cuba Service (hereafter in this section referred to as the 'Service')."; and

(2) in the third sentence, by striking "Director of the United States Information Agency" and inserting "Secretary of State".

(c) ASSISTANCE FROM OTHER GOVERNMENT AGENCIES.—Section 6 of such Act (22 U.S.C. 1465d) is amended—

(1) in subsection (a)—

(A) by striking "United States Information Agency" and inserting "Department of State"; and

(B) by striking "the Agency" and inserting "the Department"; and

(2) in subsection (b)—

(A) by striking "The Agency" and inserting "The Department"; and

(B) by striking "the Agency" and inserting "the Secretary of State".

(d) FACILITY COMPENSATION.—Section 7 of such Act (22 U.S.C. 1465e) is amended—

(1) in subsection (b), by striking "the Agency" and inserting "the Department"; and

(2) in subsection (d), by striking "Agency" and inserting "Department".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 8 of such Act (22 U.S.C. 1465f) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) The amount obligated by the Department of State each fiscal year to carry out this Act shall be sufficient to maintain broadcasts to Cuba under this Act at rates no less than the fiscal year 1985 level of obligations by the former United States Information Agency for such broadcasts."; and

(2) by redesignating subsection (c) as subsection (b).

SEC. 349. NATIONAL ENDOWMENT FOR DEMOCRACY.

(a) GRANTS.—Section 503 of Public Law 98-164, as amended (22 U.S.C. 4412) is amended—

(1) in subsection (a)—

(A) by striking "Director of the United States Information Agency" and inserting "Secretary of State";

(B) by striking "the Agency" and inserting "the Department of State"; and

(C) by striking "the Director" and inserting "the Secretary of State"; and

(2) in subsection (b), by striking "United States Information Agency" and inserting "Department of State".

(b) AUDITS.—Section 504(g) of such Act (22 U.S.C. 4413(g)) is amended by striking "United States Information Agency" and inserting "Department of State".

(c) FREEDOM OF INFORMATION.—Section 506 of such Act (22 U.S.C. 4415) is amended—

(1) in subsection (b)—

(A) by striking "Director" each of the three places it appears and inserting "Secretary"; and

(B) by striking "of the United States Information Agency" and inserting "of State"; and

(2) in subsection (c)—

(A) in the subsection heading by striking "USIA" and inserting "DEPARTMENT OF STATE";

(B) by striking "Director" each of the three places it appears and inserting "Secretary";

(C) by striking "of the United States Information Agency" and inserting "of State"; and

(D) by striking "United States Information Agency" and inserting "Department of State".

SEC. 350. UNITED STATES SCHOLARSHIP PROGRAM FOR DEVELOPING COUNTRIES.

(a) PROGRAM AUTHORITY.—Section 603 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 4703) is amended by striking "United States Information Agency" and inserting "Department of State".

(b) GUIDELINES.—Section 604(11) of such Act (22 U.S.C. 4704(11)) is amended by striking "United States Information Agency" and inserting "Department of State".

(c) POLICY REGARDING OTHER INTERNATIONAL EDUCATIONAL PROGRAMS.—Section 606(b) of such Act (22 U.S.C. 4706(b)) is amended—

(1) in the subsection heading, by striking "USIA" and inserting "STATE DEPARTMENT"; and

(2) by striking "Director of United States Information Agency" and inserting "Secretary of State".

(d) GENERAL AUTHORITIES.—Section 609(e) of such Act (22 U.S.C. 4709(e)) is amended by striking "United States Information Agency" and inserting "Department of State".

SEC. 351. FASCELL FELLOWSHIP BOARD.

Section 1003(b) of the Fascell Fellowship Act (22 U.S.C. 4902(b)) is amended—

(1) in the text above paragraph (1), by striking "9 members" and inserting "8 members";

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

SEC. 352. NATIONAL SECURITY EDUCATION BOARD.

Section 803 of the Intelligence Authorization Act, Fiscal Year 1992 (50 U.S.C. 1903(b)) is amended—

(1) in subsection (b)—

(A) by striking paragraph (6); and

(B) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7); and

(2) in subsection (c), by striking "subsection (b)(7)" and inserting "subsection (b)(6)".

SEC. 353. CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.

Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2075) is amended by striking "Director of the United States Information Agency" each place it appears and inserting "Secretary of State".

SEC. 354. EAST-WEST CENTER.

(a) DUTIES.—Section 703 of the Mutual Security Act of 1960 (22 U.S.C. 2055) is amended—

(1) in the text above paragraph (1), by striking "Director of the United States Information Agency (hereinafter referred to as the 'Director')" and inserting "Secretary of State (hereinafter referred to as the 'Secretary')"; and

(2) in paragraph (1), by striking "establishment and".

(b) ADMINISTRATION.—Section 704 of such Act (22 U.S.C. 2056) is amended—

(1) by striking "Director of the United States Information Agency" and inserting "Secretary of State"; and

(2) by striking "Director" each place it appears and inserting "Secretary".

SEC. 355. MISSION OF THE DEPARTMENT OF STATE.

Section 202 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 1461-1) is amended—

(1) in the first sentence, by striking "mission of the International Communication Agency" and inserting "mission of the Department of State in carrying out its information, educational, and cultural functions";

(2) in the second sentence, in the text above paragraph (1), by striking "International Communication Agency" and inserting "Department of State";

(3) in paragraph (1)(B), by striking "Agency" and inserting "Department"; and

(4) in paragraph (5), by striking "mission of the Agency" and inserting "mission described in this section".

SEC. 356. CONSOLIDATION OF ADMINISTRATIVE SERVICES.

Section 23(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2695(a)) is amended—

(1) by striking "(including" and all that follows through "Agency)"; and

(2) by striking "other such agencies" and inserting "other Federal agencies".

SEC. 357. GRANTS.

Section 212 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 1475h) is amended—

(1) in subsection (a), by striking "United States Information Agency" and inserting "Department of State, in carrying out its international information, educational, and cultural functions,";

(2) in subsection (b), by striking "United States Information Agency" and inserting "Department of State";

(3) in subsection (c)—

(A) in paragraph (1), by striking "United States Information Agency shall substantially comply with United States Information Agency" and inserting "Department of State, in carrying out its international information, educational, and cultural functions, shall substantially comply with Department of State"; and

(B) in paragraphs (2) and (3)—

(i) by striking "United States Information Agency" and inserting "Department of State"; and

(ii) by striking "Agency" each of the places it appears and inserting "Department"; and

(4) by striking subsection (d).

SEC. 358. BAN ON DOMESTIC ACTIVITIES.

Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) is amended—

(1) by striking out "United States Information Agency" each of the two places it appears and inserting "Department of State"; and

(2) by inserting "in carrying out its international information, educational, and cultural activities" before "shall be distributed".

SEC. 359. CONFORMING REPEAL TO THE ARMS CONTROL AND DISARMAMENT ACT.

Section 34(b) of the Arms Control and Disarmament Act (22 U.S.C. 2574(b)) is repealed.

SEC. 360. REPEAL RELATING TO PROCUREMENT OF LEGAL SERVICES.

Section 26(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2698(b)) is repealed.

SEC. 361. REPEAL RELATING TO PAYMENT OF SUBSISTENCE EXPENSES.

Section 32 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2704) is amended by striking the second sentence.

SEC. 362. CONFORMING AMENDMENT TO THE SEED ACT.

Section 2(c) of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401(c)) is amended in paragraph (17) by striking "United States Information Agency" and inserting "Department of State".

SEC. 363. INTERNATIONAL CULTURAL AND TRADE CENTER COMMISSION.

Section 7(c) of the Federal Triangle Development Act (40 U.S.C. 1106(c)) is amended—

(1) in the text above subparagraph (A), by striking "15 members" and inserting "14 members";

(2) by striking subparagraph (F); and

(3) by redesignating subparagraphs (G) through (J) as subparagraphs (F) through (I), respectively.

SEC. 364. FOREIGN SERVICE ACT OF 1980.

(a) OTHER AGENCIES UTILIZING SERVICE.—Section 202(a) of the Foreign Service Act of 1980 (22 U.S.C. 3922(a)) is amended by striking paragraph (1).

(b) BOARD OF THE FOREIGN SERVICE.—Section 210 of such Act (22 U.S.C. 3930) is amended by striking "the United States Information Agency, the United States International Development Cooperation Agency,".

SEC. 365. AU PAIR PROGRAMS.

Section 8 of the Eisenhower Exchange Fellowship Act of 1990 (Public Law 101–454) is amended by striking "Director of the United States Information Agency" and inserting "Secretary of State".

SEC. 366. EXCHANGE PROGRAM WITH COUNTRIES IN TRANSITION FROM TOTALITARIANISM TO DEMOCRACY.

Section 602 of the National and Community Service Act of 1990 (22 U.S.C. 2452a) is amended—

(1) in the second sentence of subsection (a), by striking "United States Information Agency" and inserting "Department of State"; and

(2) in subsection (b)—

(A) by striking "appropriations account of the United States Information Agency" and inserting "appropriate appropriations account of the Department of State"; and

(B) by striking "and the United States Information Agency".

SEC. 367. EDMUND S. MUSKIE FELLOWSHIP PROGRAM.

Section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended—

(1) by striking "United States Information Agency" and inserting "Department of State"; and

(2) by striking subsection (d).

SEC. 368. IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY.

Title III of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 et seq.) is amended by striking "Director of the United States Information Agency" each place it appears and inserting "Secretary of State".

SEC. 369. MIKE MANSFIELD FELLOWSHIPS.

Section 252(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6101(a)) is amended by striking "Director of the United States Information Agency" and inserting "Secretary of State".

TITLE IV—AGENCY FOR INTERNATIONAL DEVELOPMENT

CHAPTER 1—GENERAL PROVISIONS

SEC. 401. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title, and the amendments made by this title, shall take effect—

(1) on March 1, 1997; or

(2) on such earlier date as the President shall determine to be appropriate and announce by notice published in the Federal Register, which date may be not earlier than 60 calendar days (excluding any day on which either House of Congress is not in session because of an adjournment sine die) after the President has submitted a reorganization plan to the appropriate congressional committees pursuant to section 421.

(b) REORGANIZATION PLAN.—Section 421 shall take effect on the date of enactment of this Act.

SEC. 402. REFERENCES IN TITLE.

Except as specifically provided in this title, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a provision, the reference shall be considered to be made to a provision of the Foreign Assistance Act of 1961.

CHAPTER 2—ABOLITION OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT AND TRANSFER OF FUNCTIONS TO SECRETARY OF STATE

SEC. 411. ABOLITION OF AGENCY FOR INTERNATIONAL DEVELOPMENT AND THE INTERNATIONAL DEVELOPMENT COOPERATION AGENCY.

The Agency for International Development and the International Development Cooperation Agency are abolished.

SEC. 412. TRANSFER OF FUNCTIONS TO SECRETARY OF STATE.

There are transferred to the Secretary of State all functions of the Administrator of the Agency for International Development and the Director of the International Development Cooperation Agency and all functions of the Agency for International Development and the International Development Cooperation Agency and any officer or component of such agencies under any statute, reorganization plan, Executive order, or other provision of law before the effective date of this title, except as otherwise provided in this title.

CHAPTER 3—REORGANIZATION OF DEPARTMENT OF STATE RELATING TO FUNCTIONS TRANSFERRED UNDER THIS TITLE

SEC. 421. REORGANIZATION PLAN.

(a) SUBMISSION OF PLAN.—Not later than March 1, 1996, the President, in consultation with the Secretary and the Administrator of the Agency for International Development, shall transmit to the appropriate congressional committees a reorganization plan providing for—

(1) the abolition of the Agency for International Development in accordance with this title;

(2) the transfer to the Department of State of the functions and personnel of the Agency for International Development consistent with the provisions of this title; and

(3) the consolidation, reorganization, and streamlining of the Department upon the transfer of functions under this title in order to carry out such functions.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall—

(1) identify the functions of the Agency for International Development that will be transferred to the Department under the plan;

(2) identify the personnel and positions of the Agency (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred to the Department, separated from service with the Agency, or be eliminated under the plan, and set forth a schedule for such transfers, separations, and terminations;

(3) identify the personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred within the Department, separated from service with the Department, or eliminated under the plan, and set forth a schedule for such transfers, separations, and terminations;

(4) specify the consolidations and reorganization of functions of the Department that will be required under the plan in order to permit the Department to carry out the functions transferred to the Department under the plan;

(5) specify the funds available to the Agency for International Development that will be transferred to the Department under this title as a result of the transfer of functions of the Agency to the Department;

(6) specify the proposed allocations within the Department of unexpended funds transferred in connection with the transfer of functions under the plan; and

(7) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of the Agency in connection with the transfer of the functions of the Agency to the Department.

(c) ASSISTANT SECRETARY POSITIONS.—The plan under subsection (a) shall provide for an appropriate number of Assistant Secretaries of State to carry out the functions transferred to the Department under this title.

SEC. 422. PRINCIPAL OFFICERS.

(a) UNDER SECRETARY OF STATE FOR DEVELOPMENT AND ECONOMIC AFFAIRS.—

(1) ESTABLISHMENT.—Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)) is amended by adding after paragraph (2) the following new paragraph:

"(3) UNDER SECRETARY FOR DEVELOPMENT AND ECONOMIC AFFAIRS.—There shall be in the Department of State an Under Secretary for Development and Economic Affairs who shall assist the Secretary and the Deputy Secretary in the formation and implementation of United States policies and activities concerning international development and economic affairs.".

(b) TRANSITION PROVISION.—The President may appoint the individual serving as Administrator of the Agency for International Development on the day before the effective date of this title, or such other official appointed by and with the advice and consent of the Senate and serving within the Department of State or the Agency for International Development as the President considers appropriate, to serve as the acting Under Secretary for Development and Economic Affairs until an individual is appointed to that office in accordance with section 1(b)(1) of the State Department Basic Authorities Act of 1956, as amended by this Act.

CHAPTER 4—CONFORMING AMENDMENTS

SEC. 441. REFERENCES.

Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Administrator of the Agency for International Development, or any other officer or employee of the Agency for International Development shall be deemed to refer to the Secretary of State;

(2) the Director or any other officer or employee of the International Development Cooperation Agency (IDCA) shall be deemed to refer to the Secretary of State; or

(3) the Agency for International Development, AID, the agency primarily responsible

for administering part I of the Foreign Assistance Act of 1961, or the International Development Cooperation Agency (IDCA) shall be deemed to refer to the Department of State.

SEC. 442. ABOLITION OF OFFICE OF INSPECTOR GENERAL OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT AND TRANSFER OF FUNCTIONS TO OFFICE OF INSPECTOR GENERAL OF THE DEPARTMENT OF STATE.

(a) ABOLITION OF OFFICE OF INSPECTOR GENERAL OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Office of Inspector General of the Agency for International Development is abolished.

(b) AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended as follows:

(1) Section 8A is repealed.

(2) Section 11(1) is amended by striking "the Administrator of the Agency for International Development,".

(3) Section 11(2) is amended by striking "the Agency for International Development,".

(c) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Section 5315 of title 5, United States Code, is amended by striking the following: "Inspector General, Agency for International Development.".

(d) FUNCTIONS OF OFFICE OF INSPECTOR GENERAL OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT TRANSFERRED TO OFFICE OF INSPECTOR GENERAL OF THE DEPARTMENT OF STATE.—There are transferred to the Office of Inspector General of the Department of State the functions that the Office of Inspector General of the Agency for International Development exercised before the effective date of this title (including all related functions of the Inspector General of the Agency for International Development).

(e) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—The Inspector General of the Department of State, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this section.

SEC. 443. ABOLITION OF CHIEF FINANCIAL OFFICER OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT AND TRANSFER OF FUNCTIONS TO CHIEF FINANCIAL OFFICER DEPARTMENT OF STATE.

(a) ABOLITION OF OFFICE OF CHIEF FINANCIAL OFFICER OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Office of Chief Financial Officer of the Agency for International Development is abolished.

(b) AMENDMENT TO TITLE 31, UNITED STATES CODE.—Section 901(b)(2) of title 31, United States Code, is amended by striking subparagraph (A).

(c) FUNCTIONS OF OFFICE OF CHIEF FINANCIAL OFFICER OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT TRANSFERRED TO OFFICE OF CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF STATE.—There are transferred to the Office of Chief Financial Officer of the Department of State the functions that the Office of Chief Financial Officer of the Agency for International Development exercised before the effective date of this title (including all related functions of the Chief Financial Officer of the Agency for International Development).

(d) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—The Director of the Office of Management and Budget, in consultation with the Secretary of State, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this section.

SEC. 444. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

Title 5, United States Code, is amended—

(1) in section 5313, by striking "Administrator, Agency for International Development.";

(2) in section 5314, by striking "Deputy Administrator, Agency for International Development.";

(3) in section 5315—

(A) by striking "Assistant Administrators, Agency for International Development (6)."; and

(B) by striking "Regional Assistant Administrators, Agency for International Development (4)."; and

(4) in section 5316 by striking "General Counsel of the Agency for International Development.".

SEC. 445. PUBLIC LAW 480 PROGRAM.

The Agricultural Trade Development and Assistance Act of 1954 (Public Law 83-480; 7 U.S.C. 1691 et seq.) is amended by striking "Administrator" each place it appears and inserting "Under Secretary of State for Development and Economic Affairs".

TITLE V—TRANSITION

SEC. 501. REORGANIZATION AUTHORITY.

(a) IN GENERAL.—The Secretary is authorized, subject to the requirements of this division, to allocate or reallocate any function transferred to the Department under any title of this division among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate to carry out any reorganization under this division, but the authority of the Secretary under this section does not extend to—

(1) the abolition of organizational entities or officers established by this Act or any other Act; or

(2) the alteration of the delegation of functions to any specific organizational entity or officer required by this Act or any other Act.

(b) REQUIREMENTS AND LIMITATIONS ON REORGANIZATION PLANS.—A reorganization plan pursuant to any title of this division may not have the effect of—

(1) creating a new executive department;

(2) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;

(3) authorizing an agency to exercise a function which is not authorized by law at the time the plan is transmitted to Congress;

(4) creating a new agency which is not a component or part of an existing executive department or independent agency; or

(5) increasing the term of an office beyond that provided by law for the office.

SEC. 502. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by any title of this division, subject to section 1531 of title 31, United States Code, shall be transferred to the Secretary for appropriate allocation.

(b) LIMITATION ON USE OF TRANSFERRED FUNDS.—Unexpended and unobligated funds transferred pursuant to any title of this division shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) AUTHORIZED STRENGTH OF THE FOREIGN SERVICE.—When an agency is abolished under this division, the limitations for fiscal years 1996 and 1997 under section 2351 of this Act on the members of the Foreign Service authorized to be employed by such agency shall be added to the limitations under such section which apply to the Department of State.

SEC. 503. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Secretary of State, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of any title of this division. The Director of the Office of Management and Budget, in consultation with the Secretary of State, shall provide for the termination of the affairs of all entities terminated by this division and for such further measures and dispositions as may be necessary to effectuate the purposes of any title of this division.

SEC. 504. EFFECT ON PERSONNEL.

(a) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this division, any person who, on the day preceding the date of the abolition of an agency the functions of which are transferred under any title of this division, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(b) TERMINATION OF CERTAIN POSITIONS.—Positions whose incumbents are appointed by the President, by and with the advice and consent of the Senate, the functions of which are transferred by any title of this division, shall terminate on the effective date of that title.

(c) EXCEPTED SERVICE.—(1) Subject to paragraph (2), in the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred.

(2) The Department of State may decline a transfer of authority under paragraph (1) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) Employee Benefit Programs.—(1) Any employee accepting employment with the Department of State as a result of a transfer pursuant to any title of this division may retain for 1 year after the date such transfer occurs membership in any employee benefit program of the former agency, including insurance, to which such employee belongs on the date of the enactment of this Act if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Secretary of State.

(2) The difference in the costs between the benefits which would have been provided by such agency or entity and those provided by this section shall be paid by the Secretary of State. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Secretary of State, the employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

(e) Senior Executive Service.—Any employee in the career Senior Executive Service who is transferred pursuant to any title of this division shall be placed in a position at the Department of State which is comparable to the position the employee held in the agency.

(f) Assignments.—(1) Transferring employees shall be provided reasonable notice of new positions and assignments prior to their transfer pursuant to any title of this division.

(2) Foreign Service personnel transferred to the Department of State pursuant to any title of this division shall be eligible for any assignment open to Foreign Service personnel within the Department for which such transferred personnel are qualified.

(g) Treatment of Personnel Employed in Terminated Functions.—The provisions of this subsection shall apply with respect to officers and employees of the agencies identified in section 505(b) whose employment is terminated as a result of the abolition of the agency or the reorganization and consolidation of functions of the Department of State under any title of this division:

(1) Under such regulations as the Office of Personnel Management may prescribe, the head of any agency in the executive branch may appoint in the competitive service any person who is certified by the head of the former agency as having served satisfactorily in the former agency and who passes such examination as the Office of Personnel Management may prescribe. Any person so appointed shall, upon completion of the prescribed probationary period, acquire a competitive status.

(2) The head of any agency in the executive branch having an established merit system in the excepted service may appoint in such service any person who is certified by the head of the former agency as having served satisfactorily in the former agency and who passes such examination as the head of such agency in the executive branch may prescribe.

(3) Any appointment under this subsection shall be made within a period of one year after completion of the appointee's service in the former agency.

(4) Any law, Executive order, or regulation which would disqualify an applicant for appointment in the competitive service or in the excepted service concerned shall also disqualify an applicant for appointment under this subsection.

SEC. 505. VOLUNTARY SEPARATION INCENTIVES.

(a) Authority To Pay Incentives.—The head of an agency referred to in subsection (b) may pay voluntary incentive payments to employees of the agency in order to avoid or minimize the need for involuntary separations from the agency as a result of the abolition of the agency and the reorganization and consolidation of functions of the Department of State under any title of this division.

(b) Covered Agencies.—Subsection (a) applies to the following agencies:

(1) The Department of State.

(2) The United States Arms Control and Disarmament Agency.

(3) The United States Information Agency.

(4) The Agency for International Development.

(c) Payment Requirements.—The head of an agency shall pay voluntary separation incentive payments in accordance with the provisions of section 3 of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 111), except that an employee of the agency shall be deemed to be eligible for payment of a voluntary separation incentive payment under that section if the employee separates from service with the agency during the period beginning on the date of enactment of this Act and ending—

(1) in the case of an agency referred to in paragraph (2), (3), or (4) of subsection (b), on the date of the abolition of that agency under this division; and

(2) in the case of the Department of State, on September 30, 1997.

(d) Termination of Authority.—The authority of the head of an agency to authorize payment of voluntary separation incentive payments under this section shall expire on—

(1) in the case of an agency referred to in paragraph (2), (3), or (4) of subsection (b), on the date of the abolition of that agency under this division; and

(3) in the case of the Department of State, September 30, 1997.

(e) Budget Act Compliance.—Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this section shall be effective for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts.

(f) Effect of Subsequent Employment with the Government.—An employee who has received a voluntary separation incentive payment under this section and accepts employment with the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to repay the entire amount of the incentive payment to the agency that paid the incentive payment.

(g) Additional Agency Contributions to the Retirement Fund.—

(1) In general.—In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, in fiscal years 1996, 1997, and 1998 each agency under subsection (b) of this section shall, before the end of each such fiscal year, remit to the Office of Personnel Management for deposit in the Treasury of the United States for credit of the Civil Service Retirement and Disability Fund an amount equal to the product of—

(A) the number of employees of such agency who, as of March 31st of such fiscal year, are subject to subchapter III of chapter 83 or chapter 84 of such title; multiplied by

(B) $80.

(2) Regulations.—The Director of the Office of Personnel Management may prescribe any regulations necessary to carry out this subsection.

SEC. 506. SAVINGS PROVISIONS.

(a) Continuing Legal Force and Effect.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under any title of this division; and

(2) that are in effect at the time such title takes effect, or were final before the effective date of such title and are to become effective on or after the effective date of such title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) Pending Proceedings.—(1) The provisions of any title of this division shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of any title of this division before any department, agency, commission, or component thereof, functions of which are transferred by any title of this division. Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

(2) Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

(3) Nothing in this Act shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(4) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this subsection to the Department.

(c) No Effect on Judicial Proceedings.—Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) Non-Abatement of Proceedings.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by any title of this division, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by any title of this division, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) Continuation of Proceeding With Substitution of Parties.—If, before the date on which any title of this division takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Reviewability of Orders and Actions Under Transferred Functions.—Orders and actions of the Secretary in the exercise of functions transferred under any title of this division shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by any title of this division shall apply to the exercise of such function by the Secretary.

SEC. 507. PROPERTY AND FACILITIES.

The Secretary of State shall review the property and facilities transferred to the Department under this division to determine whether such property and facilities are required by the Department.

SEC. 508. AUTHORITY OF SECRETARY TO FACILITATE TRANSITION.

Prior to, or after, any transfer of a function under any title of this division, the Secretary is authorized to utilize—

(1) the services of such officers, employees, and other personnel of an agency with respect to functions that will be or have been transferred to the Department by any title of this division; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of any title of this division.

SEC. 509. RECOMMENDATIONS FOR ADDITIONAL CONFORMING AMENDMENTS.

The Congress urges the President, in consultation with the Secretary of State and the heads of other appropriate agencies, to develop and submit to the Congress recommendations for such additional technical and conforming amendments to the laws of the United States as may be appropriate to reflect the changes made by this division.

SEC. 510. FINAL REPORT.

Not later than October 1, 1998, the President, in consultation with the Secretary of the Treasury and the Director of the Office of Management and Budget shall submit to the appropriate congressional committees a report which provides a final accounting of the finances and operations of the United States Arms Control and Disarmament Agency, the United States Information Agency, and the Agency for International Development.

SEC. 511. SEVERABILITY.

If a provision of this division or its application to any person or circumstance is held invalid, neither the remainder of this division nor the application of the provision to other persons or circumstances shall be affected.

DIVISION B—FOREIGN RELATIONS AUTHORIZATIONS

TITLE XX—GENERAL PROVISIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1996 and 1997".

SEC. 2002. DEFINITIONS.

The following terms have the following meaning for the purposes of this division:

(1) The term "AID" means the Agency for International Development.

(2) The term "ACDA" means the United States Arms Control and Disarmament Agency.

(3) The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(4) The term "Department" means the Department of State.

(5) The term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code.

(6) The term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(7) The term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(8) The term "Secretary" means the Secretary of State.

(9) The term "USIA" means the United States Information Agency.

TITLE XXI—AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF STATE AND CERTAIN INTERNATIONAL AFFAIRS FUNCTIONS AND ACTIVITIES

CHAPER 1—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 2101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) Authorization of Appropriations.—The following amounts are authorized to be appropriated for the Department of State under "Administration of Foreign Affairs" to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including the diplomatic security program:

(1) Diplomatic and consular programs.—

(A) Authorization of appropriations.—For "Diplomatic and Consular Programs", of the Department of State $1,728,797,000 for the fiscal year 1996 and $1,676,903,000 for the fiscal year 1997.

(B) Limitation.—Of the amounts authorized to be appropriated by subparagraph (A), $5,000,000 for fiscal year 1996 and $5,000,000 for fiscal year 1997 are authorized to be appropriated only for the purpose of processing immigrant visas for persons who are outside their countries of nationality, have asserted a fear of returning to their countries of nationality and a credible basis for such fear, and for whom immigrant visas are currently available.

(2) Salaries and expenses.—

(A) Authorization of appropriations.—For "Salaries and Expenses", of the Department of State $366,276,000 for the fiscal year 1996 and $355,287,000 for the fiscal year 1997.

(B) Limitation.—Of the amounts authorized to be appropriated by subparagraph (A), $11,900,000 for fiscal year 1996 and $11,900,000 for fiscal year 1997 are authorized to be appropriated only for salaries and expenses of the Bureau of Refugee and Migration Assistance.

(3) Capital investment fund.—For "Capital Investment Fund", of the Department of State $20,000,000 for the fiscal year 1996 and $20,000,000 for the fiscal year 1997.

(4) Acquisition and maintenance of buildings abroad.—For "Acquisition and Maintenance of Buildings Abroad", $391,760,000 for the fiscal year 1996 and $391,760,000 for the fiscal year 1997.

(5) Representation allowances.—For "Representation Allowances", $4,780,000 for the fiscal year 1996 and $4,780,000 for the fiscal year 1997.

(6) Emergencies in the diplomatic and consular service.—For "Emergencies in the Diplomatic and Consular Service", $6,000,000 for the fiscal 1996 and $6,000,000 for the fiscal year 1997.

(7) Office of the inspector general.—For "Office of the Inspector General", $23,469,000 for the fiscal year 1996 and $23,469,000 for the fiscal year 1997.

(8) Payment to the american institute in taiwan.—For "Payment to the American Institute in Taiwan", $15,165,000 for the fiscal year 1996 and $14,710,000 for the fiscal year 1997.

(9) Protection of foreign missions and officials.—For "Protection of Foreign Missions and Officials", $9,579,000 for the fiscal year 1996 and $9,579,000 for the fiscal year 1997.

(10) Repatriation loans.—For "Repatriation Loans", $776,000 for the fiscal year 1996 and $776,000 for the fiscal year 1997, for administrative expenses.

SEC. 2102. INTERNATIONAL ORGANIZATIONS, PROGRAMS, AND CONFERENCES.

(a) Assessed Contributions to International Organizations.—There are authorized to be appropriated for "Contributions to International Organizations", $873,505,000 for the fiscal year 1996 and $867,050,000 for the fiscal year 1997 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(b) Voluntary Contributions to International Organizations.—

(1) Authorization of appropriations.—There are authorized to be appropriated for "Voluntary Contributions to International Organizations", $309,375,000 for the fiscal year 1996 and $302,902,000 for the fiscal year 1997.

(2) Limitations.—

(A) UNICEF.—

(i) Of the amounts authorized to be appropriated under paragraph (1), $103,000,000 for fiscal year 1996 and $103,000,000 for fiscal year 1997 is authorized to be appropriated only for the United Nations Children's Fund (UNICEF).

(ii) For fiscal year 1996, not more than 25 percent of the amount under clause (i) may be made available to the United Nations Children's Fund (UNICEF) until 30 days after the submission to Congress of the report required by section 2523.

(B) International atomic energy agency.—

(i) Of the amounts authorized to be appropriated under paragraph (1), $43,000,000 for each of fiscal years 1996 and 1997 is authorized to be appropriated only for the International Atomic Energy Agency (IAEA).

(ii) Amounts under clause (i) are authorized to be made available to the International Atomic Energy Agency only if the Secretary determines and reports to the appropriate congressional committees that Israel is not being denied its right to participate in the activities of the International Atomic Energy Agency.

(C) War crimes tribunal for the former yugoslavia.—Of the amounts authorized to be appropriated under paragraph (1), $15,000,000 for fiscal year 1996 and $15,000,000 for fiscal year 1997, or 25 percent of the budget for the tribunal for each such fiscal year, whichever amount is less, are authorized to be made available for the United Nations Voluntary Fund for the United Nations International Criminal Tribunal for the Former Yugoslavia, located at The Hague, Netherlands.

(D) WORLD FOOD PROGRAM.—Of the amounts authorized to be appropriated under paragraph (1), $5,000,000 for fiscal year 1996 and $5,000,000 for fiscal year 1997 are authorized to be appropriated only for the World Food Program.

(E) UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.—Of the amounts authorized to be appropriated under paragraph (1) $1,500,000 for fiscal year 1996 and $3,000,000 for fiscal year 1997 are authorized to be appropriated only for the United Nations Voluntary Fund for Victims of Torture.

(F) UNITED NATIONS POPULATION FUND.—

(i) Of the amounts authorized to be appropriated under paragraph (1) not more than $25,000,000 for each of the fiscal years 1996 and 1997 shall be available for the United Nations Population Fund (UNFPA).

(ii) Of the amount made available for the United Nations Population Fund under clause (i)—

(I) for fiscal year 1996, not more than 50 percent of such amount may be disbursed to the Fund before March 1, 1996; and

(II) for fiscal year 1997, not more than 50 percent of such amount may be disbursed to the Fund before March 1, 1997.

(iii) Notwithstanding any other provision of law, none of the funds made available for the United Nations Population Fund shall be available for the United States proportionate share for activities in the People's Republic of China.

(iv)(I) Not later than February 15, 1996, and February 15, 1997, the Secretary of State shall submit a report indicating the amount that the United Nations Population Fund is budgeting for activities in the People's Republic of China for 1996 or 1997, as appropriate, to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(II) Before March 1, for each of the fiscal years 1996 and 1997, if the United Nations Population Fund is budgeting an amount in excess of $7,000,000 for activities in the People's Republic of China, a sum equal to the amount in excess of $7,000,000 shall be deducted from amounts otherwise available for payment to the United Nations Population Fund.

(v) Amounts made available for the United Nations Population Fund under clause (i) may only be paid to the Fund if—

(I) the Fund maintains such amounts in a separate account from other funds; and

(II) the Fund does not commingle amounts provided under clause (i) with other funds.

(G) ORGANIZATION FOR AMERICAN STATES.—Of the amounts authorized to be appropriated under paragraph (1), $15,000,000 for fiscal year 1996 and $15,000,000 for fiscal year 1997 are authorized to be appropriated only for the Organization for American States.

(H) LIMITATION CONCERNING USE OF FUNDS UNDER SECTION 307 OF THE FOREIGN ASSISTANCE ACT OF 1961.—Notwithstanding any other provision of law or of this Act, none of the funds authorized to be appropriated under paragraph (1) are authorized to be appropriated for the United States proportionate share, in accordance with section 307(c) of the Foreign Assistance Act of 1961, for any programs identified in section 307, or for Libya, Iran, or any Communist country listed in section 620(f) of the Foreign Assistance Act of 1961.

(I) UNITED NATIONS DEVELOPMENT PROGRAM.—

(i) TOTAL LIMITATION.—Of the amounts authorized to be appropriated under paragraph (1), for each of the fiscal years 1996 and 1997 not to exceed $70,000,000 shall be available for the United Nations Development Program.

(ii) BURMA.—

(I) Subject to subclauses (II) and (III), for each of the fiscal years 1996 and 1997 none of the funds made available for United Nations Development Program (or United Nations Development Program—Administered Funds) shall be available for programs and activities in or for Burma.

(II) Of the amount made available for United Nations Development Program (and United Nations Development Program—Administered Funds) for fiscal year 1996, $18,200,000 of such amount shall be disbursed only if the President certifies to the Congress that the United Nations Development Program has terminated its activities in and for Burma.

(III) Of the amount made available for United Nations Development Program (and United Nations Development Program—Administered Funds) for fiscal year 1997, $25,480,000 shall be disbursed only if the President certifies to the Congress that the United Nations Development Program has terminated its activities in and for Burma.

(3) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated under paragraph (1) are authorized to remain available until expended.

(c) ASSESSED CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for "Contributions for International Peacekeeping Activities", $445,000,000 for the fiscal year 1996 and $345,000,000 for the fiscal year 1997 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(2) LIMITATION.—None of the funds authorized to be appropriated under paragraph (1) may be made available for contributions to the United Nations Protection Force unless the President determines and reports to the Congress during the calendar year in which the funds are to be provided that—

(A) the Government of Bosnia and Herzegovina supports the continued presence of the United Nations Protection Force within its territory;

(B) the United Nations Protection Force is effectively carrying out its mandate under United Nations Security Council resolutions 761, 776, 781, 786, and 836, and is effectively encouraging compliance with United Nations Security Council resolutions 752, 757, 770, 771, 787, 820, and 824.

(C) the United Nations Protection Force is providing full cooperation and support consistent with its mandate to the efforts of the United Nations War Crimes Tribunal for the former Yugoslavia to investigate war crimes and to apprehend and prosecute suspected war criminals;

(D) the United Nations Protection Force is providing full cooperation and support consistent with its mandate to United States diplomatic, military, and relief personnel in Bosnia; and

(E) the United Nations Protection Force has investigated and taken appropriate action against any United Nations Protection Force personnel or units suspected of participating in illegal or improper activities, such as black marketeering, embezzlement, expropriation of property, and assaults on civilians.

(d) PEACEKEEPING OPERATIONS.—There are authorized to be appropriated for "Peacekeeping Operations", $68,260,000 for the fiscal year 1996 and $68,260,000 for the fiscal year 1997 for the Department of State to carry out section 551 of Public Law 87-195.

(e) INTERNATIONAL CONFERENCES AND CONTINGENCIES.—

(1) GENERAL PROVISION.—There are authorized to be appropriated for "International Conferences and Contingencies", $5,000,000 for the fiscal year 1996 and $6,000,000 for the fiscal year 1997 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

(2) CONDITIONAL AUTHORITY.—

(A) Subject to subparagraph (B), in addition to such amounts as are authorized to be appropriated under paragraph (1), there is authorized to be appropriated for "International Conferences and Contingencies", $1,000,000 for the fiscal year 1996 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

(B) The authorization of appropriations under subparagraph (A) shall take effect only after the Secretary of State certifies to the appropriate congressional committees with respect to any United Nations Fourth Conference on Women that is held in Beijing that—

(i) no funds of the Department of State were expended for travel by any United States official or delegate to the Fourth World Conference on Women, to be held in Beijing, August and September 1995, or

(ii)(I) that the United States vigorously urged the United Nations to grant accreditation to a wide range of nongovernmental organizations, including United States-based groups representing Taiwanese and Tibetan women, in accordance with relevant international standards and precedents;

(II) that the United States pressed the Government of China to issue visas equitably to representatives of accredited nongovernmental organizations;

(III) that the United States encouraged the Government of China and the United Nations to provide the accredited nongovernmental organizations with access to the main conference site that is substantially equivalent in manner and degree to access afforded at previous major United Nations conferences;

(IV) that the United States delegation to the Fourth World Conference on Women vigorously and publicly supported access by representatives of accredited nongovernmental organizations to the conference, especially with respect to United States nongovernmental organizations;

(V) that the United States delegation to the Fourth World Conference on Women vigorously promoted universal respect for internationally recognized human rights, including the rights of women; and

(VI) that, if the goals of subparagraphs (I), (II), or (III) were not fully accomplished, the United States issued a formal, public, protest to the United Nations for such a departure from accepted international standards.

(f) FOREIGN CURRENCY EXCHANGE RATES.—In addition to amounts otherwise authorized to be appropriated by subsections (a) and (b) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 and 1997 to offset adverse fluctuations in foreign currency exchange rates. Amounts appropriated under this subsection shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to Congress that such amounts are necessary due to such fluctuations.

SEC. 2103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under "International Commissions" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For "International Boundary and Water Commission, United States and Mexico"—

(A) for "Salaries and Expenses" $13,858,000 for the fiscal year 1996 and $12,472,000 for the fiscal year 1997; and

(B) for "Construction" $10,393,000 for the fiscal year 1996 and $9,353,000 for the fiscal year 1997.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For "International Boundary Commission, United States and Canada", $740,000 for the fiscal year 1996 and $666,000 for the fiscal year 1997.

(3) INTERNATIONAL JOINT COMMISSION.—For "International Joint Commission", $3,500,000 for the fiscal year 1996 and $3,195,000 for the fiscal year 1997.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For "International Fisheries Commissions", $14,669,000 for the fiscal year 1996 and $13,202,000 for the fiscal year 1997.

SEC. 2104. MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) MIGRATION AND REFUGEE ASSISTANCE.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for "Migration and Refugee Assistance" for authorized activities, $560,000,000 for the fiscal year 1996 and $590,000,000 for the fiscal year 1997.

(B) LIMITATION.—None of the funds authorized to be appropriated by this section are authorized to be appropriated for salaries and administrative expenses of the Bureau of Migration and Refugee Assistance.

(2) REFUGEES RESETTLING IN ISRAEL.—There are authorized to be appropriated $80,000,000 for the fiscal year 1996 and $80,000,000 for the fiscal year 1997 for assistance for refugees resettling in Israel from other countries.

(3) HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE.—There are authorized to be appropriated $1,500,000 for the fiscal year 1996 and $1,500,000 for the fiscal year 1997 for humanitarian assistance, including but not limited to food, medicine, clothing, and medical and vocational training to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(4) RESETTLEMENT OF VIETNAMESE, LAOTIANS, AND CAMBODIANS.—There are authorized to be appropriated $30,000,000 for fiscal year 1996 for the admission and resettlement of persons who—

(A) are or were nationals and residents of Vietnam, Laos, or Cambodia;

(B) are within a category of aliens referred to in section 599D(b)(2)(C) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167); and

(C) are or were at any time after January 1, 1989, residents of refugee camps in Hong Kong, Thailand, Indonesia, Malaysia, or the Philippines.

(b) GENERAL LIMITATIONS.—None of the funds authorized to be appropriated by subsection (a) are authorized to be available for any program or activity that provides for, promotes, or assists in the repatriation of any person to Vietnam, Laos, or Cambodia, unless the President has certified that—

(1) all persons described in subsection (a)(4) who were residents of refugee camps as of July 1, 1995, have been offered resettlement outside their countries of nationality;

(2) all nationals of Vietnam, Laos, or Cambodia who were residents of refugee camps as of July 1, 1995, who are not persons described in subsection (a)(4) have, at any time after such date, either had access to a process for the determination of whether they are refugees, or been offered resettlement outside their countries of nationality; and

(3) the process referred to in paragraph (2) is genuinely calculated to determine whether each applicant is a refugee, and that the procedures, standards, and personnel employed in such process ensure that the risk of return to persecution is no greater than in the process available under United States law to persons physically present in the United States.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) are authorized to be available until expended.

(d) REFUGEE CAMP DEFINED.—For the purposes of this section, the term "refugee camp" means any place in which people who left Vietnam, Cambodia, or Laos are housed or held by a government or international organization, regardless of the designation of such place by such government or organization.

SEC. 2105. CERTAIN OTHER INTERNATIONAL AFFAIRS PROGRAMS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) ASIA FOUNDATION.—For "Asia Foundation", $10,000,000 for the fiscal year 1996 and $9,000,000 for the fiscal year 1997.

SEC. 2106. UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS.

The following amounts are authorized to be appropriated to carry out international information activities and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the Inspector General Act of 1978, the North/South Center Act of 1991, the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) SALARIES AND EXPENSES.—For "Salaries and Expenses", $450,645,000 for the fiscal year 1996 and $428,080,000 for the fiscal year 1997.

(2) TECHNOLOGY FUND.—For "Technology Fund" for the United States Information Agency, $5,050,000 for the fiscal year 1996 and $5,050,000 for the fiscal year 1997.

(3) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—For the "Fulbright Academic Exchange Programs", $117,484,200 for the fiscal year 1996 and $113,680,800 for the fiscal year 1997.

(B) SOUTH PACIFIC EXCHANGES.—For the "South Pacific Exchanges", $900,000 for the fiscal year 1996 and $900,000 for the fiscal year 1997.

(C) EAST TIMORESE SCHOLARSHIPS.—For the "East Timorese Scholarships", $800,000 for the fiscal year 1996 and $800,000 for the fiscal year 1997.

(D) CAMBODIAN SCHOLARSHIPS.—For the "Cambodian Scholarships", $141,000 for the fiscal year 1996 and $141,000 for the fiscal year 1997.

(E) TIBETAN EXCHANGES.—For the "Educational and Cultural Exchanges with Tibet" under section 236 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), $500,000 for the fiscal year 1996 and $500,000 for the fiscal year 1997.

(F) OTHER PROGRAMS.—For "Hubert H. Humphrey Fellowship Program", "Edmund S. Muskie Fellowship Program", "International Visitors Program", "Mike Mansfield Fellowship Program", "Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation", "Citizen Exchange Programs", "Congress-Bundestag Exchange Program", "Newly Independent States and Eastern Europe Training", "Institute for Representative Government", and "Arts America", $87,265,800 for the fiscal year 1996 and $87,341,400 for the fiscal year 1997.

(4) INTERNATIONAL BROADCASTING ACTIVITIES.—

(A) AUTHORIZATION OF APPROPRIATIONS.—For "International Broadcasting Activities", $321,191,000 for the fiscal year 1996, and $286,191,000 for the fiscal year 1997.

(B) LIMITATION.—Of the amounts authorized to be appropriated under subparagraph (A) $3,000,000 for fiscal year 1996 and $3,000,000 for fiscal year 1997 are authorized to be appropriated only to carry out the Pilot Project for Freedom Broadcasting to Asia authorized by section 2443.

(C) VOICE OF AMERICA FARSI SERVICE.—Of the amounts authorized to be appropriated under subparagraph (A) $1,873,521 for the fiscal year 1996 and $1,873,521 for the fiscal year 1997 are authorized to be appropriated only to carry out the Voice of America Farsi Service.

(5) RADIO CONSTRUCTION.—For "Radio Construction", $75,164,000 for the fiscal year 1996, and $67,647,000 for the fiscal year 1997.

(6) RADIO FREE ASIA.—For "Radio Free Asia", $10,000,000 for the fiscal year 1996 and $10,000,000 for the fiscal year 1997.

(7) BROADCASTING TO CUBA.—For "Broadcasting to Cuba", $24,809,000 for the fiscal year 1996 and $24,809,000 for the fiscal year 1997.

(8) OFFICE OF THE INSPECTOR GENERAL.—For "Office of the Inspector General", $4,300,000 for the fiscal year 1996 and $3,870,000 for the fiscal year 1997.

(9) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For "Center for Cultural and Technical Interchange between East and West", $15,000,000 for the fiscal year 1996 and $10,000,000 for the fiscal year 1997.

(10) NATIONAL ENDOWMENT FOR DEMOCRACY—For "National Endowment for Democracy", $34,000,000 for the fiscal year 1996 and $34,000,000 for the fiscal year 1997.

(11) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.—For "Center for Cultural and Technical

Interchange between North and South" $4,000,000 for the fiscal year 1996 and $3,000,000 for the fiscal year 1997.

SEC. 2107. UNITED STATES ARMS CONTROL AND DISARMAMENT.

There are authorized to be appropriated to carry out the purposes of the Arms Control and Disarmament Act—

(1) $44,000,000 for the fiscal year 1996 and $40,500,000 for the fiscal year 1997; and

(2) such sums as may be necessary for each of the fiscal years 1996 and 1997 for increases in salary, pay, retirement, other employee benefits authorized by law, and to offset adverse fluctuations in foreign currency exchange rates.

TITLE XXII—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

CHAPTER 1—AUTHORITIES AND ACTIVITIES

SEC. 2201. REVISION OF DEPARTMENT OF STATE REWARDS PROGRAM.

(a) IN GENERAL.—Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended to read as follows:

"SEC. 36. DEPARTMENT OF STATE REWARDS PROGRAM.

"(a) ESTABLISHMENT.—(1) There is established a program for the payment of rewards to carry out the purposes of this section.

"(2) The rewards program established by this section shall be administered by the Secretary of State, in consultation, where appropriate, with the Attorney General.

"(b) PURPOSE.—(1) The rewards program established by this section shall be designed to assist in the prevention of acts of international terrorism, international narcotics trafficking, and other related criminal acts.

"(2) The Secretary of State may pay a reward to any individual who furnishes information leading to—

"(A) the arrest or conviction in any country of any individual for the commission of an act of international terrorism against a United States person or United States property;

"(B) the arrest or conviction in any country of any individual conspiring or attempting to commit an act of international terrorism against a United States person or United States property;

"(C) the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

"(i) a violation of United States narcotics laws and which is such that the individual would be a major violator of such laws; or

"(ii) the killing or kidnapping of—

"(I) any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual's official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

"(II) a member of the immediate family of any such individual on account of that individual's official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

"(iii) an attempt or conspiracy to commit any of the acts described in clause (i) or (ii); or

"(D) the arrest or conviction in any country of any individual aiding or abetting in the commission of an act described in subparagraphs (A) through (C); or

"(E) the prevention, frustration, or favorable resolution of an act described in subparagraphs (A) through (C).

"(c) COORDINATION.—(1) To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under this section, including procedures for—

"(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered;

"(B) the publication of rewards;

"(C) offering of joint rewards with foreign governments;

"(D) the receipt and analysis of data; and

"(E) the payment and approval of payment,

shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

"(2) Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall advise and consult with the Attorney General.

"(d) FUNDING.—(1) There is authorized to be appropriated to the Department of State from time to time such amounts as may be necessary to carry out the purposes of this section, notwithstanding section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93).

"(2) No amount of funds may be appropriated which, when added to the amounts previously appropriated but not yet obligated, would cause such amounts to exceed $15,000,000.

"(3) To the maximum extent practicable, funds made available to carry out this section should be distributed equally for the purpose of preventing acts of international terrorism and for the purpose of preventing international narcotics trafficking.

"(4) Amounts appropriated to carry out the purposes of this section shall remain available until expended.

"(e) ADDITIONAL FUNDING.—(1) In extraordinary circumstances and when it is important to the national security of the United States, the Secretary of State may use fees collected for processing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas pursuant to section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note) to carry out the purposes of this section, subject to the limitation contained in subsection (d)(2).

"(2) The authority contained in paragraph (1) may be used only if the Secretary notifies the appropriate congressional committees 15 days in advance in accordance with regular reprogramming procedures. Such notification shall contain a detailed justification of the circumstances necessitating the use of such fees for the purposes of this section.

"(f)— LIMITATION AND CERTIFICATION.—(1) A reward under this section may not exceed $2,000,000.

"(2) A reward under this section of more than $100,000 may not be made without the approval of the President or the Secretary of State.

"(3) Any reward granted under this section shall be approved and certified for payment by the Secretary of State.

"(4) The authority of paragraph (2) may not be delegated to any other officer or employee of the United States Government.

"(5) If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he considers necessary to effect such protection.

"(g) INELIGIBILITY.—An officer or employee of any governmental entity who, while in the performance of his or her official duties, furnishes information described in subsection (b) shall not be eligible for a reward under this section.

"(h) REPORTS.—(1) Not later than 30 days after paying any reward under this section, the Secretary of State shall submit a report to the appropriate congressional committees with respect to such reward. The report, which may be submitted on a classified basis if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid. The report shall also discuss the significance of the information for which the reward was paid in dealing with those acts.

"(2) Not later than 60 days after the end of each fiscal year, the Secretary of State shall submit an annual report to the appropriate congressional committees with respect to the operation of the rewards program authorized by this section. Such report shall provide information on the total amounts expended during such fiscal year to carry out the purposes of this section, including amounts spent to publicize the availability of rewards. Such report shall also include information on all requests for the payment of rewards under this section, including the reasons for the denial of any such requests.

"(i) DEFINITIONS.—As used in this section—

"(1) the term 'appropriate congressional committees' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate;

"(2) the term 'act of international terrorism' includes, but is not limited to—

"(A) any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in section 830(8) of the Nuclear Proliferation Prevention Act of 1994) or any nuclear explosive device (as defined in section 830(4) of that Act) by an individual, group, or non-nuclear weapon state (as defined in section 830(5) of that Act); and

"(B) any act, as determined by the Secretary of State, which materially supports the conduct of international terrorism, including the counterfeiting of United States currency or the illegal use of other monetary instruments by an individual, group, or country supporting international terrorism as determined for purposes of section 6(j) of the Export Administration Act of 1979;

"(3) the term 'United States narcotics laws' means the laws of the United States for the prevention and control of illicit traffic in controlled substances (as such term is defined for purposes of the Controlled Substances Act); and

"(4) the term 'member of the immediate family' includes—

"(A) a spouse, parent, brother, sister, or child of the individual;

"(B) a person to whom the individual stands in loco parentis; and

"(C) any other person living in the individual's household and related to the individual by blood or marriage.".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of State should pursue additional means of funding the program established by section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708), including the authority to seize and dispose of assets used in the commission of any offense under sections 1028, 1541 through 1544, and 1546 of title 18, United States Code, and to retain the proceeds derived from the disposition of such assets, or to participate in asset sharing programs conducted by the Department of Justice, to carry out the purposes of section 36 of that Act.

SEC. 2202. AUTHORITIES OF SECRETARY OF STATE.

Section 203(4) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4303(4)) is amended in the third sentence by striking "should" both places it appears and inserting "shall".

SEC. 2203. BUYING POWER MAINTENANCE ACCOUNT.

Section 24(b)(7) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(b)(7)) is amended by striking subparagraph (D).

SEC. 2204. EXPENSES RELATING TO CERTAIN INTERNATIONAL CLAIMS AND PROCEEDINGS.

(a) RECOVERY OF CERTAIN EXPENSES.—The Department of State Appropriation Act, 1937 (49 Stat. 1321, 22 U.S.C. 2661, as amended by section 142(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204)) is amended in the fifth undesignated paragraph under the heading entitled "INTERNATIONAL FISHERIES COMMISSION" by striking "extraordinary".

(b) PROCUREMENT OF SERVICES.—Section 38(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710(c)) is amended in the first sentence by inserting "personal and" before "other support services".

SEC. 2205. CONSOLIDATION OF UNITED STATES DIPLOMATIC MISSIONS AND CONSULAR POSTS.

(a) CONSOLIDATION PLAN.—The Secretary of State shall develop a worldwide plan for the consolidation, wherever practicable, on a regional or areawide basis, of United States missions and consular posts abroad.

(b) CONTENTS OF PLAN.—The plan shall—

(1) identify specific United States diplomatic missions and consular posts for consolidation;

(2) identify those missions and posts at which the resident ambassador would also be accredited to other specified states in which the United States either maintained no resident official presence or maintained such a presence only at staff level; and

(3) provide an estimate of—

(A) the amount by which expenditures would be reduced through the reduction in the number of United States Government personnel assigned abroad;

(B) the reduction in the costs of maintaining United States properties abroad; and

(C) the amount of revenues generated to the United States through the sale or other disposition of United States properties associated with the posts to be consolidated abroad.

(c) TRANSMITTAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall transmit a copy of the plan to the appropriate congressional committees.

SEC. 2206. DENIAL OF PASSPORTS TO NONCUSTODIAL PARENTS SUBJECT TO STATE ARREST WARRANTS IN CASES OF NONPAYMENT OF CHILD SUPPORT.

The Secretary of State is authorized to refuse to issue a passport or to revoke, restrict, or limit a passport in any case in which the Secretary of State determines or is informed by competent authority that the applicant or passport holder is a noncustodial parent who is the subject of an outstanding State warrant of arrest for nonpayment of child support, where the amount in controversy is not less than $10,000.

SEC. 2207. CAPITAL INVESTMENT FUND.

Section 135 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2684a) is amended—

(1) in subsection (a) by inserting "and enhancement" after "procurement";

(2) in subsection (c) by striking "are authorized to" and inserting "shall";

(3) in subsection (d) by striking "for expenditure to procure capital equipment and information technology" and inserting in lieu thereof "for purposes of subsection (a)"; and

(4) by amending subsection (e) to read as follows:

"(e) REPROGRAMMING PROCEDURES.—Funds credited to the Capital Investment Fund shall not be available for obligation or expenditure except in compliance with the procedures applicable to reprogrammings under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710).".

SEC. 2208. EFFICIENCY IN PROCUREMENT.

(a) IN GENERAL.—To the maximum extent practicable, United States Government agencies performing functions at diplomatic and consular posts abroad shall avoid duplicative acquisition actions.

(b) AUTHORITY.—Notwithstanding any other provision of law, a contract awarded in accordance with the Competition in Contracting Act by an agency of the United States Government performing functions at diplomatic and consular posts abroad may be amended without competition to permit other such United States Government agencies to obtain goods or services under such contract, if unit prices are not increased as a result of any such amendment.

SEC. 2209. TRAINING.

Section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021) is amended—

(1) by redesignating subsection (d)(4) as subsection (g); and

(2) by inserting after subsection (d) the following new subsections:

"(e)(1) The Secretary of State is authorized to provide appropriate training through the institution to employees of any United States company engaged in business abroad, and to the families of such employees, when such training is in the national interest of the United States.

"(2) In the case of any company under contract to provide services to the Department of State, the Secretary of State is authorized to provide job-related training to any company employee who is performing such services.

"(3) Training under this subsection shall be on a reimbursable or advance-of-funds basis. Such reimbursements or advances shall be credited to the currently applicable appropriation account.

"(4) Training under this subsection is authorized only to the extent that it will not interfere with the institution's primary mission of training employees of the Department and of other agencies in the field of foreign relations.

"(f)(1) The Secretary of State is authorized to provide on a reimbursable basis foreign language training programs to Members of Congress and officers and employees of Congress.

"(2) Reimbursements under this subsection, to the extent practicable, should be equivalent to the rate of reimbursement charged other agencies of the United States Government for comparable training.

"(3) Reimbursements collected under this subsection shall be credited to the currently available applicable appropriation account.

"(4) Training under this subsection is authorized only to the extent that it will not interfere with the institution's primary mission of training employees of the Department and of other agencies in the field of foreign relations.".

SEC. 2210. LEASE-PURCHASE AGREEMENTS.

Whenever the Department of State enters into lease-purchase agreements involving property in foreign countries pursuant to section 1 of the Foreign Service Buildings Act (22 U.S.C. 292), budget authority shall be scored on an annual basis over the period of the lease in an amount equal to the annual lease payments.

CHAPTER 2—CONSULAR AUTHORITIES OF THE DEPARTMENT OF STATE

SEC. 2231. SURCHARGE FOR PROCESSING CERTAIN MACHINE READABLE VISAS.

Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103—236) is amended—

(1) by striking paragraphs (2) and (3) and inserting the following:

"(2) For fiscal years 1996 and 1997, not more than $250,000,000 in fees collected under the authority of paragraph (1) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of the Department of State's border security program, including the costs of—

"(1) installation and operation of the machine readable visa and automated name-check process;

"(2) improving the quality and security of the United States passport;

"(3) passport and visa fraud investigations; and

"(4) the technological infrastructure to support and operate the programs referred to in paragraphs (1) through (3).

Such fees shall remain available for obligation until expended.

"(3) For any fiscal year, fees collected under the authority of paragraph (1) in excess of the amount specified for such fiscal year under paragraph (2) shall be deposited in the general fund of the Treasury as miscellaneous receipts."; and

(2) by striking paragraph (5).

SEC. 2232. FINGERPRINT CHECK REQUIREMENT.

Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 8 U.S.C. 1182 note) as amended by section 505 of the Department of State and Related Agencies Appropriation Act, Fiscal Year 1995 (Public Law 103-317) is amended by adding at the end the following:

"(h) FINGERPRINT CHECK REQUIREMENT.—If a visa applicant is determined to have a criminal history record under subsection (d)(1), has been physically present in the United States, and is more than 16 years of age, the applicant shall provide a fingerprint record for submission with the application, at no cost to the Department of State. The Department of State shall submit such fingerprint record to the Federal Bureau of Investigation for analysis to determine whether the applicant has been convicted of a felony under State or Federal law in the United States.".

SEC. 2233. USE OF CERTAIN PASSPORT PROCESSING FEES FOR ENHANCED PASSPORT SERVICES.

For each of the fiscal years 1996 and 1997, of the fees collected for expedited passport processing and deposited to an offsetting collection pursuant to the Department of State and Related Agencies Appropriations Act for

Fiscal Year 1995 (Public Law 103—317; 22 U.S.C. 214), 10 percent shall be available only for enhancing passport services for United States citizens, improving the integrity and efficiency of the passport issuance process, improving the secure nature of the United States passport, investigating passport fraud, and deterring entry into the United States by terrorists, drug traffickers, or other criminals.

SEC. 2234. CONSULAR OFFICERS.

(a) PERSONS AUTHORIZED TO ISSUE REPORTS OF BIRTH ABROAD.—Section 33 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2705) is amended in paragraph (2) by inserting "(or any United States citizen employee of the Department of State designated by the Secretary of State to adjudicate nationality abroad pursuant to such regulations as the Secretary may prescribe)" after "consular officer".

(b) PROVISIONS APPLICABLE TO CONSULAR OFFICERS.—Section 31 of the Act of August 18, 1856 (Rev. Stat. 1689, 22 U.S.C. 4191), is amended by inserting "and to such other United States citizen employees of the Department of State as may be designated by the Secretary of State pursuant to such regulations as the Secretary may prescribe" after "such officers".

CHAPTER 3—REFUGEES AND MIGRATION

SEC. 2251. UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND.

(a) LIMITATION ON TRANSFERS FROM EMERGENCY FUND.—Section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) is amended by adding after paragraph (3) the following:

"(4) Notwithstanding any other provision of this Act, the President shall notify the appropriate congressional committees not less than 15 days before transferring or otherwise making available amounts from the United States Emergency Refugee and Migration Assistance Fund under paragraph (1).".

(b) NOTIFICATION OF EXPENDITURES FROM FUND.—Section 2(d) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) is amended to read as follows:

"(d)(1) Except as provided in paragraph (2), and notwithstanding any other provision of this Act, the President shall notify the appropriate congressional committees at least 15 days in advance of the obligation or expenditure of sums from the United States Emergency Refugee and Migration Assistance Fund under subsection (c).

"(2) Notwithstanding the notification requirement of paragraph (1), the President may obligate and expend sums from the United States Emergency Refugee and Migration Assistance Fund if the President determines, and promptly certifies to the appropriate congressional committees, that unforseen emergency circumstances require the immediate obligation of sums from such fund. Any such certification shall fully inform such committees of the amount and use of such sums from the Fund.

"(3) For purposes of this section, the term 'appropriate congressional committees' means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.".

SEC. 2252. PERSECUTION FOR RESISTANCE TO COERCIVE POPULATION CONTROL METHODS.

Section 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)) is amended by adding at the end the following: "For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subjected to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.".

SEC. 2253. REPORT TO CONGRESS CONCERNING CUBAN EMIGRATION POLICIES.

Beginning 3 months after the date of the enactment of this Act and every subsequent 6 months, the President shall transmit a report to the appropriate congressional committees concerning the methods employed by the Government of Cuba to enforce the United States—Cuba agreement of September 1994 to restrict the emigration of the Cuban people from Cuba to the United States, and the treatment by the Government of Cuba of persons who have been returned to Cuba pursuant to the United States—Cuba agreement of May 1995. Each report transmitted pursuant to this section shall include a detailed account of United States efforts to monitor such enforcement and treatment.

SEC. 2254. UNITED STATES POLICY REGARDING THE INVOLUNTARY RETURN OF REFUGEES.

(a) IN GENERAL.—No funds authorized to be appropriated by this Act shall be available to involuntarily return any person to a country in which the person has a well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or promote or assist such involuntary return.

(b) INVOLUNTARILY RETURN DEFINED—As used in this section, the term "involuntarily return" means to take action by which it is reasonably foreseeable that a person will be required to return to a country against the person's will, regardless of whether such return is induced by physical force and regardless of whether the person is physically present in the United States.

SEC. 2255. EXTENSION OF CERTAIN ADJUDICATION PROVISIONS.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101—167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking "and 1996" and inserting "1996, and 1997"; and

(B) in subsection (e), by striking out "October 1, 1996" each place it appears and inserting "October 1, 1997"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking out "September 30, 1996" and inserting "September 30, 1997".

TITLE XXIII—ORGANIZATION OF THE DEPARTMENT OF STATE; DEPARTMENT OF STATE PERSONNEL; THE FOREIGN SERVICE

CHAPTER 1—ORGANIZATION OF THE DEPARTMENT OF STATE

SEC. 2301. COORDINATOR FOR COUNTERTERRORISM.

(a) ESTABLISHMENT.—Section 1(e) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)) is amended—

(1) by striking "In" and inserting the following:

"(1) In"; and

(2) by inserting at the end the following:

"(2) COORDINATOR FOR COUNTERTERRORISM.—

"(A) There shall be within the office of the Secretary of State a Coordinator for Counterterrorism (hereafter in this paragraph referred to as the 'Coordinator') who shall be appointed by the President, by and with the advice and consent of the Senate.

"(B)(i) The Coordinator shall perform such duties and exercise such power as the Secretary of State shall prescribe.

"(ii) The principal duty of the Coordinator shall be the overall supervision (including policy oversight of resources) of international counterterrorism activities. The Coordinator shall be the principal advisor to the Secretary of State on international counterterrorism matters. The Coordinator shall be the principal counterterrorism official within the senior management of the Department of State and shall report directly to the Secretary of State.

"(C) The Coordinator shall have the rank and status of Ambassador-at-Large. The Coordinator shall be compensated at the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5314 of title 5, United States Code, or, if the Coordinator is appointed from the Foreign Service, the annual rate of pay which the individual last received under the Foreign Service Schedule, whichever is greater.

"(D) For purposes of diplomatic protocol among officers of the Department of State, the Coordinator shall take precedence after the Secretary of State, the Deputy Secretary of State, and the Under Secretaries of State and shall take precedence among the Assistant Secretaries of State in the order prescribed by the Secretary of State.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236) is amended by striking subsection (e).

(c) TRANSITION PROVISION.—The individual serving as Coordinator for Counterterrorism of the Department of State on the day before the effective date of this division may continue to serve in that position.

SEC. 2302. SPECIAL ENVOY FOR TIBET.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Government of the People's Republic of China withholds meaningful participation in the governance of Tibet from Tibetans and has failed to abide by its own constitutional guarantee of autonomy for Tibetans.

(2) The Government of the People's Republic of China is responsible for the destruction of much of Tibet's cultural and religious heritage since 1959 and continues to threaten the survival of Tibetan culture and religion.

(3) The Government of the People's Republic of China, through direct and indirect incentives, has established discriminatory development programs which have resulted in an overwhelming flow of Chinese immigrants into Tibet, including those areas incorporated into the Chinese provinces of Sichuan, Yunnan, Gansu, and Quinghai in recent years, and have excluded Tibetans from participation in important policy decisions, further threatening traditional Tibetan life.

(4) The Government of the People's Republic of China denies Tibetans their fundamental human rights, as reported in the Department of State's Country Reports on Human Rights Practices for 1995.

(5) The President and the Congress have determined that the promotion of human rights in Tibet and the protection of Tibet's religion and culture are important elements in United States-China relations and have urged senior members of the Government of

the People's Republic of China to enter into substantive negotiations on these matters with the Dalai Lama or his representative.

(6) The Dalai Lama has repeatedly stated his willingness to begin substantive negotiations without preconditions.

(7) The Government of the People's Republic of China has failed to respond in a good faith manner by reciprocating a willingness to begin negotiations without preconditions, and no substantive negotiations have begun.

(b) UNITED STATES SPECIAL ENVOY FOR TIBET.—Section 1(e) of the State Department Basic Authorities Act (U.S.C. 2651a(e)) is amended by adding after paragraph (2) the following new paragraph:

"(3) UNITED STATES SPECIAL ENVOY FOR TIBET.—

"(A) There shall be within the Department of State a United States Special Envoy for Tibet, who shall be appointed by the President, by and with the advice and consent of the Senate. The United States Special Envoy for Tibet shall hold office at the pleasure of the President.

"(B) The United States Special Envoy for Tibet shall have the personal rank of ambassador.

"(C) The United States Special Envoy for Tibet is authorized and encouraged—

"(i) to promote substantive negotiations between the Dalai Lama or his representatives and senior members of the Government of the People's Republic of China;

"(ii) to promote good relations between the Dalai Lama and his representatives and the United States Government, including meeting with members or representatives of the Tibetan government-in-exile; and

"(iii) to travel regularly throughout Tibet and Tibetan refugee settlements.

"(D) The United States Special Envoy for Tibet shall—

"(i) consult with the Congress on policies relevant to Tibet and the future and welfare of all Tibetan people;

"(ii) coordinate United States Government policies, programs, and projects concerning Tibet; and

"(iii) report to the Secretary of State regarding the matters described in section 536(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236).".

SEC. 2303. ESTABLISHMENT OF COORDINATOR FOR HUMAN RIGHTS AND REFUGEES, BUREAU OF REFUGEE AND MIGRATION ASSISTANCE, AND BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR.

(a) ESTABLISHMENT OF COORDINATOR FOR HUMAN RIGHTS AND REFUGEES.—

Section 1(e) of the State Department Basic Authorities Act (22 U.S.C. 2651a(e)) is amended by adding after paragraph (3) the following new paragraph:

"(4) COORDINATOR FOR HUMAN RIGHTS AND REFUGEES.—

"(A) There shall be within the office of the Secretary of State a Coordinator for Human Rights and Refugees (hereafter in this paragraph referred to as the 'Coordinator') who shall be appointed by the President, by and with the advice and consent of the Senate. The Coordinator shall report directly to the Secretary of State.

"(B) The Coordinator shall be responsible for matters pertaining to human rights, refugees, and humanitarian affairs (including matters relating to prisoners of war and members of the United States Armed Forces missing in action) in the conduct of foreign policy. The Coordinator shall head the Bureau of Refugee and Migration Assistance and the Bureau of Democracy, Human Rights, and Labor.

"(C) The Coordinator shall have the rank and status of Ambassador-at-Large. The Coordinator shall be compensated at the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5314 of title 5, United States Code, or, if the Coordinator is appointed from the Foreign Service, the annual rate of pay which the individual last received under the Foreign Service Schedule, whichever is greater.

"(D) For purposes of diplomatic protocol among officers of the Department of State, the Coordinator shall take precedence after the Secretary of State, the Deputy Secretary of State, and the Under Secretaries of State and shall take precedence among the Assistant Secretaries of State in the order prescribed by the Secretary of State.".

(b) TERMINATION OF ASSISTANT SECRETARY OF STATE FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR.—

(1) IN GENERAL.—Section 1(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)) is amended by striking paragraph (2).

(2) CONFORMING AMENDMENTS.—The Foreign Assistance Act of 1961 is amended—

(A) in section 116(c) (22 U.S.C. 2151n), by striking "Assistant Secretary of State for Democracy, Human Rights, and Labor" and inserting "Secretary";

(B) in sections 502B, 502B, and 505(g)(4)(A) by striking ", prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights, and Labor,"; and

(C) in section 573(c) by striking "Assistant Secretary of State for Democracy, Human Rights, and Labor" and inserting "Secretary of State".

(c) ESTABLISHMENT OF BUREAU OF REFUGEE AND MIGRATION ASSISTANCE AND BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR.—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended by adding after subsection (e) the following new subsection:

"(f) ESTABLISHMENT OF CERTAIN BUREAUS, OFFICES, AND OTHER ORGANIZATIONAL ENTITIES WITHIN THE DEPARTMENT OF STATE.—

"(1) BUREAU OF REFUGEE AND MIGRATION ASSISTANCE.—There is established within the Department of State the Bureau of Refugee and Migration Assistance which shall assist the Secretary of State in carrying out the Migration and Refugee Assistance Act of 1962. The Bureau shall be headed by the Coordinator for Human Rights and Refugees.

"(2) BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR.—There is established within the Department of State the Bureau of Democracy, Human Rights, and Labor. The Bureau shall be headed by the Coordinator for Human Rights and Refugees. The Bureau shall continuously observe and review all matters pertaining to human rights and humanitarian affairs (including matters relating to prisoners of war and members of the United States Armed Forces missing in action) in the conduct of foreign policy including the following:

"(A) Gathering detailed information regarding humanitarian affairs and the observance of and respect for internationally recognized human rights in each country to which the requirements of section 116 and 502B of the Foreign Assistance Act of 1961 are relevant.

"(B) Preparing the statements and reports to Congress required under section 502B of the Foreign Assistance Act of 1961.

"(C) Making recommendations to the Secretary of State regarding compliance with sections 116 and 502B of the Foreign Assistance Act of 1961, and as part of the Bureau's overall policy responsibility for the creation of United States Government human rights policy, advising the Secretary on the policy framework under which section 116(e) projects are developed and consulting with the Secretary on the selection and implementation of such projects.

"(D) Performing other responsibilities which serve to promote increased observance of internationally recognized human rights by all countries.".

SEC. 2304. ELIMINATION OF STATUTORY ESTABLISHMENT OF CERTAIN POSITIONS OF THE DEPARTMENT OF STATE.

(a) ASSISTANT SECRETARY OF STATE FOR SOUTH ASIAN AFFAIRS.—Section 122 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2652b) is repealed.

(b) DEPUTY ASSISTANT SECRETARY OF STATE FOR BURDENSHARING.—Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2651a note) is amended by striking subsection (f).

(c) ASSISTANT SECRETARY FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS.—Section 9 of the Department of State Appropriations Authorization Act of 1973 (22 U.S.C. 2655a) is repealed.

SEC. 2305. ESTABLISHMENT OF ASSISTANT SECRETARY OF STATE FOR HUMAN RESOURCES.

Section 1(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)) is amended by adding after paragraph (1) the following new paragraph:

"(2) ASSISTANT SECRETARY FOR HUMAN RESOURCES.—There shall be in the Department of State an Assistant Secretary for Human Resources who shall be responsible to the Secretary of State for matters relating to human resources including the implementation of personnel policies and programs within the Department of State and international affairs functions and activities carried out through the Department of State. The Assistant Secretary shall have substantial professional qualifications in the field of human resource policy and management.".

SEC. 2306. AUTHORITY OF UNITED STATES PERMANENT REPRESENTATIVE TO THE UNITED NATIONS.

Section 2(a) of the United Nations Participation Act of 1945 (22 U.S.C. 287(a)) is amended by striking "hold office at the pleasure of the President" and inserting "serve at the pleasure of the President and subject to the direction of the Secretary of State".

CHAPTER 2—PERSONNEL OF THE DEPARTMENT OF STATE; THE FOREIGN SERVICE

SEC. 2351. AUTHORIZED STRENGTH OF THE FOREIGN SERVICE.

(a) END FISCAL YEAR 1996 LEVELS.—The number of members of the Foreign Service authorized to be employed as of September 30, 1996—

(1) for the Department of State, shall not exceed 9,000, of whom not more than 720 shall be members of the Senior Foreign Service;

(2) for the United States Information Agency, shall not exceed 1,150, of whom not more than 165 shall be members of the Senior Foreign Service; and

(3) for the Agency for International Development, not to exceed 1,800, of whom not more than 240 shall be members of the Senior Foreign Service.

(b) END FISCAL YEAR 1997 LEVELS.—The number of members of the Foreign Service authorized to be employed as of September 30, 1997—

(1) for the Department of State, shall not exceed 8,800, of whom not more than 680 shall be members of the Senior Foreign Service;

(2) for the United States Information Agency, not to exceed 1,100 of whom not more than 160 shall be members of the Senior Foreign Service; and

(3) for the Agency for International Development, not to exceed 1,775 of whom not more than 230 shall be members of the Senior Foreign Service.

(c) DEFINITION.—For the purposes of this section, the term "members of the Foreign Service" is used within the meaning of such term under section 103 of the Foreign Service Act of 1980 (22 U.S.C 3903), except that such term does not include—

(1) members of the Service under paragraphs (6) and (7) of such section;

(2) members of the Service serving under temporary resident appointments abroad;

(3) members of the Service employed on less than a full-time basis;

(4) members of the Service subject to involuntary separation in cases in which such separation has been suspended pursuant to section 1106(8) of the Foreign Service Act of 1980; and

(5) members of the Service serving under non-career limited appointments.

(d) WAIVER AUTHORITY.—(1) Subject to paragraph (2), the President may waive any limitation under subsection (a) or (b) to the extent that such waiver is necessary to carry on the foreign affairs functions of the United States.

(2) Not less than 15 days before the President exercises a waiver under paragraph (1), such agency head shall notify the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on International Relations of the House of Representatives. Such notice shall include an explanation of the circumstances and necessity for such waiver.

SEC. 2352. REPEAL OF AUTHORITY FOR SENIOR FOREIGN SERVICE PERFORMANCE PAY.

(a) REPEAL.—Section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) is repealed.

(b) CONFORMING AMENDMENT.—Section 2 of the Foreign Service Act of 1980 is amended in the table of contents by striking the item related to section 405.

SEC. 2353. RECOVERY OF COSTS OF HEALTH CARE SERVICES.

(a) AUTHORITIES.—Section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4084) is amended—

(1) in subsection (a) by—

(A) striking "and" before "members of the families of such members and employees"; and

(B) by inserting immediately before the period ", and for care provided abroad) such other persons as are designated by the Secretary of State, except that such persons shall be considered persons other than covered beneficiaries for purposes of subsections (g) and (h)";

(2) in subsection (d) by inserting ", subject to the provisions of subsections (g) and (h)" after "treatment"; and

(3) by adding the following new subsections:

"(g)(1) In the case of a person who is a covered beneficiary, the Secretary of State is authorized to collect from a third-party payer the reasonable costs incurred by the Department of State on behalf of such person for health care services to the same extent that the covered beneficiary would be eligible to receive reimbursement or indemnification from the third-party payer for such costs.

"(2) If the insurance policy, plan, contract, or similar agreement of that third-party payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the Secretary of State may collect from the third-party payer only the reasonable costs of the care provided less the deductible or copayment amount.

"(3) A covered beneficiary shall not be required to pay any deductible or copayment for health care services under this subsection.

"(4) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for care in the following circumstances shall operate to prevent collection by the Secretary of State under paragraph (1)—

"(A) care provided directly or indirectly by a governmental entity;

"(B) care provided to an individual who has not paid a required deductible or copayment; or

"(C) care provided by a provider with which the third-party payer has no participation agreement.

"(5) No law of any State, or of any political subdivision of a State, and no provision of any contract or agreement shall operate to prevent or hinder recovery or collection by the United States under this section.

"(6) As to the authority provided in paragraph (1) of this subsection—

"(A) the United States shall be subrogated to any right or claim that the covered beneficiary may have against a third-party payer;

"(B) the United States may institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under this subsection; and

"(C) the Secretary may compromise, settle, or waive a claim of the United States under this subsection.

"(7) The Secretary shall prescribe regulations for the administration of this subsection and subsection (h). Such regulations shall provide for computation of the reasonable cost of health care services.

"(8) Regulations prescribed under this subsection shall provide that medical records of a covered beneficiary receiving health care under this subsection shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought for the sole purpose of permitting the third party to verify—

"(A) that the care or services for which recovery or collection is sought were furnished to the covered beneficiary; and

"(B) that the provisions of such care or services to the covered beneficiary meets criteria generally applicable under the health plan contract involved, except that this paragraph shall be subject to the provisions of paragraphs (2) and (4).

"(9) Amounts collected under this subsection or under subsection (h) from a third-party payer or from any other payer shall be deposited as an offsetting collection to any Department of State appropriation and shall remain available until expended.

"(10) For purposes of this section—

"(A) the term 'covered beneficiary' means an individual eligible to receive health care under this section whose health care costs are to be paid by a third-party payer under a contractual agreement with such payer;

"(B) the term 'services', as used in 'health care services' includes products; and

"(C) the term 'third-party payer' means an entity that provides a fee-for-service insurance policy, contract, or similar agreement through the Federal Employees Health Benefit program, under which the expenses of health care services for individuals are paid.

"(h) In the case of a person, other than a covered beneficiary, who receives health care services pursuant to this section, the Secretary of State is authorized to collect from such person the reasonable costs of health care services incurred by the Department of State on behalf of such person. The United States shall have the same rights against persons subject to the provisions of this subsection as against third-party payers covered by subsection (g).".

(b) EFFECTIVE DATE.—Subsection (a) shall take effect October 1, 1996.

TITLE XXIV—UNITED STATES PUBLIC DIPLOMACY: AUTHORITIES AND ACTIVITIES FOR UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

CHAPTER 1—GENERAL PROVISIONS

SEC. 2401. ELIMINATION OF PERMANENT AUTHORIZATION.

Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 is amended by striking subsection (e).

SEC. 2402. EXTENSION OF AU PAIR PROGRAMS.

Section 8 of the Eisenhower Exchange Fellowship Act of 1990 (Public Law 101–454) is amended in the last sentence by striking "fiscal year 1995" and inserting "fiscal year 1997".

SEC. 2403. EDUCATIONAL AND CULTURAL EXCHANGES WITH HONG KONG.

The Director of the United States Information Agency shall conduct programs of educational and cultural exchange between the United States and the people of Hong Kong.

SEC. 2404. CONDUCT OF CERTAIN EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS IN ASIA.

In carrying out programs of educational and cultural exchange in Hong Kong, China, Vietnam, Cambodia, Tibet, Burma, and East Timor, the Director of the United States Information Agency shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries and persons who are nationals but not residents of such countries.

SEC. 2405. EDUCATIONAL AND CULTURAL EXCHANGES AND SCHOLARSHIPS FOR TIBETANS AND BURMESE.

(a) ESTABLISHMENT OF EDUCATIONAL AND CULTURAL EXCHANGE FOR TIBETANS.—The Director of the United States Information Agency shall establish programs of educational and cultural exchange between the United States and the people of Tibet. Such programs shall include opportunities for training and, as the Director considers appropriate, may include the assignment of personnel and resources abroad.

(b) SCHOLARSHIPS FOR TIBETANS AND BURMESE.—

(1) For each of the fiscal years 1996 and 1997, at least 30 scholarships shall be made available to Tibetan students and professionals who are outside Tibet, and at least 15 scholarships shall be made available to Burmese students and professionals who are outside Burma.

(2) WAIVER.—Paragraph (1) shall not apply to the extent that the Director of the United States Information Agency determines that there are not enough qualified students to fulfill such allocation requirement.

(3) SCHOLARSHIP DEFINED.—For the purposes of this section, the term "scholarship" means an amount to be used for full or partial support of tuition and fees to attend an

educational institution, and may include fees, books, and supplies, equipment required for courses at an educational institution, living expenses at a United States educational institution, and travel expenses to and from, and within, the United States.

SEC. 2406. AVAILABILITY OF VOICE OF AMERICA AND RADIO MARTI MULTILINGUAL COMPUTER READABLE TEXT AND VOICE RECORDINGS.

(a) IN GENERAL.—Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency is authorized to make available, upon request, to the Linguistic Data Consortium of the University of Pennsylvania computer readable multilingual text and recorded speech in various languages. The Consortium shall, directly or indirectly as appropriate, reimburse the Director for any expenses involved in making such materials available.

(b) TERMINATION.—Subsection (a) shall cease to have effect 5 years after the date of the enactment of this Act.

SEC. 2407. RETENTION OF INTEREST.

Notwithstanding any other provision of law, with the approval of the National Endowment for Democracy, grant funds made available by the National Endowment for Democracy may be deposited in interest-bearing accounts pending disbursement and any interest which accrues may be retained by the grantee and used for the purposes for which the grant was made.

SEC. 2408. USIA OFFICE IN PRISTINA, KOSOVA.

(a) ESTABLISHMENT OF OFFICE.—The Director of the United States Information Agency shall seek to establish an office in Pristina, Kosova, for the following purposes:

(1) Disseminating information about the United States.

(2) Promoting discussions on human rights, democracy, rule of law, and conflict resolution.

(3) Facilitating United States private sector involvement in educational and cultural activities in Kosova.

(4) Advising the United States Government with respect to public opinion in Kosova.

(b) REPORT TO CONGRESS.—Not later than April 1 of each year until subsection (a) has been fully implemented, the Director of the United States Information Agency shall submit a detailed report on developments relating to the implementation of subsection (a) to the appropriate congressional committees.

CHAPTER 2—INTERNATIONAL BROADCASTING

SEC. 2431. EXPANSION OF BROADCASTING BOARD OF GOVERNORS.

Section 304(b) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203) is amended—

(1) in paragraph (1) by striking "9" and inserting "11";

(2) in paragraph (1)(A) by striking "8" and inserting "10"; and

(3) in paragraph (3) by striking "4" and inserting "5".

SEC. 2432. PLAN FOR RADIO FREE ASIA.

Section 309(c) of the United States International Broadcasting Act (22 U.S.C. 6208(c)) is amended to read as follows:

"(c) SUBMISSION OF PLAN.—Not later than 90 days after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1996 and 1997, the Director of the United States Information Agency shall submit to the Congress a detailed plan for the establishment and operation of Radio Free Asia in accordance with this section. Such plan shall include the following:

"(1) A description of the manner in which Radio Free Asia would meet the funding limitations provided in subsection (d)(4).

"(2) A description of the numbers and qualifications of employees it proposes to hire.

"(3) How it proposes to meet the technical requirements for carrying out its responsibilities under this section.".

SEC. 2433. PILOT PROJECT FOR FREEDOM BROADCASTING TO ASIA.

(a) AUTHORITY.—The Director of the United States Information Agency shall make grants for broadcasting to the People's Republic of China, Burma, Cambodia, Laos, North Korea, Tibet, and Vietnam. Such broadcasting shall provide accurate and timely information, news, and commentary about events in the respective countries of Asia and elsewhere, and shall be a forum for a variety of opinions and voices from within Asian nations whose people do not fully enjoy freedom of expression.

(b) PURPOSE.—The purpose of such grants shall be to provide such broadcasting on an interim basis during the period before Radio Free Asia becomes fully operational.

(c) APPLICATIONS.—In considering applications for grants, the Director of the United States Information Agency shall give strong preference to entities which (1) take advantage of the expertise of political and religious dissidents and pro-democracy and human rights activists from within the countries to whom broadcasting is directed, including exiles from these countries; and (2) take advantage of contracts or similar arrangements with existing broadcast facilities so as to provide immediate broadcast coverage with low overhead.

(d) PLAN.—Not later than 30 days after the date of the enactment of this Act, the Director of the United States Information Agency shall submit to the appropriate congressional committees a plan for implementing this section which shall include details concerning timetable for implementation, grant criteria, and grant application procedures. The procedures and timetable should be designed to ensure that grantees will begin broadcasting not later than 120 days after the date of the enactment of this Act.

TITLE XXV—INTERNATIONAL ORGANIZATIONS AND COMMISSIONS

CHAPTER 1—GENERAL PROVISIONS

SEC. 2501. INTERNATIONAL BOUNDARY AND WATER COMMISSION.

The Act of May 13, 1924 (49 Stat. 660, 22 U.S.C. 277-277f), is amended in section 3 (22 U.S.C. 277b) by adding at the end the following new subsection:

"(d) Pursuant to the authority of subsection (a) and in order to facilitate further compliance with the terms of the Convention for Equitable Distribution of the Waters of the Rio Grande, May 21, 1906, United States-Mexico, the Secretary of State, acting through the United States Commissioner of the International Boundary and Water Commission, may make improvements to the Rio Grande Canalization Project, originally authorized by the Act of August 29, 1935 (49 Stat. 961). Such improvements may include all such works as may be needed to stabilize the Rio Grande in the reach between the Percha Diversion Dam in New Mexico and the American Diversion Dam in El Paso.".

CHAPTER 2—UNITED NATIONS AND AFFILIATED AGENCIES AND ORGANIZATIONS

SEC. 2521. REFORM IN BUDGET DECISIONMAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

(a) ASSESSED CONTRIBUTIONS.—Of amounts authorized to be appropriated for "Assessed Contributions to International Organizations" by this Act, the President may withhold 20 percent of the funds appropriated for the United States assessed contribution to the United Nations or to any of its specialized agencies for any calendar year if the United Nations or any such agency has failed to implement or to continue to implement consensus-based decisionmaking procedures on budgetary matters which assure that sufficient attention is paid to the views of the United States and other member states that are the major financial contributors to such assessed budgets.

(b) NOTICE TO CONGRESS.—The President shall notify the Congress when a decision is made to withhold any share of the United States assessed contribution to the United Nations or its specialized agencies pursuant to subsection (a) and shall notify the Congress when the decision is made to pay any previously withheld assessed contribution. A notification under this subsection shall include appropriate consultation between the President (or the President's representative) and the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) CONTRIBUTIONS FOR PRIOR YEARS.—Subject to the availability of appropriations, payment of assessed contributions for prior years may be made to the United Nations or any of its specialized agencies notwithstanding subsection (a) if such payment would further United States interests in that organization.

(d) REPORT TO CONGRESS.—Not later than February 1 of each year, the President shall submit to the appropriate congressional committees a report concerning the amount of United States assessed contributions paid to the United Nations and each of its specialized agencies during the preceding calendar year.

SEC. 2522. LIMITATION ON CONTRIBUTIONS TO THE UNITED NATIONS OR UNITED NATIONS AFFILIATED ORGANIZATIONS.

The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

SEC. 2523. REPORT ON UNICEF.

Not later than December 31, 1995, the Secretary of State shall transmit to the appropriate congressional committees a report on (1) the progress of UNICEF toward effective financial, program, and personnel management; (2) the progress of UNICEF in shifting its health, child survival, and maternal survival programs toward efficient and low-overhead contractors, with particular emphasis on nongovernmental organizations; and (3) the extent to which UNICEF has demonstrated its commitment to its traditional mission of child health and welfare and resisted pressure to become involved in functions performed by other United Nations agencies.

SEC. 2524. UNITED NATIONS BUDGETARY AND MANAGEMENT REFORM.

(a) IN GENERAL.—The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

"SEC. 10. (a) WITHHOLDING OF CONTRIBUTIONS RELATED TO THE ROLE OF THE INSPECTOR GENERAL OF THE UNITED NATIONS.—

"(1) ASSESSED CONTRIBUTIONS FOR REGULAR UNITED NATIONS BUDGET.—For fiscal year 1996 and for each subsequent fiscal year, 20 percent of the amount of funds made available for that fiscal year for United States assessed contributions for the regular United Nations budget shall be withheld from obligation and expenditure unless a certification for that fiscal year has been made under subsection (b).

"(2) ASSESSED CONTRIBUTIONS FOR UNITED NATIONS PEACEKEEPING.—For fiscal year 1996 and for each subsequent fiscal year, 50 percent of the amount of funds made available for that fiscal year for United States assessed contributions for United Nations peacekeeping activities shall be withheld from obligation and expenditure unless a certification for that fiscal year has been made under subsection (b).

"(3) VOLUNTARY CONTRIBUTIONS FOR UNITED NATIONS PEACEKEEPING.—For fiscal year 1996 and for each subsequent fiscal year, the United States may not pay any voluntary contribution to the United Nations for international peacekeeping activities unless a certification for that fiscal year has been made under subsection (b).

"(b) CERTIFICATION.—The certification referred to in subsection (a) for any fiscal year is a certification by the President to the Congress, submitted on or after the beginning of that fiscal year, of each of the following:

"(1) The United Nations has an independent office of Inspector General to conduct and supervise objective audits, inspections, and investigations relating to programs and operations of the United Nations.

"(2) The United Nations has an Inspector General who was appointed by the Secretary General with the approval of the General Assembly and whose appointment was made principally on the basis of the appointee's integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigation.

"(3) The Inspector General is authorized to—

"(A) make investigations and reports relating to the administration of the programs and operations of the United Nations;

"(B) have access to all records, documents, and other available materials relating to those programs and operations;

"(C) have direct and prompt access to any official of the United Nations; and

"(D) have access to all records and officials of the specialized agencies of the United Nations.

"(4) The United Nations has fully implemented, and made available to all member states, procedures that effectively protect the identity of, and prevent reprisals against, any staff member of the United Nations making a complaint or disclosing information to, or cooperating in any investigation or inspection by, the United Nations Inspector General.

"(5) The United Nations has fully implemented procedures that ensure compliance with recommendations of the United Nations Inspector General.

"(6) The United Nations has required the United Nations Inspector General to issue an annual report and has ensured that the annual report and all other reports of the Inspector General are made available to the General Assembly without modification.

"(7) The United Nations has provided, and is committed to providing, sufficient budgetary resources to ensure the effective operation of the United Nations Inspector General.".

(b) WITHHOLDING OF CONTRIBUTIONS RELATED TO CONTRACTING OF THE UNITED NATIONS.—The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is further amended by adding at the end the following new section:

"SEC. 11. (a) WITHHOLDING OF CONTRIBUTIONS RELATED TO TIMELY NOTICE OF CONTRACT OPPORTUNITIES AND CONTRACT AWARDS.—

"(1) WITHHOLDING OF ASSESSED CONTRIBUTIONS FOR REGULAR UNITED NATIONS BUDGET.—For fiscal year 1997 and for each subsequent fiscal year, 10 percent of the amount of funds made available for that fiscal year for United States assessed contributions for the regular United Nations budget shall be withheld from obligation and expenditure unless a certification for that fiscal year has been made under paragraph (2).

"(2) CERTIFICATION.—The certification referred to in paragraph (1) for any fiscal year is a certification by the President to the Congress, submitted on or after the beginning of that fiscal year, that the United Nations has implemented a system requiring (A) prior notification for the submission of all qualified bid proposals on all United Nations procurement opportunities over $100,000 and (B) a public announcement of the award of any contract over $100,000. To the extent practicable, notifications shall be made in the Commerce Business Daily.

"(b) WITHHOLDING OF CONTRIBUTIONS RELATED TO DISCRIMINATION AGAINST COMPANIES WHICH CHALLENGE CONTRACT AWARDS.—

"(1) WITHHOLDING OF ASSESSED CONTRIBUTIONS FOR REGULAR UNITED NATIONS BUDGET.—For fiscal year 1997 and for each subsequent fiscal year, 10 percent of the amount of funds made available for that fiscal year for United States assessed contributions for the regular United Nations budget shall be withheld from obligation and expenditure unless a certification for that fiscal year has been made under paragraph (2).

"(2) CERTIFICATION.—The certification referred to in paragraph (1) for any fiscal year is a certification by the President to the Congress, submitted on or after the beginning of that fiscal year, that the procurement regulations of the United Nations prohibit punitive actions such as the suspension of contract eligibility for contractors who challenge contract awards or complain about delayed payments.

"(c) WITHHOLDING OF CONTRIBUTIONS RELATED TO ESTABLISHMENT OF A UNITED NATIONS CONTRACT REVIEW PROCESS.—

"(1) WITHHOLDING OF ASSESSED CONTRIBUTIONS FOR REGULAR UNITED NATIONS BUDGET.—For fiscal year 1998 and for each subsequent fiscal year, 10 percent of the amount of funds made available for that fiscal year for United States assessed contributions for the regular United Nations budget shall be withheld from obligation and expenditure unless a certification for that fiscal year has been made under paragraph (2).

"(2) CERTIFICATION.—The certification referred to in paragraph (1) for any fiscal year is a certification by the President to the Congress, submitted on or after the beginning of that fiscal year, that the United Nations has established a contract review process for contracts over $100,000 and a process to assure unsuccessful bidders a timely opportunity to challenge awards for contracts over $100,000 such bidders consider to have been made improperly.".

(c) PROCUREMENT INFORMATION.—Section 4(d) of the United Nations Participation Act of 1945 (22 U.S.C. 287b(d)), as amended by section 407 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) is amended in paragraph (2)(B) by inserting before the period ", including local procurement contracts".

TITLE XXVI—FOREIGN POLICY PROVISIONS

CHAPTER 1—MISCELLANEOUS FOREIGN POLICY PROVISIONS

SEC. 2601. TAIWAN RELATIONS ACT.

(a) APPLICABILITY.—Section 3 of the Taiwan Relations Act (22 U.S.C. 3302) is amended by adding at the end the following new subsection:

"(d) The provisions of subsections (a) and (b) supersede any provision of the Joint Communique of the United States and China of August 17, 1982.".

(b) VISITS TO THE UNITED STATES BY OFFICIALS OF THE GOVERNMENT OF THE REPUBLIC OF CHINA ON TAIWAN.—Section 4 of the Taiwan Relations Act (22 U.S.C. 3303) is amended by adding at the end the following new subsection:

"(e) The Congress finds and declares that there are no legitimate foreign policy grounds for preventing members of the government chosen by the people of Taiwan from making private visits to the United States. Accordingly, notwithstanding any other provision of law, no official of the government of the Republic of China on Taiwan may be excluded from the United States on the basis of a determination by the Secretary of State that the entry or proposed activities in the United States of such individual would have potentially serious adverse foreign policy consequences for the United States.".

SEC. 2602. BOSNIA GENOCIDE JUSTICE ACT.

(a) SHORT TITLE.—This section may be cited as the "Bosnia Genocide Justice Act".

(b) POLICY.—

(1) IN GENERAL.—Consistent with international law, it is the policy of the United States to bring to justice persons responsible for genocide, war crimes, crimes against humanity and other serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991.

(2) SENSE OF CONGRESS.—The Congress urges the President—

(A) to collect or assist appropriate organizations and individuals to collect relevant data on these crimes committed in the former Yugoslavia;

(B) to share such data with the War Crimes Tribunal for the former Yugoslavia established by the Security Council of the United Nations;

(C) to assist United Nations efforts to investigate, prosecute, and try those responsible for genocide, war crimes, crimes against humanity and other serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991;

(D) to submit to the Congress implementing legislation to enable compliance with requests and orders of the tribunal; and

(E) to support the ongoing work of the Tribunal through adequate financial contributions to the United Nations Voluntary Fund for the War Crimes Tribunal for the former Yugoslavia for 1996 and 1997.

(c) Reporting Requirement.—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter during fiscal years 1996 and 1997, the President shall submit a report describing the steps taken to implement the provisions of this section to the appropriate congressional committees.

SEC. 2603. EXPANSION OF COMMISSION ON SECURITY AND COOPERATION IN EUROPE.

Section 3(a) of the Act entitled "An Act to establish a Commission on Security and Cooperation in Europe", approved June 3, 1976 (22 U.S.C. 3003) is amended—

(1) in subsection (a) by striking "twenty-one" and inserting "twenty-nine"; and

(2) by striking paragraphs (1) and (2) and inserting the following:

"(1) Thirteen Members of the House of Representatives appointed by the Speaker of the House of Representatives. Seven Members shall be selected from the majority party and six Members shall be selected, after consulation with the minority leader of the House, from the minority party.

"(2) Thirteen Members of the Senate appointed by the President of the Senate. Seven Members shall be selected from the majority party of the Senate, after consultation with the majority leader, and six Members shall be selected, after consultation with the minority leader of the Senate, from the minority party.".

CHAPTER 2—RELATING TO THE UNITED STATES-NORTH KOREA AGREED FRAMEWORK AND THE OBLIGATIONS OF NORTH KOREA UNDER THAT AND PREVIOUS AGREEMENTS WITH RESPECT TO THE DENUCLEARIZATION OF THE KOREAN PENINSULA AND DIALOGUE WITH THE REPUBLIC OF KOREA

SEC. 2641. FINDINGS.

The Congress makes the following findings:

(1) The United States-Democratic People's Republic of Korea Agreed Framework (hereafter in this chapter referred to as the "Agreed Framework"), entered into on October 21, 1994, between the United States and North Korea, requires North Korea to stop and eventually dismantle its graphite-moderated nuclear reactor program and related facilities, and comply fully with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, in exchange for alternative energy sources, including interim supplies of heavy fuel oil for electric generators and more proliferation-resistant light water reactor technology.

(2) The Agreed Framework also commits North Korea to "consistently take steps to implement the North-South Joint Declaration on the Denuclearization of the Korean Peninsula" and "engage in North-South" dialogue with the Republic of Korea.

(3) The Agreed Framework does not indicate specific criteria for full normalization of relations between the United States and North Korea, and does not link the sequencing of actions in the Agreed Framework with any time-frame for carrying out the provisions of the North-South Joint Declaration on the Denuclearization of the Korean Peninsula and carrying out the dialogue between North Korea and the Republic of Korea.

(4) The commitment by North Korea to carry out the letter and spirit of the Agreed Framework has been put into doubt by actions of North Korea since October 21, 1994, including the suspected diversion of United States heavy fuel oil in apparent contravention of the agreed purpose of the interim fuel deliveries, the refusal to accept light water reactors from the Republic of Korea, the harsh denunciations of the Government of the Republic of Korea, and other actions contrary to the commitment by North Korea to engage in a dialogue with such Government, and the continued conduct of provocative, offensive oriented military exercises.

(5) The nuclear threat posed by North Korea is just one of a number of security concerns of the United States arising out of the policies of North Korea.

SEC. 2642. CLARIFICATION OF NUCLEAR NONPROLIFERATION OBLIGATIONS OF NORTH KOREA UNDER THE AGREED FRAMEWORK.

It is the sense of the Congress that in discussions or negotiations with the Government of North Korea pursuant to the implementation of the United States-Democratic People's Republic of Korea Agreed Framework entered into on October 21, 1994, the President should uphold the following minimum conditions relating to nuclear nonproliferation:

(1) All spent fuel from the graphite-moderated nuclear reactors and related facilities of North Korea should be removed from the territory of North Korea as is consistent with the Agreed Framework.

(2) The International Atomic Energy Agency should have the freedom to conduct any and all inspections that it deems necessary to fully account for the stocks of plutonium and other nuclear materials in North Korea, including special inspections of suspected nuclear waste sites, before any nuclear components controlled by the Nuclear Supplier Group Guidelines are delivered for a light water reactor for North Korea.

(3) The dismantlement of all declared graphite-based nuclear reactors and related facilities in North Korea, including reprocessing units, should be completed in accordance with the Agreed Framework and in a manner that effectively bars in perpetuity any reactivation of such reactors and facilities.

(4) The United States should suspend actions described in the Agreed Framework if North Korea reloads its existing 5 megawatt nuclear reactor or resumes construction of nuclear facilities other than those permitted to be built under the Agreed Framework.

SEC. 2643. ROLE OF THE REPUBLIC OF KOREA UNDER THE AGREED FRAMEWORK.

It is further the sense of the Congress that the Republic of Korea should play the central role in the project to provide light water reactors to North Korea under the Agreed Framework.

SEC. 2644. FURTHER STEPS TO PROMOTE UNITED STATES SECURITY AND POLITICAL INTERESTS WITH RESPECT TO NORTH KOREA.

It is further the sense of the Congress that, after the date of the enactment of this Act, the President should not take further steps toward upgrading diplomatic relations with North Korea beyond opening liaison offices or relaxing trade and investment barriers imposed against North Korea without—

(1) action by the Government of North Korea to engage in a North-South dialogue with the Government of the Republic of Korea;

(2) significant progress toward implementation of the North-South Joint Declaration on the Denuclearization of the Korean Peninsula; and

(3) progress toward the achievement of several long-standing United States policy objectives regarding North Korea and the Korean Peninsula, including—

(A) reducing the number of military forces of North Korea along the Demilitarized Zone and relocating such military forces away from the Demilitarized Zone;

(B) prohibiting any movement by North Korea toward the deployment of an intermediate range ballistic missile system; and

(C) prohibiting the export by North Korea of missiles and other weapons of mass destruction, including related technology and components.

SEC. 2645. RESTRICTIONS ON ASSISTANCE TO NORTH KOREA AND THE KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION.

Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2370 et seq.) is amended by adding at the end the following new section:

"SEC. 620G. ASSISTANCE TO NORTH KOREA AND THE KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION.

"No assistance may be provided under this Act or any other provision of law to North Korea or the Korean Peninsula Energy Development Organization unless—

"(1) such assistance is provided in accordance with all requirements, limitations, and procedures otherwise applicable to the provision of such assistance for such purposes; and

"(2) the President—

"(A) notifies the congressional committees specified in section 634A(a) of this Act prior to the obligation of such assistance in accordance with the procedures applicable to reprogramming notifications under that section, irrespective of the amount of the proposed obligation of such assistance; and

"(B) determines and reports to such committees that the provision of such assistance is vital to the national interests of the United States.".

(b) Effective Date.—Section 620G of the Foreign Assistance Act of 1961, as added by subsection (a), applies with respect to assistance provided to North Korea or the Korean Peninsula Energy Development Organization on or after the date of the enactment of this Act.

CHAPTER 3—BURMA

SEC. 2651. UNITED STATES POLICY CONCERNING THE DICTATORSHIP IN BURMA.

(a) Sense of the Congress.—It is the sense of the Congress that the President should take steps to encourage the United Nations Security Council to—

(1) impose an international arms embargo on Burma;

(2) affirm support for human rights and the protection of all Karen, Karenni, and other minorities in Burma;

(3) condemn Burmese officials responsible for crimes against humanity;

(4) take steps to encourage multilateral assistance programs for refugees from Burma in Thailand and India; and

(5) reduce United Nations activities in Burma, including UNDP (United Nations Development Program), UNICEF (United Nations Children's Fund), UNFPA (United Nations Family Planning Agency), World Health Organization (WHO), Food and Agriculture Organization (FAO), and UNIDCP (United Nations International Drug Control Program) activities.

(b) Reduction in Diplomatic Presence.—It is the sense of the Congress that the President should reduce the diplomatic presence of the United States in Burma by reducing the total number of the members of the Foreign Service stationed in Burma on the date of enactment of this Act.

CHAPTER 4—TORTURE

SEC. 2661. DEFINITIONS.

(a) TORTURE.—As used in this chapter, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from the person or a third person information or a confession, punishing the person for an act the person or a third person has committed or is suspected of having committed, or intimidating or coercing the person or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by, at the instigation of, or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions.

(b) SUBSTANTIAL GROUNDS FOR BELIEVING.—As used in this chapter, the term "substantial grounds for believing" means substantial evidence.

(c) IN DANGER OF BEING SUBJECTED TO TORTURE.—As used in this chapter, the term "in danger of being subjected to torture" means circumstances in which a reasonable person would fear subjection to torture.

(d) INVOLUNTARILY RETURN.—As used in this chapter, the term "involuntarily return" means to take action by which it is reasonably foreseeable that a person will be required to return to a country against the person's will, regardless of whether such return is induced by physical force and regardless of whether the person is physically present in the United States.

SEC. 2662. UNITED STATES POLICY WITH RESPECT TO THE INVOLUNTARY RETURN OF PERSONS SUBJECTED TO TORTURE.

No funds authorized to be appropriated by this Act are authorized to be available to expel, extradite, or otherwise involuntarily return a person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, or to support, promote, or assist such involuntary return.

TITLE XXVII—CONGRESSIONAL STATEMENTS

SEC. 2701. INTER-AMERICAN ORGANIZATIONS.

Taking into consideration the long-term commitment by the United States to the affairs of this Hemisphere and the need to build further upon the linkages between the United States and its neighbors, the Secretary of State, in allocating the level of resources for international organizations, should pay particular attention to funding levels of the Inter-American organizations.

SEC. 2702. TERRITORIAL INTEGRITY OF BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—The Congress makes the following findings:

(1) The sovereign and independent state of Bosnia-Herzegovina was formally recognized by the United States of America on April 7, 1992.

(2) The sovereign and independent state of Bosnia-Herzegovina was admitted as a full participating State of the Conference on Security and Cooperation in Europe on April 30, 1992.

(3) The sovereign and independent state of Bosnia-Herzegovina was admitted as a Member state of the United Nations on May 22, 1992.

(4) The United States has declared its determination to respect and put into practice the Declaration on Principles Guiding Relations between Participating States contained in the Final Act of the Conference on Security and Cooperation in Europe.

(5) Each of the principles has been violated during the course of war in Bosnia-Herzegovina: sovereign equality and respect for the rights inherent in sovereignty, refraining from the threat or use of force; inviolability of frontiers; territorial integrity of States; peaceful settlement of disputes; nonintervention in internal affairs; respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief; equal rights and self-determination of peoples; cooperation among States; and fulfillment in good faith of obligations under international law.

(6) Principle II of the Final Act commits the participating States to "refrain from any manifestation of force for the purpose of inducing another participating State to renounce the full exercise of its sovereign rights".

(7) Principle III of the Final Act commits the participating States to "refrain from any demand for, or act of, seizure and usurpation of part or all of the territory of any participating State".

(8) Principle IV of the Final Act commits the participating States to "respect the territorial integrity of each of the participating States" and "refrain from any action inconsistent with the purposes and principles of the Charter of the United Nations against the territorial integrity, political independence or the unity of any participating State".

(9) The Charter of Paris for a New Europe commits the participating States "to cooperate in defending democratic institutions against activities which violate the independence, sovereign equality, or territorial integrity of the participating States".

(10) The Helsinki Document 1992 reaffirms "the validity of the guiding principles and common values of the Helsinki Final Act and the Charter of Paris, embodying responsibilities of States towards each other and of governments towards their own people" which serve as the "collective conscience of our community".

(11) The Charter of the United Nations calls upon Member states to respect the territorial integrity and political independence of any state in keeping with the Purposes of the United Nations.

(12) The sovereign and independent state of Bosnia-Herzegovina has been and continues to be subjected to armed aggression Bosnian Serb forces, Croatian Serb forces, and others in violation of Final Act and the Charter.

(13) Unchecked armed aggression and genocide threatens the lives of innocent civilians as well as the very existence of the sovereign and independent state of Bosnia-Herzegovina.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the United States should refuse to recognize the incorporation of any of the territory of Bosnia-Herzegovina into the territory of any neighboring state or the creation of any new state or states within the borders of Bosnia-Herzegovina resulting from the threat or use of force, coercion, or any other means inconsistent with international law.

SEC. 2703. THE LAOGAI SYSTEM OF POLITICAL PRISONS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Chinese gulag, known as the Laogai, was created as a primary means of political repression and control when the Communists assumed power in China in 1949.

(2) The Laogai has caused millions of people to suffer grave human rights abuses over the past 46 years, including countless deaths.

(3) The Laogai continues to be used to incarcerate unknown numbers of ordinary citizens for political reasons, including workers, students, intellectuals, religious believers, and Tibetans.

(4) So-called "thought reform" is a standard practice of Laogai officials, and reports of torture are routinely received by human rights organizations from Laogai prisoners and survivors.

(5) Negotiations about unfettered access to Laogai prisoners between the Chinese Government and the International Red Cross have ceased.

(6) The Laogai is in reality a huge system of forced labor camps in which political and penal criminals are slave laborers producing an array of products for export throughout the world, including the United States.

(7) The Chinese Government continues to maintain, as part of its official propaganda and in defiance of significant evidence to the contrary gathered by many human rights organizations, that the Laogai is a prison system like any other in the world.

(8) Testimony delivered before the Subcommittee on International Operations and Human Rights of the Committee on International Relations of the House of Representatives has documented human rights abuses in the Laogai which continue to this day.

(9) The American people have repeatedly expressed their abhorrence of forced labor camps systems, whether they be operated by the Nazis, Soviet Communists, or any other political ideology.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should—

(1) publicly condemn the continued existence of the Laogai, and call upon the Government of the People's Republic of China to dismantle it, and release all of its political prisoners; and

(2) instruct the appropriate diplomatic representatives of the United States to cause a resolution condemning the Laogai to be put before the United Nations Human Rights Commission and work for its passage.

SEC. 2704. CONCERNING THE USE OF FUNDS TO FURTHER NORMALIZE RELATIONS WITH VIETNAM.

It is the sense of the Congress that none of the funds authorized to be appropriated or otherwise made available by this Act may be obligated or expended to further normalize diplomatic relations between the United States and Vietnam, until Vietnam—

(1) releases all of its political and religious prisoners;

(2) accounts for American POWs and MIAs from the Vietnam War;

(3) holds democratic elections; and

(4) institutes policies which protect human rights.

SEC. 2705. DECLARATION OF CONGRESS REGARDING UNITED STATES GOVERNMENT HUMAN RIGHTS POLICY TOWARD CHINA.

(a) FINDINGS.—The Congress makes the following findings:

(1) According to the 1994 State Department Country Reports on Human Rights Practices there continue to be "widespread and well-documented human rights abuses in China, in violation of internationally accepted norms . . . (including) arbitrary and lengthy incommunicado detention, torture, and mistreatment of prisoners. The regime continued severe restrictions on freedoms of speech, press assembly and association, and tightened controls on the exercise of these

rights during 1994. Serious human rights abuses persisted in Tibet and other areas populated by ethnic minorities".

(2) The President, in announcing his decision on Most Favored Nation trading status for China in May 1994 stated that, "China continues to commit very serious human rights abuses. Even as we engage the Chinese on military, political, and economic issues, we intend to stay engaged with those in China who suffer from human rights abuses. The United States must remain a champion of their liberties".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should take the following actions:

(1) Decline the invitation to visit China until and unless there is dramatic overall progress on human rights in China and Tibet and communicate to the Government of China that such a visit cannot take place without such progress. Indications of overall progress would include the release of hundreds of political, religious, and labor activists; an agreement to allow unhindered confidential access to prisoners by international humanitarian agencies; enactment of major legal reforms such as an end to all restrictions on the exercise of freedom of religion, revocation of the 1993 state security law, and the abolition of all so-called "counter-revolutionary" crimes; an end to forced abortion, forced sterilization, and the provision by government facilities of human fetal remains for consumption as food; and a decision to allow unrestricted access to Tibet by foreign media and international human rights monitors.

(2) Seek to develop an agreement on a multilateral strategy to promote human rights in China with other members of the G–7, beginning with the meeting of the G–7 industrial partners scheduled for June 1995 in Halifax, Nova Scotia. Such an agreement should include efforts to encourage greater cooperation by the Government of China with the human rights rapporteurs and working groups of the United Nations Human Rights Commission, as well as bilateral and multilateral initiatives to secure the unconditional release of imprisoned peaceful pro-democracy advocates such as Wei Jingsheng.

(3) Instruct the United States delegates to the United Nations Fourth World Conference on Women in September 1995 to vigorously and publicly support nongovernmental organizations that may be subjected to harassment or to restrictions or limitations on their activities, access to the media, or to channels of communication during the conference by the Government of China and to protest publicly and privately any actions by the Government of China aimed at punishing or repressing Chinese citizens who seek to peacefully express their views or communicate with foreign citizens or media during or following the United Nations Conference.

(4) Extend an invitation to the Dalai Lama to visit Washington, District of Columbia, in 1995.

(c) UNITED STATES GOVERNMENT HUMAN RIGHTS POLICY TOWARD CHINA.—It shall be the policy of the United States Government to continue to promote internationally recognized human rights and worker rights in China and Tibet. The President shall submit the following reports on the formulation and implementation of United States human rights policy toward China and the results of that policy to the International Relations Committee of the House of Representatives :

(1) Not later than 90 days after the date of enactment of this Act, the President shall report on the status of the "new United States Human Rights Policy for China" announced by the President on May 26, 1994, including an assessment of the implementation and effectiveness of the policy in bringing about human rights improvements in China and Tibet, with reference to the following specific initiatives announced on that date:

(A) High-level dialogue on human rights.

(B) Voluntary principles in the area of human rights for United States businesses operating in China.

(C) Increased contact with and support for groups and individuals in China promoting law reform and human rights.

(D) Increased exchanges to support human rights law reform in China.

(E) The practice of all United States officials who visit China to meet with the broadest possible spectrum of Chinese citizens.

(F) Increased efforts to press United States views on human rights in China at the United Nations, the United Nations Human Rights Commission, and other international organizations.

(G) A plan of international actions to address Tibet's human rights problems and to promote substantive discussions between the Dalai Lama and the Chinese Government.

(H) Efforts to use the 1995 United Nations Women's Conference in Beijing to expand freedoms of speech, association, and assembly, as well as the rights of women, in China.

(I) An information strategy for promoting human rights by expanding Chinese and Tibetan language broadcasts on the Voice of America and establishing Radio Free Asia.

(J) Encouraging the Chinese Government to permit international human rights groups to operate in and visit China.

The report required by this paragraph shall also assess the progress, if any, of the People's Republic of China toward ending forced abortion, forced sterilization, and other coercive population control practices.

(2) Not later than 120 days after the date of enactment of this Act, the President shall report on the status of Chinese Government compliance with United States laws prohibiting the importation into the United States of forced labor products, including (but not limited to) a complete assessment and report on the implementation of the Memorandum of Understanding signed by the United States and China in 1992. The report shall include (but not be limited to) the following:

(A) All efforts made by the United States Customs Service from 1992 until the date of the report to investigate forced labor exports and to conduct unannounced unrestricted inspections of suspected forced labor sites in China, and the extent to which Chinese authorities cooperated with such investigations.

(B) Recommendations of what further steps might be taken to enhance United States effectiveness in prohibiting forced labor exports to the United States from China.

SEC. 2706. CONCERNING THE UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.

It is the sense of the Congress that the President, acting through the United States Permanent Representative to the United Nations, should—

(1) request the United Nations Voluntary Fund for Victims of Torture—

(A) to find new ways to support and protect treatment centers that are carrying out rehabilitative services for victims of torture; and

(B) to encourage the development of new such centers;

(2) use the voice and vote of the United States to support the work of the Special Rapporteur on Torture and the Committee Against Torture established under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and

(3) use the voice and vote of the United States to establish a country rapporteur or similar procedural mechanism to investigate human rights violations in a country if either the Special Rapporteur or the Committee Against Torture indicates that a systematic practice of torture is prevalent in that country.

SEC. 2707. RECOMMENDATIONS OF THE PRESIDENT FOR REFORM OF WAR POWERS RESOLUTION.

It is the sense of the Congress that the President should transmit to the Congress recommendations for reform of the War Powers Resolution (50 U.S.C. 1541 et seq.) in order to permit the Congress and the President to more effectively fulfill their constitutional responsibilities with respect to the deployment of United States Armed Forces abroad.

SEC. 2708. CONFLICT IN KASHMIR.

It is the sense of the Congress that the United States reiterates the need for all parties to the conflict in Kashmir to enter into negotiations and resolve the conflict peacefully. The Congress urges the executive branch to work with all parties to facilitate a peaceful negotiated settlement of the Kashmir conflict.

SEC. 2709. UNITED STATES RELATIONS WITH THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA (FYROM).

It is the sense of the Congress that the Former Yugoslav Republic of Macedonia (FYROM) should be eligible for all United States foreign assistance programs, including programs of the Export-Import Bank and the Overseas Private Investment Corporation, if the government continues to respect the rights of all ethnic minorities.

SEC. 2710. SENSE OF THE CONGRESS RELATING TO INDONESIA.

It is the sense of the Congress that—

(1) the United States should continue to urge progress in promotion and protection of internationally recognized human rights by the Government of Indonesia;

(2) in its bilateral relations with the Government of Indonesia, the United States should place a high priority on public and private efforts to urge the Government of Indonesia to take specific steps to remove restrictions of freedom of expression and association, to allow freedom of the press, to allow freedom of religion, to end arbitrary arrests and torture and ill-treatment, to cease official attacks on nongovernmental organizations, to end the widespread denial of worker rights, and to hold members of the military accountable for human rights abuses;

(3) with respect to the situation in East Timor, the United States should call on the Government of Indonesia to make public the complete findings of the investigations into the killings of unarmed civilians in Liquica on January 12, 1995, including the reports of the Army Council of Military Honor and the findings of the National Human Rights Commission, and that those responsible for the killings be identified and brought to justice;

(4) the United States should continue to press the Government of Indonesia to fully comply with the 1994 and 1995 recommendations of the United Nations Human Rights Commission regarding the need for a full accounting of the Dili incident of November 1991;

(5) the United States should urge the Government of Indonesia to allow independent human rights monitoring organizations and foreign journalists unhindered access to East Timor;

(6) the United States should urge the Government of Indonesia to respect free practice of religion, including Christianity, in Indonesia, including East Timor; and

(7) the President should instruct the United States delegates to the annual Indonesia aid consortium donor meeting in July 1995 to again raise concerns about human rights violations in Indonesia, including restrictions of freedom of the press, attacks on nongovernmental organizations, and widespread violations of human rights in East Timor.

SEC. 2711. DISPLACED PERSONS.

It is the sense of the Congress that of the amounts made available to the United Nations Development Program (and United Nations Development Program-Administered Funds), at least $20,000,000 for fiscal year 1996 and $20,000,000 for fiscal year 1997 should be available for programs and services conducted in cooperation with the International Organization for Migration, the International Committee for the Red Cross, and nongovernmental organizations, for persons who are displaced within their countries of nationality.

DIVISION C—FOREIGN ASSISTANCE AUTHORIZATIONS

SEC. 3001. SHORT TITLE.

This division may be cited as the "Foreign Aid Reduction Act of 1995".

SEC. 3002. DECLARATION OF POLICY.

The Congress declares the following:

(1) United States leadership overseas must be maintained to support our vital national security, economic, and humanitarian interests.

(2) As part of this leadership, United States foreign assistance programs are essential to support these national interests.

(3) However, United States foreign assistance programs can be responsibly reduced while maintaining United States leadership overseas.

TITLE XXXI—DEFENSE AND SECURITY ASSISTANCE

CHAPTER 1—MILITARY AND RELATED ASSISTANCE

Subchapter A—Foreign Military Financing Program

SEC. 3101. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of direct loans under such section—

(1) $3,284,440,000 for fiscal year 1996; and

(2) $3,240,020,000 for fiscal year 1997.

SEC. 3102. ADMINISTRATIVE EXPENSES.

Of the amounts made available for fiscal years 1996 and 1997 for assistance under the "Foreign Military Financing Program" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763), not more than $24,020,000 for each such fiscal year may be made available for necessary expenses for the general costs of administration of military assistance and sales, including expenses incurred in purchasing passenger motor vehicles for replacement for use outside the United States.

SEC. 3103. ASSISTANCE FOR ISRAEL.

(a) MINIMUM ALLOCATION.—Of the amounts made available for fiscal years 1996 and 1997 for assistance under the "Foreign Military Financing Program" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763), not less than $1,800,000,000 for each such fiscal year shall be available only for Israel.

(b) TERMS OF ASSISTANCE.—

(1) GRANT BASIS.—The assistance provided for Israel for each fiscal year under subsection (a) shall be provided on a grant basis.

(2) EXPEDITED DISBURSEMENT.—Such assistance shall be disbursed—

(A) with respect to fiscal year 1996, not later than 30 days after the date of the enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, or by October 31, 1995, whichever is later; and

(B) with respect to fiscal year 1997, not later than 30 days after the date of the enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, or by October 31, 1996, whichever is later.

(3) ADVANCED WEAPONS SYSTEMS.—To the extent that the Government of Israel requests that funds be used for such purposes, funds described in subsection (a) shall, as agreed by the Government of Israel and the Government of the United States, be available for advanced weapons systems, of which not less than $475,000,000 for each fiscal year shall be available only for procurement in Israel of defense articles and defense services, including research and development.

(c) FOREIGN MILITARY SALES.—Section 21(h) of the Arms Export Control Act (22 U.S.C. 2761(h)) is amended—

(1) in paragraph (1)(A), by inserting "or the Government of Israel" after "North Atlantic Treaty Organization"; and

(2) in paragraph (2), by striking "or to any member government of that Organization if that Organization or member government" and inserting ", any member government of that Organization, or the Government of Israel, if the Organization, member government, or Government of Israel, as the case may be,".

SEC. 3104. ASSISTANCE FOR EGYPT.

(a) MINIMUM ALLOCATION.—Of the amounts made available for fiscal years 1996 and 1997 for assistance under the "Foreign Military Financing Program" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763), not less than $1,300,000,000 for each such fiscal year shall be available only for Egypt.

(b) TERMS OF ASSISTANCE.—The assistance provided for Egypt for each fiscal year under subsection (a) shall be provided on a grant basis.

SEC. 3105. LOANS FOR GREECE AND TURKEY.

Of the amounts made available for fiscal year 1996 under section 23 of the Arms Export Control Act (22 U.S.C. 2763)—

(1) not more than $26,620,000 shall be made available for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of direct loans for Greece; and

(2) not more than $37,800,000 shall be made available for such subsidy cost of direct loans for Turkey.

SEC. 3106. TERMS OF LOANS.

Section 31(c) of the Arms Export Control Act (22 U.S.C. 2771(c)) is amended to read as follows:

"(c) Loans available under section 23 shall be provided at rates of interest that are not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities.".

SEC. 3107. NONREPAYMENT OF GRANT ASSISTANCE.

Section 23 of the Arms Export Control Act (22 U.S.C. 2763) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of this section, the President shall not require repayment of any assistance provided on a grant basis under this section to a foreign country or international organization.".

SEC. 3108. ADDITIONAL REQUIREMENTS.

(a) AVAILABILITY OF FUNDS FOR PROCUREMENT OF DEFENSE ARTICLES, SERVICES, AND DESIGN AND CONSTRUCTION SERVICES NOT SOLD BY U.S. GOVERNMENT.—Section 23 of the Arms Export Control Act (22 U.S.C. 2763), as amended by this Act, is further amended by adding at the end the following new subsection:

"(g) Funds made available to carry out this section for a fiscal year may be made available to a foreign country or international organization for the purpose of financing the procurement of defense articles, defense services, and design and construction services that are not sold by the United States Government under this Act only—

"(1) with respect to a country that is a member country of the North Atlantic Organization, a major non-NATO ally, or Jordan for which assistance was justified under this section in the annual congressional presentation documents under section 634 of the Foreign Assistance Act of 1961 for that fiscal year; and

"(2) if such country or international organization enters into an agreement with the United States Government that specifies the terms and conditions under which such procurements shall be financed with such funds.".

(b) AUDIT OF CERTAIN PRIVATE FIRMS.—Section 23 of such Act (22 U.S.C. 2763), as amended by this Act, is further amended by adding at the end the following new subsection:

"(h) For each fiscal year, the Secretary of Defense, as requested by the Director of the Defense Security Assistance Agency, shall conduct audits on a nonreimbursable basis of private firms that have entered into contracts with foreign governments under which defense articles, defense services, or design and construction services are to be procured by such firms for such governments from financing under this section for such fiscal year.".

(c) PROHIBITION ON USE OF FUNDS FOR THE TRANSPORT OF AIRCRAFT TO COMMERCIAL ARMS SALES SHOWS.—Section 23 of such Act (22 U.S.C. 2763), as amended by this Act, is further amended by adding at the end the following new subsection:

"(i) Funds made available to carry out this section may not be used to facilitate the transport of aircraft to commercial arms sales shows.".

(d) NOTIFICATION REQUIREMENT WITH RESPECT TO CASH FLOW FINANCING.—Section 23 of such Act (22 U.S.C. 2763), as amended by this Act, is further amended by adding at the end the following new subsection:

"(j)(1) For each country and international organization that has been approved for cash flow financing under this section, any letter of offer and acceptance or other purchase agreement, or any amendment thereto, for a procurement of defense articles, defense services, or design and construction services in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act or the Foreign Assistance Act of 1961 shall be submitted to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of

1961 in accordance with the procedures applicable to reprogramming notifications under that section.

"(2) For purposes of this subsection, the term 'cash flow financing' has the meaning given such term in the second subsection (d) of section 25.".

(e) LIMITATIONS ON USE OF FUNDS FOR DIRECT COMMERCIAL CONTRACTS.—Section 23 of such Act (22 U.S.C. 2763), as amended by this Act, is further amended by adding at the end the following new subsection:

"(k) Of the amounts made available for a fiscal year to carry out this section, not more than $100,000,000 for such fiscal year may be made available for countries other than Israel and Egypt for the purpose of financing the procurement of defense articles, defense services, and design and construction services that are not sold by the United States Government under this Act.".

(f) USE OF FUNDS FOR DEMINING ACTIVITIES.—Section 23 of such Act (22 U.S.C. 2763), as amended by this Act, is further amended by adding at the end the following new subsection:

"(l) Notwithstanding any other provision of law, funds made available to carry out this section may be used for demining activities, and may include activities implemented through nongovernmental and international organizations.".

Subchapter B—Other Assistance

SEC. 3121. DEFENSE DRAWDOWN SPECIAL AUTHORITIES.

(a) UNFORESEEN EMERGENCY DRAWDOWN.—Section 506(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(1)) is amended by striking "$75,000,000" and inserting "$100,000,000".

(b) ADDITIONAL DRAWDOWN.—Section 506 of such Act (22 U.S.C. 2318) is amended—

(1) in subsection (a)(2)(A), by striking "defense articles from the stocks" and all that follows and inserting the following: "articles and services from the inventory and resources of any agency of the United States Government and military education and training from the Department of Defense, the President may direct the drawdown of such articles, services, and military education and training—

"(i) for the purposes and under the authorities of—

"(I) chapter 8 of part I (relating to international narcotics control assistance);

"(II) chapter 9 of part I (relating to international disaster assistance); or

"(III) the Migration and Refugee Assistance Act of 1962; or

"(ii) for the purpose of providing such articles, services, and military education and training to Vietnam, Cambodia, and Laos as the President determines are necessary—

"(I) to support efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War; and

"(II) to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support Department of Defense-sponsored humanitarian projects associated with such efforts.";

(2) in subsection (a)(2)(B), by striking "$75,000,000" and all that follows and inserting "$150,000,000 in any fiscal year of such articles, services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph—

"(i) not more than $75,000,000 of which may be provided from the drawdown from the inventory and resources of the Department of Defense;

"(ii) not more than $75,000,000 of which may be provided pursuant to clause (i)(I) of such subparagraph; and

"(iii) not more than $15,000,000 of which may be provided to Vietnam, Cambodia, and Laos pursuant to clause (ii) of such subparagraph."; and

(3) in subsection (b)(1), by adding at the end the following: "In the case of drawdowns authorized by subclauses (I) and (III) of subsection (a)(2)(A)(i), notifications shall be provided to those committees at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 634A.".

(c) NOTICE TO CONGRESS OF EXERCISE OF SPECIAL AUTHORITIES.—Section 652 of such Act (22 U.S.C. 2411) is amended by striking "prior to the date" and inserting "before".

SEC. 3122. STOCKPILES OF DEFENSE ARTICLES.

(a) LIMITATION ON VALUE OF ADDITIONS.—Section 514(b)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(1)) is amended by inserting "or in the implementation of agreements with Israel" after "North Atlantic Treaty Organization".

(b) ADDITIONS IN FISCAL YEARS 1996 AND 1997.—Section 514(b)(2) of such Act (22 U.S.C. 2321h(b)(2)) is amended to read as follows:

"(2)(A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed $50,000,000 for each of the fiscal years 1996 and 1997.

"(B) Of the amount specified in subparagraph (A) for each of the fiscal years 1996 and 1997, not more than $40,000,000 may be made available for stockpiles in the Republic of Korea and not more than $10,000,000 may be made available for stockpiles in Thailand.".

(c) LOCATION OF STOCKPILES OF DEFENSE ARTICLES.—Section 514(c) of such Act (22 U.S.C. 2321h(c)) is amended to read as follows:

"(c) LOCATION OF STOCKPILES OF DEFENSE ARTICLES.—

"(1) LIMITATION.—Except as provided in paragraph (2), no stockpile of defense articles may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to stockpiles of defense articles located in the Republic of Korea, Thailand, any country that is a member of the North Atlantic Treaty Organization, any country that is a major non-NATO ally, or any other country the President may designate. At least 15 days before designating a country pursuant to the last clause of the preceding sentence, the President shall notify the congressional committees specified in section 634A(a) in accordance with the procedures applicable to reprogramming notifications under that section.".

SEC. 3123. TRANSFER OF EXCESS DEFENSE ARTICLES.

(a) IN GENERAL.—Section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) is amended to read as follows:

"SEC. 516. AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.

"(a) AUTHORIZATION.—The President is authorized to transfer excess defense articles under this section to countries for which receipt of such articles was justified pursuant to the annual congressional presentation documents for military assistance programs, or for programs under chapter 8 of part I of this Act, submitted under section 634 of this Act, or for which receipt of such articles was separately justified, for the fiscal year in which the transfer is authorized.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) such articles are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

"(3) the transfer of such articles will not have an adverse impact on the military readiness of the United States;

"(4) with respect to a proposed transfer of such articles on a grant basis, such a transfer is preferable to a transfer on a sales basis, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of a transfer on either a grant or sales basis;

"(5) the President determines that the transfer of such articles will not have an adverse impact on the national technology and industrial base, and particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred; and

"(6) the transfer of such articles is consistent with the policy framework for the Eastern Mediterranean established under section 620C of this Act.

"(c) TERMS OF TRANSFERS.—

"(1) NO COST TO RECIPIENT COUNTRY.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(2) PRIORITY.—Notwithstanding any other provision of law, the delivery of excess defense articles under this section to member countries of the North Atlantic Treaty Organization (NATO) on the southern and southeastern flank of NATO and to major non-NATO allies on such southern and southeastern flank shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DEPARTMENT OF DEFENSE EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess defense articles (including transportation and related costs) under this section.

"(e) TRANSPORTATION AND RELATED COSTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), funds available to the Department of Defense may not be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of this section.

"(2) EXCEPTION.—The President may provide for the transportation of excess defense articles without charge to a country for the costs of such transportation if—

"(A) it is determined that it is in the national interest of the United States to do so;

"(B) the recipient is a developing country receiving less than $10,000,000 of assistance under chapter 5 of part II of this Act (relating to international military education and training) or section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program) in the fiscal year in which the transportation is provided;

"(C) the total weight of the transfer does not exceed 25,000 pounds; and

"(D) such transportation is accomplished on a space available basis.

"(f) ADVANCE NOTIFICATION TO CONGRESS FOR TRANSFER OF CERTAIN EXCESS DEFENSE ARTICLES.—

"(1) IN GENERAL.—The President may not transfer excess defense articles that are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or excess defense articles valued (in terms of original acquisition cost) at $7,000,000 or more, under this section or under the Arms Export Control Act (22 U.S.C. 2751 et seq.) until 15 days after the date on which the President has provided notice of the proposed transfer to the congressional committees specified in section 634A(a) in accordance with procedures applicable to reprogramming notifications under that section.

"(2) CONTENTS.—Such notification shall include—

"(A) a statement outlining the purposes for which the article is being provided to the country, including whether such article has been previously provided to such country;

"(B) an assessment of the impact of the transfer on the military readiness of the United States;

"(C) an assessment of the impact of the transfer on the national technology and industrial base, and particularly, the impact on opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are to be transferred; and

"(D) a statement describing the current value of such article and the value of such article at acquisition.

"(g) AGGREGATE ANNUAL LIMITATION.—The aggregate value of excess defense articles transferred to countries under this section in any fiscal year may not exceed $350,000,000.

"(h) CONGRESSIONAL PRESENTATION DOCUMENTS.—Documents described in subsection (a) justifying the transfer of excess defense articles shall include an explanation of the general purposes of providing excess defense articles as well as a table which provides an aggregate annual total of transfers of excess defense articles in the preceding year by country in terms of offers and actual deliveries and in terms of acquisition cost and current value. Such table shall indicate whether such excess defense articles were provided on a grant or sale basis.

"(i) EXCESS COAST GUARD PROPERTY.—For purposes of this section, the term 'excess defense articles' shall be deemed to include excess property of the Coast Guard, and the term 'Department of Defense' shall be deemed, with respect to such excess property, to include the Coast Guard.".

(b) CONFORMING AMENDMENTS.—

(1) ARMS EXPORT CONTROL ACT.—Section 21(k) of the Arms Export Control Act (22 U.S.C. 2761(k)) is amended by striking "the President shall" and all that follows and inserting the following: "the President shall determine that the sale of such articles will not have an adverse impact on the national technology and industrial base, and particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred.".

(2) REPEALS.—The following provisions of law are hereby repealed:

(A) Section 502A of the Foreign Assistance Act of 1961 (22 U.S.C. 2303).

(B) Sections 517 through 520 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k through 2321n).

(C) Section 31(d) of the Arms Export Control Act (22 U.S.C. 2771(d)).

SEC. 3124. NONLETHAL EXCESS DEFENSE ARTICLES FOR ALBANIA.

Notwithstanding section 516(e) of the Foreign Assistance Act of 1961, during each of the fiscal years 1996 and 1997, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of nonlethal excess defense articles transferred under the authority of section 516 of such Act to Albania.

CHAPTER 2—INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 3141. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $39,781,000 for each of the fiscal years 1996 and 1997 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

SEC. 3142. ASSISTANCE FOR INDONESIA.

Funds made available for fiscal years 1996 and 1997 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) may be obligated for Indonesia only for expanded military and education training that meets the requirements of clauses (i) through (iv) of the second sentence of section 541 of such Act (22 U.S.C. 2347).

SEC. 3143. ADDITIONAL REQUIREMENTS.

(a) GENERAL AUTHORITY.—Section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347) is amended in the second sentence in the matter preceding clause (i) by inserting "and individuals who are not members of the government" after "legislators".

(b) TEST PILOT EXCHANGE TRAINING.—Section 544 of such Act (22 U.S.C. 2347c) is amended—

(1) by striking "In carrying out this chapter" and inserting "(a) In carrying out this chapter"; and

(2) by adding at the end the following new subsection:

"(b) The President may provide for the attendance of foreign military and civilian defense personnel at test pilot flight schools in the United States without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one basis each fiscal year between those United States test pilot flight schools and comparable flight test pilot schools of foreign countries.".

(c) ASSISTANCE FOR CERTAIN FOREIGN COUNTRIES.—Chapter 5 of part II of such Act (22 U.S.C. 2347 et seq.) is amended by adding at the end the following new section:

"SEC. 546. ASSISTANCE FOR CERTAIN FOREIGN COUNTRIES.

"Of the amounts made available for a fiscal year for assistance under this chapter, not more than $300,000 for such fiscal year may be made available for assistance on a grant basis for any high-income foreign country for military education and training of military and related civilian personnel of such country if such country agrees to provide for the transportation and living allowances of such military and related civilian personnel.".

CHAPTER 3—ANTITERRORISM ASSISTANCE

SEC. 3151. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $20,000,000 for fiscal year 1996 and $25,000,000 for fiscal year 1997 to carry out chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.).

(b) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SEC. 3152. ANTITERRORISM TRAINING ASSISTANCE.

(a) IN GENERAL.—Section 571 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa) is amended by striking "Subject to the provisions of this chapter" and inserting "Notwithstanding any other provision of law that restricts assistance to foreign countries (other than sections 502B and 620A of this Act)".

(b) LIMITATIONS.—Section 573 of such Act (22 U.S.C. 2349aa–2) is amended—

(1) in the heading, by striking "specific authorities and";

(2) by striking subsection (a);

(3) by redesignating subsections (b) through (f) as subsections (a) through (e), respectively; and

(4) in subsection (c) (as redesignated)—

(A) by striking paragraphs (1) and (2);

(B) by redesignating paragraphs (3) through (5) as paragraphs (1) through (3), respectively; and

(C) by amending paragraph (2) (as redesignated) to read as follows:

"(2)(A) Except as provided in subparagraph (B), funds made available to carry out this chapter shall not be made available for the procurement of weapons and ammunition.

"(B) Subparagraph (A) shall not apply to small arms and ammunition in categories I and III of the United States Munitions List that are integrally and directly related to antiterrorism training provided under this chapter if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees specified in section 634A of this Act in accordance with the procedures applicable to reprogramming notifications under such section.

"(C) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.".

(c) ANNUAL REPORT.—Section 574 of such Act (22 U.S.C. 2349aa–3) is hereby repealed.

(d) TECHNICAL CORRECTIONS.—Section 575 (22 U.S.C. 2349aa–4) and section 576 (22 U.S.C. 2349aa–5) of such Act are redesignated as sections 574 and 575, respectively.

SEC. 3153. RESEARCH AND DEVELOPMENT EXPENSES.

Funds made available for fiscal years 1996 and 1997 to carry out chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.; relating to antiterrorism assistance) may be made available to the Technical Support Working Group of the Department of State for research and development expenses related to contraband detection technologies or for field demonstrations of such technologies (whether such field demonstrations take place in the United States or outside the United States).

CHAPTER 4—NARCOTICS CONTROL ASSISTANCE

SEC. 3161. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $213,000,000 for each of the fiscal years 1996 and 1997 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).

(b) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SEC. 3162. ADDITIONAL REQUIREMENTS.

(a) POLICY AND GENERAL AUTHORITIES.—Section 481(a) of the Foreign Assistance Act (22 U.S.C. 2291(a)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) International criminal activities, particularly international narcotics trafficking, money laundering, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States."; and

(2) in paragraph (4), by adding before the period at the end the following: ", or for other related anticrime purposes".

(b) CONTRIBUTIONS AND REIMBURSEMENT.—Section 482(c) of that Act (22 U.S.C. 2291a(c)) is amended—

(1) by striking "CONTRIBUTION BY RECIPIENT COUNTRY.—To" and inserting "CONTRIBUTIONS AND REIMBURSEMENT.—(1) To"; and

(2) by adding at the end the following new paragraphs:

"(2)(A) The President is authorized to accept contributions from other foreign governments to carry out the purposes of this chapter. Such contributions shall be deposited as an offsetting collection to the applicable appropriation account and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.

"(B) At the time of submission of the annual congressional presentation documents required by section 634(a), the President shall provide a detailed report on any contributions received in the preceding fiscal year, the amount of such contributions, and the purposes for which such contributions were used.

"(3) The President is authorized to provide assistance under this chapter on a reimbursable basis. Such reimbursements shall be deposited as an offsetting collection to the applicable appropriation and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.".

(c) IMPLEMENTATION OF LAW ENFORCEMENT ASSISTANCE.—Section 482 of such Act (22 U.S.C. 2291a) is amended by adding at the end the following new subsections:

"(f) TREATMENT OF FUNDS.—Funds transferred to and consolidated with funds appropriated pursuant to this chapter may be made available on such terms and conditions as are applicable to funds appropriated pursuant to this chapter. Funds so transferred or consolidated shall be apportioned directly to the bureau within the Department of State responsible for administering this chapter.

"(g) EXCESS PROPERTY.—For purposes of this chapter, the Secretary of State may use the authority of section 608, without regard to the restrictions of such section, to receive nonlethal excess property from any agency of the United States Government for the purpose of providing such property to a foreign government under the same terms and conditions as funds authorized to be appropriated for the purposes of this chapter.".

(d) REPORTING REQUIREMENTS.—(1) Section 489 of such Act (22 U.S.C. 2291h) is amended—

(A) in the section heading, by striking "for fiscal year 1995";

(B) by striking "(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—"; and

(C) by striking subsections (b) and (c).

(2) Section 489A of such Act (22 U.S.C. 2291i) is hereby repealed.

(e) CERTIFICATION REQUIREMENTS.—(1) Section 490 of such Act (22 U.S.C. 2291j) is amended—

(A) in the section heading by striking "for fiscal year 1995"; and

(B) by striking subsection (i).

(2) Section 490A of such Act (22 U.S.C. 2291k) is hereby repealed.

SEC. 3163. NOTIFICATION REQUIREMENT.

(a) IN GENERAL.—The authority of section 1003(d) of the National Narcotics Control Leadership Act of 1988 (21 U.S.C. 1502(d)) may be exercised with respect to funds authorized to be appropriated pursuant to the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and with respect to the personnel of the Department of State only to the extent that the appropriate congressional committees have been notified 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of that Act (22 U.S.C. 2394).

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

SEC. 3164. WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

For each of the fiscal years 1996 and 1997, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) may be provided notwithstanding any other provision of law that restricts assistance to foreign countries (other than section 490(e) or section 502B of that Act (22 U.S.C. 2291j(e) and 2304)) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees (as defined in section 481(e) of that Act (22 U.S.C. 2291(e))) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

CHAPTER 5—NONPROLIFERATION AND DISARMAMENT FUND

SEC. 3171. NONPROLIFERATION AND DISARMAMENT FUND.

(a) IN GENERAL.—There are authorized to be appropriated $25,000,000 for each of the fiscal years 1996 and 1997 to carry out bilateral and multilateral nonproliferation and disarmament activities for the independent states of the former Soviet Union, countries other than the independent states of the former Soviet Union, and international organizations under section 504 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5854).

(b) SUPERSEDES OTHER LAWS.—Funds made available for fiscal years 1996 and 1997 under the authority of section 504 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5854) may be used notwithstanding any other provision of law.

(c) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

CHAPTER 6—OTHER PROVISIONS

SEC. 3181. STANDARDIZATION OF CONGRESSIONAL REVIEW PROCEDURES FOR ARMS TRANSFERS.

(a) THIRD COUNTRY TRANSFERS UNDER FMS SALES.—Section 3(d)(2) of the Arms Export Control Act (22 U.S.C. 2753(d)(2)) is amended—

(1) in subparagraph (A), by striking ", as provided for in sections 36(b)(2) and 36(b)(3) of this Act";

(2) in subparagraph (B), by striking "law" and inserting "joint resolution"; and

(3) by adding at the end the following:

"(C) If the President states in his certification under subparagraph (A) or (B) that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, thus waiving the requirements of that subparagraph, the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate immediate consent to the transfer and a discussion of the national security interests involved.

"(D)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(b) THIRD COUNTRY TRANSFERS UNDER COMMERCIAL SALES.—Section 3(d)(3) of such Act (22 U.S.C. 2753(d)(3)) is amended—

(1) by inserting "(A)" after "(3)";

(2) in the first sentence—

(A) by striking "at least 30 calendar days"; and

(B) by striking "report" and inserting "certification"; and

(3) by striking the last sentence and inserting the following: "Such certification shall be submitted—

"(i) at least 15 calendar days before such consent is given in the case of a transfer to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

"(ii) at least 30 calendar days before such consent is given in the case of a transfer to any other country,

unless the President states in his certification that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists (thus waiving the requirements of clause (i) or (ii), as the case may be, and of subparagraph (B)) the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that consent to the proposed transfer become effective immediately and a discussion of the national security interests involved.

"(B) Consent to a transfer subject to subparagraph (A) shall become effective after the end of the 15-day or 30-day period specified in subparagraph (A) (i) or (ii), as the case may be, only if the Congress does not enact, within that period, a joint resolution prohibiting the proposed transfer.

"(C)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(c) COMMERCIAL SALES.—Section 36(c)(2) of such Act (22 U.S.C. 2753(c)(2)) is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) in the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand, shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export; and

"(B) in the case of any other license, shall not be issued until at least 30 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export.".

(d) COMMERCIAL MANUFACTURING AGREEMENTS.—Section 36(d) of such Act (22 U.S.C. 2753(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by striking "for or in a country not a member of the North Atlantic Treaty Organization"; and

(3) by adding at the end the following:

"(2) A certification under this subsection shall be submitted—

"(A) at least 15 days before approval is given in the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

"(B) at least 30 days before approval is given in the case of an agreement for or in any other country;

unless the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States.

"(3) If the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States, thus waiving the requirements of paragraph (4), he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate approval of the agreement and a discussion of the national security interests involved.

"(4) Approval for an agreement subject to paragraph (1) may not be given under section 38 if the Congress, within the 15-day or 30-day period specified in paragraph (2) (A) or (B), as the case may be, enacts a joint resolution prohibiting such approval.

"(5)(A) Any joint resolution under paragraph (4) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under paragraph (4), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(e) GOVERNMENT-TO-GOVERNMENT LEASES.—

(1) CONGRESSIONAL REVIEW PERIOD.—Section 62 of such Act (22 U.S.C. 2796a) is amended—

(A) in subsection (a), by striking "Not less than 30 days before" and inserting "Before";

(B) in subsection (b)—

(i) by striking "determines, and immediately reports to the Congress" and inserting "states in his certification"; and

(ii) by adding at the end of the subsection the following: "If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved."; and

(C) by adding at the end of the section the following:

"(c) The certification required by subsection (a) shall be transmitted—

"(1) not less than 15 calendar days before the agreement is entered into or renewed in the case of an agreement with the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand; and

"(2) not less than 30 calendar days before the agreement is entered into or renewed in the case of an agreement with any other organization or country.".

(2) CONGRESSIONAL DISAPPROVAL.—Section 63(a) of such Act (22 U.S.C. 2796b(a)) is amended—

(A) by striking "(a)(1)" and inserting "(a)";

(B) by striking out the "30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 62(a)," and inserting in lieu thereof "the 15-day or 30-day period specified in section 62(c) (1) or (2), as the case may be,"; and

(C) by striking paragraph (2).

(f) EFFECTIVE DATE.—The amendments made by this section apply with respect to certifications required to be submitted on or after the date of the enactment of this Act.

SEC. 3182. STANDARDIZATION OF THIRD COUNTRY TRANSFERS OF DEFENSE ARTICLES.

Section 3 of the Arms Export Control Act (22 U.S.C. 2753) is amended by inserting after subsection (a) the following new subsection:

"(b) The consent of the President under paragraph (2) of subsection (a) or under paragraph (1) of section 505(a) of the Foreign Assistance Act of 1961 (as it relates to subparagraph (B) of such paragraph) shall not be required for the transfer by a foreign country or international organization of defense articles sold by the United States under this Act if—

"(1) such articles constitute components incorporated into foreign defense articles;

"(2) the recipient is the government of a member country of the North Atlantic Treaty Organization, the Government of Australia, the Government of Japan, or the Government of New Zealand;

"(3) the United States-origin components are not—

"(A) significant military equipment (as defined in section 47(9));

"(B) defense articles for which notification to Congress is required under section 36(b); and

"(C) identified by regulation as Missile Technology Control Regime items; and

"(4) the foreign country or international organization provides notification of the transfer of the defense articles to the United States Government not later than 30 days after the date of such transfer.".

SEC. 3183. INCREASED STANDARDIZATION, RATIONALIZATION, AND INTEROPERABILITY OF ASSISTANCE AND SALES PROGRAMS.

Paragraph (6) of section 515(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321i(a)(6)) is amended by striking "among members of the North Atlantic Treaty Organization and with the Armed Forces of Japan, Australia, and New Zealand".

SEC. 3184. REPEAL OF PRICE AND AVAILABILITY REPORTING REQUIREMENT RELATING TO PROPOSED SALE OF DEFENSE ARTICLES AND SERVICES.

(a) IN GENERAL.—Section 28 of the Arms Export Control Act (22 U.S.C. 2768) is hereby repealed.

(b) CONFORMING AMENDMENT.—Section 36(b) of such Act (22 U.S.C. 2776(b)) is amended by striking paragraph (4) of such section.

SEC. 3185. DEFINITION OF SIGNIFICANT MILITARY EQUIPMENT.

Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) 'significant military equipment' means articles—

"(A) for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability; and

"(B) identified on the United States Munitions List.".

SEC. 3186. REQUIREMENTS RELATING TO THE SPECIAL DEFENSE ACQUISITION FUND.

(a) ELIMINATION OF ANNUAL REPORT.—

(1) IN GENERAL.—Section 53 of the Arms Export Control Act (22 U.S.C. 2795b) is hereby repealed.

(2) CONFORMING AMENDMENT.—Section 51(a)(4) of such Act (22 U.S.C. 2795(a)(4)) is amended—

(A) by striking "(a)"; and

(B) by striking subparagraph (B).

(b) RETURN OF CERTAIN AMOUNTS IN FUND TO THE TREASURY.—During fiscal year 1996 the President shall return $6,281,000 to the miscellaneous receipts account of the Treasury from collections into the Special Defense Acquisition Fund pursuant to section 51(b) of the Arms Export Control Act in addition to the amount of such collections to be returned for such fiscal year as indicated in the President's budget of the United States Government for fiscal year 1996.

SEC. 3187. COST OF LEASED DEFENSE ARTICLES THAT HAVE BEEN LOST OR DESTROYED.

Section 61(a)(4) of the Arms Export Control Act (22 U.S.C. 2796(a)(4)) is amended by striking "and the replacement cost" and all that follows and inserting the following: "and, if the articles are lost or destroyed while leased—

"(A) in the event the United States intends to replace the articles lost or destroyed, the replacement cost (less any depreciation in the value) of the articles; or

"(B) in the event the United States does not intend to replace the articles lost or destroyed, an amount not less than the actual value (less any depreciation in the value) specified in the lease agreement.".

SEC. 3188. DESIGNATION OF MAJOR NON-NATO ALLIES.

(a) DESIGNATION.—

(1) NOTICE TO CONGRESS.—Chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 517. DESIGNATION OF MAJOR NON-NATO ALLIES.

"(a) NOTICE TO CONGRESS.—The President shall notify the Congress in writing at least 30 days before—

"(1) designating a country as a major non-NATO ally for purposes of this Act and the

Arms Export Control Act (22 U.S.C. 2751 et seq.); or

"(2) terminating such a designation.

"(b) INITIAL DESIGNATIONS.—Australia, Egypt, Israel, Japan, the Republic of Korea, and New Zealand shall be deemed to have been so designated by the President as of the effective date of this section, and the President is not required to notify the Congress of such designation of those countries.".

(2) DEFINITION.—Section 644 of such Act (22 U.S.C. 2403) is amended by adding at the end the following:

"(q) 'Major non-NATO ally' means a country which is designated in accordance with section 517 as a major non-NATO ally for purposes of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.).".

(3) EXISTING DEFINITIONS.—(A) The last sentence of section 21(g) of the Arms Export Control Act (22 U.S.C. 2761(g)) is repealed.

(B) Section 65(d) of such Act is amended—

(i) by striking "or major non-NATO"; and

(ii) by striking out "or a" and all that follows through "Code".

(b) COOPERATIVE TRAINING AGREEMENTS.—Section 21(g) of the Arms Export Control Act (22 U.S.C. 2761(g)) is amended in the first sentence by striking "similar agreements" and all that follows through "other countries" and inserting "similar agreements with countries".

SEC. 3189. CERTIFICATION THRESHOLDS.

(a) INCREASE IN DOLLAR THRESHOLDS.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

(1) in section 3(d) (22 U.S.C. 2753(d))—

(A) in paragraphs (1) and (3), by striking "$14,000,000" each place it appears and inserting "$25,000,000"; and

(B) in paragraphs (1) and (3), by striking "$50,000,000" each place it appears and inserting "$75,000,000";

(2) in section 36 (22 U.S.C. 2776)—

(A) in subsections (b)(1), (b)(5)(C), and (c)(1), by striking "$14,000,000" each place it appears and inserting "$25,000,000";

(B) in subsections (b)(1), (b)(5)(C), and (c)(1), by striking "$50,000,000" each place it appears and inserting "$75,000,000"; and

(C) in subsections (b)(1) and (b)(5)(C), by striking "$200,000,000" each place it appears and inserting "$300,000,000"; and

(3) in section 63(a) (22 U.S.C. 2796b(a))—

(A) by striking "$14,000,000" and inserting "$25,000,000"; and

(B) by striking "$50,000,000" and inserting "$75,000,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to certifications submitted on or after the date of the enactment of this Act.

SEC. 3190. COMPETITIVE PRICING FOR SALES OF DEFENSE ARTICLES AND SERVICES.

(a) COSTING BASIS.—Section 22 of the Arms Export Control Act (22 U.S.C. 2762) is amended by adding at the end the following:

"(d) COMPETITIVE PRICING.—Procurement contracts made in implementation of sales under this section for defense articles and defense services wholly paid from funds made available on a nonrepayable basis shall be priced on the same costing basis with regard to profit, overhead, independent research and development, bid and proposal, and other costing elements, as is applicable to procurements of like items purchased by the Department of Defense for its own use.".

(b) EFFECTIVE DATE AND IMPLEMENTING REGULATIONS.—Section 22(d) of the Arms Export Control Act, as added by subsection (a)—

(1) shall take effect on the 60th day following the date of the enactment of this Act;

(2) shall be applicable only to contracts made in implementation of sales made after such effective date; and

(3) shall be implemented by revised procurement regulations, which shall be issued prior to such effective date.

SEC. 3191. DEPLETED URANIUM AMMUNITION.

Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2370 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 620H. DEPLETED URANIUM AMMUNITION.

"(a) PROHIBITION.—Except as provided in subsection (b), none of the funds made available to carry out this Act or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than—

"(1) a country that is a member of the North Atlantic Treaty Organization;

"(2) a country that has been designated as a major non-NATO ally (as defined in section 644(q)); or

"(3) Taiwan.

"(b) EXCEPTION.—The prohibition contained in subsection (a) shall not apply with respect to the use of funds to facilitate the sale of antitank shells to a country if the President determines that to do so is in the national security interest of the United States.".

SEC. 3192. END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES.

(a) IN GENERAL.—The Arms Export Control Act (22 U.S.C.2751 et seq.) is amended by inserting after chapter 3 the following new chapter:

"CHAPTER 3A—END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES

"SEC. 40A. END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES.

"(a) ESTABLISHMENT OF MONITORING PROGRAM.—

"(1) IN GENERAL.—In order to improve accountability with respect to defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Secretary of State shall establish a program which provides for the end-use monitoring of such articles and services.

"(2) REQUIREMENTS OF PROGRAM.—To the extent practicable, such program—

"(A) shall provide for the end-use monitoring of defense articles and defense services in accordance with the standards that apply for identifying high-risk exports for regular end-use verification developed under section 38(g)(7) of this Act (commonly referred to as the 'Blue Lantern' program); and

"(B) shall be designed to provide reasonable assurance that—

"(i) the recipient is complying with the requirements imposed by the United States Government with respect to use, transfers, and security of defense articles and defense services; and

"(ii) such articles and services are being used for the purposes for which they are provided.

"(b) CONDUCT OF PROGRAM.—In carrying out the program established under subsection (a), the Secretary shall ensure that the program—

"(1) provides for the end-use verification of defense articles and defense services that incorporate sensitive technology, defense articles and defense services that are particularly vulnerable to diversion or other misuse, or defense articles or defense services whose diversion or other misuse could have significant consequences; and

"(2) prevents the diversion (through reverse engineering or other means) of technology incorporated in defense articles.

"(c) MONITORING RESPONSIBILITIES.—

"(1) IN GENERAL.—Pursuant to subsection (a), sections 3 and 38 of this Act, and sections 505, 622, and 623 of the Foreign Assistance Act of 1961, the Secretary of State, in consultation with the Secretary of Defense and officials of appropriate other Federal agencies, shall provide for the monitoring of defense articles and defense services described in subsection (a).

"(2) ADDITIONAL PERSONNEL.—Upon the request of the Secretary of State, the Secretary of Defense or the Secretary of the Treasury, as the case may be, shall provide to the agency primarily responsible for the licensing of exports under this section, on a nonreimbursable basis, personnel with appropriate expertise to assist in the end-use monitoring and enforcement functions under this section and section 38 of this Act.

"(d) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of the Foreign Aid Reduction Act of 1995, and annually thereafter as a part of the annual congressional presentation documents submitted under section 634 of the Foreign Assistance Act of 1961, the President shall transmit to the Congress a report describing the actions taken to implement this section.

"(e) THIRD COUNTRY TRANSFERS.—For purposes of this section, defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) includes defense articles and defense services that are transferred to a third country or other third party.".

(b) EFFECTIVE DATES.—Section 40A of the Arms Export Control Act, as added by subsection (a), applies with respect to defense articles and defense services provided before or after the date of the enactment of this Act.

SEC. 3193. BROKERING ACTIVITIES RELATING TO COMMERCIAL SALES OF DEFENSE ARTICLES AND SERVICES.

(a) IN GENERAL.—Section 38(b)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778(b)(1)(A)) is amended—

(1) in the first sentence, by striking "As prescribed in regulations" and inserting "(i) As prescribed in regulations"; and

(2) by adding at the end the following new clause:

"(ii)(I) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service designated by the President under subsection (a)(1), or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service (as defined in subclause (IV)), shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations.

"(II) Such brokering activities shall include the financing, transportation, freight forwarding, or the taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service.

"(III) No person may engage in the business of brokering activities without a license, issued in accordance with this Act, except that no license shall be required for such activities undertaken by or for an agency of the United States Government—

"(aa) for official use by an agency of the United States Government; or

"(bb) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

"(IV) For purposes of this clause, the term 'foreign defense article or defense service' includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.".

(b) EFFECTIVE DATE.—Section 38(b)(1)(A)(ii) of the Arms Export Control Act, as added by subsection (a), shall apply with respect to brokering activities engaged in on or after the date of the enactment of this Act.

TITLE XXXII—ECONOMIC ASSISTANCE

CHAPTER 1—ECONOMIC SUPPORT ASSISTANCE

SEC. 3201. ECONOMIC SUPPORT FUND.

Section 532(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346a(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to the President to carry out the purposes of this chapter $2,356,378,000 for fiscal year 1996 and $2,283,478,000 for fiscal year 1997.".

SEC. 3202. ASSISTANCE FOR ISRAEL.

(a) MINIMUM ALLOCATION.—Of the amounts made available for fiscal years 1996 and 1997 for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund), not less than $1,200,000,000 for each such fiscal year shall be available only for Israel.

(b) TERMS OF ASSISTANCE.—

(1) CASH TRANSFER.—The total amount of funds allocated for Israel for each fiscal year under subsection (a) shall be made available on a grant basis as a cash transfer.

(2) EXPEDITED DISBURSEMENT.—Such funds shall be disbursed—

(A) with respect to fiscal year 1996, not later than 30 days after the date of the enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, or by October 31, 1995, whichever is later; and

(B) with respect to fiscal year 1997, not later than 30 days after the date of the enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, or by October 31, 1996, whichever is later.

(3) ADDITIONAL REQUIREMENT.—In exercising the authority of this subsection, the President shall ensure that the amount of funds provided as a cash transfer to Israel does not cause an adverse impact on the total level of nonmilitary exports from the United States to Israel.

SEC. 3203. ASSISTANCE FOR EGYPT.

(a) MINIMUM ALLOCATION.—Of the amounts made available for fiscal years 1996 and 1997 for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund), not less than $815,000,000 for each such fiscal year shall be available only for Egypt.

(b) ADDITIONAL REQUIREMENT.—In exercising the authority of this section, the President shall ensure that the amount of funds provided as a cash transfer to Egypt does not cause an adverse impact on the total level of nonmilitary exports from the United States to Egypt.

SEC. 3204. INTERNATIONAL FUND FOR IRELAND.

(a) FUNDING.—

(1) IN GENERAL.—Of the amounts made available for fiscal years 1996 and 1997 for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund), not more than $29,600,000 for fiscal year 1996 and not more than $19,600,000 for fiscal year 1997 shall be available for the United States contribution to the International Fund for Ireland in accordance with the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415).

(2) AVAILABILITY.—Amounts made available under paragraph (1) are authorized to remain available until expended.

(b) ADDITIONAL REQUIREMENTS.—

(1) PURPOSES.—Section 2(b) of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415; 100 Stat. 947) is amended by adding at the end the following new sentences: "United States contributions shall be used in a manner that effectively increases employment opportunities in communities with rates of unemployment significantly higher than the local or urban average of unemployment in Northern Ireland. In addition, such contributions shall be used to benefit individuals residing in such communities.".

(2) CONDITIONS AND UNDERSTANDINGS.—Section 5(a) of such Act is amended—

(A) in the first sentence—

(i) by striking "The United States" and inserting the following:

"(1) IN GENERAL.—The United States";

(ii) by striking "in this Act may be used" and inserting the following: "in this Act—

"(A) may be used";

(iii) by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(B) may be provided to an individual or entity in Northern Ireland only if such individual or entity is in compliance with the principles of economic justice."; and

(B) in the second sentence, by striking "The restrictions" and inserting the following:

"(2) ADDITIONAL REQUIREMENTS.—The restrictions".

(3) PRIOR CERTIFICATIONS.—Section 5(c)(2) of such Act is amended—

(A) in subparagraph (A), by striking "principle of equality" and all that follows and inserting "principles of economic justice; and"; and

(B) in subparagraph (B), by inserting before the period at the end the following: "and will create employment opportunities in regions and communities of Northern Ireland suffering the highest rates of unemployment".

(4) ANNUAL REPORTS.—Section 6 of such Act is amended—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) each individual or entity receiving assistance from United States contributions to the International Fund has agreed in writing to comply with the principles of economic justice.".

(5) DEFINITIONS.—Section 8 of such Act is amended—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(3) the term 'Northern Ireland' includes the counties of Antrim, Armagh, Derry, Down, Tyrone, and Fermanagh; and

"(4) the term 'principles of economic justice' means the following principles:

"(A) Increasing the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical, and technical jobs.

"(B) Providing adequate security for the protection of minority employees at the workplace.

"(C) Banning provocative sectarian or political emblems from the workplace.

"(D) Providing that all job openings be advertised publicly and providing that special recruitment efforts be made to attract applicants from underrepresented religious groups.

"(E) Providing that layoff, recall, and termination procedures do not favor a particular religious group.

"(F) Abolishing job reservations, apprenticeship restrictions, and differential employment criteria which discriminate on the basis of religion.

"(G) Providing for the development of training programs that will prepare substantial numbers of minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.

"(H) Establishing procedures to assess, identify, and actively recruit minority employees with the potential for further advancement.

"(I) Providing for the appointment of a senior management staff member to be responsible for the employment efforts of the entity and, within a reasonable period of time, the implementation of the principles described in subparagraphs (A) through (H).".

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 180 days after the date of the enactment of this Act.

SEC. 3205. LAW ENFORCEMENT ASSISTANCE.

(a) IN GENERAL.—Of the amounts made available for fiscal years 1996 and 1997 for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund), not more than $12,000,000 for each such fiscal year shall be available for law enforcement assistance under chapter 8 of part I of such Act (22 U.S.C. 2291 et seq.).

(b) AVAILABILITY.—Amounts made available under subsection (a) are authorized to remain available until expended.

CHAPTER 2—ASSISTANCE FOR PRIVATE SECTOR PROGRAMS AND ACTIVITIES

SEC. 3211. PRIVATE SECTOR ENTERPRISE FUNDS.

The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by inserting after section 601 the following new section:

"SEC. 601A. PRIVATE SECTOR ENTERPRISE FUNDS.

"(a) AUTHORITY.—(1) The President may provide funds and support to Enterprise Funds designated in accordance with subsection (b) that are or have been established for the purposes of promoting—

"(A) development of the private sectors of eligible countries, including small businesses, the agricultural sector, and joint ventures with United States and host country participants; and

"(B) policies and practices conducive to private sector development in eligible countries;

on the same basis as funds and support may be provided with respect to Enterprise Funds for Poland and Hungary under the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.).

"(2) Funds may be made available under this section notwithstanding any other provision of law.

"(b) COUNTRIES ELIGIBLE FOR ENTERPRISE FUNDS.—(1) Except as provided in paragraph (2), the President is authorized to designate a private, nonprofit organization as eligible to receive funds and support pursuant to this section with respect to any country eligible to receive assistance under part I of this Act in the same manner and with the same limitations as set forth in section 201(d) of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421(d)).

"(2) The authority of paragraph (1) shall not apply to any country with respect to which the President is authorized to designate an enterprise fund under section 498B(c) or section 498C of this Act or section 201 of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421).

"(c) TREATMENT EQUIVALENT TO ENTERPRISE FUNDS FOR POLAND AND HUNGARY.—Except as otherwise specifically provided in this section, the provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421) (excluding the authorizations of appropriations provided in subsection (b) of that section) shall apply to any Enterprise Fund that receives funds and support under this section. The officers, members, or employees of an Enterprise Fund that receive funds and support under this section shall enjoy the same status under law that is applicable to officers, members, or employees of the Enterprise Funds for Poland and Hungary under section 201 of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421).

"(d) REPORTING REQUIREMENT.—Notwithstanding any other provision of this section, the requirement of section 201(p) of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421(p)), that an Enterprise Fund shall be required to publish an annual report not later than January 31 each year, shall not apply with respect to an Enterprise Fund that receives funds and support under this section for the first twelve months after it is designated as eligible to receive such funds and support.

"(e) FUNDING.—

"(1) IN GENERAL.—Amounts made available for a fiscal year to carry out chapter 1 of part I of this Act (relating to development assistance) and to carry out chapter 4 of part II of this Act (relating to the economic support fund) shall be available for such fiscal year to carry out this section, in addition to amounts otherwise available for such purposes.

"(2) AFRICAN DEVELOPMENT.—In addition to amounts available under paragraph (1) for a fiscal year, amounts made available for such fiscal year to carry out chapter 10 of part I of this Act (relating to the Development Fund for Africa) shall be available for such fiscal year to carry out this section with respect to countries in Africa.".

SEC. 3212. MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS.

(a) IN GENERAL.—Section 108 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f) is amended to read as follows:

"SEC. 108. MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS.

"(a) FINDINGS AND POLICY.—The Congress finds and declares that—

"(1) the development of micro- and small enterprise, including cooperatives, is a vital factor in the stable growth of developing countries and in the development and stability of a free, open, and equitable international economic system;

"(2) it is, therefore, in the best interests of the United States to assist the development of the private sector in developing countries and to engage the United States private sector in that process;

"(3) the support of private enterprise can be served by programs providing credit, training, and technical assistance for the benefit of micro- and small enterprises; and

"(4) programs that provide credit, training, and technical assistance to private institutions can serve as a valuable complement to grant assistance provided for the purpose of benefiting micro- and small private enterprise.

"(b) PROGRAM.—To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of credit to micro- and small enterprises lacking full access to credit, including through—

"(1) loans and guarantees to credit institutions for the purpose of expanding the availability of credit to micro- and small enterprises;

"(2) training programs for lenders in order to enable them to better meet the credit needs of micro- and small entrepreneurs; and

"(3) training programs for micro- and small entrepreneurs in order to enable them to make better use of credit and to better manage their enterprises.".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—(A) There is authorized to be appropriated to carry out section 108 of the Foreign Assistance Act of 1961, in addition to funds otherwise available for such purposes, $2,000,000 for each of the fiscal years 1996 and 1997. Funds authorized to be appropriated under this subsection shall be made available for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, for activities under section 108 of the Foreign Assistance Act of 1961.

(B) In addition, there are authorized to be appropriated $500,000 for each of the fiscal years 1996 and 1997 for the cost of training programs and administrative expenses to carry out such section.

(2) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated under paragraph (1) are authorized to remain available until expended.

SEC. 3213. MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

"SEC. 129. MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE.

"(a) AUTHORIZATION.—(1) In carrying out this part, the administrator of the agency primarily responsible for administering this part is authorized to provide grant assistance for programs of credit and other assistance for microenterprises in developing countries.

"(2) Assistance authorized under paragraph (1) shall be provided through the following organizations that have a capacity to develop and implement microenterprise programs:

"(A) United States and indigenous private and voluntary organizations.

"(B) United States and indigenous credit unions and cooperative organizations.

"(C) Other indigenous governmental and nongovernmental organizations.

"(3) Approximately 50 percent of assistance authorized under paragraph (1) shall be used for poverty lending programs which—

"(A) meet the needs of the very poor members of society, particularly poor women; and

"(B) provide loans of $300 or less in 1995 United States dollars to such poor members of society.

"(4) The administrator of the agency primarily responsible for administering this part shall strengthen appropriate mechanisms, including mechanisms for central microenterprise programs, for the purpose of—

"(A) providing technical support for field missions;

"(B) strengthening the institutional development of the intermediary organizations described in paragraph (2); and

"(C) sharing information relating to the provision of assistance authorized under paragraph (1) between such field missions and intermediary organizations.

"(b) MONITORING SYSTEM.—In order to maximize the sustainable development impact of the assistance authorized under subsection (a)(1), the administrator of the agency primarily responsible for administering this part shall establish a monitoring system that—

"(1) establishes performance goals for such assistance and expresses such goals in an objective and quantifiable form, to the extent feasible;

"(2) establishes performance indicators to be used in measuring or assessing the achievement of the goals and objectives of such assistance; and

"(3) provides a basis for recommendations for adjustments to such assistance to enhance the sustainable development impact of such assistance, particularly the impact of such assistance on the very poor, particularly poor women.".

CHAPTER 3—DEVELOPMENT ASSISTANCE

Subchapter A—Development Assistance Authorities

SEC. 3221. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated the following amounts for the following purposes (in addition to amounts otherwise available for such purposes):

(1) DEVELOPMENT ASSISTANCE FUND.—$858,000,000 for each of the fiscal years 1996 and 1997 to carry out sections 103 through 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a through 2151d).

(2) DEVELOPMENT FUND FOR AFRICA.—$629,214,000 for each of the fiscal years 1996 and 1997 to carry out chapter 10 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2293 et seq.).

(3) ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.—$643,000,000 for fiscal year 1996 and $650,000,000 for fiscal year 1997 to carry out programs under chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.) and other related programs.

(4) ASSISTANCE FOR EAST EUROPEAN COUNTRIES.—$325,000,000 for fiscal year 1996 and $275,000,000 for fiscal year 1997 for economic assistance for Eastern Europe and the Baltic states under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.).

(5) INTER-AMERICAN FOUNDATION.—$20,000,000 for fiscal year 1996 and $10,000,000 for fiscal year 1997 to carry out section 401 of

the Foreign Assistance Act of 1969 (22 U.S.C. 290f).

(6) AFRICAN DEVELOPMENT FOUNDATION.—$10,000,000 for fiscal year 1996 and $5,000,000 for fiscal year 1997 to carry out the African Development Foundation Act (22 U.S.C. 290h et seq.).

(b) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SEC. 3222. CHILD SURVIVAL ACTIVITIES, VITAMIN A DEFICIENCY PROGRAM, AND RELATED ACTIVITIES.

(a) CHILD SURVIVAL ACTIVITIES.—

(1) IN GENERAL.—(A) Of the amounts made available to carry out the provisions of law described in paragraph (2) for fiscal years 1996 and 1997, not less than $280,000,000 for each such fiscal year shall be made available only for activities which have a direct measurable impact on rates of child morbidity and mortality, with a particular emphasis on delivery of community-based primary health care and health education services which benefit the poorest of the poor.

(B) Of the amounts made available under subparagraph (A) for a fiscal year, not less than $30,000,000 for such fiscal year shall be provided to private and voluntary organizations under the PVO Child Survival grants program carried out by the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961.

(2) PROVISIONS OF LAW.—The provisions of law described in this paragraph are the following:

(A) Sections 103 through 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a through 2151d; relating to the development assistance fund).

(B) Chapter 10 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2293 et seq.; relating to the Development Fund for Africa).

(C) Chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund).

(D) The "Multilateral Assistance Initiative for the Philippines" program.

(3) SPECIAL RULE.—Amounts made available under sections 103 through 106 of the Foreign Assistance Act of 1961 for the Vitamin A Deficiency Program, part I of such Act for iodine and iron fortification programs and for iron supplementation programs for pregnant women, chapter 9 of part I of such Act for international disaster assistance, section 104(c) of such Act for international AIDS prevention and control, and any other provision of law for migration and refugee assistance, shall not be included in the aggregate amounts described in paragraph (1) for purposes of the requirements contained in such paragraph.

(b) VITAMIN A DEFICIENCY PROGRAM AND RELATED ACTIVITIES.—Of the amounts made available to carry out sections 103 through 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a through 2151d) for fiscal years 1996 and 1997, not less than $25,000,000 for each such fiscal year shall be made available for the Vitamin A Deficiency Program and for activities relating to iodine deficiency and other micronutrients.

(c) UNDP/WHO TROPICAL DISEASE PROGRAM.—Of the amounts made available to carry out section 103 through 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a through 2151d) for fiscal years 1996 and 1997, not less than $15,000,000 for each such fiscal year shall be made available for the United Nations Development Program/World Health Organization Special Program for Research and Training in Tropical Diseases.

SEC. 3223. ASSISTANCE FOR FAMILY PLANNING.

(a) RESTRICTION ON USE OF FUNDS FOR VOLUNTARY POPULATION PLANNING.—Section 104(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(b)) is amended by inserting after the first sentence the following new sentence: "Such assistance shall be available only for voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services.".

(b) PROHIBITION ON USE OF FUNDS FOR VOLUNTARY POPULATION PLANNING TO ORGANIZATIONS OR PROGRAMS SUPPORTING OR PARTICIPATING IN THE MANAGEMENT OF ABORTION OR INVOLUNTARY STERILIZATION PROGRAMS.—Section 104(b) of such Act (22 U.S.C. 2151b(b)), as amended by subsection (a), is further amended—

(1) in the first sentence, by striking "In order to" and inserting "(1) In order to"; and

(2) by adding at the end the following new paragraph:

"(2) None of the funds made available to carry out this subsection may be made available to any organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization.".

(c) PROHIBITION ON DISCRIMINATION WITH RESPECT TO GRANTS FOR NATURAL FAMILY PLANNING.—Section 104(b) of such Act (22 U.S.C. 2151b(b)), as amended by subsections (a) and (b), is further amended by adding at the end the following new paragraph:

"(3) In providing grants for natural family planning under this subsection, the administrator of the agency primarily responsible for administering this part shall not discriminate against applicants because of any religious or conscientious commitment by such applicants to offer only natural family planning services.".

(d) CLARIFICATION WITH RESPECT TO PROHIBITION ON USE OF FUNDS FOR ABORTIONS.—Section 104(f)(1) of such Act (22 U.S.C. 2151b(f)(1)) is amended—

(1) by striking "None of the funds" and inserting "(A) None of the funds"; and

(2) by adding at the end the following new subparagraph:

"(B) For purposes of this paragraph, the term 'motivate' shall not be construed to prohibit the provision, consistent with local law, of information and counseling concerning all pregnancy options, including abortion.".

SEC. 3224. ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) CONDITIONS ON ASSISTANCE.—Section 498A(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(b)) is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) by redesignating paragraph (5) as paragraph (10); and

(3) by inserting after paragraph (4) the following new paragraphs:

"(5) for the Government of Russia, unless the President certifies to the Congress that such Government—

"(A) is pursuing, without preconditions, an immediate and permanent ceasefire, and is pursuing a negotiated settlement to the conflict in the Russian Federation Republic of Chechnya;

"(B) is taking steps to provide unhindered access to the region of Chechnya and surrounding areas of the Russian Federation by elected officials of the Russian Federation and by independent Russian media;

"(C) is cooperating with the Organization for Security and Cooperation in Europe and other appropriate international organizations in undertaking steps to investigate and prosecute any and all individuals, including members of the Russian armed forces and internal security agencies, who may be responsible for atrocities, war crimes, or crimes against humanity in the region of Chechnya;

"(D) is cooperating with the Assistance Group of the Organization on Security and Cooperation in Europe established in Chechnya in fulfilling that mission's mandate;

"(E) is cooperating in assuring the unhindered delivery of humanitarian assistance to the civilian population in Chechnya;

"(F) has made the fullest possible accounting of all persons currently detained by Russian military or security forces as a result of the conflict in Chechnya and has allowed access to those individuals by the International Committee of the Red Cross;

"(G) is taking steps to repatriate refugees and displaced persons wishing to return to Chechnya; and

"(H) is taking steps to hold free and fair elections in Chechnya, based on the principles of the Organization on Security and Cooperation in Europe and conducted in the presence of foreign and domestic observers;

except that this paragraph shall not apply to the provision of such assistance for purposes of humanitarian, disaster, and refugee relief or assisting democratic political reform and rule of law activities, provision of technical assistance for safety upgrade of civilian nuclear power plants, and assisting in the creation of private sector and nongovernmental organizations that are independent of government ownership and control;

"(6) for the government of any independent state that has agreed to provide nuclear reactor components to Iran, unless the President determines that the sale of such components to Iran includes safeguards that are consistent with the national security objectives of the United States and the concerns of the United States with respect to nonproliferation of nuclear weapons technology, except that this paragraph shall not apply to the provision of such of assistance for purposes of—

"(A) humanitarian, disaster, and refugee relief; or

"(B) assisting democratic political reform, rule of law activities, and the creation of private sector and nongovernmental organizations that are independent of government ownership and control;

"(7) for the government of any independent state that the President determines directs any action in violation of the territorial integrity or national sovereignty of any other new independent state, except that this paragraph shall not apply to the provision of such assistance for purposes of—

"(A) humanitarian, disaster, and refugee relief; or

"(B) assisting democratic political reform, rule of law activities, and the creation of private sector and nongovernmental organizations that are independent of government ownership and control;

"(8) for the purpose of enhancing the military capability of any independent state, except that this paragraph shall not apply to demilitarization, defense conversion or nonproliferation programs, or programs to support troop withdrawal including through the support of an officer resettlement program, and technical assistance for the housing sector;

"(9) for the Government of Russia if the President determines that Government—

"(A) is not making progress in implementing comprehensive economic reforms based on market principles, including fostering private ownership, the repayment of commercial debt, the respect of commercial contracts, the equitable treatment of foreign private investment; or

"(B) applies or transfers assistance provided under this chapter to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures; or".

(b) Assistance Through the Private Sector.—Section 498B(a) of such Act (22 U.S.C. 2295b(a)) is amended to read as follows:

"(a) Assistance Through the Private Sector.—Assistance under this chapter shall be provided, to the maximum extent feasible, through the private sector, including private and voluntary organizations and other nongovernmental organizations functioning in the independent states of the former Soviet Union.".

(c) Waiver of Certain Provisions.—Section 498B(j)(1) of such Act (22 U.S.C. 2295b(j)(1)) is amended in the matter preceding subparagraph (A)—

(1) by striking "for fiscal year 1993 by this chapter" and inserting "to carry out this chapter"; and

(2) by striking "appropriated for fiscal year 1993".

SEC. 3225. DEVELOPMENT FUND FOR LATIN AMERICA AND THE CARIBBEAN.

Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new chapter:

"CHAPTER 12—DEVELOPMENT FUND FOR LATIN AMERICA AND THE CARIBBEAN

"SEC. 499. STATEMENT OF POLICY.

"The Congress declares the following:

"(1) The historic, economic, political, and geographic relationships among the countries of the Western Hemisphere are unique and of continuing special significance.

"(2) Following the historic Summit of the Americas and the passage of the North American Free Trade Agreement, the countries of the Western Hemisphere have moved steadfastly toward economic and political integration.

"(3) The interests of the countries of the Western Hemisphere are more interrelated than ever, and sound economic, social, and democratic progress in each of the countries continues to be of importance to all countries, and lack of it in any country may have serious repercussions in others.

"(4) For the peoples of Latin America and the Caribbean to progress within the framework of social justice, respect for human rights, political democracy, and market-oriented economies, there is a compelling need for the achievement of social and economic advancement and the consolidation of political democracy and the rule of law adequate to meet the legitimate aspirations of the individual citizens of the countries of Latin America and the Caribbean for a better way of life.

"(5) The prosperity, security, and well-being of the United States is linked directly to peace, prosperity, and democracy in Latin America and the Caribbean.

"(6) Democratic values are dominant throughout Latin America and the Caribbean region and nearly all governments in such region have come to power through democratic elections.

"(7) Nonetheless, existing democratic governments and their supporting institutions remain fragile and face critical challenges, including, in particular, the consolidation of civilian control of such governments and institutions, including control of the military, the consolidation or establishment of independent judicial institutions and of the rule of law, and where appropriate, the decentralization of government.

"(8) In adherence to free market principles, it is essential to promote economic growth with equity—enlarging employment and decisionmaking opportunities and the provision of basic social services for traditionally marginalized groups, such as indigenous minorities, women, and the poor—and to protect and promote workers rights.

"(9) By supporting the purposes and objectives of sustainable development and applying such purposes and objectives to Latin America and the Caribbean, the Development Fund for Latin America and the Caribbean can advance the national interests of the United States and can directly improve the lives of the poor, encourage broad-based economic growth while protecting the environment, build human capital and knowledge, support participation in democracy, and promote peace and justice in Latin America and the Caribbean.

"SEC. 499A. AUTHORIZATION OF ASSISTANCE.

"(a) In General.—The President is authorized to provide assistance for Latin America and the Caribbean to promote democracy, sustainable development, and economic growth in Latin America and the Caribbean.

"(b) Terms and Conditions.—Assistance under this chapter shall be provided on such terms and conditions as the President may determine.

"SEC. 499B. AVAILABILITY OF AMOUNTS.

"(a) In General.—Of the amounts made available to carry out the provisions of law described in subsection (b) for fiscal year 1996 and for each succeeding fiscal year, not less than an amount requested by the President and approved by the Congress in appropriations Acts shall be made available to carry out this chapter.

"(b) Provisions of Law.—The provisions of law described in this subsection are the following:

"(1) Sections 103 through 106 of this Act (relating to the development assistance fund).

"(2) Chapter 8 of this part (relating to international narcotics control).

"(3) Chapter 4 of part II of this Act (relating to the economic support fund).

"(4) Chapter 5 of part II of this Act (relating to international military education and training).

"(5) Titles II and III of the Agricultural Trade Development and Assistance Act of 1954.

"(6) The 'Foreign Military Financing Program' under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

"(c) Availability.—Amounts made available under this section are authorized to remain available until expended.".

SEC. 3226. EFFECTIVENESS OF UNITED STATES DEVELOPMENT ASSISTANCE.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2251 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 130. EFFECTIVENESS OF UNITED STATES DEVELOPMENT ASSISTANCE.

"(a) Reports.—Not later than December 31, 1996, and December 31 of each third year thereafter, the President shall transmit to the Congress a report which analyzes, on a country-by-country basis, the impact and effectiveness of the United States development assistance provided during the preceding three fiscal years. Each report shall include the following for each recipient country:

"(1) An analysis of the impact of United States development assistance during the preceding three fiscal years on development in that country, with a discussion of the United States interests that were served by the assistance. Such analysis shall be done on a sector-by-sector basis to the extent possible and shall identify any economic policy reforms which were promoted by the assistance. Such analysis shall—

"(A) include a description, quantified to the extent practicable, of the specific objectives the United States sought to achieve in providing development assistance for that country; and

"(B) specify the extent to which those objectives were not achieved, with an explanation of why they were not achieved.

"(2) A description of the amount and nature of development assistance provided by other donors during the preceding three fiscal years, set forth by development sector to the extent possible.

"(3) A discussion of the commitment of the host government to addressing the country's needs in each development sector, including a description of the resources devoted by that government to each development sector during the preceding three fiscal years.

"(4) A description of the trends, both favorable and unfavorable, in each development sector.

"(5) Statistical and other information necessary to evaluate the impact and effectiveness of United States development assistance on development in the country.

"(b) Listing of Most and Least Successful Assistance Programs.—Each report required by this section shall identify—

"(1) those five countries in which United States development assistance has been most successful; and

"(2) those five countries in which United States development assistance has been least successful.

For each country listed pursuant to paragraph (2), the report shall explain why the assistance was not more successful and shall specify what the United States has done as a result.

"(c) Report To Be a Separate Document.—Each report required by this section shall be submitted to the Congress as a separate document.

"(d) Definition.—As used in this section, the terms 'United States development assistance' and 'development assistance' means assistance under this chapter.".

SEC. 3227. FUNDING FOR PRIVATE AND VOLUNTARY ORGANIZATIONS AND COOPERATIVES.

(a) In General.—For each of the fiscal years 1996 and 1997, the President shall allocate an aggregate amount to private and voluntary organizations and cooperatives under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and the Support for East European Democracy (SEED) Act of 1989 which, at a minimum, is equal to the aggregate amount allocated to such organizations and cooperatives under such Acts for fiscal year 1994.

(b) Definition.—For purposes of this section, the term "private and voluntary organization" means a private nongovernmental organization which—

(1) is organized under the laws of a country;

(2) receives funds from private sources;

(3) operates on a not-for-profit basis with appropriate tax-exempt status if the laws of the country grant such status to not-for-profit organizations;

(4) is voluntary in that it receives voluntary contributions of money, time, or in-kind support from the public; and

(5) is engaged or intends to be engaged in voluntary, charitable, development, or humanitarian assistance activities.

SEC. 3228. SENSE OF THE CONGRESS RELATING TO UNITED STATES COOPERATIVES AND CREDIT UNIONS.

It is the sense of the Congress that—

(1) United States cooperatives and credit unions can provide an opportunity for people in developing countries to participate directly in democratic decisionmaking for their economic and social benefit through ownership and control of business enterprises and through the mobilization of local capital and savings; and

(2) such organizations should be utilized in fostering democracy, free markets, community-based development, and self-help projects.

Subchapter B—Operating Expenses

SEC. 3231. OPERATING EXPENSES GENERALLY.

Section 667(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2427(a)(1)) is amended to read as follows:

"(1) $465,774,000 for fiscal year 1996 and $419,196,000 for fiscal year 1997 for necessary operating expenses of the agency primarily responsible for administering part I of this Act (other than the office of the inspector general of such agency); and".

SEC. 3232. OPERATING EXPENSES OF THE OFFICE OF THE INSPECTOR GENERAL.

Section 667(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2427(a)), as amended by this Act, is further amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by striking "and" at the end of paragraph (1); and

(3) by inserting after paragraph (1) the following:

"(2) $35,206,000 for fiscal year 1996 and $31,685,000 for fiscal year 1997 for necessary operating expenses of the office of the inspector general of such agency; and".

CHAPTER 4—PUBLIC LAW 480

SEC. 3241. LEVELS OF ASSISTANCE FOR TITLE II.

Section 204(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724(a)) is amended—

(1) in paragraph (1)(E), by striking "for fiscal year 1995" and inserting "for each of the fiscal years 1995 through 1997"; and

(2) in paragraph (2)(E), by striking "for fiscal year 1995" and inserting "for each of the fiscal years 1995 through 1997".

SEC. 3242. AUTHORIZATION OF APPROPRIATIONS FOR TITLE III.

No funds are authorized to be appropriated for either of the fiscal years 1996 and 1997 for the provision of agricultural commodities under title III of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1727 et seq.).

CHAPTER 5—HOUSING GUARANTEE PROGRAM

SEC. 3251. AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—(1) Subject to paragraph (2), there are authorized to be appropriated $7,000,000 for fiscal year 1996 and $6,000,000 for fiscal year 1997 for administrative expenses to carry out guaranteed loan programs under sections 221 and 222 of the Foreign Assistance Act of 1961 (22 U.S.C. 2181 and 2182).

(2) Amounts authorized to be appropriated under paragraph (1) may be made available only for—

(A) administrative expenses incurred with respect to guaranties issued before the date of the enactment of this Act; or

(B) expenses incurred with respect to activities related to the collection of amounts paid by the United States in the discharge of liabilities under guaranties issued under section 222 of the Foreign Assistance Act of 1961 (22 U.S.C. 2182).

(b) AVAILABILITY.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SEC. 3252. ADDITIONAL REQUIREMENTS.

(a) EXPIRATION OF AUTHORITY.—Section 222(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2182(a)) is amended by striking the third sentence and inserting the following: "No guaranties may be issued under this section on or after the date of the enactment of the Foreign Aid Reduction Act of 1995.".

(b) CANCELLATION OF CERTAIN EXISTING GUARANTIES.—Section 222 of such Act (22 U.S.C. 2182) is amended—

(1) by redesignating subsection (k) as subsection (d); and

(2) by adding at the end the following new subsection:

"(e) The President shall cancel all guaranties issued under this section with respect to which eligible investors have not (before the date of the enactment of the Foreign Aid Reduction Act of 1995) applied such guaranties to loans for projects under this title.".

(c) PROHIBITION ON ASSISTANCE FOR ENTITIES IN DEFAULT AND CERTAIN OTHER ENTITIES.—Section 620 of such Act (22 U.S.C. 2370) is amended by inserting after subsection (u) the following new subsection:

"(v)(1) Subject to paragraph (2), no assistance shall be furnished under this Act to any entity that—

"(A) fails to make timely payments on loans with respect to which guaranties have been issued under title III of chapter 2 of part I of this Act (relating to housing and other credit guaranty programs); or

"(B) causes amounts (including amounts for administrative expenses) to be paid by the United States in the discharge of liabilities under guaranties issued under such title, unless such entity has reimbursed the United States for such amounts.

"(2) The President may waive the prohibition in paragraph (1) with respect to an entity if the President determines that it is in the national interest of the United States to furnish assistance under this Act to such entity.".

CHAPTER 6—PEACE CORPS

SEC. 3261. PEACE CORPS.

Section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) is amended to read as follows:

"(b)(1) There are authorized to be appropriated to carry out the purposes of this Act $219,745,000 for each of the fiscal years 1996 and 1997.

"(2) Amounts authorized to be appropriated under paragraph (1)—

(1) with respect to fiscal year 1996 are authorized to remain available until September 30, 1997; and

(2) with respect to fiscal year 1997 are authorized to remain available until September 30, 1998.".

SEC. 3262. ACTIVITIES OF THE PEACE CORPS IN THE FORMER SOVIET UNION.

(a) IN GENERAL.—Of the amounts made available for fiscal years 1996 and 1997 to carry out chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.; relating to assistance for the independent states of the former Soviet Union), not more than $11,600,000 for each such fiscal year shall be available for activities of the Peace Corps in the independent states of the former Soviet Union (as defined in section 3 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992).

(b) AVAILABILITY.—Amounts made available under subsection (a)—

(1) with respect to fiscal year 1996 are authorized to remain available until September 30, 1997; and

(2) with respect to fiscal year 1997 are authorized to remain available until September 30, 1998.

SEC. 3263. PROHIBITION ON USE OF FUNDS FOR ABORTIONS.

Section 15 of the Peace Corps Act (22 U.S.C. 2514) is amended by adding at the end the following new subsection:

"(e) Funds made available for the purposes of this Act may not be used to pay for abortions.".

CHAPTER 7—INTERNATIONAL DISASTER ASSISTANCE

SEC. 3271. AUTHORITY TO PROVIDE RECONSTRUCTION ASSISTANCE.

Section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292) is amended—

(1) in subsection (b), by striking "and rehabilitation" and inserting ", rehabilitation, and reconstruction"; and

(2) in subsection (c), by striking "and rehabilitation" and inserting ", rehabilitation, and reconstruction".

SEC. 3272. AUTHORIZATIONS OF APPROPRIATIONS.

Section 492(a) of such Act (22 U.S.C. 2292a(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to the President to carry out section 491, in addition to funds otherwise available for such purposes, $200,000,000 for each of the fiscal years 1996 and 1997.".

CHAPTER 8—OTHER PROVISIONS

SEC. 3281. EXEMPTION FROM RESTRICTIONS ON ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.

Section 123(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151u(e)) is amended to read as follows:

"(e)(1) Subject to paragraph (3), restrictions contained in this Act or any other provision of law with respect to assistance for a country shall not be construed to restrict assistance under this chapter, chapter 10, or chapter 11 of this part in support of programs of nongovernmental organizations.

"(2) The President shall take into consideration, in any case in which a restriction on assistance for a country would be applicable but for this subsection, whether assistance for programs of nongovernmental organizations is in the national interest of the United States.

"(3) Whenever the authority of this subsection is used to furnish assistance for a program of a nongovernmental organization, the President shall notify the congressional committees specified in section 634A(a) of this Act in accordance with procedures applicable to reprogramming notifications under that section. Such notification shall describe the program assisted, the assistance provided, and the reasons for furnishing such assistance.".

SEC. 3282. FUNDING REQUIREMENTS RELATING TO UNITED STATES PRIVATE AND VOLUNTARY ORGANIZATIONS.

(a) IN GENERAL.—Section 123(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151u(g)) is amended to read as follows:

"(g) Funds made available to carry out this chapter or chapter 10 of this part may not be made available to any United States private and voluntary organization, except any cooperative development organization, that obtains less than 20 percent of its total annual financial support for its international activities from sources other than the United States Government.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to funds made available for programs of any United States private and voluntary organization on or after the date of the enactment of this Act.

SEC. 3283. DOCUMENTATION REQUESTED OF PRIVATE AND VOLUNTARY ORGANIZATIONS.

Section 620 of the Foreign Assistance Act of 1961 (22 U.S.C. 2370), as amended by this Act, is further amended by inserting after subsection (v) (as added by this Act) the following new subsection:

"(w) None of the funds made available to carry out this Act shall be available to any private and voluntary organization which—

"(1) fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the agency primarily responsible for administering part I of this Act; or

"(2) is not registered with the agency primarily responsible for administering part I of this Act.".

SEC. 3284. FOREIGN GOVERNMENT PARKING FINES.

(a) IN GENERAL.—Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2351 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 620I. FOREIGN GOVERNMENT PARKING FINES.

"(a) IN GENERAL.—An amount equivalent to 110 percent of the total unpaid fully adjudicated parking fines and penalties owed to the District of Columbia, Virginia, Maryland, and New York by the government of a foreign country as of the end of a fiscal year, as certified to the President by the chief executive officer of each State or District, shall be withheld from obligation for such country out of funds available in the next fiscal year to carry out part I of this Act, until the requirement of subsection (b) is satisfied.

"(b) REQUIREMENT.—The requirement of this subsection is satisfied when the Secretary of State determines and certifies to the appropriate congressional committees that such fines and penalties are fully paid to the governments of the District of Columbia, Virginia, Maryland, and New York.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—For purposes of this section, the term 'appropriate congressional committees' means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fines certified as of the end of fiscal year 1995 or any fiscal year thereafter.

SEC. 3285. HUMAN RIGHTS REPORTS.

(a) SECTION 116 REPORT.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year;

"(4) the extent to which each country has extended protection to refugees, including the provision of first asylum and resettlement; and".

(b) SECTION 502B REPORT.—Section 502B(b) of such Act (22 U.S.C. 2304(b)) is amended by adding after the second sentence the following new sentence: "Each report under this section shall list the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year.".

SEC. 3286. DEOBLIGATION OF CERTAIN UNEXPENDED ECONOMIC ASSISTANCE FUNDS.

Chapter 3 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2401 et seq.) is amended by adding at the end the following:

"SEC. 668. DEOBLIGATION OF CERTAIN UNEXPENDED ECONOMIC ASSISTANCE FUNDS.

"(a) REQUIREMENT TO DEOBLIGATE.—

"(1) IN GENERAL.—Except as provided in subsection (b) of this section and in paragraphs (1) and (3) of section 617(a) of this Act, at the beginning of each fiscal year the President shall deobligate and return to the Treasury, any funds described in paragraph (2) that, as of the end of the preceding fiscal year, have been obligated for a project or activity for a period of more than 3 years but have not been expended.

"(2) FUNDS.—Paragraph (1) applies to funds made available for—

"(A) assistance under chapter 1 of part I of this Act (relating to development assistance), chapter 10 of part I of this Act (relating to the Development Fund for Africa), or chapter 4 of part II of this Act (relating to the economic support fund);

"(B) assistance under the 'Multilateral Assistance Initiative for the Philippines';

"(C) assistance under the Support for East European Democracy (SEED) Act of 1989; and

"(D) economic assistance for the independent states of the former Soviet Union under this Act or under any other Act authorizing economic assistance for such independent states.

"(b) EXCEPTIONS.—The President, on a case-by-case basis, may waive the requirement of subsection (a)(1) if the President determines, and reports to the appropriate congressional committees, that—

"(1) the funds are being used for a construction project that requires more than 3 years to complete; or

"(2) the funds have not been expended because of unforeseen circumstances, and those circumstances could not have been reasonably foreseen.

"(c) COMMENTS BY INSPECTOR GENERAL.—As soon as possible after the submission of a report pursuant to subsection (b), the Inspector General of the agency primarily responsible for administering part I of this Act shall submit to the appropriate congressional committees such comments as the Inspector General considers appropriate with regard to the determination described in that report.

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES.—As used in this section, the term 'appropriate congressional committees' means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.".

TITLE XXXIII—REGIONAL PROVISIONS

SEC. 3301. PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS PROVIDING ASSISTANCE TO CUBA.

(a) IN GENERAL.—Section 620 of the Foreign Assistance Act of 1961 (22 U.S.C. 2370), as amended by this Act, is further amended by adding at the end the following new subsection:

"(y)(1) No assistance may be provided under this Act (other than humanitarian assistance and assistance for refugees) for a fiscal year to any foreign government that the President determines has provided economic assistance to or engaged in nonmarket-based trade with the Government of Cuba or any entity controlled by such Government in the preceding fiscal year.

"(2) The President may waive the requirements of paragraph (1) if—

"(A) the President certifies to the congressional committees specified in section 634A of this Act (in accordance with procedures applicable to reprogramming of funds under that section) that the provision of such assistance is vital to the national security of the United States; or

"(B) the President determines and reports to the Congress that the Government of Cuba has met the requirements contained in section 1708 of the Cuban Democracy Act of 1992 (22 U.S.C. 6001 et seq.).

"(3) Not later than February 1st each year, the President shall prepare and transmit to the appropriate congressional committees a report containing a list of all foreign governments that the President has determined have provided economic assistance to or engaged in nonmarket-based trade with the Government of Cuba in the preceding fiscal year.

"(4) For purposes of this subsection—

"(A) the term 'appropriate congressional committees' means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

"(B) the term 'humanitarian assistance' means food (including the monetization of food), clothing, medicine, and medical supplies; and

"(C) the term 'nonmarket-based trade' includes exports, imports, exchanges, or other trade arrangements under which goods or services are provided on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

"(i) exports to the Government of Cuba on terms that involve a grant, concessional price, guaranty, insurance, or subsidy;

"(ii) imports from the Government of Cuba at preferential tariff rates; and

"(iii) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfulfilled exchange contracts, and arrangements under which such Government does not pay appropriate transportation, insurance, or finance costs.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the prohibition on assistance to a foreign government contained in section 620(y) of the Foreign Assistance Act of 1961, as added by subsection (a), shall apply only with respect to assistance provided in fiscal years beginning on or after the date of the enactment of this Act.

(2) EXCEPTION.—In the case of the fiscal year in which this Act is enacted, such prohibition shall apply with respect to the obligation or expenditure of assistance on or after the date of the enactment of this Act.

SEC. 3302. ASSISTANCE FOR NICARAGUA.

(a) RESTRICTIONS.—Amounts made available for fiscal years 1996 and 1997 for assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.; relating to development assistance) or chapter 4 of part II of such Act (22 U.S.C. 2346 et seq.; relating to the economic support fund), including any unobligated balances of prior appropriations, may only be made available to the Government of Nicaragua if the Secretary of State determines and certifies to the appropriate congressional committees that—

(1) a full and independent investigation has been completed of the weapons caches discovered after the May 23, 1993, Santa Rosa arms cache explosion, including an investigation of passports, identity papers, and other documents found at weapons sites indicating the existence of a terrorist or kidnapping ring and whether the terrorist network was involved in the February 1993 World Trade Center bombing;

(2) prosecutions have been initiated against all individuals, including government officials and members of the armed forces or security forces of Nicaragua, identified in the investigation described in paragraph (1);

(3) Nicaragua has made substantial progress in meeting the requirements set forth in section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (relating to expropriation of United States property);

(4) substantial progress has been made in the timely implementation of all recommendations made by the Tripartite Commission with respect to individuals responsible for assassinations, including the immediate suspension of all individuals from the Sandinista Army and security forces who were named in such recommendations, and the expeditious prosecution of such individuals;

(5) all individuals responsible for the murders of Jean Paul Genie, Arges Sequeira, and Enrique Bermudez have been removed from the military and security forces of Nicaragua, and judicial proceedings against these individuals have been initiated;

(6) specific changes have been implemented which have resulted in verifiable civilian control over the Sandinista military, security forces, and police; and

(7) genuine, effective, and concrete reforms in the Nicaraguan judicial system have been initiated.

(b) CONTENTS OF CERTIFICATION.—

(1) IN GENERAL.—A certification made pursuant to subsection (a) shall include a detailed accounting of all evidence in support of the determinations listed in paragraphs (1) through (7) of such subsection.

(2) FORM.—A certification made pursuant to subsection (a) shall be submitted in unclassified form, and, to the extent necessary, classified form.

(c) EXCEPTION TO RESTRICTIONS.—The restrictions on the availability of funds in subsection (a) shall not apply to support for—

(1) programs facilitating the resolution of United States citizen property claims;

(2) the International Commission for Support and Verification of the Organization of American States for human rights monitoring, related assistance programs or election observation;

(3) independent human rights groups in Nicaragua;

(4) programs intended to ensure free and fair elections in Nicaragua;

(5) democracy-building programs administered through the National Endowment for Democracy and related nongovernmental groups; or

(6) programs to promote civilian control of the military.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—For purposes of this section, the term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

SEC. 3303. SENSE OF THE CONGRESS REGARDING RELATIONS WITH BURMA.

It is the sense of the Congress that—

(1) official United States trade delegations to Burma should be indefinitely suspended;

(2) visits to Burma by senior officials of the United States Government should be minimized until Aung San Suu Kyi is released from house arrest;

(3) the Secretary of Labor should submit to the Congress a report on labor practices in Burma so that Members of Congress can better inform constituents, including stockholders and business leaders of the United States companies which transact commerce with Burma, on labor conditions in that country;

(4) the Secretary of State should submit to the Congress a report on resource exploitation and environmental degradation in Burma;

(5) no assistance should be used for cooperative counternarcotics efforts between the United States and members of the State Law and Order Restoration Committee (SLORC) regime;

(6) the United States should discourage the Association of Southeast Asian Nations (ASEAN) from including the SLORC regime in ASEAN activities;

(7) the Secretary of State should submit to the Congress a report which outlines a strategy for encouraging democratic transition in Burma; and

(8) the United States should encourage its allies to restrict the relations of such allies with Burma in accordance with this section.

SEC. 3304. DEBT RESTRUCTURING FOR EGYPT.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Government of Egypt owes the United States Government over $6,000,000,000 from prior economic assistance credit programs.

(2) Current annual debt service payments by Egypt to the United States are approximately $270,000,000, will climb in the near future to $350,000,000, and will continue until the year 2021.

(3) Egypt's debt service to the United States results in reduced investment capital and slower economic growth in Egypt.

(4) Restructuring Egypt's debt burden, and buying down Egypt's debt, could substantially reduce over time Egypt's requirement for economic assistance.

(5) Addressing Egypt's debt burden is in the mutual interest of Egypt and the United States.

(b) REPORT.—(1) Not later than January 31, 1996, the Secretary of State and the Secretary of the Treasury shall develop and submit to the appropriate congressional committee options to restructure Egypt's debt, and buy down, over a period of time through the use of funds authorized to be appropriated under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund), all outstanding debt owed by the Government of Egypt to the United States Government, including debt owed under development assistance, agriculture, Export-Import Bank, and Commodity Credit Corporation credit programs.

(2) The Secretary of State and the Secretary of the Treasury shall develop the options required by paragraph (1) in such a way as to enable the United States to reduce assistance to Egypt in the future under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund). In the development of such options, the Secretaries shall consult with the Secretary of Commerce for the purpose of determining the impact of the options required under paragraph (1) on the level of United States exports to Egypt.

(3) For purposes of this subsection, the term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

SEC. 3305. PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS PROVIDING ASSISTANCE TO IRAN.

(a) FINDINGS.—The Congress makes the following findings:

(1) Iran is engaged in an intensive effort to develop nuclear weapons and some nations have indicated that they are prepared to cooperate with Iran in the nuclear field.

(2) The possession of nuclear weapons by Iran would represent a serious threat to the peace and security of the entire Middle East region and an extremely serious challenge to United States interests in that region.

(3) The United States places the highest priority on denying to Iran the capability to produce nuclear weapons and systems for the delivery of nuclear weapons and other weapons of mass destruction.

(4) The sale or transfer to Iran by any other government or with the permission of any other government of technology that may be critical for Iran to develop or deploy nuclear weapons is a serious threat to United States interests.

(b) ADMISSION TO NATO.—It is the sense of the Congress that the United States should vigorously oppose the accession to the North Atlantic Treaty and the admission to the North Atlantic Treaty Organization of any country which sells or licenses for sale any nuclear or dual-use technology or any military weapons, equipment, ammunition or munitions of any kind, including any item included on any lists covered by the Missile Technology Control Regime, to Iran or to any country which the Secretary of State has determined repeatedly provides support for acts of international terrorism pursuant to section 6(j) of the Export Administration Act of 1979.

(c) PROHIBITION ON UNITED STATES ASSISTANCE.—No assistance authorized to be appropriated by this Act or any other Act may be provided by any agency of the United States Government to the government of any country which sells or licenses for sale any nuclear or dual-use technology or any military weapons, equipment, ammunition or munitions of any kind, including any item included on any lists covered by the Missile Technology Control Regime, to Iran or to any other country which the Secretary of State has determined repeatedly provides support for acts of international terrorism pursuant to section 6(j) of the Export Administration Act of 1979.

(d) EXCEPTIONS.—The prohibition in subsection (c) shall not apply to—

(1) assistance provided to Russia, Belarus, Ukraine, or Kazakhstan under the authorities of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 105 Stat. 1691); and

(2) assistance provided under chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.; relating to assistance for the independent states of the former Soviet Union) for the purposes of—

(A) humanitarian, disaster, or refugee relief; or

(B) assisting democratic political reform and rule of law activities, and assisting in the creation of private sector and nongovernmental organizations that are independent of government ownership and control.

SEC. 3306. ASSISTANCE FOR PAKISTAN.

Section 620E(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(e)) is amended—

(1) by striking "No assistance shall" and inserting "(1) Except as provided in paragraph (2), no assistance shall"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Assistance in support of nongovernmental organizations or microenterprises under chapter 1 of part I of this Act (relating to development assistance) and assistance under the provisions of law described in subparagraph (B) may be made available for Pakistan.

"(B) The provisions of law described in this subparagraph are the following:

"(i) Title IV of chapter 2 of part I of this Act (relating to the Overseas Private Investment Corporation).

"(ii) Chapter 8 of part I of this Act (relating to international narcotics control).

"(iii) Chapter 5 of part II of this Act (relating to international military education and training).

"(iv) Chapter 8 of part II of this Act (relating to antiterrorism assistance).

"(v) Any provision of law under which assistance is available to carry out the following activities:

"(I) Aviation safety.

"(II) Immigration and customs procedures.

"(III) Peacekeeping.

"(IV) Promotion of trade and investment interests of the United States.

"(C) Assistance described in subparagraph (B)(iii) may be made available for Pakistan under this paragraph for fiscal year 1997 and each subsequent fiscal year only if the President certifies to the Congress for such fiscal year that the Government of Pakistan is fully cooperating with United States counter-narcotics assistance programs and policies.".

SEC. 3307. RETURN OF MILITARY EQUIPMENT OF PAKISTAN.

It is the sense of the Congress that—

(1) the inability of the President since October 1, 1990, to make the necessary certification under section 620E(e) of the Foreign Assistance Act of 1961 (relating to the nuclear activities of Pakistan) has prevented the delivery of military aircraft for which Pakistan made nonrefundable cash payments to contractors and unnecessarily complicated the achievement of United States foreign policy and nonproliferation objectives in South Asia;

(2) in the absence of a Presidential certification for Pakistan under section 620E(e) of such Act, the United States should make a determined effort to find a third party buyer for the such military aircraft and should reimburse Pakistan with any proceeds derived from a sale to such third party, up to the amount paid by Pakistan for such military aircraft; and

(3) with respect to other military equipment imported into the United States from Pakistan prior to May 1, 1991, for repair or modification by the Department of Defense, the return of such military equipment, including spare parts thereof, or equivalent equipment or spare parts originally owned by another country, does not constitute a transfer of military equipment under the terms of section 620E(e) of such Act, provided such military equipment or spare parts are returned in an unrepaired state or without modifications for which they were originally imported into the United States.

SEC. 3308. ELIGIBILITY OF PANAMA UNDER ARMS EXPORT CONTROL ACT.

The Government of the Republic of Panama shall be eligible to purchase defense articles and defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), except as otherwise specifically provided by law.

SEC. 3309. FUTURE OF THE UNITED STATES MILITARY PRESENCE IN PANAMA.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Panama Canal is a vital strategic asset to the United States, its allies, and the world.

(2) The Treaty on the Permanent Neutrality and Operation of the Panama Canal signed on September 7, 1977, provides that Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure.

(3) Such Treaty also provides that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

(4) The United States instrument of ratification of such Treaty includes specific language that the two countries should consider negotiating future arrangements or agreements to maintain military forces necessary to fulfill the responsibility of the two countries of maintaining the neutrality of the Canal after 1999.

(5) The Government of Panama, in the bilateral Protocol of Exchange of instruments of ratification, expressly "agreed upon" such arrangements or agreements.

(6) The United States Navy depends upon the Panama Canal for rapid transit in times of emergency, as demonstrated during World War II, the Korean War, the Vietnam conflict, the Cuban Missile Crisis, and the Persian Gulf conflict.

(7) Drug trafficking and money laundering have proliferated in the Western Hemisphere since the Treaty on the Permanent Neutrality and Operation of the Panama Canal was signed on September 7, 1977, and such trafficking and laundering poses a grave threat to peace and security in the region.

(8) Certain facilities now utilized by the United States Armed Forces in Panama are critical to combat the trade in illegal drugs.

(9) The United States and Panama share common policy goals such as strengthening democracy, expanding economic trade, and combating illegal narcotics throughout Latin America.

(10) The Government of Panama has dissolved its military forces and has maintained only a civilian police organization to defend the Panama Canal against aggression.

(11) Certain public opinion polls in Panama suggest that many Panamanians desire a continued United States military presence in Panama.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the President should negotiate a new base rights agreement with the Government of Panama—

(A) to allow the stationing of United States Armed Forces in Panama beyond December 31, 1999; and

(B) to ensure that the United States will be able to act appropriately, consistent with the Panama Canal Treaty, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, and the resolutions of ratification thereto, for the purpose of assuring that the Panama Canal shall remain open, neutral, secure, and accessible; and

(2) the President should consult with the Congress throughout the negotiations described in paragraph (1).

SEC. 3310. PEACE AND STABILITY IN THE SOUTH CHINA SEA.

(a) FINDINGS.—The Congress finds the following:

(1) The South China Sea is a critically important waterway through which 25 percent of the world's ocean freight and 70 percent of Japan's energy supplies transit.

(2) The South China Sea serves as a crucial sea lane for United States Navy ships moving between the Pacific and Indian Oceans, particularly in time of emergency.

(3) There are a number of competing claims to territory in the South China Sea.

(4) The 1992 Manila Declaration adhered to by the Association of South East Asian Nations, the Socialist Republic of Vietnam, and the People's Republic of China calls for all claimants to territory in the South China Sea to resolve questions of boundaries through peaceful negotiations.

(5) The legislature of the People's Republic of China has declared the entire South China Sea to be Chinese territorial waters.

(6) The armed forces of the People's Republic of China have asserted China's claim to the South China Sea through the kidnapping of citizens of the Republic of the Philippines and the construction of military bases on territory claimed by the Philippines.

(7) These acts of aggression committed by the armed forces of the People's Republic of China against citizens of the Philippines are contrary to both international law and to peace and stability in East Asia.

(b) POLICY DECLARATIONS.—The Congress—

(1) declares the right of free passage through the South China Sea to be vital to the national security interests of the United States, its friends, and allies;

(2) declares that any attempt by a nondemocratic power to assert, through the use of force or intimidation, its claims to territory in the South China Sea to be a matter of grave concern to the United States;

(3) calls upon the Government of the People's Republic of China to adhere faithfully to its commitment under the Manila Declaration of 1992; and

(4) calls upon the President to review the defense needs of democratic countries with claims to territory in the South China Sea.

SEC. 3311. SENSE OF THE CONGRESS REGARDING NARCOTICS CONTROL EFFORTS OF COLOMBIA.

It is the sense of the Congress that—

(1) relations between the United States and Colombia are at a critical stage, particularly

following the President's March 1, 1995, decision to grant the Government of Colombia a national interest waiver in the 1994 narcotics certification determination;

(2) the Government of Colombia has undertaken efforts toward the elimination of drug trafficking organizations, especially the powerful "kingpins" based in Cali;

(3) important advances need to be taken to dismantle the operations of criminal enterprises in Colombia which seek to corrupt government institutions;

(4) the Government of Colombia should be encouraged to complete specific, attainable objectives in its overall narcotics control strategy, including—

(A) the arrest and prosecution of the acknowledged leaders of the Cali drug organization;

(B) the imposition of tougher sentencing of drug traffickers to ensure that such traffickers serve sentences commensurate with their crimes;

(C) the expeditious passage of legislation to criminalize money laundering;

(D) the aggressive eradication of illicit crops, including coca, opium, and marijuana;

(E) the elimination of the industrial infrastructure of the narcotics trade, including laboratories, precursor chemicals, and aircraft;

(F) the destruction of the internal narcotics distribution export system, including the use of airports, rivers, and ports for such system;

(G) the elimination of the island of San Andres as a illegal narcotics transshipment point; and

(H) the end of the current policy of the Government of Colombia under which key drug traffickers are given lenient sentences in return for their surrender;

(5) the Secretary of State should make the issue of illicit narcotics the highest foreign policy priority of the United States with respect to relations with key illicit drug transit and producing nations, such as Colombia; and

(6) the Secretary of State should request our European allies to join the United States in sending a clear message to Colombia on the importance of attaining these counternarcotics goals and objectives in the shortest possible time so that reductions in United States foreign assistance will not be necessary in the future.

SEC. 3312. NOTIFICATION OF ARMS SALES TO SAUDI ARABIA.

(a) NOTIFICATION.—Until the certification under subsection (b) is submitted to the Congress, section 36(b)(1) of the Arms Export Control Act shall be applied to sales of Saudi Arabia by substituting in the first sentence "0" for $50,000,000, "0" for $200,000,000, and "0" for $14,000,000.

(b) CERTIFICATION.—Subsection (a) shall cease to apply if and when the Secretary of State certifies and reports in writing to the Congress that the unpaid claims of American firms against the Government of Saudi Arabia that are described in the June 30, 1993, report by the Secretary of Defense pursuant to section 9140(c) of the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1939), including the additional claims noticed by the Department of Commerce on page 2 of that report, have been resolved satisfactorily.

SEC. 3313. ASSISTANCE FOR ZAIRE.

(a) SECURITY ASSISTANCE.—Assistance may not be transferred to the Government of Zaire for each of the fiscal years 1996 and 1997—

(1) under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund);

(2) under chapter 5 of part II of that Act (22 U.S.C. 2347 et seq.; relating to international military education and training); or

(3) from the "Foreign Military Financing Program" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(b) DEVELOPMENT ASSISTANCE.—Assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.; relating to development assistance) or chapter 10 of such part (22 U.S.C. 2293 et seq.; relating to the Development Fund for Africa) for each of the fiscal years 1996 and 1997 shall not be transferred to the Government of Zaire.

TITLE XXXIV—SPECIAL AUTHORITIES AND OTHER PROVISIONS

CHAPTER 1—SPECIAL AUTHORITIES

SEC. 3401. ENHANCED TRANSFER AUTHORITY.

Section 610 of the Foreign Assistance Act of 1961 (22 U.S.C. 2360) is amended to read as follows:

"SEC. 610. TRANSFER BETWEEN ACCOUNTS.

"(a) GENERAL AUTHORITY.—Whenever the President determines it to be necessary for the purposes of this Act or the Arms Export Control Act (22 U.S.C. 2751 et seq.), not to exceed 20 percent of the funds made available to carry out any provision of this Act (except funds made available pursuant to title IV of chapter 2 of part I) or section 23 of the Arms Export Control Act (22 U.S.C. 2763)—

"(1) may be transferred to, and consolidated with, the funds in any other account or fund available to carry out any provision of this Act; and

"(2) may be used for any purpose for which funds in that account or fund may be used.

"(b) LIMITATION ON AMOUNT OF INCREASE.—The total amount in the account or fund for the benefit of which transfer is made under subsection (a) during any fiscal year may not be increased by more than 20 percent of the amount of funds otherwise made available.

"(c) NOTIFICATION.—The President shall notify in writing the congressional committees specified in section 634A at least fifteen days in advance of each such transfer between accounts in accordance with procedures applicable to reprogramming notifications under such section.".

SEC. 3402. AUTHORITY TO MEET UNANTICIPATED CONTINGENCIES.

(a) IN GENERAL.—Chapter 1 of part III of the Foreign Assistance Act of 1961 is amended by inserting after section 610 (22 U.S.C. 2360) the following new section:

"SEC. 610A. AUTHORITY TO MEET UNANTICIPATED CONTINGENCIES.

"(a) AUTHORITY.—

"(1) IN GENERAL.—In order to provide for any unanticipated contingency in the programs, projects, or activities for which assistance is provided under this Act, the President is authorized to use funds made available to carry out any provision of this Act (other than chapter 1 or chapter 10 of part I of this Act) for the purpose of providing assistance authorized by any other provision of this Act in accordance with the provisions applicable to the furnishing of such assistance.

"(2) LIMITATION.—The authority of paragraph (1) may not be used to authorize the use of more than $40,000,000 in any fiscal year.

"(b) SUPERSEDES OTHER LAWS.—Funds made available under the authority of this section may be used notwithstanding any other provision of law.

"(c) NOTIFICATION OF CONGRESS.—

"(1) NOTIFICATION.—Except as provided in paragraph (2), the President shall notify the congressional committees specified in section 634A(a) at least 15 days before obligating any funds under this section in accordance with the procedures applicable to reprogramming notifications under section 634A(a).

"(2) EXCEPTION.—The President may waive the requirement contained in paragraph (1) if the President determines that complying with such requirement would pose a substantial risk to human health or welfare. If the President exercises the waiver under the preceding sentence, the President shall notify the congressional committees specified in section 634A(a) as early as practicable, but in no event later than 3 days after the date on which the President took the action to which such notification requirement was applicable.".

(b) REPEAL.—Chapter 5 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2261; relating to contingencies) is hereby repealed.

SEC. 3403. SPECIAL WAIVER AUTHORITY.

Section 614 of the Foreign Assistance Act of 1961 (22 U.S.C. 2364) is amended to read as follows:

"SEC. 614. SPECIAL WAIVER AUTHORITY.

"(a) AUTHORITY.—The President may provide assistance and make loans under the provisions of law described in subsection (b), notwithstanding any other provision of law, if the President determines that to do so is vital to the national interests of the United States.

"(b) LAWS WHICH MAY BE WAIVED.—The provisions of law described in this subsection are—

"(1) this Act;

"(2) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

"(3) any provision of law authorizing the provision of assistance to foreign countries or making appropriations for such assistance; and

"(4) any other provision of law that restricts the authority to provide assistance or make loans under a provision of law described in paragraph (1), (2), or (3).

"(c) CONSULTATION WITH CONGRESS.—Before exercising the authority under subsection (a), the President shall consult with, and shall provide a written policy justification to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(d) NOTIFICATION TO CONGRESS.—A determination under subsection (a) shall be effective only if the President notifies the congressional committees specified in subsection (c) in writing of that determination.

"(e) ANNUAL CEILINGS.—

"(1) IN GENERAL.—The authority of this section may not be used in any fiscal year to authorize—

"(A) more than $750,000,000 in sales or leases to be made under the Arms Export Control Act (22 U.S.C. 2751 et seq.);

"(B) the use of more than $250,000,000 of funds made available under this Act or the Arms Export Control Act; or

"(C) the use of more than $100,000,000 of foreign currencies accruing under this Act or any other provision of law.

"(2) SALES UNDER THE ARMS EXPORT CONTROL ACT.—If the authority of this section is used both to authorize a sale or lease under the Arms Export Control Act and to authorize funds to be used under this Act with respect to the financing of that sale or lease, then the use of the funds shall be counted against the limitation in paragraph (1)(B) and the portion, if any, of the sale or lease which is not so financed shall be counted against the limitation in paragraph (1)(A).

"(3) Leases.—For purposes of paragraph (1)(A) the replacement cost, less any depreciation in the value, of the defense articles authorized to be leased shall be counted against the limitation in that paragraph.

"(4) Country limits.—(A) Not more than $75,000,000 of the $250,000,000 limitation provided in paragraph (1)(B) may be allocated to any one country in any fiscal year unless that country is a victim of active aggression.

"(B) Not more than $500,000,000 of the aggregate limitation of $1,000,000,000 provided in paragraph (1)(A) and (1)(B) may be allocated to any one country in any fiscal year.".

SEC. 3404. TERMINATION OF ASSISTANCE.

Section 617 of the Foreign Assistance Act of 1961 (22 U.S.C. 2367) is amended to read as follows:

"SEC. 617. TERMINATION OF ASSISTANCE.

"(a) In General.—(1) In order to ensure the effectiveness of assistance provided under this Act, funds made available under this Act to carry out any program, project, or activity of assistance shall remain available for obligation for a period not to exceed 8 months after the date of termination of such assistance for the necessary expenses of winding up such programs, projects, or activities and, notwithstanding any other provision of law, funds so obligated may remain available until expended.

"(2) Funds obligated to carry out any program, project, or activity of assistance before the effective date of the termination of such assistance are authorized to be available for expenditure for the necessary expenses of winding up such programs, projects, and activities, notwithstanding any provision of law restricting the expenditure of funds, and may be reobligated to meet any other necessary expenses arising from the termination of such assistance.

"(3) The necessary expenses of winding up programs, projects, and activities of assistance include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated.

"(b) Liability to Contractors.—For the purpose of making an equitable settlement of termination claims under extraordinary contractual relief standards, the President is authorized to adopt as a contract or other obligation of the United States Government, and assume (in whole or in part) any liabilities arising thereunder, any contract with a United States or third-country contractor to carry out any program, project, or activity of assistance under this Act that was subsequently terminated pursuant to law.

"(c) Guarantee Programs.—Provisions of this or any other Act requiring the termination of assistance under this Act shall not be construed to require the termination of guarantee commitments that were entered into before the effective date of the termination of assistance.".

CHAPTER 2—OTHER PROVISIONS

SEC. 3411. CONGRESSIONAL PRESENTATION DOCUMENTS.

Section 634 of the Foreign Assistance Act of 1961 (22 U.S.C. 2394) is amended to read as follows:

"SEC. 634. CONGRESSIONAL PRESENTATION DOCUMENTS.

"(a) Requirement for Submission.—As part of the annual requests for enactment of authorizations and appropriations for foreign assistance programs for each fiscal year, the President shall prepare and transmit to the Congress annual congressional presentation documents for the programs authorized under this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.).

"(b) Materials To Be Included.—The documents submitted pursuant to subsection (a) shall include—

"(1) the rationale for the allocation of assistance or contributions to each country, regional, or centrally funded program, or organization, as the case may be;

"(2) a description of how each such program or contribution supports the objectives of this Act or the Arms Export Control Act, as the case may be;

"(3) a description of planned country, regional, or centrally funded programs or contributions to international organizations and programs for the coming fiscal year; and

"(4) for each country for which assistance is requested under this Act or the Arms Export Control Act—

"(A) the total number of years since 1946 that the United States has provided assistance;

"(B) the total amount of bilateral assistance provided by the United States since 1946, including the principal amount of all loans, credits, and guarantees; and

"(C) the total amount of assistance provided to such country from all multilateral organizations to which the United States is a member, including all international financial institutions, the United Nations, and other international organizations.

"(c) Graduation From Development Assistance.—

"(1) Determination.—As part of the congressional presentation documents transmitted to the Congress under this section, the Secretary of State shall make a separate determination for each country identified in such documents for which bilateral development assistance is requested, estimating the year in which each such country will no longer be receiving bilateral development assistance.

"(2) Development assistance defined.—For purposes of this section, the term 'development assistance' means assistance under—

"(A) chapter 1 of part I of this Act;

"(B) chapter 10 of part I of this Act;

"(C) chapter 11 of part I of this Act; and

"(D) the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.).".

SEC. 3412. PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS ENGAGED IN ESPIONAGE AGAINST THE UNITED STATES.

Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2370 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 620J. PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS ENGAGED IN ESPIONAGE AGAINST THE UNITED STATES.

"(a) Prohibition.—None of the funds made available to carry out this Act or the Arms Export Control Act (22 U.S.C. 2751 et seq.) (other than humanitarian assistance or assistance for refugees) may be provided to any foreign government which the President determines is engaged in intelligence activities within the United States harmful to the national security of the United States.

"(b) Periodic Reports.—Beginning one year after the date of enactment of this section, and annually thereafter, the President shall prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives a report, in classified and unclassified forms, listing all foreign governments which the President determines are conducting intelligence activities within the United States harmful to the national security of the United States.

"(c) Definition.—As used in this section, the term 'humanitarian assistance' means food (including the monetization of food), clothing, medicine, and medical supplies.".

SEC. 3413. DEBT RESTRUCTURING FOR FOREIGN ASSISTANCE.

Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2370 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 620K. SPECIAL DEBT RELIEF FOR POOR COUNTRIES.

"(a) Authority To Reduce Debt.—The President may reduce amounts owed to the United States Government by a country described in subsection (b) as a result of—

"(1) loans or guarantees issued under this Act; or

"(2) credits extended or guarantees issued under the Arms Export Control Act (22 U.S.C. 2751 et seq.).

"(b) Country Described.—A country described in this subsection is a country—

"(1) with a heavy debt burden that is eligible to borrow from the International Development Association but not from the International Bank for Reconstruction and Development (commonly referred to as an 'IDA-only' country); and

"(2) the government of which—

"(A) does not have an excessive level of military expenditures;

"(B) has not repeatedly provided support for acts of international terrorism; and

"(C) is cooperating with the United States on international narcotics control matters;

"(3) (including the military or other security forces of such government) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

"(4) is not prohibited from receiving assistance described in section 527(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 by reason of such section.

"(c) Limitations.—The authority under subsection (a) may be exercised—

"(1) only to implement multilateral official debt relief ad referendum agreements (commonly referred to as 'Paris Club Agreed Minutes'); and

"(2) only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

"(d) Certain Prohibitions Inapplicable.—A reduction of debt pursuant to the exercise of authority under subsection (a)—

"(1) shall not be considered assistance for purposes of any provision of law limiting assistance to a country; and

"(2) may be exercised notwithstanding section 620(r) of this Act or any comparable provision of law.

"(e) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated to the President for the purpose of carrying out this section $7,000,000 for each of the fiscal years 1996 and 1997.

"(2) Availability.—Amounts authorized to be appropriated under paragraph (1) are authorized to remain available until expended.".

SEC. 3414. DEBT BUYBACKS OR SALES FOR DEBT SWAPS.

Part IV of the Foreign Assistance Act of 1961 (22 U.S.C. 2430 et seq.) is amended by adding at the end the following new section:

"SEC. 711. AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES.

"(a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

"(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, to the government of any eligible country pursuant to this Act, or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

"(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

"(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

"(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

"(3) ADMINISTRATION.—The Facility shall notify the administrator of the agency primarily responsible for administering part I of this Act of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

"(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

"(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in an account or accounts established in the Treasury for the repayment of such loan.

"(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

"(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President shall consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the sale, reduction, and cancellation of loans or portions thereof pursuant to this section, there are authorized to be appropriated to the President $3,000,000 for each of the fiscal years 1996 and 1997.

"(2) AVAILABILITY.—Amounts authorized to be appropriated under paragraph (1) are authorized to remain available until expended.".

SEC. 3415. IMPACT ON JOBS IN THE UNITED STATES.

Section 636 of the Foreign Assistance Act of 1961 (22 U.S.C. 2396) is amended by adding at the end the following new subsection:

"(j)(1) Funds made available to carry out the provisions of this Act may not be made available to provide—

"(A) any financial incentive to a business enterprise located in the United States for the purpose of inducing that enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of individuals employed in the United States by that enterprise because that enterprise would replace production in the United States with production outside the United States;

"(B) assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

"(C) subject to paragraph (2), assistance for any project or activity that contributes to the violation of internationally recognized workers rights (as defined in section 502(a)(4) of the Trade Act of 1974) of workers in the foreign country, including in any designated zone or area in that country.

"(2) Paragraph (1)(C) shall not apply with respect to the provision of assistance for the informal sector, microenterprises and small-scale enterprises, and small-holder agriculture of the foreign country.".

SEC. 3416. PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

(a) IN GENERAL.—Section 620 of the Foreign Assistance Act of 1961 (22 U.S.C. 2370), as amended by this Act, is further amended by adding at the end the following new subsection:

"(z)(1) No assistance may be provided under this Act or the Arms Export Control Act to any foreign government that provides lethal military equipment to a country, the government of which the Secretary of State has determined pursuant to section 40(d) of the Arms Export Control Act is a government that has repeatedly provided support for acts of international terrorism.

"(2) The prohibition under paragraph (1) with respect to a foreign government shall terminate 12 months after the date on which that government ceases to provide such lethal military equipment.

"(3) The President may waive the requirements of paragraph (1) if the President determines that the provision of such assistance is important to the national security interests of the United States.

"(4) Whenever the waiver of paragraph (3) is exercised, the President shall prepare and transmit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers the national interests of the United States.

"(5) For purposes of this subsection, the term 'appropriate congressional committees' means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.".

(b) EFFECTIVE DATE.—Section 620(z) of the Foreign Assistance Act of 1961, as added by subsection (a), applies with respect to lethal military equipment provided pursuant to a contract entered into on or after the date of enactment of this Act.

SEC. 3417. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT CONSISTENTLY OPPOSE THE UNITED STATES POSITION IN THE UNITED NATIONS GENERAL ASSEMBLY.

(a) PROHIBITION.—United States assistance may not be provided to a country that consistently opposed the United States position in the United Nations General Assembly during the most recent session of the General Assembly.

(b) CHANGE IN GOVERNMENT.—If—

(1) the Secretary of State determines that, since the beginning of the most recent session of the General Assembly, there has been a fundamental change in the leadership and policies of the government of a country to which the prohibition in subsection (a) applies, and

(2) the Secretary believes that because of that change the government of that country will no longer consistently oppose the United States position in the General Assembly,

the Secretary may exempt that country from that prohibition. Any such exemption shall be effective only until submission of the next report under section 406 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991. The Secretary shall submit to the Congress a certification of each exemption made under this subsection. Such certification shall be accompanied by a discussion of the basis for the Secretary's determination and belief with respect to such exemption.

(c) WAIVER AUTHORITY.—The Secretary of State may waive the requirement of subsection (a) if the Secretary determines and reports to the Congress that despite the United Nations voting pattern of a particular country, the provision of United States assistance to that country is necessary to promote United States foreign policy objectives.

(d) DEFINITIONS.—As used in this section—

(1) the term "consistently opposed the United States position" means that the country's votes in the United Nations General Assembly coincided with the United States position less than 25 percent of the time, using for this purpose the overall percentage-of-voting coincidences set forth in the annual report submitted to the Congress pursuant to section 406 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991;

(2) the term "most recent session of the General Assembly" means the most recently completed plenary session of the General Assembly for which overall percentage-of-voting coincidences is set forth in the most recent report submitted to the Congress pursuant to section 406 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; and

(3) the term "United States assistance" means assistance under—

(A) chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund),

(B) chapter 5 of part II of that Act (relating to international military education and training), or

(C) the "Foreign Military Financing Program" account under section 23 of the Arms Export Control Act,

except that such term does not include assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control) or assistance under chapter 8 of part II of such Act (relating to antiterrorism assistance).

(e) Effective Date.—This section takes effect upon the date of the submission to the Congress of the report pursuant to section 406 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, that is required to be submitted by March 31, 1996.

SEC. 3418. LIMITATION ON ASSISTANCE TO COUNTRIES THAT RESTRICT THE TRANSPORT OR DELIVERY OF UNITED STATES HUMANITARIAN ASSISTANCE.

(a) Findings.—The Congress makes the following findings:

(1) The United States Federal budget deficit and spending constraints require the maximum efficiency in the usage of United States foreign assistance.

(2) The delivery of humanitarian assistance to people in need is consistent with the fundamental values of our Nation and is an important component of United States foreign policy.

(3) As a matter of principle and in furtherance of fiscal prudence, the United States should seek to promote the delivery of humanitarian assistance to people in need in a manner that is both timely and cost effective.

(4) Recipients of United States assistance should not hinder or delay the transport or delivery of United States humanitarian assistance to other countries.

(b) Prohibition on Assistance.—Section 620 of the Foreign Assistance Act of 1961 (22 U.S.C. 2370), as amended by this Act, is further amended by adding at the end the following new subsection:

"(aa)(1) Notwithstanding any other provision of law, United States assistance may not be made available for any country whose government prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.

"(2) The prohibition on United States assistance contained in paragraph (1) shall not apply if the President determines and notifies the Congress in writing that providing such assistance to a country is in the national security interest of the United States.

"(3) A suspension or termination of United States assistance for any country under paragraph (1) shall cease to be effective when the President certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that such country is no longer prohibiting or otherwise restricting, either directly or indirectly, the transport or delivery of United States humanitarian assistance.

"(4)(A) At the time of the annual budget submission to Congress, the President shall submit a report to the Congress describing any information available to the President concerning prohibitions or restrictions, direct or indirect, on the transport or delivery of United States humanitarian assistance by the government of any country receiving or eligible to receive United States foreign assistance during the current or preceding fiscal year.

"(B) The President shall include in the report required by subparagraph (A) a statement as to whether the prohibition in paragraph (1) is being applied to each country for which the President has information available to him concerning prohibitions or restrictions, direct or indirect, on the transport or delivery of United States humanitarian assistance.

"(5) As used in this subsection, the term 'United States assistance' has the same meaning given that term in section 481(e)(4) of this Act.".

SEC. 3419. PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS, PRIVATE AND VOLUNTARY ORGANIZATIONS, AND OTHER ENTITIES THAT INHIBIT UNITED STATES-SUPPORTED DEMINING OPERATIONS AND ACTIVITIES.

(a) Prohibition.—None of the funds authorized to be appropriated by this Act may be made available to any foreign government, private and voluntary organization, or any other entity which the Secretary of State determines inhibits United States-supported demining operations and activities through the imposition of discriminatory customs duties, tariffs, or any other barrier to the entry of equipment or personnel designated for use or participation in such operations and activities.

(b) Exception.—(1) The prohibition contained in subsection (a) shall not apply with respect to a foreign government, private and voluntary organization, or any other entity if the President determines and reports to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (in accordance with procedures applicable to reprogramming notifications under that section) that the provision of assistance to such government, organization, or other entity, as the case may be, is important to the national interest of the United States.

(2) Any determination under paragraph (1) shall include a detailed justification of how the provision of assistance furthers United States national interests.

CHAPTER 3—REPEALS

SEC. 3421. REPEAL OF OBSOLETE PROVISIONS.

(a) 1988 Foreign Operations Appropriations Act.—Section 537(h)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in Public Law 100–202, is hereby repealed.

(b) 1987 Foreign Assistance Appropriations Act.—Section 539(g)(2) of the Foreign Assistance and Related Programs Appropriations Act, 1987, as included in Public Law 99–591, is hereby repealed.

(c) 1986 Assistance Act.—The Special Foreign Assistance Act of 1986 is hereby repealed except for section 1 and section 204.

(d) 1985 Assistance Act.—The International Security and Development Cooperation Act of 1985 is hereby repealed except for section 1, section 131, section 132, section 504, section 505, part B of title V (other than section 558 and section 559), section 1302, section 1303, and section 1304.

(e) 1985 Jordan Supplemental Act.—The Jordan Supplemental Economic Assistance Authorization Act of 1985 is hereby repealed.

(f) 1985 African Famine Act.—The African Famine Relief and Recovery Act of 1985 is hereby repealed.

(g) 1983 Assistance Act.—The International Security and Development Assistance Authorization Act of 1983 is hereby repealed.

(h) 1983 Lebanon Assistance Act.—The Lebanon Emergency Assistance Act of 1983 is hereby repealed.

(i) 1981 Assistance Act.—The International Security and Development Cooperation Act of 1981 is hereby repealed except for section 1, section 709, and section 714.

(j) 1980 Assistance Act.—The International Security and Development Cooperation Act of 1980 is hereby repealed except for section 1, section 110, section 316, and title V.

(k) 1979 Development Assistance Act.—The International Development Cooperation Act of 1979 is hereby repealed.

(l) 1979 Security Assistance Act.—The International Security Assistance Act of 1979 is hereby repealed.

(m) 1979 Special Security Assistance Act.—The Special International Security Assistance Act of 1979 is hereby repealed.

(n) 1978 Development Assistance Act.—The International Development and Food Assistance Act of 1978 is hereby repealed, except for section 1, title IV, and section 603(a)(2).

(o) 1978 Security Assistance Act.—The International Security Assistance Act of 1978 is hereby repealed.

(p) 1977 Development Assistance Act.—The International Development and Food Assistance Act of 1977 is hereby repealed except for section 1, section 132(b), and section 133.

(q) 1977 Security Assistance Act.—The International Security Assistance Act of 1977 is hereby repealed.

(r) 1976 Security Assistance Act.—The International Security Assistance and Arms Export Control Act of 1976 is hereby repealed except for section 1, section 201(b), section 212(b), section 601, and section 608.

(s) 1975 Development Assistance Act.—The International Development and Food Assistance Act of 1975 is hereby repealed.

(t) 1975 BIB Act.—Public Law 94–104 is hereby repealed.

(u) 1974 Assistance Act.—The Foreign Assistance Act of 1974 is hereby repealed.

(v) 1973 Emergency Assistance Act.—The Emergency Security Assistance Act of 1973 is hereby repealed.

(w) 1973 Assistance Act.—The Foreign Assistance Act of 1973 is hereby repealed.

(x) 1971 Assistance Act.—The Foreign Assistance Act of 1971 is hereby repealed.

(y) 1971 Special Assistance Act.—The Special Foreign Assistance Act of 1971 is hereby repealed.

(z) 1969 Assistance Act.—The Foreign Assistance Act of 1969 is hereby repealed except for the first section and part IV.

(aa) 1968 Assistance Act.—The Foreign Assistance Act of 1968 is hereby repealed.

(bb) 1964 Assistance Act.—The Foreign Assistance Act of 1964 is hereby repealed.

(cc) Latin American Development Act.—The Latin American Development Act is hereby repealed.

(dd) 1959 Mutual Security Act.—The Mutual Security Act of 1959 is hereby repealed.

(ee) 1954 Mutual Security Act.—Sections 402 and 417 of the Mutual Security Act of 1954 are hereby repealed.

(ff) Department of State Authorization Act, Fiscal Years 1982 and 1983.—Section 109 of the Department of State Authorization Act, Fiscal Years 1982 and 1983, is hereby repealed.

(gg) Department of State Authorization Act, Fiscal Years 1984 and 1985.—Sections 1004 and 1005(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985, are hereby repealed.

(hh) Savings Provision.—Except as otherwise provided in this Act, the repeal by this Act of any provision of law that amended or repealed another provision of law does not affect in any way that amendment or repeal.

TITLE XXXV—EFFECTIVE DATE

SEC. 3501. EFFECTIVE DATE.

Except as otherwise provided in this Act, this division, and the amendments made by

this division, shall take effect on the date of the enactment of this Act or October 1, 1995, whichever occurs later.

EXTENSIONS OF REMARKS

SMALL BUSINESS TAX FLEXIBILITY ACT OF 1995

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. SHAW. Mr. Speaker, today I am introducing a bill that will lead to fairer tax treatment of small businesses and will help relieve the compressed workload forced on CPA's by enactment of the Tax Reform Act of 1986 [TRA '86].

Prior to passage of TRA '86, S corporations, partnerships, and personal service corporations, like today's C corporations, were allowed to pick any fiscal year they wished. Often these entities chose a year ending other than December 31 because their natural business year ended at some other time. For example, retailers could choose January 31 or July 31, after all the holiday or white sale figures were in; and suppliers of ski equipment could select May 31 after the ski season ended.

Congress abruptly halted the fiscal-year election for these entities because it needed revenue to pay for an amendment to the low-income housing credit as part of TRA '86. That law accelerated income to the U.S. Treasury by requiring fiscal year S corporations, partnerships, and personal service corporations to adopt calendar years for tax purposes thus flowing through earnings to owners at an earlier date and speeding up tax payments to the IRS.

The loss of the election for some small businesses that are formed as S corporations and partnerships has proven to be a major disruption to their business operations because the calendar year end can fall in the middle of their busiest seasons. Taking time out to comply with this arbitrary requirement hamstrings their ability to maximize production, generate revenues, and create jobs. In addition, because these businesses also adopted the calendar year for financial reporting, they had to close their books as of December 31; and their independent accountants were faced with the need to undertake year-end audits and credit compliance reviews for shareholders and creditors in the same few months as required for the preparation of tax returns. Consequently, these entities have found their accountants are least available at the time they are most needed.

As a CPA, I can personally speak to the havoc TRA '86 has caused the accounting profession. The 1986 tax law has spawned a practice management problem of major proportions, with many CPA firms, especially small and medium-sized ones, finding 65 to 75 percent of their annual workload falling between January 1 and April 15.

Furthermore, as Members of the U.S. House of Representatives this year, we learned firsthand the meaning of the phrase workload compression, as we raced to meet the 100-day deadline for voting on all 10 items in the Contract With America. I don't think any of us would describe the working conditions at the beginning of this Congress as ideal or even desirable. But they were similar to the conditions the accounting profession has faced since 1986—every year.

Congress attempted to provide some relief from the burdens of TRA '86 in 1987 when it enacted section 444 of the Internal Revenue Code, which permits electing entities to have a fiscal year ending in September, October or November. The price exacted in return was that the electing entity pay a deposit to the U.S. Government which approximated the amount of tax to be deferred through election of the fiscal year. The calculation for the deposit—of what amounted to an interest-free loan to the Government—essentially required the amount of deferred entity income to be multiplied by the top statutory tax rate applicable to individuals, plus one percentage point. In 1988, therefore, when the top individual rate was 28 percent, the deposit would have been calculated at 29 percent.

The current situation illustrates the limited value of section 444. The great majority of S corporations and partnerships on fiscal years in 1986, and those coming into existence thereafter, which would have elected fiscal years are now operating on a calendar year.

Furthermore, the 1993 increase in individual tax rates exacerbated the situation. By the administration's own projections, approximately 1.2 percent of individual taxpayers are expected to be in the 36 percent bracket and only 0.3 percent in the 39.6 percent brackets. Yet, because of the mechanics of section 444, the deposit presently payable on deferred income is at a 40.6 percent rate, even though most owners of electing entities will themselves be in the 31 or 36 percent brackets. Simple financial self-interest dictates, then, that many affected entities terminated the fiscal year election.

The stumbling block to greater relief in the past has always been revenue neutrality. The legislation I am introducing today overcomes that problem. It's designed to maintain the cash flow to the U.S. Treasury, but still be an affordable option for S corporations and partnerships. The bill also would return to S corporations and partnerships the right to elect any fiscal year and would ease the compressed workload facing the accounting profession.

A description of the bill is included below, but briefly it would ensure a steady cash flow by requiring S corporations and partnerships electing a fiscal year to pay quarterly estimated taxes to the IRS on behalf of their owners. Certain statutory rates will be required to be paid on the business's quarterly income, instead of determining an individual owner's tax bracket. The statutory rates are determined by revenue needs, but this bill provides a de minimis rule for the smallest companies. Those businesses with a tax liability of less than $5,000 on the defined income of the business will not be required to make an estimated payment. Businesses with income defined above the de minimis level but less than $250,000 per owner will be required to pay estimated tax of 34 percent. For entities with incomes above that level, where the owners are themselves likely to be in the 39.6 percent bracket, the estimated tax rate will be 39.6 percent. Owners will take credit for the entity-paid estimated tax on their income tax returns, which will eliminate the non-interest-bearing loan approach of present law.

I urge my colleagues to cosponsor this bill. We have a rare opportunity to support legislation under which everyone wins.

The detailed description of the bill follows:

GENERAL PROVISION

Under current law, a partnership or S corporation, except where an election is made under present Internal Revenue Code section 444, must use a tax year which ends December 31st. As a result of making an election under new Code section 444, an entity would be able to use any fiscal year it desired. (Present section 444, which permits the use of a September, October or November tax year, would be renumbered as section 445.)

The election would be made by the 15th day of the third month of the first 12-month year using the new fiscal year end. For example, a 1995 calendar year entity wishing to change to a June 30 year in 1996 would file its election by September 15, 1996.

EFFECT ON ENTITY

Because of the nature of fiscal year pass-through entities, a deferral of tax is created on the tax returns of the owners. To alleviate the negative revenue impact of this deferral, the entity would make quarterly payments of estimated tax timed with the earning of income, the first of which would be due by the due date of the election. The entity income used in making the calculations is the amount currently reported on 1994 Schedule K, line 23(a) of the partnership return or 1994 Schedule K, line 23 of the S Corporation return. This amount is the aggregate of entity income less deductions without accounting for the character of each separately stated item on Schedule K.

Anti-abuse measures are included to prevent post-December 31 payments to partners or S Corporation shareholders to reduce the entity level tax (for example, an S corporation electing a May 31 year end, and "zeroing out" its line 23 income by salary payments in May).

In order to provide revenue neutrality, a 2-rate estimated tax system will be required. Most entities will pay estimated taxes for their owners at a flat 34% rate. However, those whose owners will, themselves, likely pay individual tax at the 39.6% top statutory rate will have to make entity-level estimated tax payments at 39.6%. These "high average income entities" are those where the prior year average entity income of owners with at least a 2-percent interest in the entity is $250,000 or more. They also include

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

partnerships whose prior year income is at least $10,000,000.

The entity may use one of three methods to calculate the quarterly estimated tax payments. The first method is similar to that for high-income individuals, and bases the tax payments on 110% of the prior year income. That income is multiplied by the statutory estimated tax rate, then multiplied by 110%, then divided by 4 to obtain a quarterly estimated payment amount.

The second method allows the entity to calculate estimated tax based on the current year income. Estimated current year income is multiplied by the same 34% or 39.6% statutory tax rate and divided into four quarterly estimated payments.

The third method uses similar calculations to calculate its payments based upon annualized current year quarterly income, similar to the rules presently applicable to individuals or C corporations.

The payments of tax are due on the 15th day of the 3rd, 5th, 8th, and 12th months of the taxable year of the entity.

In addition, the entity makes a one-time payment with its fiscal year election that applies to the short period created (if any) by moving from a calendar year to a fiscal year. This payment is at the same statutory rate and is based on short period income.

The election terminates if the owners of more than half the entity's equity consent to such revocation, or when the entity itself terminates. ("Inadvertent terminations" of an S corporation however, will not terminate the election.) Subsequent re-elections may not be made by that same entity for 5 tax years unless the entity obtains consent from the Internal Revenue Service. Rules will also be provided under regulations for successor entities.

A penalty for underpayment will be due from the entity if it does not make the required level of estimated tax payments. The penalty is based on the amount of underpayment and continues until appropriate payment is made or until the April 15th that the owners report their share of entity income. At that point, the owners become liable for the tax and any existing underpayment penalties that may be imposed. An exception to the entity level penalty is provided which parallels the analogous exception for individual taxpayers (casualty, unusual circumstances, etc.)

EFFECT ON OWNER

The quarterly estimated payments made by the entity are "passed through" to the owners of the entity as a credit on their individual tax returns. Since the entity is making these payments on behalf of the owners, they may reduce their quarterly estimated payments for their shares of the entity level payment. When they receive an annual information report from the entity (Schedule K-1), it will list their share of fiscal year income as well as their annual share of the credit. The amount of the credit allocated to each owner is based upon his or her share of the entity income (no special allocations of the credit are allowed). The credit is reported on an owner's individual income tax return as if it were estimated taxes paid by the owner.

In making their own quarterly estimated payments, the owners may rely on amounts reported by the entity as paid, even if errors occur or payments are not made, so that penalties accrue only at the entity level. If payments are overpaid or underpaid compared with those reported to the owners, such amounts are treated as any other tax due or overpaid under Subtitle A of the Internal Revenue Code.

TIERED STRUCTURES

No election may be made by an entity that is part of a tiered structure under this proposal. Additionally, if an entity becomes part of a tiered structure the election is terminated. The tiered structure rules do not apply, however, if all of the owners are partnerships and S corporations that elect the same fiscal year.

ALTERNATIVE TAX YEARS

Nothing in this provision will affect an entity's right to a fiscal year that exists under current law; for example, under the natural business year tests. The provision also allows for retention of fiscal years by any entities that currently use a fiscal year under Rev. Proc. 87–32.

OLD SECTION 444

The new provision would preclude any new elections under the old section 444. However, existing 444 elections would be allowed to continue if the entity so desired. Alternatively, an entity with an existing section 444 election, may elect instead under this new provision thereby entitling it to a refund of its current 444 required payments, or a credit of such required payments toward its new estimated tax payment requirements.

DE MINIMIS AND REASONABLE CAUSE EXCEPTION

The provision provides for an exception to payment of any entity level tax if such tax would be below $5,000. The provision also provides for the relief of section 7519 penalties if reasonable cause can be shown.

THE RIGHT ROAD

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. PACKARD. Mr. Speaker, today we begin an historic journey. For the first time in a generation, we will lay out a road map toward a balanced budget. Americans understand this is a trip we all must take. If we fail in this mission, frankly, this country is through. I mean we are headed the way of Mexico into economic collapse.

The Nation is currently $5 trillion in debt spiraling toward a debt of $8 trillion by 2010. We spend almost half of our budget on interest alone—half. Soon we will spend more on the interest on the debt than anything else—including entitlements and defense combined. The American dream is starting to evolve into the American nightmare.

For a Nation that prides itself on leaving a better country for our children, we are instead leaving a legacy of fiscal and moral bankruptcy. Some of you may know that I have a relatively large family—seven children and, as of a couple of weeks ago, 31 grandchildren.

Since I began my service in Congress, I have always measured everything I do by one standard—what legacy am I leaving to them and to our Nation's children and grandchildren?

Washington's lack of discipline is crushing our opportunity and leaving our children with a devastating debt. We cannot continue down this destructive path.

In fact, my new grandchild, born just a couple of weeks ago, will pay nearly $200,000 over her lifetime. I cannot leave this legacy to her, and I am sure most Americans do not want to leave this legacy to their children and grandchildren. People outside Washington know this and have asked us to lead them down a new road—toward a balanced budget. I say, let's get going.

GREAT LAKES INITIATIVE STATEMENT

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. BONIOR. Mr. Speaker, I rise today to express my strong concern over any attempts to further weaken the Great Lakes Initiative. I understand there are those who would still like to make States' participation voluntary. That would completely undermine one of the key initiatives that has been taken to improve water quality in the Great Lakes region. I would strongly oppose those efforts.

The Transportation and Infrastructure Committee worked out a compromise on this issue. Like every compromise, it doesn't make everybody happy. I believe it is still too ambiguous. It's an open invitation to lawsuits. And will ultimately weaken the GLI. But it is a true compromise.

Further efforts to weaken the GLI would go too far. It would turn the clock back. For those of us who live in the region, the Great Lakes have a profound effect on who we are as a people and how we live our lives.

The Great Lakes provide our drinking water, they provide our largest recreational resource, they are tremendously important to our economy, and they shape our quality of life. They are our Yellowstone, our Grand Canyon, our Everglades. The Great Lakes ought to be protected like the national treasure they are. Unfortunately, a handful of polluter interests seem to have a burning desire to weaken the landmark Great Lakes Initiative, which will provide uniform water quality standards for all of the Great Lakes States. For that reason alone, I would oppose the current clean water bill.

Beyond the GLI, however, events in Lake St. Clair taught many of us in Michigan how important our environment is for our quality of life and for our economy. In Michigan, clean water is jobs. Without clean water, we lose thousands of jobs in our State.

Sport fishing in that lake alone is estimated at $140 million annually. Nonfishing boaters and beachgoers spend more than $1 billion each year on boats, accessories, marina slips, gas, restaurants and other items. Last year's ban on swimming cost the most popular beach in the Detroit area $500,000. This wasn't just a quality of life problem—our economic benefits of the lake were destroyed last year.

During most of the summer, profits at local marinas were down. Many local businesses were devastated. In just 2 months time, losses to local businesses ran into the millions of dollars. Our biggest concern is that it could happen again. In fact, with this type of legislation here before us today, it could happen anywhere and everywhere.

In this bill, written by lobbyists for some of this country's most notorious polluters, we say to Americans—we don't care about the water you drink, we don't care about the pollution of your beaches, and we don't care about one of the most important recreational and economic resources you have.

That's not common sense. We must protect our water—not polluter interests. We should be strengthening our standards—not weakening them. We should be debating ways to emulate model regulatory programs like the GLI—not gutting them.

The GLI is a shining example of current regulatory approaches. It gives maximum flexibility to the States. In 1986, the Governors of all eight Great Lakes States entered into discussions with the EPA. They literally sat at the table and drafted model regulations to raise our water quality standards. On March 13 of this year, the EPA accepted the Governors' suggestions and issued a final rule on the Great Lakes Initiative.

Any efforts to undo all of this hard work would be inconsistent with the long-term bipartisan effort to provide uniform water quality standards among Great Lakes States. It will say that those 9 years of negotiating and careful thought are merely voluntary guidelines.

Under the GLI, a specific numeric criteria has been set to protect aquatic life, wildlife, and human health in our region. The GLI sets limits on PCB's, dioxin, DDT, benzene, and chlordane just to name a few. It offers guidance yes, but guidance is useless unless it is implemented.

People in my State remember, and are suffering even today from PCB's. Mothers who ate a lot of fish from the lakes during pregnancy are seeing their infants developing at a slower rate than others. Higher rates of cancer have occurred in communities whose drinking water comes from the Great Lakes. Preliminary research indicates that PCB's and other pollutants may be linked with breast cancer in women. People want their water to be protected from toxins and pollutants.

All the GLI is trying to do is to ensure that every State in the region has the same water quality standards. It simply levels the playing field for all eight States. We don't want one state undercutting another and driving our standards to lower and lower levels. If we make it voluntary, we undercut the whole purpose of the GLI. We will start the downward spiral of pollution and toxic contamination of our lakes all over again. For those of us near Lake St. Clair, last summer we got a reminder of what that could be like. We don't want to go back.

We are talking about 95 percent of this Nation's fresh water. We are talking about lakes that provide 23 million people with their drinking water. We are talking about a multibillion dollar economic resource. We are talking about a national treasure.

The American people thought we reached a consensus—that we should protect our water. We have made progress. In the Great Lakes region, the GLI was an important part of that progress. Let's not turn back the clock. Let's move forward to make our water cleaner and safer. I urge my colleagues to support clean water and to support the GLI.

NAMING PS 165 THE EDITH BERGTRAUM SCHOOL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents in the Fifth Congressional District of New York and with the many friends of the Bergtraum family as they gather on May 19 to honor the memory of the renowned educator Edith K. Bergtraum, and to name Public School 165 in her memory.

Edith was both a personal friend and a dedicated member of the community. Her level of involvement and dedication created a yardstick by which all such activity can be measured.

A long-time activist in the Kew Gardens Hills and Flushing communities, Edith was a product of the New York City school system as well as a graduate of Hunter College of the City University of New York. Her sense of community brought her beyond the boundaries of her neighborhood; she quickly assumed leadership roles in the Kew Gardens Hills Jewish Center, the Queens County Democratic Committee, and the Mayor's Commission on the Status of Women.

Yet it was in the field of education that Edith had her most significant impact. She began her educational career when PS 165 opened and her son entered the first grade in a school that had 3,000 children but only 1,000 seats. With the support of her husband, Murry Bergtraum (a most powerful advocate for the schools children of New York City who would later become president of the city's board of education), Edith quickly and effectively joined the ongoing fight for the rights and education of children.

When Murry became the first president of the PS 165 Parents-Teachers Association, Edith assumed a seat on the executive board. Their joint efforts to alleviate the overcrowding in the school were successful, as three more elementary schools—PS 200, 201, and 219—were constructed nearby. When her children moved onto Junior High School 218 and Forest Hills High School, Edith followed, enriching these schools with the same dynamism that she brought to PS 165.

As her involvement grew, so did recognition of her capabilities. In 1974, Edith was elected to Community School Board 25, a position she held for 19 years. During this period, she was elected president of the local school board. She also somehow found the time to serve on citywide educational committees on special education, personnel and budget. In 1993, she was named the Queens borough representative on the search committee to select a new schools chancellor.

Mr. Speaker, as the people of Community School District 25 and those throughout New York City gather on May 19 to honor Edith K. Bergtraum, it is my hope that we will continue to be inspired and dedicated to the education of our children by following the most unique example she has set.

I call on all my colleagues in the House of Representatives to join me now in expressing our thanks and congratulations for Edith's good works to her family: her son, Howard Bergtraum, and daughter-in-law, Susan Bergtraum, and their children, Matthew, Jordan, and Andrea Bergtraum; Edith's daughter, Judy Bergtraum; and Edith's daughter, Marcia Bergtraum-Williams, and son-in-law, Dan Williams, and their children, Harel and Marc Williams; Edith's brother and sister-in-law, Stanley and Bernice Bergtraum; and Edith's sister and brother-in-law, Nat and Janice Sommer.

With the dedication of the Edith Bergtraum School, we ensure that the people of New York will long remember a dynamic educator, a compassionate humanitarian, and a special friend.

ELIMINATE THE MARRIAGE PENALTY FOR THE EXCLUSION OF GAIN ON THE SALE OF A PRINCIPAL RESIDENCE BY AN INDIVIDUAL OVER 55

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. NEAL of Massachusetts. Mr. Speaker, today, I introduced legislation to correct an inequity in on our current tax system. Under current law, an individual over the age of 55 is allowed a one-time exclusion of capital gain on the sale of a principal residence. This one-time exclusion invokes a marriage penalty. This legislation would eliminate the marriage penalty for the one-time exclusion of gain on the sale of a principal residence.

For example, two individuals over the age of 55 who decide to marry and sell their homes would only receive an exclusion of $125,000. Whereas, if they did not marry and sold their homes they each would be able to receive an exclusion for $125,000. This legislation addresses this problem. The legislation eliminates the marriage penalty by disregarding elections made before the date of marriage or elections made on homes sold after the date of marriage, but purchased before the marriage.

Fairness is an important element of tax policy. The current policy on the one-time exclusion assists individuals who are approaching retirement and it is a valuable exclusion. Our Tax Code should be fair and not discriminate against basic values such as marriage. The decision to marry should not be based on financial reasons.

I urge you to correct this inequity and support this legislation.

5715 YEARS OF EXPERIENCE IN ONE ROOM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. STARK. Mr. Speaker, I rise today to share with my colleagues news of a special gathering that will take place on Thursday, May 18, in Castro Valley, CA. Over 50 senior citizens, each over 100 years old, will join together at Eden Medical Center for the sixth annual 100+ celebration. As best I can calculate it, 5715 years of experience and memories will be shared by 56 people at this unique gathering.

Every one of us has looked to an elder, perhaps a grandparent or great-grandparent, at different times during our lives for the wise counsel that only experience can provide. Their wit and wisdom speak of lessons learned; their knowing smiles are a reflection on decades of experience. I know my own mother, who is just 86 years old, has taught this incorrigible son an encyclopedia of lessons!

While I cannot be there on Thursday, I want to join Eden Hospital in honoring our local centenarians. The most senior of these senior citizens are 106, including Vera Sherman and Anna Simons. There are also five 105 year-olds, including Abdul Khaliqi, Antonio Nieto, Marie Sobieski, Mary Souza, and Ethel Stenson.

Nicolasa Alcon, Elizabeth Denny, Etta Osborn, Epifania Saldana, Eva Thornton, Catherine Walker, and Lily Wilkinson are 104 this year. The 103 year-olds who will be there on Thursday are: Giorgina Angeli, Michael Branden, Lillian Garfais, Mamie McGriff, and Antonio Nava. The presence of the 102 year-olds will be filled by Anna Galvin, Jim Hendricks, Hinda Jackson, Helen Leandro, Eugenia Liorentzevitch, Erminia Oberti, Fred Vonbrethorst, Frances Wayne, and Grace Zoellner.

Marion Boone, Olga Cherepanoff, Josephine Corona, Hazel Garad, Olive Gurney, Marianne Hill, Dale Kune, Kristina Langas, Helen Minore, Marian Morken, Eva Ortiz, Irene Pearson, Liilie Seay, Mary Silva, Ernestine Smedman, Leo Valentine, and Marguerite Zugnoni, at 101, are the sophomores of this class. The freshmen, young at only 100, are: Jane Barkley, Augusta Burlingame, Alice "Pete" Clark, Althea Cummings, Leone Gardelius, Ollie Holmes, Clara Moreland, Sumako Oka, Mamie Person, Edith Irene Wasley, and Elizabeth Wershkull.

Mr. Speaker, I hope my colleagues will join me in honoring these centenarians, especially during Older Americans Months, 1995. Their long and full lives have been a source of inspiration to their friends, family, and us all. I wish them all good health and good cheer.

THE INTRODUCTION OF THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. SHAW. Mr. Speaker, all across America, in the small towns and great cities of this country, our heritage as a nation—the physical evidence of our past—is at risk. In virtually every corner of this land, homes in which grandparents and parents grew up, communities and neighborhoods that nurtured vibrant families, schools that were good places to learn and churches and synagogues that were filled on days of prayer, have suffered the ravages of abandonment and decay.

In the decade from 1980 to 1990, Chicago lost 41,000 housing units through abandonment, Philadelphia 10,000, and St. Louis 7,000. The story in our older small communities has been the same, and the trend continues. It is important to understand that it is not just the buildings that we are losing. It is the sense of our past, the vitality of our communities and the shared values of those precious places.

We need not stand hopelessly by as passive witnesses to the loss of these irreplaceable historic resources. We can act, and to that end I am introducing today, with my colleagues Mrs. KENNELLY, Mr. MCCRERY, Mr. NEAL, Mr. ZIMMER, Mrs. JOHNSON of Connecticut, Mr. GEPHARDT, Mr. GOSS, Mr. MOAKLEY, Mr. HUTCHINSON, Mr. TORKILDSEN, Mrs. MALONEY, Mr. RICHARDSON, Mr. HINCHEY, Mr. CLYBURN, and Mr. NADLER, the Historic Homeownership Assistance Act.

This legislation is patterned after the existing Historic Rehabilitation Investment tax credit. That legislation has been enormously successful in stimulating private investment in the rehabilitation of buildings of historic importance all across the country. Through its use we have been able to save and re-use a rich and diverse array of historic buildings: landmarks such as Union Station in Washington, DC, the Fox Paper Mills, a mixed-used project that was once a derelict in Appleton, WI, and the Rosa True School, an eight-unit low/moderate income rental project in an historic school building in Portland, ME. In my own State of Florida, since 1974, the existing Historic Rehabilitation Investment tax credit has resulted in 325 rehabilitation projects, leveraging $238 million in private investment. These projects range from the restoration of art deco hotels in historic Miami Beach, bringing economic rebirth to this once decaying area, to the development of multifamily housing in the Springfield Historic District in Jacksonville.

The legislation that I am introducing today builds on the familiar structure of the existing tax credit, but with a different focus and more modes, scope and cost. It is designed to empower the one major constituency that has been barred from using the existing credit—homeowners. Only those persons who rehabilitate or purchase a newly rehabilitated home and occupy it as their principal residence would be entitled to the credit that this legislation would create. There would be no passive losses, no tax shelters, and no syndications under this bill.

Like the existing investment credit, the bill would provide a credit to homeowners equal to 20 percent of the qualified rehabilitation expenditures made on an eligible building that is used as a principal residence by the owner. Eligible buildings would be those that are listed on the National Register of Historic Places, are contributing buildings in National Register Historic Districts or in nationally certified State or local historic districts, or are individually listed on a nationally certified State or local register. As is the case with the existing credit, the rehabilitation work would have to be performed in compliance with the Secretary of the Interior's standards for rehabilitation, although the bill would clarify the directive that the standards be interpreted in a manner that takes into consideration economic and technical feasibility.

The bill also makes provision for lower-income homebuyers who may not have sufficient Federal income tax liability to use a tax credit. It would permit such persons to receive a historic rehabilitation mortgage credit certificate which they can use with their bank to obtain a lower interest rate on their mortgage.

The credit would be available for condominiums and co-ops, as well as single-family buildings. If a building were to be rehabilitated by a developer for sale to a homeowner, the credit would pass through to the homeowner. Since one purpose of the bill is to provide incentives for middle-income and more affluent families to return to older towns and cities, the bill does not discriminate among taxpayers on the basis of income. However, it does impose a cap of $50,000 on the amount of credit which may be taken for a principal residence.

The Historic Homeownership Tax Assistance Act will make ownership of a rehabilitated older home more affordable for homeowners of modest incomes. It will encourage more affluent families to claim a stake in older towns and neighborhoods. It affords fiscally stressed cities and towns a way to put abandoned buildings back on the tax roles, while strengthening their income and sales tax bases. It offers developers, realtors, and homebuilders a new realm of economic opportunity in revitalizing decaying buildings.

Mr. Speaker, this bill is no panacea. Although its goals are great, its reach will be modest. But it can make a difference, and an important difference, in communities large and small all across this Nation. The American dream of owning one's home is a powerful force. This bill can help it come true for those who are prepared to make a personal commitment to join in the rescue of our priceless heritage. By their actions they can help to revitalize decaying resources of historic importance, create jobs and stimulate economic development, and restore to our older towns and cities a lost sense of purpose and community.

I ask unanimous consent that the text of the bill and an explanation of its provisions be printed in the RECORD.

HONORING THE SOCORRO HIGH SCHOOL NJROTC UNIT

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. COLEMAN. Mr. Speaker, I rise today to give special recognition to a group of students from my congressional district, the members of Socorro High School's Naval Junior ROTC unit.

This unit has developed into one of the best NJROTC units in the country. It has placed first in area 11 in 3 of the last 4 years. The unit has also received the highest grade out of 360 high schools in the Nation. Under the able guidance and direction of Commander William J. Woodward, USN Ret., the cadets of our NJROTC unit have learned how to succeed in competitive situations and prevail in times of adversity.

Mr. Speaker, I also want to recognize the tremendous support in the community of Socorro, TX for the unit. During one of the unit's ceremonial evaluations, numerous civic, fraternal, and military leaders were present as well as approximately 900 sixth through eighth graders from local elementary and middle schools. The facilities the unit uses are among the best in area 11. Classrooms, office and storage areas are spacious, well organized and very well maintained. It is very obvious that the cadets, school, and the community take a great deal of pride in the NJROTC program.

I also ask my colleagues to pay tribute to Commander Woodward's assistants: Sgt. Major Robert D. Way, USMC Ret., and Chief Petty officer Oscar R. Martinez, USN Ret. Both these individuals have provided countless hours of support and guidance enhancing the aspirations of the cadets of the unit.

Mr. Speaker, it is with great pride that I recognize the students, parents, teachers, and school administrators involved with the Socorro High School NJROTC unit. I ask my colleagues to join me in saluting them and wishing them well in their future endeavors.

NATIONAL SENIOR CENTER WEEK

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. SCHUMER. Mr. Speaker, I rise today to announce that the week of May 14–21, 1995, has been designated National Senior Center Week. The 335 senior centers in New York City will join with the over 10,000 senior centers nationally and the National Council on Aging's National Institute of Senior Centers as sponsors of the week. The Council of Senior Centers and Services is coordinating the Senior Center Week Celebration in New York City.

In addition to the importance of providing meals for seniors living on tight budgets, senior centers are vital meeting places that serve the educational and social needs of our Nation's seniors. The sense of community experienced by an isolated older person of any income level or as a place to proudly bring younger family members adds immeasurably to the quality of life and emotional and physical well-being. I also know the value of senior centers from personal experience—they were a great benefit to my grandparents.

By naming this week National Senior Center Week, we are acknowledging the vital work that goes on every day to create a safe haven for seniors. I know all my colleagues in the House of Representatives will join me in applauding their efforts and wishing all our senior centers many more years of success.

TRIBUTE TO DR. RICHARD J. ZANINI

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mrs. KENNELLY. Mr. Speaker, I rise today to honor an outstanding educator, Dr. Richard J. Zanini of Wethersfield, CT, who is retiring in June. During his 35 years of service Dr. Zanini served as a teacher, a program specialist, a supervisor, and assistant superintendent. For the last 13 years, he has served as superintendent of schools in Wethersfield.

Dr. Zanini was educated at the University of Massachusetts and at the University of Connecticut, where he received his Ph.D. in 1969. After serving in the army, he began teaching history and social studies in Connecticut in the early 1960's. He then helped shape Federal education policy as a program specialist at the U.S. Department of Education in Washington for 2 years before returning to the classroom.

In 1972, Dr. Zanini became the assistant superintendent of schools in Hebron, Andover, and Marlborough. He served in a similar role in the Wethersfield school system for 5 years before becoming the superintendent in 1982.

During Dr. Zanini's tenure in Wethersfield, several schools have been recognized for excellence. Wethersfield High School became a 4-year high school and won statewide recognition in 1983 and again in 1994. Silas Deane Junior High School received wide acclaim, including designation as an exemplary school by the U.S. Department of Education in 1991 and the kindergarten center received national accreditation in 1993.

Despite difficult economic times, Dr. Zanini hired outstanding administrators, teachers, and support staff, and ensured buildings were repaired in a timely manner. He always treated colleagues, parents, and students with respect and professionalism. We will all miss this respected leader who has worked so hard on behalf of students for so long.

Dr. Zanini's leadership, attention to detail, thorough knowledge of State and Federal regulations, and his vision have served the Wethersfield district—and all his previous districts and schools—well. We thank him for his dedicated service and wish him the best upon his retirement.

SOUTH DAKOTA VOICE OF DEMOCRACY WINNER

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, Ms. Becky Fischer of Eureka, SD, was recently selected as a State winner in the Voice of Democracy broadcast script writing contest conducted each year by the Veterans of Foreign Wars of the United States and its ladies auxiliary. The contest theme for this year was "My Vision for America," and of the more than 126,000 secondary school students who participated in this year's contest, Becky was also named a winner at the national level. Mr. Speaker, I'm inserting Becky's winning script in the CONGRESSIONAL RECORD. She deserves to be commended for her exceptional efforts in writing this script and participating in this contest. Becky's insights and enthusiasm will serve as a model to others her age:

MY VISION FOR AMERICA

Picture a small child, and in his busy little hands, a fragile, crystal antique vase. Unless this child has been properly educated in the handling, care, and value of this vase, the owner of this treasure would be extremely nervous. Americans are permitting every child in the United States to grasp a vase—this "vase" is our future. These children must be prepared today to meet and conquer the challenges of tomorrow. The future of America is held in the hands of the children; therefore, my vision for America includes a brighter, bolder, well-educated society achieved by what the children are experiencing today.

In order to fulfill my vision for America, we must take care of the children. Teaching children to take care of their bodies by following wise health habits will build their strength and endurance. If a child is not physically strong enough to hold the vase, it could drop and shatter. If the children of America are not physically sound, dreams for America's future could be crushed.

We must also take care of America's children emotionally. A child must possess a strong sense of self-confidence, believing in himself and his ability to contribute to society. Henry Ford said, "Don't find fault—Find a remedy." We must build a child's self esteem. Consider I Thessalonians 5:11, "Therefore encourage one another and build each other up * * *" If a child believes he can accomplish his goals, whether it be carrying a priceless antique or creating a better future for America, he will be prepared to meet these goals.

A strong education in our schools and homes is also necessary for every American child to secure my vision for America. Teachers and schools play a vital role in the education of a child. With continued excellence in our nation's schools, opportunities are unlimited for a child to learn, adjust to change, and meet new challenges. By nature, a child has an open mind and a willingness to ask questions. A child will develop his own vision for America through a solid education.

Parents and family have the chief responsibility for educating our children though. Children model themselves largely on their parents. A parent must act like the type of person they want their child to become since things parents do and say strongly influence a child. If parents teach a child how to support the vase by their own example, that child will be able to hold the vase with confidence. If a parent enstills a positive attitude in a child regarding the American spirit, that child will look to this country's future with energy and enthusiasm.

My vision for America can be achieved in various ways. By setting a good example, children will have footsteps to follow. Along with their own experiences, future decisions these children make will be determined by what they have learned from our examples in their past. To preserve the safety of the "vase," we have the opportunity and the responsibility to set a good example.

Every American citizen must participate in preparing the children for a successful future. Henry Wadsworth Longfellow said, "Give what you have, to someone it may be better than you dare think." Our nation is composed of unique individuals, each with their own talents. We need to focus these varied talents on the children; they need each and every one of us. All of us together will help prepare these children for the future.

In conclusion, we are all now holding the "vase," but we must pass it on to the children of America. If we continue to take care of the children, physically and emotionally, provide a superior education for them in the schools and in our homes, and set good examples, we are contributing together to prepare our children for tomorrow. The future of America is held in the hands of the children; therefore, my vision for America includes a brighter, bolder, well-educated society achieved by what the children are experiencing today.

TRIBUTE TO DR. RICHARD ALAN YANIKOSKI

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to Dr. Richard Alan Yanikoski who will be inaugurated on May 19, 1995, as president of Xavier University located in the Third Congressional District of Illinois. Dr. Yanikoski was selected after a nationwide search conducted by the university's board of Trustees attracted distinguished candidates from all regions of the country. Dr. Yanikoski is the 12th president of the 148-year-old college, the oldest higher education institution in the city of Chicago.

Dr. Richard Yanikoski has served in the field of higher education for over 19 years. Previously, Dr. Yanikoski held the position of director of the Harry F. and Elaine M. Chaddick Institute and served as associate professor and director of DePaul University's Public Services Graduate Program. Other positions previously held at DePaul included associate vice president for academic affairs, director of institutional planning and research, evaluation coordinator, instructor and mentor of DePaul's School for New Learning. Dr. Yanikoski's additional professional experience includes his work as research assistant for Chicago's Spencer Foundation, part-time instructor for Loyola University's Program in Higher Education, and mentor for Native American Education Services College of Chicago.

A prolific writer, Dr. Yanikoski has published numerous articles in professional journals and is currently preparing his first book, "Academic Freedom in Higher Education," to be published by Greenwood Press. He has been a guest speaker, session leader, and invited panelist for over 30 professional organizations. A variety of higher education, religious, and governmental institutions have sought his expertise as a reviewer and consultant. In addition, Dr. Yanikoski has received numerous awards and distinctions in honor of his dedicated years of service to higher education. For example, Dr. Yanikoski has been recognized by the American Men and Women of Science, Who's Who in the American Education, Who's Who of Emerging Leaders in America, and Who's Who Worldwide.

The May 19, inauguration ceremony will be a gala celebration featuring an investiture of the President by James J. McDonough, chairman of the university's board of trustees. As part of the investiture ceremony, Dr. Yanikoski will be presented the university's medallion, a symbol of the office of presidency. The medallion features the seal of the university which is engraved with the Latin motto "Via Veritas Vita," which translates as "The Way, The Truth, The Life," and features a number of elements to represent the Sisters of Mercy, education and religion.

I ask my colleagues to join me in extending congratulations to Dr. Richard Alan Yanikoski as he begins his tenure as president of Saint Xavier University. I wish him the best of luck in his endeavors as president. I am confident he will maintain the high academic standards of the university and will undoubtedly add to Saint Xavier's rich tradition of providing quality post-secondary education in a religious atmosphere.

INTRODUCTION OF PATENT AND TRADEMARK OFFICE CORPORATION ACT OF 1995

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. MOORHEAD. Mr. Speaker, today, I am pleased to introduce the Patent and Trademark Office Corporation Act of 1995, a bill that will enable the U.S. Patent and Trademark Office to improve the services it provides to the public. I am pleased to have as an original cosponsor the gentlewoman from Colorado [Mrs. SCHROEDER] the ranking Democrat on the Intellectual Property Subcommittee. Our legislation will convert the Patent and Trademark Office [PTO] to a freestanding Government corporation, giving it the operating and financial flexibility it lacks today as a regular Government bureau in the Department of Commerce. This added flexibility should allow the PTO to operate more like a private business and provide better service to its customers at lower cost.

The idea of making the PTO a Government corporation is not new. As early as 1989, the National Academy of Public Administration, a nonprofit organization that studies ways to improve the effectiveness of Government, recommended corporation status for the Patent and Trademark Office. The National Academy reported that flexibility in budgetary and other management matters would give the Office the capacity needed to respond more quickly and efficiently to its customers.

The PTO does not use any general tax revenues to support its operations. It collects fee revenues from the sale of products and services to inventors, companies, and other customers that support the entire cost of its operations. It expects to employ more than 5,100 people and collect and spend $643 million in 1996. As a large, fully self-supporting organization, the PTO is well-suited for Government corporation status.

The Judiciary Subcommittee on courts and Intellectual Property, which I chair, has received testimony in support of converting the Patent and Trademark Office to a Government corporation. Several user groups support this concept including the American Bar Association section of Intellectual Property Law, the American Intellectual Property Law Association, and the Intellectual Property Owners, Inc.

I understand the administration is also reviewing legislation that will recommend converting the Patent and Trademark Office to a Government corporation. In order to encourage dialogue on the specifics of this issue, we are, today, introducing legislation, which gives the authority to the Commissioner of Patents and Trademarks to manage the PTO in a business-like manner. The bill also establishes a Management Advisory Committee that will afford users a voice in how the PTO is operated. The bill maintains tight congressional oversight of the operation and requires annual reports to Congress. The proposal, while not modeled closely after any existing Government corporation, is designed to meet the unique needs of the Patent and Trademark Office and its user community. The administration's bill will be introduced at a later date.

Under our bill, the Commissioner would be appointed for a fixed 6-year term by the President, by and with the advice and consent of the Senate. The management of the PTO would be vested in the Commissioner, and the Commissioner would appoint all other employees, including a Deputy Commissioner for Patents, a Deputy Commissioner for Trademarks, and an inspector general. The PTO would be exempt from administrative or statutorily imposed limits on the number or grade of Government employees. The Patent and Trademark Office would become an independent agency outside of the Department of Commerce. There are differing views on whether the PTO benefits from being kept under the Department of Commerce, and I believe the subcommittee should explore the advantages and disadvantages of an independent agency. The fiscal year 1996 budget resolution, before Congress now, assumes the elimination of the Department of Commerce, which could have a substantial impact on the future of the Patent and Trademark Office.

Specific authority within the Patent and Trademark Office corporation would include the power to purchase, lease, construct, and manage property, the power to award contracts for facilities, services, and printing, the power to use its revenues without apportionment by the Office of Management and Budget, the power to invest and earn interest on its money, and the power to issue bonds to finance its activities. Under existing law, long-term capital improvements, including the expensive program to automate the massive patent search files, must be paid for by current PTO users, who will not necessarily receive any benefits from capital improvements. Under the bill, such improvements could be supported by bond issues.

Our bill would eliminate the practice of withholding several million dollars from the Patent and Trademark Office each year that users have paid into the patent surcharge fund. It gives the PTO access to all of its revenues, including those in the Patent and Trademark Office surcharge fund established by section 10101 of the Omnibus Budget Reconciliation Act of 1990. The authority to set the levels of major patent fees would be retained by Congress, subject to the authority of the Commissioner to adjust fees annually in response to increases in the Consumer Price Index, as under existing law.

Officers and employees of the Patent and Trademark Office would continue to be employees of the Federal Government. Our proposal specifies the features of the Federal personnel statutes, including those covering retirement and other benefits, that would continue to apply. The Commissioner would have authority to set the compensation levels for officers and employees. Present law would be retained and employees would still not have the right to strike or to bargain over wages. Transition provisions in the bill would govern the shift to corporate status.

The Commissioner would receive advice from a management advisory committee of 18 members, 6 of whom would be appointed by each of the President, the Speaker of the House, and the President pro tempore of the Senate. Committee members, appointed for 6-year terms, would represent diverse users of the Patent and Trademark Office. The board would be assisted by a staff, and would submit an annual report to the President and the House and Senate Judiciary Committees.

If this legislation is to achieve its objectives, it must be crafted very carefully, to ensure the necessary checks and balances. A public interest is involved, and this office is the only place the public can go to obtain a patent or register a trademark. The PTO is not subject to the performance pressure that arises out of corporate competition. The bill, therefore, does not privatize the PTO by giving it all of the freedom of a private company.

The PTO would continue to be a Government agency under the direction and oversight of the President and the Congress. However, the added management flexibility provided by the bill should improve the PTO's efficiency and responsiveness to the public. I look forward to working with all interested parties as we move this legislation through the Congress.

ROB WALSH HONORED FOR EXTRAORDINARY COMMUNITY SERVICE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the efforts of an extraordinary individual who lives and works in my district, Rob Walsh.

Mr. Speaker, too often, the stories of those who make a difference in their communities are drowned out by the tragedies which split our community. Pick up any newspaper on any given day. Headlines will scream of the latest crime; columnists will lament the many foibles of our society. The quieter success stories largely go unreported, unremarked upon.

I believe it is critically important that we do a better job of telling the success stories, that we do a better job of being role models for our Nation's youth. I therefore take the House floor today to recognize the efforts of a man who has done so much for so many. I would also like to say that I am extremely pleased that Rob Walsh will be receiving the prestigious Annual Cancer Care Community Service Award this Sunday.

Before I go into Bob's many achievements, I want to take a moment to congratulate Cancer Care for its dedication to providing free and comprehensive clinical services, education, and financial assistance to patients and their families at any stage of illness. Cancer Care works cooperatively and effectively with the many hospitals and health institutions in my district and New York in general, to provide critical services to those who are most in need. I cannot say enough about the compassion and commitment of Cancer Care to its mission.

I also want to commend Cancer Care on their judgment. Each year, Cancer Care bestows it's Community Service Award to someone who makes significant contributions to the community. This year's recipient will surprise no one who has spent any time over the past 5 years in the 14th Street-Union Square area.

In 1989 Rob Walsh became the executive director of the 14th Street-Union Square Local Development Corp. and business improvement district. Rob came prepared.

Rob's service in New York City government had been as varied as it was successful. In fact, it seemed that there was no bureau of government which had not benefited from Rob's considerable energies. He had served in the mayor's office of operations as a voter assistance coordinator, the transportation department, the parks department, the personnel department, and the general services department. In addition, Rob has a master's degree in public affairs from Fordham University, where he also received his undergraduate degree.

Since taking the helm of the 14th Street-Union Square LDC/BID, Rob has overseen unprecedented efforts to revitalize a community which has fallen on hard times. During the 1980's, 14th Street had become a drug infested area, with prostitutes, and covered with graffiti. Union Square, once one of New York's greatest public spaces, was now best known for its nickname "Needle Park."

Rob Walsh, thankfully, is not a man who shrinks from a challenge. With his remarkable energy, intelligence, and can-do attitude, Rob has led the efforts to turn the neighborhood around. Stop by Union Square on a sunny spring day and you will see the difference.

New businesses move into this thriving neighborhood every day. Children and workers on their lunch break pack into beautiful and accessible Union Square. Stuyvesant Square Park is now the kind of well-maintained open space that every member of the community can enjoy. The streets are cleaner and safer and there exists the kind of communitywide pride which is so characteristic of the best neighborhoods of New York and any city.

As Rob will be the first to say, this turnaround was the product of efforts by hundreds and thousands of caring members of the community. But I am not sure it could have happened without Rob's leadership. As the "Mayor of Union Square," Rob has directed the efforts, and led the battle at the front lines. He can always be found, walking the streets, checking on his latest brainstorms.

There is, of course, much work left to be done. But Rob's commitment to the values which make this community great—affordable housing, opportunities for our kids, safe streets, and economic growth—will certainly guide his future efforts in the right direction.

I should also point out that Rob also volunteers his time to a number of important groups in our city, including New York Cares, the Vanderbilt YMCA, Beth Israel Medical Center community advisory council, Cabrini Medical Center advisory council, NYC Urban Fellows advisory board, Washington Irving High School business advisory council, and the mayor's Voluntary Action Center. And with all of his efforts, Rob remains a devoted husband to his lovely wife Terry and is a doting father to his beautiful daughter Cara, perhaps the most important job of all.

Mr. Speaker, I am grateful to Cancer Care for giving me this opportunity to tell a true New York success story. Rob Walsh deserves our most sincere thanks for all of his efforts on behalf of his community, and I hope that all of my colleagues will join me in congratulating him at this time.

SOCIAL SECURITY PRESUMPTIVE DISABILITY FOR THE SEVERELY DISABLED INTRODUCED

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. STARK. Mr. Speaker, today I am introducing legislation that incorporates the Supplemental Security Income's [SSI] presumptive disability system into the Social Security Disability Insurance [SSDI] Program.

One of the largest continuing problems faced by the Social Security Administration [SSA] is the backlog of more than 1 million cases waiting for a disability determination. In 1995 President Clinton asked for disability investment funding in the amount of $280 million as part of the regular administrative budget. These funds were specifically earmarked for processing disability-related workloads. Congress appropriated disability investment funding in the amount of $320 million for fiscal year 1995. I support this move but we need to do more and to act more quickly.

Social Security expects to receive nearly 3 million applications for disability benefits through 1995, 70 percent more than it received 5 years ago. Social Security admits that its complicated decision process has changed little in 40 years and offers an "unacceptable" level of service to the public. An announced "reengineering" of the increasingly complex disability determination system is expected to stabilize the workload but not to result in an appreciable reduction in the backlog.

On the average, it now takes a disability applicant 5 months to get an initial decision. If benefits are denied, the applicant waits another 18 months to get an administrative law judge's decision on the appeal. Congress has heard complaints in recent years of deserving applicants waiting months for desperately needed funds and, in some cases, dying before they get a decision.

For example, in Arizona a recent disability applicant was forced to leave her secretarial job due to injuries resulting from a serious auto accident. She applied to the Social Security Administration for disability benefits to offset the loss of her income. She did not realize that she was venturing into an understaffed, underfunded Federal program that often forces disabled people to wait months to learn whether they qualify for benefits. After a year's wait, she was successful in obtaining the benefits to which she was entitled only after hiring an attorney who specializes in such cases. These kinds of long delays are repeated in anecdote after anecdote.

For many severely disabled, there should be a faster way.

The SSI program makes an initial determination that presumes a person to be disabled if they fit certain severe disability criteria. These people begin to receive SSI benefits immediately and the SSA has a 6 month period to make the final determination of eligibility using the SSA's definition of disability.

Being able to receive SSI benefits on the basis of a presumptive disability determination provides the disabled person with much-needed money immediately. However, for a worker who has paid into Social Security and becomes disabled, there is no comparable process to identify the people that would most likely qualify for DI benefits. My legislation would remedy this by providing for determinations of presumptive disability under title II of the Social Security Act in the same manner and to the same extent as is currently applicable under title XVI of such act.

This means that if a person is found to be presumptively disabled under title II and meets the requirements for entitlement to benefits the person will begin to receive benefits, after the initial 5-month waiting period required before DI benefits can be paid, for up to 6 months while the final determination is being made. If the person is presumed eligible to receive DI benefits, then their dependents shall also begin to receive benefits.

If, in the final determination, a claimant's impairment does not meet the Social Security Administration's definition of disability, they and their dependents shall not be responsible to return the money they received during the presumptive eligibility determination period.

In some instances a person may be presumed eligible for SSI benefits before being found to be presumptively disabled under title II. In this case, the person will still be entitled to only 6 months of presumptive disability benefits. In most States, while receiving SSI benefits, a person is eligible for Medicaid. Under this proposal, claimants who would have been eligible for SSI benefits, were it not for their receipt of DI presumptive disability benefits, would be deemed eligible for SSI, making them eligible for Medicaid in those States where SSI eligibility triggers Medicaid eligibility. When the final determination for DI benefits is made, the claimant loses the Medicaid eligibility. Medicare will be provided to disabled workers and their dependents after they have been receiving disability benefits for 24 months, including the time they were receiving presumptive disability payments.

INTRODUCTION OF DIABETES RESEARCH ACT

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday May 17, 1995

Ms. FURSE. Mr. Speaker, diabetes research is at a crossroads. Earlier this year, leading scientists and researchers from across America gathered in Washington, DC, at the Capitol Summit on Diabetes Research to release the white paper. The white paper demonstrated that diabetes research has reached a critical point, and that immediately increasing our focus could yield substantial and dramatic breakthroughs. Recent evidence indicates that a cure, or improvements in other disease management techniques, are within our reach to improve the quality of life for 14 million Americans who are affected by diabetes.

Today, along with Mr. NETHERCUTT, I am proud to introduce the Diabetes Research Act. This legislation would substantially increase the funds available for diabetes research at the National Institutes of Health. In light of the scientific revelations brought forth by leading researchers and endocrinologists, we must adopt a long-term strategy to deal with the problem of diabetes in America. As a nation, diabetes and its tragic complications cost our Nation over $100 billion every year. Everyday, thousands of people go blind, have extremity amputations, or develop heart disease as a result of diabetes. We can make a difference if we only heed the call of the people who are on the front lines fighting this dreadful disease. The Diabetes Research Act answers that call.

I believe this bill could also be called the Priorities Act of 1995. In order to balance the budget and still invest in our Nation's future, we must have an open and honest discussion with the American people about our priorities. Tomorrow I am going to introduce three bills to create budgetary savings of $1.5 billion, a portion of which could be used to pay for increased diabetes research funds. In sum, I believe diabetes research should be a priority and encourage my colleagues to follow my lead and make recommendations on how to pay for it.

My own daughter has diabetes. She is one of millions of Americans who live with this disease every day, and I am so proud of her. I am also grateful to all the national diabetes organizations that gave their insight into the development of this legislation. I urge all my colleagues here in the House to cosponsor the Diabetes Research Act, cosponsor a bill to pay for it, and then let the thousands of people with diabetes in your community know you are working for their future.

TRIBUTE TO CREW MEMBERS OF THE SUGAR ISLAND FERRY BY THE HONORABLE BART STUPAK OF MICHIGAN

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. STUPAK. Mr. Speaker, I rise today to offer my sincere congratulations to the crew members of the Sugar Island ferry in Sugar Island, MI for their outstanding service to the community.

Each year, civic groups on Sugar Island choose an individual to recognize his or her contributions to the community. This year, however, the entire crew of the Sugar Island ferry was chosen to be honored for their enormous efforts for the betterment of the Sugar Island community.

The first regularly scheduled ferry to bring cars to Sugar Island was the *Service,* which began operation on July 1, 1928. On that day, 30 automobiles were transported from the island to the mainland of Michigan's Upper Peninsula. It cost 45 cents for cars and 15 cents for foot passengers to be carried across St. Mary's River. In addition to cars and trucks, the ferry also carried horse-drawn wagons during this period.

The *Service,* was in use until 1932, when it was replaced by the *Beaver.* The *Beaver* ran until 1937, when a second ferry, *Scow No. 1,* was placed into service. Later rebuilt and named *Chippewa,* that ferry was in use until a larger, steel ferry with a 12-car capacity was constructed. That ferry, the *Sugar Islander,* built in 1947, is still in use today. The Sugar Island ferry was privately-owned by the Eastern Upper Peninsula Transportation Authority in 1979.

In 1994, 252,339 vehicles were transported by the *Sugar Islander.* The ferry provides a vital link from Sugar Island to the city of Sault Ste. Marie in the Upper Peninsula. In addition to its regular service, the ferry goes out of its way to promptly transport emergency vehicles and ambulance, fire and police personnel for the benefit of Sugar Island residents.

Additionally, Mr. Speaker, the ferry is known for its outstanding service. It operates every half hour in good weather and bad, 365 days a year. The highly dedicated crew works 11-hour shifts, and I commend the crew members of the *Sugar Islander,* for their unfailingly courteous and reliable service. Specifically, I would like to congratulate the current members of the Sugar Island ferry, including: Tom Stevens, Brian Dynes, Dan Cairns, Paul McCoy, Derek Myerscough, Doug Bisdorf, Mike Patten, Tim Switzer, Don Soper, Jim Gort, Jr., and Rick Brown.

I know my colleagues join me in honoring those crew members who enrich the lives of Sugar Island residents, as well as visitors to that Northern Michigan community.

YOUTH CANCER AWARENESS

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. ROSE. Mr. Speaker, I rise today to bring to the attention of this body youth cancer awareness.

More than 5 million living Americans have a history of cancer. It is estimated that among the 1 million people diagnosed with cancer this year, half will die from this disease. In my State of North Carolina alone, over 3,200 people will be diagnosed with cancer this year.

Even more alarming is the growth in reported cases of cancer in young people. Cancer is the No. 2 killer among our youth.

In my home State of North Carolina, the month of April is "Cancer Awareness Month." North Carolina has planned a number of events to emphasize the importance of cancer awareness. I would have like to have made April "National Cancer Awareness Month." However procedural changes will not permit the offering of such a resolution.

Nonetheless, I would still like to increase the public's awareness of the degree to which cancer affects young people. The key to finding a cure for cancer is in awareness of the symptoms, the causes, and the best means to address the problems raised by cancer. Increased volunteer participation and the promotion of education and research have had a profound positive impact on discovering a cure. We need to do more in this regard.

With the help of dedicated people like Miss Leslie Cobb, a Jacksonville, NC, teen cancer activist, who fight this terrible disease everyday, we will eventually find a cure. I urge everyone to do all they can to inform our youth about the risks of cancer.

LORETTA PONTICELLO HONORED FOR LIFETIME OF SERVICE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mrs. MALONEY. Mr. Speaker, it gives me great pleasure to stand before my distinguished colleagues today to honor Ms. Loretta Ponticello.

It has been my observation that we are so consumed with the problems and negativism that plague our Nation that we sometimes forget about those who are working to solve these problems. We ignore the heroes who are right in our midst, choosing instead to talk about the the bad news that dominates the news.

This situation needs to be corrected. That's why I take this opportunity to honor one of these heroes. She may not be featured in a movie or on television, but there can be little doubt that Loretta Ponticello is a hero to all who know her.

First, let me talk a little bit about Loretta's remarkable business career. By combining her great aptitude for business with a high standard of integrity and diligence, Ms. Ponticello has brought success wherever she has gone. After graduating from the New Jersey College for Women—now Douglas College—she worked for Chemical Bank in the foreign department. Eventually, Loretta left the bank and went on to become secretary to the president of Cooke International, and import/export firm in New York. Upon leaving Cooke International, Loretta began working for Rosenthal & Rosenthal, Inc. where she will be retiring after 26 years.

She began her career at Rosenthal as manager of the International Operations Office in their Foreign Department. Later she joined the Rosenthal Group's Law Department as an administrative manager and legal assistant and after years of service with Rosenthal & Rosenthal was appointed an officer in the company. She is one of the best liked and well respected members of the company, and her fellow workers will be sorry to see her go.

Loretta's outstanding achievement in the business world may only be overshadowed by her exemplary work in her community. For over 41 years, Loretta has been an active resident of City & Suburban's York Avenue Estate Landmark.

When eviction notices were sent to all tenants of her building, it looked as if Loretta and her neighbors would be forced to leave their homes forever. Her interest in the preservation of historic buildings in New York City persuaded her to lead the fight to make the building a New York City landmark.

Loretta helped organize fundraisers, spoke at hearings and met with legislators in New York City and Washington, DC. Her persistence was rewarded when City & Suburban was made an official New York City landmark. Ms. Betty Cooper Wallerstein, chairperson of Coalition to Save the City and Suburban, and Marie Beirne, Tenants Landmark chairperson, both agree that the landmarking of City & Suburban's York Avenue Estate could not have been accomplished without Loretta.

Now the Loretta is retiring after 26 years with Rosenthal & Rosenthal she will be able to devote even more time to her community service. She plans to be the keeper of the massive City & Suburban archives and intends to do volunteer work in the field of historic preservation. Ms. Ponticello will also continue her work with the East 79th Street Neighborhood Association, caring and working with the community that she loves.

Mr. Speaker, I am proud to honor the heroics of Loretta Ponticello today. I hope that my colleagues will join me in thanking Ms. Ponticello for her ongoing generosity, and wish her a long and happy retirement.

ONE OF NEW YORK'S BEST—EL OLE

HON. NYDIA M. VELAZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Ms. VELAZQUEZ. Mr. Speaker, I rise today in honor of one of New York's best and most vibrant dining establishments. I am referring to El Olé. It is New York's very own bit of Spain, and it celebrates 25 years of exemplary service this Monday, May 22.

The owners of this fabulous restaurant, Pepe and Tony Lagares arrived in the United States back in 1949. They came here from La Coruña, Spain, with their father, Don José. They spent their first years in this country working at their grandfather's restaurant, Greenwich Village's El Tropezon. In 1970, they opened El Olé, and for years worked at a grovelling pace. El Olé's reputation spread by word of mouth, and it soon built up a strong clientele. In fact, when El Olé opened its doors for the first time, it could only accommodate 28 patrons. Today, it serves many well known guests on a regular basis, and its exquisite dinning room accommodates 110.

Among the many distinguished patrons of El Olé are: Sylvester Stallone, Elizabeth Taylor, Al Pacino, Emilio Estevez, Robert DeNiro, Martin Lawrence, Jon Secada, Jane Evans, Pedro Morales, Jose Chegui Torres, Roberto Ledesma, and former Governor Cuomo and his family. This impressive list comes as no surprise. El Olé has an atmosphere that lends itself to fine dinning and pure enjoyment. But it is much more than a restaurant, it is a refuge for people of all cultures, and its walls have witnessed countless conversations on everything from politics to the arts.

From the romantic sounds of Spanish guitars to the fast swing-pace of salsa, cumbia, and merenge, El Olé's superb service and vibrant setting serve as perfect complement to this establishment's world class menu.

I applaud the Lagares brothers for their efforts, and thank them for bringing us so much. To El Olé, a happy celebration, may its tables always bear las Delicias de la madre España, and may its door always rest open for those who share a passion for culinary pleasure and a thirst for the joy of life. Olé!

FINDING SUPPLEMENTAL SECURITY INCOME ELIGIBLE BENEFICIARIES; INTRODUCTION OF LEGISLATION TO PROVIDE INCENTIVES FOR NON-PROFIT ORGANIZATION OUTREACH

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. STARK. Mr. Speaker, the Supplemental Security Income [SSI] Program was begun to provide a safety net for our country's elderly, blind, and disabled persons with limited income and resources.

Over the years I have followed the outreach efforts of the Social Security Administration to inform potential eligible people about the SSI Program. In 1989 a Health and Human Services study indicated that that 35 percent of potentially eligible recipients were not participating in the SSI Program. Congress mandated funds to the SSA in fiscal year 1990 and 1991 for outreach projects in an effort to enroll these potential recipients.

Many outreach programs designed and carried out by local government and nonprofit organizations have been funded by these appropriated funds. Outreach programs inform the SSA staff of the most effective means of reaching potentially eligible recipients of the

SSI Program and assist recipients through the complicated application process.

Alameda County in California has been very effective in reaching Southeast Asian potential recipients through an outreach program that reaches into the community through mutual assistance groups.

In Arizona third parties using a variety of outreach techniques, including language groups, successfully funded eligible recipients and streamlined their application process by completing the many necessary forms for them.

These examples point to what maybe the most effective way of contacting these hard to reach people. The use of existing private nonprofit community groups. I suppose that one of the quickest and most economical ways of finding and signing up eligible people for the SSI Program would be to use the staffs of nonprofit organizations who already work with the poor. Many of these people are very knowledgeable about the program and have the trust of potential recipients. Help in filing out the forms and collection of the necessary documentation would greatly assist the overworked SSA staff.

In return the nonprofit organizations would receive a fixed amount of money for each person they "sign up" that was actually eligible for the SSI Program.

This idea is the basis for the legislation I am introducing today. My bill creates two demonstration projects, one in a poor urban area and one in a poor rural area, to test this idea of providing an award for successful outreach.

THE SERB STRANGLEHOLD ON SARAJEVO

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to condemn the latest Serbian onslaught directed against innocent civilians in Sarajevo, an UN-designated safe-haven. The events of the past 24 hours underscore the fact that the besieged city of Sarajevo remains in a virtual stranglehold by well-armed Serb militants. UN sources confirmed that at least 1,000 shells were fired on Sarajevo. The heavy shelling of the Bosnian capital, the worst in over a year, resulted in a score of injuries and deaths. Sporadic shelling continues today.

Some have had the audacity to argue that both sides are equally to blame for the attack, a pretext later used to deny the Bosnian Government's urgent request for protection of Sarajevo. Attempts to equate the forces of the sovereign Government of Bosnia-Herzegovina with the marauding bandits led by Radovan Karadzic, a mastermind of genocidal aggression in Bosnia, are an affront which must be resoundingly rejected. Karadzic, along with Bosnian Serb military commander Ratko Mladic and former police chief Mico Stanisic, are under active investigation by the War Crimes Tribunal for the former Yugoslavia, for their respective roles in the war launched by the Serbs in 1992.

For 3 years now, international negotiators have traveled a well-worn path to Pale, the Bosnian Serb headquarters. Nearly a year has passed since the Contact Group presented its peace plan on a take-it-or-leave-it-basis. The Bosnian Government accepted the proposal within the 2 week deadline. The plan has been repeatedly rejected by the Bosnian Serbs with relative impunity despite threats by the Contract Group that rejection would carry severe consequences. Further negotiations at this time can only be expected to bring further concessions to meet Karadzic's demands.

Yesterday's attack on Sarajevo highlights the pathetic state of affairs and utter impotence of the international community which has effectively abrogated its responsibility for enforcing Security Council resolutions in Bosnia. The shelling occurs at a time when the United Nations is reviewing its mission in Bosnia—a mission which, in my opinion, has been seriously undermined since U.N. forces began negotiating with the militants shortly after UNPROFOR's deployment. Further delay in deciding what, if any, role the U.N. can or should play in Bosnia will only make the withdrawal of UNPROFOR that much more difficult and potentially dangerous should such a determination ultimately be reached.

Mr. Speaker, the fact of the matter is that measures taken by the Security Council to date have failed to maintain international peace and security as it relates to Bosnia-Herzegovina. This being the case, it is unconscionable that that country continues to be denied its right to self-defense, in clear violation of article 51 of the U.N. Charter.

Earlier this year, I introduced H.R. 1172, legislation which lift the arms embargo against Bosnia-Herzegovina. This bill enjoys considerable bipartisan support as evidenced by the growing list of cosponsors. Mr. Speaker, I urge colleagues to support the lifting of the arms embargo, an action fully in keeping with Bosnia's inherent right to self-defense.

COMMUNITY SPIRIT ALIVE AND WELL IN IDAHO

HON. HELEN CHENOWETH

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mrs. CHENOWETH. Mr. Speaker, I rise today to applaud the efforts of two institutions in my district that are pioneering innovative programs to meet the credit and housing needs of the citizens of Boise. Boise Neighborhood Housing Service and Key Bank of Idaho have been nationally recognized by the Social Compact in its 1995 Outstanding Community Investment Awards Program for their efforts, which are helping to address the city's critical shortage of affordable housing options.

Social Compact is a national nonprofit organization dedicated to increasing industry investment in our at-risk neighborhoods. They lead by example, highlighting successful partnerships between financial services institutions and neighborhood nonprofit organizations that are working together to reestablish viable markets in which the financial industry can do business. By reestablishing these markets, the partnership reclaims vulnerable communities, transforming them into a neighborhood of active residents and homeowners with a real stake in their future. As a result of the annual Outstanding Community Investment Awards Program, Boise Neighborhood House Service, or NHS and Key Bank of Idaho were chosen out of 160 applicants as a model partnership, one that the rest of the industry can learn from.

When Boise NHS began 13 years ago as a small, neighborhood revitalization effort, Boise was just entering a growth period. Today, Boise is a city with soaring housing costs and high land prices. In the last 5 years alone, the cost of living in Boise increased by 139 percent, while median income rose only 33 percent. NHS has responded to Boise's affordable housing shortage by forming a lasting partnership with Key Bank of Idaho, a financial institution committed to neighborhood revitalization. Their partnership is providing solutions both for lower income families who need affordable rental housing or believe the dream of homeownership is out of their reach.

As a result of the leadership of Connie Hogland, executive director of Boise NHS, and Michael Mooney, president of Key Bank of Idaho, 77 families now live in newly constructed, affordable homes. Seven families have achieved the dream of homeownership, through the construction of Quince Cove development, financed 100 percent by Key Bank of Idaho. Key Bank has furthered its financial involvement with Boise NHS, supporting the National Neighbors Works Campaign for Homeownership, initiating a special lenders pool with other institutions to provide first mortgages to low- and moderate-income families, and providing Boise NHS with an ongoing line of credit. In Boise our citizens have a great deal of civic pride in their city and the Key Bank employees, senior managers, and even members of their board of directors also volunteer their time for community-wide events such as when the city comes together to help those that are unable to maintain the upkeep of their homes.

Efforts such as those by Boise NHS and Key Bank of Idaho deserve to be congratulated, not only for their ongoing efforts to meet immediate needs of Boise residents, but also for their innovation in finding new ways to help the city and the community, making it a vital place to live and do business.

RESEARCH FOR OUR NATION'S FUTURE

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. SCHIFF. Mr. Speaker, I rise today to mention the importance of the basic scientific research funded under budget function 270. While this research may fall under the Energy Supply Research and Development title, this work, much of which is occurring at our national laboratories, is basic fundamental scientific research that applies to national problems in nuclear weapons and environmental cleanup.

Research efforts at the national laboratories are characterized by scientific excellence and the integration of basic research to real applications in the chemical sciences, materials sciences, and geosciences. For example, the materials science research program at the national laboratories not only demonstrates the relevance of basic science to technology, but also supports the Energy Department's primary missions. In addition, these programs take advantage of a wide range of large, capital intensive research facilities that are not usually found at universities.

Work in areas such as scientifically tailored materials combine expertise in solid state sciences, atomic-level diagnostics, materials synthesis and processes science to produce new classes of tailored materials for critical defense needs, and which can also be used by industry down the road. That national laboratories materials researchers win prizes and awards each year, indicates that their colleagues in universities and industry recognize the value of their scientific contributions.

In conclusion, I ask my colleagues to be mindful that the national laboratories are conducting original and relevant basic research in the basic energy sciences program that is of great value to our Nation's future.

THE 44TH INTERNATIONAL CONVENTION OF THE ALLIANCE OF THE POLISH SINGERS OF AMERICA

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to mark the 44th International Convention of the Polish Singers' Alliance of America which will take place in New York City from May 25 through May 28, 1995. As the Representative of one the Nation's strongest and most active Polish-American communities, I am proud to welcome them to New York.

Founded in 1889, the Polish Singer's Alliance is dedicated to promoting goodwill and Polish culture by performing the very best in Polish music. Every 3 years the Alliance sponsors a convention for Polish choral groups from all over North America. The convention acts to acquaint the public with the works of Polish composers, and foster a love for a country which has given so much to the rest of the world.

This year, the event is being hosted by the District VII of PSAA, based in the New York City metropolitan area, including Connecticut, Pennsylvania, and New Jersey. District VII will welcome 33 other singing groups from as far away as Arizona, and Ontario, Canada.

Together, over 1,000 people will join together to celebrate the rich history and the promising future of the Polish musical tradition. Judging from past conventions, a high point should be the choral competition. This even provides a unique opportunity for the choruses to demonstrate their talents in Polish classical, religious, and folk music.

The theme of this year's convention, Salute Free Poland, is particularly poignant. It honors not only the country's historical contributions to world culture, but recognizes Poland's long struggle to embrace freedom and democracy.

Mr. Speaker, I would request my colleagues join me in welcoming the Polish Singers Alliance of America to New York. I thank them for bringing their wonderful music to New York and for keeping this tradition alive for future generations to enjoy.

A EULOGY TO MAX McCARTHY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. LAFALCE. Mr. Speaker, former Senator John Culver of Iowa last week delivered a eulogy to his friend and former colleague in Congress, Richard "Max" McCarthy, who died May 5 at age 67 in Arlington, VA.

Mr. McCarthy represented the Buffalo, NY, area in the House from 1965 to 1970.

Senator Culver offered a poignant tribute to Max, who had a many faceted career as "a proud veteran of two wars in two military services. A distinguished Member of Congress with a strong sense of our obligation to future generations. A diplomat wisely representing our country. A journalist who challenged and helped his readers to be better informed citizens of our democracy."

Speckled with anecdotes, the Senator's remarks captured the depth of character of this affable man we all simply called Max. The Hill published the Senator's eulogy in its May 17 edition and I would like to share it with my colleagues at this point in the RECORD:

MAX MCCARTHY: SOLDIER, CONGRESSMAN, JOURNALIST

(Eulogy by Former Sen. John Culver)

As we all know, Max grew up in Buffalo. He loved the city and its people. He knew its history and its politics. He always proudly wore that small silver Buffalo in this lapel.

One of his favorite stories about his home town recounted the election night victory statement of a mayoralty candidate of modest educational attainment who proclaimed: "I wish to thank Jesus Christ and all the other good people of Buffalo who voted for me today."

I first met Max 30 years ago when we were both newly elected members of Congress. Although small in stature he possessed a big voice and also a big heart and a big mind. He was intellectually curious and genuinely interested in people as well as ideas.

He possessed strong convictions and never was half-hearted about anything. He could ask more questions and learn more about a stranger in one conversation than anyone I ever knew, because he was such a good listener.

As we all know, Max was very fastidious and dapper concerning his dress and I used to kid him. "I wish you would start to take some pride in your personal appearance."

In his own congressional career he was ahead of his time regarding the environment and was also the author of books on subjects like chemical and biological warfare and campaign finance reform decades before others discovered them. As a close observer of foreign affairs, he was perceptive and well informed. Years before the Iranian revolution he warned me that the U.S. was wrong in supporting the Shah.

Max was proud of being Irish and a genuine authority on the history of Ireland. With affection he often recounted the comment of his father, "The Irish are not always sure of the particular cause they are fighting for, but they are willing to die for it."

But Max did know what was worth living for. After he was diagnosed, Max knew his illness was terminal.

He eventually moved into the nursing home where his life and possessions were reduced to one room. At such a time one must choose and those choices can tell us much about a person's priorities, character and values.

Like many of you here today who visited Max in that room in recent months, I recall the many photos of his family. His father and mother pictured with him as a small boy, his sisters, and the individual and group pictures of his children and grandchildren whom he loved so deeply. They reminded me of the joy he always expressed following a visit to one of them—be it in Italy, Chicago, New York City or back in Buffalo.

There was an American flag in the corner of the room. I assume it was from his congressional office. There were two framed honorable discharge certificates—one from the World War II Navy and the other from the Army for service during the Korean War. Max was devoted to his country, but like a true patriot he could be critical if he felt it as not pursuing a just course.

Then there was the book case filled with his favorite works on history and political biographies which were the subject of many memorable hours of discussion that we shared over the years. As I left him on what proved to be my final visit I asked if I could get him anything. He said he would really like a copy of a new history book, "The Age of Extremes," by Eric Hobsbawm. He had read an excellent review of it in the New York Review of Books. I got a copy to him last week and it was apparently the last book he was reading.

He had a keen interest in travel and did so widely and there were various mementos and pictures from those experiences. There was the beloved collection of opera recordings all of which Max knew by heart. A classical music station was always on the radio. Always at hand was a well-read copy of The New York Times.

On a wall hung his notice of induction to the prestigious Gridiron Club, signifying his election to a select group of the nation's finest reporters. The annual club skits, a Washington major event, gave him such satisfaction and pleasure. On a bulletin board were one or two of his recent columns from the Buffalo News that he courageously dictated each week to the very end. The last one which appeared before his death was an appeal for sanity on firearms.

There was a framed quote by one of Max's heroes, the distinguished journalist Walter Lippmann. I remember Max telling me about how thrilled he was to have been invited to Lippmann's home as a young congressman and pointed out his residence to me in Washington. Max took very seriously his responsibility as a member of the Washington press corps. Lippmann characterized that role as "no mean calling" and claimed those involved have a "right to be proud of it and be glad it is our work." Max could agree.

It is altogether fitting that Max, who served our country with distinction in so many ways, will now be laid to rest in our National Cemetery. He was a proud veteran of two wars in two military services. A distinguished member of Congress with a strong sense of our obligation to future generations. A diplomat wisely representing our country. A journalist who challenged and helped his readers to be better informed citizens of our democracy.

A funeral ceremony is, of course, a time of sadness, but also a time of celebration and gratitude. Gratitude for the enrichment Max brought to so many of our lives and for the warm personal memories of him which we will always cherish.

UPLIFTING AND HELPFUL GUIDANCE

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Mr. BISHOP. Mr. Speaker, I am very thankful that I have had an opportunity during this exceptionally busy year to attend two annual conferences of the African Methodist Church in Georgia, the Southwest Georgia Conference held in Columbus and the South Georgia Conference in Albany. I am also planning to attend the third A.M.E. church conference this month, the upcoming conference in Macon. These church convocations are both uplifting from a spiritual point of view and beneficial to me as a legislator.

Resolutions adopted by the 83d session of the South Georgia Conference, presided over by the Right Reverend Donald George Kenneth Ming, are an example of how religious organizations can help guide our deliberations in incisive, thought-provoking ways. I would therefore submit the attached epistle and the four accompanying resolutions, which were developed by the committee on the state of the country:

THE 83D SESSION OF THE SOUTH GEORGIA ANNUAL CONFERENCE OF THE SIXTH EPISCOPAL DISTRICT OF THE AFRICAN METHODIST EPISCOPAL CHURCH—THE RIGHT REVEREND DONALD GEORGE KENNETH MING, PRESIDING BISHOP

MARCH 24, 1995.

To: Congressman Sandford D. Bishop, Jr. Second Congressional District for the State of Georgia.

From: The Committee on the State of the Country.

The enclosed resolutions are excerpts from the minutes of the committee assigned to review, to evaluate and to propose resolutions to resolve the continued decay of crippling ills of our society. We, therefore, the ministerial and lay delegates to this, the 83rd Session of the South Georgia Conference, presided by the Right Reverend Donald George Kenneth Ming, would like to go on record stating our concerns on these issues.

We, therefore, solicit your personal commitment to deliver these resolutions to the floor of Congress and oratorically resound our concerns in such a manner that the walls of Congress will tremble until equality and justice grip the minds and hearts of your fellow political constituents. We can no longer sit idly in the bosom of a society that will not nurture, from the breasts of prosperity, her children from ill-housing, inefficient educational systems, rural and urban wastelands, cultural deficiencies, health deformities, political annihilations, affirmation action irregularities and the criminal seige of a demoralizing society.

We, therefore, collectively, as members of your Congressional District, challenge your involvement as a vehicle which will enable us to stand in these times as we make a "Contract with America" to retain an air of dignity, of respect and of self-worth to our God, to our fellowman, and to ourselves.

Respectfully submitted,

THE COMMITTEE ON THE STATE OF THE COUNTRY.

The Right Reverend Donald George Kenneth Ming, Presiding Bishop.
Mrs. Edith White Ming, Episcopal Supervisor.
Reverend Clifford Earl Shepheard, Presiding Elder.
Reverend Johnnie Lonnie Raven, Jr., Presiding Elder.
Reverend Eugene Foster, Chairperson.
Reverend Hayward White.
Reverend W. F. Griffin.
Reverend Jaunita Parker.
Reverend Charlie Byrd.
Sister Constance Hamilton.
Brother Ralph Taylor.
Brother Stonewall Pertilla.
Dr. Evelyn G. Perry, Compiler.

THE RESOLUTIONS

We, the members of the State of the Country Committee at the 83rd Session of the South Georgia Annual Conference held at Bethel African Methodist Episcopal Church (Albany, Georgia) on March 22-26, 1995 do set forth these following resolutions, which were unanimously received and adopted by the attending delegation, to be prayerfully submitted to our nation's leaders:

RESOLUTION 1

We resolve that this conference go on record to endorse our support for affirmative action as a tool to continue to align the "American Dream" and the founding fathers' principle that "we hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain unalienable rights that among these are life, liberty and the pursuit of happiness." We, therefore, resolve that affirmative action is necessary to assure that the minority workforce is not given a "handout" but an "opportunity!" We, therefore, resolve that with these given opportunities minority America will be able to escalate over the barriers of economical, social and cultural horizons which have beset us in the past. Let it be clearly stated that we must procure the keys to these opportunities through affirmative action which is our "Contract with America," that if given the opportunity, we will respond educationally trained, responsibly employed, and culturally advanced. Let it be known that Black America suffers from the acute case of insufficient checking only because America refuses to deposit into her account.

RESOLUTION 2

We resolve that there is a need for welfare reformation; however, we resolve that there should be gradual steps to assure that "poor America" will be able to receive adequate housing, income and health care to sustain a minimal lifestyle of dignity. We, therefore, resolve that the process of ratification should take the following steps:

1. Five-year ratification period.
2. Gradual modification for those presently on welfare.
3. Reformation including parental training, vocational training and social skills' training.
4. Reformation that gradually restricts and deters teenage pregnancy, substance abuse and sales and a lack of self-esteem.

RESOLUTION 3

We resolve that adequate funding should be allocated so that a massive voter registration and voter education program is enacted in every Congressional District where the majority of the inhabitants are non-participatory voters.

RESOLUTION 4

We resolve RESOUNDINGLY that Congress would approve and support the appointment of Doctor Foster, M.D., as Surgeon General of the United States of America based upon his impeccable credentials in the medical profession. We must not allow misappropriate behavior of the past, when corrected, to be the portal for non-qualification. We must be reminded that in the gospel according to John 8:7 Jesus implies, "ye without sin, cast the first stone."

Finally, we, therefore, resolve that these resolutions be permanently engraved in the archives of the "American Dream."

Mr. Speaker, I commend the A.M.E. Church in Georgia for taking a stand on these critical issues. All of us in Congress can benefit from paying close attention to the views and positions taken by our religious institutions.

McKINNEY EDUCATION FOR HOMELESS CHILDREN AND YOUTH

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1995

Ms. SLAUGHTER. Mr. Speaker, this worthwhile program, modest yet dramatically effective, has drawn quite a bit of fire in recent days. I would like to take this opportunity to clear up some misconceptions about the program, voiced by my colleague from Arizona, [Mr. KOLBE].

My colleague objects strongly to this program for the Education of Homeless Children and Youth, because of concerns that the program is overly bureaucratic. This is simply not the case at all. The McKinney program directly funds just one Homeless Education coordinator in each State; and over half of those coordinators only work part-time on the program. More than 80 percent of all funding goes straight to the local school districts. At last count, about 500 local school districts were running homeless education programs with McKinney funding.

My colleague also quotes from a Department of Education document which states that the McKinney program "provides formula grants to States to operate an Office of Coordinator of Education for Homeless Children and Youth." The implication is that the program exists only to support bureaucrats. However, my colleague failed to read further in the program description, in which it is stated that the program also has responsibility "to develop and carry out a State plan for the education of homeless children. States also make subgrants to local educational agencies for tutoring, transportation and other services intended to enable homeless children to enroll in, attend and succeed in school." (Department of Education Fiscal Year 1996 Budget Summary and Background Information)

And that is what this program does so well—it gets funding to local school districts, who have designed special projects tailored to their local needs. Local school districts submit applications as part of a competitive process; only the best proposals win. The States make the final decisions; the localities design their own programs; and the Federal Government lets them do what they do best. No other Federal program targets these vulnerable homeless children in this way. We must oppose any attempt to eliminate the Education for Homeless Children and Youth program; because without this program, literally hundreds of thousands of homeless children will never get to school.

I am submitting a Project Description from the Amphitheater Public Schools Education for Homeless Youth Program in Tucson and Pima County Arizona. Amphitheater's program, called "Youth on Their Own," works with high school homeless youth, and is one of two McKinney-funded homeless education programs in my colleague's district. The other program, run by the Tucson Unified School District, reaches out to elementary school-age homeless children. The Amphitheater Project Description explains better than I can how the program works, how they are using their McKinney funding, and why this McKinney funding is so valuable to local school districts all across the country.

PROJECT DESCRIPTION—ARIZONA DEPARTMENT OF EDUCATION

EDUCATION FOR HOMELESS CHILDREN AND YOUTH

1. District: Amphitheater Public Schools.

2. Contact person: Ann Young; Telephone (602) 297-4555.

3. Number of homeless children in school district (from attached survey): 317+; Number to be served by this project: 317+.

4. Project period (Maximum 15 months: From August 1993 to September 1994.

5. Describe services to be provided:

Educational assistance targeted for the homeless will be supplemental to the school program and will include a course in independent living set up to assist the students in learning the skills needed to survive on their own. A full time teacher will be hired to teach the course to an integrated student body so the homeless youths will not be isolated and stigmatized. He/she will also be responsible for assisting the students with course, college and career choices, helping in the identification and screening of homeless youth, coordinating with parents, teachers, school personnel, and private and public agencies, acting as a liaison to help the homeless enroll and succeed in school, and making home visits.

Tutorial services will be provided to assist students in reaching their academic goals.

Outreach effort to identify and assist homeless students in entering and becoming integrated into our schools, in obtaining residency status and the documentation necessary for government and social services. Assistance will be given in finding lodging with volunteer parents or on their own, medical and dental services, obtaining free breakfast and lunch, food stamps, AHCCS, SOBRA, DES, AFDC, clothing and household goods, emergency food from the food bank, part-time employment, a monthly stipend dependent upon good attendance, counseling, and mentoring.

6. Describe how the project is coordinated with the regular district educational program and integrates homeless children with non-homeless children:

Our program will advocate for children and youth to ensure their acceptance as students in the Amphitheater School District. A hotline for students who have difficulty meeting the criteria of the school district because of homelessness will be available at each school to assist the school personnel in determining homelessness status. Ongoing education of school personnel will be addressed.

The course in independent living which will address housing, nutrition, health, economic, and other basic needs will be available to all students so the homeless student will not be stigmatized. The Youth on Their Own support program also includes children who are not considered homeless under the McKinney guidelines—those living with friends and relatives on a comparatively stable basis. Every effort is made to mainstream the homeless youth so they are not isolated as a group from the school body.

7. Describe current districtwide efforts to remove barriers to the education of homeless children, pursuant to the McKinney Act (i.e. documentation and residency policies, expedited assessments, outreach, etc.). Do not include activities funded by a McKinney Homeless Assistance grant.

Amphitheater School District is making efforts to remove barriers to the education of homeless children, but the documentation and residency policies must still be evaluated on a case by case basis. It is not known how many children are helped or hampered by the present policies. Schools are to be asked to gather data as a basis for improvement efforts. An attempt will be made to enlarge the schools' influence on the out-of-school environment. The high school hired a social worker this year who has helped to expedite assessments and outreach efforts. We have volunteers working with the homeless students on a one to one basis.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 18, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 19

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Housing and Urban Development. SD-192

Labor and Human Resources

Education, Arts and Humanities Subcommittee

To hold hearings to examine adult education programs. SD-430

MAY 22

2:00 p.m.

Appropriations

Legislative Branch Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Architect of the Capitol, and the Government Printing Office. SD-116

Foreign Relations

Western Hemisphere and Peace Corps Affairs Subcommittee

To hold hearings on S. 381, to strengthen international sanctions against the Castro government in Cuba, and to develop a plan to support a transition government leading to a democratically elected government in Cuba. SD-419

Governmental Affairs

Post Office and Civil Service Subcommittee

To resume hearings on Federal pension reform, focusing on how Federal pension plans compare to private sector plans. SD-342

MAY 23

9:30 a.m.

Agriculture, Nutrition, and Forestry

To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on Federal nutrition programs. SR-328A

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on financial management. SD-192

Appropriations

District of Columbia Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the government of the District of Columbia, focusing on the District of Columbia public schools. SD-116

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold oversight hearings on NASA's Space Station Program. SR-253

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 620, to direct the Secretary of the Interior to convey, upon request, certain property in Federal reclamation projects to beneficiaries of the projects and to set forth a distribution scheme for revenues from reclamation project lands. SD-366

Indian Affairs

To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups. SR-485

10:00 a.m.
Foreign Relations
Business meeting, to mark up proposed legislation authorizing funds for foreign assistance programs.
SD–419

Judiciary
To hold hearings on the Administration's counter-terrorism intelligence gathering proposals, focusing on whether there is a need for increased wiretap and infiltration authority for Federal law enforcement.
SD–226

2:30 p.m.
Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings to review the Department of the Interior's programs, policies and budget implications on the reintroduction of wolves in and around Yellowstone National Park.
SD–366

MAY 24

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Fish and Wildlife Service, Department of the Interior.
SD–192

Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine international aviation policy.
SR–253

Governmental Affairs
Oversight of Government Management and the District of Columbia Subcommittee
To hold oversight hearings on aviation safety.
SD–342

10:00 a.m.
Agriculture, Nutrition, and Forestry
Research, Nutrition, and General Legislation Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on research and the future of U.S. agriculture.
SR–328A

2:00 p.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH–219

MAY 25

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 638, to authorize funds for United States insular areas.
SD–366

Rules and Administration
To hold hearings on proposed legislation authorizing funds for the Federal Election Commission.
SR–301

10:00 a.m.
Agriculture, Nutrition, and Forestry
Marketing, Inspection, and Product Promotion Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on Federal farm export programs.
SR–328A

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for military construction programs of the Department of Defense, focusing on Army and certain Defense agencies.
SD–192

Finance
Social Security and Family Policy Subcommittee
To hold hearings to examine the financial and business practices of the American Association of Retired Persons (AARP).
SD–215

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on property line disputes within the Nez Perce Indian Reservation in Idaho.
SD–366

MAY 26

10:00 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the General Accounting Office, and the Office of Technology Assessment.
SD–116

JUNE 6

9:30 a.m.
Agriculture, Nutrition, and Forestry
Forestry, Conservation, and Rural Revitalization Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on resource conservation.
SR–328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on intelligence programs.
S–407, Capitol

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Interior.
SD–138

Energy and Natural Resources
Energy Production and Regulation Subcommittee
To hold hearings on S. 708, to repeal section 210 of the Public Utility Regulatory Policies Act of 1978.
SD–366

2:00 p.m.
Joint Printing
To hold oversight hearings on the activities of the Government Printing Office (GPO).
1310 Longworth Building

JUNE 7

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Service and the Selective Service System.
SD–192

10:00 a.m.
Judiciary
Youth Violence Subcommittee
To hold hearings to examine the welfare system's effect on youth violence.
SD–226

JUNE 13

9:30 a.m.
Agriculture, Nutrition, and Forestry
Production and Price Competitiveness Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.
SR–328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on health programs.
SD–192

JUNE 15

9:30 a.m.
Agriculture, Nutrition, and Forestry
Production and Price Competitiveness Subcommittee
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.
SR–328A

JUNE 20

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on counternarcotic programs.
SD–192

JUNE 27

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense.
SD–192